

No. 18-7885

\_\_\_\_\_  
IN THE  
SUPREME COURT OF THE UNITED STATES  
\_\_\_\_\_

ORIGINAL

Supreme Court, U.S.  
FILED

DEC 24 2018

OFFICE OF THE CLERK

Christopher VanGuilder — PETITIONER  
(Your Name)

VS.

Daniel Martuscello, Superintendent — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Christopher VanGuilder  
(Your Name)

Washington Correctional Facility  
(Address) 72 Lock 11 Lane, P.O. Box 180.

Comstock, New York, 12821-0180.  
(City, State, Zip Code)

N/A  
(Phone Number)

## **QUESTION(S) PRESENTED**

### QUESTION (1)

Whether United States District Second Circuit Court Of Appeals and or said Lower Court's Erred in Failing to grant Petitioner's Ineffective Assistance Of Counsel Claim/Argument regarding defense counsel(Stanclift)"UnLawful/UnConsentable Conflict Of Interest"and or Safeguard Petitioner's Sixth Amendment Right to A Lawyer UnEncumbered by an Actual Conflict or Serious Potential for Conflict Of Interest?

### QUESTION (2)

Whether United States District Second Circuit Court Of Appeals and or said Lower Court's Erred/Acted Contrary to established Sixth Amendment Guarantees Of The United States and State Of New York Constitutions and or Federal Standards due petitioner regarding trial court's Conflict Of Interest Inquiry Colloquy Claim/Argument?

### QUESTION (3)

Whether United States District Second Circuit Court Of Appeals and or said Lower Court's Acted Contrary to U.S.C.A.Const.Amend. 5,6,by Failing to grant Petitioner's Claim/Argument regarding defense counsel(Stanclift)Failure to raise petitioner's "ENTRAPMENT Defense"?

### QUESTION (4)

Whether United States District Second Circuit Court Of Appeals and or said Lower Court's Erred in Allowing Prejudicial testimony/ evidence to be considered by the Grand Jury?

QUESTION(S) PRESENTED Con't.

QUESTION (5)

Whether United States District Second Circuit Court Of Appeals  
and or said Lower Court's Erred/Acted Contrary to established  
Federal Case Law in failing to grant Petitioner's Claim/Argument  
regarding trial court's failure to provide meaningful Supplemental  
/Charge Instructions to the Grand Jury?

## 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:

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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 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 United States district 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.

☒ For cases from **state courts**:

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

☒ reported at 27 N.Y.3d 1008/24 N.Y.3d 1221; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the N.Y.S.(3rd Dep't)APPELLATE DIVISION court appears at Appendix E to the petition and is

☒ reported at 130 A.D.3d 1247; 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 October 24, 2018.

☐ 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: November 30, 2018, and a copy of the order denying rehearing appears at Appendix C.

☐ 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 4-12-16/2-5-15. A copy of that decision appears at Appendix D.

☐ 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).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

UNITED STATES AND STATE OF NEW YORK CONSTITUTION(S) 4th,5th,6th,  
14th AMENDMENTS

ARTICLE 2254(d)(1)-(2)

The essential aim of the Sixth Amendment is to guarantee an effective advocate for each criminal defendant rather than to ensure that a defendant will inexorably be represented by the lawyer whom he prefers, the right to counsel of ones choosing is "Circumscribed" in several respects, including: (1) A chosen attorney must be licensed to practice; (2) A defendant cannot insist on representation by an attorney he cannot afford or who for other reasons declines to represent the defendant; and (3) A defendant cannot insist on an attorney who has an ongoing relationship with an opposing party, including the government.

The governing body of Law under which the Actual or Potential Conflict of interest of an attorney representing a defendant in a federal criminal prosecution should be assessed is the Sixth Amendment and Federal Decisional Authority interpreting it, for it is this Amendment that guarantees the right to Conflict-Free Counsel. U.S. Const. Amend. 6.

The Sixth Amendment guarantees defendants the right to a lawyer UnEncumbered by an Actual Conflict or serious Potential for Conflict. U.S. Const. Amend. 6.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED Con't.

An Actual Conflict of interest, implicating the Sixth Amendment, occurs in circumstances where defense counsel's interests are such that it is reasonable to believe that she or he would be tempted to act in a manner inimical to the defendant's best interests.

U.S.Cons't Amend.6.

ARTICLE 2254(d)(1)-(2); Under the Antiterrorism and Effective death penalty act of 1996 (AEDPA), a federal court may grant Habeas Corpus Relief with respect to a claim adjudicated on the merits in state court only if, based upon the record before the state court, the state court's decision(1) "was contrary to, or involved an unreasonable application of, clearly established federal law, as determined by the SUPREME COURT OF THE UNITED STATES", or (2) "was based on an unreasonable determination of the facts in light of the evidence presented in the state court proceeding.

## STATEMENT OF THE CASE

I, Christopher VanGuilder, Petitioner in this matter has raised the question(s) in this petition before all lower court levels of the State Of New York Judicial System to No Avail.

Therefore,  
this petition now arises due to United States District Second Circuit Court Of Appeals Motion Order denying Motion For Reconsideration, Filed[2445643][42][18-2036][Entered:11-30-2018 10:54 A.M.] and or said Lower Court's Orders. Said ORDERS are Contrary to "ESTABLISHED UNITED STATES SUPREME COURT LAW(S)", and or The United States and State Of New York Constitutions Sixth Amendment.

The United States District Second Circuit Court Of Appeals and or said Lower Court's OWED Petitioner, whom is a born and raised American Citizen, with deep rooted family lineage, in an upstate New York Christian Community a duty. A DUTY to Protect and safe-guard his fundamental United States and State Of New York Constitution(s) Sixth Amendment Right and or Grant his Ineffective Assistance of counsel Claim/Argument pertaining to Defense Counsel (Stanclift) UnLawful Relationship, therefore, UnConsentable Conflict Of Interest with the Opposing Party.

ALL SAID COURT'S FAILED SAID DUTY!!! Accord: U.S.C.A. Const. Amend. 6.

The United States District Court Northern District Of New York Erred by relying upon the Perverted Decision Findings of the State Of New York Third Dep't "ALL" through-out its (May 23, 2018) Memorandum Decision and Order. SEE: (Appendix B, pgs. 11, 31-36).

STATEMENT OF THE CASE Con't.

Third Dep't (Post-trial) "Clearly Perverted"Memorandum and Order at(SCR 424,426)"as the People Concede,"LAWFULLY"Proves/Evidences that Trial Court "ERRONEOUSLY" Denied Petitioner's (Pre-Trial) Motion at (SCR 124-128)(A)(B));Precisely at (SCR 126;paragraph 8) in its Decision and Order at (SCR 142-143) COMPARE!!!  
Extremely Convincing evidence showing that Petitioner was in FACT "MALICIOUSLY" Prosecuted with a Defective On Its Face Indictment, that the Motion [Should Have Been] resolved in a different matter. SLACK v. McDaniel,529 U.S.473,484(2000),that Petitioner's Petitions [Should Have Been] GRANTED!!!

Further,  
SEE:(Appendix B;pg.11) [Which Should Have Been] Submitted in the alternative.

In Petitioner's instant Matter its Crystal Clear that "NONE" of the (6) Counts of said Indictment were ever Submitted in the Alternative.SEE:(SCR 142-143)and(SCR 424,426);COMPARE.

Therefore,  
Petitioner's Indictment is in Fact "Defective On Its FACE" as LAWFULLY explained by said Third Dep't at (SCR 424;See: As The People Concede).

Due to said United States District Northern District Of New York Court's Memorandum Decision and Order being BASED on said Third Dep't "PERVERTED" Decision/Findings MUST itself be deemed/found Likewise,that is "PERVERTED/INFECTED/POLLUTED and or CONTAMINATED" itself.

STATEMENT OF THE CASE Con't.

Moreover,

Said Northern District Court also Failed its DUTY to Safeguard and or Protect Petitioner's Fundamental Constitutional Rights Under The Color Of Law. Especially, Petitioner's Guaranteed Sixth Amendment of the United States and State Of New York Constitutions; THE RIGHT TO "EFFECTIVE ASSISTANCE OF COUNSEL, CONFLICT-FREE COUNSEL".

Unlike other Sixth Amendment Claims, When Defendant Alleges an UnConstitutional Actual Conflict Of Interest of counsel; PREJUDICE MUST BE PRESUMED AND HARMLESS ERROR ANALYSIS DOES NOT APPLY; U.S.C.A.

Petitioner Alleged an UnConstitutional Actual Conflict Of Interest SEE: (Appendix J; pg.11) Petitioner Spelled-out the troubling assessment of defense counsel (Stanclift) Unlawful/ UnConsentable therefore UnConstitutional Actual Conflict Of Interest to said Northern District Court in the last two paragraphs by citing/stating; SUPREME COURT HAS ALWAYS HELD THAT A DEFENDANT MAY NOT INSIST ON COUNSEL OF AN ATTORNEY WHO HAS A RELATIONSHIP WITH THE OPPOSING PARTY, EVEN WHEN THE OPPOSING PARTY IS THE GOVERNMENT. WHEAT, at 159, THAT DEFENSE COUNSELS RELATIONSHIP WITH THE C.I. AS STAR WITNESS IN HIS PERSONAL INJURY CASE FALLS WITHIN THAT DEFINITION.

Therefore,

Said Statement standing alone makes a "Substantial" showing that Petitioner's Fundamental United States Sixth Amendment Constitutional Right to Effective Assistance Of Counsel was DENIED, that it was VIOLATED, that "PREJUDICE MUST BE PRESUMED AND HARMLESS ERROR DOES NOT APPLY", U.S.C.A.

STATEMENT OF CASE Con't.

The United States District Second Circuit Court Of Appeals was Substantially made aware and clearly informed by Petitioner about the United States Northern District Of New York Court's (May 23, 2018) Infected Memorandum Decision and Order,also,that Petitioner appears Pro Se and,because he acts without the benefit of counsel this court MUST construe his pleadings LIBERALLY and is CONSTRAINED to conduct our examination with 'SPECIAL SOLICITUDE', INTERPRETING the COMPLAINT TO RAISE THE STRONGEST [Claim].that [It] SUGGEST[S].Triestman v. Federal Bureau Of Prisons,470 F.3d 471.But,rather still chose said Lower Court's SAME Infected/ Polluted/Contaminated path by rendering an alike/similiar Order of its own.

The STATE COURT RECORD at (SCR 142-143;Pre-Trial)and at(SCR 424-426;Post-Trial)COMPARE.Thus,Clearly/Precisely Evidences/Proves and SHOWS ALL involved Officials with this Appeal/Petition that Petitioner was in FACT Tried and Convicted before a Grand Jury with a DEFECTIVE ON ITS FACE INDICTMENT.

THUS,  
Meaning ALL OFFICIALS involved with this Appeal/Petition are ENTIRELY AWARE Petitioner was UNLAWFULLY CONVICTED,UNLAWFULLY SENTENCED,AND THEREFORE IS UNLAWFULLY INCARCERATED!!!!!!!!!!!!!!!!!!!!

The STATE COURT RECORD at (SCR 89-91) Compare to ESTABLISHED SUPREME COURT OF THE UNITED STATES LAW(S):LUIS v. U.S.;136 S.Ct. 1083;WestHeadnote[4] A defendant has NO RIGHT to an ATTORNEY who is not a member of the bar,or WHO HAS A CONFLICT OF INTEREST DUE TO A RELATIONSHIP WITH AN OPPOSING PARTY!!!SEE:(SCR 89-91)COMPARE

STATEMENT OF CASE Con't.

Thus,

clearly and or precisely Evidences/Proves and Shows ALL involved Officials with this appeal/petition that Defense Counsel (Stanclift) representation of Petitioner is UNLAWFUL/PROHIBITED/INEFFECTIVE REPRESENTATION;that Petitioner was Denied His Sixth AMENDMENT RIGHT TO CONFLICT-FREE REPRESENTATION;that PETITIONER IS UNLAWFULLY INCARCERATED!!

As a result,

Petitioner finds it very Disturbing/Troublesome that ALL said Lower Court's in this Appeal/Petition Matter NEGLECTED/FAILED to Adhere to cited Established UNITED STATES SUPREME COURT LAW(S). When Lower Court's Conduct themselves in this manner it sends/gives a (WRONG) Message that Established UNITED STATES SUPREME COURT LAW(S) are LESS than a "SUBSTANTIAL" Showing and or Lower Court's rules/findings/decisions/orders are above and beyond said Established UNITED STATES SUPREME COURT'S.(SUPREME COURT RULE 10 (C)).

ALL-said Lower Court's Memorandums Decisions and Orders are Supremely/Extremely "CONTRARY" to,or involved an UNREASONABLE Application of,Clearly Established Federal Law,as Determined By The SUPREME COURT OF THE UNITED STATES,AND THIS FEDERAL COURT MAY GRANT PETITIONER'S HABEAS RELIEF.Art.2254(d)(1)-(2);Accord: Cullen v. Pinholster;563 U.S.170,180-81(2011).SEE:(SCR 425) also, (Appendix B;pgs.31-36);ALL ARE CONTRARY TO:ESTABLISHED SUPREME COURT OF THE UNITED STATES LAW(S):LUIS v. U.S.;136 S.Ct.1083; WestHeadnote[4] A DEFENDANT HAS NO RIGHT TO AN ATTORNEY who is not a member of the bar,or WHO HAS A CONFLICT OF INTEREST DUE TO



STATEMENT OF CASE Con't.

A RELATIONSHIP WITH AN OPPOSING PARTY!!! SEE(SCR 89-91) NOTE:

Defense Counsel (Stanclift) Conflict Of Interest Due To A  
Relationship With The Opposing Party Established On Record!!!

Petitioner was arrested July 19,2013,on drug charges and was appointed Saratoga county public defender Oscar Schreiber to represent him while incarcerated at the Saratoga County C.F. on said charges.Mr.Schreiber Submitted several Pre-trial Motions on behalf of petitioner and attempted several times to get the original plea bargain offer (4)year Determinate Sentence reduced, all to No avail.Petitioner was in constant corrispondence with his elderly parents while incarcerated and shared said information with them.Petitioner's parents hearing Month after Month that said Public defender was making no progress/ground in said matter ended up retaining a Private Attorney(Stanclift)for his criminal proceedings.Mr.Stanclift went to the Saratoga County C.F. where petitioner was incarcerated and had petitioner sign a Consent To Change Attorney Form on December 9,2013,at(SCR 145)and verbally give a personal version of the alleged crimes.

Here in this instant appeal/petition matter;Petitioner's Trial Attorney (Stanclift) was "INEFFECTIVE"for the Following reason(s)

(1) He refrained/Failed to raise petitioner's Available

"ENTRAPMENT DEFENSE"(2) He represented petitioner on an

OverBloated/DEFECTIVE ON ITS FACE INDICTMENT,and (3) He HAD NO

"LEGAL RIGHT" TO REPRESENT PETITIONER DUE TO HIS "UNLAWFUL

ONGOING RELATIONSHIP" AND OR "UNCONSENTABLE ACTUAL CONFLICT OF

INTEREST" WITH THE OPPOSING PARTY,THE PROSECUTIONS (KEY)

CONFIDENTIAL INFORMANT WITNESS.

STATEMENT OF CASE Con't.

Under the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), A Federal Court May Grant Habeas Corpus Relief with respect to a claim adjudicated on the merits in state court only if, based upon the record before the state court, the state court's decision (1) "was Contrary to, or involved an unreasonable application of, Clearly Established Federal Law, as determined by THE SUPREME COURT OF THE UNITED STATES", or (2) "was based on an unreasonable determination of the FACTS in light of the evidence presented in the state court proceeding". Art. 2254(d)(1)-(2); Accord: Cullen v. Pinholster, 563 U.S. 170, 180-81 (2011).

Trial Attorney (Stanclift) Performance during trial proceedings was just that, a performance, a MOCKERY OF JUSTICE. Mr. Stanclift's greed (At LEAST) for Money is what motivated him, explained by prosecutor (Ashdown) at (SCR 91, line 8). Mr. Stanclift wanted the LAWFUL Money he was entitled to from the prosecutions (Primary Confidential Informant Witnesses live-in girlfriends personal injury case he's handling, as well as the UNLAWFUL Money he Frauded petitioner's elderly parents out of. See: (Appendix K; Canon 6 and 37). So Not to jeopardize losing either source of said Money, he DENIED that a Conflict Of Interest even Existed at (Appendix G; SCR 90, lines 11-12).

Mr. Stanclift refrained from ever informing petitioner's parents and or Trier Of Facts (Grand Jury) that he has an OnGoing Relationship/Conflict Of Interest with the Opposing Party, the Prosecutions (KEY) Confidential Informant Witness (Seymour).

STATEMENT OF CASE Cont.

Further, Mr. Stanclift refrained from raising petitioner's Entrapment Defense, and from rigorously cross-examining witnesses regarding said Entrapment. See (SCR 3, 6-7). Mr. Stanclift's greed caused him to conceal petitioner's Entrapment matter altogether, which he possessed in written form well before trial commenced and not once through-out trial proceedings did he ever mention Entrapment. See (SCR 3, 6-7). Mr. Stanclift's very own greed and or deceitfullness exploits his InEffectiveness Of Counsel. Also, Mr. Stanclift's competent meaningful representation and or professional judgment NEGLECTED/FAILED to have petitioner's OVER-BLOATED, DEFECTIVE ON ITS FACE INDICTMENT Dismissed and or REMOVE/DISQUALIFY HIMSELF FROM AN UNLAWFUL/UNCONSENTABLE ACTUAL CONFLICT OF INTEREST, the Representation/Relationship with petitioner and or his STAR witness for his personal injury case he's handling at (SCR 90, lines 6-10), the prosecutions(key) confidential informant witness. Thus, also exploits Mr. Stanclift's greed driven INEFFECTIVENESS OF COUNSEL as well.

Moreover, Mr. Stanclift's said greed, deceitfullness, fraud, and or ineffectiveness of counsel is exploited by the Sixth Amendment of THE UNITED STATES AND STATE OF NEW YORK CONSTITUTION(S), ESTABLISHED SUPREME COURT LAW(S) OF THE UNITED STATES, and FEDERAL and Ethical Standards. See (Appendix K; Cannons 6 and 37); and Federal and United States Supreme Court Established Case Law(s) Of: Holloway v. Arkansas, 98 S.Ct. 1173, WestHeadnote[3]; Wheat v. United States, 108 S.Ct. 1692, WestHeadnote[1]; United States v. Perry, 30 F.Supp.3d 514, WestHeadnote[12]; Luis v. U.S., 136 S.Ct.

STATEMENT OF CASE Con't.

1083,WestHeadnote[4]at(Appendix L).

THESE TESTIFY

Mr.Stanclift had NO LEGAL RIGHT to represent petitioner,even Forbids him of accepting a retainer for such representation,due to his unlawful ongoing relationship,actual conflict of interest with the opposing party,the prosecutions(key) confidential informant witness.See(Appendix G;SCR 89-91)NOTE: ATTORNEY STANCLIFT'S UNLAWFUL ONGOING RELATIONSHIP AND CONFLICT OF INTEREST WITH THE OPPOSING PARTY ESTABLISHED ON THE RECORD.

In United States v. Cortez,205 F.3d 768(August 30,2016); The FEDERAL STANDARDS are set forth to determine whether defense counsel labors under an Actual or Potential Conflict of interest, analysis properly begins with the Sixth Amendment.The essential aim of the sixth amendment is to guarantee an effective advocate for each criminal defendant rather than to ensure that a defendant will inexorably be represented by the lawyer whom he prefers,the right to counsel of ones choosing is CIRCUMSCRIBED in several respects,including:(1) A chosen attorney must be licensed to practice;(2) A defendant cannot insist on representation by an attorney he cannot afford or who for other reasons declines to represent the defendant;and(3) A defendant cannot insist on an attorney who has an ongoing relationship with an opposing party, including the government.

In United States v. Cortez,205 F.3d 768(August 30,2016);WestHead-note[1] The governing body of law under which the actual or potential conflict of interest of an attorney representing a

STATEMENT OF CASE Con't.

defendant in a federal criminal prosecution should be assessed is the sixth amendment and federal decisional authority interpreting it, for it is this amendment that guarantees the right to conflict-free counsel. U.S. Const. Amend. 6. WestHeadnote[10] The sixth amendment guarantees defendants the right to a lawyer unencumbered by an actual conflict or serious potential for conflict. U.S. Const. Amend. 6. WestHeadnote[11] An Actual Conflict of interest, implicating the sixth amendment, occurs in circumstances where defense counsel's interests are such that it is reasonable to believe that she or he would be tempted to act in a manner inimical to the defendant's best interests. U.S. Const. Amend. 6. WestHeadnote[12] An Actual conflict of interest, implicating the sixth amendment, is not always as apparent as when defense counsel formally represents two parties who have hostile interests; rather an actual conflict of interest may include situations where defense counsel harbors substantial personal interests which conflict with the clear objective of his representation of the defendant.

The following Federal Case Law(s) show defense counsel (Stanclift) representation of petitioner is -PROHIBITED-UNLAWFUL-including Established Supreme Court Of The United States Law(s); Wheat v. United States, 108 S.Ct. 1692; at WestHeadnote[1] Sixth Amendment right to choose one's own counsel is circumscribed in several important respects; advocate who is not member of bar may not represent clients other than himself in court, defendant may not insist on representation by an attorney he cannot afford or who

STATEMENT OF CASE Con't.

for other reasons declines to represent him,nor may defendant  
insist on counsel of attorney who has previous or ongoing  
relationship with opposing party,even when opposing party is  
government. U.S.C.A. Const. Amend.6.

In action brought by state prisoner seeking writ of habeas corpus writ would be granted on ground of ineffectiveness of counsel retained by prisoner's wife to represent him where record ESTABLISHED that Defense Counsel had Actual Conflict Of Interest between representation of defendant and two prosecution witnesses. Cowell v. Duckworth,(1981,ND IND)512 F. Supp.371.

Once defendant has shown that an "Actual Conflict Of Interest"  
Existed between himself and defense counsel,he need not prove  
prejudice in order to prevail on sixth amendment claim,it is  
enough that lapse of representation resulted from this Conflict.  
U.S.Const.Amend.6.,ARMIENTI v. U.S.,313 F.3d 807(2002).

ASSISTANCE OF COUNSEL IS AMONG THOSE CONSTITUTIONAL RIGHTS SO  
BASIC TO A FAIR TRIAL THAT THEIR INFRACTION CAN NEVER BE TREATED  
AS HARMLESS ERROR. Chapman v. California,368 U.S.18,87 S.Ct.824,  
827,17 L.Ed.2d 705.

See: LUIS v. U.S.,136 S.Ct.1083,March 30,2016;SUPREME COURT OF  
THE UNITED STATES:WestHeadnote[4] A DEFENDANT HAS NO RIGHT TO AN  
ATTORNEY WHO IS NOT A MEMBER OF THE BAR,OR WHO HAS A CONFLICT OF  
INTEREST DUE TO A RELATIONSHIP WITH AN OPPOSING PARTY!!!!!!!!!!!!!!

ALL said Lower Court's "ORDER(S)" here in petitioner's appeal/  
petition matter are "CONTRARY" to UNITED STATES SUPREME COURT  
LAW(S).

STATEMENT OF CASE Con't.

UNDERSTAND

"UNLAWFUL-PROHIBITED-REPRESENTATION"

IS

"INEFFECTIVE-PREJUDICIAL-REPRESENTATION"

UNDERSTAND

Petitioner has shown that an "Actual Conflict Of Interest" Existed between himself and defense counsel(Stanclift) on record,that (Stanclift) during trial proceedings NEGLECTED/FAILED and or refrained from disqualifying/removing himself from said "UnLawful Conflicted Representation";A Substantial showing of (Stanclift) Ineffectiveness Of Counsel at(SCR 89,line 9),(SCR 90, lines 6-12)and(SCR 91,lines 2-3).

UNDERSTAND

Petitioner has established a valid constitutional violation due to said trial attorney(Stanclift) said UnLawful and or Professional errors and made a substantial showing of the denial of his guaranteed fundamental United States Sixth Amendment Constitutional Right to:The Effective Assistance Of Counsel, Conflict-Free Counsel,that it was violated.Accord:U.S.C.A.Const. Amend.6.,and or established Supreme Court Of The United States. See:LUIS v. U.S.,136 S.Ct.1083;WestHeadnote[4]A defendant has no right to an attorney who is not a member of the bar,or who has a Conflict Of Interest Due To A Relationship with an opposing party!

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See:Obergefell v. Hodges,135 S.Ct.2584,WestHeadnote[20]:

Fundamental Rights May Not Be Submitted to a vote;they depend on the outcome of no elections.

In petitioner's instant matter its crystal clear/evident trial court failed to secure a knowing and voluntary waiver and or conduct an adequate/valid Conflict Of Interest inquiry by the obvious fact trial court allowed defense counsel(Stanclift) to continue representing petitioner through-out the entire trial proceedings,"KNOWING" defense counsel (Stanclift) has an ongoing "UnLawful/UnConsentable Actual Conflict Of Interest/Relationship with the opposing party,the government's(C.I.) witness at (SCR889 - SCR 91).See:LUIS v. U.S.,136 S.Ct.1083;WestHeadnote[4].COMPARE! Petitioner's trial court held "ONE" BIAS/PREJUDICIAL/INADEQUATE Conflict Of Interest Inquiry Colloquy regarding defense counsel (Stanclift) Conflict Of Interest Matter at (SCR 89-91),which took place in secluded chambers at (SCR 89,lines 22-23) and was "CONCEALED" from the Grand Jury through-out the ENTIRE trial proceedings.THUS,Meaning The Grand Jury Rendered Their Verdict "ABSENT" knowledge of said Ongoing Conflict Of Interest. BRADY v. MARYLAND,373 U.S.83.

Further,  
petitioner was not at any time informed/Advised that he was entitled to Conflict-Free representation if he so desired,Nor were the potential consequences and or dangers of continuing with said Conflicted representation explained.See(SCR 89-91).

Clearly said Conflict Of Interest Inquiry Colloquy was Inadequate and or INVALID!!



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Holloway v. Arkansas, 435 U.S. 475; WestHeadnote[3] This is supported by the court's reasoning in GLASSER: Upon the trial Judge rests the DUTY of seeing that the trial is conducted with solicitude for the essential rights of the accused. The trial court should protect the right of an accused to have the assistance of counsel "of equal importance with the DUTY OF THE COURT to see an accused to have the assistance of counsel is its DUTY \*to refrain from embarrassing that counsel undertake to concurrently represent interests which might diverge from those of his first client, when the possibility of that divergence is brought home to the court". 315 U.S., 71, 76 S.Ct., at 465, 467. See (SCR 89-91). COMPARE!!!!

CIAC v. United States, 59 F.3d 296: The trial court also was required to secure a knowing and intelligent waiver of PETITIONER'S SIXTH AMENDMENT RIGHT TO A NON-CONFLICTED LAWYER OR DISQUALIFY COUNSEL IF NO RATIONAL DEFENDANT WOULD KNOWINGLY AND INTELLIGENTLY DESIRE THE CONFLICTED LAWYER'S REPRESENTATION. LEVY 25 F.3d at 153. SEE(SCR 89-91); NOTE: Defense Counsel(Mr. Stanclift) ONGOING CONFLICT OF INTEREST WITH THE OPPOSING PARTY AND TRIAL COURT'S FAILURE OF DUTY TO SAFEGUARD/PROTECT PETITIONER'S UNITED STATES SIXTH AMENDMENT CONSTITUTIONAL RIGHT TO A NON-CONFLICTED LAWYER AND OR DISQUALIFY SAID DEFENSE COUNSEL(STANCLIFT) ON RECORD! See: Wheat v. United States; 108 S.Ct. 1692; Supreme Court Of The United States: WestHeadnote[1] Sixth Amendment right to choose one's own counsel is CIRCUMSCRIBED in several important respects; advocate who is not member of bar may not represent clients other

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then himself in court,defendant may not insist on representation  
by attorney he cannot afford or for other reasons declines to  
represent him,NOR MAY DEFENDANT INSIST ON COUNSEL OF ATTORNEY WHO  
HAS PREVIOUS OR ONGOING RELATIONSHIP WITH OPPOSING PARTY,EVEN  
WHEN OPPOSING PARTY IS GOVERNMENT! U.S.C.A.Const.Amend.6.!See(SCR  
89-91) "COMPARE"!!!

Here in petitioner's instant matter its crystal clear said Lower  
Court's FAILED their REQUIRED DUTY to SECURE A KNOWING AND  
INTELLIGENT WAIVER OF PETITIONER'S UNITED STATES SIXTH AMENDMENT--  
RIGHT TO A NON-CONFLICTED LAWYER AND OR DISQUALIFY SAID DEFENSE  
COUNSEL (STANCLIFT).

FAILURE TO CONDUCT AN ADEQUATE INQUIRY INTO DEFENSE COUNSEL  
(STANCLIFT) CONFLICT OF INTEREST WITH THE OPPOSING PARTY  
CONSTITUTES A VIOLATION OF PETITIONER (VANGUILDER) SIXTH  
AMENDMENT RIGHT TO COUNSEL THAT REQUIRES REVERSAL! U.S.C.A.Const.  
Amend.6.!!!

Here in petitioner's instant matter petitioner verbally informed  
both defense counsel's;1st,Saratoga county public defender (Oscar  
Schreiber) and 2nd,retained attorney (Stanclift) that he was  
Entrapped into committing the alleged charged offenses.PLUS,each  
were furnished with said Entrapment in written form.Defense  
Counsel (Stanclift) received written form when petitioner signed a  
consent to change attorney form enabling (Stanclift) to retrieve  
petitioner's file at (SCR 145) from said assigned Saratoga county

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public defender (Oscar Schreiber, esq.). See (SCR 77-81).

Defense Counsel (Stanclift) was therefore ENTIRELY AWARE

petitioner's defense was NOT GUILTY BY REASON OF ENTRAPMENT.

The Agency defense (Stanclift) raised is Fine and Dandy, because it explains "LAWFULLY" what transpired, petitioner CANNOT be held

criminally liable for. However, it by NO means gives (Stanclift) any right to refrain from the MAIN INGREDIENT, said "ENTRAPMENT"

that caused said offenses to occur! But, when conflicting interests

arise out of PERSONAL INTERESTS of counsel that are inconsistent,

diverse or otherwise discordant with those of his client and which

effect the exercise of his professional judgment on behalf of his

client at SCR 91, lines 7-8) NOTE: THE RECORD REFLECTS (STANCLIFT)

PERSONAL INTERESTS WHICH DEFINITELY AFFECTED HIS PROFESSIONAL

JUDGMENT ON BEHALF OF PETITIONER, CAUSING HIM TO REFRAIN FROM

RAISING PETITIONER'S "ENTRAPMENT DEFENSE".

Trials are designed so that ALL FACTS OF MATTER ARE PRESENTED and

not just those an UNLAWFUL/CORRUPT ATTORNEY (Stanclift) chooses to raise!!!

It's Elementary that EFFECTIVE COUNSEL must review the law

relevant to the defense. But, why did (Stanclift) fail to question

either Co-defendant (Sadie Willis) or gov't C.I. (Seymour) about

how drugs and or (Willis) a New York City drug dealer "Expressly

Arrived" and or was "PLANTED" at petitioner's residence or how C.I.

(Seymour) knew "PRECISELY" what "HOTEL" (Willis) was at "ABSENT"

her phone number, that is of course unless C.I. (Seymour) did not

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"PLANT"(Willis) at BOTH said Locations himself?

The reason is evident (Stanclift's PERSONAL INTERESTS), Mr.Stanclift allowed his personal interests to take preference because he could not discredit (Seymour's) the gov't C.I. testimony in petitioner's criminal proceeding,because he needed the C.I. testimony to be creditable in the CIVIL PERSONAL INJURY MATTER he's handling for the C.I. Live-in girlfriend at(SCR 90, lines 6-10;SCR 91,lines 7-8) NOTE:The Record Reflects (Stanclift) Unlawful Relationship with Gov't C.I. witness (Seymour),as witness to his civil matter he's handling and Pecuniary or Monetary Benefit.

In Glasser v. United States for [446 U.S.349] Indeed,the evidence of counsel's "Struggle to serve two masters"[could not] Seriously be doubted".

In U.S. v. Stever,603 F.3d 747,10 Cal.Daily Op.Serv.5491,2010 Journal D.A.R.6595 (May 24,2010),United States Court Of Appeals, Ninth Circuit.WestHeadnotes:Review De Novo:The Court Of Appeals reviews De Novo whether there has been a violation of BRADY v. MARYLAND or THE SIXTH AMENDMENT RIGHT TO MAKE A DEFENSE.[10] Rights to Notice,Hearing,and DEFENSE,in General:Necessity and Scope Of Proof:Whether grounded in the Sixth Amendment's guarantee of Compulsory process or in the more general FIFTH Amendment guarantee of due process,the Constitution guarantees criminal defendant's a meaningful opportunity to present a "COMPLETE DEFENSE",which includes,at a minimum,the right to put before a jury evidence that might influence the determination of

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of guilt. U.S.C.A. Const.Amend.5,6.

In U.S. v. Evans, 728 F.3d 953, 92 Fed.R.Evid.Serv.317, 13 Cal.Daily op.Serv.9484, 2013 Daily Journal D.A.R.11,539 (August 27,2013), United States Court Of Appeals,Ninth Circuit.[15]WestHeadnotes:

Reception of Evidence;A Court Of Appeals MUST REVERSE A GUILTY VERDICT UPON FINDING THAT THE DEFENDANT'S CONSTITUTIONAL RIGHT TO PRESENT A DEFENSE WAS VIOLATED,UNLESS THE GOVERNMENT CONVINCES THE COURT THAT THE ERROR WAS HARMLESS BEYOND A REASONABLE DOUBT.

The AGENCY DEFENSE article 52.07;The defense which defense counsel(Stanclift) did raise,Declares initself that it is "Often Raised With THE AFFIRMATIVE DEFENSE OF ENTRAPMENT".

Defense of ENTRAPMENT IS AVAILABLE TO ALL DEFENDANT'S and NOT Limited to the unwary innocent.

ENTRAPMENT is an Affirmative Defense which is based upon information at least equally if not more readily available to defendant;Defense is in nature of explanation and not denial.

People v. Chambers,1968,56 Misc.2d 683,289 N.Y.S.2d 804.Criminal Law (Key)37(1).

Due to trial counsel (Stanclift) greed (Conflicting Personal Interests) his said pecuniary or monetary benefit at stake at (SCR 91,lines7-8) he refrained from raising petitioner's

"ENTRAPMENT DEFENSE" had he informed the Court or Jury in "ALL" likelihood the jury would have acquitted petitioner because the alleged crimes have necessary elements of intent to be proven.

PETITIONER HAS ESTABLISHED A VALID CONSTITUTIONAL VIOLATION OF HIS 5TH AND 6TH AMENDMENT OF THE UNITED STATES CONSTITUTION,THE

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RIGHT TO PRESENT A "COMPLETE DEFENSE" WAS VIOLATED!!!

Petitioner was PREJUDICED when trial judge (SCARANO) allowed the Grand Jury to consider testimony/evidence that had ABSOLUTELY NOTHING to do with the crimes petitioner was on trial for. Said trial judge allowed prosecutor (Ashdown) and gov't (C.I.) witness (Seymour) to carry on a conversation about a man named (RED) being at petitioner's residence with a GUN on some other date than that which the crimes petitioner allegedly committed and or occurred. Said testimony/evidence had absolutely zero/nothing to do with DRUG SALES AND OR DRUG POSSESSION. Said individuals also discussed amongst each other an incident involving Co-defendant (WILLIS) that transpired after said alleged crimes. Regardless of their intentions and or purpose of said testimony/evidence, it has NOT ONE RELEVANCY TO THE CHARGES which petitioner was on trial for!!! This said InAdmissable Testimony/Evidence made petitioner Look Bad and INSTILLED IN THE MINDS OF THE GRAND JURY that petitioner must be a criminal, he must be guilty if this is the kind of company he associates himself with, is the message said inadmissable testimony/evidence gives, sends. See (SCR 253, lines 14-25; SCR 315-316, line 21; SCR 416-417, line 15). The District Attorney is an advocate, [235 N.E.2d 216] but, at the same time he is a quasi-judicial official (People v. Fielding, 158 N.Y.S.542, 53 N.E. 497-46 L.R.A.641). And his primary DUTY is to see that justice is done and THE RIGHTS OF ALL-DEFENDANT'S INCLUDED ARE SAFEGUARDED. There is a positive obligation on his part to see that trial is Fairly conducted (Berger v. United States, 295 U.S.78, 55 S.CT.629,

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79 L.Ed.1314) He should be as zealous in protecting the record against reversible Error as he is to present his case as forcefully as possible. While allowed the widest latitude by way of comment, denunciation or appeal in advocating his cause, this does not give him any warrant to introduce into summation matter which the jury has NO RIGHT TO CONSIDER in determining the guilt or innocence of the defendant.

BUT, PROSECUTOR (ASHDOWN) INTRODUCTION OF UNWARRANTED/UNAUTHORIZED AUDIO/VIDEO SURVEILLANCE TO THE GRAND JURY AT (SCR 138, line#10)

PRE-TRIAL!!

In Entick v. Carrington, 19 Howells State Trials 1029, 1066; BOYD v. United States, 116 U.S. 616, 626-630, 6 S.Ct. 524, 530-532, 29 L.Ed. 746:

This Court has NEVER held that a federal officer may "without warrant and without consent" physically entrench into a man's office or home, there "SECRETLY" observe or listen, and relate at the man's subsequent criminal trial what was seen or heard!!!!!!

In ON LEE v. UNITED STATES, 343 U.S. 747, 72 S.Ct. 967, 96 L.Ed. 1270;

Our Sole concern should be with whether the privacy of the home was invaded. Since it was here, and since NO SEARCH WARRANT WAS OBTAINED AS REQUIRED BY THE FOURTH AMENDMENT AND RULE 41 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE, 18 U.S.C.A., I AGREE WITH THE COURT THAT THE JUDGMENT OF CONVICTION MUST BE SET ASIDE. (Mr. JUSTICE DOUGLAS, CONCURRING).

In People v. Molineux, 6 Bedell 264, 168 N.Y. 264, 61 N.E. 286 (1901). Evidence-General Rule as to proof of other crimes-exceptions to Rule. The rule of evidence applicable to criminal trials is that

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the prosecution cannot prove against a defendant any crime not alleged in the indictment either as a foundation for separate punishment or as aiding the proofs that he is guilty of the crime charged, and while the exceptions thereto cannot be stated with categorical precision, generally speaking and for the purpose of the case under review, proof of another crime is competent to prove the specific crime charged only when it tends to establish (1) Motive; (2) Intent; (3) The absence of mistake or accident; (4) A common scheme or plan embracing the commission of two or more crimes so related to each other that proof of the one tends to establish the other; (5) the identity of the person charged with the commission of the crime on trial.

In (Commonwealth v. Jackson, 132 Mass. 16); the court of last resort in Pennsylvania thus states the rule; it is the general rule that a distinct crime "UnConnected" with that laid in the indictment cannot be given in evidence against a prisoner. It is Not Proper to raise a presumption of guilt on the ground that having committed one crime, the depravity it exhibits makes it likely he would commit another. Logically, the commission of an independent offense is not proof in itself of the commission of another crime. Yet it cannot be said to be without influence on the mind, for certainly if one be shown to be guilty of another crime equally heinous, it will prompt a more ready belief that he might have committed the one with which he is charged; it therefore, PREDISPOSES THE MIND OF THE JUROR TO BELIEVE THE PRISONER GUILTY. (Shaffner v. Commonwealth, 72 Pa. St. 60).



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In U.S. v. Coppola, 671 F.3d 220 (February 14, 2012) United States Court Of Appeals, Second Circuit; WestHeadnotes[19] Evidence: Standard of review applicable to a challenge to the admission of evidence as irrelevant or UnFairly Prejudicial is highly deferential in recognition of the District Court's superior position to assess relevancy and to weigh the probative value of evidence against its potential for unfair prejudice. Fed. Rules Evid. Rules 401, 403, 28 U.S.C.A.

In U.S. v. Evans, 728 F.3d 953, 92 Fed.R.Evid.Serv.317, 13 Cal.Daily Op. Serv.9484(2013) Daily Journal D.A.R.11,539(August 27, 2013), United States Court Of Appeals, Ninth Circuit[10] Provisional or Conditional Admission: In Analyzing whether to admit evidence when its relevance depends on the existence of a conditional fact, the court examines all the evidence in the case and decides whether the jury could reasonably find the conditional fact by a preponderance of the evidence. Fed. Rules Evid. Rule 104(b) 28 U.S.C.A.

In U.S. v. Haischer, 780 F.3d 1277, 96 Fed.R.Evid.Serv.1453, 15 Cal. Daily Op.Serv.9484, 2013 Daily Journal D.A.R.3392(March 25, 2015), United States Court Of Appeals, Ninth Circuit. WestHeadnote[8] Evidence calculated to create prejudice against or sympathy for accused: Evidence is UnFairly Prejudicial and subject to exclusion if it makes a conviction more likely because it provokes an emotional repose in the jury or otherwise tends to effect adversely the jury's attitude toward the defendant wholly apart

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from its judgment as to his guilt or innocence of the crime charged.

The State Court Record Clearly Shows petitioner's trial court permitted unlawful/inadmissable testimony,evidence for the jury to consider at (SCR 315-316;SCR 416) about a man with a GUN at petitioner's residence,that absolutely INSTILLED in the MINDS of the JUROR'S a VISUAL PICTURE OF CRIMINAL CONDUCT that resulted in a GUILTY VERDICT,said evidence/testimony was wholly irrelevant and DISCONNECTED with the offense charged and thereby PREJUDICED Petitioner.

Petitioner therefore has established/made a clear as the noon day sun Substantial showing of the denial,constitutional violation of his United States and State Of New York(Federal and State) Forth and Fifth Amendments of said Constitutions:DUE PROCESS RIGHT.

The Petitioner's Trial Court's Original Charge and Supplemental Instructions are to be given accurately and or correctly.

BUT,trial court's charge instruction that Grand Jury Consider/View UnAuthorized/UnWarranted Audio/Video Surveillance. SEE: Pre-Trial(SCR 138,line 10) COMPARE TO(Appendix I,lines 5-7;SCR 315,lines 2-14).

Moreover,  
is the troubling fact petitioner's "Pro Se Motion" moving for a mistrial regarding said UnWarranted Audio/Video Surveillance is Missing/Absent from the State Court Record. See: (Appendix H;"SENTENCE" pg.(3),lines 2-5).

SEE:Silverman v. U.S.,SUPREME COURT OF THE UNITED STATES,March 6, 1961;365 U.S.505,81 S.Ct.679,97 A.L.R.2d 1277,5 L.Ed.2d 734;

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WestHeadnote[5]; Searches and Seizures[Key] Persons, Places and things protected; At the very core of man's personal right stands the right to retreat into his own home and there be FREE from Governmental Intrusion. U.S.C.A.Const.Amend.4.

Trial Court's Charge Instructions OUGHT NOT leave Grand Juror's Confused and Requesting Criteria and Supplemental Instructions (4X), time after time and Time Again, as was done here in Petitioner's case. The Grand Jury made SEVERAL requests regarding ELEMENTS and FACTORS for and against AGENCY DEFENSE, and for being BUYER and SELLER, also CLARIFICATION of AGENCY DEFENSE, Further, a DESCRIPTION and or RE-READ for ACCESSORIAL LIABILITY LAW.

Therefore whether the original charge was given accurately and or correctly it MUST be FAIR to say it was WITH-OUT UNDERSTANDING!!!

SEE(SCR 329, lines 18-21; SCR 340, lines 11-16; SCR 347, lines 20-24; SCR 354, lines 5-9; SCR 330, line 17; SCR 333, line 12; SCR 341, line 23; SCR 342, line 16; SCR 343, line 25; SCR 344, lines 10-18) COMPARE!!!!

Moreover,

Defense Counsel(Stanclift) testified that INCOMPLETE INSTRUCTIONS were given to the jury. SEE:(SCR 344, lines 22-23).

Pursuant to C.P.L. 310.30, the trial court has an obligation to meaningfully respond to ALL questions from the jury during deliberations. The code of criminal procedure, section 427, leaves no discretion whether or not to give the information requested, and where the court FAILS to give the information requested upon a VITAL POINT no Appellate Court may disregard the ERROR under

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section 542 of the code of criminal procedure.

O'RAMA, 78 N.Y.2d at 277; This is because "counsel cannot participate effectively or adequately protect the defendant's rights if this specific information is not given". We made clear in O'RAMA that a trial court does not satisfy its responsibility to provide counsel with meaningful notice of a substantive jury inquiry BY SUMMARIZING THE SUBSTANCE OF THE NOTE, See (Id. at 275, 278-279).

Section 427 of the code of criminal procedure says in part: After the jury have retired for deliberation, \*\*\*if they desire to be informed of a point of law arising in the cause, they must require the officer to conduct them into court. Upon their being brought into court, the information required must be given.

People v. Creasy, 236 N.Y.205, 140 N.E.563(1923); [8] Nor is this affected by the fact that some of the evidence was stricken out before the close of the trial and the jury told to disregard it where it cannot be said with any degree of certainty the jury did disregard it or that such evidence did not materially affect its verdict.

U.S. v. Kopstein, 759 F.3d 168 (July 21, 2014) United States Court Of Appeals Second Circuit. WestHeadnote [2] Duty of judge in general confused or misleading instructions; instructions are erroneous if they mislead jury as to correct legal standard or do not adequately inform jury of the law. [4] Instructions in general; conduct and deliberations of jury; court of appeals will vacate a

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conviction if the initial jury instructions are faulty,the jury expresses confusion,and the court's supplemental instruction fails to alleviate the jury's concerns or only adds to the already-existing confusion.[5]Conduct and Deliberations of jury; Even if an initial jury instruction is not itself erroneous or highly confusing,a supplemental instruction prompt by a jury question may be so muddled as to warrant vacature.[6]Requisites and Sufficiency;District Court must exercise special care to see **that** inaccuracy or imbalance in supplemental jury instructions does not poison an otherwise healthy trial;this is especially true since the judge's last word is apt to be the decisive word. [7]Defenses;UnAddressed or aggravated juror confusion is almost certainly not harmless if it pertains to a defendant's only or primary defense.

It is quite evident here that petitioner's jury was mislead/ confused to the point BOTH Prosecutor(Ashdown) at (SCR 333,lines 6-7,12) and defense counsel(Stanclift) at (SCR 341,line 23) made comments regarding the jury's confusion,Moreover,said jury themselves requesting repetitive supplemental instructions clearly and precisely demonstrates/exhibits/mirrors a perfect picture of jury confusion.

It is well settled: A Mislead/Confused jury is UNABLE to render a FAIR and ACCURATE Verdict!!!

Therefore,petitioner has established and or made a Substantial showing of the denial/violation of his(Federal and State) United

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States and State Of New York Fifth Amendment of the Constitutions  
DUE PROCESS RIGHT,that it was violated!!!!!!!!!!!!!!!!!!!!!!!!!!!!

## REASONS FOR GRANTING THE PETITION

Petitioner has substantially/factually shown he was maliciously prosecuted with A DEFECTIVE ON ITS FACE INDICTMENT at (SCR 142-143;Pre-Trial)and(SCR 424;Post-Trial)COMPARE! Said 3rd Dep't LAWFULLY explained Exactly how said indictment is in fact DEFECTIVE ON ITS FACE at (SCR 424;See:"As The People Concede") Its clear as the noon day sun that "NONE" of the (6) counts of said indictment were ever submitted in the alternative at (SCR 142-143) and (SCR 426)COMPARE!,Further evidencing said indictment DEFECTIVE ON ITS FACE AND OR THE FACT PETITIONER WAS MALICIOUSLY PROSECUTED AND IS PRESENTLY "UNLAWFULLY INCARCERATED"!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!

Petitioner has substantially shown that a state court and or United States Court Of Appeals has decided an Important Federal question in a way that CONFLICTS with relevant decisions of this court.(Supreme Court Rule 10(C));that ALL lower level court Orders are "CONTAMINATED";that his indictment is DEFECTIVE ON ITS FACE;that The (Circumscribed) Sixth Amendment Of The United States and State Of New York Constitutions and or ESTABLISHED SUPREME COURT OF THE UNITED STATES LAW(S) SAY SO AND OR ECHOE UNLAWFUL/PROHIBITED/INEFFECTIVE REPRESENTATION LOUD AND CLEAR!!!!!!!!!!!!!!!!!!!!; that he was deprived/denied his guaranteed fundamental U.S.C.A. Const.Amend.6.,right to:Effective Assistance Of Counsel,Conflict-Free Counsel;that said court's failed to conduct an adequate Conflict Of Interest Inquiry Colloquy and or Safeguard his Sixth Amendment right to a lawyer unencumbered by an actual conflict or serious potential for conflict of interest precisely at(Appendix G

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;SCR 89-91)and or(SCR 89,line 6;SCR 90,lines 4-12,25-SCR 91,lines 8,17).Thus,shows/proves/evidences "Defense Counsel (Stanclift) UnLawful OnGoing UnConsentable Relationship with the opposing party and or Actual Conflict Of Interest" Existed between Petitioner and Defense Counsel(Stanclift).Therefore,petitioner Need Not prove PREJUDICE in order to prevail on his Sixth Amendment Claim,it is enough that lapse of representation resulted from this conflict. ARMIENTI v. U.S.,313 F.3d 807(2002).

LUIS v. U.S.,136 S.Ct.1083;WestHeadnote[4] A DEFENDANT HAS NO RIGHT TO AN ATTORNEY WHO IS NOT A MEMBER OF THE BAR,OR WHO HAS A CONFLICT OF INTEREST DUE TO A RELATIONSHIP WITH AN OPPOSING PARTY!

ASSISTANCE OF COUNSEL IS AMONG THOSE CONSTITUTIONAL RIGHTS SO BASIC TO A FAIR TRIAL THAT THEIR INFRACTION CAN NEVER BE TREATED AS HARMLESS ERROR. Chapman v. California,368 U.S.18,87 S.Ct.824, 827,17 L.Ed.2d 705.

Petitioner has made a substantial showing that his United States and State Of New York Constitutions Sixth Amendment Guaranteed Fundamental Right To The Effective Assistance Of Counsel,Conflict -Free Counsel was violated;that he was deprived/denied his United States and State Of New York Constitutions 14th Amendment Right To A FAIR Trial with said RECORD AND AUTHORITIES showing/ testifying/evidencing and or ESTABLISHING that he was;that United States District Second Circuit Court Of Appeals and or said lower court's Erred/Failed their DUTY to grant his INEFFECTIVE



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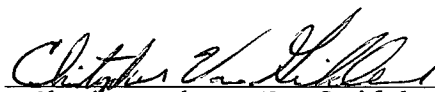
ASSISTANCE OF COUNSEL CLAIM/ARGUMENT regarding defense counsel (Stanclift)"UNLAWFUL/UNCONSENTABLE CONFLICT OF INTEREST"AND OR SAFEGUARD HIS SIXTH AMENDMENT RIGHT TO A LAWYER UNENCUMBERED BY AN ACTUAL CONFLICT OR SERIOUS POTENTIAL FOR CONFLICT OF INTEREST; that petitioner appears Pro Se and,because he acts without the benefit of counsel,this court must construe his pleadings liberally and is constrained to conduct our examination with 'Special Sollicitude',interpreting the complaint to raise the strongest [claims] that [it] suggest[s]. Triestman v. Federal Bureau of prisons,470 F.3d 471.

Petitioner's relief sought after:"INDICTMENT AT(SCR 426) VACATED IN ITS ENTIRETY AND ORDER FOR "IMMEDIATE RELEASE" FROM N.Y.S. DOCS' CUSTODY BE ISSUED!!!

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

  
\_\_\_\_\_  
Christopher VanGuilder  
(Petitioner)

Date: February 4, 2019.