

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Glen H. Hovin, Jr. — PETITIONER
(Your Name) (Pro Se)

VS.

Joe M. Allbaugh — RESPONDENT(S)
(D.O.C. — Director)

ON PETITION FOR A WRIT OF CERTIORARI TO

Tenth Circuit Court of Appeals — No. 17-7064
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Glen H. Hovin, Jr. (#536740)
(Your Name)
Davis Correctional Facility — B.N #151
6888 East 133rd Road
(Address)

Holdenville, OK. 74848-9033
(City, State, Zip Code)

(405)-379-6400
(Phone Number)

QUESTION(S) PRESENTED

I.

A.) Course of proceedings in the Section 2254 case before this Court.

On September 8, 2014, Petitioner filed a 28 U.S.C. § 2254 Petition challenging the constitutionality ~~of~~ of the conviction, to which duly asserted that:

- (1) Ground 1: The evidence was not sufficient to prove the offense charged by the State.
- (2) Ground 2: Improper admission of an irrelevant and prejudicial video demonstrating the production of methamphetamine deprived Mr. Hovin of a fair trial, requiring a new trial ~~or~~ or favorable modification.
- (3) Ground 3: The prejudice of improper details of Mr. Hovin's legal history inappropriately introduced to the jury through the State's exhibits resulted in an inflated sentence.
- (4) Ground 4: Under the facts of the case Mr. Hovin's sentence is excessive and should be modified.

See memorandum brief in support of Title 28 U.S.C. § 2254 and incorporated by reference heretofore as if plead in full.

I. The Court of Appeals Erred By Determining That Petitioner's IAC claim Did Not Meet The Standards Set Forth By This Court In Strickland And Evitts.

QUESTION(S) PRESENTED [CONT'D.]

Petitioner asserted in his § 2254 Petition as grounds for relief that: Trial Counsel was constitutionally ineffective because of his own admission in Exhibit B in his motion titled — Advisory Propositions DF Errors which included the following, to-wit:

- 1.) The Trial Court failed to give the jury a specific cautionary instruction at the time of the Washington State Police video demonstrating a "shake and bake" methamphetamine manufacturing process as per Harris v. State, 2000 OK CR 20, 13 P.3d 495; and Dunkle v. State, 139 P.3d 228, 251-252 (Okla. Crim. App. 2006).
- 2.) The Trial Court erred in admitting the Washington State Police video demonstrating a "shake and bake" methamphetamine manufacturing process which was misleading and unduly prejudicial.
- 3.) It was error for the District Attorney's Investigator, Josh Dean, who repeatedly offered improper and speculative opinion testimony during the jury trial.
- 4.) The Trial Court erred when it allowed the admission of evidence which tended to show that the Defendant may have committed a crime on a date that was not alleged in the State's Information Sheet.
- 5.) The State failed to present sufficient, credible evidence in support of the alleged charged crime that occurred on the date alleged in the Information Sheet.
- 6.) The jury's decision is contrary to the facts and evidence admitted during the Jury Trial conducted on January 18, 2012.

QUESTION(S) PRESENTED [CONT'D.]

- 7.) The Trial Court erred in admitting prior convictions which were too old for enhancement under 21 O.S. § 51.1 (A) and (C).
- 8.) The sentence imposed is excessive in regards to the evidence introduced during the Jury Trial.

In addition to the above, Petitioner observed errors by Trial Counsel, which are listed below, to-wit:

- 1.) Why didn't Petitioner's Trial Counsel perform due diligent research and impeach the District Attorney's Investigator, Josh Dean (star witness) - when at Jury Trial, under Oath of the Court, he contradicted his Preliminary Hearing Testimony which was also under Oath of the Court. I believe this is "PERJURY" and a blatant and gross miscarriage of justice.
- 2.) Trial Counsel failed to diligently use the adversarial process to attack the "SUPPOSED" confession made by the Defendant and any relevant and corroborating evidence. There was "NO" audio-tape recording and/or video-tape recording of the questioning of the Defendant.
- 3.) Trial Counsel's performance was subpar in relation to his experience as an Assistant District Attorney for Garvin County, Pauls Valley, Oklahoma. This is part of ineffective assistance of counsel which absolutely meets the two (2) prong test of Strickland v. Washington, 466 U.S. 668 (1984).
- 4.) Trial Counsel erred in not demanding, or submitting an oral motion for a dismissal of charges because the State failed to prove "ALL" elements of the crime charged and allowing the Trial Judge to prematurely affirm the jury's verdict without being informed of this miscarriage of justice.

QUESTION(S) PRESENTED [CONT'D.]

Claims of IAC is governed by the two (2) prong test set forth by this Courts precedent in Strickland v. Washington, 466 U.S. 688 (1984).

Petitioner adequately argued on his Pro Se collateral attack appeals that the deficiencies in the trial courts and defense counsel, appellate counsel errors CANNOT be characterized as mere technical or formal nor strategic errors, but instead are of enormous constitutional magnitude that does not pass constitutional muster because he did not receive effective assistance of counsel as guaranteed him by the United States Constitution.

II. Petitioner asserted that the lower courts erred in affirming the denial of Petitioners § 2254 Petition where the District Court failed to conduct an EVIDENTIARY HEARING (with Petitioner present) to resolve this factual dispute [28 U.S.C. § 2255 (2006)] (See e.g., Fontaine v. United States, 411 U.S. 213, 215 (1973): ["reversing summary dismissal and remanding for hearing because motion and the files and records of the case did not conclusively show that Petitioner is entitled to no relief."]; Sanders v. United States, 373 U.S. 1, 19-21 (1963).

Petitioners Petition presented facts that if proved, entitled him to relief (Blackledge v. Allison, 431 U.S. 63, 74 (1977)). Petitioner presented several affidavits detailing and corroborating facts concerning his two (2) judge rule (22 U.S. § 576) claim to which neither counsel would

QUESTION(S) PRESENTED [CONT'D.]

II. bring up though Petitioner requested as such, to which is factually contained within the record and stated under Oath by Petitioners Bailbondsman, Mrs. Leona Dehart.

Thus, Petitioner was lawfully entitled to an Evidentiary Hearing (with Petitioner present — critical stage of proceedings) due to disputed material facts of law. (See United States v. Scott, 437 U.S. 82, 91 [1981]; Pitts v. United States, 763 F.2d @ 201; and United States v. Birdwell, 887 F.2d 643, 645 [5th Cir. 1989] — "evidentiary hearing warranted if Petition contains specific allegations not directly contradicted in the record.").

III. Appellate Counsel was constitutionally ineffective because she intentionally "bootstrapped" ineffective assistance of counsel to Proposition III (III. The prejudice of improper details of Mr. Hovin's legal history inappropriately introduced to the jury through the State's exhibits resulted in an inflated sentence.) in which Petitioner warned her she couldn't do, but dismissed this warning by telling Petitioner, "Oh, it'll be alright. I've done it before without a problem." On Page 6 of the D.C.C.A.'s unpublished Summary Opinion [See Appendix "B."], they state in the first sentence of the second paragraph "Failing to raise a separate proposition of error, . . . ," in

QUESTION(S) PRESENTED [CONT'D.]

III. which they denied Proposition III in its entirety.

Also, my Appellate Counsel failed to file a "Rebuttal Brief" after the O.C.C.A.'s Summary Opinion for the above issue of the two (2) judge rule (22 O.S. § 576) and that the Judicial Court System is "BIASED AND PREJUDICED" against ALL Defendants because they are always stating, "AFTER REVIEWING THE EVIDENCE IN THE LIGHT MOST FAVORABLE TO THE PROSECUTION." The Defendant is supposed to be "INNOCENT UNTIL PROVEN GUILTY"; therefore, the evidence should be more favorable to the innocent Defendant.

Appellate Counsel failed to raise the issue of my two (2) judge rule (22 O.S. § 576) which was that District Court Judge, Thomas S. Landrith presided over my Preliminary Hearing and Jury Trial. She was ineffective because she didn't perform a due diligent and thorough research of this issue.

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

~~X~~ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

1) Mr. Joe M. Allbaugh
[O.D.D.C. - Director]
P.O. Box 11400
Oklahoma City, OK. 73136-2227

2.) Mrs. Diane L. Slayton, O.B.A. #11829
[Assist. Attorney General]
313 N.E. 21ST Street
Oklahoma City, OK. 73105

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Strickland v. Washington, 466 U.S. 668 (1984)
Evitts v. Lucey, 469 U.S. 387, 396 (1985)
Fontaine v. United States, 411 U.S. 213, 215 (1973)

STATUTES AND RULES

OTHER

Exhibits "A" - "F" (AFTER APPENDICES)

[NOTE: For this Court to review, at their leisure, the blatant and fraudulent documents generated by the Pontotoc County Judicial System.]

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U.S. Court of Appeals for the Tenth Circuit;
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APPENDIX L: U.S. Court of Appeals for the Tenth Circuit's denial of
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[**CASE NO. 17-7064**]

EXHIBIT A: Document filed by Petitioner's Trial Counsel;

EXHIBIT B: State's Information Sheet;

EXHIBIT C: Preliminary Hearing Order;

EXHIBIT D: State's Motion To Endorse Additional Witness(s);

EXHIBIT E: Pontotoc County District Court Felony Docket Sheet; &

EXHIBIT F: Attorney Letter

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix "L" to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix "J" to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was May 1, 2018.

☒ No petition for rehearing was timely filed in my case.

[] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 9.18.2017.
A copy of that decision appears at Appendix "J".

[] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

JURISDICTION

Petitioner was charged by felony Information in the District Court sitting in Pontotoc County, State of Oklahoma, 74820 for **COUNT 1: Endeavoring To Manufacture Methamphetamine** under Oklahoma State Statute 63 O.S. Section 2-408. A Section 2254 Petition was appropriately made and subsequently denied. A timely appeal to the United States Court of Appeals for the Tenth Circuit was filed as well.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1.) The Fourth Amendment of the United States Constitution provides:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

2.) The Fifth Amendment of the United States Constitution provides:

"No person shall be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use, without just compensation."

3.) The Sixth Amendment of the United States Constitution provides:

"In all criminal prosecutions, the accused shall enjoy the right to . . . be informed of the nature and cause of the accusation . . . and to have the assistance of counsel for his defense."

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

4.) The Fourteenth Amendment of the United States Constitution provides:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

5.) Oklahoma Constitution Article II, Section 7 provides:

Due process of law.

No person shall be deprived of life, liberty, or property, without due process of law.

6.) Oklahoma Constitution Article II, Section 20 provides:

Rights of accused in criminal cases.

In all criminal prosecutions the accused shall have the right to a speedy and public trial by an impartial jury of the county in which the crime shall have been committed or, where uncertainty exists as to the county in which the crime was committed, the accused may be tried in any county in which the evidence indicates the crime might have been committed. Provided, that the venue may be changed to some other county of the state, on the application of the accused, in such manner as may be prescribed by law. He shall be informed of the nature and cause of the accusation against him and have a copy thereof, and be confronted with the witnesses against him, and have compulsory process for obtaining witnesses in his behalf. He shall have the right to be heard by himself and counsel; and in capital cases, at least two (2) days before the case is called to trial, he shall be furnished with a list of the witnesses that will be called in chief, to prove the allegations of the indictment or information, together with their postoffice addresses.

Amended by State Question No. 401, Legislative Referendum No. 132, adopted at election held September 12, 1961.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

7.) Oklahoma Constitution Article II, Section 21 provides:

Self-incrimination – Double jeopardy.

No person shall be compelled to give evidence which will tend to incriminate him, except as in this Constitution specifically provided; nor shall any person, after having been once acquitted by a jury, be again put in jeopardy of life or liberty for that of which he has been acquitted. Nor shall any person be twice put in jeopardy of life or liberty for the same offense.

8.) Oklahoma Constitution Article II, Section 30 provides:

Unreasonable searches or seizures – Warrants, issuance of

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause supported by oath or affirmation, describing as particularly as may be the place to be searched and the person or thing to be seized.

The statutes involved and under review are:

- a.) 63 O.S. 2011, 2-401(G)(2005 Supp.)
- b.) 63 O.S. 2011, 2-408
- c.) 22 O.S. 576
- d.) 22 O.S. 1080 et seq

The statute under which Petitioner sought habeas corpus relief was 28 U.S.C. 2254 which states in pertinent part:

- (a) The Supreme Court, a justice thereof, a circuit judge, or a district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.

CONSTITUTION AND STATUTORY PROVISIONS INVOLVED

- (b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that –
 - (A) the applicant has exhausted the remedies available in the courts of the State; or
 - (B)(i) there is an absence of available State corrective process; or
 - (ii) circumstances exist that render such process ineffective to protect the rights of the applicant.
- (2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.
- (3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.
- (c) An applicant shall not be deemed to have exhausted the remedies available in the courts of the State, within the meanings section, if he has the right under law of the State to raise, by any available procedure, the question presented.
- (d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim –
 - (1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or
 - (2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

CONSTITUTION AND STATUTORY PROVISIONS INVOLVED

- (e)(1) In a proceeding instituted by an application for writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.
- (2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that -
 - (A) The claim relies on -
 - (I) a new rule of Constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or
 - (A)(II) a factual predicate that could not have been previously discovered through the exercise of due diligence; and
 - (B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for Constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.
- (f) If the applicant challenges the sufficiency of the evidence adduced in such State court proceedings to support the State court's determination of a factual issue made therein, the applicant, if able, shall produce that part of the record pertinent to a determination of the sufficiency of the evidence to support such determination. If the applicant, because of indigency or other reason is unable to produce such part of the record, then the State shall produce such part and the Federal court shall direct the State to do so by order directed to an appropriate State official. If the State cannot provide such pertinent part of the record, then the court shall determine under the existing facts and circumstances what weight shall be given to the State court's factual determination.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- (g) A copy of the official records of the State court, duly certified by the clerk of such court to be a true and correct copy of a finding, judicial opinion, or other reliable written indicia showing such a factual determination by the State court shall be admissible in the Federal court proceeding.
- (h) Except as provided in Section 408 of the Controlled Dangerous Substance Act [21 USCS 848], in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, except as provided by a rule promulgated by the Supreme Court pursuant to a statutory authority. Appointment of counsel under this section shall be governed by Section 3006A of Title 18.
- (I) The ineffectiveness or incompetence of counsel during Federal or State collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under Section 2254.

(June 14, 1948, ch. 646, 62 Stat. 967; November 2, 1966, P.L. 89-711, Section 2, 80 Stat. 1105; April 24 1996, P.L. 104-132, Title 1, Section 104, 110 Stat. 1218.)

STATEMENT OF THE CASE

Was pulled over for a no seat belt violation. Subsequently arrested for driving on suspended license, no seat belt, no proof of insurance placed in the back seat of the patrol car. Arresting Officer conducted an Inventory Search of the entire vehicle (except engine compartment). During the search, in the trunk of the vehicle, the Officer found a black-leather bag containing one (1) coffee-bean grinder ~~with~~ with white powdery residue, one (1) glass vase, one (1) large pickle jar and numerous coffee filters still in their packaging. These were ~~the~~ turned over to Agent Josh Dean (#55) of the Pontotoc County District Attorney's Drug and Violent Task Force.

Same day Agent Dean came down to the Ada City Jail (housed in the Ada Police Department) to question me. I was escorted downstairs of the Ada Police Department where the interrogation rooms for the Detective Division is located. Agent Dean read me my Miranda Rights off of the back of a business card and I signed the card acknowledging that he read me my rights, not that I WAIVED my rights.

Agent Dean asked me about three (3) or four (4) questions related to my identity and the identity of another individual by the name of Terren James Lowe. I identified myself and Mr. Lowe in the photographs Agent Dean showed me. Then, Agent Dean's questioning became more accusatory towards me about helping and being Mr. Lowe's accomplice in the cooking of methamphetamine in and around Pontotoc County, Ada Oklahoma. At this point I refused to answer anymore questions and asked to speak with an Attorney, at least twice (2) that I recall. Agent Dean asked three (3) or four (4) more accusatory questions after this and I remained "SILENT!" I was eventually returned to my jail cell.

STATEMENT OF THE CASE

Bonded out of the Ada City Jail. Afterwards the jailer informed me I'd be transported across the street to the Pontotoc County Jail due to the fact that the Pontotoc County District Attorney filed a felony charge of —
"ENDEAVORING TO MANUFACTURE METHAMPHETAMINE."

Subsequently, I bonded out of the County Jail as well.

NOTE:

- 1.) I never signed a Miranda Rights Waiver Form.;
- 2.) My questioning by Agent Dean wasn't audio recorded nor video-taped.

REASONS FOR GRANTING THE PETITION

The Court of Appeals has decided a Federal question in Direct Conflict with the applicable decisions of this Court.

1.) The Tenth Circuit panel opinion affirming the District Court's denial of Petitioner's claims holding that, "Mr. Lovin must obtain a COA before he can appeal the District Court's denial of his § 2254 Petition. See 28 U.S.C. § 2253(c)(1)(A) [requiring a state prisoner appealing denial of § 2254 application to obtain a COA]. We will issue a COA "only if the applicant has made a substantial showing of the denial of a constitutional right." Id. § 2253(c)(2). Where, as here, the District Court rejected Mr. Lovin's constitutional claims on the merits, we will issue a COA only if he shows, "that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." Slack v. McDaniel, 529 U.S. 473, 484 (2000).

Contrary to the Circuit Courts holding, Petitioner's conviction was sustained in violation of due process and in direct conflict with the applicable decisions of this Court and is cognizable in a § 2254 Petition, in light of this Court's precedence. This Court should exercise its supervisory powers over the lower courts and issue Petitioner his Writ of Certiorari.

REASONS FOR GRANTING THE PETITION [CONT'D.:]

- 2.) The Tenth Circuit Panel Opinion erred in affirming the district courts denial of Petitioners IAC claims because its decision is in direct conflict with this Court's decision in *Strickland* and *Evitts*, infra. The record in this said cause of action reveals that trial counsel signed a document entitled **Exhibit "B"** relating to Petitioner's Notice Of Intent To Appeal Case No. CF-2010-073 which factually stated eight (8) propositions of error of counsels own errors to be raised on Direct Felony Appeal. Petitioner has diligently asserted throughout that he would not have been convicted, absent counsel's deficient performance and errors to which ultimately prejudiced Petitioner.

- 3.) The Tenth Circuit erred in affirming the denial of Petitioner's Section 2254 Petition where the district court failed to conduct an evidentiary hearing (with Petitioner present – critical stage of a proceeding) to resolve the material issues of factual disputes, which if true, warrants habeas relief and the record did not '*conclusively show*' that he could not establish facts warranting relief under Section 2254, to which entitled Petitioner to a hearing.

CONCLUSION

Petitioner requests this Court to review **EXHIBITS A – F** which uncovers the blatant, malicious and vindictive prosecution of the Pontotoc County Judicial System.

Beginning with **EXHIBIT A**: This document shows the errors that trial counsel admitted to causing during my Jury Trial.

EXHIBIT B: Is the State's Information Sheet which shows the yellow highlighted items "**WERE NOT**" present at Petitioner's arrest and/or Jury Trial and that the only items at the trial where the items seized by Officer Gray and presented at trial as evidence.

EXHIBIT C: Has two (2) issues present. The first issue is ... this Preliminary Hearing document shows that the judge who signed this document had done so on the 28 day of January, 2011; however, the file date is showing one (1) week later as Feb. 3, 2011. This shows that the records are not always accurate and can be fraudulently filed. The second (2) issue ... it has the elements of the crime that the State has to prove in order for a Defendant to be convicted for endeavoring to manufacture methamphetamine (D) states, **THE CONTROLLED DANGEROUS SUBSTANCE OF METHAMPHETAMINE**, which **WAS NOT** present anywhere.

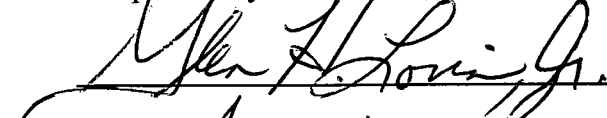
EXHIBIT D: This is the State's Motion To Endorse Additional Witness(s) which was filed thirteen (13) days before my Jury Trial. It also supports Petitioner's issue of Investigator Josh Dean's contradictory testimony under **Oath of the Court**.

EXHIBIT E: This is the Pontotoc County Motion Docket for Petitioner's Post-Conviction Hearing. It shows that the Judge was supposed to be Steven Kessinger; however, Petitioner's Post-Conviction Hearing was presided over by Thomas S. Landrith. This was the same discrepancy that happened at Petitioner's Preliminary Hearing causing the issue of the two (2) judge rule.

And **EXHIBIT F**: Is a letter from another attorney where this attorney comments on how my Court Appointed Counsel was deficient in his performance on my case.

This petition for a **WRIT OF CERTIORARI** should be granted.

Respectfully submitted,


Date: August 1, 2018