ORIGINAL

21-5797

No. 21-30098

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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QUESTIONS PRESENTED

Does the presumption of innocence and due process mean that if a judge will not read what a defendant in a criminal case submits to the court, or if the prosecution admits the Defendant 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?

How many times does a defendant 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?

Does the U.S. Constitution allow a defendant in a criminal case can be subject to an infinite excessive amount in fines without court order, be denied an hearing or any due process or private property taken be taken for public use without just compensation?

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

Since USA breached the plea contract and refuses to remedy the breach that the Defendant may rescind the contract and withdraw the guilty plea?

Since when can the court make up any standard it wants to commit a crime against a person or make such a law against 1 person contrary to Supreme Law?

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

Is there anything that makes a plea involuntary?

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 attempt or commit a crime, a tort, conspire or lie against an American?

USA v Verkler 21-30098

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:

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

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

The opinion of the United States court of appeals appears at Appendix B 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 United States district court appears at Appendix A to the petition and is

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[ ] is unpublished.

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

The opinion of the highest state court to review the merits 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 _____ 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.

JURISDICTION

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

The date on which the United States Court of Appeals decided my case was 05/19/21 06/10/21

[ ] No petition for rehearing was timely filed in my case.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 6/6/21, and a copy of the order denying rehearing appears at No ruling before "mandate"

[ ] 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).

STATEMENT OF THE CASE

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

1) US agents brutally beat up and gang raped Mr. Verkler's fiancée during the xmas holiday of 1995 (Exhibit P p6,10,143-4,150,158) violating the Preamble, beginning attacks by USA.

2) on 7/12/12 a member of the government **attempted** to **murder** Mr. Verkler (Exhibits: P p143-4,151,159, AW) in violation of the Preamble and RCW 9A;

3) USA and the courts repeatedly engaged in a scheme or artifice to defraud for obtaining money or property by means of false or fraudulent pretenses, representations, to deny Mr. Verkler credit for amounts collected in violation of the Preamble, Fifth Amendment, 15 USC 875, 1692d, 1692e, 1692g, 1692h, 18 USC 1341, 1346, 42 USC 2000h-1, FRCrP 2.

4) the prosecution of Mr. Verkler was because when FBI Director Robert Mueller tried to **extort** money from Mr. Verkler in violation of the Preamble, 18 USC 872, 876(b)(c) Mr. Verkler refused to pay. And in this case his threats are carried out (Exhibits: P p10,85,134,143-4,149-50, Q p14, V) in violation of 18 USC 875, 1959, FRCrP 2;

5) 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). The courts violate FRCrP 2 with their unjust decisions;

6) **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). The courts violate FRCrP 2 with their decisions;

7) on **Oct. '14 Mr. Verkler was the victim of armed robbery and kidnapping**, in violation of the Preamble, 4th Amendment, 18 USC 1959, FRCP2, 4 and RCW 9A.40 and 9A.50 based on unfiled counterfeit: complaint, counterfeit warrants with forged signatures of a former

judge and no marshal (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, 1341, 1346, 1349, 1361, 1506, 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). There was not a proper search and seizure and inventory per FRCP41. FRCrP3 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);

8) **Mr. Verkler was not brought before a judge** on a counterfeit 10/14/14 complaint and counterfeit warrants in violation of FRCP 5 and 18 USC 1506. **Failure to provide a transcript** is grounds for reversal of a conviction. 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 Gregory Charles Link denied the existence of the 10/14/14 complaint in his 2/11/16 filing p 1 (Exhibit AY). Coughenour denied that there was such a complaint (which means the docket never got started and never existed)]. Mr. Verkler was denied bail in violation of the 8th Amendment and 18 USC 3041, 3142;

9) 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) Defendant's attorney violated 18 USC 3006A;

10) 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. The information and plea agreement only states there would be forfeiture of $14,652.55 seized from Mr. Verkler not that that was all the currency seized;

11) **USA refused to provide all required discovery per FRCP 16 and no judge would order it.**

12) **No defense lawyer would interview any witnesses.** violating 18 USC 3006A(d)(4)(B);

13) Mr. Verkler filed Habeas Corpus on 1/16/15 after being illegally incarcerated over 90 days violating 18 USC 3164 (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) that prohibits prosecution, US v Clymer, 831-833; US v Miller, 194, 198, 199; Commonwealth v Cronk, 198, 210 the court stole the record in violation of 18 USC 1506, 2071];

14) On 2/3/15 USA made a second Motion to Dismiss. On 2/3/15 multiple official representatives of USA also made a written legally binding stipulation to the District court that before 1/8/15 USA made accusations that Mr. Verkler committed crimes without any basis for the accusations 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, US v Marion, 320;

15) the 2/4/15 **complaint contained 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) and was not made under oath but Coughenour illegally allowed prosecution of Mr. Verkler to proceed in violation of FRCrP 3 (Exhibit: G);

16) FRCP 4, 41 were violated by the court, there was not an arrest warrant nor an arrest in February, the court allowed USA to continue to keep Mr. Verkler imprisoned even after Mr. Verkler won his case several times (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). **Violating Rule 4 means the judge did not establish that Mr. Verkler was charged with a felony;**

17) 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 him and actively worked against him. 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. (In the Detention Center **Mr. Verkler was told that if he paid $2,500 that he could get his case dismissed.)**

18) the 2/10/15 **detention order is false** violating 18 USC 1506, 3006A (Exhibit P p145, Q);

19) 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). (After Mr. Verkler included that it was filed that day in the Background of filings made on 4/22/15, 8/11/15, 8/25/15 and 2/19/16. These filings confirm the filing of the motion to suppress with no claim by USA or the court that it was not filed. 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** that prohibits prosecution, US v Clymer, 831-833; US v Miller, 194, 198, 199; Commonwealth v Cronk, 198, the court stole those records in violation of 18 USC 1506, 18 USC 2071];

20) the false docket claims joint motion to continue by USA on 2/18/15 violating 18 USC 1506 and 18 USC 3006A, but **Mr. Verkler never agreed to any continuance.** It is ridiculous to make such a claim after Mr. Verkler filed an habeas corpus and he could not lose.

21) Even though Verkler won his case 5 times (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), Verkler was not yet arraigned so the conviction must be voided, Mallory v US, 453, sum; Upshaw v US, 413, [Mr. Verkler later found that on **2/19/15** the court found Mr. Verkler guilty and pronounced sentence violating FRCP 11 & 49 (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 violating Article III Section 2, 18 USC 1201, 3006A, FRCrP 2, 11; after he had the matter dismissed with prejudice twice (Exhibits: H, AH)]; was found not guilty 3 times by adjudication on the merits FRCP 41 (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;** (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). This stipulation to the alleged crime proves his innocence. The information and plea agreement only states there would be forfeiture of $14,652.55 seized from Mr. Verkler not that that was all the currency seized; 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); US v Cruikshank, 558; US v Simmons, 362, US v Carll, 612; US v Hess, 487; Pettibone v US, 202-4; Blitz v US, 315; Kick v US, 437; Morissett v US, 270, note 30; US v Petrillo, 10, 11; US v Smith, 346-7; Russell v US, 763-6, note 13; US v Lamont; Meer v US; Babb v US; US v Debrow, 377-8; Wilson v US; Cochran & Sayre v US, 290; Hagner v US, 431; Potter v US, 445; Bartell v US, 431; Berger v US, 82; Rosen v US, 34; US v Cook, 174; Wong Tai v US, 80-1; Evans v US, 587-8; US v Hess, 487; US v Achtner, 51; US v London, 211, Dunbar v US, 190-2; US v King, 963; Batchelor v US, 431; Nelson v US; US v Root; US v Britton, 661, 669; US v Northway, 332, 334; 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;. USA never provided a witness statement per FRCrP 5.1(h).

22) 2/20/15 USA stipulated FRCP 41 applies to this case. "'any' has a comprehensive meaning of "all or every." Kalmbach, Inc. v. Ins. Co. of State of Penns, 556. One docket reports case dismissed, but falsely reports several negative things (Exhibits: P p145, AF, AL) violating 18 USC 1506, 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 about the threats against the children and the illegal, unconstitutional indefinite detainment and Mr. Verkler's victories by twice having the matter dismissed with prejudice and adjudicated on the merits 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. That is not the first time a judge has committed such a violation US v Harris, 89, 91-2; McNabb v US, 340,

345. The magistrate did not have any reason to believe the crime was committed or that Mr. Verkler committed it, Byrnes v US, ?, 829, 833 and violating the Preamble, FRCrP 2;

23) 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, 18 USC 2071. Misprision does not require benefit to the principal Robes-Urrea v Holder.

24) on 5/8/15 the docket finally records one of Mr. Verkler's requests for court records stating it was sealed. On 6/5/15 the docket records it being sealed. Mr. Verkler did not authorize it to be sealed, Coughenour did not have authority to seal it, violating 18 USC 1346. The court refused to provide the records like they did not exist. Actually Mr. Verkler requested transcripts and dockets 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 18 USC 1506 and 18 USC 2071.

25) 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).

26) on 8/12/15 Coughenour added restitution to the sentencing although the State already did. 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).

27) 8/13/15 a docket reports motions filed. The motions included relieve from prison conditions including attempted murder, assault, battery, denying access to legal materials and his attorney, transcripts, theft of legal materials, prescribed drugs. The court altered the order of the filings (Exhibit Q) to deny justice by putting dismissal of attorney last instead of first so Coughenour could lie and say **Mr. Verkler had no access to the court,** Coughenour refused to dismiss ineffective counsel based on lies. He denied that the court had jurisdiction lied about filing dates to deny Summary Judgment.

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

29) 2/9/16 Coughenour issued a final order of forfeiture. He stated the currency as $14,652.55 although he was informed of a dispute prior to the change of plea and in Objection, Correction and Suggested Edits to Draft PSR of June 23, 2015, par 7, 10, 84, he did not hold a hearing. He listed assorted gold and silver colored coins. It makes him an accessory to the theft of the minted gold and silver coins. The coins were never inventoried as required by FRCrP 41 (Exhibit E) to say exactly what coins there were. These facts are undisputed and the opposing party bound themselves to agree these facts are true.

Coughenour had no authority to change the coins status to nearly worthless trinkets. In item 23 he says CD's 2 of them were Master of Orion 2 game discs which were to be returned to Mr. Verkler (Exhibit J). He lists item 26 as 1 Macintosh computer which was not in the plea agreement that the Defendant had to be forfeited (Exhibit J). Coughenour based his Final Order of Forfeiture on laws that cannot apply and violating 18 USC 1346;

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

31) **3/21/16 Mr. Link retaliated** by filing an invalid, illegal phony lying "anders" brief;

32) 11/17/16 **Coughenour lowered the amount that Mr. Verkler was to receive credit towards restitution** contrary to his 9/15/15 decision, violating 18 USC 643, 645, 648, 1346, FRCP 2;

33) on 2/24/17 Mr. Verkler filed a motion for relief from the BOP committing attempted murder, assault, battery, not to put him in the SHU to deny him access to the law library, to have free attorney phone available, to release him on time, to return seized legal papers and make no more seizures, and suppress the Information, the court refused to respond;

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

35) on 6/14/17 judge Brian A. Tsuchida on page 3 stated that in dkt 38 he stated that Mr. Verkler moved to set aside counts 1 and 2 because they were dismissed. Is this a freudian slip based upon his knowledge that FRCP 41 established Mr. Verkler was not guilty by adjudication on the merits or that the counts were dismissed with prejudice?

36) 7/6/17 Coughenour denied jurisdiction and lied to illegally ruled against Mr. Verkler's motion to recognize Verkler won his case 3 times, found not guilty by adjudication on the merits per FRCP 41 and continued to hold Mr. Verkler in prison violating of 18 USC 1201;

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

38) 11/07 Coughenour denied jurisdiction for Verkler's motion for mandamus for the public defender to provide known copies of records of Mr. Verkler's file that were stolen by USA;

39) 11/8/17 because the court refused to grant summary judgment for prison conditions Mr. Verkler filed notice of appeal. The court refused to appoint legal counsel or to consider it;

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

41) **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 served 4/24/18 (Exhibit AO), but stolen 5/4/18 (Exhibit AN). The court does not have a copy (Exhibit AF). There was no hearing;

42) On 1/29/18 Coughenour illegally denied 14 legal grounds to vacate and set aside the judgment based on nothing. Since Coughenour denied Mr. Verkler legal counsel **Coughenour had no right or authority to make any ruling against him**, Frazer v US; Johnson v Zerbst, 464-465. Coughenour even denied the ground of cumulative error while stating he could not decide on 5 grounds until USA responded. Since cumulative error means if the petitioner established 2 or more grounds for relief but each violation by itself was not serious enough to grant relief, then the cumulative effect could be enough to grant relief. 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;

43) 3/1 **Coughenour ruled against Mr. Verkler's FRCrP 41(g) motion to be able to receive money that was illegally seized, but not inventoried (violating 18 USC 643, 645, 646, 648, FRCrP 41(f)(1)(C)), and was not abandoned or forfeited.** He denied jurisdiction and lied;

44) 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. Mr. Verkler had to be granted relief per FRCrP 55, 56;

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

46) 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 per FRCP 16;

47) before 4/30/18 **Mr. Verkler filed for summary judgment for his 28 USC 2255** habeas corpus, USA did not respond. Mr. Verkler had to be granted relief per FRCrP 55, 56;

48) on 3/5/19 **Mr. Verkler filed objections for his 28 USC 2255 habeas corpus, USA did not respond**, no judge ruled on it. Mr. Verkler had to be granted relief per FRCrP 55, 56;

49) before 3/11/19 Mr. Verkler filed a second supplement to his 28 USC 2255 habeas corpus, USA didn't respond, no judge ruled on it. Mr. Verkler to be granted relief per FRCP 55, 56;

50) 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. Mr. Verkler had to be granted relief per FRCP 55, 56;

51) 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.** Mr. Verkler had to be granted relief per FRCrP 55, 56, and 18 USC 1346;

Beyond USA's official legally binding written admissions on appeal:

52) Coughenour denied the Notice of Default Judgment for the habeas corpus still not having a response from USA, violating FRCrP 55 and 18 USC 1346. There was no hearing;

53) on 6/13/20 Mr. Verkler filed a notice of appeal to the district and circuit courts per FRAP 3, 4 because his 28 USC 2255 habeas corpus Notice of Default Judgment was denied in violation of the US Constitution, Supreme Law, court opinions based on nothing;

54) **The docket records on 6/18/20 "Date Rec'd COA".**

55) On 8/17/20 **USA stipulated that weekly State unemployment claims were filed in States which was impossible for him to do while Mr. Verkler was in custody proving no standing;**

56) 8/24/2020 Coughenour denied having jurisdiction to consider Mr. Verkler's objections.

57) On 9/20/20 Mr. Verkler filed an Opening Brief for 20-35559 for his 28 USC 2255 habeas corpus, The court violated FRCP 44. **USA did not respond so USA admitted to everything;**

58) on 1/19/21 Verkler filed for counsel, **the court denied Verkler's right to legal counsel;**

59) panel lied to deny Mr. Verkler's right to legal counsel violating 18 USC 3006A, FRCP 44;

60) 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. Violating 18 USC 1346, Great Western Mining and Material Co v Fox Rothschild LLP; Nesses v Shepard, 1005; Marshall v Jerico, Inc., 242. By that time USA and the courts already collected $153,192.55 in cash, $145,835,172.42 in gold and silver, $27,714.84 in other assets just in this case. They collected too much before.

61) on 2/9/21 2 judges denied the right of appeal for 20-35559 violating FRAP 3, 4;

62) on 2/18/21 filed a Petition for Rehearing for 20-35559;

63) 3/2 Mr. Verkler filed (see FRCP 49) to dismiss attorney Thomas Coe for refusing to work on Mr. Verkler's behalf and plotting to find Mr. Verkler guilty in the 2015 case and Mr. Verkler filed to get subpoenas for several adverse witnesses per 18 USC 3006A.

64) 3/5/21 2 judges stated they will not entertain filings in 20-35559, violating FRCP 44;

65) on 3/19/21, 1:28 PM Paula at the court house stated Coughenour refused to allow the attorney dismal and subpoena motions to be docketed violating 18 USC 1506 and 2071;

66) 3/24 Paula at the court said my motion for discovery was received but not docketed violating FRCrP 49. So, they were stolen in violation of 18 USC 1506 and 18 USC 2071.

67) 3/31 no one told Verkler the court would find Verkler guilty or it was still considered.

REASONS FOR GRANTING THE PETITION

US 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.** US 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**, each of which must be concisely stated the panel decision violates: 1) due process and threatens to destroy due process for any case any district judge or any circuit panel of judges wherein they wants to violate due process; 2) the constitutional and legal right to assistance of legal counsel; 3) the constitutional and legal protection against double jeopardy; 4) the constitutional and legal right to an appeal; 5) to have an impartial judge; 6) the constitutional and legal right to an hearing; 7) the right of a victim to rescind a contract when the other party commits breach of contract; 8) its obligation to obey the Constitution and Law and not abuse discretion; 9) the constitutional and legal protection against the cruel and unusual punishment of infinite fines for a non-violent crime amounting to less than $250,000, 10) the right to a Speedy Trial; 11) the constitutional and legal right of every person to claim protection of the Constitution and the laws; 12) the panel 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..." Villanueva v

George. USA and the court punished Mr. Verkler prior to judgment by holding him in prison without pre-trial release, 18 USC 3041, 3142, after the case was dismissed and he won his case, FRCP 41, Commonwealth v Cronk. 210, and after the court was absolutely obligated to release him for being in custody 90 days without the beginning of trial, 18 USC 3164, and **not giving credit for time served, 18 USC 3585 and illegally extending probation.** The courts were wrong to steal filings made with the court per 18 USC 1506 & 2071, FRCrP 49(b)(5). In this case by the sentence and law Mr. Verkler was no longer on probation when accused of a probation violation. Also, Coughenour repeatedly ruled he had no jurisdiction when a case was on appeal, but here although the case was on appeal he decided to proceed and found Mr. Verkler guilty without any evidence and without jurisdiction even after USA agreed not to seek a conviction and agreed to end the probation.

In regards to *US v King*, 891 F.3d 868 (9th Cir 2018) it supports Mr. George Verkler's right to appeal. There are still "ongoing collateral consequences caused by" the court's decision they still claim money owed and the right to practice eliminating credit for amounts collected (Exhibits: S, T, U, AM, AU, BA, case no: 20-30161: 1A, 1B, 1C, 1D, 1E, 1F, 1G, 1H) and / or to steal amounts collected and steal the court records (Exhibits: H, Q, AH, AN, AP). To the end that they would make Mr. George Verkler pay an infinite amount of money. The *King* case says in "*Spencer* the court 'was willing to presume that a wrongful criminal conviction has continuing collateral consequences.'" The court need to reverse the unconstitutional and illegal finding of a probation violation and rule that Mr. George Verkler not only paid the full amount ordered by the court, but that USA and the court collected multiple times the amount it ordered Mr. George Verkler to pay. And Mr. George Verkler won the underlying case so the conviction and sentence must be set aside and vacated Exhibits: H, K, AH). Also, the never-ending demand from USA and the court for more and more money and the refusal to refund the excess collected and the false

reporting of a huge unpaid late debt does cause civil disabilities "in employment [because employers check FICA scores and credit history], future parole decisions [because a parole violation can be used as a basis to impose additional prison time in the next trumped-up set of phony charges and the next trumped up phony claim of a probation violation.]

Mr. George Verkler did "show his [adverse court decision] is causing 'some concrete and continuing injury other than the now-ended incarnation. "In other words [the court's adverse illegal decision] causes collateral consequences to state an injury-in-fact". Mr. George Verkler's consequences are not speculation, they are based on undisputed best evidence." The court can still provide relief by: a) vacating the finding of conviction of a probation violation; b) recognizing all amounts collected for restitution that have been collected and order the refunding to Mr. George Verkler of all the excess collected, since the court illegally and unconstitutionally found Mr. George Verkler guilty of not paying; c) since the district court did not have jurisdiction to find Mr. George Verkler guilty of the underlying accusations or violation and USA did not have standing to prosecute the underlying accusations (Exhibits: P, V) or violation (Exhibit AK) and Mr. George Verkler had ineffective counsel in district court and 20-30097 and no counsel for his habeas corpus under 28 USC 2255, it's objections, summary judgment, default judgment, 15-30244, 16-30001, 17-30237, 18-30073, 20-30161 and 20-35559 and USA did not Answer or Respond and the record conclusively shows it is impossible for Mr. George Verkler's guilty plea to be voluntary or knowing and Mr. George Verkler won because of USA's deliberate and knowingly made Speedy Trial Act violations (Exhibit P, X) and Mr. George Verkler was found not guilty by adjudication on the merits and judge's orders to dismiss the matters with prejudice and probation was over before Mr. George Verkler was accused of the probation violation and the use of forged signatures on the plea agreement (Exhibit AI) and

other documents and finding of guilt and sentencing Mr. George Verkler (Exhibit AR) without a plea, a trial, charges, any evidence, or an hearing.

The panel cites *Chafin v Chafin*, 568 US 165, 172 (2013). In this case the court selected the Supreme Court ruled there was a case or controversy so it was not moot. There is controversy because the judge's finding of guilt creates the threat of harm of more prison time in the future and the refusal of the courts and USA to give credit for amounts collected and their continued collection of fines forever. The *Chafin* case says a case is not moot because there is still a stake in the outcome of the case. Mr. Verkler continues to have a stake in the outcome. In the *Chafin* case the Supreme Court ruled there was relief that could still be granted. In Mr. Verkler's case the court can still grant relief to set aside and vacate the finding of guilt that will harm Mr. Verkler. The court can still rule that Mr. Verkler was not guilty because he was never legally convicted of the felony crimes, the court can rule Mr. Verkler is not guilty of the violation of not paying what the court ordered because he did not fail to pay restitution, USA and the court collected multiple times the amount the court ordered and must return the excess. The court can still remedy USA's breach of contract by providing Mr. Verkler everything USA took from him that was not to be abandoned or forfeited and copies of those things, Santobello v NY, 263; Kingsley v US.

Mr. Verkler did not appeal the revocation of supervised release. Mr. Verkler appealed the finding of guilt of a probation violation that could not have happened at any time, and allegedly took place after it was illegal to claim Mr. Verkler was still on probation, and the district court did not have jurisdiction based on all the other district court rulings the Ninth Circuit agreed with based on the claim that once Mr. Verkler appealed a decision the district court did not have jurisdiction the jurisdiction was transferred to the circuit court (2014 case dkt 2 & 2015 case dkt 44 & dkt 49 denying 6 motions filed before filing of a notice of appeal because the case was on appeal, dkt 88

dismissing motion because the case was on appeal, dkt 95 denying motion for discovery, dkt 105 dismissing motion for return of property, dkt 143 deny motion, dkt 148 deny rebuttal of illegal probation ruling and request for impartial judge.

Concerning the 4/13/21 Notice of Appeal, the 4/19/21 Response to Circuit Court Claim of Moot, the *King* case, the *Chafin* case – it is clear that the judges either 1) did not read them, 2) lied about what they said, 3) were so retarded they got them completely wrong. Problems 1) and 2) indicate the judges decided to become accessories, to aid and abet to join as conspirators to a criminal RICO enterprise consisting of most of the US District Court for the Western District of Washington, and for the US District Court for the Central District of California and all the Ninth Circuit Court of Appeals. The best way to provide evidence of innocence is to rule in favor on Mr. Verkler. You judges should be aware these rulings do not create the respect you want.

9th Cir. R. 27-9.1 proves that counsel cannot dismiss and appeal without consent of the appellant's written consent, which proves Greg Link could not dismiss Mr. George Verkler's 15-30244 case weather he filed it before or after Mr. George Verkler dismissed him because Mr. George Verkler never consented and proved Link's filing was unconstitutional, illegal, baseless and contrary to the truth and the record conclusively proved beyond any reasonable doubt that Mr. George Verkler is entitled to his requested relief. The circuit court refused to provide its rules when Mr. George Verkler was in custody and the prison library did not have the 9th Cir court rules so Mr. George Verkler did not have to tell the court its own rules to have his rights respected.

Mr. Verkler was not notified that the court would conspire to impose additional penalties without due process of law and 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 withdrew the plea per violation of FRCrP 11. The court and USA have violated the

5th 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 (Exhibit AR) that he was not sentenced to endure: 1) kidnapping; 2) punishing Mr. Verkler twice with an effective 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; 8) forcing Mr. Verkler to give up other legal earned income; 9) making felony threats against Mr. Verkler; 10) 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.

"The Supreme Court has recognized that a criminal defendant has a constitutional right to "present his own witnesses to establish a defense." This right is an element of due process of law guaranteed the defendant by the due process clause, Washington v. Texas, also United States v. Henricksen this right was violated by stealing the subpoenas.

Mr. Verkler was denied access to the courts in violation of the 1st and 5th Amendments. 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. 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 violating US v Taylor. Coughenour stipulated money was from State unemployment claims which proves the federal court did not have jurisdiction and USA did not have standing.

USA must provide Mr. Verkler files taken from him, US v Weeks, 398. 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, over, 286, 289, 30th, 34th pg; Gouled v US, 313; Poe v US. "[it] has the effect of misrepresenting the nonexistence of that evidence, US v Bagley, 682-83; Ferrara v US, 34th pg; Mooney v Holohan, 103-4, 110-2; US v Chambers.

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. The Supreme Court, 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. But the Ninth Circuit denies all Mr. Verkler's rights in this case, and: 15-30244, 16-30001, 17-30237, 18-30073, and 20-30161. The district commonly denies counsel. Coughenour denied legal counsel for several filings before and including the habeas corpus, objections, summary judgment and default judgment.

"A court's refusal to substitute counsel is presumptively prejudicial and requires reversal because it constitutes the constructive denial of counsel. US v Velazquez, 1034; US v Nguyen, 1005; see also US v Gonzalez-Lopez, 150 ("... deprivation of the right to counsel... unquestionably qualifies as 'structural error.'" (internal citation omitted)." St of WA v Delila Reid. "The deprivation of the right to counsel... can never be treated as harmless error." Frazer v US; Roney v US; Shepherd v US; Green v US; US v Maxwell.

The imposition of multiple punishments beyond the sentence violates the **Double Jeopardy** clause. As does prosecuting a person after being established not guilty by adjudication on the merits, FRCP 41, and after the matters were dismissed with prejudice, US v Clymer, 831-833; US v Miller, 194, 198, 199; Commonwealth v Cronk, 198, 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. Because the State already found Mr. Verkler guilty of these charges (WAC: 192-100-050, 192-

220-020,192-110-150 and RCW: 50.20.070, 9.35.020, 9.38.020, 50.36.010, 50.04-310) without: any due process, evidence, a trial, without an attorney before USA accused Mr. Verkler. The federal government cannot again find Mr. Verkler guilty of the same false charges and impose another set of punishments for the same thing. Mr. Verkler could not appeal the State conviction because USA kidnapped Mr. Verkler.

For USA to seize funds that the sentencing court did not order is a clear double jeopardy violation and not allowed under the Preamble. The 5th Amendment 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 they take money they do it off the record and keep the money rather than turning it in means they are not impartial and are committed theft and embezzlement under color of law.

USA and the courts have set themselves on a course that indicates they are imposing an infinite amount as a fine without an hearing, court order or due process of law, Timbs v IN. **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. The 5th Amendment, 18 USC § 880, 18 USC 1341 and the plea contract require USA and the court to give credit to Mr. Verkler for what they collect. They do not give credit for much of what they collected even after stipulating an amount was collected then will deny it.

On 10/16/14 USA stipulated they collected $50,209 in gold and diamond, they also collected all of Mr. Verkler's silver and cars but still have not detailed how much they got (Exhibits: F, P p11,25, E, AM). USA collected multiple times the restitution before that (Exhibits: 1A, 1B, 1C, 1D, 1E, 1F, 1G, 1H) USA had collected more money since (Exhibits:

U, AM, BA). On 1/12/21 USA, probation and judge Coughenour to: 1) and Thomas Coe to use extortion to force Mr. Verkler to pay more is a felony under 18 USC 880; 2) not give credit for funds collected and take more money than agreed in the Plea Contract and ordered by the sentencing court constitutes unjust excessive illegal fines and to threaten illegal criminal prosecution constitutes extortionate extension of credit 18 USC 892, 894. Refusal of USA, probation and the court to give credit for payments made also proves breach of contract and Mr. Verkler has the right to reject the whole deal, 28 USC 3308, UCC § 2-601, Kingsley. So, the Defendant can rescind the Plea Contract for USA's breach of contract. Once USA stipulates receiving funds, they cannot deny it. The Defendant can rescind the Plea Contract for USA's fraud because USA lied about limiting the restitution to the amount ordered by the court, and USA lies about the amount they received.

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 authorizing Congress to establish courts inferior to the Supreme Court and 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. FRAP 3,4 grants appeal as a right.

In 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 still include it in habeas, Johnson v Renico, 706, see Woodward v. Williams, 1140. 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 counsel and appeal violating FRAP 3, 4, 44 and stated they will not entertain filings in this case.

"Petitioner is entitled to relief under 28 USC 2255 on showing simple deprivation of his right to appeal..." Rodriquez v US; "... wrongfully denied" Doyle v US. Mr. Verkler

proved the court must rule in his favor. 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; US v Cunningham.

First, the court stated, "Date Rec'd COA: 06/18/2020" so with a COA the court must proceed. Second, 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. 28 USC 2253(a) allows an appeal for a case like Mr. Verkler's. 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 several rights were violated. USA never submitted anything against a certificate of appealability so there is no controversy for a judge to rule against Mr. Verkler per US Constitution Article III Section 2. The court cannot require a certificate of appealability.

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. On the eighth request the court clerk stipulated in writing that USA's response and many other documents (Exhibit AF). By prosecuting Mr. Verkler after judges dismissed the matter with prejudice, Mr. Verkler has the right to appeal, FRAP 3, 4, Abney v US.

The 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. The court never ruled on grounds: 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 plea, without a nolo contender plea, without charges (Exhibits G, J), without an hearing, 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. The judge never ruled on many aspects, parts of several other grounds. The courts wrongfully refuse to address the issues.

Mr. Verkler is entitled to an impartial judge according to 28 USC sec 455, 1346; 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. The Goldberg Court said 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, to witnesses, or a decision limited to the record thus made and explained in an opinion. A defendant has...

"the right to an unbiased decisionmaker," see Board of Educ. v. Rice; H. WADE, ADMINISTRATIVE LAW 171-218 (3d ed. 1971); Rex v. University of Cambridge.

The judge's actions as a prosecutor, thefts, other crimes, violations of the Constitution and Supreme Law prove he is not impartial. It was illegal to predetermine Mr. Verkler's case, 18 USC 1346; US v Cross. " 'if someone is deprived of his right to an impartial tribunal, then he denied his constitutional right to due process,..." United Retail and Wholesale Employees Teamsters Union Local No. 115 Pension Plan v Yahn, ?, 145, 147-8; and McDonnell, Inc. US v Cross; Great Western Mining and Material Co v Fox Rothschild LLP; Nesses v Shepard, 1005; Marshall v Jerrico, Inc., 242.

The Constitution and Law 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 and behind his back. In an ordinary case a citizen has a right to a hearing to contest the forfeiture of property, a right secured by the Due Process Clause.

"Very notion of hearing, 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. This has not been done in Mr. Verkler's case. The district court and the ninth circuit believe and practice that a person can be found guilty and sentenced without an hearing and without evidence, without charges, without a trial, and without a guilty or nolo contender plea even after the Defendant won several times over (Exhibits: 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, AF, AR).

The Supreme Court shows 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... demands that he who is entitled to it shall have the right to support his allegations by argument,... and, if need be, by proof... '" Londoner v. Denver, 386; Joint Anti-Fascist Refugee Committee v. McGrath, 171-2; 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.

Breach of contract was committed by USA and proved by Mr. Verkler; he was to receive credit towards restitution for amounts collected, a limit on punishments and forfeitures and abandonment and stipulated, then denied amounts collected, felony convictions without felony charges and imposed extra prison time, an attempted death penalty, additional DUI convictions, extra abandonment of legal files acquired in prison, threats, sabotage of earnings (Exhibits: E, J, S, U, AK, AM, AN, AT, BA, BF).

It is an **abuse of discretion** to apply the wrong legal standard, US v Ruiz, 1033. The US courts commit a lot of abuse, as was the denial of Mr. Verkler's filings.

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 violated discretion in nearly every decision and it has violated the US Constitution and Supreme Law and Supreme Court precedents and 9th and other Circuit Courts 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 9th Circuit has the same problem. They do not

consider the relevant record or what Verkler presented. They know much of the record is wrong and even falsified it and stolen court records to the detriment of Verkler. They had no authority to make a ruling against Verkler because it has been established beyond any reasonable doubt: 1) Coughenour is not impartial 28 USC 455, Goldberg v Kelly; Halliday v US; 2) the fed. courts never had jurisdiction to prosecute a case against Mr. Verkler, (Exhibit P p75,77-79,81-84,92,130-2,142-3,149,158-61,163,170,176-8, Obj to Probat. Ruling p 30, Suppl Open. Brief p 4; 3) USA never had standing to bring a case against Verkler, (Exhibit P p10,80,85-6,125-136,149,158,161,170-1, Obj to Probat. Rul. p 30); 4) Mr. Verkler was not allowed effective counsel in district court and no counsel for several filings and his habeas corpus (Exhibits: P p8,10,12,14,21,25,31,34,41-7,52,55-61,76,89,94,109,115, 120,142-3,145-6,149,151-2,154-5,160-1,163-5,172-8,180-3, Y, AF, AZ); 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, 464-465, 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, (Obj to Probation Ruling p31); 9) the guilty plea was not voluntary and not knowingly made (Exhibits: P p11,19-20,28-9,34,37,46, 51-5,62,66-73,89-94,106-7,117,129,143,147,149-50,164-6,181, AR); 10) illegal imprisonment; 11) fraud in the factum (Exhibit P p20-23,25,27,29,33-5,46,100,147,156-7,171-2,176); 12) breach of contract by USA (Exhibit P p22-9,34-7,53,144, 147,149,156,162, 166-9,171-3,175); 13) Speedy Trial Act violations (Exhibits: H, P p15-20, 35,37-8,145,150-1,159,167,174,179 AH); 14) prosecutorial misconduct (Exhibit P p6,10-2,15-9,21-2,26-32,34, 37-8,49-61,64,67-71,73,87-93,145-8,150,180-3, Q p14, Obj. to Probation Ruling p31); 15) the court refused to rule on motions, Obj. to Probation Ruling p31; 16) failure of the court to state it was giving credit for time served, 18 USC 3585 (Exhibit P p147,161-2,168,175, AK); 17) there was no

appeal waiver (Exhibit P p59,65,67-8,76, 107,142,144,148-9,152-8,160-1,163,165,168-9,177-8,180-1,183, AY); 18) double jeopardy was violated (Exhibit H, K, P p27,147,157,165, AH); 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, Verkler's filings, nor Verkler's briefs; 20) Verkler was not charged with a crime, the court found him guilty and sentenced him to (Exhibit P p10-3,17-9,21, 35,46,100-1,104,143,145,147,149, 151,164; 21) Mr. Verkler did not sign a plea agreement so the courts cannot use it against him; 22) district court reported Verkler was guilty without a trial, a guilty plea nor a nolo contendere plea (Exhibit AR, Obj. to Probat. Ruling p32). The circuit court did not consider the issues. USA did not file an answering brief for: appeals 15-30244, 16-30001, 17-30237, 18-30073, 20-30161, 20-35559, so the court had to rule in Mr. Verkler's favor. Court's activities are a mockery of justice, completely void of factual or legal basis. Coughenour acted outside legal authority to commit felony crimes against Verkler (Exhibit P p9-13, 16,25,30-2,36,50,89, 108,139,144-5,150-1,155,159,162, 167-8,174-5,179, AF, AL, AM, AR, AU, Obj. to Prob. Ruling p35).

The court and USA have violated the Preamble, Art. I Sec. 9, Art. III Sec. 2, 4th, 5th, 6th, 8th, 10th, 13th Amendments by imposing **cruel and unusual punishment 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 fines, Austin v US, 602-4, 609, 621-3; 4) putting additional counts on Mr. Verkler's record; 5) by forcing abandonment of legal papers and evidence obtained while in prison (Exhibits: J, P p25,43, AK, AN, AR, AT, AU, and AW); 6) denying discovery for legal proceedings; 7) denying court access; 8) denying legal counsel; 9) money stolen

from the wages; 10) forcing him out of a job and other earned income; 11) not returning property not included in forfeiture or abandonment; or 12) felony threats.

2/12/15 USA stipulated in writing in an official court document under oath they **knowingly and deliberately violated the Speedy Trial Act**, and related Laws, yet not punished per 18 USC 3162; US v Clymer, 826 I.-827, II. A. 829-833. Like Clymer Mr. Verkler was subject to over 4 months pre-trial detention and Mr. Verkler effectively served a prison sentence of nearly 5 years. The judges were right to likewise dismiss Mr. Verkler's cases with prejudice. USA stipulated first accusations made 10/14/14 and subject to continued detention and stipulated made the rest of the accusations on 11/4/14 (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 (Exhibit P p19-20,28-29,34,37,52-55,67,89, 91,94) and unknowingly guilty plea (Exhibit P p11,19-20,28-9,34,37,46,51-55,62,66-73,89-94,106-107,117,129,143,149-50,164-6,181, AR, Suppl Reply Brief p 4). "The court has a responsibility to insure the reality of voluntariness and understanding" Adkins v US; Bartlett v US, 348. "The record if the proceedings must indicate with absolute certainty that the accused was in a position so to act, and also it must leave no possible room for doubt that the court evaluated and was satisfied that the accused was so acting at the time, Turner v US.

18 USC 4 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** to report to the court, Marbury v Madison, 163.

As the [Supreme] Court has repeatedly emphasized, was to confer upon 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... crimes

cannot be eradicated...." Smith v US, 9; Russell v US, 763 n13. USA violated 28 USC 545.

"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 court cannot properly rely on factors that are not in evidence, Reply Brief p 3. The lower court cites *US v Weber*, which puts the burden of proof on the government. Clearly the burden of proof in on USA and they have submitted no legal evidence, and never charged him, thus violating due process, Gregory v Chicago, 112; Re Oliver, 273; Dunn v US.

In Mr. Verkler's case the judge violated FRCP 11 only asked was, "Do you make these decisions freely and voluntarily? Of course, he knew Mr. Verkler was denied pre-trial release from the 8th Amendment, 18 USC 3142, and was not released upon USA's violation of the 6th Amendment, Speedy Trial Act or when charges were dismissed or when Mr. Verkler was kidnapped violating 18 USC 1201 and illegally held in custody over 90 days, 18 USC 3164, 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; also, Malloy v Hogan, 7; Cummings v US, 382. "... voluntariness must be established beyond a reasonable doubt" Mullins 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.

A guilty plea "must not be extracted by any sort of threats or violence, nor obtained by any direct or implied promises, however slight, nor by the exertion of any improper influence, Malloy v Hogan, 7; Cummings v US, 382. "... voluntariness must be established beyond a reasonable doubt" Mullins v US; Cummings v US, 382; Bartlett v US, 348; Waley v Johnston, 104; Shelton v US, 26; Kercheval v US, 223; Machibroda v US, 493.

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 them.

It can be seen that the original body mainly establishes how to set up the government and tells what it can do. **The US Constitution never gives anyone in the government power or authority to assist or commit a crime or a tort, to lie or conspire against any American person,** Weeks v US, 383, 392. The 10th Amendment denies USA all powers and authority not specifically given in the 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 amendments merge to expand a person's rights beyond what each amendment does on its own; Roe v Wade, 152 the Court has recognized that the right to privacy goes beyond each individual amendments the Court should recognize people in government cannot attempt to or commit a crime, a tort, conspire or lie against an American. The 9th Amendment says people have rights not listed in the other parts of the Constitution.

USA is forbidden to use threats or make a plea involuntary to force a guilty plea, Machibroda v US, 487, 493, 496; Graham v Conner, 395; Somberger v City of Knoxville; Giuffre v Brissell; Moore v Dempsey, 89-90; as was done in Mr. Verkler's case (Exhibits: P p19-20,28-29,34,37,52-5,67,89-91,94,106-7,129,143,147,149-50,164-6,181, AR). The US Atty has a duty to refrain from improper methods to produce wrongful conviction. USA has a constitutional duty to disclose to a defendant exculpatory evidence automatically, Albright v Oliver, n15; AZ v Youngblood, 55; Berger v US,79, 88; Brady v MD, 87; Moore v Ill 794-5.

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 DUI'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, "Willful concealment of material facts has always been considered as evidence of guilt", Ashcraft v Tennessee,

278; Cummings v US, 380; Kyles v Whitley, 432; US v Strickland, 277, USA is guilty, 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, violating 18 USC 875, instead the judge said I would get credit for prior amounts collected violating 18 USC 1341; 8) not say Mr. Verkler would not get credit for amounts forfeited or collected after the plea (violating 18 USC 643, 645, 646, 648), 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 to conspire; circumstantial evidence and reasonable inferences drawn there from 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, 1477; US v Griffin, 1118; 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. There is plenty of evidence of USA guilt.

The courts overlooked that in USA's plea agreement and in USA's Information, USA stipulated Mr. Verkler did not steal nor purloin (Exhibits: I p 2,3, J p2,3). USA decided to only accuse Mr. Verkler of converting government money. By definition that means USA stipulated USA already owed the money to Mr. Verkler. To convert money was not even a crime under federal law until 1948. In Washington State where USA stipulates the alleged activity took place a conversion is a misdemeanor or a tort, only a civil matter it is not a felony crime, Informal Reply Brief p 2. Under State Law the penalty for illegally collecting unemployment benefits is to repay the benefits plus 15% and be ineligible to receive benefits for a certain number of weeks. 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, political enemies, 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, enslavement, conversion, to harm, failure to do duty to use all lawful means to prevent injury, collect unlawful debt, embezzlement, skim money, swindle, 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, 154-5; US v Angelilli, 30-5, #1-2; US v Bacheler, 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 Jacquermain; 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; US v Cross, 310-3; Nesses v Shepard, 1005; Commonwealth v Hine, 573 ("The court noted that is 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. The Sixth Amendment says the ability of the government is not to commit crimes, torts or lie against Americans under the guise of fighting crime. Mr. Verkler kept telling judges, attorneys and officers of USA's kidnapping of him and they went along with keeping Mr. Verkler in detention which also makes them guilty, US v Broadwell, 602; Graham v Conner, 395. Officers are not protected from false statements in future prosecutions for crimes such as perjury and obstruction of justice. The government does not 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. "... There are a multitude of cases in which prison administrators have been prosecuted under USC 241 and 242..." US v Guadalupe; see US v Tines, 893; US v Vaden, 781; US v Bigham, 944; US v Jackson, 928;

"... 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 [by 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, 86; 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;

> ... need not show that such an agreement was express; a conspiracy may be implied from the circumstances." 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.... A showing of conspirators rarely formulate their plans in ways suspectible of proof by direct evidence. Crowe v Lucas, 993...; Hunt v Weatherbee; Gooch v US; Fritts v US; Pinkerton v US, 640; Carpenter v US, 571, 572. Whoever aids or abets a crime is punishable as the principle and if 2 people act in concert, then the act of one is considered the act of the other, Gooch v US; Fritts v US; Pinkerton v US; Carpenter v US;

In Mr. Verkler's case, court records were falsified by putting false entries on the docket and removing true entries from the docket (violating 18 USC 1506, 2071, FRCrP 49)

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 violating 18 USC 1506, 2071. 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.

> "... a deputy clerk, Conn solicited and received money to influence public officials in the performance of their official duties." US v Conn, 421. "Evidence of Conn's guilt was overwhelming. ... there was documentary evidence that Conn falsified court records." US v Conn, 423,5... "He accepted a bribe to manipulate the court calendar. He "pretried" cases before judges to determine how defense counsel should proceed in given circumstances." US v Conn, 420-1, 425.

US v Bagnariol, says:

> This egregious conduct on the part of government agents generated new crimes by the [government] defendant merely for the sake of pressing criminal charges against him when, as far as the record reveals, he was lawfully and peacefully minding his own affairs. Fundamental fairness does not permit us to countenance such actions by law enforcement officials and prosecution for a crime so fomented by them will be barred. [United States v. Twigg].... extortionate means to collect a debt

Also, US v DiSalvo, US v Polizzi, US v Nakaladski, US v Natale, US v Sears, Salinas v US, US v Nguyen, 1341. USA violated 18 USC 876,

When USA sought to extort money and entrap Mr. Verkler (Exhibit BF). At first Mr. Verkler refused, then US made the false charge of a probation violation. Mr. Verkler filed to dismiss attorney Thomas Coe for refusing to work on Mr. Verkler's behalf and plotting to find Mr. Verkler guilty (violating 18 USC 3006A). Mr. Verkler filed to get subpoenas for several adverse witnesses. Paula at the court house stated Coughenour refused to allow the attorney and subpoena motions to be docketed and refuses to rule on them. That violates FRCrP 49(b)(5),

18 USC 1506, 18 USC 2071 that requires everything received by the court to be docketed and forbids theft of the documents. I called again because I got no response from my request for discovery sent in 3/2/21 (violating FRCrP 16). Paula said she received it and routed it to the attorney. It means Coughenour, Paula and others deliberately commit the felony crime of theft of court records from the court files and money collected by the court and USA in violation of 18 USC 643, 18 USC 645, 18 USC 648, 18 USC 646, 18 USC 872, 18 USC 875, 18 USC 875, 18 USC 1506, 18 USC 2071. This means she stipulated that Coughenour is knowingly and deliberately falsifying the docket by stealing/deleting entries from the docket. The reasons for accusation that Mr. Verkler did not pay what the court ordered was to entrap Mr. Verkler and force the payment of more money by extortion (violating 18 USC 872, 880, 892, 1961) and there was a conspiracy to forge Mr. Verkler's signature on a document that would claim he gave up rights and promised to pay more money and falsely admit amounts were still owed. Paula still refused to allow Mr. Verkler to have the Zoom information or phone number to contact the court for the upcoming hearing on 3/31/21. This is a blatant due process violation.

In the 2:15-cr-00041-JCC-1 docket it shows 3/31/21 was to be an evidentiary hearing in 1/29/21 dkt # 159, 2/1/21 dkt # 161, 2/10/21 dkt # 163, 3/17/21 dkt # 164. There was no evidence presented in the hearing. USA had already conceded not to seek a guilty finding. Mr. Verkler had already produced tremendous evidence that multiple times the court ordered payments were made (Exhibits 1A, 1B, 1C, 1D, 1E, 1F, 1G, 1H, 1I, E, F, P p2,11,25,36,145,168,169, U, AM, BA). There is not transcript available, this is enough grounds to reverse the conviction. It was impossible for the judge Coughenour to legally find Mr. Verkler guilty.

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 assist or commit a crime, a tort, to conspire or lie against any American person. The fate of America is riding on your decision. Without such violations there would be no case.

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. **Once the court received the COA it cannot deny it and must proceed.**

As bad as the district and circuits courts have been the Supreme Court should just rule in favor of Mr. Verkler's habeas corpus on all grounds and vacate the finding of guilt for the probation violation.

Because USA did not argue against Mr. Verkler and everything is in his favor, he is entitled to Summary Disposition under Rule 16.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

George Verkler

Date: 08/20/2021

APPENDIX

A i orders

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GEORGE VERKLER, Petitioner, v. UNITED STATES OF AMERICA, Respondent.	CASE NO. C17-1876-JCC ORDER FOR SERVICE AND ANSWER TO § 2255 PETITION

This matter comes before the Court on Petitioner George Verkler's motion under 28 U.S.C. section 2255 to vacate, set aside, or correct his sentence (Dkt. No. 1). The Court, having reviewed Petitioner's motion, hereby DISMISSES Petitioner's grounds one, four, five, six, seven, nine, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, and nineteen and ORDERS service and an answer on remaining grounds.

I. Background

On August 4, 2015, this Court sentenced Petitioner George Verkler ("Petitioner") to 48 months in custody after he pled guilty to two counts of theft of public funds and two counts of aggravated identity theft. (Dkt. No. 1 at 1.) Petitioner appealed his conviction, and the Ninth Circuit denied his appeals pursuant to the waiver of his right to appeal in his plea agreement. *United States v. Verkler*, CR15-0041-JCC, Dkt. Nos. 17 at 15, 76 at 2. Petitioner subsequently filed the present motion under section 2255, raising nineteen grounds for relief.

II. Grounds Dismissed

Section 2255 relief is warranted where a petitioner shows that "the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack." 28 U.S.C. § 2255(a). A hearing on a section 2255 motion is not required if "the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief." *Id.* § 2255(b). The Court finds that the motion, files, and records of the case conclusively show that Petitioner is entitled to no relief on grounds one, four, five, six, seven, nine, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, and nineteen.

A. Grounds Waived by Plea Agreement

In his plea agreement, Petitioner waived "any right to bring a collateral attack against the conviction and sentence, including any restitution order imposed, except as it may relate to the effectiveness of legal representation." CR15-0044-JCC, Dkt. No. 17 at 15. The Ninth Circuit has upheld the enforceability of a knowing and voluntary waiver of the right to bring a collateral attack for pre-plea constitutional violations. *U.S. v. Abarca*, 985 F.2d 1012, 1014 (9th Cir. 1995). However, such a waiver does not preclude a section 2255 claim for ineffective assistance of counsel or involuntariness of wavier. *Id.* In addition, a waiver will not bar claims that challenge the state's power to bring petitioner into court or claims that are independent from the question of guilt. *See, e.g., Menna v. New York*, 423 U.S. 61, 62 (1975) (per curiam) (raising double jeopardy claim on direct appeal); *Journigan v. Duffy*, 552 F.2d 283, 288 (9th Cir. 1977) (challenging an unconstitutional statute).

The Court thus finds that relief based on the following grounds is barred by the terms of Petitioner's plea agreement: five (right to present a defense), six (violation of due process), seven

(actual innocence), twelve (speedy trial act violation)[1], thirteen (prosecutorial misconduct), fifteen (failure to give credit for time served)[2], sixteen/seventeen (improper dismissal of appeals).[3] These grounds at DISMISSED.

A. Grounds Otherwise Dismissed

Section 2255 claims not waived by plea agreement may be dismissed without a hearing where "allegations, viewed against the record, either fail to state a claim for relief or are 'so palpably incredible or patently frivolous as to warrant summary dismissal.'" *Marrow v. United States*, 772 F.2d 525, 526 (9th Cir. 1985). On this basis, the Court dismisses the following grounds:

1. Ground One: The Court Lacked Jurisdiction

Petitioner asserts the federal courts lacked jurisdiction to hear his case. (Dkt. No. 1 at 4.) This ground for relief appears to rest on Petitioner's misapprehension of federal jurisdiction and the function of the U.S. Attorney's office.[4] These allegations are patently frivolous and warrant summary dismissal. *See Marrow*, 772 F.2d at 526. Furthermore, failure of counsel to raise the issue of jurisdiction does not constitute ineffective assistance of counsel. *See Baumann v. United States*, 692 F.2d 565, 572 (9th Cir. 1982) (failure to raise a meritless legal argument does not constitute ineffective assistance of counsel); (Dkt. No. 1 at 6). This ground is DISMISSED.

//

[1] The Court notes that Petitioner stipulated to dismissal of the original complaint without prejudice after the Speedy Trial clock had run. *U.S. v. Verkler*, MJ14-0406-BAT, Dkt. Nos. 22, 23.

[2] To the extent that this ground attacks the *execution* of Petitioner's sentence rather than the imposition of the sentence itself, this claim is not cognizable under 28 U.S.C. section 2255. It may be cognizable under 28 U.S.C. section 2241, but such a petition must be brought in the court that has jurisdiction over Petitioner or his custodian. *See Brown v. United States*, 610 F.2d 672, 677 (9th Cir. 1980). This Court similarly lacks jurisdiction over Petitioner's other allegations against the Bureau of Prisons.

[3] Petitioner argues these grounds together. Their dismissal does not preclude Petitioner's challenges to the validity of his plea agreement on other grounds not dismissed herein. *See infra* Section III.

[4] Petitioner asserts that "the alleged crimes took place in the state of Washington," rather than a federal jurisdiction, "state unemployment benefits do not come within the zone of interest of 18 U.S.C. § 641," and U.S. Attorneys with the title of "esquire" are English nobles and cannot prosecute him on behalf of the United States. (Dkt. No. 1 at 4, 6.)

2. Ground Four: Denial of Attorney on Appeal

Petitioner complains that he was not provided an attorney to pursue his appeal or his section 2255 petition. (Dkt. No. 1 at 9.) The records in this case conclusively show that Petitioner is not entitled to relief on this basis. First, Petitioner waived his right to appeal pursuant to his plea agreement. CR15-0041-JCC, Dkt. No. 17 at 15. Second, he does not have a legal right to counsel on his section 2255 petition. *See U.S. v. McGee*, 177 F.App'x. 550, 551 (9th Cir. 1996). This ground is DISMISSED.

3. Ground Nine: Illegal Imprisonment

Petitioner argues he was illegally imprisoned because he was not arrested pursuant to a valid warrant and "no court ordered [him] to be held in custody." (Dkt. No. 1 at 15.) The record clearly contradicts these assertions. *See* Case No. CR14-0041-JCC, Dkt. Nos. 2, 4, 8, 10. Furthermore, Petitioner waived a preliminary hearing, indictment, and his right to trial, further undermining his claims. *See id.* at Dkt. Nos. 12, 14, 17; (Dkt. No. 1 at 16). These claims are patently frivolous. *See Marrow*, 772 F.2d at 526. This ground is DISMISSED.

4. Ground Fourteen: The Court's Refusal to Rule on Motions

Petitioner objects to "the [Court's refusal] to rule on" motions. (Dkt. No. 1 at 32–33.) He refers to a number of motions by date and name only, which do not appear in any case involving Petitioner. *See* Case Nos. MJ14-0406-BAT, CR15-0041-JCC, MJ15-0044-JPD. The Court denied or declined to rule on other motions over which it had no jurisdiction or which were not properly before the Court, and ruled on motions properly before it. CR15-0041-JCC, Dkt. Nos. 44, 49. Petitioner's argument is based on his objection to the veracity of the contents of the docket and records therein and is palpably incredible. *See Marrow*, 772 F.2d at 526.This ground is DISMISSED.

5. Ground Eighteen: Nullity of Trial Court Orders/Double Jeopardy

Under the heading of "double jeopardy," Petitioner argues that a number of this Court's post-judgment orders are "null and void" because the Court relied on inapplicable "civil" statutes

and case law and "make believe" rules. (Dkt. No. 1 at 36.) These claims are patently frivolous and are based on a misunderstanding of the law cited. *See Marrow*, 772 F.2d at 526. They are not grounds for collateral attack. *See U.S. v. Addonizio*, 442 U.S. 178 at 185 (1979) (error of law is not a "basis for collateral attack unless it constituted 'a fundamental defect which inherently results in a complete miscarriage of justice'").

Petitioner also asserts that the Government voluntarily dismissed charges against him four times[5], making his ultimate prosecution illegal. (Dkt. No. 1 at 36.) Federal law allows dismissed charges to be refiled so long as the new charges comply with the Speedy Trial Act. *See U.S. v. Barraza–Lopez*, 659 F.3d 1216, 1219 (9th Cir. 2011). Charges underlying Petitioner's conviction complied with Speedy Trial requirements. Case No. CR14-0041-JCC, Dkt. Nos. 4, 8, 10, 17 (the complaint was filed on February 4, 2018 and Petitioner pled guilty on February 20).

Finally, Petitioner argues that federal guidelines stepping up his recommended sentence based on prior convictions violates the double jeopardy clause. (Dkt. No. 1 at 37). The Supreme Court has long held that such consideration of prior convictions at sentencing is constitutional. *See Nichols v. U.S.*, 511 U.S. 738, 747 (1994).

This ground is DISMISSED.

6. Ground Nineteen: Cumulative Error

Petitioner asserts that cumulative error in his case, reflected in the nineteen grounds for relief presented herein, is the result of his extortion by former FBI Director Robert Mueller. (Dkt. No. 1 at 37.) This allegation, when viewed against the record, fails to state a claim for relief and is palpably incredible. *See Marrow*, 772 F.2d at 526. This ground is DISMISSED.

III. Remaining Grounds

In accordance with the Supreme Court's admonition to liberally construe pro se pleadings, the Court finds that the motions, files, and records of the case do not conclusively

[5] The Court understands Petitioner as referring to several amended motions to dismiss an initial complaint against him. CR14-0044-JCC, Dkt. Nos. 16, 19, 22.

show that Petitioner is entitled to no relief on remaining claims.[6] *See Eldridge v. Block*, 832 F.2d 1132, 1137 (9th Cir. 1987) (citing *Boag v. MacDougall*, 454 U.S. 364, 365 (1982)); 28 U.S.C. section 2255(a). Applicable only to remaining grounds **two, three, eight, ten,** and **eleven,** the Court thus ORDERS as follows:

(1) If not previously accomplished, electronic posting of this order and petition shall effect service upon the United States Attorney of copies of the 2255 motion and of all documents in support thereof.

(2) Within forty-five days after such service, the United States shall file and serve an Answer in accordance with Rule 5 of the Rules Governing Section 2255 Cases in United States District Courts. As part of such Answer, the United States should state its position as to whether an evidentiary hearing is necessary, whether there is any issue as to abuse or delay under Rule 9, and whether petitioner's motion is barred by the statute of limitations.

(3) On the face of the Answer, the United States shall note the Answer for consideration on the fourth Friday after it is filed, and the Clerk shall note the Answer accordingly. Petitioner may file and serve a Reply to the Answer no later than that noting date.

(4) Filing and Service by Parties Generally

All attorneys admitted to practice before this Court are required to file documents electronically via the Court's CM/ECF system. Counsel are directed to the Court's website, www.wawd.uscourts.gov, for a detailed description of the requirements for filing via CM/ECF. All non-attorneys, such as pro se parties and/or prisoners, may continue to file a paper original of any document for the Court's consideration. A party filing a paper original does not need to file a chambers copy. All filings, whether filed electronically or in traditional paper format, must indicate in the upper right hand corner the name of the Judge to whom the document is directed.

[6] While components of the remaining claims are not plausible, on the whole Petitioner states cognizable claims.

For any party filing electronically, when the total of all pages of a filing exceeds fifty (50) pages in length, a paper copy of the document (with tabs or other organizing aids as necessary) shall be delivered to the Clerk's Office for chambers. The chambers copy must be clearly marked with the words "Courtesy Copy of Electronic Filing for Chambers."

Additionally, any document filed with the Court must be accompanied by proof that it has been served upon all parties that have entered a notice of appearance in the underlying matter.

DATED this 29th day of January 2018.

John C. Coughenour
UNITED STATES DISTRICT JUDGE

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GEORGE VERKLER, Petitioner, v. UNITED STATES OF AMERICA, Respondent.	CASE NO. C17-1876-JCC ORDER

This matter comes before the Court on Petitioner George Verkler's motion to vacate, set aside, or correct his sentence under 28 U.S.C. section 2255 (Dkt. No. 1) and motion for summary judgment (Dkt. No. 10). Having thoroughly considered the parties' briefing and the relevant record, the Court finds oral argument unnecessary and hereby DENIES Petitioner's motions for the reasons explained herein.

I. BACKGROUND

On August 4, 2015, this Court sentenced Petitioner George Verkler ("Petitioner") to 48 months in custody after he pled guilty to two counts of theft of public funds and two counts of aggravated identity theft. (Dkt. No. 1 at 1.) The Ninth Circuit dismissed Petitioner's direct appeal based on the waiver included in his plea agreement. *United States v. Verkler*, CR15-0041-JCC, Dkt. No. 17 at 15. Petitioner then filed a second appeal of various post-conviction motions, which the Circuit Court dismissed in part as untimely and denied in part as meritless. *Id.* at 76 at

2. Petitioner subsequently filed this section 2255 motion, raising nineteen grounds for relief. (Dkt. No. 1.) The Court dismissed fourteen grounds and ordered service and a response to the remaining five. (Dkt. No. 5.)

II. DISCUSSION

To state a cognizable section 2255 claim, a petitioner must assert that he or she is in custody in violation of the Constitution or laws of the United States, that the district court lacked jurisdiction, that the sentence exceeded the maximum allowed by law, or that the sentence is otherwise subject to collateral attack. 28 U.S.C. § 2255(a). A habeas petitioner bears the burden of showing by a preponderance of the evidence that an error occurred. *See Johnson v. Zerbst*, 304 U.S. 458, 468-69 (1938); *Simmons v. Blodgett*, 110 F.3d 39, 41-42 (9th Cir. 1997); *United States v. Doriety*, Case No. C16-0924-JCC, Dkt. No. 12 at 5-6 (W.D. Wash. 2016).

A. Involuntary Plea (Ground Eight)

The Court will first address Petitioner's contention that his guilty plea was not knowingly and voluntarily made. (Dkt. No. 1 at 14.) Petitioner raised this issue on appeal. (*See* Dkt. No. 76 at 2.) The Ninth Circuit examined the underlying court records and rejected the claim, finding "no arguable issue as to the . . . voluntariness of the plea." (*Id.*) Having received a "full and fair opportunity to litigate [this claim] on direct appeal," Petitioner may not use it as a basis for his section 2255 petition. *United States v. Hayes*, 231 F.3d 1132, 1139 (9th Cir. 2000); *see also United States v. Berry*, 624 F.3d 1031, 1038 (9th Cir. 2010) (a 2255 petition is not "a chance at a second appeal"). Petitioner is entitled to no relief on this ground.

B. Breach of Contract (Ground Eleven)

Petitioner also argues breach of contract. (Dkt. No. 1 at 21.) He alleges his plea agreement is void because he received an excessive sentence for Counts 1 and 3, he was not correctly credited amounts paid and seized toward restitution, and a number of seized items were not returned to him. (*Id.* at 18–19.) These claims were also raised and denied on direct appeal. *United States v. Verkler*, No. 16-30001, Dkt. No. 12-1 at 14–15 (9th Cir. May 26, 2016) (raising

the same claim); (Dkt. No. 77 at 1) (Ninth Circuit ruling finding the claim "so insubstantial as not to require further argument"). Petitioner may not use this as a basis for his section 2255 petition. *Hayes*, 231 F.3d at 1139.[1] He is entitled to no relief on this ground.

C. Standing (Grounds Two)

Petitioner argues the United States lacked standing to bring charges against him, because he did not steal federal funds. (Dkt. No. 1 at 7.) This claim too was raised and denied on appeal. *Verkler*, No. 16-30001, Dkt. No. 12-1 at 13; (Dkt. No. 77 at 1). Therefore, it is not a basis for section 2255 relief. *Hayes*, 231 F.3d at 1139.[2]

D. Fraud in the Factum (Ground Ten)

Petitioner claims counsel led him to believe the charges against him for theft of public funds were misdemeanors. (Dkt. No. 1 at 16.) He argues that his resulting felony conviction therefore constitutes fraud. (*Id.*) Again, Petitioner raises a procedurally-barred issue, as it was previously examined and denied on direct appeal. No. 16-30001, Dkt. No. 12 at 26; (Dkt. No. 77 at 1); *Hayes*, 231 F.3d at 1139.[3] Petitioner is not entitled to relief on this ground.

E. Ineffective Assistance of Counsel (Ground Three)

Finally, Petitioner claims ineffective assistance of counsel.[4] (Dkt. No. 1 at 7.) To

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[1] Petitioner also fails to establish a factual basis for his assertions. His sentence fell within the range indicated in his plea agreement. (*See* Dkt. No. 17 at 2–3.) He presents no facts that would call into question the calculation of his restitution obligation. (*See id.* at 4–5.) Finally, Petitioner's own exhibits show that items seized were forfeited in the plea agreement, and the Government complied with its agreement to allow defense counsel to review seized materials and return certain documents and files to Petitioner. (Dkt. Nos. 17 at 5, 7, 1-4 at 21–22.)

[2] This claim also fails on the merits. Petitioner admitted in his plea agreement that "the money [he converted] belonged to the United States." (Dkt. No. 17 at 2, 8.)

[3] This claim is clearly contradicted by the record. Petitioner's plea agreement states that the maximum term of imprisonment for the crime of theft of government funds is ten years. (Dkt. No. 17 at 2.) During Petitioner's change of plea hearing, the judge explicitly explained that this crime was a felony. (Dkt. No. 9-2 at 12.) Petitioner acknowledged this fact and the consequences of a felony conviction. (*Id.* at 13.)

[4] Petitioner also alleges ineffective assistance of counsel in grounds eight and ten. (Dkt. No. 1 at 15, 18.)

establish ineffective assistance of counsel, a petitioner must show both that counsel's performance was objectively unreasonable and that the deficient performance prejudiced the defense. *Strickland v. Washington*, 466 U.S. 668, 686 (1984). An attorney's performance is "objectively unreasonable" when "in light of all the circumstances, [her] acts or omissions [are] outside the wide range of professionally competent assistance." *Id.* at 690. A petitioner suffered prejudice where he can establish a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. *Id.* at 694.

Petitioner makes a number of complaints about the performance of each of his attorneys. He states that he dismissed his first attorney "for 12 reasons," and his next two "for 19 reasons," and raises a litany of more specific grievances about counsel who represented him at the plea, sentencing, and appeal stages of his case. (*See* Dkt. No. 1 at 7–9, 15.) However, the Court will not delve into the reasonableness of each specific allegation of error because Petitioner's claim clearly fails on the second prong of the *Strickland* test. *See Strickland*, 466 U.S. at 697 (courts may resolve ineffective assistance of counsel claims on the prejudice prong when able). Petitioner wholly fails to make a showing of prejudice. His motion simply lists the act and omissions that he feels his attorneys made in error and states that he was prejudiced. (*See* Dkt. No. 1 at 7–9, 15.) To succeed on his ineffective assistance of counsel claim, Petitioner must establish a reasonable probability that his case would have had a different outcome if counsel had not made the alleged errors. *Strickland*, 466 U.S. at 694. Petitioner's vague and conclusory allegations are insufficient to make this showing. *See Shah v. U.S.*, 878 F.2d 1156, 1161 (9th Cir. 1989). Petitioner is entitled to no relief on this ground.

F. Evidentiary Hearing

The record before the Court conclusively shows that Petitioner is entitled to no relief. Therefore, the Court concludes that holding an evidentiary hearing or seeking additional briefing would serve no purpose, and Petitioner's request for collateral relief should be denied without conducting an evidentiary hearing. *United States v. Quan*, 789 F.2d 711, 715 (9th Cir. 1986);

United States v. Moore, 921 F.2d 207, 211 (9th Cir. 1990).

G. Certificate of Appealability

A petitioner seeking collateral relief under § 2255 may appeal a district court's dismissal of the petition only after obtaining a certificate of appealability ("COA") from a district or circuit judge. A COA may be issued only where a petitioner has made "a substantial showing of the denial of a constitutional right." *See* 28 U.S.C. § 2253(c)(3). A prisoner satisfies this standard "by demonstrating that jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). The Court finds that no reasonable jurist would disagree that petitioner has failed to state a claim upon which relief may be granted. A certificate of appealability is denied on all issues.

III. MOTION FOR SUMMARY JUDGMENT

Petitioner filed a self-titled motion for summary judgment on his 2255 petition (Dkt. No. 10). The motion asserts that the Government failed to respond to his petition within the allotted time, and thus the Court must grant his petition on all issues. (*Id.* at 1.) Since the Government did, in fact, timely respond (Dkt. Nos. 7, 9), and the Court has found the record conclusively shows Petitioner is entitled to no relief, the Court DENIES Petitioner's motion for summary judgment (Dkt. No. 10).

IV. CONCLUSION

For the foregoing reasons, Petitioner's motion to correct, vacate, or set aside his conviction (Dkt. No. 1) and motion for summary judgment (Dkt. No. 10) are DENIED.

DATED this 7th day of June 2018.

John C. Coughenour
UNITED STATES DISTRICT JUDGE

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GEORGE VERKLER, Petitioner, v. UNITED STATES OF AMERICA, Respondent.	CASE NO. C17-1876-JCC ORDER

This matter comes before the Court on Petitioner's motion titled "objections to judge's illegal 2255 rulings and criminal acts and request for an impartial judge" (Dkt. Nos. 16, 17). Having thoroughly considered Petitioner's motion and the relevant record, the Court hereby DENIES the motion for the reasons explained herein.

Petitioner's motion appears to be an attempt to appeal the Court's prior order denying his § 2255 petition. (*See* Dkt. Nos. 16, 17.) However, because Petitioner cannot appeal that order without a certificate of appealability, *see* 28 U.S.C. § 2253(c)(1)(B), the Court construes Petitioner's motion as an application for a certificate of appealability. A certificate of appealability may issue only where a petitioner has made a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). This is satisfied "by demonstrating that jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed

further." *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). The Court has already considered whether Petitioner is entitled to a certificate of appealability and declined to grant one. (*See* Dkt. No. 11 at 5.) Therefore, Petitioner's motion (Dkt. Nos. 16, 17) is DENIED.

DATED this 8th day of April 2019.

John C. Coughenour
UNITED STATES DISTRICT JUDGE

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GEORGE VERKLER, Petitioner, v. UNITED STATES OF AMERICA, Respondent.	CASE NO. C17-1876-JCC MINUTE ORDER

The following minute order is made by direction of the Court, the Honorable John C. Coughenour, United States District Judge:

This matter comes before the Court on Petitioner's motion for default judgment (Dkt. No. 21.) On August 4, 2015, the Court sentenced Petitioner to 48 months in custody after he pleaded guilty to two counts of theft of public funds and two counts of aggravated identity theft. (Dkt. No. 1 at 1.) The Ninth Circuit dismissed Petitioner's direct appeal based on the waiver included in his plea agreement. *United States v. Verkler*, Case No. CR15-0041-JCC, Dkt. Nos. 17 at 15 (W.D. Wash. 2015). Petitioner then filed a second appeal of the Court's rulings on various post-conviction motions, which the Ninth Circuit dismissed in part as untimely and denied in part as meritless. *Id.*, Dkt. No. 76 at 2. Petitioner subsequently filed a § 2255 motion on December 14, 2017, raising nineteen grounds for relief. (Dkt. No. 1.) The Court dismissed fourteen grounds and ordered service and a response to the remaining five. (Dkt. No. 5.) After receiving the

Government's response, the Court dismissed Petitioner's remaining five grounds for relief on June 7, 2018, and entered judgment against Petitioner on June 15, 2018. (Dkt. Nos. 11–12.) Nine months later, Petitioner tried to appeal the dismissal by filing a motion spanning 372 pages. (Dkt. No. 16.) The Court explained that Petitioner could not appeal the dismissal without a certificate of appealability. (Dkt. No. 18 at 1.) The Court therefore construed the appeal as an application for a certificate of appealability, which the Court denied. (*Id.* at 1–2.)

Now, almost two years since the Court dismissed this action, Petitioner has again filed a motion spanning hundreds of pages in which Petitioner rehashes many of the same arguments that the Ninth Circuit and the Court have previously rejected. (*See* Dkt. No. 21 at 1–64.) The Court rejects those arguments for the same reasons that it rejected them before. (*See* Dkt. No. 18 at 1–2.) The motion (Dkt. No. 21) is DENIED.

DATED this 29th day of May 2020.

William M. McCool
Clerk of Court

s/Tomas Hernandez
Deputy Clerk

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. GEORGE VERKLER, Defendant-Appellant.	No. 20-35559 D.C. Nos. 2:17-cv-01876-JCC 2:15-cr-00041-JCC-1 Western District of Washington, Seattle ORDER

Before: McKEOWN and BUMATAY, Circuit Judges.

The request for a certificate of appealability is denied because appellant has not shown that "jurists of reason would find it debatable whether the [motion] states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see also* 28 U.S.C. § 2253(c)(2); *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012); *Gonzalez v. Crosby*, 545 U.S. 524, 530-31 (2005); *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003), *Ortiz v. Stewart*, 195 F.3d 520, 520-21 (9th Cir. 1999); *United States v. Winkles*, 795 F.3d 1134, 1143 (9th Cir. 2015).

Any pending motions are denied as moot.

DENIED.

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 5 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

GEORGE VERKLER,

Defendant-Appellant.

No. 20-35559

D.C. Nos. 2:17-cv-01876-JCC
2:15-cr-00041-JCC-1
Western District of Washington, Seattle

ORDER

Before: CANBY and VANDYKE, Circuit Judges.

Appellant's motion for reconsideration (Docket Entry No. 10) is denied. *See* 9th Cir. R. 27-10.

No further filings will be entertained in this closed case.

CLERK, U.S. COURT OF APPEALS
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USA v Verkler 21-30098

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 13 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. GEORGE VERKLER, Defendant-Appellant.	No. 21-30098 D.C. No. 2:15-cr-00041-JCC-1 Western District of Washington, Seattle ORDER

A review of the record demonstrates that the district court imposed a time-served sentence with no period of supervised release to follow. Because the sentence imposed for the supervised-release revocation is no longer in effect, it appears that the court can provide no effective relief to appellant. *See United States v. King*, 891 F.3d 868 (9th Cir. 2018) (appeal from revocation of supervised release is moot upon completion of the sentence).

Accordingly, within 21 days of this order, appellant must move for voluntary dismissal of the appeal or show cause why the appeal should not be dismissed as moot. If appellant moves for voluntary dismissal, the motion must be accompanied by appellant's written consent or counsel's explanation why appellant's consent was not obtained. *See* 9th Cir. R. 27-9.1.

If appellant elects to show cause, appellee may file a response within 10 days after service of appellant's memorandum.

If appellant does not comply with this order, the appeal may be dismissed without further notice to appellant. *See* 9th Cir. R. 42-1.

Briefing is suspended pending further court order.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Karen Golinski
Deputy Clerk
Ninth Circuit Rule 27-7

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 27 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. GEORGE VERKLER, Defendant-Appellant.	No. 21-30098 D.C. No. 2:15-cr-00041-JCC-1 Western District of Washington, Seattle ORDER

The motion of appellant's appointed counsel, Thomas D. Coe, Esq., to withdraw as counsel of record (Docket Entry No. 4) is granted.

The Clerk will enter on the docket George Verkler, 407 East Young Street, Elma, WA 98541, as appearing pro se, pending resolution of the order to show cause and motion for appointment of new counsel (Docket Entry No. 4).

Appellant's pro se response to the order to show cause was filed on April 23, 2021. Appellee may file a reply to appellant's response by May 3, 2021.

Briefing remains suspended.

FOR THE COURT:

Lisa B. Fitzgerald
Interim Appellate Commissioner
Ninth Circuit Rule 27-7

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAY 19 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. GEORGE VERKLER, Defendant-Appellant.	No. 21-30098 D.C. No. 2:15-cr-00041-JCC-1 Western District of Washington, Seattle ORDER

Before: CANBY, FRIEDLAND, and VANDYKE, Circuit Judges.

Having reviewed appellant's response to the court's April 13, 2021, order, we conclude that this appeal is moot because appellant has completed service of his sentence and there is no effectual relief the court could grant. *See Chafin v. Chafin*, 568 U.S. 165, 172 (2013); s*ee also United States v. King*, 891 F.3d 868 (9th Cir. 2018) (appeal from revocation of supervised release is moot upon completion of the sentence). We, therefore, dismiss.

All pending motions are denied.

DISMISSED.