

20-808

ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES

NO. \_\_\_\_\_

Supreme Court, U.S.  
FILED

DEC 07 2020

OFFICE OF THE CLERK

EMEM UFOT UDOH,

*Petitioner,*

vs.

STATE OF MINNESOTA,

*Respondent.*

ON PETITION FOR WRIT OF CERTIORARI  
TO THE MINNESOTA COURT OF APPEALS  
MINNESOTA APPELLATE CASE NO. A20-0956

**PETITION FOR WRIT OF CERTIORARI**

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**RESPONDENT**

**PRO SE PETITIONER**

## QUESTIONS PRESENTED FOR REVIEW

**QUESTION ONE:** WHETHER THE LOWER COURT ERRED IN THE DENIAL OF APPELLANT'S MOTION TO VACATE THE JUNE 15, 2018, NOVEMBER 29, 2018, AND FEBRUARY 05, 2019 POST-CONVICTION ORDERS IN DISTRICT COURT FILE NO. 27-CR-13-8979 AND TO OBTAIN THE AUDIO RECORDINGS WITH TRANSCRIPTS OF THE 867 PRISON CALLS FOR APPELLANT TO ADEQUATELY, EFFECTIVELY AND MEANINGFULLY PREPARE HIS PRINCIPAL BRIEF DUE BY MARCH 16, 2020 IN A19-1129 APPEAL?

**QUESTION TWO:** WHETHER PETITIONER RECEIVED INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL FOR FAILURE TO EFFECTIVELY AND ADEQUATELY RAISE THE ISSUE ON WHETHER PETITIONER RECEIVED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL FOR FAILURE TO PROPERLY PRESERVE THE ISSUES IN:

- A. WHETHER DISTRICT COURT ERRED IN ADMITTING EVIDENCES THAT WERE IN VIOLATION OF APPELLANT'S DUE PROCESS CLAUSE UNDER THE FOURTEENTH AMENDMENT AND DENIED APPELLANT'S CONSTITUTIONAL RIGHT TO A FAIR TRIAL?
- B. WHETHER CUMULATIVE EFFECTS OF PROSECUTORIAL MISCONDUCT DENIED APPELLANT'S CONSTITUTIONAL AND SUBSTANTIAL RIGHT TO A FAIR TRIAL IN VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AND FOURTEENTH AMENDMENT, AND EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT?

AT TRIAL UNDER *STRICKLAND V. WASHINGTON* DURING APPELLANT'S DIRECT APPEAL IN LIGHT OF *STRICKLAND V. WASHINGTON*, 466 U.S. 668, 690 (1984); *BRADY V. MARYLAND*, 373 U.S. 83 (1963); *MOONEY V. HOLOHAN*, 294 U.S. 103 (1935); *PYLE V. KANSAS*, 317 U.S. 213 (1942); *NAPUE V. ILLINOIS*, 360 U.S. 264 (1959); *GIGLIO V. UNITED STATES*, 405 U.S. 150 (1972)?

**QUESTION THREE:** WHETHER PETITIONER IS ENTITLED TO AN ACQUITTAL OR NEW TRIAL ON THE NEWLY DISCOVERED EXONERATING EVIDENCE SHOWING ACTUAL INNOCENCE BASED ON RECANTATIONS OF KEY MATERIAL WITNESSES' TESTIMONY IN LIGHT OF *LARRISON V. UNITED STATES*, 24 F. 2D 82 (7<sup>TH</sup> CIR. 1928) AND *HERRERA V. COLLINS*, 506 U.S. 390 (1993)?

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## LIST OF PARTIES

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

**PETITION by Udoh – Page iv**

IN THE  
SUPREME COURT OF THE UNITED STATES  
NO. \_\_\_\_

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EMEM UFOT UDOH,

*Petitioner,*  
vs.

STATE OF MINNESOTA,

*Respondent.*

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**ON PETITION FOR WRIT OF CERTIORARI  
TO THE MINNESOTA COURT OF APPEALS  
MINNESOTA APPELLATE CASE NO. A20-0956**

Petitioner, Emem Ufot Udoh, respectfully petition for a Writ of Certiorari to review the Minnesota Court of Appeals Case No. 20-0956 in the United States Eighth Circuit Court of Appeals pursuant to 28 U.S.C. §1257(a).

**STATEMENT OF JURISDICTION**

The Chief Judge of the Minnesota Court of Appeals entered its order on July 17, 2020. In his motion, Petitioner notified the district court of the *extraordinary circumstances* and *collateral consequences* that justify the relief he requested. The Minnesota Supreme Court denied discretionary review on September 15, 2020. On March 19, 2020, this Court extended the deadline to file petitions for writ of certiorari in all cases due on or after the date of that March 19, 2020 order to 150 days from the date of the lower court judgment due to the ongoing public health concerns relating to COVID-19. See (ORDER LIST): 589 U.S. \_\_\_\_ (March 19, 2020). Therefore, Petitioner's petition for writ of certiorari is due by February 15, 2021 but the Clerk of this Supreme Court extended Petitioner's deadline to March 22, 2021 under this Court's March 19, 2020 Order.

This Court has jurisdiction over Appellant's Motion Appellant's Motion To Vacate The June 15, 2018, November 29, 2018, And February 05, 2019 Post-Conviction Orders In District Court File No. 27-CR-13-8979. This Court's jurisdiction is invoked under 28 U.S.C. §1257(a).

### **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

Relevant statutory and constitutional provisions involved in this case are as follows:

The Fifth Amendment provides in relevant part:

"No person shall be held to answer for a capital, or otherwise infamous crime, ... nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; ... nor be deprived of life, liberty, or property without due process of law ... ."

The Fourteenth Amendment of the Constitution provides in relevant part:

"No State shall ... 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."

### **PETITIONER'S IS ACTUALLY INNOCENT TO THE ALLEGED CRIME AND CONVICTION**

Petitioner is actually innocent to the alleged crime and conviction. See **Exhibits 1 through 3** filed on February 5, 2020, and entered on February 6, 2020 in the district court record in *Udoh v. Knutson*, Civil No. 19-CV-1311(MJD/HB), Docket No. 69. Petitioner prays that this court issue an **Order for Immediate Release or Stay of Execution of the Remaining Unlawful Sentence** pending the resolution of Petitioner's petition for fairness, integrity, and the public reputation of the judicial system. It is of the public interest against the imposition of wrongful convictions and unlawful sentences. See the University of Michigan, *The National Registry of Exonerations*. (<http://www.law.umich.edu/special/exoneration/Pages/detaillist.aspx>). It is of the public interest in preserving family and not separating parent and children. Furthermore, **Judicial Economy** is of the public interest to grant the **Reliefs** requested in this motion.

## PROCEDURAL HISTORY

Petitioner adopts the Procedural Facts and History described in the Docket History Report for brevity purposes In District Court File No. 27-CR-13-8979.

## STATEMENT OF THE CASE

On April 10, 2018, Appellant initiated this State post-conviction action raising several issues or claims of constitutional violations and seeking reliefs. Amongst the issues or claims raised for post-conviction relief, Appellant raised the Ground that - Appellant is entitled to an acquittal and release based on the newly discovered exonerating evidence showing actual innocence which is based on recantations of key material witnesses' testimony for relief as described in Appellant's first post-conviction petition.

On June 15, 2018, the State post-conviction court issued an order denying the post-conviction petition in part and granting an evidentiary hearing in part on the issue of witnesses' recantation.

On June 18, 2018, the State post-conviction court issued a scheduling order for an evidentiary hearing to be held on July 27, 2018.

On July 11, 2018, the State post-conviction court issued an order denying Appellant's request for subpoena(s) of witnesses in part and granting Appellant's request in part.

On July 27, July 30, 2018 through August 01, 2018, the State post-conviction court *first* evidentiary hearing was concluded after the court granted Appellant's request for a continuance to October 18, 2018.

On October 18, 2018, the State post-conviction court *second* evidentiary hearing was conducted.

August 17, 2018, the Chief Judge dismissed Appellant's appeal of the June 15, 2018 Post-Conviction Order as premature. See *State v. Udoeh*, Case No. A18-1352 (Minn. Ct. App. August 17, 2020).

On September 27, 2018, Appellant filed a second petition for post-conviction relief in *Index No. 234*<sup>1</sup>.

On August 06, 2019, the Lower court treated Appellant's Writ of Mandamus as a Notice of Appeal to appeal the Post-Conviction June 15, 2018 and February 05, 2019 Court Orders. That *appeal was dismissed* because Appellant could not file an opening brief due by March 16, 2020 in A19-1129.

On March 23, 2020, A19-1129 Appeal was *dismissed* by the Court of Appeals. See *State v. Udo*h

, Case No. A19-1129 (Minn. Ct. App. March 23, 2020).

On April 17, 2020, April 24, 2020, April 27, 2020, May 01, 2020, and May 08, 2020, Appellant filed his Appellate Brief in the form of Memorandums in the district court record to correct the deficiencies with Appeal A19-1129 due to lack of access to the prison law library as a result of the Coronavirus Pandemic. See *Index No. 350, eAppeal No. 296, Pgs. 121- 174; Index No. 353, eAppeal No. 299, Pgs. 3 - 15; Index No. 355, eAppeal No. 301, Pgs. 18 - 68; Index No. 357, eAppeal No. 303, Pgs. 70 - 91; and Index No. 360, eAppeal No. 306, Pgs. 95 – 111.*

On June 12, 2020, Appellant's corrected that deficiencies with Appeal A19-1129 by filing a brief with addendum that included the June 15, 2018 and February 05, 2019 Post-Conviction Orders In A20-0633 Appeal. Despite the fact that the A19-1129 appeal was dismissed, Appellant eventually filed a principal brief due by June 12, 2020 in (A19-1129) and (A20-0633) Appeals.

#### **I. Appellant's Motion To Vacate The June 15, 2018, November 29, 2018, And February 05, 2019 Post-Conviction Orders**

On May 07, 2020, Appellant filed a request for the cost and fees to transcribe the 867 recorded phone calls in *Index No. 358, eAppeal No. 304, Pgs. 92 – 92*, because Appellant did not received Exhibits 1, 1A, and 1B (Vol. V, Tr. 567), remarked as Exhibits 3, 3A and 3B (Vol. V, Tr. 610), that was

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<sup>1</sup> See the January 13, 2020 appellate court order from the Minnesota Court of Appeals in A19-1129 (recognizing Appellant's second petition for post-conviction relief filed on 09/27/2018).

offered into evidence (Vol. V, Tr. 576) on October 18, 2018 from Respondent and/or the Court Reporter Unit. These are the prison call<sup>2</sup> introduced by the prosecutor, two discs involving 867 calls from DOC<sup>3</sup> allegedly made by Defendant (Vol. V, Tr. 439, L7-9) from January 1, 2018 through July 2018 (Vol. V, Tr. 564, L6-11). The selected prison calls from disc 1 and 2 (Tr. 566), allegedly played in an audio format at the October 18, 2018 evidentiary hearing in (Vol. V, Tr. 587, L24; Tr. 588, L4, L18; Tr. 598, L9, L14, L22; Tr. 591, L4, L4, L25; Tr. 592, L4, L23; Tr. 593, L2, L13, L16; Tr. 594, L7, L24; Tr. 595, L23) were censored on the transcripts received.

On June 01, 2020, Appellant filed a Motion to vacate the June 15, 2018, November 29, 2018, and February 05, 2019 Post-Conviction Orders pursuant to Minn. R. Civ. Pro. 60.01, 60.02. See *Index No. 362, eAppeal No. 308, Pgs. 114 – 181.*

On June 04, 2020, Appellant filed an affidavit for proceeding in forma pauperis (IFP). See *Index No. 365, eAppeal 311, Pgs 4 – 7.* Appellant filed a supplemental affidavit for proceeding IFP. See *Index No. 367, eAppeal No. 313, Pgs. 9 – 10.* Appellant also filed an affidavit for proceeding IFP in the Minnesota Court of Appeal on June 04, 2020. See *Index No. 369, eAppeal 315, Pgs. 12 – 14.*

On June 05, 2020, the District Court denied the Minn. R. Civ. Pro. 60.01, 60.02 motion(s), and Appellant's motion(s) for proceeding IFP. See Order Denying Motion – PostConviction on June 05, 2020 in *Index No. 372, eAppeal No. 318, Pgs. 54 - 55.*

On July 17, 2020, the Minnesota Court of Appeals dismissed the appeal as an appeal from a district court order that is not an appealable under Minn. R. Civ. App. P. 103.03.

## STATEMENT OF THE FACTS

On April 10, 2018, Appellant initiated this State post-conviction action raising several issues or claims of constitutional violations and seeking reliefs. Amongst the issues or claims raised for post-

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<sup>2</sup> Referred to as “jail calls” in the post-conviction court’s order, dated February 05, 2019.

<sup>3</sup> Minnesota Department of Corrections.

conviction relief, Appellant raised the Ground that - Appellant is entitled to an acquittal and release based on the newly discovered exonerating evidence showing actual innocence which is based on recantations of key material witnesses' testimony for relief as described in Appellant's first post-conviction petition.

**II. First<sup>4</sup> Evidentiary Hearing In 2018 Was Held And Appellant Discovered Newly Discovered Evidence For Ineffective Assistance of Trial And Appellate Counsel, Prosecutorial Misconducts, *Brady/Discovery* Violation, *Giglio* Violation, And *Tome v. United States*, 513 US 150 (1995) Standards For Admission Of Evidence Under Rule 801(d)(1)(B)**

See (Vol. I; Vol. II; Vol III; and Vol. IV) for brevity purposes.

**III. The Recanting Witnesses' (K.K.W., and K.C.W.) Were Apprised Of Their Fifth Amendment Right**

See (Vol II, Tr. 158 - 221) and (Vol. II, Tr. 232 – 327) for brevity purposes.

**IV. Evidentiary Hearing Testimony Of The Recanting Witnesses' (K.K.W., and K.C.W.) For Newly Discovered Evidence, Ineffective Assistance of Trial And Appellate Counsel, Prosecutorial Misconducts, *Brady/Discovery* Violation, *Giglio* Violation, and *Tome v. United States*, 513 US 150 (1995) Standards For Admission Of Evidence Under Rule 801(d)(1)(B)**

See (Tr. 159 – 348). The recantation affidavits from K.K.W and K.C.W were re-signed by K.K.W and K.C.W. at the evidentiary hearing. Both the re-signed signatures from K.K.W and K.C.W matched the March 2018 affidavits. The recantation affidavits from K.K.W and K.C.W were entered as evidence into the evidentiary hearing record without an objection (Tr. 166 – 167; Tr. 235 – 237) as Exhibits 1 and 2 in (Vol. II) transcripts. The recantation affidavits and recantation testimony are *exculpatory facts* clearly showing that no incident of sexual abuse happened between April 2012 through February 2013 in Defendant's home or within the Hennepin County Jurisdiction. The recantation affidavits and recantation testimony are *impeachment evidence* related to the threats, the

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<sup>4</sup> First Evidentiary Hearing refers to the evidentiary hearings held on July 27, July 30, 2018 through August 01, 2018.

demands, the pressure, the coaching, the coercions, the benefits, and the promises made to K.K.W. and K.C.W. to give a statement of sexual abuse against Defendant between February 2013 through August 2014, and a trial testimony of sexual abuse against Defendant in August 2014.

On July 27, July 30, 2018 through August 01, 2018, the State post-conviction court first evidentiary hearing was concluded after the court granted Appellant's request for a continuance to October 18, 2018.

### **REASONS FOR GRANTING THE PETITION**

The issues presented in this case is beyond the particular facts and parties involved but for growing interest of the public, society at large and integrity of the judicial system under Minn. Civ. App. R. 117, Subd. 2(a),(d)(1),(d)(2) and (d)(3) because the question is likely to recur unless resolved by the Supreme Court.

First, under the principle of Judicial Notice applied in *Smisek v. Comm'r of Pub. Safety*, 400 N.W. 2d 766, 768 (Minn. Ct. App. 1987) that “[a]n appellate court may take judicial notice of a fact for the first time on appeal,” see also Minn. R. Evid. 201; Minn. Stats. §599.04, §599.10; *State v. Breaux*, 620 N.W.2d 326, 334 (Minn. App. 2001) and *State v. Rewitzer*, 617 N.W.2d 407, 411 (Minn. 2000)(declining to strike references to materials the court could have discovered on its own, in the course of its own research), Appellant hereby adopts as if re-alleged herein and incorporate therein the facts and arguments presented in:

Memorandum To Vacate The June 15, 2018, November 29, 2018, And February 05, 2019 Post-Conviction Orders Filed On April 17, 2020 In The District Court Record In Index No. 350, eAppeal No. 296, Pgs. 121- 174;

Memorandum: Pages 54 Through 66 In Continuation Of The Memorandum Of Law Filed On April 17, 2020 To Vacate The June 15, 2018, November 29, 2018, And February 05, 2019 Post-Conviction Orders Filed On April 24, 2020 In Index No. 353, eAppeal No. 299, Pgs. 3- 15;

Memorandum: Pages 68 Through 116 In Continuation Of The Memorandum Of Law Filed On April 17, 2020, April 27, 2020 To Vacate The June 15, 2018, November 29, 2018, And February 05, 2019 Post-Conviction Orders Filed On April 27, 2020 In Index No. 355, eAppeal No. 301, Pgs. 18 - 68;

Memorandum: Pages 117 Through 138 In Continuation Of The Memorandum Of Law Filed On April 17, 2020, April 27, 2020, And April 27, 2020 To Vacate The June 15, 2018, November 29, 2018, And February 05, 2019 Post-Conviction Orders Filed On May 01, 2020 In Index No. 357, eAppeal No. 303, Pgs. 70 - 91;

Memorandum: Pages 139 Through 155 In Continuation Of The Memorandum Of Law Filed On April 17, 2020, April 27, 2020, April 27, 2020, May 01, 2020 To Vacate The June 15, 2018, November 29, 2018, And February 05, 2019 Post-Conviction Orders Filed On May 12, 2020 In Index No. 360, eAppeal No. 306, Pgs. 95 - 111;

Motion To Vacate The June 15, 2018, November 29, 2018, And February 05, 2019 Post-Conviction Court Orders Filed On June 01, 2020 In Index No. 362, eAppeal No. 308, Pgs. 114 – 181;

Request for the Cost And Fees to Transcribe the 867 recorded Phone calls Filed On May 07, 2020 In Index No. 358, eAppeal No. 304, Pgs. 92 – 92;

Appellant's Motion To Reinstate Appeal A19-1129 And To Consolidate It With This Appeal A20-0633 Filed On May 06, 2020 In A20-0633;

Appellant's Motion To Reinstate Appeal A19-1129 And To Consolidate It With This Appeal A20-0633 Filed On July 21, 2020 In A20-0633;

*Udoh et al v. Minnesota Department of Human Services et al*, Civil No. 0:16-CV-3119 (PJS/SER), Docket No. 201-0 at 1-2 through 201-4 at 10; *Udoh v. Knutson*, Civil No. 0:19-CV-1311(MJD/HB), Docket No. 82-1 at 1-35; *Udoh v. Dooley*, Civil No. 0:16-CV-4174 (PAM/HB), Docket No. 62-1 at 1- 35 (Evidence In Support Of Lack Of Access To The Prison Law Library To File A Brief In A19-1129);

*Udoh et al v. Minnesota Department of Human Services et al*, Civil No. 0:16-CV-3119 (PJS/SER), Docket No. 196 at 1 - 5, Docket No. 199-2 at 1-5; *Udoh v. Knutson*, Civil No. 0:19-CV-1311(MJD/HB), Docket No. 75 at 1, 75-1 at 1 – 5, 75-2 at 1; *Udoh v. Dooley*, Civil No. 0:16-CV-4174 (PAM/HB), Docket No. 60 at 1, 60-1 at 1 – 5 (Judicial Notice And Response To The Trial Court Credibility Determination);

*Udoh et al v. Minnesota Department of Human Services et al*, Civil No. 0:16-CV-3119 (PJS/SER), Docket No. 195 at 1 - 5, Docket No. 199-1 at 1 - 5; *Udoh v. Knutson*, Civil No. 0:19-CV-1311(MJD/HB), Docket No. 76 at 1, 76-1 at 1-5, 76-2 at 1, Docket No. 79 at 1, 79-1 at 1-5, 79-2 at 1;

*Udoh v. Dooley*, Civil No. 0:16-CV-4174 (PAM/HB), Docket No. 59 at 1, 59-1 at 1 – 5 (Extraordinary Circumstances Exist In This Case To Justify The Reliefs Requested);

*Udoh et al v. Minnesota Department of Human Services et al*, Civil No. 0:16-CV-3119 (PJS/SER), Docket No. 197 at 1 - 4, Docket No. 199 at 1-5; *Udoh v. Knutson*, Civil No. 0:19-CV-1311(MJD/HB), Docket No. 81-1 at 1 - 4; *Udoh v. Dooley*, Civil No. 0:16-CV-4174 (PAM/HB), Docket No. 63-1 at 1-5 (Evidence In Support Of Petitioner's Denial And/Or Lack Of Access To The Prison Law Library To Appeal A19-1129 Case At The Minnesota Court Of Appeals Due To Coronavirus (Covid-19) Pandemic);

*Udoh et al v. Minnesota Department of Human Services et al*, Civil No. 0:16-CV-3119 (PJS/SER), Docket No. 205 at 1 - 32; *Udoh v. Knutson*, Civil No. 0:19-CV-1311(MJD/HB), Docket No. 83-1 at 1 - 32; *Udoh v. Dooley*, Civil No. 0:16-CV-4174 (PAM/HB), Docket No. 64-1 at 1 - 32 (Judicial Notice Of A Proceeding In Carlton County District Court Regarding Coronavirus Pandemic Found In The Minnesota Department Of Correction, Filed By American Civil Liberties Union, On A Petition For Mandamus And Writ Of Habeas Corpus);

*Udoh et al v. Minnesota Department of Human Services et al*, Civil No. 0:16-CV-3119 (PJS/SER), Docket No. 208 at 1 - 4 (Judicial Notice Of A Recent Order Filed In A20-0633);

*Udoh et al v. Minnesota Department of Human Services et al*, Civil No. 0:16-CV-3119 (PJS/SER), Docket No. 209 at 1 - 12; *Udoh v. Knutson*, Civil No. 0:19-CV-1311(MJD/HB), Docket No. 84 at 1, 84-1 at 1 - 12; *Udoh v. Dooley*, Civil No. 0:16-CV-4174 (PAM/HB), Docket No. 67 at 1, 67-1 at 1 - 12 (Supplemental Authority And Judicial Notice Of Prior Proceeding To Remove Judge Tamara G. Garcia In A18-1804 Minnesota Court Appellate Proceeding);

*Udoh et al v. Minnesota Department of Human Services et al*, Civil No. 0:16-CV-3119 (PJS/SER), Docket No. 204, 204-1, 204-2, 204-3 at 1 - 33; *Udoh v. Dooley*, Civil No. 0:16-CV-4174 (PAM/HB), Docket No. 65, 65-1 at 1 - 36 (Judicial Notice Of A March 02, 2020 Order);

*Udoh v. Dooley*, Civil No. 0:16-CV-4174 (PAM/HB), Docket No. 69-3 at 1 - 10 (March 02, 2020 Order From Hennepin County District Court In Exhibit 5), Docket No. 69-4 at 1 - 46 (Respondent Actions That Prevented Petitioner From Fully And Fairly Presenting His Case For Relief In Exhibit 6);

*Udoh et al v. Minnesota Department of Human Services et al*, 2020 U.S. Dist. LEXIS 84151 \*1 - \*9 (D. Minn. May 13, 2020), Civil No. 0:16-CV-3119 (PJS/SER);

*Udoh v. Dooley*, 2020 U.S. Dist. LEXIS 123571 \*1 - \*6 (D. Minn. July 14, 2020), Civil No. 0:16-CV-4174 (PAM/HB), Docket No. 73;

into this petition to show (a) that the lower court *erred* in the denial of Appellant's motion to vacate the June 15, 2018, November 29, 2018, and February 05, 2019 Post-Conviction Orders pursuant to PETITION by Udoh - Page 9

pursuant to Minn. R. Civ. Pro. 60.01, and 60.02; (b) that the lower court *erred* in the denial of Appellant's motion to obtain the audio recordings with transcripts of the 867 Prison Calls for Appellant to *adequately, effectively and meaningfully* prepare his *Principal Brief* due by March 16, 2020 in A19-1129 appeal; (c) that Petitioner received ineffective assistance of Appellate Counsel for failure to effectively and adequately raise the issue on whether petitioner received ineffective assistance of trial counsel for failure to properly preserve the legal issues for review at trial under *Strickland v. Washington* during Appellant's direct appeal; and (d) that Petitioner is entitled to an acquittal or new trial on the newly discovered exonerating evidence showing actual innocence based on recantations of key material witnesses' testimony.

### CONCLUSION

For the foregoing reasons, Petitioner prays that this court grants the writ.

Dated: March 8, 2021

Respectfully Submitted,

Emem U. Udoh

Emem U. Udoh,  
*Pro se* Litigant, 245042  
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Rush City, MN 55069

### CERTIFICATE OF COMPLIANCE

Pursuant to Rule 33.2(b), Petitioner certifies that this Petition complies with the page limitation in that rule. According to Microsoft Word 2019, the word processing program used to produce this Petition, it contains 10 pages.

Dated: March 8, 2021

Respectfully Submitted,

Emem U. Udoh

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