

NO. 19-5459

ORIGINAL

IN THE SUPREME COURT  
OF THE UNITED STATES

Supreme Court, U.S.  
FILED

JUL 19 2019

OFFICE OF THE CLERK

EDWARD LEE CARTER

PETITIONER

v.

LORI DAVIS <sup>(TOCJ  
Director)</sup>

RESPONDENT

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ON PETITION FOR WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

PETITION FOR WRIT OF CERTIORARI

TOCJ # (01872967)

EDWARD LEE CARTER  
"PRO SE INDIGENT PET-  
ITIONER"

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# QUESTIONS

- 1) Is a criminal defendant Constitutionally entitled to a fair trial from an impartial judge WHO IS NOT CORRUPT to preside and rule over his trial court proceedings?
- 2) Is a state trial court that has been deemed corrupt, Constitutionally entitled to a presumption of correctness?
- 3) Does a criminal defendant have a fundamental constitutional right and a liberty interest to a fair proceeding in the state/trial court?
- 4) Does an indigent criminal defendant have a constitutional right to a meaningful direct appeal in a state appellate court?
- 5) Is an indigent criminal defendant constitutional entitled to know who his counsel is on direct appeal, or if he is being represented on direct appeal by counsel at all?
- 6) Has an indigent criminal defendant been denied his sixth amendment constitutional right to effective assistance of counsel on direct appeal, if a state appointed appellate counsel fails to NOTIFY the defendant that counsel has been appointed by the trial court to represent the defendant on direct appeal?
- 7) Has an indigent criminal defendant been denied his sixth amendment constitutional right to effective assistance of counsel on direct appeal, if counsel files an inadequate brief to a state appellate court on behalf of the defendant and never NOTIFIES or allow the defendant to even view the brief that is up for review?

# QUESTIONS

8) Has a criminal defendant been denied his sixth amendment constitutional right to effective assistance of counsel on direct appeal if without NOTIFYING the defendant appointed appellate counsel files issues in the appellant court on behalf of the defendant that were not preserved for review and were therefore waived for review in the appellate court?

9) ON federal habeas corpus review is a federal district court constitutionally required to Look through an unexplained state courts decision, to the last states courts decision that provides a relevant rational when deciding if the defendant's claims are Procedurally barred from review on his 2254 federal habeas corpus writ?

10) ON federal habeas corpus review is a criminal defendant's claims Procedural barred if the last state court that provided a relevant rational decision did not clearly and expressly rely on waiver as grounds for rejecting ANY aspect of the defendant's claims, which he properly presented to the state and federal courts?

11) ON federal habeas corpus review, does an indigent inmate who is confine in a state prison have a constitutional right to due process by allowing him to send "RELEVANT" parts of his trial transcripts to the federal district court in order to perfect his 2254 federal habeas corpus writ?

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EDWARD LEE CARTER

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V.  
LORIE DAVIS (TOCJ  
Director)

## RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI  
TO THE  
SUPREME COURT OF THE UNITED STATES  
BRIEF FOR THE PETITIONER...

OPINIONS BELOW

## OPINIONS ISCTION

### THE FIFTH CIRCUIT en banc decision (Pet. App. A <sup>unreported</sup>)

THE FIFTH CIRCUIT denial of [Carter's] C-O-A motion (Pet. APP.B <sup>unreported</sup>)

THE WESTERN DISTRICT OF TEXAS [federal district court] decision (Pet. App. C <sup>unreported</sup>)

THE TEXAS COURT OF CRIMINAL APPEALS [Post card unexplained decision (Pet. App.D.) <sup>unreported</sup>]

## THE STATES HABEAS COURTS [recommendation, state district court 14<sup>th</sup> (Pet. App. E <sup>unreported</sup>)

THE FOURTH COURT OF APPEALS [San Antonio, Tx] judgment and  
Memorandum opinion [direct appeal] (Pet. App.F <sup>unreported</sup>)

## Jurisdiction Statement

The Fifth Circuit Court of Appeals en banc decision was entered on February 19, 2019. On May 9, 2019 Justice Samuel A. Alito extended Petitioner's time (No. <sup># App</sup> 18A1155) to file a Writ of Certiorari to July 19, 2019. The Jurisdiction of this court is invoked under § 28 U.S.C. 1254<sup>(1)</sup> and Supreme Court rule 10

## STATEMENT

IN July of 2013 [Carter] was convicted on two counts of aggravated sexual assault of a child, (sentence) 11 and 5 years (consecutively), and three counts of indecency with a child (sentence) 2 years each count (concurrently). The trial court in which these convictions came out of [144<sup>th</sup> district court] "was found to be corrupt". Petitioner requested a direct appeal, which was affirmed November 12, 2014 (Pet. App.F) by the fourth Court of Appeals [San Antonio, Tx]. Petitioner requested a motion for Rehearing [pro-se] which was denied on December 11, 2014 <sup>see</sup> Exhibit "R". Carter filed a collateral attack requesting an Out of time appeal # No 2011 CR1674-WI, WR-84,620-01 in the State habeas court. The habeas court ordered issues to be designated <sup>see</sup> Exhibit "I".

THE state habeas court recommended that [Carter] be allowed to file an out-of-time petition for discretionary review, because appointed appellate counsel [Raymond E. Fuchs] was ineffective <sup>see</sup> Exhibts G, H, I. The Texas Court of Criminal Appeals agreed and allowed [Carter] to file a petition for discretionary review <sup>see</sup> Exhibit "S". On June 29, 2016 [Carter's] pro-se petition for discretionary review was REFUSED by the Texas Court of Criminal Appeals <sup>see</sup> Exhibit "S".

[Carter] filed a collateral attack on his conviction/sentence. Petitioner brought up ten grounds on his state 11.07 writ, in which the State habeas court recommended that relief be denied. The State habeas courts order also said that Petitioners grounds TWO, THREE, FOUR, FIVE, SIX, SEVEN, and EIGHT relating to the trial courts abuse of discretion "SHOULD HAVE BEEN RAISED ON DIRECT APPEAL". (Pet. App.E) "THE LAST STATE COURT TO provide A RELEVANT" <sup>see</sup> Page 7 RATIONAL DECISION

The Texas Court of Criminal Appeals denied 11.07 state writ on 3/29/2017. Post-card UNEXPLAINED DECISION <sup>see</sup> (Pet. App.D)

[Carter] filed his 2254 federal writ in the Western district of Texas federal court on August 2, 2017. The federal court denied federal habeas corpus relief and dismissed the petition with prejudice on April 4, 2018 (Pet. App.C). On page 19 of the courts order it said that on states habeas review the court found Petitioners claims PROCEDURALLY BARRED, and as a result habeas review is foreclosed. [Carter] filed a Motion for re-consideration in the federal court, which was denied on April 30, 2018 <sup>see</sup> Exhibit "T".

While [Carter's] reconsideration motion was pending in the Western district of Texas federal court.

## THE SUPREME COURT OF THE UNITED STATES

HELD: In Wilson v. Sellers 138 S.C.T. 1188<sup>(2018)</sup> A

Federal habeas court reviewing an UNEXPLAINED state court decision on the merits should "LOOK THROUGH" that decision to the last RELATED state court decision that provides a RELEVANT RATIONAL and presume that the UNEXPLAINED decision adopted the same reasoning.

[Carter] next petitioned the UNITED STATES COURT OF APPEALS [fifth circuit] and requested a C-O-A, which was denied on November 27, 2018. In the courts order it said "The district court upheld the states courts determination that [Carter's] due process challenges to several trial court rulings were PROCEDURALLY BARRED," and denied Petitioner's C-O-A motion (Pet. APP.B) Page 3

[Carter] then filed a petition for rehearing EN BANC in the fifth circuit federal court, and requested that the court apply the "LOOK THROUGH" to his claims/case. The fifth circuit denied the EN BANC motion on February 19, 2019. (Pet. APP.A)

[Carter] is now filing and petitioning to THE SUPREME COURT OF THE UNITED STATES for a Writ of Certiorari.

Petitioner's  
WRIT OF CERTIORARI

To the Honorable Judges of the SUPREME COURT OF THE UNITED STATES OF AMERICA

Petitioner [Edward Lee Carter <sup>TOCJ #</sup> 01872967] believes that these proceedings involves ONE or more QUESTIONS of exceptional importance, therefore CONSIDERATIONS by [S.C.O.T.U.S.] is NECESSARY.

IN the interest of Justice [Edward Lee Carter-Ferguson <sup>TOCJ #</sup> 01872967] is being held in custody by [respondent, Lorie Davis] in violation of the Constitution or laws of the United States of America, against his will.

Petitioner [Carter] would request to the court, to respectfully take in consideration when reviewing Petitioner's WRIT OF CERTIORARI. [Carter] is NOT a lawyer, [Carter] is a Pro-se indigent litigant who has been Pursing Justice and his rights diligently in his case. In [Carter's] case there are CONTROVERTED, PREVIOUSLY UNRESOLVED FACTS, which are material to the legality of the Petitioners CONFINEMENT that exist and have yet to be resolved. Petitioner had a CORRUPT TRIAL JUDGE [Angus McGinty] who Presided over his trial, and a court appointed appellate Counsel [Raymond E. Fuchs] who Never Notified Petitioner of his representation as Counsel on direct appeal. 5.

IN Cartalino v. Washington: The seventh Circuit<sup>(7<sup>th</sup>)</sup>  
122 F. 3d, 8<sup>(1997)</sup>

Court said: "A bribed judge is deemed Partial whatever fact of the matter may be, the court also said that a criminal defendant has a FEDERAL CONSTITUTIONAL RIGHT to be tried before an impartial adjudicator or judge".

IN [Carter's] case his trial court was found to be corrupt. [Angus Mcginty] the trial judge who presided over petitioner's trial out of district court room 144 San Antonio, Bexar County, Texas in July of 2013 was committing corrupt activity before, during and after [Carter's] trial.

[Angus Mcginty] admitted to taking bribes from lawyers, he also admitted to rigging and manipulating criminal cases on the bench as a district judge in San Antonio, Tx. [Angus Mcginty] pled guilty in 2015 to one count of honest service wire fraud and was sentenced to, two years in FEDERAL PRISON for his conduct by Judge Xavier Rodriguez of the western district of Texas federal court see Exhibit :A

[Angus Mcginty] did not simply try, but he failed totally when it came to administer justice IMPARTIALLY he deliberately and repeatedly abandoned his oath of neutrality for his own personal gain. This is a CONCLUSIVE PRESUMPTION that is clear and CONVINCING.

[Angus McGinty]s decision making as an adjudicator of law, "MUST NOT" be entitled to any protection "HE WAS CORRUPT", which is a fact by law <sup>see</sup> Exhibits A-E.

IN most cases courts PRESUME that the trial Judge was impartial in the case's before his/her court, but as the SUPREME COURT has recognised "THAT PRESUMPTION IS SOUNDLY REBUTTED, WHEN A JUDGE IS CONVICTED OF CORRUPTION"

BRACY V. GRAMLEY 520 U.S 908, 09  
117 S.Ct. 1793 (1997)

IN [Carter's] trial [Angus McGinty] manipulated and disregarded State and Federal Laws through out the proceedings, which have "NEVER" been check by any court of law, [Petitioner's Procedurally barred claims and others] which effected the out-come in [Carter's] trial.

IN Texas a State district Judge has the EXTRAORDINARY ability to shape a criminal trial him/her self. IN Texas it is the court whom decides what evidence if any the Jury may see or hear, how both counsel's may behave in front of the Jury, what arguments may be made, how they may be made and to whom they may be made to. IN Texas the court decides what legal principles the Jury must apply to the case, and even to a significant degree who will sit on the Jury. [Angus McGinty] had the power to manipulate all of these things, which he did in [Carter's] trial. The State of Texas gave [Angus McGinty] inherent power, plenary power, public power, restraining power, and it's a fact he abused them "ALL" by being a corrupt judge.

The Fourteenth Amendment of the U.S.C.A says "NO STATE Shall deprive ANY Person of LIFE or, LIBERTY, or PROPERTY with-out DUE PROCESS OF LAW." [Carter] has been deprived and denied this FUNDAMENTAL BASIC RIGHT from the start of the state court proceedings, do to a CORRUPT JUDGE [Angus McGinty <sup>see</sup> Exhibit A] whom Presided over [Carter's] trial. Petitioner's trial entailed elements of fundamental Unfairness. The Procedures that were utilized by the state to convict and affirm [on direct appeal] were in Violation of the U.S.C.A. [Angus McGinty's] discretionary rulings and non-rulings, which are flawed in [Carter's] trial, support an inference that petitioner's trial was indeed tainted by CORRUPTION FROM THE TRIAL COURT. [Carter] believes that [Angus McGinty] had an interest in the outcome of Petitioner's trial. The court abused it's discretion through out the trial. [Angus McGinty] stacked two of the sentences in [Carter] case, in order to hide or compensate for the fact that he was taking bribes, rigging and manipulating criminal case's on the bench as a State district Judge.

(Focus Note:) [Carter's] trial transcript [Reporter's Record] was NOT filed in the fourth court of appeals until January 10, 2014 that's six months after conviction in the CORRUPT COURT. RULE 35.2 of T.C.C.P says the appellate record "MUST" be filed in the appellate court within 120 days after the date the sentence is imposed in open court. [Angus McGinty] signed his own order and extended this dead line, while committing corrupt activity on the bench. Petitioner has informed the state and federal courts that there are OMISSION and IRREGULARITIES pertaining to the REPORTERS RECORDS in this case. Parts of the text do NOT DISCLOSE OF what actual occurred during the trial proceedings.

During [Carter's] trial, [Angus McGinty] did not hold the balance nice, clear and true between the state and the defendant. Tumey, 273 U.S at 532; Aetna, 475 U.S at 822 106 S. CT at 1585

In [Carter's] case [Angus McGinty] relieved the state from it's duty to prove beyond a reasonable doubt. In [Carter's] case there was no out-cry witness, no sane examination, no forensic interview, medical or police report admitted into evidence in this case <sup>see</sup> Exhibits "F", but these things were talked about in the trial as if they were facts.

In [Carter's] trial [Angus McGinty] allowed the state along with the court to violate [Carter's] constitutional rights from the beginning of the process. The corrupt court failed to provide the constitutional minimum of protection during [Carter's] trial. [Angus McGinty] manipulated and disregarded state and federal law in [Carter's] trial, so that he could camouflage his corrupt court as honorable and one who seeks justice. Mr. McGinty's willingness to accept a bribe to fix criminal cases, tells a lot about his view point of judging. The integrity of [Carter's] trial and the process were flawed. The corrupt Judge and the corrupt court "SHOULD" NOT be entitled to a PRESUMPTION OF CORRECTNESS.

OFFutt v. United States, 348 U.S 11, 14, 75 S. CT 11, 99

Justice "must" satisfy the appearance of justice. [Angus McGinty's] discretion during [Carter's] trial "must" be reviewed by the HONORABLE SUPREME COURT OF THE UNITED STATES.

IN Harris v. Reed 489 U.S. 255, 109 S.Ct. 1038 The SUPREME COURT DECLARED: A procedural default does not bar consideration of a federal claim on either direct or habeas review unless the last state court rendering a judgment in the case clearly and expressly states that its judgment rest on a state procedural bar.

In [Carter's] case he filed his second state habeas corpus [11.07] #2011CR1674-W2 / WR 84,620-02, and brought up seven due process/abuse of discretion violations, regarding the trial court, [which was found to be corrupt.] The states habeas court says in its recommendation to the Texas Court of Criminal appeals that the grounds "SHOULD HAVE BEEN RAISED ON DIRECT APPEAL", which is the exact same statement that the SUPREME COURT SAID in Harris v. Reed that does NOT bar federal habeas corpus review. The state habeas court never says in its recommendation that any ground is procedurally barred. The habeas courts statements were "SHOULD HAVE BEEN RAISED ON DIRECT APPEAL" and that the great writ should not be used to litigate matters which should have been raised on direct appeal (Pet. APP.E page 7). These statements do NOT satisfy the (PLAIN STATEMENTS REQUIREMENTS) 109 S.Ct. 1038<sup>(1989)</sup>; they fall short of explicit reliance on ANY state law waiver as a ground for rejecting ANY aspect of [Carter's] claims, and in [Carter's] case the state habeas courts decision is the last state court to provide a RELATED RATIONAL RELEVANT DECISION. (Pet. APP.E)

The Texas Court of Criminal Appeals [The states highest Court when it comes to criminal convictions] said in its Post card denial to [Carter's] 11.07 State habeas corpus. "This is to advise that the court has denied without written order the application for writ of habeas corpus on the findings of the trial court without a hearing." The Texas Court of Criminal Appeals never says in its UNEXPLAINED DECISION that any grounds that [Carter] brought up were procedurally barred, but the court does denie the 11.07 application (Pet. App. D)

IN ULSTER CITY v. ALLEN 442 U.S 140, 147-154

99 S. CT. 2213, 2219-2223 The SUPREME COURT

said "A state court that wishes to rely on a procedural bar rule in a one line pro-forma order easily can write that relief is denied for reasons of procedural default, of course, if the state court under state law chooses not to rely on a procedural bar in such circumstance, THEN THERE IS NO BASIS FOR A FEDERAL HABEAS COURT'S REFUSING TO CONSIDER THE MERITS OF THE FEDERAL CLAIM."

ON April 17, 2018 The SUPREME COURT HELD: IN Wilson v. Sellers 138 S.C.T. 1188 (2018) - A federal habeas court reviewing an UNEXPLAINED state court decision on the merits SHOULD "LOOK THROUGH" that decision to the last related state court decision that provides a relevant rational and presume that the unexplained decision adopted the same reasoning. "THE LOOK THROUGH METHODOLOGY"

[Carter] next moved forward and filed his 2254 federal habeas corpus writ in the Western district of Texas federal court # NA SA-17-CA-00736-DAE. [Carter] brought up the same seven due process/abuse of discretion violations to the federal court. In the courts order (Pet. APP.C Page 19) the federal court says "On state habeas review the court found these claims were procedurally barred and as a result, habeas review is foreclose and [Carter's] claims are dismissed with Prejudice". As previous noted, petitioner has demonstrated that neither the state habeas court or the Texas court of criminal appeals "STATE" explicitly that [Carter's] claims were procedurally barred. The respondent Lorie Davis and the Texas attorney general [Sarah M. Harp <sup>SON</sup> 24092488] are the ones who told the federal district court in there answer to [Carter's] 2254 writ that his claims were procedurally barred, "BUT THEY WERE NOT", and the federal district court was not precluded from addressing the federal violations claims that [Carter] presented on his 2254 federal habeas corpus writ. see Exhibit "u". The federal court also said if [Carter] can demonstrate cause for the default and Prejudice the court will consider the procedurally defaulted claims. (Pet. APP.C Page 19)

(Focus Note:) The respondent [Lorie Davis] was procedurally and constitutionally REQUIRED to attach portions of the state court records as exhibits to the answer, and then to serve those exhibits [TO PETITIONER] together with the answer pursuant to the applicable procedural rules. This was a fact necessary to the operation of rule 5 of section 2254 cases. This did not happen in [Carter's] case. see Exhibit "u" Page 7 "Copys of the records will not be forwarded to Petitioner". The respondent did not comply with rule 5 of section 28 § 2254, the answer was incomplete.

The district federal court clearly erred in its application of clearly established SUPREME COURT precedent Harris v. Reed 109 S.C.T. 1038; "THE PLAIN STATEMENT REQUIREMENTS."

[Carter] filed a motion requesting a C-O-A in the fifth circuit [federal court] of appeals, in the courts order it says "The district court upheld the state court's determination that [Carter's] due process challenges to several trial court rulings were procedurally barred." The court therefore denied the motion (Pet. APP.B) page 3 (1991)

Ylst v. Nunnemaker 111 S.C.T 2590 The details of state law need not be inquired into unless, if they should be as the habeas petitioner asserts, they would constitute strong evidence that the PRESUMPTION as applied is wrong. The states habeas courts statements, which are "Should have been raised on direct appeal" interferes with the enforcement of federal rights in [Carter's] case, and the presumption has been applied wrong, in this case. The district federal court was never precluded from addressing [Carter's] claims in the first place. "Now" that the LOOK THROUGHT Wilson v. Sellers 138 S.C.T 1188 (2018) is required, federal courts can determine whether the state habeas court rejected petitioner's due process, abuse of discretion claims on an independent or adequate state law procedural grounds. The federal court will "now" look to the last state courts decision that provides a RELEVANT RATIONALE to determine the basis for the state courts rejection of petitioner's claims, which in [Carter's] case is do to an appointed appellate counsel who never told [Carter] that he ~~was~~ <sup>was</sup> petitioner's counsel on direct appeal, see Exhibit H

IN [Carter's] case, cause and Prejudice are evident from the record. Appointed by the corrupt court, appellate counsel [Raymond E. Fuchs <sup>SBN# 07498400</sup>] "Never" informed Petitioner that he was counsel of record for [Carter's] direct appeal, which warrants the PRESUMPTION OF PREJUDICE in this case.

The Texas Court of Criminal Appeals rendered [Raymond E. Fuchs] ineffective in Petitioner's case <sup>see</sup> Exhibit "G", <sup>see</sup> Exhibit "I", but do to counsel's failure to comply with State law in [Carter's] case. Murry v. Carrier 477 U.S. 478, 488, 106 S. CT. 2639, 91 Ineffective assistance of appellate counsel is sufficient cause to excuse a procedural default in a Petitioner's case, IF there is/was one.

(Focus Note:) [Carter] brought up his due process / abuse of discretion claims the first opportunity he got, which was on his NO 07 State habeas corpus writ. The State and federal courts insist upon punishing [Carter] for not raising the claims on direct appeal, but it was [Raymond E. Fuch] court appointed appellate counsel who failed to raised the issues not [Carter]. Petitioner "Never" even knew counsel was court appointed to represent him on direct appeal. These due process / abuse of discretion violations, which have merit are in regards to [Angus McGinty] a CORRUPT JUDGE'S discretion during [Carter's] trial. AEDPA do not apply to these grounds. They have never been addressed or adjudicated on the merits in any court of law in America.

The due Process / abuse of discretion violations that have "Never" been addressed or adjudicated on the merits in any court of law are about [ANGUS McGINITY] a CORRUPT JUDGE discretion during [Carter's] trial.

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1) [Carter] was denied a fair trial and his due process rights to an impartial jury was violated, do to a CORRUPT COURTS abuse of discretion. [Supporting Facts]. The trial court, which was corrupt around the time of [Carter's] trial manipulated state and federal law, therefore preventing the empanelment of impartial jury members who could follow the law from being placed on [Carter's] jury <sup>see</sup> Exhibit "K"

2) [Carter] was denied a fair trial and his due process rights were violated, do to a CORRUPT COURTS failure to make any rulings regarding [Carter's] motions during the trial. [Supporting Facts] → defense counsel informs the court that the prosecution has not given the defense notice. The prosecution admits to the CORRUPT COURT that they have not given the defense any notice. The CORRUPT COURT "Never" makes a ruling, it's next statement in open court is bring them in (the voir-dire panel) <sup>see</sup> Exhibit "L"

3) Petitioner was denied a fair trial and his due Process rights were violated, do to the trial courts abuse of discretion by denying [Carter's] motion for instructed verdict.

[Supporting facts] → Count one of [Carter's] indictment alleges that the offense occurred on or about May 31, 2004. The Court heard testimony evidence from state and defense witness, which proved that neither the petitioner or the complainant resided or live in Texas on or around May 31, 2004. The court lack jurisdiction and venue to convict [Carter]. Trial counsel requested an instructed verdict as to Count I, which the court denies. <sup>see</sup> Exhibits "m"

4) Petitioner was denied a fair trial and his due Process rights were violated, do to the mis-conduct during the trial, and the court abused its discretion for not stopping the mis-conduct. [Supporting facts] → The Prosecution invoked [Article 36.03] at the start of the trial, but later on in the trial it was uncovered that an intern for [Loring Rummel] (The States habeas corpus judge in Carter's case) had been violating the rule repeatedly. The court does not inquire on what was said and to whom regarding the violation of the rule.

<sup>see</sup> Exhibit "N"

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(Focus Note:) Also at the same time as ground 4 is happening in the CORRUPT COURT, [Michell Camara] the paralegal and wife of defense counsel [Edward Camara] comes in the court-room from out in the hallway and says out loud in OPEN court to everyone who is in the court "THEY'RE OUT THERE TELLING THEM WHAT TO SAY". defense counsel requested a mis-trial, which the court denies. This has been HELD OFF THE RECORD

5) [Carter's] due Process rights and his right to a fair trial was violated, do to the trial courts abuse of discretion by allowing Dr. Nancy Kellogg's testimony over defense counsel's objection. [Supporting facts] → defense counsel tells the court, any type of medical opinion that Dr. Kellogg give would be inadequate and that it's not good evidence to render an opinion in this particular case. The court overrules and allows Dr. Nancy Kellogg to testify as an expert witness in [Carter's] trial. <sup>see</sup> Exhibit "Q"

(Focus Note:) Dr. Nancy Kellogg's testimony as an expert witness in jury trials have been deemed by her peers and the courts to be flawed (<sup>see</sup> The San Antonio Four) they say she has introduced dubious medical findings when given advise in jury trials. "Junk science"

6) [Carter's] due process rights and right to a fair trial was violated, do to the trial courts abuse of discretion for not allowing [Carter] to be present in the court room during all of the trial proceedings. [Supporting facts]. A note from the jury was sent to the court and petitioner was denied his right to be present and hear or object. The note was sent to the CORRUPT COURT at the end of the guilt/innocence phase of the trial. The note said "are the witnesses notified that they are under oath with a threat of perjury if they lie on the stand, (which shows doubt). The CORRUPT COURT AND TRIAL COUNSEL BOTH DENIE [Carter] his right to be present. <sup>see</sup> Exhibit "P"

7) [Carter's] due process rights and right to a fair trial was violated, do to the CORRUPT COURTS abuse of discretion for denying defense counsel's request for a mistrial. [Supporting facts] → The prosecution makes a comment in front of the jury, which is "the defense would be agreeable" to a states exhibit, but the defense was not. Defense requested a mistrial. The court denies, but by do so it's manipulates the record to do it. <sup>see</sup> Exhibit "Q"

[Carter] prays that the HONORABLE SUPREME COURT OF THE UNITED STATES exercise it's discretion in this case, because these fundamental Constitutional errors in petitioners trial seriously affected the integrity, fairness and the public reputation of the judicial proceedings.

[Carter] went to trial in July of 2013 in a CORRUPT COURT and pled "not guilty" to all of the charges against him, because [Carter] is innocent of the crimes that he has been convicted of in a CORRUPT COURT.  
Petitioner cannot prove that [Angus McGinty] was CORRUPT in his trial, his actual motivations were hidden from review, but [Carter] can show from his Reporter's Record, which has been "alter" and certified by court reporter [Kay Gittinger] how [Angus McGinty] disregarded and manipulated state and federal laws in [Carter's] trial, which have "NEVER" been reviewed by any court in The United States of America.

The fifth circuit court of appeals said "Appellate counsel Mr. McKeathen NEVER NOTIFIED Carmell of his appointment as attorney of record thereby leaving Carmell [the defendant] entirely UNAWARE of what was occurring in the appeal process. The fifth circuit also said "These aggregated errors UNDERMINE the reliability of THE PROCESS and they are sufficient magnitude to warrant the PRESUMPTION OF PREJUDICE and for us to conclude that Carmell's constitutional right to effective assistance of counsel on appeal was violated."

IN [Carter's] direct appeal, [Raymond E. Fuchs<sup>SBN# 07498400</sup>] committs and admits to these same types of aggregated errors <sup>see</sup> Exhibit "H". Raymond E. Fuchs was court appointed by a CORRUPT COURT to represent [Carter] on direct appeal.

[Carter] was "NEVER NOTIFIED by appellate counsel, trial counsel, or the corrupt trial court, of the representation of Mr. Fuchs as attorney of record for [Carter's] direct appeal. [Raymond E. Fuchs] as appellate counsel NEVER saw, wrote or communicated with petitioner ever, about anything CONCERNING a direct appeal, which warrants a PRESUMPTION OF PREJUDICE in [Carter's] case, and was detriment to his legal rights and claims.

[Carter] diligently attempted to find out who was appointed as his counsel on direct appeal.

[Carter] wrote the trial court, trial counsel and the Fourth Court of Appeals [San Antonio, Tx], but got "NO RESPONSE" from any of them.

Evitts v Lucey 105 S.C.T 830, 836 → A First appeal as of right therefore is not adjudicated in accord with DUE PROCESS of law if the appellant does not have the effective assistance of an attorney on DIRECT APPEAL.

[Raymond E. Fuchs <sup>SBN# 07498400</sup>], appointed appellate COUNSEL went on and filed on inadequate brief <sup>see Exhibit W</sup> in the Fourth Court of Appeals [San Antonio Tx] on behalf of [Carter] with-out petitioner's KNOWLEDGE OR AGREEMENT. [Carter] "never" saw the brief that was submitted to the appellate court, until the court affirmed the conviction. Mr. Fuchs was not the one who sent [Carter] a copy of the brief, it was the appellate court along with its MEMORANDUM OPINION, which stated → "BECAUSE CARTER'S OBJECTION TO THE EXPERT'S TESTIMONY AT TRIAL DOES NOT COMPORT WITH THE ISSUES RAISED ON APPEAL, THE ISSUES WERE NOT PRESERVED AND ARE THEREFORE WAIVED."

(Pet. App.F)

The fourth court of appeals, [San Antonio, Tx] also said in its opinion, "If an appellant's objection at trial does not comport with the issues raised on appeal, the issues raised on appeal have not been preserved for appellate review." In Mr. Fuchs affidavit to the states habeas court he says he examined the reporter's record. Mr Fuchs as appellate counsel should have known that the point of error on direct appeal "must" correspond to the objection made at trial. Mr. Fuchs from experience should have known that an objection stating one legal theory ~~can~~ may not be used to support a different legal theory on direct appeal. Mr. Fuchs did not bring up the issue that shows [Carter] is innocent of aggravated sexual assault of a child. Exhibit "V". [Raymond E. Fuchs <sup>SBN#</sup> 07498400]

brought up nonexistence claims to the fourth court of appeals on behalf of [Carter], with-out "ever" informing petitioner.

AKE v. Oklahoma 105 S. CT. 1087, 1093 "fundamental fairness entitles an indigent defendant to an adequate opportunity to present his claims fairly within the adversary system." [Carter] was denied this opportunity because appellate counsel was objectively unreasonable in failing to show and find arguable preserved issues in the Reporter's Record for the appellate court to review.

In [Carter's] case [Raymond E. Fuchs was found to be ineffective by the Texas Court of Criminal Appeals, because he failed to inform [Carter] that his conviction had been affirmed on direct appeal and also because counsel failed to advise petitioner of his right to petition pro-se for discretionary review. Exhibit "G" The state courts chose not to address the fact that [Raymond E. Fuchs] "NEVER" informed [Carter] that he had been court appointed to represent petitioner on direct appeal. The States habeas court does designate this as an issue Exhibit I, which [Raymond E. Fuchs] admits to in an affidavit to the habeas court <sup>see</sup> Exhibit H.

IN Douglas v. California 372 U.S 353, 83 S.C.T

814 (1963), The SUPREME COURT Said: States must provide appointed counsel to indigent criminal defendants on appeal, "set forth the exclusive procedure through which appointed counsel's performance can pass constitutional muster." IN Texas, most if not all appellate [appointed] counsel will inform the defendant that he/she has been appointed by the trial court to represent a defendant on his direct appeal, either by letter or attorney vist. IN Texas, most if not all appointed appellate counsel will send the defendant a copy of the brief that he intends on filing to the appeals court on behalf of a defendant. IN Texas, most if not all appointed appellate counsel will communicate reasonable with a defendant regarding his direct appeal. IN [Carter's] case court appointed appellate counsel [Mr. Raymond E. Fuchs <sup>SBN # 07498400</sup>] failed to do "All" of the above.

469 U.S 387, 396, 105 S.C.T 830, 836 → an indigent defendant is constitutionally entitled to an effective attorney in his "ONE AND ONLY" appeal as of right, which occurs in a STATE COURT OF APPEALS. [Carter] did not receive reasonable effective assistance of counsel, during the direct appeal process, that the Sixth Amendment requires.

(Focus Note:) In every state and federal applications that [Carter] has filed. He has told the courts that appellate counsel [Raymond E. Fuchs] "Never" informed petitioner that he was appointed as counsel of record, and that counsel "Never" communicated with him "ever" about anything dealing with his direct appeal which warrants THE PRESUMPTION OF PREJUDICE. 22.

THE SUPREME COURT has HELD: That the right of access to courts is founded in the due process clause and assures that no person will be denied the opportunity to present to the judiciary allegations concerning violations of fundamental constitutional rights. wolf, 418 U.S at 579, Martinez  
94 S.C.T. at 2986) 416 U.S at 419  
94 S.C.T. at 1814

ON August 2, 2017 [Carter] filed his 2254 federal habeas corpus writ. [Carter] was told by the law library staff (prison) that he could not send parts of his trial transcripts to the federal district court unless they were specifically requested by the courts. [Carter] is an indigent inmate with no income, so he had to use the indigent process with the prison's law library to send his documents, which he has copies of. [Carter] was denied the right to show fundamental violations of constitutional rights to the federal district court, due to this state impediment, because he is <sup>see</sup> indigent. exhibit "J" This hindrance denied [Carter] his opportunity to present his claims/arguments in full to the federal district court for review. [Carter's] trial court was found to be CORRUPT. The trial Judge was convicted for bribery/corruption. [Carter] attempted to send parts of his trial transcripts to the federal courts, which show the corrupt's judges [Angus Mcginty] abuse of discretion/due process violations during [Carter's] trial, and more, but was denied this due process right.

It has been clearly established by the SUPREME COURT that prisoners have a constitutionally protected right of access to the courts, Bounds v Smith and part of that right encompass a petitioner to be able to provide "RELEVANT" PARTS of his trial

430 U.S 817, 821

975. CT. 1491, 1494

transcripts to the federal court for review of his 2254 federal habeas corpus writ. [Carter] filed a step one grievance form <sup>see</sup> Exhibit "J" when he was prevented from sending parts of his trial transcripts to the federal courts by the prison's law library staff. The response to the grievance, which is signed by the warden states: "An investigation has been conducted into your complaint. Law library staff state that you cannot send trial transcripts unless they were specifically requested by the courts. They state you were given the opportunity to mail the transcripts to your attorney but you chose not to do so. No further action is warranted."

(Focus Note:) At the 2254 federal habeas corpus litigation stage, a pro-se indigent petitioner is not entitled to an attorney, and in [Carter's] case on direct appeal, which by law a defendant is entitled to an attorney. [Carter] was never NOTIFIED of appellate counsel appointment as attorney of record in his case. [Carter] was never given the opportunity to give anything to an attorney, because petitioner never knew he had one from the start, which is a violation of [Carter's] federal constitutional rights. <sup>see</sup> Exhibit "H"

The touchstone of due process is protection of the individual against arbitrary action of government. Procunier v. Martinez 416 U.S 396 94 S CT 1800 Where Policies of state Penal institutions are involved, federal courts generally defer to the appropriate prison authorities, but a policy of judicial restraint cannot encompass any failure to take cognizance of valid constitutional claims whether arising in a federal or state institution; when a prison regulation or practice offends a fundamental constitutional guarantee, federal courts will discharge their duty to protect constitutional rights.

IN [Carter's] case his due process rights have been disregarded through-out, but in this issue, it is transparent and easily seen, because petitioner is poor and indigent and incarcerated in a Texas State Prison he was denied a right to show violations of constitutional rights to a federal district court, which are about a CORRUPT TRIAL JUDGE who was sentence to FEDERAL PRISON, whom presided over [Carter's] trial court proceedings. For these reasons Petitioner [Carter] believes that the Honorable SUPREME COURT Should grant Petitioner's Writ of certiorari, and reverse the un-constitutional conviction of a CORRUPT STATE TRIAL COURT, which petitioner was subjected to.

# CONCLUSION

IN [Carter's] case there has been a lack of the proper functioning of the adversary process and it's integrity from the start.

A CORRUPT and PARTIAL Judge [Angus McGinty] presided over petitioner's trial court proceedings. Then on direct appeal petitioner is "Never" NOTIFIED that [Raymond E. Fuchs] is court appointed to represent [Carter] on direct appeal. The court appointed appellate counsel files an inadequate brief to the appellate court on behalf of [Carter], counsel "Never NOTIFIES" or even sends [Carter] a copy of what he has filed with the appeals court.

[Carter] files an 11.07 state habeas corpus writ and brings up claims about a CORRUPT TRIAL JUDGE'S abuse of discretion / due process violations, which occurred during the trial. The states habeas court says that the claims "SHOULD HAVE BEEN RAISED ON DIRECT APPEAL", which basically means that appointed appellate counsel [Raymond E. Fuchs] denied [Carter] his opportunity to comply with the states procedures and obtain an adjudication on the merits of his claims in the state courts, which proves that appellate counsel was ineffective on [Carter's] direct appeal. The district Federal court and the fifth circuit Federal court say that the state courts procedurally barred [Carter's] claims. SUPREME COURT Precedent is the only authority that is controlling and that authority says that [Carter's] claims are not procedurally barred and "must" be adjudicated on the merits.