CASE NO: 18-8922

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

In re EFRAIN CAMPOS,

Petitioner,

vs.

SUE NOVAK, Warden
[Columbia Correctional Institution],

Respondent.

ON PETITION FOR WRIT OF HABEAS CORPUS

TO WISCONSIN STATE SUPREME COURT

PETITION FOR WRIT OF HABEAS CORPUS

MR. EFRAIN CAMPOS [#374541-A]

Columbia Correctional Institution

Post Office Box 900 / CCI-Unit-#9.

Portage; Wisconsin. 53901-0900

QUESTION(S) PRESENTED

1.) Was Petitioner Efrain Campos Denied A Fundamentally Fair Guilty Plea Procedural Execution, By The With Holding Of Information By The Assistant District Attorney Regarding The State Sophistical Elimination Of Discretionary Parole Actuality Via Its "Violent Offender Incarceration Program--Tier #1" Agreement With The Federal Government?

2.) Was The Discovery Of The Hidden "Violent Offender Incarceration Program--Tier #1" Agreement Between The State Of Wisconsin And The Federal Government, A Relevant "Factor" Sufficient To Warrant An Adjustment Of Defendant Efrain Campos Sentence Structure To Meet The Sentencing Courts' Implied Promise That The Sentence It Imposed Would Provide This First Time Offender With A "Meaningful" Chance For Discretionary Parole Consideration In Approximately 17 to 20 Years?

3.) Was The Hidden Actions Of The State Of Wisconsin Governments, In Its Participation In The "Violent Offender Incarceration Program--Tier #1," A Violation Of A Defendants' Right To Intelligently And Knowingly Enter Into A Plea Agreement In Which The State Selling Promise Was The "Genuine Possibility" Of Discretionary Parole Release Consideration In About 17 To 20 Years?

4.) What Is the Available Procedural Review Process For Discovery That The Plea Process And Sentencing Receipt Thereof, Were The Product Of Fraud In The Information Relied Upon. That Comes To Light Years Or Even Decades After The 28 U.S.C. §2254 Habeas Corpus Statutory Substitute Review Statute Of Limitation Has Expired? Is It Article #1, Section §9, Clause #2 Habeas Corpus Review Access?

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APPENDIX #4-4/C; Wisconsin State Court Of Appeals, District #1, September 14, 2001 Dated "Opinion" Finding No-Merit To Any Issue(s) Possibly Created In The Prosecution, Defense Presentation, No-Contest Plea Agreement Case Disposition And/Or Sentence Imposition Therefrom In The Milwaukee County Circuit, During First Appeal Of Rights With Appointed Counsel Representation, State Of Wisconsin v. Efrain Campos, Appeal No's: #00-2013-CRNM and #00-2014-CRNM.

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APPENDIX #17-17/A; Milwaukee County Circuit Court, §974.06 Wis. Stats., Collateral Post-Conviction Motion Pleading filed on March 04, 2016 by Petitioner Efrain Campos, pro se, With the Jailhouse Lawyer Inmate-To-Inmate Legal Assistance Of Prisoner Oscar B. McMillian [#042747-A], Setting Forth The Underlying Material Fact That The "Violent Offender Incarceration Program - Tier #1" Participation By The State Of Wisconsin, Government Was Information "Recently" Discovered Evidence, Therefore, Legally "Newly Discovered Evidence" Supporting Motion To Withdraw No Contest/Guilty Plea(s) Of Cases 99CF723 And 99CF713, Or In The Alternative "New Factor" Evidence Warranting A Sentence Modification To Achieve The Original Sentence Imposition "Genuine Discretionary Parole" Release Consideration Intent.

TABLE OF AUTHORITIES CITED

Federal Constitutional Authorities:

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Efrain Campos, pro se, respectfully prays that a Writ of Habeas Corpus under Article I, Section §9, Clause #2 of the United States Constitution, Issue to "Reverse" the Judgment of the Wisconsin State Supreme Court, and its review denial of the State Court Of Appeals, District #1, Opinion and Order below.

OPINIONS BELOW

The Opinion of the Wisconsin State Supreme court, which by Its decision to decline to exercise its §809.62(1) Wis. Stats., Discretionary Review Authority, rendered the State Court of Appeals, District #1 Opinion on the Merits as the controlling decision of the State Of Wisconsin, Judicial Collateral Post-Conviction review. With said Order appearing at Appendix - #1, hereto.

The opinion of the Wisconsin State Court Of Appeals, District #1, which is the last "Detailed" on the Merits decision of this Collateral Post-Conviction litigation, appears at Appendix - #2 to the petition and is unpublished.

The opinion of the Milwaukee County Circuit Court, Branch #26, addressing the Fundamental Unfairness of the Hidden Agreement between the Wisconsin State Government and the Federal Government, of the "Violent Offender Incarceration Program--Tier #1" 85% of Sentence Service requirement, appears at Appendix - #3 to the petition and is unpublished.

JURISDICTION

The Wisconsin State Supreme Court decided to decline to exercise its discretionary review authority over the §809.62 Wis. Stats., pro

se Petition For Review in my case on December 12, 2017, which a copy of appears at Appendix - #1.

The §809.62(1) Wis. Stats., Petition For Review was timely filed in review request of the Wisconsin State Court of Appeals, District #1, Opinion and Order filed on June 13, 2017, which a copy appears at Appendix - #2.

The jurisdiction of the United States Supreme Court is invoked under 28 U.S.C. §1257(a). Additionally, pursuant to Supreme Court Rules, Rule #17(4)(a), Petitioner sets forth his "Statement Of The Reasons For Not Making Application To The District Court of the District in which the applicant is held."

Here, that reason is that this is a "Collateral" State Post-Conviction review litigation, that came into existence year(s) after Petitioner exhausted his §809.30/§974.02(1) Wis. Stats., First Appeal of Right review undertaking, which concluded on September 14, 2001 via Anders Brief/No-Merit Report decision of the State Court Of Appeals, District #1 (Appendix - #4). Thus, the One(1) Year Statute Of Limitations/Deadline, for the filing of a 28 U.S.C. §2254 Petition For A Writ Of Habeas Corpus by a Prisoner in State Custody, has long expired, along with petitioners available review access to such Statutory Substitute, Habeas Corpus review venue allowance; **Wilson v. Ill. Dep't Of Fin. & Prof'l Regulation,** 871 F.3d 509, 512 (7th Cir. 2017)("When the writ of habeas courpus (or a statutory substitute such as 28 U.S.C. §§ 2254 and 2255) is available, it is exclusive. Preiser v. Rodriquez, 411 U.S. 475, 93 S.Ct. 1827, 36 L.Ed. 2d 439 (1973)"). Thereby, the Original Great Writ under Article #1, Section §9, Clause #2 of the United States Constitution is the only available procedural review hereon; **Herrera v. Collins,** 506 U.S. 390,

401, 113 S.Ct. 853, 860 (1993)("Chief Justice Warren made this clear in Townsend v. Sain, supra, at 317:

> "Where newly discovered evidence is alleged in a habeas application, evidence which could not reasonably have been presented to the state trier of facts, the federal court must grant an evidentiary hearing. Of course, such evidence must bear upon the constitutionality of the applicant's detention; the existence merely of newly discovered evidence relevant to the guilt of a state prisoner is not a ground for relief on federal habeas corpus."

This rule is grounded in the principle that federal habeas corpus courts sit to ensure that individuals are not imprisoned in violation of the Constitution -- not to correct errors of fact").

Here, Petitioner after having exhausted all available State Law "Collateral" Post-Conviction review venued litigation procedural review opportunities held out by the State of Wisconsin, as safety valve for address of such Federal Constitutional violated judicial procedure situation(s), Article #1, Section §9, Clause #2 Original Habeas Corpus review is the only meaningful, adequate and effective procedural litigation actuality open for Federal review of this Fundamentally unfair and State Actors created Fraudulent Guilty Plea Inducement promise (Appendix - #5) and "Sham" Sentencing Proceeding "Genuine" Parole Consideration Opportunity Embracement of the Sentencing Judge (Appendix - #6); **Boumediene v. Bush**, 553 U.S. 723, 785, 128 S.Ct. 2229, 2270 (2008)("Habeas corpus is a collateral process that exists, in Justice Holmes' words to "cu[t] through all forms and g[o] to the very tissue of the structure. It comes in from the outside, not in subordination to the proceedings, and although every form may have been preserved opens the inquiry whether they have been more than an empty shell." Frank v. Mangum, 237 U.S. 309, 346, 35 S.Ct. 582, 59 L.Ed. 969 (1915)(dissenting opinion). Even

when the procedures authorizing detention are structurally sound the Suspension Clause remains applicable and the writ relevant. See 2 Chambers Course of Lectures on English Law 1767-1773, at 6 ("Liberty may be violated either by arbitrary imprisonment without law or the appearance of law, or by a lawful magistrate for an unlawful reason")").

Thus, this pro se Petitioner moves this United States Supreme Court to exercise its Constitutional jurisdiction and accept this Original Petition For Writ Of Habeas Corpus action for review and/or Order it sent down to the Federal District Court for the Western District of Wisconsin, pursuant to Supreme Court Rules, Rule 20(4)(b) acknowledged 28 U.S.C. §2241 authority allowance.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The **Sixth Amendment** to the United States Constitution provides in relevant part hereto, that: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor."

The **Ninth Amendment** to the United States Constitution provides in whole relevant hereto, that: "The enumeration in the Constitution, of certain rights, shall not construed to deny or disparage others retained by the people."

The **Fourteenth Amendment** to the United States Constitution provides in relevant part hereto, that: "No State shall make or enforce

any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The United States Supreme Court has over the Decade(s) concluded that the Fundamental Amendment(s) collective address the Procedural Due Process protection(s) afforded to Criminal Defendant(s) in the United States. Noting in case law holdings that "Due Process, Does Imply Honesty in the Process;" **Withrow v. Larkin,** 421 U.S. 35, 47, 95 S.Ct. 1456 (1975). Declaring in the Courts holding in **United States v. Nixon,** 418 U.S. 683, 709, 94 S.Ct. 3090 (1974) that; "The need to develop all relevant facts in the adversary system is both fundamental and comprehensive. The ends of criminal justice would be defeated if judgments were to be founded on a partial or speculative presentation of the facts. The very integrity of the judicial system and public confidence in the system depend on full disclosure of all the facts." This, fundamental procedural execution of the due process undertaking, this Court has declared is; "That 'The prosecutor may not become the architect of a proceeding that does not comport with the standards of justice;' **Gardner v. Flordia,** 430 U.S. 349, 358, 97 S.Ct. 1197 (1977)("The defendant has a legitimate interest in the character of the procedure which leads to the imposition of sentence, even if he may have no right to object to a particular result of the sentencing process")." I.e., **White v. Ragen,** 324 U.S. 760, 65 S.Ct. 978 (1945)("A conviction secured by the use of perjured testimony known to be such by the prosecuting attorney is a denial of due process").

The assertion to a Defendant during the Plea Bargain process of

Real Possibility of "Discretionary Parole Release" Consideration after service of about 17 to 20 Years of the Structured 70-Year Term (Appendix #5-5/A), which was then adopted by the Sentencing Court as the Sentence imposed goal achievement (Appendix: #6, #6/A-6/B and #6/H). A Discretionary Release possibility that the Assistant District Attorney knew and/or should have known was "False" under the State Of Wisconsin, Criminal Justice system engagement of the Federal "Violent Offender Incarceration Program -- Tier #1" (Appendix #7 and #8), which the State on the very day of Petitioners' Sentencing agreed to full compliance with the Required Maximum 85% service mandate thereon, or as close thereto as legally allowed for prisoners' sentenced before the Program creation (Appendix #9). Which the Assistant District Attorney, as well the State Of Wisconsin, Governmental Official(s) kept hidden from the General Public, violates these fundamental due process protections of the United States Constitution; [Compare]: **Lankford v. Idaho,** 500 U.S. 110, 111 S.Ct. 1723 (1991) ("Petitioner's lack of adequate notice that the judge was contemplating the imposition of the death sentence created an impermissible risk that the adversary process may have malfunctioned in this case").

Further here, **Article #1, Section §9, Clause #2** of the United States Constitution, in relevant part here, holds: "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in cases of Rebellion or Invasion the public Safety may require it."

The United States Supreme Court has acknowledged that 28 U.S.C. §2254 Petition For writ Of Habeas Corpus review by a State Prisoner in Federal Court, is a "Created" Statutory substitute of the Great Writ, of which Congress has considerable sway over its operations and review allowance; **Felker v. Turpin,** 518 U.S. 651, 662 n.4, 116 S.Ct.

2339 (1996)("As originally enacted in 1948, 28 U.S.C. §2254 specified that "an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State." 28 U.S.C. § 2254 (1946 ed. Supp. 111). The reviser's notes, citing Ex parte Hawk, 321 U.S. 114, 88 L.Ed. 572, 64 S.Ct. 448 (1944)(per curiam) indicating that "this new section is declaratory of existing law as affirmed by the Supreme Court"").

The Court in **Felker** then goes on to point out: "The Act also codifies some of the pre-existing limits on successive petitions, and further restricts the availability of relief to habeas petitioners. But we have long recognized that the power to award the writ by any of the courts of the United States, must be given by written law, Ex parte Bollman, 8 U.S. 75, 4 Cranch 75, 94, 2 L.Ed. 554 (1807), and we have likewise recognized that judgments about the proper scope of the writ are "normally for Congress to make." Loncher v. Thomas, 517 U.S. 314, 323, 134 L.Ed.2d 440, 116 S.Ct. 1293 (1996). Id. 518 U.S. at 664, 116 S.Ct. at 2340". However, Petitioner points out that this "Normally" acknowledged exception is the relevant issue here, that the "Great Writ" cannot be forever forclosed to such "Never" employed it State law convicted Defendants, when the "Fundamental Fairness" of the forfeiture of 28 U.S.C. §2254 Statutory substitute habeas corpus review opportunity, was achieved by Fraud upon the Defendant by State Actors; **Townsend v. Sain,** 372 U.S. 293, 317, 83 S. Ct. 745, 759 (1963)("The primary purpose of a habeas corpus proceeding is to make certain that a man is not unjustly imprisoned. And if for some justifiable reason he was previously unable to assert

his rights or was unaware of the significance of relevant facts, it is neither necessary nor reasonable to deny him all opportunity of obtaining judicial trlief"), See also **Keeney v. Tamayo-Reyes,** 504 U.S. 1, 21, 112 S.Ct. 1715, 1726 (1992)("In enacting a statute that so closely paralles Townsend, Congress established a procedural frame work that relies upon Townsend's continuing validity"). I.e., **Boumediene v. Bush,** 553 U.S. 723, 739, 128 S.Ct. 2229, 2244 (2008)("The Framers viewed freedom from unlawful restraint as a fundamental precept of liberty, and they understood the writ of habeas corpus as a vital instrument to secure that freedom").

Thus, the **Boumediene** Court's functionalist approach leaves some room to argue that the Suspension Clause entitles state prisoners to some collateral postconviction review of their federal claims in federal courts. As the Court noted, the "writ is 'a vital instrument to secure [individual liberty]' and an 'essential mechanism in the separation-of-powers scheme'. Id. 553 U.S., at 739 and 743."

STATEMENT OF THE CASE

The Petitioner, Defendant Efrain Campos, was Charged on February 10, 1999 with Ten(10) Count(s) Criminal Complaint in the State Of Wisconsin, Milwaukee County Case #1999-CF-000723, for the Robbery While Armed Charges that took place on January 18, 1999. Case #723 Charges here arise from the Criminal act that took place against the **Memo's Bar**, located at 1501 West Scott Street, in the City of Milwaukee; Wisconsin. That on January 18, 1999 at approximately 9:00 P.M., the Defendant, as a Party To A Criminal Act with Other(s), While his Identity was Concealed, by the use or threat of use of force, did take property from Five(5) Individual(s) whom included the Operator of the Memo's Bar establishment, and Four(4) Customer(s) thereof.

The Second Business involved in the Charges of Case #723, are on January 19, 1999, Petitioner Efrain Campos did commit Armed Robbery, With Threat Of Force, as a Party To A Crime participant, against the Operator of the **Club Guadalajara**, located at 1338 West Scott Street, in the State of Wisconsin, City Of Milwaukee; Wisconsin. Along with Four(4) Individual Customer(s), whom were patronizing the Business establishment (Appendix #. 10).

Petitioner Efrain Campos, was additionally charged in Criminal Complaint, Case 1999-CF-000713, in a Fourteen(14) Count(s) Prosecution, that consisted on Eleven(11) Counts of Armed Robbery, With The Threat Of Force, as a Party To A Crime participant, along with One(1) Count of Attempted Armed Robbery, With Threat Of Force, as a Party To A Crime participant, and Two(2) Counts of Attempted First Degree Intentional Homicide, as a Party To A Crime participant (Appendix #11).

All charge(s) arise from a February 07, 1999 criminal incident involving the Business Establishment of **Kathy's Nut Hut**, located at 1500 West Scott Street, in the State Of Wisconsin, City Of Milwaukee. Where from Petitioner as a Party To A Crime participant, entered and confronted an estimated 20-Patrons on the premises, where at against the Establishment Operator, the Bar was Held-Up---along with a fair share of individual patrons robbed.

The Petitioner, along with the Other involved Co-Defendant, upon leaving the Bar premises, and observed a Police Squad Car approaching, that without Petitioners Campos knowledge, or willingness of involvement, the Co-Defendant fired Two(2) or Three Shot(s) in the general direction of the approaching police vehicle was arriving from. The defendant (Petitioner) Campos, in not wanting to have any involvement in such a shooting incident, disarmed himself, and began fleeing

the immediate crime scene area.

Petitioner Campos, while in the process of fleeing, after having disarmed himself in from of the **Kathy's Nut Hut** location, heard additional Gun Shot(s) being discharged, and later learned that his Co-Defendant allegedly fired off several additional shots in the "Air" while running from the crime commission location, in his ill informed belief that such would slow down the police auto and/or foot pursuit(s). Both Petitioner Campos and his Co-Defendant were eventually captured as a result of the police pursuit, and taken into custody.

On July 15, 1999 pursuant to a Plea Agreement reached with the Milwaukee County Assistant District Attorney, Douglas J. Simpson, Petitioner Campos entered into a Plea Resolution of all Charge(s) of both Criminal Complaint contained charges of #723 (Appendix #10) and #713 (Appendix #11). The Fundamental Agreement of this resolution, was since Petitioner Campos was a First Time Offender, and indeed, the **Memo's Bar** robbery had been committed while Petitioner was still legally only 17-Years Old on his Birthday of January 18, 1999. The ADA proposed a Plea Resolution of all Charge(s), that would provide for this First Time Offender to become eligible for Serious Discretionary Parole Release Consideration after serving between 17 to 20 years (Appendix #5-5/A). Based upon this central element of the plea resolution, this First Time Offender, Petitioner Campos, along with his Family consult thereon, agreed to this Plea Agreement Resolution and Ended any pursuit consideration of a Jury Trial on all originally brought criminal charges (Appendix: #10 & #11).

At the scheduled Sentencing Hearing Proceeding on September 21, 1999 (Appendix #6), the Sentencing Court Judge, the Honorable John

E. McCormick, in issue to the Plea Agreement resolution of "No Contest" Plea(s) to Eleven(11) Criminal Charges of the combined cases of 1999-CF-723 (Appendix #10) and 1999-CF-713 (Appendix #11), with Four(4) Criminal Charges of the combined cases being out-right dismissed (Appendix: #10 & #11), and another Seven(7) Criminal Charges being Dismissed, but "Read-In" to the Sentencing Record and considered by the Court at Petitioner Campos Sentencing (Appendix: #10 & #11). The ADA Douglas J. Simpson at said sentencing proceeding, submitted to the Court, that this "Stacked" Sentencing structure was required (Appendix #5-5/A), in order to achieve the "Promise" of the Plea Agreement of Petitioner Campos being eligible for "Genuine" Discretionary Parole Release consideration in about 20-Years (Appendix #6/A-6/B).

Indeed, the Sentencing Court Judge in making sure that the ADA Simpson intent was clear here, pointed out that the Court came up with "Seventeen and a Half Years" for initial Discretionary Parole Eligibility upon the State's proposed Sentence structuring here (Appendix - #6/B).

At no time during the Sentencing proceeding, did the Assistant District Attorney, Douglas J. Simpson inform the Sentencing Court Judge, the Honorable John E. McCormick, the Defense Attorney for Petitioner Campos, Attorney Ramon Valdez, or the Defendant himself during the Petitioner Campos Plea Discussion(s) here involved (Appendix #5-5/A), that the State Of Wisconsin, via Governor Tommy Thompson's representatives, had entered into the little known by the General Public, **"Violent Offender Incarceration Program -- Tier #1"** (Appendix #7 & #8). Which required the State of Wisconsin to require all None Truth-In-Sentence, Sentenced Defendants' to serve as much of

their received sentence in prison as the State could legally achieve by any means available (I.e., suppression of Discretionary Parole) / (Appendix #8). A Program participation that the State of Wisconsin had been involved in for several years prior to Defendant Campos Plea Agreement Negotiation(s) with its initial 1997 Contract of Statutory Assurance (Appendix #7).

The Sentencing Court Judge, based upon the "Less Have Trust In The Parole System" argument of the ADA (Appendix #6/H), imposed the Very Sentence Length and Concurrent/Consecutive Structure of the Plea Agreement, with the belief that the First Time Defendant, Petitioner Campos would have a "Genuine Possibility" for Discretionary Parole Release consideration after his initial eligibility in 17½ Years at about 20-Years under this sentence receipt (Appendix #6/H).

Petitioner Campos timely filed a Notice Of Intent To Pursue Post-Conviction Relief. Which resulted in a **"Anders Brief/§809.32 Wis. Stats., No Merit Report"** filing to the Wisconsin State Court of Appeals, District #1, as Appeal Case No's: 2000AP2013-CRNM and 2000AP2014-CRNM. Which on September 14, 2001 was "Affirmed" by the Wisconsin State Court Of Appeals, District #1 (Appendix #4-4/C), thereby allowing the State Public Defender Office appointed First Appeal of Right, Counsel Representative of Margaret A. Asterlin to withdraw from further representing Petitioner Efrain Campos in these consolidated appeals pursuant to Wis. State Rule §809.32(3) / (Appendix #4/C).

Petitioner Campos, at the release of Attorney Margaret A. Asterlin from his case Post-Conviction/Appellate Review litigation representation (Appendix #4/C), and Petitioner Campos being 18-Years old

at the time of his arrest, approximately 20-Days after Petitioners' 18th Birthday in 1999 (Appendix #10). Petitioner simply settled in and began undertaking the Program participation and education needs attainment that would be necessary for a "Genuine Discretionary Parole Release" consideration in approximately 17-Years or close thereto (Appendix #5-5/A and #6/A), as so declared by the Assistant District Attorney at Sentencing as the central objective of this Plea Agreement Sentence Length and Structuring thereof (Appendix #6/H).

Petitioner Campos, after achieving Parole Eligibility on August 04, 2016 (Appendix #12). Went before the Now several times revised and restructured Parole Board operation in the State of Wisconsin (Appendix #13-13/B), and was informed by this One(1) Member Parole Commission, that "Discretionary Parole" was no longer practiced in the State of Wisconsin, and that all Old Law Sentenced Defendants' are expected to serve until their Mandatory Release Date(s) and/or Close to such, and then imposed a 30-Month Defer upon Petitioner Campos. Noting that Petitioner Campos Mandatory Release was not until July 25, 2046 almost 30-Years in the future (Appendix #12).

Petitioner Campos a few months earlier, had learned of a Well hidden "Secret" Agreement between the State of Wisconsin and the Federal Government, which required elimination of Discretionary Parole Release actualities for Old Law Prisoners, and additionally came to discover, that the Finale Achievement agreement of this - **"Violent Offender Incarceration Program - Tier #1"** contract aggreement was executed on the very day of Petitioner Campos Sentencing proceeding back on September 21, 1999 (Appendix #9), with the State of Wisconsin alleging that the State had met the programs requirement that persons convicted of Part 1 violent crime serve not less than 85 percent of

the sentence imposed (Appendix #9).

Further, upon seeing that this Agreement had been in operation for a minimum of Two(2) Years prior to Petitioner Campos sentencing and Plea Agreement thereof (Appendix #7 & #8). Petitioner sought Section §974.06 Wis. Stats., Collateral Post-Conviction Motion relief from the Plea Agreement (Appendix #5-5/A), or in the Alternative, a "Sentence Moditifaction" that would require the sentence be restructured to asure that Petitioner would be Released on Parole after no more than 25-Years at a maximum.

The Milwaukee County Circuit Court in its review of this March 04, 2016 filed §974.06 Wis. Stats., Collateral Post-Conviction Motion, without evidentiary hearing supportive submission(s) opporturity, on March 09, 2016 Summarily Denied the §974.06 Motion relief sought regarding Withdrawal of the No Contest Guilty Plea Agreement resolution, asserting; "The defendant committed an astounding number of crimes in these two cases, and he was facing an incredible amount of time in prison for his conduct. His claim that he would never have taken the plea agreement had he known he wouldn't be paroled in 15-17 years <u>is</u> <u>rejected</u> (Appendix #3/A)."

The Milwaukee County Circuit, the Honorable William S. Pocan presiding on §974.06 Wis. Stats., Motion review, in regard to the "Alternative" Sentence Modification relief if Plea Agreement Withdrawal of judicially determined not warranted here, found: "The defendant also claims that Governor Tommy Thompson's policy of keeping violent offenders in prison for a minimum of 85% of their terms constitutes a new factor which frustrates the parties' and the court's original sentencing intent. This policy, however, <u>was introduced long before the defendant was sentenced</u>. Consequently, the issue could have

been raised in response to appellate counsel's no merit report. See State v. Tillman, 281 Wis.2d 157 (Ct. App. 2005)(defendant's failure to raise issues in response to counsel's no merit report constitutes a waiver of those issues). It was not appellate counsel's duty to raise the issue, and it was not the Court Of appeals' duty to identify it as a possible issue. Even if it **was unknown to all parties**, there is no indication that Judge McCormick relied on any certainty that the defendant would be paroled in 15-17 years when he imposed sentence. On the contrary, he never relied on any possible parole eligibility date. State v. Franklin, 148 Wis.2d 1, 14 (1989), held that "a change in parole policy cannot be relevant to sentencing unless parole was actually considered by the circuit court" (Appendix #3/A)."

Petitioner Campos timely sought State of Wisconsin, Court of Appeals, District #1 Appellate Review of this March 09, 2016 Denial of §974.06 Wis. Stats., Collateral Post-Conviction Motion relief of withdrawal of the Plea Agreement, based upon the withholding of the 85% Service of Violent Crimes, such as Armed Robbery sentence agreement (Appendix #3-3/A), and/or the Alternative "Sentence Modification Relief" therefrom (Appendix: #3/A-3/B).

The Wisconsin State Court of Appeals, District #1 on June 13, 2017 Filed its Opinion and Order on this §974.06 Wis. Stats., Collateral Post-Conviction Motion Issue litigation (Appendix #2), First "We agree with the Circuit Court that Campos is not entitled to plea withdrawal. First, we reject Campos's belated attempt to present a newly discovered evidence argument on appeal. Although Campos used that phrase once in his postconviction motion, he did not present adequate argument concerning the four components of such a claim. See State v. Love, 2005 WI 116, ¶43, 284 Wis.2d 111, 700 N.W.2d 62 (newly

discovered evidence claim requires showing that '"(1) the evidence was discovered after conviction; (2) the defendant was not negligent in seeking evidence; (3) the evidence is material to an issue in the case; and (4) the evidence is not merely cumulative.'"). We decline to consider those issues for the first time on appeal (Appendix #2/H, ¶17).

Next the Court of Appeals, District #1 declared: "Campos's allegations that he would not have pled guilty had he known about the three pages of government documents he submitted with his motion are conclusory and contrary to the trial court record. Those documents discuss the State of Wisconsin's participation in the federal government's Violent Offender Incarceration/Truth-In-Sentencing Grant Program. It is not clear how Campos's case would be affected by the grant program. Campos's motion implies that the documents suggest he would be forced to serve most of his sentence until his mandatory release date. Campos further asserts that if he had known that, he would not have plead guilty. The record belies his assertion (Appendix #2/H-2/I, ¶18).

Finally, the Court Of Appeals, District #1 in its June 13, 2017 Decision further went on to find: "In this case, the trial court heard competing opinions about when Campos was likely to be paroled, but ultimately it did not attempt to resolve those opinions, and it did not state that Campos's likely parole date was relevant to the sentence it was imposing" (Appendix #2/J, ¶22).

Petitioner Campos, after the State Court of Appeals, District #1 Opinion of June 13, 2017, Affirming" the Milwaukee County Circuit Court, Dismissal of the §974.06 Wis. Stats., Collateral Post-Conviction Motion "Fourteenth Amendment Constitutional" Issue regarding the with-

held "Violent Offender Incarceration Program -- Tier #1" Information, that applied to all sentencing situation(s) in the State of Wisconsin, from the date of its participation agreement, including Truth-In-Sentencing eventual laws enactment (Appendix #7). Petitioner Campos sought Wisconsin Statute, Section §809.62 (Appellate Rules) Petition For Review of the Court of Appeals, District #1 June 13, 2017 dated Opinion before the Wisconsin State Supreme Court.

The Wisconsin State Supreme Court on December 12, 2017 "Declined" to Exercise its Wis. Stats., §809.62(1) (Appellate Rules) "Discretionary" Review authority and accept this matter for review litigation address (Appendix #1).

Based upon the material fact that this Decision of the Wisconsin State Supreme Court, comes 16-Year(s) after the Wisconsin State Court of Appeals, District #1, initial No-Merit Report/Anders Brief decision back on September 14, 2001 (Appendix #4), in this case First Appeal of Right undertaking, with Appointed Counsel representation. The pursuit of 28 U.S.C. §2254 Federal Petition For Writ Of Habeas Corpus is not available. Thus, this Pro Se Indigent Prisoner Litigant, with the Voluntary Assistance of a Fellow Prisoner, Oscar B. McMillian #042747-A, located here at the Columbia Correctional Institution, in the State of Wisconsin. Believes that an Original, Article #1, Section §9, Clause #2 Petition For Writ Of Habeas Corpus is the only viable review possibility that can meaningfully, adequately and effectively reach the tissue(s) of evasion that make the Milwaukee County Circuit Court March 09, 2016 "Summary Review" hereon (Appendix #3-#3/B) and State Of Wisconsin, Court Of Appeals, District #1 attempt to re-write the §974.06 Wis. Stats., Collateral Post-Conviction Motion Issues submission (Appendix #2-#2/K); **Coleman v. Thompson,** 501 U.S.

722, 774, 111 S.Ct. 2546 (1991)("[F]undamental fairness is the central concern of the Writ of Habeas Corpus"). I.e., **Jannotti v. United States,** 673 F.2d 578, 614 (3rd Cir. 1982)("A free society can only exist to the extent that those charged with enforcing the law respect it themselves"). Thus, as the Seventh Circuit Court of Appeals has acknowledged, I inquire of this United States Supreme Court; **United States v. Mitchell,** 58 F.3d 1221, 1224 (7th Cir. 1995) ("Certainly, in this context, the Supreme Court of the United States in McCarthy v. United States, 394 U.S. 459, 568, 89 S.Ct. 1166, 1172, 22 L.Ed.2d 418 (1968), It was suggested that we not worship at the alter of ritual in this regard, but deal with "matters of reality".")/ (Appendix #3-3/B and #2-2/K).

REASON[S] FOR GRANTING PETITION

FOR ORIGINAL WRIT OF HABEAS CORPUS

Under Supreme Court Rules, Rule #20(4)(b), it is acknowledged that Habeas Corpus proceedings, except in capital cases, are ex parte, unless the Court requires the respondent to show cause why the petition for a writ of habeas corpus should not be granted. Pro Se Petitioner Campos, submit(s) that the "Questions Presented" in this Petition for Article #1, Section §9, Clause #2 Writ Of Habeas Courpus are submitted in the fundamental undertaking, to protect the Appearance Of Justice in this action "Collateral Post-Conviction" Motion review undertaking, of the clear denial of Fourteenth Amendment Due Process entitlement clearly missing here; **Caterpillar, Inc. v. Williams,** 482 U.S. 386, 392 n.7, 107 S.Ct. 2425 (1987)("The plaintiff is the "Master" of the Complaint"); **Boumediene v. Bush,** 553 U.S. 523, 776, 128 S.Ct. 2229, 2265 (2008)("That the statutes in Hayman and Swain were designed to strengthen, rather than dilute, the writ's protections was

evident, furthermore, from this significant fact: Neither statute eliminated traditional habeas corpus relief. In both cases the statute at issue had a saving clause, providing that a writ of habeas corpus would be available if the alternative process proved inadequate or ineffective. Swain, supra, at 381, 97 S.Ct. 1724, 51 L.Ed.2d 411; Hayman, supra, at 223, 72 S.Ct. 263, 96 L.Ed. 232. The Court placed explicit reliance upon these provisions in upholding the statutes Constitutional challenges").

1.] **Question Number One** here, raises a fundament right protection concern, Was Petitioner Efrain Campos Denied Relevant Information Necessary For Him To Have Entered A Fully Informed And Intelligent Guilty/No Contest Plea undertaking here (Appendix #10 and #11). We have a First Time Offender, having just turned 18-Years Old, faced with Hundreds of Years in Time Receipt if he is eventually found Guilty after Jury Trial of Every Count in Both Criminal Complaint Charging(s).

But, as informed by the Latino Attorney Representing Petitioner, he could expect that as many as Half of the Individual Patron(s) of the Three(3) Establishment(s), not to show-up at any scheduled Jury Trial for the Prosecution, because of the long established dislike of Latino/Latina Individual(s) to become involved with the Judicial System, especially in Milwaukee County. Thus, whether Defendant went to Jury Trial on all Counts of all Three(3) Case prosecution(s) involved here (Appendix #10 & #11), he could expect any guilt findings to be on about Half of the Individual Patron's Charges brought by the State (Appendix #10 & #11). Thus, the "Selling" Point to this Defendant, of the Prosecutions' Plea Offer, was the "Possibility Of Discretionary Parole" Release attainment, in keeping with the truth

of Petitioner Campos Youthful Age at the time of these crimes commission, 17-Years old on the date of the Initial Robbery of **Memo's Bar** on January 18, 1999, and just having turned 18-Years old at the time of the **Club Guadalajara** Armed Robbery a few hours later, with the **Kathy's Nut Hut** robbery taking place approximately 19-Day(s) later (Appendix #6/D-6/F). A point that the ADA Simpson pointed out to the Sentencing Court; "I think he's going to be release somewhere in the age group of 35 to 40 based on the state's recommendation, that is, assuming he doesn't get paroled the very first time or probably close to it (Appendix #6/A-6/B). Which as the Record submitted to the Milwaukee County Circuit Court, and State Court of Appeals, submitted a "Prima Facie" showing of (Appendix #5-5/A).

Thus, for both the Milwaukee County Circuit Court, without the allowance of any "Evidentiary" development opportunity in support of this Documented Plea Offer Intent demonstration here (Appendix #3-3/B), to assert its "Findings Of Alleged Facts" in support of its desired outcome decision execution, rendered this §974.06 Wis. Stats., Collateral Post-Conviction Motion procedural review undertaking, little more than a sham actuality; **Townsend v. Sain,** 372 U.S. 293, 316, 83 S.Ct. 745, 788 (1963), rev'd in part by Keeney v. Tamayo-Reyes, 504 U.S. 1, 5, [112 S.Ct. 1715] (1992)("The obligation of the Federal District Court to scrutinize the state-court findings of fact goes farther than this. Even if all the relevant facts were presented in the state-court hearing, it may be that the fact-finding procedure there employed was not adequate for reaching reasonably correct results. If the state trial judge has made serious procedural errors (respecting the claim pressed in federal habeas) in such things as the burden of proof, a federal hearing is required")/(Appendix #2).

Along with the State Court Of Appeals, District #1 "Guess" Factual determinations of Fact (Appendix #2/H, ¶18 n.5), regarding whether or not, the Sentence Service Increased Time requirement(s) of the "Violent Offender Incarceration Program -- Tier #1" would be applicable to Petitioner Campos, undercuts any real "Honesty In The Review process hereon;" **Chapman v. State Of California,** 386 U.S. 18, 21, 87 S.Ct. 824, 826 (1967)("With faithfulness to the Constitutional Union of the States, we cannot leave to the States the formulation of the authoritative laws, rules, and remedies designed to protect people from infractions by the States of federally guaranteed rights"). I.e., **Withrow v. Larkin,** 421 U.S. 35, 47, 95 S.Ct. 1456 (1975)("Due Process does imply "honesty in the process"").

Indeed, the Exhibit attached to the Brief-In-Chief filing to the State Court of Appeals itself, explains: "The State/Territory of Wisconsin assures that it has implemented, or will implement, correctional policies and programs, including Truth-in-Sentencing laws that ensure that violent offenders serve a substantial portion of the sentences imposed (Appendix #7)." That further, the Exhibit included regarding a tracking of the decline in Discretionary Parole receipts following the State of Wisconsin, participation in the Violent Offender Incarceration Program -- Tier #1 (Appendix #13/A), that was at One point 87% of Release undertakings (Appendix #14/D) to now only about 10% of the Old Law Prisoners' Request (Appendix #15/A). Thus, without much argument, demonstrating a "Prima Facie" showing of application to this Petitioners' case sentence service actuality.

Thus, was this information release altering actuality, required to be made known, for Petitioner Campos to have entered a fully informed and intelligently made decision to accept the Prosecution Plea

Offer, which primary selling point was the "Possibility" of Discretionary Parole Release actuality in 20-Years or there about (Appendix #5-5/A); **Bourjaily v. United States,** 483 U.S. 171, 179-180, 107 S.Ct. 2777, 2781 (1987)("Individual pieces of evidence insufficient in themselves to prove a point, may in cumulation prove it")/ (Appendices: #7-9 and #6/a-6/B; #6/H and #13/A). The United States Supreme Court as long acknowledged in such case law holdings as that set forth in **Bradshaw v. Stumpf**, 545 U.S. 175, 182-183, 125 S.Ct. 2398 (2005), quoting Brady v. United States, 397 U.S. 742, 748, 90 S.Ct. 1463 (1970), that: "A Guilty Pleas 'operates as a waiver of important rights' and, therefore, 'is valid only if done voluntarily, knowingly, and intelligently with sufficient awareness of the relevant circumstances and likely consequences."

Here, but the Wisconsin State Court of Appeals, District #1 in its June 13, 2017 Opinion (Appendix: #2/G-2/I, ¶¶14-18), as well the Lower Circuit Court of Milwaukee County, execute a Sophistical dance around these very important Constitutional concern(s) raised by this not public generally available "**Secret** Sentence Service" Agreement between the State of Wisconsin and the Federal Government. That the Milwaukee County Circuit Court Judge, during the §974.06 Wis. Stats., Collateral Post-Conviction Motion, Summary Review execution declared was in operation for years prior to petitioners case prosecution (Appendix #3/A), thus, neither Appellate Counsel, nor the Appellate Review Court had a duty to consider its lack of discussion in this plea agreement situation, that failed to address its denial of the very early Discretionary Parole Release consideration that was the "Central" Selling point of the Plea Offer (Appendix #5) "This policy however, was introduced long before the defendant was sentenced. Consequently, the issue could have been raised in response to appellate

counsel's no merit report" (Appendix #3/A).

This type of "Sophistical" Judicial address of the Claim submitted here, fails to address the material actuality, that simply because information of this **"Violent Offender Incarceration Program -- Tier #1"** Agreement was common knowledge to the Milwaukee County Circuit Court Judge(s), and District Attorney Staff Member(s), it was never published for General Public Information sharing, to date no State of Wisconsin, Judicial Official has named a single General Public News Paper that ran a News Story on this Program Contract Agreement between the State of Wisconson Government of Governor Tommy Thompson, or identified One State Prison Law Library that had been provided copies of this Contract execution (Appendix #7), or of its yearly confirmation Grant Receipts (Appendix #8-9). This very Issue in itself, should have raised serious Constitutional Concern(s) of the Fundamental Fairness of this Plea Offer Selling by the Prosecution here (Appendix: #6/A-6/B and #6/H); **Bruton v. United States**, 391 U.S. 123, 142, 88 S.Ct. 1620, 1631 (1968)("It is a common experience of all men to be informed of "facts" relevant to an issue requiring their judgment").

Thus, with Judicial findings regarding Defense Counsel's duty to inform correctly a Defendant of such "Correct" Parole Eligibility actualities in Plea Deal interaction(s), that applied United States Supreme Court Constitutional protections established in law thereto; **Baker v. Barbo**, 177 F.3d 149, 154 (3rd Cir. 1999)("In Meyers we found that a defense attorney was mistaken in informing his client that he would be eligible for parole in a case where the offense to which the defendant pled guilty carried a mandatory life sentence"); **Meyers v. Gillis**, 142 F.3d 664, 668 (3rd Cir. 1998)("It is difficult

for any court to determine in hindsight whether a criminal defendant would have pled guilty had he received competent advice from counsel. However, that difficulty cannot restrict our analysis nor cause us to deny relief that is otherwise appropriate and required under the law. See Hill [v. Lockhart], 474 U.S. 52, at 60, 106 S.Ct. 366. Our task is further complicated by a delay of over sixteen years since the entry of the plea. However, given the totality of the circumstances, we conclude that Meyers has met his burden of showing that there is a reasonable probability that, but for counsel's erroneous advice, he would not have pled guilty, and that he has been prejudiced by doing so. ... As noted above, Meyers testified before the district court that he would not have pled guilty had he known he would not be eligible for parole")/(Appendices: #3/A and #2/H-#2/I, ¶18).

This fundamental point of clearly established United States Supreme Court case law precedent recognized Due Process protection in the Guilty Plea process, was re-affirmed most recently in the 5th Circuit holding in **Trotter v. Vannoy**, 2017 U.S. App. LEXIS 10146* 5-6, where such "Parole Eligibility" concerns were discussed hereon; "Trotter maintains that he is entitled to relief because (1) his guilty plea was not made knowingly or intelligently because it was based on the unfulfilled promise that he was eligible for parole".. While the Court in Trotter eventually ruled against the Petitioner, the June 07, 2017 case decision acknowledged the continuing validity of such Defendants' right to accurate information regarding Parole Eligibility, in the Plea Bargaining process; "Trotter, supra, 2017 U.S. App. 10146 at *6 "Where a plea 'rests in any significant degree on a promise or agreement of the prosecutor, so that it can be said

to be part of the inducement or consideration, such promise must be fulfilled.'" "[W]hen a defendant pleads guilty on the bases of a promise by his defense attorney or the prosecutor, whether or not such promise is fulfillable, breach of that promise taints the voluntariness of his plea. Montoya, 226 F.3d at 405 (quoting Santobello v. New York, 404 U.S. 257, 262, 92 S.Ct. 495, 30 L.Ed.2d 427 (1971)"." I.e., (Appendix #5-5/A).

The continuing refusal of the Wisconsin Judicial system to give any regard to these Federal Law clearly established fundamental fairness concerns involved in this "Hidden **'Violent Offender Incarceration Program -- Tier #1'"** sophistical denial of the very promise that the Milwaukee County Assistant District Attorney, Douglas Simpson employed to secure the Plea Agreement reached here (Appendices: #7-8, #5-5/A); **United States v. Jannotti,** 673 F.2d 579, 614 (3rd Cir. 1982)("A free society can only exist to the extent that those charged with enforcing the law respect it themselves").

To date, Petitioner Efrain Campos, has been denied any meaningful opportunity to create the underlying supporting procedural review record regarding the Assistant District Attorney's Full and Complete knowledge of the **"Violent Offender Incarceration Program -- Tier #1"** application to the "Possibility Of Parole Release" involved here of the Plea Agreement Offer (Appendix #5-5/A). Because the "Summary" review of the Milwaukee County Circuit Court, Branch #26, the Honorable William S. Pocan, represents the totality of a Pretext Review actuality (Appendix: #3-3/B). With the Wisconsin State Court of Appeals, District #1, review of that Circuit Court Decision, representing the Truth of a Sophistical Execution of the Made-Up Mind Will of a Court of Law (Appendix #2-2/I, ¶¶14-19); **Townsend v. Sain,** supra, 372 U.S., at 317, 83

S.Ct., at 788 ("If for any reason not attributable to the inexcusable neglect of petitioner, evidence crucial to the adequate consideration of the constitutional claim was not developed at the state hearing, a federal hearing is compelled")/(Appendices: #5-5/A; #7-9 and #3-3/B). I.e., **Thompson v. Calderon,** 109 F.3d 1358 (9th Cir. 1996) ("A prosecutor may not treat a defendant in a manner that undermines society's confidence in the fairness of the process"). Thus, here on United States Constitution, Article #1, Section §9, Clause #2 Petition For Writ Of Habeas Corpus review, this Pro Se Petitioner, incarcerated in the Wisconsin State "Department Of Corrections," moves this United States Supreme Court to address this Question #1 within the fulfillment of the noted Central Promise of this Petition pleading; **Coleman v. Thompson,** supra, 501 U.S., at 774, 111 S.Ct. 2546 (Justice BLACKMUN. with Justice MARSHALL and Justice STEVENS join, dissenting)("'[F]undamental fairness is the central concern of the writ of habeas corpus.' Strickland v. Washington, 466 U.S. 668, 697, 104 S.Ct. 2052, 2070, 80 L.Ed.2d 674 (1984)").

2.] **Question Number Two** here, submits before the United States Supreme Court, a clear demonstration of a State Judicial System, layered refusal to address a clear Constitutional violative Sentencing situation, via such State Court(s) sophistical justification creation(s) to prevent fundamental unfairness of the system(s) operation(s) from being exposed to the light of public knowledge. However, the United States Supreme Court in protection from this very type of "Sophistical" review applications of law; **Knox v. Lanham,** 895 F.Supp. 750, 756 (D.C. Md. 1995)("Law is not sophistry; Constitutional mandates cannot be avoid and individual rights violated by exalting form over substance"). With its clearly established case law holding set forth in such cases

as **Gardner v. Florida,** 430 U.S. 349, 358, 97 S.Ct. 1197, 1205 (1977) ("'The Defendant has a legitimate interest in the character of the procedure which leads to the imposition of sentence, even if he may have no right to object to a particular result of the sentencing process.' Citing Witherspoon v. Illinois, 391 U.S. 510, 521-523, 88 S.Ct. 1770, 1776-1778, 20 L.Ed.2d 776 (1968)").

Here, the material facts included with this Petition for Writ of Habeas Corpus pleading, documents in "Prima Facie" showing, that Petitioner entered his Plea Agreement, based upon the "Central Promise" of the State, that the recommended Plea Offer "Sentence" suggested "Stacking/Aggregation" Imposition (Appendix #5-5/A), would under the common practiced Discretionary Parole Release executions of the law of that time, allow for this First Time Defendant (With his participation in this String of Three(3) Armed Robberies over the 19-Day period involved here, that started in truth a few hours before petitioner Campos turned 18-Years Old on January 18, 1999 / Appendix #11)/(Appendix - #10). Said record of the Sentencing Hearing held on September 21, 1999, additionally demonstrates, contrary to the State Court of Appeals, District #1 conclusions otherwise (Appendix: #2/I-2/K, ¶¶20-22), as well the Milwaukee County Circuit Court Judge belief to the contrary (Appendix #3/A-3/B) (Which in fact was a Relief denial justification, crafted from an instructional letter from the Circuit Courts Counsel Office, on how to commit fraud upon the petitioner seeking relief from a prima facie demonstration of relief entitlement, via asserting: "Technically, the new parole policy in place is a new factor. "I suppose you could get out from under the new factor by simply saying that the purpose of the original sentence -- community protection -- isn't frustrated by the introduc-

tion of the new parole policy, although you could be reversed on that. What is your pleasure?")(Appendix #16)/(Appendix #3/A-3/B). That Parole Eligibility Was A Central Issue In Defendant Campos Sentencing Process (Appendix #6/A): THE COURT: "Under the present parole system, what is your best estimate as to when he could be discharged from the prison not counting any subsequent probation or parole? MR. SIMPSON: "If he would be sentenced consistent with the State's recommendation? THE COURT: "Yes, Sir.""

Whereon, the Sentencing Hearing record goes on to document: MR. SIMPSON: "He would be required to serve one fourth of the time before he's eligible for parole. He could apply for parole after one fourth of 70 which is about 15, 16, 17 years. ... 'I think he's going to be released somewhere in the age group of 35 to 40 based on the State's recommendation, that is, assuming he doesn't get paroled the very first time or probably close to it'" (Appendix #6/A-6/B).

This clearly discussed in detail "Parole" Release possibility of the Court and the Assistant District Attorney, Mr. Douglas J. Simpson (Appendices #6, and #5-5/A), was further hammered home during the Courts' interjection during Defense Counsel's attempt to seek a shorter sentence imposition, where the COURT HELD: "However, following Mr. Simpson's logic if there are shorter sentences and then they are concurrent, it might result in a sooner discharge" (Appendix #6/C-6/D). As the record goes on to document, the Court then imposed the very Sentence Length and Consecutive Service Structure recommended by the Prosecution here (Appendices #4/A, #5-5/A and #6/A).

Thus, for the Milwaukee County Circuit Court, on the §974.06 Wis. Stats., Collateral Post-Conviction Motion, Alternative Relief address of a Sentence Modification to restructure the Sentence to maintain the

approximate 20-year service Genuine Discretionary Parole possibility of the original sentence imposition goal achievement (Appendix #6/H), to create acknowledgement denial in the sophistical execution in play here, fails flatly to begin to satisfy the appearance of justice; **DelVecchio v. Illinois Dept. Of Corrections,** 8 F.3d 509, 515 (7th Cir. 1993)("In making this ultimate judgment, the inquiry must be not only whether there was actual bias on respondent's [judge's] part, but also whether there was 'such likelihood of bias or an appearance of bias that the judge was unable to hold the balance between vindicating the interests of the court and the interest of the accused")/ (Appendix #3/A-3/B). Indeed, the Circuit Court Judge went so far as to repeat a suggested "Fraud" justification for denial of otherwise entitled Sentence Modification relief, as the Court reason for denial of the Sentence modification, right down to the punctuation thereof (Appendix #3/a-3/B: "In addition, the purpose of the original sentence -- community protection -- is not frustrated by the introduction of any parole policy")/(Appendix #16).

The State Court of Appeals, District #1, upon being made aware of this very challenge to the Circuit Courts' Sentence Modification "Alternative" Relief Denial concern, then sophistically twisted up the issue a bit, with its assertion of: "In this case, the trial court heard competing opinions about when Campos was likely to be paroled, but ultimately it did not attempt to resolve those opinions, and it did not state that Campos's likely parole date was relevant to the sentence it was imposing. Instead, the trial court explained that it was adopting the State's sentencing recommendation because it believed it would not be appropriate to impose a sentence of less than seventy years for three separate serious incidents. Then goes on to assert in

its most self-serving style that: "Nothing in the trial court's pronouncement of sentence suggests it based the seventh-year sentence on the belief that Campos would be released prior to his presumptive mandatory release date" (Appendix #2/J-2/K, ¶22). This, assertion of the Court of Appeals, is belied by the extensive discussion of the Parole Release situation created by the 70-Year Sentence the State's Plea Agreement sought, as the central issue of discussion during the entire sentencing hearing proceeding here (Appendix#6-6/H). As well clearly impeached via the material fact, that the Court imposed that very Sentence, and Structured as so recommended by the Plea Agreement to achieve Discretionary Parole Release, Genuine Consideration actualities after approximate 17½-Years (Appendix #6/C-6/D & #6/H).

This very assertion is "Contrary" to clearly established United States Supreme Court precedent, decades old, such as in **Jackson v. Indiana,** 406 U.S. 715, 738, ___ S.Ct. ___ (1972), where Former Supreme Court Justice BLACKMUN held: "At the least, due process requires that the nature and duration of commitment bear some reasonable relation to the purpose for which the individual is committed." The Supreme Court again in its holding of **Warden v. Marrero,** 417 U.S. 653, 658, 94 S.Ct. 2532 (1974), explicitly pointed out: "Parole eligibility is a function of the length of the sentence fixed by the Judge. Although, of course, the precise time at which the offender becomes eligible for parole is not part of the sentence, as it is in the case of §4208(a), it is implicit in the terms of the sentence. And it could not be seriously argued that sentencing decisions are made without regard to the period of time a defendant must spend in prison before becoming eligible for parole, or that such decisions would not be drastically affected by a substantial change in the proportion of the sentence

required to be served before becoming eligible, parole eligibility can be properly viewed as being determined--and deliberately so -- by the sentence of the Judge" (Appendix #6/H)/(Appendix #5-5/A)/(Appendices #6/a-6/B, #6/C-6/D and #2/J-2/K, ¶22).

The Material fact here, is that ADA Simpson was incorrect in his assertion(s) of "Genuine Possibility" consideration between the Age of 35-40 years old (Appendix #6/A). That indeed, Petitioner Campos will most likely be 65 or 66 Years Old before Petitioner reaches his Presumptive Parole Mandatory Release "Consideration Only" Date of 2046 (Appendix #12), 25-Years beyond the Maximum the Prosecution here swore to the Sentencing Court would be the Maximum Amount of Sentence Service the State saw being required here, as fair and just punishment for this First Time Offender, Armed Robbery crime spree, as a party to the crime thereof; **United States ex rel. Welch v. Lane**, 738 F.2d 863, 868 (7th Cir. 1984)("Once it is established that the court relied on erroneous information in passing sentence, reviewing courts cannot speculate as to whether the same result would again ensure with the error corrected"). I.e., **Townsend v. Burke**, 334 U.S. 736, 740, 68 S.Ct. 1252, 1255 (1948)("We are not at liberty to assume that items given such emphasis by the sentencing court did not influence the sentence which the prisoner is now serving")/(Appendices #6/A-6/B, #6/C-6/D and #6/H). Thus, the Last Decision on the Merits hereon, by the Wisconsin State Court Of Appeals, District #1 dated June 13, 2017 "Contrary" findings of Law and Fact, simply cannot be allowed to carry the day here; **Alleghany Corp. v. Haase**, 896 F.2d 1046, 1054-1055 (7th Cir. 1990) ("Officials may not act as if state law is the only law"). Especially, when the "Parole Eligibility" Issue New Factor creation is a long recognized consideration of that very State Law, but is simply disregard-

ed when it so fits the State's Judicial agenda; **Kutchera v. State,** 69 Wis.2d 534, 553, 230 N.W.2d 750, 760 (Wis. 1975)("It was the state that brought up the matter of instant parole at the time the original sentences were imposed. When the first sentence was imposed, the district attorney stated: '"...And I think, Your Honor, that it is not improper for this court to impose a substantial sentence on the first count and I don't know -- the maximum sentence is ten(10) years -- and ask that consecutive sentences be issued on subsequent counts because otherwise, with the law the way it is today, Your Honor, it is my understanding he could be paroled almost instantly otherwise. And I don't think it would be in the best interests of society, and I don't think it would be justice for this defendant to be paroled instantly...." Under the circumstances in this case, parole eligibility would be a new factor and the trial court properly exercised its discretion in modifying the sentence'").

Why isn't it a New Factor in this case (Appendices: #3/A-3/B and #2/I-2/K, ¶¶20-22), in an almost identical Assistant District Attorney raised incident situation as that in Kutchera v. State?((Appendices: #6/A-6/B, #6/C-6/D and #6/H). Which on the very day of this Assistant District Attorney "Parole Genuine Eligibility" Possibility receipt issue submission to the Sentencing Court, the State of Wisconsin was sealing its then Two(2) Full Years of **Assurance** of moving to require prisoners of Violent Crimes to Serve way beyond any One Fourth of their Sentence receipts (Appendices: #7, #8 and #9), a Sentence service that Petitioner is now being viewed under (Appendix #12), and Which the State Court of Appeals, District #1, asserts could be viewed as the actual sentence structuring of the Sentencing Court (Appendix #2/J-2/K, ¶22)/(Appendices: #15-15/A, #14-14/D and #13-13/B); **United States v.**

v. Tucker, 404 U.S. 443, 447, 92 S.Ct. 589, 591-592 (1972)("But these general propositions do not decide the case before us. For we deal here, not with a sentence imposed in the informed discretion of a trial judge, but with a sentence founded at least in part upon misinformation of constitutional magnitude").

The actuality of the State §974.06 Wis. Stats., Collateral Post-Conviction Motion submitted, "Recently Discovered Information/Evidence" of the State of Wisconsin's Government involvement with this Federal "Violent Offender Incarceration Program -- Tier #1" (Appendices: #7, #8 and #9, See also #17-17/A). Renders the State Courts, Last actual Decision on the Merits hereon (Appendices #2/H-2/I, ¶¶17-18), a blatant disregard to the clearly established federal law as declared by the United States Supreme Court; **Finney v. Mabry,** 455 F.Supp. 756, 777 (E.D. Ark. 1978)("There remains a profound value in the concept of due process that is an expression of the very rule of law, the intrinsic value in the appearance of justice. ... 'Justice Franhfurter captured part of this sense of procedural justice when he wrote that the "validity and moral authority of a conclusion largely depend on the modes by which it was reached". ...' [Joint Anti-Fascist Refugee Committee v. McGrath, 341 U.S. 123, 171-72, 71 S.Ct. 624, 95 L.Ed. 817 (1951)(Frankfurter, J., concurring)"])/(Appendices #3/A-3/B, #16, #17-17/A and #2/H, ¶17).

3.] **Question Number Three** here, submits the "Fundamental Right" of an individual to have before them, the information minimally required for an individual of average intelligence to make an informed, voluntary and intelligent decision regarding the waiver of fundamental Federal Constitutional Rights Protections, such as the Fifth, Sixth, Seventh and possibly Ninth Amendment(s) concern(s) involved in such a

Plea Agreement execution, based upon a "Central" Promise of the State, that Genuine Discretionary Parole Consideration was available to the First Time Defendant, which 19-Years later turn(s) out to be a "Sophistical" Falsehood, that was sealed, signed and delivered on the very date of that Defendants' Sentencing Hearing Proceeding, upon which the State Prosecution so impassionally swore to the Sentencing Court Judge, the Court system needed to have faith in (Appendix #6/H).

Here indeed, we have a First Time Offender, whom entered a Guilty Plea to a 70-Year Sentence receipt, based upon a "Promise" that after 17 to 20 Years he could expect to be Release back into Free Society (Appendix: #6/A-6/B and #6/C-6/D). But which now turns out to be in all actuality most likely a Death Sentence, or one that requires the at time of crime commission 18-Year Old Defendant, to be approximately 65-Years Old, when he will become eligible of Mandatory Release "Presumptive" Parole Consideration (Appendix #12). Based upon a hidden Agreement between the State of Wisconsin Government and the Federal Government, under the "Violent Offender Incarceration Program - Tier #1", that would require the State to incarcerate Old Law Sentenced Prisoner to the very maximum amount of time they could legally get away with, and to eventual; institute Truth-In-Sentencing Laws of the Programs design actuality (Appendices: #7, #8-9).

Yet here in the State of Wisconsin, initially the Milwaukee County Circuit Court, Branch #26, the Honorable William S. Pocan, on March 09, 2016, without holding any type of Hearing and/or Supplemental Evidentiary Development procedural allowance, declares based upon the Courts Judge own personal belief, that Defendant Campos would have accepted this 70-Year Plea Deal, regardless of whether or not there was a "Promise" Inclusion of eventual Genuine Consideration For Discretion-

ary Parole Release in about 20-Years, from his Sentencing in September 1999 (Appendices: #5-5/A and #3-3/A). This same Circuit Court Judge, then in his review of the Alternative relief requested by this pro se Petitioner for "Sentence Modification" under the New Factor review of such recently discovered information regarding the actuality of elimination of Discretionary Parole in the State of Wisconsin (Appendices #7, #9 and #8). The Court declared that "Parole" Release was not a consideration of the Sentencing Court, even though the §974.06 Motion itself contained Pages from the Sentencing Transcript where just such Discretionary Parole Release after approximately 17½ Years was the primary "[discussion of the Court, Prosecutor and]" Defense Counsel (Appendices #6-6/H). And then to add insult to injury, this Circuit Court Judge employed exact language from a Letter of Deceit, prepared by a Circuit Court Staff Attorney, June Simeth, for use by another Circuit Court Judge, Victor Manian, back on August 28, 2003, in which she created a "Sophistical" Justification statement for employment in situations where the court could possibly get away with denying defendants' Sentence Modification Relief, in sentencing situations where they were otherwise entitled to a Sentence Modification based upon such Discretionary Parole Release changes (Appendices #16, #3/A-3/B).

Further, when this Decision was brought up to the State Court of Appeals, District #1 for Appellate Review Litigation, the Court of Appeals instead of executing a fair, impartial and just review, instead, piled on the fundamental sham address actuality, by declaring that it was not until the Appellate Review Stage that the pro se prisoner litigant raised a "Newly Discovered Evidence" Issue regarding the "Violent Incarceration Offender Program -- Tier #1" (Appendices #7-9), when even

cursory review of the §974.06 Motion pleading, clearly noted that the pro se prisoner litigant, alleged on Page #1 "Recently" Discovered Evidence (Appendix #17), and again on Page #13 submitted in detail the Issue of "Newly Discovered Evidence" (Appendix #17/A), what part of this did the State Court of Appeals not comprehend (Appendix #2/h, ¶17). Here, is the submission of the Appearance Of Bias; **Boumediene v. Bush,** supra, 553 U.S., at 774-775, 128 S.Ct., at 2264-2265 ("The two leading cases addressing habeas substitutes, Swain v. Pressley, 430 U.S. 372, 97 S.Ct. 1224, 51 L.Ed.2d 411 (1977), and United States v. Hayman, 342 U.S. 205, 72 S.Ct. 263, 96 L.Ed. 232 (1952), likewise provide little guidance here. The statutes at issue were attempts to streamline habeas corpus relief, not to cut it back. ... 'In both cases the statute at issue had a saving clause, providing that a writ of habeas corpus would be available if the alternative process proved inadequate or ineffective'. Swain, supra, at 381, 97 S.Ct. 1224, 51 L.Ed. 411; Hayman, supra, at 223, 72 S.Ct. 263, 96 L.Ed. 232").

Petitioner Campos, seeks the promise fulfillment of the saving clause noted available in situations such as this, in the Interest of Justice, indeed, the Very Appearance of Justice, that here has clearly been denied, even under State Law precedent application hereto; **State v. Bentley,** 201 Wis.2d 303, 311, 548 N.W.2d 50, 54 (Wis. 1996)("In Hill v. Lochart, 474 U.S. 52, 88 L.Ed.2d 203, 106 S.Ct. 366 (1985), the United states Supreme Court addressed whether a defendant was entitled to an evidentiary hearing on his federal habeas corpus petition alleging that his guilty plea was involuntary by reason of ineffective assistance of counsel because his attorney had misinformed him as to his parole eligibility date. The Court held that the two part test set forth under Strickland v. Washington, 466 U.S. 668, 80 L.Ed.2d 674, 104 S.Ct. 2052

(1984)"). I.e., **State v. Stuhr**, 92 Wis.2d 46, 52, 284 N.W.2d 459, 462 (Wis. App. 1979)("Furthermore, the court has ruled that parole eligibility is a proper factor to consider on a motion for sentence modification. In Kutchera v. State, 69 Wis.2d 534, 230 N.W.2d 750 (1975), the court held that a change in the parole eligibility law was a new factor, justifying a belated motion for modification, and that the trial court exercised its discretion properly in modifying the sentence"). Why is this promise denied here (Appendices: #3-3/B, #5-5/A, #6-6/H, #2-2/K and #7-9 / #16).

4.] **Question Number Four** here, presents before this United States Supreme Court the "Central" Concern of this Rule 20 Original Habeas Corpus filing submission. Is Article #1, Section §9, Clause #2 of the United States Constitution, more than a Hollow Language assertion. The Honorable Alex Kazinski, in his **Georgetown Law Journal Annual Review Criminal Procedure, Criminal Law 2.0, 44 Manual (2015 Edition)**, pointed out: "While a prisoner can still file a federal habeas petition, that federal court safety - valve was abruptly dismantled in 1996 when Congress passed and President Clinton signed the Antiterrorism and Effective Death Penalty Act ... AEDPA is a cruel, unjust and unnecessary law that effectively removes federal judges as safeguards against miscarriages of justice."

Here, that "Safeguard" remains a slight possibility as an Original Action before the United States Supreme Court; **Walker v. O'Brien**, 216 F.3d 626, 633 (7th Cir. 2000)("The Felker [v. Turpin, 518 U.S. 651, 116 S.Ct. 2333, 135 L.Ed.2d 827 (1996)] decision observed that certain requirements of §2254 and related laws, such as the need to obtain the approval of the court of appeals before filing a successive application in the district court, see 28 U.S.C. §2244(b)(3)(A), did not apply to

collateral attacks begun in the Supreme Court"). Thus, Petitioner moves this United States Supreme Court, to apply the same fundamental principle concerns to the average citizen access to the United States Constitution, Article #1, Section §9, Clause #2 Petition for Writ of Habeas Corpus protection reach and access thereto, that this Supreme Court of the United States found applicable to the 2nd Amendment Right To Bear Arms protection reach to all such citizen(s), from infringement by the United States Congress, as well Individual State(s) Legislative reaches; **District Of Columbia v. Heller,** 554 U.S. 570, 627, 128 S.Ct. 2783 (2008)("The fact modern developments have limited the degree of fit between the prefatory clause and the protected right under the Second Amendment cannot change the Supreme Court's interpretation of the right").

The entitlement of Life, Free and Unincarcerated is a recognized Ninth Amendment protection of Natural Law, thus, its elimination must meet the minimum important procedural protections of procedural Due Process, primarily, "Honesty" in its application; **Withrow v. Larkin,** 421 U.S. 35, 47, 95 S.Ct. 1456 (1975)("Due Process does imply "Honesty" in the process"). Therefore, inherent in the State's promise of Possible Discretionary Parole Release consideration (Appendix #6/H), is a Genuine actuality thereof (Appendices: #7, #8 and #9); **Lane v. Ohio Adult Parole Authority,** 97 Ohio St.3d 456, 463-464, 780 N.E.2d 548, 555 (Ohio S.Ct. 2002)("Inherent in the statutory language 'eligible for parole' is the expectation that a criminal offender will receive meaningful consideration for parole. 'The phrase, eligible for parole' becomes meaningless without meaningful consideration")/(Appendices #6-6/B, #6/C-6/D and #6/H; I.e., #3/A-3/B and #2/I-2/K, ¶¶21-22); **Boumediene v. Bush,** 553 U.S. 723, 785, 128 S.Ct. 2229, 2270 (2008)("Habeas corpus is a collateral process

that exists to cut through all forms and go to the very tissue of the structure. It comes in from the outside, not in suboridination to the proceedings, and although every form may have been preserved opens the inquiry whether they have been more than an empty shell")/ (Appendix #1).

The State of Wisconsin Judicial review process in such Parole Eligibility Issue(s) situation, at one time marched within the footsteps of Honesty in the process, back in cases such as **State v. Borrell,** 167 Wis.2d ___, 482 N.W.2d 883, 891 (Wis. 1992)("A prisoner's hope for discretionary parole warrants minimal protection under the due process clause"), and **State ex rel. Tyznik v. DHSS.,** 71 Wis.2d 169, 238 N.W.2d 66, 68 (Wis. 1976)("A prisoner's hope or expectation of conditional liberty created by a legislative provision for discretionary parole is sufficient to warrant minimal protection under the Due Process Clause")/(Appendix #5-5/A). But today, the judicial review actuality, makes a mockery out of these lofty assertions of fundamental fairness; **Montgomery v. Louisiana,** 577 U.S. ___, 2016 U.S. LEXIS 862 (January 2016)("The opportunity for release will be afforded to those who demonstrate the truth of Miller's central intuition--that children who commit even heinous crimes are capable of change").

Thus the "Fundamental" Issue of this Petition, is that long ago acknowledged in the United States Supreme Court's holding in **Johnson v. Zerbst,** 304 U.S. 458, 467, 58 S.Ct. 1019, 1024 (1938) of; "To deprive a citizen of his only effective remedy would not only be contrary to the rudimentary demands of justice but destructive of a Constitutional guaranty specifically designed to prevent injustice". United States Constitution, Article #1, Section §9, Clause #2 Peti-

tion for Writ of Habeas Corpus review of the State of Wisconsin, Collateral §974.06 Wis. Stats., Post-Conviction review actuality of this Fundamental guarantee, Is the "Promise" only available hereto (Appendices #5-5/A, #6-6/H, #7-9, #3-3/B and #2-2/K).

In Conclusion, Pro Se Petitioner, Efrain Campos [Wis. DOC #374-541], respectfully moves this United States Supreme Court Justice(s), to exercise its Supreme Court Rules, Rule #20(4)(b) Review authority hereon, or in the alternative, Remand this Petition For Writ Of Habeas Corpus, down to the United States Federal District Court for the Western District of Wisconsin, located in Madison; Wisconsin. For any and all additional procedural undertaking(s) deemed necessary by this Supreme Court of the United States, in the Interest Of Justice; **Chambers v. State Of Florida,** 390 U.S. 227, 241, 60 S.Ct. 472, 479 (1940) ("Under our Constitution system, Courts stand against any winds that blow as havens of refuge for those who might otherwise suffer because they are helpless, weak, outnumbered, or otherwise because they are non-conforming victims of prejudice and public excitement").

Dated this 20th **day of November, 2018. Portage; Wisconsin.**

EC-OBM/File.

Appendices: #1-17/A.

Respectfully Filed By:

Efrain Campos #374541-A.
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VERIFICATION

I have read the foregoing Petition For Writ Of Habeas Corpus and hereby verify that the matters alleged therein are true, except as to matters alleged on information and belief, and, as to those, I believe them to be true. I certify under Penalty of Perjury that the foregoing is true and correct.

Executed at Portage, Wisconsin on November 20th**, 2018.**

Signed By: _____.

Efrain Campos