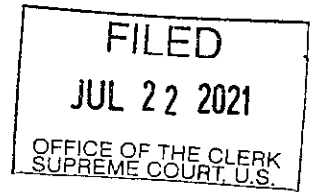


No. 21-5863



IN THE
SUPREME COURT OF THE UNITED STATES
of America

ORIGINAL

Jack A Chatman — PETITIONER
(Your Name)

vs.
Bobby Lumpkin T.D.C.J. — RESPONDENT(S)
C.I.D.

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. District Court of Dallas

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

PETITION FOR WRIT OF CERTIORARI

Jack A Chatman #2173980
(Your Name)

1992 Helton Rd.
(Address)

Dallas TX 79065
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

① Should the District Court Appoint Counsel to Habeas Petitioners, with Ineffective Assistance of trial Counsel claims, in states like Texas, In light of the Scotus Ruling in Trevino v. Thaler 133 sct. 1911, knowing that petitioner most likely Never Had the "Gaurantee" of effective Counsel on Appeal fulfilled to Assist said petitioner in "preparing and presenting" The ineffective Assistance of trial Counsel claims proven by, the fact, that the Scotus said in Trevino v. Thaler that the Highest court in Texas explicitly Tells Americans in Texas to "Not" Address ineffective Assistance of trial counsel claims on Direct Appeal where the Only Opportunity of A Gaurantee of Counsel exists and in light of the fact that the Scotus said in Evitts v. Lucey 469 U.S. 387 "The obvious truth is that lawyers are necessities not Luxuries," clearly, The people in states like Texas are Denied this "Necessity" leaving the "Gaurantee" to Counsel A Theoretical Concept, rather than A Constitutional Gaurantee - so shouldn't those people Get Counsel in U.S. District Court to prepare and present ineffective Assistance of trial Counsel, and Directly Related claims?

② Should federal rule 2254; Apply, in Not allowing ineffective Assistance of Appeal Counsel be A "Ground for relief" - in states like Texas considering the failed procedural system for Addressing ineffective Assistance of trial Counsel claims as noted by the Scotus in Trevino v. Thaler 133 sct. 1911 and by Texas highest court Quoting Scotus in Ex parte Garcia 486 s.w.3d 565

③ The U.S. District Court Called my Habeas Corpus A "1983" civil suit - The 5th circuit ct. Called it A Habeas Corpus - Should the Court have called my Habeas Corpus A 1983 in order to Deny the Relief knowing it was A Habeas Corpus and that this would make the 5th Circuit Deny Relief as well?

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:

RELATED CASES

1. Gidion v. Wainwright 1372 U.S. 335, 342
2. Exitts v. Lucey 469 U.S. 387
3. Alvarez v. State 9 S.W.3d 679
4. Trevino v. Thaler 133 S.Ct. 1911
5. Ex parte Garcia 486 S.W.3d 565
6. Martinez v. Ryan 132 S.Ct. at 1320
7. Griffen v. State C.C.A. 489 S.W.2d 290
8. Steward v. State 422 S.W.2d 733
9. Harman v. State 649 S.W.2d 93
10. U.S. v. Cronin 466 U.S. 648
11. Thomas v. Harrelson, 942 F.2d 1530 (CA 11 1991)
12. U.S. v. Adams 778 F.2d 1117

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

☐ For cases from **federal courts**:

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

☒ reported at 20-10983; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

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

☒ reported at 3:20-CV-00156-L-BM; 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 C 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 highest state ~~and~~ discretionary view 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.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 7-31-20.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was 2-3-21.
A copy of that decision appears at Appendix C.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____. *N/A*

☐ 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. *N/A*

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

~~My 5th, 6th and 14th Amendments to the Constitution were violated~~
~~by the State~~

My 5th, 6th and 14th Amendments were infact violated
by the State

STATEMENT OF FACTS

I was charged only with Aggravated Robbery, but I am Innocent. A friend of mine had been beat up. I Agreed to mediate peace, before it turned into something worse - This is the Hood and things can get bad. So I Got A clipboard and I went to the Guys House - I knocked on the Door, and the Guy invited me into the House. This was caught on video, The Doorbell Camera. I explained that I wanted to Discuss Both sides of the issue, and that I was going to write them Down to show both people both sides, but He became very irrate when I explained my friends side he became violent. He forced me to fight to Defend myself. Then my friend that had been beat up and another friend came to the House presumably to check on me, I know they could hear us fighting. They came in the House.

Unfortunately, the Guy I was fighting is A "Recording Engineer, and He refused to give over the video of them coming in the House, and He refused also to give it over to the police - the Password to video stored on A Cloud. The victim was the Aggressor and He was secreting exculpatory evidence!! The step father came in to Help the victim beat me up. I was in fear of my Life. Two on One is Deadly. I Could've hit my Head on A Coffee table or T.V. and died, they would have Just beat me to death. I saw that my friend had A Gun as He Came in and I told my friend to pop the step dad when He ran up on me, to save my life, but my friend and the other had Apparently Decided to Rob the people of the House, I Had No Knowledge of this. There is NO Culpable mental state. I was there to mediate, and after that, to save my life. The Guy told the Detective. I Had A Silver Gun at the Door, but His Own Camera! proved I Had No Gun! then in trial, he said I Had A Black Gun!

The Two females in the House confessed I Never Had A Gun or was seen with one. Yet the state still said I "exhibited" A Gun. I Couldn't Get my Attorney to Help me. ON the Day we went to pick Jury for trial, The state Decided to say they had A video. The Doorbell video. I told my Attorney I Needed to Plan A Defense but she refused to. I even told Her we Have 10 days, and she still refused. I would not Plead Guilty because I am innocent, so I Had to Go to trial.

At trial we learned that there was atleast (5) five Camera's in the house. The victim is A Recording Engineer, but the victim only Handed over (3) three clips from the Door knob video, He refused to Give the police the password to the Cloud it was stored on. We knew, As did the state, that the victim was Holding evidence because the Door knob video would've had my friends coming in the house too. But He refused to Give this over. Infact, from my Appeal brief, Page 18. The victim even said I was shooting A Gun in front of Him, in front of the Door, Right where the Camera is. Yet He refused to Give over the Password to prove it. I begged my Attorney to Subpeona the video, but she refused. I also begged Her to Call An Expert to Discuss the video and she refused that as well!!

My Attorney refused everything I Asked. And I lost right to Counsel. I Desperately wanted to Appeal trial Counsel errors, I knew the video would've proven my innocence, but my Appeal Attorney refused to speak to me, and I was not able to use motion for New trial and Not able to preserve error. My Appeal was not made on the merits.

Eventually I found A friend to Help with this because I am Not Capable. I Need Help, but this should be enough to show that Counsel is warranted, As He can better Substantial my claims, if I did not Do well enough.

The Fact that the Camera footage video was missing should have been enough, to make my lawyer Help me but she refused. Then I Couldn't even Get my Appeal Attorney to Appeal Any of it.

But this is A Common error, that the Scetus is aware of As you will see below.

Ground #1

"The Sixth Amendment stands as A Constant Admonition that if the constitutional safe Guards it provides be lost, Justice will still Not be Done." Gideon v. Wainwright 137a U.S. 335, 342. The Supreme court of the United states of America makes it clear that "Nominal Representation on an Appeal as of Right like Nominal Representation at trial Does Not suffice to Render the proceedings constitutionally adequate. A party whose counsel is unable to provide effective representation is in no better position than One who has No Counsel at All." Evitts v. Lucey 469 U.S. 387.

I Had A Right, Not privilege, to have counsel prepare and present my substantial and colorable claims of ineffective assistance of trial Counsel on Direct Appeal, in order to fulfill the Guarantee of effective Counsel at trial that was lost, I Couldn't be expected to Do the lawyers Job!

"The Time period for filing A Motion for New trial is A Critical stage of the proceedings" Alvarez v. State 9 s.w. 3d 679. "A hearing on A Motion for New trial is the Only opportunity to present to the trial Court certain matters for Appellate review. A motion for New trial hearing is the proper time to Develop A Record to Demonstrate ineffective assistance of Counsel During trial." According to Alvarez v. State above - that effective counsel should have created A Record of my claims so I can Appeal them! on Direct is the proper time - plus - it is the Only time I would have counsel to Help me - How can I be expected to Do what A Lawyers supposed to Do?

My Appeal Counsel never spoke to me - He even violated Both Texas laws on communication that order him to talk to me - See Texccp Articles 26.04 (5) (1) and 1.051 (a)! I needed to put my errors in said motion for New trial in order to "Create A Record" so I could raise the errors on Direct Appeal. I still deserve fulfillment of my constitutional fundamental "Guarantee" to effective counsel at trial and the safe Guard failed. Totally.

unfortunately, this is A very, very, common error/problem in Texas and the Supreme court of the United states is aware! Trevino v. Thaler 133 s. Ct. 1911. Almost all of the lawyers in Texas violate the laws on communication and the "30 day" window to file motion for New trial is lost - The transcript is never ready either but that is A Now issue - The 30 days are critical for the attorney to Discover errors "Outside the Record" to put in the motion so we can make A Record of them and without communication - The motion for New trial is 100% of the time an empty worthless "shell". An Empty shell that forced me to lose the opportunity to raise errors on ineffective

assistance of trial Counsel on Appeal and forces me to lose any opportunity to fulfill my constitutional Guarantee to effective Counsel at trial. I needed Counsel to prepare and present these claims and this was a "Necessity", Not luxury. According to the Scotus, If A Defendant cannot present his case in trial, He certainly cannot present his claims on Appeal either without Counsel because the adversarial system of Criminal Justice Does Not magically get easier on Appeal - plus - the Scotus Guaranteed effective counsel on Appeal for A Reason, that lawyers are A Necessity.

I Had "Nominal Representation" as noted above, and According to the Scotus above, This is No better than No Counsel at all. This means I was Denied Counsel. I was Denied the Necessity of Counsel to Represent me in the "Critical stage" of Appeal - motion for New trial proceedings, which is the "proper time" to Develop A Record to raise the errors.

To be Clear, A Defendant can technically raise the errors of ineffective trial counsel on Habeas Corpus, but this is Not realistic, at all and it is Down Right Cruel to Suggest he should, because he would Never have counsel to Recognize muchless prepare and present his claims.

The Scotus made famous, and cemented the truth in Evitts v. Lucey 469 U.S. 387, that "The obvious truth is that lawyers are Necessities, Not luxuries, in our adversarial system of Criminal Justice" if "A person whose counsel is unable to provide effective Representation is in no better position than one who has no counsel at all." "If A Defendant can't present his claims at trial when He is "Guaranteed" effective Counsel. Then He can't present his claims on Appeal either when He is "Guaranteed" effective Counsel, and what good is A Guarantee when its Not fulfilled in A "Critical stage" like motion for New trial proceedings!! I was literally Denied The "Necessity" of Counsel Twice.

The Supreme Court of the United States is aware of the problem in Texas and they made it Clear in Trevino v. Thaler 133 S.Ct. 1911, and As A Result of this, "Federal Courts are Now Resolving state ineffectiveness claims in the First Instance without Any difference to state Court Decisions about state Court Cases "Ex parte Garcia 486 S.W.3d 565.

The Supreme Court Crafted A federal Equitable Remedy that would permit such claims (on ineffective assistance of Counsel) to be raised and adjudicated for the first time on federal Habeas Review see id. at 1981 Trevino v. Thaler 133 S.Ct. 1911, Martinez v. Ryan 132 S.Ct. at 1320 + Ex parte Garcia 486 S.W.3d 565 Quoting Trevino v. Thaler above!

The Supreme Court Crafted the Remedy and Two of the Justices in the Highest Court in Texas Blew the whistle on their own court in order to Agree with the Scotus!! Justice Alcala, with Justice Johnson substantiating Her claim - out of the Highest Criminal Court in Texas in the Case of Ex parte Garcia 486 S.W.3d 565 said, "under the current scheme in many cases Neither Direct Appeal nor writ of Habeas Corpus provides A meaningful Opportunity for litigants to present ineffectiveness claims.....(because) as the supreme court has suggested Recently, Texas's system for Addressing claims of ineffective assistance of trial Counsel has serious flaws". The U.S. Supreme Court has Determined (a) that Texas current scheme constitutes an inadequate vehicle by which an indigent defendant may raise an ineffective assistance claim and, Therefore, presents an unacceptable risk that meritorious claims will go unremedied, and (B) that the problem is significant enough that it was necessary to Alter the federal Approach to Resolving these claims left unaddressed due to the inadequacies of Texas's system! In Ex parte Garcia the Two Justices confess that Habeas Applicants Do Not Get meaningful consideration because we Never Get Counsel to prepare and present our claims!!

As A Result of my Appeal Attorney Negligence which Both Separate and related to the "Failed System" - my Attorney was unable to present my claims, because He Never made A Record of the errors in motion for new trial and because of this - He was Negligent even in the errors He Did present! The motion sensor would have Activated the Camera to Record this Action to Cloud Storage! The truth is that I was there to talk A problem out and He invited me in - but He Altered the video and Only gave over what he believe would prejudice the jury. It was my Attorneys Job in trial to point out that the video Does Not, As the proponent says, "show A Visual of what Actually Happened as is Exhibit 2.

② The proponent claimed, (again - "falsely") - that Two other intruders ran into the Apartment, yet his wife claims on Exhibit 2 pg. 2 that she Asked the Two people to come in and help. Again, The motion sensor Did Not set the Recorder off or so the proponent lied. My trial Attorney should have subpoena'd the password for the state or Detectives to retrieve all the video.

③ The proponent claimed for A 3rd time, falsely, that I was Right in front of proponent shooting at [Terry] Right in front of Door" Yet this too was Not on the video that the proponent claimed would

"show A Visual of what Actually Happened".

④ see Exhibit 1 Pg. 26 - Not Only Did Greer, The proponent claim to be A "Recording engineer" but He Deceptively Only, "Turned over the footage of His choosing to the police" and "He did Not allow them Access to His Account".

⑤ proponent wife Testified that she left the House and came back in and this too was on the (3) video clips.

- The Point Here is that the video was Not, at all or even close to what proponent claimed and but for ineffective assistance of trial Counsel, the trial Court would have been shown this and the evidence would Not have been admitted into evidence because it Did Not meet the bar set by Rule 901, to be what the proponent claimed it to be!

- So the issue presented on Appeal should have been ineffective Counsel at trial, Not A ineffective Judge (!) and I had A Right to Raise this error on Appeal with counsel to prepare and present it but that possibility expired when the 30 day window to file motion for new trial in order "To preserve" the error so it could be Raised on Appeal. I lost my Right to Counsel when I was Denied Opportunity to have Appeal Counsel prepare and present my claims of ineffective assistance of trial Counsel. see *Evitts v. Lucey* 469 U.S. 387. For Example, if you see "issue 2" on Pg. 8 Exhibit 1. My Attorneys Appeal Brief - You will see that my Appeal Attorney wrongfully claimed that it was the "Trial Court" that "erred" by admitting into evidence the Home video surveillance footage that was Not authenticated and was unreliable because it Did Not Capture all of the relevant events and was therefore incomplete. My Appeal Attorney was in error! He Only said it was the trial Courts error because He failed on purpose, to preserve the error in motion for New trial, that it was my trial Attorneys error for failing to properly Argue under Rules of evidence why the footage was Not admissible!

Again, The error was my trial Attorneys and Not the trial Courts, and I lost my Right to Counsel on Appeal when He failed to use motion for trial so I Could Appeal the trial error as ineffective trial Counsel as was my Right and Need. The evidence was Not admissible, but it was the lawyers fault, Not the Judges fault that it Got wrongfully admitted to wrongfully prejudice the Jury, when the Complete video would prove my innocence!

As the Appeal Court Points out under Rules of evidence, Rule 901 only requires that the evidence be sufficient to Support A finding that the evidence in Question is "what the proponent claims" and that is the point.

- The video (3) clips from A Doorbell internet Recorder, Recorded on Cloud Storage. After Activated by A motion sensor in Question is Not at all, what the proponent claims it to be, and but for ineffective assistance of trial Counsel, The trial Court would have seen this, and Not allowed the (3) clips into evidence to prejudice the Jury, or The Court would have forced the State to Give over the Rest of the video that proves my innocence!

The Appeal Court was very specific to point out on pg. 10 of their opinion Exhibit 2 to show that the video the proponent handed over that was Not Cumulative. "would (still) provide the Jury" A "visual of what Actually Happened." Therefore the video should have shown what the proponent said happened - Yet it Did Not Because the proponent who testified to Being A "Recording Engineer" see Exhibit 1 pg. 26. The Appeal brief - Had Ability to alter or otherwise manipulate the video and this is why the proponent refused to Hand over the password for the Detectives to watch it all see Exhibit 1 pg. 26 He offered (3) clips, only, and those clips Do Not substantiate what the proponent claimed Happened.

③ The proponent claimed that I "Pulled A Pistol out on Him in His face" Exhibit 2 pg. 3 at the Front Door when He tried to shut the Door on me "Yet the motion sensor Didn't produce video in the (3) altered clips! IF I Had pulled A Pistol and fought to keep the proponent from slaming the Door, The motion sensor would have recorded it too!!

Another example is in issue #1 pg. 8 Exhibit 3. The Appeal Court claimed that my Appeal Attorneys issue was without merit - But Again - This is Only because My Appeal Attorney wrongfully placed the Blame on the Judge for admitting the 911 call over Hearsay objection, when it was infact my trial Attorneys error!

The 911 call Did Not fall within the "Hearsay exception" because All evidence at trial indicates that the "victim" was Lying on purpose in the 911 call to prejudice me and to cover up what Actually Happened! These people are Known Drug Dealers and they Had (5) cameras throughout the House. They are also violent, as the victim "Greer" had attacked my friend which is why I went to talk it Out; to mitigate Damage, to prevent Any escalation of issue.

- The point here though, is that Ms. Greer said on the 911 call that the "intruders" were "Breaking into my House" see Pg. 7 Exhibit 2 yet in trial she confessed she thought the Husband and I knew each other and that we were "Just fighting" each other. Exhibit 1 Pg. 10 which is why she looked out the front door and kindly asked the Two men to Come into Her House to Help. The Only Reason she was not alarmed at our fight was because I came into the House to calmly resolve an issue before it escalated until Her Husband attacked me for siding with my friend whom He Had attacked.

Ms. Woods also testified Exhibit 2 Pg. 3 that she "stayed in Closet" until police arrived, but One of the video clips actually does show Her coming back into the House - so this too is proof that she was purposely trying to Deceive the 911 Operator because she was not as she claimed "so scared" she stayed in the closet - because she left the closet and the House to expose herself to All possible Danger outside! and the 3rd video clip proves it!!

So Her Call to 911 was not "presense sense impressions" they were Calculated to Deceive, and she contradicted herself in Court such that Her Lies were made Known to me. Therefore it was my trial Attorneys fault to Not present this to the Court - It was never the Courts fault. So my Appeal attorney should have Appealed my trial Attorneys error rather than the Judges error, and but for ineffective Counsel on Appeal I would have Had Counsel to prepare and present, My Substantial claim of Ineffective trial Counsel on Appeal!

Finally in My Appeal Attorneys 3rd issue, He failed or "erred" because He for A 3rd time Blamed the Judge, when He should have blamed the trial Attorney My Appeal Attorney lost on this issue too, because He Contended wrongfully see Exhibit 2 Pg. 11 that the Judge erred by failing to limit the Definitions of Intentionally and Knowingly in the Jury Charge to the relevant conduct elements for Aggravated Robbery.

The Judge conceded for Argument Pg. 13 Exhibit 2 that this Court Did in fact fail to properly limit the mental state definitions but he Dismissed the Claim, because my Attorney at trial failed to show Harm. so Again this was my Attorneys fault. I was at the House to keep A prior fight, where the victim Greer attacked A friend, from turning into something worse. My Attorney knew this was A "personal Beef" As the Judge points out on Pg. 14 Exhibit 2.

- but she failed to show that I Did Not know of the Crime, and Did not intentionally Act in part of said Crime of Agg Robbery.

If my Attorney had subpoena'd the video It would have proven that I Never came to the Door with A Gun, Never used A Gun and that I was A victim of Lies and manipulated video and this would have proven that the Robbery was the Act of the "Two" the victims wife invited into her home and not me. The video from the (3) camera's would have proven my true intent. Exhibit 1 pg. 24 and thus would have proven I was in fact "Harmed" egregiously by my Attorneys failure to force the Judge to limit the mental state definitions, of "intentionally" and "knowingly" and I would have Not, thus lost the issue on Appeal - but for the 3rd time my Appeal Attorney failed to preserve the error of ineffective trial Counsel in motion for New trial proceedings, so He had to raise the error against the Judge, wrongfully - where He was unable to show Harm, because the Harm came from ineffective Counsel and He couldn't raise ineffective trial Counsel claims on Appeal because He failed to use motion for New trial to preserve said errors. I Had A Right to Appeal my trial attorneys errors and I was Denied that Right. So the "Safe Guard" of the Guarantee of effective Counsel on Appeal was lost and with it I lost as well, the Guarantee of effective trial Counsel and I Ask for Reversal, or at least A New Appeal

Please note that Grounds 2-4 Here in! should also have been Appended and Apply to this Ground because Appeal Counsel failed to preserve, prepare, and present each!

Ground #2

First of all, it is critical to understand that any and all error here-in that constitutes ineffective assistance of trial Counsel could and should have been made part of A Motion for new trial, so that in the very least - I could have raised the error on Direct Appeal and but for ineffective assistance of Counsel on Appeal - All error in this Ground, in #3 and in Ground #4 as well - would have been put in motion for new trial and raised on Appeal and if raised, would have brought Relief.

My "Gaurantee" to Counsel was not fulfilled at trial, "Nominal Representation" of Counsel at trial Evitts v. Lucey 469 U.S. 387 is no better than no counsel at all, and my Counsel at trial - was so unbelievably "Nominal" that she didn't even take the "Time" that the law allows to prepare our Defense, and but for this error I would be free.

I have indisputable proof that my attorney was aware of Due process violation and still she did not use the law to defend me and instead - out of neglect - lack of care - laziness - and negligence - she refused to enforce the "10 day Rule"!

① In Exhibit 3 the "States Brief" pg. 8 the state confesses that my trial Attorney was aware of "unfairness" which is Due process. specifically my Attorney complained that "The proper predicate has not been laid for various reasons" Yet if she had enforced the 10 Day Rule, she could have obtained the law and witnesses - to defend me on Not one - but exactly All of these "various Reasons".

② My Attorney also complained Exhibit 2 pg. 8 that she didn't know about authenticity or that the witness could authenticate anything. Yet if she had enforced the 10 Day Rule she could have defended Her Belief.

③ My Attorney complained of error in "Chain of Custody" Exhibit 3 pg. 8 Yet she Again Refused to enforce the "10 Day Rule" in order to back up Her Belief.

④ My trial Attorney objected to A video on Exhibit 3 pg. 16 on "multiple legal theories" but ineffectively as the state points out. Epic point for me. Because they were all "without Argument" And Again, my Attorney refused to enforce the 10 Day Rule, when she could have enforced the law to Aid my Defense! If she believed Her objections had merit - then I Had A Right for Her to Not be "Nominal" in Her lazy efforts.

The state Did Not introduce the video evidence Against me until trial had started officially, and even the highest Court in Texas Already Agrees that this violates Due Process because I Deserve 10 days to prepare for trial, and but for ineffective trial Counsel we would have postponed trial - 10 days - to Secure the video and video expert, and witnesses, and now needed to back up my Attorneys negligent objections, so that they were Actually effective.

IN Griffen v. State Court of Criminal Appeals of Texas
489 S.W.2d 290

"Appellant next Argues that He Did Not wave His Right to the 10 days with in which to prepare for trial as Authorized by Article 26.04 v ACCP (Today 1.081(c) TCCP) we are in full Agreement with Appellant that where there has been A failure to Comply with the mandatory provisions of this Article Reversal is ordinarily called for without any Question of (489 S.W. 2d 292) harm or prejudice Steward v. State 422 S.W. 2d 733."

I Never Waved my Right to the 10 Days!!

My Attorney has no leverage, at all, to Argue "trial strategy" because if she believed it was worth objecting to, then it is worth Doing Right because frivolous objections are negligent; but in my case, The objections are very valid - I Just needed A lawyer to Do it Right, so I was Denied Counsel. Nominal Representation is no better than No Counsel at all.

Texas cannot say I was Not Denied Counsel and Due process because Texas waited until the Day of trial to present the video! Harmes v. State 649 S.W.2d 93 states, "an Attorney whether retained or Appointed, who undertakes to represent A Defendant... in A Criminal case, has A Duty to his Client. A Duty to the Courts of state, and A Duty to the legal profession of which He is A member to familiarize himself with the Applicable rules of Criminal procedure and follow those Rules to the letter.

Texas code of Criminal procedure (TCCP) rule 1.081(c) gives me 10 days to prepare for trial. My Attorney Complained, Yet Refused to enforce the 10 day rule as if she was Not aware of it!! I told Her we need time, I Told Her the Guy Didn't Give over all the video. The proponent of the video even admitted to being A "video Engineer" and as shown in Ground #1, He refused to Give up the password for Detectives to Get All the video! see Exhibit 1 Pg. 26, Exhibit 2 Pg. 2

My Attorney, But for ineffective assistance of Counsel would have used the 10 day rule to Subpoena the password to get all the video because it would have proven my innocence, plus she would have gotten "the experts" to Authenticate the video and to show that the "(3) clips" were Not Complete, to show that the state had violated the "Brady Act" on purpose by Not providing the exculpatory evidence that the state and victim "with held".

The point here is that I Had Right to the "10 days" and I was Denied that time - and it Caused Aggregious harm because I needed that time to Subpoena the rest of the video and witnesses, and to find law and to make Argument to Substantiate my Attorneys objections. I would have proven my innocence but for ineffective Counsel, that video was Held on cloud storage with password Access, and Records from motions. All I needed was the Rest of the video to prove that the proponent was A Liar and No Jury would have Convicted me! I was Not there to Rob. In the very least I Could have proven that I Did Not Have the Culpable mental state.

Please understand - that I Had A Right to have Counsel prepare and present this claim for me. I Cannot be expected to Do it well enough for A Court to Accept it because the SCOTUS said Attorneys are Necessities, Not Luxuries in Evitts v. Lucey 469 U.S. 387 for A Reason, So I Need Counsel Now to make this colorable claim the way the Courts needs it. to Grant relief, Please! I Have substantiated claims enough with my (3) exhibits, surely to warrant Counsel to fill in what is needed. I was Denied All Gaurantee of Counsel to prepare A Defense. I Had an unfair trial and unfair Appeal. I still Have Right to the Gaurantee of effective Counsel to prepare and present my claims

Please Help.

Ground #3

My Attorney refused to prepare for trial, and During trial she effectively confessed to it by and through admitting to the Disadvantage we were put in because of it. she said pg. 23 Exhibit 1 "And so it Does put us At A Huge Disadvantage especially in A situation where I Have A Client that is facing life imprisonment." As my Attorney, it was Her Job to keep up the "adversarial process," and I Argue that when the state wrongfully puts us at, "A Huge Disadvantage" Exhibit 1 pg. 23 then she should have fixed it. In this case she Could and should have:

- ① objected to the Jury Charge
- ② Used "Expert witness" to prove Her Argument
- ③ Claimed "Brady violation" to force state to turn over Exculpatory evidence
- ④ and enforced "10 day Rule pursuant to "Tx.cc.p.1.031(c)" because video was not even introduced until Day of trial and we, by law, (labeled here in) Had Right to 10 Days to prepare for trial, and thus 10 days to prepare A Defense Against the incomplete and unauthenticated video, and incomplete jail house phone call!

On the Day trial started, The state introduced the incomplete Jail House phone call, Edited and incomplete clips of video, that Did Not, at all, Represent "what Actually happened" as explained in Ground #2. My Attorney confessed Exhibit 1 pg. 23, "Normally law enforcement retrieves video" But they Did Not and As A Result proponent of video was "allowed to Give what He wanted," to prejudice me and to Hide Exculpatory Evidence! In violation of "Brady Act."

My Attorney Argued on pg. 23 Exhibit 1 that, "At no point.... Did law enforcement Access the Data to make sure that it was All being Turned over," so she was aware of error, but then she lied to say, "and there is Nothing I Can Do for him to do that, and that puts us at A Huge Disadvantage," so this is proof of ineffective Counsel. I Argue, because my ineffective attorney should have enforced the 10 day Rule under Texas code of Criminal procedure, because in Texas A failure to enforce or failure to follow any of the mandatory provisions of Txcp Art 1.031 (formally 26.04) calls for Reversal without any Question of harm or prejudice see Griffen v. State 489 s.w.2d 290!!!!

Plus, in this situation, I was prejudiced, and egregiously harmed by A Constructive Amendment of the charges by State Thomas v. Harrelson, 942 F.2d 1530 (CA 11 1991) because the missing video secreted by the "victim", and the state, in violation of the Brady Act, will prove that The Robbers were Acting on their own, and that I was not part of any Robbery and could not have had the Requisite "Intent" or "Knowledge," but more than that, it will prove my innocence, because it proves I Did Not Do what the proponent said I Did!

On Pg. 24 Exhibit 1, The proponent of the video, Greer, testified that his Apartment is Equipped with four or five Cameras, one of which was the Ring video Doorbell. (He kept cameras because He's A Drug Dealer).

My Attorney could and should have gotten a Court order or even subpoena and but for ineffective assistance of trial counsel, we would have had either or both, to not only obtain missing Doorbell video - but also the video from the other (4) cameras in this House, and an "expert to substantiate Her Arguments that the video was incomplete and Doctored, and unauthenticated". Even the state concedes, Exhibit 3 Pg. 9, (The states Brief) that my attorney cites multiple Grounds without Argument, which preserves Nothing for Review.

Also, in Exhibit 3 Pg. 16, The state made it clear that my Attorneys objections in my Defense were, "Six (6) Separate Concepts into one objection without Argument" and ineffective, as counsel in assisting my Defense Against the video presented. I believe the state substantiates my claim here in well enough to warrant Relief, and or, to Grant Counsel to Color in my Substantiated and or colorable claim. I have maxed out my ability to explain!

Having said this, The video Did Not describe what the proponent claimed it would show, A "Visual of what Actually Happened" Exhibit 2 Pg. 10

① The third clip showed woods coming back into the House while people were still screaming Exhibit 2 Pg. 9. But the 911 call said that woods remained in the House, in the Closet until police Arrived, Exhibit 2 Pg. 3

② proponent said I "was Right in front of [Greer] shooting at [Terry] Right in front of the Door" where the Ring video Doorbell was. Yet there was NO video of it see Exhibit 2 Pg. 4 - Plus He said I fought to Get in Exhibit 2 Pg. 3 Also not on video!

③ Nor did the video Get the Robbers coming in the House. The proponent's wife said she looked out front Door, "and asked for help" Exhibit 2 Pg. 2 Yet later testified they ran in Door and punched Her in face.

④ see other issues in Ground #1 to prove video Did Not "Give visual" of what Actually Happened According to Greer [proponent].

If my Attorney had called Expert witness to Explain Doorbell video and editing potential combined with some effort to show that video clip Did Not show what state claimed they did. I would not have been convicted. ON Exhibit 1 Pg. 21 my Attorney claimed the video "System" was above the victims "Expertise" so then she should have gotten an expert to prove it for my Defense, As this would have proven my innocence. It would have surfaced that the proponent Did in fact edit out clips because of the ease or because proponent was "A Recording engineer" exhibit 1 Pg. 26, and then we would have obtained the missing footage to exonerate me as I am Actually innocent". we should have used this All to Discredit witnesses too but that is Ground #4.

ON Pg. 21 Exhibit 1. My Attorney confesses that, "we have An issue As relates to my clients constitutional Right to Cross examine because we will Not fully be Able to Cross examine this witness about the mechanism." Having to Do with the videos, I was Denied Right to Cross examine, and in U.S. v. Cronk 466 U.S. 648 the SCOTUS said, "Because the Petitioner had been denied the Right of effective Cross examination" which "would be Constitutional error of the First Magnitude and No Amount of showing of want of prejudice would cure it." Then in Exhibit 3 Pg. 16 The state says it better than I Can, when they say, "By loading (6) Separate legal concepts into one objection (to videos) without Argument Appellate lodged A Shotgun objection. Nothing is preserved for Review".

My Attorney was Not prepared for trial, she made No Argument to back up her claims and the state Already Agrees (!) see Exhibit 3 All (3) issues! and but for ineffective assistance of Counsel at trial we would have had effective Expert witness to prove that witness edited out exculpatory video, and we would have had effective Cross examination to prove my Innocence, and I would Not be in prison!

All of this should have been put into A Motion for New trial see Ground #1 so I Could raise the errors on Direct Appeal, with Counsel to prepare and present these errors as I needed and had Right to, because the obvious truth is that lawyers are necessities, Not Luxuries. This is why I still need Counsel to explain this As needed to Get Relief I Deserve to fulfill constitutional Guarantee to effective Counsel and Due process, and while "No Amount of showing of want of prejudice would cure it." I was prejudiced because I Did Not have A fair and impartial trial, where I would have, but for ineffective Counsel.

Also in trial my Attorney confessed to Not being prepared on Exhibit 1 Pg. 38 she said, "if I brought in Tapes of everybody that He's (The officer) arrested, I would almost Guarantee this Court that he would Not be able to Say.... that was such+such from this Day, that was such+such from this Day. I Don't believe this officer would be able to Do that to Identify people.

The point is that the state introduced A Jail House phone call After trial started and we did not have time to prepare for trial. My Attorney says "Normally when we're doing this, we're bringing in someone who is familiar with the persons voice" and "I take issue with the Substance as well, just to the extent that the conversation was discussed in context of firing said Counsel." The Jail House phone call was proof that I was complaining of ineffective Counsel, but the state "Cut up" the tape, and edited the tape to prejudice me! They used the phone call to make it look like I was confessing to the crime, when in fact I was Not! I was only showing how the states case Against me was faulty and how if my attorney was not so ineffective we could beat the case, for ineffective Counsel in trial, because she refused to enforce the 10 Day Rule so we could make A Defense to the Jail House phone call. see Exhibit 1 Pg. 38 for proof Attorney Did Not prepare for this phone call!

I was egregiously Harmed by this! It was A phone call to my sister to Complain about Counsel, and I was clear to say what was error in the states malicious Allegations Against me - and how if Counsel was not ineffective. The charge should be Dropped but Counsel refused to enforce the 10 day rule. If I Had Counsel to prepare - we would have shown the Jury the states error and they would have seen I was innocent & Not Guilty & that the state was malicious too.

This is key, But for ineffective counsel then failure to prepare, we would have shown that the state would Do this to the phone call from Jail then it is reasonable that the state would Do the same with the vides!!! & we could have easily proven that the state edited the Jail House call to purposely misconstrue what I said which is malicious & making it unfair between the state and I. In violation of Due process & violation of Right to Counsel for Not pointing out Due process violation to Court! that phone call killed me - when it would have saved me but for ineffective Counsel! The Attorney tried to hide what I said because it made Her look Bad, But I needed it Because she was Bad so Bad that I was Denied A fair trial!

I Had A Right to Appeal this too, but Appeal Counsel refused to speak to me, and refused to put anything in A motion for New trial, so I could raise ineffective assistance of trial Counsel claims - so I was Denied All Right to Counsel, at trial and on Appeal - when "The obvious truth is that lawyers are necessities Not Luxuries" as stated by the SCOTUS in Evitts v. Lucey 469 U.S. 387 - This is why I Need Counsel Now to prepare and present my claims here in, effectively because I Cannot be expected to be able to Do it!!!

Ground #4

I lost my Right to Counsel when my attorney refused to discredit the witnesses or to keep up adversarial process.

① My Attorney confessed, "Normally law enforcement retrieves video "but they did Not; and as A Result the proponent of the video was, "allowed to Give over what He wanted" to produce me, and Attorney confessed, "I Don't even know what is missing.... Obviously theres portions that are missing. I Don't know what was Happening in those portions at all." see Exhibit 1 PG. 20 she claimed the Recording system was above her expertise, she says she is "Not A Techie" and proponents "expertise" Exhibit 1 PG. 21 - Yet refused to Get an expert to Defend me because the missing video was going to prove my innocence, and it was motion Activated - so it is only Reasonable that there was missing video - why would it record some Action, like the victims wife coming in the Apartment when she was Supposed to be in the closet & Not record me shooting A Gun at the front Door As the proponent said I did? An expert was needed to Discredit the video proponent.

② On Exhibit 2 PG. 7 Ms. Woods said "Three Dudes" "they're breaking into my House" - This was A Lie, on Exhibit 2 PG. 2 it says, she looked out the front Door, saw Two other Black males, and Asked for Help! They were in fact invited in, The fact that they wanted to or Allegedly wanted to Rob her is not what was Going on with me and Her Husband, at all - and video - The missing video would prove it!

③ Exhibit 2 PG. 3 it says from 911 call that Ms. Woods Remained in closet until police arrived, when in fact this too was A Lie, The 3rd video clip, Exhibit 2 PG. 9 shows her coming back into House + Her Husbands mom screaming in the background, so she Lied - As she was Not "in fear" see Ground #1 as she claimed or she would have stayed in the Closet because she said she see Ground #1 stayed in the Closet out of fear!! so the 911 call should Not have been admitted on this too, because Her fear was faked & she invited the people in!

④ victim said I "started shooting" while I was "Right in front of Greer and shooting at terry right in front of the Door" with the motion camera yet it Did Not Get this - because it Never Happened! see Exhibit 2 PG. 4 - also proponent said he slammed Door + I fought to Get in see Exhibit 2 PG. 3 & this too was Not on video!

⑤ Greer testified he saw Two Guns. Exhibit 2 PG. 4 Yet Ms. Woods Exhibit 1 PG. 14 said she saw only one Gun "The Silver One" on PG. 11 Exhibit 1 she Saw A Gun on the floor, and Exhibit 1 PG. 12 she saw A Guy - The Same Silver one obviously being held by the man who is Not me but the man she claimed hit her After she Invited him in!

⑥ Exhibit 1 PG. 16 Greer was Asked what happened when his mom came in. He told the jury "Somebody" (He) pointed the pistol at her, but then said they were on the other side of the House, "so [He] (Greer) - I Couldn't see" so He testified to fact that He Couldn't see or know about, so I needed my Attorney to show the jury that the man is willing to lie to put me in jail for life, and if He will Do this, then he would edit video as well. This was A Known Drug Area and the victim was A Drug Dealer. I Needed to show this! Its why He kept all the cameras, four or five of them Exhibit 1 PG. 24 but "Did Not allow them (Police) Access to His account" of videos. I needed to use this too, to discredit witnesses.

(7) Exhibit 1 Pg. 13 Ms. Woods Denied they were evicted from their Apartment after the event, but Rather "because of fast traffic" - they were Drug Dealers.

(8) Ms. Woods testified she didn't know who took Greer's phone Exhibit 1 Pg. 14 and Mr. Greer testified "The 3rd Guy" took the phone Pg. 17 Exhibit 1 so I'm innocent.

(9) Proponent Greer Exhibit 1 Pg. 15 said He Saw "The Pistol" when He first Opened the Door but this was not on video clips and Neither was "The Fight" where I was supposed to be shooting the Gun later Exhibit 2 Pg. 2

(10) Proponent of video, Greer, made A Declarative statement that A Pistol was pointed at the mom Exhibit 1 Pg. 17 and then said He Did Not see - Then He said on Pg. 17 also "I Guess" the Guy in the yellow vest (me) was like "PoP + that nigger" If He will lie ON A Declarative statement to say what happened when He didn't see it! Then Does it Not makes since that He is probably Lying to put me in prison, at my trial when He says, "I Guess".

(11) My Attorney Asks, "Does this witness have ability to talk about how this (system) even works," Yet fails to get expert to Help my Defense so Her Arguments are worthless. Exhibit 1 Pg. 20 we needed An expert to show that the motion sensor camera from Ring.com / or whatever it was my Attorney refused to research) would have in fact recorded every incident without fail to prove that the proponent most positively edited out the exculpatory video!! I Had A Right to Counsel that would back up her Arguments.

(12) The Only things stolen were A phone + Keys, Both victims (see item 8 above) prove I Didn't take the phone - or even try - and the victim who had the Key taken Confessed that, "I Don't know if He thought He dropped His Keys ... but He Reached and Grabbed my key" so even according to the victim - Intent and Knowledge of theft of Key was Not Certain beyond reasonable Doubt! see Exhibit 1 Pg. 29

(13) The Only shell casings recovered at the Scene were from the victim Terry's Gun, so the Only evidence of shooting comes from the victims and Not me - And Not the (a) alleged Robbers. see Exhibit 1 Pg. 33

(14) Detective Blust Acknowledged the Guns Recovered were Not Associated with me Exhibit 1 Pg. 33

(15) The state edited the Jail House phone call so it looked like I was confessing to Crime when in fact I was complaining of ineffective Counsel and showing how the state was violating Double Jeopardy Bar Exhibit 1 Pg. 38-39

The video Did Not, at all Depict what the victim said Happened and it was Not admissible, Each of the 15 Items above could have, and should have been used to Discredit the victims, and but for ineffective trial Counsel - They would have been used - Plus the missing video would have been all that is needed to prevent A Juror from Convicting me. As I was there to prevent escalation of A Problem, and then I was there to preserve my life that was being threatened by both my Attacker, Mr. Greer who Attacked me in His Home - After He invited me in, and by this father in law "Terry" who left all the Gun shell Casings All over the Place!

In the very least we could have proven I Had No Intent or Knowledge of Crimes, the other (2) men were Invited in and Acted Alone - After I was Attacked by Greer.

IN Exhibit 2 The Court Opinion Pg. 13. The Judges state that After He Assumes that the Jury charge failed to properly limit mental state Definitions of intentionally and knowingly, He Cannot conclude I was Harmed, but it is clear. The evidence above proves I Never Had or exhibited A Gun and that the Other two men invited in Did the Damage Not me - and Had Counsel kept up the adversarial process this would have been evident to the Court, but all is mute because the Court said on Pg. 15 Exhibit 2 that my lawyer was ineffective for failing to provide Argument or authority with Respect to Jury charge which forced me, wrongfully, To Have to waive my error due to ineffective Counsel, so I lost Right to Counsel at trial!

This was A Constructive Amendment of the charges by State Thomas v. Harrelson 942 F.2d 1530 (CA11 1991)

The Dispositive issue before us is whether trial Counsel was ineffective because she Did Not raise the issue of A Constructive Amendment of the indictment Created by the proofs showing A Different offense than the offense charged. Constructive Amendment of An indictment occurs when the Jury is permitted to Convict the Defendant upon A factual basis that effectively modifies An Essential element of the offense charged and it is Grounds for Reversal per se U.S. v. Adams 778 F.2d 1117 (5th Cir 1985) Federal Cases frequently refer to "Constructive Amendment". state Cases, including those from Alabama often discuss the Issue in terms of "fatal variance". The Requirement that A Defendant be tried Only on the Charges set forth in the Grand Jury indictment finds its Origin in the Fifth and Sixth Amendments.

This is Critical to see - because Appeal Counsel was totally ineffective. He kept trying to Blame the Judge - when in fact it was Not the Judges fault, but the Attorneys fault, As it is the Attorneys Job to be my lawyer - and Not the Judge Job! I Had A Right to Not Only prepare and present my ineffective assistance of trial Counsel claims, but to also have A lawyer Do it for me - Evitts v. Lucey 469 U.S. 387 because "lawyers are necessities not Luxuries" but I was Denied this Right and thus my "Gaurantee" were violated and A Serious miscarriage of Justice will occur if my claims are Not presented to the Court by A lawyer who Can prepare them such that the Honorable Judge Can Give me Relief.

Without having to Break precedent, to use the Supremacy Clause, for Justice what I am told is that we have law that voids out the Supremacy Clause so it was the lawyers Job and Not the Courts Job to protect my Constitutional Rights - so Appeal Counsel was wrong to Not let me Appeal, and I lost Right, Fundamental Right to both Counsel and Due process.

CONCLUSION

What Happened to me is Common in Texas, I suffered ineffective Counsel at trial - and the Only True "Safe Guard" to insure that Constitutional Guarantee of Counsel was lost, when I lost Right to Counsel on Direct Appeal to prepare and present those claims which are impossible for a lay person to do; Both Texas & the SCOTUS. Agree that the System in Texas for Addressing ineffective trial Counsel Claims sucks, see Ex parte Garcia 486 S.W.3d 565 and Trevino v. Thaler 133 S.Ct. 1911

I was Denied Right to have effective Counsel at trial which Denied me a fair trial, and I was Denied Right to Counsel on Appeal to prepare and present ineffective assistance of trial Counsel claims, which I cannot be expected to do. Evitts v. Lucey 469 U.S. 387, because "The obvious truth is that lawyers are necessities Not Luxuries" and Counsel is needed because the "proper time" to preserve errors of ineffective Counsel so they can be raised with Counsel's Aid, is in motion for new trial proceedings - which I was Denied - see Alvarez v. State 9 S.W.3d 679.

The Only Reason my claims would fail Now is because I Have been Denied Right to Counsel to prepare and present them effectively.

It is Clear that my trial Attorney failed to use and or enforce the "10 day Rule" so we could prepare - and but for this Deficient performance - all my Attorney's objections & my Claims Here in - Both could and would've been Accomplished, for my Defense, By the standard set by Texas in Griffen v. State 489 S.W.2d 290 I Deserve Reversal - without Any Question of Harm or prejudice just because they violated A Mandatory provision (Txccp 1.031(c))

The 10 day Rule - But I was Harmed. Egregiously, because I was Not able to prepare for video and Jail House phone call that were both not introduced until After trial started.

SO when my Attorney at trial failed to enforce the 10 Day rule for us to prepare A Defense - to Get the experts needed and missing video, to prove my innocence. I was also Denied ability at effective Cross examination which my own Attorney confesses too well enough in Exhibit 1 Pg. 21 (c) and in U.S. v. Croniz 466 U.S. 648 it says "Because the petitioner had been denied the Right of effective Cross examination "which" would be Constitutional error of the First Magnitude, and NO Amount of showing of want of prejudice would Cure it" and I was Denied this - and I have been Hurt and I Have explained that As Good As A lay Person can be expected to Do so. I ASK for Reversal for Constitutional violation of Right to Counsel and related violation of Due Process - I want A New trial because I Deserve A fair trial still I atleast Deserve A New Appeal. But most of All I Need A lawyer to prepare and present my claims Here in, so I Can Get meaningful Consideration and Not be Denied relief when A lawyer could easily Fix Any and All error.

please Help.

UNSWORN Declaration

"I Jack Anthony Chatman #2173980, being Presently incarcerated in Jordan Unit, in GRAY County, Texas, declare under penalty of perjury that the foregoing is true and Correct.

Executed on 7-11, 2021 Jack A Chat

Certificate of Service

ON the 11th day of July 2021, I Served to Bobby Lumpkin
A copy of this, by mail to P.O. Box 99 Huntsville Tx 77349

Jack A Chat
Jack Anthony Chatman

REASONS FOR GRANTING THE PETITION

1. because case was not heard on merits and these certain questions of national importance need and should be addressed to fix appeal process in Texas addressing ineffective assistance of trial counsel claims.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 7-11-21