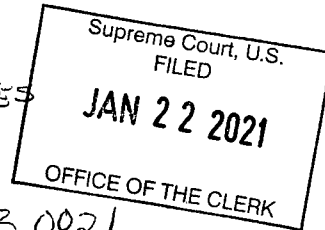


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CAUSE No. **20-7366**

ORIGINAL

IN THE
Supreme Court of THE UNITED STATES



In re: JOHN PEYTON Alexander, II; PIN 30021

Following THE FINAL Ruling By THE
U.S. FIFTH Circuit Court of Appeals

99 YEARS AND ONE Black Sunday
PETITION FOR AN
Extraordinary Writ of HABEAS Corpus

THE END of THE petitions of
John P., son of PEYTON & ELIZABETH
cf. Psalm 72:20

JOHN PEYTON Alexander, II
MDOC No. 30021; MSP No. X42492
East Miss. Correctional Facility
10641 Highway 80 West
Meridian MS 39307-9256

QUESTIONS Presented

1. Due to THE FACT THAT THE AEDPA excludes AN entire category of prisoners-in-custody who now seek to file successive habeas corpus writs in expiration-of-sentence claims, does 28 USC § 2244 violate Art 1 § 9 clause 2, "The Suspension Clause"?
2. What is THE Amendment XIV Due Process ANSWER TO THE Question of A prisoner who, after being granted A legally-valid, lawfully-rendered "commutation and reduction" of 60 days by THE Governor from his original life-sentence, then formally requests "written notice" of THE duration of his new, commuted and reduced, non-life sentence?
3. Does THE current application by THE Mississippi Corrections Commissioner of THE version [Miss. Code ANN § 47-5-139 (post 1992)] of THE earned-time-allowance statute which bars good-conduct credits to people with life-sentences and became effective after Petitioner's conviction, violate Art 1 § 10 clause 1 [The Ex Post Facto Clause]?
4. Under THE earned-time-allowance law [Miss. Code ANN. § 47-5-139 (Supp. 1975)] which was in-effect at the time of PETITIONER'S conviction, has John PETER Alexander now already earned enough good-conduct-credits to obtain his total-release from THE custody of THE MDOR Commissioner?

Parties

I, JOHN PEYTON Alexander, II [John P.], Mississippi prisoner PIN 3 0021, Am a resident citizen of THE U.S.A. who, in 1976, WAS initially sentenced to a life-term in THE Mississippi State Penitentiary; but who, in 1979, obtained a legally-valid, lawfully-rendered "Commutation and reduction" of 60-days from THIS life-sentence by Governor Cliff Finch, through Executive Order No. 217. I Am one of THE original participants in THE unique experiment known AS A "department of corrections," having been A prisoner-in-custody [10-15, J-3] for 43 of THE last 45 years. While in THE MDOC, I have been "A better than average inmate" who "diligently participates in approved courses of academic and vocational study" See Weaver v. Graham, infra. Throughout my incarceration, I have continuously worked in A duly assigned or classified job program, for which good-conduct credits Are normally THE compensation given.

NATHAN "Burl" Cain is our new (AS of 2020) MDOC Commissioner, and he comes to us from Louisiana where he transformed in A positive way THEIR prison in Angola.

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(cover sheet—line-drawing of John Peyton Alexander)

App. A-1 thru A-3 contain THE NOV. 25, 2020 denial by THE U.S. FIFTH Circuit Court of Appeals in my final gatekeeping motion.

App. A-4 contains THE MAR. 20, 2020 "Order Denying Motion to Amend" which proves THAT I presented my expiration of sentence petition for writ of habeas corpus TO THE Southern District of Mississippi.

App. A-5 thru A-6 contain THE Dec. 18, 2019 denial by THE FIFTH Circuit of my motions for certification under 28 USCS § 2403 of A constitutional question AND transfer TO THE U.S. Supreme Court.

App. B-7 contains THE Oct. 3, 2017 denial of rehearing by THE Mississippi Supreme Court in my petition for writ of habeas corpus.

App. C-8 contains THE May 7, 1976 "Jury Verdict and Sentencing of THE Defendant By THE Court" [Hinds County Mississippi]

App. C-9 thru C-10 contain Mississippi Executive Order No. 217 recording A total of 60-days "commutation and reduction of sentence" on John P. Alexander's MDOC Time Sheet (Register 3 0021).

App. D-11 contains the text of Art 1 § 9 Clause 2 of the U.S. Constitution, known as "The Suspension Clause," which protects the privilege of the Writ of Habeas Corpus.

App. D-12 contains the pertinent parts of the text of Art 1 § 10 Clause 1 of the U.S. Constitution, known as "The (STATE) Ex Post Facto Clause."

App. D-13 contains the text, in pertinent parts, of Amendment XIV Section 1 of the U.S. Constitution, known as "The (STATE) Due Process Clause."

App. E-14 thru E-15 contain 28 USC § 2241, the statute authorizing petitions for Writ of Habeas Corpus.

App. E-16 contains 28 USC § 2403, the Federal statute which makes provision for certifications of constitutional questions.

App. E-17 thru E-19 contain 28 USC § 2244, the AEDPA statute whose constitutionality is being brought into question because of the fact that it bars an entire-category of prisoners from filing successive habeas corpus writs in expiration-of-sentence claims.

App F-20 contains Miss. Code Ann. § 47-5-139 (Supp. 1975), the Earned-time-allowance law in-effect at the time of my conviction.

App. F-21 thru F-22 contain Miss. Code Ann § 47-5-139 (As Amended), THE VERSION OF THE EARNED-TIME-ALLOWANCE STATUTE WHICH THE MDOC Commissioner is currently applying for the computations on my Time Sheet: in violation of THE EX POST FACTO Clause because, effective after 1992, it bars any good-conduct credits whatsoever for an entire-category of lifers.

App. G-23 contains A signed waiver of my rights. In 1992, THE U.S. district court ruled THAT THIS WAS A WAIVER of my right to AN initial Nov. 24, 1995 insanity-acquittal. See Alexander v. Black, No. 591-005 (S. D. Miss. May 5, 1992). In this Aug 4, 1977 waiver, I also requested transfer to Parchman.

App. G-24 contains my 2019 MDOC Mental Health Treatment Plan.

App. G-25 contains THE Jan. 27, 1997 mental assessment of me by Stanley C. Russell, M.D., MDOC Medical Director & STAFF Psychiatrist.

App. G-26 contains AN excerpt from A marker on THE Mississippi Blues Trail outlining THE important historical musical influence of Parchman Prison, AND THE contribution thereto of THE Parchman Band.

App. G-27 contains my July 2, 2004 Appointment by THE Rt. Rev. Duncan M. Gray, III, Episcopal Bishop of Mississippi, which commissioned me to preach THE Gospel of Jesus Christ.

App. G-28 thru G-29 contain my Jan 6, 2011 commission by THE

Most Rev. Joseph N. Latino, Roman Catholic Bishop of Jackson,
Appointing me as Minister of Music and Ambassador for Christ.

App. H-30 contains THE proposed-format of A Certificate
of Rehabilitation, A writ Authorized by 28 USC §1651.

App. I-31 contains Executive Order No. 280 by Mississippi Gov.
Cliff Finch, granting "Commutation and reduction of sentence" to (OTHER)
prisoners who worked on A 1979 river-flood special-detail.

App. I-32 contains Executive Order No. 747 by Mississippi Gov.
Kirk Fordice, granting Executive Earned Time to (OTHER) prisoners
who worked on clean-up details following A 1994 ice storm.

App. J-33 contains THE Dec. 9, 2020 cover-letter for THE
initial version of THE instant petition for extraordinary writ, which
was originally received in THIS Honorable Court on Jan 22, 2021.

App. J-34 contains A July 4, 2019 newspaper Article "Gangs
Running Prisons" from "The Northside Sun," JACKSON MS

App J-35 contains A Dec. 1998 newspaper Article, "Generational
Appreciation" by John PERTON Alexander, II outlining how THE members
of THE Greatest Generation, when presented with times of crisis,
rose to the occasion and made all of THE right decisions!

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28 USC § 2244 i, 1, 4, 7, 9, 10, App. E-17 thru E-19

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Sine Qua Non
(under THE VEIL of a more perfect union)

We ARE A family, AND THE strength
of THAT family is loyalty. If we
honor THAT loyalty, we shall never be
VANQUISHED; but if we falter in THAT
loyalty, we shall ALL be condemned!

— Alexander THE Great

PETITION FOR AN EXTRAORDINARY WRIT

I, JOHN PEYTON ALEXANDER, II, Mississippi prisoner 30021, am seeking plenary collateral review in THIS 28 USC § 2241 PETITION FOR AN EXTRAORDINARY WRIT OF HABEAS CORPUS^{FN1} TO CHALLENGE THE COMPUTATION OF A SENTENCE IMPOSED FOR A 1975 HOMICIDE WHICH, REGRETABLELY, I DID COMMIT. I AM NOT CHALLENGING MY GUILT IN THE UNDERLYING CONVICTION OF MURDER.^{FN2} RATHER, I HUMBLY & RESPECTFULLY ASSERT THAT MY SENTENCE HAS ALREADY EXPIRED.^{FN3}

FN1. This instant action follows a NOV. 25, 2020 DENIAL [Appendix A-1] of my "BEST OUT O' THREE FATAL DEFECT GATEKEEPING MOTION" WHERE I ASKED THE U.S. FIFTH CIRCUIT COURT OF APPEALS FOR A TRANSFER TO THIS HONORABLE COURT. WHILE 28 USC § 2244(b)(3)(E) [APP. E-17] PROHIBITS CERTIORARI PETITIONS FOLLOWING GATEKEEPING MOTIONS, THE AEDPA DOES NOT PROSCRIBE PETITIONS FOR EXTRAORDINARY WRITS.

FN2. PLEASE REFERENCE APP. C-8, THE MAY 7, 1976, "JURY VERDICT AND SENTENCING OF THE DEFENDANT BY THE COURT."

FN3. THE AEDPA AUTHORS TOTALLY MISSED THE MARK BY FAILING TO INCLUDE LANGUAGE IN § 2244 TO PROVIDE FOR EXPIRATION-OF-SENTENCE CLAIMS, SINCE THE CURRENT WORDING OF § 2244(b)(2)(B)(ii) [APP. E-17] APPLIES ONLY TO PRISONERS CHALLENGING THEIR GUILT OF THE UNDERLYING OFFENSE.

OPINIONS BELOW

App. A-1 thru A-3 contain THE Nov. 25, 2020 denial by THE U.S. FIFTH Circuit Court of Appeals in my final gate-keeping motion.

App. A-4 contains THE Mar 20, 2020 "Order Denying Motion to Amend" by THE U.S. District Court which closed THAT cause-number.

App. A-5 thru A-6 contain THE Dec. 18, 2019 denial by THE FIFTH Circuit of my motions for certification under 28 USCS § 2403 of a constitutional question and transfer to THE U.S. Supreme Court.

App. B-7 contains THE Oct. 3, 2017 denial of rehearing by THE Supreme Court of Mississippi in my Petition For Writ of Habeas Corpus.

App. C-8 contains THE May 7, 1976, "Jury Verdict and Sentencing of THE Defendant By THE Court." [Hinds County, Mississippi.]

App. C-9 thru C-10 contain Mississippi Executive Order No. 217, as recorded on John P. Alexander's (PIN 30021) MDOC Time Sheet.

Jurisdiction

(Notifications required by Rule 29.4(b) & (c) have been made)

THE U.S. Court of Appeals issued its final ruling on Nov. 25, 2020. This Court's jurisdiction is now invoked pursuant to 28 USC § 2241 [App. E-14 thru 15]

Prologue

"Your father... changed my wages ten times" — Gen 31:7 (NAB)

My conviction & life sentence were handed-down May 7, 1976 [App. C-8]. On July 1, 1976, THE Mississippi Department of Corrections (MDOC) was created. Miss. Code ANN. §§ 47-5-1 et seq. (Supp. 1976). On Aug 4, 1977 [App. G-23], I waived my initial insanity-acquittal along-with a compelling double-jeopardy/collateral-estoppel claim^{FN4} in order to participate in THIS newly-formed MDOC; whereby I found favor with THE keepers of THE prison! By utilizing THE MDOC resources, I have conquered a chronic, debilitating illness [App. G-24 thru 25]; traveled to EVERY nook & cranny in Mississippi in order to perform with THE Parchman Prison Band [App. G-26]; and, later in my life, THE local Episcopal Bishop commissioned me to preach THE Gospel [App. G-27], while THE Roman Catholic Bishop appointed me as Minister of Music [App. G-28 thru 29]. During my countless trips with THE Parchman Band, we performed AT THE GOVERNORS' MANSION, where Gov. Cliff Finch commuted & reduced my life-sentence [App. C-9 thru 10]. If now an accountant were to tabulate THE amount-of-money which THE STATE & federal governments have spent on my self-improvement, I am easily revealed AS AN AUTHENTIC six-million-dollar man. IT would be a tremendous waste for THIS Honorable Court to allow me to die in prison!

FN4. Alexander v. Black, No. J-91-0005 (S.D. Miss. May 5, 1992)

^ INSTITUTIONAL PROVISIONS

IN THIS PETITION FOR AN Extraordinary Writ of Habeas Corpus, ^{FNS}
I ARGUE THAT in light of a 1979 Executive Order [App. C-9 thru C-10]
which reduced my original life-sentence [App. C-8], Due Process
[App. D-13] requires THE government to give me "written notice"
of exactly what my new, commuted, non-life sentence now is.

I also respectfully ASSERT THAT THE STATE'S application of THE
version [App. F-21] of THE EARNED-time-allowance statute which became
effective after my conviction, violates THE EX POST FACTO Clause [App.
D-12]; and that, under THE EARNED-time-allowance law which was in
effect at the time of my conviction [App. F-20], I have currently earned
enough good-conduct credits to be released totally from MDOR custody.

AT THE rate of 30-days-per-month, THE MDOR now owes
me approximately 43-years of good-conduct credits. I AM now
66 years-old, and I certainly will not live 43 more years!

FNS. For THE reasons outlined in footnotes 3 & 8, I propose THAT
Sec. 2244 contains a fatal-defect which violates THE Suspension Clause
[App. D-11], and THESE exceptional circumstances WARRANT the exercise
of THIS Court's discretionary powers; the Writ is in Aid of THE Court's
Appellate jurisdiction; and Adequate relief cannot be obtained in ANY
OTHER form (THAN A § 2241 petition [App. E-14]) or FROM ANY OTHER court. [Rule 20.1]

Rules 20.1 and 20.4(A) Considerations

(This case was indeed presented to the District Court)

"He has sent me to proclaim liberty to the captives,
And release to the prisoners" of ISA 61:1

A decision in this case involves a choice between the reasoned application of constitutional-law to undisputable facts & circumstances, with consequences involving strong political emotions, versus infidelity both to the oath-of-office and to the rule-of-law. This case will reveal the difference between the ability to hang with the big-boys & girls or the need to get off the sidewalk. This petition for an extraordinary writ of habeas corpus is a lesson that being an American jurist is more than self-satisfied legalism, the wearing of long robes, and enjoying the best-seats at the prayer-breakfasts!

On its surface, this case (which involves the application of well-settled law to the question as to the constitutionality of an Ex Post Facto earned-time-allowance statute) is quite simple. However, the magnitude of the importance of the ancillary relief which I seek, i.e.) declaring 28 USC § 2244 to be unconstitutional, is quite difficult indeed! When Moses, the Hebrew prophet, acted as a judge for the ancient Israelites [See Exodus 18: 22-27], eventually he had so many people coming to him for judicial-review THAT Moses' situation

became altogether untenable. Fido Jethro, his daddy-in-law, came up with a workable solution: Moses would delegate the routine-complaints to lesser jurists who, in turn, would leave the hard & difficult cases for Moses to decide.

The instant case asks for hard-choices: A.) giving-back

our cherished & protected Privilege of the Writ of Habeas Corpus to the masses; and, B.) following the law in a case which will result in the release of a large-demographic of aged-felons with life-sentences (who are the original survivors of American

cancell-culture). The hard-choices now sought from the members of this Honorable Court are precisely the very reason that a decision to entertain my extraordinary habeas petition will be in aid of the Court's Appellate-jurisdiction: in the exceptional circumstances of my discovery of a fatal-defect in the AEDPA.

[See footnotes 3 and 8]. The lesser courts: the state supreme court [App. B-7]; the Fifth Circuit [App. A-1 thru A-3]; (and the district court, included [App. A-4]) have all wisely & punctedly because they all lack the moral courage & fortitude to take my hard & difficult questions!

File. A similar situation in America led the U.S. govern-

ment to take-away the habeas corpus privilege from society's untouchables through the AEDPA, leaving no availability for extraordinary review. [See Sec. 2244(b)(3)(E) - App. E-17]. (see also footnotes 1 and 5).

STATEMENT OF THE CASE

I, John Peyton Alexander, II, Mississippi prisoner Register 3 0021, am seeking plenary collateral review of an extraordinary Writ of Habeas Corpus to challenge the computation of a sentence imposed for a homicide which, regrettably, I did commit in 1975. I am not challenging my guilt in the underlying conviction of murder. Rather, I assert that my sentence has expired. I argue that, in light of a 1979 executive order which reduced my original life-sentence, Due Process requires the government to give me "notice" of exactly what my new, commuted, non-life sentence now is. I also respectfully assert that the MOOC's application of the version of the Earned-time-allowance statute which became effective after my conviction, violates the Ex Post Facto Clause; and that under the Earned-time-allowance law which was in effect at the time of the homicide, I have currently earned enough good-conduct-credits to be released from custody. Additionally, I humbly contend that the authors of the AEDPA totally missed-the-mark when they failed to include language in 28 USC Sec. 2244 to provide for expiration-of-sentence claims; because the current wording of § 2244(b)(2)(B)(ii) applies only to prisoners challenging their guilt of the underlying offense. For this reason, I humbly & respectfully propose that the AEDPA contains a fatal-defect which violates the Suspension Clause [Art I § 9 cl 2]; and therefore, under these exceptional circumstances (the fatal-defect), adequate relief in this expiration-of-sentence claim cannot be obtained in any other form (than a 28 U.S.C § 2241 petition) or from any other court than SCOTUS.

REASONS FOR GRANTING THE Writ^{FN7}

The instant case involves a claim which is not barred by res judicata, but nevertheless has been totally barred from habeas corpus review by routine unconstitutional application of THE AEDPA's gatekeeping provisions. This expiration-of-sentence complaint raises a serious constitutional question with respect to THE Suspension Clause; which provides THAT "THE Privilege of THE Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion THE public Safety may require it" U.S. CONSTITUTION, Art 1 § 9 clause 2 [App. D-11]. Denial of habeas relief in THE instant case will indeed implicate THE Suspension Clause because it constitutes a complete denial of a claim which arose long after Alexander v. Black, J-91-0005 (S.D. Miss. May 5, 1992), my initial habeas petition which challenged THE legality of my conviction. See also Panetti v. Quarterman, 551 U.S. 930, 947 (2007) which creates an "exception" to § 2244(b) for a second application raising a claim THAT would have been unripe had THE petitioner presented it in his first application [Emphasis Added].

FN7. The instant Supreme Court case—if filed—will be the 10th cause-number which I have prosecuted in THE last 43 months of pursuing THIS expiration-of-sentence claim. After many rewrites, my argument has evolved over-time; and, hopefully, it has also improved! Beginning with S. Ct. Cause No. 18-7856, I have been asserting THE fatal-defect in THE AEDPA. The Due Process And Ex Post Facto arguments have been with me all along.

When they were presented with times of crisis, the members of the Greatest Generation [App. J-35] (which include my parents) rose to the occasion and made all of the right-decisions. In the 1970s, the Greatest Generation spearheaded the nationwide movement to transform historically cruel & brutal prisons (such as Parchman penitentiary) into departments of corrections. I am one of the original beneficiaries of the Corrections Act of 1976. However, the Baby Boomers (the members of the generation to which I belong) have currently created a worldwide environment of chaos! One of the decisions which the general-consensus now agrees to have been erroneous is the 1994 Crime Bill passed by the U.S. Congress. This legislation was the vanguard of a nationwide movement toward mass-incarceration. Another stringent component of the mass-incarceration agenda was the AEDPA. Due to my 1991 federal habeas corpus challenge to the legality of my conviction, § 2244(b) would now forever bar me from obtaining habeas corpus redress in the U.S. courts for my compelling expiration-of-sentence claim.^{FNB} This ought not to be so!

I am imploring the justices of this Honorable Court to give us back our privilege of the Writ of Habeas Corpus, and let my people go!

FNB. Here's the rub: Sec. 2244(b)(2)(B)(ii) [App. E-17] applies only to prisoners challenging their guilt in the underlying offense. However, in this instant expiration-of-sentence action, I am not even challenging my guilt in the underlying offense. This obstruction is the AEDPA's fatal-defect!

Requested Relief

A. Please certify both a federal [28 USC § 2403(a)] [App. E-16] and a state [§ 2403(b)] constitutional question, regarding the constitutionality both of (i) 28 USC § 2244 [App. E-17 thru 19], and of (ii) Miss. Code Ann. § 47-5-139 (as amended) [Ct. App. F-20 and F-21 thru 22].

B. Please issue a Writ of Habeas Corpus to hold a hearing.

C. Mitigate the justice of my life-sentence. Based on Governor Cliff Finch's 60-days commutation of my initial life-sentence through Executive Order No. 217 [App. C-9 thru 10], please fulfill the Amendment XIII Due Process component of "Written Notice" and tell me what my new, reduced, non-life sentence now is.

D. Please award me 43-years of statutory good-conduct credits pursuant to Miss. Code Ann. § 47-5-139 (supp. 1975). The controlling case is Weaver v. Graham, 450 U.S. 24, 101 S. Ct. 960, 67 L. Ed 17 (1981). See also Adams v. Gibb, 988 So. 2d 395 (Miss. App. 2008) (Mississippi prisoners who were convicted prior to amendments to § 47-5-139 have a state-created right to good-conduct credits of one half of their sentences. The MDOE agreed that Adams was entitled to forty-one years earned-time).

E. Please grant me a Certificate of Rehabilitation. [App. H-30].
28 USC § 1651.

Epilogue: 99 Years And ONE Black Sunday

"the day you die is better than the day you are born"
Ecclesiastes 7:1 (GNT)

On May 7, 1976, when Judge Russel D. Moore committed me "TO THE MISSISSIPPI STATE PENITENTIARY FOR THE REST OF [my] NATURAL-LIFE" [App C-8], THE COLLOQUIAL TERM for such a life sentence WAS "99 years AND ONE Black Sunday." Also AT THAT TIME, lifers were routinely AWARDED good-conduct credits.

The jail-house folklore in 1975-'76 explained this contradiction by THE METAPHOR OF THE "ONE BLACK Sunday:" which WAS THE day OF THE lifer's death. WITH good-conduct credits, A prisoner could conceivably serve until age 99. However, (s)he could NEVER live to enjoy his or her freedom AFTER THAT "ONE BLACK Sunday."

I WAS NOT AWARE OF EXACTLY WHEN THE MDX^{FN9} WHICH

FN9: I HAVE SINCE LEARNED THAT IT WAS IN 1992.

CAME-Along later—Quit AWARDing good-conduct credits to lifers. I do remember THAT AFTER THIS Court handed-down THE 1981 decision in Weaver v. Graham, supra, THE MDOC Records Office gave me eight (8) years'-worth of good conduct credits (1975 to '83); which moved-up my parole eligibility-date by a quarter-of-eight: or two (2) years. ON August 27, 1984, AFTER my second meeting WITH THE parole board, I WAS released on parole AFTER nine (9) years in custody. [Please see my MDOC Time Sheet — App. C-10].

My expiration-of-sentence ARGUMENT is simple: metaphorically speaking, Gov. Cliff Finch's Executive Order No. 27 [App. C-9 thru 10] removed THAT "One Black Sunday."

FOR THE ABOVE & foregoing REASONS, THE Writ of Habeas Corpus should be granted. FN10

FN10. AT one time-period, convict-prisoners were utilized AS first-responders during weather-disasters such AS river-floods [App. I-31] AND ice-storms [App. I-32]: for which such inmates also received Governors' Commutations AS well. Therefore, A just & favorable ruling in THE instant-case will bring meaningful-relief TO scores of aging Mississippi prisoners who were originally sentenced to life-terms.

Under penalty of perjury, THE Above & foregoing is true & correct, TO THE best of my belief & knowledge.

IN THE NAME OF THE FATHER, THE SON AND THE Holy Ghost: Amen!

This THE 10TH day of February, in THE year of our Lord 2021.

respectfully submitted,

John Peyton Alexander
John PEYTON Alexander
28 USC § 1746

John PEYTON Alexander
3 0021
EAST MISSISSIPPI Correctional Facility
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Meridian MS 39307-9256