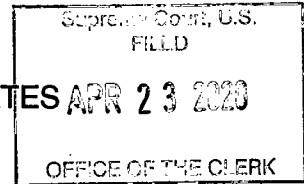


20-5013
No.

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Rafeal Dashawn Newson — PETITIONER
(Your Name)

vs.

Superior Court of Pinia County et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court Of Appeals, for the Seventh Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

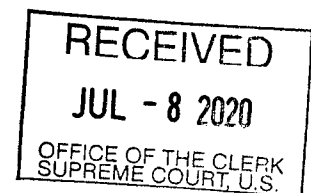
PETITION FOR WRIT OF CERTIORARI

Rafeal Dashawn Newson
(Your Name)

Waupun Correctional Institution; P.O. Box 351
(Address)

Waupun, Wisconsin 53963-0351
(City, State, Zip Code)

N/A
(Phone Number)



QUESTION(S) PRESENTED

- (1.) The U.S. Court of Appeals, for the Seventh Circuit relied on *HECK v. HUMPHREY*, 512 U.S. 477 (1994)'s usual tort of malicious prosecution and its favorable termination outcome. The Seventh Circuit held that Petitioner was to be given relief under any theory. Petitioner firmly challenged that the tort of abuse of process should have been employed when Petitioner's Breach of Contract lawsuit was unwillingly converted to §1983, because of fraud in probable cause and in the initiation of his Interstate Agreement on Detainers Act (herein "IAD"), extradition process, *UNITED STATES v. THROCKMORTON*, 98 U.S. 61 (1878); and *CRESCENT CITY LIVESTOCK Co. v. BUTCHER'S UNION SLAUGHTER-HOUSE Co.*, 120 U.S. 141, 151 (1887). Therein this Court in *HECK*, supra; with Justice Souter concurring, admits that this unique situation has not been settled by this Court?
- (2.) The Seventh Circuit ruled that Petitioner did present a constitutional and federal question relying on IAD precedent *CUYLER v. ADAMS*, 449 U.S. 433 (1981). Title 18 U.S.C., Appx. 2 § 5, commands that even the Seventh Circuit had a mandatory duty to enforce the IAD and not exercise discretion to ignore a lack of jurisdiction according to *CALIFORNIA v. LARUE*, 409 U.S. 109, 112 n.3 (1972). Should writs of mandamus and/or prohibition had issued, since § 5 of the IAD has never been settled by this Court?
- (3.) Petitioner fully exhausting his state remedies more than once, the state courts overlooked state, federal, and constitutional law. Was the Seventh Circuit contrary to this Court and 1994's Seventh Circuit in *HECK v. HUMPHREY*, 512 U.S. 477 (1994), when it failed to reclassify Petitioner's Breach of Contract lawsuit, converted to §1983, to a habeas corpus action?
- (4.) Petitioner's position that the "[IAD] is mandatory" *U.S.v. MAURO*, 436 U.S. 340 (1978); and "complaint", "refers to criminal charges pending against a prisoner" *CAREHMAN v. NASH*, 473 U.S. 716 (1985); that extradition is "invalid where receiving state initiates extradition proceeding without complying with its own extradition statute". *HUDSON v. MORAN*. (1985, C.A.9. Nev.) (citation omitted). The Seventh Circuit concedes that "... arrestee could not have been convicted if police had been acting without probable cause" *TIMBUKTU v. KOCH*, C.A.7 (Wis.) 2003, 62 FED. Appx. 676; and this Court declared: "a defendant may not be prosecuted in violation of the terms of an extradition treaty" *UNITED STATES v.*

PAGE (2) QUESTIONS

ALVAREZ-MACHAIN, 504 U.S. 655, 656 (1992). Therein, since all state and federal extradition laws, along with relevant law in the U.S. Constitution were overlooked by state courts in Wisconsin, Arizona, federal district court of Wisconsin, with the Seventh Circuit. Did the Seventh Circuit conflict with the First, Second, Third, Ninth Circuits, Congress, and this Court?

(5.) Should this Court settle the important question resulting in the Seventh Circuit's use of this Court's rule in HECK, supra; to overrule this Court's CUYLER, supra. Therein contractual law well-established by this Court's HENDRICK v. LINDSAY, 93 U.S. 143 (1876); EDWARDS v. KEARZEY, 96 U.S. 595 (1877), from Article I, Section 10, Clause 1 of the U.S. Constitution, can be superseded by a rule of this Court?

(6.) Was the Seventh Circuit in conflict with the Fifth Circuit's LeCLERC v. WEBB, 419 F.3d 405, 414 (5th Cir. 2005), and this Court's IMBRIER v. PACHTMAN, 424 U.S. 409 (1976), with LAPIDES v. BD. OF REGENTS, 535 U.S. 613, 619 (2002), when both Respondents were performing the function of their respective Governors in the enforcement of IAD extradition laws. Therein, should immunity have been granted, where no jurisdiction of the person or subject-matter or due process present under the 4th, 5th, 13th, and 14th Amendment and the IAD?

(7.) Was the Seventh Circuit in conflict with its own Circuit's HANSEN v. BO. OF TRS., 551 F.3d 549, 615-16 (7th Cir. 2008), and the Eleventh Circuit's ABUSALID v. HILLBOROUGH CTY. BO. OF CTY. COMM'RS, 405 F.3d 1298, 1314 (11th Cir. 2005), when both Respondents were part of their respective local governments. Therein, when Respondents were enforcing functions of the IAD via TITLE 18 U.S.C., APPX 252; and § 3182 (codified in states: Uniform Criminal Extradition Act), that are reserved for the Governors of that State, are they "persons" for § 1983?

(8.) Was the Seventh Circuit in conflict with this Court's HARDIN v. STRAUB, 490 U.S. 536, 539 (1989), and Congress' § 1983 reliance on the state's interpretation of the statute-of-limitations, namely Wisconsin and Arizona's 20 year tolling for judgments/decrees rendered by judges because of fraud?

(9.) Was the Seventh Circuit in conflict with the Fourth Circuit's *United States v. Taylor* (citation omitted), and this Court's *COLEMAN v. TOLLEFSON*, 135 S.Ct. 1759 (2015), when Petitioner paid the filing of his complaint and appeal, did not incur a "strike" for PLRA purposes under 28 U.S.C. § 1915, in the District Court, but the Seventh Circuit gave Petitioner "two strikes." Therein the Seventh Circuit is in conflict with this Court, and this is of national importance, important to Petitioner, and others similarly situated, which this Court should settle this interpretation of Federal law?

LIST OF PARTIES

☒ All parties appear in the caption of the case on the cover page.

☒ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

- (1) Superior Court of Pima County Judge Michael Cruikshank;
- (2) Circuit Court of Milwaukee County Judge Jeffrey Wagner;

RELATED CASES

- (1) State of Arizona v. Marquis Johnson (AKA) Rafeal Newson, H20000008; Superior Court of Arizona, Pima County, Judgment entered July 17, 2000, September 7, 2010, and June 28, 2011; January 28, 2014;
- (2) State of Arizona v. Marquis Johnson, 2 CA-HC 00-0006 Department A, Court of Appeals, State of Arizona, Division Two, Judgment entered September 18, 2000;
- (3) State of Wisconsin v. Rafeal Newson, Case No. 00-CF-004309, Circuit Court of Milwaukee County, Judgment entered October 8, 2010;
- (4) Marquis Johnson (aka) Rafeal Newson v. Pima County Superior Court, No. M-11-0005, Arizona Supreme Court, Judgment entered June 27, 2011;
- (5) Rafeal D. Newson v. State of Wisconsin, No. 2010 AP 2714, State of Wisconsin, Court of Appeals, District I, Judgment entered May 31, 2011;

(RELATED CASES p. 2)

- (6.) Rafeal D. Newson v. Circuit Court of Milwaukee County, Circuit Court Judge Kevin E. Martens, Wisconsin Attorney General J. B. Van Hollen, No. 11AP1569W, State of Wisconsin, Court of Appeals, District I, Judgment entered July 27, 2012;
- (7.) Rafeal D. Newson, U.S. Department of Justice, Civil Rights Division, No. 144-8-0
- (8.) Rafeal D. Newson, Letter to President Barack Obama/U.S. Department of Justice, Office of the Pardon Attorney, No. WH12202012-49, Decision entered January 14, 2013;
- (9.) State of Wisconsin ex rel. Rafeal D. Newson (aka) Marquis Johnson v. Circuit Court for Milwaukee County and the Honorable Kevin E. Martens, No. 2011-AP-1569-W, State of Wisconsin, Supreme Court, Judgment entered July 17, 2013;
- (10.) Marquis Johnson v. State of Arizona, No. 2 CA-HC 2014-0001, Arizona Court of Appeals, Division Two, Filed November 18, 2014;
- (11.) Rafeal D. Newson v. State of Wisconsin et al., Case No. 14-CV-175, United States District Court, Eastern District of Wisconsin, Judgment entered May 12, 2014;
- (12.) Rafeal Newson, Letter to Arizona Governor Doug Ducey, Sent February 10, 2015;
- (13.) Marquis Lee Johnson v. County of Pima, et al., No. CV 15-0116-TUC-RCC, United States District Court, for the District of Arizona, Judgment entered May 14, 2015;
- (14.) In Re Johnson, Marquis Johnson (AKA) Rafeal Newson v. Doug Ducey, Governor of the State of Arizona, Honorable Michael Cruikshank, Judge of the Superior Court of the State of Arizona, In and for the County of Pima; Brad Schimel, Wisconsin Attorney General for the State of Wisconsin, No. 16-70411, United States Court of Appeals, for the Ninth Circuit, Filed February 11, 2016;

(RELATED CASES p. 3)

- (15.) Marquis Johnson (AKA) Rafeal Newson v. Doug Ducey, Governor of the State of Arizona; Honorable Michael Covickshank, Judge of the Superior Court of the State of Arizona, In and for the County of Pima; Brad Schimel, Wisconsin Attorney General for the State of Wisconsin, No. LC 2016-000112, Filed March 9, 2016;
- (16.) Marquis Johnson (AKA) Rafeal Newson, Letter from U.S. Department of Justice, Office of the Pardon Attorney, Decision entered on June 22, 2016;
- (17.) Rafeal Newson, Complaint to Wisconsin Department of Corrections, DCI-2016-22168, Judgment entered December 7, 2016;
- (18.) Rafeal Newson v. State of Wisconsin, Case No. 2000 CF04309, Circuit Court, Criminal Division, Branch 30, Judgment entered March 7, 2017;
- (19.) State of Wisconsin v. Rafeal Newson, Appeal No. 2017AP000551, State of Wisconsin, Court of Appeal, District I, Judgment entered September 18, 2018;
- (20.) State of Wisconsin v. Rafeal Newson, No. 2017AP000551, State of Wisconsin, Supreme Court, January 17, 2019;
- (21.) Rafeal D. Newson v. Superior Court of Pima County and Milwaukee County Court, Case No. 19-C-219, United States District Court, Eastern District of Wisconsin, Judgment entered March 1, 2019;
- (22.) Rafeal Dashawn Newson v. William Pollard, Warden of the Dodge Correctional Institution - Wisconsin Department of Correction, No. 19CV004649, Circuit Court of Milwaukee County, State of Wisconsin, Judgment entered June 28, 2019;
- (23.) Rafeal Dashawn Newson, Letter to Wisconsin Lt. Governor Mandela Barnes, on August 8, 2019;
- (24.) State of Wisconsin ex rel. Rafeal Dashawn Newson v. Brian Foster, Warden, Waupun Correctional Institution, Appeal No. 2019-AP-001464, State of Wisconsin, Court of Appeals, District I, Filed October 25, 2019;

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- (25.) Rafeal Dashawn Newson v Superior Court of Pima County et al,
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- (26.) Rafeal Dashawn Newson, Letter to Wisconsin Governor Tony Evers,
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- (27.) Rafeal Dashawn Newson, Reprieve, Executive Clemency Application, January 8, 2020;
- (28.) Rafeal Dashawn Newson, Letter to President Donald Trump, March 17, 2020;
- (29.) Rafeal Dashawn Newson, Letter to Speaker of the House of U.S. Representatives
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- (30.) Rafeal Dashawn Newson, Letter to U.S. Congresswoman Gwen Moore, March
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- (31.) Rafeal Dashawn Newson, Letter to Wisconsin State Representative David Crowley,
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- (32.) Rafeal Dashawn Newson, Letter to Wisconsin State Senator Lena Taylor,
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- (33.) Rafeal Dashawn Newson, Letter to Wisconsin State Assembly Speaker Robin
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- (34.) Rafeal Dashawn Newson, Letter to U.S. Senator Kamala Harris, March
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Rafeal Newson #287339
Waupun Correctional Institution
P.O. Box 351
Waupun, WI 53963-0351

UNITED STATES SUPREME COURT

No. _____

Rafeal Dashawn Newson,
Petitioner - Appellant,

Appeal from the United States District
Court for the Eastern District of Wisconsin
District Court No. 19-C-219

v.

Superior Court Of Pinck County
and Milwaukee County Circuit
Court,
Respondent - Appellees.

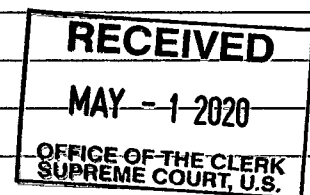
Seventh Circuit No. 19-1571

Seventh Circuit Panel: Chief Judge
Diane P. Wood; Circuit Judges Frank
H. Easterbrook and Daniel A. Manion.

WRIT OF CERTIORARI

Petitioner, Rafeal Dashawn Newson, respectfully request a "Writ Of Certiorari" from the United States Court Of Appeals for the Seventh Circuit, decision on November 25, 2019, and rehearing decision on January 24, 2020. Petitioner, submits the following:

B4: Rafeal Dashawn Newson
Rafeal Dashawn Newson #287339
Pro Se Petitioner - Appellant



COVER LETTER

Rafeal Dashawn Newson #287339

Waupun Correctional Institution

P.O. Box 351

Waupun, WI 53963-0351

June 3rd, 2020

To: Supreme Court of the United States

Office of the Clerk

Washington, DC 20543-0001

Re: Newson v. Superior Court of Pima County, et al.:

Dear Clerk:

I submitted a writ of certiorari postmarked April 23, 2020, which you received May 1, 2020. This office provided a form and a list of the additions required. I have submitted the proper corrections, for filing in the Court. Thanking you in advance for your time and consideration in this matter!

Sincerely,

Rafeal Dashawn Newson

Rafeal Dashawn Newson #287339

Pro Se Petitioner

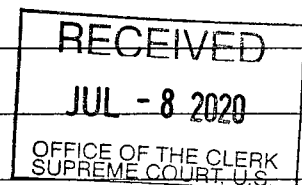


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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

☒ For cases from **federal courts**:

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

☒ reported at 784 Fed. Appx. 964 (7th Cir. 2019); or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

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

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

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

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

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

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

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was November 25, 2019.

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

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: January 24, 2020, and a copy of the order denying rehearing appears at Appendix C.

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

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

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

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

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- (1) U.S. Constitution, Article I, Section 10, clause 1 - (No State shall enter into any... Law impairing the Obligation of Contracts,...);
- (2) U.S. Constitution, Article IV, Section 1 - (Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.);
- (3) U.S. Constitution, Article IV, Section 2, Clause 1 - (The Citizen of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.);
- (4) U.S. Constitution, Article IV, Section 2, Clause 2 - (A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.);
- (5) U.S. Constitution, Article VI, Section 2 - (This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding);
- (6) U.S. Constitution, Bill of Rights, Amendment 1 - (Congress shall make no law... abridging... the right... to petition the Government for a redress of grievances);
- (7) U.S. Constitution, Bill of Rights, Amendment 4 - (The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.);
- (8) U.S. Constitution, Bill of Rights, Amendment 5 - (No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, ... nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.);
- (9) U.S. Constitution, Bill of Rights, Amendment 6 - (In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial... which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation...);

[CONSTITUTIONAL AND STATUTORY PROVISIONS CONT'D ON ATTACHED PAGE]

[CONSTITUTIONAL AND STATUTORY PROVISIONS- PAGE 2]

- (10.) U.S. Constitution, Bill of Rights, Amendment 7 - (In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.);
- (11.) U.S. Constitution, Bill of Rights, Amendment 8 - (Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.);
- (12.) U.S. Constitution, Bill of Rights, Amendment 9 - (The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.);
- (13.) U.S. Constitution, Bill of Rights, Amendment 10 - (The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.);
- (14.) U.S. Constitution, Amendment 13 - (Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.);
- (15.) U.S. Constitution, Amendment 14 - (All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.);
- (16.) Title 18 U.S.C. § 318.2 - See (Appendix W);
- (17.) Title 18 U.S.C., Appendix 2 § 2 - 8.5 - See (Appendix R);
- (18.) Wisconsin Statutes s. 968.02 - 968.04 - See (Appendix V);
- (19.) Wisconsin Statutes s. 976.03(3) - See (Appendix T);
- (20.) Wisconsin Statutes s. 976.05 [relevant portion] - See (Appendix S);
- (21.) Arizona Revised Statutes § 13-3843 - § 13-3845 - See (Appendix U);
- (22.) Wisconsin Supreme Court Rules, S.C.R.: 20:3.8(a) - See (Appendix Y);
- (23.) Title 28 U.S.C., § 1915(g) - (In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds...);
- (24.) Title 28 U.S.C., § 1915(h) - (As used in this section, the term "prisoner" means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.

[CONSTITUTIONAL AND STATUTORY PROVISIONS - PAGE 3]

(25.) Title 28 U.S.C. § 2254 - (2) The Supreme Court, a Justice thereof, a circuit judge, or a district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.);

(26.) Title 42 U.S.C. § 1983 - (Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.);

STATEMENT OF THE CASE

On November 23, 1996, Terrance D. Maclin was shot and died. On December 6, 1996, a city of Milwaukee Detective Louis Johnson collaborated with a Milwaukee County Assistant District Attorney Robert Kraemer Jr. and drafted a criminal complaint, see (Appendix H). Two days later, on December 8, 1996, Detective Johnson in supplementary report, dictated: "On Friday, 12-06-96, I, Detective Louis Johnson, did go to the Milwaukee County District Attorney's Office, located at 821 W. State St., the Homicide Unit, regarding the above Homicide which was presented for an arrest warrant regarding a possible suspect to Assistant District Attorney Robert Kraemer. -- Upon reviewing this Homicide, A.D.A. Kraemer did issue a felony arrest warrant for First Degree Intentional Homicide for the arrest of Rafeal Dashawn Newson, B/M, D.O.B: 03-25-77, 3256 A N. Palmer St., I.D. No. 275124. At the present time we are seeking to locate and arrest the suspect, Rafeal D. Newson, who may possibly be driving a white, 4-door, Fleetwood Cadillac, unknown year -- Report dictated by: Detective Louis Johnson" see (Appendix L).

Four days later on December 12, 1996, Detective Johnson, sworn to, a drafted affidavit for phone records to try and locate Newson's whereabouts. Line #4 of the affidavit read: On Friday, December 6, 1996 as a result of this Homicide Investigation, a suspect, Rafeal D. Newson was developed and a felony arrest warrant for 1st Intentional Homicide was issued by AOA Robert Kraemer. see (Appendix M). Also at the bottom, the notary was A.D.A. Kraemer (I.d.). Neither jurisdictional document was filed by a judge, see (Appendices H, I, K, and N), or filed properly pre-extradition, see (Appendices H, J, P, and Q).

On April 27, 1999, while Petitioner fought unrelated charges in Arizona under the alias name Marquis Johnson, fugitive of justice proceedings commenced pursuant to federal law (Title 18 U.S.C. §3182), and the state's Uniform Criminal Extradition Act. One year later, Milwaukee County Deputy District Attorney Jon N. Reddin initiated extradition proceedings under Article IV (a) of the Interstate Agreement on Detainers Act (herein "IAD"). see (Appendix F). On April 11, 2000, Milwaukee County Judge Jeffrey Wagner (Respondent), in capacity of the Governor of Wisconsin, signed the Request For Temporary Custody under the following: "I hereby certify that the person whose signature appears above is an appropriate officer within the meaning of Article IV (a) and that the facts recited in this request for temporary custody are correct and that having duly recorded said request. I hereby transmit it for action in accordance with its terms and the provisions of the Agreement on Detainers (I.d.).

In this IAD Writ, was the unfiled criminal complaint and felony warrant and authorization for extradition from that same date of December 6, 1996, done by A.D.A. Kraemer. A capias number #8-061717 transmitted, see (Appendix F, p. 1, 5, and 6), and attested to on January 24, 2000, by Milwaukee County Clerk of Court, John Barnett, see (I.d., at p. 5). All

documents in the IAD Writ was transmitted April 28, 2000, (Id.), in which a final Article IV, IAD hearing was held in Pima County Superior Court, Arizona on July 17, 2000. see (Appendix D). At that IAD hearing, documents were admitted over Petitioner's objections, and he was ordered to the State of Washington. see (Id.).

On August 18, 2000, Newson was extradited by U.S. Marshall/TransCor Agents. Petitioner, transported in back of vans in a crowded metal box, throughout the country for (9) days see (Appendix G). Two days later, an initial appearance was held on August 29, 2000, in front of Judicial Circuit Court Commissioner Frank J. Liska Jr. see (Appendix E). Petitioner was lead to a table in which he learned years later, to an unsolicited, unconsulted Assistant State Public Defender Paul Manley, who declared: "Reserving all jurisdictional objections, Paul Manley appears for Mr. Newson. He is present." (Id., at p. 2). Without any proper legal considerations, the court held: "I'll make a finding of probable cause in the felony, Mr. Newson, just so you understand, this is a Class A Felony. The penalty is life imprisonment;" (Id.).

That kangaroo style proceeding ended shortly afterwards and Petitioner was handed a copy of a modified criminal complaint, with a handwritten case number, containing a file-stamp from the Criminal Division of the Clerk of Circuit Court reading: "FILED, CRIMINAL DIVISION, CLERK OF CIRCUIT COURT, AUGUST 29, 2000, at 8:22A.m." see (Appendix J, at p. 1 and 3). Again, this filing date is confirmed by Milwaukee County Circuit Court records from May 2001 and May 2017, showing that neither subject-matter and personal jurisdictional documents were filed before extradition. see (Appendices P and Q, at LINE # 1 and 3). Neither of the (4) defense counsels raised IAD or jurisdictional issues before Petitioner's conviction on March 8, 2001. He was sentenced to life on April 12, 2001. see (Appendix Q, at LINE # 25 and 28).

On post-conviction purposes, Petitioner and appellate counsel had conflict about issues. Appellate counsel moved to withdraw, see (Appendix Q, at LINE # 33); which was denied, (Id., at LINE # 34-37), because Petitioner had no law library, paralegal support, law clerk aid, or basis, Wisconsin Statutes or caselaw. Appellate counsel knew of Petitioner's layman status with no legal resources, but failed to raise the current IAD and jurisdictional claims. Even when Petitioner requested equal protection, legal access to the courts, he was denied. On October 7, 2004, Petitioner attempted to raise some claims that he thought his appellate counsel should have raised with his very limited legal materials he by chance gathered. The courts in Wisconsin denied him. Post-conviction efforts on September 23, 2010, February 6, 2017, and February 28, 2019, breach-of-contract converted to §1983 were unsuccessful and the merits were never touched, concerning IAD and jurisdiction. On November 25, 2019, and January 24, 2020, the Seventh Circuit concedes the appeal issues, but denied relief.

REASONS FOR GRANTING THE PETITION

(1.) The U.S. Court of Appeals, for the Seventh Circuit relied on *HECK v. HUMPHREY*, 512 U.S. 477 (1994)'s usual tort of malicious prosecution and it's favorable termination outcome. The Seventh Circuit held that Petitioner was to be given relief under any theory. Petitioner firmly challenged that the tort of abuse of process should have been employed under §1983, because of fraud in probable cause and in the initiation of his Interstate Agreement on Detainers Act (herein "IAD"), extradition process, *UNITED STATES v. THROCKMORTON*, 98 U.S. 61 (1878); and *CRESCENT CITY LIVESTOCK Co. v. BUTCHER'S UNION SLAUGHTER-HOUSE Co.*, 120 U.S. 141, 151 (1887). Therein, this Court in *HECK*, *supra*, with Justice Souter concurring, admits that this unique situation has not been settled by this Court?

This Court, 142 years ago, declared: "There is no question of the general doctrine that fraud vitiates the most solemn contracts, documents, and even judgments". *THROCKMORTON*, *supra*. It is of national importance, important to Petitioner, and to others similarly situated that, in the year 2020, fraud is not used at all, before the court, especially in, "contracts, documents, and even judgments". *Id.* It is necessary to explain these multiple levels of the frauds to fully understand Petitioner's Breach of Contract / Abuse of legal process theory, which the Seventh Circuit ruled: "Instead of simply adopting Newson's breach-of-contract theory, then, the district court should have considered whether his allegations of an illegal extradition could plausibly entitle him to relief under any theory." see (Appendix A, p.3). Petitioner directs this Court's attention to the following:

(1.) PRE-EXTRADITION CRIMINAL COMPLAINT, see (Appendix H) - On November 23, 1996, Terrance D. Maelin was shot and he died from his wounds. On December 6, 1996, a city of Milwaukee Detective Louis Johnson Jr. collaborated with a Milwaukee County District Attorney Robert Kraemer Jr. and drafted a criminal complaint. Wisconsin Statutes (herein "W.S.A."), Chapter 968 Commencement of Criminal Proceedings, Issuance and Filing of Complaints, command: "§968.02(2) - After a complaint has been issued, it shall be filed with a judge and either a warrant or summons shall be issued or the complaint shall be dismissed, pursuant to §968.03. SUCH FILING COMMENCES THE ACTION." see (Appendix V). The Wisconsin Supreme Court *via* denial of certiorari in this Court declared: "A Circuit Court's criminal subject matter jurisdiction attaches when a complaint is filed." *STATE v. ESTRADA*, 63 Wis.2d 476, 492, 217 N.W.2d 359, 367, cert. denied, 419 U.S. 1093 (1974). This subject-matter jurisdictional document was not done before a judge, nor filed.

(2) FELONY WARRANT and AUTHORIZATION FOR EXTRADITION, see (Appendix I) - That same city of Milwaukee Detective reported the following: "On Friday, 12-06-96, I, Detective Louis Johnson, did go to the Milwaukee County District Attorney's Office, located at 821 W. State St., the Homicide Unit, regarding the above Homicide which was presented for an arrest warrant regarding a possible suspect to Assistant District Attorney Robert Kraemer. -- Upon reviewing this Homicide, A.D.A. KRAEMER DID ISSUE A FELONY ARREST WARRANT FOR FIRST DEGREE INTENTIONAL HOMICIDE FOR THE ARREST OF RAFAEL NEWSON. AT THE PRESENT TIME WE ARE SEEKING TO LOCATE AND ARREST THE SUSPECT." see (Appendix L). The same detective, four days later confirm this police report, in an affidavit, notarized by A.D.A. Kraemer, stating: "On Friday, December 6, 1996 as a result of this Homicide Investigation, a suspect, Rafael D. Newson was developed and A FELONY ARREST WARRANT FOR 1st INTENTIONAL HOMICIDE WAS ISSUED BY ADA ROBERT KRAEMER," see (Appendix M, at L4)

W.S.A., s. 968.04. Warrant or Summons on Complaint commands: "(1) Warrants. If it appears from the complaint, ... when the [judge] determines that this is necessary, that there is probable cause to believe that an offense has been committed and that the accused has committed it, the [judge] shall issue a warrant." Id. see (Appendix V). Subparagraph (3) [Mandatory Provisions] command: "(a) Warrant. The warrant shall: 1. Be in writing and SIGNED BY THE JUDGE. ***** 5. State the date when it was issued and THE NAME OF THE JUDGE WHO ISSUED IT TOGETHER WITH THE TITLE OF THE JUDGE'S OFFICE." (Id.).

In this case, the actual warrant had (i) a scribble unknown signature; (ii) no printed/typed name of the scribble; (iii) a Circuit Court Milwaukee Co. Wisconsin, certified seal; (iv) and A.D.A. Kraemer's name is the only name endorsed anywhere on the warrant, authorizing extradition, see (Appendix I). There is no record of any hearing, by a judge or probable cause on the complaint and extradition warrant, see *STATE ex rel. FOSTER v. UTTECH*, 31 Wis.2d 664 (1956). Even the Clerk of the Circuit Court of Milwaukee, does not know who signed that warrant, see (Appendix N). The Wisconsin Supreme Court long held that: "It is the judge or magistrate before whom the complaint is filed who determines the question of the existence of 'probable cause' for the issuance of the search warrant, and not the person who files or verifies the complaint, and asks for the warrant" *STATE v. BATES*, 183 Wis. 845 (1924). This personal jurisdictional document was not done by a judge, nor filed. "Wisconsin Supreme Court decision that district attorneys are not competent to issue warrants of arrest in Wisconsin would not be applied retroactively to afford relief to federal habeas corpus petitioner asserting that Wisconsin warrant for his arrest was invalid because issued by district attorney through a deputy court clerk instead of by a disinterested magistrate"

(3.) On April 26, 1999, Fugitive of Justice proceedings were initiated in Phoenix, Arizona, against Marquis Johnson (AKA) Rafael Newson in which he refused extradition. That proceeding fell under the guidelines of TITLE 18 U.S.C. § 3182, see (Appendix W), codified by the Uniform Criminal Extradition Act in Wisconsin and Arizona, see (Appendix T and U), both commanding that the complaint shall be, "made before a magistrate of any State or Territory, charging the person..." The pre-extradition 1996 criminal complaint transferred from Wisconsin for this proceeding in Arizona was deficient by (i) having no case number; (ii) the word COPY, in the areas where the case number is suppose to appear, also was on other pages, as if it was authentic; (iii) no Clerk of Circuit Court, file-stamp was present, see (Appendix H). The Wisconsin Court of Appeals declared: "Where the back of the last page of a complaint contained the file stamp of the clerk of court and the date,..." STATE v. COLE, 222 Wis.2d 623, 587 N.W.2d 45, 1998 Wisc. App. LEXIS 1193 (Wis. Ct. App. 1998). That court further confirmed that: "File-stamping show that the complaint is a authenticated copy." Id. "State's criminal complaint against a defendant... was timely filed... when a file stamp showed that the amended criminal complaint was filed." STATE v. WESTON, 298 Wis.2d 551, 2007 WI App. 19.

Therein, this unfiled 1996 criminal complaint transferred to Arizona, charged no offense, conferred no jurisdiction, and was a worthless piece of paper. The Wisconsin Supreme Court also declared: "A complaint that charges no offense is jurisdictionally defective and void... because the court does not have jurisdiction." CHAMPLAIN v. STATE, 53 Wis.2d 751 (1972). "Defendant's speedy trial right was properly measured from the filing of the complaint, not the issuance of the complaint, as pursuant to WIS. STATS. §§ 967.05 (1) and 968.02 (2), criminal proceedings DID NOT COMMENCE, AND THUS DEFENDANT WAS NOT OFFICIALLY ACCUSED, UNTIL A COMPLAINT WAS FILED." STATE v. HUDSON, 226 Wis.2d 159, 594 N.W.2d 418, 1999 Wisc. App. LEXIS 267 (Wis. Ct. App. 1999).

(4.) A year later, while Petitioner sat in Arizona D.O.C., Milwaukee County Deputy District Attorney Jon N. Reddin took this case to Respondent, Circuit Court of Milwaukee County, Branch 38, Judge Jeffrey Wagner. "The prosecutor in a criminal case shall: (2) refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause", Wisconsin Supreme Court Rules, SCR 20:3.8, Special Responsibilities of a Prosecutor, see (Appendix Y). On April 11, 2000, that judge allegedly certified a Agreement on Detainers, Request For Temporary Custody Writ containing the same unfiled, fundamentally defective, 1996 criminal complaint and felony warrant and authorization of extradition, a refusal to be extradited

by Petitioner, and a capias number insufficient for extradition was relied on by agents of Wisconsin see (Appendix F). The Wisconsin Supreme Court held: "As the Public Defender points out, in Wisconsin a warrant following an indictment [complaint] must be issued by a judge, but in Texas a capias may be issued by a clerk of court" *STATE ex rel. SIELOFF v. GOLTZ*, 80 Wis.2d 225. Said Milwaukee County Judge approved the facts and permission to extradite, upon his signature declaring:

"I hereby certify that the person whose signature appears above is an appropriate officer within the meaning of Article IV (a) and that the facts recited in this request for temporary custody are correct and that having duly recorded said request, I hereby transmit it for action in accordance with its terms and the provisions of the Agreement on Detainers" (Id.).

The IAD codified in W.S.A.s 976.05 (4) (a) [Article IV (a)] commands: "The appropriate officer of the jurisdiction in which an untried... COMPLAINT IS PENDING shall be entitled to have a prisoner against whom the officer has lodged a detainer... PROVIDED THAT THE COURT HAVING JURISDICTION OF SUCH... COMPLAINT..." see (Appendix S).

"A DULY CERTIFIED COPY OF THE... COMPLAINT ON THE BASIS OF WHICH THE DETAINER HAS BEEN LODGED AND ON THE BASIS OF WHICH THE REQUEST FOR TEMPORARY CUSTODY OF THE PRISONER HAS BEEN MADE" (Id. at 976.05 (5) (b) (2)).

This Court in *CARCHMAN v. NASH*, 473 U.S. 716 (1985) held: "The phrase 'untried... complaint' in Article III [Article IV] of the Interstate Agreement on Detainers, adopted and codified in the State..., REFERS TO CRIMINAL CHARGES PENDING AGAINST A PRISONER" Therein, according to this Court, the Wisconsin courts, the relevant Wisconsin Statutes, and the IAD, Petitioner was not officially charged. "Extradition under Interstate Agreement on Detainers Act [18 U.S.C.S APPX] is invalid where receiving state initiates extradition proceeding without complying with its own extradition statutes." *HUDSON v. MORAN*, (1985, C.A. 9 NEV), 760 F.2d 1021, cert. den. (1985) 474 U.S. 981, 88 LEd2d 339, 106 S.Ct. 387. "Violation of Interstate Agreement on Detainers Act is type of 'fundamental defect...' *UNITED STATES v. WILLIAMS*, (3rd Cir. 1980) 615 F.2d 585. "A receiving state can obtain prisoners through the IAD only if it 'meets certain conditions' listed in the compact" *BURRUS v. TURNBO*, 743 F.2d 193, 700 (9th Cir 1984).

(5.) This Article IV, IAD /Writ of Habeas Corpus From The State of Wisconsin initiated extradition proceedings against Petitioner in Arizona Superior Court, Pima County see (Appendix F). The two, subject-matter and personal jurisdictional documents, the same illegitimate complaint and warrant, were identified but not examined for its authenticity or legality. Respondent, Superior Court of Pima County Judge Michael Cwikshank

ordered Petitioner extradited to the State of Washington, showing the lack of careful attention, legal knowledge, and skill in the matter, (I.d.) STATE v. THOMAS, 348 Wis.2d 699 (2013).

The Wisconsin Supreme Court and this Court in extradition cases, held: "It is the obligation of the governor of the asylum state to make a determination of probable cause on the basis of the recital within the four corners of that document; and, hence, a review by a habeas corpus court of the governor's decision to issue a warrant is confined to a review of the affidavit de novo, with no deference being accorded the governor's conclusions. The review by this court of the habeas corpus is again an examination de novo and involves the determination of whether probable cause is stated in the affidavit accompanying the extradition demand." STATE ex rel. SIELOFF v. GOLT, 80 Wis.2d 225; MICHIGAN v. DORAN, 439 U.S. 282 (1978). Therein, the same complaint in the IAD writ, had no case number, nor file-stamping, nor was it done before a judge, again, making it jurisdictionally defective. Yet, Petitioner was ordered to be extradited see, compare (Appendix H, with J).

(6.) Petitioner was extradited August 18, 2000, to the State of Wisconsin, not Washington, and arrived in Milwaukee, Wisconsin on August 27, 2000 see (Appendix G). Two days later, Petitioner was taken to an initial appearance where the following transcription occurred:

"THE CLERK: The State of Wisconsin vs. Rafael Newson; DO-CF-4309; First Degree Intentional Homicide, party to a crime. -- Appearance please. -- MR. HUMBLE: Dan Humble for the State. -- MR. MANLEY: RESERVING ALL JURISDICTIONAL OBJECTIONS, Paul Manley appears for Mr. Newson. He is present. -- THE COURT: I'LL MAKE A FINDING OF PROBABLE CAUSE IN THE FELONY. Mr. Newson, just so you understand, this is a Class A Felony. The penalty is life imprisonment," see (Appendix E, p. 2 L1-4, and L18-25).

Probable cause was suppose to be found on the criminal complaint in December 6, 1996, before a judge, but was not. The Circuit Court of Milwaukee County clerk stated the D.A.'s office did the complaint. see (Appendix K). The proper filing was suppose to take place, before the transmittal of the IAD writ from Wisconsin, but was not. The Wisconsin Supreme Court long held that: "[I]t is the judge or magistrate before whom the complaint is filed who determines the question of the existence of 'probable cause' for the issuance of the search warrant, and not the person who files or verifies the complaint, and asks for the warrant]." BALTES, supra; They also declared: "It is a judicial question as to when there is probable cause, hence a proper magistrate must determine it." JOKOSH v. STATE, 181 Wis. 1160. Now, in this initial appearance, Judicial Court Commissioner Frank J. Liska Jr. finds probable cause, post-extradition, still unduly and illegally, when probable cause was suppose to have been found in 1996?

Also, as Petitioner left that courtroom, he was handed a modified 1996 criminal complaint with case number 00CF004309 handwritten at the top, with a file-stamp, now, on the third page reading: "Filed, Criminal Division, Clerk of Circuit Court, August 29, 2000, at 8:22 a.m." see (Appendix J, at p.1 and 3). Numerous court records show that the complaint and warrant were not filed til August 29, 2000. see (Appendix P and Q). This also modified the original complaint in the detainer. Federal District Court of Massachusetts, affirmed by the First Circuit, with certiorari denied by this Court held: "Dismissal of indictment [complaint] contemplated by Article IV (c) of Interstate Agreement on Detainers Act refers to untied indictment [complaint] which underlies original detainer and request by which custody of prisoner was secured". *FASANO v. HALL*, (1979, D.C. MASS.), 476 F.Supp. 291, *AFF'D* (1980, C.A.1. MASS) 615 F.2d 555, 63 ALR FED. 148, cert. den. (1980) 449 U.S. 867, 66 LEd2d 86, 101 S.Ct. 201. As shown, the State of Wisconsin officials, intentionally, in more than one way, sabotaged the IAD, detrimental to Petitioner. This Court commanded that the provisions of the IAD is MANDATORY on the party States. *U.S. v. FORD*, C.A. 2 (N.Y.) 1977, 550 F.2d 732, certiorari granted 98 S.Ct 53, 434 U.S. 816, 54 LEd2d 72, affirmed 98 S.Ct 1834, 436 U.S. 340, 56 LEd2d 329.

The Wisconsin Supreme Court over 140 years ago in *TOWNSEND v. SMITH*, 47 Wis. 623, 3 N.W. 439 (1879) held: "If a person is induced by false representations to come within the jurisdiction of a court for the purpose of obtaining service of process upon him, and process in an action brought against him in such court is there served, it is an abuse of legal process, and the fraud being shown the court will, on motion, set aside the service. This rule is elementary, and has been uniformly enforced in numerous cases both in this country and England. The principle of the rule seems to be that "a valid and lawful act cannot be accomplished by any unlawful means; and whenever such unlawful means are resorted to the law will interpose and afford some suitable remedy, according to the nature of the case, to restore the party injured by these unlawful means to his rights." *Id. ****** "Even at law, where there is an IRREGULAR ARREST, AND AN ADVANTAGE IS TAKEN OF THE IRREGULARITY TO CHARGE HIM IN CUSTODY AT THE SUIT OF ANOTHER PERSON, THE COURTS OF LAW WILL DISCHARGE HIM FROM BOTH" *Id.* (Quoting LORD CHANCELLOR HARDWICKE WITH APPROVAL).

Therefore, a half a dozen instances of unlawfulness, fundamentally, especially when these acts kidnapped and put a citizen in slavery, violated all the above and following laws, United States Constitution, Article I, Section 10, clause 1; Article IV, Sections 1-2, clauses 1-2; Article VI, clause 2; Amendments 1, 4, 5, 6, 7, 8, 9, 10, 13, and 14; TITLE 18 U.S.C. §3182; TITLE 18 APPX 2 §2, Article IV (a); (c), (d), (e); Article V (b) (2); and §5 of the IAD (codified in party states' statutes). Treason on the Constitutions,

Acts of Congress, along with state, federal, and contractual law, left unchecked, is the biggest fraud. In viewing Seventh Circuit's reliance on *HECK v. HUMPHREY*, *supra*, Petitioner's contention was mentioned and now should be settled by this Court, since the Seventh Circuit erred in conflict with this Court, and it's others like Petitioner needing guidance from this Court.

This Court in *HECK*, *supra*, at p. 484-485, at n.4, held: "In *CRESCENT CITY LIVESTOCK Co. v. BUTCHERS' UNION SLAUGHTER-HOUSE Co.*, 120 U.S. 141 (1887)... We attempted to 'reconcile the apparent contradiction in the authorities,' *id.*, at 151, by observing that the presumption of probable cause arising from a conviction can be rebutted only by showing that the conviction had been obtained by some TYPE OF FRAUD." *ibid.* Petitioner, undoubtly and fully explained the fraud. Justice Souter, concurring on judgment, touched Petitioner's contention in this case, concerning the use of a *capias* in abuse of legal process, held: "RESTATEMENT (SECOND) OF TORTS § 682, ILLUSTRATION 1 (1977) (indicating that a person who, by causing a court to issue a writ of *capias* against someone to whom he lent money, caused the borrower to be 'arrested... and kept in prison' is properly held liable for the arrest and imprisonment of the lender's purpose in using legal process was wrongful (and regardless of favorable termination or want of probable cause))." *HECK*, *supra*, at SOUTER, J., CONCURRING IN JUDGMENT, p. 495.

Further, "as the Court observes, there are differences between the tort of abuse of process and that of malicious prosecution. *ANTE*, at 486, n.5 While 'the gist of the tort [of malicious prosecution] is... commencing an action or causing process to issue without justification, 'abuse of process involves 'misusing, or misapplying process justified in itself for an end other than that which it was designed to accomplish' *PROSSER AND KEETON* 897."

In Petitioner's case, the IAD's contractual process was misused, misapplied, and not intended and designed to grant extradition (i) without a complaint pending, duly filed, showing probable cause; (ii) with only a *capias*; (iii) to illegally disrupt prisoner's rehabilitation in prior state; (iv) with a forged signature and court seal on an unfiled warrant; (v) then use a modified complaint, by unduly, filing the jurisdictionally defective one; (vi) when receiving state failed to comply with their own extradition statutes; (vii) and prosecute a prisoner in violation of the terms of that Act; (viii) and have statute-of-limitation on mandatory provisions of the Act; (ix) to kidnap and enslave with no recourse; (x) and hold a prisoner over 120 days without jurisdiction; (xi) then deny prisoner's rights to petition the government; (xii) but force a prisoner to go through two decades of litigation, through multiple vehicles, in multiple jurisdictions just to get mandatory relief; (xiii) to be a tool to harass, humiliate, and control a prisoner's life; (xiv) on fraud and be ignored by all state and federal courts

for two decades, to date; finally (xv) and allow courts, officers, agencies, departments, and employees of the United States and party states (and political subdivisions of the party states to be uncooperative and not enforce the mandatory Act according to §5 of the IAD (codified in W.S.A.s. 976.05(1)).

The State action of seeking Petitioner pursuant to the IAD, binds them to "specific performance" of the Act, according to this [Mauro v. UNITED STATES, 436 U.S. 340, 349 (1978)]. Therein, the added constitutional violations, fraud, fundamental violations of the IAD, with personal injury stemming from the contract confirm that the tort of abuse of process should have been employed. Justice Souter concurring in judgment agreed and went on to state: "Neither common-law tort, however, precisely matches the statutory §1983 claim for damages for unlawful conviction or confinement; and, depend on the nature of the underlying right alleged to have been violated (consider, for example, the right not to be selected for prosecution solely because of one's race) the tort of abuse of process might provide a better analogy to a §1983 claim for unconstitutional conviction or confinement than the malicious-prosecution tort." HECK, supra, at SOUTER, J., CONCURRING IN JUDGMENT, p. 495, at n. 2.

Petitioner, takes it steps further than Justice Souter's example in HECK, supra. Petitioner knows because he is black and poor in Respondent's eyes, that statistics, outside of the facts herein presented, show Milwaukee County has the highest incarceration rate of African - Americans in the entire country. Since the 1970's, Respondent Circuit Court of Milwaukee County Judge Jeffrey Wagner has lead the charge in this vigorous campaign. No criminal complaint or warrant was filed in 1996, by a judge. So, a different, more superior prosecutor in 2000, pre-extradition, still never duly filed the complaint before initiating extradition. Instead, he went to a judge who would rubber-stamp, the IAD writ, because of comradeship. And, in performing duties reserved by the Governor, which one would think would be handled with care, Respondent, who was not involved in the commencement of criminal proceeding, but the commencement of the civil IAD process, approved it fraudulently and unlawfully.

Respondent, Superior Court of Pima County Judge Michael Cruikshank approved extradition in Arizona, substituting duties of his Governor. "The IAD is mandatory as well on officials in the sending state. PEOPLE v. LINCOLN, 42 CAL. App. 512, 516, 601 P.2d 641, 644 (1979). If officials in the sending state violate the IAD, the prisoner will be granted the same relief as if an official of the receiving state had violated the IAD. See PITTMAN v. STATE, 301 A.2d 509, 513 (Del. 1973)." THOMAS R. CLARK, THE EFFECT OF VIOLATIONS OF THE INTERSTATE AGREEMENT ON DETAINERS ON SUBJECT MATTER JURISDICTION, 54 FORDHAM L. REV. 1209, at 1219 n. 48 (1986). see (Appendix X, at p. 1219 n. 48). Neither Respondents were, again, involved in the criminal case in Wisconsin. But, they started the oppressive proceedings in

Wisconsin, by the abuse of the IAD process. *ADM CORP. v. SPEEDMASTER PACKAGING CORP.*, 384 F.Supp. 1325 (D.N.J. 1974), affirmed in part, cause remanded, 525 F.2d 662 (3 Cir.); Without Respondents' approval, extradition would not have occurred.

With above proof of the misuse and misapplication of the IAD, *DISHAW v. WADLEIGH*, 15 A.D. 205, 44 N.Y.S. 207 (1897), on mandatory provisions, *MAURO*, supra; Petitioner, despite proving, did not have to show lack of probable cause in the fraud, *LODGES* 743 & 1746, *INT'L ASS'N OF MACHINISTS & AEROSPACE WORKERS v. UNITED AIRCRAFT CORP.*, 534 F.2d 422 (2nd Cir 1975), certiorari denied, 429 U.S. 825, 97 S.Ct. 79, 50 LEd2d 87. Termination of the proceeding in favor of the Petitioner need not be shown. *BAKER v. OKLAHOMA TIRE & SUPPLY Co.*, 344 F.Supp. 780 (W.D. Ark. 1972). "The gravamen of the tort lies in the perversion of the process after it has been issued." *DONOHUE CONST. Co. v. MOUNT VERNON ASSOCIATES*, 235 Va. 531, 539-540, 369 S.E.2d 857, 862 (1988). Also see *FRIDMAN, ABUSE OF LEGAL PROCESS*, 114 L.J. 335 (1964). Even the Seventh Circuit declared: "... arrestee could not have been convicted if police had been acting without probable cause." *TIMBUKTU v. KOCH*, C.A. 7 (Wis.) 2003, 62 FED. APPX. 676, 2003 WL 1796016. The Seventh Circuit admits the constitutional and federal question quoting *CYLER v. ADAMS*, 449 U.S. 433, 449 (1981), but failed to act. see (Appendix A, p. 3). Coupled with this Court's: "a defendant may not be prosecuted in violation of the terms of an extradition treaty. *UNITED STATES v. RAUSCHER*, 119 U.S. 407 (1886)." *UNITED STATES v. ALVAREZ-MACHAIN*, 504 U.S. 655, 656 (1992), concretely explains the misapplication.

Therefore, once the "specialty provision" *ALVAREZ-MACHAIN*, supra, meaning Article (a) of the IAD was not apparent, neither Respondents had authority to approve extradition in that mandatory process. The distinction between malicious prosecution and abuse of legal process torts, as applied in Petitioner's case is specific. The improper use of mandatory provisions still carries on. It is of national importance that the 48 party states to the IAD, with D.C., territories, and the federal government receive guidance and know when they are liable for their commissions and omissions. Therein, this Court should settle the conflict with the Seventh Circuit. Provide precedent for the country, and grant relief to similarly situated people like Petitioner, when due process in their 1st, 4th, 5th, 13th, and 14th Amendments, among contract, extradition, and supremacy clause in the U.S. Constitution, is violated.

(2.) The Seventh Circuit ruled that Petitioner did present a constitutional and federal question relying on IAD precedent *CUYLER v. ADAMS*, 449 U.S. 433 (1981). Title 18 U.S.C. Appx. 2 §5, commands that even the Seventh Circuit had a mandatory duty to enforce the IAD and not exercise discretion to ignore a lack of jurisdiction according to *CALIFORNIA v. LA RUE*, 409 U.S. 109, 112 n.3 (1972). Should writs of mandamus and/or prohibition had issued, since §5 of the IAD has never been settled by this Court?

Article IX of the IAD commands: "This agreement shall be liberally construed so as to effectuate its purpose." §5 of the IAD specifically name the enforcers, by commanding: "All courts, departments, agencies, officers, and employees of the United States and of the District of Columbia are hereby directed to enforce the agreement on detainees and to cooperate with one another and with all party States in enforcing the agreement and effectuating its purpose." The Seventh Circuit specifically in its order (Appendix A, p.3) held: that: "Instead of simply adopting Newson's breach-of-contract theory, then, the district court should have considered whether his allegations of an illegal extradition could plausibly entitle him to relief under any theory." Next, the Seventh Circuit continued: "Newson's suit alleges that he was extradited to Wisconsin in violation of the Detainer Act. A suit to enforce the violation of a federal law by state actors is one under 42 U.S.C. §1983, and the Supreme Court has held that a prisoner can state a claim under that statute for violation of the Detainer Act. *CUYLER v. ADAMS*, 449 U.S. 433, 449 (1981). (There are also direct remedies under the Act, but those are not relevant here.) The district court was therefore incorrect to state in its order on reconsideration that Newson's complaint "raised no constitutional questions or questions of federal law." (I.D.)

The Seventh Circuit points out the District Court's deficiency, then commits the same travesty. Any legal theory, in Petitioner's case, means tort of abuse of legal process? Mandamus? Prohibition? Habeas Corpus? Dismissal under the IAD? The Seventh Circuit even recognizes this Court's IAD precedent in *CUYLER*, supra, and acknowledges that Petitioner raised a constitutional and federal question (I.D.), but failed to properly address it and raised more erroneous ways to dismiss the suit, than the District Court (I.D.). The Seventh Circuit even suggested that Petitioner exhaust other remedies concerning the IAD (I.D.), which §1983 does not require exhaustion of state remedies, even though Petitioner has exhausted all remedies. Outside of the additional reasons for denying Petitioner relief, which are addressed in the following, the main contention is the Seventh Circuit had no discretion in the enforcement of the IAD, according to §5. Again, this Court

in MAURO, *supra*, held that provisions of the IAD is mandatory. Declining to exercise a mandatory duty under the IAD, is equal to declining to correct a lack of subject-matter jurisdiction with a proper dismissal. see THOMAS R. CLARK, THE EFFECT OF VIOLATIONS OF THE INTERSTATE AGREEMENT ON DETAINERS ON SUBJECT MATTER JURISDICTION, 54 FORDHAM L. REV. 1209 (1986).

This Court held: "indeed, the courts must raise a lack of subject-matter jurisdiction even if the parties have not." CALIFORNIA v. LARUE, 409 U.S. 109, 112 n.3, 93 S.Ct. 390, 34 1 Ed.2d 342 (1972). The Tenth Circuit with certiorari denied by this Court held: "where there is no jurisdiction over the subject matter, there is, as well, no discretion to ignore that lack of jurisdiction" CORIA v. UNITED STATES, 384 F.2d 711 (10th Cir. 1967), cert. denied, 390 U.S. 986, 88 S.Ct. 1182, 19 1 Ed.2d 1290 (1968). In the Seventh Circuit's 2017 Edition: Practitioner's Handbook For Appeals: VII Subject Matter Jurisdiction, p. 76-77, held: "As with appellate jurisdiction, the court has an independent duty to ensure the existence of subject matter jurisdiction, BUCHEL-RUEGSEGGER v. BUCHEL, 576 F.3d 451, 453 (7th Cir. 2009), and neither the parties nor their lawyers may waive arguments that the court lacks jurisdiction. DEXIA CREDIT LOCAL v. ROGAN, 602 F.3d 879, 883 (7th Cir. 2010). To put it another way, subject matter jurisdiction is so important that federal courts permit any party to challenge, or the court to question *sua sponte*, its existence at any time and at any stage of the proceedings. CRAIG v. ONTARIO CORP., 543 F.3d 872, 875 (7th Cir. 2008)."

*The critical question is whether violations of the IAD divest courts of subject matter jurisdiction. Generally, appellate court review is restricted to points addressed at trial. See, e.g., STEAGALD v. UNITED STATES, 451 U.S. 204, 209-11 (1981); SINGLETON v. WOLFE, 428 U.S. 106, 120 (1976); HORMEL v. HELVERING, 312 U.S. 552, 556 (1941). One issue that may be raised initially on appeal is absence of subject matter jurisdiction. See, MANSFIELD, C. & L.M. Ry. v. SWAN, 111 U.S. 379, 382 (1884); UNITED STATES v. McGRATH, 558 F.2d 1102, 1106 (2d Cir. 1977), cert. denied, 434 U.S. 1064 (1978); UNITED STATES v. ISAACS, 493 F.2d 1124, 1140 (7th Cir.) (per curiam), cert. denied, 417 U.S. 976 (1974); SEWELL v. UNITED STATES, 406 F.2d 1289, 1292 (8th Cir. 1969). *** The issue may be raised initially on appeal because absence of subject matter jurisdiction is fatal to a prosecution; a judgment rendered without subject matter jurisdiction is void. See UNDERWRITERS NAT'L ASSURANCE Co. v. NORTH CAROLINA LIFE & ACCIDENT & HEALTH INS. GUAR. ASS'N, 455 U.S. 691, 704 & n.10 (1982); JONES v. GILES, 741 F.2d 245, 248 (9th Cir. 1984). Certain facts are "strictly jurisdictional," NOBLE v. UNION RIVER LOGGING R.R., 147 U.S. 165, 173 (1893), **** On the other hand, strictly jurisdictional facts are those which, if not present, leave the court's judgment void. *Id.* at 173. "Only in the rare instance of a clear usurpation of power will a judgment be rendered void." LUBBEN v. SELECTIVE SERV. SYS. LOCAL BD. No. 27,

453 F.2d 645, 649 (1st Cir. 1972); see, *HOOKS v. HOOKS*, 771 F.2d 935, 949 (6th Cir. 1985); *COLEMAN v. COURT OF APPEALS*, 550 F.Supp. 681, 684 (W.D. OKLA. 1980); *HOBBBS v. UNITED STATES OFFICE OF PERSONNEL MGMT.*, 485 F.Supp. 456, 458 (M.D. Fla. 1980); *J. MOORE, J. LUCAS & K. SINCLAIR, JR.*, 7 MOORE'S FEDERAL PRACTICE ¶ 60.25[2], at 60-226 to 227 (2d ed. 1985). --- A "clear usurpation of power" occurred in *KALB v. FEUERSTEIN*, 308 U.S. 433 (1940). In *KALB*, the question presented was whether a state court that had properly exercised jurisdiction originally had its jurisdiction divested automatically when one party filed a petition for bankruptcy. See *id.* at 435-36. The Court held that through the Frazier-Lemke Act "Congress intended to, and did deprive the [state court] of the power and jurisdiction to continue or maintain in any manner" its proceedings once the state court received notice of the filing of bankruptcy petition. *Id.* at 440. The court granted relief in the collateral proceeding before it. See *id.* at 436, 443-44. The Court found the statutory exclusion to be "self-executing" *id.* at 443, that is, the act of filing the petition automatically relieved the petitioner "of the necessity of litigation elsewhere and its consequent expense." *Id.* --- Like the Frazier-Lemke Act, the IAD commands, through mandatory language, that upon the occurrence of IAD violations, the court in the receiving state divest itself of jurisdiction over the charges "with prejudice." THOMAS R. CLARK, THE EFFECT OF VIOLATIONS OF THE INTERSTATE AGREEMENT ON DETAINERS ON SUBJECT MATTER JURISDICTION, 54 FORDHAM L. REV. 1209, 1212-1213, at n.17 (1986).

In Petitioner's case, certain facts that were "strictly jurisdictional," *NOBLE*, *supra*, that presented a "clear usurpation of power" *KALB*, *supra*, is the issue that the State of Wisconsin sought Petitioner under. The state action was pursuant to Congress' Article IV (2) of the IAD, see (Appendix E), mandatory that a complaint is pending. As discussed above, no complaint was even filed til post-extradition. Clear usurpation of power was performed by both Respondents, because they have a duty, know, practice, and administrate the rule of law. To date, no state, federal, court, department, agency, officers and employee of the United States or the political subdivision of the party states in Arizona or/and Wisconsin complied with their duty. see (Appendix R, S, T, U, V, W, and Y). When the Seventh Circuit's turn came to fulfill their duties, Congress made under §5 of the IAD, it failed as well. Petitioner's Petition for rehearing and rehearing en banc (Appendix C), further put Seventh Circuit on notice about their mandatory duty. Therein, Petitioner's Petition For Rehearing should have been construed as a Petition For a Writ of Mandamus. "The historic and still central function of mandamus is to confine officials within the boundaries of their authorized powers. *BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN v. UNION PACIFIC RAILROAD Co.*, 707 F.3d 191, 194 (11th Cir. 2013); *IN RE UNITED STATES*, 345 F.3d

450, 452 (7th Cir. 2003), and to confine a judge or other official to his or her jurisdiction. IN RE PAGE, 170 F.3d 659, 661 (7th Cir. 1999).

"In summary, three conditions must be satisfied for a writ of mandamus to issue. The party seeking the writ must (1) demonstrate that the challenged order is not effectively reviewable at the end of the case, that is, without the writ the party will suffer irreparable harm, and (2) establish a clear right to the writ; and the issuing court must (3) be satisfied that the writ is otherwise appropriate. ABELESZ v. OTP BANK, 692 F.2d 638, 652 (7th Cir. 2012), see, Seventh Circuit's 2017 Edition: Practitioner's Handbook For Appeals: VII Subject Matter Jurisdiction, p. 77. It is quoted in that text that Writs of Certiorari in this Court are rare and Rehearing in the Seventh Circuit is more rare. The purpose of §5 of the IAD and that Act of Congress / federal statute is useless without enforcement. Justice delayed, is justice denied!

If this Court in MAURO and FORD, supra, ruled that the IAD provisions are mandatory and no state, federal, or enforcement, personnel in §5 abides, then why have it? Petitioner will suffer irreparable harm since no enforcer under §5 to date touched the facts, merits, law, so is the IAD unconstitutional, since it is unenforceable? I believe the first prong is satisfied. Again, the clear right to the writ is Congress' command that the law shall be upheld. That no extradition shall happen, whether under 18 U.S.C. §3182, and it's codified counterpart the Uniform Criminal Extradition Act, or the IAD, unless an affidavit/complaint is pending, at the proper time, in the proper manner, giving subject-matter jurisdiction. This right is clear at the state and federal level from this Court's precedent in UNITED STATES v. RAUSCHER, 119 U.S. 407, 420-24 (1886) "extradition agreement limits the subject matter jurisdiction under which the prisoner is to be tried." Therein, prong two was well-established by Petitioner. In a fundamental violation of the IAD, similar to Petitioner's case, when 4th, 5th, 13th, and 14th Amendments violations are combined. The expressed duty to act within a court's jurisdiction, without a doubt, any court, state or federal, could find it appropriate to comply with the IAD, as the Delaware Supreme Court granted mandamus in PITTMAN v. STATE, 301 A.2d 509, 513 (Del. 1973), on a technical violation, less serious than Petitioner's fundamental violations. Therein, prong three is satisfied and the writ of mandamus should have been employed.

Therefore, Petitioner declares that the Seventh Circuit err in not complying with §5 of the IAD. The Seventh Circuit should have employed writs of mandamus or/and prohibition, was in conflict with the Ninth, Tenth, and this Court's precedent, and whenever any court exceeds jurisdiction and/or rule with discretion as a mandatory duty, to the detriment of a citizen being kidnapped and enslaved without due process of the 1st, 4th, 5th, 13th, and 14th Amendments, with the contract,

extradition, and supremacy clauses in the U.S. Constitution, it is not only of importance to the prisoner, others similarly situated like Petitioner but of national importance that should be settled by this Court, when 48 party states, U.S. territories, D.C., and the federal government are party states pursuant to the IAD compact/contract.

(3.) Petitioner fully exhausting his state remedies and the state courts overlooking state, federal, and constitutional law. Was the Seventh Circuit in conflict with this Court and 1994's Seventh Circuit in *HECK*, *supra*, when it failed to reclassify Petitioner's Breach of Contract lawsuit, converted to §1983, to a habeas corpus action?

The Seventh Circuit held: "A dismissal under *HECK* is without prejudice and does not prevent Newson from seeking relief that is not inconsistent with the validity of his conviction. See *POLZIN v. GAGE*, 636 F.3d 834, 839 (7th Cir. 2011). For example, if Newson seeks release from prison, he must proceed under 28 U.S.C. § 2254, naming his custodian as the respondent. We express no opinion, however, on whether the violation of the Detainer Act of which Newson complains (extradition on the basis of an allegedly incomplete extradition package) could lend itself to collateral review. See *REED v. CLARK*, 984 F.2d 209, 212 (7th Cir. 1993)." see (Appendix A, p.3).

Again, the Seventh Circuit, under command of §5 of the IAD had a duty to enforce that Act of Congress, federal statute, and constitutional law relevant in Petitioner's case. Justice Souter concurring in *HECK*, *supra*, at p.501, stated: "[t]he very purpose of §1983: 'to interpose the federal courts between the State and the people, as guardians of the people's federal rights' *MITCHELL v. FOSTER*, 407 U.S. 225, 242 (1972); see also *PULLIAM v. ALLEN*, 466 U.S. 522, 541 (1984); *PATSY v. BOARD OF REGENTS OF FLA.*, 457 U.S. 496, 503 (1982). A prisoner caught at the intersection of §1983 and the habeas statute can still have his attack on the lawfulness of his conviction or confinement heard in federal court, albeit one sitting as a habeas court, and, depending on the circumstances, he may be able to obtain §1983 damages."

Petitioner was in the exact same position as the petitioner in *HECK*. The majority court in *HECK*, held: "While petitioner *HECK*'s direct appeal from an Indiana conviction was pending, he filed this suit under 42 U.S.C. §1983, seeking damages but not injunctive relief or release from custody—on the claim that respondents, acting under color of

state law, had engaged in unlawful acts that had led to his arrest and conviction. After the Federal District Court dismissed this action without prejudice, the Indiana Supreme Court upheld HECK's conviction and sentence, and his two petitions for federal habeas relief were rejected. The Court of Appeals then affirmed the dismissal of the §1983 complaint and approved the District Court's reasoning: "If the plaintiff in a federal civil rights action is challenging the legality of his conviction, as that his victory would require his release even if he had not sought that relief, the suit must be classified as a habeas corpus action and dismissed if the plaintiff has failed to exhaust his state remedies."

Again, the Seventh Circuit ruled: "Instead of simply adopting Newson's breach-of-contract theory, then, the district court should have considered whether his allegations of an illegal extradition could plausibly entitle him to relief under any theory" see (Appendix A, p.3). The Seventh Circuit had a command and jurisdiction in §5 of the IAD to adjudicate. The Seventh Circuit had precedent in HECK, *supra*, to, at the worst, sit as a habeas court in Petitioner's case. No exhaustion was needed in Petitioner's case. see (Appendix S-W). The model of the 1994's Seventh Circuit was in unison with this Court. There is no authority that Petitioner is aware of that overrule HECK on this contention. This Seventh Circuit already ruled that, "the district court was therefore incorrect to state in its order on reconsideration that Newson's complaint 'raised no constitutional questions or questions of federal law.' Yet, to not enforce the rule of law is appalling. "State prisoners are entitled to relief on federal habeas corpus only upon proving that their detention violates the fundamental liberties of the person, safeguarded against state action by the Federal Constitution." HILL v. UNITED STATES, 368 U.S. 424, 428, 82 S.Ct. 468, 471, 7 LEd2d 417 (1962); TOWNSEND v. SAIN, 372 U.S. 293, 312, 83 S.Ct. 745, 756, 9 LEd2d 770 (1963) (dictum);

In DAVIS v. UNITED STATES, 417 U.S. 333, 345, 94 S.Ct. 2298, 2304, 41 LEd2d 109 (1974), the Supreme Court ended this confusion for federal habeas corpus and held that non-constitutional federal claims were cognizable under §2255 if "the claimed error of law [is] 'a fundamental defect which inherently results in a complete miscarriage of justice.'" DAVIS, *supra*, at 346, 94 S.Ct. at 2305, quoting HILL, *supra*. The Third Circuit already held that, "violation of Interstate Agreement on Detainers Act is type of 'fundamental defect.'" UNITED STATES v. WILLIAMS, (3rd Cir. 1980) 615 F.2d 585. "When no state court addresses a properly raised federal claim, a habeas court is not bound by the deferential standard of review under the (AEDPA), and instead reviews the claim *de novo*." WILLIAMS v. HAVILAND, C.A. 6 (OHIO) 2006, 467 F.3d 527, on remand 2005 WL 5588052

The Court in *FASANO v. HALL*, *supra*, held: "Under *DAVIS*, therefore, it would appear that the question presented by this appeal is whether the asserted violations of the IAD upon which *FASANO* bases his petition are "fundamental defect[s]" leading to "a complete miscarriage of justice." "Even in those §2254 cases in which Appellant's suggested "federal form" rationale for a lower standard of cognizability are rejected by state courts, the Supreme Court has applied the *DAVIS* standard. See, *STONE v. POWELL*, *supra*, 428 U.S. at 477, n.10, 96 S.Ct. at 3044, n.10. Id. See, *ECHIVARRIA v. BELL*, 579 F.2d 1022, 1025 (7th Cir. 1978); *UNITED STATES ex rel. ESOLA v. GROOMES*, 520 F.2d 830 (3d Cir. 1975). Cf. the two opinions of the Sixth Circuit in *STROBLE v. EGELER*, 547 F.2d 339 (6th Cir. 1977), opinion following decision on remand, 587 F.2d 830 (1978), cert. denied, 440 U.S. 940 (1979) (granting habeas corpus for an IAD violation, but stating that more than a bare violation of the IAD time limits had to be shown)." Id. "The central purpose of the habeas writ is to provide a collateral means of redressing the wrong inherent in the incarceration of one who is not guilty. *SCHNECKLOTH v. BUSTAMONTE*, 412 U.S. 218, 256-58, 93 S.Ct. 2041, 2062-63, 36 L.Ed.2d 854 (1973) (*POWELL, J., CONCURRING*)." Id.

In 1968, the Seventh Circuit, itself held: "Wisconsin Supreme Court decision that district attorneys are not competent to issue warrants of arrest in Wisconsin would not be applied retroactively to afford relief to federal habeas corpus petitioner asserting that Wisconsin warrant for his arrest was invalid because issued by district attorney through a deputy court clerk instead of by a disinterested magistrate." *OSTROWSKI v. BURKE*, C.A.7 (Wis.) 1968, 402 F.2d 377. In 2003, the Seventh Circuit, further matches Petitioner's case, holding "accusation could not have been convicted if police had been acting without probable cause." *TIMBUKTU v. KOCH*, C.A.7 (Wis.) 2003, 62 FED APPX. 676. As for the IAD, this Court long held: "the nature of the case must certainly guide the judgment of the court, and whenever the law makes a rule, that rule must be pursued." *BARRY v. EDMUNDS*, 116 U.S. 550 (quoting *WILSON v. DANIEL*, 3 DALL. 401). This Court additionally held: "A defendant may not be prosecuted in violation of the terms of an extradition treaty. *UNITED STATES v. RAUSCHER*, 119 U.S. 407 (1886)." *ALVAREZ-MACHAIN*, *supra*. This Court, again, "holding that a claim of vindictive prosecution goes to the very power of the State to prosecute the defendant" *BLACKLEDGE v. PERRY*, 417 U.S. 21 (1974). This Court, also, a year later, wrote about such a conviction, holding that it, "amounted to a claim that the State may not convict him no matter how validly his factual guilt is established" *MENNA v. NEW YORK*, 423 U.S. 61 (1975). Fourteen years later, this Court further held: "Instead, like the defendants in *BLACKLEDGE* and *MENNA*, he seeks to raise a claim which, "judged on its face 'based upon the existing record, would extinguish the government's

power to constitutionally prosecute 'the defendant if the claim was successful', *UNITED STATES v. BROCE*, 488 U.S. 563 (1989). This contention of Petitioner, is in line with the Seventh Circuit's "actual innocence" prong in *KNOWLINS v. THOMPSON*, 207 F.3d 907 (7th Cir. 2000).

In Petitioner's case, the fact and law is clear and on point. The Seventh Circuit, again declines to exercise mandatory duty, whether it comes from Congress, this Court, or straight from the Constitution. Petitioner raised a fundamentally solid challenge, than just the time limit, as is the usual challenge to the IAD, *STROBLE*, *supra*. No probable cause was apparent. *TIMBUKTU*, *supra*. The 'miscarriage of justice' *DAVIS*, *supra*, is clear. As the 1994, Seventh Circuit in *HECK*, *supra*, directed the District Court in that case to reclassify that petitioner's 42 U.S.C. § 1983 to a habeas action. It is of extreme importance to Petitioner, that this Court should direct this Seventh Circuit to reclassify Petitioner's converted breach-of-contract to a § 1983 suit, to a habeas corpus action to fall in line with precedent, grant the writ, and for this Court grant the writ, dismiss the criminal complaint with prejudice, as instructed by Congress in the IAD, and immediately release Petitioner.

(4.) Petitioner's position that the "[IAD] is mandatory", *U.S. v. MAURO*, 436 U.S. 340 (1978); and "complaint", "... refers to criminal charges pending against a prisoner", *CARCHMAN v. NASH*, 473 U.S. 716 (1985); that extradition is "invalid where receiving state initiates extradition proceeding without complying with its own extradition statute." *HUDSON v. MORAN* (1985), C.A.9 NEV. (citation omitted). The Seventh Circuit concedes that "... arrestee could not have been convicted if police had been acting without probable cause" *TIMBUKTU v. KOCH*, *supra*, C.A.7 (Wis.) 2003, 62 FED. APPX. 676; and this Court declared: "a defendant may not be prosecuted in violation of the terms of an extradition treaty" *UNITED STATES v. ALVAREZ-MACHAIN*, 504 U.S. 655, 656 (1992). Therein, since all state and federal extradition laws, along with relevant law in the U.S. Constitution were overlooked by state courts in Wisconsin, Arizona, federal district court of Wisconsin, with the Seventh Circuit. Did the Seventh Circuit conflict with the First, Second, Third, Ninth Circuits, Congress, and this Court?

The Seventh Circuit suggested that's "instead of simply adopting Newson's breach-of-contract theory, then, the district court should have considered whether his allegations of

an illegal extradition could plausibly entitle him to relief under any theory." See? (Appendix A, p.3). Again, this Seventh Circuit substitutes and add opinions while ignoring Petitioner's facts stated and the law. The IAD is mandatory, especially when it comes to a fundamental violation encompassing/exceeding jurisdiction. MAURO, supra; STREBLE, supra. The Seventh Circuit's own caselaw declare that no one should be convicted without probable cause. TIMBUKTU, supra. This Court affirms the obvious and declare that a prosecution in a case like Petitioner's, should never occur. ALVAREZ-MACHAIN, supra; BLACKLEDGE, supra; MENNA, supra; BRUCE, supra; CARCHMAN, supra; MICHIGAN v. DORAN, supra. This is in alliance with the Seventh Circuit's KNOWLIN v. THOMPSON'S "actual innocence" prong meaning Petitioner's suit should have been revised. Id., at 207 E.3d 907 (7th Cir. 2000). The Ninth Circuit, with certiorari denied by this Court declared that if the State initiating extradition under the IAD, don't comply with their own extradition statutes, then extradition is invalid. HUDSON, supra.

The Seventh Circuit does nothing but spark more inquiry. Like why wasn't the Appellees allowed to be served by Petitioner? Why wasn't Petitioner allowed to respond before his suit was reclassified from Breach-of-Contract to §1983? Why would the Seventh Circuit substitute their findings when the District Court found no such contentions and the Seventh Circuit found no lack of subject-matter jurisdiction? Why have this Seventh Circuit not complied with its own Circuit, let alone the First, Second, Third, Ninth Circuits, Congress, and this Court? Maybe some light can be shed on this case by someone who use to be on that court.

In 2019, the prison publication "Prison Legal News", published an interesting article reading: "Retired Seventh Circuit Judge Richard Posner, sat on court from 1981 to 2017, often-cited legal scholar, teaches at University of Chicago Law School, he said he retired from the bench because, "the justice system was far from just when it came to pro se litigants." He explained that, "judges would often copy and paste from briefs submitted by seasoned lawyers when writing their opinions, giving pro se litigants the impression their motion were not independently analyzed and emphasizing the power imbalance between pro se litigants and opposing counsel, which is an abdication of the judge's official duty as a neutral arbiter." -- Posner added "the legal system has made representation less affordable while at the same time created a maze of rules governing court proceedings, making it nearly impossible for pro se litigants to navigate."

This stunning rely by a legal scholar, senior judge, who sat on that court for 36 years, has to be given some credit. This is exactly the appearance that that court relayed to Petitioner's case. Was it because he was pro se? Or because he is pro se suing judges? It is obvious that no complaint or warrant was filed, yet, still illegally

til (2) days after extradition is highly-disrespectful to Article IV, Sections 1-2, clauses 1-2, and Amendments 1, 4, 5, 6, 7, 8, 9, 10, 13, and 14 of the U.S. Constitution; (codified) in TITLE 18 U.S.C. §3182; (codified) in Uniform Criminal Extradition Acts, in Wisconsin Statutes s. 976.03(3), and in Arizona Revised Statutes §13-3843-3845; solidified in TITLE 18 U.S.C., Appendix 2 §2, Articles I, IV(a)(c),(d),(e), V(b)(2); (codified) in Wisconsin Statutes s. 976.05(1), 976.05(4)(a),(c),(d),(e), 976.05(5)(b)(2), 976.05(11).

Therefore, this Court has the ultimate authority and power to grant the proper Writs for Petitioner's release, and/or award judgment, and/or set a trial date in the interest of justice.

(5) Should this Court settle the important question resulting in the Seventh Circuit's use of this Court's rule in *HECK*, supra; to overrule this Court's *CUYLER*, supra. Therein, contractual law well-established by this Court's *HENDRICK v. LINDSAY*, 93 U.S. 143 (1876); *EDWARDS v. KEARZEY*, 96 U.S. 595 (1877), from Article I, Section 10, Clause 1 of the U.S. Constitution, can be superseded by a rule of this Court?

The Seventh Circuit affirmed the District Court's dismissal, despite an additional grounds, and both grounds raised by Petitioner were correct on appeal in this Breach-of-Contract/§1983 suit, see (Appendix A, p.3). The District Court and Seventh Circuit, failed to acknowledge the IAD as a contract, a compact, and the supreme law of the land. The Seventh Circuit raised IAD precedent case *CUYLER v. ADAMS*, 449 U.S. 433 (1981), also relied on by Petitioner (Id). In *CUYLER*, the 3rd Circuit granted relief and this Court affirmed the enforcement of the IAD contract through §1983. In that case the fundamentals of the IAD was violated and the case was dismissed with prejudice by §1983. Even the Seventh Circuit's own *McBRIDE v. SOO*, 594 F.2d 610, 613 (7th Cir. 1979), two years earlier, agreed and granted relief by §1983 as well, minus the IAD element.

Now, in 1994, this Court, decided *HECK*, supra. The Seventh Circuit's reliance on *HECK*, supra, in Petitioner's case is incompetent when compared to the facts and law. In short, §1983 is an Act of Congress, but the IAD is an Act of Congress, rooted in the contract (Art. I, Sec. 10, cl. 1); extradition (Art. IV, Sec. 2, cl. 2); and supremacy (Art. VI, Sec. 2) portions of the United States Constitution. §1983 is the remedial vehicle and it cannot dictate the constitutional law of contracts, extradition, and the supremacy of the fundamentals

of the IAD. The Seventh Circuit's use of HECK, *supra*, which no prong speak of the IAD contract, has no authority to limit, alter, or impair the IAD contract/compact.

This Court held: "The right of a party to maintain assumpsit on a promise not under seal, made to another for his benefit, although much controverted, is now the prevailing rule in this country." HENDRICK v. LINDSAY, 93 U.S. 143 (1876). "Any damage or suspension of a right, or possibility of a loss occasioned to the plaintiff by the promise of another, is a sufficient consideration for such promise, and will make it binding, although no actual benefit accrues to the party promising." *Id.* at 149.

The next year, after HENDRICK, *supra*, this Court, in EDWARDS v. KEARZEK, 96 U.S. 595 (1877) declared: "We think the views we have expressed carry out the intent of contracts and the intent of the Constitution. The obligation of the former is placed under the safeguard of the latter. No State can invade it; and CONGRESS IS INCOMPETENT TO AUTHORIZE SUCH INVASION. Its position is impregnable, and will be so while the organic law of the nation remains as it is. The trust touching the subject with which this court is charged is one of magnitude and delicacy. We must always be careful to see that there is neither nonfeasance nor misfeasance on our part." EDWARDS, *supra*. "The obligation of a contract includes every thing within its obligatory scope. Among these elements nothing is more important than the means of enforcement. Without it, the contract, as such, in the view of the law, ceases to be. The ideas of right and remedy are inseparable." *Id.* at 600.

The "right and remedy are inseparable" *Id.*, in regards to the IAD. One of the main reasons the Constitution was created was on the obligation of contracts. "It is this protection which the clause of the Constitution now in question mainly intended to secure." *Id.* at 607. So it bewilders Petitioner that this Seventh Circuit, the lower State, and Federal courts, can use any caselaw or Act of Congress (§1983) to impair the IAD contract, when it is the right and remedy straight from the Constitution. HECK does not apply to Petitioner's case, because it touches no element of contracts. Congress' §1983 have to be the vehicle/remedy when all else fails as in Petitioner's case. The Contract and Constitution, is the right and remedy as the courts are suppose to be a vehicle. §5 of the IAD, by Congress commands: "All courts, departments, agencies, officers, and employees of the United States and of the District of Columbia are hereby directed to enforce the agreement on detainers and to cooperate with one another and with all party States in enforcing the agreement and effectuating its purpose."

As in HECK, *supra*, §1983, an Act of Congress, had to yield to the Habeas Corpus statute in §2254, also derived from the Constitution. Therein, in Petitioner's case, §1983 must yield to §2254, again. Further, HECK, *supra*, must abide by no "LAW IMPAIRING THE

OBLIGATION OF CONTRACT" clause of Article I, Section 10, Clause 1; U.S. Const.; the "state having jurisdiction of the crime," extradition clause of Article IV, Section 2, Clause 2, U.S. Const.; and the supremacy clause of Article VI, Section 2 of the U.S. Const.

The Seventh Circuit's destruction of the IAD contract case is important to him and prisoners similarly situated because the Seventh Circuit completely overlooked precedent and was in error. It is of national importance to settle this distinction because the IAD is a contract and a compact involving (48) states with the District of Columbia and the federal government participating as states.

(6.) Was the Seventh Circuit in conflict with the Fifth Circuit's *LeCLERC v. WEBB*, 419 F.3d 405, 414 (5th Cir. 2005), and this Court's *IMBLER v. PACHTMAN*, 424 U.S. 409 (1976), with *LAPIDES v. BD. OF REGENTS*, 535 U.S. 613, 619 (2002), when both Respondents were performing the function of their respective Governors in the enforcement of IAD extradition laws. Therein, should immunity have been granted, where no jurisdiction of the person or subject-matter or due process present under the 4th, 5th, 13th, and 14th Amendment and the IAD?

The Seventh Circuit in this case gave the opinion that, "Nevertheless, we agree that dismissal of the complaint was proper. Leaving aside the problem of seeking damages from... state judges over performance of their judicial functions, see *STUMP v. SPARKMAN*, 435 U.S. 349, 359-60 (1978),..." see (Appendix A, p.3). First, the IAD is a federal law. "The scope of immunity from §1983 actions is a question of federal law that the states cannot override." See *HOWLETT v. ROSE*, 496 U.S. 356, 375-76 (1990). This Court declared: "state waived 11th Amendment immunity when voluntarily agreed to remove case to federal court." *LAPIDES v. BD. OF REGENTS*, 535 U.S. 613, 619 (2002). The Fifth Circuit in *LeCLERC v. WEBB*, 419 F.3d 405, 414 (5th Cir. 2005) held: "judges not absolutely immune when acting in enforcement rather than judicial capacity." Respondents were acting in capacity of their respective Governors in allegedly enforcing the IAD. The Tenth Circuit held: "...officer not entitled to qualified immunity when law clearly established the officer lacked probable cause." *COURTNEY v. OKLA ex rel. DEP'T OF PUB. SAFETY*, 722 F.3d 1216, 1226-27 (10th Cir. 2013). The Eleventh Circuit in *ABUSALO v. HILLSBOROUGH CTY. BD. OF CTY. COMM'RS*, 405 F.3d 1298, 1314 (11th Cir. 2005) held: "..."

not immune to §1983 claims because 11th Amendment does not "afford protection to political subdivisions such as counties and municipalities, even though such entities exercise a 'slice of state powers'."

In all, the Seventh Circuit was in conflict with this Court, the Fifth, Tenth, and Eleventh Circuits. Respondents were, (1) not exercising federal law correctly; (2) allegedly exercising the Governors' duty enforcing the IAD; and (3) acting without probable cause. Therein, Respondents, judges, are not immune in Petitioner's case, especially when they, "would have understood that what he was doing violated the 4th Amendment." *HOGAN v. CUNNINGHAM*, 722 F.3d 725, 733 (5th Cir. 2013).

(7.) Was the Seventh Circuit in conflict with it's own Circuit's *HANSEN v. BD. OF TRS.*, 551 F.3d 599, 615-16 (7th Cir. 2008), and the Eleventh Circuit's *ABUSAID v. HILLBOROUGH CTY. BD OF CTY. COMM'RS*, 405 F.3d 1298, 1314 (11th Cir. 2005), when both Respondents were part of their respective local governments. Therein, when Respondents were enforcing functions of the IAD via TITLE 18 U.S.C., APPX 252; and §3182 (codified in states: UNIFORM CRIMINAL EXTRADITION ACT), that are reserved for the Governors of that State, are they "persons" for §1983?

In this case, the Seventh Circuit gave the opinion that, "Nevertheless, we agree that dismissal of the complaint was proper. Leaving aside the problem of seeking damages from an entity of the state, which is not a "person" under §1983...." See (Appendix A, p.3). First, despite each Respondent, (county judges) are part of the "local governments." *HANSEN v. BD. OF TRS.*, 551 F.3d 599, 615-16 (7th Cir. 2008). They are operating, not in their traditional judicial functions, but performing their respective Governors' duty, therein they are "persons", as a Governor is a "person" under §1983. See the Eleventh Circuit's, *ABUSAID*, *supra*. Therefore, if the Seventh Circuit would have fully complied with existing law, it would not have conflicted with itself and the Eleventh Circuit. Therein, this Court should settle the dispute which involves 48 states and the federal government in Petitioner's case and prisoners in similarly situated issues.

(8.) Was the Seventh Circuit in conflict with this Court's *HARDIN v. STRAUB*, 490 U.S. 536, 539 (1989), and Congress' §1983 reliance on the state's interpretation of the statute-of-limitations, namely Wisconsin and Arizona's 20 year tolling for judgments/decrees rendered by judges because of fraud?

This Seventh Circuit, in this case, gave the opinion that "... Newson cannot state a claim under §1983 for the wrong he alleges - one that took place decades ago", see (Appendix A, p.3). This Court's *HARDIN v. STRAUB*, 490 U.S. 536 (1989), expresses §1983's lack of a statute-of-limitations. This §1983's directive is to rely on the respective States' statute-of-limitations, thus again contrary to this Seventh Circuit's decision. The Seventh Circuit allege that: "Almost twenty years after his conviction, he sued ..." see (Appendix A, p.1-2). Respondents respective States' statute-of-limitations for a judge's judgment/decrees, in Wisconsin and Arizona is 20 years. Not only was this Seventh Circuit out of touch with the facts and law, but in conflict with this Court. The Court should settle this because of the importance to Petitioner and others similarly situated.

(9.) Was the Seventh Circuit in conflict with the Fourth Circuit's *UNITED STATES v. TAYLOR* (citation omitted), and this Court's *COLEMAN v. TOLLEFSON*, 135 S.Ct. 1759 (2015), when Petitioner paid the filing of his complaint and appeal, did not incur a "strike" for PLRA purposes under 28 U.S.C. §1915, in the District Court, but the Seventh Circuit gave Petitioner "two strikes." Therein, the Seventh Circuit is in conflict with this Court, and this is of national importance, important to Petitioner, and others similarly situated, which this Court should settle this interpretation of federal law?

On February 26, 2019, Petitioner filed a Breach of Contract lawsuit and paid the \$400 filing fee for the complaint to the United States District Court for the Eastern District of Wisconsin. See (Appendix B, p.1). On February 28, 2019, the District Court held: "It is therefore ordered that this civil action is DISMISSED for failing to allege facts establishing that this court has subject matter jurisdiction over Plaintiff's state

law claims. Because this matter is dismissed for lack of subject matter jurisdiction, Plaintiff does not incur a "strike" under 28 U.S.C. § 1915(g). (Id., at p.3). Petitioner's reconsideration was unsuccessful as well. See (Appendix C).

Petitioner appealed to the Seventh Circuit, paid the \$505 filing fee, and briefed two issues. On November 25, 2019, pertaining to the two briefed issues, the Seventh Circuit held: "Newson is correct that a court can cure jurisdictional defects by dismissing non-essential parties..." See (Appendix A, p.2). Also, the district court was therefore incorrect to state in its order on reconsideration that Newson's complaint "raised no constitutional questions or questions of federal law." (Id., at p.3).

After the Seventh Circuit gave several reasons for denying Petitioner's appeal and rehearing, see (Appendix A and C), not expressed by issues presented, that court, in conclusion held: "We assess Newson with one 'strike' for filing his complaint and a second for pursuing this appeal. See 28 U.S.C. § 1915(g); *ELANN v. THATCHER*, 819 F.3d 940, 992 (7th Cir. 2016). Although he did not proceed in forma pauperis in the district court or in this court (where he paid the filing fee after the appeal was certified to not be in good faith), he is a "prisoner" within the meaning of § 1915(h) and therefore can incur strikes to deter groundless litigation in the future. The judgment is AFFIRMED." see (Appendix A, p.3). Petitioner, strongly disagrees that the action was a groundless litigation, especially since no adversary, no hearing, and no reaching of the merits were properly reached.

The Fourth Circuit concluded, "that a district court's dismissal of a prisoner's complaint does not, in an appeal of that dismissal, qualify as a 'prior' dismissal" for PLRA purposes. Therefore, Taylor was allowed to proceed in forma pauperis." See *UNITED STATES v. TAYLOR* (citation omitted). This Court's *COLEMAN v. TOLLESON*, 135 S.Ct. 1759 (2015), relied on by the Fourth Circuit, in that case, suggest that the PLRA does not prevent in forma pauperis appeal of case that resulted in third strike. Id.

In Petitioner's case, the District Court did not give paying Petitioner a strike period. Again, paying Petitioner presented several issues on appeal, which were conceded by the Seventh Circuit to be correct. Without any service of Respondents, nor any hearing on the merits, nor any competent chance to amend or respond before unduly decision-making by the lower federal courts. Petitioner should not have to incur any "strike", let alone "two strikes" when the appeal should not count as a "strike" according to this Court's *COLEMAN*, supra. Especially, as pointed out in this Writ of Certiorari, Petitioner's action was not frivolous. It is of national importance that the federal statute is uniformly interpreted. The Fourth and Seventh Circuits should not be ruling differently on the same set of circumstances under the same statutes. Every prisoner, similarly situated, thus being categorized under the PLRA, should firmly have, under the First Amendment's

right to petition for redress, with the Fourth, Fifth, Thirteenth, and Fourteenth Amendments rights to due process. To unfairly trump "strikes" up and deny a prisoner redress, with no explanation of the proper standard of law and facts. Or, as in TAYLOR, supra, to have multiple suits in motion, and be denied to appeal those three suits, is the procedural maze, barrier and denial of constitutional rights that this Court should settle in this country. This Court's precedent, speaks to the Seventh Circuit's omission and commission, according to TURNER v. OHIO, 273 U.S. 514 (1926), declared: "The courts cannot declare a policy different from that fixed by legislature. ALLEN v. SMITH, 84 Oh. St. 283; VIDAL v. GIRARD'S EXECUTORS, 2 HOW. 128; DEWEY v. UNITED STATES, 178 U.S. 510." Id.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Rafeal Dashawn Newton

Date: June 3RD, 2020