CAPITAL CASE

No._____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2018

ANTHONY GRANDISON,

Petitioner,

v.

STATE OF MARYLAND,

Respondent,

Petition For A Writ Of Certiorari To The

Court of Appeals Of Maryland

PETITION FOR WRIT OF CERTIORARI

Anthony Grandison, #172622
N.B.C.I.
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Pro Se Petitioner

CAPITAL CASE

QUESTIONS PRESENTED

I. Whether the Maryland Court of Appeals erred in holding in light of Missouri v. Hunter convictions for common law first degree murder did not merger under the required evidence test with statutory created legislature offense of use of a handgun in the commission of a felony or crime of violence ?

II. Whether the Maryland Court of Appeals erred in holding the Bartkus exception to the dual sovereignty doctrine does not exist and a motion to correct an illegal sentence were not the appropriate forum to consider allegations sentences were illegal and were barred under the law of the case doctrine?

III. Whether the Maryland Court of Appeals erred in holding the jury was properly hearkened by references to counts of indictment without specifying the particular offenses or degree of murder found beyond a reasonable doubt?

IV. Whether the Maryland Court of Appeals erred in holding death sentences vacated under Mills v. Maryland court had authority to resentence and no legal requirement the resentencing jury's unanimous findings of aggravating circumstances be announce in open court or polled or hearken to those findings to imposed the death penalty ?

V. Whether the Maryland Court of Appeals erred in holding imposing of the fifteen year sentence thirty years later for use of a handgun in the commission of a felony or crime of violence to run consecutive to federal sentences of life plus ten years although executive branches of state and federal governments previously agreed among themselves under the law of comity those sentence were to be served concurrently ?.

VI. Whether the Maryland Court of Appeals erred in holding governor had sua sponte authority to exercise executive powers under Maryland's Constitution, Art. II, § 20 without an application seeking commutation to commute death sentences into life sentences without the possibility of parole ?

VII. Whether the Maryland State Court of Appeals erred in holding governor commutation of death sentences into life sentences without the possibility of parole does not violate ex post facto laws in criminal cases?

TABLE OF CONTENTS

TABLE OF CITATIONS

CASES

PAGES

CONSTITUTIONAL PROVISIONS

FEDERAL STATUTES

MARYLAND STATUTES

MARYLAND RULES

OTHER MISC.

Petitioner, Anthony Grandison, currently confined under two sentences of Life imprisonment without the possibility of parole, [1] a sentence of life imprisonment plus 15 years imposed by the State of Maryland, respectfully requests that a writ of certiorari issue to review the judgment of the Court of Appeals of Maryland in this case.

OPINION BELOW

The decision of the Court of Appeals of Maryland is unreported (Petition Docket No. 455, Sept. Term, 2017; COA-PET-0455-2017). (Appx. 1a). The decision of the Court of Special Appeals of Maryland is reported at Anthony Grandison v. State of Maryland, 234 Md. App. 564, 2017, decided October 18, 2018. (Appx.2-b-29-b). The rulings of the Circuit Court for Somerset County, Maryland denying relief on November 13, 2014, (Appx. 30-c-52-c) and on February 2, 2016, (Appx. 53-d-66-d) both unreported.

JURISDICTION

The judgment of the Court of Appeals of Maryland was entered on April 20, 2018, and this petition is filed within ninety days of that date. Therefore, jurisdiction of this Court is properly invoked pursuant to 28 U.S.C. § 1257(a) See Sup. Ct. R. 13.1.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves the Fifth and Fourteenth Amendments to the United States Constitution.

STATEMENT OF THE CASE

A. The Proceeding Below

On November 17, 1982 Grandison was indicted by a federal grand jury on narcotics charges, and while waiting trial on those federal charges, David Scott Piechowicz and Susan Carol Kennedy on April 28, 1983 were murdered in Pikesville at the Warren House Motel, located in Baltimore County, Maryland. A federal grand jury on May 27, 1983 indicted

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FN1. Although Petitioner's two death sentences originally imposed in 1984 and re-imposed after resentencing in 1994 were commuted by the Governor in 2015. It should be judicially noted for all intending purposes this is still a capital case.

Grandison on federal charges of violation of Title 18 USC 241 (Violation of Civil Rights) and violation of former Title 18 USC 1512 (Witness Tampering) brought in connection with the April 28, 1983 Warran House murders. On June 30, 1983 a Baltimore County Grand Jury thereafter, indicted Grandison for two counts of first degree murder, conspiracy to commit murder, and use of a handgun in the commission of a felony or crime of violence, and sought the death penalty.

Grandison was jointly tried in U.S. District Court by federal prosecutors and a specially appointed Baltimore County state prosecutor on the federal charges of violation of Title 18 USC 241 (Civil Rights) and former Title 18 USC 1512 (Witness Tampering). November 3, 1983 Grandison was convicted of those federal charges and sentenced to term of life imprisonment plus ten years. United States v. Grandison, 780 F.2d 425 (4th Cir. 1985) vacated by 479 U.S. 1075, on remand, 885 F.2d 143 (4th Cir. 1989), cert. denied, 495 U.S. 934 (1990).

Grandison filed a motion to dismiss the state indictment and adopted a motion filed by Vernon Lee Evans, claiming both a federal double jeopardy bar and state common law and due process violation. Because the state charges arises from the very same facts and circumstances that prompted the federal prosecution.

After the State filed its written response, a hearing was held on February 3, 1984, before Judge Lloyd L. Simpkins. Judge Simpkins denied the motion, and an interlocutory appeal was filed on February 29, 1984. The Maryland Court of Appeals granted certiorari prior to judgment in the Court of Special Appeals and set an expedited briefing and argument schedule. April 4, 1984 the Court of Appeals affirmed. Evans, Grandison v. State, 301 Md. 45, 481 A.2d 1135 (1984). April 26, 1984 state prosecutors through the coordination and direction of Assistant U.S. Attorney David Irvin tried Grandison in Somerset County, while simultaneously trying Vernon Lee Evans in the Worschester County on state charges of contracting the murders of David Scott Piechowicz and Susan Carol Kennedy. The reported opinions reflects, Grandison was convicted of two counts of first degree murder, conspiracy

to commit murder and use of handgun in the commission of a felony or crime of violence on May 22, 1984. Grandison was sentenced June 6, 1984 to two death sentences on each count of the first degree murder. [2]/ Those death sentences were vacated July 31, 1992 in light of Mills v. Maryland, 486 U.S. 367 (1988) and following re-sentencing in May, 1994, he was again re-sentenced June 3, 1994 two to death.

Grandison filed June 6, 2013 a pro se, motion to correct an illegal sentence and supplemented the motion three times. March 19, 2014 a hearing was held and Grandison file July 22, 2014 a second motion to correct an illegal sentence raising additional claims. A joint hearing was held September 19, 2014 upon those two pending motions and the circuit court vacated Grandison's 20-year sentence for use of a handgun in the commission of a crime of violence as illegal, later re-imposed a consecutive 15-year term instead, and in a written opinion dated November 13, 2014 denied all other claims. (Appx. 30c-48c).

May 2, 2013 then Governor Martin J. O'Malley signed legislation abolishing the death penalty in Maryland effective October 1, 2013 but not to be applied retroactive. Governor O'Malley announced December 31, 2014 intention to commute the sentences of the four remaining prisoners subject to a death sentence. See Alan Blinder, Life Sentences for Last Four Facing Death in Maryland, N.Y. Times, January 1, 2015, at A12. On January 5, 2015, notice was published in The Daily Record. January 20, 2015 Governor O'Malley signed an executive order,sua sponte commuting Grandison's two death sentences to two sentences of life imprisonment without the possibility of parole. Executive Order 01.01.2015.05 (Jan. 20, 2015).

September 28, 2015, Grandison filed a motion to correct an illegal sentence

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FN2. Grandison's procedural history of case and enumerating prior opinions is well-documented in Grandison v. State, 425 Md. 34, 38 n.1, 40-4 (2012), cert. denied, 133 S.Ct. 844 (2013); Evans [Grandison] v. State, 301 Md. 45 (1984); Grandison v. State, 305 Md. 685 (1986) "Grandison II"); Grandison v. State, 341 Md. 175 (1995) ("Grandison III"); Grandison v. State, 351 Md. 732 (1998) ("Grandison IV") and Grandison v. State, 390 Md. 412, 416-28 (2005) ("Grandison V"), cert. denied, 549 U.S. 956 (2006).

challenging the Governor's authority to sua sponte commute his death sentences without an application having been made by him or by anyone on his behalf. February 2, 2016 Judge Daniel M. Long denied Grandison's motion without holding a hearing (Appx. 49d-62d). A timely appeal from the written opinion dated February 2, 2016 denying all claims, and Grandison likewise noted a timely appeal from the written opinion dated November 13, 2014 denying all other claims. The Court of Special Appeals consolidated both Appeal No. 2039, September Term, 2014 and Appeal No. 2822, September Term, 2015.

Grandison, raised five questions in Appeal No. 2039, September Term, 2014. (Appx. 6b) and in Appeal No. 2822, September Term, 2015 raised two questions: (Appx. 7b). November 29, 2017 the Court of Special Appeals in a reported opinion unbeknown to Grandison affirmed the circuit court's decision. (Appx. 2b-29b) and issued its mandated December 29, 2017 confirming its reported opinion of November 29, 2017. Grandison file a motion for extension of time to file a petition for writ of certiorari with the Court of Appeals since the Court of Special Appeals Clerk's office had failed to timely provided Grandison with a copy of the November 29, 2017. The Court of Appeal's treated Grandison motion as a petition for writ of certiorari and afforded him the opportunity to file a supplement to his petition on or before February 16, 2018. April 20, 2018 the Maryland Court of Appeals denied Grandison's petition for writ of certiorari. (Appx. 1a).

I. Whether the Maryland Court of Appeals erred in holding in light of Missouri v. Hunter convictions for common law first degree murder did not merger under the required evidence test with statutory created legislature offense of use of a handgun in the commission of a felony or crime of violence ?

In the case at bar, the Court of Special Appeals affirming Grandison's claims the circuit court abused its discretion in ruling his convictions for first degree murder did not merge with his convictions for use of a handgun in the commission of a felony or crime of violence under the required evidence test. Held:

Although the Court of Appeals held, in State v. Ferrell, 313 Md. 291, 297 (1988) that

use of a handgun in the commission of a felony or crime of violence and the predicate felony or crime of violence are the same offense under the required evidence test, that holding addressed a different circumstance--whether the predicate offense and the handgun offense could be tried in successive prosecution. Ferrell held that they could not be tried in successive prosecutions. Id. Ferrell said nothing about whether separate sentences may be imposed for those crimes if they are brought in the same trial. The question before us was squarely addressed by the Supreme Court in Missouri v. Hunter, 459 U.S. 359 (1983). There, the Court held; Where, as here, a legislature specifically authorizes cumulative punishment under two statutes, regardless of whether those two statutes proscribe the "same" conduct under Blockburger, a court's task of statutory construction is at an end and the prosecutor may seek and the trial court or jury may impose cumulative punishment under such statutes in a single trial. Id. at 368-369. [3]/ It is manifest that the General Assembly intended that a separate sentence be imposed upon any person convicted of a violation Section 36B(d), in addition to any other sentence imposed by virtue of commission of said felony or misdemeanor." Id., see, e.g. Whack v. State, 288 Md. 137, 145-49 (1980) (holding that separate sentences may be imposed for a violation of Section 36B(d) and the predicate offense, where both convictions were the result of the same act, so long as the charges are brought in a single trial), and the Supreme Court's instruction in Missouri v. Hunter, it is clear that Grandison's claim fails. (Appx. 7b, 8b, and 9b).

Grandison however, argues Ferrell, when viewed in the context of the conclusions

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FN3. Also Chief Judge Woodward held that at the time the offenses at issue were committed, the statute proscribing unlawful use of a handgun stated as follows: Unlawful use of handgun in the commission of crime --Any person who shall use a handgun in the commission of any felony or any crime of violence as defined in § 441 of this article, shall be guilty of separate misdemeanor and on conviction thereof shall, in addition to any other sentence imposed by virtue of commission of said felony or misdemeanor ..... be sentenced to the Maryland Division of Correction[.] Md. Code (1957, 1982 Repl. Vol. , Supp. 1982(, Art. 27, § 36B(d). (Appx. 8b).

reached in the Woodward opinion is an attempt to make a distinction between the two although they are a distinction without a difference and cannot be reconciled with the holdings of Ferrell. Since Ferrell still held: 'We agree with the defendant's first contention that the armed robbery and the handgun violation must be deemed the same offense under the required evidence test. Ferrell 313 Md. at 297. We further explained in Thomas v. State, supra, 277 Md. at 267, 353 A.2d at 246-247. "The required evidence is that which is minimally necessary to secure a conviction for each statutory offense. If each offense requires proof of a fact which the other does not, or in other words, if each offense contains an element which the other does not, the offenses are not the same for double jeopardy purposes even though arising from the same conduct or episode. But, where only one offense requires proof of an additional fact, so that all elements of one offense are present in the other, the offenses are deemed to be the same for double jeopardy purposes. Turning the case at bar, it is clear that the felony of "robbery with a dangerous or deadly weapon" (Art. 27, § 488) and the misdemeanor of "using a handgun in the commission of any felony or any crime of violence as defined in § 441 of this article" (Art. 27, § 36B(d) must be deemed the same offense under the required evidence test. Proof of the armed robbery, with all of its legal elements, is necessary in order to prove the handgun offense. Ferrell, 313 Md. at 298-301.

"Secondly, the Woodward Court's reliance's on Whack for the proposition separate sentences may be imposed for a violation of Section 36(B)(d) and the predicate offense, where both convictions were the result of the same act, so long as the charges are brought in a single trial, is misplaced because no where does its reach such conclusions. Whack v. State, 288 Md. at 145-149;

"Thirdly, obviously, Ferrell overruled any prior decision reached in Whack that stood for the proposition subsection (d) of Art. 27, 36(B) makes it clear, that the use of a handgun in the commission of any felony or any crime of violence, constitutes a separate misdemeanor, independent of the felon or crime of violence, in connection with which a

handgun may have been used, and mandates a separate minimum sentence. id. Whack at 148-149. Since if, they were truly separate offenses, Ferrell would not have barred separate prosecutions for the same offense. Ferrell, 313 Md. at 301;

"Fourth, even more importantly, the Woodward Court's reliance's on Whack and this Court's opinion in Missouri v. Hunter; 459 U.S. 359, 368-369, (1983) is likewise misplaced simply because no questions were raised, discussed, or even decided in either of those cases concerning whether or not the exception to the merger rule still applied when one offense involves a common law felony, while the other involves a statutory misdemeanor offense created by the state legislature. Since the only question raised or discussed in either Whack or Hunter involved whether separate sentences could be imposed for two statutory offenses, where both convictions were based on a single act. Whack, 288 Md. at 149; [4]/ Hunter, 459 U.S. at 368-369. [5]/

As so the Woodward Court's reliance's on Whack and Hunter were not only misplaced but in direct conflict with the unambiguous language found in the Maryland Court of Appeals own decision rendered "Newton" holding: "Two offense must be statutory offenses for the exception to the merger rule to apply. **Newton** Id. 280 Md. 274; also see Lancaster, citing Newton, 280 Md. 260, (1977) holding: "In Newton, although holding that the included offense involved in that case merged into the greater offense: this Court for the first

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FN4. Acknowledging the holdings of Newton: Whack held "What we said in Newton v. State, supra 280 Md. at 274 n. 4 [T]he legislature may indicate an express intent to punish certain conduct more severely if particular aggravating circumstances are present by imposing punishment under two separate statutory offense which otherwise would be deemed the same under the required evidence test. Whack 288 Md. at 149.

FN5. It should be judicially note that ironically in an unpublished opinion known as . Guy D. Harris v. State of Maryland, No. 758, Sept. Term, 2005, filed Feb. 6, 2007. That Maryland appellate court relying on Ferrell vacated Harris conviction for armed robbery holding that the use of a handgun in the commission of a felony or crime of violence, was the greater offense, and the armed robbery merge therewith. at 244 n.4, Id. at pp. 15-25.

time noted as follows (280 Md. at 274 n. 4, 373 A.2d at 1269 n. 4, is dispositive. emphasis added). "[T]he legislature may indicate an express intent to punish certain conduct more severely if particular aggravating circumstances are present by imposing punishment **under two separate statutory offenses** which otherwise would be deemed the same under the required evidence test. Nevertheless, our opinions since Newton have recognized that the above-noted exception very limited, and that, when two offenses, based on the same act or acts, are deemed to be the same under the required evidence test, there is merger as a matter of course. Id. 383 Md. at 411-412.

Grandison argues Chief Judge Woodward's assumption Whack and Hunter is controlling and dispositive of the issue, constitutes an attempt to re-litigate Newton binding precedent that had been reaffirmed in Lancaster in violation of Scott v. State, 150 Md. App. 468, 822 A.2d 472 (2003). Since both Newton and Lancaster, 383 Md. at 411-412 were the controlling case precedent that determined that Newton's precondition requirements must be met i.e. that (the criminal offenses must be two statutory offenses) before the exception to the merger rule would or could apply in order for multiple sentences to be imposed. **Lancaster**, Id. 383 Md. at 411-412; Newton 280 Md. at 266-274 n.4, (1977); and Jones v. State, 357 Md. 141, (1999) relying on the holdings of Frazier recognizes that in order for the non-merger rule exception to apply, both offenses must be statutory in nature: Under common law principles, merger follows as a matter of course when two offenses are based on the same act and are deemed to be the same under the required evidence test. We noted the only exception in Frazier v. State, 318 Md. 597, 614-615 (1990). Even if offenses are deemed the same under the required evidence test, the Legislature may punish certain conduct more severely if particular aggravating circumstances are present, by imposing punishment under two separate statutory offenses. Id. 357 Md. at 156-57.

In sum, the Woodward Court erred in affirming the circuit court's decision on the grounds the common law offenses of first degree murder were not required to merge with the greater statutory offense of the use of a handgun in the commission of felony or crime

of violence for sentencing purposes under the required evidence test, and must be reversed.

II. Whether the Maryland Court of Appeals erred in holding the Bartkus exception to the dual sovereignty doctrine does not exist and a motion to correct an illegal sentence were not the appropriate forum to consider allegations sentences were illegal and were barred under the law of the case doctrine?

Although, acknowledging, Grandison was prosecuted in both federal and Maryland state courts arising out of a single incident. Federally, for Title 18 U.S.C. 241 (Civil Rights Violation) § Title 18 U.S.C. 1512 (Witness Tampering), Stately, for two counts of first degree murder of the same witnesses, conspiracy to commit murder, and use of a handgun in the commission of a felony or crime violence. After reiterating Grandison's claims that the Maryland prosecution was a "sham," essentially indistinguishable from the federal prosecution, and that, therefore, his Maryland sentence are illegal, under the purported Bartkus exception to the dual sovereignty doctrine. From that premise, Grandison concludes that the circuit court abused its discretion in ruling that this claim was not cognizable in a motion to correct an illegal sentence. With respect to this claim ruled requires a brief digression into the Supreme Court decision holdings found in Bartkus v. Illinois, 359 U..S. 121, rehearing denied, 360 U.S. 907 (1959). And does so by acknowledging several United States Federal Appellate Courts, namely, the 1st, 2d and 4th circuits have interpreted "Bartkus an exception" to the dual sovereignty doctrine, while others, namely, **8th, 5th, 7th and 11th**, have questioned whether there even is such an exception. Ruled: '1) even if we assume, arguendo, that the Bartkus exception to the dual sovereignty doctrine exists, the circuit court correctly concluded that such a claim may not be raised in a Rule 4-345(a) motion; to prevail on such a claim would likely require far more than Grandison's bald allegation and, in the absence of an affidavit from the prosecution admitting to such a scheme (a most unlikely occurrence), would require an evidentiary hearing; and '2) even if such a claim were cognizable in a Rule 4-345(a) motion, we would conclude that it is barred by the law of the case doctrine. Id. Opinion at 8 thru 13. (Appx. 9b-14b).

Surely, those conclusions that the Bartkus claim may not be raised in a Rule 4-345(a) motion are preposterous because the Bartkus exception to the dual sovereignty doctrine prohibits state prosecution when that prosecution was merely a sham for a second federal prosecution. United States v. Liddy, 177 U.S. App. D.C. 1, 542 F.2d 76, 79 (D.C. Cir. 1976) (("Bartkus, as we view it, stands for the proposition that federal authorities are proscribed from manipulating state processes to accomplish that which they cannot constitutionally do themselves.). Grandison argues because his Bartkus claims goes directly to the state court's power or authority to impose sentence, whenever, a state prosecution was orchestrated by the federal government to obtain a second federal prosecution, in order to get a penalty (death, that was not available as a penalty in 1983 in federal court at the time. Under those circumstances Rule 4-345(a) motion would thus be the proper vehicle to challenge the legality of any sentence imposed, in a sham prosecution. Given the illegality of the death and other sentences stems from the illegality of the convictions obtained under a sham prosecution and barred under Bartkus exception to the dual sovereignty doctrine, itself. Grandison's, Bartkus claims were properly before the circuit court under Rule 4-345(a).

Secondly, contrary to that Court's conclusions, Grandison motion not only establishes that the Bartkus exception to the dual sovereign doctrine has been held to exist. See United States v. Montgomery, 262 F.3d 233 (4th Cir. 2001); In Re Kunstler, 914 F.2d 505, 517 (4th Cir. 1990), and United States v. Belcher, 762 F. Supp. 666, 670-671 (W.D. Va. 1991). Grandison even more importantly, established that the evidence provided in support of his claim at the March 19, 2014 evidentiary hearing was more then sufficient documentary evidence to establish, that the State prosecution was a "sham" for a second federal prosecution. Such as evidence that consistent of federal/state prosecutors were involvement in federal/state grand jury proceedings, state Baltimore County, Deputy state prosecutor Dana M. Levitz was specially appointed as a Assistant U.S. federal prosecutor in federal trial; Assistant U.S. Attorney, David Irvin was specially appointed as state prosecutor

in the state trial against Grandison, Evans, Kelly, and Moore, then after the federal prosecution had been completely, one month later on (December 19, 1983) orchestrated the guilty pleas of Janet P. Moore and Rodney J. Kelly (two of Grandison's alleged codefendants) in the Circuit Court for Baltimore County; and six months after the federal trial had been completed, Assistant U.S. federal prosecutor, David Irvin, coordinated and orchestrated, the state prosecutions against Vernon L. Evans in Worschester County, while simultaneously orchestrating through state prosecutor, Dana M. Levitz, the state prosecution against Grandison in Somerset County Circuit Court to get the death. Just as the federal prosecutors had earlier proffered in the federal trial it would do when informing it was seeking the death penalty in the state court, since federal law did not authorize the death penalty in 1983. in an answer to Grandison federal motion for a new trial. Thus such evidence substantiates the state prosecution amounted to no more than sham prosecution in disguise for second federal prosecution to get the death penalty, in which federal government through its Assistant U.S. Attorney, David Irvin effectively merging the two sovereigns into one in order to obtain a second federal prosecution to get the death penalty, a penalty that was not available in 1983 in the federal courts. United States v. Belcher, 762 F. Supp. 666, (W.D. Va. 1991) held: a federal prosecution was a "sham" because the same federal prosecutor had participated in an earlier state trial. Id. 762 F. Supp. at 670-671.

As so, like the defendant in Belcher, Grandison's documentary evidence provided at the March 19, 2014 evidentiary hearing establishing both state prosecutor, Dana M. Levitz, and federal assistant U.S. prosecutor, David Irvin were both involved in the federal prosecution, and some five months after the federal prosecution had concluded, provided federal airplanes to transport federal/state witnesses to Somerset County Circuit Court, and federal prosecutor, David Irvin, then orchestrated, coordinated, controlled or manipulated the state prosecutions to get the death penalty against in Somerset County against Grandison, while simultaneously against Vernon Evans in Worschester County. Just as the federal prosecutors had earlier expressed in motions filed in federal court, and on

December 19, 1983, one month later at the guilty pleas in state court involving Rodney Kelly and Janet Moore. Establish that the state prosecutor, Dana M. Levitz for the State of Maryland involved in both the federal and state prosecutions had little or no independent volition in the state prosecution against Grandison, other then acting as no more then a tool for the federal government. Grandison met his Bartkus burden.

Finally according to Woodward Court, Grandison's claims were barred by the law of the case doctrine, because prior to Evans and Grandison's separate 1984 trials both defendants filed motions to dismiss, contending that Benton v. Maryland, 395 U.S. 784 (1969), which held that that the Double Jeopardy Clause of the Fifth Amendment was applicable to the states by virtue of the Fourteenth Amendment, had effectively abrogated the dual sovereignty doctrine, as articulated in Bartkus. Evans v. State, 301 Md. 45, 49-50 (1984), cert. denied, 470 U.S. 1034 (1985). And the Court of Appeals rejected that assertion and remanded for trials, which resulted in convictions and sentences, which Grandison now challenges. See id. at 51, 58. Here, however, instead of disparaging Bartkus, Grandison relies upon it as the basis for his claim. Under the law of the case doctrine, "once an appellate court rules upon a question presented on appeal, litigants and lower courts become bound by the ruling, which is considered to be the law of the case." Scott v. State, 379 Md. 170, 183 (2004). Moreover, "'[decisions rendered by a prior appellate panel will generally govern the second appeal' at the same appellate level as well, unless the previous decision is incorrect because it is out of keeping with controlling principles announced by a higher court and following the decision would result in manifest injustice." Id. at 184 (quoting Hawes v. Liberty Homes, 100 Md. App. 222, 231 (1994)). And, more recently, in Holloway v. State, 232 Md. App. 272, 282 (2017, we observed that the law of the case doctrine applies, not only to a claim that was actually decided in a prior appeal, but also to any claim "that could have been raised and decided." Furthermore, the Court of Appeals has expressly rejected the notion that "the doctrine of law of the case [is] inapplicable to motions to correct an illegal sentence," Scott, 379 Md. at 183. Nothing prevented Grandison, in his 1984 double jeopardy

challenge, from raising the same claim that he raises before us now. Were this issue properly before use, we would hold that, as it "could have been raised and decided," it is barred by the law of the case doctrine. See Holloway, 232 Md. App. at 282. Id. Opinion at pg. 8 thru 13. (Appx. 9b-14b).

Grandison asserts that the simply answer to those erroneous conclusions of the Woodward Court is these claims were not to be adjudicated on appeal because they were not raised or decided in the circuit court or even more importantly not raised in the appellee's brief on appeal. Kelly v. State, 195 Md. App. 403 (2010) holding "An appellate court ordinarily will not decide an issue unless it plainly appears by the record to have been raised in or decided by the trial court. Id. 195 Md. App. at 103-104; also see Md. Rule 8-131(a). Nonetheless in event, Grandison's 34 year old reliance's on Benton v. Maryland, 395 U.S. 784 (1969), which held that the Double Jeopardy Clause of the Fifth Amendment was applicable to the states by virtue of the Fourteenth Amendment, had effectively abrogated the dual sovereignty doctrine, as articulated in Bartkus. Does not barred his Bartkus exception claim under the law of the case doctrine, simply because the Evans Court, 301 Md. 45, 49-50 (1984) at 51, 58 had not ruled on the Bartkus exception claim because it was not before them. Nor could the Bartkus exception claim have been decided in the original appeal, because Grandison was unaware of the federal prosecutors total involvement in the state prosecution before the trial actually started, since he had no documentary evidence at the time to make such a claim.

In sum, that being said the evidence offered at the March 19, 2014 evidentiary hearing overwhelmingly demonstrated the state prosecutors were merely acting as a tool for the federal government to obtain a second federal prosecution to get the death penalty through a sham state prosecution. Sufficient to support a finding in effect, a prima facie case, that the state was legally required to shoulder the burden of proving that one sovereign did not orchestrate both prosecutions, or, put another way, that one sovereign was not a tool of the other. See, e.g., United States v. Harrison, 918 F.2d 469, 475 (5th Cir. 1990) (applying

burden shifting matrix in the Bartkus context).

III. Whether the Maryland Court of Appeals erred in holding the jury was properly hearkened by references to counts of indictment without specifying the particular offenses or degree of murder found beyond a reasonable doubt?

With respect to Grandison claims that the circuit court abused its discretion in holding that the jury was not properly hearkened. The Woodward Court held that not only is this claim utterly without merit, it is foreclosed by Colvin v. State, 450 Md. 718, 727 (2016) because the Colvin Court held a claim, alleging that the jury had not been properly polled, thereby rendering the sentences imposed on its verdict illegal, was not cognizable under Rule 4-345(a). Id. at 728. Likewise, Grandison's claim of an improperly hearkened jury is a procedural challenge to his verdict and is therefore not cognizable in a motion to correct an illegal sentence. [6]/ We note that Grandison does not claim that the jury was not polled or hearkened at all, a defect that, if proven, would fall outside of the holding of Colvin. See id. at 727-28. In any event, the circuit court, as it did not have the benefit of Colvin at the time it rendered its decision, painstakingly examined the record and, at pages 16-19 of its memorandum opinion, demonstrated the falsity of Grandison's claim as to whether the jury had been properly hearkened. We need not repeated here what the circuit court wrote, except to point out that it was correct. Thus, even if Grandison's claims were cognizable in a Rule 4-345(a) motion, it would fail nonetheless. Id. Opinion at pages 13-14. (Appx. 14b-15b).

Clearly, those conclusions, Grandison's claim is foreclosed by Colvin v. State, 450 Md. 718, 727 (2016) were erroneous. Since the trial record and circuit court decision themselves establish it is self evident, Grandison jury was not polled. As a consequence the

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FN6. The sua sponte conclusions of the Woodward Court was barred under Md. Rule 8-131(a). Since the claim had not been raise or either decided in the circuit court. Kelly v. State, 195 Md. App. 403 (2010) holding "An appellate court ordinarily will not decide an issue unless it plainly appears by the record to have been raised in or decided by the trial court. Id. 195 Md. App. at 103-104.

failure to properly hearken the jury to the verdict as exactly as the foreperson announced constitutes a failure to poll and hearken the jury. Md. Rule 4-345(a) thus contrary to Judge Woodward conclusions was an appropriate remedy when the jury was not polled and hearkened to the verdicts, the verdicts of guilt cannot stand and any sentence apportioned thereto must be vacated. Jones v. State, 384 Md. 669, 679, 866 A.2d 151, 157 (2005) (petitioner argued that the failure to orally announce the verdict or hearken the jury removed the court's power to convict and sentence him on that count). When the illegality of a sentence stems from the illegality of the conviction itself, Rule 4-345(a) dictates that both the conviction and the sentence be vacated. Id. 427 Md. at 376-378. Grandison's contention that the jury was not hearken as the verdicts announced by the jury foreman should have been viewed as one challenging the failure to poll and hearken the jury to the verdicts as announced by the foreperson. As so, it was not improper here for Grandison to raise this issue in a motion to correct an illegal sentence. Second the lower Court's conclusions that, even if Grandison's claims were cognizable in a Rule 4-345(a) motion, it would fail nonetheless are erroneous. Since although the record establishes that the foreman orally in open court returned a verdict as to all charges against Grandison as to each of the four offenses, and identified individually by referenced to both the name of the offense as well as number of the count used to identify the offense on the indictment. Those jurors nonetheless as forth below had not assent to those verdicts earlier announced by the foreperson to constitute unanimous verdicts.:

> THE CLERK: Ladies and gentlemen of the jury, hearken to your verdict as the court has recorded it. Your foreman states that you find the prisoner at bar, Anthony Grandison guilty as to Count One, guilty as to Count Two, guilty as to Count Three, and guilty as to Count Four, and so say you all? THE JURY: We do.

Considered with those precepts in mind, the above passage demonstrated Grandison's jury had not been hearkened in the exact manner as set forth under the law. That it is the duty of the clerk to record the verdict and have it affirmed by the jury in the

presence of the court by calling upon the whole panel to hearken to their verdict as the court has recorded it, and by repeating to them what has been taken down for record. Heinze v. State, 184 Md. 613 (1945) at 616-17; also see Glickman v. State, 190 Md. 516, (1948) (same as Heinze): Id. 190 Md. at 526. Heinze and Glickman both establishes contrary to the Woodward Court's reliance's on the circuit court's erroneous assertions. It was indeed the clerk's duty to hearken the verdict exactly as the foreperson had explicitly orally announced in open court. In fact with the exception in Grandison's case, since Heinze and Glickman were decided, clerks in performing their hearkening duties in Maryland have been hearken jurors in murder cases in compliance with former Md. Ann. Code Art. 27, 412 and now Md. Criminal Law 2-302) to their verdict exactly as the foreperson had explicitly orally announced such verdict in open court. For instant in Strong v. State, 261 Md. 371, 275 A.2d 491 (1971): "Hearken to the verdict as the Court has recorded it. You say Corneilous Thomas Strong is guilty of murder in the first degree as to Indictment 3029 of the Docket 1969, and so say you all? "to which, as the transcript indicates, their was a general jury response of "yes." Id. 261 Md. at 373-374. Some thirty-eight years after Strong, the circuit court in Santiago v. State, supra, enrolled the jury in the same manner as Strong; then forty (40) years after Strong, and three years after Santiago, the clerk employed this exact same Strong hearkening in Ogundipe v. State, 424 Md. 58, (2011): Ladies and gentlemen of the jury, hearken your verdict as the Court hath recorded it. Your Foreman saith "that Olusegun Hakeem Ogundipe is guilty of first degree murder of Jackson Augustin Rodriquez on or about July 23, 2006. That Olusegun Hakeem Ogundipe is guilty of attempted first degree murder of Tony Perry on or about July 23, 2006. And so say you all? If so, please answer, "We do." Id. 424 Md. at 63-66.

Thus both past and presence case law not only mandates that it was the clerk's duty to query jurors in murder cases as to their verdict in compliance's with Md. Criminal Law 2-302 that requires a jury shall state in the verdict whether the person is guilty of murder in the first degree or murder in the second degree; but that it was likewise the clerk's duty to

hearken jurors in criminal murder cases to their verdict exactly as the foreperson had explicitly orally announced in open court. Heinze, supra, 184 Md. at 616-617. Thus contrary to Woodward Court's conclusions base on its reliance's on the circuit court decision the language explicitly contemplates that a hearkening that makes reference solely to the indictment will sufficient must be rejected.

In sum, those conclusions would render the purpose of hearkening in murder cases as outline in Md. Ann. Code Art. 27, 412 (now Md. Criminal Law 2-302) absolutely meaningless. Since the verdict of a jury in a criminal murder case has no effect in law until it is recorded and finally accepted by the court. State v. Santiago, supra, 412 Md. at 38-39. Merely reference to count one, count two, count three, and count four does not suffice, as the clerk hearkening to the verdicts as announced by the jury foreman. Given the jury was not polled in the case sub judice, the clerk's failure to hearkened the jurors as the verdicts in Grandison case exactly in the fashion as set forth in Heinze, 184 Md. at 616-617 or as former Md. Ann. Code Art. 27, 412 (now Md. Criminal Law 2-302) outline renders those verdicts a nullity, and the imposed sentences illegal.

IV. Whether the Maryland Court of Appeals erred in holding death sentences vacated under Mills v. Maryland a court had authority to resentence and no legal requirement the resentencing jury's unanimous findings of aggravating circumstances be announce in open court or polled or hearken to those findings to imposed the death penalty ?

With respect to Grandison claim that, the circuit court abused its discretion in denying his claims that the resentencing court lacked the authority to impose sentence, and that the resentencing violated the prohibition against double jeopardy. In light of the original sentencing jury, just like the resentencing jury failed to announce in open court their findings of an aggravating circumstance beyond a reasonable doubt, nor were polled or hearkened to their findings of aggravating circumstances beyond a reasonable doubt. Nonetheless the Woodward Court despite these facts ruled that such claims were utterly without merit for the following reasons: '1) When the post-conviction court vacated Grandison's original death

sentences, under Mills v. Maryland, it is obvious that resentencing, wit the possibility of new death sentences, was permitted and did not violate the prohibition against double jeopardy. Twigg v. State, 447 Md. 1, 21 (2016) (noting that "[t]he Supreme Court has made clear that resentencing does not offend double jeopardy principles"); '2) As for Grandison's complaints regarding the procedure followed during the resentencing, those matters are not cognizable in a Rule 4-345(a) motion. See Colvin v. State, 450 Md. at 728; and '3) In any event, as the circuit court explained in its memorandum opinion, the procedures followed fully comported with the then-extent applicable Maryland rule. Id. Opinion at page 14-15. (Appx. 15b-16b).

Grandison however, asserts that an examination of the former death penalty statutes along with case law demonstrates the Woodward Court conclusions were erroneous in light of the fact the post-conviction court vacating Grandison's original death sentences under Mills v. Maryland obviously was an exercise in futility. Since the original jury failure to announce in open court, any findings of an aggravating circumstance, and having not been either polled or hearkened as to any findings of any aggravating circumstances, rendered those original death sentence null and void on their face. As so, the resentencing with possibility of new death sentences was not permitted without violating the prohibition against double jeopardy. Since the original jury failure to verbally announce in open court, findings of an aggravating circumstances constitutes a failure to reach a verdict in a reasonable period of time before being discharged required under former Md. Annotate Code, §413 (K (2) of Article 27, that only a life sentence could have been imposed. See Calhoun v State, 297 Md. 563 (1983) at 593-594; also see Bullington v. Missouri, 68 L.Ed. 2d 270 (1981). at 432-435.

Second, the lower court's conclusions regarding the procedure followed during the resentencing are not cognizable under a Rule 4-345(a) motion under the Court's holding in Colvin v. State, 450 Md. at 728. Are factually and legally erroneous in light of the fact they ignores that Grandison's claims stems from the lack of the original jury unanimously

announcing in open court a finding beyond a reasonable doubt of an aggravating circumstance in order to authorize the imposition of the death penalty in the first place within a reasonable time period. See Jones v. State, 384 Md. 669, 679, 866 A.2d 151, 157 (2005) where Jones argued that the failure to orally announce the verdict or hearken the jury removed the court's power to convict and sentence him on that count. And held when the illegality of a sentence stems from the illegality of the conviction itself, Rule 4-345(a) dictates that both the conviction and the sentence be vacated. at 376-378. As a result, contrary to the Woodward Court's erroneous conclusions, rendered the original death sentence illegal on there faces, and cognizable under Md. Rule 4-345(a).

Third, the lower court's adoption of what the circuit court explained in its memorandum opinion, that the procedures followed fully comported with the then-extent applicable Maryland rules are likewise erroneous. Since the former capital sentencing proceedings were conducted "trial-like" in nature, beginning from the selection of jury; swearing of the jury; prosecution and defendant's opening statements; presenting evidence; calling of witnesses, direct and cross-examination of witnesses; jury instructions on the prosecution's burden of proof in proving the existence of any aggravating circumstances beyond a reasonable doubt; closing arguments of the prosecutions, and the defendant; and the prosecution rebuttal arguments.

Considered with those precepts in mind, those requirements was conducted trial-like and must be subject to the same exact procedures and safeguards required during the guilt/innocence phrase of the trial. As so those written findings were not only required to be turn over to the trial court just as the verdict sheet during the guilt/innocence phrase. But once the foreperson announces the jury's findings in open court those jurors pursuant to Md. Rule 4-327 are to be subject to polling or hearkening of the jury findings to be able to determine whether the written findings are truly representative of the true findings of all 12 jurors. In order to comport with clearly established precedent instituted to ensured safeguards in capital sentencing proceedings, that involves a trial-like proceedings like in

Bullington v. Missouri, 451 U.S. 430, § n.10 (1981) at 438-39. Hence in the absence of an announcement of the jury's a findings of aggravating circumstances in open court, and that finding being subject to either a polling or hearkening the mere written signed form does not provide the safeguard to "minimize the risk of wholly arbitrary and capricious action" in imposing the death penalty this Court had in mind in Gregg v. Georgia, 428 U.S. 153 (1976). id. at 189, 195.

This is so, because a defendant facing the automate penalty of death has absolutely no way of objectively testing, if the written form turned over to the court by the jury foreman truly represents the finding of all 12 jurors that an aggravating circumstances have been to have been proven beyond a reasonable doubt. Given the probable handing of the written form to the trial judge does not constitutes a proper "return" of the jury's verdict. Since accorded the Maryland Court of Appeals the verdict sheet is no more than a tool use for the jury to deliberate. The "returning" the verdict in open court mandates an oral announcement of the verdict upon the conclusion of the jury's deliberations to enable the defendant to exercise the right to poll the jury as to the verdicts. The "verdict of the jury" is "returned in open court" by the court clerk asking the jury foreman to declare the verdict. Ogundipe v. State, 191 Md. App. 370 (2010) at 380-385. also see Ogundipe v. State, 424 Md. 58, (2011).

In sum, Grandison submits, because the verdict sheet is no more that a tool to aide the jury in deliberating a verdict, he had a constitutional right to have all 12 jurors, individually polled and hearken to their verdict in open court, to determine, if they had unanimously agreement with the findings in the written form, never announced in open court by the jury. State v. Santiago, 412 Md. 28, at 32-38. As so, the failure poll or hearken, the jury, as to whether or not they unanimously agreeing that an aggravating circumstance had been proven beyond a reasonable doubt, rendered the death sentences imposed at both the original and resentencing proceedings, ipso facto et ipso null and void, and illegal on there face.

V. Whether the Maryland Court of Appeals erred in holding imposing of

the fifteen year sentence thirty years later for use of a handgun in the commission of a felony or crime of violence to run consecutive to federal sentences of life plus ten years although executive branches of state and federal governments previously agreed among themselves under the law of comity those sentence were to be served concurrently ?.

In affirming the circuit court decision upon Grandison complains that court abused its discretion in imposing the new fifteen year sentence for use of a handgun in the commission of a felony or crime violence consecutive to his federal sentences. The Woodward Court held Grandison does not (and cannot) complaint that the newly imposed sentence constitutes an illegal increase, as it merely replaced a former twenty-year sentence that had also been made consecutive to his state and federal sentences. According to the court, the short answer to this complaint is that it is not cognizable in a motion to correct an illegal sentence, which encompasses only claims of substantively illegal sentences. Colvin, 450 Md. at 728. "An illegal sentence, for purposes of Rule 4-345(a), is one in which the illegally 'inheres in the sentence itself; i.e. there either has been no conviction warranting any sentence for the particular offense or the sentence is not a permitted one for the conviction upon which is was imposed and for either reason, is intrinsically and substantively unlawful.'" Id. at 725 (quoting Chaney v. State, 397 Md. 460, 466 (2007)). Here, the fifteen year sentence was provided by statute, see Md. Code (1957, 1982 Repl Vol. 1982 Supp.), Art. 27, § 36B(d), and is not "intrinsically and substantively unlawfully,)" whether imposed concurrently with or consecutively to any other sentence. Grandison may be serving, so long as the resulting sentence does not constitute an increase of his previous sentence (which it does not). See id.

Clearly, those conclusions were erroneous because although the original sentence of twenty years imposed in 1984 for use of a handgun in the commission of a felony or crime of violence to run consecutive with the federal sentences of life imprisonment plus ten years. , However, once the federal convictions and sentences of life plus ten years were vacated on February 23, 1987 upon the U.S. Supreme Court granting Grandison's petition

for certiorari and remanded to the United States Court of Appeals for the 4th Circuit for further consideration. Grandison v. United States, 479 US 1076, 107 S.Ct. 1270, 94 L.Ed. 2d 131 (1987). At that point legally speaking the state sentence of twenty years imposed to run consecutive with the federal sentences of life plus ten years became ipso facto null and void, since the state sentence of twenty years could not run consecutive to a federal sentence that no longer exist. As so, once the federal convictions and sentences had been ordered reinstated some two years later by the federal courts. See United States v. Grandison, 885 F.2d 143 (4th Cir. 1989). Because the federal judge did not order those re-imposed federal sentences to run consecutive with the state sentences they for all intended purposes had to be considered run concurrent with the state sentences.

Second, although the federal government and state government derive their authority from different sources and each has power, independent of the other, to punish offenses that are criminal in its respective jurisdiction. United States v. Wheeler, 435 U.S. 313 (1978). The principles of comity permit the authorities to cooperate in the administration of federal and state sentences. See Ponzi v. Fessendu, 258 U.S. 254 (1922). Here in the case sub judice the federal executive branch and state executive branch on October 29,1990 by agreeing to remove Grandison from federal prisons to the state penitentiary to serve his federal sentences concurrently the state sentences. Both agreed among themselves based on their executive authority to exercise under the law of comity to cause Grandison's federal sentence to be served concurrently with his state sentence. Ponzi v. Fessendu, supra Id. 258 U.S. at 261-62 also see e.g. Barden v. Keohane, 921 F.2d 476 (1990).

In sum, thus with the judicial branch approval, and state executive authority request of the federal executive authority, Grandison on October 29, 1990 was transferred by the Executive Branch (Federal Bureau of Prisons) to the Maryland Penitentiary, a state institution for service of the federal sentence pursuant to former 18 U.S.C. §4082 (repealed November 1, 1987). A federal statute that invested the Federal Bureau of Prisons with the

legal authority to nunc pro tunc run his federal sentence concurrent with a state sentence. See Section §§ 3584(a) and §§ 3621(b). also see Setser v. United States, 132 S.Ct. 1463, 182 L.Ed. 2d 455 (2012) Id. 132 U.S. at 1467-168. As so, the circuit court imposing a fifteen years term in place of the illegal twenty year term to be served consecutive with the federal term of life plus ten year term constitutes an illegal increase in sentence, and thus an illegal sentence reviewable under Rule 4-345(a), and must be vacated.

VI. Whether the Maryland Court of Appeals erred in holding governor had sua sponte authority to exercise executive powers under Maryland's Constitution, Art. II, § 20 without an application seeking commutation to commute death sentences into life sentences without the possibility of parole ?

In affirming Appeal No. 2822, Grandison challenges the legality of former Governor O'Malley's commutation of his death sentences to sentences of life imprisonment without the possibility of parole. We shall first address the constitutional basis for a governor's pardon power and then address Grandison's claims, concluding that none of them has any merit. Then literal goes through a litany of the Governor of Maryland powers to grant reprieves and pardons under every version of the Maryland Constitution, dating back to 1776. Than states under the present 1867 Md. Constitution, the Governor possesses the power to "grant reprieves and pardons, "as provided under Article II, § 20: Than cites, 1915 author of a treatise on Maryland constitutional law, by Alfred S. Niles, whom concluded that "there is practically no restriction upon" a Governor's pardoning any offense against the state, except in the case of an impeachment;." and Author Dan Friedman, The Maryland State Constitution 119 (2011) who wrote that "the pardon power is broad" and that, except in cases of impeachment and, perhaps, bribery of public officials, see Md. Const., Art. III, § 50, there is "no other provision that limits the Governor's pardon power to commute a sentence. Jones v. State, 247 Md. 530, 534 (1967). Id. Opinion at page 16-17-18-19. (Appx. 17b, 19b, and 20b). Having set forth the Governor's board pardon power, we turn next to address Grandison's claim that former Governor O'Malley exceeded that power in commuting his

death sentences to sentences of life imprisonment without the possibility of parole. Grandison claims that the former Governor had no authority under Maryland Constitution, Article II, § 20, to sua sponte exercise is executive power to commute his death sentences to life imprisonment without the possibility of parole because he did not apply for commutation. We disagree. The passage on which Grandison relies provides: 'and **before granting a** nolle prosequi, or **pardon, he shall give notice, in one or more newspapers, of the application made for it,** and of the day on, or after which, his decision will be given; Md. Const., Art. II, § 20 (emphasis added). Grandison maintains that the bolded language must be interpreted as imposing a condition precedent upon the grant of a gubernatorial pardon, namely, that the grantee must first have applied for a pardon. Id. Opinion at page 16-17-18-19-20. (Appx. 17b, 18b, 20b, and 21b)

However, Grandison contends that simply because he does not challenge the Governor's power to grant reprieves and pardons is plenary, except in cases of impeachment, and in cases, in which the Governor is prohibited by other Articles of this Const.,. The history of the Governor's pardoning power is totally irrelevant with respect to his arguments and instead argues that the mandatory language set forth in in Md. Const., Art. II, § 20 prohibits the Governor from acting sua sponte. Since Md. Const., Art. II, § 20 states in unambiguous language the Governor shall not have power to grant a pardon unless the following prerequisites have been met, 'he shall given notice, in one or more newspapers, of the application made for it, and of the day on, or after which, his decision will be given; and in every case, in which he exercises, this power, he shall report to either Branch of the Legislature, whenever required, the petitions, recommendations and reasons, which **influenced his decision**. Hence viewing this constitutional textual language employed in Art. II. § Sec. 20 of the Md. Const., verifies the framers were unequivocal in its meaning and cannot be ignored. Since the mandatory language using the word "shall" signifies the framers did not intend to authorize Governors to exercise pardoning powers sua sponte. But only intended Governors to be able exercise pardoning powers, if the prerequisites

have been met as point out is supported by case law. See Lowe v. State, 111 Md. 1 (1909) which held: Our conclusion is that it was error under the circumstances of this case to receive the plea of guilty without being satisfied that the accused fully understood its nature and effect, and that he should be permitted to withdraw the plea, if he so elect, so as to give to the State's Attorney an opportunity to enter a nolle prosequi if he deems that to be a proper course, or if he thinks it not proper to do so, that the Court may continue the cause **until an application for a pardon is submitted to and acted upon by the Governor. Should** the State's Attorney decline to discontinue the case , **or should the Governor decline to grant a pardon**, this Court will have discharged its duty and will be no further responsible in the premises. Id. 111 Md. at 20. also see Jones v. State, 259 Md. 146 (1970) which held: 'We report what we said in conclusion in the original opinion (534 of 247 Md.). The court-appointed counsel for the appellant, who has so conscientiously and diligently sought to protect his client's interest, **undoubtedly will find it appropriate to urge upon the Governor who has the power we lack as a basis for commuting the sentence to life imprisonment** the various factors he urged upon us, such as the youth of the appellant, the views of the psychiatrists as to his deficiencies of character and emotion and his inability to have a review of sentence which he would have had if his conviction had occurred several months after it did. Id. 259 Md. at 148; Czaplinski v. Warden of Maryland Penitentiary, 196 Md. 654 (1950) which held: Under the Const., of this State the Governor has the sole pardoning power (Constitution Article II, Section 20) and that is administered through the Division of Parole and Probation, which makes investigations and Reports to the Executive Article 41, Section 74 et seq. A method is thus provided by which injustices and errors of law or of fact can be corrected. Id. 196 Md. at 664. Hence with those precepts in mind, the unambiguous language set forth in Art. II, Sec. 20 of the Md. Const.,; and case law establishes that the Governor may only act, when an application, petition or recommendation has been made, submitted by the Petitioner, his attorney, or the Parole Commission, urging the Governor grant a reprieve or pardon.

In sum, no former Governor of the State of Maryland, with the exception of former Governor, Martin O'Malley, in the case sub judice, had exceeded his commutation powers in violation of Art. II, § 20. by sua sponte commuting Grandison's sentences, without an application, petition or recommendation having been made. As so, the Woodward Court's conclusions, that the fact Grandison did not apply for a commutation of sentence does not render the actions of the former Governor illegal must be rejected because they ignore the unambiguous language of Art. II. Sec. 20 and constitute a search for a meaning far beyond Art. II., 20 unambiguous constitutional provisions language itself, that that lower court was not at liberty to do. See Bernstein v. State, 422 Md. 36, (2011) at 43, and . Davis v. State, 383 Md. 599, 861 A.2d 78 (2004) at 604.

VII. Whether the Maryland State Court of Appeals erred in holding governor commutation of death sentences into life sentences without the possibility of parole does not violate ex post facto laws in criminal cases?

With respect to Grandison's assertion that the former Governor, in commuting his death sentences to sentences of life with the possibility of parole, imposed illegal sentences, in violation of the Ex Post Facto clause in Article 17 of the Maryland Declaration of Rights. The Woodward Court held: In light of recent decisional law, the test to be applied, in determining whether there has been a violation of Article 17, is unclear, as the Court of Appeals has been sharply divided over that question. But under either of the tests applied in the most recent decision by our State's highest Court, there was no ex post facto violation in the instant case. Since the Doe plurality opinion applied the following test, derived from Kring v. Missouri, 107 U.S. 221, 235 (1883), and Weaver v. Graham, 450 U.S. 24, 29, 33-34 (1981), and previously adopted by the Court of Appeals, in Anderson v. Dep't of Health & Mental Hygiene, 310 Md. 217, 224, 226-27 (1987): "[T]wo critical elements must be present in for a criminal or penal law to be ex post facto; it must be retrospective, that is, it must apply to events occurring before it enactment, and it must disadvantage the offender affected by it." Doe, 430 Md. at 551, 556 (plurality opinion) (internal quotation marks and

citations omitted) (emphasis in original). According to the Woodward Court under that test, it is clear that Grandison cannot demonstrate that Governor O'Malley's commutation of his death sentence to sentences of life imprisonment without the possibility of parole resulted in an ex post facto violation, because he obviously did not suffer a disadvantage as a consequence of that commutation of sentence. See id. at 556; Woods v. State, 315 Md. 591, 60607 (1989) (rejecting "the notion that a life sentence without the possibility of parole is, even relatively the equivalent of death itself"). Id. Opinion at page 22 (Appx. 23b).

Grandison contends those conclusions of the lower court are erroneous because the Governor's commutation of his death sentences into sentences of life imprisonment without the possibility of parole did cause him to suffer a disadvantage as a consequence. Since the enhanced sentence of life imprisonment without the possibility of parole was more than the maximum penalty for first degree murder. Since the **basic sentence for first degree murder "shall be imprisonment for life** ...with parole eligibility. See Johnson v. State, 362 Md. 525, 766 A.2d 93 (2001): Id. 362 Md. at 529- 530. [7] also see Bartholomey v. State, 267 Md. 175 (1972). which held: Indeed, when the Maryland death penalty was declared unconstitutional following the Supreme Court's decision in Furman v. Georgia, 408 U.S. 238 (1972), life sentences were imposed with credit for time served and good time credits awarded as if the death sentence had been a life term of incarceration.

FN7. " The greater sentence of death or imprisonment for life without the possibility of parole cannot be imposed unless certain special conditions are met. In addition to the notice requirement set forth in § 412(b), there are special conditions for the imposition of death or life without the possibility of parole contained in other statutory provisions. See Art. 27, §§ 412(c), 412(g), and 413 Code (1999), § 6-112(c) of the Correctional Services Article, Sucik v. State, 344 Md. 611, 616-617, (1997). Consequently, death or life imprisonment without the possibility of parole are "enhanced" sentences for first degree murder, and are dependent upon special circumstances. As former Chief Judge Robert Murphy stated for the Court in Sucik v. State, supra, 344 Md. at 615, "it was for special cases -- and special defendants -- that the legislature created this enhanced penalty [of life imprisonment without the possibility of parole]." Id. 362 Md. at 529-530.

Thus the sentence of life imprisonment without the possibility of parole did cause Grandison to suffer a disadvantage as a consequence of that commutation. One because it was an enhance sentence that was not authorized at the time he was convicted. Collins supra, 318 Md. at 298. Governor O'Malley substitution of Grandison death sentences to life sentences without the possibility of parole, violated both Maryland and the U.S. Constitutional against ex post facto laws. As so, contrary to the Woodward Court concludes that under the alternative test, Grandison's claim would still fail, as it is clear that Governor O'Malley's commutation of his sentences obviously did not result in a "greater punishment, then the law annexed to the crime, when committed." See id. (emphasis added). Since accordance the lower court indeed, the result of Governor O'Malley's action was to reduce Grandison's sentences. See Woods, 315 Md. at 606-07. Id. Opinion at page 22-23. (Appx. 23b-24b). Clearly, those conclusions are misplaced, because the commutation of his sentences to life imprisonment without the possibility of parole was not a lesser sentence but in fact a greater and unauthorized punishment, then the law annexed to the crime, when committed. Johnson v. State, supra 362 Md. at 529-530; also see DeLeon v. State, 102 Md. App. 58 (1991) (prior to July 1, 1987, the only penalties available for a convicted first degree murderer were death or imprisonment for life. The death penalty had been abolished effective October 1, 2103, and the only other available penalty would have been life imprisonment with parole eligibility. Since Chapter 237 of the Acts of 1987 added the third sentence option of imprisonment for life without the possibility of parole. Collins, 318 Md. at 298, and that the third option was only available as of the effective date of the legislative authorization). Id. 102 Md. at 75-75.

With respect to Grandison's claim that the former Governor's commutation of his death sentences was an illegal retroactive application of a statute, CS § 7-601. The Woodward Court rules that under the plain language of the statutes, the Governor, both under the current statutes and their 1983 versions, was authorized to commute a sentence of death to a sentence of life without the possibility of parole, although the current versions

state this proposition more plainly. If follows, then, that the statutory changes have not resulted in a violation of Article 17, because they have not affected a retroactive change in the law. Id. Opinion at page at 24-25. (Appx, 25b-26b). Surely those conclusions of the are totally inconsistent with common sense since, if, it was previously the legislature intend to authorize Governors 35 years ago to commute a death sentence to life imprisonment without the possibility of parole in 1983 under former Article 41, § 4-603. Surely, the General Assembly of Maryland responsible for enacting statutes, State v. Kanaras, 357 Md. 170 (1999) at 183, would have done so, in unambiguous language as set forth their 2013 amendment to § 7-601 (a).

In sum, since these facts establishes that the commuting Grandison sentences of death to life without the possibility of parole under the 2013 amended version satisfied both the first and second elements of the ex post facto laws. The ex post facto prohibition in Art. 17 of the Md. Decl of Rights would require the application of the law at the time of Grandison's offenses in 1983. See Walker v. State, 431 Md. 1 (2003): Id 431 Md. at 13-14. Since the 2013 amendment to Corr. Servs. 7-601(a)(1) were substantive rather than procedural or remedial, which means it should not apply retroactively and not retroactive. State v. Smith, 443 Md. 572 (2014) at 589. As so, Governor O'Malley's January 20, 2015 exercise of commutation powers to retroactive commute Grandison death sentences into life imprisonment without possibility of parole violates ex post facto laws, and must be vacated.

REASONS FOR GRANTING THE PETITION

I. This Court should grant a writ of certiorari to resolve and determine whether or not the non-merger rule question addressed in Missouri v. Hunter, 459 U.S. 359 (1983) holding where a legislature specifically authorizes cumulative punishment under two statutory statutes, regardless of whether those two statutes prescribe the same conduct under Blockburger, a court's task of statutory construction is at an end and the prosecutor may seek and the trial court or jury may impose cumulative punishment under such statutes in a single trial, still applies when one of the crimes is a offense

under the common law (first degree murder), and the other a statutory offense (use of a handgun in the commission of a felony or crime of violence) created by the state legislature

Since the two offenses embodied in Hunter merely involved statutory offenses created by the Missouri state legislature, and this Court held where a legislature specifically authorizes cumulative punishment under two statutory statutes, regardless of whether those two statutes prescribe the same conduct under Blockburger, a court's task of statutory construction is at an end and the prosecutor may seek and the trial court or jury may impose cumulative punishment under such statutes in a single trial. This Court's Hunter decision left open very important questions concerning whether the non-merger rule still applies when one the crimes involves an offense under the common law (murder), while the other involves a state legislature created crime, as a statutory misdemeanor offense.

For instant in State v. Newton, 280 Md. 260, 373 A.2d 262 (1977) a case decided before Hunter held: In Blockburger v. United States, 284 U.S. 299, 304, 52 S. Ct. 180, 76 L. Ed. 306 (1932), in determining whether separate sentences could be imposed for separate counts of an indictment charging various statutory narcotics violations arising from the same transaction, the Court set forth the required evidence test as follows: "The applicable rule is that where the same act or transaction constitutes a violation of two distinct statutory provisions, the test to be applied to determine whether there are two offenses or only one, is whether each provision requires proof of a fact which the other does not. Id. 280 Md. at 266; Newton also held: Likewise, the legislature may indicate an express intent to punish certain conduct more severely if particular aggravating circumstances are present by imposing punishment under two separate statutory offenses which otherwise would be deemed the same under the required evidence test. See Gore v. United States, 357 U.S. 386, 393, 78 S. Ct. 1280, 2 L.Ed. 2d 1405 (1958. Id. 280 Md. at 274 n. 4, 373 A.2d at 269 n. 4, emphasis added).

Then in State v. Lancaster, 332 Md. 385, 631 A.2d 453 (1993) the Court of Appeals

reaffirmed its earlier conclusions rendered in Newton to wit: In Newton, although holding that the included offense involved in that case merged into the greater offense, this Court for the first time noted as follows (280 Md. at 274 n. 4, 373 A.2d at 269 n. 4, emphasis added). "[T]he legislature may indicate an express intent to punish certain conduct more severely if particular aggravating circumstances are present by imposing punishment **under two separate statutory offenses which otherwise would be deemed the same under the required evidence test**. Nevertheless, our opinions since Newton have recognized that the above-noted exception is very limited, and that, when two offenses, based on the same act or acts, are deemed to be the same under the required evidence test, there is merger as a matter of course. Id. 333 Md. at 411-412. Later in Jones v. State, 357 Md. 141, (1999) relying on the holdings of Frazier recognizes that in order for the non-merger rule exception to apply, both offenses must be statutory in nature: 'Under common law principles, merger follows as a matter of course when two offenses are based on the same act and are deemed to be the same under the required evidence test. We noted the only exception in Frazier v. State, 318 Md. 597, 614-615 (1990). Even if offenses are deemed the same under the required evidence test, the Legislature may punish certain conduct more severely if particular aggravating circumstances are present, by imposing punishment under two separate statutory offenses. Id. 357 Md. at 156-57.

Even in Whack v. State, 288 Md. 137, 150 (1980) the Court of Appeals recognize the non-merger rule exception only applies when the offenses involve are two statutory offenses: ' Assuming that the two offenses should be deemed the same under the required evidence test of Blockburger, 'what we said in Newton v. State, supra, 280 Md. at 274 n.4, is dispositive: "It should be noted, however, that under certain circumstances, multiple punishment for offenses deemed the same under the required evidence test do[es] not violate the Fifth Amendment prohibition against double jeopardy.... [T]he legislature may indicate an express intent to punish certain conduct more severely if particular aggravating circumstances are present by imposing punishment under two separate statutory offenses

which otherwise would be deemed the same under the required evidence test. Id. 288 Md. at 149-50. Consequently, neither the multiple case law decided before Hunter or Hunter itself has addressed whether the this non-merger rule exception of the legislature intended still applies when one offense is a crime under the common law (murder), and the other a crime created by the state legislature as statutory misdemeanor offense. To the contrary they all collectively stands for the proposition that the non-merger rule exception only applies, if the two or more offenses were separate statutory offenses."

II. This Court should grant certiorari to resolve The Split Among The U.S. District Courts and United State Federal Appellant Courts On Whether The Bartkus Exception To The Dual Sovereignty Doctrine Exist As An Exception.

This Court should grant the petition for writ of certiorari to resolve the clear and deep split among the United State District Courts as well as United States Federal Appellate Circuit Courts upon a significant and mature recurring question whether or not the Bartkus exception actually exist. Since 59 years after this Court found Bartkus federal and state prosecution, which were based on the same acts, did not violate double jeopardy. But however, held the result would have been otherwise if the state in bringing its prosecution was merely a tool of the federal authorities. Bartkus v. Illinois, 359 U.S. 121, 3 L.Ed 2d 684, 79 S.Ct 676 (1959) Id. at 123.

Since Bartkus was decided 59 years ago by this Court disagreements among the U.S. District Courts and U.S. Appellate Circuit Courts continued and has placed in doubt, whether there is in fact a exception to the dual sovereignty doctrine or mere dicta. And those issues has been thoroughly developed in the lower U.S. district courts and U.S. appellate circuit courts, whereas, some held that the Bartkus exception does exist as an exception. While others on the other hand concluded otherwise. For instant the 1st, 2d, 4th circuits and D.C. have interpreted "Bartkus an exception" to the dual sovereignty doctrine. See United States v. Montgomery, 262 F.3d 233 (4th Cir. 2001); In Re Kunstler, 914 F.2d

505, 517 (4th Cir. 1990), and United States v. Belcher, 762 F. Supp. 666, 670-671 (W.D. Va. 1991) and United States v. Liddy, 177 U.S. App. D.C. 1, 542 F.2d 76, 79 (D.C. Cir. 1976); Others on the other hand, namely, **8th, 5th, 7th and 11th**, have questioned whether there even is such an exception.

In sum, the time is now ripe for this Court to resolve this clear and deeply 59 year split in legal authorities among the U. S. district courts and U.S. appellate Courts. In addition Bartkus left open an important questions concerning the among of evidence, a defendant claiming the Bartkus exception must present to prove either the federal or state sovereignty were acting as a mere tool of the other in prosecuting the defendant for the same offense: United States v. Liddy, 177 U.S. App. D.C. 1, 542 F.2d 76, 79 (D.C. Cir. 1976), while on the other hand United States v. Belcher, 762 F. Supp. 666, 670-671 (W.D. Va. 1991) the U.S. district court for West Virginia held that a federal prosecution was a "sham" because the same federal prosecutor participated in an earlier state trial. Therefore, the significant split in authority among the lower courts on these issues demonstrates profound guidance is needed regarding whether the Bartkus exception to the dual sovereignty, is in fact an exception or just dicta. [8]/ This Court should grant certiorari to resolve the split.

III. This Court should grant a writ of certiorari to resolve and determine whether or not when a jury in criminal trial is neither polled or hearken as to the verdicts announced by the jury foreman as required did the Court of Special Appeals erred in ruling Grandison claims were not cognizable under a Rule 4-345(a) motion to correct an illegal sentence.

This Court should grant certiorari to resolve and determine whether or not the verdicts of convictions the foreperson earlier orally announced in open court that were neither polled or hearken to verbatim as announced by the foreman. Rendered those

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FN8. In addition this Court should grant certiorari in light of this Court's recent granting a writ of certiorari in Gamble v. Alabama, schedule to be decide this fall to determine whether or not federal and state prosecutions for the same offense violates the double jeopardy clause.

verdicts of convictions a nullity, in which no legal sentence could be imposed because there had been no verdict of convictions assented to verbatim by all 12 jurors. Since it is hornbook law, that all twelve jurors-- including the foreperson must be in agreement with the verdict of the panel as announced by the foreperson). An any member of the jury has the right sua sponte to dissent from the verdict as announced by the foreman at any time before it is recorded and affirmed by the jury. If no objection is made by any of the jurors or by the State or the accused, the verdict as announced is the verdict of the whole panel; and it is then the duty of the clerk to record the verdict and have it affirmed by the jury in the presence of the court by calling upon the whole panel and to hearken to their verdict as the court has recorded it, and by repeating to them verbatim what has been taken down from the jury foreman for record.

Furthermore, whether pursuant to Md. Rule 4-345(a) a motion to correct an illegal sentence is cognizable to challenged the unanimity of the verdict as a nullity and any sentence imposed as inherently illegal when the jurors are not hearken to the verdicts in the very same matter as earlier announced by the foreperson.

IV. This Court should grant certiorari to resolve and determine whether or not defendant has a constitutional right upon demand during a capital sentencing proceedings to have the jury polled or hearken to the written findings of any aggravating circumstances that the jury found but the foreman did not announced in open court to determine whether the written findings had been unanimously assented to by all 12 jurors to authorize imposition of the death penalty, and whether Md. Rule 4-345(a) is an appropriate remedy when the jury was not polled or hearkened to the written findings.

This Court should grant a writ of certiorari to resolve and determine whether or not a defendant during capital sentencing proceedings has the constitutional right upon demand to have the jury polled or hearken to the written findings of any aggravating circumstances that the jury foreman did not announced in open court. For the purposes of ascertaining whether or not those twelve jurors unanimously assented to written findings of aggravating

circumstances beyond a reasonable doubt to made the defendant eligible for the imposition of the death penalty. Since this Court held: A criminal jury must consist of 12 men, neither more no less, and that the verdict should be unanimous. Patton v. United States, 74 L.Ed 854, 281 US 276 (1930) Id. 281 U.S. at 288. And other courts have held the right to unanimous verdict is so important that it is one of few rights of criminal defendant that cannot, under any circumstances, be waived. United States v. Smedes, 760 F.2d 109 (Cir. 6 1985), and the undoubted constitutional right to poll all twelve of those jurors to ensure an unanimous verdict. Humphries v. District of Columbia, 174 U.S. 190, 194 194 (1899). Considered with those precepts in mind, because this Court has held that capital sentencing proceedings that are trial-like must be subject to the same constitutional protections as trial. Bullington v. Missouri, 451 U.S. 430, § n.10 (1981) at 438-39; and Gregg v. Georgia, 428 U.S. 153 (1976). id. at 189, 195.

In that light because a criminal defendant has the right to poll the jury after its verdict has been returned in a criminal trial, and the law compels the conclusion that a verdict is not final when announced, and the verdict becomes final only upon its acceptance after the poll. United States v. Edward, 169 F.2d 1362, 1366 (5th Cir. 1972). In order to provide the safeguards to "minimize the risk of wholly arbitrary and capricious action" in imposing the death penalty this Court had in mind in Gregg v. Georgia, 428 U.S. 153 (1976). id. at 189, 195. The time now is ripe for this Court resolve the open question as to whether Grandison had a constitutional rights to subject the 12 jurors written findings of any aggravating circumstance making him subject to the death penalty at his trial-like jury resentencing proceedings to be have been subject to a poll in open court. Since once Grandison exercised his constitutional right to poll the trial-like capital sentencing jury, the trial-like jury's written findings of aggravating circumstance not announced in open court by the foreman did not constitute the final findings. State v. Santiago, 412 Md. 28, (2009) "A verdict is not final until after the jury has expressed their verdict in one of [two] ways,' by hearkening or by poll." at 38-39.

In sum, this Court should grant certiorari to determine whether the failure of the foreman to orally announce in open court the written findings of an aggravating circumstance, the trial court's failure upon demand to either in open court to poll or hearken the jurors to determine whether those written findings represented the unanimous assent of all 12 jurors. And if so, the Court of Special Appeals erred in holding capital sentencing jurors are not required to either announce their verdicts in open court or to be either polled or hearken as to there written findings of an aggravating circumstances to make a defendant eligible for the death penalty. As so, Md. Rule 4-345(a) was an appropriate remedy when the jury was not polled and hearkened to the written findings of aggravating circumstance and the written findings cannot stand and any sentence apportioned thereto must be vacated. Jones v. State, 384 Md. 669, 679, 866 A.2d 151, 157 (2005) Id. 427 Md. at 376-378. Thus the failure to either poll or hearken the jurors removed the court's power to impose the death penalty.

V. This Court should grant certiorari to resolve and determine whether the state trial judge during resentencing imposing a 15 year state sentence to run consecutive to federal sentences both federal and state executive branches of government had previously agreed among themselves under the law comity the federal sentences were to run concurrently with the state sentences.

In 1990 while Grandison was serving a federal term of life plus ten years in Lewisburg federal penitentiary. The State of Maryland Executive Branch of Government requested that the United States federal executive branch of government to designate the Maryland State Penitentiary for service of Grandison's federal terms concurrently with his state sentences.

The Untied States Attorney General who is the Executive Branch of the United States who delegated its Title 18 USC 4082 (now 18 USC § 3621) executive authority under 28 C.F.R. 0.96(c) (1991) to the Director of the Federal Bureau of Prisons. On October 29, 1990 granted the Executive Branch of the State of Maryland's request after first consulting both federal trial judges who imposed the federal sentences on Grandison in the United States

District Court in 1983. As the memo points out both federal judges approved of the Federal Bureau of Prisons Executive Branch decision to exercise its executive authority pursuant to former 18 U.S.C. §4082 (6) (now 18 USC § 2621 to nunc pro tunc designation of a State facility (Maryland Penitentiary) as place of confinement for the purpose of Grandison's serves of his federally imposed sentences concurrent with his state sentences of life imprisonment plus twenty years.

In sum, this Court should grant certiorari to resolve and determine whether, once the federal executive branch of government (US Bureau Prisons) exercised its power and discretion to practice comity vested through the Attorney General. Ponzi v. Fessendon, 258 U.S. 254, (1922) at 262; also see Setser v. United States, 132 S.Ct. 1463, 182 L.Ed. 2d 455 (2012) Id. 132 U.S. at 1467-168. Does the state circuit court some 30 years after the comity agreement violate due process and double jeopardy rights by resentencing Grandison to a 15 year term consecutive with the federal life plus ten year term, constitutes an illegal sentence, and must be vacated.

[VI]. This Court should grant a writ of certiorari to resolve and determine whether or not Art. II, § 20 of the MD. Constitution authorizes the Governor to exercise his commutation powers sua sponte without an application having first been made seeking commutation.

Although the framers of Article II, 20 of the Maryland Constitution has clearly posed in unambiguous language substantive restrictions on the Governor's ability commute sentences, in stating; and before granting a nolle prosequi, or pardon, he shall give notice in one or more newspaper **of the application made for it**, and of the day on, or after which, **his decision will be given**, and in every case, **in which he exercise this power**, he shall report to either Branch of the Legislature, whenever required, **the petitions, recommendations and reasons, which influenced his decision**.

When viewing this constitutional textual language as in employed in Art. II. § Sec. 20 of the Md. Const., limiting the Governor's pardon power to commute a sentence are

unquestionably verified by the framers unequivocal connoting. To wit that an application has to be made requesting commutation before the Governor may act and such provisions cannot be ignored. Since the mandatory language using the word "shall" signifies the framers did not intend to authorize Governors to sua sponte exercise pardoning powers without an application having been filed. But instead intended Governors to be only able to exercise such pardoning powers, if the prerequisites of an application having been filed had been met. See Lowe v. State, 111 Md. 1 (1909) which held: 'Our conclusion is that it was error under the circumstances of this case to receive the plea of guilty without being satisfied that the accused fully understood its nature and effect, and that he should be permitted to withdraw the plea, if he so elect, so as to give to the State's Attorney an opportunity to enter a nolle prosequi if he deems that to be a proper course, or if he thinks it not proper to do so, that the Court may continue the cause **until an application for a pardon is submitted to and acted upon by the Governor. Should** the State's Attorney decline to discontinue the case , **or should the Governor decline to grant a pardon**, this Court will have discharged its duty and will be no further responsible in the premises. Id. 111 Md. at 20.

In light of those facts unlike other states, and the U.S. Constitution, who's constitutions poses absolutely no substantive restrictions on their governors or a U.S. President ability to commute a sentence. However, Maryland prohibits the Governor without an application having been filed from commuting Grandison sentences of death into life imprisonment without the possibility of parole on January 15, 2015 without abrogating his due process rights. As so the time is ripe for this Court resolve this constitutional matter.

[VII]. This Court should grant a writ of certiorari to resolve and determine whether or not Art. II, § 20 of the MD. Constitution authorizes the Governor to commute the only authorized enhance penalty for first degree murder at the time Grandison was tried, convicted, and sentenced into an enhance penalty not an authorized as enhance penalty prior to 1987 without running afoul of both federal and state ex post facto laws.

Here in the case sub judice, until the state legislature of Maryland amended in 2013

Md. Code Ann., Corr. § 7-601 (a)(1) authorizing the Governor to change or commute a sentence of death into a sentence of life without the possibility of parole. It had previously been determined by the Maryland Court of Appeals that the life without parole sentence could not be imposed retroactively on persons, like Grandison convicted before the effective date of the governing statute of July 1, 1987. Collins v. State, 318 Md. 269, (1990).

In that light granting of certiorari in the case sub judice is warranted to resolve and determine whether the Governors commuting of his death sentences into life sentences without the possibility of parole are in conflict with this Court's ex post facto opinions reached in Lynce v. Mathis, 519 U.S. 433, 445-446 (1997) (Citing Weaver v. Graham, 450 U.S. 24, at 32 (1981). Since a violation occurs when a change in the law has been given a retrospective effect and the change disadvantages the offender. Weaver, 450 U.S. at 29.

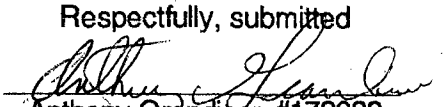
In sum, since Maryland's criminal sentencing laws did not authorized such a sentence, nor former Md. Code Ann. Art 41, § 4-603 authorize the Government to change or commute his death sentences into life imprisonment without parole. Since the statute in effect when he was convicted in 1984 only authorized a life sentence with parole the Governor's retrospective use of the 2013 amendment to Md. Code Ann., Corr § 7-601(a)(1) to change his sentences of death into sentences of life without parole subject him to a disadvantage forbidden in **Lynce v. Mathis**. As so, using the 2013 amendment to 7-601(a)(1) to increase the maximum sentence to life without parole worked to the disadvantage and violated both the state and federal ex post facto laws.

CONCLUSION

For the reasons stated herein, Petitioner respectfully requests this Court:

1. To Grant Petitioner's Petition for Certiorari for all the reasons stated herein; and reverse the decisions of the Court of Special Appeals and Court of Appeals of Maryland affirming the decisions of the Circuit Court for Somerset County.

Respectfully, submitted



Anthony Grandison #172622