

No. _____

18-9041

Supreme Court, U.S.
FILED

MAR 27 2019

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

PETER GAKUBA

— PETITIONER

(Your Name)

vs.

ILLINOIS

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

ILLINOIS SUPREME COURT

PEOPLE v. GAKUBA 2019 IL LEVIS 340 (IL 3. RT. 3/20/19) PEOPLE v. GAKUBA 2019 IL APP(2d) 170794-U

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PEOPLE v. GAKUBA 2017 IL APP(2d) 150744-U

PETITION FOR WRIT OF CERTIORARI

PETER GAKUBA (M52946)

(Your Name)

ROBINSON CORREC. CTR.

13423 E. 1150TH AVE.

(Address)

ROBINSON, IL 62454

(City, State, Zip Code)

N/A

(Phone Number)

ORIGINAL

* INEFFECT. ASST. OF COUNSEL *

ISSUES PRESENTED FOR REVIEW

- I THE 6TH AMEND. VIOL. LED TO - THE TRIAL CT. ERRED WHEN "ASSUM[ING]" (P1075-76) ON JUNE 5, 2013 GAKUBA'S NAME + BIRTHDATE CAME FROM A "ROUTINE BOOKING" Q+A RESULTING IN MAPUE VIOLATIONS AT GAKUBA'S JURY TRIAL; THIS IDENTITY EVIDENCE, ILLEGALLY OBTAINED IN VIOL. OF 18 USC § 2710 (b), (d) CORROBORATED BY THE ILLEGAL SEIZURE OF GAKUBA'S ORNER'S LR., ALSO WAS VIOLATIVE OF THE 4TH AMEND. AS A BROWN CLAIM TOO
- II THE 6TH AMEND. VIOL. LED TO - THE TRIAL CT. ERRED WHEN RE-ADMITTING GAKUBA'S DNA PROFILE INTO EVIDENCE AFTER QUASHING A "BUCCAL SWAB SEARCH / SEIZURE WARRANT" AS A FRANKS (AND BROWN) VIOL.; THE WARRANT WAS FUNCTIONALLY AN ILL. S. CT. RULE 413 MOTION AND THE DOCTRINES OF ESTOPPEL AND RES JUDICATA CONTROLLED
- III THE 6TH AMEND. VIOL. LED TO - THE CUMULATIVE EVIDENTIARY ERRORS BY THE TRIAL CT. RESULTED IN GAKUBA BEING WRONGFULLY CONVICTED WITH LEGALLY INSUFFICIENT EVIDENCE; FALSE / FABRICATED EVIDENCE (MAPUE); MANIFESTLY INSUFFICIENT EVIDENCE; AND DEPRIVED GAKUBA OF A FAIR TRIAL BY BARRING USE OF IMPEACHMENT EVIDENCE
- IV THE 6TH AMEND. VIOL. LED TO - THE TRIAL CT. ERRED IN DENYING GAKUBA'S 6TH AMEND. RIGHT TO BE "PRO SE" 3-6 WEEKS BEFORE TRIAL DESPITE MAKING A RECORD 5-6 MOS. EARLIER THE TRIAL CT. "ANTICIPATED" IT, AND WOULD ALLOW IT AS A MATTER OF LAW, AS GAKUBA WAS "PRO SE" FOR SOME 18 MOS. BEFORE BEING GRANTED APPT'D COUNSEL AT THE TIME THE TRIAL CT. MADE ITS ANTICIPATORY / PROSPECTIVE RULING KNOWN FOR THE RECORD * FARETTA *
- V THE 6TH AMEND. VIOL. LED TO - THE TRIAL CT. ERRED IN DENYING MOTIONS TO DISQUALIFY ASA KURTZ BY GAKUBA AND GAKUBA'S RETAINED AND APPT'D COUNSEL; ERRED IN DENYING GAKUBA'S MOTION FOR APPOINTMENT OF A SPECIAL PROSECUTOR; AND ERRED WHEN ALLOWING THE ILLEGAL APPOINTMENT OF KURTZ AS A "SPECIAL ASA" PER 55 ILCS 5/4-2003
- VI THE 6TH AMEND. VIOL. LED TO - THE CHIEF CIRCUIT JUDGE ERRED IN DENYING GAKUBA'S MOTION TO SUBSTITUTE JUDGE FOR CAUSE (1ST), THEN, DENIED GAKUBA'S "MOTION TO SUBSTITUTE" THE CHIEF JUDGE FOR CAUSE HIMSELF; BEFORE DENYING GAKUBA'S 2ND MOTION TO SUBSTITUTE THE TRIAL JUDGE FOR CAUSE, RESULTING IN GAKUBA BEING TRIED / CONVICTED BEFORE A BIASED TRIAL JUDGE ACTING AS AN ADVOCATE

* INEFFECT. ASST. OF COUNSEL * ISSUES PRESENTED FOR REVIEW - CONTINUED

VII

THE 6TH AMEND. VIOL. LED TO - THE TRIAL CT. ABUSED ITS DISCRETION WHEN SENTENCING GAKUBA TO 4 YRS X 3 COUNTS CONSECUTIVE PRISON TERMS, 12 YRS AGGREGATE, WHEN THE PSI REPORT COUNSELED FOR PROBATION, THE STATE'S OFFER HAD ALWAYS BEEN PROBATION FOR THE 8.5 YR PENDENCY OF THIS CASE, AND GAKUBA WAS CAPABLE OF REHABILITATION REGARDLESS OF HIS FAILURE TO ADMIT ANY GUILT

ti/vctt

LIST OF PARTIES

☒ All parties appear in the caption of the case on the cover page.

☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

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

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished. PEOPLE V. GAKUBA 2019 LEXIS 340 (3/20/19 IL.S.P.T. : 124481)

The opinion of the ILLINOIS APPELLATE COURT, 2ND DISTRICT court appears at Appendix A to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished. PEOPLE V. GAKUBA 2019 ILAPP (2d) 170794-U

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

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

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 3/20/2019.
A copy of that decision appears at Appendix C.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

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

CONSTITUTIONAL + STATUTORY PROVISIONS INVOLVED

1ST, 4TH, 14TH AMENDS. VIOLS. PER THE VIDEO PRIVACY PROTECTION ACT (VPPA) 18 USC 892710(b)(2)(c) + (d)

SEE CAMFIELD V. CITY OF OKC 248 F.3d 1214 (10TH 2001); AMAZON V. LAJ 758 F.3d 1154 (D. WA 2016)

4TH AMEND. VIOL. SEE BROWN V. ILLINOIS 422 US 590 (1975); INS V. LOPEZ-MENDOZA 468 US 1032;

US V. HASTINGS 246 F.3d 1163, 1167-68, 1178, 1181 (E.D. TX 2013) (CITES ILLINOIS V. KRULL 480 US 340, 347 (1987));

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14TH AMEND. VIOL. SEE FRANKS V. DELAWARE 438 US 154 (1978); US V. BROWN 631 F.3d 638 (3RD 2011)

6TH AMEND. VIOL. SEE FARETTA V. CALIFORNIA 422 US 806, 835 (1978); CHRONIC 466 US AT 658-60;

AVERY 308 US AT 446; STICKLAND AT 691

6TH AMEND. VIOL. (PUBLIC TRIAL) WALLER V. GEORGIA 467 US 39, 49 n. 9 (1984)

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6TH AMEND. VIOL. (CONFRONTATION CLAUSE) HARRISON V. TEBELS 216 F.3d 956 (W.D. WI. 2016);

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14TH AMEND. VIOLS. (NAPUE + BRADY) NAPUE V. IL 360 US 264 (1959); BRADY V. MD 373 US 83 (1963)

OWENS V. DUNCAN 14-1419 BLR.OP (7TH 2015); LONG V. BUTLER 874 F.3d 544, 546 (7TH 2017) (EN BANC);

SANDERS V. CULLEN 873 F.3d 778, 815 (9TH 2017); MILLS V. BARNARD 867 F.3d 473 (6TH 2017)

14TH AMEND. VIOLS. (SUFF. EVIDENCE, JACKSON) DUMAS V. MARCHILLI 240 F.3d 255, 261 (D. MA. 2017)

5TH + 14TH AMENDS. VIOLS. (DISINTERESTED PROSECUTOR) YOUNG V. US EX REL. VUITTON 481 US 787 (1987)

US V. SPIKER 649 FED. APPX. 770, 773 (11TH 2016); PEOPLE V. WOODALL 333 IL APP 3d 1146, 1153-54 (2002)

CONSTITUTIONAL & STATUTORY PROVISIONS (CONT'D)

5TH + 14TH AMENDS VIOL. (BIASED JUDGE) COMMONWEALTH COATINGS V. COMTE GAS 393 US 145, 150

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US V. EL-BEY 873 F.3d 1015, 1019, 1022 FN# 1 (7TH 2017) ;

ECHAVARRA V. WILSON 896 F.3d 1118, 1128-29 (9TH 2018) ;

PEOPLE V. JONES 2016 IL APP (1ST) 141008 P 38 ;

PEOPLE V. WIGGINS 2015 IL APP (1ST) 133033 PP 4, 8, 13-14, 49

8TH AMEND. VIOL. (CRUEL AND UNUSUAL PUNISHMENT) SOLEM V. HELM 465 US 277, 292 (1983)

US V. MIBGEMAN 881 F.3d 976, 981 (7TH 2018) ; PEOPLE V. JOHNSON 2017 IL APP (1ST) 160920 P 55

US V. LEWIS 817 F.3d 1054, 1055 (7TH 2016) ; US V. ROBINSON 879 F.3d 848, 881 (7TH 2016)

14TH AMEND. VIOL. (JUDGE'S RULINGS ON "ASSUMED" FACTS/EVIDENCE NOT ON RECORD)

OWENS V. DUMPEAN 14-1419 SUP. OR. (7TH 2015) (CITES HOLBROOK V. FLYNN 475 US 560, 567 (1986))

MESHANE V. CATE 636 FED. APPX. 410, 412 (9TH 2016) (CITES MILLER-EL V. ROCKWELL 537 US 322, 346 (2003))

STATEMENT OF THE CASE

PREFACE: THIS IS AN APPEAL OF A STATE POST-CONVICTION PETITION FOR INEFFECT. ASST. OF COUNSEL.

PEOPLE V. GAKUBA 2019 IL APP(2d) 150744-U. GAKUBA'S DIRECT APPEAL'S FACTS CONTAINED MATERIAL MIS-REPRESENTATIONS AND OMISSIONS IN A WANTON AND RECKLESS DISREGARD FOR THE TRUTH. PEOPLE V. GAKUBA 2017 IL APP(2d) 150744-U, SEE MCSHANE V. CATE 636 FED. APPX. 410 (9TH 2016) (AT 412: "A STATE COURT'S FACT-FINDING PROCESS IS FATAALLY UNDERMINED WHEN THE COURT 'HAS BEFORE IT, YET APPARENTLY IGNORES, EVIDENCE THAT IS HIGHLY PROBATIVE AND CENTRAL TO PETITIONER'S CLAIM.' MIKE V. RYAN 711 F.3d 998, 1008 (9TH 2013); SEE MILLER-EL V. COCKRELL 537 US 322, 346 (2003) (NOTING THAT THE STATE COURT 'HAD BEFORE IT, AND APPARENTLY IGNORED' TESTIMONY RELEVANT TO THE CORRECT INQUIRY)).

INTRODUCTION: "THE U.S. SUPREME COURT HAS RECOGNIZED FOR MORE THAN 40 YEARS THAT COUNSEL CANNOT BE SHOWN DOWN AN UNWILLING DEFENDANT'S THROAT, FARETTA AT 219." SEE TATUM V. FOSTER 847 F.3d 459, 460 (7TH 2017). THIS IS EXACTLY WHAT OCCURRED HERE "WEEKS BEFORE TRIAL." SEE IMAHU V. POLLARD 826 F.3d 939, 947 (7TH 2016) (CITES FARETTA V. CALIFORNIA 422 US 806, 235 (1975)). "TATUM ONCE AGAIN FILED A MOTION [TO BE 'PRO SE'] ON APPEAL. THE WI. APPELLATE COURT PERMITTED HIM TO DO SO. TATUM AT 463. HERE, GAKUBA WAS 'PRO SE' IN HIS IL. STATE CRIM. DIRECT APPEAL; STATE CERTIORARI TO THE IL. S. CT.; POST-CONVICTION PROCEEDINGS; FED'L HABEAS; RE-BUTTING THE OBJECTIVELY UNREASONABLE RULINGS TO THE CONTRARY THAT GAKUBA'S RE-INVOICATION OF HIS 'PRO SE' RIGHT 3-6 WEEKS BEFORE TRIAL WAS A "DELAY TACTIC." (C 2999-3151; R 1664-1671) DEC. 9, 2014 (R 1631) GAKUBA: "BUT AT THIS STAGE, WITH A TRIAL DATE SET [OF APRIL 27, 2015] AND A TRIAL DATE SET THAT I BELIEVE WE ALL CAN MEET, I'M FINDING MYSELF IN THE POSITION WHERE IT MAY BE A PROBLEM TO MEET THE BURDEN OF HAVING [DEFENSE] WITNESSES SHOW UP." TATUM 847 F.3d AT 461: "THE TRIAL COURT APPOINTED [TATUM] A 3RD LAWYER." SEE GAKUBA 18-3398 (7TH).

"NASBY [4 GAKUBA] WERE HARDLY WELL REPRESENTED AT TRIAL BY APPT'D COUNSEL[:]; COUNSEL DID NOT CALL A SINGLE WITNESS AT TRIAL; FAILED TO INVESTIGATE OTHER WITNESSES TO SUPPORT NASBY'S [GAKUBA'S] POSITIONS; AND FAILED TO INTRODUCE IMPORTANT EVIDENCE ON NASBY'S [GAKUBA'S] BEHALF. NASBY V. McDaniel 853 F.3d 1049, 1050 (9TH 2017) SEE PEOPLE V. GAKUBA 2017 IL APP (2d) 150744-U, R 56 (HERETOFORE "GAKUBA 2017") ("[A]LTHOUGH [ASST PUBLIC DEFENDER (APD) SHAUNHA GUSTAFSON] VOICED CONCERN OVER [ASST. S.A. KATE KURTZ'S DIRECT EXAMINATION OF STATE POLICE O'BRIEN] OFF THE RECORD, OUT OF THE WELL OF THE COURT' (R 2255-56) (SEE WALLER V. GEORGIA 467 US 39, 49 n.9 (1984) (6TH AMNO. PUBLIC TRIAL VIOL.)) INDICATING THAT THERE WAS NO EVIDENCE IN O'BRIEN'S REPORT THAT HE ASKED [GAKUBA] HIS BIRTHDATE [SEE INS V. LOPEZ-MENDOZA 468 US 1032] AFTER THE INTERVIEW [AN ILLEGAL

EXERCISED INTERROGATION NEVER RECORDED AND EXCLUDED PER BROWN V. ILLINOIS 422 US 590 (1975) WAS COMPLETE

[GUSTAFSON] MADE NO ATTEMPTS TO PURSUE THIS LINE OF QUESTIONING IN CROSS-EXAM [ON THE RECORD, IN THE COURT-ROOM, BUT, OUTSIDE THE JURY'S PRESENCE,] INDEED SHE OPTED NOT TO CROSS-EXAMINE O'BRIEN AT ALL. (EMPHASIS)

SEE RECORD PEOPLE V. WATSON 2012 IL APP (2d) 091328 (965 NE 2d 474) (CONVICTIONS REVERSED, REMANDED)

WATSON AT R2 (AT 476) ("TRIAL") COUNSEL PROVIDED INEFFECT. ASST. IN THAT SHE DID NOT [] CROSS-EXAMINE THE STATE'S [KEY WITNESS] ON PRESENT ANY EVIDENCE [EXCULPATORY IN NATURE].)

PROCEJURAL HISTORY: PETITIONER PETER GAKUBA ("GAKUBA") WAS CHARGED BY CRIMINAL COMPLAINT W/ 2 COUNTS OF AGGRAVATED CRIMINAL SEXUAL ABUSE ("STATUTORY RAPE") ON SAT, NOV. 4, 2006; FILED MON, NOV. 6, 2006, 720 ILS 5/12-16 (b). (C2-5) BAIL OF \$250,000 ISSUED AND WAS PAID, (C6-7) A SUPERCEEDING INDICTMENT WAS FILED DEC. 20, 2006 W/ 3 COUNTS. (C48-49) (THE INDICTMENT IS VOID 'AB INITIO' AS THE GRAND JURY WAS IN RECEIPT OF GAKUBA'S NAME + BIRTHDATE ILLEGALLY. SEE "VIDEO PRIVACY PROTECTION ACT" (VPPA) 18 USC § 2710(b)(2)(C) + § 2710(d))

GAKUBA WAS CONVICTED ON APRIL 29, 2015 OF 3 COUNTS OF STATUTORY RAPE BY JURY (2 1/2 DAY TRIAL). A SENTENCE OF 12 YEARS (3 COUNTS X 4 YEARS, DISCRETIONARY CONSECUTIVE (730 ILS 5/5-8-4 (b) WESTLAW 2005)) IN IDOC WAS IMPOSED ON JUNE 29, 2015. 'PRO SE' ON APPEAL (AFTER UNLAWFULLY BEING DENIED 'PRO SE' AT TRIAL 3-6 WEEKS BEFORE. HAND AS A "DELAY TACTIC") PEOPLE V. GAKUBA 2017 IL APP (2d) 150744-U AFFIRMED ALL THE TRIAL COURT'S CLAIM REVERSIBLE AND STRUCTURAL ERRORS ON MARCH 31, 2017. STATE CERTIORARI WAS DENIED TO PEOPLE V. GAKUBA 2017 WL 4386407. GAKUBA'S 'PRO SE' POST-CONVICTION PETITION WAS FILED JUNE 30, 2017; DISMISSED SEPT. 19, 2017; DISMISSAL AFFIRMED ON APPEAL JANUARY 18, 2019 (PEOPLE V. GAKUBA 2019 IL APP (2d) 170794-U, HERETOFORE "GAKUBA 2019"). GAKUBA'S STATE CERTIORARI WAS SUMMARILY DENIED MARCH 20, 2019 (PEOPLE V. GAKUBA 2019 IL LEWIS 340, ILS. ET.)

STATEMENT OF FACTS: GAKUBA 2017 (DIRECT APPEAL) CONTAINED NUMEROUS MATERIAL MISREPRESENTATIONS AND OMISSIONS IN A WANTON AND RECKLESS DISREGARD FOR THE TRUTH. IN TURN, THIS OBJECTIVELY UNREASONABLE EVIDENCE ASSESSMENT LED TO AN OBJECTIVELY UNREASONABLE, CONTRARY APPLICATION OF LAW, E.G. 78 USC § 2254(d)(1)-(2). SEE "END NOTE". GAKUBA 2019 ADOPTS FULLY THE ERRORS OF GAKUBA 2017 CITING "RES JUDICATA."

AT GAKUBA'S 2.5 DAY JURY TRIAL, COMPLAINANT MATTHEW S. ("M.S.") TESTIFIED HE WAS A HOMOSEXUAL WHOSE DEVOUT CATHOLIC PARENTS BELIEVE "HOMOSEXUALITY IS A SIN AND CAN LEAD TO HELL." (R 2209) THEY REPEATEDLY GROUND M.S. FOR BEING GAY, BUT PURPORTEDLY STILL LOVED M.S. (R 2203)

AT 2:40 AM, NOV. 4, 2006 M.S. WAS REPORTED A 14 Y.O. RUNAWAY. (C119-76, B2134) M.S. STARTED CRYING AND

SAID HE WAS HAVING PROBLEMS w/ HIS PARENTS. IN ADDITION, HIS PARENTS COMPLAINED THAT MONTHS EARLIER, M.S. HAD BEEN SENDING MARKED PHOTOS OF HIMSELF TO NUMEROUS INTEREST RECIPIENTS UNKNOWN. (C 119-76, R 119-24) IL STATE POLICE CHARLES DORRIS, MICHAEL EASTON, DAN BALSLEY, INTERVIEWED BY ASA KATE KURTZ TOOK OVER THE INVESTIGATION FROM CITY POLICE. BALSLEY PREPARED A DETAILED REPORT ON NOV. 6, 2006 OF M.S.'S ACCOUNT OF EVENTS FROM NOV. 4, 2006. (C 119-76)

ON NOV 4, 2006 BETWEEN 5:15-6:50 PM DORRIS CLAIMS TO HAVE TELEPHONED A HOURLYWOOD VIDEO STORE FROM THE HOTEL LOBBY OF THE MARRIOTT IN ROCKFORD, IL AS M.S. HAD STATED HE SPENT THE NIGHT THERE w/ AN 18 Y.O. WHITE MALE NAMED "PIL" WHERE THE ALLEGED SEXUAL ACTIVITY OCCURRED (GAKUBA WAS 36 Y.O., BLACK). DORRIS COMPELLED THE ILLEGAL DISCLOSURE OF "THE REASON" [THAT RENTED] SCARY MOVIES 1-3 (R 3700) SUCH THAT DORRIS STATE POLICE AND PROSECUTORS, COULD BE ILLUMINATED BY RECEIPT OF GAKUBA'S "PERSONALLY IDENTIFIABLE INFO. (PII) (I.E. NAME, BIRTHDATE, DRIVER'S LIC. INFO., SEC 18 USC 8710 (a). (C 119-76, C 2804-45, R 286-83, R 444, R 700) DORRIS WROTE GAKUBA'S "PII" IN CAREFULLY HANDWRITTEN POLICE NOTES LEAST DORRIS FORGET. (C 2804-05) AFTER "THEY WENT TO HOLLYWOOD VIDEO, THEY FOUND OUT 'PETER GAKUBA' RENTED VIDEOS. THE SAME VIDEOS THAT M.S. TOLD THEM HE RENTED. THEY THEN WENT TO THE HOTEL. HEY, DO YOU HAVE A GUY HERE BY THIS NAME. GET US SOME DO, (MAY) WAS PROCEEDED BY 6:50 PM "CONSENT TO SEARCH" FORM DORRIS HAD HOTEL MGR. R. ADD REQUEST SUCH RESULTING IN THE ILLEGAL SEARCH, SEIZURE OF GAKUBA AND HIS WALLET, & SPECIFICALLY DORRIS LICENSE TO CONDUCT RATE GAKUBA WAS "THE PERSON THAT RENTED SCARY MOVIES 1-3." (C 119-76, C 2804-45, R 286-83, R 444, R 700) FROM 7:55-8:55 PM GAKUBA'S COERCED ILLEGAL BROWN INTERROGATION WAS NOT OBJECTIVELY MEMORIALIZED IN WRITING NOR AUDIOVISUALLY. M.S.'S WERE. (C 119-76, R 265-66) FROM 9:20-9:35 PM BALSLEY'S POLICE OFFER FORM GAVE 9:20 PM AS GAKUBA'S FORMAL ARREST, AND 11:52 PM "WHEN GAKUBA WAS JAILED (3 HOURS AFTER THE REPORT PURSUANTS TO BE WRITTEN). (C 2510-72, TRAIL EXHIBIT # 19-20) AT 11:34 PM STATE POLICE DAN GAKUBA'S RENTAL CAR TAG. (C 1045, C 1105) THE REGISTRATION: "PV HOLDINGS" (C 447)

ON NOV 5, 2006, DORRIS OBTAINED 2 SEARCH WARRANTS: (1) FOR THE MARRIOTT ROOM (C 25-32), (2) THE RENTAL CAR. (C 42-43) MEANWHILE, GAKUBA POSTED THE \$250K BAIL AND LODGED AT THE ADDRESS ALONG WITH WHICH, ACCORDING TO POLICE NOTES, ASA KURTZ OBTAINED "KEYS-ROOM 427" FROM "ORLANDA ADAMS, GENL. MGR. (C 2290-734) MORE "PII" WAS ILLEGALLY OBTAINED INCLUDING, GAKUBA BELIEVES, GAKUBA'S DNA AS NO DNA OF ANY KIND EVER WAS FOUND ANYWHERE ELSE. (C 2290-734, C 2908-42) LATER AT TRIAL, THE STATE PROVIDED A "SAFE KIT w/

CAKUBA'S DNA ON ANAL SWABS ; NOT THE ORAL SWABS WHICH M.S. STATED CAKUBA HAD EJACULATED MOMENTS BEFORE ANAL PENETRATION. (C 169-76 ; R 2184-96 ; TRIAL EXH. # 18)

ON NOV. 6, 2006 O'BRIEN OBTAINED A BUCCAL " SEIZURE WARRANT " FOR CAKUBA'S DNA (C 33-38)

ON DEC. 8, 2008 CONTINUED TO JAN. 13, 2009 THE 1ST OF TWO EVIDENTIARY HEARINGS WAS HELD. THEY BOTH SOUGHT TO QUASH THE 3 WARRANTS. THIS HEARING WAS ON 5TH / 6TH AMENDS VIOLATIONS. (R 221-432) THE 2ND HEARING ON JUNE 13, 2011 WAS ON 4TH AMEND. / BROWN / DUNAWAY + FRANKS VIOLS. (R 693-741) BOTH HEARINGS, O'BRIEN WAS THE KEY MATERIAL WITNESS. (R 226-288 ; R 690-741) HEARING ONE, THE TRIAL CT. FOUND STATE POLICE CREDIBLE. CAKUBA " INCREDIBLE. " (SR 2632-39) FURTHER, BECAUSE CAKUBA WAS NOT HEARD INVOKING HIS 5TH AMEND. RIGHT WHILE ON THE TELEPHONE W/ HIS LAWYER, CAKUBA'S 6TH AMEND. RIGHT WAS NOT VIOLATED. (SR 2635-36)

THE 2ND HEARING RESULTED IN THE HOTEL SEARCH AND BUCCAL SEIZURE WARRANTS BEING QUASHED. (693-741 (R))

ON JULY 11, 2011 A 4TH AMEND. / BROWN / DUNAWAY VIOL. WAS RULED TO OCCURRED. (R 742-92) SEPT. 15, 2011 A FRANKS VIOL. WAS ADJUDGED : O'BRIEN MADE " MATERIAL MISREPRESENTATIONS [AND OMISSIONS] " IN A RECKLESS DISREGARD FOR THE TRUTH " IN BOTH WARRANTS KURTZ " HELPED " PRODUCE. (R 863-08, R 415-16) FURTHER, KURTZ ARGUED THE BUCCAL WARRANT WAS A DE FACTO IL. S. CT. RULE 413 (2) (Vii) DISCOVERY MOTION AND SHOULDN'T BE QUASHED OR KURTZ WILL FILE A DUPLICIOUS RULE 413 MOTION THEREAFTER. (C 293 ; R 861) HEARD AND DENIED. (R 803-08) KURTZ FILED THE RULE 413 MOTION, AFFIDAVIT, AND EXHIBITS : CRIME LAB REPORTS EVINCING CAKUBA'S DNA PROFILE BY THE CRIME LAB, CONTRADICTING THE MOTION ASSERTING INSTEAD A " SUSPECT " DNA PROFILE. (C 266-71 ; R 811) THE TRIAL CT. GRANTS THE MOTION ON SEPT. 29, 2011 REJECTING CAKUBA'S ESTOPPEL ARGUMENTS BY FALSELY CONCLUDING " THERE IS A DIFFERENT BASIS [] THAT BEING THE [SAEK] KIT. " (R 822)

ON SEPT. 20, 2010 AT THE START OF THE 1ST OF 3 JURY TRIALS SET IN THIS CASE, CAKUBA MOVED TO SUBSTITUTE HIS ROCKFORD-BASED RETAINED LAWYERS. HEARD AND DENIED. THESE LAWYERS INSTANTLY MOVED TO WITHDRAW. HEARD AND GRANTED OVER CAKUBA'S OBJECTIONS. (C 123-132 ; R 573-639) CAKUBA INSTANTLY INVOKES " PRO SE " STATUS. DENIED : " ONCE YOU GO 'PRO SE', YOU'RE GOING 'PRO SE'. " (R 635) CAKUBA DID GO " PRO SE " AFTER DISMISSING HIS CHICAGO-BASED LAWYERS ON APRIL 30, 2013. (C 361-87, C 656-58 ; R 1008-52) ALL BUT ONE OF THE MANY " PRO SE " MOTIONS CAKUBA FILED WERE DENIED : THE VPEA SUPPRESSION MOTION. (C 203-08, C 1038-60, C 1072-1140 ; R 1236-62) " ANY PERSONALLY IDENTIFIABLE INFO. RECEIVED FROM THE VIDEO STORE IS SUPPRESSED. " (R 1238) THEREAFTER, THE TRIAL CT. RETURNS CAKUBA'S " PII " BACK INTO THE CASE : " THE VIDEO INFO. WAS SIMPLY CORROBORATING [] MOVIES RENTED

By the Defendant. (R1239) (EMPHASIS) AS ALL BAKUBA'S MOTIONS AND OFFERS OF PROOF WERE DENIED ON THE PLEADINGS (R1620); RULED UNTIMELY (R1429-34); AND THEREBY SUBJECTIVELY IGNORED, RESULTED IN BAKUBA SEEKING COURT-APPT'D LAWYER (APD) GRANTED ON NOV. 25 - DEC. 9, 2014 (R2977-86)

HOWEVER, ON DEC. 9, 2014 THE TRIAL CT. ADMONISHED BAKUBA ON THE "RECORD." (R1596-98, R1664-69) "IF THE PUBLIC DEFENDER WERE REMOVED AT YOUR REQUEST CLOSE TO THE TRIAL DATE, YOU WOULD PROCEED TO TRIAL 'PRO SE' BECAUSE I WILL ABSOLUTELY FIND THAT TO BE A DELAY TACTIC." (R1598-99) ON MARCH 31, 2015 BAKUBA FILED "DEFT'S MOTION TO SUBSTITUTE COUNSEL." (C2999-3151) IT WAS IMPLICITLY DELAYED FOR HEARING TO APRIL 8, 2015 THEN DENIED. (R1664-68) BAKUBA MOVED INSTANTLY TO BE "PRO SE" WHICH THE TRIAL CT. DENIED HAVING "ANTICIPATED" IT. (R1668-69) BAKUBA RESPONDS: "WELL, YOUR HONOR --" BEFORE THE TRIAL CT. CUTS OFF BAKUBA; "YOU KNOW WHAT [] I'VE RULED. YOU'RE NOT GOING TO BE ALLOWED TO GO 'PRO SE'. IT'S YET ANOTHER DELAY TACTIC. I SAW THIS MOTION COMING. IN FACT, I BELIEVE I EVEN MADE A RECORD ON DEC. 9." (C3179; R1669) ON APRIL 8, 2015 EXPECTING TO PROCEED 'PRO SE' AS A MATTER OF RIGHT AND CONSISTENT W/ THAT "RECORD" (R1596-99) BAKUBA FILED "DEFT'S MOTION TO INTRODUCE EVIDENCE PER 725 ILC 5/111-7(a)(2)." (C3155-78, EXH SEALED) ON APRIL 17, 2015 APD GUSTAFSON HAD IT STRICKEN, KURTZ DIDN'T OBJECT. (C3254-55)

BAKUBA'S APRIL 27, 2015 2.5 DAY JURY TRIAL HAD 9 WITNESSES FOR THE STATE; 1 UNDER STATE SUBPOENA FOR THE DEFENSE. M.S. FATHER, JEFF S., BEGAN BY IDENTIFYING PEOPLE'S EXHS. #1-2: "MATT'S 2006 PHOTO + PHOTO GIVEN TO POLICE." (R2133-35) THE PHOTOS WERE NOT FROM M.S.'S INTERNET "MYSPACE" WEBPAGE DESPITE TESTIMONY OF IT. (R2136) JEFF S. THEN TESTIFIED TO "REPRINTING" THE LAST FAX THAT HAD A "NUMBER" INDICATING USE BY M.S. (R2137) THE NEXT DAY, JEFF S. OBTAINED HIS WIFE'S MOBILE PHONE RECORDS W/ A NUMBER THAT "MATCHED THE FAX NUMBER" BEFORE GIVING THOSE DOCUMENTS TO POLICE. (R2138) NEXT, M.S. TESTIFIED BY AFFIRMING THE PHOTOS IN PEOPLE'S EXHS. #1-2 AS HIMSELF; THAT M.S. HAD A "MYSPACE" PAGE; AND THAT PEOPLE'S EXH. #6 WAS "PHIL'S MYSPACE PAGE." (R2152-54) M.S. THEN TESTIFIED TO CHATTING W/ PHIL USING "ADL MESSENGER"; PHIL WAS 18 BUT BELIEVED M.S. WAS A "40 Y.O. WOMAN" AND WANTED PROOF CONTRARILY. (R2156-59) M.S. SENT HIM A FAX OF MY SCHOOL ID THEN IS SHOWN PEOPLE'S EXH. #7: "COPY OF MATT'S SCHOOL ID" ANSWERING "IT'S A COPY OF -- OF IT'S THE FAX OF MY SCHOOL ID" (R2160-61) KURTZ: "AND THEN AFTER YOU FAXED THAT TO PHIL, DID YOU CHAT W/ HIM TO MAKE SURE HE RECEIVED IT?" M.S. ANSWERS THE LEADING QUESTION -- "YES" -- THEY CHATTED AND PHIL CONFIRMED RECEIPT PROMPTING AN OBJECTION: "HEARSAY." OVERRULED. (R2164)

AFTER DINNER AND WATCHING MOVIES IN THE HOTEL ROOM, THAT'S WHEN THE SEXUAL ACTS BEGAN. (R 2188) PHIL TOOK BOTH THEIR CLOTHES OFF, PUSHED M.S.'S HEAD TOWARDS PHIL'S PENIS TELLING M.S. TO GIVE HIM A BLOW JOB AND M.S. WOULD RECEIVE ORAL SEX. (R 2182-83) M.S. DID NOT EJACULATE, BUT PHIL DID ON M.S.'S MOUTH. (R 2184-85) AFTER PHIL CLIMAXED DURING ORAL SEX, WITHIN SECONDS, PHIL PUT HIS PENIS "IN MY BUTT." M.S. TESTIFIED WBE WAS USED BUT NO CONDOM. (R 2186) M.S. DIDN'T KNOW IF PHIL EJACULATED A 2ND TIME MOMENTS AFTER EJACULATING ON M.S.'S MOUTH. (R 2186-87) ON CROSS-EXAM, M.S. DIDN'T KNOW "IF PHIL WAS STILL ERECT." (R 2212) BUT THE SEQUENCE OF SEX WAS NOW REVERSED: PHIL 1ST PERFORMED ORAL SEX ON M.S.; M.S. PERFORMED ORAL SEX ON PHIL WHO EJACULATED; FOLLOWED IMMEDIATELY BY ANAL PENETRATION. (R 2217) PEOPLE'S EXH. # 18 (M.S.'S NOV. 4, 2006 INTERVIEW) REFRESHED M.S.'S MEMORY OF PHIL'S PERPETUAL ERECTION. (R 2225) "IN LESS THAN 1/2 HOUR" ALL 3 SEX ACTS OCCURRED, PHIL WENT TO SLEEP AND NO FURTHER SEX ACTS OCCURRED DESPITE BEING IN A HOTEL ROOM TOGETHER ALL NIGHT. BOTH SLEPT CLOTHED. (R 2187-88) M.S. DIDN'T SHOWER OR CHANGE CLOTHES WHEN RETURNED HOME THE NEXT MORNING BEFORE GOING TO THE HOSPITAL W/ POLICE IN THE EVENING WHERE A "RAPE" KIT WAS COMPLETED. (R 2189-90)

FINALLY, BOTH ON CROSS AND REDIRECT, M.S. ADMITTED TO HAVING LIED TO PHIL: TO BEING ABUSED BY HIS PARENTS, TO BEING BEATEN. (R 2269, R 2272) M.S. ALSO ADMITTED TO LIEING TO PHIL WHEN SHOWING PHIL AN "EMAIL" (PEOPLE'S EXH. # 15) M.S. FABRICATED FALSELY POSING AS THE FATHER OF A FRIEND IN AN EMAIL ADDRESSED TO JEFF: THE EMAIL FALSELY CLAIMED WOULD BE AT A SLEEPOVER. JEFF S. NEVER RECEIVED IT BECAUSE M.S. LIED TO PHIL WHEN CLAIMING IT HAD BEEN SENT. (R 2210-12)

SARAH BOWEN (NURSE) TESTIFIED TO THE SPECIMAN COLLECTION PROCEDURE FOR THE "JAEK" KIT EXPLAINING THAT SWABBING BOTH SIDES OF M.S.'S MOUTH WAS DONE BY E.R. DR. ESCARZA IN BOWEN'S PRESENCE. (R 2232, R 2239) ESCARZA "SELECTED" THE ANAL SWABS WHICH WERE SEALED IN AN ENVELOPE W/ THE "JAEK" KIT THEN GIVEN TO STATE POLICE BALSLEY. PEOPLE'S EXHS. # 12A-C WERE THE JAEK KIT. (R 2240-42)

STATE POLICE O'BRIEN TESTIFIED TO M.S. AGE/ BIRTHDATE. (R 2246) AN OBJECTION AND LENGTHY SIDE BAR, AT TIMES OFF THE RECORD, RESULTED IN O'BRIEN ALLOWED TO TESTIFY TO GAKUBA'S AGE/ BIRTHDATE. (R 2269) IN RESPONSE TO KURTZ'S LEADING QUESTIONING: "AS PART OF THE IL. STATE POLICE ARREST AND BOOKING PROCESS THAT BEGAN [] AT 9:20 PM ON NOV. 4, 2006 DID YOU ASK HIM HIS DATE-OF-BIRTH?" O'BRIEN: "YES, I DID." (R 2269) KURTZ: "DID HE TELL YOU?" O'BRIEN: "YES, HE DID." KURTZ: "WHAT WAS IT?" O'BRIEN: "NOV. 21, 1969." (R 2269) KURTZ CONCLUDES:

"AND I MAY HAVE ASKED YOU THIS [.] SO I WANT TO BE SURE, THE [.] MARRIOTT THAT'S IN ROCKFORD WHICH IS IN WINNEBAGO CO., IS THAT CORRECT?" O'BRIEN: "YES, IT IS." (R2269)

DR. ESCARZA NEXT TESTIFIED TO THE SAMPLES COLLECTED W/ THE "SACK" KIT; CONFIRMING HE TOOK THE "ORAL SWABS" FROM M.S. EACH INDIVIDUAL Q-TIP "IS SWABBED AROUND THE AREA" BEFORE DRIED AND PACKAGED. ESCARZA PERFORMED "THE SAME TECHNIQUE" W/ THE ANAL SWABS WHERE "EACH INDIVIDUAL ONE IS SWABBED IN THE AREA IN QUESTION," PACKAGED AND SEALED. (R2282-83) ON CROSS-EXAM, ESCARZA CONFIRMED "THERE WAS NO TRAUMA PRESENT" (R2285) PROMPTING KURTZ'S LEADING RE-DIRECT QUESTION: "AND IS THE ANUS, I MEAN IS DESIGNED TO EXPAND, IS THAT CORRECT?" ESCARZA: "CORRECT." (R2286)

DANIEL BALZLEY (R2289-97), CYNTHIA CALE (R2298-2308), AND CHARLES DAVIDSON (R2309-2318) WERE NOT CROSS-EXAMINED AND MOSTLY TESTIFIED TO CHAIN OF CUSTODY ISSUES OF EVIDENCE / EXHIBITS.

BLAKE APER TESTIFIED LAST TO THE DNA FORENSIC TESTING APER PERFORMED ESTABLISHING GAKUBA'S DNA PROFILE FROM "ANAL SWABS". (R2319-2334) APER STATED TO DOING "NOTHING W/ THE ORAL SPECIMANS." (R2336) ON CROSS-EXAM, APER ACKNOWLEDGED NO PERSONAL KNOWLEDGE OF HOW OR WHERE THE SWABS WERE COLLECTED BESIDES THEIR PACKAGING AND LABELING. (R2354-55)

BEFORE THE STATE FORMALLY RESTED, THE TRIAL CT. WANTED "TO DEAL W/ THE ADMISSION OF EXH. # 19-20." (R2257): "OK, 19+20, AGAIN, THAT WAS THE SUBJECT OF THE OBJECTION TO TROOPER BALZLEY TESTIFYING AS TO THE DEFENDANT'S AGE. IT WAS INFO. SUPPLIED TO THE COURT IN ORDER TO ALLOW THE OBJECTION. AND AGAIN, IT WAS NOT SUBSTANTIVE EVIDENCE [.] BUT I THINK THAT THERE SHOULD PROBABLY BE SOME RECORD [.] (R2362-63)

KURTZ: "I AGREE." GUSTAFSON: "I AGREE, JUDGE, NOT TO BE TOO NIT PICKY, BUT IT WAS SET, O'BRIEN NOT..."

THE COURT: "I'M SORRY, NO, YOU'RE RIGHT [.] IT WAS, IT WAS O'BRIEN. 19+20 ARE OFFERED AND ADMITTED FOR THAT LIMITED PURPOSE AS TO WHAT THE COURT EXAMINED PRIOR TO MAKING ITS RULING ON THE OBJECTION MADE BY THE DEFENSE TO -- WHAT WAS HIS NAME AGAIN -- O'BRIEN? [RESPONSES OMITTED] TESTIFYING TO DEFENDANT'S AGE AND HOW HE LEARNED OF IT." (R2363)

CLOSING ARGUMENT REITERATED THAT "SGT. O'BRIEN TESTIFIED TO HIS DATE OF BIRTH [.] (R2375, R2434) AND, AFTER JURY INSTRUCTIONS, GAKUBA WAS CONVICTED OF ALL 3 COUNTS, 720 ILCS 5/12-16 (d). (R2493-94)

* * * END NOTE (28 USC § 2254(d)(2), § 2254(r)) = GAKUBA 2019 (ADOPTING FULLY GAKUBA 2017) CONTAINS NUMEROUS MATERIAL MISREPRESENTATIONS AND OMISSIONS IN A RECKLESS DISREGARD FOR THE TRUTH. SEE GAKUBA 17 CV 50337 (N.D. IL) (HABEAS).

SUMMARY OF ARGUMENT: THE BASES FOR DISMISSAL OF BAKUBA'S 'PRO SE' 33-PAGE POST-CONVICTION PETITION ARE ESSENTIALLY 2 FOLD: (1) RES JUDICATA, + (2) APD GUSTAFSON'S PERFORMATORY "REPRESENTATION" FAILS THE 2ND PRONG OF STRICKLAND'S "BUT FOR PREJUDICE STANDARD. PEOPLE V. BAKUBA 06 CF 4324 (17TH CIR. WINNEBAGO CO.) (POST-CONVICTION (HERETOFORE "BAKUBA P.C.") RP 5.11.

FIRST, BAKUBA CAN FIND NO CASE LAW PRECEDENCE BARRING A COLLATERAL ATTACK ON A WRONGFUL CONVICTION RESTING ON MATERIAL MISREPRESENTATIONS AND OMISSIONS OF FACT THAT RESULTED IN A REVIEWING COURT'S OBJECTIVELY UNREASONABLE DETERMINATION OF THE EVIDENCE. INDEED, BAKUBA 2019 / BAKUBA 2017 EVADE ADDRESSING NUMEROUS CONSTITUTIONAL ISSUES BY WRONGLY / FALSELY ACCUSING BAKUBA'S 'PRO SE' BRIEF AS GROSSLY DEFICIENT PER IL. S. CT. RULE 341 RESULTING IN "FORFEITURE". AN OBJECTIVE REVIEW OF BAKUBA'S BRIEF + REPLY CITING 143 + 76 CASE LAWS REBUTS THIS FALSITY. (THE STATE CITED A MERE 26 CASES) SEE ALSO BAKUBA V. O'BRIEN 711 F.3d 751 (7TH 2013) (BAKUBA WON APPEAL SOLELY ON HIS 'PRO SE' BRIEF ALONE.) ASSUMING ARGUENDO, THOSE ISSUES SHOULD HAVE BEEN REVIEWED UNDER PLAIN ERROR HAD GUSTAFSON EFFECTIVELY PRESERVED THEM. SHE DID NOT.

SECOND, "BUT FOR" GUSTAFSON'S FAILURE TO RAISE BOTH FED'L + STATE STATUTE AND CONSTITUTIONAL LAW VIOLATIONS MEANT THAT BAKUBA 2019 / BAKUBA 2017'S REVIEW ON APPEAL WAS OBJECTIVELY UNREASONABLE. SPECIFICALLY, BAKUBA 2019 / BAKUBA 2017 ARE WILLFULLY IGNORANT OF BAKUBA'S "BOOKING PROCESS" DENIAL AFFIDAVIT, WHILE BAKUBA P.C. FH#1 DECEITFULLY LABELS IT A "13 PAGE DOCUMENT." (C 2366-73) IT'S AXIOMATIC THAT ADJUDGED FRANKS PERJURER O'BRIEN COMMITTED MAJOR PERJURY AT THE LEADING QUESTIONING OF FRANKS + MAJOR SUBORNER ASA KURTZ WHEN O'BRIEN FALSELY TESTIFIED TO A "BOOKING PROCESS-VERSION" (R2267) AND BAKUBA'S FABRICATED HEARSAY RESPONSE. BAKUBA'S "BOOKING PROCESS" DENIAL AFFIDAVIT IS SUBSTANTIVE, CONCLUSIVE, DISPOSITIVE EVIDENCE APD GUSTAFSON SHOULD HAVE USED EITHER IN HER OWN SUPPRESSION MOTION OR CROSS-EXAM. INSTEAD, GUSTAFSON WAS FLATLY WRONG IN NOT OBJECTING TO ASA KURTZ'S DIRECT EXAMINATION OF O'BRIEN TO OCCUR "OFF THE RECORD, OUTSIDE THE WALL OF THE COURT" (R 2254-57) AS TO "THE MILLION DOLLAR QUESTION": BAKUBA'S ILLEGAL BIRTHDATE OBTAINMENT PER 18 USC § 2710(b)(2)(C), § 2710(1) THEN AN ILLEGAL 4TH AMEND. VIOL. | BROWN | DUNAWAY HOME INVASION COVERED UP BY 14TH AMEND. FRANKS, THEN MAJOR PERJURY.

IN CONCLUSION, "BUT FOR" GUSTAFSON'S NON-REPRESENTATION, BAKUBA WOULDN'T HAVE BEEN WRONGLY CONVICTED, WORSE, WRONGLY SENTENCED TO 12 YRS DISCRETIONARY CONSECUTIVE IMPRISONMENT VS. PROBATION SOLELY ON HIS "CHARACTER" - THE RACIST DOC WHISTLE OF BLOATED LOWER WORDS. SEE CHRONIC 466 US AT 658-60; EVERY 308 US AT 446. STRICKLAND AT 691.

ARGUMENT

ISSUE ① NEVER HAD MUNIZ 496 US 582, 601 (1990) CITED AS AN EXCEPTION TO AN ILLEGAL 4TH AMEND. | BROWN | DUNAWAY HOME INVASION -- MUCH LESS THE 18 USC § 2710 (b)(2)(C), § 2710 (d), § 2710 (e) THAT PRECEDED IT. THERE WAS NO EVIDENCE -- NONE -- THAT AN ACTIVE ALTERNATIVE INDEPENDENT INVESTIGATION WAS BEING PURSUED. ACCORD US v. BATES 182 F.3d 517, 525-29, 531-32 (7TH 1999); US v. HASTINGS 246 F.3d 1163, 1168, 1178-81 (E.D. TX 2017). 18 USC § 2710 ET SEQ. WAS THE POISONED FRUIT TREE. THE POISONED FRUIT: BROWN, DUNAWAY VIOL. CITED AS CONTROLLING AUTHORITIES NOT THE ATTEMPTED WALK BACK, EX POST / POST HOC 'DE FACTO' APPLICATION OF NY v. HARRIS 495 US 14 (1990). CF CONTRA US v. ROCHE-MARTINEZ 467 F.3d 591, 593 (7TH 2006) (HELD: NO EVIDENCE ADMISSIBLE IN SPITE OF ILLEGAL 4TH AMEND. HOME INVASION; NY v. HARRIS CONTROLS NOT BROWN). (R 747-72)

** NOTE: BAKUBA 2017 | BAKUBA P.C. IGNORE COMPLETELY THE VIOL. OF BAKUBA'S 6TH AMEND. PUBLIC TRIAL RIGHT; DESPITE BAKUBA 2017 AT P.56 ADDRESSING IT, AND RAISED IN THE OPENING BRIEF PP. 16-17. SEE WALKER v. GEORGIA 467 US 39, 49, n.9 (1984); IN RE MANUEL M. 2017 IL APP (7TH) 162381; PEOPLE v. KIMBLE 2017 IL APP (2d) 160087 (86 N.E.3d 1245, 1246); PEOPLE v. REMOLETON 75 ILL. APP. 3d 520 (1979); US v. NELSON 874 F.3d 1103, 1109 (11TH 2018) **

ISSUE ② NEVER HAD A FRANKS BOGUS SEARCH WARRANT (OR IL.J.CT. RULE 411/413 DISCOVERY MOTION MISCAPTIONED A "WARRANT") RESUSCITATED (RESURRECTED BY "BOOTSTRAPPING" THE ILLEGALLY OBTAINED EVIDENCE TO A NEW IDENTICAL "WARRANT" AS A DO-OVER. HAMILTON v. VILLAGE OF OAKLAWN 17-3374 SUP. CT. AT P.5, ¶1 (7TH 2014). ACCORD US v. BROWN 631 F.3d 678 (3RD 2011) (BOGUS FRANKS BUCCAL WARRANT QUASHED; NO DO-OVER PER 42 USC § 14135a TEST UPON ARREST (DNA)). OBJECTIVELY UNREASONABLE. SEE BAKUBA 2017 OP. BR. P.15: "KURTZ POSES THE FLAWED ARGUMENT IN A DIFFERENT WAY: THAT THE QUASHING OF THE "WARRANT" MEANT THAT THE STATE MUST MAKE BELIEVE BAKUBA'S DNA PROFILE DOES NOT EXIST. THIS ARGUMENT, HOWEVER, ALSO REQUIRES THEM THAT THE POLICE AND PROSECUTORIAL MISCONDUCT THAT LED TO SANCTIONS BE SUPPRESSED TOO. THIS IS ILLOGICAL, NON-SEQUITUR. (R1700) (EMPHASIS) "KURTZ'S EXHIBITS CONTROL (CRIME LAB REPORT RESULTS TO BAKUBA'S DNA FIND PER ILLEGAL SEIZURE AND TESTING) IN HER DO-OVER OF THE 2ND RULE 411/413 "WARRANT" MOTION, NOT HER 2ND FRANKS PERJURY TO A "SUSPECT" DNA PROFILE. SEE HOEFLING v. MIAMI 811 F.3d 1271, 1277 (11TH 2016) (EXAS. CONTROL).

ISSUE ③ NEVER REVIEWED THE NUMEROUS EVIDENTIARY ERRORS WHICH INDIVIDUALLY, CUMULATIVELY PRESUMED BAKUBA. THE FLAGRANTLY EGBERIGIOUS FRADY VIOLATIONS WILLFULLY WERE IGNORED. (POLICE + PROSECUTOR'S BURGLARY OF BAKUBA

ALONE IN ROOM TO SURREPTITIOUSLY, ILLEGALLY OBTAIN GARCIA'S DNA COMPLETELY ABSENT FROM THE MARRIOTT HOTEL ROOM CRIME SCENE.) SO TOO DID BRADY OCCUR -- WILLFULLY IGNORED -- OF NURTE'S PROMISEMENT THAT THE CRIME LAB RESULTS, FIRST, TESTED NEGATIVE FOR DNA. IMPLICITLY, RATHER THAN CONCLUDING TESTING, THEY TEST AGAIN W/ A "SREK" KIT MAINTAINED IN POLICE CUSTODY FOR DAYS ALL THE WHILE THEY'RE BURGLARIZING GARCIA'S HOME. THE 2ND TEST MYSTERIOUSLY IS NOW POSITIVE; THE NEGATIVE 1ST TEST NEVER WAS TEMPERED. (R 900-02)

CF MILLS V. BARNARD 869 F.3d 473 (6TH 2017) (42 USC § 1983 SUIT: BRADY VIOL. DNA TEST WITHHELD IN SEX W/ 124.0.)

SEE SANDERS V. CULLEN 873 F.3d 778, 815 (7TH 2018) (HABEAS DENIED; DISCUSSES NAFUE, BRADY IN CONTEXT OF STRICKLAND; PREJUDICE WARRANTING HABEAS RELIEF MAY RESULT FROM CUMULATIVE IMPACT OF MULTIPLE DEFICIENCIES);

CF BAER V. NEAL 879 F.3d 767, 782, 786-87 (7TH 2018) (HABEAS SENTENCE REVERSED: "(6) DEFENDANT WAS DENIED FAIR TRIAL AND WAS PREJUDICED BY CUMULATIVE EFFECT OF COUNSEL'S UNPROFESSIONAL ERRORS IN CONSISTENTLY NOT OBJECTING TO PROSECUTOR'S PROLIFIC PREJUDICIAL REMARKS"). WHERE APD GUSTATSON FAILED TO OBJECT (E.G. ALLOWING DIRECT EXAM. OFF THE RECORD, OUT OF THE WELL OF THE COURT (R 1267)) GARCIA SOUGHT PLAIN ERROR REVIEW. INSTEAD, THE LOWER COURTS TREATED ISSUE ③ AS AN INSUFFICIENCY OF EVIDENCE ISSUE SOLELY. THIS WAS NOT ONLY FAULTY AND CONCLUSORY, IT WAS OBJECTIVELY UNREASONABLE; AN EVASIVE DODGE, PROCEDURAL POSTURING.

CONTRA ERVIN V. BOWERBOX 892 F.3d 979, 982 (8TH 2018) (HABEAS DENIED: SUFFIC. EVIDENCE SODOMY, "[VICTIM] HAD BRUISING AND SWELLING AROUND RECTAL AREA [AND] MUCOSAL FISSURES IN THE LINING OF THE ANUS [.] A SPECIALIST [.] CONCLUDED 'INJURES WERE CONSISTENT W/ OR INDICATIVE OF PENETRATING ANAL TRAUMA.'")

HERE, M.S. MADE REPEATED SWORN STATEMENTS TO FULL BLOWN ANAL PENETRATION, (C 167-176) NOT "SLIGHT TOUCHING" THE STATE FALSELY ARGUES EX POST / POST HOC ON APPEAL, FOR THE 1ST TIME W/O RECORD SUPPORT. NO PHYSICAL TRAUMA EXISTS. NONE, DESPITE BEING EXAMINED LESS THAN 24 HOURS LATER. (R 2280-86)

ISSUE ④ NEVER HAD FARETTA APPLIED IN AN OBJECTIVELY UNREASONABLE MANNER AS HAPPENED HERE. ACCORD TAMPLIN V. MUNIZ 894 F.3d 1076, 1088-89, 1092-93 (9TH 2018) (CIRCUIT CT. GRANTS C.O.A. THEN HABEAS; 'PROSE' RIGHT DENIED AS UNTIMELY) TAMPLIN AT 1088-89: "TAMPLIN MADE A NEW REQUEST TO REPRESENT HIMSELF [.] EXACTLY 2 WEEKS BEFORE [TRIAL.] TAMPLIN'S REQUEST WAS TIMELY." ID AT 1089: "EVEN IF THE STATE CT. HAD RELIED ON UNTIMELINESS IN DENYING HABEAS, WE WOULD NOT GIVE AEDPA DEFERENCE TO THAT CONCLUSION [DUE TO] CLEAR FACTUAL ERROR [.] ID AT 1093 FN*3: "FOOTNOTE IN FARETTA INDICATES HE ATTEMPTED ON 3 OCCASIONS TO HAVE

THE TRIAL CT. APPOINT AND PAY FOR PRIVATE COUNSEL FOR HIM. 422 US AT 808 FN# 5. "ID AT 1092: [DISSENTING]"

PARETTA CERTAINLY DOES NOT PRECLUDE THE TRIAL CT.'S CONSIDERATION OF THE ENTIRE RECORD."

LIKE THE DISSENT IN TAMM LIN, BAKUBA 2019 ADOPTS FULLY BAKUBA 2017 AT R 88 WHICH IS FANCFUL AND CON-
CLUSORY: "GIVEN THE HISTORY OF THIS CASE, WE CANNOT SAY THE TRIAL CT.'S CONCLUSION IS ARBITRARY, FANCI-
FUL, OR UNREASONABLE." NOWHERE DOES BAKUBA 2019 / BAKUBA 2017 STATE THAT APD GUSTAFSON FILED A CON-
TINUANCE MOTION ON THE TRIAL DATE. THIS "DELAY TACTIC" WAS DENIED. (2 3262-64; R 1683-90) THUS, ASSUM-
ING ARGUED, BAKUBA'S 'PRO SE' MOTION -- WERE ONE FILED -- WOULD BE DENIED TOO. IMANI 826 F.3d AT 947.

ISSUE ⑤ WAS A DISINTERESTED PROSECUTOR VIOLATION. 5TH / 14TH AMEND. PLAIN ERROR.

ON POINT: US v. ARPAIO 887 F.3d 749 (9TH 2018) (DISCLOSES DISINTERESTED PROSECUTOR) (AT 984 FN# 2: "AMICI REPRESENTED PRESIDENT TRUMP'S POLITICAL RIVAL, HILARY CLINTON [5] THEIR POSSIBLE OPPOSING INTERESTS SHOULD AT LEAST PRECLUDE THEM FROM APPOINTMENT AS SPECIAL COUNSEL [6] YOUNG 481 US AT 811 (1987) ("APPOINTMENT OF AN INTERESTED PROSECUTOR CREATES AN APPEARANCE OF IMPROPRIETY THAT DIMINISHES FAITH IN THE FAIRNESS OF THE CRIMINAL JUSTICE SYSTEM." HERE, ASA KURTZ WAS AN INTERESTED PROSECUTOR, AS MACOM CO. ASA, THIS WAS THE ONLY CASE AMONG + 106 CASES KURTZ AS AN ILLEGALLY APPT'D "SPECIAL ASA" IN WINNEBAGO CO. THE REASON: BAKUBA IS "GOING" KURTZ. (R 1211)

BAKUBA v. O'BRIEN 12 CV 7296 (M.D. IL.); BAKUBA v. KURTZ 513 FED. APPX. 402 (7TH 2018).

ON POINT: US v. SPIKER 649 FED. APPX. 770, 773 (11TH 2016) (AT 771: CONVICTIONS REVERSED WHERE DEFT. THREATENED THAT CASE'S PROSECUTOR AND LATER ATTEMPTED MURDER OF PROSECUTOR. REMOVAL OF PROSECUTOR WAS MANDATED IT WOULD BE PLAIN ERROR TO ALLOW PROSECUTOR TO REMAIN.); (AT 772-73: A PROSECUTOR SHOULD NOT PARTICIPATE IN A CASE IF IT RESULTS IN A PERSONAL CONFLICT OR THE APPEARANCE THERE OF YOUNG 481 US 787, 807 (1987). THE PROSECUTOR IN SPIKER ACTED ALONE AND PRIMARY.); (AT 773: "GIVEN THE FAR REACHING EFFECT OF AN INTERESTED PROSECUTOR [...] AS WELL AS DEFT'S HIGH-END GUIDELINE SENTENCE, WE FIND THIS ERROR AFFECTED SUBSTANTIAL RIGHTS.").

HERE, BAKUBA WAS SENTENCED (BY A CORRUPT JUDGE) TO 12 YRS. (4 YRS. X 3 ETS.) DISCRETIONARY CONSECUTIVE SENTENCING WHEN "PROBATION" WAS BOTH THE STATE'S PLEA OFFER AND PSIR RECOMMENDATION.

HERE, BAKUBA'S THREAT TO HER IS TO HER LIVELIHOOD WHICH SHE'S TREATED AS A GRAVE THREAT, INDEED.

HERE, THE TRIAL CT. IMPLIES TAKES JUDICIAL NOTICE OF THIS LAWSUIT AND THE JEOPARDY/PERIL TO KURTZ'S CAREER.

THE COURT (R 1116-17): "WHY IS EVERYONE OUT TO GET YOU? WHAT'S YOUR THEORY THAT [...] MS. KURTZ HAS TARGETED YOU

AS THE ONE WHO SHE IS WILLING TO RISK HER LAW LICENSE AND HER ENTIRE CAREER OVER? (EMPHASIS)

ISSUE (6) WAS A BIASED, PREJUDICED TRIAL JUDGE AS ADVOCATE. 5TH / 11TH AMENDS VIOL. STRUCTURAL ERROR.

ON POINT: QUINTANA V. HANSEN 733 F.2d 439, 443 (10TH 2012) (C.O.A. DENIED) (AT 443: "A STATE PROCEDURAL GROUND IS INDEPENDENT IF IT RESTS ON STATE LAW, RATHER THAN FED'L LAW, AS THE BASIS FOR THE DECISION. (CITATION) AND THE GROUND IS ADEQUATE IF IT HAS BEEN 'APPLIED EVEN HANDLEDLY IN THE VAST MAJORITY OF CASES.'").

GAKUBA FINDS NO CASE LAW PRECEDENCE, NOR CAN THE LOWER COURTS, WHEREBY AN ILL. STATE JUDGE DENIED HIS OWN SUBSTITUTION MOTION HIMSELF. IT HAPPENED HERE. A FIRST IN A CRIMINAL CASE.

ON POINT: RALSTON V. CANNON 824 F.3d 1060, 1064 FH#4 (10TH 2016) ("THE COMPLAINT (WHICH IS SWORN UNDER PENALTY OF PERJURY AND IS, THUS, TREATED AS AN AFFIDAVIT) PROVIDES A FAIRLY DETAILED TIMELINE [7])

HERE, ALL GAKUBA'S PLEADINGS UNDISPUTEDLY WERE SWORN "UNDER PENALTY OF PERJURY"; ALL CLAIMS TO THE CONTRARY ARE OBJECTIVELY UNREASONABLE ON MATTERS OF FACT AND LAW. GAKUBA 2019 / GAKUBA 2017 RR 105-108.

ON POINT: US V. EL BEY 873 F.3d 1015, 1019, 1022 FH#1 (7TH 2017) (REVERSED / REMANDED: BIASED JUDGE)

(AT 1022: "HERE, THE DIST. CT.'S DEPRECATORY AND OFTEN ANTAGONISTIC ATTITUDE TOWARD THE DEFT. IS EVIDENT IN THE RECORD FROM THE VERY BEGINNING [7] (CITATION)"); (AT FH#1: "OUTSIDE THE PRESENCE OF JURY [THE JUDGE] MADE SEVERAL COMMENTS CONVEYING HIS DISSATISFACTION W/ EL-BEY'S SELF-REPRESENTATION, AND REPEATEDLY REMARKED THAT EL-BEY DID NOT KNOW WHAT HE WAS DOING [7])

HERE, THE JUDGE CREDIBILITY VOUCHER FOR POLICE AND PROSECUTORS. (R1116-17) HE CALLED "CRAZY" GAKUBA'S PLEADINGS. (C 698-754; R2252)

HERE, GAKUBA PLED THE OPERATIVE FACTS AND CITED TO: PEOPLE V. WIGGINS 2015 IL APP (1ST) 133033 RR 43-44 (REVERSED / REMANDED, STRUCTURAL ERROR: BIASED JUDGE "AS ADVOCATE"). SEE ALSO JORDAN V. HEPP 831 F.3d 834, 847 (7TH 2016) (AT 847: CREDIBILITY VOUCHING IS SUBJECT TO PLAIN ERROR REVIEW).

ON POINT: ECHAVARRIA V. WILSON 896 F.3d 1118, 1128-29 (9TH 2018) (HABEAS GRANT: STATE CT. ADJUDICATED ACTUAL BIAS OF JUDGE CLAIM BUT NOT "RISK OF BIAS." AT 1029.)

HERE, THE RECORD OVERWHELMINGLY SHOWS THE TRIAL JUDGE'S "RISK OF BIAS."

ON POINT: COMMONWEALTH COATINGS V. CONT'L GAS CO. 393 N.S 145, 150 ("ANY TRIBUNAL PERMITTED BY LAW TO TRY CASES AND CONTROVERSIES NOT ONLY MUST BE UNBIASED BUT ALSO NOT EVEN ALLOW THE APPEARANCE OF BIAS.")

HERE, THE RECORD OVERWHELMINGLY SHOWS THE TRIAL JUDGE'S APPARENT BIAS.

ISSUE (7) IMPLICATES THE 8TH AMEND. VIOLATION: CRUEL AND UNUSUAL PUNISHMENT.

ON POINT: US v. NIECEMAN 881 F.3d 976, 981 (7TH 2016) (AFFIRMED MANDATORY 15 YR. MIN. SENTENCE FOR CHILD PORN

ON 67 YR. W/ PRIORS) (AT 981: 8TH AMEND. CRUEL + UNUSUAL PUNISHMENT CONTRAS. EWING v. CALIFORNIA 538 US

11, 20 (2009). "EXTREME SENTENCES THAT ARE DISPROPORTIONATE TO THE CRIME" WILL VIOLATE PROPORTIONALITY

PRINCIPLE. ID AT 23. "3 FACTORS ARE RELEVANT: (i) THE GRAVITY OF THE OFFENSE AND HARSHNESS OF PENALTY;

(ii) THE SENTENCES IMPOSED ON OTHER CRIMINALS IN THE SAME JURISDICTION; (iii) THE SENTENCES IMPOSED FOR COMMISSION OF THE SAME CRIME IN OTHER JURISDICTIONS. ID AT 22 (QUOTING SOLE v. HELM 463 US 277, 292 (1983)).

HERE, THE OFFENSE WAS A "CLASS 2, PROBATIONABLE" CRIME WHICH WAS THE SENTENCE OFFERED PER PLEA AND RECOMMENDED PER THE PSI REPORT. HERE, NO OTHER CASE EXISTS IN ILLINOIS OF DISCRETIONARY CONSECUTIVE SENTENCES SURVIVING APPELLATE REVIEW. THE ONLY 3 ALL WERE REDUCED TO CONCURRENT: PEOPLE v. M.H. 2014

1L APP (3d) 130083-U; PEOPLE v. CARERON 2012 IL APP (3d) 110020; PEOPLE v. LEZINE 2012 IL APP (2d) 10678-U.

THIS INSTANT CASE IS WHOLLY UNPRECEDENTED.

CF PEOPLE v. SAITH 2013 IL APP (2d) 120631-U RPT 1, 9 (JUDGE TRUITT - 5 YRS. CONCURRENT); PEOPLE v. MORGER

2016 IL APP (4TH) 140321 (180 DAYS SUSPENDED; ACC. CRIM. SEX. ABUSE; BROTHER ON SISTER; MULTIPLE TIMES, YEARS);

PEOPLE v. BACIERE 2017 IL APP (2d) 161102 (98 N.E. 3d 406) (CHILD SLAVERY, TRAVEL SEX W/ MINOR; CLASS X+1 CRIMES); (AT R 26: "6 YR PRISON TERM, CONCURRENT, 2 YR PRISON TERM")

HERE, BAKUBA PLED ALL THE OPERATIVE FACTS OF AN 8TH AMEND. VIOLATION. SEE BAKUBA 2019 / BAKUBA 2017'S

"PRO SE" REPLY BR. PP. 16-17: "FINALLY, IT WAS IMPERMISSIBLE TO SENTENCE BAKUBA FOR HIS LITIGATION TACTICS

(ALLEGED TO ALL THRU THE GOV'T'S BRIEF). SEE US v. LEWIS 817 F.3d 1054, 1055 (7TH 2016) ("PRO SE" DEFT.'S LITIGATION

TACTICS CANNOT SERVE AS BASIS FOR [CONSECUTIVE] SENTENCES) SEE R 1533-34."

ON POINT: PEOPLE v. JOHNSON 2014 IL APP (4TH) 160920 (87 N.E. 3d 1073) (AT R 55 (1986): "DESPITE DEFT.'S FAILURE TO

FULLY DEVELOP HIS PLAIN ERROR ARGUMENT, WE ARE PERSUADED THE RULES OF FORFEITURE SHOULD BE RELAYED IN THIS

PARTICULAR SITUATION [6] THE CONSIDERATION OF MULTIPLE IMPROPER FACTORS RAISES THE SERIOUSNESS OF THE COURT'S

ERROR. IT APPEARS FROM THE RECORD THESE IMPROPER FACTORS IMPACTED THE COURT'S DECISION, WHICH, IN TURN,

AFFECTED THE FAIRNESS OF DEFT.'S SENTENCING HEARING, AS THE COURT'S CONSIDERATION OF THESE FACTORS WAS

UNLAWFUL. CF PEOPLE V. MAGGIO 2017 IL APP (4TH) 150287 R15 (CONCLUDING TRIAL CT'S CONSIDERATION +
RELIANCE ON IMPROPER SENTENCING FACTOR WAS 2ND PRONG PLAIN ERROR).")

HERE, BAKUBA 2019 / BAKUBA 2017 AT R 119 RULES INAPPOSITE TO JOHNSON BY INVOKING "FORFEITURE" THEN
CITING TO A RELATED CIVIL CASE FOR AUTHORITY: BAKUBA V. KURTZ 2015 IL APP (2d) 145252 R19, WHEN NO OTHER
IL STATE CRIMINAL CASE EVER INVOKED FORFEITURE BY CITATION TO A CIVIL CASE LAW. OBJECTIVELY UNREASONABLE
WORSE STILL, BAKUBA 2019 / BAKUBA 2017 AT R 117 RECTES WHOLLY CONCLUSORY, ROPE, FORMULARIC LEGAL CON-
CLUSIONS JUSTIFYING DISCRETIONARY CONSENTING SENTENCES: "THE TRIAL COURT CONSIDERED THE CHARACTER OF THE
DEFENDANT." THAT'S IT. HOWEVER, IT'S "THE HISTORY AND CHARACTER NOT OR." CF US V. AENSHAW 280 F.3d 392,
396 (7TH 2008) ("FACTORS UNDER UNDER 18 USC § 3553 (a) INCLUDE [...] THE HISTORY AND CHARACTERISTICS OF THE
DEFENDANT.")

SENTENCING BAKUBA SOLELY ON "CHARACTER" WAS THE RACIST DOG WHISTLE OF PERVASIVELY BIASED IL COURTS.
(BAKUBA IS BLACK, EVERYONE ELSE IS WHITE). SEE BAKUBA V. NEESE 17 CV 50337 (N.D. IL.) (HABEAS AT PP. 54-55 "END
NOTE: "COMPARING A VICTIM'S AGGRESSIVE AND VIOLENT CHARACTER IS RELEVANT TO SHOW WHO THE AGGRESSOR
IS"] (R 1203) THE CASE (ROCKFORD REGISTER: AARON DETTING (SEARCH NEWS SITE)): A 14-Y.O. BLACK BOY ASSAULTED
BY MID-30s TEACHER DETTING CAUGHT ON SECURITY VIDEO NO LESS. JUDGE TRUITT'S BENCH TRIAL ACQUITS RULING
THE 14-Y.O. BLACK BOY WAS THE "AGGRESSOR," ALL THE WHILE IGNORING THE UNDISPUTED PLAIN FACT, HERE, THAT
14-Y.O. WHITE M.S. WAS A CHILD PORNOGRAPHER AND TELEOPHILE (GAY TEEN ATTRACTED TO 20-50% MEN ONLY)
WHO HAD A MOTIVE TO LIE. (E 3155-74 (EWS. SEALED)) ACCORD US V. ROBINSON 829 F.3d 878, 881 (7TH 2016) (SENTE-
NCING ERROR, INFLAMMATORY JUDGES REMARKS); (AT 881: "LACK OF MEANINGFUL EXPLANATION UNDERMINES
PERCEPTION OF FAIRNESS"). FRE 201: US V. VASTIS ? (N.D. IL.) (GAY TEEN CHILD PORNOGRAPHER FINGERS
TEACHER VASTIS IN BID FOR LENIENCY). OBJECTIVELY UNREASONABLE.

CONSEQUENTLY, THE APD "SHOVED DOWN" BAKUBA'S THROAT SHOULD HAVE WITHDRAWN FROM THIS CASE, AT
A MINIMUM TO ALLOW BAKUBA TO BE 'PRO SE' AGAIN. APD RUSTATSON IS THE ONLY LAWYER TO REFUSE TO WITHDRAW
HER FAILURE TO EFFECTIVELY RAISE ANY OF THE PLAIN STRUCTURAL ERRORS WAS NO MERE MISTAKE OF TRIAL
STRATEGY, SHE IS INSIDIOUSLY COMPLICIT IN THIS +12 YR. MALICIOUS PROSECUTION OF BAKUBA TO OBSTRUCT JUSTICE
W/ A WRONGFUL CONVICTION SERVING NOW AS A HECK AFFIRMATIVE DEFENSE. BAKUBA V. O'BRIEN 711 F.3d 751 (7TH 2018)

REASONS FOR GRANTING THE PETITION

NO CRIMINAL CASE -- EVER -- INCLUDES SO MANY VIOLATIONS OF FED'L STATUTORY AND CONSTITUTIONAL LAWS, INCLUDING: 18 USC § 2710 ET SEQ. WHEREBY IDENTITY EVIDENCE ILLEGALLY OBTAINED WAS THEN ILLEGALLY RECEIVED IN OR BEFORE STATE + FED'L GRAND JURIES, RESULTING IN THE 1ST EVER CASE WHERE NOT ONLY MUST THE WRONGFUL CONVICTIONS BE VACATED OF AN AGE DEPENDANT CRIME, SO TOO DOES IT INVALIDATE THE INDICTMENT. 18 USC § 2710(d). SEE DUMAS V. MARRILLI 240 F.3DPP 38 295, 261 (D.MASS. 2017) (PARTIAL HABEAS GRANT VACATING "STATUTORY RATE" CONVICTIONS AS VICTIM'S AGE NOT PROVEN). EVEN WORSE, THERE WERE BRADY VIOLS. OF EXCULPATORY DNA CRIME LAB TESTS WITHHELD, AND, SURREPTITIOUS RESIDENTIAL BURGLARY BY STATE + FED'L POLICE + PROSECUTORS TO ILLEGALLY SEARCH AND SEIZE BAKUBA'S DNA AS NONE EVER WAS FOUND -- NOT A DROP, SPOT, SMEAR, OR STAIN -- AT THE PURPORTED MARRIOTT HOTEL ROOM. THIS LEGAL LYNCHING, FRAME JOB TO SECURE A WRONGFUL CONVICTION CORRUPT GOV'T STATE + FED'L BAD ACTORS NOW ARE USING AS A HECK AFFIRMATIVE DEFENSE TO OBSTRUCT BAKUBA'S 'PROSE' PENDING CIVIL SUIT: BAKUBA V. O'BRIEN FILE 38751 (7TH 2013); BAKUBA 12CV7296, 13CV50218 (N.D.I.L. RETALIATION. 1ST AMEND. VIOL. THE PUBLIC'S WORST NIGHTMARE.

THERE WERE AT LEAST 7 PLAIN REVERSIBLE ERRORS -- INCLUDING 3 OF 6 STRUCTURAL ONES: BAKUBA'S RIGHT TO A PUBLIC TRIAL; RIGHT TO BE 'PROSE' 3 WEEKS BEFORE TRIAL; RIGHT TO IMPARTIAL JUDGE. (6TH, 5TH, 14TH AMENDS.) THREE WERE ESPECIALLY FLAGRANT. ONE, THE DE FACTO INVALIDATION OF THE VPPA/18 USC § 2710 ET SEQ BY REVERSING MEMORANDOUSLY THE CHRONOLOGY OF THE FACT NARRATIVE. BAKUBA 2019 FULLY ADOPTS (PER "RES JUDICATA" BAKUBA 2017 AT P.49: "WE DISAGREE AND CONCLUDE THAT DEFENDANT'S NAME + AGE WERE DERIVED FROM SOURCES INDEPENDENT OF ANY POLICE ILLEGAL CONDUCT." 10 AT P.50: "STATE POLICE O'BRIEN TESTIFIED [] THAT THE HOTEL ADVISED O'BRIEN THAT THE ROOM WAS REGISTERED TO 'PETER BAKUBA' THIS OCCURRED PRIOR TO O'BRIEN CONTACTING THE VIDEO STORE, ENTERING THE DEPT.'S HOTEL ROOM, OR INTERVIEWING HIM AT THE POLICE STATION. THIS IS PATENTLY FALSE; AND WAS SUBSIDY PASTED RIGHT FROM THE STATE'S RESP. BR. AT P.23: "FURTHER THIS INFO. WAS GATHERED PRIOR TO CONTACT W/ THE VIDEO STORE OR ENTRY INTO THE HOTEL ROOM."

THE PROBLEM: THE STATE'S FALSE CONCLUSION OF FACTS CITES NO WHERE TO THE "R" REPORT OF PROCEEDINGS BECAUSE IT SIMPLY DID NOT OCCUR, THE TRUTH, INSTEAD, IS DISREGARDED/OMITTED, MARCH 13, 2009 ASA KURTZ

PROCLAIMED THE TRUE FACT NARRATIVE CHRONOLOGY: "ON HOLLYWOOD VIDEO, THEY [(STATE POLICE)] WENT TO HOLLYWOOD VIDEO. THEY FIND OUT PETER GAKUBA RENTED VIDEOS. THE SAME VIDEOS THAT M.S. TOLD THEM HE RENTED. THEY WENT TO THE HOTEL. HEY, DO YOU HAVE A GUY HERE BY THIS NAME. GEE, WE SURE DO [.] AT THAT POINT THEY ABSOLUTELY 100% HAD PROBABLE CAUSE. (R484) SEE CAMPFIELD V. CITY OF OKC 248 F.3d 1214 (10th 2001); ANAZON V. LAY 758 F.SUPP.2d 1154 (D.WA 2010)

JUNE 13, 2009 KURTZ: "JUST BRIEFLY, THE DEFENSE [.] SAYS HIS DETENTION AND ARREST WAS W/O PROBABLE CAUSE. [.] O'BRIEN WENT THROUGH THE DETAILS [.] AFTER MEETING W/ THE VICTIM WHAT HE DID TO CONFIRM. HE WENT TO HOLLYWOOD VIDEO, WHERE --" (R486-87) THE COURT: "UH-HUH" (R486-87) KURTZ: "SOMEBODY BY THE SAME NAME AS THE PERSON RENTING THE HOTEL ROOM WHERE M.S. SAID THIS 'PHU' WAS, HAD RENTED THE EXACT SAME NAME IN HOLLYWOOD VIDEO, HAD RENTED THESE VIDEOS [.] SO THERE WAS, IN FACT PROBABLE CAUSE. ON JULY 11, 2011 KURTZ REITERATES THE "100%" ABSOLUTE PROBABLE CAUSE BY ADDING O'BRIEN MET W/ M.S. WHO SAID NOTHING HAPPENED. (R761) O'BRIEN DOES THINGS TO VERIFY M.S.'S STORY "WHICH IS GOOD POLICE WORK. HE GOES TO WHERE M.S. SAYS. [.] HE GOES TO HOLLYWOOD VIDEO. HE DOES AT THIS POINT HAVE PROBABLE CAUSE. THAT'S AN ISSUE THAT'S BEEN ARGUED BEFORE AT THE PREVIOUS HEARING AS FAR AS I CAN RECALL." (R761)

JUNE 15, 2011 (BROWN/DUNAWAY + FRANKS HEARING) O'BRIEN: "M.S. HAD TOLD US THAT THEY [(M.S. + PHU)] HAD GONE SEVERAL PLACES; ONE BEING A HOLLYWOOD VIDEO STORE [.] ONE OF THE VIDEOS MATCHED UP EXACTLY AS SCARY MOVIES 1, 2, + 3 [.] THIS WAS DONE BY PHONE. WHEN I TALKED TO THE PERSON WORKING AT THE TIME CHECKED THEIR INED, THEIR RECORDS UPON LEARNING THAT THE MOVIES THAT THEY REPRESENTED WHICH MATCHED UP ALSO GAVE ME THE PERSON THAT RENTED THEM, PETER GAKUBA." (R760) ACCORD CAMPFIELD V. OKC 248 F.3d 1214 (10th 2001) (SAME FACT NARRATIVE CHRONOLOGY)

THE UNDISPUTED PLAIN RECORD SHOWS THAT "PETER GAKUBA" CAME FROM THE ILLEGAL DISCLOSURE OF GAKUBA'S VIDEO CUSTOMER RECORDS, THEN, COMPARED TO THE MARriott HOTEL GUEST REGISTRY TO OBTAIN MORE "PERSONALLY IDENTIFIABLE INFO." (P11) -- "ROOM 101" -- THE 1ST ROOM (FEET FROM) BEHIND THE FRONT DESK. 17 USC § 2410 (a), (b), (d), (e).

THE UNDISPUTED PLAIN RECORD SHOWS GAKUBA'S BIRTHDATE OF "11/21/1969" WAS FIRST AND FOREMOST OBTAINED ILLEGALLY WHEN O'BRIEN WROTE GAKUBA'S "P11" IN CAREFULLY HANDWRITTEN POLICE NOTES (EAST O'BRIEN FORGET (E2804-05))

TWO, GAKUBA'S RE-INVOICATION OF HIS PRO SE RIGHT (AFTER BEING 'PRO SE' FOR 18 MDS.) WAS DENIED 3-6 WEEKS BEFORE TRIAL AS A "DELAY TACTIC." GAKUBA 2009 / GAKUBA 2014 AT RP 85-88.

THREE, GAKUBA WAS SENTENCED TO 12 YRS. (4 YRS X 3 CTS.) DISCRETIONARY CONSECUTIVE SENTENCE. NO CLASS 2

(720 ILCS 5/12-16(d)) AGG. CRIM. SEX. ABUSE CASE HAS EVER SURVIVED APPELLATE REVIEW FOR CONSECUTIVE SENTENCING PER 730 ILCS 5-8-4(b) (WESTLAW 2006) FOR ONE INSTANCE ("LASTING LESS THAN 30 MIN." R2127-88); ONE VICTIM; NO CRIMINAL HISTORY; PROBATION WAS THE PSI REPORT'S FINDING, AND THE STATE'S PLEA OFFER WAS PROBATION FOR THE NEAR 9 YR. PENDENCY OF THIS CASE. IN FACT, GAKUBA WAS FULLY COMPLIANT, FORTHRIGHTLY SO, W/ ALL PRETRIAL PROBATION TERMS FOR NEARLY 9 YRS. THE SENTENCE WAS UNLAWFUL AS THERE WERE NO FACTS TO SUPPORT THE NEED TO PROTECT THE PUBLIC. IF TRUE, THEN GAKUBA SHOULD NOT HAVE BEEN ALLOWED ON BAIL AS GAKUBA'S DANGER WOULD HAVE BEEN EVIDENT FOR THOSE NEAR 9 YRS. ACCORDINGLY, THE SENTENCE WAS "CRUEL AND UNUSUAL PUNISHMENT" DISREGARDING GAKUBA'S REHABILITATION POTENTIAL. 8TH AMEND. APRIL 27, 2017 SHOULD BE GAKUBA'S RELEASE, NOT APRIL 27, 2021.

THIS IS A CASE OF 1ST IMPRESSION REQUIRING THE U.S. SUPREME COURT TO ISSUE A LAND MARK DECISION ON WHEN CAN AN AGGRIEVED PARTY SEEK AN INTERLOCUTORY APPEAL AFTER THEIR IDENTITY EVIDENCE (PII) WAS ILLEGALLY DISCLOSED; ILLEGALLY RECEIVED BEFORE EVERY AUTHORITY OF THE US +/OR STATE IN EVERY PROCEEDING -- INCLUDING A "GRAND JURY" AS "100% ABSOLUTE PROBABLE CAUSE" TO CHARGE AND CONDUCT GAKUBA OF AN AGE DEPENDENT CRIME - "STATUTORY RAPE?" THE VPPA'S EXCLUSORY AUTHORITY -- 18 USC § 2710 (b) -- IS NEAR IDENTICAL TO FISA, 50 USC § 1806 (c). FED'L WIRE TAP LAWS LIMIT INTERLOCUTORY APPEALS TO THE STATE ONLY; NOT SO W/ THE VPPA AS THE AGGRIEVED PARTY IS A PRIVATE PERSON VS. A PUBLIC ENTITY. SEE E.G. US V. DAVID ? (7TH 2014) (FISA INTERLUS. APPEAL - JURISDICTIONAL STATEMENT). THE LOWER COURTS EVADE ENFORCING THE VPPA THRU A MENDACIOUS FACT NARRATIVE USED TO SUPPORT A SOPHISTIC APPLICATION OF LAW. A CERTIORARI GRANT IS REQUIRED AS A RESULT. ERROR 1.

ERROR 2 INVOLVES A CONFLICT OF HOW WARRANTS ISSUED AFTER CRIMINAL CHARGES WERE FILED, ARE RESOLVED ONCE QUASHED PER FRANKS (PERJURY) VIOLATIONS REMOVING THEM PROBABLE CAUSE-LESS. IL. 3. CT. RULE 411, 413. PEOPLE V. TURNER 367 ILL. APP. 38 490, 491-93 (2ND DIST. ILL. APP. CT.) HAD THE TRIAL COURT DENY A 2ND RULE 413 MOTION AFTER QUASHING A PRIOR RULE 413 MOTION MISCAPTIONED A "WARRANT" ON EVIDENCE TO PPEL GROUNDS. HERE, THE TRIAL COURT DID JUST THE OPPOSITE - ALLOWING THE STATE TO BOOTSTRAP THE ILLEGAL EVIDENCE FROM A QUASHED "WARRANT" TO RECLAIM THAT IDENTICAL IDENTITY EVIDENCE LEGALLY (GAKUBA'S DNA). GRANTING CERTIORARI WILL SET THE BRIGHT LINE PARAMETERS AND BRING THIS ISSUE IN-LINE W/ FED'L COURTS. US V. BROWN 631 E 38 638, 650 (3RD 2011) (BUCCAL WARRANT QUASHED PER FRANKS; NO RECLAMATION OF DNA PER 42 USC § 14135a).

ERROR 3 THE LOWER COURTS ERR IN NOT ADDRESSING MARVE VIOLATIONS AT TRIAL BY THE SAME STATE ACTORS IN THE PRECEDING FRANKS (PERJURY) VIOLATIONS: ADJUDGED PERJURER O'BRIEN, SUBORNER KURTZ. BAKUBA ARGUED THAT THE INDIVIDUAL + CUMULATIVE EVIDENTIARY ERRORS RENDERED THE EVIDENCE LEGALLY AND MANIFESTLY INSUFFICIENT FOR RE-TRIAL: DOUBLE JEOPARDY. IN PEOPLE V. LARA THE IL. SUPREME CT. DISCUSSES ITS DECISION IN PEOPLE V. SARGENT, 239 IL.2d 146 (2010). LARA 2012 IL 112370. EVIDENCE OF SEXUAL PENETRATION CAN NOT SUPPORT COUNTS OF SEXUAL CONDUCT. LARA AT R 59. HERE, THE INVERSE OCCURRED: "THERE IS NO TESTIMONY AS TO WHERE THE SWABS WERE TAKEN FROM. [] THE PEOPLE SUPPORT A DIFFERENT THAN COUNSEL SUBMITS THAT DR. ESCARZA EXPLAINED SWABBING AROUND THE ANUS [] THERE IS PHYSICAL EVIDENCE [] THE ANAL SWABS WERE TAKEN FROM M.S.'S ANUS," (R 2453) (EMPHASIS) ARGUED KURTZ IN CLOSING. BAKUBA 2019 / BAKUBA 2017 AT R 81 ARGUES NO PHYSICAL EVIDENCE CORROBORATION IS REQUIRED. YET, THE STATE DID ARGUE CORROBORATIVE PHYSICAL EVIDENCE; PLACING BAKUBA IN A LOSE-LOSE SITUATION. THE PHYSICAL EVIDENCE - OR LACK THEREOF - CONTRADICTS THE SWORN STATEMENTS OF M.S. AND DO NOT SUPPORT SEXUAL PENETRATION PER LARA AND SARGENT.

ERROR 4 THE LOWER COURTS AFFIRM PLAIN STRUCTURAL ERROR: THE DENIAL OF BAKUBA'S RE-INVOICATION TO BE 'PRO SE' 3-6 WEEKS BEFORE TRIAL. BAKUBA 2019 / BAKUBA 2017 AT R 88: "GIVEN THE HISTORY OF THIS CASE, WE CANNOT SAY THE TRIAL COURT'S CONCLUSION IS ARBITRARY, FANCIFUL, OR UNREASONABLE [] OMITTED / DISREGARDED FROM THIS OBJECTIVELY UNREASONABLE APPLICATION OF LAW IS THE UNDISPUTED PLAIN RECORD THAT BAKUBA SOUGHT NO CONTINUANCE. DEC. 9, 2014 BAKUBA: "BUT AT THIS STAGE, W/ A TRIAL DATE SET AND A TRIAL DATE SET THAT I BELIEVE WE ALL CAN MEET, I'M FINDING MYSELF IN THE POSITION WHERE IT MAY BE A PROBLEM TO MEET THE ISSUE AND BURDEN OF HAVING THE WITNESSES SHOW UP [] (R 1637) (EMPHASIS) FURTHERMORE, BAKUBA FILED 'PRO SE' "DEFT'S MOTION TO INTRODUCE EVIDENCE PER 720 ILCS 5/111-7(a)(2)" (REQUIRED TO BE FILED AT LEAST 14 DAYS BEFORE TRIAL) ON APRIL 8, 2015 (TRIAL DATE: APRIL 27, 2015) SIMULTANEOUS TO BAKUBA'S RE-INVOICATION; AND ON THE TRIAL DATE ITSELF, APD BUSTAFSON FILED A CONTINUANCE MOTION DUE TO ILL-PREPAREDNESS. (C 3262-64) HEARD AND DENIED. (R 1683-90) THUS, ASSUMING ARGUEHOO, A 'PRO SE' CONTINUANCE MOTION WOULD BE DENIED TOO. OBJECTIVELY UNREASONABLE. SEE IMAMI V. POLLARD 826 F.3d 939, 947 (7TH 2016) (HABEAS GRANT: DENIAL OF 6TH AMEND 'PRO SE' RIGHT 4 WEEKS BEFORE TRIAL, CITES FARETTA V. CALIFORNIA 422 US 806, 835 (1975) ("WEEKS BEFORE TRIAL" DENIAL OF 'PRO SE' RIGHT A CONSTITUTIONAL ERROR)) CERTIORARI IS NEEDED: FARETTA IS BINDING PRECEDENT AS A MATTER OF LAW.

ERROR 5 REQUIRES CERTIORARI AS MACON CO. ASA KURTZ WAS ILLEGALLY APPOINTED AS A "SPECIAL ASA" IN WINNEBAGO CO. PER 55 ILS 5/4-2003. (C 2984-89; R1647-63) THIS CASE CONFLICTS NOW W/ PEOPLE V. WOODALL 333 ILL APP 3d 1146, 1133-56 (2002) ("THE USE OF A SPECIAL PROSECUTOR IS LIMITED BY STATUTE. THEY CAN BE APPOINTED BY CIRCUIT COURT ORDER ONLY [IN ACCORDANCE W/] 55 ILS 5/3-9008 (WESTLAW 1998) [WOODALL AT 1154] FURTHERMORE, STATES ATTORNEYS ARE NOT AT LIBERTY, AS A MATTER OF COURSE, TO CREATE ASA POSITIONS. THE COUNTIES CODE PROVIDES: "WHERE ASAS ARE REQUIRED IN ANY COUNTY, THE NUMBER OF SUCH ASSISTANTS SHALL BE DETERMINED BY THE COUNTY BOARD [] 55 ILS 5/4-2003 (WEST 1998)" 10 AT 1155. WORSE STILL, THIS CASE WAS THE ONLY CASE KURTZ WAS PROSECUTING AS A FORMER WINNEBAGO CO. ASA AMONG THE +100 CASES INVOLVING SEXUAL ASSAULTS (RAPE) (CLASS X, 1) (C 2984-89; R1643-63) PEOPLE V. LANG 346 ILL APP 3d 677, 684-86 (2004).

ERROR 6 REQUIRES CERTIORARI AS GAKUBA WAS TRIED BEFORE A BIASED JUDGE. SEE PEOPLE V. WIGGINS 2015 ILL APP (1st) 133033 RPT 44-46. REVERSIBLE STRUCTURAL ERROR. ON JUNE 5, 2013 THE TRIAL JUDGE INFERRENTLY VOUCHES FOR THE CREDIBILITY OF STATE POLICE AND ASA KURTZ. (R1110-17) THIS IN SPITE OF THE SYSTEMIC POLICE + PROSECUTORIAL MISCONDUCT: THE 18 USC 3230(d) VIOLATION; THE ILLEGAL 4TH AMEND. / BROWN / DUHAWAY HOME INVASION; PROCEEDED BY ANOTHER SURREPTITIOUS ONE THE NEXT DAY AT GAKUBA'S ALPINE INN ROOM, WHERE BY FRANKS VIOLATIONS WERE ADJUDGED AS A COVER-UP. (C 198-20, C146-91, C205-118, C239-50, C255-64, C2190-2314 C2908-42) THE COURT (R1116-17): "WHY IS EVERYONE OUT TO GET YOU? WHY YOU AS OPPOSED TO ME OR ANYONE ELSE ON THE FACE OF EARTH? WHAT'S YOUR THEORY THAT [] MS. KURTZ HAS TARGETED YOU AS THE ONE WHO SHE IS WILLING TO RISK HER LAW LICENSE AND HER ENTIRE CAREER OVER? I JUST HAVE A HARD TIME WRAPPING MY HEAD AROUND THAT WHY EVERY POLICE OFFICER WOULD BE WILLING TO RISK THEIR CAREER TO GET YOU?" (EMPHASIS)

ERROR 7 FINALLY REQUIRES CERTIORARI. AS DISCUSSED EARLIER (SUPRA), GAKUBA WAS ILLEGALLY SENTENCED TO DISCRETIONARY CONSERVATIVE SENTENCES: 12 YRS (4 YRS x 3 COUNTS) ON A CLASS 2 PROBATIONABLE OFFENSE - "STATUTORY RAPE" (AGG. BRIMMAL SEX. ABUSE, 710 ILS 5/12-16(1)). SEE 730 ILS 5/8-2-4 (6) (WESTLAW 2006). THIS WAS CRUEL AND UNUSUAL PUNISHMENT (8TH AMEND.); AND DISREGARDED GAKUBA'S REHABILITATION POTENTIAL WAS HIGH. (ART 1311, ILL. CONST. 1970) PEOPLE V. RIVERA 212 ILL APP 3d 519, 524 (ILL. APP. CT. 2ND DIST.) ("A TRIAL COURT CAN PROPERLY CONSIDER DEFT.'S CONDUCT WHILE ON PROBATION TO ASSESS 'REHABILITATION POTENTIAL'"). SEE US V. NATAL 849 F.3d 530, 534-35 (2ND 2017) (A TRIAL COURT HAS ABUSED ITS DISCRETION ON AN ERRONEOUS VIEW OF THE LAW, ERROR OF EVIDENCE, FACTS, OR

RENDERED A DECISION THAT CANNOT BE LOCATED WITHIN RANGE OF PERMISSIBLE DECISIONS); NATAL AT 538: PROCEDURAL REASONABLENESS REVIEWED FOR ABUSE OF DISCRETION; APPLICATION OF LAW REVIEWED "DE NOVO". NATAL AT 538-39: DEFT.'S CONVICTION OF 3 COUNTS OF BEING ACCOMPLICE BASED ON ASSISTANCE TO SON WHO STARTED ARSON FIRE RESULTING IN DEATHS OF 3 VICTIMS INVOLVED ESSENTIALLY THE SAME HARM -- SHOULD BE GROUPED TOGETHER. IF PEOPLE V. OSTROWSKI 394 ILL APP 3d 82-83 (IL. APP CT. 2ND DIST.) (2009) (COUNTS OF AGG. RAPE, SEX. ABUSE MERGED / GROUPED FOR 36 MOS. PROBATION SENTENCE)

BAKUBA 2019 / BAKUBA 2017 AT R116 CITES FOR SUPPORT PEOPLE V. BUCKNER 2013 ILL APP (2d) 130083 PP 38-40 (CONSECUTIVE SENTENCES BY RECORD "CONDUCT WAS ONGOING, EXTENSIVE, AND NOT LIKELY TO END". BUCKNER AT PP 38-39: THE DEFT.'S "BEHAVIOR WAS NOT EVIDENCE TO ANY GREAT POTENTIAL FOR REHABILITATION, [HAVING] PROVIDED FALSE INFO. IN THE PRESENTENCE REPORT [AND] ATTEMPTING TO EVADE CUSTODY." BUCKNER IS INAPPOSITE TO THE INSTANT CASE.

FINALLY, BAKUBA 2019 / BAKUBA 2017 AT R117 AFFIRMS SOLELY ON THE BASIS THAT "IN EXERCISING ITS DISCRETION TO IMPOSE CONSECUTIVE SENTENCES, THE TRIAL COURT CONSIDERED THE CHARACTER OF DEFENDANT." THIS IS OBJECTIVELY UNREASONABLE, CONTRARY APPLICATION OF LAW. SEE PEOPLE V. WILSON 2016 ILL APP (1ST) 140163 P15 (AFFIRM 15 YR SENTENCE FOR CLASS X SENTENCE - DRUG TRAFFICKING. THE TRIAL COURT COULD NOT DISCERN WHETHER DEFT'S 'CHARACTER AND ATTITUDE' INDICATED HE WAS LIKELY TO COMMIT ANOTHER CRIME, BUT NOTED THAT HIS 'PAST BEHAVIOR' SUGGESTED THAT HIS CONDUCT 'WILL LIKELY RECUR'. MOREOVER, THE TRIAL COURT STATED THE DEFT. HAD A 'VERY SIGNIFICANT HISTORY OF PRIOR DELINQUENCY' [...] DEFT.'S 14 PRIOR FELONY CONVICTIONS 'WEIGHED VERY, VERY SIGNIFICANTLY [']

THE FACTUAL FINDINGS HERE THAT BAKUBA SELF-DIAGNOSED HIS "ASPERGER'S SYNDROME [BUT] WAS VAGUE AND EVASIVE ['] ABOUT HIS ERECTILE DYSFUNCTION AND BEING ASEXUAL." (R2570-71)

IN SUM, THE TRIAL COURT DID NOT ALIGN THE FACTORS OF 730 ILCS 5/5-8-4(6) WITH BAKUBA'S SITUATION. INDEED, BASED IT ON SHEER SPECULATION. SEE US V. BRADLEY 628 F.3d 394, 400 (7TH 2016) ("DUE PROCESS REQUIRES THE SENTENCING DETERMINATION BE BASED ON RELIABLE EVIDENCE, NOT SPECULATION OR UNFOUNDED ALLEGATIONS." QUOTING US V. ENGLAND 555 F.3d 616, 622 (7TH 2009)). BAKUBA'S CONCURRENT 4 YR SENTENCES (AT 50%) = APRIL 29, 2017 RELEASE.

CONCLUSION

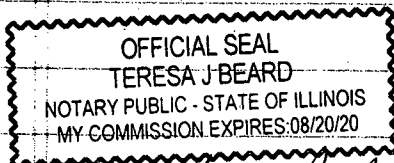
BAKUBA'S OPENING BRIEF WAS COMPLETED IN 4 WEEKS, 'PROSE' IT CITED 143 CASE LAWS. THE 'PRO SE' REPLY BRIEF IN 1 WEEK, CITING 75 CASE LAWS. THE STATE? 9 MONTHS (38 WEEKS) CITING 26 CASE LAWS. THE TRADITION CONTINUES HERE IN THIS CERTIORARI AS IT IS THOUGHTFUL, FACT BASED, AND WELL REASONED.

TAKE THE 6TH AMEND. 'PROSE' DENIAL "WEEKS BEFORE TRIAL" ALL THE LOWER COURTS NOW HAVE AFFIRMED. ALL THESE COURTS IGNORE THE UNDISPUTED FACTS THAT: (1) THE TRIAL COURT PERPETRATED FRAUD UPON BAKUBA BY FALSELY MAKING A "RECORD" IN DEC. 2014 HE ANTICIPATED IT AND WOULD ALLOW IT AS AN "OPTION" (R1597-99) AND BAKUBA NEVER SOUGHT A CONTINUANCE AND EXPLICITLY SAID HE'D STICK TO THE APRIL 27, 2015 TRIAL DATE ON DEC. 9, 2014. (R11631) IMAH V. POLLARD 826 F.3d 939, 944 (7TH 2016) SPEAKS DIRECTLY ON POINT TO THAT FACT. WHILE STILL, APPOINTED COUNSEL BOUGHT A DAY-DE-TRIAL DELAY AND WAS DENIED. (R 1483-90, C 3261-64) ANOTHER OMISSION, THE OBVIOUS: BAKUBA WAS 'PROSE' ON APPEAL. THUS, THE STATE PUT MOTIVES IN BAKUBA'S MIND THAT HE NEVER THOUGHT; JUST LIKE BAKUBA'S WRONGFUL CONVICTIONS REST ON ADJUDGED FRANKS PERJURER O'BRIEN PUTTING WORDS IN BAKUBA'S MOUTH HE DENIES EVER SPEAKING: IN A SWORN AFFIDAVIT HAND TENDERED AND ANNOUNCED IN OPEN COURT TO PROSECUTORS AND THE BIASED TRIAL JUDGE AS ADVOCATE FOR THE STATE. (C 2366-72; R1448)

CONSEQUENTLY, THE STATE KNEW -- AS DID THE JUDGE-- THAT O'BRIEN FALSELY TESTIFIED TO A FALSE/FABRICATED "BOOKING PROLESS-VERSION" (R2262) AND BAKUBA'S PURPORTED FABRICATED HEARSAY RESPONSE. THUS, THE LOWER COURTS ARE FLATLY WRONG TO WILLFULLY IGNORE ADJUDGED FRANKS PERJURER O'BRIEN'S MARVE PERJURY AT TRIAL.

NO OTHER CASE EXISTS (THAT BAKUBA CAN FIND) WHICH HAS 3 OF 6 STRUCTURAL ERRORS: BAKUBA'S PUBLIC TRIAL RIGHT WAS ADDRESSED IN AN OBJECTIVELY UNREASONABLE MANNER: BAKUBA 2019 / BAKUBA 2017 AT P56. APO GUSTATSON'S FAILURE TO OBJECT RENDERS HER GROSSLY INCOMPETENT OR INDIVIDUOUSLY CONFLICT IN THIS MALICIOUS PROSECUTION. SEE BAKUBA 711 F.3d 751 (7TH 2018). 6TH AMEND. INEFEC. ASST. OF COUNSEL. FILE ON TOP THE PLAIN ERRORS OF AN INTERESTED PROSECUTOR AND A CREDIBILITY VOUCHING JUDGE AND THIS CASE IS THE EMBODIMENT OF MISCARRIED JUSTICE. FALSUS IN UNO, FALSUS IN OMNIBUS. FOR ALL THE ABOVE, A CERTIORARI IS MERITED.

PETER BAKUBA DECLARES UNDER PENALTY OF PERJURY OF THE LAWS OF THE USA THAT THE FOREGOING IS TRUE + CORRECT. 28 USC § 1746.



Teresa J. Beard 4-8-19
Notary Public

gls 3/26/2019
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4/6/19 RE-SUBMITTED