

No. \_\_\_\_\_

IN THE SUPREME COURT OF THE UNITED STATES

=====

VALIANT WHITE,

Petitioner,

-v-

CONNIE HORTON

Respondent.

=====

ON PETITION FOR WRIT OF CERTIORARI TO  
THE MICHIGAN SUPREME COURT

=====

PETITION FOR WRIT OF CERTIORARI

=====



Valiant White #225440  
Petitioner in Pro Se  
Chippewa Corr. Facility  
4269 West M-80  
Kincheloe, Mich. 49784

## TABLE OF CONTENTS

QUESTIONS PRESENTED.....	i
INDEX OF AUTHORITIES.....	ii
JURISDICTION.....	iii
STATUTORY AND CONSTITUTIONAL PROVISIONS.....	iv
STATEMENT OF CASE.....	1
REASONS FOR GRANTING WRIT OF CERTIORARI.....	5

### I

CONTRARY UNITED STATES SUPREME COURT PRECEDENTS, THE TRIAL COURT, MICHIGAN COURT OF APPEALS, MICHIGAN SUPREME COURT ARBITRARILY DENIED PETITIONER'S RIGHT TO A JURY TRIAL, USED INAPPROPRIATE BASES FOR "JURY ACQUITTED CONDUCT" TO SUBSTANTIATE THEIR OWN "INDEPENDENT FINDING OF DEFENDANT'S GUILT", IMPEACHED THE JURY'S VERDICT, WHERE THE TRIAL COURT PLACED THE "QUESTION OF LAW", (REASONABLE SUSPICION TO STOP, SEARCH), FOR THE JURY TO DETERMINE, IN LIEU OF, CONDUCTING A EVIDENTIARY HEARING, SUBSEQUENTLY RESULTING IN THE JURY'S ACQUITTAL. 4TH, 5TH, 7TH, 14TH AMENDMENT U.S. CONSTITUTION.

### II

CONTRARY TO THE "JURY'S ACQUITTED CONDUCT", COUNSEL WAS INEFFECTIVE FOR FAILURE TO AND/OR THE STATE COURTS ABUSED IT'S DISCRETION, FAILED TO REQUEST/ENTER A DIRECT VERDICT OF ACQUITTAL UNDER THE "FRUIT OF THE POISONOUS TREE DOCTRINE", ONCE THE TRIAL COURT PLACED THE "QUESTION OF LAW", (REASONABLE SUSPICION TO STOP, SEARCH), FOR THE JURY TO DETERMINE, IN LIEU OF, CONDUCTING A EVIDENTIARY HEARING, SUBSEQUENTLY RESULTING IN THE JURY'S ACQUITTAL. 4TH, 5TH, 6TH, 7TH, 14TH AMENDMENT U.S. CONSTITUTION.

RELIEF SOUGHT.....

APPENDIX A,B,C,D,E.

## QUESTIONS PRESENTED

### I

WHETHER, CONTRARY TO UNITED STATES SUPREME COURT PRECEDENTS, THE TRIAL COURT, MICHIGAN COURT OF APPEALS, MICHIGAN SUPREME COURT ARBITRARILY DENIED PETITIONER'S RIGHT TO A JURY TRIAL, USED INAPPROPRIATE BASES FOR "JURY ACQUITTED CONDUCT" TO SUBSTANTIATE THEIR OWN "INDEPENDENT FINDING OF DEFENDANT'S GUILT," IMPEACHED THE JURY' VERDICT, WHERE THE TRIAL COURT PLACED THE "QUESTION OF LAW", (REASONABLE SUSPICION TO STOP, SEARCH), BEFORE THE JURY TO DETERMINE, IN LIEU OF, CONDUCTING A EVIDENTIARY HEARING, SUBSEQUENTLY RESULTING IN THE JURY'S ACQUITTAL. 4TH, 5TH, 7TH, 14TH AMENDMENT U.S. CONSTITUTION.

### II

WHETHER, CONTRARY TO THE "JURY'S ACQUITTED CONDUCT", COUNSEL WAS INEFFECTIVE FOR FAILURE TO AND/OR THE STATE COURTS ABUSED IT'S DISCRETION, FAILED TO REQUEST/ENTER A DIRECT VERDICT OF ACQUITTAL UNDER THE "FRUIT OF THE POISONOUS TREE DOCTRINE", ONCE THE TRIAL COURT PLACED THE "QUESTION OF LAW, (REASONABLE SUSPICION TO STOP, SEARCH), FOR THE JURY TO DETERMINE, IN LIEU OF, CONDUCTING A EVIDENTIARY HEARING, SUBSEQUENTLY RESULTING IN THE JURY'S ACQUITTAL. 4TH, 5TH, 6TH, 7TH, 14TH AMENDMENT U.S. CONSTITUTION.

## INDEX OF AUTHORITIES

### FEDERAL CASE LAW

Allen v McCurry.....	7
Ashe v Swinson 387 US 436(1970).....	7
Currier v Virginia 201 L.Ed.2d 650(2018).....	8
Evans v Michigan 568 U.S. 313(2013).....	7,8
Krenik v Showbraun Photo Inc. 400 F.Supp.2d 554(2005).....	8
Starnes v JLQ Automotive Services Co. 442 F.Supp.2d 416-Judge 666(2004).....	7
Strickland v Washington 466 US 668.....	10
United States v Jenkins 420 US 358(1975).....	8
United States v Stewart 604 F.Supp.2d 676(2009).....	9

### STATE CASE LAW

People v Clark 463 Mich 459(2000).....	8
People v Levearn 448 Mich 207(1995).....	10
People v Way 22 Mich App 473(1970).....	7
People v White 392 Mich 404(1974) cert den 420 US 912(1975).....	6
People v White 411 Mich 366.....	7

### FEDERAL STATUTE

28 USC 1746.....	12
------------------	----

### MICHIGAN COURT RULE

MCR 6.419.....	10
----------------	----

### FEDERAL CONSTITUTIONS

4TH, 5TH, 6TH, 7TH, 14TH AMENDMENTS U.S. CONSTITUTIONS.....	5,10,11
---	---------

## ON PETITION FOR WRIT OF CERTIORARI

Petitioner, Valiant White, respectfully prays that the Writ of Certiorari issue in review of the Judgment and Opinion of the Michigan Supreme Court rendered on May 1, 2018.

### ORDER BELOW

The Michigan Supreme Court Denied Application For Leave to Appeal S.C. #155798, COA #336447, L.C. #10-004590-FH.

### JURISDICTION

The original order of the Michigan Supreme Court was Denied May 1, 2018, and this Petition is filed on July 27, 2018.

For these reasons, Jurisdiction is appropriate and authorized to be invoked pursuant to 28 U.S.C. §1254.

## STATUTORY AND CONSTITUTIONAL PROVISIONS INVOLVED

The following statutory and Constitutional provisions are involved in Petitioner's claims seeking resolution of the State Courts conflict Whether Petitioner's Jury Verdict on Acquitted Conduct was Impeached by the State Courts to substantiate their own Independent Finding of Defendants Guilt where the Trial Court passed on the "Question of Law", (Reasonable Suspicion to Detain, Stop, Search), for the Jury to determine, in lieu of, conducting a Evidentiary Hearing, resulting in the Jury's Acquittal. And Whether the State Court are bound to enter a Direct Verdict of Acquittal or invoke the "Fruit of the Poisonous Tree Doctrine?

### United States Constitution, Amendment IV

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.

### United States Constitution, Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against due process of law; nor shall private property be taken for public use, without just compensation..

### United States Constitution, Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the :State and District wherein the crime

shall been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process of obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

United States Constitution, Amendment VII

In :Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

United States Constitution, Amendment XIV

Section 1.

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 any person within its jurisdiction the equal protection of the laws.

## STATEMENT OF CASE

### THE CONVICTION

On August 26, 2010, following a jury trial, Mr. White was found guilty of Count 1) Possession with intent to deliver 50 grams or more but less than 450 grams of cocaine; MCL 333.7401(2)(a)(iii); Count 2) Possession of Cocaine over 50 grams but less than 450 grams of cocaine, MCL 333.7401(2)(a)(iii); Count 3) Possession with intent to deliver less than 50 grams of heroin; MCL 333.7401(2)(a)(iv); Count 4) Possession with intent to deliver less than five kilograms of Marijuana 333.7401(2)(d)(iii); T.T. 8-26-10 p.60-63. Mr. White was found not guilty of Reckless Driving. Id. 9-10-10. Count 2 was vacated on prosecution motion. S.T. p.4-5.

Defendant received concurrent terms of 10-30 years in prison for Count 1 & 3, 2-6 years for Count 4. S.T. p.5-6.

8-13-10 3rd Circuit Judge Michael J. Callahan denied a number of pre-trial motions, a) Motion to Quash for INITIAL ILLEGAL TRAFFIC STOP with request for Suppression Hearing, b) Motion for Independent Lab test, c) Motion to dismiss for delay in arraignment, d) Motion to dismiss for failure to disclose/provide copy of felony complaint, arrest warrant, e) Motion to suppress ILLEGALLY SEIZED physical evidence, f) Motion to dismiss statements for violation of sequestration order.

8-25-10 Jury was selected prior to trial.

P.O. Richardson testified he was on regular narcotics patrol when he stopped Mr. White on a traffic stop near US-10 Lodge & Clairmount exit 4-9-10. Stated he was in a narcotics van with Sgt. Weathers driving & P.O. Bryant. Two other officers were in a marked car available to stop someone. T.T. Vol 1 p.56-58.

P.O. Richardson stated defendant traveled past him at a high rate of speed switching from lane to lane in excess of 85 M.P.H. As his supervisor was trying to contact the marked scout car, P.O. Richardson claimed he saw the speedometer in the



raid van, traffic was heavy where defendant proceeded northbound on lodge continuing to drive erratically T.T. Vol 1 8-25-10 p.58-59.

P.O. Richardson claimed he illuminated the black plastic bag to see a white substance, opened the passenger door recovering the bag, then placed it in lock seal folder #01960110. T.T. Vol. 1 8-25-10 p.61-65.

P.O. Rodriguez stated he was behind the raid van on I-94, never saw Mr. White speed past his cruiser or the raid van, and that his stop was based on Sgt. Weathers via radio of speeding & reckless driving, but never saw Mr. White violate any Michigan Traffic Laws. T.T. Vol 2 p.95-100.

P.O. Rodriguez stated he drove Mr. White to Herman Keefer parking lot, searched the Cadillac drivers side door retrieving 3 bags of suspected cocaine, 61 lotto packs of suspected heroin, 2 bags of suspected marijuana inside drivers side door identified as exhibit #2 T.T. Vol 2 pg. 90.

Sgt. Weathers stated Mr. White was driving at a high rate of speed in excess of 85+ M.P.H. in medium to heavy traffic. T.T. Vol 3 p.4-5. Sgt. Weathers impeached his own police report, entire crew testimony, on DIRECT & CROSS EXAM, denied he made a call for the stop stating "I had one of my guys radio the scout car." T.T. Vol 3 p.5 lines 18-22, p. 11 lines 9-13. Although Sgt. Weathers alleged he saw a black plastic bag, Mr. White wearing black gloves, he conceded they do not exist stating "As I stated, no we don't have the gloves or the bag, no sir." T.T. Vol 3 p. 13-15 p. 13 line 3-11.

Mr. White stated he drove the Cadillac to the shop for repairs, traffic was stop and go on I-94 & US-10 Lodge making it physically impossible to speed, or weave in and out of traffic. T.T. Vol 3 p.21-26.

Mr. White stated he was snatched out of the car, placed in the police cruiser, and taken to the parking lot of Herman Keefer where police searched the car.

May 2, 2016, Trial Court "GRANTED" Mr. White's Motion to Amend & Memorandum of Law in support to Suppress Illegally seized evidence due to INITIAL ILLEGAL TRAFFIC

STOP. Trial Court failed to Conduct an Evidentiary Hearing, Dismiss/Vacate the conviction, sentence, or order a New Trial on the GRANTED MOTION.

Defendant, Mr. White, presented "NEW EVIDENCE" subsequent to trial that the supervising Sergeant Weathers was charged in a 29 Count "FRAUD ON THE COURT" indictment and prosecution. Former Sgt. Weathers Illegal acts committed on the Court are a Miscarriage of Justice which include "UNLAWFULLY" 1) taking Flat Screen T.V.'s, 2) Tablets, 3) X-Box's, from arrests. 4) Possessed "CRACK COCAINE" in his desk that had not been logged as evidence. Weathers "BAD FAITH" credibility, illegal acts place in Jeopardy Mr. White's entire case as it presents deliberate, intentional false statements pertaining to the facts and testimony of Officers during the investigation of this case.

29 Counts show a particular concern as to how Weathers conducts business in Wayne County Circuit Court and his willingness to disregard Constitutional Rights of Citizens, Fabricate Statements, Documents, untruthful submissions to the Court as a basis for Mr. White's Arrest. His false testimony led to Mr. White's Acquittal of Speeding & Reckless Driving. See Attached Detroit News Articles.

Petitioner subsequently filed a 2nd Amended Motion asking why the Court failed to Vacate Conviction, Sentence, or hold Evidentiary Hearing or other relief requested in GRANTED Motion May 2, 2016. Court Denied Motion July 12, 2016.

Appellant filed a Motion for Trial Court to Adjudicate/Answer Un-answered Motions for Evidentiary Hearings of 36th District Court Magistrate Millicant Sherman & Independent Lab Test the Court failed to address. Denied October 6, 2016.

Appellant filed :Superintending Control August 31, 2016. MCR 8.110(A) & (C)(3)(h)(i) to :Chief Judge Robert J. Colombo Jr. Denied November 7, 2016.

December 12, 2016, petitioner was placed in Segregation, released from NON-BOND TOP LOCK January 3, 2017.

December 30, 2016, petitioner filed Application for Leave to Appeal.

Court of Appeals DISMISSED Application for Leave to Appeal March 8, 2017.

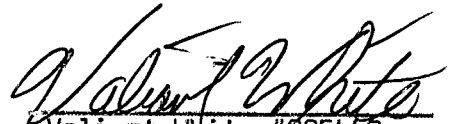
Reconsideration denied April 19, 2017.

Michigan Supreme Court denied Application for Leave to Appeal May 1, 2018.

#### DECLARATION OF FACTS

I, Valiant White, declare under the penalty of perjury that the above stated facts are the truth to the best of my knowledge, information, and belief. As to those facts based upon belief, I believe them to be true.

July 27, 2018.

  
Valiant White #225440

## REASONS FOR GRANTING THE WRIT

### ARGUMENT I

CONTRARY TO UNITED STATES SUPREME COURT PRECEDENTS, THE TRIAL COURT, MICHIGAN COURT OF APPEALS, MICHIGAN SUPREME COURT ARBITRARILY DENIED PETITIONER'S RIGHT TO A JURY TRIAL, USED INAPPROPRIATE BASIS FOR "JURY ACQUITTED CONDUCT" TO SUBSTANTIATE THEIR OWN "INDEPENDENT FINDING OF DEFENDANT'S GUILT" IMPEACHED THE JURY'S VERDICT, WHERE THE TRIAL COURT PLACED THE "QUESTION OF LAW", (REASONABLE SUSPICION TO STOP, SEARCH), BEFORE THE JURY TO DETERMINE, IN LIEU OF, CONDUCTING A EVIDENTIARY HEARING, SUBSEQUENTLY RESULTING IN THE JURY'S ACQUITTAL. 4TH, 5TH, 7TH, 14TH AMENDMENT U.S. CONSTITUTION.

Petitioner has been unable to locate any Court Authority in the United States of America resolving the question of whether petitioner's right to a jury's determination of a "QUESTION OF LAW" and the "JURY'S ACQUITTED CONDUCT" were "IMPEACHED" by the State Courts, violated where a Trial Court placed the "QUESTION OF LAW", (REASONABLE SUSPICION TO STOP, SEARCH) before the Jury to determine, in lieu of, Conducting an Evidentiary Hearing, subsequently resulting in the Jury's Acquittal.

This case presents glaring examples of the obsolete nature of and Unconstitutional manner in which the Michigan State Courts conducts business.

Petitioner's case has its origin from the Detroit Police Department's long history of a Practice, Pattern, Custom of Unlawful Arrest, Stops, Search's, Detention without Reasonable Suspicion in violation of 4th, 14th Amend. U.S. Constitution. See Eastern District Michigan United States Justice Department Control Order Consent Decree. Case #03-72258.

Former Sgt. Weathers of Detroit Police Department was the Supervising Officer in charge who, "IN BAD FAITH", Fabricated, committed perjury, under Oath, Falsely submitted to the Court that Petitioner violated Michigan Traffic Laws.

As an Offer of Proof, Petitioner presented "NEW EVIDENCE" of former Sgt. Weathers Intentional, Deliberate, "Bad Faith" Credibility, charged in a 29 Count Indictment and Prosecution for "FRAUD ON THE COURT", False Pretenses, \$1,000 or

more. Weathers took Flat Screen T.V.'s, Tablets, X-Box's, from arrests. Possessed "CRACK COCAINE" in his desk that had not been logged as evidence. Weathers unlawful acts placed in Jeopardy Petitioner's entire case as it shows a particular concern as to how Weathers conducts business in Wayne County Circuit Court and his willingness to disregard Citizens Rights, Fabricate Statements, Documents he present to the Court. His false testimony led to Petitioner's Acquittal of Reckless Driving. See att.(A) Detroit News Article dated May 9, 2015, 8A.

Prior to trial, Defense Counsel Motioned the Court for an Evidentiary Hearing to Suppress alleged Evidence Illegally seized due to the Initial Illegal Traffic Stop. Counsel offered evidence that P.O. Rodriguez testified Petitioner did not violate Michigan Traffic laws. Motion T. 8-13-10 page 4-6. Trial T. Vol 2 pages 95-100. See Attachment (B).

The Trial Court, in lieu of, Conduct an Evidentiary Hearing, opted to leave the question of Reasonable Suspicion to Stop, Search for the Jury to determine stating to defense counsel:

THE COURT: Well, neither of us are going to be on Mr. White's jury.

MR. QUINN: It was also in the transcrip, your Honor, that there was another officer that said he did not observe my client driving recklessly or switching lanes or driving in a-

THE COURT: And that perhaps impeaches the officer that did see it but I don't understand, is there some law that permits me or requires me to disbelieve an officer and therefore change the ruling of the magistrate?

MR. QUINN: No, there's not your Honor. See Attachment (C).

#### JURY ACQUITTED CONDUCT

Under Michigan Law, Once Petitioner has alleged an Illegal Search & Seizure, it is the prosecutor burden to establish the legality of the police actions. People v White 392 Mich 404(1974) cert den 420 US 912(1975).

The claim that Mr. White violated traffic laws were ruled & resolved in Petitioner's favor, the Court must accept the jury rejected the prosecutor & police

false theory of speeding, reckless driving, and a call by Sgt. Weathers for the stop, and its determination that no traffic laws were violated. People v Way 22 Mich App 473, 478(1970); Evans v Michigan 568 U.S. 313(2013).

The State of Michigan Court of Appeals, Michigan Supreme Court cannot continue to prosecute this conviction under the theory of probable cause to detain, and state in their Court of Appeals Opinion Docket No. #300692, that Petitioner violated Michigan Traffic Laws, Impeaching the Jury's Verdict of Acquittal, to substantiate their own "INDEPENDENT FINDING OF DEFENDANT'S GUILT."

The continuous prosecution and claim by the Trial Court, Michigan Court of Appeals, Michigan Supreme Court that Mr. White violated traffic laws are "BARRED" by the Doctrine of Collateral Estoppel & Res Judicata, or issue preclusion. Estoppel is mutual if the one taking advantage of the earlier adjudication would have been bound by it had it gone against him. Starnes v JLG Automotive Services Co. 442 F.Supp.2d 416-Judge 666, 713(1)(2004).; People v White 411 Mich 366, 383-84; Citing Ashe v Swenson 387 US 436(1970); Allan v McCurry 449 US 90, 94(1980).

During Trial, the state offered it's version of Petitioner's traffic stop to the jury. In the presentation of that testimony, many questions as to the truth of the event became questionable where former Sgt. Weathers and P.O. Rodriguez provided differing versions of the so-called reckless driving of Petitioner, they conflict irreconcilably with each others accounts of the stop. T.T. Vol 2 8-26-10 page 5 lines 18-22, page 11 lines 9-13. It was on these obvious untruths that the jury returned the verdict of not guilty for the charge of Speeding & Reckless Driving. T.T. Vol 2 p. 95-100.

Petitioner submits that this verdict, which serves to exonerate Petitioner for the very conduct that officer claimed formed the basis of probable cause mandating consistent finding that this lack of reasonable suspicion by full exoneration requires suppression of any evidence allegedly seized as a direct result of the

Initial Illegal Traffic Stop upon which the not guilty verdict of Reckless Driving was based.

Petitioner contends that all courts are bound to follow the verdict of a Jury where the issues before that jury and the subsequent court are the same. That is where the "essential elements" of the claim before the court, where a jury has decided the factual issue, that determination has the effect of preventing any court from deciding the same issue in a different way. See Kreinik v Showbran Photo, Inc. 400 F.Supp.2d 554, 561(S.D.N.Y. 2005); Currier v Virginia 201 L.Ed.2d 650(2018), 2018 U.S.LEXIS 3841; Evans v Michigan 568 U.S. 313(2013).

As stated in United States v Jenkins 420 U.S. 358(1975) this Court concluded:

"that any further prosecution of respondent was barred by the Double Jeopardy Clause of the Fifth Amendment.

Even Michigan's Supreme Court hold this to be true. In People v Clark 463 Mich 459, 464(2000) the Court elaborated that:

"Neither a trial court or an appellate court can supply it's own finding with regard to the factual elements that have not been found by a jury."

Petitioner submits that in the face of that case law, coupled with the fact that the jury rejected the testimony of the officer's claims of reckless driving as untruthful, when no reasonable suspicion can be made out to justify continued prosecution of this case by the State of Michigan.

Petitioner contends that once the Trial Court presented the "QUESTION OF LAW" for the jury to determine, in lieu of, conducting a evidentiary hearing, petitioner clearly demonstrated at trial that former Sgt. Weathers & P.O. Richardson misleadingly testified in an effort to support the Petitioner's Initial Illegal Seizure. Their attempts were rejected by the jury in favor of the truthful testimony of Officer Rodriguez who stated he was also on I-94 & US-10 Lodge directly behind the raid van former Sgt. Weathers drove. P.O. Rodriguez stated he was in the same vantage point behind the van, but never saw Petitioner speed past

them, or violate traffic laws on either of the freeways. Further, had Petitioner been stopped on a traffic offense, his licence, registration, and proof of insurance would have been requested to facilitate the writing of a traffic citation, which was never written. T.T. Vol 2. 8-26-10 page 75-76.

As Cited in U.S. v Stewart 604 F.Supp.2d 676 at 682-83 (S.D.N.Y. 2009):

"After stopping the cab, the officers did not question Mr. Jimenez about any traffic violation, but asked only whether he was being bothered by defendant, the occupant of the backseat. But the fact that Sergeant Torres & Officer Regnier demonstrated no interest in the traffic violation that they claimed to have observed further supports the notion that they never suspected a violation at all, as does the fact that neither officer made any memo book entry about a traffic violation. But their testimony to that effect, I find, was an after-the-fact reconstruction, something that obliging hindsight convinced them must have occurred, even though they did not hold that suspicion on the night that they stopped the cab."

Based on these facts, Petitioner contends his 7th Amendment Right to a Jury Trial was Impeached and Denied by the Michigan State Courts.

May 2, 2016, the Trial Court "GRANTED" Petitioner's Motion TO Amend & Memorandum of Law in support to Suppress Illegally seized evidence due to INITIAL ILLEGAL TRAFFIC STOP. The Trial Court failed to Conduct an Evidentiary Hearing, or Dismiss/Vacate the conviction, sentence, order a New Trial. See Att.(F).



## II

WHETHER, CONTRARY TO THE "JURY'S ACQUITTED CONDUCT", COUNSEL WAS INEFFECTIVE FOR FAILURE TO AND/OR THE STATE COURTS ABUSED IT'S DISCRETION, FAILED TO REQUEST/ENTER A DIRECT VERDICT OF ACQUITTAL UNDER THE "FRUIT OF THE POISONOUS TREE DOCTRINE", ONCE THE TRIAL COURT PLACED THE "QUESTION OF LAW", (REASONABLE SUSPICION TO STOP, SEARCH), FOR THE JURY TO DETERMINE, IN LIEU OF, CONDUCTING A EVIDENTIARY HEARING, SUBSEQUENTLY RESULTING IN THE JURY'S ACQUITTAL. 4TH, 5TH ,6TH, 7TH, 14TH AMENDMENT U.S. CONSTITUTION. MCR 6.419.

A defendant accused of a crime has the right under Federal and State Constitutions to the effective assistance of counsel. US Const. Am. VI; 1963 Mich Const. Art 1 §§ 17,20. To prevail on a ineffective assistance of counsel claim, a defendant must first "show that counsel's performance was deficient." Strickland v Washington 466 US 668, 687. In so doing, the defendant must rebut a presumption that counsel's performance was the result of sound trial strategy. Id. at 687. Prejudice is established where there is a reasonable probability that, but for counsel's error, the result of the proceeding would have been different. People v Lavearn 448 Mich 207(1995).

At the end of all witness testimony, I ask Attorney Quinn II to request a direct verdict of acquittal under the Fruit of the Poisonous Tree Doctrine, and a request to suppress evidence before and after Jury Verdict on the basis of (1) Initial Illegal Traffic Stop, Jury's Acquittal of Speeding & Reckless Driving (2) No black plastic bag or gloves exist, (3) No fingerprints exist, (4) Insufficiency of evidence, (5) False evidence, (6) False testimony. Attorney Quinn II stated: "It would be a waste of time because Judge Callahan has completely rejected all other motions thus far."

On 8-25-10, right after the Jury's Verdict and Acquittal of Reckless Driving, Attorney Quinn II stepped to the Court holding tank and relayed to me that he and the prosecutor spoke with all the jurors and that jurors told him that they would like to have considered proofs of purchase receipts from Charity Motors of

ownership to consider Not Guilty Verdicts. See Affidavit of Mr. White. Att.(E).

Counsel was Constitutionally Ineffective for failure to request Direct Verdict of Acquittal before and after Jury Verdict. Federal & State Due Process Rights command Direct Verdict of Acquittal. 4th, 6th, 14th Amendment U.S. Constitution; 1963 Mich. Const. Art 1 §§§ 11,17,20.

#### RELIEF

Based on these facts, Petitioner is unable to locate any State or Federal case law or Authority on Whether, if a Trial Court presents a "QUESTION OF LAW", (Reasonable Suspicion to Detain, Stop, Search), in lieu of, Conducting a Evidentiary Hearing, subsequently resulting in the Jury's Exoneration, Whether the Trial Courts are bound to enforce the "FRUIT OF THE POISONOUS TREE DOCTRINE"?

Whether the Trial Court has Authority to pass on a "Question of Law," and Evidentiary Hearing, to present the Question to the Jury?

Whether Michigan State Court's Conduct, Impeached the Jury's Verdict of Acquittal contrary to the 7th Amendment.

Petitioner contends that he has demonstrated that the State Courts conduct has Impeached the Jury's Verdict of Acquittal which necessitates this Court's attention and resolution, as is evidence by the manner in which the State Courts have denied Petitioner's Right to his Jury Trial. 4th, 5th, 6TH, 7th, 14th Amendment U.S. Constitutoin.

Petitioner has been unable to locate any Federal or State Case Law Authority on Whether the Trial Court failed to Enter a Direct Verdict of Acquittal pursuant to Due Process. Federal and State Due Process Rights command Direct Verdict of Acquittal pursuant to U.S. Constitution. 4th, 14th Amendment; 1963 Mich. Const. Art. 1 §§§ 11,17,20.

Counsel was Constitutionally Ineffective for failure to request a Direct Verdict of Acquittal prior to and subsequent the Jury's Verdict of Acquittal.

Petitioner ask for this Courts resolution of the enclosed questions or any other Relief Appropriate with Justice.

I, Valiant White, being first duly sworn, deposes and swear under the penalty of perjury & belief as required by USCA Title 28 § 1746 that the foregoing is true and correct.

Executed:

Signed:

Valiant White #225440

Chippewa Correctional Facility

4269 West M-80

Kincheloe, Michigan 49784

Peggy Suriano

Notary Public - State of Michigan

County of Chippewa

My Commission Expires January 12, 2019

Peggy Suriano 7-27-2018