

COPY

CIVIL ACTION NUMBER \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

In re:

JAMES RUDNICK,

Applicant,

v.

MATTHEW HANSEN (WARDEN @ S.C.F.)

Respondent.

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APPLICATION FOR WRIT OF HABEAS CORPUS

PURSUANT TO 28 U.S.C. §2241

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(LIST OF PARTIES)

A. APPLICANT INFORMATION

JAMES RUDNICK (prisoner 68432) - pro se  
Colorado Department of Corrections - Sterling Facility  
S.C.F. 12101 Hwy 61 Box 6000 L.U. 1-A  
Sterling, CO. 80751

☒ Convicted and sentenced state prisoner

B. RESPONDENT INFORMATION

MATTHEW Hansen (Warden @ S.C.F.) and employee of:  
Colorado Department of Corrections - Sterling Facility  
S.C.F. 12100 Hwy 61 Box 6000  
Sterling, CO. 80751

PH: (970) 520-5010 (or) 8300

COLORADO ATTORNEY GENERAL - OFFICE  
(Legal Dept. Representing HANSEN - employed by State)  
1300 Broadway 10th Floor  
Denver, CO. 80203

PH: (720) 508-6715

☒ All Parties are listed.

2

QUESTIONS PRESENTED

- 1 Whether the Respondent [Warden Hansen] - employee of the Colorado Department of Corrections] has valid authority (in accord with the thirteenth and fourteenth Amendments of the United States Constitution) to punish this Applicant [Rudnick] and to keep him incarcerated (to serve a life term) without Rudnick having been duly convicted of the statutory offense indicated\* on the State's Warrant of Commitment (or Mittimus) issued through the State Judicial Branch?

(\*) Exhibit I, III, IV, V, VI & VIII (shall be provided at Hearing)

- 2 Whether Respondent's "holding authority" is constitutionally maintained after receiving multiple [altered] official mittimus documents\* (each containing false conviction and sentence terms) that were issued without jurisdiction against Applicant Rudnick to punish him without due process or giving any notice, hearing, or opportunity to be present to challenge (new) convictions indicated? (and) \*\*

- 3 Whether these "new" or "added" statutory offense convictions and sentence terms [entered against Applicant Rudnick by way of mere issuance of new mittimus]\* still provides legitimate holding authority AFTER the criminal "counts" indicated have been changed (without due process); then changed again; then REMOVED; then changed again with NEW charge added (shown in Exhibit I - V)... (and) \*\*

(\*\*) Neither Respondent (warden) or C.D.O.C. officials will specify on which, of the many, holding documents issued, they are using to rely upon for exercising their authority to keep Applicant Rudnick in their custody.

APPENDIX "J" [Grievance exhausted 9/17/18] shall be provided

- 4 Whether "Actual Innocence" should not apply under these circumstances when State's multiple different holding documents are being issued arbitrarily\* containing conflicting critical information concerning offense convictions, dates, and sentence terms (changed or added) without support or proof of a related verdict?

( This section INSERTED per notice to cure deficiency )

\* New charges and sentence issued decades after sentence had been finalized and has been being served

7  
( This section INSERTED per notice to cure deficiency )

## JURISDICTION

Jurisdiction of this United States Supreme Court is invoked under:

28 USC §§1251, 1651, & 1652

and

28 USC §§2241 & 2244(b)

### §1251 Original Jurisdiction - Habeas Corpus

Applicant presents that the state's "holding document" (or mittimus) on which the Respondent (Warden Hansen) obtains his authority to keep Applicant (Rudnick) in custody for punishment of crime(s) indicated, is now invalid and thereby VOIDS that authority entitling Applicant to immediate discharge

When one part of an official document is based on falsity, the whole document which exists based on that falsity should be declared null and void

and

habeas corpus is used where judgment is void. Ryan v Cronin 553 P2d 754

### §1261 All Writs Act

### §1652 ...State law...should be regarded on rules of decision

Given for purposes of settled case law directly on point for following argument

Where "a sentencing court cannot change a sentence even if the alteration is for the sole purpose of clarifying its original intent" People v Sandoval 974 P2d 1012, 1015; and, "sentence changes are void AFTER sentence has been finalized" People v Nix No '79CA0109

Courts may not invade the Executive Department to correct alleged mistakes arising out of abuse of discretion, for to do so would interfere with performance of government functions and vitally affect interests of United States Ainsworth v Barn Ballroom Co. 157 F2d 97

"It is fundamentally necessary that each of the three general departments of government be maintained entirely free from control or coercive influence direct or indirect, of either of the others" Humphrey's Ex'r v US (1935) 295 US 602

### §2241 Habeas Corpus - Supreme Court's Power to grant writ

- Where prisoner confinement violates the constitution, laws, or treaties of the United States §2241(c)(3)
- When fundamental defect results in a complete miscarriage of justice or is inconsistent with the demands of fair procedure
- Where there exists significant judicial error
- Where due process has been violated
- Where error creates grounds for immediate release [due to 'actual innocence' to crime(s) indicated]

...(AND) THE ABOVE SUPPORTS:

2

§2244(b)(2)(B) Actual Innocence

Where maintaining imprisonment by invalid documents "created" without due process and/or without jurisdiction, is fundamental miscarriage of justice - particularly when (this) Applicant has NOT been duly convicted of said offense and 'invalid document' VOIDS Warden's holding authority, entitling Applicant to immediate discharge

Challenge to the legality of a current sentence CHANGED/ALTERED/MODIFIED/or /AMENDED in this matter, does satisfy the "IN CUSTODY" requirement. Lacka-  
ganna County D.A. v Coss 532 US 394, 401; Daniels v US §23 US 374, 384

The U.S. Supreme Court has jurisdiction to review cases for wrongful convictions see: Berger v US 295 US 78; Kyles v Whitley 514 US 419; Castellano v Fragozo 352 F3d 939 (and) "It is a mandatory duty of the court to uphold the constitution and rights to which citizens are entitled" Bryant v City of Philadelphia 2016 US Dist LEXIS 174813; Stilley v Tinsley 385 P2d 671

The 'actual innocence' or 'fundamental miscarriage of justice' exception to the cause and prejudice requirement for overcoming any procedural default applies (here) because a constitutional violation has "probably resulted" in the [indication of a] conviction of [Applicant] who is actually innocent of the substantive offense [shown] see Dretke v Haley 541 US 386, 392

CLEAR AND CONVINCING EVIDENCE EXISTS - but for the constitutional error NO VERDICT exists to show Petitioner guilty of said offense [because he was acquitted of §18-3-102(1)(d), and, was never tried [requirement of due process] for [count 2] for the court to indicate a conviction of §18-3-102(1)(a) or (1)(d) AFTER [count 2] had been removed [EX IV]

State's action was objectively unreasonable - entry of false crime offense and indication of convictions on offenses without due process invalidates the states holding document and voids the Respondent (Warden's) authority indicating state's action(s) issuing multiple altered mittimus documents is so lacking in justification, that the error is well understood and comprehended in existing law beyond any possibility for fair minded disagreement

Clear and convincing evidence does overcome state court's "correction assumption" and improper efforts to 'fix' errors without jurisdiction, specifically when states documentation and official records don't match...all have been altered multiple times causing an ongoing violation that voids said authority (see EX I-VIII)

**CALCULATION FOR TIME BAR "UNNECESSARY"**

Upon completion of "exhaustion process" of state remedy, matter has been filed with this U.S. Supreme Court (under original jurisdiction) where each action has been "RETURNED" with instruction to cure deficiencies - such that this present action is believed to have all deficiencies corrected in order to process this extraordinary writ

Applicant has exercised due diligence "keeping the ball rolling" since his discovery of the ONGOING DOCUMENT CHANGES that remain unresolved since 2013

see also: 13CV3223 U.S. District Court 28 USCA §2254

14-1098 U.S. Court of Appeals (10th Circuit)

(no number) U.S. Supreme Court Writ of Certiorari

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THEN

This present habeas action was brought back to this U.S. Supreme Court upon completion/exhausting state court remedies RECENTLY filed under 28 USC §2241

1st habeas filed	1/31/18	...	Denied	3/19/18
2nd habeas filed	4/4/18	...	Returned	4/20/18
3rd habeas filed	4/25/18	...	Returned	5/14/18
4th habeas filed	7/4/18	...	Returned	8/03/18
5th habeas filed	9/27/18	...	Returned	10/16/18 (Rcvd 10/22/18)

Additional State Administrative Remedy was pursued and exhausted!

See: APPENDIX "J" Where Respondents REFUSE to answer issue of clarification on which "mittimus" they are using for the "authority" to maintain their hold on this Applicant, when multiple "holding documents" have been received - EACH ONE DIFFERENT from the next

Pursuant to King v Morgan 807 F3d 154, 160, Petitioner may challenge an undisturbed conviction-related claim in a second-in-time petition AFTER a new sentencing proceeding without triggering the second or successive requirement of 28 USC §2244(b) for review of VOID sentence or invalid conviction and

Review of state's action is moot when constitutional violation(s) are clear and obvious from the official documents in evidence (EX I-VIII) and (EX AA)

"State" post conviction remedy hearing is unnecessary where "state" supreme court decision establishes how Petitioner has exhausted his "state" remedies - and - that petition for federal habeas corpus is proper remedy. see Peters v Dillon 341 F2d 337 (10th)

Question answered in:

Sandoval, Nix, Ainsworth, Humphrey, Puigliese, Burke, Contraras, Yeager, Murrow, Mendez, Harper, and Tinsley (supra)

also

It is evident how "changing mittimus" [for new sentence] without his presence, without the court having proper jurisdiction, and without proof of a conviction for said criminal offense, violates (this Applicant's) right to due process under the 14th Amendment US Constitution See: Brown v Brittian 773 P2d 570; Hunt v State D.O.C. 985 P2d 651; Brown v D.O.C. 915 P2d 1312

FOR THIS MATTER, determining what constitutes a VOID or ILLEGAL judgment for purposes of subject matter jurisdiction vis-a-vis the writ of habeas corpus, the allegation that a Petitioner is entitled to immediate release has been recognized by the court as proper basis for petitioning the writ. Johnson v Gunter 852 P2d 1263, 1265; Cardiel v Brittian 833 P2d 748, 751

Even in the case of where the original imprisonment was proper. where the court ruled in Kostal v Tinsley 381 P2d 43 CRS §13-45-103, that "discharge is proper where though the original imprisonment was lawful, yet by acts, omissions, or event which has subsequently taken place, the [person] has become entitled to his discharge"

"When a state court fails to conduct necessary process - which as a result has the effect of depriving a person of life, liberty, or property without due process of law in violation of the 14th Amendment, the federal constitution error can be addressed by a federal habeas court" Gilmore v Taylor 508 US 333, 348. And, this "habeas writ may be granted by the Supreme Court, any justice thereof, or the District Court..." 28 USC §2241

CONSTITUTIONAL AND STATUTORY PROVISIONS - (verbatim)

Amendment XIII [1865] U.S. Constitution

Section 1. Neither slavery nor involuntary servitude, except as a punishment for a crime whereof the Party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction

Amendment XIV [1868] U.S. Constitution

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws

Art II §25 Colorado Constitution - Bill of Rights

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

Art II §26 Colorado Constitution - Bill of Rights

There shall never be in this State either slavery or involuntary servitude, except as punishment for crime, whereof the party shall have been duly convicted

28 U.S.C. §2241 Power to grant writ

(a) Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, or the district court of any circuit judge within their jurisdiction. The Order of a circuit judge shall be entered in the records of the district wherein the restraint complained of is had.

(b) Supreme Court may transfer application for hearing and determination to district court having jurisdiction to entertain it

(1) When there exists a fundamental defect which inherently results in a complete miscarriage of justice or in a proceeding inconsistent with the rudimentary demands of fair procedure

(2) Where there is present exceptional circumstances rendering the need for the remedy afforded by the writ of habeas corpus...[and one or more of the following is] apparent:

- (a) a violation of an important fundamental right
- (b) a particular reason exists that the State judges in general may undermine or be hostile to federal law that was violated
- (c) action demonstrates violation of statutes to which nationally uniform interpretation is particularly important
- (d) willful or egregious violation of any federal law by particular state judge
- (e) prejudice to important interests of the incarcerated person

NO CANON OF AVOIDANCE - AEDPA

Where the 14th Amendment 'suspension clause' concomitantly prohibits the elimination of the federal habeas review of State convictions because of the need to defend the Constitution

Constitution and Statutory Provisions (continued)

Colorado Revised Statutes CRS

§13-45-101 CRS Civil habeas corpus (Colorado)  
§13-45-103 habeas corpus - authority to release

§18-3-102 CRS murder in the first degree

(1) A person commits the crime of murder in the first degree if:

- (a) after deliberation and with the intent to cause the death of a person other than himself, he causes the death of that person or another person (or)
- (d) under circumstances evidencing an attitude of universal malice manifesting extreme indifference to the value of human life generally, he knowingly engages in conduct which creates a grave risk of death to a person, or persons, other than himself, and thereby causes the death of another

Colo.R.Crim.P.

Rule 36 Clerical Mistakes

Clerical mistakes in judgments, orders, or other parts of the record and errors in the record arising from oversight or omission may be corrected by the court at any time and after such notice, if any, as the court orders.

Rule 43 Presence of the Defendant

(a) Presence Required. The defendant shall be present at the preliminary hearing, at the arraignment, at the time of the plea, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence...

NATURE OF THE CASE -and- CAUSE FOR ACTION

Several times the Colorado Judicial Branch issued a NEW "warrant of commitment" (or mittimus) which, in official form, 'replaces' the original document and authority - to authorize(?) the Respondent Warden to punish this Applicant in accordance to the NEW TERMS cited by this NEW document. See EX II-VI(a)(b) & VII

However, Applicant Rudnick had been acquitted of the listed statutory offenses indicated for COUNTS 1, 2, & 3 (EX VIII) rendering the Respondent's authority (which is based entirely on this NEW document) INVALID!

In fact, the mittimus indicates a DOUBLE-UP of the primary offense (of the same person) showing disposition of "guilt" on COUNTS 1-2 all under the SAME CRIME THEORY that Applicant was acquitted on. EX III, IV

Under the protection guaranteed by the 13th Amend. "No person may be punished for a crime without having been duly convicted..."

Further, Applicant cites well-established precedence which provides justification for his immediate discharge from custody - and, said precedence should be followed in accordance with the Doctrine of Stare Decisis ~~to However the State refuses.~~

This matter involves a most basic example of violation of the 13th Amendment "holding (this Applicant) for punishment based on a crime that he has NOT been duly convicted of committing" - in fact, (he) was acquitted, and thereby, INNOCENT of said offenses indicated. See EX VIII & III, IV

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In Colorado, the individual statutory offenses are designated by very specific NUMBER and LETTER to identify the precise conduct on which a crime is defined

- EACH OFFENSE has its own specific elements which must be proven beyond a reasonable doubt in order for a person to be convicted of that offense... described by that particular statute
- Once a person has been CHARGED and TRIED on said offense, he may only be punished (if convicted) for that specific offense

In this instance, Applicant Rudnick was ACQUITTED of the offense 'wrongfully indicated as guilty' on the Respondent Warden's official mittimus. EX I, III, IV, VIII

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Such documentation is voided by the wrong indication of "guilt" and Applicant cannot be held for punishment for crime(s) he has not been duly convicted of committing under the guarantee of the 13th Amendment, and in accordance with the precedence cited herein, under Stare Decisis Doctrine, and, because of this (above) this matter is presented for this Court's enforcement of law pending its review

Applicant asserts his punishment for statutory offense(s) (entered on official state holding documentation) violates the protection guaranteed in both 13th and 14th Amendments of the U.S. Constitution, when created without due process. (\*)

(\*) documents got entered DECADES after sentence finalized and being served

Applicant he is entitled to the relief sought based on the circumstances, law, and precedence, allowing for habeas writ to provide "process for his release" and GRANTING of this writ would be proper for ensuring enforcement of the laws and the Constitution of the United States



Because it is unknown how many OTHER prisoner mittimus documents have been altered by the state Judicial Branch, in similar manner or without jurisdiction, this brings a substantive public interest, where there is presented a cause for distrust in the state's ability to protect the people from court abuses, even decades after a prisoner's sentence had been finalized

Further distrust occurs where the State Superior Courts fail to stop the abuse, and by their acquiescence (dismissing certiorari type review) actually serve to tacitly APPROVE of the lower court's misconduct - which is particularly disturbing because it allows the lower court to CONTINUE making fraudulent convictions and sentences in a capricious and arbitrary manner demonstrating a fundamental miscarriage of justice

In this matter, the Colorado court (Judicial Branch) violated Doctrine of Separation of Powers, and acted without jurisdiction (without notice, trial, or a valid conviction, and without Applicant's required presence) intentionally redefined, changed, and altered the listing of criminal offenses and sentence information - on official state 'holding documents' (aka mittimus) modifying Applicant's crime and sentence terms AFTER sentence was finalized and being served (multiple times) and the state court's actions CONFLICT with Constitutional authority (and legal precedence) which specifically addresses this very activity APPENDIX K

As such, grounds are already established showing HOW the multiple mittimus papers must be invalidated, VOIDING the Respondent's holding authority, and ONLY REMEDY for Applicant is an ORDER for his immediate release from custody

Because the court (Judicial Branch) has violated Separation of Powers to enter the NEW criminal offenses without PROOF OF VERDICT or CONVICTION to support each NEW criminal offense, even the current (or most recent) mittimus cannot be shown to be legitimately imposed (under the 14th Amend.) and, state's "hold" on this Applicant (Rudnick) now violates the 13th Amend. guarantee of the U.S. Constitution, to be free from wrongful punishment

Applicant contends it is a serious state of concern when STATE COURTS choose to rather misdirect constitutional issues, and, avoid established precedence that shows sufficient basis for granting a person's relief, and, instead, decides to forego the standard of law to implement fraudulent 'corrections' that bring punishment for crimes the person has not committed or been convicted of committing

PUBLIC CONCERN IS VALID

Can "the people" feel safe and secure, and, be assured its interests are served [if] the state courts choose to usurp their powers over the Constitution of the United States, its laws, or established precedence (cited)...without notice, trial, or giving proof of conviction - allowing them to continue to impose and uphold unconstitutional CHANGES that alter or increase a prisoner's punishment? Where a person is prevented from the ability to defend, challenge, or object, to the alterations [issued by them multiple times] even decades AFTER sentence had been finalized?

Such conduct by the state demonstrates the very essence of arbitrary powers of its "government branch"

THE PURPOSE OF THIS WRIT of habeas corpus is to right the wrongs and to safeguard this persons freedom from detention in violation of Constitutional guarantees.

"In determining what constitutes a void or illegal judgment for purposes of subject matter jurisdiction vis-a-vis the writ of habeas corpus, the allegation that a Petitioner is entitled to his immediate release has been recognized by THIS HIGH COURT as a proper basis for petitioning the writ" Johnson v Gunter 852 P2d 1263; Cardiel v Brittian 533 P2d 748.

Applicant has exhausted state remedies (by state habeas corpus) filed in Denver and Logan Counties, and, Appealed through the State's highest court (3) times

In addition, Applicant has written the State Governor and other government agencies, and 'help' groups - including sending letters for pro bono representation

Applicant has also filed a COMPLAINT for a Federal indictment against the C.D.O.C. and this Respondent (Warden Hansen) with the U.S Attorneys Office on these same grounds seeking oversight and liberty from what can be construed as unlawful 'kidnapping' and matters covered by the R.I.C.O. Act

#### PREJUDICE SHOWN

Applicant asserts that - but for the State court's (and these aforementioned agencies) FAILURE to protect the rights of 'the people' - as demonstrated with this Applicant's situation - and FAILURE to obey the established precedence or law and guarantees of the Constitution, he would likely have been released from custody (with prejudice). Instead, he continues to be unlawfully denied the liberty he is entitled (by State's violations stated & 13th & 14th Amendments)

Such conduct of the State's courts should shock the conscience once the public is shown what these courts have done here...affecting those incarcerated, or not.

#### NOTE:

Although Applicant's \$2254 habeas petition (filed in 2013) was denied as untimely - these "mittimus" changes CONTINUED through 2014, and the exhaustion process was not completed until December 2017 (Colo. Sprm. Ct) and Sept. 2018 (C.D.O.C. (administrative Remedy process on;"which mittimus is Warden using"))

Relief under the 13th Amendment is appropriate NOW as it is at any time when one is imprisoned and punished for crimes without being duly convicted

#### NOTE:

Petitioner has been appraised of (2) other prisoners RELEASED on these very same grounds and circumstances from this prison facility. EX C

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11

C. CLAIMS

CLAIM ONE: 13th AMENDMENT VIOLATION

x APPLICANT HAS NOT BEEN DULY CONVICTED TO BE PUNISHED FOR THE CRIMINAL OFFENSE(S) LISTED ON THE STATE'S OFFICIAL HOLDING DOCUMENT(S) AND ASSERTS THE STATE'S HOLDING AUTHORITY (ON HIM) IS INVALID ENTITLING HIM TO RELEASE FROM CUSTODY

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Applicant asserts the circumstances described, along with the law and precedence cited in this action, warrant writ to be granted, a hearing scheduled, and Applicant seeks an Order issued for his immediate discharge from custody

All administrative and state remedies have been exhausted See Declaration D

Mr Rudnick contends he is legally entitled to the remedy and relief sought, and the 'granting' of this action is proper for the enforcement of the Constitution

The states retrospective sentencing actions (issuing multiple mittimus alterations to serve as one official 'holding authority' [Exh I-~~IV~~]) violates the very basis of due process and results in this 13th Amend. violation stated, and,

Such action by the state's judiciary brings a substantial distrust in the competency of the state judicial branch 'operations' where it logically and reasonably does affect public confidence and/or fear for their safety should they face similar treatment for their incarceration

° Supporting Facts

The evidence shown in Exhibits I-~~IV~~ demonstrates that the state judicial branch has issued multiple (new) sentence mittimus documents for this one Denver County

11

case (91CR2236) where it has redefined, changed, or added, crime offenses with 'guilty' dispositions indicated, on which (new) sentence was imposed, without show of proof of Mr Rudnick being duly convicted on these (new) offenses listed  
▷ issued decades after sentence finalized and being served

EXHIBIT 1 Original sentence mittimus indicates 'guilt' on COUNT 2 for crime offense §18-3-102(1)(d) that had been acquitted

EXHIBIT 2 Amended mittimus now 'redefines' COUNT 2 offense §18-3-102(1)(a)

EXHIBIT 3 (new) mittimus shows ALL OFFENSES [changed] to 'extreme indifference'

EXHIBIT 4 (new) mittimus shows NO MURDER CONVICTION and NO LIFE SENTENCE

EXHIBIT 5 (new) mittimus ADDS (new) murder offense and LIFE sentence - also, noted (4 year term added - unsupported by the record)

EXHIBIT 6 Official Court registry of actions indicating COUNT 1&2 listed as 'guilty' of statutory offense "acquitted" - also, changed offense date

EXHIBIT 7 Official registry shows ALL offenses redefined and indicates 'guilt' on COUNT 2 (crime sentenced without due process or conviction)

EXHIBIT 8 Same registry (page 8) shows where trial court 'grants' judgment of acquittal [COUNTS 1&3] as to 'extreme indifference' EXHIBIT F

Note: Mr Rudnick was NOT convicted of 'extreme indifference' crimes and the record indicates 'acquittals' occurring on 4/15- 4/16 1992 Exh VIII

Applicant incorporates Sections: Questions; Crim. Case Summary;; 'Nature of the case'; and 'Reasons for Granting the Writ'

#### ° Argument

Mr Rudnick asserts he is unlawfully and unconstitutionally held as punishment in a state prison facility currently under the control of Respondent (Warden Hansen) who is knowingly keeping him confined based on these 'multiple' 'Mittimus' showing statutory offenses that he was never convicted on

Rudnick contends that said hold is based on these 'faulty mittimus' [that the warden relies upon for his authority] - and that these mittimus were 'created' and issued from faulty records, thereby making said 'hold' invalid. AND, that without a valid mittimus - or a reliable legal authority on which to maintain warden's 'hold' - the

warden's 'custody hold' and control over Rudnick is voided

The U.S. Constitution provides under the 13th Amendment, a guarantee that: "No person shall be punished for a crime unless he has been duly convicted..." where, the conviction must be lawfully obtained and can be shown in the record that it directly applies to the specific crime offense indicated and defined by the statute on which trial was based with a true and accurate verdict entered in the state's official court 'holding documents' [aka mittimus]. And, guarantee carries that AFTER a person has been tried on said offense - and acquitted - he may not be punished for it under the protection of the 5th Amendment (for double jeopardy).

Also,

this protection would presumably include that once the court has 'removed' a crime offense conviction and sentence - punishment cannot be replaced with another offense without procedural due process

This SUPREME COURT OF THE UNITED STATES is the 'enforcer' of the Constitution with a sworn duty to uphold laws and protect the rights of the people guaranteed by these Constitutional and legal precedented authorities

Applicant Rudnick is a U.S. Citizen who is guaranteed the protection of the 13th Amendment through the 14th Amendment that applies those rights to the people in their various states (as defined therein)

In Colorado the individual statutory offenses are set-up and designated by very specific NUMBER and LETTER to identify the precise conduct on which a crime is defined

Each offense has its own set of elements which must be proven beyond a reasonable doubt, in order for a person to be convicted of that offense indicated by that specific NUMBER and LETTER - ie: §18-3-102(1)(d) CRS

This 'designation' process is not taken lightly for obvious reasons - as no one should be wrongfully punished for a crime that he was not convicted of committing - even one based on obvious error by the court in its document construction.

and,

13.

13

There is proper remedy for this vary issue which the state courts refuse to submit to.  
as provided [BELOW]  
and,

Because of the states failure to properly remedy this Applicants case - the issue of his punishment being based on crimes he was not convicted on - and - the question of the warden's authority to keep this Applicant confined in prison- now falls to this Supreme Court of the U.S. to enforce the law & protect Constitutional Rights

Specific to this matter - procedure has been established precisely on-point for just such circumstances (cited below) warranting the relief Applicant seeks :

a) A warden's 'holding document' showing fraudulent information with invalid criminal convictions VOIDS documents reliability and wardens' "holding authority"

° "A state's [or prisoner's] commitment cannot be based on an acquitted charge" U.S. v Pugliese 105 F2d 1117 (96) "Such inaccurate basis violates due process and brings double jeopardy violation as a result of the misinformation" Townsend v Burke 334 U.S. 736 @ 741 (48)

° "Due process requires all sentence information to be already discerned, reliable, and accurate" U.S. v Contraras 249 F3d 595 F.R.C.P. 32 & 44

° "Sentence must be certain and devoid of ambiguity or else it cannot stand" Yeager v People 462 P2d 487 "And, such ambiguity brings reversal of conviction" U.S. v Murrow 177 F3d 272 [as in changing the crime on which punishment is based]

° "A person cannot be held or sentenced on materially untrue information or assumptions" Townsend v Burke 334 U.S. 736

° "The warrant of commitment or mittimus to which a person is being retrained of his liberty, is void for a lack of a conviction or judgment upon which it was issued" Mendez v People 336 P2d 706 (59) "Once a mittimus is declared void, the right and authority granted to said warden by said mittimus, to keep the person in confinement, shall terminate"

b) The only remedy for such invalid 'document' and loss of warden's holding authority is court order for that warden to immediately discharge the person from custody

° Mendez v People (supra)

° "The Colo. Dept. of Corrections cannot 'correct a sentence'" People v Hamm 734 P2d @623

° "When imprisonment is without authority, prisoner is entitled to immediate discharge" Harper v Montez 320 P2d 154 (62) And, "When mittimus is void - court's only duty is to order Petitioner RELEASED from custody of warden" Stilley v Tinsley 385 P2d 677

[mittimus is void for lack of courts jurisdiction and for lack of a conviction]

14.

- c) And, under the 13th Amendment - because the crime offenses, for which this Applicant is being held, was not the result of conviction - Mr Rudnick's discharge from custody should be ordered 'with prejudice' forthwith
- 

Here the Respondent (Warden Hansen) is currently keeping Mr Rudnick held in his custody (for a specified duration of punishment) under only a 'presumption of authority' which is based on the Judicial branch issuance of its official mittimus being both 'accurate' and 'reliable'.

Whether EACH (new) issuance "negates" a previous version \_\_\_\_ or does otherwise create confusion for the basis to punish [Mr Rudnick] when there exists multiple 'versions' of these "official mittimus documents (all for the same case - all different from the next) is substantive showing of cause for this Court to question the Respondents "holding authority" and grounds to VOID these documents for their ambiguity

It is not necessarily the warden's duty to question the court's actions, However, when a prisoner has shown that he is now being punished by this warden's 'reliance' on inaccurate information - where in fact, this prisoner has been 'acquitted' of the crime(s) indicated, Then, under such circumstances, the burden is on the warden to prove his 'custody hold' [of the prisoner] is valid

Here, the reliability and validity of these multiplicitous 'holding documents' can neither be shown reliable or valid, and it is not up to a warden to "pick-and-choose" which mittimus he wants to use to maintain his custody over the prisoner. Because of this ambiguity, the authority of EVERY mittimus issued for Mr Rudnick's case must be voided. A warden cannot choose which mittimus should be enforced

Wardens in Colorado also have a duty and ethical standard under CDOC-AR-1250 to follow the rules and laws, even, when his duty requires such relief of a person held unconstitutionally entitling him to release from custody

Applicant asserts this is not a matter for the C.D.O.C. to have his sentence 'fixed' nor opportunity for the state courts to, enter as a PARTY in this action or to try to enter continuous 'fixes' - that would violate 'Separation of Powers' Doctrine particularly after sentence had been "finalized" decades ago

Because Mr Rudnick was not convicted of the crimes listed on the mittimus EX I, III, VI and in fact "acquitted" of the crime theory indicated (EX VIII), to allow further crime offense or sentence changes would have no legitimacy - - - it would be unconstitutionally created making the 'changes' invalid voiding the warden's holding authority because (again) it would be carried-out without due process already demonstrated as part of a "continuing violations" claim, where NEW mittimus changes are made without support of a new conviction and without jurisdiction effectively purposed to alter punishment enforcement by the Executive Branch

Applicant suffers prejudice

Exhaustion of state remedies has brought no relief, and, had it not been for the inferior courts failure to protect this Applicant's right under the 13th Amend, and pursuit of liberty (as entitled by the above cited claim) this Applicant would have been discharged from custody - because the warden's 'holding authority' (on which Applicant's custody is based) is NEGATED as VOID when said document(s) lists 'guilt' of crimes that Mr Rudnick had not committed, and ALL 'terms of punishment' for said crimes are unenforceable when the 'convictions' are invalid and unsupported by the record

For said reasons, ALL of the state Mittimus documents used to keep Mr Rudnick in custody [pursuant to Counts 1 & 2] should be declared VOID for violation of the 13th Amendment, and an Order issued for Respondent to show cause whether he has legitimate 'holding authority' (or) an Order issued for Petitioner's Release A.S.A.P.



**CLAIM 2:** 14th AMENDMENT VIOLATION

STATE VIOLATED APPLICANT'S RIGHT TO DUE PROCESS AND EQUAL PROTECTION OF LAW BY RETROSPECTIVELY IMPOSING (NEW) SENTENCE - MULTIPLE TIMES - BASED ON ILLIGITIMATE LISTINGS ON OFFICIAL STATE HOLDING DOCUMENTS - CHANGING THE CRIME OFFENSE(S) ON WHICH SENTENCE IS BASED AND VOIDING THE MITTIMUS DOCUMENT ON WHICH WARDEN'S HOLDING AUTHORITY IS BASED [ CLAIM INVOLVES DOUBLE JEOPARDY ]

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° Supporting Facts

Colorado judicial agents 'changed' Applicant Rudnick's holding documents (or mittimus) several times over his 26 plus years of incarceration on this one Denver County case [91 CR 2236]. The 'changes' increased and altered his punishment without giving notice, without his presence, and without proof of conviction, on these redefined or added offenses; without having jurisdiction to do so; and, without giving opportunity to challenge, defend, or object to state's actions BEFORE (new) sentence was imposed See Exhibit I - V And, Those official state issued mittimus (plural) issued to the

Colo. Dept. of Corrections (Respondent Warden Hansen) have been shown to be invalid exhausting this matter by state remedy to the highest court (3 times) Appendix C D F H

Said 'Supreme Court' of Colo. was given first opportunity to review claim and shown state and federal precedence already established entitling Mr Rudnick to his relief

The state court (through the state judicial branch) (here) did something it was prohibited from doing - violating 'separation of powers' and courts jurisdiction - and said conduct presents issue of abuse of powers to unlawfully create an unconstitutional 'hold' on Mr Rudnick through 'rulings' that are in conflict with other state and federal courts (cases cited in CLAIM 1 and in exhaustion process)

——— On State Review ———

The state courts conduct also presents issue of abuse of powers where it 'changed' Mr Rudnick's CIVIL habeas action converting it into a 'criminal matter' to USE a CRIMINAL procedure [C.R.Crim.P 36] and issued (new) mittimus as 'correction of clerical mistake' thereby 'changing' the Executive Branches 'holding authority' and basis for the custody [CHANGING the statutory offenses and sentences] See Appendix K (ref. Cites)

° Argument

Applicant asserts when a criminal procedural rule is misused in this manner, said rule is repugnant to the Constitution and Applicant's continued imprisonment when altered as demonstrated, has unconstitutionally violated his right to due process and his liberty interest guaranteed under the 14th Amend.

[✓] C.R.Crim.P. Rule 36 is a rule established for correction of clerical mistakes - "Clerical mistakes in judgment, orders, or other parts of the record and errors in the record arising from oversight or omission may be corrected by the court at any time and after such notice, if any, as the court orders"

And,

Rule 36 may be used to "correct mittimus to reflect sentence actually imposed"

However, these 'multiple CHANGES' are no correction!

Applicant asserts, in the exhaustion process, the state court misconceived itself with the Constitution and wrongfully used Rule for 'criminal' procedure to interject itself into a 'civil' habeas corpus action (without having jurisdiction) CHANGING the purpose of the habeas filing (re:question of custody between a warden and a prisoner) to instead, make the court itself (and the "People of Colo.") Parties to the action (now) against Applicant as a "defendant" (changing his position)

The state 'court' and 'the People' are not a party to a CIVIL habeas corpus, and there has been ample precedence established against such court practice. [Here] it appears that the state court actions were a diversion to 'cover-up' its inaccurate basis for the punitive 'hold' against this Applicant See Appendix K (ref. cites)

For the state court to then implement MORE CHANGES (from 2013 to 2017) including "removal and adding of crimes and sentence terms" (to amend, modify, and change a mittimus multiple more times - without jurisdiction, without notice, without hearing, and without his presence) directly conflicts with CRCP Rule 43 (Defendants right to be present for all such court proceedings)

Applicant contends such conduct of the state court is an abuse of discretion that violates his right to due process - both in the retrospective implementation of (new) crimes and sentence, as well as, in the right to "procedural requirements" for all phases of trial and sentencing - matters of equal protection of law

Further, the states application of (new) convictions on crimes once acquitted presents double jeopardy (5th Amend.) as addressed in CLAIM 1 See Pugliese, Burke

Applicant asserts the mittimus 'changes' have been made by the state judicial branch in an arbitrary manner, and the convictions cannot be supported by the courts own

record (even the court's registry has been altered with faulty information) EX VI-VII  
thus making the holding authority (from which the warden gets his authority) "invalid"

"The touchstone of due process is the protection of the individual against the arbitrary actions of the government" Wolf v McDonnell 418 US 558 (74)

Petitioner asserts this continued imprisonment on the listed crime offense (on which new sentence was imposed) is unconstitutionally violating his liberty interest guaranteed under the 14th Amendment

All of the state courts 'failure' to act to fix this matter (by failure to issue ruling to release Mr Rudnick) is a fundamental miscarriage of justice, with each of the subsequent court's "REVIEW" serving to aid in the cover-up of known wrongs because they have simply chosen to do nothing

These state courts failure (of refusal) to recognize each of these faulty mittimus as being invalid (based on the above CLAIMS) must be "trend-reversed" particularly when the information being USED for each mittimus 'change' cannot be supported by the courts own record or proof of Mr Rudnick being 'duly convicted' of the crimes listed. EXHIBIT VI-VIII

Further, the courts 'creation' of each (new) mittimus causes ambiguity from the arbitrary nature of issuance and existance of multiple DIFFERENT 'official' holding documents that cannot (all-at-the-same-time) be legitimately enforced or relied upon giving no validity to any of them [On which "authority" is he being held?] SEE: CONTRASTS, YEAGER, MURROW, BURKE.

The entry of FALSE crime offenses and information on which to harm Applicant with punishment, is itself a crime of fraud. And, as a consequence would make the C.D.O.C. warden 'complicit' in this fraud (illegally holding this person) ie: Kidnapping

Applicant asserts these very conditions (described and shown) do lawfully and legitimately entitle him to have this habeas writ issued - a hearing set - and even to have an order issued for his immediate discharge from custody (where the offenses are by effect dismissed with prejudice) See: Pugliese, Burke, Contreras, Yeager, Murrow, Ham, Harper, Stilley.

This is because the 'holding documents are invalid for being inaccurate and cannot ALL co-exist for enforcement at-the-same-time (for the same one crime episode) based on decades old 'inaccurate' record. The multiplicity of these documents (or mitimus) EACH ONE DIFFERENT, makes them all void and fraudulent being that they contain illegitimately entered (false) information on which sentence changes were based viv a vis creating false imprisonment of Applicant

AND,

Applicant can also assert belief that the conduct carried-out by the state judicial agents could be deemed nefarious having been accomplished through several violations of law while refusing to honor established precedence or the Constitution which directly conflicts with (their) handling of Applicant's exhaustion of his CLAIMS (choosing instead to rule to continue the unlawful punishment knowing it to be the product of multiple due process violations) (SEE: Pugliese, Burke, Contreras, Mendez)

Public interest is aroused when a government branch abuses its authority - causing distrust in the courts - because it has shown conduct which is a contempt of law and peoples rights - to wrongfully punish and hold a person by fraud (even on statutory offenses (he) was acquitted [a double jeopardy violation])

Applicant incorporates Section(s): Questions; Crim. case Summary; ; 'Nature of the case'; and 'Reasons for Granting the Writ'

On said grounds and reasons stated, writ should be granted

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12

D. PRIOR APPLICATIONS

X [✓] STATE COURT

Opinion of highest "state" court to review the merits appears at:  
APPENDIX: C, D, & F, to the Application, and is :

[✓] UNPUBLISHED 15 SA 37; 17 SA 102; 17 SA 227

Opinion of the District Court - Logan County Appears at:  
APPENDIX: A & B to the Application and is :

[✓] UNPUBLISHED 17 CV 8

Opinion of the District Court - Denver County appears at:  
APPENDIX: E to the Application and is :

[✓] UNPUBLISHED (91 CR 2236) [Appeals: 13 CA 2181]

Note:

Sentence for criminal case 91CR2236 was "finalized" on : 11/6/94 per  
Federal District Court Ruling Case: 13CV3223 LTB (D.Colo.) 28 USC §2254

[✓] PUBLISHED [2014 U.S.Dist.LEXIS 18834]

U.S. Court of Appeals (10th Cir) was presented issue of "continuing  
violations": Sentence Changes... Question (part) 1(c) & (d)

[✓] PUBLISHED [2014 U.S.App.LEXIS 18290] (14-1098)

U.S. Supreme Court (Writ of Certiorari) "Filing" was not accepted  
on case 14-1098 10th Circuit Opinion

The above Federal Actions were based on "state criminal post conviction review"  
filed in 2013 under 28 USC §2254 covering genrally:

- 1) Conviction without jurisdiction (re: speedy trial/innocence)
- 2) Ineffective Counsel
- 3) Cumulative due process/equal protection denied

10th Cir Appeal and Certiorari was based on:

- 1) Tolling and Exhaustion
- 2) Continuing violation; sepapration of powers
- 3) Ongoing sentence changes "negating time bar"

Sentence/mittimus changes continued through 2017 and matter was not specifically  
brought forth by "state" habeas until October 2013 (AFTER) filing the §2254 on  
'post-conviction' issues had already been ruled, and,

EXHAUSTION of "state" remedies was not completed until 11/21/17 (17 SA 227)

THIS FILING (for the EXTREME WRIT OF HABEAS CORPUS) is now submitted under:  
28 USC §2241 pursuant to VIOLATION OF APPLICANTS RIGHTS UNDER THE 13th & 14th  
AMENDMENTS UNITED STATES CONSTITUTION

Note: Applicant's 1st attempt into this U.S. Supreme Court was made on 1/31/18  
and subsequent 'filings' have all been RETURNED to fix deficiencies

[✓] STATE COURT (subversion issue) Case: 91 CR 2236 (1st state habeas)

In the Denver District Court "habeas action" (2013), the court CHANGED the  
"CIVIL" habeas petition into a "CRIMINAL" motion (making the People of Colorado  
the "Plaintiff/Petitioner" and converting this Petitioner into "Defendant")

In so doing, this made the "People" and the "court" PARTIES for responding to  
this "civil action" between (this) Petitioner and the Warden (Respondent)

The District Court then Ruled on the action using CRIMINAL PROCEDURE Rule 36  
to cover-up the court's fraudulent record and actions under "clerical error"

[Colorado] Court of Appeals (13 CA 2181) 10/30/13 - would not respond to the  
action as a "civil habeas" matter and instead carried-on with the action as  
a "criminal procedure" complicitly accepting the mis-use of Rule 36

Said court conduct serves to give "criminal courts" perpetual jurisdiction  
which conflicts with civil habeas procedure as well as with case law cited  
(located at ~~the end of "why writ should be granted" section~~) APPENDIX K

State courts do not have unlimited authority to continue making sentence  
changes under the guise of "clerical error" even decades after being served  
SEE: APPENDIX G + K

#### E. ADMINISTRATIVE REMEDIES - EXHAUSTED

[✓] Colorado Dept of Corrections: Administrative Remedy (filed):

Grievance R-SF 16/17-103808 [Exhausted 3/7/17]

Grievance R-SF 17/18-133104 [Exhausted 9/7/18]

APPENDIX I & J

Exhaustion [of remedies] satisfied because Applicant pursued due process related  
challenge through one complete round of state's established Appellate Review  
process. See Hawkins v Mullin 291 F3d 658; Grass v Reitz 643 F3d 579

[ INSERT ]

REASONS FOR GRANTING WRIT

"When a prisoner is held without any lawful authority, and, by an order created beyond the jurisdiction of an inferior court to make, the U.S. Supreme Court will, in favor of liberty, grant the writ, not to review the whole case, but to examine the authority of the court below to act at all". ExParte VA 100 US 339 see: Mulkey v Sullivan 753 P2d 1226; Oates v People 315 P2d 196; Luker v Koch 489 P2d 191

In this matter, the state court's action(s) demonstrate a clear abuse of authority prejudicing Petitioner (and any other so affected) with actual injury: illegally keeping him in custody on fraudulent 'official documents' [which show crime offenses he was not duly convicted of committing, and, resentencing based on those unsupported charges MULTIPLE TIMES over a 27 year period, without due process, in violation of the 13th and 14th Amendments U.S. Constitution

But for the state's Judicial Branch abuse(s), the outcome of his state action(s) would have been different - and, due to the unconstitutionality of their conduct, Petitioner is (now) lawfully entitled to be immediately released from custody. See: Deason v Kautzky 786 P2d 420; Harper v Martinez 370 P2d 154; Stilley (supra)

Applicant/Petitioner challenges the legality of the Warden's 'holding authority' document(s) relied upon to keep Applicant Rudnick in custody

Matter involves properly preserved ground of Constitutional error that includes 13th & 14th Amendment based claims seeking relief from his imprisonment due to unconstitutionally created and invalid state holding documents on which wardens authority to hold Applicant incarcerated is questioned

States resolution of dispositive federal issue demonstrates a fundamental defect which inherently results in a complete miscarriage of justice from state's ongoing conduct violating rudimentary demands of fair procedure, and, the repetitious nature (as addressed in claims 1 and 2) has created exceptional circumstances rendering the need for remedy afforded by this habeas corpus writ apparent

There are also aggravating circumstances: (Asserted)

° Matter involves a violation of an important and fundamental statutory right that for example effectuates a constitutional right [such as] 14th & 13th Amendment guarantee of due process and protection from double jeopardy, and right to be free from wrongful punishment when he has not been duly convicted of committing the crime offense(s) indicated on official state holding documents [which have been altered/ changed/ modified/ multiple times over two decades without court having jurisdiction and carried-out in violation of state rules of procedure [such as] person's right to be present, and to have actual verdict for offense indicated as a conviction]

° Existence of some particular reason to fear that state judge in general may undermine or be hostile to the federal law that was violated [such as] state continuing to abuse its authority to change Applicant's mittimus and court record to avoid relief entitled under law (without having jurisdiction to do so) And, Colorado's Supreme Court's acquiescence providing no meaningful relief

24.



° violation of statutes as to which nationally uniform interpretation is particularly important [such as] Rule 43 & 54(b)(2) and misapplication of "Rule 36" to avoid treating state habeas as a civil action and choosing to "involve itself" as a party violating judicial codes of conduct established under Judicial Canon

° Willful or egregious violation of federal law by state judge(s) [such as] reaching outside the 4-corners of a civil action to "run its own quasi-review of HOW this matter came about," to undermine the function of a habeas action set between a prisoner and a prison warden....not the People of Colorado

° Prejudice to important interests of the incarcerated Petitioner [such as] his right to pursue his liberty interest derailed by subversive judicial act changing habeas procedure to invoke criminal procedure Rule 36

and

° Where even federal common law may form basis for a challenge to this state prisoner's custody in certain circumstances, because they safeguard a fundamental trial right (as indicated above)

° Public trust violated creating a public interest of importance when prisoner (or anybody) may be incarcerated under a LIE!

How can the public trust a government branch that operates without accountability to the law?

The People's interest in justice cannot be served when the public cannot rely on a judicial branch that operates on its own, without jurisdiction, violating 'Separation of Powers' for the purpose of imposing (new) sentence and crime convictions (even decades after one has been serving time for that one offense) without support of trial or verdict, without cause, and without NOTICE to the public (or even to the prisoner for which the custody hold was prescribed)

The public will not stand by to let a Government Branch (or court) break the law that (they) are sworn to uphold - in order to hide their errors, or to hold someone in custody. And, case law prohibits state from punishing a person with a sentence that cannot be substantiated (as does the 13th Amendment)

A "state's holding document" (or mittimus) from which a prison warden gets his authority and information to punish an offender and keep him in custody, is VOIDED when the state issues faulty 'official documents' created through a court's abuse of authority - particularly when said conduct is repeated - issuing several bogus 'official documents' and NONE of them can be supported by a conviction verdict for the "redefined offenses and/or ADDED offenses" for punishment to be lawfully imposed under (new) sentence

The only remedy, according to case law (cited within this action) is the immediate release of the person in custody being held under fraudulent mittimus (supported by the 13th Amendment)

The state's judicial branch imposing, and ruling to ENFORCE the false crime offenses, makes them complicit in the commission of criminal fraud and kidnapping (when falsified official documents are knowingly being issued to another government branch to carry-out punishment. This conduct then makes BOTH AGENCIES complicit because they have been adequately notified through the states legal process, but choose to ignore the law

The basic duty of all government is to protect the rights of the People and such can assure the public by "checking" the validity of a state's "official documents" to keep ONE BRANCH from participating in another government branches criminal enterprise

The matter before THIS COURT is the question whether the state can validate its existing (or any of the other) "holding authority" for Petitioner when it cannot prove he was duly convicted on the criminal offenses (newly added) or justify the changes? (that include changes made to the courts registry of actions)

and

Whether the state court's actions violated Applicant's right to due process in making their sentence changes (repeatedly) over 26 year period (in the manner stated) ?RE: jurisdiction; separation of powers; and providing him no ability to challenge or object before NEW punishment imposed

THIS ACTION IS a request for consideration over the cumulative effect - when the state court creates a fatal variance in the holding documentation, and where those errors described (in total) would negate the states holding authority WITH PREJUDICE entitling (this) Applicant to immediate release, as settled and shown in the numerous case cites provided throughout the exhaustion of this claim believed to be enforcable under Stare Decisis and Faunt LeRoy Doctrines

Pursuant to U.S. Supreme Court Rule 10 Petitioner states:

- a) There are compelling reasons on issues of importance beyond the particular facts and parties involved
- b) That there exists a conflict between the state court decisions - or fact that Colo. Courts refuse to follow established precedence from state and federal decisions precisely on point
- c) That this matter is to resolve this disagreement among the state and federal courts about this specific legal question covered under 13th and 14th Amendments as demonstrated within this action, and,
- d) That there is a significant Public interest and importance to be considered when state courts act capricious and inconsistent

Public interest and security is paramount if anyone can be re-sentenced to new criminal offenses, and held for punishment, without being duly convicted, once he has been incarcerated in Colorado

Further,

Pursuant to U.S. Supreme Court Rule 20.1 Petitioner states:

- e) This writ may aid courts appellate jurisdiction
- f) Exceptional circumstances (shown in this writ) warrant the exercise of this court's discretionary powers

See (ff) next page

- (ff) State Judicial Branch commits fraud entering multiple sentence and criminal offense alterations on 'official mittimus' without prisoner being duly convicted, and without giving him opportunity to be present, to defend, contest, challenge or object to said changes which increased his punishment
- g) Adequate relief cannot be obtained in any other form or from any other court [all "state" remedies have been exhausted]
- 

RULE 10 (Answers)

(a) Compelling Reasons

There can be no trust when the people cannot rely on a government branch that fails its duty (sworn under oath) to serve the public within the confines of law established for its authority

The Judicial Branch and its officers have no authority to prescribe punishment by imposing imprisonment against a person for criminal offenses when that person has not been "duly convicted" of those charges

In addition, the same government agents cannot usurp their authority onto another government branch (violating separation of powers doctrine) to re-sentence someone already incarcerated and serving time on this same case, with (new) offenses without him being duly convicted (or) to ADD, alter, modify, change, or manipulate his sentence in manner that increases his punishment - having no cause or jurisdiction to do so

The above conduct by the agents of the Colo. Judicial Branch has, in fact, done just that - multiple times since 1992 - when Petitioner was first imprisoned. The Courts have issued (new) mittimus to the Colo. Dept. of Corrections [14 times per court records] each unique for serving as the (new) holding authority, punishing Petitioner on (new) offenses that are unsupported by any actual conviction

For this reason, the Executive Branch (C.D.O.C. Wardens) cannot maintain a custody hold on a person when a Judicial Branch has "retrospectively" and without jurisdiction or cause, issued multiple 'official mittimus' documents that redefine statutory offenses and increases that persons punishment over the same (original) case

On WHICH 'OFFICIAL MITTIMUS' is the C.D.O.C. Warden to maintain his authority to hold that person - and, under "which terms"?

WHEN THE SENTENCE TERMS CONFLICT  
THE STATE'S "HOLD" IS ILLIGIT

And, just as important - NO GOVERNMENT BRANCH has authority to hold or imprison a person on a criminal offense without proof of him being duly convicted for that (new) offense by due process and equal protection of law

Thus, compelling reason does exist for writ to be issued and an order given for Petitioner's immediate discharge from custody

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#### RULE 10 (b) Conflict

The exhaustion of state remedies on this matter has revealed that the Judicial Branch agents will not follow established precedence or law, and have subverted Petitioner's motions for the purpose of avoiding what that precedence provides - Grounds for Petitioner's immediate release from custody

The Executive Branch's hold on Petitioner (through C.D.O.C. Warden Hansen) CONFLICTS with the law and same precedence cited specifically on point (shown them in the exhaustion process) - and WRIT must issue in favor of the settled principles given from those cited cases entitling (this) Applicant to be released from custody based on these, and all cited references given in this Application [proper under Stare Decisis Doctrine]

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#### RULE 10 (c) Disagreement among State and Federal Courts

The state's hold and official cause (or basis) for its prescribed holding authority does violate both 13th and 14th Amendments because, despite the court upholding these apparently ongoing changes (being applied retrospectively), the state, nor any of its government branches can prove this Applicant was duly convicted on the (new) listed offenses - for which sentence was changed

and

The state cannot support the mittimus change(s) or its authority to hold (this) Applicant in custody when it had no jurisdiction, and violated due process and equal protection of law to make its alterations

Both are obvious and significant grounds for WRIT to issue, or, for order directing (this) Applicant's release, and, (if) deemed necessary, scheduling a Hearing on the matter for clarification of the facts and evidence

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#### RULE 10 (d) Significant Public Interest

Applicant incorporates all of the above (and includes separate addendums: Question; Introduction; Nature of the Case; and, Reasons For Granting Writ sections) because this state's conduct brings up significant question as to HOW MANY OTHER PARTIES have been similarly affected (even unknowingly) or "may be affected" in the future by a state court system and government that cannot respect the law or state and federal constitutions "their agents" are sworn to operate under? See EX "CC"

Should the courts choose not to remedy its conduct errors and refrain from said abuse, then, the public will not be able to rely on (or honor) such judicial actions when carried-out as demonstrated and beyond their authority

Also

It is a significant public interest if anyone (like this Applicant) can be unlawfully treated in said manner, and have their Constitutional Rights simply run-over. It shocks the conscience of all rational and reasonably minded persons. And, this action cries-out for justice

The only remedy (as cited) is for this Applicant to be released with prejudice due to these circumstances described

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RULE 20.1 (Answers)

(e) Aiding Appellate Jurisdiction \*

It is always good for the government to protect the public by ensuring conformity with the law

This Court's ability to use "this case" will accomplish that goal giving teeth and support for the people's interest in fairness and justice, for correction of error or abuse, and, to know there exists sufficient control over the government conduct in just such circumstances given

Appellate jurisdiction is aided with the people having comfort in knowing (more than believing) that oversight control by such review process for this purpose is available and effective at bringing relief one is due

(\*) issue expanded in "part A" attached — ~~PAGE 30~~

RULE 20.1 (f) Exceptional Circumstances \*\*

Applicant asserts the totality of the actions carried-out by this state's judiciary and, even the show of indifference by the Executive Branch, demonstrates there exists "exceptional circumstances" to warrant the exercise of this high Court's discretionary powers - particularly when the state's conduct exhibits a fraud that the "state" superior court chooses to ignore, despite state and federal case law giving precedence requiring Petitioner's release, under these very circumstances

(\*\*) issue expanded in "part B" attached (~~next section~~) - ~~PAGE 32~~

Rule 20.1 (g) No Other Adequate Relief \*\*\*

Petitioner has exhausted all "state" remedies and filed for additional help through multiple other sources without adequate response

(\*\*\*) issue expanded in "part C" attached [See also: EX "BB"] ~~PAGE 34~~

RULE 20.1 (h) State Supreme Court Failed Federal Question (and) makes "Dismissals" Without Due Diligence shown from the Court

The Colo. Supreme Court simply refuses to engage failing to take-up federal question of constitutional violations and court conduct abuses by merely issuing "dismissals" without providing any justification on the matter.

Such indifference by the state's highest court allows inferior court actions to go on undisturbed when they directly conflict with decisions of multiple other state courts of last resort, or, of the U.S. Court of Appeals (by allowing retrospective sentence changes to be made without jurisdiction, and without Petitioner being duly convicted on the offenses listed - and carried-out without due process) when these "other courts" have established "only remedy" (cited) ... the ordering of Petitioner's release from custody

Keeping (this) Applicant in custody under these circumstances conflicts with all these "other courts" decisions

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29.

## RULE 20.1 (i) Case is More Than Error of Facts or Rule

Where facts and rules and laws are wholly disregarded by the state judicial branch agents , to carry-out the conduct (described in this action) IS A THREAT to the people! They cannot trust a government branch unable to control its operations, or its officers, demonstrating willingness to reach outside its authority (violating separation of powers) to commit criminal fraud and kidnapping, by keeping prisoner in custody and changing his punishment, after it has lost jurisdiction and no longer empowered to order the Executive Branch to carry-out its criminal enterprise

## RULE 20.1 (j) Imperitive Public Importance

Applicant incorporates all of the above topics (and the facts presented in this action) to show that this WRIT requires this High Court's Immediate Determination

- ° What good is it for the people to have a state judicial system if it won't follow established law or protect their rights? And,
- ° What good is a State's Executive Branch if they knowingly hold a man in prison on fraudulent information? and  
(known to have been entered without jurisdiction)

Because in this instance, where Petitioner is being punished under (new) terms of imprisonment and the state CONTINUES to show indifference to the facts and established law (to keep him imprisoned) on sentence imposed with (new) criminal offenses listed (without him being duly convicted) the people's trust is broken. Citizens cannot trust a government that cannot conduct its affairs in a fair, lawful, and just manner

Applicant believes, it is always imperitive and important to the public to see that justice is accomplished, that laws are obeyed, and constitutional guarantees are enforced (to protect the public from such evils shown) and, being "imprisoned" for statutory offenses on which a person has NOT been duly convicted, is an evil that is UNACCEPTABLE.

For these reasons , the importance (shown here) should justify deviation from normal appellate practice, and would warrant immediate determination in this Court

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### PART "A"

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## HOW THE WRIT WILL AID THE APPELLATE COURTS JURISDICTION

Applicant asserts the "granting" of this extraordinary writ of habeas corpus (on this specific case) will aid the appellate courts jurisdiction by making appropriate precedence that ENFORCES the principles and protections of the 13th and 14th Amendments on matter of state's judicial branch instituting a fundamental miscarriage of justice from the issuance of multiple conflicting 'official mittimus documents' (even decades after sentence was finalized) without having jurisdiction, or, following legal procedure

Where said conduct has resulted in "wrongful confinement" punishing person for crimes he has not been duly convicted of committing - and, thus, requiring his immediate release from custody

This "precedence" would establish a vehicle for said reasons, to weigh whether the prisoner petitioning for this writ is restrained of his liberty by "due process" and, permit him to challenge a state conviction on constitutional grounds that relate to the jurisdiction of the state courts imposing such restraint, by this USE of the GREAT CONSTITUTIONAL GUARANTEE of personal liberty supported under Art 1 §9 cls2 U.S. Constitution and F.R.C.P. 28 USC §2241

Also, this would accomplish CLARIFICATION when state's judiciary has misapplied its jurisdiction [violating separation of powers] to enact ongoing confusion by swapping-in different offenses, altering and RE-ISSUING multiple conflicting 'holding documents (which the Respondent 'warden' receives his authority)  
See: 'continuing violations Doctrine'

EACH mittimus - being changed from one to the next - where none are fully accurate (see Contreras) and, the state, nor the warden can confirm ANY to be 'devoid of ambiguity' (see Yeager, Murrow) particularly with regard to the statutory offenses indicated - for which the person is being punished

(here) Applicant asserts the 'precedence' would settle that (for this specific situation) the warden's 'holding authority' CANNOT BE MAINTAINED and would be declared VOID for LACK OF CONVICTION upon which said documents were issued (see Montez and 13th Amend.) - And, further, would settle basic principle that a person cannot be held or sentenced on materially untrue information or assumption (see Townsend and 13th Amend.)

Due to the facts stated and precedence already established in Mendez (supra) "when a mittimus is void, the right and authority granted said warden by said mittimus to keep the person confined, shall terminate"

(and) When imprisonment is without authority (because the mittimus is void) the prisoner is entitled to immediate discharge from custody" Harper; Stilley (supra)

Applicant has entered into this writ that the imprisonment (here) has been based on crime offenses "added without proper jurisdiction" and "without due process" and the punishment for said crimes has been unconstitutionally inflicted because Petitioner has not been duly convicted of said offenses - consequently, Applicant's rights guaranteed under the 13th and 14th Amendments. U.S. Constitution would be confirmed to have been violated entitling him to the relief sought [release from custody]

It is further 'notable' that such a precedence from this given situation, would give basis to PREVENT a state's judicial branch from usurping its authority and cease the misapplication of legislative rules for 'criminal procedure' [Rule 36] to presume unlimited jurisdiction in a "civil" action - and - to stop arbitrarily produced (new) mittimus documents [changing terms, dates, crime offense convictions or even the court's own registry of actions] without notice or complying with required procedure and law [is Rule 43 & 54(b)(2)] [required for due process]

In addition, because the state of Colorado's Dept. of Corrections RESTARTS its 'sentence computation' from the "latest 'sentence modification'" [pursuant to terms prescribed in each (new) mittimus received] the 'precedence' would serve to STOP potential for perpetual recalculation which by its effect violates the prisoner's 14th Amend. protection against double jeopardy. This would also END the judicial branch's ability to falsify or make unsupported changes that would extend punishment from each modification issued or created in error

This Applicant asserts he is a United States Citizen with full right to be heard and to have his federal Constitutional Rights protected while in the various States (that includes the State of Colorado) under the authority provided by the 14th Amendment

Lastly, he asserts the Appellate Court's Jurisdiction is aided most powerfully by U.S. Supreme Court Rulings which propel the enforcement of law and all constitutional principles that reasonably serve to promote PUBLIC CONFIDENCE in the integrity and impartiality of the Judiciary - specifically when such ruling "granting" this writ will clarify and enhance existing precedence already established by various states of federal courts, as cited in this action - And, these precedented rulings cited provide for "discharge from unlawful punishment"

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PART "B"

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WHAT "EXCEPTIONAL CIRCUMSTANCES WARRANT THE EXERCISE OF THIS COURTS JURISDICTION ?

The Colorado Judicial System (through Denver District Court) has issued official "holding documents" that unconstitutionally punishes this Applicant for statutory offenses he was not duly convicted of committing, and, has demonstrated ongoing usurpation of powers to arbitrarily change or modify these "documents of commitment" (aka mittimus) multiple times (without notice & without following required procedure) years after sentence had begun being served and was 'finalized', in violation of the protections of the 13th & 14th Amendments U.S. Constitution

and

the above action has added years to his sentence (see Coleman v Winn 565 FSupp2d 200) see EX II-VIII

This Applicant asserts, without THIS COURT'S exercise of its jurisdiction to "grant" this habeas writ, the state's Judicial Branch may continue this unlawful practice to change/add/alter sentence terms and crime information on his warrant of commitment (at will and without restraint) punishing him for crimes he has not been duly convicted of committing

also

The granting of this writ would protect this Petitioner (and likely others) from such practices creating wrongful punishment, and would restore public confidence by serving to maintain uniformity and stability and accuracy with prisoner sentence terms and crime offense convictions - keeping one free from being subjected to such arbitrary actions by the judiciary "acting improperly or without jurisdiction" by making NEEDED PRECEDENCE to prevent said actions from occurring

Petitioner asserts the Denver District Court has created a fundamental miscarriage of justice from its issuance of these 'modified' mittimus documents (altering the critical information within) violating his right to due process and equal protection of law, his right to be protected from double jeopardy, and the protection provided under the 13th Amendment, which in addition, directly affects how the Colorado Dept. of Corrections does its "time computation" - restarting its calculation from EACH (new) sentence modification from each (new) mittimus

Note: This "Denver-based" court system (which includes the Appeal & Supreme Courts) has demonstrated a willful ignorance of the state and federal precedence cited in (3) different habeas exhaustion efforts



Petitioner contends these "exceptional circumstances" warrant the exercise of the courts discretionary powers - because Colorado Courts have shown unwillingness to grant the proper relief and general betrayal of public trust

This High Court is well aware of the purpose of a habeas corpus writ - to safeguard a person's freedom from detention in violation of Constitutional guarantees - being the GREAT constitutional guarantee of personal liberty Art 1 §9; 28 U.S.C. §2241

To address the question: whether the Warden's 'holding authority' is legitimate - all parts being accurate - to keep Petitioner in custody. And, (if) the "mittimus" is inaccurate, falsified, or conflicted with official court records, (then) the very basis for the Warden's authority is lost - the mittimus is thereby nullified/VOID. And, without a valid 'holding authority' Petitioner is legally entitled to his immediate discharge from states (or warden's) custody

Note: In "state case" Kostal v Tinsley 381 P2d 43 (63) the court ruled that "discharge is proper where though the original imprisonment was lawful, yet by acts, omissions, or event which has subsequently taken place, the [person] has become entitled to his discharge" per §13-45-103 CRS

[Here] it is asserted that the state court (or judicial branch) had no legitimate jurisdiction (of the person or the subject matter) to "change" the crime offense(s) "change" or "add" (new) convictions, or to "change/add" sentence terms as demonstrated with each mittimus issued to the Executive Branch, to serve as 'the authority' on which the Respondent (Warden Hansen) relies, nor, to 'create' multiple (new) mittimus with information that conflicts with the court's own record

The state court (or judicial branch) has breached its official boundaries into the Executive Branch multiple times 'changing this controlling authority' of the warden - a 'separation of powers' issue that itself causes public concern and substantial ambiguity in the 'official' position of the court

- WHICH 'official' mittimus is the warden to enforce? each being different.
- HOW does a warden determine which mittimus is legitimate - supported by a lawfully imposed conviction?

When the 'official terms' conflict...is Warden's "hold" legit?

Applicant proves he was not convicted of the statutory offense(s) shown for [counts 1,2 & 3] - in fact, he was AQUITTED of [counts 1 & 3] See EX VIII and

[count 2] is made moot without a verdict to support it (see EX I, III, IV) making the 'holding authority' each represents VOID for this case - and it is on this basis Applicant believes he is entitled to his relief sought (in accordance to the precedence cited throughout)

Applicant asserts there can be NO CONFIDENCE in the validity of these mittimus documents issued with critical information unsupported by the record or imposed without due process creating double jeopardy and Amend. 13 violation, leaving Respondent without means to determine WHICH DOCUMENT TO ENFORCE

Currently, in accordance with the state and federal court precedence, the only remedy is Petitioner's release from custody as also provided by the 13th Amend.

Because this Petitioner believes the evidence presented (herein) does show he is restrained from his liberty unconstitutionally, he seeks this High Court to exercise its jurisdiction to ORDER him "released" from this unlawful imprisonment

"When a state court fails to conduct necessary process - which as a result has the effect of depriving a person of life, liberty, or property, without due process of law in violation of the 14th Amend., the federal Constitutional error can be addressed by a federal habeas court" Gilmore v Taylor 508 US 333, 348. AND, this "habeas writ may be granted by the Supreme Court, any justice thereof, or the District Court..." 28 U.S.C. §2241

note: Petitioner has exhausted this issue through the state's court of last resort (3) times yet (they) have ignored, or refused to acknowledge, the compulsory relief as established in the precedence cited

For said reasons and conditions shown, Petitioner contends the "exceptional circumstances" presented does warrant the exercise of the Court's discretionary powers for this writ

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PART "C"

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WHY ADEQUATE RELIEF CANNOT BE OBTAINED IN ANY OTHER FORM OR FROM ANY OTHER COURT

Applicant has already exhausted this habeas matter to the state's highest court [Colorado Supreme Court is the "court of last resort"] and the issues presented have been denied without a hearing or 'finding of fact' and 'conclusion of law' resulting in ongoing unconstitutional conduct from the state judiciary

1st, by its choosing to carry-on misapplying "criminal procedure" to address civil habeas action - (allowing the inferior courts to do this) and,

2nd, by simply ignoring the "acts" of the judicial branch issuing these modified and altered mittimus (at will) without having jurisdiction, and refusing to engage in the matter - refusing to enforce the constitution or law (cited) which at a minimum should have enabled a 'review' of the issues and compulsory relief cited

Petitioner asserts this case requires more than "adequate relief" for the extraordinary circumstances described

This Applicant believes, in order to expedite this habeas action, and because there is no requirement to pursue this action in the federal District Court (per 28 USC §2241) on matters challenging state actions under federal law, this habeas is filed with this United States Supreme Court [which may grant habeas corpus relief] Such will also serve to avoid any "localized bias" (from the Denver courts which include the U.S. District Court and U.S. Court of Appeals) eliminating the possibility of influence or states misconcern of constitutional rights for prisoners      Explained below:

Applicant is well aware of the abuse and discriminatory retaliation occurring from his experience through these courts [most recently: case 16 CV 02071 RM] U.S. Dist. Ct.

Petitioner asserts the mere proximity of all these courts has allowed (them) to reach conclusions based on interpretations of the constitution, laws, or policies never intended by the founding fathers and which conflict with other districts such that prisoner's appear to get what is called a "constitution lite" favoring the opposition and watering-down the Supreme 'protections' thought to be guaranteed

For instance: In 2016, Petitioner filed a §1983 prisoner complaint against C.D.O.C. employees implementation of practices that violated his rights under the 1st, 4th, 5th, 8th, & 14th Amends. which they made into "policy" and applied all these new restrictions and limitations against prisoners, retrospectively - getting the Attorney General's Office involved (backing their position forming a collusive effort to impair prisoner legal filings)

The practice has allowed these parties to hold this Petitioner's legal files hostage, blocking access to his documents [prepared to go to state court of review] and threatens deletion of them from his file based on their invasive personal scrutiny and censorship to control what (they) will allow, and, barring all access to the law library computers used for word processing. Then, retaliating against him (for grievances) where they took his personal eyeglasses and property "to teach him a lesson"

Later, Petitioner was provided defective 'state glasses' where he is forced to wait two years (2019) to get a new eye test for a new prescription & glasses

The U.S. District Court (in Denver) DISMISSED THE CASE in a Rule 12(b)(6) Motion almost 2 years after the case was filed, ruling this hostile treatment by the C.D.O.C. employees was acceptable because "it's policy" - therefore the Defendants are immune. Then decided (without a hearing and before any discovery occurred) Petitioner "suffered no injury" - "he can write-out his filings by hand" and he has "no right to confidentiality for 'work product' or 'attorney/client privilege' even though he is acting as his own attorney (filing pro se)

The case is now on appeal in the 10th Cir Appeals Court (also in Denver) #18-1260

Applicant believes the sentiment (here) is similar to Marbury v Madison 5 US 137 "If these [state] courts are to regard the constitution and if the constitution is superior to any ordinary act of legislature, the constitution, and NOT such ordinary act, must govern case to which both are "perceived" to apply, but law [or interpretation] repugnant to the constitution is VOID"

This belief extends in effect that Marbury would NEGATE states use of retrospective policy to circumvent one's legal access ( and his necessary medical and legal law library provisions) and, would NEGATE court's use of "criminal procedure" to interfere with "civil" habeas relief actions See Appendix K (ref. cites)

"The power of state to determine limits of jurisdiction of its courts and character of controversies which shall be heard in them, is subject to restraint imposed by federal constitution" Angel v Bullington 303 US 183; "States sovereignty is also limited and restrained by the federal constitution" see Ableman v Booth 62 US 506

State must be restrained from imposing "policy over constitution", and from making limitations purposed to interfere, block, or impede prisoner legal actions, law library access, and equipment access - telling him "he can make-out his filings by hand" and "we tell you what's 'good enough'" denying him the privilege or necessities given other prisoners. Yet, somehow the Federal District fails to see this discrimination and cruelty as "injury" **IN DENVER**

and  
pursuant to this present "habeas matter", the state must also be restricted from its practice of perpetual 'take-over control' of actions (they) are not a party to and have not been given jurisdiction. Specifically to CHANGE PARTIES in a civil habeas action [to the people of the state of Colorado] making the petitioner "a defendant" then to rule using criminal procedure subverting the civil habeas process between a prisoner and the Warden (Respondent) seeking determination of his authority on which he relies to keep this prisoner in custody

For such cause, it is this Supreme Court of the United States who is the ultimate authority to "decide" this important constitutional question, due to the extraordinary nature of Petitioners situation

On these grounds stated, and based on the extraordinary circumstances shown for this action, Applicant asserts adequate relief cannot be obtained in any other form or other court for proper remedy and relief sought in this habeas writ

**RULE 20.4**

**PART "D"**

REASON FOR NOT MAKING APPLICATION TO THE DISTRICT COURT OF THE DISTRICT IN WHICH [APPLICANT] IS HELD

Petitioner incorporates what was stated in [PART "C"] in his response to : "Why adequate relief cannot be obtained in any other form or any other court" - in brief he states:

- a Already exhausted issue through state district courts - all the way - to the state's court of last resort (3X)
- b Matter is constitutional issue involving extraordinary circumstances. State is unwilling or unable to act in accordance with state & federal precedence
- c Matter requires more than 'adequate relief' that involves resolution of state's jurisdiction limits
- d [Federal] District Court's location and affiliations with the offending state courts and court of last resort (by day-to-day close proximity and handling of state prisoner case habeas and other actions) ripe for bias
- e Applicant's ongoing [federal] civil suit (now on appeal) that brings forth issue of court bias - unfairly favoring state defendants despite the facts which are fully supported, and Court's unethical "dismissals" of Parties and requests for restraining order/injunction needed to protect prisoner's property and legal rights [Court relying on false information]

continued

f [Federal] judges: Babcock; Peacock; Arguello; Moore; Mix; Kane; & Gallegher... (those handling Applicant's civil case) due to the implication of bias, should not have any association in this habeas matter believing there to exist immoral and unethical performance in the handling of serious constitutional violation issues allowed to be carried-out against him and denying necessary relief that would be obvious to a rational man with reasonable understanding

And for these reasons (incorporating those reasons from PART "C") Petitioner has shown this APPLICATION was not made for the federal district court (10th Cir) D.Colo., And this habeas writ remains unresolved after having exhausted this specific constitutional claim through state's court of last resort

For said reasons, and in the interest of judicial fairness, this habeas action is filed with this High Court in pursuit of the Constitutional relief this Applicant believes the situation warrants, according to established precedence cited throughout this application

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CONCLUSION

Mr Rudnick exhausted his 'criminal appeals' for his Colorado case in 1994. His §2254 Petition got denied (2/14/14) as "untimely" - see Rudnick v Falk 13CV3223 (2014 U.S.Dist.LEXIS 18834) re: mostly "trial" & "procedural" issues. The U.S.Dist.Ct. clearly established that this case was FINALIZED (11/6/94). The matter of 'sentence changes' (appearing in newly issued mittimus documents) presented an ongoing violation where "changes" have been made multiple times, even decades after terms were being served in state incarceration

These changes have substantially altered his punishment and as a result, shows unconstitutional conflict with the 'multiple simultaneous holding documents' containing fraudulent information which by law makes EACH one VOID, thereby invalidating the C.D.O.C. [Respondent's] authority to keep this Petitioner [Rudnick] in custody

If the Court would take notice: On 9/24/14 the U.S. Court of Appeals 'affirmed' the §2254 Court decision without consideration given on "equitable tolling" time bar exception for 'legal innocence'. And, the exhibits (attached) show ongoing sentence changes carried-on past 2014. See 575 FedAppx 840 [2014 U.S.App.LEXIS 18290] ignoring 'Continuing Violations Doctrine'. Rudnick's Writ of Certiorari stating said claims to the U.S. Supreme Court (filed 3/10/15) was not accepted.

This Applicant has exhausted all his state remedies through the State's highest Court and even sought assistance from several officials, agencies, pvt. counsel & others

Applicant believes he has shown that the Respondent (Hansen) no longer has lawful authority to keep him incarcerated as punishment for crime(s) he was not convicted of committing and that he is now entitled to immediate release from custody.

15: Applicant notes also, that as a consequence of these 'changes' (they) have created a separate increase in punishment under C.D.O.C. policy which calculates TIME COMP based on the latest (new) sentence issued (EACH TIME a new mittimus is issued)

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HEARING REQUESTED

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Applicant asserts, because of the volume and number of changes made to his 'holding documents' on which his punishment is based, an evidentiary hearing should be scheduled with a separate ORDER given to Respondent (or his legal representative) [the Colo. Attorney General Office] to present records and documentation necessary to 'SHOW CAUSE' why Mr Rudnick should not be released from custody (or) why this Honorable Court should not issue an ORDER for his immediate release

Applicant relies on 28 U.S.C. §2243 in that he is entitled to an opportunity to substantiate habeas corpus claims at an evidentiary hearing where the allegations relate primarily to purported occurrences outside the court room and are not so vague or conclusory as to permit summary disposition - And, "When the allegations set forth proper grounds for relief, court must grant prompt hearing" Patterson v Hampton 355 F2d 470 (10th 66)

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F. RELIEF REQUESTED

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Applicant contends that an ORDER by this high Court granting this Writ, granting evidentiary hearing and/or granting his release would all serve to enforce the protections guaranteed under the 13th & 14th Amendments U.S. Constitution, and such ORDER should be issued as soon as possible

THEREFORE, on these grounds, Applicant requests that this Honorable Court grant the relief sought (which serves the people, enforces the Constitution, and releases Mr Rudnick from custody - (who is innocent of the crimes indicated)) -or- to provide redress or remand to District Court to dispose of this matter as law and justice require .