Steven Alan Magritz
Attn: Magritz, Steven Alan, Agent
c/o N53 W34261 Road Q
Okauchee, Wisconsin [53069]

REQUEST to Circuit Justice Brett Kavanaugh for a Certificate of Appealability, Case Number 18-C-0455, District Court of the Eastern District of Wisconsin

To:
Circuit Justice Brett Kavanaugh, Seventh Circuit Court of Appeals
c/o The Supreme Court of the United States
One First Street, N.E.
Washington, D.C. 20543,
and,
c/o United States Court of Appeals for the Seventh Circuit
Everett McKinley Dirksen United States Courthouse
219 S. Dearborn Street, Room 2722
Chicago, IL 60604

INTRODUCTION

This septuagenarian was heartbroken, reduced to tears, perhaps more so than most people, watching the vicious, politically motivated character assassination inflicted upon Justice Kavanaugh during his confirmation hearing. Since 2001, after exposing corruption in government, I have had my reputation destroyed, my business which was built solely upon my character ruined, my *very* valuable property in which I held vested rights granted by the United States of America prior to statehood stolen at gunpoint and turned into a county park, my personal property stolen, my finances reduced to penury, and my liberty taken from me when I petitioned for redress of grievances, all by corrupt attorneys and judges. My story could have been included in Sidney Powell's book, *Licensed to Lie.*

This Request for a Certificate of Appealability is made to Circuit Justice Kavanaugh, *explicitly* Circuit Justice Kavanaugh, and most emphatically *not* to District Court Judge Lynn Adelman of the District Court of the Eastern District of Wisconsin. Further this request is not made to a judge *nor* to the court of appeals, but directly to Circuit Justice Brett Kavanaugh.

Question: Should the dismissal of a petition for writ of habeas corpus filed under 28 U.S.C. § 2254 be allowed to stand wherein the District Court judge *knowingly* applied a *fabricated, conjured up, non-existent* state "rule" to "find" a "procedural default", resulting in the continuing cover-up of a politically motivated, out-of-control, state court judge who manifested egregious, antagonistic bias or prejudice in pursuing a personal vendetta to punish and imprison an informant, victim, and witness of crime?

This Request is made under Rule 22(b), "Certificate of Appealability", of the Federal Rules of Appellate Procedure ("FRAP"), pursuant to Title 28 U.S.C. § 2253, Appeal. On March 22, 2018, petitioner filed a petition for habeas corpus under 28 U.S.C. § 2254 in the United States District Court, Eastern District of Wisconsin (Milwaukee). On November 28, 2018, District Court Judge Lynn Adelman dismissed the petition based upon an *alleged* procedural default premised upon a *fabricated, known non-existent* "rule". Adelman declined to issue a Certificate of Appealability. On February 28, 2019, Adelman denied a Rule 60 (b)(3), (b)(4), (b)(6) motion for Relief. On March 18, 2019, Adelman denied a second Rule 60 motion, this time made under Rule 60(b)(1), based upon Adelman's "mistake or

inadvertence" in applying a *non-existent* "rule" to "find" a procedural default. Adelman, *with knowledge that his dismissal order was based upon a fabricated, non-existent "rule"*, denied the 60(b)(1) motion for relief in a curt, four sentence "Order". Adelman's denial of the 60(b)(1) motion is *his acknowledgement* that he knowingly, purposely, intentionally applied a *fabricated, conjured up, non-existent state "rule"* to justify dismissal of the petition for habeas corpus with the result being a continued cover-up of the malversation of the out-of-control state judge, whose husband is a prosecutor.

This Request encompasses both the initial dismissal of the habeas petition on November 28, 2018, the denial on February 22, 2019 of the Rule 60 (b)(3), (b)(4), (b)(6) motion filed on December 20, 2018, and the denial on March 18, 2019 of the Rule 60(b)(1) motion filed on March 12, 2019. Both Rule 60 motions and briefs, and the motion for reconsideration, are incorporated herein by reference, Dkt. 18 (motion), Dkt. 19 (brief), Dkt. 22 (reconsideration motion), Dkt. 25 (motion), & Dkt. 26 (brief), respectively.

Because the egregious animus manifested by the "unexplainable" numerous, odious, dissimulations of Judge Adelman *are beyond belief and shock the conscience*, Brief in Support Dkt. 19, Brief in Support Dkt. 26, and Reconsideration motion Dkt 22, *are attached hereto and incorporated herein* by reference in their entirety.

Collateral Attacks

Title 28 U.S. Code § 2253 reads, in pertinent part: "(c)(1) Unless a ***circuit justice*** or judge issues a certificate of appealability, an appeal may not be taken to

the court of appeals from— (A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a Statecourt; ..."

Title 28 Section 2253(c) and Appellate Rule 22(b) require petitioners attacking criminal convictions to file a notice of appeal and obtain a certificate of appealability before being allowed to proceed on appeal. *Evans v. Cir. Ct. of Cook Cy., Ill.*, 569 F.3d 665 (7th Cir. 2009). An appeal will not be certified under § 2253(c) unless the petitioner can make a substantial showing of the denial of a constitutionally secured right. If the district court's decision was based on an [alleged] procedural shortcoming, the petitioner must demonstrate not only a debatable constitutional claim, but also that the procedural ruling is debatable. *Davis v. Borgen*, 349 F.3d 1027 (7th Cir. 2003).

"When the district court denies a habeas petition on procedural grounds without reaching the prisoner's underlying constitutional claim, a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right (sic) and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

In this case, Judge Adelman's denial on procedural grounds is not merely "debatable", it is ***flat out wrong***, and *knowingly, purposely, intentionally "wrong"* as demonstrated, in spades, in Adelman's March 18, 2018 denial of the Rule 60(b)(1) motion filed March 12 which *clearly evidenced Adelman's dismissal was based upon a fabricated, non-existent "rule"*. Adelman's denial was short, curt, and non-

responsive, thus acknowledging his "mistake" was not a mistake, but rather the *calculated, intentional application of a fabricated, non-existent "rule".*

Alleged Procedural Default

There was *NO* "procedural default", but rather a "*mistaken* or *inadvertent*" application of a *non-existent "rule"* by Judge Adelman. In the Decision and Order, Dkt. 16, dated November 28, 2018, dismissing the petition for habeas corpus, on page five (5) Judge Adelman stated:

> In the present case, the Wisconsin Court of Appeals rejected Magritz's habeas petitions based on a state procedural rule: the rule that a criminal defendant cannot seek habeas relief with respect to claims that he could have raised on direct appeal or in a motion under Wis. Stat. § 974.06. There is no doubt (sic) that the Wisconsin Court of Appeals actually relied on this state-law procedural ground in denying Magritz's habeas petitions, ..."

And on page 6 Adelman stated:

> Here, Magritz decided to forego his direct-appeal rights, and therefore the Wisconsin Court of Appeals' rejection of his federal claims involved a principled application of well-established Wisconsin law.

BUT - there is no such "law". It is *nonsense.* There is no state law, *nor can there be any law, federal or state,* which denies a man remedy by habeas corpus merely because he does not file a direct appeal. Adelman took this non-existent "law" or "rule" from one of the *twelve (12) or more false representations to the court* made by the attorneys for the respondent in their brief for dismissal filed on May 29, 2018. On July 12, 2018, petitioner *Noticed* Adelman of the false representations by way of a sixteen (16) page "*Mandatory Judicial Notice – FRE 201(c)(2) With Exhibits A through J (22 pages)*" in support, Dkt. 10, signed under the pains and penalty of perjury, which is incorporated herein by reference.

The record of the district court *extensively* evidences egregious, rapacious, unrefuted, pervasive, outrageous, *antagonistic* bias by State court judge Williams, therefore remedy by way of motion to the sentencing court would be not

only futile, inadequate or ineffective, but also foolish, ridiculous, and masochistic. The egregious *exhibited* bias of Williams, *known as a "structural defect" or "structural error"* in the proceedings, requires that the controlling, and "well-established Wisconsin law" relevant to this case be applied and adhered to, namely:

Wisconsin Statute § 974.06:

> (8) A petition for a writ of habeas corpus or an action seeking that remedy in behalf of a person who is authorized to apply for relief by motion under this section shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court which sentenced the person, or that the court has denied the person relief, **unless it also appears that the remedy by motion is inadequate or ineffective** to test the legality of his or her detention. (emphasis added)

Section (8) was taken *directly* from 28 U.S.C. § 2255. The Seventh Circuit recognized this prohibition on habeas corpus would have been unconstitutional except for the "saving" clause, *Stirone v. Markley*, 345 F.2d 473, (7th Cir. 1965), to wit:

> **"unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his or her detention."**

In *Stirone*, 475-476, the Seventh Circuit Court of Appeals said:

> "For an even more fundamental reason section 2255 is not a deprivation of constitutional rights. Habeas corpus **continues to be available** when the remedy under that section is shown[1] to be "inadequate ***or ineffective***." The section 2255 provision merely prescribes a procedure different from that of habeas corpus whereby one ***may*** collaterally attack a conviction. So long as this procedure is available ***with provision for habeas corpus*** in the event a section 2255 proceeding is "**inadequate *or ineffective***," there is no constitutional issue." (emphasis added).

This applicability of Wis. Stat. § 974.06(8) is expounded upon at length and in detail in **Dkt. 18**, Motion for Relief, Fed. R. Civ. P., Rule 60; **Dkt. 19**, Memorandum in Support (of Dkt. 18); **Dkt. 22**, Motion for Reconsideration of Denial of Rule 60 Motion for Relief; **Dkt. 25**, Motion for Relief, Fed. R. Civ. P. Rule 60(b)(1); and, **Dkt.**

[1] The statute uses the term "appears".

26, Memorandum in Support (of Dkt. 25); all five (5) documents are incorporated herein by reference as if set out fully at length herein. Judge Adelman did *error*.

Constitutional Issues

The innumerable violations of petitioner's constitutionally secured rights, including but not limited to denial of substantive and procedural due process, have been extensively detailed beginning with petitioner's initial filing under 28 U.S.C. § 2254 on March 22, 2018, which consisted of a 28 page application plus 142 pages of exhibits, all incorporated therein by reference, which were subsequently bolstered by an additional 175 plus pages of exhibits, affidavits, memorandum, etc., all of which are incorporated herein by reference.

Most, if not all, of the exhibited, manifested, or evidenced deprivations of petitioner's constitutionally secured rights by the trial court judge, Sandy A. Williams, could be subsumed under the umbrella of *extreme, antagonistic judicial bias* arising out of a politically motivated *personal vendetta* for exposing the malversation of Williams when she was a prosecutor and then later a judge.

Petitioner, a victim/witness of crimes, filed criminal reports/affidavits against an attorney who was the county Corporation Counsel. These "criminal complaints" were filed with the governor, lieutenant governor, state attorney general, legislators, judges, sheriff, county prosecutor, and others.

Sandy A. Williams was named in petitioner's final complaint filed in 2011 charging Williams with misprision of felony for refusing to prosecute her associate, the county Corporation Counsel. Petitioner sued Williams in 2012 in federal court

(dismissed for want of jurisdiction) for breach of fiduciary duty and misconduct in public office. In 2013 Williams was featured on the www.OzaukeeMob.org website as a corrupt prosecutor, and, as a corrupt judge for ruling on her own cause in a motion brought by petitioner in the county court in 2011. At the sentencing hearing in February, 2016, Williams verbally and visually expressed her displeasure and disdain at having been featured on the OzaukeeMob website.

The following "constitutional issues" were set forth as "grounds" in the petition filed March 22, 2018. As stated above, most can be attributed to the animus and prejudgment disposition for a judicial lynching by state court judge Williams:

- Petitioning for redress of grievances was converted into a "crime".
- Freedom of speech on a matter of public interest was converted into a "crime".
- Failure to give "fair notice" that correcting the public record could be construed as a "crime".
- Biased judge, a "*structural defect*" or "*structural error*"; Brady material/ affidavits/ exculpatory evidence twice removed from court clerk's files – concealed and never returned (judge is chief suspect); gagged and threatened by judge from introducing or even mentioning Brady material.
- Denial of assistance of counsel, a "*structural defect*" *or* "*structural error*", at preliminary hearing, *at arraignment*, and throughout the entire persecution. The attorney who was appointed by judge Williams to sit next to the "targeted man" was explicitly, on the record, not accepted as counsel, stand-by or otherwise.
- Biased prosecutor, a former assistant to judge Williams when she was prosecutor; suspect in removal and concealment of court records, supra; estopped from prosecuting by 2012 agreement and foreknowledge that his "Criminal Complaint" was false; sued for breach of fiduciary duty in 2012 for filing a known false "Criminal Complaint" in December, 2011.
- Fraud upon the court by the prosecutor at the preliminary hearing by suborning false testimony from his witness, which testimony both the prosecutor and judge Williams had *known for four years was false.*
- No notice of preliminary hearing, no notice of arraignment; from day of false arrest without a warrant in September, 2015, throughout the star-chamber proceedings, and until transport to state prison in February, 2016, the

"targeted man" was held *incommunicado in solitary confinement*, without a single telephone call to an attorney or anyone else, and without visitors.

- Denial of witnesses in defense – identical or similar to prosecutor's witnesses.
- Obstruction of justice, jury tampering, removal of defense witness from witness stand during trial, thus preventing witness from introducing Brady material.
- Confrontation clause violation: there were no witnesses against the "defendant"; prosecutor's star witness, a title insurance company attorney, testified there was no injured party or damage to property, thus no *corpus delicti*, which was brought to court's attention in writing, but ignored.
- Fraud upon the court by judge Williams by ignoring the captive's plea of "*non assumpsit by way of confession and avoidance*" for himself, a man, and entering a *Liar's Plea* of "not guilty" for the "defendant", thereby creating a controversy when none existed.
- Prevented from presenting a defense to which the prosecutor's complaint "opened the door", but the "door" was slammed shut by Judge Sandy A. Williams' threats (plural) and gag orders (plural).
- No *mens rea* element in the "charging statute"; no *mens rea* was ever alleged, let alone proven; and no *mens rea* instruction was given to the jury.
- The trial court was in want of subject matter jurisdiction because there was no *corpus delicti.*
- The charging statute is unconstitutional in that it is so standardless that it authorizes or encourages seriously discriminatory or wanton enforcement.
- The "trial" court was in want of personal jurisdiction over the man who was falsely mustered, imprisoned, and who is currently restrained of his liberty by public officers who are in want of knowledge. The man was kidnapped and "forced" to undergo persecution for a pseudo "complaint" or "charges" against a Registered Business Name, Minnesota File Number 1072311400028, which has no contract with the public *corporation* named "State of Wisconsin", Wis. Stat. 706.03(1)(b).

In further support of the issues of denial of due process, denial of a fair trial, and denial of assistance of counsel, attached hereto and incorporated herein is Dkt. 9, Affidavit of Bias, 8 pages, with all exhibits Dkt. 9-1 through Dkt. 9-7, for a total of twenty-five (25) pages. Also incorporated herein by reference, but not attached, are Dkt. 12 and Dkt. 13, Statement of Facts, and Memorandum in Support of Summary Judgment, respectively.

I REQUEST / MOVE Justice Kavanaugh forthwith issue a Certificate of Appealability to the Seventh Circuit Court of Appeals.

Declaration under 28 U.S.C. § 1746 (1):
I, declare under the pains and penalties of perjury of the laws of the United States of America that the foregoing facts are true and correct, and as for any statement made upon information, reason, or belief, I believe and so charge them to be true.
Executed on this October 23, 2019.

By: Magritz, Steven Alan Agent, Power-of-Attorney, NameHolder,
dba STEVEN ALAN MAGRITZ

RE: REQUEST FOR CERTIFICATE OF APPEALABILITY

Pursuant to FRAP Rule 22(b) and 28 U.S.C. § 2253(c)(1)

To:
Seventh Circuit Justice Brett Kavanaugh

c/o One First Street, N.E.
Washington, D.C. 20543,
7019 0160 0000 1258 9652

Dear Justice Kavanaugh,

This is my *fourth* request mailed to you under the authority of 28 U.S.C. § 2253(c)(1) for a Certificate of Appealability following denial of a writ of habeas corpus under 28 U.S.C. § 2254 by a District Court Judge and said judge's failure to issue a certificate of appealability.

The Request itself and Attachments 1 – 5 thereto are the same, except as noted below, as my third Request which was returned to me on May 28, 2019 by Scott S. Harris, Clerk, with the following statement:

> The documents that you sent are herewith returned for reasons stated previously. It appears from your correspondence that you have filed a request for a certificate of appealability with the Seventh Circuit. When and if that request is denied, send the order from the Seventh Circuit back with your application. At that point, your application can be considered for filing here.

On March 21, 2019 I filed a notice of appeal and request for certificate of appealability with the Seventh Circuit. The Seventh Circuit *sat on my Request* for almost seven (7) months.

My most recent prior request to Justice Kavanaugh for a certificate of appealability was filed in Seventh Circuit case # 19-1518 as docket entry number 4, which is identical to the enclosed *except for today's date of autograph and the inclusion in Attachment # 5 of the October 15, 2019 ORDER* received from the Seventh Circuit denying the request for a certificate.

I previously had written to the DOJ. The response provided by the DOJ to my letters was to file a complaint with the FBI, and, information on filing complaints about a federal judge. Subsequently I filed a complaint on September 30, 2019 titled *"Informant's Report of Felonies Cognizable by a Court of the United States, Reported Pursuant to 18 U.S.C. § 4"* with Attorney General William Barr, local FBI SAC Robert E. Hughes, and Chief Judge Diane Pamela Wood. See attached cover letter to *"Informant's Report"*. Diane Wood, on her own volition and *without my*

knowledge or consent, instead of acting upon my complaint as a judicial complaint as intended, filed it on October 4, 2019 in case number 19-1518 as docket entry number 6.

On October 7, 2019, just days after Diane Pamela Wood dba Chief Judge, without authorization filed the judicial complaint in case # 19-1518, an unknown named person at the Seventh Circuit "submitted" my request for certificate of appealability which had been filed on March 21, 2019. A week later, after stonewalling for almost seven (7) months, an "ORDER" denying my request was issued by Brennan, Michael Brian dba MICHAEL B. BRENNAN and Scudder, Michael Yale Jr. dba MICHAEL Y. SCUDDER. Said "ORDER" is set forth as the first page of Attachment # 5.

This request encompasses: 1) the District Court judge's November 28, 2018 denial of the *writ of habeas corpus*; and, 2) the denial on February 22, 2019 of a Rule 60(b)(3), (b)(4), (b)(6) *motion for relief*; and, 3) the denial on March 4, 2019 of a *motion for reconsideration* of the February 22nd denial; and, 4) the denial on March 18, 2019 of a Rule 60(b)(1) *motion for relief* filed March 12, 2019, *and*, 5) the Seventh Circuit denial of request for certificate of appealability dated October 15, 2019. See appended attachments # 1, # 2, # 3, and # 5. Attachment #4 evidences the manifested bias and retaliation by the state court judge. Attachment #5 is the Circuit Court "ORDER" of denial and a March 21, 2019 letter from the District Court Clerk, the district court docket sheet, and the Notice of Appeal.

Pursuant to Supreme Court Rule 22 enclosed please find the following:
One original and two copies of my Request for a Certificate of Appealability;
Attachment # 1 - the district court judge's original denial of writ of habeas corpus and my first Rule 60 motion *and* memorandum / brief;
Attachment # 2 - the district judge's denial of my first Rule 60 motion, and my motion for reconsideration;
Attachment # 3 – the district judge's denial of my motion for reconsideration, and my second Rule 60 motion and memorandum / brief, and, the district judge's denial of my second Rule 60 motion;
Attachment # 4 – evidence of manifested bias and retaliation by the state court judge;
Attachment # 5 – Seventh Circuit "ORDER" and District Court Clerk letter with copy of District Court Docket and Notice of Appeal to Seventh Circuit.

Dated: October 23, 2019

By: Magritz, Steven Alan dba STEVEN ALAN MAGRITZ
Magritz, Steven Alan, Agent, POA, NameHolder, dba STEVEN ALAN MAGRITZ
Attn: Magritz, Steven Alan, Agent
c/o N53 W34261 Road Q
Okauchee, Wisconsin [53069]

Magritz, Steven Alan, Name Holder of/Agent for
STEVEN ALAN MAGRITZ, Principal
in care of: N53 W34261 Road Q
Okauchee, WI 53069

Re:
Informant's Report of Felonies Cognizable by a Court of the United States, Reported Pursuant to 18 U.S.C. § 4

18 U.S. Code § 4 Misprision of felony

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.

Please take Notice:

The attached Informant's Report is herewith distributed to each of the "persons" named below for the appropriate legal / lawful action consistent with your respective office and your obligation as a fiduciary of the Public Trust as evidenced by your required oath of office to support the Constitution of The United States of America, a/k/a the "United States".

Distribution:
William Barr, Attorney General
Robert E. Hughes, SAC
Diane Pamela Wood, Chief Judge 7017 2680 0000 7674 2715 ✓
Other relevant

ATTACHMENT # 1 of 5, TO:

REQUEST to Circuit Justice Brett Kavanaugh
for a
Certificate of Appealability, Case Number 18-CV-0455,
District Court of the Eastern District of Wisconsin,
to
Seventh Circuit Court of Appeals Case Number 19-1518

Documents attached:

1) *District Court November 28, 2018 denial* of writ of habeas corpus, Dkt. 16;
2) First Rule 60 motion ((b)(3), (b)(4), (b)(6)), December 20, 2018, Dkt. 18;
3) Memorandum / brief in support of motion, December 20, 2018, Dkt. 19.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

STEVEN ALAN MAGRITZ,
Petitioner,

v. **Case No. 18-C-0455**

JON E. LITSCHER,
Respondent.

DECISION AND ORDER

Steven Alan Magritz filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. Before me now is the respondent's motion to dismiss the petition as untimely and for procedural default.

I. BACKGROUND

Magritz's conviction arises out of a dispute between him and Ozaukee County. In 2001, the County foreclosed on his real property. *See* Petition at p. 6. Magritz believes that the foreclosure was unlawful and has been harassing the County about it ever since. In November 2011, Magritz recorded a document pertaining to the property, entitled "Confirmation Deed," with the County's register of deeds. *Id.* at p. 7. Magritz claims that, in recording the document, he was petitioning the government for the redress of his grievances. *Id.* at 6–7. The State of Wisconsin saw things differently. It deemed the confirmation deed false and charged Magritz with criminal slander of title. *See* Wis. Stat. § 943.60(1).

Magritz represented himself in the criminal case, with the assistance of stand-by counsel. However, during a pretrial conference, Magritz objected to stand-by counsel

and demanded that the court allow his wife to serve as his counsel. *See* ECF No. 1-4 at pp. 49–62. He stated:

> For the record, every word that I speak here today is made under taint and penalty of perjury. I am not the fiduciary trustee representative [n]or am [I] acting in anyway whatsoever for any artificial officiant . . . including but not limited to the defendant. I am not the artificial person or entity, the defendant. I'm a man of God, I'm a man created in the image of God, endowed by my creator undeniable rights, including the right to life, liberty, and property.
>
> I do not consent to these proceedings, but I exercise my right to protect my natural person and my liberty. My life and liberty. I have a right to my choice of assistance of counsel. No one may deny me my right to assistance of counsel. And my choice for assistance of counsel is my wife, Chieko.

Id. at pp. 50–51. Upon further questioning, the trial judge determined that Magritz's wife was not a licensed attorney and therefore could not serve as his counsel. *Id.* at 52–56. The judge encouraged Magritz to retain an attorney to represent him or, if he could not afford one, make a request with the public defender's office to see if he qualified for appointed counsel. *Id.* at 14.

Magritz represented himself at trial, and the jury found him guilty. The court sentenced him to 18 months' initial confinement and three years' extended supervision.

Magritz did not pursue a direct appeal. Instead, he began filing *pro se* petitions for habeas corpus with the Wisconsin Court of Appeals and the Wisconsin Supreme Court. Included in at least some of these petitions was Magritz's allegation that the Ozaukee County judge who presided over his criminal case, Sandy Williams, was biased against him.

While Magritz's petitions were pending in the Wisconsin courts, he filed a federal petition for a writ of habeas corpus in this court. *See Steven Alan Magritz v. Quala Champagne*, E.D. Wis. Case No. 16-C-1694. After the respondent filed a motion to

dismiss the petition for failure to exhaust state-court remedies, Magritz filed a notice of voluntary dismissal.

The Wisconsin Court of Appeals eventually rejected Magritz's habeas petitions on procedural grounds. On June 6, 2017, the court issued an opinion denying one of his petitions because it was over the page limit and because Magritz had failed to pursue his alternative remedies, namely, his direct appeal. The court also noted that Magritz might still be able to seek relief under Wis. Stat. § 974.06, which allows criminal defendants to collaterally attack their convictions under certain circumstances.

On November 7, 2017, the Wisconsin Court of Appeals issued a decision denying another one of Magritz's habeas petitions. This time, the court found that the petition was not over the page limit, but it again rejected the petition because Magritz had failed to pursue his alternative remedies. The court reiterated that habeas corpus is not a substitute for a direct appeal or a motion under Wis. Stat. § 974.06.

After unsuccessfully asking the court of appeals to reconsider its denials of his habeas petitions, Magritz sought relief from the Wisconsin Supreme Court. Magritz filed a document with that court entitled "Writ of Error, generally, and Order for Remedy." ECF No. 1-1 at p. 5. The supreme court construed this "writ" as a petition to review the court of appeals' order of November 7, 2017. The court then denied the petition as untimely.

Magritz commenced his current federal habeas case on March 22, 2018. His petition alleges 20 different grounds for relief. The respondent now moves to dismiss the petition because it was filed outside the one-year limitations period, *see* 28 U.S.C. § 2244(d), and because Magritz procedurally defaulted his claims.

II. DISCUSSION

A. Jurisdiction to Consider Second Habeas Petition

Initially, I address whether Magritz's current federal petition is a second or successive petition within the meaning of 28 U.S.C. § 2244(b). Although the respondent does not contend that it is, I must address this issue because it relates to subject-matter jurisdiction. *See, e.g., Summers v. Earth Island Institute*, 555 U.S. 488, 499 (2009) (court has an independent obligation to assure that subject-matter jurisdiction exists); *Nunez v. United States*, 96 F.3d 990, 991 (7th Cir. 1996) (noting that second-or-successive doctrine affects district court's subject-matter jurisdiction).

Magritz's original petition was filed while he was in the process of exhausting his state-court remedies. After the respondent moved to dismiss that petition for lack of exhaustion, Magritz filed a notice of voluntary dismissal. Thus, the first petition was never addressed on the merits.

Under some circumstances, a petition that has been voluntarily dismissed will count as the first petition for purposes of the second-or-successive rule. *See, e.g., Felder v. McVicar*, 113 F.3d 696, 697 (7th Cir. 1997). But here it does not. That is so because Magritz filed the petition before he exhausted his state-court remedies. Had he not voluntarily dismissed the petition, it would have been dismissed for lack of exhaustion. A petition that has been dismissed for lack of exhaustion will not count as a first petition because, after dismissal, the petitioner may exhaust his state-court remedies and return to federal court. *See Slack v. McDaniel*, 529 U.S. 473, 485–86 (2000); *Altman v. Benik*, 337 F.3d 764, 766 (7th Cir. 2003). That is what happened here, and therefore Magritz's current petition is not second or successive.

B. Procedural Default

I next address the respondent's argument that Magritz procedurally defaulted his claims. Procedural default is one application of the "adequate and independent state ground" doctrine. *See, e.g., Johnson v. Foster*, 786 F.3d 501, 504 (7th Cir. 2015). Under this doctrine, when a state court resolves a federal claim by relying on a state-law ground that is both independent of the federal question and adequate to support the judgment, federal habeas review is foreclosed. *Id.* at 504–05. The violation of a state procedural rule can be an independent and adequate state-law ground. *Id.* at 505.

In the present case, the Wisconsin Court of Appeals rejected Magritz's habeas petitions based on a state procedural rule: the rule that a criminal defendant cannot seek habeas relief with respect to claims that he could have raised on direct appeal or in a motion under Wis. Stat. § 974.06. There is no doubt that the Wisconsin Court of Appeals actually relied on this state-law procedural ground in denying Magritz's habeas petitions, and that therefore the "independence" prong of the independent-and-adequate-state-law-ground doctrine is satisfied. *See Kaczmarek v. Rednour*, 627 F.3d 586, 592 (7th Cir. 2010) ("A state law ground is independent when the court actually relied on the procedural bar as an independent basis for its disposition of the case.").

Moreover, there is no doubt that this rule was "adequate" to support the judgment. A state law ground is adequate when it is firmly established and regularly followed at the time it is applied. *Kaczmarek*, 627 F.3d at 592. Under Wisconsin law, it has long been well-established that habeas relief is unavailable to a person in custody when that person failed to pursue other adequate remedies, including the person's right to take a direct appeal. *See State ex rel. Haas v. McReynolds*, 252 Wis. 2d 133, 140–44

(2002). Here, Magritz decided to forego his direct-appeal rights, and therefore the Wisconsin Court of Appeals' rejection of his federal claims involved a principled application of well-established Wisconsin law.

Magritz, however, contends that the Wisconsin Court of Appeals erred in finding that he had adequate alternative remedies available to him. Here, he focuses on the court's statement that he might still be able to raise his claims in a postconviction motion under Wis. Stat. § 974.06. Magritz contends that such a motion would have been an inadequate remedy because, under that statute, the motion had to be filed in the sentencing court, *see* Wis. Stat. § 974.06(1), yet one of his claims was that the sentencing judge was biased against him.

I will assume for the moment that Magritz is correct that his claim of judicial bias rendered a motion under Wis. Stat. § 974.06 an inadequate remedy. Even if that were so, it would not mean that Magritz had *no* adequate alternative to a petition for a writ of habeas corpus. And clearly he had another adequate remedy: his direct appeal. *See Haas*, 252 Wis. 2d at 142. Indeed, it was his failure to take a direct appeal—which the court of appeals described as his "chief alternative remedy"—that led to the denial of his habeas petitions. *See* ECF No. 1–2 at p. 21.

Moreover, it is clear that Magritz's claim of judicial bias did not render a motion under Wis. Stat. § 974.06 inadequate. It is true that this statute required Magritz to file his motion in the sentencing court and that the motion likely would have been assigned to the allegedly biased judge. But this would not have made the motion an inadequate remedy. Judges routinely decide their own recusal motions and address claims that they are biased. Indeed, under the Wisconsin Statutes, a judge is required to decide a

request that he or she be disqualified because of a conflict of interest or a claim of bias, either actual or perceived. *See* Wis. Stat. § 757.19(5); *State v. Pinno*, 356 Wis.2d 106, 157 (2014). Perhaps in this case the allegedly biased judge would have improperly remained on the case or denied the § 974.06 motion. But if that occurred, Magritz could have appealed the failure to recuse and the denial of the motion, and the court of appeals could have either granted the relief requested in the motion or remanded the case for reassignment to a different judge. For these reasons, a motion under § 974.06 would not have been an inadequate remedy.

In short, the Wisconsin Court of Appeals did not apply, in an unprincipled or irregular manner, the state-law rule that habeas relief is unavailable to a petitioner who failed to pursue his alternative adequate remedies. Thus, that rule was adequate to support the judgment, and Magritz has procedurally defaulted his claims.

A federal court cannot entertain a procedurally defaulted claim unless the petitioner can establish cause and prejudice for the default or that the failure to consider the claim would result in a fundamental miscarriage of justice. *Kaczmarek*, 627 F.3d at 591. "Cause" is defined as an objective factor, external to the defense, that impeded the defendant's efforts to raise the claim in an earlier proceeding. *Johnson*, 786 F.3d at 505. "Prejudice" means an error which so infected the entire trial that the resulting conviction violates due process. *Id.* The miscarriage-of-justice exception is available to petitioners who can establish that they are actually innocent of the crime. *See Schlup v. Delo*, 513 U.S. 298, 323 (1995). To qualify for this exception, the petitioner must show that, in light of new evidence, it is more likely than not that no reasonable juror would have found him guilty beyond a reasonable doubt. *Id.* at 327.

Here, Magritz attempts to show cause and prejudice and that he qualifies for the miscarriage-of-justice exception. First, he claims that he can show two forms of "cause." Initially, he contends that his claim of judicial bias qualifies as cause. But it does not. That claim was one of the very constitutional claims that Magritz defaulted. It was not something external to the petitioner that resulted in his failure to comply with the state's procedural rules.

Next, Magritz contends that the trial court denied him his Sixth Amendment right to counsel, and that this constitutes cause for his default. But the record belies Magritz's claim that the trial court denied him his right to counsel. The record shows that the court encouraged Magritz to either retain counsel of his choice or, if he could not afford counsel, seek assistance from the public defender. ECF No. 1-4 at p. 61. What Magritz characterizes as the court's denying him the assistance of counsel is the court's refusing to let Magritz's wife, who was not a licensed attorney, serve as his counsel. *Id.* at 51–55. But the Sixth Amendment does not grant a person a right to unlicensed counsel. *See, e.g., Wheat v. United States*, 486 U.S. 143, 159 (1988); *United States v. Bender*, 539 F.3d 449, 455 (7th Cir. 2008). Accordingly, there is no merit to Magritz's claim that the trial court denied him counsel. In any event, Magritz's default occurred when he failed to take a direct appeal, and nothing in the record suggests that the trial court impeded Magritz's ability to retain, or to seek the appointment of, postconviction or appellate counsel. Thus, even if Magritz could establish that the trial court denied him his right to counsel at trial, Magritz could not use that denial to establish cause for his failure to take a direct appeal.

Magritz also argues that he qualifies for the miscarriage-of-justice exception. However, he does not point to any evidence—new or otherwise—that might cause a juror to reasonably doubt that he committed criminal slander of title. Instead, he argues that, in recording the "Confirmation Deed" on his former real property, he was engaging in activity protected by the First Amendment and therefore should not have been criminally punished for it. *See* ECF No. 8 at pp. 14–15. But this is a legal question that Magritz actually raised in the trial court and could have raised on direct appeal. It does not relate to "new" evidence that might show that he was actually innocent of the crime. Accordingly, Magritz has not shown that enforcing his default would result in a fundamental miscarriage of justice.

C. Statute of Limitations

Because the petition must be dismissed for procedural default, I do not consider the respondent's alternative argument that the petition is untimely under 28 U.S.C. § 2244(d).

III. CONCLUSION

For the reasons stated, **IT IS ORDERED** that the respondent's motion to dismiss the petition is **GRANTED**. The Clerk of Court shall enter final judgment. Pursuant to Rule 11 of the Rules Governing § 2254 Cases, I find that the petitioner has not made the showing required by 28 U.S.C. § 2253(c)(2), and therefore I will not issue a certificate of appealability.

IT IS FURTHER ORDERED that the petitioner's motion for summary judgment is **DENIED**.

Dated at Milwaukee, Wisconsin, this 28th day of November, 2018.

s/Lynn Adelman
LYNN ADELMAN
District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

Steven Alan Magritz,
Petitioner

v.

JON E. LITSCHER,
Respondent

Case No. 18-C-0455

MOTION FOR RELIEF, Fed. R. Civ. P., Rule 60

Comes now Petitioner, Steven Alan Magritz, the living man, in want of counsel, and as and for relief pursuant to Fed. R. Civ. P. Rule 60 from the Decision and Order signed by district judge Lynn Adelman on November 28, 2018, and the Judgment of the Court signed by clerk Stephen C. Dries on November 28, 2018, shows the Court as follows. I, me, my, myself herein refers to Steven Alan Magritz, the living man.

I am entitled to relief and so move the Court pursuant to Rule 60(b)(3), fraud, and fraud upon the court by officers of the court named Brad D. Schimel and Daniel J. O'Brien. On May 29, 2018, Schimel and O'Brien filed with the Court a Brief in Support of Motion to Dismiss, Dkt. 7, whereby they engaged in *misleading conduct* as that term is defined in Title 18 U.S.C. § 1515(a)(3). Schimel and O'Brien's motion was replete with numerous false, fictitious, or fraudulent statements *to the Court* in violation of Fed. R. Civ. P. Rule 11(b), Representations to the Court; Title 18 § 1001(a), Statements or entries generally; Title 18 U.S.C. § 1512(c)(2) regarding obstruction of justice; and, Title 18 U.S.C. § 402, contempts constituting crimes, all

in an attempt to deprive this Court of jurisdiction. The false representations were made *to the Court*, an entity created by the people by and through the Constitution or Congress, as opposed to being made to a judge or magistrate, one of *mankind.* The false representations were made via mail or wire, in apparent violation of Title 18 § 1341 and/or § 1343 to defraud me of the intangible right of honest services, Title 18 § 1346. On July 12, 2018 I noticed the Court of the false representations by way of a verified Mandatory Judicial Notice, Dkt. 10. *After being noticed* of the false representations, *Adelman subsequently used* at least one of the most egregious false representations in his Decision and Order to *justify* dismissal of my application for habeas corpus.

I am entitled to relief and so move the Court pursuant to Rule 60(b)(6) for bias or prejudice, Title 28 § 455(b)(1) of the presiding officer, Lynn Adelman. In his Decision and Order, Adelman evidenced bias or prejudice by *fabricating* his own false "facts" or "findings", utilizing *known* false statements made in respondent's aforesaid motion to the Court, disregarding or intentionally misapplying *clearly stated* Wisconsin statute and cases, and postulating an incredulous scenario, with which no honest person or jurist could agree, in order to "justify" his "decision" and order.

I am entitled to relief and so move the Court pursuant to Rule 60(b)(4), the judgment is void. The fraud upon the Court rendered the Order and the Judgment void. I was not afforded a fair and impartial consideration of my habeas corpus

petition by Lynn Adelman, to which I am entitled under the Due Process Clause of the Fourteenth Amendment.

I hereby disqualify Lynn Adelman for bias or prejudice.

I incorporate herein by reference: Dkt. 8, Brief; Dkt. 9, Affidavit with attachments Dkt. 9-1 through 9-7; and Dkt. 10, Mandatory Judicial Notice, with attachments Dkt. 10-1 through 10-10.

I move the Court for relief as follows: 1) to appoint a judge other than Lynn Adelman to rule upon this motion; 2) to vacate the November 28, 2018 ORDERS of Adelman granting respondent's motion to dismiss and denying my motion for summary judgment, 3) to vacate the November 28, 2018 Judgment signed by Clerk Stephen C. Dries, and, 4) to restrain the Respondent from taking any benefit whatever from the November 28 Order and Judgment and to grant my motion for summary judgment, or, in the alternative, to assign a judge other than Lynn Adelman to consider and rule upon both my motion for summary judgment and Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 filed on March 22, 2018, case no. 18-C-0455.

Dated this December 20, 2018 A.D.

Steven Alan Magritz

Steven Alan Magritz

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

Steven Alan Magritz,
Petitioner

v.

Case No. 18-C-0455

JON E. LITSCHER,
Respondent

MEMORANDUM IN SUPPORT OF PETITIONER'S MOTION FOR RELIEF, Fed. R. Civ. P. Rule 60

I, Steven Alan Magritz, the living man, in want of counsel, Petitioner in the above captioned matter, file this Memorandum in support of my Motion for Relief, Fed. R. Civ. P., Rule 60, pursuant to Civil L. R. 7. I, me, my, myself herein refers to Steven Alan Magritz, the living man. I am not a licensed attorney, therefore any claims that an attorney, of any stripe, acted in violation of the rules, codes, "laws", etc. of "United States" or "State of Wisconsin" are made upon reason and belief, and, not intended as a trespass upon any copyrighted or private material.

Prologue

The most compelling circumstances for the issuance of the writ of habeas corpus are when government officers acting under color of law, a state circuit court judge in this instant matter, abuse the power of the state for personal or political purposes to retaliate against and punish those with whom they disagree. The retaliation by, and extreme bias manifested by judge Sandy Williams during a star-chamber "trial" replete with "structural errors" resulting in the unlawful

incarceration of petitioner Steven Alan Magritz, has heretofore been swept under the rug by state appellate courts and now by District Court Judge Lynn Adelman.

Summary

Judge Lynn Adelman Disregards State Statute, Downplays Egregious Judicial Bias, Ignores Fraud Upon *this* Court

The November 28, 2018 Decision and Order of Lynn Adelman evidences, *on its face,* lack of impartiality, bias or prejudice, erroneous recitation and analysis of facts *and* law, and disregard for the controlling state statute, Wis. Stat. § 974.06, *which was taken directly from Title 28 U.S. Code § 2255.*

Rule 60(b) of the Federal Rules of Civil Procedure permits a court to order relief from a final judgment or order on "just terms" on the following grounds which are applicable in this case:

- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (6) any other reason that justifies relief.

Regarding Fed. R. Civ. P. Rule 60(b)(3) & (4), fraud, and fraud upon the Court, was perpetrated in case no. 18-C-0455 by respondent's attorneys Brad D. Schimel, Daniel J. O'Brien. "There is no question of the general doctrine that fraud vitiates the most solemn contracts, documents, and even judgments." United States v. Throckmorton, 98 U.S. 61, 64 (1878).

Regarding Fed. R. Civ. P. Rule 60(b)(6), the disregard of controlling Wis. Stat. § 974.06, and the repetitive *manifested* bias or prejudice of presiding officer Lynn

Adelman in violation of Title 28 U.S.C. § 455(b) *has caused injury to my substantial or substantive rights.* Regarding disqualification of a judge of the United States under § 455(b), the Code reads,

> **(b)**He shall also disqualify himself in the following circumstances:
> **(1)** Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

ABA Judicial Conduct Rules 2.2 and 2.3 read:

> RULE 2.2, *Impartiality and Fairness*, "A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially."
> RULE 2.3, *Bias, Prejudice, and Harassment*, "(A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice. (B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, ..."

Here is the Applicable State "Rule"

Wisconsin Statute § 974.06:

> (8) A petition for a writ of habeas corpus or an action seeking that remedy in behalf of a person who is authorized to apply for relief by motion under this section shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court which sentenced the person, or that the court has denied the person relief, **unless it also appears that the remedy by motion is inadequate or ineffective** to test the legality of his or her detention. (emphasis added)

Section (8) was taken *directly* from 28 U.S.C. § 2255. The Seventh Circuit recognized this prohibition on habeas corpus would have been unconstitutional except for the "saving" clause, *Stirone v. Markley*, 345 F.2d 473, (7th Cir. 1965), to wit:

> **"unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his or her detention."**

Take Notice of the word "appears". Notice also the disjunctive conjunction "or" between the words "inadequate" and "ineffective".

In the November 28, 2018 "Decision and Order", Judge Adelman *chose* to ignore the word "appears". Judge Adelman *chose* to expound solely on the word "*inadequate*". Judge Adelman *chose* to ignore the *clearly* applicable word "ineffective". Judge Adelman manifested bias. By disregarding key, essential terms in the statute, Judge Adelman turned the statute on its head, which *resulted* in violation of the federal Constitution and disregard for the *Stirone* ruling of the Seventh Circuit Court of Appeals. In *Stirone*, 475-476, the court said:

> "For an even more fundamental reason section 2255 is not a deprivation of constitutional rights. Habeas corpus **continues to be available** when the remedy under that section is shown[1] to be "inadequate ***or ineffective***." The section 2255 provision merely prescribes a procedure different from that of habeas corpus whereby one ***may*** collaterally attack a conviction. So long as this procedure is available ***with provision for habeas corpus*** in the event a section 2255 proceeding is "**inadequate *or ineffective***," there is no constitutional issue." (emphasis added).

When one "cherry-picks" the statute and takes out of context and applies only one word or term, in this case the word "inadequate", which is alleged to support or to "justify" the Adelman decision, and disregards the essential terms "appears" and "ineffective", discussed *infra*, there *is* a "constitutional issue", *and* a legal issue.

Definitions Controlling This Motion Are Set Forth At the End of the Motion

Statement of Facts

Fraud Upon the Court by Respondent's Attorneys

[1] The statute uses the term "appears".

On May 29, 2018, respondent's attorneys Brad D. Schimel and Daniel J. O'Brien filed with this Court a Motion To Dismiss and a Brief in Support of Motion To Dismiss, Dkt. 7. In their Brief, respondent's attorneys made no less than fourteen (14) false representations of fact or law, or both, to this Court, in an apparent effort to deprive this Court of jurisdiction. See Dkt. 10, "Mandatory Judicial Notice – FRE 201(c)(2) With Exhibits A through J", *incorporated herein by reference*, wherein I noticed this Court of the aforesaid false representations.

These false representations are fraud, and, fraud upon this Court, rendering the Judgment void.

My "Mandatory Judicial Notice" of adjudicative facts was filed with this Court under the pains and penalty of perjury under Title 28, U.S.C. § 1746(1). The attorneys' false representations are in violation of Fed. R. Civ. P. Rule 11(b) regarding Representations to the Court. They are also in violation of Criminal Code Chapter 47, Fraud and False Statements, viz., Title 18 U.S. Code § 1001 (a)(1), § 1001 (a)(2), § 1001 (a)(3) as documents submitted *to the Court*, as opposed to documents submitted to a judge or magistrate, as the Court is an entity created by the people by and through the Constitution or Congress, whereas the judge and magistrate are living men. Filing these false representations is *misleading conduct* as that term is defined in Title 18 U.S.C. § 1515(a)(3); a violation of Title 18 U.S.C. § 1512(c)(2) regarding obstruction of justice; and, in violation of Title 18 U.S.C. § 402, contempts constituting crimes. The false representations were made via mail or

wire, in apparent violation of Title 18 § 1341 and/or § 1343 to defraud me of the intangible right of honest services, Title 18 § 1346.

I have not seen, nor have I been presented with, any information or documentation evidencing that District Court Judge Lynn Adelman initiated contempt proceedings against attorneys Brad D. Schimel or Daniel J. O'Brien.

Filing the brief with the false representations with this Court is also a violation of ABA Rules of Professional Conduct, specifically:

> Rule 3.1 asserting issues for which there is no basis in law and fact; Rule 3.3 (a)(1) knowingly making false statements to a tribunal, and, failing to correct false statements of material fact previously made to the tribunal; Rule 3.4(c) knowingly disobey an obligation under the rules of a tribunal; Rule 3.5 seeking to influence a judge by means prohibited by law; Rule 8.4 (a) violating the rules of professional conduct; (b) committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer; (c) engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; (d) engaging in conduct that is prejudicial to the administration of justice;

One of the false statements of respondent's attorneys, which is stated on pages 2 and 7 of Dkt. 7, was that the Wisconsin Court of Appeals denied my habeas corpus because I had not filed a direct appeal. The record of *this* Court evidences that the state court did *not* say that. If the court had so stated, it would have been saying that habeas corpus is no longer constitutionally secured to the people since the people must *first* file a direct appeal, which is a constitutional absurdity. Further, on Dkt. 7:13 respondent's attorneys stated: "Magritz's failure to pursue direct review in state court is in and of itself fatal to his federal habeas petition." That statement is false and in direct *defiance* of both the federal and state constitutions. Judge Adelman, a seasoned jurist, should have known the statement was false as

well as constitutionally "unsound". Yet in the first full paragraph on page 3 of the "Decision and Order", *Judge Adelman repeated this false assertion as part of his justification for denying me remedy.* And again, on page 6, Adelman states: "Indeed, it was his *failure to take a direct appeal* – which the court of appeals described as his "chief alternative remedy" – that *led to the denial of his habeas petitions.*" This false representation was a fraud upon the court when attorneys Schimel and O'Brien stated it. This false statement is now, *at best*, a manifestation of bias or prejudice when Adelman uses it as justification to deny me remedy.

Discussion

I will address, in roughly chronological order as set forth in Judge Adelman's "Decision and Order", the bias manifested by Judge Lynn Adelman and the "errors" in both stating the facts and applying the law which invoke Rule 60 remedy.

Page 1, Decision and Order. Beginning on line 6 of the very first page, Judge Adelman writes "Magritz believes that the foreclosure was unlawful *and has been harassing* the County about it ever since." Adelman's *false, unsubstantiated, prejudicial, inflammatory, emotion-arousing accusation* that I had been *harassing the County* (sic) likely would cause any reviewer or reader to look upon me with disfavor, disapproval, dislike, disapprobation, animosity, and/or resentment. I believe Adelman's false statement was intended to prejudice, precondition, or predispose the reader against me to accept the subsequent false or misleading statements of "fact" or conclusions of law in the "Decision". The record of this Court evidences that *there was not one single time, not one single instance, not one single*

mention, not one single claim, not one single accusation, no evidence, anywhere, in any of the documents filed by the attorneys for the respondent, that I had been harassing the "County". Further, the "County" Adelman refers to is a corporation, an inanimate artificial entity incapable of being "harassed" in the first instance. Adelman's statement is *false and nonsense,* and evidences bias or prejudice, Title 28 § 455(b)(1). Further, Adelman's *false* statement of alleged "fact" of harassing is Adelman's own *presumption,* and presumptions are *not* "Due Process of Law" any more than is bias or prejudice.

Pages 1 to 2, Decision and Order. Judge Adelman falsely writes:

> "Magritz represented himself in the criminal case, with the assistance of stand-by counsel. However, during a pretrial conference, Magritz objected to stand-by counsel and demanded that the court allow his wife to serve as his counsel. See ECF No. 1-4 at pp. 49-62."

The record of this Court evidences that in those few words, Adelman makes no less than four (4) false, misleading, contrary to the facts, concealing statements. First, Adelman references pages 49-62 of Dkt. 1-4, when in fact the exhibit referred to begins on page 48, not page 49. Further, *said exhibit set forth at pages 48 through 62 was the entire transcript* of the *Arraignment* held on October 15, 2015. It was *not* a *"pretrial conference"*. Adelman is a *seasoned* jurist who *knows* the difference between an arraignment described in Fed. R. Crim. P. 10 and a pretrial conference described in Fed. R. Crim. P. 17.1. Adelman falsely characterized an *arraignment* hearing as a *"pretrial conference"*. Was this false and improper characterization of an *arraignment* as a *"pretrial conference"* intended to deceive the reviewer or reader

and deprive me of a right and cause me an injury? I charge that Adelman's false statements *evidence* bias. Were they intended to obstruct justice?

Further, I did not "represent" myself, *nor did I represent the defendant entity.* I presented myself as a man, and defended my unalienable rights subsequent to my false arrest and *denial of assistance of counsel,* both at arraignment and thereafter.

Further, I did *not* have *"the assistance of stand-by counsel."* On page 49 of Dkt. 1-4, at the very beginning of the arraignment *of which I had no notice,* while bound in chains and virtually immobilized, and after the court appointed attorney attempted to introduce me, I stated:

> "My every word today is made under the pains and penalty of perjury. I am not the fiduciary, trustee, ..." [interrupted by "judge" Williams] "I'm introducing myself. He can't introduce me. He can't accuse me of being the defendant. He's not representing me. I'm not accepting him as stand-by counsel. I can introduce myself, and that's what I'm doing."

I was again interrupted by Williams during which time the court appointed attorney, *which I did not accept,* was handed a copy if the information, which he had not been given previously. Then followed my statement with the "typos" which Adelman cherry-picked from the transcript and set forth on page 2 of his Decision and Order. I further stated, Dkt. 1-4:51, which statement was omitted by Adelman:

> "I do not accept Gary Schmaus as stand-by counsel. It is no business of mine that the court appoints Gary Schmaus for the defendant as I have no interest in the defendant. I demand that my assistance of counsel Chieko be seated next to me immediately. I demand that my assistance of counsel be given paper and pencil to take notes and act as my secretary and that we have at least ten minutes of consultation because I have been denied - - I've been held incommunicado. I have not been allowed one phone call. I have not been allowed to submit a piece of mail."

Notice that I demanded assistance of counsel by "Chieko" *to act as secretary.* Shortly thereafter Williams demanded that I enter a plea, without me having been allowed to have consultation with *anyone,* friend, family, pastor, attorney or otherwise, and *without having the assistance of an attorney at arraignment.* Williams asked, Dkt. 1-4:57, "Then, sir, what is your plea to the count in the information?" Having been subjected to the perfidy of Williams in prior years, I stated for myself, the living man, and not for the defendant:

> "Nonassumpsit by way of Confession and Avoidance. Nonassumpsit by way of Confession and Avoidance. I repeat, Nonassumpsit by way of Confession and Avoidance, and I demand you hear my plea immediately."

Williams stated, *"Based on the defendant's response the Court will take that as the defendant standing mute and enter a not guilty plea."* Dkt. 1-4:57. I stated:

> "I do not consent to this railroad job. I entered a plea of Nonassumpsit by way of Confession and Avoidance, and I demand you hear my plea immediately. This is a ... [interrupted by Williams] This is a railroad job, madam, you are aiding and abetting the misprision of felony. There are documents that I would provide by Mr. Gary Schmaus that indicates that there are documents removed from the court file that implicates you in a misprision of felony. Now removing those documents is another crime. Tampering with a public record and stealing public documents."

At the end of the arraignment Williams acknowledged, on the record, that I did not have an attorney when she stated, "I would strongly encourage you if you do not wish stand-by counsel that you retain your own attorney..." This was of course not only a hypocritical *taunt* by Williams but also a *physical impossibility* since from the date of my false arrest until *after* being transported to state prison following sentencing *I was held incommunicado, in solitary confinement, without any*

visitors, and without being allowed even one telephone call to a friend, family member, pastor, *or an attorney, or anyone else who could hire an attorney.*

I have set forth above at length from this Court's record, Dkt. 1-4:48-62, *to evidence the falsity and bias or prejudice in Adelman's* ***"Pages 1 to 2 Decision and Order"*** citation, *supra.*, as well as the deception by omission in the first **"Page 2 Decision and Order"**, *infra.* This Court's record evidences that Adelman *falsely described,* by omission and commission, the arraignment and *falsely termed* the *arraignment* as a *pretrial conference* to cover-up the "structural errors" of "ineffective" assistance of counsel and judicial bias or prejudice evidenced in the *arraignment* transcript. I believe, and so charge, Adelman's omissions and false or deceptive statements arose from *bias and a predisposition to deny me remedy.*

Page 2, #1, Decision and Order. In the last sentence of the first paragraph on page 2, Judge Adelman writes:

"The judge encouraged Magritz to retain an attorney to represent him or, if he could not afford one, make a request with the public defender's office to see if he qualified for appointed counsel. *Id.* at 14."

The record of this Court evidences, first, that the cited page which Adelman claims is page numbered 14, of Dkt. 1-4 (ECF No. 1-4) was in fact page number 61, *not* 14. Further, page 61 was the next to last page of the *transcript* of the *arraignment* proceedings which Adelman *falsely* characterized as a *"pretrial conference", supra,* the last page being the Certification of the Court Reporter. Nevertheless, by citing the above statement uttered by Williams at the *very end* of the *arraignment,* Adelman evidences having read the transcript and therefore "knows" that "judge"

Williams forced me into making a plea at the arraignment hearing without having the assistance of an attorney, and then tauntingly "encouraged" me to retain an attorney at the *end of the arraignment* and *after* the pleading, knowing full well that I was being held incommunicado and physically unable to contact anyone. Adelman falsely characterized the arraignment, omitted the fact that Williams' statement regarding retaining an attorney was made *after* Williams had forced me into pleading, and omitted the fact I was held incommunicado. Lack of assistance of an attorney at arraignment is a "structural error" requiring vacation of a judgment. Judicial bias is also a "structural error" requiring vacation. The omission of relevant facts by Judge Adelman evidences bias.

Page 2, #2, Decision and Order. Judge Adelman misleadingly stated:

> "*Included in at least some* of these petitions was Magritz's allegation that the Ozaukee County judge who presided over his criminal case, Sandy Williams, was biased against him."

This "finding" by Adelman, "*Included in at least some*" is misleading and *contrary to the record of this Court.* It is misleading by insinuating that I had not evidenced the bias of Williams in all of my petitions filed with the state courts, which is not true. It is also misleading in that it downplays or minimizes the *fact* I had evidenced to this Court that William's judicial bias underscored *every* deprivation by Williams of my constitutionally secured rights.

Every one of the petitions I had filed with the State appellate courts was filed with this Court and was available to Adelman. Complete State court filings were filed as exhibits with *this Court.* I stated to *this Court under the pains and penalty*

of perjury that *every* ground for remedy filed in this Court *had been presented in every instance to the State appellate courts.* I made perfectly clear to *this Court, without equivocation,* that *every* deprivation of my constitutionally secured rights by Williams, *every* fraud upon the court by Williams, from *the theft and concealment of* ***Brady material*** *from the clerk of court's files,* to *Williams preventing me from introducing* ***Brady material*** *in my defense,* to my being *gagged and threatened by Williams from testifying regarding exonerating and exculpatory* ***Brady evidence,*** to Williams denying me witnesses in my defense who were identical to or similar to those on the prosecutor's witness list, to *ordering my witness off the witness stand to prevent him from presenting* ***Brady material,*** to coaching from the bench a hostile witness who had previously given false testimony, to the *denial of assistance of counsel* at arraignment (as well as thereafter), to the fraudulent entry of a "not guilty" plea by Williams at arraignment, *supra,* to Williams *repeated refusal to recuse,* ad nauseam, *were all underscored and motivated by the actual bias or prejudice of Williams.* All of these acts *and more* were made crystal clear in the documents filed with *this* Court, but Adelman downplayed the extent of the bias by stating *"Included in at least some".* This was misleading, evidently to prejudice the reader or reviewer by implying that I had not presented the judicial bias issue at every state appellate level. Adelman's misleading phrase evidences bias.

The record of *this* Court evidences that I made perfectly clear to *this Court,* and to the State appellate courts, and to the sentencing court, the following:

The "star" witness for the State was an "expert" witness, attorney Cheri Hipenbecker, a real estate title insurance expert for Knight Barry Title, Inc., a firm whose professional services were often provided to State of Wisconsin. Hipenbecker testified, under oath, that if she were to perform a title search of the property specified in my recorded "Confirmation Deed", she would *ignore* said deed. Thus the State's expert witness testified that there was no injured party and no damage caused by me. No injury or damage means *no corpus delicti. No corpus delicti means that I am innocent of any wrongdoing or crime.* Yet when I brought that fact of Hipenbecker's testimony to the attention of biased and embroiled Williams, *she ignored it and sentenced me to prison,* thus exhibiting extreme bias and prejudice which shocks the conscience. All of this was made known in no uncertain terms to *this* Court and to Judge Adelman. Judge Adelman evidences bias by downplaying and minimizing the egregious and extensively documented bias of Williams.

In addition to the arraignment transcript filed with my original petitions, on July 12, 2018, I filed an 8 page "Affidavit Of Bias: In Support of Petitioner's Brief In Opposition To Respondent's Motion To Dismiss", Dkt. 9, with 17 pages of exhibits of previously filed court documents and affidavits *evidencing Williams' bias and refusal to recuse herself,* i.e., Exhibits, Dkt. 9-1, 9-2, 9-3, 9-4, 9-5, 9-6, and 9-7, all incorporated herein by reference. The copious evidence of William's *egregious bias, taken to the level of criminal misconduct, such as removal of Brady material from the clerk of court's file, concealment of Brady material, and imposing a gag order to keep Brady material from being presented at trial,* is incontrovertible. Why did

Judge Adelman write "*Included in at least some*" when the record of *this* Court evidences that *all* of my petitions were underscored by and based upon the egregious bias of Williams? Was it to mask his own bias?

Page 3, Decision and Order. Judge Adelman falsely states:

> "On June 6, 2017, the court issued an opinion denying one of his petitions because ... and because Magritz had failed to pursue his alternative remedies, namely, his direct appeal."

Failure to file an appeal is not grounds for denying a petition for habeas corpus. *Nor did the appellate court say that is was.* The record of *this* Court evidences that this is another *fabrication* by Judge Adelman.

Procedural Default

There was *NO* "procedural default", in spite of the valiant attempts by Judge Adelman, over the course of several pages, to create one. The fabrication of a "rule", the cherry-picking of a word from a statute and then expounding upon it to the exclusion of the remaining *relevant* wording in the statute, the postulating a scenario and twisting it to a preposterous and an incredulous end, is not honesty, good faith, integrity, or Due Process of Law, but rather manifestation of bias. Or worse.

Page 5, Decision and Order. Judge Adelman falsely states:

> In the present case, the Wisconsin Court of Appeals rejected Magritz's habeas petitions based on a state procedural rule: the rule that a criminal defendant cannot seek habeas relief with respect to claims that he could have raised on direct appeal or in a motion under Wis. Stat. § 974.06. There is no doubt (sic) that the Wisconsin Court of Appeals actually relied on this state-law procedural ground in denying Magritz's habeas petitions, ..."

At first blush, Judge Adelman's *clever wordsmithing may* appear to be true, *but it is blatantly false.* ***There is no such rule.*** Consider the following:

- ***If*** there is such a rule, ***then it is written.***
- Where is it written?
- What exactly is the wording of that rule?
- If there is such a rule, why didn't Adelman quote the actual "rule"?
- If Adelman's alleged "rule" conflicts with the Constitution, is it lawful?
- Is the alleged rule judge-made?
- If the alleged rule is judge-made, what is the case cite?
- If the alleged rule is a statute, what is the wording of that statute?
- Is there something in the actual "rule" that Adelman wants to conceal?

I have set forth the "rule", *supra,* under the heading: **Here is the Applicable State "Rule".** The "rule" is actually a statute, Wisconsin Statute § 974.06, which Judge Adelman has chosen to "cherry-pick" from, thus attempting an end-run around the statute. Wis. Stat. § 974.06 reads, in pertinent part:

> (8) A petition for a writ of habeas corpus or an action seeking that remedy in behalf of a person who is authorized to apply for relief by motion under this section shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court which sentenced the person, or that the court has denied the person relief, unless **it also appears that the remedy by motion is inadequate or ineffective** to test the legality of his or her detention. (emphasis added)

As stated earlier, this statute was taken directly from 28 U.S.C. § 2255, thus *every* seasoned federal judge more likely than not knows this section by heart. Since this is "*the rule*", why did Adelman *not* reference it? Why did Adelman not produce it? Since this is "*the rule*", why did Adelman falsely proclaim a fabricated "rule", *supra.* Since this is "*the rule*", why did Adelman, in attempting to justify the false and "erroneous" conclusion that I procedurally defaulted:

- Use the term "adequate" twelve (12) times?
- Use the term "inadequate" five (5) times?
-
- Use the term "appears" zero (0) times?
- Use the term "effective" zero (0) times?
- Use the term "ineffective" zero (0) times?

In an illogical manner Adelman *unconvincingly* "argues" that motioning a biased, embroiled, retaliatory "judge" for remedy would not be an inadequate remedy because one could *appeal* the second trashing. Inadequate is defined as "insufficient". Getting trashed a second time by an egregiously biased judge is clearly an *insufficient* "remedy" from the initial trashing.

Even more importantly, the statute uses the term "appears". The statute also uses the term "ineffective". Yet Adelman *omitted both* of these absolutely necessary and relevant words. The relevant definition from The Oxford Dictionary defines "appear" as "be evident". The relevant definition of the term "ineffective" is "not producing the desired effect". In the issue at hand, this means that a person does *not* actually have to take a particular course of action, i.e., file a motion with the sentencing court, if the result of said action is "evident" and not "desired".

Clearly it is evident that a "judge", Sandy Williams in my case, who retaliated against and persecuted (yes, *persecuted* is the correct term) me, a whistleblower and victim of crime, in the most open, blatant, and brazenly manifested ways, and refused several times to recuse herself, as I have *extensively* and *exhaustively* evidenced to *this* Court, would *not* have a "come to Jesus moment" and provide me remedy for the egregious injuries *she* had *intentionally* inflicted upon me. For anyone to believe otherwise is akin to believing that a girl child who

was viciously and brutally beaten and raped by a pedophile could return to the rapist and expect to be miraculously "un-raped".

Wis. Stat. § 974.06, the controlling statute in this case, clearly states that a person is not required to file a motion for remedy with the sentencing court for remedy. A person can file a petition for habeas corpus if it *appears* that the remedy by motion would be *inadequate.* Also, *a person can file a petition for habeas corpus if it* ***appears*** *that the remedy by motion would be* ***ineffective.***

This provision in the statute to petition for habeas corpus rather than filing a motion with the sentencing court when it ***appears*** that the remedy by motion would be ***ineffective*** is clearly designed to be the remedy and is especially appropriate in cases where the judge manifests bias against the accused.

The remedy by habeas corpus was and is clearly the only viable option for remedy in my situation in as much as Williams was retaliating against me, a whistleblower, because I had filed criminal complaints against Williams, sued Williams for misconduct in public office and breach of fiduciary duty, and publicly exposed her malversation. The bias which Williams' manifested against me crossed the red line from "mere" misconduct in public office to felonious misconduct in public office. It is so egregious that the appellate judges in State of Wisconsin didn't want to touch it. The record of *this* Court uncontrovertibly evidences that fact. Now Judge Adelman wants to bury the evidence by denying me the only *legal* remedy available, the statutory counterpart of the Great Writ of habeas corpus ad

subjiciendum which was created to protect the people from tyranny such as that of Sandy Williams against me.

Judge Adelman argued that I had to return to Williams' sentencing court, which Adelman recognized might be futile, but that I could appeal the inevitable second trashing by Williams. Adelman claimed that returning to the sentencing court of the biased Williams would be an "adequate" remedy. Adelman's claim may be debatable among other jurists, but hopefully would not be sustained by *any* other jurist.

Judge Adelman clearly disregarded both the letter of the law and the intent of the legislature in enacting the controlling statute, Wis. Stat. § 974.06. Adelman ignores the fact that Wis. Stat. § 974.06 (8), which was taken directly from 28 U.S.C. § 2255, the codification of an Act of Congress, specifically, clearly, and unequivocally declares that habeas corpus is a remedy available to a person when it "***appears*** that the remedy by motion is *inadequate* **or** ***ineffective*** to test the legality of his or her detention." The language is clear, concise, and not difficult to comprehend.

Adelman disregarded the fact that the statute uses the term "appears", which means "be evident". The term denotes the use of cognitive ability and passivity, rather than a kinetic response of actually "doing" something such as physically returning to a particular venue as required by Adelman and getting trashed a second time. Adelman also disregarded the term "ineffective", meaning not producing the desired effect.

Adelman thus failed and/or refused to address the issue of obtaining remedy by habeas corpus when it appears that remedy by motion is ineffective, which was clearly and obviously the sum and substance of the application of state law and the alleged procedural default to this petition.

In my case, it is inconceivable that any honest man would say that returning to a "biased" judge who had retaliated against me and incarcerated me would be "effective" in obtaining remedy from the restraint of my liberty imposed by that very judge. I could not obtain remedy by motion to the biased sentencing judge, Sandy A. Williams, who had repeatedly refused to recuse herself. My only chance for remedy is in habeas corpus, which is constitutionally secured as well as explicitly recognized in Wis. Stat. § 974.06 (8) when it ***appears*** that remedy by motion is ***ineffective***. *The record of this Court evidences that I did not procedurally default.*

The November 28, 2018 Decision and Order by Lynn Adelman and the Judgment signed by the clerk of court must be vacated and relief granted me pursuant to my motion for relief pursuant to Fed, R. Civ. P. Rule 60.

Definitions

APPEAR. 1. Become or be visible. **2.** Be evident. **3.** Seem; have the appearance of being. The Oxford Dictionary and Thesaurus, *America Edition* 1996.

INEFFECTIVE. 1. not producing any effect or the desired effect.

INADEQUATE. Insufficient.

FRAUD. An intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right; a false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he

shall act upon it to his legal injury. Brainerd Dispatch Newspaper Co. v. Crow Wing County, 196 Minn. 194, 264 N.W. 779, 780. Any kind of artifice employed by one person to deceive another. Goldstein v. Equitable Life Assur. Soc. of U. S., 160 Misc. 364, 289 N.Y.S. 1064, 1067. A generic term, embracing all multifarious means which human ingenuity can devise, and which are resorted to by one individual to get advantage over another by false suggestions or by suppression of truth, and includes all surprise, trick, cunning, dissembling, and any unfair way by which another is cheated. Johnson v. McDonald, 170 Okl. 117, 39 P.2d 150. "Bad faith" and "fraud" are synonymous, and also synonyms of dishonesty, infidelity, faithlessness, perfidy, unfairness, etc. Joiner v. Joiner, Tex.Civ.App., 87 S.W. 2d 903, 914, 915. It consists of some deceitful practice or willful device, resorted to with intent to deprive another of his right, or some manner to do him an injury. As distinguished from negligence, it is always positive, intentional. Maher v. Hibernia Ins. Co., 67 N.Y. 292; Alexander v. Church, 53 Conn. 561, 4 A. 103; Studer v. Bleistein, 115 N.Y. 316, 22 N.E. 243, 7 L.R.A. 702; McNair v. Southern States Finance Co., 191 N.C. 710, 133 S.E. 85, 88. It comprises all acts, omissions, and concealments involving a breach of a legal or equitable duty and resulting in damage to another. Coppo v. Coppo, 163 Misc. 249, 297 N.Y.S. 744, 750. And includes anything calculated to deceive, whether it be a single act or combination of circumstances, whether the suppression of truth or the suggestion of what is false, whether it be by direct falsehood or by innuendo, by speech or by silence, by word of mouth, or by look or gesture. People v. Gilmore, 345 Ill. 28, 177 N.E. 710, 717. Fraud, in the sense of a court of equity, properly includes all acts, omissions, and concealments which involve a breach of legal or equitable duty, trust, or confidence justly reposed, and are injurious to another, or by which an undue and unconscientious advantage is taken of another. 1 Story, Eq.Jur. § 187; Howard v. West Jersey & S. S. R. Co., 102 N.J.Eq. 517, 141 A. 755, 757.
Black's Law Dictionary, Revised Fourth Edition, 1968, pp. 788-89.

FRAUDULENT CONCEALMENT. The hiding or suppression of a material fact or circumstance which the party is legally or morally bound to disclose. Magee v. Insurance Co., 92 U.S. 93, 23 L.Ed. 699; Small v. Graves, 7 Barb., N.Y., 578. The test of whether failure to disclose material facts constitutes fraud is the existence of a duty, legal or equitable, arising from the relation of the parties ; failure to disclose a material fact with intent to mislead or defraud under such circumstances being equivalent to an actual "fraudulent concealment." Newell Bros. v. Hanson, 97 Vt. 297, 123 A. 208, 210.
Black's Law Dictionary, Revised Fourth Edition, 1968, p. 790.

ARRAIGNMENT. The initial step in a criminal prosecution whereby the defendant is brought before the court to hear the charges and to enter a plea. Fed. R. Crim. P. 10.
Black's Law Dictionary, Deluxe Ninth Edition, 2009, p. 123.

PRETRIAL CONFERENCE. (1938) An informal meeting at which opposing attorneys confer, usu. With the judge, to work toward the disposition f the case by discussing matters of evidence and narrowing the issues that will be tried. See Fed.

R. Civ. P. 16; Fed. R. Crim. P. 17.1 The conference takes place shortly before trial and ordinarily results in a pretrial order.
Black's Law Dictionary, Deluxe Ninth Edition, 2009, p. 1307.

MALICE. 1. The intent, without justification or excuse, to commit a wrongful act. 2. Reckless disregard of the law or of a person's legal rights.

"Malice means in law wrongful intention. It includes any intent which the law deems wrongful, and which therefore serves as a ground of liability. Any act done with such an intent is, in the language of the law, malicious, and this legal usage has etymology in its favour. The Latin malitia means badness, physical or moral — wickedness in disposition or in conduct — not specifically or exclusively ill-will or malevolence; hence the malice of English law, including all forms of evil purpose, design, intent, or motive. [But] intent is of two kinds, being either immediate or ulterior, the ulterior intent being commonly distinguished as the motive. The term malice is applied in law to both these forms of intent, and the result is a somewhat puzzling ambiguity which requires careful notice. When we say that an act is done maliciously, we mean one of two distinct things. We mean either that it is done intentionally, or that it is done with some wrongful motive." John Salmond, Jurisprudence 384 (Glanville L. Williams ed., 10th ed. 1947).

"[M]alice in the legal sense imports (1) the absence of all elements of justification, excuse or recognized mitigation, and (2) the presence of either (a) an actual intent to cause the particular harm which is produced or harm of the same general nature, or (b) the wanton and wilful doing of an act with awareness of a plain and strong likelihood that such harm may result....
Black's Law Dictionary, Deluxe Ninth Edition, 2009, p. 1042.

MISLEADING CONDUCT. (A) knowingly making a false statement; (B) intentionally omitting information from a statement and thereby causing a portion of such statement to be misleading, or intentionally concealing a material fact, and thereby creating a false impression by such statement; (C) with intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity; or (E) knowingly using a trick, scheme, or device with intent to mislead.
Title 18 U.S. Code § 1515(a)(3).

I, Steven Alan Magritz, declare under penalty of perjury of the laws of the United States of America that the facts stated in the foregoing memorandum are true and correct.

Executed on this December 20, 2018.

Steven Alan Magritz

Steven Alan Magritz

ATTACHMENT # 2 of 5, TO:

REQUEST to Circuit Justice Brett Kavanaugh
for a
Certificate of Appealability, Case Number 18-CV-0455,
District Court of the Eastern District of Wisconsin,
to
Seventh Circuit Court of Appeals Case Number 19-1518

Documents attached:

1) *District Court February 22, 2019 denial* of first Rule 60 motion (b)(3), (b)(4), (b)(6), Dkt. 21;
2) Motion for Reconsideration, February 28, 2019, Dkt. 22.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

STEVEN ALAN MAGRITZ,
Petitioner,

v. **Case No. 18-C-0455**

JON E. LITSCHER,
Respondent.

DECISION AND ORDER

On November 28, 2018, the court entered an order and a judgment dismissing a petition for a writ of habeas corpus filed by Steven Alan Magritz under 28 U.S.C. § 2254. On December 20, 2018, Magritz filed a motion for relief from the judgment and order under Federal Rule of Civil Procedure 60(b). I consider that motion below.

Magritz first argues that the order and judgment must be set aside under Rule 60(b)(4) because the respondent committed fraud. The alleged fraud involved misstating the reasoning behind the state court of appeals's denial of Magritz's state habeas petitions. However, the respondent did not misstate the state court's reasoning. Moreover, the state court's opinions are part of the federal record, and any statements I made about the contents of those opinions were based on a review of the opinions rather than on the respondent's representation of the contents of the opinions. Thus, Magritz is not entitled to relief under Rule 60(b)(3).

Next, Magritz argues that the order and judgment must be set aside under Rule 60(b)(6) because I am biased and should have recused myself under 28 U.S.C. § 455(b)(1). Magritz states the following in support of his claim that I am biased:

> In his Decision and Order, Adelman evidenced bias or prejudice by *fabricating* his own false "facts" or "findings", utilizing *known* false statements made in respondent's aforesaid motion to the Court, disregarding or intentionally misapplying *clearly stated* Wisconsin statute and cases, and postulating an incredulous scenario, with which no honest person or jurist could agree, in order to "justify" his "decision" and order.

ECF No. 18 at 2 (emphasis in original). However, my opinion was based on my understanding of the record and the law. Magritz obviously disagrees with my ultimate ruling, but "[j]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion." *Liteky v. United States*, 510 U.S. 540, 555 (1994). The proper remedy for disagreement with a judicial ruling is an appeal, not a recusal motion. *Id.* Thus, Magritz is not entitled to relief under Rule 60(b)(6).

Finally, Magritz argues that the order and judgment must be set aside under Rule 60(b)(4) because they are void. But here Magritz merely restates his claims that the judgment was procured by fraud and that I was not fair and impartial. ECF No. 18 at 2–3. As I have already rejected those claims, I also conclude that the order and judgment are not void.

For the reasons stated, **IT IS ORDERED** that the petitioner's motion for relief under Federal Rule of Civil Procedure 60 is **DENIED**.

Dated at Milwaukee, Wisconsin, this 22nd day of February, 2019.

s/Lynn Adelman
LYNN ADELMAN
District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

Steven Alan Magritz,
Petitioner

v.

Case No. 18-C-0455

JON E. LITSCHER,
Respondent

MOTION FOR RECONSIDERATION of DENIAL of RULE 60 MOTION FOR RELIEF

Comes now Petitioner, Steven Alan Magritz, the living man, in want of counsel, and as and for a Motion for Reconsideration of the Decision and Order of Lynn Adelman, Dkt. 21, dated February 22, 2019 denying my Motion for Relief, Fed. R. Civ. P., Rule 60, Dkt. 18, filed December 20, 2018, shows the Court as follows. Terms such as I, me, my, myself, etc., refer to Steven Alan Magritz.

On March 22, 2018 A.D., I filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition was assigned to Lynn Adelman.

On July 12, 2018 A.D., I filed a sixteen page Mandatory Judicial Notice, *signed under penalty of perjury*, with twenty-two pages of exhibits in support, noticing the court of fraud upon the court by respondent's attorneys in their brief in support of their motion to dismiss. *None* of the facts regarding the attorneys' fraud stated in my Mandatory Judicial Notice of fraud upon the court *have ever been rebutted*. *One* of most egregious false statements by the attorneys was that I was denied habeas corpus relief in the state appellate courts because I had *failed to file*

a direct appeal. This was parroted by Adelman to justify a procedural default decision and order.

On July 20, 2018 A.D., I filed a Motion for Summary Judgment, a twenty-two page Statement of Facts *signed under penalty of perjury,* and a thirteen page Memorandum in Support.

On November 13, 2018 A.D., I filed a Verified Bill Quia Timet expressing my fear that the court was frustrating the will and intent of Congress and delaying granting me summary judgment.

On November 28, 2018 A.D., Lynn Adelman issued a Decision and Order granting respondent's motion to dismiss my petition and denying my motion for summary judgment. Also on November 28th the Court, by and through its Clerk, entered a judgment dismissing my petition.

On December 20, 2018 A.D., I filed a "MOTION FOR RELIEF, Fed. R. Civ. P. Rule 60", a "MEMORANDUM IN SUPPORT OF PETITIONER'S MOTION FOR RELIEF, Fed. R. Civ. P. Rule 60", and a "Praecipe to the Clerk" in which I noticed the Clerk that "Lynn Adelman has been **disqualified** in case no. 18-C-0455" and further, that my motion and memorandum were to be presented to the chief judge.

Adelman's November 28th Decision and Order was replete with a false, slanderous, unsubstantiated accusation against me; false statements; outright fabrications; a false, twisted, perverted "application" of non-existent law, *and more,* all of which I evidenced and exposed in a twenty-two page Memorandum in support of my Rule 60 motion, *signed under the penalty of perjury,* the charges which,

individually and in totality, evidenced fraud upon the court by Lynn Adelman, d/b/a judge. Adelman's fraud, deceit, misrepresentation, dishonesty, lack of integrity, want of good faith, and fraud upon the court disqualified him as judge, and evidenced pervasive, outrageous, *antagonistic* bias, thus I proclaimed: "I hereby disqualify Lynn Adelman for bias or prejudice."

My Memorandum in Support of my Rule 60 motion, Dkt. 19, is incorporated herein by reference in its entirety as if fully reproduced herein.

The apparent motivation behind Adelman's "bias or prejudice" is obvious, plain, and simple – to *continue to run interference for and cover-up the corruption of a fellow judge,* state court judge Sandy A. Williams. Williams is married to a prosecutor. Adelman's misconduct is obstruction of justice on steroids. Adelman's wanton disregard for the law and defiance of the Constitution and laws of the United States of America is not unlike the corruption and cover-ups being exposed and routed out at the highest levels of government in Washington, D.C.

As "justification" for dismissing my petition for writ of habeas corpus, Adelman defied and denied the Constitution by parroting the false, ludicrous, ridiculous statement by respondent's [state] attorneys that my petition had been denied at the state level because I had *failed to file a direct appeal* of the politically motivated persecution by the state court judge. Regarding "Procedural Default", Dkt. 16-6, Adelman stated,

> Here, Magritz decided to forego his direct-appeal rights, and therefore the Wisconsin Court of Appeals' rejection of his federal claims involved a principled application of well-established Wisconsin law.

The main problem with Adelman's statement is that it is blatantly, patently *false.* The record of this Court evidences the Wisconsin Court of Appeals did *not* reject my

federal claims for failure to file a direct appeal. For a judge to assert and claim that a man restrained of his liberty by a biased, rogue state court judge must first file a direct appeal *or else is precluded from remedy by a writ of habeas corpus* is *rebellion* against both the federal and state Constitutions and utter disregard of the laws of the United States of America and of Wisconsin.

As set forth on page 3 of my Memorandum in Support of my Rule 60 motion, Dkt. 19, the applicable, governing state law is Wis. Stat. § 974.06 (8), which was taken *directly* from 28 U.S.C. § 2255. Adelman cannot justify his flagrant disregard of the law, especially since the *state law was taken directly from federal law.*

On February 22, 2019 A.D., Adelman issued a Decision and Order, Dkt. 21, denying my motion for relief under Rule 60 *after I had disqualified him for his earlier fraud upon the court* which I had "graciously" referred to as bias or prejudice out of respect for the institution of the courts, which is supposed to dispense "justice" rather than "just-us". In his February 22nd decision and order Adelman heaped more fraud upon this honorable Court.

Fraud number one, February 22nd decision and order, Dkt. 21: On page 1, paragraph 2 Adelman wrote:

> The alleged fraud involved misstating the reasoning behind the state court of appeals's denial of Magritz's state habeas petitions. However, the respondent did not misstate the state court's reasoning.

Fact: The "alleged" (sic) fraud which I evidenced to this Court, Dkt. 10, consisted of at least a dozen false representations / fraudulent statements made by the respondent's attorneys. The most relevant one here being:

> Magritz's failure to pursue direct review in state court is in and of itself fatal to his federal habeas petition. Dkt. 7:13.

As stated above, Adelman parroted and embellished this false, ludicrous, ridiculous statement in his "decision", Dkt. 16-6, that I had procedurally defaulted and therefore Adelman denied me relief by way of the writ of habeas corpus.

Fraud number two. Dkt. 21-1: Adelman *falsely* wrote in paragraph 3:

> Next, Magritz argues that the order and judgment must be set aside under Rule 60(b)(6) because I am biased and should have recused myself under 28 U.S.C. § 455(b)(1).

FACT: I did *not* argue that Adelman *should have* recused himself under § 455(b)(1). My twenty-two (22) page Memorandum in support of my Rule 60 motion *evidenced* at length and in detail that Adelman's pervasive "bias or prejudice", much of which was actually fraud upon the court, was the grounds or the reason that justified relief in the interest of justice. The antagonistic bias and fraud upon this Court *exhibited* by Adelman are "extraordinary circumstances"[1] which are *grounds* for relief under Rule 60(b)(6).

Fraud number three. In the very first paragraph on page 2, Adelman cites only the second sentence of a summarizing paragraph in my motion which offers only a broad-brush, detail-less condensation of my twenty-two page Memorandum. Adelman omits the first sentence of said paragraph, which declares Adelman's "bias or prejudice" constitutes the "*grounds*" for relief under Rule 60(b), rather than his *subsequent fraudulent claim* that I was motioning the court for his recusal:

> I am entitled to relief and so move the Court pursuant to Rule 60(b)(6) for bias or prejudice, Title 28 § 455(b)(1) of the presiding officer, Lynn Adelman.

[1] *LILJEBERG v. HEALTH SERVICES ACQUISITION CORP.*, 486 U.S. 847, 864 (1988).

Fraud number four. Adelman fraudulently asserts my Rule 60(b)(6) motion was a motion for his recusal, which is *absurd* since *I had already disqualified him for fraud upon the court* which I had politely ("politically correctly") termed "bias or prejudice". Adelman *deceitfully, deceptively, fraudulently* cites *and uses* Liteky v. United States, 510 U.S. 540, which is a case wherein "*Before trial petitioners moved to disqualify*[2] *the District Judge* pursuant to 28 U. S. C. § 455(a)."[3] My Rule 60(b)(6) motion was for relief from a judgment obtained by fraud upon the court by respondent's attorneys, and, much more importantly and legally significant, *fraud upon the court by presiding judge Lynn Adelman* evidenced and exhibited by and through pervasive, egregious antagonistic "bias or prejudice" which is repugnant and shocks the conscience. My Rule 60 motion most assuredly was *not a motion for Adelman to recuse* himself. No way. Absolutely not. Injuries already had been suffered. I did *not* motion, ask for, petition, request, beg, etc. for the recusal of Adelman, I *ORDERED disqualification for Adelman's Fraud Upon the Court.* Fraud by a judge is unacceptable. Period.

Adelman's options were to *repent* of his fraud, "man up" by "asserting" he had made a "mistake", and rule according to the law, *or*, compound his "error" by committing additional fraud upon the court. Adelman chose the latter, thus *compounding his "error"* and causing to be mailed to me via U.S. mail his

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[2] JUSTICE SCALIA wrote: Section 455(a) of Title 28 of the United States Code requires a federal judge to "disqualify himself in any proceeding in which his impartiality might reasonably be questioned." This case presents the question whether required recusal under this provision is subject to the limitation that has come to be known as the "extrajudicial source" doctrine. (510 U.S. 540, 541)

[3] *Id.*, 510 U.S. 540, 542.

fraudulent "DECISION AND ORDER" in apparent violation of Title 18 § 1341 to defraud me of the intangible right of honest services, Title 18 § 1346.

Fraud number five. On page 2, Dkt. 21, Adelman stated the following regarding his "understanding" at the time of signing the fraudulent "Decision and Order":

> However, my opinion was based on my understanding of the record and the law.

This is a troubling statement for several reasons:

First. *If true*, it is akin to Andrew McCabe admitting on the nationally televised 60 Minutes program to having committed sedition. Adelman has been an attorney for more than fifty (50+) years and has been a federal judge for *decades*, yet his *understanding* of the law was contrary to the federal Constitution, contrary to Wisconsin's Constitution, contrary to federal law Title 28 § 2255, and contrary to Wisconsin Statute § 974.06(8). Adelman *fabricated* a "well established law", fraudulently asserting that my failing to file a direct appeal resulted in a "procedural default". That is fraud upon the court and upon me, Adelman's victim. *That* was Adelman's "understanding" (sic) of the law at the time.

Second. Then Adelman, after having been tutored in the "law" via my Rule 60 Motion for Relief, by a layman with no legal training, that he had ruled contrary, and egregiously contrary, to all written law, and having been given the opportunity to correct by and through my Rule 60(b)(6) motion, refused to correct his "error", thus signifying that his "error" was intentional, purposeful, with scienter, with malice aforethought, *fraud upon this Court* and upon me.

Third. That Adelman's "*understanding of the record*" at the time of his decision was so defective and deficient that he made mistakes in judgment is just too big of a pill to swallow. No one meticulously sorts through a record, as Adelman obviously did, to pick and choose items from different sources and places, and then misstate or mischaracterize them, *by accident.* A tornado going through a junkyard and creating a Boeing 747 is more likely. Since Adelman had a "corrected", *more perfect understanding* of the record by virtue of my Memorandum than he had on February 22nd when issuing the defective / deficient / fraudulent decision and order, he had the duty and obligation to vacate the November 28, 2018 judgment. But Adelman did *not* vacate the judgment. Adelman's *uncorrected* "mistakes" scream *fraud upon this honorable Court.*

Bias or prejudice. Bias on the part of a judge is deemed a "structural error" or a "structural defect" which violates due process and voids a judgment issued by a biased judge[4]. The twenty-two page Memorandum in support of my Rule 60 motion *charges* and evidences pervasive, outrageous, antagonistic bias against me. Nowhere in Adelman's two page denial of my motion did Adelman deny or refute any of the numerous charges / instances of bias evidenced in the Memorandum. Adelman did not deny that the Memorandum evidenced pervasive antagonistic bias by Adelman. Adelman had a duty to protect himself and deny the

[4] There is irony in the fact that federal judge Lynn Adelman, who is expected to dispense justice and display honesty, integrity, and good faith toward Magritz in providing Magritz remedy from blatant, egregious, retaliatory acts of biased state court judge Sandy Williams, himself exhibits and evidences pervasive, outrageous, *antagonistic* bias in an obvious effort to protect Williams.

charges of bias against him. Adelman did not deny that he was biased. Adelman agreed, *nihil dicit*, he was biased.

When a reasonable person, knowing all of the relevant facts, would question the impartiality of a justice, judge, or magistrate under 28.U.S.C. § 455, a judgment rendered by such a person must be vacated, and the vehicle for doing so is Rule 60(b)(6). *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847 (1988). In Liljeberg, a judgment was rendered, and ten (10) months after judgment facts were discovered that gave rise to the *appearance* of impartiality by a reasonable observer, even though the judge was not conscious of the circumstances creating the *appearance* of impropriety. The judgment was vacated on a Fed. R. Civ. P. Rule 60(b)(6) motion. If a judgment is vacated under Rule 60(b)(6) based upon the *appearance of impartiality*, how much more so is it imperative that a judgment be vacated when the ruling comes from Lynn Adelman whose *documented* bias or prejudice is pervasive, outrageous, antagonistic, not refuted, not denied, and admitted *nihil dicit.*

Adelman's fraudulent Decision and Order dated February 22, 2019 A.D. is Refused For Fraud, so marked, and returned with this Motion For Reconsideration.

I move this honorable Court for reconsideration[5] of Lynn Adelman's February 22, 2019 denial, Dkt. 21, of my Rule 60 Motion For Relief, Dkt. 18.

Steven Alan Magritz

Dated this February 28, 2019 A.D.

Steven Alan Magritz

[5]Denial is abuse of discretion, *Harrison v. Byrd*, 765 F.2d 501.

ATTACHMENT # 3 of 5, TO:

REQUEST to Circuit Justice Brett Kavanaugh
for a
Certificate of Appealability, Case Number 18-CV-0455,
District Court of the Eastern District of Wisconsin,
to
Seventh Circuit Court of Appeals Case Number 19-1518

Documents attached:

1) *District Court March 4, 2019 denial* of Motion for Reconsideration, Dkt. 24;
2) Second Rule 60 motion under (b)(1), mistake or inadvertence, March 12, 2019, Dkt. 25;
3) Memorandum / brief in support of motion, March 12, 2019, Dkt. 26;
4) *District Court March 18, 2019 denial* of second Rule 60 motion, Dkt. 27.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

STEVEN ALAN MAGRITZ,
Petitioner,

v. **Case No. 18-C-0455**

JON E. LITSCHER,
Respondent.

DECISION AND ORDER

On November 28, 2018, the court entered an order and a judgment dismissing a petition for a writ of habeas corpus filed by Steven Alan Magritz under 28 U.S.C. § 2254. On December 20, 2018, Magritz filed a motion for relief from the judgment and order under Federal Rule of Civil Procedure 60(b). I denied that motion in an order dated February 22, 2019. On February 28, 2019, Magritz filed a motion for reconsideration of my denial of his Rule 60 motion. However, there is no such thing as a motion for reconsideration of the denial of a Rule 60 motion. If Magritz believes that either my original decision or my denial of his Rule 60 motion was in error, then his only remaining remedy is to file an appeal and request a certificate of appealability from the Seventh Circuit Court of Appeals. Accordingly, Magritz's motion for reconsideration will be denied.

For the reasons stated, **IT IS ORDERED** that the petitioner's "motion for reconsideration of denial of Rule 60 motion for relief" is **DENIED**.

Dated at Milwaukee, Wisconsin, this 4th day of March, 2019.

s/Lynn Adelman
LYNN ADELMAN
District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

Steven Alan Magritz,
Petitioner

v.

JON E. LITSCHER,
Respondent

Case No. 18-C-0455

MOTION FOR RELIEF, Fed. R. Civ. P. Rule 60(b)(1) By Legal Representative

Comes now the undersigned Legal Representative of the defendant in the state court, STEVEN ALAN MAGRITZ, aka STEVEN A MAGRITZ, aka Steven Alan Magritz, among other derivatives, and as and for relief pursuant to Fed. R. Civ. P. Rule 60(b)(1) from the Decision and Order signed by district judge Lynn Adelman on November 28, 2018, and the Judgment of the Court signed by clerk Stephen C. Dries on November 28, 2018, shows the Court as follows:

Rule 60(b)(1) provides for relief from final judgments that are the product of *mistake, inadvertence,* surprise or excusable neglect. This provision applies to errors by judicial officers as well as parties.

In Adelman's Decision and Order on November 28, 2018, Adelman, by *mistake or inadvertence,* ruled according to a *non-existence* state "law" provided to him by attorneys Schimel and O'Brien, ostensibly attorneys for respondent. Said attorneys *falsely* informed the court that since petitioner had not filed a direct appeal in the State courts, petitioner had "procedurally defaulted" and therefore

habeas corpus remedy was not available to petitioner. There is no such state law. Petitioner did not "procedurally default". Adelman *mistakenly or inadvertently* used *non-existent* state "law" to dismiss petitioner's habeas corpus petition. Regarding "Procedural Default", Dkt. 16-6, Adelman stated:

> Here, Magritz decided to forego his direct-appeal rights, and therefore the Wisconsin Court of Appeals' rejection of his federal claims involved a principled application of well-established Wisconsin law.

The problem with Adelman's statement is that it is *not true.* The record of this Court evidences the Wisconsin Court of Appeals did *not* reject petitioner's federal claims for failure to file a direct appeal, *nor could it have relied on such a non-existent "law".*

The applicable state law that Adelman *must* apply is:

Wisconsin Statute § 974.06:

> (8) A petition for a writ of habeas corpus or an action seeking that remedy in behalf of a person who is authorized to apply for relief by motion under this section shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court which sentenced the person, or that the court has denied the person relief, **unless it also appears that the remedy by motion is inadequate or ineffective** to test the legality of his or her detention. (emphasis added)

Section (8) was taken *directly* from 28 U.S.C. § 2255. The Seventh Circuit recognized this prohibition on habeas corpus would have been unconstitutional except for the "saving" clause, *Stirone v. Markley*, 345 F.2d 473, (7th Cir. 1965), to wit:

> **"unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his or her detention."**

The record of this court evidences egregious, unrefuted, pervasive, outrageous, *antagonistic* bias by the judge of the State court, thus habeas corpus remedy was

the only remedy available to petitioner since it "**appears that the remedy by motion is inadequate or ineffective** to test the legality of his or her detention."

Sua sponte:

In addition to being so moved by this motion, this Court, having been Noticed of judicial *mistake or inadvertence*, has the duty and authority to *sua sponte* correct its own *mistake or inadvertence* and vacate the November 28, 2018 judgment.

Incorporated herein by reference is the Memorandum in Support of this motion, as well as the Affidavit(s), Briefs, Notices and Exhibits referenced and incorporated therein.

The capacity and standing of this Legal Representative[1] to move this court is evidenced by the attached Certificate of Existence and Registration by Steve Simon, Secretary of State of Minnesota, file number 1072311400028, and, the Certification of durable power of attorney and attorney-in-fact, and, acknowledgement and acceptance of appointment, all three documents incorporated herein by reference.

The undersigned Legal Representative moves this Court to vacate the judgment dated November 28, 2018 pursuant to Fed. R. Civ. P. Rule 60(b)(1) for mistake or inadvertence by Lynn Adelman, the judicial officer of the court.

Dated this March 12, 2019 A.D.

By: Magnitz, Steven Alan Legal Representative, Attorney-in-Fact, Agent

[1] See Jay M. Zitter, Who is "Legal Representative" Within Provision of Rule 60(b) of Federal Rules of Civil Procedure Permitting Court to Relieve "Party or His Legal Representative" From Final Judgment or Order, 136 A.L.R. Fed. 651 (1997 and Supp. 2009).

Office of the Minnesota Secretary of State
Certificate of Existence and Registration

I, Steve Simon, Secretary of State of Minnesota, do certify that: The entity listed below was filed under the chapter of Minnesota Statutes listed below with the Office of the Secretary of State on the date listed below and that this entity or filing is registered at the time this certificate has been issued.

Name:	STEVEN ALAN MAGRITZ
Date Filed:	03/04/2019
File Number:	1072311400028
Minnesota Statutes, Chapter:	333
Home Jurisdiction:	Minnesota

This certificate has been issued on: 03/04/2019

Steve Simon
Secretary of State
State of Minnesota

DURABLE POWER OF ATTORNEY CERTIFICATION
A CERTIFICATION AS TO THE VALIDITY OF DURABLE POWER OF ATTORNEY AND ATTORNEY-IN-FACT'S AUTHORITY

Waukesha County, State of Wisconsin

I, Magritz, Steven Alan, affirm under God that STEVEN ALAN MAGRITZ™/SM, (Principal) granted me authority as the Attorney-In-Fact in their Durable Power of Attorney (DPOA) dated March 9, 2019.

I further affirm under God that I have first-hand knowledge that the Principals are alive and have not revoked their DPOA or my authority to act under their DPOA and the DPOA and my authority to act under the DPOA has not terminated.

Magritz, Steven Alan — March 9, 2019

Attorney-in-Fact's Signature: Magritz, Steven Alan — Date

Magritz, Steven Alan, Attorney-in-Fact
c/o N53W34261 Road Q
Okauchee, Wisconsin [53069]

Jurat

State of Wisconsin)
)
County of Waukesha)

On this ninth (9th) day of March, 2019, before me appeared Magritz, Steven Alan as Attorney-in-Fact of this DURABLE POWER OF ATTORNEY CERTIFICATION who proved to me to be the above-named person, in my presence executed the DURABLE POWER OF ATTORNEY CERTIFICATION, that he executed the same as his free act and deed and he solemnly affirmed under God that the statements in this document are true to the best of his knowledge and belief.

Bonnie Dixon — Notary Signature

Bonnie Dixon — Notary Printed Name

Seal

BONNIE DIXON
Notary Public
State of Wisconsin

ACKNOWLEDGEMENT AND ACCEPTANCE OF APPOINTMENT OF POWER OF ATTORNEY FOR STEVEN ALAN MAGRITZ

I, Magritz (Surname), Steven Alan (Given Name) as Primary Attorney-in-Fact named in this Durable Power of Attorney for STEVEN ALAN MAGRITZ™/SM, Principal, attached hereto, hereby acknowledge and accept appointment as Primary Attorney-in-Fact in accordance with the foregoing instrument.

Magritz, Steven Alan
Primary Attorney-in-Fact's Signature

March 9, 2019
Date

State of Wisconsin,

County of Waukesha

This instrument was acknowledged before me on March 9, 2019 by Magritz, Steven Alan (Surname, Given Name) as Primary Attorney-in-Fact for the Principal, STEVEN ALAN MAGRITZ™/SM.

Bonnie Dixon
Notary Public Signature

seal

BONNIE DIXON
Notary Public
State of Wisconsin

My commission expires: 10/09/2020

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

Steven Alan Magritz,
Petitioner

v.

Case No. 18-C-0455

JON E. LITSCHER,
Respondent

MEMORANDUM IN SUPPORT OF Legal Representative's MOTION FOR RELIEF, Fed. R. Civ. P. Rule 60(b)(1)

The most compelling circumstances for the issuance of the writ of habeas corpus are when government officers acting under color of law, a state circuit court judge in this instant matter, abuse the power of the state for personal or political purposes to retaliate against and punish those with whom they disagree. The retaliation by, and pervasive, outrageous, *antagonistic,* extreme bias manifested by State judge Sandy Williams during a star-chamber "trial" replete with "structural errors" resulting in the unlawful incarceration of petitioner Steven Alan Magritz, has heretofore been swept under the rug by state appellate courts and now exacerbated, by mistake or inadvertence, by District Court Judge Lynn Adelman.

Summary

Incorporated herein by reference are the following documents previously filed with this court: Dkt. 8, Brief; Dkt. 9, Affidavit of Bias with attachments Dkt. 9-1 through 9-7; Dkt. 10, Mandatory Judicial Notice, with attachments Dkt. 10-1

through 10-10; Dkt. 13, Memorandum in Support of Motion for Summary Judgment; Dkt. 19, Memorandum in Support of Petitioner's Motion for Relief.

The November 28, 2018 Decision and Order of Lynn Adelman finding a "procedural default" evidences, on its face, *mistaken or inadvertent* disregard for the controlling law of this case, Wis. Stat. § 974.06(8), *which was taken directly from Title 28 U.S. Code § 2255.* Adelman substituted the controlling law with a *non-existent* "law", which was in fact an uttered *fabrication*, provided to Adelman by the ostensible attorneys for the respondent.

Federal Rule of Civil Procedure Rule 60, Relief from Judgment or Order, states in pertinent part:

> (b) GROUNDS FOR RELIEF FROM A FINAL JUDGMENT, ORDER, OR PROCEEDING. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:
>
> (1) mistake, inadvertence, surprise, or excusable neglect;

Mistake or Inadvertence.

Judge Adelman *mistakenly or inadvertently* used *non-existent* state "law" to dismiss petitioner's habeas corpus petition based on an alleged "procedural-default". Regarding "Procedural Default", Dkt. 16-6, Adelman stated,

> Here, Magritz decided to forego his direct-appeal rights, and therefore the Wisconsin Court of Appeals' rejection of his federal claims involved a principled application of well-established Wisconsin law.

However there is no state law, *nor can there be any law, federal or state,* which denies a man remedy by habeas corpus merely because he does not file a direct appeal. Further, the record of this court *extensively* evidences egregious, unrefuted, pervasive, outrageous, *antagonistic* bias by State court judge Williams, therefore

remedy by way of motion to the sentencing court would be not only futile, inadequate or ineffective, but also foolish and ridiculous. The egregious exhibited bias of Williams, *known as a "structural defect" or "structural error"* in the proceedings, requires that the controlling, and "well-established Wisconsin law" relevant to this case be followed, to wit:

Wisconsin Statute § 974.06:

> (8) A petition for a writ of habeas corpus or an action seeking that remedy in behalf of a person who is authorized to apply for relief by motion under this section shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court which sentenced the person, or that the court has denied the person relief, **unless it also appears that the remedy by motion is inadequate or ineffective** to test the legality of his or her detention. (emphasis added)

Section (8) was taken *directly* from 28 U.S.C. § 2255. The Seventh Circuit recognized this prohibition on habeas corpus would have been unconstitutional except for the "saving" clause, *Stirone v. Markley*, 345 F.2d 473, (7th Cir. 1965), to wit:

> **"unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his or her detention."**

Take Notice of the word "appears". Notice also the disjunctive conjunction "or" between the words "inadequate" and "ineffective". Based upon the extensive evidence of manifested bias filed with this Court, see docket items referenced *supra*, it would "appear" that remedy by motion to the sentencing court would be "inadequate or ineffective" to test the legality of petitioner's detention.

In *Stirone*, 475-476, the Seventh Circuit Court of Appeals said:

> "For an even more fundamental reason section 2255 is not a deprivation of constitutional rights. Habeas corpus **continues to be available** when the

> remedy under that section is shown[1] to be "inadequate ***or ineffective***." The section 2255 provision merely prescribes a procedure different from that of habeas corpus whereby one ***may*** collaterally attack a conviction. So long as this procedure is available ***with provision for habeas corpus*** in the event a section 2255 proceeding is "**inadequate *or ineffective***," there is no constitutional issue." (emphasis added).

(Judge Adelman's "mistakes" in recitation of facts in the November 28th Decision and order were set forth in Dkt. 19.)

Procedural Default

There was *NO* "procedural default", but rather a *mistaken or inadvertent* application of a non-existent "rule" by Judge Adelman. On page 5 of the Decision and order Judge Adelman states:

> In the present case, the Wisconsin Court of Appeals rejected Magritz's habeas petitions based on a state procedural rule: the rule that a criminal defendant cannot seek habeas relief with respect to claims that he could have raised on direct appeal or in a motion under Wis. Stat. § 974.06. There is no doubt (sic) that the Wisconsin Court of Appeals actually relied on this state-law procedural ground in denying Magritz's habeas petitions, ..."

BUT - there is no such rule. Consider the following:

- ***If*** there is such a rule, ***then it is written.***
- Where is it written?
- What exactly is the wording of that rule?
- If there is such a rule, why wasn't it quoted or cited?
- If the alleged "rule" conflicts with the Constitution, is it lawful?
- Is the alleged rule judge-made?
- If the alleged rule is judge-made, what is the case cite?
- If the alleged rule is a statute, what is the wording of that statute?

The applicable "rule" is actually a statute, Wisconsin Statute § 974.06(8), set forth above, which Judge Adelman mistakenly or inadvertently omits. An extensive discussion of said omission is set forth in Dkt. 19, incorporated by reference.

[1] The statute uses the term "appears".

Wisconsin Statute § 974.06(8), the controlling statute in this case, clearly states that a person is not required in all cases or instances to file a motion with the sentencing court for remedy. A person can file a petition for habeas corpus if it *appears* that the remedy by motion would be *inadequate.* Also, *a person can file a petition for habeas corpus if it* ***appears*** *that the remedy by motion would be* ***ineffective.***

This provision in the statute to petition for habeas corpus rather than filing a motion with the sentencing court when it ***appears*** that the remedy by motion would be ***ineffective*** is clearly designed to be the remedy and is especially appropriate in cases where the judge manifests bias against the accused.

It is evident that State court judge Sandy Williams, who retaliated against and persecuted the petitioner, a whistleblower and victim of crime, in the most open, blatant, and brazenly manifested ways, and refused several times to recuse herself, as *extensively* and *exhaustively* evidenced to *this* Court, would *not* have a "come to Jesus moment" and provide remedy for the egregious injuries *she* had *intentionally* inflicted. For anyone to believe otherwise is akin to believing that a girl child who was viciously and brutally beaten and raped by a pedophile could return to the rapist and expect to be miraculously "un-raped".

The remedy by habeas corpus was and is clearly the only viable option for remedy in this situation in as much as Williams was retaliating against petitioner, a whistleblower, for having filed criminal complaints against Williams, suing Williams for misconduct in public office and breach of fiduciary duty, and publicly

exposing her malversation. The bias which Williams' manifested crossed the red line from "mere" misconduct in public office to felonious misconduct in public office. It was so egregious that the appellate judges in State of Wisconsin didn't want to touch it. The record of *this* Court uncontrovertibly evidences that fact. The Great Writ of habeas corpus ad subjiciendum was created to protect the people from tyranny such as that of Sandy Williams.

Judge Adelman thus failed, *by mistake or inadvertence*, to address the issue of obtaining remedy by habeas corpus when it *appears* that remedy by motion is *inadequate or ineffective*, which was clearly and obviously the sum and substance of the application of state law and the alleged procedural default. Petitioner's only possibility for remedy is in habeas corpus, which is constitutionally secured as well as explicitly recognized in Wis. Stat. § 974.06(8) when it ***appears*** that remedy by motion is ***inadequate or effective***. *The record of this Court evidences that petitioner did not procedurally default.*

Applicability of Fed. R. Civ. P. Rule 60(b)(1).

"However, if in granting the earlier judgment, the district court has *overlooked and failed to consider some controlling principle of law*, the district court may abuse its discretion by failing to grant 60(b) relief." *Harrison v. Byrd*, 765 F.2d 501, 503 (1985). "We likewise review the propriety of the initial summary judgment in the light of the factual opposition *inadvertently* overlooked by the district court, under the principle that, if the overlooked affidavit did preclude summary judgment, then *the district court abused its discretion* by failing to grant 60(b) relief

because of its *mistake or inadvertence* in overlooking that factual opposition creating a disputed issue of material fact had been timely filed." Id., 504. "Accordingly, we conclude that the district court abused its discretion in denying Harrison's Rule 60(b) motion." Id., 504. (Italics added)

"In *Jones v. Anderson-Tully Co.*, 722 F.2d 211, 212-13 & n. 3 (5th Cir.1984), the Fifth Circuit held that if an error affects the ***substantive rights*** of the parties, *it must be corrected under the provisions of Rule 60(b).*" "The mistake in the present case affects the *substantive rights* of the parties. It is not clerical, and if it in fact occurred, it is one of *mistake, inadvertence*, surprise, or excusable neglect governed by Rule 60(b)(1)." *OLLE v. HENRY & WRIGHT CORP.*, 910 F.2d 357, 363-364 (6th Cir., 1990). (Italics and bold added)

(Cites omitted) (noting that while relief from judgment is usually sought by motion of a party, "**nothing forbids the court to grant such relief** *sua sponte*") *JUDSON ATKINSON CANDIES, INC., v. LATINI-HOHBERGER DHIMANTEC*, 529 F.3d 371, 385 (2008). (Bold added)

Rule 60(b)(1) provides for relief from final judgments that are the product of *mistake, inadvertence*, surprise or excusable neglect. **This provision applies to errors by judicial officers** as well as parties. *See Buggs v. Elgin, Joliet & Eastern Ry. Co.*, 852 F.2d 318, 322 (7th Cir.1988); *Bank of California v. Arthur Anderson & Co.*, 709 F.2d 1174, 1176 (7th Cir.1983). *WESCO PRODUCTS CO. v ALLOY AUTOMOTIVE*, 880 F.2d 981, 984-985 (7th 1989). (Italics and bold added).

The November 28, 2018 Decision and Order by Judge Lynn Adelman and the Judgment signed by the clerk of court must be vacated and relief granted petitioner pursuant to the motion for relief under Fed. R. Civ. P. Rule 60(b)(1).

Dated this March 12, 2019 A.D.

By: Magrity, Steven Alan Legal Representative, Attorney-in-Fact, Agent

Certificate of Service

Re: Steven Alan Magritz v. JON E. LITSCHER
Case No. 18-cv-455-LA

I certify the following is being served by United States mail, postage prepaid, on Daniel J. O'Brien, State of Wisconsin, Department of Justice, P.O. Box 7857, Madison, WI 53707:

Motion For Relief, Fed. R. Civ. P. Rule 60(b)(1)
Memorandum in Support

Dated this March 12, 2019 A.D.

By: Magritz, Steven Alan Agent

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

STEVEN ALAN MAGRITZ,
Petitioner,

v. **Case No. 18-C-0455**

JON E. LITSCHER,
Respondent.

ORDER

The petitioner has filed a motion for relief from judgment under Federal Rule of Civil Procedure 60(b). I previously rejected a motion filed by the petitioner under Rule 60(b), *see* ECF No. 21, and his current motion raises no non-frivolous issue for discussion. Accordingly, the motion will be denied.

IT IS ORDERED that the petitioner's motion for relief (ECF No. 25) is **DENIED**.

Dated at Milwaukee, Wisconsin, this 18th day of March, 2019.

s/Lynn Adelman
LYNN ADELMAN
District Judge

ATTACHMENT # 4 of 5, TO:

REQUEST to Circuit Justice Brett Kavanaugh
for a
Certificate of Appealability, Case Number 18-CV-0455,
District Court of the Eastern District of Wisconsin,
to
Seventh Circuit Court of Appeals Case Number 19-1518

Documents attached:

1) Evidence of manifested bias and retaliation by state court judge filed on July 12, 2018, in District Court, Dkt. 9.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WISCONSIN

Steven Alan Magritz,

Petitioner

v.

Case No. 18-C-0455

JON E. LITSCHER,

Respondent

AFFIDAVIT OF BIAS: IN SUPPORT OF PETITIONER'S BRIEF IN OPPOSITION TO RESPONDENT'S MOTION TO DISMISS

I, Steven Alan Magritz, Petitioner, submit this Affidavit of Bias in support of my Brief in Opposition to Respondent's Motion To Dismiss filed May 29, 2018. This affidavit will evidence not only the "appearance of bias" but also the "actual bias" or "judicial partiality" of trial court "judge" Sandy A. Williams in Ozaukee County case. No. 2011CF236 which was so egregious that it shocks the conscience. TAKE NOTICE: All exhibits, A-G, 17 pages, are incorporated herein by reference.

1. In 2003 I filed a "criminal complaint" titled "Affidavit of Criminal Report and Probable Cause By Witness and Victim of Criminal Activity" with then Ozaukee County District Attorney Sandy A. Williams reporting crimes committed by attorney Dennis E. Kenealy. Williams refused to prosecute Kenealy. Dkt. 1-3:8.

2. On July 13, 2011, I filed a "criminal complaint" titled "Report Of Criminal Activity By Victim/Witness" regarding Kenealy's crimes with both Ozaukee County Sheriff Straub and District Attorney Gerol. I also caused the "criminal complaint" to be mailed to Scott Walker, J.B. VanHollen, and James L. Santelle, U.S. Attorney.

3. On August 1, 2011 I filed a "Verified Motion For Determination of Probable Cause" in Ozaukee County Circuit Court, which was assigned case no. 2011JD01, and, "assigned" to none other than "judge" Sandy A. Williams, the former prosecutor who had refused to prosecute Kenealy. Dkt. 1-3:10.

4. On August 23, 2011, Williams, sitting in judgment of her own dereliction of duty in 2003, issued a "Decision and Order" which stated: "...it is not necessary to convene a proceeding to determine whether a crime has been committed."

5. Williams, by sitting in judgment of her own cause, cannot claim even the appearance of impartiality.

6. On August 30, 2011, I filed a "Refused For Fraud and, Praecipe To Sandy A. Williams" with the court, see exhibit "**Bias Ex. A**", incorporated herein by reference. I did not receive a response.

7. In the aforesaid "Refused For Cause" I stated that Williams was "judging her own cause" and "covering up her own dereliction of duty in 2003 in violation of DR's, EC's, and fiduciary duties."

8. *At the sentencing hearing* on February 11, 2016, case no. 2011CF236, Williams made reference to my 2011 "Refused For Fraud and, Praecipe To Sandy A. Williams", and verbally and facially expressed her obvious displeasure.

9. On December 9, 2011, I prepared a "criminal complaint" titled "12/09/2011 REPORT OF CRIMINAL ACTIVITY BY VICTIM/WITNESS" charging Williams et al. with crimes wherein I stated:

> Sandy A. Williams refused to investigate and refused to prosecute the crimes perpetrated by her fellow public officers, a dereliction of duty in violation of Wis. Stat. § 946.12 Misconduct in public office, and Misprision of felony in violation of 18 U.S.C. § 4.

10. My December 9th "criminal complaint" was filed in this present case, Case No. 18-C-0455: 1) separately, Dkt. 1-4:8-11; 2) as served upon D.A. Gerol with a "NOTICE", Dkt. 1-4:12-22; and 3) as part and parcel of witness Robert C. Braun's Affidavit filed in Ozaukee County Case No. 2011CF236.

11. A "duplicate original" signature of my December 9th "criminal complaint" was mailed by a notary public to the following public officers on December 9, 2011, Dkt. 1-3:15; see also attached exhibit, "**Bias Ex. B**":

> Governor Scott Walker, Lieutenant Governor Rebecca Kleefisch, Attorney General J.B. Van Hollen, A. John Voelker, Director of State Courts, Senator Glenn Grothman, Representative Daniel R. LeMahieu, J Mac Davis, Paul V. Malloy, Tom R. Wolfgram, Sandy A. Williams, Lt. Jeff Taylor, Ozaukee Press, James M. Brennan, pres., Wis. Bar.

12. My December 9th "criminal complaint" charging Williams et al. with crimes was filed in Ozaukee Case No. 2011CF236 twice, the first time on December 12, 2011, and, the second time on January 5, 2012, Dkt. 1-3:15; Dkt. 1-4:5-6; Dkt. 1-4:16-17; Dkt. 1-4:33-34.

13. My twice filed December 9th "criminal complaint" charging Williams with crimes was twice "removed" from the case file from behind the locked doors of the clerk of court, Dkt. 1-4:58, arraignment hearing transcript, and thereafter concealed. Dkt. 1-3:16.

14. Williams thereafter concealed my "criminal complaint" from the jury by issuing a gag order against me preventing me from mentioning or testifying regarding my affidavit/ "criminal complaint". Dkt.1-3:16.

15. Williams further concealed my "criminal complaint" from the jury by preventing me from introducing my "criminal complaint" as an exhibit during the pretend "trial". Dkt.1-3:16.

16. The only persons known to me with means, motive, and opportunity to "remove" from the file and conceal my exonerating and exculpatory "criminal

complaint" charging Williams et al. with crimes are Sandy A. Williams and Adam Y. Gerol. Dkt. 1-3:17.

17. On May 15, 2012, I filed a lawsuit against Sandy A. Williams et al. for Breach of Fiduciary Duty in federal court in the District of Columbia, Case No, 1:12-cv-00806-EGS, Dkt. 1-3:20-21; see also attached exhibit, "**Bias Ex. C**".

18. Since 2013 Sandy A. Williams has been featured as a corrupt attorney and corrupt judge at https://www.ozaukeemob.org/evil-sandy-a-williams.html on the OzaukeeMob.org website, which exposes public corruption in Ozaukee County and the theft of my private property.

19. At the sentencing hearing on February 11, 2016, case no. 2011CF236, Sandy A. Williams made reference to being "featured" with her picture on the Ozaukee Mob website, and verbally and facially expressed her obvious displeasure.

20. At the time of Williams' sentencing hearing comment expressing her dislike, disapproval, displeasure, irritation at being featured on the Ozaukee Mob website, I fully realized that a major motivating factor for the persecution Williams was inflicting on me was payback, her personal vendetta, for her being exposed as a corrupt public officer on the www.OzaukeeMob.org website, which perhaps aggravated her even more than my suing her in 2012 and refusing for fraud her dereliction of duty and judging her own cause in 2011 in case no. 2011JD01.

21. From the time of my false arrest in September of 2015 until I was transported to prison in February of 2016, I was held incommunicado in solitary confinement in the Ozaukee County jail; I was not allowed a single telephone call, and for the first two months was not given any indigent envelopes, therefore I could not contact anyone on the outside for assistance or file anything with the court for 6 weeks or so. Dkt. 1-3:19.

22. At the opening of the arraignment hearing on October 15, 2015, I swore myself in under the pains and penalty of perjury as evidenced on the transcript, Dkt. 1-4:50. I demanded that the surprise witness at the preliminary hearing on October 2, 2015, of which I did not receive notice, Dkt. 1-3:20, be immediately summoned so I could question him about the false testimony he had given. Williams refused my demand. Dkt. 1-4:52.

23. Also at the arraignment I stated on the record that the proceedings were a "malicious prosecution" formulated by district attorney Gerol acting in conjunction with attorney Kenealy and Williams, who had covered up Kenealy's crimes since 2002 when she was the district attorney. I stated there was no reason for Williams to continue the coverup for Kenealy since he was exposed and had resigned after I sued him, Gerol and Williams in federal court for breach of fiduciary duty. Dkt. 1-4:60-61. Williams refused to recuse herself, notwithstanding her personal interest in the outcome of the proceedings.

24. On November 20, 2015, I executed an Affidavit regarding my "Witness List" for the defense of my natural person. In paragraph # 23 I demanded: "I DEMAND an evidentiary hearing – immediately, before an unbiased judge, NOT Sandy A. Williams." See "**Bias Ex. D**", filed & certified December 16, 2015. A typed copy is also provided for this Court's convenience.

25. Williams refused to recuse herself. Williams also denied me an evidentiary hearing.

26. On December 1, 2015, I executed an Affidavit stating my status, character, non-consent, false arrest, and false imprisonment; I demanded evidence of personal jurisdiction over me, and again demanded: "I demand an immediate evidentiary hearing, before an unbiased judge, NOT Sandy A. Williams." See "**Bias Ex. E**", paragraph # 24, filed & certified December 16, 2015.

27. Williams again refused to recuse herself. Williams again also denied me an evidentiary hearing.

28. On December 20, 2015, I executed an "AFFIDAVIT – Of Prejudice, and, of Stolen Documents". Copies were mailed to Scott Walker, J.B. VanHollen, J. Denis Moran, Randy R. Koschnick, and the United States Attorney's Office in Milwaukee, WI. See "**Bias Ex. F**", filed & certified January 4, 2016. (A typed copy is also provided for this Court's convenience.)

29. Williams, embroiled, biased, angry, and hell-bent on executing her personal vendetta and retaliation against me, a victim and witness of crime, still refused to recuse herself.

30. Other examples of judicial partiality exhibited by "judge" Sandy A. Williams, include, but are not limited to, the following:

- I was not given Notice of the October 2, 2015 preliminary hearing ("prelim").
- At the surprise "prelim" hearing on October 2, prosecutor Gerol elicited false testimony from Ronald A. Voigt, which Williams knew or should have known was false since December 12, 2011, the date on which my "criminal complaint" was first filed with the court, yet Williams "found" the false testimony "sufficient" to bind-over for trial. Dkt. 1-3:22; Dkt. 1-4:10.
- Following the surprise "prelim", I demanded Voigt be recalled so I could question him. Williams refused to reopen the "prelim", thus knowingly denying me due process. Dkt. 1-3:26; Dkt. 1-4:52.
- At the "prelim" on October 2, 2015, Williams stated she would appoint a stand-by counsel and would reopen the "prelim" if requested by her stand-by counsel, but when her stand-by counsel Gary R. Schmaus requested in writing to reopen the "prelim", Williams refused to reopen, thereby knowingly and intentionally denying me due process. Dkt. 1-3:22-23.

- At the "arraignment hearing" on October 15, 2015, I did *NOT* have assistance of counsel. Dkt. 1-3:25.; Dkt. 1-4:49.
- At "arraignment" I demanded assistance of counsel at least six times, and Williams denied my demand each and every time. Dkt. 1-3:25.
- At "arraignment" Williams continually interrupted me, thus denying me the right to be heard. Dkt. 1-4:48-62, arraignment transcript.
- At "arraignment" Williams, knowing that I did NOT have an attorney or assistance of counsel and I had demanded assistance of counsel at least six (6) times, which Williams had repeatedly denied, "demanded" that I enter a plea to the "information" which had just moments before been shoved in front of me. Dkt. 1-3:26.
- Having often experienced the perfidy of Williams, I responded with a plea for myself, the living man, and not for the "defendant", and stated it three times: "Nonassumpsit, by way of confession and avoidance, and I demand you hear my plea immediately." Dkt. 1-3:26.
- Williams ignored my plea and entered a Liar's Plea of "not guilty" for the "defendant", thus creating a "controversy" for the court to hear which allowed her to continue executing her personal vendetta. Dkt. 1-3:26.
- Williams gagged and threatened me not to mention or talk about or challenge the fraudulently obtained void judgment which was the foundational premise of the prosecution, even though a void judgment can be challenged at any time in any proceedings. Dkt. 1-3:16.
- Williams gagged and threatened me not to mention or talk about or challenge the fraudulently obtained void judgment which was the foundational premise of the prosecution, even though the prosecutor had

"opened the door" to challenge in his "Criminal Complaint" with which he had instituted the proceedings. Dkt. 1-3:16.

- Williams gagged and threatened me not to mention or talk about my "criminal complaint" which I had twice filed in case no. 2011CF236 and had been twice "removed" from the court file and thereafter concealed from the court and the jury. Dkt. 1-3:16.
- Williams quashed my witnesses for my defense, although prosecutor Gerol had the identical or similar witnesses on his witness list. Dkt. 1-3:27-29.
- Williams ordered my witness off the witness stand when she found out he was going to testify about my exculpatory and exonerating affidavits "removed" (i.e., stolen) from the file of the clerk of court. Dkt. 1-3:29-30.
- Williams coached from the bench hostile witness Ronald A. Voigt who had given false testimony for the State at the "prelim" and whom I subpoenaed for trial. Dkt.1-3:30.
- Williams refused to give a mens rea instruction to the jury. Dkt. 1-3:31.
- Williams ignored the testimony of the State's expert witness, attorney Cheri Hipenbecker that there was no injured party or harm committed, i.e., corpus delicti, thus no cause of action, no subject matter jurisdiction. Dkt. 1-3:32-33.
- Williams ignored my Notice that Judgment notwithstanding the verdict was "obligatory", i.e., not guilty, and acquittal. See "**Bias Ex. G**", filed February 8, 2016.

I, Steven Alan Magritz, declare under the pains and penalties of perjury of the laws of the United States of America that the foregoing facts are true and correct, and as for any statement made upon information, reason, or belief, I believe and so charge them to be true. Executed on this July 4, 2018.

Steven Alan Magritz

Steven Alan Magritz

STATE OF WISCONSIN CIRCUIT COURT OZAUKEE COUNTY

The state of Wisconsin ex rel Steven Alan Magritz, Victim/Witness/Affiant/Movant

Ex Parte

REFUSED FOR FRAUD

AND,

PRAECIPE TO SANDY A. WILLIAMS

I, Steven Alan Magritz, *victim and witness of crime*, REFUSE FOR FRAUD the "*Decision and Order*" of Sandy A. Williams, d/b/a "Honorable".

NOTICE: **This lawful notification** to you, Sandy A. Williams, is sent pursuant to the federal and state Constitutions, and **pursuant to your oath of office and your position as a public officer and trustee** (a ***fiduciary***) **cum onere of the Public Trust** created by the Constitutions to which you swore an oath to uphold, and requires your written response to me, point by point, specific to the subject matter herein. Sandy A. Williams has a **fiduciary duty** to Steven Alan Magritz to display **good faith, honesty, and integrity**.

NOTICE: Notification of legal responsibility is "the first essential of due process of law."

NOTICE: "Silence can only be equated with fraud where there is a legal or moral duty to speak or when an inquiry left unanswered would be intentionally misleading." *U.S. v. Tweel* (1977), 550 F.2d 297, 299.

The document I just received from the Notary, dated August 22, 2011 and bearing the signature of Sandy A. Williams, is REFUSED FOR FRAUD as follows:

1. FACT: Both the caption and the "name" on your "Decision and Order" are egregiously offensive corruptions and debasement of the caption and my appellation on my Verified Motion For A Determination Of Probable Cause. Since Sandy A. Williams is highly trained in the law and knows that both the caption and the "names" are offensively corrupt, the conclusion is, and must be, that the corruption was intentional.
2. FACT: The "Decision and Order" falsely states that Steven A. Magritz made a "Request". I am Steven Alan Magritz, not Steven A. Magritz, and I did NOT make a "Request", I made a command. I am a victim and witness of crime reporting crimes, as I am duty bound to do. I am not a "Requester". Did you see me signing as "Requester", or, as a victim and witness of crime?
3. FACT: I notified the honorable Court out of necessity because the executive branch of government is sitting on its hands and not prosecuting. We need to obtain a determination and get warrants and process issued to arrest the criminal, Dennis E. Kenealy.
4. FACT: As a victim and witness of crime, I am blatantly being denied due process of law. Sandy A. Williams is in dereliction of duty and acting in conspiracy if she doesn't get process issued forthwith against the criminal(s).
5. FACT: Sandy A. Williams was Ozaukee County District Attorney for 21 years, was District Attorney in 2003 when I first reported the crimes of Dennis E. Kenealy, and as District Attorney refused to prosecute Dennis E. Kenealy in 2003. Sandy A. Williams was derelict in her duty in 2003 for refusing to prosecute Dennis E. Kenealy for his crimes.
6. FACT: Sandy A. Williams is now judging her own cause, which is, overseeing a criminal report that she was duty bound to prosecute in 2003 but refused to do so at that time. **Since current District Attorney Adam Y. Gerol has admitted that crimes were committed,** Sandy A. Williams is covering up her own dereliction of duty in 2003 in violation of DR's, EC's, *and* fiduciary duties.

7. FACT: The ongoing crimes of Dennis E. Kenealy **are being concealed by public officers from the public.** The public has a **right to know** when its *public officers* are in breach of the Public Trust and in **breach of their fiduciary duties as trustees of the Public Trust.**

PRAECIPE

I, Steven Alan Magritz, VICTIM AND WITNESS OF CRIME, herewith *praecipe* Sandy A. Williams to forthwith have a hearing at which we can discuss whether or not I have to reword my affidavit, or what I have to do to get process issued, unless Sandy A. Williams is acting in complicity and conspiracy with the executive branch of government by her silence, or by her refusal to have a hearing.

Steven Alan Magritz Dated this August 29, 2011.
Steven Alan Magritz, victim and witness of crime

Certificate of Mailing

I, the Undersigned, certify that I mailed the above REFUSED FOR FRAUD dated August 29, 2011, signed by Steven Alan Magritz, victim and witness of crime, via United States mail, certified mail number 7007 1490 0004 6545 1063, to Hon. Sandy A. Williams, P.O. Box 994, 1201 South Spring Street, Port Washington, WI 53074, on August _____, 2011, from Milwaukee, Wisconsin.

_____
Notary public

My commission expires: _____

Bias Ex. B

Certificate of Mailing

I, the Undersigned, certify that I mailed a 12/09/2011 Report of Criminal Activity By Victim/Witness dated December 9, 2011 with Cover Letter of same date regarding the acts of attorney Dennis E. Kenealy, corporation counsel for Ozaukee County, State of Wisconsin, via United States mail to the following listed persons on behalf of Steven Alan Magritz, on December 9th, 2011, from Milwaukee, Wisconsin.

Governor Scott Walker, 115 East Capitol, Madison, WI 53702

Lieutenant Governor Rebecca Kleefisch, 19 East Capitol, Madison, WI 53702

Attorney General J.B. Van Hollen, 114 East State Capitol, Madison, WI 53702-7857

A. John Voelker, Director of State Courts, 16 East State Capitol, Madison, WI 53702

Senator Glenn Grothman, 111 South 6th Avenue, West Bend, WI 53095

Representative Daniel R. LeMahieu, W6284 Lake Ellen Drive, Cascade, WI 53011

J Mac Davis, 515 West Moreland Blvd, Room 359, Waukesha, WI 53188

Paul V. Malloy, Branch I, P.O. Box 994, 1201 S. Spring St., Port Washington, WI 53074

Tom R. Wolfgram, Branch II, P.O. Box 994, 1201 S. Spring St., Port Washington, WI 53074

Sandy A. Williams, Branch III, P.O. Box 994, 1201 S. Spring St., Port Washington, WI 53074

Lt. Jeff Taylor, Sheriff's Dept., P.O. Box 994, 1201 S. Spring St., Port Washington, WI 53074

Ozaukee Press, 125 East Main St., Port Washington, WI 53074

James M. Brennan, pres., Wis. Bar, Cousins Center, 3501 South Lake Dr., Milwaukee, WI 53207

Notary public

My commission expires: 6-2-2013

KENNETH A. KRAUCUNAS NOTARY PUBLIC STATE OF WISCONSIN

Bias Ex. C, 1 of 2

with fraud, oppression, or malice, and Complainant is therefore entitled to punitive damages in the amount as determined at trial and within the jurisdiction of *this* Court.

FOURTH CAUSE OF ACTION

BREACH OF FIDUCIARY DUTY BY OFFICERS OF THE COURT

RETALIATION AGAINST VICTIM/WITNESS

127. Complainant incorporates and re-alleges all of the foregoing paragraphs as if set forth at length herein, and in particular paragraph number 87.

128. The good name of the State, be it that associated with the General Government or with the Government of one of the several States, must be especially protected with regard to the reputation of the high-calling to the judicial branch of government vis-à-vis the legislative or executive branches, both of which have earned near single-digit scores in the realm of honesty and integrity, since the support of the state by the people is directly proportional to the *perception of the people* that the public officers of the judicial branch will act equitably and righteously, and *will dispense justice*, and *justice* without respect to persons.

129. As set forth in Complainant's Affidavit in Support incorporated herein by reference in paragraph number 87, Respondents Dennis E. Kenealy, Sandy A. Williams, Rhonda K. Gorden, and Adam Y. Gerol are all attorneys and *officers of the court*, with Williams also being a judge, who have acted dishonestly and in breach of their fiduciary duties by engaging in various criminal acts including but not limited

Bias Ex. C, 2 of 2

to misprision of felony, abuse of legal process, malicious prosecution, and retaliation against a victim and witness of crime, Complainant Steven Alan Magritz.

130. The misuse and abuse of the justice system by these four public officer respondents by using the judicial system and the threat of force inherent in the police power of the state against Complainant constitutes particularly egregious acts of dishonesty and breach of fiduciary duty destructive of the good name of the state.

131. The wanton disregard for justice, for the rule of law, for their positions as Trustees of the Public Trust, and for the Constitutions of Wisconsin and The United States of America by Kenealy, Williams, Gorden, and Gerol is destructive of the good name of the state and contemptuous of the good name of the state.

132. As a result of these four Respondents' acts or conduct described in Complainant's Affidavit of Criminal Report which accompanies and is incorporated by reference in Complainant's Affidavit in Support of this Complaint and therefore in this Complaint, Complainant was subjected to Respondents' callous and wanton disregard for the rights of Complainant. As a direct and proximate result, Complainant suffers severe emotional distress and personal injuries and is in threat of physical violence and restraint of liberty resulting from these four Respondents abuse of legal process and/or malicious prosecution.

133. As a proximate result of the Respondents named Kenealy, Williams, Gorden, and Gerol, and each of them, for acts and conduct constituting breach of fiduciary duty and for threatened acts of violence or deprivation of liberty against

Ozaukee County Circuit

AFFIDAVIT

DEC 16 2015

Mary Lou Mueller
Clerk of Circuit Court/
Register in Probate

Previously filed "Witness List" for Defense of Natural Person, and, DEMAND for Justice, promptly and without delay Ozaukee County "case number 2011CF000236"

1. I, Steven Allan of the family Magnetz, a living man, state that I am competent, with sound mind, to testify to the facts herein, am of the age of majority, affirm that my "yes" be "yes" and my "no" be "no", and that the facts stated herein are true, certain, correct, and not misleading and are made upon first hand knowledge except as to those matters stated upon reason and belief which I verily believe to be true

2. I was arrested without a warrant and have been falsely imprisoned, held in solitary confinement since September 23, 2015 with respect to Ozaukee County "case number 2011CF000236".

3. I am NOT the defendant in "case number 2011CF000236", nor am I a trustee, fiduciary, representative, agent, surety, or in any other way acting for, or on behalf of any artificial entity, including but not limited to the defendant.

4. I am a beneficiary of the Public Trust created by the organic Constitution of the State of Wisconsin" adopted in 1848 A.D.

5. I claim and reserve all inherent right secured by Article I section 1 of the aforesaid Constitution.

6. I do not consent to servitude to the public corporation named "State of Wisconsin", involuntary servitude is prohibited by Article I, section 2 of the aforesaid Constitution.

7. I do not consent to the proceedings in "case number 2011CF000236", have NOT consented in the past, and will NOT consent in the future.

8. I claim and exercise my inherent right secured by Article I, section 9 of the aforesaid Constitution "to a certain remedy in the laws for all injuries or wrongs which "I" may receive in "my" person, property, or character."

9. Although I am NOT a party to "case number 2011CF000236", I am illegally and unlawfully restrained of my liberty to "answer" with respect to that "case",

10. I have both a right and a duty to defend my natural person, therefore on November 12, 2015 I mailed via U.S. mail to the clerk of courts, Mary Lou Mueller, a "witness List" for the defense of my natural person in the event I am subjected to a Kangaroo court "trial".

11. I mailed one original and one copy of the aforesaid "Witness List" and requested the clerk to time and date stamp a [the] copy and return it to the "person" and return address on the envelope.

12. The clerk failed to return a time and date stamped copy of the "Witness List".

13. The clerk sent an unsigned letter, a copy of which is attached hereto and incorporated herein, dated November 19, 2015, falsely referring to my "Witness List" as a "letter" and requiring that I pay EXTORTION in the amount of $1.25 for a copy of said "item" and requiring that I pay EXTORTION in the amount of $1.25 for a copy of said "item"

14. The EXTORTIONATE demand by the clerk for "payment" for the misnamed "letter" is a direct violation of Article I, section 9 of the aforesaid Constitution which guarantees that I "obtain justice freely, and without being obliged to purchase it, completely and without denial, promptly and without delay".

15. Both the original and the copy of my "Witness List" were read by two witnesses before they sealed the envelope and placed it in the U.S. mail.

2015 DEC 16 PM 12:56
CLERK OF CIRCUIT COURT
OZAUKEE COUNTY WI

page 1, side 1

Copy to Attorney's office

16. My "Witness List" is: ALL of the Witnesses on Adam Vale Gerald Witness List Filed November 3, 2015, PLUS Ronald A. Voight, Mary Lou Mueller, Adam V. Gerol, Sandy A. Williams, Gary R. Sahmaras, and Robert C. Braun. A copy of my original "Witness List" is attached hereto and incorporated herein by reference.

17. I claim and DEMAND my inherent right to call and question my witnesses to defend my natural person at any time, including but not limited to the unlawful "trial" currently scheduled for January 19, 2016.

18. In the afternoon of November 20, 2015, court liaison Gahan hand delivered to me the copy of my "Witness List", not time + date stamped, written on an inmate request form due to the extreme difficulty in obtaining writing materials as well as envelopes. I have been effectively denied access to the "mount". The copy was taped to an 8 1/2" x 11" sheet of paper.

19. Since there IS a continuing pattern and practice of stealing my documents from the files of the office of the Ozaukee County Clerk of Court dating back to May 31, 2001 when Dennis E. Kenealy, corporation counsel for the public corporation named "Ozaukee County", stole my Answer and Counterclaim to the illegal "tax certificate foreclosure" and a NON-EXISTANT "tax certificate" thereby obtaining a VOID "default judgment", I have NO confidence that my "Witness List", the copy of which does NOT bear a time and date stamp, has not also been stolen, or will be stolen, and/or will not be removed by any officer of the court.

20. I CLAIM AND DEMAND my secured inherent right for obtaining JUSTICE, promptly and without delay, and DO NOT CONSENT to waiting for the currently scheduled unlawful "trial" on January 19, 2016.

21. I DEMAND speedy disposition/resolution of my false imprisonment and DEMAND that I be set at liberty immediately.

22. I DEMAND that Adam Vale Gerol IMMEDIATELY prove, on the record, personal jurisdiction of, or over, me, a beneficiary of the Public Trust.

23. I DEMAND an evidentiary hearing - immediately, before an unbiased judge, NOT Sandy A. William

I, Steven Adam, of the Family Magnitz, declare under the perks and penalties of ~~perjury~~ perjury of the laws of the United States of America that the foregoing facts are true and correct, and as for any statements made upon information, hearsay, or belief, I believe and so allege them to be true. Executed on this November 20, 2015 A.D.

Steven Adam Magnitz, beneficiary of the Public Trust

CIRCUIT COURT OZAUKEE CO. WIS.

page 1, side 2

STATE OF WISCONSIN } ss
OZAUKEE COUNTY }
I certify that this is a true and correct copy of a document on file and of record in my office and has been compared by me
Clerk of Courts (Deputy) Date 12/11/15

AFFIDAVIT

Re: Previously filed "Witness List" for Defense of Natural Person, and, DEMAND for Justice, promptly and without delay
Ozaukee County "case number 2011CF000236"

1. I, Steven Alan of the family Magritz, a living man, state that I am competent, with sound mind, to testify to the facts herein, am of the age of majority, affirm that my "yes" be "yes" and my "no" be "no", and that the facts stated herein are true, certain, correct, and not misleading, and are made upon first-hand knowledge except as to those matters stated upon reason and belief which I verily believe to be true.
2. I was arrested without a warrant and have been falsely imprisoned, held in solitary confinement since September 23, 2015 with respect to Ozaukee County "case number 2011CF000236".
3. I am NOT the defendant in "case number 2011CF000236", nor am I a trustee, fiduciary, representative, agent, surety, or in any other way acting for, or on behalf of any artificial entity, including but not limited to the defendant.
4. I am a beneficiary of the Public Trust created by the organic Constitution of "the state of Wisconsin" adopted in 1848 A.D.
5. I claim and reserve all inherent rights secured by Article I Section 1 of the aforesaid Constitution.
6. I do not consent to servitude to the public corporation named "State of Wisconsin", involuntary servitude is prohibited by Article I, Section 2 of the aforesaid Constitution.
7. I do not consent to the proceedings in "case number 2011CF000236", have NOT consented in the past, and will NOT consent in the future.
8. I claim and exercise my inherent right secured by Article I, Section 9 of the aforesaid Constitution "to a certain remedy in the laws for all injuries or wrongs which "I" may receive in "my person, property, or character."
9. Although I am NOT a party to "case number 2011CF000236", I am illegally and unlawfully restrained of my liberty to "answer" with respect to that "case".
10. I have both a right and a duty to defend my natural person, therefore on November 12, 2015 I mailed via U.S. mail to the clerk of court, Mary Lou Mueller, a "Witness List" for the defense of my natural person in the event I am subjected to a kangaroo court "trial".
11. I mailed one original and one copy of the aforesaid "Witness List" and requested the clerk to time and date stamp a [the] copy and return it to the "person" and return address on the envelope.
12. The clerk failed to return a time and date stamped copy of the "Witness List".
13. The clerk sent an unsigned letter, a copy of which is attached hereto and incorporated herein, dated November 17, 2015, falsely referring to my "Witness List" as a "letter" and requiring that I pay EXTORTION in the amount of $1.25 for a copy of said "letter".
14. The EXTORTIONATE demand by the clerk for "payment" for the misnamed "letter" is a direct violation of Article I, Section 9 of the aforesaid Constitution which guarantees that I "obtain justice freely, and WITHOUT being obliged to purchase it, completely and without denial, promptly and WITHOUT delay."
15. Both the original and the copy of my "Witness List" were read by two sheriff's deputies before they sealed the envelope and placed it in the U.S. mail.

16. My "Witness List" is: ALL of the witnesses on Adam Yale Gerol's Witness List filed November 3, 2015, PLUS Ronald A. Viogt, Mary Lou Mueller, Adam Y. Gerol, Sandy A. Williams, Gary R. Schmaus, and Robert C. Braun. A copy of my original "Witness List" is attached hereto and incorporated herein by reference.

17. I claim and DEMAND my inherent right to call and question my witnesses to defend my natural person at any time, including but not limited to the unlawful "trial" currently scheduled for January 19, 2016.

18. In the afternoon of November 20, 2015, court liaison Gahan hand delivered to me the copy of my "Witness List", not time and date stamped, written on an inmate request form due to the extreme difficulty in obtaining writing materials as well as envelopes. I have been effectively denied access to the "court". The copy was taped to an 8½" x 11" sheet of paper.

19. Since there IS a continuing pattern and practice of stealing my documents from the files of the office of the Ozaukee County Clerk of Court dating back to May 31, 2001 when Dennis E. Kenealy, corporation counsel for the public corporation named "Ozaukee County", stole my Answer and Counterclaim to the illegal "tax certificate foreclosure" on a NON-EXISTANT "tax certificate" thereby obtaining a VOID "default judgment", I have NO confidence that my "witness List", the copy of which does not bear a time and date stamp, has not also been stolen, or will be stolen, and/or will not be honored by any officer of the court.

20. I CLAIM AND DEMAND my secured inherent right for obtaining JUSTICE, promptly and without delay, and DO NOT CONSENT to waiting for the currently scheduled unlawful "trial" on January 16, 2016.

21. I demand speedy disposition/resolution of my false imprisonment and DEMAND that I be set at liberty immediately.

22. I DEMAND that Adam Yale Gerol IMMEDIATELY prove, on the record, personal jurisdiction of, or over, me, a beneficiary of the Public Trust.

23. I DEMAND an evidentiary hearing – immediately, before an unbiased judge, NOT Sandy A. Williams.

I, Steven Alan, of the family Magritz, declare under the pains and penalties of perjury of the laws of the United States of America that the foregoing facts are true and correct, and as for any statement made upon information, reason, or belief, I believe and so charge them to be true.

Executed on this November 20, 2015 A.D.

Steven Alan Magritz, beneficiary of the Public Trust.

Bias Ex. E, 1 of 2

AFFIDAVIT

Ozaukee County Case No. 2011CF000236

1. I, Steven Alan of the family Magritz, a living man, state that I am competent, with sound mind, to testify to the facts herein, am of the age of majority, affirm that my "yes" be "yes" and "no" be "no", and that the facts stated herein are true, certain, correct, and not misleading and are made upon firsthand knowledge except as to those matters stated upon reason and belief which I verily believe to be true.

2. I do NOT consent to the proceeding in "State of Wisconsin", "Ozaukee County", Case Number 2011CF000236.

3. If it ever appeared in the past that I consented to the proceedings in Case Number 2011CF000236, I did NOT intend to consent, I did NOT consent, nor will I ever consent in the future.

4. I reserve all my God-given unalienable rights.

5. I am NOT THE DEFENDANT IN Case Number 2011CF000236.

6. I do NOT consent to be fiduciary, trustee, representative, surety, or act in any way for, or on behalf of, any artificial entity, including but not limited to, the defendant in Case Number 2011CF000236.

7. I am not now, nor have I ever been, a citizen or resident of "State of Wisconsin".

8. I am not now, nor have I ever been, a resident of "Ozaukee County".

9. I am not now, nor have I ever been, a citizen or resident of "United States".

10. I do NOT consent to be subject to the Administrative Law that the public corporation named "State of Wisconsin" promulgates for itself for its own regulation and administration.

11. I am not an officer, employee, member, representative, agent, citizen, voter, stockholder, stakeholder, subject, resident, or anything else of, or for, the public corporation named "State of Wisconsin", or any other public corporation, and deny any presumptions to the contrary.

12. I do not have, accept, or exercise any license, privilege, franchise, benefit or anything else, of or from the public corporation named "State of Wisconsin", or any other public corporation, and deny any presumptions to the contrary.

13. I deny any nexus or privity to the public corporation named "State of Wisconsin", or any other public corporation, and deny any presumptions to the contrary.

Bias Ex. E, 2 of 2

14. I have no contract with, nor any pledge nor any hypothecation to, the public corporation named "State of Wisconsin" or any other public corporation.

15. I do not accept any liability associated with any compelled benefit.

16. I do not accept any liability of any public officer.

17. I do not accept any liability of any artificial person or entity.

18. I deny any and all presumptions, including but not limited to those of any public officer or officer of the court, which are not reduced to writing with express acceptance by me as evidenced by my personal hand-written signature, witnessed by two or three competent witnesses and authenticated by me in a public venue.

19. I am one of the people and a sojourner on the land of Wisconsin, a beneficiary of the Public Trust created by Constitution of the United States of America (1789) and the organic Constitution of the state of Wisconsin (1848).

20. I am a private American in inherent jurisdiction, claiming inherent rights, not franchised.

21. I was arrested without a WARRANT.

22. I have been falsely imprisoned in the Ozaukee County Jail since my unlawful false arrest on September 22, 2015 and subsequent kidnap.

23. I demand to be set at liberty immediately, unless and until Adam Yale Gerol or State of Wisconsin proves, on the record, personal jurisdiction of or over me.

24. I demand an immediate evidentiary hearing, before an unbiased judge, NOT Sandy A. Williams.

I, Steven Alan Magritz, declare under the pains and penalties of perjury of the laws of the United States of America that the foregoing facts are true and correct, and as for any statement made upon information, reason, or belief, I believe and so charge them to be true.
Executed on this December 1, 2015.

Steven Alan Magritz, beneficiary of the Public Trust

CIRCUIT COURT
OZAUKEE CO., WIS.

STATE OF WISCONSIN } ss
OZAUKEE COUNTY }
I certify that this is a true and correct copy of a document on file and of record in my office and has been compared by me.
Clerk of Courts (Deputy) 12/16/2015
Date

Copy to Victim Witness Office

AFFIDAVIT –

Of Prejudice, and of Stolen Documents
Ozaukee County Case No. 2011CF000236

1. I, Steven Alan of the family Magritz, a living man, state that I am competent with sound mind, to testify to the facts herein; am of the age of majority. The facts herein are true, correct, certain, not misleading, and are made upon first hand knowledge except those stated upon reason or belief which I verily believe to be true.
2. I do NOT consent to the proceedings in "Ozaukee County "case no. 2011CF000236", have not consented in the past, nor will I consent in the future.
3. I am NOT the Defendant in "case no. 2011CF000236"; nor do I consent to be a fiduciary, trustee, representative, agent, accommodation party, surety, nor to act in any other way for or on behalf of any artificial entity including but not limited to, the Defendant.
4. I have been arrested [redacted] without a warrant and falsely imprisoned on what I believe and charge to be a malicious prosecution to cover up not only the crimes of Adam Y. Gerol and Sandy A. Williams, but also the crimes of atty Dennis E. Kenealy who orchestrated the greatest theft of private property in the history of the county of Ozaukee, the theft of my private property which has been made into a county park known as the Shady Lane Property, stolen from me at gunpoint and for which I was never compensated a single dime.
5. Dr. Andrew N. ... Attorney Gary R. Schmaus personally swore to me that he(?) ... copied ALL the documents in the Clerk of Court's office on "case no. 2011CF000236".
6. I informed Schmaus that there were documents missing, whereupon Schmaus assured me he had given me EVERYTHING in the Clerk of Court's case file.
7. Among the "missing", i.e., STOLEN documents was my "Telephonic Report of Criminal Activity by Victim/Witness" filed on 10-12-2011 and again on 01-05-2012.
8. My stolen affidavits charged attorneys Sandy A. Williams and Adam Y. Gerol with crimes extending back to 2009 and through ... continuing to the present day.
9. The crimes I alleged against Williams and Gerol were dereliction of duty, misconduct in public office, misprision of felony, tampering with a witness, victim, or an

Affidavit December 20, 2015 page 1 of 2 Affidavit of Prejudice

intimidation, and Retaliation against a witness, victim, or an informant.

10. Since both Adam Gerol and Scott Walker have both opportunity and motive, I believe it is more likely than not that either or both Gerol and/or Walker State my affidavit from the office of the clerk of court in case number 2018CV000280.

11. I charge "Whatever" State my affidavit with Obstructing Justice, Wis Stat § 946.39; Theft, Wis Stat 943.20; Tampering with public records, Wis Stat § 946.72; Misconduct in public office, Wis Stat § 946.12; Misprision of felony, 18 U.S.C. § 4; Tampering with a witness, victim, or informant, Wis Stat § 940.42; and, Retaliation against a witness, victim, or informant, Wis Stat § 940.45.

12. On May 15, 2018, I filed a lawsuit against both Adam K. Gerol and Scott A. Walker in their official capacity as trustees of Fiduciary of the Public Trust(s) in the District Court of the United States, District of Columbia, case number 18-cv-00896-EGS, incorporated herein by reference in its entirety.

I, Steven Alan Magyar, a beneficiary of the Public Trust, declare under the pains and penalties of perjury of the laws of the United States of America that the foregoing facts are true and correct and as for the statements made upon information and belief, I believe them to be true.

Executed on this December 20, 2018.

Steven Alan Magyar, Beneficiary of the Public Trust

STATE OF WISCONSIN }
OZAUKEE COUNTY } SS
I certify that this is a true and correct copy of a document on file and of record in my office and has been compared by me

Clerk of Courts (Deputy) Date

cc: Scott Walker, Governor
J.B. Van Hollen, Attorney General
T. Don Hutton, Director of State Courts Office
Randy R. Koschnick, Chief Judge of 3rd Judicial Administrative District
United State Attorney's Office in Milwaukee, WI

AFFIDAVIT –
Of Prejudice, and, of Stolen Documents
Ozaukee County Case No. 2011CF000236

1. I, Steven Alan of the family Magritz, a living man, state that I am competent, with sound mind, to testify to the facts herein, am of the age of majority, the facts herein are true, correct, certain, not misleading, and are made upon first-hand knowledge, except those stated upon reason or belief which I verily believe to be true.

2. I do not consent to the proceedings in "Ozaukee County " "Case No. 2011CV000236", have NOT consented in the past, nor will I consent in the future.

3. I am NOT the Defendant in "Case No. 2011CF000236", nor do I consent to be fiduciary, trustee, representative, agent, accommodation party, surety, nor to act in any other way for, or on behalf of, any artificial entity, including but not limited to, the Defendant.

4. I have been arrested without a warrant and falsely imprisoned on what I believe, and so charge, to be a malicious prosecution to cover up not only the crimes of Adam Y. Gerol and Sandy A. Williams, but also the crimes of atty. Dennis E. Kenealy who orchestrated the greatest theft of private property in the history of the county of Ozaukee, the theft of my private property which has been made into a county park known as the "Shady Lane Property", stolen from me at gunpoint and for which I was never compensated a single dime.

5. On October 14, 2015, attorney Gary R. Schmaus personally handed to me what he asserted were copies of ALL the documents in the Clerk of Court's office in "case no. 2011CF000236".

6. I informed Schmaus that there were documents missing, whereupon Schmaus assured me he had given me EVERYTHING in the Clerk of Court's case file.

7. Among the "missing", i.e., STOLEN, documents was my "12/09/2011 Report of Criminal Activity by Victim/Witness" filed on 12-12-2011 and again on 01-05-2012.

8. My stolen affidavits charged attorneys Sandy A. Williams and Adam Y. Gerol with crimes extending back to 2003 and through 2011, which continue to this present day.

9. The crimes I charged against Williams and Gerol were dereliction of duty; misconduct in public office; misprision of felony; tampering with a witness; victim, or an

informant; and, Retaliation against a witness, victim, or an informant.

10. Since both Adam Gerol and Sandy Williams have both opportunity and motive, I believe it is more likely than not that either, or both, Gerol and/or Williams, stole my affidavits from the office of the clerk of court in "case number 2011CF000236."

11. I charge "Whoever" stole my affidavits with obstructing justice, Wis. Stat. § 946.72; misconduct in public office, Wis. Stat. § 946.12; misprision of felony, 18 U.S.C. § 4; tampering with a witness, victim, or an informant, Wis. Stat. § 943.43; and, Retaliation against a witness, victim, or an informant, Wis. Stat. § 843.45.

12. On May 15, 2012, I filed a lawsuit against both Adam Y. Gerol and Sandy A. Williams for breach of fiduciary duty as trustees and fiduciaries of the Public Trust(s) in the district court of the United States, District of Columbia, case number 12-cv-00806-EGS, incorporated herein by reference in its entirety.

I, Steven Alan Magritz, a beneficiary of the Public Trust, declare under the pains and penalties of perjury of the laws of the United States of America that the foregoing facts are true and correct, and as for any statement made upon information or belief, I believe and so charge them to be true.

Executed on this December 20, 2015.

Steven Alan Magritz, beneficiary of the Public Trust.

copies to: Scott Walker, Governor
J.B. VanHollen, Attorney General
J. Denis Moran, Director of State Courts Office
Randy R. Koschnick, Chief Judge of 3rd Judicial Administrative District
United States Attorney's Office in Milwaukee, WI

Bias Ex. G

STATE OF WISCONSIN CIRCUIT COURT OZAUKEE COUNTY

STATE OF WISCONSIN, plaintiff
v.
STEVEN A MAGRITZ, defendant

Authenticated/Filed
Ozaukee County Circuit
FEB 08 2016 Case No. 2011CF236
Mary Lou Mueller
Clerk of Circuit Court/
Register in Probate

NONCONSENT AND NONACCEPTANCE

I, Steven Alan Magritz, do not consent to the January 29, 2016 and February 1, 2016 proceedings in the above-captioned matter. I do not consent to any prior proceedings, nor will I ever consent in the future.

I do not assent or consent to the "verdict" of the "jury".

I do not accept the "verdict of the jury".

I do not and will not assent to, or consent to, or accept a Judgment of Conviction.

Dated this fourth day of February, 2016 A.D.
By: Steven Alan Magritz, beneficiary of the Public Trust

NOTICE

TAKE NOTICE: The charging Statute is unconstitutional as applied to ~~any~~ any man for want of a mens rea requirement, or "element". Judgment notwithstanding the verdict is "obligatory", i.e., not guilty, and acquital. The statute lacks the requisites of an Article I section 2 (Const) crime.

RECEIVED
OZAUKEE COUNTY
CLERK OF CIRCUIT COURT
2016 FEB -8 AM 8:16

ATTACHMENT # 5 of 5, TO:

REQUEST to Circuit Justice Brett Kavanaugh
for a
Certificate of Appealability, Case Number 18-CV-0455,
District Court of the Eastern District of Wisconsin,
to
Seventh Circuit Court of Appeals Case Number 19-1518

Documents attached:

Seventh Circuit ORDER dated October 15, 2019 denying the request for a certificate of appealability.
District Court Clerk letter with copy of District Court Docket and Notice of Appeal to Seventh Circuit.

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted October 7, 2019
Decided October 15, 2019

Before

MICHAEL B. BRENNAN, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

No. 19-1518

STEVEN ALAN MAGRITZ,
Petitioner-Appellant,

v.

JON E. LITSCHER,
Respondent-Appellee.

Appeal from the United States District Court for the Eastern District of Wisconsin.

No. 18-C-0455

Lynn Adelman,
Judge.

ORDER

Steven Magritz has filed a notice of appeal from the denial of his petition under 28 U.S.C. § 2254 and an application for a certificate of appealability. We have reviewed the final order of the district court and the record on appeal. We find no substantial showing of the denial of a constitutional right. *See* 28 U.S.C. § 2253(c)(2).

Accordingly, the request for a certificate of appealability is **DENIED**.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WISCONSIN
OFFICE OF THE CLERK

362 U.S. COURTHOUSE
517 E. WISCONSIN AVE
MILWAUKEE, WI 53202

STEPHEN C. DRIES
CLERK

TEL: 414-297-3372
FAX: 414-297-3253
www.wied.uscourts.gov

March 21, 2019

Steven Alan Magritz
N53 W34261 Road Q
Okauchee, WI 53069

Re: **Magritz v Litscher**
USDC Case No.: 18-CV-455

Dear Mr. Magritz:

Enclosed please find a copy of your Notice of Appeal to the U.S. Court of Appeals for the Seventh Circuit, which was filed on March 21, 2019. The District Court will ensure that the record is complete and made available electronically to the Court of Appeals within 14 days of filing the notice of appeal. Any confidential record or exhibit that is not available electronically will be prepared and held by the District Court until requested by the Court of Appeals. You must review the docket sheet within 21 days of filing the notice of appeal to ensure that the record is complete.

Motions to correct or modify, supplement, or strike a pleading from the record must first be filed with the District Court. The District Court's ruling on the motion will become part of the record and notice of the decision will be sent to the Court of Appeals.

If a Docketing Statement, as required by Circuit Rule 3(c), was not filed with the Notice of Appeal, it should be filed directly with the Clerk of Court for the U.S. Court of Appeals for the Seventh Circuit. If you have any questions, please feel free to call.

Very truly yours,

STEPHEN C. DRIES
Clerk of Court

By: s/ D. La Brie
Deputy Clerk

Enclosure
cc: Wisconsin Dept of Justice - Habeas

APPEAL,CLOSED,HABEAS

United States District Court
Eastern District of Wisconsin (Milwaukee)
CIVIL DOCKET FOR CASE #: 2:18-cv-00455-LA

Magritz v. Litscher
Assigned to: Judge Lynn Adelman
Case in other court: Ozaukee County Circuit Court, 2011CF236
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 03/22/2018
Date Terminated: 11/28/2018
Jury Demand: None
Nature of Suit: 530 Habeas Corpus (General)
Jurisdiction: Federal Question

Petitioner

Steven Alan Magritz

represented by **Steven Alan Magritz**
N53 W34261 Road Q
Okauchee, WI 53069
PRO SE

V.

Respondent

Jon E Litscher

represented by **Wisconsin Dept of Justice – Habeas**
Email: DLSFedOrdersEastCA@doj.state.wi.us
TERMINATED: 04/16/2018

Daniel J O'Brien
Wisconsin Department of Justice
Office of the Attorney General
17 W Main St
PO Box 7857
Madison, WI 53707-7857
608-266-9620
Fax: 608-266-9594
Email: obriendj@doj.state.wi.us
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
03/22/2018	1	PETITION for Writ of Habeas Corpus filed by Steven Alan Magritz. (Filing Fee PAID $5 receipt# MK4689-070927) (Attachments: # 1 Exhibits, # 2 Appendix to Writ of Error, # 3 Amended Petition for Common Law, # 4 Exhibit List for Amended Petition)(jcl) (Entered: 03/23/2018)
03/22/2018	2	REFUSAL to Consent to Jurisdiction by US Magistrate Judge by Steven Alan Magritz. (jcl) (Entered: 03/23/2018)
03/30/2018	3	IT IS ORDERED that within 60 days of the date of this order respondent either answer the petition, complying with Rule 5 of the Rules Governing § 2254 Cases, or file a dispositive motion. FURTHER ORDERED that the parties shall abide by the following schedule regarding the filing of briefs on the merits of petitioners claims: (1) petitioner shall have 45 days following the filing of respondents answer within which to file his brief in support of his petition; (2) respondent shall have 45 days following the filing of petitioners initial brief within which to file a brief in opposition; and (3) petitioner shall have 30 days following the filing of respondents opposition brief within which to file a reply brief, if any. Signed by Judge Lynn Adelman on 03/29/2018. (cc: all counsel, petitioner)(lls)
04/05/2018	4	ACCEPTANCE OF SERVICE BY DOJ as to Jon E Litscher (Kawski, Clayton)
04/16/2018	5	NOTICE of Appearance by Daniel J O'Brien on behalf of Jon E Litscher. Attorney(s) appearing: Daniel J. O'Brien (Attachments: # 1 Certificate of Service)(O'Brien, Daniel)

05/29/2018	6	MOTION to Dismiss by Jon E Litscher. (Attachments: # 1 Exhibit A – Local Rules, # 2 Certificate of Service)(O'Brien, Daniel)
05/29/2018	7	BRIEF in Support filed by Jon E Litscher re 6 MOTION to Dismiss . (Attachments: # 1 Exhibit A – Judgment of Conviction, # 2 Certificate of Service)(O'Brien, Daniel)
07/12/2018	8	BRIEF in Opposition filed by Steven Alan Magritz re 6 MOTION to Dismiss . (jcl)
07/12/2018	9	AFFIDAVIT of Bias (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G)(jcl)
07/12/2018	10	MANDATORY JUDICIAL NOTICE by Steven Alan Magritz (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J)(jcl)
07/20/2018	11	MOTION for Summary Judgment by Steven Alan Magritz. (jcl) (Main Document 11 replaced on 7/23/2018) (jcl). (Entered: 07/23/2018)
07/20/2018	12	STATEMENT OF FACT by Steven Alan Magritz. (jcl) (Entered: 07/23/2018)
07/20/2018	13	BRIEF in Support filed by Steven Alan Magritz re 11 MOTION for Summary Judgment. (jcl) (Entered: 07/23/2018)
08/13/2018	14	REPLY BRIEF in Support filed by Jon E Litscher re 6 MOTION to Dismiss . (Attachments: # 1 Certificate of Service)(O'Brien, Daniel)
11/13/2018	15	DOCUMENTS RECEIVED– Verified Bill Quia Timet from Steven Alan Magritz (jcl) (Entered: 11/14/2018)
11/28/2018	16	ORDER signed by Judge Lynn Adelman on 11/28/18. IT IS ORDERED that the respondent's motion to dismiss the petition is GRANTED and that the petitioner's motion for summary judgment is DENIED. (cc: all counsel, petitioner) (jad)
11/28/2018	17	JUDGMENT signed by Deputy Clerk on 11/28/18. (cc: all counsel, petitioner)(jad)
12/20/2018	18	MOTION For Relief by Steven Alan Magritz (jcl)
12/20/2018	19	BRIEF in Support filed by Steven Alan Magritz re 18 MOTION to Set Aside Judgment. (Attachments: # 1 Praecipe to the Clerk, # 2 Certificate of Service)(jcl)
02/04/2019	20	REQUEST– Demand for Granting 18 Motion for Relief by Steven Alan Magritz. (Attachments: # 1 Praecipe to the Clerk, # 2 Certificate of Service)(jcl) (Entered: 02/05/2019)
02/22/2019	21	ORDER signed by Judge Lynn Adelman on 2/22/19 denying 18 Motion to Set Aside Judgment. (cc: all counsel, petitioner) (jad)
02/28/2019	22	MOTION for Reconsideration of 18 Motion for Relief by Steven Alan Magritz. (jcl) (Additional attachment(s) added on 2/28/2019: # 1 Praecipe to the Clerk, # 2 Certificate of Service) (jcl).
02/28/2019	23	DOCUMENTS RECEIVED– Refused for Fraud from Steven Alan Magritz (Attachments: # 1 Exhibit) (jcl)
03/04/2019	24	ORDER signed by Judge Lynn Adelman on 3/4/19 denying 22 Motion for Reconsideration. (cc: all counsel, petitioner) (jad)
03/12/2019	25	MOTION for Relief by Steven Alan Magritz. (jcl)
03/12/2019	26	BRIEF in Support filed by Steven Alan Magritz re 25 MOTION for Relief. (jcl)
03/18/2019	27	ORDER signed by Judge Lynn Adelman on 3/18/19 denying 25 Motion for Relief. (cc: all counsel, petitioner) (jad)
03/21/2019	28	NOTICE OF APPEAL as to 17 Judgment, 21 Order on Motion to Set Aside Judgment, 27 Order on Motion for Relief by Steven Alan Magritz. Filing Fee PAID $505, receipt number mk4689077669 (cc: all counsel) (dl)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

Steven Alan Magritz

Plaintiff,

v.

Jon E. Litscher

Defendant.

NOTICE OF APPEAL

Case No. 18-C-0455

Notice is given that the plaintiff/~~defendant~~, Steven Alan Magritz, appeals to the United States Court of Appeals for the Seventh Circuit from the final judgment entered in this action on 11/28/2018; Rule 60 motions 02/22/2019 & 03/18/2019.

Dated and signed this twenty-first day of March, 2019 A.D.

Milwaukee, Wisconsin.

The REQUEST to Circuit Justice Brett Kavanaugh for a Certificate of Appealability dated March 21, 2019 A.D. and the four Attachments thereto are part and parcel of this Notice and are incorporated herein by reference in their entirety as if fully reproduced herein.

By: Magritz, Steven Alan, Agent
(Signature)

Attn: Magritz, Steven Alan, Agent
c/o N53 W34261 Road Q
(Street Address)

Okauchee, Wisconsin [53069]
(City, State, Zip)