NO: 19-5576

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

WILLIAM TAYLOR,

Petitioner,

V

SUPERINTENDENT, WVCF,

Respondent.

Appeal from

UNITED STATES DISTRICT COURT

Dist. Ct. No. 2:17-CV-000147-WTL- MJD

PETITION FOR WRIT OF CERTIORARI

~~Petitioner / pro-se:~~

WILLIAM TAYLOR
DOC # 219153, N-
WVCF, P.O. Box 1111
Carlisle, IN 47838

QUESTIONS PRESENTED

I. WHETHER THE ADDITIONAL SIXTY (60) YEARS TAYLOR RECEIVED AT TRIAL WHEN ATTORNEY ALLEN LIDY FAILED TO COMMUNICATE THE BOONE COUNTY TWENTY (20) YEAR PLEA OFFER CONSTITUTED PREJUDICE TO TAYLOR UNDER *LAFLER V. COOPER, 132 s. Ct. 1376, 1391 (2012)*?

II. WHETHER IT WAS ABUSE OF DISCRETION WHEN ALL THE LOWER COURTS ACCEPTED AND USED HEARSAY TESTIMONY FROM ATTORNEY ALLEN G. LIDY FROM AN UNDISCLOSED LETTER, ALLEGEDLY WRITTEN FIVE (5) MONTHS PRIOR TO TRIAL, TO JUSTIFY LIDY'S FAILURE TO COMMUNICATE THE BOONE COUNTY'S TWENTY (20) YEARS PLEA OFFER TO TAYLOR?

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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INCLUDES ALL RELEVANT DOCUMENTS FROM ALL OTHER COURTS THAT THE UNITED STATES DISTRICT COURT MADE REFERENCE TO IN THEIR DECISION.

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`THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

The Petitioner respectfully prays that this Honorable Court issue a writ of certiorari to review the judgment below.

OPINIONS BELOW

☒ For cases from **Federal courts**:

The opinion of the United States Court of Appeals appears at Appendix _____ to the petition and is-

The opinion of the United States District Court appears at Appendix __A__ to the petition and is- **Denied with Prejudice, and denied Certificate of Appeallability**

☐ reported at; or,

☐ has been designated for publication but is not yet reporter; or,

☐ is unpublished.

UNKNOWN

JURISDICTION

☒ For cases from **Federal courts**:

The date on which the United States Court of Appeals decided my case was **FEBRUARY 28, 2019**.

The U.S. District Court Denied Habeas Corpus on August 1, 2018; then denied a certificate of appealability and permission to proceed in forma pauperis. Having been denied access to the U.S. Court of Appeals, Taylor filed his original petition for writ of certiorari on November 1, 2018, within the prescribed ninety days. On November 8, 2018, the U.S. Court of Appeals returned Taylor's filing informing Taylor that the U.S. Court of Appeals must review my case. Taylor refiled his appeal in the U.S. District Court as required and that Court again denied a certificate of appealability and permission to proceed on appeal in forma pauperis. Having new information, Taylor submitted both the certificate of appealability and forma pauperis directly to the U.S. Court of Appeals which accepted and granted both. The U.S. District Court then argued Jurisdiction claiming Taylor's appeal was frivolous and Taylor was ordered to file a jurisdictional memorandum. The U.S. Court of Appeals dismissed Taylor's Appeal for 'lack of jurisdiction' on February 28, 2019. Taylor refiled his Petitioner for Writ of Certiorari on _____ where he improperly listed all of the Courts instead of only the United States District Court. Taylor corrected his Writ and refiled on July __, 2019.

☒ 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: _____ ____, 20__, 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 July 29 ____, 2019, on May 29 ____, 2019, in Application No. __, and a copy of the order granting said extension appears at Appendix 17 & 53

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

CONSTITUTIONAL PROVISIONS AND STATUTES

SIXTH AMENDMENT to the UNITED STATES CONSTITUTION

The 6th Amendment of the United States Constitution establishes the right for defendants to have effective counsel in criminal prosecutions. The Supreme Court set forth the standards for EFFECTIVE ASSISTANCE OF COUNSEL in *Strickland V Washington, 466 U.S. 668, 80 L.Ed.2d 674, 104 S. Ct. 2052 (1984). Strickland* provides the two (2) prong test: 1) must show deficient performance; and 2) must show PREJUDICE. In the case-at-hand, the Court's established that attorney ALLEN LIDY was INEFFECTIVE for failing to communicate the Boone County plea offer; but that his ineffectiveness did not prejudice Taylor. In L*afler V Cooper, 182 L.Ed2d 398, 566 U.S., 132 S. Ct. 137692012)*, the United States Supreme Court established that when ineffective assistance of counsel causes a rejection of a plea leading to a more severe sentence at trial, it IS PREJUDICE.

The 6th Amendment also established that a defendant has the right to confront witnesses against him. In this case, the lower Courts used HEARSAY testimony from Lidy rather than requiring the letter itself be entered as evidence. The U.S. District Court then excepted the hearsay and based its decision upon the same HEARSAY that the State Courts used.

FOURTEENTH AMENDMENT to the UNITED STATES CONSTITUTION

The 14th Amendment of the United States Constitution applies to State Government Officials and establishes that no person will be deprived of life, liberty, or property, without DUE PROCESS of LAW. In *Timbs V Indiana, 203 L.Ed.2d, S 642, __ S.Ct. __; 2019 U.S. Lexis 1350*, the United States Supreme Court stated," The Fourteenth

Amendment's Due Process Clause incorporates and renders applicable to the States Bill of Rights protections ``fundamental to our scheme of ordered liberty,'' or{2019 U.S. LEXIS 2} ``deeply rooted in this Nation's history and tradition.'' *McDonald* v. *Chicago*, 561 U. S. 742, 767, 130 S. Ct. 3020, 177 L. Ed. 2d 894 (alterations omitted). If a Bill of Rights protection is incorporated, there is no daylight between the federal and state conduct it prohibits or requires. The DUE PROCESS CLAUSE provides a two (2) prong test for Due process violations: 1) was there an actual deprivation; and 2) DID IT OCCUR WITHOUT DUE PROCESS OF LAW. In this case, the DUE PROCESS violations included: a) ABUSE OF DISCRETION at both the Federal and State levels; b) HEARSAY at the Federal and State level; and OMNIBUS DATE violation at the State level.

STATEMENT OF THE CASE

On February 4, 2010, Boone County, Indiana, charged Taylor with one (1) count of child molesting as a class B felony. In January 2011, the Boone county Prosecutor, transmitted a **PLEA OFFER** to Taylor's defense attorney Allen Lidy. The Plea Offer consisted of Taylor pleading guilty as charged to the class B felony with a sentence to be twenty (20) years incarceration. The offer stipulated: "**IF TAYLOR DOES NOT ACCEPT THE OFFER BY JANUARY 24, 2011, THE STATE WOULD AMEND THE CHARGING INFORMATION TO TWO (2) CLASS A FELONY CHILD MOLESTING CHARGES.**" Defense counsel Allen Lidy, **FAILED** to communicate the State's **PLEA OFFER**. The January 24, 2011, deadline passed without resolution and the Trial Court granted the State's motion to amen Taylor's charge to two (2) counts of class A felony child molesting, each carrying a possible 20-

50 year sentences. A jury convicted Taylor on both counts in February 2011, and the Trial Court sentenced Taylor to forty (40) years for each conviction with sentences to run consecutively.

On October 3, 2012, Taylor filed a petition for post-conviction relief. Taylor alleged that trial counsel G. Allen Lidy was **INEFFECTIVE** for **FAILING TO COMMUNICATE THE STATE'S PLEA OFFER** to him. The PCR Court filed its Finding of Fact and Conclusions of Law on October 14, 2015. In that filing, the PCR Court found that attorney Lidy **WAS INEFFECTIVE**, but that Taylor was not prejudiced by Lidy's ineffectiveness. [Appx. Pg. 87]

Taylor timely filed his appeal of the PCR denial. The Indiana Court of Appeals adopted the PCR Court's findings and affirmed Taylor's conviction. [Appx. Pg. 69] On November 22, 2016, Taylor filed his Petition To Transfer to the Indiana Supreme Court; where that Court held an **Oral Hearing**, but ultimately denied Taylor's petitioner to transfer on March 3, 2017. [Appx. Pg. 54]

Taylor timely filed his Petition for Habeas Corpus in the U.S. District Court, Southern District of Indiana, in the Terre Haute Division. On August 1, 2018, the U.S. District Court rendered **FINAL JUDGMENT**, dismissing Taylor's petitioner with **PREJUDICE** and **DENIED** Taylor a Certificate of Appealability. [Appx. Pg. 15] Taylor being untrained in the Law believed that a **DENIAL WITH PREJUDICE** and **DENIAL of a CERTIFICATE OF APPEALABILITY** meant the next step to be a Writ of Certiorari which he filed on November 1, 2018, in order to maintain the time limit for filing. On November 8, 2018, the Clerk of the United States Supreme Court returned Taylor's papers stating: "Your case must first be reviewed by a U.S. Court of Appeals or by the highest state court in which a decision could be had, 28 USC *1254* and *1257*. [Appx. Pg. 17]

Taylor filed a Notice of Appeal; Leave To Proceed in forma Pauperis; Designation

of Pleadings on appeal; Docketing Statement; and $5.00 Docketing fee, on December 10, 2018, in the District Court. On December 14, 2018, the District Court **AGAIN DENIED** Taylor's request to proceed on appeal in Forma Pauperis, but this time issued a discussion where the District Court accused Taylor of, "his appeal is not taken in good faith", quoting *Lee V Clinton, 209 F.3d 1025, 1026 (7th Cir. 2000)*, "to sue in bad faith means merely to sue on the basis of a **FRIVOLOUS CLAIM."** [Appx. Pg. 24] In the I.D.O.C. setting, when a court brings up a **'FRIVOLOUS claim'**, it automatically places I.D.O.C. offenders in **JEOPARDY** of receiving a B-243 write-up for filing '**frivolous claims**' which includes sanctions and loss of goodtime. Taylor believed this to be a direct **THREAT** from the U.S. District Court.

Because Taylor was not a trained attorney and did not know the process for continuing his appeal, Taylor enlisted the assistance of another offender to file his Leave to Proceed on Appeal in Forma Pauperis directly to the U.S. Court of Appeals for the 7th Circuit. On December 12, 2018, the Court of Appeals issued its Order for Taylor to file a 'brief memorandum stating why the appeal should not be dismissed for lack of jurisdiction', which was filed on January 18, 2019, and the Appellee was then ordered to respond by January 30, 2019. The United States Court of appeals **DIMISSED** Taylor's Appeal 'for lack of jurisdiction' on February 28, 2019. [Appx. Pg. 52] Taylor prepared his Writ of Certiorari according to the information provided at the WVCF Law Library, which **DID NOT** provide a clear and concise road map in the proper filing of the Writ. On May 29, 2019, the United States Supreme Court returned Taylor's filing with instructions and guidelines in filing a proper Writ of Certiorari. [Appx. Pg. 53]

Taylor now re-files his Writ of Certiorari with-in the time stipulated by the Clerk of the United States Supreme Court.

REASONS FOR GRANTING THE WRIT

The United States District Court relied solely on the Indiana State Court's 'factual findings', [Appx. Pg. 3], rather than the evidence presented to the Court in the Habeas briefs. It is here where the District Court made its **firsts error**. The District court stated, "he failed to timely petition for transfer to the Indiana Supreme Court, and his motion for leave to file an untimely petition was denied." [Appx. Pg. 6] This statement was misplaced, in that the Indiana Supreme Court went as far as to hold an **ORAL HEARING** before rendering its decision, Which indicated that Indiana's highest court felt the need to review the **FACTS** that the Indiana Court of Appeals and the PCR Court. [Ind. Sup. Ct. Oral Hearing, attached disc; Deci. At Appx. Pgs. 54 Disc at 58] The only place that the District Court could have gotten the false information that the transfer was denied due to an untimely petition, would have been from the Indiana Attorney General's Reply Brief, which the enclosed disk and Decision shows to be **FALSE.**

It is evident that because of this, the U.S. District Court relied upon the Indiana Court of Appeals, [Appx. Pg. 7,8] And as can be seen in its decision, the Indiana Court of Appeals quoted the entire Findings of Fact and Conclusions of Law of the Post-Conviction Court, basing its entire decision upon the hearsay testimony of attorney Allen Lidy, who was found to be **ineffective;** who quoted an alleged letter that was to have been written by Taylor Five (5) months before Boone County made its plea offer, **IGNORING THE OVERALL PREJUDICES** that Lidy and the PCR court made toward Taylor. [Appx. Pgs. 61 thru 69]

This is where the District Court made its **second error**. The State Courts made their decisions based upon the testimony of Taylor's defense attorney Allen Lidy, concerning an

alleged letter between Taylor and Lidy. First, this letter would have been privileged attorney-client information and work product between Taylor and his attorney, Lidy; Second, Lidy did not produce the letter at the PCR Hearing, so Lidy's testimony about the alleged letter was **HEARSAY**, and could not have been used; and Third, the PCR Court accepted the letter as evidence as having been written approximately **FIVE (5) to SIX (6) MONTHS**, before Taylor's trial, and approximately **FOUR (4) MONTHS** before the Boone County plea offer that Lidy **FAILED** to communicate to Taylor.

Because the District Court relied upon the Indiana Court of Appeals, and the Indiana Court of Appeals relied upon the Post-Conviction Court, **ALL CASE FACTS** must be reviewed from the Post-Conviction Findings of Fact and Conclusions of Law in relation to the State and **FEDERAL** Laws.

ARGUMENTS

A claim of Ineffective Assistance of Counsel must satisfy the two (2) prongs set forth in *Strickland V Washington, 466 U.S. 688, 104 S. Ct. 2052, 80 L.Ed2d 674 (1984)*, where the United States Supreme Court held, "**First**, the defendant must show deficient performance: representation that fell below an objective standard of reasonableness, committing errors so serious that the defendant did not have the counsel guaranteed by the Sixth Amendment. *Id.* at 687-88. "Indiana Courts have long recognized that an attorney's failure to inform a client of a plea offer extended by the State constitutes ineffective assistance of counsel." *Curl V State, 400 N.E.2d 775, 777 (Ind. 1980); Dew v State, 843 N.E.2d 556, 569-570 (Ind. Ct. App. 2006) trans denied; Lyles V State, 382 N.E.2d 991 (Ind. Ct. App. 1978).* **Second**, the defendant must show **PREJUDICE**: "a reasonable probability that, but for counsel's errors, the result of the

proceeding would have been different. *Id.* At 694." The United States District Court and the Indiana Courts hold to the same standards as the Court in *Strickland,* concerning Ineffective Assistance of Counsel, but have **FAILED** to acknowledge the United States Supreme Court's holdings in *Lafler V Cooper, 182 L.Ed2d 398, 566 U.S., 132 S.Ct. 1376 (2012)*, concerning **PREJUDICE**. In *Lafler*, the Court clearly found that, "Where a defendant shows ineffective assistance has caused the rejection of a plea leading to a more severe sentence at trial, the remedy must ``neutralize the taint'' of a constitutional violation, *United States v. Morrison, 449 U.S. 361, 365, 101 S. Ct. 665, 66 L. Ed. 2d 564*, but must not grant a windfall to the defendant or needlessly squander the resources the State properly invested in the **<*pg. 404>** criminal prosecution, see *United States v. Mechanik, 475 U.S. 66, 72, 106 S. Ct. 938, 89 L. Ed. 2d 50.*"

In the present case, attorney G. Allen Lidy represented Taylor in this case. On January 18, 2011, the Boone County prosecutor offered Taylor's counsel the opportunity for Taylor to plead guilty as charged to the class B felony Child Molesting, with a twenty (20) year sentence. The State also included the condition, that if Taylor did not accept the offer by January 24, 2011, the State would withdraw the offer and amend the information changing it to two (2) class A felony Child Molesting charges. Trial counsel **ALLEN LIDY, FAILED TO COMMUNICATE THE STATE'S PLEA OFFER** to Taylor, and on January 28, 2011, just three (3) days prior to trial, the Trial Court allowed the State to amend the information from one(1) class B felony child molesting to **two (2) class A felony** Child Molesting charges.[1] The trial began on February 1, 2011, and the jury found Taylor guilty on both charges. The Trial Court sentenced Taylor to forty (40) years on each conviction, to run consecutively for an

[1] The Trial Court allowed the State to amend Taylor's charges just THREE(3) days prior to trial beginning on February 1, 2011, well beyond the OMNIBUS date. On January 26, 2011, a pre-trial hearing was held where attorney Lidy argued that allowing the State to amend the charges to two(2) class A felonies would be 'unjust prejudice' to Taylor, but NEVER raised the OMNIBUS issue.

aggregate eighty (80) years. [Appx. Pg. 60] The Indiana Post-Conviction Court did find attorney Lidy to be **INEFFECTIVE** for **FAILING TO COMMUNICATE** the State's **PLEA OFFER** to Taylor. [Appx. Pg. 85] This satisfies the first prong of Strickland and is not the issue at hand, but leaves the **PREJUDICE** prong as the issue in contention.

I. PREJUDICE PRONG-

In *Lafler V Cooper, 182 L.Ed2d 398, 566 U.S., 132 S.Ct. 1376 (2012),* "Because the parties that counsel's performance was deficient, the only question is how to apply *Strickl and's* prejudice test where ineffective assistance results in a rejection of the plea and the defendant is convicted at the ensuing trial." The PCR Court, Indiana Court of Appeals, Indiana Supreme Court, and the U.S. District Court have all adopted the PCR court findings that Taylor was not prejudiced, regardless of the U.S. Supreme Court's findings in *Laffler*. The PCR court and the Indiana Court of Appeals made their decisions based on attorney Lidy's testimony that Taylor had allegedly stated in a letter six (6) months earlier to Lidy, that "Taylor did not want to admit to anything but touching, and that Lidy statement did not fit in with Lidy's global plea strategy."[2] The Indiana Supreme Court went further, when in Oral Hearing, they claimed that any relief that they may grant Taylor would be **prejudicial** to Hendricks County. [Appx. Pgs. ___, and enclosed CD]

Each of the State Courts based their prejudice decision on the **HEARSAY** testimony of attorney Lidy, who those same courts found to be **INEFFECTIVE**. At the PCR Hearing, Lidy testified that Taylor had written him a letter where Taylor allegedly stated that he (Taylor) would not admit to anything other than touching.[3] What Lidy did not tell the PCR Court, was that

[2] The alleged letter was NEVER provided as evidence.
[3] The alleged letter was **NEVER** entered as evidence in any court proceeding. The contents of the letter was alleged by the testimony of attorney Lidy which was found to be Ineffective. **NO** letter was ever presented to the PCR Court, for verification.

Taylor had written Lidy approximately twenty-five (25) times while he was being held in county jail, all because Lidy would not contact Taylor, which was also ineffective assistance of counsel. None of the lower court's ever bothered to consider Taylor's position that Lidy had put him in as defense counsel. This Court only needs to review the PCR Court's Findings of Fact to see that the PCR Court **CONTRADICTED** its own **FACTS**.

Prior to his Boone and Hendrick counties' charges, Taylor had **NEVER** had any prior interactions with law enforcement. Not even traffic violations. When Lidy was assigned to defend Taylor, Taylor had no choice but to place his life in Lidy's hands. Taylor was a 61 year old, uneducated[4], defendant, that knew **NOTHING** of the Law. It was Lidy's **DUTY** as Taylor's defense counsel, to keep Taylor informed during his year+ detention in county jail. It was Lidy that came up with the 'global' plea between Boone County and Hendrick County. **IT WAS LIDY THAT TOLD TAYLOR THAT HE WOULD ONLY HAVE TO PLEAD TO TOUCHING IN THE GLOBAL PLEA**. Lidy would not keep Taylor updated and left Taylor without any contact for **MONTHS**. There were several indicators that Lidy's plan that Taylor would only have to plead to touching in a 'global plea' **WAS NOT GOING TO WORK**: 1) Hendrick County's one and only plea offer was that Taylor would plead guilty to a class B- child molesting, which Taylor did take, and included more than just touching. This plea alone took the 'just touching' out of the equation. Attorney Lidy knew this for months before the Boone county's plea offer; 2) It has already been established that Lidy was ineffective for failing to communicate the Boone county plea offer, which was going in the wrong way for Lidy's plan of a 'global plea' and 'not pleading to anything more than touching' to work.

At the PCR Evidentiary Hearing, the PCR Court did find attorney Lidy to be

[4] Taylor received his GED while incarcerated.

INEFFECTIVE for **FAILING TO COMMUNICATE** the State's **PLEA OFFER** to Taylor. [Appx. Pg. 85] At the same time, the PCR Court stated that Taylor was not **prejudiced** by the ineffectiveness, ignoring the obvious **PREJUDICE** that Taylor was sentenced to **EIGHTY (80) YEARS**; sixty (60) years **more** than the twenty (20) years that Taylor would have received from the State's **PLEA OFFER**. [Appx. Pg. 86] While the number of years that Taylor received was the most glowing **prejudice**, there are others which Taylor will now show.

II. ABUSE OF JUDICIAL DISCRETION- PREJUDICED Taylor:

At Taylor's PCR Hearing, [Appx. Pg 80] the PCR Court made multiple assertions that Taylor:

a) "knew the sentencing ranges he was facing in Boone county";
b) "knew he had no right to a plea offer from the State";
c) "knew that he could have been charged with an A felony off the bat in Boone County";
d) "knew the potential that charges could be amended and increased after full discovery"; and
e) "the amendments to the charges came as no surprise to Taylor."

The PCR Court made its whole assumption on, "he [Taylor] demonstrated knowledge of that fact when he inquired in his letter to his lawyer."[5] [Appx. Pg. 80 This statement could not be further from the truth of the matter. Taylor was arrested in February 2010, and Taylor wrote twenty-five (25) letters between the time that he was arrested and the Boone County trial, all because Lidy **WAS NOT COMMUNICATING ANYTHING** to Taylor. It has been established that Lidy did not communicate the Boone county plea offer at any time, therefore Taylor **COULD NOT HAVE KNOWN** any of the things that the PCR Court was accusing him of knowing. This was **HEARSAY** because Lidy did not present any letters to the PCR Court to support his claim. It was **Abuse of Discretion** for the PCR Court to **ASSUME** that Lidy would

[5] The attorneys nor the Courts **EVER** provided Taylor with a copy of the letter when he requested copies of the Record's on Appeal. This was **HEARSAY** from an ineffective counsel.

inform Taylor of the five (5) things listed above, that the Court claimed Taylor knew when the Court already knew that Lidy had not informed Taylor of anything. The five (5) things that the PCR Court claims Taylor knew, could not be **further from the truth of the matter.** Taylor was arrested in February 2010, and Taylor wrote approximately twenty-five (25) letters, inquiring what was going on with his case from the jail. Just as Lidy had not kept Taylor informed about how he was progressing with his 'global plea' adventure, Lidy **INTENTIONALLY WITHHELD** the Boone County plea offer because if Taylor would have chosen to accept the plea offer, it would interfere with his 'global plea' that was already **NOT WORKING.** The PCR Court attempted to rationalize why Lidy would not inform Taylor of the Boone County plea offer, when it stated, "**It isn't true as Lidy states or implies that this was 'no offer'. It is true that it was not, from Lidy's or his client's point of view a very helpful of or a very pleasing offer.**" [Appx. A, Pg. 79] The PCR Court **CANNOT ASSUME** what 'his client', Taylor's, point of view would have been when Lidy **NEVER** informed him of the offer. The PCR Court **IS NOT CLAIRVOYANT**! The PCR Court does not and could not know what Taylor's response would have been, had Lidy informed him of the Boone County plea offer. The PCR Court also quoted a degrading statement made a year and a half (1 ½) years earlier, " Taylor's crocodile tears about wanting to 'spare the family' carry the weight of a pocketful of tissue," to support its statement that, "The Court does not believe Taylor would have pled guilty to a B felony child molesting in Boone County in January 2011." [Appx Pg 80]

III. OMNOBUS DATE VIOLATION- PREJUDICED TAYLOR: [Appx Pgs 73, 81]

When the State amended Taylor's charges, they created for themselves a violation of the **OMNIBUS DATE**[1] pursuant to State Law in *Fijardo V State, 859 N.E.2d 1201 (Ind. Sup. Ct. 2007)*, where the Indiana Supreme Court stated in part, "This statutory language thus conditions

The permissibility for amending a charging information upon whether the amendment falls into one of three classifications: (1 amendments correcting an ***immaterial defect***, which may be made at any time, and [*859 N.E.2d 1205*] in the case of an unenumerated immaterial defect, only if it does not prejudice the defendant's substantial rights; (2) amendments to ***matters of form***, for which the statute is inconsistent, subsection (b) permitting them only prior to a prescribed period before the omnibus date, and subsection (c) permitting them at any time but requiring that they did not prejudice the substantial rights of the defendant; and (3) amendments to ***matters of substance***, which are permitted only if made more than thirty days before the omnibus date for felonies, and more than fifteen days in advance for misdemeanors. See *Haak V State, 695 N.E.2d* 944, 951 (Ind. 1998).

IV. TAYLOR'S LACK OF KNOWLEDGE OF THE LAW- PREJUDICED TAYLOR:

Taylor placed his life in attorney Allen Lidy's hands. At the time of his arrest in February 2010, Taylor was a 61 year old, uneducated defendant that knew **NOTHING** of the law because he had **NEVER** had any prior interaction with authorities in the past.[6][7] Throughout its Findings of fact and Conclusions of Law, the PCR Court made multiple assertions that Taylor: [Appx. Pg. 80]

> "knew the sentencing ranges he was facing in Boone County";
> "knew he had no right to a plea offer from the State";
> "knew that he could have been charged with an A felony off the bat in Boone County";
> "knew the potential that charges could be amended and increased after full discovery"; and
> "the amendments to the charges came as no surprise to Taylor."

The PCR court stated, "Taylor did not always want to plead guilty. He wrote his lawyer

[6] Prior to the Boone and Hendricks County's charges, Taylor had **NEVER** even had a traffic violation much less felony charges making the need for **EFFECTIVE** representation a priority.
[7] Taylor has studied and received his GED while incarcerated.

asking what the chances were of beating the charges in both Boone and Hendricks counties. In his letter he shows that he wanted to defend the allegations and to exploit any 'discrepancy' in testimony of witnesses." [Appx. Pg. 29] This is the **SAME** alleged letter which was never entered as evidence, but was entered through the hearsay testimony of attorney Lidy; and used to justify Lidy's failure to communicate the Boone County plea deal. Even though the alleged letter was to have been written **FIVE (5) MONTHS** before the amended charges opened Taylor up to **one (1) hundred years** of incarceration rather than the **twenty (20) years** he was facing at the time the letter was written. What defendant would not want to '**beat his charges**'? The PCR Court made assumptions based upon a letter written to attorney Lidy, almost five (5) months prior to the State made its **PLEA OFFER** on January 18, 2011. The PCR Court **COULD NOT REASONABLY** rely on any statements made by Taylor, in a letter written so long before the plea offer was made, to justify attorney Lidy's **FAILURE TO COMMUNICATE** that **PLEA OFFER**.

The PCR Court, in its Findings of Fact and Conclusions of Law, made multiple admissions that it believed, but was not based on any facts: [Appx. Pg. 27]

> "Lidy is telling the truth about his case strategy";
> "this was a sensibly strategy to formulate on Taylor's behalf";
> "No other strategy was a better strategy"; and
> "he [Lidy] did not think Taylor would ever plead guilty to the B felony as it would be usable against Taylor in Hendrick's County case as 404(b) evidence."

Being that Taylor was arrested in February 2010, Lidy had **FAILED** to make his strategy of a global plea work for almost a **FULL YEAR** before the State made its **PLEA OFFER** in Boone County, which was just thirteen (13) days before trial began. There is **NO POSSIBILITY** that a reasonable attorney would believe that his strategy of a global plea would work when Boone County was going to amend Taylor's charges raising his exposure to 100 years verses the 20

years that he was working with. The PCR Court referred to *Missouri V Frye, 311 S.W.3d 350 (Mo. Ct. App. 2010)* to suggest, "Would an effective advocate have advised Taylor to take the plea?" [Appx. D, Pg. 86] Whether it would have been effective for Lidy to advise Taylor to accept or reject the plea is **IRRELEVANT**. Lidy could not advise Taylor to accept or reject the plea because he **NEVER COMMUNICATED** the State's **PLEA OFFER** to Taylor. There is absolutely **NO** law that suggests that an attorney's strategy allows a defense attorney to withhold a **PLEA OFFER** from his client, regardless whether he believes that the defendant will or will not accept the plea offer. When the State informed Lidy on January 19, 2011, that it would file a Motion to Amended Information if Taylor did not accept the "State's plea offer by January 24, 2011; Lidy should have known at that time that his '**STRATEGY**' of a global plea agreement between Boone county and Hendrick county, **WAS NOT WORKING**. [Appx. A, Pg. 81]

"On January 19, 2011, a telephonic pretrial conference was held where Lidy appeared **WITHOUT** Taylor. The Court set a deadline of January 21, 2011, for the State to file additional charges."[8] [Appx. Pg. 80] "On January 26, 2011, a pretrial motions hearing was held, and over Taylor's objection (Lidy's), and finding that no unfair prejudice, the trial court granted the State's Motion To Amend Information", and Taylor was charged with two (2) class A felony, child molesting. [Appx. Pg. 81, #'s 23 and 24] It was not until that January 26, 2011, hearing that Taylor first learned of the State's plea offer and that he was now facing the two(2) felony charges with a possibility of a **one-hundred (100) year** sentence from Boone county. It was at this hearing where Taylor was again **PREJUDICED** by attorney Lidy and the Trial Court.

The Trial Court **PREJUDICED** Taylor when in the face of Indiana Law it allowed the

[8] Since the trial began on February 1, 2011, the OMNIBUS date pursuant to Indiana Law should have been set at January 1, 2011. [I.C. 35-34-1-5(b)

State to amend Taylor's charging information, past the **OMNIBUS** date. The trial court amended Taylor's charges on January 26, 2011, just **SIX (6) DAYS** before the trial began on February 1, 2011. Pursuant to Indiana Law, *I.C. 35-34-1-5(b)*, "The indictment or information may be amended in **matters of substance** and the names of material witnesses may be added, by the prosecuting attorney, upon giving written notice to the defendant at anytime: **(1) upto: (A) THIRTY(30) DAYS** if the defendant is charged with a felony;... (2) before the commencement of trial; if the amendment **DOES NOT PREJUDICE** the substantial rights **of the defendant**..." This was **Abuse of Discretion** in the face of Indiana Law, for the Trial Court to allow Taylor's charges to be amended just six(6) days before trial. In *Fowler V State, 878 N.E.2d 889 (Ind. Ct. App. 2008),* the Indiana Court of appeals found, "State violated *I.C 35-34-1-5* in amending the charging information to include those offenses after the trial court failed to set an omnibus date; charges were changes of substances made to the charging information and could only be added 30 days prior to the omnibus date that should have been set, which meant the **AMENDMENT WAS UNLAWFUL**." [also see *Shaw V Wilson, 721 F.3d 908 (7th Cir. Ct. App. 2013)*]

The trial court stated that Lidy's whole strategy, up until Six(6) days before trial was to secure a 'global plea' between Boone and Hendricks counties. [Appx. Pg.___] Lidy furthered his **INEFFECTIVENESS** when he **FAILED** to move for a continuance to prepare a **DEFENSE** for Taylor's trial. In *Strickland V Washington, 466 U.S. 668, 80 L.Ed2d 674, 104 S. Ct. (1984),* the United States Supreme Court found, "The Sixth Amendment recognizes the right to the assistance of counsel because it envisions counsel's playing a role that is critical to the ability oif the adversarial system to produce just results. An accused is **ENTITLED** to be assisted by an attorney, whether retained or appointed, who plays the role necessary to ensure that the trial is fair." The trial court stated that Lidy's strategy of resolving Taylor's case with a 'global plea'

was the **ONLY** reasonable strategy. [Appx. Pg. 77] Lidy had a year to make this strategy work and could not. It is **NOT** reasonable to believe that Lidy continued to believe his strategy of a 'global plea' was still an option, when Boone county placed a deadline date of January 24, 2011, to accept their plea offer, just eight (8) days before trial. Once Taylor's information was amended to two (2) class A felonies, the only reasonable move left for Lidy was to file a Motion to Continue the trial. *I.C. 35-34-1-5(d)* states, "Upon permitting such amendment, the court shall, **UPON MOTION BY THE DEFENDANT,** order any continuance of the proceedings which may be necessary to accord the defendant adequate opportunity to prepare the defendant's defense." In *Pavone V State, 402 N.E.2d 976 (Ind. 1980),* the Indiana Court found, "This section allows the amendment of an indictment or information by the prosecutor at any time as long as the defendant is accorded an adequate opportunity to prepare his defense commensurate with such changes." Also see *Williams V State, 430 N.E.2d 759 (Ind. 1982).* In *Ramon V State, 888 N.E.2d 244 (Ind. App. 2008),* the Indiana Court of appeals stated, "Under 2007 revised version of *I.C. 35-34-1-5(b)*, the state can make an amendment to a matter of substance in an information at any time before the commencement of trial so long as the amendment does not prejudice defendant's substantial rights." In the present case, the very fact that Taylor was only notified that he was facing two(2) class A felonies with a possibility of 100 year sentence, rather than a class B felony with a 20 year sentence, **just six(6) days** before trial began, **WAS PREJUDICIAL** to Taylor having any type of prepared defense. The **ONLY** cure for this prejudice and pursuant to *I.C. 35-34-1-5(d)*, Lidy should have **IMMEDIATELY** filed a Motion to Continue, which Lidy **FAILED TO DO**, leaving Taylor prejudiced.

The PCR Court continually argued that Taylor was not prejudiced because, "The overall result of what consequences Taylor has faced for molesting his stepdaughter in Boone

and Hendricks County have to be examined together." [Appx. Pg. 86] Attorney Lidy had almost a year to 'examine' Boone and Hendricks counties together, and attempted to create a 'global plea' between the two counties. Up until January 18, 2011, Lidy was attempting to combine "more than one hundred (110) years of convicted of all charges in Hendricks county alone," [Appx. Pg. 76] plus the twenty (20) years on the charge in Boone County for a total of one hundred and twenty (120) years total. When the State amended Taylor's charges, the amendment changed the total years that Taylor was facing to **two-hundred (200) years. NO REASONABLE TRIER OF FACT WOULD BELIEVE** that Lidy would have had a better chance making a 'global plea' with Taylor facing 200 years rather than the original 120 years that he was facing in both Boone and Hendricks Counties, but that is exactly what Taylor's PCR Court argued to support its PCR denial. It is clear that the PCR Court refused to consider that the Boone County plea deadline was **SEVEN (7) DAYS** before the trial began, which made the One Hundred (100) years from Hendrick County **MUTE** in regards to Lidy's strategy for a 'global plea'.[9] In *Lafler V Cooper, 182 L.Ed2d 398, 566 U.S., 132 S. Ct. 1376 (2012)*, that petitioner (the State) sought to preserve the conviction by arguing that the Sixth Amendment's purpose is to ensure a conviction's reliability, but the U.S. Supreme Court responded, "this argument **FAILS** to comprehend the full scope of the Sixth Amendment and is **REFUTED** by precedent. Here, the question is the fairness or reliability **NOT OF THE TRIAL BUT OF THE PROCESS THAT PRECEEDED IT**, which caused respondent to lose benefits he would have received but for counsel's ineffective assistance. Furthermore, a reliable trial may not foreclose relief when counsel has failed to assert rights that may have altered the outcome. See *Kimmelman V Morrison, 477 U.S. 365, 379, 106 S. Ct. 2574, 91 L.Ed.2d 305.* **Petitioner's**

[9] Hendrick County already had a capped forty-five (45) year plea offer in place even with the B felony charge that carried twenty (20) years at the time Boone County made the twenty year plea offer.

position that a fair trial wipes clean ineffective assistance during the plea bargaining also ignores the reality that criminal justice today is for the most part a **SYSTEM OF PLEAS**, not a system of **trials.** See *Missouri V Frye, ante, at __, 132 S. Ct. __, 182 L.Ed2d Pp__-__, 182 L.Ed2d, at 406-411.*" In the present case, the PCR Court made every finding it could to **PROTECT ITS CONVICTION**. The PCR Court stated: [Appx. Pg. 79, footnote]

> "One unfortunate unintended consequence of this whole jurisprudence regarding effective assistance of counsel including the communication of plea offers is that it has a chilling effect on the State's willingness to make plea offers. If the prosecutor has no assurance that the defendant's lawyer will communicate a plea offer why should she make one? Public policy favors resolutions and this jurisprudence assures that the 'good deed' of offering reasonable plea agreements formed in the intent of justice will occasionally be punished by the vacation of hard-won convictions by jury trials. The neglect of the communication of a plea offer just sits waiting like a time bomb to blow up a conviction. But the law of the nation's highest court is the law and it must be followed, regardless of unintended consequences. One can only hope that there are adequate safeguards in the rules of professional responsibility and perhaps civil remedies disincentives to assure that these time bombs are not deliberately and slyly set."

It is clear that the PCR Court, which was also the Taylor's Trial Court in this case, had no interest in being an **IMPARTIAL JURIST**; and it started from the Trial Court prejudicing Taylor when it **FAILED** to set an **OMNIBUS DATE** and allowing the State to amend Taylor's charges just **SEVEN (7) DAYS** before trial began. Then to save its conviction, the PCR Court used statements made by Taylor in a **six (6) month** old letter to his attorney and the Court's own **assumptions** as the facts to deny Taylor's petitioner for post-conviction relief; rather than the real time facts and regardless of the amount of **PREJUDICE** it caused Taylor. The PCR Court stooped so low to make a mockery of Taylor when it said, "Taylor's crocodile tears about wanting to 'spare the family' carry the weight of a pocketful of tissues." [Appx. Pg. 80]

At the PCR evidentiary hearing, not only did attorney Lidy testify, but both he and

attorney Stovall submitted Notarized affidavits as evidence, admitting that they **DID NOT** communicate the Boone County plea offer which made them **INEFFECTIVE.** [Appx. Pgs. 85]

INDIANA SUPREME COURT-: Taylor was represented by attorney Mario Joven on Transfer to the Indiana Supreme Court. The Indiana Supreme Court granted oral argument but ultimately denied Taylor's petition to transfer on March 3, 2017. [Appx. [redacted], Pg. 54] Being a matter of hearsay Taylor, requested and received the CD recording of the Oral Arguments [Appx. Pg 54, CD attached Pg 88], and one of the concerns verbalized by the Indiana Supreme Court to attorney Joven, was that if they (the Supreme Court) were to overturn the Boone County convictions on the two (2) A felonies and institute the B felony **PLEA OFFER**. They would be prejudicing the Hendrick County conviction. Taylor fails to see how any prejudice to the Hendrick County convictions outweighs his constitutional rights for a required cure for attorney Lidy's **INEFFECTIVENESS.**

The decision to deny Taylor's transfer was in direct conflict with their own findings in *Fajardo V State, 859 N.E.2d 1201 (Ind. Sup. Ct. 2007)*, which is almost identical to Taylor's case. In *Fajardo*. The Indiana Supreme Court stated in part,

> "This statutory language thus conditions the permissibility for amending a charging information upon whether the amendment falls into one of three classifications: (1) amendments correcting an ***immaterial defect,*** which may be made at any time, and [*859 N.E.2d 1205*] in the case of an unenumerated immaterial defect, only if it does not prejudice the defendant's substantial rights; (2) amendments to ***matters of form,*** for which the statute is inconsistent, subsection (b) permitting them only prior to a prescribed period before the omnibus date, and subsection (c) permitting them at any time but requiring that they do not prejudice the substantial rights of the defendant; and (3) amendments to ***matters of substance,*** which are permitted only if made more than thirty days before the omnibus date for felonies, and more than fifteen days in advance for misdemeanors. *See Haak v State, 695 N.E.2d 944, 951 (Ind. 1998).* In its memorandum decision, the Court of Appeals correctly noted

that amendments of substance pursuant to subsection 5(b) may not occur after specified times in advance of the omnibus date, and it expressly found that the challenged amendment here was one of substance rather than one of form. But the court failed to apply the 5(b) prohibition upon amendments to substance after the omnibus date, believing that the ultimate question was whether or not the defendant had a reasonable opportunity to prepare for and defend against the charges such that his substantial rights were not affected. The amendment in this case changes a one-count information charging Child Molesting as a class C felony to a two-count information additionally charging Child Molesting as a class A felony. Both charged offenses involve conduct with the same girl, a child under fourteen years of age, and the essential differences between the two are the date of the offense and the accused's conduct, age, and intent. For the class C felony, alleged to have occurred during a two-year period after January 26, 2001, the defendant must have performed or submitted "to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person." Ind. Code 35-42-4-3(b). For the class A felony charged in Count 2, {859 N.E.2d 1208} alleged to have occurred at some point during a longer period, more than three years after January 26, 2001, the defendant must have been at least twenty-one years old and performed deviate sexual conduct, which is "an act involving: (1) a sex organ of one person and the mouth or anus of another person; or (2) the penetration of the sex organ or anus of a person by an object." Ind. Code 35-41-1-9. Applying the rule for distinguishing between amendments to matters of form and those of substance, we find that the addition of Count 2 charging a new separate offense constituted an amendment to matters of substance. The defendant's evidence addressed to disputing the occurrence of the original charge would not be "equally applicable" to dispute the date nor the specific conduct alleged in the separate additional charge sought to be added by the amendment. And because the amendment charges the commission of a separate crime, it also is unquestionably essential to making a valid charge of the crime, and thus it is not disqualified from being considered an amendment to a matter of substance. Because the challenged amendment in this case sought to modify the original felony information in matters of substance, it was permissible only up to thirty days *before* the omnibus date. Ind. Code 35-34-1-5(b). The amendment was not sought by the State, however, until seven days *after* the omnibus date, and thus failed to comply with the statute. The defendant's objection should have been sustained and the amendment denied. The conviction and sentence for Count 2, Child Molesting as a class A felony, must be vacated.

Conclusion

We affirm the defendant's conviction in Count 1, charging Child Molesting as a class C felony, and reverse the conviction in Count 2, charging Child Molesting as a class A felony. Because the trial court's sentencing determination for Count 1 may have been substantially affected by the sentence determination for Count 2, we remand to the trial court for a new sentencing determination.

The Indiana Supreme Court ran afoul of I.C. 35-34-1-5 and its own findings in cases such as

Fajardo.

At Oral Hearing, the Indiana Supreme Court raised the issue that, if they were to reinstate the Boone County Twenty (20) year plea deal, that Hendricks County would be **prejudiced**, because they could have chose to run their case consecutive to Boone County rather than concurrent as they did. [Appx.Pg.57, CD 0988] While this may be the case, running the Boone County twenty (20) year plea consecutive to the Hendrick County Forty-five (45) year plea **ONLY TOTALS SIXTY-FIVE (65) YEARS**; which is still **FIFTEEN (15) YEARS LESS** than the Eighty (80) years that Taylor was sentenced to in Boone County. Under this scenario, the Indiana Supreme Court could have ordered Taylor resentenced to the Twenty (20) year Boone County plea deal and give Hendrick County the opportunity to change their sentence to consecutive if they chose to. That would have cured the prejudice issue.

The United States District Court denied Taylor's petition for Writ of Habeas Corpus on August 1, 2018; and included in that denial, a **DENIAL for a Certificate of Appealability**. [Appx. Pgs. 3, 15] The District Court based its review on the Indiana Appellate Court's findings [Appx. Pg. 7, 8], which Taylor has shown that the Indiana Court of appeals based its **ENTIRE** decision upon the Boone county PCR Court. [Appx. Pgs. 61 - 69] Just as the Indiana Courts did, the District Court referred to Taylor's Alleged September 2010 letter written to his attorney as a "reasonable explanation for the Appellate Court to **INFER** that Mr. Taylor was interested in achieving acquittal or a minimal prison sentence." [Appx. Pgs. 11 - 12, Sec. 1] Taylor would remind this Court that even it Taylor did want to beat his charges, **FOUR (4) MONTHS** before the Boone County trial, this '**INFERENCE**' was made from circumstances **FOUR (4) MONTHS** before Taylor's charges were amended, and **without the facts** that Lidy **WITHHELD** from him. What defendant would not want an acquittal or minimal sentence? It

WAS NOT REASONABLE for the Indiana Courts or the District Court to make **INFERENCES** from a **FOUR (4) MONTH** old letter to his attorney that Taylor was still interested in achieving an acquittal or a minimal prison sentence; when the total amount of years Taylor was facing in real time went from 120 years to **TWO HUNDRED (200) YEARS.** These being the **FACTS**, the Indiana Courts argued that, "Taylor did not want to admit to any sexual misconduct greater than fondling." [Appx. Pg. 12] This was based upon Lidy's testimony concerning the Hendrick's County plea, that, "Mr. Taylor would only agree to C felony conduct or below, which would amount to admitting that he touched or fondled N.H." [Appx. D, Pg. 12, sec 2] Since Hendrick County's plea offer was a class B felony, and had **NEVER** changed Lidy's testimony was nothing but his own conjecture. This raises two (2) issues. (1) **IT IS NOT LOGICAL** to believe that Taylor would be concerned about 'admitting that he touched or fondled N.H., had Lidy communicated to Taylor that his Boone County B felony plea would be amended to **TWO(2)** A felony charges, one (1) concerning sexual intercourse and the other deviate sexual conduct; and **(2)** Lidy is the attorney that could not engineer a 'global plea' between Boone and Hendrick Counties for over a year and would not communicate the twenty(20) year Boone County plea offer because it did not fit in his strategy in covering his **INEFFECTIVENESS**. The **ONLY REASONABLE FACTS** would be that Taylor had already been convicted of doing more than touching or fondling N.H., making any comment after that conviction **MOOT**.

In section 3, the District Court argued, "Therefore, 'it would not have made sense for Taylor to plead guilty to the Class B felony.'" [Appx. Pg. 12] Taylor believes that the District Court's entire argument in section 3 is **NONSENSICAL**. The Indiana Courts and the District Court have maintained that Taylor did not want to die in prison. In this situation Taylor would

want the best possible outcome in both Boone and Hendrick Counties. Reviewing the **FACTS** and not making inferences from a four(4) month old letter, the Court will find:

1) After being charged, Taylor was facing 100+ years in Hendricks county and 20 years in Boone County.

2) Attorney Lidy attempted to get a global plea for both counties.

3) Prior to January 19, 2011, the **ONLY** plea offer on the table was from Hendrick County for a capped 45 years.

4) On January 19, 2011, Boone county offered twenty (20) years, and if that was not accepted by January 24, 2011, Taylor's charges would be amended to 2 class A felonies, exposing Taylor to 100 years incarceration for Boone County alone. Putting these two pleas together would have made a total of 65 years between both counties only if the two counties sentences were ran consecutive. We could not foresee whether Hendrick County would or would not have ran their sentence concurrently with Boone county, but if they would have, **THE BEST POSSIBLE OUTCOME WOULD HAVE BEEN FORTY-FIVE(45) YEARS AGGREGATE IF RAN COUCURRENT,** or twenty-two and a half (22½) years with good time; and **THE WORST POSSIBLE OUTCOME WOULD HAVE BEEN SIXTY-FIVE(65) YEARS.** Either of these possibilities would have been better than the eighty (80) years that Taylor received from trial.

5) Instead, Lidy did not consider this in his 'global plea' theory so he chose to be **INEFFECTIVE** and **FAILED TO COMMUNICATE** the Boone county **PLEA OFFER** by the January 24, 2011 deadline, so Lidy condemned Taylor to the **EIGHTY(80) YEARS** Taylor was convicted of.

Given these **FACTS**, rather than making **ASSUMPTIONS**, Taylor cannot fathom how

the Indiana Courts and the District Courts could see that it **MADE ALL THE SENSE FOR TAYLOR TO PLEAD GUILTY TO THE CLASS B FELONY.** But Taylor **NEVER HAD THE CHANCE TO, BECAUSE ATTORNEY LIDY DID NOT COMMUNICATE THAT PLEA OFFER TO TAYLOR.** The Indiana Courts muddied the water so much that the District Court could not see the **FACTS OF THE MATTER.**

CONCLUSION

Taylor has reviewed **ALL** the case cites referred to by the Indiana Courts and the District Court; and has yet to locate any authority that gives a defense attorney the right to withhold a plea offer on the basis that the plea offer did not align with his '**STRATEGY**'. Lidy was **OBLIGATED BY LAW** to **COMMUNICATE THE PLEA OFFER** to Taylor, then he could advise Taylor to **ACCEPT OR REJECT** the offer, but Lidy **FAILED** to do so. This was the first prejudice to Taylor.

Then Lidy prejudiced Taylor by **FAILING** to alert Taylor that his charges would be amended to two(2) class A felonies which would expose him, Taylor, to an additional 80 years if convicted in Boone County. This was the second prejudice to Taylor.

Next, the Trial Court prejudiced Taylor when it allowed the state to amend Taylor's charges just five(5) days before trial began, well after the **OMNIBUS DATE** that the Trial Court **NEVER** set.

Then Lidy again prejudiced Taylor when he **FAILED** to move for an extension of time to prepare a defense for Taylor's trial in Boone County, after the charges were amended five(5) days before trial began. Taylor was ultimately convicted and sentenced to eighty (80) years in Boone County rather than the twenty (20) years that he would have received in the **PLEA OFFER**, and Taylor still received the forty-five (45) year plea deal from Hendrick County ran

CONCURRENTLY to Boone County.

ALL of the Lower Courts prejudiced Taylor by making **INFERENCES** from a **FOUR(4) MONTH** old letter from Lidy's hearsay testimony while **IGNORING THE REALTIME FACTS**, all in an effort to protect the State's convictions. It would be **UNREASONABLE** for this Court to accept the **INFERENCES** that the Indiana Courts used in opposition to the **FACTS OF THE MATTER**. **NONE** of the Lower Courts have the power of clairvoyance, and **CANNOT** predict what path Taylor would have taken had Lidy communicated the Boone County plea offer. The **FACTS** reveal that Taylor **WAS PREJUDICED** by attorney Lidy and the Indiana Courts, and require that this Court **GRANT** Taylor's Writ for Certiorari.

WHEREFORE Taylor prays that the Honorable United States Supreme Court **GRANT** the forgoing Writ of Certiorari, **REVERSE** the Boone County convictions, and **REMAND** this case with an **ORDER** for the Boone County Court to resentence Taylor to the **TWENTY(20)** years contained in the **PLEA OFFER** that the Boone County Prosecutor offered Taylor and that attorney Lidy **FAILED TO COMMUNICATE** to Taylor.

Executed on this 17 day of July 2019.

Respectfully submitted,

William L. Taylor

William Taylor / Petitioner pro-se