In the United States Supreme Court

No: 19-8701

Motion for rehearing pursuant to S.Ct. Rule 44.1
From the Eight Circuit Court of Appeals in 20-1283

Plaintiff/
Roger Raymond
P.O.Box 5911
Sioux Falls SD 57117

Respondent/
Mr. Matthew W. Thelen
US District Court of SD
Rm 405 P.O. Box
Pierre SD 57501-0000

Questions:

Whether fraudulent concealment in Fed Habeas proceeding 99-1041 was by [Sherrie Wald], unconscionable plan to procure that 99-1041 judgment?

And

Whether the species of fraud which shows did subvert the integrity of the Fed Court itself?

Whether District Court committed clear error as a matter of law?

Appendix

1. June 15, 2020 Docketed Writ of Certiorari
Forms for opposing counsel/waiver signature from (although opponent was served no action taken

2. Oct 5, 2020 petition for Writ of Certiorari is denied

May 19 2020 March 23,2020 Judgement Writ of Mandamus, denied in 20-1283 as appeal 99-1041 from district court; Jan 29, 2020 Affidavit Writ of Mandamus file in District Court Northern Division together with motion for disqualification and motion for FRCivP 60(b)(6). Reconsideration by usurpation of power

3. Fen 10.2020 No: 20-1283 Courts Of Appeals (petition for Writ of Mandamus District Court Agency case Numbers(s): 19-1041 Appealed Writ of Mandamus

4. April 15, 2020 petition for Rehearing pending 20-1283

5. Jan 9, 2020 /No: 19-1057/District Court Agency case No: 99-1041 and application for permission to file a successive habeas (supporting documents submitted) together Documents for claim

6. Jan 17, 2019 various documents supporting No: 19-1057

Feb 27, 2019 various Documents supporting No: 19-1057

7. May 15, 2019 denial of authorization to file a successive habeas.

8. Dec 13,2018 /pg. 14 independent action motion for 60(b) made to vacate Judgment 99-1041 in court of appeals

9. Aug 28,2018 letters from Judge Charles B. Kornmann inclusive to rule 60(b)(3), 60(d),motions filed by Raymond in district court June 2018 followed by Kornmann responses Aug 28,2018 another letter inclusive to second or successive Habeas 2254 applications all resulting from 99-1041.

10. Feb 19 2020 motion for certificate of appealibility in 19-1057 showing causal connection. Extraordinary circumstances time exchanged Exhibits A through J, in 99-1041 1998-2000 in 4:30-Civ- 84181 basis of restricted Ray by prevented to wit May 1997 direct appeal by South Dakota Supreme Court justices information ;to shows that is when they rejected brief by Ray made 1996... (Showing Gd 5 in 99-1041 rejected.

Two trials 1994, `1996 both represented by counsel. During same motions 1994 as 1996 same 1996 once Ray takes case no attorney Judge then rules it will go. Why no ruling on brief direct appeal Gd 5 99-1041 "could procedural bar. "Holding 60(b), in Thompson case AEDPA case, successive petition provision was not at issue in Calderon because Court of appeals considered only claims and evidence presented in Thompson FRIST Fed Habeas petition 523 US at 554.

Evidence here shows who knew Gd 5 was not ruled on Ray brief rejected.
Then Doc # 22 99-1041 agreed with justices. Facts show its (why) no ruling on brief.

NO Boyd's screening, is here.

11. Nature of claim presented, AS explained May 18 2020 pg 8-10 Fraud on court during collateral proceeding, by attorneys. (See Reasons for Granting).

Court must examine and should offer the applicant opportunity to elect between deleting any improper claim and having the entire motion treated as a successive petition. Kornmanns not doing that, nor did Eighth circuit hold hi accountable.

Extrajudicial bias, source Doc # 22 99-1041. His Kornmanns agreeing.

Goes to ignorance, knows their steeling kids how done it, not ruled on brief rejecting Gd 5 brief. 1996 Direct appeal. State judge Jack Von Wald and State attorney Harvey Oliver get caught then ruled it will go. When had no attorney, When yet had attorney no notice was intended.

See Baldwin v Reese, 5541 US 27, 34(2004). Under Rule 15.2 nonjurisdictional argument not raised in a respondents brief in opposition to a petition for Writ of Certiorari may be deemed waived. As in the present case. It is showing on grounds not raised in a brief in opposition when the omitted issue as here. (Seen fraud on the court), is predicate to an intelligent resolution of the question presented. Extraordinary circumstances are in Writ of Mandamus, specific to fed claims. 99-1041.

Isolated without exception .Yet Raymond filed for removal Citing, Caterpillar Inc., v Lewis, 519 US 61, 75n12, n13. 1998 is time in fed court filing one year limitations; it's how 99-1041 exists (fed question).

In No: 11-1652, 2011, and No: 13-3277 2013 filed in eighth cir Sherrie Wald's response shows raised Rebecca DSS worker then stops [knows not ruled on gd 5 rejected when justices written Ray reasons were legit no notice who knew Kornmann (agreed with Justices) is answered

Mandamus question clear and indisputable. It is Kornmann as Parsons Jr. and he Parsons is only one raised Gd 5 brief not Brad Borge then Sherrie Wald uses lulling Raymond into inaction

Docketed as evidence Excerpt from trial transcripts 1994-1996.

May 1997 direct appeal response by South Dakota Justices Sept 23, 1997 shutting down law library.

May 2 1994 intermediate appeal by State Attorney Harvey Oliver,

May 20 1994 Justices Order denying State (knowingly no notice to Raymond

Rebecca Glasford 9/8/93 intake worksheet testimony in trial 6/28/94

Exhibits 1-2-3 on 9/8/93 intake

Numerous testimonies docketed filed. (In district court and court of appeals by court reporter Cheryl A. Hook P.O.Box 328, Selby SD 57472-0328

US Supreme Court Cases **page numbers**

Collateral attack

Index

Jurisdictional Statement

State of the case Statement of facts

Question

S.Ct. Rule 14 (c) (d) (e);

S.CT. Rule 14 content of petition for Writ of Certiorari question presented.

Closing argument

Jurisdictional statement

The petition for rehearing is presented in good faith and not for delay. Petitioner raises.

Please see Jan 29, 2020 affidavit Writ of Mandamus, circumscribes 44.1 majority of Court. Extrajudicial resource is Ray makes the case reasonable upon erroneous interpretation of Law, one side favored and pervasive bias, by Judge Charles B. Kornmann, in 99-1041. Feb 10 2020 case 20-1283 take notice enclosed district court agency case 99-1041 seen Mach 16, 2020 same case 20-1283.

What this claim is showing May 20 1994 is an order by The South Dakota Supreme Court against the State. When the correspondence showing infringed on Fed Constitutional right as grossly conspicuously prejudicial and it fatally infected the trial.

The record shows a fraudulent concealment as the question presented. Underlying, in those cases herein Cited, US v Hollis, 552 F 3d 1191(*10th Cir 2009) Shows S.CT. R. 15.8 review is discretionary.

Motion for rehearing April 2 2020 in 20-1283 shows "pending" May 12 2020 it's denied. Which is how this became 19-8701 June 15, 2020 placed on the docket by Writ of Certiorari? To which Service was made upon respondent.And no response there being.

Wherefore, motion for 60(d) (3); COA was made and March 16, 2020 pg. 41 in it. April 15 2020 in 20-1283 enclosed showing that's what clerk tells me to do.

Grounds are limited to intervening circumstances of a substantial or controlling effect or to other grounds not previously presented.

Grounds for granting orders S.CT. R. 44.2 govern petitions for rehearing or orders denying petitions for Writ of Certiorari although limited S.Ct. R. 44.3 does to S.CT. Can request and accept written responses in opposition for rehearing "must be extraordinary circumstances." As foreseen herein petition is presented with certification of pro-se applicant. Specified in paragraph and is presented in good faith and not for delay.

Statement of the case

Do to the issuance by United States Supreme Court unless directs otherwise the filing of the petition for rehearing will stay a mandate to State court or the sending of opinion or order and judgment to Fed Court.(Sawka v Healtheast Inc., 989 F 3d 138(**3rd Cir 1993) idat 140-41.

In this Case the eighth Circuit court of appeals 20-1283 or as directly to district court, for a Boyd's screening. When as here, its Gonzalez decision.

Boyd v US, 304 F 3d 813,814(*8th Cir 2008).

Because, the court must determine whether the Rule 60(b) motion is a second or successive Habeas before addressing merits of motion. Gonzalez 545 US at 530.

There is no explanation by either court, only denials. Wherefore, COA should issue.

Question: Whether fraudulent concealment on fed court habeas proceedings 99-1041 was done by [Sherrie Wald]'s, unconscionable plan to procure thejudgement in 99-1041? And did Stated unjustly adjudicate a post-conviction in violation of due process and keep relief from exhaustion required?

Standard of review/ legal analysis/ burden of proof

Cited, Bookwalter v Steele, 2017 US Dist. Lexis 201514[*3]. Pool v Wyrick, 703 F 2d 1064, 1066-67 (*8th Cir 1983), add Parker v Steele, 2016 US Dist. Lexis 35175, Citing Robertson v Butler, 2016 US Dist. Lexis 116907[*14].

O'Neil v US, 2008 US Dist. Lexis 26623 [*9]. Blair v Armontrout, 994 F 2d 532 (*8th Cir 1993). On Supreme Court Rule 44.2. Citing, Pitchess v Davis, 421 US 482, 489, 44 L Ed 2d 317, 95 S.CT. 1748(1975). See Footnote 1 developing independent action to set aside a judgement 99-1041. See Jasper v Stephens, 559 Fed. Appx. 366 (*5th Cir 2014) idat 371. There is no Boyd's screening period.

Whether district court committed clear error, as a matter of law? Barnett v Roper, 904 F 3d 623(*8th Cir 2018) instant claim challenged the procedural basis here it's how its ground five in 99-1041 was used to procure the judgement by fraud on fed court habeas proceeding decision was in error. Ward v Norris 577 F 3d 925,933(*8th Cir 2009) (quoting Gonzalez 545 US at 532n4, Spitznas v Boones, 464 F 3d 1213, 1225(*10th Cir 2006) Gonzalez 125 S.CT. at 1648.

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S.CT. Rule content of petition for Writ of Certiorari, question presented for review.

A. Legal standard, Synergetics Inc., v Hurst, 2007 US Dist. Lexis 61286 id [*21]. Cite, Calderon v US Dist. Court 163 F 3d 530,534(*9th Cir 1988) id at 536n5. Citing, Calderon v Thompson, 523 US 538,140 L Ed 2d 728,118 S.CT. 1489, 1500-1501 (1998). District Court Kornmann upon Sanction restrictions not made upon respondent who acted in bad faith, vexiously.It is why did not sanction.

Wantonly as oppressed reasons show Judge has known for twenty years. Doc # 22 in 99-1041 he agreed!!!

Part test in Bauman v US District Court 557 F 2d 650(*9th Cir 1977) id 654-58. Cause extraordinary circumstances.

Cited In Re Bieter Co, 16 F 3d 929,932(*8th Cir 1994) idat 933, Blackwell v US 2009 US Dist. Lexis 95553[*3]-[*4].

Abuse of discretion when district court relies on erroneous conclusion of law as a matter of law. Blair v Armontrout 994 F 2d 532(*8th Cir 1993) court can apply FRAppP 41(d) (4) stay. Cite Calderon v Thompson, 523 US 538,550. Whether court of appeals abused its discretion under extraordinary circumstances the court of appeals must exercise. Here it's why they denied motion to recall as the 60(b) motion is not a second or successive habeas. ***Nor did they say it is nor Kornmann.*** (See Dec 13 2018, in 19-1057 motion Feb 10th 2019 COA /Moore's Fed Practice and Procedure 60.22 decision on whether to set aside Judgment is discretionary.

When as here deems FRAppP 41(b) to 41(d) (2) (D) Ray moved to stay pending motion for stay of Writ of Certiorari. Court of Appeals has as had authority to stay pending final decision. Calderon v Thompson 523 US 538,553 AEDPA's standards foe same claim and new claims successive petition bar AEDPA is a bar against relitigation of claims presented,

Not the case at [claims], at bar. And raised Blystone v Horn, 664 F 3d 397,413-15.

Raymond sought to set aside by June 2018 motion this is not an FRCivP 59 claim.

This is because it's a fraud upon fed court itself. Habeas proceeding and Kornmann usurpation of power for failure to rule on it. **Johnson v US 2014 US Dist. Lexis 26794 claim before is sustained on facts both extrinsic fraud recorded and unrecorded. And will not be denied [1]-[4], [6]. Claim clear and convincing evidence.**

Footnote 1 / Boyd v US Supra 304 F 3d 813 at 814 is here, uniform procedure.

Landrano v Rafferty, 126 F.R.D. 627, 1987 US Dist. Lexis 8746 at 633n2.
60(b) in Pitchess v Davis, 421 US 482, 489, the Supreme Court held 60(b) may not be applied in Habeas Corpus proceeding where its application would serve to interfere with the exhaustion requirement of 28 USC§ 2254 However, the court opinion does not imply that where the exhaustion requirement has been met, Rule 60(b) may be applied in the context of a Habeas corpus action showing. Blackwell v US, 2009 US Dist. Lexis 95553 [*3]-[*8]. There's no memorandum and order by Judge Kornmann. There's letters. No Boyd's screening Sherrie Wald acknowledges fraud is being perpetrated on District Court. As Raymond having pleaded 19-1057, 19-8701, by 20-1283.idat [*6].
Motion challenging the denial of 99-1041 fed Habeas relief that merely alleges defects in the integrity of the Habeas proceedings and does not attack the merits of the decision to deny the petition or present new grounds for relief from the judgment of conviction, is not second or successive Habeas petition subject to the restrictions on such petitions set forth in AEDPA Gonzalez v Crosby, 545 US 524,535-36; holding.

US v Horn 2018 US Dist Lexis 181143[*8]. Norris v Brooks, 794 F 3d 401,405(*3rd Cir 2015) relief when an unexpected and significant hardship would occur.

60(b)(6); courts are required to dispense their broad powers under 60(b) motions filed by Raymond Dec 13 2018 where without relief, and extreme and unexpected hardship having occurred. (See enclosed Judge Kornmanns Reponses. Writ of Mandamus, Jan 29,2020 pg. 13 Motes v Couch, 2018 US App Lexis 22558 pg. 26 Martin v Benson, 815 F Supp 2d 1086,1092-93(*8th Cir 2011). Richard v Jolie, 2011 US Dist Lexis 115046, US v Fay, 2014 US Dist Lexis 3951. Aug 28th 2018 to June 2018 motion by Raymond and Oct, 28 2018 Judge Kornmann does not refer Raymond filings.

LEGAL ANALYSIS/BURDEN OF PROOF

The district court orders are clearly erroneous as a matter of law. Manifests total disregard of the fed rules. Continues to ignore duty. Irremediable harm in this clear error is showing.

The Writ of Mandamus case 20-1283 Meyer v Sargent, 854 F 2d 1110(*8th Cir 1988) idat 1114-1115. **Cite Mallard v US Dist, Court for Southern Division, 490 US 296,307-09.** Informs to confine fed district court to grant relief. Usurpation of power is in the confines of his Kornmanns actions. Thus extends to COA under AEDPA.

Cited, Bruce v Samuels, 577 US 82, 82,132 S.CT. 627,632,193 L Ed 2d 496(2016).

To ensure meaningful access to indigent's litigants' access to Fed Court, 1915(b) (4) protects those rights civil action or appeals.

The straightforward application of the Thompson Rule, combined with literal applicate 28 USC § 2244(b) (1); or (2). Appears to leave the court powerless to correct any ruling when,

(1) Fraud on court is subsequently uncovered and (2) the fraud is somehow interrelated with the Habeas claim 99-1041 previously presented. The safety value as is seen ignored by Judge's as it's ensured against denial...

Time exchanged in 4:30 Civ - 84181, is as showing denial of access to federal court. 99-8772 in this Court shows June in between 2000 Varns is running from blame given excuses.

As 2003 is same time Jan 31 2003 Parsons Jr asked questions and answers. Aug 6 2003 in Civ 03-4182, 99-1041 is "pending" by Judge Piersol. Cite Szabo v Walls, 313 F 3d 392(*7th Cir 2002) id 396-97 properly preserved. Is as burden of proof COA is granted by Judge Kornmann in 99-1041 in 2008. Citing Edwards v Arizona, 451 US 477,481-83 waiver must be knowing and intelligent voluntary. But must constitute a knowing an intelligent relinquishment are abandonment of a known right or privilege. Told Kornmann irreparable harm 2018 repeatedly. The cause of delay by Sherrie Wald knew hid secret, she knew Kornmanns acts and Kornmann knew hers as his, by knowing she knew.

Rule 8 of 2254 Rule 11 required expanding record, shows why not done.

Raymond show faultless in delay and 60(b) (6), is here. Extraordinary circumstances fraud on court.

Cited US v Labadie, 2008 US Dist Lexis 35175 Sec; 455 of title 28 USC code governs, As cannot be deemed a second or successive habeas petition. US v Baggerly 524 US 38, 47 developing independent action to set aside judgement 99-1041.

Cite Assmann v Fleming, 159 F 2d 332,336 (*8th Cir 1947). There district court denied (Raymond) the right to introduce evidence to show meritorious defense, court erred in failing to try the case on merits as denial of motion to vacate, the judgement.*cf* Jennings v Hicklin, 587 F 2d 946(*8th Cir 1978) idat 948. Cited, Harris v Kuhlman, 601 F Supp 987(*2nd Cir 19865) idat 992-93.

Cite, Bannister v Delo, 100 F 3d 610,614-15(*8th Cir 1996) clerk did serve Judge Kornmann 4/15/2020 enclosed in 20-1283 meaning opportunity to respond, to which no received no response. Relief is how State enabled fraud on fed habeas proceeding to procure the judgement 99-1041. Unconscionable planning (as 4/15-20 is during pending rehearing 20-1`283 8th Cir orders).Nor do they order Judge to respond to Writ of Mandamus. Johnston v Dooley, 2017 US Dist Lexis 66480. O'Blaskney v Solem, 774 F 2d 925,927(*8th Cri 1988).

Here its pre-disposition from developed extrajudicial source, the State steeling kids, Judge Kornmann knew tis' denying Raymond access to courts was purposefully done underserved.

He's shielding the fraud of State action. Sweeney v Leapley, 487 NW 2d 617,619-20 Exhibits A through J in 99-1041 are 1998-2000, misrepresentation involved more than misconduct. False statements made with intent to deceive, "you open a filer and we will." and you instructed them not to open a file. As and "Waiting for Ray to tell him what to do."

There's no response to failure to respond.

Obviously, gd 5 brief in 99-1041 was before them on rejected it, our you'd not see Parsons raising it 2003 in application 99-1041 Citing, Jackson v Weber, 2001 SD 30, State v Korth, 2002 SD 101, Supreme Court in State Habeas, is here had counsel Brad Borge been given oppurt, to explain themselves. Citing, State v Hoffman, 1997 SD 51, it is why knowing why no Anders brief, is ordered by Kornmann their shielding the concealing States fraud action.
Here they're supposed to rule refraining from denying an allegation [the respondent], knows to be true. And voice no merit is an order May 20 1994 on State Sherrie Wald excuse to Gd 5 is Raymond expanded his continuance motion to include DSS Worker.

Brad didn't know that. Or Raised "partially raised gd 5 in his direct appeal brief.

Parsons Jr raised it. See McCartney v Vitek, 902 F 2d 616(*8th Cir 1990) idat 617. Equitable doctrine of judicial estoppel prevented State from invoking procedural default doctrine in Fed Court when States "misrepresentation of the law" in prior State court proceeding precipitated default State knew rejection of gd 5 brief in 99-1041 knew Brad knew, when ordered voice no merit Raymond lacked access to record/transcripts of trial 1996 while being forced to self rep

just to receive record wouldn't show as does otherwise. And appointed Brad Borge to facilitate they're deceiving Raymond abandoned, deliberate intended.

Defense counsel is required to prepare in civil litigants' respondents a duty.

(1) To make sure that denials of factual allegations are warranted by the evidence or are reasonably based on lack of Infor or belief, id 617.

Exhibits A through J in 99-0141 Brad tells Kornmann he'd do an Anders brief. However not held accountable misrepresented intended. Brad doesn't know Kornmann Dobberpuhls' actions Kornmann know theirs. And Sherrie Wald knew was why how Raymond didn't(notice no communicating with Ray is being left out of period. se Fed Practice and Procedure 28.3[17] AEDPA does not define what constitutes a second or successive application.60.22

To refrain from denying an allegation [the respondent], knows to be true and (3) withdraw a prior denial when further investigation or discovery reveals that denial is no longer warranted

Supporting facts and evidence. **Cite, Dill v Shasta County Jail Staff, 2007 US Dist Lexis 61236. Showing 99-1041 is Doc #22 in 99-1041 Heck-bar, called into question by Fed court issuance of Federal Habeas issued COA.** Acknowledge 1998-2000 in timing rejected Gd 5 brief 1996-1997. State says, "Could procedural bar." 2003-2004 in 99-1041, 4:30 84181 LLP 8/6/03, 28 USC 1915 in that shows 99-1041 "pending".

Fair notice is all needed and done it by Raymond.

Cite Price v Philpot, 420 F 3d 1158(*10th Cir 2005) idat 1164-65. Citing, Grady v US, 269 F 3d 913,916(*8th Cir 2001) retaliation is shown (burden of proof) when why, denying

access to court *cf,* Sveum v Smith, 2005 US Dist Lexis 2502.Slack 529 US at 484, COA issues when dismissed on procedural gds unauthorized successive petition constitutes final order. FRAppP 4(c)(1) Rule 25(c), filings Rule 3(d),Rules governing 2254 cases Rule 3(d),present case 2008 COA issued 2008 in 99-1041.

Cite Lewis v Casey, 518 US 343, 348 actual injuries See Exhibits A through J in 99-1041 State blocked exhaustion. Where here the State is responsible for the denial of exhaustion. Harris v Kuhlman, 601 F Supp 987, 992-93, 1985 US Dist Lexis 23312.

Cited, US v Martin, 408 F 3d 1089(*8th Cir 2005). see footnote 2

Apotex Corp, v Merck Co, 507 F 3d 1357, 1361(2007 US App Lexis 26562).

Hyles v US, 2014 US Dist Lexis 14554[*7] savings clause Causey v Smith 2016 US Dist Lexis 30701 ,60(d) independent action which provides that this rule does not limit a court power to entertain an independent action to relieve a party from a judgement,order,or proceeding or to set aside a judgement for fraud on the court,(Sherrie Wald knew Boyd's screening was on Kornmann as herein Matthew Thelen, Judge Kornmann had ruled order Doc # 26 in 99-1041 it would be futile.

The indisputable elements "of an independent action raised Dec 13 2018 in 19-1057. In motion by Raymond Jan 29, 2020(do to district court granted COA in 2008 in 99-1041). (footnote 2), (1) a judgement which ought not, in equity and good conscience to be enforced,(2) a good defense to the alleged cause of action on which the judgement is founded,";(3)fraud an accident ,or mistake which prevented the defendant in the judgement from obtaining the benefit of his defense,(4) the absence of fault or negligence on the part of Raymond and (5) the absence of any adequate remedy at law Jackson v Weber, 2001 SD 136, SD Supreme Court adopts the fed "cause and prejudice.'

Closing Argument

A fed district court may exercise its equitable power where fraud was perpetrated on the fed court and resulted in the denial of fed Habeas relief. (Showing by evidence Judge Kornmann pervasive bias, one side favored to adverse party, Sherrie Wald).

Where there is no alternative remedy exhaustion .Showing abandonment was how it was made to happen in favoritism of State. Judge Kornmann is well aware to the fraud alleged on Judge Kornmann court itself. Clear and indisputable evidence. Judge Kornmann failed to rule on the fraud, period.

When erroneous as a matter of law complete usurpation of power. The safety valve was breached purposefully. They'd used the exhaustion requirement to lull Raymond into inaction. It is also why no Boyd's screening was had.

Mandamus must issue when no other remedy and its undisputed shows clear no opposition. Calderon v US Dist. Ct, 163 F 3d 530 at 536n5.

The court should reverse and remand or allow State to brief in opposition. When as here no motion by the respondent to dismiss for a Writ of Certiorari may be filed.

Any objections to the jurisdiction of the court to grant a petition for Writ of Certiorari shall be included in the brief in opposition.

The brief in opposition should address any perceived misstatement of facts or law in the petition that bears on issues properly would be before the court if certiorari were granted.

(If indeed continuance had been granted to gd 5 actual hearing June 11 1996 trial pg 195 trial transcript shows). It's who denied now Raymond had record no attorney Brad agreed to prosecute 1998 the Habeas to establish cause to excuse procedural default bar. When its why no notice when Raymond had attorney. Why denial continuance.

They're caught had ruled it will go May 29 1996 pgs. 160-66 trial transcript shows now Rebecca DSS worked won't be there Raymond now had record and no attorney who knew, [knew who didn't].

Reversal of prior decision Judgements (Sawka shows) HN1; district court retains jurisdiction to entertain a later motion to vacate the judgment that motion Dec 13 2018 raised the enclosures questions...relief sought, State bribed the court. Dec 13 is showing 19-1057, Jan 9 2019 in 8th Cir the motion is not even asking for authorization it's to vacate judgement 99-1041 denying fed habeas do to Brad had agreed to prosecute, and no order to show cause by Kornmann .Writ of mandamus must issue due to usurpation is founded on the supporting evidence. Reversal pf prior judgement under 60(b) retains jurisdiction by Dist. Court to entertain motion later to vacate the judgement.

Cite, Blackwell v US, 2014 US Dist Lexis 11398[*7]. 60(d) (3), Boyd 304 F 3d at 814/Hawkins v Evans, 64 F 3d 543 (*10th Cir 1995) idat 546n2, that's Bannister v Delo, 100 F 3d 610 at 624. Judge Kornmann was served Review was at 614-615, Hawkins at 546n2,547, They're to review district court determination factors that a 2254 Habeas petition is successive under 9(b) for abuse of discretion. When motion seeks to reopen by 60(b) in (b)(3);remedy fraud scheme participated in by attorneys in fed proceedings court must hold district erred when denying a Boyd's screening would shows any failure to comply was not the fault of Raymond. As extraordinary circumstances. Where without relief Raymond would suffer an unexpected hardship in occurrence. *As was perpetrated on fed court habeas proceeding itself. Gonzalez v Sec'y for the Dept. of Corr, 366 F 3d 1253, 1264n2, idat 1265.*

See also now Calderon v US Dist Court 127 F 3d 782,784-85.

Mandamus/ Bauman test do to decision require balancing of conflicting indicators; the third factor is imposed existing clear error as a matter of law. As has been presented.

Based on appearance of partiality seen judge Kornmann issues letters Aug an Oct 2018).

So as to promote confidence in confidence of public to integrity of judicial process.AS congress intended. Shows equal protection clause.

Citing. Lijeberg v Health Servs, Acquisition Corp, 486 US 847 at 860.

Facts supporting What Sherrie Wald knew, Kornmann knew she knew, he knew...

.... The Judge Jack Von Wald knew the conflict interest on prior bad act When Raymond had no notice 1994-1996 when had attorney Feb 14th 2016 same denials to Feb 21 1996 pg. 63 Russman saying "That's never been our line of defense." Knowingly, never talked to me. In that this is timing of continuance denied. Knows they stole kid's sister's children; got caught.

Now rules it will go May 29 1996 pgs. 160-66 Reality is Ray never had record during April 24 1996 hearing Tony Portra Cronic issue showing prejudiced Tony Portra don't know that.

(See all evidence submitted Jan 9 2019), now Rebecca won't be there Ray now had record. Fired Russman. See US v Castillo, 2017 US Dist Lexis 106244 at [*10], [*14].

Where here that factual as legal basis was not available as shows later becomes available id [*14]. Was no intelligent and voluntary waiver its error Cronic was intentional Gd granted COA by Kornmann 2009 in 99-1041.

Just a Continuance June 11 1996 is not waived procedural default doctrine does not bar Raymond from raising the claim in collateral attack review. As factual predicate could not have been found on direct appeal. As exception is made if enforcement of the waiver would result in a miscarriage of justice. The brief to gd 5 was raised on direct appeal Cronic waiver was unlawfull.aAs Ray was as shows being forced to self rep to receive record. pgs. 21 prelim 1994 April shows Patti says, "Unless something occurred." She was not questioned of the responses 9/7/93 were "No." A.Z. never knew that or Raymond. And A.Z. knew 1996 she had not been questioned before pgs. 320-324 only now Ray has record. IT is why not before when had

attorneys they're steeling kids. Who knew is Judge and State all those things just mentioned and are proven by records. Judge and State confirm they're liars. pgs. 518-22 State 1996 trial says she's Patti already testified to anything that's in there anyway." Had already blacked it out 6/28/94 in trial by Judge once stole kids 6/20/94 pg. 501 sustaining 1996 Rebecca said 6/28/94 Oh no not me but Patti thought that maybe that'd be emotional abuse and that Diane didn't do anything about it right away.

Goes directly to direct appeal brief Gd 5 rejected why by who.99-1041 shows

So again neither the district court nor 8th Cir has claimed it's a second or successive habeas. Barnett at 933 shows to the claim as case at bar. The motion does not attack a fed court resolution or determination on the merits it merely asserts that the previous ruling 99-1041 which precluded a merits determination was in error denial as procedural default.

Showing State rose, "Could procedural bar." not expressed it's a procedural bar.

Had to show how it's independent and adequate State Gd doctrine and have waived. Or forfeited Disposition. (As is not independent and adequate State law grounds).

A clear error is shown in not applying Boyd's screening to as all the safety valve [as pleadings by pro-se McCartney shows ,its unfairly presented to the State court is due to separated us to control why while no notice was condemning Raymond. Steeling kids. Gd 5 could procedural bar.is not only that rejected the brief; it is why they did it.

Sveum shows and by not knowing Judge Kornmann **agreed**.

Evident by decision motion to vacate the judgement denying habeas Sveum shows district court dismissal of the petition constitutes a final order in Has corpus proceedings with in meaning of 28 USC § 2253 (c)(1)(A); thereby triggering COA requirement.(c)(2) substantial showing denial of Constitution right in underlying proceeding.

Jurists would be able to find it debatable whether the petition states a valid claim of the Denial of constitutional right and jurists of reason would find it debatable whether the district court was correct in its procedusla ruling.

This also shows there's no decision with explanation ,as the fraud on court make the case final arbiters to be United States Supreme Court precedent Gonzalez holding.

Watts v Norris, 356 F 3d 937,940(*8th Cir 2004); COA must indicate issues as why we're here.

See Khaimov v Crist, 297 F 3d 783 (*8th Cir 2002) idat 786 to get the just logic of Slack, conversely claims under Heck-bar are before you in that Doc # 22/ 99-1041 shows Thanks to Judge Kornmann knows record.