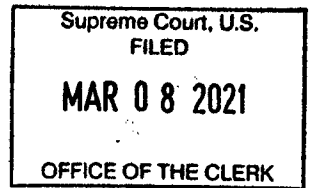


No. _____

IN THE
SUPREME COURT OF THE UNITED STATES



DANNY RAY PENNEBAKER — PETITIONER
(Your Name)

vs.

RAULDEE GEWERTS, WARDEN — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF MICHIGAN
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

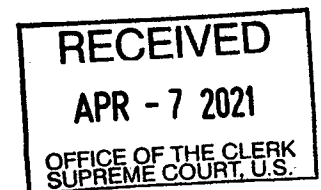
PETITION FOR WRIT OF CERTIORARI

DANNY PENNEBAKER #290966
(Your Name)

(CARSON CITY CORRECTIONAL FACILITY)
10274 BOYER RD.
(Address)

CARSON CITY, MI 48811
(City, State, Zip Code)

(931) 334-4403
(Phone Number)



QUESTION(S) PRESENTED

I. DID TRIAL COUNSEL COMMIT STRUCTURAL ERROR/IAC IN VIOLATION OF U.S. CONSTITUTIONAL AMENDMENT 6, WHEN HE ADMITTED GUILT TO TWO COUNTS OF FELONIOUS ASSAULT ON MY BEHALF TO THE JURY — AFTER I HAD ALREADY REFUSED TO ADMIT GUILT TO ONE SINGLE COUNT OF FELONIOUS ASSAULT BY REJECTING THE PLEA OFFER OF 7/30/13?

II. SHOULD MCCOY V. LOUISIANA, 138 S. CT. 1500 (2018) APPLY TO CASES ON COLLATERAL REVIEW?

III. SHOULD MCCOY BE APPLIED RETROACTIVELY?

IV. SHOULD MCCOY BE APPLIED TO MY CASE?

V. IS A REJECTED PLEA OFFER OF ONE SINGLE COUNT OF FELONIOUS ASSAULT A CLEAR ASSERTION OF INNOCENCE ON TWO COUNTS?

VI. DID TRIAL COUNSEL OVERRIDE MY SECURED AUTONOMY RIGHT TO REJECT THE PLEA OFFER OF ONE COUNT. WHEN HE, WITHOUT MY

CONSENT, ADMITTED GUILT TO THE JURY TO TWO COUNTS?

VII. AFTER I REJECTED A PLEA OFFER AND REFUSED TO ADMIT GUILT TO ONE COUNT OF FELONIOUS ASSAULT (AGAINST DYLAN BELDGYA), CAN A TRIAL ATTORNEY THEN, WITHOUT MY CONSENT, OVERRIDE MY DECISION TO REJECT THE PLEA OFFER AND TO ADMIT GUILT TO THE JURY ON MY BEHALF TO THAT VERY SAME FELONIOUS ASSAULT CHARGE THAT I EARLIER REFUSED TO ADMIT GUILT TO?

VIII. PER U.S. DISTRICT JUDGE, HONORABLE JUDITH E. LEVY: WOULD THE PRESENCE OR ABSENCE OF A RECORD EXPOUNDING THE DETAILS OF THE PLEA OFFER EXTENDED ON 7/30/13 CHANGE THE OUTCOME OF MY CASE? (APPENDIX L AND M). (SEE ALSO APPENDIX K.)

IX. SHOULD MCCOY BE APPLIED TO A RUN-OF-THE-MILL TRIAL OUTSIDE OF A CAPITAL CONTEXT?

X. IS AN "INTRANSIGENT" OBJECTION TO A TRIAL COUNSEL'S ADMISSION OF GUILT TO

TWO COUNTS OF FELONIOUS ASSAULT "INNATE" OR INHERENT, NATURAL AND OBVIOUS, WHERE A DEFENDANT HAS REFUSED TO ADMIT GUILT TO ONE COUNT IN A REJECTED PLEA OFFER?

XI. SHOULD THE CONSTRAINTS OF THE ANTI-TERRORISM AND EFFECTIVE DEATH PENALTY ACT (AEDPA) BE APPLIED TO MY HABEAS PETITION WHEN THE STATE COURTS WERE GIVEN AN OPPORTUNITY TO ADDRESS, AS NEW EVIDENCE, THE PLEA REJECTION ISSUE AND REFUSAL TO ADMIT GUILT TO ONE SINGLE COUNT OF FELONIOUS ASSAULT — BUT THEY DID NOT DO SO?

XII. SHOULD SCOTUS INVOKE SUPERINTENDING CONTROL WHERE AEDPA CONSTRAINTS DO NOT APPLY, YET THEY WERE APPLIED BY THE LOWER COURTS ANYWAY?

XIII. AS A RESULT OF MICHIGAN'S PRISONS BEING PLACED ON COVID-19 OUTBREAK STATUS, SHOULD TIME LIMITS TO FILE NOTICE OF APPEAL AND MOTIONS TO EXTEND/REOPEN THE TIME TO APPEAL BE EXTENDED?

XIV. Should I BE PROCEEDURALLY DEFAULTED ON APPEAL TIME LIMITS WHERE THE PRISON FACILITY HAS OBSTRUCTED ACCESS TO THE COURTS BY NOT PROVIDING OR PROVIDING DELAYED (a) LAW LIBRARY SERVICES (b) LEGAL MAIL SERVICES?

XV. Should THE FEDERAL COURTS CONSIDER AS FACTUAL, A PETITIONERS CLAIMED DATE OF RECEIPT OF NOTICE OF A JUDGMENT WHERE THERE IS ABSOLUTELY NO DOCUMENTATION OF RECEIPT OF ANY LEGAL MAIL FROM ANY U.S. DISTRICT OR CIRCUIT COURT FOR THE ENTIRE YEAR OF 2020 (UP UNTIL OCTOBER 2020 AND SELECTIVELY THEREAFTER), ASIDE FROM MY UNCONTESTED AFFIDAVIT, WHERE I HAVE A VERIFIABLE LEGAL MAIL "A" CODE REQUIRING PRISON OFFICIALS TO DOCUMENT RECEIPT OF ALL LEGAL MAIL RECEIVED, WHERE PRISON OFFICIALS IN AN MDOC GRIEVANCE (APPENDIX P) ASSERT THAT THEY ARE FOLLOWING ALL WELL ESTABLISHED MDOC LEGAL MAIL POLICY DIRECTIVES, YET THE FEDERAL COURTS AND JACKSON COUNTY APPELLATE PROSECUTOR, MR. SCHROTENBOER HAVE MAILED LEGAL MAIL TO THE PRISON ADDRESSED TO ME, i.e., 7/27/20 DISTRICT COURT ORDER, MR. SCHROTENBOER'S LETTER DATED 8/25/20, AND 12/1/20 US COA 6th CIR.

ORDER — AND THE PRISON FACILITY HAS NO RECORD OF EVER FORWARDING SUCH TO ME — AND YET CONSIDER AS NOT FACTUAL, THE DATE ON WHICH MY MOTION TO REOPEN THE TIME TO APPEAL WAS MAILED — WHERE, THERE IS PROOF OF SUCH MAILING DATE? (APPENDIX N)

XVI. SHOULD THE FEDERAL COURTS CONSTRUCT A LATE NOTICE OF APPEAL AS A MOTION TO REOPEN THE TIME TO FILE AN APPEAL?

XVII. SHOULD CURRENT RULES STAND TO ALLOW PRISON OFFICIALS TO BLOCK AN APPEAL BY INSURING THAT AN INMATE DOES NOT RECEIVE NOTICE OF A JUDGMENT ON TIME?

XVIII. SHOULD THE TOLLING PERIOD TO FILE A TIMELY NOTICE OF APPEAL BEGIN ON THE "DATE" OF RECEIPT OF RECEIPT OF THE JUDGMENT SOUGHT TO BE APPEALED FROM?

XIX. WOULD A TIMELY RESPONSE ON MY MOTION FOR "CONSIDERATION" FILED ON 8/19/20 HAVE AFFECTED MY RESPONSE TO THE DISTRICT COURT JUDGMENT OF 7/27/20?

XXIII. SHOULD A PRISON FACILITY'S OBSTRUCTION OF RECEIPT OF A U.S. DISTRICT COURT'S JUDGMENT BE ALLOWED TO WORK TO STRIP APPELLATE RIGHTS FROM A PETITIONER?

XXIV. SHOULD THE FILING OF A NOTICE OF APPEAL FULFILL JURISDICTIONAL OBLIGATIONS TO ALLOW REVIEW OF A CASE WHERE IT IS FILED WITHIN 30 DAYS FROM RECEIPT OF THE JUDGMENT BEING APPEALED?

XXV. SHOULD A PETITIONER'S LACK OF FILING A TIMELY NOTICE OF APPEAL OF A JUDGMENT VIA NO FAULT OF HIS OWN, WORK TO PRECLUDE/STRIP RELIEF UNDER RULE 59 OR RULE 60?

LIST OF PARTIES

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

☐ All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

- 1.) PEOPLE v. PENNEBAKER, NO. 13-4717-FC, JACKSON COUNTY, MI CIRCUIT COURT. JUDGMENT ENTERED APRIL 24, 2014.
- 2.) PEOPLE v. PENNEBAKER, NO. 322117, MICHIGAN COURT OF APPEALS. JUDGMENT ENTERED OCTOBER 22, 2015.
- 3.) PEOPLE v. PENNEBAKER, NO. 152694, MICHIGAN SUPREME COURT. JUDGMENT ENTERED MAY 2, 2016.
- 4.) PENNEBAKER v. CAMPBELL, NO. 16-11783, U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN. JUDGMENT ENTERED JUNE 6, 2016.

RELATED CASES CONTINUED

5.) PEOPLE V. PENNEBAKER, NO. 13-4717-FC, JACKSON COUNTY, MI CIRCUIT COURT. JUDGMENT ENTERED APRIL 17, 2019.

6.) PEOPLE V. PENNEBAKER, NO. 349589, MICHIGAN COURT OF APPEALS. JUDGMENT ENTERED OCTOBER 14, 2019.

7.) PEOPLE V. PENNEBAKER, NO. 160440, MICHIGAN SUPREME COURT. JUDGMENT ENTERED FEBRUARY 4, 2020.

8.) PENNEBAKER V. HEWERTS, NO. 17-12196, U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN. JUDGMENT ENTERED JULY 27, 2020.

9.) PENNEBAKER V. HEWERTS, NO. 20-1968, U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT. JUDGMENT ENTERED DECEMBER 1, 2020.

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4-12
REASONS FOR GRANTING THE WRIT	13-17
CONCLUSION	18

INDEX TO APPENDICES

APPENDIX A	DECISION OF U.S. COURT OF APPEALS (6 th Cir.)
APPENDIX B	DECISION OF U.S. DISTRICT COURT
APPENDIX C	DECISION OF U.S. COURT OF APPEALS (6 th Cir.) DENYING REHEARING
APPENDIX D	DECISION OF U.S. DISTRICT COURT DENYING RECONSIDERATION
APPENDIX E	DECISION OF STATE COURT OF APPEALS
APPENDIX F	DECISION OF STATE SUPREME COURT
APPENDIX G	DECISION OF STATE TRIAL COURT DENYING RELIEF FROM JUDGMENT
APPENDIX H	DECISION OF STATE COURT OF APPEALS DENYING LEAVE TO APPEAL THE TRIAL COURT DENIAL OF RELIEF
APPENDIX I	DECISION OF STATE SUPREME COURT DENYING LEAVE TO APPEAL

INDEX TO APPENDICES CONTINUED

APPENDIX J CONSTITUTIONAL PROVISIONS, STATUTE,
AND RULES INVOLVED IN MY CASE

APPENDIX K FOIA DOCUMENTS

APPENDIX L MICHIGAN ATTORNEY GRIEVANCE COMPLAINT

APPENDIX M ATTORNEY MR. CRAIG PAPPIN'S RESPONSE TO
MICHIGAN ATTORNEY GRIEVANCE COMMISSION
INVESTIGATION/COMPLAINT

APPENDIX N PRISONER LEGAL MAIL FORM

APPENDIX O AFFIDAVIT

APPENDIX P MDOC GRIEVANCE AND RESPONSE

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
MARTIN V. SULLIVAN, 876 F. 3d 235 (6 th Cir. 2017)	P. 10
McClay V. LOUISIANA, 138 S. Ct. 1500 (2018)	P. 6, 14, 15, 16
OGDEN V. SAN JUAN CY, 32 F. 3d 452 (10 th Cir. 1994)	P. 10
POOKE V. FAMILY CT. OF NEW CASTLE CO. 368 F. 3d 263 (3 rd Cir. 2004)	P. 10
SAUNDERS V. U.S., 113 F. 3d 184 (11 th Cir. 1997)	P. 10
U.S. V. WITHERS, 638 F. 3d 1055 (9 th Cir. 2011)	P. 10

STATUTES AND RULES

ANTI-TERRORISM AND EFFECTIVE DEATH PENALTY ACT (AEDPA)	P. 16
FED. R. APP. P. RULE 4	P. 9
FED. R. APP. P. RULE 59	P. 9, 11
FED. R. APP. P. RULE 60	P. 9, 11
28 U.S.C.S. 2107	P. 9

OTHER

U.S. CONST. AM V	P. ALL
U.S. CONST. AM VI	P. 4, 5, 16
U.S. CONST. AM XIV	P. ALL

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

☒ For cases from federal courts:

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

☐ reported at No. 20-1968; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

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

☐ reported at No. 17-12196; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

☐ For cases from state courts:

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

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

JURISDICTION

☒ For cases from federal courts:

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

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: JANUARY 20, 2021, and a copy of the order denying rehearing appears at Appendix C.

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

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

☐ For cases from state courts:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

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

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

28 U.S.C.S. 2107	(SEE APPENDIX J)
FED. R. APP. P. RULE 4	(SEE APPENDIX J)
FED. R. APP. P. RULE 59	(SEE APPENDIX J)
FED. R. APP. P. RULE 60	(SEE APPENDIX J)
U.S. CONST. AM. V	(SEE APPENDIX J)
U.S. CONST. AM. VI	(SEE APPENDIX J)
U.S. CONST. AM. XIV	(SEE APPENDIX J)

STATEMENT OF THE CASE

On 7/30/13, I REJECTED A PLEA OFFER AND REFUSED TO ADMIT GUILT TO ONE SINGLE COUNT OF FELONY ASSAULT (AGAINST DYLAN BELDGYA, THE SOLE WITNESS WHOM SHOWED UP TO TESTIFY AT PRELIMINARY EXAMINATION) IN EXCHANGE FOR COMPLETE DISMISSAL OF ALL OTHER CHARGES INCLUDING ANY/ALL HABITUAL OFFENDER ENHANCEMENT(S).

On 3/14/14, DURING TRIAL MY TRIAL COUNSEL OVERRODE MY EARLIER REJECTED PLEA BARGAIN, AND WITHOUT CONSULTATION OR MY CONSENT, ADMITTED GUILT ON MY BEHALF TO THE JURY TO TWO COUNTS OF FELONY ASSAULT (AGAINST DYLAN BELDGYA AND VONTAHS MCGUIRE).

I APPEALED TO THE STATE APPELLATE COURTS PRESENTING A 6TH AMENDMENT VIOLATION ISSUE, i.e., IAC/STRUCTURAL ERROR FOR TRIAL COUNSEL ADMITTING GUILT TO THE JURY TO TWO COUNTS OF FELONY ASSAULT, ON MY BEHALF AND WITHOUT MY CONSENT ON RECORD. BOTH THE MICHIGAN COURT OF APPEALS AND

SUPREME COURT AFFIRMED, BUT GRANTED RESENTENCING ON IMPROPER SCORING OF SENTENCING GUIDELINES. I THEN FILED FOR HABEAS RELIEF IN THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN; THE ACTION WAS DISMISSED WITHOUT PREJUDICE DUE TO MY CASE NOT YET BEING RIPE FOR HABEAS REVIEW AS A RESULT OF THE MICHIGAN COA REMAND FOR RESENTENCING ORDER. I WAS RESENTENCED ON 10/6/16.

ON OR ABOUT JULY 2017, I AGAIN FILED FOR HABEAS RELIEF PRESENTING THE SOLE ISSUE OF IAC/STRUCTURAL ERROR 6TH AMENDMENT VIOLATION ISSUE; BUT HIGHLIGHTING OR SUPPLEMENTING THE VARIABLE OF "AFTER I HAVE ALREADY REFUSED TO ADMIT GUILT TO ONLY ONE SINGLE COUNT OF FELONIOUS ASSAULT IN THE EARLIER REJECTED PLEA OFFER."

WHILE MY HABEAS ACTION WAS PENDING JUDGMENT, I MOTIONED IN THE STATE TRIAL COURT FOR RELIEF FROM JUDGMENT; I SPECIFICALLY PRESENTED TO ALL STATE COURTS, APPELLATE INCLUDED, THE ADDITIONAL VARIABLE

OF THE REJECTED PLEA OFFER OF ONE
COUNT OF FELONIOUS ASSAULT, PROOF OF
SUCH (APPENDIX L3M), AND POINTED OUT
THAT MCCOY V. LOUISIANA, 138 S. CT 1500
(2018) APPLIES TO CASES ON COLLATERAL
REVIEW. I WAS DENIED RELIEF. I APPEALED
TO THE MICHIGAN COA AND SUPREME
COURT AND THOSE COURTS DENIED REVIEW.

ON 7/27/20, MY HABEAS CORPUS PETITION
WAS DISMISSED WITH PREJUDICE, PAUPER
STATUS AND CERTIFICATE OF APPEALABILITY
DENIED, AND THE U.S. DISTRICT COURT
CLERK MAILED THE JUDGMENT TO THE
CORRECT ADDRESS AT CARSON CITY PRISON.

I HAVE AN MDOC LEGAL MAIL "A"
CODE PER MDOC POLICY DIRECTIVE WHICH
REQUIRES PRISON OFFICIALS TO PROVIDE ME
WITH AND OPEN IN MY PRESENCE ALL LEGAL
MAIL. THE PRISON FACILITY DID NOT PROVIDE
ME WITH THE DISTRICT COURT JUDGMENT OF
7/27/20, BUT INSTEAD RETURNED IT TO THE
U.S. DISTRICT COURT "FOR SOME UNKNOWN
REASON". ON OR ABOUT AUGUST 19, 2020 I
FILED FOR "CONSIDERATION" OF MY HABEAS PETITION.

ON OR ABOUT AUGUST 25, 2020,
ATTORNEY FOR WARDEN BEWERTS, JACKSON
COUNTY MICHIGAN APPELLATE PROSECUTOR,
MR. JERROLD SCHROTENBOER FORWARDED TO ME
A COPY OF THE U.S. DISTRICT COURT JUDGMENT
OF 7/27/20, WHICH I RECEIVED ON 9/8/20
WITH REGULAR MAIL-CALL. THE PRISON
FACILITY HAS NO RECORD OF ME EVER RECEIVING
ANYTHING FROM THE U.S. DISTRICT COURT OR
JACKSON CO. APPELLATE PROSECUTOR, MR. SCHROTENBOER
FOR THE ENTIRE YEAR OF 2020, YET I HAVE
A LEGAL MAIL "A" CODE REQUIRING THE PRISON
TO LOG AND OBTAIN MY SIGNATURE FOR ALL
SUCH CORRESPONDENCE.

I HAVE WROTE MDOC GRIEVANCE(S)
ASSERTING THAT CARSONS CITY PRISON IS NOT
FOLLOWING LEGAL MAIL POLICY; IT ASSERTS
(A DICHOTOMY) THAT IT IS FOLLOWING POLICY
DIRECTIVE AND THAT THERE IS NO RECORD OF
SAID LEGAL MAIL EVER BEING SENT TO THE
PRISON, YET I HAVE AN "A" CODE AND THE
U.S. DISTRICT COURT AND JACKSON CO. APPELLATE
PROSECUTOR HAVE MAILED LEGAL CORRESPONDENCE
TO THE CARSONS CITY PRISON ADDRESSED TO ME.

(INTERPRETED AS BEING MOTIONS PURSUANT TO RULE 59 / RULE 60), FOR PAUPER STATUS. — ALL OF WHICH WERE DENIED.

ON 10/5/20, THE U.S. COA. 6TH CIR. CLERK ISSUED A SHOW CAUSE ORDER REQUESTING ME TO STATE WHY MY PETITION SHOULD BE ALLOWED TO PROCEED. I RESPONDED WITH AN ASSERTION THAT THE PRISON FACILITY IS RESPONSIBLE, WHETHER MALICIOUS OR ACCIDENTAL, FOR ME NOT RECEIVING THE DISTRICT COURT JUDGMENT OF 7/27/20 WITHIN 30 DAYS FROM THE DATE OF THE ORDER BEING ENTERED, AND THEREFORE COULD NOT POSSIBLY FILE A NOTICE OF APPEAL OF THE JUDGMENT WITHIN 30 DAYS AS REQUIRED BY 28 USC § 2107 AND FED. R. APP. P. RULE 4.

ON 12/1/20, THE U.S. COA. FOR THE 6TH CIRCUIT ISSUED A JUDGMENT (WHICH CARSON CITY PRISON DID NOT PROVIDE ME WITH) DISMISSING THE APPEAL OF MY PETITION FOR LACK OF JURISDICTION, WITHOUT MENTIONING MY MOTION(S) TO EXTEND/REOPEN THE TIME TO APPEAL FILED ON 9/15/20 OR AFFIDAVIT,

AND CITING MARTIN V. SULLIVAN, 876 F.3d 235 (6th Cir 2017); THAT THE 6th CIRCUIT IN MARTIN JOIN THE REASONING OF THE 3rd CIRCUIT IN POOLE V. FAMILY COURT OF NEW CASTLE COUNTY, 368 F.3d 263 (3rd Cir 2004), AND REJECT THE REASONING OF THE 9th, 10th, AND 11th CIRCUITS IN SANDERS V. UNITED STATES, 113 F.3d 184 (11th Cir 1997); OGDEN V. SAN JUAN CTY., 32 F.3d 452 (10th Cir 1994); UNITED STATES V. WITHERS, 638 F.3d 1055 (9th Cir 2011), i.e. THAT MY NOTICE OF APPEAL FILED ON 9/14/20 WILL NOT BE INTERPRETED AS A MOTION TO EXTEND/REOPEN THE TIME TO APPEAL.

I HAVE PRESENTED TO THE SIXTH CIRCUIT AN UNCONTESTED AFFIDAVIT ATTESTING THAT I DID MAIL TO THE DISTRICT COURT A MOTION TO EXTEND/REOPEN THE TIME TO APPEAL ON 9/15/20 (APPENDIX O). THE SIXTH CIRCUIT CITED OTHER MOTIONS FILED IN OCTOBER 2020 AND DECEMBER 2020, IGNORED MY AFFIDAVIT, AND DENIED RELIEF VIA RECONSIDERATION ON 1/20/21.

On 1/27/21, THE U.S. DISTRICT COURT DENIED THE MOTION(S) THAT WERE FILED IMMEDIATELY AFTER RECEIVING NOTICE OF THE 1/27/20 JUDGMENT, e.g., MOTIONS FOR RECONSIDERATION (RULE 59 / Rule 60 MOTIONS).

On 2/17/21, I FILED A NOTICE OF APPEAL OF THE 1/27/21 JUDGMENT; HOWEVER, IT WOULD APPEAR THAT SINCE THE 1/27/21 DISTRICT COURT RECONSIDERATION ORDER WAS ISSUED AFTER THE 12/1/20 AND 1/20/21 SIXTH CIRCUIT COA ORDERS, AND THE SIXTH CIRCUIT HAS ALREADY MADE DETERMINATION OF JURISDICTIONAL QUESTIONS, THEN THE APPELLATE COURT WILL FORECLOSE ME FROM REVIEW OF THE 1/27/21 DISTRICT COURT JUDGMENT FOR WANT OF JURISDICTION.

ADDITIONALLY, MY TIME TO FILE FOR CERTIORARI STARTS TICKING UPON ISSUANCE OF THE 1/20/21 SIXTH CIRCUIT COA ORDER OF DENIAL OF RELIEF UPON RECONSIDERATION AND I CANNOT WAIT FOR THE COURT SYSTEM TO ISSUE ORDERS REGARDING APPEAL OF THE 1/27/21 DISTRICT COURT ORDER BECAUSE

MY TIME TO FILE FOR A WRIT OF
CERTIORARI WILL EXPIRE.

I HAVE SPENT MANY YEARS AND
FILED AN EXHAUSTING AMOUNT OF PAPERS,
ALL JUST TO SEEK REVIEW OF ONE SINGLE
AND SIMPLE ISSUE:

IS IT UNCONSTITUTIONAL FOR
MY TRIAL COUNSEL TO ADMIT GUILT ON
MY BEHALF TO TWO COUNTS OF FELONIOUS
ASSAULT, AFTER I HAVE ALREADY REFUSED
TO ADMIT GUILT TO ONE SINGLE COUNT
OF FELONIOUS ASSAULT IN A REJECTED
PLEA OFFER?

REASONS FOR GRANTING THE PETITION

THERE ARE CONFLICT BETWEEN THE 9th, 10th, AND 11th UNITED STATES CIRCUIT COURTS OF APPEALS, AND THE 3rd AND 6th CIRCUITS REGARDING WHETHER A PRO SE PETITIONER'S NOTICE OF APPEAL SHOULD BE INTERPRETED/ACCEPTED AS A MOTION TO REOPEN THE TIME TO APPEAL, WHERE A PETITIONER THROUGH NO FAULT OF HIS OWN DOES NOT RECEIVE A COPY OF THE DISTRICT COURT'S JUDGMENT WITHIN 30 DAYS AFTER THE JUDGMENT WAS ISSUED, WHERE PRISON OFFICIALS ARE RESPONSIBLE FOR THE DELAY OR OBSTRUCTION, AND THE PETITIONER FILES A NOTICE OF APPEAL WITHIN 30 DAYS OF RECEIPT OF THE JUDGMENT.

IF I WOULD HAVE FILED MY PETITION OR NOTICE OF APPEAL IN THE STATE OF ALABAMA, THE ELEVENTH CIRCUIT, THEN MY RIGHT TO APPEAL WOULD, UNDER STARE DECISIS, HAVE BEEN HONORED AND JURISDICTION PRESUMED.

HOWEVER, AS LONG AS I FILE MY PETITION OR NOTICE OF APPEAL IN THE

STATES OF MICHIGAN OR TENNESSEE,
THEN MY RIGHT TO APPEAL IS DILUTED
OR DISHONORED FOR WANT OF JURISDICTION.

DISMISS: I HAVE "THE POWER TO SPEAK THE
LAW" AND THE FACT REMAINS — I HAVE
NEVER AND DO NOT CONSENT TO BE
GOVERNED TO BEGIN WITH, AND THEREBY —
JURISDICTION IS ALWAYS WANTING.

FOR THE ABOVE REASONS CERTIORARI
SHOULD ISSUE TO REMEDY THE CONFLICT.
BETWEEN THE U.S. CIRCUIT COURTS OF
APPEAL.

ACCORDINGLY, CERTIORARI SHOULD ISSUE
TO CLARIFY THE CONSTITUTIONAL QUESTION(S)
PRESENTED BY MCCOY V. LOUISIANA, 138
SCT. 1500 (2018).

MCCOY SHOULD APPLY RETROACTIVELY TO
CASES LIKE MINE WHO PRESENT ISSUE(S) ON
COLLATERAL REVIEW BECAUSE MCCOY
PRESENTED HIS ISSUE(S) ON COLLATERAL
REVIEW.

McCoy MADE AN "INTRANSIGENT" OBJECTION TO HIS TRIAL COUNSEL ADMITTING GUILT ON HIS BEHALF; I REFUSED TO ADMIT GUILT TO ONE SINGLE COUNT OF FELONIOUS ASSAULT. MY REJECTION OF THE PLEA OFFER AND REFUSAL TO ADMIT GUILT TO ONE SINGLE COUNT OF FELONIOUS ASSAULT IS UNAMBIGUOUSLY "INTRANSIGENT" OR HARD ENOUGH TO LET MY TRIAL COUNSEL KNOW THAT I UNCOMPROMISINGLY OBJECT TO AND DO NOT CONSENT TO ADMISSION OF GUILT TO TWO COUNTS OF FELONIOUS ASSAULT. THIS ACT BY TRIAL COUNSEL OVERRODE MY 6TH AMENDMENT SECURED AUTONOMY RIGHT TO REJECT THE PLEA OFFER OF 7/30/13 AND THEREBY COMMITTED STRUCTURAL ERROR.

McCoy SHOULD EXTEND TO CASES LIKE MINE WHERE THE INTRANSIGENT OBJECTION IS INNATE OR INHERENT, NATURAL AND OBVIOUS.

IT IS ILLOGICAL FOR MCCOY TO NOT EXTEND TO CASES BEYOND THE CAPITAL CONTEXT BECAUSE IT WOULD RESTRICT APPLICATION OF THE CONSTITUTION TO CAPITAL OFFENSE(S) ONLY

AND EXCLUDE THOSE WHO ENCOUNTER TAC/
STRUCTURAL ERROR DURING RUN-OF-THE-
MILL TRIALS.

FURTHER, THE CONSTRAINTS OF THE
ANTI-TERRORISM AND EFFECTIVE DEATH
PENALTY ACT (AEDPA) SHOULD NOT BE
APPLIED TO THE CONSIDERATION OF THE
APPLICATION OF MCCOY TO MY CASE BECAUSE
THE STATE OF MICHIGAN (AT THE TRIAL COURT
LEVEL, COA, AND S.Ct.) WAS GIVEN THE
OPPORTUNITY TO CONSIDER WHETHER MCCOY
APPLIES SPECIFICALLY TO INNATE ASSERTIONS
OF INNOCENCE (REJECTED PLEA OFFERS), AND
IT DECLINED TO CONSIDER THE ISSUE.

AGAIN, THE CONFLICT BETWEEN THE
UNITED STATES CIRCUIT COURT OF APPEALS ARE
STRIKING, WHEREAS ALMOST HALF OF THE
COUNTRY IN THE 9TH, 10TH, AND 11TH CIRCUITS
HAS STARE DECISIS THAT COMPEL INTERPRETATION
AND ACCEPTANCE OF A NOTICE OF APPEAL AS A
MOTION TO REOPEN THE TIME TO APPEAL, i.e.,
EIGHTEEN STATES AND TWO TERRITORIES — AND
ONLY THE SEVEN STATES WITHIN THE 3^d AND 6th
CIRCUITS ARE COMPELLED BY SIMILAR CASE

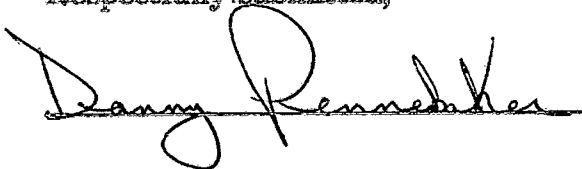
LAW TO REJECT NOTICE OF APPEALS AS
SUCH.

WHEREFORE, THE SUPREME COURT
SHOULD GRANT CERTIORARI TO SETTLE
THE IMPORTANT FEDERAL QUESTIONS
PRESENTED HEREIN.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Danny Renna", written over a horizontal line.

Date: FEBRUARY 22, 2021