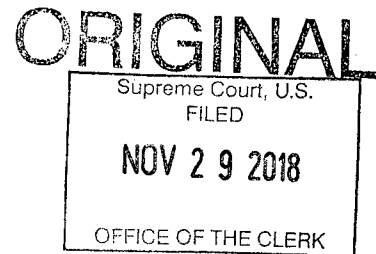


No. 18-7170

IN THE
SUPREME COURT OF THE UNITED STATES
WASHINGTON, D.C.



JONATHAN YANCEY, PRO-SE — PETITIONER
(Your Name)

vs.

STATE OF ALABAMA ET AL. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE SUPREME COURT OF ALABAMA, OCT. 12, 2018
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JONATHAN YANCEY
(Your Name)

379 ALA. HWY 239 NORTH
(Address)

VENTRESS CORRECTIONAL FACILITY
CLAYTON, ALABAMA 36016
(City, State, Zip Code)

NONE
(Phone Number)

QUESTION(S) PRESENTED

THIS APPEAL IS SUCH IMPORTANT TO THE PUBLIC CITIZENS THAT ARE X SEX OFFENDERS UNDER (ASORCNA) AS TO JUSTIFY DEVIATION FROM NORMAL APPELLATE PRACTICE AND TO REQUIRE IMMEDIATE DETERMINATION IN THIS HONORABLE COURT --

(1) DOES ALABAMA'S LEGISLATURES INTENT TO FURTHER PUNISH SEX OFFENDERS UNDER (ASORCNA) VIOLATE THE FEDERAL CONST. ART. I, §10, CL 1 PROHIBITION, EX POST FACTO LAWS --

(2) DOES THE (ASORCNA) INVOLVE A TRADITIONAL MEANS OF PUNISHMENT, BY MAKING ANY VIOLATION A CLASS "C" FELONY FOR PURPOSE OF CODE §13A-5-9.(H.O.F.) ACT TO PUNISH --

(3) IS THE LEGISLATURE'S STATED INTENT IN CODE §13A-11-200 TRUE, (NO) -- FOR ITS PURPOSE, AND SCHEME IS TO PUNISH FOR IT HAS SUCH A PUNITIVE EFFECT IT OVERRIDES THE INTENT --

(4) DOES CODE §15-20-22 REQUIREMENT PRIOR TO RELEASE, (1) (H), AND (1) (R), SHOW THE LEGISLATURE'S INTENT TO PUNISH SEX OFFENDERS, BECAUSE IF YOU DO, OR DONOT, IT IS A CLASS "C" FELONY.

(5) DOES THE DEPARCHER FROM THE SENTENCING JUDGE'S ORAL SENTENCING AFTER (30) DAYS TO FURTHER PUNISH VIOLATE THE EX POST FACTO LAWS UNDER CONST. ART. I, §10, CL 1 PROHIBITED --

(6) IS THE CHARGE THAT PUTS YOU UNDER THE REGISTRATION ACT, A PART OF THE ELEMENT OF FAILING TO REGISTER AS A SEX OFFENDER, VIOLATE EX POST FACTO, AND DOUBLE JEOPARDY.

LIST OF PARTIES

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

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

GOVERNOR OF ALA. KAY IVEY,

ATTORNEY GEN. OF ALA. STEVEN MARSHALL

SOLICITOR GEN. OF THE UNITED STATES.

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4-10
REASONS FOR GRANTING THE WRIT	11-15
CONCLUSION.....	16

INDEX TO APPENDICES

APPENDIX A	THE ALABAMA APPEAL'S COURT, AUG. 17, 2018
APPENDIX B	CIRCUIT COURT OF LEE COUNTY ALABAMA, APRIL 17, 2018.
APPENDIX C	THE SUPREME COURT OF ALABAMA, OCT. 12, 2018
APPENDIX D	GROUND'S CITED IN ALL COURTS, 1-5,,
APPENDIX E	THE SUPREME COURT OF ALABAMA, AUG. 28, 2018.
APPENDIX F	THE ALABAMA COURT OF CRIMINAL APPEALS CERTIFICATE OF JUDGMENT, OCT. 12, 2018
APPENDIX G	COURT OF CRIMINAL APPEALS, AUG. 3, 2018 --
APPENDIX H	CASE ACTION SUMMARY, COUNT 1, 2, 28 YR. EACH,
APPENDIX I	NOTICE OF APPEAL, ... FORM ARAP-26, FR. AND BACK, AP. 25, 18, AND FORM ARAD-1C - MAY 7, 2018 --

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

EX PARTE CARLTON, 867 So. 2d. 332, 338 (ALA. 2003)	11
EX PARTE HAMPTON, 815 So. 2d. 565 (ALA. CRIM. APP. 1999)	7, 11
EX PARTE T.D.T., 754 So. 2d. 899, 904 (ALA. 1999)	11
GONZALEZ V. DUNCAN, 551 F. 3d. 875, 891 (9TH CIR. 2008)	5, 12
GOWEN V. TYS. S., 948 So. 2d. 513, 523 (ALA. 2006)	11
MARSH V. GREEN, 782 So. 2d. 223, 231 (ALA. 2000)	11

STATUTES AND RULES

ALABAMA SUP. COURT APP. RULE 39. I	6
ALABAMA CODE § 13A-5-6	8, 14, 15
ALABAMA CODE § 13A-5-9	7, 14, 15
ALABAMA CODE § 13A-11-200	8, 10, 12
ALABAMA CODE § 13A-11-203	10, 13
ALABAMA CODE § 14-9-41	9
ALABAMA CODE § 15-20-2	13
ALABAMA CODE § 15-20A-10	4
ALABAMA CODE § 15-20A-11	4
ALABAMA CODE § 15-20-22	1, 8

OTHER

CONSTITUTIONAL AMEND. 14, DUE PROCESS	4, 10
CONSTITUTIONAL LAW § 279D, EX POST FACTO CLAUSE, PRIORIZATION	7, 9, 16, 11, 12, 14, 15

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 _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

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

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

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

- ☐ reported at _____; or,
☒ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the CIRCUIT COURT OF LEE COUNTY court appears at Appendix B to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

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

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

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

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

☒ For cases from **state courts**:

The date on which the highest state court decided my case was OCT. 12, 2018.
A copy of that decision appears at Appendix 4 C.

☐ A timely petition for rehearing was thereafter denied on the following date: REHEARING NOT ALLOWED, 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 NONE (date) on 0 (date) in Application No. 0 A 0.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

CONSTITUTIONAL AMEND. 14, DUE PROCESS,

CONSTITUTIONAL LAW ~~8~~ 2790... EX POST FACTO CLAUSE PROHIBITION

STATUTORY PROVISIONS

ALABAMA CODE § 13A-5-6

ALABAMA CODE § 13A-5-9

ALABAMA CODE § 13A-11-200

ALABAMA CODE § 13A-11-203

ALABAMA CODE § 14-9-41

ALABAMA CODE § 15-20-2

ALABAMA CODE § 15-20A-10

ALABAMA CODE § 15-20A-11

ALABAMA CODE § 15-20-22

ALABAMA CODE § 15-20-23

STATEMENT OF THE CASE

YANCEY WAS CONVICTED OF RAPE II IN 1987, AND SENTENCED TO 30 YEARS IN PRISON. AT THE SENTENCING HEARING THE JUDGE DID NOT SENTENCE YANCEY UNDER THE (A.S.O.R.C.N.A.) FOR THERE WERE NO SUCH THING IN 1987, AFTER YANCEY HAD SERVED HIS 20 YEARS SENTENCE AND WAS TO GET OUT, THE STATE SENT YANCEY TO BIRB COUNTY JAIL, YANCEY COULD NOT GET OUT TELL HE SINGED A SEXUAL REGISTRATION FORM, THIS WAS NOT PART OF YANCEY'S SENTENCE, AND IT WAS WELL OVER 30 DAYS AFTER THE JUDGE'S ORAL SENTENCING AT TRIAL. THE (A.S.O.R.C.N.A.) WAS ADDED TO YANCEY'S SENTENCE WITH OUT ANY DUE PROCESS AT ALL.

AFTER YANCEY WAS LET OUT HE STAYED WITH HIS COUSIN AT HIS RESIDENCE WERE YANCEY WAS REGISTERED TO STAY, ON THE WEEKENDS YANCEY WOULD GO OVER TO HIS WIFE'S HOME TO STAY FROM SATURDAY THOROUGH SUNDAY, AND WOULD GO BACK TO HIS COUSIN'S WHERE HE WAS A REGISTERED RESIDENCE FROM MONDAY THOROUGH

FRIDAY WHILE HE WAS WORKING-- YANCEY NEVER CHANGED HIS RESIDENCE, AND NEVER STAYED OVER EIGHT (8) DAYS IN ONE (1) MONTH AT HIS WIFE'S HOME-- DUE TO YANCEY BEING THERE THE

POLICE WAS CALLED BY AN ANONYMOUS PERSON, THE POLICE CAME AN QUESTIONED YANCEY'S WIFE, SHE STATED YANCEY STAYED THERE FOR (3) MONTHS, THEY QUESTIONED YANCEY, HE STATED HE STAYED THERE OFF AN ON FOR THE LAST MONTH AND A HALF, AND THAT IS

WHEN YANCEY WAS ARRESTED FOR VIOLATING SECTION 815-20A-10 (CC)(1), AND 815-20A-11, ALA. CODE 1975,-- YANCEY WAS SENTENCED TO 30 YEARS ON EACH OFFENSE FOR VIOLATING THE (A.S.O.R.C.N.A.)--

IN MAY 2016-- YANCEY'S ATTORNEY DID A DIRECT APPEAL, CERTIFICATE OF JUDGMENT WAS ISSUED OF FEB. 3, 2017,--

YANCEY FILED HIS FIRST RULE 32 PETITION ON OCT. 3,

2017--

STATEMENT OF THE CASE

IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA, THIS PETITION WENT BEFORE JUDGE JACOB A. WALKER III, AND HE SET DOWN AN ORDER ON JANUARY 3RD, 2018, FOR THE STATE TO RESPOND TO THE RULE 32.1 IN 30 DAYS, ON JANUARY 30, 2018 THE STATE DID A RESPONSE, WHICH RESTED ON A FRAUD. BECAUSE THE D.A. MELISSA S. GOWAN STATED THAT THE PETITION WAS TIME BARRED, AND THAT YANCEY DID NOT PICK A CLAIM FROM RULE 32.1 (A), (1) THROUGH (9), RULES (A), (B), (C), (D), (E), OR (F) - HE REQUESTED IN RULE 32, THIS WAS A FRAUD, FOR YANCEY WAS NOT TIME BARRED, AND YANCEY'S CLAIM (3), (4), AND (5) ARE STATED IN RULE 32.1 (A) -- YANCEY FILED A RESPONSE TO THE STATE'S ALLEGATIONS, BUT THE JUDGE DID NOT TAKE YANCEY'S RESPONSE IN TO CONCENTRATION, HE JUST WENT WITH THE STATE, AND THIS WAS AN ABUSE OF DECRETION TO DENY YANCEY ACCESS TO THE COURT FOR A READDRESS, AND THIS IS A VIOLATION OF YANCEY'S FIRST AMENDMENT OF THE CONSTITUTION, ALSO YANCEY WAS SENTENCED TO 28 YEARS, + 28 YEARS, UNDER THE (H.O.F.) FOR VIOLATION OF (ASORCMA) COUNT 1, CC-2015-646, AND COUNT A, CC-2015-646, AS A HABITUAL OFFENDER TO 28 YEARS ON EACH COUNT 1 AND 2 -- THIS IS GROSSLY DISPROPORTIONATE -- SEE -- GONZALEZ V. DUNCAN, 551 F.3D 875, 891 (9TH CIR. 2008) -- THE JUDGE JACOB A. WALKER III DISMISSED YANCEY'S RULE 32 PETITION APRIL 17, 2018 -- SEE -- (APPENDIX B) -- YANCEY FILED A NOTICE OF APPEAL APRIL 25, 2018, THIS WENT BEFORE THE ALABAMA APPEALS COURT. SEE -- (APPENDIX B)

STATEMENT OF THE CASE

AND AUGUST 3, 2018 THE APPEALS COURT STATED YANCEY HAD ONLY REASSERTED CLAIMS (2) AND (3), THIS WAS AND IS A STATEMENT UNDER A FRAUD, BECAUSE YANCEY BROUGHT UP ALL (5) OF HIS CLAIM IN THE APPEAL COURT--SEE-- (APPENDIX G), BUT AFTER YANCEY DID A RESPONSE, THE APPEAL COURT AFFIRMED THE LOWER COURT'S JUDGMENT. YANCEY FILED FOR A REHEARING AUGUST 10, 2018--AND THIS WAS OVERRULED AUGUST 17, 2018--SEE--(APPENDIX H)-- YANCEY FILED A PETITION FOR WRIT OF CERTIORARI IN THE ALABAMA SUPREME COURT AUGUST 23, 2018. WITH A(4) PAGE ARGUMENT WITH EXHIBITS-- THE SUPREME COURT STATED IT WAS TO LENGTHLY, AND GAVE YANCEY (14) DAYS TO COMPLY WITH THE FORM AND LENGTH ON AUGUST 28, 2018, YANCEY DID AS WAS TOLD, ON OCTOBER 12, 2018, THE ALABAMA SUPREME COURT SET AN ORDER WRIT DENIED-- NO OPINION-- THE ALABAMA SUPREME COURT DOES NOT ALLOW FOR AN APPLICATION FOR REHEARING--SEE, ALA. SUPREME COURT RULE BRAP39I, SO THE ONLY WAY TO GET ANY RELIEF IS TO FILE IN THE UNITED STATES SUPREME COURT WITH IN 90 DAY OF OCTOBER 12, 2018--SEE--(APPENDIX C)

YANCEY DOES BRING UP ALL (5) OF HIS CLAIMS FROM HIS STATE PROCEEDING IN THIS HONORABLE COURT SEE (APPENDIX D), PLUS THE (6) QUESTIONS PRESENTED IN THIS APPLICATION FOR WRIT OF CERTIORARI IN THIS COURT-- AS FOLLOWS HEREIN--

STATEMENT OF THE CASE

(1) DOES ALABAMA'S LEGISLATURES INTENT TO FURTHER PUNISH X SEX OFFENDERS UNDER (A50RCNA) VIOLATE THE FED. CONST. ART 1, §10, CL. 1 PRIVILEGE, EX POST FACTO LAWS, YANCEY WAS SENTENCED IN 1987, AND THERE WERE NO SUCH THING AS (A50RCNA), AND TO RETROACTIVELY APPLY THE SEX OFFENDER ACT WITH OUT ANY DUE PROCESS OF LAW VIOLATES YANCEY'S EQUAL PROTECTION CLAUSE AND IT IS FOR LIFE. THE COURTS OF ALABAMA USES THE ELEMENT OF THE PRIOR SEX CONVICTION TO SENTENCE A PERSON FOR A 50RCNA VIOLATION, AND IF THE PRIOR SEX OFFENCE WAS A FELONY THEN IT SHALL ACTIVATE THE HABITUAL FELONY OFFENDER ACT. FOR THE PURPOSES OF PUNISHING X SEX OFFENDER, AN THIS IS THE ALA. LEGISLATURES SCHEME TO PUNISH SEX OFFENDERS --- SEE --- EX PARTE HAMPTON, 815 SO. 2D. 565 (ALA. CRIM. APP. 1999) --

(2) DOES THE (A50RCNA) INVOLVE A TRADITIONAL MEANS OF PUNISHMENT, BY MAKING ANY VIOLATION A CLASS "C" FELONY FOR PURPOSE OF ALA. CODE §13A-5-9, (H.O.F.) ACT TO PUNISH -- YANCEY DOES STATE THAT TO PUT THE REGISTRATION UNDER A CLASS "C" FELONY TO USE THE (H.O.F.) ACT FOR THE PURPOSE OF ENHANCING THE PUNISHMENT TO A CLASS "B" OR "A" FELONY IS A MEANS TO PUNISH AN X SEX OFFENDER FOR THE PRIOR SEX OFFENCE, AND TO GIVE THE X SEX OFFENDER MORE TIME UNDER (A50RCNA) THAN THEY RECEIVED FOR THE PRIOR SEX OFFENCE THAT PUT THEM UNDER THE ACT. AND TO USE §13A-5-9, IS THE ALA. LEGISLATURE'S INTENT OF A TRADITIONAL MEANS OF PUNISHMENT FOR SEX OFFENDERS --

STATEMENT OF THE CASE

(3) IS THE LEGISLATURE'S STATED INTENT IN CODE §13A-11-200 TRUE-- (NO)-- FOR ITS PURPOSE, AND SCHEME IS TO PUNISH, FOR IT HAS SUCH A PUNITIVE EFFECT IT OVERRIDES THE INTENT...

YANCEY STATES THAT CODE §13A-11-200-- (A) THE LEGISLATURE DECLARES THAT ITS INTENT IN IMPOSING CERTAIN REPORTING AND REGISTRATION REQUIREMENTS ON CRIMINAL SEX OFFENDERS IS NOT TO FURTHER PUNISH SUCH OFFENDERS--

THIS IS NOT TRUE, FOR IF WE LOOK TO THE INTENT, SCHEME, AND EFFECT'S, OF THE ACT'S PUNISHMENT FOR 115 WAY'S TO PUT ANY ONE VIOLATION UNDER A CLASS "C" FELONY, THAT GOES UNDER CODE §13A-5-9, WHICH CLEARLY STATES-- (A) IN ALL CASE'S WHEN IT IS SHOWN THAT A CRIMINAL DEFENDANT HAS BEEN PREVIOUSLY CONVICTED OF A FELONY AND AFTER THE CONVICTION HAS COMMITTED ANOTHER FELONY HE OR SHE "MUST" BE "PUNISHED" AS FOLLOWS;-- (1) ON CONVICTION OF A CLASS "C" FELONY, HE OR SHE "MUST" BE "PUNISHED" FOR A CLASS "B" FELONY-- AND UNDER CODE §13A-5-6, A CLASS "B" FELONY, NOT MORE THAN 20 YEAR'S OR LESS THAN 2 YEAR'S-- AND THIS INTENT, SCHEME HAS SUCH AN AFFECT IT IS TO PUNISH SEX OFFENDER--

(4) DOES CODE §15-20-22, REQUIREMENT PRIOR TO RELEASE,-- (1) (A), AND (1) (B), SHOW THE LEGISLATURES INTENT TO PUNISH X SEX OFFENDERS, BECAUSE IF YOU DO, OR DONOT, IS A CLASS "C" FELONY,--

CODE §15-20-22, ADULT CRIMINAL SEX OFFENDER - REQUIREMENT PRIOR TO RELEASE;

STATEMENT OF THE CASE

(1) (A) IF THE OFFENDER "HAS NOT" ACCUMULATED ANY INCENTIVE TIME PURSUANT TO SECTION 314-9-41 OR ANY OTHER LAW, HE OR SHE "SHALL" BE CHARGED WITH VIOLATING THIS SECTION--

(1) (B), IF THE OFFENDER "HAS" ACCUMULATED CORRECTIONAL INCENTIVE TIME PURSUANT TO SECTION 314-9-41 OR ANY OTHER LAW, THE OFFENDER "SHALL" BE CHARGED WITH NON-COMPLIANCE WITH THIS SECTION--

AND THIS ALSO APPLYS TO FAILURE TO REGISTER, FOR THE STATE OF ALABAMA LEGISLATURE HAS MAID FAILURE TO REGISTER BE CLASSIFIED AS A SEX OFFENSE TO KEEP THE OFFENDER FROM WORK RELEASE, HONOR CAMPS, AND OTHER WAYS THEY COULD MAKE ANY MONEY TO HELP THERE FAMILYS, OR PAY THERE COURT COST, OR THERE FINES-- THIS IS THE LEGISTURES INTENT TO PUNISH X SEX OFFENDER FOR THE SAME SEX CRIME OVER AND OVER FOR THE REST OF THERE LIFE-- THIS IS ALABAMA LEGISTURES SCHEME, AND INTENT TO FURTHER PUNISH X SEX OFFENDER'S - AND THIS IS WITHOUT A VICTIM,

(5) DOES THE DEPARCHER FROM THE SENTENCING JUDGE'S ORAL SENTENCE AFTER (30) DAYS TO FURTHER PUNISH VIOLATE THE EX POST FACTO LAWS UNDER CONST, ART 1, §10, C1, PROHIBITED--

YANCEY, WAS ARRESTED IN JUNE 6, 1987, FOR 2ND DEGREE RAPE AND SENTENCED TO 30 YEARS FOR A CLASS "B" FELONY, AT THAT TIME THERE WERE NO SUCH THING AS (SORCNA) THIS WAS ADDED YEARS LATER, AND NOW WITH OUT ANY INTENT, KNOWLEDG, OR WILLFULLY VIOLATING THE (ASORCNA) - ACT-- YANCEY IS

STATEMENT OF THE CASE

ARRESTED IN NOVEMBER 24, 2014, AND SENTENCED ON MAY 23, 2016, TO 28 YEARS ON ONE COUNT, AND 28 YEARS ON THE 2ND COUNT, FOR FAILURE TO REGISTER, THIS WAS ON THE SAME CASE NUMBER CC-2015-646, AND THIS WAS A TOTLE 56 YEARS, AND THE JUDGE RAN THEM TOGETHER TO 28 YEARS IMPRISONMENT FOR A CLASS "C" FELONY. THIS WAS THE LEGISLATURE'S INTENT IN ADDING (SORCUM) TO THE PRIOR SENTENCE WAS ONLY A WAY TO FURTHER PUNISH A CRIME MORE SO THAN IT COULD BE AT THE TIME OF THE ORIGINAL CRIME, FOR IN 1987, WHEN YOU EOS YOUR SENTENCE, YOU HAD PAID YOUR DEBIT TO SOCIETY, AND COULD LIVE, WORK, OR MOVE WITHOUT ANY CONSEQUENCES FROM THE LAW, AND THIS WAS YOUR RIGHT TO FREEDOM OF LIBERTY AS A FREE CITIZEN OF THE UNITED STATES --

(6) IS THE CHARGE THAT PUTS YOU UNDER THE REGISTRATION ACT A PART OF THE ELEMENT OF FAILING TO REGISTER AS A SEX OFFENDER IN VIOLATION OF EX POST FACTO, AND DOUBLE JEOPARDY --

YANLEY DOES STATE THAT TO USE THE PRIOR RARE II TO ENHANCE THE SENTENCE FOR FAILING TO REGISTER VIOLATES THE PRINCIPLES OF ALA. CODE §13A-11-200. THE LEGISLATURES DECLARED INTENT IS NOT TO FURTHER PUNISH SUCH OFFENDER, BUT THEY REPEALED ALA. CODE §13A-11-203, THAT STATED FAILING TO REGISTER WAS ONE YEAR, OR NOT MORE THAN 5 YEARS, BY ACT 2005-301, 1ST SR, SESS., P. 571, §3, EFFECTIVE OCT. 1, 2005, SO THEY COULD FURTHER PUNISH SEX OFFENDER, AND THIS WAS PUT ON ALL OFFENDERS NO MATTER WHEN YOU WERE PUT ON THE LIST. THIS ALSO VIOLATES DOUBLE JEOPARDY BY USING THE PRIOR CONVICTION FOR SENTENCING --

REASONS FOR GRANTING THE PETITION

0

THIS APPEAL IS SUCH IMPORTANCE TO THE CITIZENS OF THE UNITED STATES, AND LIVES IN ALABAMA THAT ARE X SEX OFFENDERS UNDER (ASORCNA) AS TO JUSTIFY DEVIATION FROM NORMAL APPELLATE PRACTICE AND TO REQUIRE IMMEDIATE DETERMINATION IN THIS HONORABLE COURT--

IT IS WELL SETTLED IN THE ALABAMA SUPREME COURT, THAT IT IS NOT THE DUTY OF THE COURTS OF ALABAMA TO QUESTION THE WISDOM, OR THE LACK OF USED BY THE LEGISLATURE IN ENACTING THE LAWS, OR ACTS OF ALABAMA--SEE--EX PARTE T.D.T., 745 SO.2D. 899, 904 (ALA. 1999). "THE LEGISLATIVE POLICIES ARE NO CONCERN TO THE COURTS"--ALSO SEE--MARGH V. GREEN, 782 SO.2D. 223, 231 (ALA. 2000). "THIS COURT IS NOT AT LIBERTY TO REWRITE A STATUTE OR TO SUBSTITUTE ITS JUDGMENT FOR THAT OF THE LEGISLATURE"--SEE--GOWEN V. TYS., 5, 948 SO.2D. 513, 522 (ALA. 2000).--ALSO--EX PARTE CARLTON, 867 SO.2D. 338, 338 (ALA. 2003).--AS CAN BE SEEN HERE, THE ONLY COURT THAT CAN RULE ON THE ALABAMA'S (SORCNA) ACT VIOLATES THE CONSTITUTIONAL LAWS OF THE UNITED STATES AND THE STATE OF ALABAMA'S EX POSTE FACTO LAWS, WHERE THE LEGISLATURE'S INTENT UNDER (ASORCNA) IS TO FURTHER PUNISH X SEX OFFENDER FOR THE SAME CRIME THAT PUTS THEM UNDER THE ACT, FOR IT IS STATED IN--EX PARTE HAMPTON, 815 SO.2D. 565 (ALA. CRIM. APP. 1999)--THAT IT IS THE PRIOR SEX CONVICTION THAT IS THE ESSENTIAL ELEMENT OF THE ACT FOR FAILURE TO REGISTER--THAT THE X SEX OFFENDER IS SENTENCED FOR THE SAME CRIME TWICE--FOR ALABAMA'S

(111)

REASONS FOR GRANTING THE PETITION

LEGISLATER INTENT, AND SCHEME TO PUNISH FOR THE COURTS IN ALABAMA USES THE SAME ELEMENTS OF THE PRIOR SEX OFFENCE TO SENTENCE AN X SEX OFFENDER FOR FAILURE TO REGISTER, AND THIS VIOLATES THE EX POST FACTO CLAUSE OF THE UNITED STATES CONSTITUTIONAL ART. §10, FOR THIS ALTERNATIVE PURPOSE FOR PUNISHMENT IS VERRY EXCESSIVE IN RELATION'S TO THE REGISTRATION ACT'S STATED PURPOSE. THIS SHOWS THE LEGISLATER'S IN ALABAMA HAS A MAIN INTENT AND SCHEME TO PUNISH X SEX OFFENDER'S FOR THEY ARE THE DISFAVORED GROUP IN THE STATE.

IN NOVEMBER 2, 1987 YANCEY RECEVED A 20 YEAR SENTENCE FOR THE OFFENCE OF RAPE II, AND NOW FOR THE OFFENCE OF FAILURE TO REGISTER YANCEY HAS RECEVED TWO (2) 28 YEAR SENTENCE'S -- THIS IS THE ALABAMA LEGISLATURE'S INTENT TO FUTHER PUNISH X SEX OFFENDER'S OVER AND OVER FOR THE SAME OFFENCE, ALABAMA'S SENTENCING ACT FOR FAILURE TO REGISTER IS IN CONFLICT WITH THE FEDERAL COURTS, AND OTHER STATE COURTS OF LAST RESORT'S -- SEE -- GONZALEZ V. DUNCAN, 551 F. 2d. 875, 891 (9TH CIR. 2008) - STATE'S -- "28 YEAR'S - TO - LIFE SENTENCE FOR A REGULATORY CRIME OF FAILURE TO UPDATE SEX OFFENDER REGISTRATION IS GROSSLY DISPORTIONAL --" THIS ALABAMA IS IN CONFLICT WITH THIS THE HONDRABLE 9TH CIRCUIT COURT --

THE ALABAMA LEGISLATURE'S STATEMENT IN ALA. CODE §13A-11-200, "NOT TO FURTHER PUNISH SUCH OFFENDERS".

REASONS FOR GRANTING THE PETITION

WHEN YANCEY WAS CONVICTED IN 1987, HE FELT UNDER ALA. CODE § 15-20-2, HIS CONVICTION WAS REPORTED TO THE DEPARTMENT OF PUBLIC SAFETY, (ACT 1967) - AND IN THIS THERE WERE NO RESTRICTIONS ON PLACE OF EMPLOYMENT OR RESIDENCE, THERE WERE NO RESTRICTIONS ON YANCEY'S LIBERTY OR LIFE - THROUGH A CONVICTION FOR NON-COMPLIANCE, THEN THE ALABAMA LEGISLATURE IMPLEMENTED THE ALABAMA SEX OFFENDER PROGRAM FOR THE DEPARTMENT OF PUBLIC SAFETY TO KEEP UP WITH INFORMATION SUPPLIED PURSUANT TO SECTION 15-20-2, - SEE ALA. CODE § 15-20-5 (ACT 1967) - AND IN 1994 ALABAMA FOLLOWED OTHER STATES AND ADOPTED THE JACOBS WETTERLING ACT SETTING NATIONAL STANDARDS FOR SEX OFFENDER REGISTRATION AND NOTIFICATION, THIS ACT CAME FROM THE ALAN R. KARBAT, NOTED AS THE SCHARLEY LETTER SEX OFFENCE DATABASES AND COMMUNITY NOTIFICATION, THAT WAS ENACTED IN 1990 BY CONSENT, THERE WERE NO PUNISHMENT IN THESE ACTS, YANCEY DOES STATE THAT THE ALABAMA'S ATTORNEY GENERAL IN THE FALL OF 1990, NO. 96-793, PROMULGATED SOMETHING IN ALABAMA TO VIOLATE THE ACT WAS A MISDEMEANOR UP TO OCTOBER 1, 2005, AND THIS DID NOT APPLY TO YANCEY, THE ALABAMA LEGISLATURE HAD A NEW PLAN TO PUNISH SEX OFFENDERS, SO IN OCTOBER 1, 2005, THEY MADE ANY VIOLATION A CLASS "C" FELONY UNDER ALA. CODE § 13A-11-203, PENALTY FOR VIOLATIONS OF ARTICLE, SENTENCE FOR VIOLATING SEX OFFENDER ACT. 1 YEAR TO 5 YEARS -

REASON'S FOR GRANTING THE PETITION

YANCEY DOES STAT THAT THE ALABAMA LEGISLATURE VIOLATED THE EX POST FACTO CLAUSE IN FEBRUARY 28, 2007, BY MAKING SORNA RETROACTIVELY APPLICABLE TO SEX OFFENDER CONVICTED PRIOR TO JULY 27, 2006, BECAUSE THIS INFLECTS A GRATER PUNISHMENT, THAN THE LAW ANNEXED TO THE CRIME WHEN IT WAS COMMITTED THIS WAS DONE THROUGH LEGISLATURES ARBITRARY AND VINDICTIVE ACT'S AGAINST SEX OFFENDER - AND IN ALABAMA IT IS FOR LIFE THIS INCREASES THE PENALTY AND THIS INVOLVES AN AFFIRMATIVE DISABILITY AND RESTRAINT ON A PERSON WHO WAS NOT UNDER THE ACT PRIOR TO THE FIRST INACTMENT OF SORNA, ALABAMA IS LIKE ALASKA IN A LOT OF WAY'S, FOR IT DOES NOT PROVIDE A WAY TO PROVE THAT YOU HAVE BEEN REHABILITATED SO YOU CAN GET OFF THE SORNA LIST, AND THE ALABAMA SORNA ACT HAS A SCHEME TO REQUIRE YOU TO REGISTER IN PERSON FOUR TIMES A YEAR AND THIS CAN BE A HEAVY BURDON AT TIME'S BECAUSE IT PUT'S YOUR LIFE, AND OTHERS IN DANGER IF THERE IS A STORM OR HEAVY RAIN AND STRONG WIND'S, BUT IF YOU FEEL TO COME IT IS A CLASS "C" FELONY, AND ALABAMA HAS A SCHEME THAT A CLASS "C" FELONY IS UNDER ALA. CODE §13A-5-6, (3) FOR A CLASS "C" FELONY, NOT MORE THAN 10 YEARS OR LESS THAN 1 YEAR AND 1 DAY.. AND SENCE YOU WAS CONVICTED PRIOR BY THE OFFENCE THAT PUT YOU UNDER THE ACT, YOUR SENTENCE FALLS UNDER ALA. CODE §13A-5-9, HABITUAL FELONY ACT. (A). IN ALL CASES WHEN IT IS SHOWN THAT A CRIMINAL DEFENDANT HAS BEEN PREVIOUSLY CONVICTED OF A FELONY AND AFTER THE CONVICTION HAS COMMITTED ANOTHER FELONY, HE OR SHE "MUST"

REASONS FOR GRANTING THE PETITION

BE "PUNISHED" AS FOLLOWS; (1) ON CONVICTION OF A CLASS "C" FELONY, HE OR SHE "MUST" BE "PUNISHED" FOR A CLASS "B" FELONY, AND UNDER ALA. CODE § 13A-5-9 (B) IN ALL CASES WHEN IT IS SHOWN THAT A CRIMINAL DEFENDANT HAS BEEN PREVIOUSLY CONVICTED OF ANY TWO FELONIES AND AFTER SUCH CONVICTIONS HAS COMMITTED ANOTHER FELONY, HE OR SHE "MUST" BE "PUNISHED" AS FOLLOWS; (1) ON CONVICTION OF A CLASS "C" FELONY, HE OR SHE "MUST" BE "PUNISHED" FOR A CLASS "A" FELONY-- AND UNDER ALA. CODE § 13A-5-6, SENTENCE, (A) (1) FOR A CLASS "A" FELONY, FOR LIFE OR NOT MORE THAN 99 YEARS OR LESS THAN 10 YEARS --

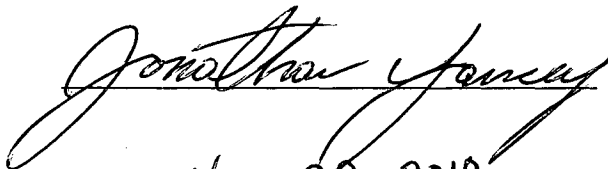
THIS IS THE ALABAMA'S LEGISLATURE'S SCHEME TO PUNISH, FOR IF YOU WERE CONVICTED OF A SEX OFFENCE TO BE PUT UNDER SORNA, THIS IS 1 PRIOR CONVICTION THAT MAKES YOUR FIRST SORNA VIOLATION A CLASS "B" FELONY FOR THE PURPOSE OF PUNISHMENT, AND IF YOU VIOLATE SORNA A SECOND TIME YOU "MUST" BE "PUNISHED" FOR A CLASS "A" FELONY--

AND TO APPLY THIS ACT TO YANCEY AS THEY DID GAVE HIM 28 YEARS + 28 YEARS -- WHICH IS A TOTAL OF 56 YEARS FOR A CIVIL ACT NOT A CRIMINAL ACT, FOR TO VIOLATE THE SORNA ACT YOU HAVE NO VICTIM, AND THIS SHOWS THAT THE ALABAMA LEGISLATURE'S PURPOSE IN ENACTING THE SORNA ACT RETROACTIVELY APPLY TO YANCEY IS TO PUNISH, AND THIS VIOLATES THE EX POST FACTO CLAUSE OF THE FEDERAL CONSTITUTIONAL LAWS.

CONCLUSION

IT IS CLEAR THAT THIS HONORABLE COURT IS THE ONLY ONE THAT
CAN RULE ON THE ALABAMA'S EX POST FACTO VIOLATION'S. THEREFOR;
The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Jonathan Jancy", written over a horizontal line.

Date: Nov-28-2018