ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 2021

NO. 20-7751

EFRAIN LOPEZ, PETITIONER

VS.

BOBBY LUMKIN, TDC-J DIRECTOR, RESPONDENT

PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT, IN THAT'S COURT
NUMBER 19-20855

PETITION FOR WRIT OF CERTIORARI

Submitted By:

Efrain Lopez, #1953021
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QUESTION(S) PRESENTED

1. In Petitioner's COA, Lopez challenged the U.S. District Court's adjudication of his claims that::(1) he is actually innocent; (2) he did not receive a "live" evidentiary hearing before the State Habeas Court (nor federal); (3) **his speedy trial rights were violated (9 yeas plus months delay);** (4) he recei ed ineffective assistance of counsel; (5) the state withheld material exculpatory evidence concerning a co-defendant's plea bargain; (6) his **Due Process** rights were violated when witnesses for the state testified falsely. Lopez also added a new claim to his COA that the state trial court abused discretion in admitting certain picture evidence in violation of the Texas rule of evidence.

   The question is, did the Fifth Circuit err in denying Lopez's COA, especialy with his **speedy trial violation,** when he has a Constitutional Right to: Speedy Trial, Due Process*, Right to Effective Counsel, Right to Evidentiary Hearing, and the Right not to have false testimony used against him by the State?**
2. Petitioner Lopez was found guilty of Capital Murder by a jury based on false testimony at trial; **the question is** can Lopez still make a Innocence Claim and prove it with trial testimony offered by the victim of the Crime that someone other than Lopez murdered his brother?
3. **Has the Right to Speedy Trial been annuled nation wide? Which explains why lower courts are now indifferent towards 6 & 14 Ammendment. Or is Lopez nine years plus months a violation of speedy trial?**+
4. Is it lawful for the state to lie - on purpose- to a jury of a co-defendant's plea agreement?
5. Is it lawful for the state to use a perjured witness and false testimony to support a conviction, knowlingly?

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* See, Farmer v. McBride, 2004 U.S. Dist. LEXIS 29629 (S.D. W.Va 2004), writ granted because of numerous Due Process errors.

** See, Miller-El v. Cockrell, 537 U.S. 322 (2003), COA does not require petitioner to prove that he is entitled to relief.

\+ Lopez is pro se and not a legal scholar, therefore he has been unable to articulate a substantial showing of denial of speedy trial to this date. Lopez has attached in support the legal Arguements of attorney Wendell A. Odem Jr. for the right to speedy trial to use in this claim. See Appendix (E).

LIST OF PARTIES

All parties do not appear in the caption of this case on the cover. A list of all parties interested in this proceeding in court whose judgment is subject of this petition is as listed below.

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U.S. District Court
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The 179th Judicial District Court
Presiding Judge
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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner, Efrain Lopez, Pro Se, respectfully prays that a Writ of Certiorari issue to review the judgment below.

OPINIONS BELOW

The Fifth Circuit of Appeals denied Petitioner's motion for a Certificate of Appealability (seeking relief from a State Conviction), and further denied Petitioner's motion for reconsideration and petition for rehearing en banc. Petitioner does not understand if orders were published or not. Printed copies of ORDERS can be found in Appendix (A).

JURISDICTION

The original opinion of the Fifth Circuit Court of Appeals was entered December 22, 2020. A timely motion for reconsideration and petition for rehearing en banc were both denied on February 8, 2021. Petitioner received notice of the last denial, from the cler's office via mail on February 22, 2021. The jurisdiction of this Court is invoked under 28 §1254.

CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED

• U.S. Constitution Amendment 6

In all criminal prosecutions, the accused shall enjoy the right to speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been comitted, 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 witnesses in his favor, and to have the assistance of counsel for his defence.

• U.S. Constitution Amendment 14

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges 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.

• 18 U.S.C. §3161

The Speedy Trial Act requires that a criminal trial must commence within 70 days of the latest of defendant's indictment, information, or appearance, barring periods of excludedable delay.

; 28 U.S.C. §2253(c)(2)

At the COA stage of a habeas proceeding, the only question is whether the applicant has shown that jurist of reason could disagree with the district court's resolution of his constitutional claims or that jurist could conclude the issues presented are adequate to deserve encouragement to proceed further, this threshold question should be decided without full consideration of the factual or legal bases adduced in support of the claims.

That a prisoner has failed to make the ultimate showing, at COA stage of a habeas proceeding, that his claim is meritorious does not logically mean he failed to make a preliminary showing that his claim was debatable, as required for a COA; thus, when a reviewing court inverts the statutory order of operations and first decides the merit of an appeal, then justifies it's denial of a COA based on it's adjucation of the actual merits, it has placed too heavy a burden on the prisoner at the COA stage.

• 28 U.S.C. §2254

(a) The Supreme Court, a Justice thereof, a cicruit judge, or a district court shall entertain an application for writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a state court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States. (d)(a) [D]ecision that was contrary to, or involved an unreasonable application of, clearly established Federal Law, as determined by the Supreme Court of the United States; or (2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

• S.ct. Rule 10(c)

Under this rule, this Honorable Court Certiorari should be granted, atleast Petitioner's claim of violation of speedy trial, because the lower courts have decided an important question of federal law that has not been, but should be settled by this COurt, and have deceided an important Federal question in a way that conflicts or annules the relevant decesion of this Court in Barker v. Wingo, United States v. Doggett, and United States v. Marion.

OTHER

• Constitution of Texas, section 10; right to a speedy and public trial.

STATEMENT OF THE CASE

On September 12, 2005, during a home invasion and robbery, victim Guadalupe Sepulveda was shot with a firearm and survived, the second victim Daniel Zammora

died of his gunshot (shotgun) wounds. Drugs, money, a cell phone, and guns where taken from the drug dealer(s) home. State records show that an "unknown person" was assualted here aswell. The State titled this case, THE LOMA VISTA CASE (henceforth known as in this Writ).

Offense Report on page 2.026, shows that on October 10, 2005, Petitioner Efrain Lopez (henceforth known as Lopez) was arrested through an Arrest Warrant based on testimony from a co-defendant Alejandro Garcia (who was communicating with state detectives). Lopez denied all allegation in the interrogation room and was released from custody. From here on forth, Lopez remained the State's primary suspect in Daniel Zammora's death.

On December 16, 2005 (on or about) Lopez was arrested for, Aggravated Assault that occured the night of the Loma Vista home invasion and death of Daniel Zammora; "The unknown person assualted". Detectives executed the Arrest Warrant and Search & Seizure Warrant at Lopez childhood home. Detectives were searching for evidence that could incriminate Lopez to the Loma Vista Murder. Both the Arrest Warrant and Search Seizure Warrant where based of testimony from co-defendant Alejandro Garcia.

Also on 12-16-05, Detectives interrogated Lopez for an un-related crime the State titled "THE BUNKER HILL CASE" (henceforth known as)(See Appendix H)*. In the Bunker Hill Case Lopez was considered an accomplice. After two intorrogations, one for Loma Vista and one for Bunker Hill, Lopez never confessed to murder nor assualt.

The State, according to the Offense Report, prefered to prosecute the Bunker Hill case because the State's opinion was it was the strongest case.** The State deemed the Loma Vista case weak. Victim Guadalupe Sepulveda's testimony described someone other than Lopez as the murderer of his brother Daniel Zammora. No evidence, other than Alejandro Garcia's testimony linked Lopez to the Loma Vista murder.

Lopez was indicted for the Bunker Hill murder on March 2, 2006. The evidence presented to the court appointed attorney where overwhelming. Several people

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* Lopez has provided the Court with copies of this case for review, in support of Lopez speedy trial claim.

** As far as Lopez knows, no one was ever convicted on this case.

were accusing Lopez as part of this crime. In 2008, Lopez's relatives invested in attorney Mr. Gerald Fry. After speaking with Lopez and hearing Lopez version of events. Mr. Fry advised Lopez relatives to retain Private Investigators to prove that Lopez was in the right. Two agencies investigated Lopez's case. The P.I.'s returned with exculpatory evidence that shocked Mr. Fry. Every witness for the Bunker Hill case told the P.I.'s that they were forced by the State to sign statements against Lopez and others; furthermore, some witnesses turned out to be fictional names of people who did not exist. Mr. Fry presented the newly aquired evidence to the State sometime in late 2008 or early 2009. The then prosecutor left the the D.A.'s Office and the State chose to neglect the Bunker Hill indictment. This was the begining of the State's bad faith. Furthermore, politicle problems at the D.A.'s Office transpired through the years. The indictment sat in Court, with no one willing to prosecute it. Like a competent attorney, Mr. Fry filed to dismiss the Bunker Hill indictment for denial of speedy trial and a second motion to simply dismiss for denial of speedy trial (See Appendix H). The case was eventualy dismissed a decade later.

Sometime around or before 2010, a new prosecutor ventured to prosecute Lopez. Prosecutor Spence Graham, with Mr. Fry present, informed Lopez that he was still the suspect for the Loma Vista murder; that Alejandro Garcia still accused him for murder. Mr. Graham offered once on that day and never again a sealed deal to Lopez, become a state witness and in exchange Lopez will not be prosecuted for the Loma Vista Murder, and will receive a reduction of charges plus a good deal. That Lopez was still young and smart, that is why he was offering this plea deal. It was Lopez opinion that Mr. Graham was being deceitful, therefore, Lopez refused the plea deal.

On May 11, 2011, Lopez was indicted for Capital Murder for the murder of Daniel Zammora (Loma Vista Case). Lopez relatives could not afford to retain a second attorney. Therefore, the court appointed Mr. Joseph Salhab to represent Lopez. Once again, more politicle problems at the D.A.'s Office. Mr. Graham quits and entered into private practice; and according to Mr. Salhab, the State was still investigating the Loma Vista Case.

As the time passed, Mr. Fry lectured Lopez on how to assert his speedy trial right for Loma Vista indictment. Lopez was told to recopy the motions to dismiss for denial of speedy trial (the ones Fry filed - See Appendix H) and file them pro se with the Loma Vista Cause Number. Lopez did as instructed. Attorney Salhab adopted the pro se motions to dissmiss for denial of speedy trial.

On August 29, 2014, the Court heard the Motion to Dismiss for Denial of Speedy Trial. The Court weight in favor of the State and denied the Motion.

In September 2014, a trial was held for the Loma Vista Case. A jury found Lopez guilty as charged.

Lopez, through a court appointed attorney appealed. The Direct Appeal argued Lopez's speedy trial rights and using a picture - that was not found on Lopez - as evidence when picture had no connection/relation to the Loma Vista Case. The Appeal was denied. The Appellate Court's opinion was that there was no speedy trial violation because Lopez signed Docket reset forms.

Appellate Court Appointed attorney filed a PDR and the Court refused to hear the PDR with a general denial white card.

Lopez filed a Writ Certiorari with this Honorable Court seeking certiorari for the PDR and Direct Appeal. This Court denied the petition for writ cert., with a general denial. A timely filed motion for rehearing was filed and that was denied as well.

Petitioner challanged his conviction with a §11.07 Habeas Corpus. The Court of Criminal Appeals of Texas adopted the State's/Court fact finding conlcusion denying Lopez's §11.07.

Lopez proceeded with a §2254 Habeas Corpus claiming: actual innocence, speedy trial with due process violations, I.A.C., and a Brady violation. The U.S. District Court denied Lopez's §2254.

The Petitioner then appealed the U.S. District's opinion at the Fifth Circuit seeking COA. The Fifth Circuit ruled that no reasonable jurist would debate/argue Lopez innocence claim, his speedy trial with due process claim, and other claims. Lopez filed a timely motion for reconsideration and petition for rehearing en banc. Both were denied by the Court.

Petitioner Lopez now brings his burden to this Court seeking a certiorari and liberal scrutiney for his pro se petition,,asking the Court to review his claims and grant a Writ of Certiorari.

REASONS FOR GRANTING THE PETITION

(1) ACTUAL INNOCENCE CLAIM

In the Loma Vista Case, there are two victims; Guadalupe Sepulveda (still alive) and Daniel Zammora (deceased). Victim Guadalupe Sepulveda is an eyewitness to the facts that occured the night of the Loma Vista Murder.

Guadalupe Sepulveda testified in Lopez's trial that he witnessed a: 5'9 foot tall man with a shotgun (RR7-21), whom he calculated to be a 23 year old (RR7-23). Sepulveda also testified to the color of the shotgun he witnessed: "Color of the military uniform" (RR7-45, line 3-8; RR7-48, line 8-12).
Sepulveda is

Sepulveda is referring to a camofluague color.* Eyewitness Guadalupe Sepulveda also took a look at Lopez during trial - and after nearly a decade later - knew Lopez was not the shotgun wielding man he said murdered his brother Daniel Zammora. The State knew of Sepulveda's identification of the shooter. Which is why the State never asked him to point at the suspect.** (See Appendix I)

Petitioner Efrain Lopez in 2005 and up to today is: 5'4 feet tall, on 9-12-05 (the night of the murder) Lopez was 17 years old, a senior in high school. No shotgun nor shotgun bullets was ever found with Lopez. Neither, were stolen items from Sepulveda found with Lopez during search & seizure. In trial Sepulveda testified and pointed to what was stolen from his home::cell phone, drugs, $1,000-2,000 (or less) of drug money, and guns.

State-witness and co-defendant Alejandro Garcia testified that Lopez murdered Daniel Zammora with a black shotgun. However, there are a few things to consider with Alejandro Garcias testimony:

- Alejandro committed perjury on this Case. From October to December 2005, Alejandro accused 3 people of murdering Daniel Zammora. On three seperate notarized Affidavits, he accused: Jose Luviano, then a George Lopez, and finally Efrain Lopez (petitioner). Detectives cleared the names of the first two suspects. They knew Alejandro was lieing to them but allowed him to make a third affidavit - against all odds - accusing Petitioner.
- When Alejandro was arrested, Detectives found with him: shotgun bullets, several firearms including an assualt rifle with their bullets, and stolen items belong to Sepulveda, PLUS Drugs.
- Guadalupe Sepelveda's cell phone records for the stolen phone revealed that Alejandro Garcia was using to call & text his girlfriend and his home. It was through this stolen cellphone records that Detectives found Alejandro first.

Second state-witness, Yeni Rivas, testified that Lopez told her that he was part of the crime that occured at Loma Vista. However, this is not true, Lopez never spoke to her about any crimes, for that matter. Lopez will prove to this Court that Yeni Rivas lied in trial later on in this Writ.

* Lopez is unable to remember accuratley, but he does recall from a 2014 picture his attorney showed him, that a camofluague shotgun was found by detectives either with Alejandro Garcia or Juan Balderas.(said picture is a State picture). Lopez notified his attorney of the camo-shotgun but attorney failed to point this out. The State did not exhibit a confiscated shotgun nor alleged murder weapon.

** The State asked other state-witnesses to point at Lopez as the suspect.

Testimony Chart

Guadalupe Sepulveda	Efrain Lopez	Alejandro Garcia
Murderer: ?? height: 5'9 age: 23 weapon: camo shotgun See Appendix (I).	Confessed to murder? "No" height: 5'4 age: 17 owned a shotgun? "No".	Murderer: Efrain Lopez height: 5'4 age 17 weapon: black shotgun. Alejandro Garcia height 5'5 age:16 owned a shotgun: yes

Does Guadalupe Sepulveda's eyewitness testimony and victim of the crime have any value or wieght or importance to support some type of innocence claim for Lopez, with reasonable jurist? Sepulveda's testimony is exculpatory for Lopez's claim that he did not murder Daniel Zammora. No solid evidence was offered by the State except Alejandro Garcia and Yeni Rivas verbal testimony (one is a perjurer and a false witness and the second one is also a false witness). The State did not bring forth finger prints, no weapon, etc.

So What happened, why did the jury vote guilty as charged? When there is innsufficient evidence to support a murder charge? The jury was irrational and ignored Sepulveda's testimony. The jury relied heavily on Alejandro Garcia and Yeni Rivas testimony, drawing speculation from their testimony for their choice of vote. However, speculation is not proof beyond a reasonable doubt. Brown v. Palmer, 441 F.3d 347 (CA 6 2006) see page 350, 352, 353 of Brown;; Poppell v. City of San Diego, 149 F.3d 951 (CA 9 1998) the jury must draw reasonable inference and not speculate. See Galloway v. United States, 319 U.S. 372, 395, 63 S.Ct 1077, 87 L.Ed 1458 (1943).

To wrap things up, Alejandro Garcia committed perjury before on matters to this case and his testimony against Lopez does not match victim's testimony; therefore, a reasonable jurist will infer that he is committing perjury again for the third time by falsely accusing Lopez of murdering Zammora; and because Yeni Rivas admitts to lieing in trial (Petitioner will show this later in the Writ) a reasonable jurist would agree that she is lieing. To close this up, a reasonable jurist would then rely heavily on Guadalupe Sepulveda's testimony and agree that Lopez did not murder Daniel Zammora. It is commen sense to believe the words of a victim than a co-defendant, and it is for this reason that a jurist of reason would not had found Lopez guilty of Capital Murder. Because, all of the evidence presented was false or circumstantial and Sepulveda's testimony is esculpatory; there is no other conlcusion that any rational jury could have reached based on the State's evidence presented. See Quartaro v. Hansimaier, 28 F. Supp. 2d 749 (E.D.N.Y. 1998); in Quartararo, the Court spoke of evidence insufficient of phsical evidence.

According to victim Guadalupe Sepulveda, Petitioner Lopez is not the murderer of his brother Daniel Zammora. U.S. v. Ford, 558 F.3d 371, 375, 376, (CA 5 2009); and because Lopez cannot be the murderer according to Sepulveda that means Alejandro Garcia's testimony is "phsically impossible for the witness to observe that which he claims occured, or impossible under the laws of nature for the occurance to have taken place at all." See U.S. v. Williams, 216 F.3d 611 (CA 7 2000) and United States v. Hack, 162 F.3d 937, 942 n.1 (7th Cir. 1998). See Appendix (I).

Wherefore, the Court should grant a Certiorari.

(2) DENIAL OF LIVE EVIDENTIARY HEARING

The need for a live hearing is governed by the 14 Ammendment; Townsend v. Sain, 372 U.S. 293, 312-313 (1963); Matheney v. Anderson, 254 F.3d 1025, 1039 (7th Cir. 2001); and Watkins v. Miller, 92 F. Supp.2d 824 (S.D. Ind. 2000).

Lopez has available three sets of unseen evidence that any reasonable jurist would be interested in reviewing; or better yet said, "he has facts, if proved, would entitle him to relief." Matheney.

One of these "alleged facts" and unseen evidence is a: Affidavit plus transcript of an interview, between Private Investigator Richard Rodriguez and state-witness Yeni Rivas conducted in 2008. In this interview, Yeni Rivas confesses to Mr. Rodriguez: 1) that she knows nothing about the Loma Vista Case; 2) Efrain Lopez never spoke to her about the Loma Vista Case; 3) that the State coerced her to sign false statements against Lopez or have her baby taken away from her for not cooperating with the State; and 4) the state threaten her once while pregnant with a tazer to sign a statement; and 5) that she is mad at Lopez. (See Appendix G for this transcript).

Attorney Salhab had this piece of evidence available long before the trial started but failed to make use of it at trial. Effective counsel would had used this interview (audio tape and/or transcript) to discredit Yeni Rivas trial testimony, even go as far has make her confesstto the truth - that she is being coerced by the State to lie on Lopez.

No reasonable jury, after hearing and reading this interview would have given any value to Rivas testimony that Lopez told her that he was at the scene of the crime, and mostidefinitly no reasonable jury would have voted guilty of capital murder.

The second piece of "alleged facts" and newly aquired evidence is a Affidavit from Jessica Rivas. She is Yeni Rivas sister. After Lopez trial, Jessica asked Yeni did Lopez speak to you about the murder? Yeni answered her sister that

Lopez never spoke to her about the Loma Vista murder and Yeni further confessed to Jessica that she lied in Lopez's trial. Upon hearing Yeni's confession, Jessica reached out to Lopez in prison and provided him with the said Affidavit. A reasonable jury would be interested in reviewing this testimony in a live evidentiary hearing because it supports Lopez's claim that Yeni Rivas lied, adds weight to his innocence, and supports Lopez claim that the State is performing misconduct and showing bad faith. (Jessica Rivas Affidavit can be found in Appendix G).

The third piece of evidence available to Lopez is an Affidavit from Cecilia Calderon. Mrs. Calderon gives testimony to Yeni Rivas un-ethical conduct of being a lier and untrustworthy. (See Appendix G).

Tangent and in theory, in a live evidentiary hearing Lopez would be given a court appointed attorney. While under representation, Lopez would inform counsel of others who would come foreward and help support his burder of innocence. Counsel would then motion for a private investigator to find and interview: Israel Diaz (third co-defendant for the Loma Vista case) on parole for Agg. Robbery), Judy De La Fuente (high school friend) and Daniela Chavez (high school)*, and Alejandro Garcia's girlfriend**. On the day of the live evidentiary hearing counsel would present all of the esculpatory evidence available.

Therefore, reasonable jurist would agree that Lopez does need a live evidentiary hearing.

Wherefore, the court should grant certiorari.

3) VIOLATION OF STATE AND FEDERAL SPEEDY TRIAL & Due Process

The right to speedy trial and due process is governed by the 6th and 14th Ammendment, and the Speedy Trial Act.

Has the Constitutional Right to Speedy Trial & Due Process been annuled? If so, when was it annuled? If not, what must a petitioner show to raise a

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* Lopez does not knew where these witnesses are today.

** Lopez does not remember her name, she attended a different school, her name can be found in Garcia's offense reports. This is girlfriend Alejandro Garcia called and texted with Guadalupe's stolen cell phone.

speedy trial claim? Because Lopez has raised this claim several time in the lower courts and those courts, with deliberate indifference, deny his 6th & 14th amendment right, that protect him from oppressive - cruel & unusual (8th Ammend.) pre-trial incarceration.

Barker Factors: The Courts "analyze federal constitutional speedy trial claims 'on an hoc basis' by weighting and then balancing four factors: 1) Length of Delay, 2) Reason for Delay, 3) Assertion of Right, 4) Prejudice to The Accused." Barker v. Wingo, 407 U.S. 514 (1972).

Length of Delay Factor: The more bad faith or negligence on part of the State, "the less a defednant must show actual prejudice or prove diligence in asserting his right to speedy trial." Barker. Texas Courts have found that a twenty three month delay triggers a Barker analysis. Bosworth v State, --- S.W.3 ---,---, 2013 WL 5633321, *2 (Tex. App.-Texarkana 2013). Federal Courts have found that a two year delay violates speedy trial act. U.S. v. Seltzer, 595 F.3d 1170 (CA 10 2010)*; and that twentfive month delay violates speedy trial. Maples v. Stegall, 427 F.3d 1020 (CA 6 2005)**.

Here, in Lopez's case, Lopez was arrested for the Loma Vista case, twice, in 2005; once in October and the second time in December. He remained the "accused" while incarcerated at the jail. After arrest, the State chose to neglect the Loma Vista Case and prosecute the Bunker Hill Case. Attorney Gerald Fry, retained for Bunker Hill, cleared Lopez name in the Bunker Hill case+. The State then leaves Lopez in limbo-perjutory situation. Neglecting two cases at the very same time. Not wanting to prosecute the Bunker Hill case because of Mr. Fry; not wanting Lopez to bond because he is a "accused" in Loma Vista; and not wanting to prosecute Loma Vista because the case is weak.

Sometime, before 2011, the state prosecutor Mr. Graham, attempting to prosecute (get a conviction) Lopez, gives Lopez an ultimatume-- become a state witness or face prosecution for the Loma Vista murder because Lopez is the prime suspect in Daniel Zammora's murder. Mr. Graham informs Lopez that Alejandro Garcia will testify against him. Mr. Graham, Mr. Fry and Lopez spoke once about this ultimatume, and never again do they talk with each other.

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* Case Dismissed.
** Writ Granted.
+ Appendix H contains the Bunker Hill Case.

Lopez does not accept Mr. Graham's State plea bargain of becoming a State witness, reduction of charges, no prosecution for Loma Vista, and a reduction of sentence.

Regardless of when Lopez was indicted for Loma Vista, he was still arrested, interrogated, home searched & seizure (with warrants) and incarcerated for Loma Vista in 2005. Therefore, Lopez "length of delay is measured from the date of indictment or the date of the arrest, which ever is earlier. U.S. v. Marion, 404 U.S. 307, 313, (1971)", -quoted from Maples v. Stegall, 427 F.3d 1020 (CA 6 2005). In Marion, the court said, "the right to a speedy trial attaches when an individual becomes 'accused' in a prosecution by the state." Even though Lopez was finally indicted for Loma Vista on May 11, 2011, a literal interpretation of Marion and Maples, Lopez was an 'accused' and 'arrested' for Loma Vista in 2005. This means that there is a 9 years plus months Delay.

In the alternative opinion, that annules the 6th & 14th Ammendmen plus Speedy Trial Acts and above case laws; the lower courts have reasoned that Lopez speedy trial clock started in 2011. Well, that is still a four year delay and unconstitutional according to the statutory cited above. Then, the U.S. District Court wrote that there is only one year delay. Clearly in the wrong. Nevertheless, there is a problem with these opinions of the lower courts. Prosecutor Mr. Graham spoke to Lopez before 2011, notifying him that he was the prime suspect for the Loma Vista murder; but it can all go away if Lopez cooperates with the State. Therefore, in logic, Mr. Graham is legaly saying that Lopez was an 'accused' before 2011 indictment. Regardless, Marion and Maples is the correct interpretation. Lopez has 9 years plus months of delay. Now that the length of delay is properly established, we can proceed to the next factor.

Assertion of the Right to Speedy Trial: While Lopez was under indictment for the Bunker Hill case, attorney Mr. Fry asserted his rights with Motions to dismiss for denial of speedy trial (See Appendix H). However, how could Lopez make an assertion as an 'accused' without indictment for the Loma Vista Case in 2006, 2008, 2009, or when Prosecutor Mr. Graham gave Lopez an ultimatume of cooperate with the state or face prosecution for Loma Vista? The current way the law works, Lopez could not. (This is a landmark issue not seen in Court that needs landmark remedy). For nearly a decade Lopez handles two cases, one officially and another unofficialy but became official for not becoming a state witness.

Upon indictment for the Loma Vista Case, Lopez relied on his counsel Mr. Salhab to defend him and protect his rights. Lopez presumed Mr. Salhab would perform like Mr. Fry. However, Mr. Salhab was ineffective. It was Mr. Fry who taught Lopez how to assert his right to speedy trial by instructing him to re-copy the motions to dismiss for denial of speedy trial, place the Loma Vista

Cause number and dates, and file it pro se. Lopez did as instructed. Mr. Salhab then adopted Lopez's motions. Thus, Lopez asserted his right to speed trial.

The lower court have brought forth an uncostitutional opinion that, once again annules the established defenition of speedy trial; that Lopez waived his speedy trial rights and waived his assertion by signing Docket Reset Forms. The lower court have also ruled that by signing these Docket Reset Forms it stops the speedy trial clock. However, this is far from the Constitution, the Docket Reset Forms are for the Court's Clerk to use when typing into the system the next court date, and for all parties to know the next court date. The Docket Reset Forms are not "Waiver Of Rights" nor do they read waiver of rights, but "Agree Reset". Meaning not that the defense agreed to have the case reset for another time but it is agreed that all parties know the next court date assigned by the Court Clerk. To continue allowing the State to uphold the opinion that Lopez waived his speedy trial rights, it will continue to annull the 6th & 14th Ammendment Right, Speedy Trial Act, and Speedy Trial Case laws. Setting forth a new standard of law that any State can keep a defendant in jail for as long as they want, as long as the defendants keep siging the Docket Reset Forms, without it ever becoming a speedy trial issue. But, if in some fantasy land, the signing of Docket Reset Forms are waivers of rights, then Lopez would like to bring up , Zedner v. U.S., 547, 489, 156, L.Ed 2d 749, 126 S.ct 1976 (2006). In summary, Zedner speaks of the speedy trial act regulates the time speedy trial begins. Section 3161(H) specifies in detail numerous catagories of delay that are not counted in applying the Act's deadline. Instead of simply allowing the defendant to opt out of the Act, the Act demands that defense continuances request fit within one of the specific exclusions set outin subsection (h). See page 1985. For this reason, the higher Court rejected the District Court's reliance on §3162(a)(2) and concluded a defendant may not prospectively waive the application of the Act. It follows that petitioner's waiver "for all time" was ineffective. See page 1987. The Court ordered, the sanction for violating the Act is a dismissal, but they left it up to the District Court to determine... whether dismissal should be with or without prejudice. See page 1990. Therefore, here in Lopez's case, to say that he waived his speedy trial rights by signing Docket Reset Forms is ineffective and violation of the Act because Lopez can not prospectively waive the application of the Act.

Plus according to Barker, the more bad faith or negligence on part of the State "the less a defendant must...prove diligence in asserting his right to speedy trial." Id at 280-281.

Trial

Therefore, for this factor, it is clear that Lopez did assert his right to speedy trial in both the Loma Vista Case and Bunker Hill case.

Prejudice To The Defendant: The near long decade of pre-trial incarceration was oppressive, Munoz v. State, 991 S.W.2d at 828: it was also a form of state imposed "cruel and unusual punishment" (8th Amend.). Lopez spent almost a decade behind bars while presumed innocent until proven guilty, (2005 [one month], 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014). Plus, according to Barker, the longer the negligence or bad faith by the state "the less a defendant has to show prejudice." Id at 280-281. Nevertheless, the prejudice also lies in all those years of oppressive, cruel, unusual punishment, of pre-trial incarceration.

Therefore, this factor weights in favor of Lopez.

Balancing The Factors: The weightsof the factors are balanced in light of "the conduct of both the prosecution and the defendant." Barker at 530. The factors are interrelated and must be considered together, along with other relevant circumstances. Id at 533.

Here, in Lopez's case, it is the Petitioner's opinion that the State was in the wrong, showing bad faith and negliegance. First by trying to lie and frame a case with Bunker Hill by using false evidence to which Mr Fry discovered; and second, for doing the same things in Loma Vista which Mr. Salhab was not able to prove. Plus, the State has the burden to prosecut not the defense. Furthermore, all factors weight heavily in favor of Lopez. With the famous words of the late Justice Ruth Ginsburg "a literal interpretation of the Constitution" , reveals that Lopez's 6th & 14th Ammendment Rights were violated by the Lower Courts.

Therefore, according to, Zamorano v. State, 84 S.W.3d 643, 655 (Tex. Crim. App. 2002); U.S. v. Seltzer, 595 F.3d 1170 (CA 10 2010); Maples v. Stegall, 427 F.3d 1020 (CA 6 2005) and Zedner v. U.S. 547, 489, 156, L.Ed 2d, 749, 126 S.ct 1976 (2006), Lopez case is to be dismissed. To support the dismissas even more, Lopez brings, Young v. Dretke, 356 F.3d 616 (5th Cir. 2004). In Young, the Fifth Circuit ruled that effect counsel would have moved to dismiss the untimely indictment on State law grounds and the State Court would have been required to dismiss the prosecution with prejudice. On August 29, 2014, the State Court heard Lopez's motion to dismiss indictment for denial of speedy trial. After analyzing the Barker factors, in favor of the State, the State Court denied the motion. The State Court was wrong to deny the dismissal because it is clear that the factors weight in favor of the Petitioner, and because according to

the Fifth Circuit, the State Court had to dismiss the prosecution with prejudice.

The end result was, and reasonable jurist would aregue this, that Lopez suffered prejudice by not receiving a dismissal becuase it resulted in Lopez being found guilty for a murder he did not committ.

This Supreme Court can can find the trascript for the August 29, 2014, motion to dismiss hearing in Appendix (F) for a De Novo Review. Note to Court: Mr. Graham's words that he wanted to "hammer and pound" Lopez are references to the time he spoke to Lopez about accepting a plea deal or face prosecution for Loma Vista. This occured before 2011.

Petitioner Lopez respectfully asks this honorable Court to allow the incorporation of attorney Wendell A. Odom Jr.'s arguements for speedy trial, and the dangerous precedence it will set forth if Lopez right is denied, for the purpose of supporting this claim. Mr Odom Jr.'s work can be found in Appendix E.

The Court can find the Loma Vista Docket Reset Forms in Appendix D and Bunker Hill Docket Reset Forms in Appendix H.

Wherefore, the Court should grantta certiorari.

(4) INEFFECTIVE ASSISTANCE OF COUNSEL

Ineffective Assistance of Counsel is governed by the 6th and 14th Amendment, and Strickland v. Washington, 466 U.S. 688 (1984). Here, Lopez's case Lopez will show that Attorney Joseph Salhab performed outside the bounds of competent representation.

First I.A.C.: In 2011, attorney Joseph Salhab was appointed by the Court to represent Lopez in the Loma Vista Indictment. KNowing full well that there was a speedy trial violation, Mr. Salhab should had imedately challenged the indictment, "and moved to dismiss the untimely indictment on state law grounds." See Young v. Dretke, 356 F.3d 616 (5th Cirl 2004) as soon as he was appointed. The indictment was untimely because of the speedy trial clock. See Marion.

Second I.A.C: During trial, Lopez wanted to testify on his behalf. However, Mr. Salhab was of the opinion that Lopez should not testify. Mr. Salhab's tactic was for Lopez not to testify because the victim of the crime does not accuse Lopez of murder. That the jury would rely on the victim's testimony for aquital. Also, Mr. Salhab worried that if Lopez testified then the State would question him on the Bunker Hill case. Mr. Salhab did not want the jury to hear about the first indictment.

Lopez wanted to testify, he wanted to asnwere - infrontof the jury - the question, did you Lopez murder Daniel Zammora? Lopez would have answered: "No, I did not murder Daniel Zammora."

The fact that Lopez was found guilty for the murder of Daniel Zammora show's that Mr. Salhab was wrong to assume the jury would rely on the victim's testimony for aquittal. The jury ignored the victim's testimony. Trial tactics did not work. See U.S. v. Teague, 953 F.2d 1525 (CA 11 1992); U.S. v. Lore, 26 F. Supp.2 729 (D.N.J. 1998)' Jordan v. Hargett, 34 F.3 310 (CA 5 1994); U.S. v. Mckinnon, 995 F. Supp. 1404 (M.D. Fla. 1998).

Furthermore, Lopez needed to testify to answere another question, Did you Lopez speak to Yeni Rivas of you invòlvments in the Loma Vista Case? Lopez would had answered: "No, I never spoke to her about the Loma Vista case. She is lieing and holding a grudge because I do not want to have a relationship with her."

The last serious questions that Lopez needed to answere were, Did the money ($14,000 or so)and hand gun found in your room come from the Loma Vista robbery? Lopez would had answered: "No, I was in a car reck with a 18-wheeler and received a settlement. With some of the settlement money I purchased a used car and a handgun from a vendor. I then sold the car. The money found in my room was a mixture of settlement money, car sell money and several savings.

Lopez is the only person who could contradict Alejandro Garcia, Yeni Rivas, and the States theory that the money and gun found in Lopez's childhood room came from Loma Vista.* Without Lopez's testimony to contradict the state's falsetestimony and false theory, the jury by default way of thinking, relied on Alejandro Garcia and Yeni plus the State's theory for their decision making. A better trial strategy would have been for Lopez to testify. Reasonable Juries always want to hear what the accused has to say; and after hearing Lopez testimony there is the possibility they would had not found Lopez guilty of murder. It is commentsence, in the eyes of juries. for the innocent to testify for their defense while the guilty remain quiet. Therefore, Mr. Salhab's decision of not allowing Lopez to testify was not tactical. Pavel v. Hollins, 261 F.3d 210 (CA 2 2001).

If it was true that Mr. Salhab worried that the State would question Lopez on the Bunker Hill case, then trial attorney would motion to lamin, motion to

* Victim Guadalupe Sepulveda never identified anything from Lopez room as his property. Plus, Sepulveda testified that $1,000-$2000.oo of drug money was stolen (refering to old bills). The money in Lopez's room was still new as it came from a bank.

Deus, and "Object" to the State questioning of the Bunker Hill case during the Loma Vista trial.

Third I.A.C.: Attorney Gerald Fry in 2008 investigated Lopez's case and accusations. Mr. Fry first had the 2008 interview between Mr. Rodriguez and state-witness Yeni Rivas. Mr. Fry shared this interview with Mr. Salhab to use and help Lopez in trial.

In this interview conducted in 2008, state witness Yeni Rivas confesses to P.I.,Rodriguez that: 1) she is being coerced by the State to give testimony against Lopez; 2) Lopez never spoke to her about the Loma Vista case; 3) If she does not cooperate with the state, the state threatened to take away her son; 4) that she is mad at Lopez.

To everyones suprise, Mr. Salhab failed to have this piece of evidence available for trial, nor did he try to introduce it as evidence. He even failed to subpeona Mr. Rodriguez to testify for the defense.

A competent attorney would have had the audio tape of the interview ready for use in trial, for the purpose of of contradicting Yeni Rivas during cross examination. A competent attorney would had asked Yeni Rivas, " Did you Yeni Rivas speak to a Mr. Rodriguez and tell him that the State forced you to sign a pre-written statement of event you have no knowledge of; that Lopez never spoke to you about the Loma Vista case; that the State threatened to take away your son if you did not cooperate; that HPD officers threatened you with a tazer when you were pregnant for trying to defend Lopez; and that you are mad at Lopez ?" If Yeni Rivas answered "No", then competent attorney would play the audio tape of the interview and/or have her read the transcript of the interview. Strickland Performance Prong. Reasonable jurist would not had relied on her testimony for a guilty vote. Not subpeona Mr. Rodriguez and not having this evidence avaliable is poor performance. Pavel v. Hollins, 261 F.3d 210 (CA 2 2001).

Mr. Salhab was not prepared to defend Lopez in trial, he simply went with the flow (as kids would say). He had no proper tactics nor strategy to defend Lopez. Freeman v. Class, 95 F.3d 639 (CA 8 1996).

Fourth I.A.C.: The defense never onced asked for an extention. However, in theory, it would have been wise strategy to move Lopez's trial to the end of all the trials that Alejandro Garcia and Yeni Rivas were expected to testify in.

Lopez does not know how many times Garcia and Rivas testified for the State, but he does know that Alejandro Garcia was a state witness in many of his own friends causes and trials.

B

By being last to go to trial, a competent attorney would gather Garcia and Rivas' testimony from all the trials and accusation. Like all liers, a lier cannot keep his/her story straight. So it is logicle to assume that Garcia and Rivas testimony changed in every trial.

Performance Chart: Through the near decade of pre-trial incarceration at the Harris County Jail, Lopez had two seperate attorneys: Mr. Fry (Bunker Hill) and Mr. Salhab (Loma Vista). Through natural observation, Lopez witnessed first hand the difference between a competent attorney and ineffective counsel. Please take a look at the chart below that articulates the performance of both attorneys.

Attorney Gerald Fry	Attorney Joseph Salhab
• Did not accept the State's investigation • Sent Private Investigators to investigate • Used new exculpatory evidence to exonerate Lopez in the Bunker Hill Case. Spoke to the first prosecutor about the misconduct. (See Appendix H.) Prosecutor quit the D.A. Off. • Scheduled a day to speak to prosecutor Mr. Graham, and sought Lopez best interest. • Filed Motions to dismiss the Bunker Hill Indictmenf for denial of speedy trial. • Visited Lopez at the jail by himself, with other helping attorneys, with law college interns, and P.I., for legal purposes and friendly purposes. • Mr. Fry and his Office worried about Lopez mental health & Development. Lopez was housed in Ad-Seg from 2005-2012, not because of misbehavior but by the Jail's policy of housing all Capital Indictments in Ad-Seg. Mr. Fry spoke up about Lopez's Ad-Seg housing being oppressive. Mr. Fry & his office motioned for Lopez to get a T.V. THE TV WAS GRANTED BY THE COURT. Lopez first received a colored box TV. When flat screen became available, Mr. Fry made sure Lopez got one. In 2011, Mr. Fry moved that Lopez be taken out of AD-Seg. In 2012 Lopez was housed in population. Mr. Fry then moved for Lopez to get his G.E.D. • Mr. Fry tried to get Lopez a decent Bond. • Mr. Fry prepared for a trial by gethering his Law Office & College interns. • Mr. Fry taught Lopez on how to assert his speedy trial rights in the Loma Vista Case. • Mr. Fry shared new evidence with Mr. Salhab, even invited Salhab over to his Office several times. Salhab never went. • Bunker Hill Case was dismissed.	• Accepted the State's investigation • Hesitant to motion for a P.I. • No zeal to discover exculpatory evidence. • Never scheduled a date with prosecutor, nor sought Lopez's best interest. • Never filed Motions To Dismiss for denial of speedy trial. Lopez filed his pro se. • Hardley visited Lopez at the jail for legal purposes. • Indifferent towards Lopez 6 & 14 amend., rights. • Indifferent towards Lopez's mental health and Development. • Failed to prepare for trial. • Failed to get Lopez a Bond. • Failed to use the evidence Mr Fry gave him to help Lopez. • Failed to defend Lopez in Trial and as a result Lopez was found guilty of murder, though crime victim gave exculpatory evidence that Lopez was not the shooter. • After trial, Mr. Salhab did motion and argue for Lopez to have his 9 years of back time added to his sentence. The State wanted for Lopez not to have the 9 years of back time. The Court alloted Lopez's 9 years to his sentence. (Because of Marion?) • Mr. Salhab, apperantly was in bad health. After trial, Salhab went into a Coma, and later on passed away. Mr. Salhab was not available to file a affidavit during §11.07 habeas proceedings.

Therefore, Lopez has established several ineffective assistance of counsel claims according to, Strickland v. Washington, 466 U.S. 688, 687 (1984).

Wherefore the Court should grant certiorari.

(5) STATE'S SUPPRESION OF EXCULPATORY EVIDENCE

The suppresion of evidence by the State is governed by the 14th Ammendment, Brady, and Philips v. Ornoske, 673 F.3d 1168 (CA 9 2012). Here, in Lopez's case, the trial prosecutors lied about co-defendant Alejandro Garcia's plea bargain.

State witness Alejandro Garcia attracted detectives to him, for the Loma Vista Murder, in 2005, through the usage of the cell phone that belonged to victim Guadalupe Sepulveda. Phone records revealed Alejandro Garcia calling and texting his girlfriend, and calling his home.

When Alejandro Garcia was first questioned for the Loma Vista murder, he accused a fellow student named Jose Luviano as the murderer of Daniel Zammora. Detectvies, verified that Jose Luviano was incarcerated during the night of the said murder. Detectives questioned Alejandro for the second time, on the second Affidavit Alejandro Garcia accused a George Lopez. Detectives, once again, realized that he was lie'ing to them. In the third interview with Detectives, after two perjuries defined by State Law, Alejandro Garcia accused petititioner Efrain Lopez of the murder of Daniel Zammora. Lopez was arrested after the signing of the third affidavit in October 2005. Lopez denied all accusations and was released.

The State continued to keep Lopez as the prime suspect for the murder of Daniel Zammora. Several friends from school notifed Lopez that Detectives spoke to them about Lopez.

Please take note of Lopez's adolscent mental development. A child guilty of a hainous crime is unable to hold in the guilt, and under police pressure will confess to the crime the child committed. On the other hand, a child with a clear conscience does not brake under any pressure and out of adolscent zeal will hold his/her integrity,"It was not me!" attitude. With Alejandro Garcia, knowing he was using a stolen cell phone, had stolen property in his room, when questioned by police; the pressure overwhelmed him and he started to falsely accuse random people - thinking like a child - hoping his lies will moverdetectives towards another direction. What is most interesting his, how and why, did detectives keep entertaining Alejandro Garcia after two perjuries?

In 2005, Lopez had no knowledge that Alejandro Garcia had accused him of murder. Both Lopez and the Garcia brothers were friends, and Lopez spent his

after school hours and weekeneds at the Garcia residence. It was was through a discovery motion, later on, when Lopez learned that Alejandro Garcia had falsey accused him of the Loma Vista murder.

December 2005, The Garciasbrothers (Alejandro, Pedro), Lopez, Israel Diaz, and more of Alejandro's friends were arrested for several charges.

Detectives found in Alejandro Garcia's room: illegal guns, an illegal assault rifle, shogun shells, random bullets, some of Guadalupe Sepulveda's stolen property, drugs and scales. Plus, cell phone records revealed that Alejandro was using Sepulveda's stolen cell phone to call and text his girl-friend and home.

After striking a deal with the State, Alejandro Garcia was allowed to post bond; his charges were reduced from Capital Murder to Agg., Robbery (with expected 5 year Deffered); Pedro Garcia's criminal complaint disapeared, and Alejandro never saw prison time. Alejandro Garcia was expected to testify in several trials.

Throughout Lopez's trial, the trial prosecutors informed the jury that Alejandro Garcia pleaded guilty through a P.S.I., for Aggravated Robbery and was facing 5 to 99 years up to life in prison, and that Alejandro Garcia was offered nothing in return for his testimoney "which is the truth" said the prosecutors. However this is not true.

Mr. Salhab questioned Alejandro Garcia on the stand about his plea deal. Alejandro Garcia spoke of wanting probation. At the time, no one understood, not counsel, and especially not the jury, that Alejandro Garcia was revealing his secret arranged plea deal of 5 years Deffered. Alejandro called it "probation", not knowing the technical differences between "Deffered & Probation"; either way, he spoke of wanting probation (meaning: no prison time for his testimony) with confidence knowing he was going to get 5 years Deffered if he did everything the State wanted him to do/say.

The State never informed the jury the truth, that it was already arranged for Alejandro Garcia to be sentenced to 5 years Deffered and not felony probation. In matters of law, there is a difference between Deffered and Felony Probation. One leaves a felony conviction on your record upon completion and another one upon completion removes the felony off your record. Alejandro Garcia was not facing 5 to 99 years up to life in prison but 5 years Deffered after testifying against everyone on the State's trial schedule.

The State informed the jury that Alejandro Garcia was offered nothing in exchange for his testimony. However, the truth is he was offered many things. He was offered: Bond, reduction of charges, and 5 years Deffered. Furthermore,

one must ask, What happened to Pedro Garcia, the brother of Alejandro Garcia? Lopez knows for a fact that Pedro Garcia was involved in the Loma Vista robbery. So what happened? Pedro Garcia's criminal complaint disapeared. Why wasnt Pedro prosecuted? This leads anyone to presume and speculate, that part of Alejandro Garcia's deal with the State was for his brother not to face prosecution. Any reasonable jurist would be of that opinion. The State lied to the jury that Alejandro received nothing in exchange, for it is clear that he received many things for his testimony, primarily his brother and his freedom from prison.

Any reasonable jurist would agree that the State did indeed lie to the jury of Alejandro Garcia plea deal. Reasonable jurist would agree that Alejandro Garcia received: A Bond, reduction of charges, 5 year Deffered sentence, and the disapearance of his brothers criminal complaint for the Loma Vista murder. Reasonable jurist, upon knowing of this un-ethical plea deal by the State, would not have relied on Alejandro Garcia's testimony of accusing Lopez of murder but would rely soley on Guadalupe Sepulveda esculpatory testimony, and aquitt Lopez of Capital Murder. See Appendix (I).

This Claim can also be seen in, Philips v. Ornoski, 673,F.3d 1168 (CA 9 2012). In Philips, the Court dismissed the case because the co-defendant in thewcase testified falsley, and the State lied to the jury about the co-defendant's plea agreement for her testimony. The co-defendant went from capital murder charges to immunity, in echange for her testimony. The Court ruled, the Supreme Court has accordingly held that the government may not knowingly suppress evidence that is exculpatory or capable of impeaching government wintesses. See Banks v. Dretke, 540 U.S. 668, 691, 124 S.Ct 1256 L.Ed.2d 1166 (2004); Similarly, it has held that the government is obligated to correct any evidence introduced at trial that it knows to be false, regardless of whether or not the evidence was solicited by it. See Napue v. Illinois, 360 U.S. 264, 269, 79 S.Ct 1173, 3 L.Ed.2d 1217 (1959).

Therefore, it is clear, the State did suppress exculpatory evidence of Alejandro Garcia's pleaddeal.

Wherefore, this Court should grant certiorari.

(6) DENIAL OF DUE PROCESS TO PERJURED TESTIMONY & FALSE TESTIMONY OFFERED BY THE STATE AT TRIAL

This claim is goverend by the 14th amendment, Banks v. Dretke, 540 U.S. 668, 691, 124 S.Ct 1256 L.Ed2d 1166 (2004), and Napue v. Illinoise, 360 U.S. 264, 269, 79 S.Ct 1173, 3 L.Ed.2d 1217 (1959), "It is established that a conviction obtained through use of false evidence, known to be such by representatives of the State, must fall under the fourteenth Amendment." Id at 269.

During Lopez's trial the State offered two state-witnesses, Alejandro Garcia and Yeni Rivas, as evidence to support their burden that Lopez murdered Daniel Zammora.

Detectives found Alejandto Garcia through cell phone records of a stolen cell phone that belong to the victim Guadalupe Sepulveda. State records reveal that Alejandro Garcia called and texted his girlfriend and his home.

Detectives questioned Alejandro three times concerning the Loma Vista murder. Alejandro Garcia signed three seperate affidavits, with perjury warnings, accusing three people of murdering Daniel Zammora. The first person Alejandro accused was a fellow student named Jose Luvian; he was cleared of any wrong doing. The second person to be accused was an alleged student who attended Sharpstown High by the name of George Lopez; Detectives realized, once again, that Alejandro lied to them. After two perjuries, Detectives continued to question him. On his third affidavit, declared under penalty of perjury, he accused petitioner Efrain Lopez in the murder of Daniel Zammora. Lopez was arrested in October 2005 and released. Lopez denied all accusations.

The State continued to keep Lopez as their prime suspect for the murder of Daniel Zammora.

Please take note of Alejandro Garcia's behaviour as adolscent. Knowing that detectives found him by using a stolen cell phone, he was quick to falsely accuse radom people, perjuring himself. Commen behaviour in children when caught misbehaving. Lopez, on the other hand, when interrogated, never accused other people of crimes, never confessed to murder, nor did he try to mislead detectives.

In December 2005, Alejandro Garcia, Pedro Garcia, Israel Diaz, Efrain Lopez, and more of Alejandro Garcia's friends where arrested for random charges.

Alejandro Garcia, after striking a plea deal with the State, was allowed to: Bond, received reduced charges - from Capital Murder to Aggravated Robbery - and Pedro Garcia's criminal complaint disapeared.

Lopez was indicted for Loma Vista seven years after his arrest, and whent to trial nearly nine years after his arrest for Loma Vista. As part of his plea aggeement, Alejandro Garcia testified to: Lopez murdering Daniel Zammora with a black shotgun. The second state witness, Yeni Rivas, testified to: Lopez confessed to her that he was at the Loma Vista scene.

State-witness, and a eyewitness, plus victim of the crime Guadalupe Sepulveda testified to: A man, 5'9 feet tall, age 23 murdered Daniel Zammora.

Petitioner Lopez, at the time of the murder was 17 years old, 5'4 feet tall, and did not own a shotgun.

Alejandro Garcia testimony does not match Guadalupe Sepulveda's testimony, and Yeni Rivas lied in trial according to her sister Jessica Rivas and a 2008

interview with Private Investigator Mr. Rodriguez. (See Appendix G).

The Petitioner asks the question once again, does Guadalupe Sepulveda's exculpatory testimony have any value, any weight to jurist of reasons? Eye-witness Sepulveda is not the criminal in this matter but a victim. Alejandro Garcia is not a victim but a criminal to this Case, he pleaded guilty to Aggravated Robbery of Guadalupe Sepulveda. How then can Alejandro Garcia's testimony have any value or weight to jurist of reason? Furthermore, Alejandro Garcia's testimony does not match - not even 1% - Sepulveda's testimony. If victim Guadalupe Sepulveda would have said that he saw a short teenager or even man shoot Daniel Zammora, then Alejandro Garcia and Sepulveda's testimony would match. But that is not the truth here. Sepulveda saw a 5'9 foot tall man. Lopez height is/was 5'4 even up 5'5..If Sepulveda would had said that he saw a Black shotgun used as the murder weapon, then Sepulveda's and Garcia's testimony would match. But that is not the truth here. Sepulveda saw a camofluague color shotgun and that shotgun was found either on Alejandro or one of his other close friends. Alejandro testified to Lopez using a black shotgun to murder Daniel Zammora, no black shotgun was found on anyone. In Lopez's case, the only one speaking the truth is victim Guadalupe Sepulveda. He has no reason to lie - to cover up facts - to avoid a long prison sentence, he has no reason to mislead detectives of who murdered Daniel Zammora. Alejandro Garcia, on the other hand, has all the reasons to lie in the murder of Daniel Zammora. All physical evidence found on Alejandro Garcia linked him to the murder (the stolen cell phone, and the identified stolen property) and drugs).

In regards to Yeni Rivas testimony, in the eyes of reasonable jurist Lopez does not need to continue proving her to be a lier because she confesses to be a lier in regards to this Case in her interview with Mr. Rodriguez and she confessed to her very own sister Jessica Rivas that she lied on Lopez. (See Appendix G.)

The State knew, before hand, that Alejandro Garcia's testimony did not match the victim's testimony - not even 1% - but still used it in trial. Which means, that the State allowed, on purpose, false testimony to support their burden and theory that Lopez (5'4 & 17 years of age) murdered Daniel Zammora with a black shotgun. It is also easy to presume, that the State knew, or had some knowledge of Yeni Rivas false testimony from the time when Attorney Gerald Fry disclosed to the first prosecutor in 2008 of the State's misconduct of coercing witnesses to sign false statements on Lopez. See Giglio v. United States, 405 U.S. 150, 153, (1972); Ventura v. Attorney General, FLA., 419 F.3d 1269 (CA 11 2005); ~~Beetle~~ Banks; and Napue. In theses four cases, the State used

used false testimony for a conviction. The Courts ruled that the State cannot use false evidence against a defendant.

By noww, on this writ, reasonable jurist would agree that Lopez has shown Alejandro Garcia to be: guilty of perjury, a lier, and testified falsely for the purpose of securing his brother's freedom and his own; and that Yeni Rivas also testified falsely..

The State was not willing to let go of the Loma Vista case like they let go of the Bunker Hill case. The State rolled the dice by taking Lopez to trial. Knowing that Mr. Salhab would be inaffective, on purpose using two false wintesses, and relying on Lopez's ignorance of the law for a easy conviction. Maxwell v. Roe, 528 F.3d 486 (CA 9 2010); Napue; Giglio; Ventura; and Ortega v. Duncan, 333 F.3d 102 (CA 2 2003).

In Ortega, the Court agreed that a state witness lied in trial. On page 109, the Court said, "few rules are more central to an accurate determination of innocence or guilt than the requirement...that one should not be convicted on false testimony, Sanders v. Sullivan 900 F.2d 601, 607 (2nd Cir. 1990),... We hold as matter of law that Ortega's conviction is in violation of his due process rights because without Garner's testimony, the jury would probably not have found Ortega guilty. We therefore grant Ortega's petition." Here, in Lopez's case, Lopez has shown that Alejandro Garcia and Yeni Rivas testified fasley at trial. Without Alejandro Garcia and Yeni Rivas testimony, the jury would not have found Lopez guilty of murdering Daniel Zammora.

Based on the Giglio Doctrine, Ventura, and Supreme Court ruling on Napue, reasonable jurist would agree that the government must now correct the harm done to Lopez by allowing him to be found guilty of murder on false testimony. No reasonable jury would have found Lopez guilty of murder based on Sepulveda's testimony alone. See Appendix (I).

Therefore, it is concluded that false testimony was offered at Lopez trial by the State.

Wherefore, this Court should grant certiorari.

OTHER CONSIDERATIONS

The Petitioner understands that this Court considers the importance of the public saftey...

Petitioner Lopez grew up in a disfunctiona home, poor, and abused physically & mentally. During high school, Lopez became rebellious and reckless with his behavior. By senior year, Lopez was arrested and booked into the Harris County Jail and has remained incarcerated.

Lopez obviously grew up behind bars. Nearly eight of those years were in Ad-Seg at the jail (not because of ~~behavior~~ behavior but out of the indictment brought against him). The restof his time behind bars have been in general population.

Since Lopez has been incarcerated, he has not communicated with members of the high school gang he used to associate with. Lopez has renounced all criminal behavior. While in the Harris County Jail, Lopez earned his G.E.D.

While in prison, Lopez has kept away from prison gangs. Early on, he enrolled into a Christian College with a Correspondence Prison Program and he earned a Bachelor's & Master's degree.

Lopez has never been disciplined for a major infraction while in prison.

Lopez was picked by the prior Wynne Unit Chaplain to be a Coordinator for his religious community at the prison.

At the present moment, Lopez is enrolled at the Wynne Unit Lee College program, studing Business Management. In late March 2021, Lopez is scheduled to start his duel degree program with Micro-Computers.

If Lopez has to remain in prison Longer, he has plans of changing his majorto Psychology, or in the alternative a Liberal Arts degree with Philosophy being the primary subject.

While incarcerated, Lopez has kept in touch with his relatives and his only son. They visit and communicate with Lopez on the prison phone. Lopez tries to be a good father to his son.

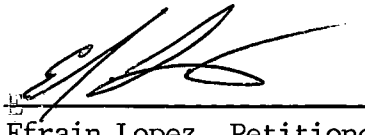
Lopez has remained hetersexual behind bars, and keeps pen-pal friendships with female friends, who are more than willing to provide a helping hand if Lopez is ever released.

Petitioner Lopez would like for this honorable Court to know that he is not a threat to the public safety, nor will be a burden to the public. Lopez has plans of finding honest employment, start a family, continue with college (paid with already approved grants), and become a mentor to underprivilaged youth so that they can be warned about bad company and prison.

CONCLUSION

Due to the numerous Due Process Errors*, The Petition For Writ of Certiorari should be granted.

Respectfully Submitted



Efrain Lopez, Petitioner, Pro Se.

March 26, 2021

Date

* Farmer v. McBride, 2004 U.S. Dist. LEXIS 29629 (S.D. W.Va 2004), Writ granted because of numerous Due Process errors.