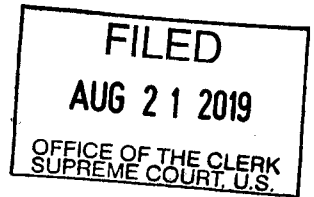


* THIS IS A CASE OF FIRST IMPRESSION *

No. 19-6345

ORIGINAL



IN THE
SUPREME COURT OF THE UNITED STATES

WILLIAM N. LUCY — PETITIONER
(Your Name)

vs.

WARDEN MARY COOKS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
UNITED STATES COURT OF APPEALS-ELEVENTH CIRCUIT

(NO COURT HAS RULED ON THE MERITS OF THIS INSTANT CASE)
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

William N. Lucy
(Your Name)

BULLOCK COUNTY CORR. FAC - P.O. BOX 5107
(Address)

UNION SPRINGS, ALABAMA 36089
(City, State, Zip Code)

(334) 738-5625
(Phone Number)

* THIS IS A CASE OF FIRST IMPRESSION *

QUESTION(S) PRESENTED

- 1) DID MOBILE COUNTY CIRCUIT COURT JUDGE ROBERT SMITH ABUSE HIS DISCRETION BY GRANTING EVICTION ORDER IN CIVIL CASE # CV11-0852 WHILE PETITIONER WERE IN BANKRUPTCY?
- 2) DID THE MOBILE COUNTY CIRCUIT CLERK VIOLATE HER DUTY OF OFFICE AND ABUSED HER DISCRETION BY NOT ENTERING "DEFAULT JUDGMENT" IN CASE NO: CV11-0852 COUNTER CLAIM PURSUANT TO RULE 55(A)(1) A.R. CIV. P.?
- 3) DID MOBILE COUNTY CIRCUIT COURT ABUSE IT'S DISCRETION IN CASE NO: CC13-05332 BY NOT ALLOWING PETITIONER TO CALL WITNESSES ON HIS BEHALF OR SUBMIT EVIDENCE ON HIS BEHALF?
- 4) DID MOBILE COUNTY CIRCUIT COURT ABUSE IT'S DISCRETION IN CASE NO: CC13-05332 BY PUTTING THIS PETITIONER ON TRIAL WITHOUT FIRST HAVING HIM ARRAIGNED,
- 5) DID THE TRIAL JUDGE ABUSE HIS DISCRETION TO RECUSE HIMSELF WHEN HE WAS AWARE HE (TRIAL JUDGE) WAS THE DEFENDANT IN A CIVIL ACTION THEN PENDING IN THE U.S. DISTRICT COURT AND THE DEFENDANT IN THE CASE HE WAS PRESIDING OVER WAS THE PLAINTIFF?
- 6) DID THE TRIAL JUDGE ABUSE HIS DISCRETION BY STOPPING THE PROCEEDINGS AND PUTTING A PROSPECTIVE JUROR BACK ON THE JURY AFTER SHE HAD BEEN "STRICKEN FOR CAUSE" BY DEFENSE WHEN SHE STATED HER HUSBAN WAS / IS 1ST COUSIN TO ONE OF THE MOBILE COUNTY DISTRICT ATTORNEY?
- 7) DID THE TRIAL JUDGE ABUSE HIS DISCRETION WHEN HE TOLD THE DEFENDANT IF HE (THE DEFENDANT) DIDN'T TAKE THE WITNESS STAND HE (DEFENDANT) COULD NOT OFFER EVIDENCE ON HIS BEHALF?

QUESTIONS PRESENTED
CONT.

- 8). DID THE TRIAL JUDGE ABUSE HIS DISCRETION BY GOING INTO THE JURY ROOM DURING JURY DELIBERATIONS AND MARKING THE VERDICT CARD "GUILTY"?
- 9). DID THE TRIAL JUDGE ABUSE HIS DISCRETION BY USING CASES 18 TO 20 YRS. OLD TO ENHANCE DEFENDANT'S SENTENCE?
- 10). DID MOBILE COUNTY CIRCUIT COURT (TRIAL COURT) ABUSE IT'S DISCRETION BY EXTENDING THE DISTRICT ATTORNEY'S TIME TO REPLY TO DEFENDANT'S RULE 32 POST CONVICTION PETITION FIVE (5) MONTHS WITHOUT THE DISTRICT ATTORNEY MOTIONING FOR MORE TIME AFTER THE 30 DAY RULE TO RESPOND EXPIRED?
- 11). DID THE ALABAMA COURT OF CRIMINAL APPEALS ABUSE IT'S DISCRETION WHEN IT CHANGED THIS PETITIONER'S BRIEF BY ADDING 20 PAGES OF IT'S CHOOSING OUT OF THE 310 PAGES SUBMITTED AS EVIDENCE AND EXHIBITS FOR DEFENDENT'S INITIAL BRIEF?
- 12). DID THE ALABAMA COURT OF CRIMINAL APPEALS ABUSE IT'S DISCRETION BY NOT RULING IN PETITIONER'S FAVOR OR CALLING FOR AN EVIDENTIARY HEARING WHEN TRIAL COURT ADOPTED STATE OF ALABAMA'S ANSWERS VERBATIM REJECTING PETITIONER'S RULE 32 POST CONVICTION PETITION?
- 13). DID THE ALABAMA SUPREME COURT ABUSE IT'S DISCRETION WHEN IT FAIL TO GRANT PETITIONER'S WRIT OF MANDAMUS TO COMPEL THE ALABAMA COURT OF CRIMINAL APPEALS TO FOLLOW THE RULE OF LAW ESTABLISHED BY THE ALABAMA SUPREME COURT IN RULINGS IN EX PARTE GRAM AND EX PARTE SCOTT CONCERNING THE ADOPTION OF THE VERBATIM ANSWERS OF THE STATE OF ALABAMA REJECTING PETITIONER'S RULE 32 PETITION.

QUESTIONS PRESENTED
CONT.

- 14). DID THE STATE OF ALABAMA ABUSE IT'S DISCRETION BY STATING PETITIONER WERE PROCEDURALLY BARRED FOR NOT GIVING THE ALABAMA SUPREME COURT A(N) OPPORTUNITY TO ADDRESS THE ISSUES RAISED BY PETITIONER IN HIS RULE 32 PETITION AND RULED ON BY THE ALABAMA COURT OF CRIMINAL APPEALS, WITHOUT EXAMING THE COURT'S RECORD?
- 15). DID THE U.S. DISTRICT COURT'S MAGISTRATE ABUSE HIS DISCRETION BY RECOMMENDING THIS PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS BE DENIED, STATING THIS PETITIONER WAS PROCEDURALLY BARRED WITHOUT EXAMING THE STATE COURT'S RECORDS?
- 16). DID THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ALABAMA ABUSE IT'S DISCRETION AND ERROR BY DENYING THIS PETITIONER A(N) EVIDENTIARY HEARING?
- 17). DID THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ALABAMA ABUSE IT'S DISCRETION AND ERROR WHEN IT NEGLECTED ITS OBLIGATION TO SCRUTINIZE THE RECORD TO SEE IF PETITIONER SHOULD BE PROCEDURALLY BARRED.
- 18). DID THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ALABAMA ABUSE IT'S DISCRETION AND ERROR WHEN IT DENIED PETITIONER'S RIGHT TO APPEAL AND OR DENIED PETITIONER'S CERTIFICATE OF APPEAL (C.O.A) WITHOUT FIRST CHECKING THE RECORD.

QUESTIONS PRESENTED
CONT.

19). DID THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ALABAMA ABUSE IT'S DISCRETION AND ERROR BY ACCEPTING THE MAGISTRATE'S REPORT AND RECOMMENDATIONS WITHOUT SCRUTINIZING THE RECORD AND ORDERING A(N) EVIDENTIARY HEARING AND ISSUING A C.O.A. (CERTIFICATE OF APPEAL) ?

20). DID THE U.S. COURT OF APPEALS, FOR THE ELEVENTH CIRCUIT ABUSE IT'S DISCRETION AND ERROR BY DENYING PETITIONER'S PETITION FOR CERTIFICATE OF APPEALABILITY WITHOUT CHECKING AND DISCOVERING THE RECORD WOULD NOT SUPPORT THAT DECISION ?

21). DID THE U.S. COURT OF APPEALS, FOR THE ELEVENTH CIRCUIT ABUSE IT'S DISCRETION AND ERROR BY DENYING PETITIONER'S PETITION TO RECONSIDER IT'S DENIAL OF PETITION FOR CERTIFICATE OF APPEALABILITY WITHOUT CHECKING THE RECORD AND DISCOVERING, PETITIONER SHOULD NOT BE PROCEDURALLY BARRED, SHOULD HAVE HAD A(N) EVIDENTIARY HEARING, THERE HAD NOT BEEN ANY STATE OR FEDERAL HEARING ON THE MERITS OF THIS CASE AND THE RECORD WOULD NOT SUPPORT A PROCEDURAL BAR OR DENIAL OF CERTIFICATE OF APPEALABILITY ?

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] 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:

- 1). CIRCUIT COURT JUDGE ROBERT SMITH
- 2). MOBILE COUNTY PROBATE JUDGE DON DAVIS
- 3). MOBILE COUNTY CIRCUIT COURT CLERK JOJO SCHWARZAUER
- 4). MOBILE COUNTY DISTRICT ATTORNEY ASHLEY M. RICH
- 5). STEVE COX
- 6). ROBIN COX
- 7). ATTORNEY GORDON HOUSE
- 8). LAW FIRM - HOUSE AND MORGAN ATTORNEY AT LAW L.L.P.

RELATED CASES

- 1). CIVIL ACTION - CV 11 - 0852
- 2). CIVIL ACTION - CV 11 - 0852 - COUNTER CLAIM
- 3). ALABAMA SUPREME COURT CASE NO: 1161104 (PETITION FOR WRIT OF MANDAMUS)
- 4). ALABAMA COURT OF CRIMINAL APPEALS CASE NO: CR 16 - 0951 (RULE 32 APPEAL)
- 5). MOBILE COUNTY CIRCUIT COURT CASE NO: CC 13 - 05387 (RULE 32)
- 6). CIVIL ACTION U.S. DIST. COURT SOUTHERN DIST. OF ALA. CASE NO: 1:14-CV-0185-CG-B (SHOWS JUDICIAL CONFLICT OF INTEREST).
- 7). U.S. DISTRICT COURT - SOUTHERN DISTRICT OF ALA. CASE NO: 1:16-CV-00470-CG-N (TO COMPEL ALABAMA SUPREME COURT TO ANSWER)

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TABLE OF AUTHORITIES CITED

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3). FAY V. NOIA, 372 U.S. 391, 9 L. Ed 2d 837, 83 S. Ct. 822	
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10). WILLIAMS V. U.S. DEPT. OF JUSTICE BUREAU OF PRISONS, 438 F. 2d 958	

STATUTES AND RULES

RULE 55(A)(1) - ALA. R. CIV. P.
 RULE 55(B)(1) - ALA. R. CIV. P.
 RULE 59.1 - ALA. R. CIV. P.
 RULE 77(C) - ALA. R. CIV. P.
 RULE 201(D) ALA. RULES OF EVIDENCE
 RULE 201(E) ALA. RULES OF EVIDENCE

OTHER

JUDICIAL CANON OF ETHICS - CANON 1, CANON 2(A), CANON 2(C)
 CANON 3(A)(1), CANON 3(B)(4), CANON 3(C)(1), CANON 3(C)(1)(A)
SPECIAL RESPONSIBILITIES OF A PROSECUTOR - RULE 3.8(1)(A), 3.8(1)(d)
ALABAMA RULE(S) OF JUDICIAL ADMINISTRATION - RULE 4(B)(M), 4(B)(N)

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 B 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 C to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits 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 _____ 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.

DOCUMENTS WAS
CONFISCATED AND
DESTROYED BY
A.D.O.C. OFFICIALS

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was MAY 23, 2019.

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

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, 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 _____.
A copy of that decision appears at Appendix _____.

☐ 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).

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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

AMENDMENT #1 TO U.S. CONST. - ACCESS TO COURT
AMENDMENT #5 TO U.S. CONST. - DUE PROCESS OF LAW
AMENDMENT #6 TO U.S. CONST. - COMPULSORY PROCESS TO CALL WITNESSES
AMENDMENT #14 TO U.S. CONST. - EQUAL PROTECTION OF THE LAW

CONSTITUTION OF ALABAMA 1901 - ARTICLE 1 §6 - ARRAIGNMENT IS MANDATORY

STATEMENT OF THE CASE

THIS CASE STARTED IN OR ABOUT 2009, IN THE UNITED STATES BANKRUPTCY COURT, AS APPELLANT FILED FOR BANKRUPTCY PROTECTION TO STOP AN ILLEGAL FORECLOSURE. WHILE UNDER PROTECTION OF THE BANKRUPTCY COURT, STEVE COX AND WIFE ROBIN COX, HOLDERS OF A VENDOR'S LIEN; WITH THE AID OF THEIR ATTORNEY, GORDON HOUSE, FILED AN ACTION IN THE MOBILE COUNTY CIRCUIT COURT TO TAKE POSSESSION OF APPELLANT'S HOME (CHIN STREET PROPERTY) (CASE NO. CV11-0852), EVEN THOUGH APPELLANT WERE UNDER THE PROTECTION OF THE U.S. BANKRUPTCY COURT, STEVE AND ROBIN COX'S PETITION FOR POSSESSION WAS GRANTED BY CIR. JUDGE ROBERT SMITH AND THEY TOOK POSSESSION OF APPELLANT'S CHIN STREET PROPERTY.

APPELLANT WAS UNDER THE UNITED STATES BANKRUPTCY COURT'S PROTECTION; TO GRANT THE PETITION OF STEVE AND ROBIN COX TO TAKE POSSESSION OF APPELLANT'S HOME WAS IMPROPER AND ILLEGAL; APPELLANT FILED A COUNTER CLAIM IN THE MOBILE COUNTY CIRCUIT COURT...SEE (CV11-0852 COUNTER CLAIM). AFTER MORE THAN THIRTY (30) DAYS ELAPSED, AFTER BEING LAWFULLY SERVED WITH SUMMONS AND COMPLAINT, AND THE COUNTER DEFENDANTS STEVE COX, ROBIN COX, GORDON HOUSE AND HOUSE AND MORGAN LAW FIRM FAILED TO PLEAD, ANSWER OR GIVE ANY DEFENSE TO APPELLANT'S COUNTER CLAIM IN CASE CV11-0852. AND SINCE THE AMOUNT DEMANDED BY APPELLANT LUCY IN HIS COUNTER-CLAIM WAS FOR A SUM CERTAIN (FOURTY TWO MILLION DOLLARS); APPELLANT LUCY PETITIONED THE MOBILE COUNTY CIRCUIT COURT CLERK (SO SO SCHWARZAUER) FOR A "DEFAULT JUDGMENT" PURSUANT TO RULE 55(A)(1) OF THE ALABAMA RULES OF CIVIL PROCEDURE - WHICH STATES IN

STATEMENT OF THE CASE CONT.

PERTINANT PART "IF THE AMOUNT IS A SUM CERTAIN OR IF IT IS FOR A SUM THAT CAN BE MADE CERTAIN BY COMPUTATION, THE CLERK UPON REQUEST OF THE PLAINTIFF AND UPON AFFIDAVIT OF AMOUNT DUE SHALL ENTER JUDGMENT."

ON DECEMBER 7, 2011, THE MOBILE COUNTY CIRCUIT CLERK (JOSO SCHWARZAUER) ENTERED A DEFAULT IN THE MOBILE COUNTY CIRCUIT COURT RECORDS IN FAVOR OF THIS APPELLANT; (COUNTER-PLAINTIFF, WILLIAM N. LUCY IN CASE NO: CV11-0852 COUNTER-CLAIM), BUT REFUSED TO ENTER THE "DEFAULT JUDGMENT," AS PER ALABAMA LAW (RULE 55(A)(1) ALA. R. CIV. P.) AND IN VIOLATION OF THE OATH-OF-OFFICE MRS. SCHWARZAUER TOOK, TO UP-HOLD THE LAW AND SUPPORT THE CONSTITUTION(S) OF ALABAMA AND THE UNITED STATES; AFTER NUMEROUS PHONE CALLS TO MRS. SCHWARZAUER'S OFFICE (CIRCUIT CLERK), LEAVING MESSAGES, SENDING A CERTIFIED LETTER TO NOTIFY MRS. SCHWARZAUER (CIRCUIT CLERK) OF COUNTER-PLAINTIFF LUCY'S INTENSION TO FILE A COMMERCIAL LIEN AGAINST HER FOR THE AMOUNT OF THE JUDGMENT DUE COUNTER-PLAINTIFF LUCY IN CIVIL CASE NO: CV11-0852 COUNTER-CLAIM (FOURTY TWO MILLION DOLLARS), IN THE MOBILE COUNTY PROBATE COURT ALONG WITH A DOCUMENT ENTITLED "RIGHT TO CURE"; WHICH GAVE THE CIRCUIT CLERK (MRS. SCHWARZAUER) THE RIGHT AND ABILITY TO SETTLE THIS DIFFERENCE WITH COUNTER-PLAINTIFF LUCY, BY FOLLOWING THE LAW AND THE OATH-OF-OFFICE SHE TOOK.

AFTER MORE THAN THIRTY (30) DAYS PASSED AND THE CLERK (MRS. SCHWARZAUER) DID NOT RESPOND; APPELLANT (COUNTER-PLAINTIFF LUCY) TOOK OFF FROM WORK AT HIS JOB, DROVE DOWNTOWN TO THE COURT HOUSE TO TALK TO THE CLERK; TO NO AVAIL; INSTEAD, WHILE WAITING TO SEE HER, AFTER BEING TOLD TO HAVE A SEAT AND WAIT, BY MRS. SCHWARZAUER'S

STATEMENT OF THE CASE CONT.

OFFICE MANAGER (CHUCK LEWIS), HE (CHUCK LEWIS) TOLD THE COURT POLICE TO HAVE ME ESCORTED FROM THE COURT HOUSE; WITH ALL EFFORTS TO GET THE CLERK TO DO THE RIGHT THING AND FOLLOW THE LAW, EXHAUSTED, INCLUDING FILING MOTIONS; COUNTER-PLAINT~~BY~~ LUCY SUBMITTED FOR FILING AND RECORDING, A "COMMERCIAL LIEN" AGAINST THE CIRCUIT CLERK (MR. SCHWARZAUER) IN THE MOBILE COUNTY PROBATE COURT, ALONG WITH A DOCUMENT ENTITLED "RIGHT-TO-CURE".

AFTER THE LIEN WAS FILED AND RECORDED IN THE MOBILE COUNTY PROBATE COURT; MOBILE COUNTY CIRCUIT JUDGE AND CIRCUIT COURT CLERK JOJO SCHWARZAUER RETALIATED AGAINST THIS APPELLANT; FILING A COMPLAINT, HAVING HIM ARRESTED, HAVING LUCY PLACED IN THE MOBILE COUNTY METRO JAIL, HELD WITHOUT CHARGE OR BOND FOR THIRTY (30) DAYS. LUCY WERE RELEASED. CIRCUIT COURT CLERK THEN SIGNED A WARRANT ALLEGING APPELLANT WILLIAM N. LUCY HAD FILED THE COMMERCIAL LIEN AGAINST CIRCUIT COURT JOJO SCHWARZAUER TO HARASS HER.

WHILE INCARCERATED PLAINTIFF WAS TOLD BY JAILER, JUDGE JOHNSTON HAD HIM ARRESTED, BUT FOUND OUT LATER FOUND OUT CIRCUIT COURT CLERK JOJO SCHWARZAUER ACTUALLY SIGNED THE WARRANT TO HAVE APPELLANT ARRESTED. WHILE IN JAIL APPELLANT LUCY FILED A 42 U.S.C. 1983 CIVIL RIGHTS COMPLAINT AGAINST CIRCUIT JUDGE JOSEPH JOHNSTON, SHERIFF SAM COCHRAN AND MOBILE METRO JAIL WARDEN TREY OLIVER, CITING FALSE IMPRISONMENT. APPELLANT FILED THE 42 U.S.C. 1983 AGAINST CIRCUIT COURT JUDGE JOHNSTON IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ALABAMA, SOUTHERN DIVISION... (SEE 1:14-CV-00185-CG-B). ALTHOUGH APPELLANT WAS RELEASED FROM JAIL, THE 1983 CIVIL RIGHTS COMPLAINT WAS STILL PENDING IN THE U.S. DISTRICT COURT.

STATEMENT OF THE CASE CONT.

DEFAULT WAS ENTERED IN THE MOBILE COUNTY CIRCUIT COURT RECORDS ON DECEMBER 7, 2011, IN FAVOR OF WILLIAM N. LUCY COUNTER PLAINTIFF IN CIVIL ACTION CASE NO: CV11-0852 COUNTER-CLAIM, AGAINST STEVE COX, ROBIN COX, GORDON HOUSE, AND HOUSE AND MORGAN ATTORNEY AT LAW LLP.; CLERK THEN ATTEMPTED TO CHANGE THE DATE IN A(N) ATTEMPT TO NULLIFY THE FORTY-TWO MILLION DOLLAR JUDGMENT DUE APPELLANT LUCY BY ENTERING ON THE RECORD THAT THE DEFAULT WAS ENTERED ON OR ABOUT JANUARY 20, 2012 ALMOST 2 MONTHS AFTER THE ACTUAL DATE.

CLERK WENT ON TO SAY IN THE RECORD THAT STEVE COX FILED A PETITION FOR SUMMARY JUDGMENT ON OR ABOUT DEC. 13, 2011 AND CIRCUIT COURT JUDGE ROBERT SMITH GRANTED THE STEVE COX SUMMARY JUDGMENT, DISMISSING APPELLANT LUCY'S DEFAULT AND \$42 MILLION DOLLAR JUDGMENT DUE LUCY, IN OR ABOUT NOVEMBER 2012 (ALMOST 1 YR LATER).

HOWEVER PURSUANT TO RULE 59.1 OF A.R.C.V.P., WHICH STATES IN PERTINENT PART "NO POSTJUDGMENT MOTION FILED PURSUANT TO RULES 50, 52, 55 OR 59 SHALL REMAIN PENDING IN THE TRIAL COURT FOR MORE THAN 90 DAYS. IF NOT RULED ON WITHIN 90 DAYS IT IS DENIED BY OPERATION OF LAW."

SO YOU SEE EVEN IF THE DEFAULT WERE NOT ENTERED UNTIL JANUARY 20, 2012 AND PETITION FOR SUMMARY JUDGMENT BY COX ENTERED ON OR ABOUT DEC. 13, 2011 AND GRANTED BY JUDGE ROBERT SMITH IN OR ABOUT NOVEMBER 2012, LUCY'S JUDGMENT WILL STILL BE GOOD BECAUSE OF RULE 59.1 A.R.C.V.P. LUCY IS DUE HIS \$42 MILLION DOLLARS JUDGMENT FROM STEVE COX, ROBIN COX, GORDON HOUSE AND HOUSE AND MORGAN ATTORNEYS - AT-LAW L.L.P.,

STATEMENT OF THE CASE CONT.

SEVERAL MONTHS LATER APPELLANT LUCY WAS ARRESTED AGAIN IN THE OFFICE OF CITY OF MOBILE, AL. MAYOR SANDY STIMPSON, AS HE (LUCY) WAITED TO TALK TO MAYOR STIMPSON ABOUT THE PURCHASE OF A BUILDING OWNED BY THE CITY OF MOBILE (THE G.M. & O BUILDING), AS APPELLANT LUCY WERE A SMALL REAL ESTATE INVESTOR. APPELLANT LUCY WAS AGAIN TAKEN TO THE MOBILE COUNTY METRO JAIL, HELD ON CHARGE THAT HE (APPELLANT LUCY) FILED A FORGED INSTRUMENT IN THE PROBATE COURT, TO HARASS A GOVERNMENT SERVANT, (THE COMMERCIAL LIEN). DUE TO THE NATURE AND BECAUSE THIS CASE INVOLVED THE CIRCUIT COURT CLERK AND THE FACT THE CIRCUIT COURT CLERK REFUSED TO UP-HOLD HER OATH-OF-OFFICE AND FOLLOW THE LAW AND ENTER THE FOURTY TWO MILLION DOLLAR DEFAULT JUDGMENT DUE COUNTER PLAINTIFF LUCY, IN CIVIL CASE NO; CV11-0852 COUNTER CLAIM; AFFORDABLE COMPETENT LEGAL REPRESENTATION FOR APPELLANT LUCY WAS IMPOSSIBLE TO OBTAIN, SO LUCY PROCEED AT TRIAL REPRESENTING HIMSELF.

APPELLANT LUCY'S TRIAL STARTED JAN. 5, 2015, WITH THE JURY SELECTION. FIRST THING APPELLANT LUCY NOTICED WERE, THE NEW TRIAL JUDGE WAS CIRCUIT COURT JUDGE JOSEPH JOHNSTON; APPELLANT LUCY IMMEDIATELY VIGORLESSLY OBJECTED TO THE MOBILE COUNTY ASST. DISTRICT ATTORNEY (KEITH BLACKWELL) AND TO THE JUDGE, MOTIONING FOR THE JUDGE TO RECUSE HIMSELF. ASSISTANT DISTRICT ATTORNEY KEITH BLACKWELL INSISTED THAT JUDGE JOHNSTON SHOULD HEAR THIS CASE AND JUDGE JOHNSTON DENIED THE MOTION TO RECUSE HIMSELF. APPELLANT LUCY CONTINUED TO OBJECT TO THIS TRIAL JUDGE, STATING A CONFLICT OF INTEREST EXIST BECAUSE OF THE CIVIL SUIT STILL THEN

STATEMENT OF THE CASE CONT.

PENDING IN THE U.S. DISTRICT COURT WITH APPELLANT LUCY AS PLAINTIFF AND TRIAL JUDGE JOSEPH JOHNSTON A DEFENDANT;

JUDGE JOHNSTON ORDERED THE JURY SELECTION TO BEGIN. DURING THE JURY QUESTIONING/SELECTION PHASE, ONE OF THE POTENTIAL JURORS (MRS. SEFCOAT) ANSWERED AND SAID HER HUSBAN IS FIRST COUSIN TO ONE OF THE MOBILE COUNTY ASST. DISTRICT ATTORNEYS. APPELLANT LUCY STRUCK MRS. SEFCOAT FOR CAUSE. ONCE JUDGE JOHNSTON REALIZED THAT MRS. SEFCOAT HAD BEEN STRICKEN FROM THE POTENTIAL JURORS, HE STOPPED THE PROCEEDINGS AND PUT MRS. SEFCOAT BACK ON THE JURY.

ON JANUARY 6, 2015, APPELLANT LUCY'S TRIAL BEGAN. APPELLANT LUCY FILED A MOTION FOR JUDGE JOHNSTON TO RECUSE HIMSELF. THE JUDGE DENIED THE MOTION.

ON THAT SAME DAY (JAN. 6, 2015) THE U.S. DISTRICT COURT, FOR THE SOUTHERN DISTRICT OF ALABAMA WAS REVIEWING THE CIVIL ACTION FILED BY APPELLANT LUCY AS PLAINTIFF AND CIRCUIT COURT JUDGE (TRIAL JUDGE) JOSEPH JOHNSTON AS A DEFENDANT.

... (SEE CASE ACTION SUMMARY CASE NO: 1:14-CV-00185-CG-B)
(ATTACHED HERETO - EXHIBIT II)

APPELLANT LUCY SUBPOENAED FOURTEEN (14) WITNESSES TO COME AND TESTIFY ON HIS BEHALF. JUDGE JOHNSTON QUASHED ALL FOURTEEN SUBPOENAS AND TOLD APPELLANT LUCY'S WITNESSES THEY DIDN'T HAVE TO COME TO COURT BECAUSE IN THE TRIAL JUDGE'S WORDS - "THESE FOLKS HAVE JOBS TO GO TO". SO APPELLANT LUCY DIDN'T HAVE ANY WITNESSES. APPELLANT LUCY WAS ALSO DENIED THE RIGHT TO CROSS-EXAMINE THE STATE'S WITNESSES. ALL DOCUMENTS SUBMITTED BY APPELLANT LUCY AS EVIDENCE TO SUPPORT HIS CASE SUCH AS THE CASE ACTION SUMMARY FROM THE U.S. DISTRICT COURT, SHOWING THE TRIAL JUDGE WAS DISQUALIFIED TO PRESIDE OVER THIS CASE BECAUSE OF HIS CONFLICT OF INTEREST (CASE NO: 1:14-CV-00185-CG-B).

STATEMENT OF THE CASE CONT.

THE CASE ACTION SUMMARY FROM THE MOBILE COUNTY CIRCUIT COURT, THE CIRCUIT CLERK HAD ENTERED THE DEFAULT IN FAVOR OF APPELLANT LUCY IN CASE NO: CV11-0852 COUNTER CLAIM; CASE ACTION SUMMARY FROM TRIAL, CASE NO: 0113-05332 SHOWING DEFENDANT HAD NOT BEEN ARRAIGNED (OFFICIALLY CHARGED WITH A CRIME), ALSO DOCUMENT ENTITLED "RIGHT-TO-CURE," WHICH GAVE THE CIRCUIT CLERK (MRS. JO JO SCHWARZAUER) THE POWER AND THE RIGHT TO SETTLE THIS CLAIM FILED AGAINST HER; (LIEN IN PROBATE COURT), SIMPLY BY DOING THE JOB SHE SWORE UNDER OATH TO DO, THAT IS FOLLOW THE LAW AND ENTER THE JUDGMENT DUE APPELLANT LUCY AND COPY OF THE OATH-OF-OFFICE THE CIRCUIT CLERK (MRS. SCHWARZAUER) RAISED HER RIGHT HAND WITH LEFT HAND ON THE HOLY BIBLE AND SWORE TOO.

THE DOCUMENTS WAS SUBMITTED BY APPELLANT LUCY AS EVIDENCE TO SUPPORT HIS CASE (DEFENSE), BUT JUDGE JOHNSTON TOLD APPELLANT LUCY THAT IF HE (APPELLANT LUCY) DIDN'T TAKE WITNESS STAND AND TESTIFY THAT HE (APPELLANT LUCY) WOULD NOT BE ALLOWED TO ENTER ANY EVIDENCE ON HIS BEHALF.

THIS WAS A PLOY BY THE ASST. DISTRICT ATTORNEY AND THE TRIAL JUDGE TO ENHANCE APPELLANT LUCY'S SENTENCE WITH CASES 15 TO 20 YEARS OLDS IF APPELLANT LUCY DON'T TAKE THE WITNESS STAND THEN THE ASST. DIST. ATTORNEY (KEITH BLACKWELL) CAN USE THE HABITUAL OFFENDER STATUTE.

DURING THE JURY DELIBERATIONS, JUDGE JOHNSTON ENTERED THE JURY ROOM WITHOUT COUNSEL PRESENT AND MARKED THE VERDICT CARD "GUILTY", THEN GAVE IT TO THE JURY FOREMAN AND THEN RETURNED TO COURTROOM.

ON OR ABOUT JANUARY 12, 2015 APPELLANT LUCY FILED A MOTION WITH THE ALABAMA COURT OF CRIMINAL APPEALS DETAILING HOW APPELLANT'S TRIAL WAS NOT FAIR, IN THAT A CONFLICT OF INTEREST EXISTED ON THE PART OF THE TRIAL JUDGE, JUDGE JOSEPH JOHNSTON, IN THAT HE WAS DEFENDANT IN A 42 U.S.C. 1983 CIVIL RIGHTS COMPLAINT AND APPELLANT /

STATEMENT OF THE CASE CONT.

DEFENDANT LUCY WERE PLAINTIFF, THEN PENDING IN THE U.S. DISTRICT COURT & ALSO PETITIONED THE COURT OF APPEALS FOR A(n) APPEAL BOND. THE HONORABLE MARY B. WINDOM-PRESIDING JUDGE RESPONDED BY STATING SHE (THE COURT) WOULD TREAT THE APPEAL BOND MOTION, AS A PETITION FOR HABEAS CORPUS AND DID, WITH INSTRUCTIONS OR ORDER THAT PETITIONER SERVE THE OTHER INTERESTED PARTIES WITH COPY OF SERVICE; UNFORTUNATELY APPELLANT LUCY WAS IN THE MOBILE COUNTY METRO JAIL, WHERE HE (PETITIONER LUCY) WAS DENIED ACCESS TO PAPER AND PENCIL, THUS HE WAS UNABLE TO FOLLOW THE COURT'S ORDER OF SERVICE. NOT WITHSTANDING THAT, WHILE THE HABEAS CORPUS ORDER WAS IN EFFECT, PETITIONER LUCY WAS TRANSFERRED FROM THE CUSTODY OF THE MOBILE COUNTY METRO JAIL, TO THE ALABAMA DEPT. OF CORRECTIONS (KILBY CORR. FAC. - MONTGOMERY, AL.), HABEAS CORPUS WRIT WAS DISMISSED BECAUSE PETITIONER LUCY WAS UNABLE TO FOLLOW THE COURT OF APPEALS ORDER OF SERVICE.

ON JANUARY 26, 2015, THE DAY OF PETITIONER LUCY'S SENTENCING, THE U.S. DISTRICT COURT WAS AGAIN REVIEWING THE CIVIL ACTION FILED BY APPELLANT / PETITIONER LUCY, WITH LUCY AS PLAINTIFF AND TRIAL JUDGE JOHNSTON AS DEFENDANT. SEE (CASE ACTION SUMMARY, CASE No: 1:14-CV-00185-CG-B) (ATTACHED HERETO EXHIBIT)

THIS IS PROBABLY THE REASON FOR THE UNREASONABLY LONG SENTENCE LUCY RECEIVED.

APPELLANT LUCY WAS NOT ALLOWED TO FINISH HIS OPENING STATEMENT OR FINISH HIS CLOSING ARGUMENT BY TRIAL JUDGE. ALL DOCUMENTS SUBMITTED BY LUCY AT TRIAL AS EVIDENCE FOR HIS DEFENSE, JUDGE JOHNSTON ORDERED THEY BE LABELED AS EXHIBITS AND NOT BE CONSIDERED BY JURY.

STATEMENT OF THE CASE CONT.

APPELLANT LUCY WENT ON TRIAL, SENTENCED AND SENT TO PRISON, YET APPELLANT / PETITIONER LUCY HAS NOT BEEN ARRAIGNED; APPELLANT LUCY'S DATE(S) FOR ARRAIGNMENT WAS SET, RESET, RESET, RESET THEN FINALLY SET FOR AUGUST 7, 2020. (SEE CASE ACTION SUMMARY CASE NO: CC13-05332) (ATTACHED HERETO EXHIBIT)

WITH THE ISSUING OF THE WORT OF HABEAS CORPUS BY THE ALABAMA COURT OF CRIMINAL APPEALS IN LIEU OF APPEAL BOND, THE COURT (COURT OF APPEALS) ALSO APPOINTED APPELLANT LUCY A NEW TRIAL AND ATTORNEY "GLENN DAVIDSON" TO REPRESENT LUCY ON HIS DIRECT APPEAL; KNOWING ALL THE UNETHICAL THINGS THAT HAD BEEN DONE UNDER AND BY THE DIRECTION OF JUDGE JOHNSTON, WHEN JUDGE JOHNSTON SAID HE HAD APPOINTED ATTORNEY GLENN DAVIDSON TO REPRESENT LUCY ON HIS APPEAL, APPELLANT LUCY'S SISTER SCRAPED UP \$4000.00 DOLLARS AND HIRED ATTORNEY JOHN GROW TO REPRESENT LUCY ON APPEAL. ATTORNEY JOHN GROW ONLY VISITED APPELLANT LUCY ONE TIME (WHILE HE WAS IN THE METRO COUNTY JAIL), NEVER WROTE LUCY NOR TALKED TO LUCY ABOUT HIS APPEAL PLANS, EVEN THOUGH LUCY HAD REPRESENTED HIMSELF AND TOOK STEPS TO PRESERVE ISSUES FOR APPEAL, SUCH AS "NOT BEING ARRAIGNED", CONFLICT OF INTEREST, JURY TAMPERING, NOT ALLOWING EVIDENCE TO BE VIEWED BY THE JURY THAT WOULD CLEAR LUCY AND MUCH MORE. ATTORNEY JOHN GROW AFTER RECEIVING THE \$4000 DOLLARS, DID NOT CONTACT THE COURT OF APPEALS, NOR LUCY AND HAD NOT FILED A BRIEF. THE COURT OF APPEALS SENT LUCY A DIFFICIENCY NOTICE. IN TURN LUCY FILED A PETITION PURSUANT TO RULE 201(E) ALABAMA RULE OF EVIDENCE AS A JUDICIAL NOTICE RAISING ALL OF THE ISSUES PRESERVED FOR APPELLATE REVIEW.

STATEMENT OF THE CASE CONT.

WHILE THIS WAS HAPPENING, ATTORNEY JOHN CROW DECIDED TO FILE A BRIEF RAISING THE ISSUE(S) OF IT WAS IMPROPER FOR THE TRIAL COURT TO USE CASES 15 TO 20 YRS. OLD TO ENHANCE SENTENCE GIVEN TO LUCY. ALSO DURING THIS TIME AND IN LIGHT OF THE FACT THE COURT OF APPEALS ISSUED A DIFFICIENCY WARNING, LUCY FILED A(N) INITIAL BRIEF RAISING RULES OF EVIDENCE CITED AT RULE 201(D) AND HIS (LUCY'S) INITIAL BRIEF WERE SUPPORTED BY 310 PAGES OF EXHIBITS AND EVIDENCE YET THE ALABAMA COURT OF CRIMINAL APPEALS SELECTED 20 PAGES TO ADD TO LUCY'S INITIAL BRIEF OUT OF THE 310 PAGES WITHOUT ANY INPUT FROM LUCY OR TELLING LUCY WHICH 20 PAGES THE COURT SELECTED THUS MAKING LUCY'S INITIAL BRIEF, NOW THE BRIEF OF THE COURT OF APPEALS.

TO DATE THE ALABAMA COURT OF CRIMINAL APPEALS HAS NOT DISCLOSED TO LUCY WHAT 20 PAGES THEY SELECTED AND USED. LUCY'S DIRECT APPEAL WAS DECIDED BY THE ALABAMA COURT OF CRIMINAL APPEALS BASED ON THE BRIEFS; LUCY'S DIRECT APPEAL WAS DENIED WITHOUT A(N) EVIDENTIARY HEARING.

ON OR ABOUT SEPTEMBER 2016, APPELLANT LUCY FILED A RULE 32 POST CONVICTION PETITION IN THE MOBILE COUNTY CIRCUIT COURT FOR RELIEF FROM CONVICTION IN CASE NO: CC13-05332; PURSUANT TO RULE 32.7 OF THE ALABAMA RULES OF CRIMINAL PROCEDURE, THE DISTRICT ATTORNEY HAS 30 DAYS TO ANSWER AFTER RECEIVING SERVICE OF RULE 32 PETITION; CASE NO: CC13- PURSUANT TO RULE 32.7 OF THE ALABAMA RULES OF CRIMINAL PROCEDURE, THE DISTRICT ATTORNEY HAS 30 DAYS TO ANSWER AFTER RECEIVING SERVICE OF RULE 32 PETITION. IN THIS INSTANT CASE APPELLANT LUCY WAITED OVER 60 DAYS AFTER SERVICE

STATEMENT OF THE CASE CONT.

OF RULE 32 PETITION ON THE MOBILE COUNTY DISTRICT ATTORNEY ASHLEY M. RICH AND APPELLANT LUCY DIDN'T RECEIVE ANY PLEA, ANSWER OR DEFENSE TO ISSUES RAISED IN RULE 32 PETITION. APPELLANT LUCY NEVER RECEIVED A MOTION FROM THE COURT OR THE STATE ASKING FOR A(N) ENLARGEMENT OF TIME TO RESPOND TO RULE 32. IN OR ABOUT DECEMBER 2016, WITH MORE THAN 60 DAYS HAVING ELAPSED AND THE STATE HAS NOT ANSWERED, GAVE A PLEA OR OFFERED A DEFENSE TO APPELLANT LUCY'S RULE 32 PETITION, APPELLANT LUCY FILED A MOTION FOR A DEFAULT JUDGMENT OR SUMMARY JUDGMENT. ALTHOUGH THERE WAS NO OBJECTION FROM THE STATE TO JUDGMENT THE TRIAL JUDGE LEFT HIS NEUTRAL POSITION, BECAME A STATE ACTOR AND GRANTED AN ADDITIONAL 60 DAYS TO THE MOBILE COUNTY DISTRICT ATTORNEY TO ANSWER RATHER THAN RULE ON APPELLANT LUCY'S MOTION FOR DEFAULT JUDGMENT OR SUMMARY JUDGMENT. THE MOBILE COUNTY DISTRICT ATTORNEY WAS GIVEN FROM DECEMBER 28, 2016 UNTIL FEBRUARY 23, 2017, WITHOUT THE MOBILE COUNTY DISTRICT ATTORNEY ASKING FOR IT

ON FEBRUARY 23, 2017 THE MOBILE COUNTY DISTRICT ATTORNEY'S OFFICE FILED A RESPONSE TO APPELLANT LUCY'S RULE 32 PETITION. THE DISTRICT ATTORNEY'S REPLY CONSISTED OF THE D.A. STATING THAT ALL ISSUES RAISED BY APPELLANT LUCY WAS BARRED BECAUSED THEY SHOULD HAVE BEEN RAISED AT TRIAL (WHICH THEY HAD BEEN) OR ON DIRECT APPEAL (THERE AGAIN, THEY WERE) THEREFORE THEY ARE BARRED FROM RELIEF ON THE RULE 32.

STATEMENT OF THE CASE CONT.

THE D.A. DID'NT DISPUTE ANY OF THE ISSUES RAISED BY APPELLANT LUCY. THE TRIAL JUDGE ADOPTED THE DISTRICT ATTORNEY'S ANSWERS VERBATIM; TRIAL JUDGE JOHNSTON DISMISSED APPELLANT LUCY'S RULE 32 PETITION. LUCY FILED A "MOTION TO RECONSIDER" IT WAS DISMISSED, WITHOUT A EVIDENTIARY HEARING. APPELLANT LUCY FILED A(n) APPEAL TO THE ALABAMA COURT OF CRIMINAL APPEALS CITING ~~EX PARTE~~ SCOTT [MS 1091275] MARCH 18, 2011, ALA. LEXIS 37 (ALA. 2011) WHICH STATES "THE ALABAMA SUPREME COURT REVERSED THE TRIAL COURT'S JUDGMENT AND ORDER ADOPTING THE STATE'S ANSWERS VERBATIM AND DENYING RELIEF." THE ALABAMA COURT OF CRIMINAL APPEALS DENIED APPELLANT LUCY'S RULE 32 POSTCONVICTION ON THE VERBATIM ANSWERS FROM THE STATE. PETITIONER LUCY THEN FILED A MOTION FOR THE ALABAMA COURT OF APPEALS TO "ALTER, AMEND OR VACATE" IT'S RULING DENYING LUCY'S APPEAL OF THE TRIAL COURT'S DENIAL OF RULE 32 PETITION. LUCY'S PETITION TO ALTER, AMEND OR VACATE WAS DENIED; APPELLANT LUCY THEN FILED FOR A "WRIT OF MANDAMUS" IN THE ALABAMA SUPREME COURT... SEE CASE NO: 1161104 (EXHABIT ATTACHED) TO THE ALABAMA COURT OF CRIMINAL APPEALS, AS THE ALABAMA SUPREME COURT - REVERSED THE CASE OF EX PARTE SCOTT, BECAUSE THE ALABAMA COURT OF CRIMINAL APPEALS AND THE TRIAL COURT HAD ADOPTED THE STATE'S ANSWERS VERBATIM DENYING "SCOTT'S" RULE 32 PETITION AND DENYING RELIEF. LUCY'S PETITION FOR "WRIT OF MANDAMUS" WERE DO TO BE AND SHOULD HAVE BEEN ISSUED BY THE ALABAMA SUPREME COURT;

STATEMENT OF THE CASE CONT:

AFTER ALL THIS WAS THEIR RULING OVERTURNING EX PARTE SCOTT [MS1091275] MARCH 18, 2011 - SO. 3d - 2011.

TO DATE THE ALABAMA SUPREME COURT HAS NOT GIVEN A(n) ANSWER TO LUCY'S "PETITION FOR WRIT OF HABEAS CORPUS".

AFTER SEVERAL MONTHS PASSED BY AND IT BECAME APPARENT THAT THE ALABAMA SUPREME COURT WAS NOT GOING TO FOLLOW THE PRECEDENCE IT SET IN IT'S (THE ALABAMA SUPREME COURT) RULING IN EX PARTE SCOTT, APPELLANT LUCY THEN FILED A PETITION FOR A WRIT OF HABEAS CORPUS IN THE UNITED STATES DISTRICT COURT, FOR THE NORTHERN DISTRICT OF ALABAMA, THIS CASE WERE LATER TRANSFERRED TO THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ALABAMA, SOUTHERN DIVISION - MOBILE; AS APPELLANT LUCY HAD BEEN CONVICTED IN THE SOUTHERN DISTRICT OF ALABAMA AND AT THAT TIME, CONFINED IN THE SOUTHERN DISTRICT OF ALABAMA; THE TRANSFER OF THE CASE WERE PROPER... AFTER BEING SERVED WITH NOTICE OF APPELLANT LUCY'S FILING HIS PETITION FOR HABEAS CORPUS, THE STATE OF ALABAMA SERVED APPELLANT LUCY WITH INTERROGATORIES.

APPELLANT LUCY ANSWERED THEM AS BEST HE COULD IN LIGHT OF THE FACT HE (APPELLANT LUCY) HAD SUFFERED A(n) SERIOUS IMPEDIMENT BY LT. ANGELA NORMAN AND CAPT. WILLIE KNIGHT, AT FOUNTAIN CORA, FACILITY; AS A GREAT DEAL OF APPELLANT LUCY'S LEGAL WORK (MOTIONS, ORDERS, PETITIONS ETC.) WERE CONFISCATED BY LT. NORMAN AND CAPT. KNIGHT AND HELD. APPELLANT LUCY WERE ORDERED TO SHIP THESE DOCUMENTS HOME, AND AFTER HE REFUSED, BECAUSE HE (APPELLANT LUCY) WAS WORKING ON HIS WRIT OF HABEAS CORPUS...

STATEMENT OF THE CASE CONT.

HE (APPELLANT LUCY) RECEIVED A DISCIPLINARY WRITE-UP FROM LT. NORMAN STATING APPELLANT LUCY HAD "DISOBEYED A DIRECT ORDER" AND PUT ON RESTRICTION BECAUSE HE (APPELLANT LUCY) WOULD NOT SHIP HIS LEGAL WORK HOME. CAPTAIN KNIGHT AND LT. NORMAN DESTROYED APPELLANT LUCY'S LEGAL WORK THEY CONFISCATED. THIS WAS A VERY SERIOUS IMPEDIMENT TO LUCY'S PETITION FOR WRIT OF HABEAS CORPUS AND ANSWERING THE INTERROGATORIES. THE STATE OF ALABAMA THEN MOVED TO DISMISS LUCY'S PETITION FOR WRIT OF HABEAS CORPUS, STATING LUCY WAS BARRED BECAUSE HE HAD DEFAULTED FOR NOT EXHAUSTING ALL OF HIS STATE REMEDIES. THE MAGISTRATE JUDGE OF THE U.S. DISTRICT COURT, FOR THE SOUTHERN DISTRICT OF ALABAMA, SOUTHERN DIVISION, SIDED WITH THE STATE OF ALABAMA AND RECOMMENDED LUCY'S PETITION FOR HABEAS CORPUS BE DENIED STATING LUCY WERE BARRED BECAUSE HE (LUCY) HAD NOT EXHAUSTED ALL OF HIS STATE REMEDIES, WITHOUT STATING WHICH REMEDY LUCY HAD NOT EXHAUSTED AND WITHOUT CHECKING THE STATE RECORDS TO VERIFY IF IN FACT LUCY HAD DEFAULTED AND WERE BARRED. THE MAGISTRATE'S REPORT AND RECOMMENDATIONS WERE ADOPTED BY THE U.S. DISTRICT COURT AND THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ALABAMA, SOUTHERN DENIED LUCY'S PETITION FOR WRIT OF HABEAS CORPUS AND HIS PETITION FOR CERTIFICATE OF APPEALIBILITY WITHOUT VERIFYING

STATEMENT OF THE CASE CONT.

THE STATE'S RECORDS OR HAVING ~~AND~~ EVIDENTIARY HEARING, NOR FOLLOWING THE UNITED STATES SUPREME COURT RULES SET OUT IN TOWNSEND V. SAIN, 9 LEd 2d 1246, REQUIRING EVIDENTIARY HEARING, LISTING SIX (6) SITUATIONS IN WHICH A EVIDENTIARY HEARING IS REQUIRED AND CONTRARY TO RULING BY THE UNITED STATES SUPREME COURT IN THE CASE JENNINGS V. RAGEN, 358 U.S. 276, 79 S. CT. 321 3 L. ED 2d 296, WHERE IT STATE WHEN A (N) EVIDENTIARY HEARING IS MANDATORY AND LIST EIGHT (8) SITUATIONS FOR MANDATORY EVIDENTIARY HEARING AND ALSO REQUIRING THE U.S. DISTRICT COURT TO SCRUTINIZE THE STATE'S RECORDS TO VERIFY DEFAULT; THIS WERE NOT DONE

THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ALABAMA, ADOPTED THE MAGISTRATE'S REPORT AND RECOMMENDATIONS WITHOUT ORDERING A (N) EVIDENTIARY HEARING OR SEARCHING THE STATE'S RECORD AS REQUIRED, ALSO DENIED LUCY A CERTIFICATE OF APPEALABILITY. LUCY THEN APPLIED TO THE U.S. COURT OF APPEALS (ELEVENTH CIRCUIT) FOR A CERTIFICATE OF APPEALABILITY... THE COURT OF APPEALS ELEVENTH CIRCUIT, RESPONDED BY SENDING LUCY A LETTER INDICATING THAT A CERTIFICATE OF APPEALABILITY WOULD BE FORWARDED FROM THEM TO THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ALABAMA...

A SHORT TIME LATER LUCY RECIEVED A LETTER FROM THE U.S. COURT OF APPEALS - ELEVENTH CIRCUIT INDICATING THE COURT (U.S. COURT OF APP, 11TH CIR) WAS DENYING LUCY A CERTIFICATE OF APPEALABILITY, STATING LUCY WAS BARRED BECAUSE HE HAD DEFAULTED EXHAUSTING ALL OF HIS STATE REMEDIES...

STATEMENT OF THE CASE CONT.

LUCY THEN PETITIONED THE U.S. COURT OF APPEALS ELEVENTH CIRCUIT TO TELL HIM WHAT WAS THE DEFAULT. THE U.S. COURT OF APPEALS - ELEVENTH CIRCUIT RESPONDED BY WRITING LUCY STATING HE (LUCY) HAD DEFAULTED BY NOT GIVING THE ALABAMA SUPREME COURT AN OPPORTUNITY TO ADDRESS THE FACT THAT, LUCY DID NOT CONSULT WITH THE ALABAMA SUPREME COURT, THE DENYING BY THE ALABAMA COURT OF CRIMINAL APPEALS, DENIAL OF LUCY'S RULE 32 PETITION APPEAL; CITING THE ALABAMA COURT OF CRIMINAL APPEALS; ERRED BY DISMISSING LUCY'S RULE 32 APPEAL OF THE MOBILE COUNTY CIRCUIT COURT'S ADOPTION OF THE STATE OF ALABAMA'S ANSWERS VERBATIM TO DISMISS LUCY'S RULE 32 POSTCONVICTION PETITION.

LUCY PETITIONED THE U.S. COURT OF APPEALS TO RECONSIDER, STATING HE (LUCY) HAD IN FACT SUBMITTED A PETITION TO THE ALABAMA COURT (SUPREME), WITHOUT SCRUTINIZING THE ALABAMA COURT RECORD TO SEE IF LUCY IN FACT HAD DEFAULTED OR NOT, AS REQUIRED BY THIS HONORABLE COURT'S RULINGS IN THE CASES OF TOWNSEND V. GAIN, 92, ED 2d 1246 AND JENNINGS V. RAGEN, 358, U.S. 276, 79 S. CT. 321, 36, ED 2d 296; THE U.S. COURT OF APPEALS - ELEVENTH CIRCUIT DENIED LUCY'S MOTION TO RECONSIDER WITHOUT A HEARING.

THE RECORD WILL VERIFY LUCY HAS NOT DEFAULTED AND IS ENTITLED TO A (W) EVIDENTIARY HEARING AND RELIEF BY HABEAS CORPUS ... SEE ALA. SUP. COURT CASE # 1161104 ATTACHED EXHIBIT.

REASONS FOR GRANTING THE PETITION

IT IS ERROR FOR A FEDERAL DISTRICT COURT TO DISMISS WITHOUT A HEARING.

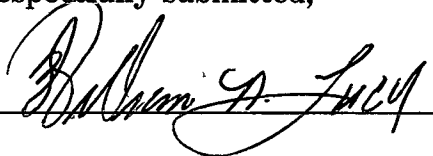
IT APPEARS FROM THE RECORD THE DISTRICT COURT DISMISSED PETITIONER'S APPLICATION WITHOUT MAKING ANY EXAMINATION OF THE RECORD OF PROCEEDINGS IN STATE COURTS, AND INSTEAD, SIMPLY RELIED ON THE FACTS AND CONCLUSIONS STATED IN THE OPINION OF THE STATE OF ALABAMA. PETITIONER THINK THAT THE COURT OF APPEALS (ELEVENTH CIRCUIT) AND THE U.S. DISTRICT COURT, FOR THE SOUTHERN DISTRICT OF ALABAMA, ERRED IN DISMISSING THIS PETITION WITHOUT FIRST SATIFYING ITSELF BY AN APPROPRIATE EXAMINATION OF THE STATE COURT RECORD, THAT THIS WAS A PROPER CASE FOR THE DISMISSAL OF PETITIONER'S APPLICATION WITHOUT A HEARING, IN OPPOSITION WITH THE PRINCIPLES SET FORTH IN TOWNSEND V. SAIN, 9 L. Ed 2d 1246 AND JENNINGS V. RAGEN, 3 L. Ed 2d 296, IT FOLLOWS THAT THE JUDGMENT OF THE COURT OF APPEALS MUST BE VACATED AND THE CASE REMANDED TO THE DISTRICT COURT FOR FURTHER PROCEEDINGS CONSISTENT WITH THE OPINIONS IN TOWNSEND V. SAIN AND JENNINGS V. RAGEN.

IT WAS ERROR FOR THE DISTRICT COURT TO DISMISS THE HABEAS CORPUS PETITION WITHOUT A HEARING WHEN IT NOT SATISFIED ITSELF BY EXAMINATION OF THE STATE COURT RECORD OF THE APPROPRIATENESS OF SUCH A DISMISSAL,

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: OCTOBER 15, 2019