No. _____

19-7448

IN THE

SUPREME COURT OF THE UNITED STATES

_____

ORIGINAL

DENNIS RYDBOM — PETITIONER
(Your Name)

vs.

DONNIE AMES, Superintendent — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of Appeals for West Virginia
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

DENNIS RYDBOM #371836
(Your Name)

Mt. Olive Correctional Complex
(Address)

Mt. Olive, WV, 25185
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

Question One

The affidavit for Search Warrant No. 96-166 gave no information linking the place to be searched, 911 East Medlock Drive, Phoenix, Arizona, with Rydbom, the victim, or with any items sought. Did this violate the Fourth Amendment's probable cause requirement?

Question Two

Ohio seized Rydbom's Arizona belongings from the Phoenix Police without a warrant, without any specifically established and well-delineated exceptions to the warrant requirement, and in violation of the Arizona judge's written order for the items to remain in Phoenix Police custody pending further court order. Did this violate the Fourth Amendment, and the Fourteenth Amendment's Due Process clause?

Question Three

After losing jurisdiction of the underlying murder, Ohio gave Rydbom's personal belongings to West Virginia absent any warrants, subpoenas, or any specifically established and well-delineated exceptions to the warrant requirement.

Simultaneously, while sitting at the W.Va. prosecution table, Ohio refused to share evidence in its possession (e.g. forensic evidence and grand jury testimony of prosecution trial witnesses) sought by Rydbom; West Virginia claimed impotence and refused to demand the evidence from Ohio.

(A) Did Ohio and West Virginia act as one sovereign to avoid subpoena and warrant requirements, while also acting as separate sovereigns to keep evidence away from Rydbom -- with the purpose and effect of depriving Rydbom of a fair trial, in violation of the Compulsory Process, Due Process, Equal Protection, and Confrontation clauses of the Sixth and Fourteenth Amendments?

(B) Did West Virginia act as a "tool" of Ohio and subject Rydbom to a "sham" prosecution, as warned against in Bartkus v. Illinois, 359 U.S. 121 (1959) -- with the purpose and effect of depriving Rydbom of a fair trial, in violation of the Compulsory Process, Due Process, Equal Protection, and Confrontation clauses of the Sixth and Fourteenth Amendments?

LIST OF PARTIES

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

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

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

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

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

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

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

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

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

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

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

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

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

JURISDICTION

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

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

[ ] No petition for rehearing was timely filed in my case.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[✓] For cases from **state courts**:

The date on which the highest state court decided my case was 20 DEC 2019. A copy of that decision appears at Appendix A.

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

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

ARTICLE I, Section 10, Clause 3

> No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit delay.

AMENDMENT VI

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and the district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informe of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor and to have the Assistance of Counsel for his defense.

AMENDMENT XIV, Section 1

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge 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; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

CHAPTER ONE: SEARCH & SEIZURE

NO NEXUS BETWEEN THINGS SOUGHT AND PLACE SEARCHED

This case originated from the May 1996 murder of Sheree Petry in Williamstown, West Virginia, whose corpse was found in a Marietta, Ohio, storm drain just across the Ohio River.

Ohio assumed control of the case, even when, four days after Sheree's murder, Ohio's head detective told the Williamstown, W.Va., police chief that Petry was attacked at her W.Va. home.

Rydbom, an ex-convict for armed robbery, was Petry's closest male friend. Several weeks after Petry's murder, after Ohio executed multiple search warrants against Rydbom's residence, belongings, & person, and after Rydbom was kicked out of Marietta College, Rydbom moved back to his home state of Arizona.

In November 1996 the Ohio agents went to Arizona and had the Phoenix Police obtain a search warrant for 911 East Medlock Drive. (Pretrial: 09 Oct 1997, pp. 88-98 (State's Exhibit #15 = Phoenix, AZ, Search Warrant No. 96-166 and accompanying documents).

Even though this actually was Rydbom's residence at the time, the affidavit for the warrant did not allege such. Further, the affidavit offered no facts linking the residence to either Rydbom, the victim, or to the items sought (i.e. lingerie).

Wood County, W.Va., Circuit Court Judge Jeffrey B. Reed presided over Rydbom's criminal case and habeas corpus case.

Judge Reed never mentioned the Fourth Amendment. But Judge Reed did say that the Arizona judge could rationally determine from the affidavit that 911 East Medlock Drive was Rydbom's

residence because the affidavit linked Rydbom and Petry together. This misses the point, though, since Petry & Rydbom were not mentioned in connection to 911 East Medlock Drive.

OHIO'S SEIZURE OF RYDBOM'S ARIZONA BELONGINGS

Maricopa County, Arizona, Superior Court Judge Ronald Reinstein, who signed Search Warrant No. 96-166 commanded the Phoenix Police, under Arizona Revised Statutes §13-3920, to retain any seized items in their custody pending further court order.

Instead, Marietta, Ohio, Police Sgt. Richard Meek seized Rydbom's Arizona belongings and took them to Ohio without a warrant, in violation of Judge Reinstein's written orders, and without any specifically established and well-delineated exceptions to the warrant requirement.

WEST VIRGINIA'S SEIZURE OF RYDBOM'S ARIZONA & OHIO BELONGINGS

After the Ohio indictment was dismissed for lack of jurisdiction, Ohio then gave Rydbom's personal belongings to West Virginia authorities; again without a warrant, or a subpoena, and without some specifically established and well-delineated exception to the warrant requirement.

CHAPTER TWO: TWO-STATE TAG TEAM

OHIO LACKS TERRITORIAL JURISDICTION

Judge Reed falsely alleged that Rydbom "fled to Arizona" after Petry's murder.

West Virginia refused to subpoena any out-of-state witnesses or evidence during state-level habeas corpus proceedings. But, if Rydbom was allowed such subpoena power, he could prove that:

- Rydbom moved to Marietta, from Arizona, for the purpose of attending Marietta College.

- Rydbom did not move back to Arizona until *after* Ohio cops executed numerous search warrants against Rydbom's residence, personal belongings, and person -- in Ohio.

- Rydbom did not move back to Arizona until *after* Rydbom was kicked out of Marietta College, because of, and several weeks after, Petry's 25 May 1996 murder.

- On 16 November 1996, Dennis Rydbom was arrested in Phoenix pursuant to a Marietta, Ohio, Municipal Court murder complaint (Case #96-CRA-1825).

- On 03 December 1996, an Ohio grand jury indicted Rydbom for the "Wood County, West Virginia **or** Washington County, Ohio" murder of Sheree Petry (Case #96-CR-235)(emphasis added).

- Pursuant to Ohio Judge Susan Boyer's instructions, and because of the Ohio indictment's "in W.Va. ***or*** Ohio," language, **both** parties filed jurisdiction pleadings on Wednesday afternoon, 18 December 1996.

- On 27 January 1997, using facts already in Ohio's possession before arresting Rydbom, Judge Boyer of the Ohio Court of Common Pleas dismissed the Ohio murder indictment against Rydbom for lack of territorial jurisdiction (unanimously upheld by the Ohio Court of Appeals, Case #97-CA-16).

WEST VIRGINIA ACCEPTS JURISDICTION

Judge Reed said there was no evidence of any involvement by W.Va. officials prior to being "forced to take up the case" on 27 January 1997 (Opinion and Order, 22 Dec 2016, pg. 37).

On the same day the Ohio indictment was dismissed for lack of jurisdiction, the Wood County, W.Va., Magistrate Court issued an arrest warrant for Rydbom (Case #97-F-71).

According to local newspapers, Ohio prosecutors met with Wood County prosecutors Monday (27 Jan 1997) in Marietta to hand over court records and other trial information:

> "We made copies of the files for them, and whatever they ask us to do, we will try to help," said (assistant prosecutor) Rings. "Of course once you begin something

you want to see it through."
Ohio lead investigator Rick [M]eek reiterated, "We're just going to help any way we can." (Sequin, C. (28 Jan 1997) *"Rydbom murder trial moving to W.Va."* The Parkersburg News. pg. 1A.

and;

"They've been really helpful in this case," [Wood County Prosecutor] Conley said of Washington County authorities, who traveled to New Jersey and Arizona to investigate the case and bring back Rydbom.
"At this point, I'm sure we'll be handling it with their assistance," Conley said of her prosecutor's office. "The (Washington County) prosecutor's office has offered as much assistance as possible." Hoover, C. (28 Jan 1997), *"Judge sends murder trial to Wood County."* Marietta Times, pg. 1A.

OHIO CONTROLS RYDBOM'S PROPERTY/PRIVACY

Ohio did more than just share information and files. Ohio refused to return most of Rydbom's seized property to him and, instead, gave it to West Virginia absent any subpoena, or warrant, and absent any specifically established and well-delineated exceptions to the warrant requirement.

On 03 June 1996, Rydbom went to Washington County, Ohio, Court of Common Pleas Judge Lane's Office, to the Marietta, Ohio, Police Dept., and to the Washington County Sheriff's Office, trying to retrieve his Ohio belongings seized on 28 May 1996.

Ohio cops responded later that day (03 June 1996) with another search warrant against Rydbom, adding to their second search warrant items which they already seized during the first search warrant (Pretrial: 08 Oct 1997, pp. 1-5; Pretrial: 05 Nov 1997, pp. 146-159; Pretrial: 06 Nov 1997, pp. 146-168).

Again, if Rydbom was allowed out-of-state subpoena power, he could prove that:

- On 07 June 1996, the Washington County, Ohio, Public Defender, Janet Fogle, filed a petition in the Washington County, Ohio, Court of Common Pleas, seeking the return of Rydbom's seized property, and the unsealing of the affidavits for the warrants executed against Rydbom.

- Attorney Fogle's petition was denied without the lawfulness of Ohio's search & seizures being ruled upon (Case No. 96-CR-108).

- In July 1997, Rydbom filed a handwritten motion to the Washington County, Ohio, Court of Common Pleas for the return of his seized property (Case No. 96-CR-235).

- The Ohio Court denied Rydbom's motion without ruling on the lawfulness of Ohio's searches or seizures.

Even after the Ohio indictment was dismissed for lack of jurisdiction, Ohio cops sought, obtained, and executed a search warrant against Rydbom's Marietta College, Ohio, internet records (Pretrial: 03 Dec 1997, pg. 124).

OHIO DESTROYS AUTOPSY EVIDENCE

Ohio performed the autopsy and toxicology of Petry's remains, only selected results of which were used by the W.Va./Ohio prosecution team at the West Virginia trial. During jury selection, almost a year after W.Va. first imprison Rydbom, and because the defense still had not received forensic samples for defense testing, lawyer Radcliff moved for sanctions (Trial: 07 Jan 1998, pp. 334-335, 657-660; Trial: 08 Jan 1998, pp. 666-678).

Prosecutors claimed that Ohio destroyed autopsy samples before West Virginia accepted the case because, "they have this destruction policy in Ohio" (Trial: 08 Jan 1998, pp. 668-670). Rydbom was not allowed to find out and prove whether or not this remarkably prosecution-friendly "destruction policy" actually exists. Judge Reed refused to impose any sanctions, saying Rydbom

had not proven prejudice (Trial: 08 Jan 1998, pg. 676).

While Rydbom disagrees with the requirement that Rydbom prove prejudice at that time, the loss of forensic evidence narrowing down Sheree Petry's time of death was plainly "prejudicial" because time-of-death evidence was absolutely essential to prove Rydbom's alibi -- publicly declared several months before Rydbom's arrest. (Hoover (28-29 June 1996) *"Rydbom claims alibi in murder."* Marietta Times, pg. 1A).

Sheree Petry's stomach contents were subjected to toxicology testing. Diphenhydramine in the amount of 1.87mcg/ml was detected in Petry's blood, but apparently not in her gastric contents. (Trial: 16 Jan 1998, pp. 1551-1613). This matters because Rydbom believes -- but was not allowed to prove -- the prosecution team falsely invented its diphenhydramine poisoning story.

However, at some undocumented time, Petry's stomach contents were allegedly destroyed (Trial: 08 Jan 1998, pp. 667-676) preventing their use in nailing down the time of Petry's death. This also denied Rydbom the chance to disprove the prosecution story of Sheree being dosed with diphenhydramine on the morning of her murder with the lack of diphenhydramine in Sheree's stomach.

OHIO WITHHOLDS PRIOR GRAND JURY TESTIMONY

Again, if Rydbom were allowed subpoena power against Ohio, he could prove that:

- "[t]hirteen to 14 witnesses testified to the (Ohio) grand jury in the (Rydbom) case, (assistant prosecutor) Rings said." Hoover, C. (04 Dec 1996), "Grand jury files murder indictment." The Marietta Times, pg. 1A.

Prosecutor Conley said Ohio prosecutors refused to release grand jury testimony of prosecution witnesses. The actual fact is that West Virginia refused to subpoena such testimony. And Judge Reed refused to compel production of the evidence, or to sanction the prosecution team.

Again, if Rydbom was allowed subpoena power against Ohio, he could prove that:

- In August 1997 Rydbom submitted FOIA requests to various Ohio agencies involved in prosecuting Rydbom, including (a) the Marietta, Ohio, Police, (b) the Washington County, Ohio, Sheriff, (c) the Ohio BCI&I, and (d) the Montgomery County, Ohio, Coroner; and that
- only the Washington County Sheriff and the Ohio-BCI&I responded to Rydbom's FOIA requests; saying any "discovery" had to be obtained from West Virginia prosecutors.

Rule 26.2, W.Va. Rules of Crim. Proc. requires disclosure of prior grand jury testimony of prosecution trial witnesses.

In September 1997, Judge Reed declared that W.Va. Rules of Criminal Procedure would apply in prosecuting Rydbom (Pretrial: 26 Sep 1997, pp. 75-76).

In October 1997, Judge Reed ordered West Virginia prosecutors to make every effort to obtain Ohio grand jury transcripts of trial witnesses (Pretrial: 03 Oct 1997, pp. 39-41).

However, in December 1997, when Prosecutor Conley said Ohio prosecutors did not want to share the transcripts, Judge Reed excused the prosecution team from disclosing the prior Ohio grand jury testimony of prosecution trial witnesses. (Pretrial: 02 Dec 1997, pp. 41-42, 114-117). Ohio was actually sitting at the W.Va. prosecution table while this occurred.

Again, if Rydbom was allowed out-of-state subpoena power, he could prove that:

- Since the prosecution team wouldn't do so, Rydbom himself unsuccessfully asked the Washington County, Ohio, Court of Common Pleas to order Ohio agents to share with the **Wood County, W.Va., Prosecutor** evidence, including grand jury testimony, relating to Sheree's W.Va. murder (Case No. 96-CR-235).

- The Ohio public defender also unsuccessfully asked the same Ohio court to order Ohio agents to share with **Wood County, W.Va., Circuit Court Judge Reed** the prior Ohio grand jury testimony of W.Va. trial witnesses (Case No. 98-CR-2) (Trial: 20 Jan 1998, pp. 1625-1627).

Not surprisingly, Rydbom and the Ohio Public Defender had no standing to act on behalf of the West Virginia prosecutor or the West Virginia Judge in the Ohio courts.

In Judge Reed's court, Rydbom requested sanctions against the prosecution team for not disclosing prior Ohio grand jury testimony of W.Va. trial witnesses. Specifically, Rydbom asked:

- that Ohio agents be excluded from the West Virginia proceedings until they abided by West Virginia discovery and disclosure laws (Defendant's Motion to Disallow Admittance Into the Courtroom of Ohio Authorities, filed 10 Dec 1997), and/or

- that West Virginia be prohibited from using prosecution witnesses who previously testified before the Ohio grand jury, until West Virginia obtained and disclosed such prior testimony (Defendant's Motion to Preclude Testimony of Witnesses Who Previously Testified Before the Ohio Grand Jury, filed 10 Dec 1997).

Judge Reed, instead, refused to impose any sanctions at all against the prosecution team (Pretrial: 30 Dec 1997, pp. 20-25).

VI. OHIO CONTROLS THE W.VA. PROSECUTION

West Virginia incarcerated Rydbom in January 1997. W.Va. State Police Trooper Dean testified at trial that, on 14 July 1997, he received a package marked breast swabs from Ohio police

Sgt. Meek, but he did not submit it to the W.Va. State Police lab until 23 September 1997 (Trial: 27 Jan 1998, pp. 2488-2491).

W.Va. Trooper Smith, testifying on behalf of W.Va. Tpr. Miller (over defense counsel's objection) said the breast swab test results were inconclusive -- as opposed to excluding Rydbom.

When asked at trial if he was in charge of the W.Va. investigation, W.Va. Trooper Dean said only that he was "assisting" Marietta, Ohio, Police Sgt. Meek and the Prosecutor's Office (Trial: 27 Jan 1998, pg. 2497).

Remember that the prosecution team was extremely well-represented by Ohio officials throughout the case. Marietta, Ohio Police Sgt. Meek and Washington County, Ohio, Assistant Prosecutor Allison Cauthorn together sat with and assisted W.Va. prosecutors during eleven (11) pretrial hearings.

Marietta, Ohio, Police Sgt. Meek himself:

- was the only witness who testified to the Wood County, W.Va., grand jury;
- sat with and assisted W.Va. prosecutors throughout the entire jury selection and trial;
- led the jury through Sheree's massage shop and her residence, both in Williamstown, W.Va., during the jury view (while Rydbom had to stay outside with the media gaggle); and,
- was allowed, over objection, to testify a half-dozen times during trial while listening to everyone else's testimony. (Trial: 09 Jan 1998, pp. 788-791; Trial: 14 Jan 1998, pp. 1373-1438; Trial: 20 Jan 1998, pp. 1687-1709; Trial: 22 Jan 1998, pp. 2228-2243; Trial: 23 Jan 1998, pp. 2375-2405; Trial: 29 Jan 1998, pp. 3011-3030; Trial: 30 Jan 1998) pp. 3036-3064; Trial: 02 Feb 1998, pp. 3359-3363, 3385-3386.) -- batting cleanup, essentially.

Again, if Rydbom was allowed subpoena power against Ohio, he could prove that:

- Marietta, Ohio, Police Sgt. Meek was the only cop in either state to be decorated for getting Rydbom convicted of Sheree's murder; and,

- it was the State of Ohio's Attorney General who paid West Virginia resident Sharon Rowsey two-thousand five-hundred dollars ($2,500) (Ohio Attorney General, Crime Victim Services, Claim No. S98-44389).

However, even without subpoena power to further prove Ohio's control over the case, there are still sufficient facts in the record to demonstrate Ohio's control of the West Virginia prosecution.

The West Virginia Supreme Court of Appeals did not specifically mention any of Rydbom's appellate grounds. Rather, the state's highest court issued a Memorandum Decision saying:

> Having reviewed the circuit court's December 22, 2016, "Opinion and Order," we hereby adopt and incorporate the circuit court's well-reasoned findings and conclusions, which we find address petitioner's assignments of error.

REASONS FOR GRANTING THE PETITION

1. Rydbom has Fourth Amendment claims which, under the *Stone v. Powell*, 428 U.S. 465 (1976) doctrine, might not be cognizable in 28 U.S.C. §2254 habeas corpus proceedings.

2. Rydbom's Two-State Tag Team claim, though warned of in *Bartkus v. Illinois*, 359 U.S. 121 (1959), was not "clearly established" by the U.S. Supreme Court, and might not be cognizable during §2254 habeas corpus proceedings.

3. Rydbom's Fourth Amendment and Two-State Tag Team claims are intertwined with each other.

4. On the one hand, Ohio and West Virginia acted as one prosecution team, and took control of Rydbom's personal belongings without warrants, or subpoenas, and without any well established and specifically delineated exceptions to the warrant requirement.

5. On the other hand, Ohio and West Virginia hid behind their separate sovereignties, while sitting at the same prosecution table, in order to deprive Rydbom of forensic evidence and prior testimony of prosecution witnesses. Ohio refused to share the evidence, and W.Va. refused to demand the evidence.

6. *If* West Virginia could not compel production of Ohio's evidence, *then* West Virginia also could not seize Rydbom's personal belongings from Ohio without a warrant, subpoena, or some other well established and specifically-delineated exception to the warrant requirement.

7. Likewise, *if* West Virginia could seize Rydbom's personal belongings without a warrant, subpoena, and without any well

established and specifically-delineated exception to the warrant requirement, *then* West Virginia could also have obtained Ohio's evidence, sought by Rydbom, regarding the W.Va. murder.

8. West Virginia refused to subpoena any out-of-state evidence during state-level habeas corpus proceedings, thereby limiting Rydbom's ability to prove the full extent of Ohio's influence and control over the W.Va. prosecution of Rydbom.

9. Because of West Virginia's self-declared impotence, and the U.S. District Court's limited §2254 jurisdiction, the U.S. Supreme Court may be the only viable source of remedy.

CHAPTER ONE: SEARCH & SEIZURE

A. Arizona Judge Ronald Reinstein, unlawfully authorized Phoenix Search Warrant No. 96-166 against 911 East Medlock Drive, Phoenix, AZ, in violation of the Fourth Amendment's probable cause requirement, because the supporting affidavit offered no information linking Rydbom, the victim, or the items sought with the address to be searched.

B. In violation of the Fourth Amendment, and of the Fourteenth Amendment's Due Process Clause, Ohio police unlawfully seized Rydbom's Arizona belongings, (a) without a warrant or subpoena, (b) without any well established and specifically-delineated exceptions to the warrant requirement, and (c) in violation of Judge Reinstein's written order (under Arizona Revised Statutes §13-3920) for Rydbom's seized belongings to remain in the custody of the Phoenix Police pending further court order.

C. In violation of the Fourth Amendment, and of the Fourteenth Amendment's Due Process Clause, West Virginia unlawfully seized Rydbom's belongings from Ohio, (a) without a warrant or subpoena, and (b) without any well established and specifically-delineated exceptions to the warrant requirement.

NO NEXUS BETWEEN THINGS SOUGHT AND PLACE SEARCHED

Judge Reed never mentioned the Fourth Amendment when denying habeas corpus relief here. Instead, he cited State v. Ault, 724 P.2d 545 (Ariz. 1986), and declared that Search Warrant No. 96-166 was lawful because the affidavit (1) contained the address of the place to be searched, (2) it listed the items to be seized, and (3) there was a connection between Rydbom and Petry (Opinion And Order, entered 22 Dec 2016, pg. 31-32).

Rydbom, however, insists that a warrant's affidavit *must* link the implicated persons or items with the address given so that the issuing judge can make his own independent determination that the location is the correct one. ***Compare***, U.S. v. Brown, 832 F.2d 991 (7th Cir. 1987) (fatal affidavit did not show how the police knew apartment was truly one of Brown's addresses); U.S. v. Frangenberg, 15 F.3d 100 (8th Cir. 1994) (probable cause lacking because affidavit did not indicate how suspect was connected to the place to be searched); Bouch v. State, 143 P.3d 643 (Wyo. 2006) (magistrate lacked sufficient basis to find probable cause because affidavit did not indicate why the officer believed that the items to be seized would be located at the given address or even that the defendant had a connection with the given address); U.S. v. Roach, 582 F.3d 1192 (10th Cir. 2009) (no showing how

police determined place searched was defendant's residence); and U.S. v. Hanner, 2007 U.S.Dist. LEXIS 27161 (affidavit provides no facts that link defendant with the particular place to be searched); ***with*** U.S. v. Baldwin, 987 F.2d 1432 (9th Cir. 1993) (search warrant was *not* fatally flawed by officers failure to specify how he knew that the house listed in the application was Baldwin's residence).

Rydbom maintains that Phoenix Search Warrant No. 96-166 was unconstitutional because the supporting affidavit gave the issuing judge no information explaining why 911 East Medlock Drive was the correct place to search.

The only reference to the place to be searched was the bald claim that the affiant (a) had probable cause to believe that the items were on the premises known as 911 East Medlock Drive, and (b) received the following information leading him to believe that evidence can be located at 911 East Medlock Drive.

However, the whole body of the possibly unsigned affidavit, apparently faxed from Ohio and stapled to the Arizona warrant, was spent painting Rydbom as being obsessively in love with Sheree Petry. No information, whatsoever, was offered showing *why* 911 East Medlock Drive should be the correct place to search.

The fact that the address to be searched was included in the affidavit's introduction does not give the issuing judge a basis for determining for himself whether the address is correct.

The fact that the items sought were included in the affidavit does not give the issuing judge a basis for determining for himself whether the address is correct.

The fact that a connection between Rydbom and Petry was made does not give the issuing judge a basis for determining for himself whether the address is correct.

Simply put, the affidavit for Search Warrant No. 96-166 has no information whatsoever linking any persons/items sought to 911 East Medlock Drive. The question here is whether such information is actually necessary? Rydbom says yes, West Virginia says no.

The W.Va. Attorney General submitted a *Respondent's Motion for Leave to Supplement the Appendix*, which includes two unsigned (unsworn) affidavits (*see attached* **Appendix B**). Rydbom was not allowed to subpoena a genuine copy of the Arizona warrant documents in his state-level habeas corpus case. Nor has Rydbom seen the actual State's Exhibit #15, Search Warrant documents in the underlying Wood County, W.Va., murder case No. 97-F-87.

OHIO'S UNLAWFUL SEIZURE OF ARIZONA ITEMS

It was Judge Reed's opinion that different states are allowed to give a person's personal belongings to other states without a warrant, or subpoena, and without any specifically established and well-delineated exceptions to the warrant requirement. Order and Opinion, 22 December 2016, pp. 36-39.

Judge Reed *falsely* said that Rydbom was able to challenge the taking of his property in Ohio and Arizona. Rydbom has no out-of-state subpoena power to prove the falseness of Judge Reed's claim.

Judge Reed said that to exclude "this evidence" based upon Arizona or Ohio authorities not complying with "some state statute" (A.R.S. §13-3920) would violate the spirit and purpose of the exclusionary rule (Opinion and Order, 22 Dec 1996, pg. 38).

But Judge Reed ignored the fact that the cops also disobeyed Judge Reinstein's specific written orders for Rydbom's seized property to remain in the custody of the Phoenix Police pending further court order. Flagrant disregard for the terms of a warrant is tautologically unreasonable.

Judge Reed declared before trial that, "the law of the location where the act occurs applies" (Pretrial: 26 Sep 1997, pg. 72; Pretrial: 03 Oct 1997, pp. 12-16). But, in denying habeas relief regarding cops violating Arizona search & seizure laws and the Arizona judge's direct orders, Judge Reed relied on a nonexistent local-law-doesn't-mean-squat doctrine.

Ohio's seizure of Rydbom's Arizona belongings without a warrant, or a subpoena, and in violation of the Arizona judge's written orders pursuant to A.R.S. §13-3920, does *not* qualify as one of the Fourth Amendment's "specifically-established and well-delineated exceptions to the warrant requirement." Nor does **West Virginia's** similar seizure of Rydbom's Arizona & Ohio belongings.

WEST VIRGINIA'S UNLAWFUL SEIZURE OF ARIZONA & OHIO ITEMS

Judge Reed was of the opinion that the warrant requirement does not apply when one state seizes a person's personal belongings from a different state (Opinion and Order, 22 Dec 1996, pg. 38). Judge Reed cited no authority for his position; he didn't even mention the Fourth Amendment. Yet he falsely complained that Rydbom cited no authority for Rydbom's position. At least Rydbom cited the Fourth Amendment?

There is a long-standing fundamental axiom, in Fourth Amendment jurisprudence, that warrantless searches and seizures

"are *per se* unreasonable under the Fourth Amendment, subject only to a few specifically established and well-delineated exceptions" (Katz v. United States, 389 U.S. 347, 357 (1967)).

CHAPTER TWO: TWO-STATE TAG TEAM

A. West Virginia prosecuted Rydbom -- with the instigation, guidance, and control of Ohio -- in a manner which deprived Rydbom of a fair trial, in violation of Rydbom's Compulsory Process, Confrontation, Due Process, and Equal Protection rights under the U.S. Constitution's Sixth, and Fourteenth Amendments.

THE CONSTITUTION'S COMPACT CLAUSE

Not only is cooperation between two sovereigns permissible in criminal cases (4 U.S.C. §112), it can sometimes be necessary. However, in the absence of an interstate compact in compliance with the Constitution's Article I, §10, cl. 3, Compact Clause, compulsory process cannot extend beyond the territory of a state. *See*, Powell v. State, 100 So.2d 38 (Alabama 1957); People v. Colavito, 663 N.E.2d 308 (N.Y. 1996) (at common law, courts lacked power to order discovery).

Just as a state has no right to seize a person's person from another state without a warrant or a well established and specifically delineated exception to the warrant requirement, so too is a state banned from seizing a person's *belongings* from another state without a warrant or a well established and specifically delineated exception to the warrant requirement. No person shall be deprived of life, liberty, or property without due process of law. Period.

According to the Fourth Circuit, prior to 1931, there existed no means by which a state court could compel the attendance of a witness from outside the state. To remedy this situation, most states adopted the *Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings* (Walker v. Coiner, 474 F.2d 887, 889 (4th Cir. 1973)). Arizona, Ohio, & West Virginia are all signatories to this *Uniform Act*. See, Ariz. Rev. Stat. §§13-4091 thru 13-4096; Ohio Rev. Code §§ 2939.25 thru 2939.29; and W.Va. Code §§ 62-6A-1 thru 62-6A-6.

This type of interstate compact, "cooperation" if you will, provides a lawful means of obtaining a subpoena duces tecum for tangible 'evidence,' such as business records and personal property. *See*, State v. Harman, 270 S.E.2d 146 (W.Va. 1980); New York Times Co. v. Jascalevich, 439 U.S. 1301 (1978)(Per White, J., as individual Justice, refusing to quash subpoena duces tecum issued by trial court pursuant to *Uniform Act*).

Rydbom disputes West Virginia's claim of helplessness to obtain evidence from Ohio relating to Sheree Petry's murder, especially since West Virginia filed not one single warrant or subpoena for evidence in Ohio regarding Sheree's murder -- except for when they extradited Rydbom from Ohio.

OHIO GRAND JURY TRANSCRIPTS

In 1996-1998, Ohio Rules of Criminal Procedure, Rule 6(E) specifically allowed disclosure of matters occurring before the grand jury -- excluding grand jurors' deliberations/votes -- to be made to the prosecutor for use in the performance of his duties. This did not require judicial approval.

Well, what was the Wood County, W.Va. Prosecutor? She was a prosecutor who had an Ohio prosecutor, and an Ohio cop (Sgt. Meek) sitting at the W.Va. prosecutor's table. That's why Rydbom specifically asked that the Ohio trial judge to order the grand jury testimony to be turned over *to the Wood County Prosecutor*.

The appropriate method of obtaining the prior testimony of prosecution trial witnesses was by way of the Wood County, W.Va. prosecutor. What if somebody testified before the Ohio grand jury that did **not** testify against Rydbom in the W.Va. trial?

Rydbom's right to grand jury testimony was **specifically limited** under W.Va. law to the prior statements of **prosecution trial witnesses** (*W.Va. R. Crim. Proc.*, Rule 26.2). That's why it was the W.Va. prosecutor's job to seek and obtain the grand jury testimony of her own trial witnesses.

Defense counsel did not ask all fifty-five prosecution trial witness if they testified before the Ohio grand jury. However, before being chastised by Judge Reed, defense attorney Radcliff did manage to establish that the Sharon Rowsey testified before the Ohio grand jury (Trial: pp. 1012-1014, 1048-1050).

In Rydbom's *Speedy Trial* claim, Rydbom gave numerous examples of how the stories of prosecution witnesses grew more prejudicial over time (Amended Petition for Habeas Corpus, Case No. 00-P-62, filed 15 Aug 2016, pp. 8-15). It stands to reason that the Ohio grand jury testimony of prosecution witnesses would have shed more light on the evolving prosecution story line.

In Bartkus v. Illinois, 359 U.S. 121, 123-124 (1959), the U.S. Supreme Court warned against one sovereign's prosecution of

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date: 06 January 2020