

NO. \_\_\_\_\_

IN THE SUPREME COURT OF THE UNITED STATES

APPLICATION FOR 28 U.S.C. §2254(a)

WRIT OF HABEAS CORPUS

FOR RELIEF FROM AN UNLAWFULLY IMPOSED SENTENCE

IN RE: EX PARTE

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## QUESTIONS PRESENTED

QUESTION ONE: Is Petitioner Boone serving an unlawful/void sentence because it is a Substantive Due Process, Double Jeopardy violation for a defendant to be punished twice in the same trial, on the same facts, for the same statutory offense; first by a jury, and a second time by the Judge to increase that jury's punishment?

QUESTION TWO: Is it incumbent upon the U.S. Supreme Court to correct a State sentence that was unlawfully imposed violating Substantive Due Process and Double Jeopardy, when State and Federal Courts failed to address the issue on the merits citing A.E.D.P.A. statute of limitations, while disregarding the Supreme Court's ruling in, MONTGOMERY V. LOUISIANA, 136 S.Ct. 718(2016), which states: "State and Federal courts have no authority to leave in place a conviction or 'sentence' that violates a substantive rule of law regardless of whether the conviction or 'sentence' became final before the rule was announced?"

QUESTION THREE: Is it an unconstitutional Separation of Power violation for Congress to legislate a statute of limitations as in 28 U.S.C. §2244(d)(1) to defeat constitutional Substantive Due Process law, Double Jeopardy, and Actual Innocence?

## LIST OF PARTIES

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

☐ 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:

TABLE OF AUTHORITIES CITED  
*As Cited in Reasons For Granting Writ*

EX PARTE, LANGE, 85 U.S. 163(1873); "Double Jeopardy offers complete protection of the party when a second punishment is proposed in the same court, on the same facts, for the same statutory offense." ..... see Pg. 2

HICKS V. OKLAHOMA, 100 S.Ct 2227(1980); "When a state provides for the imposition of criminal punishment in the discretion of the jury, defendant's interest in the exercise of that discretion is not merely a matter of state procedural law; defendant in such case has a substantial and legitimate expectation that he will be deprived of his liberty only to the extent determined by the exercise of its statutory discretion, and that liberty interest is one the 14 Amendment preserves against arbitrary deprivation by the state." ..... see Pg. 1,2

McQUIGGIN V. PERKINS, 133 S.CT. 1924(2013); "We hold that actual innocence, if proven, serves as a gateway through which a petitioner may pass whether impediment is a procedural bar, or as in this case, expiration of the statute of limitations. McQuiggin V. Perkins ..... see Pg. 4

MONTGOMERY V. LOUISIANA, 136 S.Ct. 718(2016); "State and federal courts have no authority to leave in place a conviction or sentence that violates a substantive rule of law regardless of whether the conviction or sentence became final before the rule was announced." ..... see Pg. 3,4

U.S. V. JONES, 132 F.3d 232(1998); "When statute allows jury to exercise sentencing powers, due process requires that jury be informed of all available sentencing options." (citing Hicks V. Oklahoma) ..... see Pg. 1,4,5

TEXAS PENAL CODE §3.03(a)(b) aee(Appx. No.C ) ..... see Pg. 1

TEXAS CODE OF CRIMINAL PROCEDURE, ART. 37.07(see Appx.D )..... see Pg. 1

## IMPORTANCE OF RULING ON THIS CASE: SUPREME COURT RULE 20(1)(4)

This case will clarify and finally set precedent for those states with bifurcated criminal trials offering either judge or jury sentencing, by the Supreme Court ruling that where an individual is convicted on multiple counts and a chosen jury hands down multiple sentences from a single indictment in a single trial, it is double jeopardy and substantive due process violations for a judge to cumulate those sentences. That decision is the provenance of the chosen jury. See *Ex Parte Lange*, 85 U.S. 163, 176 (1873), and *Hicks v. Oklahoma*, 100 S.Ct. 2227 (1980).

Because this precedent has never been set and is at issue here and in thousands of other cases the lower courts refuse to rule on, only the Supreme Court can offer not only adequate relief, but any relief at all.

It is also imperative that the Supreme Court clarify that all courts must correct substantive due process law violations of convictions and sentences whenever they are proven, federal statute of limitations on filing habeas corpus, or state and federal procedural bars notwithstanding. see *Montgomery v. Louisiana*, 136 S.Ct. 718 (2016).

Relief in this case will free the Petitioner who has already served his legal jury rendered 20 year sentence.

## REASON FOR NOT MAKING APPLICATION IN DISTRICT COURT

Petitioner Boone has been attempting to petition both State and Federal courts over the past 14 years to gain relief from an unlawfully imposed second sentence, four by habeas corpus in state court. The first was denied without written order, the rest dismissed as successive. No finding of facts and conclusions of law have ever been rendered by the state District Court for review by the Texas Court of Criminal Appeals.

Two Federal 28 U.S.C. §2254(a) habeas corpus' were filed, one in 2004 which was dismissed with prejudice as time-barred, and without prejudice for failure to obtain a C.O.A.. Subsequent petition for C.O.A was denied.

The second writ was filed in 2015 following a 3rd state writ and the Supreme Court ruling in *McQuiggin V. Perkins*, challenging only the unlawful imposing of a sentence. That writ was again time-barred with prejudice, and without prejudice for failure to obtain C.O.A., and again, petition for C.O.A was denied.

Boone argued that time-bar was issued in error due to the actual innocence of a void sentence, citing *Perkins*, but the District Court and Fifth Circuit disregarded the Supreme Court's *Perkins* ruling.

On October 1, 2016, Boone was paroled to the second/void sentence after serving 17yrs of the first lawful 20yr sentence. Since he is now illegally imprisoned, Boone began the habeas corpus process anew citing the Supreme Court ruling in *Montgomery V. Louisiana*, arguing the courts had no authority to leave in place his unlawfully imposed sentence, and the substantive due process and double jeopardy violations that should have exempted Boone from time-bar and procedural bars.

The state again dismissed the writ as successive, and Boone then filed a Motion to file a successive writ in the Fifth Circuit Court of Appeals. The Fifth Circuit denied that motion by disregarding the Supreme Court rulings in *Perkins* and *Montgomery*.

Boone then attempted to file for a rehearing en banc, but the Clerk refused to file it citing 28 U.S.C. §2244(b)(3)(E), that forbids any appeal of the denial of a motion for successive writ, even a certiorari in the Supreme Court.

Boone believes that act of Congress is also unconstitutional and a Separation of Powers violation because it replaces the rulings of the Supreme Court's constitutional power of appeal review, with a Congressional bar. In the interest of perceived judicial economy, why would any circuit court ever grant a successive writ?

VI.

Boone now has only one avenue for relief left to him, and that is by habeas corpus in the Supreme Court of the United States citing the lower court's failure to address Boone's substantive due process and double jeopardy violations, and the lower court's failure to recognize the Supreme Court's standard for review for void sentences. The Fifth Circuit even refused to acknowledge their own explicit rulings on the issue. (see 5th Cir. dismissal, appx. A)

Therefore, Boone now respectfully petitions the Supreme Court to apply their own rulings from Perkins and Montgomery, as well as Hicks, to override the lower court's time-bar, and make the necessary rulings for state and federal courts to review and correct unlawful convictions and sentences that prove substantive law violations with violations of due process and double jeopardy, notwithstanding any procedural or time limitations.

VII

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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 A-(1) 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 A-(3) 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 \_\_\_\_\_ 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 2-21-2018.

☐ 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: 3-12-18, and a copy of the order denying rehearing appears at Appendix A-2.

☐ 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 8-7-2017.  
A copy of that decision appears at Appendix NA.

☐ A timely petition for rehearing was thereafter denied on the following date: NA, 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).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Boone proves his Fifth Amendment right to be free from double jeopardy has been violated when he was punished twice in the same trial, first by a jury to a 20yr concurrent sentence, then a second time by the trial judge on the same facts, in the same trial, for the same statutory offense, to a 40yr consecutive sentence. (see Ex Parte, Lange, 85 U.S. 163, 176(1873))

Boone proves his 14th Amendment right of Due Process was violated when his trial judge failed to inform his jury of the option to cumulate sentences, then used that option himself to double the jury punishment. Boone had a substantive Due Process liberty interest in receiving all of his punishment from his chosen jury, therefore his second judge imposed sentence does not legally exist, and cannot be made to. (see Hicks V. Oklahoma, 100 S.Ct. 2227(1980))

Texas Penal Code §3.03(b) gave authorization for Boone's two sentences to run either concurrent or consecutive.

Texas Penal Code §3.03(a) requires sentences to run concurrent when (b) is not considered.

Tex. Code of Criminal Procedural, Art. 37.07(c) requires that when a jury is chosen for punishment, that jury shall find the guilt or innocence, and punishment.

## STATEMENT OF THE CASE

At 42yrs old Petitioner Boone was tried and convicted of two counts of agg. sexual assault of a child, on January 12, 2000. Boone has always maintained his innocence of these crimes that were actually committed by his live-in girlfriend who had an affair with one of Boone's friends, and as it turned out, his 13yr old son. Although trial inquiries were not allowed, Boone believes the affair with the boy may have been at the request of the father. The crime was considered aggravated due to the boy's age of 13. At 14 it would have been a second, not a first degree felony. The crime was purely statutory in nature, and blamed on Boone by the girlfriend to mitigate her own punishment. She sought revenge for Boone not providing the means for breast implants she begged for, and when her crime became known, she received two 10yr probations running concurrent. Now, for Boone it is not the innocence of the crime that is at issue, but the unlawful imposition of the sentence.

Boone plead not guilty and went to trial where he was found guilty of two counts in a single indictment against one person in a single trial. Under Texas law Boone chose jury punishment. The jury was not informed of the cumulating option under P.C. §3.03(b), therefore it was not included in the jury charge for punishment. The two 20yr sentences handed down by the jury were therefore "required" to run concurrent as per §3.03(a).

After dismissing the jury, the judge held a formal sentencing hearing where he used the cumulating himself to change the 20yr concurrent jury sentence, to a 40yr cumulated judge sentence. Boone's trial and appellate attorneys ignored these acts on all further appeals.

Boone's attorney filed a motion for new trial arguing at sentencing a juror brought in outside information that he was an ex-TDCJ field Boss, and knew Boone would be paroled after serving half of his sentence. The jury wanted to sentence him to 10yrs, but were told they would need to sentence him to 20 to serve 10. The jury believed their fellow juror and rendered two concurrent 20yr sentence. The same judge who imposed the unlawful cumulation of sentences denied the motion for new trial not finding anything wrong with that juror's conduct.

Due to ineffective assistance of paid trial and appellate counsel, that hearing was never transcribed for appeal and not argued as error. Boone included it in his pro se habeas corpus, but as with all other errors, it was denied without written order with no finding of facts and conclusions of law.

After direct appeals were denied, Boone filed his first state habeas corpus in March of 2004, which was denied as stated above. He then filed a pro se federal habeas corpus that was dismissed with prejudice as time-barred, and without prejudice for failure to obtain a C.O.A.. see No.SA-04-CA-855-XR(W.D.Tex.Nov.4,2004). A Petition for C.O.A. was then denied.

After a third state writ was denied as successive arguing only the unlawfully imposed sentence, Boone filed a second federal §2254 habeas corpus; No.S.A.-14-CA-1009-FB(W.D.Tex., Nov.10, 2014), again dismissed as time-barred and failure to obtain a C.O.A.. Motion for C.O.A. was denied on 7-2-2015. (see Appx. A(3)(4)).

On October 1, 2016, Boone was paroled to the 2nd/unlawful sentence after serving 17yrs of the legal 20yr jury sentence. He then began the habeas corpus process anew citing Montgomery V. Louisiana and McQuiggin V. Perkins, to defeat precedural bars and time limitations. The state habeas corpus was dismissed as successive on Aug. 7, 2017. Boone then filed a Motion for Successive Writ in the federal Fifth Circuit Court of Appeals, on Dec. 1, 2017. It was denied on 2-21-2018. (see Appx. A) A Motion for rehearing en banc went unfiled by the Circuit Court Clerk citing the A.E.D.P.A. 28 U.S.C. §2244(b)(3)(E), and notification was recieved on 3-12-18. see (Appx. A(2)).

After attempting many times to have his unlawfully imposed sentence dismissed without any court choosing to review the issues, Boone has exhausted all avenues for relief in state and federal courts. Boone's Court of last resort is the U.S. Supreme Court via Habeas corpus. Boone petitions this Court to uphold its own precedence that themselves prove Boone is currently serving an unlawfully imposed second sentence that has never legally existed, and can never be made to exist by the courts' inactions and time-bars.

IN THE SUPREME COURT  
OF THE  
UNITED STATES

IN RE:  
EX PARTE, MICHAEL BOONE

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NO. \_\_\_\_\_  
28 U.S.C. § 2254(a)  
WRIT OF HABEAS CORPUS

REASON FOR GRANTING WRIT

QUESTION NUMBER ONE: Is Petitioner Boone serving an unlawful/void sentence because it is a substantive due process, double jeopardy violation for a defendant to be punished twice in the same trial, on the same facts, for the same statutory offense, first by a jury, a second time by the judge to increase that jury's punishment?

On October 1, 2016, Petitioner Boone began serving an unlawful/void sentence after being granted parole from a lawful 20 year sentence. (see Appx. B) The following indisputable facts and undeniably related caselaw proving constitutional substantive law violations, clearly and concisely describe the reason why Boone is now illegally incarcerated.

There is little doubt that cumulating sentences is a sentencing option, as Texas Penal Code §3.03(b) describes, (see Appx. C) and as a Penal Code, that it is designed as an option for increasing punishment. The Fifth Circuit Court of Appeals ruled in U.S. V. JONES, citing the Supreme Court ruling in, Hicks V. Oklahoma, that, "When a statute allows a jury to exercise sentencing powers, 'due process' requires that jury be informed of all available sentencing options." Texas is one state that offers defendants a choice of judge or jury sentencing.

Boone's trial judge failed to inform the jury Boone chose under sentencing law, TX CR. PROC., §37.07(c) (see Appx. D) of the option to cumulate sentences, therefore that sentencing option was not included in the jury charge for sentencing. Because the jury did not consider the cumulating option, Penal Code §3.03(a) "requires" Boone's sentences to run concurrent. (see Appx. C)

After the trial judge dismissed the jury and moved on to formal sentencing, the judge then used the cumulating option in §3.03(b) himself, and ordered Boone's mandatory concurrent 20yr sentences cumulated changing the 20yr sentence into a 40yr sentence. (see Appx. E, sentencing transcript) and (see Appx. F, time sheet).

Boone has cited the Supreme Court decision in Hicks V. Oklahoma, as his standard for review in all of his attempted state and federal writs, which all courts ignored. Decided ten years prior to Boone's trial, Hicks could not be clearer that when a

state provides for the imposition of criminal punishment in the discretion of the jury, defendant's interest in the exercise of that discretion is not merely a matter of state procedural law; defendant in such case has a [substantial] and legitimate expectation that he will be deprived of his liberty only to the extent determined by the jury in the exercise of its statutory discretion, and that [liberty interest] is one the 14th Amendment preserves against arbitrary deprivation by the state.

Here the Supreme Court has described perfectly the arbitrary deprivation by the state that Boone has suffered when the judge himself used the option to cumulate and increase punishment instead of informing the jury that it was within their own powers of discretion to use that option as the lawfully chosen sentencing entity.

As the Supreme Court ruled in Hicks, the State violated Boone's due process rights because he had a [substantive] due process liberty interest for the chosen jury to hand down all of Boone's punishment.

This arbitrary act also violated the Constitution's Fifth Amendment right to be free from double jeopardy. When Boone was first sentenced by his jury to a mandatory 20 year [concurrent] sentence, because they did not consider the cumulation option, then the trial judge himself cumulated the jury sentences into a 40yr sentence, double jeopardy was violated.

The Supreme Court described this deprivation 'exactly,' over 140yrs ago in, Ex Parte Lange, 85 U.S. 163,176(1873)"Double jeopardy clause offers complete protection of the party when a second punishment is proposed in the same court, on the same facts, for the same statutory offense."

This ruling perfectly describes what took place in Boone's trial when the judge using the same facts presented to the jury who first rendered punishment for a statutory offense, later punished Boone again doubling the jury sentence.

Consider a hypothetical case where a jury levies a certain punishment and is dismissed. An hour later the judge calls the jury back and says we decided to allow you another crack at increasing that punishment, but you will not hear anymore facts. With that the jury doubles the jury's previous punishment. Under Lange that is text-book double jeopardy. Is that obvious violation cured if the judge is doing the second sentencing that increases punishment?

It is surely a testament to the agenda of this country's criminal justice system that no court has ever corrected this blindingly obvious constitutional deprivation. The fact that the barred relief is mostly against those labled [sex offenders], guilty or not, explains why no one cares. It is as easy as state and federal courts making an unlawful/void sentence that legally never existed, legal again by refusing to review the issues on the merits claiming time bar.

The law is the law, and this is the time for all courts to stop breaking it. Only the U.S. Supreme Court can now make that happen. By following their own rulings in Montgomery, Hicks, Lange, and Perkins, they will protect their own powers and the substantive laws of the Constitution which are being blatantly ignored by the lower courts. Boone is currently serving an unlawfully imposed sentence and the Supreme Court by their own ruling in Montgomery V, Louisiana is obligated to dismiss it.

QUESTION NUMBER TWO: Is it incumbent upon the U.S. Supreme Court to correct a state sentence that was illegally imposed violating substantive law, due process, and double jeopardy, when state and federal courts failed to address the issues on their merits citing A.E.D.P.A. statute of limitations while ignoring the Supreme Court's ruling in Montgomery V. Louisiana, 136 S.Ct. 718(2016) which states: "State and federal courts have no authority to leave in place a conviction or sentence that violates a substantive rule of law regardless of whether the conviction or sentence became final before the rule was announced?"

It is imperative that the Supreme Court clarify to all of this country's courts that they are obligated in every way to examine and correct allegations of an unlawful conviction or sentence that violates substantive law, no matter where or when they find them.

In this petitioner's case, even though he presents indisputable evidence of unlawful incarceration due to substantive law and double jeopardy violations, the Fifth Circuit Court of Appeals refused to review and rule those violations in any way exist or override the A.E.D.P.A. one year statute of limitations on filing federal habeas corpus.

This Petitioner cited the Supreme Court's ruling in its Montgomery V. Louisiana opinion where the Court made it clear that a substantive law violation is an act by a state which violates the law or the Constitution, or as in this case where the trial judge issued a punishment he had no power to impose. The Court then ruled that; "state and federal courts have no authority to leave in place a conviction or sentence that violates a substantive rule of law regardless of whether the conviction became final before the rule was announced." and, "When a state enforces a proscription or penalty barred by the Constitution, the resulting conviction or sentence is by definition unlawful." "The possibility of a valid result does not exist where a substantive rule has eliminated a state's power to proscribe the defendant's conduct or impose a given punishment." "A conviction or sentence imposed



in violation of a substantive rule is not just erroneous, but contrary to law and as a result, void."

In denying Boone his petition to file a successive writ where he argued the federal courts improperly imposed time-bar, the Fifth Circuit made it clear it does not recognize the Supreme Court's rule on substantive law as mandated in Montgomery. The court ruled as follows: "Boone's reliance on Montgomery is also unavailing. In Montgomery the Supreme Court made the holding in Miller V. Alabama, 567 U.S. 460(2012), retroactively applicable to cases on collateral review." Montgomery, 136 S.Ct. at 736. "The holding of [Miller] restricts itself to mandatory life sentences without the possibility of parole imposed upon juvenile offenders." Miller, 567 U.S. at 479-80. "Because Boone did not receive such a sentence [Miller] has no bearing on the constitutionality of his 20yr consecutive sentences." (see Appx. A(1)). Here the court completely ignored the substantive law ruling in Montgomery, then switched Boone's argument to [Miller] that obviously has no bearing on Boone's case.

That was not the only abusive ruling in that denial. Boone also cited the Supreme Court ruling in McQuiggin V. Perkins, 133 S.Ct. 1924(2013), for his time-bar exemption argument. In McQuiggin the Court ruled; "We hold that actual innocence, if proven, serves as a gateway through which a petitioner may pass whether the impediment is a procedural bar or as in this case, expiration of the statute of limitations."

In answer the Fifth Circuit omitted Boone's actual innocence of a [sentence] argument, and only cited McQuiggin as follows; "As for his claim of actually innocent, this court does not recognize freestanding claims of actual innocence on federal habeas review." Inre Swearington, 556 F3d 344,348(5th Cir.2009)" "To the extent that he attempts to use actual innocence as a gateway to file a successive §2254 application, [and assuming there is such an exception], his effort is unavailing." see Perkins, 569 U.S. at386; Schlup V. Delo, 513 U.S. 298,327(1995).

Here the court not only calls proof by transcripts, law, the Constitution, and Supreme Court rulings, freestanding claims of actual innocence, it refuses to recognize the Supreme Court ruling in Perkins that actual innocence is a miscarriage of justice that is exempt from procedural and limitations bar, all while refusing to use the words, void or unlawfully imposed sentence.

What is most telling in the Fifth Circuit denial is what the court does not reference. Boone's standard for review has always been Hicks V. Oklahoma, 100 S.Ct 2227(1980), which the Fifth Circuit cited in U.S. V. Jones, 132 F.3d 232(1998), "When statute allows jury to exercise sentencing powers, due process requires that

jury be informed of all available sentencing options."

This Fifth Circuit case and its citing of Hicks proves by their own rulings that Boone's due process rights were violated when his jury was not informed of all available sentencing options with the judge adding to the punishment. And Hicks makes clear [that] is a substantive law violation. Double jeopardy then occurred when the trial judge used the cumulation option himself to sentence Boone a second time to increase jury punishment.

Boone would not be filing this habeas corpus in the Supreme Court if not for the abusive rulings he has always received in the lower federal courts. The state court simply refuses to make any ruling at all beyond dismissed as successive. It's obvious they are waiting for the federal courts to make it all go away so they will be able to continue their illegal sentencing scheme unabated.

That is why only the action of the Supreme Court, in this case, here and now, will determine whether lower courts will be allowed to continue ignoring substantive law violation rulings by using Congressional time-bars, while it stops and corrects unconstitutional increases of jury punishment by judges that causes defendants to be punished twice on the same facts in the same trial, for the same statutory offense.

QUESTION THREE: Is it an Unconstitutional Separation of Powers violation for Congress to legislate a statute of limitation as in 28 U.S.C. §2244(d)(1), to defeat Constitutional Substantive Due Process and double jeopardy protections, and actual innocence?

Boone has always believed the 28 U.S.C. §2244(d) one year statute of limitation is unconstitutional, violating the plain language of the First Amendment right to unabridged access to a habeas corpus that has not been suspended, which also implicates the 14th Amendment due process protections.

It should also now be clear that the federal courts themselves are using it as a Congressional mandate to incarcerate the innocent by usurping the Constitution's protections and Judicial Branch requirements of making legal rulings, not Congressional time-bars.

The Supreme Court would greatly streamline criminal justice if it made such a ruling, forcing Congress to modify or eliminate the limitations statute of the AEDPA that discriminates against the poor who cannot afford representation and represent almost all post conviction filers. This case is one.

## CONCLUSION

### PRAYER FOR RELIEF

Now comes Petitioner Michael Boone, to pray the Supreme Court will see the importance of this case, and that it will choose to rule on it in the interest of justice, not only for Boone, but for all similarly situated defendants who have, and will be illegally serving unlawfully imposed sentences in states where they are allowed to choose either jury or judge sentencing.

Boone prays this Court will rule that unlawfully imposed sentences cannot be made to legally exist by any court's denial to review, and implementation of a statute of limitations.

ON THIS DAY 6-22-18

RESPECTFULLY SUBMITTED

Michael Boone

Michael Boone 915679  
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### INMATE DECLARATION

I Michael Boone do swear under penalty of perjury that the foregoing statements are true and correct.

Dated

Michael Boone  
Michael Boone 915679