

NO: _____

IN THE

SUPREME COURT OF THE UNITED STATES

WILLIE CHARLES ROSE, JR. PETITIONER

-VS-

CONNIE HORTON, - RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

WILLIE CHARLES ROSE, JR. #235893, IN PROP PER.

4269 WEST M-80

KINCHELOE, MI. 49784.

RECEIVED

OCT 30 2018

**OFFICE OF THE CLERK
SUPREME COURT, U.S.**

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LIST OF PARTIES

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 judgement is the subject of this petition is as follows:

People of the State of Michigan

Connie Horton

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Willie Rose - Petitioner

vs.

Connie Horton - Respondent

Writ of CERTIORARI
FROM THE UNITED STATES
COURT OF APPEALS OF THE
SIXTH CIRCUIT.

U.S.C.O.A #18-1079

Willie Rose 235893

Chippewa C/F

4269 West M-80

Kincheloe, MI

49784

10-25-18

QUESTION(S) PRESENTED

WHETHER THE U.S. SUPREME COURT SHOULD SET PRECEDENCE TO CLARIFY AND GUIDE THE LOWER COURTS ON HOW TO PROCEED WHEN FACED WITH THE SITUATION IN THIS CASE? (WHEN THE COURTS WILFULLY AND INTENTIONALLY REFUSE TO PRODUCE /PROVIDE THE NECESSARY COURT RECORDS AND PROSECUTORS DOCUMENTS NEEDED TO APPEAL AND EXHAUST STATE REMEDIES AS REQUIRED BY THE A.E.D.P.A. IN VIOLATION OF GRIFFIN V. ILLINOIS, 351 U.S. 12.

WHETHER THE SUPREME COURT SHOULD SET PRECEDENCE AND CLARIFY THAT LOWER COURTS ARE ALSO TO BE HELD ACCOUNTABLE UNDER ELKINS V. UNITED STATES, WHEN THE TRIAL COURT'S JUDICIAL OFFICERS WILFULLY AND INTENTIONALLY ERODE A DEFENDANT'S CONSTITUTIONAL RIGHTS BY ILLEGALLY SEIZING A PERSON (REMAND) WITH THE MALICIOUS INTENT AND GOAL TO CAUSE INJURY AND WRONGFUL CONVICTION.

DID THE STATE COURTS OF MICHIGAN FAILURE TO PRODUCE RECORDS AND TRANSCRIPTS AND FAILURE TO COMPEL THE WAYNE COUNTY PROSECUTOR'S OFFICE, WAYNE COUNTY EXECUTIVE'S OFFICE, AND WESTLAND POLICE DEPARTMENT TO PRODUCE ALL PERTINENT AND RELEVANT DOCUMENTS AND TANGIBLE ITEMS AS IT PERTAINS TO THIS CASE VIOLATES GRIFFIN V. ILLINOIS, 351 U.S. 12.

WHETHER THE SUPREME COURT SHOULD SET PRECEDENCE TO CLARIFY AND GUIDE THE LOWER COURT IN THIS CASE AS TO HOW TO PROCEED WHEN THE STATE COURT WILFULLY AND INTENTIONALLY WITHHELD THE NECESSARY LEGAL DOCUMENTS NEEDED FOR PETITIONER ROSE TO MAKE A PROVABLE SHOWING OF HIS CONSTITUTIONAL RIGHTS BEING VIOLATED WHICH RESULTED IN HIS ILLEGAL CONFINEMENT IN VIOLATION OF U.S. V. ILLINOIS, DID IT MAKE EXHAUSTION UNAVAILABLE AT THE STATE LEVEL, THUS EFFECTIVELY EXHAUSTING ALL STATE REMEDY REQUIREMENTS OF THE A.E.D.P.A.? MAKING EXHAUSTION AT THE FEDERAL LEVEL IMMEDIATELY AVAILABLE.

QUESTION(S) PRESENTED

DID THE DISTRICT COURT AND THE U.S. COURT OF APPEALS UNREASONABLY DENY PETITIONER RELIEF REQUESTED IN VIOLATION OF GRIFFIN V. ILLINOIS, 351 U.S. 12, CONSIDERING THIS IS PRO SE, THE DISTRICT COURT AND THE U.S. COURT OF APPEALS WAS AWARE OF THE DENIALS AND ILLEGAL SEIZURES OF LEGAL PROPERTY FOR ENGAGING IN PROTECTED CONDUCT OF GRIEVANCE WRITING.

DID THE STATE DISTRICT COURT'S ACTIONS OF SETTING AN EXCESSIVE BAIL WITHOUT INVESTIGATING OR INQUIRING INTO PETITIONER'S ABILITY TO PAY VIOLATE PETITIONER'S STATE CREATED LIBERTY RIGHTS LISTED IN MCR 6.106. MICH. CONST. ART 1. SEC. 2 & 15, AND FEDERAL DUE PROCESS EQUAL PROTECTION RIGHTS, AND RIGHT TO REASONABLE BAIL.

DID THE TRIAL COURT'S ACTIONS OF SEIZING PETITIONER'S BAIL WITHOUT NOTICE, JUSTIFICATION, HEARING, OR REASON AND HOLDING PETITIONER ON REMAND WITHOUT JUSTIFICATION VIOLATE PETITIONER'S STATE CREATED LIBERTY INTEREST, DUE PROCESS OF LAW RIGHTS, MCR 6.106 AND MICH. CONST. ART. 1. SEC 2 & 15, AND THE FOURTH, FIFTH, SIXTH, EIGHTH, NINTH, AND FOURTEENTH AMENDMENTS OF THE U.S. CONSTITUTION.

DID THE TRIAL COURT'S REFUSAL TO GIVE THE PETITIONER A SPEEDY TRIAL WITHIN 90 DAYS AFTER REMANDING HIM VIOLATE HIS STATE CREATED LIBERTY INTEREST AS DEPICTED IN MCR 6.106, MICH. CONST. ART. 1 SEC. 2, 11, 15, 17, AND 20.

DID THE STATE TRIAL COURT'S DEFENSE COUNSEL, AND STATE'S ATTORNEY VIOLATE PETITIONER'S RIGHT TO HAVE A PSYCHOLOGICAL EVALUATION?

DID TRIAL COUNSEL AND APPELLATE COUNSEL'S ACTIONS OF REFUSING TO ASSERT HIS RIGHTS UNDER THE FIRST, FOURTH, FIFTH, SIXTH, EIGHTH, NINTH, AND FOURTEENTH AMENDMENT EQUATE TO INEFFECTIVE ASSISTANCE OF COUNSEL?

DID THE TRIAL COURT'S ACTIONS OF REJECTING THE SENTENCE AGREEMENT ON FALSE PRETENSES AFTER HE ACCEPTED THE AGREEMENT WITHOUT STIPULATIONS AND REASONABLY NEGOTIATING THE TERMS OF THE NEW SENTENCE OVER THE PROSECUTION AND DEFENSE UNDER THE THREAT OF A 39 YEAR SENTENCE IF PETITIONER REFUSED VIOLATE PETITIONER'S RIGHTS TO HAVE SPECIFIC PERFORMANCE, IMPARTIALITY, AND DUE PROCESS?

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
#1 FOMRN v. DAVIS 371 US 178, 182 (1962)	
#2 SHOMO v. CITY OF NEW YORK 579 F.3d 176 (2nd Cir. 2009)	
#3 CRUZ v. BETO 1972 US Lexis 80 HN #4	
#4 HAINES v. KERNER 404 US 519, 520 (1970)	
#5 DENTO v. HERNANDEZ 504 US 25, 33 (1992)	
#6 POWELL v. ALABAMA 1932 US Lexis HN <u>2</u> , <u>3</u> , <u>6</u> ; Led HN <u>3</u>	
#7 WILSON v. MCKEE 2015 US Dist. Lexis 54417	
#8 IVORY v. RIVARD 2015 US DIST. Lexis 13584	
#9 GARDNER v. BALCAREL 2017 US Dist. Lexis 177285	
#10 HILL v. LOCKHART 474 US 52, 59 (1985)	
#11 JONES v. CITY OF JACKSON 203 F.3d 875 HN <u>13</u>	
#12 STRICKLAND v. WASHINGTON 466 US 668 (1984) HN <u>2</u> , <u>5</u> , <u>7</u> , <u>8</u> , <u>9</u> , <u>13</u>	
#13 CAREY v. PIPHUS 435 US 247, 259; 98 SCT 1042; 55 L.ED.2d 252 (1978)	
#14 DUNCAN v. LOUISIANA 391 US 145; 88 SCT. 1444, 20 L.ED.2d 491	
#15 BOARD OF REGENTS v. ROTH 908 US 564, 575; 33 L.ED.2d 548; 92 SCT 2701 (1972)	
#16 SANTEBELLO v. NEW YORK 404 US	
#17 ROSE v. BANMAN 2017 US Dist. Lexis 151687	
#18 ROSE v. BANMAN 2018 US Dist. Lexis 16339	
#19 BRITT v. NORTH CAROLINA 404 US 226 at 227; 92 SCT at 433	
#20 WILLIAMS v. ILLINOIS 371 US 12	
#22 HEWITT v. HEIMS 459 US 460 LED HN <u>1</u> , <u>2</u> , <u>14</u>	
#23 MILLER EL v. COCKREL 537 US 322, 327 (2003)	
#24 LOVE v. FICRNO 644 F.3d 543, 549 (6th Cir. 1981)	

#25 ATKINS v. PEOPLE OF THE STATE OF MICHIGAN 644 F.2d 543, 549
(6th Cir. 1981)

#26 COMMONWEALTH v. O'KEEFE 298 US 169, 173; 148 Atl. 73

#27 SKINNER v. OKLAHOMA 316 US 535; 62 SCT 1110; 86 LED. 1655

#28 SUPERIOR v. COMMUNICATION v. CITY OF RIVERVIEW MICHIGAN 881
F.3d 432, 2018 WL 651 382 at 10

#29 MORRISEY v. BREWER 408 US 471, 491; 92 SCT 2593; 33 LED.2d
484 (1972)

STATUTE AND RULES

FIRST, FOURTH, FIFTH, SIXTH, EIGHTH, NINTH, AND FOURTEENTH
AMENDMENTS OF US CONSTITUTION

MCLS MICHIGAN CONSTITUTION ARTICLE 1 Sections 2, 11, 15, 16, 17,
20, and 23

MICHIGAN COURT RULES MCR 6.106, 6,433(A) and (C)

OTHER

28 USC 2254

A.E.D.P.A

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 to the petition and is

☒ reported at Rose v. Itcher 2018 U.S. App. Lexis 20998; 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 to the petition and is Rose v. Woods 2017 U.S. Dist. Lexis 207821

☒ reported at Rose v. Berman 2018 U.S. Dist. Lexis 16339; 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 A to the petition and is

☐ reported at People v. Rose 2014 Mich. Lexis 481; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Michigan Court of Appeals court appears at Appendix A to the petition and is

☒ reported at People v. Rose 2013 Mich. App. Lexis 2661; 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 7-27-18.

☐ 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: 7-27-18, and a copy of the order denying rehearing appears at Appendix A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (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 3-28-14. A copy of that decision appears at Appendix A.

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

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. A N/A.

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

Jurisdiction

~~Opinion below~~

The following were submitted to STATE courts
After years of Being Denied Access to ~~state~~
the Records needed to Exhaust STATE Remedies
See Attached Documents to Appendix E. The
Affidavit with Attachments in support of
writ of certiorari

#1). Submission to Trial Court Seeking
Relief by Motion for immediate Relief
- No Response

#2). Submission of Notice and Motion for Relief
The Michigan ~~Supreme~~ Court of Appeals
- No Response

#3). Submission of Notice and Motion for Relief
To Michigan Supreme Court
- No Response

Due to the States Failure to Respond to
the multiply Request for Access to Records
~~It~~ needed to seek State Exhaustion. State
Exhaustion ~~is no longer available~~ was not
made available. Thus given Jurisdiction to this
Court under 28 U.S.C. §1257(2)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

FIRST: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press. or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

FOURTH: 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.

FIFTH: 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 offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

SIXTH: 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 have 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 for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

EIGHTH: Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

NINTH: The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage other retained by the people

FOURTEENTH: All person 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 nor shall any State deprive any person or life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws...

MICHIGAN CONSTITUTION:

MCLS CONSTITUTION ARTICLE 1 Section(s):

2 EQUAL PROTECTION; DISCRIMINATION

No person shall be denied the equal protection of the laws; not shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin. The legislature shall implement this section by appropriate legislation.

11 SEARCHES AND SEIZURES:

The Person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation. The provision of this section shall not be construed to bar from evidence in any criminal proceeding any narcotic drug, firearm, bomb, explosive or any other dangerous weapon, seized by a peace officer outside the curtilage of any dwelling house in this state.

15 DOUBLE JEOPARDY; BAILABLE OFFENSES; COMMENCEMENT OF TRIAL IF BAIL DENIED; BAIL HEARING; EFFECTIVE DATE:

No person shall be subject for the same offense to be twice put in jeopardy. All persons shall, before conviction, be bailable by sufficient sureties, except that bail may be denied for the following persons when the proof is evident or the presumption great:

(a) A person who, within the 15 years immediately preceding a motion for bail pending the disposition of an indictment for violent felony or of an arraignment on a warrant charging a violent felony, has been convicted of 2 or more violent felonies under the laws of this state or under substantially similar laws of the United States or another state, or a combination thereof, only if the prior felony convictions arose out of a least 2 separate incidents, events, or transaction.

(b) A person who is indicted for , or arraigned on a warrant charging, murder or treason

(c) A person who is indicted for, or arraigned on a warrant charging , criminal sexual conduct in the first degree, armed robbery, or kidnapping with intent to extort money or other valuable thing thereby, unless the court finds by clear and convincing evidence that the defendant is not likely to flee or present a danger to any other person.

(d) A person who is indicted for . or arraigned on a warrant charging, a violent felony which is alleged to have been committed while the person was on bail, pending the disposition of a prior violent felony charge or while the person was on probation or parole as a result of a prior conviction for a violent felony.

If a person is denied admission to bail under this section, the trial of the person shall be commenced not more than 90 days after the date on which admission to bail is denied. If the trial

is not commenced within 90 days after the date of which admission to bail is denied and the delay is not attributable to the defense, the court shall immediately schedule a bail hearing and shall set the amount of bail for the person.

As used in this section, "violent felony" means a felony, an element of which involves a violent act or threat of a violent act against any other person.

16 BAIL; FINES; PUNISHMENTS; DETENTION OF WITNESSES.

Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; not shall witnesses be unreasonably detained.

17 SELF-INCRIMINATION; DUE PROCESS OF LAW; FAIR TREATMENT AT INVESTIGATIONS.

No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

20 RIGHTS OF ACCUSED IN CRIMINAL PROSECUTIONS:

In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than 12 jurors in prosecutions for misdemeanors punishable by imprisonment for not more than 1 year; to be informed of the nature of the accusation; to be confronted with the witnesses against him or her; to have compulsory process for obtaining witnesses in his or her favor; to have the assistance of counsel for his or her defense; to have an appeal as a matter of right, except as provided by law an appeal by an accused who pleads guilty or nolo contendere shall be by leave of the court; and as provided by law, when the trial court so orders, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

23 ENUMERATION OF RIGHTS NOT TO DENY OTHERS:

The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.

STATEMENT OF THE CASE (FACTS)

Petitioner Rose was tried in the Third Judicial Circuit Court of Wayne County Michigan. On, among other lesser counts, a charge of Assault w/Intent to Commit Murder. From the on-set of this case until the end, Petitioner Rose tried to exercise his procedural due process of law rights as a Pre-Trial detainee, and after he was wrongfully convicted as a result of being denied his U.S. Constitutional rights under the First, Fourth, Fifth, Sixth, Eighth, Ninth, and Fourteenth Amendments, the Michigan Constitution of 1963 Article 1, sections 2, 11, 15, 16, 17, 20, & 23, and Michigan Court Rules 6.106. The facts of this case will prove and show that the Supreme Court of the United States' input is necessary to set precedence in some claims to prevent further abuses of civil rights and as for other claims, previous case law precedence reinforces and verifies that Petitioner Rose's rights were violated with extreme prejudice by the Trial Court of Judges James Callahan and Mark A. McConnell, which also resulted in structural damage/error of the entire court proceedings of this case from arraignment to sentencing. Judge Callahan's practice of unequal application of the law to Black Defendants who enter his courtroom, and due process of law violations caused Petitioner Rose to be wrongfully convicted. In short, Judge James A Callahan wilfully and intentionally construed the U.S. Constitution and Michigan Constitutions as a ways and means to violate the civil rights of Black defendants who appeared before him as defendants, while disparaging any attorney who attempted to speak up and invoke the rights of their Constitutional rights. In the instant case of Petitioner Rose, the State District Court of Judge Mark McConnell was not impartial and worked in concert with Circuit Court Judge James Callahan and the prosecutor to illegally deprive Rose of his right to have access to Pre-Trial release (liberty). On 11/10/11, Petitioner was arraigned in the State District Court by Judge Mark McConnell, prior to this hearing,

Petitioner Rose spoke to his retained counsel Mr. Richard Morgan at his Law Office in Pontiac, MI.. In short, Mr. Morgan, Petitioner Rose and Rose's family and friends had spoken and came to the conclusion that Mr. Morgan was to continue to represent Rose as long as he would continue to be paid for his services. Mr. Morgan is an attorney whom Petitioner Rose and his family is well acquainted with. Mr. Morgan was clear that he wanted to be paid a minimum of \$25,000.00 if a trial had to be conducted, and this is not including the fees for expert witnesses for defense, which would've pushed the legal fees beyond \$25,000.00. Next, Rose, Rose's family and friends all agreed to this amount and understood that additional costs could be incurred as a result of expert witnesses etc.. However, the financial planning was based upon the contingency that Petitioner Rose contributed the majority of the share. Petitioner's friends also was willing to get a bank loan to secure an additional attorney to assist Mr. Morgan and aide in posting Petitioner's bail at arraignment on the assumption that bail would reasonably be made available in accordance to Federal Law and State created liberty interest laws which is rooted in the U.S. Constitution, See Michigan Constitution Art. 1, sec. 15, 16, 17, & 20, and MCR 6.106. Which promotes Pre-Trial release. However, reasonable bail was not made available as a result of State District Court Judge making Pre-Trial release unavailable by setting bail at \$1,000,000 dollars without conducting an assessment of Petitioner Rose's ability to pay bail as required by MCR 6.106, due process. Judge McConnell's actions of setting such an excessive bail without determining the facts, or knowing the facts, or without ordering an investigation or asking questions to the Petitioner to gauge his ability to pay as other Judges do, shows Judge McConnell intent to be arbitrary, capricious, and prejudicial, by setting a bail so excessive that he knew Rose couldn't post it, and for that matter, a bail that most most Americans cannot post without

justification or good cause. (Petitioner was not a flight risk, nor was he charged with murder or treason, nor had the Petitioner made any threats to anyone. In short, these are the only reasons that would promote a bail higher than normal or allow for bail to be denied), See MCR 6.106, Michigan Constitution Art. 1 sec. 15(B), and the Fifth, Sixth, Eighth, and Fourteenth Amendments of the U.S. Constitution. Petitioner needs complete transcripts to prove this.

Next, in light of the abuse of discretion Petitioner Rose, his retained attorney Mr. Morgan, family and friends had attempted to exercise Plan B, which was to get the excessive bail reduced to reasonable bail, and attorney Mr. Morgan Motioned to the Court at arraignment to refer the case to the Pre-Trial services bond reduction unit and to have a custody hearing to determine a reasonable bail at the hearing. But, this hearing never occurred in violation of MCR 6.106, Michigan Constitution Art. 1. sec. 2, 15, 16, 17, 20, and the First, Fifth, Sixth, and Fourteenth Amendments of the U.S. Constitution, despite the fact that Pre-Trial services conducted an investigation and determined that the bail was excessive, and Petitioner was not a flight risk, had employment with a supportive employee who advocated she would give Petitioner overtime to ensure Petitioner could pay his legal fees to his trial counsel of choice. Next, after the Trial Court received and reviewed the Pre-Trial services recommendation, the Trial Court wilfully and intentionally refused to hold a Hearing despite the state created liberty interest requiring such, and instead, the Trial Court opted to wilfully and intentionally disobey not only the state laws and State Constitution, they also violated the Fourth, Fifth, Sixth, and Fourteenth Amendments of the U.S. Constitution by illegally seizing Petitioner in his person and seizing bail without justification, good cause, or a hearing.

Transcripts will prove this, but state officials will not provide them despite agreeing to transcribe them on 8/16/18. The Trial Judge simply said he was holding Petitioner in remand when Petitioner asked to be released on Pre-Trial release so he could properly defend himself and exercise his rights to fully test the case and go to trial. Petitioner asked trial attorney to object and push the issue, but trial counsel stated: "He is not going to give you bail". Next, Petitioner's attorney requested a psychological evaluation to determine if Petitioner was competent to stand trial. However, during the scheduled evaluation there was interference that occurred in the county jail, by county officials that prevented the evaluation from ever occurring. In Short, Petitioner never had the evaluation to determine culpability, despite the evaluation being requested, which also violated Petitioner's Fifth, Sixth, Eighth, and Fourteenth Amendment rights of the U.S. Constitution. Next, Petitioner languished in the county jail on illegal remand for close to a year becoming indigent and under tremendous stress, anxiety and fear of on-going abuse without access to hard to find witnesses whom he only knew by nickname for compulsory process to help Defendant challenge the case and prepare for trial, due to the illegal remand. It should be noted that Petitioner continuously pleaded for his freedom, but appointed counsel didn't assert his rights. Petitioner wanted to rehire Mr. Morgan and contribute funds for the other attorney that his friend wanted to hire which would've been (2) two attorneys, thus, a better defense. Next, Petitioner wanted to challenge the case by receiving discovery and trying to make a good defense, but appointed counsel refused to request discovery to search for a defense. Finally, on 8/10/12, Petitioner was tired and afraid, and realized that he was not going to receive the defense he needed, and could've provided if he had been treated equally and given access to Pre-Trial release as he was entitled to.

On 8/10/12, Petitioner pled guilty to the prosecutor's sentencing agreement of 12 years for Assault w/Intent to Murder, and the Court went on the record and accepted the agreement as is without stipulation and promised that Petitioner would not be given more than 12 years, then set sentencing for 8/29/12. However, on 8/29/12, at sentencing, the Court again refused to be impartial and opted to reject the binding sentencing agreement it accepted without stipulation, in the fashion that Federal Judges accept binding Rule 11 Plea Agreements. In short, the Trial Court's actions of rejecting the sentence agreement that he accepted on 8/10/12 without stipulation was based on impropriety. The Trial Court wilfully acted beyond an impartial trier of facts by overstepping the prosecutor by becoming directly involved in controlling the plea bargain negotiations which resulted in another coerced guilty plea. He then recommended what he wanted Petitioner to get as far as prison time (18 years) and made it clear to the attorneys, both State and Defense that if Petitioner did not take his proposed sentence, he would get 39 years for exercising his right to trial. Trial counsel, State's Attorney and the complainant can and will verify this as well. On 8/29/12, Judge Callahan asked the Complainant: "Do you feel this sentence agreement is reasonable?" Despite the Prosecution's "Opolla Brown" stating on the record that she spoke to the complainant on 8/10/12, and the complainant came up with the 8/10/12 sentence agreement with the prosecution and the Judge knew this. Next, the Trial Court stated: "Would you rather see Petitioner Rose come out of prison at 70 years old, like me, I'm 70 you know?" If the transcripts are transcribed, they will prove this to be true and verify the Fifth, Sixth, Ninth, and Fourteenth Amendment Constitutional rights violations. Also See Register of Actions. The Trial Court next falsely stated that he never accepted the plea or promised Rose the sentence. However, even the State's

attorney admitted that was untrue. The Judge also falsely stated that he rejected the sentence agreement because the guidelines would not allow it. It should be noted that Michigan guidelines were ruled unconstitutional and non-controlling, so this argument is also meritless. When counsel attempted to object, the Court disparaged him by yelling at him. Trial counsel tried to explain that the victim promoted the sentence agreement. Next, from 8/29/12 up until 9/26/12, Petitioner objected and pleaded for his court appointed counsel to assert his rights to fairness and release, to no avail. Next, Petitioner asked his appointed appellate counsel to get him fair access to the courts and asked him to bring up the issues of being given an excessive bail, denied bail, denied psychological evaluation, and being held in remand illegally and being denied access to his retained attorney, and for being denied speedy trial after being held in remand illegally in violation of clearly established state and federal law, See Michigan Constitution Art. 1, sec. 15(B) and MCR 6.106. Petitioner was told that he did not have case for these claims, and stated that the best option that was available was to seek specific performance of the sentence agreement because the judge accepted it without stipulation and falsely promised that Petitioner would not receive more than 12 years for the assault charge, which violates Santabello V. New York. When I made him aware that the complainant in this case told me that the prosecutor, the court appointed counsel, the police, and the judge all conspired against me, and they had all preconceived that they would ensure that I would receive a 39 year sentence if I went to trial, Appellant counsel simply stated Judge Callahan doesn't always play by the rules, and refused to seek the relief requested. Next, Petitioner went along with appellate counsel's decisions, and attempted post-conviction relief accordingly. It should be noted that appellate counsel was so ineffective that he did not even order the 8/29/12 original sentencing date transcripts and

the Trial Court still refuses to produce as well. Next, Petitioner eventually appealed the same issues as he was told to by the appellant counsel all the way up to the U.S. District Court. However, Petitioner was made aware by a jail house lawyer that he was entitled to relief as previously thought. As a result of the Trial Court, the prosecutor, Trial counsel violating his rights to Pre-Trial release, attorney of choice, denying psychological evaluation, denying impartiality in court, denying him a speedy trial in violation of state created liberty interest (Michigan Constitution Art. 1. sec 15, MCR 6.106 and the U.S. Constitution). However, before Petitioner could amend the complaint and get help from the jail house lawyer, Petitioner became very ill from a life threatening ailment and was denied prompt serious medical care in violation of the Eighth Amendment, in November of 2015. As a result he wrote a grievance on this matter attempting to seek redress for being denied prompt care. In return, prison officials became upset and retaliated against Petitioner for writing the complaint and transferred him away from the prison and illegally seized the few legal documents that he had that could've helped him partially prove some of the Constitutional rights violations. Next, Petitioner wrote the U.S. District Court to make them aware that I did not have my legal documents due to the retaliatory transfer. The U.S. District Court acknowledged and gave an extension of time, which verifies the U.S.D.C. was aware of the impediment to seek legal action, See Appendix A. Next, Petitioner exercised due diligence by writing the Trial Court, State District Court, Wayne County Prosecutor's Office, Wayne County Executive Office, and the Police Department multiple times from January 2016 up until this day requesting full transcripts and records as it pertains to this case, but state and county officials refused to produce all documents up until this day. The Wayne County Clerk's office had refused to send me copies because I could not purchase the records, and the Michigan Department of Corrections had

also refused to reimburse Petitioner for the actions of its officers despite acknowledging and admitting that the loss of legal property that's relevant to this case was not my fault. This went on for over 2 years verifying that I exercised due diligence. Next, despite the U.S.D.C. knowing that I was having problems accessing my documents, the Court denied my Habeas Corpus, asserting that I did not exercise due diligence. I had asked the U.S.D.C. for permission to amend my complaint and hold all decisions in abeyance before the denial was final, to no avail. Next, I submitted a Motion for Reconsideration to no avail either. Next, the Trial Court finally sent some records but only after my case was denied. Next, Petitioner sought relief in the U.S. Court of Appeals asking the Court to allow Petitioner to go back to the U.S.D.C. and hold all proceedings in abeyance until state court officials adhere to Griffin V. Illinois, 351 U.S. 15 requirements, to no avail. The Sixth Circuit stated the same as the U.S.D.C. claiming that I did not exhaust or exercise due diligence. Next, Petitioner continued to attempt to get the records and transcripts needed to prove this claim by filing more Motions and requests for documents to the Trial Court, Michigan Court of Appeals, Michigan Supreme Court, Wayne County Prosecutor's Office, Wayne County Clerk's Supervisor's, Pre-Trial Services, to no avail. Finally, after close to 3 years of exercising due diligence by attempting to get records necessary to access and exhaust state remedies, I am still unable to produce a reasonable and for that matter a provable claim of Constitutional rights violations due to state officials on-going refusal to produce the necessary records required by clearly established federal law that was set forth by this Honorable and Just and most High Court. In Griffin V. Illinois, 351 U.S. 15, See 8/16/18, these transcripts were approved but NOT produced, See Appendix A.

ARGUMENT 1

Petitioner asserts that he could not find any precedence for the above, while the issues are very important that addresses these issues, Petitioner could not find clear precedence from the U.S. Circuit Court of Appeals or this most High Court. If these issues are addressed it would not only Grant Petitioner Rose relief, it would help countless others who have been wrongfully convicted and denied their rights illegally. In short, if this Court exercised its power, it would clarify and guide the Courts nationally, ensuring that all "persons" are afforded their rights that are guaranteed by the U.S. Constitution. While there aren't any case law that addresses or guides the courts on how to proceed when faced with a situation whereas a citizen is seeking relief, but he is unable to seek this relief due to circumstances beyond his control. One could assert that Griffin V. Illinois, 351 U.S. 12, could be said to address these issues, but one could also argue against this as well. In short, the only clear and definite way to clarify this is for this Honorable Court to set the record straight for the country.

Petitioner asserts the same can be said as it pertains to "the court" illegally remanding a private citizen and stripping him of his rights to defend himself as he sees fit for himself, because the court chooses to wilfully and intentionally erode a Defendant's rights to obtain a wrongful conviction.

In Elkins V. U.S., 364 U.S. 206, the court states that measures have to be taken to deter abuse when the prosecution and police wilfully and intentionally violate a party's rights in the worst way. Petitioner asserts that this case is a text-book candidate for relief in accordance to the standard set in Elkins. Petitioner asserts that the court should dismiss this case for all of the

multiple violations that occurred in this case simply for the purpose to gain a wrongful conviction. The fact that complete records has not been given so Petitioner can seek relief is more evidence of abuse. The state is fearful of a floodgate issue more than anything due to Judge Callahans practices of applying the law unequally to Blacks. While the past Justices of this Honorable Court have made it clear that the lower courts are not immune or perfect, Petitioner humbly asks this court to set precedence that clearly holds the court accountable just as the prosecutors and police departments are. Petitioner believes this would ensure or at least improve impartial justice for all.

This most high and Honorable Court stated: "we would be less than candid if we did not acknowledge that the question thrust to the fore are difficult and troublesome issues regarding a sensitive area of police activity -- issues which have never before been squarely presented to this court...". In short, Petitioner asserts the same can be said for this present case, as it pertains to judicial officers of the lower court who wilfully and intentionally erode Defendant's rights in court, including the unreasonable, arbitrary and capricious illegal remanding of a Defendant which effectively seizes him as depicted in Terry V. Ohio, 1968 U.S. LEXIS 1345 HN. And supported by Elkins V. U.S., 364 U.S. 206, See L.Ed HN 10, HN 3, 4, where the court quotes Mr. Justice Brandeis: "existence of the government will be imperilled if it fails to [*** 1681] observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good, or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy to declare that in the administration of the criminal law the ends justify the means [*** 30] -- to declare that government may commit crimes in

order to secure the conviction of a private citizen -- would bring terrible retribution. Against that pernicious doctrine this court should resolutely set its face, 277 U.S. at 470 and 485.

It is undeniable that in the case presented before this court, Petitioner Rose was seized by the court unreasonably without justification, while Petitioner was a Pre-Trial detainee. However, as stated in this Writ of Certiorari, Petitioner is unable to access the records needed to show this most high Court, because state officials refuse to adhere to the precedence of Griffin V. Illinois, 352 U.S. 12, that requires the lower courts to produce the records needed to produce a reasonably effective Post-Conviction relief effort. It is undeniable that the state courts are wilfully and intentionally withholding the necessary documents needed to prove and show the courts that the Trial Court was not impartial and wilfully and intentionally held Petitioner in remand without justification of well established Federal laws, and the (Fourth, Sixth, and Fourteenth Amendments of the U.S. Constitution). Petitioner swears under the penalty of perjury that he sought these records several times by exercising due diligence. However, Petitioner can only partially show this because state officials refuse to give all records. However, Appendix ____, will show the court that Petitioner had sought Pre-Trial release multiple times to no avail, due to the state courts active campaign to deprive me of my right by setting an excessive bail and secondly, by taking my bail altogether and effectively seizing me without justification. This will show that the court approved the transcribing of the transcripts that will prove this but after they viewed the records and realized the gravity of the abuse, they refused to release the records. Despite my numerous requests for the records from 2016 up until the present as depicted in this same Appendix. In Elkins V. United States,

this most high court asserted that:

"[A] conviction resting on evidence secured through such a flagrant disregard of the procedure which Congress has commanded cannot be allowed to stand without making the courts themselves accomplices in wilful disobedience of law".

Even less should the Federal Courts be accomplices in the wilful disobedience of a constitution they are sworn to uphold. Petitioner asserts that this case defers slightly because the Trial Court is not an accomplice, but the actual violator of the rights of Petitioner Rose and the procedures which Congress has commanded. And, Petitioner further asserts that the Trial Court has clearly continued to violate the procedures that Congress has set forth in the Anti-Terrorism A.E.D.P.A. and Griffin V. Illinois, 351 U.S. 15, which this most high court has set forth for guidance, which has effectively made state exhaustion unavailable to Petitioner Rose, thus making a ruling based on merits ripe for adjudication for the Federal Courts, either by the most high court or if it pleases the court by remanding this case to the lower Federal Courts, U.S. Court of Appeals for the Sixth Circuit, and the U.S. District Court for the Eastern District of Michigan with instructions to allow Petitioner an opportunity to amend his complaint 28 USC 2254 and seek relief of his claims of First, Fourth, Fifth, Sixth, Eighth, Ninth, and Fourteenth Amendment violations. All state courts have been given notice of Petitioner's intent to seek relief, to no avail, See Appendix _____. Petitioner asserts that it is undeniable that the U.S. District Court was aware that Petitioner had his legal documents illegally seized by prison officials in retaliation for engaging in First Amendment protected conduct of grievance writing, See Appendix A, See also Appendix _____, Grievance LMF-17-07-1362, where prison officials admit, acknowledge, yet refused to reimburse or replace the legal documents needed to partially prove that Petitioner was NOT at fault for not exercising due

diligence, but he simply did not have the records needed to seek State Court exhaustion or prove Constitutional Rights violations which could be reasonably argued or showed to the courts, See also Appendix _____. This shows Petitioner's numerous efforts by writing the courts, court clerk, and prosecutor for records to no avail. Petitioner did not even get a copy of documents needed to partially prove until after the District Court denied the Habeas Corpus. And the sheer resistance of the Trial Court to produce records to this day is yet more evidence that Petitioner is being prevented from exercising his rights to exhaust state remedies according to MCR 6.502; MCL 770.1; MCL 770.9; and MCL 770.9(a). In the Trial Court, and up to the State Courts Court of Appeals and Michigan Supreme Court. Petitioner asserts that this scenario is the equivalent of a freed slave in the pre-civil war era in the south who lost his freedom papers that verify he is a free man, and not a slave. While it is arguable and proven that at times these papers whether lost or not did not matter depending on the circumstances. However, in accordance to the law this freed slave would have a right to access these papers from the courts/county etc. to prove he is not a slave and should be allowed to come-and-go as he pleases and not be held in bondage illegally. In short, without the papers, there's no available remedy or justice available to the slave and the same can be said for Petitioner Rose, as it pertains to showing the State Courts or Federal Courts that his rights were violated. Petitioner is hopeful that the U.S. District Court simply was not aware that he never received the records needed to exhaust state remedies then and up until this day. This Honorable and Just Court stated in U.S. V. Beto, 1962 U.S. LEXIS HN 4, that a claim of Constitutional deprivations should not be discarded unless it is clear that a party's argument hold no relevance or legality. Furthermore, Petitioner made the claim that Foman V. Davis, 371 U.S. 178, 182, was applicable in this case because he exercised due diligence since

2015 trying to get records needed to exercise state exhaustion remedies and Appendix A proves this. Had prison officials not illegally seized my legal documents on 12/22/15 and 9/14/16 through 9/16/16, I would have more proof such as prosecutions refusal to produce documents despite being in court and the courts refusals.

ARGUMENT 2

Now comes the Petitioner Rose. Petitioner submits this Brief in support of the issues that the U.S. District Court, U.S. Court of Appeals for the Sixth Circuit denied me. Petitioner asserts that the District Court erroneously refused to hold all proceedings in abeyance to allow Petitioner an opportunity to amend his complaint in order to bring up Constitutional deprivations which caused Petitioner to be deprived of fair and impartial access to the courts and the attorney of his choice, which also deprived him of procedural and substantive due process violations. It should be noted that there are not any national precedent cases that clarify and/or directs the lower courts on how to address some of the issues of this case, and Petitioner Rose humbly asks and prays that this most high court sets precedence in this matter not only for himself but for others who face this dilemma. In Foman V. Davis, 371 U.S. 178, 182 (1962); Shomo V. City of New York, 579 F.3d 176 (2nd Cir. 2009). The U.S. Supreme Court and Second Circuit Court of Appeals declared that a party should be allowed to amend pleadings at least once, and hinted at granting multiple amendments if it was needed or required in the best interest of justice. In Cruz V. Beto, 1972 U.S. Lexis HN 4, this Honorable court asserted that a petitioner's claim should not be discarded unless it was clear beyond a doubt that a party's claim did not hold any merit.

Petitioner believes that he and others will be granted relief now and in the future and effectively be given an opportunity to exercise his rights to bail so he can furnish his own defense with his own competent counsel who will vigorously defend his constitutional rights and test this case as depicted in the Michigan Constitution, Michigan Court Rules (MCR 6.106), both of which are

tied into the Fourth, Fifth, Sixth, Eighth, Ninth, and Fourteenth Amendments of the U.S. Constitution. However, Petitioner knows and understands it is the U.S. Constitutional violations of Supreme Court procedure alone that will grant the desired relief and with that said, it's undeniable that the Trial Court violated Petitioner's U.S. Constitutional rights and The Supreme Court of the United States procedure numerous times, and without the help of this Honorable and just Court, Petitioner will be denied an opportunity to correct the violations that occurred and seek the state remedies at the state level. However, if this Court gives an order to Remand this case to U.S. District Court and allow Petitioner an opportunity to hold District Court proceedings in ebeyence and be given an opportunity to exhaust these arguments in state court once again after recovering the necessary documents from state agencies, Petitioner is hopeful that the State Courts would grant the relief I am seeking at the state level, but if not, Petitioner asserts that he should be given the opportunity to amend his 28 USC §2254 and have the District Court give meaningful review of the issues. This can only occur if this Honorable and just Court allow this Petitioner to return to the District Court or U.S. Court of Appeals with permission to amend.

First of all, Petitioner wishes to make the Court aware that he was unable to successfully produce a meaningful argument by amendment because he did not have his legal documents that were needed to support and refer to because prison officials illegally seized my legal documents in an act of retaliation for engaging in my protected First Amendment conduct "Grievance Complaint", See Appendix _____. Second, I am an indigent prisoner and I rely on my family and the prison job I had, so I could not afford to buy the copies of the necessary court documents myself from the Clerk of the Court, See Appendix _____. Third, it

wasn't until a couple of months ago that the Wayne County Circuit Court Clerk's office finally granted mercy on me and provided some copies to me. However, this is not everything I need to produce an adequate response that will verify my argument to this Honorable and just Court, as well as to the State Courts and the U.S. District Court nor the U.S. Court of Appeals for the Sixth Circuit. Furthermore, it should be noted that I have endured multiple instances of impediments that have caused me to be unable to get my records, See (Ex. A). For years I have tried to get reimbursed by the only options available to me in the MDOC. This includes grievances, Prisoner Benefit Fund (PBF), and the State Administrative Board. All of which started in 2016, and I was denied. I wrote the Wayne County Prosecutor's Office multiple times for records and was denied. I wrote the Pre-Trial Services Office for Wayne County and I've been denied records there as well, and The Wayne County Executive Branch denied me records as well in my appeal of the Wayne County Prosecutor's Office denial of my records. Petitioner is also hopeful that this Court accepts this pro se litigant pleading in accordance with Haines V. Kerner, 404 U.S. 519, 520 (1970); and Denton V. Hernandez, 504 U.S. 25, 33 (1992); Cruz V. Beto, 1972 U.S. Lexis 80 HN

4.

Also, please note the intentional mail interference that has continued, and in fact it has increased at this prison. Petitioner humbly asks this Honorable and Just Court to please give a reason why this Honorable Court did not address my issue of being denied an opportunity to amend my Habeas Corpus pleading as depicted in Foman V. Davis, 371 U.S. 178, 182 (1962). Petitioner asserts that it is the issue of the State Court Officials and MDOC officials that is at the forefront of impeding this appeal request out of liability fears, but Petitioner is interested in his liberty. Petitioner Rose simply wants to get all the

proceedings held in abeyance until I get all of my necessary documents needed to make viable arguments and prove to the Courts as to why relief should be granted. Or, Petitioner humbly asks this Honorable Court or the lower Federal Court to Grant immediate release due to the egregious and on-going constitutional violations of denying access to the court to cover up abuse. Petitioner Rose was denied an opportunity to provide his own defense as depicted in Powell V. Alabama, 1932; U.S. Lexis, HN 2, 3, 6; L.Ed HN 3, as a result of being denied bail and other procedural and substantive due process of law violations. The Honorable Justice Sutherland was adamant about a Defendant's right to effective counsel of his own choice and the right not to be subjected to judicial bias and abuse. Petitioner Rose asserts that if he gets the requested records and transcripts transcribed, he will prove that his due process rights were violated by the trial courts abuse of discretion multiple times and ineffective assistance of counsel by trial counsel and appellant counsel. This is why I need the records to provide an effective appeal that will enable me an opportunity to prove my Constitutional deprivations.

As previously stated, the Supreme Court stated that a party should be allowed to amend freely, at least once, and it's undeniable the common local practice used at the District Court Level for the purpose of exhaustion as exhibited in: Wilson V. McKee, 2015 U.S. DIST. LEXIS 54417; Ivory V. Rivard, 2015 U.S. DIST. LEXIS 13584; Gardner V. Balcarcel, 2017 U.S. DIST. LEXIS 177285. In these cases the Petitioner requested permission to amend and here the Court granted the parties Motion to hold all proceedings in abeyance, while seeking leave to address exhaustion issues. This is exactly what Petitioner Rose is trying to accomplish. It should be noted that Petitioner sought this request prior to a decision being made in this case at the District level. Just like in

Wilson V. McKee, 2015 U.S. DIST. LEXIS 54417; Ivory V. Rivard, 2015 U.S. DIST. LEXIS 13584; Gardner V. Balcarcel, 2017 U.S. DIST. LEXIS 177285, where Petitioner sought an order to hold proceedings in abeyance while exhausting state remedies with the goal of amending their complaints to seek their liberty. Petitioner Rose sought and is still seeking the same treatment, See Rose V. Bauman, 2017 U.S. DIST. LEXIS 151687; Rose V. Bauman, 2018 U.S. DIST. LEXIS 16339. Petitioner Rose was denied an opportunity to have proceedings held in abeyance until he was able to obtain all of his legal documents requested and needed to provide a non-frivolous argument with the hopes of gaining relief. In short, Petitioner was denied an opportunity to amend and properly exhaust state issues while seeking relief in the U.S. District Court. Because state officials refused to produce records then, and they still have refused to produce, reimburse and or replace, and for the record, the U.S. District Court was aware of the impediment of records, See Rose V. Woods, 2016 U.S. DIST. LEXIS 3886; Rose V. Bauman, 2016 U.S. DIST. LEXIS 144666. The local practice normally allows a Petitioner to start exhaustion of state remedies at an agreed upon time and orders a Petitioner to return back to Habeas proceedings within 60 to 90 days after completion of state exhaustion or anytime an Honorable District Court Judge sees fit, See Wilson V. McKee, 2015 U.S. DIST. LEXIS 54417; Ivory V. Rivard, 2015 U.S. DIST. LEXIS 13584; Gardner V. Balcarcel, 2017 U.S. DIST. LEXIS 177285. However, even at this point, if the state and county officials continue to impede my access to legal records by withholding records I need, I will not be able to provide an argument of value nor prove constitutional violations unless the court helps me obtain records. Petitioner asks this Honorable Court: "should state and county officials be allowed to continue these illegal acts of withholding proof, causing Petitioner to be deprived of his constitutional rights by enforcing this illegal conviction and sentence by simply depriving

this pro se litigant access to his records causing legal injury?", See Britt V. North Carolina, 404 U.S. 226, at 227; 92 S.Ct. at 433; Williams V. Oklahoma City, 395 U.S. 458; 89 S.Ct. 1818; 23 L.Ed 2d 440 (1969); and Griffin V. Illinois, 371 U.S. 12. In Powell V. Alabama, 1932 US LEXIS 5 HN L.Ed HN 9; U.S. V. Cronie, HN 1-6, 9; The Supreme Court stated that even the most educated man is lost and in need of competent legal counsel. I am an indigent prisoner with little education and very few resources.

In short, Petitioner humbly asks this Honorable and Just Court to decide if the Petitioner should be allowed to amend his Habeas Corpus in light of what has been brought to the attention of this Honorable and Just Court? Petitioner humbly asks this Honorable and Just Court to rule in his favor in the interest of justice. Because, if Petitioner had not been deprived of his rights and permitted to be placed on bond and not remanded illegally, he could've assisted in his defense by locating hard-to-find witnesses whom he only knew by nickname and did not know addresses. He also could've continued to furnish himself with a highly competent defense with his own retained attorney of his choice and enjoyed the opportunity to have an additional attorney due to my friends' promise to get a loan from the bank to post my bail and hire a lady attorney whom she thought would be of help to my choice of attorney as long as I could help pay her back with my job. But, the denial of bail prevented me from working or having any type of attorney of my choice. Petitioner not only lost his attorney due to not being able to continue to pay for his services because of the illegal remand without reason, hearing, or notification. Petitioner asserts that had he not been illegally remanded for over 180 days, he would've been able to go back to work and continue to pay his retained attorney. Petitioner's attorney only quit due to monetary reasons. However, both Petitioner and his

uncle was aware that if Petitioner could not continue to pay, this would occur. Because, counsel made it clear that the defense needed to test the case at trial would be expensive. In Atkins V. People of the State of Mich., 644 F.2d 543, 549 (6th Cir. 1981), the courts made it clear that bail should not be excessive, and bail should not be seized without notification or reason because it would violate the Eighth & Fourteenth Amendments. It's undeniable that this occurred to Petitioner Rose, and production of the requested records will prove this.

In Love V. Ficano, 19 F.Supp. 754, this Honorable and Just 6th Circuit Court cited Atkins V. People of the State of Mich., 644 F.2d 543, 549 (6th Cir. 1981) in a favorable ruling and implied that the Michigan Court of Appeals was in violation of the constitution. By stripping Mr. Love of his pre-trial right to release, as the Judge did in Atkins. The Court found such an abuse to be arbitrary and capricious. It's undeniable that this occurred to Petitioner Rose as well, (See transcripts when made available).

Petitioner seeks to be released on personal recognizance bond, so he can work and rehire Attorney Morgan and perhaps seek help from anyone else who's willing to help so they can adequately test the case on appeal and at trial with the properly funded defense needed to seek his liberty if the court does not Dismiss the case altogether. The Supreme Court has made it clear that the Defendant who pays for his own defense receives a better testing of the case. The Supreme Court has stated that holding someone in custody causes anxiety and prejudice, and it's undeniable the Trial Court did this to Petitioner illegally in violation of State created liberty interest arbitrarily and capriciously, which also violated Petitioner's right to a speedy trial on top of that, with the goal to instill fear in Petitioner. And further, The Supreme Court stated

the proper way to grant relief for deprivation of a Constitutional Right is to give the Defendant the rights they were deprived of. In this case, it's bail, access to an impartial trier of facts, access to compulsory process of witnesses, discovery, and given an opportunity to rehire his own attorney to vigorously test the case and defend my rights from Pre-Trial to Trial. Which, would conform with the First, Fourth, Fifth, Sixth, Eighth, Ninth, and Fourteenth Amendments of the U.S. Constitution. The Trial Court's actions that amounted to these violations was also in violation of Pellegrino V. Amoco Sys. Parkway, 486 Mich. 330 NW 33. Further, Petitioner asserts that a COA should have been granted because the State Court refused to make exhaustion available and prison officials illegally seized Petitioner's legal documents making it impossible to seek state exhaustion. 1). The Trial Court denied Petitioner his right to bail which was guaranteed by not only the Eighth Amendment of the U.S. Constitution, it's also allowed pursuant to the Fourth, Sixth, and Fourteenth Amendments. Moreover, by Michigan Const. Art 1. 2, 15, 17, MCR 6.106, and Mich. Court Rules 790._____, See _____; 2). If the Trial Court had not treated Petitioner Rose, who is Black American, different than how other non-black defendants were treated in the his courtroom and treated him fairly/equally like other defendants were treated in other courtrooms by other judges as it pertains to being allowed to post a reasonable bail and not be held in remand without a reason, notification, or just cause. Petitioner Rose would've received equal protection of the law but this was not the case due to the disparaging custom of the Trial Court practices, See Commonwealth V. O'Keefe, 298 U.S. 169, 173; 140 Atl. 73; Skinner V. Oklahoma, 316 U.S. 535; 62 S.Ct. 1110; 86 L.Ed. 1655; Superior Communications V. City of Riverview Michigan, 881 F.3d 432, 2018 WL 651382, at *10 (6th Cir 2018); and Morrissey V. Brewer, 408 U.S. 471, 491; 92 S.Ct. 2593; 33 L.Ed 2d 484 (1972). As a result, Petitioner Rose was deprived of

not only his Fourth, Fifth, Sixth, and Eighth U.S. Amendment Rights. This also violated Petitioner's Ninth and Fourteenth U.S. Amendment Constitutional Rights; 3). By the Trial Court denying Petitioner bail and holding him in remand without just cause and not providing a speedy trial within 90 days, the Trial Court violated its own rules that the Michigan Supreme Court instituted and demanded that they follow. Consequently, this violation and denial is in violation of Federal law because the court stated that if a state creates a liberty interest and fails to follow, its actions violate the U.S. Constitution, See Love V. Ficano, 19 F.Supp. 754 MN 8, 9, 10. Petitioner was not charged with murder or treason. In short, state officials and the State Court not only violated Petitioner's Fourth and Eighth U.S. Constitutional Rights, they violated Petitioner's Sixth and Fourteenth Amendment procedural and substantive due process of law rights which also caused the Petitioner to be prejudiced and experience anxiety and distress; 4). By the Trial Court denying Petitioner his right to bail and holding him in remand after seizing his bail without reason, just cause and without a hearing or notification of the actions to seize bail which caused the Petitioner to be denied his Constitutional right to have his choice of attorney and an opportunity to properly and adequately fund his own defense fund for his attorney violated Petitioner's Fourteenth Amendment right to due process and equal treatment. Petitioner had employment, family ties, roots in the community, and was not a flight risk. These actions caused the Petitioner to become indigent when he wasn't indigent prior to the Trial Courts abuse of discretion. As a result, Petitioner could not continue to maintain the services of his own retained counsel of his choice and was forced to accept an under-funded court-appointed defense. In light of all of the previously mentioned violations Petitioner asserts that his Sixth Amendment right to competent counsel, discovery, access to compulsory process by not being able to

afford expert witnesses on my behalf, and the ability to locate witnesses on his behalf, and the right to a fair and impartial trier of facts was all denied. 5). The Trial Counsel and Appellate Counsel's failure to adhere to my request to fight for bail and to bring up my issue of being denied bail and the effects of other Constitutional deprivations that occurred amounted to ineffective assistance of counsel. Although Michigan State Constitutional and Michigan Court Rules do not meet the U.S. Constitutional requirements alone. It should be noted that Michigan State Constitution Art. 1 sec. 2, 15, 17, and 20; and MCR 6.106 are based off of the U.S. Constitution. The State Courts could resolve this problem while attempting to exhaust State remedies with the necessary records but state officials refuse to make exhaustion available. Petitioner asserts that since state officials refuse to adhere to the Michigan State Constitution, Michigan Court Rules, and the U.S. Constitution, the Federal Court could rectify this and grant the necessary relief.

In Hewitt V. Helms, 459 U.S. 460, Justice Stevens, Brennan, Marshall, and Blackburn asserted: "The Eighth and Fourteenth Amendment is not a sometime or maybe proposition..." with those words, Petitioner believes the Justices were very clear that any violation of liberty interest without reason, notification, or hearings were in violation of the Eighth and Fourteenth Amendments of the U.S. Constitution and these issues alone would satisfy the necessary standard and demonstrate to any reasonable jurist that the District Court's resolution to Petitioner's claims as depicted in Rose V. Bauman, 2017 U.S. DIST. LEXIS 151687; Rose V. Bauman, 2018 U.S. DIST. LEXIS 16339, was unreasonable, and Petitioner asserts that a jurist could conclude the issues presented by Petitioner Rose with the requested legal documents would prove Constitutional deprivations and are adequate to deserve encouragement to proceed further, Miller-El V. Cockrell,

537 U.S. 322, 327 (2003). All violations listed in this Motion for Re-Consideration and Rose V. Bauman, 2017 U.S. DIST. LEXIS 1515687; Rose V. Bauman, 2018 U.S. DIST. LEXIS 16339, were and are in violation of clearly established federal law as determined by the Supreme Court of the United States, and the Fourth, Fifth, Sixth, Eighth, Ninth, and Fourteenth Amendments of the U.S. Constitution.

Petitioner was arrested & arraigned on 11/10/11 and given a (1) One Million dollar bail arbitrarily and capriciously with the goal of preventing Pre-Trial release without investigation or inquiry of Petitioner's ability to pay the excessive bail that most Americans couldn't post. Next, Petitioner's retained counsel Motioned the Court and asked for a bail reduction. State District Court granted the Motion for show on the record, but refused to act on it until over a month later after multiple requests. Next, Trial Court, however refused to hold a Pre-Trial hearing and seized the \$1,000,000 bail and held the Petitioner in remand without reason, just cause, or notification, See Atkins V. People of Michigan, 644 F.2d 543, 549 (6th Cir). Next, retained counsel states that he was going to withdraw from the case because Petitioner wasn't getting out on bail and couldn't keep up with his legal fees. Next, while at Court, Petitioner asked about the bail reduction again in open court and requested relief so he could work and rehire his own attorney of his own choice who previously recused himself from the case for financial reasons, the Court responded saying: NO, I'm holding him in remand. But did not give a reason why he seized Petitioner, denied bail and held Petitioner in remand. Due to excessive bail and illegal remand confinement, Petitioner was therefore not able to pay for his legal services and was not able to have his friend post bail with the court due to not being able to go to work. The Trial Court's refusal to offer bail/bond continued

to hold Petitioner in remand without just cause even in the face of the Pre-Trial services investigative report that recommended a lower reasonable bail as a result of retained counsel Motion for Bail reduction which stated the \$1,000,000 bail was unreasonable and stated that a lower bail would be recommended. These actions were made pursuant to MCR 6.106, and the Michigan Constitution Art. 1 sec. 15 (See Ex. B); U.S. Constitutional Eighth and Fourteenth Amendments. The Trial Court's denial of bail and illegal remand without bail for no reason without the required hearing of MCR 6.106 and Michigan Constitution Art. 1 sec. 15 state created liberty interest caused all of the additional Constitutional Violations, including the loss of attorney of choice. The U.S. Constitution supported bail, choice of own retained attorney, due process, and equal protection of the law, as did the Michigan Constitution Art. 1 sec. 2, 15, 17; and MCR 6.106, Duncan V. Louisiana, 391 U.S. 145; 88 S.Ct. 1444; 20 L.Ed 2d 491, See Ex B.

Furthermore, the Supreme Court and the Sixth Circuit has made previous precedence in regards to a parties heightened Constitutional Rights when it comes to a Pre-Trial detainee's rights, including bail. And, the Michigan Constitution gives even more access to bail so that a Defendant can provide for his own defense in accordance with Love V. Ficano, 19 F.Supp 754; Atkins V. People of Michigan, 644 F.2d 543, 549 (6th Cir. 1981); and Hawitt V. Helms, 459 U.S. 460; L.Ed HN 1, 2, and 14. This is also noted in MCR 6.106, and Michigan Constitution Art. 1 sec. 2, 15, 17, and 20. Petitioner's Court appointed attorney failed to investigate leads that Petitioner asserted would test the case and secure his liberty. Next, counsel also failed to seek witnesses that Petitioner requested on his behalf. Counsel also failed to vigorously pursue and challenge the Trial Courts denial of bail and remand order in violation of due

process. Counsel also failed to request discovery to prep for trial. This error caused Petitioner to be unable to assist in his own defense as other defendant's would have been afforded by an impartial trier of facts. Counsel was not given a budget needed to vigorously defend Petitioner adequately. Had Petitioner been released from custody on Pre-Trial status, he could have supplied his own defense and properly funded his attorney with the necessary budget that's outside of the Court's allowance for court appointed cases to vigorously pursue my rights at trial in accordance with Hill V. Lockhart, 474 U.S. 52, 59 (1985). Counsel failed to challenge the Trial Court's seizure of bail without a reason, notification, a hearing, or just cause, See Jones V. City of Jackson, 203 F.3d 875 MN 13; Board of Regents V. Roth, 408 U.S. 564, 575; 33 L.Ed 2d 548; 92 S.Ct. 2701 (1972); Hewitt V. Helms, 459 U.S. 460; U.S. V. Cronin, MN 3, 6; Strickland V. Washington, 466 U.S. 668 (1984); MN 2, 5, 7, 8, 9, 13; Atkins V. People of Michigan, 644 F.2d 543, 549 (6th Cir. 1981); and Carey V. Piphus, 435 U.S. 267, 259; 98 S.Ct. 1042; 55 L.Ed 2d 252 (1978).

Respectfully Submitted,

Willie Rose
Willie Rose #235893
Defendant in Pro-Per
Chippewa Correctional Facility
4269 West M-80
Kincheloe, MI. 49784

Pebtan

PROOF OF SERVICE

I swear under oath and penalty of perjury that the above is true to the best of my information, belief, and knowledge. (1) One copy of this document was also mailed to Assistant Michigan Attorney General - Scott Shimkus, the attorney for Respondent Connis Horton.

Dated: 10 / 25 / 2018

Willie Rose
Mr. Willie Rose #235893

REASONS FOR GRANTING THE PETITION

- Petitioner asserts that National Precedence is needed to set a clear precedence in regards to the issues of this case. Secondly Petitioner asserts that if the Court Exercise its powers, it will prevent not only this Petitioner from doing an illegal sentence it will also help many others whom have been wrongfully convicted and sentenced. It is Petitioner's belief that a clear Attachment of THE Trial Court to Elkins v. U.S. would prevent future Abuse by overzealous members of society, from citizens to Judicial Officers, ensuring a much more transparent Appearance of the Court to Everyone, which would make the Public more confident in the Judicial system no matter where they come from. ~~IF~~ If the release Requested is granted it would also prevent Trial Courts from wilfully and intentionally Abusing the Rights of others.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Wm R

Date: 10-25-18