

Ex parte Patrick Joseph Charest #182262

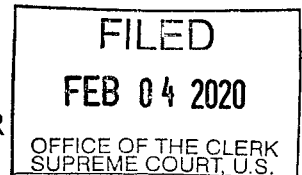
No. 1190296

19-8349

IN THE

SUPREME COURT OF THE UNITED STATES

Patrick J. Charest — PETITIONER
(Your Name)



Alabama Supreme Court ^{vs.} ("Justices")
Hon. J. Clark Stankoski — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Alabama Supreme Court #1190296 (2-2020)
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Patrick Joseph Charest
(Your Name)

9677 Hwy 21-North (Fountain Cone Fsc)
(Address)

Atmore, Alabama 36507
(City, State, Zip Code)

UNKNOWN
(Phone Number)

QUESTION(S) PRESENTED

1. Whether Vel Nor, under Santobello v. New York, 404 U.S. 257 (1971) - does Charest have a Constitutional Right: "to plead within the range of Constitutional Appropriate remedies," as a result of parties intervening Rule 32 Judgment, granted, favoring Charest, however, upon return to Court in 2008 with evidence, Charest suffers a Fourth Amendment seizure/loss of tangible documents, suffering anew state agent impediment, Chilling Charest's opportunity to had proffer that for which he previously had bargained for, in the 2004-05 plea negotiations?

§ 2). Whether Vel Nor, Judge Stan Koski's ancillary denial[s] [2018-19] constituted both, an abuse-of-discretion and denial-of-access to the Courts, not enforcing parties 2004-05 plea-agreement; previously "breached" by state agents in jail?

§ 3). Whether Vel Nor, a "hearing" should had ensued as to the 2008 "impediment", causing damages, injuries, breaching a breach-of-plea bargain?

§ 4). Whether Vel Nor, i) A STATE Court-Appellate Court, decided an important question of federal law that has NOT BEEN, but should be, settled by this Court, and ii) did so in a way that conflicts with relevant decisions-above?

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 N/A to the petition and is

- ☐ reported at N/A; 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 N/A to the petition and is

- ☐ reported at N/A; 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 10 to the petition and is

- ☒ reported at CR-18-0287 (9-12-19), or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Alabama Supreme Court #1190296 court appears at Appendix 14 to the petition and is

- ☒ reported at #1190296 (2-4-2020), 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 N/A.

[] 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: 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. N/A A N/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 November 12th 2019.
A copy of that decision appears at Appendix EXH-10. (pp 1-5)

[X] A timely petition for rehearing was thereafter denied on the following date: FEBRUARY 4TH 2020, and a copy of the order denying rehearing appears at Appendix EXH-14 p.1.

[X] An extension of time to file the petition for a writ of certiorari was granted to and including April 28TH 2020 (date) on FEBRUARY 28TH 2020 (date) in Application No. — A —.
(CLERK'S EXTENSION 60 days)

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

28 U.S.C. § 2101
28 USC § 2104
28 USC § 2106
28 USC § 1251(b)(3)
28 USC § 1651 - AND § 1657
28 USC § 1746 et. seq

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- I) Judiciary Act of September, 1789, § 25 et. seq.
(Alabama's refusal to obey Mandate). and
see also Amendment Act of 1867 (Stat at L. 385) (Final judgments - decrees)
- II) U. S. Const, Amendments, First, Fourth, Fifth, Ninth,
Tenth, and Fourteenth, were usurped;
- III) 28 USC § 2106;
- IV) 28 USC § 1251 (b)(3);
- V) 28 USC § 1257 (2);
- VI) 28 USC § 1651, 1657;
- VII) 28 USC § 1746 et. seq.

STATEMENT OF THE CASE

CHAREST WAS INDICTED IN Alabama, IN 1994, went to trial found guilty, received two(2) life sentences; subsequent appeal in 1996-98 under Rule 32, after negotiations, years later - Ala- agreed to Grant Rule 32 relief, on August 12TH 2005 (Exh-1), conditionally to said grant, Charest was to be permitted - absent preclusion, successiveness, bars - procedural or otherwise to return to trial court with exonerating evidence, of Alabama's want of jurisdiction, Charest returned in October of 2008, but before trial with evidence, Baldwin County jailors seized - & lost Charest's "Evidence," for Court.

After multiple - subsequent filings in Alabama, Federal Court and Eleventh Circuit - three (3) times, with Reverse-Remands, Charest returned in State Court in March of 2019, for remedy - cure of his Santobello - breach, above. No Court has yet "Squarely addressed that violation," trial Court committed error - perjury to Court of Appeals - denying existence of pleadings - beneath.

Charest returned to Appellate Court via: MANDAMUS it to, was denied, despite over Constitutions / effort known to pro per litigation, and Mogwood v. Patterson 561 U.S. 320 (2010) (Charest's 2005 Intervening Judgment - has yet been afforded Constitutional addressing . . .); Charest ancillary judgments and stay to Santobello structures - beneath, thus chilling access to courts.

I. Undisputed Facts:

§ 1) CHAREST ancillary facts - circumstances remain of "extreme importance" under Santobello - strictures, which recognized, that prosecutors have power to set the price for their exercise of parties rights. See example Machibroda v. United States, 368 U.S. 487 (1962) (plea's induced by promises ... which deprive it of the character of the voluntary act, is void, and a conviction based upon such plea is open to collateral attack), which Charest has done. Thus far.

Adopted by Charest - is Santobello, by Justice Marshall's, Justice Brennan and Stewart's opinions: "State did not abide by promises made at time of plea - remanded for determination, whether circumstances - require specific performance, or should petitioner be resentence or withdraw plea, as relief sought, i. e., opportunity to withdraw plea." Id at 257, 30 Fed 2d 427, supra.

Charest averred beneath that "Fairminded jurists could disagree" with Alabama's reading - unsoundly the rationale with Charest - under Santobello - Chilling occurs to the impairments sustained - causing Charest's breach, beneath.

For juridical purposes, this Centionari - is Charest only active redress - whereas Alabama Supreme Court wholly denied on Feb 4th 2020 Charest - Santobello - claimed violations, by Subordinate Judge Stan Koski's flat-refusal to permit Charest to enforce parties 8-12-05 plea-negotiations -

Wait On Certiorari
Continued:

yet been - even though duly attended Charest to date! The state cannot - beneath, either collaterally, estop, nor deny the relief-sought, a remedy to cure the impediment, at no fault of Charest. Alabama laws - prohibit the preclusionary doctrines of successiveness to this enforcement of the parties plea - arising from a breach of said plea. SEE **Exhibit - 1** (Santobello premise)

The "ancillary" process has to date, neither been squarely addressed nor reviewed substantively. To date, Charest's plea has yet been rendered as of no-force, effect; however, as a direct result of having suffered multiple impediments - rendering a breach - of parties plea - Charest is being foreclosed access to the Circuit Court of Baldwin County.

§ 2). Worthy of note, when Charest returned to County Court in 2008, he encountered the above seizure - loss of tangible evidence - depriving Charest from "proffering" the same documentary proof of his actual - factual innocence of having committed any offense in Alabama, that's what Charest had bargained to get, in return for dismissing all other - then claimed Rule 32 issues.

No core-remedy has been granted - given to Charest - since October 2008 impediment up to - through January 2018 - Charest argued beneath procedural snarls un-related

Writ of Certiorari
Continued:

to the underlying enforcement of said plan - denial, the remedial relief sought herein, that Baldwin County Court refuses to honor, despite the impediment - depriving Charest of due process.

The instant denial of remedial access to the underlying impediment in 2019 - absent any adequate review of Charest's breach - is contrary to both U.S. Supreme Court in Santobello v. New York, 404 U.S. 257 (1971) and Ex parte Yerger 325 So. 2d 1231 (Ala. 1974) - governing relief here.

No postdeprivation hearing - review has provided Charest, under Alabama Law - either a cure - or remedy, thus Certiorari is the only action available to redress the beneath injuries - sustained, to date, under 28 USC § 1257(2).

§ 3) Charest submitted in March of 2018 - pleadings before Judge Clark Starkoski, whom then ordered (unbeknownst) to Charest, for the district Attorney's office to answer - within thirty (30) days - the only notice of any filings by the state, as reflected by record, was on or about June 28th 2018, when district att'y Hon. Kristi Deason Hagood electronically filed her "notice of appearance", see Case Action Summary Sheet ("C.A.S.S."), now Exhibit-2, therein - which is numerically numbered 5: "(entries documenting Charest's formal controversy - beneath)" Lied about under as non-existent, by Baldwin County Judge Starkoski - To Justice Windham!

Writ of Certiorari
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It's equally as important to this Court's learned-eye, in Exhibit-2 (CASS) that certain specific pleadings were in fact filed by Charest, as shown on CASS entries, starting at June 28th 2018, but when Charest "appealed the denials of those orders" to the Court of Criminal Appeals in CR-18-0287, those pleadings and the underlying Court's orders all mysteriously evaporated from existence, as disingenuously asserted by Hon. Clark Stan Koski towards Justice Mary Wisdom.

Worthy of note - Charest's Exh-2 (CASS) predates multiple other pleadings having been filed-stamped thus authenticating their prima facie existence on the Ala. Court.com system, as documented and dated 10/7/2018 at page 5. This entry is marked-labeled: "3rd" (10-12-2018) (Three (3) distinct motions); another entry marked-labeled: "4th" (11-13-18, 11-15-18) (Two more distinct motions) - Charest filed of record therein.

Also, at CASS at Exh-2, (Ala. Court.com document 5) as marked-labeled "2nd" entry dated 8-22-18 @ 12:24 is Charest's: "In Pro Per Motion For Time Certain For Oral Argument", noted therein. This exhibited motion was date-stamped by Circuit Court on August 20th 2018 (pp 1-5) SEE Exhibit-3. (Due process request)

The "facts" therein (Exh-3) ARE herein-adopted and asked

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Wait of Certiorari
Continued:

is fully incorporated as same herein - for brevity sake - without having to quote verbatim, for purpose of gleaming an actual existence of a live controversy being "chilled" by the newly assigned Circuit Court Judge Clark Stankoski.

Judge Stankoski - flatly refuses to permit, allow CHAREST to a hearing upon the merits - as to whether vel non an impediment violated - on breached parties 2004-05 plea?

The Court's denial - denying access is usurpation of Alabama's Const, 1901, Article I, § 13 (Courts are to be open, for injuries done . . . shall have a remedy by due process of law, and right and justice shall be administered without . . . denial or delay). SEE Order dated November 1st 2018 at 2:59 am:

"In Pro Per Motion . . . is hereby Disposed By Separate Order."

Ibid. Note, CHAREST's Exhibit-4 (Baldwin County Circuit Court Clerk's Doc #64), although this documented order was electronically filed as of 11-1-18 at 2:59 pm; the said "disposal of - as by separate order" was never officially produced when judicially requested - twice over, by Justice Mary Windem, argued beneath. (Due process-violation)

Writ of Certiorari
Continued:

- 4). When Charent arrived at the Appellate Court, in January of 2019 (CR-18-0287) Justice Mary B. Windham on January 29th 2019 - ordered the trial court clerk (Hon. Jody Wise Campbell) and Judge Clark Starkoski "to supplement" the parties appellate records, transcripts with the "orders" denying Charent's underlying pleadings, that were otherwise considered - beneath. SEE Exhibit - 5:

"[T]he trial court should be mindful that this Court can consider on appeal only those matters that were presented to or were otherwise considered by the trial court in connection with the Judgment now being appealed."

Ibid, supra. But SEE, enclosed copied Order, dated March 29th 2019 ("all claims, issues, denied, nothing ~~is~~ pending, the Circuit Court Clerk to serve Court of Appeals") documented hereinafter as Exhibit - 6, attached. (1st, 5th, 14th denial)

Charent Assents, that upon said communications - above, via Clerk to Appellate Court - Justice Windham, arising from Judge Starkoski's order, the Court of Criminal Appeals on May 7th 2019 issues this Notice:

"This Court is in receipt of the Circuit Court's Orders, denying the appellant's motion to

Walt 8b Certification

Continued:

→ supplement the record on appeal ... brief is due to be filed and served by May 21st 2019."

Ibid. SEE Exhibit - 7 attached (same). The State briefed next, on June 12th 2019, the Honorable Tracy Daniel represented Alabama's position, that:

"Charest appears not to have filed anything in STATE Court ... should be dismissed where the record shows that there is nothing which he is appealing."

Ibid., at pp ii and 7 states' reply.

§5) Then on September 26th 2019, Justice Mary Windom Remands With Instructions, SEE Exhibit - 8 attached. (14th violation)

In short, First, (page 3 Justice) "Instructs Circuit Court to supplement (a second-time) the record on appeal to include a copy of the March 2018 Motion To Enforce filed by Charest, Second, ... supplement a copy of its Orders denying The March 2018 Motion To Enforce."

Ibid. Albert Justice Windom, noted the Circuit Court's vague-denials, being referenced therein, as "Motion For Other" denied, quoted 9-26-19 Remand - Charest's Exh-8 duly Instructing

Wait 50 Centuries!
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to Circuit Court Judge Stankoski to: "make specific written findings of fact clarifying which orders denied the March 2018 motion." Id, see page three (3) excerpt!

Next for plenary review is Charest's Exhibit - 9
(Docs 66, 68, 70, 155) November 1st 2018 by Judge Stankoski's Order (ppl-9). All of these motions "Disposed by Separate Order", said separate orders were neither produced nor have they ever surfaced, with exception of electronic filings, in existence on the Al. Court.com system - which Charest has no access to, nor has Charest ever seen said same filings. (Due process violations)

All these Answers-Orders-beneath, remain in direct conflict with Ex parte Weeks, 611 So2d 259 (Ala. 1997) (Rights to procedural due process violations, when not afforded notice, evidentiary requirements of fair play - include fair and open hearing ... as to opposing party, opportunity to controvert them), and Ex parte Fountain, 842 So2d 726 (Ala 2001) (procedural due process as guaranteed by Fourteenth Amendment and Ala's Article I, § 6, broadly speaking contemplates fair play, open hearing ... with reasonable opportunity to controvert them), such has not, nor was not afforded Charest - Denied.

5). Charest having spent - since March 2018, his attempt to seek a remedial case - for parties 2008 plus - breach, also attempted to litigate at Appellate Court in 2019 - before

Writ of Certiorari
Continued:

Justice Windom issued an "Order on Return To Remand," in short:

"[Pg-2]: 'The record includes filings by Charest in which he claimed to have filed a motion to enforce in March of 2018, ... filed a document entitled Amendment To Motion For Reconsideration of Court Order Charest never received despite the States Failure to Serve and Send Copy of Its Motion To Dismiss Either (C-608)'. " quote-on-quote.

See attached Exhibit-10. However, during said remand Judge Stankoski issues his Order, dated October 15 2019, in relevant part:

"This Order is done on remand from the Alabama Court of Criminal Appeals ... filings reveal no motions filed by defendant in March 2018. A further reading reveal no motion styled (or interpreted) as a motion to enforce (party's 2008-plea) has ever been filed by the defendant. It stands to reason since no such motion exists or was filed, there is no Order from this Court denying that motion."

Ibid, But see Charest's Exhibit-11 (10-1-19) running afoot to Charest's Exh-2, Exh-3, Exh-8 predicate filings ???

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Notwithstanding such, Justice Windom - thence on November 12th 2019 Issues an "Order on Return To Remand" (Exh 15 #10) Assents:

"[Page - 3]: 'On Return to Remand, the Circuit Court has informed this Court that Charent did not file a motion to Enforce ... Thus no order denying that motion exists (Record on Return to Remand C. 8), '"

"Based on the record before us and the Circuit Court's findings on return to remand, Charent has not filed anything to invoke the jurisdiction of the Circuit Court ... there is no judgment denying filing by Charent that would support an appeal..."

Cf. Exh-10, supra. Upon the facial assertions of Subordinate Judge Stan Koski's issued Order, on October 1st 2019 to Justice Windom on remand, he states that: "Defendant filed no motion styled enforcement [of party's 2004-05.] has ever been filed by the defendant." Id.

Thus, based upon the above, Justice Windom opined: "[Based upon record before us ... on return to remand, Charent is not filed anything to invoke the jurisdiction of that Circuit Court ... there is [Thus] No Judgment denying any filing by Charent... cf Exh-8, p. 3?"

Wait of Charest

Continued:

Thus, Charest sought on November 19th 2019 his "Motion For Leave To Reinstatement To Active Docket Charest's Ancillary Case To Appellate Order - November 12th, 2019." See Attached Exhibit-12 (pp 1-3). (Denial of access to courts, 5th, 14th Amend)

Thence, Judge Stankoski, issued an Order, on November 25th 2019, denying access for leave to re-instate defendant's pleadings. Judge said Charest never filed any Santobello motions, for said breach; Judge Stankoski earlier asserted that if Charest would simply file a request to Court, would make a specific written findings of fact. See Charest's Exhibit-13 (subordinate orders, as attached) (Denial to Court)

Alabama's Supreme Court Refusal to Reverse Judge Stankoski's Santobello-denials in CC-94-1363. 60-61 pleadings are in direct conflict with this Court's holding of Santobello, inter alia.

The ancillary gravity of Charest's facts-circumstances remain of general importance, it's necessary to prevent the extraordinary inconvenience and embarrassment in conduct of cause, as to the importance of question asked beneath, overlooked, and constitutionally abridged by both the trial court - Judge on Charest return - to proffer the evidence, coupled by the Appellate Courts arbitrary, capricious denials - despite Santobello-structures, garnering Charest a remedy.

REASONS FOR GRANTING THE PETITION

The State Court of Charest's Last resort, decided an Important Federal Question, in way that conflicts with the controlling - governing decision of Santobello v New York, supra, See U.S. Supreme Court 2010(6), inter alia.

Charest's "Controversy-beneath" has proceeded to a point - where, Charest albeit the losing party, at the Appellate stage has suffered - irreparable injuries, and until or unless this Court (stage) unveil's Alabama's usurpation of Santobello - strictures, then Charest will never have received full - n - fair review, as to the application of the ancillary challenged claim - violations, in 2008, 2018-19.

Charest's Limited Federal Questions, are ripe for Certification, as a result of receiving 1ST from trial Court - Judge Stankaski's usurpation of Santobello, despite the Court of Criminal Appeals remaining with Instructions (9-26-19) parties Santobello questioned adherence, that is "enforcing parties pre-agreement (8-12-05)," later breached, yet remedied, SEE Exhibit 10 @ Case CA-18-0287, upon Charest's Writ of Mandamus, for Access to Lower Courts, upon Santobello's holding, facially denied, as a final judgment on (2-4-20), see Exhibit-14 Case#1190296.

Charest's Const "Right-Privileges" to have had his 4TH Amendment seizure - loss of property remedied, under his 5TH Amendment due - process Clause, Absent due process, resulting from a bridge, yet cured, pursuant to his 9TH Amendment (being denied, deprived) under also his 10TH Amendment - protections, prohibiting Charest access - to - courts under his 14TH Amendment, arising from Alabama's breach - of - contract, with Charest (Exh-1), under Santobello, supra, as follows:

Wait of Certiorari

Continued:

Reasons Why Wait Should Issue:

§ 1). CHAREST AVERS, IN ACCORDANCE WITH AMENDMENT IX OF THE U.S. CONSTITUTION (Bill of Rights) - ALABAMA'S SECTIONS § 12-1-7(2)(3)(4) AND (6) OF ALA. CODE 1975, ARE BEING USURPED REGARDING - PROVIDING A REMEDY IN LAW, NOW RUNNING "CONTRARY TO," OR "INVOLVING AN UNREASONABLE APPLICATION OF CLEARLY ESTABLISHED LAW," WHEN BOTH THE JUSTICES - JUDGE STORKOSKI - OVERLOOKED THE GUIDING, CONTROLLING "PRECEDENT OF SANTOBELLO," WHEREAS CODE OF ALABAMA VIOLATED CHAREST'S FOURTH AMEND IN 2008, FIFTH AMENDMENT AND FOURTEENTH AMENDMENTS IN 2008, 2018-19, UNDER U.S. AMENDMENTS AMENDMENT'S IX, X BENEATH.

CHARVEST FILED BENEATH, HIS WAIT OF MANDAMUS, UNDER RULE 21, ALA. R. APP. P., AN EXTRAORDINARY FOR AN APPELLATE REMEDY SHOWING THE RESPONDENTS DENIED 1) A CLEAR RIGHT TO THE ORDER SOUGHT, THAT 2) AN IMPERATIVE DUTY UPON THE RESPONDENTS TO PERFORM, ACCOMPANIED BY A REFUSAL TO DO SO, AND 3) THE LACK OF ANOTHER ADEQUATE REMEDY AND THAT 4) A PROPERLY INVOKED JURISDICTION OF THE COURT, HEREIN - WAS INVOKED.

ORDERS ISSUED: (EXH-8) (9-26-19) AND (EXH-14) (2-4-20) ARE UNCONSTITUTIONALLY USURPING CHAREST'S FEDERAL CONSTITUTIONAL, STATUTORY RIGHTS - INVOLVED BENEATH.

NO COURT, TO DATE HAS "REMEDIED - CURED" THE VIOLATIONS

Wait of Certiorari R/W

Continued:

Here, Charvat's due process-equal protection clause-right have been and continue to be "chilled-beneath," or usurped through "constant-denials" to provide an adequate remedy - cure, to a hearing upon its merits, for Charvat to be allowed, permitted to "offer" that evidence he bargained for in 2004-05 (Exh-1).

The question(s) labeled as "Issues" - above (pg 12) now Ripe for plenary-review, as to "whether vel non - the ancillary seizure, loss of tangible evidence that Charvat, his lawyers, and then investigators, and surveyor garnered for submission upon said 2008 Rule 32 continuation-hearing were a substantive breach - causing an impediment of injurious nature, under Santobello, still constitutionally infirm, Charvat avers herein

The substantive right to due process-procedurally speaking has yet been granted Charvat-beneath; and it remains objectively unreasonable and morose contrary to U.S. Supreme Court, the U.S. Constitution and Alabama Const, 1901 - to not otherwise grant Charvat a hearing-beneath, whether vel non a breach occurred - in 2008, as a result of Baldwin County jailer's seizure-loss of the very evidence Charvat needed to offer to had proven his Challenged claim in Exh-1 at paragraph #3.

5-1) Charvat avers-asserts that, in the 1st instance - Judge Langford Floyd's 2005 Order (Exh-1) upon return in 2008 was "breached" by the state, yet remedied - or cured to date.

Writ of Certiorari

Continued:

CHAREST asserted beneath in Exh-12 his "Leave of Court To Resubmit To Active Docket The Ancillary Case" IN ACCORDANCE WITH Exh-1 plea-agreement - yet provided.

The above-requested motion - arose from what the Appellate Court opined - ACCURSED beneath as follows:

"[I]t appears that Charest filed Rule 32 petition in 2004, after hearings in the Circuit Court and an "agreement" between Charest and the State. . . . as part of the "agreement," Charest agreed to waive all remaining claims in that petition except his claim that Alabama did not have jurisdiction to prosecute Counts 1 & 2 in that the events made the basis of the charges occurred in the state of Florida (C-289)." Id

SEE Ala Crim App - Order (11-12-19, page 1) at Exh-10 herein.

CHAREST had argued - beneath - under Santobello, supra, that "Expressed UNANIMOUS VIEW[S] of that Court, agreements between prosecutors and the accused - are an essential component of Administrative Justice, must be attended by safeguards, when a plea rests in a significant degree on a promise by State, and moreover its immaterial that a subsequent breach of agreement by prosecution was inadvertent

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Continued:

... should be remanded to State Court to decide whether specific performance of the plea-agreement [be upheld] or that the defendant withdraw his plea should be granted." Santoello, supra, at Exh-12 attached.

EVEN Alabama's Court in Ex parte Yarbber, supra - argued beneath, holds: "a defendant can compel the enforcement of a plea-agreement, broken by the state, that U.S. Supreme Court holdings held enforceable as based on contract law to the problem of a broken plea-agreement. . . ." Yarbber, supra, at Exh-12, attached.

The crux of Christ's instant "denial," is that Christ has a new Judge [Stankoski] and a new District Attorney [Witters], whom were not a part of the parties plea-agreement in 2004-05, as exhibited in Exh-1, as attached before then Judge (argued) Floyd - and prosecutor Voilima (sic) then Baldwin's Ass't D.A.

However, §12-1-7 quoted-above, provides that every court has the power: "to compel obedience to its judgments, orders, to control in furtherance of justice, the conduct of its officers . . . Connected with judicial proceedings] . . . in every matter . . . to amend and control its process and orders so as to make them conformable to law and justice." Ibid - above

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- 3) Judge Floyd's 2004-05 Order (Exh-1) was effectively "breached" in 2008, this has yet been remedied by subordinate Circuit Court Baldwin County, under new Judicial officers, not paying to parties previous "plea," breached. Their departure - now of providing a remedial cure under both Santobello and Ex parte Garber, violates due process in the instant action, moreover, the denials of access to that "hearing" remain arbitrary and jurisdictionally estopping Charest from accessing that Court to determine whether or not the 2008 impediment - breached parties - formal plea?

Note, what Judge Clark Stankoski - expressed to Justice Windom on Return from Remand, in his October 1st 2019 - Order:

"Review of filings in CP-1994-1363 ^{6/16/1} reveal no motions filed by Charest in March 2018. A further reading reveals that no motion styled (or interpreted) as a motion to enforce [under Santobello progeny] has ever been filed by defendant."

"If the defendant makes such a request [as did Charest on 11-19-19 at Exh 12], the Court will make specific written findings of fact and either grant or deny that request." Cf, Exh-10, attached

Walt of Charest:

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In Charest's November 19th 2019 "Motion For Leave To Reinstatement To Active Docket . . .," wherein Charest sought leave to re-submit the enforcement plea-motion and memorandum-exhibits, since Judge Stanoski stated that his records bereftly predicated Charest as having neither filed any motion styled or interpreted as a motion to enforce has ever been filed by defendant." Ibid at Exh-10.

Clearly, Charest's "Motion For Leave" - arguing the holdings of Santobello predicate the contractual "obligations" of an existing plea-agreement (Exh-1) must be enforced. See §12-1-7(2)(3)(4) and (6) invoked-above. See also Rule 14, U.S. Sup. Ct. Rule, also 28 USC 2106, 2104, 1257(a), 2101, 1254(1) et seq.

Even Ala R. Crim. P., Rule 14.3(b) discloses that plea-agreements, as reached by parties, if accepted in open court . . . shall embody in the judgment "that to which Charest seeks, compare embodied in said 2005 Order, Exh-1, was to be permitted to continue to pursue - proffer subsequent evidence of Alabama's Lack of Jurisdiction (verve) and of subject matter, not otherwise precluded by normal doctrines of preclusion, or successive non, or estoppel - until, unless a full-fair proceeding is provided Charest - with that returned evidence, not yet afforded Charest - as the defendant.

Wait of Certiorari
Continued:

3 4). In Boswell v. Crews, 2013 U.S. Dist Lexis 53514 (11th Cir, 2013) held:

"The construction of plea-agreements are in general governed by the principles of contract laws, as the Eleventh Circuit had adopted for the purpose of Criminal Law. SEE U.S. v. Rubbe, 396 F.3d 1330 (11th Cir, 2005) (citing Hewell, 166 Fed 1166 (11th Cir, 1999) ("plea agreement is, in essence, a contract between the Government and a criminal defendant." U.S. v. Weaver, 905 Fed 1520 (11th Cir, 1990).") Ibid

The state herein has "un-clean-hands" beneath from not otherwise providing Charest with any contractual remedy - core to said 2008 returned-breach. SEE for example - Charest's August 20th 2018 "motion For Time Certain For Oral Argument," Exh-3, attached.

This Court is asked to review those "facts," as same herein adopted under Rule 201 et seq, for brevity-sake, therein, as incorporated heretofore, of Charest's continued filings attempting to garner the Santibello-hearing of said plea-exhibited beneath, now again being "estopped" by Judge Starkoski's usurpation - of said plea, the recent denial at Exhibit-13 attached.

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Continued:

> 5) Charest's Exh-3 attached, predicated the grave errors, he has faced - seeking a post deprivation - hearing, on the parties 2008 usurpations, breached - beneath, to date.

Despite Judge Stankoski - fully recognizing that Charest's "Memorandum In Support of Enforcement of Plea" had to have judicial teeth, or else the subordinate Court would not have issued on July 12th 2018 its Order - for the State to file objections within 30 days, see Exh-3, p 1 & 2 (quoted directly above).

Worthy of note, facts exist that the State filed its (alleged) Answer / Objection, albeit only electronically filed as a "notice of appearance" is shown - of record, compare Hon Judy Wix Campbell's C.A.S.S. at Exh-2, entry dated 6/20/18 by Honorable Kristi Deason Haygood (AR26) at p. 5 (Ala.Court.com document) issued, attached. (Its dated October 7th 2019 on said document).

When this Court reads for itself, Charest's Exh-8 pp 1 of 4 (Appellate Order Remanding with Instructions) Case # CR-18-0287 dated September 26th 2019 it shall opine Charest's legal rights - clearly, to an Order - sought (vacating the 9-25-19 order - denial) or such other which provides Charest with access to Baldwin Circuit Court.

Charest must be permitted to refile the Enforcement

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Continued:

Petition, Memorandum In Support of Santobello-breach, yet remedied-cured beneath. See Ex parte BOC Group, Inc, supra; Ex parte McMorick, supra; State v. Jones, supra.

Otherwise, no adequate remedy exists, for plenary submission, review of Charest's ancillary breached-plea-agreement - filed for "Enforcement of Plea." See Exh-1, Exh-3, Exh-5, Exh-8, Exh-11, Exh-12 with Exh-13 denial.

In closing, Justice Windom's November 12th 2019 order ON Return To Remand (Exh-10) at page 3 opining the foregoing:

"[O]n return to remand, the Circuit Court has informed this Court that Charest did not file a Motion To Enforce . . . [B]ased upon the record [Judge Stan Koski refused to supplement] before us, and the Circuit Court's findings on Return to remand [Exh-11], Charest hold[s] not filed anything to invoke the jurisdiction of the Circuit Court after its judgment denying his Rule 32 petition that resulted in this Court's memorandum in Charest v. State . . . based upon the record before us . . . there is no judgment denying any filings by Charest that would support an appeal." Ibid at Exh-10.

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Thus its Charest's contention that, inter alia, when Judge STANKOSKI opined to Justice Windham in said October 1ST 2019 "order," as follows:

"[E]ilings reveal that no motion styled (or interpreted) as a motion to enforce has ever been filed by the defendant... If the defendant makes such a request, the Court will make a specific written findings of fact..." Ibid at Exh-11.

Therefore Charest should had been granted "Leave To Resubmit" the alleged missing Enforcement motion, Coupled with Evidentiary documents - placing his right to said Santoello - hearing upon its merits.

Judge STANKOSKI offered Charest an opportunity to "request" the enforcement motion and said subordinate Court would then "make a specific written findings of fact," however when Charest attempted to return to do so - Judge "abuses his bridled authority," denying Charest substantive access to courts, compare Exh-1 and Exh-11 with Exh-12 attached.

To deny or estop Charest from either reinstating the case to active docket - since no denial's arose - & usurpation of Alabama's Article I, § 13 ("Courts are

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to be open: remedies for injuries; impartiality of justice"). See Santobello and Ex parte Yarker, supra.

Charest has't been afforded his due process, equal protection to the "hearing" for determination whether or not the 2008 Impediment - based parties 2004-05 plea-agreement, yet Remedied - cured to date.

§6). Charest Assents through Washington v. Glucksburg, 521 U.S. 702 (1997), holding:

"Due process Clause protects fundamental rights and liberties which are objectively 'deeply rooted' in this Nation's history and traditions; that is, implicit in the concept of ordered liberty, such that neither liberty nor justice would exist if they were sacrificed." Ibid (Emphasis - bold)

Mandamus may be available to provide review of interlocutory Order[s], not appealable under §12-22-2, Code of Ala 1975, Compare Douglas v. State, 257 Ala 269 (Ala 1952) (Court must consider all questions apparent on the record or preserved by bill of exceptions and must render such judgments as law demands).

Charest's In Pro Per attempt to seek Enforcement

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of the parties ancillary plan-agreement - has proven to be interlocutory at best and obviously non-appealable, despite controlling structures of both Sintobello and Ex parte Yarker, yet enforced - beneath Compare Exh-1, Exh-3, 1; Exh-4 Order (denial); Exh-6 order (denial); Exh-11 Order (denial with suggestions to file); and thence Exh 12 offer by Charest coupled with yet another denial of Exh-13 (November 25th 2019).

§ 7) Charest invokes, pursuant to, but not limited - above, the §12-22-6 and §6-6-440, Code of Ala, 1975 be reviewed as any additional jurisdiction by this Supreme Court to grant limited relief in the form of an Order - permitting Charest "appears to court" beneath for his Sintobello-henry, through his Enforcement motion, yet adjudicated.

The demonstrative injustice or irreparable injuries sustain - beneath, require remedial - care, via mandamus. No other adequate means - remedy exists to obtain the Review sought below by your subordinate Court, as Charest had originally bargained for in 2004-05 at Exh-1, but for the impediment suffered in 2008 See Kerr v. U.S. Dist Ct for N.D. Calif, 426 US 394 (1976)

Charest seeks to compel Judge Stankoski to perform a non discretionary function, duty, permitting Charest his

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Fundamental access to courts, for the properly-plenary review of Christ's Enforcement petition - beneath, see also Morbury v. Madison, 5 US - (1 Cranch 137) (1803) (same).

The error(s) sustained - suffered beneath, involve matters of facts of the most fundamental in character which have not otherwise been permitted to be placed at Issue, and because there overlooked - beneath, it renders those proceedings themselves irregular and invalid.

See Jackson v. United States, 200 F.3d 732, 734 (11th Cir, 2000), compare also All Writs Act, 28 USC §1651(a) federal courts authority (controlling) issuance of writs of error coram vobis, as an example to grant.

Santobello holds for the proposition, "whether the branch was inadvertent of the unconnected branch, it did not lessen its impact under (these) circumstances of (this) case" 404 US at 262-63, also, Puckett v. United States, 556 US 129 (2009) provides that branch(es) of plea-agreements remain viable; a result - not yet otherwise given, provided Christ fairly - fully beneath, sought herein for finality purposes - under U.S. Constitution, 14th Amendment, 1901, inter alia.

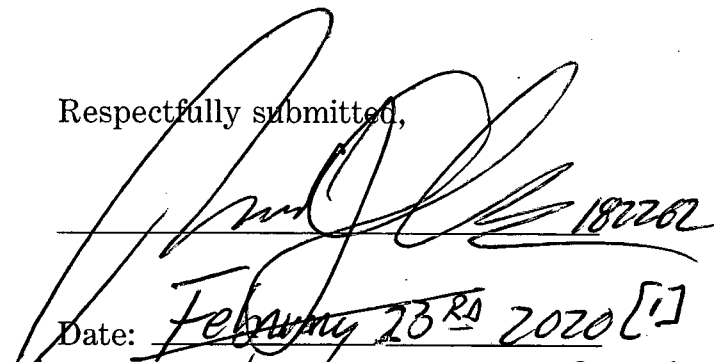
Notwithstanding; Christ avers under Oath of Perjury, that the controversy at hand - beneath warrants a Santobello hearing, and more. But SEE Ala Sup. Ct 2-4-20 "denial," of mandamus (Exh-14)

Conclusion

Wherefore Premises Shown, CHAREST-prays that this Court would grant limited relief, review, as to the grave importance of the impairment to contract law - by Alabama-Deneth, resulting in judicial embarrassment in conduct for cause - asked - answered in Santobello, supra, Cf 28 USC § 1651(a-b) under McClellan v. Garland 217 US 268 (1910) for review of improprieties by subordinate Judges failing to obey mandates by this Court's holdings, Chilling Access to courts for remedies - cures of this

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Date: February 23RD 2020 [1]
Remailed April 6TH 2020 [1] PK

Under 5,750 words

Breached plea, under
1ST Amendment Petition Clause,
of U.S. Const.

See 28 USC § 1746
Oath/Penalty of
perjury so help
me Jehovah God

[1]: Under Houston v. Lack, 482 US 266 (1988) ("A pro se prisoner's court filings are deemed filed on date it is delivered to prison authorities, see Fed. R. App P - Rule 4(c)(1) as deposited in the institutional's internal legal mailbox, prior to the last day-date of filing") done herein above.