

20-5820

ORIGINAL

IN THE
UNITED STATES SUPREME COURT
OCTOBER TERM, 2020

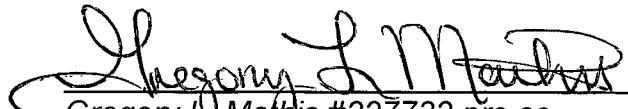
FILED
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OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN RE: GREGORY LAMAR MATHIS
Petitioner

PETITION FOR AN EXTRAORDINARY WRIT TO THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT
AT CINCINNATI, OHIO
No. 20-5262

Petitioner, Gregory L. Mathis, pro se, respectfully prays that an Extraordinary Writ issue, "specifically", a Petition for Writ of Prohibition, or, one of Mandamus, or both in the alternative issue where no other remedy remains to achieve the relief sought from an Order entered in the U.S. Sixth, Circuit, State of Ohio (7/14/20) to review the judgment and order tendered in the United States District Court for the Middle division at Nashville, Tennessee on February 21, 2020.



Gregory L. Mathis #227732 pro se
Turney Center Industrial Complex
1499 R.W. Moore Memorial Hwy.
Only, Tennessee 37140-4050

QUESTIONS PRESENTED FOR REVIEW

I.

**WOULD THE ISSUANCE OF A WRIT OF PROHIBITION
AND/OR MANDAMUS BE JUSTIFIED WHERE THE
PETITIONER'S CIRCUMSTANCES COULD AID THIS
COURT IN SUPERVISING AN APPELLATE COURT'S
JURISDICTION?**

II.

**WOULD THIS COURT BE JUSTIFIED GRANTING
EITHER WRIT OF PROHIBITION OR MANDAMUS
WHERE ADEQUATE RELIEF CANNOT BE OBTAINED
IN ANY OTHER FORM OR FROM ANY OTHER COURT?**

RESPONDENT PARTIES
BY JOINER

Statement of Parties; S.Ct. R. 14.1(b);

For purpose of this action, the below listed parties (or courts) shall be joined in cause by nature of their jurisdiction, capacities and authority, while performing their duties in their [official] capacities, under color of [state and federal] law, being recognized as the respondents in this petition, serving as the instruments to the petitioner's [illegal] detention.

Therefore, shall be recognized as the opposing parties for the State of Tennessee pursuant to their respective jurisdictions--state and federal; who are –

Davidson County Criminal Court

*20th Judicial District; division-1
Nashville, Tennessee. 37219
1--Public Square, suite 203
P.O. Box 196303,
Nashville, Tennessee.37219*

*UNITED STATES COURT OF APPEALS
For The Sixth Circuit
100 East Fifth Street, Room 540
POTTER-STEWART U.S. COURTHOUSE
Cincinnati, Ohio. 45202-3988*

*Tenn. Court of Criminal Appeals
For The Middle Division
100 Supreme Court Building,
401 7th Ave. North
Nashville, Tennessee.37219-1407.*

*United States District Court
For the Middle District of Tennessee
U.S. Courthouse, Room 800
801 Broadway,
Nashville, Tennessee.37202*

*The Supreme Court of Tennessee
Supreme Court Building, suite 318,
401 7th ave. North
Nashville, Tennessee. 37219*

Defendant-Respondents

Each respondent's cloak of authority or otherwise lesser supervisory authority shall be governed by Acts of U.S. Congress, e.g. Title 28 USC §§1254(1) (a), 1257(a), and, 1651(a) as well as State Legislation; Tennessee Constitution, Art. I, §9.

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OPINIONS BELOW

Cases From Federal Courts;

[i.] *The [final] Opinion of the United States Court of Appeals for the Sixth Circuit appears at Appendix "A" [doc. 6], and is not published.*

[ii.] *The [final] Opinion of the United States District Court for the Middle Division at Nashville, Tennessee, was denied and dismissed premised upon the respondent's Motion to Dismiss on 2/21/20, will appear at Appendix "A" [doc. 4], and is unpublished.*

[iii.] *Notice of Appeal was filed on March 2, 2020, after which the U.S. District Court **GRANTED** petitioner's right to proceed on appeal in Forma Pauperis and will appear at Appendix "A" [doc. 5 & 5a].*

iv.] *There was no Order for Mandate in the United States Sixth Circuit related to the action now taken denying petitioner's application for COA; Appendix "A" [doc. 6].*

v.] *To date, no cross-appeals have been filed with respects to this appeal.*

vi.] Petition for Writ of Certiorari is being waived in lieu of a petition for Extraordinary Relief where exist "exceptional circumstances". Rule 20.3.

vii.] No Petition for Rehearing was filed in this appeal concluding this action.

Cases From State Courts;

i.] The Order from petitioner's [direct] appeal was rendered 9/5/13, and will appear at Appendix "B" [doc. 1 &2] and is unpublished.

ii.] Order (w/o written-opinion) from the Tennessee Supreme Court was rendered December 12, 2013 governing petitioner's application for permission to appeal under T.R.A.P.11 from his original direct appeal, will appear at Appendix "B" [doc.3] and is unpublished.

[iii.] Order from trial court of record denying post-conviction relief on October 30,2014 will appear at Appendix "B" [doc.4].

iv.] Order from the Court of Criminal Appeals of Nashville, Tennessee denying petitioner's pro se Supplemental Brief from [P]ost-conviction proceedings on June 28, 2017 will appear at Appendix "B" [doc.5]; to include the denial of petitioner's request for "reconsideration" on the Supplemental Brief July 17, 2017, will appear at Appendix "B" [doc.6].

v.] Order denying petitioner's application for permission to appeal beneath TRAP Rule 11 will appear at Appendix "B" [doc.7] and is unpublished.

vi] The Order denying this petitioner's relief from his [post-conviction] appeal will appear at Appendix "B"[doc.8] of this application, and published at 2017 [WL-5624714 – slip opinion].

JURISDICTION

Cases from state & federal courts;

Jurisdiction is conferred upon this court via 28 USC §1254 (1) & (2) to review by an Extraordinary Writ a final judgment rendered in the highest court of a state 28 USC §1257(a) in which this case is of such imperative importance as to justify deviation from normal appellate practice and to require immediate determination in this court; See 28 USC §1254 (1)), & §1651 (a) from which a decision may be had; Petitioner will further submit that,

CONSTITUTIONAL PROVISIONS

The following provisions of the United States Constitution are involved; Const, Amends, VI, VIII & XIV. The test of said provisions are attached in this Extra Ordinary Writ of Certiorari's. as follows --

AMENDMENTS

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 for his defence, the assistance of counsel.

VIII

Excessive bail shall not be required, nor excessive fines be imposed Nor cruel and unusual punishment inflicted.

XIV

All persons born or naturalized in the United States, and Subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall Make or enforce any law which shall abridge the privileges Or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without Due process of law; nor deny to any person within its jurisdiction The equal protection of the laws.

[emphasis mine]

FEDERAL STATUTES & RULES INVOLVED

The following provisions of federal statutes are involved 28 USC § 2244 & 2254, F.R.Civ.P. 62 (g) (1) The test of said provisions are attached hereto as appendix "D"(doc10 and 11).as well as other statutes and treaties relevant to this petition and made a part hereof.

STATE CONSTITUTION INVOLVED

The following provision of Tennessee Constitution involved shall be Art. I, § 9 which holds,

Art. I § 9

That in all criminal prosecutions, the accused hath the right to be heard by himself and his counsel, to demand the

nature and cause of the accusation against him, and to have a copy thereof, to meet the witnesses in his favor, and in prosecution by indictment or presentment, a speedy public trial, by an impartial jury of the County in which the crime shall have been committed, and shall not be compelled to give evidence against himself.

[Emphasis, mine]

STATE STATUTES AND RULES INVOLVED

The following provisions of Tennessee state laws involved are TCA § 39-11-104, T.R.Civ.P.62.08, the test of said provisions are attached hereto as appendix "D" (doc.1-10).as well as other state statutes and Codes relevant to this petition and made a part hereof.

ARGUMENT

I.

***THIS COURT WOULD BE JUSTIFIED GRANTING
EITHER WRIT OF PROHIBITION OR MANDAMUS
WHERE ADEQUATE RELIEF CANNOT BE OBTAINED
IN ANY OTHER FORM OR FROM ANY OTHER COURT.***

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ARGUMENT

ii.

**THIS COURT WOULD BE JUSTIFIED GRANTING
EITHER WRIT OF PROHIBITION OR MANDAMUS
WHERE ADEQUATE RELIEF CANNOT BE OBTAINED
IN ANY OTHER FORM OR FROM ANY OTHER COURT.**

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STATEMENT OF PETITION

History;

Petitioner's Extraordinary Writ stems from a [state] post-conviction motion filed with the respondents [trial] court in the Davidson County Criminal Court – Division-I at Nashville, Tennessee. See Appendix "B" [doc.4], and, thereafter dismissed from which an appeal was taken, Appendix "B" [doc.8].

However, said appeal was pursued in piece-meal fashion as a direct result of conflict of interest between this petitioner and his counsel. See Appendix "B"[doc.4,4a-d &5-7], still, managed to exhaust his appeal through to the state's Supreme Court; Appendix "B" [doc.7], Appendix "C" [doc.3] and in its entirety.

*Accordingly, it was at this juncture, Appendix "C" [doc.3], by "[c]ounsel's suggested option", Appendix "C" [doc.3], this petitioner utilized his post-conviction avenue - **pausing the clock** - prior to challenging any of his issues pursuant to the purpose of a [Federal] Writ of Habeas Corpus and not, however, through a Writ of Certiorari in the U.S. Supreme Court as alluded to by the state's attorney; See Appendix "A" [doc. 4 p.2] Rather, as suggested through his former attorney (Russ), See also Appendix "C" [doc.3,] `contesting his effectiveness, which triggered as well as tolls §2244's gate-keeping standard.*

Here also, petitioner's indicia will undoubtedly demonstrate the respondent's "calculation" (in assessing a time-frame off-setting petitioner's entitlement to equitable tolling) "missing its mark". See Appendix "A" [doc.3].

Therefore, in reviewing the petitioner's window of opportunity (which triggered the tolling-effect) began and was "initially disrupted" once being appointed his post-conviction attorney in October of 2014. See Appendix" [doc.7], where such circumstances all thereafter impeded his efforts to timely pursue "either remedial-option", *id.* at Appendix "A" [doc.2 p.3]. See also Appendix" [doc.7].

Petitioner's right to equitable-tolling was, in fact and matter of law, effectively triggered at the point of his Rule 11 application being dismissed, Appendix "C" [doc.3], being poorly represented by appointed counsel (Ben Russ) which triggered the tolling of limitations December 13, 2013, after which, compelling the petitioner's motion to have new counsel removed (Leah Wilson) Appendix "C" [doc.6] because of a "host of errors", Appendix" B" [doc. 4,4a-d], affecting this "pause" in activating a Federal Writ of Habeas Corpus.

Simultaneously, during this period in time, and prior to the re-appointment of counsel, left the petitioner to **defend** himself. See Appendix "C" [doc. 4-5-6-7 & 9]. In addition to this, the records reveals a flaw in opposing counsel's extensive search for an adequate time-frame denouncing equitable-tolling "pausing" a timely and remedial application of a federal writ of habeas corpus, when measuring petitioner's efforts to meet this demand starting from December 13, 2013, until that moment in time "he" – with due diligence – as a layman managed to perfect his own appeal, and, "**without**" the aid of his transcripts, March 13,2014 through September 23, 2014, which totaled only 136-days, according to state-law provision TCA §15-1-101 providing this grace-period,

contrary to respondent's stipulation of 195-days. From February 15, 2018 until November 26, 2018 wouldn't be 284 days, but in fact, (196 days adding 9-days for motion to correct an illegal sentence}. See appendix "A" [doc 3 p 2] which comes to 341-days with a 24-day period remaining. See also Appendix "B"[doc.3a & 3b].

Were as, "had" the petitioner possessed his records; Appendix "C" [doc. 4 & 5], a more timely submission "**would have**" appeased an equitable tolling for habeas-review. Petitioner's extenuating circumstances further reveal a conflict of interest between himself and appointed counsel; Appendix "C" [doc.6], once being appointed in October, 2014 (Appendix "C" doc.7), however, it should be noted that at this point in time the petitioner's counsel's representation achieved nothing short of delaying a timely process, which of itself, consumed a considerable amount of this period; See also Appendix "B" [doc. 4 thru 4a-4d], tainting the process.

It further shows this petitioner had not met with this counsel until January 2015, thus receiving his transcripts in April of 2015 and afterwards counsel (Leah Wilson) was removed from her appointment as complained of by this petitioner, Appendix "C" [doc.6], having already filed his post-conviction motion previously, as "**she**" refused to amend petition for a **corrective process**

Nonetheless, whether this court considers respondents position establishing a time frame to offset the effects of equitable-tolling, this petitioner has met the **grace-period** of nine months delay from December 12, 2013, which triggered equitable tolling until his layman efforts in filing his own post-conviction

motion September 23, 2014 and, with what remains of this pause-period until that moment in time he actually filed his (Federal) Writ of habeas corpus, provided an additional 24-days to complete a year in satisfying §2244's gate-keeping standard for the application of Habeas review.

Reasons for Granting a Writ of Prohibition and/or Mandamus

Petitioner will now demonstrate there being no other "available" course of action to address the lower courts misapplication of the standard of laws governing his case, as well as the denial of any "corrective-process." See Appendix "D" [doc.1, 2,3,9,10 &11], particularly where each appellate court (state & federal) having the power to do so.

Premised upon the material evidence now submitted, its indicia clearly show how the "merit" of his appeals was technically swept under a carpet of errors, which, ordinarily defers to equitable-tolling. In fact, such fatal errors pointing directly to the [trial] court's failure to require curative and/or peremptory instructions negating petitioner's (presumed) guilt in consummating an overt-act in furtherance of an offense; See also Appendix "D" [doc.5 and 7] which impedes a constitutional right to a "fair and impartial trial," (Appendix "D" doc.1).

*Specifically, each "Appellate Court's" departure being so far from the accepted and usual course of judicial proceedings -- state and federal -- See Appendix "D" [doc.9 & 10], having the unlimited power in correcting such errors, as well as to have "**sanctioned**" the lower courts' errors; Appendix "A" [doc.6], currently calls for an exercise of this court's discretionary powers.*

AMPLIFIED REASONS FOR GRANTING THE WRIT

*The **first** of reasons as to why an Extraordinary Writ should issue, is because of the U.S. Sixth Circuit's summary conclusion dismissing the Appellant's appeal for certificate of appealability, (presumably), having failed to state a cognizable claim for failure to establish entitlement to equitable-tolling for which relief may be granted .*

***Secondly**, whereby a Congressional Act allows this Appellant to pursue his cause for immediate and declaratory-relief, and the lower U.S. Court of Appeal's decision conflicting with other U.S. Court of Appeals, as well as this U.S. Supreme Court on the same issues of law. **Thirdly**, where all U.S. Appellate Courts are vested with "**unlimited**" power in restoring the criminally accused to their right to be heard in [state] courts of proper jurisdiction and venue which have need to be settled by ""this" Supreme Court requiring immediate determination. Appendix "D" [doc. 10"].*

* * * *

Supreme Court Rule 26.8

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ARGUMENT

I.

THE ISSUANCE OF A WRIT OF PROHIBITION AND/OR MANDAMUS WOULD BE JUSTIFIED WHERE THE PETITIONER'S CIRCUMSTANCES COULD AID THIS COURT IN SUPERVISING AN APPELLATE COURT'S JURISDICTION.

From the outset and upon each level, a barrier has existed prohibiting the petitioner access to hear and appeal his action ignoring the fact that, Congressional Legislation has always provided the means for a Court to relax its standards in resolving this petitioner's objective, cf .Felkner v. Turpin, 116 S.Ct. 2353 (1996).

In Felkner, the court concluded that, the critical language of Art. III, §2, of the Constitution provides that, apart from several classes of cases specifically enumerated in this court's original jurisdiction, "[i]n all the other cases the Supreme Court shall have Appellate Jurisdiction, both as to law and fact, with such Exceptions, and under such Regulations as the Congress shall make",noting the petitioner's records, having thoroughly, as well as timely exhausting all state court remedies as required in this court; See Rose v. Lundy, 102 S.Ct. 11989, 455 U.S. 509; 71 L.Ed.2d. 379 (1982).

Even in most instances, where a petitioner has failed to meet the standards of the federal habeas action (28 USC §2254), other U.S. Circuits have required more leniency in allowing a petitioner to redeem his original efforts, as may be distinguished in Stewart v. Wolcott, 2020 [WL-2846949],at p. 8. Another

such case distinguishing this petitioner's attempts entitling him to equitable-tolling is Sales v. Taylor, 2015 [WI-44878323], who, unwittingly squandered four-years, "without" demonstrating due diligence entitling him to equitable tolling, leaving this court no alternative "but" to deny habeas access, whose excuse was scantily based upon an issue of having a mental illness.

Accordingly, a petitioner will be entitled to equitable tolling only if he shows--1.] That he has pursued his rights diligently, and 2.] That some extraordinary circumstances . . ." prevented timely filing ". Id. at 649. . . quoting Pace v. DiGuglielmo, 544 U.S.408, 418; 125 S.Ct.1807, 161 L.Ed.2d.669 (2005), and, for failure of petitioner demonstrating his claim of mental-illness (Sales) being the cause for a timely submission, where otherwise a claim of mental "incompetence", **would be** and extraordinary circumstance supporting equitable tolling; See also Griffin v. Rogers, 208 F.2d.647, 653(6th Cir. 2002), this court discovered this petitioner (Sales) "could have" sought the aid of other [inmate] legal assistance, as did this petitioner (Mathis) – to date as well.

But here, however, and based upon this same determination, petitioner's (Mathis) records clearly resolves an issue of delay---**from day one!** Moreover, well demonstrating a long and arduous effort to meet the need for equitable-tolling, as well as to now aid this Court in supervising an Appellate Court's jurisdiction; Appendix "A" [doc.6]

Considering other aspects to this court's discretionary powers and viewed consistent with Title 28 USC §1651(a), . . . the U.S. Supreme Court shall have the power to issue ["all"] writs, and in aid of "any" Appellate Jurisdiction See also

In Re: Jessie McDonald, 109 S.Ct. 993(1989), where here, the Appellant over a period of ten years has been allowed to file "numerous" petitions into this court and being recognized by this court, that paupers (e..g.Mathis) are an important---and valued --- part of the court's docket which to date, remains so, whose avenue flows through this court's Rule 46.3 in keeping to the spirit and letter of Rule 26.1----"if not (as here) being abused". The McDonald Court has emphasized that extraordinary writs are - not surprising - "drastic and extraordinary remedies" to be reserved for "really" extraordinary causes in which (due to these oversights) an appeal is clearly an inadequate remedy.

However, quite unlike McDonald's attempt(s), this petitioner's (Mathis) attempt(s) were not only dismissed, but all such previous courts prior to a **"before-the-fact disposition"** compatible with the individualized determination that §1915 contemplates, as well as prior to an agreement from "all parties" to the action in dismissing the case, In this arena, Rule 46.1, have not afforded this petitioner the fairness due in satisfying either his sixth or fourteenth amendment right as required under the U.S. Constitution.

Next, where pertains to the petitioner's claims for relief, accordingly, a decision may be disturbed by the U.S. [Appellate] Court via **F.R.Civ.P. 62 (g)(1)**, (Appendix "D" doc.10) when district courts rely on clearly erroneous findings of fact,(Appendix "A"[doc.4 p.2 & 6 p.2]), improperly applied the governing laws---or, used an erroneous legal standard, Welch v. Brown,551 Fed.App. 804 [6CA 2014], which is an extraordinary remedy that should be granted if the petitioner establishes that the circumstances clearly demand it, and in view of having

satisfied the “gate-keeping standards,” allows this petitioner passage overcoming this court’s rarity in granting writs of extraordinary nature; In Re: McDonald, *supra*.

Added to this, to determine whether an injunction is appropriate, a [trial] court must consider 1.) Whether the (Appellant) has a strong likelihood of success on the merits, 2.) Whether the (Appellant) will suffer irreparable injury “without” the injunction, 3.) Whether the issuance of the injunction would cause substantial harm to others, and 4.) Whether the public interest would be served by issuance of the injunction . . . these considerations are “factors to be balanced, not prerequisites that must be met”, Washington v. Reno, 35 F.3d. 1093, 1099 [6th Cir. 1994].

Therefore, it is this petitioner’s plea to be allowed passage and review in this court, keeping to the spirit and letter of this court’s Rule 20.1 and .3 where, in this instance, (Rule 24.1(g)), premised upon the merits presented herein, “no other form or court” remains for him to obtain adequate relief.

ARGUMENT

II.

**THIS COURT WOULD BE JUSTIFIED GRANTING
EITHER WRIT OF PROHIBITION OR MANDAMUS
WHERE ADEQUATE RELIEF CANNOT BE OBTAINED
IN ANY OTHER FORM OR FROM ANY OTHER COURT.**

Sup.Ct.R. 24.1(i); Merits of Petition:

In this case, the petitioner's contention is that his substantial rights were violated where the court neglected the reading of peremptory or curative-instructions to the jury in order to provide them with sufficient doubt "negating" his guilt as required under TCA §40-18-110(a); See Appendix"D" [7],

However, ordinarily, and absent a written request, the failure of the trial judge to instruct the jury on any lesser included offense may not be presented as a ground for relief, either in a motion for new trial, or appeal, §40-18-110(c), as determined in State v. Fusco, 404 S.W.3d. 504 (Tenn.2013), even so, the General Assembly has provided "exceptions" to the court's responsibility in tendering curative instructions protecting the accused's substantial rights, once the accused seeks an appeal, then allowing the [Appellate] Court to invoke its "unlimited" power in reviewing the issue of curative-instructions for plain error, as provided under T.R.A.P.36(b) to include T.R.Civ.P. 62.08, both made feasible via T.R.A.P. I. See also Appendix"D" [doc.8 & 9] with State v. Page, 184 S.W.3d.223,229(Ten.2006).

*In fact, as here, when necessary to do substantial justice, the [Appellate] Court may consider an error that has affected the substantial rights of an accused "at any time", even if the error was not raised in a motion for new trial, or assigned as an error on appeal; Rule 36(b), *supra*.*

Examining the Appellate Court's conclusion in State v. White, 362 S.W.3d.559(Tenn.2012), in this case, the Court of Criminal Appeals reversed and dismissed the conviction for especially aggravated kidnap on due process grounds, and where accompanied "other" charges, was an inquiry and question for jury "after" the reading of appropriate instructions, which Appellate Courts review under the sufficiency of evidence standard as the due process safeguard.

Due process at its most basic level, "means[s] fundamental fairness and substantial justice", Vaughn v. State, 456 S.W.2d.879,883[1970], which acts as a constraint on both the procedures used by the government and the substance of legislation interfering with personal liberties. As to the first constraint, one of the most basic due process requirements, "is a fair trial in a fair tribunal". This requires, as is the case before us, that the state prove each and every element, (e.g. false imprisonment), beyond a reasonable doubt as required by legislation here; See Appendix"D" [doc. 4 & 6], which denotes the accused's "intent" to complete a course of action, or, cause the result that would constitute the offense. and where the evidence was insufficient in this petitioner's case to prove the furtherance of an overt-act in "consummating either offense".

Additionally, if the evidence is insufficient to support the jury's findings on each element of the crime, this petitioner must be acquitted, as a conviction

based upon legally insufficient evidence on any element of the offense(s) constitute the denial of due process. See 16 CC.J.S. Constitutional Law §1569 at 436(2005), "The reasonable doubt standard is a prime instrument for reducing the risk of convictions resting upon factual error" . . . [and] 'is indispensable to command the respect and confidence of the community in applications of the criminal law.' "(quoting In Re Winship, 379 U.S.358,363,364,90 S.Ct.1068,25 L.Ed.2d.368 (1970), as this U.S. Supreme Court has observed ---

It is critical that the moral force of the criminal law not be diluted by a standard of proof that leaves people in doubt whether innocent men are being condemned. It is also important in our free society that every individual going about in his ordinary affairs have confidence that his government cannot adjudge him guilty of a criminal offense without convincing a proper fact-finder of his guilt with utmost certainty. In Re Winship, at 397U.S. 364. See also Jackson v. Virginia, 443 U.S. 307-18,99 S.Ct.2781;61 L.Ed.560 (11970) [emphasis, mine]

In the state of Tennessee and long recognized, it is to be the task of the Legislature, however, not the court, "to define what shall constitute a criminal offense (Appendix"D" [doc. 4]), and to assess punishment for a particular crime", State v. Farmer, 66 S.W.3d.188,200(Tenn.2001). . . quoting State v. Burdin, 924 S.W.2d.82,87(Tenn.1996). See also Dowling v. United States, 473 U.S.207,214,105 S.Ct.3127;87 L.Ed.2d.152(1985)...(quoting United States v. Wiltberger, 18 U.S. (5 Wheat)76,95, 5 L.Ed.37(1820). . .(noting that it is the task of Congress) "to define a crime, and ordain its punishment."

Therefore, a conviction for an offense so poorly defined as to leave reasonable doubt, whether the conduct of the accused falls within the ambit of the law cannot stand, and guided by principles expressed in these opinions, we have concluded that whether the evidence, beyond a reasonable doubt, establishes each and every element (of the offense) as defined by statute, is a question for the jury “properly instructed” under the law and complained of here. See also State v. Howard, 30 S.W.3d.271, 277(Tenn.2000).

In the case sub judice, the jury, whose primary obligation is to ensure that a criminal defendant has been afforded due process, must calculate the proof offered at the trial, and determine whether the state has met its burden; Jackson, at 443 U.S. at 316, 99 S.Ct.2781.

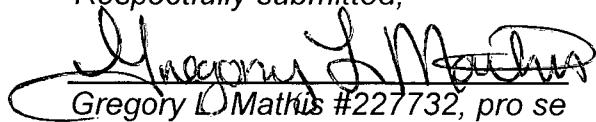
CONCLUSION

In summary, where there exist the need for this court to settle important questions of laws affecting this petitioner’s “Constitutional” rights, this court is respectfully being asked to recognize his records, id. reflecting his offenses, which are multiple in nature as being incidental to each other---but, more important, taking note that neither charged offense will rise to “the degree” necessary to have committed the offenses, or in fact, to have been completed to infer a furtherance of this petitioner’s intentions.

Secondly, that where involves each State [Appellate], U.S. District and [Appellate] Courts, by virtue of their unlimited power “could have” corrected these substantial errors. Thirdly, now requiring this Supreme court’s intervention in light of the record’s demonstrating petitioner’s entitlement to equitable-tolling,

and all for the purposes of this court's instructions for reversal, remand and a direct acquittal, where this petitioner's offenses do not rise above a Class-E status.

Respectfully submitted,

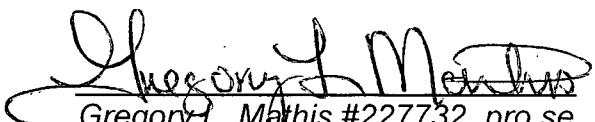


Gregory L. Mathis #227732, pro se
Turney Center Industrial Complex
1499 R.W. Moore Memorial Hwy.
Only, Tennessee. 37140-4050

CERTIFICATION

I certify, that a true and correct copy of the Petitioner's Extraordinary Writ was mailed this 11 day of Sept, 2020, to the Clerk of the United States Supreme Court, located at 1 First Street, N.E. Washington, D.C. 20543, by depositing it in the U.S. Mail, postage prepaid..

Respectfully submitted,



Gregory L. Mathis #227732, pro se
Turney Center Industrial Complex
1499 R.W. Moore Memorial Hwy.
Only, Tennessee. 37140-4050

C: file/glm

NO. _____

IN THE
UNITED STATES SUPREME COURT
OCTOBER TERM, 2020

IN RE: GREGORY LAMAR MATHIS

Petitioner

PETITION FOR AN EXTRAORDINARY WRIT TO THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT
AT CINCINNATI, OHIO

Supreme Court Rule 26.8

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“A”

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<i>Motion to Dismiss</i>	<i>A-3</i>
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<i>[timely] Notice of Appeal</i>	<i>A-5</i>
<i>U.S.District Court Order GRANTING right to</i>	
<i>Appeal in Forma Pauperis to US6CA</i>	<i>A-5(a)</i>
<i>U.S. 6th Cir. Order denying Certificate of</i>	
<i>Appealability</i>	<i>A-6</i>

NO. _____

IN THE
UNITED STATES SUPREME COURT
OCTOBER TERM, 2020

IN RE: GREGORY LAMAR MATHIS
Petitioner

PETITION FOR AN EXTRAORDINARY WRIT TO THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT
AT CINCINNATI, OHIO
No.20-5262

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NO. _____

IN THE
UNITED STATES SUPREME COURT
OCTOBER TERM, 2020

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PETITION FOR AN EXTRAORDINARY WRIT TO THE
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NO. _____
IN THE
UNITED STATES SUPREME COURT
OCTOBER TERM, 2020

IN RE: GREGORY LAMAR MATHIS
Petitioner

PETITION FOR AN EXTRAORDINARY WRIT TO THE
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*Lisa Nesbitt, Clerk;
United States Supreme Court
1 First Street, N.E
Washington, D.C. 20543.*

September , 2020

*IN RE: Gregory I. Mathis, Petitioner
No.
Mathis v. State of Tennessee, et, al
6CA No. 20-5262.*

Dear Ms. /Mrs. Nesbitt,

*Please find enclosed my Petition for Extraordinary Writ, and or Petition for
Prohibition/Mandamus pursuant to Sup.Ct. R. 20.1 and 26.8.*

*My correspondence is to also enclose an appendix with this writ in the
event the Appellee's desire to respond; Rule 26.4, or, the Court so orders. Your
assistance and cooperation is appreciated,*

Respectfully submitted

*Gregory L. Lamar, Pro se
Turney Center Industrial Complex
1499 R.W. Moore Memorial Hwy.
Only, Tennessee. 37140-50*