No. 20-7115

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

CHRISTOPHER A. CARTER #M32025 — PETITIONER
(Your Name)

vs.

Acting Warden
Menard Correctional Center
FRANK LAWRENCE et. al. — RESPONDENT(S)

FILED
NOV 14 2020
OFFICE OF THE CLERK
SUPREME COURT, U.S.

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For the Seventh Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

CHRISTOPHER A. CARTER Pro Se #M32025
(Your Name)
Menard Correctional Center,
P.O. Box 1000
(Address)

Menard, Illinois 62259
(City, State, Zip Code)

(Phone Number)

RECEIVED
FEB - 9 2021
OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. Whether the Seventh Circuit ruling which is in conflict with the United States Supreme Court, the Seventh Circuit, other circuits, is debatable and was the adjudication of the Seventh Circuit and District Courts proper Certificate of Appealability analyses?

2. The courts exist to resolve the difficult questions not to shy away from them. Some court cases, due to the nature of the case or charges alleged, are rather likely to experience unfavorable or unfair treatment without regard to validity of claims raised. Taken cumulatively and in the aggregate, especially pertaining to the issues raised in this case, whether the Seventh Circuit and District Court rulings were unreasonable and improper. Also whether Petitioner was denied Due Process, Equal Protection and Comity rights of the United States Constitution?

LIST OF PARTIES

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

[X] 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:

Anthony Wills, current Warden of Menard Correctional Center

U.S. Attorney, Assistant Attorney General, Katherine Doersch

RELATED CASES

Carter v. Lawrence, No.1:19-cv-02735,U.S. District Court,Northern District, Eastern Division, decided 27 August, 2019

People v. Carter, 2-15-0654, Second District Appellate Court of Illinois, decided 22 May, 2018

People v. Carter, 2-16-0382, Second District Appellate Court of Illinois, decided 5 June, 2018

People v. Carter, 08 CF 1221, Circuit Court of DuPage County,18th Judicial Circuit, Summary judgment, 5 May, 2014 (C0001083)

People v. Carter, 08 CF 1221, Circuit Court of DuPage County,18th Judicial Circuit, Summary judgment, 11 May, 2016 (C0001417)

People v. Carter, No.123878, Illinois Supreme Court, judgment affirmed, review declined 26 September, 2018

People v. Carter, No. 123779, Illinois Supreme Court, judgment affirmed, review declined 26 September, 2018

TABLE OF AUTHORITIES CITED

CASES PAGE NUMBER

Listed in separate Volume I Appendix

(Table of Authorities Cited)

STATUTES AND RULES

OTHER

CASES

CASES

TABLE OF CITED AUTHORITIES

Statutes and Rules

UNITED STATES CONSTITUTIONAL AMENDMENT I: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of the people to peaceably assemble, and to petition the Government for a redress of grievances." p. 8,29

UNITED STATES CONSTITUTIONAL AMENDMENT V: "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 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." p. 8,18,20,21,24,25,26,28,29,32

UNITED STATES CONSTITUTIONAL 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." p.8,11,14,15,16,17,18,20,21,24,25,26,28,29,32

UNITED STATES CONSTITUTIONAL AMENDMENT XIV Section 1: 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 and immunities 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." p.8,15,18,20,21,24,25,26,28,29,32

UNITED STATES CONSTITUTION Article IV,Section2,Clause 1: "The Citizens of each State shall be entitled to all Privileges and immunities of Citizens in the several States."(Comity Clause) p.8,20,24

UNITED STATES CONSTITUTION Article VI: "This Constitution, and the Laws of the United States, which shall be made in Pursuance thereof; and all Treaties made, or shall be made, under the Authority of the United States, shall be supreme Law of the Land; and the Judges in every State shall be bound thereby; anything in the Constitution or Laws of any State to the Contrary notwithstanding." p.7,8,19,24,28,29

APPENDIX OF WRIT

TABLE OF CONTENTS

INDEX TO APPENDICES

APPENDIX A - E

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

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

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

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

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

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

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

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

[X] reported at 108 N.E. 3d 879(Ill.2018); or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the Eighteenth Judicial District,DuPage court appears at Appendix E to the petition and is

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

JURISDICTION

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

The date on which the United States Court of Appeals decided my case was 1 July, 2020.

[ ] No petition for rehearing was timely filed in my case.

[x] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 2 September 2020, and a copy of the order denying rehearing appears at Appendix C.

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

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

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

The date on which the highest state court decided my case was 26Sept. 2018. A copy of that decision appears at Appendix D, E.

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

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

FULL TEXT IN VOLUME 1 APPENDIX

UNITED STATES CONSTITUTIONAL AMENDMENT 1

UNITED STATES CONSTITUTIONAL AMENDMENT V

UNITED STATES CONSTITUTIONAL AMENDMENT V1

UNITED STATES CONSTITUTIONAL AMENDMENT X1V

UNITED STATES CONSTITUTION ARTICLE 1V, Section 2, Clause 1

UNITED STATES CONSTITUTION ARTICLE V1

28 United States Code § 2253

28 United States Code § 2254

725 Illinois Compiled Statutes 5/122 et.seq.

STATEMENT OF THE CASE

STATEMENT OF THE CASE

¶1 This is a difficult case that has been infected with and by prejudice and indifference since the false allegations were first lodged. In addition was misinformation of girls' mother's death, which was 1 yr.10mo. after their arrival in Illinois. This information has never been corrected, to this day. The first trial resulted in a mistrial at the close of the State's case-in-chief. (2010) Failure of private counsel to obtain a HSV-2 Expert witness was determined a critical element of defense and trial judge ended trial for IAC. (29 October,2010 R.1760-1777). Second trial took place in 2012, with assistant public defender, Brian Jacobs. He also failed to call any independent expert in field of HSV-2, failed to use evidence from five banker boxes, failed to call any witnesses from a list provided to him dated June 13, 2011, over a year before trial and failed to utilize the three experts retained by defense. Petitioner was convicted and sentenced to natural life. On Direct Appeal, appellate counsel produced an unfavorable brief 3 February, 2014, mailed a copy to petitioner 5 February, 2014 which was received 10 February, 2014, with no opportunity for input prior to submission.

¶2 Relevant dates: Direct Appeal Affirmed 22 August,2014; Motion to Rehear Denied 30 October,2014; P.L.A. of Direct Appeal Denied 30 January,2015; Postconviction Petition Denied 5 May,2015; Leave to File Successive Petition Denied 11 May,2016; Appellate Court Denial and Affirmance of Postconviction Petition 22 May,2018; Motion for Leave to File Denial and Affirmance 5 June,2018; Both P.C. Petition and P.L.A and Successive Leave to File and its P.L.A. declined by Illinois Supreme Court 26 September,2018. The Habeas Corpus Petition was timely filed on 23 April,2019. The State was ordered to ANSWER THE Section § 2254 Petition. After many months

¶2 of silence, Petitioner asked his Mother, Mrs. P. Nofles, to contact the Clerk of U.S. District Court for status of Habeas Petition. (Appendix B- Affidavits and detail of notification issues sent to U.S. District Court, Chief Judge and Clerk by Priority Mail, Tracking Nos.#9510-8103-6688-9238-2083-33; 9505-5103-6687-9247-2211-54; 9505-5103-6687-9247-2211-61). The call was made on 26 August,2019. The Clerk was made aware that NOTICE TO REPLY that they spoke of had never been received. Clerk was also made aware that Petitioner was sending that day, a Motion requesting more time to file a Reply to State's ANSWER.

¶3 Petitioner mailed out request on 26 August,2019, this was received and filed by Clerk 3 September,2019. The Motion for Extension of Time to File a Reply to State's ANSWER, was granted, allowing until 27 September,2019, as a deadline to file any response. Petitioner met the deadline, with Priority Mail and signature confirmation 26 September,2019, at 7:39am at U.S. District Court, Northern District, Eastern Division, signed for by D.Joswisk. However, the Court closed or denied the Habeas Petition the day after being notified that Petitioner lacked notification, that a motion was on its way, and after having received Motion and granted the extension, it further closed the case and filed a NOA on 27 September,2019.

¶4 The U.S. District Court did not review the Reply and its materials sent in support. Instead, it rushed to close the case, a day before the last day of the deadline of 27 September,2019. The District filed an NOA and sent a notice stating that it "lacked jurisdiction." (Dkt.#[24]) Time to Reply is controlled pursuant to "12 Rules Governing Section §2254 Petitions Rule 5(e)" by the judge. Jurisdiction.

STATEMENT OF THE CASE

¶5 Seventh Circuit received case and denied C.O.A.s stating it "found no substantial showing of the denial of a constitutional right. See 28 U.S.C. §2253(c)(2)." In Forma Pauperis and appointment of counsel were also denied, 1 July,2020. U.S. District Court's Opinion of 27 August,2019, demonstrates that, in fact, court observed the substantial denials of constitutional rights raised in Habeas Petition. On 17 July, 2020, Circuit Court received Motion for Extension of Time to Rehear/Rehear EnBanc from Mr. Carter. Granted until 17 August, 2020. On 2 September, 2020, the Court denied Motion to Rehear/Rehear EnBanc. (Appendix C).

¶6 U.S. District Court in its Opinion of 27 August, 2019, Dkt.[#10], the only opinion that has been received by Mr. Carter from the court, states in ¶3 the substantial constitutional violations of rights and then at ¶10 proceeds to contradict this saying there is no showing and that no reasonable jurist would find this decision debatable. The remainder of Opinions of the courts had not been sent to Mr. Carter, he has had to resort to asking Mrs. Nofles to obtain them for him, as he would receive notices with the ruling or opinion missing. Mr. Carter contacted Court twice regarding lost ruling, each time court took action without an opinion being sent to Mr. Carter.

¶7 Proper calculation of times to file is not possible without the Opinion and date of judgment. Courts have been acting with malice that is serving to disadvantage Mr. Carter and impede his efforts to obtain enforcement of his rights.

REASONS FOR GRANTING THE PETITION

REASONS FOR GRANTING THE PETITION

¶8 The United States Constitution is the supreme Law of the Land and adherence to it keeps the thread and fabric of society from unraveling. The United States Constitution applies not just to citizens, but also government bodies and all its members including courts, judges, police and janitors. (U.S. Const. Art.Vl,Cl.2).

¶9 Care has been taken to demonstrate timeliness that this Court appears to assign as the first hurdle. Mr. Carter has experienced unusual malice and prejudice at the hands of government employees at the state and lower courts of the federal system to the degree that without the assistance and intervention of his Mother, Mrs.P. Nofles, impediments strewn in his path would make time calculation or getting to this point impossible. Disregard of the U.S. Constitution and its protections brings Petitioner before the U.S. Supreme Court.

¶10 Mr. Carter filed his Habeas Corpus Petition through use of Priority Mail to U.S. District Court in Chicago on April 23, 2019 The State was ordered to ANSWER. The "12 Rules Governing §Section 2254 Petitions", states "that the Petitioner may Reply to the State's ANSWER in a time fixed by the judge." (Rule 5e). After the passage of many months and no notice or word from the court, Mr. Carter asked his Mother on 26 August,2019, to call the Clerk for a status update. Mrs. Nofles called and was told that a notice had been sent. Mr. Carter immediately drafted a Motion to Extend Time to Reply to State's ANSWER. Motion sent out 26August, 2019 and Clerk was notified by Mrs. Nofles, of the same. Affidavit and accompanying supporting documentation of personnel of Menard Mail Room showing legal mail had not been received sent on 4September,2019. Rather than accommodate this difficulty, the case

¶10 was immediately closed, Habeas Petition denied 27 August, 2019. U.S. District Court in its Opinion made references to its perceived failure of Mr. Carter to Reply to state's ANSWER. (Appendix B, Dkt.[#10] ¶6,9,footnote 1). U.S. District Court granted extension of time, but upon receipt of Reply, court closed out case, a day before the last day of deadline, less than 24 hours, and sent Mr. Carter a notice saying the court lacked jurisdiction over matter. U.S. District Court turned Reply into a F.R.A.P.Rule 59(e)/F.R.C.P.60(b) motion, which still gave court 12 months to address motion despite having extended time to Reply to ANSWER. Does the 28 days, the judge's extension, or the 12 months of 60(b) control? No matter which, the claim of lack of jurisdiction, is it error? (Turley v. Lawrence,No.3.08cv0007(7th Cir.2019)(Haines v. Kerner,404U.S. 519,520-551(1972)(Hudson v.Hardy,412F.2d 1091,1092-94(D.C.Cir.1968).

¶11 The second hurdle that appears to be de rigueur is procedural. This issue was covered in Reply to state's ANSWER, which appears to have been disregarded. There was no procedural default. Mr. Carter, a pro se litigant with no formal legal education, presents 55 issues grouped into main areas of a constitutional magnitude and dimension: ineffective assistance of counsel and appellate counsel(IAC),(IAAC); due process denials;first amendment violations; equal protection violations. These rights violations invoke the U.S. Constitutions Amendments 1,V,V1,X1V, and Articles 1V and V1. (Appendix Table of Cited Authorities). (Clisby v. Jones,960 F.2d 925,936(11thCir.1992). The U.S.District Court in its Opinion, mentions forfeiture of issues and then acknowledges the state appellate court made alternative ruling on the merits. (Appendix B, Dkt.[#10]p.1¶3). U.S. District Court

¶11 used language regarding issues again raised in Successive Petition(2160382), as "preclusion", when actually the state's verbatim word usage was "res judicata." (Appendix D1(0382)). State appellate court each time ruled in the alternative, reaching the merits of 2-15-0654 and 2-16-0382, respectively (0654) and (0382). IL appellate court, in 0654, after citing IL.S.Ct.Rule341(h)(6) discrepancies, stated that they chose not to strike Brief, as the lapses were not so egregious as to hinder their review. (Appendix D2(0654)p.4). Citations to the record were made using day/month/year format due to lack of computer and access to county's software and system. Use of numbering system to cite is impossible. Not just (h)(6), nowhere in the entire IL.S.Ct.Rule 341 is there prescription for the length of arguments nor shortness of Statement of Facts, it does state to present the information necessary to understand the case. This was done.

¶12 This comprehensive rule also states page extensions are disfavored. The 50 page limit for Briefs was considered with competing rule of Habeas Corpus proceedings, where all possible issues for relief must be raised in the first instance. IL appellate court made merits determinations in both the initial and successive filings, and those findings were contrary and unreasonable determinations of law and facts. (28 U.S.C.§2254(d).

¶13 The Seventh Circuit's procedural default finding conflicts with IL appellate court, the Seventh Circuit's prior rulings, and other circuits.(Possible Issues for Review in Criminal Appeals Manual,p.50) states,"[w]here a state finds a petitioner has waived an issue for review but proceeds to rule on the merits anyway, the issue is not procedurally defaulted for Habeas purposes. (Robertson v. Hanks,(140 F.3d 707,709(7th Cir.1998)."

(Harris v. Reed,489 U.S.255(1989) at 256 says judgment has to rest on state procedural bar. IL appellate court clearly setting for-

¶13 feiture aside and ruling in alternative is not resting. In Coleman, although distinguished from Harris and this instant case it does discuss state ground point stating, "[t]hat no such ground exists if the decision of the last court which petitioner presented his federal claims fairly appeared to rest primarily on resolution of those claims, or to be interwoven with those claims." (Coleman v. Thompson,501 U.S.722,723(b)(1991)). Each time this issue has come up the circuits have found where there is indication of the merits being reached, there was no procedural default. In fact, this is precisely the Seventh Circuit's determination in Morgan. "[T]he Illinois appellate court found that his request for postconviction relief was procedurally barred. Yet, it reached the merits in the alternative. The state court's decisions to reach the merits means that this court, can review that decision under the standards set forth in the AEDPA, as this court will not rely on state court procedural default if the state court declined to do so." (U.S.exRel.Morgan v. Gilmore,26F.Supp2d 1035,7thCir1998).

¶14 In Robertson the determination on this issue is nearly identical. "[H]owever, no procedural default occurs if the state appellate courts' alternative finding constituted a finding on the merits. See Harris & Coleman [citations omitted]. The state appellate court in this case reached the merits. See (Neal v. Gramley,99F.3d 841,843-44(7thCir.1996); (Wills v. Aiken,8F.3d 556,563-64(7thCir.1993)." (Robertson v. Hanks,140 F.3d707,709 1998U.S.App.LEXIS 6302. 7th Cir.)

In another of its decisions, the Seventh Circuit made clear that plenary review was appropriate when the state court has reached the merits of issue(s). (Sanders v. Cotton,398 F.3d 572,579-580 (7th Cir.2005)). Where state court's reliance on procedural bar was not sufficiently explicit to bar review because reference to procedural issue was immediately followed by consideration of the merits of the ground for relief. (Clinkscale v. Carter,375 F.3d 430,442(6thCir.2004); (Riley v. Taylor,277 F.3d261,273-275(3rd Cir.2001). The Long case is a perfect case to segue into con-

¶14 trary to and reasonableness after covering its similar handling of the same conditions. (Long v. Butler,No.13-3327,(2015 7th Cir.)).

¶15 In Long,". Illinois appellate court squarely considered the factual legal basis of this claim. We find, therefore, that Long's due process claim is not procedurally defaulted and consider its merits."

Additionally, adequate and independent grounds, must be consistently applied, if they are applied in an unprincipled, or inconsistent manner, is inadequate and will not preclude federal habeas review. (Johnson v. Thurmer,624 F.3d786 2010 U.S.App.LEXIS 21443,7th Cir.). In Mitchell, a licensed attorney failed to include a table of contents and page numbers and references to brief.

State appellate court chose to overlook and decided to reach merits. Mitchell,972 N.E.2d 1153,1160(Illinois App.Dist.1 2012p.1160 ¶37)). Res Judicata, according to "Black's Law Dictionary," has as its second of three essential elements, is "..[a] final judgment on the merits." (Black's Law Dictionary Fifth Edition). The Seventh Circuit and District court's procedural determinations could and have been resolved in a different manner and therefore, are debatable. According to Buck Standard, C.O.A.s should issue to all 55 areas, IAC and multiple due process violations. (Buck v. Davis,580U.S.__,137S.Ct.759,197L.Ed.2d1(2017)).

¶16 The issues contained in the Habeas Petition would show in a full, reasonable analysis that Mr. Carter's constitutional rights were violated. That he was not afforded a fair trial, nor did he have effective, conflict-free counsel that was cooperative, counsel did not present valuable evidence for his defense, counsel had Character Reference List for over a year with no one contacted, he was not allowed to present favorable witnesses/experts via the Compulsory Clause of the U.S. Constitution's V1 Amendment. Due Process had been denied this entire process.

REASONS FOR GRANTING THE PETITION

¶17 The Seventh Circuit's finding of no substantial denial of a constitutional right is contrary to and an unreasonable determination of, facts and law in light of the record before the court. The lower courts make no mention of the "facial allegation test" of Lambright, Petrocelli, Valerio, but the results are seen in naming constitutional violations raised in Opinion. The Seventh Circuit and District courts erred by fundamentally misinterpreting and relying on Slack, a case that does not address constitutional component tests' mechanics. The Lambright-Petrocelli-Valerio rule calls for or mandates taking a quick look at petition to see what it facially alleges, a search for violations of constitutional rights. The second part of the rule the courts' analyses fails to adhere to, which is to take the petition's allegations as true. Instead the courts must have focused on or considered contrary evidence, which is not part of two-part C.O.A. analysis test in Buck. (Buck id.at ¶15); (Lambright v. Stewart,220F.3d1022 (9thCir.2000)); (Petrocelli v. Angelone,248 __F.3d877(9thCir2001) (Valerio v. Crawford,306F.3d742(9thCir.2002)). Both the Circuit and District courts erred and exceeded mandate of C.O.A. analysis issued by this Court.

¶18 The Seventh Circuit and District courts opine that no jurists of reason would rule differently, that is debatable. Mr. Jacobs made an unreasonable decision to use Dr. Rangala as a witness for the defense, who was also a witness for the state as an expert. The state presented her to the court and jury as credentialed in areas where the State of Illinois shows her to have never been board certified or licensed in Child Abuse Pediatrics or any other certifications related to Child Abuse. (Appendix F-7) Mr. Jacobs failed to conduct a thorough investigation of all the states witnesses/experts. Mr. Jacobs failed to obtain opinions from the most qualified experts, while attacking the credentials and basis for the opinions of the opposing experts.

REASONS FOR GRANTING THE PETITION

¶18 The State of Illinois passed a law, HB5245, to prevent the unqualified medical personnel from conducting these very specialized examinations. Dr. Rangala is an ER doctor, and now is unable to conduct sexual assault exams. Only Sexual Assault Nurse Examiners or SANE-A/SANE-P nurses can perform this work. Ms. J.Malmgren is a Board Certified Forensic Sexual Assault Nurse Examiner(SANE-A).

¶19 Mr. Jacobs in Krankel hearing and other times told trial court that Ms. Malmgren would be harmful to Mr. Carter's case and that she had no evidence in her CV that she was qualified in evidence collection. This is manifestly erroneous, apparently none of the courts have viewed the CV of Ms. Malmgren or any of the other Board certified defense experts of Mr. Carter. Ms Malmgren is one of the most highly qualified Forensic Sexual Assault Nurse Examiners(SANE-A), in the country and is experienced in evidence collection, a main topic of the successive pet.(0382). This information was attached to both post-conviction filings. Mr. Jacobs made an unreasonable decision, not based on due diligence and investigation. To not use Ms. Malmgren and instead rely on all the states' witnesses and state investigator is not objectively reasonable nor conforms to professional norms and standards. This decision greatly harmed Mr. Carter's defense, as his defense experts were all favorable, possessed favorable credentials and testimony experience. (Appendix F-5)

¶20 Dr. Rangala gave no case studies to verify any of the facts that she was quoting from when she talked about HSV-2. She gave incorrect information that is not accepted in the scientific community (Frye v. U.S.,293F.1013(D.C.Cir.1923), and contradicts the C.D.C., American Academy Pediatrics,IL Department of Public Health (Appendix F-2). When pressed on the statistics she gave, she admitted that she did not understand them and "that statis-

¶20 tics was over her head." (8/10/2012,p.76) (Appendix F-7) When the trial and appellate courts are presented with the correct facts from scientific communities such as the C.D.C., they are unwilling to draw a parallel or false equivalency between the CDC and Dr. Rangala, the state's witness with foundationless testimony unknown even to the witness. (Appendix F-7) This is a manifest error in the unreasonable application of federal law. State tendered 2 Urologists/HSV-2 doctors as experts and instead, placed Dr. Rangala before the jury. Mr. Jacobs was complicit, a denial of Due Process and IAC. Sixth Amendment rights' Compulsory Process Clause was denied and courts fail to see Richey and Ege errors. A quick point on the record, the IL state courts failed to recognize that the Statement of Facts that they relied on in each Opinion, gotten from the State and ASAs, is fraught with errors because Mr Jacobs allowed the state to proceed unchallenged without an adversary. This is the prime reason Mr. Carter provided the appellate court with a full accounting of the entire Statement of Facts,not the state's biased version because Mr. Jacobs failed to take notes or investigate case properly, IAC. IL state appellate court in each of its Opinion's Statement of Facts as example, lists the girls moving to Illinois after their mother was killed. The girls moved to Illinois in January of 2005, their mother was killed in 2006 - November 12, 2006. The girls both testified in VSI tapes, to when she was slain, and the state again made up its own data. The death certificate was in the five boxes of materials that were in possession of Mr. Jacobs before he destroyed it all. (Appendix F-1) It has again been obtained from MO Department of Health & Senior Services Vital Statistics.

¶21 As to the Compulsory Clause and calling witnesses and the due process, the Sixth Circuit was instructed by this Court to review Richey v. Bradshaw and Ege v. Yukins. In Ege it was determined

¶21 that the state's expert witness presented testimony to the jury that lacked a foundation. This was deemed to be IAC, denial of due process and more. (Ege v. Yukins,No.05-2078,485F.3d 364 (6thCir.2007)). Mr. Carter made clear that he needed an expert in HSV-2 and that the other defense experts were needed at trial. Mr. Jacobs chose to disregard, explaining to court that he believed that he would be able to use the state's witness against the state. (8/1/2012,p.6) Dr. Rangala gave harmful, fraudulent testimony that she could not explain. In Ege, she was notified by outside party that state used unscrupulous witness. This is worse, the witness herself indicates lack of knowledge.

¶22 Richey, involves a similar set of facts, where the state used flawed scientific methods not accepted in the fire investigation community, new evidence was presented in postconviction proceedings, evincing and supporting this conclusion, yet he was denied relief. Mr. Kluge, the trial counsel for Richey, "failed to introduce any competing scientific evidence to rebut state's findings." Mr. Jacobs made these same errors for each of the state's witnesses. Kluge sought assistance from DuBois, a non-qualified witness as an expert with little experience, to investigate, but the state called DuBois to testify. "Writ granted after counsel failed to function as counsel, guaranteed by Sixth and Fourteenth Amendments." (Richey v. Bradshaw,498 F.3d 344(6th Cir.2007)

¶23 Doug Saul, DuPage County Forensic Science Center's DNA Tech. Leader, state witness, was not qualified to be in his position according to his own lab's requirements (Appendix F-8). He gave testimony outside and beyond his field and claimed expertise,and used machinery in his lab that was in disrepair and he knew to be producing frequent, documented errors. Most of Mr. Saul's training was from brochures and product demonstrations (Appendix F-8). Mr. Saul tampered with the lab equipment to try and get favorable results for the State according to an E-mail dated 07/16/2008.

¶23 However, he was not successful in his endeavor as he could not get male specific DNA from a female on vaginal swabs, and Mr. Carter was NOT A MATCH. (Appendix F-8) Shannon Gill, Crime Scene Technician, state witness, lacked training and experience, as this was her first job in this position and she was new on the job. She made many egregious errors and committed perjury. (Appendix F-8) Trial court denied defense counsel a chain-of-custody hearing in September 2008, which was to address tainted, contaminated improperly collected materials. (September,2008) Why is it Bias in Boyd, but not here? Confrontation Clause violation. (Appendix Table of Authorities Cited U.S. Constitution Amendment V1). This level of representation is below professional norms and is IAC.

Mr. Saul committed perjury in 2010's trial/mistrial under oath and was not impeached in 2012 for either years' fraudulent testimony and error ridden work product. Dr. Rangala, state witness, testified falsely and in error while Shannon Gill, state witness, Anthony Simpson, state witness and Ivona Kuczynsk, state witness, committed perjury and no effort was made to impeach them. Both of the girls testified falsely, committing perjury and giving glaringly obvious, contradictory testimony, despite approaching the bench and discussing it in a sidebar with the court. Mr. Jacobs still failed to go through with and perfect impeachment. (Appendix F-8).

¶24 Ake v. Oklahoma, an indigent is entitled to expert witnesses and tools necessary to a complete defense. Her use lacking the lacking the necessary expertise exposes that Mr. Jacobs failed to conduct his own background investigations on state witnesses, failed to provide defenses' own experts to compete with and challenge states' scientific evidence and testimony rebutting states' findings many of which were foundationless. (Ake v. Oklahoma,470 U.S. 68(1985)).

¶25 State witness Jean Kinnane, a Forensic Biologist in the Forensic Science Center(FSC) lab, has more experience and higher education than her supervisor, Mr. Saul. Upon her testing of S/A kit, found no male DNA. (Appendix F-8) State witness Anthony Simpson, Lead Investigator for State, testified falsely in multiple ways as well as declaring that he takes no notes and has conducted thousands of interviews of suspects. He has a bad memory. Mr. Simpson conducted the VSI interviews with the girls and he claimed to see bruises that didn't exist. As an example, Dr. Rangala performed a head-to-toe exam on both girls on the same day as Mr. Simpson conducted the VSI interviews, and reported no cuts and no bruises on Patient Center Evaluation Form. He falsely said he went to Sauk Village on 8/12/2008, in Illinois to secure buccal swabs on the girls. An E-mail from Chris Sahs,Forensic Services Unit of Naperville Police Department dated 7/29/2008 at 8:52 AM read "Presently we do not have any DNA standards from either female victim. Both victims are now living in St. Louis, according to one of our detectives. Our detectives will work with Tony Simpson to make the necessary arrangements to obtain these items from the girls in St. Louis." Mr. Simpson's actions, his methods of interrogation or interviewing, missed an extreme amount of valuable data in the case. (Appendix F-8)

¶26 Mr. Carter told trial court that Ms. Malmgren is the right expert for the case, a critical part of defense who is able to dismantle the state's case while proving his innocence. The trial court echoed this assertion in petitions (0654) and (0382), of Mr Carter, but disagreed with it, siding instead with Mr. Jacobs. The Sixth Amendment's Compulsory Process Clause is for the defendant, the ultimate decision lies with the defendant. (Appendix Table of Authorities Cited, U.S. Constitution Amendment V1).

¶27 Seventh Circuit and district courts both found that no other reasonable jurist would rule that their assessment of the substantial denial of a constitutional right to be debatable or wrong, when other circuits have already, contrary to this set of rulings, reached a different decision and outcome. The issues of IAC, due process, equal protection and Comity are debatable, therefore, C.O.A.s should issue to further investigate these matters.(Appendix of Authorities Cited, U.S. Constitution AmendmentsV,V1,X1V).

¶28 State witness, Dr. Rangala, was presented to the trial court in the areas of Emergency Medicine, medical evaluation of pediatric sexual abuse, the second of which she is not licensed or board certified in and HSV-2 she was not licensed or board certified in this area either. This was prejudicial and highly unprofessional, malpractice, which has the effect of preventing the jury the scientific communities' case studies, clinical trials, and accurate ethnic breakdowns on transmission rates of HSV-2. (Appendix F-7) Dr. Rangala's admission of lack of knowledge fulfills requirement to present "clear and convincing evidence," that her use is a due process violation, prosecutorial misconduct and IAC. (Appendix Table of Authorities 28 U.S.C. § 2254(e)(i).

¶29 Many of the issues raised have a component of judicial bias raised in them and yet the state found at the appellate level "there to be no nexus" supporting judicial bias or abuse of discretion. The trial court attempted to adjudicate specific claims of bias against itself rather than let a fresh set of eyes of a peer judge decide. This action is improbable and presumptively prejudicial by itself, but the number of issues raising judicial bias if the record is read, shows a cumulative pattern of judicial bias and abuse of discretion. It is beyond doubt that other

¶29 reasonable jurists have found the matters that took place in the case, similar to Richey and Ege, supra, of errant, fraudulent misleading, or foundationless scientific evidence and testimony, were substantial denials of constitutional rights and worthy of further investigation, of granting writs and relief. Treatment of case and issues comes as no surprise when considering that at the state level there is a paucity of cases granting relief that list judicial bias or abuse of discretion in the analysis or conclusion.

¶30 In the United States v. Boyd, a clear picture is painted that the courts in Illinois, even the federal, here the Seventh Circuit takes positions, "..[i]n considerable tension with decisions of the Supreme Court of the United States." Boyd is replete with language indicating that the trial judge was biased and should have recused himself. "..[A]s the Third Circuit has suggested, a trial judge well might appear unbiased at the outset of a trial, but later events might cause a judges impartiality to be reasonably questioned and thus make it appropriate the 'partial cure' of reversing the improperly obtained verdict."

> "...[t]he judiciary was quick to correct an abuse of power in another branch of government, after the first trial, it also ought to be willing to correct an error in its own house ..."

(United States v. Boyd, Nos.98-2035to98-2038 and98-2060, (7thCir.2000)).

Just as Boyd says, the bias shows in full context, yet blatant violations of Mr. Carter's constitutional rights go uncorrected or remedied, as was the case with Richey and Ege. State courts were unwilling to uphold and adhere to that which they took an oath to protect, support, and uphold, the U.S. Constitution. (Appendix Table of Cited Authorities, U.S. Constitution, Supremacy Clause, Article V1.Cl.2). Due Process, Equal Protection and Comity is virtually non-existent, evidence of the suffering extreme prejudice by Mr. Carter.

¶31 When four(4) banker boxes of evidentiary materials are destroyed or are caused to be made unavailable to a defendant during trial, it is without question a denial of due process. When these materials are deemed to have been favorable to the accused and are valuable for impeachment purposes. Brady violation Mr. Jacobs failed to contradict with opposing, readily available evidence, witnesses, and testimony, the states unsubstantiated, unchallenged case. Failing to provide an adequate defense, a fair trial, necessary experts, and due process is unreasonable. This violates the Compulsory and Comity Clauses of the Constitution and is contrary to Ake. (Strickland v. Washington,466 U.S. 668 (1984)); (Ake v. Oklahoma,470 U.S. 68 (1985)); (Appendix Table of Cited Authorities, U.S. Constitution Amendment V,V1,X1V, Article 1V Section 2), (Anderson v. Page,61 F.Supp2d770 (7th Cir.1999)). (Appendix F-4)

¶32 It is without question that destroying four(4) banker boxes of defense exculpatory materials is some type of due process and IAC violations. To the point, Dr. Duncan-Hively J.D., was a favorable witness that reviewed all of the case materials, photographs, lab test results and interviewed the girls and produced a report summarizing her findings and expert opinion. Her report was in these boxes in the custody of Mr. Jacobs. He did not call or contact her at any time prior to or at trial, and her report was destroyed. (Brady v. Maryland,373 U.S. 83(1963)); (Liao v. Junious,817 F.3d 678(9th Cir.2016)); (Osborn v. Shillinger,861 F.2d 612(10th Cir.1988)). These issues are clear and obvious violations that other reasonable jurists have found to be substantive denials of constitutional rights. Dr. Duncan-Hively drafted a letter confirming she produced a report. Mr. Jacobs said the report doesn't exist. (Appendix F-5)

¶33 Mr. Jacobs exhibited a conflictual relationship toward his client, Mr. Carter, and his defense. The question remains as to why some circuits recognize this behavior but not all circuits? (Osborn v. Shillinger,861 F.2d 612(10th Cir.1988)). Mr. Jacobs believed a lot of witnesses Mr. Carter wanted called were irrelevant and unimportant. He was disregarding intentions of defendant deeming them to be character witnesses to well treatment. This is false, they were to rebut false, unsupported testimony and argument of state that was subject of D.A. issue raised. Mr. Jacobs had a Character Reference List dated June 13, 2011 for over a year and an opportunity to either write, call or e-mail them to ascertain their relevance, but he did not. (Appendix E Trial court P.C. Opinion p.2).

Compulsory Clause of the United States Constitution does not devolve onto the attorney, it is the citizen's. Appellate counsel not raising any of these issues is IAAC, contrary to the trial and appellate court's opinions. Illinois Supreme Court rule states, "[t]hat issues raised are not frivolous simply because appellate counsel feels that they will not prevail in court, decision must be based upon due diligence and investigation." (Appendix Table of Authorities Cited U.S. Constitution Amendment V1); (IL S.Ct.Rules of Ethics Article V111 Rule 3.1,[1][2]). The trial court found and the appellate court affirmed the opposite of the Illinois Supreme Court's rules. This is an arbitrary and unreasonable application of the laws in a state and federal context. Failure to apply or adhere to its own rules, as in Boyd supra, is denial of Due Process and Equal Protection. (Appendix Table of Authorities Cited U.S. Constitution Amendment V,V1,X1V).

¶34 Ms. Malmgren, board certified SANE-A and a Public Health Nurse, is well qualified to address Fetal Alcohol Syndrome(FAS). The Care Center Patient Evaluation Form filled out by Dr. Rangala has FAS information on it; the girls' mother abused alcohol during pregnancies. (Appendix F-6) Edward Hospital, Dr. Rangala's place of employment, is the sole hospital in Illinois that facilitates a FAS Parent Support Group. (Appendix F-6) FAS is a condition that causes behavior problems, memory, hearing, attention span, lack of focus, poor reasoning and judgment, problems in social skills. Other problems are Central Nervous System (CNS)brain damage with abilities to learn and communicate, as well as below average height and weight. They may not understand consequences of their actions, tendency to testify falsely, commit perjury, give inconsistent statements and other emotional outbursts. This condition needs to be further explored, as it fits with their behavior at home as well as school and trial. (Appendix F-6)
Both FAS and HSV-2 are medical and scientific in nature. Expert defense witnesses were necessary and available, yet Mr. Jacobs relied on states' witnesses failing to obtain an opinion from the better qualified defense experts who were ready to attack and challenge the credentials and basis for the opinions of the opposing state experts. The girls both gave unquestionably uncorroborated, inconsistent, and false statements of both significant and seemingly trivial matters in trial testimony. FAS has a strong correlation to behavior of this type. (Appendix F-6)

¶35 Boyd lays out that these courts can't and don't see their own bias, they also don't see the C.D.C.'s data, SANEs and Clinical Psychologists as accepted in their own scientific communities, why are they finding or ruling contrary to the other circuits?

¶35 Had the jury heard the CDC's transmission rates and statistics compared to Dr. Rangala's foundationless, fraudulent statistics and testimony; heard from Ms. Malmgren, a Board certified SANE-A, to present data, testimony, and challenge multiple state witnesses; and heard from Dr. Duncan on interview techniques, questioning/suggestibility, credibility, her interviews and findings; and these defense experts be allowed to challenge the states' case (their credentials, work product, performance and testimony), there is a reasonable probability that the outcome of the trial would have been an acquittal. (Strickland v. Washington, 466 U.S. 668(1984);(Boyd ante)).

State and federal courts have failed to take notice of evidence presented of state agents and witnesses at trial to be faulty, fraudulent and error ridden, without the benefit of an evidentiary hearing. This correct information is being disregarded as "just another opinion" and the "jury has already heard testimony on that subject." (Appendix E-4,p.2-3;D-1,p.9)

Why are the courts unwilling to come to grips with the fact that evidence that the jury was presented with was incorrect information and that the correct information that is accepted in its scientific community is presented here, and still the jury hasn't seen it? (Frye v. U.S.,293 F.1013(D.C. Cir.1923). This is an unreasonable and contrary application of federal law. Jurists in other circuits see and reach different rulings on these issues.

¶36 Liao and Larson both involve IAC where in Liao, trial counsel failed to secure medical evidence and testimony and call witnesses, and Larson, trial counsel was ineffective in failing to call multiple witnesses. Failing to call experts and other wit-

¶36 nesses, to secure and present medical evidence and testimony has been found to be debatable amongst jurists of reason as a valid constitutional right and other circuits have ruled differently than the Seventh Circuit and District courts of Illinois, a C.O.A should issue. (Liao v. Junious,817 F.3d 678(9th Cir.2016)); (Larson v. Soto,742 F.3d 1083(9th Cir.2013)). Mr. Jacobs failed to subpoena medical evidence, or Rebecca Nelson's doctor, or some qualified personnel from her medical provider to present to jury her positive HSV-2 test results predating when family moved up to Illinois, showing common positive HSV-2 results between Mr. Carter and Ms. Nelson who lived together as a couple. Ms. Nelson was asked by Mr. Jacobs to get proof of her STD(HSV-2) documentation and it was not used during trial. Despite ASA LaMonica filing a motion in limine on Ms. Nelson giving testimony herself on HSV-2, it doesn't void the Compulsory Clause of the V1 Amendment, nor does it prevent her records and medical provider from testifying. Any reasonable juror hearing a case involving alleged sexual contact and the accused has an incurable STD, HSV-2, and there is a relationship partner, would want to know the STD status of the partner. (Appendix F-9, Table of Cited Authorities, U.S. Constitution Amendment V1,Compulsory Clause).

Trial strategy in destroying favorable medical evidence and other evidence and sabotaging one's client? (Osborn v. Shillinger,861 F.2d 612(10th Cir.1988)). Why does the Seventh and District courts see this issue of IAC and due process and Compulsory Process denials of rights as not warranting relief and meritless, when other circuits have granted relief on this, finding it debatable? (Appendix F-9) (Appendix Table of Cited Authorities, U.S. Constitution Amendment V,V1,X1V; Article 1V,Section 2; Article V1

¶36 Clause 2). The courts are subject to the dictates of the U.S. Constitution and are bound to uphold it.

¶37 Ivona Kuczynsk, Nursing Director of DuPage County Jail, was put on the stand as a rebuttal witness, and committed perjury in so doing. State suborned perjury through her in launching article of impeachment against Mr. Carter for not sharing medical information with DuPage County Jail, an agent of the state. This information was given to defense/private counsel, Ms. Melanie Pettway. Ms. Kuczynsk testified that Mr. Carter complained of and had symptoms of Syphilis, despite testing negative for all STDs at Central DuPage Hospital on October 29, 2010 in Winfield,IL, including Syphilis and positive only for HSV-2 and never having been treated for Syphilis. ASA presented in court a medical care request form, where Mr. Carter was having an allergic reaction to pink liquid soap used in county jail manifesting as blisters on palms. The remedy was white bar soap. After jury was made aware that Mr. Carter was still in jail and not given bail, they were told Mr. Carter was having sex in jail and contracted Syphilis. None of this was true and had a prejudicial and cumulative effect negatively impacting Mr. Carter. State penalized Mr. Carter and engaged in prosecutorial misconduct for his applying HIPAA's privacy protections to his own information. Use of perjury to assist in obtaining a conviction, a denial of Due Process and a fair trial. (White v. Ragan,324 U.S. 760(1945)); (Napue v. Illiois,360 U.S. 264(1959)); (Appendix F-8) (Appendix Table of Cited Authorities, U.S. Constitution Amendment V,V1,X1V.).

For suspected or confirmed Syphilis, a staff member of IL Public Health Department was to visit Mr. Carter, NO ONE CAME. Mr. Carter made repeated calls to secure medical report, NO RESPONSE.

What possible legitimate purpose was served by this witness outside of fraudulent impeachment and false information to the jury?

¶38 The second comprehensive question presented to this Court is one of several significant matters. We appear to be in a time of growing lack of respect and honor for the U.S. Constitution among citizens and government officials alike. Respecting human dignity and seeking to understand another's perspective appear to be eroding at an alarming rate. Parenting and raising a family is not a part of the Constitution, it is a God-given responsibility given to the human race by God. Discipline means being consistent and firm but also kind and fair. Chores are not crimes in Illinois, yet Mr. Carter was on trial and demonized for his discipline. Chores were assigned to the girls who came from a place of no adult supervision, no chores, and no family rules. They envisioned moving to a fantasyland, but it was a structured environment with after-school snack, homework, dinner and then television. When they realized situation they became disgruntled and began to act up, motivated to go back to St. Louis. The state presented testimony claiming the girls were starved, abused, and beaten, none of which was true, according to evidence. Investigator Simpson who takes no notes and has a memory problem, testified to seeing on CC, bruises at police station but couldn't remember information. There is no evidence, photos or record on Care Center Patient(AppF-8) Evaluation form, which was same day as VSI interviews of Mr. Simpson with the girls. No photos were taken and they both had digital cameras. These are highly inflammatory false allegations, and these actions were highly prejudicial but unimpeached. Perjury, used to inflame jury is a denial of due process. IAC, due process perjury, failure to impeach. (Appendix Table of Cited Authorities, U.S. Constitution Amendment V,V1,X1V). Earlier at a hearing (5/15 2009,p.14), Mr. Simpson stated that CC reported some marks on her body but he could not recall where. At the trial (8/14/2012,p.35) Mr. Simpson reported "she had told us she had bruises during the

¶38 interview"(May 1, 2008), but he did not state that he saw them. Personal bias and prejudice caused obvious constitutional violations to go unseen or be disregarded by Circuit and District courts, where other reasonable jurists have reached a different outcome finding IAC, fraudulent reports, baseless testimony, and perjury of state agents to be debatable issues. (Richey v. Bradshaw,498 F.3d 344(6th Cir.2007)); (Ege v. Yukins,No. 05-2078 (6th Cir.2007)); (Napue v. Illinois,360 U.S. 264(1959)).

¶39 Is there evidence that all that has transpired is an anomaly, or that other jurors and reasonable jurists would likely come to a different conclusion than that of the Seventh Circuit and District courts? Mr. Jacobs on 1 August,2012,p.6, stated that he consulted with Dr. Rangala and decided to use her to aid his client and hurt the state. It had the exact opposite effect. Why did he not discover that she had no basis for her testimony, didn't understand statistics, HSV-2 transmission data and specific mechanisms, knew no cited studies, no clinical trials, her rates were incorrect, and she was completely unaware of asymptomatic transmission that viruses have, yet was called to present these very things? (Appendix F-7) Contrary to what Dr. Rangala testified to, the rate of transmission is never zero, and most infections occur when there are no symptoms. (Appendix F-2) Richey and Ege, the lack of knowledge was later discovered, here, in open court the head of the trial didn't call the state's misconduct and defense counsel didn't call his own lapse. How would he expose his own failing?

¶40 Had Mr. Jacobs impeached Dr. Rangala, he would have also impeached his own conduct in failing to investigate the states' witnesses in the adversarial system of trial, instead, he improperly chose to rely on states witnesses. He chose silence and

MR. JACOBS: That's fine, Judge. I have no problems with that at all. Judge, I also wanted to mention that when we were talking before, I've talked to Dr. Rangala. I've consulted with Dr. Rangala and, Judge, actually after the State mentioned possibly

using Dr. Rangala as they brought this motion up about two months ago, I believe it would work in my client's benefit. That's another strategic decision that we are making is to use Dr. Rangala, the treating physician to talk about herpes in our case in chief. I believe that that would in fact help our case in various different ways using the State's doctor against them. I think it's a strategic decision as well. I wanted to put that on the record as well.

MR. DEMOPOULOS: Thank you, your Honor.

¶40 sacrificed his client's life in order to save embarrassment in his professional career. Mr. Carter remembers being interviewed and Investigator Simpson had a binder and took notes. The trial judge, hearing claims of bias against himself, denies bias but will not order police to turn over video of Investigator Simpson taking notes on 1 May, 2008. Institutional bias harming the citizen, inflicting pain, to save the system and police embarrassment and loss of image. Is a judge sitting in judgment of their own conduct ever fair? (Appendix Table of Cited Authorities U.S. Constitution Amendment V,V1,X1V, Article V1,Clause 11). IAC, Due Process, Equal Protection, Supremacy Clause.

Bias in this case exceeds that of Boyd, state appellate court sees "no nexus" to claims of bias and conduct of court despite 34, of the 55 claims relate to an improper action of the trial court. (Habeas Petition Attached 89-94, Abuse of Discretion and Judicial Bias categories). Contrary to the Federal Circuit and District court opinions, the District court named substantial constitutional rights violations in 27 August, 2019, opinion. (Appendix B, p.1of3), (United States v. Boyd,98-2035 to98-2038and 98-2060(7th Cir.2000)).

¶41 Officials are seldom quick to admit their errors, if at all. How many Landmark cases are of lower courts correcting their own errors? The Constitution should not be where its protections and guarantees are only available to those in powerful positions or the wealthy. Sadly, that is a court functioning as a totalitarian regime, a law unto itself ignoring the Supremacy Clause. This case amounts to an egregious misuse of position and authority, while the defendant and jury were kept in the dark. At the time the girls were motivated to go back to St. Louis, and testified as such, they made up terrible, false allegations that have been

¶41 proven false, after one coached the other. Mr. Carter's son is an alibi eyewitness that was not allowed to testify and refute the girls' testimony as to his whereabouts at the residence,which render allegations impossible, removing elements of place, means and opportunity. IAC, favorable witness and Compulsory Clause. (Appendix Table of Cited Authorities, U.S. Constitution Amendment 1,V,V1,X1V). Both sides must be allowed the opportunity to speak for a trial to have legitimacy.

¶42 More than 90% of cases in DuPage County end in plea bargains a strong possibility that lack of trial experience played a part. However, this case has the distinct feel of a vindictive, political prosecution based upon extreme popular prejudices while ignoring law, science, and irrefutable facts. How can a DNA Tech Leader commit perjury, testify contrary to his test results,and still be considered credible, go unimpeached and be used by defense counsel? Why is such conduct IAC in Richey, Ege, Buck, Andrus and Liao but not here? Why is the presentation of correct more favorable testimony prove IAC and accord with necessary defense materials, and due process but not here? (Strickland v. Washington, 466 U.S.668(1984); (Richey v. Bradshaw,498 F.3d344(6th Cir.2007); (Ege v. Yukins,No. 05-2078(6th Cir.2007); (Buck v. Davis,580 U.S. ___2017); (Andrus v. Texas,590 U.S.__(2020); (Liao v. Junious,817 F.3d 678(9th Cir.2016)). No one should ever be subjected to a trial such as this, the Constitution is meant to protect from such abuses. (Appendix Table of Cited Authorities, U.S. Constitution Amendments 1,V,V1,X1V,Article 1V,Section2,Clause1),IAC,Due Process, Equal Protection Clause, Compulsory Process Clause, Comity Clause.

¶43 There has been no full, fair, and complete review of the case and issues raised by Mr. Carter. There has been a failure to investigate an alibi defense, investigate state witnesses, enlist

¶43 defense experts, contact character references witnesses from list dated June 13, 2011 and thoroughly review all evidence in the case - Rule 417, 2010 transcripts, banker boxes and DCP packet. State and federal law both require "issues raised to be taken as true unless completely contradicted by the record." (Petrocelli v. Angelone,248 F.3d 877,at 855(9th Cir.2001)). Mr.Carter's actual innocence raised more than 10 times has never been heard or investigated, instead, through prejudice at every turn he has been denied the most basic due process.

Who is Mr. Carter, why should he be heard?

¶44 Mr. Carter grew up in a family with conservative leaning,mid-western values, and male relatives in the field of engineering as likewise for Mr. Carter. Smoking, drinking, and drug use is not compatible with Mr. Carter's lifestyle and professional career, where his behavior may cost a crew member life or limb.

¶45 As a Christian, to live without a commitment was against his moral principles, in spite of the girls' mother's wishes. Moving to Illinois provided a clean break from an unhealthy relationship and opened up possibilities for professional growth unavailable to Mr. Carter in St. Louis. Union membership was made available in Illinois offering plenty of job opportunities, training facilities, and work hours with overtime, though seasonal. This made the typical day consist of more than half the day away from home. With wearing apparel laid out, Mr. Carter would rise at 4:30am., wake the girls, where the older would make breakfast for all and a protein shake for his breakfast while the younger would wash leftover dinner dishes and make her lunch. Grandma Nofles would supervise while Mr. Carter showered and dressed. Leaving at 5:00am all were saluted on the way out. Mr. Carter was first out and the last one in, Grandma Nofles was last out and first in daily. Mr.

¶45 Carter's normal return time was 7:00pm. A household schedule was necessary for guidance and efficiency.

¶46 Seven o'clock pm means respite of one hour at the gym on the way home, if the day is $8\frac{1}{2}$ hours plus 3 hours of drivetime. On days of $10\frac{1}{2}$ hours plus drivetime with the gym, Mr. Carter comes into the home around 9:30pm, just enough time after eating to check homework and go to sleep. On $12\frac{1}{2}$ hour days, there is no gym, by the time Mr. Carter would arrive home there is only time to maybe eat and go to sleep. The girls had finished homework, eaten dinner, watched tv and were asleep.

¶47 From six to nine months is the average work season with layoffs according to weather. During layoff, employees were required to update their skills at a training worksite. Everyone shared in the household responsibilities. The girls' main chores were cleaning their room and the main bathroom. The younger's specific chore was washing the dishes. The older's specific chore was the laundry. She washed Mr. Carter's clothes from his clothes pile in his bedroom on the floor along with their clothes from their two hampers in their bedroom. Mr. Carter's son would take out the trash and haul firewood, when present. Mr. Carter cleaned his bedroom/master bath, and outside tasks in the garage. Grandma Nofles would clean her room, do her laundry separately, and prepare family meals. Mr. Carter's son would spend every weekend during season and was full-time in home during layoff, through shared custody.

¶48 The State in opening/closing remarks told jury no one had access to the girls, that they never left the house, and this was not true. Boys walked girls home, TC went into boys houses. During the week, after homework was done, karate practice. Weekends,

¶48 after chores were done the girls left the home at noon on their own free time and returned at dark, or a little after. On Sundays was church and programs, then dinner with the Smith's, TC's classmate's family, after a movie. Mr. Carter joined them later at the Smith's home. Mr. Jacobs failed to impeach the State in fact, he backed off of witnesses. (10 August,2012,trial,P.94). (Appendix F-4)

¶49 Female company would from time to time come on weekend when everyone was away. Casual relationships were shielded from the children. Mr. Carter's son who shared master bedroom/bath was always present at trial but was not interviewed nor allowed to testify. The girls testified about him and he wasn't allowed to rebut or respond. The girls falsely alleged these incidents to occur in Mr. Carter's room. All of the bedding and linen were collected and these items were all tested by State at FSC and private Atty. Lex Johnson tested S/A kit at Edward Hospital. No semen found in S/A kit or any items in bathroom(master). In 2010 trial, Mr. Saul under oath, testified that he could not say that this DNA on King Size bedsheet(8A), wasn't the girls. In 2012 trial, Mr. Saul's report (Lab Report 08-01166-3), indicated a mixture of DNA male and female and "at least one DNA type from the minor DNA donor(s) to Exhibit 8A1b is <u>not</u> found in the DNA profiles of CC and TC, and they would be <u>excluded</u> as donors of that DNA type." Mr. Jacobs and appellate counsel both ineffective on this issue resulting in unfair trial and appeal. (Appendix Table of Cited Authorities, U.S. Constitutional Amendment V,V1,X1V), Seventh Circuit and District courts' rulings arbitrary, numerous circuits could and have ruled differently issuing C.O.A., granting writ.

MR. DEMOPOULOS: I just want a little clarification here of what we are going to do.

What we had talked about is calling in the case in chief and giving her explanation.

This is a really unusual situation, and I apologize --

THE COURT: You know, you went into it, so now it's cross examination, which you went into. It's unfortunate. He's going to cover the same thing, and he's going to ask it on direct, so I don't how --

MR. JACOBS: Most of the things, I'm not going to cover.

I expect now that my direct examination will be less than five minutes.

THE COURT: Just let him do it on cross.

MR. DEMOPOULOS: Legally, I mean, I did it for -- I don't want it to be -- I don't think it's a weak position.

THE COURT: I know. I'm not saying that. Now, you don't want him to lead into this.

MR. DEMOPOULOS: I just want clarification then. Is he going to get into all of this and then recall her as his witness and then get into all of this again?

Why don't we just --

¶50 In People v. Cruz, Rolando Cruz through three trials facing death penalty, proclaiming his innocence, was ignored by the same trial judge. Evidence already existed indicating Mr. Cruz's innocence and Brian Dugan was admitting guilt. There is a history of bias. Many factors are causing stigma: the type of case, the alleged charges, and girls' mother's incorrect date of death and their arrival in Illinois as well as only one version of the case. This has caused this case to receive the most unfair, unconstitutional treatment. All of the issues presented by Mr. Carter are meritorious and substantiated with verifiable evidence and proof of innocence. The state has declared that if one is charged with this set of allegations, that the U.S. Constitution does not apply to them and they owe no due process. Can Mr. Carter have a fair trial - investigative alibi defense, character witnesses reviewed and contacted, defense experts enlisted, a review of all evidence, a complete investigation of the issues,an evidentiary hearing on the merits? A C.O.A.(s) issuance? Attorney Pettway had no extensive criminal trial experience, can Mr. Carter have a trial with a conflict free, experienced criminal trial attorney? Mr. Carter's claims have never been refuted, only ignored.

STRICKLAND v. WASHINGTON
466 U.S. 668,684-85(1984)

Defense Counsel Brian Jacobs was recommended by his supervisor while he was on vacation. Upon his return, all of the evidence was received in five(5) banker boxes from a prior private attorney over some months. Hearings were held and Mr. Jacobs sometimes met with defendant and sometimes not. Mr. Carter was not kept informed of case status. Mr. Jacobs wanted Mr. Carter to do a plea deal, which he refused. Mr. Jacobs met with Dr. Rangala,

a state witness for two months and Defendant only found out at pre-trial hearing. She was recommended by the State. Defendant's mother talked briefly after hearings to Mr. Jacobs where he complained of his caseload. Two defense experts were retained by family as State of Illinois was broke. He was told of important information in the boxes and he stated "no Table of Contents to find information." Character References List sent directly to him in June 2011, for trial in August 2012.

INACTION OF TRIAL DEFENSE COUNSEL - 1)failure to perform an investigation, 2)failure to investigate an alibi defense, 3)failure to investigate prosecution witnesses, 4)failure to enlist experts, 5)didn't contact any witnesses, 6)provided no evidence, 7)failure to impeach state witnesses with substantial and multiple inconsistencies -- nothing to challenge the state's case. Mr. Jacobs relied solely on records turned overby the prosecution.

FAILURE TO INVESTIGATE PROSECUTION WITNESSES

Shannon Gill, Evidence Collection Tech.
Collected contaminated, commingled, soiled and wet clothing and linen. She did not know FSC Rules and placed 16 items in one bag, 6 items in one bag, and King size bed linen(sheets, comforter, and King size pillows/pillowcases plus bath towels) in a plastic bag. Stated twice to State that male items were not mixed with girls clothing, then changed to Yes there were mixed items to the Public Defender when repeatedly asking questions. Stated no wet items to State, no to Public Defender, then finally Yes to State. When asked about assistance with collection, no to Private Attorney but Yes to State three times. SHE WAS NOT IMPEACHED.

REASONS FOR GRANTING THE PETITION
STRICKLAND v. WASHINGTON
466 U.S. 668,684-85(1984)

FAILURE TO INVESTIGATE PROSECUTION WITNESSES

Anthony Simpson, Lead Investigator
Co-workers concerned about certain specific instances of his memory, does not take any notes. Makes statements and no evidence of proof. Stated he went to Sauk Village,IL to get buccal swabs but E-MAIL dated July 29, 2008 stated girls in St. Louis. Stated CC had marks then bruises but no proof. Dr. Rangala did a head-to-toe exam on same day and not state this in testimony or on CC's Care Center Patient Eval form. INCONSISTENT TESTIMONY-NOT IMPEACHED BY PUBLIC DEFENDER.

Ivona Kuczynsk, Nursing Director
Stated Defendant complained of a Syphilis infection on 4/13/2011. STD testing results from Central DuPage Hospital on 10/29/2010 - stated No to Syphilia. Syphilis is a Reportable Disease and no one came from local health department to see Mr. Carter. False information of any STD is guilty of Class A misdemeanor 410 ILCS. NOT IMPEACHED BY PUBLIC DEFENDER.

Doug Saul, DNA Tech. Leader

Not qualified as Leader - B.S.degree not Master's, as required.
No expertise in trace chemistry, wipes, smear patterns.
Did not know Sperm Scale Interpretation.
Tampered with evidence (vaginal swabs of TC), to try to get results for State (E-mail dated 7/16/2008).

Twice lied about Exhibit 8A(bed sheet). In 2010 - don't know gender of DNA mixture. In 2012 - can't say it's not them. LAB REPORT 08-01166-03 states "No female DNA was observed in this semen stain. One DNA type from the minor DNA donor(s) is not found in the DNA profiles of CC or TC and they would be excluded." Malfunctioning of lab equipment and Memo from Lab Director dated 1/8/2013 of lab equipment limitations. HE WAS NOT IMPEACHED.

REASONS FOR GRANTING THE PETITION

STRICKLAND v. WASHINGTON
466 U.S. 668,684-85(1984)

FAILURE TO INVESTIGATE PROSECUTION WITNESSES

Dr. Sangita Rangala, Licensed Physician

Attending physician in ER Department at Edward Hospital.
Tendered in trial as expert in Emergency Medicine and medical evaluation of pediatric sexual abuse.

IL Department of Financial & Professional Registration (IDFPR) only lists Licensed Physician.
2018 Directory of IL Healthcare Providers for Child Abuse and Neglect Investigations, Dr. Rangala not listed as Board Certified in Child Abuse Pediatrics or any other Certifications Related to Child Abuse.

For Mr. Carter, can't say penis for transection, as no specific pattern injury in this case.
Can't say if it happened a hundred hours before or 5 years.
Can't say when they took place or what caused them.
Dr. Rangala took Patient Evaluation of CC and did not know about prenatal alcohol abuse.
Didn't know about asymptomatic , Fetal Alcohol Syndrome (F.A.S.), remission, transmission rates, viral shedding.
Cited no studies, clinical trials, journal articles or studies of adolescents with STD. SHE WAS NOT IMPEACHED.

CC and TC, alleged victims

Both actively involved with boys - boys walking them home from school, weekend and boys on playground, boys at shopping mall near karate school during week, CC-boy at Hill Middle (Aquan), boys at church, missing from SundaySchool. TC-going into boys' houses(letter to family dated April 2007), making arrangements to meet Michael early in AM and late for school.

Conflicting stories of girls throughout trial. TC- didn't know her age/grade, didn't know when she moved, didn't know if adults came to apartment, couldn't remember most things and had two to four versions of everything and kept changing her story. THEY WERE NOT IMPEACHED.

REASONS FOR GRANTING THE PETITION

STRICKLAND v. WASHINGTON
466 U.S. 668,684-85(1984)

These following points alone establish IAC under the Strickland standard of Cause:

1. NO WITNESSES- Counsel stating to defendant and judge that he believed character reference list given to him by USPS in 6/2011 for trial in 8/2012 was irrelevant and no one was contacted and interviewed. The jury was unable to see a respondent who was responsible, nonviolent, devoted to his family and active in the church.

2. NO EVIDENCE- A fair trial is one in which evidence subject to adversarial testing is presented. Counsel's decision not to present evidence meant that defendant was unable to refute all of the multiple inconsistencies in the states' witnesses' testimony; and failure to impeach critical, substantial inconsistencies.AAD Wimmer noted on 2/3/2014 "that evidence in possession of his attorney .. was not brought before the court or entered into evidence (R.2878-79.)

3. NO INVESTIGATION OF PROSECUTION WITNESSES (as earlier stated).

4. FAILED TO INVESTIGATE ALIBI DEFENSE- this would have shown the defendant's work schedule for day in question (May 1, 2008), and the prior days, weeks and months in Quarterly Status Report, his co-workers at the job site, and Dispatcher would have testified to his whereabouts on May 1, 2008.

5. FAILURE TO IMPEACH WITH REPEATED, SUBSTANTIAL INCONSISTENCIES Evidence Collection Tech. regarding cross-contaminated clothing, commingled, with lack of protocol and Lab. not aware, denying wet items, mixed clothing and assistance. Lead Investigator lying about going to Sauk Village,IL when girls were in St. Louis (E-mail), seeing marks then bruises and there were none. Nursing Director stating a Reportable Disease of defendant for the State's benefit and a copy of testing report in record showing no Syphilis. DNA Lab Tech. tampering with TC's vaginal swab, lying two times about evidence on bedsheet, not qualified for his position. Licensed Physician stating credentials that she does not possess according to licensing boards and unable to cite case studies.

REASONS FOR GRANTING THE PETITION

STRICKLAND v. WASHINGTON
466 U.S. 668,684-85(1984)

Finally, the establishment of Prejudice will be presented in this case as follows:

1. Failing to call a medical expert to challenge the state's medical evidence. PREJUDICE ESTABLISHED because a defense expert could have testified, contrary to the state's argument.

2. Failing to pursue an alibi defense. PREJUDICE ESTABLISHED as Counsel did not investigate or even talk to the alibi witnesses. Dispatcher and co-workers could have provided testimony and documentation that the defendant was working on a job site.

3. Failing to investigate and challenge the qualifications and testimony of the experts (S.Gill, D.Saul, Dr. Rangala). PREJUDICE ESTABLISHED as if trial counsel had performed adequately, the state's case, as well as the credibility of the state's experts, would have been severely undermined.

4. Counsel ineffective for failing to impeach with a prior inconsistent statement. PREJUDICE ESTABLISHED as witnesses of State's credibility "would have been severely crippled by prior inconsistent statement(s).

5. The Sixth and Fourteenth Amendments guarantee a person accused of a crime the right to the aid of a lawyer in preparing and presenting his defense. If there are no witnesses because Counsel refuses to contact or interview them or present any evidence that is in his possession, is the lawyer aiding him in his defense?

6. The Sixth Amendment imposes on counsel a duty to investigate. Counsel failed to perform any investigation and relied solely on records turned over by the prosecution, is this PREJUDICE or constitutionally defective representation?

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Christopher A. Carter

Date: January 31, 2021