No: 18-9331

IN THE

SUPREME COURT OF THE UNITED STATES

NAWAZ AHMED – PETITIONER

Vs.

TIM SHOOP, WARDEN, RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO

COURT OF APPEALS FOR THE SIXTH CIRCUIT

REPLY BRIEF TO BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

NAWAZ AHMED,

A404511,

Prisoner, Pro Se, Petitioner,

Chillicothe Correctional Institute,

P.O.Box 5500

Chillicothe, OHIO 45601.

CAPITAL CASE

QUESTIONS PRESENTED

1. When one appointed habeas counsel file for withdrawl,in the middleof the capital habeas case awaiting final determination, the habeas Petitioner is not prohibited by law and procedures to Oppose the withdrawl and or **file for Substitution of the other habeas counsel Mr. Yeazel** and or object to and seek replacement of substituted counsel Adele Shank. Local Rule SD Ohio Civ.Rule 83.4(c)(4). 18 U.S.C.S. § 3599(e).

2. Solicitor General, Deputy Solicitor General deserve referral to Ohio Bar for Discipline for "making fallacious argument that "every denied Petition = Frivolous Petition; And dishonestly equate 45 civil cases Petitions of Martin in 15 year with Petitioner's Five (Criminal and Civil cases) Petitions in 20 years from 1999 arrest to2019 and BIO utterly dismiss Darr v. Burford, 339 U.S. 200,215(1950) saying:

" *res judicata* does not apply to applications for habeas corpus." Though **our denial of certiorari carry no weight** in a subsequent federal habeas corpus proceeding, we think a petition for certiorari should nevertheless be made before an application may be filed in another federal court for habeas corpus by a state prisoner. **This Court has said again and again and again that** such a **denial [of certiorari] has no legal significance** whatever bearing on the merits of the claim. The **denial means that this Court has refused to take the case. It means nothing else.** All appellate remedies available in the state court and in the Supreme Court must be considered as steps in the exhaustion of the state remedy "

LIST OF PARTIES

The same parties as listed in Petition of Certiorari and Petition for Extraordinary writ for Mandamus and/or Prohibition.

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STATUTE AND RULES

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JURISDICTION

Same as stated in both Petitions.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Same as stated in Petitions.

INTRODUCTION AND STATEMENT OF FACTS

1. This is a Reply Brief to the Brief in Opposition (R.33.2) in the capital habeas case, involving **non-dispositive matters**, pending on petition for writ of certiorari to the United States Court of Appeals for the Sixth circuit in case 18-9331 and Petition for extra ordinary Writ of Mandamus and or Prohibition in case 18-9332. Respondent has made many false statements of facts and law in the STATEMENT portion of BIO, by failing to read the documentary evidence filed in postconviction Petitions and PCR Appendix. BIO failed to meet its burdon per R.15.2. The venomous temptations to comments on R&R and magistrate's dicta on COA, were unethical, malicious because COA litigation is always after a merit decisions.

2. BIO, dishonestly did not cite 15th Permanent Restraining Order against untainted funds of Ahmed filed in criminal case 99-CR-192 on 01/31/2001(Doc. 90-2,PageId# 3109) before trial ended on February 2,2001 stated:

"any financial institution of any kind... or any other entity [Sheriff, & Conservator] which holds money for Nawaz Ahmed...is hereby ordered and commanded to hold such funds until further order of the court. Such institutions are prohibited from permitting a withdrawl of any kind, in any amount, unless directed by this court".(Doc.90-2,PageID# 3109), Objection, (Doc105,PageId 9618).

2.1. Respondent make utterly false accusations while blindly copying R.39.8 case to fit the dubious arguments, when record show Ahmed's filings in District Court including Motion for COA, Motion for certification, and Motion for certified Records and 28 U.S.C.S. § 1291 and 28 U.S.C.S. § 1292(a)(1) related proceedings, NOA, which were blocked by illegal, Unconstitutional Over-broad, perpetual filing Sanction order ((Nawaz Ahmed v. Marc C. Houk, 2:07-cv-658,2008 U.S. Dist. LEXIS 109687 (April 16, 2008 Order, doc. 32, id at last para)) **during the pre** Harbison v. Bell, 556 U.S.180,190,n.7.(2009) era, uncertainty of law and 28 USCS § 2250 Motion and filing of pro se Notice of Appeal, because 18 USCS § 3599(a)(2),(e) is **primarily**

directed at pro se petitioner as 3rd Counsel was viewed as a threat by appointed counsels, so they refused to appeal the appealable sanctions and denial of 3rd counsel Order per 28 U.S.C.S. § 1291 and 28 U.S.C.S. § 1292(a)(1) was a final appealable Order. Thus related pro se filings at that time in Dist. Court were **neither repetitive nor frivolous** as BIO dishonestly fail to understand that Petitioner only exercised legitimate statutory rights allowed to pro se Petitioner, when represented by counsel by 18 USCS § 3599(a)(2),(e) , 28 U.S.C. § 1654, 28 USCS § 455, 28 USCS § 144, 28 USCS § 2250, 28 USCS § 137 and 28 USCS § 351, 28 U. S. C. § 2247 and 28 USCS § 2242, 28 USCS § 2254, and 28 U.S.C.S. § 1291 and 28 U.S.C.S. § 1292(a)(1) when represented by unethical, unprofessional conflict-ridden "counsel of record" Mr. Yeazel, suffering from severely impaired professional judgment by illegal drug use, substance abuse.

2.2. BIO at Para 3 of STATEMENT **dishonesty** support its dubious-false frivolous filing accusation, falsely imply that Attorney Adele Shank (in 2008 retained by brother of Petitioner) but not allowed to be 3rd counsel or Substitute Mr. Yeazel by District Court then, had infact not, could not, **developed a disabling conflict of interest during the 2008-2018 years or before** and after her 2/15/18 court appointment. She failed to file Petitions in Supreme Court case 18-9331 and 18-9331 as statutory duty of counsels under 18 U.S.C. § 3599(a)(2),(e), "each attorney so appointed shall represent the defendant/Petitioner throughout every subsequent stage of the available judicial proceedings... **appeals**...including **applications for writ of certiorari** to the Supreme Court of the United States, and all available post-conviction process".

2.3. Investigative study ordered by OH Chief Justice showed rampant racial, color, religious, origin bias in OAG, Prosecutors and all state Courts. In 2019, OH Solicitors in their Brief in Opposition display same bigotry, what was done in 2008, by Respondent's counsels in their malicious opposition to Petitioner of different race, color, religion and origins, exercising his 18

U.S.C. § 3599(a)(2),(e) right as they bitterly Opposed (Pet. App. L).Respondent NEVER opposed the same Magistrate Judge Merz and District Judge Watson appointing **SIX** habeas counsels at the same time, in similar capital habeas case **Monroe v. Warden**, Ohio State Penitentiary, 2010 U.S. Dist. LEXIS 81482 (S.D. Ohio, July 6, 2010). See

Counsel: For Jonathon D. Monroe, Petitioner: **Jennifer M Kinsley**, LEAD ATTORNEY, Sirkin Kinsley & Nazzarine, Cincinnati, OH; **Steven Scott Nolder**, Federal Public Defender, Columbus, OH; **David Jan Graeff,** Westerville, OH; David C Stebbins, Federal Public Defenders Office, Columbus, OH; **Eric J Allen**, The Law Office of Eric J Allen Ltd, Columbus, OH; **Laurence E Komp**, Ballwin, MO.

3. REFERAL TO OHIO STATE BAR FOR MISCONDUCT AND DISCIPLINARY ACTION AGAINST THE SOLICITOR GENERAL AND DEPUTY SOLICITOR GENERAL

The Solicitor General and Deputy Solicitor General also committed professional misconduct violating U.S. Dist. Ct., S.D. Ohio, R. 83.4(f) making applicable the OH Rules of professional conduct and ABA Code of professional conduct (139 F.R.D. 622,624 (1991) to government and private counsels.

"the [State Attorney General/prosecutor's] role transcends that of an adversary," *Bagley*, 473 U.S. at 675 n.6, and that the [Attorney General/prosecutor] is 'the representative not of an ordinary party to a controversy, but of a sovereignty . . . whose interest . . . in a criminal prosecution is not that it shall win a case [by tricks, falsification and dishonesty], but that justice shall be done [in keeping with the Constitution],'" *id.* (quoting *Berger v. United States*, 295 U.S. 78, 88, 55 S. Ct. 629(1935)).

3.1. CLERK OF SUPREME COURT CAN BILL THE DOCKETING FEES TO CLERK OF COURTS OF COMMON PLEAS AND BELMONT COUNTY SHERIFF HOLDING FUNDS:

The Clerk of Supreme Court can bill the docketing fees in all five+ cases bothering Respondent to Belmont Clerk of Court of Common Pleas and Belmont County Sheriff still holding Ahmed's personal untainted funds, **car,** two-way ticket ((($2,248.00 State-Trial exhibit)), Tax refund check for $3,233.00 and other property taken upon arrest including **a Desktop computer and a IBM laptop computer and cell phone and two suite cases and cloths.** See Affidavit by attorney

Hershey filed with his motion for fees approval in case 99-CR-192, showing non-probate funds **over** 30,200.00 (ECF#132-5 at PAGEID#10240) + fully refundable Airline Ticket valued $2,248.00 + Tax refund check for $3,233.00 received by Jail +30,200.00 (listed by Hershey) = $ 35681.00 (non-conservatorship funds). The conservator deposited all funds in the Conservatorship with the Clerk of Courts as per **Restraining Order** filed on 08/22/2000. (Doc. 90-1,PageId# 2645), and Objections (Doc.105,PageId#9610, 9618). These and all other **fifteen** Restraining Orders **against use of own personal untainted funds of defendant** violated 6th amendment right to use own untainted funds **and violated right to counsel of choice for trial and appeal.**

3.2. BIO at last sentence of Para 3 on page 5 state that appointed counsels has not filed Supplemental Objections. But BIO failed to state that Petitioner by serving and then filing Motion To Substitute on both appointed counsels (Ecf.132,132-1,132-2,132-4,132-5 filed on 02/26/2018) (and App. S), contain **two research letters**/documents by Petitioner to appointed habeas counsels, very clearly laid out the facts and law for amending the Petition, Traverse and Objections and need to file Supplemental Objections, citing relevant legal precedents in 6th and other circuits. The misconduct, deliberate, malicious failures of the both appointed counsels further show the need to substitute both by granting the both Petitions.

4. **First Ground For Relief**, in habeas Petition (Doc.35,PageId#173) stated that Petitioner was prevented from paying own untainted personal funds to retain **any of the over Ten** contracted counsels of choice for trial and appeal, by well coordinated mechanizations of officials, judiciary, intentionally engaging in conduct designed to frustrate petitioner's efforts to obtain counsels of choice, by over-lapping continuous over fifteen Restraining Orders against personal untainted funds and the Petitioner to use those funds. See, Petition (Doc.35

PageID#173-198). Traverse (Doc.71,PageId#1648-1684). Objections (Doc.105,PageID# 9590-9621). The Violators of defendant's 4th,5th,6th,8th,14th amendment rights were non other than the listed here **:(a)**State of Ohio, **(b)** Prosecutor Frank Pierce, **(c)** Sheriff Tom McCort,**(d)** Belmont County Jail Administrator,**(e)** Trial judge Jennifer L. Sargus case 99-DR-40 and 99-CR-192, **(f)** Probate judge J.Mark Costine in case 2000-049,**(g)** Ed Sustersic, Conservator of Conservatorship of Ahmed case 00-49, **(h) Assistant Attorney General Michael Collyer appointed as special assistant prosecutor on 01/11/2001 (Doc.200)** in case 99-CR-192.**(i)** Belmont County Public Defender Nicholson, **(j)** Belmont County Assist Public Defender Eric Costine,**(k)** Court appointed Trial Counsel Olivito,**(l)** Court appointed Trial Counsel Ed. Hershey, **(m)** Civil Judge John Solovan II, presided over bogus case No. 99-Cv-457 in patent and unambiguous lack of jurisdiction and case 99-CV-403. Judge knew lack of his jurisdiction but to please his handlers, without affidavit attached Defendant Ahmed's untainted funds to prevent representation by counsel of choice.

"Marriage does not grant a wife an interest in her husband's real or personal property except as statutorily granted for support and dower.R.C. 3103.04, and 3103.07. Ohio Rev. Code § 3103.04 specifically states that, except for the few enumerated exceptions, neither husband nor wife has any interest in the property of the other. There is no community property in Ohio. Each spouse is entitled to take, hold, and dispose of his or her property as if unmarried. Ohio Rev. Code § 3103.07. Ownership of property by one spouse is as distinct from ownership by the other as if the spouses were strangers."

(n) Estate Administrator Thomas Hampton, helped by Sheriff and Prosecutor filed bogus, fictitious complaint in civil case 99-457, solely based on the information provided by Prosecutor and Sheriff about "Funds taken from defendant upon the arrest" and **from the confidential financial records of Ahmed,** they illegally obtained from Ahmed's privately retained divorce Attorney Eric Costine, (then assistant public defender). Thus without filing an affidavit, **to get prejudgment attachment** of $20,000 personal untainted funds of Petitioner Ahmed (held by

Sheriff) at a corrupt and illegal hearing, attended by Prosecutor, Sheriff's deputies and public Defenders, because under Ohio Law a defendant is protected from civil suit and civil process when brought to county to answer the criminal charges, while held in county jail by denial of bail. See R.C. 2317. 23 and § 2963.23 Accused immune from civil suits until conviction or return home. After **refusing to release the wrongly attached funds to retained counsels of choice** before conviction, case was dismissed after criminal trial when challenged by **Motion to Dismiss,** for lack of ***"Cause of action" and lack of Jurisdiction"***. See Hampton v. Ahmed, 2005-Ohio-1115, (Ohio Ct. App., Belmont County, March 07, 2005).Prejudice and biased Civil Judge and court of appeal judges intentionally avoided giving real reasons for dismissal order, stated in Motion to Dismiss *(Lack of cause of action and lack of jurisdiction)* and instead granted the voluntary dismissal to Mr. Hampton. At all times, **Sheriff and Prosecutor retained the control, possession over attached,** *then unattached $20,000 untainted funds* and continued to hold personal funds of Ahmed to prevent paying to retain counsels of choice for trial and appeal, violation of 4th,5th,6th,8th,14th amends. Cuyler v. Sullivan, 446 U.S. 335,343,(1980) stated:

"A state prisoner can win a federal writ of habeas corpus only upon a showing that the State participated in the denial of a fundamental right protected by the [4th, 5th,6th,8th], Fourteenth Amendment. The right to counsel [of choice] guaranteed by the Sixth Amendment is a fundamental right. [*Powell* v. *Alabama*, 287 U.S. 45, 53, 69(1932). and Gonzalez-Lopez, 548 U.S. 140,147-148,150(June 2006) and. Luis v. United States,136 S. Ct. 1083, 1085-1087, 1089,1093-4, 1099,1101(2016)]. *Argersinger* v. *Hamlin*, 407 U.S. 25, 29-33 (1972). When a **State obtains a criminal conviction through such a trial,** it is the State that unconstitutionally deprives the defendant of his liberty. See *Argersinger* [**1716] v. *Hamlin, supra*, at 29-33.

The **presumption of prejudice extends to the denial of counsel** [of choice] **on appeal.** Penson v. Ohio, 488 U.S. 75, 83, 88-89 (1988). Smith v. Robbins, 528 U.S. 259, 286 (2000). Strickland, 466 U.S. at 692 (the "actual or constructive denial of the assistance of counsel [of choice] altogether is legally presumed to result in prejudice"). Cronic, 466 U.S. 658, 659-660 "a trial is unfair if the accused is denied counsel [of choice] **at a critical stage** of his trial [or appeal]"); *Cottenham v. Jamrog*, 248 F. App'x 625, 635-36 (6th Cir. 2007) citing *Powell* v. *Alabama*, 287 U.S. 45, 53 (1932) and *U.S. v. Gonzalez-Lopez*, 548 U.S. at 144,146,148,150 (2006); The **initial direct appeal is a critical stage,** at which right to counsel [of choice] on appeal attaches. *Freels v. Hills*, 843 F.2d 958, 960 (6th Cir. 1988); *Ross v. Moffitt*,

417 U.S. 600, 94 S. Ct. 2437 (1974). " *McCleskey v. Zant*, 499 U.S. 467, 495, 111 S. Ct. 1454, 1471(1991); *Coleman v. Thompson*, 501 U.S. 722, 756-57, 111 S. Ct. 2546(1991); *Glasser v. United States*, 315 U.S. 60, 75-76, 62 S. Ct. 457,467 (1942) stated:. "...The right to have the assistance of counsel [of choice] [****28] is too fundamental and absolute to allow courts to indulge in nice calculations as to the amount of prejudice arising from its denial." such assistance be untrammeled and unimpaired by a court order...;*Luis* v. *United States*,136 S. Ct. 1083, 1086-1087, 1089,1093-4,1099,1101(2016)(" As far as Sixth Amendment right to counsel of choice is concerned, a **restraining order** might as well be a **forfeiture**; that is, the restraint itself suffices **to completely deny this constitutional right**. See *Gonzalez-Lopez, supra*, at 148,150 126 S. Ct. 2557(June 2006)("Deprivation of the right" to counsel of the defendant's choice "is '**complete**' when the defendant is erroneously prevented from being represented by the lawyer he wants.").

4.2. The old cases Powel, at 53,69 and Caplin,at 624-626 set out general principles of 6th amendment right to counsel of choice and right to use own untainted funds to pay the contracted counsels to retain them. Of these later cases Gonzalez-Lopez(June 2006) was the "existing precedent" at the time of, "relevant state court decision" which denied postconviction relief on specific claims in (December 2006). See, also Danforth v. Minnesota, 552 U.S. 264(2008),*Teage did not apply*. The Luis is old rule under Teague, "illustrative of the constitutional principles for proper application of 6th amend. right to counsel of choice, set forth in (Powel, Glasser, Chandler, Crooker, Gonzalez-Lopez, supra), **right to use own untainted funds** set forth in Caplin at 624, are collectively standard for, "clearly established federal law" under Teague & 2254(d). See, Williams, Rompilla, Wiggins v. Smith, 539 U.S. 510,522,n.62 (2003) and Pinholster, 131 S.Ct.at 1407,n.17 and Gilmore v. Taylor, 508 U.S. 333,341-2 (1993) allow consideration of later old rule case (Luis, supra) for clarification of applicability, and illustration of the established principles of constitutional law of "earlier existing cases"(Powel, Caplin at 624-625, Gonzalez-Lopez, supra), and **did not change the existing law**, and didn't announce a New Rule but **result in the later case** (Luis) **is "dictated by established precedent** existing at the time of relevant state court decisions". See, also Newland v. Hall, 527 F.3d 1162,1196-1201,n.64 (11th Cir. 2008).

ADDITIONAL STATEMENT OF FACTS FROM FULL RECORD

5. Brief in Opposition dishonestly cite false testimonies given at trial and totally avoid the contrary facts in depositions and documentary poofs filed in post-conviction record. The Justice

Resnic wrote direct appeal opinion while drunk and was **arrested and convicted** for DUI and removed from OH Supreme Court. She did not review the entire record on appeal.

6. Petitioner's father was sick in Pakistan, and Petitioner had sponsored his Visa in June-July,1999 to come to USA for treatment and live with the Petitioner. A copy of the Visa is exhibit to Post-conviction Appendix filed by OPD counsels, part of Habeas record.. Travel bookings Card is Prosecution Trial Exhibit, showing two-way bookings. BIO is dishonest.

7. Petitioner called travel agent Malik during May, June, July, August, September 1999 **nine** times and always made bookings of two-way travel ticket, only to cancel due to taking of depositions and demands of work. Malik testified at trial that upon cancelations by Ahmed, Malik kept the refunds for later use for making new bookings of two way airline ticket to Pakistan from JFK, [NY to Lahore to Islamabad to Lahore to JFK-NY]. BIO is false, dishonest..

8. BIO falsely accuse a hostile Child Custody battle based on totally false testimony of Attorney Hoffman. Ahmed counsel proposed the custody per the advice of. Ahmadiyya–Muslim Community recommendation that children have balanced stable growth as matter of religious moral upbringing by sharing both parents. Ahmed was not contesting temporary custody order.

9. Petitioner obtained two weeks unpaid leave in July 1999 from his employer to go to Pakistan, to bring his father to USA for treatment as and when needed. See, trial exhibit 20 for Defense and PCR Appendix. The Analysis of Petitioner's telephone records, obtained by Sheriff, show many calls to Pakistan and his brother in Toronto in search of some relative who may accompany the sick illiterate father to USA, but non was available, are part of post-conviction claims.

10.BIO falsely claims that Petitioner's DNA was matched with blood at crime scene in the basement of the marital house, with lien, utilities, advance deposit on Ahmed's name It is false.

11.Petitioner Ahmed rented the marital house, had lien on his name, he paid the advance deposit by his personal check to the landlord, and telephone; utilities were on Petitioner Ahmed's name. Petitioner lived in the marital house for over five years and after renting a small apartment in Columbus, OH, continue to visit the marital home many times during the pendency of divorce proceedings to drop off their two boys with his wife and met her father and her mother living with her and her visiting other relatives and Imam of religious community engaged in reconciliation efforts, during the pendency of divorce proceedings. See, entries on Divorce case docket 99-DR-40 is in habeas corpus state court records. All multiple entries into the Nawaz Ahmed's rented home by Police, BCCI, Coroner, all charts, videos of the scene, blood and control samples, ID badge, police observations, testimonies by Prosecution witnesses were obtained in violation of 4th amendment, **without any search warrants**, thus illegally used at trial. Ahmed had his own property inside the home, thus "possessional interest" and surviving spouse right to live in the home, from the time of death of wife at 3 am 9/10/99 per death certificate. Detective Steve Forrow **who saw bodies never-ever went inside the home**, so no exigency, or exception to Warrant Requirement.

12. Ahmed had no reason to attend final divorce hearing as he was not a witness, represented by retained counsel with depositions and both spouses had their separate bank accounts, separate retirement accounts and wife earned more than husband. He could not delay going to Pakistan any more as father's VISA was only valid upto 10/12/99 for entry into USA. So date of final hearing had no relevance or significance to travel plans by Petitioner, despite the sensational falsehood by BIO for non-existing motive and dishonesty of Prosecutor, Sheriff who lost jobs just after wining the case by coached false testimonies of prosecution witnesses, known to God.

13.BIO gives false impression that some restraining order was against husband when restraining order was mutually agreed and equally applicable to both parties. See entry on divorce case 99-DR-40 case docket as part of habeas corpus record. The testimony of P.O. Steve Forow at trial is proven false, refuted by documentary evidence of telephone record, proving that Petitioner husband never made any call on that date Forow alleged to have received an oral complaint, and he or police and prosecutor took no action at all. Show a made up story to prejudice jury.

14.Petitioner was issued many temporary ID Badges, including ID badges for his boys on his name, using the office-networked computer for internet games on weekends. The list of badges used at trial was planted inside the locked office of Petitioner by Detective Bart Giesy searching the office, with dates up to 9/17/99 written in hand by receptionist, when Petitioner was arrested on 9/11/99. In his return of search warrant, Detective Giesy swore that he found the list of ID badges inside the Petitioner's office, so who put it there, when Petition was not using the office since 9/11/99 arrest in NY?. The testimony related to ID badges violated right to cross examine witnesses without any business records. Records show no "report generated by the security department responsible for monitoring temporary passes/ID card usages, non was discovered, thus **surprise** by false coached testimony of secretary Terry Yokey, defendant could not defend.

15. DNA tests did not match with Petitioner Ahmed an Asian by origins as only probability calculated was for blacks and whites, not for Hispanics and Asians, not for brother Ilyas Ahmad who visited Ahmeds' house and participated in cooking and Asian kitchens use knifes to cut meats, lambs, chickens and other cooking materials and cuts are normal part of kitten usages. Truth is no blood from crime scene (basement) matched to Petitioner. The tiny sample used for DNA matching was old blood, so tiny that sample was totally consumed during state testing, leaving nothing for defendant to verify the nature of sample from the upstairs kitchen left by

Petitioner or his brother while working in kitchen during the five years. BCCI witness did not know about allies. Thus "prosecutor's fallacy". Blood and control samples taken without search warrants from kitchen and scene in basement was illegal testimony violatiing 4^{th},5^{th},6^{th},8^{th},14^{th} amendments.

16. BIO make a much about nothing in stating "amount of funds" Ahmed was carrying to travel. When Ahmed left behind over $60-90,000 in financial institutions and had paid all bills. Ahmed was required to pay the medical bills and for two-way travel of his sick father to bring him to USA for treatment, cash gifts to relatives, large extended family of three brothers and three sisters. A cultural expert at trial could have testified to all such Asian societal-cultural norms.

17. BIO's false impressions of laceration on right thumb, was suffered while opening can of corns for feeding the boys while travelling by car to NY. Prosecutor," Defendant is right handed" so how could right thumb be injured if Ahmed used knife with right hand? Sons of Ahmed were father's alibi witness but not allowed due to legal custody to their aunt in Canada by Belmont Ct.

NO VALID REASON TO DENY THE WRITS

1. An order denying counsel's motion to withdraw "'conclusively determine(s) the disputed question,' because **the only issue is whether . . . counsel will . . . continue his representation.**" *Firestone Tire & Rubber Co. v. Risjord*, 449 U.S. 368, 375-76(1981),(quoting *Coopers & Lybrand*, 437 U.S. at 468). The inverse is also true in granting the Motion of Counsel to Withdraw. "a **district court may forbid withdrawal if it would work severe prejudice on the client** or third parties. "Withdrawal is presumptively appropriate where the rule requirements are satisfied." " *Brandon v. Blech*, 560 F.3d 536, 538 (6th Cir. 2009).

District Court neither determined the Prejudice question before granting the Attorney David Graeff to withdraw nor provided an opportunity to Petitioner (Client) to oppose the withdrawl or state the prejudice or show rule requirements were not satisfied, due to withdrawl in the middle of the capital habeas case, awaiting final determination, as required by Local Rule SD Ohio

Civ.Rule 83.4(c)(4), nor court determined "18 U.S.C. § 3599(a)(2),(e)" required "interest of justice". It was an obvious abuse of discretion. Respondent did not Object to Motion to Substitute Mr. Yeazel and Motion to Substitute Attorney Adele Shank in District Court and in 6thCir. So lacks standing to object now by opposing both Petitions. Christeson v. Roper, 135 S. Ct. 891(2015) citing Martel v. Clair, 565 U.S. 648(2012).

2. The law over granting Motion to Withdraw in capital habeas cases in the middle of merit determination is non existing as no case involved application of 28 U.S.C. § 2254(i) and 28 USCS § 2261(e) to determine the Cohn factors. Neither the 6th Cir. nor BIO stated the law of 28 U.S.C. § 2254(i) to determine the Cohn factors. It is the **primary function of Supreme Court to ascertain the applicable law**, when none exists from supreme court or the circuit courts for application of 28 U.S.C. § 2254(i) to determine Cohn Factors. Petitioner cannot be faltered for seeking the Supreme Court to state the applicable law. Darr v. Burford, 339 U.S. 200,215(1950).

3. BIO has given no valid reason to deny the writs as required by R.15.2. BIO failed to argue Collateral Order doctrine in light to prohibitions imposed by 28 U.S.C. § 2254(i) and 28 USCS § 2261(e), attorney actions neither reviewable, nor effective relief after final judgment, about misconduct, false representation, participation in "case fixing" and "judge-shopping" and intentional failure to file defective petition, defective traverse and defective objections, and defective discovery motions and intentionally not including all the claims available in first habeas Petition and failure to file supplementary Objections. **Only relief is timely substitution.** BIO did not discuss separate appealable Order (Appn.G) appointing Attorney Adel Shank who also was bitterly opposed by Mr. Yeazel to join as 3rd counsel, both have no past working relationship, which caused lack of filing Suplimental Objections. The prior consent by Petitioner due to existing conflict of interests since 2008, would have avoided the problem of Atty. Shank

refusing to file appearance in 6th Cir., thus totally abandoned the client, in 6th Cir.and in Supreme Court, violating ethical and statutory duty per § 3599(a)(2),(e), a cause for disqualification and Substitution. Like 6th Cir. BIO did not follow all the Orders Appealed in Notice of Appeal but picked their choiest Order while ignoring every other order discussed in Petitions. Both did not discuss the failure to Review the implied denial of Motion to Substitute Mr. Yeazel (Appn.P) as 28 U.S.C. § 2254(i) prevent prejudice inquiry, even for harmless error in habeas case, due to erroneous withdrawl or denial of substitution of counsel. Because actions, inactions, ineffectiveness, misconduct of substituted and unsubstituted counsel cannot be determined in habeas case after final judgment. **Only relief available is timely substitution of counsels before final judgment.** Martel v Clair , 132 S Ct 1276 n3, and Christeson v Roper, 135 S Ct 891; The appointment of habeas counsel is not discretionary by Dist. Court or Appeal Court but mandatory per § 3599(a)(2),(e), directly appealable order, without COA. Harbison v. Bell. So is denying Substitution of Keith A. Yeazel.(Appn. P), and denying Substitution of Atty.Shank (App.S) is appealable denials by Cert Petition to Supreme Court.. Similarly, Denial of Appointment of 3rd habeas counsel retained by brother of petitioner,(named Attorney Adele Shank) on April 6, 2008 was **final and appealable** Order, thus **could not be cause for permanent, perpetual filing sanctions** (App.L).See (Nawaz Ahmed v. Marc C. Houk, 2:07-cv-658,2008 U.S. Dist. LEXIS 109687 (April 16, 2008 Order, id at last para)). See,

See, ***Cromer,*** 390 F.3d at 819 (striking down as overbroad order preventing plaintiff from ever again filing documents in a particular case); *see also Support Sys. Int'l,* 45 F.3d at 186 (noting that "perpetual orders are generally a mistake"). The Chapman v. Exec.Comm, 324 Fed. Appx. 500 (7th Cir. 2009) stated," **The orders are unconstitutionally overboroad as the restraining orders allow no statutory exceptions**. Courts have rejected as overbroad filing bars in perpetuity." *Cok v. Fam. Ct. of Rhode Island,* 985 F.2d 32, 34-35 (1st Cir. 1993). *Delong,* 912 F.2d at 1148 (**order permanently preventing plaintiff from filing any papers in a particular district court was overbroad);**

See Denial of appointment of counsel is appealable under 28 USCS § 1291as final collateral order on basis that harm it may cause may be irreparable on appeal of final judgment. Hudak v. Curators of University of Missouri, 586 F.2d 105(8th Cir.). See also Willett v. Wells, 469 F. Supp. 748 (E.D. Tenn. 1977), aff'd, 595 F.2d 1227 (6th Cir. 1979).

Orders of district judge conditioning substitution of attorneys in litigation pending before it were treated as final and appealable by court of appeals. National Equipment Rental, Ltd. v. Mercury Typesetting Co., 323 F.2d 784 (2d Cir. 1963).

CONCLUSION

Schwartz, 57 F.3d 236, 237 (2d Cir. 1995) is totally inapplicable to 28 U.S.C. § 2254(i) case §3599(e).

The BIO has not met its duty imposed by R.15.2 as BIO has failed to address all issues presented in both Petitions. None of the cases cited in BIO or 6th Cir decisions are relevant to the capital habeas corpus law of 28 U.S.C. § 2254(i) prohibiting any review or substantive relief after final habeas judgment, thus forcing a conclusion of presence of third Cohen factor, when first and second factors are already present. BIO dishonestly ignored presence of the 3rd factor due to 28 U.S.C. § 2254(i). The respondent has failed to address the questions presented by Petitioner as required by .R.15.2. The BIO dishonest effort to equate 45 Petitions in 10 years by Martin, supra, to Ahmed legitimate five Petitions for Certiorari in 20 years from 1999 arrest to 2019, show misconduct and maliciousness with religious, racial, animus as BIO failed to follow the duty imposed by *Berger v. United States*, 295 U.S. 78, 88, 55 S. Ct. 629(1935)). And forwarded utterly fallacious arguments disregarding Darr v. Burford, 339 U.S. 200,215(1950).

Wherefore, **Writs should be granted**.

Respectfully Submitted

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EXECUTED on August 8, 2019.

8-8-19

Dear Clerk,

Please make sure that This Reply Brief is circulated to the Court as per R 15.5 and R.6. I have Tried to be as fast as possible under the Prison Condition. Becaus Brief in Opposition contain so many Lies, mistatement of Record and incomplete Legal arguments, with intent to prejudice the Court/reader. Thus it is absolutely necessary that Court gets my Reply Brief. It is a Struggle to even get the Timely print out of Pleading.

I cannot shorten the USPS delivery Time as per R. 29.2 but Reply Brief is Timely as per Rule. See the Proof of Service.

Please Send me case dockets of my cases, so that I can See and pray that I did my Part, now I sumit the results to God.

Thanks

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