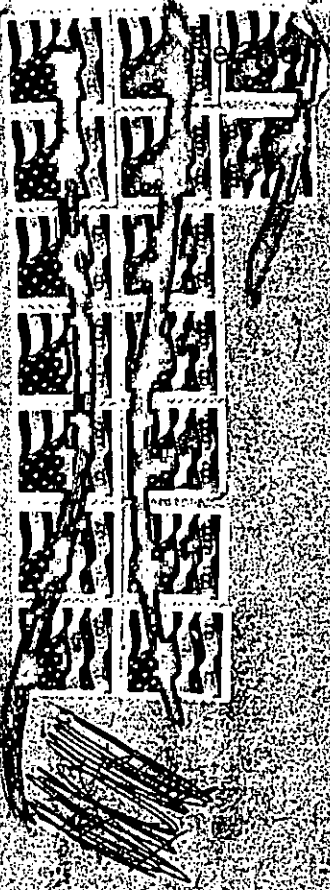


Chris Burges #215550
78749 St. Hwy. 118
New Braunfels, Texas 77570



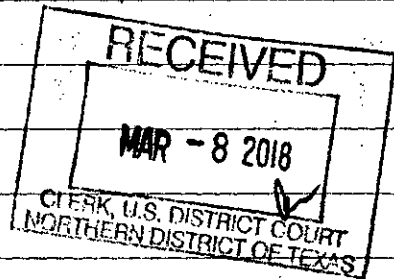
U.S. District Court Northern District of Texas
1100 Commerce St. Rm. 1152
Dallas, Texas 75242



Legal Mail

U.S. District Court, Northern District of Texas
1100 Commerce St. Rm 1452
Dallas, Texas 75242

Re: Motion 28 U.S.C. § 2255



Dear District Clerk,

I thank you for all your help and hard work on my behalf.

Please find the completed Application for Motion under 28 U.S.C. § 2255. Please file this motion on my behalf.

Please note I only resealed two forms so I am filing in duplicate. May I reseal confirmation of reseal? Thank you.

I thank you for your time and efforts in advance.

Sincerely,

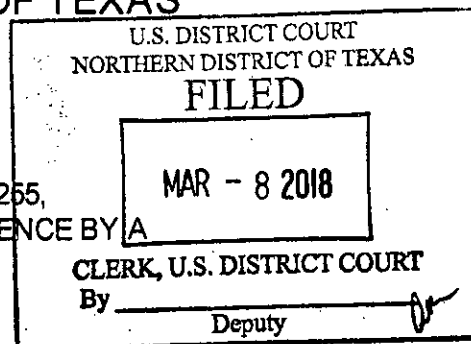
Chris Burgess*2118350
Christopher Burgess

3899 St. Hwy. 98
New Boston, Texas 75570
Signed 26 February 2018

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

ORIGINAL

MOTION UNDER 28 U.S.C. SECTION 2255,
TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY A
PERSON IN FEDERAL CUSTODY



UNITED STATES OF AMERICA

Telford Unit

PLACE OF CONFINEMENT

vs.

02118350

PRISONER ID NUMBER

Christopher Michael Burgess

MOVANT (full name of movant)

3:18-cv-00327-L-BN
Christopher Michael Burgess

CRIMINAL CASE NUMBER

(If a movant has a sentence to be served in the future under a federal judgment which he wishes to attack, he should file a motion in the federal court which entered the judgment.)

INSTRUCTIONS - READ CAREFULLY

1. This motion must be legibly handwritten or typewritten, and signed by the movant under penalty of perjury. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form.
2. Additional pages are not permitted except with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities needs to be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
3. Upon receipt, your motion will be filed if it is in proper order. No fee is required with this motion.

4. If you do not have the necessary funds for transcripts, counsel, appeal, and other costs connected with a motion of this type, you may request permission to proceed in forma pauperis, in which event you must execute the declaration provided with this motion, setting forth information establishing your inability to prepay the fees and costs or give security therefor. If you wish to proceed in forma pauperis, you must have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
5. Only judgments entered by one court may be challenged in a single motion. If you seek to challenge judgments entered by different judges or divisions either in the same district or in different districts, you must file separate motions as to each such judgment.
6. Your attention is directed to the fact that you must include all grounds for relief and all facts supporting such grounds for relief in the motion you file seeking relief from any judgment of conviction.
7. When the motion is fully completed, the original and two copies must be mailed to the Clerk of the United States District Court for the Northern District of Texas at the appropriate divisional office whose address is:

Abilene Division
P.O. Box 1218
Abilene, TX 79604

Amarillo Division
205 E. 5th St, Rm 133
Amarillo, TX 79101

Dallas Division
1100 Commerce, Rm 1452
Dallas, TX 75242

Fort Worth Division
501 W. 10th St, Rm 310
Fort Worth, TX 76102

Lubbock Division
1205 Texas Ave., Rm 209
Lubbock, TX 79401

San Angelo Division
33 East Twohig St, Rm 202
San Angelo, TX 76903

Wichita Falls Division
P.O. Box 1234
Wichita Falls, TX 76307

8. Motions which do not conform to these instructions will be returned with a notation as to the deficiency.

MOTION

1. Name and location of court that entered the judgment of conviction you are challenging:

The United States District Court for the Northern District of Texas
Dallas Division, 1100 Commerce, Rm 1452, Dallas, TX 75242

2. Date of the judgment of conviction:

3 February 2016

3. Length of sentence: 180 months

4. Nature of offense involved (all counts):

Possession of Prepubescent Child Pornography 18 U.S.C. § 2252A(a)(5)(B)

5. (a) What was your plea? (Check one)

Not guilty ☐ Guilty ☒ Nolo contendere (no contest) ☐

(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to?

N/A

6. If you went to trial, what kind of trial did you have? (Check one) Jury ☐ Judge Only ☐

7. Did you testify at the trial? (Check one) Yes ☐ No ☐

8. Did you appeal from the judgment of conviction? (Check one) Yes ☒ No ☐

9. If you did appeal, answer the following:

Name of Court: The United States District Court for the Northern District
of Texas Dallas Division

Result: Court denies Defendant

Date of result: 4 January 2017 (I think)

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any federal court?

Yes ☐ No ☒

11. If your answer to 10 was "Yes" give the following information:

Name of Court: _____

Nature of proceeding: _____

Grounds raised: _____

Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐

Result: _____

Date of result: _____

As to any second petition, application or motion, give the same information:

Name of Court: _____

Nature of proceeding: _____

Grounds raised: _____

Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐

Result: _____

Date of result: _____

As to any third petition, application or motion, give the same information:

Name of Court: _____

Nature of proceeding:

Grounds raised:

Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐

Result: _____

Date of result: _____

Did you appeal to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

First petition, etc.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Second petition, etc.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Third petition, etc.	Yes <input type="checkbox"/>	No <input type="checkbox"/>

If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

12. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed. However, you should raise in this petition all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

DO NOT CHECK ANY OF THESE LISTED GROUNDS. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right to appeal.

A. Ground One:

Ineffective Assistance of Counsel; Mr. Umphres did not withdraw guilty plea in a timely manner

Supporting FACTS (tell your story briefly without citing cases or law):

Movant sent notarized letter to Mr. Umphres (acting attorney) between 10 June 2015 and 21 Sept. 2015 requesting guilty plea be withdrawn. Mr. Umphres did not withdraw at that time.

B. Ground Two:

Ineffective Assistance of Counsel; Mr. Morris withheld Complete Discovery

Supporting FACTS (tell your story briefly without citing cases or law):

Movant requested, by notarized letter, of Mr. Morris (acting attorney) a Complete Discovery before 10 June 2015. No Discovery was given.

C. Ground Three:

Ineffective Assistance of Counsel; Mr. Morris did not forward Complete Discovery

Supporting FACTS (tell your story briefly without citing cases or law):

Mr. Morris (acting attorney) did not forward Complete Discovery to Mr. Umphres, not allowing Movant or next attorney the Complete Discovery.

D. Ground Four:

Ineffective Assistance of Counsel, Ms. Woods did not allow
Defensive Strategies

Supporting FACTS (tell your story briefly without citing cases or law):

Ms. Woods (acting attorney) refused to discuss any
Defensive strategies with Movant. She insisted on plea
bargain alone.

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them:

Movant's acting attorney did not present them.

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?

Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing:

Ms. Woods

(b) (5) ACP, (b) (5) DPP

1/1/13

(b) (5) ACP, (b) (5) DPP

1/1/13

(b) (5) ACP, (b) (5) DPP

1/1/13

(b) (5) ACP, (b) (5) DPP

1/1/13

(b) (5) ACP, (b) (5) DPP

1/1/13

(b) (5) ACP, (b) (5) DPP

1/1/13

(b) At arraignment and plea:

Mr. Nicholas

(c) At trial:

N/A

(d) At sentencing:

Mr. Umphres

(e) On appeal

Mr. Umphres

(f) In any post-conviction proceeding:

Mr. Umphres (If any proceeding happened)

(g) On appeal from any adverse ruling in a post-conviction proceeding:

Mr. Umphres (If any)

Do you have any other information or documents that you would like to provide?

☒ Yes ☐ No

Do you have any other information or documents that you would like to provide?

☐ Yes ☒ No

Do you have any other information or documents that you would like to provide?

1000 West 10th St
Anchorage, Alaska 99501
Phone: (907) 556-1234
Fax: (907) 556-1235

Do you have any other information or documents that you would like to provide?

☐ Yes ☒ No

Do you have any other information or documents that you would like to provide?

☐ Yes ☒ No

Do you have any other information or documents that you would like to provide?

1000 West 10th St
Anchorage, Alaska 99501
Phone: (907) 556-1234
Fax: (907) 556-1235

Do you have any other information or documents that you would like to provide?

1000 West 10th St
Anchorage, Alaska 99501
Phone: (907) 556-1234
Fax: (907) 556-1235

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☒ No ☐

(a) If so, give name and location of court which imposed sentence to be served in the future:

439th Judicial District Court
Rockwall County, Texas
1111 E. Yellowjacket Lane, Suite
Rockwall, Texas 75087

(b) And give date and length of sentence to be served in the future:

7 March 2017, Life

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☒ No ☐

Wherefore, movant prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

Christopher Burgess
Signature

N/A
Firm Name (if any)

3899 St. Hwy. 98
Address

New Boston, Texas 75570
City, State & Zip Code

N/A
Telephone (including area code)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.
Executed on _____ (date).

Christopher Burgess
Signature of Movant

January 1961

Chicago

Dear Mr. [Name]:

I am sorry to hear

that you are

not well and hope you are

able to get some rest

and feel better soon.

I am sure you will

be back to work in no time.

Sincerely,

[Signature]

Yours truly,

12. Continued

Ground *5

Ineffective Assistance of Counsel; Ms. Woods attorney
Client coercion

Supporting FACTS:

Ms. Woods (acting attorney) stated she would not
assist Movant with his Defensive Strategies at trial.

Movant would have been forced to defend himself with
negligable assistance. Ms. Woods did not offer any
alternitives claiming innocence cannot be proven.

Ground *6

Ineffective Assistance of Counsel; Mr. Nicholson ~~attorney~~

neglegence during Rule 11 hearing

Supporting FACTS:

Mr. Nicholson (acting attorney) did not stop Rule 11 hearing once Movant professed innocence to him nor discover why Movant was so insistant to commit ~~perjury~~ ^{perjury}.

Ground *7 Ineffective Assistance of Counsel;

Mr. Umphres ignorance of law giving 4 point increase

Supporting FACTS:

Dispite (acting attorney) Mr. Umphres' arguments exactly mirroring the Supreme Court case brought forth on appeal during Sentencing. He did not mention it at Sentencing and was thus barred from correcting Counting

error on appeal, approximately doubling sentence.

Ground ~~8~~ 8

Plea not knowing and voluntary; Ms. Woods falsely explained plea to Movant

Supporting FACTS:

Ms. Woods (acting ~~attorney~~ attorney) stated that counting errors were admissible on appeal. However, on appeal counting error was barred due to plea.

Ground ~~9~~ 9

Ineffective Assistance of Counsel; Ms. Woods insisted on perjury

Supporting FACTS:

Ms. Woods (acting attorney) ignored constant insistence from Movant to her that he is innocent.

Ground *10

Ineffective Assistance of Counsel; Ms. Woods' insistence of plea

Supporting FACTS:

Ms. Woods (acting attorney) insisted on plea despite Movant's reluctance due to his state charges.

Ground *11

Nondisclosure of Evidence; Prosecutor did not allow Movant metadata of the pictures, specifically the Create and Modify dates

Supporting FACTS:

Metadata of the pictures has not been disclosed to Movant ~~to~~ not allowing him the Create and Last Modify dates that when compared should prove Movant could not have created the organizational system.

Ground *12

Nondisclosure of Evidence; Prosecutor did not allow Movant metadata of the pictures specifically the Last Accessed dates

Supporting FACTS:

The metadata of the pictures has not been disclosed to Movant not allowing him the Last Accessed dates

that when viewed cronilogically with the Last Accessed dates of the videos should show near constant use proving automation not the actual viewing of the content.

Ground *13

Non disclosure of Evidence; Prosecutor did not allow the entirety of the video's metadata on Create and Modify dates

Supporting FACTS:

The entirety of the video metadata, as aposed to that given on the abridged discovery given to Morant, shows the clues needed by ~~the~~ Morant to determin the needed evidence to prove that he did not creat the organizational

system that was absent in the abridged discovery.

Ground ~~14~~ 14

Nondisclosure of Evidence; Prosecutor did not allow

Movant the entirety of the video's' metadata for the Last

Accessed dates

Supporting FACTS:

The entirety of the videos' Last Accessed dates gives a pattern, absent in the abridged discovery, that shows near constant use for 31 hours and 7 minutes. This shows automation not viewing of the content by a user.

Ground ~~15~~ 15

Nondisclosure of Evidence; Prosecutor withheld

existence of BitTorrent

Supporting FACTS:

Without knowledge of BitTorrent Movant was unable to create an effective defensive strategy or subpoena evidence now lost.

Ground ~~16~~ 16

Nondisclosure of Evidence; Prosecutor withheld BitTorrent running in the background

Supporting FACTS:

With BitTorrent ~~automatically~~ running in the background, it was well hidden. There is no proof that Movant knew of its existence.

Ground*17

Nondisclosure of Evidence; Prosecutor withheld BitTorrent running automatically

Supporting FACTS:

With BitTorrent automatically running there is no need for a user to run it. This supports the theory that a hacker hacked in and set up BitTorrent to auto run.

Ground*18

Nondisclosure of Evidence; Prosecutor withheld Detective Tilles' notes

Supporting FACTS:

Detective Tilles' notes shows approximately 20% to 50% of

the videos should not have been used against Movant.

Ground * 19

"To be informed of the nature and cause of the accusation" or accusations the plea forestalls; Prosecutor states there is benefit to Movant in the plea without stating what said benefit is or ~~show~~ showing evidence of its validity

Supporting FACTS:

Prosecutor withheld knowledge of, and evidence for, ~~addition~~ additional charges. Thus the beneficial nature of the plea to Movant, and the validity of the plea itself is brought into question.

Ground * 20

Nondisclosure of evidence; Prosecutor's cumulative effect

Supporting FACTS:

Prosecutor's withheld evidence prevented Movant from
being able to prove his innocence or creating an effective

Defensive Strategy

Ground #21

Ineffective Assistance of Counsel; Ms. Woods "under the
table deal" with Ms. Sparks

Supporting FACTS:

Ms. Woods (acting attorney) agreed to circumvent

Due Process by coercing Movant to sign plea that

would give him life imprisonment, even with 15

counts of possession mistakenly ~~dropping~~ dropping.

Ground ~~22~~ 22

Ineffective Assistance of Counsel; Ms. Woods did not allow Morant the metadata of the pictures specifically the Create and Last Modify dates

Supporting FACTS:

Ms. Woods (acting attorney) did not discover, or did not consider, the possible effect of the pictures' metadata specifically that the Create and Last Modify dates should be within one second of each other. Thus the pictures could not have been moved after download and could not have been organized by Morant.

Ground #23

Ineffective Assistance of Counsel; Ms. Woods did not allow
Mount the metadata of the pictures specifically the
Last Accessed dates

Supporting FACTS:

Ms. Woods (acting attorney) did not discover, or did
not consider, the possible effect of the pictures'
metadata concerning the Last Accessed dates. It should
show fast access of the pictures to abrupt for a human
to accomplish.

Ground #24

Ineffective Assistance of Counsel; Ms. Woods did not

allow Movant the entirety of the videos' metadata on the Created and the Modify dates

Supporting FACTS:

Ms. Woods (acting attorney) did not discover, or did not consider, the entirety of the videos' metadata concerning both Created and Modify dates showing that almost all videos were downloaded and last modified within two days time.

Ground *25

Ineffective Assistance of Counsel; Ms. Woods did not allow Movant the entirety of the videos' metadata on the Last Accessed dates

Supporting FACTS:

Ms. Woods (acting attorney) did not discover, or did not consider, the entirety of the videos' metadata concerning the Last Accessed dates. The over night access, absent in the abridged discovery, shows a witness, Morant's then wife, would have seen Morant accessing the videos, which she denied in the 38-37 hearing.

Ground #26

Ineffective Assistance of Counsel; Ms. Woods withheld existence of BitTorrent from Morant

Supporting FACTS:

Ms. Woods (acting attorney) insisted Morant downloaded

the entirety of the content manually. This distorted view of what was thought of Morant set ~~him~~ him up for faillyer concerning any defensive strategies he could come up with.

Ground*27

Ineffective Assistance of Counsel; Ms. Woods Withheld knowledge of BitTorrent running in the background.

Supporting FACTS:

Ms. Woods (acting attorney) failed to discover BitTorrent was running in the background. Thus Morant could not Supeina records of consistant problems with reduced internet access, showing that Morant was ignorant of BitTorrent

and contend downloaded their by.

Ground #28

Ineffective Assistance of Counsel; Ms. Woods withheld knowledge of BitTorrent running automatically

Supporting FACTS:

Ms. Woods (acting attorney) failed to discover BitTorrent was automatically running. Automation supports Movant's ignorance of illicit material.

Ground #29

Ineffective Assistance of Counsel; Ms. Woods withheld Detective Tilles' notes

Supporting FACTS:

Ms. Woods (acting attorney) failed to discover the mitigating evidence hidden within Detective Tilles' notes.

Ground #30

Ineffective Assistance of Counsel; Ms. Woods' Cumulative effect

Supporting ~~the~~ FACTS:

Ms. Woods (acting attorney) insisted on the guilt of Movant not even considering any other possibility, and was blind to any contradictory evidence, refraining from even looking for mitigation.

Ground #31

Ineffective Assistance of Counsel; Mr. Nicholson failed to note the pictures' Created and Last Modified dates

Supporting FACTS:

Mr. Nicholson (acting attorney) failed to research the case of Movant, and did not note the pictures' Created and Last Modified dates that could prove the innocence of Movant.

Ground *32

Ineffective Assistance of Counsel; Mr. Nicholson failed to note the pictures' Last Accessed dates

Supporting FACTS:

Mr. Nicholson (acting attorney) failed to research the case of ~~for~~ Movant, and did not note the pictures' Last Accessed dates that could prove the innocence of Movant.

Ground *33

Ineffective Assistance of Counsel; Mr. Nicholson failed to note the videos' Created and Last Modified dates

Supporting FACTS:

Mr. Nicholson (acting attorney) failed to research the case of Movant, and did not note the videos' Created and Last Modified dates that could prove the innocence of Movant when compared to each other.

Ground #34

Ineffective Assistance of Counsel; Mr. Nicholson (~~acting attorney~~) failed to ~~research~~ note the videos' Last Accessed dates

Supporting FACTS:

Mr. Nicholson (acting attorney) fail to research the case of

Movant, and did not note the videos' Last Accessed dates that could help prove the innocence of Movant.

Ground #35

Ineffective Assistance of Counsel; Mr. Nicholson failed to note BitTorrent

Supporting FACTS:

Mr. Nicholson (acting attorney) failed to discover BitTorrent or its importance with respect to Movant's innocence.

Ground #36

Ineffective Assistance of Counsel; Mr. Nicholson failed to note BitTorrent running in the background.

Supporting FACTS:

Mr. Nicholson (acting attorney) failed to discover the importance of BitTorrent

running in the background.

Ground ~~37~~

Ineffective Assistance of Counsel; Mr. Nicholson failed to note BitTorrent

running automatically

Supporting FACTS:

Mr. Nicholson (acting attorney) failed to discover the importance of

BitTorrent running automatically-

Ground ~~38~~

Ineffective Assistance of Counsel; Mr. Nicholson did not confirm the

validity of the plea bargain

Supporting FACTS:

Mr. Nicholson (acting attorney) was unaware ~~of~~ never informed

Movant of the benefits of the plea bargain namely the specific charges that will not be brought against Movant.

Ground #39

Ineffective Assistance of Counsel; Mr. Nicholson's cumulative effect

Supporting FACTS:

Movant did not reserve the legal counsel he needed to make a good decision for himself or even a legal one.

Ground #40

Ineffective Assistance of Counsel; Mr. Morris did not allow Movant pictures

Created and Modified dates

Supporting FACTS:

Mr. Morris (acting attorney) did not consider Created and Last

Modified dates that should show Movant could not have known of the visit content by the organizational system.

Ground #41

Ineffective Assistance of Counsel; Mr. Morris did not allow Movant pictures' Last Accessed dates in the metadata

Supporting FACTS:

Mr. Morris (acting attorney) did not consider pictures' Last Accessed dates that should show Movant did not view content

Ground #42

Ineffective Assistance of Counsel; Mr. Morris did not allow Movant the entirety of the videos' Created and Last Modified dates

Supporting FACTS:

Mr. Morris (acting attorney) did not consider the importance of the entire videos' Created and Last Modified dates being within two days time. It shows the entirety was preset to download.

Ground*43

Ineffective Assistance of Counsel; Mr. Morris did not allow Morant the entirety of the videos' Last Accessed dates

Supporting FACTS:

Mr. Morris (acting attorney) did not consider the importance of the entire videos' Last Accessed dates. The metadata shows the videos were being uploaded not viewed.

Ground*44

Ineffective Assistance of Counsel; Mr. Morris withheld BitTorrent's metadata

Supporting FACTS:

Mr. Morris (acting attorney) did not consider the importance of BitTorrent's metadata. The metadata gives rise to two theories - (1) Movant unknowingly deleted the containing folder on 20 April 2013 and BitTorrent automatically started to redownload the content. (2) BitTorrent was installed and set up to download content on its own on 20 April 2013 either with internal commands or with programs set to run BitTorrent. Both theories leave Movant innocent.

Ground #45

Ineffective Assistance of Counsel; Mr. Morris withheld BitTorrent running in the background.

Supporting FACTS:

No one but the one who set BitTorrent running in the background would

know it was there. There is no proof that Movant did or could.

Ground #46

Ineffective Assistance of Counsel; Mr. Morris withheld BitTorrent running automatically

Supporting FACTS:

The one who set BitTorrent to run automatically shows an intent not to maintain BitTorrent. There is still no proof that Movant was involved.

Ground #47

Ineffective Assistance of Counsel; Mr. Morris withheld Detective Tillies' notes

Supporting FACTS:

Mr. Morris (acting attorney) failed to consider the mitigating evidence hidden within Detective Tillies' notes.

Ground #48

Ineffective Assistance of Counsel; Ms. Woods withheld, or did not possess, proof for additional charges

Supporting FACTS:

Ms. Woods (acting attorney) failed to discover, or did not inform Movant, of evidence to support additional charges for the validity of the plea bargain.

Ground #49

Ineffective Assistance of Counsel; Mr. Morris withheld, or did not possess, proof for additional charges

Supporting FACTS:

Mr. Morris (acting attorney) did not inform Movant of evidence in support of additional charges to support the validity of the plea bargain.

Ground ~~50~~

Plea not knowing and voluntary; Mr. Nicholson Lawyer client coercion

Supporting **FACTS:**

Despite (acting attorney) Mr. Nicholson's comments on record, which to Movant sounded threatening, off record Mr. Nicholson's derision concerning Nolo Contendra told Movant that Mr. Nicholson supported Ms. Woods continued verbal abuse and lack of support if the case went to trial.

Ground ~~51~~

Ineffective Assistance of Counsel; Mr. Morris' cumulative effect

Supporting **FACTS:**

The withheld evidence and other actions by Mr. Morris (acting attorney) prevented

Movant from fighting his case.

Ground # 52

Ineffective Assistance of Counsel; Mr. Umphres did not consider the pictures' Created and Last Modified dates

Supporting FACTS:

Mr Umphres (acting attorney) did not consider the importance of the Created and Last Modified dates that should show Movant could not have Created the organizational system.

Ground # 53

Ineffective Assistance of Counsel; Mr. Umphres did not consider the pictures' Last Accessed dates.

Supporting FACTS:

30 of 42

Mr. Umphres (acting attorney) did not consider the importance of the pictures' Last Accessed dates that should show prapped mass access if viewed cronologically, to rapped for a human's responce time.

Ground *54

Ineffective Assistance of Counsel; Mr. Umphres did not consider the entirety of the videos' Created and Last Modified dates.

Supporting FACTS:

Mr. Umphres (acting attorney) did not consider the importance of the vidios' Created and Last Accessed dates as suggested by Movant that would have shown automatic downloading.

Ground *55

Ineffective Assistance of Counsel; Mr. Umphres did not consider the entirety of

the videos' Last Accessed dates

Supporting FACTS:

Mr. Umphres (acting attorney) did not consider the importance of the videos' Last Accessed dates as suggested by Movant that would have shown near constant use for 31 hours and 7 minutes.

Ground #56

Ineffective Assistance of Counsel; Mr. Umphres did not consider BitTorrent

Supporting FACTS:

Mr. Umphres (acting attorney) did not consider how BitTorrent could prove Movant is innocent by how it was set to run.

Ground #57

Ineffective Assistance of Counsel; Mr. Umphres did not consider that BitTorrent was running in the

back ground

Supporting FACTS:

Mr. Umphres (acting attorney) did not consider how BitTorrent running in the background also hides it from Morant.

Ground *58

Ineffective Assistance of Counsel; Mr. Umphres did not consider that BitTorrent was running automatically

Supporting FACTS:

Mr. Umphres (acting attorney) did not consider if BitTorrent was running automatically then Morant would not be operating it.

Ground *59

Ineffective Assistance of Counsel; Mr. Umphres did not consider Detective

Tillies' notes

Supporting FACTS:

Mr. Umphres (acting attorney) did not consider the mitigating evidence within Detective Tillies' notes. Some files cannot open, others depict adults, still more show nudity only not lude or lascivous.

Ground*60

Ineffective Assistance of Counsel; Mr. Umphres did not pass proof for additional charges

Supporting FACTS:

Mr. Umphres (acting attorney) did not have evidence to support additional charges in support of the validity of the Plea Bargain.

Ground*61

Ineffective Assistance of Counsel; Mr. Umphres' cumulative effect

Supporting FACTS:

Mr. Umphres (acting attorney) did not consider metadata as suggested by Movant or any other evidence, mitigating or otherwise, to effectively help Movant withdraw guilty plea or prove him innocent insisting he (acting attorney) was not paid to do so.

Ground #62

Misrepresentation of the Law; Ms. Woods stated it is the severity of the crime not the guilt or innocence

Supporting FACTS:

Ms. Woods (acting attorney) convinced Movant that despite his innocence he could not prove it due to the severity of the crime.

Ground #63

Misrepresentation of the Law; Ms Woods stated Movant must prove innocence

Supporting FACTS:

Ms. Woods (acting attorney) convinced Movant that the burden of proof was on the defendant not the prosecution.

Ground *64

Misrepresentation of the Law; Ms. Woods stated 1st element is satisfied by mere possession

Supporting FACTS:

Ms. Woods convinced Movant that mere possession proves knowledge of possession effectively eliminating the 1st element.

Ground *65

Misrepresentation of the Law; Mr. Nicholson confirmed 1st element is satisfied by mere possession

Supporting FACTS:

Mr. Nicholson (acting attorney) confirmed Ms. Woods' assertion that knowledge element is satisfied by mere possession.

Ground #66

Misrepresentation of the Law; Ms. Woods over stated exposure

Supporting FACTS:

Ms. Woods (acting attorney) stated that Movant would receive 5 life time sentences, instead of a max of 30 years, if taken to court.

Ground #67

Nondisclosure of evidence; proof of purchase for computer

Supporting FACTS:

Prosecution did not put into evidence proof of purchase to establish interstate

Commerce, or proof of ownership.

Ground *68

Ineffective Assistance of Counsel; Ms. Woods did not garner proof of purchase for computer

Supporting FACTS:

Ms. Woods (acting attorney) did not attempt to resolve the conflict between evidence and Movant's memory to establish evidence tampering or its lack.

Ground *69

Ineffective Assistance of Counsel; Ms. Woods did not allow objection to quantity

Supporting FACTS:

Ms. Woods (acting attorney) stated quantity cannot be successfully objected to.

Ground *70

Ineffective Assistance of Counsel; Mr. Umphres did not allow objection to quantity

Supporting FACTS:

Mr. Umphres (acting attorney) stated objections to quantity should already have been resolved.

Ground #71

Mitigating Effect of Indictment; Prosecution ignored prepubescence limit

Supporting FACTS :

Prosecution included in the quantity of pornography Morant was charged

with, that witch was not prepubescent minors under the age of 12 years old

dispite whats stated on the indictment.

Ground #72

Mitigating Effect of Indictment; Ms. Woods ignored prepubescence limitation

Supporting FACTS:

Ms. Woods (acting attorney) did not object to the addition of nonprepubescent minors.

Ground # 73

Cruel and Unusual; Sleep deprivation as part of SOP in Mansfield

Supporting FACTS:

With am and pm medication, meals, and security checks Movant was ~~unable~~ not allowed to get 4 hours of consecutive sleep without being awakened, or 6 hours in 24 usually less.

Ground # 74

Cruel and Unusual; Not allowed adequate access to Law Library in Mansfield

Supporting FACTS:

Movant was not allowed more than 1 hour a month with 10 minute trips being the norm.

Ground *75

Cruel and Unusual; Insufficient law books in Law Library at Mansfield

Supporting FACTS:

In accordance to the standards found in the Law Library, it did not contain all the books it should, mainly case law.

Ground *76

Cruel and Unusual; life threatened by inmates in Mansfield

Supporting FACTS:

Morant was moved multiple times due to threats from inmates. No known record was kept of those who threatened Morant and was put in danger there by.

Ground *77

Cruel and Unusual; life endangered by guard in Mansfield

Supporting FACTS:

Guard insisted Movant fight an inmate who had just threatened Movant.

Movant refused.

Ground #78

Cruel and Unusual; Refusal of seg for safety of Movant by Supervisor

Supporting FACTS:

Each time Movant was moved due to threats to his life, he requested a seg cell for safety and each time he was denied.