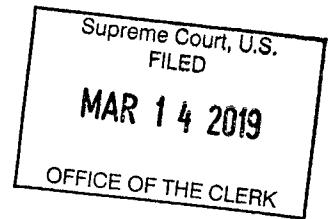


18-8483

No. \_\_\_\_\_

ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES



RAFAEL AGOSTO, ID #95A3133 — PETITIONER  
(Your Name)

vs.

CHRISTOPHER MILLER — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. CT. OF APP. 2ND. CIR.  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

RAFAEL AGOSTO  
(Your Name)

CLINION CORR. FACILY, P.O. BOX 2000, DENAMORA, N.Y. 12929  
(Address)

DENAMORA, NEW YORK, 12929  
(City, State, Zip Code)

\_\_\_\_\_  
(Phone Number)

-- QUESTION PRESENT --

1. DO THE U.S. COURT OF APPEALS HAD SUBJECT MATTERS JURISDICTION PURSUANT THE U.S. CONST. ART. III, SEC. (2), CL.(1), TO ISSUE AN ORDER ON DECEMBER 19TH, 2018 IN THE MATTER IN QUESTION HEREIN ?
2. DO THE U.S. COURT OF APPEAL ESTABLISHED PRIOR CONVICTION, IF ANY, TO OBTAIN GEOGRAPHIC JURISDICTION, BY ESTABLISHING THAT THE PLAINTIFF HEREIN WAS CONVICTED OF A CRIME, IF ANY, FOR HIM TO BE DETAINED INSIDE A CORRECTIONAL FACILITY WITHIN THEIR COURT COUNTY, DISTRICT OR STATE. GEOGRAPHIC JURISDICTION TO POSSESS SUBJECT MATTERS JURISDICTION IN ACCORDANCE WITH THE U.S. CONST. ART. III, SEC.(2), CL. (1) IN THE MATTERS IN QUESTION HEREIN ?
3. DO THE LACKS OF JUDGMENT UNISSUED BY THE PANEL OF JUDGE(S) OF THE U.S. COURT OF APPEALS GRANTED THE CLERK OF THE U.S. COURT OF APPEAL JURISDICTION OR AUTHORITY TO ENTER AN ORDER ON THE COURT DOCKET RECORDS THAT WAS NEVER EXECUTED, PRONOUNCED OR AUTHORIZED BY ANY OF THE THREE JUDGE(S) SHOWING THEREIN AT THE ORDER ISSUED BY THE CLERK OF THE COURT CATHERINE O'HAGAN WOLFE ON DECEMBER 19TH, 2018.
4. DO THE LACKS OF FINAL JUDGMENT UNISSUED BY THE INITIAL COURT HAS DEPRIVED EACH AND EVERY APPEAL COURT OF SUBJECT MATTER JURISDICTION TO REVIEW OR ENTERTAIN THE MATTERS IN QUESTION HEREIN ?
5. DO THE ADMISSION OF TWO GOVERNMENT EMPLOYEE THAT NO TRIAL TRANSCRIPTS OR FINAL JUDGMENT EXIST IN THE MATTERS IN QUESTION HEREIN PEOPLE V. AGOSTO, BRONX COUNTY IND. NO: 4275-93 AND PEOPLE V. AGOSTO, QUEEN COUNTY IND. NO: 2011-102, ARE THE PRIMA FACIE EVIDENCE OF ALL COURT LACKS OF SUBJECT MATTERS JURISDICTION ?
6. DO FORGED DOCUMENTATION SUCH AS COMPUTER PRINT-OUTS MADE BY ANYONE, SIGNED BY NO-ONE AND NOT UNDERLINED BY TRIAL TRANSCRIPTS OR EXECUTION OF SENTENCE, GRANTED THE W.D.N.Y. OR THE U.S. COURT OF APPEALS GEOGRAPHIC JURISDICTION FOR THIS COURT TO POSSESS SUBJECT MATTER JURISDICTION ?
7. DO THIS COURT SHOULD ASSUME THAT BECAUSE THE U.S. COURT OF APPEAL ISSUED A JURISDICTIONAL DEFECTED ORDER, THIS COURT POSSESS SUBJECT MATTER JURISDICTION IN ACCORDANCE WITH THE U.S. CONST. ART. III, SEC.(2), CL. (1) IN THE MATTER IN QUESTION HEREIN ?
8. DO THE APPELLANT HEREIN STATUTORY AND CONSTITUTIONAL RIGHTS WAS VIOLATED AT ALL LOWER COURTS ?
9. SHALL THIS COURT APPLY THE RULES OF STARE DECISIS TO ALL PRECEDENT CASE(S) MENTIONED HEREIN ?
10. DO THE APPELLANT HEREIN ARE ENTITLE TO IMMEDIATELY RELEASE FROM FALSE IMPRISONMENT ?

(i)

## **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:

## TABLE OF CONTENTS

	PAGE(S)
I. OPINIONS BELOW	1.
II. JURISDICTION, IF ANY EXIST?	2.
III. STATEMENT OF THE CASE	3.
IV. MEMORANDUM OF LAW	11
V. CONCLUSION	16.
VI. THEREFORE	17.

## APPENDIX INDEX

WESTERN DISTRICT COURT OF NEW YORK STATE DECISION	43...
U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT DECISION?	24...
STATE COURT RECORDS EVIDENCE	25...

## TABLE OF AUTHORITIES

U.S. V. WERBER, 51 F.3d 342.	7.
JOHNSON V. MISSISSIPPI, 108 S.Ct. 1981.	7.
WEATHERHEAD V. BASKERVILLE, 52 U.S. 329.	7.
PEOPLE OF THE STATE OF ILLINOIS V. CITY OF CHICAGO, 33 S.Ct. 178.	8.
HILL, WARDEN V. U.S. EX. REL. WAMPLER, 56 S.Ct. 760.	11.
CHASTEEN V. DENEMARIS, 138 F.2d. 289.	11.
WILSON V. BELL, 137 F.2d. 716.	11.
THOMAS V. LARKIN, 2013 WL 5963133.	11.
MONTGOMERY V. LOUISIANA, 136 S.Ct. 718.	11.
BACA V. U.S., 383 F.2d. 154.	12.
U.S. V. DABNEY, 393 F.SUPP. 529.	

CONT.

PAGE(S)

IN RE WINSHIP, 90 S.C.T. 1068.	12.
U.S. v. ROBINSON, 98 S.C.T. 901.	12.
U.S. v. ROBINSON, 544 F.2d. 110.	12.
PEOPLE V. JOHNSON, 69 N.Y.2d. 339.	12.
JOHNSON V. MISSISSIPPI, 108 S.C.T. 1981.	12.
DIXON V. DUFFY, 73 S.C.T. 193.	12.
JENNING V. STATE OF ILLINOIS, 72 S.C.T. 123.	12.
MILLER V. RATE, 386 U.S. 17.	12.
MOONEY V. HOLOHAN, 55 S.C.T. 340.	13.
NAPUE V. PEOPLE OF STATE OF ILLINOIS, 79 S.C.T. 1173.	13.
PYLE V. STATE OF KANSAS, 63 S.C.T. 177.	13.
ALCORTA V. STATE OF TEXAS, 78 S.C.T. 103.	13.
MORRIS V. THOMPSON, 852 F.3d. 416.	13.
LEHIGH MINING AND MANUFACTORY CO. V. KELLY, 16 S.C.T. 307.	14.
EX PARTE CARDLE, 74 U.S. 506.	14.
GONZALES V. THALER, 132 S.C.T. 641.	14.
COTTO V. U.S., 535 U.S. 625.	14.
GOLDEN V. ZWICKLER, 89 S.C.T. At 959.	14.
FOTHERGILL V. U.S., 556 F.3d. 248.	14.
GEYGER V. SOTOY, 1 U.S. 135.	14.

#### CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED

U.S. CONST. ART. III, SEC. 2, CL. 1	4.
N.Y. MCKINNEY'S C.P.L. § 380.70 [L. 1970, C. 996, § 1]	4.
N.Y. CORRECTIONAL LAW § 600-A	5.
N.Y. CORRECTIONAL LAW § 601 Subd. (A)	5.
N.Y. MCKINNEY'S C.P.L. § 390.60(2) [L. 1970, C. 996, § 1]	5.
N.Y. MCKINNEY'S C.P.L. § 390.60(1) [L. 1970, C. 996, § 1]	5.
N.Y. CORRECTIONAL LAW §§ 91(1)(2)(3) AND 92(1)(2)	5.
N.Y. MCKINNEY'S C.P.L. § 380.70 [L. 1970, C. 996, § 1]	5.
U.S. CONST. ART. III, SEC. (2), CL. (1)	10.

CONT.  
PAGE (5)

U.S. CONST. XIV AMENDMENT	10.
4 A.M.JUR.2D. APPELLATE REVIEW § 95	11.
RULE CIV. PRO. RULE 58	11.
N.Y. MCKINNEY'S C.P.L. § 70.20	12.
28 U.S.C.A. § 1733	12.
STATUTORY HISTORY § 8031	12.
C.P.L.R. § 4521	12.
F.R.E. RULE 803 (7)(A)(B)(C)	12.
8 U.S.C.A. § 1316(D)	12.
28 U.S.C.A. § 2201	14.
28 U.S.C.A. § 2254 (E) (1)	14.
28 U.S.C.A. § 1254 (1)	14.
U.S. SUP. CT. RULE (S) 14.1 (E) (4)	14.
U.S. SUP. CT. RULE (S) 14.1 (G) (i) (ii)	14.
28 U.S.C.A. § 1746.	17.

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 P.24 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 P.43-46 to the petition and is

reported at 2018 WL 1965259; 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 \_\_\_\_\_ 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 \_\_\_\_\_ 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.

**JURISDICTION?**  
IF ANY EXIST.

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 12/19/2018 ? IF ANY.

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 \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.  
\_\_\_\_\_

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).

## STATEMENTS OF THE CASE

1. ON JUNE 27, 2016, The Petitioner herein timely submitted A 47 Pages WRIT OF HABEAS CORPUS Pursuant 28 U.S.C.A. § 2254 To The Clerks Office of The Western district of New York. SEE APPX. Pkt. P. Nos: Through .
2. Thereafter, ON April 27, 2018, HONORABLE JUDGE RICHARD J. ARCARA Issued an UNCONSTITUTIONAL AND A JURISDICTIONARY DEFECTED ORDER dismissing The Petitioner herein Writ of habeas corpus That Was Timely filed ON June 27, 2016. See Page(s) 43 Through 46 herein.
3. Thereafter, ON MAY 11, 2018, The Petitioner herein timely submitted a 13 Page(s) NOTICE OF APPEALS with a AFFIDAVIT IN SUPPORT showing The U.S. CT. OF APP. FOR THE 2ND. CIR. ALL The CONSTITUTIONAL AND JURISDICTIONARY VIOLATIONS That occur AT The WESTERN DISTRICT OF NEW YORK and The Reason Why The U.S. CT. OF APP. FOR The 2ND. CIR. SHALL GRANT The Appellant herein his Right To APPEAL The W.D.N.Y. Decision and order. SEE PAGE 52 HEREIN.
4. Thereafter, ON MAY 25, 2018, The U.S. CT. OF APP. FOR THE 2ND. CIR. COURT CLERK filed The Timely file NOTICE OF APPEALS Submitted To The court ON MAY 11, 2018. SEE PAGE 52 HEREIN.
5. THEREAFTER, ON MAY 30TH, 2018, The U.S. CT. OF APP. FOR THE 2ND. CIR. Recorded The COA ON Their court General Docket Sheet. SEE PAGE 51 HEREIN.
6. Thereafter, ON 07/27/2018, The court file The Appellant / Petitioner herein SCHEDULING NOTIFICATION Informing The court That he WILL file his Appellant Brief BY 09/10/2018. SEE PAGE 53 HEREIN AT DKT. NO: 20.
7. Thereafter, ON 08/23/2018, The Petitioner herein timely submitted A 22 Page APPEAL Brief To The U.S. CT. OF APP. 2ND. CIR. COURT CLERK. SEE APPX. Pkt. P. Nos: 00550 THROUGH 00577.
8. Thereafter, ON 08/30/2018, The U.S. CT. OF APP. COURT CLERK filed The Petitioner herein APPEAL Brief ON Their court. SEE PAGE 54 HEREIN AT DKT. NO: 33.
9. Thereafter, ON DECEMBER 19TH, 2018, The Court Clerk Of The U.S. CT. OF APP. FOR THE 2ND. CIR. KATHERINE O'HAGAN WOLFE ISSUED AND FILED AN ORDER ON Their COURT

Jurisdiction in accordance with the U.S. CONST. ART. III, SEC.(2), CL.(1)

25. STATE COURT RECORDS PAGE(S) 503, 504, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 169, AND 123 Showing herein At Page(s) 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, AND 42, Will clearly show this court that the order issued and filed by the court clerk of the U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT was and still is jurisdictionally defected, UNCONSTITUTIONAL, UNPRECEDENTED, ARBITRARY AND CAPRICIOUS and it's for this reason that this court shall grant this writ.

26. FURTHERMORE AND MOST IMPORTANT, THE CONSTITUTIONAL AND STATUTORY VIOLATIONS INVOLVED AT THE U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT WAS AND STILL ARE PURSUANT THE U.S. CONSTITUTION ART. III, SEC.(2), CL.(1) [LACKS OF SUBJECT MATTERS JURISDICTION], THE U.S. CONST. XIV AMENDMENT DUE PROCESS OF LAW PURSUANT STATUTORY PROVISION REQUIREMENTS PURSUANT N.Y. MCKINNEY'S §§ 70.20., 380.70., 390.60 (1)(2), CORRECTIONAL LAW §§ 91 (1)(2)(3)(E), 9.2 (1)(2), 600-A., 601(A), 28 USCA §§ 2201, 1733, STATUTORY HISTORY § 8031., 8 USCA § 1316 (D), F.R.E. RULE 803 (7)(A)(B)(C), C.P.L.R. § 41521 AND THE RULE OF STARE DECISIS BY IGNORE and disregard ALL PRECEDENTED CASE CITE REQUIREMENT already established by this court. NEVERTHELESS, THE ILLEGAL DETENTION AND FALSE IMPRISONMENT OF THE PETITIONER HEREIN IS ALSO A U.S. CONSTITUTIONAL VIOLATION IN ACCORDANCE WITH THE U.S. CONST. XIV AMENDMENT THAT CLEARLY STATED "... NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY OR PROPERTY WITHOUT DUE PROCESS OF LAW...", AND IN THE MATTERS IN QUESTION HEREIN THE PETITIONER HEREIN WAS NEVER CONVICTED OR SENTENCED TO ANY CRIME FOR HIM TO BE DETAINED INSIDE A CORRECTIONAL FACILITY WITHOUT DUE PROCESS OF LAW, AND IT'S FOR THIS REASONS MENTIONED HEREIN AT THIS WITH PARAGRAPH AND ABOVE THAT THIS COURT SHALL GRANT THIS WRIT AND IMMEDIATELY RELEASE THE PETITIONER HEREIN FROM FALSE IMPRISONMENT.

### -- CONCLUSION --

27. THAT THIS COURT DO NOT ASSUME PURSUANT 38 USCA § 1254 (1), RULE(S) 14.1(E)(4) AND 14.1(G)(1)(i) OF THIS COURT, OR ART. III, SEC.(2), CL.(1) OF THE U.S. CONSTITUTION THAT THIS COURT POSSESS SUBJECT MATTER JURISDICTION IN THE MATTERS IN QUESTION HEREIN JUST BECAUSE THE COURT CLERK OF THE U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT ISSUED AND FILED AN ORDER ON THEIR COURT IN TOTAL ABSENCE OF ALL JURISDICTION AS MENTIONED HEREIN WITHIN THIS WRIT AND SUCH ORDER ISSUED BY THE U.S. CT. OF APP. 2ND CIR. COURT CLERK IN QUESTION HEREIN WAS NEVER UNDERLINED BY A JUDGE OR JUDGE(S) FINAL JUDGMENT OR ORDER AS THIS COURT CAN SEE HEREIN AT PAGE(S) 47, 48, 49, AND 50, FURTHERMORE, NEITHER THE COURT

Denying The Petitioner herein APPEAL BRIEF. SEE DECISION AT PAGE 24 HEREIN.

10. The Petitioner herein WILL OBJECT, REPLY AND DISPUTE The Jurisdictional defected and Most Important unconstitutional order Issued and filed by The U.S. CT. OF APP. COURT CLERK KATHERINE O'HAGAN WOLFE ON DECEMBER 19TH, 2018, ON The following Grounds mentioned herein below:

11. GROUND #1, The Petitioner herein WILL OBJECT, REPLY AND DISPUTE The order Issued AND filed by The U.S. CT. OF APP. COURT CLERK KATHERINE O'HAGAN WOLFE ON DECEMBER 19TH, 2018, ON The Grounds That No Record of conviction such as: VERDICT SHEET, PRE-TRIAL TRANSCRIPTS PROCEEDINGS, TRIAL TRANSCRIPTS PROCEEDINGS, SENTENCING MINUTES TRANSCRIPTS PROCEEDINGS, POST TRIAL TRANSCRIPTS PROCEEDINGS, CERTIFICATE OF CONVICTION, PRE-SENTENCE REPORT OR ANY TRIAL TRANSCRIPTS PROCEEDINGS for ANY conviction, IF ANY, was Provided To The U.S. COURT OF APPEALS 2ND. CIR. JUDGE(S) DEBRA ANN LIVINGSTON, DENNY CHIN, AND CHRISTOPHER F. DRONEY To Establish final Judgment from The STATE COURT To Possess subject matter Jurisdiction in accordance with The U.S. CONST. ART. III, SEC.(2), CL.(1) IN The matters in question Therein, and in accordance with one of The U.S. CT. OF APP. FOR THE 2ND. CIR. OWN case cite Requirements Pursuant U.S. V. APPLETON, 233 FED. APPX. 746 where clearly stated "...CONVICTION AND sentence Rendered by a Judge is what Grant The Appeal courts subject matter Jurisdiction over The matters..." And in accordance with The admission of A. A. G. PAUL B. LYONS At PAGE 4 SECOND Paragraph showing herein At Page 26B he clearly stated At his memorandum of LAW submitted on MARCH 21ST, 2017 To The court Clerk of The WESTERN DISTRICT OF NEW YORK With his state Records Packet, That he cannot provide The court with PRE-TRIAL, TRIAL or SENTENCING PROCEEDINGS because IT WAS NEVER TRANSCRIBED, Meaning That such Trial Transcripts Proceedings of final Judgment NEVER EXISTED in The first Place Granting The W.D.N.Y AND THE U.S. CT. OF APP. 2ND. CIR. subject matter Jurisdiction in accordance with The U.S. CONST. ART III, SEC(2), CL.(1) in The matters in question Therein [16-cv-568A] AND [18-1626], since No conviction or sentence was EVER Rendered by The Chemung County court Judge, In Which have dePROVE EACH AND EVERY COURT in NEW YORK STATE or The UNITED STATE of subject matter Jurisdiction To Entertain ANY Appeal Procedure Against The Petitioner herein, and It's for This Reason That unconstitutional and Jurisdictional defected Judgment/Order Issued and filed by The court Clerk of The U.S. CT. OF APP. of The 2ND. CIR. ON 12/19/2018 SHALL be dismissed or Reversed.

12. GROUND #2, The Petitioner herein WILL OBJECT, REPLY AND DISPUTE The UNPRECEDENT AND UNCONSTITUTIONAL ORDER ISSUED BY THE UNITED STATE COURT OF APPEAL SECOND CIRCUIT IN QUESTION HEREIN, ON The following Grounds mentioned herein at This Paragraph, The

Petitioner herein WILL LIKE To direct This U.S. SUPREME COURT PANEL OF JUSTICE IN Charge OF The Matters in question herein To The Prima facie Evidence of his false IMPRISONMENT and Illegal detention INSIDE a correctional facility WITHIN This court or any other court COUNTY, DISTRICT OR STATE Geographic Jurisdiction for This court or any other court Within The UNITED STATE To Possess Subject MATTER JURISDICTION in Accordance with The U.S. CONST. ART. III, SEC. (2), CL. (1) in The MATTERS in question herein. ALLOW ME To EXPLAIN, The Petitioner herein WILL LIKE To direct This court To Page(s) 27, 28, AND 29 herein, Where he can clearly show This court That NO CERTIFICATE OF CONVICTION, SENTENCING MINUTES, PROBATION REPORT, FINGERPRINT REPORT OR PRE-SENTENCE REPORT EXIST OR EVER EXISTED Within The N.Y.S. DEPARTMENT OF CORRECTION Granting The Superintendent of such facility Jurisdiction over The Petitioner herein in Accordance with a N.Y.S. STATUTORY Provision Requirement Pursuant The N.Y.S. MCKENNEY'S C.P.L. § 380.70 [L.1970, C.996, § 1] That clearly stated That such documentation mentioned herein at This Paragraph, SHALL Be delivered To The Person in charge of The Institution WITHIN 30 DAYS, SEE ALSO: NEW YORK STATE CORRECTIONAL LAW §§ 600-A, 601 subd. (A), NEVERTHELESS, IN Accordance with another state (N.Y.S.) STATUTORY Provision Requirement Pursuant N.Y.S. MCKENNEY'S C.P.L. § 390.60 subd. (2) Also stated "... The Person in charge of The facility Receiving The defendant, have The STATUTORY Right To Refuse To Accept such Person until The Reports mentioned Therein above At C.P.L. § 390.60 subd.(2) be delivered...", AND That's Not The case herein, SINCE, They Accepted The Petitioner herein Without any Records of conviction, Sentence or Transfer Agreement Pursuant N.Y.S. CORRECTIONAL LAW §§ 91(1)(2)(3)(E) AND 92(1)(2), ON The Grounds That The Petitioner herein Was Never convicted of any crime or sentence To any Terms for anyone To Authorize his Transfer To A correctional facility Within NEW YORK STATE OR THE UNITED STATE for The Petitioner herein To be detained inside a correctional facility Within The WESTERN DISTRICT OF NEW YORK, The U.S. COURT OF APPEALS SECOND CIRCUIT and Now This U.S. SUPREME COURT COUNTY, DISTRICT OR STATE GEOGRAPHIC JURISDICTION for ANY COURT Within The UNITED STATE To Possess Subject matter JURISDICTION in The Matters in question herein. SEE PAGE(S) 31, 32, 33, 34, AND 35, AND Page(s) 27, 28, AND 29 Will clearly show This court That NO Records of conviction EXIST or EVER EXISTED Within THE NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICE Granting Them Jurisdiction To withheld The Petitioner herein inside a correctional facility Within The WESTERN DISTRICT COURT OF NEW YORK, THE U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT AND NOW THIS UNITED STATES SUPREME COURT COUNTY, DISTRICT OR STATE GEOGRAPHIC JURISDICTION for This court or any court within The UNITED STATE To Possess Subject matter JURISDICTION in Accordance with The U.S. CONST. ART. III, SEC. (2), CL. (1) in The Matters in question herein, NEVERTHELESS, This Prima facie Evidence Mentioned herein at This Paragraph and also Showing herein at Pages 25, 26, 26B, 27, 28, 29, 30, 32, 33, 34, AND 35 ON The LACKS OF Records of conviction and Transfer

Agreement are also supported by TWO Government Officials Employees A.A.G. PAUL B. LYONS At Page 26B herein, Where he clearly stated "... Chemung County Court Case Pre-Trial, Trial and Sentencing Proceedings Were NEVER Transcribed...", AND S.N. EDANDISON Record Access Officer of The Bronx County District Attorney Office Clearly stated "... We Was unable To Locate The Trial Folder Pertaining To The Above Referenced Indictment Number. I have Enclosed a Record certification Verifying That This folder Was Not found...", SEE: S.N. EDANDISON Verification Statement At Page 25 herein, AND It's for This Reason That The Petitioner herein SHALL Not be detained inside a correctional facility within The W.D.N.Y, The U.S.CI. OF APP. FOR THE 2ND. CIR. OR This court, The U.S. SUPREME COURT county, district or state GeoGraphic Jurisdiction for This court To Possess Subject Matter Jurisdiction in Accordance with The U.S. CONST. ART III, SEC.(2), CL.(1) in The matters in question herein, and It's for This Reason That This court SHALL Reverse or Dismiss The Jurisdictionary defected and UNCONSTITUTIONAL ORDER Issued by The U.S. COURT OF APPEALS SECOND CIRCUIT ON 12/19/2018.

13. GROUND# 3, The Petitioner herein WILL Object, REPLY and dispute The order Issued and filed by The U.S. COURT OF APPEALS Second circuit KATHERINE O'HAGAN WOLFE ON DECEMBER 19TH, 2018, Where SHE [CLERK WOLFE] IS supporting The UNCONSTITUTIONAL AND UNPRECEDENT DE NOVO ORDER / FINAL JUDGMENT ISSUED BY THE WESTERN DISTRICT COURT OF NEW YORK where They're Reviving, Restoring, Reinstating a Reissuing a New Final Judgment and sentence That Was Never Issued or Executed BY The N.Y.S. CHEMUNG COUNTY COURT OR THE N.Y.S. BRONX COUNTY SUPREME COURT. Allow me To Explain, The WESTERN DISTRICT JUSTICE in question herein did NOT had any TYPE OF Jurisdiction To Revive, Restore, Reissue or Reinstate a New Final Judgment VIA DE NOVO in The matters in question Therein [AGOSTO V. MILLER, 16-CV-568A], ON The Grounds That No Final Judgment or Sentence Was EVER Issued BY The chemung county court Justice in The matters of People v. Agosto, Chemung county court Indictment NUMBER 2011-102 or The Bronx county Supreme Court Justice in The matters of People v. AGOSTO, Bronx county Indictment Number 4275-93 For The Justice of The New York state Western District court To Revive, Restore, Reissue or Reinstate a NEW FINAL JUDGMENT VIA DE NOVO, Allow me To Explain, The Petitioner herein will like To direct This court To PAGE 26B herein, Where he can clearly Show This COURT The Admission of The NEW YORK STATE ATTORNEY' GENERAL ASSISTANT PAUL B LYONS Where he is clearly Notifying The JUSTICE OF The New York state WESTERN DISTRICT COURT That No Pre-Trial, Trial or Sentencing Proceedings EXIST for The chemung county court case [2011-102] because Those Proceedings Was NEVER Transcribed, AND FURTHERMORE, The Petitioner herein will like To direct This court To Page(s) 25 AND 26 herein, Where he can clearly Show This court The Admission of The Records

Access Officer of The Bronx County District Attorney Office S.N. EDANDISON, Where he clearly stated VIA CERTIFICATION OF RECORDS To The Justice of The New York state Western District [SEE: SR-504 herein At PAGE 26 ], Where he clearly stated "... we was UNABLE To Locate Your Trial folder Pertaining To The Above Referenced Indictment Number [4275-93]. I have ENCLOSED a Record certification verifying That This folder was Not found.,, see S.N. EDANDISON Verification statements herein at Page(s) 25 AND 26, That It's Also Part of The N.Y.S. ATTY. GEN. STATE RECORDS PACKET submitted To The Justice of The Western District of New York ON MARCH 21ST, 2017 At Page(s) SR-503 AND 504, showing herein At Page(s) 25, AND 26, Those statements Mentioned herein at Page(s) 25, 26, AND 26-B, Will Clearly Show This court That NO CONVICTION or sentence was EVER EXECUTED OR Pronounced Against The Petitioner herein Justifying his detention inside a correctional facility within The UNITED state GeoGraphic or Territorial Jurisdiction for any court Within The United State To Possess SUBJECT MATTER Jurisdiction IN Accordance With The U.S. CONST. ART. III, SEC. (2), CL. (1), or To Reissue, Restore, Revive or Reinstate a New Final Judgment VIA DE NOVO, FURTHERMORE, The Jurisdictional defected order filed in The U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT ON December 19TH, 2018 contradicted They own court Rulings and also some PRECEDENT COURT Rulings Already Established by This U.S. SUPREME COURT, Allow Me To Explain, The Petitioner herein Will Like To direct This court To ONE of The U.S. court of Appeal 2ND. CIR. OWE case cite Requirements Pursuant U.S. V. WERBER, 51 F.3d 342 At 347 That clearly stated "... It's The oral sentence which is The Judgment of The court and which Authorize for EXECUTION of The sentence; Written commitment order is Mere EVIDENCE of Such Authority...", AND Also stated "... District court had NO Jurisdiction Under Rule Permitting court to correct clerical error in sentencing, To correct error of LAW", IN WHICH is The Matters in question herein, SINCE A. A.G. PAUL B. LYONS AND Bronx County District Attorney office Record Access Officer S.N. EDANDISON have Admitted To The courts Via court state Records showing herein at Page(s) 25, 26, AND 26-B, That No Records of CONVICTION Exist Against The Petitioner herein, Granting This court or any court Within The UNITED state SUBJECT MATTER Jurisdiction To Entertain any TYPE of APPEAL Procedure Against The Petitioner herein. FURTHERMORE, The Petitioner herein directed The U.S. COURT OF APPEALS OF The 2ND. CIR. To A U.S. SUPREME COURT PRECEDENT CASE CITE REQUIREMENT Pursuant JOHNSON V. MISSISSIPI, 108 U.S. 1981, That clearly stated At FOOTNOTE (3)"... When court determinate That ALL Records of Petitioner Trial has been lost, Neither Reconstruction NOR a New Trial WAS Possible and That Petitioner has Raised APPELABLE Issue concluded in light of All circumstances That The ONLY Available Remedies... [WAS] VACATUR OF The conviction and dismiss of The Indictment...", see also: WEATHERHEAD V. BASKERVILLE, 52 U.S. 329, (12/1/1850), Both of This PRECEDENT CASE CITE Requirements JOHNSON AND WEATHERHEAD mentioned herein Above Will clearly show This court That The

DE NOVO Final Judgment Issued by The Justice of The WESTERN DISTRICT COURT OF NEW YORK  
And Supported by The U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT ON DECEMBER 19TH, 2018,  
IF ANY, WAS AND STILL IS UNPRECEDENT AND UNCONSTITUTIONAL AND IT SHALL BE DISMISSED  
OR REVERSE BY THIS COURT, FURTHERMORE, The Petitioner herein will like to direct This court TO  
ONE OF THIS COURT OWN CASE cite Requirement Pursuant People of The State of ILLINOIS V.  
CITY OF CHICAGO, 33 S.C.T. 178, That Clearly Stated "... The United State Supreme court  
had dismissed Appeals Where NO Records OF Final Judgment has been Provided To The  
Court...", and IT'S FOR THIS REASON THAT The Petitioner herein WILL ASK THIS COURT TO  
DISMISS THE UNPRECEDENT AND UNCONSTITUTIONAL order filed in The U.S. COURT OF APPEALS  
FOR THE SECOND CIRCUIT ON DECEMBER 19TH, 2018, IN THE MATTERS IN QUESTION THEREIN AGOSTO  
V. MILLER, 18-1626.

14. GROUND # 4, The Petitioner herein WILL OBJECT, REPLY and DISPUTE The order Issued  
and filed by The U.S. COURT OF APPEALS FOR THE 2ND. CIR. COURT CLERK (CATHERINE O'HAGAN  
WOLFE ON DECEMBER 19TH, 2018, ON THE GROUNDS THAT IT WAS SUPPORTED BY FORGED  
DOCUMENTATION, ALLOW ME TO EXPLAIN, The Petitioner herein WILL like to direct This  
Court TO Page(s) 36, 37, AND 38 herein, WHERE I CAN CLEARLY SHOW THIS COURT THREE  
FORGED CERTIFICATE OF DISPOSITION FOR INDICTMENT MADE ON THREE DIFFERENT DATES  
[11/24/2009], [4/11/2011] AND [12/1/2011], WITH THREE DIFFERENT CERTIFICATE OF  
DISPOSITION FOR INDICTMENT NUMBERS [38900], [53737] AND [59748], WITH THREE  
DIFFERENT SIGNATURE BY THE SAME COURT CLERK THAT HIS REAL NAME IS HECTOR L. DIAZ  
NOT LUIS DIAZ OR LUIS M. DIAZ LIKE HE SIGNED ALL THREE FORGED CERTIFICATE OF  
DISPOSITION FOR INDICTMENT, FURTHERMORE, The Petitioner herein WILL like to direct  
This court TO Page(s) 39 AND 41, WHERE HE CAN CLEARLY SHOW THIS COURT SOME MORE  
FORGED DOCUMENTATION FILED AT THE U.S. COURT OF APPEALS FOR THE 2ND. CIR. THIS  
DOCUMENTATION SHOWING HEREIN AT Page(s) 39 AND 41, ARE RECORDS OF CONVICTION OF AN  
OTHER PERSON NAME RAFAEL AGOSTO FROM BROOKLYN NEW YORK OF AN INCIDENT THAT ALLERGERLY  
OCCUR ON 1984 WHEN THE PETITIONER HEREIN WAS 18 YEARS OLD LIVING IN PUERTO RICO  
WITH HIS PARENT, AND THE PETITIONER WILL LIKE TO DIRECT THIS COURT TO SOME MORE  
FORGED DOCUMENTATION FILED AT THE U.S. COURT OF APPEALS FOR THE 2ND. CIR. SHOWING HEREIN  
AT Page 42, WHERE THIS COURT CAN CLEARLY SEE A SENTENCE AND COMMITMENT NOT  
UNDERLINED BY TRIAL TRANSCRIPTS OR EXECUTION OF SENTENCE IN ACCORDANCE WITH STATEMENTS  
MADE BY A.A.G. PAUL B. LYONS SHOWING HEREIN AT Page 26-B WHERE HE ADMITTED TO THE  
JUSTICE OF THE WESTERN DISTRICT OF NEW YORK THAT NO PRE-TRIAL, TRIAL, OR SENTENCING  
MINUTES WAS EVER TRANSCRIBED IN THE MATTERS OF PEOPLE V. AGOSTO, CHEMUNG  
COUNTY INDICTMENT NUMBER 2011-102, FURTHERMORE, The Petitioner herein WILL like to

Page 30 herein, Where he can clearly show This court some more FORGED Documentation filed at The U.S. COURT OF APPEALS FOR THE 2ND. CIR., This FORGED Documentation showing herein at Page 30 is another sentence and commitment NOT UNDERLINED by Trial Transcripts or Execution of sentence IN Accordance with Statements made by The Bronx County District Attorney Office Record Access Officer S.N. EDANDISON Showing herein At Page 25, Where he clearly stated That No Trial folder was Located for People v. Agosto, Bronx County Indictment Number 4275-93, NEVERTHELESS, The Petitioner herein WILL LIKE To Remind This court That The FORGED Documentary Evidence mentioned herein and also Showing herein At Page(s) 30, 36, 37, 38, 39, 41 AND 42 Was filed At The NEW YORK STATE WESTERN DISTRICT COURT ON MARCH 21ST, 2018 by A.A.G. PAUL B. LYONS IN The Matters of Agosto v. Miller, CASE NO: 16-cv-0568A As Part of The NEW YORK STATE ATTORNEY GENERAL COURT RECORD PACKET, FURTHERMORE, The Petitioner herein Will also like To Remind This courts That This same FORGED documentation showing herein At Page(s) 30, 36, 37, 38, 39, 41, AND 42 WAS ALSO Filed At The U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT ON MAY 30, 2018 Pursuant DKT. NO: 2 Prior To Their UNPRECEDENT AND UNCONSTITUTIONAL ORDER filed on Their court Pursuant DKT. NO: 60, This FORGED documentation Showing herein at Page(s) 30, 36, 37, 38, 39, 41, AND 42 are The PRIMA FACIE EVIDENCE OF The ARBITRARY, CAPRICIOUS, UNPRECEDENT AND UNCONSTITUTIONAL ORDER, IF ANY ?, ISSUED by The COURT CLERIC OF The U.S. COURT OF APPEALS.

15. GROUND # 5, The Petitioner herein WILL ALSO LIKE To direct This court To Page(s) 31, 32, 33, 34, AND 35, Where he can clearly show This court That NO Transfer Agreement Was Ever Made or signed between The Mayor of New York City and The New York State Department of Correctional Service Pursuant New York State STATUTORY Provision Requirement Pursuant CORRECTIONAL LAW § 91 (1)(2)(3)(E), AND 92 (1) (2), That Clearly Stated IN MADATORY TERMS, That SUCH AGREEMENT SHALL be Made between The MAYOR of The city of New York and The commissioner of The New York State Department of Correction and SHALL Be Filed at The Secretary state Office, AND Page(s) 34 AND 35 WILL Clearly Show This court That NO-ONE EVER Authorized The Transfer of The Petitioner herein To a correctional facility within This court or any court within The UNITED STATES Geographic Jurisdiction, for This court or any other court To Possess Subject Matter Jurisdiction To Entertain APPEALS Procedure Against The Petitioner herein

16. GROUND # 6, The Petitioner herein WILL LIKE To Remind This court That The

documentary Evidence Showing herein At Page(s) 25, 26, 26B, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, AND 39, is the documentary Evidence submitted by A.A.G. PAUL B. LYONS ON MARCH 21ST, 2017 TO THE JUSTICE OF THE WESTERN DISTRICT COURT IN NEW YORK STATE AS PART OF THE PEOPLE STATE COURT RECORD AT Page(s) 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, AND 169, THAT WILL CLEARLY SHOW THIS COURT THAT IT'S IMPOSSIBLE FOR ANY COURT WITHIN THE UNITED STATES GEOGRAPHIC OR TERRITORIAL JURISDICTION TO ESTABLISH SUBJECT MATTER JURISDICTION IN ACCORDANCE WITH THE U.S. CONST. ART. III, SEC. (2), CL. (1) IN THE MATTERS IN QUESTION HEREIN, WITHOUT HAVING ANY FINAL JUDGMENT OR EXECUTION OF SENTENCE TO ESTABLISH THAT THE PETITIONER HEREIN WAS CONVICTED AND SENTENCED TO A CRIME, IF ANY?, FOR HIM TO BE DETAINED INSIDE A CORRECTIONAL FACILITY WITHIN THIS COURT OR ANY COURT WITHIN THE UNITED STATES TO POSSESS SUBJECT MATTER JURISDICTION IN THE MATTERS IN QUESTION HEREIN.

17. GROUND # 7, THE PETITIONER HEREIN WILL OBJECT, REPLY AND DISPUTE THE ORDER ISSUED BY AND FILED BY THE COURT CLERK OF THE U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT IN QUESTION HEREIN, ON THE GROUNDS THAT IN ACCORDANCE WITH THE U.S. CONSTITUTION XIV AMENDMENT, THAT CLEARLY STATED "... NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY WITHOUT DUE PROCESS OF LAW...", AND IN ACCORDANCE WITH DOCUMENTARY EVIDENCE SHOWING HEREIN AT PAGE(S) 25, 26, 26B, 27, 28, AND 29, IT'S CLEAR THAT NO CONVICTION OR SENTENCE WAS EVER PRONOUNCED AGAINST THE PETITIONER HEREIN FOR HIM TO BE DEPRIVED OF HIS LIFE, LIBERTY OR PROPERTY INSIDE A CORRECTIONAL FACILITY WITHIN THE UNITED STATES, FURTHERMORE, NO JURY OR JUDGE HAS EVER FIND THE PETITIONER HEREIN GUILTY OF ANY CRIME, NEITHER THE PETITIONER HEREIN PLEADED GUILTY TO ANY CRIME IN ACCORDANCE WITH DOCUMENTARY EVIDENCE SHOWING HEREIN AT PAGE(S) 25, 26, 26B, 27, 28, AND 29, THAT'S ALSO STATE COURT RECORDS.

18. GROUND # 8, THE PETITIONER HEREIN WILL OBJECT, REPLY AND DISPUTE THE ORDER ISSUED AND FILED BY THE U.S. COURT OF APPEAL FOR THE SECOND CIRCUIT COURT CLERK CATHERINE O'HAGAN WOLFE ON DECEMBER 19TH, 2018 IN THE MATTERS IN QUESTION HEREIN, ON THE GROUNDS THAT SUCH ORDER ISSUED AND FILED BY COURT CLERK WOLFE IS OR WAS NOT UNDERLINED BY FINAL JUDGMENT ISSUED BY THE JUSTICE SHOWING THEREIN AT PAGE 24 HEREIN, SINCE, ON THAT ON JANUARY 3RD, 2019 THE PETITIONER HEREIN SUBMITTED A REQUEST TO THE U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT JUSTICE(S) LIVINGSTON, CHIN, AND DRONEY REQUESTING THAT HE [THE PETITIONER] BE PROVIDED WITH A COPY OF THE JUDGMENT PRONOUNCED BY THEM IN THE MATTERS IN QUESTION THEREIN [18-1626] WITH THEIR SIGNATURE ON IT EXECUTING SUCH JUDGMENT, AS THIS COURT CAN SEE HEREIN AT PAGE(S) 47, 48, AND

49, HOWEVER, ON JANUARY 11, 2019 The U.S. COURT OF APPEALS FOR THE 2ND CIR. DEPUTY CLERK DINA SENA Provided The Petitioner herein with an UNCONSTITUTIONAL Response Not Underlined by a Final Judgment As Requested herein At Page(s) 47, 48, AND 49 IN Accordance with 4 AM.JUR.2D. APPELLATE REVIEW<sup>§ 95</sup>, That Clearly Stated "According To Some Authorities, A Judgment Lacking The Judge Signature does Not SUPPORT an APPEAL", SEE ALSO: RULE CIV. PRO., RULE 58, That Also Stated "...Where Trial Judge orally disposed of Motions made by a Party and where The CLERK OF THE COURT Noted such disposition on The court docket, It was held That Those Acts Taken singly or Together did Not constitute ENTRY OF THE JUDGMENT under RULE 58 ...", AND ALSO STATED "AN APPEAL Granted before The Judgment is subject to dismissal ONLY until The Judgment is signed...", and That's The Matters and Issue IN Question herein, No Justice Issued any Judgment in The Matters in Question Therein [18-1626] and The order Issued and Filed by That court Clerk is Nothing more than JUST another Made belief since No Judgment was Provided by The Justice in Question herein, AS This court can see herein at Page 50.

-- MEMORANDUM OF LAW --

19. The Petitioner herein WILL LIKE To direct This court To a U.S. SUPREME COURT case cite Requirement Pursuant HILL, WARDEN V. U.S. EX. REL. WAMPLER, 56 S.CT. 760, AND ALSO To a U.S. COURT of Appeals case cite Requirement Pursuant CHASTEEN V. DENEMARK, 138 F.2d. 289, That Clearly Stated "...A Prisoner is not detained by virtue of The Warrant and commitment, but by virtue of The Execution of sentence / Final Judgment...", AND CHASTEEN V. DENEMARK, 138 F.2d. 289, ALSO Stated "... IF Judgment and Sentence do not Authorize CONVICTION, CONVIC DETENTION NOT LAWFUL...", FURTHERMORE, AT WILSON V. BELL, 137 F.2d. 716, 721 AND THOMAS V. LARKIN, 2013 WL 5963133 ALSO Stated "...NULLITY OF Warrant and commitment which deParts in The matters of substance from Judgment in basis of it may be Establish UPON writ of habeas corpus, and IF Judgment do NOT Authorize Accuser detention, No Mittimus Will Avail To Made detention LAWFUL, FURTHERMORE, The Petitioner herein Will Like To direct This court To ONE of Their own case cite Requirements Pursuant MONGOMERY V. LOUISIANA, 136 S.CT. 718, That ALSO Stated "... A CONVICTION under an UNCONSTITUTIONAL Law is Not Merely Erroneously, but Illegal and Void, and cannot be a Legal cause of IMPRISONMENT...", FURTHERMORE, The Petitioner herein Will Also Like to direct This court To BACA V. U.S., 383 F.2d. 154, 157 AND ONCE AGAIN TO

WILSON V. BELL, 137 F.2d. 721, That Also Stated "... The "JUDGMENT" in a criminal case is The Pronouncement by The Judge from The Bench and Not The ENTRY of The Judgment by The CLERK...", FURTHERMORE, At U.S. V. DABNEY, 393 F SUPP. 529, has Also Stated "... When Neither a Judgment of CONVICTION, Nor a sentence have been ENTER by a court following a JURY Verdic, CONVICTION Will NOT stand...", FURTHERMORE, The Petitioner herein Will Like To direct This court To ONE of This OWN court case cite Requirements Pursuant IN RE WINSHIP, 90 S.C.T. 1068, That Also Stated "... The Requirement of Prior conviction beyond Reasonable doubts is Now Mandated as well by The Due Process CLAUSE of The federal constitution XIV AMENDMENT...", FURTHERMORE, The Petitioner herein Will Like To direct This court To a New York state statutory Provision Requirement Pursuant N.Y. MCKINNEY'S C.P.L § 70.20, That Clearly Stated "... No conviction of an offence by Verdic is valid "UNLESS" based UPON Trial Evidence...", Meaning Trial Proceedings, HOWEVER, IN Accordance with a federal statutory Provision Requirement Pursuant 28 U.S.C.A. § 1733 AND STATUTORY HISTORY § 8031, That Clearly Stated "... Required Authentic copies of Transcripts of Records To Establish Prior CONVICTION...", NEVERTHELESS, The Petitioner herein Will Like To direct This court To ANOTHER N.Y.S. STATUTORY Provision Requirement Pursuant THE NEW YORK STATE CIVIL PRACTICE LAW AND RULES 4521 [LACKS OF RECORDS] That Also Stated "... When Records cannot be found or located, The Presumption Therein Arise That No such documentation have ever been in Existance and until The Presumption Therein Arise and Not REBUTED IT MUST stand as Proof of such NON-EXISTANCE...", As The matters in question herein, The Petitioner herein Will Like To direct This court To ONE of The U.S. court of APPEALS case cite Requirements Pursuant U.S. V. ROBINSON, 544 F.2d. 110 [Underlined by U.S. V. ROBINSON, 98 S.C.T. 901], That Also Stated "... The Absence of Records of an EVENT which would Ordinart be Recorded To a Proceedings, Give Raise To a Legitimate Negative Inference That The EVENT did Not occur...", see also other federal statutory Provision Requirements At F.R.E RULE 803(7)(A)(B)(C) AND 8 U.S.C.A. § 1316 (D), FURTHERMORE, The Petitioner herein Will Like To direct This court To a N.Y.S. COURT OF APPEALS case cite Requirements Pursuant PEOPLE V. JOHNSON, 69 N.Y.2d. 339 (MARCH 24, 1987) SUPPORTED by The Ruling Issued At JOHNSON V. MISSISSIPPI, 108 S.C.T. 1981 (JUNE 13TH, 1988) That clearly stated At FOOTNOTE (3) "... When court determinate That All Records of Petitioner Trial had been Lost, Neither Reconstruction Not a New Trial Was Possible and That Petitioner has Raise APPELABLE ISSUE conculuted in Light of All circumstances, The ONLY Remedies Available ... WAS To Vacatur The CONVICTION and dismiss The INDICTMENT..." FURTHERMORE, The Petitioner herein Will Like To Remind This court That All statements, case cites Requirement and statutory Provision Requirements showing herein within This Paragraph, Will clearly Show This court That The LACKS OF Trial Transcripts Proceedings

Such As Final Judgment and Sentencing Transcripts Proceedings Within The State court Records Packet are The Prima Facie Evidence of The Appellant/Petitioner herein Illegal Detention, False Imprisonment and The court Lacks of Jurisdiction To Entertain The Matters in Question herein, On The Grounds That The Petitioner herein has Provided This court with The documentary evidence That No Final Judgment or Sentencing Minutes Exist or Ever EXISTED Establishing That The Petitioner herein Was convicted or Sentence To a crime, IF ANY, for him To be detained inside a correctional facility within Their court or This Court County, district or State GeoGraphic Jurisdiction To Possess Subject matter Jurisdiction In Accordance with The U.S. CONST. ART. III, SEC.(2), CL.(1), NEVERTHELESS, It's clear That All statements Mentioned herein by The Petitioner herein are 100% Accurate and Truthful and SUPPORTED by TWO Government EMPLOYEE(S) S.N. EDANDISON AND A.A.G. PAUL B. LYONS At Page(s) 25, 26, AND 26B herein, That No Trial Transcripts Proceedings or Sentencing Transcripts Proceedings Exist for The Petitioner herein.

20. The FORGED documentation Showing Therein At The STATE COURT RECORDS PACKET At SR-508, SR-514, SR-515, SR-516, 517-SR, AND SR-123, Also Showing herein At Page(s) 30, 36, 37, 38, 39, AND 42 are UNCONSTITUTIONAL AND ALSO UNPRECEDENT IN Accordance with SOME PRECEDENT case cite Requirements Established by This court Pursuant DIXON V. DUFFY, 73 S.CT. 193, That Clearly Stated "... When Records are Not Adequate or are INADEQUATE or Not clear, The Judgment May be Vacated...", See also: JENNING V. STATE OF ILLINOIS, 72 S.CT. 123, FURTHERMORE, The Petitioner herein will Like To direct This Court To another PRECEDENT case cite Requirement Established by This court Pursuant MILLER V. PATE, 386 U.S. 17, That clearly stated "... The U.S. CONSTITUTION XIV AMENDMENT Cannot Tolerate a State criminal conviction obtained by The KNOWING use of false Evidence...", See also: MOONEY V. HOLOHAN, 294 U.S. 103, 55 S.CT. 340, NAPUE V. PEOPLE OF THE STATE OF ILLINOIS, 79 S.CT. 1173, PYLE V. STATE OF KANZAS, 63 S.CT. 177, ALCORIA V. STATE OF TEXAS, 78 S.CT. 103, AND IT'S for This Reason That This court SHALL Reverse and dismiss The UNPRECEDENT AND UNCONSTITUTIONAL ORDER ISSUED AND FILED BY THE COURT CLERK OF The U.S.CT. OF APP. 2ND. CIR. IN Question herein.

21. The Petitioner herein WILL LIKE To direct This court To A U.S. court of Appeals case cite Requirement Pursuant MORRIS V. THOMPSON, 852 F.3d. 416, That Clearly stated "... To Establish Initially That a Federal court MAY Exercise subject matter Jurisdiction over a case where a defendant challenge subject matter Jurisdiction, The Government MUST Present Proof, BY a Preponderance of The Evidence To SUPPORT The claim of Jurisdiction...", Also Stated "... A federal court MUST Presume That it do Not have subject matter

Jurisdiction..."; FURTHERMORE, The Petitioner herein Will Like To direct This court To Some PRECEDENT Case cite Requirement Already Established Pursuant LEHIGH MINING AND MANUFACTORY CO. V. KELLY, 16 S.CT. 307, That Clearly Stated "...LACKS OF Jurisdiction Can Never be Waived or consented To. The Jurisdiction Of The Federal court Should Never be Presume, since The Presumption is Precisely CONTRARY..."; see also: EX PARTE CARDLE, 74 U.S. 506. GONZALEZ V. THALER, 132 S.CT. 641, COTTO V. U.S., 535 U.S. 625, That Also Stated "...When Jurisdiction do NOT EXIST, Neither Litigant, No court itself can Confer it, AND can Never be Waived or forfeited..."; see also: GOLDEN V. ZWICKLER, 89 S.CT. At 959, That Also Stated "...Parties may Not fabricate Jurisdiction by stipulations..."; see also: FEDERAL STATUTORY PROVISION REQUIREMENT Pursuant 28 U.S.C.A. § 2201 ET SEQ., SEE Also: FORTHERGILL V. U.S., 556 F.3d. 248, That Also Stated "...holding That IF Facts do NOT Support Subject Matter Jurisdiction, order do NOT stand..."; The Petitioner herein Will Like To direct This court To another PRECEDENT Case cite Requirement Established by This court Pursuant GEYGER V. SOTOY, 1 U.S. 135, That Also Stated "...When court has NO Jurisdiction of The subject matter INVOLVED, The Prisoner may be discharge by habeas corpus..."; FURTHERMORE, The Petitioner herein Will Like To direct This court To another PRECEDENT Case cite Requirement Established by This court Pursuant PEOPLE OF THE STATE OF ILLINOIS V. CITY OF CHICAGO, 33 S.CT. 178, That Also Stated "...The U.S. SUPREME Court had dismissed Appeals where NO Records of final Judgment has been Provided To Them..."; The Petitioner herein Will Ask This court NOT To Presume That This court Possess Subject Matter Jurisdiction or That The facts determinated by The state Courts or federal court are correct and follow The U.S. Supreme court case Requirements mentioned and Showing herein at This WRIT, SINCE, The Petitioner herein has Presented This court herein with The clear and convincing Evidence Showing herein and IN Accordance with The federal statutory Provision Requirement Pursuant 28 U.S.C.A. § 2254 (E) (1)

22. The Petitioner herein Will Like To Remind This court That The Jurisdiction Of This COURT IS NOT INVOKED Under 28 U.S.C.A. § 1254 (1), ON The Grounds That The UNITED STATE COURT OF APPEALS for The SECOND CIRCUIT Issued an ORDER in Total Absence of All Jurisdiction Which do NOT Grant This court Jurisdiction Pursuant 28 U.S.C.A. § 1254 (1), RULE(S) 14.1 (E) (4) (G) (i) (ii) of This court, or ART. III, S.C. (2), CL. (1) of The U.S. CONST. Subject Matter Jurisdiction Requirements As mentioned herein Above in a more Precise and Persuasive Form.

= REASON FOR GRANTING THE WRIT -

23. The Petitioner herein WILL LIKE To direct This court To The Prima facie documentary evidence Provided by The N.Y.S. ATTY. GEN. ASST. PAUL B. LYONS At his state court Records Packet At Page(s) 503, 504, 506, 507, 508, 509, 512, 513, 514, 515, 516, 517, 518, 519, 169, 123, AND 510 showing herein At Page(s) 25, 26, 26B, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 39, AND 51, 42, ALLOW ME TO EXPLAIN, The Petitioner herein WILL LIKE To direct This court To Page(s) 27, 28, AND 29 herein, Where he can clearly show This court That No Records of conviction Exist within The N.Y.S. DEPARTMENT OF CORRECTIONAL SERVICE Authorizing his detention inside a correctional facility within This court or any court county, district or state Geographic Jurisdiction for This court or any court To Possess Subject matter Jurisdiction IN Accordance With The U.S. CONST. ART. III, SEC.(2), CL.(1) IN The Matters in question herein. FURTHERMORE, The Petitioner herein WILL LIKE To direct This court To Page(s) 31, 32, 33, 34, AND 35, Where he can clearly show This court That No Transfer Agreement was EVER made Authorizing The Transfer of The Petitioner herein To a correctional facility within This court or any court county, district or state Geographic Jurisdiction for This court or any court To Possess Subject matter Jurisdiction. FURTHERMORE, The Petitioner herein WILL LIKE To direct This court To Page(s) 30, 36, 37, 38, AND 42, Where he can clearly show This court Three FORGED certificate for disposition for Indictment AND TWO FORGED WARRANT AND COMMITMENT Not underlined by Trial Transcripts or Execution of Sentence, FURTHERMORE, The Appellant/Petitioner herein WILL LIKE To direct This court To Page 39, 40, AND 41, Where he can clearly show This court some more FORGED documentation provided BY The N.Y.S. ATTY. GEN. ASST. PAUL B. LYONS where he TRY To use Records of another Person Named Rafael Agosto As Already EXPlained herein Above.

24. The Petitioner herein WILL LIKE To direct This court To Page(s) 25, 26, AND 26B, Where he can clearly show This court The Admission of TWO Government Employee(s) Notifying The court and The Appellant/Petitioner herein That No Trial Transcripts Evidence / FINAL JUDGMENT Exist in The Matters of People v. Agosto, Bronx county IND. No: 4275-93, OR People v. Agosto, chemung county Indictment No. 2011-102, IN Which SUPPORT All Statement Made by The Appellant/Petitioner herein false ImPrisonment, Illegal detention, LACKS OF Records of conviction, IF ANY, within The N.Y.S. DEPARTMENT OF CORRECTION Institutional file and The Reason NO-ONE Ever Authorized his Transfer To A correctional facility within This court or any court county, district or state Geographic Jurisdiction for This court or any court To Possess Subject matter

Clerk or Judge(s) of The U.S. COURT OF APPEALS for The Second circuit Issued an order or final Judgment on The Appeal Brief That Was Docketed on Their court General docket NO: 33 After The Appellant Therein filed A Scheduling Notification on 06/11/2018 and Docket on The court General Docket Sheet At DIST. NO: 13 SEE APPEAL BRIEF At APPX.PKT. P. Nos. 00550 THROUGH 00577. SEE DOCKET SHEET AT PAGE 51 herein.

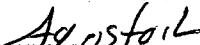
28. It's The duties of This court To Establish Subject matter Jurisdiction beyond Reasonable doubts by Asking The court official of The U.S. court of Appeals for The Second Circuit or The NEW YORK STATE ATTORNEY GENERAL or her Assistant To Provide This court With Trial Transcripts or Execution of Sentence of ANY conviction, IF ANY, That Will Justify The detention of The Petitioner herein inside a correctional facility within This COURT COUNTY, district or state Geographic/Territorial Jurisdiction for This court To Possess Subject matter Jurisdiction in Accordance with The U.S. CONST. ART. III, SEC.(2), CL.(1) ON The Grounds That in Accordance with The U.S. CONSTITUTION XIV AMENDMENT NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY OR PROPERTY without DUE PROCESS OF LAW, AND IN The matters in question herein No JURY or Judge Ever find The Petitioner herein Guilty of any crime and Neither The Petitioner herein Confessed, Admitted or Plead it Guilty To ANY crime for him To be detained under False IMPRISONMENT Against his Will.

THEREFORE, The Petitioner herein Respectfully Ask This court To Revert The decision Issued on 12/19/2018 in question herein above on The Grounds That It's Jurisdictionary defected As mentioned herein above AND IMMEDIATELY RELEASE The Petitioner herein from false IMPRISONMENT, ON The Ground That It's No Trial Transcripts or Execution of sentence Justifying his detention inside a correctional facility within The UNITED STATE.

I, RAFAEL AGOSTO, I.D. NO: 95A3133, Declare under declaration of Penalty of Perjury Pursuant 28 U.S.C.A. §1746, That ALL statements mentioned herein are True and correct. EXECUTED ON 03/11/2018, AT CLINTON COUNTY, IN NEW YORK STATE.

DATE: MARCH 11, 2019

RESPECTFULLY SUBMITTED,



RAFAEL AGOSTO, #95A3133

CLINTON CORR. FACLTY.

P. o. Box 2000

DENAMORA, N.Y., 12929.

cc: R.A. /P.F.(2), ET AL.