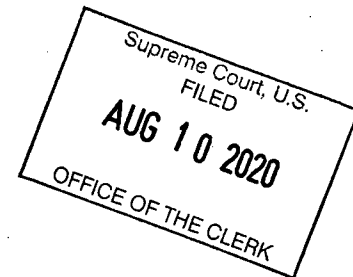


No. 20-5482

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

MARVIN ARIDO - SORRO — PETITIONER
(Your Name)



vs.

David Shinn — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The United States District Court - Arizona
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MARVIN ARIDO - SORRO

(Your Name)

ASPC-Tucson/Winchester Unit
P.O. Box 24401

(Address)

Tucson, Az 85734

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. Did the United States District Court Deprived The Petitioner Access To The Courts and to State a Claim When it Departed From the Accepted and Usual Course of Judicial Proceedings And in Way That's Conflict With Federal Law Questions.
2. Did the United States District Court Deprived The Petitioner of His Procedural and Substantive Due Process When It Failed to Give Proper Notice And Conclusion, Facts and Law on The Merits Contrary To Federal Law, The Constitution and Previous Rulings By This Court.
3. Arizona is Without Authority to Exercise It's Jurisdiction over the Petitioner Because Arizona is Prohibited From Having Slaves Which Shall be Settled By This Court.
4. The Unlawful Commitment to Incarceration of The Petitioner was in Violation of The Fourth Amendment's Due Process Clause. And the Applicant was Prosecuted Without Probable Cause, Violating Ariz. Const. Art II, Section 30.
5. ("[W]hen an individual is... deprived of his freedom by the authorities in any significant way and is subjected to questioning, the privilege against self-incrimination is jeopardized").

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 - • The State of Arizona,
Arizona Attorney General, Mark Bronovich
Pima County Attorney, Barbara Lawall
- 2 - • Doug Ducey:
1700 W. WASHINGTON STREET
PHX. AZ 85007
- 3 - • DAVID SHINN, DIRECTOR OF THE ARIZONA DEPARTMENT OF
CORRECTION.
- 4 - • HONORABLE JANEL EIKLEBERRY
PIMA COUNTY SUPERIOR COURT Judge
- 5 - • TUCSON POLICE DEPARTMENT
270 S. STONE AVENUE.
TUCSON. AZ 85701
- 6 - • PROBATION COURT EMPLOYEE ARIZONA SUPERIOR COURT
110 W. CONGRESS, 9TH FLOOR (OFFICER DALY-PERRY-THOMAS)
TUCSON. AZ 85701
- 7 - • STATE BAR OF ARIZONA
4201 N. 24TH STREET Suite 100
PHX, AZ 85016
- 8 - • COMMISSION ON JUDICIAL CONDUCT
1501 W. WASHINGTON STREET, Suite 229
PHX, AZ 85007
- 9 - • MARANA POLICE DEPARTMENT & ATF
OFFICER NICHOLAS JOHN GOMEZ.

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 AA to the petition and is

☐ reported at JUN 11-20; 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 B2 to the petition and is

☐ reported at 10-31-19; 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 C2 to the petition and is

☐ reported at JULY 02, 2018; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the ARIZONA SUPREME court appears at Appendix D3 to the petition and is

☐ reported at APRIL 12, 2018; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

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EXHIBIT 02

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JURISDICTION

[] For cases from **federal courts**:

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

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

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

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

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

[] For cases from **state courts**:

The date on which the highest state court decided my case was _____.
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

UNITED STATES CONSTITUTION

FOURTH AMENDMENT

FIFTH AMENDMENT

FOURTEENTH AMENDMENT

THIRTEENTH AMENDMENT TO THE U.S. CONSTITUTION

SIXTH AMENDMENT. 8TH AMENDMENT

ART II SECTION 30. / ART 6 SECTION 14 / ART VI SECTION 1.

ART IV SECTION 32 (C) / ARTICLE III. U.S. CONST.

ARIZONA CONSTITUTION. ARTICLE II, SECTION 8.

6TH, 4TH, 5TH, AND 14TH AMEND. U.S. CONST, DUE PROCESS,
ARTICLE II, SEC. 8 AND 10 ARIZONA CONSTITUTION.

4TH, 5TH, AND 14TH AMEND. U.S. CONST, DUE PROCESS, ARTICLE II,
SEC. 8 AND 10 ARIZONA CONSTITUTION.

1. ON JUNE 20, 2015 DEFENDANTS OFFICER BOGGIE, OFFICER
~~DATA~~ COLLINS, OFFICER JENSON AND OFFICER WILLIAMSON OF THE
TUCSON, AZ POLICE DEPARTMENT, DIRECTLY AND OR INDIRECTLY
AND WITH "DELIBERATE INDIFFERENCE" ENTERED HIS HOME WHILE
HE CLEARLY ATTEMPTED TO INVOKE HIS RIGHTS AGAINST A
WARRANTLESS SEARCH.

2. EACH OF THESE DEFENDANTS VIOLATED THE PLAINTIFF RIGHTS
UNDER THE 4TH AND 14TH AMENDMENTS OF THE U.S. CONSTITUTION
AND ARTICLE II SECTION 8 OF THE ARIZONA CONSTITUTION WHEN
THEY COLLECTED SO CALLED EVIDENCE FROM THAT WARRANTLESS
SEARCH OF PLAINTIFFS HOME.

3. WHEN THE PLAINTIFFS NOTICED THE DEFENDANTS ATTEMPTING
TO ENTER AND SEARCH HIS HOME ON JUNE 20, 2015, HE CLEARLY
TOLD THEM HE LIVED THERE AND DID NOT WANT THEM TO SEARCH
WITHOUT A SEARCH WARRANT.

4. THESE DEFENDANTS USED ON A FALSE PRETENCE STATING THEY
WERE CONDUCTING A "PROTECTIVE SWEEP OF THE HOME IN ORDER TO
GAIN ENTERANCE THAT WAS NEEDLESS BECAUSE.

1 They had no Reason To Believe That There Were Any
2 Other Occupants in The House. (5) Def. Collins
3 Had Already Spoken To The Other Person Who Lived
4 With The Plaintiff and Took a Statement. "Thus" he
5 must have been aware that only 2 people were in
6 The House and at that neither one was inside -
7 (6) This violates The Plaintiff's Rights under the 4th
8 Amendment, Pursuant to Georgia v. Randolph, 547
9 U.S. 103 (2006). Police may not search a home with
10 The consent of one occupant when the other occupant
11 is present and objects to the search. (7) Plaintiff,
12 who was accused of a crime was protected from self
13 incrimination by the 5th and 14th amendments of the
14 U.S. Constitution and Article II, Section 10 of the AR.2. ~~Constitution~~
15 Once the accused invokes his rights to remain
16 silent or the right to have a attorney present
17 during questioning, "that invocation must be scrupulously
18 honored". (8) Def. Officer Jensen advised Officer
19 Bobbie of the fact that he'd read Plaintiff's Miranda⁵
20 rights and of the fact that Plaintiff did not want to
21 speak to them without a LAWYER. Def. Bobbie
22 Reinitiated contact with the Plaintiff in a manner
23 that coerced him into a custodial interrogation
24 as in Edwards v. AR.2, 451 U.S. 477 (1981) intentionally
25 violating Plaintiff's rights. (9) Each defendant
26 acts under the color of state law and in
27 their individual and official capacities, knew
28 or should have known directly and indirectly

1 That They were violating The Plaintiffs Constitutional
2 Rights With "Deliberate Indifference" When Their
3 Conduct Which Was Not invited By The Plaintiff
4 Resulted in Prejudicial and Fundamental unfairness
5 That violates due Process and Prejudices Plaintiff.

6 (10.) The Def. City of Tucson and its Police Dept.,
7 and Def. PDL insurance company which is so
8 Believed to be under contract with The Defendants
9 are sued Through The Official Capacities of Each
10 Named Def. Because They are responsible For Their
11 Training, Policies and Procedures and Actions Per
12 Protocol That led To The Violations of Plaintiff
13 Rights By its Officers.

14 11. Each of These Defendants Acts in Concert
15 of Acts, Omissions, Policies and Practices That did
16 Violate The Plaintiffs Rights Collectively and Each
17 defendant Acts under color of State Law and in
18 Their individual & official Capacity, directly and or
19 indirectly knew or should have known That Their
20 actions or Failure to Act Prejudiced the Plaintiff
21 and Their ERRORS went To The Foundation of The
22 Plaintiffs case as A Defendant. The Rights were so
23 Essential To his defense and was of such magnitude

24 That he Could not Possibly have Received A Fair Trial.
25 GOMEZ V. CITY OF NEW YORK, F Supp. 3d, 14 CV. 2026, 2016 WL 259-1833, AT
26 See EDWARDS V. ARIZONA, 451 U.S. 477 (1981), ARIZONA V. ROBERSON, 486
27 U.S. 675, 682, 108 S. CT. 2093, 100 L. Ed. 2d 704 (1988), MINNICK V. MISSISSIPPI, 498 U.S. 146,
28 153, 111 S. CT. 488, 112 L. Ed. 2d 489 (1990). See McNEIL, SUPRA, AT 177, 111 S. CT. 2204
MIRANDA, 384 U.S., AT 456-457, 86 S. CT. 1602; See MARYLAND VS SHATZER,
559 U.S. 98 (2010); MONTEJO VS. LOUISIANA, 556 U.S. 778, 129 S. CT 2079, 173 L. Ed. 2d 955
(2009); Michigan vs. JACKSON, 475 U.S. 3. B.
625, 636, 106 S. CT. 1404, 89 L. Ed.
2d 631 (1986).

STATEMENT OF THE CASE

Petitioner was found guilty by a jury panel of aggravated assault with a deadly weapon (frying pan) and two other related offenses. Trial Counsel filed a timely notice of appeal October 19, 2016. Subsequently, Arido-Sorro filed a notice of post-conviction relief (PCR). On October 24, 2016. The court appointed counsel, Emily Danies to represent Arido-Sorro October 27, 2016.

Immediately, without Consultant Arido-Sorro, Counsel filed a motion to stay the premature PCR action pending resolution of direct appeal and the trial court granted the motion. See Appx. Petitioner contends this stands in violation of the Sixth (Right to fair trial by competent representation) and the fourteenth (Due process of the law, the right to notice and to be heard at a meaningful time, and equal protection) Amendments to the United States Constitution.

Arizona Revised Statute and Arizona Rules of Criminal Procedure 32.4(D) provides that notice for Post-Conviction-Relief must be filed 90 days after the entry of judgement or sentence or no later than 30 days after the issuance of the order and mandate. So the petitioner notice was not premature for he filed his notice 4 days after sentencing and judgement.

For counsel to submit a motion to stay the Post-Conviction Relief proceedings and without consultant the Petitioner, stands in violation of Arido-Sorro Constitutional rights. This denied him due process and equal protection of the law and more importantly, his protection to the Thirteenth Amendment to the U.S. Constitution. States are prohibited from having slaves unless a person have been "duly" convicted of a criminal offense. At this stage of the proceedings, Arido-Sorro conviction was not finalize, so he's not "duly" convicted.

Arido-Sorro filed a timely Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254(d) July 14, 2016. He asserted that the trial committed fundamental and prejudicial error by allowing 1) evidence collected and introduced at trial was based on an illegal warrantless search, 2) the use of his testimony that he had timely objected to the search of his residence (Note: Arido-Sorro was already in handcuff and secured, and posed no danger to the officers at this point), 3) statements introduced at trial after he have exercise his right to remain silent was unconstitutional. see Appx Affidavit of complete details.

February 6, 2019, two and a half years later

the state answered Arido-Sorro petition. This lapse in time prejudiced the petitioner and delayed justice. Accordingly, the state contested every issue Arido-Sorro raised in his petition. October 31, 2019, the District Court Magistrate filed it's Report and Recommendation. The Magistrate agreed with the state and denied petitioner relief. See Appx

In the state answer to Arido-Sorro petition and in the Magistrate Report & Recommendation, either one argued or disputed that Arido-Sorro should be denied a Certificate of Appeal. See Appx and

Petitioner filed notice of Certificate of Appeal after the District Judge denied him a Certificate of Appealability for failing to object to it in his filed objections to the Magistrate Report & Recommendation of denying him a Certificate of Appealability. Petitioner contends that he objected to every recommendation in the magistrate report and no recommendation on the Certificate of appealability was rendered. The District Judge erroneously and abused its power when it opposed it's own findings.

When the Petitioner filed for a Certificate of

Appealability with the United States Appeal Court, 9th Circuit, and the court denied it pursuant to 28 U.S.C. § 2253(c)(2) and *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003), the court erred and made it its own pleading. See Appx. The court gave no further explanation or conclusion of law.

Miller-El v. Cockrell, *supra* holds that in resolving a case where an appellate initiate a Certificate of Appealability after dismissal of his petition, the court of appeals should limit its examination to a threshold inquiry into the underlying merits of such claim. The Magistrate duty is to prepare a Report & Recommendation for the federal district court judge. To preserve the right to appeal on adverse ruling, the petitioner must object to the magistrate Report & Recommendation pertaining to the Certificate of Appealability. 28 U.S.C. § 2253 provides that the court shall make a determination to every issue on Certificate of Appealability. If not, it did not deny the appellate his right for Certificate of Appealability to the issue if made no determination. Here, the magistrate made no determination on any issue concerning the Certificate of Appealability. Therefore, the appeal court erred and stands in violation of *Ando-Sorro* due process and right to notice rendering fundamental unfairness.

LEGAL AND CONSTITUTIONAL LAW/STANDARDS

Did The United States District Court Deprived the Petitioner Access To The Courts and To State a Claim When it Departed From the Accepted and Usual Course of Judicial Proceedings and in Way that's Conflict With Federal Laws

The United States Constitution requires the states to afford their prisoners some form of collateral attack and review of their convictions and sentences that encompasses claims of federal constitutional error. *Case v. Nebraska*, 381 U.S. 336, 337 (1965). This right is protected by the Fourteenth Amendment to the U.S. Const. which guarantee this due process and a Substantive right.

Broadly speaking, the phrase post-conviction relief could refer to any reversal of a criminal conviction, or reduction in sentence. Under such a broad reading, post conviction relief proceedings would encompass relief afforded by a trial court on a motion for new trial; including the United States Supreme Court reviewing the states and United States District Court rulings in any of these postures. 28 U.S.C. § 2254.

In right of Arizona Rules of Criminal Procedure 32.4(d), the notice of Post-Conviction Relief must be filed either ninety days after the entry of judgement and sentence or thirty days after the issuance of the "final order or mandate by the appellate court," Ariz. R. Crim. P. 32.4(d); State v. Pruett, 912 P.2d 1357, 1360 (Ariz. Ct. App 1995).

Ariz. R. Crim. P. Rule 32 also provides that if a defendant file notice of post-conviction Relief while his direct appeal is pending, the appellate court has the discretion to stay the appeal and to consolidate the post-conviction relief petition and proceedings with the direct appeal. see State v. Sayers, 992 P.2d 612, 613 (Ariz. Ct. App 1999).

In noncapital cases where the defendant was convicted at trial, the notice of post-conviction relief must be filed "either" 90 days after the entry of judgement and sentence or 30 days after the issuance of "order and mandate in the direct appeal," whichever is later. Ariz. R. Crim. P. 32.4. This deadline does not prevent a defendant from filing a Rule 32 notice while his direct appeal is pending. State v. Jones, 897 P.2d 734, 735-36 (Ariz. Ct. App 1995).

The Sixth Amendment to the U.S. Constitution gives a defendant the right to competent counsel representation during all critical stages. Also, it's been held by the

United States Supreme Court that a defendant's communication with counsel is critical to the attorney's representation. *Geddes v. United States*, 425 U.S. 80, 91, 96 S. Ct. 1330, 47 L. Ed. 2d 592 (1976). The importance of communication between attorney and clients is shown by the great length the legal goes... *Swidler & Berlin, et al. v. United States*, 524 U.S. 399, 118 S. Ct. 2081 (1998). Adequate consultation between attorney and client is an essential element of competent representation of a criminal defendant. *Coles v. Peyton*, 389 F.2d 224, 225 (4th Cir. 1968).

28 U.S.C. § 2253 requires that the district court judge rule on every issue pertaining to a Certificate of Appealability. In 2009, the procedure for obtaining a Certificate of Appealability has changed. See Rule 11 of the Federal Habeas Corpus rules. The defendant must object to the magistrate recommendation of denial of Certificate for Appealability.

Under the AEDPA, a state habeas petitioner may appeal a district court's dismissal of his petition only if the district court "or" the court of appeals first issues a COA. *Pippin v. Dietke*, 434 F.3d 782 (CA 5 2005).

In this case, when the petitioner filed a notice of post-conviction relief, it was timely and not

premature. Arido-Sorro had until 30 days after an appellate court mandate was issued. At this point, his direct appeal was still pending. See Ariz. R. Crim. P. 32.4. For the court to appoint counsel to represent him which he did not ask for stands in violation of Arido-Sorro Sixth Amendment right and due process.

There is no Arizona statute or Constitution provision that gives the trial court the authority to grant a stay of post-conviction relief proceedings. Also, counsel should have known this and went beyond her professional duties when she filed a motion to stay the proceedings without consulting the client. Clearly, the counsel and the court was working in the best interest of the state. Making both parties impartial. The court abused its discretion and counsel stands in violation of the Sixth Amendment and due process.

When the district court judge ruled that Arido-Sorro failed to object to the magistrate recommendation to deny a Certificate of Appealability was an erroneous ruling. The Magistrate never recommended that the Certificate of Appealability should be denied for the petitioner to object to. This is in violation of Arido-Sorro due process protection.

The mere fact that the district judge made the

determination that defendant did not object to the magistrate recommendation becomes his argument. He is pleading himself and through himself as an adverse litigant party. He demonstrated the appearance of impartiality and prejudice *Wallace v. Bell*, 387 F. Supp. 3d 728 (E.D. Mich. 2005).

Further, the Supreme Court has held in several cases that the habeas court's commission is not to invent strategic reasons or accept any strategy by any counsel. *Rompilla v. Beard*, 545 U.S. 374, 395-96, 162 L. Ed. 2d 360 (2005). Here, the district Judge has created a strategy for the state's counsel. Failing to object to a magistrate recommendation is a defense. Clearly, a fourteenth Amendment violation.

All Arido-Sorco did was filed a notice that he plan to file for a Certificate of Appealability with the United States Appeal Court, 9th Circuit. He awaits the form packet from the United States Appeal Court so he can effectuate the reasons why a Certificate of Appealability should be issue.

In stead, he got a denial of his motion for Certificate of Appealability from the United States Appeal Court with no facts or Conclusion of law. Arido-Sorco contends he never filed a motion, only a notice,

and denial of such notice, without merits is unconstitutional.
This stands in violation of the Fourteenth Amendment.

For the above reasons, the courts deprived Arido-Sorro of his Constitutional right to access to the courts, to state a claim and to exercise his due process which is binding on the States by the 14th Amendment.

(2) Did the United States District Court Deprived The Petitioner of His Procedural and Substantive Due Process When It Failed to Give Proper Notice And Conclusion, Facts and Law on The Merits Contrary To Federal Law, The Constitution and Previous Rulings By This Court.

Procedural Due Process consist of "notice" and the opportunity for a "full and fair hearing." Procedural Due Process also means the opportunity to be heard by an unbiased judicial platform; especially when the government seeks to deprive a criminal defendant of his liberty.

Morrissey v. Brewer, 408 U.S. 484, 32 L. Ed. 2d 484, 92 S. Ct. 2539, 2600 (1972)

In Kontrick v. Ryan, 540 U.S. 443, 456, 124 S. Ct. 906, 157 L. Ed. 2d 867 (2004), The Supreme Court held that a claim-processing rule requires the objection

of the government. Failure of the government to enter an objection entails a complete forfeiture of any defense on behalf of the government.

The court is required to decide every issue or claim on its merits. A failure to do so mean the Petition was never heard and violates the due process clause. *Miller v. Johnson*, 200 F.3d 274 (2000) and *Marks v. U.S.* 430 U.S. 188, 193, 97 S. Ct. 990, 51 L. Ed. 2d 260 (1977).

In this case, Arido-Sorro filed a notice to the United States Appeal Court his intentions to file a motion for certificate of Appealability. The Court never gave him notice or the proper forms to fill out to file his motion for Certificate of Appealability and^{to} present his claims. This stands in violation of the due process.

Further, the United States Appeal Court gave Arido-Sorro no reason for its denial of Certificate of Appealability. This clearly a procedural due process violation and present fundamental unfairness.

Also, the state never raised or objected to the issuing of Certificate for Appealability. The state failure to do so, which is a defense, entails a complete forfeiture of any defense. The court is prohibited

from making a defense or strategy for the government.

For the above reasons, the court denied the petitioner his procedural protection to proper notice and to rule based on the merits. Accordingly, the courts stands in violation of the 1st, 6th, 10th and 14th Amendments to the United States Constitution.

(3). Arizona is Without Authority to Exercise Its Jurisdiction Over the Petitioner Because Arizona is Prohibited From Having Slaves Which Shall be Settled by This Court.

Prior to the act of Congress of 1793, on February 12th the institution of slavery and the institution of involuntary servitude for prisoners became one and the same. The act of Congress on February 12 of 1793 held within its provisions, on the subject of fugitive slaves, as well as fugitive from justice. Which held where Congress held a Constitutional power to regulate a particular subject, and they do actually regulate it a particular subject, and they do actually regulate it in a given manner, and in a certain form it, cannot be that the state legislature, have a right to interfere. This doctrine was fully recognized in the case of *Houston v. Moore*, 5 Wheat. 1, 18 U.S. 21-22, and in *Sturgis v. Crowninshield*, 4 Wheat, 122, 17 U.S. 193.

With the mandates of the 13th Amendment, it can only be held that Congress must be the controlling authority in the duly conviction process of those who are punished in the form of slavery or involuntary servitude, for a crime. The right and the duty must be coextensive and uniform in remedy and operation throughout the whole union. Which in turn would finally end the theory of popular sovereignty, in which the country has become accustomed to. Unknowingly making these small confederate agreements, in violation of the Constitution's Prohibitions on the States.

With Arizona enacting and promoting laws accordance to Proposition 122, We can begin to have a discussion that Full Faith and Credit should not be given to the State's Judicial process, public records keeping and other acts of Government, because to create a Bill or Proposition in which the State can withhold's personnel from acting in accordance with any Federal Program or with the Constitution. Because of this, Arizona automatically loses it's ability to correct its error in law. And has shown that to seek redress within its judiciary and that of it's district court. But is for Arizona, would obviously be futile. And with the 9th Circuit not being able to effectuate it's rulings on Arizona. Only leaves the Supreme Court to be the venue which the defendant has left before the judiciary no longer becomes an option.

(4.) The Unlawful Commitment to Incarceration of The Petitioner was in Violation of The Fourth Amendment's Due Process Clause. And the Applicant was Prosecuted Without Probable Cause, Violating Ariz Const. Art II Section 30.

According to the Fourth Amendment, no warrant shall issue, but upon probable cause, supported by Oath or Affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

When a person is arrested without warrant, "a policeman's on the scene assessment of probable cause provides legal justification for arresting a person suspected of a crime, and for a brief period of detention to take administrative steps incident to arrest." *Gerstein v. Pugh*, 420 U.S. 103, 113-14, 95 S. Ct. 854, 43 L. Ed. 2d 54 (1975). In order to hold a suspect beyond the brief period required for administrative steps, "The Fourth Amendment requires a judicial determination of probable cause." *Id* at 114, 95 S. Ct.

With Arizona, a magistrate is permitted to perform the probable cause hearing, which violates due process of the Fourteenth Amendment as well as violates the service of process. By Arizona's Constitution Article 6

Section 17, only by order of the Superior Court shall a Grand Jury be drawn or summoned. This is primarily because only the Superior Court can establish that a suit is or is not within its jurisdiction.

However, Arizona has envolved its rights under its Unconstitutional act, Proposition 122, and in doing so has created 16 A.A.S. Rules of Crim. Proc., 5.4. This permits the determination of probable cause to be found by a magistrate of a lower court, who in turn bounds the matter over to Superior Court. This stands in violation of Ariz. Const. Art. 6 Section 14, which holds that only the Superior Court has jurisdiction of criminal cases amounting to a felony.

With the Superior Court having original jurisdiction of felony cases, The Magistrate finding of probable cause was insufficient at law to convey that the applicant was in fact guilty of any wrong doing. The magistrate jurisdiction does not extend to matters of felony. And because of that, the determination of if rather or not a felony crime had been committed is not within the court's pure-view, violating the process of the Arizona's Constitution, art. II § 30 and Arido-Sorro due process protection to the Fourteenth Amendment to the U.S. Const.

Magistrate are justice court judges. And by Ariz. Const. art. IV § 32(c), the criminal jurisdiction of courts inferior to the superior court shall be limited to misdemeanor. Even justice courts are limited to misdemeanor. With no jurisdiction being established by the Ariz. Const. art. VI § 1, Justice courts and its magistrates are without power to hold a probable cause hearing on felony matters.

("[W]hen an individual is... deprived of his FREEDOM by The AUTHORITIES IN ANY SIGNIFICANT WAY AND is subjected to QUESTIONING, The PRIVILEGE AGAINST SELF-INCRIMINATION is Jeopardized").

OFFICER WILLIAMSON WENT TO THE HOSPITAL 06/20/2015 TO CONDUCT A TAPED INTERVIEW WITH MARGUERITE. NO RECORDS (NOTE:

DR. FIORELLO WAS ONE OF MARGUERITE'S TREATING PHYSICIANS AT THE HOSPITAL, BUT HE HAD NO RECOLLECTION OF THE CASE AND NEEDED TO TESTIFY OFF OF MEDICAL RECORDS ??

REASONS FOR GRANTING THE PETITION

Since the issues presented have such a Constitutional magnitude, and the thirteenth Amendment to the United States Constitution prohibits slavery and involuntary servitude, except as punishment for crime whereof the party shall have been "duly" convicted, shall exist, and Article III, U.S. Const. provides that the judicial Power of the U.S. shall be vested in one Supreme Court and shall extend to all cases in law...

Petitioner not having been duly convicted and is being deprived of Constitutional Rights, with this court being the supreme interpreter of the land and having the power to protect every citizen constitutional right, this court should grant this petition.

"RACIAL CONSPIRACY AGAINST IMMIGRANTS", by STATE & COURT, FRAUD ON COURT, WRONGFULLY CONVICTED,...

"28 U.S.C. § 1746 SUPPORT WITH AFFIDAVIT OF TRUTH FACTS & LAW"? "SUPPORT WITH WITNESS AFFIDAVIT"

"UNREASONABLE SEARCHES AND SEIZURES"?

...CONSTRUCTIVELY AMENDED IN VIOLATION OF FIFTH AMENDMENT BECAUSE CONVICTION UNDER COLOR OF STATES LAW FOR CONSPIRACY TO VIOLATE 13TH AMENDMENT by FORCING PERSON INTO...

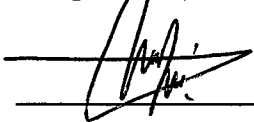
BASED ON THE FOREGOING, THE STATE AND ITS RESPONDENTS CANNOT WIN THIS CASE WITH THE TRUTH, FACTS, AND LAW-ONLY BY FRAUD, AS IT DID IN THE STATE COURTS. THE STATE COURT RECORD ITSELF, REFLECTS FACTS THAT THE STATE KNOWINGLY AND PURPOSELY ENGAGED, NOT ONLY IN IMPROPER ADVOCACY AND MALFEASANCE, BUT UNLAWFUL CONDUCT WITH MALICIOUS INTENT, FROM FALSEHOODS AND A FICTIONAL NARRATIVE. THE ENTIRE RECORD PERMEATES WITH CIVIL RIGHT AND HUMAN RIGHT VIOLATIONS BY THE STATE OF ARIZONA PREDICATE ON RACISM, BIGOTRY, AND XENOPHOBIA

PETITION MARVIN ARIDO RESPECTFULLY WITH A FULL, COMPLETE, AND TOTAL EXONERATION OF ALL CHARGES IN IMMEDIATE RELEASE FROM STATE CUSTODY, AND ANY OTHER APPROPRIATE RELIEF THIS COURT FINDS AT ITS DISCRETION, IN THE INTERESTS OF JUSTICE

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 07/25/20

Because of all the evidence found, illegally in the home, I.d. (Appendix-Exh. #1, encl. #2, at pg #13), Petitioner did not receive a fair trial.

He was prejudiced by these illegal admissions of this evidence. The states adjudication of this claim resulted in an unreasonable determination of the facts as presented in the State Court proceedings, I.d. "Trial," "Appeal", and resulted in a decision that was objectively unreasonable application of Federal law as is enumerated in United States-v-Leon, supra; and United States-v-Tanis, supra; Maryland-v-Burke, supra; Coolidge-v-New Hampshire, supra; Georgia-v-Randolph, supra; Fernandez-v-California, supra; United States-v-Johnson, supra; U.S. Const. Amend. 4, 5, 8, 14, B, thereby warranting habeas relief. IN UNITED STATES-V-BAGLEY HALL-V-DIRECTOR OF CORRECTIONS (UNITED STATES-V-LAPAGE)

B) Contrary To the State Courts Ruling, the State Court Ruled Incorrectly to Standards of Review and MR. Arido-Sorro's 5th, & 14th Amendment to United States Constitution were Violated when Constitutional-fundamental Error Resulted were Officer Boggie had Reinitiated Contact with "Arido-Sorro" in A manner that 'Goaled', & Coerced him in to a custodial Interrogation in violation-
(BRADY AND Giglio.)

- of Edwards-v-Arizona, 451 U.S. 477 (1981);
Miranda-v-Arizona, 386 U.S. 436 (1966).

MILKE V. RYAN, 711 F.3d 998 (9TH Cir. 2013) Judge Kozinski ordered

Material Facts.

The defense (Trial attorney) filed a pre-trial motion 'in limine' seeking preclusion under Ariz. R. Evid. 403, "a statement to police by 'petitioner' that police would not be able to speak to 'Marguerite' because he was going to kill her", on the ground that its meaning was equivocal and its admission would cause the jury to convict based solely on that statement. See, (R.T. 9/13/16 at 9 and See the State Record on Appeal at 91). (TITLE 18 USC. § 1509 OBSTRUCTION OF COURT ORDER) No. (19-382) The State prosecutor argued that it was not unfairly prejudicial, just because it was harmful to the defense. Id. R.T. at 9-10. The Court agreed with the State that the statement could be admitted; 'the Court found that the statements were not in response to any questioning, but were volunteered, were statements against interest and of intent, and not unfairly prejudicial; but the State agreed to avoid introducing the statements, "you'll deal with my lawyer" Id. R.T. at 10;' -

*1020 OF VIOLATING THE FEDERALLY PROTECTED RIGHTS OF ARIZONA RESIDENTS. PURSUED TO AMENDMENT XIII. (19)

See also, (R.O.A. "State Court" Lima County, pg #2

and Barz. R. Crim. P. 15.)

Officer Bogie was called to testify at trial, about the exchange he had with the petitioner, who he identified at trial as the defendant. I.D. 9/13/16 at 94-95.

At the time of the incident in question, when officers were entering into petitioner's home, petitioner (Marvin) "said it violated his rights by entering his home." I.D. at 95. After officers had entered the home without consent, petitioner said to "Bogie" he wanted his badge number and "I'll have your job" Bogie told petitioner "he was not a tough guy for beating his girlfriend." I.D.

Petitioner then replied, "your lucky she's even still here ... when I get out I'm going to kill her and you won't be able to talk to her then." I.D. at 97.

Bogie had also testified that officer Tensen had told Bogie that "Marvin" - "petitioner had been read the 'Miranda' - warnings and petitioner 'didn't want to speak to us'." I.D. at 103. Brady v. Maryland 373

U.S. 83, 83 S.Ct. 1194 (1963); Balistreri v. Pacifica Police Dept., 901 F. 2d 696, 699 (9th Cir. 1988) UNITED STATES v. Bagley, 473 U.S. 667, 105 S. Ct. 3375, 87 L. Ed. 2d 482. (Brady) or (Giglio) (Milke v. Ryan, 711 F.3d)

See also (Appendix, Exh. #1, encl. #3, excerpt A, 1-
pg. Motion In limine #2, excerpt B, min. entry, 9-
14, 2016 with reply pg. comment). The Reply
brief also as (Exh. #1, encl. #4). I.d. Reply
at pg. #11, to pg. #12 (ALCORTA-V-TEXAS, 355 U.S. 28, 78 S.Ct. 103,
2 L.Ed. 2d 9 (1957)); KYLE, 514 U.S. 434, 115 S.Ct. 1555.

Standard of Review

PLYE-V-KANSAS, 317 U.S. 213, 63 S.Ct. 177, 87 L.Ed. 214 (1942).

See (Exh. #1, encl. #2 - brief I.d. at 915,
supra); "[A] Defendant in a criminal case is
deprived of due process of law if his conviction
is founded, in whole or in part, upon [a]
involuntary statement (confession), without
regard for the truth or falsity of the confession,
(citation omitted) and even though there is
ample evidence aside from the confession to
support the conviction." Jackson-v-Denno, 378
U.S. 368, 84 S.Ct. 1774, 1780 (1964). "[A]-
confession or statement is involuntary
whether coerced by physical intimidation
or psychological pressure." Townsend-v-
Sain, 372 U.S. 293, 307, 83 S.Ct. 745, 754
(1963). Subtle psychological coercion
suffices as well and at times is more
effectively used to overbear 'a rational
intellect and a free will'." Mallory-v-
Hogan, 378 U.S. 1, 7 (1964). See (Phillips-V-Woodford,
267 F.3d 966, 984-85 (9th Cir. 2001) (citing NAPUE, 360 U.S. 269, 79 S.Ct. 1173

See also, Edwards-v-Arizona, Supra; and Miranda-v-Arizona, Supra; Michigan-v-Mosley, 423 U.S. 96, 104 (1975); Oregon-v-Bradshaw, 462 U.S. 1039, 1043-44 (1983). MILKE.V.RYAN.711F.3d 998(9TH CIR.2013); MINNICK, SUPRA Law, Argument

This Federal argument was addressed in opening brief in state Court at (Exh. #1, encl. #2, pg #13 to pg #16) and is addressed in context herein with this Court on habeas review.

An accused is protected from compelled self-incrimination by the Fifth and Thirteenth & Fourteenth Amendments to U.S. Constitution, and Art. II, § 10, of Arizona Constitution. Once the accused invokes the "right to remain silent or the right to have an attorney present during questioning, that invocation must be scrupulously honored." Michigan-v-Mosley, Supra. In Edwards-v-Arizona, the Court, "emphasized that it is inconsistent with Miranda and its progeny for authorities, at their instance, to reinterrogate an accused in custody if he has clearly asserted his right to counsel". If the accused reinitiates the communication-

- however, then police may begin questioning the accused. Id. at 484-85; Oregon - v - Bradshaw, 462 US 1039, 1043-44 (1983).

Officer Boggie testified that 'Miranda' warnings had been read and petitioner invoked his rights. "Officer I've's rebuttal testimony covered statements made (and not made)" by petitioner during his lengthy interrogation, but none of this was introduced in the State's case in chief.

This suggests that petitioner's invocation had not been honored and that the State implicitly conceded a 'Miranda violation had occurred'. See, Harris - v - New York, 401 U.S. 223, 225-26 (1971), 'Statements ruled inadmissible in case in chief due to Miranda violation can be used to impeach defendant who testifies differently at trial'.

Without an evidentiary hearing to determine whether any of petitioner's statements were in fact voluntary, there is only so much he can do to challenge the admission of his statements on appeal. Here, the state did not wait until petitioner testified to introduce his statements to Boggie in its case in chief.

On its face, the circumstances of the exchange between Boggie,^e petitioner -

- overwhelmingly prove an Edwards violation.

It may be true that petitioner said something to 'Boggie' after invoking his Miranda rights, but that is not the dispositive fact. The trial court was supposed to look at the circumstances surrounding petitioner's calling out to the officer's, and determine whether he was looking to reinitiate interrogation and whether he was willing to waive the rights he had already invoked. Bradshaw, 462 U.S. at 1046. "No waiver of the request for Counsel will be found where police had actively rises to level of actual questioning, or its functional equivalent, which the interrogator should know is likely to elicit an incriminating response. State-v-Jones, 203 Ariz. 1, 915, 49 P.3d 273, 278 (2003), citing, Rhode Island-v-Innis, 446 U.S. 291, 300-01 (1980). BRISTOL-V-CHEATHAM, 75 ARIZ 227, 234, 255 P.2d 113, 177 (1953). In this case, petitioner's statement (s) to 'Boggie' to prevent officer Boggie from violating petitioner's right to privacy in his home.

Petitioner's statements were not an invitation to be interrogated any more than it would be a re-initiation if an officer was hitting a detainee and the detainee begged officer's to stop. Boggie, then did not ask petitioner if he 'now' wished to speak to police, -

- instead, Boggie 'goaded' him (petitioner) into making further statements by challenging his manhood. Boggie's statements was designed to elicit a response from petitioner.

These errors were fundamental & prejudicial to petitioner. Henderson, supra; Malloy, supra; and Denno, supra; Townsend-v-Sain, supra.

Allowing statements to be said at trial went to the foundation of the case because they portrayed petitioner as a "Homicidal" maniac who had an opportunity to calm down and yet still flew off the handle about killing his X-girl-friend, who lied about having HIV (AIDS) in these matters.

Based on the record of the case, Actions to prevent this to the Court, safeguards were ignored by trial counsel and this Judge at trial constitute fundamental - Constitutional - miscarriage of justice, were the Court based on this could have, at trial easily recognized the Edwards rule; but counsel's failure to raise these claims appropriately in a motion to suppress - not a motion in limine; - were the Court would see, ruling sua sponte that petitioner's statements were not in response to a line of questioning. MINNICK, SUPRA, AT 151. 1115. CT. 486

The state Court's review of this claim resulted in a decision that was based on an objectively - unreasonable determination of facts in light of the evidence presented in the state Court proceedings; -

- and resulted in a decision that was contrary to, or involved an unreasonable application of clearly established Federal law as is enumerated in Edwards-v-Arizona, supra; Miranda-v-Arizona, supra; Jackson-v-Denno, supra; Townsend-v-
-Sain, supra; Malloy-v-Hogan, supra; and Michigan-v-Mosley, supra; Bradshaw, supra; Rhode Island-v-Innis, supra. BRADY-V-MARYLAND

Therefore, based on the foregoing, this Court should warrant habeas relief accord the 4th, 5th, 14th Amendment to the United States Constitution.

C) Contrary to the State Courts Ruling, the State Court Ruled Incorrectly to standards of Review were fundamental Error resulted from State's Introduction of Evidence that petitioner Invoked rights afforded to him against a warrantless Search of his home in violation of his right to due process; were his invoked rights not to speak with Police without an Attorney present - violating Federal law in Doyle-v-Ohio, 426 U.S. 610 (1976).

Material Facts

As is stated above in § A, pg #12 to pg #18 - at § B, to pg #26-top of, Officer Boggie testified that petitioner "called out to him to stay out of his house", Petitioner said it violated his rights by -
(26)

- (Police) entering his home". R.T. 9/14/16 at 95.
on cross-examination Boggie admitted to the
issues - he "knew petitioner was mirandized and
thereafter - within 7-minutes alerted Police not
to enter his home." I.d. at 103. This did not
matter to Police, they went in, ^G searched the
home anyway. The STATE'S ACTIONS VIOLATED ARIDO'S
CONSTITUTIONAL RIGHTS FIRST UNDER NAPE, BY PRESENTING FALSE EVIDENCE
Standard of Review.

WHAT HAPPENED HERE IS MORE AKIN TO ACTIVE CONCEALMENT. FRAUD
Because no objection was made to introduce
evidence, calling to the attention of the jury that
defendant-petitioner invoked his Fourth/Fifth
Amendment rights, it is reviewable under [2]
Fundamental - Constitutional error format. See,
Brecht-v-Abrahamson, 507 U.S. 619, supra (1993),
"Habeas Relief Automatically Granted based on -
- 'Structural Defects' " I.d. above on pg #7, § 6)
to pg #9. See also, State-v-Stevens, 228 Ariz. 411,
417, ¶ 16, 267 P.3d 1203, 1209 (2012). See 18 U.S.C.A.
§ 241, CONSPIRACY AGAINST RIGHTS. See TITLE 18 U.S.C.A. § 242 & 243
Law, c Argument

It has been the law of the land (United -
States) for forty years that an invocation of
the right to remain silent cannot be used at
trial to substantively impeach a defendant or
otherwise to show defendant's guilt. Doyle-v-Ohio,
426 U.S. 610 (1976).

This Issue was raised, exhausted in State Court and denied based on abuse of discretion in the trial court, (see also memorandum Decision - attached to form filed concomitantly with this brief in Support. I.d. (Exh. #1, encl. #2, pg #17 to #22).

In Arizona, the Court of Appeals had extended the 'Doyle Rule' holding that the State violates a defendant's due process right under Fifth & Fourteenth Amendments when it uses defendant's invocation of his constitutional rights to be free from unlawful search and seizures under the Fourth Amendment as evidence of guilt at trial. See, State-v-Palenkas, 188 Ariz. 201, 203, 933 P.2d 1269, 1271 (App. 1996).

When a State uses the evidence to infer guilt, it results, "in prejudicial, fundamental-unfairness", and is considered a fundamental-error, requiring a new trial. I.d. State-v-Stevens, 228 Ariz. 411, 417, 911 P.2d 1203, 1209 (2012). As stated above, this issue was developed by petitioners attorney, raising constitutional-State & Federal claims in violations, I.d. (Exh. #1, enclosure #2, pg #18 to pg #19).

As it was done here in this case at trial, the State allowing the refusal to consent to a warrantless search as evidence of guilt violates the underlying Federal Policy of the Fourth Amendment. I.d. 911 P.2d at 1208-09; -

- And see, United States - v - Prescott, 581 F.2d 1343, 1351 (9th Cir. 1978). If the purpose of the 4th Amend. is to provide rigorous protections against unlawful searches, occupants must not be dissuaded from exercising the right for fear of incurring a penalty in any subsequent criminal prosecution." Stevens, 228 Ariz. 411, 911 S. 267 P.3d at 1209. The States use here at trial of defendant's - petitioners invocation of constitutional 4th amend right not to be searched, prior to Police preparing a warrant created Structural Error and prejudiced petitioner at trial justify's inadmissible - evidence of guilt. Id. See also, (Exh. #1, encl. #2, at ps #19, 20, 21).

Arizona Court's language, as is the same in Federal District Courts, shows that the Federal analysis handed down to the States about defendant's rights is different because the rights come from different areas of the Constitution, but the same inadmissibility rule applies to both situations - both when the State uses testimonial communications, violating defendant's - privilege against self-incrimination, and when States uses defendant's refusal to consent to warrantless search as evidence of guilt. See, Id. (Exh. #1, enclosure #2, ps #20, 21). MOONEY - v - HOLOHAN, 294 U.S. 103, 112, 55 S.Ct. 340, 79 L.Ed. 791 (1935).

In this cause in Chief, use of Petitioner's invocation of 4th, 5th Amendment was clearly initiated by State prosecutor. State Court of Appeals reviews constitutional issues, de novo, as well as whether a jury instruction properly and adequately states the law. State-v-Johnson, 212 Ariz. 425, 431, 91 15, 133 P.3d 735, 741 (2006); State-v-McConn, 200 Ariz. 27, 28, 21 P.3d 845, 846 (2001); State-v-Orendain, 188 Ariz. 54, 56, 932 P.2d 1325, 1327 (1997).

Here, as the State record reflects at trial, State prosecutor trampled over petitioner's Constitutional rights and the Court helped, in the process of these Constitutional errors, "they" both (Prosecutor, Court) committed "Fundamental-Structural Error". Id. R.T. 9/19/16 at 95 to 103. And NO instruction was given to the Jury.

It is fundamental to the Sixth Amendment and Due Process that evidence presented at trial meet the threshold requirements. Crane-v-Kentucky, 476 U.S. 683, at 690 (1986), "whether rooted directly in the due process clause of 14th Amend. or in the Compulsory process or Confrontation Clause of the 6th Amend., the U.S. Const. guarantees criminal defendants "a meaningful opportunity to present a complete defense". Quoting, California-v-Trombetta, 467 U.S. 479, 485 (1984); Chambers-v-Mississippi, -

- 410 U.S. 284, 302 (1973), "Refusal to allow cross-examination of defense witness denied accused a trial in accord with traditional and fundamental standards of due process."

Here at trial, the state's presentation of petitioner's statements did what it was not allowed to do. The use of petitioner's invocation of his 4th Amend. was clearly-initiated by the State, Id.. The state used petitioner's statement about "killing Marguerite", were state easily should have raised the issue with the court and opposing counsel prior to the witness's testimony, to find a way to get all evidence it wanted without violating petitioner's due-process rights, but the prosecution didn't.

These constitutional errors were so prejudicial because it portrayed petitioner as having something to hide - the exact points made by State Courts not allowed in Palenkas, Stenous.

It is improper for a prosecutor to vouch for the truth or falsity of the testimony of a witness or the guilt of a defendant. See, State-v-Hernandez, Supra, as was done here.

During cross-examination Boggie admitted the evidence of petitioner's 5th Amend. invocation, and Defense invited this error in at trial, were the officer was directly responding to defense counsel's line of questioning. NAPUE/MOONEY/PROS. MISCONDUCT/ UNITED STATES V. WALLACH, 935 F.2d 445, 456 (2d Cir. 1991) QUOTING UNITED STATES V. STOFKY, 527 F.2d 237, 243 (2d Cir. 1975) (31)

Leaving the defense, who participated in, or contributed to this error - cannot complain about it. I.d. (Ex. #1, encl. #2, pg #21).

However, because the invocation of one right is intertwined with invocation of the other, the defense was actually responding to improper evidence introduced by the State prosecution. This error constitutional in nature, was similarly fundamental / prejudicial because 'Doyle, Supra' recognized forty years ago, it would be fundamentally unfair and a deprivation of due process to allow the arrested person's silence to be used to impeach an explanation subsequently offered at trial. 426 U.S. at 618 (emphasis-added). Allowing the jury to hear this type of testimonial evidence created Structural-Error, thereafter not directing the jury with a curative instruction furthered the damage created by the State prosecution. For these reasons petitioner's convictions must be reversed. See, State-v-Leon, Supra; United States-v-Tanis, Supra; Brecht-v-Abrahamson, Supra.

The State Court's review of this claim resulted in a decision that was based on an objectively unreasonable determination of facts in light of the evidence presented in the State Court proceedings.

17A A.R.S. SUP. CT. RULES. CODE OF JUDICIAL CONDUCT, RULE 8A, CANON 3 B(3).

Thus, resulting in a decision that was contrary to, or involved an unreasonable application of clearly established federal law as is enumerated in Doyle - v - Ohio, Supra; Brecht - v - Abrahamson, Supra; Arizona Supreme Court Ruling in State - v - Stevens, Supra; I.d. State - v - Palenkas, Supra; United States - v - Prescott, Supra; Crane - v - Kentucky, Supra; State - v - Hernandez, Supra. ARIZONA V. ROBERSON, SUPRA

Therefore, based on the foregoing, this Court should warrant habeas relief in accordance with the 4th, 5th, 6th, 8th and 14th Amend. to U.S. Constitution. ABA MODEL RULE OF PROFESSIONAL CONDUCT 3.8(d) (1984) (see BRADY, 373 U.S., AT 87, 83 S. CT., AT 1196-1197) (RULE 42, ER 1.3.)

V.

Unexhausted Federal Claims / 28 USC § (C) 1 (C)
Structural Defects / Ineffective Assistance
of Trial Counsel and Rule 32 Counsel.

a) Various errors by Trial and Rule 32 Counsel's
Deprived Petitioner of effective assistance
of counsel and habeas relief is warranted.

In order to prevail on an ineffective assistance of counsel claim, the defendant must show both that counsel's representation fell below an objective standard of reasonableness, and, that there exists a reasonable probability that, -

- but for counsel's errors, the result of the proceedings would have been different. See, Strickland-v-Washington, 466 U.S. 628 (1984).

"A reasonable probability is a probability sufficient to undermine confidence in the outcome." Id.

To succeed on an ineffective assistance of counsel claim, petitioner must prove that an argument was likely to be successful or to prove that he was prejudiced by counsel's failure to raise the argument. C.F. Hill-v-
Lockhart, 474 U.S. 53, 59 (1985); Lockyer-v-
Andrade, 538 U.S. 63, 70-71, 123 S.Ct. 1166,
155 L.Ed.2d 144 (2003); Williams-v-Taylor, 529
U.S. at 412-413.

Further, here petitioner must prove "Structural-Defects" in the state process, to overcome preclusion. Rose-v-Lundy, supra; Brecht-v-Abrahamson, supra, in order to move forward to raise (IAC) claim for the first time in a habeas Corpus proceedings. Martinez-v-Ryan, supra. Id. see above, at (§ II pg #4- to pg #-6, also § III (a) pg #6 to pg #9). (MOONEY-V-HOLOHAN 294 U.S. 103, 112, 55 S.Ct. 340, 79 L.Ed. 791 (1935).

Material Facts Under Dispute:

Here, the case is summarized in the opening brief at (Appendix, Exhibit #1, enclosure #2).

- and all constitutional errors - Fundamental in nature, were raised to include abuse of discretion issues - underlying the case in Chief. I.d. Petitioner's exhausted claims are briefed above as is appropriate. (17A A.R.S. SUP. CT. RULES, Code of Judicial Conduct, RULE 8A). 2254 (C). 2254

#1) The crux of claims here based on additional circumstances are as follows. "2 POLICE OFFICERS SERVED ON JURY TRIAL. OFFICER NICHOLAS JOHN GOME. HE IS COP ON MY TRIAL. JURY DAILY. PERRY. PROBATION OFFICER SERVED IN TRIAL. 15. The record of the case in Chief demonstrates:

JUROR DAILY. PERRY. T OFFICERS COVERED BY PROSECUTOR. COURT ON TRIAL DAY ONE

#2) Mistrial issue at trial about Juror #1, knew the victim Marguerite Millamem as a JUROR WORK HOSPITAL but Juror #1 ~~never~~ provided this information to the court during voir-dair proceedings.

I.d. (App. Exh. #1, enclosure #5). (see 18 U.S.C.A. § 243); see A.R.S. 1622. SUBORNATION OF PERJURY; LAWYER ADVOCATED FOR STATE PROSECUTORS.

#3) Failure for trial counsel to call defense witness Joel Rivette, to testify at trial to clarify evidence that petitioner did not know his girl friend had HIV, with other credible claims petitioner made. § 1623. JOEL RIVETTE WITNESS DENIED BY COURT

The STATE KICKED MY WITNESS OUT OF COURT. EXHIBIT 62

#4) Petitioner's claim that he did not know that Mrs. Millamem had H.I.V. and proof about how - state called Dr. Albert Fiorello who had NO contact with witness - "Victim". Dr. Vivian seen Mrs. Millamem, never testified about -

- all injuries - which were not substantial - but - state claimed injuries to victim disfigured her! Id. (App. Exh. #1, at enclosure #6), enclosure #6 - has pg #2 of trial date 9/14/16, 1-pg - and medical records clarifying cause of injuries - 5 pages with - Tucson medical Center - HIV-Report prior to incidents - herein about HIV, can infect "persons" whom "she" has had sex with. This issue was denied due process so petitioner had opportunity to call Dr. Rocha as witness to provide medical expert opinion on HIV subject matter. Petitioner thereafter was concerned about him getting HIV from having sex with victim and during incident was also bitten by victim. Id. (App. Exh. #1, enclosure #7). 28 USC § 2254 (F) (STRICKLER-V-GREENE, 527 U.S. 263, 281, 119 S.Ct. 1936, 144 L.Ed.2d 286 (1999) also 28 U.S.C. § 2241 (C) (3) #4) See (App. Exh. #1, enclosure #8, Petition For Review to Arizona Supreme Court - CR-2017-0510, - 3-pages).

#5) Attorney, David J. Euehner, assistant Public defender, submitted 3-grounds in petitioner's opening brief, which are presented in Appendix, Exh. #1, encl. #2, and encl. #3 - reply brief, based on said arguments support trial counsel's ineffectiveness at trial which prejudiced petitioners 4th Amend. to U.S. Const., Issue appealed to this Court. § 2254(d)(1) and (2). (36)

- and see also, Letter From: Arido-Sorro to attorney, Ivan Abrams dated: 9/26/17 (2-pg); Letter dated: 12/28/17 (1-pg); Letter to: Arido-Sorro From: attorney, David Euchner dated: 8/30/17; and 1. d. Letter with compact disclosure disk- dated: 1/22/18, taken by C.O. II Lopez, property office (A.P.O.C.) 4/19/18; Letter From: Euchner informing Arido-Sorro that Attorney, Emily Danies is representing Rule 32 procedure, with the Rule 32 Notice, as (Exh. B, 9-pages additional correspondences).

#6) Petitioner Arido-Sorro- a refugee from Central African Republic is unversed in the laws in the United States and the State of Arizona, has no understanding of all legal process - were now a understanding of the malfeasance by police concerning his 4th, 5th, 6th, 8th, 14th, 13th Amendment rights to due process, equal protections of the State and Federal law. Arido-Sorro had received help with this document, free of charge See (Affidavit of Arido-Sorro attached herein, with Exhibit A, B) To R

#7) Mr. Arido-Sorro submits all statements herein and in his Affidavit are sworn to under penalty of perjury. 28 USC § 1746. (i) see MCKENZIE V. MCCORMICK, 27 F.3d 1415, 1418 (9th Cir. 1994) (CITATION AND QUOTATION MARKS OMITTED)

Law, & Argument

Petitioner is entitled to secure appropriate relief on the claim of trial, & Rule 32 counsel's failures to raise meritorious issues in trial, & on Rule 32 appeal, as Rule 32 counsel had impeded the rule 32 process, impairing petitioner's opportunity to file a pro-se Rule 32 petition is supported by the record and in fact is illicit, which now petitioner's Rule 32 process is governed by Rule 32.2(2)(3), precluding his ineffective assistance of counsel claims.

The actions by attorney, Emily Danies was done to prevent petitioner from getting his complete record for review, (Petitioner never viewed CD with disclosure on it), or was never alerted by Danies appropriately to file a pro-se petition.

Rule 32 counsel usurped petitioner's right to review, research-view, prepare and file a pro-se Rule 32 petition, as of right in a timely manner, because the record of the trial represents constitutional-fundamental-error that constitutes structural error. State-v-Hampton, 00-0522, (La. 3/22/02), 818 S.O 2d 720, and Pock-v-Arkansas, 483 U.S. 44, 107 S.Ct. 2704, 97 L.Ed.2d 37 (1987) (NAPUE, 360 U.S. at 269. 79 S.Ct. 1173)

The state has a duty to provide petitioner with effective assistance of counsel through pre-trial, trial, post trial and appellate proceedings, which is guaranteed by state and federal constitutions. State-v-Pruett, 912 P.2d 1355 (Ariz., 1995); Hendrick-v-Zenon, 993 F.2d 664, 669 (9th Cir. 1993); Ariz. Const., Art. II, § 24; U.S. Const. Amend. 5, 6.

Petitioner's record subject to fundamental-constitutional errors speaks for it self. I.d. (Exh. #1, encl. #2), pursuant to trial and Rule 32 counsel's omission(s) of significant and I.d. obvious issues (fundamentally unfair prejudicial and violated State, & Federal Const., due process and equal protections of the law), which support arguably meritorious grounds for reversal of the convictions constitute - "Deficient" performance. Motire-v-Wainwright, 811 F.2d 1430, 1438 (11th Cir. 1987); Banks-v-Reynolds, 54 F.3d 1508, 1515 (1995); Mason-v-Hanks, 97 F.3d 887, 893 (1996); Martinez-v-Ryan, Supra, (2012), and Structural Error. I.d. Brecht-v-Abrahamson, Supra.

Petitioner's trial and Rule 32 counsel's failures to raise meritorious issues constitutes "Prejudicial" performance where such omissions- (Failing to forward Record-paper copy to petitioner and alert petitioner to file pro-se petition),

- where such actions and omissions result in waiver, default and preclusion of said issues in any later state or federal proceeding. U.S. ex rel. Bannard-v-Lane, 819 F.2d 798; Townsend-v-Sain, 372 U.S. 293 (1963); Johnson-v-Zerbst, 304 U.S. 458 (1938), which this Court may render such process in state Court ineffective to protect petitioner's rights, based on fundamental unfairness, supra, that violated petitioner's 4th Amend right. Brecht, supra, and will excuse failure to exhaust state remedies, Givens-v-Green, supra, and appoint an attorney in federal proceedings. Martinez-v-Ryan, supra, to raise ineffective assistance of counsel claims because both petitioner's trial and Rule 32 Counsel's deficient and prejudicial performance clearly satisfies the standards and requirements of Strickland-v-Washington, 104 S.Ct. 2052 (1984) and Martinez-v-Ryan, supra, and Brecht, supra, Givens-v-Green, supra.

The cause and prejudice requirement is satisfied because said Counsel's failures deprived petitioner of an "adequate opportunity to present issues" and "provide record for review", and creates an "extraordinary procedural posture", and "actual harm" to petitioner's state and federal rights to review and results in waiver of petitioner's right to appeal. See -

- Montgomery-v-Superior Court, 870 P.2d 1180 (Ariz. 1993); State-v-Superior Court, 629 P.2d 992 (Ariz. 1981); State ex rel. Hyder-v-Superior Court, 560 P.2d 1244 (Ariz. 1977); Lewis-v-
- Casey, 116 S.Ct. 2174 (1996); Townsend-v-Sain, supra; Johnson-v-Zerbst, supra; Martinez-v-Ryan, 132 S.Ct. 1309 (2012), supra.

Counsel's failed to raise, object, preserve, appeal/petition meritorious arguments that relate to the above mentioned material facts and constitute constitutional-fundamental cumulative error effect were so prejudicial that a writ should be issued.

Although each of the above errors can be deemed as inappropriate, their cumulative - effect may nevertheless be so prejudicial to petitioner that reversal is warranted. (cf. United States-v-Wallace, 848 F.2d 1469, 1475 - 76 (9th Cir. 1988), citing, United States-v-Berry, 627 F.2d 193, 200-01 (9th Cir. 1980). NAPOE-v-ILLINOIS, 360 U.S. 264, 269, 79 S.Ct. 1173, 3 L.Ed. 2d 1217 (1959) VI.

Conclusion. VACATED AND REMANDED FOR A NEW TRIAL

For the foregoing reasons stated herein, petitioner submits this Court grant his Counsel to Supplement the brief and/or grant habeas relief as appropriate. (FOR EVIDENTIARY HEARING)

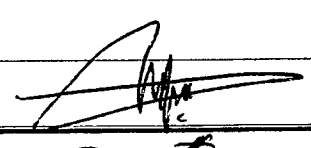
Respectfully Submitted. 7/25/20, By: 
Marvin Arido Sorro, #320026

EXHIBIT ① 2

AFFIDAVIT OF TRUTH, FACTS & LAWS, 28 USC. § 1746.
JUDGE CONSPIRATORS ON MY CASE: 2015.2545-00A.
CONSPIRATORS - CO-CONSPIRATOR WHO INTENDED
FOR THE ~~Q~~ RACIAL CONSPIRACY SO EACH
WAS RESPONSABLE; OFFICER DALY, PERRY, THOMAS,
~~OF~~ EMPLOYED FOR SUPERIOR PIMA COUNTY, TUCSON;
OFFICER, NICHOLAS JOHN, GOMEZ, MARANA POLICE
DEPARTMENT, AZ

AFFIDAVIT OF TRUTH, FACTS & LAWS
- REGARDING -

CONSPIRACY; INJUSTICE, FRAUD ON COURT,
WRONGFULLY CONVICTED. EXCLUSION OF JURORS.

see 18 U.S.C.A. § 2384; see 18 U.S.C.A. § 115

"IN deed NO MORE THAN THIS AFFIDAVIT IS NECESSARY TO MAKE
THE PRIMA FACIE CASE". UNITED STATES - vs - KIS, 658 F.2d 526,
536 (7TH CIR. 1980), CERT. denied, 50 U.S.L.W. 24695, CT.
(MARCH 22nd 1982)

I, MARVIN ARIDO SORRO, PURSUENT TO 28 U.S.C. § 1746 AND
RULE 80(i) ARIZ. R. CIV. P., DO HERE BY MAKE THE FOLLOWING
STATEMENTS UNDER PENALTY OF PERJURY:

DENIED PROPER NOTICE, NO CONCLUSION FACTS OF LAW AND LEGAL AUTHORITY

I AM IN THE CUSTODY AND JURISDICTION OF THE ARIZONA DEPARTMENT
OF CORRECTION, D.O.C. #320026, UNDER A STATE COURT JUDGMENT IN CASE

No. CR-2015-2545-001 OF THE SUPERIOR COURT OF PIMA COUNTY, FROM AN
ORDER OF CONFINEMENT, signed by Judge JANEL EIKLEBERRY AND

PROSECUTOR ALICIA RENEE ROBERTSON #66209, THAT KNOWINGLY
VIOLATES RIGHTS SECURED, PROTECTED, AND GUARANTEED BY THE LAWS

AND CONSTITUTION OF THE UNITED STATES OF AMERICA; see ARTICLE III.

• DALY PERRY THOMAS. PROBATION OFFICER EMPLOYED FOR SUPERIOR COURT
SERVED ON TRIAL ?, "RACIAL CONSPIRACY",

NICHOLAS JOHN GONE: HE'S COPIER SERVED ON TRIAL ?

• JILLIAN CATHERINE JORDAN. HAVE TREATED THE VICTIM IN 06/2015, TM

JURY SERVED ON TRIAL ?, DENIED ACCESS TO THE COURTS, DENIED
THE RIGHT TO MAKE A CLAIM

ON CONFLICT OF COUNSEL; CONSPIRACY. ?

BASE ON THE RECORD OF THE CASE, ACTIONS TO PREVENT THIS TO THE COURT. WHAT HAPPENED HERE IS MORE TO ACTIVE FRAUDULENT CONCEALMENT INCLUDING FRAUD ON COURT. STATE OR FEDERAL COURT'S DECISION WAS BASE ON AN UNREASONABLE DETERMINATION OF THE FACTS., STATE IN FEDERAL ENGAGED CRIMINAL ACTIVE AGAINST MY RACE COLOR AND MY STATUS REFUGEE. BUT THE STATE IN FEDERAL REMAINED UNCONSTITUTIONALLY SILENT. INCLUDING FRAUD, PERJURY, MISTAKE. ? CONSPIRACY

I, MARVIN ARIDO-SORRO, ADC#320026, BEING FIRST DULY SWORN, DEPOSE AND SAY AND DECLARE BY MY SIGNATURE THAT THE FOLLOWING FACTS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF; "DISASTER, OR INJUSTICE AGAINST IMMIGRANTS" RACE & COLOR. NATIONALLY ??

1. I DECLARE THAT I AM AN REFUGEE FROM CENTRAL AFRICA-REPUBLIC. I CAME TO THE U.S. DATED 03/15/2013

I DECLARE THAT I AM WRONGFULLY CONVICTED THE AND PROSECUTOR IN MY CASE WAS TERMINATED BY THE ATTORNEY GENERAL AFTER MY CASE IN 2016 ? PROSECUTOR NAME ALICIA RENEE ROBERTSON. STATE BAR No: 66209 ?

CONSPIRACY AGAINST MY RACE & COLOR, CONSPIRACY BY EXCLUSION OF JURORS ON ACCOUNT OF RACE OR COLOR 18 U.S.C.A. § 243: SEE 28 U.S.C.A. § 133A ?? 2 POLICE OFFICER SERVED IN JURY TRIAL AND PROBATION OFFICER EMPLOYED FOR SUPERIOR COURT SERVED AND COVERED UP BY JUDGE Re: CASE No. 19-382. COMMISSION ON JUDICIAL CONDUCT COMPLAINTS

2. I DECLARE THAT I HAD KNOW MS. MARGURITE MILLAMEN FOR "ONE YEAR" AND "ONE-HALF-YEAR". 1½. PRIOR TO THE INCIDENT IN QUESTION AND MARVIN ARIDO AND MILLAMEN PLANNED TO MARRY.

3. When both ARIDO & MILLAMEN MOVED IN TOGETHER AT "WATER STREET HOUSE" THAT IS WHEN ARIDO SEEN MEDICATION THAT VERIFY MILLAMEN HAS. HIV-ADS POSITIVE & TUBERCULOSIS POSITIVE AND URINARY TRACK INFECTION POSITIVE;

4. I HAD WRITTEN A "TWO" PAGE (2) & (3) PAGE STATEMENT ON 06/20/2015 ABOUT FACTS OF INCIDENT SEE EXHIBIT. A 6 PAGE

5. I DECLARE THAT DR. VIVIAN SEE MS. MILLAMEN, AT BANNER HOSPITAL IN 06/20/15 ABOUT INJURIES. AND WAS NOT CALLED AS WITNESS AT TRIAL, BUT, A DR. FIORELLO THAT WORKED AT TMC AND BANNER UNIVERSITY MEDICAL CENTER HAD NO CONTACT WITH MS MILLAMEN TESTIFIED ABOUT "HER". IN CROSS EXAMINATION DR. FIORELLO, DO YOU HAVE AN ACTUAL MEMORY OF THIS PATIENT ??? DR. FIORELLO I DO NOT. IN SEPTEMBER 14, 2016 JURY TRIAL - DAY TWO; EXHIBIT B; PETITIONER WAS DENIED SUBSTANTIAL PROCEDURAL RIGHTS, INCLUDING HIS RIGHT TO A FAIR DETERMINATION OF PROBABLE CAUSE BY INDEPENDENT GRAND

JURY.

6. I DECLARE THAT DR. ROCHA WAS NEVER CALLED EITHER, WHO IS DOCTOR THAT TESTED MS MILLAMEN FOR H.I.V. AND KNEW LEVEL OF INFECTION- AND DR. ROCHA'S RECORDS ON MILLAMEN WILL PROVE THAT "she didn't know" "she" had H.I.V. OR TB OR U.T.I. DR. ROCHA'S RECORDS ON MILLAMEN SHE LIED IN HER STATEMENTS. EXHIBIT. C

7. I DECLARE THAT JUROR: JILLIAN CATHERINE JORDAN. STATEMENT TRIAL-DAY ONE "SEPTEMBER 13, 2016 I HAVE TREATED THE VICTIM AT THE HOSPITAL THE COURT NOTES THAT ITS LAW CLERK REGARDING THE ISSUE AS DISCUSSED ON ON THE RECORDS, "JILLIAN SERVED TWO DAYS ON THE JURY TRIAL SHE QUICK ON TRIAL DAY TWO; MISTRIAL ISSUE AT TRIAL ABOUT JURY JILLIAN #1, HAVE TREATED THE VICTIM AT THE HOSPITAL" THE COURT DENIED MISTRIAL. EXHIBIT-D

8. I DECLARE THAT JUROR NICHOLAS JOHN GOMEZ: HE'S COP. ON MY TRIAL. GOMEZ. STATEMENT TRIAL DAY-ONE "YES. I HAVE A PARTNERSHIP WITH MY OCCUPATION WITH LAW ENFORCEMENT, WITH THE MARANA POLICE DEPARTMENT AND ATF, "JURY SERVED ON TRIAL; EXHIBIT E

9. I DECLARE THAT JURY RAYMUNDO MACHADO
HIS COP OR HIS NEPHEW HE'S A COP. STATES
RECORDS I CAN PROVE. EXHIBIT E AND
HIS SEVED ON TRIAL. PURSUED TO 18 U.S.C. § 4 ??

10. I DECLARE THAT JURY DALY PERRY THOMAS
PROBATION OFFICER EMPLOYED FOR SUPERIOR
COURT. SEVED ON TRIAL. COVEREDS BY JUDGE.
ROUTINE OF FRAUD. PURSUANT TO 18 U.S.C.A. § 2384
EXHIBIT F STATES RECORD PROBATION
OFFICER ON JURY PANE. OFFICER SEVED ON TRIAL
CONSPIRACY ??

11. PETITIONER'S CLAIM THAT HE DID NOT KNOW
THAT MRS. MILLAMEN HAD H.I.V. TB. OR U.T.I
ABOUT HOW-STATE CALLED DR. ALBERT FIORELLO
WHO HAD NO CONTACT WITH WITNESS- "VICTIM"?
DR VIVIAN SEEN MS. MILLAMEN. NEVER TESTIFIED
ABOUT ALL INJURYS- WHICH WERE NOT
SUBSTANTIAL- BUT- STATE CLAIMED INJURIES
TO VICTIM DISFIGURED HER !!! AND MEDICAL
RECORDS CLARIFYING CAUSE OF INJURYS -
TUCSON MEDICAL CENTER- H.I.V. & TB. U.T.I-
REPORT PRIOR TO INCIDENTS HEREIN ABOUT
H.I.V.-TB. OR U.T.I, CAN INFECT "PERSONS"
WHOM "SHE" HAS HAD SEX WITH. THIS ISSUE
WAS DENIED DUE PROCESS SO PETITIONER'S

HAD OPPORTUNITY TO CALL DR. ROCHA AND DR VIVIAN AS WITNESS TO PROVIDE MEDICAL EXPERT OPINION ON H.I.V. - TB & U.T.I SUBJECT MATTER. PETITIONER THEIR AFTER WAS CONCERNED ABOUT HIM GETTING H.I.V., TB OR U.T.I FROM HAVING SEX WITH VICTIM AND DURING INCIDENT WAS ALSO BITTER BY VICTIM. PHOTO EVIDENCE Exhibi. G 3 Photo PURSUED AMENDMENT XIV. SECTION A. DUE PROCESS & EQUAL PROTECTIONS WAS VIOLATEDS. BY STATE PROSECUTOR & COURT

12. THE MEDICAL CONDITION OF MARGUERITE MILLAMEN HAVING HIV-TB, UTI AND HAVING A SEXUAL RELATIONSHIP WITH PETITIONER'S NOT TELLING HIM OR WITH HOLDING THIS SERIOUS LIFE THREATENING ILLNESS WITH THE POSSIBILITY OF INFECTING PETITIONER INTO WHICH IS A FELONY CHARGE.

13. PROSECUTOR & COURT DENIED PETITIONER, WITNESS TO TESTIFY. JUDGE KICKED MY WITNESS OUT OF COURT ON TRIAL DAY - TWO 9-13-2016 WITNESS NAME HIS JOEL RIVETTE TELEPHONE 520-495-9178; STATE RECORD Exhibi. No. 62 STATE PROVE VIOLATIONS DUE PROCESS & EQUAL PROTECTIONS VIOLATED,

14. STATE RECORD. PROSECUTOR MS ROBERTSON -
STATEMENT TRIAL DAY-ONE I did Look AT The
INSTRUCTION. The ONLY Thing I CAN see, This
is be CAUSE The STATE is NOW moving To do This,
is FOR The AGGRAVATE ASSAULT We'd move
TO AMEND down TO A TEMPORARY but
SUBSTANTIAL RATHER THAN SERIOUS PHYSICAL
INJURY. We've SPOKEN TO MANY doctors.
IT APPEARS HER OTHER ISSUE, SUCH AS
headaches, ARE AS RESULT OF A PREEXISTING
MEDICAL CONDITION, AND NOT TO THE INJURY
she SUSTAINED. Exhibi.H;
BASE ON THE RECORD OF THE CASE, ACTIONS TO
PREVENT THIS TO THE COURT. WHAT HAPPENED
HERE IS MORE TO ACTIVE FRAUDULENT CONCE-
ALMENT INCLUDING FRAUD. STATE OR FEDERAL
COURT'S decision WAS BASE ON AN UNREASONABLE
dETERMINATION OF THE FACTS. DR. FIORELLO
WAS ONE OF MARGUERITE'S TREATING PHYSICIANS
AT THE HOSPITAL BUT HE HAD NO RECOLLECTION
OF THE CASE AND NEEDED TO TESTIFY OFF OF
MEDICAL RECORDS "NOT" DOCUMENTED. EVIDENCE
WAS PREJUDICIAL BECAUSE NO OTHER "FACTS
ON THE RECORD" COULD HAVE CONVICTED
PETITIONER'S OF THE CRIME. PROSECUTOR VIOLATES
DUE PROCESS OF LAWS??? PROSECUTORIAL MISCONDUCT
OR FALSE STATEMENTS PROVIDED TO THE COURT BY MS ROBERTSON.

15. STATE RECORD. PROSECUTOR STATEMENT ON TRIAL THERE WERE, YOUR HONOR, DEFENSE COUNSEL PROVIDED US WITH TEXT MESSAGES. HE SAID THAT PREVIOUS COUNSEL HAD DISCLOSED THEM TO US. PROSECUTOR'S STATEMENTS AT TRIAL I. DON'T SPEAK FRENCH. PROSECUTOR DENIED PETITIONER EVIDENCE. EXHIBIT 68.J

"PURSUED TO THIRTEEN AMEND"

16. CLAIM IF THE PETITIONER'S MAKE "A CREDIBLE SHOWING OF DIFFERENT TREATMENT OF SIMILARLY SITUATED PERSONS TO OBTAIN AN EVIDENTIARY HEARING PETITIONER'S NOT ENTITLED TO DISCOVERY BECAUSE STATICAL EVIDENCE EXHIBIT SHOWING RACIAL DISPARITY BETWEEN ACTUAL AND POTENTIAL PETITIONER'S ON IMMIGRATION CHARGES. PETITIONER'S NOT ENTITLED TO DISCOVERY BECAUSE HE DID NOT ESTABLISH THAT NATIVE AMERICAN INMATES NOT INDICTED AT TIME "BRIEF SUBMITTED IN PETITIONER'S CASE WERE TREATED DIFFERENTLY WHEN NATIVE AMERICAN WERE EVENTUALLY PROSECUTED AND PETITIONER'S COULD NOT ESTABLISH THEY WERE, SIMILARITY SITUATED WHEN EVIDENCE STRONGER IN PETITIONER'S "CASE" PETITIONER'S ENTITLED TO DISCOVERY BECAUSE HE SUFFICIENTLY ESTABLISHED ELEMENTS OF SELECTIVE PROSECUTION BY PRESENTING DIRECT EVIDENCE OF RACIST STATEMENT. THE PROSECUTOR VIOLATION OF 18 U.S.C. § 115 ?

17. WERE LIMITED RECORD; IN LIGHT OF ALL THE LEGAL MISTAKES IN THIS CASE, FUNDAMENTAL IN NATURE FROM TRIAL UNTIL-NOW-WERE LIMITED RECORD. STATEMENT OF RECORD OF CASE. PETITIONER IS CONTENTS IN HIS BRIEF HE CLARIFIES THAT HE NEVER SEEN ALL HIS DISCLOSURE. NAMELY HIS- C.D. LEGAL INFO AND LEGAL DOCUMENTS WITH ALL INFORMATION OF CASE WAS CONTRABAND BY D.O.C. EXHIBIT I

18. THIS WOULD NOT MAKE A DIFFERENCE, BECAUSE BEING IMMIGRANT "REFUGEE" FROM AFRICAN- HE IS UNVERSE IN THE CRIMINAL & CIVIL LAW

19. PRESENT IS THE ORIGINAL INTERIN COMPLAINT THIS IS THE ORIGINAL CHARGING INFORMATION THAT DIFFER'S FROM THE ACTUAL CHARGES PRESENTED TO THE GRAND JURY / A.R.S. CODES TO BE DISCUSSED.

PRESENTED OFFENSE, CT (1) A.R.S. CODE 13-1203 ASSAULT.

CT. (2) A.R.S. 13.1204 (A) AGG. ASLT- DEADLY WPN / DANG INST.

CT. (3) A.R.S. 13.1204 (A) AGG. ASLT- DEADLY WPN / DANG INST.

CT. (4) A.R.S. 13.1204(A3) AGG. ASLT-TEMPORARY BUT SUBSTANTIAL DISFIGURE. COUNT (2) AND (3) ARE CHARGED OUT THE SAME TWICE PLACING PETITIONER'S IN JEOPARDY OF BEING PLACED IN THE CATEGORY OF DOUBLE JEOPARDY MEANING THE PRINCIPLE OF DOUBLE JEOPARDY IS BEING PLACED IN HARMS WAY OF BEING CHARGED TWICE FOR ONE SINGLE ACT: "THE PROSECUTOR" VIOLATION OF 18 U.S.C. § 115 EXHIBIT. K

20. ON SEPTEMBER 15-2016 TRIAL DAY PETITIONER'S ON CROSS EXAMINATION BY PROSECUTOR MS ROBERTSON PETITIONER'S REQUESTED POLICE REPORT ON TRIAL DAY-09-15-2016. PETITIONER'S STATEMENT NO. I DIDN'T SAY THAT TO THE POINT THAT I NEVER RECEIVE THE POLICE REPORT OR POLICE RECORD.

PROSECUTOR, COURT LAWYER IGNORED. PETITIONER REQUEST TO PRESENT POLICE REPORT FOR 06/20/15 EXHIBIT. L PROSECUTOR, COURT-LAWYER NEW POLICE REPORT WAS MISSING "LOST"??

21. LAWYER. ABRAMS WAS APPOINTED BY COURT TO REPRESENT PETITIONER'S. ON APRIL 8, 2016; LAWYER. ABRAMS ALL HIS CLIENTS COMPLAINANT AGAINST HIS. RE: FILE NO. 19-2965 /

FOOTNOTE #1: RULE 60(b)-(1)-(2)-(3)-(6) WAS DANY'S; SEE 28 U.S.C. §§ 2242; EXHIBIT Q; OR 2241

22. MARGUERITE MILLAMEN ORIGINAL STATEMENT IN THE INTERIM COMPLAINT ON 06/20/15 IS TOTALLY DIFFERENT FROM HER TESTIMONY OR TESTIMONY GIVEN AT THE ALLEGED CRIME SCENE, AND AT TRIAL WE HAVE;

23. DAVID MAXWELL;
MAXWELL; HIS STATES WITNESSES. THE RECORDS OF THE CASE IN CHIEF DEMONSTRATES CRIMINAL BACKGROUND FOR STATES WITNESSES NEVER PROVIDED THIS INFORMATION TO THE COURT. DAVID MAXWELL HAD STORY TO LIE TO LAW ENFORCEMENT DURING VOIR DOIR PROCEEDINGS. EXHIBIT M

24. I DECLARE THAT EMILY L. DANIES, ATTORNEY AT LAW REPRESENTED 'MY' AS OF RIGHT RULE 32 PROCESS AND FAILED TO PROVIDE A PAPER COPY OF ALL DISCLOSURE TO 'ARIDO' FOR HIS REVIEW TO PROCEED IN PRO-SE. MS. DANIES, WAS INEFFECTIVE FOR NOT ALERTING 'ARIDO' TO TIMELY FILE A MEANINGFUL RULE 32 PETITION IN PRO-SE. NOR DID THE TRIAL COURT ALERT 'ARIDO' THAT "DANIES" FILED ON EXTENSION OF TIME FOR PETITIONER TO DO JUST THAT, SINCE THAT TIME, THESE FAILURES BY ATTORNEY & COURT HAVE BARRED 'ARIDO' FROM FILING AND TIMELY RULE 32 PETITION

TO RAISE CLAIMS OF INEFFECTIVE OF COUNSEL,
AND - THIS WAS DONE ON PURPOSE TO PREVENT
ARIDO FROM RAISING SAID (IAC) CLAIMS
WITH THE TRIAL COURT UNDER RULE 32 IN A
TIMELY MANNER. ENCLOSURE #1 8/6/2018 LETTER
DANIES - WERE ATTORNEY NEVER RESPONDED TO
PETITIONERS LETTER.) SEE ALSO D.O.C. PHONES
CALL RECORDS BY MY CO3 GARWOOD STACEY
D.O.C. OFFICER. ATTORNEY NEVER RESPONDED TO THE CALL.
THE PETITIONERS OR D.O.C. OFFICER EXHIBIT N
HEREIN, ALL CORRESPONDANCES.

25. I DECLARE THAT I AM FILE MOTION ~~FOR~~
EXERCISE THE BY-PASS RULE OF THE ARIZONA
SUPREME COURT DUE TO THE FACTS OF KNOW
RELIEF FROM THE LOWER COURTS. FIRST MOTION
TO PROCEED FOR HABEAS CORPUS RELIEF AS TO
EXHAUSTED ALL STATE COURT REMEDIES. EXHIBIT O
MOTION WAS GRANTED BY UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF ARIZONA. IT IS
ORDERED BY HONORABLE CINDY K. JORGENSEN.
UNITED STATES DISTRICT JUDGE.

THE PETITIONER'S WAS DEPRIVED OF HIS DUE
PROCESS RIGHTS WHEN HE WAS NOT FREE FROM
AN IMPARTIAL AND BIAS JUDGE BY HIS EVIDENCE,
WITNESS. MEDICAL RECORDS. POLICE RECORD. H.I.V.
RECORD FOR 06/20/15 ALL WAS DENIED BY PROSECUTOR & COURT.

26. POLICE OFFICER ON JURY PANE; PROBATION OFFICER ON JURY PANE EMPLOYED FOR SUPERIOR COURT. ALL SERVED ON TRIAL; THIS WOULD NOT MAKE A DIFFERENCE, BECAUSE BEING IMMIGRANT "REFUGEE" FROM AFRICA - HE IS UNVERSE IN THE CRIMINAL, CIVIL LAW AND STATE, AND FEDERAL DENIED PETITIONER'S DUE PROCESS & EQUAL PROTECTIONS. WITH ALL PROVE BY PETITIONER'S STATE RECORDS. AND CONSTITUTIONAL VIOLATION'S COMMITTED IN THE STATES PROCEDURE'S AGAINST ARIDO., THEIR RIGHT TO A HEARING ON THE MERITS OF THEIR CLAIM DUE TO IGNORANCE OF TECHNICAL PROCEDURAL REQUIREMENTS; IN SHOWING A COLORABLE CLAIM, A PETITIONER IS "REQUIRED TO ALLEGE SPECIFIC FACTS WHICH, IF TRUE, WOULD ENTITLE HIM TO RELIEF; PURSUED TITLE 18 U.S.C.A. §§ 3450; VACATED AND REMANDED FOR JUSTICE.

27. EVIDENCE USED IN 4TH, 5TH AMEND RIGHT ISSUES RAISED IN HABEAS BRIEF NEVER DISCUSSED DAY 3 AND DAY 4 OF TRIAL TO INCLUDE DAY 2 OF TRIAL ALL DISCUSS THAT "NO RECORDING" WAS MADE OF PETITIONER'S STATEMENTS USED TO CONVICT HIM AT TRIAL. DAY 2, DAY 3, DAY 4 OF TRIAL THATS IN THE RECORD IN THIS CASE. THE ADDITIONAL PARTS OF THE "EXHIBIT P" HERE IN SHOW THAT

" NO RECORDINGS OF PETITIONER'S STATEMENTS
WERE MADE AND THAT LAW ENFORCEMENT OFFICER
BOGGIE MADE UP EVIDENCE TO CONVICT THE PETITIONER"

28. PETITIONER'S 4TH AND 14TH AMENDMENT TO UNITED
STATES CONSTITUTIONS WERE VIOLATED IN ACCORDANCE
TO INTRODUCING EVIDENCE COLLECTED DURING
WARRANTLESS SEARCH OF PETITIONER'S HOME ??

29. THE FIRST OFFICER TO RESPOND TO THE SCENER
WAS OFFICER "COLLINS". OFFICER CONDUCTED ANY
DNA TESTS?? OR FINGERPRINTS ???

30. DURING CROSS-EXAMINATION, OFFICER BOGGIE
TESTIFIED THAT OFFICER JENSEN HAD TOLD BOGGIE
THA PETITIONER'S ARIDO HAD BEEN READ THE
MIRANDA⁵ WARNING AND ARIDO "DIDN" T WANT TO
SPEAK TO US." THE COURT "EMPHASIZE [d] THA IT
IS INCONSISTENT WITH MIRANDA? TRIAL DAY 9/13/16
" VERIFICATION OF MIRANDA VIOLATION" ???

31. OFFICER COLLINS AND OFFICER BOGGIE BOTH
TESTIFIED THAT WHEN OFFICER WERE ENTERING
ARIDO HOME, ARIDO "SAID IT VIOLATED HIS RIGHTS
BY ENTERING HIS HOUSE, AND ARIDO REQUEST"
SEARCH WARRANT",

32. -

THE TRIAL COURT ERRONEOUSLY SENTENCED MARVIN ARIDO-SORRO ON COUNT FOUR FOR A CLASS 3 FELONY, PETITIONER'S INDICTMENT ON DOUBLE JEOPARDY GROUND, (THE PROSECUTOR) IN VIOLATION OF 18 U.S.C. § 1415, AND HIS CONVICTION ON COURT FOUR, (ALSO THE PROSECUTOR) IN VIOLATION OF D.C. CODE § 22-2307, CONSTITUTED TWO CONVICTIONS FOR THE SAME OFFENSE. EXHIBIT. 3 & 4. (R.)

33. ON SEPTEMBER 14, 2016 MISTRIAL ISSUE WAS DENIED BY COURT & STATED. ?

34. PETITIONER ARIDO'S A REFUGEE FROM AFRICA IS UNversed IN THE LAWS IN THE UNITED STATES AND THE STATED OF ARIZONA-TUCSON HAS NO UNDERSTANDING OF ALL LEGAL PROCESS WERE NOW A UNDERSTANDING OF THE MALFEASANCE BY POLICE CONCERNING HIS 1ST, 4TH, 5TH, 6TH, 8TH, 13TH & 14TH AMENDMENT RIGHTS TO DUE PROCESS OF LAW, & EQUAL PROTECTIONS OF THE STATE. FEDERAL LAWS. HERE, AS THE STATE RECORDS REFLECTS AT TRIAL, STATE PROSECUTOR TRAMPLED OVER ARIDO'S CONSTITUTIONAL RIGHTS AND THE COURT HELPED, IN THE PROCESS OF THESE CONSTITUTIONAL ERRO, "THEY BOTH (PROSECUTOR, COURT) COMMITTED "FUNDAMENTAL STRUCTURAL ERRO". AND CONSPIRACY ??

35. DEFENSE COUNSEL PROVIDED US WITH TEXT MESSAGES. DISCLOSURE. THIS IS AN ISSUE, STATE DENIED PETITIONER'S EVIDENCE? MARGUERITE SEND TEXT MESSAGES. TO ARIDO. SHE SAID ON TEXT MESSAGES "ONE OF US HAS TO DIE" AND ARIDO RESPONDED, "I CANNOT DIE", AND MARGUERITE THEN SAID "IF YOU CANNOT DIE I WILL DO EVERYTHING TO SEND YOU TO JAIL. THEY BOTH PROSECUTOR. COURT DENIED TEXT MESSAGES TO PRESENT TO GRAND JURY / JURY TRIAL DAY ONE SEE 18 U.S.C. § 2384; PURSUED TO 28 U.S.C. § (C), (F) (H)

36. THE PETITIONER IS FLUID IN FRENCH, ENGLISH IS THE PETITIONER 2ND LANGUAGE; see THIRTEEN AMEND

37. PETITIONER RESPECTFULLY REQUESTS THE COURT TO GRANT THE FOLLOWING RELIEF:

ENTER ITS ORDER GRANTING PETITIONER TO EXPAND THE RECORD, RULE 7(a)(b)(c), Fed. R. CIV. PROC. WITH THE FOLLOWING, LIMITED INFORMATION:

AND TO DISCLOSE SAID FILE, SUPRA TO THE COURT AND THE PETITIONER'S. RULE 6, SUPRA. RULE 8, SUPRA

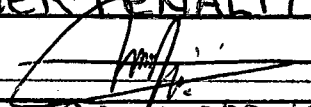
38. OR GRANT ANY AND ALL RELIEF THE COURT DEEMS APPROPRIATE IN THE INTERESTS OF JUSTICE REQUEST SUPREME LAW OF THE LAND. AND EQUAL JUSTICE & DUE PROCESS OF LAW / EQUAL PROTECTION?

40. CONCLUSION:

BETWEEN BOTH CONSTITUTIONAL VIOLATIONS AN EVIDENTIARY HEARING SHOULD BE HELD ON THESE MATTERS: "RESPECTFULLY SUBMITTED OR VACATED AND REMANDED FOR A NEW TRIAL", I AM WRONGFULLY CONVICTED;

41. I CERTIFY THAT THE INFORMATION HEREIN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE WILL ALL STATED RECORDS "EXHIBIT" ATTACHMENT. TO AFFIDAVIT HERE, ALL CORRESPONDANCES

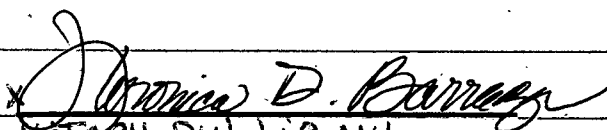
EXECUTED UNDER PENALTY OF PERJURY 28 USC - § 1746 BY:


MARVIN ARIDO SORRO, # 320026
PETITIONER - IMMIGRANT INDIGENT
IN PRO PER

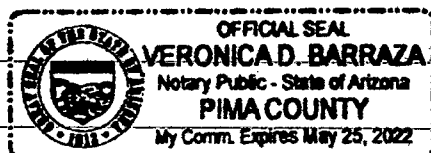
STATE OF ARIZONA }
COUNTY OF PIMA }

"AFFIDAVIT TOTAL 17 PAGE"

SUBSCRIBED TO AND BEFORE ME THIS 23RD DAY OF JUNE 2020



NOTARY PUBLIC MY
COMMISSION EXPIRES 05/25/2022



(16) - (17) "PAGE" TOTAL

EXHIBIT A

AFFIDAVIT OF TRUTH, FACTS & LAWS
STATEMENT OF FACTS & INCIDENT FACTS
06/20/15

STATEMENT OF FACTS

INCIDENT FACTS

6/20/2015

06/20/2015

IN THE EARLY HOURS OF THE MORNING, ON OR ABOUT JUNE 20, 2015 MARGUERITE MILLAMEN RETURNED HOME FROM WORK WAKING HER THEN BOYFRIEND MARVIN ARIDO FROM A DEEP SLEEP. MARGUERITE ALMOST IMMEDIATELY, AN ARGUMENT BEGAN RELATING TO LONG STANDING ISSUES BETWEEN THE TWO INCLUDING, BUT NOT LIMITED TO MARGUERITE'S "DESIRE TO HAVE A BABY WITH MARVIN ARIDO". MS. MARGUERITE MILLAMEN'S DIAGNOSIS OF A "SERIOUS MEDICAL DISEASE" HIV. AND HER FAILURE TO INFORM MARVIN OF THAT ILLNESS, A "PHYSICAL ALTERCATION" BEGAN BETWEEN THE TWO PARTIES. MARGUERITE STARTED THE PHYSICAL ESCALATION OF THE ARGUMENT BY SLAPPING HIM REPEATEDLY AND "BITING HIS FINGERS AND CAUSING SUBSTANTIAL BLEEDING". MARVIN ARIDO "DID NOT KNOW HE HAD AIDS/ HIV UNTIL SOON BEFORE THE INCIDENT. HE DISCOVERED IT ON HIS OWN BY GOING THROUGH HER MEDICINE AND DOING RESEARCH, AND SOCIAL PAST MEDICAL HISTORY I FOUND OUT SHE HAS THE "HIV" DISEASE, TUBERCULOSIS POSITIVE, URINARY TRACK INFECTION POSITIVE AND HER URINE CULTURE IS GROWING ECOLI. AND AT THAT POINT MARVIN ARIDO STOPPED SLEEPING "WITH HER" ON THE NIGHT OF THE INCIDENT MARGUERITE WOKE HIM UP AGAIN TWICE AND WAS ARGUEING AGAIN ABOUT MARVIN ARIDO "NOT HAVING FOOD READY FOR HER" AND AND THEY FOUGHT ABOUT "NOT HAVING SEX". HE WENT UPSTAIRS AND FOLLOWED HIM CONTINUED TO ARGUE EVENTUALLY I FELL ASLEEP AND HE WOKE UP IN THE NIGHT TO A "SLAP ON THE CHEEK" SHE BIT HIS HAND SO HE WENT DOWNSTAIRS TO THE LIVING ROOM, AND WHEN SHE HIT HIM, HE HIT HER BACK, SHE SAID "ONE OF US HAS TO DIE" AND MARGUERITE THEN SAID, "IF YOU CAN NOT DIE I WILL DO EVERYTHING TO SEND YOU TO JAIL". MARVIN SAID OK YOU LIED TO ME ABOUT THEIR MEDICAL CONDITION. YOU SAID TO ME YOU HAVE "HYPOTENSION" YOU LIED TO ME ABOUT YOUR CONDITION AND I WANTED TO FIND OUT THE TRUTH YOU HAVE "DISEASE" YOU ARE SICK WOMEN, YOU LIED? MARVIN ARIDO SAID THAT "IF ANYTHING HAPPENED TO ME THAT YOU WILL BE RESPONSIBLE TO ANSWER TO MY "MOM". INCIDENTS RECORDING AND MY CELL PHONE POLICE TAKE JUNE 20, 2015 WITH ALL OF ITS "POTENTIALLY EXCULPATORY EVIDENCE, OR ATLEAST MITIGATING INFORMATION BEFORE MY TRIAL. AND I NEVER SEEN MEDICAL REPORT TO JUNE 20, 2015 TO 2018 AND MY VIDEO RECORDING FROM MY CELL PHONE TAKEN BY TPD ON JUNE 20, 2015 "ISSUES CONTINUED" SEPTEMBER 13, 2016 JUDGE RICHARD FIELDS INEXPLICABLY QUIT THE VERY DAY OF TRIAL, TRANSFERRING THE CASE TO ANOTHER DIVISION. SEE DAY ON COURT ASKED WHY DID HE DO THIS? DOES THAT SOUND CORRECT? ON SEPTEMBER TRIAL DAY ON CROSS EXAMINATION. DR FIORELLO ALBERT WAS ONE OF MARGUERITE'S TREATING PHYSICIAN AT THE HOSPITAL BUT HE HAD NO RECOLLECTION OF THE CASE AND NEEDED TO TESTIFY OFF OF MEDICAL RECORDS. DR ALBERT FIORELLO IS NOT CHAGE OF SHIFT, IS DR VIVIAN AND DR LIAM O'SULLIVAN AND DR. KHAN? AND SOUTHERN ARIZONA INFECTION DISEASE SPECIALISTS INFECTIOUS DISEASE STATE ELIMINATED HER? DR VIVIAN, DR O'SULLIVAN? DR KHAN AND DR BERNADINO ROCHAM, DR ROCHA ELIMINATED ALL FROM THE LIST? DENIAL BY STATE.

DR. FIORELLO IS FALSE DR OF THE CASE ON 06/20/2016 I HAVE TRUE MEDICAL REPORTS FOR 06/20/2015. MY LAWYERS DEFENSE COUNSEL ADVOCATED FOR STATE PROSECUTORS AND MY LAWYER DENIED DEFENSE. VIABLE DEFENSE. WAS APPOINTED TO REPRESENT MY INTEREST IS NOT LAWYERS. MANE: ABRAMS IVAN SAFYAN AND BRERETON PLC 520-628-7777 MY LAWYER (LIED) PROSECUTOR IN MY CASE WAS LATER FIRED BY STATE OF ARIZONA TUCSON ON 2016 PROSECUTOR NAME: ALICIA RENEE ROBERTSON, DR FIORELLO AND MY CASE CR 2015-2545-001 IS FALSE DR FIORELL. AND CROSS EXAMINATION SEEN NO RECOLLECTION OF THE CASE AND NEEDED TO TESTIFY OFF OF MEDICAL RECORDS. (INVESTIGATED FOR MYSELF I FOUND TRUE MEDICAL REPORTS FOR 06/20/2016 TMC 6:51 AM REAL DR NAME IS DR O'SULLIVA AND DR KHAN AND DR VIVIAN AND DR BERNADINO ROCHA WERE ELIMINATED BY STATE COURT.

4TH, 5TH, AND 14TH AMEND. U.S. CONST, DUE PROCESS, ARTICLE II,
SEC. 8 AND 10 ARIZONA CONSTITUTION.

1. ON JUNE 20, 2015 DEFENDANTS OFFICER BOGGIE, OFFICER
IVES, COLLINS, OFFICER JENSON AND OFFICER WILLIAMSON OF THE
TUCSON, AZ POLICE DEPARTMENT, DIRECTLY AND OR INDIRECTLY
AND WITH "DELIBERATE INDIFFERENCE" ENTERED HIS HOME WHILE
HE CLEARLY ATTEMPTED TO INVOKE HIS RIGHTS AGAINST A
WARRANTLESS SEARCH.

2. EACH OF THESE DEFENDANTS VIOLATED THE PLAINTIFF RIGHTS
UNDER THE 4TH AND 14TH AMENDMENTS OF THE U.S. CONSTITUTION
AND ARTICLE II SECTION 8 OF THE ARIZONA CONSTITUTION WHEN
THEY COLLECTED SO CALLED EVIDENCE FROM THAT WARRANTLESS
SEARCH OF PLAINTIFFS HOME.

3. WHEN THE PLAINTIFFS NOTICED THE DEFENDANTS ATTEMPTING
TO ENTER AND SEARCH HIS HOME ON JUNE 20, 2015, HE CLEARLY
TOLD THEM HE LIVED THERE AND DID NOT WANT THEM TO SEARCH
WITHOUT A SEARCH WARRANT.

4. THESE DEFENDANTS USED ON A FALSE PRETENCE STATING THEY
WERE CONDUCTING A "PROTECTIVE SWEEP OF THE HOME IN ORDER TO
GAIN ENTERANCE THAT WAS NEEDLESS BECAUSE.

1 They had no Reason To Believe That There Were Any
 2 other occupants in the house. (5) Def. Collins
 3 Had Already Spoken To The other Person who Lived
 4 With The Plaintiff and Took a Statement. "Thus" he
 5 must have been aware that only 2 people were in
 6 the house and at that neither one was inside -
 7 (6) This violates the Plaintiff's rights under the 4th
 8 Amendment, Pursuant to *Georgia v. Randolph*, 547
 9 U.S. 103 (2006). Police may not search a home with
 10 the consent of one occupant when the other occupant
 11 is present and objects to the search. (7) Plaintiff,
 12 who was accused of a crime was protected from self
 13 incrimination by the 5th and 14th amendments of the
 14 U.S. Constitution and Article II, Section 10 of the Ark.
 15 Constitution once the accused invokes his rights to remain
 16 silent or the right to have a attorney present
 17 during questioning, "that invocation must be scrupulously
 18 honored". (8) Def. Officer Jensen advised Officer
 19 Bobbie of the fact that he'd read Plaintiff's Miranda
 20 rights and of the fact that Plaintiff did not want to
 21 speak to them without a lawyer. De F. Bobbie
 22 Reinitiated contact with the Plaintiff in a manner
 23 that coerced him into a custodial interrogation
 24 as in *Edwards v. AR 2*. 451 U.S. 477 (1981) intentionally
 25 violating Plaintiff rights. (9) Each defendant
 26 acts under the color of state law and in
 27 their individual and official capacities, knew
 28 or should have known directly and indirectly

1 That They were violating The Plaintiff's Constitutional
 2 Rights With "Deliberate Indifference" when Their
 3 Conduct which was not invited by The Plaintiff
 4 Resulted in Prejudicial and Fundamental unfairness
 5 That violates due process and Prejudices Plaintiff.

6 (10.) The Def. City of Tucson and its Police Dept.,
 7 and Def. PDL insurance company which is so
 8 Believed to be under contract with The Defendants
 9 are sued through The Official Capacities of Each
 10 Named Def. Because They are responsible for Their
 11 Training, Policies and Procedures and Actions Per
 12 Protocol That led to The Violations of Plaintiff
 13 Rights by its Officers.

14 11. Each of These Defendants Acts in Concert
 15 of Acts, Omissions, Policies and Practices That did
 16 Violate The Plaintiff's Rights Collectively and Each
 17 defendant Acts under color of State Law and in
 18 Their individual & official Capacity, directly and or
 19 indirectly knew or should have known That Their
 20 Actions or Failure to Act Prejudiced The Plaintiff
 21 and Their Errors went to The Foundation of The
 22 Plaintiff's case as A Defendant. The Rights were so
 23 Essential to his defense and was of such magnitude
 24 That he could not possibly have received A fair Trial.
 25 GOMEZ V. CITY OF NEW YORK. F SUPP-3d..14 CV. 2626, 2016 WL 254-1873, AT
 26
 27
 28

STATE OF Arizona
COUNTY OF Pima

LAW AND JUSTICE REQUIRE
FAIR TRIAL

ARTICLE 6 SECTION 21 PROVIDES ARTICLE 2
§ 11 OF THE ARIZONA CONSTITUTION REQUIRES
JUSTICE IN ALL CASES
SS. TITLE 18 USC § 4 PRISON OF
I WANT JUSTICE

SWORN AFFIDAVIT

I ACTUALLY INNOCENT.
18 U.S.C.A. § 921-930
FALSE IMPRISONMENT

I, MARVIN ARIDO-SORRO, the affiant, hereby give the following statement and attest, and affirm upon my own personal knowledge the following facts are true and correct.
ARIDO-A REFUGEE FROM CENTRAL AFRICAN REPUBLIC IS UNVERSE IN THE LAWS IN THE UNITED STATES AND THE STATE OF ARIZONA, HAS NO UNDERSTANDING OF ALL LEGAL PROCESS WERE NOW A UNDERSTANDING OF THE MALFEASANCE BY POLICE CONCERNING HIS 3RD, 4TH, 5TH, 6TH, 8TH, 14TH AMENDMENT RIGHTS TO DUE PROCESS, EQUAL PROTECTIONS OF THE STATE FEDERAL LAW. HERE, AS THE STATE RECORD REFLECTS AT TRIAL, STATE PROSECUTOR TRAMPLED OVER ARIDO'S CONSTITUTIONAL RIGHTS AND THE COURT HELPED, IN THE PROCESS OF THESE CONSTITUTIONAL ERRO, "THEY" BOTH (PROSECUTOR & COURT) COMMITTED "FUNDAMENTAL-STRUCTURAL ERRO", DID THE PROSECUTOR JUDGE LAWYER FOR THIS CASE ENGAGE IN MALICIOUS AND VINDICTIVE PROSECUTION OF ARIDO CASE BY DENIED IS WITNESS-DENIED MEDICAL RECORDS FOR 06/20/2015 AND POLICE RECORDS FOR 06/20/15 AND DENIED H.T.V. RECORDS IN THESE MATTERS. BASED ON THE RECORD OF THE CASE, ACTIONS TO PREVENT THIS TO THE COURT, DENIED BY PROSECUTOR, WHAT HAPPENED HERE IS MORE TO ACTIVE FRAUDULENT CONCEALMENT INCLUDING FRAUD, PERJURY-CRIMINAL CONSPIRACY, BY USE JUROR: DALY THOMAS OFFICERS FOR SUPERIOR COURT HERE IN PIMA COUNTY. JUROR COVERED BY
End of statement. JUDGE FOR CONVICTIONS? VACATED AND REMANDED FOR

JUSTICE TRIAL JUDGE SHE
CONSPIRATORS IN MY
CASE: CASE No. 19-382

Affiant

NO ONE IS ABOVE THE LAW
Subscribed and sworn to before me this

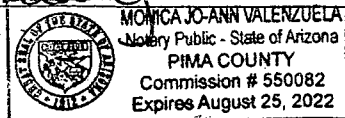
5th

day of

February

20 20

My Commission Expires: August 25, 2022



Notary Public:

Monica Jo-Ann Valenzuela

1 **A** Yes, I can, ma'am.

2 **Q** Okay. And does that blood look like it's old
3 blood or fresh blood?

4 **A** It appeared to be fresh blood, ma'am.

5 **Q** With regards to the other picture that
6 defense counsel showed you, the -- the pan-like
7 object, do you know if anyone wiped it off?

8 **A** No, I do not.

9 MS. ROBERTSON: Your Honor, may I have
10 just a moment?

11 THE COURT: Yes.

12 MS. ROBERTSON: I have no further
13 questions, Your Honor.

14 THE COURT: Members of the jury have any
15 questions for this witness? No? Thank you. May
16 this witness be excused?

17 MS. ROBERTSON: Yes, Your Honor.

18 THE COURT: You're excused, thank you.
19 Call your next witness.

20 MS. ROBERTSON: The State calls officer
21 Boggie to the stand.

22 STEVEN BOGGIE,

23 having been first duly sworn to state the truth, the
24 whole truth and nothing but the truth, was placed
25 under oath and testified as follows:

1 DIRECT EXAMINATION

2 BY MS. ROBERTSON:

3 Q Good afternoon.

4 A Good afternoon.

5 Q Please introduce yourself to the jury.

6 A My name is Steven Boggie, I'm an officer with
7 the Tucson Police Department.

8 Q How long have you been so employed?

9 A Twelve years.

10 Q Can you tell us a little bit about your
11 training to become an officer?

12 A Sure. I went to the Southern Arizona Law
13 Enforcement Training Academy on Wilmot in 2004.
14 Graduated from there, five weeks of post basic
15 training and then 15 weeks of field training in
16 operations division midtown, where I'm currently
17 assigned.

18 Q Have you always been assumed to that area?

19 A Yes, I have.

20 Q Has -- have your duties been only with regard
21 to patrol?

22 A Yes, and I'm also a field training officer.

23 Q When you say field training officer, what
24 does that mean?

25 A I get new officers that come out of the

1 academy and teach them how to be field officers.

2 Q As a patrol officer what are some of your
3 duties?

4 A Responding to calls for service and on-site
5 traffic, DUI enforcement.

6 Q How did you become involved in this
7 particular case?

8 A I was training Officer Packard we were riding
9 as a two-man unit, and we responded to a call for
10 assistance from, I believe, it was Officer Collins.

11 Q Do you recall what area you responded to?

12 A I believe that was 3214 East Water.

13 Q Is that here in Pima County?

14 A Yes.

15 Q What did you do when you arrived?

16 A We went directly to Officer Collins, who was
17 inside the residence at 3241 East Water, and
18 contacted him and another officer there.

19 Q What did you observe?

20 A There was a female on the ground behind a
21 sofa. I couldn't see her completely, but Officer
22 Collins was standing next to her.

23 Q Did you observe anything about her?

24 A She had blood around her head area.

25 Q What did you do next?

1 **A** I asked the female where she lived, and she
2 pointed and said over there. The residents that
3 lives there pointed me to 3237 East Water, which is
4 directly across from their front door.

5 **Q** What did you do next?

6 **A** I took Officer Collins and Officer Packard
7 and we went to that residence, looked in the front
8 window, which the blinds were open, we could see into
9 the front room.

10 **Q** What did you observe?

11 **A** There was overturned furniture. There was
12 blood on the floor and walls. We could see out the
13 backdoor that was wide open, so we made our way
14 around.

15 **Q** Did you clear the house and the scene?

16 **A** Yes, we did.

17 **Q** After you did that what did you do next?

18 **A** I went to contact Officer Jensen, who was in
19 the parking lot with the man who was detained.

20 **Q** The detained male, do you see him here today?

21 **A** Yes.

22 **Q** Can you point him out and describe what he's
23 wearing?

24 **A** He's at the defense table with the pinkish
25 shirt with a blue tie.

1 MS. ROBERTSON: May the record reflect
2 he's identified the defendant?

3 THE COURT: Yes.

4 BY MS. ROBERTSON:

5 Q While that male was detained did he say
6 something to you about entering his house?

7 A Yes, he did.

8 Q What did he say?

9 A He said it violated his rights by entering
10 his house.

11 Q And what did you tell him?

12 A I told him we were doing a welfare check on
13 the residence to make sure nobody was in the
14 residence and we didn't violate his rights.

15 Q Did he then indicate to you that he wanted
16 your badge number?

17 A He did.

18 Q Did he indicate to you, I will have your job?

19 A Yes.

20 Q What did you then tell him?

21 A I told him he was not a tough guy for beating
22 his girlfriend.

23 Q What did he say in response?

24 A I wrote a quote down and have to refresh
25 memory, but he basically --

1 Q Actually, would your report help refresh your
2 memory?

3 A Absolutely.

4 MS. ROBERTSON: Your Honor, may I
5 approach?

6 THE COURT: Yes.

7 BY MS. ROBERTSON:

8 Q You recognize that as your report?

9 A Yes.

10 Q Before we get into his quote, when you write
11 your report and a witness tells you something do you
12 write that down in your report?

13 A I do.

14 Q If it is their exact words do you distinguish
15 it in a different way?

16 A I do, I put it in quotes.

17 Q The statement that he gave to you, was that
18 in quotes?

19 A It was, yes.

20 Q What did he say in response to your
21 statement?

22 MR. ABRAMS: Your Honor, rather --
23 objection, rather than him reading from his report,
24 which I'm afraid he might be able to do, if his
25 recollection is refreshed then I think we should hear

1 that.

2 THE COURT: Yes.

3 BY MS. ROBERTSON:

4 Q Does that refresh your recollection?

5 A Just a moment.

6 Q Okay.

7 A Yes.

8 Q What did he say?

9 A He said that you're lucky she's even still
10 here, and along the lines of, when I get out I'm
11 going to kill her and you won't be able to talk to
12 her then.

13 Q What did you say in response to that?

14 A I told him he shouldn't make statements like
15 that.

16 Q Did he say something in response to your
17 statement?

18 A He did.

19 Q What did he say?

20 A He said, you will see, and he said, when
21 she's gone nobody will be able to see her, something
22 like that.

23 Q What was his demeanor like?

24 A He was agitated, he was kind of yelling at
25 me. He interrupted a conversation that I was having.

1 BY MS. ROBERTSON:

2 Q Is it normal for you to have a recorder with
3 you?

4 A No.

5 Q Why is that?

6 A I'm not issued a department body camera and I
7 choose not to carry a personal camera with me.

8 Q As far as -- and you refer to a camera, but
9 what about a voice recorder?

10 A I don't have a voice recording.

11 Q As a patrol officer who is a first responder
12 is that part of your duties to take recorded
13 statements?

14 A On occasion, it depends on the circumstances.

15 Q When you arrive to a scene and you're trying
16 to secure it, is it your normal for you not to have a
17 recorder?

18 A Yes.

19 Q Also, with regard to the defendant's
20 statements, did you ask him a question prior to him
21 speaking with you?

22 A No, I was speaking with Officer Jensen and he
23 was yelling at me -- or yelling at us.

24 Q Defense counsel asked you about English being
25 his first language, were you unclear as to what he

1 with Officer Jensen. He was sitting on the ground --
2 or wall right next to us and started yelling into our
3 conversation.

4 Q Okay. Did you know or could you see what he
5 was wearing at that time?

6 A I don't recall.

7 Q Okay.

8 MS. ROBERTSON: Your Honor, can I have
9 just a moment?

10 THE COURT: Yes.

11 MS. ROBERTSON: I have no further
12 questions, Your Honor.

13 THE COURT: Thank you. Cross?

14

CROSS EXAMINATION

15 BY MR. BRERETON:

16 Q Officer Boggie, you were training Officer
17 Packard at the time?

18 A Yes.

19 Q Can you give us a brief description of what a
20 training officer on scene like that entails?

21 A Sure. Usually we try to make them take
22 control of most of the scene, or what parts they're
23 assigned to take control of, and we observe their
24 actions and document and report to the department
25 that are progressively in training.

1 Q So, do you stick with the training officer
2 the whole time usually?

3 A Not always. It depends on the dynamics of
4 the scene, but mostly, yes, we're right there.

5 Q Do you remember you were stuck with Officer
6 Packard in this situation?

7 A Yes, he was with me for the whole time, or
8 most of the time.

9 Q So if we can maybe establish a bit of a
10 timeline here. You arrived at the scene with Officer
11 Packard?

12 A Correct.

13 Q Do you recall what time that was?

14 A I don't recall.

15 Q Do you recall who was on scene?

16 A I believe it was Officer Jensen, Officer
17 Griego, Officer Collins, and I believe Officer
18 Sinclair, I believe were there.

19 Q And at that time the person you identified as
20 the defendant was detained?

21 A Yes.

22 Q Who had detained him?

23 A I believe it was Officer Jensen and Officer
24 Griego.

25 Q So Officer Jensen and Officer Griego were

1 with him?

2 A Yes, sir.

3 Q Do you recall whether the defendant had any
4 injuries or cuts to him?

5 A I do not recall that.

6 Q Do you recall noticing whether he had any
7 blood on him?

8 A I don't recall.

9 Q So Officer Jensen and Griego have the
10 defendant, did they question him?

11 A I don't know, I -- we walked past him into
12 the residence at 3241 at that time.

13 Q And you were going to perform a welfare
14 check, right?

15 A After we checked with Officer Collins, then
16 we went to do the welfare check, yes.

17 Q Had Officer Collins already done a welfare
18 check?

19 A Not on the residence across from 3241. He
20 was just dealing with the female that was in that
21 apartment.

22 Q So you went over to the neighbors' residence
23 first?

24 A Correct.

25 Q Checked that out?

1 A Yes.

2 Q And then did you go into the residence where
3 the incident allegedly occurred?

4 A That's correct, yes.

5 Q About how long do you think you were in both
6 houses?

7 A We were in the first house probably less than
8 five minutes, and the second house, two minutes,
9 maybe.

10 Q So in that seven minutes the defendant was
11 with Jensen and Griego; is that right?

12 A That's correct, yes, sir.

13 Q When you were in the second house you said
14 you observed furniture overturned, what furniture?

15 A From what I remember there was a chair and a
16 coffee table just to the right that was turned over.

17 Q Just the chair?

18 A I'm not positive, I'd have to look at my
19 report. That's what I recall.

20 Q And you said that you recall seeing what you
21 believe to be blood stains?

22 A That's what I believed they were, yes.

(23) Q Do you know, or did you conduct any
(24) scientific test to verify that opinion?

(25) A No, sir, I did not.

① Q Do you know if anyone did?

② A I'm not sure, sir.

③ Q Do you know if anyone, or if you, conducted
④ any DNA tests?

⑤ A No, sir.

6 Q You testified that you observed a pan on the
7 ground; is that right? Do you recall?

8 A I don't recall.

9 Q Do you recall seeing anything in the second
10 house that may have -- may have been alleged to have
11 been used in the alleged incident?

12 A Yes, there was. Officer Collins pointed out
13 a broken frying pan that was laying on the floor in
14 the living room to me.

15 Q So was Officer Collins with you when you went
16 into the house?

①⑦ A Yes, sir.

18 Q So you saw this broken frying pan, did you
19 see the handle?

20 A I don't recall that.

21 Q Do you recall whether or not that frying pan
22 had dents or blood stains on it?

23 A Not that I could see from where I was.

24 Q You said the defendant's demeanor was

②⑤ agitated when you came out of the house; is that

1 right?

② A Yes, sir.

③ Q Do you know how long he had been in custody,
④ at least seven minutes, at that point?

5 A That's correct.

6 Q Any longer?

7 A Not that I'm aware of.

8 Q Is it your testimony that he had been read
9 his rights at that point?

⑩ A Yes.

11 Q How do you know that?

12 A Officer Jensen had told me when I walked up,
13 because I told him about the condition of the
14 residence, and then he said we Mirandized him and
15 didn't want to speak to us.

16 Q Do you know if he did ever speak to any
17 officer in this case?

18 A I don't know that, sir.

19 Q So at this point he had been read his rights
20 and said that he didn't want to say anything?

21 A That's correct.

22 Q Now, were you recording these statements that
23 you testified about?

⑫ A I was not.

25 Q You said that Officer Jensen was nearby, was

1 Officer Sinclair with you?

2 A Officer Sinclair was not with me.

3 Q So it was just Officer Jensen?

4 A And I believe Officer Griego was near us.

5 Q Do you know if any of them noted the
6 defendant's statements in their reports?

7 A I do not know that.

8 Q Do you recall the defendant saying anything
9 about speaking French?

10 A I do not recall that.

11 Q Did you notice that he had a heavy accent?

12 A I did notice that.

13 Q Did it appear to you that English may not
14 have been his native language?

15 A Yes, sir.

16 Q Did you have anything on your person, like a
17 body cam or anything else recording?

18 A No.

19 Q Do you know if any of the officers involved
20 in this case did?

21 A I'm not aware.

22 MR. BRERETON: That's all I have, Your
23 Honor.

24 THE COURT: Ms. Robertson?

25 REDIRECT EXAMINATION

TRIAL RECORD

EXHIBIT

MATERIAL FACTS

OFFICER BOGGIE ON CROSS-EXAMINATION

Material Facts

¶28 As stated above, Boggie testified that Marvin called out to him to stay out of his house; Marvin said it violated his rights by entering his house." 9/14/16 RT 95.x

On cross-examination, the following exchange ensued between defense counsel and

Boggie

Q: Do you know how long he had been in custody, at least seven minutes, at that point?

A: That's correct.

Q: Any longer?

A: Not that I'm aware of.

Q: Is it your testimony that he had been read his rights at that point?

A: Yes.

Q: How do you know that?

x A: Officer Jensen had told me when I walked up, because I told him about the condition of the residence, and then he said we Mirandized him and didn't want to speak to us.

Q: Do you know if he did ever speak to any officer in this case?

A: I don't know that, sir.

Q: So at this point he had been read his rights and said that he didn't want to say anything?

A: That's correct.

Id. at 103. Verification of Miranda Violation

SUBJECT MATTER OF FINAL ARGUMENT
COUNSEL WERE INEFFECTIVE
INVESTIGATING REPORTS
POLICE REPORTS SCENE CRIME INVESTIGATION REPORT
MEDICAL RECORDS

I MR. MARVIN ARIDO-SORRO

TO WHOM IT MAY CONCERN

VIOLATION DUE PROCESS DISCLOSURE

I HAVE NEVER SEEN THE POLICE REPORTS THE INVESTIGATOR DOCUMENTS
REPORTS CLAIM ARISES WHEN DEFENDANT PUNISHED FOR EXERCISING
LEGAL RIGHTS. MALICIOUS VINDICTIVE PROSECUTOR OFFICER COLLINS
THE OFFICERS DID NOT MENTION IN THEIR TESTIMONY WHETHER
MARGUERITE CONSENTED TO THE SEARCH HOME. MARGUERITE OBJECTED
TO THE SEARCH HOME. OFFICER WILLIAMSON WENT TO THE HOSPITAL TO
CONDUCT A TAPED INTERVIEW WITH MARGUERITE OFFICER LOST STATEMENT.
ON CROSS EXAMINATION STANDARD OF REVIEW. DR. FIORELLO WAS ONE OF
MARGUERITE'S TREATING PHYSICIANS AT THE HOSPITAL BUT HE HAD NO
RECOLLECTION OF THE CASE AND NEEDED TO TESTIFY OFF OF MEDICAL
RECORDS "NOT" DOCUMENTED. EVIDENCE WAS PREJUDICIAL BECAUSE NO
OTHER "FACTS ON THE RECORD" COULD HAVE CONVICTED DEFENDANT OF
THE CRIME PROSECUTOR VIOLATES DUE PROCESS, INERMINATING
STATEMENTS AT TRIAL. MY "VICTIM GAVE ONE SUIVOCAL" TESTIMONY
SUPPORTING, SUPPORTS DEFENDANT TO DISCOVERY TO HELP PROVE A
SELECTIVE PROSECUTION CLAIM IF THE DEFENDANT MAKE "A CREDIBLE
SHOWING OF DIFFERENT TREATMENT OF SIMILARLY SITUATED PERSONS TO
OBTAIN AN EVIDENTIARY HEARING DEFENDANT NOT ENTITLED TO DISCOVERY
BECAUSE STATICAL EVIDENCE SHOWING RACIAL DIPARTY BETWEEN
ACTUAL AND POTENTIAL DEFENDANTS ON IMMIGRATION CHARGES.
DEFENDANT NOT ENTITLED TO DISCOVERY BECAUSE HE DID NOT ESTABLISH
THAT NATIVE AMERICAN INMATES NOT INDICTED AT TIME BRIEF SUBMITTED
IN DEFENDANTS CASE WERE TREATED DIFFERENTLY WHEN NATIVE AMERICAN
WERE EVENTUALLY PROSECUTED AND DEFENDANT COULD NOT ESTABLISH
THEY WERE, SIMILARITY SITUATED WHEN EVIDENCE STRONGER IN
DEFENDANTS (CASE) DEFENDANT ENTITLED TO DISCOVERY BECAUSE HE
SUFFICIENTLY ESTABLISHED ELEMENTS OF SELECTIVE PROSECUTION BY
PRESENTING DIRECT EVIDENCE OF RACIST STATEMENT.

EXHIBIT B

1 MS. ROBERTSON: Your Honor, they will
2 either be called or mentioned. The witnesses are
3 actually going to be called are substantially
4 shorter.

5 THE COURT: I went through the file and
6 wrote down the name of the names listed by either
7 side. Do I need to ask the jurors about all of those
8 people?

9 MS. ROBERTSON: We could eliminate the
10 doctors, Your Honor, and we just stick with Dr.
11 Albert Fiorello.

12 THE COURT: All right. So Dr. Vivian.
13 Nigg, we can eliminate her?

14 MS. ROBERTSON: Yes.

15 THE COURT: And Dr. O'Sullivan?

16 MS. ROBERTSON: Yes.

17 THE COURT: Dr. Khan?

18 MS. ROBERTSON: Yes.

19 THE COURT: All right. And what about
20 Dr. Bernadino Rocha? I believe the defense listed
21 Dr. Rocha.

22 MR. ABRAMS: He's not being called.

23 THE COURT: All right. Anyone else we
24 can eliminate from this list?

25 MS. ROBERTSON: I think the other people

1 in front of me there do appear to be some petechia in
2 the right eye. Yeah, those small little red dots.

3 MS. ROBERTSON: Your Honor, may I have
4 just a moment?

5 THE COURT: Yes.

6 MS. ROBERTSON: No further questions at
7 this time.

8 THE COURT: Thank you. Cross?

9 CROSS EXAMINATION

10 BY MR. ABRAMS:

11 Q Dr. Fiorello, do you have an actual memory of
12 this patient?

13 A I do not.

14 Q You treat a lot of patients at the ER?

15 A Yes.

16 Q Your testimony today is based upon your
17 review of the records?

18 A Correct.

19 Q As well as seeing photographs like that?

20 A Correct.

21 Q Would you agree that the photograph we just
22 saw, which showed the eyes of an individual, doesn't
23 really prove what caused those injuries?

24 A No.

25 Q So you are an expert, you have a lot of

1 training and a lot of experience, but you're
2 speculating to a degree here?

3 A I'm telling you that these appear to be
4 petechia. What caused them, I can't say.

5 Q And you don't remember this patient so you
6 wouldn't remember if she said anything to you?

7 A Not unless it's in our record.

8 Q You see thousands of patients every year?

9 A About 2500 a year would be my guess.

10 Q Could there be other causes for the petechia?

11 A Yes, there can be, anything that forcibly
12 causes increased venous pressure. Vomiting was
13 mentioned, that can cause that.

14 Q And, again, you've said blunt force trauma
15 could be one of those other factors?

16 A Petechia you don't see as much with blunt
17 force trauma. The other eye, what we call
18 subconjunctival hemorrhage looks more like a blunt
19 force injury. Petechia usually are caused by the
20 venous pressure getting up to the point where you
21 have tiny little hemorrhages of the small little
22 veinials, so usually there's a pressure increase,
23 whether it's from being strangled, from forcibly
24 vomiting, a crushing injury to the chest we'll see it
25 sometimes.

1 Q I wonder, could petechia result from a
2 spiking in blood pressure?

3 A It can.

4 Q And would there be, based on your training
5 and experience, would it be possible for an
6 individual's blood pressure to rise due to stress and
7 fear of an argument, a physical fight might induce?

8 A It's possible, this patient came in actually
9 with a low blood pressure, but in a stressful
10 situation your blood pressure can go up.

11 Q Does being HIV positive affect an
12 individual's blood pressure?

13 A In and of itself, probably not, medication
14 side effects, sometimes, and then also, especially
15 related to medications, it can cause platelet levels
16 to be low, which can cause you to spontaneously
17 bleed. I don't know without looking back in the
18 records what her platelet level was. I'm sure we
19 checked it.

20 Q So I gather from what you're saying is an
21 individual who is HIV positive on medications is not
22 going to present with a normal set of levels?

23 A They can, they definitely can, but the
24 medications can cause them sometimes to be abnormal.

25 Q What are some of the medications that might

DR FIORELLO

113

1 Q Have you had any training or experience with
2 respiratory physiology or strangulation?

3 A Yes.

4 Q What does that training encompass?

5 A So, it's part and parcel to emergency
6 medicine. It's part of our training and boards, and
7 then also advanced trauma life support, and I have
8 taken that course and have been an instructor in that
9 course.

10 Q What sort of signs do you see when somebody
11 has been strangled?

12 A Sometimes you'll see some bruising around the
13 neck. If it's a severe strangulation where the
14 airway is injured sometimes you'll actually feel a
15 clenching sensation of the airway, and then sometimes
16 you'll see petechia, which are little red dots on the
17 face.

18 Q Do you ever have or see symptoms such as
19 urination?

20 A Urination?

21 Q Like if the person urinates on themselves?

22 A I guess it's possible if you lose
23 consciousness from strangulation.

24 Q And a loss of consciousness is also a
25 symptom?

1 **A** It can be.

2 **Q** Could also vomiting be a symptom?

3 **A** It could be.

4 **Q** Do you see all of these symptoms on a patient
5 that's been strangled?

6 **A** No.

7 **Q** Is it often that you only see a few?

8 **A** Yeah, sometimes you can see none.

9 **Q** With regards to the petechia, can you explain
10 what that is?

11 **A** It's sort of like bruising, it's bleeding
12 under the skin, but it's little tiny micro
13 hemorrhages. I don't know if anyone here has thrown
14 up really forcefully and then you look in the mirror
15 and you've got these little red dots on your face,
16 those are little petechia from the increased pressure
17 that is in your head basically.

18 **Q** And why does that occur?

19 **A** Because of that increased pressure.

20 **Q** And you said your face, can you get petechia
21 in other areas?

22 **A** From strangulation? You can get it in the
23 neck, pretty much anywhere above where that blood
24 supply is being cut off.

25 **Q** Can you actually get it inside your eye?

EXHIBIT - C

DENIE MEDICAL RECORDS BY STATED
FOR 06/20/15 & HIV disease. &

Tuberculosis & URINARY TRACT INFECTIONS.
ALL DENIE BY STATE

EXHIBIT

1 THE COURT: Are those medical records
2 going to be admitted into evidence?

3 MS. ROBERTSON: No, Your Honor, not the
4 records themselves. And, Judge, it doesn't indicate
5 which floor she was admitted to. Would the Court
6 like us to go through maybe some of the doctors that
7 were present, because there's different attending
8 residents and medical physicians, we're not calling
9 all of them. We're only calling Dr. Fiorello.

10 THE COURT: She's shaking her head no.

11 A JUROR: That name is not familiar to
12 me.

13 MS. ROBERTSON: How about Liam Patrick
14 O'Sullivan?

15 A JUROR: No.

16 MR. ABRAMS: Do you know those doctors?

17 A JUROR: No.

18 THE COURT: Is there an easy way to look
19 in the records to see if your name is in there?

20 A JUROR: As far as, like, the
21 electronic record I know that just like looking at
22 the documentation history, but I don't know how to
23 look at the printout.

24 MS. ROBERTSON: There's also a Bernadina
25 Roca.



5301 E Grant Road
Tucson AZ 85712
IPLMR w/Flowsheet

MILLAMEM, MARGUERITE
MRN: 1
DOB: Sec F
Acct #: 701291728
Admt: 7/20/2015, D/C: 7/23/2015

Consulting Encounter Notes (continued)

Consults signed by Nasif, Marcelo, MD at 07/22/15 1544 (continued)

Version 1 c

Author: Nasif, Marcelo, MD

Service: (none)

Author Type: Physician

Filed: 07/22/15 1544

Note Time: 07/22/15 0118

Status: Signed

Editor: Nasif, Marcelo, MD (Physician)

DATE OF SERVICE

07/21/2015

REASON FOR CONSULTATION

Pyelonephritis. HIV.

HISTORY OF PRESENT ILLNESS

This is a very pleasant 25-year-old African female from Chad who was admitted yesterday with a diagnosis of pyelonephritis. She has been experiencing a few days of flank pain associated with some dysuria. She has a history of HIV disease and is on antiretroviral therapy. She is followed by Dr. Gorgos and apparently she has been well controlled with undetectable viral loads. She does not recall her CD4 count. She denies having any history of HIV-related opportunistic infections. She has been treated for positive PPD or latent tuberculosis with 9 months of INH. She does acknowledge frequent urinary tract infections, the last one about 6 months ago. On this admission, she has had high fevers that persist. A ultrasound of her kidneys is pending. Her urine culture is growing E coli. She is currently on ceftriaxone.

PAST MEDICAL HISTORY

1. HIV disease.
2. History of recurrent urinary tract infections.
3. History of treated latent TB.

REVIEW OF SYSTEMS

Positive complaints as mentioned in history of present illness. Otherwise a 12-point review of systems was negative.

ALLERGIES

She denies any antibiotic allergies.

SOCIAL HISTORY

She is from Chad, Africa. She is single, currently not sexually active. Denies history of tobacco, alcohol, or drugs. She gives a history of a recent physical attack by her boyfriend on June 20, sustaining multiple bites and cuts. Her boyfriend ended up in jail.

Printed on 9/18/2015 2:33 PM

Page

**SUPPLEMENTARY DISCLOSURE
COVER SHEET**

THE STATE OF ARIZONA

CR-20152545

copy to client

VS.

CA-20153813

MARVIN ARIDO-SORRO

DEPUTY COUNTY ATTORNEY: Alison Schultz

DEFENSE ATTORNEY(S): **Donald Klein (520)243-6800

ADDITIONAL WITNESSES & ADDRESSES:

SUPPLEMENTAL REPORTS:

PROPERTY SHEETS:

LAB REPORTS:

PHOTOGRAPHS:

AUDIO/VIDEO TAPES/CD's/DVD's:

Please contact Kristina Daberry at the extension listed below in order to view the photographs and/or videotapes or to make arrangements to have them duplicated at your expense.

STATEMENTS:

OTHER: Medical Records Page from Banner University Medical Center provided to us by Marguerite Millamem (1 page - double sided)

PLEASE CONTACT KRISTINA DABERRY AT 243-4862 IF YOU HAVE ANY QUESTIONS.

DATE FORM SUBMITTED: November 5, 2015

Person Notified: _____

Date and time Notified: _____

Received by: _____

Date and time: _____

****DISCLOSURE MADE AVAILABLE THROUGH E-DISCOVERY**

100416

NOV 5 '15 AM 10:39

UC EMERGENCY DEPT
1501 N Campbell Ave
Tucson AZ 85724

MILLAMEM, MARGUERITE

MRN:

DOB:

Sex: F

Adm: 6/20/2015 7:10 PM Dis: 6/20/2015



Banner
University Medical Center Tucson AZ 85724

Diagnoses

Vitals - Last Recorded

BP 100/63 Pulse 85 Temp 37 °C (98.6 °F) Resp 16 Ht 5' 3" (160 cm) Wt 61.236 kg (135 lb)
(Temporal Artery)

BMI 23.92 kg/m2 SpO2 100%

ED Other MD Notes by Vivienne Peg Fay Ng, MD at 6/20/2015 6:51 AM

Author: Vivienne Peg Fay Ng, MD Service: Emergency Medicine Author Type: Physician
Filed: 6/26/2015 10:34 AM Note Type: ED Other MD Notes
Status: Signed Note by: Vivienne Peg Fay Ng, MD (Physician)
Related Notes: Original Note by: Kumbhakar Moses Mhayamaguru, MD (Resident) filed at 6/25/2015 4:05 PM

ED FOLLOW UP NOTE

- This patient who presented to the emergency department after being assaulted was signed out to me by fellow resident Dr. Liam O'Sullivan.
- **Instructions:** Monitor patient and follow up on trauma surgery service recommendations.
- I evaluated the patient at the beginning of my shift and found her to be alert and oriented x 3.
- Vital signs were re-assessed at this time and patient remains in stable condition.

Vital Signs: BP 90/42 | Pulse 84 | Temp (Src) 36.2 °C (97.2 °F) | Resp 25 | Ht 5' 3" (160 cm) | Wt 61.236 kg (135 lb) | BMI 23.92 kg/m2 | SpO2 98%.

I discussed the patient's management with the trauma team after they had discussed patient's left orbital medial wall fracture with the ENT service. They report ENT recommended that patient may be discharged to followup in clinic within the week. At this juncture arrangements were made by the social worker for patient to go to a safe place with victims protection services.

I cleared the cervical spine and discontinued the c-collar after ascertaining there was absence of posterior midline cervical tenderness, normal level of alertness, no evidence of intoxication, no abnormal neurologic findings and no painful distracting injuries.

Prior to patient being discharge she complained of left forearm pain as she reports she had to protect herself from metal objects being swung at her with her left arm. An x-ray of the left forearm was ordered. I reviewed the x-ray and found no evidence of fracture or dislocation. Furthermore patient complained head pain concerned that there was a missed injury. I then examined the patient's head it found evidence that patient's hair was pulled during the alleged assault. There was no large laceration requiring repair however there were small abrasions and areas of skin avulsed consistent with alleged assault.



Banner

University Medical Center Tucson AZ 85724

UC EMERGENCY DEPT
1501 N Campbell Ave

MILLAMEM, MARGUERITE

MRN:

DOB: Sex: F

Adm: 6/20/2015, D/C: 6/20/2015

ED Other MD Notes by Vivienne Peg Fay Ng, MD at 6/20/2015 6:51 AM (continued): 58

DISCHARGED: Patient was re-evaluated and found non-toxic appearing and reported feeling better. She was subsequently discharged to in the care of victims protection services officers in good condition and with strict return precautions. We discussed the uncertainty of the diagnosis, the importance of followup and the importance of returning to the emergency department if any new or worsening symptoms were to occur. We recommended follow up with a primary care provider in 1-2 weeks. The patient was in agreement with the treatment plan and verbalized understanding of return precautions. Marguerite was prescribed Floxin 500 milligrams q.6 hours for 7 days for her UTI, ibuprofen 600 mg every 6 hours and oxycodone-acetaminophen 5/325 mg every 4-6 hours as needed for pain.

Disposition Vital Signs:

BP 100/63 | Pulse 85 | Temp (Src) 37 °C (98.6 °F) (Temporal Artery) | Resp 16 | Ht 5' 3" (160 cm) | Wt 61.236 kg (135 lb) | BMI 23.92 kg/m2 | SpO2 100%

0541



5301 E Grant Road
Tucson AZ 85712
IP LMR w/Flowsheet

MILLAMEM, MARGUERITE
MRN:
DOB: Sex: F
Acct #: 701291726
Adm: 7/20/2015, D/C: 7/23/2015

ED Notes (continued)

ED Provider Notes by Hiebert, Patricia Anne, NP at 07/20/15 1256 (continued)

Version 1 of 2

Electronically signed by Hiebert, Patricia Anne, NP on 07/20/15 1657

H&P - Encounter Notes

H&P by Khan, Atif Majeed, MD at 07/20/15 1729

Version 4 of 4

Author: Khan, Atif Majeed, MD Service: (none) Author Type: Physician
Filed: 07/27/15 1108 Note Time: 07/20/15 1729 Status: Signed
Editor: Khan, Atif Majeed, MD (Physician)
Related Notes: Original Note by Khan, Atif Majeed, MD (Physician) filed at 07/27/15 1108

History and Physical

Date of Admission 7/20/2015

Chief Complaint

Urinary Tract Infection

History of Present Illness

This is a 25-year-old female who had a past medical history of HIV, was diagnosed in 2008. She is currently being followed by infectious disease specialist at St. Mary's Hospital. She states that her CD4 count is being monitored every 4 months and last CD4 count was normal, and she had recently given her blood for CD4 count and has an appointment with her infectious disease specialist on 07/25. However, she presents to our emergency room with complaints of low back pain on the right side, left lower quadrant pain for 3 days, dizziness, headache, fever, burning of the urine, nausea and chills, and also having muscle aches. Denies any blood in the stools. Denies any chest pain.

Dict ID#70275

Past Medical History

Diagnosis	Date
• Acute pyelonephritis without lesion of renal medullary necrosis	7/20/2015

No past surgical history on file.

No family history on file.

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5301 E Grant Road
Tucson AZ 85712
IP LMR w/Flowsheet

MILLAMEM, MARGUERITE
MRN:
DOB: ... Sex: F
Acct #: 701291726
Adm: 7/20/2015, D/C: 7/23/2015

Discharge Summaries - Discharge Summary (continued)

Discharge Summaries by Yarlagadda, Sandeep, MD at 07/23/15 0947 (continued)

Version 2 of 2

Author: Yarlagadda, Sandeep, MD Service: (none) Author Type: Physician
Filed: 07/23/15 0950 Note Time: 07/23/15 0947 Status: Addendum
Editor: Yarlagadda, Sandeep, MD (Physician)
Related Notes: Original Note by Yarlagadda, Sandeep, MD (Physician) filed at 07/23/15 0949

Tucson Medical Center Discharge Summary

Date of Admission: 7/20/2015 Date of Discharge: 07/23/2015 LOS: 3

ADMIT DX Pyelonephritis

Discharge Diagnoses

Active Hospital Problems

Diagnosis

- Acute pyelonephritis without lesion of renal medullary necrosis
- HIV (human immunodeficiency virus infection)
- UTI (lower urinary tract infection)
- Fever

Resolved Hospital Problems

Diagnosis

No resolved problems to display.

Consults

Treatment Team: Attending Provider: Yarlagadda, Sandeep, MD; Consulting: Mandel, Richard M, MD; Case Manager: Sanchez, Maricela G., RN

Hospital Course

This is a 25-year-old female who had a past medical history of HIV, was diagnosed in 2008. She is currently being followed by infectious disease specialist at St. Mary's Hospital. She states that her CD4 count is being monitored every 4 months and last CD4 count was normal, and she had recently given her blood for CD4 count and has an appointment with her infectious disease specialist on 07/25. However, she presents to our emergency room with complaints of low back pain on the right side, left lower quadrant pain for 3 days, dizziness, headache, fever, burning of the urine, nausea and chills, and also having muscle aches. Denies any blood in the stools. Denies any chest pain.

Pyelonephritis - U Cx E coli. ID consult noted and apprec. Change abx to augmentin for 11 more days.

Hypotension - Resolved.

HIV - Cont ART.

Hyperkalemia - Resolved. DC Spironolactone.

Disposition home Condition stable

Labs

No Results Found,

Recent Labs

	07/23/15	07/22/15	07/21/15
NA	0604	0627	0642
NA	139	139	135*
K	3.9	4.1	4.1
CL	105	108*	102
CO2	21*	19*	22
BUN	3*	4*	10
CREATININE	0.8	0.9	1.1*
GLUCOSE	109*	157*	130*

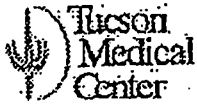
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SUPPLEMENTAL DISCLOSURE

10/21/2015

100088



5301 E Grant Road
Tucson AZ 85712
IP LMR w/Flowsheet

MILLAMEM, MARGUERITE
MRN:
DOB: Sex: F
Acct #: 701291726
Adm: 7/20/2015, D/C: 7/23/2015

Flowsheets (all recorded) (continued)

*** No data found ***

General Screening - Wed July 22, 2015

	0830	2200
General Screening		
*** Mode of Transportation	Stretcher -EP at 07/22/15 1646	Stretcher -LM at 07/22/15 2308
*** Equipment	Telemetry Monitor; Infusion Device; IV Pole -EP at 07/22/15 1646	Telemetry Monitor; Infusion Device -LM at 07/22/15 2308
*** At Risk	NO -EP at 07/22/15 1646	NO -LM at 07/22/15 2308

Medical Screening - Wed July 22, 2015

*** No data found ***

Nutrition Screening - Wed July 22, 2015

*** No data found ***

Domestic Violence Screening - Wed July 22, 2015

	0830	
Domestic Abuse Assessment		
Are you in a relationship in which you have been physically hurt?	No -EP at 07/22/15 1646	
Are you in a relationship in which you have been verbally threatened or felt emotionally controlled?	No -EP at 07/22/15 1646	

Spiritual/Cultural Screening - Wed July 22, 2015

*** No data found ***

Lactation Status - Wed July 22, 2015

*** No data found ***

Suicide Screen - Wed July 22, 2015

*** No data found ***

Intake Reviewed - Wed July 22, 2015

*** No data found ***

MRSA Screen - Wed July 22, 2015

*** No data found ***

Lab Draw Status - Wed July 22, 2015

	0830	2200
OTHER		
Lab/Nurse	LAB COLLECT -EP at 07/22/15 1646	LAB COLLECT -LM at 07/22/15 2308

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SUPPLEMENTAL DISCLOSURE

10/21/2015

100348



5301 E Grant Road
Tucson AZ 85712
IP LMR w/Flowsheet

MILLAMEM, MARGUERITE
MRN:
DOB Sex: F
Acct #: 701291726
Adm: 7/20/2015, D/C: 7/23/2015

Flowsheets (all recorded) (continued)

Site Assessment	q4
Frequency	-LM at 07/22/15 2308
Skin Risk Assessment	
Skin Care	Minimize Skin Exposure to
Interventions	Moisture
	-LM at 07/22/15 2308

Adult Pt Assessment - Wed July 22, 2015

D000	0454	0830
Assessment Group		
Reassessment By This Clinician	Unchanged Assessment -LM at 07/22/15 0042	Assessment Unchanged EXCEPT For: -LM at 07/22/15 0454
Transportation		
***Mode of Transportation	Stretcher	
***Equipment	-EP at 07/22/15 1646	
	Telemetry Monitor, Infusion Device, IV Pole	
	-EP at 07/22/15 1646	
***At Risk	NO	
	-EP at 07/22/15 1646	
Lab Draw Status		
Lab/Nurse Collect	LAB COLLECT	
	-EP at 07/22/15 1646	
Domestic Abuse Assessment		
Are you in a relationship in which you have been physically hurt?	No	
	-EP at 07/22/15 1646	
Are you in a relationship in which you have been verbally threatened or felt emotionally controlled?	No	
	-EP at 07/22/15 1646	
NIH Stroke Scale		
Stroke Assessment Needed?	No	
	-EP at 07/22/15 1646	
Neuro Group		
Level Of Consciousness	Alert	
	-LM at 07/22/15 0454	
Neuro (WNL)	WNL	Normal Limits Except
	-LM at 07/22/15 0042	-LM at 07/22/15 0454
		WNL
		-EP at 07/22/15 1646
Pulmonary Group		
Pulmonary (WNL)	WNL	
	-EP at 07/22/15 1646	
Oxygen + Respiratory		
O2 Delivery	Room Air (none)	Room Air (none)
Device	-LG at 07/22/15 0008	-LM at 07/22/15 0454
		Room Air (none)
		-EP at 07/22/15 1646
Cardiac Group		
Cardiac Regularity	Regular	
	-EP at 07/22/15 1646	
EKG Rhythm	Normal Sinus Rhythm	
	-EP at 07/22/15 1646	
Heart Sounds	S1 S2	
	-EP at 07/22/15 1646	

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SUPPLEMENTAL DISCLOSURE

10/21/2015

100363

SUBJECT MATTER OF FINAL ARGUMENT

HAVE PRESENTED EVIDENCE MISCONDUCT
COUNSEL WERE INEFFECTIVE MEDICAL RECORDS
TO WHOM IT MAY CONCERN; HIV (TB) (UTI)

I MR. MARVIN ARIDO - SORRO

RULES ALSO CONTRIBUTED TO VIOLATION OF MY

"DUE PROCESS"

"VIOLATION OF DISCLOSURE"

"VIOLATION OF MEDICAL RECORDS"

FROM BANNER TUCSON MEDICAL CENTER 06/20/2015. UC EMERGENCY

DEPT. THE COURT: ARE THOSE MEDICAL RECORDS GOING TO BE ADMITTED

INTO EVIDENCE, PROSECUTOR DENIAL? TITLE 18 USC. §1509 obstruction of court order

HIV

SOUTHERN ARIZONA INFECTIOUS DISEASE SPECIALISTS

"BRIEF CONSULT SUMMARY"

SOUTHERN ARIZONA INFECTIOUS DISEASE SPECIALISTS "PYELONEPHRITIS
(HIV) MEDICAL HISTORY, SOCIAL HISTORY AND PHYSICAL HISTORY.

TUBERCULOSIS. URINARY TRACT INFECTIOUS DISEASE IS: IS FOUNDATIONS
FOR MY CASE"

DEFENDANT ALSO HE FAILED TO DISCUSS IN MY CASE AS SUBMITTED
INTO EVIDENCE AS EXHIBITS: THE REASON WHY THIS CONFLICT OCCURED
DUE TO THE EX-GIRLFRIEND HAVING HIV (TB) (UTI) SHE NOT RELATING

THIS TO MR. MARVIN ARIDO. UNTIL LATER MARVIN ARIDO FIND THE
TRUTH. IN THE RELATIONSHIP AFTER HAVING. NUMEROUS SEXUAL
ENCOUNTERS. TO 2013 TO 06/20/2015. SHE DENIES HAVING ANY
HISTORY OF HIV DOCUMENTS MEDICAL RECORDS "PROVE TRUTH";

PROSECUTOR AUCIA RENEE ROBERTSON # STATE BAR N: 66209;
PROSECUTOR DENIAL MY EVIDENCE THE COURT ARE THOSE MEDICAL

RECORDS. HIV, A VIRUS, IS TRANSMITTED THROUGH HUMAN BLOOD OR
FLUIDS BEING EXCHANGED BETWEEN PEOPLE? IN MY CASE AS

SUBMITTED INTO EVIDENCE AS EXHIBITS? MILLAMEN, MARGUERITE

SHE DENIES HAVING ANY HISTORY OF HIV RELATED OPPORTUNISTIC

INFECTIOUS. DOCUMENTS. DISCLOSURE "PROVE TRUTH". DISCLOSURE N: 100140

(HIV) 06/20/2015 EMERGENCY DEPT. MEDICAL RECORDS N: 100417

STRONG V. JENSON 495 F.3D 134, 139 (4TH CIR. 2007); ACCORD EARP

V. ORNOSKI. 431 F.3D 1158, 1169-70 (9TH CIR. 2005) IN RARE INSTANCE

CREDIBILITY MAY BE DETERMINED WITHOUT ANY EVIDENTIARY HEARING

WHERE IT IS POSSIBLE TO CONCLUSIVELY DECIDE EVIDENCE IN THE
RECORD.