

19-8824 ORIGINAL

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

MAR 13 2020

OFFICE OF THE CLERK

Ex parte Keith Newton Pro se PETITIONER
(Your Name)

vs.

State of Alabama — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Alabama Court of Criminal Appeals

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

PETITION FOR WRIT OF CERTIORARI

Keith Newton

(Your Name)

379 Hwy 239 N

(Address)

Clayton, AL 36016

(City, State, Zip Code)

(Phone Number)

RECEIVED

JUN 24 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

Do the Courts in Alabama have a right to deny Newton's Constitutional Rights to a Fair and impartial trial and Equal Protection of the law?

Does Newton have a Constitutional right for effective Counsel when paid under contract, but instead, the lawyer goes into a Collusion with the DA to deny Newton a fair and impartial trial?

Does the Alabama Courts have to Follow the Plain language of the Statute of the law and legislatures intent, or can they make up their own version?

Does a prosecutor have the authority to Fraud the Jury into believing the meaning of a statute of his liking instead of what a statute really means and to also instruct the Jury as to what story they will believe?

Is it not Constitutional for ~~to~~^{all} legally admissible evidence to be decided by a jury, or does the State and the court decide what evidence they want the jury to hear?

Is the Alabama Courts so powerful that they can override the Constitutional laws and the laws set down by the United States Supreme Court?

Is it Constitutionally permissible for the Courts to uphold lawless police or government conduct?

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:

As for this case All parties are listed.

However, as stated within, there were at least 14 other people that Detective Pannell admits on video that he has done the same to. It has been six years since then so there may be many more.

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

☐ For cases from **federal courts**:

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

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☐ is unpublished.

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

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

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A (1) to the petition and is

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

The opinion of the Jefferson County Circuit court appears at Appendix B to the petition and is

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

JURISDICTION

☐ For cases from federal courts:

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

☐ No petition for rehearing was timely filed in my case.

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

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

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

☒ For cases from state courts:

The date on which the highest state court decided my case was February 14, 2020.
A copy of that decision appears at Appendix C.

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

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

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

Constitutional and Statutory Provisions Involved.

See Appendix J. All listed therein.

STATEMENT OF THE CASE

Newton was unlawfully taken into Detective Pannell's custody July 15, 2014. A warrant was unlawfully sworn for Newton's arrest July 16, 2014, where said fictitiously alleged that Newton was "State at Large" as Newton was held captive without any phone calls to initiate release or representation. Newton was escorted, at the command of Kyle Pannell, to the Jefferson County Jail, in Birmingham, AL, sometime after dark, July 17, 2014, where Newton's arrest was officially executed.

Newton was unlawfully charged, convicted, and sentenced to 15 years in prison for 13A-6-122 and 13A-6-124, where the Jefferson County Court had no jurisdiction to do so, through the negligence of trial counsel (Phillip Petersen).

Newton followed with the following proceedings; direct appeal, Rule 32 collateral proceeding and appeal of collateral through paid and appointed counsel (All Alabama Attorneys) with no prevail.

Though all counsels seemingly made arguments in Newton's favor, it is very apparent that counsels' negligence and disregard for Newton's substantial rights must be due to prejudicial biasness against the nature of the case. It is also apparent that the courts' willful allowance of Newton's conviction, regardless of what the record clearly shows on its face, is an encouragement and praise to the state government for its unlawful abuse of authority and disregard of the legislature's intent of the statutes involved and of the constitutional immunities and protections that are guaranteed to the citizens of the state and United States.

Newton was denied an evidentiary hearing to prove his sixth Amendment Claim of ineffective trial Counsel arbitrarily against established Federal and State Law. Newton's Collateral proceedings was filed by said Counsel (Attorney Matthew Bailey). Bailey withdrew as Counsel in the middle of the pleading stage. Trial Court took advantage of Bailey's withdrawal and dismissed Petition, for the pleadings not proving ineffective Counsel.

On Appeal, Newton was appointed Bailey as Counsel, where, Bailey knew Newton's Case fairly well. Though trial Court's dismissal was primarily based on Newton not proving in his pleadings, Bailey argues if Newton filed in time and if Newton's pleadings were specifically pleaded and if they fully alleged. None of the arguments between Bailey and the State were properly before the Ala. Court of Criminal Appeals.

The Court of Appeals affirm improper arguments and erroneously rule on merits based solely on a cold trial record and rule that Newton's pro se motion for discovery did not allege anything worth granting - meritless -. Decided, Nov. 15, 2019.

Rehearing, over ruled, Dec 13, 2019, and Cert. denied, Feb. 14, 2020.

Newton is bewildered as to what has taken place on appeal, as after putting the puzzle together, it is apparent that Bailey was sabotaging Newton's Case, but in the same, the Ala. Appellate Court allowed it.

Newton, a 12 year, Iraqi War, U.S.N.R. Veteran, is disgusted with the flagrant disregard of the Constitution that the Alabama Judges, Attorneys, and Officials have sworn to serve and

protect. Where Newton's Case is not the only Case in this matter; Detective Pannell has admitted to 14 others, Prior to Newton, in the interrogation video that the State does not want revealed.

Though it appears that Attorney Bailey abandoned some of Newton's post-conviction arguments, despite Bailey writing the arguments himself and despite Newton instructing Bailey not to abandon any argument. Newton does not waive or abandon any of his post-conviction (Rule 32) arguments as Attorney Bailey had done so, on his own, outside of Newton's control, and the Alabama Appellate Court was outside of its jurisdiction to review the arguments raised on appeal as they were not properly before the Court.

Because the Appellate Court could not review the issues raised on appeal, its ruling is void. Therefore, Newton will not argue the issues brought before the Appellate Court. Newton only argues that Newton should have been given and is due an evidentiary hearing to prove the Sixth Amendment Violation Claims of ineffective trial Counsel as his pleadings did not, by Federal and State law, have to prove, they only had to plead allegations of facts, and because Newton was not precluded in any way that the state or trial Court alleged.

Despite Counsels' disregard for Newton's desires to raise jurisdictional issues on post-conviction proceedings and on Appeal therefrom, Newton, Pro Se, raises the issue that the trial Court was without jurisdiction, along with the previously stated argument; to prove in a hearing.

This petition for Certiorari comes as follows:

Reasons For Granting the petition

Issue I

The Jefferson County Circuit Court, of the State of Alabama, abuses its discretion to deny Newton an evidentiary hearing to prove his allegations of Sixth Amendment violations and the Alabama Appellate Court Follows in that abuse by affirming arguments that were not properly before the Court,

At this time, Newton is spinning like a dog that is chasing its tail in a whirl wind of confusion, by the actions and proceedings that have taken place in the Alabama Circuit Court and the Court of Criminal Appeals.

The only thing that Newton can conclude to do, is to cut the tangled web of confusion free from the real issue at hand as it would take much more than the allowed pages to untangle this web. See (Appendixes A, B, C, D, E, and F)

Newton, through Contracted Counsel - Matthew Bailey - Filed a post-Conviction petition for relief, to either 1) vacate the conviction handed down and/or 2) give Newton a new trial. See (Appendix G at 31-73)

The State responded to the petition and in its objection to Newton's petition, it stated:

"The State of Alabama denies each and every allegation ... and demands strict proof thereof. Petitioner is precluded from relief by operation of law as his claims could have been raised on appeal. Rule 32.2(a)(5), Alabama Rules of Criminal Procedure, First, the

Petitioner must prove that his Counsel was deficient; and second, the Petitioner must Prove that his Counsel's performance prejudiced him' All of Petitioner's Claims Surround the performance of his Counsel, Phillip Peterson. 'the Petitioner has failed to prove either 1) that Counsel was not performing, ... or 2) that ... the outcome would have been different.' No material issue of law or fact exists Rule 32.7, Alabama Rules of Criminal Procedure. "' (Cleansed up and Emphasis added) See (Appendix G at 77-88)

Trial Judge Todd sustained the States objection and dismissed the proceeding similarly:

"After due consideration, the Court is of the opinion that no material issue of fact or law exists." 'Petitioner is precluded from relief by operation of law as his Claims could have been raised on appeal. Rule 32.2 (a) (5), Alabama Rules of Criminal Procedure.' 'First, the petitioner must prove that his Counsel was deficient; and second, the Petitioner must prove that his Counsel's performance prejudiced him' 'the Petitioner has failed to prove that Counsel's performance was ineffective." (Cleansed up and Emphasis added) See. (Appendix B at 8-10) (Appendix B at 1-3)

Basically, both, the State and Trial Judge stated that 1) Newton should have raised the issue on direct appeal, 2) even if Newton could be heard, his issues of fact and law are not material to his case, and 3) Newton's pleadings did not prove that Counsel was in violation of Newton's Sixth Amendment Right.

Those are the three issues that were preserved in the trial court and on the record for review on appeal. The arguments about sufficient pleadings, allegations and timely filing were far from the issues that the state and trial court addressed. Newton is unclear as to what prompted Counsel on appeal to raise and argue them.

The Appellate Court, contrary to years of established law, allowed the improper issues and ruled on the pleadings, as if it were the trial court or the finder of fact, based on a cold trial record.

By now, the momentum of Newton's spin is out of control!

Appellate Judge Windom and her quorum erroneously and pre-judicially allowed the improper appellate proceedings to take place so as to keep Newton from his right to prove his allegations in his pleadings as required by law, and if Newton were to prove the Sixth Amendment violation, they are keeping Newton from his right to a new trial; violating Newton's First, Fifth and Fourteenth Amendment Right to the Court; Fifth Amendment Right to Due Process of the Law; Fourteenth Amendment Right to Due Process of the Law and Equal Protection of the Law; and Fifth, Sixth, and Fourteenth Amendment Rights for a jury to hear all of the evidence and to allow them to weigh it all.

The Appellate Court was due to 1) reject the arguments raised on appeal, as they were not properly before the Court, 2) reverse and remand the post-conviction proceedings for a finding of the facts, and since the findings cannot be made from a cold trial record, the findings need to be by evidentiary hearing, so as to make a complete record thereof, and then 3) either A) proceed to new trial or B) the petitioner may appeal

from the findings.

"[T]o preserve an issue for appellate review, it must be presented to the trial court [...] setting out specific grounds in support thereof.' McKinney v. State, 654 So. 2d 95, 99 (Ala. Crim. App. 1995) (citation omitted). 'The statement of specific grounds of objection waives all grounds not specified, and the trial court will not be put in error on grounds not ~~spec~~ assigned at trial.' Ex parte Frith, 526 So. 2d 880, 882 (Ala. 1987) (Quoted by Judge Windom in Newton v. State, 265 So. 3d 329 (Ala. Crim. App. 2017)). (Appendix G at 63)

Judge Windom cited this against Newton in his direct appeal on an issue raised about the jury's understanding of instructions, yet she did not use the same or similar for the improper issues that were raised before the Appellate Court in this instance. Instead, she allowed the improper arguments so that she personally could make a ruling, when she did not have the jurisdiction to do so. General and original jurisdiction falls into the hands of the Circuit Court. See, The Constitution of Alabama, 1901, Amend. 328 § 6.04 (b). The Appellate Court merely has reviewing jurisdiction. See, Ala. Code of 1975 § 12-3-9 and § 12-22-30.

Judge Windom is in violation of Newton's Equal protection of the laws and Due process of the laws, Fifth and Fourteenth Amend.

1) On Appellate review, the Court is expected to review the entire record on appeal. Had Judge Windom and her quorum reviewed the record accordingly, they would have noticed that Newton had already defeated the State's procedural bar claim

in his petition (Appendix G at 39 and 40). Newton could not have raised the Sixth Amendment violation on direct appeal, according to Alabama Law. It was never preserved in the trial court. See, Cooper v. State, 644 So.2d 480, 481 (Ala. Crim. App. 1994)

Comparing what trial Judge Todd writes and what Newton's petition, correctly, states, Judge Windom would have noticed that Newton surpassed one of the three hurdles outlined by the State and trial Court.

2) The next hurdle is the State's opinion that the issues that Newton raised in post-Conviction Petition were not material and would not have made any difference. However, the State's argument is just as much self-serving as it is opinion.

Material law to the issue at hand is that Rule 803 (6) and (8) allow governmental evidence, Rule 801 (d) (1) (B) and (C) allow witnesses to speak of identifying factors and situations after the declarant has spoken, to support the declarant and rebut the allegations, 28 USC § 1733 (a) and (b) and Ala. Code of 1975, 12-21-34, 12-21-35, 12-21-43, 18 USC §§ 2510 et seq., and 18 USC §§ 2701 et seq. mandates government records to be admitted. Material law does exist.

Had the jury heard more statements, testimony, and more about the evidence that Newton points out in his petition, there would be no doubt that the verdict would have been different.

This Honorable Court has held "Justice would require [even a self-serving statement to be heard] for whatever value a self-

Statement might have on the juror's minds." Crowford v. United States, (1909) 212 US 183, 29 S. Ct. 260, 53 L. ed. 465, and its been upheld since, in United States v. Shavin, (7th Cir 1961) 281 F. 2d 647, United States v. Edwards (US App. 1971) 458 F.2d 875, and others.

The Alabama Supreme Court has held in Ex Parte Beckworth, 2013 Ala. Lexis 77 (Ala. July 3, 2013) that "Byrd's testimony is also material to guilt." (Emphasis added)

The Failure of trial Counsel to overcome the State's objections so that evidence could be heard by the jury is particularly gross negligence to Newton's Substantial rights, especially when Counsel had known, at least a year in advance, what Newton's witnesses were going to testify to and what evidence the jury was going to see on the interrogation video, as well as the additional evidence that Newton was bringing to court. See (Appendix G at 84 paragraph 3)

Bailey writes for Newton in Post-Conviction Petition (Appendix G at 45):

"Trial Counsel was unable to get any relevant information from her and then chose not to recall her after Newton had testified to support any claims that he made during his testimony. Relevant information was also available through the previous"

The "previous" that Attorney Bailey is pointing to, is Misty Wise's partial testimony that was objected to as Hearsay, (R. 214-220). In her testimony she was also going to identify

the identity that Newton suspected to be low enforcement, (R. 218), line 16 and 17. [Course] "Did he ever mention Addison or Addison Brewer?" [Prosecutor], at line 18, "Objection,"

Course - Petersen - gave up right ^{after} ~~then~~ that, at page 219, Had Counsel Called Misty Wise back to further testify, after Newton finished testifying, Wise could have spoken about everything that Petersen was failing to present to the jury. See, Rule 801(d)(1)(B) and (C).

There were other statements that Petersen failed to present to the jury. Attorney Bailey points to testimony from the assisting officer, (Appendix G at 49-51). There were statements from Jeff Bockels that was objected to that the jury could have considered. Attorney Bailey mentioned that "[t]he worst example of this was the testimony of Misty Wise." (Appendix G at 45). He was not limiting the claim to being ~~the~~ only Misty Wise. He was stating that there were more testimony that the jury should have been able to hear as well, but the worst example and the only example that should have been needed in order to get Newton back into court, was, Misty Wise's testimony.

Had trial counsel known the Rules of Evidence, and evidently Judge Windom does not know the rules either, in her claim that the interrogation video is inadmissible hearsay, trial counsel would have easily been able to get the interrogation video admitted into evidence and been able to present very impeaching evidence against the detective, that the prosecutor did not want the jury ~~to~~ to hear, and would have been able to show how Newton was trying to explain how Newton knew that he was not

Speaking to a "child" or a real "Addison Brewer". See, Rules 803(6) and (8), see also, 801 and 802 as, both, Detective Ponnell and Newton took the Stand, so both declarants were there to testify.

Judge Todd continuously questioned how the evidence was not admissible, see (R. 32-33 and 130-137), as she surely knew that it was admissible. She found it "interesting" that the prosecutor did not want the defense to introduce it to the jury; yet she allowed Prosecutor to fool the Court. See also, previously cited 28 USC § 1733(a) and (b) and 12-21-34, 12-21-35, and 12-21-43, also (Appendix G at 95-104)

"[I]t is well settled that '[t]he weight and probative value to be given to the evidence, the credibility of the witnesses, the resolution of conflicting testimony, and inferences to be ~~made~~^{drawn} from the evidence are for the jury.' Smith v. State, 698 So. 2d 189, 214 (Ala. Crim. App. 1996), aff'd, 698 So. 2d 219 (Ala. 1997)" ... "weight of the evidence" refers to "a determination [by] the trier of fact, ..." Tibbs v. Florida, 457 U.S. at 37-38 [102 S.Ct. at 2216] (Quoted by Judge Windom in Newton v. State, 265 So 3d 329 (Ala. Crim. App. 2017)), (Appendix G at 59-60) (Emphasis Added)

This is twice that Newton points out previous rulings that Judge Windom has made against him in a previous appeal but will not utilize the same in his favor when it is Constitutionally required. Judge Windom's prejudicial disregard for Newton's rights are clear and obvious, especially, when she goes against her own rulings. She is encouraging the legal system to

violate citizens substantial rights when it comes to certain types of crimes. In the end, since the evidence is for the jury, Newton's facts and law does exist and are material.

3) Trial Judge Tracie Todd - Sustained the states objection that Newton's pleadings did not prove a Sixth Amendment Violation and Judge windom turns a blind eye to see the issue. See Judge Todd's dismissal of post-conviction proceedings. (Appendix B 193)

The Alabama Supreme Court has fully addressed this issue in Ex parte Beckworth.

" Initially, it is important to distinguish between a Petitioners burden to ~~plead~~ prove.

" [A]t the pleading stage of Rule 32 proceedings a Rule 32 petitioner does not have the burden of proving his claims by a preponderance of the evidence. Rather, at the pleading stage, a petitioner must only provide 'a clear and specific statement of the grounds upon which relief is sought.' Rule 32.6(b), Ala. R. Crim. P. Once a petitioner has met his burden of pleading so as to avoid summary disposition pursuant to Rule 32.7(d), Ala. R. Crim. P., he is then entitled to an opportunity to present evidence in order to satisfy his burden of proof."¹¹¹ Ford v. State, 831 So. 2d 641, 644 (Ala. Crim. App. 2001). A claim may not be summarily dismissed because the petitioner failed to meet his burden to Plead.... "¹¹² Hodges, — So. 3d at —, 2011 Ala. Lexis

136 at *7 (quoting Johnson, 835 So. 2d at 1029-30). Beckworth at *6 and 7.

It was decided in Stallworth that:

"An ambiguous or silent record is not sufficient to disprove the strong and continuing presumption [of effective representation]. Therefore, 'where the record is incomplete or unclear about [counsel's] actions, [a court] will presume that he did what he should have done, and that he exercised reasonable professional judgment.' " Hunt, 940 So. 2d at 1070-71 (quoting Grayson v. Thompson, 257 F.3d 1194, 1218 (11th Cir. 2001), quoting in turn Chandler, 218 F.3d at 1314 n.15, quoting in turn Williams v. Head, 185 F.3d 1223, 1228 (11th Cir. 1999)). Thus, to preserve overcome the strong presumption of effectiveness, a Rule 32 Petitioner must at his evidentiary hearing, question trial Counsel regarding his or her actions and reasoning. See, e.g., Brednax v. State, 130 So. 3d 1232, 1255-56 (Ala. Crim. App. 2013) (recognizing that "[i]t is extremely difficult, if not impossible to 'prove' a claim of ineffective assistance of counsel without questioning Counsel about the specific claim, especially when the claim is based on specific actions, or inactions, of Counsel that occurred outside the record...."). " Stallworth v. State, 2014 WL 1744089 (Ala. Crim. App. 2013) (Emphasis added) (Decided by Judge Windom)

Newton finds it quite amazing that Judge Windom knows that a Sixth Amendment Claim of ineffective counsel cannot

be proved on a mere cold trial record and must be proved in an evidentiary hearing in the trial court, yet she allows the trial court to deny Newton the opportunity to prove his pleadings and then she herself turns to rule against Newton based on a cold trial record outside of her Constitutional authority and the law. Is this because of the Nature of the case or is it that she may be protecting her governmental agents in their unlawful acts?

Newton was not given the opportunity to prove in accordance with Federal and State law. (windom quotes both above.) There fore, Newton must be given a chance to prove.

This Case is due to be reversed and remanded
for an evidentiary hearing in the trial Court

4) Additionally to 3) there is a bigger issue that is easily seen from the record on appeal. Beckworth had expressed in a similar issue, though, maybe not as harsh as in Newton's Case.

Justice Stuart Concured Specially addressing this issue in Beckworth, Id at 7:

"In this case, the Circuit Court's summary dismissal was premature. As the main opinion provides, However, after the State in its response that his grounds were precluded, Beckworth had the burden of establishing in his reply to the State's answer and/or at a hearing that the preclusionary bars pleaded by the State were inapplicable and that

Summary dismissal was improper. See Ex parte Pierce, 851 So. 2d 606, 616 (Ala. 2000). Because the Circuit Court summarily dismissed Beckworth's petition before Beckworth had an opportunity to establish that the preclusionary bars were inapplicable, and because the record on its face does not establish that the preclusionary bars was proper, the judgment must be reversed. If Beckworth can establish that the application of the preclusionary bars is improper, then he avoids summary disposition of his petition and is entitled to a hearing on the merits of his grounds. Ford v. State, 831 So. 2d 641, 644 (Ala. Crim. App. 2001) ("once a petitioner has met his burden of pleading so as to avoid summary disposition pursuant to Rule 32.7(d), Ala. R. Crim. P., he is then entitled to an opportunity to present evidence in order to satisfy his burden of proof."). "

In Newton's Case, the record will show, and Newton is bewildered why ~~Counsel Bailey~~ this was not raised or addressed on appeal, because Appellate Counsel - Bailey - knew exactly what took place, where Newton did not know until after receiving the record on appeal. (Appendix G is only a part of the record. Newton prays this Honorable Court will order that the Circuit Court produce the entire record from the very beginning.)

Attorney Bailey, shortly after filing Newton's petition, for post-conviction relief, motioned the Court to withdraw and specifically stated that Attorney Douglas Scofield was expected to appear as replacement Counsel. See (Appendix

G at 75). This motion apparently was filed on 11/1/2018 and was not granted until 1/17/2019. See (Appendix B at 1). Bailey, however, informed Newton of his withdrawal much earlier than that. See (Appendix I at 6). This proof is also in the Court's record. Bailey informed Newton in a letter dated 10/3/2018, from the Rev'll Law Firm,

The State filed its Motion to Dismiss - 11/19/2018 - See, (Appendix G at 77) and Judge Todd disregarded Bailey's Motion to withdraw, knowing that Newton would not receive the State's response and knowing that Newton no longer had contracted Counsel, in turn, closing and locking the doors of the Court, keeping Newton from responding to the State. This was an intentional act by Judge Todd to deny Newton access to the Courts. See also that on January 3rd 2019 Judge Todd ordered to have a hearing and then on the 17th dismissed everything.

The Appellate Court, in its review, should have seen this, as it is clearly on the record for review and clearly shows the abuse "on its face." Beckworth, Id. Appellate Counsel should have raised this issue on appeal as well.

Therefore, According to Beckworth, the Appellate Court was due to reverse and remand the trial Courts decision to provide Newton the chance to "establish that the application of preclusionary bars is improper, ... and is entitled to a hearing..." Beckworth, Id.

Clearly, there is prejudist taking place in the Alabama Courts.

Because Newton was not 1) precluded under Rule 32.2(a)(5) and was not 2) precluded under Rule 32.7(d) and the State and trial Court only argued and dismissed Newton for failing to prove in his pleadings, which, as stated in Stellworth by Judge Windom, is nearly impossible to do, the Appellate Court was due to 3) reverse and remand the proceeding for an evidentiary hearing so that Newton might prove his Sixth Amendment Violation of effective Counsel as the State and Federal law requires.

Newton Prays this Honorable Court will agree and Rule accordingly.

Issue II

The Alabama Courts were without Jurisdiction to Charge, Convict, and Sentence Newton of 13A-6-122 Electronic Solicitation and 13A-6-124 Traveling to Meet.

"Lack of jurisdiction over subject matter may be raised for first time on appeal." Mobile and Gulf R. Co. v Crocker, 455 So. 2d 829 (Ala. 1984). "Questions not made and decided in primary courts will not avail on error to reverse a judgment or decree unless it be a want of jurisdiction apparent on the face of the proceedings." McElhaneey v. Singleton, 117 So 2d 375, 270 Ala. 162 (Ala 1960). "Notwithstanding absence of contention with regard thereto, it was duty of reviewing court to take note of the feature of judgment which lower court had no power to render."

State v. Carter, 101 So. 2d 550, 267 Ala 347 (Ala. 1958), "where summary proceedings are given by statute, everything necessary to give the Court jurisdiction must appear of record". Levert v. Planters' and Merchants' Bank, 8 post. 104 (Ala. 1838) (Emphasis added) see also, Bates v. Planters' and Merchants' Bank, 8 post. 99 (Ala. 1838) "and, thus, in a proceeding by notice by a bank, it must appear of record that the Certificate of property in the bank by the president was shown to the Court." Bates Id. "Where notice to a defendant is constructive only, and he does not appear, the record on appeal must show a compliance with the Statute McMahon v. Browne, 64 So. 553, 185 Ala. 272 (1914) (Emphasis added). "Question of jurisdiction may be raised on appeal, though not insisted on below." Sheldon v. Lyon, 104 So. 576, 20 Ala. App. 623 (Ala. App. 1925). "The jurisdiction of a Court ... is at all times open to inquiry, ...; and no consent, laches, or solicitation of the parties can cure a defect therein." Whorton v. Moragne, 62 Ala. 201 (Ala. 1878)

"When Jurisdiction is vested by statute ..., Court, although of general jurisdiction otherwise, is of special jurisdiction as to statutory authority." Blount County Bank v. Burnes, 118 So. 460, 218 Ala. 230 (Ala. 1928), "When special statutory authority in derogation of common law is conferred on Court of general jurisdiction, Court becomes Court of limited jurisdiction, and compliance with statute is necessary for Court to acquire jurisdiction over action," City of Gadsden v. Head, 429 So. 2d 1005, appeal after remand 472 So. 2d 1080. (Ala. 1983) (Emphasis Added). See Also, Birmingham Elec. Co. v. Alabama Public Service Commission, 47 So. 2d 517, 246 Ala. 259 (Ala. 1945), "Statutes creating crimes are to be strictly construed in favor of the accused." United States v. Resnick (1936) 299 US 207, 209, 57 S. Ct. 126, 127, 81 L. Ed 127 See also, Ex Parte Evers, 434 So. 2d 813 (Ala. 1983) and, Fuller v.

State, 257 Ala 502, 60 So. 2d 202, 205 (1952).

"In determining what is meant or intended by a statute, the underlying consideration, always, is to ascertain and effectuate the intent of the legislature as expressed in the statutes. While specific language used by legislature is subject to explanation, such language cannot be detracted from, or added to." May v. Head, 210 Ala. 112, 96 So 869 (1923) (quoted in Harris v. State, 451 So. 2d 406 at 410 (1984) and Town of Loxley v. Rosinton, 376 So. 2d 705, 708 (Ala. 1979)).

"No person is to be made subject to penal statutes by implication and all doubts concerning their interpretation are to predominate in favor of the accused." Fuller v. State, Id.

"When the language of a statute is plain and unambiguous, as in this case, courts must enforce the statute as written by giving the words of the statute their plain meaning - they must interpret that language to mean exactly what it says and thus give effect to the apparent intent of the legislature." Ex parte T.B., 698 So. 2d 127, 130 (Ala. 1997). See also, "Principles of Statutory Construction instruct this Court to interpret the plain language of a statute to mean exactly what it says and to engage in judicial construction only if the language in the statute is ambiguous." Ex parte Pratt, 815 So. 2d 532, 535 (Ala. 2001). "[T]he fundamental rule [is] that the Criminal Statutes are construed strictly against the State." Ex parte Hyde, 778 So. 2d 237, 238 n.2 (Ala. 2000). "The" rule of lenity requires that "ambiguous Criminal Statute[s]... be construed in favor of the

accused. "" Ex parte Bertram, 884 So 2d 889 (Ala. 2003) (quoting Costill v. United States, 530 U.S. 120, 131, 120 S.Ct. 2090, 147 L. Ed. 2d. 94 (2000)).

"It is not within the province of any trial court to modify, change, or alter the statutes of the State of Alabama [or of the United States], and no trial judge is vested with the exercise of discretion to such end. Additionally, a court's lack of subject-matter jurisdiction is fundamental, cannot be waived, and ~~may not be that~~ be raised at any time, Ala. R. Crim. P. 15, 2 (d). Moreover, it is incumbent upon appellate courts to consider lack of subject-matter jurisdiction ex mero motu. Pittman v. State, 621 So 2d 351; 1992 Ala. Crim. App. Lexis 1200 (Ala. Crim. App 1992) (quoting Reddock v. State, 23 Ala. App. 290, 124 So. 398 (1929). (Emphasis's added)

"Jurisdiction is a court's power to decide a case or issue a decree. Subject-matter jurisdiction concerns a court's power to decide certain types of cases. That power is derived from the Alabama Constitution and the Alabama Code." Ex parte Seymour, 946 So. 2d 536; 2006 Ala. Lexis 135 (Ala. 2006). See, Russell v. State, 51 So. 3d 1026, 1028 (Ala. 2010) ("In determining a court's subject-matter jurisdiction, we ask only whether the trial court had the constitutional and statutory authority to hear the case." (quoting Ex Parte Seymour, 946 So 2d 536, 538 (Ala. 2006))) (Emphasis's Added)

Under the Alabama Constitution, a Circuit Court shall exercise general jurisdiction in all cases except as may be otherwise provided by law. Ala. Cons. Amend. 328 § 6.04(b), The Alabama

Code of 1975, § 13A-6-126, gives the State Courts limited Jurisdiction:

"For purposes of determining [territorial] jurisdiction of this Article, the offense is committed in this state if any of the acts committed under this Section 13A-6-121, 13A-6-122, or 13A-6-123 either originate in or are received in this state. The purpose of this Section is to [confer legal] jurisdiction upon the Courts of this state to the maximum extent allowable under the Constitution of the United States of America and the Constitution of Alabama 1901." (Emphasis added)

This section is a limiting conference as much as it is a conferring Statute. It covers both, territory and legal jurisdiction. The State Court's already maintain jurisdiction in all cases except otherwise provided by law, and to maintain subject-matter jurisdiction the question is "whether the Court had the Constitutional and Statutory authority" Russell, Id. So, if the Constitution of the United States and of the State of Alabama does not allow a governmental, or judicial, or unauthorized action, then the Courts of this State no longer has jurisdiction to hear or decide a case against Newton. The interpretation of allowable, according to Webster, is "To let happen; permit; provide". Therefore, it is a prerequisite for a trial court to make certain that "everything necessary to give the Court jurisdiction must appear of record," Levert, Id., and when Newton directly appeals from his conviction, "it was the duty of the reviewing Court to take note of the feature of judgment which lower Court had no power to render," State v. Carter, Id.

On appeal Judge Wisdom Cited:

"The trial Court's denial of a motion for judgment of acquittal must be reviewed by determining whether there existed legal evidence before the jury at the time the motion was made, for which the jury by fair inference could have found the appellant guilty," Thomas v. State, 363 So. 2d 1020 (Ala. Crim. App. 1978). "In applying this standard, the Appellate Court will determine only if legal evidence was present from which a jury could have found the defendant guilty beyond a reasonable doubt," Williams v. State. (quoted in Newton v. State ²⁶⁵ So. 3d. 329 (Ala. Crim. App. 2017); CR-16-0216; see (Appendix G at 58) (Emphasis Added)

Again, Newton points out that Judge Windom enjoys quoting law, however, it certainly appears that she does not "practice what she preaches." She must not have looked very hard for "legal" evidence, or rather illegal evidence. Does she skip over illegal evidence for every case equally or is it only for cases involved ~~in~~ with sex? Or maybe only when it is necessary to cover a government agent's tracks when he or she is doing wrong. The Judiciary Branch, in the State of Alabama, seems to enjoy interpreting the law in favor of conviction only, regardless of what previous rulings - case law - and the Constitution of either of the United States or Alabama says.

"Were ... everything necessary to give the Court jurisdiction" Levert Id., proper warrants, court orders for electronic sur-
veillance of private electronic communication, or other acceptable means of obtaining said evidence by statute or Constitution, and supported on oath and probable cause

Such as complaints from the actual party and since the actual party was fake, the warrants for setting a sting up based on a "chunch?", see, Ala. Code § 15-5-12, 15-5-13, 12-21-35; 28 USC § 1733. None of the required, to be considered constitutionally allowed "appear of record." Levert Id.

Yet, detective Kyle Pannell and the County DA's office feel as though the Government has the authority to create a situation that was never there, in order to lure men into committing a crime that they were never suspect to ~~do~~ begin with. In Newton's case the government cannot show that Newton has ever been predestined to commit the crimes that he was convicted of. see (R.31). Prosecutor Gonzalez states to the court that they did not find anything on any of Newton's devices that linked to the case or that was relevant to the case. Interesting enough, Pannell never had the proper authority to post the advertisements anyways.

Prosecutor Gonzalez fights tooth and nail to keep the state's evidence out of court, see Rule 803(6) and (8), see also Ala Code 12-21-35 and 28 USC § 1733, and (R. 32-33, 130-137). Judge Todd finds it "interesting" that the State does not want the defense to go into the video statement / interrogation video. Newton discusses this in his Prose Motion for discovery that the courts just toss off to the side. see (Appendix G at 98, 99). This evidence that is clearly admissible, even as impeaching evidence, yet trial counsel ~~Peter~~ helps the state to cover it up and suppress it.

Kyle Pannell's illegal search and seizure is worse than the

illegal search and seizure that this Honorable Court has ruled on in Katz v. United States, 389 US 347, 1968 Ed. 2d 576, 88 S. Ct 507 (1967) and United States v. Lewis, 621 F.2d 1382, 1388 (5th Cir. 1980) ("there arguably is a right to enjoy the use of goods [or services] without the possibility of uninvited monitoring that [even] on unactivated beeper would create.") (Emphasis added) or even in Korop v. Hawaiian Airlines, 362 F.3d 868, 236 F.3d 1035. Where in these cases the government was actually after a suspect and didn't follow lawful search and seizure. Compared to Newton's and others that Pannell admitted to, the government had no idea who was doing what. They acted, rather, he acted on his own "unfettered discretion." State v. Crom (1986) 222 Neb 273, 383 Nw.2d 461, Fourth Amendment. Even in Korop he, against being invited, he unlawfully created an account and used passwords that he had no right to use.

Newton responded to a general advertisement that is supposed to be for a legal aged adult. See, (Appendix H at 71) (Craigslist terms of use). In order to post an ad, a person must create an account. In order to create that account the person must accept the terms of use and agree that they are of legal age required by law. Kyle Pannell violates Craigslist's terms of use, see (Appendix H, 71-78), in turn withdrawing his authorization to use Craigslist's services.

Pannell ~~not~~ initiates the underage activity on his own right from the start. Newton does not suggest anything illegal until Pannell establishes the ground work. By this time though, Newton already suspected that "Addison" was law enforcement. Is it illegal to play Cat and mouse? M.T.V.

(Music Television) has had a program on for years before Newton ran up on Pannell's scheme. That program was called Catfish or Catfish. It's a program where a guy investigates internet scams for people. "Switch and bait" or "bait and switch." To Add, Newton's 12 year Navy Career has provided Newton with skills to identify suspicious internet activity. "Information assurance Awareness". Newton gave his Attorney all of Newton's certificates.

In Comparison, Newton has looked at other cases similar to Newton's and in almost every one of them, the defendant initiates the particulars on his own without any persuasions.

Pannell initiates everything. He does so without plain view of Newton violating the law or any complaints of the sort. Pannell also knew exactly what he was looking for and he had planned how he was going to get the evidence that he wanted to create for any citizen that will fall victim for his unlawful trap. See, Coolidge v. New Hampshire, 394 U.S. 256. It was required for the government to search and seize Coolidge's car when law enforcement knew in advance what they were looking for, i.e., his car. See also State v. Cron, supra, Government could not just set up a check point at their own will.

"Fourth Amendment search warrants requirements apply equal force to ongoing electronic surveillance conducted by Attorney General in name of domestic security." United States v. United States Dist. Court, (1972) 407 US 297, 32. U.S. 2d 752, 92 S. Ct. 2125, Const. Amend. 4. (Emphasis add)

See also, Bivens v. Six Unknown Federal Narcotics Agents, 403 US 388, 392, 993, Citing Gambino v. United States, 275 US 310 at 315-17, 72 L. Ed. at 296, 52 ALR 1381. Even "Secret Program to intercept" was found violative for even the Military to do without Judicial orders. See ACLU v. USA/Cent. Sec. Serv. (2006, Ed Mich) 438 F. supp. 2d. 754, Const Amend. 4.

"When a person posts an ad on Craigslist, the public has open view. Once someone clicks on the ad link, the person is taken to a private screen. Nobody knows that that person is even there viewing the contents of the ad. Privacy has at that point been enacted. If that person or party responds to the ad that he is privately viewing he or she does so through private communication, not open view as like in a public bulletin board or a publicly view social media page. This communication is either through a phone call or email to the originating party. Pannell is not the party, i.e. "Addison Brewer" as defined. Pannell needs authorization outside of his own to become someone he is not, unless it is open to public view. In that instance, Pannell did not post that he was underage in the advertisement for Newton to be drawn to on his own. Newton was expecting the ad to be of a woman of legal age such as required by Craigslist and the law. Pannell immediately "switches the date", without any indication from Newton. "Addison" the party who was identified was not Pannell. And "Addison" may have claimed to be 15 But Newton had located identifying profiles of the same "Addison Brewer 15 at hotmail.com" listing her to be 95 years old. See (R. 234, 235). How could Newton "Believe" as required by the Statute?

If "surveillance of a telephone booth is not exempted from the usual requirement of advance authorization by a magistrate upon showing of probable cause, at least ~~not~~ in a situation not involving national security." Katz, *supra* and Kyle Pannell had never known Newton in any way to being a suspect to any crime, before Pannell created the situation, then how is it ok and legal in Newton's case?

Pannell's acts are not only violative of the Fourth Amendment, Equal protection of the laws, and Due Process of the laws, i.e. Constitutional violations against citizens initially legally minding their own business, but his acts are also violative of 18 USC § 2510 et. seq and 18 USC § 2701 et. seq. But Newton also points out to the Courts (Judges) that Pannell is in violation of ICAC. 42 USC § 17615 (a) moved to 34 USC §§ 2111. et seq. "... consistent with all Federal laws relating to the protection of privacy..." See (Appendix G at 100-102). This Honorable Court will not find any reports, applications, warrants, court orders, signed consents authorizing Detective Pannell to initiate an investigation as required by law.

Prosecutor Gonzalez improperly hides behind § BA-6-127, (R.285), however, the legislature did not enact this section to allow free reign for the government to illegally charge sex crimes against people. This section was enacted so that defendants could not say that "law enforcement" by definition is not a "child" and that the defendant and child did not meet as expected. See Tennison v. State, 101 So.3d 1256 (Ala. Crim. App. 2012) see also (R. 14-15) Attorney Petersen does address this in a motion hearing to vacate an indictment.

In any event legislature did not enact (127) so as to provide avenues of unlawful detection and unlawful investigation. Also as Attorney Petersen stated in trial. Newton can certainly use the defence that he knew ~~that~~ or suspected law enforcement was involved therefore Newton could not "believe" that he was speaking to a child. (R. 285-288 and 331-332). Legislature had made some very specific changes. 1) to keep defendants from technical victories when they are in fact guilty and 2) to keep the government from false and illegally charging citizens that are probably innocent or never would have acted in such ~~manor~~ manner if law enforcement was not there to initiate the acts to begin with.

"Courts have a responsibility to guard against Police conduct which is over bearing or harassing or which trenches upon personal security without objective evidentiary justification which constitution requires, and when such conduct is identified, it must be condemned by Judiciary and its Fruits must be excluded from evidence in criminal trials." "lawless invasions of Constitutional rights of citizens by permitting unhindered governmental use of Fruits of such invasion." must be condemned.

Terry v. Ohio, 392 US 1, 20 L. Ed. 2d 889, 88 S. Ct 1868.

"Regardless of state authority, when challenge of Fourth Amendment grounds, acts of state officers must be judged by Federal Standards." United States v. Gargatto, (1973, CA6 Ky) 476 F.2d 1009, Const. Amend. 4

Further, inviolations of 18 USC § 2510 et seq.

"Police officer acts outside scope with 'bad purpose' and hence 'willfully' within meaning of 18 USC § 2511 when he or she engages in electronic surveillance without court order and in absence of emergency described in 18 USC § 2518(7); unless prescribed conduct is otherwise excused, it can result in both civil and criminal liability." United States v. McIntyre (1978, CA9-Ariz) 582 F.2d 1221, 18 USC § 2511

"Use of interception with intent to harm rather than fact of interception is critical to liability under 18 USC § 2511." By - Prod. Corp. v. Armen-Berry Co. (1982, CA7 Ill) 668 F.2d 956, 18 USC § 2511

Because legislation found it necessary to rewrite the law and replace 13A-6-1100, it made a specific change in the solicitation law under 13A-6-122 which Newton is convicted of. Midway through the section it states "or any other electronic communication or storage device". Legislature intentionally inserted those key words to indicate that the communication must be governed by 18 USC § 2510 et. seq. and 18 USC § 2701 et. seq. otherwise the fruits thereof would be illegal.

Prosecutor Gonzalez: at (R. 339) "I worked in DC writing laws for three years, and I was aghast at what I saw and the people that write the laws. A lot of times these people have never even tried cases before, so they don't even know how it works through the system," also quoted in (Appendix G-96). Gonzalez convincing the Jury that they should only listen to him as to how to interpret the law, because

even the ones that wrote the law does not know what they are talking about. On the other hand, 3 Attorneys in the Court room with Newton during all phases of the criminal proceeding do not even discuss the Factors or elements of BA-6-122 "electronic communication or storage devices". Prosecutor, Judge, and Phillip Petersen, all 3 Seasoned Attornies. And Gonzalez is such an expert at understanding and writing laws. Had any of the three had any legal understanding of the law, they would have known that "any electronic communication intercepted or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, ... in Federal or State Court unless each party, not less than ten days before the trial, ... has been furnished with a copy of the Court order, and accompanying application, under which, ... was authorized or approved," 18 USC § 2518 (9). This is a mandatory, statutory, requirement. This Honorable Court will not find any of the such in the DA's office in the Police department involved, in Defense Attorney's File for Newton, or in the Clerks Record where it should be by law. No party had a copy or even the original of the Court orders, applications, or subsequent. None of the States Evidence is admissible not even Newton's actual detainment as it is evidence derived therefrom. These are 5th Amendment and 14th Amendment violations of Due Process of the Law and Equal protection of the Law. As well as Search and seizure violations.

The only thing this Honorable Court will find is a purported arrest warrant for each charge.

The missing documents mentioned above are "apparent on the

face of the proceedings." McElhenny v. Singleton, 117 So 2d 375, 270 Ala 162 (Ala 1960) also Levert Id, Bates Id, Sheldon Id, therefore showing that the Court never had jurisdiction to charge, convict, and sentence Newton of any criminal activity. [The Courts must enforce the Statute] as has been described throughout. Ex parte T. B. It is a shame that the Appellate Court had not looked ex mero moto as required, when issues or questions of legal evidence are raised.

According to 13A-6-126 the Jefferson County Court did not have jurisdiction because the Constitution of the United States of America, and of the State of Alabama do not allow the illegal actions that have taken place.

Newton tries to show that his evidence while investigating the identity would show that he did not believe one that the jury should have been able to hear more evidence and Counsel should have presented even more evidence that Newton has always had. (All for the Jury to weigh) to show his Actual Innocence. But on the other hand the charges should never have made it passed the magistrate that signed the two arrest warrants.

Newton's Conviction is "Void for lack of Jurisdiction." Moore v. Dempsey, 261 US 86, 43 S. Ct. 269, 67 L. Ed. 543., in both 13A-6-122 and 13A-6-124, because there is no evidence that the State has available against Newton and the Courts lost all jurisdiction conferred.

To add to all of the illegal acts against Newton; according to the law, Detective Pannell had kidnapped Newton and held him captive so that Pannell could have time to get

his story straight to set the case.

Newton and the record will show that Detective Kyle Pannell either lied to the Judge/Magistrate that signed Arrest Warrants against Newton on the sixteenth of July, 2014, or the Judge/Magistrate is in on it with Pannell.

In the Affidavit/Warrant for both Charges, Pannell writes the application as if someone made a complaint or he discovered that Newton had committed the crime, and that he just happened to be informed of the crime. In the Affidavit he informs the Judge/Magistrate that Newton was still at large, all a while, Newton is in Pannell's custody and unaware of his own location. See (Appendix I. a.1 and 2).

Later the night of July 17, 2014 Pannell finally has Newton taken to the Jefferson County Jail to be booked and have his arrest officially executed. (App. I. 1 and 2) see also (Appendix I. 24 - 30)

Newton has been unlawfully held in an undisclosed location for well over 48 hours. This Honorable Court will find that Pannell evidences this in (R. 179-182). This Honorable Court will see that Pannell had two other sergeants helping him with this. on the 15th of July, 2014, (Sergeant Baker and Sergeant Cotton). Newton is not completely certain but Pannell was not ~~alone~~ alone and Newton was not booked and was not allowed to make any phone calls or anything for over two ~~days~~ days.

It is clear that there is not any record of Newton's detainment for those two days. Newton has even tried writing the Gerdendale police department for information (App. I. 22) and have not received one reply from them.

Newton's personal cell phone records will show that Newton was not at his home since the morning of July 15, 2014.

Newton does not know where he was held for over 48 hours, but according to law, Newton was kidnapped and illegally held so Pannell could build his story.

Forster, as stated in Newton's Motion For discovery in (App. G. 100) Pannell, in preparation of states exhibits #4 and #5, perjured the evidence and it is evident on July 14 conversations. But Pannell also leaves the last email that Newton responded with, off or out of the exhibits.

Newton ~~as~~ stated that he felt like the identity could have been law enforcement, and in the set of emails that the prosecutor instructed them to read in deliberation, they only read one set of emails, but Pannell in exhibit #5 says that he was not law enforcement and in exhibit #4 that statement is deleted from the conversation.

(R. 179) Petersen - Q "When you say it's 'a fictitious address' does the address exist?"

Pannell - A. "No. But the second meeting, I believe -- I'm sorry, it was July the 14th at 8:30pm. And he asked

if he could make -- if I could make that happen tomorrow,
which would have been the 15th, ...". (R. 180) shows,
Petersen-Q. "And were you there by yourself?" Pannell-A. "No."
Q. "Who were ~~you~~ you there with?" A. "The other detectives.
Sergeant Baker, I believe was there, and Sergeant
Cotton, I believe was there," (at 23 and 24 on R. 181) Q.
"Did you take him into custody?" A. "Yes." Pannell does not
tell where he had take Newton, but Newton was not free,
State at large" until late July 17, 2014 like Pannell wants
everyone to believe,

Issue III

Newton has not waived any arguments raised
in post-conviction (Rule 32) Petition.

Newton clearly instructs Bailey not to abandon or
waive any issue raised in the trial court. See, APP. I. at
8). Why Bailey abandoned issues is beyond me, this Court
will also see a recent conversation between he and my mom,
(Appendix I at 3) discussing the interrogation video and
two missing advertisements that were apart of Newton's
discovery. Newton discusses this as well with Bailey on
more than one occasion, however (APP. I at 20) is only
one occasion. Newton is still without the missing information.

As stated in the Statement of the Case, Newton
wonders if, too, Bailey has Fallen in suite with the rest

involved with this case, to sabotage Newton's case, against his guaranteed Constitutional rights and protections, in order to cover up illegal government actions.

Newton, in issue one, has pretty much defended most of the issues raised in the trial court on post-conviction, not individually but collectively, as the issues raised to the trial court revolve around trial counsel's failure to present evidence to the jury and failed to have the statements or testimonies heard by the jury from Newton's witnesses and testimony from the state that would have benefitted Newton's case. There were six sub-issues dealing with evidence. Newton in Issue I herein defends that the jury had the right to consider all of the evidence, and more, that was withheld, not asked about, or objected to. Newton maintains that his prose motion for discovery should have been considered by the court as well and given Newton the discovery.

One thing Newton has not touched on just yet is the Prosecutors illegal statements that the jury should not have heard and that Trial Judge did not instruct the jury about electronic evidence and did not correct the prosecutors' statements about all that mattered was that Newton "hoped" and "wished" and that it didn't matter if a law enforcement agent was there instead of the "child".

Judge Todd should have instructed that it is only legal detection and investigation. Please Review the trial court's Record in the transcripts. Todd's Instructions

lack a lot of information that the jury should have been instructed on. Prosecutor Gonzalez pushes his belief on the jury and his interpretation which completely shifts the burden of proof. Prosecutor Gonzalez strips Newton of his presumption of innocence right before the jury's eyes. see (R. 284-323) for Judge Todd's incomplete instructions and (R. 333-346) Gonzalez completely forces his verdict of Newton's guilt upon the jury. Newton raised these issues in the petition. But the main argument is that the jury should have heard more of Newton's evidence, and trial counsel was at fault for not making it happen and he should have objected to trial judge's order of the closing proceedings and lack of instructions and curative instructions. Trial counsel should have objected more to prosecutor's illegal closing arguments. Newton was not precluded and should have been given an evidentiary hearing and new trial.

Newton does not waive or abandon any of his issues, all arguments on appeal in the Alabama courts were improper and should not have been heard. The Appellate Court was without jurisdiction to make the ruling that it did.

Newton, A United States Navy Veteran Prays this ~~case~~ Honorable Court will hear this case, as it is clear that Alabama is in complete abuse of citizen's constitutional rights. Newton would still be in the Navy had he not been failed by trial counsel.

Newton's petition did not prove. It was only required to plead. Newton was required to prove his alleged pleadings in an evidentiary hearing.

Newton was not precluded as the law is material to his case and the evidence is material that the jury is due to weigh.

The Alabama Courts were without jurisdiction and the Gardendale Detective was also out of his jurisdiction as he initiated everything illegally and in the Birmingham jurisdiction.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Keith Newton

Date: May 13, 2020