

NO. \_\_\_\_\_

**19-6970**

IN THE  
SUPREME COURT OF THE UNITED STATES

Monty D. Sullivan - PETITIONER

VS.

Warden, Wyoming State Penitentiary - RESPONDENT(S)

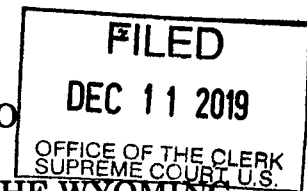
PETITION FOR WRIT OF CERTIORARI TO

UNITED STATES SUPREME COURT ON APPEAL OF THE WYOMING

SUPREME COURT FROM THE FIFTH JUDICIAL DISTRICT COURT OF HOT

SPRINGS COUNTY WYOMING

MONTY DWAYNE SULLIVAN  
WYOMING STATE PENITENTIARY # 26520  
P.O. Box 400 / 2900 South Higley Blvd.  
Rawlins, Wyoming 82301



## QUESTION(S) PRESENTED

1. Was Sullivan deprived of his 5<sup>th</sup>, 6<sup>th</sup> and 14<sup>th</sup> Amendment Constitutional Rights by **all the lower Courts**? **These questions have been asked and not resolved by the lower Courts.**
2. Was Sullivan deprived of his Right to Due Process in violation of 6<sup>th</sup> Amendment by Prosecutor Jerry D. Williams of Hot Springs County, WY whom **suppressed/withheld two medical exams**, which proves Sullivan is actually innocent of the crimes of conviction by refusing the triers of fact, all relevant evidence and in accordance with *Brady v. Maryland*?
3. Was Sullivan deprived of his guaranteed Constitutional Right to Effective Assistance of Counsel when appointed counsel Valerie Schoneberger presented herself as a Contract Attorney but in fact has a title of Wyoming State Public Defender, Senior Assistance Appellate Attorney directly under supervision of Diane Lozano which Sullivan has a direct conflict with the whole Public Defenders Office due to the ineffective assistance of counsel at direct appeal?
4. Was Sullivan's United States Constitutional Right of Access to Courts hearings and procedures directly violated by Warden Michael Pacheco when Sullivan requested to attend the hearing at the Wyoming Supreme Court on a secure broadcast was DENIED?
5. Was Sullivan's United States Constitutional Right of Access to Courts hearings and procedures directly violated by Law Librarian R. Jones, when it took two months and eighteen days later for a viewing of a Children's Advocacy Project (CAP) Video?

## **CONCISE STATEMENT OF CASE**

This case addresses violations of:

- 1) The U. S. Constitution [Amendments 5 & 6 & 14];
- 2) Standing Precedents: The Constitution of the United States of America;
- 3) Standing Court Rules [Mailbox Rule] and;
- 4) Monty Sullivan's Civil Rights.

Comes now, Sullivan requests that the judgment entered on July 16, 2019 by the Wyoming Supreme Court by Justice's Davis, Fox, Boomgaarden and Gray in Case No. S-18-0215 for the Appeal from the District Court of Hot Springs County, Wyoming by Judge Robert E. Skar be overturned and a new trial with an evidentiary hearing so Sullivan can finally fully develop the record to show his incarceration has been illegal from arraignment.

## LIST OF PARTIES

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

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

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**Appendix A:** Date: July 16, 2019: Wyoming Supreme Court's Opinion 2019 Wy 71  
Previously Sent with Motion for Extension of Time Decided by Justice  
Kagan on November 4, 2019 to extend to December 13, 2019.

**Appendix B:** September 12, 2018: "Appeal For Petition Under the Post- Conviction  
Determination of Factual Innocence Act" in the 5<sup>th</sup> Judicial Court of Wyoming  
for Judge Robert E. Skar's Order Summarily Denying Sullivan's 'Petition for  
Post- Conviction Determination of Factual Innocence Act (Non-DNA) W.S. §  
7-12-401 through 407" Sergio Garcia

**B1A:** Date Signed April 19, 2018: Post-Conviction Determination of Factual  
Innocence Act To 5<sup>th</sup> Judicial District Court (Non-DNA) W.S. § 7-12-401  
through 407" By Judge Robert E. Skar

**B2A:** Appendix A: Notorized Date: December 17, 2014: Affidavit by Sergio Garcia  
pertaining to Phone Conference of Dr. Kurt R. Pettipiece

**B2B:** Appendix B: Date Filed: August 13, 2018: Order Summarily Denied  
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**Appendix C:** Date Filed: September 4, 2018: Notice of Appeal & Statement of  
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407" For 5<sup>th</sup> Judicial District Court Order Summarily Denied

**Appendix D:** Children's Advocacy Project Forensic Interview

**Appendix E:** Date Filed: September 12, 2018: Motion for Appointment of Counsel

**Appendix F:** Date Filed: September 12, 2018: Order Granting Appointment of Counsel by Judge Robert E. Skar

**Appendix G:** Kirk A. Morgan Conflict of Interest

1. Dated: September 17, 2018: First letter Kirk A. Morgan appointing himself.
2. Dated: September 20, 2018: Letter from Sullivan to Kirk A. Morgan pointing out conflict of interest.
3. Dated: September 20, 2018: Second letter Kirk A. Morgan keeping appointment of counsel having David Westling sign letter for Morgan.
4. Date: October 28, 2018: Second letter from Sullivan to Kirk A. Morgan pointing out conflict of interest.
5. Date Filed: October 23, 2018: Morgan filed Extension of Time to File Brief
6. Date Filed: October 23, 2018: Order Granting Appellant's Request for Extension to File Brief.
7. Date Filed: October 23, 2018: Kirk A. Morgan Motion To Withdraw
8. Date Filed: October 23, 2018: Order Allowing Withdrawal of Counsel Kirk A. Morgan.

**Appendix H:** Communications between Sullivan and Diane M. Lozano.

1. Date: October 28, 2018: Letter From Sullivan and Diane M. Lozano.
2. Date: November 2, 2018: Diane M. Lozano's response to Sullivan

**Appendix I:** Valarie Schoneberger entered appearance

1. Date: October 30, 2018: Letter from Shawna Goetz Deputy Clerk notifying of Valarie Schoneberger
2. Date Filed: October 22, 2018: Entry Of Appearance

**Appendix J:** Dated November 29, 2018: Valarie Schoneberger Motion for Extension of Time To File Brief.

**Appendix K:** Date Filed: January 7, 2019: Valarie Schoneberger's Cover Letter for Brief of Appellant and copy of Brief after Filed

**Appendix L:** Date Filed February 19, 2019; Russell Farr Brief of Appellee

**Appendix M:** Beth Reiman's Forensic Interview Expert: Professional Experience and Report: Children's Advocacy Project Forensic Interview

**Appendix N:** Wyoming Department of Corrections, Law Librarian Ms. R. Jones

1. **Date Sent: May 13, 2019: Date Response: July 15, 2019:** Wyoming Department of Corrections Form #326
2. Wyoming Department of Corrections Form #619  
First One: Date Sent: July 16, 2019 and Response July 17, 2019

Second One: Date Sent: July 31, 2019 and Response August 1, 2019

**Appendix O:** Date Sent: March 14, 2019 and Response March 19, 2019: Wyoming Department of Corrections Form 320 to Warden Michael Pacheco being **denied access to Wyoming Supreme Court Hearing**

1. Date Filed March 7, 2019: Order Setting Cases for Oral Argument with explanation and schedule

**Appendix P:** Dated: October 5, 2014: Pretrial Memorandum officially signed by Jerry D. Williams

**Appendix Q:** Date: February 16, 2018: Glenn Allen Tanner's Arraignment and Plea of Guilty Hearing Criminal Action No. CR-2018-2

**Appendix R:** Date: May 9, 2018: Glenn Allen Tanner's Sentencing Hearing Transcript.

**Appendix S:** Date: January 26, 2018: Glenn Allen Tanner's Amended Information

**Appendix T:** Date: March 3, 2009: WYCAPS Contact Log for SM.

**Appendix U:** Order Setting Hearing on Defendant's Motion To Dismiss signed by Honorable Judge Bill Simpson 5<sup>th</sup> Judicial District Court Thermopolis, Wyoming.

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## **CITATIONS**

This Petition for Writ of Certiorari is submitted to appeal the decision of the Wyoming Supreme Court in case # S-18-0215, which is appealing the criminal case from the Fifth Judicial District Court in and for the State of Wyoming, case # 2009-008 – State v. Sullivan, Post-Conviction Determination of Factual Innocence.

## OPINIONS BELOW

☐ For cases from **federal courts**:

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

☐ reported at \_\_\_\_\_ ; or,

☐ has been designed for publication but is not yet reported; or,

☐ is unpublished.

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

☐ reported at \_\_\_\_\_ ; or,

☐ has been designed for publication but is not yet reported; or,

☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is: Wyoming Supreme Court decided my case was July 16, 2019.

☒ reported at Wyoming Supreme Court Case No. S-18-0215 ; or,

☐ has been designed for publication but is not yet reported; or,

☐ is unpublished.

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

☐ reported at \_\_\_\_\_ ; or,

☐ has been designed for publication but is not yet reported; or,

☐ is unpublished.

## JURISDICTION

☒ For cases from **state courts**:

The date on which the Wyoming Supreme Court decided my case was 7/16/ 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 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).

This case addresses violations of:

- 1) The U. S. Constitution [Amendments 5, 6 & 14][TREASON];
- 2) Standing Precedents: The Constitution of the United States of America;
- 3) Standing Court Rules [Mailbox Rule] and;
- 4) Monty Sullivan's Civil Rights.

Comes now, Sullivan requests that the judgment entered on July 16, 2019 by the Wyoming Supreme Court by Justice's Davis, Fox, Boomgaarden and Gray in Case No. S-18-0215 for the Appeal from the District Court of Hot Springs County, Wyoming by Judge Robert E. Skar be overturned and a new trial with an evidentiary hearing so Sullivan can finally fully develop the record to show his incarceration has been illegal from arraignment.

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

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## **STATEMENT OF CASE**

**This** Writ of Certiorari is for the decision of Supreme Court of the State of Wyoming 2019 WY 71 dated July 16, 2019 Case Number S-18-0215. **(Appendix A)**

**On March 12, 2018**, Governor Matt Mead and the Wyoming State Legislator signed House Bill 26 “Post- Conviction Determination of Factual Innocence Act (Non-DNA) W.S. § 7-12-401 through 407 into law.

I. This petition was filed in the 5<sup>th</sup> Judicial District Court of Hot Springs County, Thermopolis, Wyoming on April 23, 2018. **Criminal Case Number: CR-2009-8 (Appendix B-1 with exhibits)**

II. On August 10, 2018, Judge Robert E. Skar signed the Order Summarily Denying Sullivan’s ‘Petition for Post- Conviction Determination of Factual Innocence Act (Non-DNA) W.S. § 7-12-401 through 407”. **(Appendix B-2)** Refusing Evidentiary Hearing stating:

A. Newly Discovered Evidence was available at trial.

However, if trial counsel, appellate counsel<sup>1</sup> had investigated the case such as Due Process states this would have been true. **US CONSTITUTION AMENDMENT 14 Section 5 DUE PROCESS.** The Constitution guarantees “a meaningful opportunity to present a complete defense,” *Crane v. Kentucky*, 476 U.S. 683, 690, 106 S. Ct.

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<sup>1</sup> Appellate counsel's performance was deficient and that there was prejudice. *Strickland*, 466 U.S. at 687; *Coronado v. Ward*, 517 F.3d 1212, 1216 (10th Cir. 2008)

“Appellate counsel was ineffective in failing to raise arguable issues on appeal created presumption of prejudice in that defendant was essentially left without representation on appeal.” *Delgado v. Lewis*, 181 F3d 1087 (9<sup>th</sup> Cir 1999)

2142, 90 L. Ed. 2d 636 (1986)(quotation marks omitted)(Emphasis Added).

B. In "Order Summarily Denying" #4 – Judge Skar states that it did not matter as to what the "Uncle" admitted to doing.

1. In evidentiary affidavit by Sergio Garcia (**Exhibit B-1 Appendix**) under direct supervision of Diane Courselle #6 Dr. Kurt Pettipiece said that he did not see any signs that KT was abused. Dr. Pettipiece further told me (Sergio Garcia) that he noted KT clingy to males. In his opinion this could be an indication of abuse.
2. At the time if allegations in 2007 KT had lived in the Sullivan household for four months. Sullivan was totally new to parenting and just thought the fact that KT, CT and ST were clingy because they were starved for a father figure. Not a sex toy as portrayed. You don't know a person's past if that person is not honest with you and Nancy Tanner (mother) and Alice Johnston (grandmother) were and still under heavy scrutiny for being dishonest. These are major issues that have been brought up by both sides of the plethora of case proceedings.
3. In Order Summarily Denying Sullivan's 'Petition for Post- Conviction Determination of Factual Innocence Act, **Judge Robert E. Skar** admits and proves that not only was trial counsel, appellate counsel and post-conviction counsel was aware but **FAILED TO DUE** their **WYOMING AND UNITED STATES CONSTITUTIONAL OBLIGATION TO**

**INVESTIGATE THIS EVIDENTIARY AVENUE as outline in the 5<sup>th</sup>,  
6<sup>th</sup> and 14<sup>th</sup> Amendments and the American Bar Association Standards  
for Criminal Justice.**

III. On September 4, 2018, Sullivan timely filed his Notice of Appeal. (Appendix C)

IV. On September 12, 2018, Sullivan filed his “Appeal For Petition Under the Post- Conviction Determination of Factual Innocence Act” (Appendix B) in the 5<sup>th</sup> Judicial Court of Wyoming for Judge Robert E. Skar’s Order Summarily Denying Sullivan’s Petition for Post- Conviction Determination of Factual Innocence Act (Non-DNA) W.S. § 7-12-401 through 407” *pro se*. (Appendix B-2) Stating as follows:

1. Sullivan is innocent of 2 – 1<sup>st</sup> degree sexual assaults of a minor (anal penetration) under W.S. § 6-2-314(a)(i). W.S. § 7-12-403(b).
2. Newly discovered evidence **never** heard by any Wyoming Judge has come to light, if credible establishes that Sullivan is innocent of the crimes. ( **two medical reports by Dr. Kurt Pettipiece and Dr. Williams OBGYN**) (Sullivan would like to point out that as this date of filing these medical reports have still not been seen by a Judge of any court of any state.)<sup>2</sup>

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<sup>2</sup> The defendant was denied the effective assistance of counsel where counsel failed to **investigate or interview defense and prosecution witnesses** whose testimony would have supported the defense theory of actual innocence/mere presence. U.S. Const. Ams. VI, XIV. (D) (Emphasis Added).



3. **"Appeal For Petition Under the Post- Conviction Determination of Factual Innocence Act" # 3.** In Judge Skar's, Order Summarily Denying Sullivan's "Petition for Post- Conviction Determination of Factual Innocence Act" W.S. § 7-12-401 through 407 (**Appendix B-2** number 6) Your Honor states "Both the Defendant, Defense Counsel, Appellate Counsel and Post-Conviction Counsel were aware of the evidence claimed." Appellate is *pro se* with no means to investigate ineffective assistance of counsel. There is a need for the public defender office and its investigator for the interest of justice.
4. "Petition for Under the Post- Conviction Determination of Factual Innocence Act" W.S. § 7-12-401 through 407 – (c) again, quoting Pettipiece, nothing in the record indicated a rectal exam had been performed; and (d) again quoting Pettipiece, that a referral was made to Dr. Williams, and OBGY. *W.S. § 7-12-403 (b)(ii)*.
5. Previous acts of victim:
  - a. In fact all allegations stem from mother of victim Nancy Lynn Tanner admitting to being forced to hold KT down when she was still in diapers so Clyde Raymond Tanner (aka Raymond Clyde Tanner, Ray Tanner) could perform oral sex on KT. Back in 2001/2002, Sullivan never even knew these individuals.
  - b. After KT, CT and ST were picked up by Sullivan and Nancy Lynn Tanner in Douglas, Wyoming for a **Three Week Court Ordered**

**Visitation** at Clyde Raymond Tanner's. KT asked Sullivan to "Never make her return to Torrington, Wyoming again!" Refusing Sullivan's questions for explanation and for further understanding.

- c. Little over two months (August 2007 or October 2007) KT makes allegation against Bio-logical Uncle Glenn Allen Tanner during the three week visit to Torrington. (**Appendix D** KT discloses in CAP Video Interview @ 40:15 that she had told Sullivan and Nancy Lynn Tanner right away after returning to Thermopolis, Wyoming which Sullivan first heard about it two plus months later.) Eleven years later Glenn Allen Tanner admits to **some** of the allegations. The allegations against Clyde Raymond Tanner were not known to Sullivan until he was arrested in February of 2009.

1. All allegations were turned into Department of Family Services (Annalisa (Nible) Rossler, Penny Anderson and Donna Jochum) and the Thermopolis Police Department (Ex-Chief of Police Mark Nelson (terminated), Ex-Officer(s) Jeff Brown and Mandy McDonald).
2. It was only after Sullivan had talked to Nancy Lynn Tanner about separating did these allegations contain Sullivan. DFS advised Nancy Lynn Tanner that as long as Sullivan was convicted she would be entitled to Sullivan's home and possessions.

- d. Previous allegations turned in by Nancy Lynn Tanner and KT: Glenn Allen Tanner had an agreement with Torrington Department of Family Services to **NEVER** be around KT again, but was made to watch KT, CT and ST at time of Clyde Tanners visitation. When Nancy Lynn Tanner contacted Clyde Raymond Tanner about allegations he said "It **would not** happen again!"
6. In CAP Video Interview, KT discloses sexual in nature acts with Clyde Raymond Tanner, Glenn Allen Tanner, Sullivan, Nathaniel, Garrett, and SM and as well as acts told by SM on her brother, (DM).
7. "Appeal For Petition Under the Post- Conviction Determination of Factual Innocence Act" # 9 – Judge Skar is firm saying that all counsel and Sullivan knew about this evidence, then why did Sullivan have to beg post-conviction and federal habeas counsel Sergio Garcia to contact Dr. Pettipiece to find out that KT did in fact be seen by Dr. Williams, OBGYN and have to be put under anesthesia to be further examined.

(Appendix B-1: Sergio Garcia Affidavit concerning Dr. Pettipiece).

- a. In Affidavit # 7 Dr. Pettipiece<sup>3</sup> told me that KT's hymen was intact. Nothing in the record indicated a rectal exam had been performed. (Complete record not Sullivan's supposed discovery

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<sup>3</sup> *Parker v. Scott*, 394 F.3d 1302 (10<sup>th</sup> Cir. 2005) The Decision to Admit the Expert Testimony of Physician Assistant... *Parker v. Scott*, 394 F.3d 1302 (10<sup>th</sup> Cir. 2005) (quoting *Lisenba v. California*, 314 U.S. 219, 236, 86 L. Ed. 166, 62 S. Ct. 280 (1941)). Ms. Wagner had substantial experience examining victims of alleged child sexual {123 Fed. Appx. 353} abuse. The trial record demonstrates

b. from Ex-Hot Springs County Prosecutor Jerry D. Williams<sup>4</sup> (emphasis added)).

c. In Affidavit # 8 Dr. Pettipiece stated that, according to the medical record, KT did not tolerate her genital area being examined by a female medical provider. A referral was made to Dr. Williams, an OBGYN. The examination would require KT be placed under anesthesia.

V. Motion for Appointment of Counsel. Filed September 12, 2018. Specifically asking for attorney to obtain medical exams to prove Sullivan's innocence's<sup>5</sup>.

(Appendix F)

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that she had performed hundreds of these examinations and trained pediatric residents how to conduct these examinations. Given Ms. Wagner's extensive background in the area, we cannot say that the Kansas Court of Appeals' analysis of Mr. Pouncil's appeal violated clearly established federal law by failing to observe fundamental fairness.

<sup>4</sup> U.S. vs. Dreamer, 88 F.3d at 655 (8<sup>th</sup> Circuit 1996). Government has a duty under "DUE PROCESS CLAUSE" to disclose to Defendant Evidence which is Favorable to Him and material to the Issue of his guilt.

*C.A. 1 (R.1)2000*, Government must provide the criminal defendant with access to material exculpatory evidence within its control and the government may not in bad faith fail to preserve potentially evidence. Fed. Rules 16 (a)(1) (C), 18 U.S.C.A.

**For claim of innocence** – To be credible, such a claim requires petitioner to support his allegations if constitutional error with new reliable evidence – whether it be exculpatory scientific evidence, trustworthy eyewitness accounts, or critical physical evidence – that was not presented at trial. *Schlup v. Delo*, (1965) 513 US 298, 325, 130 LEd 2d 808, 834, 115 SCt 851.

Cause not be shown in an "extraordinary case, where a constitutional violation has probably resulted in the conviction of one who is actually innocent."

***B. Brady claims.*** *Brady v. Maryland*, 373 U.S. 83, 87, 10 L. Ed. 2d 215, 83 S. Ct. 1194 (1963), provides that the State's suppression of "evidence favorable to an accused . . . violates due process where the evidence is material either to guilt or to punishment." *See also Kyles v. Whitley*, 514 U.S. 419, 432-33, 131 L. Ed. 2d 490, 115 S. Ct. 1555 (1995). This is so irrespective of the prosecution's good or bad faith. *See Brady*, 373 U.S. at 87. Thus, to establish a *Brady* violation, a habeas petitioner must show that "(1) the prosecutor suppressed evidence; (2) the evidence was favorable to the defendant as exculpatory or impeachment evidence; and (3) the evidence was material." *Gonzales v. McKune*, 247 F.3d 1066, 1075 (10<sup>th</sup> Cir. 2001), *vacated in part on other grounds*, 279 F.3d 922, 924 (10<sup>th</sup> Cir. 2002) (en banc), *petition for cert. filed*, (U.S. May 7, 2002) (No. 01-10243). Generally, evidence is material if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. *See Kyles*, 514 U.S. at 434.

VI. Order Granting Appointment of Counsel by Judge Robert E. Skar September 12, 2018. (Appendix F)

1. Judge Skar's order states:

1. That Monty D. Sullivan is presently **unable** to provide for full payment of attorney's fees and other expenses of representation.

3. That Monty D. Sullivan **may be ordered to pay all or part of the expenses** of counsel **at the conclusion of the case.**

2. Judge Skar ordered appointment of counsel by Wyoming Appellate Division knowing that Sullivan has had a direct conflict of interest since the Direct Appeal.

3. Chief appellate counsel immediate attached himself to Sullivan case when Kirk A. Morgan (Morgan) (**Appendix # G-1, 2, 3, 4 Letters From Morgan and Response from Sullivan**) was the one who the direct conflict was with.

4. Morgan withdrew ten days before brief was due (**Appendix G-7, 8**) appointing Valarie Schoneberger (Schoneberger), a supposed contract attorney. However, Schoneberger only works for the Appellate Division and her title is Assistant Appellate Counsel & Guardian ad litem for the office of State Public Defenders'. Showing that my

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<sup>5</sup> **For claim of innocence** – To be credible, such a claim requires petitioner to support his allegations if constitutional error with new reliable evidence – whether it be exculpatory scientific evidence, trustworthy eyewitness accounts, or critical physical evidence – that was not presented at trial. *Schlup v. Delo*, (1965) 513 US 298, 325, 130 LEd 2d 808, 834, 115 SCt 851. Cause not be shown in an “extraordinary case, where a constitutional violation has probably resulted in the conviction of one who is actually innocent.”

conflict extends to Schoneberger also.

There were two 30 day extensions filed in this case for nothing. One by Morgan (**Appendix G-5**) and the other by Schoneberger. (**Appendix J**) Schoneberger said she wanted to complete any evidence holes that there may be. However, while she was able to contact Glenn Tanner's counsel's and finally obtain a copy of Tanner's sentencing transcripts she failed to gain verification that the KT in Sullivan's is in fact the same in Glenn Tanner's case (the transcripts are redacted) and to contact Glenn Tanner, which he was more than willing, to talk to her either by phone, in person or writing. Sullivan was briefly in the B-POD #1 with Tanner before Tanner had medical issues that took him to Torrington, Wyoming.

Sullivan is currently trying to gain permission to have contact through WDOC mail with Tanner.

Morgan should have never tried to deceive Sullivan by appointing himself to Sullivan's case (**Appendix G-1-8**) and then trying deceiving Sullivan further by having David Westling sign the second letter for him specifically saying "for Kirk Morgan." (**Appendix G-3**). Sullivan was very diligent to make this conflict cognizant to all parties involved including Appellate Division (Morgan and his boss Diane Lorzano (**Appendix # H-1, 2**), Hot Springs County Clerk of Court and Wyoming Supreme Court Clerk because Sullivan was afraid of being railroad as

it ended up.

5. On the Opinion of the Wyoming Supreme Court, clearly states that  
Office of the State Public Defender: Diane M. Lorzano, Wyoming Public  
Defender; Valarie Schoneberger, Senior Assistant Appellate Counsel  
(Appendix A)<sup>6</sup>.

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<sup>6</sup> "If one attorney in law firm has actual conflict of interest, that conflict is imputed to all attorneys in firm, subjecting entire firm to disqualification." *United States v. Kitchin*, 592 F2d 900, 904 (5th Cir) cert denied, 444 US 843, 100 S Ct 86, 62 L Ed2d 56 (1979); *US v. McCullah*, 76 F3d 1087, 87 F3d 1136.

"Representation of a defendant by an attorney burdened by a prejudicial conflict of interest will constitute a constitutionally defective denial of effective assistance of counsel." *Walker v. US*, 422 F2d 374 (3rd Cir 1970) cert denied, 399 US 915, 90 S Ct 2219, 26 L Ed2d 573.

"It is well settled that a defendant in a criminal case has an absolute right under **6th Amendment** to be represented by an attorney who is free from any conflict of interest." *Shongutsie v. State*, 827 P.2d 361; 1992 Wyo. Lexis 25; *Harlow v. State*, 2005 WY 12; 105 P.3d 1049; 2005 Wyo. Lexis 14; *Calene v. State*, 846 P.2d 679, 694 (Wyo. 1993); *Holloway v. Arkansas*, 435 US 475, 484, 98 S Ct 1173, 1178, 55 L Ed2d 426 (1978); *Glasser v. US*, 315 US 60, 71, 62 S Ct 457, 465, 86 L Ed 680 (1942). (emphasis added).

"**Sixth Amendment right to counsel** requires not only that assistance of counsel be effective, but also that representation be conflict-free." *Const. Art. 1, § 10; WRCrP 44(c); Cuyler v. Sullivan*, 446 US 335, 100 S Ct 1708, 64 L Ed2d 333(1980); *Holloway v. Arkansas*, 435 US 475, 98 S Ct 1173, 55 L Ed2d 426 (1978); *Glasser v. US*, 315 US 60, 62 S Ct 457, 86 L Ed 680 (1942); *Kenney v. State*, 837 P.2d 664 (Wyo 1992); *Calene v. State*, 846 P.2d 679, 694 (Wyo. 1993); *Kennedy v. State*, 837, P.2d 664; 1992 Wyo. Lexis 94; *Sorensen v. State*, 6 P.3d 657; 2000 Wyo. Lexis 143; *King v. State*, 810 P.2d 119; 1991 Wyo. Lexis 75. (emphasis added).

"Trial counsel's representation of a defendant can be tainted if counsel relies on previous counsel as source of information, where previous counsel had a conflict of interest." *Calene v. State*, 846 P.2d 679, 694 (Wyo. 1993); *US v. Tatum*, 943 F2d 370 (4th Cir 1991).

"The need for defense counsel to be completely free from a conflict of interest is of **great importance** and has a direct bearing on the quality of our criminal justice system." *McCall v. District Court for Twenty-First Judicial Dist.*, 783 P.2d 1223, 1227 (Colo. 1989)(quoting *Allen*, 519 P.2d at 352-53). See also *King v. State*, 810 P.2d 119; 1991 Wyo. Lexis 75; *State v. Martinez-Serna*, 166 Ariz. 423, 803 P.2d 416 (1990) and *Richards v. Clow*, 103 N.M. 14, 702 P.2d 4, 7 (1985). (emphasis added).

"When alleged conflict of interest is at issue, actual prejudice need not be established to prevail on claim of ineffective assistance of counsel. **US Constitutional Amendment 6.**" *Bucuvalas v. US* 98 F.3d 652 CA (Mass) 1996. (emphasis added).

"Prejudice is presumed when counsel is burdened by an actual conflict of interest. In those circumstances, counsel breaches the duty of loyalty, perhaps the most basic of counsel's duties. Moreover, it is difficult to measure the precise effect on the defense of representation corrupted by conflicting interest. There are circumstances that are so likely to prejudice the accused that the cost of litigating their effect in a particular case is unjustified. The fundamental question is whether the trial process has lost its character as a confrontation between adversaries, and if so, then the Constitutional guarantee is violated. And then, it is not necessary to demonstrate actual prejudice." *Rickman v. Bell*, 131 F3d 1150 (6th Cir. 1997).

"An attorney who is burdened by a conflict between his client's interests and his own sympathies to

VII. On October 23, 2018, Morgan filed Extension of Time to File Brief (**Appendix G-5**) that was due November 1, 2018 (Judge Skar appointed counsel on September 12, 2018 and it took Morgan forty one days to appoint separate counsel for a case he knew Morgan should have never put himself on to begin with delay Sullivan's appeals once again.

VIII. On October 22, 2018 Schoneberger entered appearance however, Morgan still files an extension of time and finally with a Motion to Withdrawal.

(**Appendix I-1, 2**)

VIV. On November 29, 2018, Schoneberger files a second 30 day extension (**Appendix J**) making Sullivan's brief due December 31, 2018. This was file to supposedly further the record which did not happen. Schoneberger never added no new evidence to the brief stating she had found case law stating that she was unable to. Again, supposedly making contact by phone with Hot Springs County Prosecuting Office asking for a copy of their file. Then taking advice from "another female attorney" (Diane Lorzano) saying there is NO way to get said medical reports. Taking advice of a conflict attorney is basically "sleeping with the enemy" and their advice is severally tainted.

X. Brief of Appellant (**Appendix K**) filed January 2, 2019, Schoneberger putting forth two issues:

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the prosecution's position is considerably worse than an attorney with loyalty to other defendants, because the interests of the state and the defendant are necessarily in opposition." *Osborne v. Shillinger*,



1. The District Court erred in finding Mr. Sullivan did not present New Evidence in his Post-Conviction Petition for Determination of Factual Innocence.

2. This denial was premature in light of the District Court's refusal to grant Mr. Sullivan an evidentiary hearing.

Putting Glenn Tanner's conviction in front of all arguments that Sullivan had already had filed in the court, which is how Sullivan was appointed Schoneberger to begin with. If the evidence of Dr. Pettipiece would have been argued instead of **conceding** with the district court<sup>7</sup> on the issues brought by the University of Wyoming, College of Law and presented that yes, Dr. Pettipiece willingness to testify on Sullivan's behalf was known at trial, the simple fact that Sullivan did not know anything about Dr. Williams', OBGYN, testimony and it was only after the post-conviction did this evidence come to light to anyone other than the Prosecution's Team (Hot Springs County Prosecutor, Jerry D. Williams, Bobby Overfield KT, CT, ST and JGS Guardian ad litem, Wyoming Department of Family Services, Penny Anderson, Annalisa (Nible) Rossler, and Donna Jochiam [KT was transported by Wyoming Department of Family Services to Casper for both CAP Forensic Video (by Donna Jochiam) and the Exam by Dr. Williams.], Thermopolis Police Chief Mark Nelson, Officer Jeff Brown and Officer Mandy McDonald.)

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<sup>7</sup> "Courts have consistently treated similar behavior as an abandonment of the duty of loyalty, or as a conflict of interest." *Eaton v. State*, 2008 WY 97; 192 P.3d 36; 2008 Wyo. Lexis 103; *Olsen v. State*, 2003 WY 46; 67 P.3d 536; 2003 Wyo. Lexis 57; *United States v. Swanson*, 943 F2d 1070, 1074-75 (9<sup>th</sup> Cir. 1991).

Schoneberger, has been deceitful from the start by saying she was not an employee of the State of Wyoming Appellate Division, but having her own title. This deception along with not allowing ample time to review her filing before the due date. Therefore, stopping Sullivan from objecting to Schoneberger agreeing to the Prosecution Case and putting forth an effective defense in Sullivan's best interest.

There was two thirty day extensions filed in this case, giving all involved ample opportunity to allow Sullivan to have a say in his case. If a lawyer is having difficulty in obtaining evidence in a case, that has been hidden from the start, you would go to all sources possible, including the Prosecutor's Office, Department of Family Services and the Thermopolis Department as well as the Guardian ad litem, Bobby Overfield, the Current 5<sup>th</sup> Judicial District Judge. If anyone would know how this evidence is SO IMPORTANT it would be a JUDGE.

Sullivan even did a Release of Information for Christopher J. King of Greear, Clark & King, P.C. in Worland, Wyoming. This would have allowed her to obtain an affidavit from King to the statements made by Jerry D. Williams when King personally handy him a Request for Records for the medical reports. King told Sullivan that Williams' exact words were, "If he want this fen evidence he will have to fight me in fen court for it." Exact quote.

Schoneberger at the time of phone call to Sullivan even quotes the Judges, that the Affidavit from Sergio Garcia States in #8 That Dr. Pettipiece

refers Wyoming Department of Family Services to Dr. Williams OBGYN in Casper. In #8 Dr. Pettipiece stated that according to the medical record, KT did not tolerate her genital area be examined down in her vaginal area and that she would have to be placed under anesthesia which was the reason for the referral. In # 5Dr. Pettipiece informed me that, although he did not remember his conversation with Mr. Sullivan, **he could restate what was in the KT's medical records. (Bold Added)** However, #6 in Affidavit from Sergio Garcia states that Dr. Pettipiece found no physical signs of abuse. However, she was clingy to males which could be a sign of possible abuse. Keeping in mind that KT made allegations against her Bio-logical Father Clyde Raymond Tanner (Ray Tanner), Bio-logical Uncle Glenn Allen Tanner and Sullivan.

Eleven years after the fact Glenn Tanner Admits to a 1<sup>st</sup> Degree and a 2<sup>nd</sup> Degree Sexual Assault of Same Victim. This could have been proved further had Schoneberger contact Glenn Allen Tanner. Sullivan and Tanner was housed in B-Pod 1 together for less than a month and Sullivan was able to talk to Glenn Tanner and he said he would be more than happy to talk to Schonberger and do an Affidavit. However, Schoneberger talk to the Warden's office and they would not allow her to visit Tanner because she was not his attorney, so why not take a step further and write a letter? She was making her wages on the case with no worries of being shorted. However,

Schoneberger refused to do this, so is she representing Sullivan or the State of Wyoming the Office Sullivan has a direct conflict with?

- XI. On February 19, 2019 the Brief of Appellee was filed. **(Appendix L)**
- XII. Schoneberger chose not to file a response to the Brief of Appellee although it would have giving Sullivan an opportunity to argue the untruths of the Wyoming Attorney General's office.
- XIII. On March 7<sup>th</sup>, 2019 Oral Arguments were set for April 9<sup>th</sup>, 2019 @ 9:00 a.m. **(Appendix O-1)**

### **ARGUMENT/REASONS FOR GRANTING THE WRIT**

- XIV. On July 16, 2019 the Wyoming Supreme Court's Opinion (WSCO) 2019 Wy 71 was filed. **(Appendix A)**
  - 1. Under facts in the WSCO lists two 1<sup>st</sup> Degree Sexual Assaults of a minor under the age of 13 years of age (anal penetration). That is the two charges that they convicted Sullivan on. And nothing else.
  - 2. In paragraph 3 the Justice's use the CAP Video Interview for their support in their dismissal on prior dropped charges that Sullivan was never convicted of or faced at trial. Along with viewing of pornography on the computer, tasting Sullivan's semen which the transference from KT tasting Daddy Ray Tanner's in CAP Video Interview @ 1:00 to 1:06.
    - a. In fact if the Justices wish to use the CAP Video **(Appendix D)**,  
how about putting forth both the Video and the Forensic Review

Expert Witness by Beth Reiman (**Exhibit M**) that was put forth in court at the Post-Conviction in front of Judge Robert E. Skar in Hot Springs Wyoming that he totally ignored. Sullivan as of this date has finally been able to view these videos for the first time since being arrested in February of 2009. The first time discovery was sent Sullivan requested from former Wyoming State Penitentiary Warden, Eddy Wilson and was to have seven days per Wyoming Department of Corrections Policy and Procedure # 5.401 to view these videos and then instructed the prison personnel what to do with the videos. There was a facility lockdown and the videos were destroyed. The second time Sullivan acquired permission from the Law Librarian, R. Jones and Warden Michael Pacheco.

However, these video's entered the facility on May 13, 2019 and after speaking to the Law Librarian, Ms. R. Jones on July 31<sup>st</sup>, 2019, after two months and eighteen days later Sullivan was able to view the Video. Sullivan was told he had as long as Sullivan needed to view Video and then two hours and fifteen minutes into the video Ms. Jones returned informing Sullivan he had fifteen more minutes and Sullivan would have to resubmit request to see the rest. Sullivan immediately upon arrival to housing POD sent a WDOC 619 (**Appendix N-1, 2**)

requesting extra time. This took place August 7, 2019 at 9:30 a.m. in visitation room.

This time delay in viewing this video in combination with being deprived of Sullivan United States Constitutional Right to Access to Court Hearing and Proceedings were Violated by Warden Michael Pacheco (**Appendix O** WDOC Form 320 with Supreme Court explanation of hearing availability of attendance, Warden Michael Pacheco, Denying Authorization) by denying the secure available Broadcast from the Wyoming Supreme Court preventing Sullivan from filing a Motion For Rehearing /Reconsideration in a timely manner.

3. The Thermopolis Police Department DID NOT INFORM SULLIVAN OF ANY ALLEGATIONS at interview. It was not until fifteen minutes before arraignment was Sullivan made aware of why he was actually arrested. This could have been proven by the interview being in the interrogation room and **not** the Chief of Police's Office. The arraignment paperwork showed the allegations against Clyde Raymond Tanner, Glenn Allen Tanner and Sullivan.
4. In WSCO paragraph 4 – Justices fail to recognize that yes Sullivan filed a *pro se* Post-Conviction but was appointed counsel by trail Judge Robert E. Skar and was given Diane Courselle of the University Of Wyoming, College Of Law and Courselle and Inter Student, Sergio

Garcia filed an Amended Petition for Post-Conviction and only argued the amended petition. The Student Interns name should be familiar by now as he is the same Sergio Garcia that spoke to Dr. Pettipiece and with direct Supervision from Diane Courselle provided the affidavit to the **facts** Dr. Pettipiece would testify to. Which took place after the Post-Conviction for Relief Hearing. Again, this falls under the 5<sup>th</sup>, 6<sup>th</sup> & 14<sup>th</sup> Amendments of the United States Constitution.

5. In WSCO paragraph 18 – Mr. Sullivan concedes that the district court properly ruled on most of the evidence cited in his factual innocence petition as new evidence. The only ruling he challenges is the court's rejection of the 2018 newspaper article, which reported that KT's uncle, Glenn Tanner, had pled guilty to sexual abuse of a minor for acts occurring in 2017. He contends that because the sexual abuse for which he was convicted was also alleged to have occurred in 2007, Mr. Tanner's plea is evidence that KT misattributed the acts to him. He argues that because the plea evidence was not available for his 2009 trial, it qualifies as newly discovered evidence and was sufficient to warrant an evidentiary hearing on his factual innocence claim. We disagree.
6. In WSCO paragraph 18 – Sullivan never conceded to anything on his own free will decision. Schoneberger which is in fact a Wyoming Appellate Public Defender which Sullivan has a direct conflict with but

was deceived into having Schoneberger represent him because Schoneberger said she was not an employee of the Public Defender's Office. It was only after everything was filed and oral arguments were set that Schoneberger in fact has the job of Wyoming Appellate Division Public Defender.

The only ruling Schoneberger challenges was Glenn Tanner's Conviction.

- a. Schoneberger had spoken to Tanners Counsel.
  - b. Schoneberger had opportunity to verify victim to be KT.
  - c. Schonberger asked the prison to speak to Tanner, however, she could have written a letter and obtain an affidavit from Tanner.
  - d. GlennTanner advised Sullivan, when they were housed in B-1 at Wyoming State Penitentiary, he would be more willing to speak to Schoneberger but again Counsel failed to investigate.
7. In WSCO paragraph 20 – if De Novo review was to the standard of Review as stated in WSCO paragraph 7 “We review a district court’s summary dismissal of a factual innocence petition de novo. *Parkhurst v. State*, 2019 WY 63, ¶9, \_\_ P.3d \_\_, \_\_ (Wyo. 2019) (quoting *Miller v. State*, 340 P.3d 795, 796 (Utah App. 2014)( per curiam)). This appeal also presents a question of statutory interpretation concerning a district court’s grounds for dismissing a factual innocence petition,



which is a question of law that we likewise review de novo. *Parkhurst*, ¶9, \_\_ P.3d at \_\_.”

Ballentine’s Law Dictionary, 3<sup>rd</sup> Edition:

**TERM: trial de nova. TEXT:** A new trial; a new trial on appeal. 4 Am J2d A & E 2. A trial on appeal from a justice of the peace to a court of general jurisdiction. 31 Am J Rev ed J P 129. Trying anew the matter involved in an administrative determination the same as if it had not been heard before and as if no decision had been previously rendered, the hearing being upon the record made before the administrative agency and such further evidence as either party may see fit to produce. (Bold & Underline Added)

**AUTHORITY:** 2 Am J2d Admin L 698.

**ALSO:** See new trial; new trial on appeal

Than to review an incomplete case file would be no more than looking between the lines with both eyes closed.

Sullivan is asking no more than the State of Wyoming Justice System to abide by Federal and State Laws.

To provide the full discovery that should have been given prior to trial which **Ex**-Hot Springs County Prosecuting Attorney, Jerry D. Williams promised on Pretrial Memorandum on October 5, 2009. (Appendix P: Pretrial Memorandum officially signed by Jerry D.

**Williams.)** This document it a **court required** document and the signee is to be **under oath at signing.)**

### **Under Wyoming Court Rules**

### **III. Pleadings and Motions**

#### **Rule 16 Pretrial conferences, scheduling; management**

(2)(P)(d) *Pretrial Orders.* After any conference under this rule, the court shall issue an order reciting the action taken. This order controls the course of the action unless the court modifies it.

(2)(P)(e) *Final Pretrial Conference and Orders.* The court may hold a final pretrial conference to formulate a trial plan, including a plan to facilitate the admission of evidence. The conference must be held as close to the start of trial as is reasonable, and must be attended by at least one attorney who will conduct the trial for each party and by any unrepresented party. The court may modify the order issued after a final pretrial conference only to prevent manifest injustice.

Sullivan knows the truth and knows that these medical reports will clear Sullivan's name and Sullivan knows that is exactly why his United States Constitutional Rights under the 5<sup>th</sup>, 6<sup>th</sup>, and 14<sup>th</sup> Amendments have been trampled upon by all Counsel, Attorney General, Prosecutors and blind Justice.

If the justice's would recognize that the medical reports are

sufficient to overturn Sullivan's case, but justifying ignoring it by putting forth charges and accusations that Sullivan has not been on trial for. It is obvious that these Justices aren't interested in upholding the Wyoming or United States Constitution which they took an oath when graduating college, entering judge ship and as well as prosecutor or any political office.

### **THE OATH**

**No person shall be deemed admitted to the bar until he shall have taken and filed an oath as provided in this section. The oath shall be to the effect that he will support, obey, and defend the constitution of the United States, and the constitution and laws of this state, and that he will faithfully and honestly and to the best of his ability discharge the duties of an attorney and counselor-at-law. The oath may be administered by the clerk or one (1) of the justices of the Supreme Court, a district judge in his district or the clerk of court in his county. The oath may be administered in another state or territory of the United States by a judge or justice of a court of general jurisdiction or an appellate court. The oath shall be reduced to writing, signed by the person taking, and certified to by the officer administering the same and filed in the office of the clerk of the Supreme Court.**

Sullivan again was convicted of 2-1<sup>st</sup> degree Sexual Assaults of a minor (Anal Penetration) and that is all.

Sullivan rights to a Fair Trial were never given because ALL EVIDENCE HAS NOT BEEN PRESENTED. Denial of Sullivan's United States Constitutional Rights is felonies committed against Sullivan by each individual. If State and Federal Laws are ignored to keep Sullivan in his wrongful confinement, Sullivan demands that all involved in this cover-up be charged with all felonies that

have been committed against Sullivan.

**See also:** 18 U.S.C. § 241: "**Conspiracy** to violate rights is a felony." **See also:** 42 U.S.C. § 1983 (3), "Acting further a conspiracy to violate another's Civil Rights: **No immunity available.**" Ex-Prosecutor Jerry D. Williams thinks that the prosecution team is above the law and they are not **See: Jones v. Clinton**, "No one is above the law not even the President of the United States and if guilty of crimes he would be arrested just like anyone else."

**Constitutional Law 840 - due process - prosecution's suppression of evidence.**

The suppression by the prosecution of evidence favorable to and requested by an accused violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.

Prosecutors have an ethical duty to disclose relevant legal authority to the court, but that has nothing to do with Brady.

This ruling is an extension of *Mooney v Holohan*, 294 US 103, 112, 79 L ed 791, 794, 55 S Ct 340, 98 ALR 406, where the Court ruled on what nondisclosure by a prosecutor violates due process:

"It is a requirement that cannot be deemed to be satisfied by mere notice and hearing if a State has contrived a conviction through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through a deliberate

deception of court and jury by the presentation of testimony known to be perjured. Such a contrivance by a State to procure the conviction and imprisonment of a defendant is as inconsistent with the rudimentary demands of justice as is the obtaining of a like result by intimidation."

In *Pyle v Kansas*, 317 US 213, 215, 216, 87 L ed 214, 216, 63 S Ct 177, we phrased the rule in broader terms:

"Petitioner's papers are inexpertly drawn, but they do set forth allegations that his imprisonment resulted from perjured testimony, knowingly used by the State authorities to obtain his conviction, and from the deliberate suppression by those same authorities of evidence favorable to him. These allegations sufficiently charge a deprivation of rights guaranteed by the Federal Constitution, and, if proven, would entitle petitioner to release from his present custody. *Mooney v Holohan*, 294 U. S. 103." [373 US 87] The Third Circuit in the Baldi Case construed that statement in *Pyle v Kansas* to mean that the "suppression of evidence favorable" to the accused was itself sufficient to amount to a denial of due process. 195 F.2d at 820. In *Napue v Illinois*, 360 US 264, 269, 3 L ed 2d 1217, 1221, 79 S Ct 1173, we extended the test formulated in *Mooney v Holohan* when we said: "The same result obtains when the State, although not soliciting false

evidence, allows it to go uncorrected when it appears." And see *Alcorta v Texas*, 355 US 28, 2 L ed 2d 9, 78 S Ct 103; *Wilde v Wyoming*, 362 US 607, 4 L ed 2d 985, 80 S Ct 900. Cf. *Durley v Mayo*, 351 US 277, 285, 100 L ed 1178, 1185, 76 S Ct 806 (dissenting opinion).

[3] We now hold that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.

The principle of *Mooney v Holohan* is not punishment of society for misdeeds of a prosecutor but avoidance of an unfair trial to the accused. Society wins not only when the guilty are convicted but when criminal trials are fair; our system of the administration of justice suffers when any accused is treated unfairly. An inscription on the walls of the Department of Justice states the proposition candidly for the federal domain: "The United States wins <\*pg. 219> its point whenever justice is done its citizens in the courts."<sup>2</sup> A prosecution that withholds evidence on demand of an accused which, if made available, [373 US 88] would tend to exculpate him or reduce the penalty helps shape a trial that bears heavily on the defendant. That casts the prosecutor in the role of an architect of a proceeding that does not comport with standards of

justice, even though, as in the present case, his action is not "the result of guile," to use the words of the Court of Appeals. 226 Md, at 427.

42 U.S.C.S. § 1987, Federal and State officials required to investigate and prosecute "CRIMES" committed in violation of civil rights.

Sullivan's Right to Access to Courts, Hearings, and Evidence has been denied by every proceeding from day one due to:

- a. Denial in Phone Hearing.
- b. Denial in Wyoming Supreme Court Oral Arguments by Secure Web Site by Present Warden Michael Pacheco. (**Appendix # O WDOC FORM # 320**)
- c. Suppression/Withholding of Evidence (two Medical Reports).
- d. Ineffective Assistance of **All** Counsel.

Aiding and abetting Constitutional Right Violations is in fact felonies committed against Sullivan. Either follow the law across the board or find a new line of work. Both Constitutions **ARE NOT** written in pencil and they are in plain ENGLISH follow **YOUR OATH THAT YOU HAVE TAKEN.**

8. Seeing that the Justices would continue to crucify Sullivan with this SEVERLY FLAWED CAP FORENSIC INTERVIEW (**Appendix D**), how about let us put forth a few excerpts from the EXPERT WITNESS BETH REIMAN (**Appendix M**) ..... AND FROM

SULLIVAN FINALLY BEING ABLE TO VIEW THIS VIDEO AFTER NINE PLUS YEARS.

A. KT biological Dad Clyde Raymond Tanner (Ray Tanner) on the Forensic video made KT perform oral sex and she said I QUOTE "IT TASTED BAD." @ 1:00 TO 1:06 on DVD. KT specifically says, "Her Brother CT and Sister ST were there in the same room while this oral sex was happening to her Dad "RAY!" CAP Video Interview KT @ 1:00:15 states that she told SM what had happened in Torrington and SM stated, "Should Not Have Done That!"

B. KT's description from what Biological Uncle, Glenn Allen Tanner and what Glenn actually admitted to was totally different. **(Appendix Q, R, S)** KT said, "that Uncle Glenn while after checking the second couch that CT and ST was sleeping on to be sure they was asleep came over to the couch that KT was on and knelt by the couch putting right hand in her panties and rubbing so hard she told him, "IT HURT." So Glenn stopped. **(Appendix R: Glenn Allen Tanner's Sentencing Transcript excerpts.)** Now Glenn Tanner admitted to on his sentencing hearing transcripts that, "Count I of this information of this charging document alleges that between the dates of July 1 of 2007, and August 15 of 2007, that you, being at least 16 years of



age or older, "did engage in sexual contact with a victim who is less than thirteen years of age..." The State alleges that you were 48 years old at the time and that you touched "the vagina of K.T., a minor child, who was seven years of age" at the time and that this occurred at a residence on Main Street in Torrington, Wyoming. If that allegation were true that would be a violation of Wyoming Statute 6-2-315 (a)(ii) and subsection (b)." (This is being read by Honorable Judge Patrick W. Korell, Eighth Judicial District Court in and for the State of Wyoming, Goshen County, agreed to by Glenn Allen Tanner. (This is what the Judge Korell called "Sexual Intrusion per Amended Information. **(Appendix S)**).

So to take and look at the difference in the two statements you would have to wonder why Uncle Glenn Tanner would admit to something way more offensive, especially to serve a basic life sentence for a person at his age, verses taking a 2<sup>nd</sup> Degree Sexual Assault for a lower sentence. Sullivan submits that the fact of his no contest omission to more heinous crimes is more plausible that Uncle Glenn Tanner could have and did have a lengthier past with Sexual Abuse to this Victim?

C. On CAP Video Interview @ 49:07 SM **(Appendix T WYCAPS Contact Log)** told KT of abuse to Dakota; @ 51:30 KT discloses

that a friend SM told her that she had been abused by a sex offender neighbor. Again @ 2:38 KT discloses that she and SM touched pee pees playing boyfriend and girlfriend at SM's house at a sleepover. KT reported that this happened at school also and SM was the aggressor. There is also a DFS report by Foster Mother, Holly Holthouse that she had found a purple diary that had KT and SM talking about having sex because they love each other.

**D.** On CAP Video Interview @ 2:43 KT reported that at Garrett and Nathaniel's house they showed her their bedroom ceiling of NAKED women Pictures.

**E.** There are six telltale signs that show that the interviewed shows that they are disconnected and no longer wishes to continue however, professional CAP Video Interviewer Nicole Rosenberger, so choose to ignore. They are as follows:

**No more than 40 minutes** – 5 minutes per year of age – 8 years old. CAP Video Interview **2 hours and 57 minutes.**

KT asked and stated:

- 1. @ 1:06:03 When Will We Be Done?**
- 2. @ 1:12:07 Getting Hungry!**
- 3. @ 1:24:59 Tired!**
- 4. @ 1:35 Getting Really Sleepy!**

5. @ 1:59:44 **Are We Done Yet?** Interviewer Nicole **"A FEW MORE MINUTES!"** KT **Tired of Questions! (A few more minutes? Another Hour!)**

6. @ 2:32 **Are We Getting Done Yet?** Nicole **"We Decide When We Get Done!"**

**This interviewer, (Nicole Rosenberger) should be under charges of child abuse for the abuse she inflicted on the victim in her *interview technics* that go totally against National Standards.**

9. After **two hours** of Nicole's flawed Gestapo tactics in the interview KT had this to say about Sullivan.

**A. KT expressing her Love and Concern For DADDY MONTY!**  
**CAP VIDEO INTERVIEW.**

1. @ 2:30 **KT Misted Her Dad!** Nicole **"DAD Ray? KT NO! Nicole DAD MONTY? KT YES!**

2. @ 2:47 **Monty Won't Let Me Watch American Pie Series or Scary Movies. Why? Content.**

3. @ 2:30 to end **KT Drew A Picture On Paper Board And Wanted To Give Picture To Monty. Nicole Was Surprised At The Fact KT Was Drawing A Picture For Monty And Wanted To See Monty. Especially After Two Hours and Fifty Minutes of supposed accusations. KT wants nothing to do with Daddy**

Ray or Uncle Glenn then if the accusations are true and they  
most certainly are not, about Sullivan then it stands to show  
KT would definitely want nothing to do with Sullivan. For  
this to be true then why does she want to draw a picture and  
see Sullivan?

4. @ 2:56 Nicole asks KT, Who KT Could Tell About Abuse? KT:  
Mom (Nancy), Dad (Monty), Grown Ups, Teachers, and Police.

### **FURTHERMORE**

Furthermore, in Sullivan's last attempt in acquiring these medical  
documents has been given the opportunity for a Motion to Dismiss hearing  
(**Appendix U**) in the 5<sup>th</sup> Judicial District Court of Wyoming, Thermopolis, Wyoming  
in Hot Springs County at 3:00 p.m. on January 3<sup>rd</sup>, 2020. Sullivan hopes that this is  
not another "see how we tried hearing" and the honorable Judge Bill Simpson looks  
at the evidence requested and gives the appropriate verdict.

Sullivan requests for the opportunity to amend this Writ after the final  
decision on the 42 USC § 1983 that Honorable Judge Bill Simpson has set for  
hearing and if any time frames are put forth Sullivan will keep this Honorable  
Court and Wyoming Attorney General apprised of the on going litigation.

### **CONCLUSION**

**Therefore**, Sullivan prays to this Honorable Court to grant Sullivan his  
petition on the Constitutional Violations set in place by all lower courts. Allowing