21-6363 ORIGINAL

No. USCA6 No(?)

Supreme Court, U.S.
FILED
OCT 19 2021
OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Diane Arellano — PETITIONER
(Your Name)

vs.

Jeremy Howard — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals - 6th Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Diane Arellano
(Your Name)

3201 Bemis
(Address)

Ypsilanti, Mi 48197
(City, State, Zip Code)

NA
(Phone Number)

QUESTION(S) PRESENTED

1. Does it go against her U.S. Const. Amend. VI right to a Speedy trial, that after writing the court 8 times to request one, violate her? Does her receiving NO Miranda warning go against her U.S. Const. Amend. V right?

2. Does Appellate counsel intentional act of denying her U.S. Const. Amends. II, V, VI, VIII in her vital Direct Appeal, but instead chose to address one unmerited sentence made at trial, then filled his 39 page brief with empty filler containing 13 ERRORS, violate her U.S. Const. Amend. XIV right to have an effective Appellate counsel?

3. Does trial court counsel intentionally denying her Speedy trial, NO Miranda warning and also having NO pretrial investigation, NO defense strategy, NO adversarial testing abilities, called NO expert forensic witnesses to counter attack the Medical Examiner giving his opinions and conclusions to jurors intentionally and being used as their blood, ballistic and crime scene reconstruction expert, go against her U.S. Const. Amend. VI right to have an effective trial counsel? Does his aiding their impossible manufactured murder scenario go against defending her?

4. Does the Cumulative Effect of Error constitute this gross intentional injustice, by her denial of U.S. Const. Amends. II, V, VI, VIII, XIV and her Due Process rights being totally denied her from the very beginning by Pendergraff questioning her when she was legally drunk that night? Does this make her Legally Justified Due To Provocation based on all the blood and ballistic evidence at alleged crime scene?

TABLE OF CONTENTS

LIST OF PARTIES

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

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

INDEX TO APPENDICES

* Responses themselves are with exhibits.
MCR 6500 response was requested, documentation included, will send to add.

TABLE OF AUTHORITIES

CASES: Pgs.

LAWS:

STATE LAWS:

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

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

The opinion of the United States court of appeals appears at Appendix A to the petition and is # 2021 U.S. App. LEXIS 25300

[X] reported at 12th Circuit, U.S. Court of Appeals # 21-1024; or, denied on 8-23-21

[ ] 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

[X] reported at Habeas Court, U.S. Dist. LEXIS 231119; or, case # 2:17-cv-12206 denied on 12-9-20

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

[ ] is unpublished.

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

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

[Y] reported at Mi. Supreme, 2018 Mich. LEXIS 892; or, case # 156988 denied on 10-2-18

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

[ ] is unpublished.

The opinion of the Mi. Court of Appeals case # 339319 denied on 12-21-17 court appears at Appendix D to the petition and is

[ ] reported at _____; or,

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

[X] is unpublished. Not available online.

JURISDICTION

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

The date on which the United States Court of Appeals decided my case was 8-23-21. case # 21-1024 2021 U.S. App. LEXIS 25300

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

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

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

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

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

2018 Mich. LEXIS 892 case # 156988

The date on which the highest state court decided my case was Mi. Supreme. A copy of that decision appears at Appendix C. denied 10-2-18

[ ] 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).

CONSTITUTIONAL and STATUTORY PROVISIONS INVOLVED

1. 28 U.S.C. 1254 (1):

Cases in the U.S. Court of Appeals may be reviewed by the U.S. Supreme Court by writ of Certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree.

2. U.S. Supreme Court, rule 10:

Review on a writ of Certiorari is not a matter of right, but of judical discretion. A petition for a writ of Certiorari will be granted only for compelling reasons:

a. A U.S. Court of Appeals has entered a decision in conflict with the decision of another U.S. Court of Appeals on the SAME MATTER; has decided an important federal question in a way that conflicts with a decision by the State Court of last resat, or has so far departed from the accepted and usual course of judical proceedings, or sanctioned such a departure by a lower court, as to call for an excerize of this Court's supervisory power.

3. U.S. Supreme Court, rule 11:

A petition for a writ of Certiori to review a case in the U.S. Court of Appeals before judgment is entered in that court, will only be granted upon a showing that the case is of such imperctive public importance as to justify deviation from normall Appellate practice and to require immediate determination in this court, see 28 U.S.C. §2101 (e).

STATEMENT OF CASE

1. Petitioner has a life long violent history of domestic violence, with her mentally ill mother being her original abuser on every level (emotional, verbal, mental, physical, spiritual). She caused her to develop Disassociative Amnesia in order to survive. "Victimized thinking" was all Petitioner knew. Alleged victim was the First Aggressor, initiator, instigator always. He acted - she reacted! Not vice versa as they manufactured. She never fought one abuser back ever. That fatal night even, it was her Autonomatic Nervous System in her, controling her. She looked up and faced the devil incarnate with his rifle dead on her. The worst fear and death threat came from this encounter. Her actions during the fatal altercation and immediately afterwards all clearly show her ALTERED STATE OF MIND, which Pendergraff, both prosecutors and paid trial counsel suppressed to jurors. Her JEANS and GUN are NOT part of alleged crime scene, yet they falsely claimed both to be included, and in every appeal response, they have falsely used these 2 items against her, and ignored the blood and ballistic evidence at scene not matching or backing their impossible, manufactured, murder scenario with its planted bullet casings. They falsely claimed she "hid" both items, and reality shows both left out in the open and it clearly shows her ALTERED STATE OF MIND at that time! Her jeans EXONERATE her! They intentionally focused on her hiding them and suppressing the fact the blood covering her left knee DEBUNKS their murder completely, since they have her standing for both shots. You can't "hide" something if its left in plain sight. IF Petitioner wanted to hide both times to cover up a crime scene, she'd threw them both in a lake. It was normal for her to prethink of potential consequences in advance, as well as cater to the abuser extra ordinary in order to lessen the severity and intensity. Emotional abuse is far greater than any other abuse, as it scars the heart. Her mother taught her real well.

2. Lead detective Mark Pendergraff arrived 2 Hours late to alleged crime scene, that night. By then, that scene was very well contaminated and compromised, by the dozens of nosey officers who came by to see the "First Murder in Forest Township." His body was moved 3 times and ENDED UP at the desk! His rifle was moved several times, both of his temper tantrum scenes were moved, and dozens of bloody police footprints covered that area of the basement. NOT one room was ORIGINAL by the time Pendergraff arrived 2 hours later. Alleged victim OCD, he collected beer mirrors, that went Flood to ceiling, and nosey officers even took out their cell phones to take pictures of them! I'm sure they sent them to their peers, that's WHY dozens of officers were there.

Petitioner believes these officers didn't realize they were contaminating and compromising the scene. His 2 temper tantrums show HIS STATE OF MIND just prior to his fatal altercation he started. Petitioner also had blown a .18 on a Burton cop test when she got home from Joann's. She learned long ago to "premedicate" when she expected consequences soon. Her Oxycotin and a rum bottle were right there. She knew her Dissociative Amnesia occurred because it leaves her with a "foggy head" feeling afterwards. Alleged victim owned her. She was his PROPERTY. She was all his and he resented having to share her, even with her own close family members. Pendergraff Knew she blew a .18, and he chose to continue to treat her as his only murder suspect until 4:30AM. Altercation happened about 8:15pm. Body found at 8:30p and 911 called. Pendergraff arrived at 10:15pm, she willingly gave him her cell phone, she had nothing to hide. She trusted him to have integrity and follow the laws. She had no clue he was a snake and out to play dirty. Dirty as sin gets. Pendergraff secretly recorded every conversation with her. All that's in this appeal, including NO Miranda warning, is on these tapes. They show his gross and intentional misconducts! Petitioner's Due Process rights were being violated by his pressing questions on her legally drunk! His mind was totally closed off to anything but murder, and she did it intentionally. He didn't care what the truth was, what the blood and ballistic evidence really showed. He Knew all about alleged victim's aggressions. He knew he was very OCD. He knew how controling he was. He saw all the massive amount of abuse pictures on her cell phone. He read dozens of angry and nasty text messages to her from alleged victim. He suppressed all her medical records. He came up with their impossible murder scenario. He came up with "hiding" her jeans and gun. When in reality, it shows HER FEAR of bringing both home and him getting angrier with her, on top of her already disobeying him and going to Joann's. She didn't want to add fuel to his temper. She would have thrown both in that lake if she were guilty. Neither are part of the alleged scene, but Pendergraff made them so. Her jeans EXONERATE her by his blood covering her left Knee and being no where else. And him claiming she STOOD with both fatal shots being fired.

3. Paid trial counsel came to her in booking the very next morning. Ambulance chaser he is! Snake in the grass too. He had NO pretrial investigation, NO defense,

No strategy, called NO Forensic experts to counter attack their using the Medical Examiner as their blood, ballistic and crime scene reconstruction expert and allowed him to give his opinions and conclusions to jurors and he got it all wrong! He never said Self Defense one time, and this is the heart of her case. He never objected one time. He denied her Speedy trial and NO Miranda warning. Denied her U.S. Const. Amend II - the right to bear arms. Paid trial counsel took her Dad's big money in good faith and turned around to AID their side. He fed off the massive Free publicity For 14 months, as she was in the daily press and on the news, as the "First Murder in Forest Township." He never challenged it or attacked it. He denied her change of venue. Bottom feeder and belly crawler he was.

4. Appellate counsel was court appointed and bored silly with her. He cared even less than paid trial counsel in defending her. He knew her U.S. Const. Amend. II, IV, VI, VIII were violated, her Due Process rights were totally denied and there's a massive amount of police and prosecutorial misconduct involved. Instead of addressing even one Constitution violation, her denied Speedy trial and NO Miranda warning would have been easy and a no brainer for him, he chose instead to address one, unmerited sentence made at trial to jurors by Pendergraff. Then he filled his 39 page brief with empty filler, containing 213 ERRORS! He never told her she could file a supplement or she surely would have. She only spent 6 HOURS at the Forensic Center for testing, not the 117 days as he lied about.

5. Petitioner has filed every appeal in order. Believing the Habeas had integrity and followed the laws. Judge Drain IGNORED most of her appeal, and had the nerve to say NO EXPERTS were required!, Unbelievable and intentional cruelity he caused her. Petitioner has God and this most powerful court to show true justice and she believes this court has integrity and believes in the truth! Especially the truth ~~seeke~~ seen in this alleged crime scene and all the injustice when seen as a whole, is indeed Cumulative Effect of Error.

REASONS FOR GRANTING PETITIONER'S WRIT OF CERTIORARI

1. Petitioner's U.S. Const. Amends. II, V, VI, VIII, XIV were intentionally and in full malice violated by her Due Process rights denied her by paid trial counsel (he came to her in booking), court appointed Appellate attorney, both prosecutor's, lead detective Mark Pendergraff and the Genesee County Medical Examiner. NONE of the blood and ballistic evidence at alleged crime scene matches or backs their impossible to have happened, manufactured murder scenario. Jeans and gun NOT at scene.
2. Rule 5, part 3 in Jurisdiction on Writ of Certiorari:

   rule 10: review on a Writ of Certiorari is not a matter of right, but a judicial discretion. A petition for a writ of Certiorari will only be granted for compelling reasons.

   rule 11: will only be granted upon a showing that deviation from normal Appellate practice and to require immediate determination in this court, see 28 U.S.C. § 2101 (c).

BRIEF IN SUPPORT FOR PETITIONER

ARGUMENT 1

U.S. Const. Amend. VI guarantee's every accused the right to a Speedy trial. Hoffin v US 385 U.S. 293 (1966). In Michigan, that means the trial must begin within 70 days of request. Petitioner wrote her trial court 8 times, see exhibit A, noted as "letter from Defendant". She had a very full and busy life, a dual career as a psych. nurse for the State of Michigan, Dept. of Mental Health (since 3-19-1979) and a very successful home seamstress and tailoring business, 4 kids (3 still in school and oldest was a Sgt. in Army reserve and going to college to get a dual degree), was very, very close to her family (except mentally ill mother who was her original abuser) and had tons of clients and friends across America. She was desperate for a Speedy trial and all paid trial counsel did (he came to her in booking) was drag it out for 14 months, feeding off all the massive, free publicity her case gave him in the press and on the daily news, since Pendergraff intentionally called her case "First Murder in Forest Township."

U.S. Const. Amend. V guarantee's every accused the right to a Miranda warning AND acknowledge back

from the accused he/she understands their right to remain silent and to have an attorney present during questioning. Pendergraff arrived 2 HOURS LATE to alleged crime scene. By then, his body was moved 3 times, both temper tantrum scenes were moved, his rifle was moved, the desk chair was moved and bloody footprints covered the carpet where he laid after being moved 3 times. Yet, Pendergraff intentionally treated it otherwise! Like it was fresh and original. He Knew Petitioner blew a .18, yet continued to treat her as his only murder suspect until it was 4:30AM that night!. He secretly taped all his conversations with her. This powerful court can get copies of his tapes. No Miranda warning was ever given and she never acknowledged back her understanding. He deflected this by claiming "she was a witness" only. See exhibit B. Miranda v. Arizona 384 us. 436; 1865 ct. 1602; 16 L. Ed. 2d. 694; 1966 U.S. LEXIS 2817 (1966). Two nights later, at her video arraignment, she finally found out her 3 charges, see exhibit JJ. The 3rd charge of domestic violence was intentionally dropped the day before jury selection began, since it didn't fit their impossible manufactured murder scenario.

ARGUMENT II

U.S. Const. Amend. XIV guarantees every convicted Defendant a viable, merited, aggressive Appellate counsel for their vital Direct Appeal. Petitioner's court appointed Appellate counsel acted extremely bored with her and just wanted it to be over. He failed intentionally to address any of her U.S. Const. Amends. II, V, VI, VIII violations in his lame, unmerited brief he filed for her. Instead, he addressed ONE UNMERITED SENTENCE made at trial to jurors, by corrupt lead dectective Pendergraff, and he filled his 39 page worthless brief with empty filler, containing 213 ERRORS! See exhibit C. He never told her she could file a supplement or she surely would have! She spent only 6 HOURS at the Forensic Center for testing, not 117 days as he falsely claimed. He's a bigger bottom feeder than paid trial counsel was to her! He prolonged her U.S. Const. Amend. VIII violation intentionally and became her U.S. Const. Amend. XIV violation. He cared ZERO for defending her and every court following has responded QUOTING from this Direct

Appeal, which is soooo unfair to this Petitioner. She could have defended herself far greater than paid trial counsel or court appointed Appellate counsel put together did for her! And all Petitioner had is God, her nursing career and her sewing abilities to go by. And look at all she found to help EXONERATE her from this injustice!

In Lynch v Dolce 789 F.3d.303; 2015 U.S.App. LEXIS 10246 (2015) judge Bennet ruled, "Appellate counsel failed to raise ineffective assistance of counsel and instead, raised a weaker issue, the court reversed because the trial court would have reversed the conviction. This constitutes good cause for Defendant's failure to raise on Direct Appeal." In McFarland v Yukins 356 F.3d. 688; 2004 U.S. App. LEXIS 989; 2004 FED App. 0030P (2004) judge DeMoss ruled, "an accused criminal Defendant is entitled, pursuant to the U.S. Const., must show that Appellate counsel failed to raise ineffective assistance of counsel on Direct Appeal, which rose to the level of a Constitution violation under Strickland's two-prong test. Failue to raise could only be ineffective assistance if there's a reasonable probability that the Inclusion of the omitted evidence would have changed the Direct Appeal outcome. Grounds for relief could have been raised on a Direct Appeal from a wrongful conviction and sentence, but for Appellate counsel's errors, the Defendant would have had a likely reasonable chance for acquittal had Appellate counsel raised on Direct Appeal. Failue to raise prejudiced Defendant. Such NOMINAL Appellate representation is no better than one without representation." In Stouffer v Reynolds 214 F.3d. 1231; 2000 U.S. App. LEXIS 12461; 2000 Colo. J.C.A.R. 3129 (2000) judge Ebel ruled, "to determine a Defendant being denied effective assistance of Appellate counsel, the question is raised to whether the omitted evidence that resulted from Appellate counsel's actions created a reasonable doubt that did not otherwise exist. Upon such a showing, Constitutional error has been committed." Petitioner's court appointed Appellate counsel needs to be strung up by his buster browns, debarred, never to be an attorney and pay restitution to Petitioner for her damages he intentionally caused her.

ARGUMENT III

U.S. Const. Amend VI guarantee's every Defendant the best, most aggressive and viable

defense possible. Paid trial counsel came to her in booking, like the ambulance chaser he is. In reality, in cared ZERO for defending her. He happily took her dad's money in good faith and fed off all the massive free publicity her case gave him. He intentionally denied her Speedy trial and no Miranda warning right off. He never challenged her case being labeled "First Murder in Forest Township" for 14 months. She wanted her trial moved (change of venue filed) and he refused. He refused to send her cell phone out to retrieve all the deleted pictures and text messages police and both prosecutor's caused when her phone was in their possession. He suppressed all her medical records, see Exhibit A. On 5-9-14, they requested a "special motion day" to obtain her medical records, in the hopes of painting her a liar. And it BACKFIRED! These records showed alleged victim's massive abuse against her! Trial counsel did NO pre-trial investigation of his own, thus, he had NO trial strategy. His sole goal was to FULLY AID their side. He consulted NO exculpatory Forensic expert witnesses to counter attack and/or challenge them using the Medical Examiner out of his classification intentionally and to counter attack their impossible manufactured murder scenario. He never objected one time to anything. He never objected to any of the massive amount of police and prosecutorial mis-conduct. He never said SELF DEFENSE one time, and this is the heart of her case. He allowed the courtroom to be unlawfully STAGED by them, in order to paint her negative to jurors without saying a word. He allowed them to go WAY, WAY outside the time lines set on both subpena's (her cell and desktop computer) and he never looked at either, and none of alleged victim's electronic's (cell or computer) were examined by either side!. Trial counsel had ZERO adversarial testing and challenging abilities at all!!! Instead, he fully aided them. He cared ZERO in defending her.

Lead dectective Mark Pendergraff arrived 2 HOURS LATE to alleged crime scene. Alleged victim threw his two temper tantrums, fatal altercation followed

immediately afterwards, on Fri. 3-1-13, about 8:15pm. Oldest son came home about 8:30pm, found his body ORIGINALLY over by pantry-furance doorway, which is 4 FEET AWAY FROM DESK!. See exhibit V. His head laid near this doorway, his body would extend behind it. Note his bent glasses. His body is moved 3 times in this photo. The only blood evidence is pictured here too. Note her left knee imprint left in the front, center edge of it. Blood came from the side gunshot wound, located just above his ear. See exhibit I. This shows where they claim he SAT AT THE DESK. And where his body should be originally found to make their murder scenario correct. Pendergraff arrived on scene at 10:15pm. 2 HOURS after the fact. Alleged crime scene was beyond contaminated and compromised!. His body was moved 3 times! Both temper tantrum scenes were moved. His rifle moved. Desk chair was moved. They claimed he was seated at the desk, yet all crime photo's show this chair 4 FEET AWAY FROM DESK. Petitioner learned how to "premedicate" herself when she fully expected to encounter his consequences and wrath. So, no surprise, she blew a .18 on a Burton cop breath test when she got home. Pendergraff knew this too. It's on his secret tapes. And yet, he unlawfully questioned her to 4:30AM that night. Her head felt "foggy," which only happens when her chronic, life long Disassociative Amnesia has happened. He intentionally treated her as his only murder suspect from the instant he met her. It's all on his tapes. He deflected this by claiming "she witnessed." Shame on him!. He deleted exculpatory pictures and text messages from her cell phone. She had nothing to hide, so she willingly gave him her cell phone that night. She trusted him to be law abiding law enforcement officer. She had no idea he is as corrupt as sin gets. He knew alleged victim had a very long, violent history. He knew alleged victim had shot at her out back TWICE before. All to scare her and control her. He

would stalk her even though they were married. Over and over, just to scare her. He constantly checked the mileage on her car and was notorious for disarming her engine from starting when he was mad at her or wanted her to stay home. That's WHY she took his Suburban instead of her own car. He had all day to dismantle her engine and he made her late leaving to go to Joann's. The sale ended that night at 9pm and it was already well after 8pm and it was snowing out, so roads would be slick. Alleged victim never allowed her to drive if they were out together. He never allowed her name on anything, but sure needed her money to pay for it. She always MADE MORE MONEY than him and he resented that. Odd, they claim Petitioner killed him for money. He was maxed out on 14 credit cards, owed $80,000 on a home loan, and a morgage of $265,000. Alleged victim knew she would walk instantly when she found out. Her first husband did this same insanity and it broke up that marriage. She doesn't believe in credit cards and he knew it. He never allowed her to get the mail, so he was able to hide his massive debt, since she had no idea he was so desperate for her money. He constantly listened in on her phone calls. He made her family and friends uncomfortable if they came over unannounced. slam cupboards and acted an ass he would. He constantly checked her online history. Her oldest son caught dad countless times going through her things in her sewing room (desktop computer was in there) and her dresser and closet in their master bedroom. Alleged victim was notorious for taking her possessions when she wasn't home. Crystal items, clothes, jewelry, shoes, hair accessories, etc would just "disappear." He wanted complete control over her, she was his PROPERTY. He was slowly destroying her, breaking her down emotionally, mentally, physically, spiritually. Countless trips to speciality Dr's, ER's, walk in clinic's, numerous surgeries she had to suffer, due to his temper. She just had a lower back implant put in, was scheduled on 3-19-13 to have her C-3 to C-5 repaired in her neck, than her left knee was to be replaced, all to his abuse. This is all in the suppressed medical records. Pendergraff knew all this, he saw the vast number of abuse pictures on her cell phone and read the nasty text messages from him. Petitioner ~~MADE MADE~~ MONEY THAN ALLEGED

VICTIM, yet he reiterated over and over MONEY was her motive to jurors! Alleged victim was maxed out on 14 credit cards, owed $80,000 on a home loan, and owed a $265,000 mortgage. He only had a $58,750 life insurance policy. Alleged victim never allowed her name on anything, but needed her money to pay his massive debt. Petitioner knew none of this until she was arrested and police were digging to find fault on her, to use against her. It all BACKFIRED when Pendergraff saw the deceit alleged victim was hiding from his wife. Pendergraff had her phone and he deleted all pictures of abuse on her cell and deleted all the angry and hurtful text messages to her from alleged victim! Trial counsel acted like it was no big deal and refused to send her cell phone out to retrieve all the exculpatory evidence they deleted intentionally, in order to paint her a murderer to jurors. Petitioner spent 6 HOURS at the Forensic Center by their request. The psychologist who saw her wanted to testify FOR her, but since her testimony didn't fit their manufactured murder scene, neither side called her. All of Petitioner's actions prior to altercation, at altercation and immediately following altercation line up perfect with Petitioner being a victim of chronic abuse and having victimized thinking!

1. Her discarded jeans were clearly found laying ON TOP of the garbage in the dumpster. See exhibits G, H. Police, prosecutors, and trial counsel falsely claimed she "hid" them in a Joann's bag and buried them in garbage. These jeans EXONERATE her, by his blood being only on her left knee! They had her STANDING at the desk to fatally shoot him TWICE. No way possible for his blood to cover her left knee! Yet, clearly, it does. All they focused on was SHE HID HER JEANS! In reality, it was a well known fact that alleged victim was very OCD, and never allowed any bodily fluids to be washed in his washer. He was known to buy a new washer (several times) if he caught clothes being laundered that shouldn't be. Petitioner's cycle started when she was at Joann's. A clerk (her friend) gave her a spare pair of pants at Joann's, since she knew alleged victim and his temper. In Petitioner's MIND, he was very much alive and furious at her for disobeying. She never flat out

disobeyed him like she did that night. See exhibits X, XX for truth in evidence of that fatal night, and how all the blood and ballistic evidence at alleged crime scene does indeed match and back her side. None of the blood and ballistic evidence matches or backs their impossible murder scenario. HE ACTED - SHE REACTED. Not vice versa. Her jeans show this perfectly! His blood covered her left knee, see exhibits V, D, R, II, HH, S, NN. This is the ONLY blood evidence at alleged crime scene. This blood came from his gunshot entrance wound to the side of his head, just above the ear. His head was found laying near this pantry-furance room doorway. His bent glasses are clearly seen. His ORIGINAL location when first found by son coming home from work. NOT at the desk, as they manufactured.

2. Her disgarded gun was also found laying OPEN by a tree! Out of fear, Petitioner's thought alleged victim would take her gun and purse from her as he has done repeatedly before when he's been pissed off or punishing her. He was notorious for checking her possessions over and over, and having possessions suddenly "disappear" on her. In her mind, he was alive and most furious at her! That's why she put her gun by that tree in the OPEN. A lake is right there. She would have thrown it in the lake, if she wanted to hide it. Alleged victim and Petitioner went to that spot many times, to watch the deer and the lake at sunset. It's beautiful to see. How can you hide something if its left in the OPEN? Yet, police and prosecutor's intentionally and in full malice, lied to jurors about this.

3. That's WHY she blew a .18 that night. She learned to "premedicate" herself, when expecting to face and endure his consequences for displeasing him. Her Oxycotin prescription and rum bottle were right there as she left for Joann's. Petitioner's STATE OF MIND was so severely altered that night! She had never fought any abuser back, and she knew he'd be the most furious and enraged ever at her when she got back. She wanted to numb the emtotional pain and physical pain before it happened. Jurors never heard this. Petitioner was legally

drunk, yet Pendergraff kept questioning her until 4:30AM! The only thing she IS guilty of, is drinking and driving that night and ironically, she was never charged with that. She was falsely charged though with murder, felony firearm and domestic violence, see exhibit. JJ. The 3rd charge was intentionally dropped the day before jury selection began, as it didn't fit their murder scenario. Petitioner wanted it kept in, but trial counsel refused.

In Anderson v Johnson 338 F3d. 382; 2013 U.S. App. LEXIS 13378, judge Weiner ruled, "trial counsel was Constitutionally ineffective in (1) failing to conduct a pretrial investigation (2) failed to call an exculpatory expert to testify. Counsel relied exclusively on the State's investigation and based his own assumptions derived from their files." In Bell v Cone 535 U.S. 685; 122 S.Ct. 1843; 152 L.Ed.2d. 914; 2002 Cal. Daily Service (2002) judge Rehnquist ruled, "there's two situations implicating the right to counsel that involves circumstances so likely to prejudiced the accused, that the cost of ligating their effect in a particular case is unjustified: (1) No counsel represented at all (2) or when counsel ENTIRELY FAILS TO SUBJECT THE PROSECUTION'S CASE TO ANY MEANINGFUL ADVERSARIAL TESTING. Meaning, this failure must be complete and would change the trial outcome. Counsel prejudiced the Defendant by not conducting an investigation and by not consulting or calling potential exculpatory experts as witnesses. Failure to call is ineffective."

In U.S. v. Cronic 466 U.S. 648; 104 S.Ct. 2039; 80 L.Ed.2d. 657; 1984 U.S. LEXIS 78 Judge Marshall ruled, "an accused right to counsel is a fundamental component of our criminal justice system. Lawyers in criminal cases are necessities, not luxuries. The text of. U.S. Const. VI requires not merely the provision of counsel to the accused, but real assistance which is fair to his defense. The court reversed on the basis of ineffective assistance of trial counsel due to his FAILURE TO SUBJECT THE PROSECUTOR'S CASE TO ANY ADVERSARIAL CHALLENGE." In Lambert v. Blackwell 962 F.Supp. 1521; 1997 U.S. Dist. LEXIS 9612 Judge Dalzell ruled, "the court held Defendant's procedural Due Process rights were violated by POLICE MISCONDUCT who investigated the case. This misconduct includes: (1) destroying exculpatory evidence (in Petitioner's case, its Pendergraff deleting photos and text messages off her cell, and suppressing all her medical records) and (2) preparing false statements (Pendergraff manufactured the impossible murder scenario that NO

blood or ballistic evidence at alleged crime scene matches) and (3) denying evidence Found at crime scene (Renderegraff denying his body being found 4 FT. AWAY FROM DESK, denied his rifle, denied both of his temper tantrum scenes, denied blood evidence covering her left knee of jeans, denied all ballistic evidence at scene, denied all blood evidence at scene, denied his long violent history with Petitioner, denied planting both bullet casings, denied her Miranda warning, denied her Speedy trial, etc).

In Daniel v Curtin 2012 U.S. App. LEXIS 18363; 2012 FED. App. 0944 N Judge Moore ruled, "counsel's failue to investigate before deciding a defense strategy, constitutes ineffective assistance under Strickland v. Washington. It was objectively unreasonable to make any decisions without conducting any pretrial investigation. Counsel has a duty to investigate any reasonable line of defense. Counsel was Constitutionally deficient because (1) he failed to conduct any pretrial investigation (2) or subject the prosecution's case to any adversarial challenge or testing."

In police, both prosecutor's and trial counsel's impossible manufactured murder scenario, they were so cocky, smug and arrogant about reiterating it over and over to jurors. Believing NO ONE would know how utterly IMPOSSIBLE their presentation was/is. A blood splatter expert, a ballistic expert, a crime scene reconstruction expert and a shrink (for her Disassociative Amnesia and victimized thinking and to explain WHY she disgarded her exculpatory jeans in plain sight and left her gun by a tree they sat at in a field over looking a lake) could have easily expounded on all the vast number of IMPOSSIBILITIES that are in their manufactured murder scenario that is NOT based on one tittle of any blood and ballistic evidence at crime scene! They even went so far in their closing argument to jurors, to RE-INACT it, minus the desk, his rifle, and both his temper tantrum scenes. Trial counsel never objected, nor did he ever challenge any lie told. They intentionally and falsely claimed!

> "She came down the stairs with her gun in hand. She STOOD directly in Front of him seated at the desk. She put her gun directly against his chest and pulled the trigger. She STOOD over his fallen body and shoots him in the back of his head."

Common sense alone can be used here, to see many of the vast IMPOSSIBILITIES. Trial counsel never objected, never challenged, never called his own exculpatory expert witnesses. He sided with them. He sat there and worked on his daily crossword puzzles with a borrowed pen from prosecutors. Let's examine their scenario in 4 segments:

Segment 1: "She came down the stairs with her gun in her hand."

a. No one is just going to sit at a desk and watch a death threat come down the stairs. See exhibit I. This shows the 2nd set of basement stairs Petitioner and Samson were on, and the desk where he allegedly sat at, unaware he was under attack. God gave each person a built in defense called their Autonomatic Nervous System. This ANS gives us our FIGHT FOR LIFE response or to FLEE, RUN AWAY response when we face imminent death or great bodily harm. Trial counsel, Pendergraff and both prosecutors want you to believe alleged victim JUST SAT THERE and watched Petitioner come down the stairs with her gun in hand. In exhibit I, his body was moved 3 times.

b. His ANS would kick in instantly, telling him TO RUN! Or to CALL FOR HELP as he RAN FOR LIFE. See exhibits J, Q. This wood door he slammed the expensive wood speaker in to during his 2nd temper tantrum. See exhibits DD, EE, FF. This door he could have easily ran to, since its right next to the desk. It leads out to the garage, which leads out in to the night and his 20 wooded acres to hide in. Or, he could have RAN TO the pantry-furance room, located right next to desk area. He kept all his guns and rifles in their cases in this room. See exhibits, D, V. His body was ORIGINALLY found here, with his head laying closest to doorway. He very easily would have ran here, locked the door and got one of his guns out to defend himself.

c. Commonsense says he would have grabbed the land line phone right next to him (with Fax machine under desk top) or used his cell phone to call 911, as he got up to RUN AWAY. Or he would have tried to talk Petitioner down, to stop her from advancing on him. NO WAY

is it possible for him to JUST SIT THERE calmly, and do nothing to save his life.

Segment 2: "She STOOD directly in front of him seated at the desk."

a. It's IMPOSSIBLE to stand directly in front of a person seated at a desk, unless the seated person FIRSTS BACKS AWAY from the desk.

b. Again, no one is just going to sit there, let alone stand directly in front of him, with a gun in her hand. His ANS would instantly take over, and tell him TO FIGHT FOR LIFE! It's too late to run now. One massive and intense FIGHT FOR LIFE would happen. Alleged victim was bigger and much stronger than Petitioner. Petitioner just had major lower back surgery too, still had stitches inside and out. See exhibits J, K, L, M. No fight of any intensity is seen. Every item is undisturbed, in its place.

Segment 3: "placed her gun directly against his chest and pulled the trigger." making this their FIRST fatal shot and a close contant gunshot.

a. Again, no one is just going to sit there and allow a gun to be placed directly against his chest, but let's pretend alleged victim was dumb enough to allow his beloved wife to some how and miraculously squeezed herself in between him seated at the desk and the desk. And he obviously must have had a death wish, since he allowed her to place her gun directly against his chest and pull the trigger. Surely, all that blood evidence and ballistic evidence AT THE DESK would prove this scenario. Common sense says so. And it doesn't. Not one tittle or piece backs it.

b. His body would have to be found AT THE DESK. Zombies aren't real. Dead bodies can't get up and move. Yet, their murder scenario has his dead

body getting up and moving 4 FEET AWAY away from the desk he sat at. He was ORIGINALLY found with his head by pantry-furance doorself, see exhibit V. Seen, are his bent glasses and the only blood evidence at scene, with her left knee fully imprinted in its front outer edge. See exhibits X, XX for how it really happened and how ALL the blood and ballistic evidence at alleged crime scene EXONERATES her from this malice injustice.

c. His clothes need to be soaked in his blood. This being the FIRST fatal shot, his heart is pumping and his blood is circulating throughout his body. His heart should be racing with a gun placed directly against his chest. It's IMPOSSIBLE not to have any blood evidence if this scenario is correct. See exhibits I, U, N, Q, GG, OO. No blood at all on his clothes.

d. Lots of blood would surely be on the front and back of his torso! The gun is placed directly against his chest, there has to tons of blood evidence. It's IMPOSSIBLE not to have a bloody body front and back, if this scenario is correct. See exhibits D, N, U, Q, GG, OO, II, R, HH, F, S, NN. No blood evidence, not one drop, seen anywhere on him or his clothes.

e. Surely, the chair he sat on at the desk, will show blood evidence. It's IMPOSSIBLE not to have a bloody chair back and seat, if their murder is correct. Gravity would have the blood drip down when it left his body, since he was SITTING UPRIGHT in the chair, at the desk. It would be on his torso and clothes first, then drip on the back and seat of his chair. See exhibits O, P, Q, GG, J. NO blood on back of chair nor the seat. Those are old food stains across the front edge of chair seat.

f. There needs to be ALOT of BLOW BACK BLOOD SPLATTER all over desk and the wall behind the desk. It's IMPOSSIBLE not to have, if she was standing directly in front of him SEATED at the desk and her gun was directly against his chest, there has to be lots of blood since his heart must have been racing! See exhibits K, L, M, J. NO blood is seen. Not one drop.

G. There needs to be his BLOW BACK BLOOD SPLATTER all over the front of Petitioner too, if their murder scenario is correct. It's IMPOSSIBLE not to have any of his blood splatter covering her, since she was squeezed in between him and the desk, and she was holding the gun against his chest directly. See exhibit G. The ONLY blood on her covered her left knee of her jeans. No way possible is this possible, if she STOOD FOR BOTH FATAL SHOTS, AT THE DESK, as they manufactured. Her jeans EXONERATE her! They solely and intentionally focused on her "throwing her jeans out to hide evidence" and the truth is, they truly EXONERATE her! Every appeal response has quoted this lie about her jeans, gun and a bleach bottle (that wasn't even hers!). Soooo unfair to Petitioner this is and prolonged her U.S. Const. Amend. VIII violation. Thanks to her lame Appellate court appointed attorney not addressing one merited issue or Constitutional violation against her. These jeans also show Petitioner's altered STATE OF MIND! She feared greater consequences from him, if she came home with period blood in them. His OCD wackiness had him buying new washing machines in the past, if he caught her laundering "bodily fluids". He wanted clothes thrown away, and Petitioner thought he was an ass for wasting clothes. She learned early on to hide alot of common sense actions that countered what he demanded. Getting caught though braught serious consequences. Her cycle started at Joann's, the clerk is one of her friends and she knew how OCD alleged victim was, so she gave her a spare pair of pants. In Petitioner's mind, alleged victim was alive and furious at her for disobeying! A Burton cop testified to finding a bloody tampon in the trash can at Joann's bathroom.

h. The ENTIRE end of the gun barrel has to be imprinted on his chest. It's IMPOSSIBLE not to leave, if the gun was placed directly against his chest, as they reiterated. Medical Examiner testified to finding a "partial imprint, at an odd, ackward, downward angle." Clearly, common sense says her gun WASN'T directly against his chest.

i. Besides the ENTIRE end of the gun barrel being imprinted on his chest, there needs to be ALOT of gunshot residue left on him. Common sense says so. Her gun is directly against his chest, you can't get any closer than this. The Medical Examiner testified to finding "very little residue" by "partial imprint at an odd, ackward, downward angle."

j. Every close contact gunshot has to have an entrance and exit wound by bullet. It's IMPOSSIBLE not to have, especially when the gun is directly against the skin. The Fired bullet leaves out the end of the gun barrel, traveling at full force and speed. It would enter his chest, travel straight thrugh his body, exit out his back. Leaving a wounds in its wake. See exhibits N, U. No such back wound seen.

K. Every close contact gunshot bullet is found OUTSIDE the body. It's IMPOSSIBLE to be found inside, since its traveling at full force and speed. If their murder scenario holds any water, this bullet has to be found somewhere in the other end of the basement. The Medical Examiner testified to finding this bullet IN him, down by his belly button.

Segment 4: "she STOOD over his fallen body and intentionally shoots him in the BACK OF HIS HEAD." — Making this their fatal shot # 2 and a close contact gunshot.

a. Pretty DARN PITIFUL when police, both prosecutor's, trial counsel and Appellate counsel can't tell the back of his head from the side of his head! See exhibits T, U. NO HOLE IN THE BACK OF HIS HEAD. It's IMPOSSIBLE not to have a gunshot entrance wound to the back of his head in their murder scenario. The Medical Examiner testified to finding a hole in the side of his head, just above the ear.

b. His body would surely be found AT THE DESK, being fatally shot TWICE at the desk like they manufactured. Alleged victim was originally found 4 FEET AWAY FROM DESK. See exhibits X, XX for truth of this.

c. NO BLOOD on head should be seen, if their scenario holds water. This being their 2nd fatal shot, his heart wasn't beating, wasn't pumping blood in his body. The First fatal shot stopped his heart and blood from circulating. Dead hearts CAN'T pump blood or beat. See exhibits T, V. Alleged victim's head is very bloody. No where else on him is there any blood found! Only on his head. See exhibits X, XX For what happened and how it went down. And all the blood and ballistic evidence at alleged crime scene exonerates Petitioner and proves what intentional murderers trial counsel, appellate counsel, Pendergraff and both prosecutors are to her! Petitioner's life, her world, are fully destroyed because of them. Nothing left.

d. It's IMPOSSIBLE to fall out of a chair and land smack on your face. The nose will throw it off balance, and turn the head to the side.

e. Also, his body would be found IN THE CHAIR or Flipped over backwards in their murder scenario, and the body'd be chair AT THE DESK! Her gun was directly against his chest, the force and speed of the bullet would have been full force AGAINST him, pushing his body BACK in the chair (thus the chair back should be bloody). Possibly, flipping him in the chair, on its back, BY THE DESK.

f. Being a close contact gunshot, there needs to a bullet entrance and exit wound showing this. It's IMPOSSIBLE to have only 1 wound in a close contact gunshot. See exhibits HH, OO. His face shows no trauma, let alone a bullet exiting his head, like it should be showing if their murder scenario holds water.

g. The bullet needs to be found OUTSIDE the body, since its a close contact gunshot in their murder scenario. The bullet to the BACK of his head, would exit out his face, and be found in the uneven carpet under his head. The Medical Examiner testified to finding a gunshot hole in the SIDE of his head, NO gunshot residue found on head, and this bullet was found INSIDE HIS FOREHEAD!

h. Both bullet casings were obviously planted! Both casings were intentionally suppressed to jurors by both sides. Both were found in IMPOSSIBLE locations. Exhibits D, Y show both casings location. In Petitioner's scenario,

her first shot was fired without aiming, on the 3rd basement step from the bottom, with her dog on the same step, at her feet. This casing would exit out the side of her gun, RICOCHET OFF the basement staircase wall, turn the casing 90°, and it would have landed by the desk, where he was now STANDING behind the desk chair, pushed halfway under desk. When Samson turned on the step to flee back upstairs, when he heard her gun go off in self defense, he took her legs out from under her, throwing her body forward, slamming her right into his crumbling body reacting to the gunshot, that just so happened to hit him in the side of his head, just above his ear. Her body hit him full force, her gun ACCIDENTALLY went off on his chest, thus leaving the "partial gun imprint at an odd, ackward, downward angle" on his chest, very little gunshot residue and the bullet found in him, down by his belly button. This casing would have exited out the side of her gun AT THE DESK, where her body slammed into his. This casing would be found at the desk. In their impossible manufactured scenario, they have her STANDING AT THE DESK, in the same spot, for both fatal shots. Both casings would exit out the side of her gun, and be found left of the desk, close together. See exhibits K, L, M. No casings seen. In exhibit Y, it's the most ridiculous and impossible casing location!. They want you to believe she STOOD at the desk and shot him TWICE. How then, did this casing land 4 feet behind the desk, STANDING UPRIGHT on uneven carpet (which is a miracle), with the desk chair tipped over on top of it and it didn't knock this tiny casing over! It's another miracle. In order to land 4 Feet BEHIND the desk, they want you to believe this casing exited the side of her gun, RICOCHETED OFF SOMETHING INVISIBLE IN MIDAIR, in order to turn it 90° and land BEHIND the desk..... STANDING UPRIGHT .... with the desk chair tipped over on top of it and not knock it over. Another miracle. Unbelievable cruel how all her court responses intentionally ignored this exculpatory truth in evidence! Instead, they all solely focused on what was said in her Direct Appeal response.

i. Both sides also IGNORED intentionally, his rifle was out of its case and

out of the pantry-furance room where it was normally stored when not in use. If he was so innocent, and just sitting at the desk, so unaware of his beloved wife going to Kill him, why was his rifle out then? See exhibits BB, D, W, Q, GG. These clearly not only show his rifle out, but it was moved a number of times too. How did his blood cover her left Knee of her jeans? How did she miraculously squeeze herself inbetween him seated at the desk and the desk? How did he suppress his ANS to not respond to an Imminent death threat? How did he just sit there and allow her to stand inches from him and put her gun directly against his chest?

J. Both sides intentionally ignored both his temper tantrum scenes. Both happened mere minutes before the fatal altercation on staircase. Both show HIS STATE OF MIND just prior to the fatal altercation he started. HE ACTED - SHE REACTED, not vice versa. In exhibit Z, this shows her dresser drawers out and his first temper tantrum he threw that night. He was notorious for pulling out her drawers and dumping their contents in a big pile on the floor. See exhibits X, XX for full detail. She watched him in their bathroom mirror, in one sweeping motion, he cleared off her ENTIRE dresser top, as a silent warning for her to RETHINK and CHECK HERSELF or face his harsh consequences. She knew this all very well. She watched in horror, her most cherished and treasured possession hit the HARDWOOD Floor by the door end of her dresser! This crime photo shows police moved the dresser items off of the doorway, off the hardwood floor. Some items were put back on top of dresser top, the rest was piled on to the rug at the other end of the dresser. Male police misconduct. Her beloved Dad gave her that treasured cherrywood musical jewelry box with a real pearl necklace in it, on her 16th birthday. Alleged victim knew it was her most precious possession. And now it laid broke beyond repair and played its last notes as it died. He slithered back downstairs then, and threw temper tantrum #2 then. See exhibits

BB, CC. This is the same door that he slammed the expension wood speaker against. The door right next to the desk he would have ran to when he saw her coming down the stairs with her gun in hand. He first opened this door and threw garbage out. More police misconduct. They even moved the trash he threw. He then slammed the speaker so hard into this door, it left a big dent, see exhibits DD, EE, FF. This speaker was originally found leaning into door. In exhibit CC, D, W, K its laying down and in exhibit BB, its standing upright again. Moved by police, not realizing it was evidence. He kicked the small garbage over. Petitioner seen him do this a thousand times. He either kicked or threw his little black bear footstool. Severe consequences would happen if his bear was not at his desk at all times. Most important, he went went in the pantry-fuarce room to bring out his rifle.

K. They intentionally twisted out of content and context a great number of alleged evidence. A bleach bottle found a service drive road, behind a strip mall wasn't hers! No fingerprints on it, no DNA found, plus it was a Dollar Store brand. Alleged victim only allowed CLOROX bleach used, in his OCD wackiness. A "micro size" bleach spot was found on the barrel part of his rifle. In his OCD behaviors, alleged victim required the gun rag be used on all weapons after each use. This gun rag had gun cleaner and a smudge / dash of Clorox bleach mixed in it. OUT OF HABIT (which shows her altered state of Mind) she automatically swiped at the butt end only of his rifle! In her mind, he was alive and playing possum. He was notorious for scaring Petitioner! He'd hid behind doorways and wait for her to walk by, then jump out and scare her. Or, he'd play dead. He'd wait until she was in a panic and leaned over him, then grab her. He gave her a real heart attack once and she Flat lined at home! 3 days in the hospital, put on medications and he was told by several doctors TO STOP. Of course, he took that as a challenge and got worse. She thought he was doing that again. She had no clue he was shot twice. In her mind, he was the most furious at her ever, for leaving and outright disobeying! She never ever did this before.

-JSC

He pushed and she pushed back for the first time. Normally, she'd cave. Do what ever it took to keep the peace and make him happy. Not that night. All she wanted to do was go to Joann's. It should have been no big deal. But it sure was in their marriage. He was the FIRST AGGRESSOR that night. She never fought any abuser back ever! Her ANS took control of her that night. When she looked up and saw the devil incarnate himself with his rifle dead on her. Despite all his abuse, she clung to the hope (it ended up being false hope) that the fairy tale man she fell in love with, was still in him, down deep. She loved him and trusted him with her heart. She was battered all her life. First by her mother, then by her first husband. Alleged victim played her heart like a fine fiddle. And she was blind to all his motives and maneuvers, in order to win her over. It took him 3½ years to wear her down before they married. And her living hell began instantly. He owned her. She was his. All his. Like a snake he was. He watched her at first. Studied her (they were next door neighbors at first) every day. Figured out to play her. He knew she had a big heart, was battered, and devoted to her family and sewing business. He also knew she made ALOT OF MONEY and had the best insurances available. He didn't want to share her with anyone. That's WHY he sabotaged the button holer on her only sewing machine days earlier. He was very jealous of her great success, with clients across America. He RESENTED all the praise she got! Disabled vets have always held a special place in her heart. Her sewing and tailoring abilities have helped countless disabled vets feel better about themselves. Veterans too. She only charged each for what it cost her to use to sew or tailor whatever she needed to do. Many were ventriloquists too, going to Children's hospital to entertain burned kids. Petitioner specialized in "dummy" sewing for them and never did she ever make 1¢ off them. Alleged victim so resented that! She also gave free sewing lessons to younger sewers who have the passion for sewing in them, like she had at their age. She gave several free beginner sewing machines with a stocked beginner's sewing basket to younger ones whose families were financially strapped. "Paychecks of the heart" her Grandma taught her. Alleged victim needed her money and here she was, spending

it. Had alleged victim not sabotaged her machine, she never would have bought her new machine, the night before the fatal altercation happened. Her friend was a clerk at Joann's and knew all about alleged victim's temper and his OCD wackiness. She sold Petitioner that new machine at cost. Petitioner intentionally didn't text or call alleged victim, which was way, way out of her norm. She used her own money, no reason not to. She had no clue he was massively in debt. He saw her carry a box in when she got home. He placed his desk to be at the very bottom of the basement staircase, so he spy on who was coming in or going out, by their reflections in his massive beer mirror collection that went floor to ceiling everywhere. It was every abuser's dream house, in a dream location. Big house, with 350' driveway in 20 wooded acres. No neighbors close by. TOTAL ISOLATION! A red flag warning should have went off in her, when he didn't come upstairs and didn't explode on her then. In order to lessen the pounding that surely was to come, she did everything to extra please him the rest of that night, and again the next morning. She was making his favorite breakfast when he got up, already irritated. See exhibits X, XX for all details.

In MCLS 52/202 and 16 MI.L.P. 2d EVIDENCE 64 both decree, "an investigation by the County Medical Examiner as to the cause and manner of death only can he testify to. His opinions and conclusions he is NOT AT LIBERTY to express. Trial counsel, police and both prosecutors pressed her Medical Examiner to not only give his opinions and conclusions, but to be their blood, ballistic and crime scene reconstruction expert to jurors, and he got it all wrong! Trial counsel called no forensic experts to counter attack or challenge the lies he told.

Trial counsel did NO pretrial investigan due to his aiding their side. So, he had no trial strategy, no defense plan. He easily could have used her U.S. Const. Amend. II to defend her, but that wouldn't have pleased the other side, who he was helping. See exhibit A. Trial counsel had a good number of pretrial hearings. What exactly did they talk about? It wasn't about defending her. In 1-20 Crim. Law Desktop P20.03, under Pretrial Motion rulings, "defenses should be made in advance, even before trial commences, and should be raised in a pretrial motion." Trial counsel never

said SELF DEFENSE one time at 10 day farce of a trial, and this is the heart of her defense. Petitioner is a psych nurse and a seamstress-tailor, no legal training at all. She once believed police and prosecutors to have integrity and honestly followed the laws. She had no clue how evil and corrupt both really are. Petitioner was able to find 17 viable, merited defenses trial counsel easily should have known about and used, had he actually wanted to defend her instead of aiding their side: (1) US. Const. Amend. II - right to bear arms (2) JUSTIFIED HOMICIDE, MCLS 780.961 (3) Castle Doctrine, MCLS 768.21c (4) Self Defense in Dwelling, MCLS 768.21(c) (5) Excusable homicide, MCLS 780.961 (6) Self Defense, MCLS 780.971 (7) Self Defense, MCLS 600.922 (8) Self Defense, 1-20 Crim. Law Deskbook 18 (9) True Man Doctrine, MCLS 768.21 (c) (10) Meet Deadly Force w/ Deadly Force, MCLS 780.971 (11) Passion Provocation MCLS 768.27b (12) Sudden Passion, MCLS 768.27b (13) Sudden Affray, MCLS 768.27b (14) Crime of Passion, MCLS 768.27b (15) Sudden Heat, MCLS 768.27b (16) Mania Transitoria, MCLS 768.27b (17) Chance Medley, 10 Mich. Digest Homicide 32. Alleged victim was always the First Aggressor, initiator and instigator. He acted - she reacted!

Every day of her farce of a trial, they staged the courtroom 2 different ways. Trial counsel never objected. Claimed it was no big deal. They did it intentionally to paint Defendant black to jurors without saying one word and it worked for them beautifully. Jurors had her guilty before they left out to talk. No talk needed. (#1) A Flatbed was parked right next to them, with alleged evidence piled so high, repeatedly every day, "evidence" kept falling off, disrupting trial. In reality, all they used was her gun, some crime scene photos (to show his body at the desk) and a Dollar Store bleach bottle NOT even hers! (#2) Running the length of their long table, which was located right next to jurors, they stacked 3 high all the length down, sealed and labeled boxes, made to look like they had a mountain of paperwork against Petitioner and a guard told her and trial counsel these boxes were really EMPTY! Petitioner was livid, she knew she was being set up and had no clue how to stop any of it. This was her life on the line and trial counsel was paid alot of money to defend her. And here he was, selling her out to the wolves. All need to be criminally charged and hung up by their buster browns! Trial counsel put her cement boots on her, and Pendergraff and both prosecutor's pushed her off the dock, into the water and Appellate counsel made sure she sank to the bottom.

Pendergraff also intentionally went way OUTSIDE both of Petitioner's subpena's!

cell phone and desktop computer. Alleged victim's cell phone, lap top and desktop were NEVER looked at! That's how one sided Pendergraff was from the beginning! Her cell phone she willingly gave to him that first meeting that night. She had nothing to hide. And she trusted him to have integrity and follow the laws. The very first pictures on it were of her FRACTURED RIGHT EYE ORBIT which happened 2 months prior to fatal altercation. Pendergraff intentionally DELETED every picture of abuse and every angry, nasty text message from alleged victim on it! The subpera was for 3 days only and he went through all of it. He called men who were YEARS outside that 3 day time limit, and he used them to paint Defendant black to jurors! Defendant, as alleged victim too had numerous affairs, had a 1 night stand with 2 different men, YEARS before fatal altercation happened!. Pendergraff went way outside the 1 YEAR limit on her desktop subpera. YEARS outside the subpera! And what he used he intentionally twisted and took out of content and context! Prime example! Black Widow movie is about a woman who marries RICH men and kills them for their money. They claimed this was Petitioner! Petitioner MADE MORE MONEY than both her husbands! Petitioner divorced her first husband too. Yet, they reiterated falsely to jurors MONEY and SEX were her motives. Alleged victim was massively in debt, and they knew it. Jurors never heard it. Jurors heard ZERO that is in this brief. Alleged victim's life insurance was only $58,750.00. Petitioner had 1/4 million on herself. He kills her, he stood to gain all she had plus her life insurance, plus whatever her State job and social security would pay him. He boasted he could make it look like an accident, and he proved it by SHOOTING AT HER TWICE out back of the property. It's on Pendergraff's secret tapes.

In Israel v. Rogers 946 F.2d. 2688; 1984 U.S. App. LEXIS 17659 Judge Flaum ruled, "the court reversed because it was unreasonable for counsel not to consult expert witnesses. There was a reasonable probability that expert testimony would have PREVENTED THE FIRST DEGREE MURDER CONVICTION because material facts were NOT presented at trial were compelling. When determining the ineffective assistance of counsel in violation of U.S. Const. Amend VI, the benchmark must be whether counsel's misconduct so undermined the proper functioning of the ad-

versarial process that the trial cannot be relied on having a just result." In Soffar v. Dretke 368 F.3d. 441; 2004 U.S. App. LEXIS 7793 Judge DeMoss ruled, "the physical evidence supported Defendant's statements and obtaining a BALLISTIC EXPERT was necessary. Failing to not consult and obtain a forensic expert and having NO defense strategy deprived the accused a substantial trial agument and set up an unchallenged factual predicate for the State's main argument that he intended to Kill." In Dugas v Coplan 428 F.3d. 317; 2005 U.S. App. LEXIS 23511 Judge Lipiz ruled, "counsel was deficient in obtaining expert testimony, whose testimony would have effected trial outcome. (1) Counsel failed to obtain (2) Appellate counsel failed to preserve the issue. The testimony would have cast serious doubt on the State's case and trial outcome would have been different." In Evitts v Lucey 469 U.S. 387; 105 S.Ct. 830; 83 L.Ed.2d. 821; 1985 U.S. LEXIS 42; 53 U.S. LW 4104 (1985) Judge Brennan ruled, "because an important theory in Defendant's case was SELF DEFENSE, evidence to show: (1) victim was likely the First Aggressor (2) Defendant acted in Self Defense. The Court distinguished between evidence of PAST VIOLENT ACTS OF VICTIM, that were known to Defendant, as bearing on whether the victim was First Aggressor and EVIDENCE OF PAST VIOLENT ACTIONS and TENDENCIES of the victim, as bearing to ~~Defendant's STATE OF MIND.~~ It was error to exclude victim's reputation." Trial counsel, both prosecutor's and Pendergraff knew very well alleged victim's hot temper, his OCD behaviors, his long abusive history with Defendant and all intentionally suppressed it to juras!

ARGUMENT 4

Petitioner's U.S. Const. Amends. II, V, VI, VIII, XIV are massively and intentionally vidated in full malice by paid trial counsel, court appointed Appellate counsel, both prosecutors, Pendergraff and the County Medical Examiner. From day one, her Due Rights were denied her, when Pendergraff continued to question her until 4:30AM KNOWING she blew a .18 on a breath test. He denied her Miranda right. He planted both casings. He deleted exculpatory photo's and text messages from her cell phone. He went well OUTSIDE both subpena time lines. He suppressed all her medical records. He manufactured an impossible murder scenario. Has NO common sense at all (can't tell the back of a head from the side) and his mind was instantly closed from the start. He was 2 HOURS LATE to alleged crime scene and by then, the entire scene

contaminated and compromised beyond measure!. In 7M.L.P.2d. Const Law 372 rules, "the Due Process clause guarantee applie to SUPPRESSION of, or failure to produce evidence by the prosecution. This action violates Due Process where the evidence is material. The prosecution has a duty to disclose potentially exculpatory evidence, if the evidence is highly probative of Defendant's innocense." In 1-1 Crim. Law Deskbook P1.03 rules, "the prosecutorial responsibility is to seek conviction of the guilty, while protecting the innocent. The prosecutor CANNOT ADVOCATE any fact or position to be inconsistent with the truth." In 1-20 Crim. Law Deskbook P20.04 (4) rules, "a prosecutor may strike hard blows, but he is not at liberty to strike low or foul blows. It is as much his duty to REFRAIN FROM IMPROPER METHODS calculated to produce a WRONGFUL CONVICTION as he is to legitimate a just case. The claim of PROSECUTORIAL MISCONDUCT can be made when: (1) he Knowingly permits erroneous testimony (2) deliberately elicits IMPROPER TESTIMONY from a witness!" Like using the Medical Examiner as their blood, ballistic and crime scene reconstruction expert intentionally, with trial counsel never objecting or counter attack by calling his own 3 Forensic experts.

In Boyle v Million 201 F.3d. 711; 2000 U.S. App. LEXIS 124; 2000 FED. App. 0009P judge Daugherty ruled, "the blantant, unethical prosecutorial misconduct had a substantial and injurious effect on the jury decision. The court concurred such error CANNOT be deemed harmless. Closing arguments that encarage jury idenification with the victim or that vouch for the Defendant's guilt are deemed BEYOND ethical bounds. It's IMPROPER for prosecutor's to appeal to jury sympathy by MIS-STATING THE EVIDENCE and ARGUING FACTS NOT IN EVIDENCE, and as a result of Cumulative Effect of Error, the Defendant was denied the reasonable probability of a fair trial. Prosecutorial Misconduct at trial constituted prejudical error." In Washington v Hofbauer 228 F.3d. 689, 2000 U.S. App. LEXIS 24988; 2000 FED. App. 0357P judge Jones ruled, "this court finds PROSECUTORIAL MISCONDUCT sufficiently egregious to violate the Defendant's Due Process rights and ineffective assistance of counsel at his misrepresentation, where he failed to object to such MISREPRESENTING THE FACTS IN EVIDENCE amounts to substantial error. ASSERTING FACTS NOT IN EVIDENCE may mislead a jury in a prejudical way because a jury generally believes a prosecutor is lawfully observing his obligation as a representive of

sovereignty. A reviewing court can only render relief if the relevant mis-statements were so egregious as to render the ENTIRE trial Fundamentally unfair to degree tantamount to a Due Process violation. A trial court's EXCLUSION OF EVIDENCE is reviewed for an abuse of discretion." In Bell v Sutton 2008 U.S. Dist. LEXIS 92530; 2008 U.S. Dist. LEXIS 76648 (2008) judge Shirley ruled, "this court Found (1) Brady violation, (2) state used and presented false evidence and argument, (3) ineffective assistance of counsel sufficent to reverse Defendant's conviction."

You can't justify the wrongs in Petitioner's intentional injustice. 9 years she has missed out on her life. Take the last 9 years out of your life, and see how it feels. Have your family members pass away now, and your falsely incarcerated and unable to attend their funerals. Have your kids hate you because they believe police and prosecutors are honest people (just like Petitioner taught them when they were little, because she knew no different until this injustice slammed her). She's lost everything. No pieces left even to put back together. Isaiah 47:10 says "For you trusted in your wickedness. Your wisdom and knowledge have warped you. And in your heart you said I am and there is no one else." Pendergraff, both prosecutors, trial counsel, Appellate counsel lost no sleep over unjustly convicting Petitioner. They felt no shame, no guilt. Get a conviction any way you can, and they did just that. Never fearing any consequences if they get caught. This powerful court has the authority and power to bring this to an end across America! Criminally charge each of them, if they intentionally and in malice gain a false conviction. Please change Michael Arellano's COD to "JUSTIFIED" HOMICIDE on his death certificate, Genesee County, Flint, Mi 48502. This shows him the First Aggressor, as it should be. Order each State to make SELFDEFENSE BASED ON BSS a law. This brings into play, the STATE OF MIND of both the victim and the abuser.

CONCLUSION

1. Grant Writ of Certiorari to Petitioner and bring true change to courtrooms across America!

2. Restore her maiden name, Parker, to her.

3. Change Michael Arellano's COD to say JUSTIFIED HOMICIDE, showing him the First Aggressor. Genesee County, Flint, Mi. 48502 Medical Examiner can do it without a court order.

4. Criminally charge Pendergraff, both prosecutors (Rebecca Jerva-Brinn and Brian K.), Appellate counsel (Daniel Rust) and trial counsel (Ken Karasick, retired now), debarr and fire all! Use their pensions to pay restitution to Petitioner.

dated: 11-10-21

Respectfully and in Truth Submitted,
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