

20-7906

No. 20-1150 (First Circuit)

1:13-cr-0043-JJM-PAS
(First District)

IN THE

SUPREME COURT OF THE UNITED STATES

Gerald J. Silva — PETITIONER
(Your Name)

vs.

United States Government — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

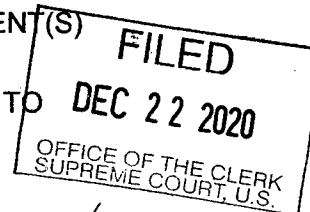
Gerald J. Silva
(Your Name)

ACI Intake Center, P.O. Box 8249
(Address)

Cranston, RI 02920
(City, State, Zip Code)

None
(Phone Number)

ORIGINAL



First Circuit No. 20-1150
First District No. 1:13-cr-00043-JJM-PAS

In The Supreme Court of The United States

Gerald J. Silva, Petitioner

v.

United States

On Petition For A Writ Of
Certiorari

To The United States Court of
Appeals For The First Circuit

Petition For A Writ Of Certiorari

Petitioner

Gerald J. Silva

#160652

ACI-Intake Center

P.O. Box 8249

Cranston, RI 02920

Respondent

United States Government

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District of Rhode Island

50 Kennedy Plaza, 8th Floor

Providence, R.I. 02903

Constitutional Issues Presented For Review

1. Suppression of Evidence.
2. Qualified Immunity
3. Bivens Doctrine / U.S.C. 1983
4. Public Defenders
5. Legal Resources
6. Double Charges
7. Double Jeopardy
8. Multi-tiered Systems
9. Thought Crimes
10. Lascivious Misuse
11. Skilled Jurors
12. Supposition v. Evidence
13. Racketeering Influenced Corrupt Organizations in Government
14. Judicial Jurisdiction
15. Search and Seizure
16. Penal Medical Facilities
17. Restoration of "Good"
18. Disenfranchisement
19. Restorative Justice

It is essential to note that no one in the previous Judicial Systems encountered by Petitioner has ever disputed the validity of the Constitutional violations presented in this Writ. They simply ignored the issues,

claimed immunity, or blocked Petitioner's ability to legally challenge the Transgressions in the appropriate Courts.

Any Constitutional issues presented in this Writ that may not have been as proficiently elucidated as others may have achieved due to Petitioner's layman skills, inability to directly access legal resources, or deteriorating medical condition, can be substantially enhanced and validated in the pertinent electronic Court transcripts, documents, and records pertaining to Petitioner's Case(s), as well as, the documented Judicial Decisions of other relevant Cases.

Basis of Jurisdiction

United States Court of Appeals

For the First Circuit

Case No. 20-1150

Judgement

Entered: October 16, 2020

United States Court of Appeals

For the First Circuit

Case No. 20-1150

Mandate

Entered: November 6, 2020

Constitutional Provisions and Statutes

U.S. Constitution, 1st, 4th, 5th, 6th, 7th, 8th, 14th Amendments

U.S.C. 1983 (42)

Racketeering Influenced Corrupt Organizations (R.I.C.O.) Act

Supremacy Clause

42 U.S.C. 1997

42 U.S.C. 1985

42 U.S.C. 1986

18 U.S.C. 241

18 U.S.C. 242

18 U.S.C. 1961(4)

Judicial Decisions

United States v. Morrissey, 2018 BL 232449, 8TH Cir., 17-2157, 6/29/18
(Double Charges)

Estelle v. Gamble, 429 U.S. 97, 50 L. Ed 2d 251, 97 S.Ct. 285,
1976, (Medical)

West v. Atkins, 487 U.S. 42, 101 L. Ed 2d 40, 108 S.Ct. 2250,
1988, (Medical)

Carlson v. Green, 446 U.S. 14, 1980, (Bivens/Medical)

Haines v. Kerner, 404 U.S. 519, 30 L. Ed 2d 652, 92 S.Ct. 594,
1972, (Pro-Se Complaints)

Sisbarro v. Warden, 592 F.2d 1, 1ST Cir. 1979, (Pro-Se Cause
of Action)

Thompson v. Choinski, 525 F.3d 205, 209, 2ND Cir. 2008,
(Pro-Se citation of statutes)

Harris v. Mills, 572 F.3d 66, 72, 2ND Cir. 2009, (Pro-Se
Pleadings)

Ahmed v. Rosenblatt, 118 F.3d 886, 890, 1ST Cir. 1997, (Pro-Se Pleadings)

Judicial Decisions-Continued

Monroe v. Pape: *Supra*, 365 U.S., at 172, (1961): (No Absolute Immunity)

United States v. Classic, 313 U.S. 299, 326, (1941): (Government officials have no absolute immunity from liability)

Smith v. Wade, 461 U.S. at 46-48, 103 S.Ct. 1625, 75 L. Ed 2d 632, (1983), (Footnotes omitted; emphasis in original): (4th Amendment Violation Damages)

Blackburn v. Snow, 771 F.2d 556, 1st Cir. 1985, (4th Amendment Violation Damages)

Gilmore v. Lynch, 319 F. Supp. 105, 110 (N.D. Cal. 1970), *aff'd*, 404 U.S. 15 (1971): (Inmates' Right to Access Legal Resources)

Morales v. Schmidt, 340 F. Supp. 544, 548 (W.D. Wis. 1972): (Inmates' access to Legal Books and Materials is a Constitutionally protected Right)

Ex parte Young, 209 U.S. 123 (1908): (11th Amendment provides no shield for a state official who deprived a person of a Federal Right under the color of state law)

Judicial Decisions-Continued

Turkette, 452 U.S. at 582 n.4, 583, (R.I.C.O. Statute)

Perholtz, 842 F.2d at 352, 363, (R.I.C.O. Statute)

Bitterman v. Louisville & N.R.Co., 207 U.S. 205, 52 L.Ed. 171, (Malice)

London Guarantee & Acci Co. v. Horn, 206 Ill 493, 69 NE 526, (Malice)

N.Y. Crim. Proc. Law 170.35 (1)(b)(c) [N.Y.C.L.S.] (Consol, 2018), (Double Jeopardy)

People v. Batterman, 355 Ill. App. 3d 766, 111. Dec. 738, 824 N.E. 2d 314 (Ill. App. 3d 2005), (Double Jeopardy)

Commonwealth v. Bolden 472 Pa. 602, 619, 373 A2d 90, 98 (1977), (Double Jeopardy)

Federal Rule of Criminal Procedure 16, Brady v. Maryland 111, (The Government cannot suppress evidence favorable to the Defendant)

Judicial Decisions

Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), (Discrimination/Access to Courts)

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Background

During September 2011, Petitioner began the process of filing a complaint against an employee of the Rhode Island Department of Corrections for her dysfunctional behaviors.

The complaint quickly evolved into a more serious grievance against an administrator, Richard Delfino, who was allegedly engaged in a blatant sexual affair on State property with one of his subordinates.

Plaintiff also expressed dissatisfaction with the treatment of probationers by State employees via an initiative being administered by the U.S. Marshalls Service.

Petitioner was unequivocal in the determination to request a State Legislative investigation into the fore-mentioned issues, including those in authority who failed in their responsibilities to prevent or stop those activities.

Among those who were expected to testify were, Lincoln Chaffee, Governor (at that time), who was also a Presidential Candidate, and son of a former Governor of R.I.

Richard Licht, State Administrator (at that time), and relative of a former Governor of RI, who was appointed by Lincoln Chaffee, and who was a contender for a Judicial position which he currently holds.

A.T. Wall, Director of the R.I.D.O.C. (at that time), who was politically appointed to his position by Lincoln Chaffee and previous Governors; he was also the longest serving politically appointed Prison Director in the Country, who is currently honorably retired.

Trish-Coyne-Fague, Assistant Director of the R.I.D.O.C. (at that time), which is a politically appointed position, who was a contender for the same Judicial position currently being held by Richard Licht, and who is the current politically appointed Director of the R.I.D.O.C.

Richard Delfino, Assistant Administrator at the R.I.D.O.C. (at that time), who was politically appointed and having an alleged "open" affair with a subordinate on State property with the apparent consent of some or all of the fore-mentioned, and who is reportedly working at the politically appointed position of Court Administrator (Municipal) for the Town of Johnston, R.I.

It is indisputable that if the Legislative Investigation had taken place, the careers of the fore-mentioned would have been seriously compromised or terminated.

On September 26, 2012, Petitioner re-stated the determination to proceed with the request for a Legislative Investigation after R.I.D.O.C. Administration refused to discuss plausible corrective actions.

On September 27, 2012, Petitioner was arrested on a Warrant issued by Federal Magistrate Lincoln Almonde, who is the son of a former R.I. Governor, and reportedly a close friend of Lincoln Chaffee.

Subsequently, the Federal Prosecutor, Terrance Donnelly, and his lead witness, Michael Connelly, admitted that Petitioner did not have any illegal materials. However, since they found the materials to be erotic, including commercial films, (later described as being "Harry Potter" movies by Connelly and a P.B.S. Documentary by Connelly), the films became illegal, (See Indictment Transcript - not attached).

During the trial, Petitioner's lawyer, Robert Mann, refused to provide exculpatory evidence or challenge the Prosecution's invalid assertions stating that it would make the Judge and Prosecution Team "mad" at him, and he feared retaliation by them.

Currently, Mr. Mann reportedly told Federal Public Defender Kevin Fitzgerald, that he was not afraid. Previously, Petitioner had confronted Mr. Mann about his failure to do his job to effectively represent Petitioner in Court and with that Appeal. Mr. Mann had responded that he needed to have some money for his children to inherit. This may explain Mr. Mann's true purpose in taking a case that he had no intentions of defending.

Plaintiff's Trial was before Federal Judge William Smith, who had been very recently promoted politically.

To Chief Justice.

At the end of some, if not most, of the hearings, most-likely when the recorders were off, Smith would "apologize" to the jury for taking (implied "wasting") their time.

Since there was no evidence that Petitioner had committed a crime, Smith instructed the Jury to use "supposition" of a crime instead, (see Judge Smith's instructions to the Jury - not attached).

On or about February 10, 2014, Petitioner received a sentence of (6) six years to serve and (15) fifteen years probation after being found guilty of a "Thought Crime" based on the self-admitted pedophillic thoughts of others, (specifically, Michael Connelly and Terrance Donnelly).

Of note, if convicted in State Court, Petitioner would have received (18) eighteen months probation. The producer of the legal naturist films reportedly received a two year sentence for not paying one of the participants for his appearance in one of the films, (no sexual misconduct or content was found), the films were shown in their entirety at trial without objection from anyone since there was no obscene or offensive content, (Plaintiff observed the self-admitted pedophillic perverts Michael Connelly and Terrance Donnelly "ooing, aahing, and grunting while oggling the films - everyone else fell asleep). Therefore, any adult in the world who was available could

have stopped-in to the Courtroom and viewed the film. Hence, the Government contends that the only adult in the world who cannot view these films, is Petitioner.

Petitioner re-committed to challenging the incontrovertible organized crime syndicate in the State of R.I. mostly composed of politically appointed Government employees, and those who reside above the "class ceiling" and are too privileged to prosecute, (a group of people whom Petitioner refers to as the "Epstein Class").

Subsequently, Petitioner made several attempts to file a Writ of Certiorari Pro-Se, but was repeatedly rejected because Petitioner could not produce the document in the text required by the Supreme Court of the United States, not because of its contents.

Note: In May or June of 2019, Federal Magistrate Patricia Sullivan observed that the fore-mentioned rejections should not have occurred since the Supreme Court is known to accept Certioraries written in pencil. Petitioner concurs with this observation.

Statement of The Facts

On May 3, 2019, Petitioner was released from Federal Custody and immediately continued challenging the organized crime syndicate in the R.I. State and Federal Governments by deliberately refusing to comply with any of the illegal conditions of probation that do not have any correlation to any of Petitioner's actions.

On May 7, 2019, Petitioner made several attempts to obtain an arrest warrant from Government Officials in R.I., including Federal Magistrate Lincoln Almonde and Federal Judge William Smith, for the fore-mentioned defiance, and to self-surrender. All efforts failed and Petitioner was ordered to leave the premises.

Petitioner was forced to seek Temporary shelter at a Motel for the night.

On May 8, 2019, Petitioner was arrested by a fully armed "Dangerous Fugitives Task Force" in full military combat gear, including camouflage uniforms, automatic weapons, body armor, shields, and a battering ram. The force of approximately (10) ten officers were acting on a warrant issued by Smith on 5/7/19.

During the hearings for Petitioner's defiance, Petitioner demanded, but was denied, the Right to present evidence, call witnesses, and to effectively defend Petitioner's position regarding the legal issues that were relevant to The situation.

The initial Presiding Judge, Magistrate Lincoln Almonde, was obliged to withdraw from the case since he was/is on Petitioner's witness list. However, prior to his departure, he stated that he would speak to the proceeding Judge, Magistrate Patricia Sullivan about "why" he would not allow Petitioner to call him, or other witnesses, to testify.

Subsequently, Sullivan refused to allow Petitioner to call the fore-mentioned witnesses or present the evidence requested by Petitioner.

Of note, during one of the hearings, Sullivan asked the Federal Public Defender, Kevin Fitzgerald, who was placed on "stand by" status by Sullivan, but was not representing Petitioner, who was acting Pro Se, a technical question on the record to which Fitzgerald responded with an answer that was not beneficial to Petitioner. Subsequently, Sullivan used Fitzgerald's response against Petitioner in her recommendations to Federal Judge John J. McConnell, Jr.

At the Sentencing hearing presided over by McConnell, Petitioner remained defiant against the original illegal charges and the current illegal conditions of probation.

Despite Petitioner's total defiance, McConnell refused to impose the (2) two year maximum penalty citing Petitioner's "stellar" reputation. On September 16, 2019, McConnell sentenced Petitioner to "time served."

Petitioner was immediately arrested by the

U.S. Marshalls with the full knowledge of McConnell and Federal Prosecutor Ronald Gendron on a "Failure to Appear" Warrant issued by State Magistrate John McBurney III and rendered to The R.I. State Police.

While Petitioner was incarcerated in a Federal Detention Center, McBurney sent a Pre-Arrestment notice to one of Petitioner's relative's home, where Petitioner has never resided.

Both Petitioner and the relative sent letters to McBurney about this fact and notifying him about Petitioner's incarceration status.

McBurney proceeded with the hearing on 8/13/19, which Petitioner could not attend due to being in Federal Custody, apparently for refusing to reside in R.I. for which Petitioner was being tried in Federal Court at the same time.

When Petitioner did not appear for the Pre-Arrestment hearing due to being incarcerated, McBurney issued the "Failure to Appear" Warrant.

McBurney knew, or should have known, that he did/does not have any Judicial Jurisdiction over Petitioner's Federal Charges or over Petitioner in general since Petitioner has not resided in R.I. since 2014, had/has no previous State charges, and has not established a residence any-where since 2014.

Since Petitioner was tried and convicted on

Petitioner's defiance of all the conditions of probation in Federal Court, McBurney knew, or should have known, that he was violating Petitioner's Constitutional Right against "Double Jeopardy"

On September 17, 2019, Petitioner was brought before State Magistrate Patricia Harwood for a Bail hearing. Subsequently, the R.I. Courts falsely claimed that this was an "Arraignment".

At The same Bail hearing, The State prosecutor added the charge of "Failing to Register" in R.I., where Plaintiff did / does not reside.

Therefore, Plaintiff was charged with a "Failure to Appear" for refusing to reside in R.I. and "Failure to Register" in a State where Petitioner does not reside.

Of note, Petitioner learned in August 2020 that on 9/17/19, McConnell withdrew Petitioner's Community Supervision without notifying Petitioner. Thereby, McConnell deliberately coordinated with his associates in State Government, who are also politically appointed, to provide a brief opportunity for them to arrest Petitioner on the illegal State charges before closing that window of opportunity.

Also of note, while incarcerated at the R.I. Department of Corrections, (R.I. D.O.C.), Petitioner was deprived of life sustaining High Blood Pressure medication from 9/17/19 until 9/25/19, with the exception of one pill on

9/22/19 after Petitioner suffered a major heart incident during the night of 9/21-22/19. This flagrant attempt on Petitioner's life has been authorized to proceed in Federal Court Case No. 1:19-cv-00568-JJM-PAS.

On 1/8/20, Petitioner notified State Magistrate Richard Raspallo, at a second Bail hearing that he and the State had/has no Judicial Jurisdiction over Petitioner's Federal Charges. Raspallo refused to discuss the issue.

On 10/15/20, Petitioner notified State Associate Justice Luis M. Matos at a Determination of Attorney hearing that he had/has no Judicial Jurisdiction over Petitioner. Matos refused to discuss the issue.

Petitioner contends that a review by the U.S. Supreme Court will verify that in the Providence/Bristol County Superior Court Criminal Docket Case No. PZ-2019-3668A there is ample documentation that Petitioner has not been Arraigned, Indicted, or had a single Court hearing pertaining to any "evidence" against Petitioner since Petitioner's arrest and incarceration on 9/26/19. The document clearly repeats the phrase "pending further investigation" validating that State Officials, (who are politically appointed), caused Petitioner's arrest without Probable Cause and are currently seeking justification for their actions. This violates Petitioner's Right to Freedom and Sixth Amendment Right to a speedy trial.

While incarcerated at the ACJ, Petitioner had limited

access to the facility's Law Library due to multiple "lockdowns" and quotas placed on the number of inmates allowed to access the Library at any given time.

Petitioner was able to complete the Appeal for Petitioner's Federal Charges, CR No. 13-43 J.J.M., by 9/27/19. However, Petitioner was not able to obtain copies of the document until 10/18/19, and the address to the Boston Appeals Court until 10/30/19, at which time Petitioner sent the Appeal directly to the Boston address.

Subsequently, Petitioner wrote to the Boston Court inquiring about the status of Petitioner's Appeal. Petitioner received a response from the Boston Court Clerk's Office indicating that they had not received Petitioner's Appeal and that the Appeal should be sent to the Providence District Court first.

Due to the holidays, Petitioner had to wait until 1/11/20 to request copies of the Appeal through the Law Library, which Petitioner received on 1/26/20, and sent to Providence District Court on 1/27/20.

Petitioner notes that the R.I.D.O.C. does not log legal correspondence in or out of the facility, thereby hampering Petitioner's ability to verify some of the forementioned information.

Petitioner also notes that in order for inmates to make copies of legal documents, they must turn-over the documents to other inmates to copy, who have

up to (14) fourteen days to make the copies, if they copy them at all. Clearly, this violates inmates' Right to Confidentiality.

When inmates request legal information from the Law Library Inmate Staff, they have up to (14) fourteen days to respond. If the information is not found or provided by them, inmates can send a request to the main office staffed by employees, who have an additional (14) fourteen days to respond for a potential total of (28) twenty eight days for an inmate to receive a response.

Inmates do not have access to word processors, thumb drives, or scanners to produce and store legal materials.

Petitioner has notified the Courts, including the Appeals Court, about these deficiencies and impediments hindering inmates' access to the Courts and Due Process to no avail.

On 2/5/20, Petitioner was granted Forma Pauperis status by Federal Judge John J. McConnell, Jr.

Petitioner had been proceeding Pro Se until Petitioner received notice on 7/16/20 that on 7/14/20 Attorney David Shaughnessy had been appointed by the Court to assist Petitioner.

On October 20, 2020, Petitioner received the First Circuit Court of Appeals Judgment on October 16, 2020, in favor of the Defendants stating that Attorney Shaughnessy cited a non-applicable Rule (32j) and used this against Petitioner in their determination of Judgment.

against Petitioner as well as their "supposition" that since Petitioner was notified (b) six years earlier that there was a (2) two week time frame for an Appeal that Petitioner should have known that this time frame also pertained to the current case. Additionally, The Appeals Court contended that since the District Court made multiple references to Petitioner's Right to Appeal without stating a time-frame, this was sufficient for Petitioner to "guess" that a two-week time-frame existed. The Appeals Court completely ignored the uncontrollable hinderences and limitations imposed upon Petitioner by the Prison System, which is not equally experienced by the Defendants.

The Appeals Court also completely ignored the serious Constitutional issues raised by Petitioner, thereby, declaring artificial time-limits established by the Judicial System to have greater importance than the Constitutional Rights and Protections of one of the citizens of the U.S.

Petitioner notes that at no time did the Defendants deny their violation of Petitioner's Constitutional Rights.

On 10/22/20, Petitioner received a notice from Shaughnessy dated 10/20/20, that he intended to file a motion with The Appeals Court requesting his withdrawal from the case, which he filed on 10/26/20.

Shaughnessy stated his intention to inform the Court that he believed that a certiorari petition would be frivolous prior to The Court's Independent Review of

The case, thereby, attempting to persuade the Court to decide against any meritorious claims. Petitioner contends that this serious attempt at negatively influencing the Court against Plaintiff is unethical and a deliberate attempt to sabotage Petitioner's legitimate legal issues that need to be considered by the U.S. Supreme Court.

Petitioner notes that Petitioner incorrectly believed that the Boston Court had assigned an out-of-state lawyer to assist Petitioner. However, correspondence from Shaughnessy is post-marked from "Providence," where Petitioner is taking a stand against organized crime.

Petitioner observed that Petitioner received a document from the U.S. First District Court Providence post marked on 10/10/20 "Boston, M.A.", (C.A. No. 19-479 J.J.M.).

Petitioner notes that the connection between the organized crime syndicate and the one centered in Providence and the one centered in Boston is well-known to "everyone".

Summary

As previously stated, Petitioner's inability to have direct access to legal reference resources has created significant impediments to Petitioner's production of this Writ of Certiorari.

Although Petitioner may not be as eloquent as others in articulating and legally referencing the important Constitutional issues raised/presented in this Petition, Plaintiff contends that the Constitutional issues have been sufficiently expressed to proficiently establish the truth and relevance of those issues to warrant their acceptance for consideration, deliberation, and adjudication by the Honorable United States Supreme Court (S.C.O.T.U.S.).

Petitioner respectfully presents the following issues for consideration by this Honorable Court.

1. Petitioner's 1ST Amendment Right to speak-up in his defense, 5TH Amendment Right to Due Process in the Court, 7TH Amendment Right to present evidence, and 14TH Amendment Right to equal protections under the Constitution were violated when the 1ST District Judges refused to allow Petitioner to present exculpatory evidence in his defense.
2. The use of "Qualified Immunity" to protect Government Officials from testifying about their alleged misconduct

or alleged Criminal Activities equates to a "get-out-of-jail free card", and is Unconstitutional under the 14th Amendment, which guarantees the equal protections of the laws and equal application of the laws across society regardless of a person's social status. Qualified Immunity creates a "Two-Tiered" legal system which is Unconstitutional under the 14th Amendment. No One is supposed to be above the law.

3. The Judicial System requires incarcerated persons to file Complaints with the Court against Government employees through either the Bivens Doctrine (Federal) or U.S.C. 1983 (State), which limits incarcerated persons' ability to access the Courts to seek Justice, which is more restrictive than the standards for filing by the general population, and creates a "two-tier" system of Justice which violates the 5th Amendment for equal access to the Courts and the 14th Amendment for equal Justice under the law.

4. As noted in this Petition, in both cases, (No. 20-1150 and No. 1:13-cr-00043-JJM-PAS), The Court provided Public Defenders provided information to the Courts that was detrimental to Petitioner's efforts and used against Petitioner in the Court Rulings against Petitioner. Petitioner contends that these are in con-

Troverable examples of the intrinsic "Conflict of Interest" that is inherent is a system where the Public Defenders are employed by, receive wages from, and are appointed by the Courts to whom the lawyers subordinate and dependant for their careers and lively-hoods.

5. Petitioner notified The Appeals Court, (Case No. 20-1150), multiple times about Petitioner's inability to access legal resources at The Rhode Island Department of Corrections, (R.I.D.O.C.), without receiving any assistance from the Court to rectify the situation.
6. If Petitioner had been granted 7th Amendment Rights to present evidence in District Case No. 1:13-cr-00043-JJM-PAS The decision in United States v. Morrissey, 2018 BL 232 449, 8th Cir., 17-2157, 6/29/18 that a person cannot be convicted of both receipt and possession at the same time would have been raised, (as Petitioner had asked Attorney Robert Mann to address during the 2014 Trial, which he refused to do).
7. If Petitioner had not been deprived of the 7th Amendment Right to present evidence in District Case No. 1:13-cr-00043-JJM-PAS, evidence would have been presented verifying that The Government representatives in Petitioner's original Trial "admitted" that

Petitioner had not committed a crime under the Constitutional laws of the U.S., but was indicted, (see indictment - not attached), for an unconstitutional "Thought Crime" based on the self-admitted pedophilic thoughts of Michael Connelly and Terrance Donnelly. Thereby, rendering Petitioner's Conditions of Probation to be illegal and unenforceable.

8. The use of the term "lascivious" by the prosecution in Petitioner's original trial to determine that non-sexual Naturist Movies, Harry Potter Movies, and a PBS Documentary, (as well as Petitioner's own childhood Home Movies not mentioned in Court), to be "erotic" and therefore illegal, is beyond ludicrous and blatantly unconstitutional, (see indictment and original trial transcripts - not attached).

9. As demonstrated in the facts of Petitioner's original trial, the fact that over 150 people have been released from death row after evidence suppressed by the prosecution was exposed exonerated them, the fact that citizens are being released from prison after decades of incarceration when exculpatory evidence was finally admitted into Court, and the official "guesstimate" is that 20% of the people incarcerated in this country are innocent

of the crime(s) for which they were convicted, the evidence is clear for the need for Judicial Reform, including the prosecution of government and non-government persons responsible for the wrongful incarceration/conviction of the innocent, and the need for skilled Jurors.

10. During Petitioner's initial trial, the Presiding Judge William Smith acknowledged in his instructions to the Jury that there was no "evidence" that Petitioner had committed a crime and urged the Jury to use instead the unconstitutional concept of "Supposition" that Petitioner had committed a (Thought) crime, which Defense Attorney Robert Mann refused to challenge despite Petitioner's urging, (see Federal Judge William Smith's instructions to the Jury - not attached).
11. Not only was/is it illegal for Rhode Island State Magistrate John F. McBurney, III to issue an arrest warrant for Petitioner's "Failure to Appear" at a Pre-Arraignment Conference on 8/13/19 while Petitioner was incarcerated at a Federal Detention facility, McBurney had/has no Judicial Jurisdiction over Petitioner's Federal Charges for which Petitioner was being tried in Federal Court (creating "Double Jeopardy"), enhanced by the fact that Petitioner had/has no previous State Charges and

has not resided in the State of R.I. since 2014 where Petitioner was/is refusing to reside. This is incontestable evidence of an on-going attempt by criminal elements within the R.I. State and Federal Governments to intimidate, discredit, and silence Petitioner's criminal complaints against government agents and their associates, (See Providence Superior Court Case P2-2019-3668A).

12. During the arrests of Petitioner on 9/27/12 and 5/8/19, Law Enforcement Agents took possession of and/or responsibility for, items belonging to Petitioner resulting in the theft of some of those items. In both cases, Law Enforcement Agents refused to provide Petitioner with an inventory of the fore-mentioned items.

13. The artificial time-limit of two-weeks imposed on inmates to file an Appeal by the Justice System is inherently unfair since inmates need time to adjust to the environments where they are incarcerated and do not have familiarity or control over the legal resources at the relevant facility, which as evidenced in Petitioner's Federal Case No. 20-1150 and other cases being pursued by Petitioner, can be devastatingly deficient and inhibiting to an inmate's ability to file timely documents with The Court(s), which is a violation of the 5th Amendment Right to un-

impeded and equal access to The Court(s). Plaintiff notes that both the Prosecutors and The Courts, who have control over their environments and legal resources, are granted significantly more time to respond to inmates' Appeals, which is inherently unfair, biased, and discriminatory towards the inmates, which is a violation of the 14th Amendment ensuring equal protections under the laws.

14. The overt lack of proper medical care during Petitioner's incarceration, particularly in R.I. institutions, has contributed to a significant decline in Petitioner's health and ability to submit documents to The Court(s), which is a violation of Petitioner's 5th Amendment and 8th Amendment Rights.

15. As evidenced in this Petition, The abuses perpetrated upon Petitioner by rogue Government Agents could not have occurred or succeeded if Petitioner had not been disenfranchised from society. A fundamental component required for a person to be accepted as a member of a Democratic society is the essential Right to vote. Judicial Systems in this country have repeatedly endorsed without rational reason the unconstitutional removal of this Right when a person has not violated any election laws or regulations.

Thereby, facilitating and endorsing the fore-mentioned disenfranchisement of Petitioner and millions of other American Citizens exposing them to abuse by corrupt Government Agents and other sinister elements in society. It is unjustifiably cruel and unusual punishment under the 8th Amendment for any local, State, or Federal Authority to consequence a citizen by depriving that person of the Right to vote when the person has not done anything to violate that Right. It is incumbent upon this Court to rectify this grievous wrong and restore disenfranchised citizens to mainstream society by declaring the fore-mentioned Penalty to be unconstitutional unless a person has verifiably violated voting laws or regulations. (Petitioner notes that Government Officials in Oregon announced that they are considering ways to charge citizens protesting against Government corruption in that State with a Felony in order to take away their Right to vote as a tool/weapon to disenfranchise the protesters and stifle all dissent). The Right to vote needs to be sacrosanct if we are to succeed in becoming a truly free and Democratic Society.

16. Petitioner contends that the overt corruption and dysfunctional behaviors revealed in this Petition is incontrovertible evidence of the greater deterioration

and moral decay in The U.S. Government and throughout American Society that was inadvertently facilitated and encouraged by the Judicial System when past Courts in The U.S. unConstitutionally removed "God" from the fabric of our culture and institutions, (such as schools, Courts, Pledge of Allegiance, etc.). The Constitution clearly states that there is a separation between Government and religious institutions and organized religions. It does not state that there is a separation with "God" upon whom this nation was founded. When one discards the central founding principle of a nation, one destroys it's identity, culture, and in this Country, it's soul. It is incumbent upon this Honorable Court to correct the fore-mentioned misguided Judicial Decisions by restoring the legitimacy of "God" to all relevant aspects of our nation.

17. As evidenced in this Petition, Petitioner's legal efforts have been persistently sabotaged by Government Agencies and Agents since the time of the initial arrest in 2012 through the present via their interference in Petitioner's 5TH Amendment Right to possess and maintain in a secure manner all legal documents needed to effectively access and navigate the Courts, 4TH Amendment Rights protections against unlawful seizures of legal documents by Law Enforcement; and 14TH Amendment Rights for equal protection under the laws.

Constitutional Issues Pertaining to Petitioner's Case(s)

1. Petitioner is respectfully seeking a Court Ruling declaring that Petitioner was deprived of his Constitutional Rights (1ST, 5TH, 7TH, and 14TH) by the 1ST District Court in Case No. 1:13-cr-00043-JJM-PAS, and that this case be returned to The lower Court(s) for re-trial in a neutral Federal District.
2. Petitioner is respectfully seeking a Court Ruling declaring that has a Constitutional Right to Summon Government employees to Testify regarding the facts relevant to Petitioner's 1ST District Case No. 1:13-cr-00043-JJM-PAS)
3. Petitioner is respectfully seeking a Court Ruling that all of Petitioner's cases that were/are required to be filed under the Bivens Doctrine or U.S.C 1983 be allowed to proceed or be filed according to the verifiable facts of the case instead of the fore-mentioned impediments and that any case(s) that were dismissed due to either of those doctrines be re-instated.
4. Petitioner is respectfully seeking a Court Ruling returning Petitioner's cases (District and Appeals) back to the lower Courts in a neutral District/circuit for re-trial and re-consideration due to the detrimental actions

of The Public Defenders in those cases.

5. Petitioner is respectfully seeking a Court Ruling mandating minimal standards for inmates at The R.I.D.O.C. and for the establishment of an external, non-governmental, agency or entity with enforcement powers to monitor and ensure the implementation of those standards, (such as, access to word processors containing "fill-in-the-blanks" filing forms for the Courts, primary & secondary thumb drives dedicated to individual inmates, direct access to computerized legal materials, direct access or access through a staff member (not another inmate) to a copying machine, log-in/out logs for legal mail, access to efficient mail systems, secure transportation and storage of legal materials at government expense and readily available to the respective inmates, etc.).
6. Petitioner is respectfully seeking a Court Ruling mandating a re-instatement of Petitioner's Appellate Court Case No. 20-1150 due to R.I.D.O.C.'s interference in Petitioner's 5TH Amendment Right to effectively access the Court in a timely manner
7. Petitioner is respectfully seeking a Court Ruling mandating that the decision in *U.S. v. Morrissey*, 2018 BL 232 449, 8TH Cir., 17-2157, 6/29/18 that a person cannot be convicted of both receipt and possession at the same time and that

a new trial be ordered to determine which charge pertains to Petitioner, if any.

8. Petitioner is respectfully seeking a Court Ruling requiring a new trial for Petitioner's defiance of the unconstitutional conditions of Probation in District Case No. 1:13-cr-00043-JJM-PAS with evidence to be provided by Petitioner.
9. Petitioner is respectfully seeking a Court Ruling declaring that the use of the term "lascivious" was an erroneous application of the law in this case.
10. Petitioner is respectfully seeking a Court Ruling declaring a new trial for Petitioner's original charges in a neutral District Court with a skilled Jury and for consideration of the prosecution of the original prosecutorial Team and their accomplices.
11. During Petitioner's initial trial, the Presiding Judge William Smith acknowledged in his instructions to the Jury that there was no "evidence" that Petitioner had committed a crime and urged the Jury to use instead the unconstitutional concept of "Supposition" that Petitioner had committed a (Thought) crime, which Defense Attorney Robert Mann refused to

challenge despite Petitioner's urging, (see Federal Judge William Smith's instructions to the Jury - not attached). Petitioner is respectfully seeking a Court Ruling declaring that the concept of "Supposition" can not be used to replace "Evidence" in Petitioner's initial trial, and to declare Petitioner's initial trial to be a mistrial.

12. Petitioner is respectfully seeking a Court Ruling declaring that the persistent efforts evidenced in this Petition by employees in the Rhode Island Federal and State Government agencies, especially those in the Judicial System, and their associates to conspire to press blatantly false charges against Petitioner in an effort to discredit and suppress Petitioner's criminal charges against them and their accomplices, indisputably meets the prosecutable criteria of an organized crime syndicate under the Racketeering Influenced Corrupt Organizations (RICO) Statute, including...
- a) There is a clear relationship between the players.
 - b) There is a clear pattern of criminal behaviors.
 - c) There is a clear sequence of criminal events intended to discredit and illegally incarcerate Petitioner in order to protect their members from prosecution.
 - d) There are clear benefits and rewards for all the players from their criminal association and activities.

Therefore, an investigation into the alleged crime syndicate by the Secret Service, (not the F.B.I. since Attorney Generals are alleged to be involved), is warranted.

13. Petitioner is respectfully seeking a Court Ruling declaring That the Judicial System in Rhode Island does not have Jurisdiction over Petitioner's Federal Charges creating "Double Jeopardy" which is a violation of Petitioner's 5TH Amendment Rights.
14. Petitioner is respectfully seeking a Court Ruling ordering Law Enforcement Agents and Agencies involved in Petitioner's arrest(s) on 9/27/12 and 5/8/19 to Provide Petitioner with an inventory of the items that they took possession of and/or responsibility for, and to return all items that were not relevant to those cases. (4TH Amendment Right).
15. Petitioner is respectfully seeking a Court Ruling Ordering The Appeals Court in Boston to re-open and hear Petitioner's Case No. 20-1150, and for The U.S. District Court of Connecticut to accept a re-submission of Petitioner's Case No. 3:18-cv-1771 (MPS), due to the interference by Government Agencies and Employees preventing timely filings by Petitioner for those cases.
16. Petitioner is respectfully seeking a Court Ruling Ordering

The Government in the State of Rhode Island to establish an external, non-governmental monitoring agency or committee to oversee and regulate the Medical Treatment of inmates at the A.C.I., (Adult Correctional Institution).

17. Petitioner is respectfully seeking a Court Ruling restoring Petitioner's Right to vote immediately, since Petitioner has not violated any Election Laws.

18. Petitioner is respectfully seeking a Court Ruling mandating that all of Petitioner's legal documents be returned to Petitioner by the Government and/or Government Agents, and that all of Petitioner's legal documents and materials remain in Petitioner's direct secure custody or in a secure location readily accessible to Petitioner beginning immediately through Petitioner's return to a stable place or residence in the community without expense to Petitioner.

Universal Constitutional Issues

1. Petitioner is respectfully seeking a Ruling by This Honorable Court that it is UnConstitutional to impose a Condition of Probation on a convicted person that does not have a direct correlation to the Crime of Conviction, as per the 8th Amendment protections against Cruel and Unusual Punishments.
2. Petitioner is respectfully seeking a Ruling by This Honorable Court that it is UnConstitutional under the 14th Amendment for The Judicial System to provide it's members, affiliates, government agents/employees, or anyone any immunity from prosecution for their Criminal/Civil actions, and to create a "Two-Tier" Legal System. Therefore, "Qualified Immunity" is UnConstitutional.
3. Petitioner is respectfully seeking a Ruling by This Honorable Court that Bivens and U.S.C. 1983 inherently creates a "Two-tier" legal system that discriminates against incarcerated persons, and is therefore UnConstitutional under the 5th and 14th Amendments.
4. Petitioner is respectfully seeking a Ruling by This Honorable Court that Public Defenders under the governance of the Judicial System creates a "Conflict of Interest" that intrinsically inhibits a Defendant's ability to receive

a fair trial and mandating the establishment of an independent Public Defender system separate from Governmental influence and control that is funded by the U.S. Government

5. Petitioner is respectfully seeking a Ruling by this Honorable Court mandating minimum standards for facilities housing incarcerated people regarding legal resources and tools for the incarcerated people to use to properly and effectively access and navigate the Judicial System, as well as, mandating a neutral, non-governmental agency or entity to monitor and ensure the proper implementation and maintenance of those standards.
6. Petitioner is respectfully seeking a Ruling by this Honorable Court stating that a Petition to a Court cannot be dismissed solely on the grounds that it was Tardy, and that the viable facts of the Tardiness and of the issues contained in the case be given priority in the decision-making process.
7. Petitioner is respectfully seeking a Ruling by this Honorable Court implementing the common sense decision made in U.S. v. Morrissey, 2018 BL 232449, 8th Cir., 17-2157 that a person cannot be convicted of both receipt and possession in the same case universally to

all the applicable cases in the United States, and to mandate a re-sentencing under the new ruling or a new trial, whichever the Defendant requests.

8. Petitioner is respectfully seeking a Ruling by this Honorable Court declaring that "Thought Crimes", especially those based on the deviant, perverted, or criminal thoughts of the accuser, to be unconstitutional.
9. Petitioner is respectfully seeking a Ruling by this Honorable Court declaring that the use of the term "lascivious" was an erroneous application of law in this case, and has been universally abused by other law enforcement agencies, (such as "baby in the bathtub" pictures), to the extent that the term is too susceptible to misuse and abuse rendering it to be too great of a threat to the prosecution of the innocent so as to be unconstitutional.
10. Petitioner is respectfully seeking a Ruling by this Honorable Court declaring that Jurors need to be able to demonstrate a non-biased proficiency in their knowledge of the legal issues to be presented at trial as determined by both the prosecution and defense teams, and that members of the prosecutorial team can be held legally accountable for their misconduct re-

sulting in the conviction of an innocent person.

11. Petitioner is respectfully seeking a Ruling by this Honorable Court declaring that the nude human body of any age is not in and of itself "obscene".
12. Petitioner is respectfully seeking a Ruling by this Honorable Court mandating that it is unconstitutional to use the concept of "supposition" in place of "evidence" throughout the Judicial system.
13. Petitioner is respectfully seeking a Ruling by this Honorable Court mandating that any Government Agents involved in taking possession of and/or responsibility for items belonging to a suspect or defendant produce and provide to the suspect or defendant a copy of an inventory of the fore-mentioned items and a brief statement pertaining to each item's relevance to the case as evidence.
14. Petitioner is respectfully seeking a Ruling by this Honorable Court declaring the two-week time limit for inmates to file an Appeal or other Court Documents to be a violation of the 5th and 14th Amendment, and to mandate a ninety (90) day time limit for inmates to file
15. Petitioner is respectfully seeking a Ruling by this Honorable

Court mandating that all Federal and State facilities that are incarcerating citizens and non-citizens establish oversight of those facilities' Medical Departments by an independent, non-governmental agency or committee that has unfettered access to those facilities and unimpeded ability to enforce corrective actions.

16. Petitioner is respectfully seeking a Ruling by this Honorable Court immediately restoring the Right to vote to any citizen who has not verifiably violated any Election Laws.

17. Petitioner is respectfully seeking a Ruling by this Honorable Court declaring that past Judicial Decisions removing "God" from our nation were in error and unconstitutional.

18. Petitioner is respectfully seeking a Ruling by this Honorable Court mandating that all Defendant's legal documents and materials remain in the Defendants' secure possession or in a secure location readily accessible to The Defendants from the time of their initial arrest through the return of the Defendants to a stable place/residence in the community at no expense to The Defendants.

Conclusion

Any Tiered Legal System is inherently unequal, unfair, and ultimately discriminatory Towards one of the parties.

Any branch of Government that sets it's members, or members of another branch, above the law, (with the exception of on the Floor of Congress), defies one of the core principles of this country that no one is above the law and creates a divided and unequal population.

Any segment of society that is disenfranchised from the general population will be abused by Government agents, or by those whose actions are condoned or tolerated by the Government. History has also demonstrated that the abuse suffered by the disenfranchised segment of society, will eventually permeate to the general population.

Every incarceration should not be a potential death sentence due to deliberate medical indifference by the staff.

As history has demonstrated with Fascist and Communist Countries, when "God" is removed as the Supreme Authority over man... man becomes the Supreme Authority with devastating consequences.

A fundamental safeguard embedded in the founding principles of our nation is the establishment of an evolving effective system of "checks and balances" that does not currently exist within our Law Enforcement, Prison

systems, and Judicial Systems necessitating The formation and implementation of non-governmental citizen oversight committees to stop The decay throughout The fore-mentioned agencies, if this Government is to be rehabilitated and truly for and by The people.

No one has the ability to determine The thoughts of another person based on their own thoughts. It is not rational or Constitutional to accuse a person of a crime based on someone else's self-admitted deviant, perverted, or criminal thoughts. A person's thoughts, regardless of their nature, do not constitute a crime.

The nation's Judicial System is seriously compromised when Judges and Prosecutors act as Defacto Defense Lawyers for accused corrupt/dysfunctional Government employees instead of performing their sworn Constitutional duties to act as impartial arbiters of Justice and Law Enforcement. Thus, creating a destructive division between Government and this nation's Citizens.

Public Defenders who are subservient to The control of The Courts and dependent upon The Courts for their survival, are inherently compromised in their ability to assist The accused. Thus, requiring a reformulation of The Public Defender's Office into an independent Tax-payer supported agency free from Government Controls or influence.

There has been persistent documentation of The misuse and abuse of the term "lascivious" to prosecute in-

innocent citizens causing serious harm to their reputations and lives to demand it's removal from use by any Government agent or agency for any reason.

The overwhelming number of innocent persons who are being released from incarceration, including death row, demands the prosecution of their accusers and the establishment of skilled/trained Jurors to hear cases.

The human body is God's greatest creation and is under attack by perverts in Government.

Accusations of wrong-doing in this country's legal system are supposed to be based on evidence not speculation, supposition, or conjecture.

The theft of suspects' and defendants' possessions by Government Agents is pervasive and needs to be addressed by The Judicial System.

External monitoring of incarceration facilities is required to ensure that the medical and legal needs of inmates are being properly and sufficiently provided.

The Right to vote needs to be sacrosanct if we are to succeed in our efforts to become a truly free and Democratic Society.

As evidenced in this Petition, Petitioner's legal efforts have been persistently sabotaged by Government Agencies and Agents since the time of the initial arrest in 2012 through the present via their interference in Petitioner's 5th Amendment Right to possess and securely maintain

legal documents needed to effectively access and navigate the Courts, 4TH Amendment Rights protections against unlawful seizures of Legal Documents, and 14TH Amendment Right to equal protections under the law. Petitioner contends that this abuse and violation of Constitutional Rights is prevalent throughout the Legal, Penal, and Justice Systems in this Country requiring immediate corrective actions by this Honorable Court.

It is a sad and unfortunate commentary on the state of the Judicial Systems in this Country when a citizen is compelled to reach-out and plead with the Supreme Court of the United States for help in rectifying the indisputable violations of the Constitution presented in this Writ, and with transforming this Country's Judicial, Penal, and Law Enforcement Systems into restorative, rather than punitive, institutions.

The essential changes to the Government Systems via restoration of Constitutional Rights, Laws, and Procedures that have been presented in this Writ are in concert with those of a multitude of this Nation's Patriotic Citizens who are demanding Government reform. It has become apparent that the fore-mentioned change will either occur peacefully in the Courts, or aggressively in the streets. Petitioner respectfully urges this Honorable Court to choose the former and contribute to the peaceful restoration of stability, dignity, and morality to our Judicial Systems and Country by consid-

ering the issues in this Writ to be serious, relevant,
and valid.

The Court should grant the Petition for a Writ of
Certiorari

Respectfully submitted,

Gerald J. Silva

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12/12/20