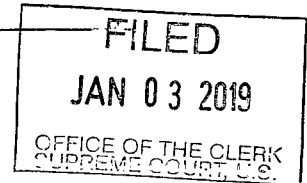


No. **18-7781 ORIGINAL**



IN THE

SUPREME COURT OF THE UNITED STATES

JUAN RAMONE LOPEZ AKA
EDUARDO BONILLA, PRO SE PETITIONER

WARDEN, MADISON CORRECTIONAL INSTITUTION, ETAL. RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI
TO

SUPREME COURT OF OHIO

PETITION FOR WRIT OF CERTIORARI

JUAN RAMONE LOPEZ INMATE # A383-585,
PRO SE.

OHIO STATE PENITENTIARY

878 COITSVILLE-HUBBARD RD.

YOUNGSTOWN, OHIO 44505

QUESTIONS PRESENTED

I. SHOULD A PERSON'S MISREPRESENTATION OF HIS AGE AT THE TIME OF HIS ARREST OR THE PERSON'S BIRTH CERTIFICATE ESTABLISH HIS DATE OF BIRTH IN A COURT OF LAW?

II. SHOULD A FOREIGN NATIONAL, WHO MISREPRESENTED HIS AGE AT THE TIME OF HIS ARREST AND WHO THE STATE COURTS HAVE HELD THAT THE PROSECUTION HAS BEEN UNABLE TO ESTABLISH HIS DATE OF BIRTH WITH CERTAINTY, BE CONTINUE TO BE PENALIZED BY THE STATE COURTS EVEN AFTER HE'S PROVIDED HIS BIRTH CERTIFICATE TO THE COURTS AND HIS BIRTH CERTIFICATE ESTABLISHES THAT HE WAS A JUVENILE AT THE TIME OF THE OFFENSES?

III. IN STATE COURTS WHEN AN ADVERSE JUDGMENT PRECLUDES A HABEAS CORPUS AND THE HABEAS COURT ACKNOWLEDGE IN ITS OPINION THAT THE TRIAL COURT, PROSECUTION AND STATE'S EVIDENCE COULD NOT ESTABLISH THE PETITIONER'S BIRTHDATE WITH CERTAINTY, AND THE HABEAS CLAIM IS BASED ON THE PETITIONER'S AGE AT THE TIME OF THE OFFENSE, SHOULD THE PETITIONER'S BIRTH CERTIFICATE BE THE ULTIMATE TOOL TO ESTABLISH HIS BIRTHDATE?

IV. WHEN THE STATE IS UNABLE TO ESTABLISH A FOREIGN NATIONAL'S DATE OF BIRTH WITH CERTAINTY TO A COURT OF LAW, SHOULD THE FOREIGN NATIONAL'S BIRTH CERTIFICATE ESTABLISH HIS DATE OF BIRTH?

V. SHOULD A HABEAS CORPUS PETITION, THAT WAS SUA SPONTE, DISMISSED WITHOUT A HEARING, WITHOUT THE COURT MAKING ANY FINDINGS OF FACTS OR ANY CONCLUSIONS OF LAW AND WITH NO PREJUDICE, PRECLUDE A PERSON FROM REILING THE PETITION?

VI. SINCE OHIO LAW DOES NOT ALLOWS A HABEAS CORPUS WHEN THERE IS ADEQUATE REMEDY AT LAW, AND AFTER THE REMEDY WAS SOUGHT AND WAS PROVED TO BE INADEQUATE AND INEFFECTIVE, SHOULD RESJUDICATA PRECLUDE THE CONSTITUTIONAL PRIVILEGE TO FILE A WRIT OF HABEAS CORPUS?

VII. SHOULD A PETITION FOR POST CONVICTION RELIEF FILED WITH THE TRIAL COURT IMPINGE ON MY CONSTITUTIONAL PRIVILEGE TO FILE A STATE HABEAS CORPUS?

VIII. SHOULD A STATE'S VERSION OF HABEAS CORPUS MIRROR OR MINIMIZE THE FEDERAL VERSION OF HABEAS CORPUS?

IX. IS IT UNEQUAL PROTECTION OF THE LAW AND UNEQUAL TREATMENT WHEN STATE COURTS DO NOT APPLY THE SAME LAW PRINCIPLE AND DO NOT GIVE THE SAME TREATMENT TO FOREIGN NATIONALS AS THE STATE COURTS DID WITH U.S. NATIONAL WHEN BOTH PRESENTED THE SAME FACTS AND CLAIM?

X. IS THE OHIO HABEAS CORPUS STATUTE IN CONFLICT WITH U.S. LAW BY LIMITING THE GRANTING OF HABEAS TO CASES WHERE THE SENTENCING COURT LACKED SUBJECT MATTER JURISDICTION?

XI. IS THE OHIO VERSION OF HABEAS CORPUS A SUSPENSION OF THE WRIT OR DOES IT VIOLATES THE CONSTITUTION AND U.S. LAW BY NOT ALLOWING A PERSON TO RAISE THE CLAIM THAT HE IS IN CUSTODY IN VIOLATION OF THE U.S. CONSTITUTION OR LAWS OR TREATIES OF THE UNITED STATES?

LIST OF PARTIES

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

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

OHIO DEPARTMENT OF REHABILITATION AND CORRECTIONS;

WARDEN, MADISON CORRECTIONAL INSTITUTION; WARDEN ASP

(OHIO STATE PENITENTIARY)) ODRC ET AL.

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

☐ For cases from **federal courts**:

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

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

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

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

☒ For cases from **state courts**:

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

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

The opinion of the TWELFTH DISTRICT APPELLATE court appears at Appendix B to the petition and is

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

JURISDICTION

☐ For cases from **federal courts**:

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

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

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

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

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

☒ For cases from **state courts**:

The date on which the highest state court decided my case was OCTOBER 9, 2018
A copy of that decision appears at Appendix A.

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

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

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

PURSUANT TO 28 U.S.C 1257 I AM REQUESTING WRIT OF CERTIORARI FROM THIS COURT TO REVIEW THE DECISION RENDERED BY THE OHIO SUPREME COURT.

I HEREBY DO STATE THAT THE OHIO STATUTE GOVERNING HABEAS CORPUS IS A SUSPENSION OF THE WRIT, AND THE CASE LAW GOVERNING HABEAS CORPUS UNDER OHIO LAW ARE IN VIOLATION OF U.S. LAW AND THE U.S. CONSTITUTION.

THE VALIDITY OF THE OHIO STATUTE GOVERNING HABEAS IS REPUGNANT TO THE U.S. CONSTITUTION. THE PRIVILEGE OF ~~THE~~ HABEAS CORPUS IS APPLIED AND EXERCISED WITH INEQUALITY, SELECTIVENESS AND PARTIALITY.

CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVED

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JUVENILE R. 30	APPENDIX "A" PG. 2
CIV. R. 12	APPENDIX "A" P.G. 2

STATEMENT OF THE CASE

ON OCTOBER 1998 I WAS ARRESTED ON SUSPICION OF MURDER. I WAS SUBSEQUENTLY INDICTED UNDER THE NAME EDUARDO BONILLA AKA JUAN RAMONE LOPEZ. AT THE END OF 2009 I FILED A STATE HABEAS CORPUS WITH THE OHIO SUPREME COURT RAISING THE CLAIM THAT THE TRIAL LACKED SUBJECT MATTER JURISDICTION TO TRIAL, CONVICT AND SENTENCE ME BECAUSE AT THE TIME OF THE OFFENSES AND OF MY ARREST I WAS A SEVENTEEN YEAR OLD JUVENILE AND THAT AT THE TIME OF MY ARREST I HAD MISREPRESENTED MY AGE UNDER THE ALIAS OF EDUARDO BONILLA. (APPENDIX A PARAGRAPH 2 AND 6.

IN THE HABEAS I TOLD THE COURT THAT THE STATE HAD MISTAKENLY BELIEVED I WAS AN ADULT AND BECAUSE OF THIS I WAS NOT BOUND OVER FROM THE JUVENILE COURT TO THE ADULT COURT AND DUE TO THIS THE SENTENCES IN MY CASE WERE VOID AB INITIO. IN JANUARY 27, 2010 THE OHIO SUPREME COURT SUA SPONTE DISMISSED MY HABEAS CORPUS PETITION WITHOUT A HEARING, WITHOUT MAKING ANY FINDINGS OF FACT OR CONCLUSIONS OF LAW AND NO PREJUDICE WAS ATTACHED TO THE DISMISSAL.

ON JANUARY 2011 I FILED A MOTION FOR VACATION OF JUDGMENT DUE TO LACK OF SUBJECT MATTER JURISDICTION WITH THE TRIAL COURT RAISING THE CLAIM DESCRIBED ABOVE. IN SUPPORT OF MY MOTION AND CLAIM I SUBMITTED TO THE TRIAL COURT MY

my birth certificate from Guatemala which was certified by the U.S. Embassy in Guatemala. The certification by the U.S. Embassy was signed by the U.S. Consul and had the Great Seal of the United States of America.

The trial court held a hearing in which my niece testified and identified me as the person in the birth certificate. The trial court denied my motion stating it did not lack jurisdiction because I had misrepresented my age and held myself to be an adult at the time of my arrest. The trial court also held that the state's evidence was insufficient to establish my actual birth date with certainty.¹⁰⁸

I appealed the trial court's decision, the second district court of appeals affirmed. I filed discretionary appeal to the Ohio Supreme Court, the state's supreme court declined jurisdiction.

ON SEPTEMBER 2017 I FILED A PETITION FOR HABEAS CORPUS WITH THE TWELFTH DISTRICT COURT OF APPEALS FOR OHIO RAISING THE CLAIM THAT THE TRIAL COURT LACKED SUBJECT MATTER JURISDICTION BECAUSE AT THE TIME OF MY ARREST AND OFFENSE I WAS A JUVENILE AND THAT BECAUSE I HAD MISREPRESENTED MY AGE AT MY ARREST THE STATE PROSECUTED ME UNDER THE MISTAKEN BELIEF THAT I WAS

AN ADULT, AND BECAUSE I DID NOT RECEIVE A SUFFICIENT BOND
 OVER TO ADULT COURT MY CONVICTIONS WERE VOID.
 THE TWELFTH DISTRICT COURT OF APPEALS DISMISSED MY
 HABEAS PETITION HOLDING THAT I WAS BARRED BY RESISTANCE
 (NOT ON THE BASIS OF A SUCCESSIVE PETITION OR ABUSE OF THE
 WRIT) BECAUSE I HAD RECEIVED AN ADVERSE JUDGMENT IN THE
 TRIAL COURT CONCERNING THE SAME ISSUE I RAISED IN MY
 HABEAS CORPUS. IN ITS DECISION OF MY HABEAS CORPUS
 THE TWELFTH DISTRICT STATED IN ITS OPINION "THAT THE
 EVIDENCE WAS INSUFFICIENT TO ESTABLISH MY DATE OF BIRTH WITH
 CERTAINTY, AND THAT THE TRIAL COURT HAD JURISDICTION
 BECAUSE I HAD HELD MYSELF TO BE AN ADULT." (APPENDIX B)
 I APPEARED AS OF RIGHT TO THE SUPREME COURT
 OF OHIO. ON OCTOBER 9, 2018 THE STATE SUPREME COURT
 AFFIRMED THE TWELFTH DISTRICT COURT OF APPEALS APPLY-
 ING RES JUDICATA TO MY HABEAS. THE OHIO SUPREME COURT
 ON PARAGRAPH 5 OF ITS DECISION IT MADE IT CLEAR
 THAT IT WAS "AFFIRMING THE COURT OF APPEALS' JUDGMENT
 ONLY AS IT PERTAINS TO DISMISSING MY PETITION ON RES
 JUDICATA GROUNDS." THIS PETITION FOR WRIT OF HABEAS
 FOLLOWS.

REASONS FOR GRANTING THE PETITION
PART I.

UNDER FEDERAL LAW A PERSON CONVICTED OF A CRIME HAS A RIGHT TO FILE AN APPEAL, THE RIGHT TO FILE A MOTION UNDER 28 U.S.C. 2255 CLAIMING THE RIGHT TO BE RELEASED UPON THE GROUNDS THAT THE SENTENCE WAS IMPOSED IN VIOLATION OF THE CONSTITUTION OR LAWS OF THE UNITED STATES, OR THAT THE COURT WAS WITHOUT JURISDICTION TO IMPOSE SUCH SENTENCE OR THAT THE SENTENCE WAS IN EXCESS OF THE MAXIMUM AUTHORIZED BY LAW, OR IS OTHERWISE SUBJECT TO ATTACK, MAY MOVE THE COURT WHICH IMPOSED THE SENTENCE TO VACATE, SET ASIDE OR CORRECT THE SENTENCE.

ALSO UNDER FEDERAL LAW A PERSON IS ENTITLED TO FILE A HABEAS CORPUS PETITION UNDER 28 U.S.C. 2241, 28 U.S.C. 2244 (a) STATES: "NO... JUDGE SHALL BE REQUIRED TO ENTERAIN AN APPLICATION FOR WRIT OF HABEAS CORPUS TO INQUIRE INTO THE DETENTION OF A PERSON... IF IT APPEARS THAT THE LEGALITY OF SUCH DETENTION HAS BEEN DETERMINED BY A JUDGE OR COURT... ON A PRIOR APPLICATION FOR WRIT OF HABEAS CORPUS, EXCEPT AS PROVIDED IN SECTION 28 U.S.C. 2255." 28 U.S.C. 2244 (a)

MAKES AN EXCEPTION TO ANY CLAIM FILED WITH THE SENTENCING COURT UNDER 28 U.S.C. 2255. SECTION 2255, PERMITTING A FEDERAL PRISONER TO ATTACK HIS SENTENCE BY MOTION IN THE SENTENCING COURT, IS NOT INTENDED TO IMPINGE UPON HIS RIGHT TO ATTACK HIS CONVICTION COLLATERALLY BY HABEAS CORPUS. "A PRISONER

BARRED BY RES JUDICATA WOULD SEEM AS A CONSEQUENCE TO HAVE AN
 "INADEQUATE OR INEFFECTIVE" REMEDY UNDER §2255 AND THUS BE
 ENTITLED TO PROCEED IN FEDERAL HABEAS CORPUS -- WHERE, OF
 COURSE, § 2244 APPLIES. "SANDERS V. UNITED STATES, 373 U.S.
 1, 83 S. CT. 1068, 1070, 1071.
 28 U.S.C. 2241 POWER TO GRANT A WRIT (3) STATES:
 "THE WRIT OF HABEAS CORPUS SHALL NOT EXTEND TO A PRISONER UNLESS:
 "HE IS IN CUSTODY IN VIOLATION OF THE CONSTITUTION OR LAWS OR TREA-
 TIES OF THE UNITED STATES." 28 U.S.C. 2241 (C)(3).
 ARTICLE 1. SECTION 9 CLAUSE 2 STATES:
 "THE PRIVILEGE OF THE WRIT OF HABEAS CORPUS
 SHALL NOT BE SUSPENDED, UNLESS WHEN IN
 CASES OF REBELLION OR INVASION THE PUBLIC
 SAFETY MAY REQUIRE IT." ART. 1. SECT. 9 CL. 2
 U.S. CONST.
 ARTICLE 6. CLAUSE 2 OF THE U.S. CONSTITUTION STATES:
 "THIS CONSTITUTION, AND THE LAWS OF THE UNITED STATES
 WHICH SHALL BE MADE IN PURSUANCE THEREOF, AND ALL
 TREATIES MADE, OR WHICH SHALL BE MADE, UNDER THE
 AUTHORITY OF THE UNITED STATES, SHALL BE THE SUPREME
 LAW OF THE LAND, AND THE JUDGES IN EVERY [STATE]
 SHALL BE BOUND THEREBY, ANY THING IN THE CONSTITUTION
 OR LAWS OF ANY STATE TO THE CONTRARY NOTWITHSTANDING"

UNDER OHIO LAW A PERSON CONVICTED OF A CRIME IS ENTITLED TO FILE AN APPEAL, A POST CONVICTION PETITION UNDER OHIO REVISED CODE (HEREIN AFTER O.R.C.) 2953.21 AND A PERSON IS ENTITLED TO FILE A PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO O.R.C. 2725.01, 2725.02, 2725.04, AND 2725.05.

UNDER OHIO LAW, THE PETITION FOR POST CONVICTION RELIEF UNDER O.R.C. 2953.21 IS THE OHIO VERSION OF "REMEDIES ON MOTION ATTACKING SENTENCE 28 U.S.C. 2255." O.R.C. 2953.21 STATES IN PART:

"ANY PERSON WHO HAS BEEN CONVICTED OF A CRIMINAL OFFENSE..... AND WHO CLAIMS THAT THERE WAS SUCH DENIAL OR INFRINGEMENT OF THE PERSON'S RIGHT AS TO RENDER THE JUDGMENT VOID OR VOIDABLE UNDER THE OHIO CONSTITUTION OR THE CONSTITUTION OF THE UNITED STATES....., MAY FILE A PETITION IN THE COURT THAT IMPOSED SENTENCE, STATING THE GROUNDS FOR RELIEF UPON, AND ASKING THE COURT TO VACATE OR SET ASIDE THE JUDGMENT OR SENTENCE OR TO GRANT OTHER APPROPRIATE RELIEF." ORC 2953.21 (A)(1)(3).

OHIO'S VERSION OF HABEAS CORPUS:

ORC 2725.01 TITLED "PERSONS ENTITLED TO WRIT OF HABEAS CORPUS" STATES: "WHOEVER IS UNLAWFULLY RESTRAINED OF HIS LIBERTY, OR ENTITLED TO THE CUSTODY OF ANOTHER, OF WHICH CUSTODY SUCH PERSON IS UNLAWFULLY DEPRIVED, MAY

PROSECUTE A WRIT OF HABEAS CORPUS, TO INQUIRE INTO THE CAUSE OF SUCH IMPRISONMENT, RESTRAINT, OR DEPRIVATION. (ORC. 2725.01) 2725.02 OF THE ORC. ENTITLED: "COURTS AUTHORIZED TO GRANT WRIT STATES: "THE WRIT OF HABEAS CORPUS MAY BE GRANTED BY THE SUPREME COURT, COURT OF APPEALS, COURT OF COMMON PLEAS, PROBATE COURT, OR BY A JUDGE OF ANY SUCH COURT."

ORC 2725.04 APPLICATION FOR WRIT STATES: "APPLICATION FOR THE WRIT OF HABEAS CORPUS SHALL BE BY PETITION, SIGNED AND VERIFIED EITHER BY THE PARTY FOR WHOSE RELIEF IT IS INTENDED, OR BY SOME PERSON FOR HIM, AND SHALL SPECIFY: (A) THAT THE PERSON IN WHOSE BEHALF THE APPLICATION IS MADE IS IMPRISONED, OR RESTAINED OF HIS LIBERTY; (B) THE OFFICER, OR NAME OF THE PERSON BY WHOM THE PRISONER IS SO CONFINED OR RESTAINED; OR, IF BOTH ARE UNKNOWN OR UNCERTAIN, SUCH OFFICER OR PERSON MAY BE DESCRIBED BY AN ASSUMED APPELLATION AND THE PERSON WHO IS SERVED WITH THE WRIT IS DEEMED THE PERSON INTENDED; (C) THE PLACED WHERE THE PRISONER IS SO IMPRISONED OR RESTAINED, IF KNOWN; (D) A COPY OF THE COMMITMENT OR CAUSE OF DETENTION OF SUCH PERSON SHALL BE EXHIBITED, IF IT CAN BE PROCURED WITHOUT IMPAIRING THE EFFICIENCY OF THE REMEDY; OR, IF THE IMPRISONMENT OR DETENTION IS WITHOUT LEGAL AUTHORITY, SUCH FACT MUST APPEAR.

ORC 2725.05 "WRIT NOT ALLOWED." STATES: "IF IT APPEARS THAT A PERSON ALLEGED TO BE RESTRAINED OF HIS LIBERTY IS IN THE CUSTODY OF AN OFFICER UNDER PROCESS ISSUED BY A COURT OR MAGISTRATE, OR BY VIRTUE OF THE JUDGMENT OR ORDER OF A COURT OF RECORD, AND THAT THE COURT OR MAGISTRATE HAD JURISDICTION TO ISSUE THE PROCESS, RENDER THE JUDGMENT, OR MAKE THE ORDER, THE WRIT OF HABEAS CORPUS SHALL NOT BE ALLOWED. IF THE JURISDICTION APPEARS AFTER THE WRIT IS ALLOWED, THE PERSON SHALL NOT BE DISCHARGED BY REASON OF ANY FORMALITY OR DEFECT IN THE PROCESS, JUDGMENT, OR ORDER."

IT IS MY INTENTION TO BRING TO THIS COURT'S ATTENTION THAT OHIO'S WRIT OF HABEAS CORPUS DOES NOT EXTENDS TO A PRISONER TO RAISE THE CLAIM THAT HE IS IN CUSTODY IN VIOLATION OF THE CONSTITUTION OR LAWS OR TREATIES OF THE UNITED STATES. ALTHOUGH THE OHIO EQUIVALENT OF 28 U.S.C. 2255, ORC 2953.21, DOES ALLOW A PERSON TO ATTACK THE SENTENCE BASED ON U.S. CONSTITUTIONAL VIOLATIONS (DENIAL OR INFRINGEMENT OF THE PERSON'S CONSTITUTIONAL RIGHTS) WITH THE TRIAL COURT, THE OHIO'S VERSION OF HABEAS CORPUS IS ONLY AVAILABLE TO A PERSON IF THE TRIAL COURT LACKED, NOT JUST JURISDICTION, BUT SUBJECT MATTER JURISDICTION. PRATTS V. HURLEY, 102 OHIO ST. 3d 81, 806 N.E. 2d 992. THIS COURT HAS HELD AND DISCARDED THE CONCEPT OF JURISDICTION AS A TOUCHSTONE OF THE AVAILABILITY OF HABEAS CORPUS AND THIS COURT

HAS HELD THAT HABEAS REVIEW IS AVAILABLE FOR CLAIMS OF "DISREGARD OF THE CONSTITUTIONAL RIGHTS OF THE ACCUSED, AND WHERE THE WRIT OF HABEAS IS THE ONLY EFFECTIVE MEANS OF PRESERVING HIS RIGHTS." AND THAT THE WRIT OF HABEAS APPEARS TO EXTEND TO ALL DISPOSITIVE CONSTITUTIONAL CLAIMS. McCleskey v. ZANT, 499 U.S. 467, 111 S.Ct. 1454, 113 L.Ed. 2d 517.

HOWEVER, UNDER OHIO'S VERSION OF HABEAS CORPUS CLAIMS THAT A PERSON IS IN CUSTODY IN VIOLATION OF FIFTH, SIXTH AND FOURTEENTH CONSTITUTIONAL RIGHTS ARE NOT COGNIZABLE AND ARE BARRED BY RESTRICTATA. BLACKBURN V. JAGO, 39 OHIO ST. 3d 139. BURCH V. MORRIS, 25 OHIO ST. 3d 18; IN RE PIAZZA, 7 OHIO ST. 2d 102; STATE EX REL TUCKER V. ROGERS, 66 OHIO ST. 3d 36; ELLIS V. McMACKIN, 65 OHIO ST. 3d 161; LUYA V. RUSSELL, 70 OHIO ST. 3d 561. ALL OHIO SUPREME COURT CASES ENFORCING THAT ONLY JURISDICTIONAL CLAIMS ARE COGNIZABLE IN OHIO'S HABEAS CORPUS.

UNDER OHIO'S HABEAS, THE WRIT IS NOT GENERALLY AVAILABLE WHEN THERE IS AN ADEQUATE REMEDY AT LAW. "STATE EX CL. GIBSON V. SLOAN, 147 OHIO ST. 3d 240, AT 242. THIS IS CONSISTENT WITH U.S. LAW 28 U.S.C. 2255 (C) WHICH STATES IN PART: "AN APPLICATION FOR A WRIT OF HABEAS CORPUS IN BEHALF OF A PRISONER WHO IS AUTHORIZED TO APPLY FOR RELIEF BY MOTION PURSUANT TO THIS SECTION, SHALL NOT BE ENTERAINED IF IT APPEARS

T
THAT THE APPLICANT HAS FAILED TO APPLY FOR RELIEF, BY MOTION, TO
THE COURT WHICH SENTENCED HIM, OR THAT SUCH COURT HAS DENIED
HIM RELIEF, UNLESS IT ALSO APPEARS THAT THE REMEDY BY MOTION
IS INADEQUATE OR INEFFECTIVE TO TEST THE LEGALITY OF HIS DETENTION."

28 U.S.C. 2244 (2) STATES IN PART: NO... JUDGE
SHALL BE REQUIRED TO ENTERTAIN AN APPLICATION FOR A WRIT OF HABEAS
CORPUS..... IF IT APPEARS THAT... SUCH DETENTION HAS BEEN DETER-
MINED..... ON A PRIOR APPLICATION FOR WRIT OF HABEAS
CORPUS, [EXCEPT AS PROVIDED IN SECTION 2255] [28 U.S.C. 2255]
(EMPHASIS ADDED). AND IN SANDERS V. U.S., 373 U.S. 1 THIS
COURT STATED:

"SECTION 2255 OF THE JUDICIAL CODE..... IS OF
COURSE ALSO A PRODUCT OF THE 1948 REVISION--
..... TO PROVIDE "AN EXPEDITIOUS REMEDY FOR
CORRECTING ERRONEOUS SENTENCES [OF FEDERAL
PRISONERS] WITHOUT RESORT TO HABEAS CORPUS."

AND:

"A PRISONER BARRED BY RES JUDICATA WOULD
SEEM AS A CONSEQUENCE TO HAVE AN "INADEQ-
UATE OR INEFFECTIVE REMEDY UNDER § 2255
AND THUS BE ENTITLED TO PROCEED IN FEDERAL
HABEAS CORPUS--- WHERE OF COURSE, § 2244
APPLIES." SANDERS CITING SMITH V. U.S. 270 F.2d. 926.

I ASK THIS COURT TO TAKE JUDICIAL NOTICE THAT THE OHIO
VERSION OF HABEAS CORPUS IS IN CONFLICT, CONTRADICTION AND IN
VIOLATION OF THIS COURT'S INTERPRETATION OF HABEAS CORPUS AND
OF THE U.S. LAW GOVERNING THE GREAT WRIT.

IN OHIO LAW HABEAS IS UNAVAILABLE WHEN THERE IS
ADEQUATE REMEDY AT LAW. OHIO SUPREME COURT CASE: STATE
EX REL. GIBSON V. SLOAN, 147 OHIO ST. 3D. 240. A PERSON FIRST
MUST FILE (THE EQUIVALENT OF 2255) A MOTION ATTACKING THE
LEGACITY OF HIS/HER SENTENCE WITH THE TRIAL COURT
UNDER ORC 2953.21. HOWEVER, THE OHIO SUPREME COURT HAS
HELD THAT EVEN AFTER A PERSON HAS FILED (THE EQUIVALENT
OF 2255) POST CONVICTION RELIEF WITH THE TRIAL COURT,
ONE IS STILL UNABLE TO FILE A HABEAS CORPUS PETITION
UNDER ORC 2725.01.

THE SUPREME COURT OF OHIO STATED: "THE AVAILABILITY
OF AN ADEQUATE REMEDY AT LAW, EVEN IF THAT REMEDY WAS NOT
BOUGHT OR WAS UNSUCCESSFUL, PRECLUDES A WRIT OF HABEAS
CORPUS." STATE EX REL. O'NEAL V. BOUTING, 140 OHIO ST. 3D 339.
STATE EX REL. GIBSON V. SLOAN, 147 OHIO ST. 3D 240 (2016). THIS
OHIO HABEAS PRACTICE IS IN CONTRADICTION AND CONFLICT WITH
28 U.S.C. 2244 (a) WHICH STATES: "NO JUDGE... SHALL... ENTER
IN AN APPLICATION OF HABEAS... IF IT APPEARS THAT THE LEGACITY OF
SUCH DETENTION HAS BEEN DETERMINED BY A JUDGE... ON A PRIOR.

APPLICATION FOR A WRIT OF HABEAS CORPUS, "EXCEPT AS PROVIDED IN SECTION 2255" [28 U.S.C. 2255]."

OHIO'S HABEAS STATUTE ORC 2725.01 DOES NOT MAKE AN EXCEPTION TO ANY CLAIM FILED UNDER ORC 2953.21. ACCORDING TO OHIO LAW IF A PERSON WAS UNSUCCESSFUL IN THE ADEQUATE REMEDY AT LAW OR THE REMEDY WAS NOT SOUGHT, HABEAS IS PRECLUDED. IT IS MY UNDERSTANDING OF OHIO LAW THAT I MUST BE SUCCESSFUL IN MY CLAIM THROUGH A POST CONVICTION PETITION ORC 2953.21 IN ORDER TO BE ENTITLED TO A HABEAS CORPUS? IF ONE IS TO BE SUCCESSFUL UNDER 2953.21 WITH THE TRIAL COURT, THEN, HABEAS CORPUS IS UNNECESSARY BECAUSE MY SENTENCES WOULD HAVE BEEN VACATED.

IT IS MY INTENTION TO PROVE TO THIS COURT THAT OHIO'S VERSION OF HABEAS CORPUS IS AN AFFIRMATIVE SUSPENSION OF THE WRIT OF HABEAS CORPUS. "HABEAS CORPUS IS A GREAT CONSTITUTIONAL PRIVILEGE; THERE IS NO HIGHER DUTY THAN TO MAINTAIN IT UNIMPAIRED AND UNSUSPENDED, SAVE ONLY IN THE CASES SPECIFIED IN THE FEDERAL CONSTITUTION." *FAY V. NOIA*, (1963), 372 U.S. 391, 400.

PART II.

IN OHIO, THE JUVENILE DIVISION OF THE COURT OF COMMON PLEAS HAS "EXCLUSIVE ORIGINAL JURISDICTION" UNDER THE OHIO REVISED

CODE CONCERNING ANY CHILD WHO, ON OR ABOUT THE DATE SPECIFIED IN THE COMPLAINT, IS ALLEGED TO BE A DELINQUENT CHILD FOR COMMITTING AN ACT THAT WOULD BE AN OFFENSE IF COMMITTED BY AN ADULT. ORC 2151.23 (A)(1); 2152.03; STATE V. WILSON, (1995) 73 Ohio St.3d 40, 652 N.E.2d 196. BEFORE SUCH INDIVIDUAL MAY BE TRIED AS AN ADULT, THE MATTER MUST BE BOUND OVER BY THE JUVENILE DIVISION TO THE ADULT GENERAL DIVISION PURSUANT TO 2152.12 ORC.

ORC 2152.12 ALSO REQUIRES THAT AN INVESTIGATION BE CONDUCTED BEFORE BINDOVER. THE STATUTE EXPRESSLY REQUIRES THAT THE INVESTIGATION INCLUDE A MENTAL EXAMINATION. ALSO, UNDER OHIO LAW, IF A CRIMINAL COURT MISTAKENLY FAILS TO HOLD A BINDOVER HEARING FOR A MINOR AND PROCEEDS IN THE CRIMINAL DIVISION, THE PROSECUTION OF THAT CASE IS A NULLITY. FORMER ORC 2151.26 GOVERNED THE TRANSFER OF A CRIMINAL PROSECUTION FROM A JUVENILE COURT TO THE APPROPRIATE ADULT COURT. ORC 2151.26(E), NOW CODIFIED AS ORC 2152.12(H), READ:

"NO PERSON, EITHER BEFORE OR AFTER REACHING EIGHTEEN YEARS OF AGE, SHALL BE PROSECUTED AS AN ADULT FOR AN OFFENSE COMMITTED PRIOR TO BECOMING EIGHTEEN YEARS OF AGE, UNLESS THE PERSON HAS BEEN TRANSFERRED AS PROVIDED IN DIVISION (B) OR (C) OF THIS SECTION OR

UNLESS DIVISION (6) OF THIS SECTION APPLIES, [ANY PROSECUTION THAT IS HAD IN A CRIMINAL COURT ON THE MISTAKEN BELIEF THAT THE PERSON WHO IS THE SUBJECT OF THE CASE WAS EIGHTEEN YEARS OF AGE OR OLDER AT THE TIME OF THE COMMISSION OF THE OFFENSE SHALL BE DEEMED A NULLITY AND THE PERSON SHALL NOT BE CONSIDERED TO HAVE BEEN IN JEOPARDY ON THE OFFENSE] (EMPHASIS ADDED).
ORC 2151.26 (E) NOW 2152.12 (H).

IN STATE V. WILSON (1995), 73 OHIO ST 3D 40, WILSON WAS CONVICTED OF GRAND THEFT AND SENTENCED TO IMPRISONMENT, SUBSEQUENT TO THE COMPLETION OF HIS SENTENCE (ELEVEN YEARS AFTER HIS CONVICTION), WILSON SOUGHT TO VACATE HIS JUDGMENT OF CONVICTION. WILSON ALLEGED THAT AT THE TIME OF THE GRAND THEFT, HE WAS A JUVENILE, AND THUS HIS CONVICTION FOR GRAND THEFT WAS VOID. IN SUPPORT OF HIS CLAIM HE FILED AFFIDAVITS. THE TRIAL COURT DENIED WILSON'S CLAIM. HOWEVER, THE COURT OF APPEALS REVERSED THE JUDGMENT OF THE TRIAL COURT AND REMANDED THE CAUSE WITH INSTRUCTION TO VACATE THE JUDGMENT OF CONVICTION. ON APPEAL TO THE OHIO SUPREME COURT, THE OHIO SUPREME COURT,

AT THE END OF 2009 I FILED A STATE WRIT OF HABEAS CORPUS WITH THE OHIO SUPREME COURT ATTACKING THE SUBJECT MATTER JURISDICTION OF THE TRIAL COURT RAISING THE ISSUE THAT AT THE TIME OF THE OFFENSE I WAS SEVENTEEN (17) YEARS OLD OF AGE AND THAT THE ARRESTING AUTHORITIES MISTAKENLY BELIEVED I WAS AN ADULT. PURSUANT TO ORC 2725.02 THE OHIO SUPREME COURT HAD ORIGINAL JURISDICTION OVER MY PETITION FOR WRIT OF HABEAS CORPUS. IN MY PETITION I PRESENTED TO THE OHIO HIGHEST COURT THAT I WAS ARRESTED UNDER THE ALIAS OF EDUARDO BOVILLA. I ALSO PRESENTED TO THE COURT THAT THE COUNTY PROSECUTOR DURING PRE TRIAL LEARNED THAT MY BIRTH NAME WAS JUAN RAIMON LOPEZ AND THAT

PART III.

Agency Allegation, Id.

COURT NEVER REINQUIRED JURISDICTION OVER THE DELINQUENT TO THE COMMON PLEAS COURT OCCURRED, THE JUVENILE BELIEF THAT HE WAS AN ADULT AND NO BUDDOVER FROM THE COURT AT 44. BECAUSE WILSON WAS CONVICTED UNDER THE MISTAKEN CONCEPTION A CHILD WHO IS ALLEGED TO BE A DELINQUENT. EXCLUSIVE SUBJECT MATTER JURISDICTION OVER ANY CASE ABSENT A PROPER BUDDOVER PROCEEDURE THE JUVENILE HAS AFFIRMED THE APPELLATE COURTS JUDGMENT HOLDING THAT

EDUARDO BONILLA WAS ONLY AN ALIAS. TO SUPPORT MY CLAIM I SUBMITTED TO THE COURT THE JUDGMENT ENTRY OF MY CASE WHICH INCLUDES MY BIRTH NAME. IN MY PETITION I PRESENTED TO THE COURT THAT, EVEN AFTER THE STATE LEARNED I WAS ARRESTED UNDER AN ALIAS AND THAT JUAN RAMONE LOPEZ WAS MY ACTUAL BIRTH NAME, THE STATE DID NOT INQUIRE AS TO MY REAL DATE OF BIRTH.

IN MY PETITION FOR HABEAS, I ASKED THE OHIO SUPREME COURT FOR A HEARING AND TO VACATE MY CONVICTIONS PURSUANT TO WILSON, ID. AND ORC 2151.26(E) 2152.12(H). ON JANUARY 27, 2010 THE OHIO SUPREME COURT ISSUED A MERIT DECISION WITHOUT OPINION IN MY HABEAS PETITION. ALTHOUGH THE OHIO SUPREME COURT HAS HELD IN THE PAST THAT HABEAS WILL LIE DESPITE AVAILABILITY OF APPEAL OR ADEQUATE REMEDY AT LAW WHEN THE TRIAL COURT LACKED SUBJECT MATTER JURISDICTION, PEGAN V. CRAWMER, 76 OHIO ST.3d 97, THE COURT [WITHOUT HOLDING A HEARING, WITHOUT MAKING ANY FINDINGS OF FACTS AND ANY CONCLUSIONS OF LAW] IN SUPPORT OF ITS DECISION, IT SUA SPONTE DISMISSED MY HABEAS PETITION. (SEE APPENDIX A). I WOULD LIKE TO BRING TO THIS COURT'S ATTENTION THAT IN THE SUA SPONTE DISMISSAL OF MY HABEAS PETITION THE OHIO HIGHEST COURT DID NOT DISMISS IT WITH PREJUDICE, AND I WAS UNDER THE IMPRESSION I COULD FILE IT AGAIN.

AFTER DOING ALTERNATE RESEARCH I ALSO LEARNED THAT THE OHIO SUPREME COURT ALSO HAD HELD THAT "HABEAS CORPUS, LIKE OTHER EXTRAORDINARY WRIT ACTIONS, IS NOT AVAILABLE WHERE THERE IS AN ADEQUATE REMEDY AT LAW." GASKINS V. SHIPLEY, 76 OHIO ST. 3d 380, 383. ON JANUARY 24, 2014 I FILED A MOTION TO VACATE JUDGMENT FOR LACK OF SUBJECT MATTER JURISDICTION "WITH THE TRIAL COURT AS A POST CONVICTION RELIEF. IN THIS MOTION WITH THE TRIAL COURT I PRESENTED THE EXACT AND IDENTICAL CLAIMS AND FACTS I HAD PRESENTED TO THE OHIO SUPREME COURT IN SUPPORT OF THE HABEAS, FACTS WHICH I HAVE DESCRIBED ABOVE: "THAT I WAS A JUVENILE AT THE TIME OF THE OFFENSES AND OF MY ARREST, AND THAT THE STATE MISTAKENLY BELIEVED I WAS AN ADULT, I NEVER RECEIVED A BINDER PROCEEDING FROM THE JUVENILE COURT TO THE ADULT COURT AS REQUIRED BY LAW, AND THAT MY CONVICTIONS AND SENTENCES WERE A NULLITY AND VOID AB INITIO. WILSON, *id.*, ORC 2151.26(E) - 2152.12(H). IN SUPPORT OF MY CLAIM AND MOTION I SUBMITTED TO THE TRIAL COURT MY BIRTH CERTIFICATE FROM GUATEMALA. MY BIRTH CERTIFICATE WAS CERTIFIED BY THE EMBASSY OF THE UNITED STATES OF AMERICA AT GUATEMALA AUTHENTICATING MY BIRTH CERTIFICATE AS TRUE. THE CERTIFICATE OF AUTHENTICITY BY THE U.S. EMBASSY WAS SIGNED BY THE U.S. CONSUL.

BEARING THE GREAT SEAL OF THE UNITED STATES OF AMERICA. THE TRIAL COURT DENIED MY CLAIM AND I APPEARED TO THE STATE APPELLATE COURT. THE APPELLATE COURT AFFIRMED THE TRIAL COURT'S DECISION DENYING MY MOTION. I THEN FILED A DISCREETINARY APPEAL TO THE OHIO SUPREME COURT AND A MEMORANDUM IN SUPPORT OF JURISDICTION. INVOKING ITS JURISDICTION. THE OHIO SUPREME COURT DECEASED JURISDICTION.

ON SEPTEMBER, 2017 I FILED AN APPLICATION FOR A WRIT OF HABEAS CORPUS WITH THE OHIO TWELFTH DISTRICT COURT OF APPEALS WHICH IN NOVEMBER, 2017 DISMISSED MY HABEAS PETITION AS BARRED BY RESJUDICATA. I THEN TIMELY APPEARED TO SUPREME COURT OF OHIO AS OF RIGHT. ON OCTOBER 9, 2018 THE OHIO SUPREME COURT RENDERED A DECISION ON MY APPEAL. (APPENDIX A). IN ITS DECISION THE OHIO HIGHEST COURT IN PARAGRAPH 5 THAT IT AFFIRMED THE COURT OF APPEALS DISMISSAL OF MY HABEAS ONLY AS IT PERTAINED TO "DISMISSING LOPEZ'S PETITION ON RES JUDICATA GROUNDS" IN PARAGRAPH 6 THE COURT STATES THAT I HAD RAISED THE CLAIM IN AN ORIGINAL ACTION FOR A WRIT OF HABEAS CORPUS WITH THE OHIO SUPREME COURT, THEN THE OHIO SUPREME COURT STATES THAT UNDER THE CIRCUMSTANCES THE COURT MAY TAKE JUDICIAL NOTICE OF IT OWN DOCKET. THE COURT

CONTINUES AND STATES: "MOREOVER, LOPEZ HAD FULLY LITIGATED THIS CLAIM IN A POST CONVICTION PETITION AND LOST." THEN, THE COURT STATES: "RES JUDICATA PRECLUDES A PETITIONER FROM USING HABEAS CORPUS TO GAIN SUCCESSIVE APPELLATE REVIEW OF PREVIOUSLY LITIGATED ISSUES." ACCORDINGLY, THE COURT OF APPEALS CORRECTLY DETERMINED THAT RES JUDICATA PRECLUDES LOPEZ FROM RAISING HIS BINDER OVER CLAIM IN THIS HABEAS CORPUS ACTION. (APPENDIX A. INTERNAL QUOTATIONS OMITTED)

FIRST, I WOULD LIKE TO BRING THIS COURT'S ATTENTION THAT THE HABEAS CORPUS I FILED WITH THE OHIO SUPREME COURT IN 2009 WAS "DISMISSED SUB SPONTE, NO HEARING WAS HELD AND THE OHIO SUPREME COURT DID NOT MAKE ANY FINDINGS OF FACT AND DID NOT MAKE ANY CONCLUSIONS OF LAW, NOR DID IT GIVE ANY REASONS AS TO ITS DECISION." THE COURT DID NOT DISMISS THE PETITION WITH PREJUDICE. THE OHIO SUPREME COURT HAS CASE LAW THAT GOVERNS HABEAS AND IT CONTRADICTS THE SAME COURT AND THESE CASE LAW ARE USED TO SUSPEND THE PRIVILEGE OF HABEAS CORPUS. ON JULY 1996 THE COURT HELD: "A WRIT OF HABEAS CORPUS WILL BE DENIED WHERE THERE IS ADEQUATE REMEDY IN THE COURSE OF LAW." PEGAN V. CRAMER, 76 OHIO ST. 3d 97. AND THIS SAME CASE STATES: "WHERE A JUDGMENT IS VOID FOR LACK OF

JURISDICTION, HABEAS CORPUS IS AN APPROPRIATE REMEDY DESPITE THE AVAILABILITY OF ALTERNATIVE REMEDIES." PEGAN V. CRAWMER.

Id. THEN A MONTH LATER THE OHIO SUPREME COURT HELD:

"HABEAS CORPUS, LIKE OTHER EXTRAORDINARY WRIT ACTIONS, IS NOT AVAILABLE WHERE THERE IS ADEQUATE REMEDY AT LAW."

GASKINS V. SHIPLEY, (AUGUST 21, 1996) 76 OHIO ST. 3d 380.

THEN AGAIN ON NOVEMBER, 2001 THE SAME COURT HELD IN ANOTHER CASE: "WHEN A COURT'S JUDGMENT IS VOID BECAUSE THE COURT LACKED SUBJECT MATTER JURISDICTION, HABEAS CORPUS IS GENERALLY AN APPROPRIATE REMEDY DESPITE THE AVAILABILITY OF APPEAL." JOHNSON V. TIMMERMAN-COOPER, 93

OHIO ST. 3d 614. "WHERE A COURT LACKS JURISDICTION, HABEAS CORPUS IS THE APPROPRIATE REMEDY DESPITE AVAILABLE REMEDY AT LAW." RASH V. ANDERSON, 80 OHIO ST. 3d 349.

THEN IN 2014 AND 2016 THE SAME COURT HELD: "HABEAS IS NOT AVAILABLE WHEN THERE IS ADEQUATE REMEDY AT LAW" STATE EX REL. GIBSON V. SLOAN, 147 OHIO ST. 3d 240.

I FILED A HABEAS, THE OHIO SUPREME COURT SUA SPONTE DISMISS IT WITHOUT HEARING, WITHOUT MAKING ANY FINDINGS OF FACT OR ANY CONCLUSIONS OF LAW, AND WITH NO PREJUDICE. I THEN FILED MY CLAIM WITH THE TRIAL COURT "ADEQUATE REMEDY AT LAW" AND MY CLAIM IS DENIED, AFTER APPEALING THE OHIO SUPREME COURT,

DECLINE TO ACCEPT JURISDICTION OVER MY CLAIM ON DISCRETIONARY APPEAL. AFTER I FILED THE ADEQUATE REMEDY AT LAW, I PURSUE A HABEAS CORPUS, THE OHIO SUPREME COURT THEN HOLDS: "RES JUDICATA PRECLUDES A PETITIONER FROM USING HABEAS CORPUS TO GAIN SUCCESSIVE APPELLATE REVIEW OF PREVIOUSLY LITIGATED ISSUES." PARAGRAPH 6 OF APPENDIX "A"). THE SAME COURT ALSO HAS HELD: "THE AVAILABILITY OF AN ADEQUATE REMEDY AT LAW, EVEN IF THAT WAS NOT SOUGHT OR WAS UNSUCCESSFUL, PRECLUDES A WRIT OF HABEAS CORPUS." (2014) STATE EX REL. O'NEAL V. BUNTING, 140 OHIO ST 3d 339 AND (2016) GIBSON V. SLOAN, 147 OHIO ST. 3d 240.

WITH THOSE RULINGS THE OHIO COURTS KEEP PERSONS FROM USING THE PRIVILEGE OF HABEAS. THIS COURT HAS HELD "A PRISONER'S RIGHT TO ATTACK HIS CONVICTION BY HABEAS IS NOT IMPINGED BY 28 U.S.C. 2255. 28 USC 2244 MAKES AN EXCEPTION TO 2255. THE STATE OF OHIO COURTS DO NOT MAKE THAT EXCEPTION

THIS IS NOT AN ISOLATED CASE. MEKRIA NEGUSE AN ETHIOPIAN NATIONAL WAS ARRESTED IN 1990 FOR MURDER. AT HIS PRE TRIAL HE OBJECTED (TIMELY) AND CHALLENGED THE SUBJECT MATTER JURISDICTION OF THE TRIAL COURT. LIKE ME, HE, MEKRIA NEGUSE, WAS

ARRESTED AND WAS BEING PROSECUTED UNDER THE MISTAKEN BELIEF HE WAS EIGHTEEN (18) YEARS OF AGE OR OLDER. NEGUSE, OBJECTED DURING PRE-TRIAL AND TOLD THE COURT HE WAS A JUVENILE, A CHILD, AT THE TIME OF THE OFFENSES AND OF HIS ARREST. THE TRIAL COURT DISREGARDED NEGUSE'S CLAIM AND DENIED IT. NEGUSE FILED A DIRECT APPEAL AND AGAIN HIS CLAIM WAS DENIED. STATE V. NEGUSE (1991) 71 OHIO APP.3d 596, 594 N.E.2d 1116.

THROUGHOUT THE LAST TWENTY EIGHT (28) YEARS SINCE 1990 UNTIL 2018 NEGUSE, AN ETHIOPIAN NATIONAL, HAS FILED POST CONVICTION PETITION, WRIT OF HABEAS CORPUS, AND TWO MORE APPEALS RAISING THIS VERY SAME CLAIM BUT BECAUSE OF THE OHIO SUPREME COURT CASE LAW CONCERNING HABEAS CORPUS THAT "THE AVAILABILITY OF ADEQUATE REMEDY AT LAW, EVEN IF THAT REMEDY WAS NOT SOUGHT OR WAS UNSUCCESSFUL PRECLUDES A HABEAS," NEGUSE IS (LIKE ME) PRECLUDED BY RESJUDICATA UNDER OHIO LAW TO FILE A HABEAS CORPUS. EIBSON V. SLOAN, 1d, CHILDERS V. WINEARD 83 OHIO ST. 3d 427, AGE E V. RUSSELL, 92 OHIO ST. 3d 540.

I WOULD LIKE TO ALSO MAKE JUDICIAL NOTICE THAT MY CASE AND NEGUSE'S IS NOT THE TYPICAL CASE WHERE IS AN ABUSE OF THE WRIT, I WAS PRECLUDED TO USE THE WRIT OF HABEAS CORPUS AND IN ITS DECISION

THE OHIO SUPREME DID NOT HOLD A HEARING, MAKE NO FINDINGS OF FACT ETC. SO I WAS ONLY ABLE TO FILE IT OUT. THAT IT WAS SPONTANEOUSLY DISMISSED THE HABEAS BECAUSE OF THE AVAILABILITY OF REMEDY AT LAW. THE OHIO SUPREME COURT CASE LAW, INCLUDING THE DECISION IN MY CASE, SUSPENDS THE WRIT OF HABEAS CORPUS AND INVALIDATE OHIO'S OWN LAW PASSED BY THE OHIO GENERAL ASSEMBLY. CRC 2151.26(E) 2152.12(H).

PART II.

OHIO'S CASE LAW AND VERSION OF HABEAS CORPUS IS APPLIED WITH FAVORITISM, SELECTIVENESS, BIAS, AND IS APPLIED DISCRIMINATELY AND UNEQUALLY IN VIOLATION OF ARTICLE 1 SECTION 9 CLAUSE 2, ARTICLE 6 CLAUSE 2, AND THE SEVENTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION.

IN 1984 MEKRIA NEGUSE WITH HIS FAMILY EMIGRATED TO THE UNITED STATES. ON JANUARY 15, 1990 MEKRIA NEGUSE HAD AN AGREEMENT WHICH RESULTED IN THE SHOOTING DEATH OF A PRISONER. NEGUSE WAS CHARGED WITH THE MURDER. DURING PRE TRIAL NEGUSE FILED A MOTION TO DISMISS THE CHARGES DUE TO LACK OF SUBJECT MATTER JURISDICTION. THE TRIAL COURT HEED A HEARING. AT THE PROCEEDING NEGUSE PRESENTED TO THE TRIAL COURT THAT HE, NEGUSE, HAD MISREPRESENTED HIS AGE AT THE TIME OF HIS

ARREST. HE PRESENTED TO THE TRIAL COURT THAT HE WAS AN ETHIO-
PIAN FOREIGN NATIONAL AND THAT HE WAS BORN ON 12-9-1973
AND NOT ON 1-1-1970. NEGUSE PRESENTED THAT HE WAS A
JUVENILE UNDER AGE AT THE TIME OF THE OFFENSES. NEGUSE
TOLD THE COURT AT PRE TRIAL THAT HIS 1-94 IMMIGRATION CARD
SUPPORTED HIS CLAIM THAT HE WAS BORN ON 12-9-1973 AND
NOT ON 1-1-1970, MAKING HIM SEVENTEEN YEARS OF AGE AT THE
TIME OF THE OFFENSES. NEGUSE TESTIFIED AT THE HEARING AND
TOLD THE TRIAL COURT HE HAD MISREPRESENTED HIS AGE ALSO IN
OTHER OCCASIONS, AND THAT HE DID SO BECAUSE HE WAS AWARDED
CUSTODY TO CHILD SERVICES AND BY MISREPRESENTING HIS AGE
HE WOULD BE RELEASED FROM THE FRANKLIN COUNTY CHILDREN'S
SERVICES SOONER (FCCS).
A FCCS CASE WORKER ALSO TESTIFIED THAT NEGUSE'S
MOTHER HAD TOLD THE CASE WORKER THAT HER SON NEGUSE
WANTED TO BE OLDER THAN HIS BIRTHDATE ON THE 1-94 IMMIGRA-
TION CARD BECAUSE IT WOULD ENABLE NEGUSE TO GET A JOB AND
GET QUICKER EXPERIENCE FROM HIS STRICT PARENTS. THE TRIAL
COURT DENIED NEGUSE'S CLAIM THAT HE WAS A JUVENILE AT THE
TIME OF THE OFFENSES. IN ITS DECISION THE TRIAL COURT HELD
THAT NEGUSE HAD MISREPRESENTED HIS AGE IN OTHER MATTER
OFFENSES WITH A COURT AND THAT THE STATE HAD INTRODUCED
CERTIFIED COPIES OF NEGUSE'S AGE MISREPRESENTATION IN OTHER

MINOR OFFENSES. THE TRIAL COURT'S JUDGE STATED THAT THE PROSECUTION HAD NOT PROVED WEBSTER'S EXACT DATE OF BIRTH. BUT THE JUDGE CONCLUDED THAT BECAUSE WEBSTER'S MISREPRESENTATION OF HIS AGE IN OTHER COURT DOCUMENTS THERE WAS PROOF BEYOND A REASONABLE DOUBT THAT WEBSTER WAS NOT A JUVENILE AT THE TIME OF THE OFFENSE. WEBSTER APPEARED AND THE STATE COURTS HAVE REPEATEDLY DENIED HIS CLAIM IN MANY OCCASIONS: STATE V. WEBSTER, 71 OHIO APP. 3d 596; WEBSTER V. COLLINS, 1998 OHIO APP. LEXIS 4154; STATE EX REL. WEBSTER V. CRAWFORD, 2007-OHIO-1108; STATE V. WEBSTER, 2010-OHIO-1387; STATE V. WEBSTER, 2018-OHIO-1163.

ON DECEMBER 1, 1980, EDWARD D. BECKER FILED A REPORT THAT SOMEONE SOME ITEMS OF HIS PERSONAL PROPERTY. ON DECEMBER 4, 1980 ~~WEBSTER~~ GLEN W. WILSON (WILSON) WAS ARRESTED AFTER ALL OF THE MISSING ITEMS WERE RECOVERED FROM WILSON'S APARTMENT BY A DEPUTY SHERIFF. ON FEBRUARY 3, 1981 A GRAND JURY CHARGED WILSON WITH GRAND THEFT AND RECEIVING STOLEN PROPERTY. WILSON WAS FOUND GUILTY BY THE COMMON PLEAS COURT AND SENTENCE HIM ACCORDINGLY. WILSON DID NOT APPEAL. ON APRIL 19, 1993, ABOUT TWELVE YEARS AFTER HE WAS CONVICTED AND SENTENCED, WILSON MOVED TO FILE A MOTION TO VACATE HIS JUDGMENT OF CONVICTION. WILSON CLAIMED IN HIS MOTION FOR THE FIRST TIME THAT HIS JUDGMENT

OF CONVICTION WAS A NULLITY BECAUSE THE COMMON PLEAS COURT DID NOT HAVE JURISDICTION OVER HIM BECAUSE HE WAS SEVENTEEN YEARS OF AGE AT THE TIME OF THE OFFENSE AND THE JUVENILE COURT DID NOT RELINQUISHED ITS JURISDICTION OVER HIM, AND HE CLAIMED THAT THE COURT AND STATE MISTAKENLY BELIEVED HE WAS AN ADULT. THE TRIAL COURT DENIED. WILSON APPEALED. THE COURT OF APPEALS REVERSED AND REMANDED THE CASE WITH INSTRUCTIONS TO VACATE THE JUDGMENT. THE COURT OF APPEALS HELD THAT THE BINDOVER PROCEDURE WAS THE ONLY WAY THE JUVENILE COURT CAN RELINQUISH ITS EXCLUSIVE ORIGINAL JURISDICTION OVER A JUVENILE. ON APPEAL TO THE OHIO SUPREME COURT THE SUPREME COURT AFFIRMED. THE OHIO SUPREME COURT HELD THAT "ABSENT A PROPER BINDOVER PROCEEDING PURSUANT TO O.R.C. 2151.26 THE JUVENILE COURT HAS THE EXCLUSIVE SUBJECT MATTER JURISDICTION OVER A JUVENILE." THE SUPREME COURT HELD THAT "THE COURT AND THE STATE MISTAKENLY BELIEVED WILSON WAS AN ADULT, AND THAT ANY PROSECUTION THAT IS HAD IN A CRIMINAL COURT ON THE MISTAKEN BELIEF THAT THE CHILD WAS EIGHTEEN YEARS OF AGE OR OLDER AT THE TIME OF THE COMMISSION OF THE OFFENSE SHALL BE DEEMED A NULLITY, AND THE CHILD SHALL NOT BE CONSIDERED TO HAVE BEEN IN JEOPARDY OF THE OFFENSE." STATE V. WILSON, 73 OHIO ST. 3040.

IT SHOULD BE NOTED THAT IN WILSON CASE IT DOES NOT MAKE ANY MENTION ABOUT GLEN W. WILSON BEING A FOREIGN NATIONAL AS IT IS MENTIONED IN NEGUSE'S CASE AND IN MY CASE. IT SHOULD ALSO BE NOTED THAT NEGUSE RAISED THE EXACT SAME CLAIM AS WILSON'S IN 1990-1991 THREE YEARS BEFORE WILSON RAISED HIS. IN APRIL 1993. HOWEVER, THREE YEARS AFTER NEGUSE, A FOREIGN NATIONAL (FROM ETHIOPIA) WAS DENIED; ON THE SAME CLAIM GLEN W. WILSON, WHO IT SHOULD BE SAFE TO SAY IT'S A U.S. NATIONAL, PREVAILED, AND RECEIVED THE VACATION OF HIS SENTENCES AND CONVICTIONS

NINETEEN YEARS AFTER NEGUSE, AND FIFTEEN YEARS AFTER WILSON PREVAILED ON THE VERY SAME CLAIM I FILED MY CLAIM WITH THE STATE COURTS AND RECEIVED THE SAME UNFAVORABLE TREATMENT NEGUSE RECEIVED, AND NEGUSE AND ME ARE BOTH FOREIGN NATIONALS. IT SHOULD BE SAFE TO SAY THAT WHEN A PERSON IS ARRESTED THE AUTHORITIES DO NOT ASSIGN US A DATE OF BIRTH. SO AT SOME POINT IN TIME WILSON LIKE ME AND NEGUSE DID MISREPRESENTED HIS AGE. THE COURT SYSTEM DOES NOT BY ACCIDENT MISS THE FACT THAT A PERSON IS AN UNDER AGE. IT IS MY CLAIM THAT TWO FOREIGN NATIONALS WHO PRESENTED THE SAME CLAIM AS A U.S. CITIZEN DID NOT RECEIVE THE SAME TREATMENT AND EQUAL PROTECTION OF THE LAW AS REQUIRED BY THE U.S. CONSTITUTION.

NEXT I WOULD LIKE TO NOTE THAT ON 2001 THE OHIO SUPREME COURT GRANTED A WRIT OF HABEAS CORPUS TO A U.S. NATIONAL ON CLAIMS OF AN IMPROPER BIND OVER FROM JUVENILE COURT TO THE COMMON PLEAS COURT. DESPITE THE FACT THAT ADEQUATE REMEDY WAS AVAILABLE THE OHIO SUPREME COURT GRANTED THE WRIT. HOWEVER, ON 2009 I FILED A WRIT OF HABEAS WITH THE OHIO SUPREME COURT RAISING THE CLAIM THAT I DID NOT RECEIVE A JUVENILE BIND OVER AND MY PETITION WAS SUA SPONTE DISMISSED WITHOUT A HEARING, WITHOUT THE COURT MAKING ANY FINDINGS OF FACTS OR CONCLUSIONS OF LAW. WHEN IN FACT WE BOTH HAD THE SAME CLAIM EXCEPT I AM A FOREIGN NATIONAL.

JOHNSON V. TIMMERMAN-COOPER, 93 OHIO ST 3d 614

I REQUEST TO GRANT WRIT OF CERTIORARY BECAUSE THIS CASE AT HAND IS OF NATIONAL IMPORTANCE. NOT ONLY FOR FOREIGN NATIONALS UNDER SEVENTEEN YEARS OF AGE BUT FOR ANY FOREIGN NATIONAL WHO WOULD NEED TO PROVE HIS AGE WITH HIS FOREIGN CERTIFICATE OF BIRTH AND IN THE CASE LIKE NEGUSE THROUGH THE TESTIMONY OF FAMILY MEMBERS. IT IS OF GREAT IMPORTANCE TO THE ENTIRE NATION WHEN COURTS ARE ALLOWED TO REJECT OR DISREGARD A FOREIGN NATIONAL'S BIRTH CERTIFICATE OR ANY OTHER PROOF TO ESTABLISH A FOREIGN NATIONAL BIRTHDATE

AND REPLACE IT WITH WHAT THE COURTS THINK IT SHOULD BE. ALSO IT IS OF GREAT IMPORTANCE TO THE U.S. NATION WHEN A STATE COURT REJECTS A BIRTH CERTIFICATE SIMPLY BECAUSE IS A FOREIGN DOCUMENT EVEN WHEN THE COURTS CAN NOT DETERMINE THE PERSON'S DATE OF BIRTH WITH CERTAINTY. WITH OVER TWENTY MILLIONS UNDOCUMENTED ILLEGAL IMMIGRANTS RESIDING IN THE UNITED STATES, AND CARAVANS OF THOUSANDS WAITING AT THE BORDER TO CROSS, THIS CASE IS OF NATIONAL IMPORTANCE BECAUSE THERE IS CHILDREN IN THE MIST OF ALL THOSE MILLIONS WHO ONE DAY WILL NEED TO ESTABLISH THEIR BIRTH DATE WITH A FOREIGN BIRTH CERTIFICATE IN A COURT OF LAW AND OR A GOVERNMENTAL AGENCY, AND WITH NO UNITED STATES SUPREME COURT CASE LAW GOVERNING THE LAW OF FOREIGN NATIONAL'S BIRTH CERTIFICATES IN PLACE, MILLIONS OF FOREIGN NATIONAL'S BIRTH CERTIFICATES ACROSS THE NATION WILL BE FACE WITH THE SAME BARRIERS NEGUSE AND I AM BEING FACED IN STATE COURTS BECAUSE OF THE ABSENCE OF A U.S. SUPREME COURT CASE LAW CONCERNING THESE MATTER. BECAUSE OF ALL THE REASONS SET FORTH THROUGHOUT THIS MEMORANDUM, I REQUEST THIS COURT TO GRANT MY PETITION.

ALSO I REQUEST CERTIORARI BECAUSE THE OHIO VERSION OF HABEAS ONLY ALLOWS A PERSON TO RAISE SUBJECT MATTER JURISDICTIONAL CLAIMS AND NOT CONSTITUTIONAL VIOLATIONS. CERTIORARI IS REQUESTED TO SOLVE WHETHER A STATE IS ALLOW TO MINIMIZE THE PRIVILEGE OF HABEAS CORPUS.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Juan Ramone Lopez

Date: 12-31-2018