No. 21-7903 ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

STEVE BALLESTEROS — PETITIONER
(Your Name)

vs.

BOBBY LUMPKIN, Director, TDCJ-ID, — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF TEXAS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Steve Ballesteros #1911241
(Your Name)

Rt. 2 Box 4400, Hughes Unit
(Address)

Gatesville, TX 76597
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1) Is it unconstitutional for state appellate courts to hinder petitioner's post collateral proceeding by holding petition pass the 1-year federal limitation time, due to attorney procedural error?

2) Did the Supreme Court overrule its decisions in Strickland v. Washington, Miller v. Pate, and Miller-El v. Cockrell that guarantee defendants protection from unfair practices at trial and appeal proceedings?

3) Does the 5th, 6th and 14th Amendments of the Constitution offer equal protection to citizens, even though those citizens are imprisoned?

LIST OF PARTIES

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

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

RELATED CASES

140th District Court of Lubbock County, Texas, Cause No. 2012-434,714. State of Texas vs Steve Ballesteros. Guily November 15, 2013.

Court of Appeals, Seventh Judicial District, Amarillo, Texas, Cause No. 07-14-00025-CR. Steve Ballesteros v. State of Texas, On appeal from the 140th District Court of Lubbock County, Texas. Affirmed February 5, 2015

Texas Court of Criminal Appeals, Application for 11.07 Writ of Habeas Corpus, WR-65,458. Steve Ballesteros v. State of Texas. Dismissed non-compliance February 8, 2017

Texas Court of Criminal Appeals, Application for 11.07 Writ of Habeas Corpus. Steve Ballesteros v. State of Texas, WR-65,458. Denied June 7 2017.

Texas Court of Criminal Appeals, Application for 11.07 Writ of Habeas Corpus, WR-65,458. Steve Ballesteros v. State of Texas. Dismissed as subsequent writ, about April 2018.

The United States District Court for the Northern District of Texas, Lubbock Division, Application for 28 U.S.C. § 2254 Writ of Habeas Corpus Steve Ballesteros v. Lori Davis, TDCJ-ID Director, Civil Action No. 5:18-CV-00134-C. Denied pet. & COA April 13, 2021.

United States Court of Appeals for the Fifth Circuit, Application for Certificate of Appealability from the United States District Court for

the Northern District of Texas, USDC No. 5:18-CV-134. Steve Ballesteros v.Bobby Lumpkin, Director, TDCJ-ID, No. 21-10470. COA denied Noverber 9, 2021.

United States Court of Appeals for the Fifth Circuit, Appeal from the United States District Court for the Northern District of Texas USDC No. 5:18-CV-134. On motion for reconsideration and rehearing en banc, No. 21-10470. Steve Ballesteros v. Bobby Lumpkin, Director, TDCJ-ID. Denied January 25, 2022.

In The Supreme Court of the United States, Steve Ballesteros v. Bobby Lumpkin, Director, TDCJ-ID. On petition for a writ of certiorari to the the United States District Court, Northern District of Texas.

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

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

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

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

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

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

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

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

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

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

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

JURISDICTION

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

The date on which the United States Court of Appeals decided my case was 11-9-21.

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

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 1-25-2022, and a copy of the order denying rehearing appears at Appendix B.

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

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

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

The date on which the highest state court decided my case was 4-11-2018. A copy of that decision appears at Appendix F.

[ ] 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

The Fifth Amendment: No person shall... be deprived of life, liberty, or property without due process of law;

The Sixth Amendment: In all criminal prosecutions, the accused shall enjoy the right... to have the assistance of counsel for his defense.

The Fourteenth Amendment: Section 1. All persons born or naturalized in the United States, subject to the jurisdiction thereof,,are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of theUUnited States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

28 U.S.C. § 2244(d)(1)(B)(D): A 1-year period of limitation shall apply to an application for a writ of Habeas Corpus by a person in custody pursuant to the judgment of a State Court. The limitation period shall run from the latest of... the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action:... the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due dilidence.

28 U.S.C. §2253(c)(2): A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

STATEMENT OF THE CASE

On November 15, 2013 the Appellant was found guilty of murder and was sentenced to eighty years imprisonment. On January 31, 2014, he (thru counsel) filed a notice of appeal. On direct appeal counsel (Robert Sirianni, Jr. counsel thru direct appeal and state habeas appeal) argued two frivolous grounds, sudden passion legal and factual sufficiency, and Ineffective assistance of counsel for not calling the psychologist to teatify. Conviction was affirmed on February 5, 2015.

Petitioner's attorney filed applicant's first 11.07 state habeas corpus on November 11, 2015. The Texas Court of Criminal Appeals (TCCA) dismissed the application for non-compliance, citing Texas Rule of Appellate Procedure, Rule 73. 1, on February 8, 2017. Yet, before the first Application was dismissed, counsel filed a second writ on January 31, 2017, which was denied without written order. on June 7, 2017.

With the denial of my 11.07 appellate counsel excused themselves from my representation, and on March 12, 2018, Petitioner filed a pro se state habeas 11.07 asserting several constitutional violations that Petitioner had brought to the attention of counsel. That petition was denied without written order on April 11, 2018 as subsequant. Petitioner then filed a 2254 federal petition, pro se, on May 21, 2018, seeking relief on;

1) ineffective assistance of appellate counsel for not perfecting and not correcting appeal and not raising, on direct appeal, the following errors;;;

2) trial counsel admitted to not preparing for trial, researching or investigating any proceeding and claims, even stating that there is an actual conflict of interest before the trial even started;

3) trial counsel was ineffective for failing to object to the detectives lack of informing Petitioner of his Miranda right before conducting an in-custody interrogation and obtaining a statement used at trial;

4) trial counsel was ineffective for not objecting to computer generated statement that was admitted into evidence and Petitioner informed attorney that statement was false;

5) his due process rights were violated when the prosecution offered into evidence exhibits 163 and 164 over Petitioner's objection to them being fabricated;

6) his due process rights were violated when the peosecution entered into evidence a tampered copy of Petitioner's statement, which was not the original;

7) his conviction was obtained through false and fabricated evidence, thru prosecutor's boastering at closing arguments.

Petitioner has been seeking an evidentiary hearing thruoghout his pro se filing, to expend the record to further and support his claims. Petitioner was denied relief of his 2254 on April 13, 2021 and was also denied any request for a certificate of appealability on same order.

Then Petitioner presented his claims to the United States Court of Appeals for the Fifth Circuit for redress, and a granting of a COA on his claims. Petitioner does particularize for the first time the issue of the state impediment, specifically, TCCA hinderance on his state habeas 11.07 appeal process, namely, holding his petition for a total of ninteen months, just to be informed that the petition was dismissed for non-compliance and then finally denied. On November 9, 2021 the Fifth Circuit denied the motion for a COA on failing to make the reqisite showing. On motion for Reconsideration and Rehearing En Banc the motion was denied on January 25, 2022.

Now the Petitioner presents his motion for certiorari to this Court for relief on his constitutional violations.

REASONS FOR GRANTING THE PETITION

"Meaningful access to justice has been the consistent theme of [many of our cases]. We recognize long ago that mere access to the courthouse doors does not by itself assure a proper functioning of the adversary process, and that a criminal trial is fundamentally unfair if the State proceeds against an indigent defendavt without making certain that he has access to the raw material integral to the building of an effective defense. Thus, while the Court has not held that a State must purchase for the indigent defendant all the assistance that his wealthier counter part might buy, it has often reaffirmed that fundamental fairness entitles indigent defendants to "an adequate opportunity to present their claims fairly within the adversary system." Ake v. Oklahoma, 470 U.S. 78, 105 S.Ct. 1087, 1093.

I. [QUESTION ONE] Is it unconstitutional for state appellate courts to hinder petitioner's post collateral proceeding by holding petition pass the 1-year federal limitation time, due to attorney procedural error?

When reviewing Mr. Ballesteros' circumstances, exceptional and extraordinary circumstances as defined in § 2244(d)(1)(B) and (D) are lfet to the discretion of the Federal Courts. The Fifth Circuit addressed claim 2244(d)(1)(B), "Ballesteros did not make these arguments in the district court, and this court does not consider arguments first raised in a COA motion in this court." App'x B p.2. The SeventhCircuit in 2011 in Lavin v. Rednour, 641 F.3d 830, 832, To recieve a certification under § 2253(c), the prisoner must show that reasonable jurist would find the district court's assessment of the constitutional claim and any antecedent procedural rulings debatable or wrong. When a prisoner's case is subject to § 2253(c), non-certified claims are not properly before this court... When a prisoner on collateral review files a pro se brief containing non-cert-

ified claims, we construe the brief as an implicit request for certification. See, E.G., Schaff, 190 F.3d at 528.

Petitioner did not particularize this claim, yet he averred to objective external factors impede ability to comply with procedural rules, referring to exceptions to doctrine of procedural default in federal habeas corpus, App'x E p. 5. Petitioner request that this Court consider this claim for granting him a COA to present the Constitutional violations he is asserting. As shown by the the order from the U.S. District Court, App'x A p.2, that the Texas Court of Criminal Appeals held Petitioner's 11.07 writ for 15 months, which made a federal habeas time barred for review, to inform counsel that petition was dismissed for non-compliance. The state court's deliberate delay is an external and extraordinary circumstance that warrents tolling, and a state impediment as stated in 2244(d)(1)(B). In Spottsville v. Terry, 476 F.3d 1241 at 1245 (C.A. 11 2007), "Equitable tolling can be applied to prevent the application of AEDPA statutory deadline when 'extraordinary circumstnces' have worked to prevent an otherwise diligent petitioner from timely filing his petition."

Also relevent to this issue, is the fact that Petitioner's counsel abandonment at a crucial stage in the appellate process, when he should of been arguing the state court impediment. Counsel abandoned Petitioner and claimed to have retired and no longer practicing law. App'x D p.1.

As stated in supreme Courts decision in Christeson v. Roper, 135 S.Ct. 891 (2015), that attorney abandonment qualifies as extraordinary circumstances for tolling. Petitioner has maintainedthat appellate counsel has been negligent, unprofessional and just plain dishonest throughout the direct appeal and post collateral proceedings, App'x D p.1-3. The Holland decision helped to clarify what egregious unprofessional attorney misconduct is and entails. "We here decide that the timeline provision in the federal habeascorpus statue is sub-

ject to equitable tolling.[...] In the Court of Appeals' view, when a petitioner seeks to excuse a late filing on the basis of attorney unprofessional conduct, that conduct, even if it is "negligent" or "grossly negligent" cannot "rise to the level of egregious attorney misconduct" that would warrent equitable tolling unless the petitioner offers "proof of bad faith, dishonesty, divided loyalty.." Holland, 560 U.S. 631, 130 S.Ct. 2549, 2554. Petitioner offered into the record of his 2254 petition an order to cease and desist practice in North Carolina, by the bar of Florida, for what exactly its for is unclear, yet it stated, misleading advertisment and misconduct. HE IS (ROBERT SIRIANNI JR.) A LICENSED FEDERAL ATTORNEY, and knowing about the 1-year limitations for filing a 2254. He lied, deceived and was very dishonest about his qualifications and intents with Petitioner.

"Several lower courts have specifically held that unprofessional attorney conduct may, in certain circumstances, prove "egregious" and can be "extraordinary"... See, e.g. Nara v. Frank, 264 F.3d 310, 320 (C.A.3 2001)(order hearing as to whether client who was "effectively abandoned" by lawyer merited tolling)[.] With these impediments, Petitioner was left to figure out the practices procedures of the courts, which took time to understand and figure out in order to file a petition for relief. § 2244(d)(1)(B)(D) where enacted by Congress as a safe guard for such practices as these, that create impossible feats and obstacles for petitioner's to cross. Petitioner is within the 1-year limitation period as defined in § 2244(d)(1)(D); the date on which the factual predicate of the claim... could have been discovered through the exercise of due diligence. These facts, as obvious as they seem, could not have been known until properly looked into, especially by a layman. As soon as Petitioner could gather all relevent evidence and material to present to the court, he filed within the 1-year limitation period, June 7, 2017 when counsel excused himself from Petitioner's

case. Petitioner filed his 2254 in May of 2018. Taking into consideration all the facts presented, Petitioner moves this Court for granting all tolling entitled to Petitioner to address the Constitutional claims he is presenting for relief.

II. [QUESTION TWO] Did the Supreme Court overrule its decisions in Strickland v. Washington, Miller v. Pate, and Miller-El v. Cockrell that guarantee defendants protection from unfair practices at trial and appeal proceedings?

[QUESTION THREE] Does the 5th, 6th and 14th Amendments of the Constituion offer equal protection to citizens, even though those citizens are imprisoned?

MILLER-EL v. COCKRELL
COA

Even though the U.S. District Court adjudicated petitioner claims on thier merit and denied with prejudice, App'x A p.1, Petitioner showed actual cause and prejudice, App'x D p.3&9, on his ineffective assistance of counsel, on direct appeal and trial, and prosecutorial misconduct. "Consistent with our prior precedent and the text of the Habeas Corpus statute, we reiterate that a prisoner seeking a COA need only demonstrate 'a substantial showing of the denial of a constitutional right.'" 28 U.S.C. § 2253(c)(2), a petitioner satisfies this standard by demonstrating that jurist of reason could disargee with the district court's resolution of the constitutional claims or that jurist could conclude the issues presented are adequate to deserve encouragement to proceed further. Miller-El v. Cockrell, 537 U.S. 322, 123 S.Ct. 1029, 1034 (2003).

As the Supreme Court held in Miller-El, the threshold nature of the COA inquiry "would mean very little if the appellate review were denied because the prisonerdid not convince a judge, or for that matter, three judges, that he or she would prevail." Id at 337. Mr. Ballesteros filed a motion in the Fifth Circuit seeking a certificate of appealability, so that he may appeal

the district court's denial of his 2254 motion. The Fifth Circuit also denied COA, even though Petitioner made a Substantial show, which his claims are apparent on the record. App'x D, E.

6th AMENDMENT
STRICKLAND v. WASHINGTON

Direct Appeal
IAC

Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2066 (1984), [A] court deciding an actual ineffectiveness claim must judge the reasonableness of counsel's challenged conduct on the facts of the particular case, viewed as of the time of counsel's conduct. A convicted defendant making a claim of ineffective assistance must identify the acts or omissions of counsel that are alleged not to have been the result of reasonable professional judgment. The court must then determine whether, in light of all the circumstances, the identified acts or omissions were outside the wide range of professionally competent assistance.[...] Appellate counsel was informed of the ineffectness of counsel at the trial stage and counsel claimed that he did not receive the transcripts in time to address the issues, even though he asked for a time extension to prepare but was denied the extension. Further ineffectiveness, counsel should have moved the TCCA to allow he to redress the Seventh District Court of Appeals to relitigate the issues at the direct appeal level. App'x D p.2-3.

Generally speaking, the performance of appellate counsel is assessed using the same standards applied to trial counsel under Strickland, so when counsel omits significant and obvious issues, without legitimate strategic reason, his performance should be deemed deficient. Prou v. United States, 199 F.3d 37 (1st Cir. '99) "Failing to raise an argument isn't a reasonable strategic decision if there's "absolutely no downside" to doing so." THe defendant must

establish:(1) there is an error, (2) the error must be plain, and (3) the error must affect "substantial rights". meaning there's a "reasonable probability that, but for the error, the outcome of the proceeding would have been different." Rosales-Mireles v. United States, 138 S,Ct. 1897 (2018). If the defendant satisfies those threshold requirements, "an appellate court may grant relief if it concludes that the error had a serious effect on 'the fairness, integrity or public reputation of judicial proceedings'" according to SCOTUS. Id.

6th AMENDMENT
STRICKLAND v. WASHINGTON

TRIAL COUNSEL
IAC

When trial counsel stated that he did not prepare for trial and there was a complete brake down in communication between client and attorney. App'x D p.9-10. When trial attorney (Nick Olguin) admitted to preparing for another trial, even though counsel had Petitioner's case for a year and a half and he did nothing, not just is prejudice is presumed but actually occured. Mickens v. Taylor, 535 U.S. 162, 122 S.Ct. 1237, 1243 (2002), As used in the remand instruction [of Wood v. Georgia,,450 U.S. 461]... we think "an actual conflict of interest" meant precisely a conflict that affected counsel's performance--as opposed to a mere theoretical division of loyalties. It was shorthand for the statement in SULLIVAN that "a defendant who shows that a conflict of interest actually affected the adequacy of his represenation need not demonstrate prejudice in order to obtain relief."[Cuyler v. Sullivan,] 446 U.S. at 349-350.

THe deficiency went even further when, Detective Johnson, said on the stand, in open court, that he did not read Petitioner his Miranda Rights before

the in-custody interrogation. Miranda claims, [is] governed by the Supreme Court's decision in Seibert, 542 U.S. 600, 124 S.Ct. 2601. The plurality and Justice Kennedy's concurrence in that case, read together, make clear that a deliberately two-step interogation strategy can violate Miranda. Specifically, when police deliberately withheld warnings until after obtaining an in-custody confession, Thompson v. Runnel, 621 F.3d 1007 (C.A. 9 2010). App'x D p.12-13. HE stated he had years on the police force, so his acts were calculated.

Further 6th Amendment harm to the adequacy of trial counsel's performance when the prosecution introduced a statement claimed to be the one that Petitioner gave. when viewed by the Petitioner he told his counsel that the statement was a fabricated one and not the one he gave. App'x D p. 10-12. [T]he American Bar Association Standard for Criminal Justice... describe the obligation [of defense counsel] in terms no one could misunderstand in the circumstances of a case like this one: "It is the duty of the lawyer to conduct a prompt investigation of the circumstances of the case and to explore all avenues leading to facts relevant to the merits of the case and the penalty in the event of conviction. THe investigation should always include efforts to secure information in th possession of the prosecution and law enforcement authorities. The duty to investigate exists regardless of the accused admissions or statements to the lawyer of facts constituting guilt..., Rompilla v.. Beard, 545 U.S. 374, 125 S.CT. 2456, 2465 (2005). Attorney told defendant that it is a Brady violation but did nothing to further the remark he gave. Counsel's many errors, deficiencies render him ineffective according to the Supreme Court , the ABA and especially the 6th Amendment and a violation of his 14th Amendment, due process and equal protection of the law. A COA should be granted to the petitioner for relief on these groungs of error which are Constitutional violations.

5th AND 14th AMENDMENT
MILLER v. PATE

PROSECUTORIAL MISCONDUCT

The term prosecutorial misconduct broadly encompasses any conduct that infringes a defendant's constitution rights, from inadvertent mistakes to intentional misconduct. Intentional misconduct, "To state a claim that one was deprived of liberty based on fabrication of evidence, the plaintiff must allege (1) the defendant (prosecutor) knowingly fabricated evidence, (2) the fabricated evidence was used against the plaintiff (petitioner), (3) use of the fabricated evidence deprived the plaintiff of liberty and (4) if the alleged unlawfulness would render a conviction or sentence invalid, the conviction has been invalidated or called into doubt., Warnick v. Cooley, 895 F.3d 746 (10th Cir. 2018). Trial attorney objected to the introduction of the photos and the prosecution went even further with the lie saying they would call the or an officer to testify about the evidence. No officer was called, no formal compaint was given or entered into evidence, not one thing was offered to support the fabricated photos. App'x D p.5.

The trial Court went as far as saying to the objected evidence, "you've been given notice of it, objection overruled." And prosecution said, "if he would of admitted to doing it I wouldn't be doing all this and I'll call the officer if you want to do it that way." Intentional and flagrant misconduct, Miller v. Pate, 386 U.S. 2, 87 S.Ct. 785 (1967) p.788, More then 30 years ago this Court held that the Fourteenth Amendment cannot tolerate a state criminal conviction obtained by the knowing use of false evidence. There can be no retreat from that principle here. Prosecution engaged in conduct that involved fraud, dishonesty, deceit, and misrepresentation, all of this calls into question the honesty, trustworthiness and fitness of the prosecution.

Then the prosecution introducted into evidence a false and fabricated statement claiming it to be the true and correct statement of Petitioner. App D p.4-5. Detective stated that Petitioner signed and fingerprinted the statement, yet the only statement that has been offered is a computer generated copy, which is nowhere near the original. Petitioner has been seeking an evidentiary hearing from the start of the appellate process to expand the record to bring to light the fact that the statement that was entered into evidence is false. In Washington v. Hofbauer, 228 F.3d 689 (2000), Misrepresentating facts in evidence can amount to substantial error because doing so may profoundly impress a jury and have a significant impact on the jury's deliberations. For similar reasons, asserting facts that were never admitted into evidence may mislead a jury in a prejudicial way. This is particularly true when a prosecutor misrepresents evidence because a jury generally has confidence that a prosecuting attorney is faithfullyobserving his obligation as a representative of a sovereignty. p.700.

The prosecution bolstered this material fact, the fabricated statement, in their cloing argument,"well members of the jury, I'll submit to you that he gave you all the details that he needed to right in that statement." Attorney did not even object to it App'x D p.5.

In Miranda v. Arizona, 384 U.S. 436 (1966), the U.S. Supreme Court extended that protection to custodial interrogations and requires police to inform suspects about their right to remain silent and to counsel. When the fact came out that the Detective did not read Petitioner his rights the prosecution should of made an effort to correct the fact, yet the prosecution did not. In Utah v. Strieff, 136 S.Ct. 2046 (2016), the U.S. Supreme Court instructed that "[t]he exclusionary rules exists to deter police misconduct" and "favors exclusion only when the police misconduct is most in need of

deterrence—— that is, when itiis purposeful or flagrant."

Even though Detective Johnson said that he just forget to give the Miranda rights, early in his testimony he said that he has been on the police force for many years, so for him to say it was a simple slip, calls into question his motives. The Supreme Court has ruled that intentional misconduct is reversable error, and instead of disregarding the first statement and reading the defendant his rights and starting over, he elected to just keep pressing forward, which shows his true intentions.

Tyler v. McCaughtry, 293 F.Supp.2d 920 (E.D. Wis 2003) p.927, It is... uncertain what standard is appropriate to decide whether a petitioner has shown "enough" or the "right kind" of prejudice. See Randy Hertz & James S. Liebman, Federal Habeas Corpus Practice and Procedure [§ 26.3 at p. 1346 (5th Ed 2005)].

Mr. Ballesteros has been denied relief due to excessively egregious attorney misconduct and state impediment which is out of the hands of petitioner. Petitioner has been moving the courts for an evidentiary hearing to expand the record to show his claims have merit and substance, that when proven, relief would be granted.

CONCLUSION

All premises considered, Mr. Ballesteros repectfully pleads that this court grants writ and permit briefing and argument on issues contained herein.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

STEVE BALLESTEROS Steve Ballesteros

Date: April 25, 2022