No. 18-9154

IN THE

SUPREME COURT OF THE UNITED STATES

OF VIRGINIA (FOURTH CIRCUIT)

ORIGINAL

JEFFREY WILLIAM SMITH — PETITIONER
(Your Name)

FILED
APR 16 2019
OFFICE OF THE CLERK
SUPREME COURT, U.S.

vs.

HAROLD W. CLARKE, DIRECTOR — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

JEFFREY WILLIAM SMITH
(Your Name)

RIVER NORTH CORRECTIONAL CENTER
(Address)
329 DELLBROOK LN.
INDEPENDENCE, VIRGINIA 24348
(City, State, Zip Code)

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(Phone Number)

QUESTION(S) PRESENTED

(ATTEPTED CAPITAL CASE)

- WHEN A PRINCIPLE OF LAW IS MATERIALLY VITAL TO A DEFENDANT IN A CRIMINAL CASE A TRIAL COURT CANNOT MERELY REFUSE A DEFECTIVE INSTRUCTION, BUT MUST CORRECT THE INSTRUCTION AND GIVE IT IN THE PROPER FORM; (CITED IN:) "WHALEY V. COMMONWEALTH," 214 VA. 353 (1973) AND IN "FISHBACK V. COMMONWEALTH", 260 VA. 104 (2000).

- THE FIRST QUESTION IN MY CASE IS NOT WHEATHER THE CIRCUIT COURT FAILED TO CORRECT A DEFECTIVE INSTRUCTION, INSTEAD YOU MUST DECIDE WHEATHER THE COURT'S ANSWER TO THE JURORS QUESTION WAS IN FACT DEFECTIVE AND INACCURATE?

- THE SECOND QUESTION IS HOW THE JURY'S QUESTION SHOULD HAVE BEEN ANSWERED SO THAT THE JURY COULD BE PROPERLY INFORMED AND COULD RENDER A FAIR TRIAL TO BOTH PARTIES WHILE PRESERVING THE SEPARATION OF THE JUDICIAL BRANCH'S FUNCTION OF ASSESSING PUNISHMENT AND THE EXECUTIVE BRANCH'S FUNCTION OF ADMINISTERING THE PUNISHMENT.

- AFTER THE CASE WAS SUBMITTED TO THE JURY FOR SENTENCING DELIBERATIONS THE JURY ASKED THE FOLLOWING QUESTION: "We WANT TO KNOW EXACTLY, WHATS THE TERM FOR A LIFE SENTENCE, THE DEFINITION OF LIFE IMPRISONMENT IN TERMS OF YEARS?

- IF A JUDGE IS NOT PERMITTED TO GO INTO HOW A "LIFE SENTENCE" IS CALCULATED, THEN WHY IS HE OR SHE PERMITTED TO INSTRUCT THE JURY THAT "LIFE MEANS LIFE"? THIS IS WHAT YOU CALL A DOUBLE STANDARD, SOMETHING THAT IS APPLIED UNEQUALLY.

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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STATUTES AND RULES

- Violation under both the Fourteenth Amendment to the United States Constitution, and to the Rights to a fair and reliable sentencing Determination under the Eighth Amendment.

OTHER

28 U.S.C. 2101(e)

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 E 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 E 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.

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

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[✓] is unpublished.

JURISDICTION

[✓] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was September 19, 2018.

[ ] No petition for rehearing was timely filed in my case.

[✓] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: JANUARY 23, 2019, and a copy of the order denying rehearing appears at Appendix F.

[ ] 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 ~~January 23, 2019~~ October 6, 2015. A copy of that decision appears at Appendix D C.

[✓] A timely petition for rehearing was thereafter denied on the following date: ~~January 23, 2019~~ February 2, 2016, and a copy of the order denying rehearing appears at Appendix _____.

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

VIOLATION UNDER BOTH THE FOURTEETH AMENDMENT TO THE UNITED STATES CONSTITUTION, AND TO THE RIGHTS TO A FAIR A RELIABLE SENTENCING DETERMINATION UNDER THE EIGHTH AMENDMENT.

- "YARBROUGH V. COMMONWEALTH," 258 VA. 347, 347, 379, 519 SE.2d 602, 616 (1999)
  VA. CODE. 19.2-264.2
- "RAMDASS V. ANGELONE." 530 US. 156, 2129 S.CT. 2129 (2000)
- "BELL V. COMMONWEALTH", 264 VA. 172, 117 SE.2d 118 (2002)
  VA. CODE. 53.1-40.01
- 28 U.S.C. 2101(e)

STATEMENT OF THE CASE

• On January 9, 2014 the court was plainly wrong and erred as a matter of law when it instructed the jury that "Life means Life". This response was not appopriate and also ruled by the "Supreme Court" in numerous cases to be found inaccurate. It also led the jury to believe and speculate that I would serve the full term of a life sentence, negating the possibility of geriatric parole, an act of executive pardon or clemency. As a general rule in determining a defendants sentence a jury is not permitted to consider what may happen to a defendant after a verdict.

• After the case was submitted to the jury for sentencing deliberations the jury asked the following question: "We want to know exactly; "what's the term for a life sentence, the definition of life imprisonment in terms of years." I state that the circuit court erred by state and federal law in affirming the judgement because the courts response invited the jury to speculate about the time I would serve of a life sentence. It tainted the jury's decision regarping the appropriate punishment for the offense.

• All the lower courts they agreed that a trial judge has broad discretion in giving or denying instructions requested and does not abuse his discretion by failing to modify a correct statement of the law on the mere chance that a jury may not follow clearly written instructions. The Court must respond fully and completely respond to a proper inquiry by the jury even if the inquiry is made during deliberations."

• The trial courts instruction was erroneous because it did not fully inform the jury upon the point to which their inquiry was directed. It is likely that some members of the jury, influenced by the improper remark by the judge, agreed to fix the maximum penalty, when he or she otherwise would have voted for a lesser sentence. (hence the formans response) "thats all we needed to know", (see. trial.tr. 1|9|14 page. 98)

• The trial court and the lower courts agree's to this "Life means Life" instruction, but it's in conflict with other decisions made in cases such as "Wolfe v. Commonwelth", 265, va 193 (2003) "Bell v. Commonwealth", 264 va. 172 (2002) "Yarbrough v. Commonwealth," 258 va 374 (1999) and "Ramdass v. Angelone", us. va. 120 s.ct 2113 (2000). To be found inaccurate and believed to be speculative.

• In some of these cases the defendant was protected from speculation accuring because the "Life means Life" instruction was denied, But I was not protected from speculation, and cruel and unusual punishment because it was given. A "Life means Life" instruction is so commonly being used without the knowledge of it being speculative. If its ruled to be found safe to say, then its also safe for the judge to explain how a life sentence is calculated when asked.

REASONS FOR GRANTING THE PETITION

DURING SENTENCE DELIBERATIONS THE JURY ASKED THE TRIAL JUDGE FOR THE DEFINITION OF LIFE IMPRISONMENT IN TERMS OF YEARS (SEE. TRIAL. TR. 1/9/14 PAGES, 97-98). THE TRIAL JUDGE INSTRUCTED THE JUROR'S: "WELL, I KNOW WHAT IT IS, BUT I CAN'T TELL YOU; BUT "LIFE IS LIFE"; OKAY? YOU SENTENCE ACCORDING TO THE INSTRUCTIONS, BUT I CAN'T GET INTO HOW IT'S CALCULATED; OKAY? NOW I DON'T UNDERSTAND IF THE JUDGE STATES HE CAN'T go INTO HOW ITS CALCULATED THEN WHY INFORM THE JURY THAT "LIFE MEANS LIFE"? I STATE THAT WERE A "LIFE MEANS LIFE" INSTRUCTION IS GIVEN THE JURY TENDS TO FAVOR LIFE IMPRISONMENT OVER ANYTHING BECAUSE IT GIVES THE ASSURANCE OF NO RELEASE. THE JURORS SHOULD HAVE BEEN TOLD THAT IT WAS THEIR DUTY. IF THEY FOUND THE ACCUSED GUILTY TO IMPOSE SUCH SENTENCE AS SEEMED TO THEM TO BE JUST, AND WHAT MAY HAPPEN AFTERWARDS WAS NOT THEIR CONCERN NOT "LIFE MEANS LIFE", BECAUSE THIS TRUTHFUL ANSWER TO THE JUROR'S QUESTION OPENED THE DOOR TO MATTERS THAT WERE SPECULATIVE AND INAPPROPRIATE FOR THE JURY TO CONSIDER. IF IT IS THOUGHT NECESSARY TO TELL THE JURY NOT TO SPECULATE ABOUT THE INFORMATION GIVEN, THEN ITS SAFER NOT TO GIVE THE INFORMATION AT ALL. "THE FORMANS RESPONSE WAS, "THAT'S ALL WE NEEDED TO KNOW," (SEE. TRIAL. TR. 1/9/14 PAGE. 98). WHICH GAVE AN ASSUMPTION TO SPECULATION.

WHEN A PRINCIPLE OF LAW IS MATERIALLY VITAL TO A DEFENDANT IN A CRIMINAL CASE A TRIAL COURT CANNOT MERELY REFUSE A DEFECTIVE INSTRUCTION, BUT MUST CORRECT THE INSTRUCTION AND GIVE IT IN THE PROPER FORM. THE FIRST ISSUE IN MY CASE IS NOT WHEATHER THE COURT FAILED TO CORRECT A DEFECTIVE INSTRUCTION INSTEAD YOU MUST DECIDE WHEATHER THE COURTS ANSWER TO THE JUROR'S QUESTION WAS IN FACT DEFECTIVE, INACCURATE AND SPECULATIVE. THE SECOND ISSUE IS HOW THE JURY'S QUESTION SHOULD HAVE BEEN ANSWERED SO THAT THE JURY COULD BE PROPERLY INFORMED AND COULD RENDER A FAIR TRIAL TO BOTH PARTIES WHILE PRESERVING THE SEPARATION OF THE JUDICIAL BRANCH'S FUNCTION OF ASSESSING PUNISHMEAT AND THE EXECUTIVE BRANCHS FUNCTION OF ADMINISTERING THE PUNISHMENT.

IN THE MOST RECENT CASE DECIDED "WOLFE V. COMMONWEALTH," 265 VA. 193 (2003). THE CAPITAL MURDER DEFENDANT WAS NOT ENTITLED TO INSTRUCTION IN RESPONSE TO JURY'S QUESTION TO THE COURT DURING DELIBERATIONS IN PENALTY PHASE OF TRIAL, THAT THE WORD "LIFE" MEANT THE DEFENDANT NATURAL LIFE; SUCH AN INSTRUCTION WOULD HAVE BEEN INACCURATE BECAUSE IT WOULD HAVE NEGATED THE POSSIBILITY OF EARLY RELEASE THROUGH AN ACT OF EXECUTIVE PARDON OR CLEMENCY, THESE POSSIBILITES WERE INAPPORIATE FOR A JURY TO CONSIDER BECAUSE SUCH INFORMATION COULD CAUSE THE JURY TO SPECULATE AND SUCH SPECULATION IS INCONSISTENT WITH A FAIR TRIAL AND MIGHT RESULT IN A HARSHER SENTENCE THEN WOULD OTHER WISE BE WARRANTED.

In "Bell v. Commonwealth", 264 VA. 172 (2002). During the penalty phase deliberations, the jury inquired; "Understanding that imprisonment for life means no possibility of parole, is there anyother way to be released from prison? Recognizing that geriatric release was not available to the defendant convicted of capital murder, the courts proposed answer was "No" not when the defendant has been convicted of capital murder. The defendant agreed with the response by the court, but the Commonwealth objected because there could be other ways for the defendant convicted of capital murder to be released early, such as by an act of executive pardon or clemency. To answer the question truthfully would therefore require that the jury be informed about such things argued the Commonwealth. Concluding that the Commonwealth was correct, the court then told jurors that they would have to rely on the evidence that they heard, and instructions already presented in deciding the punishment. In the courts view a truthfull answer to the jurors question would have opened the door to matters that were speculative and inappropriate for the jury to consider.

In "Yarbrough v. Commonwealth", 258 VA. 374 (1999), it states where information about potential post-sentencing procedures could led a jury to impose a harsher sentence that it otherwise might, such matters may not be presented to the jury. Thus it's been held in this Commonwealth that it is error for the trial court to instruct the jury that the defendant would be eligible for parole or could benefit from an executive act of pardon or clemency. "Unquestionably it was this long standing rule which prompted the trials courts (refusal) of Yarbrough's proffered "Life means Life" instruction and its response to the jury's question concerning the meaning of a life sentence.

In Yarbrough, the trial court refused his "Life means Life" instruction, stating that it was not appropriate under the current state of law in Virginia were the Commonwealth relies only on the vileness aggravating factor. As the Supreme Court upholds the trial courts decision. "Va. Code. 19.2-264.2

- In my case it was ruled that "a Life means Life" instruction was sufficient for a instruction to be given to the jury.

In Yarbrough, the jury sent a question to the trial judge, The trial judge indicated to both counsels that "its the same question we always have". The jury's note read:

"WILL YOU PLEASE DEFINE "LIFE IN PRISON"? DOES THAT MEAN YOUR ENTIRE LIFE OR DOES IT HAVE A CERTAIN LIMIT SUCH AS 12 YEARS, (IS THERE A SPECIFIC LIMIT ALREADY SET?)

YARBROUGH, AGAIN URGED THE TRIAL COURT TO DEFINE "LIFE IMPRISONMENT AS LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE.

• ALTHOUGH IN MY CASE THE JURY WAS INSTRUCTED THAT LIFE IMPRISONMENT MEANT "LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE, IT STILL SHOWS THAT THE JURY WAS STILL CONFUSED AND MISUNDERSTOOD WHAT THE WRITTEN INSTRUCTION MEANT AND DID NOT NEGATE THE FACT THAT THE JURY STILL ASKED THE JUDGE THE FOLLOWING QUESTION: "WE WANT TO KNOW EXACTLY; WHAT'S THE TERM FOR A LIFE SENTENCE, THE DEFINITION OF LIFE IMPRISONMENT IN TERMS OF YEARS.

• THERE'S ONLY TWO (2) QUESTIONS AS TO THE REASONING OF WHY THIS QUESTION WAS ASKED. NUMBER ONE (1), IT WAS ASKED BECAUSE OF THE CONCERN OF EARLY RELEASE OF SOME SORT SUCH AS THROUGH AN ACT OF EXECUTIVE PARDON, OR CLEMENCY, OR NUMBER TWO (2) IT WAS BECAUSE SOME MEMBERS OF THE JURY WANTED THE "ASSURANCE" THAT I WAS NEVER GOING TO BE RELEASED FROM PRISON.

IN "RAMDASS V. ANGELONE", US.VA. 120 S.CT 2113 (2000), IT STATES THAT DURING THE JUROR DELIBERATIONS, THE JURY SENT A NOTE TO THE JUDGE ASKING THE FOLLOWING QUESTION: "IF THE DEFENDANT IS GIVEN A LIFE SENTENCE; IS THERE A POSSIBILITY OF PAROLE AT SOME TIME BEFORE HIS NATURAL DEATH? THE DEFENDANTS COUNSEL SUGGESTED THE FOLLOWING RESPONSE; YOU MUST NOT CONCERN YOURSELF WITH MATTERS THAT WILL OCCUR AFTER YOU IMPOSE YOUR SENTENCE, BUT YOU MAY IMPOSE THAT YOUR SENTENCE WILL BE THE LEGAL SENTENCE IMPOSED IN THE CASE. RATHER THAN GIVING ANY KIND OF STRAIGHT FORWARD ANSWER AND RATHER THAN PERMITTING COUNSEL TO EXPLAIN THE DEFENDANTS INELIGIBILITY THE COURT INSTRUCTED; "YOU SHOULD IMPOSE SUCH PUNISHMENT AS YOU FEEL IS JUST UNDER THE EVIDENCE AND YOU ARE NOT TO CONCERN YOURSELF WITH WHAT MAY HAPPEN AFTERWARDS. IT'S UNDISPUTED IN THIS CASE THAT THE ABSENCE OF A CLEAR INSTRUCTION MADE A DEFFERENCE. THE QUESTION ITSELF DEMONSTRATES THAT PAROLE INELIGIBILITY WAS IMPORTANT TO THE JURY, AND THAT THE JURY WAS CONFUSED ABOUT WHETER A "LIFE SENTENCE" TRULY MEANS LIFE OR WHETHER IT MEANS LIFE SUBJECT TO THE POSSIBILITY OF PAROLE OR SOME FORM OF EARLY RELEASE. MORE CRITICALLY THREE (3) JURROR'S SAID THAT IF THE JURY KNEW THAT "RAMDASS" THE DEFENDANT WOULD HAVE NEVER GOTTEN OUT OF PRISON, THEY WOULD HAVE GIVEN

HIM "LIFE" RATHER THEN DEATH. TWO (2) MORE OF THE JURROR'S BEYOND QUESTION STATED THAT IF THEY WOULD HAVE HAD THAT ASSURANCE THAT HE WOULD NOT BE RELEASED FROM PRISON THEN THAT WOULD HAVE BEEN THE RESULT AMONG ALL OF THE JURROR'S.

• UNFORTUNATELY, THIS IS THE EXACT SAME CONFUSION AND SPECULATION THE JURROR'S IN MY CASE WAS UP AGAINST. BY THE JUDGE TELLING THE JURROR'S THAT "LIFE MEANS LIFE" HE GAVE THAT ASSURANCE THAT I WOULD NOT BE RELEASED.

THE "SUPREME COURT" AGREES AND RULES IN FAVOR OF THE COURTS IN THESE CASES THAT A "LIFE MEANS LIFE" INSTRUCTION IS NOT APPROPRIATE BECAUSE ITS INACCURATE AND SPECULATIVE AND MIGHT RESULT TO A HARSHER SENTENCE THAN WOULD OTHERWISE BE WARRANTED. RATHER ITS "YARBROUGH V. COMMONWEALTH", "WOLFE V. COMMONWEALTH", BELL V. COMMONWEALTH, OR "RAMDASS V. ANGELONE, ITS CLEAR THAT AN INSTRUCTION THAT "LIFE MEANS LIFE", OR "LIFE MEANS THE DEFENDANTS NATURAL LIFE" OR EVEN A TRUTHFULL ANSWER SUCH AS "NO", STILL LEADS TO ASSUMPTIONS OF SPECULATION, TO THE QUESTIONS ASKED BY JURROR'S INVOLVING THE DEFINITION OF A LIFE SENTENCE IN TERMS OF YEARS.

THE ONLY SAFE AND ACCURATE ANSWER THAT SHOULD BE GIVEN IS; "THE ONLY WAY I CAN ANSWER THE JURY'S QUESTION UNDER THE PRESENT LAW IN VIRGINIA, IS TO SAY THAT I CAN'T ANSWER IT, AND THAT IS THAT IN SENTENCING YOU MUST DO WHAT YOU FEEL IS APPROPRIATE UNDER THE CIRCUMSTANCES AND EVIDENCE OF THIS CASE AND NOT CONCERN YOURSELF WITH WHAT MAY HAPPEN AFTERWARDS. OR ANYOTHER STATEMENT WITHIN THIS SIMILAR NATURE.

• ACCORDING TO THE "CIRCUT COURT CASE MANAGEMENT SYSTEM", FOR FISCAL YEAR OF 2013 AND 2014, THERE WERE NO CONVICTIONS UNDER 18.2-31 FOR A COMPLETED ACT OF THE CAPITAL MURDER OF A LAW ENFORCEMENT OFFICER. THERE WERE, HOWEVER, SEVEN (7) CASES THAT INCLUDED THE ATTEMPTED CAPITAL MURDER OF A LAW ENFORCEMENT OFFICER. OF THESE, "ONE" RESULTED IN A LIFE SENTENCE WHILE THE REMAINING SIX (6) RECEIVED A STATE-RESPONSIBLE PRISON SENTENCE, WITH A MEDIAN SENTENCE OF 20 YEARS. "UNEQUAL JUSTICE"

THIS CASE IS OF SUCH IMPERATIVE PUBLIC IMPORTANCE AS TO JUSTIFY DEVIATION FROM NORMAL APPELLATE PRACTICE AND TO REQUIRE IMMEDIATE DETERMINATION IN THIS COURT.

THIS SPECULATION EFFECTS NOT JUST ME, BUT PASS CASES AS YOU READ AND FUTURE CASES TO COME. THIS SPECULATION IS A VIOLATION TO NOT JUST MY RIGHTS, BUT OTHER INDIVIDUALS FACING LIFE SENTENCES. THAT HOLDS THIS COUNTRY TO THE SAFE GUARDS AND PROTECTION TO A FAIR AND RELIABLE SENTENCING DETERMINATION GUARANTEED BY THE EIGHTH AMENDMENT. PLEASE BEFORE YOU DECIDE THIS CASE, PLEASE REREAD THE JURROR'S QUESTION IN MY CASE, THEN REREAD THE FORMANS RESPONSE, SHE CLEARLY STATES; "THAT'S ALL WE NEED TO KNOW." THIS IS AFTER THE JUDGE GIVES ASSURANCE THAT I'M NOT BEING RELEASED BY TELLING THE JURY "LIFE MEANS LIFE". IF THE JURY IS NOT TO BE CONCERNED WITH WHAT MAY LATER HAPPEN TO A DEFENDANT SENTENCED TO THE PENITENTIARY, THEN "NO" INFERANCE CAN BE DRAWN OR ARGUED ONE WAY OR THE OTHER TO WHETHER HE WILL SERVE HIS FULL TERM. THIS MIGHT SEEM SMALL, BUT TO INDIVIDUALS FACING LIFE SENTENCES THIS IS A MAJOR PROBLEM FOR ALL, BECAUSE THE JURROR'S ALWAYS ASK FOR THE DEFINITION OF LIFE IN TERMS OF YEARS.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jeffrey W. Smith

Date: 4/9/19

State of Virginia
County of Grayson
On this 9 day of April 2019
before me personally appeared
Jeffrey W. Smith
to me known to be the person who executed the foregoing instrument, and acknowledged that the execution was of his/her free act and deed.
SEAL (signed) Sarah Beth Snow
NOTARY PUBLIC

SARAH BETH SNOW NOTARY PUBLIC REG. # 343287 MY COMMISSION EXPIRES 01/31/21 COMMONWEALTH OF VIRGINIA

I certify that this notary is not a party to this action.
Jeffrey Smith (Offender)

ASK THE HONORABLE JUDGE AND COURT TO PLEASE GRANT THIS PETITION IN SUPPORT OF THE FACTS AND ARGUMENT. IT'S CLEAR THAT THIS WILL REMAIN A ISSUE FOR LIFERS UNLESS CHANGE OCCURS, AND YOU HAVE THE POWER TO DO SO FOR PASS AND FUTURE CASES LIKE THIS. I ASK THAT YOU SET THE STAGE FOR FAIR AND RELIABLE SENTENCING DETERMINATIONS.