21-5578 ORIGINAL

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

GUY DON MINZE, PRO-SE — PETITIONER
(Your Name)

vs.

CHIEF JUSTICE TOM GRAY ET,AL — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

TENTH COURT OF APPEALS, WACO, TEXAS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

GUY DON MINZE #0222823
(Your Name)

1391 FM. 3328
(Address)

TENNESSEE COLONY, TEXAS 75880
(City, State, Zip Code)

NONE
(Phone Number)

QUESTION(S) PRESENTED

QUESTION ONE:
Did the Court of Appeals err in failing to base its Opinion on the evidentiary and adjudicated facts in the record i.e. the Trial Court's "judgment of conviction for Counts One and Two?

QUESTION TWO:
Did the Court of Appeals err in ruling,the Trial Court had submatter-jurisdiction over the offense pursuant to Penal Code Provision § 21.11(a)(1)"Indecency With A Child By Sexual Contact" i.e the offense the Petitioner was charged and convicted of in Counts One and Two?

QUESTION THREE:
Did the Court of Appeals err in ruling the Motion to Quash and the argument in Issue Four of Petitioner's Direct Appeal Brief are not the same Issue of "Notice"?

QUESTION FOUR:
Did the Court of Appeals err, by relying on Tex.R.App.P.38.1(i),ruling Issues Two and Three are inadequately briefed and present nothing to review because Petitioner failed to point to any element the State was required to prove as being insufficiently supported by the evidence?

QUESTION FIVE:
Did the Court of Appeals err in ruling, the Petitioner failed to provide Authority to support his argument and the issue is improperly briefed and presents nothing for review pursuant to Tex.R.App.P.38.1(i)?

QUESTION SIX:
Did the Court of Appeals err in ruling,the Petitioner failed to presrve Petitioner's claim of prosecutorial vindictiveness by failing to comply with Tex.R.App.P.33.1(a)?

LIST OF PARTIES

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

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

RELATED CASES

State of Texas v. GUY DON MINZE,CAUSE No.DC-201700234, 413th Judicial Disrict Court, Johnson County, Texas
GUY DON MINZE v. STATE OF TEXAS, COA No.10-18-00333-CR, TENTH DISTRICT COURT OF APPEALS, WACO, TEXAS
GUY DON MINZE v. STATE OF TEXAS, COA No.10-18-00333-CR,PD-0983-20 AUSTIN, TEXAS

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

[ ] For cases from **federal courts:**

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

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

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

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

[X] For cases from **state courts:**

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

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the TENTH DISRICT COURT OF APPEALS court appears at Appendix A to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

JURISDICTION

[ ] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

[ ] 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).

[X] For cases from **state courts**:

The date on which the highest state court decided my case was MAR.18,2021. A copy of that decision appears at Appendix _____.

[ ] A timely petition for rehearing was thereafter denied on the following date: NONE, 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 NONE (date) on NONE (date) in Application No. ___A_____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

UNITED STATES CONSTITUTION, FOURTEENTH AMENDMENT: The constitutional amendment, ratified in 1868, whose primary provisions effectively apply the Bill of Rights to the states by prohibiting states from denying due process and equal protection and from abridging the privileges and immunities of U.S citizans. The amendment also gave Congress the power to enforce these provisions, leading to legislation such as the civil rights act. See APPENDIX C, PETITION FOR DISCRETIONARY REVIEW, PAGES,1,3,4,6,7,8,9,10,11,12,14,15.

UNITED STATES CONSTITUTION, SIXTH AMENDMENT: The constitutional amendment,ratified with the Bill of Rights in 1791, guaranteeing in criminal cases the right to be informed of the nature of the accusation , the right to confront witnesses. See APPENDIX C, PETITION FOR DISCRETIONARY REVIEW,PAGES,13,14.

TEXAS CONSTITUTION ARTICLE V. § 12(b): A charging instrument must allege that(1)a person(2)committed an offense(defining "indicment" and "information" as written instrument presented to the court "charging a person with the commission of an offense"". See APPENDIX C, PETITION FOR DISCRETIONARY REVIEW,PAGES,5,6,7.

TEXAS CODE CRIMINAL PROCEDURE ARTICLE 21.03: Sufficiency of an indictment,"Everything should be stated in an indictment which is to be proved." See APPENDIX C, PETITION FOR DISCRETIONARY REVIEW, PAGE,8

TEXAS CODE CRIMINAL PROCEDURE ARTICLE 21.11: An indictment shall be deemed sufficient which charges the commission of the offense in ordinary and concise language in such a manner as to enable a person of common understaning to know what is meant,and with that degree of certainty that will give the defendant notice of the particular offense with which he is charged, and enable ther court, on conviction, to pronounce the proper judgment;...See APPENDIX C, PETITION FOR DISCRETIONARY REVIEW, PAGE,8

TEXAS CODE CRIMINAL PROCEDURE ARTICLE 28.01 § (2)When a criminal case is set for such pretrial hearing, any such preliminary matter not raised or filed seven days before the hearing will not thereafter be allowed to be raised or filed, except by permission of the court for good cause shown. See APPENDIX C, PETITION FOR DISCRETIONARY REVIEW, PAGE,15.

TEXAS CODE CRIMINAL PROCEDURE ARTICLE 36.11. DISCHARGE BEFORE VERDICT: If it appears during trial that the trial court has no jurisdiction of the offense or that the facts charged in the indictment do not constitute an offense the jury must be discharged. See APPENDIX C, PETITION FOR DISCRETIONARY REVIEW, PAGE, 7.

TEXAS CODE CRIMINAL PROCEDURE ARTICLE 42.01 §(1) JUDGMENT. See APPENDIX C, PETITION FOR DISCRETIONARY REVIEW, PAGES,1,10

TEXAS PENAL CODE PROVISION § 15.031(b) CRIMINAL SOLICITATION OF A MINOR. See APPENDIX C, PETITION FOR DISCRETIONARY REVIEW,PAGES, 1,11.

TEXAS PENAL CODE PROVISION § 21.11(a)(1) INDECENCY WITH A CHILD BY SEXUAL CONTACT. See APPENDIX C, PETITION FOR DISCRETIONARY REVIEW,PAGES,1,4,5,8,10,11

TEXAS RULES APPELLATE PROCEDURE 33.1(a) PRESERVATION OF APPELLATE COMPLAINT. See APPENDIX C, PETITION FOR DISCRETIONARY REVIEW, PAGES, 14,16.

TEXAS RULES APPELLATE PROCEDURE 38.1(i) REQUSITES OF BRIEF:(i) ARGUMENT: The brief must contain a clear and concise argument for the contentions made, with appropriate citations to authorities and to the record. See APPENDIX C, PETITION FOR DISCRETIONARY REVIEW, PAGES,10,12,13.

TEXAS RULES APPELLATE PROCEDURE 44.2(b) REVERSIBLE ERROR IN CRIMINAL CASES. See APPENDIX C, PETITION FOR DISCRETIONARY REVIEW, PAGES,8,9.

TEXAS RULES APPELLATE PROCEDURE 66.3(a)(c)(d)(f) DISCRETIONARY REVIEW IN GENERAL. See APPENDIX C, PETITION FOR DISCRETIONARY REVIEW, PAGES,1,4,5,7,8,10,13,14.

STATEMENT OF THE CASE

Petitioner was indicted on October 29,2015, in Cause No.F49964, for Possession of Controlled Substance under 1 gram(Supp.C.R.1p.17). On December 17, 2015, Petitioner was indicted in Cause No.F50086 for Aggravated Promotion of Prostitution(Supp.C.R.1p.48). On March 31, 2016, Petitioner was re-indicted in Cause No.F50412 for Aggravated Promotion of Prostitution and re-indicted in Cause No.F50413 for Possession of Controlled Substance under 1 gram(Supp.C.R.1,p.94). On May 5,2016, Petitioner was indicted for Forgery in Cause No.F50501(Supp.C.R.1,p149). On March 30, 2017, Petitioner was re-indicted in Cause No.DC-201700234 on Two Counts of Indecency With A Chils By Sexual Contact-Criminal Solicitation of a Minor, One Count of Bail Jumping, One Count of Possession of Controlled Substance under 1 gram(C.R.Vol.1,pp.14-16). The State proceeded to trial on Cause No.DC-201700234, Petitioner plead not guilty to all Counts in the indictment(R.R.Vol.12,pp.6-8.

On October 16, 2018 trial began, Petitioner was found guilty by a jury on all four counts(R.R.Vol.12,pp141-142). The jury then assessed punishment at Life in Texas Department of Criminal Justice on Counts One and Two, Twenty-Five years in Texas department of Criminal Justice on Count Three and Ten years in Texas Department of Criminal Justice on Count Four.(R.R.Vol.13,pp.85-870

Petitioner, gave notice of appeal and Appeal was timely filed . On August 31,2020, Tenth District court of appeals denied Petitioner's Dircet Appeals. Petitioner proceeding Pro-Se filed a motion for extention of time, the Court of Criminal Appeals on October 16, 2020 granted the Petitioners motion for extention of time to file Prtition for Discretionary Review. The Petioner filed the Petition for Discretionary Review timely , the Court of Criminal Appeals of Texas refused the Petition for Discretionary Review on January 13, 2020.

REASONS FOR GRANTING THE PETITION

PURSUANT OF SUPREME COURT RULE 10(a)

Did the Court of Appeals err in failing to base its Opinion on the evidentiary and adjudicated facts in the record i.e. the Trial Court's judgment of conviction for Counts One and Two

The Court of Appeals decision is one of judicial bias and conflicts with other Court of Appeals, Court of Criminal Appeals and United States Court of Appeals, Due Process Clause of the Fourteenth Amendment of the United States Constitution, pursuant of Supreme Court Rule 10(a), Tex.R.App.P.66.3(a)(c)(f), Tex. Code Crim.Porc.Art.42.01§1, Tex.R.App.P.44.2(b).

A. TRIAL COURT'S JUDGMENT OF CONVICTION FOR COUNTS ONE AND TWO

The Tex.Code Crim.Proc.Art.42.01§1 "Judgment" states in section (1)"a judgment is the written declaration of the court signed by the trial court judge and entered of record showing conviction or acquittal of the defendant, the sentence served shall be based on the information contained in the judgment."

Accordingly, Petitioner directs this Honorable Court to the judgment for both Counts One and Two(C.R. Vol.1,pp.219-225). The judgments for both Counts One and Two,[evidence], that the Petitioner was convicted under Texas Penal Code Provision §21.11(a)(1)"Indecency With A Child By Sexual Contact". Although the judgments show the title of the offense to be "Indecency W/Child by Sexual Contact-Criminal Solicitation of a Minor", the actual title under Texas Penal Code Provision §21.11 (a)(1) is "Indecency With A Child By Sexual Contact".

As such this Honorable Court should agree that the Petitioner stands charged and convicted under Texas Penal Code Provision §21.11(a)(1) "Indecency With A Child By Sexual Contact".

The court of appeals in its Judgment issued on August 31,2020, affirmed the Trial Court's judgments for all Four Counts of the indictment. Yet [contrary]to the evidentiary and adjudicative facts contained in the judgments of conviction for both Counts One and Two(C.R. VOL.1, pp.219-225), the court of appeals in its "Memorandum Opinion"

[prejudicially], holds that the Petitioner was and is charged and convicted of "Criminal Solicitation of A Minor", Penal Code Provision §15.031(b), see;(court of appeals Memorandum Opinion,p.1, first sen-ence,p.4,last paragraph,p.6, under title "sufficiency of evidence" p.7 and p.8 at footnote).

The court of appeals conduct is in conflict with both, Court of Criminal Appeals and this Honorable Court's rulings in the past as to the evidentiary weight of the adjudicated facts contained in the trial court's formal judgment. The State Court held in Breazeale v. State, 638 S.W.2d 446,450-51(Tex.Crim.App.1984)"[T]he formal judgment of the trial court carries with it the presumption of regularity and truthful-ness[in the conduct of the jury trial] and such is never to be lightly set aside". See also;Chafin v. State,95 S.W.3d 549;2002 Tex.App.LEXIS 8769 No.03-01-00493-CR Dec.12,2002,filed)"May a trial court accept a jury's verdict at guilt-innocence stage of a trial and then sua sponte reform the verdict at the penalty stage and instruct the jury to punish a different offense?" The answer is no. It has been repeatedly held that the judgment must follow the verdict. Nothing may be added thereto nor taken therefrom." Ex parte Gibson,137 Tex.Crim.72,128 S.W.2d 396,397 (Tex.Crim.App.1939).See also;Collier v. State,999 S.W.2d 779,782(Tex. Crim.App.1999):A court of appeals may reform a judgment of conviction to reflect a lesser-included offense only if (1) The court finds the evidence insufficient to support the conviction of the charged offense but sufficient to support a conviction of the lesser-included offense and (2) either the jury was instructed on the lesser-included offense (at the request of either party or by the trial court sua sponte)or one of the parties asked for but was denied such an instruction,Id.

In the instant case, there was no such request by either party nor an instruction by the trial court.

This Honorable Court should agree, the court of appeals does not possess the authority to [nostra sponte] base its rulings on an off-ense that the Petitioner has niether been charged with nor convicted of e.g that is not suppoted by the recore, i.e the trial court's judgment of conviction.

B. THE JUDGMENT SAYS WHAT IT IS MEANT TO SAY

The United States Supreme Court ruled in, Hill v. Wampler,298 U.S. 460,80 L.Ed. 1283,56 S.Ct. 760(1939): At 464...The only sentence known to the law is the sentence or judgment entered upon the record of the court. Miller v. Aderhold,[288 U.S.206]:[omitted[. If the entry is inaccurate, there is a remedy to correct it to theend that it may speak the truth. Peoples ex parte rel. Trainor v. Baker,89 N.Y.460,466. But the judgment imports verity when collaterally assailed.Ibid. Until it is corrected in a direct proceeding, it says what it is meant to say, and this by an irrebuttable presumption. In any collateral inquiry, a court will close its ears to a suggestion that the sentence entered in the minutes is something other then the authentic expression of the Judge.Id.

In the case at bar, there has been no motion claiming a need to correct the adjudicated facts contained in any part of the record[specifically]the trial court's judgments of conviction for Counts One and Two, accordingly for the court of appeals to [nostra sponte] base its rulings on an offense that the Petitioner has niether been charged with nor convicted of,[begs] the question of the possibility of constitutional violation of due process?

C. JUDICIAL BIAS, CONFLICTS WITH THE COURT AND THE DUE PROCESS CLAUSE

This Honorable Court should agree, the "reviewing court", is required to conduct its reviews under "judicial impartiality" to ensure Fundamental Fairness. The 9th Circuit of Appeals ruled in, Hurles v. Ryan,706 F3d 1021(C.A.9thCir.2013)at 1036:"The Due Process Clause of the Fourteenth Amendment establishes a constitutional floor, not a uniform standard," for judicial bias claim. Bracy v. Gramley,520 U.S. 899,904, 117 S.Ct. 1793,138 L.Ed2d 97(1977)While most claims of judicial bias are resolved "by common law, statute or by professional standard of the bech and bar," the Floor established by the Due Process Clause clearly requires a 'fair trial by a fair tribunal' before a judge with no actual bias against the defendant or interest in the outcome of a particualer case.Id" at 904-05 117 S.Ct. 1793[.] The constitution requires recusal wherte "the probability of actual bias on the part of the Judgge or

decision maker is too high to betolerable." Withrow,421 U.S. at 47,95 S.Ct. 1456. Our inquiry is objective. Caperton v. A.T. Massey Coal Co.,556 U.S. 868,881,129 S.Ct. 2252,173 L.Ed 1208(2009).Continuing at 1037: Hurles need not prove actual bias to established a due process violation, just an intolerable risk of bias.Caperton,556 U.S. at 883-84,129 S.Ct. 2252. Due Process thus mandates a "stingent rule" that may sometimes require recusal of Judges "who have no actual bias and who would do their very best to weigh the scales of Justice equally" if there exist a "probability of unfairness." Merchison,349 U.S. at 136,75 S.Ct. 623,...Non-pecuniary conflicts "that tempt adjudcator to disregard neutrality" also ofends due process. Caperton,556 U.S. at 878,129 S.Ct. 2252. a Judge must withdraw where she acts as part of the accusatory process,Merchison,349 U.S. at 137,75 S.Ct. 623 at 465,91 S.Ct. 499[.]... At 1038:Johnson v. Mississippi,403 U.S. 212,215-16,91 S.Ct. 1778,29 L. Ed.2d 423(1971). Accordingly the judiciary must be both impartial and disinterested as the United States Supreme Court rule in,Marshall v. Jerrico,Inc.,446 U.S. 238,64 L.Ed.2d 182,100 S.Ct. 1610(1980):The Court stated at 1613: The Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases. This requirement of neutrality in adjudication proceedings safegards the two central concerns of procedural due process,the prevention of unjustified or mistaken deprivation and the participation and dialogue by affected individuals in the decision making process.See Carey v. Piphus, 435 U.S. 247,259-262,98 S.Ct. 1042(1978). Theneutrality requirement helps to guarantee that life,liberty, or property will not be taken on the basis of an erroneous or distorted concept of the law. See, Mathew v. Eldridge,424 U.S. 319,344,96 S.Ct. 893,907,47 L.Ed.2d 18(1976). At the same time, it preserves both the appearance and reality of fairness, "generating the feeling, so important to a popular government that justice has been done," Joint Anti-fascist Committee v. McGrath, 341 U.S. 123,172,71 S.Ct. 624,649,96 L.Ed. 817(1951)...,by ensuring that no person will be deprived of his interest in the absence of a proceeding in which he may present his case with the assurance that the arbiter is not predisposed to find against him.

Accordingly this Honorable Court, should agree, the court of appeals rulings and judgment, due to the existance of actual judicial bias, must be vacated and as such the Petitioner, ask this Honorable Court to grant this Writ of Certiorari, pursuant of Supreme Court Rule 10(b) and the United States Constitution, Fourteenth Amendment: Due Process Clause, in the interest of Justice, as to prevent a miscarriage of Justice in this instant case and to ensure a continued upholding of our great protections afforded to the citizans of the United States of America of our United States Constitution.

PURSUANT OF SUPREME COURT RULE 10(b)

Did the court of appeals err in ruling, the trial court had personal jurisdiction over Petitioner and subject-matter pursuant to Penal Code Procision Section 21.11(a)(1) "Indecency With A Child By Sexual Contact" i.e. the offense the Petitioner was charged and convicted of in Counts One and Two

The court of appeals decision conflicts with other court of appeals, Court of Criminal Appeals of Texas, United States Court of Appeals, United States Constitution, Fourteenth Amendment: Due Process Clause, Texas Constitution Article V. §12(b), pursuant of Supreme Court Rule 10 (b), Tex.R.App.P. 66.3(a)(c)(d)(f), Tex.Code Crim.Proc.Art.36.11, Tex. Penal Code Prov.§21.11(a)(1).

A. IMPLICIT WITH CASE LAW IS THAT "THE OFFENSE" CHARGED MUST BE ONE FOR WHICH THE TRIAL COURT HAS SUBJECT-MATTER JURISDICTION

The Petitioner, shows this Homorable Court, the court of appeals was erroneous in misplacing prior rulings of the Court of Criminal Appeals of Texas, in trying to justify its ruling on Issue One of the Petitioner's Direct Appeal Brief.

In the case at bar, the court of appeals has taken the Authorities that the High Court of Texas Appeals and this Honorable Court has set as guilding principles to protect the accused from unfairness, i.e constitutional violations e.g. due process violations and has[brashly]used them to try to justify the trial court's abuse of discretion in violating the Petitioner's constitutional rights. This Honorable Court should agree this cannot be considered as[constitutionaally]practicable and must not be accepted as such.

The Petitioner, points this Honorable Court to the court of appeals "Memorandum Opinion"(p.3) the court cited,Teal v. State,230 S.W.3d 172, 178-180(Tex.Crim.App.2007)"a defendant challenge for the first time on appeal an instrument that fails to charge the commission of an offense or does not charge a person with the crime."

Accordingly, the Petitioner points this Honorable Court to the indictment in this instant case. The indictment reads as follows for Counts One and Two: title of the offense is "Indecency With A Child By Sexual Contact-Criminal Solicitation of A Minor".

First, the Petitioner shows this Honorable Court, the offense title is actually [Two] different offenses combined as [One]. The First part is an offense found under Texas Penal Code Provision §21.11(a)(1), "Indecency With A Child By Sexual Contact". The second part is an offense title is found under Texas Penal Code Provision §15.031(b), "Criminal Solicitation of A Minor".

The allegation reads in Count One as follows:

> "hereinafter styled Defendant, on or about September 2,2015 and before the presentment of this indictment in the County and State aforsaid, did and there: With intent that the offense of indecency with a child by sexual contact be committed, request,command, or attempt to induce a minor or an individual whom the defendant believed to be younger than 17years of age namely Cora Gray, to engage in spacific conduct, to wit "the touching of the anus,breats, or any other part of the genitals of a child younger than 17tears of age with intent to arouse or gratify the sexual desire of any person, that under the circumstances surounding the conduct of said defendant as the defendant believed them to be would constitute the offense of indecency with a child by sexual contact."" Count Two reads the same with the exception that the intended victims name is Kimberly Bustos.(C.R,Vol.1,pp.14-16)

As such, the Petitioner stands convicted, under Texas Penal Code Provision §21.11(a)(1), which is defined as follows:

> Indecency With A Child By Sexual Contact: (a)"A person commits an offense if, with a child younger than 17 years of age whether the child is the same sex and regardless of whether the person knows the age of the child at the time of the offense, the person (1)Engages in sexcual contact with the child or causes the child to engage in sexual contact."

This is not a prepartory act,as set out in the indictment when the indiement used the treminology of "with the intent" to commit the crime but is a crime of indulging in the spacific act of "sexual contact".

For the indictment to vest the trial court with jurisdiction over the Petitioner and subject-matter of the offense in Counts One and Two, the indictment must allege the Petitioner "[knowingly and intentionally]" "[engaged]" in "[sexual contact]" "[with a child younger than 17]", accordingly the indictment does not allege any of these required [elments], there is not even a child in this case at bar.

The indictment in referance to Counts One and Two, does not allege that the Petitioner committed a crime pursuant to Texas Penal Code Provision §21.11(a)(1),[the]the offense the Petitioner stands convicted of in Counts One and Two, therefore the trial court did not have jurisdiction over the Petitioner or subject-matter of the offenses in Counts One and Two.

Although the Petitioner filed a "Motion to Quash"[timely], and adequately plead the defects in the indictment in regards to Counts One and Two(C.R. Vol.1,pp.116-128), the trial court denied the motion without giving any reason and without letting the Petitioner make his argument as to the defects in the indictment(R.R.Vol.11,p.4).

Accordingly the Petitioner challenged the trial court's jurisdiction over Petitioner and the subject-matter for Counts One and Two.

According to the record i.e., the trial court's "judgment of conviction " for Counts One and Two, the Petitioner was charged and convicted under Penal Code Provision §21.11(a)(1). As such the Petitioner shows this Honorable Court at page 4 of his Direct Appeal Brief, beginning at the last paragraph: the Appellant argues, "The trial court had no personal jurisdiction over Appellant or subject-matter with regards to Counts One and Two of the indicment. When the trial court lacks jurisdiction for any reason, the judgment is rendered void.State v. Olsen, 360 S.W.2d 398(Tex.1962),A void judgment is a nullity and can be attacked at any time.;Nix v. State,65 S.W.3d 664(Tex.Crim.App.2001)". Following, the court of appeals in its Opinion at(p.3,starting at line 6,citing Teal):"Teal,230 S.W.3d at 179,"A charging instrument must allege that(1)a person(2)committed an offense", the court of appeals continuing, "see also Tex.Const.Art.V.§12(b)(defining "Indictment"

and "information" as written instrument preseted to the court "charging a person with the commission of an offense"".

The court of appeals was [brash] to say the least, when the court of appeals assertd "it gives deference to the trial court", see court of appeals "Memorandum Opinion"(p.3, second paragraph), e.g., to give deference to the trial court,[does not mean you "cover your eyes"]and let the trial court get away with violating the Petitioner's constitutional rights.

This simplly is a [trite] statement by the court of appeals, when the only place in the record the court of appeals could find the trial court's inference of its assessment as to what offense statute the Pettioner is charged with and convicted under for Counts One and Two, is where the trial court inferred the jury's verdict for Counts One and Two in the trial court's judgment of conviction; see,(C.R.Vol.1,pp.219-225).

This Honorable Court should agree, although the court of appeals gives deference to the trial court's assessment of Counts One and Two, the court of appeals, in following th erequired guilding principles, should have granted Issue One, due to the trial court's lack of personal jurisdiction over the Petitioner and subject-matter in regards to Counts One and Two.

Furthermore, the court of appeals [ran] past a very [Fundamental Principle], that the High Court of Appeals of Texas held to in,Teal v. State,230 S.W.3d 172,2007,Tex.App.LEXIS 316(Tex.Crim.App.Mar.7.no pet.) "Implicit within case law is that "the offense" charged must be one for which the trial court has subject-matter jurisdiction and although the "indictment" provision of the constitution explicitly speaks only of the two requirements of "a person" and "anb offense" the constitution also sets out the subject-matter of the Texas Courts and an indictment must also satisfy the constitution requirement of the subject-matter jurisdiction over "an offense".Id.

This Honorable Court, should agree, for the court of appeals to ignor the High Court of Texas holding on the part of the Teal Court, is to remove the very [cornerstone] of Teal, that the court of appeals should have relied upon to grant the Petitioner's Issue One of his Direct Appeal.

See also;Chafin v. State,95 S.W.3d 549,Tex.Crim.App.LEXIS 8769 No.03-01-00493-CR, December 12,2002,filed) at 553:RE;Procedure-Count 1 "In light of Appellant's contentions that he was improperly charged and convicted of conduct that was not a crime"."To convict someone of a crime on the basis of conduct that does not constitute the crime offends the basis notion of Justice and Fair play embodied in the United States Constitution." United States v. Briggs,939 F2d 222-228(5thCir. 1991);see also,United States v. Daniels,12 F.Supp.2d 573 J68 573(N.D. Tex.1998). Chafin,95 S.W.3d 549, at 555:there are several reasons why the trial court's earlier action was inappropriate in view of the undisputed proof at trial that the conduct alleged in Count 1 actually occured in 1996 when the conduct was not criminalized. The court had no personal jurisdiction over the Appellant or subject-matter in regards to COunt 1 when the trial court lacks jurisdiction for any reason the judgment is rendered void; moreover, the Code of Criminal Procedure provides the procedure for the trial court. Article 36.11 provides in pertinent part "if it appearsduring trial that the trial court has no jurisdiction of the offense or that the facts charged in the indictment do not constitute an offense the jury must be discharged." Tex.Code Crim.Proc.ann Art.36.11(west1981).

This Court should agree, the court of appeals has no such reformatory [power] in regards to reforming the Penal Code Provision under which the Petitioner has been convicted and as such, this Honorable Court should agree,the court of appeals actions were egregious.

Accordingly this Honorable Court, should agree, the court of appeals rulings in reference to Issue One of Petitioner's Direct Appeal, were prejudicial and as such , Petitioner, ask this Honorable Court to grant this Writ of Certiorari, pursuant of Supreme Court Rule 10(b) and the United States Constitution, Fourteenth Amendment: Due Process Clause, in the interest of Justice, as to prevent a miscarriage of Justice in this instant case and to ensure a continued upholding of our great protections afforded to the citizans of the United States of America of our United States Constitution.

PURSUANT TO SUPREME COURT RULE10(b)

Did the court of appeals err in ruling the Motion to Quash and the argument raised in Issue Four,are not the same Issue

The court of appeals decision conflicts with other court of appeals, Court of Criminal Appeals of Texas, United States Court of Appeals, United States Constitution, Fourteenth Amendment: Due Process Clause, pursuant of Supreme Court Rule 10(b), Tex.R.App.P. 66.3(a)(c)(d)(f), Tex.Code Crim.Proc.Art.21.03, Tex.Code Crim.Proc.21.11, Tex.Penal Code Prov.§21.11(a)(1).

A. THE ARGUMENTS IN THE PETITIONER'S MOTION TO QUASH AND ISSUE FOUR AS BRIEFED,ARE THE SAME, AS PERTAINING TO THE ISSUE OF RIGHT TO NOTICE

The Petitioner shows this Honorable Court, the court of appeals error in it use of,Smith v. State,309 S.W.3d 10,16,18(Tex.Crim.App. 2010)("court of appeals mischaracterizes defendant's complaint as a "notice problem" when defendant complained the charging instrument failed to describe an element of the offense.")Id.see;(court of appeals Memorandum Opinion,p.5,footnote).

The Petitioner shows this Honorable Court, in his "Motion to Quash" (C.R.Vol.1,p.122, starting at line 12)"Furthermore the indictment is insufficient due to the fact it does not charge the commission of an offense in ordinary and concise language so as to enable a person of common understanding to know what is meant and with the degree of certainty that will give the defendant notice of what particualar offense charged pursuant to(Texas Code Criminal Procedure Article 21.11)" see also,(Petitioner's Direct Appeal Brief, p.23, starting at line 5)"as stated in the Motion to Quash, "the States accusatory pleading does not state the defendant engaged in any kind of spacific conduct namely "sexual contact" by touching a child or any person..."(C.R.Vol.1,p.122)

Thus Petitioner shows this Honorable Court,(supra) the "spacific conduct" namely "sexual contact", although , yes it is an element of the offense, Petitioner points out [more importantly] in order for the offense of "Indecency With A Child By Sexual Contact" to be committed i.e. "the commission of the offense", there must be a showing in the charging instrument of "sexual contact", i.e "spacific conduct".

Accordingly, the High Court of Texas held in,Moff v. State,154 S.W. 3d 599;2204 Tex.Crim.App.LEXIS 1648 No.458-03 October 6,2004 Delivered) At 601...In addition, the Texas Code of Criminal Procedure provides guildlines relating to the sufficiency of an indictment.See e.g. Article 21.03("Everything should be stated in an indictment which is to be proved."). The Court in,Moff, was dealing with the question of a "notice problem", and as such this Honorable Court should agree, the court of appealsin its Opinion is [mistaken], therefore making the court of appeals rulings erroneous.

This Honorable Court should agree, the Petitioner in Issue Four of his Direct appeal, argues, the trial court abused of discretion, in failing to grant the Petitioner's Motion to Quash or to atleast compel the State to meet the Petitioner's substantial right to "notice", see Moff,154 S.W.3d, at 602:"Because fundamental constitutional protections are involved, if the defendant files a timely motion stating that the indictment does not provide adequate notice, there are some circumstances in which the trial court may require more information." "In Drumm, the appellant filed a motion to quash, stating that the information failed to give sufficient notice. The trial court overruled the motion. We reversed the judgment and stated:"Because of the fundamental notion of fairness that requires notice of the nature of the charges against the accused in our system of justice a timely claim of inadequate notice requires careful consideration...When the defendant petitions for sufficient notice of the States charges by motion to quash adequately setting out the manner in which notice is deficient the presumption of innocence coupled with his right to notice requires that he be given such notice.Drumm v. State,560 S.W.2d 944 at 946-47. Thus the accused has the right to notice that is spacific enough to allow him to investigate the allegations against him and establish a defense.

B. HARMLESS ERROR ANALYSIS, PURSUANT TO,TEX.R.APP.P.44.2(b), NO BURDEN ON EITHER PARTY

The court of appeals was required to conduct a harmless error analysis,pursuant to,Tex,R,app.P.44.2(b), but failed to do so, instead [shifting] the focus onto the Petitioner. Essentially, saying the Pet-

Petitioner failed tp prove the argument made in his motion to quash in Issue Four, because of some kind of mistaken idenity[flaw], see court of appeals Opinion(p.5.footnote).

In doing so the court of appeals puts a burden of proof on the Pettioner, as to the trial court's error.

The High Court of Appeals of Texas, in holding to this Honorable Courts "Standard of Review", pertaining to , harmless error, makes it very clear how the court of appeals are to conduct their reviews when it comes to harmless error analysis. In,Johnson v. State,43 S.W.3d 1; 2001 Tex.Crim.App.LEXIS 23 No.1353-99 March 28,2001 Delivered) At 4... The appropriate standard of harm is to disregard an error unless a substantial right has been effected.Tex.R.App.P.44.2(b).Id. Petitioner shows this Honorable Court, Johnson, in his Petition For Discretionary Review, argued the court of appeals was erroneous in putting a burden of proof on the Appellant. Johnson,43 S.W.3d at 4..."We agree with the Appellant that no burden to show harm should be placed on the defendant who appeals. In Ovalle v. State13 S.W.3d 774(Tex.Crim.App.2000),we explained "no party should have the burden to prove 'actual' harm.""at 787.

Accordingly this Honorable Court, should agree, the court of appeals rulings in reference to Issue Four of Petitioner's Direct Appeals, were prejudicial and as such, Petitioner, ask this Honorable Court to grant this Writ of Certiorari, pursuant of Supreme Court Rule 10(b) and the United States Constitution, Fourteenth Amendment: Due Process Clause, in the interest of Justice, as to prevent a miscarriage of Justice in this instant case and to ensure a continued upholding of our great protections afforded to the citizans of the United States of America of ourUnited States Constitution.

PURSUANT TO SUPREME COURT RULE 10(b)

Did the court of appeals err, by relying on Tex. R.App.P.38.1(i),ruling Issue Two and Three are inadequately briefed and present nothing to review because Petitioner failed to point to any element the State was required to prove as being insufficiently supported by the evidence

A. EVIDENCE INSUFFICIENT TO SUPPORT CONVICTION UNDER TEXAS PENAL CODE §21.11(a)(1)"INDECENCY WITH A CHILD BY SEXUAL CONTACT"

The court of appeals decision conflicts with other court of appeals, Court of Criminal Appeals of Texas, United States Court of Appeals, United States Constitution, Fourteenth Amendment: Due Process Clause, pursuant of Supreme Court Rule 10(b), Tex.R.App.Proc. 66.3(a)(c)(d)(f), Tex.Code Crim.Proc.ARt.42.01§1, Tex.Penal Code Prov.§21.11(a)(1).

In the court of appeals "Memorandum Opinion", concerning the Petitioner's argument in Issue Two and Three "sufficiency of evidence", the Petitioner directs this Honorable Court to the court of appeals Opinion at(p.6, starting at line 7):The court erroneously states "Minze complains the evidence is insufficient to support his conviction for criminal Solicitation of a Minor(Counts One and Two,").

The Petitioner, wishes to make it very clear for the record and to this Honorable Court, never at any time in any part of the Petitioer's Direct Appeal Brief does the Petitioner claim nor agree that he has been charged with nor convicted of "Criminal Solicitation of a Minor", this is an essertion made by the court of appeals that is neither supported by neither the record or the Petitioner's Direct Appeal brief.

The Petiotioner was charged and convicted in Counts One and Two, under Texas Penal Code Provision §21.11(a)(1)"Indecency With A Child By Sexual Contact".See;(C.R.Vol.1.pp.219-225)(trial court's judgment of conviction, Counts One and Two).

Accordingly, the Petitioner's argument in Issue Two and Three are, the evidence is insufficient to support the convictions for Counts One and Two, under Penal Code Provision §21.11(a)(1).

It is obvious the court of appeals ignored the evidence in the record, i.e. the trial court's judgment of conviction, see;(C.R.Vol.1.pp. 219-225). In doing so the court of appeals, went against the High Court of Texas ruling in, Breazeale v. State,638 S.W.2d 446,450-51(Tex.Crim. App.1984);"[t]he formal judgment of the trial court's carries with it the presumption of regularity and truthfulness [in the conduct of a jury trial]and as such is never to be lightly set aside.

B. STANDARD OF REVIEW

The Petitioner, points this Honorable Court to a holding that could be said to be the "Golden Rules" for all Court of Appeals whether it be state or federal .

The court of appeals decision conflicts with other court of appeals, Court of Criminal Appeals of Texas, United States Court of Appeals, United States Constitution, Fourteenth Amendment: Due Process Clause, pursuant of Supreme Court Rule 10(b), Tex.R.App.Proc. 66.3(a)(c)(d)(f), Tex.Code Crim.Proc.ARt.42.01§1, Tex.Penal Code Prov.§21.11(a)(1).

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B. STANDARD OF REVIEW

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The Court of Criminal Appeals of Texas makes it very clear when it held in ,Blankenship v. State,780 S.W.2d 198 Tex.Crim.App.1998)(op.on reh'g)"We are not to sit as a thirteenth juror reviewing evidence or deciding whether we believe the evidence establishes the element in contention beyond a reasonable doubt:rather we are to ask whether the trier of fact, acting rationally, could have found the evidence sufficient to establish the element beyond a reasonable doubt....".

This Honorable Court should agree, in the case at bar, the Petitioner is convicted under Texas Penal Code Provision §21.11(a)(1)"Indecencey With A Child By Sexual Contact".

In the court of appeals Opinion at(p.6, under the title "standard review" at line 22), the court of appeals states, "we may not re-weigh the evidence or substitute our judgment for that of the fact finder. Williams v. State,235 S.W.3d 742,750(Tex,Crim. App.2007). [Yet] this is [precisely] what the court of appeals has done it its review. See the court of appeals Opinion(p.8, lines 2-4)"Minze was not charged with nor convicted of indecency with a child. He was charged with criminal solicitation of a minor under penal code provision §15.031(b)." This assertion is [trite] to say the least, it it [not supported by the record. The court of appeals continues laying out the standard it is [supposedly] following, see Opinion at(p.7, lines 15-17);"we measure whether the evidence presented at trial was sufficient to support a conviction by comparing it to "the elements of the offense" as defined by a Hypthetically correct jury charge for the case." Malik v. State, 953 S.W.2d 234,240(Tex.Crim.App.1997). The court of appeals fall short here as well, in that,Malik, at 239,40, the High Court of Texas held: "No longer shall sufficiently of evidence be measured by the jury charge actually given.[M]easuring sufficiency by the indictment is an inadequate substitute because some important issues related to sufficiency—e.g. the Law of parties and the Law of transferred intent—are not contained in the indictment. [S]ufficiency of evidence should be measured by the elements of the case. Such a charge would be one that set out the law, is authorized by the indictment, does not necassarily increase the states burden of proff or unnecassarily restricts the states liability and adequately describes the particualar offense for which the defendant was tried...[t]he standard we formulte today ensures that

a judgment of acquittal is reserved for those situations in which there is an actual failure in the states proof of the crime rather than a mere error in the jury charge submitted.Id.

This Honorable Court should agree, the court of appeals, failed to follow guilding principles in its attempt t conduct its "standard review".

C. PROPERLY BRIEFING THE ISSUE SO THAT THE COURT CAN CONDUCT A PROPER REVIEW ACCORDING TO THE APPROPRIATE AUTHORITIES AND TO THE RECORD PURSUANT TO TEX.R.APP.P.38.1(i)

This Honorable Court, after reviewing Issues Two and Three as briefed, see Petitioner's brief(pp.7-8), should agree the Petitioner, concisely, precisely and adequately, set out the standard of review the reviewing court is supposed to adhere to and gives the appropriate Authorities and citations; following at(p.9) the Petitioner lays out the date the Petitioner was indicted , states the state failed to meet the burden of proof by failing o sufficiently establish the forbidden act of "sexual Contact", the Petitioner repeats the same for Issue Three, see(pp.12-18).

Accordingly this Honorable Court should agree, the court of appeals rulings on Issues Two and Three, are erroneous in not following the standard of review and were prejudicial and as such Petitioner ask this Honorable Court to grant this Writ of Certiorari, pursuant of Supemem Court Rule 10(b) and the United States Constitution, Fourteenth Amendment: Due Process Clause, in the interest of Justice, as to prevent a miscarriage of Justice in this instant case and to ensure a continued upholding of our great protections afforded to the citizans of the United States of America of our United States Constitution.

PURSUANT OF SUPREME COURT RULE 10(b)

Did the court of appeals err in ruling,the Petitioner failed to provide Authority to support his argument and the Issue is improperly briefed and presents nothing for review pursuant to Tex.R.App.P.38.1(i)

A. THE SIXTH AMENDMENT DOES NOT PERMIT THE PROSECUTION TO PROVE ITS CASE VIA EX PARTE OUT-OF-COURT AFFIDAVITS

a judgment of acquittal is reserved for those situations in which there is an actual failure in the states proof of the crime rather than a mere error in the jury charge submitted.Id.

This Honorable Court should agree, the court of appeals, failed to follow guilding principles in its attempt t conduct its "standard of review".

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Accordingly this Honorable Court should agree, the court of appeals rulings on Issues Two and Three, are erroneous in not following the standard of review and were prejudicial and as such Petitioner ask this Honorable Court to grant this Writ of Certiorari, pursuant of Supemem Court Rule 10(b) and the United States Constitution, Fourteenth Amendment: Due Process Clause, in the interest of Justice, as to prevent a miscarriage of Justice in this instant case and to ensure a continued upholding of our great protections afforded to the citizans of the United States of America of our United States Constitution.

PURSUANT OF SUPREME COURT RULE 10(b)

Did the court of appeals err in ruling,the Petitioner failed to provide Authority to support his argument and the Issue is improperly briefed and presents nothing for review pursuant to Tex.R.App.P.38.1(i)

A. THE SIXTH AMENDMENT DOES NOT PERMIT THE PROSECUTION TO PROVE ITS CASE VIA EX PARTE OUT-OF-COURT AFFIDAVITS

The court of appeals decision conflicts with other court of appeals, ~~Court of Criminal Appeals of Texas, United States Court of Appeals,~~ United States Constitution, Sixth Amendment and Fourteenth Amendment: Due Process Clause, pursuant of Supreme Court Rule 10(b),Tex.R.App.P. 66.3(a), Tex.R.App.P.38.1(i).

The court of appeals, was erroneous in its ruling, that Petitioner failed to provide Authority to support his argument and the Issue is improperly briefed and presents nothing for review, pursuant to Tex.R. App.P.38.1(i), see court of appeals Opinion(p.9).

The Petitioner, points this Honorable Court to the Petitioner's brief(p.30, last paragraph)"during Bartlett's testimony, the baggie from the hat was admitted and discusion of the presumptive test was had. However, no lab analysist was called to testify, and no,continuing at (31) lab results were admitted proving the substance was methamphetamine, Barlett's "assumption" that the substance was methamphetamine amounted to the admission of a lad certificate. It is clear in,Melendez-Diaz v. Massachusetts,537 U.S. 305,129 S.Ct. 2527(2008)that admitting lab results without proper witness is aviolation of Crawford v. Washington,541 U.S. 36,124 S.Ct. 1354(2004) and in violation of the Sixth Amendment of the United States Constitution." In Malendez-Diaz at 2532. .."The document at issue here while denominated by Massachusetts law "certificates" are quite plainly affidavits[.]...They are incontrovertibly a "solmn declaration or affirmation made for the purpose of establishing or proving some fact." Crawford,124 S.Ct. 1354, at 51. In short under our decision in Crawford the analisist' affidavits were testimonial statements and the analysist' were witness" for purpose of the Sixth Amendment. Absent a showing that the analists were unavailable to testify at trial and that petitioner had a prior opportunity to cross-examine them, petitioer was entitled to be confronted with" the analysist at trial).Crawford,124 S.Ct. 1354, at 54. continuing at 2542...The Sixth Amendment does not permit the prosecution to prove its case via ex parte out-of-court affidavits, and the admission of such evidence against Melendez-Diaz was error. We therefore reverse appeal court and remand the case for further proceedings not inconsistant with this Opinion.

Accordingly, the Petitioner shows this Honorable Court, the State relied upon a certificate as evidence to prove its case without the analysts testimony, and as such, the court of appeals rulings on Issue Five was erroneous and prejudicial to the Petitioner and as such the Petitioner ask this Honorable Court to grant this Writ of Certiorari, pursuant of Supreme Court Rule 10(b),and the United States Constitution, Sixth and Fourteenth Amendments: Due Process Clause, in the interest of Justice, as to provent a miscarriage of Justice in this instand case and to ensure a continued upholding of our great protections afforded to the citizans of the United States of America of our United States Constitution.

PURSUANT OF SUPREME COURT RULE10(b)

Did the court of appeals err in ruling, Petitioner failed to preserve Petitioner's claim of prosecutorial vindictiveness,by failing to comply with Tex.R.App.P.33.1(a)

A. THE CLAIM OF PROSECUTORIAL VINDICTIVENESS WAS TIMELY AND SPACIFICALLY BROUGHT TO THE TRIAL COURT'S ATTENTION PURSUANT TO TEX.R.APP.P.33.1(a)

The court of appeals decision conflicts with other court of apppeals, Court of Appeals of Texas, United States Court of Appeals, United States Constitution, Fourteenth Amendment: Due Process Clause, pursuant of Supreme Court Rule 10(b),Tex.R.App.P. 66.3(a)(c)(f), Tex.R.App.P.33.1(a)

The court of appeals erroneously ruled, that the Petitioner failed to preserve his prosecutorial vindictiveness claim, because Petitioner failed to bring the claim to the attention of the trial court, pursuant to Tex.R.App.p.33.1(a),see court of appealsOpinion(p.10, lines, 4-5) "Minze did not bring this claim to the trial court's attention and thus did not preserve this complaint for review."

The Petitioner, points this Honorable Court to Petitioner's pre-trial "Motion to Dismiss, that was timely filed(C.R.Vol.1,pp.40-52). In the motion to dismiss, the Petitioner is very persistant in showing the misconduct of the state. See "motion to Dismiss"(C.R.Vol.!,pp.45-53) also at(C.R.Vol1,P.45)Petitioner cites,Bordenkercher v. Hays,434 U.S. 357, this is this Honorable Court's precedent for pre-trial prosecutorial vindictiveness.

The Petitioner shows this Honorable Court, next at the pre-trial hearing for the "Motion to Dismiss", the trial court abused its discretion, when it refused to hear the motion, by stating, "Now, your motion to dismiss, I'm going to reset that for another day because there really is no motion to dismiss."(R.R.Vol.4,pp44,lines 23-25);continuing the Petitioner shows, the trial court then stated,"I'll go ahead and read it again carefully since it is quite lengthy and then I'll--we'll set a hearing in the next week or so to reconvene and hear this motion to dismiss or whatever you want to call it before-- you shouldn't call it that see(R.R.Vol.4,p.45,lines 4-8).

This obviously is an abuse of discretion by the trial court, due to the fact that the Tex.Code of Criminal Procedure Article 28.01§2,states "A Motion to Dismiss must be presented to the trial court prior to trial.

Due to this fact the trial court should have heard the motion to dismiss.

The Petitioner filed a "Motion To Disqualify The Disrect Attorney", see(C.R.Vol.1,pp.90-110), in this motion the Petitioner, extensively pleads the claim of prosecutorial vindictiveness.

The Petitioner, lastly points this Honorable Court to the pre-trial hearing , for the "Motion t Disqualify the District Attorney",See(R.R. Vol.9,p.35, lines 2-19)starting at line 2:Defendant,"Basically that was where Dale Hanna threatened me on Febuary 2nd,2017 again to indict on the bond jumping and then on Febuary-- on April on that same--on Febuary 2nd they said they would be ready to go to trial and we set a trial date for May 1st then on April 24th they came back and that is where put the --reindicted me and that is where they came up with this indecency with a child by sexual contact when they gave notice on the record they said they were filing a bond jumping indictment charge or going to be indicting me on bond jumping they never mentioned anything about the charge from Aggravated Promation of Prostitution to indecency with a child by sexual contact when they did that from what I have read and from looking into some of the law it seems to me like that was prosecutorial vindictiveness for not taking a plea bargan and overreaching on the charges that is why I brought that up.

This Honorable Court, should agree, after reviewing what the Petitionerhas shown [supra] the court of appeals in citing, Neal v. State, 150 S.W.3d 169,175(Tex.Crim.App.2004)the court ruled(defendant forfeited prosecutorial vindictiveness claim by failing to comply with Tex.R. App.P.33.1(a)." In **Neal**, the court found that neal's vindictiveness claim was (1)not timely(2)not spacific and(3) not ruled on by the trial court.Id. at 175-79.

Accordingly this Honorable Court, should agree the Petitioner was (1)timely in bringing it to the attention of the trial court(2) was spacific(3)the trial court denied both the motions the Petitioner filed in trying to bring the claim to the attention of the trial court, to show actual Prosecutorial Vindictiveness.

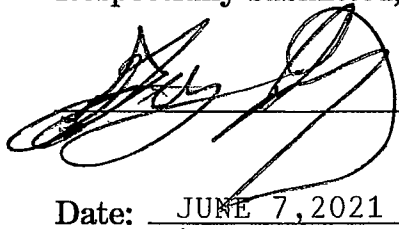
Accordingly this Honorable Court, should agree the court of appeals was erroneous in ruling the Petitioner failed to bring his claim to the attention of the trial court's and as such the court of appeals rulings were prejudicial to the Petitioner and as such the Petitioner ask this Honorable Court to grant this Writ of Certiorari, pursuant of Supreme Court Rule 10(b), and the UNited States Constitution, Fourteenth Amendment: Due Process Clause, in the interest of Justice, as to prevent a miscarriage of Justice in this instant case and to ensure a continued upholding of our great protections afforded to the citizans of the United States of America of our United States Constitution.

Furthermore, this Honorable Court should grant this Writ of Certiorari, ~~becuase of Country is founder~~ on the Word of God, which is in all [Truth],[Righteousness] and [Justice]. See; PROVERBS:11:1, Dishonest scales are an abomination to the Lord, But a just weight is His Delight. See also;HEBREWS:13:3, "Remember the prisoners as if chained with them-those who are mistreated-since you yourselves are in the body. I believe our Founding Fathers had both these scriptures in mind when they were structuring our Constitution, especially the Fourteenth Amendment.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: JUNE 7,2021