

20-6395

Supreme Court, U.S.  
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Supreme Court of the United States

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Howard Griffith,  
Pro Se  
*Defendant/Petitioner,*

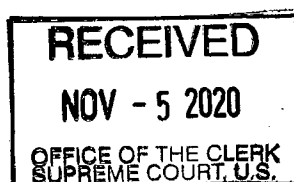
VS

New York State,  
Represented by William J. Fitzpatrick  
District Attorney of the State of New York/County of Onondaga  
*Plaintiffs/Respondent,*

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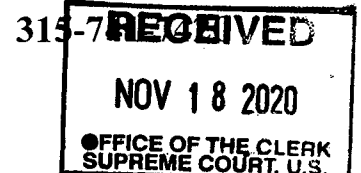
Petition for Writ of Certiorari

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**ORIGINAL**

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## **QUESTIONS PRESENTED**

Doe v Pataki, 3 F.Supp.2d 456 (SD NY 1998) provides that the People carry the burden of proving the facts to support the recommended registration classification level for a defendant's initial sex offender registration, pursuant to NY Correction Law Section 168-n (NY Correction Law Article 168: Sex Offender Registration Act [SORA]) to provide that the due process rights of a defendant includes prehearing discovery. Therefore, defense counsel is entitled by statute to prehearing access to the documents reviewed by the Board of Examiners of Sex Offenders (NY Correction Law Section 168-l) prior to a hearing where the Defendant is prosecuted to determine his initial SORA registration level.

Can the documents that a defense counsel is entitled to have access to "prior" to an initial Sex Offender Registry hearing also refer to the documents that a defense counsel is entitled to have access to at the time of a sex offender's conviction?

NY Correction Law Section 168-o(2), SORA modification, requires the Defendant to bear the burden of proving the facts to support the requested modification by clear and convincing evidence.

Can the [p]rocess of using severability to satisfy the cause to disregard the error of taking an appeal with an omission from a SORA modification proceeding to obtain merits that Defendant was deceived to admit to the instant offense at the time of conviction to apply it to questions with regard to not admitting to the sex offense as a penalty for SORA registration [ ] be used to satisfy cause and prejudice to support a procedurally defaulted claim for coram nobis relief?

## **LIST OF PARTIES**

**Defendant/Petitioner, Howard Griffith**

**Plaintiffs/Respondents, People of the State of New York/County of Onondaga**

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Department, Order to Show Cause denied for Motion for the Court to Waive Certification of the Record pursuant to 22 NYCRR 1250.7(g), *Motion taken on January 31, 2020, on account to provide the objection that the Notices the Onondaga County provided dated January 9, 2020, to commence the procedures to settle the record on account of Defendant's January 02, 2020 motion were clearly evident to have been provided to develop the process to construe an ex parte order: February 03, 2020: (Decision is not reported); 10(a) Letter/Decision/Order of the Onondaga County Court: Motion for the Court to Settle the Record pursuant to 22 NYCRR 1250.7(g) dated January 02, 2020, dismissed on the ground that the Onondaga County Court determined Defendant did not have the right nor could have been granted the privilege to appeal the letter/decision/order dated October 25, 2019: February 21, 2020 (Letter/Decision/Order not reported); 11(a) Pleading from the Clerk of the Supreme Court of the State of New York, Appellate Division/Fourth Department declaring: "The Court received your motions dated March 10, 2020 and March 18, 2020, which are being returned without consideration. Your appeal was decided by this Court on November 9, 2018. Therefore, there is nothing pending before this Court."* May 6, 2020. (Pleading not reported) 12(a) Supreme Court of the State of New York, Appellate Division/Fourth Department, Order to Show Cause denied for Motion for Reconsideration for Court to Waive Certification of the Record: *Motion taken to*

*obtain a final determination on account of the objection preserved with the initial Motion for the Court to Waive Certification of the Record: May 27, 2020 (Decision not reported), 13(a) New York State Court of Appeals: Motion No. 2020-552, Decision: "ORDERED, that the motion is dismissed upon the ground that the order sought to be appealed from does not finally determine the proceeding within the meaning of the Constitution.": October 22, 2020 (Order not yet reported)*

## **JURISDICTION**

**Section 29-a of article 2-b of the Executive Law**, in New York State provides that *"[s]ubject to the state constitution, the federal constitution and federal statutes and regulations, the governor may by executive order temporarily suspend any statute, local law, ordinance, or orders, rules or regulations, or parts thereof, of any agency during a state disaster emergency [which includes epidemics], if compliance with such provisions would prevent, hinder, or delay action necessary to cope with the disaster or if necessary to assist or aid in coping with such disaster."* (emphasis added).

Executive Order 202.67 went into effect on October 5, 2020 providing: *"The suspension in Executive Order 202.8, as modified and extended in subsequent Executive Orders, that tolled any specific time limit for the commencement, filing,*

*or service of any legal action, notice, motion, or other process or proceeding as prescribed by the procedural laws of the state, including but not limited to the criminal procedure law, the family court act, the civil practice law and rules, the court of claims act, the surrogate's court procedure act, and the uniform court acts, or by any statute, local law, ordinance, order, rule, or regulation, or part thereof, is hereby continued, as modified by prior executive orders, provided however, for any civil case, such suspension is only effective until November 3, 2020.*" Executive Order 202.67 has continued to extend suspensions of judicial proceedings in the New York State Judicial System as modified by prior executive orders as provided with Executive Order 202.8. These suspensions have been modified and extended, continuously, since March 7, 2020. Governor Cuomo has the authorization to execute these procedures with regard to the 10th Amendment of the United States Constitution as the 10th Amendment states: *"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."*

With regard to Mo. No. 2020-552, Defendant had taken the action to the New York State Court of Appeals to obtain an Order to succeed with the process to take this action in this Court. With the due deliberation of Chief Judge Janet DiFiore decided on October 22, 2020, it was: *"ORDERED, that the motion is dismissed upon the ground that the order sought to be appealed from does not finally*

*determine the proceeding within the meaning of the Constitution.*" The merits provided with Executive Orders 202.8 and 202.67 provide that this just as well may "mean" this contest cannot be contested in the New York State Court of Appeals or else this would just be provided as interference "within" the procedures Governor Cuomo provides for tolling proceedings of the Judicial Branch of the Government of New York State as described "within" these executive orders as the 10th Amendment of the United States Constitution authorizes Governor Cuomo to execute this. Nevertheless, the 9th Amendment of the United States Constitution provides, *"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."* Defendant's intent was to exhaust his remedies.

Since the final determination was made by the Onondaga County Court, on February 21, 2020, after the matter was remitted to that court from the Order/Memorandum in "People v Griffith, 166 A.D.3d 1518 (4th Dept. 2018)" several decisions have been made in courts in New York State which have thwarted the procedure to execute this process to exhaust remedies as it is becoming more and more difficult to interpret why these decisions have been made in these courts. These executive orders provide the most evidence and complete substance why the decisions have been made in these courts which have thwarted the process Defendant attempts to succeed with, exhausting his remedies. These modifications

and extensions of these suspensions are developing substance too quickly to reach specific interpretations of how they may affect why a court may have made any of these decisions. With the authority of the New York State Government to enact Executive Orders 202.8 and 202.67, via the 10th Amendment of the United States Constitution, Defendant's 4th, 5th, 6th, 9th and 14th Amendment Rights of the Constitution need to provide it is determined that Defendant has exhausted his remedies as due process provides these executive orders should just as well be provided for stipulation. Further cause is supported these extensions and modifications may still be extended more to even more broadly develop substance to make it even more difficult to interpret why previous decisions have been made.

### **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

**NY Correction Law Article 168 (Article 6C of Correction Law, Sex Offender Registration Act [SORA])**

**NY Correction Law Section 168-o(2)**, SORA Modification requires a defendant to bear the burden of proving the facts supporting the requested modification by clear and convincing evidence.



**NY Correction Law Section 168-n(3), Judicial Determination** provides limitations, that facts previously proven at trial or elicited at the time of entry of a plea of guilty shall be deemed established by clear and convincing evidence and shall not be relitigated during SORA hearings.

**NY Correction Law Section 168-d(1): Certification as a Sex Offender** The court shall certify that the person is a sex offender and shall include the certification in the order of commitment, if any, and judgment of conviction.

**NY Correction Law Section 168-w, Severability** provides that if a court of competent jurisdiction adjudges any section of the article (NY Correction Law Article 168, Sex Offender Registration Act [SORA]) or part thereof to be invalid, such judgment shall not affect, impair or invalidate the remainder or any other section or part thereof.

**NY Criminal Procedure Law (CPL) 450.10(1) (Direct Appeal)** An appeal to an intermediate appellate court may be taken as of right by the defendant from the following judgment, sentence and order of a criminal court: **(1)** A judgment other than one including a sentence of death, unless the appeal is based solely upon the ground that a sentence was harsh or excessive when such sentence was predicated

upon entry of a plea of guilty and the sentence imposed did not exceed that which was agreed to by the defendant as a condition of the plea and set forth on the record or filed with the court as required by subdivision five of section 220.50 or subdivision four of section 340.20.

#### **4th, 5th, 6th, and 14th Amendments of the United States Constitution**

**(4th)** Defendant's right to due process was violated when he was sentenced, convicted and indicted. **(5th)** Nevertheless, Defendant still needed to be provided the due process right to contest the injustice of the violation of those rights, **(6th)** via a criminal proceeding, as he was, additionally, not to have been subject to ineffective assistance of counsel as he was, initially, when these rights were violated when he was sentenced, convicted and indicted **(14th)** as it was New York State who has violated these due process rights when he was sentenced, convicted and indicted whom has failed to restore Defendant's liberty from being subject to these violations. Nevertheless, for these reasons, it is to be the Judicial Branch of the United States Government who will grant the due process to provide these rights will no longer be violated as Defendant will be able to defend himself against this injustice to provide these violations of his constitutional rights are no longer to be subject to his life as his liberty is to be restored.

## **9th and 10th Amendments of the United States Constitution**

With New York State using the 10th Amendment Right of the United States Constitution: *"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people,"* to restrict Defendant's access to the Judicial Branch of Government in New York State via Executive Orders with regard to the COVID-19 pandemic, Defendant's 9th Amendment Constitutional Right: *"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people,"* may just as well restore it. Nevertheless, Defendant's access to the Judicial Branch of Government will not be accessed to the Judicial Branch of New York State. However, Defendant's access to the Judicial Branch of Government will be provided by the United States as is to be provided for Defendant's 4th, 5th, 6th, and 14th Amendment Rights of the Constitution of the United States.

## **CONCISE STATEMENT**

It was with a direct appeal that determined Defendant's conviction for Rape 1st, Penal Law 130.35(1) is invalid and illegal because he received ineffective assistance of counsel at the time of his conviction as he was deceived and coerced to admit to the instant offense. Therefore, the Judgment/Decision/Order of

Defendant's sentence, conviction, and indictment needs to be annulled, vacated and set aside.

### **REASONS FOR GRANTING RELIEF**

#### **I) NY Correction Law Article 168, Sex Offender Registration Act (SORA):**

**a) NY Correction Law Section 168-o(2), SORA Modification** requires a defendant to bear the burden of proving the facts supporting the requested modification by clear and convincing evidence.

**b) NY Correction Law Section 168-n(3), Judicial Determination** provides limitations, that facts previously proven at trial or elicited at the time of entry of a plea of guilty shall be deemed established by clear and convincing evidence and shall not be relitigated during SORA hearings.

**c) Ambiguity** provided that with the conditions of Defendant's plea bargain, pursuant to NY Correction Law Section 168-n(3): Facts elicited at the entry of Defendant's plea of guilty, as the evidence is deemed clearly and convincingly established, proves his conviction is invalid, involuntary, and illegal and has not yet been litigated as he should be allowed to litigate this. (*see* People v Holmes, 111 A.D.3d 686, 687, 688 [2d Dept 2013]: The Court determined what the facts

were that were elicited at the entry of Holmes plea of guilty during the allocution statement while deciding he could litigate the proffered evidence.)

**d) The Common Law** provided the determination Defendant's SORA modification proceeding could construe a process to determine that Defendant's conviction was illegal while providing merits to determine Defendant was deceived and coerced to admit to the instant offense to provide this for his cause to have his burden borne to prove his facts to support his requested modification for his SORA registration as he contested that he should not have been penalized for not admitting to the instant offense for his SORA registration.

1. With regard to "People v Holmes", the merit can be provided that Defendant could contest what the county court provided: [Defendant] "pled guilty... by Alford." (see North Carolina v Alford, 400 U.S. 25 [1970] *"An Alford plea is not a guilty plea as a defendant agrees to take the conviction without admitting to the instant offense to avoid the possibilities of being proven guilty after trial."*) However, it needed to be provided that Defendant could contest what he stated during his allocution to complete this process as he stated during his allocution: "Even though I am pleading guilty, I'm not admitting to doing this crime." "People v Holmes" and NY Correction Law Section 168-n(3) provide this cannot be contested pursuant to the statutory

law provided by NY Correction Law Article 168, alone. Regarding the allocution, NY Correction Law Section 168-n provided that the county court's determinations were made under the proper evidentiary standard (People v Griffith, id. at 1520: *"Contrary to defendant's contentions in his pro se supplemental brief, the court did not err in refusing to allow him to challenge his plea or other aspects of his underlying conviction. It is well settled that a SORA proceeding may not be used to challenge the underlying conviction," citing People v Clavette, 96 A.D.3d 1178, 1179 [3d Dept 2012], lv denied 20 N.Y.3d 851 [2012]) Nevertheless, "As relevant here, Criminal Procedure Law § 450.10 'authorizes a defendant to appeal from a judgment in a criminal case, which brings up for review many of the orders and rulings that precede or are part of it' (People v Nieves, 2 N.Y.3d 310, 314 [2004]). A judgment is 'comprised of a conviction and the sentence imposed thereon and is completed by imposition and entry of the sentence' (CPL 1.20 [15])," id. People v Clavette, citing People v Smith, 15 N.Y.3d 669, 673 (2010)*

2. The Onondaga County Court failed to provide Defendant with new counsel prior to continuing with the hearing, after Defendant declared he was not guilty and claimed his counsel was coercing him under administration of oath before his conviction. (People v Griffith, id. at 1519 *citing People v*

Caccavale, 305 A.D.2d 695, 695 [2d Dept 2003]), and because of this, due process provided his adverse "defense" counsel should not have been entitled to any prehearing documents during the time of judgment which called into question statements on the record with regard to whether Defendant had admitted to the instant offense or not at the time of his conviction as "defense" counsel should not have had authority to provide this for Defendant's certification as a sex offender. (id. People v Nieves, citing People v Hernandez, 93 NY2d 261, 267-268 [1999]: "*Certification as a sex offender is an integral part of the sentence relating back to or becoming incorporated into the antecedent judgment of conviction... appealable and reviewable with the judgment of conviction pursuant to NY CPL 450.10[1].*" [see NY Correction Law Section 168-d(1): "*The court shall certify that the person is a sex offender and shall include the certification in the order of commitment, if any, and judgment of conviction.*"]) which should have later provided substance to affect his initial registration as a sex offender pursuant to NY Correction Law 168-n. People v Griffith, 166 A.D.3d at 1519 citing People v Lashway, 25 NY3d 478,483 [2015]: "*An initial risk level determination, where the People carry the burden, the due process rights of a petitioner include, among other things, prehearing discovery (see Doe v Pataki, 3 F.Supp.2d 456 [SD NY 1998]). Therefore,*

*defense counsel is entitled by statute to prehearing access to the documents reviewed by the [Board] prior to his or her initial SORA determination. However, initial risk level assessments and reclassification petitions by statute are different."* [emphasis added<sup>1</sup>] )

3. With this, his adverse "defense" counsel also advised him he no longer had his right to appeal this, pursuant to NY Criminal Procedure Law Section 450.10(1), at the closing of sentencing. This was Defendant's cause for failing to properly appeal the underlying conviction pursuant to NY Criminal Procedure Law Section 450.10(1). *"Thus, defense counsel's advice was incorrect as well as adverse to Defendant's position."* (see *People v Griffith*, id. at 1520) *"In addition, a defendant may commence a SORA modification proceeding no more than once annually,"* was the prejudice he was subject to for failing to properly follow CPL 450.10(1). (see *People v Griffith*, id. at 1519-1520) However, this does not invalidate, as to have been expected, *"His assigned counsel, however... advised defendant to withdraw the petition so that defendant would not needlessly delay his right to file a new modification petition in two years,"* (*"People v Griffith,"* id. at 1519), as two years does not fall within the range of one year. Therefore, it is not excessive. (*People v Griffith*, id. at 1520 citing *People v Ayala*, 72 A.D.3d

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<sup>1</sup> [Board] of Examiners of Sex Offenders, NY Correction Law Section 168-I



1577, 1578 [4th Dept 2010]: *"We conclude that he was provided effective assistance of counsel at the SORA hearing," lv denied* 15 N.Y.3d 816 [2010])

**e) The Rule of Procedural Default** provides the Supreme Court of the State of New York, Appellate Division/Fourth Department agreed that Defendant was denied effective assistance of counsel at the time of his conviction to reverse the order, reinstate the petition and remit the matter to the County Court for a new hearing on the Petition upon his requested modification to not have been penalized for not admitting to the instant offense upon the merits of questions with regard to his admission to the instant offense. *People v Griffith*, id. at 1519:

*"As a preliminary matter, we note that defendant's pro se notice of appeal states that he is appealing pursuant to CPL 450.10 (1) 'as it applies' to Correction Law § 168-n. CPL 450.10 (1), however, does not grant defendant the right to appeal from an order denying his petition for a downward modification of his risk level; instead, that right is conferred by CPLR 5701 (see generally *People v Charles*, 162 A.D.3d 125, 126, 137-140 [2d Dept 2018], lv denied 32 N.Y.3d 904 [2018]). Nevertheless, we deem the appeal to have been taken pursuant to the proper statute, and we therefore reach the merits of the issues raised on appeal (see CPLR 2001).*

*"We agree with defendant that he was denied effective assistance of counsel, and we therefore reverse the order, reinstate the petition, and remit the matter to County Court for a new hearing on the petition." <sup>2</sup>*

Therefore, the cause was satisfied Defendant had succeeded with achieving the determination that he was provided ineffective assistance of counsel at the time of his conviction. He achieved this, via an appeal from a SORA modification proceeding, to determine his conviction was invalid, by improperly taking his appeal from the decision of the Onondaga County Court. This process was satisfied as due process provided that the Supreme Court of the State of New York, Appellate Division/Fourth Department, would agree with his cause for providing an omission to have his burden borne to prove his facts to support his requested modification for his SORA registration, as *People v Charles*, 162 A.D.3d at 140, provides the Intermediate Appellate Courts in New York State are to decide if the burden deemed to have been borne has provided, with merit, that the facts have been proven by clear and convincing evidence and can be provided for a defendant's requested SORA modification. With this, Defendant supported this process could be construed to develop a defaulted claim to support his conviction could be dismissed through this process pursuant to the rule of procedural default.

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<sup>2</sup> *People v Charles*, 162 A.D.3d at 125, 126: "It was of concern that defendant... had refused to accept responsibility for his sexual offenses."

With this, the Supreme Court of the State of New York, Appellate Division/Fourth Department was satisfied with the merits provided to interpret ineffective assistance of defense counsel. Defendant was able to relate this to his SORA modification proceeding because merit was provided that there were questions with regard as to whether he had admitted to the instant offense or not because he was penalized for not taking responsibility for his instant offense, as the merits provided these procedures could be used to bring these questions to the Supreme Court of the State of New York, Appellate Division/Fourth Department.

**f) Prejudice** is provided with regard to Defendant's right to commence a SORA modification proceeding at least once annually pursuant to NY Correction Law Section 168-o(2), because the only way for Defendant to be able to receive modification from being penalized on his SORA registration for not admitting to the instant offense would be to agree to admit to the instant offense to provide merit that Defendant has no longer been deemed to have been deceived or coerced into admitting to the instant offense as this would null the evidence on the record as this is a violation of Defendant's 4th, 5th, 6th, and 14th Amendment Rights of the Constitution of the United States. Until then, New York State would rely on Defendant's allocution to support what was deemed as his failure to admit to the instant offense, via the process of SORA registration, because pursuant to NY

Correction Law Section 168-n(3): *"Facts previously proven at trial or elicited at the time of entry of a plea of guilty shall be deemed established by clear and convincing evidence and shall not be relitigated."* ("People v Holmes," *supra*)

Defendant should not have been penalized for this in any way, whether it was with regard to his SORA registration, his sentence as a sex offender, his certification as a sex offender, or his conviction as a sex offender.

**g) NY Correction Law Section 168-w, Severability** provides that if a court of competent jurisdiction adjudges any section of the article (NY Correction Law Article 168, Sex Offender Registration Act [SORA]) or part thereof to be invalid, such judgment shall not affect, impair or invalidate the remainder or any other section or part thereof. Because of this, due process provided prejudice would result after the Supreme Court of the State of New York, Appellate Division/Fourth Department provided the adjudication determining Defendant's conviction was invalid after providing the determination with a memorandum from his action that was considered to have been properly taken with a direct appeal, even though: *"It is well settled that a SORA proceeding may not be used to challenge the underlying conviction."* (People v Griffith, *id.* at 1520) Nevertheless, with the cause for improperly addressing this action with an omission with Defendant's appeal the adjudication was able to provide the memorandum to

support Defendant's conviction is an error of the most fundamental character. With the Order provided with "People v Griffith, id." reversing the Onondaga County Court's decision which initially denied SORA modification, Severability, pursuant to NY Correction Law Section 168-w, established precedent for a process of remedies which would satisfy repeated errors of law based on the error of the most fundamental character, until the remedies would be exhausted to establish precedent to support a procedurally defaulted claim to proceed with a Petition for Writ of Certiorari to the United States Supreme Court. This can be satisfied because Defendant's cause for failing to properly appeal his underlying conviction, pursuant to NY CPL 450.10(1), was because his counsel advised him that he no longer had a right to appeal his ineffectiveness at the closing of the judgment, and with Defendant only being able to commence a SORA modification proceeding no more than once annually, this is prejudicially provided as a consequence for failing to properly appeal his underlying conviction pursuant to NY CPL 450.10(1). Nevertheless, due process provided a cause that Defendant was able to achieve an adjudication determining his conviction was illegal by improperly taking his appeal, as an omission, from a SORA modification proceeding. With this, the necessity was also satisfied by Defendant, with regard to it being necessary to present with the cause that it would be determined that severability, Correction Law 168-w, would provide the prejudice that with the adjudication determining

Defendant's conviction was an error of the most fundamental character, a procedure would result in remedies being provided, establishing precedents of continued errors of law. Due process would satisfy the procedure, with regard to the process that exhausts these remedies, that a precedent would be established to present this as a procedurally defaulted claim to the United States Supreme Court to be provided with a Petition for Writ of Certiorari to provide the cause for this Court to disregard the procedural default to provide coram nobis relief. With regard to the evidence on the record, to support this contest as a procedurally defaulted claim, Defendant's statute of limitations to litigate these claims rests on the finality of the judgment (Murray v Carrier, 477 U.S. 478, 487, citing Engle v Isaac, 456 U.S. 107, id. at 129) as certification as a sex offender became subject to this action. (id. People v Hernandez)

## **II) Doe v Pataki, 3 F.Supp.2d 456 (SD NY 1998)**

As presented in sub-part (d) of part (I), People v Griffith, 166 A.D.3d 1518 (4th Dept. 2018) determines that the required due process rights that were required to be conducted to prosecute this case are substantively, fatally flawed as the requirements are with regard to the due process rights provided with Doe v Pataki, 3 F.Supp.2d 456 (SD NY 1998). People v Griffith, id. at 1519-1520: (*see* People v Lashway, 25 NY3d 478, 483 [2015]: "*An initial risk level determination, where the*

*People carry the burden, the due process rights of a petitioner include, among other things, prehearing discovery [see Doe v Pataki, 3 F.Supp.2d 456 (SD NY 1998)]. Therefore, defense counsel is entitled by statute to prehearing access to the documents reviewed by the [Board] prior to his or her initial SORA determination. However, initial risk level assessments and reclassification petitions by statute are different."* [emphasis added<sup>3</sup>]) The contest was able to provide the ineffective defense counsel should have never been entitled to prehearing access to the documents which were to have been reviewed by the [Board] of Examiners of Sex Offenders prior to Defendant's conviction, "[by statute]", as it applies to Defendant's certification as a sex offender (*see People v Hernandez, 93 NY2d 261, 267-268 [1999]: "Certification as a sex offender is an integral part of the sentence relating back to or becoming incorporated into the antecedent judgment of conviction... [see NY Correction Law Section 168-d(1): 'The court shall certify that the person is a sex offender and shall include the certification in the order of commitment, if any, and judgment of conviction.']"*), "[prior to Defendant's initial SORA determination]". Therefore, "*People v Griffith, 166 A.D.3d 1518 (4th Dept. 2018)*" provides Defendant's 4th, 5th, 6th, and 14th Amendment Rights of the Constitution of the United States have been violated providing Defendant's SORA registration could have in no way ever been prosecuted, not satisfying the federal

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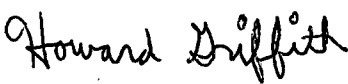
<sup>3</sup> [Board] of Examiners of Sex Offenders, NY Correction Law Section 168-l

due process requirements that are to be provided as they apply to "Doe v Pataki, id." and it can now be determined "People v Griffith, 2001-0883-1" is an error of the most fundamental character to provide Defendant's Judgment/Decision/Order for his sentence, conviction and indictment needs to be annulled, vacated and set aside to provide coram nobis relief.

### CONCLUSION

With ambiguity, Defendant has construed his burden, to obtain his adjudication, to support his requested sex offender modification to annul, vacate, and set aside his underlying conviction. The adjudication determined his conviction was illegal and invalid by clear and convincing evidence, as he presented that due process provided that the adjudication could be made because severability would satisfy the process that exhausting his remedies would continue to establish precedents to make him a victim of an error of the most fundamental character to establish precedent for coram nobis relief upon the exhaustion of his remedies. Developed from his SORA modification proceeding, this now provides that the precedent has been established for substantive due process to provide Defendant's procedural default to be disregarded to provide coram nobis relief.

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Respectfully submitted,  
  
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