

18-7422

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

Supreme Court, U.S.
FILED
JAN 09 2019
OFFICE OF THE CLERK

DAVID LEE WILLIAMS — PETITIONER
(Your Name)

vs.

DARREL VANNOY, State of Louisiana — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT OF LOUISIANA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

David L. Williams, pro se
(Your Name)

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(Address)

Louisiana State Penitentiary
Angola, La. 70712
(City, State, Zip Code)

Angola Prison - (225) 655-4411
(Phone Number)

QUESTION(S) PRESENTED

1. Is defendant entitled to relief where he was constructively denied counsel during trial?
2. Is defendant entitled to relief where he was constructively denied counsel during his one and only appeal of right?
3. Did the state district court err in its prosecution of aggr. rape by bill of information, when Grand Jury indictment is required by law?
4. Did the Louisiana Supreme Court err in not conducting its own independent review of the record in defendant's appeal of right to determine if any error of patent occurred?
5. Did state district court violate due process clause to obtain a conviction?
6. Did Louisiana Supreme Court violate due process clause when it did not conduct its independent review for errors?
7. Are state courts obligated to follow the law of the land?
8. Can a state district court rule a true habeas corpus petition a post-conviction relief application to avoid ruling on petition?
9. Does aggravated rape statute constitute an offense under a bill of information in Louisiana law?
10. Can a conviction and sentence be upheld by a court without jurisdiction or power to adjudicate the legal cause?
11. Can a defendant be incarcerated when he has not been duly convicted of a crime in a court of law?
12. Whether The Louisiana Supreme Court Erred One Word Denial On The Important Issue Of Law Of Whether A District Court Lacked Subject Matter Jurisdiction To Render Judgment, Conviction and Sentence, Where Such Judgment, Conviction and Sentence would be Null as a Matter of Law?
13. Whether The Louisiana Supreme Court Erred In Its Discretion, When It Did Not Use Its Supervisory Authority to decide If Petitioner's Habeas Corpus is a true Habeas?
14. Did the state usurp authority from the Grand Jury to obtain a conviction?
15. Does Petitioner has an issue of interest of liberty of hand?

LIST OF PARTIES

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

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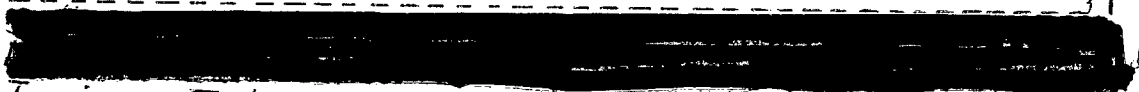
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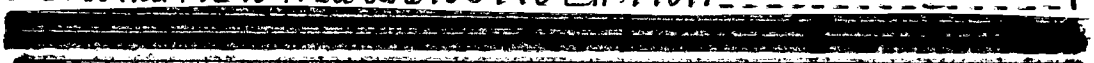


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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. United States Constitution Amendment 5:
"No person shall be deprived of life, liberty or property, without due process of law."
 2. United States Constitution Amendment 6:
"In all criminal prosecutions, the accused shall enjoy the right to an impartial jury and to be informed of the nature and cause of the accusation, to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense."
 3. United States Constitution Amendment 8:
"There shall not be Cruel and unusual punishment inflicted."
 4. United States Constitution Amendment 13, section 1:
"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States..."
 5. United States Constitution Amendment 14:
No State shall make or enforce any law which shall abridge the privileges or immunities of the 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."
1. Louisiana Constitution Article 1, sec. 2:
"No person shall be deprived of life, liberty or property, except by due process of law."
 2. Louisiana Constitution Article 1, sec. 3:
"No person shall be denied the equal protection of the laws. Slavery and involuntary servitude are prohibited, except in the latter case as punishment for crime"
 3. Louisiana Constitution Article 1, sec. 13:
"When any person has been arrested, or detained in connection with the investigation or commission of any offense, he shall be advised fully of the reason for his arrest or detention... his right to the assistance of counsel. In a criminal prosecution, an accused shall be informed of the nature and cause of the accusation against him. At each stage of the proceeding..."

4. Louisiana Constitution Article I, sec. 15:
 "Prosecution of a felony shall be initiated by indictment or information, but no person shall be held to answer for a capital or a crime punishable by Life Imprisonment except by indictment by a Grand Jury."
5. LSA-Code of Criminal Procedure Article 382:
 "A prosecution for an offense punishable by death, or for a offense punishable by life imprisonment, shall be instituted by indictment by a grand jury."
6. LSA- R.S. 14:212, House Bill No. 521, ACT No. 707, 1981.
 "Whoever commits the crime of aggravated rape shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence."
7. 28 U.S.C.A. sec. 2241
 (a) Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district court and any circuit judge within their respective jurisdiction. The order of a circuit judge shall be entered in the record of the district court of the district wherein the restraint complained of is had.
 (c) (1) He is in custody under or by color of the authority of the United States.
 (c) (3) He is in custody in violation of the Constitution or laws or treaties of the United States.
8. 28 U.S.C.A. sec. 2254
 (a) The Supreme Court, a Justice thereof, a circuit judge, or a district district shall entertain an application for a Writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.
 (d) (1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States.

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

DAVID LEE WILLIAMS

Petitioner.

versus

STATE OF LOUISIANN
and

DARREL VANNOY, Warden

Respondent.

On Petition for a Writ of Certiorari TO the
United States Supreme Court From the
Louisiana Supreme Court

PETITION FOR WRIT OF CERTIORARI

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

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

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

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

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

For cases from **state courts**:

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

- reported at Docket No. 2018-KH-1540; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the Louisiana 20th Judicial District Court, WFP court appears at Appendix B to the petition and is

- reported at Docket No. 12-WCR-494; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

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

No petition for rehearing was timely filed in my case.

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

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

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

For cases from **state courts**:

The date on which the highest state court decided my case was 9/18/2018.
A copy of that decision appears at Appendix A . 2018-KH-1540

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

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

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a) and Judicial Code 1911, § 238.

*Petitioner is timely filed under 28 U.S.C. § 2101(c) and Supreme Court rule 13.1 and 13.3 because it is being filed within 90 days after denial of a timely sought writ of Supervisory and Remedial to the Louisiana Supreme Court pursuant to the U.S. Constitution Article 3 § 2 Cl. 1.
28 U.S.C. § 1257 (a).*

STATEMENT OF THE CASE

On January 3, 1982, in the early morning hours Mrs. Ethel Thompson was physically assaulted sexually in her home. The attacker left after the assault, taking money he stole from the victim. Sometime afterward, almost immediately police officers claim they arrested David Lee Williams, Petitioner for the offense.

On January 7, 1982 Petitioner was purportedly "charged" by Bill of information with violation of the statutes LSA-R.S. 14:412 and LSA-R.S. 14:414 aggravated rape and armed robbery. On March 15-16, 1982 a trial was held before a jury of twelve. On the day of trial March 15, 1982, Hon. Mr. William J. Knight, Assistance District Attorney on Motion had the Court to sever the charges and to continue Count II "Armed robbery and proceeded with the trial on Count I, Aggravated rape. Doc. No. 37,096-7 Petitioner was found guilty of Aggravated Rape. On May 17, 1982, Petitioner was sentence to serve life imprisonment at hard labor without the benefit of parole probation or suspension of sentence. On March 2, 1982 the Louisiana Supreme Court affirmed Petitioner's conviction and sentence *per curiam*.

Procedural History of THE Case

MAY IT PLEASE THE COURT: Now Comes, David Lee Williams, for Writ of Certiorari pursuant to 28 U.S.C.A. 1257, from the denial of Application for Habeas Corpus, *ad subiiendum* entered September 4, 2018, case No. 12-WCR-494 and denial of Louisiana Supreme Court to use its supervisory power to exercise its authority to remedy and clarify the matter of law, entered October 15, 2018, case No. 2018-KH-1540. Which brings Petitioner before this Honorable Court for Certiorari in this cause. LSC standard (1.2) (2.1)

Petitioner is unlawfully imprisoned in custody and restrained of his liberty, detained under color of law and authority of STATE OF LOUISIANA in custody of Respondents, JAMES M. LEBLANC, Secretary of Louisiana Department of Public Safety and Correction, and DARREL VANNDY, Warden of Louisiana State Penitentiary, located at Angola Louisiana where Petitioner is currently confined.

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- 1 Appendix 'A'
 - 2 Appendix 'B'
 - 3 Appendix 'C'
 - 5 Appendix 'E'

REASON FOR GRANTING CERTIORARI LIBERTY INTEREST

There is Significant Unresolved law. The Louisiana Supreme Court has denied considering or sanctioned a lower court's decision of, a significant issue of law which has not been, but should be, resolved by this Court.

An Erroneous Interpretation and or Application of Constitution and or laws, the Louisiana Supreme Court has erroneously interpreted or applied the United States Constitution and or laws and the Constitution and or laws of the State of Louisiana and the decision has caused material injustice and a miscarriage of justice which significantly affect the public interest and trust in the Judicial Process.

The lower court conduct was contrary to clearly established federal law. State court arrived at a conclusion opposite to that reached by the Supreme Court on a question of law.

State court decided my case differently than the Supreme Court has on a set of materially indistinguishable facts, and which conflicts with other state district court decisions of law.

State court decision was not only contrary but also an unreasonable application of clearly established Federal law, as determined by the Supreme Court of the United States

State court action resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in state court proceedings.

Petitioner is being restrained in custody pursuant the judgment of a state in violation of the Constitution or laws or treaties of the United States in Louisiana State Penitentiary, Angola, La. and of the Louisiana Constitution and Laws by a Court that lack Jurisdiction to adjudicate the legal cause of action. ⁶ Petitioner asserts circumstances existed that rendered such Legal process ineffective to protect his rights.

Clearly established Federal law... is the governing legal principle or principles set forth by the Supreme Court in its holding at the time the state court rendered its decision. ⁷

⁶ see Appendix C bill of information

⁷ Lockyer v. Andrade, 538 U.S. 163, 71-72, 123 S.Ct. 1166, 155 L. Ed. 2d 144 (2003), citing Ayala v. Chappel, 829 F.3d 1081 (C.A.9 (Cal.) 2016)

Writ should issue for three ④ primary reasons: (1) The trial court lacked subject-matter jurisdiction to issue a judgment, conviction, or sentence. Without jurisdiction, authority or power to adjudicate the legal cause of action the hold process is null and void. U.S.C.A. Const. Amendments 5, 6, 8, 13, 14; LSA-Const. Arts. 1, 2, 3, 13, 15; LSA-Cr.P. arts. 362(1)(3)(4)(5), 382.

(2) Warrant of Commitment order was never signed by trial judge to Commit Petitioner to the custody of the Custodian of Louisiana State Penitentiary in violation of U.S.C.A. Const. Amend. 13.

③ Granting or rendering a decision in my favor would set good precedence for future cases, in that no citizen of the State of Louisiana and the UNITED STATES would have any undo fear and anxieties of an illegal trial, conviction and sentence without Due Process of law. Where it takes years of their lives in prison from family and friends, time which they will never gain back, lost loved one in death, children who have to grow up without fathers and mothers, and even grandchildren, lost of family and friends because of lack of personal relationship that incarceration has caused. No amount of money can compensate for such loss.

In general, society would benefit as a whole when citizen have to go before a trial court for some reason beyond their control they can have confidence that they will receive a fair and just trial with all judicial proceedings and procedures. Infact, judges, attorneys and officers of the judicial system would think twice before letting injustice infect and permeate their court and if not, we have our United States Supreme Court to keep matters in check.

CLAIM ① LIBERTY INTEREST

Assertion by the Honorable 20th Judicial District Court is error. The court rejected petitioner's motion to proceed in forma pauperis, asserting his pleading is not subject to the advance payment of court costs so that motion was not considered.

The court asserted Petitioner Application was styled as a petition for habeas corpus but application attacked conviction and sentence. ② and his application for post conviction relief must be filed in Washington parish. Petitioner asserts he has contested constitutionality of his of his custody throughout his petition for habeas Corpus

8 see Appendix 'B' 20th JDC Ruling

Petitioner contend that his Application is not an application for post conviction relief but a true habeas corpus, where venue is 20 JDC. The facts are that Petitioner mailed H/C to Washington parish pursuant 28 U.S.C.A. § 2241 and under this provision the Court had the discretion rule on the merits of petition or transfer it the parish of 20 JDC⁹ but instead transferred the petition to another court in the same district¹⁰ Division 'E', Judge William H. Burris, was an assistance district attorney involved in the prosecution of Petitioner in 1982. Instead of transferring petition to proper court for consideration, they sent entire Application back to petitioner and he mailed it to the 20 JDC for consideration. Petitioner contend that in sending his Application back to him to send to the 20 JDC for consideration, the two courts of Washington and St. Tammany of the 22nd JDC adjudged that Petition was a true Habeas Corpus, that was in wrong venue. 28 U.S.C.A. 2254 (c)

Petitioner then sought WRIT OF SUPERVISORY and REMEDY application for denial of habeas corpus as post-conviction relief application in the Louisiana Supreme Court. One word denial October, 15, 2018. Petitioner contend it was error on Supreme Court of Louisiana part in denuma writ where he asked the Court to evaluate State H/C and to render judgment as to whether his petition was true habeas corpus and if it was true habeas to take cognizance of the legal matter and render an judgment that the district Court that adjudicated the legal cause and that issued conviction and sentence was without jurisdiction to render a judgment in a trial, therefore any conviction and sentence is null and void as a matter of law¹¹. There to, the denial of the Louisiana Supreme Court and the judgment of the 20 JDC is contrary to established Federal law. Clearly establish Federal law and is an unreasonable application of clear Federal law as established by the United States Supreme Court.¹²

9 See Appendix 'E' Application for Habeas Corpus

10 See Appendix 'B' letter from St. Tammany parish court

11 See State v. Louis, 94 So. 446, 159 La. 924 (La. 1922)

12 See Ayala v. Chappell, 829 F. 3d 1081 (C.A. 9 (Cal.) 2016)

HABEAS CORPUS

As presented to 20th JDC and Louisiana Supreme Court

CLAIM No. 2, LIBERTY INTEREST

The 20th Judicial District Court erred in its judgment that Petitioner failed to make any claims for relief and petition was application for post-conviction relief.

Habeas Corpus is a writ commanding a person who has another in his custody, to produce him before the court and to state the authority for the custody. See Appendix 'E' habeas corpus and Exhibits.

LSA-C.Cr.P. art. 351. Generally, habeas corpus deals with pre-conviction complaints concerning custody. LSA-C.Cr.P. art. 931. For purposes of ruling on the exception, the court must accept all well-pleaded facts in the petition and any as true. (subject-matter jurisdiction of the court is governed by its authority in presentment of indictment or information. This case is controlled by LSA-C.Cr.P. art. 362 (1) (3) (4) (5) (13)

"A district court may on its own" dismiss the case at any time" if it determines that "the action" "fails to state on which relief may be granted," (14) but it must explain its finding with "sufficient clarity" for effective appellate review. (15)

The Louisiana Supreme Court should have reviewed a district court's dismissal for failure to state a claim de novo, accepting the allegations in the complaint as true and construing them in the light most favorable to the Plaintiff. (16) Citing Dimanche v. Brown, 783 F.3d 1204 (C.A.11 (Feb. 2015))

In and pursuant to State ex rel. Lay v. Cain, Petitioner sought habeas Corpus relief from illegal custody. The Court ruled that suit was not an application for postconviction relief because Lay did not seek to have his conviction and sentence set aside. Lay was asking DPSC to state its authority for its custody over him. And the court ruled that action was a true application for a writ of habeas corpus. (17) District court judgment reversed and remanded for further proceeding. Like Lay, Petitioner in instant case asked DPSC and the Warden of LSP to state its authority for custody over me. (18) But district court of West Feliciana dismissed petition as postconviction relief application as it did in the Lay case.

13 Sinclair v. Kennedy, 701 So. 2d 457, 96-1510 (La. App. 1 Cir. 1997)

14 28 U.S.C. § 1915(e)(2)(B)(ii)

15 United States v. Huff, 609 F.3d 1240, 1247 (11th Cir. 2010)

16 Hill v. White, 321 F.3d 1334, 1335 (11th Cir. 2003)

17 691 So. 2d 135, 96-1247 (La. App. 1 Cir. 1997)

18 Appendix 'E' habeas corpus and Exhibits and Appendix 'C'

Commitment papers. LSA-C.Cr.P. arts. 351, 352, 353, 354, 357

- 19 Cf. Preiser v. Rodriguez, 411 U.S. 475, 490, 93 S. Ct. 1827, 1836, 36 L. Ed. 2d 439 (1973)
- 20 Cf. Ex parte Bollmon, 8 U.S. 75, 8 U.S. 75 (U.S. Dist. Ct. 1807), 4 Cranch 76, 97, 98, 2 L. Ed. 554
- 21 Price v. Johnson, 68 S. Ct. 1049, 334 U.S. 266 (U.S. Ct. 1948) Cf. In re Bonner, 14 S. Ct. 323, 151 U.S. 212 (U.S. Iowa 1891); State v. Louis, 91 So. 476, 152 La. 924 (La. 1911)
- 21 (B) Judicial Code, 1911, § 238, Collins v. Board of Control of Louisiana State Penitentiary, 1915, 219 F. 885, 135 C. C. A. 8219

Essence of "habeas corpus" is attack by person in custody upon legality of that custody, and traditional function of the writ is to secure release from illegal custody. Act. Sept. 24, 1789, § 14, 1 Stat. 81; 28 U.S.C.A. § 2241, 2241 (c)(3), 2251 (a); U.S.C.A. Const. art. I, § 9, cl. 2. Federal habeas corpus statute provides for swift, flexible and summary determination of state prisoners' claim. 28 U.S.C.A. §§ 2243, 2254 (e). State prisoner who is attacking validity of fact of confinement and who has been denied relief in state courts is not precluded from seeking habeas relief on same claims in federal court. 28 U.S.C.A. § 2254 (d). (15)

Petitioner contends a person is unlawfully subjected to physical restraint where she was imprisoned prior to trial on account of detected indictment, is unlawfully confined in wrong institution, was denied constitutional rights at trial, further, this court, United States Supreme Court has power to issue the Writ of Habeas Corpus ad subjicendum, such writ being for the purpose of revising a decision that the party should be imprisoned. Habeas corpus ad subjicendum. The great and efficacious writ, which is directed to the person detaining another, and commanding him to produce the body of the prisoner, with the day and cause of his capture and detention. Primary purpose of a habeas corpus proceeding is to make certain that petitioner is not unjustly imprisoned and if for some justifiable reason he was previously unabled to assert his rights or was unaware of the significance of relevant facts it is neither necessary nor reasonable to deny him all opportunity of obtaining judicial relief. 28 U.S.C.A. § 1651. (16) Denial of writ of habeas corpus issued on ground that petitioner was in custody in violation of the Constitution of the United States, is appealable directly to the U.S. Supreme Court. (17)

SUBJECT-MATTER JURISDICTION

CLAIM 3. LIBERTY INTEREST

As presented to trial court and state habeas court, L.S.C. Petitioner assert he is being held as a convict in the state penitentiary, Angola, that the conviction, sentence, judgment and order of commitment are void, that the court was without power, authority or jurisdiction

Under the Constitution and law of the United States and the Constitution and laws of Louisiana to render such a judgment and he seeks to have conviction, sentence and judgment under which he is held decreed Null as having been rendered by a court without jurisdiction, and that he be discharged immediately from illegal custody at L.S.P. (22)

Petitioner asserts that no judgment can stand in greater need of correction than one rendered by a court without jurisdiction. A sentence in a case of which the court had no jurisdiction can and should be set aside (ex proprio iure) or on application. State v. Nicolosi, 55 So. 475, 128 La. 836 (La., 1910). A court lacking jurisdiction cannot render judgment but must dismiss the cause at any stage of the proceeding in which it becomes apparent that jurisdiction is lacking. c.f. Mitcheil v. Maurer, 293 U.S. 237, 55 S.Ct. 162, 79 L.Ed. 338 (1934); Citizens Concerned, etc. v. City and County of Denver, 628 F.2d 1289 (10 Cir. 1980). (24)

Pursuant to Gomez v. United States, 490 U.S. 858, 109 S.Ct. 2237, 104 L.Ed.2d 923 (1989). The Supreme Court held and concluded that "equally basic is a defendant's right to all critical stages of a criminal trial conducted by a person with jurisdiction to preside 490 U.S. at 876, 109 S.Ct. at 2248. (internal citations omitted.) Because jurisdiction of a court is derived law, Constitution or Statute and can not be conferred by consent, consent cannot authorize a judge to do what law has not given him the power to do. (23) Defect in subject matter jurisdiction can never be forfeited or waived, and require correction, regardless of whether error was raised in district court. Because an indictment in instant case is both mandatory and jurisdictional, a court without jurisdiction to impose a sentence for an offense not charged by an indictment is null. Such an error, the court of Appeals concluded, serious affected the fairness, integrity or public reputation of judicial proceedings" Id., at 406. Cotton, 531 U.S. 1074, 151 L.Ed.2d 689, 122 S.Ct. 803 (2002).

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- 21 State v. Louis, 94 So. 446, 152 La. 924 (La. 1922)
In re Bonner, 14 S.Ct. 323, 151 U.S. 242 (U.S. Iowa 1894)
U.S.C.A. Const. Amends. 5, 14, 13; LSA-Const. Arts. 1, sec. 2, 3, 15; LSA-C.Cr. Part. 382
- 24 See Appendix 'E' and 'C' Extract of minutes, Feb. 25, 1982; Mar. 15, 1982, Chronological Index, Motion to quash, Motion for Preliminary Examination, and letter from Clerk of Court, 22nd JDC, affirming there was no grand jury indictment.
- 23 U.S. v Cotton, 122 S.Ct. 1781, 535 U.S. 625 (U.S. 2002)
U.S. v. Vreeken, 803 F.2d 1085 (C.A. 10 (Utah) 1986)
U.S. v. Sivalia, 686 F.2d 832 (C.A. 10 (N.M.) 1981)

If the judgment be void on its face, it could be attacked at any time by filing habeas Corpus. (25) So far as nullity resulting from absence of jurisdiction is concerned, when that is a matter which in the words of the Louisiana Supreme Court in the case of Dequie v. Dequie, 105 La. [481], 485, 29, [932], 934 (1901), may be invoked by any one at any time and anywhere, that is fact, it has long been established that lack of jurisdiction is defect fatal to a criminal prosecution.

Even an unqualified plea of guilty does not preclude review of jurisdictional defect. LSA-C. Cr. P. art. 362 (1) (3) (4) (5) (7) (26)

Pretrial Issue:

GRAND JURY INDICTMENT

CLAIM 4, LIBERTY INTEREST

As Presented to the trial court and to state habeas court, LSC

Petitioner contends he is being held in custody in violation of the United States Constitution and Law as determined by the Supreme Court of the United States in one or more cases. U.S.C.A. Const. Amends. 5, 6, 8, 13, 14 and Louisiana Const. Articles 1, § 2, § 3, § 13, § 15; LSA-C. Cr. P. art. 382, which is contrary to Federal law and is an unreasonable application of clearly established Federal law determined in one or more United State Supreme Court cases.

LSA-C. Cr. P. art. 382 was amended by Acts 1974, Ex. Sess., No. 19, s1, eff. Jan. 1, 1975 to provide in pertinent part that a prosecution for an offense punishable by death, or for an offense punishable by life imprisonment, shall be instituted by a grand jury. Other criminal prosecutions in a district court shall be instituted by indictment or by information.

LSA-Const. Article 1, section 15 of 1974, eff. date Dec. 31, 1974, provides that prosecution of a felony shall be initiated by indictment or information, but no person shall be held to answer for a capital crime or a crime punishable by life imprisonment except on indictment by a grand jury. (27) The Grand Jury has the dual function of determining if there is probable cause to believe that a crime has been committed and of protecting citizens against unfounded criminal prosecution. (27B)

25 Cf. Johnson v. Zerbst, Warden, 304 U.S. 458, 58 S.Ct. 1019, 82 L.Ed. 1161

26 State v. Crosby, 338 So. 2d 584, 588 (La. 1976), c.f. Blackledge v. Perry, 417 U.S. 21, 94 S.Ct. 2098, 40 L.Ed. 628 (1974), State v. Watson, 211 La. Ann. 598, 7 So. 125 (1889); State v. Sellers, 902 So. 2d 418, 420, 2004-1922 (La. App. 4 Cir. 2005)

27 State v. Monk, 315 So. 2d 727 (La. 1975)

27B Branzburg v. Hayes, 412 S.Ct. 2646, 408 U.S. (U.S. Ky. 1972); U.S. v. Sellis Engineering, Inc., 103 S.Ct. 3133, 463 U.S. 418 (U.S. Cal. 1983).

Erroneous indictment is cognizable in habeas corpus proceeding.²⁸
The term "indictment" includes affidavit and information, unless it is the clear intent to restrict that word the finding of a grand jury, LSA-C.Cr. P. art. 461.

Pretrial Issue

BILL OF INFORMATION

Claim. 5: LIBERTY INTEREST
as presented before the trial court, State habeas corpus court,
Louisiana Supreme Court.

- (1) Initiation of LSA-R.S. 14:42 aggravated rape by Bill of Information in criminal proceeding is contrary to clearly established Federal Law as set forth by the U.S. Supreme Court of the United States in one or more cases and is an unreasonable application of clearly established Federal Law and is in direct conflict with other districts and State Supreme Court's cases
- (2) Petitioner asserts that state's deliberate decision to forego and bypass a lawful and statutory procedure available to it, such as a Grand Jury Indictment to institute criminal charges against him for a crime that imposes life imprisonment by way of a bill of information is contrary to the United States Constitution and law as well as Louisiana Constitution and law, in fact is a Due Process violation of his fundamental rights.²⁹
In Alexander v. McCotter, The court held that the sufficiency of state indictment or information is not matter for relief unless it can be shown that indictment or information is so defective that the convicting court had no jurisdiction. The insufficiency of a state's indictment or information is a valid claim for habeas corpus proceeding only when it is so defective that under no circumstances could a valid state conviction result from facts provable thereunder, and that this can be determined only by looking to the law of the state where the indictment or information was issued.³⁰

28 State ex rel. Jackson v. Henderson, Supp. 1973, 283 So. 2d 496. C.F. Bauman v. U.S., 1946, 156 F. 2d 534, State ex rel. Jackson v. Henderson, 283 So. 2d 210 (La. 1973) LSA-C.Cr. P. arts. 362, 872, 882, 920.

29. U.S.C.A. Const. Amends. 5, 14; LSA-Const. Arts. 1, 2, 3, 13, 15. LSA-C.Cr. P. art. 382.

30 Alexander v. McCotter, 775 F. 2d 595 (A.5 (Tex.) 1985); United States Const. Art. 4 (2); LSA-Const. Art. 1-Section 1

In fact, this course of action deprived trial court of subject matter jurisdiction and is a failure of all state courts to apply a legal principle, enunciated in one or more United States Supreme Court decisions, to a situation where such application is required by force and logic of the Court's decision and can be raised at anytime. The courts has the duty to guarantee that prosecution be properly instituted by indictment or information as "one of the principle cornerstones of our Bill of Rights" and noted that this requirement "has been included in all eight (8) Constitutions that have formed the organic law of Louisiana."³¹

Petitioner contend, that verdict of guilty of aggravated rape is nonresponsive to the bill of information. Whereas information cannot charge a crime that imposes a sentence of life imprisonment. State could have only charged lesser responsive verdict of forciful rape under bill of information.³²

Petitioner contends that a void and null conviction and sentence under a bill of information makes the aggravated rape statute "Unconstitutional," under the laws of the United States and the State of Louisiana.

Petitioner contends this error was and is "Patent Error on the Face of the Record" that the court could have taken cognizance of errors patent on the face of record in a habeas corpus application.³³ This is an error discoverable by mere inspection of pleading and proceedings.

Where a conviction and sentence for a felony, with no charge against accused by information or indictment, are absolute nullities, the person convicted should be discharged on application for habeas corpus.³⁴

A bill of information or a bill of indictment is not only procedurally required but also jurisdictional.³⁵ The U.S. Supreme Court of the United States held in cases which the cause and prejudice standard is inadequate to protect against fundamental miscarriage of justice, that requirement "must yield to the imperative of correcting a fundamental unjust incarceration,"³⁶ in as much as this is an unauthorized conviction and sentence.³⁷

31 State v. Straughan, 229 La. 1036, 87 So. 2d 523, 529 (1956).

32 State v. Arita, 811 So. 2d 1146, 2001-1512 (La. App. 4 Cir. 2002) State v. Gooden, 523 So. 2d 283 (La. App. 2 Cir. 1988) U.S.C.A.-Const. Amend. 5, 14; LSA-Const. Art. 1, sections 2, 3; LSA-C.Cr. P. arts. 382, 920(2).

33 State ex rel. Jackson v. Henderson, 283 So. 2d 210 (La. 1973) cf. LSA-C.Cr. P. arts. 362, 872, 882, 920.

34 State v. Duhon, Sup. 1918, 142 La. 419, 77 So. 791; Bill of Rights Article 9.

35 State v. Jones, 241 So. 2d 627, 207 La. 394 (La. 1945).

36 Wainwright v. Sykes, 433 U.S. 72, 91, 97 S.Ct. 2497, 53 L.Ed. 2d 594 (1977); Engle v. Issac, 456 U.S. 107, 135, 109 S.Ct. 1568, 71 L.Ed. 2d 783 (1983). Citing Dretke v. Haley, 124 S.Ct. 1847, 541 U.S. 386 (U.S. 2004).

37 State v. Bienvenu, La 859, 11 So. 2d. 196 (1945), 207, La. 859, 22 So. 2d 196.

Pretrial Issue
DUE PROCESS OF LAW
As presented to all state courts
CLAIM 6: LIBERTY INTEREST

Petitioner assert that trial court violated his due process rights under The United States Constitution, Const. Amends. 5, 14; as well as Louisiana Const. due process laws and equal protect Laws, LSA-Const. Arts. 1, sections 2, 3. U.S.C.A. Const. Amend. 8

Due Process Clause imposes procedural limitations on a state's power to take away protected entitlements of U.S.C.A. Const. Amend. 14. The Law and Constitution provides protection against USURPATION in that without a proper vehicle in present case, a grand jury indictment of probable cause there is no crime, therefore, there can be no trial, conviction or sentence without (Due Process of the Law of the land). Due Process of law is process according to the law of the land. This process in the state is regulated by the law of the state. (1) Due process of law in the state of Louisiana in all case where the punishment is death or life imprisonment is by presentment or indictment by a grand jury. LSA-Const. Art. 1, section 15 and LSA-C. Cr. P. art. 382. LSA-Const. Arts. 1, section 2, 3.

To establish a procedural due process violation, a prisoner must demonstrate that the state deprived him of a liberty created either by state law or the due process clause itself. U.S.C.A. Const. Amend. 14. (1)

It is a violation of due process either to send an accused to prison following conviction of a charge on which he was never tried or to convict the defendant upon a charge that was never made. (2)

Petitioner assert "it was Plain Error" not to initiate LSA-R.S. 14:42 by grand jury indictment in instant case. The Doctrine which encompasses those errors which are obvious and highly prejudicial, which affect the substantial rights of the accused, and which, if uncorrected, would be an affront to the integrity and reputation of judicial proceeding. (3) Under plain error standard of review, if forfeited error was "clear or obvious" and affected "substantial rights", Court of Appeal has discretion to correct such error if it affects fairness, integrity, or public reputation of judicial proceeding.

Under DUE PROCESS Clause of the Fourteenth Amend., a state's conviction cannot be brought about by methods that offend a sense of justice. U.S.C.A. Const. Amend. 14 (49B)

- 40 *Hurtado v. People of the State of California*, 110 U.S. 516, 4 S.Ct. 292, 28 L. Ed. 232. (U.S. Cal. 1884)
- 41 *Dewalt v. Carter*, 224 F.3d 607 (C.A. 7 (Ill.) 2000)
- 42 *De Jonge v. Oregon*, 299 U.S. 353, 57 S.Ct. 255, 81 L. Ed. 278 (1936); *State v. Duhon*, 77 So. 791, 142 La. 919 (1918) *Citino State v. Booker*, 385 So. 2d 1186 (La. 1980)
- 43 *U.S. v. McCord*, 501 F.2d 334, 341; Cf. *U.S. v. Cyprian*, 197 F.3d 736 (5 Cir. 1999)
- 43B *Rochin v. California*, 71 S.Ct. 205, 342 U.S. 165 (U.S. Cal. 1952); The right of an accused in a criminal trial to due process of law is, in essence, the right to a fair opportunity to defend against the State's accusations; see *Chambers v. Mississippi*, 410 U.S. 284, 294, 93 S.Ct. 1038, 35 L. Ed. 2d 297 (1973)

Due Process therefore is a Constitutional right that guarantees everyone in the United States a certain amount of protection for their life, liberty and property.

Sup. Ct. Rule X; Rule X Writ Application:
Section (ii).

- (2) Significant Unresolved Issues of Law. A court of appeal (LSC) has decided, or sanctioned a lower court's decision of, a significant issue of law which has not been, but should be, resolved by this court
- (4) Erroneous Interpretation or Application of Constitution or Laws. A court of appeal has erroneously interpreted or applied the constitution or a law of this state or the United States and the decision will cause material injustice or significantly affect the public interests.
- (5) Gross Departure From Proper Judicial Proceeding. The court of appeal has so far departed from proper judicial proceedings or so abused its power, or sanctioned such a departure or abuse by a lower court, as to call for an exercise of this court's authority.

Petitioner asserts the lower court, 2nd Judicial District Court of West Feliciana Parish decision to deny his habeas corpus application is erroneous. Interpretation or application of Constitutional rights, laws and is a gross departure from proper judicial proceedings, in that the court did not consider the substance of petition so that it would not order respondent to show cause for his detention and custody of one David Lee Williams. Further the one word denial of the Louisiana Supreme Court is a sanction of the lower court abuse of discretion and power (44)

In fact, the Louisiana Supreme Court grossly departed from judicial proceeding when it affirmed Petitioner conviction and sentence 1983. The Court was under legal obligation to conduct its own independent de novo review of the record for Error of Patent on the face of the record and a determination of the preponderance of the evidence before affirming conviction and sentence. (45)

44 18 U.S.C.A. § 2241, 2254

45 LSA-Cr. P. art. 920(2); State v. Oliveaux, 312 So.2d 337 (La. 1975), State v. Weiland, 556 So.2d 175 (La. App. 5 Cir. 1990), (82-KA-1947 March 2, 1983, Appendix C) cf. State v. Allen, 710 So.2d 829, 831, 1998-612 (La. App. 3 Cir. 10) State v. David L. Williams, 427 So.2d 873 (La. 1983)

Pretrial Issues
MOTIONS TO QUASH
As Presented Before The Louisiana Courts

CLAIM 7. LIBERTY INTEREST

Petitioner asserts he is entitled to quash all proceedings of the trial court where state initiated criminal prosecution of an offense that imposes a life sentence by bill of information. When his court appointed counsel Mr. Reggie Simmons filed "Motion To Quash bill of information" on the ground that it was contrary to the law and constitution of Louisiana and Constitution of the United States. There was no hearing on said motion by trial court, to test the means of initiating the charge of aggravated rape by said information. Which also means that motion is open to this day. Counsel also filed Motion for a Preliminary examination, where counsel alerted the State and the Court that there was no grand jury indictment in this case. (46)

Petitioner asserts where he objected prior to trial and verdict by moving to quash bill of information, he has preserved his procedural right to challenge and assign error to trial ruling concerning sufficiency of bill of information. (49)

Pretrial Issues
MALICIOUS PROSECUTION
As Presented To Louisiana Courts
CLAIM 8. LIBERTY INTEREST

Petitioner asserts that he was deprived of his presumption of innocence, a fair trial and his liberty when state Prosecutor charged and tried him for aggravated rape, LSA-R.S. 14:112, Act. 707, 1981 by bill of information. (50)

46 See Appendix 'C', Extract of Minutes, Chronological Index, Motion To Quash, Pro se filina of Motion To Quash and to dismiss Prosecution, Motion To Quash Bill of Information.

49 State v. Pichler, 355 So.2d 1302 (La. 1978); Where an information charges no crime, the court lacks jurisdiction to try the accused, and a Motion To Quash the information or charge is always timely.

50 See Appendix 'E' rape statute

Pursuant to State v. Thomas, 461 So. 2d 332 (La. 2 Cir. 1984) a prosecution for aggravated rape is a grave constitutional trespass by bill of information. In instant case a court's failure to effect corrective judicial measures to remedy the wrong when discovered would constitute deprivation of liberty without due process of law. This action offends Sixth Amendment right to be informed of charge, and violates due process clause of the 14 amendment. (51) It is an USURPATION of power and authority from the grand jury panel and a due process violation of the Constitution and Laws of the United States and Louisiana.

LSA-C. Cr. P. Art. 437 states: "the grand jury shall inquire into offenses triable by the district court of the parish";

LSA-C. Cr. P. Art. 442 states: "A grand jury shall hear all evidence presented by the district attorney."

LSA-C. Cr. P. Art. 443 states: "The grand jury shall find an indictment charging the defendant with the commission of an offense, when in its judgment the evidences considered by it, if unexplained and contradicted, warrants a conviction."

LSA-C. Cr. P. Art. 444 states: "It is the grand jury who presents charge against defendant."

If the trial court's decision was void for lack of jurisdiction, it cannot be made valid by an appeal decision. Even though a void judgment is affirmed on appeal, it is not thereby rendered valid. (52) Where jurisdiction is lacking, the court can do nothing except dismiss the cause of action. Any other court proceeding is usurpation. (53) If [excessive exercise of authority] has reference to want of power over the subject matter, the result is void when challenged directly or collaterally. If it has reference merely to the judicial method of the exercise of, the result is binding upon the parties to litigation till reversed. The former is usurpation & the latter error in judgment (54) The line that separates error in judgment from the usurpation of power is very definite. (55)

51 U.S. v. Stokes, 124 F. 3d 39 (L.A. 1 (Mass.) 1977); State v. Green, 347 So. 2d 229 (La. 1977); LSA-Const. Arts. 1, sections 2, 3, 13, 15; LSA-C. Cr. P. Art. 382; U.S.C.A. Const. Amends. 8, 5, 14.

52 Ralph v. Police Court of City of El Cerrito, 190 P. 2d 632, 634, 84 Cal. App. 2d 257 (1948)

53 Garcia v. Dial, 596 S.W. 2d 524, 528 (Tex. Cr. App. 1980); 22 Corpus Juris Secundum, "Criminal Law" §15D, p. 183.

54 Harrigan v. Gilchrist, 99 N.W. 909, 934, 121 Wis. 127 (1904)

55 Voorhees v. The Bank of the United States, 35 U.S. 449, 474-75 (1836)

Petitioner contends it should be stated in all fairness that an act cannot really be classified as usurpation unless the problem is revealed and the judge warned of the situation. (56)

District Attorney or Asst. Dist. Attorney's exercise of power to control each criminal prosecution pending in district "does not operate to supersede Federal and State Constitutional guarantees" (57)

A person SHALL not be considered as having been in jeopardy in a trial where the indictment or information was invalid. (58)

Petitioner asserts that purpose of requirement that a man be indicted by a grand jury is to limit his jeopardy to offense charged by a group of his fellow citizens actions independently of either prosecuting attorney or judge. (59) The right to a indictment guards persons from wrongful prosecutions by an overbearing state where they are either falsely accused of, or are being held to answer twice for the same crime. (60)

Constitutional history reveals it is axiomatic that constitutional role of grand juries is to assess whether there is an adequate basis for bringing criminal charge. (61)

This conviction and sentence is a product of plain error, plain error here is obvious that trial judge and prosecutor were derelict in their duties in continuing trial. (62)

When state prosecutor initiates prosecution by bill of information rather than grand jury indictment, it deprived trial court of subject matter jurisdiction. U.S. v. Cabrera-Teran, 108 F.3d 141 (C.A.5 (Tex.) 1999); U.S. v. Cotton, 122 S.Ct. 1781, 535 U.S. 625 (U.S. 2002). When evidence leads very clearly to the conclusion that a federal claim was inadvertently overlooked in state court, 28 U.S.C.A. §§ 2241, 2254 (a) (d) entitles the prisoner to an unencumbered opportunity to make his case before a federal judge. Johnson v. Williams, 133 S.Ct. 1088 (U.S. 2013)

56 See Appendix 'F' Post-Conviction Application. P. 5-7 and Supervisory Writ. Ps. 13-14.

57 State v. Alexis, 562 So.2d 957 (La. App. 5 Cir. 1990); State v. Wallard, 555 So.2d 478 (La. App. 4 Cir. 1989)

58 State v. Puple, 437 So.2d 873 (La. App. 2 Cir. 1993); State v. Thomas, 542 So.2d 175 (La. App. 1 Cir. 1989).

59 Stirane v. U.S., 80 S.Ct. 270, 361 U.S. 112 (U.S. Pa. 1960); State v. DeMolle, 621 So.2d 167 (La. App. 4 Cir. 1993) LSA-Const. Art. I, § 15, LSA-R.S. 14:42, LSA-Cr.P. arts. 362 (1), 382, 420 (2)

60 United States v. Williams, 504 U.S. 361, 112 S.Ct. 1735, 1744, 118 L.Ed.2d 352 (1992); U.S.C.A. Const. Amend. 5, 14

61 United States v. Calandra, 414 U.S. 338, 343, 94 S.Ct. 613, 617, 38 L.Ed.2d 561 (1974)

62 United States v. Morin, 627 F.3d 985 (C.A.5 (Tex.) 2010); U.S. v. Mendez, 117 F.3d 480 (C.A. 11 (Fla.) 1999)

Petitioner asserts that his conviction and sentence violates LSA
C. Cr. P. art. 872, Basis For a Valid Sentence:

1. STATUTE
2. INDICTMENT
3. VERDICT, JUDGMENT, OR PLEA OF GUILTY

The statute of LSA-R.S.14:42 aggravated rape is unconstitutional when initiated by bill of information of state prosecutor and is not prescribed by law. (63)

A valid sentence required an indictment by a valid grand jury in instant case where there was not one. (64)

The verdict and judgment is suspect where it rest upon an unauthorized sentence in violation of the Constitutions and Laws of the United States and Louisiana. (65)

Petitioner contend that a sentence of life imprisonment is grossly disproportionate for an offense never charged by indictment that is required by law and Constitution, which surely amount to cruel and unusual punishment. (66) "Where a conviction and sentence for a felony with no charge against the accused by indictment are absolute nullities, the person convicted should be Discharged". State v. Dubon.

These are cases which were tried under bill of information when indictment was required. (67) Under the decisions cited and jurisprudence upon which it relies, a fatal defect in one's "information must be noticed by a court, even after conviction and even where no objection to the sufficiency of the information had ever been raised. In such circumstances, where a fatal defect is noticed even after conviction, the entire prosecution must be dismissed" since the foundation of a criminal prosecution of an offense which imposes life imprisonment is a valid grand jury indictment. (68)

63 See Appendix 'C' bill of information.

64 See Appendix 'C' letter/clerk of court, Ms. Tanda Polk

65 Stirone v. U.S., 80 S.Ct. 270, 361 U.S. (U.S. Pa. 1960); State v. Duhon, 77 So. 792, 142 La. 919 (La. 1918); U.S.C.A. Const. Amends 5, 8, 14, 13; LSA-Const. Art. 5, 1, sections 2, 3, 13, 15, 16, 20, 22; LSA-C. Cr. P. art. 382.

66 State v. Wimberly Jr., 414 So. 2d 666 (1982)

67 State v. Stevenson, 334 So. 2d 195 (La. 1976); State v. Green, 349 So. 2d 229 (La. 1977); State v. Davis, 385 So. 2d 193 (1980); State v. Lott, 434 So. 2d 1247 (La. App. 1 Cir. 1983); State v. Donahue, 335 So. 2d 247 (La. 1978); State v. Ruple, 437 So. 2d 873 (La. App. 2 Cir. 1989); State v. Gary, 445 So. 2d 200 (1984); State v. Smith, 542 So. 2d 175 (La. App. 1 Cir. 1984); State v. DeMolles, 627 So. 2d 167 (La. App. 4 Cir. 1993); State v. Thomas, 461 So. 2d 332 (La. App. 2 Cir. 1984); State v. Thomas, 427 So. 2d 423 (La. 1982); State v. Wells, 283 So. 2d 245 (La. 1993); State v. Raby, 259 La. 909, 253 So. 2d 370 (1971); State v. Butler, 259 La. 560, 250 So. 2d 740 (1971)

68 State v. James, 305 So. 2d 514 (La. 1974) LSA-C. Cr. P. arts. 872, 920 (2)
Federal Rules Cr. Procs - Rule 52 (a); 18 U.S.C.A.) C.F. State v. Telsee, 425 So. 2d 1251 with (67)

Under statutes permitting relief if state's conduct was contrary to clearly established federal law, a federal court is unrestrained from granting relief: (1) If the state court arrives at a conclusion opposite to that reached by the Supreme Court on a question of law or (2) If the state court decides a case differently than the Supreme Court has on a set of materially indistinguishable facts. ⁽⁶⁹⁾

Rule 12(b)(2) of Federal Rules of Criminal Procedures: A defendant who contends that the bill of information fails to establish jurisdiction or to charge an offense may raise that challenge at any time. ⁽⁷⁰⁾ Protection of the Fourteenth Amendment can be invoked only if a state deprived any person or denies enforcement of a right guaranteed. ⁽⁷¹⁾

69 - see 28 U.S.C.A. sec. 2254 (a)(b)(1), (A), (B)(i), (ii)(d)(1); 28 U.S.C. sec. 2255 (a)(b)(c); 28 U.S.C.A. sec. 2241 (c)(3); 28 U.S.C. sec. 2244 (4)(C), LSA-C.Cr. Part. 362.

70 - see *U.S. v. Gatewood*, 173 F.3d 983 (C.A.6 (Tenn.) 1999) citing *U.S. v. Hart*, 640 F.2d 856, 857 (6 Cir. 1981)

71 - see U.S.C.A. 14, Rule 19, 28 U.S.C.'s *Rice v. Sioux City Memorial Cemetery*, 75 S.Ct. 614, 349 U.S. 70 (U.S. Iowa 1955).

Pretrial Issue
LSA- Const. Arts. 1, section 2, 3
U.S.C.A. CONSTITUTIONAL AMENDMENT 13
As Presented Before The Courts of Louisiana
Claim 9. LIBERTY INTEREST

13th Amendment Of The United States Constitution

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

The Thirteenth Amendment, by its own unaided force and effect, abolished slavery and involuntary servitude and established universal freedom. As it stands, petitioner's incarceration, custody, restraint, in Louisiana State Penitentiary, Angola is a violation of Due process⁽⁷⁸⁾ against his rights of protection of Law, to his liberty interest and life to the badge and incident of Slavery. Where under the thirteenth Amendment which abolished "Slavery and involuntary servitude" "except as punishment for crime whereof the party shall have been (duly) convicted."

Petitioner assert he was not duly convicted of any crime against the state of Louisiana in a court of law. Petitioner was charged by bill of information of violating LSA-R.S. 14:42 agg. rape, which Constitutionally and jurisdictionally requires a grand jury

⁷⁸ U.S.C.A. Constitution Amendment 14; LSA-Const. Arts. 1, section 2, 15
LSA-C.C.P. art. 382.

indictment, ⁸⁰ For the conviction and sentence to be legally sufficient on its face, however there was no indictment as mandated, making all proceedings, conviction and sentence void and null.

Therefore, if any conviction, sentence and commitment warrant is issued under the above conditions, to place person(s) in custody in the Louisiana State Penitentiary where the trial court was without jurisdiction to adjudicate the legal cause, the conviction, sentence, and commitment is void, null, illegal and has no effect of law.

Because the judgment of the trial court is void and null on its face based upon lack of subject-matter jurisdiction the commitment order upon which petitioner is held is of no force.

Therefore petitioner is being held in illegal custody in violation the thirteenth and fourteenth Amend. of the constitution. ⁸⁰ People must not forget that the province and scope of the 13th and 14th Amendments are different; the former simply abolished slavery; the latter prohibited the states from abridging the privilege or immunities or immunities of citizens of the United States; from depriving them of life, liberty, or property without due process of law, and from denying to any the equal protection of the law. ⁸¹

⁷⁹ It must adhere to the law of the state. LSA-Const Art. I, section 15; LSA-C.Cr. P. Art. 382

⁸⁰ State v. Duhon, 77 So. 791, 142 La. 99 (La. 1918); State v. Thomas, 461 So. 2d 332 (La. App. 2 Cir. 1984); Wilson v. Johnston, 417 F. Supp. 257 (N.D. Cal. 1912)

⁸¹ Ciyoff v. U.S., 25 S.Ct. 429, 197 U.S. 787 (U.S. Fla. 1905), U.S. v. Allen, 341 F. 3d. 870 (L.A. 9. (Mont.) 2003)

WARRANT OF COMMITMENT VOID ON ITS FACE

As Presented to the Louisiana Courts

CLAIM TEN. LIBERTY INTEREST

Petitioner contends that he is being held illegally, restrained and deprived of his rightful liberty in the Louisiana State Penitentiary by custodian by a void court order pursuant to a fatally defeated Commitment Warrant, which (1) does not have trial judge's personal signature endorsement on document, nor verification of a court seal. (2) Commitment warrant in Petitioner file has incorrect court docket number, 36,096 whereas his docket # number is 37,096-097. (3) Where trial court was without subject matter jurisdiction over the legal cause, therefore, any judgment rendered, conviction and sentence is void and null as a matter of law.

Petitioner asserts he is entitled to immediate release from this illegal custody pursuant to 28 U.S.C.A. § 2241 (a), (b), (c) (1) (3), 28 U.S.C.A. § 2254 (a), (d) (i) (2); U.S.C.A. Const. Amendments, §§ 13, 14, 8; LSA-Const. Arts. 1, section 2; 3, 13, 15, 16, 19, 20, 22; LSA-C. Cr. P. arts. §§ 362, 382; 18 U.S.C.A. § 242, 18 U.S.C.A. §§ 3049, 4084; LSA-C. Cr. P. art. 892

Petitioner contends, the court has jurisdiction to render a particular judgment only when the offense charged is within the class of offenses placed by law under its jurisdiction, and in

LSA-C. Cr. P. arts. 361, 365

361: If the person in custody is being held by virtue of a court order, the court, after the hearing, shall discharge or refuse to discharge the person from custody as justice may require

365: If the person in custody is being held not by virtue of a court order, the custodian shall have the burden of proving the legality of the custody and of showing good cause why the person in custody should not be Released.

rendering judgment, it keeps within the limitations prescribed by the law, customary or statutory. When it goes outside these limits, its action, to the extent of the excess, is void. (82)

Pursuant to §4084 in pertinent part: Whenever a prisoner is committed to a warden, sheriff or jailer by virtue of a writ, or warrant, a copy thereof shall be delivered to such officer as his authority to hold the prisoner, and the original shall be returned to the proper court or officer, with the officer's return endorsed there on.

Pursuant to §3049 in pertinent part: Former section 591 and 604 of the title [now section 3041 of this title and this section] expressly conferred on the marshal of the district where the arrest was effected authority, and made it his duty, to execute a warrant of removal (when signed by the judge) and to either turn over the prisoner to the marshal of the other district or commit the prisoner to jail there, either being a commitment into custody. (83)

Pursuant to LSA-C.Cr. P. art. 892, B (i) (c) in pertinent part: When a sheriff's statement is required pursuant to paragraph A, . . . the clerk of court shall also prepare the following documents: A copy of the Uniform Sentencing Commitment Order in the format authorized by the Louisiana Supreme Court which shall include the name and address of the judge, the district attorney, and the defense attorney who participated in the sentencing trial. (84)

Article 871. (A), (B) (i) (a), (b) (i), (b) (ii); Amended by Acts 1979, No. 297, § 1. Petitioner contend because no fingerprints are attached to bill of

82 *In re Bonner*, 14 S.Ct. 323, 151 U.S. 242 (U.S. Iowa 1894)

83 *Puleston v. U.S.*, C.C.N.D. Fla. 1898, 85 F. 570.

84 Acts 1982, No. 543, § 1; Official Revision Commit-- 1966,

LSA- R.S. 15: 566.1; Acts 1966, No. 310, § 1

84B. LSA- C.Cr. P. art. 871. See Appendix 'L' bill of information

information there is no legal way to ascertain that information with wrong docket number belong in his file. (84B)

The Louisiana Constitution at Article I, section 5, and LSA-C.C.P. arts. 161 and 162, provides for who is authorized to issue a warrant and on what grounds. The judge who determines that the warrant should issue orders the applicant to affix a ([facsimile]) of his signature to the warrant, "not name typed in space where personal signature or facsimile is to go, by clerk of court. Failure of the authorize judge or magistrate to sign the commitment warrant is fatal.

Where the proceedings are entirely void, the accused may be discharged. (85) Because the judgment and Commitment order upon which Petitioner is held, without signature of trial judge or district attorney they are void and are of noneffect to restrain him from liberty. (86) Crimes in the United States are what the laws of the individual states make them, subject to the limitations of the constitutional provision prohibiting bills of attainders and ex post facto laws, and of the Thirteenth and Fourteenth Amendments. U.S.C.A. Const. art. I, § 8, cl. 18; § 10, cl. 1; Amends. 13, 14. (87)

Petitioner assert that custodian Darrel Vannoy, Warden of the Louisiana State Penitentiary is also in violation of LSA-C.C.P. arts. 361, 365, where there is no personal nor facsimile of trial judge signature endorsed on the commitment warrant, therefore, he is being held "not by virtue of a court order." And therefore custodian must show and prove legality of custody and why Petitioner should not immediately be released from such restraint.

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- 85 Ex parte Rhodes, 20 So. 894, 48 La. Ann. 1336 (La. 1896)
86 Wilson v. Johnston, 47 F. Supp. 257 (N.D. Cal. 1942) see also Appendix 'C' Commitment papers.
87 Rochin v. California, 72 S.Ct. 205, 342 U.S. 165 (U.S. Cal. 1952) U.S.C.A. Const. Amends. 13, 14

Pretrial / Posttrial issues
INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL
U.S.C.A. 5. 118, 119; LSA-CONST. 1. section 2, 3.
As Presented to The Louisiana Courts
CLAIM 11-12, LIBERTY INTEREST

Petitioner contends if not for deficient performance of all counsels involved in his case, it is more likely than not the results would be different.

On February 25, 1982 a Motion to Quash Bill of Information was filed in the 22nd. Judicial District Court of Washington Parish on behalf of Petitioner by his then court appointed counsel, Hon. Mr. Reggie Simmons. There was not a consideration of the motion in a hearing on the merits. Petitioner asserts that Motion to Quash was frivolous in that it was not up to par to challenge the grounds of law and constitutional violations it was designed to attack. Mr. Simmons objected to the court finding ground to hold Petitioner. (88)

(1) Petitioner contends that his trial attorneys Hon. Mr. Thomas Ford and Hon. Mr. Sam Collett was fatally and constructively ineffective during trial and failing to file assignment of error in direct appeal (89) Trial Counsel's failure to investigate, prepare a defense, to call important fact witnesses and to present a medical expert witness to test and dispute the state's biological test of evidence amounted to ineffective assistance of counsel, (90) as this action failed to put the states case to a meaningful Adversarial testing Process; thus violating Petitioner's Fundamental rights to a Fair trial. If counsel entirely fails to subject the prosecution's case to meaningful adversarial testing, there has been a denial of Sixth Amendment Rights which makes adversary process unreliable.

88 See Appendix 'C' bill of information, Extract of Minutes, February 25, 1982, CHRONOLOGICAL INDEX, 2/18/82, see also Pro se Motions to Quash.

89 Harris v. Day, 226 F.3d 361 (C.A.5 (La.) 2000) see Appendix 'E' H/C for complete detail of ineffective assistance of trial counsel.

90 Pavel v. Hollins, 961 F.3d 210, 216-26 (2nd. Cir. 2001) U.S.C.A. Const. Amends. 6, 11; L.S.A. Const. Art. 1, sections 2, 3 and 13; LSA-R.S. 15:151, 2 (a), (D), 11, (8); LSA-C.E. Art. 706(d); U.S. v. Cronin, 104 S. Ct. 2039, 4166 U.S. 648 (U.S. Okla. 1984); U.S.C.A. Const. Amend. 6

- (2) Trial counsel failure to object in proceedings where bill of information was used to institute a crime that imposes a life sentence constituted ineffective assistance of counsel. (91)
- (3) Petitioner asserts counsels Mr. Ford and Mr. Collett were constructively ineffective, in that they knew what the law and constitution required of them as counsels of record and they knew their client was never indicted by a grand jury. However, a Motion to Quash bill of information had already been filed in Petitioner's behalf along with Motion for bill of exceptions, Motion for Preliminary Examination and other Motions. Mr. Ford and Mr. Collett should have known of such documents in existence and acted upon them. If counsels were unaware of any pretrial motions, they should have filed for continuance that they might have had time to prepare a defense and file whatever motion necessary to protect their client's rights to a fair trial. (92)

Had trial counsels filed their own Motion to Quash bill of information there would not have been an aggravated rape trial were information can not charge such an offense. LSA-R.S. 14:92.

Had trial counsels obtained Medical expert witness to test biological material in rape trial, test would have revealed that genetic material that matched victim's blood type was transferred from another surface to Petitioner underwear. Counsels contributed to prejudice suffered by their client during trial which ultimately led to a guilty verdict and a life sentence of imprisonment for lack of preparation and investigation. (93)

- (4) Trial counsels failure to object to money being presented as evidence in a rape trial were its only probative value was to prejudice defendant.

- (5) Trial counsels failure to object to his client's underwear been entered as evidence, were underwear was seized illegally without search and seizure

91 State v. Logan, 822 So. 2d 657, 36, 042 (Lo. App. 2 Cir. 2002) U.S.C.A. Const. Amend. 6, 14B; See Appendix E T.Tr. Page 1, and AND Appendix C, E, extract of minutes,

92 Lisenba v. California, 314 U.S. 219, 236, 62 S.Ct. 280, 86 L.Ed. 166 (1941); Housen v. Gelbo, 744 F. 3d 221 (C.A. 1 (Mass.) 2014)

93 Kimmelman v. Morrison, 477 U.S. 365, 106 S.Ct. 2574; Anderson v. Butler, 858 F. 2d 16, 29 (1st Cir. 1988)

of body warrant to take evidence off defendant's body of personal property. ⁽⁹⁴⁾

(6) Trial counsel's failure to object to trial judge's erroneous jury instructions was ineffective assistance of counsel, where trial court made a constructive amendment to instruction of the law that defines the Statute of LSA-R.S. 14:42 aggravated rape to the statute that defines forcible rape LSA-R.S. 14:41. Further, trial counsel's failure to object altered instructions constitute ineffective assistance of where trial judge failed to state and elaborate on essential element of armed with a dangerous weapon of LSA-R.S. 14:42 agg. rape. This error amount to a structural defect that affect the whole trial and rendered the criminal trial fundamentally unfair, an unreliable vehicle for determining guilt or innocence of charged offense. ⁽⁹⁵⁾

The Due Process Clause safeguards not the meticulous observance of state procedural prescription, but the fundamental elements of fairness in a criminal trial.

Had counsels filed motion to suppress evidence of money and underwear, they would have been successful, where money was mishandle as evidence and was not needed to prove agg. rape and underwear was taken off body of Petitioner without warrant.

(7) Counsel's failure to object to misleading and prejudicial in-court identifications where there were no other identification procedures implemented to collaborate Petitioner as perpetrator of charged offense, ineffective assistance of counsel. In closing arguments trial counsel stated, "Ladies and Gentleman, I don't think this man has ever been IDed" ⁽⁹⁶⁾ This statement to the jury should have been a defense, but counsel did no investigation.

(8) Counsel's failure to obtain alibi witnesses that would have put Petitioner somewhere else during commission of offense was ineffective assistance of counsel. Where Sixth Amendment of the

⁹⁴ U.S.C.A. Const. Amend. 4; Stone v. Powell, 428 U.S. 465, 96 S.Ct. 3039 (1976)

⁹⁵ Rivera v. Illinois, 556 U.S. 148, 129 S.Ct. 1446 (U.S. Ill. 2009) U.S.C.A. Const. Amend. 14

⁹⁶ Appendix 'E' T.Tr. 169; Neil v. Biggers, 409 U.S. 188, 93 S.Ct. 375; State v. Rosette, 653 So.2d 80.

Constitution provides that: 'In all criminal prosecutions, the accused shall enjoy the right to have compulsory process for obtaining witnesses in his favor.'⁽⁹⁷⁾

Petitioner contends, because of the numerous errors in his client's trial, Mr. Ford could have taken advantage of any one or more cited statutes or articles.⁽⁹⁸⁾ Attorney who did not contest elements of State's case delivered ineffective assistance of counsel.⁽⁹⁹⁾ Attorney who did not object to erroneous jury instruction delivered ineffective assistance of counsel.⁽¹⁰⁰⁾ Attorney who did not bring important evidence in police report to the attention of the jury delivered ineffective assistance of counsel.⁽¹⁰¹⁾ "Reasonably effective assistance of counsel" means that lawyer not only possesses adequate skill and knowledge, but also has time and resources to apply his skill and knowledge to task of defending each of individual clients. U.S.C.A. Const. Amend. 6.⁽¹⁰²⁾

INEFFECTIVE ASSISTANCE OF APPEAL COUNSELS
U.S.C.A. CONST. AMENDS. 6, 14; LSA-CONST ARTS i. sect. 2, 3
As Presented to The Louisiana Courts

CLAIM 12. LIBERTY INTEREREST

Petitioner contends if not for deficient performance of all counsels involved in his appeal, it is more likely than not the results would have been different.

Petitioner further asserts; if not for unprofessionalism of his appeal counsels, his one and only appeal of Right would not have been affirmed, because of counsels constructive abandonment of their clients legal matters,⁽¹⁰³⁾ which left him without counsel at critical stage of litigation on Appeal.

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- 97 See Appendix 'E' T.F. 147-148. *Stevens v. Delaware Correctional Center*, 152 F. Supp. 2d 561, 580 (D. Del. 2001); *Bridwell v. Aderhold*, 13 F. Supp. 253, 254.
- 98 LSA-R.S. 15:438, 15:452; LSA-Cr.P. arts. 382, 438, 442-4, 461-6, 770-5, 821-2, 811, 813-4, 778, 851(1)(2), 853, 872, 881.5, 882(A)(B); LSA-C.E. Arts. 1, 2, 104-5, 401-2, 404, 801; U.S.C.A. Const. Amends. 4, 5, 6, 8, 14, 13; Agurs, at 113; 96 S.Ct. At 2402; See *U.S. v. Bagley*, 105 S.Ct. 3375, 3381.
- 99 *State ex rel. Busby v. Butler*, 538 So. 2d 164 (La. 1988)
- 100 *State v. Rubin*, 559 So. 2d 550 (La. App. 2d Cir. 1990)
- 101 *State v. Hunter*, 614 So. 2d 332 (La. App. 4th Cir. 1993)
- 102 *State v. Peart*, 621 So. 2d 780 (La. 1993)
- 103 *Douglas v. California*, 87 S.Ct. 1346, 384 U.S. 738 (U.S. Cal. 1967)
Evitts v. Lucey, 469 U.S. 387, 105 S.Ct. 930, 83 L.Ed. 2d 821

Mr. David J. Knight and Mr. S Austin McElroy were assigned as counsels of record to represent Petitioner on his appeal of right. Counsels were ineffective (1) where they failed to file ineffective claims against trial counsels Mr. Thomas Ford and Mr. Sam Collett, for failure to represent their client fairly during trial proceedings, and where trial counsels did not file an assignment of error, in appeal, where was no Grand Jury indictment and trial court was without subject-matter jurisdiction to adjudicate the legal cause, which affected the substantial rights of petitioner

(2) Petitioner contends there was a conflict of interest with one of his appeal counsels that fostered the ineffective assistance of counsel, that is that Mr. David J. Knight is the brother of Mr. William J. Knight Asst. Dist. Atty. that prosecuted the illegal trial, hence, Mr. Knight failure to conduct appellate review amounted to ineffective assistance of counsel.

(3) Appeal counsels filed a six page "errors patent" brief that did not raise any specific grounds for appeal but only requested that the Supreme Court of Louisiana review the record for "errors patent on the face of the record" and reverse the conviction and sentence."

Pursuant to Billy-Eko, when the defendant is represented by new counsel on appeal and the ineffective assistance claim is based solely on the record made at trial the claim must be raised on direct appeal.⁽¹⁰⁴⁾ Petitioner asserts "if an unreserved trial error was so obvious that appellate counsel was constitutionally required to raise it on appeal, then trial counsel likely provide ineffective assistance by failing to raise it at trial."⁽¹⁰⁵⁾

104 Billy-Eko v. United States, 8 F.3d 111; Guinan v. United States, 6 F.3d 468. U.S. c.A Const. Amend. 6; LSA-Const. Arts. 1, sec. 2, 3; U.S. Const. Amend. 14

105 Coleman v. Thompson, 111 S.Ct. 2546, 501 U.S. 722 (U.S. Va. 1991)
Martinez v. Ryan, 132 S.Ct. 1309 (2012); Trevino v. Thaler, 133 S.Ct. 524 (2012); Coleman v. Goodman, 833 F.3d 537 (C.A. 5 (La.) 2016)
Martinez, 566 U.S. 1; Trevino, 569 U.S. 413; Davila v. Davis, 582 U.S. _____ (2017) No. 16-6219

The Supreme Court of the United States held, if the procedural default is the result of ineffective assistance of counsel, the Sixth Amendment itself requires the responsibility for the default be imputed to the State, which may not conduct trial at which person who face incarceration must defend themselves without adequate legal assistance. (106) Pursuant to Jones v. Cowley, the court held that after determining that defendant lost opportunity to file direct appeal in state court due to ineffective assistance of counsel, granting unconditional release is not abuse of discretion. (107)

This Court held, ultimately, the central question is whether state may detain someone whose conviction was tarnished by a constitutional violation that is not harmless beyond a reasonable doubt. "they may not," the majority suggest that, "so long as direct review has not corrected this error in time, they may." (108)

Petitioner asserts that present case is governed by Lofton v. Whitley, 905 F.2d 885 (C.A.5 (La.) 1990) and Lombard v. Lynaugh, 868 F.2d 1475, 1477 (5th Cir. 1989). Pursuant to Lofton, Accused is constitutionally entitled to effective assistance of counsel on direct appeal as of right. U.S.C.A. Const. Amend. 6. If accused was actually or constructively denied counsel on appeal as of right, then prejudice is presumed. U.S.C.A. Const. Amend. 6.

Lofton's appellate counsel's filed a two page brief only stating "Defendant respectfully request the court to review the record for error patent on the face of the record. Louisiana Constitution of 1974, Article I, section 19; State v. Martin, 329 So.2d 688 (La. 1976). In accord with such a review, the defendant asks the court to reverse his conviction and sentence." The Court held because Lofton was constructively denied counsel, reversal was mandated.

106 Cuyler v. Sullivan, 100 S.Ct. 1708, 446 U.S. 335 (U.S. Pa. 1980). "it is the state that unconstitutionally deprived the defendant of his liberty" U.S.C.A. Const. Amends. 6, 14.

107 Jones v. Cowley, 28 F.3d 1067 (C.A.10 (Okla.) 1994); Hannon v. Maschner, 981 F.2d 1142 (C.A.10 (Kan.) 1992).

108 Brecht v. Abrahamson, 113 S.Ct. 1710, 507 U.S. 619 (U.S. Wis. 1993)

The Fifth Circuit concluded that Lofton was constructively denied assistance of counsel on appeal because his counsel filed a brief which did not assert arguable error, and, under Penson v. Ohio,⁽¹⁰⁹⁾ prejudice to the appellate is presumed. The court based its decision on findings that (1) counsel, by failing to present "anything arguably supporting an appeal" effectively withdrew from the case without complying with the requirements of Anders v. California,⁽¹¹⁰⁾ (2) it was unclear from the record that the state appellate court performed an independent, thorough review of the record for any arguable basis for appeal. Lofton, at 888.⁽¹¹⁰⁾

Pursuant to Lombard v. Lynaugh,⁽¹¹¹⁾ counsel filed a "no merit" brief that was similar to the brief filed in Lofton. The court found that there was constructive denial of the assistance of counsel because the attorney "did nothing to attempt to aid Lombard's appeal, beyond the initial perfecting of the appeal itself." 868 F.2d at 1480. In this case, the counsel did not withdraw, and the accused was never formally without counsel on his appeal, but nonetheless, the court held the accused, "in a functional sense, was afforded almost no appellate representation whatever." 868 F.2d at 1481. Guided by Penson, prejudice is presumed. In Lombard the court held, "Since we have determined that there were nonfrivolous direct appeal issues and we cannot conclude beyond a reasonable doubt that reversal on direct appeal would not have occurred, but for the virtually total default by appellate counsel, Lombard is therefore entitled to relief..." In addition, it was very important in Lombard, Penson and Anders that the state court of review independently examined the record for error. In those cases the review was without the advice of counsel, which ultimately vitiated the appeal. It is unclear that a searching review of the record for any arguable basis for appeal was made by either counsel or the state appeals court in this case.

109 488 U.S. 75, 109 S.Ct. 346, 102 L.Ed.2d 300 (1988)

110 State v. Benjamin, 573 So.2d 528 (La.App. 4 Cir. 1990)

111 868 F.2d 1475, 1477 (5th Cir. 1989) *cf.* Anders v. California,

386 U.S. 738, 87 S.Ct. 1394, 18 L.Ed.2d 483 (1967);

U.S. v. Cronin, 466 U.S. 648, 659, 104 S.Ct. 2039 L.Ed. 657;

Strickland v. Washington, 104 S.Ct. 2052, 466 U.S. 668 (U.S. Fla. 1984);

State v. Mouton, 653 So.2d 1176, 95-0981 (La. 1995);

Harris v. Day, 226 F.3d 361 (C.A.5 (La.) 2000).

This instant case is no different from Lombard and deserves the same results, where appeal counsel filed a no merit brief, which defaulted Petitioner's appeal, when counsel only requested the Court to review the entire record and all of the evidence as reflected by the various transcripts, pleading and exhibits as provided by Louisiana Constitution, 1974, Art. I, sec. 19, Because of Error Patent on the Face of the Record, the conviction Should Be Reversed. (112)

Where counsel did not follow Anders v. California Requirement. (113)

Petitioner asserts that any default of Appeal can not fairly be attributed to him failing to act on his own behalf when he lacks reason to believe his attorney of record, in fact, are not representing him. (114)

Petitioner asserts that in instant case, the provision of federal collateral remedies rests more fundamentally upon a recognition that adequate protection of constitutional rights relating to the criminal trial process requires the continuing availability of a mechanism for relief. (emphasis added). (115)

Pursuant to U.S. v. Williams 'the condition under which Petitioner is in custody is no more than Slavery or involuntary servitude' (116)

This Court has held, "It is the right of the accused to be tried by a legally constituted court, not by a Kangaroo court." (117)

Petitioner contends that the 20th Judicial District Court judgment would reject his petition for habeas corpus as post-conviction relief application and that he is to present it to the parish of Washington, 22nd Judicial District Court where he was resently denied for the same. (118)

112 Appendix 'C' and 'E' Assignment of Error for Appeal
No. 82-KA-1947, No. 2018-KH-1540, No. 12-WCR-494,
No. 37,096-97.

113 See Anders v. State of Cal., 87 S.Ct. 1396, 386 U.S. 738,
18 L.Ed. 2d 493, see 388 U.S. 924, 87 S.Ct. 2094.

114 See Maples v. Thomas, 132 S.Ct. 912 (U.S. 2012)

115 Citina Kaufman v. United States, 394 U.S. 217, 223, 89 S.Ct. 1068, 1072,
22 L.Ed. 2d 227 (1969); Davis v. U.S. 94 S.Ct. 2298, 417 U.S. 333
(U.S. Cal. 1974)

116 U.S. v. Williams, 71 S.Ct. 581, 341 U.S. 70 (U.S. Fla. 1951); Williams v. U.S.,
71 S.Ct. 576, 341 U.S. 97 (U.S. Fla. 1951)

117 U.S. v. Price, 86 S.Ct. 1152, 383 U.S. 787 (U.S. Miss. 1966)

118 See Appendix 'F', No. 2016-KH-1075

CONCLUSION

Certiorari should be granted because the Louisiana Supreme Court's approach to remedial orders is contrary to the decisions of this Court in Price, In re Banner, Cuyler, Brecht, Coleman, Martinez, Trevino, Douglas, Evitts, Rivera, Anders, and Maples and does not respect the role of that Court in fashioning supervisory and remedial orders. The case provides the proper vehicle for determining the respective roles of trial court, Court presented with habeas corpus petition and the Louisiana Supreme Court in determining appropriate remedial guidelines of custody in habeas corpus proceedings, as well as other cases. The issues are presented clearly in this case where Louisiana Supreme Court and the District Courts acknowledge that there are serious existing constitutional violations which were not being addressed by responsible state officials, whereas Petitioner's liberty interest is violated and should be resolved after all these years.

Respectfully submitted,

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Date: January 8, 2014