No. 19-5830

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

William Danielson — PETITIONER
(Your Name)

vs.

The State of New York — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court, Appellate Division, Third Department, New York.
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)
(The Court of Appeals refused refused to grant leave.)

PETITION FOR WRIT OF CERTIORARI

William Danielson
(Your Name)

Elmira Correctional Facility
(Address)
P.O. Box 500
Elmira, N.Y. 14902-0500
(City, State, Zip Code)

None
(Phone Number)

QUESTION(S) PRESENTED

1) Should judicial misconduct survive a waiver of appeal and guilty plea?

2) Should prosecutorial misconduct survive a waiver of appeal and guilty plea?

3) Should decisions of The Commission on Judicial Conduct, and other such regulatory authorities be explained when they are dismissed? ("The decisions of the Commission must stand by themselves and cannot be expounded upon..." Words to this effect were stated, when I requested to know why perjuries by a judge were deemed insufficient to warrant discipline.)

4) Should civil cases resulting from criminal cases be left unadjudged until appeals of the criminal case are exhausted?

5) Should violations of civil rights have a statute of limitations commensurate with other crimes, of 7 years, if not longer in cases where these were deliberately denied by those in positions of authority?

LIST OF PARTIES

[x] 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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INDEX TO APPENDICES

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APPENDIX H: Order issued by Judge Frank B. Revoir Jr. On page 7 of that document, the Judge explains that defense had failed to establish that Mr. Ferrarese would give testimony adverse to the people. Defense indeed did offer this, and Judge Revoir SHOULD HAVE recognized this himself. He and Mr. Ferrarese had discussed the child's abuse at the hands of his mother and her family, on several occurrences. Both were well-aware of the acts of violence and the evidence thereof, and both were aware of the issues forced on myself to deal with these issues. Both Knew that a child was being exposed to domestic violence, and this ruling is a travesty of justice.

Pages 7 through 11 reveal the Judge's admission that Mr. McBride did take an active role in the Family Court proceeding, which the District Attorney had denied, and the Judge affirmed that denial, during the January 22, 2014 arraignment. This is proof that Judge Revoir knowingly permitted and suborned perjury, and abetted the same.

Deliberate interference of a Family Court matter by a man with no right to be present at that hearing, who then lied about that interference, is admitted to by both Judge Revoir and District Attorney McBride.

Appendix I: Attorney Affirmation of Michael Ferrarese: Point 10 affirms that Mr. Ferrarese "can offer no testimony of evidence that would be admissible for either the defense or the prosecution of the Defendant."

This statement was made after Mr. Ferrarese had already dropped SWD as a client, and had joined the prosecution of the Defendant, after he had been aware that a psychological defense was being prepared, and knowing that that defense would center around the continuing abuse, neglect and violent acts being committed against the Defendant's child - his client until the day of arrest. After 4 months as the child's advocate, after 6 interviews of the father (Defendant) and child, after advising the Defendant's attorney on how to approach the Family Court with matters pertaining to the violence against the child, after assisting the Defendant to overcome the obstacles being placed in his path by the child's mother and her family, after detailing how he had a difficult time prosecuting the ex-husband of the victim, Mr. Ferrarese then claimed that he could not offer any testimony to these events. Judge Revoir, who had discussed the violence against the child with Mr. Ferrarese, the child's advocate, appointed by that Court, agreed to this statement.

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
S.L. v J.R., 27 N.Y.3d 558, 56 N.E.3d 193, 36 N.Y.S.3d 411 (June 9, 2016)	Pg 13
Giglio v United States, 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972)	pg 21
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Alcorta v State of Texas, 355 U.S. 28, 78 S.Ct. 103, 2 L.Ed.2d 9 (1957)	pg 22
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People v Wlasiuk, 32 A.D. 3d 674, 821 N.Y.S.2d 285 (2006)	pg 24
People v Crimmins, 36 N.Y.2d 230, 238, 367 N.Y.S.2d 213, 326 N.E.2d 787 (1975)	pg 24
Strickland v Washington, 466 U.S. at 698, 104 S.Ct. at 2070 (1984)	pg 25, 27
Winkler v Keane, 7 F.3d 304, 308, (2nd Cir. 1993) cert denied 511 U.S. 1022, 114 S.Ct. 1407, 128 L.Ed.2d 79 (1994)	pg 25

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STATUTES AND RULES

Exception to Hearsay: Evidence [recordings] used not to show truth of content, but instead to show the state-of-mind of the Defendant, is an exception to the Hearsay Rule. pg 12 (17 &18)

Judicial Canons: [22 NYCRR §100.1, §100.2, §100.3]		pg 12 (17) & 24
Statements at Time of Sentence: CPL §380.50		pg 12 & 13
Rules of Professional Conduct	(throughout writ)	pg 12 (17)
The Constitution of the United States	(throughout writ)	pg 9 & 10
The Constitution of the State of New York	(throughout writ)	pg 9 & 10

OTHER

Custody determinations of a child should be made only after a full and plenary hearing and inquiry:

Fernandez v Saunders, 101 N.Y.S.3d 900(Mem), (July 3, 2019)

Guy v Weichel, 2019 WL 2518721,(June 19, 2019)

Inter alia

CASES PAGE NUMBER

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

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

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

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

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

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

[X] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

[X] reported at 170 A.D.3d 1430; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the New York State Court of Appeals court appears at Appendix B to the petition and is

[X] reported at 33 N.Y.3d 1030 Denial for leave to appeal; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

1. A.

IN THE

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

[X] 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

[X] reported at 159 A.D.3d 1287; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the New York State Court of Appeals court appears at Appendix D to the petition and is

[X] reported at 31 N.Y.3d 1071 Leave to appeal dismissed; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

1. B.

JURISDICTION

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

The date on which the United States Court of Appeals decided my case was _____.

[ ] 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).

[X] For cases from **state courts**:

The date on which the highest state court decided my case was March 28, 2019. A copy of that decision appears at Appendix A.
Family Court appeal was decided on March 29, 2018, Exhibit C.

[ ] 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 Right to Free Speech - Particularly in my own defense at trial; was denied me by the order of Judge Frank B. Revoir, as well as at my sentencing hearing.

2 ... The Right to be free from unreasonable searches and seizures, was denied by the numerous people who deliberately ignored exculpatory statements made by the ONLY eye-witness in the case. Though Judge Revoir and District Attorney McBride both avowed that SWD was a witness, all disregarded the statements he made that declared I was NOT the suspect. Search warrants were approved by a magistrate who was NOT neutral and detached, and one was issued to remove firearms never used or suspected of use in a crime. These firearms were taken illegally and NOT returned to my benefactors. Suppression was later denied, by the same Judge.

3 ... The Right to Due Process was denied me and my family, throughout these cases. Decisions were made outside the presence of the Defendant and his counsel; decisions of my child's custody were determined without a hearing, while ignoring evidence of that child's abuse and neglect at the hands of his mother and her family; and evidence less than two years old was deemed inadmissible for being "too old;" eve-of-trial evidence was deemed admissible with no delays permitted, prejudiciously destroying the defense planned for more than a year and a half prior; improper rulings precluded evidence; although the prosecution was permitted the use of similar evidence; all revealed to the defense only hours prior to trial. Judicial Canons, Rules of Professional Conduct and laws and statutes were all broken and disregarded by the Courts and officers of the Courts of Chenango County.

4 ... The Right to Assistance of Counsel: At incredibly vital stages of my trial, decisions were made where very prejudicial and improper rulings were incorporated into the case, yet Defendant and defense counsel were not made aware of these until less than a week prior to jury selection. My objections to these were interrupted by the prosecutor's shouting and ignored by the Judge, when they were finally revealed. Questions pertaining to these rulings were ignored and I was warned to adhere to those rulings.

5 ... The Right to be Heard: Not only was my testimony restricted before trial even began - where I would have to take an oath to God that I would tell the truth, the WHOLE TRUTH and nothing but the truth, when it had already been predisposed by Judge Revoir that I could not do so. Was I to defy a vindictive Judge, or deliberately break my vow to The Almighty??? My Right to make a statement of my choosing at my own sentencing was also denied me. My right to be heard was denied me in the Family Court case, which began in August of 2013. To this day, I have been denied that right, including in my appeals.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

6 ... The Right to Equal Protection of the Law: My son still lives with the very people who allowed him to be beaten, choked, sexually assaulted, repeatedly punched in the groin, held down while forced to eat food that had fallen on the floor while his mother sat a few feet away and laughed, etc. The law has protected those who neglected my child very well. Please see above and compare the protection I and my family have been offered.

Judge Revoir and District Attorney Joseph McBride perjured themselves numerous times, on the record, then lied to cover up those perjuries, then both deemed me a liar without offering a single detail or bit of evidence that I stated an untruth. Mr. McBride was quoted in the newspaper detailing how I was the guilty party to the crimes he had yet to arraign me on, detailing the steps I took and the reasons I did the acts he had yet to charge me with. These stories were repeated in that newspaper numerous times, as well as being broadcast on radio news and television, then later, as my appeal was about to be heard, he produced commercials with similar stories, which were aired in the very district - likely into the very homes of the Appellate Judges - as they contemplated my case, just before they decided on that case. Not only was the jury pool tainted, but the entire courtroom was, the Appellate Division was, all while denying me the Right To Be Heard.

The proof of this: I have evidence that shows my son was a victim of abuse, neglect, sexual assault, having his life endangered, time and time again. What authority has heard this evidence? What attorney has brought this evidence before a Court? The only mention of this domestic violence forced onto a child who was six years of age when it began, is on the record of a chambers conference, where Judge Revoir demanded that none of this will be mentioned in his court. Even HE refused to admit to how little of this evidence he was actually aware of. He did NOT even review the evidence before precluding it. Why was it precluded? Because it showed HIS corruption, HIS underhandedness, HIS incompetence. It shows the corruption of the Courts and officers of the Courts of Chenango County, and was suppressed by that very Court. Although he was made aware of the domestic violence against my child in August of 2013, he has taken great measures to eliminate its mention ever since, and has been too successful in this. Lawyer after lawyer has struggled to suppress this evidence, Judge after Judge has ignored it.

STATEMENT OF THE CASE

In August of 2013, my then 6 year old son described to me details of how he had been sexually assaulted by his older half-brother. As their mother was already asleep, I used my cell-phone to record his statements, to prove to her that these were his words. I learned shortly thereafter, that my son had been physically beaten and choked by that same older half-brother, on numerous occasions, had approached his mother for help on several occasions - which all ended with the beaten child being yelled at by his mother.

Discussions with their mother ended in an impasse, as she demanded 50% custody of our child, after repeatedly allowing his well-being and in fact, his life, to be endangered. We agreed to continue that discussion the next day.

I returned home (which I had owned for many years) to find it trashed; to find my son, his clothing and toys - gone; to find my own belongings left in heeps, broken, or missing. The Police (the Chenango County Sheriff's Office) refused to take any action, despite my pleas that my son was in danger for his life, not even a deputy stopping by the house to confirm its damage, nor a missing gun report submitted after I was told it would be. I was threatened with arrest and told not to try to contact her or my child - she had accused me of being violent and abusive. This was an absolute lie.

From that point forward, despite NO proof of any abuse or violence on my part during our eight year relationship, I was considered an abuser. The Family Court offered NO immediate relief toward either family offense petition I had submitted, and only after an Order to Show Cause was approved, did I get to see my son. Though it was detailed in that document, that the child was physically abused, sexually assaulted, and repeatedly choked, the judge still took NO measures to assuage the violence against him, while ordering placement split between his mother and I.

The domestic violence against my son, with the knowledge and consent of his mother and her family, continued, increased in frequency and in severity, and the Family Court offered only a single stipulation that the two boys should not be left unsupervised together, ignoring the fact that much of the abuse took place in full view of his mother and/or grandparents. This document also revealed that evidence existed of the child's abuse and sexual assault.

The child's Law Guardian interviewed the child four times, and myself twice, hearing of the events of violence against his client from both of us. He too, took NO actions to end the abuse and neglect of the child.

STATEMENT OF THE CASE

On the day of my arrest, the same judge arraigned me, after discussing the case with that attorney, who was immediately allowed to drop my son as a client in order to join the District Attorney's Office to prosecute me. *1 The same judge presided over the criminal case, claiming to be unprejudiced, refusing to recuse himself or grant a change of venue. He went on to allow eve-of- *2 trial evidence that prejudiciously eliminated the psychological defense planned for since a year and a half prior. He then ruled to supress the recorded evidence of the child reporting the numerous acts of violence and neglect against him, as hearsay, despite that evidence falling under the exact definition of exception to hearsay. *3 (Recordings used to show the state of mind of the defendant, not to indicate truth of their content.) He then ruled that not only could the defense NOT use those recordings, but that the prosecutor COULD use recordings of the same child, made on the same phone, in order to show what HE claimed was the state of mind of the defendant. The double standard was objected to and ignored by the Court. The Judge continued his adverse rulings, culminating in my not being allowed to even MENTION the abuse of my child during the trial. These rulings were shared with defense only a day or so prior to jury selection. He allowed no delays for the defense to prepare for these rulings, nor for the psychological expert to prepare for the new evidence, allegedly found just the week prior, on a phone that had been in police possession for nearly two years at the time.

My attorney told me that I would NOT receive a fair trial there, and opened the discussion of changing my plea. Having only one witness left to call, my eight year old son, and NOT being allowed to speak the truth myself, I had to agree. The fear of my son's words being manipulated by the prosecutor, whom had already deliberately interfered in the Family Court proceedings, then LIED about doing so on the record of my arraignment, then lied again while making excuses of his presence therein, then lied again about what he had actually said during that interference, weighed heavily upon me during that decision. When my attorney told me that my sentencing statement could not be censored by the Court as my testimony had been, and that I could make a statement that included excerpts of the recordings that proved my son was abused and neglected - thus forcing those to be accepted as evidence in the Family Court case, I agreed. That statement was also restricted, and neither the recordings nor my mention of the child's abuse and neglect were allowed by the Court. *4

[Please see pages 17 and 18 for footnotes]

STATEMENT OF THE CASE

The evidence of my child's abuse and neglect, is evidence of Judge Revoir's depraved indifference to the pain and suffering of a child brought to his Court for protection from that domestic violence, which he ignored for well over 4 months. That same Judge then not only precluded mention of this, or admission of the evidence of the abuse and neglect of my son during the criminal trial against me, but then refused to allow it to be submitted in subsequent hearings of the custody case.

Both the attorney for myself, and that of my Sister Gloria, reported that the evidence, produced between August 2013, and as recently as the spring of 2014, was deemed "TOO OLD" to be admitted to the Court, in 2016. Some of these recordings included the child reporting similar exposure to violence and disregard by his grandparents, whom had since been awarded temporary custody of the child.

Eventually, my sister was convinced by her attorney, that with the evidence of the child STILL being abused and neglected inadmissible, she had no choice but to settle for visitation. Despite my being included as a respondent in the case, and my known unwillingness to allow his abuse and neglect to be swept under a carpet, the custody of my child was then decided WITHOUT a full and fair hearing, without ANY hearing. This is in opposition to hundreds of cases, including S.L. v J.R..

On direct appeal of this, the Appellate Division, Third Department, New York State Supreme Court ruled that a full hearing in determining a child's custody is not absolute. That Court cited S.L. v J.R., 27 N.Y. 3d 558, 563, 36 N.Y.S.3d 411, 56 N.E.3d 193 [2016] as support of this. That case cites far more, the need to provide a full and fair hearing prior to determining a child's custody, and in fact, was remanded back to Family Court for just such a hearing. (see Strobel v Danielson, 159 A.D.3d 1287, 74 N.Y.S.3d 387, March 29, 2018) That was the ONLY case cited by that Court in support of its decision.

In August of 2013, a Judge of the Supreme Court of New York, decided to deliberately act unjustly, to deliberately ignore the domestic violence STILL being inflicted on a child whose custody was to be determined by HIS Court, and then to deliberately COVER UP his corruption and underhandedness by suppressing all evidence of that child's abuse and neglect. He did so by suborning perjury on the parts of his Court's officers, by permitting the deliberate interference of the District Attorney in the Family Court case, by conspiring to commit perjury with regards to that interference, and by unlawfully ruling to eliminate any and all defenses of the criminal case, and any and all mention of that child's pain and suffering, which HE failed to assuage.

STATEMENT OF THE CASE

That Judge coerced my guilty plea, and further coerced me to sign the waiver of appeal due to his unethical and unlawful acts, and I am now out of State options as far as appeals, because I pleaded guilty and signed that document.

I was denied the right to be heard, I was denied the right to tell the truth in my own defense, I was denied due process, I was denied counsel at critical stages of the case - particularly, when the decision to consider evidence hearsay, when it should not have been, and when I was precluded from mentioning the abuse and neglect of my child. These decisions were made far in advance of my trial, revealed by the statement of Assistant District Attorney Michael Ferrarese, in April of 2014: "I can offer no testimony or evidence that would be admissible for either the defense or the prosecution of the defendant." (Please see Appendix I) *5

Further, as Mr. Ferrarese was permitted by the Court to switch sides to the Prosecutor's Office, the Court itself ignored what it should have recognized as a conflict of interest and breach of confidentiality. This was done on December 27, 2013, the day of my arrest. The Court was aware that Mr. Ferrarese had interviewed the child four times and myself twice, as he made that statement in the same affirmation as he did the above quoted disclaimer. The man was the attorney for the child for four months, and had been told on several occasions of the child's abuse and neglect at the hands of his mother and her family, yet stated that he could offer no evidence or testimony to this. Either that man was lying when he made that statement, or the Court had already deemed such subjects inadmissible. If in the case of the former, the Judge should have seen through these obvious lies and denied him permission to join that prosecution, or better, should have disqualified that office when motioned for. If the latter is true, the Court made great efforts to conceal this decision until the Friday immediately prior to jury selection, twenty-two months later.

Comparing that Judge's other decisions regarding the suppression of any and all mention of the child's abuse and neglect, he made that decision knowing that HE wanted mention of those subjects precluded. It was Judge Revoir's intent to eliminate Mr. Ferrarese's testimony of his own and Judge Revoir's corruption. This goes far beyond the "appearance of impropriety," this is blatant impropriety, which forced my defense to be eliminated immediately prior to my trial. It carried forth to the Family Court, in which my son's custody was awarded to the people whom the child had reported - in a recorded statement - had coerced him, with NO HEARING in the matter.

STATEMENT OF THE CASE

In both the Appellate Division brief, and the arguments submitted to the Court of Appeals, the District Attorney did not argue that these facts were NOT TRUE. The arguments presented were mainly that the defendant pleaded guilty and signed a waiver of appeal, and therefore, these wrongs brought to light by the defendant, should be ignored. Both Courts agreed. The District Attorney CANNOT argue that the above statements are false, they are indeed true, as proven in the pro se brief submitted to the Appellate Division, and in this document. This brings us to questions 1 and 2 of those presented to this Court:

When a citizen is denied due process, is denied a fair trial, has seen the Judge presiding over his case lie, conspire to commit perjury, conspire to violate Judicial Canons, and the law, conspire to protect his own interests at the expense of justice; and is forced to plead guilty and sign a waiver of appeal, should these criminal acts be then wiped clean, and that citizen offered no recourse?

As per question 3:

I submitted these complaints to the Commission on Judicial Conduct in 2016. I included transcripts in which the Court was asked - on the record - if the District Attorney had offered information to the [Family] Court with regards to the criminal matter. The District Attorney, Joseph McBride, not only interfered with the asking of this, but then answered "NO!" The Judge then stated; "All right." (Appendix F) In a Decision and Order later provided by Judge Revoir, he detailed how Mr. McBride DID approach the Family Court and DID offer information to that Court. Mr. McBride also offered an Attorney Affirmation, admitting the same. (Appendix h & G) This in itself proves that perjury was committed and confirmed by the Court. Further proof was offered to the fact that the excuses given by both men later, were also false, showing further perjury to hide the original perjuries. That commission refused to accept this proof, and then refused to elaborate on why.

"Decisions of the Committee must stand for themselves," or words to that effect were offered in response to my inquiries, with an addendum that I could ask for reargument if I felt that the Committee had misapprehended the law in their decision. When I questioned that I could not tell if, or how the Committee had misapprehended the law until a reason for the denial was offered, I was given the exact words that I had been in their first response. To this day, no explanation has been offered as to why perjury and conspiracy to commit perjury were not considered acceptable reasons

to consider disciplinary actions against the Judge.

The maternal grandmother of my son has initiated a wrongful death lawsuit against me, which has resulted in a judgment against me. That judgment resulted from two reasons according to the decision and order; the conviction against me, and the testimony of Mrs. Strobel and another. Although that testimony could have easily been proven false, and evidence existsd that Mrs. Strobel took an active role in the abuse and neglect of my son, my retained attorney at the time convinced me that the case was flawed and would be turned over on appeal. He convinced me to forego any cross-examination, and to not testify on my own behalf. That firm then allowed the deadline for the appeal to be submitted, to pass with no brief ever offered, and no notification to me of their change in strategy.

The conviction against me was obtained through dishonesty, fraud, deceit and misrepresentation. Although I can prove these facts, I no longer have an avenue to do so. In fact, the property I own was pending sale prior to my trial, when that sale fell through. News of the lawsuit against me prevented the buyer from obtaining Title Insurance, and therefore the loan he was applying for. How this news was released is being investigated, but bottom line, I was forced to leave the property in its current state, and lost the funds that I could have used to retain adequate counsel.

Question 4 pertains to judgments of related civil actions being put on hold until all avenues of appeal are exhausted. It is my contention that, with the numerous violations of my constitutional rights by the Courts of Chenango County, a Federal Court will intervene. Unfortunately, I now have no funds to use to retain an attorney in this endeavor, nor for the eventual re-acquisition of my property should my conviction be overturned. There is a good possibility that I may end up with a dismissal, and find myself homeless and penniless due to the corruption of the Courts of Chenango County and its officers, while still having to fight the legal syatem to regain custody of my son from the people who allowed him to be beaten, who neglected him time and time again, and in whose home he was sexually assaulted.

This has been a case of tyrannical oppression from the first I approached the authorities. Corruption has divided my family, left my son abused and neglected, and is about to take everything I have struggled to provide to my family for decades.

STATEMENT OF THE CASE

FOOTNOTES:

*1 ... Rules Of Professional Conduct: Rule 8.4; Misconduct; (inter alia) Mr. Ferrarese had been informed by the Defendant, prior to any charges, that his son, Mr. Ferrarese's client, had been abused and neglected by his mother and her family; had been informed of this by the child; had been made aware of numerous acts of provocation and harrassment by Ms. Knoll and her family against the Defendant while offering to assist to assuage some of these deliberate acts; had advised the Defendant's counsel on several matters pertaining to the Family Court case, including detailing how and when certain petitions should be submitted to that Court, then stated in an Attorney Affirmation that: "I can offer no testimony or evidence that would be admissible for either the defense or the prosecution of the Defendant." This statement was quoted as the reason Mr. Ferrarese was allowed to join the prosecution of the Defendant on the day of his arrest, and the reason Mr. Ferrarese was disqualified as a witness in these matters. (please see appendix I)

*2 ... Judicial Canons: [22NYCRR §100.3 (E)] Judge Revoir had approved an Order to Show Cause on August 27, 2013, in which it was documented that evidence existed of the child's sexual assault by his older half brother, and how this and other events of domestic violence were disregarded by their mother. Judge Revoir then refused to recuse himself or grant a change of venue in the subsequent criminal case, remaining as presiding Judge in the matter in contradiction of the law: "A Judge shall disqualify himself or herself in a proceeding in which the Judge's impartiality might reasonably be questioned, including but not limited to instances where: (a)(i) the Judge has a personal bias or prejudice concerning a party; or (ii) (ii) the Judge has personal knowledge of disputed evidentiary facts concerning the proceeding... (b)(iii) the Judge has been a material witness concerning it..." (I personally pleaded with Judge Revoir to implement measures to assuage the violence against my son, on the record of the initial hearing of Family Court.) Nearly two years later, just hours prior to jury selection, Judge Revoir revealed that this same evidence was inadmissible, declaring that the recordings were hearsay - in direct violation of the definition of hearsay.

*3 ... Hearsay exception; Evidence (recordings) used to show the state-of-mind of the defendant, and not used for truth of content, are an exception to hearsay.

STATEMENT OF THE CASE

*3 ... Black's Law Dictionary also adds the following as an exception to hearsay:

"Tender-Years hearsay exception. (1976) A hearsay exception for an out-of-court statement by a child ten years of age or younger, usu. describing an act of physical or sexual abuse, when the child is unavailable to testify and the court determines that the time, content, and circumstances of the statement make it reliable."

Judge Revoir did NOT hear the recordings, overruled the objections of defense, and precluded the recordings as hearsay. He then ruled that NO MENTION of the child's abuse and neglect were permitted, and refused to offer any explanation for this decision.

*4 ... This ruling extended - wrongfully - into the sentencing statement of the Defendant as well. The sentencing statement is afforded to the Defendant in order to convey any circumstances not revealed during trial, that may be considered by the Court prior to imposing sentence. This is the opportunity for the Defendant to expose mitigating factors in which the Court may consider a lesser sentence, even that which may have been agreed to. This, too, was denied me. (CPL §380.50)

*5 ... See Attorney Affirmation submitted by Michael Ferrarese, point number 10. Appendix I

REASONS FOR GRANTING THE PETITION

This nation was founded on the principle of a government of the people by the people, and for the people. It was designed with checks and balances built in so that no particular part shall have a monopoly on its domain, so that no part may rule oppressively without another checking that. What I hope to have illustrated here is how this tenet has been overcome.

This case began when I learned that my child had been sexually assaulted. I tried to talk through this and keep my family intact. I then learned that my child had been beaten and choked numerous times, in his own home, and that his mother had been aware of these incidents and had refused to intervene, I still tried to talk through these problems for the good of my family.

At that point, the Justice system was manipulated. I was accused of heinous things simply to detract attention from the horrors forced onto my child by his mother and her family. With NO hearing, I was from that day considered an abuser. With NO evidence, I was considered a danger to my child. With NO due process, I was then denied due process. Permanently.

I still tried to do the right thing, I still went to court and pleaded for measures to protect my son from harm. I collected evidence which was destroyed by corrupt lawyers and ignored by a corrupt Judge. My son's mother and her family still tried to provoke me into confrontation after confrontation just to support their false allegations against me. When these measures failed, they resorted to further abusing my child. I still tried to do the right thing, collecting this evidence to prove who truly was the danger to my child. I was promised by my attorney, by the attorney advocating for my son, by so many, that this would be addressed , and the domestic violence against my son stopped. It was not.

The Chenango County Sheriff's Department lied to me time and time again, from the very first time I approached them for help. Child Protective Services lied to me while making excuses for my son's pain and suffering. My son's law guardian told my attorney how to litigate the matter, knowing of the violence being forced onto the child, discussing that with the Family Court Judge on more than one occasion, and was then allowed to assist in my prosecution. Detectives lied, the Chenango County District Attorney deliberately interfered in the Family Court case then lied about it - with the Judge's affirmation. The Judge lied.

Throughout that time, my son was still being beaten, still being hurt, and still being neglected by his mother's family. The same Judge who ignored the domestic violence forced onto my child, then ruled to keep all that secret.

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Many decisions and orders were made by that man to protect his own interests, and those of the officers of his corrupt court. I was not even permitted to say anything with regards to the situation forced onto my family, during my own trial. My evidence was improperly ruled inadmissible, my witnesses and defenses strategically eliminated, and I was baited with fear and deceit of having my child feel that he was responsible for all this. I changed my plea to protect my child and get him some relief from the people who had so frequently abused and neglected him, and for some reason, my signature was able to completely eliminate the criminality of those who had perjured themselves, who had conspired to endanger a child's life, who had conspired to obstruct justice.

The icing on the cake was the affirmation by the Courts that oversee those who broke the law so flagrantly. The checks and balances that keep the Justice System just, decided to deliberately ignore the injustices forced onto someone who tried to do the right thing. And those commissions that investigate wrongdoings by those in authority decided to ignore those as well, while keeping their reasons for doing so... secret.

Judicial prejudice requires de novo review... However, the Appellate Division, Third Department, New York State Supreme Court overlooked that, choosing instead to presume that my signature on a waiver of appeal, despite my attorney's assurances that it was "meaningless," and a "paper tiger," was more than enough to disregard that judicial prejudice. To disregard those criminal acts committed by a Court.

Judicial Canons dictate that when a Judge learns of misconduct on the part of another Judge, they must take appropriate action to investigate that matter. [22 NYCRR § 100.1, §100.2, §100.3, inter alia] Nowhere in these Canons is a waiver of appeal mentioned as a controlling factor. Nowhere was the Judge's misconduct brought to light.

The same Judicial Canons state that when a Judge learns of misconduct on the part of a lawyer, he must take appropriate action to assauge that misconduct. In this case, the Judge stated "all right" when the District Attorney lied on the record. Nowhere was the Prosecutor's misconduct investigated. And my signature relieved the Superior Courts of this State from any responsibility in the matter.

A Court of this State used deceit, trickery, abuse of power, perjury, fear, collusion, et cetera in order to deny me the right to be heard and the right to a fair trial. Many lawyers have lied, and my son remains in the custody of those who had facilitated his abuse and forced neglect upon him time and again. Now, six years later, EVERYONE has turned a blind eye to this, because I signed a waiver of appeal.

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Quoting Giglio v U.S., 405 U.S. 150, 92 S. Ct. 763, 31 L.Ed.2d 104, The Supreme Court of the United States stated: "As long ago as Mooney v Holohan, 294 U.S. 103, 112, 55 S. Ct. 340, 342, 79 L. Ed. 791 (1935), this Court made clear that deliberate deception of a Court and jurors by the presentation of known false evidence is incompatible with 'rudimentary demands of justice.' [...] We said '(t)he same result obtains when the State, although not soliciting false evidence, allows it to go uncorrected when it appears.' Id., at 269, 79 S.Ct.,at 1177.

In this case, the Prosecutor addressed issues of the eye-witness, not really being an eye-witness, after the suppression hearing was ended, but immediately in front of the Judge. Stating that it was too dark, and that the witness was in the front seat of a car facing away from the scene... This is the same witness that Mr. McBride brought to the attention of the Family Court (the same Judge Frank B. Revoir Jr.) during a hearing that he inappropriately interfered with. This is the same witness affirmed by Judge Revoir as being a witness during the Sentencing Hearing on December 18, 2015. The witness was considered a witness during public hearings, in order to taint public opinion - and the jury, yet he was considered NOT a witness in order to have his exculpatory statements ignored by the Court that approved the search warrant applications. Can a witness be a witness and not be a witness??? Although publically deemed a witness to the event, the Prosecutor deliberately did NOT include the witness as a witness in his case. *H

Mr. McBride held press conferences shortly after my arrest, proclaiming my guilt in the matter. He made numerous statements regarding the abuse of my son being a lie that I fabricated. These statements were published by The Evening Sun, and broadcast on local news, while social media became a frenzy of suggestions and demands of violence against me. Judge Revoir himself offered statements during my sentencing, not only announcing that my son was an eye-witness, which he had deemed otherwise during the suppression hearing, but also calling into question the love that I feel for my child. *H page 4

Simultaneously, Judge Revoir suppressed the evidence of my child's abuse and neglect, which was a major factor in the onset of the extreme emotional disturbance that took place. He did so by misapprehending the Hearsay Rule, denying the evidence used not for truth of content, but to prove the state-of-mind of the Defendant, was an exception, when that is the clear and precise definition of exception to hearsay. He denied me the right to mention the abuse and neglect deliberately forced onto my child, and did so offering NO reasoning for such a decision , whatsoever.

*H - Appendix H

There could be no reason for such a restriction. Knowing that this evidence, and that the abuse and neglect that continued long after his Court presided over the matter with no intervention by that Court, was evidence of his own corruption, is the reason that these subjects were eliminated from mention. In Pyle v Kansas, 317 U.S. 213, 63 S.Ct. 177, 87 L.Ed. 214, (December 7, 1942) "...the deliberate suppression by those same authorities of evidence favorable to him [...] sufficiently charge a deprivation of rights guaranteed by the Federal Constitution, and, if proven, would entitle petitioner to release from his present custody." In my appeals, these allegations were not disputed or denied by the Prosecutor.

Mr. McBride was present during the interview of the psychological expert for the prosecution. He heard me tell of the evidence I had collected since before the start of the Family Court case, until well after my arrest, which showed a penchant on the part of my son's mother and her family, to permit and encourage violence against my son, even to the point of his grandparents personally threatening him with violence. Mr. McBride did not review this evidence, yet fought to have it suppressed. His intentions were very clear, he was not seeking justice, he wanted a conviction at all costs. His lies pervaded the headlines, were shared ad nauseam, were accepted by the Court when convenient for the Court, and known to be false by the Court, were never corrected by the Court. This is an absolute violation of due process of law, as per Alcorta v State of Texas, 355 U.S. 28, 78 S.Ct. 103, 2 L.Ed.2d 9 (Nov. 12, 1957)

The evidence in question, ruled inadmissible by misapplication of the law, was evidence of an extreme emotional disturbance that should have warranted a lesser charge of manslaughter second or even third degree. This defense was also eliminated with deceit, wherein eve-of-trial evidence was offered by the prosecutor simply to obfuscate the defense, which it did. The Court allowed no delay for the expert to prepare for that evidence, which it received less than 48 hours prior to trial. The arguments of the prosecutor and erroneous rulings of the Court denied me the defense that had been announced and prepared for over a year and a half prior. These prejudicial acts resulted in my having no defense at start of trial, thus coercing me into accepting my attorney's persuasion, and changing my plea. That discussion, on the day my defense was withdrawn, began with my hired counsel telling me: "You will not get a fair trial here." Having no choice but to accept a sentence of 20 years to life, I did so, with the assurances of my attorney that I could present a statement, including excerpts of that evidence, which would then have to be admissible in the Family Court matter, and which would undoubtedly end that case with my son's custody being transferred away from

his maternal grandparents. This too, was improperly denied.

These Constitutional violations have resulted in my incarceration far in excess of that for a conviction of manslaughter, and in my son remaining in the custody of those who have deliberately fostered domestic violence, abuse and neglect against him, simply to suit their own wishes. These constitutional violations have deliberately and prejudiciously kept my son in a harmful situation every day of his life, has deprived him of the counseling and therapy required by a victim of domestic violence, and may likely cause him to grow up believing that violence against children and family is a common and acceptable practice.

The decision to consider the recordings as hearsay was shared with defense only days prior to trial, and then during an unrecorded telephone conference where the Defendant was not present. This was merely shared with the counsel for defense. That counsel argued during the very next hearing that these recordings were not being offered for truth of content, but to show the state-of-mind of the defendant leading up to the incident charged. The Court denied this. This was the morning of jury selection. This decision was made with no counsel for the defense present, with no adversarial discussion involved, and was made in violation of the rules of professional conduct and judicial canons. This too, was highly prejudicial to the defense, as was preclusion of mere mention of the abuse and neglect of the child. In doing so, the Court denied the Defendant counsel in those matters, as in, or in even more direct circumstances, as U.S. v Cronic, 104 S.Ct. 2039, 466 U.S. 648, 84 L.Ed.2d 657. (May 14, 1984)

These rulings come with a significant appearance of impropriety, as they were made by the very Judge whom would be cast in a negative light by the revelation of these facts. The same man who had disregarded the violence against the child - brought to him for the purpose of assuaging that violence - who had disregarded the accruing evidence of that child's abuse and neglect, whom was asked by the Defendant to implement measures to assure the safety of the child, and whom mysteriously decided to ignore these events, then ruled to prevent their exposure - in violation of canons, the law and the Constitution.

The appearance of impropriety is obvious. Not a single attorney made aware of these circumstances - even early on in the case - made any mention of Judge Revoir being correct in refusing to recuse himself. Most voiced that he should not be presiding, some so perturbed, that they refused the case, or asked for incredible fees to take it on knowing this was unattainable.

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The misconduct however, goes far beyond appearance. Perjury, conspiracy to commit perjury, conspiracy to obstruct justice, conspiracy to defraud, violations of numerous administrative and judicial rules and statutes, all done from under the veil of a judicial robe. All done from behind a bench. And my humble signature made all that legal???

In People v Wlasuik, 32 A.D.3d 674, 821 N.Y.S.2d 285,(August 31, 2006) the Appellate Division stated: "Nonetheless, we are mindful of our 'overriding responsibility' to ensure that 'the cardinal right of a defendant to a fair trial' is respected in every instance (People v Crimmins, 36 N.Y.2d 230, 238, 367 N.Y.S.2d 213, 326 N.E.2d 787 [1975]) This case is even more pertinent, because these words were spoken of the very same prosecutor, Mr. Joseph McBride, who had taken similar lengths to deny that Defendant his rights to a fair trial as well.. That case was reversed.

Judge Revoir abused his discretion by not recusing himself, or granting a change of venue, as per 22NYCRR §100.3 (E)(1):"A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited instances where: (a)(i) the judge has a personal bias or prejudice concerning a party; or (ii) the judge has personal knowledge of disputed evidentiary facts concerning the proceeding;" And: "The Judge knows that he [...] has any other interest that could be substantially affected by the proceeding;"

It was proven by Judge Revoir's actions in the Family Court case, that he had an interest subversive to the case, by denying admissiblity of the evidence of the child's abuse and neglect by its mother and her family. This evidence was deemed "too old" for consideration by the Court, even evidence that showed my son's maternal grandparents had neglected him, had violated Court orders, and had themselves threatened the child with violence. Much of that evidence of criminal acts was less than 2 years old when this determination had been made.

Judge Revoir proved his interests overrode the criminal case in several instances; Compelling the Defense to produce a written report by the psychological expert, when case law dictated otherwise; (this was later proven, the prosecutor withdrew his demand for the report, but was then later permitted by the Court to reissue the argument when defense counsel was replaced.) When he permitted eve-of-trial evidence to be admissible knowing it would prejudice the defense, while denying any delays in the start of trial; By ruling recorded evidence as hearsay when it fell under the exact definition of exception to hearsay; By ruling that no mention of the child's abuse in his courtroom would be tolerated; By then permitting the prosecutor to make statements regarding the abuse of my son being a fabrication - in his courtroom. (Among other things)

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Judge Revoir's knowledge of disputed evidence is proven by the Order to show cause that he signed on August 27, 2013. That document stated that recorded evidence existed of the child being sexually assaulted, that the child had been choked and beaten on many occasions, thattheir mother was aware of the life-threatening acts and had refused to take any action to assuage that behavior, and that other incidents of inappropriate behavior had been forced onto the child. Although he approved this order, he changed the relief portion of the document, causing the child to split his week with each of his parents. Although he had been informed of the child's life being endangered, and the willful disregard and neglect of his mother, Judge Revoir ordered NO measures to protect the child from further harm. Judge Revoir made only one impotent effort to implement such a stipulation, then later ignored the violation order submitted to him regarding that order. Through that submission, through the personal pleadings of the Defendant on the record of his Court, and through discussions I was appraised of taking place during the attorney-only conferences prior to the Family Court hearings, Judge Revoir was well-aware that the child, SWD, was still having violence forced upon him while in his mother's care, and was still being ignored when he sought help from her and her parents.

Judge Revoir then went well out of his way to prevent any of these facts from being exposed, by deliberately denying my family and myself the rights we are guaranteed by the Constitution of the United States.

Abuse of discretion is a conclusion of law, citing Strickland v Washington, 466 U.S. at 698, 104 S.Ct. at 2070; Winkler v Keane, 7 F.3d 304, 308, (2nd Cir., 1993) cert denied, 511 U.S. 1022, 114 S.Ct. 1407, 128 L.Ed.2d 79 (1994) the conclusions of law require de novo review. (emphasis added)

Though this was brought to the attention of the Appellate Division in the Appellant's pro se brief, that tribunal still refused to review the case, because I signed a waiver of appeal.

In U.S. v Brinkworth, 68 F.3d 633: (October 19, 1995) "We find that Chantal's approach, which permits a defendant who has pleaded guilty unconditionally to appeal a [recusal] denial, correctly resolves the waiver issue..." (Quoting U.S. v Chantal, 902 F.2d 1018, May 3, 1990.)

Further; "In the circumstance of potential judicial bias, we believe the better course is to ensure a defendant's right to appeal. We hold, therefore, that a defendant who pleads guilty unconditionally may nevertheless appeal denial of [recusal] motion." Id.

Also; "The denial of a motion for a new trial is reviewed for abuse of discretion [...] as is Judge Redden's refusal to recuse himself." U.S. v Monaco, 852 F.2d 1143, 1147 (9th Cir. 1988) cert denied, 488 U.S. 1040 (1989)

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Next, my plea, despite my statement otherwise, was made due to coercion, fraud, deception, fear, misapprehension and collusion. My attorney, Thomas Jackson, was well-aware that I agreed to change my plea, for the most part, in order to expose the recordings on the record to compel the Family Court to accept them as evidence in that venue. He approached the Court in chambers, on the morning of my sentencing hearing explaining our intentions. When this too was (improperly) denied me, Mr. Jackson made no inclination nor mention for me to withdraw my plea. He made no mention of any post-allocution motion; he continued to urge me to NOT make comment on the statement of the victim's family, despite its untruths easily disproven, and he continued to urge me to sign the waiver of appeal. "It's a paper tiger," "it's meaningless," "You will still be able to appeal, and these issues will all be heard by a higher Court..."

This is proof that the false promises of Mr. DeLucia (Mr. Jackson's partner and the attorney whom had represented me since I hired that firm) affected the voluntariness of my plea, and that further false information from Mr. Jackson eliminated any proper post-allocution motions from being submitted. Yet again I was denied counsel in a crucial point in the trial.

Only minutes prior to my sentencing, I learned of yet another ruling by Judge Revoir which turned out to be inappropriate, which again denied me the rights I am guaranteed and I was left with no advice from counsel other than to sign the waiver - it will mean nothing. This too proved to be false, as noted in the decision of the Appellate Division and Court of Appeals. (Please see Appendices A & B)

"A plea of guilty is not made voluntarily if defendant is misled, or is induced to plead guilty by fraud or mistake, by misapprehension, fear, persuasion, or the holding out of hopes which prove to be false or ill-founded." (emphasis added)
These words, taken from Roberts v State, 276 S.W.3d 833;(2009) Bequette v State, 161 S.W.3d 905, 907-08 (Mo. App. 2005) could not be better suited than in the case at hand. The acts of the Courts and officers of the Courts of Chenango County, N.Y. no matter how minor some may seem, indicate a pattern, and are a preponderance of evidence of the biases and prejudices of those Courts, and are a preponderance of evidence of the corruption of those Courts and those officers.

Defendants have a Sixth Amendment right to counsel, a right that extends to the plea-bargaining process." Lafler v Cooper, 566 U.S. 156;(2012) Missouri v Frye, 566 U.S. 134.(2012) "The precedents also establish that there exists a right to counsel during sentencing in both non-capital, see Glover v United States, 531 U.S. 198, 203-204,

121 S.Ct. 696, 148 L.Ed.2d 604; (2001) Mempa v Rhay, 389 U.S. 128, 88 S.Ct. 254, 19 L.Ed. 2d 336, (1967) and capital cases, see Wiggins v Smith,539 U.S. 510, 538, 123 S.Ct. 2527, 156 L.Ed.2d 471. (2003). (emphasis added)

"Even though sentencing does not concern the defendant's guilt or innocence, ineffective assistance of counsel during a sentencing hearing can result in a Strickland prejudice because 'any amount of [additional] jail time has Sixth Amendment significance.' (Glover v U.S., 531 U.S. 198, 121 S.Ct. 696, 148 L.Ed.2d 604. (2001)) E.g., Argersinger v Hamlin, 407 U.S. 25, 92 S.Ct. 2006, 32 L.Ed.2d 530."

I have been lied to by so many officers of the Courts, and the Courts themselves, of Chenango County, and all this is supposed to be forgiven because I signed a waiver of appeal, and pleaded guilty due to those lies?

In this day, when so many authority figures and celebrities encourage all to bring an end to domestic violence, and to child abuse, I am faced with almost an entire state its Judges, its District Attorneys, its lawyers - ALL trying to stop me from even mentioning the violence forced onto my child. ALL trying to stop me from ending that domestic violence.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

William Davidson

Date: August 20, 2019