No. 20-5705

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

IN RE: PAUL SATTERFIELD

ON PETITION FOR A WRIT OF MANDAMUS TO THE
UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR A WRIT OF MANDAMUS TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

PAUL SATTERFIELD
#AY-7671
SCI-FAYETTE
48 OVERLOOK DRIVE
LABELLE, PENNSYLVANIA 15450-1050

QUESTIONS PRESENTED

1. WHETHER THE COURT OF APPEALS JUDGMENTS WERE INVALID FOR FAILURE TO RESOLVE NUMEROUS PREEXISTING FUNDAMENTAL JURISDICTIONAL DEFECTS?

2.WHETHER THE COUNTY DISTRICT ATTORNEY LACKED STANDING TO PARTICIPATE AS A PARTY-RESPONDENT IN THE DISTRICT COURT AND APPEAL A § 2254 HABEAS JUDGMENT GRANTED AGAINST THE STATE?

3. WHETHER THE INFERIOR FEDERAL COURTS ACTED WITHOUT JURISDICTION IN HEARING A MOOT AEDPA STATUTE OF LIMITATIONS AFFIRMATIVE DEFENSE ISSUE?

4. WHETHER THE COURT OF APPEALS ERRED IN FAILING TO VACATE ITS 1/17/2006 JUDGMENT FOR WANT OF JURISDICTION AND ORDER PETITIONER UNCONDITIONALLY DISCHARGED?

5. WHETHER A FEDERAL COURT LACKS AUTHORITY UNDER HABEAS CORPUS RULES 2(a), 2(c) AND THE MODEL § 2254 FORM, TO SUPPLY A HABEAS PETITIONER WITH AND REQUIRE USE OF A § 2254 FORM LISTING THE COUNTY DISTRICT ATTORNEY AS AN ADDITIONAL RESPONDENT?

6. WHETHER THE INFERIOR FEDERAL COURTS WERE PRECLUDED BY MARBURY V. MADISON, 5 U.S. 137, 178 (1803) AND DAY V. McDONOUGH, 547 U.S. 198, 199 (2006), FROM APPLYING THE AEDPA STATUTE OF LIMITATIONS SUBSEQUENT TO THE GRANTING OF A MERITORIOUS § 2254 HABEAS PETITION?

LIST OF PARTIES

[X] 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:

TABLE OF CONTENTS

INDEX TO APPENDICES

INDEX TO APPENDICES

TO PETITION (Doc. No. 13)

(10) D.C. ..., 6/21/2002 ORDER/MEMORAND. GRANTING PETITION IN PART, DENYING PETITION IN PART, ENTERED 6/23/2004, Doc. No. 34

(11) D.C. ..., 11/16/2004 ORDER/MEMORAND ENTERED 11/18/2004, Doc. No. 48 (DENYING PET'S MOT TO VACATE STAY AND MODIFY INITIAL CUSTODY ORDER)

(12) D.C. ..., 2/23/2005 ORDER, ENTERED 2/25/2005 (AMENDING 11/16/2004 MEMORAN), DOC. NO. 68

(13) D.C. ..., 2/23/2005 ORDER, ENTERED 2/25/2005, Doc. No. 67 (DENYING PET'S MOTION FOR IMMED RELEASE)

(14) D.C. ..., 2/23/2005 ORDER, ENTERED 2/25/2005, Doc. No. 66 (GRANTING DA'S MOT FOR STAY PENDING APPEAL; DENYING PET'S MOT TO GRANT MOT FOR IMMED RELEASE AS UNCONTESTED)

(15) D.C. ..., 4/19/2006 ORDER, ENTERED 4/20/2006, Doc. No. 80 (DISMISSING HABEAS PETITION)

(16) D.C. ..., 7/5/2016 ORDER, ENTERED 7/6/2016, Doc. No. 115 (DENYING PET'S MOT TO MODIFY AND CORRECT RECORD)

(17) D.C. ..., 8/11/2020 ORDER, ENTERED _____, Doc. No. 196 (REFERRING PET'S MOTIONS TO COUNSEL WHOM PET PREVIOUSLY REJECTED, DISCHARGED AND INVOKED RIGHT UNDER 28 U.S.C. § 1654)

APPENDIX C:

(1) C.A. No. 04-3108, 4/6/2006 ORDER DENYING REHEARING

APPENDIX D:

(1) C.A. No. 15-2190, 9/26/2017 JUDGMENT/OPINION (VACATING

D.C.'s APRIL 16, 2015 ORDER WITH RESPECT TO DENIAL OF RULE 60(b) (6) RELIEF AND REMAND ...)

APPENDIX E:

CONSTITUTIONAL AND STATUTORY PROVISIONS

APPENDIX F:

(1) AG's UNFILED 4/19/2002 LETTER TO DA AFTER STATE'S DEFAULT TO PETITION

(2) DA's RESPONSE TO HABEAS PETITION (DOC. NO. 6)

(3) DA's ADDENDEM TO RESPONSE TO HABEAS PETITION (DOC. NO 7)

(4) D.C. No. 02-448 DOCKET ENTRIES

(5) DA's NOTICE OF APPEAL (DOC. NO. 39)

(6) C.A. No. 04-3108 DOCKET ENTRIES

(7) PET'S RULE 60(b)(4) & (6) MOTION - BRIEF - APPENDIX INDEX (DOC. NO. 94)

(8) PETITIONER'S APPLICATION FOR A CERTIFICATE OF APPEALABILITY C.A. No. 15-2190

(9) PET'S : MOT TO AMEND RULE 60(b)(4 MOT, AMENDED RULE 60(b)(4) MOT, CERTIFICATION MOT UNCONTESTED (DOC. NOS. 191, 193, 194)

(10) PET'S SUPPORTING STIPULATIONS (DOC. NO. 195)

(11) PET'S MOT TO REVISIT AND CORRECT MANIFEST INJUSTICE / GRAVE MISCARRIAGE OF JUSTICE ... (DOC. NO 192)

(12) DA'S RESPONSE TO PET'S MOTION FOR IMMED RELEASE (DOC. NO. 62)

(13) SUPREME COURT 10/2/2006 LETTER/ORDER, No. 06-5046

(14) FIRST PAGE OF PET'S HABEAS PETITION FILED 1-28-2002, DOC. NO. 1

TABLE OF AUTHORITIES CITED

UNITED STATES CONSTITUTION

STATUTES

RULES GOVERNING SECTION 2254 CASES

FEDERAL RULES OF APPELLATE PROCEDURE

FEDERAL RULES OF CIVIL PROCEDURE

OTHER

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR A WRIT OF MANDAMUS TO THE

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITIONER RESPECTFULLY PRAYS THAT A WRIT OF MANDAMUS ISSUE TO REVIEW THE JUDGMENT BELOW.

OPINIONS BELOW

THE OPINION OF THE UNITED STATES COURT OF APPEALS APPEARS AT APPENDIX A-1 TO THE PETITION AND IS UNPUBLISHED.

THE OPINION OF THE UNITED STATES DISTRICT COURT APPEARS AT APPENDIX A-2 TO THE PETITION AND IS REPORTED AT 2015 U.S. Dist. LEXIS 184315.

JURISDICTION

THE DATE ON WHICH THE UNITED STATES COURT OF APPEALS DECIDED MY CASE WAS OCTOBER 7, 2015.

NO PETITION FOR REHEARING WAS FILED IN MY CASE.

THE JURISDICTION OF THIS COURT IS INVOKED UNDER 28 U.S.C. §1651(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

ARTICLE III OF THE UNITED STATES CONSTITUTION

SECTION 1. THE JUDICIAL POWER OF THE UNITED STATES, SHALL BE VESTED IN ONE SUPREME COURT, AND IN SUCH INFERIOR COURTS AS THE CONGRESS MAY FROM TIME TO TIME ORDAIN AND ESTABLISH. THE JUDGES, BOTH OF THE SUPREME AND INFERIOR COURTS, SHALL HOLD THEIR OFFICES DURING GOOD BEHAVIOUR, AND SHALL, AT STATED TIMES, RECEIVE FOR THEIR SERVICES A COMPENSATION, WHICH SHALL NOT BE DIMINISHED DURING THEIR CONTINUANCE IN OFFICE.

SECTION 2. [1] THE JUDICIAL POWER SHALL EXTEND TO ALL CASES, IN LAW AND EQUITY, ARISING UNDER THIS CONSTITUTION, THE LAWS OF THE UNITED STATES, AND TREATIES MADE, OR WHICH SHALL BE MADE, UNDER THEIR AUTHORITY;—TO ALL CASES AFFECTING AMBASSADORS, OTHER PUBLIC MINISTERS AND CONSULS;—TO ALL CASES OF ADMIRALTY AND MARITIME JURISDICTION;—TO CONTROVERSIES TO WHICH THE UNITED STATES SHALL BE A PARTY;—TO CONTROVERSIES BETWEEN TWO OR MORE STATES;—BETWEEN A STATE AND CITIZENS OF ANOTHER STATE;—BETWEEN CITIZENS OF DIFFERENT STATES;—BETWEEN CITIZENS OF THE SAME STATE CLAIMING LANDS UNDER THE GRANTS OF DIFFERENT STATES, AND BETWEEN A STATE, OR THE CITIZENS THEREOF, AND FOREIGN STATES, CITIZENS OR SUBJECTS.

AMENDMENT V: DUE PROCESS AND EQUAL PROTECTION CLAUSES

NO PERSON SHALL BE HELD TO ANSWER FOR A CAPITAL, OR OTHERWISE INFAMOUS CRIME, UNLESS ON A PRESENTMENT OR INDICTMENT OF A GRAND JURY,

EXCEPT IN CASES ARISING IN THE LAND OR NAVAL FORCES, OR IN THE MILITIA, WHEN IN ACTUAL SERVICE IN TIME OF WAR OR PUBLIC DANGER; NOR SHALL ANY PERSON BE SUBJECT FOR THE SAME OFFENCE TO BE TWICE PUT IN JEOPARDY OF LIFE OR LIMB; NOR SHALL BE COMPELLED IN ANY CRIMINAL CASE TO BE A WITNESS AGAINST HIMSELF, NOR BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY WITHOUT DUE PROCESS OF LAW; NOR SHALL PRIVATE PROPERTY BE TAKEN FOR PUBLIC USE, WITHOUT JUST COMPENSATION.

AMENDMENT VI

IN ALL CRIMINAL PROSECUTIONS, THE ACCUSED SHALL ENJOY THE RIGHT TO A SPEEDY AND PUBLIC TRIAL, BY AN IMPARTIAL JURY OF THE STATE AND DISTRICT WHEREIN THE CRIME SHALL HAVE BEEN COMMITTED, WHICH DISTRICT SHALL HAVE BEEN PREVIOUSLY ASCERTAINED BY LAW, AND TO BE INFORMED OF THE NATURE AND CAUSE OF THE ACCUSATION; TO BE CONFRONTED WITH THE WITNESSES AGAINST HIM; TO HAVE COMPULSORY PROCESS FOR OBTAINING WITNESSES IN HIS FAVOR, AND TO HAVE THE ASSISTANCE OF COUNSEL FOR HIS DEFENCE.

AMENDMENT XIV (SECTION 1.): PRIVILEGES-IMMUNITIES, DUE PROCESS-EQUAL PRO.

ALL PERSONS BORN OR NATURALIZED IN THE UNITED STATES, AND SUBJECT TO THE JURISDICTION THEREOF, ARE CITIZENS OF THE UNITED STATES AND OF THE STATE WHEREIN THEY RESIDE. NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE UNITED STATES; NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY,

OR PROPERTY, WITHOUT DUE PROCESS OF LAW; NOR DENY ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS.

STATUTES*

28 U.S.C § 453

28 U.S.C § 636(b)(3):

A MAGISTRATE MAY BE ASSIGNED SUCH ADDITIONAL DUTIES AS ARE NOT INCONSISTENT WITH THE CONSTITUTION AND LAWS OF THE UNITED STATES.

28 U.S.C. § 1331:

THE DISTRICT COURTS SHALL HAVE ORIGINAL JURISDICTION OF ALL CIVIL ACTIONS ARISING UNDER THE CONSTITUTION, LAWS OR TREATIES OF THE UNITED STATES.

28 U.S.C. § 1651(a)

28 U.S.C. § 1652

28 U.S.C. § 2241

28 U.S.C. § 2242

28 U.S.C. § 2243

28 U.S.C. § 2244(d)(1)(A):

A 1-YEAR PERIOD OF LIMITATION SHALL APPLY TO AN APPLICATION OF A WRIT OF HABEAS CORPUS BY A PERSON IN CUSTODY PURSUANT TO THE JUDGMENT OF A STATE COURT. THE LIMITATION PERIOD SHALL RUN FROM THE LATEST OF — THE DATE ON WHICH THE JUDGMENT BECAME FINAL BY CONCLUSION OF DIRECT REVIEW OR THE EXPIRATION OF THE TIME FOR SEEKING SUCH REVIEW;

28 U.S.C § 2254

71 P.S. § 732-101

71 P.S. § 732-204(c)

71 P.S. § 732-204(a)(3)

71 P.S. § 732-303

71 P.S. § 732-403

RULES*

RULES GOVERNING SECTION 2254 CASES IN THE UNITED STATES DISTRICT COURTS (1/23/2002)

RULE 2(a)

RULE 2(c)

RULE 4

§ 2254 MODEL FORM

FEDERAL RULES OF APPELLATE PROCEDURE

RULE 3(c)(1)(B)

RULE 4(a)(3)

FEDERAL RULES OF CIVIL PROCEDURE (1/23/2002)**

RULE 24 **

RULE 25(c)**

RULE 60(b)(4)

RULE 60(b)(6)

RULE 79(a)**

RULE 81(a)(2)**

RULE 83(a)**

[redacted]

* THE VERBATIM TEXT OF ALL STATUTES AND RULES NOT APPEARING IN THE FOREGOING APPEAR IN THE APPENDIX.

SUPREME COURT RULE 20

STATEMENT OF THE CASE

The District Court has case or controversy subject-matter jurisdiction to resolve the civil habeas corpus subject-matter/dispute existing purely between Petitioner and Respondent Superintendent Philip L. Johnson, pursuant to Article III, §§ 1 and 2, clause 1 of the United States Constitution.

The District Court has federal jurisdiction to resolve the civil habeas corpus dispute existing purely between Petitioner and Respondent Johnson, pursuant to Article III, §§ 1 and 2, clause 1 of the United States Constitution and any and all applicable statutes and rule enacted by Congress, governing the proceeding, primarily including but not limited to: 28 U.S.C. §§ 453, 636(b)(3), 1331, 1652, 2241, 2242, 2243, 2244, 2254; Rules Governing Section 2254 Cases in the United States District Courts (1/23/2002) ("Habeas Corpus Rules"); Federal Rules of Civil Procedure(1/23/2002) 24, 25(c), 79(a), 81(a)(2) and 83(a).

On March 31, 2014, Petitioner filed a Rule 60(b)(4) and (6) Motion in the district court (ECF, Doc. No. 94), seeking relief from: (1) the district court's alleged void Order entered April 20, 2006 (ECF, Doc. No. 80), which dismissed Petitioner's § 2254 habeas petition as being time-barred after: the State had initially defaulted to the petition; the petition had been previously granted; the State did not appeal the district court's final habeas judgment which granted the petition (ECF, Doc. No. 34) (see Satterfield v. Johnson, et al., 322 F.Supp.2d 613); the State defaulted to the district court's retrial/release Order on December 18, 2004; and (2) the Third Circuit's alleged void 1/17/2006 judgment (see Satterfield v. Johnson, et al., 434 F.3d 185) and void 4/14/2006 mandate, which is alleged to have unlawfully derived as a direct result of the Third Circuit's failure to correctly engage its fundamental, threshold obligation to properly determine its own jurisdiction and then that of the district court when it misapprehended and overlooked numerous preexisting fundamental jurisdic-

tional defects and proceeded to review an invalid, untimely appeal of an undesignated, moot time-bar issue, advanced by an improper-party, nonparty, county District Attorney ("DA") who lacked standing to be a party-respondent in the district court and thus, possessed no right of appeal and thereafter, reversed the district court's moot adjudication of a moot AEDPA affirmative defense statutory tolling issue, initially decided in Petitioner's favor (ECF, Doc. No. 12) (see Satterfield v. Johnson, et al., 218 F.Supp.2d 715), and remanded the case for the petition to be dismissed as time-barred.

On April 16, 2015, the district court entered an Order denying Petitioner's motion seeking Rule 60(b)(4) and (6) relief (ECF, Doc. No. 96), resting upon the following erroneous determinations of material fact and erroneous conclusions of law:

(1) At p. 2, ¶ 3, of the Order, it is submitted the district court erroneously determined, "The Commonwealth appealed the Court's decisionto the United States Court of Appeals for the Third Circuit on July 21, 2004." It is alleged that material statement of fact is clearly erroneous because the district court misapprehended and overlooked:

(a) the fact that upon an actual examination of the Commonwealth's purported Notice of Appeal filed in the case (ECF, Doc. No. 39), that document explicitly substantiates that Assistant DA J. Hunter Bennett filed the Notice of Appeal and not the Attorney General of the State of Pennsylvania ("AG") as required by federal law and state law pursuant to the Commonwealth Attorneys Act of October 15, 1980, codified at 71 P.S. §§ 732-101 et seq., see 71 P.S. § 732-204(c) Civil litigation; ....--The Attorney General shall represent the Commonwealth and all Commonwealth agencies ....;

(b) the fact that the proper, requisite Commonwealth respondent pursuant to federal law--Superintendent Johnson and the lawful additional respondent, the

AG, D. Michael Fisher, Respondent Johnson's proper legal representative--who, after receiving service of process around February 13, 2002, pursuant to Habeas corpus Rule 4 (1/23/2002), 28 U.S.C. § 2243, and FRCP 81(a)(2) (1/23/2002), had up to 40-days, or until March 25, 2002, to make a return on the petition and did not;

(c) that on January 23, 2002, Petitioner mailed his habeas petition to the district court, which was received by the court and docketed on January 28, 2002; that the filing fee was separately sent and was received by the court on February 4, 2002 (ECF, Doc. NO. 1) and thereafter, process issued upon the state respondents as previously stated, however, in blatant violation to the due process requirements of FRCP 79(a) the district court fraudulently omitted entering chronologically in the docket that process issued upon the state respondents and the date that such process issued; the fact that the state respondents received service of process is evidenced by the AG's admission in the unfiled 4/19/2002 letter the AG sent to the DA; the purpose of that omission was to suppress and and conceal the unlawful bypassing and overriding of the State's deliberate default to the petition and unlawful joinder of the improper-party DA to the case;

(d) that an actual examination of all individual documents filed in the case, substantiates the improper-party, non-party, non-state-officer, county-officer DA of Philadelphia County filed all adversarial documents in the case; and that Respondent Johnson: never filed a return on the petition; never entered appearance; never filed a pleading, motion or anything whatsoever and did not ever oppose the petition; intentionally defaulted to the petition, waived/forfeited all affirmative defense issues, and excluded said issues from the case and appeal;

(e) that thereafter, as a result of Respondent Johnson's deliberate default to the petition and waiver/forfeiture of all affirmative defense issues,

the issues were dead and no longer live issues; Petitioner and Respondent Johnson no longer had any cognizable legal/judicial interest in litigating dead affirmative defense issues which could no longer affect the outcome of the habeas proceeding; thus, all affirmative defense issues were rendered moot; see Powell v. McCormack, 395 U.S. 486, 496 (1969); In re Surrick, 338 F.3d 224, 229 (3d Cir. 2003);

(f) that thereafter, on March 25, 2002, the case was referred to a Magistrate Judge ("MJ") (ECF, Doc. No. 4), who on April 9, 2002, acting without Article III case or controversy subject-matter jurisdiction and without federal jurisdiction--under 28 U.S.C. § 2243, Habeas Corpus Rule 4, FRCP 24, 25(c), and 81(a)(2)--arbitrarily issued sua sponte--without the requisite motion--a void ab initio Order, unlawfully joining the DA to the case to answer the petition (ECF, Doc. No. 5) and present a moot AEDPA statute of limitations affirmative defense issue, after Respondent Johnson had previously defaulted to the petition and waived/forfeited all affirmative defenses; that the MJ's arbitrary action was unauthorized by federal law because the DA was not a state-officer, but was a county-officer who did not have custody of Petitioner, and had failed to seek intervention pursuant to FRCP 24;

(g) that the DA was never a lawful original party to the petition, but was arbitrarily, unlawfully added to the district court's standard § 2254 petition form via judicial fiat and judicial usurpation of power in violation to: 28 U.S.C. § 2242; Habeas Corpus Rules 2(a), 2(c), the substantial format of the Model § 2254 Petition Form which only authorizes the state AG to be designated as the one and only additional respondent on the form; and FRCP 83(a);

(h) that under FRCP 25(c), since the DA was never a lawful original party to the petition, the DA could not be lawfully joined without timely intervention under FRCP 24, which was not done; see Dukes v. Beinhocker, 856 F.3d 186, 189 n.

3 (1st Cir. 2017) (Under FRCP 25(c), a party's standing to respond is determined by their position at the commencement of the action.); the DA was a non-party at the commencement of this habeas action and thus, lacked standing to respond as that position never lawfully changed;

(i) that regarding the AG's letter referring the case to the DA after the State's default, the AG knew or should have known: (1) the AG's authority is primarily governed by the Commonwealth Attorneys Act ("CAA"); (2) pursuant to 71 P.S. § 732-204(a)(3), the AG is specifically charged with the duty of upholding and defending the constitutionality of the State's statutes; (3) pursuant to 71 P.S. §§ 732-303 and 732-403, intervention is only authorized by the Governor's General Counsel or agency Chief Counsel, respectively; (4) the CAA does not authorize and prohibits intervention by the county DA; (5) federal law under 28 U.S.C. § 1652, Habeas Corpus Rules 2(c), 4, and the § 2254 Model Form specifically requires the AG to represent the State in § 2254 cases; (6) the CAA and federal law prohibited the AG from referring the case--after default--to a county-officer DA, who was not the state-officer having custody of Petitioner and was not otherwise authorized by federal or state law to represent Respondent Johnson in this civil habeas corpus action; (7) that in order for the DA to have even attempted to intervene, the DA was required to seek timely intervention under FRCP 24; (8) pursuant to applicable mandates of Article III constitutional provisions and those of applicable federal and state law, the Deputy AG usurped executive authority by referring the habeas case to the improper-party, county DA after the State had previously defaulted to the petition and that such arbitrary act never had lawful force or effect;

(j) that the AG's unfiled letter to the DA after default occurred, which was not authorized by federal or state law, was insufficient to bring the State into the suit as a respondent, since the State never demonstrated interest in

lawfully contesting the petition; see: Diamond v. Charles, 476 U.S. 54, 63 (1986) (State's mere expression of interest by letter--filed in Supreme Court--is insufficient to bring the State into the suit as an appellant.); United States v. Mulvenna, 376 Fed.Appx. 348, 350 (3d Cir. 2001) (Letter to district court held not to constitute an appearance. Appearance in an action involves some presentation or submission to the court), citing Port-Wide Container Co., v. Interstate Maint. Corp., 440 F.2d 1195, 1196 (3d Cir. 1971); State failed to show an adequate intent to defend to avoid default, Mulvenna, supra, citing 10A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice and Procedure § 2686 (3d ed.);

(k) that State's insincere, utterly invalid referral letter--after State defaulted--to improper-party/non-party, county-officer DA--who was not the requisite state officer having custody of Petitioner and not authorized to represent the State in civil matters, which irregular procedure was totally inconsistent with and unauthorized by federal and state law--could not and did not constitute a valid intent to defend, to avoid default, because the State had previously, knowingly, intentionally defaulted before sending the letter to the DA;

(l) that on May 13 and 15, 2002, 89 to 91 days after the lawful, proper-party, Respondent Johnson received service of process from the district court and thereafter, DEFAULTED to the petition on/or about March 25, 2002, the improper-party, non-party, non-state-officer, county-officer DA filed an invalid, frivolous response to the petition (ECF, Doc. Nos. 5 and 6), falsely arguing the petition was time-barred under the AEDPA one-year statute of limitations, which was not authorized by well established constitutional provisions and congressional enactments under Article III, 28 U.S.C. §§ 453, 636(b)(3), 2243, and FRCP 81(a)(2), respectively, as no case or controversy subject-matter ever existed in the case between Petitioner and the DA for the district court to resolve, hence no case

or controversy subject-matter jurisdiction ever existed authorizing the district court to entertain the DA's participation in the case as a party-respondent and moreover, no live case or controversy any longer existed concerning any affirmative defense issue;

(m) that the district court had a judicial obligation, but failed to fulfill its obligation to not adjudicate moot issues, to avoid undue legal consequences; N.J. Tpk. Auth. v. Jersey Cent. Power & Light Co., 772 F.2d 25, 30, 34 (3d Cir. 1985), citing United States v. Munsingerwear, Inc., 340 U.S. 36, 40-41 (1950);

(n) that thereby, the MJ arbitrarily, unlawfully excused, bypassed and overrode Respondent Johnson's prior default to the petition and waiver/forfeiture of all affirmative defense issues, which was contrary to the Supreme Court holding in Day v. McDonough, 547 U.S. 198, 202, 210 n. 11 (2006), that held it an abuse of discretion for a federal court to excuse, bypass or override a State's deliberate waiver of a limitations defense;

(o) that under 28 U.S.C. § 636(b)(3), the district court lacked federal jurisdiction to assign the MJ a duty that was completely inconsistent with and contrary to Article III constitutional provisions and said federal laws;

(p) that thereafter, the district court acting without Article III case or controversy subject-matter jurisdiction and without federal jurisdiction, adjudicated a moot AEDPA statutory tolling affirmative defense issue, rendering a moot decision on September 6, 2002 (ECF, Doc. No. 12);

(q) that as a result of all foregoing allegations submitted in ¶¶ (1)(a) through (p)--which are hereby respectfully incorporated by reference and realleged as fully set forth herein--the DA never became a lawful proper-party-respondent, never demonstrated any cognizable legal/judicial interest in the outcome of the habeas action and had no right of appeal, Marino v. Ortiz, 484 U.S.

301, 304 (1988), Diamond v. Charles, 476 U.S., supra, at 61-71, and lacked standing to appeal the district court's order to vindicate the waived/forfeited right of Respondent Johnson, Singleton v. Wulff, 428 U.S. 106, 113-114 (1976).

(2) At p. 3, n. 3, of the district court's Order, the court rejected Petitioner's argument, "that the District Attorney of the County of Philadelphia should be dismissed from the case and that anything filed by the District Attorney, including the Notice of Appeal, should be stricken from the record because the District Attorney is not a proper party to this action." The district court rested upon the legal conclusion, "The District Attorney was lawfully added as a party to this action by Order dated April 9, 2002, and thus had STANDING to appeal." Petitioner submits the district court's said conclusion of law is clearly erroneous for all the above reasons alleged in ¶¶ (1)(a) through (q)--which are hereby respectfully incorporated by reference and realleged as fully set forth herein--also see Dorsey v. Banks, 749 F.Supp.2d 715, 718-719 (S.D. Ohio 2010) (county DA denied intervention due to lack of cognizable legal interest in outcome of habeas proceeding; thus DA filing never authorized by Court striken); Saldano v. Roach, 363 F.3d 545, 556 (5th Cir. 2004) (where district court's order denying intervention was affirmed, DA's appeal dismissed).

(3) At p. 5, ¶ 8 of the district court's Order, Petitioner submits the court's legal conclusion that Petitioner's argument that the Court's April 19, 2006 Order is void because the Third Circuit lacked subject matter jurisdiction to order that his Petition for Writ of Habeas Corpus be dismissed, is meritless, is clearly erroneous because the district court misapprehended and overlooked that its April 19, 2006 Order is founded upon: (a) the MJ's void April 9, 2002 Order issued without Article III case or controversy subject-matter jurisdiction and without federal jurisdiction under 28 U.S.C. §§ 636(b)(3) and 2243; (b) the district court's September 6, 2002 moot adjudication of a moot AEDPA statute of limi-

tations affirmative defense issue; (c) a lack of judicial authority pursuant to the Supreme Court holding in Day v. McDonough, supra; (d) the fact that the Third Circuit misapprehended, overlooked and failed to: (1) fulfill its requisite, threshold, fundamental, special obligation to properly determine its own jurisdiction and then that of the district court, Mitchell v. Maurer, 293 U.S. 237, 244 (1934), citing Mansfield, C. & L. M. R. Co. v. Swan, 111 U.S. 379, 382 (1884); (2) determine it lacked jurisdiction to hear an undesignated-untimely appeal of a moot AEDPA statute of limitations affirmative defense issue, raised in the district court by an improper-party/non-party DA who: was never a lawful original party to the petition; was a county/city-officer and not a state-officer and did not have custody of Petitioner; never intervened under FRCP 24, thus could not be lawfully joined by the district court pursuant to FRCP 25(c); thus, lacked standing to be a party-respondent in the case under Article III of the Constitution and said federal laws; lacked standing to appeal a proper, de jure final habeas judgment entered purely against the State of Pennsylvania--Respondent Superintendent Philip L. Johnson; (3) acknowledge "standing 'is perhaps the most important of (the jurisdictional) doctrines.'" FW/PBS, Inc. v. City of Dallas, 493 U.S. 215, 231 (1990), quoting Allen v. Wright, 468 U.S. 737, 750 (1984) and initially determine the important issue of whether the record affirmatively supported the DA had standing to be a party-respondent, with standing to appeal a judgment entered purely against the State, where the record was totally devoid of any affirmative support indicating standing existed; (4) acknowledge, "The decision to seek review 'is not to be placed in the hands of 'concerned bystander's,'' persons who would seize it 'as a 'vehicle for vindication of value interests.'" Arizonians for Official English v. Arizona, 520 U.S. 43, 64-65 (1997) (quoting Diamond, 476 U.S. supra, at 62 (citing United States v. SCRAP, 412 U.S. 669, 687 (1973); (5) make the requisite, threshold determination that

the AEDPA statute of limitations affirmative defense issue, along with all other affirmative defenses WERE moot issues which it and the district court lacked Article III case or controversy subject-matter jurisdiction to hear, because no affirmative defense issue controversy any longer existed between Petitioner and Respondent Johnson after Mr. Johnson defaulted to the petition and thereby, waived/forfeited, excluded all said issues from the case and appeal and mooted all said issues; (6) vacate the district court's moot September 6, 2002 adjudication, pursuant to North Carolina v. Rice, 404 U.S. 244, 246 (1971): (resolution of the question of mootness is essential if federal courts are to function within their constitutional sphere of authority); (it has frequently repeated that federal courts are without power to decide questions that cannot affect the rights of litigants in the case before them, citing Local No. 8--6, Oil Chemical and Atomic Workers Intern. Union v. Missouri, 361 U.S. 363, 367 (1960); (Mootness is a jurisdictional question because the Court 'is not empowered to decide moot questions or abstract propositions,' United States v. Alaska S.S. Co., 253 U.S. 113, 116 (1920), quoting California v. San Pablo & Tulare R. Co., 149 U.S. 308, 314 (1893); (our impotence 'to review moot cases derives from the requirement of Article III of the Constitution under which the exercise of the judicial power depends upon the existence of a case or controversy,' quoting Liner v. Jafco, 375 U.S. 301, 306 n. 3 (1964); (7) acknowledge and correct the jurisdictional defect occurring when the DA untimely appealed the undesignated, moot time-bar issue, in blatant violation to FRAP 3 and 4, and Smith v. Barry, 502 U.S. 244 (1992).

Petitioner timely appealed the district court' s denial of Rule 60(b)(4) relief, at C.A. No. 15-2190, arguing the Third Circuit was required to correct the preexisting jurisdictional defects and lacked jurisdiction to hear the merits of any issue, pursuant to United States v. Corrick, 298 U.S. 235, 240

(1936). However, it is alleged the Third Circuit continued to misapprehend and overlook said preexisting jurisdictional defects and affirmed the denial of Rule 60(b)(4) relief and granted a certificate of appealability on Petitioner's actual innocence claim brought under Rule 60(b)(6), pursuant to McQuiggin v. Perkins, 569 U.S. 383 (2013).

On September 26, 2017, the Third Circuit vacated the district court's April 16, 2015 order with respect to the denial of Petitioner's request for Rule 60(b)(6) relief and remanded for consideration of whether the change of law wrought by McQuiggin, combined with other circumstances of the case, merits relief under Rule 60(b)(6) (see Satterfield v. District Attorney Philadelphia, 872 F.3d 152). However, Petitioner submits the Third Circuit's judgment and mandate are void for want of jurisdiction as jurisdiction only existed to correct preexisting jurisdictional defects, Corrick, supra. Moreover, said 9/26/2017 judgment and mandate are submitted to be founded upon the Third Circuit's void ab initio 1/17/2006 judgment and are therefore, void, as the court further litigated the moot time-bar issue in connection with an unnecessary moot actual innocence claim.

Petitioner also submits that both inferior federal courts have also misapprehended and overlooked that: (1) a proper review of the actual true facts of record and the appropriate application of the correct law to this case will substantiate that the habeas petition was timely filed as initially determined by the district court in its moot 9/6/2002 adjudication, and with an additional 90 days to spare pursuant to the application of Jimenez v. Quarterman, 555 U.S. 113 (2009); (2) pursuant to Marbury v. Madison, 5 U.S. 137, 178 (1803), after the district court's undisturbed final judgment invalidated Petitioner's June 10, 1985 state criminal conviction as being unconstitutional in violation to the 6th and 14th Amendments, pursuant to Strickland v. Washington, 466 U.S. 668 (1984),

the federal courts were precluded from allowing the 1-year AEDPA statute of limitations time-bar/congressional enactment to be enforced in a manner infringing upon Petitioner's superior 6th and 14th Amendment right to be at liberty; (3) if Petitioner were in fact actually time-barred, pursuant to Day v. McDonough, supra, at 199, in light of Marbury v. Madison, supra, the district court had discretion to decide whether the administration of justice is better served by dismissing the case on statute of limitations grounds or by reaching the merits of the petition; since the district court had previously reached the merits of the petition, finding it meritorious, it was a clear usurpation of judicial power to dismiss the petition; Petitioner's initial certiorari petition in this case was pending when Day v. McDonough, was decided on 4/25/2006, and applied, see Satterfield v. Johnson, 549 U.S. 947 (10/2/2006) (cert. denied, No. 06-5046).

The Court is referred to United States v. Bey, 2014 U.S. Dist. Lexis 179090, n. 8 (E.D.Pa.) (Criminal Action No. 10-164-01), where Judge Jan E. DuBois, can be found to have judiciously employed the discretion permitted by this Court's Day v. McDonough holding.

Petitioner submits: that because the federal courts in this case never properly resolved their requisite, mandatory, threshold, fundamental judicial/fiduciary obligation to correctly determine the important unresolved questions involving the issue of the DA's standing to be a party-respondent, standing to appeal and whether the AEDPA statute of limitations affirmative defense was a moot issue, that failure to fulfill the court's solemn judicial/fiduciary obligations constituted constructive fraud, defined as: "... any act of commission or omission contrary to legal or equitable duty, trust, or confidence justly reposed, which is contrary to good conscience and operates to the injury of another ...." Black's Law Dictionary, 595 (5th ed. 1979). Accordingly, Petitioner believes and alleges the Third Circuit's 1/17/2006 judgment and 4/14/2006

mandate and the district court's 4/19/2006 order are all founded upon and were obtained by the deliberate employment of constructive fraud.

The Supreme Court has stated an allegation of fraud in obtaining a judgment authorizes a redetermination of the subject matter jurisdiction. Stoll v. Gottlieb, 305 U.S. 165, 172 (1938).

Lack of federal jurisdiction cannot be waived or be overcome by agreement of the parties. Mitchell v. Maurer, 293 U.S. 244, supra; California v. LaRue, 409 U.S. 109 (1972). Lack of subject matter jurisdiction can never be waived. Okereke v. United States, 307 F.3d 117, 120 n. 1 (3d Cir. 2002), citing Pennsylvania v. Union Gas Co., 491 U.S. 1, 26 (1989).

Since the district court and the United States Court of Appeals for the Third Circuit are indeed courts created by statutes enacted by Congress, they have no federal jurisdiction but such as the congressional statutory enactments confer. Sheldon v. Sill, 49 U.S. 441, 449 (1850). Thus, both inferior federal courts in this case lacked federal jurisdiction to exceed the prescribed authority provided by the said congressional enactments governing how this case is to be conducted. And because they lacked case or controversy subject matter jurisdiction and federal jurisdiction to adjudicate a moot issue advanced by an improper-party, lacking standing, the federal courts in this case were unequivocally required to grant Rule 60(b)(4) relief, announce such fact and dismiss the cause. Ex Parte McCardle, 74 U.S. 506, 514 (1869); Marshall v. Bd. of Educ., Bergenfield, N.J., 575 F.2d 417, 422 (3d Cir. 1978), citing United States v. Walker, 109 U.S. 258, 265-267 (1883).

In this very extraordinary case involving a monstrous absurdity, where a clear absence of jurisdiction is so glaring it indeed constitutes a total want of jurisdiction compounded with plain usurpation of judicial power rendering the 1/17/2006 judgment, 4/14/2006 mandate, 4/19/2006 order and 10/7/2015 judgment/

ORDER VOID FROM THEIR INCEPTION, WITH NO ARGUABLE BASIS FOR JURISDICTION TO TO EXIST, REQUIRING RULE 60(b)(4) RELIEF TO BE RELINQUISHED. UNITED STUDENT AID FUNDS, INC. V. ESPINOSA, 130 S.Ct. 1367, 1377 (2010); UNITED STATES V. BOCH OLDSMOBILE, INC., 909 F.2d 657, 661-662 (1ST CIR. 1990); NEMAIZER V. BAKER, 793 F.2d 58, 65 (2d CIR. 1986).

IF COURTS OF APPEALS SPEAK WITHOUT SUBJECT MATTER JURISDICTION, ITS UTTERANCES ARE TAINTED PRECEDENT. A LACK OF SUBJECT MATTER JURISDICTION GOES TO THE VERY POWER OF A COURT TO HEAR A CONTROVERSY, THE EARLIER CASE CAN BE ACCORDED NO WEIGHT AS PRECEDENT OR AS LAW OF THE CASE. UNITED STATES V. TROUP, 821 F.2d 194, 197 (3d CIR. 1987).

IT IS SUBMITTED THAT UNDER 28 U.S.C. § 2243, THE DISTRICT COURT HEARD THE PETITION, SUMMARILY DETERMINED THE FACTS AND PROPERLY, LAWFULLY GRANTED THE PETITION ON PETITIONER'S CLAIM THAT TRIAL COUNSEL WAS INEFFECTIVE FOR FAILURE TO INTERVIEW AND CALL GRADY FREEMAN AND ERIC FREEMAN AS WITNESSES AT TRIAL. THE DISTRICT COURT EXCESSIVELY PROVIDED RESPONDENT JOHNSON WITH 180-DAYS FROM THE DATE OF THE COURT'S ORDER TO RETRY OR RELEASE PETITIONER, AND AS OF DECEMBER 18, 2004, RESPONDENT JOHNSON HAS BEEN IN DEFAULT TO THE COURT'S ORDER. RESPONDENT JOHNSON DID NOT APPEAL THE DISTRICT COURT'S FINAL HABEAS JUDGMENT. ALTHOUGH, THE IMPROPER-PARTY DA PURPORTEDLY APPEALED, NO LAWFUL RIGHT OF APPEAL EVER EXTENDED TO THE DA; THEREFORE, THE DA'S INVALID APPEAL NEVER HAD LAWFUL FORCE OR EFFECT ON THE PROCEEDINGS AND IS REQUIRED TO BE DISMISSED FOR WANT OF JURISDICTION. THUS, IT IS SUBMITTED THE DISTRICT COURT'S HABEAS DETERMINATION UNDER 28 U.S.C. § 2254, HAS ALWAYS REMAINED AN UNDISTURBED DE JURE FINAL JUDGMENT, PUR-

SUANT TO STOLL V. GOTTLIEB, 305 U.S. SUPRA, AT 170 (THE JUDGMENT OF A FEDERAL COURT DETERMINING A RIGHT UNDER A FEDERAL STATUTE, IS FINAL UNTIL REVERSED IN AN APPELLATE COURT [OF COMPETENT JURISDICTION]). THUS, THE ARBITRARILY INFLICTED, EGREGIOUS, UNLAWFUL FALSE IMPRISONMENT, PETITIONER HAS BEEN FORCED AGAINST HIS WILL TO ENDURE AND SUFFER, HAS PREVAILED FOR AN EXTRAORDINARY 16-YEARS, CONTRARY TO THE FUNDAMENTAL DUE PROCESS REQUIREMENTS OF LAW, ENTITLING PETITIONER TO PROMPT OVERDUE IMMEDIATE RELEASE FROM OVEREXTEND UNLAWFUL CUSTODY PURSUANT TO FAY V. NOIA, 372 U.S. 391, 401-402 (1963) (OVERRULED IN PART ON OTHER GROUNDS BY WAINWRIGHT V. SYKES, 433 U.S. 72 (1977) AND ABROGATED ON OTHER GROUNDS BY COLEMAN V. THOMPSON, 501 U.S. 722 (1991)), AS HABES LIES TO ENFORCE PETITIONER'S RIGHT OF PERSONAL LIBERTY, SUPRA, AT 430-431.

DESPITE ALL SAID IRREGULAR FEDERAL COURT ACTION TAKEN IN THIS CASE IN TOTAL WANT OF JURISDICTION, **LAW AND JUSTICE CLEARLY REQUIRED** PETITIONER TO HAVE BEEN IMMEDIATELY RELEASED FROM UNLAWFUL CUSTODY ON OCTOBER 19, 2004, PURSUANT PETITIONER'S RIGHTS UNDER STATE LAW. SEE: HOLLOWAY V. HORN, 355 F.3d 707, 730 (3d CIR. 2004) (120 DAYS TO RETRY OR RELEASE); SLUTZKER V. JOHNSON, 393 F.3d 373, 390 (3d CIR. 2004) (120 DAYS); GIBBS V. FRANKS, 500 F.3d 202, 207 (3d CIR. 2007) (120 DAYS). HOWEVER, AS OF AUGUST 1, 2020, 5,765 DAYS OR 15 YEARS, 290 DAYS WILL HAVE ELAPSED SINCE PETITIONER WAS ORIGINALLY REQUIRED TO [redacted] HAVE BEEN RELEASED FROM EGREGIOUS UNLAWFUL CUSTODY AS "**LAW AND JUSTICE REQUIRE**" UNDER 28 U.S.C. § 2243. HENCE, CAN IT NOT BE

SAID LAW AND JUSTICE NOW ABSOLUTELY REQUIRES THE INFERIOR FEDERAL COURTS TO BE COMPELLED TO IMMEDIATELY FULFILL THE FUNDAMENTAL DUE PROCESS REQUIREMENTS OF LAW AND JUSTICE AND CAUSE FORTHWITH EXECUTION OF THE WRIT OF HABEAS CORPUS AND RIGHTFULLY DIRECT THE SUBSTITUTED RESPONDENT JOHN E. WETZEL, TO PROMPTLY, UNCONDITIONALLY DISCHARGE PETITIONER FROM UNLAWFUL CUSTODY?

THE COURT IS FURTHER PUT ON NOTICE THAT IN FURTHER VIOLATION OF FRCP 79(a), THE DISTRICT COURT ENGAGED ADDITIONAL INTENTIONAL CONSTRUCTIVE FRAUD TO HIDE AND CONCEAL ITS UNLAWFUL BYPASSING OF THE STATE'S DELIBERATE DEFAULT TO THE PETITION, BY INTENTIONALLY RECORDING THE DA'S DOCKET ENTRIES IN A DECEPTIVE MANNER WHICH FAILED TO SHOW THE TRUE NATURE OF THE FILINGS INDEPENDENTLY SUBMITTED WITHOUT FEDERAL AUTHORIZATION BY THE DA. THE INTENTIONALLY FALSE DOCKET ENTRIES OF ALL BUT ONE OF THE DA'S FILINGS, FRAUDULENTLY LISTS THE STATE RESPONDENTS AS PARTIES TO SUCH FILINGS DOCKETED AT ECF, Doc. Nos. 6, 7, 15, 39, 62, 75, ... HOWEVER, THE CONTENTS OF THE INDIVIDUAL DOCUMENTS FILED IN THE CASE BY THE DA, ASIDE FROM THE INTENTIONALLY FALSE DA DOCKET ENTRIES, SUBSTANTIATES THE STATE NEVER ENTERED AN APPEARANCE IN THE CASE. THE DOCKET ENTRY AT ECF, Doc. No. 45, IS THE ONLY TRUTHFUL AND PROPERLY RECORDED DOCKET ENTRY OF A DA FILING. PURSUANT TO THE DUE PROCESS REQUIREMENTS OF FRCP 79(a), ALL DOCKET ENTRIES OF DA FILINGS WERE REQUIRED TO BE RECORDED IN THE MANNER DOCUMENT No. 45 WAS RECORDED. SUCH FRAUD WRONGFULLY MISREPRESENTS THE DA AS BEING THE STATE RESPONDENTS AND MAY HAVE OBSTRUCTED THIS COURT FROM MAKING AN INITIAL PROPER JURISDICTIONAL DETERMINATION OF

THE INFERIOR FEDERAL COURTS' JURISDICTION DURING PETITIONER'S INITIAL CERTIORARI PROCEEDING AT 549 U.S. 947 (No. 06-5046) (10/2/2006).

THERE IS NOTHING IN THE RECORD INDICATING THE DA DEMONSTRATED A COGNIZABLE JUDICIAL/LEGAL INTEREST IN THE OUTCOME OF THE HABEAS PROCEEDING, THUS, IT DOES NOT AFFIRMATIVELY APPEAR FROM THE RECORD THAT THE INFERIOR FEDERAL COURTS HAD ARTICLE III CASE OR CONTROVERSY SUBJECT MATTER JURISDICTION TO ENTERTAIN THE COUNTY DA'S PARTICIPATION IN THE CASE AFTER THE STATE DEFAULTED TO THE PETITION, OR THEREAFTER, ENTERTAIN THE DA'S INVALID APPEAL OF A HABEAS JUDGMENT GRANTED PURELY AGAINST THE STATE, WHERE THE IMPROPER-PARTY DA WAS UNLAWFULLY PERMITTED TO UNTIMELY PRESENT AND ARGUE AN UNDESIGNATED MOOT AEDPA STATUTE OF LIMITATIONS AFFIRMATIVE DEFENSE ISSUE, IN VIOLATION TO NORTH CAROLINA V. RICE, SUPRA.

IT DOESNOT AFFIRMATIVELY APPEAR FROM THE RECORD THAT THE COURT OF APPEALS HAD APPELLATE SUBJECT MATTER JURISDICTION OR FEDERAL JURISDICTION TO ENTERTAIN THE IMPROPER-PARTY, COUNTY DA'S INVALID, UNTIMELY, UNDESIGNATED APPEAL OF A MOOT AEDPA STATUTE OF LIMITATIONS AFFIRMATIVE DEFENSE ISSUE, WHERE THE RECORD AFFIRMS THE COURT OF APPEALS ENTERTAINED THE UNTIMELY, UNDESIGNATED APPEAL ISSUE ARGUED IN THE DA'S FIRST APPELLATE BRIEF FILED 192-DAYS BEYOND THE PERIOD FOR FILING A TIMELY NOTICE OF APPEAL. THUS, THE RECORD AFFIRMS THE BRIEF FAILED TO QUALIFY TO BE CONSTRUED AS THE FUNCTIONAL EQUIVALENT OF A FORMAL NOTICE OF APPEAL. THEREFORE, THE RECORD AFFIRMS THE INVALID APPEAL OF SAID MOOT ISSUE WAS BLA-

TANTLY ENTERTAINED WITHOUT APPELLATE SUBJECT-MATTER JURISDICTION IN PLAIN VIOLATION TO FRAP 3(c)(1)(B), 4(a)(3), SMITH V. BARRY, SUPRA, NORTH CAROLINA V. RICE, SUPRA, AND MANSFIELD, C. & L. M. R. CO. V. SWAN, SUPRA. THUS, THE RECORD CLEARLY SUBSTANTIATES THE DISTRICT COURT'S HABEAS JUDGMENT REMAINS A DE JURE, UNDISTURBED FINAL JUDGMENT BECAUSE IT WAS NOT REVERSED BY A COURT OF APPEALS OF COMPETENT JURISDICTION.

THE INFERIOR FEDERAL COURTS BLATANTLY ERRED--IN ISSUING ORDERS DENYING PETITIONER'S MOTION FOR IMMEDIATE RELEASE SUBMITTED ON 1/7/2005 (ECF, DOC. NOS. 56 AND 57), AFTER THE STATE'S DEFAULT TO THE DISTRICT COURT'S RETRIAL/RELEASE ORDER ON 12/18/2004--AS THEY TOTALLY OVERLOOKED THAT THEIR REASONS FOR DENIAL OF WARRANTED RELIEF-- THAT WERE FOUNDED UPON THEIR INVALID ENTERTAINING OF THE IMPROPER-PARTY, COUNTY DA AS A PARTY-RESPONDENT, WHO WAS FRAUDULENTLY MISREPRESENTED AS THE STATE RESPONDENT, WHO PRESENTED AN INVALID MOOT AEDPA STATUTE OF LIMITATIONS AFFIRMATIVE DEFENSE ISSUE AFTER THE STATE DEFAULTED TO THE PETITION--WERE CONTRARY TO LAW AND JUSTICE AND VOID FOR WANT OF ARTICLE III CASE OR CONTROVERSY SUBJECT MATTER JURISDICTION. (SEE APPX: B-11; B-12; B-13; B-14; AND B-1.)

THE INFERIOR FEDERAL COURTS' RELIANCE ON HILTON V. BRAUNSKILL, 481 U.S. 770 (1987), IN DENYING PETITIONER'S MOTION FOR IMMEDIATE RELEASE, WAS TOTALLY INAPPOSITE AND BLATANT ERROR BECAUSE THEY OVERLOOKED THE STATE DID NOT ENTER AN APPEARANCE, NEVER OPPOSED THE

THE PETITION AND DID NOT APPEAL THE DISTRICT COURT'S FINAL HABEAS JUDGMENT AND THAT THE DA DID NOT APPEAL THE TIME-BAR ISSUE AND MOREOVER, HAD NO RIGHT OF APPEAL.

THUS, BASED UPON THE FOREGOING, ISSUANCE OF THE WRIT WILL AID THE COURT'S APPELLATE JURISDICTION BY ENABLING IT TO ACT TO CONFINE THE INFERIOR FEDERAL COURTS IN THIS CASE TO A LAWFUL EXERCISE OF THEIR PRESCRIBED JURISDICTION UNDER SAID CONSTITUTIONAL PROVISIONS, LAWS OF THE UNITED STATES AND PRECEDENTS OF THIS COURT, AND BY COMPELLING THE INFERIOR FEDERAL COURTS TO PROPERLY EXERCISE THEIR AUTHORITY TO VACATE VOID JUDGMENTS AND ORDERS AND EXECUTE THE § 2254 WRIT OF HABEAS CORPUS TO FULFILL THEIR REQUISITE CONSTITUTIONAL DUTY AS LAW AND JUSTICE REQUIRE UNDER 28 U.S.C. §§ 2243, 2254, THE 5TH, 6TH AND 14TH AMENDMENTS OF THE CONSTITUTION OF THE UNITED STATES, TO ENFORCE PETITIONER'S UNEQUIVOCAL, INDISPUTABLE, IMMEDIATE RIGHT TO PERSONAL LIBERTY.

THE CIRCUMSTANCES OF THIS CASE ARE EXTREMELY UNUSUAL AND EXTRAORDINARY, INVOLVING A DISTRICT COURT JUDGE'S LONG, CONTINUING, TYRANNICAL, RAMPAGING ASSAULT AGAINST SAID CONSTITUTIONAL PROVISIONS, LAWS OF THE UNITED STATES AND ESTABLISHED PRECEDENTS OF THIS COURT, AMOUNTING TO AN UNPRECEDENTED, OVERWHELMING CASE OF USURPATION OF JUDICIAL POWER THAT CAUSED THE § 2254 HABEAS PROCEEDING IN THIS CASE TO TREMENDOUSLY STRAY FROM THE ACCEPTED NORMAL COURSE OF HABEAS PROCEEDINGS, WHICH ENDURES TO UNLAWFULLY, EGREGIOUSLY DELAY PETITIONER'S CLEAR, INDISPUTABLE RIGHT TO PERSONAL

LIBERTY FOR OVER 16 ADDITIONAL YEARS, AFTER BEING UNLAWFULLY, FALSELY IMPRISONED FOR 20 YEARS PRIOR TO THE GRANTING OF THE HABEAS PETITION.

PETITIONER HAS DILIGENTLY SOUGHT TO REMEDY HIS SITUATION OF UNLAWFUL CONFINEMENT FOR OVER 36 YEARS, AND NO OTHER ADEQUATE MEANS EXISTS AS THE COURT OF APPEALS HAS PERSISTENTLY ENGAGED A PER SE ABUSE OF DISCRETION BY REFUSING TO VACATE ITS PATENTLY VOID 1/17/2006 JUDGMENT WHICH INITIALLY, WRONGFULLY CREATED THE UNLAWFUL, MONSTROUS ABSURDITY WHICH HAS FRAUDULENTLY TRAPPED PETITIONER IN AN INSIDIOUS WEB OF ARBITRARY, UNLAWFUL IMPRISONMENT; AND SEEKING SUCH REMEDY IN ANOTHER FEDERAL COURT OF APPEALS, IF GRANTED, WOULD ONLY CREATE A CIRCUIT CONFLICT WHICH THIS COURT WOULD ULTIMATELY HAVE TO RESOLVE.

REASONS FOR GRANTING THE PETITION

THE PETITION SHOULD BE GRANTED BECAUSE THIS CASE INVOLVES VERY EXTRAORDINARY CIRCUMSTANCES OF SUCH IMPERATIVE PUBLIC IMPORTANCE WARRANTING THE COURT TO EXERCISE ITS DISCRETIONARY POWERS TO RESCUE THE ESTABLISHED PROCEDURES REQUIRED IN ALL § 2254 CASES FROM THE DISTRICT COURT'S ONGOING, BLATANT, TYRANNICAL ASSAULT, WHERE THE COURT OF APPEALS HAS SANCTIONED THE DISTRICT COURT'S OVERWHELMING FAR DEPARTURE FROM THE ACCEPTED AND USUAL COURSE OF § 2254 HABEAS PROCEEDINGS, BY UTTERLY FAILING AT THE OUTSET TO PROPERLY DETERMINE ITS OWN JURISDICTION AND THEN THAT OF THE DISTRICT COURT PURSUANT TO MANSFIELD, C. & L. M. R. Co. v. SWAN, SUPRA, REGARDING "THE RULE, SPRINGING FROM THE NATURE AND LIMITS OF THE JUDICIAL POWER OF THE UNITED STATES, IS INFLEXIBLE AND WITHOUT EXCEPTION, WHICH REQUIRES THIS COURT, OF ITS OWN MOTION, TO DENY ITS OWN JURISDICTION, AND, IN THE EXERCISE OF ITS APPELLATE POWER, THAT OF ALL OTHER COURTS OF THE UNITED STATES, IN ALL CASES WHERE SUCH JURISDICTION DOES NOT AFFIRMATIVELY APPEAR IN THE RECORD ON WHICH, IN THE EXERCISE OF THAT POWER, IT IS CALLED TO ACT...."

THEREBY, THE COURT OF APPEALS OVERLOOKED NUMEROUS FUNDAMENTAL JURISDICTIONAL DEFECTS, INCLUDING: THE FACT THERE IS NOTHING IN THE RECORD SUPPORTING THE DA HAD STANDING TO PARTICIPATE AS A PARTY-RESPONDENT IN THE DISTRICT COURT AND APPEAL A FINAL HABEAS JUDGMENT GRANTED PURELY AGAINST THE STATE; THE FACT THAT THE RECORD AFFIRMS NO APPELLATE SUBJECT-MATTER JURISDICTION EXISTED AUTHORIZING

THE REVIEW OF AN IMPROPER-PARTY DA'S INVALID, UNTIMELY, UNDESIGNATED APPEAL OF A MOOT TIME-BAR ISSUE, ARGUED IN THE DA'S FIRST APPELLATE BRIEF FILED 192-DAYS BEYOND THE PERIOD FOR FILING A TIMELY NOTICE OF APPEAL, AND THAT THEREFORE, SAID BRIEF FAILED TO QUALIFY TO BE CONSTRUED AS THE FUNCTIONAL EQUIVALENT OF A FORMAL NOTICE OF APPEAL; AND THE FACT THAT THE DISTRICT COURT LITIGATED A MOOT ISSUE.

THOSE CRUCIAL OMISSIONS BY THE COURT OF APPEALS WRONGFULLY PERMITTED THE DISTRICT COURT TO ENGAGE UNBRIDLED USURPATION OF JUDICIAL POWER, BY FIRST ARBITRARILY ADDING THE DA AS AN ORIGINAL PARTY TO THE DISTRICT COURT'S STANDARD § 2254 FORM, IN VIOLATION TO THE SUBSTANTIAL REQUIREMENTS OF HABEAS CORPUS RULES 2(c) AND THE MODEL § 2254 FORM, AND THEREAFTER, ARBITRARILY JOINED THE IMPROPER-PARTY DA AS A PARTY-RESPONDENT TO RESPOND TO THE PETITION AND ADVANCE A MOOT TIME-BAR ISSUE AFTER THE PROPER, LAWFUL STATE RESPONDENT HAD PREVIOUSLY, DELIBERATELY DEFAULTED TO THE PETITION AND WAIVED ALL AFFIRMATIVE DEFENSE ISSUES.

SUCH EMPLOYMENT OF UNAUTHORIZED PROCEDURES WAS CONTRARY TO THE PROVISIONS AND MANDATES OF: ARTICLE III, §§ 1 AND 2, CLAUSE 1, AND THE DUE PROCESS AND EQUAL PROTECTION CLAUSES OF THE 5TH AND 14TH AMENDMENTS OF THE UNITED STATES CONSTITUTION; 28 U.S.C. §§ 453, 636(b)(3), 1652, 2242, 2243; HABEAS CORPUS RULES 2(a), 2(c), 4, AND THE § 2254 MODEL FORM ANNEXED TO THE RULES; FRCP 24, 25(c), 79(a), 81(a)(2), AND 83(a); WALES V. WHITNEY, 114 U.S. 564, 574 (1885); RUMSFELD V. PADILLA, 542 U.S. 426, 434-435

(2004); MARBURY V. MADISON, SUPRA; DAY V. MCDONOUGH, SUPRA; POWELL V. MCCORMACK, SUPRA; NORTH CAROLINA V. RICE, SUPRA; MARINO V. ORTIZ, SUPRA; SINGLETON V. WULFF, SUPRA; SMITH V. BARRY, SUPRA; AND FAY V. NOIA, SUPRA: WHICH HAS ARBITRARILY, UNLAWFULLY OBSTRUCTED AND EGREGIOUSLY DELAYED FOR NEARLY 16 YEARS THE LAWFULLY REQUIRED ENFORCEMENT OF A PRO SE HABEAS CORPUS LITIGANT'S UNQUESTIONABLE RIGHT TO PERSONAL LIBERTY, PURSUANT TO FUNDAMENTAL DUE PROCESS REQUIREMENTS OF LAW AND JUSTICE, NECESSITATING THE SUPREME COURT TO EXERCISE IT SUPERVISORY POWER TO RECTIFY THE INFERIOR FEDERAL COURTS' FAILURE TO ADHERE TO THIS COURT'S ESTABLISHED PRECEDENTS, CEASE THEIR BLATANT FLOUTING OF THE STATED WILL OF CONGRESS AND ULTIMATELY FULFILL THE COURTS' DUTY OF INSURING THE ENFORCEMENT OF FEDERAL CONSTITUTIONAL PROTECTIONS PROVIDED UNDER THE 5TH, 6TH, AND 14TH AMENDENTS OF THE UNITED STATES CONSTITUTION AND 28 U.S.C. § 2254.

IT IS BELIEVED THERE EXISTS A VERY PUBLICLY DISTURBING CIRCUIT CONFLICT THE COURT MAY BE INTERESTED IN RESOLVING, CONCERNING THE COURT OF APPEALS DEVIOUS PRACTICE OF ARBITRARILY PERMITTING DISTRICT COURTS IN THE THIRD CIRCUIT, TO ALLOW COUNTY DA'S -- WHO DO NOT POSSESS CUSTODY OVER § 2254 HABEAS PETITIONERS, WHO WERE NEVER LAWFUL ORIGINAL PARTIES TO THE PETITIONS AND WHO DID NOT INTERVENE UNDER FRCP 24--BE ARBITRARILY JOINED AS PARTY-RESPONDENTS, PURPORTEDLY UNDER THE GUISE OF FRCP 25(C), TO VINDICATE PERSONAL VALUE INTERESTS AFTER THE STATE PREVIOUSLY DE-

FAULTED TO THE PETITION. SUCH ARBITRARY, CAPRICIOUS, UNLAWFUL PRACTICE CONFLICTS WITH THE LAWFUL § 2254 PROCEDURES EMPLOYED IN ALL THE OTHER FEDERAL CIRCUITS, DEMANDING AN EXERCISING OF THE COURT'S SUPERVISORY POWERS TO PRESERVE THE PROPER EXECUTION OF § 2254 ESTABLISHED PROCEDURES AND MAINTAIN REQUISITE UNIFORMITY OF JUDICIAL PRACTICE WITHIN THE FEDERAL JUDICIAL SYSTEM, BY COMPELLING THE WAYWARD THIRD CIRCUIT COURT OF APPEALS TO COMPLY WITH THE STATED WILL OF CONGRESS AND THIS COURT'S ESTABLISHED PRECEDENTS, SO NO OTHER HABEAS LITIGANT IN THIS CIRCUIT WILL EVER BE ARBITRARILY, UNLAWFULLY FORCED AGAINST THEIR WILL TO ENDURE AND SUFFER AN UNNECESSARY, ADDITIONAL 16-YEARS OF WRONGFUL FALSE IMPRISONMENT, AFTER A DE JURE WRIT OF HABEAS CORPUS WAS PROPERLY GRANTED AND INITIALLY REQUIRED TO BE PROMPTLY EXECUTED.

THE COURT MAY ALSO BE CONCERNED REGARDING THE INFERIOR FEDERAL COURTS' UNAUTHORIZED ACTIONS IN CONTINUING TO LITIGATE A MOOT TIME-BAR ISSUE, SUBJECTING THE PUBLIC TO AN UNNECESSARY COLLATERAL CONSEQUENCE BY WASTING SCARCE AND LIMITED JUDICIAL RESOURCES AND PRECIOUS PUBLIC FUNDS.

TO ALLOW THE PATENTLY TYRANNICAL JUDGMENTS BELOW TO PERSIST, WITH THE COURT OF APPEALS CONTINUING TO CAVALIERLY ENGAGE A PER SE ABUSE OF DISCRETION IN FAILING TO VACATE ITS PLAINLY VOID 1/17/2006 JUDGMENT, COMPOUNDED WITH ALL OF THE ABOVE, WOULD CALL INTO VERY SERIOUS QUESTION THE INTEGRITY AS WELL AS THE PUBLIC REPUTATION OF THE JUDICIAL PROCEEDINGS.

CONCLUSION

THE PETITION FOR A WRIT OF MANDAMUS SHOULD GRANTED.

WHEREFORE, BASED UPON THE FOREGOING THE COURT IS RESPECTFULLY REQUESTED TO GRANT THE PETITION AND ISSUE AN ORDER COMPELLING THE COURT OF APPEALS TO: (1) VACATE ITS 1/17/2006 JUDGMENT, C.A. No. 04-3108, 10/7/2015 ORDER, C.A. No. 15-2190, 9/26/2017 JUDGMENT, C.A. No. 15-2190, AS BEING VOID FOR WANT OF JURISDICTION; (2) ISSUE AN ORDER DIRECTING THE DISTRICT COURT TO VACATE THE MAGISTRATE JUDGE'S 4/9/2002 ORDER ENTERED 4/10/2002 (CIV. ACTION No. 02-0448, ECF, Doc. No. 5), AS BEING VOID FOR WANT OF JURISDICTION; VACATE THE DISTRICT COURT'S 9/6/2002 JUDGMENT, ENTERED 9/9/2002 (ECF, Doc. No. 12) AND ALL RELATED ORDERS, AS BEING MOOT AND VOID FOR WANT OF JURISDICTION; DISMISS THE DA AS A PARTY-RESPONDENT AND STRIKE ALL DA FILINGS AND ORDERS ENTERED IN RESPONSE TO DA FILINGS; VACATE ALL ORDERS ENTERED IN THE CASE AFTER 10/19/2004, AS BEING MOOT; ENTER AN ORDER EXECUTING THE WRIT OF HABEAS CORPUS CONDITIONALLY GRANTED TO PETITIONER ON 6/21/2004, ENTERED 6/23/2004 (ECF, Doc. No. 34), DIRECTING RESPONDENT JOHN E. WETZEL TO IMMEDIATELY, UNCONDITIONALLY DISCHARGE PETITIONER FROM CUSTODY.

DATED: SEPTEMBER 4, 2020.

RESPECTFULLY SUBMITTED,

Paul Satterfield

PAUL SATTERFIELD