No. 21-8244

IN THE
SUPREME COURT OF THE UNITED STATES

In re DOMINIC M. FRANZA

ON PETITION FOR A WRIT OF HABEAS CORPUS
TO THE NEW YORK COUNTY SUPREME COURT

PETITION FOR A WRIT OF HABEAS CORPUS

Dominic M. Franza
92A3659
Fishkill Corr. Facility
P.O. Box 1245
Beacon, N.Y. 12508

QUESTIONS PRESENTED

WHEN A PETITIONER'S IMPRISONMENT AS CONCEDED IS UNCONSTITUTIONAL WHEN A PETITIONER IS BEING HELD AND PUNISHED WITHOUT DUE PROCESS OF LAW INFRINGING ON LIBERTY INTEREST IN DIRECT VIOLATION OF THE 14TH AMENDMENT TO THE U.S. CONSTITUTION IS HABEAS CORPUS RELIEF WARRANTED UNDER 28 U.S.C. § 2241(a)(c)(3) WHEN 28 U.S.C. § 2254 RELIEF IS EXHAUSTED AND NO OTHER RELIEF BEING AVAILABLE.

HAS PETITIONER PRESENTED EXCEPTIONAL CIRCUMSTANCES WARRANTING THE GRANT OF HABEAS CORPUS RELIEF.

EVEN IF THERE WERE OTHER FORMS AND COURTS IN ORDER TO SEEK RELIEF SHOULD PETITIONER HAVE TO UTILIZE SUCH WHEN SUCH ATTEMPTS WOULD BE FUTILE IN LIGHT OF THE N.Y. STATE COURT RULINGS THEREBY PROLONGING PETITIONER'S UNCONSTITUTIONAL IMPRISONMENT WHICH CAN BE IMMEDIATELY REMEDIED BY THIS COURT.

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APPLICATION OF PETITIONER

The Petitioner, Dominic M. Franza, respectfully request that this Court grant immediate Habeas Corpus relief, and issue an order demanding the release of Petitioner, as Petitioner has been held and punished for over 30 years without a statutorily authorized N.Y. State court judgment, as conceded to by the N.Y. County District Attorney's office, taking no action to secure Petitioner's immediate release. This circumstance presents an exceptional circumstance warranting the exercise of this Court's discretionary powers, as adequate relief cannot be obtained in any other form or from any other court.

OPINIONS BELOW

The initial order of the N.Y. County Supreme Court denying Petitioner's N.Y. State Criminal Procedure Law (hereinafter CPL) §§ 380.20 / 380.30 motion (Pet. App. 1a) is not reported. The order of the N.Y. State Appellate Division for the First Judicial Department (Pet. App. 5a) denying Petitioner's leave to appeal application from the initial order is not reported.

JURISDICTION

The N.Y. State Appellate Division for the First Judicial Department entered its order on May 2nd of 2022 (Pet. App. 5a). This Court has jurisdiction pursuant to 28 U.S.C. § 2241(a)(c)(3); Felker v. Turpin, 518 U.S. 651, 658-665 (1996); U.S. Sup. Ct. Rule 10(4); See also, Robb v. Connoly, 111 U.S. 624, 637 (1884):

> Upon the state courts, equally with the courts of the Union, rests the obligation to guard, enforce, and

> protect every right granted or secured by the constitution of the United States and the laws made in pursuance thereof, whenever those rights are involved in any suit or proceeding before them; for judges of the state courts are required to take an oath to support that constitution, and they are bound by it, and the laws of the United States made in pursuance thereof, and all treaties made under their authority, as the supreme law of the land, 'anything in the constitution or laws of any state to the contrary notwithstanding." **If they fail therein, and withhold or deny rights, privileges, or immunities secured by the constitution and laws of the United States, the party aggrieved may bring the case from the highest court of the state in which the question could be decided, to this court for final and conclusive determination.**

See also, Marbury v. Madison, 5 U.S. 137, 147 (1803):

> It is a settled and invariable principle, that every right, when withheld, must have a remedy, and every injury its proper redress.

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

The 14th Amendment to the Constitution of the United States provides, in relevant part:

> [N]or 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.

New York State CPL § 380.20 provides:

> Sentence required.
>
> The Court must pronounce sentence in every case where a conviction is entered. If an accusatory instrument contains multiple counts and a conviction is entered on more than one count the court must pronounce sentence on each count.

New York CPL §380.30(1)(2)(a)(c) provides:

> 1. Time for pronouncing sentence
>
> 2. Court to fix time. Upon entering a conviction the court must:
>
> (a) Fix a date for pronouncing sentence; or
>
> (c) Pronounce sentence on the date the conviction is entered in accordance with the provisions of subdivision three.

28 U.S.C. § 2242 STATEMENT

This application for Habeas Corpus relief is being made in this Court as Petitioner cannot make application in the U.S. District Court for the Southern District of New York, as Petitioner has already sought 28 U.S.C. § 2254 relief. Franza v. Stinson, 58 F.Supp.2d 124 (1999).

STATEMENT OF FACTS

On February 2nd of 2021, Petitioner's CPL §§ 380.20 / 380.30 motion was filed, seeking a dismissal of the indictment on the ground there has been an inordinately long, unreasonable and unexplained delay in sentencing Petitioner. This being so, on the basis the court sentenced Petitioner without statutory authority, as there was no entry of conviction first being in place reflecting the verdicts of the jury, as statutorily mandated. Citing, a host of N.Y. State Court of Appeals, and N.Y. State Appellate Division for the First Judicial Department cases requiring a dismissal of the indictment under such a circumstance. The burden resting on the court and the prosecution to sentence a Defendant, as a matter of State law.

As well, citing a host of this Court's decisions, and a N.Y. State Court of Appeals decision, which hold under such a circumstance there was no power to render a judgment, consequently no judgment, a void act (Pet. App. 6a-10a).

In support of the relief sought above, Petitioner presented pages of the trial transcript, the Indictment itself, and the sentencing transcript, which reflected, the jury rendered verdicts of guilty on three counts of attempted murder in the second degree, and one count of possession of a dangerous weapon in the first degree, on Indictment No. 11987/91, and that Petitioner was sentenced on said counts (Pet. App. 10a- 11a, 15a-28a). **www.nypdprosecutorcorruption.com.**

Petitioner in further support, provided the Certificate of Disposition for Ind. No. 11987/91, which held verbatim (Pet. App. 10a-11a, 29a):

> I HEREBY CERTIFY THAT IT APPEARS FROM AN EXAMINATION OF THE RECORDS ON FILE IN THIS OFFICE THAT ON 3/11/1992 THE ABOVE NAMED DEFENDANT WAS CONVICTED OF THE CRIME(S) BELOW BEFORE JUSTICE BOOKSON, P THEN A JUSTICE OF THIS COURT
>
> ATTEMPTED MURDER 2nd DEGREE PL 110-125.25 01 BF
>
> ATTEMPTED MURDER 2nd DEGREE PL 110-125.25 01 BF
>
> ASSAULT 2nd DEGREE PL 120.05 01 DF
>
> ASSAULT 2nd DEGREE PL 120.05 01 DF

Petitioner in further support, provided two (2) N.Y. State Parole Board Criminal History Reports, which reflected the court reported the same charges as in the Certificate of Disposition (Pet. Ap. 12a, 30a-35a).

Petitioner asserted, it cannot be controverted, there was no statutory judgment entered (CPL § 1.20[15]) as the statutory mandates under CPL §§ 380.20 / 380.30, giving a court jurisdiction over sentencing, have not been complied with, as there was never any entry of conviction that reflected the verdicts of the jury. Being clear judicial and prosecutorial negligence and mistake. That, as it stands Petitioner has not been statutorily sentenced, amounting to an inordinately long, unreasonable and unexplained delay in sentencing Petitioner. That, the consequence being obvious the indictment must be dismissed (Pet. App. 12a).

Challenging the N.Y. County District Attorney's office to produce evidence to the contrary (Pet. App. 12a).

The N.Y. County District Attorney's office did not file any opposing papers against Petitioner's motion and evidence.

Judge Ruth Pickholz, in an order, dated July 1st of 2021, denied Petitioner's CPL §§ 380.20 / 380.30 motion on the basis of another Judge's order, which had absolutely nothing to do with Petitioner's motion, revolving around a victim impact statement (Pet. App. 1a-4a).

Petitioner thereafter filed a motion with the N.Y. State Appellate Division for the First Judicial Department, seeking a vacatur of the court's direct appeal affirmance of Petitioner's conviction. This motion was made as the court did not have jurisdiction over Petitioner's direct appeal as there was no statutorily authorized judgment (Pet. App. 36a-46a)

Petitioner made the same assertions within the CPL §§ 380.20 / 380.30 motion (Pet. App. 36a-46a). Emphasizing, the CPL §§ 380.20 / 380.30 motion was mailed to the N.Y. County District Attorney's office, providing a N.Y. State Department of Corrections and Community Supervision disbursement form revealing the motion was mailed to the N.Y. County District Attorney's office on January 12th of 2021, coinciding with the Affidavit of Service (Pet. App. 14a, 41a, 47a). Further, emphasizing the Certified Supreme Court Form S.C.C.R.-11-20m-73963(86), Certified on Sept. 3rd of 2021 (Pet App. 48a-51a), proves the N.Y. County District Attorney's office did not file an opposition against Petitioner's CPL §§ 380.20 / 380.30 motion. Asserting, as a result the sworn allegations of fact essential to support the motion were conceded by the N.Y. County District Attorney's office due to their failure to submit opposition papers contesting Petitioner's allegations, as a matter of law, citing People v. Cole, 73 N.Y.2d 957, 958 (1989) (Pet. App. 41).

Further, submitting additional evidence, the N.Y. State Unified Court System Database printouts, dated 4/7/2021 and 7/28/2021, which reveal they coincided with the charges contained within the Certificate of Disposition. Asserting, the information within the N.Y. Unified Court System Database printouts are correct and verified as the Clerk had the records during the issuance of the Certificate of Disposition (Pet. App. 43a-44a, 52a-63a).

The N.Y. County District Attorney's office in opposition, did not refute the above two paragraphs as false. However, conceding the authenticity of the court's database printouts (Pet. App. 64a-72a, 69a Fn.1)

The N.Y. State Appellate Division for the First Judicial Department, in spite of the conceded facts and against the federal and state law within Petitioner's motion, denied the motion (Pet. App. 73a).

Petitioner filed a motion with the N.Y. State Appellate Division for the First Judicial Department, seeking permission to appeal Judge Pickholz's Order (Pet. App. 74a-82a).

Petitioner, once again, made the same assertions within the CPL §§ 380.20 / 380.30 motion (Pet App. 76a-80a). Further, emphasizing the Certified Supreme Court Form S.C.C.R.-11-20m-73963(86) (Pet. App. 48a-51a), which was Certified on Sept. 3rd of 2021, reveals the N.Y. County District Attorney's office completely failed to file opposing papers (Pet. App. 76a). That, as a result the sworn allegations of fact essential to support Petitioner's motion were conceded by the N.Y. County District Attorney's office, due to their failure to submit papers contesting Petitioner's allegations, as a matter of law, citing People v. Cole, 73 N.Y.2d 957, 958 (1989) (Pet. App. 80a).

Assistant District Attorney Michael J. Yetter, for the N.Y. County District Attorney's office, in opposition made an intentional misrepresentation to the appellate court in stating verbatim, with respect to Petitioner's CPL §§ 380.20 / 380.30 motion (Pet App. 83a-87a, 86a):

> On July 27, 2021, the People opposed defendant's motion. The People pointed out that the trial transcript accurately reflected the charges defendant was convicted of and upon which sentence was imposed, and argued that any error in the Certificate of Disposition was clerical and should be disregarded.

The above argument appeared, for the first time, in the opposition to Petitioner's motion seeking a vacatur of the appellate court's affirmance on direct appeal, never claiming an opposition was filed (Pet. App. 68a-69a).

Associate Justice Ellen Gesmer, of the Appellate Decision for the First Judicial Department, in spite of the conceded facts and against the federal and state law within Petitioner's motion, denied leave to appeal (Pet. App. 5a).

REASONS FOR GRANTING HABEAS CORPUS RELIEF

Petitioner, as conceded by the N.Y. County District Attorney's office, has been held and punished without Due Process of Law, which is prohibited, Ingraham v. Wright, 430 U.S. 651, 674 (1977), violating Petitioner's enforceable Liberty Interest, Wilkinson v. Austin, 545 U.S. 209, 221 (2005); People ex rel. Harty v. Fay, 10 N.Y.2d 374, 379 (1961), as the court sentenced Petitioner without the Process Due prior to sentencing, which gives the court jurisdiction to sentence Petitioner. This is so, as the court fixed a date for pronouncing sentence, and sentenced Petitioner, without an entry of conviction reflecting the verdicts of the jury first being in place, in direct violation of N.Y. State CPL §§ 380.30(1)(2)(a)(c). As a result, the sentence imposed is void without effect, Valley v. Northern Fire & Marine Ins. Co., 254

U.S. 348, 353 (1920); Dynes v. Hoover, 61 U.S. 65, 66 (1867); U.S. v. Dawson, 56 U.S. 467, 481 (1853); Webster v. Reid, 52 U.S. 437, 451 (1850); Williams v. Berry, 49 U.S. 495, 541 (1850); Hickey's Lessee v. Steward, 44 U.S. 750, 762 (1845); Elliott v. Perisol's Lessee, 26 U.S. 328, 340 (1828); People ex rel. Tweed v. Liscomb, 60 N.Y. 559 (1875). Thus, there is no final judgment against Petitioner as the sentence and judgment are void without effect. Bradley v. U.S., 401 U.S. 605, 609 (1973); Korematsu v. U.S., 391 U.S. 432, 434 (1943); N.Y. State CPL § 1.20(15).

Petitioner asserts, he has shown more than exceptional circumstances warranting the exercise of this Court's discretionary powers, and has shown that adequate relief cannot be obtained in any other form or from any other court. Under the circumstances this very court should take immediate action, and order the release of Petitioner, as Petitioner has been imprisoned for 30 years without a statutory valid judgment being in place, as conceded.

In the alternative, should this very Court choose not to directly intervene, Petitioner ask that 28 U.S.C. § 2241(b) be immediately invoked.

ARGUMENT

PETITIONER'S IMPRISONMENT AS CONCEDED IS UNCONSTITUTIONAL AS PETITIONER IS BEING HELD AND PUNISHED WITHOUT DUE PROCESS OF LAW IN DIRECT VIOLATION OF THE 14th AMENDMENT TO THE U.S. CONSTITUTION WARRANTING IMMEDIATE HABEAS CORPUS RELIEF AS PETITIONER'S LIBERTY INTEREST IS BEING INFRINGED UPON

A. Habeas Corpus Jurisdiction

1. 28 U.S.C. § 2241

Pursuant to 28 U.S.C. § 2241(a)(c)(3), a habeas petitioner may utilize this avenue of relief, when a habeas petitioner alleges "[h]e is in custody in violation of the Constitution...." This statutory provision is amplified by Felker v. Turpin, 518 U.S., at 658-665; See also, Robb v. Connolly, 111 U.S., at 637; Marbury v. Madison, 5 U.S., at 147.

It will be most apparent Petitioner has been in custody in violation of the 14th Amendment, as Petitioner has been deprived of the Process Due, infringing upon Petitioner's Liberty Interest.

B. Due Process of Law and Liberty Interest Under the 14th Amendment to the U.S. Constitution

1. Due Process of Law and Liberty Interest

It is well-established, as N.Y. State Const. Art. I, §6, "[T]he Fourteenth Amendment's Due Process Clause protects persons against deprivations of life, liberty or property; and those who seek to invoke its procedural protection must establish that one of these interest is at stake." Wilkinson v. Austin, 545 U.S, at 221.

A fundamental principle of Liberty is, "the state cannot hold and punish an individual except in accordance with due process of law." Ingraham v. Wright, 430 U.S., at 674

The N.Y. State Court of Appeals in People ex rel. Harty v. Fay, 10 N.Y.2d, at 379, identified and established a Liberty Interest of a defendant, holding, " a convicted defendant also having an enforceable interest in having judgment pronounced."

Reasoning at 379:

> Until such pronouncement he cannot be eligible for pardon or commutation of sentence, and deferment of imprisonment puts off the time when he can serve his term and return to society or can be eligible for parole.

It will be proven herein Petitioner has been held and punished without Due Process of Law, violating Petitioner's enforceable interest in having judgment pronounced.

C. **New York State Sentencing and Judgment Requirements**

1. **N.Y. State CPL § 1.20(15)**

It is well-established, N.Y. State CPL § 1.20(15) holds, "[a] judgment ... is completed by imposition and entry of the sentence":

> A judgment is compromised of a conviction and the sentence imposed thereon and is completed by imposition of the sentence.

This Court has stated, "[i]t has often been said that there can be no 'final judgment' in a criminal case prior to actual sentence." Korematsu v. U.S., 391 U.S., at 434. Thus, "'final judgment in a criminal case means the sentence. The sentence is the judgment.'" "In the legal sense, a prosecution terminates only when the sentence is imposed." Bradley v. U.S. , 401 U.S., at 609.

Clearly, as a matter of federal and state law, there can be no judgment if there is no sentence.

In Petitioner's matter, there was no jurisdictionally valid statutory sentence imposed, meeting the judgment requirement under N.Y. State CPL § 1.20(15) as conceded, as a result the

prosecution has not terminated.

2. N.Y. State Statutory Sentencing Jurisdictional Law

In order for a court to acquire jurisdiction over sentencing, unambiguous N.Y. State Law statutorily specifies the prerequisite for the exercise of personam / subject matter jurisdiction, the process due prior to sentencing, the N.Y. State Legislature's intent:

> §380.20. Sentence required.
>
> The court must pronounce sentence in every case where a conviction is entered.
>
> §380.30. Time for pronouncing sentence.
>
> 1. In general. Sentence must be pronounced without unreasonable delay.
>
> 2. Court to fix time. Upon entering a conviction the court must:
>
> (a) Fix a date for pronouncing sentence, or
>
> (c) Pronounce sentence on the date the conviction is entered in accordance with the provisions of subdivision three.

It is clear, these statutes declare, and command that courts must pronounce sentence in every case where a conviction is entered. However, prohibiting the fixing of a time for pronouncing sentence prior to an entry of conviction first being in place. These totally unambiguous statutory commands are unyielding, prohibiting a sentencing court from pronouncing sentence in the absence of an entry of conviction, a long standing N.Y. State policy, the intent of the N.Y. State Legislature, McKinney's Cons. Laws of N.Y., Book 1, Statutes §§§

1-2, 126, which must be adhered to "as courts are constituted by authority and [] cannot [go] beyond the powers delegated to them." Valley v. Northern Fire & Marine Ins. Co., 254 U.S, at 353.

Thus, when a court, without an entry of conviction, sentences a defendant going beyond the powers delegated to them under N.Y. State policy, the legislative intent, "there [is] no legal power to render [a] judgment..., or issue the process, there [is] no competent court, and consequently no judgment or process. All [being] coram non judice and void." People ex rel. Tweed v. Liscomb, 60 N.Y. 559, 571 (1875). Simply, "void acts, without validity, and incapable of conferring powers or rights. For whenever a court acts without jurisdiction, its decrees, judgment, and proceedings are absolute nullities, powerless as evidence for any purpose whatever. 'They are not voidable, but simply void, and form no bar to a recovery sought, even prior to reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences are considered in law trespassers.'" Webster v. Reid, 52 U.S., at 451; See, Valley v. Northern Fire & Marine Ins. Co., 254 U.S., at 353; Dynes v. Hoover, 61 U.S., at 66; U.S. v. Dawson, 56 U.S., at 467; Williams v. Berry, 49 U.S., at 541; Hickey's Lessee v. Steward., 44 U.S., at 762; Elliott v. Perisol's Lessee, 26 U.S., at 340.

It will be evident below, as conceded, the court in sentencing Petitioner had no legal power to do so and render judgment, consequently resulting in no judgment.

D. **Conceded Facts And Evidence Proving There Was No Statutorily Authorized Sentence And Judgment Warranting Immediate Habeas Corpus Relief As Petitioner Has Been Held And Punished Without Due Process Of Law Infringing On Petitioner's Liberty Interest In Direct Violation Of The 14th Amendment To The U.S. Constitution**

Petitioner asserted, within his CPL § 380.20 / 380.30 motion, there has been an inordinately long, unreasonable and unexplained delay in statutorily imposing sentence on Petitioner, as a matter of law warranting a dismissal of the indictment, as there was no statutory judgment entered meeting the requirements of CPL § 1.20(15), due to the statutory mandates under CPL §§ 380.20 and 380.30, giving a court jurisdiction over sentencing, not being complied with as there was never any entry of conviction that reflected the verdicts of the jury. In support, providing the Certificate of Disposition from the court based upon an examination of the court file, and two (2) Parole Board Criminal History Reports with information reported by the court which coincided with the charges in the Certificate of Disposition, that revealed the entry of conviction indeed did not reflect the verdicts of the jury (Pet. App. 10a-12a).

The N.Y. County District Attorney's office completely failed to file opposing papers, refuting the facts and evidence. As a matter of law conceding Petitioner's allegations. People v. Cole, 73 N.Y.2d, at 958 (Pet. App. 48a-51a).

Petitioner, once again, within the appellate court motion seeking a vacatur of the appellate court's affirmance on direct appeal, asserted the same facts, and presented the same

evidence, as within the CPL §§ 380.20 / 380.30 motion, further asserting the N.Y. County District Attorney's office failed to oppose the motion thereby conceding as a matter of law, citing People v. Cole once again (Pet. App. 41a-43a, 45a). Further, providing two (2) N.Y. State Unified Court System printouts, with information which completely coincided with the charges contained within the Certificate of Disposition (Pet. App. 43a-44a, 52a-63a).

In opposition, "[t]he [N.Y. County District Attorney's office] did not dispute [all the facts and documents (Pet. App. 41a-45a), acknowledging the existence of the CPL §§ 380.20 / 380.30 motion], [and] did not dispute any of [Petitioner's remaining] facts and evidence in support, although they have not expressly conceded them, they have impliedly done so by failing to even allege their untruthfulness," People v. Ciaccio, 47 N.Y.2d 431, 438 (1979), See, People v. Wright, 86 N.Y.2d 591, 596 (1995). In addition, conceding the authenticity of the court's database printouts (Pet. App. 67a-69a).

Petitioner, once again, within the appellate court motion seeking leave to appeal Judge Pickholz's order (Pet. App. 1a-4a), outlined all the facts and evidence contained within the CPL §§ 380.20 / 380.30 motion, bringing to the court's attention the N.Y. County District Attorney's office conceding, as a matter of law (Pet. App. 74a-81a).

The N.Y. County District Attorney's office, in opposition, claimed the entries made in the Certificate of Disposition were clerical errors, in spite of the clerk's attestation stating the

findings were made based upon a examination of the court file, and in spite of the court reporting the same information contained within the Certificate of Disposition to the N.Y. State Parole Board, and in spite of the court's database coinciding with the documents mentioned (Pet. App. 29a, 30a-35a, 52a-63a, 86a-87a). As well, making an intentional misrepresentation in claiming an opposition was filed against Petitioner's CPL §§ 380.20 / 380.30 motion (Pet. App. 86a), in spite of the fact the court reporting no opposition was filed, and in spite of their concessions, as previously mentioned.

It is beyond dispute, Petitioner has been held and punished without Due Process of Law, infringing upon Petitioner's Liberty Interest, there has been no legislatively lawful pronouncement of sentence imposed upon Petitioner, thus there is no judgment as the sentence is the judgment, amounting to an inordinately long, unreasonable and unexplained delay in sentencing Petitioner, as conceded, which this very Court has held unlawful, People ex rel. Harty v. Fay, 10 N.Y.2d, at 377, citing, Miller v. Aderhold, 288 U.S. 206, 210 (----):

> An important holding to the contrary is the United States Supreme Court's in Miller v. Aderhold (288 U.S.206, 210) where it said that, while indefinite or overlengthly postponement is unlawful it gives the defendant no rights at least unless he has moved for timely sentencing,..."

It is beyond question, from the initial filing of the CPL §§ 380.20 / 380.30 motion to the present the N.Y. County District Attorney's office has had notice of the circumstances and have

not taken any action to secure Petitioner's release under N.Y. State law (Pet. App. 7a-9a, 77a-79a), solely offering concession, allowing Petitioner to languish in prison without Due Process of law, infringing upon Petitioner's Liberty Interest. As for Petitioner moving for timely sentencing Petitioner cannot, as the remedy under N.Y. State law is a dismissal of the indictment not a sentencing (Pet. App. 8a-9a).

Clearly, Petitioner has tried to get relief from the N.Y. State courts, who all failed and withheld and denied Petitioner of his Due Process of Law rights in spite of the concessions, infringing upon Petitioner's Liberty Interest, as they have disregarded the Constitutions under the 14th Amendment and N.Y. State Const. Art. I, § 6, further disregarding this Court's decisions as well that of the N.Y. State Court of Appeals, becoming law trespassers disregarding their Oath of Office. Webster v. Reid, 52 U.S, at 451; Robb v. Connoly, 111 U.S., at 637 (Pet. App. 1a-5a, 73a, 7a-10a, 38a-40a, 77a-79a).

This Court is Petitioner's only chance to have his Constitutional Due Process of Law and Liberty Interest rights restored, as Petitioner's Constitutional rights have been withheld and denied. Under these circumstances, this Court should afford the remedy of Habeas Corpus to Petitioner, as "[i]t is a settled and invariable principle, that every right, when withheld, must have a remedy, and every injury its proper redress." Marbury v. Madison, 5 U.S., at 147.

CONCLUSION

For all the foregoing reasons, this Court should grant Petitioner forthwith Habeas Corpus relief insuring the

Constitutional norms are upheld and respected, or in the alternative immediately transferring this application for hearing and determination to the District Court for the Southern District of New York, pursuant to 28 U.S.C. § 2241(b).

Respectfully submitted

Dominic M. Franza

Dominic M. Franza
92A3659
Fishkill Corr. Facility
P.O. Box 1245
Beacon, N.Y. 12508