

20-7526

IN THE SUPREME COURT OF THE UNITED STATES

ORIGINAL

TODD OLIVER AMEEN,
Petitioner, (Pro-se, mentally disabled))

Vs.

CASEY HAMILTON, (Warden)
Respondent, (NEOCC))

) Case No. _____



ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

Todd Oliver Ameen 462895
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QUESTIONS PRESENTED

(0) Original questions in natural form provided as (appendix Z-1) before instructed reduction of them by this court. Petitioner is pro-se and mentally disabled and has here made his best attempts to reduce length.

(1) Would not granting Certiorari and ignoring this appeal be a danger to society and Petitioner, since a medically documented “**reoccurring**” type of insanity is proven by evidences to be the cause of the offense against society and no inquiry or treatment whatsoever has ever been conducted by anyone concerning the matters?

(2) Actual innocence. There is conflict among the Circuit Courts regarding Petitioners multiple forms of innocence:

(a) Can insanity and the affirmative, complete defense thereof (18 U.S.C. § 17), be used to support a claim of **actual innocence** rather than legal innocence, as most courts in America hold, agree, assume, or “leave open” that it can and/or does?

(b) When a necessary particular criminal element of an offense is proven by evidence to have not been committed and/or is not satisfied/proven, which renders one not guilty of the crime of conviction, but only a “lesser offense”, can such form of innocence be used to support a claim of actual innocence as most Courts and Circuits in America hold, agree, or assume it can, rather than legal innocence?

(c) Can insanity, and evidence thereof, which would confirm inability of one to form the requisite particular criminal intent necessary to a particular offense, and in which would confirm the particular criminal intent to have not existed in the mind of the person during such offense, be used to support a claim of actual innocence?

(3) Is the denial of the insanity defense as actual innocence medical negligence? Is ignoring such innocence claim involving insanity on its face medical negligence?

(4) Once insanity has been established and proven by evidence to be the cause of an offense, and it is provided to a court for a first time, is mandatory commitment, inquiry, and treatment required by law, or, is continued confinement and punishment with no inquiry; does it matter when such evidences and facts are discovered and provided to a court?

(5) Should an affirmative defense of insanity be honored even as a freestanding claim of actual innocence when it is first introduced into a case for the sake of the immediate safety and

treatment of the not guilty by reason of insanity, so that the safety and treatment are not hindered by the continued delay of the resolve of the constitutional violation involved with the conviction?

(6) Is it constitutional for any court or State to make no inquiry and take no responsible action when evidence of insanity is provided to them and brought to their attention? Is such lack of responsibility safe for society and for those who suffer insanity; is such lack of responsibility inhumane?

(7) Once it has been established by evidence that insanity was the cause of an offense, should the burden, responsibility, and duty fall upon the courts to notice and correct the errors at issue, or should such burden remain on the person who suffers and suffered insanity?

(8) Is the failure and continued failure of the courts to honor the evidence of insanity as actual innocence and to continue to let the issue and evidence remain un-inquired into and ignored medical negligence, inhumane, cruel and unusual, and irresponsible?

(9) Whether Petitioner ever had any meaningful or knowing opportunity to present, assist, or be assisted in any of his defenses as due process guarantees one has a right to do?

(10) Whether the competency tests Petitioner encountered for 20 months had anything to do with any type of insanity defense?

(11) Is it a danger to society to continue to ignore Petitioners insanity, which new evidence and old show was the cause of the offense and multiple other similar reoccurring incidents, and to not provide a psychiatric examination or provide any other treatment and care; once insanity is established at any time, is mandatory commitment, inquiry, and treatment required by law?

(12) Is it inhumane to keep Petitioner confined in prison with the guilty, and punished as the guilty, when he has provided to all courts the evidence showing he is not guilty by reason of insanity?

(13) Is it inhumane to continue to deprive Petitioner of the treatment and care all people not guilty by reason of insanity are due, since evidences have been provided that demonstrate that Petitioner is in fact not guilty by reason of insanity?

(14) Is it constitutional for the lower courts and State of Oklahoma to have held no hearings pertaining to Petitioners insanity suffered at the time of the offense and to have offered no form of examinations or treatments concerning the matter?

(15) It is known to the courts and State of Oklahoma that Petitioner was unconstitutionally deprived of and denied supporting evidences, as in psychiatric examinations concerning the

offense, witness testimony, and psychiatric assistance in explaining such insanity and medical records, other incidents, and aspects Petitioner is unable to understand. No hearings, efforts, or inquiry occurred and this issue is continually ignored; doesn't such lack of duty and responsibility put both Petitioner and society in danger?

(16) Is confinement in a criminal Penal institution appropriate and humane rehabilitation and treatment for those who have proven by evidence that they are not guilty by reason of insanity? Is such confinement a deprivation of the treatment and care afforded to such insane persons, according to our humanitarian public policy?

(17) Is it ever too late for a person to introduce evidence showing insanity, and once they do, should the issue be ignored?

(18) Should the not guilty by reason of insanity be confined and remain with the guilty, and treated and punished as the guilty, even though the innocence is not honored as actual innocence by some courts? Should Petitioner be confined in a Penal institution for the guilty or in a hospital for the mentally ill, since evidence provided has proven one form of his innocence is by reason of insanity? Even if Petitioners innocence was only "legal innocence", one form of his innocence is by reason of insanity; should Petitioner remain incarcerated in a regular prison, under regular punishment and rules, and without appropriate care, inquiry, and treatment? Are people not guilty by reason of insanity to be civilly committed (28 U.S.C.A. § 4243 (a)) to a mental hospital.

(19) Is Petitioners confinement and continued confinement inhumane/cruel and unusual or confinement in a regular prison in violation of the Eighth amendment of the U.S. constitution, as one form of the innocence is by reason of insanity?

(20) Since Petitioners actual innocence claim is lacking the supporting evidences of psychiatric examinations and reports concerning the offense, psychiatric testimonies concerning the offense, and witness statements from the witnesses and police whom arrested Petitioner as Petitioner was suffering the insanity at the time of the offense, due to the violations, is Petitioner entitled to obtain those evidences in support of his innocence if it is decided Petitioners innocence claim is lacking support?

(21) Once newly discovered evidences of mental illness/insanity are presented to a court, are the evidences and issues ever to be ignored? Do the evidences and issues demand mandatory inquiry and action under the Constitution?

(22) Whenever new evidence or any evidence of insanity being suffered at the time of an offense is provided to a court or introduced for a first time into a case at anytime and in any way, should a psychiatric examination and report be conducted concerning the offense under 18 U.S.C. § 17, 18U.S.C.A. § 4242, 18 U.S.C.A. § 4244, 18 U.S.C.A. § 4247?

(23) When one is completely denied due process and counsel in a case regarding ones innocence's and the evidences thereof, and one is rendered unable to defend themselves, unable to understand their own innocence's, is undefended, and unable to recognize that defenses are not being pursued or investigated, and such denial/deception is confirmed by the records, can a habeas corpus petition be time-barred for any reason?

(24) Does the record and complete denial of due process/counsel regarding Petitioners innocence and evidences thereof, along with the Miranda violation, need to be reviewed, confirmed, and established by the record to have occurred, before any other decisions regarding timeliness issues should be determined, to see if Petitioner was advised of and fully knowledgeable of any defenses during trial proceedings, and if Petitioner was ever aware of his innocence's in full, advised concerning it, and if the innocence's and evidences thereof have ever been defended or injected into the case; Questions requiring answer:

A. [whether] Petitioner was ever advised of, informed of, or questioned concerning his innocence and insanity concerning the time of offense by the State, court, or counsel?

B. [whether] the evidences of Petitioners innocence and insanity were ever inquired into, injected into the case, defended, or provided to petitioner and/or brought to Petitioners competent attention and understanding by the courts, State, or counsel?

C. [whether] Petitioner was advised of any defenses concerning the offense at anytime by the court, counsel, or State?

D. [whether] Petitioner received any defenses concerning the offense?

E. [whether] any inquiry whatsoever happened concerning Petitioners insanity or innocence at the time of the offense by the court, State, or counsel?

F. [whether] anything happened in Petitioners case other than competency tests to see if Petitioner could assist counsel and stand trial?

G. [whether] any defenses whatsoever were appropriately, competently, "or at all", pursued and investigated by Petitioners counsel concerning Petitioners arrest and illegal questioning, his innocence concerning lack of criminal intent, and the insanity during the offense?

H. [whether] counsels incompetence's and failures influenced Petitioner into a lack of understanding the proceedings and caused Petitioners inability to even understand his own innocence's and defenses?

I. [whether] a Miranda violation inquiry or defense was inquired into or conducted by counsel, the State, or the court?

J. [whether] Petitioner was ever advised as to the competency tests he was receiving having nothing to do with the offense or his testimony/schizophrenia during the offense and whether Petitioner was ever advised by anyone as to the different natures of (competency) tests and (psychiatric examinations concerning ones state of mind at the time of an offense)?

K. [whether] Petitioner was ever informed of, advised of, or explained to, the terms "insanity" or "defense of insanity" by the court, State, or counsel?

L. [whether] the record indicates that Petitioner was at anytime knowledgeable as to any defenses concerning his multiple forms of innocence meaningfully and fully, or, the evidences thereof?

M. [whether] Petitioner told his testimony concerning the offense, and/or, attempted to explain the offense and his mental difficulties, to everyone he had a chance to, which was his "counsel" and the "competency psychologist" and did they act on the information provided to them by Petitioner in any way?

N. [whether] the elements of the offense of burglary 1st degree were ever explained to Petitioner by counsel, the court, or the State at any time in any way?

(25) Whether Petitioner and the evidences of his innocence are entitled to be heard in their defense for a first time, be able to defend himself for a first time, be treated with constitutionally appropriate procedures and inquired into for a first time, to be defended for a first time, and to be advised of, informed, and fully educated, knowledgeable, and aware as to defenses pertaining to the innocence's thereof, for a first time, as due process demands?

(26) Whether the lower courts abused their discretions in not holding any hearings whatsoever on the issues in dispute of new evidences/factual predicates or actual innocence?

(27) Whether Petitioners §2254 petition demands review, as the claims were not adjudicated in the State courts?

(28) Whether the lower courts abused their discretion in not granting Petitioner any evidentiary hearings with appointed counsel to assist in resolve of the disputed facts of Petitioners §2254

petition and the multiple, complicated issues at hand involving new evidences, factual predicates, multiple forms of innocence, and the complete deception and inability caused to Petitioner due to a complete denial of due process and counsel during trial court proceedings concerning his multiple forms of innocence, the evidences thereof, and all defenses, and in which is confirmed to have occurred by the records?

(29) Whether the new evidences of innocence that Petitioners §2254 petition and/or most of Petitioners claims of constitutional violation are based on, are the factual predicates themselves to Petitioners claims which only concern the new evidences?

(30) Whether Petitioners §2254 petition is timely under 28 U.S.C. § 2244 (d)(1)(D) due to the factual predicates and new evidences underlying most of, if not all of, petitioners nearly (100) separate claims violations (appendix-F) addressed in the appeal record and §2254 petition, not being able to have been knowingly discovered, discovered, acknowledged, realized, or utilized for claims purposes any sooner; whether the complete denial of **due** process and counsel the claims address concerning Petitioners forms of innocence and the evidences thereof deceived Petitioner and caused Petitioner inability in exercising any type of **due** diligence any sooner than he did in discovering factual predicates, discovering the new evidences, and even discovering the facts and full understandings of his own innocence's?

(31) Whether Petitioner is due **equitable tolling** because of the unknowingness, inability, and deception forced upon him due to the violations encountered and is addressed and proven by the records, which amounts to a **complete denial of due process and counsel** concerning his innocence, the evidences thereof, and all other defenses/aspects, which made it impossible for Petitioner to know of, "diligently discover", or file claims of innocence and constitutional violations any sooner than was done

(32) Is Petitioner entitled to an evidentiary hearing at some point in this case under 28 U.S.C. § 2254(e)(2)(A)(B) since Petitioner has proven by clear and convincing evidence that but for constitutional error, *no reasonable fact finder would have found Petitioner guilty of the underlying offense*? Is Petitioner entitled to an evidentiary hearing under Supreme Court Authority since newly discovered evidences are substantially alleged, in which bear upon the constitutionality of Petitioners confinement and in which the evidences are factual predicates that render Petitioners §2254 petition timely and since other factors and circumstances apply? Are the newly discovered evidences of Petitioners §2254 petition the factual predicates of a large

majority and portion of the claims of constitutional violation addressed, which only concern the evidences?

(33) Are civil commitment procedures and/or, any type of inquiry at all, to occur, once a person has established by evidence that insanity was the cause of an offense?

(34) Is a complete denial of due process and effective counsel shown in this case concerning Petitioners innocence and the evidence's of the innocence's?

(35) Does the record in Petitioners case reveal and confirm a complete denial of due process and effective counsel regarding his innocence's and the evidence's of the innocence's, or not? Did such denial affect and hinder the timeliness of Petitioners §2254 Petition claims, including the innocence claim? Would it be possible that the specific denial of constitutional right alleged and confirmed could not have affected the timeliness of the §2254 Petition?

(36) Is Certiorari review required in this case since the State Courts did not review or adjudicate the constitutional claims therein?

LIST OF PARTIES

(1). All parties appear in the caption of the case on the cover page.

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APPENDIX-B. Order of the United States District Court for the Western District of Oklahoma in Ameen v. Clayton. May 28, 2020.

APPENDIX-C. Report and recommendation of magistrate judge for the Western District of Oklahoma United States District Court. August 27, 2019.

APPENDIX-D. Order Affirming denial of application for post-conviction relief in the Oklahoma Court of Criminal Appeals. March 15, 2019.

APPENDIX-E. Order denying application for post-conviction relief of the Cleveland County District Court of Oklahoma. June 4, 2018.

APPENDIX-F. Approximation of issues on appeal/constitutional violations addressed in §2254 petition and appeal record.

APPENDIX-G. Order of the Tenth Circuit Court of Appeals in Ameen v. Clayton denying petition for panel rehearing; filed October 14, 2020.

APPENDIX-G (1) Motion for Clarification and Petition for Panel rehearing filed in tenth Circuit.; including the “order denying”.

APPENDIX-H (18 U.S.C. § 17) “Insanity defense”

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APPENDIX-I (18 U.S.C.A. § 4243) "Hospitalization of a person found not guilty by reason of insanity"

APPENDIX-I (1) (18 U.S.C.A. § 4246) Hospitalization of a person due for release but suffering from mental disease or defect.

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APPENDIX-J (28 U.S.C. § 2244 (d) (1) (D) "Finality and determination"

APPENDIX-K (18U.S.C.A. § 4242) Determination of the existence of insanity at the time of the offense.

APPENDIX-L (18 U.S.C.A. § 4244) Hospitalization of a convicted person suffering from mental disease or defect.

APPENDIX-M (18 U.S.C.A. § 4247) General provisions for chapter.

APPENDIX-N (Model Penal Code § 4.08.) Legal Effect of Acquittal on the Ground of Mental Disease or Defect Excluding Responsibility; Commitment; Release or Discharge.

APPENDIX-O (Model Penal Code 4.05.) Psychiatric Examination of Defendant with Respect to Mental Disease or Defect.

APPENDIX-P (Model Penal Code § 4.01.) Mental Disease or Defect Excluding Responsibility.

APPENDIX-Q (21 Okl.St.Ann. § 1431) Burglary in First Degree.

APPENDIX-R Petitioners opening brief and application for a certificate of appealability filed in the Tenth Circuit U.S. Court of Appeals and other filings within the Tenth Circuit.

APPENDIX-R (1) List of Issues on the immediate appeal in the Tenth Circuit regarding Petitioners §2254 petition being dismissed as time-barred.

APPENDIX-S Petitioners §2254 petition and brief and support filed in the Western District of Oklahoma and other filings within the Western District of Oklahoma, including responses to the State of Oklahoma's Motion to dismiss and objections.

APPENDIX-T Petitioner briefs filed in the Oklahoma Court of Criminal Appeals.

APPENDIX-T (1) Original Post-Conviction Relief Application filed in the Cleveland County District Court of Oklahoma filed Apr. 5, 1018, and other filings such as responses to the State.

APPENDIX-U New undisclosed portion of evidence/medical record that was offered to the Western District of Oklahoma upon request of the W.D. of Oklahoma, but was not requested by the Western District; explanation attached.

APPENDIX-V Miscellanies medical records for this Court to review if desired with brief explanation of the records/evidences in general, that are provided in this appeal.

APPENDIX-W Motion for Counsel in the Tenth Circuit U.S. Court of Appeals.

APPENDIX-W (1) Motion for Evidentiary Hearing in the Tenth Circuit U.S. Court of Appeals.

APPENDIX-X Supporting **Actual innocence** cases and Supreme Court cases involved in Petitioners actual innocence claims and present argument in this certiorari.

APPENDIX-X (1) Factual predicate arguments and explanations.

APPENDIX-Y Report of negative aspects, treatment, and neglect, involved in the competency report filed on Jan 11, 2016 of the Oklahoma Dept. of Mental Health and Substance abuse services, Oklahoma Forensic Center, by Shawn Roberson, Ph.D., Forensic Psychologist; (**competency report attached.**)

APPENDIX-Z Motion for discovery of States case filed Feb. 25, 2019 and Summery order denying Motion for discovery filed Jan. 07, 2020; in the Cleveland County District Court of Oklahoma.

APPENDIX Z-1 Original questions presented in their natural, complete, and pro-se manner of importance.

APPENDIX Z-2 Medical record of incident causing injury while incarcerated due to mental illness of schizophrenia/insanity.

APPENDIX Z-3 Addendum to actual innocence claim. (3) pages.

TABLE OF AUTHORITIES

CASES

Bousley v. U.S., 523 U.S. 614, 118 **Supreme Court** 1604, 140 L.Ed.2d 828.

Bivens v. Briley, not reported in F.Supp.2d, 2004 WL 1718437.

Britz v. Cowan (7th Cir.) 192 F.3d 1101, 1103.

Clark v. Arizona, **Supreme Court**, 548 U.S. 735, 126 S.Ct. 2709, 165 L.Ed.2d 842.

Clayton v. Luebbers, not reported in F.Supp.2d, 2006 WL 1128803.

Davis v. U.S., 160 U.S. 469, 16 S. Ct. 353, 40 L.Ed.499.

Dretke v. Haley, **Supreme Court**, 541 U.S. 386.

Finley v. Johnson, (5th Cir.) 243 F.3d 215, 221.

Griffin v. Johnson, (9th Cir.) 350 F.3d 956, 963.

Herbin v. Angelone, not reported in F.Supp.2d, 2001 WL 34803136.

Herrera v. Collins, **Supreme Court**, 506 U.S. 390.

In Re Winship, **Supreme Court**, 397 U.S. 358.

In Re Minarik (3rd Cir.) 166 F.3d 591, 607, 608.

Jackson v. Virginia, **Supreme Court**, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560.

Jaramillo v. Stewert, (9th Cir.), 340 F.3d 877, 883.

Jones v. Delo, 56 F.3d 878 (8th Cir.)

Johnson v. Hargett, U.S. Court of Appeals, (5th Cir.), 978 F.2d 855.

Kuhlman v. Wilson **Supreme Ct.**, 477 U.S. 436, 106 S.Ct. 2616, 91 L.Ed.2d 364.

Lynch v. Overholser **Supreme Court**, 369 U.S. 705, 82 S.Ct. 1063, 8 L.Ed.2d 211, 20 0.0.2d 383.

McLaughlin v. Moore, 152 F.Supp.2d 123, 2001 D N H 098.

Overholser v. Lynch, U.S. Court of Appeals, 288 F.2d 388, 109 U.S. App.D.C. 404

Pharr v. Taylor, not reported in F.Supp.2d, 2013 WL 2484037.

Riva v. Fico, not reported in F.Supp. 3d, 2014 WL 4165364.

Rozzelle v. Secretary, (11th Cir.) 672 F.3d 1000, 1014, 23 Fla. L. Weekly Fed. C 811.

Rozzelle v. McNeil, not reported in F.Supp.2d, 2010 WL 2889946.

Robison v. Johnson (5th Cir.) 151 F.3d 256.

Schlup v. Delo, Supreme Ct. 513 U.S. 298, 115 S.Ct. 851, 130 L.Ed.2d 808.

Sawyer v. Whitley, Supreme Ct., 505 U.S. 333, 112 S.Ct. 2514, 120 L.Ed.2d 269, 60 USLW 4655.

Titsworth v. Mullin, (10th Cir.) 415 Fed.Appx. 28, 2011 WL 379322.

U.S. ex rel. Hinton v. Snyder, 128 F.Supp.2d 1165, 1171.

U.S. v. Polouizzi, 687 F.Supp.2d 133.

Van Buskirk v. Baldwin (9th Cir.) 265 F.3d 1080, 1083.

Ward v. Daniels, not reported in F.Supp.2d 2012 WL 1642465.

Womack v. Konteh, not reported in F.Supp.2d, 2008 WL 123867.

Wilson v. Green, (4th Cir.) 155 F.3d 396, 405.

STATUTES AND RULES

- (1) 18 U.S.C. § 17
- (2) 18 U.S.C.A. § 4243
- (3) 28 U.S.C. § 2244 (d) (1) (D)
- (4) 28 U.S.C. § 2254 (e) (2) (A) (B)
- (5) 18 U.S.C.A. § 4242
- (6) 18 U.S.C.A. § 4247
- (7) 18 U.S.C.A. § 4244
- (8) Model Penal Code § 4.08.
- (9) Model Penal Code § 4.05.
- (10) Model Penal Code § 4.01.
- (11) 21 Okl.St.Ann. § 152
- (12) 21 Okl.St.Ann. § 1431

IN THE SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner's wishes would be that a writ of certiorari issue for review of the decisions below.

OPINIONS BELOW

- (1) The opinion of the United States Court of Appeals appears at Appendix-A to the petition and is reported at **Ameen v. Clayton 2020 WL 5797615**.
- (2) The opinion of the United States District Court dismissing §2254 petition as time-barred appears at Appendix-B to the petition and is reported at **Ameen v. Clayton 2020 WL 2770179**.

JURISDICTION

The date on which the United States Court of Appeals decided my case was **September 29, 2020**. A timely petition for rehearing was denied by the United States Court of Appeals on the following date: **October 14, 2020**, and a copy of the order denying rehearing appears at Appendix-G. This Petition for Certiorari is within **ninety days** of these dates, and/or, is within the **(150)** day extended period for filing certiorari, due to the covid-19 problems that are causing timing issues for incarcerated individuals and society in general.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

AMENDMENTS TO THE CONSTITUTION INVOLVED:

Amendment five – Trial and Punishment, Compensation For Takings. Ratified 12/15/1791. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment Six – Right to Speedy Trial, Confrontation of Witness. Ratified 12/15/1791. 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 witness against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Amendment Eight – Cruel and unusual punishment. Ratified 12/15/1791. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment Fourteen – Citizen Rights. Ratified 7/9/1868. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATUTES AND RULES

- 1) 18 U.S.C. § 17
- 2) 18 U.S.C.A. § 4243
- 3) 28 U.S.C. § 2244 (d) (1) (D)
- 4) 28 U.S.C. § 2254 (e) (2) (A) (B)
- 5) 18 U.S.C.A. § 4242
- 6) 18 U.S.C.A. § 4247
- 7) 18 U.S.C.A. § 4244
- 8) Model Penal Code § 4.08.

(9) Model Penal Code § 4.05.

(10) Model Penal Code § 4.01.

(11) 21 Okl.St.Ann. § 152

(12) 21 Okl.St.Ann. § 1431

STATEMENT OF THE CASE

Petitioner was convicted upon a plea of guilty of the crime of burglary 1st degree. He was sentenced to 7 years in and 5 out at 85%, in the Cleveland Co. District Court of Oklahoma on Nov. 17, 2016. Petitioner is innocent for multiple reasons, encountered what amounts to a complete denial of due process and effective counsel regarding his innocence's and the evidences thereof, and is wrongfully incarcerated. Petitioner did not commit a burglary and is not guilty by reason of insanity of only a breaking and entering. Petitioner was in jail for 201/2 months taking competency tests to determine competency. The competency tests conducted in no way had to do with Petitioners insanity at the time of the offense or his testimony to counsel, unknowing to Petitioner throughout the proceedings. Petitioner was forced to believe that the finding of competency foreclosed any relief or help he could possibly receive concerning the testimony he had given his counsel and the competency psychologist for 20 ½ months, although Petitioner never understood what relief that would be. Petitioner was forced, due to violation, to believe that the competency finding was the finding that Petitioners testimony was not true, could not be proven true, and that there was no help, relief, or defenses to be had. Petitioner didn't understand the competency tests had nothing to do with any inquiry into his testimony or "time of the offense", as he was never advised of such information. Petitioner was forced by violation to believe he was guilty in full and actually guilty, when Petitioner is not guilty for more than one reason. Petitioner believed defenses or attempted defenses and inquiries were pursued by counsel, Court, and State, when absolutely no defenses were pursued concerning the offense and zero inquiry by anyone was conducted. Petitioner never understood he was fully innocent or why exactly and never understood his multiple types of innocence or defenses pertaining to; nor did Petitioner competently understand or have knowledge that there were evidences and supporting evidences of both his innocence and insanity. Petitioner was never

advised of his innocence's or any defenses, and no defenses were competently pursued or investigated; only competency tests were conducted because Petitioners counsel was severely incompetent. Every aspect of Petitioners case is flawed due to violations, beginning with the arrest and questioning of Petitioner which was violation one. Petitioner never had a chance or any chance to defend himself, be defended, or understand he was not being defended concerning the offense and the evidences were ignored, un-inquired into, and not injected into the case in the slightest, and were not all obtained, provided to Petitioner, or brought to his competent attention and understanding ect. Petitioner encountered a complete denial of due process and counsel, which rendered Petitioner completely helpless, defenseless regarding his innocence's and the evidences thereof, and unknowing, throughout the entire proceedings and such didn't end until after the conviction; Petitioner was unknowing and deceived all at the same time due to each violation addressed in the appeal record. Petitioner is not guilty by reason of insanity and did not commit the actual crime of conviction, but only committed a breaking and entering with no criminal intent involved. Petitioner's innocence is proven by the newly discovered and injected evidences Petitioner has provided in this case. No evidentiary hearings have been held in any lower courts. Petitioners innocence's and the evidences thereof were treated with unconstitutional disregard and ignored as if they didn't exist, and because so, supporting evidences were not obtained and appropriate procedures under the constitution did not take place regarding insanity and evidence of it. The Cleveland Co. District Court denied post-conviction relief on June 4, 2018. Petitioner then appealed to the OCCA and the OCCA **waived review** of the constitutional claims, only denied Petitioners actual innocence, and affirmed denial of PCR on March 15, 2019. The Petition for habeas corpus was filed in the U.S. District Court for the W. D. of Oklahoma on May 28, 2019 pursuant to 28 U.S.C. § 2254. Petitioner has raised such

multitude of claims (appendix-F), which construed appropriately, demonstrate a complete denial of due process and counsel concerning both Petitioners innocence and the evidence of it, in all lower courts; all claims of violation are confirmed to have occurred by the records yet continue to be ignored, when it is the violations fault Petitioner was forced into unending deception and unknowingness, rendering Petitioner inability to discover and file claims any sooner than was accomplished. The Tenth Circuit didn't address anything in particular on appeal, leaving Petitioner without new argument to make, and denied clarification of the matter (appendix-G); it's as if the Tenth Cir. didn't even read the opening brief/app. for COA. The Tenth Cir. as well denied Petitioners innocence's as being only legal innocence. Petitioner §2254 continues to be dismissed as time-barred when it isn't or shouldn't be a possibly that it can be. The record keeps being ignored, when it establishes the facts of violation to have occurred resulting in Petitioners unknowingness, inabilities, and deceptions, which in turn prove the §2254 petition to be perfectly timely.

REASONS FOR GRANTING THE PETITION

Petitioner has been completely denied due process and effective counsel in this case, was never defended or intelligently able to defend himself/assist counsel, and was unable to understand his innocence's, the evidences thereof, and defenses pertaining to, during trial court proceedings; Petitioner was not defended and made to be helpless of defending himself. Petitioner is entitled to and should be granted his right and opportunity to be heard in his defenses for a first time, to be competently and effectively assisted by a counsel for a first time, and have actual ability to defend himself for a first time.

Actual Innocence.

(1) Petitioner is innocent of the crime of burglary due to (a) **insanity**, (b) **zero in particular criminal intent to commit a felony or steal was involved in the offense**, and (c) **having no ability to form any requisite in particular criminal intent** during the incident due to mental disease. (Two necessary elements) of the crime of burglary are proven by evidence to have not existed at the time of the offense, which are sanity and a particular criminal intent to steal or commit a felony. There is major unresolved conflict among the circuits as to Petitioners (multiple forms) of innocence/defenses due to the Supreme Ct. not yet having "expressly" decided the issues. The 10th Circuit does not yet see Petitioners two or more forms of innocence as "actual innocence" and only sees them as "legal innocence's", so the Tenth Cir. is not honoring my innocence's as an exception to the time-bar of the §2254 petition. **Most courts and circuits** in America hold, agree, or assume, or leave open, that the affirmative defense of insanity under **18 U.S.C. § 17**, lacking elements of an offense, and other such similar forms of innocence's and complete defenses are indeed actual innocence rather than legal innocence, and their decisions are based off of Supreme Ct. authority; (due to the lengthy citations of Courts in support of Petitioners innocence's, the authorities are cited in appendix-X.) The defense of insanity (**18 U.S.C. § 17**) is not alone though, strictly an affirmative defense, is different, and requires more responsibilities of a court, State, and counsel than all other types of defenses, and demands constitutional responsibilities and duties of not only a counsel to raise, but also of the courts and prosecutors as Overholser v. Lynch, U.S. Court of Appeals, 288 F.2d 388, 109 U.S. App.D.C. 404 states: at *392 "The preceding statement, of course, is based on the Davis rule,

that insanity is not strictly an affirmative defense and can be raised by either the court or the prosecution." Supreme Ct. authority seems to follow the rules of due process, which are the rules of innocence; if one is not guilty of the crime of conviction, and/or, the evidence does not satisfy/prove that all necessary elements of a particular offense have been established, proven, or confirmed, then the person is not guilty, or, "innocent" of the crime of conviction, or even innocent of receiving the death penalty and such in a capital case. Due process requires all elements of a crime to be proven beyond a reasonable doubt before a person can be found guilty, if the elements are not proven to have been at play, then a person is innocent of the particular crime, in which required all separate, necessary, particular elements to have been committed in order for the finding of guilt to have occurred. "Sanity" also is a necessary "element" of all crimes, and if sanity cannot be established, then no crime was committed; this is the rule of society. "Sanity", is as well classified legally as, an "element"; in such cases insanity, or the lack of sanity, is also called innocence, as is demonstrated in Lynch v. Overholser, Supreme Court, 369 U.S. 705, at*722; Mr. Justice Clark explains 'insanity' as 'innocence', as well as at *723, *730, *732, *733, and *735. Criminal intent to steal or to commit a felony on the other hand, is a "separate element" of burglary, and if no such particular intent/element existed during the offense, then only the lesser offense of breaking and entering occurred and the person may be guilty of breaking and entering, but not a burglary. The evidence in my case only confirms insanity being suffered at the time of the offense, rather than sanity, and in no way confirms any particular criminal intent to steal or to commit any felony, but only confirms a breaking and entering, because that is all that occurred. Most courts agree that if one is not guilty or innocent of a greater offense, but guilty of only a lesser offense which evidence confirms, then that innocence constitutes actual innocence rather than legal innocence, which only makes sense. If particular "elements" of an offense are proven to have not existed at the time of that offense, then one is in fact innocent of committing the particular crime, which involves certain elements in order to be committed; this is how most courts explain it because it's the only explanation that makes sense, is correct, and is in honor and respect of both due process and innocence itself. The findings are as well based on Supreme Ct. Authority. Indeed, due process is violated, when a court does not honor these forms of innocence as actual innocence, because due process instructs that these forms of innocence render one innocent of their crime of conviction and innocent of being guilty. Innocence should be the highest priority of the Supreme Ct., as guilt and innocence

are what the law is all about, "right and wrong", and habeas corpus is to insure one who is innocent is not unconstitutionally confined in a prison due to violation. The honoring and respect of innocence is in the best interest of America, society, and this innocent Petitioner, and I would not only hope, but do expect, this court to grant certiorari in this case and to make an express decision concerning the matters at hand, and **ending the conflict of the courts**, which will only save time and frustration for all in the future; and in so doing, the innocent are protected and hopefully the mentally disabled better protected. Not honoring insanity and its affirmative complete defense, is indeed a cruel and unusual attack on mentally disabled Americans; we don't always understand we are completely insane after an incident, we don't know the legal definition of "insanity" or the defenses pertaining to it or mental illness defenses in general, and we don't always understand how important it is that we could not control what we did or do, or could not distinguish right from wrong or understand the nature or consequence of what we were doing. Evidences are not discovered, understood, or obtained. We don't always understand how to defend ourselves or recognize that we are not being defended, and so on and so forth. Someone who truly suffers insanity during an "offense" in no way, without assistance, can defend themselves on their own or even truly realize they were insane at the time of the incident; insanity is reality to the insane and the insane do not know they are insane when in fact they are or were insane; this is why we are not guilty. We are easily taken advantage of, manipulated, undefended, ill advised, and made to feel guilty during trial court proceedings, and don't fully understand we are completely innocent or not guilty; evidences rarely exist in these cases. It is very easy for a court, State, and counsel to make grave mistakes and errors involving ones insanity defense and it is easy for one not guilty by reason of insanity to be violated. The evidence is not like any other type of evidence, it can be difficult to recognize, difficult to discover, and it requires certain procedures and examinations to take place by PhD's for the sake of the defense and the insane persons awareness of what has happened during the offense, what is going on, what his choices are and defenses; none of the above occurred in my case. Counsel's incompetency and complete lack of assistance in my case deceived everyone involved, including himself I believe, in what he was doing in my case, but for sure I do not know. Although I had also given the competency psychologist my testimony of the offense according to the filed competency report in the court record (appendix-Y), he also apparently ignored it, felt as if I was lying as he felt I was concerning my present competency at that time, and neglectfully did not

inquire into my mental condition at the time of the offense or the evidences; the competency tests were in no way to do with my state of mind during the offense. Not honoring insanity as actual innocence is or would be just further be taking advantage of insane people just because their form of innocence is by no fault of their own. No one chooses to be insane or mentally ill and has no control of the matter. It isn't right to keep one confined in prison when they didn't mean to do what they did, did not intentionally do it, or in other words, for being insane due to mental disease, and when in which evidences confirm; especially when one and the evidences never had a chance to defend themselves or be defended or able to understand they were not being defended due to a complete denial of due process and counsel, as is the case here. The lower courts, "all of them", are not recognizing the very clear and simple fact that I was denied due process and counsel completely concerning my innocence's; all defenses, all evidences, procedures, ect., in which my claims have addressed from the beginning. Due to the approximately (100) identified constitutional errors and violations (appendix-F) addressed in the appeal record and §2254 petition, Petitioner here was not able to knowingly defend himself, was unknowingly not defended, was unknowingly not heard in his defenses, and was unable to recognize during trial court proceedings that he was not being defended or receiving any defenses or inquiry into defenses or his testimony. Petitioners feeling of innocence were turned and twisted into guilt due to numerous violations, which the record confirms to have occurred; no ifs, ands, or buts. I was deceived, manipulated, taken advantage of, and rendered completely helpless and defenseless during trial court proceedings and made unaware of my own innocence by no fault of my own, but by fault of the violations addressed and explained in my "pro-se manner" in the appeal record; a complete denial of due process and counsel concerning my innocence's and the evidences thereof. The lower courts are not recognizing in the slightest the complete denial of due process and counsel encountered or the prejudice and deception it caused regarding my multiple forms of innocence and the new evidences thereof; in so not recognizing, they are not recognizing such denial renders my §2254 petition timely concerning **28 U.S.C. § 2244 (d) (1) (D)** in all respects concerning every factual predicate involved in the nearly (100) separate claims of individual violation, including my innocence claim itself, or, that such denial of constitutional right and such mockery of justice causing such deception and inability gives cause for equitable tolling, in the least; Petitioner was not even fully aware of and effectively knowledgeable as to his own innocence's until after the conviction, much less defenses and

procedures pertaining to the innocence's and evidences of its kind, and had not either discovered or competently understood the evidences yet, due to the violations addressed and confirmed by the record. It appears by the way the lower courts ignore the matter, that the newly discovered evidences of Petitioners innocence and the claims of constitutional violation concerning only the evidences somehow don't concern the timeliness of Petitioners claims of violation and innocence regarding **28 U.S.C. § 2244 (d) (1) (D)** , which is impossible. Additionally, learning of and acknowledging such deception caused by the complete denial of due process and counsel as to the faulty proceedings and innocence's and learning in full of my innocence's are a factual predicate in themselves throughout the claims of the appeal record; becoming un-deceived and "discovering" that I was deceived concerning my innocence's was in fact "discovering" a factual predicate I had no control of discovering; I believed I was guilty and had no reason to believe otherwise since I had believed my proceedings were sufficient in the finding of "guilt". The new evidences of my innocence's are what most of my claims revolve around though and many are strictly based on the evidences and only concern the evidences; the court, State, and counsel violated me concerning the evidences alone, that I was unable to discover until Dec 6, 2017, the evidences are the factual predicates of those claims, and so my Petition is timely concerning the evidence aspect alone. The entire Tenth Circuit and W. District appeal records must be reviewed because they contain the proof, facts, explanations, and evidences of my timely petition therein. I and my evidences were rendered completely ignored, completely unable to be defended, were completely undefended, and I was completely unable to understand any defenses or that I was not receiving any defenses, and I am innocent due to multiple forms of innocence; **due process** and the **sixth amendment** demand that I be able to and be given my constitutional rights, to knowingly and intelligently defend myself, to be effectively defended and assisted, and to understand and be advised of defenses for a first time. Because one form of my innocence is by insanity, and the evidence has now been injected into the case and proven beyond a reasonable doubt, then due process demands that I receive some type of psychiatric inquiry or relief concerning the offense; the matter just can't be ignored for the safety and well being of both society and Petitioner; I also have a right to be knowingly able to defend my innocence concerning the issue of criminal intent to steal or commit a felony for a first time and to be defended in that aspect as well. The evidences of my insanity and innocence have a right to be treated constitutionally for a first time. One way or the other, the constitutional claims in the

appeal record/§2254 demand review; what is completely wrong cannot be considered right and exceptions should not even have to apply to timeliness issues because the §2254 petition is timely under **28 U.S.C. § 2244 (d) (1) (D)**. When will Petitioners multiple forms of innocence and the evidences thereof ever be defended or given the opportunity to be defended? My innocence's are no legal technicality, innocence, or matter; the issues go far beyond that. The **innocence's and the evidence's** actually were never given a chance to become a "legal matter" or technicality, because they have always been unconstitutionally ignored, un-inquired into, withheld, undefended, un-obtained, mistreated, disregarded, and just entirely kept out of the case, by no fault of Petitioner, which the record wholly confirms. Petitioner was never advised or informed by anyone as to any defenses, and none were pursued or pursued competently, and Petitioner was never advised of his innocence's and the evidences or was given or able to gain competent knowledge of his evidences. The evidences were never provided to Petitioner but were withheld from him by all involved. Certain correct methods and procedures are to be followed when issues and evidences of insanity are in the courts, States, and counsel's knowledge and possession, and not one of them occurred; the record wholly confirms. Only competency tests were conducted to see if I could stand trial, which had nothing to do with my insanity during the offense. Petitioner's innocence's and deceptions are explained within all claims, in all courts, in the entire appeal record, and so is the complete denial of due process/ counsel encountered and in which is confirmed to have occurred by the record; the record lacks everything it shouldn't, which reveals all of Petitioners claims to be only the truth, which can never be proven otherwise. There is absolutely no reason to further explain my innocence's as the appeal record/§2254 contains thorough, pro-se, and repetitive explanations and evidences. There isn't much I can say here to Supreme Ct. that I haven't already stated in and throughout all claims and arguments in all lower courts and in and throughout the entire appeal record. As I have moved through the courts, it has caused me to realize that I, my innocence, and the evidences, were just simply denied due process and counsel completely, so much so, I didn't even know I was fully innocent. I do know now, I am not guilty by reason of insanity, and I didn't commit a crime of burglary, but only a breaking and entering; I only committed a breaking and entering due to insanity/schizophrenia, which evidences confirm, establish, and prove, and in which is the entire and complete truth. I am innocent for at least two reasons. This matter and conflict of courts must be resolved, and in the cause of innocence, there can be no greater reason

to resolve. The only way that I was not denied due process and counsel was that I received competency tests, but those deceived me and all involved due to counsels incompetence, and were no defense concerning my testimony or innocence, were all counsel, the court, and the State ever discussed, and in fact, were a causation of the actual right things and procedures in my case to have not happened, which the record proves; or, in other words, allowed the complete denial of due process and counsel to occur regarding defenses, evidences, and my innocence's in general, and, without me knowing or understanding. The court record contains almost nothing, which confirms every single one of my constitutional claims to be only the truth that the violations did occur, which in turn, confirms everything I claim concerning timeliness issues and my inabilities and unknowingness, to be only the truth, with absolutely no ways possible to prove otherwise. Due process requires that I and my innocence's be heard in my defense at least once and the sixth amendment at least once, and effectively, for a first time. Unknowing to Petitioner at the time, my testimony to counsel was in fact explaining my multiple forms innocence in full, but I didn't understand that it was, or defenses pertaining to my testimony. Counsel, unknowing to me, ignored either intentionally or unintentionally by incompetence, my testimony for 20 ½ months and either did not defend it or did not know the proper way to defend it; my testimony never was heard by anyone in my actual defense or defended, which unknowing to me, was explaining my innocence in full. I could not assist counsel in any defenses at any time during trial court proceedings because he was not and had not ever been assisting me in any way, whether he knew it or not. I really feel there is no need to explain what is already explained in all filings of this appeal record. I believe a complete denial of due process and counsel is this courts business though, since by reading S.Ct. cases, this court seems to be a protector of due process; why the lower courts have acted so blind to such obvious denial doesn't make sense. When honesty is used in defense of one's innocence, anyone who argues against is simply made to appear foolish, and that is what the lower courts have done. If I were in another part of this country out of this circuit, my innocence claim would be actual innocence, not legal innocence, my claims of violation would have already been reviewed, and I would have been home by now with my aging dog, and it's not fair. Why are conflicts such as this not resolved before hand, before a person's years and life are wasted in a penitentiary? Petitioner assumes a case such as mine has not made it to Supreme Ct. yet, or such innocence claim; Petitioner assumes because such insanity or other innocence has not been proven by evidence as mine is. I am in prison, for a

crime I am not guilty of due to insanity, and, for a crime I did not commit, in which evidence confirms both; this should constitute actual innocence as the **7th Circuit** has decided. Without the insanity involved though, the only offense which occurred was merely a breaking and entering. I was advised of no defenses; therefore I could not assist in any defenses or insure I was receiving them, even though I was eventually found competent. Counsel truly was not assisting me, so I could not either assist him. By the time I was found competent it was too late, I had already been deceived. No one explained the separate elements of the offense to me at anytime, or the element of sanity; the record confirms. The evidences of my innocence either were not obtained or in any way injected into the case or inquired into; the record confirms. No defenses concerning the offense were pursued; the record confirms. All claims of violation addressed in this entire appeal record are confirmed either by evidence or the record and so are Petitioners allegations concerning timeliness issues. Is it right that I have proven by evidence that I was mentally insane at the time of the offense and to keep me in prison where there is no treatment and only punishment, or should I in the least be moved to a mental hospital? I originally should have been sent to a mental hospital but wasn't due to the violations that occurred causing my conviction or the finding of guilt. I cannot be kept confined in prison with people who meant to, purposefully, intentionally, and willfully committed their offenses. Once insanity under 18 U.S.C. § 17 is proven in a case by whatever means, one cannot remain confined in criminal prison; they must be acquitted and/or civilly committed under U.S.C.A. § 4243 (a) and other such similar statutes as are listed and involved in this appeal and Certiorari; this is why it is very important for insanity to constitute actual innocence; people who need inquiry and treatment for insanity or mental disease don't need punishment, they need help in the best interest and safety of both society and the insane. It isn't right to punish people for suffering insanity of any type and it isn't American; it is cruel and unusual believe me. It also isn't right to punish someone for a greater offense when they are only possibly guilty of a lesser offense. The insanity issue is a double standard though that cannot continue to be unresolved; Petitioner has proven beyond a reasonable doubt by evidence that insanity was suffered at the time of the offense. One way or the other, the insanity issue demands resolve, inquiry, treatment, and care. I cannot remain punished in prison when the evidence proves at most, I should have been sent to a mental health facility where treatment and inquiry is available, nor should I remain incarcerated when the evidence proves I am not guilty by reason of insanity and was denied such defense and inquiry

due to constitutional violation. At some point, my innocence, and the evidence of my insanity are going to have to become part of my case instead of unconstitutionally withheld, undefended, and ignored as always have been. It isn't right that I remain in prison when the evidence confirms I should have never been sent to a prison, but a hospital for the mentally ill, and to add to that, that I encountered a complete denial of due process and counsel regarding my multiple forms of innocence and the evidences thereof, which makes my conviction wrongful, unconstitutional, and hence illegal; it is just simply and utterly wrong and it is severe negative and negligent treatment; medical negligence. An innocent, insane person cannot be %100 taken advantage of, deceived, and violated by a State, court, and counsel both medically and constitutionally, put in a prison instead of a hospital, punished, and it be considered OK; it's not OK. I am not guilty in the eyes of society which evidence proves and I am in prison instead of a hospital, which is also wrong in the eyes of society and the constitution; my incarceration is unconstitutional for multiple reasons; not only am I innocent and wrongfully convicted, but I am unconstitutionally confined in a prison for the sane and guilty according to my testimony and the evidences of mental illness we have so far, which is the causation of the offense itself. I have provided the courts and the State evidences of my mental illness and/or insanity for years now; why haven't they put me in a hospital? The courts don't argue that I wasn't insane during the offense; they just say I am not actually innocent but argue I am legally innocent. All lower courts as well have completely ignored the aspect of my innocence concerning having no criminal intent to steal or to commit any felony; evidences confirm no such particular criminal intent was at play, yet the courts ignore it. Additionally, it should be noted and considered deeply that my innocence claim is lacking support due to the severity of violations involved in my case; no psychiatric examination and report was conducted by a psychiatrist concerning the insanity at the time of the offense and no witness testimony was acquired from the police or my family. I have received no assistance or psychiatric assistance at putting the evidences together and sifting through the hundreds of pages of medical records of mine to see which are beneficial to the truth and cause; incident reports have not been obtained that are probably relevant as well. The new evidences of my insanity do show that I originally should have been civilly committed; so what happens now? I am in prison, not a hospital. Issues and evidences of insanity must not ever be overlooked and ignored, and must be inquired into and defended for a first time; this is what my claims and case are all about; one must be given fair opportunity to defend themselves as well, instead of

unknowingly kept from doing so as I was, which my claims address and the records confirm. Even if I was just only "legally innocent", one form is by reason of insanity; why then am I kept in a regular prison and not a mental hospital; anyone not guilty by reason of insanity is suppose to be placed in a proper facility and civilly committed for the safety of all; why then is no inquiry happening? Do the courts think it is more important to first argue over what type of innocence insanity is, for mere habeas corpus rules and reasons, than to first offer and provide inquiry, treatment and care for the mentally diseased, for the safety and well being of society and the mentally ill person; this is a shame. Of course the fact still and always will remain, the insanity issue is only half of my innocence claim; I didn't commit a burglary, but only a breaking and entering; evidence confirms. The facts and defenses therein that may exist, that I was insane and delusional and really unable to form any type of particular criminal intent only supports the lack of any particular evidence of criminal intent that is already missing in my case; I didn't even intentionally or knowingly break and enter for Gods' sake. My delusional intent caused me to break and enter my family's neighbor's residence, which are also friends of mine, in search of my deceased grandfather whom I believed to be alive, as is always happening with me, not burglarize the residence. The evidences also confirm the mental disease-causing me to be on the verge of breaking and entering my other neighbors' house in search of my "girlfriend" on multiple other occasions; (new evidence as appendix-U). Evidences confirm no burglary was committed or going to be. I don't think the "Hinkles" know it was me that broke into their house, why, that I suffer schizophrenia, or that I was in delusional belief that the house was vacant. Whether legally or factually innocent I am unconstitutionally confined in prison since I have proven by evidence I am not guilty by reason of insanity, which constitutionally demands and entitles civil commitment, treatment, inquiry, and care. The issue though, isn't that I am insane now or unable to take care of myself now, because I am not presently insane, but it's that it's not right that I am in prison when I didn't mean for the offense to happen due to mental illness, and I am being punished the very way normal criminals are who intentionally, willfully, and knowingly committed their offenses; I am incarcerated with them, and it feels very wrong that I am in prison with guilty people, when I am not guilty for more reasons than one. No one cares about the mental disease which caused the incident to happen and it makes me feel unsafe. What if this happens to me again? The fact I am being punished for something I had no control of is just wrong, then I am being punished worse at 85% violent time for a crime I didn't commit the

elements of; all because of mental illness. I am doing time as if the insanity doesn't exist and never did. Why am I being punished like a normal person whom is guilty in a normal way when I am not guilty and didn't commit the particular crime of conviction? Why am I being punished at all? My confinement is cruel and unusual punishment in all respects for multiple reasons and is in violation of the eighth amendment of our constitution as any wrongful conviction should be, and it was caused by a complete denial of due process and counsel regarding my innocence and the evidences; I received what is functionally equivalent to having no counsel at all. I am being punished for having a mental illness and being kept from defending myself, as I always have been, by no fault of my own. The evidences are not being defended when it is the constitutional duties and responsibilities of all courts to defend and resolve such, when insanity is involved. I am being punished for a burglary when I only committed a breaking and entering. I am being punished due to constitutional violation, which was no fault of my own. I received no defenses concerning the offense, no inquiry happened with the evidences of my innocence, nor was it all obtained, and I was not advised as to any defenses at any time; my innocence's/testimony were ignored, causing me to feel guilty, and I never was able to appropriately and with assistance, defend myself. I am being punished as one who intentionally, knowingly, and willfully committed their offense and committed it in full; I am being punished as a normal person who didn't suffer insanity during an offense and who is actually fully guilty. When someone has proven they are not guilty by reason of insanity [and] for other reasons, the issues cannot just be ignored, especially is a situation as mine, where the issues and evidences always have been ignored due to violation; I believe society agrees. My Parents, as well as all other Americans, are spending tax dollars to keep me incarcerated and punished in prison, when I did not commit the crime of my conviction, nor am I guilty of any crime due to insanity; evidences confirm; not only am I completely innocent, but my insanity/mental disease have been and continue to be ignored and un-defended and I have received no treatment or care concerning the insanity and the incident. The supporting evidences that I am still being unconstitutionally deprived of would further support the matters. My evidences are sufficient to raise all such defenses I was deprived of by violation, and I wish to be given opportunity for a first time to raise such defenses, instead of being kept from doing so. You can't punish the mentally ill for suffering insanity; you can't blame the insane for being insane, and insanity must be defended and inquired into once evidence of it is discovered and injected into the case for a first time. Not everyone understands

defenses, and without assistance they are helpless, just as I was and still am. One shouldn't have to feel guilty for mental disease that is not their fault, nor should they be punished for it. Ones innocence and insanity must be defended for a first time. Let the not guilty by reason of insanity defend themselves against violation and be treated as they need to be, with psychiatric care and treatment, and let us go home when we are ready; by the decision of a Psychiatrist or PhD., not a judge. When one proves insanity with evidence then one shouldn't have to prove constitutional violation before they receive relief or psychiatric treatment on §2254; it wouldn't be wise for many reasons. I think that once the insanity is proven, any court should have the authority to make an instant judgment of the matter; why allow one who suffered insanity on an insanity case be hindered from treatment by the delay of proving the violation involved, without beginning the treatment he is due, whether the violation occurred or not; it would be further medical negligence than that in which has already occurred. It is also medical negligence for the courts to not honor the innocence of insanity on habeas in the first place. Insanity can't be ignored no matter what "type of innocence" it is, for any reasons, whether it is actual, legal, or freestanding; the medical aspect is more important than conflicts over the type of innocence. Society/the law wants the insanity of the mentally diseased to be inquired into by medical experts and wants treatment, care, and rehabilitation for the insanity and the incidents therein involved, for the safety and well being of all. Provided in this case are evidences of the insanity proving such matter well beyond any reasonable doubt.

*Lynch v. Overholser Supreme Court, 369 U.S. 705, 82 S.Ct. 1063, 8 L.Ed.2d 211, 20 0.0.2d 383 at*716* The committee noted that while under the then existing discretionary commitment statute it had been customary for the court and the appropriate executive official to order the confinement of all those who had been found not guilty solely by reason of insanity, more assurance should be given the public that those so acquitted would not be allowed to be at large until their recovery from past mental illness had been definitely established.

*Lynch v. Overholser, At*716* Nevertheless, the committee is of the opinion that the public is entitled to know that, in every case where a person has committed a crime as a result of mental disease or defect, such person shall be given a period of hospitalization and treatment to guard against imminent recurrence of some criminal act by that person.

*Lynch v. Overholser, At*713* Consequently, the trial judge or jury must reach a verdict of not guilty by reason of insanity even if the evidence as to mental responsibility at the time of the offense was committed raises no more than a reasonable doubt of sanity.

Lynch v. Overholser, At*713 In the District of Colombia, as in all federal courts, an accused is entitled to an acquittal of the specific crime charged if, upon all the evidence, there is reasonable doubt whether he was capable in law of committing crime.

Lynch v. Overholser, At*717 The committee believes that a mandatory commitment statute would add much to the public's peace of mind, and to the public safety, without impairing the rights of the accused. Where accused has pleaded insanity as a defense to a crime, and the jury has found that the defendant was, in fact, insane at the time the crime was committed, it is just and reasonable in the committee's opinion the insanity, once established, should be presumed to continue and that the accused should automatically be confined for treatment until it can be shown that he has recovered.

Lynch v. Overholser, At*730 This is not to say, however, that the sole purpose of s24-301(d) is commitment as a protection to the public. The policy of the law also includes assurance of rehabilitation for those so committed.

Lynch v. Overholser, At*730 There can be no question that the interest of a free society is better served by commitment to hospitals than by imprisonment of the criminally incompetent.

Lynch v. Overholser 288 F.2d 388, 109 U.S. App.D.C.404. At*396 An important factor to be remembered in interpreting the valid scope of section 301(d), is that an acquittal by reason of insanity, which leads to commitment under section 301(d), is not an adjudication of insanity. It is well settled that such acquittal means only that sanity has not been established beyond a reasonable doubt. Davis v. U.S., 160 U.S. 469, 16 S.Ct. 353, 40 L.Ed.499.

Lynch v. Overholser, At*393 [4] In Holloway v. U.S. 148 F.2d 665, 666 this court said: "Our collective conscience does not allow punishment where it cannot impose blame."

Lynch v. Overholser, At*393 [4] "That one who commits a wrong by reason of insanity must be acquitted is so well settled that no one questions it***Only the guilty are to be punished.

Lynch v. Overholser, At*393 [5] Society has a stake in seeing to it that a defendant who needs hospital care does not go to prison.

Lynch v. Overholser, At*393[4] In Williams v. U.S., 1957, 102 U.S. App.D.C. 51, 57-58, 250 F.2d 19, 25-26. We clearly stated that imprisonment was wrong in the case of a mentally ill person, as well as a remedy which could not possibly secure the community against repetition of the offense. Under our criminal jurisprudence, mentally responsible law breakers are sent to prison; those who are not mentally responsible are sent to hospitals***. The communities security may be better protected by hospitalization*** than by imprisonment.

Lynch v. Overholser, At*393[5] Once it is established that the defendant did in fact commit the act charged but that he was insane at the time, then the problem is one of rehabilitation.

Clark v. Arizona, Supreme Court, 548 U.S. 735, 126 S.Ct. 2709, 165 L.Ed.2d 842 at*798 Future dangerousness is not, as the court appears to conclude, a rational basis for convicting mentally ill individuals for crime they did not commit. Civil commitment proceedings can ensure

that individuals who present a danger to themselves or others receive proper treatment without unfairly treating them as criminals.

Commitment and inquiry should begin at anytime insanity is brought into the light and to any court that decides the insanity more likely than not existed and caused such offense, just as it is suppose to immediately begins in trial court proceedings; then they should be retried, acquitted, or indeterminately committed; it's fair and safe for society and the innocent. The insanity that caused the offense, must be inquired into by a mental health psychiatrist and acted upon, not the present competency/sanity of petitioner by a psychologist, which has nothing to do with insanity at the time of an offense unless the competency evaluation is some type of dual purpose evaluation, which mine was not (appendix-Y); this is in the best interest, well being and health, and safety of the mentally diseased and society. (**Appendix-Z-2 medical record of injury caused to petitioner while incarcerated due to insanity/schizophrenia.**) A medical Dr. inquiring into the insanity that caused the incident is the only safe and intelligent thing to do and that requires inpatient treatment and observation at a medical facility. Honoring insanity as actual innocence is only humane; I don't think anyone is willing to argue against this fact because it would cause them to appear foolish, just as the lower courts whom do not agree that insanity or other types of real innocence constitute actual innocence have done to themselves. The mental disease must first be respected, not the innocence; the people who have mental disease do not choose to have the mental illness, nor do they choose what it causes them to do; the disease controls them. This should be the business of medical experts and psychiatrist first, not the business of being kept in prison, punished, and unable to defend the mental disease and receive care for it. It should be a medical issue before it is one for a court to decide. The affirmative defense of insanity should be an exception to a mere time-bar; the issues are beyond the scope of, and more important than, the petty timeliness rules of §2254 petitions, which take more time to resolve than would for a court to just resolve and determine the violations within a Petition. Petitioner believes ADEPA is unconstitutional because timeliness issues are not always more important than the violations involved. Allow the insane and mentally disabled to be correctly defended, allow them to defend themselves, and allow them to be treated appropriately under the constitution; allow the innocent who did not commit the actual offense they are convicted of defend themselves and allow the new evidence of the innocence an opportunity to be defended; let innocence and evidences defend themselves. Wouldn't **18 U.S.C.A. § 17** have to be honored

as actual innocence for the safety of society? A court knowing someone has established that they are not guilty by reason of insanity and a court not inquiring into the matters isn't in the best interest or safety of society or the mentally disabled, according to the law.

Davis v. U.S., 160 U.S. 469, 16 S. Ct. 353, 40 L.Ed.499. at *490 If insanity is relied on, and evidence given tending to establish that unfortunate condition of the mind, and a reasonable, well founded doubt is thereby raised of the sanity of the accused, every principle of justice and humanity demands that the accused shall have the benefit of the doubt.

By the violations addressed in the appeal record, my insanity that caused the offense has never been inquired into. According to the law, this lack of inquiry, treatment, and care is dangerous for Petitioner and society, and isn't in the best interest of justice or anyone. Isn't it important that insanity constitute actual innocence for the sake of treatment for the mental disease, and so the mentally disabled are not punished instead of treated; society doesn't want reoccurring incidents to happen and neither do the mentally ill. The mental disease/insanity should be the subject in control once it is proven to have been suffered during an incident; not the constitutional violation first, but the psychiatric medical condition in need of inquiry and care, and one way or the other, the not guilty by reason of insanity do not belong with the guilty and perfectly sane. If all the trouble of the necessary medical inquiry that is needed has got to happen, why not just honor the innocence, let the violation be reviewed, and let the innocence be defended; the same violations are causing and have caused both medical negligence and this wrongful conviction. You can't punish the insane and ignore their innocence, they must be helped for medical reasons and that help must not be hindered for the sake of keeping him in prison and punishing him and taking the time to determine the violations that caused the inhumane and unjust punishments to be inflicted in the first place. If the inquiry or commitment has to happen, then why not inquiry into the violation that caused its denial. Insanity is a medical innocence and issue. A psychiatric examination and report concerning the offense Petitioner does not have to support his innocence because of violation, nor does he have witness testimony. Insanity is to be decided by a psychiatrist first and foremost and is a medical matter first, not a legal matter that only pertains to the law and its technicalities. The medical aspect should trump and legal aspect or issue/conflict. By not honoring insanity as actual innocence, it is keeping the mentally disabled punished, with no mental health treatment or any way to defend or help themselves, when they should have already have received treatment and help; the not guilty by insanity deserve an

appropriate environment and prison isn't it. Insanity is a form of innocence that deserves civil commitment and mental health treatment and assistance from a psychiatrist who understands the condition, diagnosis, and prognosis, and an innocence that is to be left to the responsibility of a Dr. and mental health hospital. Insanity must be considered more than legal innocence for the sake of the mental disease, which is for the sake of all. Petitioner didn't commit a burglary and could not control the breaking and entering which occurred, due to schizophrenia. What wisdom is there in keeping an innocent person not guilty by reason of insanity and innocent of committing the actual crime of conviction, in prison, unable to protect himself against the violation which caused the conviction, so he can defend his innocence for a first time and get the assistance and treatment he is due for a first time; due process and innocence must be respected, and mental disease is never to be ignored as it has been in this case; **shame on this system.** Petitioners innocence's, insanity, evidences, and testimony were not allowed to become part of the case by no fault of his own, due to all violations addressed in the record; the time of the offense was never made part of the case by no fault of Petitioner, which is what the record proves, and so the cause of the offense was never defended. Petitioner did the only job he knew how to do, which was telling the truth to all that would listen. Petitioner did what he was suppose to do and told testimony to his counsel and apparently the competency psychologist according to the record, but they both ignored me as if I was making it all up. Petitioner was told by counsel to not tell the judge his testimony at the plea hearing or they would take the deal away, which only insured that the judge never heard my account. Its one violation after another which caused this conviction and timeliness issues of the §2254 petition. Evidence and records confirm Petitioners innocence, and the claims of violation prove why and how he was convicted, by no fault of his own. Convictions like this are wrong and innocence deserves honor; what is there not to understand here? Innocence deserves to be defended and the innocent ability to defend themselves. Mentally disabled Americans deserve to be defended, especially when they were never defended by no fault of their own. To not give someone and their innocence a chance to be defended or to defend against violation, especially when it is clear that they never were defended by no fault of their own, and they are not only not guilty of the particular offense charged, but also not guilty of any crime by reason of insanity, and are mentally disabled, it is extremely cruel and unusual in the worst sense to deny the innocence's; to add to that, they are being and have been medically neglected, causing mental anguishes and disturbances, and putting everyone else

in danger as well. It is not my fault I'm not guilty by reason of insanity and it's not my fault I only committed a breaking and entering. It is not my fault I couldn't defend myself, and it's not my fault I was not defended; its counsels, the courts, and State's constitutional duties to make innocence and insanity part of a case when there is reason to do so and when they have evidence's in their possessions which defends itself and raises the issues themselves, and to inquire appropriately into the matter; they have all failed and severely violated our constitution. You can't punish the (insane) or the (innocent who don't commit the particular crime of conviction), that is cruel and unusual and it's like throwing rocks at someone for being mentally disabled instead of helping them. You shouldn't keep them from being defended and you must step in and defend them and allow them to defend themselves. You must take responsibility; it's the right thing to do. This is what my case is about, why my §2254 petition should be timely, and why my innocence's demand honor in this situation; it is morally correct in all respects. Actual innocence should apply to all that actually don't commit the offense with which they are convicted and also to those whom are not guilty by reason of insanity; due process demands honor, not disrespect. Elements matter when innocence is involved and sanity is a necessary element just as any other.

Clark v. Arizona, Supreme Court, 548 U.S. 735, 126 S.Ct. 2709, 165 L.Ed.2d 842 at*738, states, "The presumption of innocence is that a defendant is innocent unless and until the government proves beyond a reasonable doubt each element of the offense charged, including the mental element or mens rea.

Society and this Court, must protect the mentally disabled and insane from punishment, and must not punish those for being insane; no one chooses to be mentally disabled or to suffer insanity; it's not their choice so why punish them for it? Prison and punishment only cause the mind of the mental diseased to become worse for many reasons and does not protect either those who suffer insanity or society; not honoring this type of innocence or acting on the matter is further punishment and medical neglect stemming from that which originated due to violation. Due process must be honored, so innocence must be honored. If the law establishes and constitutes one not guilty of an offense, then those forms of innocence must be honored as actual innocence and this Court should follow the rules of due process concerning these issues. Isn't the constitution to protect the innocent first and foremost and to protect the disabled and take responsibility for them? I cannot go through life having been convicted of something I did not do

and also am not guilty of due to insanity, have that crime on my record, and know I am not guilty of committing it, and was denied all opportunity to defend myself, be defended, or have the innocence's excepted; what if my 5 year 85% probation gets revoked on this case I am not guilty of; more prison, more medical neglect. I don't think any society agrees with a government or State taking advantage of and violating an innocent mentally disabled person and not allowing him to ever be defended or defend himself for a first time because his innocence isn't the right kind or good enough. One is guilty of a crime or not guilty, innocence is always good enough. The elements can be established, or they cannot. A certain crime was committed, or was not. Society/Courts must review the violation involved when a mentally disabled person is not guilty by reason of insanity for multiple reasons, for the sake of what is morally right. Mentally disabled people are worthless at defending themselves and are easily taken advantage/deceived without constitutionally correct assistances and procedures. By not honoring the defenses of insanity as actual innocence, it just further insures that the mentally insane are in fact taken advantage of, undefended, ignored, and untreated; defending the mentally ill and allowing them to defend themselves "for a first time" is very important for many reasons. Granting the insanity defense as actual innocence instead of legal innocence is in fact "defending" the mentally diseased, and, allowing them to defend themselves; its only right; additionally, the insanity brought to light signifies a possible threat to society that is in need of immediate inquiry and care. Those that are not guilty by reason of insanity and have proven it, deserve their right to be where the not guilty by reason of insanity belong, which is either set free if well or at a mental hospital, not in a State prison for the guilty, punished with the guilty, and living in decrepit conditions amongst those who are of a criminal element. And, when one didn't factually commit a burglary, but only a breaking and entering, which evidence proves, they should be actually innocent, because they didn't commit the crime and are not guilty/innocent. I am not, legally not guilty; I actually am not guilty, for two reasons, which evidences factually prove.. Actual evidences establish my innocence and lack of guilt; particular criminal intent and sanity don't exist. My innocence has always been ignored and undefended; when will Petitioners innocence be defended for a first time and when will it matter? Society cannot punish the mentally disabled or insane for being disabled and insane, and society cannot keep both the innocent and the insane from being defended and defending themselves, it just isn't right, and is the case here. Petitioner was not defended, could not defend himself, and was kept from doing so due to violations. Now,

that Petitioner understands his innocence's, has discovered evidences of the innocence's and understands the defenses and is defending himself, he is again being kept from doing so on appeal; there is nothing right about this. Society must allow those that didn't commit the offense of conviction and the mentally disabled to be defended for a first time and their innocence to be defended for a first time; innocence must be honored and the insane must be treated and protected, not punished. People whom are innocent "and" not guilty must be afforded their right to defend themselves and the not guilty by reason of insanity must be afforded their right and opportunity to be civilly committed and treated; rehabilitation. We cannot have people put in prison due to violation whom are criminally not guilty or innocent, and give them no opportunity to defend themselves. A State cannot be allowed to deprive a person completely of due process and effective counsel, completely fail to defend them, and completely cause them to be unable to defend themselves and unable to even understand their innocence's, and get away with it; not when they had the evidence of the innocence and insanity in their possessions. You cannot blame the insane for being violated concerning their insanity; they are in the hands of a court, counsel, and State, whom they have to trust to do the right things, which is inject the issues and evidences into the case, inquire into the correct issues, have conducted specific types of procedure and examinations, interpose the defenses if need be, and advise and inform the person of such defenses and of the evidences. My **civil** rights were completely violated, so I was not **civilly committed**, for any reason, because I was not defended in any way, and my insanity and innocence's were completely ignored; only competency was determined, inappropriately (appendix-Y). Those that cannot protect themselves must be protected. If the rules of society, due process, and the law instruct that a person is not to be put in prison due to insanity and other forms of innocence, then those forms of innocence must be honored as exceptions for §2254. One is either guilty or not guilty, there is no in between or not good enough. Evidences either show guilt or no guilt. **18 U.S.C.A. § 17** must be honored, as sanity is a most vital element of any criminal activity and is a medical issue as well, which can be dangerous for many reasons, even if the insane person is not violent; for instance, I could have been shot to death by the owners of the house for the breaking and entering that occurred during my incident, all because of the mental disease and what it caused me to do.

Davis v. U.S., 160 U.S. 469, 16 S. Ct. 353, 40 L.Ed.499. at *490, Sanity is an ingredient in crime as essential as the overt act, and, if sanity is wanting, there can be no crime; and, if the jury

entertain reasonable doubt on the question of insanity, the prisoner is entitled to the benefit of the doubt.

Davis v. U.S. at*489, For, if he was without reason and understanding at the time, the act was not his, and he is no more responsible for it than he would be for the act of another man.

The law must also be honored, and if one is not guilty in any way of the actual crime, they are actually innocent of committing it. If each element of a crime is not proven to have occurred during an offense, then the offense is proven to have not been committed. Not guilty means innocent; only the guilty are to be punished. There should be no legal complications to interrupt what is morally correct. Either all elements of a crime are proven or not, including sanity, and if the elements cannot be proven beyond a reasonable doubt, or are disproven, then a person is not guilty and is innocent. Not honoring the innocent is a violation of due process, the law, and everything America stands for. Due process dictates the rules of innocence, which should also dictate what actual innocence means. One cannot be considered guilty when the law, society, due process, constitution and statutes, say they are not; this isn't "legal innocence". One should not be confined in prison for being not guilty, nor should one who suffers insanity and is not guilty by reason of insanity. The elements of innocence/crime need to be respected and so do the mentally disabled/insane, who have no control of what the insanity causes them to do and have no control or choice but to suffer mental illness. Any guilt of the insane is not in the slightest the same as the guilt of the sane. The insane are incapable of having any self-willed deliberate intent of any kind, good or bad; they are delusional/psychotic, and do things without knowing they are doing it. They believe things they are incapable of believing intentionally or when they are sane, and hear voices as if they are real. The mentally insane need help, treatment, and protection, not torture, further mental anguish, disturbance, and torment, and punishment/imprisonment.; I believe society and the law agree already. When evidence factually confirms innocence or lack of guilt, its factual innocence; it's a factual matter, not legal. If one is not guilty or innocent of committing a particular crime or any crime, how is it right to keep them in prison and ignore such matters, when the lack of guilt and innocence has been proven and brought into the light? When is it ever right to not allow someone to defend their innocence after violation has kept them from doing so? If one did not factually do something or is proven by facts to be not guilty, they are factually innocent. It's all about the elements of a crime, including sanity. Actual innocence must rest on the facts of the actual crime itself and its elements. When one has proven

they are not guilty by reason of insanity, they have proven that they are to be inquired into and to be civilly committed and eventuated to freedom for everyone's safety and well being. Whether the not guilty by reason of insanity are given the exception/opportunity to have their constitutional violations reviewed or not, the not guilty by reason of insanity who have proven so, do not belong in a prison, punished, and amongst the guilty, with no inquiry into their offense or appropriate treatment or surroundings; it's not only cruel and unusual to treat someone who is not guilty just as the guilty are, but to do this with people not guilty by reason of insanity, it is dangerous for everybody and it is inhumane; protect the disabled and in so doing, you protect yourself. Insanity cannot be ignored for any reason, complication, or technicality and conflict of the courts; this is a medical issue first and foremost, not a legal issue for the courts to argue about. Just as one may be innocent of the death penalty, so can one also be innocent of a "prison sentence", punishment, and torture; the insane must be civilly committed once the insanity is shown to the Courts, deemed innocent of the "prison sentence". You cannot punish someone for suffering insanity or for what the insanity causes to occur; the **law and society** say "**NO**". Not honoring insanity as actual innocence is indeed a further punishment and disregard of those the law says should not be punished, but only helped, treated, and rehabilitated; not honoring insanity as an exception is further medical negligence as well, as it is inhumane, and unreasonably and grossly hinders one from receiving the treatment and care they are due. Mental disease is a medical issue, not a criminal issue giving cause for punishment. It's not a crime to suffer insanity, but it is for courts to ignore it, as all courts are doing, without having any professional psychiatric inquiry conducted, and allowing it to go undefended, untreated, and un-inquired into when it has been proven to have been suffered at the time of the offense and evidences have been provided and injected into the case for the first time. Mentally disabled Americans who suffer insanity are to receive protection and treatment when incidents occur involving the insanity, and in being providing such, society is protected as well. Putting a person in prison not guilty by reason of insanity does not protect the person not guilty or society, but puts them both in potential danger; the incident is not inquired into or the insanity of the insane that caused such similar incidents multiple times; the mental disease is made to be worse by being in prison. Allowing a person not guilty by reason of insanity to remain in prison is inhumane, cruel and unusual, and pointless, and does not help anyone in any kind of way; especially when their conviction was the product of a multitude of violations or mockery of

justice. Allowing any innocent person to remain in prison is just the same. When will my testimony, innocence, insanity, and the evidences thereof, be defended, injected into the case, and inquired into for once? When will the confirmed facts and truths of my innocence and timely §2254 stop being ignored? When will I be able to defend myself in this case instead of being kept from doing so? When will the claims of violation be reviewed so it can be seen what exactly is going on here? Insanity and innocence must not ever be completely ignored, un-inquired into, and undefended, in the best interest and safety of justice, society, and those who suffer insanity, and also those who are in prison for a crime they didn't commit. Petitioners innocence claim is not typical by any means; the innocence was never defended and Petitioner was forced to be unable to both defend himself and understand his innocence's. This case demands inquiry and resolve. The mentally disabled who suffer insanity cannot be allowed to be taken advantage of, violated, wrongfully convicted, put in a prison with the fully guilty, and treated and punished as such, and then not be given any opportunity to defend their innocence and protect themselves once they become able; this is medical neglect, cruel and unusual, and inhumane treatment of mentally disabled people for certain courts to not honor insanity as factual innocence. It is cruel and unusual to keep confined any person for a crime they did not commit as well. Does a mentally disabled American really need a crime on their record that they are not guilty of? Should anyone not guilty of the crime of conviction remain confined in prison by fault of violation? What reasons can there be to keep someone not guilty by reason of insanity in a prison full of guilty criminals; what psychiatrist would recommend that this would be a good idea in the best interest and safety of all? What is there to not understand that the not guilty by reason of insanity are not guilty at all and are by no means the same as the guilty that intentionally, knowingly, intelligently, and willingly commit a crime? The insane have no will, and their intent comes from psychotic delusion and belief that the person has no control of, which are formed and caused be the mental disease itself, causing a person's mind to malfunction and to start creating things on its own; the insane get lost in their own delusional manufactured imaginations and once that happens completely, they have no control of what they are thinking and believing because the mind is lost and thinking and believing on its own. The person then becomes beside themselves and cannot in any way control their actions, thoughts, beliefs, or emotions, loses completely the power of their will, and just does what the insanity makes them do, and goes where the insanity makes them go; if they are talking to and hearing voices they are carried away

in, it is whatever that causes them to do. When a person is insane, they don't realize it and it is not possible that they can; to the insane there is no reality, so they don't realize what they are doing or understand they are doing it, and if they do or can, all they can do is partially watch themselves do it from the inside of their mind or conscience, all while having no say in the matter; it's not fun you see, it's a nightmare. Someone can say no to themselves concerning a situation, yet their insanity causes their body and other portions of their mind to say "yes". Insanity is not a joke, so let's quit treating it as such. **18 U.S.C.A. §4247 (G)** states "*Nothing in section 4243, 4246, or 4248 precludes a person who is committed under either of such sections from establishing by writ of habeas corpus the illegality of his detention*"; if one can use habeas to prove his sanity, so that he may be released from a mental health facility, why then cannot one use habeas to prove his insanity, so that he may be given opportunity to be provided the treatment and care he is due, but always has been denied, and so that he may be placed in a suitable facility (**§4247 (2), § 4243.(a)**) for those who could not control what their mental illness caused them to do or causes them to do? This is a medical issue before a legal issue. If one cannot use habeas on the matter, what method is he to use; a court is a court and the method is irrelevant. The facts and evidences have been brought, that is what matters. If a court will not take responsibility then who will? It is unconstitutional for a court to ignore insanity for medical reasons and the safety of society and it is wrong to not honor the innocence thereof because the innocence is real, based on evidence, and it is wrong to punish a mentally ill person who didn't have any control, intent, or will, when they committed an offense; they are blameless. "Then", to punish someone not guilty by reason of insanity for an offense they are not guilty of committing is far worse; it is sick. When is this medically negligent and unconstitutional conviction going to end; in what manner? When will both the innocence's, defenses, and the insanity stop being ignored and start being inquired into, treated, and defended for a first time? This whole mess is due to the complete denial of due process and counsel addressed in the appeal record, which is wholly supported by the record. Punishing the insane instead of providing them treatment is inhumane, which is cruel and unusual in violation of the **eighth amendment**; also, all courts who deny relief and/or offer no inquiry or treatment after the insanity evidence has been provided to them, are in violation of the eighth amendment as well, and reason number one would be the medical negligence involved. Not giving any opportunity for the insane to be defended for a first time, to defend their innocence for a first time, to defend their mental illness,

and defend against violation, is also inhumane, all while providing or offering no treatment or care. This also insures that one not guilty by reason of insanity remain unconstitutionally confined in a prison for the guilty, to receive punishment as someone who is guilty, and deal with everyday nasty prison life. It is also cruel and unusual to not give someone opportunity who did not commit the crime of their conviction, but only a lesser offense. One not guilty of an offense is actually innocent of committing it, and, one who is insane cannot "commit" any crime at all, just as a child under a certain age cannot commit any crime, they are blameless; most courts and circuits agree. Who wants to live in a country where you can go to prison, be taken away from your life and loved ones, and punished, for a crime you didn't commit, or for being mentally ill, and have no way to get out by establishing the violation which wrongfully caused the conviction/torture to occur. Who wants to be convicted by "criminals", or, those who don't obey our constitution? Society demands that innocence be protected and that I be protected. This case will never end until the right things happen. I will spend my life insuring such if this court refuses to assist. The courts are ignoring the issues of my innocence and insanity when they are aware that it has always been ignored due to violation, which should cause the courts to be further violating the constitution; the courts act like they can't recognize a complete mockery of justice or denial of due process and counsel regarding my innocence's and the evidences thereof, why? A blind person can see such. There is not one single aspect of my proceedings that are constitutionally correct. There is also not one single aspect of the P.C.R. proceedings that is correct, including timeliness issues. When someone is deprived of due process and counsel %100, there is going to be timeliness issues, and those circumstances in the least demand one exception or another, but really are not needed if the case and facts would be examined correctly. My §2254 petition is timely under 2244 (D)(1)(d) by the new evidence aspect alone, not to mention all other prejudices involved and the deceptions caused by the multitude of violations, which also cause timeliness under 2244 (D)(1)(d); the facts and truth are pathetically ignored or overlooked "somehow" although the record confirms the truth. The insanity cannot continue to be ignored, the multiple forms of innocence shouldn't be ignored, and the countless multitude of violations involved which caused the timing of Petitioners §2254 petition cannot be ignored. A complete denial of due process and counsel regarding ones innocence's, insanity, and the evidences thereof, cannot be ignored under any circumstances and it is not a matter of opinion; this is a medical issue first and foremost and an innocence issue, involving the safety and well

being of both Petitioner and society; to ignore this and take no responsibility is playing with fire. Some courts call this insanity actual innocence situation or conflict an abstract question, but it is not abstract in the slightest; in my case it is the humanitarian matter of what is right and wrong; humane or not humane; a danger to society and the insane or no danger at all; guilty or not guilty; inquiry needed or no inquiry at all; ignore the insanity or be responsible about it. If one is not guilty they are innocent; what is abstract about that? If one has proven by factual evidence that insanity was at fault of an incident, do they deserve treatment for the mental disease or punishment? What is abstract here, although I understand what the judge is implying when he says abstract; this is a really simple matter that certain courts are making really complicated for no reason but negligent and lazy reasons. How dare innocence not be honored in my country and how dare the insane be punished for their insanity with no treatment or relief available, especially when they harmed nothing, no one, or intended to; shame on the courts. Even third world countries know better than to act like some courts do in this country; shame. Petitioner assumes this case is a first of its kind, but gee whiz, are we still in the dark ages, really? The medical aspect of insanity/mental disease must trump any other aspects involved, including guilt or innocence matters or conflicts of any kind amongst Circuit courts, at any time the issues of fact are injected into the case or appeal for the first time. The wrongful conviction is one mishap, but the denial of treatment and care is the other side of it, caused by the same violations involved in the case. If mental disease was the cause, the mental disease must be treated responsibly and appropriately for the greater good and safety of all; further delay and continued punishment and confinement are not a cure, but are counter-effective, and do not insure the safety of all. In fact, when you punish a person for what his insanity caused him to do, then he realizes he is innocent later, his mind is infected with many thoughts he shouldn't be having; thought of anger, anguish, despair; thoughts any wrongfully convicted person runs through their mind, but worse. What do I do? What if upon release I don't comply with my medications as I have learned to do on my own since incarcerated, and the insanity causes something bad to happen again; the anger along with the lack of treatment and the insanity; the memories I will have of how all the courts have done me wrong and treated me with inhumanity; the violations involved that caused my wrongful conviction in the first place on the part of counsel, the State, and the court, yet nothing was done about it, and I was not allowed to defend myself and kept from doing so. Yes, I am angry, to say the least. Luckily, I am able to fight here for what is right, for me, and all innocent people; real

lucky. If I hadn't stumbled upon the Seventh Circuit case of Britz v. Cowan 192 F.3d 1101 in a self-help book, I may not be here fighting right now. If any action is to take place, full action should take place concerning the violations involved; the violations not only caused the wrongful conviction, but put everyone's safety in jeopardy in doing so, innocent people and guilty inmates alike, all while insuring that one who needs and needed medical treatment and care, did not receive such and is kept from receiving such. Insanity is just as much a medical neglect issue as it is an actual innocence issue, but please let's remember, no burglary was committed, but only a breaking and entering; insanity is only one half of my innocence claim. If the violations would demand review concerning the medical negligent aspects, then the innocence aspects of insanity it seems should demand honor as well. If one doesn't belong in prison and never did, but instead a hospital, they are innocent of a prison sentence and punishments. Why send someone that is, "more likely than not", not guilty by reason of insanity, to a hospital for the mentally ill for inquiry, as could happen here, then, send them back to prison because insanity doesn't fall under the actual innocence exception? It would be imperative here that psychiatric inquiry be made in the cause and issue of possible re-occurrence of the same offense, in the least, and to insure the mentally disabled person (me) is in compliance with daily use of his medications upon release, and that he be provided whatever treatment deemed necessary and have access to a psychiatrist, not a psychologist; what possible rebut is there concerning these facts? There isn't any. The evidences provided do show re-occurring incidents of the same kind, involving trespassing, breaking and entering, or attempted breaking and entering, while Petitioner believes loved ones are inside houses and places they are not; if further explanation and detail of the evidences could be had and given, these facts could become more evident and more firmly established. If given the chance, Petitioner can prove this clearer, and more evidences could be obtained establishing the facts. Why are the insanity, the offense, and my innocence, not being inquired into for a first time; because the constitution is being violated, that why. If by chance I were to commit another similar offense after release, it is going to be the partial fault of this court and all lower courts you see. Petitioner and his family cannot financially afford his antipsychotic medications or outpatient psychiatric care, and never has been able in the past. Petitioner, his innocence's, and the evidences thereof, never had any opportunity to be defended or defend themselves/be injected-disclosed, due to a complete and deceiving denial of due process and counsel. The evidences were not injected into the case, obtained, provided to me, brought to my competent

attention or understanding, or treated with the appropriate procedures/examinations and reports. The definition of insanity, its defense, and the elements of the offense were never explained or advised to Petitioner; record confirms. The only issue that was resolved and injected by the court, State, and counsel, was competency issues to assist counsel and stand trial, not insanity at the time of the offense or the evidence issues, even though they all had the evidence of my insanity being suffered at the time of the offense and other knowledge which should have caused them to inject the issue and bring the defense to my attention and competent understanding, but they didn't. Petitioner was having competency issues all throughout the proceedings and was also confused and unknowing due to the violations involved; no one ever explained that the competency tests had nothing to do with my testimony or offense; record confirms. Petitioner did give the competency psychologist his testimony of the offense according to the record, but again it was ignored as the competency psychologist neglectfully thought I was lying about everything and that he wasn't sure if I even had a mental illness; he didn't review the evidence of the offense I assume, and unskillfully did not review the medical records counsel had-provided him from the MWC regional hospital. I needed a psychiatrist concerning the offense and one who understood my mental disease, not a "States side" competency "psychologist" concerning mere competency issues. In a sense, insanity should be honored even as a freestanding claim, so treatment and commitment can begin, and let a Dr. determine from the evidence and my testimony what it means if need be. Why should the treatment, inquiry, and commitment be delayed further than it already has been, to wait on the constitutional claims to be determined, that is further medical negligence? I should have already received treatment and been coached and trained mentally on what I need to do and look for in the future, for the safety of all, which is comply with my medication and be monitored by a psychiatrist often, not be punished. I shouldn't have had to train myself, my body, and my mind, into taking my medications, while going thru this appeal and all I have in a penal institutions. A criminal sentence can in no wise be considered "just treatment" in my case and a criminal sentence to a crime I didn't even commit is just simply unjust. In the least, wouldn't it be right to honor insanity as actual innocence, so that the insanity may be proved in court, and the person civilly committed where he belongs for everyone's safety and well being? Isn't it wrong enough that I didn't receive treatment and inquiry when I most needed it the most, but was punished in a jail cell for 201/2 months instead; now in prison? Stop this inhumanity. This country and Supreme Ct. does not allow punishment

when blame cannot be imposed. The disabled, who need help, don't deserve punishment instead. You cannot blame the insane for what their insanity makes them do; you cannot punish them, and you cannot keep them confined in prison with no form of relief or treatment and inquiry available, when they have proven with evidence they are not guilty due to mental disease. You cannot blame someone for something they didn't "actually do" either; you cannot punish them for a crime they didn't commit, and you can't keep them in prison with no relief available, when the evidence proves they are not guilty of the crime of their conviction; we the people must be protected from wrongful conviction. Innocence deserves Due Process and so do the mentally disabled; what is happening to me? Insanity must be respected as actual innocence as the not guilty by reason of insanity are innocent of criminal incarceration and punishment. You don't punish the disabled for being helplessly disabled, you help them. Insanity is a complete loss of will and self control of both the mind and body, it's not fair, and it's not our fault for suffering it. We mentally diseased are or have been suffering from mental disease already, why are we being further punished and made to suffer to greatest extents because of what we are already suffering or have suffered our whole life, with no treatment offered, no inquiry, and no way to defend against unconstitutionality? The disease is to blame for our actions, not us. We are completely blameless. We are medically and mentally blameless; we are not guilty. We are not criminals, and we are not to be treated as such. The insane must be able and allowed to protect themselves, be protected, and defend themselves once able; we must be defended and must be treated with appropriate responsibilities for the sake and safety of all; we have a disability and deserve nothing less, and, society deserves protection. Once I was arrested, I didn't know why I was in jail for the first few days and did not or could not understand exactly what I had done, why, or that I had done anything wrong. Then my cell mate thought I was acting weird and got violent with me, so I was moved to another part of the jail among other normal inmates, murderers, thieves, rapists... The next 201/2 months in jail was to take the competency tests, which was no defense inquiry, unknowing to me, and had nothing to do with my offense/testimony. Once I was found competent, I was forced to believe I was fully guilty with no relief possible concerning my testimony, so I was forced to plead guilty, as I didn't understand my innocence's or any defenses pertaining to them; this is all there is to my case. No defenses were pursued concerning my testimony or the evidences and the issues of my innocence's never became part of my case, fully understood by me, defended by anyone, and were completely ignored and un-inquired into. I was

made and forced to believe I was guilty due to all violations addressed in the appeal record and could not even understand my multiple forms of innocence or any defenses/violations, including "Miranda". All facts stated herein are proven by the record and so are the violations addressed. It's not my fault I am not guilty by reason of insanity of any crime, it's not my fault I didn't commit the particular offense I have been charged with, and it's not my fault I was not defended or able to defend myself. The unconstitutionality is not my fault, and the late discovery and full acknowledgment of my innocence's and the evidences thereof are not my fault; the timing of my innocence claim and constitutional violations claims and/or §2254 petition is not my fault. I couldn't understand my innocence's or discover the evidences any sooner than I did because I was never defended, and I was never advised of any defenses or the elements of the offense, which the record confirms. My innocence, insanity, and the evidences, are only now being defended and injected into the case by me myself in this appeal, for the first time, which lets it be known, violation has occurred, and has in fact caused both innocence claim and constitutional claims to not have able to have been brought, until Petitioner here was finally able to by luck; the record confirms. The new evidences show that no reasonable juror would have convicted Petitioner or voted to find Petitioner guilty beyond a reasonable doubt concerning all aspects: see Schlup v. Delo 513 U.S. 298, at*329. Insanity itself though, must be honored as actual innocence for more reasons than just the innocence aspect, as is discussed above; it is medically negligent and irresponsible not to, plus any real types of innocence deserve honor, especially when the innocence has always been ignored and undefended by no fault of innocent persons. The not guilty by reason of insanity cannot be denied psychiatric examinations/reports, and, denied our right to be in an appropriate facility for custody, care, and treatment, when evidences of the fact have been discovered and made known to "a" court; society cannot either, be denied the assurance and safety of such inquiry. If evidence shows one would be acquitted on grounds of insanity, the acquittal cannot be ignored, because there are medical reasons and precautions to follow an acquittal by reason of insanity that don't have anything to do with guilt or innocence, but have to do with mental diseases and the safety of society and the person who suffers insanity. **Model Penal Code § 4.08 (1)** states, "when a defendant is acquitted by mental disease or defect excluding responsibility, the court shall order him to be committed to the custody of the commissioner of Mental Hygiene [public Health] to be placed in an appropriate institution for custody, care and treatment." I should have been sent to a mental hospital the second I

introduced the evidence of the insanity to the courts, and never should have been sent to a prison for the guilty in the first place. I should have been free by now; my insanity has been in constant remission since I began daily compliance with my medications, in which I had to beg the county jail to provide me years ago. Insanity is a factual matter and a medical matter; evidence factually shows the insanity, delusion, and need for treatment. Sanity must be proven by facts in any crime; it is a factual element that must be factually proven by real evidence to have existed at the time of an incident, not a make believe element that must be proven or not by make believe evidence. The elements and evidences of a crime are a factual matter, not a legal matter. Whenever any necessary elements of any crime were not committed, even mental elements such as "intent", it is a factual matter proven by evidence/facts, which has nothing to do with legal innocence or technicality. Insanity itself, may be a "legal" defense, but is by no means any legal innocence. When an element of any specific type of crime cannot be proven, then that particular crime was not committed, so the person is innocent of committing it; they are "not guilty". No one should remain in prison for a crime they did not commit when violation is at fault "or" evidence was withheld or wasn't able to be discovered or presented, nor should anyone incapable of committing crime, such as children or insane persons. No innocent person belongs in prison period, in my eyes, whether violation occurred or not; if a person demonstrates their innocence with new evidence or old withheld and undisclosed evidences, for Heaven's sake, let them be retried; what if (DNA) science didn't exist in certain cases, now it does, and no violation is to blame? Actual Innocence is or should be all about the elements though, including sanity; the rules of due process. One is either guilty or not guilty. Not guilty means innocent. Once insanity is established though, and introduced, or mental disease, the issue becomes a medical one and that cannot be ignored for any reason, and medical inquiry and treatment cannot be hindered by the waiting of and on determination of constitutional violation, legally; the hindrance is medical/psychiatric neglect. If one is not guilty of the elements of a crime, then they are in all "actuality", innocent. When the insanity issue though, is unconstitutionally ignored and un-inquired into originally, it in no way whatsoever can be constitutional to continue ignoring it, which causes no inquiry or treatment to take place, which is the case here; it puts everyone in danger and is inhumane. Insanity first and foremost is a medical issue whether or not what form of innocence the courts want to classify it as. Let PhD's take care of the mentally ill for the sake of the mental disease, safety, and well being of all people, while the courts argue, conflict,

interpret, construe, or determine violations, as if they matter in such a case; not criminals, prison guards, and probation officers. Mental disease and its treatment are more important than the law, just as any other medical issues, problems, or diseases; stop the discrimination and inhumanity. **How is it humane** to make the not guilty by reason of insanity wait on resolve of conflicting circuit courts arguing about what "type" of innocence's my forms are, before receiving any inquiry, treatment, or care for the insanity I suffer and what it has caused me to do multiple times; it isn't humane, it medical neglect, and it is cruel and unusual. I wish I could count the violations involved in this case of mine because the further it goes, it seems the further the violation becomes, because it's true; I am mentally disabled, here because of the disease, and am being tortured in an improper place, punished, year after year after year. Why do I have to bring these facts to any courts attention? Who is running these lower courts and States; whoever it is they are a danger, threat, and liability to Americans. Would anyone in these courts wish to suffer schizophrenia and be unconstitutionally confined in prison for what it caused you to do, with no way out and no one to care? Would anyone in these courts like to be unconstitutionally punished for a crime you didn't commit, and for your innocence to be ignored, along with the violations of our constitution that caused it to be ignored in the first place? Would anyone here accept, continually, not being provided the treatment and care they have always been due for their disease and punished instead, and in which should have received (5) years ago? If you were not guilty, would you want to be in prison with the guilty? Bring safety to us Americans whom deserve to be safe and allow the liberty to be returned to us that it was unconstitutionally taken away. I want to feel safe in my own country for God's sake, don't you? Due process demands that innocence be protected; protect and keep safe also the mentally disabled, for the greater good of all; for they know not what they do at times, or fully understand what they are doing because they are unable to; they get lost, especially when love is involved mixed with religious type delusion. The State, court, and counsel had plenty of knowledge and evidence at hand to have injected the issues into the case, provided me with the evidences and competent knowledge of them, provided me with commitment and the appropriate examinations, provided me with appropriate defenses, and to have advised me of my defenses and the specific elements of the offense, and they all failed; they violated the constitution completely, which left me confused, helpless, unable to defend myself, unable to be defended, and unable to understand my own innocence's; help is required here because no courts will take responsibility for the error. Having

competency tests conducted to see if I could stand trial and assist counsel, and holding competency hearings, was not injecting the insanity or the evidence of it, but was keeping it away from issue (appendix-Y). I shouldn't have to be afraid to live in my own country for fear of such violation and being punished for being innocent; to be put in prison for a crime I didn't commit and a crime I as well am not guilty of due to insanity. I should not have to be afraid that the constitution can be illegally and grossly violated by the authority I am under the control of and in the hands of, when safety measures and precautions can be made to insure these atrocities can't happen; the peoples laziness is causing evil to occur in our legal system, the very system that is to protect us against evil. Who wants to live in a country where the judges, prosecutors, and counsels are allowed to illegally convict/punish you or cause your conviction by their mistakes or ill will, and in my case, punish you in prison with no treatment and care or rehabilitation for your mental illness? Who wants to live in a country where innocence is ignored? Who would want to have children and raise a family in a country such as this? You don't illegally convict and throw away innocent or insane people in prison, provide no treatment, and offer them no way to defend themselves or receive treatment and care for their disease, with no way out; you just don't do it, its sick and there is no way for such treatment to stand; this problem will be overcome one way or the other. Listen to the 7th Circuit and the majority of other courts and Circuits whom agree with the 7th, which are most courts in America, whom in turn are listening to you, the Supreme Ct. I believe it is illegal and inhumane for a court to not act immediately on the innocence claim involved here for many reasons and the simple sake of treatment, inquiry, and care, as the innocence and insanity have only been ignored for years now with no relief, inquiry, or care; it is also cruel and unusual to keep punished both the innocent and the not guilty by reason of insanity, especially when the punishment is the fault of multitudes of violation. Thank the heavens I have been able to protect myself and defend myself do to the remission of my disease, but others are not as fortunate, have been, or will be, so I am here defending them also I hope. In this case, the insanity portion of the innocence claim is just as much a medical negligence claim as it is an innocence claim. What if my insanity causes me again, after I am released, to commit other similar offenses as are documented in the evidences and history of medical records of this case, which are obviously similar reoccurring incidents; it will be at partial fault of this mockery of justice and medical neglect I am encountering amongst all courts here; with personal appearance explanation and hearing, the fact of reoccurring

incidents could be better demonstrated, but I can't get any hearings as well, because the courts and State are negligent and ignorant to the matters at hand and the safety of the people. I have provided to all courts the evidences of the insanity for years now, which was unconstitutionally withheld, not inquired into, and not made part of the case, and not defended. The evidences are discussed thoroughly and continuously throughout the appeal in all claims, yet all courts have ignored such and have offered no relief, treatment, inquiry, or care, even though the issues were also ignored throughout the entire 201/2 month trial court proceedings, which were nothing but competency tests and hearings; record confirms. The record confirms zero signs of me receiving any kind of due process and effective counsel regarding my innocence's, insanity, and the evidences thereof, therefore confirming the complete denial I allege. The repetitiveness in this appeal record of repeating myself is due to no one listening to what I have been trying to say. A mental illness is more important that just simply the guilt or innocence aspects, and mental disease deserves inquiry, care, and treatment regardless, yet, I am continuously punished in prison for such mental disease, and due to an illegally obtained conviction, with no inquiry or care into the insanity in which caused me to be here. Once I am released, what am I suppose to do, pay the \$40.00 a month probation fees for five years, for a crime I did not commit and also am not guilty of due to insanity, while not ever have received treatment as I should have and while not receiving the out-patient treatment I should be and have always needed; also the probation can be revoked if even I were to receive a speeding ticket; any contact with the police and Oklahoma can and will revoke; then what. I was never even given chance to defend myself or be defended properly to add. It is easy to maintain my medications in prison, but out of prison, working, being tired, and whatever else, can be distractive and cause me to not take the medication I believe; this is why I will need out-patient psychiatric monitoring. The courts are making a bad situation worse and it is negligently and purposely inhumane. Do the courts really want to hold someone liable for an incident they had no control of causing, keeping their unconstitutional conviction under the rug and from being defended, all while affording such mentally disabled person no help, no treatment, no care; I dare this to continue. I cannot afford my own treatment and never have been able to. The courts should have already provided such treatment; I can't even get this prison to help me file my social security disability that I now need, but never have before, so I will be able to survive once released and be able to pay for the medications I need. My mental disease scares me now that I have seen and understand how

dangerous it can be for me. No one cares or understands the situation I am in or that insanity caused me to be here; the psychologists at these places could care less. No one has ever cared, this is the problem; no one wants to take responsibility for this conviction or for me because they don't want to get in trouble for what they did and are doing. It seems these courts, this State and Circuit, are all covering each other with lies, so the truth of these matters will not be revealed; maybe I'm wrong, but what else is it; the truth is out there just sitting there and all lies are most evident when it is spoken against anything Petitioner here has stated in this entire appeal, concerning both the innocence's and the violation involved; the record confirms. Additional neglect, to add to the already complete neglect and lack of responsibility involved, is the State's failure to provide discovery of "their case", which would only be in the best interest and safety of society if granted. The State of Oklahoma will not provide discovery on the issues of insanity or innocence as I have requested (appendix-Z); not allowing such discovery to be obtained is not in the best interest of justice in this case, and in fact, puts in danger both Petitioner, society, and even other inmates. If insanity can be further proven, it needs to be, and no such ill willed hindrance shall be involved; the issue surpasses guilt or innocence or violation for God's sake; this is medically confirmed and historically reported mental disease we are talking about. What is constitutional about not allowing someone, by denying discovery, to prove their insanity and their dangerousness to society and themselves, so they may be provided the inquiry and care they were unconstitutionally denied by the very ones not allowing the discovery to be had, the State of Oklahoma. This State already violated the constitution in this case in every way imaginable, to keep the issue under the rug. Why deny discovery of the case to Petitioner as well; Oklahoma would have never granted new trial either, they are as a bunch of children whom are acting very rotten. The courts and States actions are and were a threat to the safety of Petitioner and society, and so are the appellate courts actions, which are no action at all. Prison is not psychiatric treatment, and in fact causes further psychiatric problems and disturbances. Prison is for the guilty. I have not received the \$12.00 monthly prison gang pay in years because of my appeal of innocence paper cost; I have been in institutional debt the entire time; I haven't been able to buy coffee, real toothpaste, a real toothbrush, real soap, paper, pens, ect; dental care is inadequate and really doesn't exist, they pull bad teeth but won't fix any or allow you to pay for repair if you wanted. The whole prison system is inhumane in my eyes, I can't be expected to explain the things I have found wrong. The prisons are grossly overcrowded also. I've had to deal with

awkward acting staff and drugged out inmates whom are violent. I've spent 21 days in "the hole" for a cell phone that was proven not mine. The food is despicable. I've been kept away from my dog and family for nothing. My conviction and lack of inquiry and treatment is due to a complete denial of due process/counsel regarding my innocence's and the evidences thereof; I am so tired of repeating this. I have received no treatment or evaluation concerning the offense. If certiorari is not granted, Petitioner will be forced to petition the President of the United States concerning this case, will go to every newspaper that will listen as an attorney has instructed that I do, and will advise all liberties unions and psychiatric associations of this case, and I will do all in my power to expose the wrongdoing that has occurred and is taking place, which is harmful and dangerous for Petitioner, society, and all innocent persons and mentally disabled persons. Petitioner has the rest of his life to act in this case and cause and will do so freely and at his own expense, and will hire attorneys if needed to help make things happen; it is only natural for one to defend themselves and their innocence until they have accomplished doing so, no matter how long it takes, and as well, Petitioner wants those held accountable for their violating the constitution of this country. A sad thing for me is, I have realized other incidents of mine in the past (misdemeanors), have been the result of my insanity, and I never knew what a defense of insanity was or received any or was ever advised of such, and now I can't defend those incidents and have already been in jail for such; this type of thing has happened to me before, but it is never going to happen again, I am now educated concerning the defense and matter. Innocence and mental disease is not to be treated as it is and has been under any circumstances, conflicts, or whatever hindrance. When you see that a person is innocent, and, that he suffered insanity during such offense, and it is shown by the record that neither his innocence's, nor insanity, were defended or inquired into because of numerous violations and incompetence's of counsel, you step in, let him defend himself, and be let him be defended for a first time, and you provide him help, treatment, and care. The competency finding in my case was no defense or inquiry into the insanity involved, was neglect in itself (appendix-Y), and most certainly doesn't qualify as treatment and care. According to the medical records I have provided so far in this case, I have appeared to be homicidal when psychotic in the past, yet the courts are offering no treatment and care, although the evidence provided demonstrates that the offense I here appeal was caused due to me having psychotic delusions just the same. I have no memory whatsoever of being homicidal or making such threats at those times reported. Although my relationship with God

has died in a large way due to this unconstitutional conviction, my mind is still delusional concerning my deceased relatives and other subjects and I need to be set up with out-patient psychiatric assistance and help on a regular basis; I need psychiatric inquiry into the offense and the past similar incidents that have occurred, so a psychiatrist can tell me the "whys" and "when's" and what to do and look for in the future, so I can help prevent such from happening again possibly. My mind still has delusional beliefs and imagination, although I don't want to have them; these are largely caused due to things Petitioner has seen and encountered in the past, such as the seven fairly large orange balls of light flying low and completely silent and then up through the clouds that was observed one night, from not far away, or the bluish beams of light I see from time to time, which come from somewhere; these "blue beams of light" are sometimes single, and other times many in a row, and are in part what has caused me to break onto or trespass onto the air force base in the past, two of the three times; these incidents concerning the air force base are only partially described in the records and medical records provided. It shall be noted that the three incidents of my trespassing onto the air force base did not get me in any type of trouble, for they recognized I was having mental difficulties, although the last time, when I had brought my dog with me under the fence, I was taken to jail, but the charge was dropped I assume and the OKC police Dept. has no record of any of it; the jail just let me go, I walked many miles back home, and never heard anything about it again. The air force security forces unit will not give me any reports or records from these incidents, but they do exist, along with a lengthy videotaped interrogation of the events; maybe an attorney could obtain these if needed. These memories will not go away and it seems they are unhealthy for Petitioner because they give Petitioner certain hope, but will not allow my mind and life to be normal. Petitioner does hear voices continually, on a daily basis, but that is all it is and it does not cause "insanity" to occur because I am able to realize it is only voices now, and I can catch myself doing such; the medication works. I am innocent of burglary and am innocent of the breaking and entering which occurred, in the eyes of society and law, so let me have the treatment and inquiry society demands that I receive, and give my freedom back if I am ready.

(ISSUE #2) STATE COURTS DID NOT REVIEW/ADJUDICATE CONSTITUTIONAL CLAIMS. Due to page limit issues and timing issues being caused by Covid-19 and unavailability of access to law library due to prison quarantine procedures, it is asked that this Court incorporate by reference the arguments in this appeal record, and of the Tenth Circuit U.S. Court of Appeals and the Western District of Oklahoma filings, which are provided and included in the appendices of this Certiorari.

(ISSUE #3) FACTUAL PREDICTS. 28 U.S.C. § 2244 (d) (1) (D) DOES APPLY IN THE MOST COMPLETE FORMS POSSIBLE AND SHOULD BE IMPLICATED. Due to page limit issues and timing issues being caused by Covid-19 and unavailability of access to law library due to prison quarantine procedures, it is asked that this Court incorporate by reference the arguments in this appeal record, and of the Tenth Circuit U.S. Court of Appeals and the Western District of Oklahoma filings, which are provided and included in the appendices of this Certiorari. Also, additional explanation is provided as **appendix-X (1)**.

(ISSUE #4) EQUITABLE TOLLING MUST APPLY. Due to page limit issues and timing issues being caused by Covid-19 and unavailability of access to law library due to prison quarantine procedures, it is asked that this Court incorporate by reference the arguments in this appeal record, and of the Tenth Circuit U.S. Court of Appeals and the Western District of Oklahoma filings, which are in large part provided and included in the appendices of this Certiorari.

(ISSUE #5) A FEDERAL HEARING IS MANDATORY ON BASIS'S OF NEW EVIDENCE'S AND ALL ASPECTS INVOLVED THEREIN. Due to page limit issues and timing issues being caused by Covid-19 and unavailability of access to law library due to prison quarantine procedures, it is asked that this Court incorporate by reference the arguments in this appeal record, and of the Tenth Circuit U.S. Court of Appeals and the Western District of Oklahoma filings, which are in large part provided and included in the appendices of this Certiorari.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date: _____