

19-6543

No. _____

Supreme Court, U.S.
FILED

OCT 08 2019

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

BAKUBA, PETER — PETITIONER
(Your Name)

vs.

NEESE, MICHELLE — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
MANDAMUS, OR SUPERVISORY ORDER

U. S. C. A. 7

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

PETITION FOR WRIT OF CERTIORARI, MANDAMUS, SUPERVISORY
ORDER

PETER BAKUBA (MS2946)

(Your Name) ~~ROBINSON, CORREC. CTR.~~ VIENNA, IL

~~13423 1150TH AVE.~~ 6695 STATE RT., 146 EAST

(Address)

~~ROBINSON, IL 62454~~ VIENNA, IL 62995

(City, State, Zip Code)

N/A

(Phone Number)

GAHUBA

PET.

V. MEESE
RESP.

4

U.S. SUPREME COURT

ISSUES PRESENTED FOR REVIEW

HABEAS 28 USC § 2254 ; CERT. OF APPEAL. 28 USC § 2253

(A)

THE U.S. DISTRICT, CIRCUIT COURTS ERRED IN DENYING A C.O.A.; ERRED IN NOT DISMISSING OR STAYING GAHUBA'S "MIXED" PETITION IN VIOLATION OF HABEAS DUE PROCESS LAW PER ROSE V. LUNDY 455 US 509 (1982) & RHINES V. WEBER 544 US 269 (2005).

(B)

THE U.S.D.C., N.D.H., U.S.C.A.7 ERRED IN NOT CONDUCTING ANY INDEPENDENT REVIEW OF THE STATE DIRECT CRIMINAL APPEAL RECORD PER 28 USC § 2254(d)(2), § 2254(e) WHEN GAHUBA'S PRO SE 60-PAGE HABEAS, 21-PAGE HABEAS REPLY, 41-PAGE PET. FOR C.O.A., 26-PAGE PET. FOR REHEARING / HEARING ENBANC PROVIDED FACT-BY-FACT REBUTALS - BY BULLET-POINT & NARRATIVELY - OF + 50 FACTUAL MISREPRESENTATIONS OR OMISSIONS. SEE NABBY V. MEDAHEL 853 F.3d 1049, 1052 (9TH 2017).

(C)

THE U.S.D.C., U.S.C.A.7 ERRED IN ITS FLAT DECREEDING GAHUBA'S "BOOKING PROCESS" DENIAL AFFIDAVIT WAS "IRRELEVANT" IN A STATUTORY RAPE CONVICTION RESTING ON A FABRICATED INCULPATORY STATEMENT (HEARSAY) FALSELY ATTRIBUTED TO GAHUBA BY ADJUDGED FRANKS PERJURER N. POLICE O'BRIEN WHOSE TRIAL TESTIMONY TO A FALSE / FABRICATED "BOOKING PROCESS - VERSION" WAS MARVE PERJURY; GAHUBA'S BIRTHDATE - AN ESSENTIAL ELEMENT OF THE CRIME - WAS ILLEGALLY OBTAINED, RECEIVED IN VIOLATION OF THE NPPA / 18 USC § 2710(b)(2)(C), § 2710(d); GAHUBA'S AFFIDAVIT DENIAL REBUTS THE FANTASTIC AND DELUSIONAL "INDEPENDENT SOURCE" CLAIM BY THE STATE, 14TH AMEND. VIOLATION; MILLER-EL V. COCKRELL 537 US 322, 346 (2003) (STATE "HAD LIGHORED" TESTIMONY RELEVANT TO CORRECT INQUIRY).

(D)

THE U.S.D.C., U.S.C.A.7 WERE BIASED AND PREJUDGED AGAINST GAHUBA: STRUCTURAL ERROR; THE U.S.D.C. PREJUDGED GAHUBA'S GUILT IN SEPTEMBER 2018 INVOKING HECK TO DENY EQUITABLE RELIEF IN GAHUBA 12CV4296, 13CV50218 THEN IN OCTOBER 2018 FORMALLY AFFIRMED GAHUBA'S WRONGFUL CONVICTIONS BY DENYING COMPLETELY A HABEAS WRIT & C.O.A. IN GAHUBA 17CV50337; IN 2013-14 THE U.S.C.A.7 THREATENED SANCTIONS FOR GAHUBA'S REPEATED PRO SE EQUITABLE RELIEF COMPLAINTS PER 18 USC § 2710(e) NOW DELIVERING THE ULTIMATE SANCTION: BIASED REVIEW OF A NOTORIOUS HABEAS, 5TH + 14TH AMEND. VIOLS.

(CONT'D)

ISSUES PRESENTED FOR REVIEW: 47 PLAIN, 3 STRUCTURAL ERRORS

- I THE TRIAL CT. ERRED WHEN "ASSUMING" (R1075-76) ON 6/5/18 CAKUBA'S NAME & BIRTHDATE CAME FROM A FALSE/FABRICATED "ROUTINE BOOKING" Q + A RESULTING IN MAJUE PERJURY AT CAKUBA'S JURY TRIAL; THIS IDENTITY EVIDENCE OBTAINED IN VIOL. OF 18 USC § 2710(b) - (d) CORROBORATED BY THE ILLEGAL SEIZURE OF CAKUBA'S DRIVER'S LICENSE, ALSO WAS VIOLATIVE OF THE 4TH AMEND. AS A BROWN-ILLINOIS CLAIM TOO.
- II THE TRIAL CT. ERRED WHEN RE-ADMITTING CAKUBA'S DNA PROFILE INTO EVIDENCE AFTER QUASHING A BUCCAL SEARCH WARRANT PER FRANKS v. DELAWARE (4 BROWN); THE WARRANT FUNCTIONALLY WAS AN 11, 8, CT. RULE 411/413 MOTION AND THE DOCTRINES OF ESTOPPEL AND RES JUDICATA CONTROLLED.
- III THE CUMULATIVE EVIDENTIARY ERRORS BY THE TRIAL CT. RESULTED IN CAKUBA BEING WRONGLY CONVICTED W/ ILLEGALLY INSUFFICIENT EVIDENCE (18 USC § 2710(d)); FALSE/FABRICATED EVIDENCE (MAJUE); MANIFESTLY INSUFFICIENT EVIDENCE (JACKSON PRINCIPLE); & DEPRIVED CAKUBA OF A FAIR TRIAL BY BARRING USE OF IMPEACHMENT EVIDENCE (6TH AMEND. CONFRONTATION).
- IV THE TRIAL CT. ERRED IN DENYING CAKUBA'S 6TH AMEND. PRO SE RIGHT 3-6 "WEEKS BEFORE TRIAL" DESPITE MAKING A RECORD 5-6 MOS. EARLIER THE TRIAL CT. "ANTICIPATED" IT, AND WOULD ALLOW IT AS A MATTER OF LAW, AS CAKUBA WAS PRO SE FOR SOME 18 MOS. BEFORE BEING GRANTED APPT'D COUNSEL AT THE TIME THE TRIAL CT. MADE ITS ANTICIPATORY RULING FOR THE RECORD. FARETTA v. CALIFORNIA - 6TH AMEND. STRUCTURAL ERROR.
- V THE TRIAL CT. ERRED IN DENYING MOTIONS TO DISQUALIFY ASA KURTZ BY CAKUBA & HIS RETAINED/APPT'D COUNSEL; ERRED IN DENYING CAKUBA'S MOTION FOR A SPECIAL PROSECUTOR; AND ERRED WHEN ALLOWING THE ILLEGAL APPOINTMENT OF KURTZ AS A "SPECIAL ASA" PER 55 ICS 5/4-2003.
- VI THE CHIEF STATE JUDGE ERRED IN DENYING A PRO SE MOTION TO SUBSTITUTE JUDGE FOR CAUSE (1ST), THEN, DENIED CAKUBA'S "MOTION TO SUBSTITUTE" THE CHIEF JUDGE FOR CAUSE HIMSELF; BEFORE DENYING CAKUBA'S 2ND MOT. TO SUBSTITUTE THE TRIAL JUDGE FOR CAUSE, RESULTING IN CAKUBA BEING TRIED / CONVICTED BEFORE

(CONT'D)

ISSUES PRESENTED FOR REVIEW: + 7 PLAIN, 3 STRUCTURAL ERRORS

A BIASED TRIAL JUDGE ACTING AS AN ADVOCATE. 5TH + 14TH AMENDS. VIOLATIONS; STRUCTURAL ERRORS.

VII

THE TRIAL CT. ERRED WHEN SENTENCING GARUBA TO 4 YEARS x 3 COUNTS CONSECUTIVE DISCRETIONARY PRISON TERMS SOLELY ON GARUBA'S "CHARACTER" -- THE RACIST DOG WHISTLE OF RANK BIGOTRY; GARUBA HAD NO CRIMINAL HISTORY AT ALL, AND THE STATES PLEA DEER AND PSI REPORT WERE FOR PROBATION AS GARUBA PUNCTILIOUSLY COMPLIED W/ ALL PRE-TRIAL BAIL CONDITIONS FOR THE HEAR 9 YEAR PENDENCY OF THIS CASE. 8TH AMEND. CRUEL AND UNUSUAL PUNISHMENT.

LIST OF PARTIES

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

☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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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**: HABEAS 28 USC § 2254 (d)(1)-(2), § 2254(e)
28 USC § 2253

The opinion of the United States court of appeals appears at Appendix D+E to the petition and is DENIAL OF HABEAS CERT. OF APPEAL. (28 USC § 2253)

[] reported at DENIAL OF REHEARING, HEARING EN BANC; 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 B+C to the petition and is "FILED PETITION" VIOL. HABEAS DUE PROCESS TO DISMISS W/O PREJUDICE OR STAY UNEXHAUSTION

[] reported at _____; or,

[] has been designated for publication but is not yet reported; or,

☒ is unpublished.

SEE ROSEN V. WINDY 455 US 509 (1982)

RHINES V. WEBER 544 US 269 (2005)

[] 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.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was JUNE 24, 2019 BAKUBA v. NEFSE 18-3378 (7th) (HABEAS 28 USC § 2254)
(Pet. C.D.N. § 2253)

☐ 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: AUGUST 5, 2019, and a copy of the order denying rehearing appears at Appendix E.

☐ 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).

CONSTITUTIONAL / STATUTORY PROVISIONS INVOLVED

HABEAS

14TH AMENDS. PER 28 USC § 2254 (d)(1)-(2), § 2254(e)

BLACK V. MCDANIEL 519 US 438, 484 (2000); JORDAN V. FISHER 135 S.Ct. 2647, 2651-52 (6/29/15)

MILLER-EL V. COCKRELL 537 US 322, 346 (2003)

14TH AMEND. PER 28 USC § 2253 ("MIXED" PETITION REQUIRES DISMISSAL OR STAY)

ROSE V. LUNDY 455 US 509 (1982); RHINES V. WEBER 544 US 269 (2005)

STATE WRONGFUL CONVICTIONS

1ST, 4TH, 14TH AMENDS. VIOL. 2 VIDEO PRIVACY PROTECTION ACT 18 USC § 2710(b)(2)(C), § 2710(d)

CAMPFIELD V. CRY OF DKE 248 F.3d 1214 (10TH 2001); AMAZON V. LAY 758 F.3d 1154 (D.WA 2016)

CARPENTER V. US 138 S.Ct. 2206 FH#4 (6/22/18)

US V. WILSON 630 F.2d 750, 757 (11TH 2013) (CITES US V. DONOVAN 429 US 413, 432 n.22 (1977))

4TH AMEND. VIOL. = BROWN V. ILLINOIS 422 US 570 (1975); MS V. LOPEZ-MENDOZA 468 US 1032

US V. HASTINGS 246 F.3d 1163, 1167-68, 1178, 1181 (E.D.TX 2013) (CITES ILLINOIS V. KRAUL 480 US 340, 347)

US V. EPPENGER 2012 US DIST LEXIS 142483 *20 (D.MV.7/12) (CITES DAVIS V. MISSISSIPPI 394 US 721, 724

HAYES V. FLORIDA 470 US 811, 813 (1985)); MARYLAND V. KING 133 S.Ct. 1458 (2013)

US V. IEMCO 182 F.3d 517, 525-529, 531-32 (7TH 1999)

4TH, 14TH AMENDS. VIOL. = FRANKS V. DELAWARE 438 US 154 (1978)

ILLINOIS V. GATES 462 US 213, 238-40 (1983); MASSACHUSETTS V. UFTON 466 US 727, 733 (1984)

US V. BROWN 631 F.3d 638 (3RD 2011); US V. EPPENGER 2012 US DIST LEXIS 142483 *20-23 (D.MV.7/24/12)

SUBRON V. NEW YORK 392 US 40, 62-63 (1968) (CITED BY HAMILTON V. VILLAGE OF OAKLAWN

735 F.3d 967, 970 (7TH 2014) (CITES CLUB RETRO V. HILTON 568 F.3d 181, 204 (5TH 2001))

6TH AMEND. VIOL. (PROSE) = FARETTA V. CALIFORNIA 422 US 806, 834-35 n.46 (1978)

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CONSTITUTIONAL / STATUTORY PROVISIONS INVOLVED

6TH AMEND. VIOL. (PUBLIC TRIAL): WALLER v. GEORGIA 467 US 39, 49 n.9 (1984)

IN RE MANUEL 11. 2017 IL APP (1ST) 162381; PEOPLE v. HINABLE 2017 IL APP (2d) 160087

6TH AMEND. VIOL. (CONFRONTATION CLAUSE): HARRISON v. TEBELS 216 F. SUPP 3d 956 (W.D. WI 2016)

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14TH AMEND VIOL. (HARPER + BRADY) HARVE v. IL 360 US 264 (1955); BRADY v. MD 373 US 83 (1963)

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SANDERS v. CULLEN 873 F.3d 778, 815 (9TH 2017); MILLS v. BARNARD 867 F.3d 473 (6TH 2017)

14TH AMEND. VIOL. (SUFF. EVIDENCE) (JACKSON): DUMAS v. MARCHINI 240 F. SUPP 2d 255, 261 (D. MA 2017)

5TH + 14TH AMENDS. VIOL. (DISINTERESTED PROSECUTOR) YOUNG v. US EX. REL. VUTTON 481 US 787 (1987)

US v. SPIKER 649 FED. APPX. 770, 773 (11TH 2016); PEOPLE v. WOODALL 333 IL APP 3d 1146, 1153-56 (2002)

5TH + 14TH AMENDS. VIOL. (BIASED JUDGE) COMMONWEALTH COATINGS v. COMIL GAS 393 US 145, 150

McKERNON v. SUP. SMITHFIELD SCI 869 F.3d 557, 565-66 (3RD 2017)

US v. DNYEBOR 649 FED. APPX. 442, 445 (9TH 2016)

US v. EL-BEY 873 F.3d 1015, 1019, 1022 FH#1 (7TH 2017)

ECHAVARRA v. WILSON 896 F.3d 1118, 1128-29 (9TH 2018)

PEOPLE v. JONES 2016 IL APP (1ST) 141008 R 38

PEOPLE v. WIGGINS 2015 IL APP (1ST) 133033 RR 4, 8, 13-14, 49

8TH AMEND. VIOL. (CRUEL / UNUSUAL PUNISHMENT) SOLEM v. HELM 465 US 277, 292 (1983)

US v. NIGGEMAN 881 F.3d 976, 981 (7TH 2018); US v. LEWIS 817 F.3d 1054, 1055 (7TH 2016)

US v. ROBINSON 829 F.3d 878, 881 (7TH 2016); PEOPLE v. JOHNSON 2017 IL APP (4TH) 160920 R 55

I

STATEMENT OF THE CASE

A

PREFACE: LIKE THE INFAMOUS 1930s SCOTTSDORO BOYS CASE, THIS CASE BEGAN W/ A FALSE STATUTORY RAPE ALLEGATION BY A GAY TEEN RUNAWAY. SEE E.G. US v. VASTIS ? (U.D.IL.) (GAY TEEN FINGERS MIDDLE SCHOOL TEACHER VASTIS IN A BID FOR LENIENCY ON CHILD POORN CHARGES). THE PARTIES' AGES AND SEXUAL ACTIVITY ARE THE ESSENTIAL CRIME ELEMENTS.

IN A CASE OF 1ST IMPRESSION, GAKUBA'S IDENTITY (NOTABLY BIRTHDATE) WAS ILLEGALLY OBTAINED FROM HIS HOLLYWOOD VIDEO RECORDS BY IL STATE POLICE CHARLES O'BRIEN WHO CHARGED GAKUBA BY CRIMINAL INFORMATION, THEN, AS THE SOLE GRAND JURY WITNESS ANSWERING LEADING QUESTIONS BY ADA KATE KURTZ, CHARGED GAKUBA BY SUPERSEDING INDICTMENT WHEN 18 USC § 2710(b)(2)(c) MANDATES LEGAL PROCESS BY POLICE AND 18 USC § 2710(d)'s EXCLUSION MANDATE PLAINLY STATES THAT IDENTITY INFORMATION (PII) (18 USC § 2710(c)) "SHALL NOT BE RECEIVED... BEFORE A GRAND JURY... IN OR BEFORE... ANY OTHER PROCEEDING... OR OTHER AUTHORITY... OF A STATE... OR THE UNITED STATES." NOT ONLY ARE GAKUBA'S WRONGFUL CONVICTIONS VOID, SO TOO IS GAKUBA'S INDICTMENT. THE 1ST CASE EVER TO DO SO.

THE IL STATE (& FEDL) POLICE, PROSECUTORS, AND JUDGES DON'T DISPUTE THIS PLAIN FACT OVERWHELMINGLY FOUND IN THE RECORD. RATHER, EX POST / POST HOC THEY FABRICATE AN INCULPATORY HEARSAY RESPONSE FALSELY ATTRIBUTED TO GAKUBA OF AN IMAGINARY "BOOKING PROCESS - VERSION" WHICH THERE IS NO RECORD BECAUSE IT DOES NOT EXIST. WORSE STILL, GAKUBA'S "BOOKING PROCESS" DENIAL AFFIDAVIT THE U.S. DISTRICT HABEAS JUDGE BRANDS "IRRELEVANT" W/O CITATION TO AUTHORITY WHEN THE AFFIDAVIT IS SUBSTANTIVE CONCLUSIVE CASE DISPOSITIVE EVIDENCE IN GAKUBA'S FAVOR MANDATING VACATUR OF CONVICTIONS.

THE U.S. FEDL COURTS ARE COMFUSED ON THE GRAMMAS, PROVIDENCE OF STATUTORY INTERPRETATION. THE U.S.C.A. 7 CITES THE U.S.C.A. 6'S DANIEL v. CANTRELL. AMAZON v. LAY'S DISTRICT COURT CITES OPINIONS FROM THE U.S.C.A. 10 -- CANFIELD v. CITY OF OKC -- AND THE D.M.J.'S DIRKES. GRANTING REVIEW AND RENDERING A THOUGHTFUL, FACT BASED, WELL REASONED INTERPRETATION OF THE VPPA / 18 USC § 2710(d) IS A MUST BOTH FOR THE PUBLIC GOOD AND THE LOWER COURTS.

ABSENT CERTIORARI REVIEW, MANDAMUS OR A SUPERVISORY ORDER IS ESSENTIAL TO PRESERVE GAKUBA'S EQUAL PROTECTION RIGHTS UNDER THE LAW. OVER 7 PLAIN (DUE PROCESS)

ERRORS OCCURRED -- 3 STRUCTURAL -- THAT SIMPLY IS UNPREVENTED, BY UPHOLDING GAKUBA'S WRONGFUL CONVICTIONS, THESE MALFUNCTIONAL COURTS -- BIASED AND PREJUDICED -- HAVE OBSTRUCTED GAKUBA'S PENDING PRO SE FED'L SUIT. GAKUBA v. O'BRIEN 711 F.3d 751 (72013) (ECF # 279, ID 1476 "HECK" DISMISSAL DEFENSE). BY UPHOLDING GAKUBA'S 12 YEAR FALSE IMPRISONMENT WHEN GAKUBA HAD NO CRIMINAL HISTORY AT ALL; AND FUNCTIONIOUSLY COMPLIED W/ PRE-TRIAL BAIL TERMS FOR 9 YEARS; AND THE STATE'S PLEA OFFER, FBI REPORT WAS FOR "PROBATION" (OTHERWISE 3-7 YEARS IS THE GUIDELINE), IS THE TEXTBOOK 1ST AMEND. RETALIATION MALFEASANCE BY TYRANTS AND DESPOTS TO SILENCE CRITICS, OPPONENTS. THIS CASE SCREAMS OUT FOR U.S. S.C.T. REVIEW TO RIGHT THIS MISCARriage OF JUSTICE.

⑧ PROCEDURAL HISTORY: NOV. 4, 2006 GAKUBA WAS CHARGED BY CRIMINAL INFORMATION W/ 2 COUNTS OF AGGRAVATED CRIMINAL SEXUAL ABUSE ("STATUTORY RAPE") (720 ICS 5/12-14(d)) (C 2-5). BAIL OF \$250,000 ISSUED AND WAS PAID. (C 6-7) DEC. 20, 2006 A SUPEREDING INDICTMENT CHARGED GAKUBA W/ 3 COUNTS. (C 48-49) (THE INDICTMENT IS VOID AB INITIO AS THE GRAND JURY WAS IN REELIET OF GAKUBA'S PERSONALLY IDENTIFIABLE INFO. (PI)) (18 USC 8710(a)) -- NOTABLY BIRTHDATE. 18 USC 8710(b)) APRIL 29, 2015 GAKUBA'S 2.5 DAY JURY TRIAL RESULTED IN CONVICTION ON 3 COUNTS OF STATUTORY RAPE. JUNE 29, 2015 GAKUBA WAS SENTENCED TO 12 YEARS IMPRISONMENT (3 COUNTS x 4 YEARS, DISCRETIONARY CONSECUTIVE (730 ICS 5/5-8-4(b), WEST 2015). MARCH 31, 2017 ALL GAKUBA'S CONVICTIONS (4 SENTENCE) WERE AFFIRMED. PEOPLE v. GAKUBA 2017 IL APP (28) 150744-U. SEPTEMBER 2017 STATE CERTIORARI WAS DENIED. PEOPLE v. GAKUBA 2017 WL 4386407. APPENDIX A. NOVEMBER 20, 2017 GAKUBA'S PRO SE 60-PAGE HABEAS THE U.S.D.C.-N.D. IL. SCREENED, CONCLUDING ISSUES 1-4 WERE EXHAUSTED; 5-7 UNEXHAUSTED: A "MIXED" PETITION. APPX. B. GAKUBA'S HABEAS DUE PROCESS RIGHTS WERE VIOLATED AS "MIXED" PETITIONS MANDATE DISMISSAL W/O PREJUDICE PER SPARKS v. DORETHY 2018 US APP LEXIS 32265 #1-3 (7TH 11/18) (CITES ROSE v. LUNDY 455 US 509 (1982)) UNLESS A "STAY" IS GRANTED. SPARKS AT #3 (CITES RHINES v. WEBER 544 US 269, 278 (2005)). LIKE SPARKS, THE U.S.C.A. 7 SHOULD HAVE GRANTED C.D.A. SUA SPONTE, VACATING THE U.S.D.C.'S PLAIN HABEAS DUE PROCESS ERROR, HERE. IT DID NOT. 14TH AMEND. VIOLATION.

OCTOBER 24, 2018 THE U.S.D.C. DENIED COMPLETELY HABEAS RELIEF PER 28 USC § 2254(d)(1)-(2) AND A CERT. OF APPEAL. PER 28 USC § 2253. THE 16-PAGE RULING PLAINLY SCISSOR-PASTED WHOLESALE THE STATE'S 16-PAGE HABEAS ANSWER. THE DIFFERENCE: THE STATE TOOK A MERE 2 MONTHS VERSUS THE 8 MONTHS TAKEN TO SCISSOR-PASTE IT. APPENDIX C.

NOVEMBER 2018 GAKUBA FILED A 41-PAGE PETITION FOR A C.D.A. PER 28 USC § 2253 BITTERLY COMPLAINING THAT NO INDEPENDENT REVIEW OF THE DIRECT APPEALS RECORD OCCURRED, AND, PROVIDED OVER 35 FACT-BY-FACT BULLET POINT REBUTALS. 28 USC § 2254 (e), § 2254(d)(2). SEE ACCORD LEE V. KINK 922 F.3d 772, 775 (7TH 2018) ("YET A STATE COURT'S REFUSAL TO CONSIDER EVIDENCE CAN RENDER ITS DECISION UNREASONABLE UNDER § 2254(d)(2) EVEN IF ITS LEGAL ANALYSIS SATISFIES § 2254(d)(1)... § 2254(d)(2) PROVIDES THAT A DECISION THAT WAS BASED ON AN UNREASONABLE DETERMINATION OF THE FACTS IN LIGHT OF THE EVIDENCE PRESENTED TO THE STATE COURT LACKS THE SHELTER OF § 2254(d) AS A WHOLE."

JUNE 24, 2019 THE U.S.C.A.7 COMPLETELY DENIED A C.D.A. IN A WHOLLY CONSENSORY 2 SENTENCE ORDER. 28 USC § 2253. AUGUST 5, 2019 IT DID LIKEWISE OF GAKUBA'S 26-PAGE PETITION FOR REHEARING HEARING EN BANC. IT ERRED IN NOT SUA SPONTE GRANTING THE SAME RELIEF AS IT DID IN SPARKS V. DORETHA AT # 3 ON GAKUBA'S "MIXED" PETITION. A MALFUNCTIONAL COURT, BIASED 7 GAKUBA.

APPENDIX D, E.

③

FACTUAL BACKGROUND - (RELEVANT)

ON NOV. 4, 2006 IN THE COURSE OF A CRIMINAL INVESTIGATION PRECIPITATED BY A GAY TEEN RUNAWAY TRAFFICKING IN CHILD PORNOGRAPHY (e.g. USA V. NASTIS ? (MD, IL.)) "PETER GAKUBA" WAS IDENTIFIED AS THE PERSON "WHO RENTED THEM MOVIES." (R1700) MOVIES THAT COMPLAINANT M.S. STATED WATCHING W/ AN 18 YEAR OLD WHITE MALE NAMED "PHIL."

THIS IDENTIFICATION CAME ABOUT FROM THE ILLEGALLY COMPELLED DISCLOSURE BY IL STATE POLICE CHARLES D'BRIEN SUPERVISED BY ASA KATE KURTZ BY VIOLATING 18 USC § 2710(b)(2)(C) REQUIRING LEGAL LEGAL PROCESS, BY ORDERING THE ILLEGAL DISCLOSURE OF GAKUBA'S HOLLYWOOD VINED CUSTOMER RECORDS. SEE CAMFIELD V. CITY OF DKE 248 F.3d 1214 (10TH 2001). THIS TRIGGERED SIMULTANEOUSLY A VIOLATION OF 18 USC § 2710(d)'S EXCLUSIONARY MANDATE -- THE ONLY LAW EXPLICITLY BARRING RECEIPT BEFORE

A "GRAND JURY". O'BRIEN WAS THE SOLE GRAND JURY WITNESS; KURTZ THE SOLE ASA. O'BRIEN ILLEGALLY DISCLOSED/RECEIVED GAKUBA'S NAME + BIRTHDATE BEFORE A STATE GRAND JURY RENDERING THE INDICTMENT VOID AB INITIO. SEE PEOPLE V. EDWARDS 195 IL APP. 3d 454, 455-56 (1990) (EXTREMELY EVIDENCE INTERTWINED W/ CONTINUOUS NARRATIVE WAS NOT RELEVANT TO PROVE ELEMENTS OF DEFENSE WHICH WERE SIMPLY PARTIES' AGES AND SEXUAL ACTIVITY).

THE SEXUAL ACTIVITY WAS "SEXUAL PENETRATION" VS. "SEXUAL CONDUCT". THEY ARE MUTUALLY EXCLUSIVE. PROOF OF ONE CANNOT LEAD TO CONVICTION OF THE OTHER AS HAPPENED HERE. SEE (2010) PEOPLE V. LARA 2012 IL 112370 (2012) (DISCUSSES DIFFERENCES, CITES PEOPLE V. SARGENT 239 IL 2d 166 GAKUBA'S PII (18 USC § 2710(a)) -- NOTABLY NAME + BIRTHDATE / AGE WAS ILLEGALLY OBTAINED, FIRST AND FOREMOST, FROM HIS HOLLYWOOD VIDEO CUSTOMER RECORDS BY O'BRIEN + KURTZ IN VIOLATION OF 18 USC § 2710(b)(2)(C), THEN § 2710(d), PERPETUALLY NOW § 2710(e). SEE ALSO AMAZON V. LAY 758 F. SUPP. 2d 1154, 1160-63, 1167-71 (D. WA 2010); CF DANLSTROM V. SUNTIMES 777 F.3d 937 (7th 2015) (DPPA, LIKE VPPA, BARS ILLEGAL DISCLOSURE / RECEIPT OF "PERSONAL INFO." (I.E. BIRTHDATE) 18 USC § 2721 CARPENTER V. US 138 S. CT. 2206 AT FN#4 (18 USC § 2710(b)(1) VIOLATIONS MANDATE 18 USC § 2710(d) RELIEF; CF DPPA 18 USC § 2721(a)(1))

THEREAFTER, ON NOV. 4, 2006 THEY WENT FROM THE VIDEO STORE TO THE ROCKFORD, IL. MARRIOTT ACCORDING TO KURTZ'S EXCITED UTTERANCES AS SHE HAD PERSONAL KNOWLEDGE AS INVESTIGATION SUPERVISOR. ASKING THE FRONT DESK CLERK: "HEY, DO YOU HAVE A GUY HERE BY THIS NAME. GEE, WE SURE DO [] AT THAT POINT THEY ABSOLUTELY 100% HAD PROBABLE CAUSE." (R484)

MORE "PERSONALLY IDENTIFIABLE INFO." (PII, 18 USC § 2710(a)) WAS FRUIT-OF-THE-POISONOUS-TREE: THE ROOM # OF GAKUBA'S LAWFUL AND PRIVATELY OCCUPIED ROOM. THE FIRST MEN'S SEARCHED AND SEIZED PER THIS ILLEGAL 4TH AMEND. / BROWN V. IL. MORE INVASION WAS GAKUBA'S WALLET -- SPECIFICALLY DRIVER'S LICENSE -- TO CORROBORATE GAKUBA WAS "WHO" RENTED "THEM MOVIES." (R1700)

AS A COVER-UP, 3 EX POST / POST HOC SEARCH WARRANTS WERE OBTAINED THEN QUASHED LATER PER FRANKS V. DELAWARE FOR CONTAINING "MATERIAL MISREPRESENTATIONS IN RECKLESS DISREGARD FOR THE TRUTH." (R 803-809)

O'BRIEN WAS THE LEAD INVESTIGATOR; SOLE GRAND JURY WITNESS; PRIMARY WITNESS IN A DEC. 2008

5TH/6TH AMENDS VIOL. HEARING (R226-288); SOLE WITNESS IN A JUNE 13, 2010 BROWN/FRANKS HEARING (R700); AND KEY MATERIAL WITNESS AT GAKUBA'S APRIL 2015 2.5 DAY JURY TRIAL. (R2256-57, R2269) O'BRIEN & KURTZ COMMITTED TO MEMORY GAKUBA'S BIRTHDATE OBTAINMENT (ILLEGALLY) ALL THROUGHOUT THIS CASE: THE 1ST CASE EVER WHERE THE CRIMINAL INDICTMENT IS VOID AS ARE THE POISONED FRUIT PER 18 USC § 2710(d)'S EXCLUSIONARY MANDATE & GAKUBA'S WRONGFUL CONVICTIONS, WHICH THE STATE AND ALL PRIOR COURTS WRONGLY INSIST IS SUPPLANTED BY THE SUBSEQUENT 4TH AMEND. VIOLATIONS EXCLUSIONARY RULE. SEE ACCORD US V. WILSON 630 F.2D 1750, 753 (11TH 2015) ("THE AVAILABILITY OF THE SUPPRESSION REMEDY FOR ... STATUTORY AS OPPOSED TO CONSTITUTIONAL VIOLATIONS ... TURNS ON THE PROVISIONS OF THE STATUTE RATHER THAN THE JUDICIALLY FASHIONED EXCLUSIONARY RULE AIMED AT DETERRING VIOLATIONS OF 4TH AMEND. RIGHTS. US V. DONOHUE 424 US 413, 432 n.22 (1977).")

THUS, THE ILLEGAL 4TH AMEND. / BROWN V. IL. HOME INVASION WHICH IMMEDIATELY FOLLOWED THE VPPA 18 USC § 2710(b)(2)(C) VIOLATION REQUIRES THAT THE 4TH AMEND. PROTECTIONS FORTIFY -- BUT DO NOT REPLACE -- 18 USC § 2710(d)'S EXCLUSIONARY AUTHORITY.

ALTERNATIVELY, THEY WRONGLY INSIST THAT A FALSE/FABRICATED "BOOKING PROCESS-VERSION" (R2222) AND GAKUBA'S PURPORTED FABRICATED HEARSAY RESPONSE EXTENDS P.A.V. NUÑEZ'S 5TH AMEND. PROTECTION EXCEPTIONS TO VIOLATIONS OF 18 USC § 2710(d) IMMEDIATELY PROCEEDED BY AN ILLEGAL 4TH AMEND. / BROWN V. IL. HOME INVASION. THIS IS OBJECTIVELY UNREASONABLE, AND, NEITHER THE STATE NOR ALL THE PRIOR IL. STATE & FED'L COURTS CITE TO AUTHORITY FOR THEIR FANCIFUL AND CONCLUSORY APPLICATION OF LAW. 28 USC § 2254(d)(1)-(2).

MOREOVER, THEY DELIBERATELY IGNORE ALL GAKUBA'S CITED CASE LAWS: STATE V. MALDONADO-ARREAGA 732 NW 2d 34 (M.N. APP. 2004) (DIRECT APPEAL GAKUBA 2017); HAMILTON V. VILLAGE OF OAKLAND 735 F.3d 967, 970 (7TH 2013) ("BOOTSTRAPPING" ILLEGALLY OBTAINED EVIDENCE AS PROBABLE CAUSE FOR LAWFUL ARREST PROSCRIBED; 318 F.3d 1041, 1042 (9TH 2002) (ENCL. 182 F.3d 517, 525-32 (7TH 1999) (DISCUSSES FRUIT-OF-THE-POISONOUS-TREE DOCTRINE, BROWN V. IL.); OWENS V. DUNCAN 781 F.3d 360, 362 (7TH 2015) (GAKUBA HABEAS); US V. ZAPIEN 861 F.3d 971, 975 (9TH 2017); LOPE V. BUTLER 874 F.3d 544, 546 (7TH 2017); US V. SANCHEZ 817 F.3d 38, 41, 46 (1ST 2016);

AND US v. HASTINGS 246 F.SUPP.3d 1163, 1167-68, 1178, 1182-83 (E.D.TX 2017).

CONTRA RIVERA v. THOMPSON 879 F.3d 7, 15 (1st 2018); US v. ROCHE MARTINEZ 467 F.3d 591, 593-94 (7th 2016).

SEE GAKUBA v. WEESE 18-3398 (7th) (FED'L HABEAS PET. P. 24, REPLY P. 9): "IN SHORT, THE STATE AND THUMB-ON-THE-SCALE BIASED AND PREJUDICED IL. & FED'L JUDGES SERVED TO PROMOTE THE OUTLANDISH CLAIM THAT O'BRIEN CAN BE ORDERED TO SUPPRESS HIS MEMORY OF GAKUBA'S BIRTHDATE IN HAND-WRITTEN NOTES, LEAST HE FORGET (C 2204-05); CORROBORATED BY GAKUBA'S DRIVER'S LICENSE PHOTOCOPIED, LEAST HE FORGET (C 2366-72) (S 1484) (TRIAL EXH. #19); THEN, UPON FORGETTING GAKUBA'S BIRTHDATE INSTEAD REMEMBERS FOR NEARLY 9 YEAR'S GAKUBA'S BIRTHDATE FROM A 'BOOKING PROCESS VERSION' O'BRIEN FORGOT TO WRITE DOWN BECAUSE IT NEVER HAPPENED IN THE FIRST PLACE. THE PROVERB OF LAW TO DECLARE MISTRIALS IS: 'YOU CANNOT UNTOLL A RINGING BELL.' IF A JURY CAN NOT BE ORDERED TO FORGET ILLEGAL EVIDENCE IT WAS IN RECEIPT OF, NEITHER CAN O'BRIEN -- A FRANKS PERJURER AND, NOW, A MADUE PERJURER TOO. FALBUS IN UNO, FALBUS IN OMNIBUS."

II

ARGUMENT

DENIAL OF HABEAS § 2254, CERT. OF APPEAL § 2253

A

ON AUGUST 5, 2019 THE U.S.C.A. 7 DENIED THE 26-PAGE PRO SE PETITION FOR REHEARING, HEARING EN BANC OF GAKUBA'S PET. FOR A C.O.A. (41 PAGES) PER § 2253 IN GAKUBA v. WEESE 18-3398 (7th).

ON NOV. 20, 2017 GAKUBA'S PRO SE 60-PAGE HABEAS PETITION PER § 2254 WAS SCREENED IN GAKUBA v. WEESE 17 CY 50337 (M.O.I.L.) WHEREBY ISSUES 1 THRU 4 (OF 7) PLAIN, STRUCTURAL ERRORS WERE EXHAUSTED, W/ ISSUES 5 THRU 7 UNEXHAUSTED. THUS, THE U.S.D.C. RULED IT TO BE A "MIXED" PETITION.

IN NOV. 2018 GAKUBA'S PRO SE 41-PAGE PET. FOR A C.O.A. ARGUED THAT ALL 7 ISSUES WERE, IN FACT, PRESENTED AS CONSTITUTIONAL CLAIMS AND ADJUDICATED AS SUCH. PEOPLE v. GAKUBA 2017 IL APP (26) 150744-U, PEOPLE v. GAKUBA 2019 IL APP (26) 170794-U. THUS, A C.O.A. WAS SOUGHT ON ALL 7 ISSUES RAISED IN THE 60-PAGE PRO SE HABEAS.

THE U.S.C.A. 7'S COMPLETE DENIAL OF A C.O.A. IN AFFIRMING THE U.S.D.C.'S PROCEDURE IN RULING ON EXHAUSTED CLAIMS WHILE DISMISSING UNEXHAUSTED CLAIMS OF, NOW, A MIXED PETITION WAS OBJECTIVELY UNREASONABLE, CONTRARY TO ITS RULING IN SPARKS v. DORETHA 2018 US APP LEAS

32245 *1-3 (7th 2019) (CITES RHINES V. WEBER, 544 US 269 (2005)). LIKE SPARKS, THE U.S.D.C. "DISMISSED THE UNEXHAUSTED CLAIMS AND PROCEEDED TO DECIDE THE REST. THE JUDGE DID NOT WAIT FOR SPARKS [GAKUBA] TO DECIDE WHETHER TO AMEND THE PETITION SO THAT IT CONTAINED ONLY EXHAUSTED CLAIMS. INSTEAD, THE COURT TREATED THE OPPORTUNITY EXTENDED BY RHINES AS ONE THAT COULD BE ACCEPTED BY THE JUDGE. YET, THE CHOICE BELONGS TO THE PETITIONER, AND FAILING TO PROTEST THE JUDGE'S DECISION TO PROCEED IS NOT AN EFFECTIVE CHOICE TO DISMISS THE UNEXHAUSTED CLAIMS. GIVING THE CHOICE ABOUT DISMISSING THE UNEXHAUSTED CLAIMS TO THE JUDGE RATHER THAN THE LITIGANT WOULD AMOUNT TO OVERRULING LUNDY WHICH RHINES DID NOT DO. ONCE DISMISSED, CLAIMS CANNOT BE REASSERTED IN A LATER COLLATERAL ATTACK W/O APPELLATE APPROVAL FOR A 2ND OR SUCCESSIVE PETITION. SPARKS [GAKUBA] HAS NEVER MANIFESTED HIS CONSENT TO HAVING UNEXHAUSTED CLAIMS TREATED THAT WAY. ID #1-2

HERE, GAKUBA STEADFASTLY ARGUED THAT THERE WERE NO UNEXHAUSTED CLAIMS. THE FINALITY OF THE AUGUST 5, 2019 DENIAL OF A C.O.A. PER REHEARING / HEARING EN BANC MEANS, NOW, THAT GAKUBA'S RIGHTS UNDER WELL ESTABLISHED HABEAS LAW WAS FLAGRANTLY AND EGREGIOUSLY VIOLATED. CONSEQUENTLY, LIKE SPARKS, GAKUBA PRESUMED THE U.S.C.A. 7 WOULD HAVE FLAGGED THIS "MIXED" HABEAS PETITION DUE PROCESS ERROR IN THE COURSE OF ITS REVIEW. IT DID NOT.

ACCORDINGLY, DILIGENT AND EXPEDIENT IN BRINGING THIS CLEAR ERROR TO THE U.S. SUPREME COURT'S ATTENTION MANDATES RELIEF CONSISTENT W/ SPARKS AT # 3: VACATUO OF THE U.S.D.C.'S 16-PAGE DECISION AND REMAND FOR DISMISSAL W/O PREJUDICE OF THE PROSE 60-PAGE HABEAS "MIXED" PETITION RETURNING DISCRETION TO GAKUBA ON WHETHER TO AMEND OR TO SEEK A STAY "IF RHINES CRITERIA ARE MET." ID. THE U.S.C.A. 7 WILL NOT ALLOW THIS, AND WILL UNREASONABLY VIOLATE GAKUBA'S EQUAL PROTECTION DUE PROCESS RIGHTS PER SPARKS. AT A MINIMUM A U.S. SUPREME COURT SUPERVISORY ORDER IS REQUIRED CONSISTENT W/ SPARKS.

(B) THE AUGUST 5, 2019 U.S.C.A. 7'S 2 SENTENCE CONCLUSORY DENIAL FOR REHEARING / HEARING EN BANC WAS AS INEXPLICABLE AND UNREASONED AS ITS JUNE 24, 2019 2 SENTENCE CONCLUSORY DENIAL OF A § 2253 - C.O.A. GAKUBA BELIEVES THAT THE CIRCUIT JUDGE(S) DID NOT UNDER-

TAKE AN INDEPENDENT REVIEW OF THE STATE APPEAL RECORD, MUCH LESS GAKUBA'S 26-PAGE REHEARING PETITION, 41-PAGE PET. FOR A C.D.A., OR THE 60-PAGE HABEAS PETITION & 21-PAGE REPLY, LEADING TO A PERPETUATION OF THIS MISARRIAGE OF JUSTICE.

WORSE STILL, THE FED'L HABEAS DISTRICT COURT'S 16-PAGE RULING (HERETOFORE "GAKUBA HABEAS") FAILED TO UNDERTAKE ANY INDEPENDENT REVIEW OF THE DIRECT APPEAL'S RECORD AS REQUIRED BY LAW. INSTEAD, ITS 16-PAGE RULING SCISSOR-PASTED WHOLESALE THE STATE'S 16-PAGE HABEAS ANSWER RENDERING IT FATALY FLAWED. SEE HASBY v. McDANIEL 853 F.3d 1049, 1052 (9th 2017) (HABEAS DENIED, VACATED ON APPEAL; STATE RECORDS NOT REVIEWED. "HASBY CONTENDS THAT IF THE ROLE OF A FED'L HABEAS COURT WERE SIMPLY TO ACCEPT ON FAITH THE STATE COURT'S DESCRIPTION OF THE FACTS, FREE FROM ANY OBLIGATION TO REVIEW THE RECORD ON WHICH THE STATE COURT BASED ITS JUDGMENT, THERE WOULD HARDLY BE A REASON TO HAVE A FED'L HABEAS STATUTE AT ALL. WE AGREE.").

GAKUBA HABEAS p.1 (ID 2912): "THE FOLLOWING FACTS THE COURT PRESUMES ARE CORRECT." BUT THEY ARE NOT CORRECT AS GAKUBA PROVIDED FACT-BY-FACT IN HIS 60-PAGE HABEAS'S FACT STATEMENTS / END NOTE, NARRATIVELY; AND BULLET POINT FACTUAL REBUTTALS IN THE 21-PAGE REPLY AND 41-PAGE PETITION FOR A C.D.A. 28 USC § 2254(b)(2). LEE v. KINK 922 F.3d 772, 774-75 (7th 2018).

TO ILLUSTRATE, GAKUBA HABEAS p.11 (ID 2922): "IN FACT, [GAKUBA] PREVAILED IN HIS 4th AMEND. CLAIMS BEFORE THE TRIAL COURT AND IT SUPPRESSED THE ITEM'S FROM HIS HOTEL ROOM INCLUDING HIS DRIVER'S LICENSE." (EMPHASIS)

THE RECORD, HABEAS REPLY p.7: "... THE COURT [4/28/15]: 'HE CAN'T TESTIFY TO [THAT. (R2266)] THE STUFF FROM THE HOTEL ROOM WAS SUPPRESSED [PER BROWN v. IL 422 US 590 (1975) NOT NY v. HARRIS 495 US 14 (1990)] BUT NOT THE DRIVER'S LICENSE.' (C291; R2258)" (EMPHASIS)

ACCORDINGLY, US SUPREME COURT ACTION IS ESSENTIAL TO REACH A JUST RESULT: THE GRANT OF A C.D.A., HABEAS; VACATUR OF THESE WRONGFUL CONVICTIONS. SEE HABEAS pp.16-17 "LEGAL STANDARDS," CITES MESHAHE v. CATE 636 F.2d 410, 412 (9th 2016) ("A STATE COURT'S FACT FINDING PROCESS IS FATALY UNDERMINED WHEN THE COURT 'HAS BEFORE IT, YET APPARENTLY, IGNORES, EVIDENCE THAT IS HIGHLY PROBATIVE AND CENTRAL TO PETITIONER'S CLAIM. MILKE v. RYAN 711 F.3d 998, 1008 (9th 2013); SEE MULLER-EL v. COCKRELL

537 US 322, 346 (2003) (NOTING THAT THE STATE COURT 'HAD BEFORE IT, AND APPARENTLY IGNORED,' TESTIMONY RELEVANT TO THE CORRECT INQUIRY)').

THE MOST FLAGRANT AND EGREGIOUS ILLUSTRATION: STRUCTURAL ERROR, GAKUBA'S 6TH AMEND. PRO SE RIGHT RE-INVOCATION "WEEKS BEFORE TRIAL" AS A DELAY TACTIC DESPITE THE TRIAL COURT'S "RECORD" THAT IT WOULD ALLOW IT AS AN "OPTION" 6 MONTHS BEFORE TRIAL, ONLY TO RENEGE ON THAT "OPTION" AS FRAUD UPON GAKUBA. GAKUBA NEVER ONCE SOUGHT A CONTINUANCE; BUT ASST. P.D. SHAUNA GUSTAFSON DID ON THE TRIAL DATE ITSELF. HEARD AND DENIED. THUS A PRO SE TRIAL DATE CONTINUANCE WOULD HAVE BEEN DENIED TOO. SEE PET. FOR C.D.A. PP. 33-36 - ISSUE 4.

AND GAKUBA PLAINLY STATED HE'D STICK TO THE TRIAL DATE. ID. ACCORD IMAMI V. POLIARD 826 F.3d 939, 947 (7TH 2016) ("IMAMI MADE HIS REQUEST 4 WEEKS BEFORE TRIAL AND SAID HE WOULD NOT NEED ANY EXTRA TIME TO PREPARE. FARETTA HELD IT WAS A CONSTITUTIONAL ERROR TO DENY A REQUEST MADE WEEKS BEFORE TRIAL." 10 [AT 834-35 P. 46]). THE JUDGE WOULD HAVE BEEN ENTITLED TO HOLD IMAMI TO THAT ASSURANCE IF HE HAD LATER ASKED FOR A DELAY, BUT HE COULD NOT DENY IMAMI HIS 6TH AMEND. RIGHT TO REPRESENT HIMSELF ON THAT BASIS. ").

THE STATE, IL STATE AND FED'L COURTS ARE DELIBERATELY IGNORING THIS KEY MATERIAL FACT: APD GUSTAFSON'S DAY-OF-TRIAL CONTINUANCE MOTION BEING DENIED; THUS, HAD GAKUBA FILED ONE PRO SE, IT WOULD HAVE BEEN DENIED TOO. SEE MILLER-EL V. ROCKWELL 537 US 322, 346 (2003) (NOTING THAT THE STATE COURT HAD BEFORE IT, AND APPARENTLY IGNORED, "TESTIMONY RELEVANT TO THE CORRECT INQUIRY. "). PET. FOR C.D.A. PP. 33-36 "ISSUE 4."

FINALLY, THE STATE AND PRIOR COURTS FAHRFULLY CONCLUDE THAT "THE RECORD" OF GAKUBA'S 2 PRIOR LAWYER WITHDRAWALS OVER ABOUT 9 YEARS AND 50 PRO SE MOTIONS OVER 19 MONTHS (1/2 WERE RECONSIDERATION ONES) "COULD SUPPORT THE CONCLUSION" OF DELAY TACTICS. GAKUBA HABEAS P. 15 (10 2926). THIS IS OBJECTIVELY UNREASONABLE AND CITES ONLY TO DICTUM IN IMAMI 826 F.3d AT 947 WHEN IT'S THE HOLDING THAT COUNTS. IMAMI HELD THAT A C.D.A. THEN HABEAS RELIEF WAS MANDATED AS "WEEKS BEFORE TRIAL" PRO SE DENIAL IS A 6TH AMEND. STRUCTURAL ERROR, CITES FARETTA V. CALIFORNIA 422 US 806, 835 (1975). THE NUMBER OF PRE-TRIAL LAWYER REPLACEMENTS IS IRRELEVANT. SEE E.C. US V. BANKS 878 F.3d 609, 615 (7TH 2016) (5 SEPARATE TIMES REPLACED

DEFENSE LAWYERS, THE FINAL ONE ON THE 1ST DAY OF TRIAL TO GO PRO SE; CITES US v.

VOLPENTESTA 727 F.3d 666, 669 (7TH 2013) (9 SUBSTITUTION OF COUNSEL MOTIONS FILED)).

NO CASE LAW PRECEDENCE EXISTS (THAT GAKUBA CAN FIND) OF "THE RECORD" BEING THE REASONING TO DENY THE 6TH AMEND. PRO SE RIGHT.

ON POINT ACCORD TAMPLIN v. MUHIZ 894 F.3d 1076 (9TH 2018) (C.O.A. + HABEAS GRANT: PRO SE RIGHT DENIED AS UNTIMELY; REVERSED); (AT 1088-89: "TAMPLIN MADE A NEW REQUEST TO REPRESENT HIMSELF [] EXACTLY 2 WEEKS BEFORE THE SCHEDULED TRIAL DATE [] TAMPLIN'S REQUEST WAS TIMELY. ")

(AT 1089: "EVEN IF THE STATE COURT HAD RELIED ON UNTIMELINESS IN DENYING HABEAS, WE WOULD NOT GIVE AEDPA DEFERENCE TO THAT CONCLUSION [DUE] TO CLEAR FACTUAL ERROR []");

(AT 1093 FN*3: "FOOTNOTE IN FARETTA INDICATES HE ATTEMPTED ON 3 OCCASIONS TO HAVE THE TRIAL COURT APPOINT & PAY FOR PRIVATE COUNSEL FOR HIM. 422 US AT 808 N.5); (AT 1092 (DISSENT)

"FARETTA CERTAINLY DOES NOT PRECLUDE THE TRIAL COURT'S CONSIDERATION OF THE RECORD []").

HERE, GAKUBA'S RE-INVOICATION WAS 3-6 WEEKS BEFORE TRIAL AND "WAS TIMELY." HERE, THERE WAS CLEAR FACTUAL ERROR AS MATERIAL MISREPRESENTATIONS AND OMISSIONS OF FACT: (1) GAKUBA NEVER ONCE SOUGHT A CONTINUANCE DURING THE CASE'S 9-YEAR PENDENCY; (2) APD GUSTAFSON DID SEEK A DAY-OF-TRIAL CONTINUANCE, HEARD AND DENIED -- THUS, A PRO SE ONE WOULD HAVE BEEN DENIED TOO (C 3262-64; R 11683-90); (3) GAKUBA SAID HE'D STICK TO THE TRIAL DATE, FILING A PRO SE IMPEACHMENT MOTION UPON EXPECTING THE TRIAL JUDGE TO HONOR THE OPTION TO RE-INVOKE PRO SE STATUS (C 3155-78; R 1631); (4) THE SOLE MOTIVATION FOR SEEKING APPT'D COUNSEL WAS FOR FEE-FREE WITNESS SUBPOENA ISSUANCE (R 1596); (5) AND REMEDING ON THE RECORD'S PRO SE RIGHT OPTION WAS FRAUD. SEE PET. FOR C.O.A. PP. 33-36. 28 USC § 2254(d)(2), (e).

IT IS WELL ESTABLISHED THAT REPEATED LAWYER CHANGES RESULTS IN WAIVER OF COUNSEL AND COMPULSORY SELF-REPRESENTATION. SEE VREELAND v. ZUPAN 906 F.3d 866 (10TH 2018).

"THE US SUPREME COURT HAS RECOGNIZED FOR MORE THAN 40 YEARS THAT COUNSEL CANNOT BE SHOWN DOWN AN UNWILLING DEFENDANT'S THROAT. FARETTA AT 819." TATUM v. FOSTER 847 F.3d 459, 460 (7TH 2017). THIS IS EXACTLY WHAT OCCURRED HERE. TROUBLING.

SINCE GAKUBA'S 2015 NOTICE OF APPEAL WAS FILED, AT LEAST 4 TIMES A C.O.A. ISSUED BY

THE U.S.C.A. 7 ON THIS STRUCTURAL ERROR: 6TH AMEND. PRO SE RIGHT DENIAL AND AT LEAST 4 TIMES HABEAS RELIEF WAS GRANTED: IMANI 826 F.3d 939 (7TH 2016), TATUM 847 F.3d 459 (7TH 2017), FREEMAN 878 F.3d 880 (7TH 2017), WASHINGTON 884 F.3d 692 (7TH 2018).

THEY INCLUDED MURDERS (FREEMAN) AND ARMED ROBBERIES (IMANI). HOWEVER, GAKUBA'S PRO SE RIGHT DENIAL IS RECKLESSLY DISREGARDED W/O AN OBJECTIVELY REASONABLE BASIS; LIKELY IN RETALIATION FOR GAKUBA'S PRO SE PENDING SUIT: GAKUBA 711 F.3d 751 (7TH 2013), 12 CV 7296 (M.D.IL.) WHICH IL & FEDL POLICE AND PROSECUTORS SEEK DISMISSAL (ECF 279, ID 1476 "HECK" DISMISSAL). 1ST AMEND. VIOLATION.

©

THIS IS A CASE OF 1ST IMPRESSION AS NEVER BEFORE HAS A STATUTORY RAPE CONVICTION WHEREBY PROVING SEXUAL ACTIVITY AND THE PARTIES' AGES CAME FROM GAKUBA'S ILLEGAL BIRTH-DATE OBTAINMENT VIA IL STATE POLICE CHARLES O'BRIEN'S ILLEGALLY COMPELLED DISCLOSURE TO HIM SUCH THAT HE SHALL HAVE RECEIVED IT BEFORE EVERY AUTHORITY AND EVERY PROCEEDING PROSCRIBED BY 18 USC § 2710 (d). THIS INCLUDED A "GRAND JURY" IN WHICH O'BRIEN WAS THE SOLE WITNESS ANSWERING LEADING QUESTIONS FROM SUBORNER, ASA KATE KURTZ.

AFTER VIOLATING THE VPPA / 18 USC § 2710 (b)(2)(C) & § 2710 (d) TO OBTAIN ALL GAKUBA'S PERSONALLY IDENTIFIABLE INFO. (PII) (18 USC § 2710 (a)) THEY OBTAINED GAKUBA'S WHEREABOUTS, SEE CF CANFIELD v. CITY OF OKC 248 F.3d 1214, 1219-21, 1232-35 (10TH 2001), THEN AN ILLEGAL 4TH AMEND. BROWN v. ILLINOIS HOME INVASION ALL THE WHILE FALSELY CLAIMING GAKUBA WAS NOT UNDER ARREST BUT, A MATERIAL WITNESS PER AN INVESTIGATIVE DETENTION IN SUCCESSFULLY DEFENDING A DEC. 2008 SUPPRESSION MOTION ON 5TH / 6TH AMENDS. GROUNDS. ON POINT: US v. HASTINGS 246 F.Supp.3d 1163, 1168, 1178-81 (E.D.TX 2017). SIMULTANEOUSLY, THEY OBTAINED ILLEGALLY ALL GAKUBA'S NY + MD DRIVER'S LICENSE INFO. IN VIOLATION OF THE DPPA, 18 USC § 2721 ET SEQ.

IT IS WELL SETTLED, LONG ESTABLISHED THAT "THE AVAILABILITY OF THE SUPPRESSION REMEDY FOR... STATUTORY AS OPPOSED TO CONSTITUTIONAL VIOLATIONS... TURNS ON THE PROVISION OF [THE STATUTE] RATHER THAN THE JUDICIALLY FASHIONED EXCLUSIONARY RULE AIMED AT DETERRING VIOLATIONS OF 4TH AMEND. RIGHTS. US v. DOMOVAN 429 US 413, 432 N.22 (1977). US v. WILSON 630 F.2d 750, 753 (11TH 2013).

TO DATE, ALL THE PRIOR COURTS HAVE IGNORED THESE UNDISPUTED MATTERS OF FACT AND LAW. THEN, MORE DISTURBING IS THAT NO PRIOR IL STATE OR FED'L COURT DENIES GAKUBA'S BIRTHDATE ORIGINATED FROM GAKUBA'S HOLLYWOOD VIDEO CUSTOMER RECORDS. RATHER, THEY RESORT NOW TO AN EX POST HOC FABRICATED IRRATIONALIZATION THAT GAKUBA'S BIRTHDATE WAS "INDEPENDENTLY" SOURCED AS FABRICATED HEARSAY FALSELY ATTRIBUTED TO GAKUBA IN A FALSE FABRICATED "BOOKING PROCESS-VERSION." (R 2262) NO RECORD EXISTS OF THIS HAPUE PERJURY BY ADJUDGED FRANKS PERJURER O'BRIEN. SEE PET. C.O.A. PP. 20-21: US V. ZAPIEN 861 F.3d 971, 978 (9TH 2017) (CITES US V. PACHED-LOPEZ 531 F.3d 420, 424-25 (6TH 2008) ("THE FAILURE TO TAKE NOTES OR DOCUMENT THE DEFENDANT'S IDENTITY" MAKES BOOKING EXCEPTION INAPPLICABLE)). (R 2261)

WORSE STILL, THE TALISMAN INVOCATION, GAKUBA HABEAS (10 2922): "GAKUBA FILED AN AFFIDAVIT IN THE TRIAL COURT ON JUNE 5, 2014 INDICATING THAT HE NEVER TOLD O'BRIEN HIS DATE OF BIRTH. HOWEVER, THIS AFFIDAVIT WAS NOT ADMITTED AT TRIAL, NOR COULD IT HAVE BEEN, AND IT IS THEREFORE IRRELEVANT."

IT CITES TO NO AUTHORITY BECAUSE NONE EXISTS. IT WOULD RENDER A LEGAL MUGATORY WRONGFUL CONVICTIONS OBTAINED FROM FALSE CONFESSIONS. SEE E.G. RIVERA V. LAKE CO. 974 F.SUPP.2d 1179 (N.D. IL 9/13); FOX V. HAYES 606 F.3d 819 (7TH 2010). HERE, GAKUBA'S WRONGFUL CONVICTIONS WERE OBTAINED FROM A WHOLLY FABRICATED ONE.

THIS IS THE MOST FLAGRANT AND EGREGIOUS ILLUSTRATION OF RANK RACIAL BIAS AND PREJUDICE BY IL STATE AND FED'L COURTS WHEREBY THE CREDIBLE UNDISPUTED WORD OF AN INNOCENT BLACK MAN (W/ NO CRIMINAL HISTORY OF ANY KIND, ACCEPTED TO JOHNS HOPKINS AND STANFORD) IS DELIBERATELY IGNORED OR PATRONIZINGLY BRANDED "IRRELEVANT" VERSUS AN ADJUDGED FRANKS PERJURER WHITE POLICE O'BRIEN'S WORD WHEN THE UNDISPUTED FLAW RECORD SHOWS O'BRIEN'S EXCITED UTTERANCE THAT "YEAH" O'BRIEN IN FACT USED GAKUBA'S "ID" FOR BIRTHDATE OBTAINMENT PROVIDED SUBORNATION OF HAPUE PERJURY BY ASA KURTZ AND ASSOC. JUDGE TRUITT "OFF THE RECORD, OUT OF THE WELL OF THE COURT." (R 2256, 2265-67, 2254-55)

GAKUBA'S WRONGFUL CONVICTIONS UNDISPUTEDLY REST ON FABRICATED INCULPATORY STATEMENTS. 14TH AMEND. DUE PROCESS VIOLATION. SEE BELLAMY V. NYC 914 F.3d 727 (2ND 2019); STEWART V. PETERS 857 F.3d 787 (9TH 2017).

ON POINT - MURPHY v. SMITH 138 S.Ct. 784, 787 (2018) ("FIRST, THE WORD 'SHALL' USUALLY CREATES A MANDATE, NOT A LIBERTY [6] TELLS US THAT THE DISTRICT COURT HAS SOME NON-DISCRETIONARY DUTY TO PERFORM. SEE LEXIPON v. MALBERG WEISS 523 US 26, 35 (1998) ('THE MANDATORY "SHALL"... NORMALLY CREATES AN OBLIGATION IMPERIOUS TO JUDICIAL DISCRETION.'))".

18 USC § 2710(d) USES "SHALL NOT BE RECEIVED." IT IS NOT A RULES-OF-EVIDENCE. DANIEL v. CANTRELL ? (6TH); STERK v. REDBOX ? (7TH). AND BECAUSE CARPENTER v. US 139 S.Ct. 2206 FH*4 (6/22/18) REITERATED THIS, THE IL. FED'L COURTS ARE FLATLY WRONG IN THEIR RECKLESS DISREGARD FOR BAKUBA'S CLEARLY ESTABLISHED FED'L STATUTORY RIGHTS REQUIRING U.S.S. CT. ACTION.

ON POINT - SIMMONS v. HUMMELREICH 195 L.ED. 2d 106 (2016) (2016 US LEXIS 3613)

("ABSENT PERSUASIVE INDICATIONS TO THE CONTRARY WE PRESUME CONGRESS SAYS WHAT IT MEANS AND MEANS WHAT IT SAYS [7] WE DECLINE TO IGNORE THE TEXT OF THE STATUTE TO ACHIEVE THESE IMPRUDENTLY RESTRICTIVE RESULTS.")

HERE, A STATE TRIAL JUDGE (AS ADVOCATE) ABETTED HOW BY REVIEWING COURTS, FABRICATED AN INCUPLYATORY BIRTHDATE STATEMENT DENIED EMPHATICALLY BY BAKUBA IN HIS "BOOKING PROCESS" DENIAL AFFIDAVIT BAKUBA HABEAS'S TALISMAN INVOCATION BRANDS "IRRELEVANT."

APPLYING FRANKS IN EXCISING THE "MATERIAL MISREPRESENTATION IN RECKLESS DISREGARD FOR THE TRUTH" (R 803-08) LEAVES BARE THE STUBBORN FACTS: O'BRIEN'S ELATED TRIAL SIDE BAR UTTERANCE THAT "YEAH" BAKUBA'S "ID" WAS USED TO CORROBORATE HIS BIRTHDATE ILLEGALLY DISCLOSED / RECEIVED TO O'BRIEN RECORDED IN HANDWRITTEN POLICE NOTES OF BAKUBA'S VIDEO RECORDS.

CONGRESS NEVER INTENDED AN "AGGRIEVED PARTY" TO BE CRIMINALLY INDICTED W/ PROSCRIBED FRUIT-OF-THE-POISONOUS-TREE. 18 USC § 2710(d). CARPENTER AT FH*4 (6/22/18).

CONSEQUENTLY, TO RIGHT THIS WRONG SOLELY THROUGH HABEAS CORPUS RELIEF RESULTS IN "IMPRUDENTLY RESTRICTIVE RESULTS." THE CATCH ALL PHRASE "SHALL NOT BE RECEIVED... IN OR BEFORE... ANY OTHER PROCEEDING... OTHER AUTHORITY" INCLUDES HABEAS CORPUS WRITS.

18 USC § 2710(d) IS OMNIPOTENT. U.S. SUPREME COURT REVIEW EXPLICATING EQUITABLE RELIEF OR REMEDIES IS A MUST.

THIS TRULY IS A CASE OF 1ST IMPRESSION NECESSITATING ACTION.

IN STERK V. REDDOX? (7TH 2015) A DETAILED STATUTORY ANALYSIS OF 18 USC § 2710(e) OCCURRED. IT NEVER ANALYZED § 2710(e)'S OWNERSHIP WHEN ILLEGALLY OBTAINED RECORDS (FROM 2006) ARE BEING HELD NOW IN PERPETUITY. THIS PETITION MERITS COURT ACTION PER GAKUBA'S EQUAL PROTECTION. THE STAKES ARE NOT JUST MONETARY BUT DEPRIVATION OF LIBERTY PER THESE WRONG CONVICTIONS.

IN FLAGRANT AND EGREGIOUS VIOLATION OF 18 USC § 2710(d) GAKUBA'S PII (BIRTHDATE) WAS ILLEGALLY RECEIVED BY "OFFICER" O'BRIEN; IN AN "OTHER PROCEEDING" CRIME INVESTIGATION; IN IL. & FEDL "GRAND JURIES" AS "100% PROBABLE CAUSE" (R 484); IN "COURTS"; IN "HEARINGS"; IN A "TRIAL"; IN MORE "OTHER PROCEEDINGS" -- APPEALS, POST-CONVICTION, HABEAS CORPUS WRITS.

THE FABRICATED HEARSAY FALSELY ATTRIBUTED TO GAKUBA HAS NO RECORD FOR SUPPORT AND GAKUBA EMPHATICALLY DENIES IT. YET, TO WHOLLY IGNORE OR BRAND "IRRELEVANT" A CREDIBLE, RELIABLE INNOCENT BLACK MAN'S DENIAL AFFIDAVIT IN FAVOR OF ADJUDGED FRANKS PER JUROR WHITE COP O'BRIEN IS RANK BICOTRY, IRRATIONAL JUDICIAL ANIMUS. CHICAGO POLICE JOHN BURGE REDUX.

①

STRUCTURAL ERROR: U.S.D.C.'S IRRATIONAL BIAS AND PREJUDICE.

①

BACKGROUND: IN 2012 GAKUBA JUED SOME + 30 ROCKFORD, IL STATE AND FEDL POLICE AND PROSECUTORS. GAKUBA 12CV7296 (M.D.IL); GAKUBA V. O'BRIEN 711 F.3d 751 (7TH 2013).

IN 2017 GAKUBA FILED HIS 60-PAGE PRO SE HABEAS PER 28 USC § 2254 IN CHICAGO, IL. GAKUBA V. RAINE 17CV6719 (M.D.IL). IT CONTAINED A "JURISDICTIONAL STATEMENT" THAT GAKUBA WOULD VOICEFULLY OBJECT TO A SUA SPONTE VENUE CHANGE AS WAS WRONGLY DONE ON REMAND IN GAKUBA 711 F.3d 751, 753 (7TH 2013) IN VIOLATION OF THE MAINTENANCE RULE. NONETHELESS, 6 WEEKS LATER, THE CHICAGO JUDGE SUA SPONTE TRANSFERRED THE CASE TO ROCKFORD.

CORREMPABLY, THE ROCKFORD JUDGE FOUND MERIT IN SHORT ORDER: WEEKS, NOV. 2017. BRIEFING CONCLUDED FEB. 2018. GAKUBA V. NEESSE 17CV50337 (M.D.IL). THEN THE WAIT BECAME FOR A DECISION. EVERY 60 DAYS GAKUBA REQUESTED A DECISION, STATUS REPORT PER LOCAL RULE 78.5. ALL WERE IGNORED. YET, IN GAKUBA V. O'BRIEN EVERY 90 DAYS THE SAME U.S.D.C. HAD REQUIRED STATUS.

AFTER 6 MONTHS OF WAITING YIELDING NOTHING, GAKUBA'S AUGUST 2018 MOTION TO LIFT A STAY IN GAKUBA V. O'BRIEN WAS GRANTED. AN AGGRESSIVE LITIGATION SCHEDULE WAS SET. IN A SEPT. 2018

RULING ON GAKUBA'S AUGUST 2018 MOTIONS, THE FED'L MAGISTRATE'S R+R DENIED GAKUBA'S PRO SE MOTION FOR EQUITABLE RELIEF -- TRO, PRELIM. & PERM. INJUNCTION, DECLARATORY JUDGMENT -- THEN DENIED GAKUBA'S MOTION FOR CHANGE OF VENUE BACK TO CHICAGO IN THE OPPOSITE ORDER REQUESTED. WHILE GAKUBA WAS DENIED ANY SAY IN THE SUA SPONTE CHICAGO-TO-ROCKFORD TRANSFERS, THE U.S.D.C. ORDERED THE DEFENDANTS TO RESPOND. THE R+R DENIED ALL EQUITABLE RELIEF CITING HECK. RESPONDENTS FED'L POLICE AND PROSECUTORS AND 1 OTHER DEFENDANT (OUT OF + 30) LARGELY PARROTED THE R+R'S HECK RUBRIC, WHICH IL. POLICE AND PROSECUTORS PREVIOUSLY INVOKED TOO IN 2015. GAKUBA 12CH7296 (N.D.IL.) (ECF 279, 10/14/16 "HECK").

A MONTH LATER, OCTOBER 2018, THE FED'L DISTRICT JUDGE ISSUED A 16 PAGE HABEAS RULING THAT SCISSOR-PASTED WHOLESALE THE STATE'S 16-PAGE HABEAS ANSWER. NO INDEPENDENT REVIEW OF THE DIRECT APPEAL'S RECORD OCCURRED, AND IT IGNORED COMPLETELY THE 6TH AMEND. PUBLIC TRIAL RIGHT VIOLATION ADDRESSED BY THE IL. APP. CT. AND THE 6D-PAGE HABEAS, GAKUBA 2017 AT #56. HABEAS PP. 24-25. THIS WAS NO MERE ERROR BUT CALCULATED JUDICIAL OVERREACH BY IRRATIONALLY BIASED AND PREJUDICED IL. JUDGES.

① ② DISCUSSION: IT IS WELL ESTABLISHED THAT HECK BARS CIVIL SUITS AGAINST GOVERNMENT BAD ACTORS AS PROOF OF BAD ACTS IN A CIVIL SUIT NECESSARILY IS A PROSCRIBED COLLATERAL ATTACK OF A WRONGFUL CONVICTION. ALSO, IT IS WELL ESTABLISHED THAT MAGISTRATES SERVE AS PROXIES FOR JUDGES. IN ROCKFORD, ONLY 1 MAGISTRATE ANSWERS TO ONLY 1 JUDGE. THEY DO NOT WORK INDEPENDENTLY. RATHER THEY ARE INTER-DEPENDENT. RARELY DO MAGISTRATE AND JUDGE FAIL TO SEE EYE-TO-EYE ON PENDING CASES.

IN GAKUBA 12CH7296 (N.D.IL.) FROM AUGUST-OCTOBER 2018 THE PRO SE FILINGS OF GAKUBA COMPLAINED THAT BY INVOKING HECK IN THE SEPT. 2018 R+R FORESHADOWED PREJUDGMENT IN THE THEN OSTENSIBLY PENDING HABEAS CASE - HEEDE 17CH50337 (N.D.IL.). THESE FEARS AND SUSPICIONS BECAME REAL AS THE HABEAS WAS DENIED, AND, SO TOO A CERT. OF APPEAL.

SIMPLY STATED, THE TOTALITY-OF-CIRCUMSTANCES OF BOTH THESE INTER-RELATED CASES REVEALS RANK BIAS AND PREJUDICE. BY CONCLUDING, PRE-JUDGING GAKUBA'S GUILT PER HECK IN GAKUBA'S

PENDING CIVIL SUIT, RENDERED THE DENIAL OF HABEAS & C.O.A. A MERE FORMALITY. AND AS HISTORY PLAYED OUT, INDEED IT WAS. STRUCTURAL ERROR - SEE ACCORD FRANKLIN v. McCAUGHTER 398 F.3d 955, 961 (7TH 2005) (HABEAS GRANT - BIASED JUDGE) (DESPITE USING "ALLEGED" EXEMPLIFYING FRANKLIN'S CASE FOR RECIDIVISM, TRIAL JUDGE "PRE-JUDGED FRANKLIN'S CASE" AND PRESUMED GUILT).

HERE, THE "ALLEGED" IS THE MAGISTRATE'S R + R IN THE INTER-RELATED CIVIL SUIT. BUT BECAUSE THE U.S.D. JUDGE KNEW OF AN APPROVED OF ITS FINDINGS BY ORDERING DEFENDANT'S RESPONSE, DOING SO MERELY SERVED AS A FIG LEAF TO COVER FOR THE FORMALITY OF DENYING HABEAS / C.O.A. AND CONCURRENCE IN ALL RESPECTS W/ THAT R + R.

BAKUBA FINDS NO CASE LAW PRECEDENCE OF A U.S.D. JUDGE PRESIDING OVER A CIVIL SUIT HOLDING LIABLE NUMEROUS SMALL TOWN GOV'T ACTORS -- THE JUDGE'S HOMETOWN WHICH HE RESIDES IN RETIREMENT -- THEN BEING THE SAME JUDGE OVER A FEDL HABEAS WRIT WHICH, IF GRANTED, WOULD RESULT IN SUBSTANTIAL MONETARY DAMAGES (ALREADY A \$52 MILLION DEFAULT JUDGMENT AWAITS) AGAINST MANY MANY GOV'T AGENTS WHOM THE JUDGE REGARDS HIGHLY THROUGH HIS WORKING RELATIONSHIPS AS A FORMER 2ND DISTRICT IL APPELLATE JUDGE (WHERE BAKUBA'S DIRECT APPEAL FAILED); AND FORMER ROCKFORD CIRCUIT AND ASSOC. JUDGE AND PRECEDING ROCKFORD PROSECUTOR. THESE RELATIONSHIPS SPAN A LIFETIME AND WERE BAKUBA'S WRONGFUL CONVICTIONS VACATED -- AS THEY SHOULD BY LAW, 14TH AMEND. FABRICATION'S THEN THIS "NOT FROM OUR COMMUNITY" AGGRAVED PARTY PREVAILING IN A MALICIOUS PROSECUTION PUTS AT RISK THE JOBS AND LAW CAREERS OF +30 ROCKFORD GOV'T BAD ACTORS ACCORDING TO THE TRIAL JUDGE (AS ADVOCATED) WHEN VOUCHING FOR POLICE AND PROSECUTORS. HABEAS ISSUE 6.

CONSEQUENTLY, US SUPREME COURT INTERVENTION IS REQUIRED AS THIS IS THE ONLY CASE WHEREBY THE PRESIDING DISTRICT JUDGE IN A HABEAS WRIT ALSO PRESIDED OVER A PENDING CIVIL SUIT WHICH WHOLLY DEPENDENT ON THAT HABEAS BEING GRANTED.

MOREOVER, TO REMOVE EVEN THE SLIGHTEST APPEARANCE OF JUDGE BIAS AND PREJUDICE, REFRAND THE CASE FOR A THOROUGH AND INDEPENDENT REVIEW OF THE APPEAL'S RECORD CONSISTENT W/ MABRY v. McDANIEL 853 F.3d 1049, 1052 (9TH 2017) W/ RE ASSIGNMENT TO A JUDGE NOT PRESIDING OVER THE CIVIL CASE.

III

ARGUMENT (CUMULATIVE)

1a

ISSUE 1: 28 USC § 2254(d)(2): GAKUBA RESTATES AS IF FULLY INCORPORATED HEREIN HIS FACT REBUTTALS IN HIS: 60-PAGE HABEAS, 21-PAGE REPLY, 41-PAGE PET. FOR A C.O.A.

IN A STATUTORY RAPE CASE WHERE AGE OF THE PARTIES (AND SEXUAL ACTIVITY) ARE THE ELEMENTS OF THE CRIME, THIS CASE HINGES -- IN PART -- ON JUST WHAT THE TRIAL JUDGE POSTED: "THE MILLION DOLLAR QUESTION" ? (R 2265-67)

WAS IT THE TRUTH? THAT GAKUBA'S BIRTHDATE WAS ILLEGALLY OBTAINED IN VIOLATION OF 18 USC § 2710(b)(2)(C), § 2710(b); CAREFULLY HANDWRITTEN BY O'BRIEN IN POLICE NOTES LEAST HE FORGET (C 2204-05); THEN CORROBORATED BY THE ILLEGAL 4TH AMEND. / BROWN HOME INVASION TO SEIZE GAKUBA'S DRIVER'S LICENSE FOR INVESTIGATORY PURPOSES AS TRIAL EXH. # 19, P. 3 (C 2366-72; R 1484) LEAST O'BRIEN FORGET?

O'BRIEN'S EXCITED UTTERANCE AT THE JURY TRIAL SIDEBAR IS CASE DISPOSITIVE IN GAKUBA'S FAVOR -- "YEAH" O'BRIEN USED GAKUBA'S "ID." 28 USC § 2254(c).

EVEN ASA KATE KURTZ CONCEDES THAT GAKUBA'S BIRTHDATE WAS POISONED FRUIT PER 18 USC § 2710(d) AND 4TH AMEND. / BROWN V. IL. 422 US 590 (1975). APRIL 28, 2015 JURY TRIAL SIDEBAR, KURTZ: "[O'BRIEN] CONFIRMED ON HIS ID OR LOOKED AT HIS ID SO THE ANSWER IS BOTH." (R 2256) KURTZ: "O'BRIEN WOULD STATE THAT HE ASKED HIM. I MEAN HE WOULD ALSO SAY -- HE, OBVIOUSLY, CAN'T SAY IN COURT THAT HE LOOKED AT HIS ID. HE DID LOOK AT HIS ID, BUT HE ALSO ASKED HIM HIS DATE-OF-BIRTH." (EMPHASIS) 28 USC § 2254(c), § 2254(d)(2). (R 2265)

THIS IS SUBORNING NAPUE PER JURY, CONTRADICTING THE OATH / AFFIRMANCE: "TO TELL THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH." (EMPHASIS)

ON POINT: (CASE DISPOSITIVE FOR GAKUBA) PILES V. NWABASI 829 F.3d 860, 868 (7TH 2016) ("BUT A FINDING OF FACT IS CLEARLY ERRONEOUS IF IT IS BASED ON ERRORS OF FACT OR LOGIC." AUBRY V. BARNHART 455 F.3d 818, 821 (7TH 2006). WHERE THE EVIDENCE UNDERLYING A FACT, INCLUDING CREDIBILITY, SUPPORTS ONLY SPECULATION ABOUT THE EVIDENCE OR NON-EXISTENCE OF THE CONTESTED POINT, IT IS CLEAR ERROR TO CONCLUDE THAT THE POINT HAS BEEN ESTABLISHED.")

HERE, THE UNDISPUTED PLAIN RECORD SHOWS THAT O'BRIEN WAS AN ADJUDGED FRANKS PERJURER AND KURTZ SUBORNED IT. BOTH WERE UNTRUSTWORTHY, UNRELIABLE. THEY HAD MOTIVES TO PERPETRATE

THEIR PERJURY: GAHUBA 12CY72Q6 (M.G.IL) (ECF 279, ID 1476 "HECK" DISMISSAL DEFENSE).

SEE WHITLOCK V. BRUEGGEMAN 682 F.3d 567 (7th 2016); FOX V. HAYES 606 F.3d 819 (7th 2010)

(CASES OF EGREGIOUS POLICE & PROSECUTORIAL MISCONDUCT).

PERPETUATE THEIR FRANKS PERJURY AS NOW NAPUE PERJURY THEY DID, AIDED-AND-ABETTED BY A TRIAL JUDGE AS ADVOCATE BY CONDUCTING O'BRIEN'S DIRECT EXAMINATION AS TO "THE MILLION DOLLAR QUESTION" (R2266) "OFF THE RECORD OUT OF THE WELL OF THE COURT." (R2254-55)

ACCORD WALLER V. GEORGIA 467 US 39, 46 (1984) AND GANNETT V. DEPASQUALE 443 US 368, 380 (1979) (A PUBLIC TRIAL ENTURES THAT JUDGE AND PROSECUTOR CARRY OUT THEIR DUTIES RESPONSIBLY, AND DISCOURAGES PERJURY). WALLER AT 49-50 R.9 (STRUCTURAL ERROR).

THE COURT: "HE CAN'T TESTIFY TO [THAT.] (R2266) THE STUFF FROM THE HOTEL ROOM WAS SUPPRESSED BUT NOT THE DRIVER'S LICENSE. (C291; R2258) IF IT WAS OBTAINED [] DURING THE BOOKING PROCESS, WHATEVER, INDEPENDENTLY [..] THAT'S THE MILLION DOLLAR QUESTION." (R2267) ²²⁶⁵

KURTZ: "MAY I STEP OUT? [(R2267) ... AND SHARE THAT INFORMATION? (R2255)]"

THE COURT: "SURE." (R2267)

KURTZ: "SGT. O'BRIEN WOULD TESTIFY [AS TO THE COURT'S DICTATES.]" (R2267)

DISTURBINGLY, THE TRIAL COURT GAVE WALLER ADMONISHMENTS TO EVERY OTHER WITNESS THROUGHOUT THE NEAR 9 YEAR PENDENCY OF THIS CASE.

APRIL 28, 2015 JURY TRIAL RECESS, (R2199-2200)

THE COURT: "MR SCHMIDT, YOU CAN STEP DOWN NOW. THE ONLY ADMONISHMENT IS NOT TO DISCUSS YOUR TESTIMONY UNTIL YOUR BACK ON THE WITNESS STAND FOR CROSS-EXAM." (EMPHASIS)

DEC. 8, 2008 SUPPRESSION HEARING (5TH + 6TH AMENDS.) (R311)

THE COURT: "YOU CAN STEP DOWN, MR SHAPIRO, UNTIL WE'RE READY."

DEFT'S LAWYER: "YOU UNDERSTAND THAT NEITHER OF US CAN TALK TO YOU ABOUT YOUR TESTIMONY?"

CONSEQUENTLY, THE 6TH AMEND. WALLER PUBLIC TRIAL VIOLATION WAS THE MEANS TO THE 14TH AMEND. NAPUE PERJURY VIOLATION ENDS. IT WAS TO COVER-UP A 7TH, 4TH, 14TH AMENDS. VIOL. PER 18 USC §2710 (b) THEY CORROBORATED W/ GAHUBA'S ILLEGALLY SEIZED DRIVER'S LICENSE.

GAHUBA HABEAS P.11 (ID 2922) FACTUAL ASSESSMENT TO THE CONTRARY WAS OBJECTIVELY

UNREASONABLE, REBUTTED BY THE UNDISPUTED RECORD. 28 USC § 2254(e), § 2254(d)(2).

SO TOO WAS: "PETITIONER FILED AN AFFIDAVIT IN THE TRIAL COURT ON JUNE 5, 2014 INDICATING THAT HE NEVER TOLD O'BRIEN HIS DATE OF BIRTH. HOWEVER, THIS AFFIDAVIT WAS NOT ADMITTED AT TRIAL, NOR COULD IT HAVE BEEN, AND IT IS THEREFORE IRRELEVANT." (EMPHASIS) (ID 2922, PP 1-2).

BAKUBA'S JURY TRIAL SIDEBAR AS TO BAKUBA'S ILLEGAL BIRTHDATE OBTAINMENT PLAINLY REFERENCED STATE POLICE BALSLEY'S PERSONAL DATA REPORT (AS TRIAL EXHS. 19-20) BY ASA KURTZ ALL THROUGHOUT. (R2252: "PAPERWORK"; R2261-67: "ISP PERSONAL HISTORY REPORT") PER 28 USC § 2254(e) THE UNDISPUTED PLAIN RECORD SHOWS THAT KURTZ & TRIAL JUDGE SUBORNED O'BRIEN'S NAPUE PERJURY BY HAVING O'BRIEN FALSELY TESTIFY TO AUTHORIZING BALSLEY'S REPORT.

NAPUE REQUIRES THE PROSECUTION TO CORRECT THEIR PERJURY BY THEIR WITNESSES. AND, BECAUSE THE JUNE 5, 2014 "AFFIDAVIT OF PETER BAKUBA STATING THAT HE GAVE NO TESTIMONIAL EVIDENCE OR STATEMENTS DURING HIS NOV. 2006 'BOOKING PROCESS'" IS CASE DISPOSITIVE IN BAKUBA'S FAVOR, ASA KURTZ -- NOT BAKUBA -- WAS REQUIRED TO INTRODUCE IT AT THAT JURY SIDEBAR. JUST AS KURTZ INTRODUCED BALSLEY'S REPORT TO PROVE THAT O'BRIEN AUTHORED IT.

THE JUNE 5, 2014 "BOOKING PROCESS" DENIAL AFFIDAVIT WAS ANNOUNCED, HAND TENDERED TO BOTH ASA KURTZ AND TRIAL JUDGE TRUITT, THEN FILED IN OPEN COURT. (C 2366-72; R 1484) ASA KURTZ AND JUDGE TRUITT WILLFULLY AND DELIBERATELY CHOSE TO IGNORE IT. ITS RELEVANCE IS UNQUESTIONED. FRE 400-403. SEE US v. BOWLING 770 F.3d 1168, 1175-76 (7th 2014) ("THE BASIC STANDARD OF RELEVANCE UNDER FRE 400 IS A 'LIBERAL ONE.'")

1b

28 USC § 2254(d)(1): US SUPREME COURT PRECEDENCE

ON POINT: CARPENTER v. US 138 S.Ct. 2206 FM*4 (6/22/18) ("VPPA 18 USC § 2710(b)(1)

("A VIDEO-TAPE SERVICE PROVIDER WHO KNOWINGLY DISCLOSES TO ANY PERSON PERSONALLY IDENTIFI-
ABLE INFO. [...] SHALL BE LIABLE TO THE AGGRIEVED PERSON FOR THE RELIEF PROVIDED IN § (d)").

HERE, 18 USC § 2710(b)(2)(C) CONTROLS REMOVING, LAW ENFORCEMENT JUST AS CULPABLE/
LIABLE AS THE VIDEO PROVIDER. TORTUOUS INTERFERENCE. ACCORD CAMEFIELD v. CITY OF OKC

248 F.3d 1214, 1233 (10th 2006) (CONSENT NOT VOLUNTARY IF MADE IN ACQUIESCENCE TO CLAIM OF LAW FUL AUTHORITY OR MISREPRESENTATION THEREOF).

LIKE CAMFIELD, GAKUBA'S NAME & BIRTHDATE WERE THE POISONED FRUIT TREE. GAKUBA'S HOTEL RESIDENCY; ILLEGAL 4TH AMEND. / BROWN HOME INVASION SEARCHES AND SEIZURES; FOCUS EX POST / POST HOC HOTEL AND BUCCAL SEARCH WARRANTS PER FRANKS; BOOKING RECORDS INCLUDING FINGERPRINTS, DNA, CRIME LAB REPORTS; FABRICATED INCULPATORY EVIDENCE; AND NAYUE PERJURY AT TRIAL, ARE ALL FRUIT-OF-THE-POISONOUS-TREE.

NEITHER STATE NOR FED'L ACTORS PARTICIPATING OR PRESIDING DISPUTE THIS FACT. RATHER, IN VIOLATION OF THE 14TH AMEND. THEY FABRICATED INCULPATORY STATEMENTS WHICH NO RECORD EXISTS OF SUCH -- BECAUSE IT'S NON-EXISTENT -- AND GAKUBA'S CREDIBILITY AND RELIABILITY IS UNIMPEACHABLE IN CONTRAST TO ADJUDGED FRANKS PERJURER O'BRIEN. SEE DUMAS v. MARCHILLI 240 F.SUPP. 3d 255, 261 (D.MA 2017) (PARTIAL HABEAS GRANT VACATING STATUTORY RAPE CONVICTIONS, AS VICTIM'S AGE NOT PROVEN).

ON POINT: BROWN v. ILLINOIS 422 US 590 (1975) CONTROLS (FORTIFIES 18 USC § 2710(b))

HERE, NEITHER GAKUBA 2017'S 58 PAGE RULING; NEITHER THE STATE'S BRIEF (APPEAL) NOR ANSWER (HABEAS) CITE TO THIS CONTROLLING AUTHORITY THAT THE UNDISPUTED PLAIN RECORD SHOWS WAS THE BASIS TO EXCLUDE ALL GAKUBA'S UNRECORDED (UNRELIABLE, THUS INADMISSIBLE PER 725 ILLCS 5/103-2-1(b)) CUSTODIAL INTERROGATION STATEMENTS. IT FREES THEM TO THEN CONTRIBUTE MY v. HARRIS 495 US 14 (1990) EX POST / POST HOC -- DE FACTO. (WHICH ISN'T CITED EITHER)

GAKUBA HABEAS PP 10-11 (10 2921-22): "SPECIFICALLY, THE PETITIONER'S NAME WAS DERIVED FROM THE HOTEL CLERK AND [] DATE OF BIRTH WAS DERIVED FROM PETITIONER, HIMSELF DURING ROUTINE BOOKING QUESTIONS" IS FALSE / FABRICATED EVIDENCE. NAYUE PERJURY BY AN ADJUDGED FRANKS PERJURER. 14TH AMEND. VIOLATION. OTHER THAN O'BRIEN'S SAY-SO, THE RECORD DOES NOT SUBSTANTIATE THESE FABRICATED HEARSAYS FALSELY ATTRIBUTED TO THE HOTEL CLERK, AND EMPHATICALLY DENIED BY GAKUBA IN A SWORN AFFIDAVIT. SUBORNER KURTZ'S EXCITED UTTERANCES TO THE TRUE FACT NARRATIVE CHRONOLOGY -- 1ST: HOLLYWOOD VIDEO STORE ILLEGAL OBTAINMENT OF GAKUBA'S PII TO, 2ND: ASK THE HOTEL CLERK "HEY, DO YOU HAVE A GUY HERE BY THIS NAME.

SEE, WE SURE DO." (R484) -- IS THE UNDISPUTED RECORD, 28 USC § 2254(e), § 2254(d)(2).

THIS IS CORROBORATED BY O'BRIEN STATING THAT WHEN FIRST GOING TO HOLLYWOOD VIDEO AND
GIVING THEM "SCARY MOVIES 1,2,3 ... WHICH MATCHED UP ALSO GAVE ME THE PERSON THAT RENTED
THEM, PETER CAKUBA." (R706) (EMPHASIS) CF CAMFIELD v. CITY OF OKC 248 F.3d 1214 (10th 2001)
ACCORD US v. DONOVAN 429 US 413, 432 n.22 (1977) (STATUTE'S MANDATE TRUMPS 4TH AMEND.)

ON POINT: DAVIS v. MISSISSIPPI 394 US 721, 724 (1969) ("ALL EVIDENCE OBTAINED BY SEARCHES
AND SEIZURES IN VIOLATION OF THE CONSTITUTION IS ... INADMISSIBLE IN ... COURT. FINGERPRINT EVIDENCE
IS NO EXCEPTION TO THIS COMPREHENSIVE RULE.")

HAYES v. FLORIDA 470 US 811, 813 (1985) (SAME)

SEE ACCORD US v. EPPERBER 2012 US DIST. LEXIS 142483 (D.MY 7/2012) (ILLEGAL ARREST-BOOKING
SUPPRESSED; CITES DAVIS, HAYES); (AT #20: DEFT'S FINGERPRINTS WERE TAKEN DURING BOOKING
PROCESS AND "SHOULD BE SUPPRESSED AS FRUIT OF AN ILLEGAL ARREST").

MARYLAND v. KING 133 S. CT. 1958 (2013) (EXTENDS BOOKING TO DNA EVIDENCE)

HERE, CAKUBA'S ILLEGAL ARREST PER BROWN -- NOT NY v. HARRIS -- MANDATES SUPPRESSION OF
EVERYTHING; ESPECIALLY IDENTITY EVIDENCE AS POISONED FRUIT PER 18 USC § 2710(d) & BROWN.

ON POINT: PENNSYLVANIA v. MUNIZ 496 US 582, 602 n.14 (1990)

ASSUMING ARGUENDO THAT 18 USC § 2710(d) FORTIFIED BY 4TH AMEND. EXCLUSION PROTECTIONS
OF BROWN, DAVIS, HAYES, & KING DO NOT CONTROL, IT STILL FALLS UNDER 5TH AMEND. / MIRANDA
PROTECTION EXCEPTIONS. SEE US v. BARTLETT 2012 US DIST. LEXIS 116990 *17-18 (D. ME 2012)

(CITES MUNIZ AT 602 n.14 ("RECOGNIZING A 'BOOKING EXCEPTION' TO MIRANDA DOES NOT MEAN,
OF COURSE, THAT ANY QUESTION ASKED DURING THE ROUTINE BOOKING PROCESS FALLS WITHIN THE
EXCEPTION. WITHOUT OBTAINING A WAIVER OF MIRANDA RIGHTS, THE POLICE MAY NOT ASK QUESTIONS,
EVEN DURING BOOKING, THAT ARE DESIGNED TO ELICIT AN INCRIMINATORY ADMISSIONS.") ALTHOUGH
THE INQUIRY IS "PHRASED IN TERMS OF THE OFFICER'S INTENTION, IT IS ACTUALLY AN OBJECTIVE ONE:
WHETHER, THE QUESTIONS AND CIRCUMSTANCES WERE SUCH THAT AN OFFICER SHOULD REASONABLY
HAVE EXPECTED THE QUESTION TO ELICIT AN INCRIMINATING RESPONSE." US v. REYES 225 F.3d 717, 76-77.)

HERE, ASSUMING ARGUENDO THAT O'BRIEN'S TESTIMONY WAS TRUE, AS A MATTER OF LAW IT FALLS.

28 USC § 2254(d)(1). O'BRIEN WAS THE LEAD INVESTIGATOR; SOLE GRAND JURY WITNESS; PRIMARY WITNESS IN A DEC. 2008 SUPPRESSION HEARING (R 226-288); SOLE WITNESS IN A JUNE 13, 2011 FRANKS / BROWN HEARING; KEY MATERIAL WITNESS AT GAKUBA'S 2.5 DAY JURY TRIAL. O'BRIEN ALREADY KNEW THE ALLEGED CRIMES GAKUBA WAS CHARGED WITH, HAVING JUST ILLEGALLY INTERROGATED GAKUBA, AND FALSELY TESTIFYING TO AUTHORIZING BALSLEY'S PERSONAL DATA REPORT.

⇒ ON POINT: STATE V. LOCKLEAR 531 S.E.2d 853, 855 (N.C. APP. 2000) (STATUTORY RAPE CONVICTIONS REVERSED; DEFT'S BOOKING BIRTHDATE VIOLATED 5TH AMEND. / MIRANDA; LITES RHODE ISLAND V. INHIS 446 US 291, 309 (1985) (INTERROGATION UNDER MIRANDA CONSIST OF QUESTIONS "THE POLICE SHOULD KNOW ARE REASONABLY LIKELY TO Elicit AN INCrimINATING RESPONSE.") ... "POLICE HALIBURTON IN ADDITION TO BOOKING DEFT. WAS ALSO THE INVESTIGATING OFFICER AND KNEW OR SHOULD HAVE KNOWN HER BIRTHDATE BOOKING QUESTION WOULD Elicit AN INCrimINATING RESPONSE AS DEFT'S AGE AN ESSENTIAL ELEMENT OF CRIME.")

2a ISSUE 2: 28 USC § 2254(d)(2): GAKUBA RESTATES AS IF FULLY INCORPORATED HEREIN HIS FACT REBUTTALS IN HIS: 60 PAGE HABEAS, 21 PAGE REPLY, & 41-PAGE PET. FOR C.O.A.

ISSUE 2 NEVER HAD A FRANKS BOGUS BULLAL SEARCH WARRANT (OR IL.S.Ct. RULE 411/413 DISCOVERY MOTION MISCAPTIONED A "WARRANT") RESUSCITATED / RESURRECTED BY "BOOTSTRAPPING" THE ILLEGALLY OBTAINED BIOLOGICAL SAMPLE -- OR CRIME LAB REPORT'S RESULTS DERIVED THEREDE -- TO A NEW IDENTICAL WARRANT AS A DO-OVER.

IN SHORT, GAKUBA'S "BIOLOGICAL SAMPLE" WAS ILLEGALLY OBTAINED, ILLEGALLY TESTED BY A STATE CRIME LAB (C 269-71) TO ILLEGALLY OBTAIN GAKUBA'S DNA, USED AS PROBABLE CAUSE FOR A LAWFUL COURT ORDER TO RE-Acquire THE EXACT SAME EVIDENCE LEGALLY. THIS RISES TO THE LEVEL OF IRRATIONAL AND WHOLLY INCREDIBLE.

SEE GAKUBA 2017 DR.BR. P.15: "HURTZ POSES THE FLAWED ARGUMENT IN A DIFFERENT WAY: THAT THE QUASHING OF THE WARRANT" MEANT THAT THE STATE MUST MAKE BELIEVE GAKUBA'S DNA PROFILE DOES NOT EXIST. THIS ARGUMENT, HOWEVER, ALSO REQUIRES THEM THAT THE POLICE AND PROSECUTORIAL MISCONDUCT THAT LED TO SANCTIONS BE SUPPRESSED TOO. THIS IS LOGICAL. NON SEQUITOR. (R 1706)

KURTZ'S EXHIBITS CONTROL (CRIME LAB REPORT RESULTS FINDINGS OF GABURA'S DNA PER
LEGAL SEIZURE AND TESTING) IN HER DO OVER OF THE 2ND RULE 411/413 "WARRANT" MOTION
BY HER 2ND FRANKS PERJURY TO A "SUSPECT" DNA PROFILE, HOLDING V. MIAMI 811 F.3d 1271,
1273 (11TH 2016) (ENH. CONTROL).

ISSUE 2: 28 USC § 2254 (d)(1): US SUPREME COURT PRECLUDE

ON POINT: ILLINOIS V. GATES 462 US 213, 238-40 (1983)
MASSACHUSETTS V. UPTON 466 US 427, 433 (1994)
DETAILED DISCUSSION: }
ONE RECESS FOR WARRANTS }
PROBABLE CAUSE }
ANALYSIS }

SEE US V. CHRISTY 785 F. SUPP. 2d 1004, 1025 (D.MN 2011) ("THE SUPREME COURT HAS MANDATED THAT
COURTS" CONSISTENTLY REVIEW THE SUFFICIENCY OF AFFIDAVITS ON WHICH WARRANTS ARE ISSUED."

IL V. GATES 462 US AT 239 [---] "THE SUPREME COURT PROHIBITS AFTER-THE-FACT BE MOVED SCRUTINITY
OF THE PROBABLE CAUSE DETERMINATION. SEE US V. BIGLOW 562 F.3d AT 1281 (QUOTING IL V. GATES

462 US AT 238-40 AND MA V. UPTON 466 US 427, 433 (1994)).

GABURA HABEAS P. 12 (10 2923) CRIME SECT 29, 2011 (R 822) THE COURT: "THERE IS A DIFFERENT
BASIS FOR THE STATE'S REQUEST, THAT BEING THE EVIDENCE COLLECTION KIT [THE COURT IS GRANTING"

THE 2ND RULE 413 MOTION. THIS IS AN OBVIOUSLY UNREASONABLE, ET POST/POST HOC DE NUDO
SCRUTINY OF THE PROBABLE CAUSE DETERMINATION. TRY BOOK "BOOTSAPPING" A PROHIBITION.

ON POINT: SIBRON V. MY 392 US 40, 62-63 (1968) (BOOTSAPPING PROBABLE CAUSE)

SEE HAMILTON V. WALLACE OF OKLAHOMA 735 F.3d 967, 970 (7TH 2014) ("TO BASE PROBABLE CAUSE

JUSTIFYING A LAWFUL ARREST ON INFO. FROM AN ILLEGAL ARREST WOULD BE BOOTSAPPING.

CLUB HUBB V. MILTON 588 F.3d 181, 204 (5TH 2016) (THE FACTS MUST BE KNOWN TO THE OFFICER AT THE

TIME OF THE ARREST; POST HOC JUSTIFICATIONS BASED ON LATER LEARNED FACTS CANNOT SUPPORT

AN EARLIER ARREST. SIBRON V. MY 392 US 40, 62-63 (1968)).

THE UNDISPUTED PLAIN RECORD SHOWS THAT ASA KURTZ KNEW THAT SHE WAS ENGAGING IN

"BOOTSAPPING" AND HER FALSE "SUSPECT" DNA PROFILE CLAIM WHO HER OWN ATTACHED CRIME

LAB REPORT TO BE "PETER GABURA" REMOVED HER ILLEGAL PER FRANKS.

ON POINT : FRANKS V. DELAWARE 438 US 174 (1978)

MARYLAND V. KING 133 S. CT. 1958 (2013)

IN 2011 A BUCCAL SEARCH WARRANT WAS QUASHED FOR CONTAINING " MATERIAL MISREPRESENTATIONS IN RECKLESS DISREGARD FOR THE TRUTH. " (R803-08) THE 2006 WARRANT LED TO A 2007 IL. STATE CRIME LAB TEST RESULT IDENTIFYING BAKUBA'S DNA PROFILE. IT WAS FRUIT-OF-THE-POISONOUS-TREE AND WAS SUPPRESSED TOO. 14TH FALSE/FABRICATED EVIDENCE VIOLATION; 4TH ILLEGAL SEARCH/SEIZURE VIOLATION. PER FRANKS, THE MATERIAL MISREPRESENTATIONS WERE EXCISED LEADING TO NO PROBABLE CAUSE IN SUPPORT THEREOF.

KURTZ THEN SUBMITS A 2ND FRANKS FALSE AFFIDAVIT CLAIMING THE CRIME LAB TEST RESULTS CAME BACK WITH A "SUSPECT" PROFILE. THE TRUTH: BAKUBA'S DNA PROFILE WAS THE "SUSPECT" ONE. THIS WAS A MATERIAL OMISSION IN RECKLESS DISREGARD FOR THE TRUTH. NO REASONABLE -- MUCH LESS RATIONAL -- JURIST WOULD ORDER THE REPEAT DNA TESTING TO REPEAT THE SAME DNA TESTING RESULT. BAKUBA HABEAS PP. 12-13 (ID 2923) WAS FLATLY WRONG IN ITS FANCIFUL CONCLUSION "THAT THERE WAS A DIFFERENT BASIS." 28 USC § 2254(4)(2). IT DEPRIVED BAKUBA'S RIGHT THAT THE HABEAS DISTRICT COURT UNDERTAKE AN INDEPENDENT REVIEW OF THE STATE APPEALS RECORD. SEE MABBY V. McDANIEL 858 F.3d 1049, 1052 (9TH 2017). HAD IT DONE SO, IT WOULD NOT HAVE IGNORED TESTIMONY RELEVANT TO THE CORRECT INQUIRY "AS AN IMPARTIAL JURIST. MILLER-EL V. COCKRELL 537 US 312, 346 (2003). FURTHER, THE STATE COURT'S FAILURE TO CAREFULLY AND THOROUGHLY ANALYZE THE FACTS " REMOVED BAKUBA HABEAS'S CONCLUSORY RULING THAT IT IS BARRED BY STONE " FLATLY WRONG. (ID 2924)

THE USE OF FALSE STATEMENTS -- "SUSPECT" DNA PROFILE -- IN LIEU OF THE TRUTH: POISONED FRUIT CRIME LAB TEST RESULTS OF BAKUBA'S DNA PROFILE, WAS A FRANKS VIOLATION CONCEALING A TEXT-BOOK "BOOT STRAPPING" DONE ON THE BASIS OF A DE MONO AFTER-THE-FACT PROBABLE CAUSE DO OVER. UNPRECEDENTED. SEE E.G. US V. EPPENBER 2017 US DIST LEXIS 142483 *20-33 (D.MV 7/24/17) (NO FRANKS DO OVER); US V. BROWN 631 F.3d 638, 650 (3RD 2011) (SAME).

MOREOVER, IN 2013 MARYLAND V. KING 133 S. CT. 1958 (2013) HELD THAT DNA, LIKE FINGERPRINTS, IS PART OF A LAWFUL ARREST'S BOOKING PROCESS. SEE US V. ROCHE-MARTINEZ 467 F.3d 591, 594

(7th 2066) ("IDENTITY INFO. OBTAINED AFTER AN ARREST SUPPORTED BY PROBABLE CAUSE IS

ADMISSIBLE UNDER NY v. HARRIS. (CITATION)

HERE, THE UNDISPUTED PLAIN RECORD SHOWS THAT BROWN v. IL (& DUMAWAY v. NY) WERE THE CITED CONTROLLING CASE LAWS RESULTING IN THE SUPPRESSION OF ALL CUSTODIAL INTERROGATION STATEMENTS PURPORTEDLY MADE, UNRECORDED, AND DENIED BY GAKUBA. GAKUBA WAS ILLEGALLY ARRESTED PER BROWN, AND PER FRANKS. FRUIT-OF-THE-POISONOUS-TREE -- GAKUBA'S DNA -- MANDATES SUPPRESSION PER HINE TOO.

3a

ISSUE 3: 28 USC § 2254(d)(2) - GAKUBA RESTATES AS IF FULLY INCORPORATED HEREIN HIS FACT REBUTTALS IN HIS: 60 PAGE HABEAS, 21 PAGE REPLY, & 41 PAGE PET. FOR A C.O.A.

ADJUDGED FRANKS PERJURER O'BRIEN COMMITTED HABUE PERJURY BY FALSELY TESTIFYING TO AUTHORIZING IL POLICE BALSLEY'S PERSONAL DATA REPORT. (C 2366-72; TRIAL EXH. 19) GAKUBA'S "BOOKING PROCESS" DENIAL AFFIDAVIT WAS ANNOUNCED, HAND TENDERED TO ASA KURTZ AND TRIAL JUDGE TRUETT, BEFORE BEING FILED IN OPEN COURT ON JUNE 5, 2014 -- A YEAR BEFORE THE APRIL 27, 2015 2.5 DAY TRIAL. (R1484)

IT IS WELL ESTABLISHED THAT HABUE SUBORNERS CARRY THE BURDEN OF CORRECTING THEIR WITNESS'S HABUE PERJURY. JUST AS KURTZ (AND THE TRIAL JUDGE AS ADVOCATE) USED BALSLEY'S REPORT IN THEIR SIDE BAR TO FALSELY CLAIM IT TO HAVE BEEN AUTHORED BY O'BRIEN AS A "VERSION" OF THE "BOOKING PROCESS", KURTZ (AND TRIAL JUDGE) WERE OBLIGED TO MAKE USE OF GAKUBA'S "BOOKING PROCESS" DENIAL AFFIDAVIT. INSTEAD, THEY DELIBERATELY AND RECKLESSLY IGNORED THIS TRUTH.

THUS, GAKUBA HABEAS p.11 (172922) IS FLATLY WRONG ON THE FACTS AND CITES TO NO LAW. 28 USC § 2254 (d)(1)-(2). THE CONVICTIONS REQUIRE OUTRIGHT REVERSAL. SEE DUMAS v. MARCHILLI 240 F. SUPP. 3d 235, 261 (D. MA 2017) (PARTIAL HABEAS GRANT: STATUTORY RAPE CONVICTIONS VACATED, AGE NOT PROVEN; JACKSON PRINCIPLE).

IN PEOPLE v. LARA THE IL. S. CT. DISCUSSES PEOPLE v. SARGENT 239 Ill. 2d 166 (2010). LARA 2012 IL 112370 (2012). EVIDENCE OF "SEXUAL PENETRATION" CANNOT SUPPORTS COUNTS OF "SEXUAL CONDUCT". LARA AT P. 59. HERE, THE INVERSE OCCURRED: "THERE'S NO TESTIMONY AS TO WHERE THE SWABS WERE TAKEN FROM." THE PEOPLE SUBMIT A DIFFERENT VERSION THAN COUNSEL SUBMITS THAT DR. ESCARZA EXPLAINED

SWABBING AROUND THE ANUS [] THERE IS PHYSICAL EVIDENCE [] THE ANAL SWABS WERE TAKEN FROM M3'S ANUS, (R2453) (EMPHASIS) ARGUED KURTZ IN CLOSING. GAKUBA 2017 AT 1P 81
ARGUES NO PHYSICAL EVIDENCE CORROBORATION IS REQUIRED. YET, THE STATE DID ARGUE CORROBORATIVE PHYSICAL EVIDENCE; PLACING GAKUBA IN A LOSE-LOSE SITUATION. THE PHYSICAL EVIDENCE IS INSUBSTANTIAL, CONTRADICTING M3'S SWORN STATEMENTS AND DO NOT SUPPORT "SEXUAL PENETRATION" PER LARA & SARBENT.

SEE ACCORD PEOPLE V. GUERRERO 2016 IL APP (2d) 166920 (109 M.E. 3d 261) (HELD: EVIDENCE WAS INSUFFICIENT TO PROVE SEXUAL PENETRATION (HAND → VAGINA) TO SUSTAIN CHARGE OF SEXUAL ASSAULT OF A CHILD; ONLY SEXUAL CONDUCT, CHARGES REDUCED TO SEX ABUSE).

SEE ACCORD PEOPLE V. EUBANKS 2014 IL APP (1st) 123247-U R 33 ("THE STATE DID NOT PRESENT ANY EVIDENCE WHETHER THE VAGINAL SWABS WERE TAKEN FROM THE INTERIOR OR EXTERIOR; AT THE VERY LEAST, THE EVIDENCE RAISES REASONABLE DOUBT REGARDING THE COLLECTION OF THE DNA []").

4a ISSUE 4: 28 USC § 2254(d)(2): GAKUBA RESTATES AS IF FULLY INCORPORATED HEREIN HIS FACT RE BUTTALS IN HIS: 60 PAGE HABEAS, 21 PAGE HABEAS REPLY, AND 41 PAGE PET. FOR C.D.A.

THE UNDISPUTED PLAIN RECORD SHOWS THAT GAKUBA'S 2 RETAINED LAWYERS WITHDREW FROM THE CASE PRE-TRIAL, AND, TWICE APPOINTED APPELLATE LAWYERS WITHDREW SO THAT GAKUBA COULD PROCEED PRO SE. GAKUBA 2017 OP. BR. PP. 28-32. LAWYER # 1, ROCHFORD DEBRA SCHAFER, WAS PLAINLY INCOMPETENT HAVING FAILED TO OBTAIN THE HOTEL & BUCCAL WARRANTS PER BROWN AND FRANKS THAT LAWYER # 2 SUCCEEDED IN, CHICAGO DEAN BRIMLEY. HOWEVER, BRIMLEY WAS A THIEVING LIAR, AND LET GO ON THAT BASIS. SEE US v. BRITTON 731 F.3d 745 (7th 2013) (BRIMLEY DIRECT CONTEMPT CASE). US v. JOHNSON 743 F.3d 227, 232 (7th 2014) ("PUBLIC REBUKE" OF BRIMLEY).

AGAIN AND AGAIN, CUMULATIVE EVIDENCE THE FED'L COURTS DENIED HABEAS WITHOUT UNDERTAKING AN INDEPENDENT REVIEW OF THE RECORD. THE RESULT: OBJECTIVELY UNREASONABLE FACTUAL ASSESSMENTS, OR, IGNORING HIGHLY MATERIAL AND RELEVANT ONES: ADD GUSTAFSON'S DAY-OF-TRIAL CONTINUANCE MOTION CITING ILL-PREPAREDNESS. HEARD AND DENIED. (C3262-L4; R 1683-90)
THUS, ASSUAGING ARGUMENTO, A PRO SE CONTINUANCE WOULD HAVE BEEN DENIED TOO.

SEE RECORD PEOPLE V. MERRITT 2017 IL APP (2d) 150219 PP 1, 26-31 (DAY-OF-TRIAL PRO SE RIGHT ALLOWED, CONTINUANCE DENIED; CITES US V. WRIGHT 682 F.3d 1088 (8th 2012) (TRIAL DATE PRO SE RIGHT ALLOWED) DELAYED DENIED); CITES US V. WARE 890 F.3d 1008, 1010 (8th 1999) (TRIAL DATE PRO SE RIGHT ALLOWED; DELAY DENIED)).

SEE ALSO PEOPLE V. WASHINGTON 2016 IL APP (1) 130198 P 18 ("100 MOTIONS" FILED BY PRO SE DEFT., NOT CONSTRUED AS A RECORD OF DELAY).

(4b)

ISSUE 4: 28 USC § 2254(d)(1): US SUPREME COURT PRECEDENCE

ON POINT: MATSUSHITA V. ZENITH 475 US 574, 587 (1996) (CONJECTURE IS NOT FACT)

SEE WARNER V. WOOD 743 F.2d 338, 344 (1st 2018) (DISCUSSES CONJECTURE, BELIEFS OF FABRICATED EVIDENCE BY POLICE: "INSTEAD, WARNER RELIES ON HIS OWN SPECULATION AS TO WHAT THE OFFICERS ACTUALLY FOUND [] AND WHAT OFFICER WOOD COULD HAVE DONE IN THE EXECUTION OF A WARRANT [] MATSUSHITA AT 587: EXPLAINING THAT THE NON-MOVANT MUST DO MORE THAN SHOW SOME METAPHYSICAL DOUBT AS TO THE MATERIAL FACTS.") (EMPHASIS)

HERE, GARUBA HABEAS P.15 (102926): "AS INDICATED, THE RECORD IS REplete W/ INSTANCES THAT COULD SUPPORT THE CONCLUSION THAT PETITIONER WAS MERELY ENGAGED IN DELAY [] (EMPHASIS) CONTRARY TO MATSUSHITA, THIS WHOLLY FANCIFUL AND CONCLUSORY RULING IS OBJECTIVELY UNREASONABLE.

"THE RECORD" -- ESPECIALLY THIS CASE'S -- AS GROUNDS FOR DENYING GARUBA'S PRO SE RIGHT IS OBJECTIVELY UNREASONABLE, CONTRARY TO FARETTA. SEE RECORD TAMPLIN V. MUIHIZ 394 F.3d 1076, 1093 P.M. 3 (9th 2010) ("FOOTNOTE IN FARETTA INDICATES HE ATTEMPTED ON 3 OCCASIONS TO HAVE THE TRIAL COURT APPOINT AND PAY FOR PRIVATE COUNSEL FOR HIM. 422 US AT 808 n.5)

"CONSIDERATION OF THE RECORD" ONLY HAS BEEN INVOKED ONCE, IN DISSENT. TAMPLIN AT 1092.

OTHER CASES: MULTIPLE LAWYERS, PRO SE MOTIONS = WAIVER OF COUNSEL

ON POINT: VREELAND V. ZURAH 906 F.3d 866 (10th 2018) (COMPELLED TO BE PRO SE; DISTRICT COURT C.O.A. DENIED, CIRCUIT COURT C.O.A. GRANTED: HABEAS DENIED) (HELD: STATE APPELLATE COURT'S DECISION THAT PETITIONER IMPLIEDLY WAIVED RIGHT TO COUNSEL BY ENGAGING IN PATTERN OF THREATENING COUNSEL, FILING MERELESS MOTIONS, AND FIRING COUNSEL AS TRIAL DATE APPROACHES, WAS NOT CONTRARY TO

FED'L LAW. 28 USC § 2254(1)-(2). FINE (5) LAWYERS PETITIONER RESPONSIBLE FOR HAVING NO WORKING RELATIONSHIP.)

IT IS AXIOMATIC THAT "WAIVER OF COUNSEL" AND COMPELLED PRO SE IS THE WELL SETTLED, LONG ESTABLISHED OUTCOME OF A "RECORD" OF NUMEROUS OR EXCESSIVE LAWYER REPLACEMENTS, MOTIONS.

ON POINT: US v. THOMAS 833 F.3d 785, 791-92 (7th 2016) (COMPELLED PRO SE AFFIRMED)

("THE DISTRICT COURT WAS AWARE OF THE POSSIBILITY OF SUCH A MOTION, AND IT DOES NOT APPEAR TO HAVE BEEN AN ATTEMPT TO DELAY THE PROCEEDINGS. RATHER, THOMAS HAD SEEMINGLY GOOD FAITH CONCERNS ABOUT THE REPRESENTATION OF THE 4 ATTORNEYS PROVIDED... THE NECESSARY CONSEQUENCE OF A DISTRICT COURT'S DENIAL OF A REQUEST TO SUBSTITUTE COUNSEL IS THAT THE DEFENDANT MUST CHOOSE WHETHER TO (1) CONTINUE W/ APPOINTED COUNSEL, (2) RETAIN COUNSEL, OR (3) PROCEED PRO SE.).

LIKE THOMAS, HERE, THE UNDISPUTED PLAIN RECORD SHOWS THE TRIAL JUDGE "SAW THIS MOTION COMING. IN FACT [] EVEN MADE A RECORD ON DECEMBER 9, [2014]." (R1705-1707) HOWEVER, UNLIKE THOMAS, HERE, THE TRIAL JUDGE PERPETRATED FRAUD UPON GAKUBA BY REMEGING ON THAT "RECORD" THAT GAKUBA WOULD HAVE THE "OPTION" TO GO PRO SE "IF THE PUBLIC DEFENDER WERE REMOVED AT YOUR REQUEST CLOSE TO THE TRIAL DATE [BECAUSE THE COURT WOULD FIND IT A] TRIAL DELAY TECHNIQUE." (R1633)

5-7

ISSUES 5 TO 7 : PET. FOR C.O.A. PP. 8-9 GAKUBA DISPUTED THE DISTRICT COURT'S NOV. 20, 2014

RULING THAT THEY WERE UNEXHAUSTED FOR NEITHER BEING PRESENTED NOR ADJUDICATED AS FED'L CONSTITUTIONAL CLAIMS. APPENDIX B. SIMPLY STATED, GAKUBA PROPERLY BRIEFED W/ CITATION TO AUTHORITY THAT : A DISINTERESTED PROSECUTOR DID NOT TRY HIS CASE (ISSUE 5); THE PRESIDING JUDGE WAS NEITHER IMPARTIAL NOR FAIR (ISSUE 6); THE SENTENCE WAS CRUEL AND UNUSUAL (ISSUE 7).

A "FINED" HABEAS PETITION MANDATES DISMISSAL W/O PREJUDICE. THE CHOICE TO AMEND, RE-FILE AN EXHAUSTED CLAIMS PETITION ONLY, OR, SEEK A STAY, SQUARELY LIES W/ GAKUBA WHO WAS DENIED NOW HIS HABEAS DUE PROCESS RIGHT REQUIRING U.S. SUPREME COURT REMEDIAL ACTION. SEE ROSE v. LUNDY 455 US 509 (1982) & RHINES v. WEBER 544 US 269 (2005).

REASONS FOR GRANTING THE PETITION

NO CRIMINAL CASE -- EVER -- INCLUDES SO MANY VIOLATIONS OF FED'L STATUTORY AND CONSTITUTIONAL LAWS, INCLUDING: 18 USC § 2710 ET SEQ. WHEREBY IDENTITY EVIDENCE ILLEGALLY OBTAINED WAS THEN ILLEGALLY RECEIVED IN OR BEFORE STATE + FED'L GRAND JURIES, RESULTING IN THE 1ST EVER CASE WHERE NOT ONLY MUST THE WRONGFUL CONVICTIONS BE VACATED OF AN AGE DEPENDANT CRIME, SO TOO DOES IT INVALIDATE THE IMPEIGNMENT. 18 USC § 2710(d). SEE DUMAS v. MARSHALL 246 F.3RD 33 235, 261 (D.MASS. 2017) (PARTIAL HABEAS GRANT VACATING "STATUTORY RAPE" CONVICTIONS AS VICTIM'S AGE NOT PROVEN). EVEN WORSE, THERE WERE BRADY VIOLS. OF EXCULPATORY DNA CRIME LAB TESTS WITHHELD, AND, SURREPTITIOUS RESIDENTIAL BURGLARY BY STATE + FED'L POLICE + PROSECUTORS TO ILLEGALLY SEARCH AND SEIZE BAKUBA'S DNA AS NONE EVER WAS FOUND -- NOT A DROP, SPOT, SMEAR, OR STAIN -- AT THE PURPORTED MARRIOTT HOTEL ROOM. THIS LEGAL LYNCHING, FRAME JOB TO SECURE A WRONGFUL CONVICTION CORRUPT GOV'T STATE + FED'L BAD ACTORS NOW ARE USING AS A HECK AFFIRMATIVE DEFENSE TO OBSTRUCT BAKUBA'S 'PROSE' PENDING CIVIL SUIT: BAKUBA v. O'BRIEN 711 F.3d 751 (7TH 2013); BAKUBA 12CV 7296, 13CV 50212 (N.D.I.L.) RETALIATION. 1ST AMEND. VIOL. THE PUBLIC'S WORST NIGHTMARE.

THERE WERE AT LEAST 7 PLAIN REVERSIBLE ERRORS -- INCLUDING 3 OF 6 STRUCTURAL ONES: BAKUBA'S RIGHT TO A PUBLIC TRIAL; RIGHT TO BE 'PROSE' 3 WEEKS BEFORE TRIAL; RIGHT TO IMPARTIAL JUDGE. (6TH, 5TH, 14TH AMENDS.) THREE WERE ESPECIALLY FLAGRANT. ONE, THE DE FACTO INVALIDATION OF THE VPPA/18 USC § 2710 ET SEQ BY REVERSING MEMORABLY THE CHRONOLOGY OF THE FACT NARRATIVE. BAKUBA 2019 FULLY ADOPTS (PER "RES JUDICATA" BAKUBA 2017 AT 1749: "WE DISAGREE AND CONCLUDE THAT DEFENDANT'S NAME + AGE WERE DERIVED FROM SOURCES INDEPENDENT OF ANY POLICE ILLEGAL CONDUCT." 10 AT 150: "STATE POLICE O'BRIEN TESTIFIED [1] THAT THE HOTEL ADVISED O'BRIEN THAT THE ROOM WAS REGISTERED TO 'PETER BAKUBA' THIS OCCURRED PRIOR TO O'BRIEN CONTACTING THE VIDEO STORE, ENTERING THE DEFT.'S HOTEL ROOM, OR INTERVIEWING HIM AT THE POLICE STATION. THIS IS PATENTLY FALSE; AND WAS SUBSEA-PASTED RIGHT FROM THE STATE'S RESP. BR. AT P. 23: "FURTHER THIS INFO. WAS BATHERED PRIOR TO CONTACT W/ THE VIDEO STORE OR ENTRY INTO THE HOTEL ROOM."

THE PROBLEM: THE STATE'S FALSE CONCLUSION OF FACTS CITES NO WHERE TO THE "R" REPORT OF PROCEEDINGS BECAUSE IT SIMPLY DID NOT OCCUR, THE TRUTH, INSTEAD, IS DISREGARDED/OMITTED, MARCH 13, 2009 ASA KURTZ

PROCLAIMED THE TRUE FACT NARRATIVE CHRONOLOGY: "ON HOLLYWOOD VINED, THEY [(STATE POLICE)] WENT TO HOLLYWOOD VINED. THEY FIND OUT PETER GAKUBA RENTED VIDEOS. THE SAME VIDEOS THAT M.S. TOLD THEM HE RENTED. THEY WENT TO THE HOTEL. HEY, DO YOU HAVE A GUY HERE BY THIS NAME. GEE, WE SURE DO [.] AT THAT POINT THEY ABSOLUTELY 100% HAD PROBABLE CAUSE. (R-124) SEE CAMPFIELD V. CITY OF KC 248 F.3d 1214 (10th 2001); AMAZON V. LAY 758 F. SUPP. 2d 1154 (D. WA 2010)

JUNE 13, 2009 KURTZ: "JUST BRIEFLY, THE DEFENSE [.] SAYS HIS DETENTION AND ARREST WAS W/O PROBABLE CAUSE. [.] O'BRIEN WENT THROUGH THE DETAILS [.] AFTER MEETING W/ THE VICTIM, WHAT HE DID TO CONFIRM. HE WENT TO HOLLYWOOD VINED, WHERE --" (R-124-84) THE COURT: "UH-HUH." (R-124-87) KURTZ: "SOMEBODY BY THE SAME NAME AS THE PERSON RENTING THE HOTEL ROOM WHERE M.S. SAID THIS 'PAUL' WAS, HAD RENTED THE EXACT SAME NAME IN HOLLYWOOD VINED, HAD RENTED THESE VIDEOS [.] SO THERE WAS, IN FACT PROBABLE CAUSE." ON JULY 11, 2011 KURTZ REITERATES THE "100%" ABSOLUTE PROBABLE CAUSE BY ADDING O'BRIEN MET W/ M.S. WHO SAID NOTHING HAPPENED. (R-761) O'BRIEN DOES THINGS TO VERIFY M.S.'S STORY "WHICH IS GOOD POLICE WORK. HE GOES TO WHERE M.S. SAYS. [.] HE GOES TO HOLLYWOOD VINED. HE DOES AT THIS POINT HAVE PROBABLE CAUSE - THAT'S AN ISSUE THAT'S BEEN ARGUED BEFORE AT THE PREVIOUS HEARING AS FAR AS I CAN RECALL." (R-761)

JUNE 15, 2011 (BROWN/DUNAWAY + THANKS HEARING) O'BRIEN: "M.S. HAD TOLD US THAT THEY [(M.S. + PAUL)] HAD GONE SEVERAL PLACES; ONE BEING A HOLLYWOOD VINED STORE [.] ONE OF THE VIDEOS MATCHED UP EXACTLY AS SEARY MOVIES 1, 2, + 3 [.] THIS WAS DONE BY PHONE. WHEN I TALKED TO THE PERSON WORKING AT THE TIME CHECKED THEIR INED, THEIR RECORDS UPON LEARNING THAT THE MOVIES THAT THEY REPRESENTED WHICH MATCHED UP ALSO GAVE ME THE PERSON THAT RENTED THEM, PETER GAKUBA." (R-760) ACCORD CAMPFIELD V. OKE 248 F.3d 1214 (10th 2001) (SAME FACT NARRATIVE CHRONOLOGY)

THE UNDISPUTED PLAIN RECORD SHOWS THAT "PETER GAKUBA" CAME FROM THE ILLEGAL DISCLOSURE OF GAKUBA'S VINED CUSTOMER RECORDS, THEN, COMPARED TO THE MARRIOTT HOTEL GUEST REGISTRY TO OBTAIN MORE "PERSONALLY IDENTIFIABLE INFO." (PII) -- "ROOM 101" -- THE 1ST ROOM (FEET FROM) BEHIND THE FRONT DESK. 12 USC § 2410 (a), (b), (d), (e).

THE UNDISPUTED PLAIN RECORD SHOWS GAKUBA'S BIRTHDATE OF "11/21/1969" WAS FIRST AND FOREMOST OBTAINED ILLEGALLY WHEN O'BRIEN WROTE GAKUBA'S "PII" IN CAREFULLY HANDWRITTEN POLICE NOTES (LEAST O'BRIEN FORGET (6/28/04-05))

TWO, GAKUBA'S RE-INVOCAION OF HIS 'PROSE' RIGHT (AFTER BEING 'PROSE' FOR 18 MOS.) WAS DENIED 3-6 WEEKS BEFORE TRIAL AS A "DELAY TACTIC." GAKUBA 2009 / GAKUBA 2017 AT RP 85-88.

THREE, GAKUBA WAS SENTENCED TO 12 YRS. (4 YRS X 3 CTS.) DISCRETIONARY CONSECUTIVE SENTENCE. NO CLASS 2

(720 ILCS 5/12-16(d)) AGG. CRIM. SEX. ABUSE CASE HAS EVER SURVIVED APPELLATE REVIEW FOR CONSECUTIVE SENTENCING PER 730 ILCS 5-8-4(b) (WESTLAW 2006) FOR ONE INSTANCE ("LASTING LESS THAN 30 MIN." R2127-K8); ONE VICTIM; NO CRIMINAL HISTORY; PROBATION WAS THE PSI REPORT'S FINDING, AND THE STATE'S PLEA OFFER WAS PROBATION FOR THE NEAR 9 YR. PENDENCY OF THIS CASE. IN FACT, GAKUBA WAS FULLY COMPLIANT, PUNCTUALLY SO, W/ ALL PRETRIAL PROBATION TERMS FOR NEARLY 9 YRS. THE SENTENCE WAS UNLAWFUL AS THERE WERE NO FACTS TO SUPPORT THE NEED TO PROTECT THE PUBLIC. IF TRUE, THEN GAKUBA SHOULD NOT HAVE BEEN ALLOWED ON BAIL AS GAKUBA'S DANGER WOULD HAVE BEEN EXTANT. FOR THOSE NEAR 9 YRS. ACCORDINGLY, THE SENTENCE WAS "CRUEL AND UNUSUAL PUNISHMENT" DISREGARDING GAKUBA'S REHABILITATION POTENTIAL. 8TH AMEND. APRIL 27, 2017 SHOULD BE GAKUBA'S RELEASE, NOT APRIL 27, 2021.

THIS IS A CASE OF 1ST IMPRESSION REQUIRING THE U.S. SUPREME COURT TO ISSUE A LANDMARK DECISION ON WHEN CAN AN ABBREVIATED PARTY SEEK AN INTERLOCUTORY APPEAL AFTER THEIR IDENTITY EVIDENCE (PII) WAS ILLEGALLY DISCLOSED; ILLEGALLY RECEIVED BEFORE EVERY AUTHORITY OF THE US +/OR STATE IN EVERY PROCEEDING -- INCLUDING A "GRAND JURY" AS "100% ABSOLUTE PROBABLE CAUSE" TO CHARGE AND CONVICT GAKUBA OF AN AGE DEPENDENT CRIME - "STATUTORY RAGE?" THE VPPA'S EXCLUSORY AUTHORITY -- 18 USC § 2710 (b) -- IS NEAR IDENTICAL TO FISA, 50 USC § 1806 (c). FED'L WIRE TAP LAWS LIMIT INTERLOCUTORY APPEALS TO THE STATE ONLY; NOT SO W/ THE VPPA AS THE ABBREVIATED PARTY IS A PRIVATE PERSON VS. A PUBLIC ENTITY. SEE E.G. US v. DAVID ? (7TH 2014) (FISA INTERLOC. APPEAL - JURISDICTIONAL STATEMENT). THE LOWER COURTS EVADE ENFORCING THE VPPA THRU A MENTACIOUS FACT NARRATIVE USED TO SUPPORT A SOPHISTIC APPLICATION OF LAW. A CERTIORARI GRANT IS REQUIRED AS A RESULT. ERROR 1.

ERROR 2 INVOLVES A CONFLICT OF HOW WARRANTS ISSUED AFTER CRIMINAL CHARGES WERE FILED, ARE RESOLVED ONCE QUASHED PER FRANKS (PERJURY) VIOLATIONS RENDERING THEM PROBABLE CAUSE-LESS. IL. 3. CT. RULE 411, 413. PEOPLE v. TURNER 367 IL. APP. 3d 490, 491-93 (2ND DIST. IL. APP. CT.) HAD THE TRIAL COURT DENY A 2ND RULE 413 MOTION AFTER QUASHING A PRIOR RULE 413 MOTION MISCAPTIONED A "WARRANT" ON ET TOPEL GROUNDS. HERE, THE TRIAL COURT DID JUST THE OPPOSITE - ALLOWING THE STATE TO BOOTSTRAP THE ILLEGAL EVIDENCE FROM A QUASHED "WARRANT" TO RECLAIM THAT IDENTICAL IDENTITY EVIDENCE LEGALLY (GAKUBA'S DNA). GRANTING CERTIORARI WILL SET THE BRIGHT LINE PARAMETERS AND BRING THIS ISSUE IN-LINE W/ FED'L COURTS. US v. BROWN 631 F.3d 638, 650 (3RD 2011) (BUCCAL WARRANT QUASHED PER FRANKS; NO RECLAMATION OF DNA PER 42 USC § 14135a).

ERROR 3 THE LOWER COURTS ERRA IN NOT ADDRESSING HARVE VIOLATIONS AT TRIAL BY THE SAME STATE ACTORS IN THE PRECEDING FRANKS (VERJURY) VIOLATIONS: ADJUDGED PERJURER O'BRIEN, SUBORNER KURTZ. BAKUBA ARGUED THAT THE INDIVIDUAL + CUMULATIVE EVIDENTIARY ERRORS RENDERED THE EVIDENCE LEGALLY AND MANIFESTLY INSUFFICIENT FOR RE-TRIAL: DOUBLE JEOPARDY. IN PEOPLE V. LARA THE IL SUPREME CT. DISCUSSES ITS DECISION IN PEOPLE V. SARGENT, 239 IL.2d 166 (2010). LARA 2012 IL 112370. EVIDENCE OF SEXUAL PENETRATION CAN NOT SUPPORT COUNTS OF SEXUAL CONDUCT. LARA AT R 59. HERE, THE INVERSE OCCURRED: THERE IS NO TESTIMONY AS TO WHERE THE SWABS WERE TAKEN FROM. [] THE PEOPLE SUPPORT A DIFFERENT THAN ROUSSEL SUBAITS THAT DR. ESCARZA EXPLAINED SWABBING AROUND THE ANUS [] THERE IS PHYSICAL EVIDENCE [] THE ANAL SWABS WERE TAKEN FROM M.S.'S ANUS, (R 2453) (EMPHASIS) ARGUED KURTZ IN CLOSING. BAKUBA 2019 / BAKUBA 2017 AT R 81 ARGUES NO PHYSICAL EVIDENCE CORROBORATION IS REQUIRED. YET, THE STATE DID ARGUE CORROBORATIVE PHYSICAL EVIDENCE; PLACING BAKUBA IN A LOSE-LOSE SITUATION. THE PHYSICAL EVIDENCE -- OR LACK THEREOF -- CONTRADICTS THE SWORN STATEMENTS OF M.S. AND DO NOT SUPPORT SEXUAL PENETRATION PER LARA AND SARGENT.

ERROR 4 THE LOWER COURTS AFFIRM PLAIN STRUCTURAL ERROR: THE DENIAL OF BAKUBA'S RE-INVOCATION TO BE 'PRO SE' 3-6 WEEKS BEFORE TRIAL. BAKUBA 2019 / BAKUBA 2017 AT R 88: "GIVEN THE HISTORY OF THIS CASE, WE CANNOT SAY THE TRIAL COURT'S CONCLUSION IS ARBITRARY, FANCIFUL, OR UNREASONABLE [] OMITTED / DISREGARDED FROM THIS OBJECTIVELY UNREASONABLE APPLICATION OF LAW IS THE UNDISPUTED PLAIN RECORD THAT BAKUBA SOUGHT NO CONTINUANCE. DEC. 9, 2014 BAKUBA: " BUT AT THIS STAGE, W/ A TRIAL DATE SET AND A TRIAL DATE SET THAT I BELIEVE WE ALL CAN MEET, I'M FINDING MYSELF IN THE POSITION WHERE IT MAY BE A PROBLEM TO MEET THE ISSUE AND BURDEN OF HAVING THE WITNESSES SHOW UP [] (R 1637) (EMPHASIS) FURTHERMORE, BAKUBA FILED 'PRO SE' " DEFT'S MOTION TO INTRODUCE EVIDENCE PER 720 ILCS 5 / 111-7(a)(2) " (REQUIRED TO BE FILED AT LEAST 14 DAYS BEFORE TRIAL) ON APRIL 8, 2015 (TRIAL DATE: APRIL 23, 2015) SIMULTANEOUS TO BAKUBA'S RE-INVOCATION; AND ON THE TRIAL DATE ITSELF, APD BUSTAFSON FILED A CONTINUANCE MOTION DUE TO IL-PREPAREDNESS. (C 3262-64) HEARD AND DENIED. (R 1683-90) THUS, ASSUMING ARGUED, A 'PRO SE' CONTINUANCE MOTION WOULD BE DENIED TOO. OBJECTIVELY UNREASONABLE. SEE MAHI V. ROLLARD 826 F.3d 939, 947 (7TH 2016) (HABEAS CRAW: DENIAL OF 6TH AMEND. 'PRO SE' RIGHT 4 WEEKS BEFORE TRIAL, CITES FARETTA V. CALIFORNIA 422 US 806, 835 (1975) (" WEEKS BEFORE TRIAL" DENIAL OF 'PRO SE' RIGHT A CONSTITUTIONAL ERROR)) CERTIORARI IS NEEDED: FARETTA IS BINDING PRECEDENT AS A MATTER OF LAW.

ERROR 5 REQUIRES CERTIORARI AS MACON CO. ASA KURTZ WAS ILLEGALLY APPOINTED AS A "SPECIAL ASA" IN WINNEBAGO CO. PER 55 ILCS 5/4-2003. (C 2984-89; R1647-63) THIS CASE CONFLICTS NOW W/ PEOPLE V. WOODALL 333 ILL APP 3d 1146, 1133-56 (2002) ("THE USE OF A SPECIAL PROSECUTOR IS LIMITED BY STATUTE. THEY CAN BE APPOINTED BY CIRCUIT COURT ORDER ONLY [IN ACCORDANCE W/] 55 ILCS 5/3-9008 (WESTLAW 1998) [WOODALL AT 1154]. FURTHERMORE, STATE'S ATTORNEYS ARE NOT AT LIBERTY, AS A MATTER OF COURSE, TO CREATE ASA POSITIONS. THE COUNTIES CODE PROVIDES: 'WHERE ASAS ARE REQUIRED IN ANY COUNTY, THE NUMBER OF SUCH ASSISTANTS SHALL BE DETERMINED BY THE COUNTY BOARD [55 ILCS 5/4-2003 (WEST 1998)]' ID AT 1155. WORSE STILL, THIS CASE WAS THE ONLY CASE KURTZ WAS PROSECUTING AS A FORMER WINNEBAGO CO. ASA AMONG THE +100 CASES INVOLVING SEXUAL ASSAULTS (RAPE) (CLASS X, 1) (C 2984-89; R1643-63) PEOPLE V. LANG 346 ILL APP 3d 677, 684-86 (2004).

ERROR 6 REQUIRES CERTIORARI AS GAKUBA WAS TRIED BEFORE A BIASED JUDGE. SEE PEOPLE V. WIGGINS 2015 IL APP (1st) 133033 ILL 44-46. REVERSIBLE STRUCTURAL ERROR. ON JUNE 5, 2013 THE TRIAL JUDGE IMPERMISSIBLY VOUCHES FOR THE CREDIBILITY OF STATE POLICE AND ASA KURTZ. (R1110-17) THIS IN spite OF THE SYSTEMIC POLICE + PROSECUTORIAL MISCONDUCT: THE 18 USC § 270(d) VIOLATION; THE ILLEGAL 4th AMEND. / BROWN / DUHAWAY HOME INVASION; PROCEEDED BY ANOTHER SURREPTITIOUS ONE THE NEXT DAY AT GAKUBA'S ALPINE INN ROOM, WHERE BY FRANKS VIOLATIONS WERE ADJUDGED AS A COVER-UP. (2012-20) C146-91, C203-118, C239-50, C255-64, C2290-2314 C2908-42) THE COURT (R1116-17): "WHY IS EVERYONE OUT TO GET YOU? WHY YOU AS OPPOSED TO ME OR ANYONE ELSE ON THE FACE OF EARTH? WHAT'S YOUR THEORY THAT [MS. KURTZ HAS TARGETED YOU AS THE ONE WHO SHE IS WILLING TO RISK HER LAW LICENSE AND HER ENTIRE CAREER OVER? I JUST HAVE A HARD TIME WRAPPING MY HEAD AROUND THAT? WHY EVERY POLICE OFFICER WOULD BE WILLING TO RISK THEIR CAREER TO GET YOU?" (EMPHASIS)

ERROR 7 FINALLY REQUIRES CERTIORARI. AS DISCUSSED EARLIER (SUPRA), GAKUBA WAS ILLEGALLY SENTENCED TO DISCRETIONARY CONSECUTIVE SENTENCES: 12 YRS (4 YRS x 3 COUNTS) ON A CLASS 2 PROBATIONABLE OFFENSE - "STATUTORY RAPE" (AGE CRIMINAL SEX ABUSE, 720 ILCS 5/12-16(1)). SEE 730 ILCS 5/3-2-4(b) (WESTLAW 2006). THIS WAS CRUEL AND UNUSUAL PUNISHMENT (8th AMEND.); AND DISREGARDED GAKUBA'S REHABILITATION POTENTIAL WAS HIGH. (ART 1311, IL CONST. 1970) PEOPLE V. RIVERA 212 ILL APP 3d 519, 527 (ILL. APP. CT. 2nd DIST.) ("A TRIAL COURT CAN PROPERLY CONSIDER DEF.'S CONDUCT WHILE ON PROBATION TO ASSESS 'REHABILITATION POTENTIAL'"). SEE US V. MACAL 849 F.3d 530, 534-35 (2nd 2017) (A TRIAL COURT HAS ABUSED ITS DISCRETION ON AN ERRONEOUS VIEW OF THE LAW, ERROR OF EVIDENCE, FACTS, OR

RENDERED A DECISION THAT CANNOT BE LOCATED WITHIN RANGE OF PERMISSIBLE DECISIONS); NATAL AT 538: PROCEDURAL REASONABLENESS REVIEWED FOR ABUSE OF DISCRETION; APPLICATION OF LAW REVIEWED "DE NOVO." NATAL AT 538-39: DEFT.'S CONVICTION OF 3 COUNTS OF BEING ACCOMPLICE BASED ON ASSISTANCE TO SON WHO STARTED ARSON FIRE RESULTING IN DEATHS OF 3 VICTIMS INVOLVED ESSENTIALLY THE SAME HARM -- SHOULD BE GROUPED TOGETHER. RE PEOPLE V. OSTROWSKI 394 ILL. APP. 3d 82-83 (11. APP. CT. 2ND DIST.) (2009) (COUNTS OF AGG. PRIM. SEX. ABUSE MERGED / GROUPED FOR 36 MOS. PROBATION SENTENCE.)

BAKUBA 2019 / BAKUBA 2017 AT R116 CITES FOR SUPPORT PEOPLE V. BUCKNER 2013 ILL. APP. (2d) 130083 RR 38-40 (CONSECUTIVE SENTENCES BY RECORD "CONDUCT WAS ONGOING, EXTENSIVE, AND NOT LIKELY TO END"). BUCKNER AT RR 38-39: THE DEFT.'S "BEHAVIOR WAS NOT EVIDENCE TO ANY GREAT POTENTIAL FOR REHABILITATION, [HAVING] PROVIDED FALSE INFO. IN THE PRESENTENCE REPORT [AND] ATTEMPTING TO EVADE CUSTODY." BUCKNER IS INAPPROPRIATE TO THE INSTANT CASE.

FINALLY, BAKUBA 2019 / BAKUBA 2017 AT R117 AFFIRMS SOLELY ON THE BASIS THAT "IN EXERCISING ITS DISCRETION TO IMPOSE CONSECUTIVE SENTENCES, THE TRIAL COURT CONSIDERED THE CHARACTER OF DEFENDANT." THIS IS OBJECTIVELY UNREASONABLE, CONTRARY APPLICATION OF LAW. SEE PEOPLE V. WILSON 2016 ILL. APP. (1ST) 140163 R15 (AFFIRM 15 YR SENTENCE FOR CLASS X SENTENCE: DRIVE TRAFFICKING. "THE TRIAL COURT COULD NOT DISCERN WHETHER DEFT.'S 'CHARACTER AND ATTITUDE' INDICATES HE WAS LIKELY TO COMMIT ANOTHER CRIME, BUT NOTED THAT HIS 'PAST BEHAVIOR' SUGGESTED THAT HIS CONDUCT 'WILL LIKELY RECUR.' MOREOVER, THE TRIAL COURT STATED THE DEFT. HAD A 'VERY SIGNIFICANT HISTORY OF PRIOR DELINQUENCY' [...] DEFT.'S 14 PRIOR FELONY CONVICTIONS 'WEIGHED VERY, VERY SIGNIFICANTLY [']")

THE FACTUAL FINDINGS HERE THAT BAKUBA SELF-DIAGNOSED HIS "ASPERGER'S SYNDROME [BUT] WAS VAGUE AND EVASIVE [I] ABOUT HIS ERECTILE DYSFUNCTION AND BEING ASEXUAL." (R1570-71)

IN SUM, THE TRIAL COURT DID NOT ALIGN THE FACTORS OF 730 ICS 5/5-8-4(6) WITH BAKUBA'S SITUATION. INDEED, BASED IT ON SHEER SPECULATION. SEE US V. BRADLEY 628 F.3d 394, 400 (7TH 2010) ("DUE PROCESS REQUIRES THE SENTENCING DETERMINATION BE BASED ON RELIABLE EVIDENCE, NOT SPECULATION OR UNFOUNDED ALLEGATIONS." QUOTING US V. ENGLAND 555 F.3d 616, 622 (7TH 2009)). BAKUBA'S CONCURRENT 4YR SENTENCES (AT 50%) = APRIL 24, 2017 RELEASE.

CONCLUSION

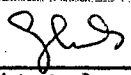
BAKUBA'S DREHING BRIEF WAS COMPLETED IN 4 WEEKS, 'PRO SE', IT CITED 143 CASE LAWS. THE 'PRO SE' REPLY BRIEF IN 1 WEEK, CITING 75 CASE LAWS. THE STATE? 9 MONTHS (38 WEEKS) CITING 26 CASE LAWS. THE TRADITION CONTINUES HERE IN THIS CERTIORARI AS IT IS THOUGHTFUL, FACT BASED, AND WELL REASONED.

TAKE THE 6TH AMEND. 'PRO SE' DENIAL WEEKS BEFORE TRIAL. ALL THE LOWER COURTS NOW HAVE AFFIRMED. ALL THESE COURTS IGNORE THE UNDISPUTED FACTS THAT: (1) THE TRIAL COURT PERPETRATED FRAUD UPON BAKUBA BY FALSELY MAKING A "RECORD" IN DEC. 2014 HE ANTICIPATED IT AND WOULD ALLOW IT AS AN "OPTION" (R1597-99) AND BAKUBA NEVER SOUGHT A CONTINUANCE AND EXPLICITLY SAID HE'D STICK TO THE APRIL 27, 2015 TRIAL DATE ON DEC. 9, 2014. (R1631) IMANJ V. POLLARD 826 F.2d 939, 944 (7TH 2016) SPEAKS DIRECTLY ON POINT TO THAT FACT. WORSE STILL, APPOINTED COUNSEL SOUGHT A DAY-OF-TRIAL DELAY AND WAS DENIED. (R 1693-90; C 3262-64) ANOTHER OMISSION, THE OBVIOUS: BAKUBA WAS 'PRO SE' ON APPEAL. THUS, THE STATE PUT MOTIVES IN BAKUBA'S MIND THAT HE NEVER THOUGHT; JUST LIKE BAKUBA'S WRONGFUL CONVICTIONS REST ON ADJUDGED FRANKS PERJURER O'BRIEN PUTTING WORDS IN BAKUBA'S MOUTH HE DENIES EVER SPEAKING: IN A SWORN AFFIDAVIT HAND TENDERED AND ANNOUNCED IN OPEN COURT TO PROSECUTORS AND THE BIASED TRIAL JUDGE AS ADVOCATE FOR THE STATE. (C 2316-72; R1448)

CONSEQUENTLY, THE STATE KNEW -- AS DID THE JUDGE -- THAT O'BRIEN FALSELY TESTIFIED TO A FALSE/FABRICATED "BOOKING PROCESS-VERSION" (R2262) AND BAKUBA'S PURPORTED FABRICATED HEARSAY RESPONSE. THUS, THE LOWER COURTS ARE FLATLY WRONG TO WILLFULLY IGNORE ADJUDGED FRANKS PERJURER O'BRIEN'S MAJOR PERJURY AT TRIAL.

NO OTHER CASE EXISTS (THAT BAKUBA CAN FIND) WHICH HAS 3 OF 6 STRUCTURAL ERRORS: BAKUBA'S TUBIC TRIAL RIGHT WAS ADDRESSED IN AN OBJECTIVELY UNREASONABLE MANNER; BAKUBA 2019 / BAKUBA 2017 AT P56. AND GUSTAFSON'S FAILURE TO OBJECT RENDERS HER GROSSLY INCOMPETENT OR INSIDIOUSLY COMPLIANT IN THIS MALICIOUS PROSECUTION. SEE BAKUBA 711 F.3d 751 (7TH 2013). 6TH AMEND. INTEREC. ASST. OF COUNSEL. PILE ON TOP THE PLAIN ERRORS OF AN INTERESTED PROSECUTOR AND A CREDIBILITY VOUCHING JUDGE AND THIS CASE IS THE EMBODIMENT OF MISCARRIED JUSTICE. FALSIUS IN UNO, FALSIUS IN OMNIBUS. FOR ALL THE ABOVE, A CERTIORARI IS MERITED.

PETER BAKUBA DECLARES UNDER PENALTY OF PERJURY OF THE LAWS OF THE USA THAT THE FOREGOING IS TRUE & CORRECT, 28 USC 3746.

 8/14/19
PETER BAKUBA (M51946)
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