

20-8132

No. 20-30097

ORIGINAL

Supreme Court, U.S.
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IN THE

SUPREME COURT OF THE UNITED STATES

George Verkler

— PETITIONER

(Your Name)

vs.

United States of America

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Ninth Circuit

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

George Verkler

(Your Name)

407 E. Young St.

(Address)

Elma, WA 98541

(City, State, Zip Code)

253-235-1780

(Phone Number)

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SUPREME COURT, U.S.

QUESTIONS PRESENTED

Does the presumption of innocence and due process mean that if a judge will not read everything Mr. Verkler, the Defendant in a criminal case submits to the court, or if the prosecution admits that American is actually innocent that the judge must rule in favor of the Defendant?

Doesn't a defendant in a criminal case have the right to assistance of counsel?

Doesn't an American defendant in a criminal case have the right to effective assistance of legal counsel?

How many times does Mr. Verkler have to win his case before it sticks?

Doesn't Mr. Verkler as a defendant in a criminal case have the right to appeal and attack a completely unconstitutional, illegal, baseless and unjust decision?

Since USA breached the plea contract and refuses to remedy the breach can't Mr. Verkler rescind the contract and withdraw the guilty plea?

Can USA add to a defendant's sentence without a court proceeding?

Doesn't a US/Washington State citizen have any protection under the Constitution and Laws?

Isn't it true that there is **nothing** in the U.S. Constitution or federal law that gives the government or anyone in the government authority to commit a crime, a tort, conspire or lie against an American?

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:

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JURISDICTION

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was 01/04/21 12/09/2020

☐ 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: _____, 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. § 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).

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<u>US v Vaden</u> , 912 F.2d 780, 781 (5 th Cir 1990);	37
<u>US v Welch</u> , 656 F.2d 1039, 1039-47, 1057, 1059, 1060, 1062, 1064-5, 1067-70, 1,A,C,D,III A,1,C,1,D,1,2 (5 th Cir 1981);	33
<u>US v Wright</u> , 797 F.2d 245, 249-50 (5 th Cir 1986);	36
<u>Cupit v Jones</u> (1987, CA5 La) 835 F.2d 82;	36
<u>Guerra v Collins</u> , 916 F.Supp 620 (S.D. Tex 1995);	30

<u>US v Hinojosa</u> (2012, CA5 Tex) 2012 US App LEXIS;	38
<u>US v Morado</u> (1972, CA Tex) 454 F.2d 167;	38
<u>US v Chambers</u> , 382 F.2d 910, 913-4 (6 th Cir 1967);	38
<u>US v Sivils</u> , 960 F.2d 587, 596, #2,23,73 (6 th Cir 1992);	36
<u>US v Thompson</u> , 685 F.2d 993, 998-1000, #2,39,45,53-6, 69 (6 th Cir 1982);	36
<u>US v Tines</u> , 70 F.3d 891, 893 (6 th Cir 1995);	37
<u>US v Carson</u> (2009, CA6 Mich) 560 F.3d 566, posture, 570-2, 590;	36
<u>Branion v Gramly</u> , 855 F.2d 1256 (7 th Cir 1988);	36
<u>US v Braasch</u> , 505 F.2d 139, posture, 141-2, 148, 151 (7 th Cir 1974);	33
<u>US v Blackwood</u> , 768 F.2d 131, 134-6, #2,3,7,60 (7 th Cir 1985);	36
<u>US v Castillo</u> , 814 F.2d 351, 353 (7 th Cir 1987);	33
<u>US v Cogwell</u> , 486 F.2d 823 (7 th Cir 1973);	33
<u>US v Connecticut</u> , 769 F.2d 420 (7 th Cir 1985);	36
<u>US v Craig</u> , 573 F.2d 455 (7 th Cir 1977);	38
<u>US v Devine</u> , 787 F.2d 1086 (7 th Cir 1986);	36
<u>US v Gironda</u> , 758 F.2d 1201, 1217 (7 th Cir 1985);	33
<u>US v Griffin</u> , 827 F.2d 1108, 1116 (7 th Cir 1987);	33
<u>US v Grzywacz</u> , 603 F.2d 682, 686-7, 690, #1-10,12-20,22-25,29,36 (7 th Cir 1979);	36
<u>US v Hocking</u> , 860 F.2d 769, 769, 777 (7 th Cir 1988);	36
<u>US v Kaczmarek</u> , 490 F.2d 1031, 1035 (7 th Cir 1974);	33
<u>US v Lee Stoller Enterprises, Inc</u> , 652 F.2d 1313, 1317-9, 1-4,10,12 (7 th Cir 1981);	36
<u>US v LeFevour</u> , 798 F.2d 977, 979 (7 th Cir 1986);	36

<u>US v Masters</u> , 924 F.2d 1362, (7 th Cir 1991);	36
<u>US v Mayo</u> , 721 F.2d 1084, 1088 (7 th Cir 1983);	33
<u>US v Murphy</u> , 768 F.2d 1518, 1525-8 (7 th Cir 1985);	35
<u>US v Rindone</u> , 631 F.2d 491, 491, 494-5 (7 th Cir 1980);	36
<u>US v Robinson</u> , 470 F.2d 121, 123 (7 th Cir 1972);	33
<u>US v Schmidt</u> , 760 F.2d 828, posture, 830-2 (7 th Cir 1985);	36
<u>US v Shamah</u> , 624 F.3d 449, overview, 451-2, 455, 457-9 (7 th Cir 2010);	36
<u>US v Washington</u> , 586 F.2d 1143, 1153 (7 th Cir 1987);	33
<u>US v West</u> , 670 F.2d 675, 685 (7 th Cir 1982);	33
<u>US v Whaley</u> , 830 F.2d 1469, 1476, 1476, 1477 (7 th Cir 1987);	33
<u>Duran v Elrod</u> , (1979, CA7 Ill) 542 F.2d 998;	36
<u>Somberger v City of Knoxville</u> (2006, CA7 Ill) 434 F.3d 1006;	31
<u>US v Black</u> (2008, CA7 Ill) 530 F.3d 596;	36
<u>US v Jacquemain</u> (2005, ED Mich) 368 F Supp 2d 800;	36
<u>US v Olinger</u> (1985, CA7 Ill) 759 F.2d 1293;	36
<u>US v Roth</u> (1988, CA7 Ill) 860 F.2d 1382, 1383, 1386;	36
<u>Green v Baron</u> (1989, CA8 Iowa) 879 F.2d 305;	36
<u>US v Benefield</u> (1979, CA8 Mo) 593 F.2d 815;	6
<u>US v Brown</u> , 584 F.2d 252, 262 (8 th Cir 1978);	36
<u>US v Burchinal</u> , 657 F.2d 985, 992, #28 (8 th Cir 1981);	38
<u>US v Clark</u> , 646 F.2d 1259, 1261-7, #3,4,28 (8 th Cir 1981);	36
<u>US v Jackson</u> , 235 F.2d 925, 928 (8 th Cir 1956);	37

<u>US v Rabbitt</u> , 523 F.2d 1014, 1019-21, 1026 (8 th Cir 1978);	36
<u>Johnson-El v George</u> (1989, CA8 Mo) 878 F.2d 1043;	36
<u>Missouri v Blair</u> , 691 S.W. 2d 259 (Mo 1985) en banc, cert dismissed 480 US 698 (1987);	36
<u>Sampson v Schenck</u> (2012, CA8 Neb) 700 F.3d 340, 11-1918;	
<u>US v Keeble</u> (1972, CA8 SD) 459 F.2d 757;	37
<u>Villanueva v George</u> (1981, CA8 Mo) 659 F.2d 851;	36
<u>Warren v Lincoln</u> (1987, CA8 Neb) 816 F.2d 1254;	36
<u>Ginoza v US</u> , 279 F.2d 616, outcome (9 th Cir 1960);	35
<u>Taglavore v US</u> , 291 F.2d 262, 265 (9 th Cir 1961);	36
<u>US v Bagnariol</u> , 665 F.2d 877, 893, #1, 18, 85 (9 th Cir 1981);	36, 39
<u>US v Bordallo</u> , 857 F.2d 519, #1,3-6,8,27,45,50 (9 th Cir 1988);	36
<u>US v Dischner</u> , 974 F.2d 1502, 1511, 1515 n 15, #2-5,8,21,26, 51-2,61 (9 th Cir 1992);	36
<u>US v Egan</u> , 860 F. 2d 904, #2,18 (9 th Cir 1988);	36
<u>US v Gates</u> , 616 F.2d 1103, #1-2, 34-5, 38 (9 th Cir 1980);	36
<u>US v Jernigan</u> , 582 F.2d 1211, 1213-4 (9 th Cir 1978);	35
<u>US v Lane</u> , 705 F.3d 1134, 1399 (9 th Cir 2013);	36
<u>US v Morales</u> , 344 F.2d 846, outcome, 851-3 (9 th Cir 1965);	35
<u>US v Nunez</u> , 483 F.2d 453, 460 (9 th Cir 1973);	33
<u>US v Polizzi</u> , 801 F.2d 1543, 1548 (9 th Cir 1986);	39
<u>Byrnes v US</u> (1964, CA9 Cal) 327 F.2d 825, ?, 829, 833;	6

<u>Cote v US</u> (1966, CA9 Nev) 357 F.2d 789, 793;	35
<u>Diaz v Gates</u> (2005, CA9 Cal) 420 F.3d 897, #1.2, 22, 26;	36
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<u>US v Mayes</u> (1969, CA9 Cal) 417 F.2d 771, outcome;	35
<u>US v McFall</u> (2009, CA9 Cal) 2009 US App LEXIS, posture;	36
<u>US v Ohlson</u> , (1977, CA9 Cal) 552 F.2d 1347, 1349, #2. 9;	36
<u>US v Osunde</u> (1986, ND Cal) 638 F. Supp 171, overview, 173, 175-7, ?;	35
<u>US v Graham</u> , 581 F.2d 789, #1,8 (1978, CA Wash);	36
<u>US v Reese</u> (1993, CA9 Cal) 2 F.2d 870;	38
<u>US v Skillmen</u> ; (1990, CA9 Cal) 922 F.2d 1370;	38
<u>US v Sotoj-Lopez</u> (1979, CA9 Or) 603 F.2d 789;	35
<u>Fritts v US</u> (10 th Cir 1935) 80 F.2d 644;	38
<u>Gooch v US</u> (10 Cir 1936) 82 F.2d 534;	38
<u>Jordan v US</u> , 370 F.2d 126, 128 (10 th Cir 1966);	38
<u>US v Whalen</u> , 976 F.2d 1346, 1348 (10 th Cir 1992);	36
<u>US v Zang</u> , 703 F.2d 1186, 1191 (10 th Cir 1982);	38
<u>Berry v Muskogee</u> (1990, CA10 Okla) 900 F.2d 1489;	36
<u>US v Hampton</u> , 786 F.2d 977, 979 (1986, CA10 Okla);	38
<u>US v Whitney</u> (2000, CA Kan) 2290 F.3d 1296, 2000 Colo JCAR 5742;	38
<u>US v Wright</u> (1994, CA10 Okla) 43 F.3d 491, 499, #6;	36
<u>US v Andrews</u> , 765 F.2d 1491, 1496 (11 th Cir 1985);	37
<u>US v Broadwell</u> , 870 F.2d 594, 602 (11 th Cir 1989);	37

<u>US v Cola</u> , 719 F.2d 1120, 1124 (11 th Cir 1983);	38
<u>US v Heller</u> , 830 F 2d 150, 152-3 (11 th Cir 1987);	35
<u>US v Holloway</u> , 971 F.2d 675, 679 (11 th Cir 1992);	37
<u>US v Holzer</u> , 816 F.2d 304, 305-7, 310 (11 th Cir 1987);	36
<u>US v Nguyen</u> , 255 F.3d 1335, 1341 (11 th Cir 2001);	39
<u>US v Ronda</u> (2006, CA11 Fla) 455 F.3d 1273;	36
<u>US v Wilson</u> , 894 F.2d 1245, 1253 (11 th Cir 1990);	37
<u>US v Romero</u> (2013, CA11 Fla) 2013 US App LEXIS 8683;	36, 38
<u>US v Townsend</u> (2011, CA11 Fla) 630 F.3d 1003;	36
<u>US v Veal</u> , (1998, CA11 Fla) 153 F.3d 1233, overview, 1233, 1248;	37
<u>US v Scrushy</u> , 237 F.R.D. 464, 468;	37
<u>US v Conn</u> , 420-1, 423, 425.	39

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

DUE PROCESS

The First Amendment states, "Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to **petition the Government for a redress of grievances.**"

The 5th Amendment states:

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

The Sixth Amendment states,

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Federal Rule of Criminal Procedure 3 states, "Rule 3. The Complaint The complaint is a written statement of the essential facts constituting the offense

charged. Except as provided in Rule 4.1, it must be made under oath before a magistrate judge...”

Federal Rule of Criminal Procedure 4 states,

Rule 4 Arrest Warrant or Summons on a Complaint

(a) ISSUANCE. If the complaint or one or more affidavits filed with the complaint establish probable cause to believe that an offense has been committed and that the defendant committed it, the judge must issue an arrest warrant to an officer authorized to execute it. At the request of an attorney for the government, the judge must issue a summons, instead of a warrant, to a person authorized to serve it....

(b) FORM.

(1) *Warrant*. A warrant must:...

(D) be signed by a judge.

(c) EXECUTION OR SERVICE, AND RETURN.

(1) *By Whom*. Only a marshal or other authorized officer may execute a warrant...

Federal Rule of Criminal Procedure 5 states, “Rule 5 Initial Appearance

(a) IN GENERAL.

(1) *Appearance Upon an Arrest*.

(A) A person making an arrest within the United States must take the defendant without unnecessary delay before a magistrate judge...

(b) ARREST WITHOUT A WARRANT. If a defendant is arrested without a warrant, a complaint meeting Rule 4(a)'s requirement of probable cause must be promptly filed in the district where the offense was allegedly committed.

(c) PLACE OF INITIAL APPEARANCE; TRANSFER TO ANOTHER DISTRICT.

(1) *Arrest in the District Where the Offense Was Allegedly Committed*. If the defendant is arrested in the district where the offense was allegedly committed:

(A) the initial appearance must be in that district;...

(3) *Procedures in a District Other Than Where the Offense Was Allegedly Committed.* If the initial appearance occurs in a district other than where the offense was allegedly committed, the following procedures apply:

(A) the magistrate judge must inform the defendant about the provisions of Rule 20;

(B) if the defendant was arrested without a warrant, the district court where the offense was allegedly committed must first issue a warrant before the magistrate judge transfers the defendant to that district;

(C) the magistrate judge must conduct a preliminary hearing if required by Rule 5.1;

(D) the magistrate judge must transfer the defendant to the district where the offense was allegedly committed if:

(i) the government produces the warrant, a certified copy of the warrant, or a reliable electronic form of either; and

(ii) the judge finds that the defendant is the same person named in the indictment, information, or warrant; and

(E) when a defendant is transferred and discharged, the clerk must promptly transmit the papers and any bail to the clerk in the district where the offense was allegedly committed.

(d) PROCEDURE IN A FELONY CASE.

(1) *Advice.* If the defendant is charged with a felony, the judge must inform the defendant of the following:

(A) the complaint against the defendant, and any affidavit filed with it;

(B) the defendant's right to retain counsel or to request that counsel be appointed if the defendant cannot obtain counsel;

(C) the circumstances, if any, under which the defendant may secure pretrial release;

(D) any right to a preliminary hearing; ~~and~~

(E) the defendant's right not to make a statement, and that any statement made may be used against the defendant:...

2) *Consulting with Counsel.* The judge must allow the defendant reasonable opportunity to consult with counsel.

(3) *Detention or Release.* The judge must detain or release the defendant as provided by statute or these rules.

(4) *Plea.* A defendant may be asked to plead only under Rule 10.

Fed. R. Crim. P. 16 - Discovery and inspection states,

(a) Government's Disclosure.

(1) *Information Subject to Disclosure.*

(E) *Documents and Objects.* Upon a defendant's request, the government must permit the defendant to inspect and to copy or photograph books, papers, documents, data, photographs, tangible objects, buildings or places, or copies or portions of any of these items, if the item is within the government's possession, custody, or control and:

- (i) the item is material to preparing the defense;
- (ii) the government intends to use the item in its case-in-chief at trial; or
- (iii) the item was obtained from or belongs to the defendant."

RIGHT TO ASSISTANCE OF COUNSEL

The 6th Amendment says,

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime have been committed,... and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense."

18 U.S. Code § 3006A states,

Adequate representation of defendants

(a) **CHOICE OF PLAN.**— Each United States district court, with the approval of the judicial council of the circuit, shall place in operation throughout the district a plan for furnishing representation for any person financially unable to obtain adequate representation in accordance with this section. Representation under each plan shall include counsel and investigative, expert, and other services necessary for adequate representation. Each plan shall provide the following:

(1) Representation shall be provided for any financially eligible person who—

(A) is charged with a felony or a Class A misdemeanor;...

(E) is charged with a violation of supervised release or faces modification, reduction, or enlargement of a condition, or extension or revocation of a term of supervised release;

(H) is entitled to appointment of counsel under the sixth amendment to the Constitution;

(I) faces loss of liberty in a case, and Federal law requires the appointment of counsel; or

(J) is entitled to the appointment of counsel under section 4109 of this title.

(2) Whenever the United States magistrate judge or the court determines that the interests of justice so require, representation may be provided for any financially eligible person who—

(A) is charged with a Class B or C misdemeanor, or an infraction for which a sentence to confinement is authorized; or

(B) is seeking relief under section 2241, 2254, or 2255 of title 28.

(3) Private attorneys shall be appointed in a substantial proportion of the cases. Each plan may include, in addition to the provisions for private attorneys, either of the following or both:

(A) Attorneys furnished by a bar association or a legal aid agency, .

(B) Attorneys furnished by a defender organization established in accordance with the provisions of subsection (g)...

(b) APPOINTMENT OF COUNSEL. —

Counsel furnishing representation under the plan shall be selected from a panel of attorneys designated or approved by the court, or from a bar association, legal aid agency, or defender organization furnishing representation pursuant to the plan. In every case in which a person entitled to

representation under a plan approved under subsection (a) appears without counsel, the United States magistrate judge or the court shall advise the person that he has the right to be represented by counsel and that counsel will be appointed to represent him if he is financially unable to obtain counsel. Unless the person waives representation by counsel, the United States magistrate judge or the court, if satisfied after appropriate inquiry that the person is financially unable to obtain counsel, shall appoint counsel to represent him. Such appointment may be made retroactive to include any representation furnished pursuant to the plan prior to appointment. The United States magistrate judge or the court shall appoint separate counsel for persons having interests that cannot properly be represented by the same counsel, or when other good cause is shown.

(c) DURATION AND SUBSTITUTION OF APPOINTMENTS. —

A person for whom counsel is appointed shall be represented at every stage of the proceedings from his initial appearance before the United States magistrate judge or the court through appeal, including ancillary matters appropriate to the proceedings. If at any time after the appointment of counsel the United States magistrate judge or the court finds that the person is financially able to obtain counsel or to make partial payment for the representation, it may terminate the appointment of counsel or authorize payment as provided in subsection (f), as the interests of justice may dictate. If at any stage of the proceedings, including an appeal, the United States magistrate judge or the court finds that the person is financially unable to pay counsel whom he had retained, it may appoint counsel as provided in subsection (b) and authorize payment as provided in subsection (d), as the interests of justice may dictate. The United States magistrate judge or the court may, in the interests of justice, substitute one appointed counsel for another at any stage of the proceedings....

(D) Considerations. — The interests referred to in subparagraphs (B) and (C) are—

- (i) to protect any person's 5th amendment right against self-incrimination;
- (ii) to protect the defendant's 6th amendment rights to effective assistance of counsel;

Fed. R. Crim. P. 5 - Initial Appearance

(a) In General.

(1) *Appearance Upon an Arrest.*

(A) A person making an arrest within the United States must take the defendant without unnecessary delay before a magistrate judge, or before a state or local judicial officer as Rule 5(c) provides, unless a statute provides otherwise.

(d) Procedure in a Felony Case.

(1) *Advice.* If the defendant is charged with a felony, the judge must inform the defendant of the following:

(A) the complaint against the defendant, and any affidavit filed with it;

(B) the defendant's right to retain counsel or to request that counsel be appointed if the defendant cannot obtain counsel;

(D) any right to a preliminary hearing; and

(E) the defendant's right not to make a statement, and that any statement made may be used against the defendant.

(2) *Consulting with Counsel.* The judge must allow the defendant reasonable opportunity to consult with counsel.

Fed. Rule of Crim. Proc. 44 states, "Rule 44. Right to and Appointment of Counsel

(a) RIGHT TO APPOINTED COUNSEL. A defendant who is unable to obtain counsel is entitled to have counsel appointed to represent the defendant at every stage of the proceeding from initial appearance through appeal, unless the defendant waives this right.

(b) APPOINTMENT PROCEDURE. Federal law and local court rules govern the procedure for implementing the right to counsel.

Fed. Rule of Crim. Proc. 11 states, "Rule 11. Pleas...

(b) CONSIDERING AND ACCEPTING A GUILTY OR NOLO CONTENDERE PLEA.

(1) *Advising and Questioning the Defendant.* Before the court accepts a plea of guilty or nolo contendere, the defendant may be placed under oath, and the court must address the defendant personally in open court. During this address, the court must inform the defendant of, and determine that the defendant understands, the following:...

(D) the right to be represented by counsel—and if necessary have the court appoint counsel—at trial and at every other stage of the proceeding;...

(K) the court's authority to order restitution;...

(2) *Ensuring That a Plea Is Voluntary.* Before accepting a plea of guilty or nolo contendere, the court must address the defendant personally in open court and determine that the plea is voluntary and did not result from force, threats, or promises (other than promises in a plea agreement).

(3) *Determining the Factual Basis for a Plea.* Before entering judgment on a guilty plea, the court must determine that there is a factual basis for the plea.

(c) PLEA AGREEMENT PROCEDURE...

(3) *Judicial Consideration of a Plea Agreement.*

(4) *Accepting a Plea Agreement.* If the court accepts the plea agreement, it must inform the defendant that to the extent the plea agreement is of the type specified in Rule 11(c)(1)(A) or (C), the agreed disposition will be included in the judgment.

(5) *Rejecting a Plea Agreement.* If the court rejects a plea agreement containing provisions of the type specified in Rule 11(c)(1)(A) or (C), the court must do the following on the record and in open court (or, for good cause, in camera):

(A) inform the parties that the court rejects the plea agreement;

(B) advise the defendant personally that the court is not required to follow the plea agreement and give the defendant an opportunity to withdraw the plea; and

(C) advise the defendant personally that if the plea is not withdrawn, the court may dispose of the case less favorably toward the defendant than the plea agreement contemplated.

(d) WITHDRAWING A GUILTY OR NOLO CONTENDERE PLEA. A defendant may withdraw a plea of guilty or nolo contendere:...

(2) after the court accepts the plea, but before it imposes sentence if:

(A) the court rejects a plea agreement under 11(c)(5); or

(B) the defendant can show a fair and just reason for requesting the withdrawal....

(f) ADMISSIBILITY OR INADMISSIBILITY OF A PLEA, PLEA DISCUSSIONS, AND RELATED STATEMENTS. The admissibility or inadmissibility of a plea, a plea discussion, and any related statement is governed by Federal Rule of Evidence 410.

(g) RECORDING THE PROCEEDINGS. The proceedings during which the defendant enters a plea must be recorded by a court reporter or by a suitable recording device. If there is a guilty plea or a nolo contendere plea, the record must include the inquiries and advice to the defendant required under Rule 11(b) and (c)...

DOUBLE JEOPARDY

The Fifth Amendment states,

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

42 USC §2000h-1 states,

Double jeopardy; specific crimes and criminal contempts. No person should be put twice in jeopardy under the laws of the United States for the same act or omission. For this reason, an acquittal or conviction in a prosecution for a specific crime under the laws of the United States shall bar a proceeding for criminal contempt, which is based upon the same act or omission and which arises under the provisions of this Act; and an acquittal or conviction in a proceeding for criminal contempt, which arises under the provisions of this Act, shall bar a prosecution for a specific crime under the laws of the United States based upon the same act or omission."

THE RIGHT TO APPEAL and COLLATERAL ATTACK and WIN and TO HAVE AN IMPARTIAL JUDGE

The Preamble to the US Constitution states,

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves

and our Posterity, do ordain and establish this Constitution for the United States of America.

Appellant claims the right to appeal under Article 1 Section 8 which states, "Section 8

...To constitute Tribunals inferior to the supreme Court;...

Article I Section 9 states, "... The Privilege of the Writ of Habeas Corpus shall not be suspended..."

Article 3 Sections 1 with Section 2 states, Section 1

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Section 2

The Judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States,...

The Trial of all Crimes, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed;..."

The Fifth Amendment states, **No person shall be held to answer for a capital, or otherwise infamous crime**, unless on a presentment or indictment of a Grand Jury,... **nor be deprived of life, liberty, or property, without due process of law;** nor shall private property be taken for public use, without just compensation.

28 U.S. Code § 1292 states, **Interlocutory decisions**

(a) Except as provided in subsections (c) and (d) of this section, **the courts of appeals shall have jurisdiction of appeals from:**

(1) Interlocutory orders of the district courts of the United States,...

Federal Rule of Appellate Procedure 3 states, "**Rule 3. Appeal as of Right—How Taken**

(a) **FILING THE NOTICE OF APPEAL.**

(1) An appeal permitted by law as of right from a district court to a court of appeals may be taken..."

Fed. Rule of Crim. Proc. 44(a) (above) states, "**A defendant who is unable to obtain counsel is entitled to have counsel appointed to represent the defendant at every stage of the proceeding from initial appearance through appeal,**"

The Fourth Amendment states, Fourth Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and **no Warrants shall issue, but upon probable cause, supported by Oath or affirmation**, and particularly describing the place to be searched, and the persons or things to be seized.

— 28 USC sec 455(a)(b)(1)(5)(ii)(iii)(iv)(c)(e) states, "

28 U.S. Code § 455 - **Disqualification of justice, judge, or magistrate judge**

(a) **Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.**

(b) **He shall also disqualify himself in the following circumstances:**

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;...

(4) **He knows that he, individually... has a financial interest in the subject matter in controversy...**

(5) **He...**

(ii) **Is acting as a lawyer in the proceeding;**

(iii) **Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;**

(iv) **Is to the judge's knowledge likely to be a material witness in the proceeding.**

(c) **A judge should inform himself about his personal and fiduciary financial interests,...**

HEARING REQUIRED

Article 3 Section 2 (above) states, "The Trial of all Crimes... shall be by Jury..."

The Fifth Amendment (above) states, "No person shall be held to answer for a ... crime, nor be deprived of ... property, without due process of law."

18 U.S. Code § 3006A (d)(4)(B)(ii)(IV) (above) states, "adequate representation of defendants for any person financially unable to obtain adequate representation for hearings is a right.

Fed. R. Crim. P. 5 (a)(1)(A) (above) states, "the United States must take the defendant without unnecessary delay before a magistrate judge..." (d)(1)(D) states, "Procedure in a Felony Case. *Advice.* If the defendant is charged with a felony, the judge must inform the defendant of the following: any right to a preliminary hearing..."

Fed Rule of Crim Proc 11 (b) (above) states, **CONSIDERING AND ACCEPTING A GUILTY OR NOLO CONTENDERE PLEA.** (1) *Advising and Questioning the Defendant.* Before the court accepts a plea of guilty or nolo contendere, the defendant may

be placed under oath, and the court must address the defendant personally in open court. During this address, the court must inform the defendant of, and determine that the defendant understands, the following:

Fed. Rule of Crim. Proc. 44(a) (above) states, "A defendant who is unable to obtain counsel is entitled to have counsel appointed to represent the defendant at every stage of the proceeding from initial appearance through appeal."

BREACH OF CONTRACT

28 USC 3308 states, "Except as provided in this subchapter, the principles of law and equity, including the law merchant and the law relating to principles and agent, estoppel; laches, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating clause shall apply to actions and proceedings under this subchapter."

The Uniform Commercial Code states, "§ 2-601. Buyer's Rights on Improper Delivery.

Subject to the provisions of this Article on breach in installment contracts (Section 2-612) and unless otherwise agreed under the sections on contractual limitations of remedy (Sections 2-718 and 2-719), **if the goods or the tender of delivery fail in any respect to conform to the contract, the buyer may**

- (a) reject the whole;..."

PROPER LEGAL STANDARD

Federal Rules of Criminal Procedure 1 states,

Rule 1. Scope; Definitions

(a) SCOPE.

(1) *In General.* These rules govern the procedure in all criminal proceedings in the United States district courts, the United States courts of appeals, and the Supreme Court of the United States....

(b) DEFINITIONS. The following definitions apply to these rules:...

(2) "Court" means a federal judge performing functions authorized by law....

Federal Rule of Criminal Procedure 2 states, "Rule 2. Interpretation

These rules are to be interpreted to provide for the just determination of every criminal proceeding, to secure simplicity in procedure and fairness in administration, and to eliminate unjustifiable expense and delay."

15 U.S. Code § 1692h. Multiple debts says.

If any consumer owes multiple debts and makes any single payment to any debt collector with respect to such debts, such debt collector may not apply such payment to any debt which is disputed by the consumer and, where applicable, shall apply such payment in accordance with the consumer's directions.

CRUEL AND UNUSUAL PUNISHMENT PROHIBITED

The Eighth Amendment states, "Amendment VIII Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

SPEEDY TRIAL ACT

AMENDMENT VI states

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

18 USC 3161 states:

(a) In any case involving a defendant charged with an offense, the appropriate judicial officer, at the earliest practicable time, shall, after consultation with the counsel for the defendant and the attorney for the Government, set the case for trial on a day certain, or list it for trial on a weekly or other short-term trial calendar at a place within the judicial district, so as to assure a speedy trial.

(b) Any information or indictment charging an individual with the commission of an offense shall be filed within thirty days from the date on which such individual was arrested or served with a summons in connection with such charges.

18 USC 3162 states:

(b) In any case in which counsel for the defendant or the attorney for the Government (1) knowingly allows the case to be set for trial without disclosing the fact that a necessary witness would be unavailable for trial; ... or (4) otherwise willfully fails to proceed to trial without justification consistent with section 3161 of this chapter, the court may punish any such counsel or attorney, as follows:

(C) by imposing on any attorney for the Government a fine of not to exceed \$250;

(D) by denying any such counsel or attorney for the Government the right to practice before the court considering such case for a period of not to exceed ninety days; or

(E) by filing a report with an appropriate disciplinary committee.

The authority to punish provided for by this subsection shall be in addition to any other authority or power available to such court.

RIGHT TO THE PROTECTION OF THE CONSTITUTION AND THE LAWS

18 U.S. Code § 4 - Misprision of felony states:

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.

28 U.S. Code § 545 – Residence states:

(a) Each United States attorney shall reside in the district for which he is appointed,... Each assistant United States attorney shall reside in the district for which he or she is appointed or within 25 miles thereof.... Pursuant to an order from the Attorney General or his designee, a United States attorney or an assistant United States attorney may be assigned dual or additional responsibilities that exempt such officer from the residency requirement in this subsection for a specific period as established by the order and subject to renewal.

Fed Rule of Criminal Procedure 7. The Indictment and the Information

(a) WHEN USED.

(1) *Felony*. An offense (other than criminal contempt) must be prosecuted by an indictment if it is punishable:

(A) by death; or

(B) by imprisonment for more than one year.

(2) *Misdemeanor*. An offense punishable by imprisonment for one year or less may be prosecuted in accordance with Rule 58(b)(1).

(b) **WAIVING INDICTMENT**. An offense punishable by imprisonment for more than one year may be prosecuted by information if the defendant—in open court and

after being advised of the nature of the charge and of the defendant's rights—
waives prosecution by indictment.

(c) NATURE AND CONTENTS.

(1) *In General.* The indictment or information must be a plain, concise, and definite written statement of the essential facts constituting the offense charged and must be signed by an attorney for the government. It need not contain a formal introduction or conclusion. A count may incorporate by reference an allegation made in another count. A count may allege that the means by which the defendant committed the offense are unknown or that the defendant committed it by one or more specified means. For each count, the indictment or information must give the official or customary citation of the statute, rule, regulation, or other provision of law that the defendant is alleged to have violated. For purposes of an indictment referred to in section 3282 of title 18, United States Code, for which the identity of the defendant is unknown, it shall be sufficient for the indictment to describe the defendant as an individual whose name is unknown, but who has a particular DNA profile, as that term is defined in section 3282.

NEITHER THE GOVERNMENT NOR ANY ONE IN THE FEDERAL GOVERNMENT HAS
AUTHORITY TO ASSIST OR COMMIT A CRIME, A TORT OR TO LIE OR CONSPIRE
AGAINST ANY AMERICAN PERSON

Article I Section 2 states, "... The House of Representatives ... shall have the sole Power
of Impeachment."

Article I Section 3 states, "... The Senate shall have the sole Power to try
all Impeachments... the Party convicted shall nevertheless be liable and subject
to Indictment, Trial, Judgment and Punishment, according to Law." That means
Congress can remove any member from the government for committing crimes
against Americans and they can still be prosecuted or sued.

Article I Section 5 states, "... Each House may punish its Members for disorderly
Behaviour, and,... expel a Member."

Article II Section 4 states, "The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors."

Article III Section 1 states, "...The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour," That means they may not continue in their office if they do not maintain good behavior.

The Third Amendment states, "No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law."

The Fourth Amendment (above) prohibits some crimes, torts and lies.

The Fifth Amendment (above) prohibits some crimes, torts and lies.

The Sixth Amendment states, "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence." It says the ability of the government to commit crimes, torts or lie against Americans under the guise of fighting crime.

The Eighth Amendment (above) prohibits some crimes.

The Ninth Amendment states, "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." This provides

protection from government crimes, torts, conspiracies or lies from the government that have been thought of or listed.

The Tenth Amendment states, "10th Amendment

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Nowhere does the US Constitution give federal or State government authority to commit a crime, a tort, conspire or lie against an American.

The 14th Amendment Section 1 and 3 state, "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.... No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability."

18 U.S. Code § 4 - Misprision of felony states:

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.

18 U.S. Code § 211 - Acceptance or solicitation to obtain appointive public office

Whoever solicits or receives, either as a political contribution, or for personal emolument, any money or thing of value, in consideration of the promise of support or use of influence in obtaining for any person any appointive office or place under the United States, shall be fined under this title or imprisoned not more than one year, or both.

Whoever solicits or receives any thing of value in consideration of aiding a person to obtain employment under the United States either by referring his name to an executive department or agency of the United States or by requiring the payment of a fee because such person has secured such employment shall be fined under this title, or imprisoned not more than one year, or both. This section shall not apply to such services rendered by an employment agency pursuant to the written request of an executive department or agency of the United States.

18 U.S. Code § 241 - Conspiracy against rights

If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same;...

They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

18 U.S. Code § 643 - Accounting generally for public money

Whoever, being an officer, employee or agent of the United States or of any department or agency thereof, having received public money which he is not authorized to retain as salary, pay, or emolument, fails to render his accounts for the same as provided by law is guilty of embezzlement, and shall be fined under this title or in a sum equal to the amount of the money embezzled, whichever is greater, or imprisoned not more than ten years,

18 U.S. Code § 645 - Court officers generally

Whoever, being a United States marshal, clerk, receiver, referee, trustee, or other officer of a United States court, or any deputy, assistant, or employee of

any such officer, retains or converts to his own use or to the use of another or after demand by the party entitled thereto, unlawfully retains any money coming into his hands by virtue of his official relation, position or employment, is guilty of embezzlement and shall, where the offense is not otherwise punishable by enactment of Congress, be fined under this title or not more than double the value of the money so embezzled, whichever is greater, or imprisoned not more than ten years, or both; but if the amount embezzled does not exceed \$1,000, he shall be fined under this title or imprisoned not more than one year, or both.

It shall not be a defense that the accused person had any interest in such moneys or fund.

18 U.S. Code § 646 - Court officers depositing registry moneys

Whoever, being a clerk or other officer of a court of the United States, fails to deposit promptly any money belonging in the registry of the court, or paid into court or received by the officers thereof, with the Treasurer or a designated depository of the United States, in the name and to the credit of such court, or retains or converts to his own use or to the use of another any such money, is guilty of embezzlement and shall be fined under this title or not more than the amount embezzled, whichever is greater, or imprisoned not more than ten years, or both; but if the amount embezzled does not exceed \$1,000, he shall be fined under this title or imprisoned not more than one year, or both.

This section shall not prevent the delivery of any such money upon security, according to agreement of parties, under the direction of the court.

18 U.S. Code § 648 - Custodians, generally, misusing public funds

Whoever, being an officer or other person charged by any Act of Congress with the safe-keeping of the public moneys, loans, uses, or converts to his own use, or deposits in any bank, including any branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or exchanges for other funds, except as specially allowed by law, any portion of the public moneys intrusted to him for safe-keeping, is guilty of embezzlement of the money so loaned, used, converted, deposited, or exchanged, and shall be fined under this title or in a sum equal to the amount of money so embezzled, whichever is greater, or imprisoned not more than ten years, or both; but if the amount embezzled does not exceed \$1,000, he shall be fined under this title or imprisoned not more than one year, or both.

18 USC 872 states, 18 U.S. Code § 872 states, "Extortion by officers or employees of the United States

Whoever, being an officer, or employee of the United States or any department or agency thereof, or representing himself to be or assuming to act as such, under color or pretense of office or employment commits or attempts an act of extortion, shall be fined under this title or imprisoned not more than three years, or both; but if the amount so extorted or demanded does not exceed \$1,000, he shall be fined under this title or imprisoned not more than one year, or both."

18 USC 875 states, "18 U.S. Code § 875 - Interstate communications

(a) Whoever transmits in interstate or foreign commerce any communication containing any demand or request for a ransom or reward for the release of any kidnapped person, shall be fined under this title or imprisoned not more than twenty years, or both.

(b) Whoever, with intent to extort from any person, firm, association, or corporation, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined under this title or imprisoned not more than twenty years, or both.

(c) Whoever transmits in interstate or foreign commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined under this title or imprisoned not more than five years, or both.

(d) Whoever, with intent to extort from any person, firm, association, or corporation, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to injure the property or reputation of the addressee or of another or the reputation of a deceased person or any threat to accuse the addressee or any other person of a crime, shall be fined under this title or imprisoned not more than two years, or both.

18 U.S. Code § 1201 - Kidnapping

(a) Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person, except in the case of a minor by the parent thereof, when—

(1) the person is willfully transported in interstate or foreign commerce, regardless of whether the person was alive when transported across a State boundary, or the offender travels in interstate or foreign commerce or uses the mail or any means, facility, or instrumentality of interstate or foreign commerce in committing or in furtherance of the commission of the offense;

18 U.S. Code § 1341 - Frauds and swindles

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing,...

18 U.S. Code § 1346. Definition of "scheme or artifice to defraud"

For the purposes of this chapter, the term "scheme or artifice to defraud" includes a scheme or artifice to deprive another of the intangible right of honest services.

18 U.S. Code § 1506 says "Theft or alteration of record or process; false bail

Whoever feloniously steals, takes away, alters, falsifies, or otherwise avoids any record, writ, process, or other proceeding, in any court of the United States, whereby any judgment is reversed, made void, or does not take effect;...”

18 USA 1512 which states,

Tampering with a witness, victim, or an informant

(a)(1) Whoever kills or attempts to kill another person, with intent to—

(A) prevent the attendance or testimony of any person in on official proceeding;

(B) prevent the production of a record, document, or other object, in an official proceeding; or

(C) prevent the communication by any person to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense...

shall be punished as provided in paragraph (3).

(2) Whoever uses physical force or the threat of physical force against any person, or attempts to do so, with intent to—

(A) influence, delay, or prevent the testimony of any person in an official proceeding;

(B) cause or induce any person to—

(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

(ii) alter, destroy, mutilate, or conceal an object with intent to impair the integrity of availability of the object for use in an official proceeding;...

(C) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offence or violation of conditions of probation, supervised release, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3).

(b) Whoever knowingly uses intimidation, threatens, or corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to—

(1) influence, delay, or prevent the testimony of any person in an official proceeding;

(2) cause or induce any person to—

(A) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

(3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation [1] supervised release,,[1] parole, or release pending judicial proceedings;

shall be fined under this title or imprisoned not more than 20 years, or both.

(c)Whoever corruptly—

(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so,

shall be fined under this title or imprisoned not more than 20 years, or both.

(g) In a prosecution for an offense under this section, no state of mind need be proved with respect to the circumstance—

(1) that the official proceeding before a judge, court, magistrate judge, grand jury, or government agency is before a judge or court of the United States, a United States magistrate judge, a bankruptcy judge, a Federal grand jury, or a Federal Government agency; or

(2) that the judge is a judge of the United States or that the law enforcement officer is an officer or employee of the Federal Government or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant.

(k) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

Federal Rule of Criminal Procedure 49 says

Serving and Filing Papers

(b) Filing.

(5) *Acceptance by the Clerk.* The clerk must not refuse to file a paper solely because it is not in the form prescribed by these rules or by a local rule or practice.

STATEMENT OF THE CASE

Multiple official representatives of USA made a written legally binding official admission to the Ninth Circuit Court of Appeals:

- 1) USA and the courts repeatedly engaged in fraud for obtaining wealth by means of false or fraudulent pretenses, representations, to deny Mr. Verkler credit for amounts collected in violation of 15 USC 1692d, 1692e, 1692g, 1692h, 18 USC 1341.
- 2) the **federal district court did not have subject matter or territorial jurisdiction** in this case, USA also made several stipulations to this (Exhibit P p75,77-9,81-4, 92,130-2,142-3,149,158-61,163,170,176-8);
- 3) **USA did not have standing**, USA also made several stipulations to this Exhibit P p10,80,85,86,125-136,149,158,161,170-1);
- 4) on Oct. '14 **Mr. Verkler was the victim of armed robbery and kidnapping**, [in violation of 18 USC 1959 and RCW 9A.40 and 9A.50] based on unfilled, counterfeit: complaint, counterfeit warrants with forged signatures of a former judge (Exhibit: P p 10-12,17,25,36,50,89,108,139,144-5,150-1,159,167-8,175,179, AF, AL, AR, AU). Coughenour joined this criminal conspiracy in violation in 18 USC 3, 371, 1201, 1342, 1605, 1512, 1589, 1959, 1961, 1962, 2071, and 2113. No one can dispute federal agents took all of Mr. Verkler's cash, gold and silver (Exhibits: E, P p10-2,25,32,36,50, 89,108,139,144-5,150-1,159,167-8,175,179, AF, AL, AM, AR, AU). Many other assets and files were taken that were not authorized by the so-called warrant. FRCrP 3 requires a complaint to state the essential facts and be made under oath but the Oct 14, 2014 complaint

was not made under oath and all claims of facts were refuted. There was no establishment of probable cause to issue a warrant at that or any later time. **USA stipulated that Andrew Frederick Harbison born 1974 of 2114 E Marin St, Seattle WA 98122-4842, Latitude 47.6102, Longitude -122.3043, opened the unemployment claim with IP address 63.225.190.120, Provider Centurylink, Hostname 63.225.190.120. He was born in 1974, his driver's license was renewed 11/11. On 4/21/21 www.whitepages.com it says there is an Andrew F. Harbison in Seattle age 46 with a criminal record. The entire operation was conducted illegally** (Exhibits: H, P p 6-61,64-5,67-71,73,75-98,100-121,123-136,138-179,180-3,190, Q p14, V, AF, AH, AL, AM. AR, AT, AU, AY);

5) that **Mr. Verkler was not brought before a judge** in violation of FRCP 5. Mr. Verkler proved the entire first case based on that case was a **false docket** (Exhibits: P p10-2,14,20,31,37-9,52,144-6,150-1,168,175,179 AF, AL, AR, AY). Attorney Link and judge Coughenour denied the existence of the 10/14/14 complaint in their filings (Exhibit AY) (which means the docket never got started and never existed);

6) In violation of 18 USC 1506: **The court made false entries** on 10/16/14-10/22/14 (Exhibits: P p11-12,31,144-5,150, Q, AF, AL);

7) On 11/4/14 **USA made a second set of accusations** against Mr. Verkler and holding him in custody starting the Speedy Trial Act, countdown (Exhibits: K, L, P p15,37,146, X). In the information **USA stipulated at least 6 times Mr. Verkler was allegedly filing State weekly unemployment claims to that date. It is impossible for Mr. Verkler to file those claims while in custody 3 weeks non-stop.** FRCP 5(c)(3)(A)(B)(C)(d)(1)(A)(B)(C)(D)(E)(3) were all violated;

8) **USA refused to provide all required discovery and no judge would order it.**

9) No defense lawyer would interview any witnesses.

10) Mr. Verkler filed Habeas Corpus on 1/16/15 after being illegally incarcerated over 90 days (Exhibits: H, P p15,18,150-1,159, Q p22). **USA stipulated they deliberately and knowingly violated the Speedy Trial Act** (Exhibits: P p15-16,37-8, X). [Mr. Verkler later learned **Judge Jones dismissed the matter with prejudice** on 2/2/15 (Exhibits: P p174, AH) the court stole the record in violation of 18 USC 1506];

11) 2/3/15 USA made a Motion to Dismiss and multiple official representatives of USA also made a written legally binding stipulation to the District court that before 1/8/15 USA made baseless accusations that Mr. Verkler committed crimes and held Mr. Verkler in custody from that date [11/4/14] (the 1/8/15 discovery conference did not yield any evidence against Mr. Verkler and did not provide copies of everything taken from his home) (Exhibits: K p10-1,17, P p12,15-6,145,179) that starts the Speedy Trial Act 18 USC 3161, countdown on 11/4/14, US v Marion, 320, 331;

12) the unsworn 2/4/15 **complaint had no incriminating facts**, USA stipulated at least 3 times **Mr. Verkler was allegedly filing State weekly unemployment claims to that date. It is impossible for Mr. Verkler to file those claims while in custody 15 weeks non-stop**, (Exhibits: G, P p12-3,17,21-2,101,121) but the court illegally allowed prosecution of Mr. Verkler to proceed in violation of FRCrP 3 (Exhibit: G);

13) **the judge did not establish that Mr. Verkler was charged with a felony** violating FRCP 4 because there was no arrest warrant nor arrest in February, the court allowed USA to continue to keep Mr. Verkler imprisoned even after Mr. Verkler won his case several times over

(Exhibits: H, K, P p1-8,12-13,15,16,18,21-2,57,59,88,93-4,103-5,107-21,123-36,138-141,146-7,151,173-4,176, AB, AC, AD, AH);

14) The courts violated every part of FRCrP 5 by not having an initial appearance for the second set of charges. Instead, his court falsified the docket for 2/4/15 and 2/5/15 in violation of 18 USC 1506. Attorney Leonard was dismissed, he stipulated that he lied to Mr. Verkler and refused to defend Mr. Verkler and actively worked against Mr. Verkler. The court illegally refuses to provide the required transcript so there is no evidence Rule 5 was obeyed. Failure to provide a transcript is grounds for reversal of a conviction. [At Sea-Tac Detention Center Mr. Verkler was told that if he paid \$2,500 that he could get his case dismissed.]

15) the 2/10/15 detention order is false violating 18 USC 1506 (Exhibit P p145, Q);

16) 2/12/15 is the day attorney Shaw claimed to file a Motion to Suppress the Arrest Warrant and the Search and Seizure Warrant (Exhibit Q p4,10,24,30,34,45,56,57, 60,63-4). USA confirmed in filings made on 4/22/15, 8/11/15, 8/25/15 and 2/19/16. Yet the court later lied to claim it was not filed, the court must have deleted it). USA filed Motion to Dismiss, [Mr. Verkler learned Judge Donohue dismissed the matter with prejudice the court stole those records in violation of 18 USC 1506];

17) Even though Mr. Verkler won his case (Exhibit P p3-8,15-6,18,21-2,57,59,88,93-4,103-5,107-21,123-136,138-141,144,146-7,151,173-4,176, BD p5,16-7,26-7), Mr. Verkler was not yet arraigned so the conviction must be voided, Upshaw v US, 413, [Mr. Verkler later found that on 2/19/15 the court found Mr. Verkler guilty and pronounced sentence (Exhibit AR) without Mr. Verkler being charged (Exhibit J Info); without any evidence against him (Exhibit P p11-13,17-19,21,35,46,100-1,104, 143,145,147,149,151,164); without an hearing; after he had the matter

dismissed with prejudice twice (Exhibits: H, AH)]; was found not guilty by adjudication on the merits (Exhibit K) (Exhibit P p27,147,157,165); without a trial, [or a guilty plea], a nolo contender plea; where it was impossible to convict him because he was a victim of indefinite detainment, many due process violations and more. In the information **USA stipulated at least 6 times Mr. Verkler was allegedly filing State weekly unemployment claims to that date. It is impossible for Mr. Verkler to file those claims while in custody 18 weeks non-stop proving his innocence;** (Exhibits: G p2, I p2,3,14,16, J p2,3,14,16, P p21,22, BD p6,18,26,27, Supplemental Reply Brief p3). Mr. Verkler was not indicted. The information cited no evidence against Mr. Verkler and did not state the elements which is essential FRCrP 7(a)(c); Russell v US, 763-6, note 13; Berger v US, 82; US v Achtner, 51; US v London, 211, US v King, 963; Nelson v US; no count stated a crime, US v Welch, 6-8, also "convert... gave no indication of the criminal intent necessary", US v Morrison, 288, overview, outcome.

18) on 2/20/15 USA stipulated FRCP Rule 41 applies to this case. "The word "any" has a comprehensive meaning of "all or every." Kalmbach, Inc. v. Ins. Co. of State of PA. One docket reports case dismissed, but falsely reports several negative things (Exhibits: P p145, AF, AL) on 2/20/15 **Mr. Verkler was forced to plead guilty to save his little underage children from being kidnapped and killed by USA, to avoid lifetime imprisonment and other threats and attorney Shaw's refusal to defend Mr. Verkler** (Exhibits: P p19-20,28-29,34,37,52-55,67,89-91,94,106-7,129,143,147,149-50,164-6,181, AR). Mr. Verkler might still be in prison had he not plead guilty, Davis v St of NC, 752-3. Coughenour knew these things and joined in the conspiracy on 3/10/15 if not sooner (Exhibit P p3-8,15-6,18,21-2,45,57,59,88,93-4,103-5,107-121,123-36,138-141,141,146-7,151,176-4,176, BD p5,16-7,26-7); Mr. Verkler was told the he was

pleading to misdemeanors, his attorneys had several basis to make that claim, but the judge put the judgments as felony convictions as in McNabb v US, 340, 345. The magistrate had no reason to believe the crime was committed or that Mr. Verkler committed it, Byrnes v US, ?, 829, 833; 19) because Mr. Verkler's **attorney refused to assist** (Exhibits: P p12,21,31-47,52, 55-61,88-95,100-1,109,115,142-3,145-6,149,151,154-5,160-1,165,172-8,180-3, Y, AX), on 4/22/15 Mr. Verkler filed a motion to get relief from illegal prison conditions including an attempt by USA to execute a death penalty (first degree murder) without a court order violating 18 USC 1512 [and RCW 9A.28.020] (Exhibits: P p143-4,151,159, AW). Coughenour chose to commit the felonies: accessory after the fact, misprision of felony, and entered into the criminal conspiracy in violation of 18 USC 3, 4, 371, US v Benefield, with Mr. Verkler's attorney and USA's BOP. Coughenour illegally sealed Mr. Verkler's motion on 5/8/15 to conceal the truth and take a major part of destroying evidence in violation of 18 USC 1506.

20) on 5/8/15 the docket finally records one of Mr. Verkler's requests for court records stating it was sealed. Mr. Verkler did not authorize it to be sealed, Coughenour did not have authority to seal it. The court refused to provide transcripts. Also, Mr. Verkler requested transcripts on 3/30/15, 4/14/15, 5/30/15, and 3/3/16. The following docket entries #26 & #27 were stolen in violation of 1506.

21) on 8/4/15 Coughenour prepared a preliminary and final order of forfeiture which included the most valuable computer, the iMac, which was not in the plea contract and would have gone a long way to honoring the plea agreements to provide promised files. His order did not state the amount of money seized from Mr. Verkler, only that \$14,652.55 of the money shall be forfeit.

Shaw betrayed Mr. Verkler by not presenting any evidence, Laws, constitutional and precedents he supplied her and not making most arguments he provided, such as Mr. Verkler's inventory of currency of \$153,892.55 (Exhibit E).

22) on 8/12/15 Mr. Verkler's so-called attorney Shaw learned the BOP thought Mr. Verkler was sentenced to 2-years so she filed to get the judge to change the sentence to make it a 4-year sentence. Mr. Verkler's attorneys were all perfidious, treasonous, against him (Exhibits: P p10,25,34,41-7,55-61,89,94,109,115,120,142-5,146-7,151-5,167-8,171,178, AX, AY).

23) on 8/13/15 a docket reports motions filed. Coughenour lied and said **Mr. Verkler had no access to the court**, even though he has access under Supreme Law and Coughenour refused to dismiss ineffective counsel based on lies.

24) On 1/26/16 Link arranged his only call with his client. He never visited Mr. Verkler, nor got discovery or transcripts and ignored what Mr. Verkler sent him.

25) on 2/9/16 Coughenour issued a final order of forfeiture the cash, coins and other assets were not inventoried as required by FRCrP 41(f)(1)(B) (Exhibit E). These facts are undisputed and the opposing party bound themselves to assent and agree these facts are true. Coughenour based his Order on laws that cannot apply;

26) on 2/19/16 Mr. Verkler dismissed appellate attorney Gregory Charles Link;

27) 3/21/16 Mr. Link retaliated by filing an invalid, illegal phony lying anders brief;

28) on 11/17/16 Coughenour lowered what Mr. Verkler received credit towards restitution contrary to his 9/15/15 decision;

29) on 2/24/17 Mr. Verkler filed for relief from the BOP's attempted murder, assault, not to deny him law library time, attorney phone, to release him on time, to return legal papers and make no more seizures, and suppress the Information;

30) the court refused to respond Mr. Verkler filed a motion to proceed on 4/14/17;

31) on 7/6/17 Coughenour based on his own lies illegally rules against Mr. Verkler's motion to recognize Mr. Verkler won his case by adjudication on the merits;

32) on 8/8/17 **Mr. Verkler filed a motion for legal counsel for a 28 USC 2255;**

33) On 11/07/17 Coughenour denied Mr. Verkler's motion for the public defender to provide known copies of records of Mr. Verkler's file that were stolen by USA's BOP;

34) In 12/08/17 **Mr. Verkler filed habeas corpus under 28 USC 2255;**

35) **USA did not send its response to Petitioner,** by the deadline of 1/2/18 per 28 USC 2243. Coughenour said it was due 4/16/18 but Mr. Verkler is not allowed to have a copy. The court does not have a copy (Exhibit AF);

36) On 1/29/18 Coughenour illegally denied 14 legal grounds to vacate and set aside the judgment against him based on nothing. Since Coughenour denied Mr. Verkler legal counsel **Coughenour had no right or authority to make any ruling against him.** Coughenour even denied the ground of cumulative error while stating he could not decide on 5 grounds until USA responded; it was impossible to truthfully rule against cumulative error. Coughenour exposed that he never had any intention of allowing relief to Mr. Verkler no matter what response USA did or did not make;

37) On 3/1/18 Coughenour ruled against Mr. Verkler's FRCrP 41(g) motion to be able to receive money that was illegally seized, but not inventoried (in violation of (FRCrP 41(f)(1)(C)), and was not abandoned or forfeited based on his own lies.

38) on 3/3/18 Mr. Verkler filed a Supplement to his 28 USC 2255 habeas corpus, USA did not respond, no judge ruled on it;

39) On 3/22/18 Coughenour denied a motion to re-file documents lost by the court;

40) On 4/16/18 Coughenour denied a motion to find public defenders in contempt of court for failing to provide Mr. Verkler a complete copy of Mr. Verkler's case file;

41) before 4/30/18 **Mr. Verkler filed for summary judgment for his 28 USC 2255 habeas corpus**, USA did not respond;

42) Mr. Verkler contacted the Federal Public Defender's. They refused to appoint an attorney and refused a CJA attorney for Mr. Verkler's 2255 habeas corpus;

43) on 3/5/19 **Mr. Verkler filed objections for his 28 USC 2255 habeas corpus**, **USA did not respond**, no judge ruled on it;

44) before 3/11/19 Mr. Verkler filed a second supplement to his 28 USC 2255 habeas corpus, USA did not respond, no judge ruled on it;

45) An attorney filed a proforma motion to end Mr. Verkler's probation without letting Mr. Verkler see it and without evidence or a basis and without asking for an hearing in the event the judge did not want to grant it;

46) 4/7/20 USA's response to end probation is full of lies;

47) on 4/27/19 Mr. Verkler filed second objections for his 28 USC 2255 habeas corpus, USA did not respond, no judge ruled on it;

48) on 3/24/20 Mr. Verkler filed a notice of default judgment for his 28 USC 2255 habeas corpus, USA did not respond so they admit, assent and agree Mr. Verkler is right;

Beyond USA's official legally binding written admissions:

49) on 4/14/20 Coughenour lied to deny ending probation;

50) on 4/19/20 Mr. Verkler filed rebuttal and objections for an attempt to end probation, USA did not respond so they admit, assent and agree Mr. Verkler is right;

51) on 4/25/20 Mr. Verkler filed a notice of appeal to both courts to end probation;

52) on 5/21/20 Mr. Verkler filed for effective legal counsel to end probation;

53) Coughenour denied the Notice of Default Judgment for the habeas corpus still not having a response from USA;

54) on 6/13/20 Mr. Verkler filed a notice of appeal to the district and circuit courts;

55) on 7/17/20 attorney filed Opening Brief for 20-30097 without including things;

56) on 7/24/20 Mr. Verkler filed a supplement to the attorney's Opening Brief for 20-30097, USA did not respond so USA admitted to everything;

57) On 8/17/20 USA stipulated that weekly State unemployment claims were filed in 2 States which was impossible for him to do while Mr. Verkler was in custody;

58) On 8/24/2020 Coughenour refused to consider Mr. Verkler's motion.

- 59) On 8/25/20 attorney filed Reply Brief for 20-30097 refusing to include things;
- 60) Mr. Verkler dismissed that attorney for gross negligence and sabotage;
- 61) On 9/20/20 Mr. Verkler filed an Informal Opening Brief for 20-35559 for his 28 USC 2255 habeas corpus, USA did not respond so USA admitted to everything;
- 62) 9/22/20 Mr. Verkler filed an Informal Supplement Reply Brief for 20-30097;
- 63) the panel denied the appeal to end probation without any basis;
- 64) on 12/20/20 Mr. Verkler filed objections to judge Coughenour's refusal to rule on the rebuttal and objections for an attempt to end probation, USA did not respond so USA admitted to everything, no judge ruled on it;
- 65) on 1/06/21 Mr. Verkler filed a Petition for Rehearing to end probation for 20-30097, the filing was stolen, USA did not respond so USA admitted to everything;
- 66) on 12/20/20 Mr. Verkler filed objections to judge Coughenour's refusal to rule on the rebuttal and objections for an attempt to end probation, USA did not respond so USA admitted to everything, no judge ruled on it;
- 67) on 1/12/21 Coughenour issued a summons for an impossible probation violation;
- 68) 1/29/21 initial hearing, attorney refused to contest anything. Sometime after the hearing attorney stated it was already decided that the judge would rule against me no matter what the evidence or Law said.

69) on 3/2/21 Mr. Verkler filed to dismiss attorney Thomas Coe for refusing to work on Mr. Verkler's behalf and plotting to find Mr. Verkler guilty in case 2:15-cr-00041-JCC and Mr. Verkler filed to get subpoenas for adverse witnesses.

70) on 3/19/21 Paula at the court house stated Coughenour refused to allow the attorney dismal and subpoena motions to be docketed. On 3/24/21 Paula at the court said my motion for discovery was received but not docketed.

71) On 5/15/21 Mr. Verkler found that on 1/29/21 Dkt 160 Judge Michelle L Peterson ordered the government to disclose discovery. Mr. Verkler did not get any discovery and cannot get a copy of that order.

REASONS FOR GRANTING THE PETITION

United States Ninth Circuit court of appeals has entered a decision in conflict with the decision of another United States court of appeals and the Supreme Court on the same important matter; and has **so far departed from the accepted and usual course of judicial proceedings, and sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power.** United States Ninth Circuit court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, and has decided an important federal question in a way that conflicts with relevant decisions of this Court.

The proceeding involves one or more **questions of exceptional importance**, the lower courts violate: 1) due process; 2) the right to assistance of legal counsel; 3) the protection against double jeopardy; 4) the right to an appeal and have an impartial judge; 5) the right to an hearing; 6) the right of a victim to rescind a contract when there is breach of contract; 7) its obligation to obey the Constitution and Law and not abuse discretion; 8) the protection against the cruel and unusual punishment of infinite fines; 9) the right to a Speedy Trial; 10) the right to claim protection of the Constitution and the laws; 11) the court's decision violates the truth that the government or member of it has no right or authority under the Constitution or the Law to commit: crimes, torts, conspire or lie against an American.

The right to due process has been trampled upon and needs a boost. "Due Process Clause prohibits punishment of person prior to judgment of conviction..." Bell v Wolfish, 521, 535-7, 543, 545; Jones v Horne; Wolfish v Levi, 118; Hubbard v Taylor; Cupit v Jones; Malone v

Colyer; Matzken v Hen; Green v Baron; Berry v Muskogee. USA and the court punished Mr. Verkler prior to judgment by holding him in prison without pre-trial release, after he won his case and after the court was absolutely obligated to release him for being in custody 90 days without the beginning of trial, and not giving credit for time served, and refusing to provide minimal medical care. The courts were wrong to put false entries on the docket that he stipulated to pre-trial detention and to refuse to rule on the issue, especially since USA admitted the violations.

Mr. Verkler was not notified that the court would conspire to impose additional penalties without due process of law in violation of FRCrP 11 (b)(5)(A)&(B). Mr. Verkler was not given notice that the court would reject the plea agreement and did not inform Mr. Verkler the court was not required to follow the plea agreement so Mr. Verkler has taken the opportunity to withdraw the plea in violation of FRCrP 11 (b)(5)(A)&(B). The court and USA have violated the Fifth Amendment by imposing punishments without charges, a trial, a guilty plea or a nolo contendere plea, or evidence all without a court order and without due process of law that he was not sentenced to endure: 1) kidnapping; 2) punishing Mr. Verkler twice with an additional prison term of 9.3 months; 3) imposing infinite fines; 4) attempting a death penalty; 5) additional convictions; 6) forcing abandonment of legal documents acquired and prepared while in custody; 7) forcing Mr. Verkler out of a job and to give up other legal earned income; 8) making felony threats against Mr. Verkler. Also Mr. Verkler did not know how he would be denied court access or legal counsel. "Misrepresentation of counsel, the district court and US" can "retract that plea" Chizen v Hunter, 561-3.

Mr. Verkler was denied access to the courts in violation of the 5th Amendment. The courts violated Re Oliver, 273 by hiding court decisions and filings from the Defendant and the public. The courts have refused to file motions on the docket that they received by stealing those court records. The courts openly refused to consider motions and briefs filed by the defense and declare the defense has no right to access the courts. It has been established by the court's writings that they did not usually read what was presented to them. It is impossible for the court to rule on the record when the vast majority of transcripts do not even exist! And the 2 transcripts that exist have been proven to not be word for word, US v Taylor. In Coughenour's denial he falsely stated the date of sentencing, the court found Mr. Verkler guilty and pronounced sentenced him 2/19/15 and left out that Mr. Verkler's attorney stated that the court, probation and USA favored ending probation, but opposed it after the motion was filed. Coughenour stipulated money was defrauded from State unemployment claims which proves the federal court did not have jurisdiction and USA did not have standing. He lied that Defendant refuses to pay restitution even though Defendant proved the court and USA collected much more than the amount of the restitution; and claims Defendant refuses to explore job opportunities although Defendant proved he got a job. Coughenour claims remaining on supervision will ensure Mr. Verkler will receive mental health treatment although USA claims the treatment is ineffective. Coughenour refused to rule on the Objections to Coughenour's Refusal to Rule on Rebuttal and Objections, Request for Discovery and More Proof of Ineffective Counsel filed 12/22/20. The Rebuttal and Objections to Illegal Ruling and Probation Memorandum and USA's Response filed and Fourth Request for an Impartial Judge filed 4/19/20. Everything the circuit court stated was a lie, except they did refuse to appoint

counsel for Mr. Verkler. In issuing a mandate the court lied that Mr. Verkler did not file a petition for rehearing, so they stole the court record.

USA is must provide Mr. Verkler files taken from him. The denial of discovery entitles the defendant to have the conviction and sentence set aside and vacated, Cf. US v Bagley, 682-83; Ferrara v US, 286, 289, 30th, 34th pg; Gouled v US, 313; Poe v US; Henderson v US; US v Strickland, 277,

The right to assistance of legal counsel has been perverted into imposition of fraud to leave a defendant no choice but to be found guilty. Mr. Verkler was often not allowing counsel violating Glasser v US, 76. The circuit courts recognize the right of a defendant in a criminal case to have legal counsel in such a case, US v Mala, US v Duarte-Higareda. Coughenour denied legal counsel for several filings including the habeas corpus, objections, summary judgment and default judgment.

The court's decision not to appoint an attorney to an indigent defendant in a criminal case violates the US Constitution, Supreme Law, Federal Rules of Criminal Procedure and precedents. Without counsel the Defendant is not allowed a chance. The court may not proceed against a defendant without counsel. "Judges have a duty to ensure that the right to counsel as a jurisdictional prerequisite to depriving a person of his or her liberty is fully honored." Frazer v US; Johnson v Zerbst. The Courts ruled, "The deprivation of the right to counsel... can never be treated as harmless error." Frazer v US; US v Iasiello; US v Leopard; Roney v US; Shepherd v US; Green v US; US v Maxwell. Under Powell v AL and US v Wade, 226 Mr. Verkler claims the right to counsel at every step including challenging USA's and the

court's imposition of punishment not authorized under the sentence on record such as the extended prison time and extended probation.

Mr. Verkler has **the right to effective legal counsel**, Glasser v US, 69-70 but never really had legal counsel, because appointed attorneys worked against him. In Mr. Verkler's case counsel said the judge refused to allow her to file on behalf of her client. Courts kept ruling, "... Several courts have held or indicated that coercion by the accused's counsel can render a plea involuntary." "A court's unreasonable or erroneous refusal to substitute counsel is presumptively prejudicial and requires reversal... US v Velazquez, 1034; US v Nguyen, 1005; see also US v Gonzalez-Lopez, 150 ("...unquestionably qualifies as 'structural error.'")." St of WA v Delila Reid. There is no basis to deny counsel.

The imposition of multiple punishments beyond the sentence violates the **Double Jeopardy** clause. Prosecuting a person after being established not guilty by adjudication on the merits and after the matters were dismissed with prejudice is unconstitutional under the Double Jeopardy clause; even when "the conviction was entered pursuant to a counseled plea of guilty" Menna v NY, sum, 62; Blackledge v Perry, 24, 30; Meyers v US, 380; Mansolilli v US, 43..

On 2/12/15 USA stipulated in writing in an official court document under oath that they **knowingly and deliberately violated the Speedy Trial Act**, and related Laws, USA stipulated first accusations made 10/14/14 and subject to continued detention and stipulated that on 11/4/14 made the rest of the accusations (Exhibit K p2, P p15,104, X), after violating the Act (Exhibit P p108-109,120,124), and then 2/19/15 the court found Mr. Verkler guilty and sentenced him and

later accepting an involuntary and unknowingly guilty plea. In claiming double jeopardy and Speedy Trial violations adequate remedy is available under 28 USC 2255, Hart v Harris. The courts refused to address these.

The US Constitution indicates there is **a right to appeal and make collateral attack and win**, but the courts have perverted it into a guarantee for the defendant to be convicted. By requiring due process and authorizing Congress to establish courts inferior to the Supreme Court, but the courts have perverted it into a guarantee for the defendant to be convicted. The 5th Amendment's requirement of due process means that if the original court violates due process then a defendant must have the right to appeal. Federal Rules of Criminal Procedure grants appeal as a right. No judge may deny a defendant the right to habeas corpus.

The courts keep ruling that without a proper arraignment even when represented by counsel the conviction must be vacated, Cook v US. An arraignment did not take place until after the court found Mr. Verkler guilty and pronounced sentence. The courts were wrong not to address the issue. Mr. Verkler is entitled to an hearing on the 2255 because of missing transcripts, US v Taylor.

No judge signed the so-called mandate. There is no certified copy of the judgment and is no opinion. If Appeal court does not specifically address an issue can the defendant can still include it in habeas, Johnson v Renico, 706, see Woodward v Williams, 1140. The appellate court did not state a basis to rule against any grounds put forth by Mr. Verkler on appeal so Coughenour was wrong to reject grounds in Mr. Verkler's habeas corpus based on the appellate court's unconstitutional, illegal, baseless, meritless, lying dismissal of the cases. There is no

statement about costs. The mandate was filed without a ruling on the En Banc appeal. The order is not legal. The Ninth Circuit denied that Mr. Verkler has a right to appeal and stated they will not entertain filings in this case. Mr. Verkler claims appeal as of right per FRAP Rule 4(b)(1)(A)(i).

"Petitioner is entitled to relief under 28 USC 2255 on showing simple deprivation of his right to appeal, without showing some likelihood of success on appeal;..." Rodriquez v US; Doyle v US. Since the trial judge failed to protect the defendant's rights adequately, the defendant has recourse to appellate review.

"It was permissible not to challenge sufficiency of indictment until appeal since indictment omitted essential element of offense and thereby became so defective for which defendant was convicted" US v Camp; Hambing v US, 117.

The court over looked that Mr. Verkler filed his habeas corpus under 28 USC 2255 so there is no requirement for Mr. Verkler to get a certificate of appealability under 2255(d), but it does grant the right to appeal. 28 USC 2255 is more current than 28 USC 2253 so 2255 supersedes 2253. Under the Rules Governing Section 2255 Proceeding for the US District Court 11.(a) the court is to direct parties to submit arguments if the court should issue a certificate of appealability per 28 USC 2253(c)(2) because of a denial of a constitutional right. USA never submitted anything against it so there is no controversy to invoke court authority for any judge to rule against Mr. Verkler per US Constitution Article III Section 2. The court cannot require a certificate of appealability. The court has no right or authority to demand or deny a certificate of appealability for an habeas corpus under 28 USC 2255. The courts were wrong to deny Mr. Verkler an appeal.

"Lack of jurisdiction of court rendering judgment was ground for interference by habeas corpus." Craig v US; Williams v US; Thor v US; Covey v US. "... a defendant does not waive a jurisdictional challenge by pleading guilty" US v Spinner, 516. "Challenges to district court's subject matter jurisdiction may be raised at any time..." US v Burch. Mr. Verkler conclusively proved lack of court jurisdiction. USA even stipulated and admitted State jurisdiction. The district court never adequately addressed it and the circuit court ignored it.

The court over looked the fact that USA did not respond to Mr. Verkler's habeas corpus. Mr. Verkler made 14 written requests for a copy of their 2255 response but USA did not respond. Mr. Verkler made 7 written requests to the district court without a response. 28 USC 2250 requires the court to provide a copy of USA's response so failure to provide a copy means the court breaks the law or it did not have a copy of USA's response. The court clerk finally stipulated in writing that many of the documents, including USA's response to the 2255 do not exist (Exhibit AF). By prosecuting Mr. Verkler after judges dismissed the matter with prejudice, Mr. Verkler has the right to appeal, Abney v US.

The circuit court over looked that the district court had no basis to rule against any ground Mr. Verkler presented and the court's decisions had no merit. The court never ruled on several grounds presented in Mr. Verkler's habeas corpus: 4) the circuit did not allow Mr. Verkler to have legal counsel on appeal; 17) the appellate court did not conduct an examination of the case; 19) cumulative error; 20) Mr. Verkler was not indicted nor charged; 21) USA proved that Mr. Verkler's signature was forged on the plea agreement; 22) the court found Mr. Verkler guilty and sentenced him without a trial, without a guilty or a nolo contender plea, without

charges (Exhibits G, J), without an hearing, without an arraignment, without any evidence (Exhibit J), after USA stipulated in writing to the court that they knowingly and deliberately violated the Speedy Trial Act (Exhibit X) (p2 #5b should say there are NO transcripts), after 2 judges on the case under 2 different case numbers dismissed the matter with prejudice based on 2 habeas corpus (Exhibits H, AH), after Mr. Verkler was established not guilty by adjudication on the merits (Exhibit K) FRCP 41 says it applies to "any federal- or state-court action" and USA stipulated that FRCP 41 applies to this case, after USA violated the Speedy Trial Act.

Mr. Verkler is **entitled to an impartial judge** according to 28 USC sec 455; Goldberg v Kelly; McNabb v US, 347; In re Murchison; Glasser v US, 72; Halliday v US; United Retail and Wholesale Employees Teamsters Union Local No. 115 Pension Plan v Yahn and McDonnell, Inc, 138. Instead, judges have become more dedicated to prosecuting a defendant than the prosecutors. What processes are due? The Goldberg Court answered this question by holding that the state must provide a hearing before an impartial judicial officer, the right to an attorney's help, the right to present evidence and argument orally, the chance to examine all materials that would be relied on or to confront and cross-examine adverse witnesses, or a decision limited to the record thus made and explained in an opinion. The Court's basis for this elaborate holding seems to have some roots in the incorporation doctrine. A defendant has... "the right to an unbiased decisionmaker," see Board of Educ. v. Rice; H. WADE, ADMINISTRATIVE LAW 171-218 (3d ed. 1971), even tracing its origin back to Genesis, Rex v. University of Cambridge; Stewart v Jozwiak.

The US Constitution states it is to establish justice and liberty for a more perfect union and only allows judges to remain in office during good behavior indicating they must obey the

US Constitution and the Law and be fair just and impartial, not lie nor commit a crime against people. That even purportedly fair adjudicators "are disqualified by their interest in the controversy to be decided is, of course, the general rule." *Tumey v. Ohio*, 273 U. S. 510, 522 (1927). Hamdi v Rumsfeld, 542 US 547, III D (2004). Judges can only issue warrants upon probable cause supported by evidence, they are to be impartial. "When the opposing party puts forth no facts, no law and no argument to support their positions it is illegal for the court to rule on their behalf." Old Colony Trust Co. v Commissioner of Int Rev.

Furthermore FRCrP1(b)(2) states, "'Court' means a federal judge performing functions authorized by law." So, a judge must act according to law and according to the evidence to be impartial. It also means when a judge acts contrary to law it is not "Court". It means his decisions and orders are null and void.

The judge's actions as a prosecutor, commits thefts, other crimes, violations of the Constitution and Supreme Law prove he is not impartial and must not pre-determine to find Mr. Verkler guilty, US v Cross; United Retail and Wholesale Employees Teamsters Union Local No. 115 Pension Plan v Yahn and McDonnell, Inc., US v Cross, ? p 145, 147-8; Great Western Mining and Material Co v Fox Rothschild LLP; Nesses v Shepard, 1005; Marshall v Jerrico, Inc., 242. Mr. Verkler's case was also predetermined.

The US Constitution and several Laws establish a defendant's **right to an hearing**. It is often violated in favor of false entries in the docket or prearranged decisions without any input or consent from the defendant as part of a conspiracy arranged behind his back. The US Constitution and Law establish a right to due process and the right to appear before a judge

which means a right to an hearing from initial appearance through appeal and specifies a right to an hearing. In an ordinary case a citizen has a right to a hearing to contest the forfeiture of his property, a right secured by the Due Process Clause.

"Very notion of hearing, under due process..., however informal, connotes that decision maker will listen to arguments of both sides before basing decision on evidence and legal rules adduced at hearing." Billington v Underwood; Goldberg v Kelly, 267-8, 271; In re Murchison; Dunn v US, 107.

The most recent decisions of the Supreme Court show a resumption of the trend toward greater and greater insistence on hearings. North Ga. Finishing, Inc. v Di-Chem, Inc., 723; In Goss v Lopez the Supreme Court pushed the requirement of "some kind of hearing". "...court must take defendant's allegations as true..." Mack v US. "[A] hearing in its very essence demands that he who is entitled to it shall have the right to support his allegations by argument, however brief, and, if need be, by proof, however informal. " Londoner v Denver, 386; Joint Anti-Fascist Refugee Committee v McGrath, 171-2. "The Court has consistently held that some kind of hearing is required at some time before a person is finally deprived of his property interests." Wolff v McDonnell, 557-8. "...contention that [defendant's] allegations are improbable and unbelievable cannot serve to deny him an opportunity to support them by evidence" Walker v Johnston, 287; Machibroda v US, 495. "...the denial of that right is a controversy." Willner v Committee on Character, 102. The essence of due process is the requirement that "a person in jeopardy of serious loss [be given] notice of the case against him and opportunity to meet it." Joint Anti-Fascist Comm. v McGrath, p349 ? (1950). It is likewise

fundamental that notice be given and that it be timely and clearly inform the individual of the proposed action and the grounds for it. Boddie v Connecticut, 378; Stewart v Jozwiak, 1064; Cf.; Groppi v Leslie.

Breach of contract is a long-standing problem with the US government, it is past time for the government to learn to have some honor. Defendant proved he was to receive credit towards restitution for amounts collected, USA version of PLEA CONTRACT # 7, page 4 and USA collected substantial sums USA version of PLEA CONTRACT # 8, page 5 - 8 and Exhibits S, E, but USA gave no credit for anything it collected (Exhibit U). That is a clear breach of their contract. "... where the government has breached or elected to void a plea agreement the defendant ... may seek... withdrawal of the guilty plea..." US v Gonzalez; Santobello v NY; US v Puckett; US v Saling; US v Pollard; Dunn v Collaran, 262; Kingsley v US; Cosby v Muncy; also US v Ammirato, 554 – 555; Bryan v US, 776, 778. The circuit would not consider this, the district judge lied.

It is an **abuse of discretion** to apply the wrong legal standard, US v Ruiz, 1033. The US courts commit a lot of abuse, it is time for a change for the better. The decision to deny Mr. Verkler's right to appeal the denial of habeas corpus was illegal. FRCP 41 must be interpreted according to the rule of lenity.

"A district court abuses its discretion when it misapplies the law in reaching its decision or bases its decision on findings of fact that are clearly erroneous." Arce v Garcia, 1260. Here the judge makes up laws.

According to FRCrP 1(a)(1) the rules govern all criminal proceedings in all US courts. To apply a different standard in order to commit a crime against a defendant is not allowed.

The higher court needs to overturn the illegal lower court decisions. "The burden always remains with the government" US v Dozier, #100.

The courts overlooked that the district court has not only abused discretion, it has violated discretion in nearly every decision and it has violated the US Constitution and Supreme Law and rebelled against Supreme Court precedents and Ninth Circuit and other Circuit Court precedents in nearly every decision. Coughenour frequently relies on non-existent cases, pages or laws or blatantly lies about them, even saying the opposite. The Ninth Circuit has the same problem. Coughenour did not consider the relevant record or what Mr. Verkler presented, Objections to Probation Ruling p 32. Coughenour knows much of the record is wrong and even falsified it to the detriment of Mr. Verkler, Objections to Probation Ruling p 4, 33-4, Supplemental Opening Brief p 4 because he is directly involved is stealing court records. Coughenour had no authority to make a ruling against Mr. Verkler because it has been established beyond any reasonable doubt: 1) that Coughenour is not impartial 28 USC 455, Goldberg v Kelly; Halliday v US, 380 F. 2d 270 (1st Cir 1967); 2) the federal courts never had jurisdiction to prosecute a case against Mr. Verkler; 3) USA never had standing to bring a case against Mr. Verkler; 4) Mr. Verkler was not allowed effective counsel in district court and no counsel for several filings and his habeas corpus; 5) Mr. Verkler was not allowed counsel for appeals 15-30244, 16-30001, 17-30237, 18-30073, 20-30161, 20-35559 there is a jurisdictional bar that forbids the court to rule against Mr. Verkler per Johnson v Zerbst, the court still has not done its duty to rule in Mr. Verkler's favor for all appeals; 6) Mr. Verkler's right to a defense was violated; 7) courts violate due process and abuse discretion; 8) Mr. Verkler's actual innocence; 9) the guilty plea was not voluntary and not knowingly made; 10) illegal

imprisonment and kidnapping; 11) fraud in the factum; 12) breach of contract by USA; 13) Speedy Trial Act violations; 14) prosecutorial misconduct; 15) the court refused to rule on motions; 16) failure of the court to say it was giving credit for time served; 17) there was no appeal waiver and if there was one Mr. Verkler could still appeal on the grounds he appealed; 18) double jeopardy was violated; 19) the appellate court did not: conduct an examination of the case, the amended notice of appeal, read the sentence, read attorney Link's motion to withdraw, Mr. Verkler's notice to dismiss Link past the caption, read any transcripts, Mr. Verkler's filings, nor Mr. Verkler's briefs; 20) Mr. Verkler was not charged with the crimes the court found him guilty and sentenced him to; 21) Mr. Verkler did not sign a plea agreement so the courts cannot use it against him, Marino v Ragan; 22) The district court reported Mr. Verkler was guilty without a trial, a guilty plea nor a nolo contendere plea. The circuit court did not consider the ^{not} issues. USA did file an answering brief for: appeals 15-30244, 16-30001, 17-30237, 18-30073, 20-30161, 20-35559, so the court was obligated to rule in Mr. Verkler's favor.

The court and USA have violated the Article I Section 9, Article III Section 2, Fourth, Fifth, Sixth, Eighth, Tenth, Thirteenth Amendments by imposing **illegal punishments** without charges, a trial, a guilty plea or a nolo contendere plea, all without a court order and without due process of law that he was not sentenced to endure: 1) punishing Mr. Verkler twice with an additional prison term of 9.3 months; 2) attempting to impose a death penalty; 3) imposing infinite fines; 4) putting additional counts on Mr. Verkler's record; 5) by forcing abandonment of legal papers and evidence obtained while in prison; 6) denying discovery for continued legal proceedings; 7) denying court access; 8) denying legal counsel; 9) money stolen from the wages of slave labor; 10) forcing him out of a job; 11) forcing him to give up other legal earned income;

12) not returning property that the court did not include in forfeiture or abandonment; or felony threats. "...the court found that the government's nondisclosure constituted misconduct that deprived the petitioner of the ability to enter a knowing and voluntary plea and, therefore, transgressed the rule of Brady v US. See id. at 432-33," Ferrara v US, 17th pg.

USA seized funds that the sentencing court did not order, a clear double jeopardy violation and not allowed under the Preamble. The US Constitution also states property cannot be taken without due process of law. To decide to take more property without notice and without regard to any evidence and without allowing the Defendant to present his case and without a trial, an hearing or court order and when money is taken, they do it off the record and keep the money rather than turning it in means he committed theft and embezzlement under color of law. They all violate due process. Because there has been no court ordered fines or increase in restitution their imposition is unconstitutional and illegal.

USA and the courts are on a course that indicates they are imposing an infinite amount as a fine without an hearing, court order or due process of law. **Mr. Verkler's withdraw of the guilty plea took place before the court-imposed sentence and the Defendant did show fair and just reasons for the withdrawal.** USA and the court also unjustly took property without just compensation. Both the US Constitution and the plea contract require USA and the court to give credit to Mr. Verkler for what they collect. They even stipulating an amount was collected then will deny it. The courts wrongfully refuse to address the issues.

On 1/12/21 USA, probation and judge Coughenour and Thomas Coe used a false accusation to conspire to entrap Mr. Verkler, forge his signature and steal payments after probation legally ended.

At no time did Mr. Verkler receive the **protection of the Constitution or the Law**.

Although the attorney for him, the courts and USA are obligated to protect Mr. Verkler's rights, none would make any attempt to fulfill their duty. Instead, they all worked against Mr. Verkler as the record clearly shows.

18 USC 4 not only makes it a felony for the judges, prosecutors and my attorneys to refuse to report the crimes against Mr. Verkler it means Mr. Verkler has protection under the Law and access to the court to report those crimes. It is such protection needs to be restored for the US to have honor, violating Marbury v Madison, 163. "The federal courts the duty to accord a person prosecuted... every safeguard which the law accords ..." Sinclair v US, 296-7; Watkins v US, 208; Sacher v US, 577; Flaxer v US, 151; Deutch v US, 471; Russell v US, 755. "... the substantial safeguards to those charged with serious crimes cannot be eradicated under the guise of technical departures from the rules." Smith v US, 9; Russell v US, 763-6 n13.

"the absence of an indictment is a jurisdictional defect which deprives the court of its power to act. Such a jurisdictional defect cannot be waived by a defendant, even by a plea of guilty." Smith v US, 10; also Ex parte Bain, 13; Ex parte Wilson, 429. The lower court cites *US v Weber*, which puts the burden of proof on the government, and they have submitted no legal evidence, and never charged him thus violating due process, Gregory v Chicago, 112.

In Mr. Verkler's case all the judge asked was, "Do you make these decisions freely and

voluntarily? He knew Mr. Verkler was denied pre-trial release, and was not released upon USA's violation of the Speedy Trial Act or when charges were dismissed or when Mr. Verkler was illegally held in custody over 90 days against his will without the beginning of trial and USA stipulated in writing on several occasions multiple times per occasion that weekly unemployment claims were being filed while Mr. Verkler was in custody which proves he could not be guilty and he won his case because all the counts were already dismissed with prejudice, USA stipulated in writing under oath it knowingly and deliberately violated the Speedy Trial Act, USA voluntarily dismissed the matter 4 times so under FRCP 41 and stipulated in writing under oath that FRCP 41 applies in this case so Mr. Verkler was not guilty by adjudication on the merits. In the same hearing the attorney started to say, "Your honor, I don't – a think this is a knowing, intelligent and voluntary plea. Mr. Verkler reminded the attorney about USA's threats to kidnap and kill Mr. Verkler's children. The attorney said, "Your honor, there is one matter. Mr. Verkler is concerned that the government may go after his children," Franze-Nakamura replied, "That is right. Ms. Shaw alerted me to this issue yesterday," That is when he filed the Information. That means he filed the Information when the threats overborn Mr. Verkler's will. Threatening children or love ones is unconstitutional, illegal and makes a plea involuntary, Guerra v Collins; Johnson v Renico, 709; Brusbon v US; Smith v Campbell; also Malloy v Hogan, 7; Cummings v US, 382. "... voluntariness must be established beyond a reasonable doubt" Mullins v US; US v Inman; Adkins v US; Shelton v US, 26; Machibroda v US, 493; Schautz v Beto, 216, #7,9 a conviction in the Federal courts, obtained in disregard of liberties deemed fundamental by the Constitution, cannot stand." Boyd v US; Weeks v US; Gouled v US, 313; Agnello v US, 32; Byars v US; Grau v US; Mc Nabb v US, ?, 343;

US v Jackson; Blackledge v Perry, 28-9; US v Groves, 453; US v DeMarco, 1226; US v Oaks, 940;

The “district court erred in allowing forfeitures where neither the indictments [information or plea contract] mentioned or included [them]” US v Seifuddin; US v Mishla-Aldarondo. The district court ordered the forfeiture of Mr. Verkler’s iMac and allowed the forfeiture of cash, legal papers and other files and other assets not included in the information, plea contract or sentence.

The US Constitution never gives anyone in the government power or authority to commit a crime or a tort, to lie or conspire against any American person. The Supreme Court could make the greatest advancement for liberty and justice since Martin Luther King Jr’s civil-right’s movement. The Tenth Amendment denies the US government all powers and authority not specifically given in the US Constitution. As in Agnello v US, 32; Boyd v US, 617, 630, 635; Byars v US, 32; Gouled v US, 298, 304; Weeks v US; Siverthorne Lumber Co v US; US v Lefkowitz, 466-7; the Court ruled the amendment merge to expand a person’s rights beyond what each amendment does on its own; Roe v Wade, 152 in a line of decisions the Court has recognized that the right to privacy goes beyond each individual amendments the Court should recognize people in government cannot commit a crime, a tort, conspire or lie against an American. Unlawful acts and violations of rights are not to be sanctioned by the courts, Weeks v US, 383, 392.

USA is forbidden to use threats or otherwise make a plea involuntary to force a guilty plea, Machibroda v US, 487, 493, 496; Graham v Conner, 398; Somberger v City of Knoxville;

Giuffre v Brissell; Moore v Dempsey, 89-90; as was done in Mr. Verkler's case. The US

Attorney has a duty to refrain from improper methods to produce wrongful conviction.

The court did not explain most the seriousness of the charges. The court did: 1) not call the charges felonies; 2) not say that USA could attempt to impose a death penalty or attempted murder; 3) not say the government or court could put extra counts on Mr. Verkler's record for DWI's, instead the court said USA could not put on extra charges; 4) not say USA could impose on additional 9.3-month term of imprisonment beyond what was sentenced, instead the judge said USA could ask for a maximum of a total of 4 years; 5) did not say USA could repeatedly steal legal papers Mr. Verkler had while he was in custody, there was no such forfeiture nor abandonment provision, the judge said USA had to follow through with promise to return many files and papers, but they did not; 6) not say Mr. Verkler could not get all discovery USA is required to provide by law, instead the judge states several specific files that USA still had to give Mr. Verkler, USA did not;; 7) not say Mr. Verkler would not get credit for prior amounts collected, instead the judge said I would get credit for prior amounts collected; 8) not say Mr. Verkler would not get credit for amounts forfeited or collected after the plea, instead the judge said Mr. Verkler would get credit towards restitution; 9) not say Mr. Verkler would not get back property taken by USA that was not forfeited or abandoned, instead the judge said Mr. Verkler's attorney could go through all the items taken and return everything not listed as forfeited or abandoned; 10) not say Mr. Verkler would be denied future access to the court; 11) not say Mr. Verkler could not get legal counsel in the future; 12) not say Mr. Verkler would have to pay an infinite amount in fines even without a court order, instead the judge said the maximum fine was \$250,000 and the judge ordered no fine; 13) not say USA, the court,

probation or a judge could make felony threats against to try to stop him from seeking relief in the court; 14) not say they could make felony threats and conspire to force Mr. Verkler out of his home so he would have to move too far away to keep his job and to earn other income. It need not be established "that there was a formal agreement in government to conspire; circumstantial evidence and reasonable inferences drawn therefrom concerning the relationship of the parties, their overt acts, and the totality of their conduct may serve as proof, US v Kaczmarek, 1035; US v Cogwell; US v Whaley, 1476, 1476, 1477; US v Griffin, 1116; US v Mayo, 1088; US v Washington, 1153. Only slight evidence to prove that an individual was a member of the conspiracy, US v Castillo, 353; US v Gironda, 1217; US v West, 685; US v Robinson, 123; US v Marrapese, 921; US v Nunez, 460; US v Braasch, posture, 141-2, 148, 151. No direct evidence is needed, Glasser v US, 80; US v Manton, 839. It is not necessary to prove an overt act, US v Diaz, 79;

The courts overlooked that in USA's plea agreement and in USA's Information, USA stipulated Mr. Verkler did not steal nor purloin. In Washington State where USA stipulates the alleged activity took place a conversion is a tort, it is not a crime, Informal Reply Brief p 2. Felony convictions should not have been put on Mr. Verkler's record. An indictment does not eradicate any deprivation of constitutional rights, US v King, 776, and Mr. Verkler was not indicted or charged.

It was proven: the lawyers, judges, magistrates, prosecutors, prison staff, clerks, court employees, tax collectors (also: police, sheriffs, Director of Business License Bureau, marshals, secret service agents, custom officials, Department of Agriculture officers, politicians and their

employees, lobbyists, financial analyst, or any public official, any individual in the public sector or any entity in the public sector, Office of the Governor, even entire departments, courts, municipality, utility or corporation) in Mr. Verkler's case they cannot be allowed to: commit a crime or conspiracy, a tort or lie like: kidnapping, illegal gun use, delay in arraignment or in trial, indefinite detainment, punishment prior to judgment of conviction, false conviction, false imprisonment, attempted murder, subterfuge, pretext, lying, filing false income tax forms, RICO, extortion, force an involuntary guilty plea, threats not even against loved ones, a shakedown, theft of documents, theft, robbery, conversion, to harm, failure to do duty to use all lawful means to prevent injury, collect unlawful debt, embezzlement, skim money, receipt or possession of stolen goods, corruption, scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, untoward blandishments, obstruction of the enforcement of criminal law, obstruction of justice, unauthorized exercise of power, exceeding official power, violating a law relating to office, cover-up, mutilate or conceal files, false statements in court, perjury, withholding evidence, falsifying evidence, skullduggery, planting evidence, tax fraud, falsifying documents, falsifying the docket, fabricating stories or evidence, forgery, inducing a witness to testify falsely, intimating a witness, witness tampering, depriving of honest or faithful of government services, various types of governmental interference that deprive the defendant of the right to witnesses, deprivation of rights, fraud, dishonesty, misrepresentation (including unfulfilled or unfulfillable promises), refusal to due one's duty, under color of official right, or any crime under color of law, to sell, dispose of, alter, give away, for the purpose of executing such scheme or artifice or attempting so to do, or perhaps by promises that are by their nature

improper, conspiracy, and no claim that a statement was obtained without coercion or accurately recorded and relevant can make it admissible and it is on overriding concern that effective sanctions be imposed against illegal arrest and detention as was done against Mr. Verkler (also cannot: bribe, attempt to illegally solicit, blackmail, third degree, road rage, assault, battery, murder, torture, promises to discontinue improper harassment, fabricated evidence, false or misleading testimony, no claim that a statement was obtained without coercion or accurately recorded and relevant can make it admissible and it is on overriding concern that effective sanctions be imposed against illegal arrest and detention, punishment prior to judgment of conviction, a shakedown, use of the spoils system, kickbacks, payoffs, or to sell, dispose of, loan, exchange, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, sexual favors, prostitution, drug crimes, illegally gamble, mail fraud, wire fraud, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do) and they should get a more severe punishment and citizens have a right to good government, Brady v Maryland, 86, 87; Brady v US, 755; Brown v Miss., 281-7; Bynum v US, 466-7; Carpenter v US, , 571, 572; Corley v US, 309; Cote v US, 793; Ginoza v US, outcome; Govt of Virgin Is v Solis, 620-1; Miranda v AZ, 447; Napus v Illinois, 269, 271-2; US v Jernigan, 1213-4; US v Margiotta, 132-3, #1,2,4,5,8-10,84; US v Mayes, outcome; US v Middleton, overview; US v Mitchell, 67, 70, 88; US v Morales, outcome, 851-3; US v Osunde, overview, 173, 175-7, ?; US v Sotoj-Lopez; Upshaw v US, 413, summary; McNabb v US, 344; US v Roth, 1383, 1386; Branion v Gramly; US v LeFevour, 979; US v Devine; US v Connecticut; US v Murphy, 1525-8; Salinas v US, 63-5; US v Nardello, 286-9; US v Ruiz, 508, 3, 39, 40; US v

Angelilli, 30-5, #1-2; US v Bachelier, 450, #1,2,35; US v Frumento, ?-1092, #2; US v Mazzei, 643-4, #1, 17, 37; United States v. Twigg, 381; US v Altomare, 7-8; US v Baker, #1, 9; US v Long, 241-2, #1,2,21; Shelton v US, 572 n2; US v Brown, 262; US v Dozier, 543 n8, #1-14, 16, 32, 114-5; US v Hathaway, 393; US v Hammond, 1012-3; Webb v Texas, 95; US v Heller, 152-3; US v Wright; US v Dischner, 1511, 1515 n 15, #2-5,8,21,26, 51-2,61; US v Bagnariol, 1, 85; Marrow v US; US v Whalen, 1348; US v Olinger; US v Guest, 745; Wilkins v US; US v Ehrlichman; US v Jacquemain; US v Romero; US v McFall, posture; US v Byrne, 18-20; US v Ronda; US v Vega; US v Ferreira, 51; US v Black; Wolfish v Levi, 118; Cupit v Jones; Matzker v Hen; Duran v Elrod; Green v Baron; Johnson-El v George; Villanueva v George; Berry v Muskogee; Sampson v Schench; Sutton v US; US v Lefkowitz, 464; Taglavore v US, 265; Warren v Lincoln; Ferrara v US, 26thpg; Missouri v Blair; US v Partida, 562, #2,83,89; US v Welch, 1039-47, 1057, 1059, 1060, 1062, 1064-5, 1067-70, 1,A,C,D,III A,1,C,1,D,1,2 (5th Cir 1981); US v Sivils, 596, #2,23,73; US v Thompson, 998-1000, #2,39,45,53-6, 69; US v Grzywacz, 686-7, 690, #1-10,12-20,22-25,29,36; US v Hocking, 769, 777; US v Lee Stoller Enterprises, Inc., 1317-9, 1-4,10, 12; US v Masters; US v Rindone, 491, 494-5; US v Schmidt, posture, 830-2; US v Shamah, overview, 451-2, 455, 457-9; US v Jacquemain; US v Clark, 1261-7, #3,4,28; US v Bordallo, #1,3-6,8,27,45,50; US v Egan, #2,18; US v Gates, #1-2, 34-5, 38; Diaz v Gates, #1.2, 22, 26; US v Ohlson, 1349, #2. 9; US v Graham, #1,8; (“The court noted that it sees a ‘ton of police misconduct cases’ and many police officers that had come before the court had long records of citizen complaints”) US v Carson, posture, 570-2, 590; US v Townsend; US v Zwick, 685; Sutton v US “... those who commit crimes themselves cannot prosecute other’s crimes.” see US v Blackwood, 134-6, #2,3,7,60; US v Holzer, 305-7, 310; US v Rabbitt, 1019-21, 1026. For USA to lie is plain error, US v Lane, 1399.

"Case must be remanded for full consideration of delay between defendant's arrest and his appearance before magistrate..." US v Keeble.

According to the Law Mr. Verkler was a victim of kidnapping, indefinite detainment, delay in arraignment, RICO, extortion, threats even against loved ones, false statements in court, withholding evidence, falsifying documents, depriving the defendant of the right to witnesses, deprivation of rights, fraud, misrepresentation (including unfulfilled promises), by promises that are by their nature improper or any crime under color of law, refusal to due one's duty, under color of official right. Mr. Verkler kept telling judges, attorneys and officers of USA's kidnapping of him and they went along with keeping Mr. Verkler in detention makes them guilty, US v Broadwell, 602; Graham v Conner, 395.

To convict police for providing false and misleading officers are not protected from false statements in future prosecutions... need to prove any state of mind with respect to the circumstances that the judge or law enforcement officer is an officer or employee of the Federal Government. US v Veal, overview, 1233, 1248, also US v Guadalupe; see US v Tines, 893; US v Vaden, 781; US v Bigham; US v Jackson, 928.

"... a [government] defendant may be found guilty of conspiring... even if the defendant did not join the conspiracy until after its inception and even if the defendant played only a minor role in the whole scheme... defendant is bound by all acts of other co-conspirators that occurred during the conspiracy, even if those acts were unknown to the defendant." US v Broadwell, 602 and do not need to know the others in the conspiracy US v Wilson, 1253; US v Andrews, 1496; US v Holloway, 679; US v Scrushy, 468. As in Re Oliver, 273 the courts decided to keep secrets from the public. "... it was not necessary to prove that they knew their conduct

was unlawful. US v Reese; US v Barker; US v Brown, 415; US v Burchinal, 992, #28; US v Winter, 1136; US v Cruz, 782-3; US v DeVincent, 159; US v Torres Lopez, 524; US v Angiulo, slip op at 14-15. "Uncharged acts [against government officers] may be admissible as direct evidence of the conspiracy itself." US v Diaz, 79; US v Castro; US v Matera, 121; US v Mejia, 206-7. "The overt act... need not be itself a crime." Bannon & Mulkey v US, 468, 469; Joplin Mercandile Co. v US; US v Rabinowich, 86; Pierce v US, 244; Braverman v US, 53; "18 USC 241 does not require that any overt act be shown" US v Morado; US v Skillmen; US v Whitney; US v Ellis; US v Bufalino; US v Cola, 1124; nor an overt agreement US v Weiner. No direct evidence is needed, Glasser v US, 80; US v Manton, 839; US v Hinojosa; only circumstantial evidence US v Zang, 1191; Jordan v US, 128; US v Hampton; and hearsay declarations of co-conspirators are admissible against other members of the conspiracy..." US v Nixon, 701; US v Feliziani, 1046. "... a conspirator is liable for acts undertaken by a co-conspirator in furtherance of their conspiracy." US v Chambers, 913-4; US v Craig; US v Toney, 1355; Dickerson v US Steel Corp, 67.... If a party has the potential to stop illegal activity but fails to act to do so, and sits idly by, then that party may be said to have impliedly conspired in such illegalities. ... it is not required to prove exact details of the agreement." US v Odiz...; US v Weilner...; US v Arians-Izquierdo...; US v Romero...; Crowe v Lucas, 993; Hunt v Weatherbee...; Gooch v US; Fritts v US; Pinkerton v US, 640; Carpenter v US, 571, 572.

In Mr. Verkler's case, court records were falsified by putting false entries on the docket and removing true entries from the docket and stealing filed documents from the court records and dates of filings were falsified and the order changed all to deny Mr. Verkler justice and due

process and commit crimes against him. The court ruled these acts are criminal and the clerk's conviction was upheld, US v Conn, 420-1, 423, 425; US v Bagnariol, 893, #18; US v Twigg, 381. Also, US v DiSalvo, proc posture, 1211, 1244; US v Polizzi, 1548; US v Nakaladski, 298; US v Natale, 1168-9; US v Sears, 587; Salinas v US, 63-5; US v Nguyen, 1341.

Mr. Verkler filed to dismiss attorney Thomas Coe for refusing to work on Mr. Verkler's behalf and plotting to find Mr. Verkler guilty. Mr. Verkler filed to dismiss Coe, get subpoenas for several adverse witnesses and for discovery. Coughenour refused to allow them to be docketed and refused to rule on them. That violates Fed. Rule of Crim. Proc. 49(b)(5) that requires everything received by the court to be docketed. It means Coughenour and others deliberately commit the felony crime of theft of court records from the court files in violation of 18 USC 1506. Coughenour is knowingly and deliberately falsifying the docket by stealing/deleting entries from the docket.

CONCLUSION

There are many categories of reasons to rule in George Verkler's favor. These categories each have multiple reasons to rule in Mr. Verkler's favor. Any one of these reasons alone would be enough to rule in George Verkler's favor.

It is important to rule in George Verkler's favor especially the last issue that: the government and no one in it has the right, authority or power to commit a crime, a tort, to conspire or lie against any American person. The fate of America is riding on your decision.

It does not matter whether a person looks at opinions with judges with the original founding father, or opinions with current judges or anywhere in between or look at Supreme Court or any Circuit Court or other courts all published opinions favor George Verkler.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

George Verkler

Date: 5/18/2021