

No. **21-7953** ORIGINAL

Supreme Court, U.S.
FILED

MAR 18 2022

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

ANTONIO D. MCCASTER - PETITIONER

Vs.

STATE OF INDIANA, ETAL - RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

TIPPECANOE COUNTY SUPERIOR COURT NO. 2
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR A WRIT OF CERTIORARI

ANTONIO D. MCCASTER

1 PARK ROW

MICHIGAN CITY, IN 46360

QUESTION(S) PRESENTED

- 1). Whether the United States District Court Northern District of Indiana South Bend Division's "Judge: Robert L. Miller, Jr," error in his decision making?, As to when denying the Petitioner his fair rights to an Habeas Corpus proceeding, By dismissing the Petitioner habeas Corpus petition (ECF 1) because it is untimely.....
- 2). Whether the United States District Court Northern District of Indiana South Bend Division's "Judge: Robert L. Miller, Jr," abused his discretion as to disregarding the Petitioner's first, second, and seventh ground, the supporting facts within the Petitioner's Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus and the attached exhibits in support of said ground(s) and their supporting facts?, That in fact proves that the Petitioner shall be entitled to habeas Corpus relief.....

LIST OF PARTIES

- 1). State of Indiana
- 2). Ron Neal, Warden

RELATED CASES

- 1). State of Indiana v. Antonio McCaster, Cause No. 79D02-1302-FA-2
- 2). Antonio McCaster v. State of Indiana, cause No. 79A04-1811-CR-544
- 3). Antonio McCaster v. State of Indiana, Cause No. 79D02-1503-PC-3
- 4). Antonio McCaster v. State of Indiana, Cause No. 79A02-1605-PC-01110
- 5). Antonio McCaster v. State of Indiana, et al, Cause No. 79D02-1611-MI-224
- 6). Antonio McCaster v. State of Indiana, et al, Cause No. 18A-MI-00748
- 7). Antonio McCaster v. State of Indiana, et al, Cause No. 3:18-CV-01043
- 8). Antonio McCaster v. State of Indiana, Cause No. 20A-SP-1238
- 9). Antonio McCaster v. State of Indiana, cause No. 79D02-2008-PC-19
- 10). Antonio McCaster v. State of Indiana, Cause No. 20A-PC-1818
- 11). Antonio McCaster v. Ron Neal, Warden, Cause No. 3:21-CV-00592
- 12). Antonio McCaster v. Ron Neal, Warden, Cause No. 21-2817

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR A WRIT OF CERTIORARI

OPINIONS BELOW

For cases from federal Courts:

The opinion of the United States Court of appeals appears at Appendix A, B, and C to the petition and is unpublished.

The opinion of the United States district court appears at Appendix E to the petition and is unpublished.

For cases from State Courts:

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

The opinion of the Tippecanoe County Superior Court appears at Appendix E to the petition and is unpublished.

JURISDICTION

For Cases from Federal Courts:

The date on which the United States Court of Appeals decided my Case was Feb. 16, 2022, Appendix, B and Mar 10, 2022, Appendix, C.

No petition for rehearing was ever filed in my Case.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1) Do to the fact of the United States Court of Appeals issuing three (3) conflicting orders. To wit: the first order, Appendix: A, dated: Oct. 5, 2021, that clearly states ~~and~~ on page two (2) with in the second paragraph. "IT IS ORDERED that all other proceedings in this appeal are SUSPENDED pending the decision by this court as to whether to issue a certificate of appealability. The court will take no further action in this appeal until the fee status is resolved." (review attached Appendix: A)

However, the Petitioner never received anything about the Certificate of appealability from the Respondent nor the Courts.

The second order, Appendix: B, dated: Feb. 16, 2022, that clearly states, "On consideration of the papers filed in this appeal and review of the short record, IT IS ORDERED that this

appeal is DISMISSED for lack of jurisdiction."

The third order, Appendix: C, dated: Mar. 10, 2022, that clearly states. "Herewith is mandate of this court in this appeal along with the Bill of Costs, if any. A certified copy of the opinion/order of the court and judgment, if any, and any direction as to cost shall constitute the mandate." "RECORD ON APPEAL STATUS: No record to be returned"

For Cases from State Courts:

The date on which the highest state court decided my case was May 13, 2021. A copy of that decision appears at Appendix M.

No petition for rehearing was ever filed in my case.

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

Do to the fact that the Petitioner is submitting his Petition for a Writ of Certiorari to this honorable Court within the 90 days after entry of the judgment from the United States Court of Appeals for the Seventh Circuit, to wit: date: Feb. 16, 2022 and Mar. 10, 2022, For review of the State Courts' and Federal Courts' ~~and~~ decisions, pertaining to the Petition

er's criminal case., After the fact of the Trial Court stating within Appendix: F, an Order on Petition for Post-Conviction relief on page nine (9) sec. (E) in pertinent part., "As stated above, the court does conclude that the testimony of police officers' eye witness accounts of the events of the crime amounted to perjury. "

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

CONSTITUTIONAL PROVISIONS INVOLVED

1). Appendix: D, on Page 10, The Petitioner raised the claim within the ground as to the fact of his 14th amendment rights of the United States' Constitution being violated., As to when Tippecanoe County Street Crime Officer: Michael A. Barthelemy unlawfully arrested the Petitioner on charges pertaining to a sealed case under cause No. 79D02-1302-FA-2, that was never unsealed., In which said claim is in fact in reference to the claim of being deprive of his liberty, as well as being denied equal protection under the law.

2). Appendix: D, on Page 15, The Petitioner raised the claim within the ground as to the fact of his 14th amendment rights of the

United States Constitution being violated., As to when Tippecanoe County Deputy Prosecutor: Jessica D. Paxson No. 28316-49, unlawfully prosecuted the Petitioner on charges pertaining to a Sealed Case under cause No. 79DO2-1302-FA-2, that was never unsealed before, during, and/or after the Petitioner was arrested, prosecuted, convicted, and sentenced. In which said claim is in fact in reference to the claim of him being denied equal protection under the law.

3). Appendix: D, on Page 51., The Petitioner raised the claim within the ground, as to the fact of his 14th amendment rights of the United States Constitution being violated., Do to the fact of the Trial Courts' "Judge: Steven P. Meyer," failing to reverse the unlawful conviction obtained by perjured testimony, after the fact of stating within Appendix: F, on page nine (9) sec. (E) in pertinent part., "As stated above, the court does conclude that the testimony of police officers' eye witness accounts of the events of the crime amounted to perjury." In which the claim of the Petitioner's 14th amendment rights being violated, is in fact in reference with the claim of him being denied equal protection under the law.

STATUTORY PROVISIONS INVOLVED

Appendix: F, on Page nine (9) sec. (E)., The Trial Courts' "Judge: Steven P. Meyer, " stated in pertinent part., "As stated above, the Court does conclude that the testimony of Police officers' eye witness accounts of the events of the crime amounted to perjury. " In which said statement is clearly in fact in reference with Ind. State Statute of Ind. Code § 35-44-1-2-1 (a)(1). Perjury Prosecution of violation., That clearly states: A person who makes a false, material statement under oath on affirmation, knowing the statement to be false or not believing it to be true.

STATEMENT OF THE CASE

On July 28, 2021, Petitioner: Mr. McCaster, proceeded, pro se, served through the U.S. postage, upon the clerk of the United States District Court Northern District of Indiana South Bend Division, his 116 page Writ of habeas Corpus petition under 28 U.S.C. § 2254., That was filed on Aug. 12, 2021, under cause No. 3:21-CV-592-RLM-MGG. Said petition then was placed before the Honorable: Robert L. Miller, Jr., Judge. (review attached Appendix: D

After Judge: Miller, Jr., reviewed said petition., On Aug. 18, 2021, without allowing and/or ordering the Respondent (Warden: Ron Neal) to give a response to the Petitioner's petition under 28 U.S.C. § 2254 for a Writ of habeas Corpus., Judge: Miller, Jr., then issued and stated within Appendix: E. "For these reasons, the court: (1) DISMISSES the habeas petition (ECF 1) because it is untimely; (2) DENIES Antonio D. McCaster a certificate of appealability pursuant to Section 2254 Habeas Corpus Rule 11; and (3) DIRECTS the clerk to close this case."

Do to the misconduct on the Judge behalf, did in fact cause the entire proceeding to be unfair, unjust, and very unreasonable, in which caused the violation of the Petitioner's due course of law, that pertains to the 14th amendment rights of the United States Constitution, As well as Indiana Constitutional right of Article 1, Section 12.

The United States District Court Northern District of Indiana's Judge: Miller, Jr., denied the Petitioner his fair rights to a habeas Corpus proceeding., As to when said Judge stated within his Opinion and Order (Appendix: E), a untrue reason to wit: "(1) DISMISSES the habeas ~~petition~~ petition (ECF 1) because it is untimely." When in fact said reason was/are clearly an

error, do to the following facts:

After the Petitioner's Conviction on Sept. 11th, 2013 and sentencing on Oct. 16th, 2013, for the crime of dealing in Cocaine, Class A-felony and for being a habitual offender all under cause No. 79D02-1302-FA-2. The Petitioner's Notice of Appeal was then filed under cause No. 79A04-1311-CR-544. After all briefs were submitted by both parties. On June 24th, 2014, the Indiana Court of Appeals denied the Petitioner's direct appeal.

The Petitioner's ~~Att~~ Appellate Atty: Mr. Graham, then submitted a Petition for Transfer on behalf of the Petitioner, to the Supreme Court of Indiana, under cause no. 79A04-1311-CR-544., After the office of the Attorney General of Indiana submitted it's brief in opinion of the Petitioner's Petition for Transfer. The Supreme Court of Indiana affirmed said Conviction, on Sept. 18, 2014.

Then after the Petitioner submitted his Petition for Post-Conviction relief to the Tippecanoe County Superior Court No. 2 and it was filed under cause no. 79D02-1503-PC-3., A evidentiary hearing was held pertaining to said Petition on April. 8th, 2016., After said hearing was held, the Tippecanoe County Superior Court No. 2 "Judge: Steven P. Meyer," on April 20,

2016, denied the Petitioner relief. (review attached Appendix: F)

Then on May 16th, 2016, the Petitioner's Notice of Appeal was filed under cause no. 79A02-1605-PC-01110. On Mar. 15th, 2017, the Petitioner's direct appeal was dismissed with prejudice. (review attached Appendix: G)

Then on Nov. 7th, 2016, after the Petitioner submitted his Indiana State Common Law Civil Rights Complaint for "False Arrest and False Imprisonment/Malicious Prosecution," The Tippecanoe County Superior Court No. 2, Judge: Steven P. Meyer gave the authorization for the clerk of the court to file said Complaint under cause no. 79D02-1611-MI-224. And then on Jan. 27th, 2017 and Feb. 26th, 2018, the Trial Court dismissed said Complaint, for allegedly having "No Cause of action."

Petitioner then submitted to the Indiana Court of Appeals his Notice of Appeal, that was filed under cause no. 18A-MI-748. After the filing of all briefs by all of the parties involved, the Indiana Court of Appeals on Aug. 7th, 2019, affirmed the Trial Courts' judgment.

The Petitioner then submitted his Petition for Transfer under

Cause No. 18A-MI-748, to the Supreme Court of Indiana. After the other parties involved submitted their briefs in opinion to the Petitioner's Petition for Transfer. The Supreme Court of Indiana, on Oct. 15th, 2019, also affirmed the Trial Courts' judgment.

In the light of the Petitioner's proceedings under cause no. 79D02-1611-MI-224, and Cause No. 18A-MI-748, being a Collateral review that tolls the limitation period for the Petitioner to submit his 28 U.S.C. § 2254 for writ of a habeas corpus petition., The United States District Court Northern District of Indiana South Bend Division's "Judge: Robert L. Miller, Jr.," accepted said proceedings as collateral review that tolls the limitation period., Do to the fact that the Supreme Court has broadly defined Collateral review as "judicial review that occurs in a proceeding outside of the direct review process," refer to Wall v. Kholi, 562 U.S. 545, 560 (2011). (review attached Appendix: E)

Then the Petitioner Submitted to the Indiana Court of Appeals, his Form For Successive Post-Conviction Relief Rule 1 Petition and a Petition for Post-Conviction Relief., After both Petitions were allegedly review, the Courts on July 23rd,

2020, stated within a Order filed under Cause No. 20A-SP-1238, "The Petitioner has failed to establish a reasonable possibility that Petitioner is entitled to post-conviction relief, and accordingly, the court declines to authorize the filing of the petition." (review attached Appendix: H)

In the light of the above proceeding pertaining to the Petitioner's Form For Successive Post-Conviction relief Rule 1 and his Petition for Post-Conviction relief, that was submitted and decided on by the Indiana Court of Appeals., Should have been accepted as a collateral review that tolls the limitation period to submit a habeas Corpus petition.

Do to the facts of not only is said proceeding one of the State remedy that the Petitioner has to exhaust before he is able to submit a habeas Corpus petition., As well as the fact of said proceeding being a collateral review that occurred outside of the direct review, under cause No. 79A04-1311-CR-544, that pertains to the underline Cause No. 79D02-1302-FA-2., And since the Supreme Court has broadly defined collateral review as "judicial review that occurs in a proceeding outside of the direct review process," refer to Wall v. Kholi, 562 U.S. 545, 560 (2011). "

In which the United States District Court Northern District of Indiana South Bend Division's "Judge: Miller, Jr., failed to accept said proceeding as a collateral review that tolls the limitation period to submit a habeas corpus petition.

Petitioner then submitted to the Trial Courts (Tippecanoe County Superior Court No. 2), a Petition for Post-Conviction Relief, After the Tippecanoe County Superior Court No. 2, "Judge: Steven P. Meyer, reviewed said petition., Then gave the Clerk of the Courts' the authorization to file said petition as a "New filing under cause No. 79D02-2008-PC-19, pertaining to a Post-Conviction Relief 2., " (review attached Appendix: I)

Then without a response from the Tippecanoe County Prosecutor's Office., On Sept. 2nd, 2020, the Tippecanoe County Superior Court No. 2, "Judge: Meyer," stated within a "Order," "the Court declines to accept the Petition for Post-Conviction Relief." (review attached Appendix: J).

The Petitioner then submitted to the Indiana Court of Appeals his Notice of Appeal, appealing the judgment of the Trial Courts pertaining to matters under cause No. 79D02-2008-PC-19., The Indiana Court of Appeals filed said Notice of

Appeal, under Cause No. 20A-PC-1818., After the Petitioner Submitted his Appellant's Brief along with its' Appendix, and without the Office of the Attorney General of Indiana, submitting a brief in opinion to the Appellant's Brief., On Jan. 28th, 2021, the Indiana Court of Appeals, denied the Appellant's appeal. (review attached Appendix: K).

The Petitioner then submitted to the Supreme Court of Indiana, his Petition for Transfer (Appellant's Transfer), along with its' Appendix, all under Cause No. 20A-PC-1818. (review attached Appendix: L).

After the Supreme Court of Indiana review said Transfer and without allowing and/or ordering the Office of the Attorney General of Indiana to give and/or submit a brief in opinion of the Petitioner's Petition for Transfer (Appellant's Transfer),, On May 13, 2021, the Supreme Court of Indiana denied the Petitioner's Petition for Transfer. (review attached Appendix: M).

In the light of the above proceedings pertaining to Cause No. 79D02-2008-PC-19 and Cause No. 20A-PC-1818., Should have been accepted as a collateral review that tolls the limitation period to submit a habeas Corpus petition.

Do to the facts of not only is said proceedings, proceedings being State remedy that the Petitioner has to exhaust before he is able to submit a habeas Corpus petition., As well as the fact of said proceedings being a Collateral review that occurred outside of the direct review, under Cause No. 79A04-1311-CR-544, that pertains to the under line Cause No. 79D02-1302-FA-2., And since the Supreme Court has broadly defined Collateral review as "judicial review that occurs in a proceeding outside of the direct review process, "refer to Wall v. Kholi, 562 U.S. 545, 560 (2011)."

With that being said the United States District Court Northern District of Indiana Division's "Judge: Miller, Jr, 'should have applied the same Standard when accepting the Petitioner's Civil proceedings as Collateral review that tolls the limitation period to submit a habeas Corpus petition., When considering the Petitioner's proceedings under Cause No. 79D02-2008-PC-19 and Cause No. 20A-PC-1818, as Collateral review that tolls the limitation period to submit a habeas Corpus petition.

Furthermore, since the latest judgment from the Supreme Court was May 13, 2021 (Appendix: M), and said proceeding

is a Collateral review that occurred outside of the direct review, under cause No. 79A04-1311-CR-544, pertaining to the underline Cause No. 79D02-1302-FA-2. The starting point should have began again running on May 13, 2021, Do to the fact of the Statute of limitations for a habeas Corpus petitions (1)(c) states as follows:

(1). 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 --

(c). the date on which the Constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on Collateral review.

In which do to the Statute of limitation for a habeas Corpus petition to be filed, to wit: (1)(c) of said Statute, and with the ~~latest~~ latest Collateral review order being May 13, 2021, Does in fact puts the Petitioner's Petition for a Writ of habeas Corpus under 28 U.S.C. § 2254, that was filed on Aug. 12, 2021 under cause No. 3:21-CV-592, well within the 1-year period

of limitation.

Another misconduct on the Judge's behalf, that did in fact cause the entire proceeding under cause No. 3:21-CV-592, to be unfair, unjust, and very unreasonable, in which also caused the violation of the Petitioner's due course of law, that pertains to the 14th amendment rights of the United States Constitution, As well as Indiana Constitutional rights of Article. 1, Section. 12.

As to when the United States District Court Northern District of Indiana South Bend Division's "Judge: Robert L. Miller, Jr.," denied the Petitioner's Request for a Certificate of Appealability, "Before the Petitioner was able to submit a Request for a Certificate of Appealability., When said judge stated within his Opinion and Order (Appendix: E), to wit: "(2) DENIES Antonio D. McCaster a Certificate of appealability pursuant to section 2254 Habeas Corpus Rule 11.,

After the fact of said judge over looking three (3) grounds, their supporting facts, within the Petitioner's petition for a Writ of habeas Corpus under 28 U.S.C. § 2254, and the attached exhibits in support of said grounds and their supporting facts., That in fact shows and proves that not only should

the Petitioner be granted a certificate of appealability, But also that the Petitioner is in fact entitled to relief, to wit: the following grounds, the supporting facts, exhibits (Appendix), and the law:

Ground One: Whether the Petitioner's 14th amendment rights of the United States Constitution was violated on Feb. 7th, 2013, by the Tippecanoe County Street Crime Officer: Michael A. Barthelemy?, As to when officer: Barthelemy unlawfully arrested the Petitioner without a valid "ARREST WARRANT," being issued, for charges filed under cause No. 79D02-1302-FA-2, in the case of the State of Indiana v. Antonio McCaster. With the knowledge and understanding as to the fact of said case being sealed on Feb. 5th, 2013, and never being unsealed before, during, and/or after the Petitioner was arrested. (review attached Appendix: D, pages 10-15)

In support of the above ground review attached Appendix: N., The copy of the five (5) page Chronological Case Summary of Cause No. 79D02-1302-FA-2, dated: 12-4-2013, before being revised and certified by the Clerk of the Courts., Then review the page labelled as page "0005," at the bottom of said page., Then review the fifth Statement from the bottom of said page ~~at~~ starting with the

Statement " Bench warrant issued sent on: 02/05/2013 09:36:23 - .84," until you get to the Statement " 02/05/13 Case Sealed Pursuant to Request of Direction of Awagner. JW." Then review the rest of said page, along with the other four (4) pages, that will in fact prove and show that not only was said case sealed after the " BENCH WARRANT," was issued., But also the fact that said case was never unsealed before, during, and/or after the Petitioner was arrested.

Then review the attached Appendix: D., The copy of the eight (8) page Chronological Case Summary of Cause No. 79DO2-1302-FA-2, dated: 10-2-2015, after being revised and certified by the Clerk of the Courts., Then review page two (2) of said document, within the fifth statement from the top of said page, ~~start~~ starting with the statement " 02/05/13 WARRANT ISSUED," until you get to the Statement " 02/05/13 Case Sealed Pursuant To Request of Direction of Awagner. JW." Then review the rest of said page, along with the other seven (7) pages, that will in fact prove and show that not only was said case sealed after the " BENCH WARRANT," was issued., But also the fact that said case was never unsealed before, during, and/or after the Petitioner was arrested.

In support of the fact as to the "BENCH WARRANT," that was issued and served in accordance with the Chronological Case Summary of cause No. 79D02-1302-FA-2, not being able to be use to arrest the Petitioner, refer to the case of the United States v. Yarrington, 838 F. Supp. 2d 832. As to when the defendant filed a Motion for Enlargement of Time to file a § 2255 Petition on December 22, 2011. In the Motion, he had requested copies of documents from the case file, and an enlargement of time to file a petition under 28 U.S.C. § 2255. In a letter to the defendant dated Dec. 13, 2011, a Deputy Clerk of Court noted that the copies of the public case file could be provided, at the rate of \$ 0.10 per page, with prepayment in advance. The court notes that certain transcripts contained in the record are sealed. The Deputy Clerk stated the following in her letter to the Defendant: "[The Clerk's office] can only copy what is in the public case file. Sealed documents are not available for copying." Even if the Defendant was to pay in advance for these transcripts, the sealed transcripts would not be released unless the Defendant could show good cause for their release.

With that being said, the same standard should have applied in the case of the State of Indiana v. Antonio McCaster under cause No. 79D02-1302-FA-2, as it did in the case of the United States

v. Yarrington, 838 F. Supp. 2d 832. As to when officer: Barthelemy used a bench warrant from a sealed case and never motion the courts and showing good cause for said warrant to be released. In which proves that officer: Barthelemy could not serve any kind of warrant, because he could not obtain a copy of said warrant. Do to the fact of said case being sealed, means that all documents pertaining to said case file is also deemed sealed, and a copy of said documents (meaning the bench warrant that was served) could not be copied and served until the courts received a motion and/or petition showing good cause for said case to be unsealed and for said warrant to be release.

Ground Two: Whether the Petitioner's 14th amendment rights of the United States Constitution was violated on Sept. 10th - 11th, 2013, during the case of the State of Indiana v. Antonio McCaster, under cause No. 79D02-1302-FA-2?, As to when Deputy Prosecutor: Jessica D. Paxson No. 28316-49, did knowingly and intentionally, unlawfully prosecute said ~~case~~ case all the while with having clearly the knowledge and understanding as to the fact of said case had been sealed on Feb. 5th, 2013., And never being unsealed before, during, and/or after the Petitioner was arrested, prosecuted, convicted, and sentenced (reviewed).

w attached copy of Appendix: D, page 15-20).

In support of the above ground, review attached Appendix: N., The copy of the five (5) page Chronological Case Summary of cause No. 79D02-1302-FA-2, dated: 12-4-2013, before being revised and certified by the clerk of the courts., Then review the page labelled as page "0005," at the bottom of said page., Then review the fifth statement from the bottom of said page starting with the statement " Bench warrant issued sent on 02/05/2013 09:36:23:84," until you get to the statement " 02/05/13 Case Sealed Pursuant to Request of Direction of Awagner, JW." Then review the rest of said page, along with the other four (4) pages, that will in fact prove and show that not only was said case sealed after the " BENCH WARRANT," was issued., But also the fact that said case was never unsealed before, during, and/or after the Petitioner was arrested, prosecuted, Convicted, and ~~and~~ sentenced.

Then review the attached Appendix: O., The copy of the eight (8) page Chronological Case Summary of cause No. 79D02-1302-FA-2, dated: 10-2-2015, after being revised and certified by the clerk of the courts., Then review page two (2) of said documents, with

in the fifth statement from the top of said page starting with the statement "02/05/13 WARRANT ISSUED," until you get to the statement "02/05/13 Case Sealed Pursuant To Request of Direction of Awagner. JW." Then review the rest of said page, along with the other seven (7) pages, that will in fact prove and show that not only was said case sealed after the "BENCH WARRANT," was issued., But also the fact that said case was never unsealed before, during, and/or after the Petitioner was arrested.

In support of the fact as to why said case could not be prosecuted., Is do to the fact that since said case was in fact sealed and never unsealed in accordance with the Chronological Case Summary of Cause No. 79D02-1302-FA-2., In fact means that all documents pertaining to said case, to wit: the Affidavit of Probable Cause, and the Original Charging Information of Counts I, II, III, and IV, under cause No. 79D02-1302-FA-2, is deemed as sealed documents, refer to the case of the United States v. Yarrington, 838 F. Supp. 2d 832.

As to when the defendant filed a Motion for Enlargement of Time to file a § 2255 Petition on December 22, 2011. In the

Motion, he had requested copies of documents from the case file, and an enlargement of time to file a petition under 28 U.S.C. § 2255. In a letter to the defendant dated Dec. 13th, 2011, a Deputy Clerk of Court noted that the copies of the public case file could be provided, at the rate of \$0.10 per page, with prepayment in advance. The court notes that certain transcripts contained in the record are sealed. The Deputy Clerk stated the following in her letter to the Defendant, "[*The Clerk's office] can only copy what is in the public case file. Sealed documents are not available for copying." Even if the Defendant was to pay in advance for these transcripts, the sealed transcripts would not be released unless the Defendant could show good cause for their release.

With that being said, the same standard should have applied in the case of the State of Indiana v. Antonio McCaster, under cause No. 79D02-1302-FA-2, as it did in the case of the United States v. Yarrington, 838 F. Supp. 2d 832. As to when the state used the Affidavit of Probable Cause, the Original Charging Information of counts I, II, III, and IV, to find probable cause for trial, from a sealed case, Without never motion or petition the courts and show good cause for said case to be unsealed and said documents to be release, So further actions would be able to take place.

Ground Seven: Whether the Petitioner's 14th amendment rights of the United States Constitution was violated by the Tippecanoe County Superior Court No. 2, Judge: Steven P. Meyer?, As to when Judge: Steven P. Meyer, did knowingly and intentionally, unlawfully fail to reverse the unlawful conviction obtained by perjured testimony, "as to the events of the crime," on Sept. 10th-11th, 2013, during the trial by jury in the case of the State of Indiana v. Antonio McCaster, under cause No. 79D02-1302-FA-2., After the fact of Judge: Steven P. Meyer, stating within a "Order on Petition for Post-Conviction Relief," filed under cause No. 79D02-1503-PC-3, on page nine (9) within sec. (E), in pertinent part., "As Stated above, the Court does conclude that the testimony of police officers' eye witness accounts of the events of the crime amounted to perjury." However, Judge: Steven P. Meyer failed to overturn said conviction. In which do to the misconduct of Judge: Steven P. Meyer, did in fact cause the entire proceeding to be unfair, (review attached copy of ~~the~~ Appendix: D, page 51-55, and then Appendix: F, page nine (9) sec. (E).)

In support of the above ground., Do to the fact of not only the "legal education," that the Trial Courts' "Judge: Steven P. Meyer," had to obtain in order to become an officer of the court/Judge.,

In fact clearly gives him the knowledge and understanding, as to the fact that it is unlawful, unjust, and unfair to allow the state to obtain a conviction, and said conviction to be upheld through knowingly or unknowingly use of perjured testimony.

But also with having the "legal knowledge and understanding," that in accordance with the Ind. Professional Rules of Conduct, Chapter 12, False Statements and Perjured testimony sec. (b). Prosecutor may not use perjured testimony.

Prosecutorial Misconduct to knowingly use perjured testimony and violation of defendant's due process rights as granted under the Fourteenth Amendment, *Lewis v. State*, 629 N.E. 2d 934, 937 (Ind. Ct. App. 1994) HN 2.3, conviction obtained by use of such testimony will not be upheld. *Evans v. State*, 489 N.E. 2d 942, 948 (Ind. 1986) HN 16.

As well as: Reversal where prosecution lacked knowledge of perjury.

Some Ind. Cases support the argument that a conviction should be reversed on grounds that perjurious testimony was ~~was~~ used in obtaining conviction even if prosecution had no knowledge

of the false evidence. *Mooney v. Holohan*, 294 U.S. 103, 55 S. Ct. 340, 79 L.E.d. 791 (1935) (violation of 14th Amendment for state to obtain conviction through "admitted or proved use knowingly or unknowingly of Perjured testimony.")

Furthermore, Trial Courts' "Judge: Steven P. Meyer," clearly has the legal education and knowledge as well as the understanding as to the fact of the Statement he made within "Appendix: F, page nine (9) Sec. (E)," that clearly states in pertinent part., "As stated above, the Court does conclude that the testimony of police officers' eye witness accounts of the events of the crime amounted to perjury."

Did in fact prove that the Police Officers did in fact violate the Ind. State Statute of Ind. Code § 35-44-1-2-1 (a)(1). Perjury Prosecution of Violation., That clearly states: A person who makes a false, material statement under oath or affirmation, knowing the statement to be false or not believing it to be true., In order for the state to obtain the Sept. 11th, 2013, Conviction, in the case of the State of Indiana v. Antonio McCaster, under cause No. 79D02-1302-FA-2., Did in fact commit a ~~the~~ crime against the Petitioner.

REASONS FOR GRANTING THE PETITION

Do to the fact of the Petitioner's 14th amendment rights of the United States Constitution being violated., As to when the Petitioner was deprive of his liberty, after the fact of the Trial Courts' "Judge: Steven P. Meyer," stating within Appendix: F, page nine (9) sec. (E) in pertinent part., "As stated above, the court does conclude that the testimony of police officers' eye witness accounts of the events of the crime amounted to perjury." However, said judge failed to reverse said conviction and release the Petitioner.

Also do to the fact of the United States Court of Appeals for the Seventh Circuit violating the Petitioner's Indiana Constitutional rights of Article. 1, section 12, to-wit: Remedy by due Course of Law. As to not only overlooking the statement made within the Petitioner's Appendix: F, by the Trial Courts' "Judge: Meyer" on page nine (9) sec. (E), in pertinent part., "As stated above the court does conclude that the testimony of police officers' eye witness accounts of the events of the crime amounted to perjury." (in which said Appendix: F, was apart of the Petitioner's Appendix submitted to said Courts in support of the Petitioner's

Request For Certificate of Appealability that was also submitted to said Court) But also issuing three (3) conflicting order, To wit: the first order being, Appendix: A, dated: Oct. 5th, 2021.

That clearly states in pertinent part on page two (2) of said order, within the second paragraph. "IT IS ORDERED that all other proceedings in this appeal are SUSPENDED pending the decision by this Court as to whether to issue a certificate of appealability. The court will take no further action in this appeal until the fee status is resolved."

The second order being, Appendix: B, dated: Feb. 16, 2022, that clearly states in pertinent part, "On consideration of the papers filed in this appeal and review of the short record, IT IS ORDERED that this appeal is DISMISSED for lack of jurisdiction."

The third order being, Appendix: C, dated: Mar. 10, 2022, that clearly states. "Herewith is mandate of this Court in this appeal along with the Bill of Costs, if any. A certified copy of the opinion/order of the court and judgment, if any, and any direction as to cost shall constitute the mandate." "RECORD ON APPEAL STAT - US: No record to be returned."

CONCLUSION

Petitioner respectfully request that this Honorable Court takes Jurisdiction of the underline Felony Conviction under cause NO. 79D02-1302-FA-2, and vacate the sentence and dismiss the entire case, Do to the fact of said Conviction being obtained by the use of "Perjured Testimony," "as to the events of the crime." And issue a order for the Petitioner to be release at once. As well as order order the State of Indiana to award the Petitioner the sum of \$2.3 million dollars, in which is the presumption of \$4.6 million dollars., That the Petitioner was suing the State of Indiana and nine (9) other defendants for, in the case of McCaster v. State, et al, under Cause No. 79D02-1611-MI-224, That the Petitioner would and should have won if he was not "deprive," of his fair rights to a Trial by jury, by the Trial Courts' "Judge; Steven P. Meyer." As well as by the Indiana Court of Appeals, under Cause No. 18A-MI-748, on appeal, and the Supreme Court of Indiana, under cause, No. 18A-MI-748, on a Petition for Transfer. Also any and all other relief that this Honorable Courts, so deems necessary.

The petition for a writ of certiorari should be granted.

Respectfully Submitted,

Date: 5-16-22

Antonio D. McCaster #242978
Petitioner, pro se