

"Incline your ear to my cry for help!"

- See Psalm 88:3

IN THE SUPREME COURT OF THE UNITED STATES

No. _____

IN RE: JOHN PEYTON ALEXANDER, II
PETITIONER, PRO SE

POUND-OF-FLESH RENEWED
PETITION FOR THE EXTRAORDINARY
WRIT OF HABEAS CORPUS
EN BANC [RULE 22.4]

JOHN PEYTON ALEXANDER, II
MSP # X42492, MDOC # 30021
EAST MISS. CORRECTIONAL FACILITY
10641 HIGHWAY 80 WEST
MERIDIAN MS 39307-9256

"LET THE GROANS OF THE PRISONERS COME BEFORE YOU"
— PSALM 79:11 (ESV)

RENEWED CERTIFICATIONS

In the process of preparing for further litigation of my expiration-of-sentence claim, a jurisdictional issue has arisen of importance beyond the particular facts & parties involved! Because the U.S. Congress omitted a provision to include expiration-of-sentence claims as exceptions to the successive-writ bar of the AEDPA, there currently exists no court, other than The Supreme Court of the U.S., which has jurisdiction to hear this claim. The jurisdiction of the lower federal courts is barred by the language of 28 USC § 2244(b)(2)(B)(ii), [App. F-10.7 thru 10.8]. This instant renewed petition is based on these other substantial jurisdictional grounds which have not been presented previously.

Furthermore, because I am asserting that my sentence has expired, this case is Time-Sensitive as well: especially in light of the intervening circumstances of the ongoing delay by the U.S. district court in addressing the current unconstitutional living-conditions rampant throughout the entire Mississippi Department of Corrections [App. P-31]; as further evidenced by the excessive number of MDOC inmate deaths which are now occurring statewide. [App. P-32 thru 34].

I hereby certify the above facts to this Honorable Court, and pray for the maximum-exercise of its full-discretion!

SEPTEMBER 8, 2018
NATIVITY of the BVM

i. John Peyton Alexander, II
PETITIONER, Pro Se

QUESTIONS PRESENTED

1. Since, in the drafting of the AEDPA, THE U.S. CONGRESS omitted successive-writ exceptions for a prisoner in state custody SEEKING federal habeas corpus relief who claims that his sentence has expired or his parole has been unlawfully revoked: how does such a prisoner, who has exhausted his state-court remedies, overcome the locked metaphorical gate of 28 USC § 2244(b) in order to obtain the privilege of federal Habeas Corpus in a cogent expiration-of-sentence claim?

— Art. I § 9 clause 2 — Habeas Corpus

2. How is a 60-days Executive Earned Time Governor's "Commutation and reduction of sentence" to be applied to the maximum-term of a state-prisoner's life-sentence?

— Amendment XIV — due process/equal protection

3. With supplements of statutory earned-time credits (which are now precluded by an ex post facto state statute) deducted from the Mississippi Governor's commutation of his life-sentence, has John Peyton Alexander, II now completed and discharged this life-sentence?

— Art I § 10 clause 1 — Ex post Facto

— Amendment XIV — due process/equal protection

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

IN RE: JOHN PEYTON ALEXANDER, II - PETITIONER

Rule 29.4 Certifications

Pursuant to Rule 29.4(b), the Chief Justice & the Solicitor General of the U.S. are hereby notified that 28 USC § 2244 is being drawn into question and, therefore, 28 USC § 2403(a) may apply. However, because the constitutionality of an Act of Congress did not evolve as a question, except in the last five days of preparing the above-captioned "Pound-of-Flesh Petition for an Extraordinary Writ of Habeas Corpus En Banc," no other § 2403(a) notifications have been made. See Rule 14.1(e)(v).

I, John Peyton Alexander, II, do declare that on August 28, 2018, as required, I have served the enclosed August 27, 2018 letter to U.S. Chief Justice John Roberts, with Appendices, on the below-listed persons by depositing envelopes containing the above-documents in the MDOC EMCF IMAF mail, addressed to:

Commissioner Felicia Hall, 633 N. State St, MDOC, JACKSON MS 39202 (601) 359-5600
Office of the Clerk, Supreme Court of the US, WASHINGTON DC 20543-0001
US Solicitor General, 950 Pennsylvania Ave NW, #5616, WASHINGTON DC 20530-0001
SAAG JASON L. DAVIS, P.O. Box 220, JACKSON MS 39205, (601) 359-3680

Executed on: August 27, 2018 John Peyton Alexander, II Psalm 46:10

I declare under penalty of perjury that the foregoing is true & correct!
iii.

LIST OF PARTIES

John Peyton Alexander, II (aka Starfish, aka John P) is an adult resident citizen of the United States of America who, regrettably, committed a homicide on October 4, 1975. Starfish was convicted of murder on May 7, 1976 and sentenced to a term of life in THE MISSISSIPPI STATE PENITENTIARY AT PARCHMAN. [John P.'s entry into the system predates the July 1, 1976 creation of the Mississippi Department of Corrections (MDOC)]. While in the MDOC, Starfish has been a "better than average inmate," who "diligently participates in approved courses of academic [see APPENDICES H-14 thru 16] and vocational [Appendices I-17 thru J-22] study." John P. currently engages in "constructive utilization of his time." Appendix M-28. SEE *WEAVER V. GRAHAM*, *infra*, FN18.

Pelicia Hall is the Commissioner of the MDOC, and is that department's chief executive officer.

The Solicitor General of the United States may also be a party, since 28 USC 2403(A) may be applicable in this case.

TABLE OF CONTENTS

	PAGE
RENEWED CERTIFICATIONS.....	i
QUESTIONS PRESENTED.....	ii
RULE 29.4 CERTIFICATIONS.....	iii
LIST OF PARTIES.....	iv
TABLE OF CONTENTS.....	v - vi
INDEX OF APPENDICES.....	vii - x
TABLE OF AUTHORITIES.....	xi - xiii
EPIGRAPH:— STAFFISH THE LUDDITE.....	xiv
POUND-OF-FLESH RENEWED PETITION.....	1
OPINIONS BELOW.....	1
JURISDICTION.....	2

REASONS FOR NOT MAKING APPLICATION

TO THE DISTRICT COURT.....3

CONSTITUTIONAL AND STATUTORY

PROVISIONS INVOLVED.....5

STATEMENT OF THE CASE.....7

REASONS FOR GRANTING

THE PETITION: HABEAS CORPUS.....12

REASONS FOR GRANTING THE WAGE DISPUTE.....13

THE MISSISSIPPI JUBILEE:

VARIATIONS ON A RECURRING THEME.....20

CONCLUSION.....24

PROOF OF SERVICE.....25

APPENDICES

INDEX OF APPENDICES

Cover sheet — CHRISTMAS Greetings 2012

App. A-1 — October 3, 2017 ORDER BY THE SUPREME COURT of MISSISSIPPI denying "Petition for Rehearing."

App. A-2 — September 18, 2017 ORDER BY THE SUPREME COURT of MISSISSIPPI denying "Memorandum in Support of the Realized Expiration of Petitioner's Commuted Life Sentence."

App. A-3 — August 30, 2017 ORDER BY THE SUPREME COURT of MISSISSIPPI denying "Petition For Writ of Habeas Corpus."

App. B-4 — May 7, 1976 "Jury Verdict AND SENTENCING of the Defendant BY THE COURT" committing John Peyton Alexander, II to a life-sentence.

App. C-5 — EXECUTIVE ORDER No. 217 by Mississippi Governor Cliff Finch granting "Commutation and reduction of sentence" to prisoners who worked AT THE GOVERNORS' MANSION.

App. C-6 — INMATE TIME SHEET for John P. Alexander
PIN 30021 recording a total of 60-days reduction
of sentence pursuant to Executive Order No. 219
for work assignments of 04/03/1979 and 12/20/1979.

App. D-7 — "Certificate of Rehabilitation": proposed format.

App. E-8 — Executive Order No. 280 — Mississippi Governor
Cliff Finch, granting "Commutation and reduction
of sentence" to (other) prisoners who performed
emergency disaster relief duties after a 1979 flood.

App. E-9 — Executive Order No. 747 — Mississippi Governor
Kirk Fordice, granting Executive good-time to (other)
prisoners for emergency relief services after a 1994 ice-storm.

App. F-10 — Article I § 9 clause 2, UNITED STATES CONSTITUTION,
guaranteeing the privilege of Habeas Corpus.

App. F-10.3 — Article I § 10 clause 1, UNITED STATES CONSTITUTION,
prohibiting ex post facto

App. F-10.5 — Amendment XIV § 1, UNITED STATES CONSTITUTION,
guaranteeing due-process/Equal protection.

App. F-10.7 thru 10.8 — 28 USC § 2244

App. F-11 — Art. 5 § 124, Mississippi CONSTITUTION

App. F-11.5 — Art. 10 § 225, Mississippi CONSTITUTION

App. F-11.7 thru 11.8 — Miss. Code ANN. § 47-5-139 (Supp. 1975).

App. F-11.90 thru 11.95 — Miss. Code ANN. § 47-5-139 (As amended)

App. F-11.99 — Miss. Code ANN. § 99-39-5(2)(b)

App. F-12 thru 12.5 — ORDER, dated 04/29/2010, U.S.
FIFTH Circuit Court of APPEALS, Cause No. 10-60216,
Denying a successive-writ in John P.'s parole revocation case.

App. F-12.6 thru 12.7 — "Affidavit of Charles Bunnell,"
John P.'s parole officer: offering a cogent factual
predicate for a parole-revocation challenge.

App. G-13 thru 13.5 — Newspaper article, 12/13/2016, THE
CLARION LEDGER: "PAROLE RECOMMENDED FOR AGING PRISONERS"

App. H-14 thru 16 — EDUCATIONAL EXHIBITS

App I-17 thru 19 - Parchman Band EXHIBITS

App J-20 thru 22 - Vocational EXHIBITS

App K-23 - PSYCHIATRIC EVALUATION

App. K-23.3 thru 23.5 - MDOC Risk Assessment

App L-24 thru 27 - RESUME

App M-28 - Current JOB ASSIGNMENT

App N-29 - "The Mississippi Jubilee: A NEW BIRTH OF FREEDOM" SERMON-BRIEF

App. O-30 - STAFFISH Artwork

App P-31 - Newspaper Article - 08/28/18, The Clarion LEDGER. "JUDGE WANTS ANOTHER LOOK AT PRISON".

App. P-32 thru 33 - Newspaper Article - 08/30/18, The CLARION LEDGER "13TH inmate dies in MDOC Custody GOVERNOR SAYS multiple agencies investigating"

App. P-34 - POLITICAL Cartoons, 09/01/18, The Clarion LEDGER

TABLE OF AUTHORITIES

U S CONSTITUTIONAL PROVISIONS:

	<u>page</u>
Art. I § 9 Clause 2	3, 5
Art. I § 10 Clause 1	6, 11, 16, 18
AMENDMENT <u>XIV</u>	6, 10, 15, 16

MISSISSIPPI CONSTITUTIONAL PROVISIONS:

Art. 5 § 124	5, 10
Art. 10 § 225	5, 11

FEDERAL STATUTES:

28 USC § 1651	3, 23
28 USC § 2241	1, 3
28 USC § 2244	i-iii, 1, 3-5, 8, 9
28 USC § 2254	1, 9
28 USC § 2403	iii, iv, 3, 25

FEDERAL CASES:

GATES V. COLLIER, 501 F 2d 1291 (5th Cir. 1974)	14
Hensley v. Municipal Court, 411 US 345 (1973)	12
Lynce v. Mathis, 519 US 433 (1997)	11
Miller v. Florida, 482 US 423 (1987)	11
Weaver v. Graham, 450 US 24 (1981)	11

SUPREME COURT RULES:

page

Rule 14.1(e)(v).....	iii, 3
Rule 20.1.....	24
Rule 20.4(A).....	4
Rule 20.4(b).....	3
Rule 22.4.....	3
Rule 29.4(b).....	iii, 3, 25
Rule 30.1.....	3
Rule 44.2.....	2

MISSISSIPPI CODE ANNOTATED:

§§ 47-5-1, <u>et seq.</u> , (Supp. 1976).....	18
§ 47-5-139 (Supp. 1975).....	6, 11, 16
§ 47-5-139 (AS AMENDED).....	6, 11, 16
§ 99-39-5(2)(b).....	1, 4, 8

MISSISSIPPI CASES:

ADAMS V. GIBBS, 988 So. 2d 395 (Miss. Ct. App. 2008).....	5
Alexander v. State, 647 So. 2d 693 (Miss. 1994).....	1, 8
ALEXANDER V. STATE, 667 So. 2d 1 (Miss. 1995).....	1, 8
Grubb v. State, 584 So. 2d 786 (Miss. 1991).....	14

OTHER AUTHORITIES:

1 Chronicles 12:32 (NASB).....	20
Daniel 12:4 (KJV).....	18
de Mello, Anthony - parable.....	XIV
Leviticus 25:8-55 - Jubilee.....	20
Matthew 24:12 (KJV).....	18
Psalms 90:12 (ESV).....	1
Romans 11:22.....	24
1 Timothy 5:18 (ESV).....	7
White House Statement.....	13

Starfish the Luddite

In the evenings, an aged & eccentric U.S. military veteran would often go out to the beach at low-tide where hundreds of starfish had washed up on the shore. The old-soldier began the practice of throwing individual starfish back into the sea.

Upon seeing him, a wealthy techie approached the combat-veteran and asked him what he was doing.

"I'm rescuing these starfish," replied the ranger.

"Why, you cannot think your behavior could possibly make any difference," replied the magnate.
"There are hundreds of starfish!"

Undeterred, the warrior picked-up another starfish and threw it back into the ocean.

"Well," the old-soldier said, "it made a difference to that one!"

—adapted from Anthony de Mello

POUND OF FLESH PETITION FOR Writ of Habeas Corpus EN BANC

"So teach us to number our days that we may
get a heart of wisdom." — Psalm 90:12 (ESV)

The following is a petition for an extraordinary writ of habeas corpus addressed to the entire Supreme Court. 28 USC Sec. 2241(a). I am asserting that my life-sentence, as commuted by Mississippi Governor Cliff Finch—and further reduced by statutory time-off for good behavior—has expired.^{FN1} I am not challenging the legality of my conviction or sentence.

OPINIONS BELOW

The "Jury Verdict AND SENTENCING OF THE DEFENDANT BY THE COURT" is set forth in Appendix (hereafter App.) B-4.

FN1. Under state-law, post-conviction claims asserting that a prisoner's sentence has expired are excepted from the post-conviction statute-of-limitations. Miss. Code ANN. § 99-39-5(2)(b). See also Alexander v. State, 647 So. 2d 693 (Miss. 1994), and Alexander v. State, 667 So. 2d 1 (Miss. 1995). However, under federal-law, such claims are not exempt from the successive-writ bar of the AEDPA. See 28 USC § 2244(b), AND § 2254(e)(2)(B).

Mississippi Governor Cliff Finch's Executive Order No. 217, which commuted and reduced my life-sentence by 60 days, is set forth in App. C-5 and C-6.

The August 30, 2017 ORDER by the Supreme Court of Mississippi denying my petition for writ of habeas corpus is found in App. A-3.

The October 3, 2017 ORDER by the Supreme Court of Mississippi denying my Petition for Rehearing is set forth in App. A-1.

JURISDICTION

The date on which the Supreme Court of Mississippi decided my case was August 30, 2017. A copy of that decision appears at App. A-3.

A timely petition for rehearing was thereafter denied on October 3, 2017, and a copy of the denial order appears at App. A-1.

A timely application for an extraordinary writ of habeas corpus addressed to Justice Samuel Alito (Cause No. 17-7902) was denied on March 19, 2018. A timely application for rehearing was filed, reluctantly asserting "other substantial grounds not previously presented" (Rule 44.2), AND denied on June 4, 2018.

Justice Alito's denial of my petition is not "an adjudication on the merits, and therefore does not preclude further application" [Rule 20.4(b)] by Petitioner. Since the privilege of habeas corpus is protected within the U.S. Constitution [Art I § 9 clause 2 (App. F-10)]; and since my original application was heard by only one justice; and since the 1-year statutory filing deadline (Rule 30.1) for habeas corpus [28 USC § 2244(d)(1), (App. F-10.B)] has not yet made filing untimely (Rule 22.4); and because of the jurisdictional issue listed on pages 9 & 12: I would now respectfully ask to be allowed to apply for en banc habeas corpus relief on my expiration-of-sentence claim before the full Supreme Court of the U.S.; which has jurisdiction pursuant to Art I § 9 cl 2 of the U.S. Constitution, and 28 USC §§ 1651, 2241 and 2244(d)(1)(A). [Rule 22.4].

Pursuant to Rule 29.4(b), I have notified Chief Justice John Roberts and the Solicitor General of the U.S. that the constitutionality of 28 USC § 2244(b) is being drawn into question, and, therefore, 28 USC § 2403(a) may apply. See Rule 14.1(e)(v). [See also page iii of this instant petition.]

REASONS FOR NOT MAKING APPLICATION TO THE DISTRICT COURT

During the process of preparing the pleadings in the instant case, a jurisdictional-issue has arisen which is of importance beyond the particular facts and parties involved. The

Mississippi Legislature recognizes as exceptions to their post-conviction statute-of-limitations "cases in which the petitioner claims that his sentence has expired or his ... parole ... has been unlawfully revoked." Miss. Code Ann. § 99-39-5(2)(b) [App. F-11.99]. However, in the drafting of 28 USC § 2244, [App F-10.7 thru 10.8], the U.S. Congress omitted a provision to include these grounds as exceptions for prisoners in state-custody seeking federal successive-writ habeas corpus relief; and the U.S. Fifth Circuit Court of Appeals would not allow me to proceed in district court in my meritorious habeas corpus parole-revocation challenge. [App. F-12 thru 12.7].

I currently have a cogent expiration-of-sentence claim. The Supreme Court of Mississippi has denied rehearing of my petition for writ of habeas corpus. [App. A-1]. The question is, "Where do I go now for federal habeas corpus relief?"

Where can I go but to the full Supreme Court of the U.S.?

The above-described exceptional circumstances make adequate relief unavailable to me now in any other form or from any other court, and warrant the maximum exercise of the full discretionary-powers of this Honorable Court! [Rule 20.4(A)]. See Also pages 9 & 12.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The instant case challenges the constitutionality of 28 USC § 2244 [App. F-10.7 thru 10.8] on the grounds that it suspends the Privilege of the Federal Writ of Habeas Corpus (Art. I § 9 clause 2) [App. F-10] for a prisoner in state-custody who claims that his sentence has expired. (*Res ipsa loquitur!*)

In Mississippi, there are two ways for a prisoner to earn time-off his sentence for good-behavior: 1.) The Governor can invoke Art. 5 § 124 [App. F-11] of the state Constitution and grant Executive Earned Time Commutation; 2.) The Mississippi Legislature is empowered by Art. 10 § 225 [App. F-11.5] to provide additionally for the statutory Commutation of Sentences, usually through some kind of Administrative classification or records office action. ^{FN2}

I have a life-sentence on-which I have been awarded both

FN2. Before computers became inexpensive, the MDOC Records Office granted a prisoner the reductions up-front of one-half of his sentence (30-days per month) upon entry into the system. Adams v. Gibbs, 988 So. 2d 395 (Miss. Ct App. 2008).

executive and statutory reductions; which presents an Amendment XIV due-process/equal protection [App. F-10.5], Along with an Article 1 §10 clause 1 ex post facto [App. F-10.3] question: how is this earned-time to be deducted from the maximum-terms of prisoners who have life-sentences? ^{FN3}

My life-sentence was reduced 60-days in 1979 by Governor Cliff Finch after two work-details at The Governor's MANSION. [App. C-5 and C-6]. Furthermore, at the time of my October 4, 1975 Arrest and May 7, 1976 entry into the system, Miss. Code Ann. § 47-5-139 (Supp. 1975) [App. F-11.7 thru 11.8] granted statutory earned-time to deserving lifers.

At some point-in-time, §47-5-139 WAS amended [App. F-11.90] specifically to prohibit lifers from earning good-time. Herein lies the source of my ex post facto claim. (The thing speaks for itself!)

FN3. "Commutation of time for good conduct [is] to be deducted from a maximum term and/or parole eligibility time." Miss. Code Ann. § 47-5-139 (Supp. 1975). [App. F-11.7 thru 11.8].

STATEMENT OF THE CASE

"For the Scripture says, 'You shall not muzzle an ox when it treads out the grain,'
And, 'The laborer deserves his wages.'"

— 1 Timothy 5:18 (ESV)

On 10/04/1975, I committed my crime; and my 10-year parole-eligibility date was computed at 10/01/1985. However, in 1975, THE MISSISSIPPI STATE PENITENTIARY AT PARCHMAN routinely awarded lifers time off of our sentences for working at our jobs. Therefore, on 08/27/1984, I was able to gain my release on-parole after approximately nine (9) years in-prison. All of these dates are listed on my Inmate Time Sheet. [See App. C-6].

I have worked during the entire time of my imprisonment. [See App. L-24 thru 27 and M-28]. However, now the State of Mississippi does not want to pay me (through time-off of my sentence for good behavior) for the work which I already have performed!

When the Mississippi Legislature composed the Uniform Post-Conviction Collateral Relief Act in the 1980s, it included

expiration-of-sentence claims and unlawful parole-revocation claims as exceptions to the 3-year time-bar. Miss. Code Ann. § 99-39-5(2)(b) [App. F-11.99]. However, in the 1990s, when Congress drafted the AEDPA, it omitted these grounds as exemptions to the successive-writ bar on habeas corpus. 28 USC § 2244(b) [App. F-10.7 thru 10.8]

My parole was revoked for a 9/23/1986 misdemeanor charge which was later dismissed on appeal. My daddy, who was the accusing witness, recanted before he died. The Supreme Court of Mississippi originally ruled that my parole was unlawfully revoked. Alexander v. State, 647 So. 2d 693 (Miss. 1994). However, after 1994, the zeitgeist had changed, so the Mississippi Supreme Court withdrew its original unanimous opinion on rehearing. Alexander v. State, 667 So. 2d 1 (Miss. 1995).

In 2008, my parole officer came forward and told what really had happened. See "Affidavit of Charles Bunnell" [App. F-12.6 thru 12.7]. When I applied to the U.S. Court of Appeals for the Fifth Circuit in 2010 for leave under § 2244 to file a successive writ of habeas corpus, the Fifth Circuit Court of Appeals warned me about filing petitions which do not comply

With the language of § 2244(b): even threatening me with sanctions — despite the affidavit from my parole officers. [App. F-12 thru 12.5]

I currently have a meritorious expiration-of-sentence claim. The Supreme Court of Mississippi has denied rehearing of my petition for writ of habeas corpus. [App. A-1]. I cannot go back to the U.S. Court of Appeals because the language of § 2244(b) requires me to show that "the facts underlying the claim... would be sufficient to establish by clear and convincing evidence that, but for the constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense." § 2244(b)(2)(B)(ii). [See App. F-10.7 thru 10.8]. See Also 28 USC § 2254(e)(2)(B).

How can I be expected to show that no reasonable factfinder would have found me guilty, when I am asserting that my sentence has expired? Even if I were to get the case transferred to district court, again, the language of § 2244(b)(4) does not allow the district court to grant relief.

The first of my "Questions Presented" deals with the above-described jurisdictional issue which is of importance beyond the particular facts and parties involved! The other two "Questions Presented" concern the wage-

dispute which is described as follows.

From 1978 to 1994, the MDOC Classification Committee had me assigned to the Parchman Prison Band (See App. I-17 thru 19), which was a musical-group that performed at various venues in and out of the general-public all over the State of Mississippi.^{FN4} IN 1979, after the Parchman Band performed at The Governor's Mansion, Gov. Cliff Finch exercised Art. 5 § 124 of the Mississippi Constitution (App. F-11) and commuted my life-sentence by and through Executive Order No. 217 (App. C-5 AND C-6). This 60-days of Executive Clemency changed "the quantum of [my] punishment." I now no longer have a life-sentence!

The due-process component of "notice" requires the government to tell me what my new-sentence is. (I would like to have a definite term-of-years.)

FN4. As such, MDOC officials consider me to be an honor-trusty prisoner whose presence in society is completely compatible with the public-safety!

The ex post facto clause requires my continued eligibility for 30-days per-month time-off for good-behavior pursuant to Miss. Code Ann § 47-5-139 (Supp. 1975) [App. F-11.7]; which has subsequently been amended (App. F-11.90). Weaver v. Graham, 450 U.S. 24, 101 S Ct 960, 67 L Ed 2d 17 (1981); Miller v. Florida, 482 U.S. 423, 107 S. Ct. 2446, 96 L. Ed 2d 351 (1987); and Lynce v. Mathis, 519 U.S. 433, 117 S. Ct 891, 137 L. Ed 2d 63 (1997).

I Am Asserting that — with time-off for good-behavior as authorized under Art. 10 § 225 of the Mississippi Constitution (And now precluded by an ex post facto state statute (App. F-11.90)) — my actuarial life expectancy of 72.5 years ^{FNS} has (by far) been exceeded. My life-sentence as commuted by Governor Finch has thus expired!

FNS. For the last six years, the prostate specific antigen reading on my PSA blood-tests has ranged between 9.9 (2012) to the May 2017 level of over 18. Therefore 72.5 is still (in 2018) a realistic life-expectancy for me. I am currently 63.5 years-old.

REASONS FOR GRANTING THE PETITION: HABEAS CORPUS

In the face of a disbelieving world, I am humbly asking, in this instant case, that this Honorable Court reaffirm the sanctity of the privilege of the writ of habeas corpus. To quote Mr. Justice Brennan in Hensley v. Municipal Court, 411 US 345; 93 S Ct 1571; 36 L. Ed 2d 294 (1973):

While the rhetoric celebrating habeas corpus has changed little over the centuries, it is nevertheless true that the functions of the writ have undergone dramatic change. [However], habeas corpus is not a static, narrow, formalistic remedy, but one which must retain the ability to cut through barriers of form and procedural mazes. The very nature of the writ demands that it be administered with the initiative and flexibility essential to insure that miscarriages within its reach are surfaced and corrected.

— 411 US at 349-350
(citations omitted)

The AEDPA denies the federal writ of habeas corpus to state-prisoners who are making expiration-of-sentence and unlawful parole-revocation claims. We pray to the Court to hear our cry for help!

REASONS FOR GRANTING THE WAGE DISPUTE
(IMPORTANCE TO THE PUBLIC OF THE ISSUE)

"While this administration will always be very tough on crime, it believes that those who have paid their debt to society and worked hard to better themselves while in prison deserve a second chance."

— WHITE House Statement — June 7, 2018

In the year of our Lord 1975, when I went to jail on this life-sentence, there were no such things as personal computers and cell-phones. There was no internet "information super-highway" either. The latest electronic device in 1975 (if I remember correctly) was a small radio-receiver known as a "pager" which emitted an audible "beep" in order to alert its user to proceed to the nearest phone-booth and telephone the radio-dispatcher at the beeper-headquarters in order to receive an important message. In the last 43 years, there has been an uncontrolled & unregulated explosion of electronic gadgets used by people to manage their increasingly complicated lives: A metaphorical revolution has occurred; And, due to my status as a prisoner-in-custody, I have missed it! The technological revolution has passed me by, And (in my humble opinion) my life is far richer as a result!

Another metaphorical explosion has occurred in the last 43 years: that being in the prison-populations throughout our country. During the time-period when I first went to jail, The Mississippi State Penitentiary at Parchman (App I-19) held only about 1,800 prisoners-in-custody (including the women prisoners). See Gates v. Collier, 501 F.2d 1291 (5th Cir. 1974).^{FN6} There was no such entity as The Mississippi Department of Corrections.^{FN7} Furthermore, a person with a life-sentence "would be eligible for parole in ten years and would serve no more than fifteen years." Grubb v State, 584 So. 2d 786, 788 (Miss. 1991). At that time, there were not any lifers (of whom I am aware) who had served over 20 years. Currently, I know of scores of Mississippi prisoners-in-custody

FN6. When inmate Nazareth Gates filed his landmark prisoners' rights lawsuit, no educational, 12-step or vocational programs were available to Mississippi prisoners. However, there was no such sentence as life-without-parole; and the parole board released most lifers after 10 years in-prison.

FN7. Currently, the MDOC houses well-over 20,000 prisoners.

(who have good institutional records, such as I have - See App. H-14 thru M-28) who have now served upwards of 40 years on their life-sentences.

While a life-sentence is an indeterminate sentence, it is not an infinite sentence. If this Court could predict the exact date of my death, then the computation of Governor Finch's "commutation and reduction" of my sentence (See App. C-5 thru 6) would not be difficult. The question in my case (and in the cases of the untold numbers of lifers who have earned Executive good-time commutations over the decades) did not manifest itself until the day of our expected deaths began to get closer & closer. At some particular point-in-time, my life will end. The duration of my lifespan can then be measured in a definite term-of-years. ^{FNB}

FNB. Given the 60-days governor's commutation (See App. C-5 thru 6), the due-process component of "notice" requires the government to tell me what my new-sentence is. (I am humbly asking this Honorable Court to give me a definite term-of-years.)

At the time of my October 4, 1975 and May 7, 1976 Arrest and Commitment to prison (App. C-6), The Mississippi State Penitentiary routinely awarded time-off for good behavior (earned-time or good-time) to deserving lifers pursuant to Miss. Code Ann. §47-5-139 (Supp. 1975).^{FN9} This same state statute states that "Commutation of time for good conduct [is] to be deducted from a maximum term and/or parole eligibility time." [App. F-11.7 thru 11.8]. This statute has since been amended specifically to prohibit lifers from receiving earned-time. (App. F-11.90) Herein lies the source of my due process/equal-protection and ex post facto claims.

Another relevant question is: Are these statutory good-time deductions any-different than executive good-time deductions, as they relate to the maximum-terms of life-

FN9. These earned-time credits were deducted from my 10-year parole eligibility date, which allowed me to be released on August 27, 1984 (App. C-6) After serving nine-years in-custody.

Sentences? While the word "Commutation" is commonly associated with executive clemency, ~~the~~ legislature is indeed a co-equal branch of government.

In 1979, in response to two work-details (musical performances) at The Governor's Mansion, Governor Cliff Finch granted me 60-days Executive Clemency. Also in 1979, the Pearl River flooded the cities surrounding Jackson, MS and again Gov Finch awarded Executive Clemency (App. E-8) to scores of lifers for their work in sandbagging during this flood. In 1994, an ice-storm hit North Mississippi and Governor Kirk Fordice granted Executive Clemency (App. E-9) to scores of lifers for their work in debris-removal.

The fact is that up until 1994 (which is about the same time-period as the Branch Davidian incident in Waco, TX) state-prisoners with life-sentences (notably in the South) were routinely used as first-responders^{FN10} during natural weather-disasters, and were routinely given

FN10. The river-flood & the ice-storm are just two examples.

executive commutations of their sentences. However, in the Autumn of 1994, as a knee-jerk reaction to some fake news, Gov. Fordice called a special session of the Mississippi legislature which erased many of the sweeping 1976 reforms which had created the MDOC. Sections 47-5-1, et seq. Miss. Code Ann (Supp. 1976). It was around the time of the 1995 Oklahoma City bombing ^{FN11} that the brunt of this vindictive-legislation (and more that was to follow) ^{FN12} began to be felt in earnest by us prisoners. The MDOC, which had been created in order to benefit the inmates, became a mechanism to afflict us! Former MDOC Commissioner Christopher B. Epps understood very-well the signs-of-the-times, and

^{FN11}. Along with the increasing knowledge brought-on by the technological revolution: people are traveling "to and fro" (Daniel 12:4-KJV); there is an increase in lawlessness, and the love of many is waxing cold. (Matthew 24:12).

^{FN12}. The U.S. Constitution contains not one, but two, ex post facto clauses prohibiting both Congress and the state legislatures from enacting vindictive legislation.

he exploited our misery in order to operate the most widespread governmental corruption ring in Mississippi history.^{FN13}

(Currently, every latest mass-shooting brings more & more restrictions to tens-of-thousands of prisoners like me; and it causes our punishment to be exponentially more severe!)

Fast-forward 23 years, and we now have an enormous national prison demographic^{FN14} of aging lifers (See App. G-B thru 35) who have served close-to 40 years behind bars. Many of these aged Mississippi lifers are my friends whom I know have earned Executive good time. I would now respectfully ask this Honorable Court: How are these executive & legislative commutations to be deducted from the maximum-terms of life-sentences?^{FN15}

FN13. Epps received a federal prison sentence of 19 years and 7 months.

FN14. There are thousands of lifers such as I, who are not terrorists or enemies-of-the-state. We are ordinary people who made extraordinary mistakes: And we are begging for mercy!!!

FN15. This is the proverbial pound-of-flesh!

THE MISSISSIPPI JUBILEE: VARIATIONS ON A RECURRING THEME

"men who understood the times,

with knowledge of what (the nation) should do."

— 1 Chronicles 12:32 (NASB)

In the year of our Lord 2016, The Commonwealth of Virginia restored the civil-rights of every ex-felon in that

state who had completed the terms of his or her sentence.

In issuing his directive, the Virginia Governor said publicly

that, by taking this action, his state — in a very real way — is making peace with the past!

For the last 28 years, I similarly have been preaching The Mississippi Jubilee (see App. N-29) which is based on the tenets of the Mosaic law found in the biblical book of Leviticus 25:8-55. During a Jubilee Year, all of the Hebrews in-bondage would be freed, and all of the monetary debts would be forgiven. The results of this manna-mission^{File} were to restore the social-order and revitalize

File. I predict that a contemporary Jubilee Year will halt all of the mass-shootings.

like the economy.

A Jubilee Year is sound biblical wisdom. It worked for the ancient Israelites, and it will work in twenty-first century Virginia. I am trying to make one happen in Mississippi. ^{FN17} A favorable ruling on the merits of this petition will be an important rebuff of a longstanding historical practice by Mississippi governors, Solons, judges & other government officials of exhibiting an enlightened-approach ^{FN18} to the subject of crime & punishment. To this end, I am earnestly requesting the help of the Justices of this Honorable Court.

FN17. In his "I HAVE A DREAM" speech, Martin Luther King, Jr. said that one-day THE STATE of Mississippi will be come "An oasis of freedom and justice."

FN18. The Parchman Prison Band Program (See App. I-17 thru 19) - of which I was a 14 year member - is a shining example of being one of the most creative & innovative prison vocational & community-service programs anywhere in the world!

Anthony de Mello said that if one wants to be creative, he or she must first learn how to waste time. Prisoners are some of the most creative & resourceful human-beings on the planet! Reading is a popular pastime in prison, and many prisoners have highly-developed language-skills. All throughout the MDoc, almost every convict has been through an alcohol & drug treatment-program, and is able-to recite the 12-steps by rote. Many prisoners have also spent decades reading Scripture, and can quote a plethora of verses by heart. Prisoners, as a group, have an incredible & awesome work-ethic. Whether the labor is maintenance-work on an electrical line-truck out-on the prison-farm in the weather elements, or playing music in the freeworld on a flat-bed trailer for four non-stop hours, (or hauling debris & sand-bags during natural weather-disasters) prisoners can and do "fill the unforgiving minute with sixty seconds' worth of distance run."

Prisoners also are very appreciative! An animal lover will relate that some of the best pets are those which are rescued from the kennel. Prisoners know the depths of human-need; and we are grateful to God

And to others for even the smallest of blessings!

I CAN remember print & broadcast news-reports of more than one jurist telling a convicted-criminal as he was sentenced from the bench that if he would only use his talents for constructive, legitimate ends, his future would be bright & productive.

If a group of prisoners — with the aged lifers chosen to go first — were to be released, with all of our rights restored (See App. D-7),^{FN19} the metaphorical playing-field would become even; and we could be competition in the free-market private-sector for the rich-kids.

I Am humbly & respectfully Asking the Justices of this Honorable Court to give us this chance!

In the Name of the Father & of the Son & of the Holy Spirit:
Amen!

FN19. A Certificate of Rehabilitation (COR) is a writ authorized by 28 USC §1651. A request for a COR was included in the lower-court proceedings.

Conclusion

As-with my own personal story, the State of Mississippi has a conflicted past. However, we each have been on the right-paths for decades! Mississippi Governors have a rich history & tradition of being very generous in the granting of clemency to criminals. ^{FN20} (It all ties-in with being created in the image of a God who is both kind & severe. [Romans 11:22]). A favorable ruling by this Honorable Court in this case will result-in hundreds of aged Mississippi felons (both in & out of prison) ^{FN21} being discharged from our life-sentences. Therefore, the granting of the writ will be in aid of the Court's appellate jurisdiction [Rule 20.1]; and the renewed petition for the extraordinary writ of habeas corpus should be granted!

SEPTEMBER 3, 2018 (Labor Day) RESPECTFULLY SUBMITTED,

John Peyton Alexander, II

FN20. many of these lifers are serving-time in prison for what amounted-to a once-in-a-lifetime indiscretion.

FN21. The potential number of deserving lifers could well-be in the thousands!