No. 18-8933

IN THE

supreme court OF THE UNITED STATES

Zaamar Bersän Stevenson – PETITIONER

vs.

PENNSYLVANIA BOARD OF
PROBATION AND PAROLE - RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
United States Court of Appeal for the Federal Circuit of the UNITED STATES DISTRICT COURT.

PETITION FOR A WRIT OF CERTIORARI

Zaamar Bersän Stevenson
#38168068
NEOCC (CCA)
2240 Hubbard Road
Youngstown, Ohio. 44505

QUESTION(S) PRESENTED

1) Whether Mr. Stevenson was entitled to relief, or in the alternative an evidentiary hearing, on his claim of ineffective assistance of counsel, where his counsel abandoned him in his appeal process?

2) Did the court error by adopting the Magistrates recommendation when Mr. Stevenson Habeas Corpus clearly fail within the one year time limit?

3) Whether Mr. Stevenson is entitled to his liberty Being the court's lost subject-matter jurisdiction?

4) Whether Mr. Stevenson is entitled to a Certificate of Appealability on each claim?

5) Whether Mr. Stevenson is entitled to every rehabilitation process as instructed by Judge Motto?

6) If the court finds that Mr. Stevenson counsel failed to file brief on Mr. Stevenson's behalf violated his First Amendment right, then Mr. Stevenson was denied effective assistance of counsel on appeal.

LIST OF PARTIES

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: Dominick Motto, P.J.,

Gregory Simatic, Deputy Attorney General.,

The Pennsylvania Attorney General.,

Lisa Pupo Lenihan, M.J.,

Mark R. Hornak, District Judge.,

Pennsylvania Board of
Probation and parole.,

Thomas L. Ambro, Vananskie and Krause, Circuit Judges.

Micheal C. Bonner, esq.

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APPENDIX A

The United States court of appeal for the Third Circuit put in a Order that Appellant's application for a certificate of appealability is denied. For substantially the reason provided by the Magistrate Judge and adopted by the District Court, reasonable jurists would not debate the District Court's decision to dismiss Claims 1, 3, and 4 from appellant's habeas petition as time-barred. See Slack v. McDaniel, 529 U.S. 473, 484 (2000). As for claim 2 (the lone remaining claim). Reasonable jurists would not debate the conclusion that, regardless of whether this claim is timely, it fails to "state[] a valid claim of denial of a constitutional right." Id; see Moody v. Daggett, 429 U.S. 78, 88 n.9 (1976). Dated: October 17th, 2018.

APPENDIX B

REPORT AND RECOMMENDATION recommending that the [4] Motion to Dismiss the petition for Writ of Habeas Corpus filed by THE ATTORNEY GENERAL OF THE STATE OF PENNSYLVANIA be granted and that the [1] Petition for Writ of Habeas Corpus filed by Zaamar Stevenson be dismissed as untimely. It is further recommended that a Certificate of Appealability be denied. Signed by Magistrate Judge Lisa Pupo Lenihan on May 23rd, 2018, and adopted by District Judge Mark R. Hornak.

APPENDIX C

Superior Court of Pennsylvania Dismissed for Mr. Stevenson being abandoned by attorney, and failing to file brief Comment: And Now, this 21st day of April, 2017, the appeal in this matter is Dismissed for failure to file a brief.

APPENDIX D

IN THE COURT OF COMMON PLEAS OF LAWRENCE COUNTY, PENNSYLVANIA ORDER OF COURT: And Now, this 7th day of October, 2016, for the reasons set forth in the accompanying Opinion of even date herewith, it is ORDERED and DECREED that Defendant's Petition requesting Post-Conviction Relief pursuant to Title 42 Pa.C.S.A. §9541 is DENIED. BY THE COURT: Dominick Motto, P.J.

APPENDIX E

IN THE SUPREME COURT OF PENNSLYVANIA ORDER OF COURT: And Now, this 30th day of October, 2014 Petition for Allowance of appeal is denied.

TABLE OF AUTHORITIES CITED

CASES PAGE NUMBER

STATUES AND RULES

CONSTITUTIONAL PROVISIONS

IN THE

supreme Court OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

For cases from **federal courts:**

The opinion of the United States court of appeals appears at Appendix A to the petition and is to petitioner's Knowledge unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is to petitioner's Knowledge unpublished.

For cases from the **state courts:**

The opinion of the highest state court to review the merits appear at Appendix E to the petition and is to petitioner's Knowledge unpublished.

The opinion of the Common pleas Lawrence County of Pennsylvania court appears at Appendix D to the petition and is designated for publication but to petitioner's Knowledge do not know if it is yet reported.

The opinion of the Superior Court appears at Appendix C to the petition and is designated for publication but to petitioner's Knowledge do not know if it is yet reported.

The opinion of the Pennslyvania Supreme Court appears at Appendix E to the petition is designated for publication but to petitioner's Knowledge do not know if it is yet reported.

JURISDICTION

For cases from **federal courts:**
Fed. R. App. P. 4(a)(1)
The date on which the United States Court of Appeals decided my case was October 17th, 2018.
A timely petition for rehearing was denied by the United States Court of Appeals on the following date: November 15th, 2018, and a copy of the order denying rehearing appears at Appendix A.

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

For cases from **state courts:**
The date on which the highest state court decided my case was October 30th, 2014.
A copy of that decision appears at Appendix E.
A timely petition for allowance for appeal was denied by the Supreme Court on the following date: October 30th, 2014

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

STATEMENT OF THE CASE

A. EVIDENCE PRESENTED AT TRIAL AND POST-TRIAL

Zaamar Bersän Stevenson was charged by amended information in Lawrence County Common Pleas Court with the Following: Possession of a Controlled Substance, Possession with Intent to deliver a Controlled Substance (PWID), Delivery of a Controlled Substance, and Criminal Use of a Communication Facility. Zaamar Bersän Stevenson was tried before a jury. On April 19th, 2010 verdicts of guilty were rendered by the jury relative to each of the above-stated offenses. On August 31st, 2010, a judgment of sentence of not less than four years nor more than 17 years in the aggregate was imposed by trial judge. Mr. Stevenson filed a timely post-sentence motion for judgment of acquittal, or in alternative a new trial on September 15th, 2010, because the Confidential Informant Wesley Gibson testified to the entrapment that Mr. Stevenson wasn't predisposed to sell drugs, because on numerous occasions he repeatedly told the Confidential Informant Wesley Gibson that he did not sell drugs anymore, and he was in school now, he also states that he even advised the agent the same thing, but they said they still wanted to pursue entrapping Mr. Stevenson into selling drugs. See trial transcripts. Post-sentence motion was denied by operation of law on or about January 13th, 2011. Mr. Stevenson timely appealed the denial of his post-trial motions to the Superior Court, which by opinion and order filed February 28th, 2012, Case was Remanded with instructions, and Jurisdiction was Relinguished, because the sates assistant Attorney was claiming that post-trial motions was untimely, but the Superior felt that it was, and also that according to the record Mr. Stevenson was abandoned by his attorney's, and wanted the lower courts to have a grazier hearing, or give Mr. Stevenson his requested relief's. On May 5th, 2012, the Courts found that Mr. Stevenson's Post-sentence motions filed on September 15th, 2010 was timely filed pursuant to Pa.R.Crime.P.720 and local procedures, and Mr. Stevenson request to have other counsel appointed to represent him in further pursuit of his pending appeal procedures. The appeal the questions, and appeal that was pending was abandoned by new counsel. Mr. Stevenson, send repeated Correspondences to the lower Courts, and Superior Court making them aware that not only Mr. Stevenson never seen or met his new counsel, but he also abandoned his pending appeal. Mr. Stevenson then pursued other means by reporting his new counsel to the disciplinary board, after they investigated and contacted Mr. Stevenson's new counsel on why he have not filed Mr. Stevenson's Concise Statement of matters complained of that was due no later then 21 days from October 13th, 2012. On December 21st, 2012 the Court gives an order that not having received an Concise Statement that Mr. Stevenson has failed to place his claims on record, and as result has waived all issues on appeal. Even though at the Grazier hearing the court was well aware that Mr. Stevenson wish to pursue all his appeal issue that was already sitting in front of the Superior Court when Mr. Stevenson filed his first

Concise statements of matters complained of. Despite Mr. Stevenson's repeated Pro Se' Correspondence, and Mr. Stevenson's counsel Micheal C. Bonner filing a petition of Reconsideration after the disciplinary board, Superior Court advising him of his duties, the lower courts denied the Reconsideration on June 17th, 2013. Mr. Stevenson's counsel then files an petition for allowance of appeal, and files an appeal abandoning all mr. Stevenson's issues sabotaging his appeal, and to add insult this whole time Mr. Stevenson haven't had the pleasantries of meeting his attorney once. Superior Court, which by opinion and order filed December 5th, 2013 affirmed the judgment of sentence. Mr. Stevenson filed a Pro se' petition for allowance of appeal to Supreme Court on or about January 22nd, 2014 which was denied by the Supreme Court on October 7th, 2014, due to Mr. Stevenson having an attorney on record he refused to do any work for Mr. Stevenson unless the courts forced him to. Subsequently, Mr. Stevenson filed a Pro se' petition to vacate illegal sentence on or about January 14th, 2015, and by order dated April 24th, 2015 the court scheduled a hearing on the petition for May 29th, 2015. On May 29th, 2015, the parties were before the court with counsel, and the Court entered an order, after the hearing, granting the Petition to Vacate Illegal Sentence and scheduling a new sentencing hearing. On June 2nd, 2015, Mr. Stevenson was resentenced to an aggregate term of imprisonment of not less than three years nor more than eight years. On or about June 2nd, 2016, Mr. Stevenson filed a timely petition requesting post-conviction collateral relief pursuant to the Post-Conviction Relief Act ("PCRA"), Title 42 Pa.C.S.A. §9541, et seq. Asserted as grounds for relief are that the conviction resulted from: (1) a violation of the Constitution of this Commonwealth of Pennsylvania or the Constitution or laws of the United States, which, in the circumstances of the particular case, so undermined the truth-determination process that no reliable adjudication of guilt or innocence could have taken place, §9543(a)(2)(i); (2) ineffective assistance of counsel, which, in the circumstances of the particular case, so undermined the truth-determination process that no reliable adjudication of guilt or innocence could have taken place, §9543(a)(2)(ii); and (3) the imposition of a sentence greater than the lawful maximum, §9543(a)(2)(vii), and the Fair sentencing act of 2010, because new sentencing guidelines was in effect at the time of re-sentencing. On June 19th, 2015 Mr. Stevenson did file a pro se post-sentence motion, which was denied, because They said Mr. Stevenson had attorney on record, they kept Mr. Stevenson from pursuing his appeal rights stating he had attorney on record when he was granted by president Judge Dominick Motto on August 28th, 2014 permission to proceed pro se' by boot strapping him to attorney Micheal C. Bonner. Mr. Stevenson express numerous times to the court that his attorney is refusing to do any work for him, and he had abandoned his appeal process. Mr. Stevenson, and his wife Nicole Stevenson even went to pay Mr. Stevenson's counsel a visit at his office, because Mr. Stevenson's counsel Micheal C. Bonner received new evidence/a notarized letter from the confidential informant (Wesley Gibson), and he became real aggressive yelling at Mr. Stevenson trying to get him to

engage into an altercation. Mr. Stevenson, and His wife are willing to take lie detector test for everything written in the above-stated. On October 7th, 2016, the court finds that Mr. Stevenson has failed to meet its burden to prove any ground for relief pursuant to the PCRA and by separate order of court will deny Mr. Stevenson's petition for PCCR. On October 7th, 2016, it was ordered and decreed that Mr. Stevenson petition requesting Post-conviction Relief pursuant to Title 42 Pa. C.S.A. §9541 is denied. Further in the opinion Judge Dominick Motto states in his recommendation that it is the recommendation of this court that the defendant be afforded the maximum opportunity to rehabilitate and educate himself during the during the completion of his sentence despite his prior record Mr. Stevenson made a timely pro se notice of appeal from PCRA opinion on November 11th, 2016, and ask the courts to give Mr. Stevenson counsel to help him in his appeal process, and they gave Mr, Stevenson the same counsel he had numerously complained about, and was filing Ineffective Assistance of Counsel against. Mr. Stevenson counsel Micheal C. Bonner refused to file a brief which was requested from the Superior Court, and he abandoned Mr. Stevenson appeal process, because he didn't want to file ineffective on himself, and no one could reasonably expect the original counsel would argue his own ineffectiveness the lower court abused their discretion by not appointing Mr. Stevenson new counsel. So, on April 21st, 2017, Superior Court of Pennsylvania Dismissed for Mr. Stevenson being abandoned by attorney, and failing to file brief Comment: And Now, this 21st day of April, 2017, the appeal in this matter is Dismissed for failure to file a brief. Mr. Stevenson § 2254 Motion was timely Pursuant to AEDPA, and Pennsylvania Constitution, Article 1, section 14, and the Act of 1976, July 9th, P.L. 586, No. 142, § 2 as amended, and codified at 42 Pa. C.S.§ 6501. Writ not to be suspended, Pennsylvania Constitution,, Article 1, section 11., and U.S. Constitution, Amendment 1., According to AEDPA petitioner has one year to file a habeas corpus from petitioners final review, which that day is the 21st, day of April, 2017.

REASONS FOR GRANTING THE PETITION

A. STANDARD OF REVIEW

This Court's review of the district court's ruling is de novo. Walters v. Maass, 45 F.3d 1355, 1357 (9th Cir. 1995). A federal court's review of a state court judgment is constrained by 28 U.S.C. § 2254(d):

> An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in state court proceedings unless the adjudication of the claim--(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States. (2) resulted in decision that was based on an unreasonable determination of the facts in light of the evidence presented in the state court proceeding.

B. 1) WHETHER MR. STEVENSON WAS ENTITLED TO RELIEF, OR IN THE ALTERNATIVE AN EVIDENTIARY HEARING, ON HIS CLAIM OF INEFFECTIVE ASSISTANCE OF COUNSEL, WHERE HIS COUNSEL ABANDONED HIM IN HIS APPEAL PROCESS?

1. Mr. Stevenson was prejudiced by Counsel's Error.

The prejudicial effect of counsel,s errors must be considered cumulatively rather than individually. Williams v. Taylor, 529 U.S. 362, 120 S.Ct. 1495, 1515, 146 L.Ed.2d 389 (2000); Harris v. Wood, 64 F.3d 1432, 1438-39 (9th Cir. 1995) (Basing that conclusion on Strickland).

1. Here, Mr. Stevenson was appointed counsel to file his appeal, Micheal C. Bonner, esq. Was mr. Stevenson's appointed attorney at the time. All untimely filings was due to Mr. Bonner abandoning Mr. Stevenson Sixth Amendment right. See Powell v. Alabama, 287 U.S. 45, 77 L.Ed 158, 53 S.Ct. 55 (1932), p.64. Mr. Justice Sutherland: "The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be [US 45] heard by counsel. Even the intelligent and educated laymen has small and sometimes no skill in the science of law. If charged with a crime, he is incapable, generally, of determining for himself whether the indictment is good or bad. He is unfamiliar with the rule of evidence. Left without the aid of counsel, he may be put on trial without a proper charge, and conviction upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he have a perfect one, he requires the guiding hand of counsel at **every step** in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how

to establish his innocence". p.68 The right to the aid of counsel is of this fundamental character.

2. Mr. Stevenson had a right to Counsel, which the State Cannot Circumvent Right.
   1. See Maine v. Moulton, 474 U.S. 169, 88 L.Ed.2d 481, 106 S.Ct. 477 (1985), p.484. Once the right to counsel has attached and been asserted, the State must of course honor it. This means more than simply that the State cannot prevent the accused from obtaining the assistance of counsel. The Sixth Amendment also imposes on the State an affirmative obligation not act in a manner that circumvents and thereby dilutes the protection afforded by the right to counsel. p.487. [I]t is clear that the State violated Mr. Stevenson's Sixth Amendment right when it gave Mr. Stevenson the same attorney he was complaining on numerous occasion for refusing to proceed with his appeal process. Further, the courts could not expect counsel to file ineffectiveness on himself when Mr. Stevenson has file ineffectiveness on Mr. Bonner in his PCRA motion. Further, Mr. Stevenson has the Right to Continuous Respresentation. See Young v. Duckworth, 733 F.2d 482 (CA 7 1984), p.483. The assistance of counsel to be fully effective, must be continuous from the time when the prosecution begins, which we have said occurred when the initial hearing was held that resulted in Young's being bound over to the grand jury. Although criminal defendants sometimes switch counsel, a responsible lawyer will not resign – the court will not let him resign – until new counsel is appointed. Mr. Bonner not only abandoned Mr. Stevenson's appeal he has also closed down all communication with Mr. Stevenson.
3. Petitioner shall have Open and Complete Communication.
   1. In Lakin v. Stine, 44 F.Supp.2d. 897 (E.D.Mich. 199), A defendant's communication with counsel is critical to the attorney's representation. Geders v. United States, 425 U.S. 80, 91, 96 S.Ct. 1339, 47 L.Ed.2d 592 (1976). Denial of this opportunity is constitutional error requiring reversal. Id. The importance of communication between atorney and client is shown by the great lengths the legal system goes to in order to protect attorney-client privilege. Swidler & Berlin, et al. v. United States, 524 U.S. 399, 188 S.Ct. 2081 (1998). Mr. Larkin was denied the right to counsel. Counsel means open and complete communication. The presence of the guard at every meeting Mr. Larkin had with his attorney prevented such communication. The fact that Mr. Larkin was denied the opportunity to speak freely and confidentially with his attorney denied him counsel. [Said circumstance requires habeas relief].
4. Mr. Stevenson's attorney Mr. Bonner continuously abandoned him throughout his appeal process.
   1. Mr. Stevenson was not granted Hybrid Representation, so unless his attorney choses to file his brief, or not is due to attorney's effectiveness. Mr. Stevenson has the Right to Counsel, see Baker v. Kaiser, 929 F.2d 1495 (CA 10 1991), p.1499 In

Nelson v. Peyton, 415 F.2d 1154 (4th Cir. 1969), cert. Denied, 397 U.S. 1007, 90 S.Ct. 1235, 25 L.Ed.2d 420 (1970), the United States court of Appeals for the Fourth Circuit explicitly stated what the Supreme Court, and this court has previously alluded to. The right to counsel is "required in the hiatus between the termination of trial, and the beginning of an appeal in order that a defendant know that he has a right to appeal, how to initiate an appeal and whether, in the opinion of counsel, an appeal is indicated". Id. At 1157. Based on these decisions, we conclude that the district court erred when it decided that Mr. Baker's right to counsel was never implicated because he did not express to appointed counsel his decision to appeal.

5. Mr. Bonner refused to follow through with Mr. Stevenson's appeal process.
   1. Mr. Stevenson have filed complaints to the disciplinary board, on Mr. Bonner, and also filed ineffective assistance of counsel. With all respect to all Judges, and magistrates involved, But they blatantly ignored the ineffectiveness of counsel, denying Mr. Stevenson of his Constitutional Right. See Abels v. Kaiser, 913 F.2d 821 (CA 10 1990), p.823. Rules of the Oklahoma Court of Criminal Appeals requires that, once an attorney makes an appearance, he must "diligently proceed with the appeal including the filing of a brief, until and unless withdrawal as the attorney of record is granted by' the court. In this case is Identical to Abel, Because Abels' retained counsel filed a notice of intent to appeal, which apparently constitutes an appearance sufficient to bind him to his duty. Our review of the district court's chronology indicates that at the time Abel's time for appeal expired his retained counsel had yet filed a motion to withdrawal, much less had the motion been granted. Abel's, therefore, had every right to expect that his counsel would follow his instructions in perfecting his appeal. Counsel's failure to do so, when he had not been relieved of his duties through a successful withdrawal, was a violation of Abels' constitutional right to effective assistance of counsel on his appeal as of right. See Evitts, 496 U.S. At 396-97, 104 S.Ct. At 837-38, if a defendant has made some indication to cousel that he wishes to appeal his sentence which counselor did not honor, the **defendant is entitled to relief without having to demonstrate prejudice.** See Rodriquez v. United States, 395 U.S. 327, 89 S.Ct. 1715,1717, 23 L.Ed.2d. 340 (1969); United States v. Gipson, 985 F.3d 212, 215 (5th Cir. 1993). Nor does a defendant need to make a out-come based argument focusing on whether the end result would have been different had counsel not failed to file the requested appeal. See Bonneau v. United states, 961 F.2d 17, 23 (1st Cir. 1992)(losing appeal through dereliction of counsel relieves the petitioner of the need to demonstrate meritorious appellant issues); Hollis v. United States, 687 F.2d 257, 258-59 (8th Cir. 1982), cert. Denied, 459 U.S. 1221, 75 L.Ed.2d. 462, 103 S.Ct. 1228 (1983). If counsel fails in his duty to follow his client's wishes, the only proper remedy for such a lapse is for

the petitioner to be re-sentenced with credit for time served so that he could have a chance to perfect a timely appeal. See Rodriquez, 89 S.Ct. At 1718; United States v. Davis, 929 F.2d 554, 557 (10th Cir. 1991). The Supreme Court has determined that, where a defendant in a criminal case is indigent, counsel must file an appellant brief on the defendant's behalf even if wishes to withdraw from further representation post-trial. See Anders v. California, 386 U.S. 738, 87 S.Ct. 1396, 1400, 18 L.Ed.2d. 493 (1967). A defendant has a right, upon a conviction in a district, to an appeal. See Coppegde v. United States, 369 U.S. 483, 82 S.Ct. 1917, 1919, 8 L.Ed.2d. 21 (1962). This right entitles him to counsel for assistance in preparation for any such appeal. Also see United States v. Soto, 159 F.Supp.2D 39 (2001); Rivera v. Goode, 540 F.Supp.2d 582 (2008).

C. DID THE COURT ERROR BY ADOPTING THE MAGISTRATES RECOMMENDATION WHEN MR. STEVENSON HABEAS CORPUS CLEARLY FAIL WITHIN THE ONE YEAR TIME LIMIT?

1. The Magistrate judge believe that Mr. Stevenson petition for Writ of Habeas Corpus should be dismissed as untimely, and the district court adopted its recommendation.

1. 1. Magistrate Judge Lisa Pupo Lenihan states "that the statue of limitation period was tolled until April 21st, 2017, when the Superior Court dismissed his PCRA appeal for his counsel failing to file a brief". "The statue of limitations then started to run again and expired 31 days later, on may 22nd, 2017". Knowing that according to AEDPA that time was suppose to restart on April 21st, 2017. see Jimenez v. Quarterman, 555 U.S. 113, 172 L.Ed.2d. 475, 129 S.Ct. 681 (2009), p.683. [The AEDPA] establishes a 1-year time limitation for state prisoner to file a federal habeas corpus petition. That period runs from the latest of four specified dates. 28 U.S.C. § 2244(d)(1). This case involves the date provided by §2244(d)(1)(a), which is "the date on which the judgment became final by the conclusion of direct review, or expiration of time for seeking such review". Under the statutory definition ... once the Texas Court of Criminal appeals reopened direct review of petitioner';s conviction on September 25th, 2002, petitioner's conviction was no longer final for purposes of § 2244(d)(1)(a). p.686. Our decision today is a narrow one. We hold that, where a state court grants a criminal defendant the right to file an out-of-time direct appeal during state collateral review, but before the defendant has first sought federal habeas relief, his judgment is not yet "final" for purposes of § 2244(d)(a)(a). In such a case, "the date on which the judgment became final by the conclusion of direct review or out-of [p.687] time direct appeal or expiration of the time for seeking review of that of that appeal. {We reverse and remand the case for further proceeding consistent with this opinion]. Mr. Stevenson is pretty sure the circuit courts know this, but if not then Mr. Stevenson's apology. Mr. Stevenson just seeking his Constitutional protection,

instead of constantly having his Constitutional Right's abandoned and fed to the wolf's. Meaning of "final" based on state court order, see Wixom v. Washington, 264 F.3d 894 (CA 2001) focus note: In this case, Petitioner Wixom starting counting the federal clock based on the notice sent to him from the court clerk called a "Mandate"; however, the federal clock started 30 days after the court issued its opinion, the added 30 days being the time to seek review in the Washington State Supreme Court. This miscalculation caused Wixom's federal habeas corpus petition to be time barred.**p.897.[...] Wixom had until one year after his conviction became final to file a federal habeas petition. [Omitted]. Section 2244(d)(1)(a) provides that the one-year limitations period "shall run from the lastest of – (a) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review". Thus, under the statue, a judgment becomes "final" in two ways – either by the conclusion of direct review by the highest court, including the united States Supreme Court, to review the judgment, or by the expiration of time for seeking such review, again from the highest court from which such direct review could be sought. Cf. Bowen v. roe, 188 F.3d 1147, 1158 (9th Cir. 1999){omitted.}, so Mr. Stevenson never agreed that he was untimely, he always knew his petition was timely. Supreme Court has explained that "we limit collateral review, but not so rigidly as to prevent the consideration of serious and potentially valid claims".

D. WHETHER MR. STEVENSON IS ENTITLED TO HIS LIBERTY BEING THE COURT'S LOST SUBJECT-MATTER JURISDICTION?

1. 1. The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), which amended 28 U.S.C. § 2254, was signed into law on April 24, 1996 and applies to habeas corpus petitions filed after that effective date. Lindh v. Murphy, 521 U.S. 320, 336, 117 S. Ct. 2059, 138 L. Ed. 2D 481 (1997); see Woodford v. Garceau, 538 U.S. 202, 210, 123 S. Ct. 1398, 155 L. Ed. 2D 363 (2003); Barker v. Yukins, 199 F.3d 867, 871 (6th Cir. 1999). The AEDPA was enacted "to reduce delays in the execution of state and federal criminal sentences, and 'to further the principles of comity, finality, and federalism.'" Woodford, 538 U.S. at 206 (citing Williams v. Taylor, 529 U.S. 420, 436, 120 S. Ct. 1479, 146 L. Ed. 2D 435 (2000)). Consistent with this goal, when reviewing an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. Wilkins v. Timmerman-Cooper, 512 F.3d 768, 774-76 (6th Cir. 2008). The Petitioner has the burden of rebutting the presumption of correctness by clear and convincing evidence. 28 U.S.C. § 2254(e)(1). A federal court, therefore, may not grant habeas relief on any claim that was adjudicated on the merits in any state court unless the adjudication of the claim either: "(1) resulted in a decision that was contrary to, or

involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or (2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding." 28 U.S.C. § 2254(d); Wilkins, 512 F.3d 768, 774-76 (6th Cir. 2008). A decision is contrary to clearly established law under § 2254(d)(1) when it is "diametrically different, opposite in character or nature, or mutually opposed" to federal law as determined by the Supreme Court of the United States. Williams v. Taylor, 529 U.S. 362, 405, 120 S. Ct. 1495, 146 L. Ed. 2D 389 (2000). In order to have an "unreasonable application of ... clearly established Federal law," the state-court decision must be "objectively unreasonable," not merely erroneous or incorrect. Id. at 409. Furthermore, it must be contrary to holdings of the Supreme Court, as opposed to dicta. Id. At 415. A state court's determination of fact will be unreasonable under § 2254(d)(2) only if it represents a "clear factual error." Wiggins v. Smith, 539 U.S. 510, 528-29, 123 S. Ct. 2527, 156 L. Ed. 2D 471 (2003). In other words, a state court's determination of facts is unreasonable if its finding conflicts with clear and convincing evidence to the contrary. Id. "This standard requires the federal courts to give considerable deference to state-court decisions." Ferensic v. Birkett, 501 F.3d 469, 472 (6th Cir. 2007). The AEDPA essentially requires federal courts to leave a state court judgment alone unless the judgment in place is "based on an error grave enough to be called 'unreasonable.'" Herbert v. Billy, 160 F.3d 1131, 1135 (6th Cir. 1998). Jesus said: "the secret of life is within you. You come in your own right. It is only you. By my blood, he said. You already have it, it is called unalienable rights". Mr. Stevenson was abandoned by his attorney, and the courts knew of his abandonment the was notified numerous times and still did not protect Mr. Stevenson's Sixth Amendment Right denying him his unalienable rights, and for that the lower courts lose subject matter jurisdiction.

E. WHETHER MR. STEVENSON IS ENTITLED TO A CERTIFICATE OF APPEALABILITY ON EACH CLAIM?

Legal Standard For Certificate of Appealability

1. Under the Antiterrorism and Effecetive Death Penalty Act of 1996 ("AEDPA"), a habeas petitioner cannot appeal from district court judgment unless he obtains a certificate of appealability. See 28 U.S.C. § 2253. This is similar to the former requirement of a certificate of probable cause. As before, the petitioner must make a "substantial showing of the denial of a constitutional right". 28 U.S.C. § 2253(c)(1)(A)(2). Unlike the certificate of probable cause, however, the certificate of appealability must specify which claim meet the "substantial showing" standard. The request for a certificate should be addressed first by the district court. United States v. Asrar, 116 F.3d 1268 (9th Cir. 1997).

To make a substantial showing, "obviously the petitioner need not show that he should prevail on the merits. He has already failed in that endeavor". Barefoot v. Estelle, 463 U.S. 880, 893, 103 S.Ct. 3383, 77 L.Ed.2d 1090 (1983). Rather, the petitioner need only show that the petition contains an issue (1) that is "dabatable among jurist of reason";(2) "that a court could resolve in a different manner"; (3) that is "adequate to deserve encouragement to proceed further"; or (4) that is not "squarely foreclosed by statue, rule, or authoritative court decision, or ...[that is not] lacking any factual basis in the record". Id. At 893 n.4 and 894 (internal quotations and citations omitted). See also, Gardner v. Pogue, 558 F.2d 548 (9th Cir. 1977). Mr. Stevenson's claims meet all those standards.

F. WHETHER MR. STEVENSON IS ENTITLED TO EVERY REHABILITATION PROCESS AS INSTRUCTED BY JUDGE MOTTO?

1. On October 7th, 2016, President Judge Dominick Motto states in his opinion that: "It is the recommendation of this court that the defendant be afforded the maximum opportunity to rehabilitate and educate himself during the completion of his sentence despite his prior record of offense". Mr. Stevenson is presently in Northeast Ohio Correction center (CCA) on federal charges. Mr. Stevenson cannot have the maximum opportunity to rehabilitate and educate himself, because a state detainer will keep Mr. Stevenson from being qualified for a lot of federal programs that is needed for his rehabilitation process. To determine whether a practice was continual, [I must] consider (1) whether the violations are part of the same subject matter and (2) whether the violations occurred frequently. . . . A plaintiff must also point to an affirmative act that took place within the limitations period for the continuing violations doctrine to apply."Cibula v. Fox, 570 F. App'x 129, 135-36 (3d Cir. 2014) (citations omitted). "[C]ontinual ill effects from an original violation" - unlike "continual unlawful acts" - cannot serve as the basis of a continuing violation. Cowell, 263 F.3d at 293. Mr. Stevenson claim that because of state detainer against him he was not in custody "solely awaiting trial." United States v Thomas (1995, CA6 Ohio) 49 F.3d 253, 41 Fed Rules Evid Serv 1024, 1995 FED App 94P (criticized in United States v Daychild (2004, CA9 Mont) 357 F.3d 1082) and (criticized in United States v Fonseca (2006, App DC) 369 US App DC 257, 435 F.3d 369, 69 Fed Rules Evid Serv 449) and (criticized in United States v Tinklenberg (2009, CA6 Mich) 579 F.3d 589, 2009 FED App 323P) .
See Rumsfeld v. Padilla, 542 U.S. 426, 438, 439 (2004) (explaining rule of Braden, infra); Maleng v. Cook, 490 U.S. at 493 (reaffirming rule of Braden, infra); Lockhart v. Nelson, 488 U.S. 33 (1988) (by implication) (challenge to second of two consecutive sentences during pendency of first); Braden v. 30th Judicial Cir. Ct., 410 U.S. 484, 489 n.4 (1973) (petitioner in custody where: (1) petition filed by prisoner serving time in one State challenged constitutionality of judicial proceedings against him in another State; and (2) second ("demanding") State had filed detainer with warden of prison in "incarcerating" State, thereby making warden of incarcerating State "agent" of

demanding State); Leacock v. Henman, 996 F.2d 1069, 1071 & n.4 (10th Cir. 1993) (federal prisoner could challenge state conviction and future sentence because state sentence was consecutive to current federal sentence and state lodged detainer); Whatley v. Morrison, 947 F.2d 869 (8th Cir. 1991); Dickerson v. Guste, 932 F.2d 1142, 1144 (5th Cir.), cert. denied, 502 U.S. 875 (1991) (dicta) (detainer establishes custody by authority filing detainer); Thompson v. Missouri Bd. of Parole, 929 F.2d 396, 398-401 (8th Cir. 1991) (detainer lodged by Missouri Parole Board with Minnesota prison gave board custody of petitioner and gave Minnesota district court jurisdiction to cure Missouri board's violation); Parette v. Lockhart, 927 F.2d 366, 366-67 (8th Cir. 1991) (Louisiana's detainer lodged with Arkansas prison where petitioner was incarcerated established custody by Louisiana); Whittlesey v. Circuit Ct., 897 F.2d 143, 147-48 (4th Cir.) (Phillips, J., dissenting), cert. denied,498 U.S. 922 (1990) (petition should be adjudicated even though prisoner escaped from prison and escapee cannot be "in custody"; petitioner is now in prison in another state for other crimes and subject to detainer for conviction he seeks to challenge); Frazier v. Wilkinson, 842 F.2d 42, 45 (2d Cir.), cert. Denied, 488 U.S. 842 (1988) (federal prisoner may challenge consecutive state sentence absent state detainer when "there is a reasonable basis to apprehend that the jurisdiction that obtained the consecutive sentence will seek its enforcement"); United States ex rel. Meadows v. New York, 426 F.2d 1176, 1179 (2d Cir. 1970), cert. Denied, 401 U.S. 941 (1971) (federal prisoner under state detainer may challenge state conviction); Word v. North Carolina, 406 F.2d 352, 353-55 (4th Cir. 1969); Duarte v. Hurley, 43 F. Supp. 2d 504, 507-08 (D.N.J. 1999) (federal prisoner may challenge future state incarceration ŧ even though the state has not lodged a detainer against him if reasonable basis exists to conclude that the [State] will seek enforcement of the consecutive sentences it imposed on [petitioner]; approach comports with Supreme Court's "concern that postponement of habeas corpus review could work to the detriment of the prisoner, as well as the state, because the passage of years could lead to the loss or destruction of relevant documents or failure to transcribe the record"); authority cited infra § 8.2d nn.35-39. Cf. Mays v. Dinwiddie, 580 F.3d 1136, 1141-42 (10th Cir.), cert. denied, 558 U.S. 1095 (2009) (prisoner did not satisfy custody requirement with respect to burglary sentence that was fully expired before filing of habeas corpus petition; although prisoner was still serving other sentences that were concurrent with burglary sentence and had not yet expired, prisoner "concedes that the expired burglary sentence was not used to enhance the sentences that he is currently serving"; prisoner accordingly "suffers no present restraint from [the burglary] conviction"); Scott v. Louisiana, 934 F.2d 631, 635 (5th Cir. 1991) (dismissing petition because "[w]e are shown no current possibility that Scott will suffer from" life sentences that are being served concurrently with sentence of life without possibility of parole, but specifying that dismissal is without prejudice to refiling "[i]f Scott can demonstrate at some future time that [the life sentences]" affect his ability to have his life sentence

commuted to a term of years, or if he can otherwise demonstrate adverse consequences). On the question whether a detainer is always necessary to establish custody in regard to a sentence in another jurisdiction that is not currently being served, see infra § 8.2d n.38. See generally Reed v. Farley, 512 U.S. 339, 342 n.1 (1994) ("A detainer is a request filed by a criminal justice agency with the institution in which a prisoner is incarcerated, asking either to hold the prisoner for the agency or to notify the agency when release of the prisoner is imminent". (quoting Carchman v. Nash, 473 U.S. 716, 719 (1985))). Mr. Stevenson suffering constitute illegal seizure in violation of Fourth Amendment or deprivation of liberty without due process of law in violation of Fifth Amendment. Every man/woman have a natural Constitutional right to there liberty, or pursuit of happiness. And it becomes a personal injury when a people are detained constricted from rehabilitating themselves. No law overrides the Constitution.

G. IF THE COURT FINDS THAT MR. STEVENSON COUNSEL FAILED TO FILE BRIEF ON MR. STEVENSON's BEHALF VIOLATED HIS FIRST AMENDMENT RIGHT, THEN MR. STEVENSON WAS DENIED EFFECTIVE ASSISTANCE OF COUNSEL ON APPEAL?

1. Mr. Stevenson included this claim in his habeas petition to establish "cause" for any procedural default on his First Amendment claim. In view of Pirtle v. Morgan, this claim would appear to be superfluous. Mr. Stevenson will argue it further only if the State contends that Pirtle is somehow not appilcable here.

H. CUMULATIVE ERROR

Even when no individual error is sufficiently prejudicial to warrant relief, the cumulative effect of the errors may require reversal. Cargle v. Mullin, 317 F.3d 1196, 1206-07 (10th Cir. 2003); Mark v. Blodgett, 970 F.2d 614, 624-25 (9th Cir. 1992), cert. Denied 507 U.S. 951 (1993).

As discussed above, this case pitted Mr. Stevenson's claims that he was denied his right to effective counsel, and his right to be heard, also he has a constitutional right to his liberty.

CONCLUSION

For the foregoing reasons, Mr. Stevenson is entitled to a writ of certiorari. In the alternative, he is at least entitled to an evidentiary hearing on his claim of ineffective assistance of counsel.

Respectfully Submitted,

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