

19-7300

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

BILLY JOE BOOKER

(Your Name)

— PETITIONER

vs.

LORIE DAVIS

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS - FIFTH CIRCUIT

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

PETITION FOR WRIT OF CERTIORARI

BILLY JOE BOOKER #20163434

(Your Name)

3001 SOUTH EMILY DRIVE

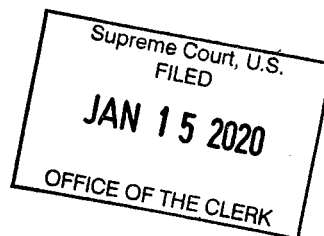
(Address)

BECKTOWN, TEXAS 78102

(City, State, Zip Code)

111A

(Phone Number)



QUESTION(S) PRESENTED

(1) DOES A HIGHLY FRAUDULENT MANUFACTURED JUDGMENT CONVERT CRIMINAL JURISDICTION ON A STATE TRIAL COURT.

(2) DOES A CONVICTION UNDER A FRAUDULENT JUDGMENT GIVE PETITIONER ART III CASE-OR-COUNTERS STANDINGS

(3) SHOULD SUMMARY JUDGMENT HAVE BEEN MANDATED WHEN THE RESPONDENT FAILED TO RESPOND IN DISTRICT COURT AND THE TRIAL COURT REFUSED TO ANSWER ON GROUNDS OF SUBJECT MATTER JURISDICTION AND PROSECUTOR MISCONDUCT

(4) IS THE RESPONDENT EQUITABLY ESTOPPED FOR FAILING TO ANSWER SUMMARY JUDGMENT

(5) DID THE MAGISTRATE OVERREACH HIS/HER AUTHORITY IN RULING ON A MOTION TO DISMISS STATE INDICTMENT.

(6) WAS COUNSEL INEFFECTIVE FOR NOT PROPERLY ARGUING WHEN THE STATE PLAYED VIDEO OF FIELD SOBRIETY TEST WITHOUT PUTTING THE ARRESTING OFFICER CARMACK ON THE STAND.

(7) WAS COUNSEL INEFFECTIVE FOR FAILING TO IMPRACH OFFICER CARMACK AFTER THE TRIAL COURT SAID SPOLIE OFFERED TO DO SO.

(8) WAS COUNSEL INEFFECTIVE FOR NOT INVESTIGATING LAB TECHNICIAN KELLER WHO WAS BANNED FROM THE TARRANT COUNTY COURT SYSTEM, AND FIRED FROM TWO LABS FOR MISHANDLING BLOOD SAMPLES.

(9) WAS COUNSEL INEFFECTIVE IN NOT INVESTIGATING HOW SGT. HUSKEY'S BODY AND DASH CAM VIDEO CAME UP MISSING

(10) WAS COUNSEL INEFFECTIVE FOR FAILURE TO GET AN AFFIDAVIT AND CONTACT INFORMATION FROM WITNESS WHO SAW JUROR MISCONDUCT.

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:

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A - JUDGEMENT OF THE TRIAL COURT

APPENDIX B - JUDGEMENT OF THE TEXAS COURT OF CRIMINAL APPEALS DENYING
STATE HABEAS CORPUS 111R-86, 989-01 AND 111R-86, 989-02

APPENDIX C - ~~THE~~ FINDINGS, CONCLUSIONS, AND RECOMMENDATION BY
U.S. MAGISTRATE JUDGE

APPENDIX D - ORDER ACCEPTING FINDINGS AND RECOMMENDATION OF THE
UNITED STATES MAGISTRATE JUDGE.

APPENDIX E - ORDER SIXTH CIRCUIT COURT OF APPEALS DENYING REHEARING
EN BANC AND RECONSIDERATION.

APPENDIX F - RESPONSE TO OPEN RECORD REQUEST FROM JOHNSON COUNTY'S
DISTRICT ATTORNEY'S OFFICE.

APPENDIX ⁶~~7~~ - JUDGEMENT 10th COURT OF APPEALS

TABLE OF AUTHORITIES CITED

SCOTUS

DOLLO V. U.S. 131 S. CT. 2355	10, 20
BULL COMING V. HELL MEXICO 1802, FED 210	14, 15
PELOTEX V. CARRETT 106 S. CT. 2548	11
CRANFORD V. WASHINGTON 104 S. CT. 1354	14, 15, 18
DAUBERT V. INERELL DOW PHARMACEUTICALS INC. 113 S. CT. 2786	16
FRANKS V. DELAWARE 438 U.S. 160	15, 16
RIGLIO V. U.S. 92 S. CT. 763	21
HARRIES V. KERUTZ 92 S. CT. 594	10
HECKLER V. COMMUNITY HEALTHCARE SERVICES OF CRANFORD 104 S. CT. 2818	21
KULES V. WHITREY 115 S. CT. 1555	17, 20
MEXENDEZ-DIAZ V. MASSACHUSETTS 129 S. CT. 2527	14, 15
OHIO V. ROBERTS 100 S. CT. 2531	17
POLLIER V. TEXAS 85 S. CT. 1065	18
STRICKLAND V. WASHINGTON 101 S. CT. 8067	18, 19, 20
STEE CO. V. CITIZENS FOR A BETTER ENVIRONMENT 118 S. CT. 1003	21
TAYLOR V. ALABAMA 100 S. CT. 2661	15, 16
U.S. V. CHARLIE 101 S. CT. 2039	17, 18, 20
U.S. V. WILLIAMS 112 S. CT. 1735	11
WELLS V. U.S. 83 S. CT. 467	15, 16

5th CIR

BLAKMOLL V. SCOTT 22 F. 3D 5606 (5th CIR 1994)	13
CLARK V. JANSOLI 202 F. 3D 760 (5th CIR 2006)	11
HAMILTON V. NICOTIER 772 F. 3D 171 (5th CIR 1985)	11
HARRIS V. GUATERMAN 469 F. 3D 419 (5th CIR 2009)	19
KEELIAN V. TETEDA 290 F. 3D 252 (5th CIR 2000)	11
LEUKOS V. U.S. 142 F. 3D 271 (5th CIR 1998)	20
U.S. V. AVARADO-VADEZ 521 F. 3D 337 (5th CIR 2008)	17
U.S. V. CARR 167 F. 3D 198 (5th CIR 1999)	15
U.S. V. PORTLAND-ABURGE 311 F. 3D 647 (5th CIR 2002)	15, 16

5th CIR CITED

U.S. V. RODRIGUEZ 400 F.3D 303 (5th CIR 2007)	17
U.S. V. RAJAS 998 F.2D 40 (5th CIR 1990)	13

OTHER CITATIONS

MELBES V. DOUTLER P.A. 495,500 (1859)	21
U.S. V. SIGMA INTERLUIS INC. 344 F.3D 841 (11th CIR 2006)	21

STATUTES AND RULES

U.S. CONST. ART. III	3, 16, 13, 20
U.S. CONST. ART. III SECTION 2	2, 3, 10
U.S. CONST. AMEND 4	15
U.S. CONST. AMEND 6	19
U.S. CONST. AMEND 14	12, 20
28 U.S.C. § 2254	5
28 U.S.C. § 2254 RULE 11	7, 11
28 U.S.C. 636	7, 13

OTHER

DOCTRINE OF ESTOPPEL: BLACKS LAW DICTIONARY 10th EDITION /	
PAGE 668	21

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

☐ For cases from **federal courts**:

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

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

The opinion of the United States district court appears at Appendix C & D to the petition and is

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

☐ For cases from **state courts**:

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

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

The opinion of the TENTH COURT OF APPEALS court appears at Appendix RG 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 12-18-2019.

☐ 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: 12-18-19, 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).

AND ALSO U.S. CONSTITUTION ARTICLE III SECTION 2

☐ For cases from **state courts**:

The date on which the highest state court decided my case was 11-15-2017.
A copy of that decision appears at Appendix D.

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

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

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

AND ALSO U.S. CONSTITUTION ARTICLE III SECTION 2

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. CONSTITUTION ARTICLE III

SECTION I - THE JUDICIAL POWER OF THE UNITED STATES SHALL BE VESTED IN ONE SUPREME COURT, AND IN SUCH INFERIOR COURTS AS THE CONGRESS MAY FROM TIME TO TIME ORDAIN AND ESTABLISH. THE JUDGES, BOTH OF THE SUPREME AND INFERIOR COURTS, SHALL HOLD THEIR OFFICE DURING GOOD BEHAVIOR AND SHALL, AT STATED TIMES, RECEIVE FOR THEIR SERVICES A COMPENSATION, WHICH SHALL NOT BE DIMINISHED DURING THEIR CONTINUANCE IN OFFICE.

SECTION II - THE JUDICIAL POWER SHALL EXTEND TO ALL CASES, IN LAW AND EQUITY, ARISING UNDER THIS CONSTITUTION, THE LAWS OF THE UNITED STATES, AND TREATIES MADE, OR WHICH SHALL BE MADE, UNDER THEIR AUTHORITY; - TO ALL CASES AFFECTING AMBASSADORS, OTHER PUBLIC MINISTERS AND CONSULS; - TO ALL CASES OF ADMIRALTY AND MARITIME JURISDICTION; TO CONTROVERSIES TO WHICH THE UNITED STATES SHALL BE A PARTY; TO CONTROVERSIES BETWEEN TWO OR MORE STATES; - BETWEEN A STATE AND CITIZENS OF ANOTHER STATE; - BETWEEN CITIZENS OF DIFFERENT STATES; - BETWEEN CITIZENS OF THE SAME STATE ~~OR THE~~ CLAIMING LAND UNDER THE GRANTS OF DIFFERENT STATES, AND BETWEEN A STATE, OR THE CITIZENS THEREOF, AND FOREIGN STATES, CITIZENS OR SUBJECTS.

IN ALL CASES AFFECTING AMBASSADORS, OTHER PUBLIC MINISTERS AND CONSULS, AND THOSE IN WHICH A STATE SHALL BE A PARTY, THE SUPREME COURT SHALL HAVE ORIGINAL JURISDICTION. IN ALL OTHER CASES BEFORE MENTIONED THE SUPREME COURT SHALL HAVE APPELLATE JURISDICTION, BOTH AS TO LAW AND FACT, ~~WITH~~ ^{WITH} SUCH EXCEPTIONS, AND UNDER SUCH REGULATIONS AS THE CONGRESS SHALL MAKE.

THE TRIAL OF ALL CRIMES, EXCEPT IN CASES OF IMPEACHMENT, SHALL BE BY JURY; AND SUCH TRIAL SHALL BE HELD IN THE STATE WHERE THE SAID CRIMES SHALL HAVE BEEN COMMITTED. NEVERTHELESS IN ANY STATE, THE TRIAL SHALL BE AT SUCH PLACE OR PLACES AS THE CONGRESS MAY BY LAW HAVE DIRECTED.

U.S. CONST. AMEND IV (1791)

THE RIGHT OF THE PEOPLE TO BE SECURE IN THEIR PERSONS, HOUSES, PAPERS AND EFFECTS, AGAINST UNREASONABLE SEARCHES AND SEIZURES, SHALL NOT BE VIOLATED AND NO WARRANTS SHALL ISSUE BUT UPON PROBABLE CAUSE, SUPPORTED BY OATH OR AFFIRMATION, AND PARTICULARLY DESCRIBING THE PLACE TO BE SEARCHED, AND THE PERSONS OR THINGS TO BE SEIZED.

U.S. CONST. AMEND VI (1791)

IN ALL CRIMINAL PROSECUTIONS, THE ACCUSED SHALL ENJOY THE RIGHT TO A SPEEDY AND PUBLIC TRIAL BY AN IMPARTIAL JURY OF THE STATE AND DISTRICT IN WHICH THE CRIME SHALL HAVE BEEN COMMITTED; IN WHICH DISTRICT SHALL BEELI PRELIMINARILY ASCERTAINED BY LAW, AND TO BE INFORMED OF THE NATURE AND CAUSE OF THE ACCUSATIONS; TO BE CONFRONTED WITH THE WITNESSES AGAINST HIM; TO HAVE COMPANARY PROCESS FOR OBTAINING WITNESSES IN HIS FAVOR, ALSO TO THE ASSISTANCE OF COUNSEL FOR HIS DEFENCE.

U.S. CONST. AMEND XIV (1868)

SECTION 1. ALL PERSONS BORN OR NATURALIZED IN THE UNITED STATES, AND SUBJECT TO JURISDICTION THEREOF, ARE CITIZENS OF THE UNITED STATES AND OF THE STATE IN WHICH THEY RESIDE; NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE UNITED STATES; NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY WITHOUT DUE PROCESS OF LAW; OR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS.

28 U.S.C. § 2254

(A) THE SUPREME COURT, A JUDGE JUDGE OF, A CIRCUIT JUDGE, OR A DISTRICT COURT SHALL ENTER AN ORDER FOR WRIT OF HABEAS CORPUS IN BEHALF OF A PERSON IN CUSTODY PURSUANT TO THE JUDGEMENT OF A STATE COURT ONLY ON THE GROUND THAT HE IS IN CUSTODY IN VIOLATION OF THE CONSTITUTION OR LAWS OR TREATIES OF THE UNITED STATES.

(B)(1) - ALL APPLICATIONS FOR A WRIT OF HABEAS CORPUS ON BEHALF OF A PERSON IN CUSTODY PURSUANT TO THE JUDGEMENT OF A STATE COURT SHALL NOT BE GRANTED UNLESS IT APPEARS THAT -

(A) - THE APPLICANT HAS EXHAUSTED THE REMEDIES AVAILABLE IN THE COURTS OF THE STATE; OR

(B)(1) - THERE IS AN AVOIDANCE OF AVAILABLE STATE CORRECTIVE PROCESS; OR

(II) CIRCUMSTANCES EXIST THAT RENDER SUCH PROCESS INEFFECTIVE AND PROTECT THE RIGHTS OF THE APPLICANT.

(2) ALL APPLICATIONS FOR A WRIT OF HABEAS CORPUS MAY BE DENIED ON THE MERITS NOT WITHSTANDING THE FAILURE OF THE APPLICANT TO EXHAUST THE REMEDIES AVAILABLE IN THE COURTS OF THE STATE.

(3) A STATE SHALL NOT BE DEEMED TO HAVE VIOLATED THE EXHAUSTION REQUIREMENT OR BE RESTORED FROM EXCELSION UNLESS THE REQUIREMENT UNLESS THE STATE, THROUGH COUNSEL EXPRESSLY WAIVES THE REQUIREMENT.

(C) ALL APPLICANT SHALL NOT BE DEEMED TO HAVE EXHAUSTED THE REMEDIES AVAILABLE IN THE COURTS OF THE STATE WHEN THE MEANING OF THIS SECTION, IF HE HAS THE RIGHT UNDER THE LAWS OF THE STATE TO RAISE, BY ALL AVAILABLE PROCEDURE, THE QUESTION PRESENTED.

(D) ALL APPLICATIONS OF WRIT OF HABEAS CORPUS ON BEHALF OF A PERSON IN CUSTODY PURSUANT TO THE JUDGEMENT OF A STATE COURT SHALL NOT BE GRANTED WITH RESPECT TO ANY CLAIM THAT WAS ADJUDICATED ON THE MERITS IN STATE COURT PROCEEDINGS UNLESS THE ADJUDICATION OF THE CLAIM - -

(1) RESULTED IN A DECISION THAT WAS CONTRARY TO, OR VIOLATED ALL UNREWRITABLE APPLICATION OF CLEARLY ESTABLISHED FEDERAL LAWS, AS DETERMINED BY THE SUPREME COURT OF THE UNITED STATES; OR

(2) RESULTED IN A DECISION THAT WAS BASED ON AN UNREASONABLE DETERMINATION OF THE FACTS IN LIGHT OF THE EVIDENCE PRESENTED IN A STATE COURT PROCEEDING

(E) IN A PROCEEDING INITIATED BY AN APPLICATION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN CUSTODY PURSUANT TO THE JUDGMENT OF A STATE COURT, A DETERMINATION OF A FACTUAL ISSUE MADE BY A STATE COURT SHALL BE PRESUMED ^{CORRECT} OF THE APPLICANT SHALL HAVE THE BURDEN OF REVERSING THE PRESUMPTION OF CORRECTNESS BY CLEAR AND CONVINCING EVIDENCE.

(2) IF THE APPLICANT HAS FAILED TO DEVELOP THE FACTUAL BASIS OF A CLAIM IN STATE COURT PROCEEDINGS, WE SHALL NOT HOLD AN EVIDENTIARY HEARING ON THE CLAIM UNLESS THE APPLICANT SHOWS THAT --

(A) THE CLAIM RELIES ON --

(1) A NEW RULE OF CONSTITUTIONAL LAW, MADE RETROACTIVE TO CASES ON COLLATERAL REVIEW BY THE SUPREME COURT, THAT WAS PREVIOUSLY UNAVAILABLE;

(2) A FACTUAL PRECEDENT THAT WOULD NOT HAVE BEEN PRACTICALLY DISCOVERED THROUGH THE EXERCISE OF DUE DILIGENCE; AND

(B) THE FACTS UNDERLYING THE CLAIM WOULD BE SUFFICIENT TO ESTABLISH BY CLEAR AND CONVINCING EVIDENCE THAT BUT FOR CONSTITUTIONAL ERROR AND REASONABLE PROSECUTOR HAD NOT FOUND THE APPLICANT GUILTY OF THE UNDERLYING OFFENSE

(E) - IF THE APPLICANT CHALLENGES THE SUFFICIENCY OF THE EVIDENCE ADDUCED IN SUCH A STATE COURT PROCEEDING TO SUPPORT THE STATE COURTS DETERMINATION OF A FACTUAL ISSUE MADE THEREIN, THE APPLICANT, IF ABLE, SHALL PRODUCE THAT PART OF THE RECORD PERTINENT TO A DETERMINATION OF THE SUFFICIENCY OF THE EVIDENCE TO SUPPORT SUCH DETERMINATION. IF THE APPLICANT, BECAUSE OF INCOMPETENCE OR OTHER REASON, IS UNABLE TO PRODUCE SUCH PART OF THE RECORD, THEN I SHALL PRODUCE SUCH PART OF THE RECORD AND THE FEDERAL COURT SHALL DIRECT THE STATE TO DO SO BY ORDER TO AN APPROPRIATE STATE OFFICIAL. IF THE STATE CANNOT PROVIDE SUCH PERTINENT PART OF THE RECORD, THE FEDERAL COURT SHALL DETERMINE UNDER THE EXISTING FACTS AND CIRCUMSTANCES, WHAT WEIGHT SHALL BE GIVEN TO THE STATE COURTS FACTUAL DETERMINATION.

(3) A COPY OF THE ORIGINAL RECORDS OF THE STATE COURT, ONLY CERTIFIED BY THE CLERK OF SUCH COURT TO BE TRUE AND CORRECT COPY OF A VERDICT, JUDICIAL DECISION, OR OTHER WRITTEN JUDICIAL FINDING SUCH A FACTUAL DETERMINATION BY THE STATE COURT SHALL BE ADMISSIBLE IN A FEDERAL COURT PROCEEDING.

(4) EXCEPT AS PROVIDED IN SECTION 408 OF THE CONTROLLED SUBSTANCES ACT, IN ALL PROCEEDINGS BROUGHT UNDER THIS SECTION, AND ANY SUBSEQUENT PROCEEDINGS ON REHEAR, THE COURT MAY APPOINT COUNSEL EXCEPT AS PROVIDED BY A RULE PROMULGATED BY THE SUPREME COURT PURSUANT TO STATUTORY AUTHORITY. APPOINTMENT OF COUNSEL UNDER THIS SECTION SHALL BE GOVERNED BY SECTION 3006A OF TITLE 18.

(5) THE EFFECTIVE LIES OR INCOMPETENCE OF COUNSEL DURING FEDERAL OR STATE COURTEENAL POST-CONVICTION PROCEEDINGS SHALL NOT BE A GROUND FOR DELAY IN A PROCEEDING ARISING UNDER SECTION 2254.

28 U.S.C.A. RULES GOVERNING § 2254 CASES RULE 11

RULE RELATING TO SUMMARY JUDGEMENT APPLIES WITH EQUAL FORCE IN CONTEXT TO HABEAS CORPUS CASES.

28 U.S.C. 1636

SUBSECTION (A) SETS OUT GENERAL AUTHORITY FOR MAGISTRATES

SUBSECTION (B) (1) NOT WITHSTANDING ANY PROVISION TO THE CONTRARY
(2) A JUDGE MAY DESIGNATE A MAGISTRATE TO HEAR OR DETERMINE ANY PRETRIAL MATTER PENDING BEFORE THE COURT, EXCEPT A MOTION FOR INJUNCTIVE RELIEF, FOR JUDGEMENT ON THE PLEADINGS, FOR SUMMARY JUDGEMENT, TO DISMISS OR QUASH AN INDICTMENT OR INFORMATION MADE BY THE DEFENDANT, TO SUPPRESS EVIDENCE...

STATEMENT OF THE CASE

BILLY JOE BOOKER, RAI INMATE CURRENTLY INCARCERATED IN THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE, PETITIONER WAS CHARGED WITH DRIVING WHILE INTOXICATED, FURNISHED BY TWO PRIOR VERDICT CONVICTIONS, IN CAUSE NO. F418257 IN JOHNSON COUNTY, TEXAS. A JURY FOUND HIM GUILTY, AND THE COURT SENTENCED HIM TO 99 YEARS CONFINEMENT. HE FILED AN APPLICATION FOR STATE WRIT OF HABEAS CORPUS ON APRIL 26th, 2017. ON AUGUST 8, 2017, PRIOR TO RESOLUTION OF THE INITIAL STATE HABEAS APPLICATION, HE FILED A SECOND APPLICATION FOR STATE HABEAS WRIT BASED ON A RESPONSE FROM THE JOHNSON COUNTY DISTRICT ATTORNEY STATING NO BRANDSURY RECORDS WERE MADE AND NO MINUTES / TRANSCRIPTS EXISTED BASED ON PROSECUTORIAL MISCONDUCT AND LACK OF SUBJECT MATTER JURISDICTION. ON 11-15-2017 THE TEXAS COURT OF CRIMINAL APPEALS (TCCA) DENIED BOTH APPLICATIONS IN A WRITTEN ORDER. THE TRIAL COURT NEVER MADE A REBUTAL OR MET EVIDENCE AND CONCLUSIONS BASED ON BOOKER'S ALLEGATIONS OF PROSECUTORIAL MISCONDUCT OR LACK OF SUBJECT MATTER JURISDICTION.

INSIDE OF BOOKER'S JURISDICTIONAL GROUNDS, DURING BOOKER'S TRIAL HE ALLEGEDLY MADE A CUSTODIAN CONFESSION STATING HE WAS INTOXICATED, ETC. ALL VIDEO AND AUDIO OF SGT. HUSKINS DASH AND BODY CAMERAS, BOTH OF THESE VIDEOS CAME UP MISSING. BOTH OF THESE VIDEOS WOULD HAVE REFUTED SGT. HUSKINS TESTIMONY. COUNSEL FAILED TO SEE OR INVESTIGATE IF THESE VIDEOS WERE PURPOSELY DESTROYED OR CONTAINED EXONERATORY MATERIAL UNDER BRADY.

BOOKER HAD A MEDICAL FRANK'S HEARING, DURING WHICH THE TRIAL COURT RULED THAT THE ARRESTING OFFICER (PAMPAK) HAD FALSIFIED THE AFFIDAVIT AND RULED THE BLOOD RESULTS INADMISSIBLE. OBJECTIONS WERE MADE TO THE LAB REPORT ALREADY BEING ORALLY ADMITTED, PLUS THE FACTS THEREFROM WHICH WAS OVERLOOKED BY THE COURT. THE LAB TECHNICIAN NEVER THOUGHT THE STAIN TO BE CROSS-EXAMINED AND IT WAS LATER DISCOVERED BEFORE TRIAL THAT THE LAB TECHNICIAN HAD A HISTORY OF MISHANDLING ^{BLOOD} SAMPLES.

DURING THE PUNISHMENT PHASE OF TRIAL COUNSEL FAILED TO PROPERLY ARGUE CONDONATION OF THE STATE PLAYING A VIDEO OF BOOKER'S KIDNAPMENT TESTIMONY WITHOUT PUTTING OFFICER CHARMAK ON THE STAND BECAUSE HE HAD BEEN DEEMED IMPARTIAL FOR INVESTIGATING HIS ARREST AND LIVING ON THE STAND.

AFTER THE TRIAL COURT RULED THE BLOOD ALCOHOL RESULTS INADMISSIBLE, IT WAS PUT ON RECORD THAT IT IMPAIRED OFFICER CHARMAK. COUNSEL WILLIAM MARSHI TESTIFIED WITH A SIMPLE NO. BUT THESE WERE BLOOD RESULTS AND TESTIMONY AND FACTS THEREOF HAD BEEN TESTIFIED TO BY OFFICER CHARMAK AND CONTRIBUTED TO HIS CONVICTION. THE NEW JURY SETTING FOR PUNISHMENT PHASE SHOULD HAVE BEEN ABLE TO JUDGE OFFICER CHARMAK'S CREDIBILITY.

DURING TRIAL BOOKER HAD A SUROR (FBI) MR. NEUMANN ASLEEP DURING LARGE PORTIONS OF TESTIMONY AND ON HIS CELL PHONE. OBJECTION WAS MADE AND COUNSEL ASKED FOR A MISTAKE WHICH WAS DELETED. A JUDGE / CLERK OFFICER CHARGED TO TESTIFY TO THESE FACTS AND COUNSEL WILLIAM MARSHI TESTIFIED ON RECORD TO GET HER INFORMATION TO GET AN AFFIDAVIT TO SUBMIT FOR A MOTION FOR NEW TRIAL FOR JUDGE MISCONDUCT.

BOOKER INTENDS TO SHOW HOW NOT ONLY THE TEXAS COURT OF CRIMINAL APPEALS ERRED IN DENYING HIM WITHOUT A WRITTEN ORDER. BUT HE ALSO INTENDS TO SHOW HOW THE MAGISTRATE MADE FACT FINDINGS AND CONCLUSIONS THAT ARE NOT AT ALL IN ACCORD WITH THE RECORD AT ALL BUT ARE CONTRARY TO CLEARLY ESTABLISHED STATUTES AND 5TH CIR PRECEDENT THAT HAS ALREADY BEEN SET, AND HOW THE DISTRICT COURT AND 5TH CIR COURT OF APPEALS ERRED IN ACCEPTING THEM.

REASONS FOR GRANTING THE PETITION

CONSIDERATION REQUESTED

C PRO SE PETITIONS SHOULD BE CONSIDERED / CONSTRUED MORE LIBERALLY THAN THOSE FILED BY COUNSEL." AS PETITIONER IS NOT A LICENSED PRACTICING ATTORNEY OR PARALEGAL AND HE HAS NOT RECEIVED ANY PROFESSIONAL LEGAL ASSISTANCE IN PREPARING THE FOREGOING PETITION...

LUKE V. KERNER 464 U.S. 519, 92 S. CT. 594 (1972)

BOOKER (PETITIONER) HAS BEEN PUNISHED ON A WHOLLY FRAUDULENT AND MANUFACTURED INDICTMENT. THERE IS NO PROOF THAT THE CHARGING INSTRUMENT & ARREST AND INDICTMENT IN BOOKER'S CASE NUMBER 11 WAS PASSED DOWN FROM A LEGAL GRAND JURY AND IS A FRAUD UPON THE COURT WHICH PUNISHES BOOKER U.S.C.A. ART III SECTION II THE OR CONTROVERSY STANDING.

CONCERNING THE FRAUD / FRAUDULENT INDICTMENT THE MAGISTRATE STATED THAT A FEDERAL HABEAS COURT NEED NOT ADDRESS THE ISSUE BECAUSE AN INDICTMENT IS FRAUD. THIS IS NOT BOOKER'S ARGUMENT. BOOKER ARGUES HIS IS WHOLLY FRAUDULENT AND MANUFACTURED. ON PAGE 2 OF APPENDIX C THE MAGISTRATE FINDS THAT BOOKER DOES NOT OFFER ANY EVIDENCE IN THE RECORD TO DEMONSTRATE THE INDICTMENT WAS ILLEGALLY OBTAINED BOOKER WILL SHOW OTHER WISE.

UNDER BOUD V. U.S. 131 S. CT. 2355 (2011) - ON BOOKER'S GROUNDS OF SUBJECT MATTER JURISDICTION AND PROSECUTORIAL MISCONDUCT FOR A FRAUDULENT INDICTMENT HAS CASE-OR-CONTROVERSY - U.S.C.A. ART III STANDING WHICH STATES: A DEFENDANT'S CHALLENGE TO A CONVICTION SATISFIES THE CASE-OR-CONTROVERSY REQUIREMENT, BECAUSE INCARCERATION CONSTITUTES A CONCRETE INJURY CAUSED BY THE CONVICTION AND REDRESSABLE BY INVALIDATION OF THE CONVICTION... ALL INDIVIDUAL IN A PROPER CASE, CAN ASSERT INJURY FROM GOVERNMENTAL ACTION TAKEN IN ABUSE OF THE AUTHORITY THAT FEDERALISM DEVOTES. (HER) RIGHTS IN THIS REGARD DO NOT BELONG TO THE STATE,

ALSO THE DISTRICT COURT DECISION IS IN CONFLICT WITH CESTER V. COMPTON
106 S. CT. 2548, AT 2552 (1996) - WHICH STATES: SUMMARY JUDGEMENT IS
MANDATED IF THE NON-MOVANT FAILS TO MAKE A SUFFICIENT STATEMENT TO ESTABLISH
THE EXISTENCE OF ALL ESSENTIAL ELEMENTS OF ITS CASE OR IN WHICH IT BEARS
THE BURDEN OF PROOF AT TRIAL. ALSO IN CONFLICT WITH STONER CASE LAW IN
KEENAN V. TEXACO 290 F.3D 252 @ 262 (5th CIR 2002) - "IF A PARTY FAILS
TO ASSECT A LEGAL REASON WHY SUMMARY JUDGEMENT SHOULD NOT BE GRANTED, THAT
GROUND IS WAIVED AND CANNOT BE CONSIDERED OR RAISED ON APPEAL." THIS
IS BECAUSE "ON APPEAL OUR COURT IN REVIEWING A SUMMARY JUDGEMENT ORDER
CAN ONLY CONSIDER THOSE MATTERS PRESENTED TO THE DISTRICT COURT. ALSO IN
CLARK V. SCHUBERT 202 F.3D 410 (5th CIR 2000) - THE COURT OF APPEALS CIRCUIT
JUDGE HELD THAT: (1) RULE RELATING TO SUMMARY JUDGEMENT APPLIED TO HABEAS
CASES... HEARDON V. HABAS 601 S.W.2D 675 - RULE RELATING TO SUMMARY
JUDGEMENT APPLIES WITH EQUAL FORCE IN CONTEXT TO HABEAS CORPUS CASES.
TEX. RULES CIV. PROC. 56. 28 U.S.C.A. RULES GOVERNING § 2254 CASES
RULE 11 OF U.S.C.A. RUL § 2254 AND FINALLY, THE 5th CIR DECISION IN
HAMMILL V. MOFFETTER 712 F.2D 171 AT 173 (1983) - THE TEXAS CONSTITUTION
GENERALLY REQUIRES A GRAND JURY JUDGMENT FOR ALL FELONY PROSECUTIONS, SO
IT IS AT LEAST ARGUABLE IN ABSENCE OF CASE LAW OR STATUTORY AUTHORITY
TO THE CONTRARY, THAT TEXAS COURTS WOULD REACH THE CONCLUSION THAT A WHOLLY
FORGED JUDGMENT DOES NOT CONFER CRIMINAL JURISDICTION TO THE STATE
TRIAL COURT SO THE CONVICTION WOULD BE VOID. ALSO JUL. WILLIAMS 113 S. CT. 1725
- PROSECUTOR HAD THE GRAND JURY RECORDS AND LOGS... LACK OF JURISDICTION
ONCE A CASE REACHES A DECISION VOID, AND IT MAY ALWAYS BE MATERIALLY AFFIRMED.

ON 6-10-07 BOBBER SUBMITTED ALIQUOT RECORDS REQUEST TO THE SCHUBERT
COUNTY DISTRICT ATTORNEY'S OFFICE IN DALLAS, TEXAS MAKING A REQUEST
FOR THE NAMES, AGE AND RACE OF THE GRAND JURY THAT PASSED SAID JUDGMENT
UPON BOBBER IN STATE CASE NUMBER #14054. HE ALSO REQUESTED MINUTES,
RECORDS, AND TRANSCRIPTS AND VARIOUS RECORDS OF THE GRAND

YOU PROCEEDED TO TAKE PLACE IN ORDER TO SUBJECT HIM, ON JUNE 19, 2017.

ASSAULT DISTRICT ATTORNEY THEY SHOULD RESPONDED TO HIS REQUEST IN A LETTER
SEE APPENDIX 2 SAYING "OUR OFFICE IS NOT IN POSSESSION OF THE RECORDS
YOU ARE REQUESTING." IN PARAGRAPH 1110 HE STATES: "OUR OFFICE DOES NOT
KEEP RECORDS OF THE MEMBERS OF THE GRAND JURY." THIS IS IN DIRECT VIOLATION
OF T.C.P. 20.612 WHICH STATES: "THE ATTORNEY REPRESENTING THE STATE SHALL
MAINTAIN ALL RECORDS OTHER THAN STEENOGRAPHER'S NOTES MADE UNDER THIS ARTICLE."
ALL THE WRITTEN TRANSCRIPTION OF THE RECORDS, THIS IS MISCONDUCT SUPPORTED
BY THE RECORD AND ALSO IN VIOLATION OF DUE PROCESS AND EQUAL PROTECTION
UNDER U.S.C.A. COURT AMEND 14. MR. BROWN ALSO WROTE A STEP FURTHER IN PARAGRAPH
3 LINE 3: "IF YOU ARE SEEKING MANUSCRIPTS FROM THE GRAND JURY THEY DO NOT
EXIST." NOT THAT THEY ARE SECRET BUT THEY DO NOT EXIST. AND ALSO HE SAYS
"QUALITY TO T.C.P. 20.612 RECORDS ARE ONLY MADE IF THE ACCUSED OR SUSPECT
OF A CRIME IS QUESTIONED DURING A PROCEEDING." THIS IS ALSO ANOTHER FURTHER
MISCONDUCT, AND IMPLICATIVE THAT NO GRAND JURY SESSION EVER TOOK PLACE, AND CONTRARY
TO THE MANIFEST RECORDS.

AGAIN THIS COULD HAVE BEEN OVERLOOKED WITH THE FACT THAT WITH BROWER'S
STATE HABEAS APPLICATION FILED NUMBER 11/17-86, 897-62) SEE APPENDIX B-2 THAT
THERE WAS NO RECORD BY THE DISTRICT ATTORNEY AND NO FACT RECORDS AND
CONCLUSIONS BY THE JURY COURT, AND BROWER'S STATE HABEAS APPLICATION WAS DEALT
IN A WRITTEN ORDER AND WITHOUT ANYTHING TO ADAPT FROM THE JURY COURT, WHICH
WOULD BE HARD TO DO CONSIDERING THE DISTRICT ATTORNEY'S RESPONSE TO THE OPEN
RECORDS REQUEST.

BROWER FILED AN INSTANT HABEAS PETITION 2017 AND SUBSEQUENT MOTION FOR PARTIAL
CLIMAX (JULY 11). THE RESPONDENT WENT SUBMITTED A SWORN STATEMENT WITH AURAL
EVIDENCE SUBMITTING THE EXISTENCE OF A BEHAVIOR FACTS. AGAIN THIS WAS
OBTAINED AND WAS OUT OF BROWER'S GRAND REQUESTING A COA. ALSO THERE
ARE NO RECORDS SUBMITTING PRESENTMENT OF ALL INDICTMENT BY A GRAND JURY
FOREMAN AND OTHER COORDINATING MEMBERS AS REQUIRED BY T.C.P. 20.92
AND BEING SIGNED OFF BY THE JURY COURT JUDGE AS REQUIRED BY

TEXAS RULES CODE § 26.001(A) WHICH STATES: EACH MORNING THE MINUTES OF THE PROCEEDINGS ON THE PRECEDING DAY SHALL BE READ IN OPEN COURT. ON THE LAST DAY OF THE SESSION THE MINUTES SHALL BE CORRECTED IF NECESSARY, AND SIGNED BY THE COUNTY JUDGE, AS WELL AS THERE IS NO RECORD OF THIS AND BOOKER'S QUALIFICATION SHOULD BE VOID DUE TO A WHOLLY FRAUDULENT INDICTMENT, LACK OF JURISDICTION, AND ARTICLE III STANDING, WHICH CREATES CASE OR CONTROVERSY STANDING IN WHICH BOOKER'S RIGHTS DOES NOT BELONG TO THE STATE, BUT IT ALSO UNDERMINES THE PUBLICS TRUST IN THE JUDICIAL SYSTEM BECAUSE JOHNSON COUNTY DISTRICT ATTORNEY USURPED THE POWER OF THE GRAND JURY AND THE PEOPLE OF TEXAS. JUSTICE OF PEACE COULD NOT FIND OR DECIDE BOOKER'S REQUEST BECAUSE THAT IS FOR A FACT FINDER TO CONCLUDE WHEN BOOKER WAS NEVER PROPERLY BEFORE THE TRIAL COURT AND AS A MATTER OF LAW BOOKER WAS ENTITLED TO SUMMARY JUDGEMENT BECAUSE THE RESPONSIBILITY FAILED TO COME FORTH WITH FACTUAL EVIDENCE PROVEING THAT BOOKER'S INDICTMENT CAME FROM AND WAS PRESENTED BY AN ACTUAL GRAND JURY. IN CONFLICT WITH BLACKWELL V. SCOTT 82 F.3D 360 (5TH CIR 1994) AT 367: "IT IS THE DUTY OF THE DISTRICT COURT AND OURS AS WELL TO REVIEW OF RECORD THE LEGAL POLICIES REACHED ON THE BASIS OF FACTS." BECAUSE NO STATE COURT FINDINGS WERE ENTERED RELATING TO HIS CLAIMS WE CONCLUDE THAT THE DISTRICT COURTS DECISION OR LACK THEREOF IS ENTITLED TO FULL HEARING IN JOHNSEN V. SAIL ^{OR} FORNITE 28... "THERE COULD NOT BE A SEMBLANCE OF A FULL AND FAIR HEARING UNLESS THE STATE COURT ACTUALLY REACHED AND DECIDED THE ISSUES OF FACT PRESENTED BY THE DEFENDANT." ALSO ON THIS GRAND BOOKER SUBMITTED A MOTION TO DISMISS STATE INDICTMENT WHICH WAS LIBERALLY CONSIDERED BY THE DISTRICT COURT MAGISTRATE DACKED THE POWER TO RULE ON AND BOOKER FILED A 603(4) MOTION STATING THE MAGISTRATES ACTIONS ARE VOID. IT IS POSSIBLE THAT THE DISTRICT COURT AND 5TH CIRCUIT OVERRULED IT'S DECISION IN ALL V. ROJAS 898 F.2D 404 (5TH CIR 1990). THE JURISDICTION AND POWERS OF FEDERAL MAGISTRATES ARE SET IN 28 U.S.C. 636 AFTER SUBSECTION (A) WHICH SETS OUT SEVERAL AREAS OF AUTHORITY FOR MAGISTRATES, SUBSECTION (B) STATES (B)(1) - NOT WITHSTANDING ANY PROVISION TO THE CONTRARY - (A) A JUDGE MAY DESIGNATE A MAGISTRATE TO HEAR AND DETERMINE ANY

PRETRIAL MATTER PENDING BEFORE THE COURT, EXCEPT A MOTION FOR INJUNCTIVE RELIEF, FOR JUDGMENT ON THE PLEADING, FOR SUMMARY JUDGMENT, TO DISMISS OR QUASH INDICTMENT OR INFORMATION MADE BY THE DEFENDANT, TO SUPPRESS EVIDENCE...

THE MAGISTRATE OVERREACHED HIS AUTHORITY IN RULING ON BOOKER'S MOTION TO DISMISS HIS STATE INDICTMENT AND HIS MOTION TO SET ASIDE THE MAGISTRATE'S RULING IN A (42 USC) MOTION AS VOID NEITHER SHOULD HAVE BEEN DENIED. BOOKER ALSO REQUESTED A COA ON THE DENIAL OF HIS MOTION WHICH IS IN CONTRADICTION TO FEDERAL RULES AND THE DECISION AT THE 5TH CIRCUIT AND BOOKER'S PETITION SHOULD BE GRANTED.

ON BOOKER'S I.A.C. GROUND THAT POLICE FAILED TO INVESTIGATE LAB TECH THE MAGISTRATE TESTIFIED THAT RATHER COME TO THE POLICE STATION IN APPENDIX C PAGE 8 THAT NEITHER LAB TECHNICIAN TESTIFIED AT THE TRIAL OR IN NOCECE OR PLEA HEARING PHASE AT TRIAL AND THAT PETITIONER FAILS TO SPECIFY HOW THE INFORMATION WOULD HAVE CHANGED THE OUTCOME OF THE TRIAL. BOOKER DISAGREES, BECAUSE THE DECISION WAS CONTRARY TO BULLCOMING V. NEW MEXICO 180 F.3D 624 11th CIR. 2000 - ANALYST LAB REPORT BANKS AS TESTIMONY IN NOCECE FOR THE PURPOSE OF THE SIXTH AMENDMENT CONFRONTATION CLAUSE. THE REPORT HAD BEEN CREATED SPECIFICALLY TO SERVE AS EVIDENCE IN A CRIMINAL PROCEEDING. PROSECUTION MAY NOT INTRODUCE SUCH A REPORT WITHOUT A LIVE WITNESS COMPULSED TO TESTIFY TO THE TRUTH OF THE STATEMENTS MADE IN THE REPORT. HEADNOTE 8 - CRIMINAL LAW § 50 - ANALYST LAB WRITES REPORT THAT THE PROSECUTION INTRODUCES MUST BE AVAILABLE FOR CONFRONTATION EVEN IF THEY POSSESS THE SCIENTIFIC ACCUMUL OF MORE EVIDENCE AND THE VERACITY OF MOTHER TERESA. HEADNOTE 9 11th CIR. DIGEST: CRIMINAL LAW § 50.1 - THE TEXT OF THE SIXTH AMENDMENT DOES NOT SUGGEST ANY OPEN-ENDED EXCEPTIONS FROM THE CONFRONTATION REQUIREMENT TO BE DEVELOPED BY THE COURTS. (THIS INCLUDES A CIVIL CASE THE SAME AS BOOKER'S) SEE ALSO MELENDREZ-DIAZ V. MASSACHUSETTS 129 S. CT. 2517 AND ENHART V. WASHINGTON 124 S. CT. 1354 (2004). THE LAB REPORT IN PETITIONER'S CASE WAS INTRODUCED AT TRIAL AND LAB TECH ELIZABETH PELLER TAKING THE STAND TO BE CONFRONTED.

OTHER FACTS SURROUNDING THIS GROUND INCLUDE DURING DISTRICT ATTORNEY NEWBOLD'S OPENING STATEMENT HE USED POLICE LAB TECHNICIAN

ELIZABETH PELLER'S LAB RESULTS, ABSENT THE COURT ADMITS NEITHER LAB TECHNICIAN TESTIFIED AT TRIAL, WHICH IS CONTRARY TO BULLDOZING MELENDEZ-DEAZ AND PRANIKO SUPRA, NOT ONLY BEFORE BOOKER'S RETIAL ON PULLHMENT DID HE DISCOVER A NEWSPAPER ARTICLE ON MS. PELLER FROM THE FORT WORTH STAR-TELEGRAM DATED ON OR ABOUT 6-18-15 STATING THAT OVER 1 1/2 YEARS BEFORE BOOKER'S TRIAL MS. PELLER WAS FETTERED FROM CELL-MARK FORENSICS IN DALLAS, TEXAS FOR MIS-HANDLING BLOOD SAMPLES AND ALTERING THEM, YET A SIMPLE INVESTIGATION WOULD HAVE REVEALED THAT MS. PELLER'S EMPLOYMENT BACKGROUND DID NOT MEET THE STANDARD FOR CREDIBILITY FOR BEING AN EXPERT WITNESS AND DOING LAB REPORTS.

U.S. v. CALVIN 167 F.3D 198 (5th CIR 1999) - COURT OF APPEALS HELD THAT A DISTRICT COURT'S DETERMINATION THAT THE JURY WAS NOT IMPROPERLY INFLUENCED BY EXHIBIT EVIDENCE UNDER THE PROBABLY PRONOUNCED STANDARD, AND ITS POSSIBLE METHODS TO INVESTIGATE THE POSSIBILITY OF EXHIBIT EVIDENCE FOR ABUSE OF DISCRETION TO ASCERTAIN THE ADMISSIBILITY OF INADMISSIBLE EVIDENCE, A PERSON DOES NOT HAVE TO ASSUME WHETHER THE EVIDENCE ACTUALLY CONTRIBUTED TO THE JURY'S VERDICT. SEE THE COURT WOULD LOOK AT THE ENTIRE FILE OF THE REPORTER'S RECORD ONE WOULD SEE THAT COUNSEL WILKINSON MASOLI'S REASON FOR MAKING A MOTION TO WITHDRAW WAS HIS AND BOOKER'S DISAGREEMENT ABOUT INVOKING BRADY CONCERNING THE BLOOD ALCOHOL EVIDENCE THE DISTRICT COURT AND THE 5th CIR REASON FOR DENYING BOOKER ON HIS BLOOD WAS THE LAB TECHNICIAN DID NOT TESTIFY, BUT THE DISTRICT ATTORNEY WAS ALLOWED TO INTRODUCE A LAB REPORT, BLOOD TEST, BLOOD TEST BOX LAB RESULTS, NOTES OF STATE NURSE DRAWING BOOKER'S BLOOD, AMONG OTHER THINGS WHICH IS IN VIOLATION OF AND CONTRARY TO "THE FRUIT OF THE POISONOUS TREE DOCTRINE." SEE U.S. v. PORTLAND-AGUIERRE 311 F.3D 1617 (6th CIR 2002) - UNDER THE PRINCIPLES OF THE POISONOUS TREE DOCTRINE "ALL EVIDENCE DERIVED FROM THE EXPLOITATION OF AN ILLEGAL SEIZURE MUST BE SUPPRESSED, UNLESS THE GOVERNMENT SHOWS THAT THERE WAS A BREAK IN THE CHAIN OF EVENTS SUFFICIENT TO REPEL THE INFERENCE THAT THIS WAS PRODUCT OF THE FOURTH AMENDMENT VIOLATION OF U.S.C.A. CONST. AMEND 4, SEE ALSO WONG SUN v. U.S. 83 S.Ct. 407 AND JAYLOR v. ALABAMA 162 S.Ct. 2664. THIS CONCLUSION COMES FROM A MID-TRIAL FRANKS HEARING SEE FRANKS v. DEVENURE 438 U.S. 146, AFTER THE TRIAL COURT DETERMINED THE

ADMISSIBILITY OF THE AFFIDAVIT AND THE SEARCH WARRANT WAS INADMISSIBLE. THE BLOOD RESULTS AND THE LAB REPORT AND THE PHOTOS WERE NOT ADMITTED INTO THE TRIAL. THE TRIAL COURT DID NOT RULE THIS ERROR AFTER OBJECTING & FAILING THE JURY TO DETERMINE THE PROBABILITY OF ALL THE EVIDENCE, WHEN THE COURT SHOULD HAVE INSTRUCTED THE JURY TO DISREGARD MR. YELLER'S LAB RESULTS AND PHOTOS WERE NOT. FOR THE JOINTS REASONS BECKER TESTIFY SHOULD BE ADMITTED, IF COLLIER HAD HAD BEEN ABLE TO PRESENT THEM TO THE TRIAL COURT UNDER DAUBERT V. MERRELL DOLL PHARMACEUTICALS, INC., 113 S. CT. 2406 AT 2415 (1993). - TO THE POLITARI UNDER THE RULES THE TRIAL JUDGE MUST DETERMINE THAT ALL AND ALL SCIENTIFIC EVIDENCE OR TESTIMONY IS NOT ONLY RELEVANT BUT RELIABLE.

III - COLLIER'S FAILURE TO IMPART OFFICER CARMACK

AT THE PRELIMINARY PHASE OF THE TRIAL DURING THE MID TRIAL HEARING SEE FRANKS V. DELAUNE, SUPRA IT WAS DETERMINED BY THE TRIAL COURT THAT THE AFFIDAVIT WHEN SUBMITTED BY OFFICER CARMACK WAS SUSPECTED IT TO SUPPORT A SEARCH WARRANT FOR BLOOD IN BECKER'S BASE, OUTSIDE OF THE JURY'S PRESENCE IT WAS DETERMINED THAT OFFICER CARMACK WAS LIE ABOUT PULLING BECKER OVER, THAT BECKER MADE ALL OUT OF COLLIER'S COLLECTED TO HIM ABOUT DRINKING SIX BEERS, I WAS DRIVING THE CAR WHEN YOU STOPPED ME, ETC., THESE VERY SAME STATEMENTS THAT OFFICER CARMACK LIE ABOUT AT BECKER'S MOTION TO SUPPRESS HEARING AND ALSO AT TRIAL. DURING THE TRIAL OFFICER CARMACK ALSO TESTIFIED FALSELY ABOUT PERMITS PROCESSES AND BECKER'S BLOOD DRAWN WITH THE JACK IN USE, ETC. THE TRIAL COURT RULED THE BLOOD RESULTS INADMISSIBLE THE PHOTOS WERE ALSO OBJECTED TO, BUT OVERRULED. ALL CONTRARY TO WONG-SUN, PORTER, AGUIRRE, TAYLOR AND DAUBERT, SUPRA. OFFICER CARMACK HAD BEEN DETERMINED NOT CREDIBLE AND OBJECTION WAS MADE TO HIS TESTIMONY CONCERNING BLOOD ALCOHOL EVIDENCE EXHIBITS, AND TESTIMONY THAT WAS FALSELY MADE IN FRONT OF THE JURY WHICH WAS OVERRULED. RIGHT AFTER THE TRIAL COURT OVERRULED

STATE'S OFFICER PARMAK'S TESTIMONY IT WAS SAID HE OFFERED TO RECALL OFFICER
PARMAK AND DEBILIMPEHMENT PROCEEDINGS AND TRIAL COUNSEL SAID NO. ALSO
COLTRANE TO RULE 11, WHETHER U.S.C. 1555... THE SUPREME COURT HAS NOTED: "THE
QUESTION IS NOT WHETHER THE DEFENDANT WOULD MORE THAN LIKELY HAVE NOT RECEIVED
A GUILTY VERDICT WITH THE EVIDENCE, BUT WHETHER IN ITS ABSENCE HE
RECEIVED A TRIAL THAT WOULD BE AS A TRIAL RESULTING IN A VERDICT INNOCENT
BY CONVICTION. OFFICER PARMAK'S TESTIMONY AND TRIAL COUNSEL WILLIAM MAROLI'S
FAILURE TO IMPROVE HIM WAS CONTRARY TO U.S. V. ALVARADO-VALDEZ 521 F.2D 337
(5th CIR 1975) TO ESTABLISH THAT THE ERROR IN ADMISSION OF POLYGRAPHICALLY
INADMISSIBLE EVIDENCE IN PROSECUTION PLEASE EVIDENCE IS HARMLESS, THE PROSECUTION MUST
DEMONSTRATE BEYOND A REASONABLE DOUBT THAT: "THERE IS NO REASONABLE PROBABILITY
THAT THE EVIDENCE COMPARISON OF MIGHT HAVE CONTRIBUTED TO THE CONVICTION.
SEE ALSO U.S. V. RODRIGUEZ 430 F.2D 303 (5th CIR 1970) AND U.S. V. PAROLIT
104 S.W.2D 391 (1934) STANDARD.

IV - ON HALLING TO CONVICTION AND PRO - EXAMINE OFFICER PARMAK AT PULISHMENT PHASE

THE SAME BIES FOR OFFICER PARMAK AT PULISHMENT PHASE, BECKER HAD A
MISTAKE AT PULISHMENT PHASE. A NEW JURY WAS IMPAIRED AND BECKER WAS REJECTED
ON PULISHMENT PHASE. BECKER ALSO HAD NEW TRIAL COUNSEL AT PULISHMENT PHASE
BECAUSE WILLIAM MAROLI ORIGINAL TRIAL ATTORNEY WILFRED WILSON LOST HIS ATTORNEY
TESTIMONY AND PROSECUTION FOR LACK THEREOF. WITH THE TRIAL JUDGE OFFERING TO
DEBILIMPEHMENT PROCEEDINGS ON OFFICER PARMAK THE STATE REFUSED TO
ELECT NOT TO PUT OFFICER PARMAK ON THE STAND, BUT IN ORDER TO PROVE
THE ELEMENTS OF INTENTIONAL WITH THE GOOD ALCOHOL RESULTS INADMISSIBLE
THE STATE ELECTED TO PLAY THE HEDD OF OFFICER PARMAK BILLING BECKER
A FIELD SOCIETY TEST WHERE SHE DEVELOPED ABJECTION. THE TRIAL COURT
ASKED DEFENSE COUNSEL WHETHER HE ABJECTION OVER AND COUNSEL WENT BLANK
AND COULDN'T EVEN NAME ONE CASE AS FAR AS POLYGRAPHICALLY HE SAID HE COULDN'T
RECALL A CASE. THE TRIAL COURT TO SEVERAL PRECEDENTS, OHIO V. ROBERTS 448

U.S. 56165, 106 S. Ct. 2531 (1980) STATES THAT: "THE PROSECUTOR MAY NOT SUBSTITUTE FORMER TESTIMONY UNLESS THE GOVERNMENT FIRST DEMONSTRATES THAT THE WITNESS REMAINS UNAVAILABLE FOR TRIAL PROCEEDINGS. THIS ALSO HAS BEEN EXPANDED TO OUT OF COURT TESTIMONIALS WHICH INCLUDE VIDEO/AUDIO RECORDINGS, MANUSCRIPT MATERIAL AND CERTAIN OFFICIAL REPORTS. SEE MALFORD V. WASHINGTON 104 S. Ct. 1354 (1984).

THE ULTIMATE GOAL OF THE CONFRONTATION CLAUSE IS TO ENSURE RELIABILITY OF EVIDENCE BUT IS PROCEDURAL RATHER THAN SUBSTANTIVE GUARANTEE, IN THAT IT COMMANDS THAT EVIDENCE IS RELIABLE BUT THAT RELIABILITY BE ASSESSED IN A PARTICULAR MANNER, I.E., BY TESTIFYING IN A CRUCIBLE CROSS-EXAMINATION... "WE HAVE HELD THAT THIS PROCEDURAL GUARANTEE APPLIES TO BOTH FEDERAL AND STATE PROSECUTIONS. POWELL V. TEXAS 390 U.S. 687, 85 S. Ct. 1065, COUNSEL PERFORMANCE WILL MAY SHOW THE SILCKLAND AND CHADIC SUPRA, STANDARDS IN FAILING TO IMPART AND CROSS-EXAMINE OFFICER CORRIACK AT PUNISHMENT PHASE.

II ON FAILING TO GET AN AFFIDAVIT FROM WITNESS WHO SAW JUROR MISCONDUCT

DURING BOOKER'S TRIAL AT PUNISHMENT PHASE HE HAD A JUROR SLEEPING AND HE MISSED LARGE PORTIONS OF BOOKER'S TRIAL AND VITAL TESTIMONY. A MISTAKE WAS MADE WHEN AN OBJECTION WAS MADE FOR JUROR MISCONDUCT. THE DISTRICT COURT FINDINGS WERE CONTRARY IN THE RECORD.

DURING PUNISHMENT PHASE OF THE TRIAL JUROR #4 MR. HOWARD WAS OBSERVED ASLEEP AND ON HIS CELL PHONE DURING THE READING OF THE CHARGE. DEFENSE COUNSEL WILLIAM MASOLI ASKED FOR A MISTAKE FOR JUROR MISCONDUCT, WHICH WAS DENIED. DEFENSE COUNSEL ASKED FOR COURTROOM SHERIFF DEPUTY TUCKER TO TAKE THE STAND AS A WITNESS AND THIS WAS ALSO DENIED. DURING THIS TIME THE COURT CALLED DEFENSE COUNSEL WILLIAM MASOLI INSTRUCTED TO GET AN AFFIDAVIT AND SUBMIT IT WITH A MOTION FOR NEW TRIAL FROM DEPUTY TUCKER IF HE INDEED WITNESSED ANYTHING OF MR. HOWARD SLEEPING. DURING RECESS A TRAFFIC OFFICER A. DOTY CAME FORWARD AND TOLD MR. MASOLI SHE HAD OBSERVED MR. HOWARD SLEEPING AND ON HIS CELL PHONE AND WOULD TESTIFY TO THAT. THE

T.A.C. - ON POWERS TAKING IN THE DISCOVERY PROCESS ON OFFICER
HUSKEY'S MISSING DASH AND BODY CAM VIDEOS

BOOKER ALLEGEDLY MADE A CUSTODIAL ADMITTANCE ON BODY AND DASH CAM OF A
SET, CHRIS HUSKEY. BOOKER HAS ELIMINATED THESE VIDEOS AS A MATTER OF TEXAS
LAW. T.C.C.P. 39.14 STATES: "IF A TAPE RECORDING OF A UNIVERSAL EMBROIDERED ILL
BY THE ACCUSED CONTAINS EXCULPATORY MATERIAL IT IS DISCOVERABLE AS A MATTER
OF RIGHT." SEE ALSO T.C.C.P. 2.129 AND 38.23. OFFICER HUSKEY STATES HE ACTIVATED
HIS LIGHTS AND ON HIS PATROL CAR WHEN PULLING OVER BOOKER'S VEHICLE, WHICH
WOULD ACTIVATE HIS DASH CAMERA. HE ALSO ADMITS TO TALKING ON HIS BODY
CAMERA BUT NOT KNOWING IF HE GOT IT RIGHT OR NOT OR IT WAS IT WORKING (SIC).
THESE VIDEOS WOULD HAVE RELATED BOOKER'S ALLEGED COUNTERSTRIKE AND MADE SET.
HUSKEY'S TESTIMONY IMPERMISSIBLE COUNSEL AGAIN BOTH AT ORAL AND PLEADING
PHASE ORDER TO MAKE A REASONABLE INVESTIGATION INTO POSSIBLE EXTRAPOLATION
OF EXCULPATORY EVIDENCE. THIS AGAIN IS CONTRARY TO STANLEY, PHILLIPS
KUDES V. UNITED STATES SUPRA IN BOOKER RECEIVING A FAIR TRIAL AND DUE PROCESS
UNDER U.S.C.A. CONST. AMEND VIII AGAIN BECAUSE BOOKER HAS ELIMINATED TO THESE
EXCULPATORY VIDEOS AS A MATTER OF RIGHT, AND OFFICER SGT HUSKEY FALSIFY MADE
THE ADMISSION OF A COUNTERSTRIKE WITHOUT ANY EVIDENCE TO PORTRAY IT.

SUMMARY OF CLAIMS

BOOKER AM III STANDING IS AGAINST A VOID JUDGEMENT DUE TO FRAUD COMMITTED
ON THE PART OF THE JOINT COUNTY DISTRICT ATTORNEY UNDER FOUNTAIN
SUPRA IS NOT MANDATORY THIS COURT MUST FULLY REEXAMINE THE RECORD STARTING
WITH APPROPRIATE TO THIS VERY PETITION. SHELL LOOK AT THE NON-
RESPONSE TO BOOKER'S STATE HABEAS APPLICATION ON THE GROUNDS OF JURISDICTION
AND PROSECUTORIAL MISCONDUCT. ALSO THE NON-RESPONSE TO BOOKER'S MOTION FOR
PARTIAL SUMMARY JUDGEMENT WHICH SHOULD HAVE BEEN MAINTAINED.
AND THE RESPONDENT SHOULD HAVE BEEN ESTOPPED BY THE DOCTRINE OF ESTOPPEL BY
ACQUIESCENCE, SILENCE AND SILENCE. SEE ALSO LEUNG V. U.S. 142 F.3D 271
(9th CIR 1998) AND OTHER. THE RESPONDENT SHOULD ALSO BE EQUITABLY ESTOPPED
BECAUSE THIS CASE MEETS THE 5 ELEMENTS UNDER THIS DOCTRINE AND THE STATE

OF TEXAS BY HEREBY RISING UP TO THE PRESUMPTION OF ACCEPTANCE BY SURRENDER.
SEE BLACK'S LAW DICTIONARY 4TH EDITION PAGE 108.

ON ALL OF BOOKER'S BINDINGS OF L.A.C. THE MAGISTRATE OR DISTRICT COURT BINDINGS
ARE CONTRARY TO THE ACTUAL RECORD TO THE ATTACHMENTS IN BOOKER'S STATE
HABEAS APPLICATIONS, AND CONTRARY TO LAW, THE ENTIRE RECORD WAS NOT
RECEIVED DE VOID AFTER BOOKER MADE HIS OBJECTIONS TO THE MAGISTRATE'S
FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS. IT HAS TO BE BELIEVED THAT
THESE FINDINGS WERE JUST SIGNED OFF ON. CITING HECKLER II, COMMUNITY
HEALTH CARE SERVICES OF CALIFORNIA 104 S.C.T. 2018, TO AT 2224 FOOTNOTE 13. ("TO SAY
TO THESE APPELLANTS, 'THE JOKE IS ON YOU, YOU SHOULD HAVE TRUSTED US, IS
HARDLY WORTHY OF OUR GREAT GOVERNMENT.'") MENDES II DENVER 33 P.A. 195, 566
(1959) - "MEN NATURALLY TRUST IN THEIR GOVERNMENT, AND OUGHT TO DO SO, AND THEY
OUGHT NOT SUFFER FOR IT." SEE ALSO GIBBS V. U.S., 92 S.C.T. 763, 766, 105 U.S. 150
1521-155.

AND FINALLY SEE POW. CITIZENS FOR A BETTER FUTUREMENT 118 S.C.T. 1063 (1998)
TO AT 1185 - REQUIREMENT THAT JURISDICTION BE ESTABLISHED AS THRESHOLD MATTER
SPRINGING FROM NATURE AND LIMITS OF JUDICIAL POWER OF THE UNITED STATES, AND IS
INEXORABLE AND WITHOUT EXCEPTION.

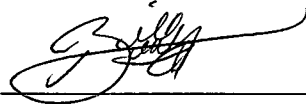
TO AT 1071(B) - THIS COURT DECLINES TO ^{ENDORSE} ~~EXERCISE~~ THE "DOCTRINE OF HYPOTHETICAL
JURISDICTION" UNDER WHICH SEVERAL COURTS OF APPEALS HAVE FOUND IT PROPER TO
PROCEED IMMEDIATELY TO THE MERITS QUESTION, DESPITE JURISDICTIONAL
OBJECTIONS, AT LEAST WHERE (1) THE MERITS QUESTION IS MORE READILY RESOLVED, AND
(2) THE PREVAILING PARTY ON THE MERITS WOULD BE THE SAME AS THE PREVAILING PARTY
WHERE JURISDICTION IS DENIED. THAT DOCTRINE CARRIES ONE COURT BEYOND THE
BOUND OF AUTHORIZED JUDICIAL ACTION AND SHALL OFFENDS FUNDAMENTAL
SEPARATELY-OF-POWERS PRINCIPLES. IN A LUG AND VENERABLE LINE OF CASES, THIS
COURT HAS HELD THAT WITHOUT PROPER JURISDICTION, A COURT CANNOT PROCEED AT
ALL, BUT CAN ONLY NOTE THE JURISDICTIONAL DEFECT AND DISMISS THE SUIT.

U.S. V. STOMATULIS, INC. 341 U.S. 30 (1951) PER 2661 - TO AT 855 -
CONSEQUENTLY, THE ONLY EVIDENCE IN DETERMINING THE VALIDITY OF THE
INDICTMENTS IS THE OLD RECORD ALL THE GRAND JURY PROCEEDINGS.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in dark ink, appearing to be "B. J. [unclear]", written over a horizontal line.

Date: 1-8-2020