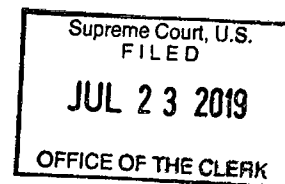


19-5668

No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



JERRY LEONARD, ELLIS — PETITIONER
(Your Name)

vs.

STEVEN LITTLE — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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

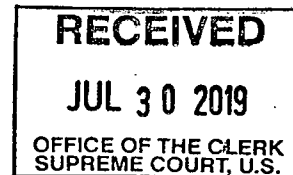
PETITION FOR WRIT OF CERTIORARI

JERRY LEONARD, ELLIS
(Your Name)

ISCC, HI-14B P.O. Box 70010
(Address)

BOISE, ID 83707
(City, State, Zip Code)

W/A
(Phone Number)



QUESTION(S) PRESENTED

- A. (1.) DID THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT (ERRED) BY DENYING APPELLANTS MOTION TO STAY (DOCKET ENTRY NO. 4).
- (2.) DID THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT (ERRED) BY DENYING APPELLANTS REQUEST FOR A CERTIFICATE OF APPEALABILITY.
- B. (1.) DID THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO (ERRED) DISMISSING PETITIONERS CLAIM NO[#] 3 RULEING THAT THE UNITED STATES SUPREAM COURT HAS NEVER HELD THAT THE SIXTH AMENDMENT RIGHT TO COUNSEL OF ONES CHOICE EXTENDS TO PROBATION REVOCATION PROCEEDINGS. § 2254 (d) (1).
- (2.) DID THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO (ERRED) DISMISSING PETITIONER'S CLAIM NO[#] 3 RULEING THAT QUESTIONS PRESENTED. PG. 1

EVEN IF THE RIGHT TO COUNSEL OF ONE'S CHOICE DOES APPLY IN PROBATION REVOCATION PROCEEDINGS. THE IDAHO COURT OF APPEAL'S DECISION - THAT THE TRIAL COURT'S DENIAL OF THE CONTINUANCE DID NOT VIOLATE THAT RIGHT, AND WAS NOT OBJECTIVELY UNREASONABLE UNDER § 2254 (d)(2) AND (e)(1).

(3.) DID THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO (ERRED) DISMISSING PETITIONER'S CLAIM NO[#] 3 RULING THAT THE FACTUAL DETERMINATIONS OF THE STATE COURT WERE NOT UNREASONABLE BASED ON THE FACTS AND EVIDENCE IN THE RECORD, AND FAILING TO CONSIDER NEW EVIDENCE ON REVIEW DE-NOVO SUBJECT TO THE LIMITATION OF § 2254 (e)(2) WHICH CONSISTED OF EVIDENCE BY AFFIDAVIT OF PRIVATELY RETAINED COUNSEL MR (JOHN) REDAL IN SUPPORT THAT MR (ELLIS) HAD RETAINED PRIVATE COUNSEL TO DEFEND AGAINST THE PROBATION REVOCATION PROCEEDINGS PRIOR TO THE MARCH 21, 2013 PROBATION ADMIT/ DENY ILLEGALLY HELD DISPOSITION HEARING QUESTIONS PRESENTED. PS. ii

AND THAT THE PETITIONER MR(ELLIS) REQUEST FOR A CONTINUANCE WAS MADE IN HONEST EFFORT TO UTILIZE HIS COUNSEL OF ONE'S QUALITY AND CHOICE, AND HAD NOT BEEN A DELAY TACTIC, OR AN ATTEMPT TO HAVE MINIMIZED THE PROCEEDINGS.

C. (1.) DID THE UNITED STATES DISTRICT COURT FOR DISTRICT OF IDAHO (ERRED) DISMISSING THE PETITIONERS CLAIMS NO[#] 1, 2, AND 22 AS BEING PROCEDURALLY DEFAULTED FAILING TO REVIEW MR(ELLIS) CAUSE AND PREJUDICE ARGUMENT UNDER THE LENSE OF MARTINEZ V. RYAN 132 S.CT. 1309 (2012), DUE TO POST-CONVICTION COUNSEL FAILING TO RAISE THE SUBSTANTIVE CLAIMS.

(2) DID THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO (ERRED) DISMISSING THE PETITIONERS CLAIMS NO[#] 1, 2, AND 22 AS BEING PROCEDURALLY DEFAULTED FAILING TO REVIEW MR(ELLIS) CAUSE AND PREJUDICE ARGUMENT UNDER THE LENSE OF WILLIAM'S QUESTIONS PRESENTED. ^{PS.} iii

V. TAYLOR 529 U.S. 420, 146, L.Ed 2d 435,
120 S. CT. 1479 (2000). AND § 2254(e) (2)
(A) (ii). AND DENYING EVIDENTIARY DEVELOPEMENT,

(3.) DID THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO (ERRED) BY
DISMISSING PETITIONERS CLAIMS NO[#] 6
THRU 21 AS BEING PROCEDURALLY DEFAULTED
FAILING TO GRANT RELIEF DUE TO POST-
CONVICTION APPELLATE COUNSEL ATTORNEY
ABANDONEMENT OF MR (ELLIS) APPEAL OF
POST- CONVICTION DENIAL OF AN EVIDENTIARY
HEARING UNDER THE LENSE OF MAPLES V.
THOMAS 132 S. CT 912, 924 (2012).

D. (1.) DID THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF IDAHO (ERRED) BY DENYING
THE PETITIONER MR (ELLIS) MOTION FOR COUNSEL,

(2.) DID THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF IDAHO (ERRED) BY DENYING
THE PETITIONER MR (ELLIS) NUMEROUS MOTIONS
FOR AN EVIDENTIARY HEARING TO DEVELOPE
QUESTIONS PRESENTED. pg. iii

THE PROCEDURALLY DEFAULTED CLAIMS
NO[#] 1, 2 AND 6 THRU 22.

(3.) DID THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO (ERRED) BY
DENYING THE PETITIONER MR (ELIS) MOTION
TO STAY HIS FEDERAL HABEAS PROCEEDINGS
TO RETURN TO STATE COURT AND PROPERLY
EXHAUST THE PROCEDURALLY DEFAULTED CLAIMS
NO[#] 1, 2 AND 6 THRU 22 PURSUANT TO
RHINE'S V. WEBER 554 U.S. 269, 161 L.ED
2d 440, 125 S.CT. 1528 (2000),

(4.) DID THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF IDAHO (ERRED) BY DENYING
THE PETITIONER MR (ELIS) MOTION TO HEAR
THE PROCEDURALLY DEFAULTED CLAIMS NO[#]
1, 2 AND 22 BY THE FUTILITY EXCEPTION.

(5.) DID THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF IDAHO (ERRED) BY DENYING
THE PETITIONER MR (ELIS) A CERTIFICATE
OF APPEALABILITY.

QUESTIONS PRESENTED. PS.iiiiii

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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APPENDIX B: MEMORANDUM DECISION AND ORDER OF THE UNITED STATES DISTRICT COURT AND JUDGMENT (OKT99) (OKT100) (CASE NO[#] 1:15-CV-00515-BLW)

APPENDIX C: ORDER DENYING PETITION FOR REVIEW IN THE SUPREME COURT OF THE STATE OF IDAHO DOCKET NO[#] 40898-2013 (40901-2013). AND THE DECEMBER 30TH, 2014 REMITTITUR.

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APPENDIX E: PROBATION VIOLATION DISPOSITION HEARING HELD ON MARCH 21, 2013 IN CASE NO[#] CR-2006-0034 (CR-2009-2030) CONSOLIDATED
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led ad 409, 126 S.Ct. 2557 (2006.)
- (3.) Ungef v. Sarafite 376 U.S. 575, 589 (1964) Pg 6.
- (4.) Riggio v. Secretary, Dept of Corr. 704 F. Supp 2d 1244 (M.D. Fla, 2010.) Pg 6.
- (5.) United States v. Goodwin, 457 U.S. 368, 372 (1982.) Pg 9.
- (6.) Bordenkircher v. Hayes, 434 U.S. 357, 363 (1978.) Pg 9.
- (7.) Chaffin v. Stynchcombe, 412 U.S. 17, 32-33 n.20 (1973) Pg 9.
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- (9.) Gagnon v. Scarpelli 411 U.S. 78 S.Ct. (1973.) Pg 10.
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- (11.) State v. Hanslovian 116 Idaho 266 (CT App 1989.) Pg 13.
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- (13.) Brecht v. Abrahamson, 507 U.S. 619, 637, (1993.) Pg 14.
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- (21.) Williams v. Taylor 529 U.S. 420, 146, Led 2d 435, 120 S.Ct. 1479 (2000.) Pg 18.
- (22.) Rhines v. Weber, 554 U.S. 269 161, Led 440, 125 Pg 19.
S.Ct. 1528 (2000.)
- (23.) State v. Wulff 357 P.3d 575, 579 (Idaho 2014.) Pg 19.
- (24.) Maples v. Thomas 132 S.Ct. 912, 924 (2012.) Pg 22.
- (25.) U.S. v. Ray 731 F.2d 1361, 1365, (9th Cir 1984.) Pg 25.

STATUTORY PROVISIONS

(1.) Fed R. crim P. 32.1 (B).

(2.) Fed R. crim P 32.1 (B) (2).

(3.) IDAHO CODE TITLE 18 SECTION 8002, IMPLIED
CONSENT STATUTE.

TABLE OF AUTHORITIES

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

- ☒ For cases from federal courts: APPEAL DOCKET NO# 19-35016.
IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT,
The opinion of the United States court of appeals appears at Appendix A to
the petition and is DENIED A CERTIFICATE OF APPEALABILITY. AND
CASE NO# 1:15-CV-00515-BLW. DOCKET NO# 19-35016
[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished. UNKNOWN.

The opinion of the United States district court appears at Appendix B to
the petition and is CASE NO# 1:15-CV-00515-BLW.
[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished. UNKNOWN

- ☒ For cases from state courts:

The opinion of the highest state court to review the merits appears at
Appendix C to the petition and is THE SUPREAM COURT OF
THE STATE OF IDAHO.
[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the COURT OF APPEALS OF THE STATE OF IDAHO
appears at Appendix D to the petition and is
[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was APRIL 26, 2019. AND THE COURT HAD DENIED A CERTIFICATE OF APPEALABILITY. NO. 19-35016

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

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

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

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

☒ For cases from **state courts**:

The date on which the highest state court decided my case was DEC. 30, 2014. A copy of that decision appears at Appendix C. DOCKET NO# 40893 - 2013 (40901-2013); KUTENAI COUNTY NO. 2009-20230 (2006-34).

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

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.

- (1.) THE SIXTH AMENDMENT OF THE UNITED STATES CONSTITUTION. AND ARTICAL 1 SECTION 13 OF THE IDAHO CONSTITUTION.
- (2.) THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION.
- (3.) THE FIFTH AMENDMENT OF THE UNITED STATES CONSTITUTION.
- (4.) THE FOURTH AMENDMENT OF THE UNITED STATES CONSTITUTION.

STATUTORY PROVISIONS

1. Fed R. crim P. 32.1, (B).
2. Fed R. crim P. 32.1(B)(2).
3. IDAHO CODE TITLE 18 SECTION 8002. IMPLIED CONSENT STATUE.

STATEMENT OF THE CASE

A.

THE PETITIONER MR(JERRY LEONARDELLIS) IS RESPECTFULLY REQUESTING THAT CERTIORARI BE GRANTED TO REVIEW THE JUDGMENTS FROM THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO, IN WHICH HAD DENIED THE PETITIONER A CERTIFICATE OF APPEALABILITY IN APPEAL DOCKET NO[#] 19-35016, AND THE DENIAL OF HABEAS CORPUS RELIEF IN CASE NO[#] 1:15-CV-00515 BLW.

I. CLAIM NO[#] 3.

THE PETITIONER MR(ELLIS) HAD ARGUED AND CLAIMS THAT WHILE IN HIS ADMIT/DENY AND (ILLEGALLY) COMBINED PROBATION REVOCATION PROCEEDINGS HELD ON THE DATE OF MARCH 21, 2013. THAT THE DISTRICT COURT HAD DENIED THE PETITIONER'S REQUEST FOR A CONTINUANCE TO RETAIN COUNSEL OF QUALITY AND CHOICE, IN CASE NO[#] CR 2009-20230.

THE PETITIONER MR(ELLIS) WAS REQUESTING A SHORT DELAY OF ONLY EIGHTEEN(18) DAYS WRIT OF CERTIORARI. ^{PS} 4.

UNTIL APRIL 8TH, 2013 TO WERE PRIVATE COUNSEL MR (JOHN REDAL) COULD SUBSTITUTE, AND BEGIN TO PREPARE A FULL AND PROPER DEFENSE AGAINST THE REVOCATION PROCEEDINGS. SEE: AFFIDAVIT OF ATTORNEY (JOHN REDAL) (DKT 42), FOR A DEFENDANT IN A CRIMINAL PROSECUTION WHO DOES NOT REQUIRE APPOINTED COUNSEL THE "SIXTH AMENDMENT" INCLUDES THE RIGHT TO CHOOSE THE ATTORNEY WHO WILL REPRESENT HIM (CITING WHEAT V. UNITED STATES). IF A DEFENDANT IS WRONGFULLY DEPRIVED OF COUNSEL OF CHOICE, THE ERROR IS STRUCTURAL, DOES NOT REQUIRE A SHOWING OF PREJUDICE, AND AUTOMATICALLY REQUIRES REVERSAL. UNITED STATES V. GONZALEZ - LOPEZ 548 U.S. 140, 165 L. ED 2D 409, 126 S. CT. 2257 (2006). THE RIGHT TO COUNSEL OF CHOICE IS NOT UNLIMITED, AND THE LIMITATIONS INCLUDE CONSIDERATION OF THE TRIAL COURTS CALENDAR (IBID, 126 S. CT. 2257). AS STATED (SUPRA) THE PETITIONER MR (ELIZ) WAS REQUESTING A CONTINUANCE OF ONLY EIGHTEEN (18) DAYS, THERE HAD WRIT OF CERTIORARI ^{PS} 5.

BEEN NO PRIOR REQUEST FOR CONTINUANCE,
THE STATE DID NOT OPINE. THE REVOCATION
PROCEEDINGS WERE BEFORE THE TRIAL COURT
SITTING WITHOUT A JURY.

THE PETITIONER MR (ELIS) HAD ARGUED
THAT THE IDAHO DISTRICT COURT HAD
ARBITRARILY INSISTED UPON EXPLOITING
THE PETITIONERS PROBATION VIOLATION ADMIT
DENY AND (ILLEGALLY) COMBINE REVOCATION
PROCEEDINGS BY DENYING THE PETITIONERS
MOTION FOR CONTINUANCE WHICH CONSTITUTES
AN ABUSE OF DISCRETION, SEE: *Unher v.*
Sara Fite 376 U.S. 575, 589 (1964). *Wheat*
v. U.S. 486 U.S. 153, 100, LEd 140, 108, S. CT.
1692 (1988). *U.S. v. Gonzalez-Lopez* 548
U.S. 140, 165 LEd 2d 409, 126 S.Ct 2557
(2006). AND ALSO *Riquio v. Secretary, Dept*
of Cor. 704 F. Supp 2d 1244 (M.D. Fla.
2010).

THE UNITED STATES DISTRICT COURT HAD
ALSO MINIPULATED THE FINDINGS ON PAGE 12
OF THE COURTS (MEMORANDUM DECISION AND
ORDER) BY LEAVING OUT CRITICAL EVIDENCE
WRIT OF CERTIORARI ~~PS~~ 6.

IN SUPPORT THAT MR(ELLIS) REQUEST FOR A CONTINUANCE TO RETAIN COUNSEL OF CHOICE WAS MADE IN GOOD FAITH, AND IN ORDER TO PREVENT FURTHER REVIEW OF THE REAL REASON THAT THE IDAHO DISTRICT COURT HAD ABUSED ITS DISCRETION AND DENIED MR(ELLIS) REQUEST FOR CONTINUANCE.

THE U.S. DISTRICT COURT'S MINUTIALED AND FLAWED DISCRETION: AS FOLLOWS;

YOU - YOUR CLAIM TODAY THAT YOU WANTED TO HIRE JOHN REDAL, WHO'S A FINE ATTORNEY ..., BUT THE BEST ATTORNEY YOU'VE EVER HAD IS SEATED TO YOUR LEFT. YOUR CLAIM THAT YOU WANTED JOHN REDAL TODAY WAS MADE NOTHING - FOR NO OTHER REASON THAN TO CREATE DELAY, THAT'S MY SPECIFIC FINDING,

SEE: PAGE NO# 12 (MEMORANDUM DECISION AND ORDER) OF THE U.S. DISTRICT COURT FOR THE DISTRICT OF IDAHO, AND COMPARE TO THE FOLLOWING ACTUAL TRIAL COURT RECORD.

WRIT OF CERTIORARI # 7.

YOU -- YOUR CLAIM TODAY THAT YOU WANTED TO HIRE JOHN REDAL, WHO'S A FINE ATTORNEY, I FIND SO REPREHENSIBLE; DOESN'T HAVE ANYTHING TO DO WITH MY DECISION. BUT THE BEST ATTORNEY YOU'VE EVER HAD IS SEATED TO YOUR LEFT. YOUR CLAIM TODAY WAS MADE NOTHING -- FOR NO OTHER REASON THAN TO CREATE DELAY. THAT'S MY SPECIFIC FINDING. SOMEBODY HAS PAID ALOT OF MONEY FOR A VARIETY OF DIFFERENT ATTORNEYS OVER THE LAST SEVEN YEARS TO COME INTO COURT AND DELAY THINGS FOR JERRY ELIS, THE DEFENDANT: IT WAS ME, YOUR HONOR THE COURT: THATS FINE, ITS MONEY DOWN THE RAT HOLE. ALL YOU'VE GOT IS CREDIT FOR TIME SERVED.

(Id., at 48-49.)

THE UNITED STATES DISTRICT COURT'S REDACTING OF CRITICAL TRIAL COURT RECORD EVIDENCE TO SUPPORT THE WRIT OF CERTIORARI. ^{PS} 8.

COURTS FITNESS DETERMINATION IN THIS CASE IS "FLAWED AND INFECTED" WITH SUBSTANTIAL LEGAL ERROR AND CANNOT BE RELIED UPON TO SUPPORT DISMISSAL OF MR(ELLIS) PETITION FOR WRIT OF HABEAS CORPUS AND IS A COMPLETE MANIFEST INJUSTICE.

THE U.S. DISTRICT COURTS RELIANCE ON THIS RULING IS FLAWED BECAUSE IT IS UNCONSTITUTIONAL FOR A DISTRICT COURT TO PUNISH OR OTHERWISE PREJUDICE MR(ELLIS) FOR EXERCISING HIS RIGHT TO RETAIN PRIVATE COUNSEL. SEE: UNITED STATES V. GOODWIN, 457 U.S. 368, 372 (1982) ("TO PUNISH A PERSON BECAUSE HE HAS DONE WHAT THE LAW PLAINLY ALLOWS HIM TO DO IS A DUE PROCESS VIOLATION OF THE MOST BASIC SORT.") (QUOTING BORDENKIRCHER V. HAYES, 434 U.S. 357, 363 (1978), SEE ALSO CHAFFIN V. STYNCHCOMBE, 412 U.S. 17, 32-33 n.20 (1973) (HOLDING THAT IS "PATENTLY" UNCONSTITUTIONAL FOR AN AGENT OF THE STATE TO PURSUE A COURSE OF ACTION WRIT OF CERTIORARI pg. 9.

WHOSE OBJECTIVE IS TO PENALIZE A PERSON'S RELIANCE ON HIS LEGAL RIGHTS) (QUOTING SHAPIRO V. THOMPSON, 394 U.S. 618, 631 (1969)).

II CLAIMS NO[#] 4 AND[#] 5.

THE PETITIONER MR(ELLIS) HAD ARGUED THAT IN CLAIMS NO[#] 4 AND[#] 5 THAT HIS PROCEDURAL DUE PROCESS RIGHTS HAD BEEN VIOLATED IN REGARD'S THAT THE DISTRICT COURT FAILED TO NOTICE MR(ELLIS) THAT THE MARCH 21, 2013 PROBATION VIOLATION ADMIT/DENY HEARING WAS GOING TO INCLUDE THE DISPOSITION PORTION OF THE PROBATION VIOLATION PROCEEDINGS, A PROBATIONER HAS A DUE PROCESS RIGHT TO NOTICE AND (TWO) HEARINGS. (1) A PRELIMINARY HEARING TO DETERMINE PROBABLE CAUSE, (2) A REVOCATION HEARING IN WHICH PROBATIONER HAS THE RIGHT TO TESTIFY IN HIS OWN BEHALF, AND PRESENT WITNESSES, AND MAY HAVE AN ATTORNEY PRESENT. SEE: Gagnon V. Scarpelli, 411 U.S. 785. (1973). WHEN THE PETITIONER MR(ELLIS) REQUESTED FOR A CONTINUANCE DUE TO THE LACK OF NOTICE WRIT OF CERTIORARI, PG. 10.

TO PREPARE A DEFENSE AND TO CALL WITNESSES
HIS REQUEST WAS ARBITRARILY DENIED
BY THE DISTRICT COURT.

THE IDAHO COURT OF APPEALS, AND THE
U.S. DISTRICT COURT'S DECISION TO AFFIRM
THE IDAHO DISTRICT COURT ON THE FOREGOING
BASIS HAS ALLOWED THE IDAHO DISTRICT
COURT TO HAVE "CIRCUMVENTED" THE DUE-
PROCESS RIGHTS MANDATED IN MORRISSEY
V. BREWER 408 U.S. 471, 488 - 489 (1972),
AND GAGNON V. SCARPELLI, 411 U.S. 78 S.Ct
(1973).

AND THE NOTION THAT A PROBATIONER HAS
A DUE-PROCESS RIGHT TO CALL WITNESSES
BECOMES MEANINGLESS IF A TRIAL COURT
ONLY NEEDS TO ASK THE PROBATIONER WHAT
THE WITNESSES WOULD SAY, THEN EXCEPT
THE OFFERS OF PROOF AS THE TRUTH AND
DENY THE PROBATIONER AN OPPORTUNITY
TO CALL WITNESSES

AS STATED THE IDAHO COURT OF APPEALS
AND THE U.S. DISTRICT COURT HAD NOT
APPLIED THE CORRECT HARMLESSNESS

WRIT OF HABEAS CORPUS PS. 11,

STANDARD, AND THE IDAHO COURT OF APPEALS AND THE U.S. DISTRICT COURT'S HARMLESS ERROR REVIEW HAD BEEN A "FLAWED" HARMLESS ERROR REVIEW. WHEN EVALUATING MR(FULF) CLAIM THAT HE WAS DENIED THE RIGHT TO CALL WITNESSES AS MENTIONED ABOVE, WHEN DEALING WITH A CLAIM THAT A DEFENDANT WAS DENIED THE RIGHT TO CALL WITNESSES IN ORDER TO BE ABLE TO ESTABLISH PREJUDICE THE DEFENDANT NEED ONLY ESTABLISH THAT THE WITNESSES POTENTIAL TESTIMONY WAS FAVORABLE, AND MATERIAL, ABSENT SUCH A STANDARD THERE WOULD BE NO REMEDY FOR A VIOLATION OF THE RIGHT TO CALL WITNESSES BECAUSE THE TRIAL COURT COULD ALWAYS PREVENT APPELLATE REVIEW OF A CLAIM THAT THE DEFENDANT HAD BEEN DENIED WITNESSES BY DOING WHAT THE DISTRICT COURT HAD DONE IN THIS MATTER.

THE MAJORITY OF THE IDAHO COURT OF APPEALS AND THE UNITED STATES DISTRICT WRIT OF CERTIORARI. ^{PE 12}

COURT HAD HELD THAT THE FOREGOING LACK OF NOTICE, AND DENIAL OF CONTINUANCE MIGHT HAVE VIOLATED MR(ELLIS) RIGHT TO DUE PROCESS, BUT THE ERROR HAD BEEN HARMLESS BECAUSE THE PROFFERED TESTIMONY WOULD NOT HAVE CHANGED THE DISTRICT COURT'S DECISION TO REVOKE PROBATION. THE APPELLANT MR(ELLIS) HAD ARGUED THAT THIS WAS A FLAWED HARMLESSNESS ANALYSIS AND THAT IN ORDER TO ESTABLISH PREJUDICE THAT MR(ELLIS) NEED ONLY TO INFORM THE COURT THAT HE HAD WITNESSES WHOM WOULD TESTIFY IN A FAVORABLE MANNER, WHICH HE DID, SEE: STATE V. HANSLOVAN 116 Idaho 266 (CT APP 1989),

THE APPELLANT MR(ELLIS) HAS ESTABLISHED "GRAVE DOUBT" ABOUT WHETHER THE TRIAL ERROR OF FEDERAL LAW HAD A SUBSTANTIAL AND INJURIOUS EFFECT, OR INFLUENCE IN DETERMINING THE OUTCOME OF THE PROCEEDINGS AND THAT MR(ELLIS) HAD BEEN PREJUDICED, AND THAT HE HAS WRIT OF CERTIORARI ^{pg 13},

MET THE STANDARD OF REVIEW UNDER DAVIS V. AYALA 135 S. CT. at 2198-99 (2015.) AND BRECHT V. ABRAHAMSON, 507 U.S. 619, 637 (1993).

THE PETITIONER MR(ELIS) ARGUES THAT THE IDAHO DISTRICT COURT'S FAILURE TO PROVIDE NOTICE, AND THE DENIAL OF HIS MOTION FOR A CONTINUANCE TO PREPARE A DEFENSE, AND TO CALL WITNESSES WAS AN ARBITRARY INSISTENCE UPON EXPEDIENTING THE PROCEEDINGS IN THE FACE OF A JUSTIFIABLE REQUEST FOR DELAY. AND THE DENIAL OF MR(ELIS) MOTION CONSTITUTES AN ABUSE OF DISCRETION AND MR(ELIS) HAD BEEN PREJUDICED. JOINTLY AN UNREASONABLE AND ARBITRARY INSISTENCE UPON THE EXPEDIENTING IN THE FACE OF A JUSTIFIABLE REQUEST FOR DELAY CAN VIOLATE THE DENIAL OF A CONTINUANCE TO CALL WITNESSES. SEE: UNDER V. SARAFITE 376 U.S. 575, 589 (1964) AND GAGNON V. SCARDIN, 44 U.S. 788 (1973).

WRIT OF CERTIORARI, PG. 14.

III. PROCEURALLY DEFAULTED CLAIMS.

A. CLAIMS NO[#] 1, 2 AND 22.

1. CLAIM NO[#] 1:

PETITIONER WAS DENIED HIS FOURTH AMENDMENT
RIGHT TO BE FREE FROM UNREASONABLE
SEARCHES AND SEIZURES WHEN HIS BLOOD
WAS DRAWN WITHOUT A WARRANT. SEE:

Schmerber v. California 384 U.S. 757 (1966). State v.
Diaz 160 P.3d 739, 741-42 (Idaho 2007).

2. CLAIM NO 2:

PETITIONERS PRIVATELY RETAINED ATTORNEY
RENDERED INEFFECTIVE ASSISTANCE BY:

(1) FAILING TO INVESTIGATE THE LEGALITY
OF PETITIONERS ARREST, (2) PROVIDING
FALSE INFORMATION AND ADVICE TO PETITIONER
REGARDING THE LEGALITY OF THE BLOOD DRAW,
(3) FALSELY INFORMING PETITIONER REGARDING
THE NEED FOR A WARRANT FOR THE BLOOD
DRAW, (4) FAILING TO HOLD A PRELIMINARY
HEARING ON THE SUPPRESSION ISSUE, (5)
FAILING TO FILE A MOTION TO SUPPRESS,
(6) COERCING PETITIONER INTO AN INMOLUNTARY
AND UNINTELLIGENTLY MADE PLEA, AND
WRIT OF CERTIORARI. PG. 15.

(6) FAILING TO FILE AN APPEAL, SEE: SCHMERBER V. CAL., 384 U.S. (1966), "4TH AMENDMENT SUPPRESSION MOTION NOT MADE" MARTIN V. MAXEY 98 F.3d (CA5 1996) AND STRICKLAND V. WASHINGTON 466 U.S. 668, 80, LEd 2d 674, 104 S.Ct. 2052 (1984), AND ALSO MISSOURI V. MCNEELY 569 U.S. (2013).

3. CLAIM NOTH 22.

PETITIONERS DUE PROCESS RIGHTS WERE VIOLATED WHEN A POLICE OFFICER DENIED THE PETITIONERS REQUEST TO SPEEK TO COUNSEL BEFORE SUBMITTING TO SCIENTIFIC TESTING, SEE: ROBERTS V. STATE OF ME, 48 F.3d 1287 (CA1 1995).

4. CAUSE AND PREJUDICE

I THE PETITIONER MR(ELIS) HAD RAISED THE ARGUMENT IN MY "MOTION IN OPPOSITION TO RESPONDANTS MOTION FOR PARTIAL SUMMARY DISMISSAL", SPECIFICALLY IN THE "CAUSE AND PREJUDICE" SECTION, THAT THE PETITIONER MR(ELIS) ARGUES THAT HE HAS MET THE REQUIREMENT TO AVOID PROCEDURAL DEFAULT DUE TO THE (INEFFECTIVE ASSISTANCE) OF POST CONVICTION COUNSEL (DOUGLAS PIERCE) FOR FAILING TO WRIT OF CERTIORARI. PG. 16.

COMPLETELY INVESTIGATE THE PETITIONERS
FILE, CASE IN ORDER TO COLLATERALLY
ATTACK FOR THE INEFFECTIVE ASSISTANCE
OF TRIAL COUNSEL MR (FRED LOATS) FOR THE
INEFFECTIVE ASSISTANCE PERFORMED. SEE:

(DKT. 41-1, P. 34), MARTINEZ V. RYAN 132 S. CT 1309
(2012).

5. THE TRIAL COURT IN ITS (MEMORANDUM
DECISION AND ORDER) HAD FAILED TO HAVE
ADDRESSED WHETHER (PIERCE'S) INEFFECTIVENESS
WAS THE CAUSE OF THE DEFAULT OF THE
UNDERLYING INEFFECTIVE ASSISTANCE OF
TRIAL COUNSEL CLAIMS (1, 2, AND 22) IN
THE COURTS (MEMORANDUM DECISION AND
ORDER) GRANTING RESPONDENTS MOTION FOR
PARTIAL SUMMARY JUDGMENT (DKT 53, PP.
14-19.). IT INSTEAD FOCUSED PRIMARILY
ON WHETHER POST CONVICTION APPELLATE
COUNSEL'S ACTIONS COULD BE THE LEGAL
CAUSE. (DKT 53, PP. 17-19.)

6. THE PETITIONER MR (ELIIS) HAD FILED
"UNSKILLED AT LAW" A MOTION IN OBJECTION
(DKT 56.), AND A PREMATURE (MOTION
TO VACATE JUDGMENT) PURSUANT TO RULE 60(b)
WRIT OF CERTIORARI. PG. 17.

(DKT 57.) REQUESTING RECONSIDERATION PURSUANT TO MARTINEZ V. RYAN 132 S. CT. 1309 (2012). AND MY REQUESTS FOR THE RECONSIDERATION OF PROCEDURAL DEFAULT OF CLAIMS 1, 2, AND 22 WERE DENIED BY THE U.S. DISTRICT COURT. (DKT 72.)

7. I THE PETITIONER HAD ALSO FILED A MOTION FOR RECONSIDERATION (DKT 65.), A SUPPLEMENTAL MOTION FOR RECONSIDERATION (DKT 67.), A SECOND MOTION FOR RECONSIDERATION (DKT 74), AND AN (ADDENDUM) TO "SECOND" MOTION FOR RECONSIDERATION (DKT 74-1.) ARGUING CAUSE AND PREJUDICE UNDER THE LENSE OF 2254 (E) (2) (A) (i), SEE: WILLIAMS V. TAYLOR 529, U.S. 420, 146, LED 2d 435, 120 S. CT. 1479 (2000). AND THE U.S. DISTRICT COURT HAD AGAIN DENIED MY REQUEST FOR RECONSIDERATION (DKT 88.).

8. I THE PETITIONER ON APRIL 12, 2018 HAD FILED A SUCCESSIVE PETITION FOR POST-CONVICTION RELIEF IN THE STATE COURT IN (CASE NOth CV-2018-3349.) I HAD WRIT OF HABEAS CORPUS, ^{PG} 18.

ALSO ON THE DATE OF APRIL 26, 2018 FILED A MOTION TO STAY MY FEDERAL HABEAS PROCEEDINGS IN THE U.S. DISTRICT COURT IN ORDER TO ATTEMPT TO PROPERLY EXHAUST CLAIMS 1, 2 AND 6 THRU 22 (DKT 87.) AND THE DISTRICT COURT HAD DENIED MY REQUEST TO STAY PURSUANT TO RHINES V. WEBER, 554 U.S. 269 161, 440, 125 S. CT 1528 (2000). (DKT 98.), THE COURT HAD ORDERED NOT TO FILE ANYTHING MORE UNTIL THE COURT ADDRESSED THE MERITS OF THE REMAINING CLAIMS. (DKT 88), (DKT 98).

9. IT WAS NOT UNTIL OCTOBER 2018, LONG AFTER THIS COURT HAD DISMISSED (CLAIM 1, 2, AND 22) AS PROCEDURALLY DEFAULTED, AND AS I WAS BACK IN STATE COURT ON A SUCCESSIVE PETITION, THAT I HAD SPOKE TO POST CONVICTION COUNSEL MR (DOUGLAS PIERCE) AGAIN ABOUT THE MATTER, AND MENTIONED THE TIMING OF MISSOURI V. MCNEELY 569. U.S. 2013, AND STATE V. WULF 357 P.3D 575, 579 (IDAHO 2014), WRIT OF CERTIORARI, PG. 19.

IN RELATION TO THE FIRST POST CONVICTION
"ACTION. PIERCE TOLD ME THAT HE HAD
"SCREWED UP" BY FAILING TO RAISE
THE SUBSTANTIVE CLAIMS 1, 2, AND 22
AND EXECUTED AN AFFIDAVIT IN LATE
NOVEMBER OF 2018.

10. I THE PETITIONER MR(ELLIS) DUE TO
THE U.S. DISTRICT COURT ORDERING ME
NOT TO FILE ANYTHING WITH THE COURT
HAD NO WAY TO GET THIS NEW EVIDENCE
IN FRONT OF THE COURT BEFORE FINAL
JUDGMENT, OR TO SEEK RECONSIDERATION
ON THE BASIS OF THE DISMISSAL OF
CLAIMS 1, 2, AND 22 PURSUANT TO THE
CASE OF MARTINEZ V. RYAN 132 S. CT 1309
(2012) AND MY CASE HAD BEEN DIS-
MISSED DENYING FEDERAL HABEAS
RELIEF (DKT 99), (DKT 100).

11. ON THE DATE OF MARCH 8, 2019 I MR(ELLIS)
HAD RETAINED COUNSEL WHOM ON THE DATE
OF APRIL 17, 2019 HAD FILED A TIMELY
MOTION FOR RELIEF FROM JUDGMENT IN THE
U.S. DISTRICT COURT (DKT 105) AND PENDING.
WRIT OF CERTIORARI. PS. 20.

CLAIMS 1, 2 AND 22.

12. THE PETITIONER MR(ELIS) HAD ARGUED THAT THE UNITED STATES DISTRICT COURT HAD (ERRED) DISMISSING PETITIONER'S CLAIMS NO[#] 1, 2 AND 22 AS PROCEDURALLY DEFAULTED FAILING TO REVIEW MR(ELIS) CAUSE AND PREJUDICE ARGUMENT UNDER THE LENSE OF MARTINEZ V. RYAN 132 S. CT 1309 (2012). DUE TO POST CONVICTION COUNSEL FAILING TO RAISE THE SUBSTATIVE CLAIMS, MR(ELIS) MOTION FOR RELIEF OF JUDGMENT RJE 60(b) IS PENDING. (OKT 105)

13. THE PETITIONER MR(ELIS) HAD ARGUED THAT THE UNITED STATES DISTRICT COURT HAD (ERRED) BY DISMISSING PETITIONER'S CLAIMS NO[#] 1, 2 AND 22 AS PROCEDURALLY DEFAULTED FAILING TO REVIEW MR(ELIS) CAUSE AND PREJUDICE ARGUMENT UNDER THE LENSE OF WILLIAMS V. TAYLOR 529 U.S. 420, 146 L. Ed 2d 435, 120 S. CT. 1479 (2000); AND § 2254 (e) (2) (A) (i). AND DENYING AN EVIDENTIARY HEARING (OKT 75)

IV. CLAIMS NO[#] 6 THRU 21.

1. THE PETITIONER MR(ELIS) HAD ARGUED WRIT OF CERTIORARI. pg 21,

THAT THE UNITED STATES DISTRICT COURT
HAD (ERRED) BY DISMISSING PETITIONERS
CLAIMS N^o 6 THRU 21 AS PROCEDURALLY
DEFAULTED FAILING TO GRANT RELIEF
DUE TO POST CONVICTION APPELLATE COUNSEL
ATTORNEY ABANDONEMENT OF MR(ELLIS)
APPEAL OF THE DENIAL OF A POSTCONVICTION
EVIDENTIARY HEARING IN STATE COURT
UNDER THE LENISE OF MAPES V. THOMAS
132 S. CT. 912, 924 (2012),

V. MOTION TO STAY PROCEEDINGS
THE PETITIONER MR(ELLIS) HAD ARGUED
THAT THE U.S. DISTRICT COURT (ERRED) BY
DENYING HIS MOTION TO STAY HIS FEDERAL
HABEAS PROCEEDINGS IN ORDER TO ATTEMPT
TO PROPERLY EXHAUST CLAIMS N^o 1, 2 AND
6 THRU 22. (DKT 87).

VI. MOTION FOR REVIEW BY FUTILITY EXCEPTION.
THE PETITIONER MR(ELLIS) HAD ARGUED THAT
THE U.S. DISTRICT COURT (ERRED) BY DENYING
HIS MOTION TO REVIEW CLAIMS 1, 2 AND
6 THRU 22 BY FUTILITY EXCEPTION. (DKT 76.).

VII. DENIAL OF CERTIFICATE OF APPEALABILITY.
THE U.S. DISTRICT COURT HAD DENIED THE
PETITIONER MR(ELLIS) A CERTIFICATE OF APPEALABILITY.
WRIT OF CERTIORARI PS 22

REASONS FOR GRANTING THE PETITION.

A. CLAIM NO[#] 3: DENIAL OF CONTINUANCE TO RETAIN COUNSEL OF QUALITY AND CHOICE.

(1.) THE PETITIONER MR(ELIS) CLAIMS THAT HIS SIXTH AMENDMENT RIGHTS WERE VIOLATED WHEN THE TRIAL COURT DENIED HIS REQUEST FOR A CONTINUANCE OF THE PROBATION VIOLATION HEARING HELD ON MARCH 21, 2013 TO OBTAIN COUNSEL OF QUALITY AND CHOICE.

(2.) THE UNITED STATES DISTRICT COURT HAD (ERRED) BY REJECTING CLAIM NO[#] 3. FIRST, BY RULING THAT THE UNITED STATES SUPREME COURT HAS NEVER HELD THAT THE "SIXTH AMENDMENT RIGHT TO COUNSEL OF ONE'S CHOICE EXTENDS TO PROBATION/REVOCATION PROCEEDINGS. INDEED BECAUSE REVOCATION PROCEEDINGS ARE "NOT A STAGE OF A CRIMINAL PROSECUTION," THE SIXTH AMENDMENT RIGHT TO COUNSEL DOES NOT APPLY TO SUCH A PROCEEDING AT ALL - AT LEAST WHERE, AS HERE, THE SENTENCE WAS IMPOSED, SUSPENDED, AND LATER ORDERED EXECUTED FOLLOWING WRIT OF CERTIORARI. pg. 23.

REVOCAION. Gagnon v. Scarpelli, 411 U.S. 778, 782, (1973); SEE ALSO Morrissey v. Brewer, 408 U.S. 471, 480 (1972). ("[T]HE FULFILLMENT OF RIGHTS DUE A DEFENDANT IN (A CRIMINAL PROSECUTION) DOES NOT APPLY TO PROBATION OR PAROLE REVOCATIONS.") AND ALTHOUGH THE DUE PROCESS CLAUSE INCLUDES, IN SOME CASES, THE RIGHT TO COUNSEL DURING REVOCATION PROCEEDINGS, THERE IS NO CLEARLY-ESTABLISHED SUPREME COURT PRECEDENT THAT THE DUE PROCESS CLAUSE INCLUDES A RIGHT TO COUNSEL OF CHOICE - AS OPPOSED TO A RIGHT TO COUNSEL IN GENERAL - IN ANY SUCH PROCEEDING.

SECOND: EVEN IF THE RIGHT TO COUNSEL OF CHOICE DOES APPLY IN PROBATION REVOCATION PROCEEDINGS, THE IDAHO COURT OF APPEALS' DECISION - THAT THE TRIAL COURT'S DENIAL OF THE CONTINUANCE DID NOT VIOLATE THAT RIGHT, - WAS NOT OBJECTIVELY UNREASONABLE UNDER § 2254 (d).

SEE: MEMORANDUM DECISION AND ORDER (OCT 99), WRIT OF CERTIORARI, ^{PP.} 24.

(B.) THE PETITIONER MR (ELLIS) IS RESPECTFULLY REQUESTING THAT (CERTIORARI) TO BE GRANTED FOR THE FOLLOWING REASONS.

THE SIXTH AMENDMENT OF THE UNITED STATES CONSTITUTION, AND ARTICLE 1 SECTION 13 OF THE IDAHO CONSTITUTION GUARANTEE THE RIGHT TO COUNSEL. SEE: WHEAT V. U.S., 486 U.S. 153, 100 LEd 2d 140, 108 S. CT. 1692 (1988) (THE SIXTH AMENDMENT PROVIDES THAT CRIMINAL DEFENDANTS WHO CAN AFFORD RETAINED COUNSEL HAVE A QUALIFIED RIGHT TO COUNSEL OF THEIR CHOICE. U.S. V. RAY 731 F.2d 1361, 1365 (9TH 1984), THE RIGHT IS QUALIFIED BY THE NEED TO AVOID (P. 1402) UNDERMINING PUBLIC CONFIDENCE IN THE INTEGRITY OF THE LEGAL SYSTEM[...]) WRONGFUL DENIAL OF THIS QUALIFIED RIGHT IS REVERSABLE ERROR EVEN WITHOUT A SHOWING OF PREJUDICE, SEE U.S. V. GONZALEZ - LOPEZ 548 U.S. 140, 165 LEd 409, 126 S. CT. 2557 (2006).

WRIT OF CERTIORARI - 25.

THE PETITIONER MR (ELLIS) ARGUES THAT THE U.S. DISTRICT COURT HAD (ERRED) WHEN IT REJECTED CLAIM NO[#] 3 RULEING THAT PROBATION REVOCATION PROCEEDINGS ARE "NOT A STAGE OF A CRIMINAL PROSECUTION" AND THAT THE SIXTH AMENDMENT RIGHT TO COUNSEL DOES NOT APPLY TO SUCH A PROCEEDING, STATING THAT THE FULL PANOPLY OF RIGHTS DUE A DEFENDANT IN (A CRIMINAL PROSECUTION) DOES NOT APPLY TO PROBATION OR PAROLE REVOCATIONS, AND THERE IS NO CLEARLY - ESTABLISHED SUPREAM COURT PRECEDENT THAT THE DUE - PROCESS CLAUSE INCLUDES A RIGHT TO COUNSEL IN GENERAL - IN ANY SUCH PROCEEDING. THE PETITIONER MR (ELLIS) ARGUES THAT THE SUPREAM COURT OF THE UNITED STATES DID NOT ADDRESS THAT A PROBATIONER OR PAROLEE DID NOT HAVE A DUE - PROCESS RIGHT TO RETAIN COUNSEL OF CHOICE IN PROBATION, AND PAROLE REVOCATION PROCEEDINGS, THE COURT HAD ONLY ADDRESSED WRIT OF CERTIORARI. PG. 26.

WHETHER A PROBATIONER OR PAROLEE'S
HAVE A SIXTH AMENDMENT RIGHT
TO COUNSEL AT PUBLIC EXPENSE
IN GAGNON V. SCARPELLI 411 U.S. 78 S.Ct
(1973), THEREFORE THE U.S. DISTRICT COURT'S
RULING IS UNPERSUASIVE AND IS
WITHOUT MERIT. (Dkt 99).

THE PETITIONER MR (ELIS) ARGUES
THAT HE HAS A SIXTH AMENDMENT
RIGHT TO RETAIN COUNSEL OF QUALITY
AND CHOICE BY FEDERAL LAW, AND
PRE-JUDGMENT SUPREME COURT PRECEDENT
AND THAT THE TRIAL COURT HAD
DENIED MR (ELIS) A CONTINUANCE TO
RETAIN COUNSEL OF QUALITY AND CHOICE.
SEE: Unger V. Sarafite 376 U.S. 577, 589 (1964)
WHICH CONSTITUTES AN ABUSE OF DISCRETION,
SEE: ALSO U.S. V. GONZALEZ - LOPEZ 548 U.S.
140, 165 (Ed at 409, 126 S.Ct 2557 (2006))
IN WHICH CONSTITUTES STRUCTURAL ERROR,
AND ALSO SEE: Riggio V. Secretary, Dept
OF COR, 704 F. Supp 2d 1244 (M.D.
FLA, 2010),

WRIT OF HABEAS CORPUS 27.

(D.) THE PETITIONER MR(ELIS) RESPECTFULLY PRAYS THAT(CERTIORARI)BE GRANTED AS THE UNITED STATES SUPREEM COURT HAD NOT ADDRESSED WHETHER A PROBATIONER OR PAROLEE HAS A "SIXTH AMENDMENT RIGHT" TO RETAIN PRIVATE COUNSEL OF QUALITY AND CHOICE IN Gagnon V. Scarpelli, 411 U.S. 78 S.Ct. (1973)," AND THAT IT IS OF GRAVE IMPORTANCE TO THE PUBLIC AND CRIMINAL DEFENDANTS IN PROBATION AND PAROLE REVOCATION PROCEEDINGS" FOR THE UNITED STATES SUPREEM COURT TO ADDRESS AND ANSWER THE QUESTION. AND SET PRECEDENT ON WHETHER A PROBATIONER OR PAROLEE HAS THE RIGHT TO RETAIN PRIVATE COUNSEL OF QUALITY AND CHOICE IN DEFENSE OF PROBATION AND PAROLE REVOCATION PROCEEDINGS, AND THAT IF THE PETITIONER MR(ELIS) RIGHTS HAD BEEN VIOLATED TO GRANT MR(ELIS) WRIT OF HABEAS CORPUS, WRIT OF CERTIORARI. 88.

A. CLAIMS NO^H 4 AND 5: LACK OF NOTICE OF IMMEDIATE REVOCATION/DISPOSITION HEARING FOLLOWING ADMIT/DENY HEARING, AND DENIAL OF CONTINUANCE SO PETITIONERS WITNESSES COULD TESTIFY.

1. THE PETITIONER MR(ELIS) RESPECTFULLY PRAYS FOR (CERTIORARI) TO BE GRANTED AS THE UNITED STATES DISTRICT COURT HEED THAT WHILE THE DISTRICT COURT MIGHT HAVE DENIED MR(ELIS) BOTH NOTICE AND A MEANINGFUL OPPORTUNITY TO PREPARE A DEFENSE, THOSE ERRORS WERE HARMLESS BECAUSE MR(ELIS) WITNESS TESTIMONY WOULD NOT HAVE CHANGED THE DISTRICT COURTS DECISION TO REVOKE PROBATION. MR ELIS ARGUES THAT THE HARMLESSNESS ANALYSIS IN THE OPINION OF THE U.S. DISTRICT COURT, AND THE IDAHO COURT OF APPEALS IS INCONSISTANT WITH PRECEDENT OF THE UNITED STATES SUPREAM WRIT OF CERTIORARI. 29

COURT, THE IDAHO STATE SUPREAM COURT,
AND THE IDAHO COURT OF APPEALS.

(B) THE PETITIONER MR(ELLIS) ARGUES AND
CLAIMS THAT;

1. THE UNITED STATES DISTRICT COURT'S
DECISION WAS CONTRARY TO, AND AN
UNREASONABLE APPLICATION OF FEDERAL
LAW, AND UNITED STATES SUPREAM COURT PRECEDENT,
§ 2254 (d) (1).

AND THE UNITED STATES DISTRICT COURT'S
DECISION:

2. RESULTED IN A DECISION THAT WAS BASED
ON AN UNREASONABLE DETERMINATION OF THE
FACTS IN LIGHT OF THE EVIDENCE PRE-
SENTED IN STATE COURT PROCEEDINGS.
2254(d)(2).

(C) THE PETITIONER MR(ELLIS) ARGUES THAT
A PROBATIONER HAS A SUBSTANTIAL
WRIT OF CERTIORARI

DUE PROCESS RIGHT IN A PROBATION
REVOCAION PROCEEDING TO NOTICE, TWO
HEARINGS. (1) TO ESTABLISH PROBABLE
CAUSE, (2) A REVOCAION HEARING IN WHICH
A PROBATIONER HAS THE RIGHT TO TESTIFY
IN HIS OWN BEHALF, PRESENT WITNESSES,
AND MAY HAVE AN ATTORNEY PRESENT. SEE:
GAGNON V. SCARPELLI, 411 U.S. 78 S. CT. (1973).
WHEN THE PETITIONER MR (ELIS) REQUESTED
FOR A CONTINUANCE DUE TO THE LACK OF
NOTICE TO PREPARE A DEFENCE AND TO
CALL WITNESSES HIS REQUEST HAD BEEN
DENIED BY THE DISTRICT COURT.

THE UNITED STATES DISTRICT COURT, AND
THE IDAHO COURT OF APPEALS DECISION TO
AFFIRM THE DISTRICT COURT ON THE
FOREGOING BASIS HAS ALLOWED THE
DISTRICT COURT TO "CIRCUMVENT" THE
THE DUE PROCESS RIGHTS MANUATED IN
MORRISSEY V. BREWER 408 U.S. 471, 488-489
(1972), AND GAGNON V. SCARPELLI, 411 U.S.
78 S. CT (1973), THAT PROTECT AGAINST
ILL FATED REVOCAION PROCEEDINGS.

WRIT OF CERTIORARI 31

MOREOVER, THE U.S. DISTRICT COURT, AND THE IDAHO COURT OF APPEALS DID NOT APPLY THE CORRECT HARMLESSNESS STANDARD WHEN EVALUATING MR(ELLIS) CLAIM THAT HE WAS DENIED THE RIGHT TO BE ABLE TO CALL WITNESSES. AS MENTIONED(SUPRA) WHEN DEALING WITH A CLAIM THAT A DEFENDANT WAS DENIED THE RIGHT TO CALL WITNESSES IN ORDER TO ESTABLISH REVERSABLE ERROR AND PREJUDICE, THE DEFENDANT NEED ONLY ESTABLISH THAT THE WITNESSES POTENTIAL TESTIMONY WAS FAVORABLE AND MATERIAL HANSLMAN, 116 Idaho at 268.

ABSENT SUCH A STANDARD, THERE WOULD BE NO RIGHT, OR REMEDY FOR A VIOLATION OF THE RIGHT TO CALL WITNESSES BECAUSE A TRIAL COURT COULD ALWAYS PREVENT APPELLATE REVIEW OF A CLAIM THAT THE DEFENDANT WAS DENIED WITNESSES BY DOING WHAT THE DISTRICT COURT DID IN THIS MATTER, TO WIT, REQUEST AN OFFER OF PROOF AS TO THE WITNESSES TESTIMONY WRIT OF CERTIORARI. 32.

AND THEN RULE AGAINST THE DEFENDANT.
THE PETITIONER MR(ELIS) RESPECTFULLY
REQUESTS THAT CERTIORARI BE GRANTED
AS IT IS OF GRAVE IMPORTANCE TO
THE PUBLIC, PROBATIONERS, AND PAROLEES
TO PREVENT AGAINST "IN FATED" PROBATION
AND PAROLE REVOCATION PROCEEDINGS
THEREFORE CERTIORARI SHOULD BE
GRANTED IN THIS MATTER.

(A.) PROSECUTORIALLY DEFAULTED CLAIMS

I. CLAIMS 1, 2, AND 22.

THE PETITIONER MR(ELIS) HAS FILED
A MOTION FOR RELIEF FROM JUDGMENT
RULE 60(b) IN REGARDS TO (CLAIM NO[#]
2) IN WHICH IS STILL PENDING IN THE
U.S DISTRICT COURT (DRT 105). ALTHOUGH
THE PETITIONER MR(ELIS) RESPECTFULLY REQUESTS
THAT THE COURT RESOLVE CLAIMS NO[#] 1, 2,
AND 22 AS IT WOULD BETTER SERVE
JUDICIAL TIME, AND A CONOMY IN THE
INTEREST OF JUSTICE TO RESOLVE THEM AND
WRIT OF CERTIORARI. PS. 33

PURSUANT TO MARTINEZ V. RYAN 132, S. CT. 1309 (2012), THESE CLAIMS ARE INEXTRICABLY INTERTWINED.

II. CLAIMS NO[#] 6 THRU 21.

THE PETITIONER MR(ELIS) RESPECTFULLY REQUESTS THAT CERTIORARI BE GRANTED TO RESOLVE CLAIMS NO[#] 6 THRU 21 DUE TO STATE POST CONVICTION APPELLATE COUNSEL ATTORNEY ABANDONMENT OF THE PETITIONERS APPEAL OF THE DENIAL OF A POST CONVICTION EVIDENTIARY HEARING IN STATE COURT, SEE: MARLES V. THOMAS 132 S. CT. 912, 924 (2012),

III. MOTION TO STAY PROCEEDINGS.

THE PETITIONER MR(ELIS) RESPECTFULLY REQUESTS THAT CERTIORARI BE GRANTED TO RESOLVE THE DISTRICT COURTS DENIAL OF THE PETITIONERS MOTION TO STAY (OKT 87.) SEE: RHINES V. WEBER 544 U.S. 264, 277 (2005)

IV. DENIAL OF EVIDENTIARY HEARING.

THE PETITIONER MR(ELIS) RESPECTFULLY REQUESTS THAT CERTIORARI BE GRANTED TO RESOLVE THE DISTRICT COURTS DENIAL OF AN EVIDENTIARY HEARING. (OKT 75).
WRIT OF CERTIORARI, PG 34.

IV. DENIAL FOR REVIEW BY FUTILITY EXCEPTION
THE PETITIONER MR(ELIS) RESPECTFULLY REQUESTS THAT CERTIORARI BE GRANTED TO RESOLVE THE U.S. DISTRICT COURTS DENIAL TO HEAR CLAIMS 1, 2 AND 6 THRU 22 BY FUTILITY EXCEPTION (OKT 76.)

VI. DENIAL OF CERTIFICATE OF APPEALABILITY
THE PETITIONER MR (ELIS) RESPECTFULLY REQUESTS THAT CERTIORARI BE GRANTED TO RESOLVE THE U.S. DISTRICT COURTS DENIAL OF A CERTIFICATE OF APPEALABILITY IN MR(ELIS) FEDERAL HABEAS CORPUS PROCEEDINGS IN CASE NO[#] 1:15-CV-00815-BLW AS THE U.S. DISTRICT COURTS MEMORANDUM DECISION AND ORDER (OKT 99), (OKT 100.) HAD BEEN INFECTED WITH SUBSTANTIAL LEGAL ERROR.

THE PETITIONER MR(ELIS) CLAIMS OF ERROR ARE SUBSTANTIVE CLAIMS IN REGARDS TO CLAIMS NO[#] 3, 4, 5, AND 1, 2, AND 6 THRU 22. AND THE REJECTION AND DENIAL IS A MANIFEST INJUSTICE.
WRIT OF CERTIORARI. PS 35.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jerry Leonard Ellis

Date: JULY 19TH, 2012