

NO.

19-8384
IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM _____

IN RE LEVON SPALDING

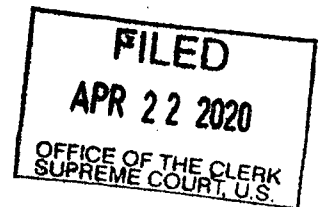
PETITIONER.

V

ORIGINAL

UNITED STATES OF AMERICA

RESPONDENTS.



PETITION FOR WRIT OF MANDAMUS
TO THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

PETITION FOR WRIT OF MANDAMUS

IN RE LEVON SPALDING
PASQUOTANK CORRECTIONAL INSTITUTION
527 COMMERCE DRIVE
ELIZABETH CITY, NORTH CAROLINA, 27906
PETITIONER, LITIG. PRO SE

QUESTIONS PRESENTED

- I. WHETHER A PETITIONER DIAGNOSED INCOMPETENT - NEVER ADJUDICATED COMPETENT COULD BE CHARGED WITH HIS DEFENSE LAWYER'S NEGLIGENT CONDUCT?
- II. WHERE A MAGISTRATE JUDGE IN NOT ADDRESSING A PETITIONER'S PSYCHIATRIC HISTORY AND LEARNING DISORDER'S - CONTRIBUTED TO BRAIN-WASHING A LEGALLY INCOMPETENT ACCUSED - A DISADVANTAGED PERSON?
- III. WHETHER THE DISPUTES IN THIS PETITIONER AMENDING HIS 1995 § 2254 CLAIMS UNDER RULE 15(b)(2), FED. RULES CIV. PROC. - CONTAINS A PARENTHETICAL THAT STATES... AT ANY TIME AFTER JUDGMENT AMEND HIS CLAIMS?
- IV. WHETHER THE (D.C. CIR.) ERRORED IN DENYING JURISDICTION TO HEAR A RULE 15(c) RELATED BACK AMENDMENT CONFLICTS WITH OTHER CIRCUIT COURT'S VIEW IN PLEADING ISSUES OF THE ORIGINAL § 2254 CLAIMS?
- V. WHETHER DEFENSE ATTORNEY'S IN NOT CHALLENGING THE TRIAL COURT'S SENTENCING INDIFFERENCES IN THE LENGTH OF SENTENCES IMPOSED... VIOLATED THE ARM CAREER CRIMINAL GUIDELINES ON NON-QUALIFYING PREDICATE ON THE RETROACTIVELY APPLICABLE SUPREME COURT DECISIONS?
- VI. WHERE THE TRIAL COURT SENTENCED THIS PETITIONER UNDER THE HIGHER GUIDELINES BASED ON THE FABRICATED EVIDENCE THE GOVERNMENT PROSECUTOR PROD-

QUESTIONS PRESENTED CONTINUE

URED FALSE EVIDENCE WITHOUT ANY PROOF OF THIS PETITIONER MAKING SUCH THREATS TO KILL HIS OWN FAMILY-INTERFERING WITH ATTORNEY-CLIENT PRIVILEGE?

VII. WHETHER THE GOVERNMENT CANNOT OR WILL NOT NEVER SURMOUNT A DEFENSE CONTRADICTING THIS PETITIONER'S DISPUTED FACTS. PREJUDICES FLOWING FROM TWO PUBLIC DEFENDERS FAILURE TO PUT THE GOVERNMENT TO ITS PROOF?

VIII. WHERE THE STATE GOVERNMENT UNDER THE INFLUENCE OF A PRIVATE CITIZEN'S LIES AND DECEPTIONS...SYMPATHETIC TO MS. DIAL'S ALLEGATIONS THAT THIS PETITIONER MOLESTIC HER FIVE YEAR OLD NIECE IN 1973 BARRED ALL AVENUE'S OF RELIEF IN HIS ORIGINAL 1975 § 2254 PETITION. AS DESCRIBED IN 18 U.S.C. § 1512?

IX. WHETHER THIS PETITIONER'S ACCESS TO THE COURTS WERE DELIBERATELY OBSTRUCTED ALL THESE YEARS TO KEEP THESE TRUTH'S FROM SURFACING DESIGNED FOR THE TRUE MERITS OF THIS CASE NEVER TO BE KNOWN AFTER BRAINWASH - A LEGALLY INCOMPETENT ACCUSED?

X. WHETHER A PRIVATE CITIZEN ACTING AS A STATE AGENT IN SUBMITTING FABRICATED INFORMATION THAT INITIATED PROBABLE CAUSE VIOLATED THE FOURTH AMENDMENT TO THE CONSTITUTION- A PRIVATE CITIZEN MOTIVATED THROUGH A VENDETTA OF REVENGE WAS ENCOURAGED BY COUNTY OFFICIAL'S OF ILLEGAL ACTIVITIES THAT CONSTITUTED A PREOICATION OF SLAVERY?

" "

RULE 14.1(a)

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM

IN RE LEVON SPAULDING,

PETITIONER

-VS-

UNITED STATES OF AMERICA, ET AL

RESPONDENTS.

FILE NO:

APPEAL NO: 19-5265

5:95-HC-395-B0

CERTIFICATE OF INTERESTED PERSONS

AND CORPORATE DISCLOSURE STATEMENT

PURSUANT TO FED. RULES. CIV. PROC., RULE 26.1 - LEVON SPAULDING - APPELLATE
PRO SE - CERTIFIES THAT THE FOLLOWING PERSONS MAY HAVE AN INTEREST IN THE
OUTCOME OF THIS CASE:

1. W. EARL BRITT - FEDERAL DISTRICT COURT JUDGE, 1995 - 2000.
2. TERRENCE W. BOYLE - FEDERAL DISTRICT COURT JUDGE, 1995 - 2010.
3. MALCOLM J. HOWARD - FEDERAL DISTRICT COURT JUDGE, 1995 - 1998.
4. DENSON B. ALEXANDER - FEDERAL MAGISTRATE JUDGE, 1995 - 1998.
5. JAMES A. DEVER - FEDERAL DISTRICT COURT JUDGE, 1995 - 2005.
6. LOUISE W. FLANGAN - FEDERAL DISTRICT COURT JUDGE, 2005 - 2014.
7. WES CAMDEN - ASSISTANT UNITED STATES ATTORNEY, 2005 - 2010.

LIST OF PARTIES CONTINUE

8. MICHAEL EASLEY - FORMER NORTH CAROLINA ATTORNEY GENERAL, 1995-2000.
9. REBECCA K. CLEVELAND - ASSISTANT ATTORNEY GENERAL, 1995-1998
10. RICHARD SOWERBY, JR., ASSISTANT ATTORNEY GENERAL, 1992-1993.
11. WILLIAM N. FARRELL, JR., SENIOR DEPUTY GENERAL, 1995-2000.
12. ROBESON COUNTY DISTRICT ATTORNEY - 1991-1995.
13. LUTHER J. BRITT, - ASSISTANT DISTRICT ATTORNEY, 1991-1995.
14. JOHN CARTER - ASSISTANT DISTRICT ATTORNEY, 1991-1998.
15. HUBERT STONE - ROBESON COUNTY SHERIFF, 1991-1998.
16. RUSSELL G. WALKER, JR. - SUPERIOR COURT JUDGE, 1991-1998.
17. DEXTER BROOKS - SUPERIOR COURT JUDGE, 1991-1998.
18. SUE ANN BERRY - PUBLIC DEFENDER OF ROBESON COUNTY, 1991-1998.
19. GAYLA G. BIGGS - PUBLIC DEFENDER OF ROBESON COUNTY, 1991-1998.
20. ANTHONY THOMPSON - DETECTIVE IN ROBESON COUNTY, 1991-1998.
21. BOBBY DEESE - SHERIFF DEPUTY OF ROBESON COUNTY, 1991-1998.
22. GLEN BRANCH - SHERIFF DEPUTY OF ROBESON COUNTY, 1991-1998.
23. MARY DIAL - PRIVATE CITIZEN OF ROBESON COUNTY, 1991-1998.

" "
 RULE 14.1(b)

RELATED CASES

IN RE SCOTT, 709 F.2d 717 (D.C. CIR. 1983); IN RE STE SERV. CORP., 762 F.2d 1024, 1026 n.5 (D.C. CIR. 1985) - WRIT OF HABEAS CORPUS USED TO COMPEL UNREASONABLY DELAY; A PETITION MAY BE TRANSFERRED BETWEEN COURTS OF PROPER JURISDICTION, IN THE FURTHERANCE OF JUSTICE. BYRD V. HENDERSON, 119

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ARGERSINGER V. HAMLIN, 407 U.S.25(1972);

GIGLIO V. UNITED STATES, 405 U.S.150,31 L.Ed.2d 104,92 S.Ct.763(1972);

DRAPE V. MISSOURI, 420 U.S.162,43 L.Ed.2d 103,95 S.Ct.896(1975);

BRADY V. MARYLAND, 373 U.S.83,10 L.Ed.2d 215,83 S.Ct.1194(1963);

COOPER V. OKLAHOMA, 517 U.S.348,134 L.Ed.2d 498,116 S.Ct.1373(1996);

AKE V. OKLAHOMA, 470 U.S.68,105 S.Ct.1087,84 L.Ed.2d 53(1985);

HUDSON V. McMILLIAN, 503 U.S.1,112 S.Ct.995,117 L.Ed.2d 156(1992);

LINDH V. MURPHY, 521 U.S.320,117 S.Ct.2059,138 L.Ed.2d 481(1999);

STRICKLAND V. WASHINGTON, 466 U.S.668,80 L.Ed.2d 674,104 S.Ct.2052(1984);

NAPUE V. ILLINOIS, 360 U.S.264,269,79 S.Ct.1173,1177,3 L.Ed.2d 1217(1959);

CONFLICTS BETWEEN THE FOURTH CIRCUIT AND DISTRICT COURTS PRECEDENT DECISIONS:

CAMPBELL V. REED, 594 F.2d.4(4TH CIR.1979);

UNITED STATES V. LEE SUTTON, 542 F.2d.1239(4TH CIR.1976);

UNITED STATES V. MASON, 52 F.3d.1286,1292-93(4TH CIR.1995);

BOONE V. PANERICK, 541 F.2d.477(4TH CIR. SEPT.13, 1976);

VESTER V. STEPHENSON, 465 F.Supp.868(E.D.N.C. 1978);

UNITED STATES V. SMITH, NO.C-C-79-157, CITEAS: 512 F.Supp 335(1981).

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"
RULE 14.1(F)

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM _____

IN RE LEVON SPAULDING,

PETITIONER.

PETITION FOR A WRIT OF MANDAMUS

COMES NOW THE PETITIONER, LEVON SPAULDING IN PRO SE, IN NECESSITY, AND HEREBY MOVE THIS HONORABLE COURT TO ISSUE A WRIT OF MANDAMUS, PURSUANT TO RULE 20(a)(3) - SUPREME COURT RULE - TO THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA DIVISION OF RALEIGH NORTH CAROLINA - FOR AN ORDER TO SHOW CAUSE.

TO OPEN THIS COURT'S DOOR'S ALLOWING MR. SPAULDING TO BE HEARD ON HIS CLAIMS OF INNOCENCE REGARDING PERJURED EVIDENCE - # 2254-5:95-HC-395-BO... IN CORRECTING HIS WRONGFUL CONVICTION - FOR THE ILLEGAL FAILURE TO ACT ON THE PART OF THESE COURTS - RELIEF CANNOT BE OBTAINED IN ANY OTHER COURT. NO OTHER MEANS AVAILABLE FOR OVER 30 YEARS.

OPINION BELOW

THE OPINION OF THE DISTRICT OF COLUMBIA CIRCUIT ON JURISDICTION TO HEAR MR. SPAULDING'S AMENDED 1995 HABEAS PETITION UNDER RULE 15(C)

RELATING BACK IS FLAWED. APPEARING AT (APPENDIX-A) - UNPUBLISHED; THE (D.C.CIR.) ON 03 OCTOBER 2019 ISSUED AN ORDER ALLOWING MR. SPAULDING TO PROCEED. SEE (APPENDIX-B) - UNPUBLISHED. SEE ALSO THE OPINIONS OF NUMEROUS FEDERAL COURTS FILED UNDER (18-5974. PET. APPENDIX'S 1(a) THROUGH 14(a) ALSO NOT REPORTED.

JURISDICTION

MR. SPAULDING'S RELIANCE ON THE EXCEPTIONAL CIRCUMSTANCES OF HIS CASE - BRAINWASHED BY THE VERY PEOPLE WHO REPRESENT THE LAW. PROVING THAT THE CHARGED OFFENSES IS NOT WHY HE'S SERVING TIME - BUT A HIDDEN AGENDA GOING BACK TO 1973 IS WHY RELIEF CANNOT BE OBTAINED IN ANY OTHER COURT - THE OTHER COURTS DON'T WANT JUSTICE SERVED TO MR. SPAULDING - 28 U.S.C. § 1651(a) - THE ORIGINAL PROCEEDINGS - RULE 21, FED. RULES. APP. PROC. - INVOKING THIS COURT'S JURISDICTION UNDER 28 U.S.C. § 1251(1).

IN LIGHT OF FEDERAL STATUTORY LAW 18 U.S.C. § 3626(h)... THE TERM "CIVIL ACTION WITH RESPECTS TO PRISON CONDITIONS" MEANS ANY CIVIL PROCEEDING ARISING UNDER FEDERAL LAW WITH RESPECTS TO CONDITIONS OF CONFINEMENT - DEPRIVING A PRISONER OF ACCESS TO THE COURTS.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION PROVIDES THE RIGHT OF THE PEOPLE TO PETITION THE GOVERNMENT FOR A REDRESS OF GRIEVANCE.

THE FOURTH AMENDMENT PROHIBITS UNREASONABLE SEIZURES SHALL NOT BE VIOLATED - AND NO WARRANT SHALL ISSUE - BUT UPON PROBABLE CAUSE.

THE SIXTH AMENDMENT TO THE UNITED STATES CONSTITUTION PROVIDES IN ALL CRIMINAL PROSECUTIONS - THE ACCUSED SHALL ENJOY THE RIGHT TO A PUBLIC TRIAL; BY AN IMPARTIAL JURY; THE RIGHT TO BE INFORMED OF THE NATURE OF THE ACCUSATIONS; THE RIGHT TO BE INFORMED OF THE CAUSE OF THE ACCUSATIONS; AND THE RIGHT TO BE CONFRONTED WITH WITNESSES AGAINST HIM; AND THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL.

¹
THE EIGHTH AND THIRTEENTH AMENDMENTS PROHIBITS EXCESSIVE SENTENCES AND SLAVERY - EXCEPT PUNISHMENT FOR CRIME ON A SHOW OF PROBABLE CAUSE NOR CRUEL AND UNUSUAL PUNISHMENT INFLICTED.

THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION THAT 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.

¹
STRUCTURE ERRORS, HANCE - THE UNDERSTANDING OF LAW AS WELL AS FACTS AS THEY RELATE TO LAW - COGNIZABLE CLAIMS THROUGH THE TEST OF TEXTUAL INTERPRETATION UNDER SPECIAL CIRCUMSTANCES - 18 U.S.C. § 242 BEING PUNISHED FOR

STATEMENT OF THE CASE

SUBSEQUENTLY MR. SPAULDING IN FILING FOR PROPER VENUE UNDER EXTRAORDINARY OR SPECIAL CIRCUMSTANCES IN THE (D.C.CIR.) COURT ON DIVERSITY JURISDICTION DUE TO CONTROVERSIES BETWEEN THE COURTS OF NORTH CAROLINA AND THE FOURTH CIRCUIT - BETWEEN A STATE AND THE CITIZENS THEREOF - AND CITIZENS OR SUBJECT. (ART. III, § 2)² THE (D.C.CIR.) REACHED A CONTRARY CONCLUSION. SEE YINGENT V. UNITED STATES, 513 F.2d. 1296. RESOLVING CONFLICTS BETWEEN CIRCUITS. 423 U.S. 911, 96 S.Ct. 62, 46 L.Ed.2d 54 (1975).

IN APRIL 1995 MR. SPAULDING FILED A WRIT OF HABEAS CORPUS UNDER § 2254 PETITION... HIS RIGHT TO TAKE LEGAL ACTION TO END HIS UNLAWFUL DETENTION IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA - DIVISION OF RALEIGH NORTH CAROLINA. MR. SPAULDING WAS BORN WITH THESE SPECIFIC RIGHTS. THE DECLARATION OF INDEPENDENCE UNDER NATIONAL LAW WHICH GIVES MR. SPAULDING THE RIGHT TO BE FREE FROM UNLAWFUL RESTRAINTS - THESE TRUTHS ARE TO BE SELF-EVIDENT - THAT ALL MEN ARE CREATED EQUAL.³

EXERCISING HIS CONSTITUTIONAL RIGHTS. SEE (18-5974, PET. AT PAGE 1-6)³. THIS GRANT IS REPEATED IN STATUTE 28 U.S.C. § 1332. THE RATIONALE FOR THE EXISTENCE OF DIVERSITY JURISDICTION HAS BEEN TRADITIONALLY OFFERED IN A FEDERAL FORUM FOR AN OUT-OF-STATE LITIGANT WHO WOULD BE EXPOSED TO LOCAL PREJUDICES IF SUIT HELD IN STATE. MR. SPAULDING ARE LIVING THOSE PREJUDICES. 28 U.S.C. § 1251³

THAT THEY ARE ENDOWED BY THEIR CREATOR WITH CERTAIN UNALIENABLE RIGHTS THAT AMONG THESE ARE LIFE - LIBERTY AND THE PURSUIT OF HAPPINESS. HERE NOW - MR. SPAULDING MOVES THIS HONORABLE COURT TO INTERVENE - TO ORDER A HEARING TO SHOW CAUSE IN COMPLIANCE WITH RULES GOVERNING RULE 17 OF THE SUPREME COURT ON PROCEDURE IN THE ORIGINAL ACTION.

INVOKING JURISDICTION UNDER ARTICLE III OF THE CONSTITUTION OF THE UNITED STATES. SEE (18-5974-PET. AT PAGE 7-10). STRUCTURAL ERRORS - IN TRUTH IT IS ERRORS COMMITTED BY JUDGES - PROSECUTORS - PUBLIC DEFENDERS - LAW ENFORCEMENT - ATTORNEY GENERAL'S AND HIS AGENTS THAT MADE MR. SPAULDING'S TRIAL AND POST-CONVICTION UNRELIABLE; FEDERAL AND STATE GOVERNMENTS WITHHOLDING EVIDENCE.

⁴ MR. SPAULDING PROVING SOMEONE ELSE COMMITTING BURGLARY ON HIS FATHER'S HOME VICTIMIZING HIM AND HIS FAMILY... HIS TWO COURT APPOINTED LAWYERS WORKING WITH THE PROSECUTOR TO CONVICT MR. SPAULDING. DISRUPTING MR. SPAULDING'S HABEAS PROCEEDINGS TO PREVENT COURTS FROM CONSIDERING THE

AND U.S. CONST. AMDT. WHERE MR. SPAULDING'S 1995 EVIDENCE OF ACTUAL INNOCENCE - GOVERNMENT EMPLOYEES ENGAGED IN UNLAWFUL CONDUCT TO COVER-UP THE TRUTH. SUCH AS THE MAGISTRATE JUDGE ENGAGED IN FABRICATIONS THAT DID NOT REACH THE ESSENTIAL ELEMENTS OF THE CHARGED OFFENSES AS THEY RELATED TO FACTS AND LAW. ⁴ FAILING TO PROVE MR. SPAULDING ENGAGED IN THE CONDUCT AS DESCRIB-

TRUE MERITS OF PARTICULAR CLAIMS IN HIS 1995 ⁵ § 2254 PETITION. MR. SPAULDING
HEREBY AVERS THAT THE DISTRICT COURT ABUSED ITS DISCRETION- COMMITTING PL-
AIN ERRORS BY FLOUTING THE FEDERAL HABEAS RULES AND DEPRIVING A CITIZEN
OF HIS CONSTITUTIONAL RIGHTS TO HABEAS CORPUS RELIEF AND ACCESS TO THE
COURTS... EXPECTED TACTICS TO ELLIDE THE TRUTH- HIDING JUDICIAL MISCONDUCT.
SHIELDING THE PRESIDING JUDGE AND OTHER COURT OFFICERS FROM PROSECUT-
ION FOR CORRUPTION.

NOTWITHSTANDING AN AIRTIGHT ALIBI DEFENSE KNOWN TO THE COURT AND TO
PROSECUTOR'S- AND/OR OTHERWISE VIOLATED SUBSTANTIVE DUE PROCESS IN EVERY
CONCEIVABLE WAY. ⁶ FEDERAL COURTS CONTINUED TO VIOLATE DUE PROCESS DUE
BECAUSE THE RECORD IN THIS CASE SPEAK FOR ITSELF BASED UPON ASSERTED
FACTS THAT THE COURTS KNEW TO BE FABRICATIONS. MR. SPAULDING HAS A DUE
PROCESS RIGHT TO PRESENT AN ALIBI DEFENSE IN SUPPORT OF HIS ACTUAL
INNOCENCE.

THIS WAS DISRUPTED BY THE NORTH CAROLINA ATTORNEY GENERAL MICHAEL
EASLY AND HIS AGENTS. DEFICIENCY COMMITTED BY FEDERAL JUDGES AND

ED BY THE CHARGING STATUTES- OTHERWISE PROVING HIS ACTUAL INNOCENCE. ON BE-
HALF OF A PRIVATE CITIZEN'S PERSONAL VENDETTA- EMPLOYING DECEPTIVE TACTICS
TO TURN HIS FATHER AND GRANDMOTHER AGAINST HIM. ⁵ TWO PUBLIC DEFENDER'S
STAGING A FABRICATED DEFENSE; REFUSING TO ISSUE ALIBI WITNESS SUBPOENAS;
REFUSING TO CONDUCT A COMPETENCY HEARING- AND CONVICTED AN INNOCENT AME-

JUSTICES IS OF MANY THAT WOULD CALL INTO EFFECT THEIR IMPARTIALITY AND CAUSES A MISCARRIAGE OF JUSTICE REGARDING DUE PROCESS. SEE (EXHIBIT-1C) MR. SPAULDING'S AFFIDAVIT EXPOSING THE MAGISTRATE JUDGE FALSIFYING GOVERNMENTAL DOCUMENTS. EGREGIOUS VIOLATIONS OF MR. SPAULDING'S CONSTITUTIONAL RIGHTS GUARANTEED BY THE FUNDAMENTAL RIGHTS IT PROTECTS FROM PREDATORY COURTS.

DEPRIVING MR. SPAULDING OF FULLY DEVELOPING THE FACTS THAT WOULD HAVE ESTABLISHED HIS DETENTION IS IN FACT ILLEGAL AND HE DESERVING RELIEF. SEE AS WELL MR. SPAULDING'S AFFIDAVIT FOR THE NEED FOR HABEAS CORPUS. (EXHIBIT-2C). THE (D.C. CIR.) ENTERED A RULING ON 22 JANUARY 2020 CONSTITUTING A MULTIPLE STRUCTURAL DEFECT BECAUSE IN MR. SPAULDING'S FILING THAT 28 U.S.C. § 2254 PROVIDES FOR RELIEF FROM STRUCTURAL ERRORS AT ANYTIME - DIVEST THE COURTS JURISDICTION TO MAKING FINDINGS OF GUILT OR IMPOSE SENTENCE.

⁷
IN FINELY V. JOHNSON, THE FIFTH CIRCUIT CONCLUDED THAT A SHOWING OF FACTS ESTABLISHING AN AFFIRMATIVE DEFENSE THAT WOULD RESULT IN THE DEFEND-

ERIAN CITIZEN (THE PETITIONER) OF CRIMES THEY KNEW HE DIDN'T COMMIT.⁶ MR. SPAULDING REPEATEDLY COLLIDING WITH CORRUPT PUBLIC OFFICIALS IN MAJOR CONFERENCES INVOLVING FEDERAL JUDGE W. EARL BRITT BEHIND THE SCENE BLOCKING ALL MR. SPAULDING'S AVENUES OF RELIEF.⁷ WITH REGARDS TO ENCOUNTERING FALSE PREJUDICE AFTER FALSE PREJUDICE IN BEING DENIED A FAIR OPPORTUNITY TO BE

ANTS ACQUITTAL CONSTITUTE A SUFFICIENT SHOWING OF ACTUAL INNOCENCE.

ROZELLE V. SEC. FL. DEPT. OF, 672 F.3d. 1000 (11TH CIR. 2012). MR. SPALDING DEALING WITH HOSTILE JUDGES HAVING TO EDUCATE HIMSELF IN LAW IN AN UNSTRUCTURED ENVIRONMENT SO THAT IS SO FUNDAMENTAL DISADVANTAGED IN COMPARISON.

⁸ PRESENTING OVERWHELMING EVIDENCE OF HIS ACTUAL INNOCENCE WHERE NO CONCERN OF THESE FEDERAL JUDGES IN NORTH CAROLINA STACKING THE DECK IN FAVOR OF THE GOVERNMENT. CITING GULFSTREAM AEROSPACE-CORP. V. MAYACAMAS, 485 U.S. 271 (1988). GIVING THE (D.C. CIR.) JURISDICTION TO ENTERTAIN AN ORIGINAL PETITION UNDER THE CIRCUMSTANCES. SEE RULE 22(a), FED. RULES. APP. PROC.; FELKER V. TURPIN, 518 U.S. 651, 660-661 (1996).

THE (D.C. CIR.) RULING STANDS IN CONFLICT WITH THE SUPREME COURT'S DECISION AND OTHER CIRCUITS RULINGS. CONFLICTS BETWEEN PRIVATE INTEREST AND THE OFFICIAL RESPONSIBILITY OF A PERSON IN A POSITION OF TRUST. INTERPRETING THE FACTS FALSELY IN DIVERSITY JURISDICTION. THE DENIAL OF MR.

HEARD ON HIS UNDISPUTABLE EVIDENCE IN WHICH THE GOVERNMENT CANNOT AND WILL NOT LEGALLY PROVE MR. SPALDING'S IMPRISONMENT WAS LEGALLY DETAINED. ADDRESSING THE NEED FOR HABEAS CORPUS. QUALITY CONTROL-⁸ " " HABEAS CORPUS CAN BE BEST ILLUSTRATED AS THE QUALITY CONTROL OF THE AMERICAN JUSTICE SYSTEM AND THE REASON FOR THINGS SUCH AS THE BILL OF

"
SPAULDING'S FIRST AMENDMENT RIGHT TO PETITION THE GOVERNMENT FOR RED-
RESS OF GRIEVANCE - FOR OVER THIRTY (30) YEARS OF INCARCERATION DUE
TO HIS RIGHT TO LEGAL MATERIAL - ARE CONDITIONS OF CONFINEMENT - IS
ACTIONABLE.

9
MR. SPAULDING ASSERTING THAT THERE LIES THE PROBLEM. THE DISTRICT AND
FOURTH CIRCUIT COURT OF APPEALS DIDN'T WANT JUSTICE SERVED IN HIS CASE
- DIDN'T WANT THE FACTS DEVELOPED - DIDN'T WANT AN INNOCENT MAN TO PROVE
HIS OVERWHELMING CASE TO BE HEARD ON THE EVIDENCE. ENGAGING IN THE
ROBESON COUNTY CORRUPTION THEY KNEW EXISTED. UNDER THESE GUIDELINES
ARE FILLED WITH MANDATORY LANGUAGE THAT A COURT IS OBLIGATED TO
FOLLOW.

REASONS FOR GRANTING THE PETITION

FOR A WRIT OF MANDAMUS ON INDISPUTABLE FACTS.

UNDER SUPREME COURT RULE 14.1(b)(iii) - RELATED PROCEEDINGS CORRESPONDING
WITH MR. SPAULDING'S MANDAMUS CLAIMS FILED UNDER THE FEDERAL TORT CLA-
IMS ACT IN AUGUST 2018... PETITION FOR WRIT OF CERTIORARI PLACED ON THE

RIGHTS AND THE LAWS PASSED TO FULFILL THE OBLIGATIONS SET OUT IN THE BILL
OF RIGHTS TO PREVENT UNLAWFUL CONVICTIONS AND IMPRISONMENT.⁹ DEMONS-
TRATING IN HIS 1992 TRIAL THE SIXTH AMENDMENT GUARANTEES A FAIR TRIAL
BY AN IMPARTIAL JURY - AND A COMPETENCY HEARING. DECLARING THAT IN A
HABEAS OR § 2254 PROCEEDING - A MAGISTRATE JUDGE IS NOT AUTHORIZED TO

DOCKET ON 13 SEPTEMBER 2018- 18-5974. WHERE MR. SPAULDING IN HIS 1995 HABEAS PETITION HAD NO AVAILABLE MEANS TO OBTAIN RELIEF. SEE BLASBAND V. RALES, 979 F.2d 324 (3rd Cir. 1992).¹⁰ THE MAGISTRATE IN 1997 ISSUED A REPORT AND RECOMMENDATIONS (R+R) CONFLICTING WITH THE FOURTH, SIXTH AND FOURTEENTH AMENDMENTS PERTAINING TO NON-DISPOSITIVE MATTERS ARISING PRIOR TO TRIAL. RULE 72(a), FED. RULES. CIV. PROC. - REQUIRES A MAGISTRATE JUDGE TO ACT AS FOLLOWS:

"
PROMPTLY [TO] CONDUCT THE REQUIRED [NON-DISPOSITIVE] PROCEEDING
AND WHEN APPROPRIATE - ISSUE A WRITTEN ORDER STATING THE DECISION."
"

MR. SPAULDING DISCOVERING SOME TWO DECADES LATER THAT THE MAGISTRATE'S (R+R) IS RIDDLED WITH FABRICATIONS AND CONTRARY TO FEDERAL LAW. AT THE TIME IN 1995 HE WAS FUNCTIONALLY MENTALLY INCOMPETENT - WHO HAD NO LEGAL TRAINING OR UNDERSTANDING THE DAMAGE OF ACQUIESCENCE. A JAILHOUSE LAWYER WAS REPRESENTING HIM AT THE TIME. HAD NO LEGAL KNOWLEDGE OF HOW THE SCHEME WAS SET IN PLACE BY PRIVATE CITIZEN MARY DIAL AND THE

DECIDE DEPOSITIVE MATTERS... DESIGNED TO DERAIL MR. SPAULDING'S AVENUE TO JUSTICE - ENTERING A CODE OF SILENCE COLLUDING IN A PRIVATE CITIZENS PERSONAL VENDETTA QUEST AS IN BELIEVING MR. SPAULDING MOLESTED A FIVE YEAR OLD CHILD IN 1973. SEE (EXHIBIT-1C),¹⁰ AFFIDAVIT OF LEVON SPAULDING. UNDER NORTH CAROLINA AND FEDERAL LAW - REQUIRED MR. SPAULDING TO UNDER-GO A

PROSECUTOR'S OBSTRUCTING HIS PIPELINE TO JUSTICE.¹¹ THIS WOULD CONSTITUTE A LEGAL DECEPTION A/K/A - LOOP HOLE BECAUSE SOME THIRTY (30) YEARS AFTER THE FACT EVIDENCE HAVE COME TO LIGHT THAT SHOW THE MAGISTRATE'S (R + K) ARE FORGERIES IN ITS PRESENTATION OF THE EVIDENCE AND FACTS DON'T EXIST IN THE RECORD TO SUPPORT HIS FINDINGS OF FACTS OR CONCLUSIONS OF LAW.

MR. SPAULDING WAS ACTUALLY BORDERLINE RETARDED IN 1995 - WITH AN IQ LEVEL OF 70-75; HIS PSYCHOLOGICAL AUTOPSY - HAD HIS DEFENSE LAWYER ARGUED THIS EVIDENCE IN 1992 - WOULD HAVE BEEN ENOUGH TO CONVINCE AN IMPARTIAL JUDGE TO CONDUCT A COMPETENCY HEARING - OF A LEGALLY INCOMPETENT ACCUSED. PROSECUTOR'S AND DEFENSE LAWYERS BRAINWASHING A DISADVANTAGED PERSON. ONE DIAGNOSIS INCOMPETENT AND ONE COMPETENT BY TWO DIFFERENT STATE EMPLOYED PSYCHIATRISTS REQUIRED A COMPETENCY HEARING. SEE (APPENDIX - A1) THE MENTAL EVALUATION REPORT.

¹² THE TRIAL JUDGE ORDERED THAT MR. SPAULDING RECEIVE PSYCHOTIC TREATMENT IN PRISON. MR. SPAULDING DID NOT DISCOVER THIS INCOMPETENT

COMPETENCY HEARING WHERE A DEFENDANT HAS BEEN DIAGNOSED INCOMPETENT OR COMPETENT AMOUNTING TO INEFFECTIVE ASSISTANCE OF COUNSEL. N.C. GEN. STAT. §

15A-1002(b); DROPE V. MISSOURI, 420 U.S. 162, 171, 95 S. CT. 896, 903, 43 L. ED. 2D 103

¹¹ (1975). IT IS VERY DIFFICULT TO ESCAPE THE CONCLUSION THAT THE NORTH CAROLINA ATTORNEY GENERAL IN 1995 WAS VERY FEARFUL OF THE TRUTH IN THIS CASE BEING

EVIDENCE UNTIL 2005. PATE V. ROBINSON, 383 U.S. 375, 86 S.Ct. 836, 15 L.Ed.2d 815 (1966). FUNCTIONALLY SUFFERING FROM MENTAL DISORDERS AND ALCOHOL DEPENDENCE BEFORE HIS ARREST IN 1991. CONFLICTING WITH UNITED STATES V. MASON, 52 F.3d. 1286, 1292-94 (4TH CIR. 1995). MR. SPAULDING AMENDING HIS OBJECTIONS TO THE (D.C.CIR.) IN NOVEMBER 2019.

UPON MR. SPAULDING REFILEING HIS FIRST HABEAS PETITION IN APRIL 1997- THE MAGISTRATE JUDGE GRANTED THE RESPONDENTS MOTION FOR SUMMARY JUDGMENT ON THEIR ARGUMENT THAT MR. SPAULDING'S REFILEING WAS A SECOND PETITION AS DEMONSTRATED BY THE ANTI-TERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996. SEE (18-5974-PET. APP-3(b), AT PAGE 1-4). SUMMARY JUDGMENT WAS GRANTED UNDER THE (AEDPA)- CONFLICTING WITH OTHER CIRCUIT COURTS AND THE SUPREME COURT DECISION.

¹³
SINCE THE PASSAGE OF THE (AEDPA) THE FIRST, SECOND, FOURTH, SEVENTH AND NINTH CIRCUITS CONCLUDED THAT A HABEAS PETITION REFILED AFTER THE DISMISSAL WITHOUT PREJUDICE IS NEITHER A SECOND OR SUCCESSIVE, BENTON V. WASHINGTON, 106 F.3d. AT 164-65 (7TH CIR. 1996); IN RE TURNER, 101 F.3d.-

EXPOSED. MR. SPAULDING PROVING HIS INNOCENCE AT AN EARLIER STAGE. SEE (18-59-74-PET. AT PAGE 11-15).¹² THE DISTRICT COURT JUDGE COMMITTED REVERSIBLE ERROR IN DENYING MR. SPAULDING AN EVIDENTIARY HEARING RELYING ON A RETROACTIVELY APPLICABLE SUPREME COURT DECISION IN LINDH V. MURPHY, 521 U.S. 320, 117 S.Ct. 2059, 138 L.Ed.2d 481 (1997) CHANGES MADE TO 28 U.S.C. § 2254(d) UNDER (AEDPA)

1332 (9TH CIR. 1997); DICKINSON V. MAINE, 101 F.3d 791 (1ST CIR. 1996); CAMARANO V. IRWIN, 98 F.3d 44, 46-47 (2d CIR. 1996); HABEAS PETITION PREVIOUSLY DISMISSED FOR FAILURE TO EXHAUST STATE REMEDIES NOT SECOND OR SUCCESSIVE, SLACK V. MCDANIEL, 529 U.S. 473, 485-87 (2000); IN RE WILLIAMS, 444 F.3d 235-36 (4TH CIR. 2006).

THE DISTRICT COURT COMMITTED A REVERSIBLE DECISION WITH REGARDS TO THE NORTH CAROLINA'S ENACTED POST-CONVICTION RELIEF PROCEDURE - N.C. GEN. STAT. §§ 15A-1411 TO 1422. APPLICABLE TO MR. SPAULDING'S CASE QUE BECAUSE AS NOTED IN SESSION LAWS 1977, C. 711, S. 39 - THIS ACT BECAME EFFECTIVE ON JULY 1, 1978 - AND APPEALED TO ALL MATTERS ADDRESSED BY ITS PROVISIONS WITHOUT REGARD TO WHEN A DEFENDANTS GUILT WAS ESTABLISHED OR WHEN JUDGMENT WAS ENTERED AGAINST HIM.

¹⁴
CONFLICTS IN THE DISTRICT COURTS OWN PRECEDENT DECISIONS IN VESTER- L. V. STEPHENSON, 465 F. SUPP. 868 (E.D. N.C. 1978) - AN EXAMINATION OF N.C. GEN. STAT. §§ 15A-1411, et seq. - IN TERMS OF ITS OFFICIAL COMMENTS - REVEALS A FAR MORE REFINED STATE PROCEDURE FOR HANDLING POST-

DID NOT APPLY TO MR. SPAULDING'S NON-CAPITAL FEDERAL HABEAS PETITION PENDING AT THE TIME OF THE ACTS ENACTMENT. ¹³ MR. SPAULDING - A STATE PRISONER IN 1995 BRINGS THIS ACTION PURSUANT TO 28 U.S.C. § 2254 ALLEGING VIOLATIONS OF HIS CONSTITUTIONAL RIGHTS... PRESENTING SOME THIRTY-SIX (36) CLAIMS - AMONG THOSE HE CONTEND WAS (2) DENIED EFFECTIVE ASSISTANCE OF

CONVICTION CHALLENGES THAN HERETOFORE EXISTED. CONFLICTING WITH THE SUPREME COURT RULING IN PREISER V. RODRIGUEZ, 411 U.S. 475, 93 S.Ct. 1827, 36 L.Ed. 439 (1973). MR. SPAULDING CONTENDS THAT THE MAGISTRATE IN HIS (R+R) OVERRULED THE STATES RULING THAT HIS CLAIMS ARE NOT PROCEDURALLY BARRED. SEE (18-5974- PET. APP. 9a, AT PAGES 3-6).

DEPRIVING MR. SPAULDING OF HIS CONSTITUTIONALLY PROTECTED RIGHT PARTICULARIZED BY THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION. TO WIT: NO PERSON SHALL BE: DEPRIVED OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW. ON 03 OCTOBER 2019 THE (D.C.C.R.) ISSUED AN ORDER ALLOWING MR. SPAULDING TO PROCEED. THE CIRCUIT COURT ASSERTING THAT MR. SPAULDING WOULD NOT BE RELIEVED OF HIS OBLIGATIONS OF PROVING HIS ALLEGATIONS OR TO FILE RESPONSES TO ANY MOTION FILED BY THE GOVERNMENT OR THE COMPLY WITH ANY ORDER ISSUED BY THE COURT.

¹⁵
THIS ORDER MR. SPAULDING CONTENDS CAME ON THE RESPONSE OF HIS PLEA'S

COUNSEL; (b) DENIED DEFENSE WITNESSES; (c) CONVICTED ON PERTURED EVIDENCE THROUGH STATE WITNESSES; (d) NOT GIVEN HIS RIGHT TO ALLOCUTION; (e) NOT GIVEN A PRESENTENCING HEARING; (f) PREJUDICE BY THE JURY HAVING BEEN INFORMED OF HIS PAST CONVICTIONS IN OPEN COURT. FROM AT MR. SPAULDING TO MOVE THE (D.C.CIR.) COURT FOR CHANGE OF VENUE PURSUANT TO 28 U.S.C. § 1404(a)

TO OPEN THE COURTS DOORS TO HEAR HIS CLAIMS OF INNOCENCE. ASSERTING
INDISPUTABLE EVIDENCE FOUND IN THE COURT RECORDS. MR. SPALDING COM-
MENCED TO LAYING OUT HIS NEW EXPLOSIVE EVIDENCE PROVING HIS ACTUAL
INNOCENCE; CHALLENGING THE MAGISTRATE'S 1995 (R+R) ON NEWLY DISCOVERED
EVIDENCE; REQUESTING HIS CRIMINAL WORK FILE. SHOWING HIS TWO ASSIGNED PU-
BLIC DEFENDERS CONSPIRED TO PROSECUTOR AND A PRIVATE CITIZEN TO CONVICT HIM.
SEE (APPENDIX-B) - THE (D.C. CIR.) ORDER. PUTTING MR. SPALDING ON THE RIGHT
PATH TO BE HEARD.

THIS TURNED OUT TO BE ANOTHER FALSE HOPE DUE BECAUSE ON 22 JANUARY 2020
THE (D.C. CIR.) DENIED MR. SPALDING HIS RIGHT TO BE HEARD. (APPENDIX-A).
DISPLAYING FAVORITISM IN NONE BIAS ORDERS FOR THE GOVERNMENT IN NOT
PERMITTING MR. SPALDING TO BE HEARD ON HIS INNOCENCE. THE LAW ON THE
TRANSFER FORUM WILL APPLY. THIS IS EITHER (1) WITHIN THE TERRITORIAL
LIMITES OF THE STATE WHERE THE DISTRICT SITS; OR (2) SOMEWHERE ELSE PER-
MITTED BY STATE LAW (I.E., THE LONG ARM) OF THE STATE WHERE THE DISTRICT
SITS. (AS SPECIFIED BY 28 U.S.C. § 1391).

, 1406(a) - TO TRANSFER HIS ORIGINAL 1995 HABEAS PETITION ON THE GROUNDS
OF IMPROPRIETIES. ¹⁵ WHEREAS EXISTENCE IN THE RALEIGH DISTRICT COURT INADEQ-
UATELY AND INEFFECTIVELY TESTED THE LEGALITY OF MR. SPALDING'S DETENTION -
" " OF PREJUDICES SO GREAT AGAINST HIM HE WILL NEVER EVER RECEIVE A FAIR OR
IMPARTIAL FACT FINDING BODY IN NORTH CAROLINA. AMENDING HIS ORIGINAL § 2254
PETITION PURSUANT TO RULE 15(c) - RELATION BACK AMENDMENT - (c)(1)(A)

IN SPECIAL CIRCUMSTANCES ON DIVERSITY JURISDICTION EXTENDING TO CONTROVER-
SIES BETWEEN CITIZENS OF DIFFERENT STATES AND BETWEEN A STATE OR THE
CITIZEN THEREOF - AND CITIZEN OR SUBJECT. (ART. III, § 2). THE RATIONALE FOR
THE EXISTENCE OF DIVERSITY JURISDICTION HAS TRADITIONALLY BEEN THAT IT
OFFERS A FEDERAL FORUM FOR OUT-OF-STATE LITIGANTS WHO WOULD BE
EXPOSED TO LOCAL PREJUDICES WHEN HELD IN THAT STATE. AS MR. SPAULD-
ING HERE HAS DEMONSTRATED REPEATEDLY THAT SUCH PREJUDICES EXIST IN
NORTH CAROLINA AND THE FOURTH CIRCUIT. 28 U.S.C. § 1332.

THE DISTRICT COURT DEVIATED AND/OR VIOLATED THE MANDATES OF THE FEDE-
RAL RULES OF APPELLATE PROCEDURE - TO WIT: CONFLICTS AMONG THE CIRCUITS
ON THE EXACT POINTS INVOLVED IN THIS CASE. MR. SPAULDING'S RIGHT TO BE
HEARD. THE STATE COURTS CREATED THIS MISCARRIAGE OF JUSTICE. THEY
KNEW MR. SPAULDING DIDN'T COMMIT THE CRIMES ACCUSED OF - IT SAYS SO
RIGHT THERE IN THE COURT RECORDS.

16

MR. SPAULDING HAS THE RIGHT TO BE FREE FROM DELAYED JUSTICE - FROM FEDE-
RAL COURTS BLOCKING THE OPPORTUNITY TO BE HEARD RELYING ON THE RETR-

THE LAW PROVIDES THE APPLICABLE STATUTE OF LIMITATION ALLOW RELATION BACK;
SUBSECTION (B) OF THE AMENDMENT ASSERTS A CLAIM OR DEFENSE THAT AROSE
OUT OF CONDUCT - TRANSACTIONS - OCCURRENCE SET OUT IN THE ORIGINAL PLEAD-
INGS; OR (C)(1)(i) - AND SUBSECTION (C)(2) NOTICE TO THE UNITED STATES OFFICER
OR AGENT. RULE 15(C)(1)(C)(i). MR. SPAULDING'S RELIANCE (18-5974 - PET. AT 16-20)

16

OR ACTIVELY APPLICABLE SUPREME COURT DECISIONS IN A SERIES OF IMPORTANT CASES, EX PARTE HULL, 312 U.S. 546 (1941), JOHNSON V. AVERY, 383 U.S. 483 (1969), AND BOUNDS V. SMITH, 430 U.S. 817 (1977). MR. SPAULDING DEMONSTRATING ACTUAL INJURY AS REQUIRED BY THE SUPREME COURT IN LEWIS V. CASEY, 518 U.S. 343 (1996).

MR. SPAULDING - A LEGALLY INCOMPETENT ACCUSED - CANNOT BE CHARGED WITH HIS TRIAL AND APPELLATE ATTORNEY'S NEGLIGENCE. FOR OVER THIRTY (30) YEARS HE HAS LITIGATED HIS WRANGFUL CONVICTION TO THE BEST OF HIS ABILITY AND KNOWLEDGE ONLY TO ENCOUNTER ROAD BLOCK AFTER ROAD BLOCK ON HIS INDISPUTABLE EVIDENCE PROVING GOVERNMENT AGENTS FALSIFYING THEIR REBUTTAL RESPONSES - DEPRIVING HIM OF MEANINGFUL ACCESS TO THE COURTS.

17

MR. SPAULDING CHALLENGING THE INADEQUACY OF THE NORTH CAROLINA LEGAL ASSISTANCE PROGRAMS: THE INNOCENCE PROJECTS IN NORTH CAROLINA; THE NORTH CAROLINA PRISONER LEGAL SERVICES - AN ORGANIZATION PUT IN PLACE TO REPLACE THE PRISON LAW LIBRARY - THE IMPAIRMENT OF MR. SPAULDING'S

WHY THE CONFIDENTIAL INFORMANT WAS NOT CHARGED FOR BURGLARIZING THE SPAULDING RESIDENCE WITH THE SHERIFF'S DEPARTMENT AND THE DISTRICT ATTORNEY DECLINING TO PROSECUTE HIM. PROSECUTOR CARTER REFUSING TO ALLOW MR. SPAULDING TO EXPOSE JOHN MOSLEY THE INFORMANT ON THE WITNESS STAND. SEE (18-5974-PET. AT 21-25); BUCKLEY V. FITZSIMMONS, 919 F.2d 1230, 1244 (CAL. 7 -

LEGAL RIGHTS. SUCH CONDITIONS VIOLATE A PRISONER'S RIGHT OF ACCESS TO THE COURTS. TRILLO V. WILLIAMS, 465 F.3d 1210 (10TH CIR. 2006); MARANGE V. FONTENOT, 879 F.SUPP. 679 (E.D. TEX. 1995). SECTION 18 U.S.C. § 3626(h):

¹⁸ " THE TERM CIVIL ACTION WITH RESPECTS TO PRISON CONDITIONS MEANS IN ANY CIVIL PROCEEDING ARISING UNDER FEDERAL LAW WITH RESPECTS TO THE CONDITIONS OF CONFINEMENT OR THE EFFECT OF ACTIONS BY GOVERNMENT AGENTS ON THE LIVES OF PERSONS CONFINED IN INSTITUTIONS; MEANING ANY PERSON SUBJECT TO INCARCERATION - DETENTION - OR ADMISSION TO ANY FACILITY WHO IS ACCUSED OF ANY CRIMES CONVICTED AND SENTENCED FOR VIOLATIONS OF CRIMINAL LAW. DEPRIVING MR. SPAULDING AN IMPARTIAL TRIBUNAL TO BE HEARD ON EVIDENCE OF HIS ACTUAL INNOCENCE... HIS RIGHT TO DEFEND;

MR. SPAULDING PROVING THAT INNOCENCE PROJECTS IN NORTH CAROLINA AND THE NORTH CAROLINA PRISONER LEGAL SERVICES DESIGNED THEIR RESPONSES TO HIS REQUEST FOR ASSISTANCE - FABRICATED THEIR INFORMATION REGARDING THE MATTERS INVOLVED. CONVERSELY - SABOTAGING THE TRUE FACTS ABOUT

1990) - YET THE CENTRAL COMPONENT OF A MALICIOUS PROSECUTION CLAIM IS THAT THE PROSECUTOR IN QUESTION ACTED MALICIOUSLY WITHOUT PROBABLE CAUSE. SEE WYATT V. COLE, 504 U.S. , 112 S. CT. 1827, 118 L. ED. 2d 504 (1992); id., AT , 112 S. CT. AT 1834 (KENNEDY J. CONCURRING); AT , 112 S. CT. AT 1829. SEE ¹⁸ AFFIDAVIT OF LEVON SPAULDING ON VINDICTIVE PROSECUTION (EXHIBIT-3C). IN ESSENCE -

HIS CASE. THE FOURTH CIRCUIT'S RESPONSES TO MR. SPAULDING'S CLAIMS OF INNOCENCES IN 1995 THROUGH 1998 ARE FABRICATIONS.

¹⁹
SIMILAR OR THE EXACT SAME FACTS REGARDING PERJURED EVIDENCE - CONFLICTS IN THE FOURTH CIRCUIT'S OWN PRECEDENT RULINGS IN CAMPBELL V. REED, 594 F.2d. 4 (4TH CIR. 1979); UNITED STATES V. SLITTON, 542 F.2d. 1239 (4TH CIR. 1976) - MAKING A DISCOVERY OF THE FOURTH CIRCUIT'S FRAUD AND MANIPULATIONS IN MR. SPAULDING'S CASE ON THE EXACT SAME ISSUES IN STATE V. SPAULDING, 118 N.C. APP. 492, 430 S.E. 2d 705 (N.C. 1993).

THE BENEFIT IS UNIFORMITY IN EQUAL TREATMENT. THE GOAL OF SUCH UNIFORMITY REQUIRES THIS COURT TO RESOLVE THIS CONFLICT BETWEEN THE CIRCUITS AND THE DISTRICT COURT:

I. THE FOURTH CIRCUIT'S REASONING IN MR. SPAULDING'S CASE IN 1995-1998 IS FLAWED; THE SUPREME COURT'S REASONING CORRECTLY CAPTURES THE REQUIREMENTS IN NARUE V. ILLINOIS.

THERE EXIST ABSOLUTELY NO JUSTIFYING REASON FOR THE FOURTH CIRCUIT OR THE

THESE ARE THE SAME LEGAL STANDARDS INVOLVED IN MR. SPAULDING'S CASE - DOES IT NOT APPLY TO HIM AS WELL. WHEN A STATE GOVERNMENT DELIBERATELY SOLICIT ITS OWN WITNESSES TO SUBMIT PERJURED EVIDENCE ALLOWS IT TO STAND ¹⁹ UNCORRECTED. LIKEWISE - PROSECUTOR BRITT PROCURED THE DETECTIVE IN MR. SPAULDING'S 06 JANUARY 1992 GRAND JURY PROCEEDING TO SUBMIT PERJURED EVIDENCE

DISTRICT COURT TO TOLERATE THE LAPSES IN IMPARTIALITY THAT OCCURRED IN
THIS CASE. ²⁰ THIS IS IMPORTANT - NOT PERIPHERAL. THE CAMPBELL V. REED CITED...
IT IS WELL SETTLED THAT DELIBERATE DECEPTION OF A COURT AND JURORS BY THE
PRESENTATION OF KNOWN FALSE EVIDENCE CANNOT BE RECONCILED WITH THE RUD-
IMENTARY DEMANDS OF JUSTICE. PLYE V. KANASA, 317 U.S. 213, 63 S.Ct. 177, 87 L.Ed.
214 (1942); MOONEY V. HOLAHAN, 294 U.S. 103, 112 S.Ct. 340, 79 L.Ed. 79 (1935).

SINCE THE JURY'S ESTIMATE OF THE TRUTHFULNESS AT THE STATE LEVEL OF THE
RELIABILITY OF A GIVEN WITNESS BEING THE DETERMINATIVE FACTOR OF GUILT
OR INNOCENCE. IN NAPUE V. ILLINOIS, 360 U.S. 264, 269, 79 S.Ct. 1173, 1177, 3 L.
Ed. 2d 1217 (1959). THE PRINCIPLE - IS THAT THE STATE MAY NOT KNOWINGLY USE
FALSE EVIDENCE. IN THE INSTANT CASE - MR. SPAULDING HAD REPEATEDLY SH-
OWN THAT PROSECUTOR'S CARTER AND BRITT PROCURED A PRIVATE CITIZEN - DETE-
CTIVE AND SHERIFF'S DEPUTY TO SUBMIT PERJURED EVIDENCE TO OBTAIN HIS CON-
VICTION - ITS RIGHT THERE IN THE COURT RECORDS FOR EVERYONE TO SEE - IN A DISPUTED.

TO OBTAIN THE INDICTMENTS. MR. SPAULDING PROVED THIS IN HIS 1995 HABEAS PETI-
TION - INDISPUTABLY. THE DISTRICT COURT DEFEYING ALL STANDING PRECEDENT
SUPREME COURT DECISIONS ON THE SAME ISSUES. ²⁰ THIS CREATED A PROPOSITION OF
RAGE - ANGER - HATRED AND FURIOUS RESENTMENT AMONG GOVERNMENT EMPLOYEES
STATE AND FEDERAL AGAINST MR. SPAULDING. TOXIFYING HIS TRIAL WITH MARY DIAL'S

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THE FOURTH CIRCUIT FOUND THESE PRINCIPLES ENUNCIATED IN NAPUE AND GIGLIO APPLICABLE TO THE FACTS IN CAMPBELL V. REED AND UNITED STATES V. SUTTON ON SIMPLER OR IDENTICAL FACTS... TO THOSE SAME FACTS IN STATE V. SPAULDING REQUIRING INTO THE MATERIALITY OF THE EVIDENCE WITHHELD. A NEW TRIAL SHOULD HAVE BEEN ORDERED DUE BECAUSE MS. DIAL'S TESTIMONY DID NOT CORROBORATE THAT OF HER MOTHER MATTIE SPAULDING. MARY DIAL IS THE INSTIGATOR BEHIND MR. SPAULDING'S WRONGFUL CONVICTION IN A VENDETTA PLOT.

USING HER POLITICAL INFLUENCE TO SUSTAIN MR. SPAULDING'S CONVICTION AND IMPRISONMENT. THE GOVERNMENT HANDING THE LAW OVER TO MARY DIAL TO DO AND USE AS SHE PLEASE. PROSECUTOR CARTER PROCURING MATTIE SPAULDING TO SAY SHE TOLD DIAL ALL ABOUT THAT NIGHT (Tp. 143). DANIEL SPAULDING TESTIFIED THAT BESIDES THE TWO OFFICERS - HE OR HIS MOTHER HAVE NOT TOLD ANYONE ABOUT THAT NIGHT. (Tp. 186, LINES 10-16). SEE GIGLIO V. UNITED STATES, 405 U.S. 150, 154, 92 S.Ct. 763, 31 L.Ed. 2d 104 (1972).

IN VIEWING THE RECORD AS A WHOLE - MARY DIAL DID NOT QUALIFY AS A WITNESS -
" " SHE WAS ACTING WITH MALICE INTENT WHILE UNDER THE INFLUENCE OF HER FEUD.

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OWN LIES. BRAIN WASHING AND OTHER HYPNOTIC THINGS WITHOUT MR. SPAULDING KNOWING WHAT HE WAS FACING IN HIS TRIAL. A RUSE DESIGNED AS JUSTICE. ALL SORTS OF CONTRIVED - USELESS ALLEGATIONS - HE'S BEEN ON INADEQUATE PROVOCATION. IN 1973 MR. SPAULDING'S UNCLE ORSO SPAULDING'S DAUGHTER LITTLE MATTIE WAS FIVE YEARS OLD. MR. DIAL FABRICATED A STORY THAT MR. SPAULDING

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USING THIS FABRICATED STORY TO MOTIVATE COUNTY OFFICIALS TO IMPRISON MR. SPAULDING IN ANY MEANS POSSIBLE. SEE MR. SPAULDING'S AFFIDAVIT AS (EXHIBIT-4C). THIS WAS THE KIND OF EVIDENCE BACK THEN OF SUCH SUBSTANTIAL VALUE TO THE DEFENSE THAT ELEMENTARY FAIRNESS REQUIRED IT TO BE DISCLOSED AND EVERYONE KNEW OF IT EXCEPT MR. SPAULDING HIMSELF. SEE UNITED STATES V. AGURS, U.S. ___, 96 S.Ct. AT 2401, 49 L.Ed. 2d 342 (1976); ASHE V. UNITED STATES, 288 F.2d 733 (4TH CIR. 1961). WHERE THE FAILURE OF A PROSECUTOR TO DISCLOSE INVOLVES A CORRUPTION OF THE TRUTH-SEEKING FUNCTION OF THE TRIAL PROCESS. AS STATED IN THE GOVERNMENT TAKING A PRIVATE CITIZEN INTO THEIR CONFIDENCE - SWORN TO SECRECY - AND FED THEM HER LIES - MOTIVATED THEM BY HER REVENGE TO THE POINT OF CORRUPTIVE RETRIBUTION FOR THE 1973 FABRICATION.

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PROSECUTOR'S AND DEFENSE ATTORNEYS ALIKE KNEW OF MR. SPAULDING'S LEARNING DISORDERS. KNEW OF HIS UNRESPONSIVENESS THROUGHOUT HIS TRIAL. HIS BEING DIAGNOSED INCOMPETENT TO ASSIST IN HIS OWN DEFENSE. KNEW OF MS. DIAL'S PASSION TO IMPRISON HER NEPHEW GOING INTO COURT ON 08 JULY

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MOLESTED HER NECE. MR. SPAULDING HAS BEEN FIGHTING THESE LIES EVER SINCE. (18-5974 - PET. AT PAGE 26-29). ASSERTING THAT ON DIRECT EXAMINATION THE PROSECUTOR PROCURED THE DETECTIVE TO GIVE PERJURED EVIDENCE REGARDING PROBABLE CAUSE. ON CROSS THE DETECTIVE ADMITTED HE PRODUCED THE FABRICATED ARREST WARRANTS FOR THE SOLE PURPOSE OF GAINING APPROVAL TO EXTRADITE MR. SPAULDING.

1992. YET THE FEDERAL COURTS TURNS THE CIRCUMSTANCES DRAMATICALLY IN THE CONTEXT OF FEDERAL HABEAS RELIEF. COMING TO THE EXTRAORDINARY CONCLUSION THAT SHED LIGHT ON THESE COURTS IMPARTIALITY IN THE ADMINISTRATION OF JUSTICE. IN A FAMOUS 1963 DECISION IN BRADY V. MARYLAND;

ARGERSINGER V. HAMLIN; HUDSON V. McMILLIAM; COOPER V. OKLAHOMA; RUSSELL V. UNITED STATES; AKE V. OKLAHOMA; LINOH V. MURPHY; CRUZ V. BETO; LILJEBERG V. HEALTH SERVICES; STRICKLAND V. WASHINGTON. IN AKE V. OKLAHOMA, 470 U.S. 68, 105 S.Ct. 1087, 84 L.Ed. 2d 53 (1985) HOLDS JUST THE OPPOSITE IN A REASONED APPROACH OF THE 1995 DISTRICT COURT AND THE FOURTH CIRCUITS HOLDINGS BASED ON THE VERY SAME CIRCUMSTANCES AS ARE INVOLVED IN THE INSTANT CASE AND IN MOST OTHER CIRCUITS THAT SUBSTANTIATED THE PERFORMANCE AND PREJUDICES.

²⁴
DEMONSTRATING UNDER THE SUPREME COURT YEARS AGO IN MAKING IT THE LAW OF THE LAND WHEN OKLAHOMA LANDED AT THE UNITED STATES SUPREME COURT

FROM TEXAS. (Tp. 207-220). ²³ A STATE GOVERNMENT MAKING UP FABRICATIONS ABOUT SERVING UP JUSTICE. THE ATTORNEY GENERAL FURNISHING MR. SPAULDING WITH IMPRESSIVE LOOKING BOGUS DOCUMENTS. THE DISTRICT AND FOURTH CIRCUITS COURTS SETTING AN EMBARRASSINGLY LOW STANDARD AND IMPOSES A "CATCH-22" BURDEN ON HABEAS PETITIONER'S; ²⁴ THE GOVERNMENT DID NOT ATTEND TO THE OBVIOUS BUSI-

- ITS OUTCOME RATTLED THE CRIMINAL COURTS OF THIS COUNTRY. MR. SPAULDING IN THE INSTANT CASE - HIS CASE AS WELL SHOULD RATTLE THE CRIMINAL COURTS OF THIS NATION DUE OF THE ABUSE INVOLVED. THE COURT SAID: WHEN A STATE BRINGS ITS JUDICIAL POWERS TO BEAR ON AN INDIGENT DEFENDANT IN A CRIMINAL PROCEEDING - IT MUST TAKE STEPS TO ASSURE THAT THE DEFENDANT HAS A FAIR OPPORTUNITY TO PRESENT HIS DEFENSE. JUSTICE CANNOT BE EQUAL WHERE - SIMPLY AS A RESULT OF HIS POVERTY - A DEFENDANT IS DENIED THE OPPORTUNITY TO BE HEARD OR TO PARTICIPATE IN A MEANINGFUL JUDICIAL PROCEEDING IN WHICH HIS LIBERTY IS AT STAKE.

THE AKE DECISION REQUIRED THAT THE BASIC TOOLS OF AN ADEQUATE DEFENSE BE PROVIDED BY THE STATE TO AN INDIGENT DEFENDANT. IDENTICAL TO MR. SPAULDING'S CASE. SEE (APPENDIX-A1) MR. SPAULDING'S MENTAL EVALUATION REPORT - THE PRINCIPAL PSYCHIATRIC DIAGNOSIS: (1) ADJUSTMENT DISORDERS WITH MIXED EMOTIONAL FEATURES; (2) ALCOHOL DEPENDENCE; (3) PSYCHO ACTIVE SUBSTANCE ABUSE; (4) PERSONALITY DISORDERS; (5) HISTORY OF BLACK OUTS.

NESS OF REQUIRING PROOF OF SERIOUS CRIMES. MR. SPAULDING AMENDING THE DISTRICT COURTS 1995 HABEAS PETITION UNDER 28 U.S.C. § 2254 DEMONSTRATING HIS INDICTMENTS ARE SO DEFECTIVE THAT HE WAS IMPROPERLY INFORMED - THE COURT DENNING AN EVIDENTIARY HEARING TO PROVE HIS CONVICTION ARE UNCONSTITUTIONALLY OBTAINED - AND THAT HE WAS DENIED PROVING THE CONVICTING

II. MR. SPAULDING PLEADING NOT GUILTY TO FIRST AND SECOND

DEGREE BURGLARY; NOT GUILTY TO TWO COUNTS OF ROBBERY WITH A DANGEROUS WEAPON; AND FELONIOUS LARCENY, FILING FOR HABEAS RELIEF IN APRIL 1995.

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IN FEDERAL COURTS - HABEAS CORPUS CAN BE INVOKED WITH RESPECTS TO INDICTMENTS SO FATAALLY DEFECTIVE THAT UNDER THE CIRCUMSTANCES COULD A VALID CONVICTION RESULT FROM FACTS PROVABLE UNDER THE INDICTMENT. SEE LINER V. PHELP, 731 F.2d 1201, 1203 (5TH CIR. 1984) CONFLICTING WITH SPAULDING V. UNITED STATES, (4TH CIR. 1998); AND JOHNSON V. ESTELLE, 704 F.2d 236 (5TH CIR. 1983) QUOTING JOHNSON V. BETO, 383 F.2d 197, 198 (5TH CIR. 1967), CERT. DENIED, 465 U.S. 1009, 104 S.Ct. 1006, 79 L.Ed. 2d 237 (1984).

THE MAGISTRATE JUDGE NOR THE DISTRICT JUDGE CONSIDERED THE NEW EVIDENCE OF DANIEL SPAULDING IN HIS 1994 AFFIDAVIT RECANTING HIS TRIAL TESTIMONY AS A STATE WITNESS AND ADMITTING THE CHARGES WERE FALSE. SEE (EXHIBIT-5C) - CORROBORATING THE DETECTIVE TESTIMONY THAT HE FILED THE CHARGES FOR EXTRADITION PURPOSES. MR SPAULD-

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COURT HAD NO JURISDICTION. ASSERTING HE WAS ENTITLED TO A NEW TRIAL IN 1995 ON THE GROUNDS THE COURT FAILED TO DISCLOSE THE INCOMPETENCY EVIDENCE IN ACCORDANCE WITH ITS DECISION IN UNITED STATES V. SMITH, CITE AS: 512 F.SUPP. 335. THE GOVERNMENT FAILED TO DISCLOSE THE TESTIMONY OF ITS KEY WITNESS MARY DIAL THAT WAS INFLUENCED BY A FEUD OF REVENGE. HER VENDETTA

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ING FROM TEXAS AND PUNISHING HIM BY IMPRISONMENT. CONTRADICTING PROSECUTOR CARTER'S COMMENTS THAT MATTIE SPAULDING TOLD MARY DIAL ALL ABOUT THAT NIGHT.

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MR. SPAULDING ASSERTING THAT PROSECUTOR CARTER USED THE BULLY-PULPIT OF A CLOSING ARGUMENT TO INFLAME THE PASSIONS AND PREJUDICES OF THE JURY - ARGUING FACTS NOT IN EVIDENCE. THE ENTIRE ARGUMENT NOTHING MORE THAN FABRICATION. SEE LEVON SPAULDING'S AFFIDAVIT ON PROSECUTORIAL MISCONDUCT (EXHIBIT-3C). MARY DIAL - THE GOVERNMENT'S KEY WITNESS - FABRICATED THAT MR. SPAULDING WAS PUSHING HER BROTHER REDELL SPAULDING'S HEAD IN THE TOILET CHOKING HIM - TRYING TO KILL HIM (Tp. 241).

MARY DIAL'S ENTIRE TESTIMONY IS NOTHING BUT FABRICATION - LIE AFTER LIE PROCURED BY PROSECUTOR CARTER TO SUPPORT HER VERACITY BY FALSELY ASSURING THE JURY MR. SPAULDING HAD THREATEN REDELL, DANIEL AND MATTIE. THE JURY BELIEVED THIS - EXCEPT FOR MATTIE - WITHOUT ANY REBUTAL FROM HIS TWO DEFENSE LAWYER'S. SEE UNITED STATES V. AGURS, U.S.

INVOKING THE FUNDAMENTAL FAIRNESS CONCEPTS ENUNCIATED IN GIGLIO V. UNITED STATES, 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed. 2d 104 (1972); BRADY V. MARYLAND, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed. 2d 215 (1963); AND MOONEY V. HALAHAN, 294 U.S. 103, 55 S.Ct. 340, 79 L.Ed. 791 (1935). INSTEAD - THERE WAS THE RATHER TYPIC CONTENTION KNOWINGLY MADE FABRICATED STATEMENTS - A MATERIALITY DETER-

96 S.Ct. 2392, 49 L.Ed. 2d 342 (U.S. JUNE 24 1996).²⁷ ... SEE ALSO (18-5974 - PET. AT PAGES 16-18 (EXHIBITS - 7,8). REQUIRING TO DISTINGUISH BETWEEN WHAT MAY BE TERMED "VERACITY OR (PERTURJURY) CASES AND CASES INVOLVING "DISCOVERY OF EVIDENCE KNOWN TO THE PROSECUTION BUT NOT INVOLVING PROSECUTORIAL MISCONDUCT OR CORRUPTION OF THE TRUTH FINDING PROCESS. GIGLIO V. UNITED STATES, 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed. 2d 104 (1975), WAS A VERACITY CASE.

SEE (EXHIBIT - 6C) THE AFFIDAVIT OF CARDELL SPAULDING EXPLAINING HOW HIS SISTER MARY DIAL WERE INVOLVED WITH VARIOUS STATE AND FEDERAL JUDGE'S. IN AN OPINION BY CHIEF JUSTICE - IT WAS HELD THAT WHEN THE RELIABILITY OF A WITNESS MAY BE DETERMINATIVE OF GUILT OR INNOCENCE - NON DISCLOSURE OF EVIDENCE THAT AFFECTS CREDIBILITY IS A DENIAL OF FUNDAMENTAL FAIRNESS REQUIRED BY THE DUE PROCESS CLAUSE. 405 U.S. AT 154, 92 S.Ct. 763. AGURS - ON THE OTHER HAND - AS IN MR. SPAULDING'S CASE - MAY BE VIEWED AS "A DISCOVERY CASE.

IN BOONE V. PANERICK, 541 F.2d 477 (4TH CIR. SEPT. 13, 1976) - HELD THAT A STATE

MINATION IN PERTURBED PROSECUTION THAT THE GOVERNMENT POSSESSED INFORMATION UNKNOWN TO THE DEFENDANT WHICH IT SHOULD HAVE PRODUCED.²⁷ AS IN THE CASE AT BAR THE PROSECUTION MAKING MATERIAL FALSE STATEMENTS IN A MATTER WITHIN THE JURISDICTION OF A FEDERAL AGENCY - IN VIOLATION OF 18 U.S.C. § 1001. THE MISREPRESENTATION OF CRIMINAL CONDUCT. IN PROSECUTOR CARTER'S OPENING AND

TRIAL WAS FLAWED BECAUSE THE PROSECUTOR CONCEALED AN OFFER OF FAVORABLE TREATMENT TO THE DEFENDANT'S ACCUSER. IN THE INSTANT CASE - PROSECUTOR CARTER ALLOWED A PRIVATE CITIZEN TO ASSASSINATE MR. SPAULDING'S CHARACTER AND REPUTATION. AND WHAT THE PROSECUTOR'S REASON FOR NOT ARRESTING AND/OR PROSECUTING JOHN MASLEY. WITH RESPECTS TO SUFFICIENCY OF A STATE INDICTMENT FOR PURPOSES OF FEDERAL HABEAS REVIEW - IS NECESSARILY FRAMED BY
" " LAW - FATAL VARIANCE.

THE ESSENTIAL ELEMENTS OF CRIMINAL FRAUD ARE (1) THE EXISTENCE OF A SCHEME TO DEFRAUD, AND (2) THE FILING OF DOCUMENTS, ETC - FOR THE PURPOSE OF EXECUTING THE SCHEME OF FALSE IMPRISONMENT. MARY DIAL DEVISED THE SCHEME TO IMPRISON MR. SPAULDING FOR THE REST OF HIS LIFE. WILLFULLY FABRICATED TO CONCEAL OR COVER-UP BY ANY TRICK - SCHEME - OR DEVICE A MATERIAL FACT - OR MAKES ANY FALSE - FICTITIOUS OR FRAUDULENT STATEMENTS OR PRESENTATION...

OR MAKES OR USES ANY FALSE WRITING OR DOCUMENT KNOWING THE SAME TO CONTAIN ANY FALSE - FICTITIOUS OR FRAUDULENT STATEMENT OR ENTRY -

CLOSING ARGUMENT HE DID KNOWINGLY FABRICATE EVIDENCE. SEE ²⁸ HOLLAND V. ILLINOIS, 493 U.S. 474, 481 (1990). SEE ALSO (TP. 353 - 363). MR. SPAULDING DID NOT RECEIVE THOSE BENEFITS OR PROTECTIONS. HE IS THE VICTIM OF A BROKEN JUSTICE SYSTEM. HE DID NOT RECEIVE A FAIR TRIAL IN WHICH EVIDENCE WAS NOT SUBJECT TO ADVERSARIAL TESTING OR PRESENTED TO AN IMPARTIAL TRIBUNAL FOR RESOLUTION OF ISSUES DEF-

PURSUANT TO SECTION § 1001 OF TITLE 18. SEE ALSO THE TRIAL COURTS CHARGE TO THE JURY ON 09 JULY 1992. (TP. 383 - 397); SEE ALSO (18-5974 - PET. AT PAGES 19-26).²⁹ THE SUPREME COURT SPELLED OUT INEFFECTIVE ASSISTANCE OF COUNSEL IN STRICKLAND V. WASHINGTON, 466 U.S. 668 (1984). NOT ONLY DID THE HIGH COURT DEFINE IT - BUT ALSO SHOWED HOW TO TEST IT. THE COURT HELD THAT:

III. INEFFECTIVE ASSISTANCE OF COUNSEL - A PRESENTATION IN WHICH THE LAWYER CANNOT DEVOTE FULL EFFORT TO THE DEFENDANT - USU. BECAUSE OF A CONFLICT OF INTEREST.

A CONVICTED DEFENDANT ALLEGING INEFFECTIVE ASSISTANCE OF COUNSEL MUST SHOW NOT ONLY THAT COUNSEL WAS NOT FUNCTIONING AS THE COUNSEL GUARANTEED BY THE SIXTH AMENDMENT SO AS TO PROVIDE REASONABLY EFFECTIVE ASSISTANCE - BUT ALSO THAT COUNSEL'S ERRORS WERE SO SERIOUS AS TO DEPRIVE THE DEFENDANT OF A FAIR TRIAL BECAUSE OF A PROBABILITY THAT - BUT FOR COUNSEL'S UNPROFESSIONAL ERROR'S - THE RESULT WOULD HAVE BEEN DIFFERENT.

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INED IN ADVANCE OF THE PROCEEDINGS. THE RIGHT TO COUNSEL PLAYS A CRUCIAL ROLE IN THE ADVERSARIAL SYSTEM EMBODIED IN THE SIXTH AMENDMENT - SINCE ACCESS TO COUNSEL'S SKILL'S AND KNOWLEDGE IS NECESSARY TO ACCORD " DEFENDANTS THE AMPLE OPPORTUNITY TO MEET THE CASE OF THE PROSECUTION " TO WHICH THEY ARE ENTITLED. ADAM'S V. UNITED STATES ET REL, McCANN, 317 U.S.

466 U.S. 684: FOR THESE REASONS - THE CONSTITUTION REQUIRES THAT A CRIMINAL JUDGMENT BE OVERTURNED BECAUSE OF THE ACTUAL INEFFECTIVE ASSISTANCE OF COUNSEL. 462 U.S. 1105, 77 L. Ed. 1332, 103 S. Ct. 2451 (1983). WHETHER A LEGALLY INCOMPETENT DEFENDANT CAN BE CHARGED WITH COUNSEL'S INEFFECTIVE NEGLIGENCE. ADDRESSING THE MERITS OF THE CONSTITUTIONAL ISSUES. IN A LONG LINE OF CASES THAT INCLUDE JOHNSON V. ZERBST, 304 U.S. 458, 82 L. Ed. 1161, 58 S. Ct. 1019, 146 A. L. R. (1938); GIDEON V. WAINWRIGHT, 372 U.S. 335, 9 L. Ed. 2d 799, 83 S. Ct. 23 OHIO OPS. 2d 258, 93 A. L. R. 2d 733 (1963) - THIS COURT HAS RECOGNIZED THAT SIXTH AMENDMENT RIGHT TO COUNSEL EXISTS - AND AS NEEDED - IN ORDER TO PROTECT THE FUNDAMENTAL RIGHT TO A FAIR TRIAL. 466 U.S. 685: THE DUE PROCESS CLAUSES - BUT IT DEFINES THE BASIC ELEMENTS OF A FAIR TRIAL LARGELY THROUGH SEVERAL PROVISIONS OF THE SIXTH AMENDMENT - INCLUDING THE COUNSEL CLAUSE: IN ALL CRIMINAL PROSECUTIONS - THE ACCUSED SHALL ENJOY THE RIGHT TO A PUBLIC TRIAL BY AN IMPARTIAL JURY; INFORMED OF THE NATURE AND CAUSE OF THE ACCUSATIONS; TO BE CONFRONTED

269, 275, 276, 87 L. Ed. 268, 63 S. Ct. 236, 143 A. L. R. 435 (1942); SEE POWELL V. ALABAMA, SUPRA, AT 68-69, 77 L. Ed. 158, 53 S. Ct. 84 A. L. R. 527. BECAUSE OF THE VITAL IMPORTANCE OF COUNSEL'S ASSISTANCE - THIS COURT HELD THAT - WITH CERTAIN EXCEPTIONS - A PERSON ACCUSED OF A FEDERAL OR STATE CRIME HAS THE RIGHT TO HAVE COUNSEL APPOINTED IF RETAINED COUNSEL CANNOT BE OBTAINED. ARGERSINGER -

WITNESSES AGAINST HIM; TO HAVE COMPULSORY PROCESS FOR OBTAINING WITNESSES IN HIS FAVOR- AND TO HAVE THE ASSISTANCE OF COUNSEL FOR HIS DEFENSE. COUNTY PROSECUTOR'S INTERFERING IN CERTAIN WAYS WITH THE ABILITY OF COUNSEL TO MAKE INDEPENDENT DECISIONS ON CONDUCTING THE DEFENSE. FAILING TO RENDER ADEQUATE LEGAL ASSISTANCE AT TRIAL AND ON DIRECT APPELLATE REVIEW AS OF RIGHT. SEE CUNLEY V. CULLINAN, 446 U.S. AT 344, 64 L.ED. 2D 333, 100 1708. ID. AT 345-350, 64 L.ED. 333, 100 S. CT. 1708 (ACTUAL CONFLICTS OF INTEREST ADVERSELY AFFECTING LAWYERS PERFORMANCE RENDERS ASSISTANCE INEFFECTIVE).

DEFENSE LAWYERS IN THE INSTANT CASE DID NOTHING TO OUTLINE WHAT WOULD PROVE TO BE THE PRINCIPAL AVENUE OF DEFENSE AT TRIAL OR ON DIRECT REVIEW- REFUSING TO PRESENT ANY REBUTTAL EVIDENCE BEARING ON THE CREDIBILITY OF MARY DIAL AND LAW ENFORCEMENTS PERTURED TESTIMONIES. THE FEDERAL COURTS IGNORING THE PERTURED EVIDENCE EVEN AFTER MR. SPAULDING ALERTING THEM TO IT- IGNORING THE STRENGTH AND MERIT OF HIS DEFENSE. 466 U.S. 686: THE DISTRICT COURT AND FOURTH CIRCUIT COURT OF APPEAL'S

V. HAMLIN, 407 U.S. 25, 32 L.ED. 2D 530, 92 S. CT. 2006 (1972); GIDEON V. WAINWRIGHT, SUPRA.; JOHNSON V. ZERBST, SUPRA. THE ESSENTIAL COMPONENT OF PROCEDURAL FAIRNESS IS AN OPPORTUNITY TO BE HEARD. IN RE OLIVER, 333 U.S. 257, 333 U.S. 273 (1948); GRANNIS V. ORDEAN, 234 U.S. 385, 234 U.S. 394 (1914). SUCH OPPORTUNITY WOULD BE AN EMPTY ONE WHERE TWO FEDERAL COURTS EXCLUDED COMPETENT

ENTERING JUDGMENTS OF INEFFECTIVE ASSISTANCE OF COUNSEL CLAIMS THAT IS INADEQUATE AND INEFFECTIVE TO TEST THE LEGALITY OF MR. SPAULDING'S DETENTION. WHICH THE IMPEDIMENT OCCURRED BY THE GOVERNMENT'S ACTIONS STAND IN VIOLATION OF THE CONSTITUTION OR LAWS OF THE UNITED STATES - PREVENTING HIM FROM BEING HEARD ON HIS EVIDENCE.

CORRECTION UNDER § 2254 HABEAS PETITIONS DUE GREATLY TO THE FACT THAT THE COURTS OF NORTH CAROLINA KNEW MR. SPAULDING'S CONVICTION WAS AGAINST STATE AND FEDERAL LAW. TRIPLIED ANNUALLY. MR. SPAULDING IS ALSO IN CUSTODY UNDER A SENTENCE OF A COURT ESTABLISHED BY AN ACT OF CONGRESS CLAIMING THE RIGHT TO BE RELEASED UPON THE GROUND THAT THE SENTENCE IMPOSED UPON HIM STANDS IN VIOLATION OF THE CONSTITUTION AND LAWS OF THE UNITED STATES - DEMONSTRATING THAT THE CONVICTING COURT WAS WITHOUT JURISDICTION TO IMPOSE SUCH SENTENCES.

³³ MR. SPAULDING IS RELYING ON A NUMBER OF RETROACTIVE APPLICABLE SUPREME COURT DECISIONS. CHAMBERS V. UNITED STATES, 129 S.Ct. 687, 172 L.Ed. 2d 484 (2009); BEGAY V. UNITED STATES, 128 S.Ct. 1581, 1583, 107 L.Ed. 2d 490 (2008);

- RELIABLE EVIDENCE BEARING ON THE CREDIBILITY OF MR. SPAULDING'S INNOCENCE WHEN SUCH EVIDENCE WAS CENTRAL TO HIS INNOCENCE. IN THE ABSENCE OF ANY VALID JURISDICTION - THE EXCLUSION OF THIS KIND OF EXCLLARTORY EVIDENCE DEPRIVED MR. SPAULDING OF HIS BASIC FEDERAL RIGHTS TO HAVE THE STATE GOVERNMENT CASE ENCOUNTER AND SURVIVE THE CRUCIBLE OF MEAN-

UNITED STATES V. SHIPP, JR., 589 F.3d 1084, 1089-90 (10th Cir. 2009) CHAMBERS WHICH INVOLVED A SUBSTANTIVE RULE OF STATUTORY INTERPRETATION THAT APPLIED RETROACTIVELY TO HABEAS PETITIONERS. MR. SPAULDING WAS SENTENCED UNDER THE ARM CAREER CRIMINAL'S ACT ON FABRICATED EVIDENCE—THE ENHANCEMENT PROVISION. BASED ON NON-QUALIFYING PREDICATE OFFENCES. SEE WOFFORD V. SCOTT, 177 F.3d 1236, 1244-45 (11th Cir. 1999). IN LIGHT OF THE SUPREME COURT DECISION. SEE MR. SPAULDING'S (EXHIBIT-7C)—HIS CRIMINAL RECORD AT THE TIME OF SENTENCING.

THE CIRCUITS THAT HAVE DETERMINED THAT THE ACTUAL INNOCENCE EXCEPTION MAY BE EXTENDED TO NON-CAPITAL SENTENCING CASES REASONING THAT THE SUPREME COURT STATED THAT—THE PURPOSE OF THE RULE IS GROUNDED IN EQUITABLE DISCRETION OF HABEAS COURTS TO SEE THAT FEDERAL CONSTITUTIONAL ERRORS DO NOT RESULT IN THE INCARCERATION OF INNOCENT PERSONS. SEE HALEY, 306 F.3d AT 265 (QUOTING HENRY V. COLLINS, 506 U.S. 390, 404, 113 S.Ct. 853, 122 L.Ed. 2d 203 (1992)).

³⁴

IT APPEARS THE FOURTH CIRCUIT HAS NOT ADDRESSED IS /SUE. THE MIDDLE

"

INGFUL ADVERSARIAL TESTING. SEE UNITED STATES V. CRONIC, 466 U.S. 684, 466 U.S. 636 (1984).³³ UNDER THESE PRINCIPLES THE DISTRICT COURT AND FOURTH CIRCUIT ERRED IN THE FORECLOSING ON MR. SPAULDING'S EFFORTS TO INTRODUCE EVIDENCE ABOUT THE ENVIRONMENT IN WHICH THE POLICE - PROSECUTOR'S AND DEFENSE LAWYERS SECURED HIS WRONGFUL CONVICTION. MR. SPAULDING'S ENTIRE DEFENSE³⁴

DISTRICT OF GEORGE V. UNITED STATES, 2009 U.S. DIST. LEXIS 44788 (MJD, FLA. 2009) HELD THAT THE ACTUAL INNOCENCE EXCEPTION APPLIES TO NON-CAPTOR SENTENCING CASES. MR. SPAULDING ASSERTS HE HAS NO OTHER AVENUE TO PURSUE HIS INNOCENCE CLAIMS. THE FEDERAL COURTS IN NORTH CAROLINA AND THE FOURTH CIRCUIT SWEEPING HIS CASE UNDER THE RUG IN THE INTEREST AND ON BEHALF OF A PRIVATE CITIZEN'S PERSONAL VENDETTA QUEST. FOR THEIRTY (30) YEARS MR. SPAULDING HAS PETITIONED THESE COURTS TO FIX AND/OR CORRECT THEIR ERRORS... TO OPEN THE COURTS DOORS TO HIS CLAIMS AND ALLOW HIM THE OPPORTUNITY TO BE HEARD ON HIS ACTUAL INNOCENCE.

THE NATURE OF THE WRIT OF MANDAMUS IS TO COMPEL A COURT TO RELEASE A PRISONER WHEN FEDERAL EMPLOYEES OF THE UNITED STATES OR ANY AGENCY THEREOF FAILS TO PERFORM A DUTY OWED THE PRISONER. THE FAILURE TO GRANT RELIEF IN MR. SPAULDING'S CASE WILL RESULT IN THE SUSPENSION OF THE WRIT - DEFYING ALL THE SUPREME COURTS PRECEDENTS DECISIONS.

IN VIOLATION OF THE UNITED STATES CONSTITUTION - ARTICLE I, SECTION 9,
"CLAUSE 2 - THE PRIVILEGE OF THE WRIT OF HABEAS CORPUS SHALL NOT BE

WAS THE RESULTS OF MANUFACTURED CRIMINAL FRAUD. NO PHYSICAL EVIDENCE WHATSOEVER LINKING MR. SPAULDING TO BURGLARIZING HIS OWN FATHER'S HOME. DANIEL NOR MATTIE NEVER REPORTING THAT MR. SPAULDING COMMITTING THESE CRIMES AGAINST THEM. (Tp. 186).

SUSPENDED.

CONCLUSION

THE PETITION FOR A WRIT OF MANDAMUS SHOULD ISSUE... THAT NO OTHER ADEQUATE MEANS EXIST TO ATTAIN THE REQUESTED RELIEF FOR OVER (30) THIRTY YEARS OF THESE OTHER COURTS AND RESPONDENTS HIDING BEHIND THE LAW TO ELUDE THE TRUTH IN THIS CASE - REQUIRING THIS COURT TO EXERCISE ITS EXTRAORDINARY POWERS FOR AN IMMEDIATE CAUSE OF ACTION AS STATED IN MALLAROV, U.S. DISTRICT COURT, 490 U.S. 296, 109 S.Ct. 1814, 104 L.Ed. 2d 318 (1989); RULE 58(C)(2), FED. RULES CIV. PROC.

RESPECTFULLY SUBMITTED, THIS 12th DAY OF APRIL, 2020

/s/ Levan Spaulding

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