

Original

JAMES HENRY ABEL P-34981
MULE CREEK STATE PRISON
P.O. Box 409090
TONE, CA. 95640

IN THE
SUPREME COURT OF THE UNITED STATES.

JAMES HENRY ABEL,
PETITIONER,

NO.

V.

PATRICK COVELLO, WARDEN,
RESPONDENT.

APPLICATION FOR LEAVE
OF THE COURT TO FILE
A 46-PAGE PETITION
FOR WRIT OF CERTIORARI.
(Sup. Ct. Rule 30.2(h),
30.1 (d).)

TO: THE HONORABLE JOHN G. ROBERTS, JR.,
CHIEF JUSTICE, AND HONORABLE ASSOCIATE
JUSTICES, OF THE ABOVE-ENTITLED COURT.

PETITIONER, JAMES HENRY ABEL, RESPECTFULLY
APPLIES FOR LEAVE OF THE COURT TO FILE A
46-PAGE PETITION FOR WRIT OF CERTIORARI
WITH THE ABOVE-ENTITLED COURT.

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THIS APPLICATION IS BASED UPON "GOOD
CAUSE" BEING DEMONSTRATED IN THE ATTACHED
DECLARATION. AND SUPPLEMENTAL DECLARATION.

DATED: AUGUST 20TH, 2021

Respectfully Submitted

James H. Abel

JAMES HENRY ABEL, PETITIONER

DECLARATION OF THE JAILHOUSE
LAWYER IN SUPPORT OF DEMONSTRATING
"GOOD CAUSE" FOR PETITIONER TO FILE
A 46-PAGE PETITION FOR WRIT
OF CERTIORARI.

I, STEPHEN F. SNOW K20414, DECLARE:

1. I AM NOT A LAWYER, AND DO NOT
HOLD MYSELF OUT AS BEING A LAWYER.

2. I HAVE BEEN PROVIDING ASSISTANCE
TO PETITIONER, JAMES HENRY AXEL, PURSUANT
TO JOHNSON V. AVERY, 393 US 483 (1969),
TO PREPARE HIS LEGAL PAPERS FOR HIM
TO FILE WITH THE STATE AND FEDERAL COURTS,
SINCE NOVEMBER OR DECEMBER 2017.

3. I HAVE NO DOUBT THAT HAD I'VE
BEEN ABLE TO TYPE PETITIONER'S PETITION FOR
WRIT OF CERTIORARI ("PETITION") IT WOULD HAVE
BEEN 40, OR LESS THAN, PAGES.

4. IN ADDITION, I HAVE ABSOLUTELY NO
DOUBT THAT IF I HAD THE SKILLS OF A
PROFESSIONAL LAWYER, I WOULD HAVE
PREPARED PETITIONER'S PETITION CONSIDERABLY
LESS THAN 40-PAGES.

5. I BELIEVE THAT HAD THE LOWER
FEDERAL COURTS COMPLIED WITH THIS

1 HONORABLE COURT'S ESTABLISHED RULES OF LAW,
2 THAT I WOULD NOT HAVE NEEDED TO
3 PREPARE PETITIONER'S PETITION AT 46 PAGES.

4 6. IN ADDITION, I BELIEVE THAT HAD THE
5 LOWER FEDERAL COURTS NOT HAVE COMMITTED
6 SO MANY FLAGRANT AND OUTRAGEOUS ERRORS,
7 THAT I WOULD NOT HAVE NEEDED TO
8 PREPARE PETITIONER'S 46-PAGE PETITION
9 TO ADEQUATELY EXPLAIN TO THIS HONORABLE
10 COURT THE REASONS FOR GRANTING
11 PETITIONER'S 46-PAGE PETITION.

12 7. I HAVE ABSOLUTELY NO DOUBT
13 THAT I HAD TO PREPARE PETITIONER'S
14 46-PAGE PETITION IN SUCH DETAIL, TO
15 ADEQUATELY EXPLAIN TO THIS HONORABLE
16 COURT, THAT NOT ONLY DOES PETITIONER
17 DEMONSTRATE CLEARLY AND CONVINCINGLY
18 HIS "ACTUAL INNOCENCE" WITHIN THE
19 MEANING OF HERRERA V. COLLINS, 506 US
20 309, 404-405 (1993), BUT PETITIONER ALSO
21 DEMONSTRATES CLEARLY AND CONVINCINGLY
22 HIS "ACTUAL INNOCENCE" UNDER SCHLUP V.
23 DELO, 513 US 298, 326-327 (1995). BECAUSE,
24 AS REFLECTED IN PETITIONER'S 46-PAGE PETITION,
25 ABSENT THE "STRUCTURAL DEFECTS", AND WITH
26 THE "NEWLY DISCOVERED EXCULPATORY EVIDENCE,"
27 "IT IS MORE LIKELY THAN NOT THAT NO
28 REASONABLE JUROR WOULD HAVE CONVICTED

1 Him IN LIGHT OF THE NEW EVIDENCE" THAT
2 WAS NEVER PRESENTED DURING HIS TRIAL
3 (Id. AT 327; ACCORD HOWSE V. BELL, 547
4 U.S. 518, 521, 536-537 (2006)). [SEE INFRA]

5 8. FURTHERMORE, I HAVE ABSOLUTELY
6 NO DOUBT THAT IF THIS HONORABLE COURT
7 'TOOK A QUICK LOOK' AT PETITIONER'S 46-PAGE
8 PETITION, THAT THIS HONORABLE COURT
9 WOULD NOT HESITATE TO GRANT PETITIONER'S
10 MOTION TO PROCEED IN FORMA PAUPERIS, GRANT
11 PETITIONER'S 46-PAGE PETITION, VACATE
12 THE LOWER FEDERAL COURT'S JUDGMENT,
13 AND REMAND PETITIONER'S CASE TO THE
14 LOWER FEDERAL COURTS WITH DIRECTIONS
15 TO ISSUE THE "GREAT WRIT OF HABEAS
16 CORPUS" (SEE STONE V. POWELL, 428 U.S. 465,
17 492-493 (1976) (RECOGNIZING A MISCARRIAGE
18 OF JUSTICE EXCEPTION AS AN ADDITIONAL SAFE-
19 GUARD AGAINST COMPELLING AN INNOCENT MAN
20 TO SUFFER AN UNCONSTITUTIONAL LOSS OF
21 LIBERTY)), OR TO GRANT PETITIONER'S Rule
22 60(b) MOTION TO REOPEN HIS FEDERAL
23 PETITION FOR WRIT OF HABEAS CORPUS. (SEE
24 THARPE V. SELLERS, 138 S. Ct. 545, 546-547
25 (2018) (PER CURIAM).)

26 9. BECAUSE THE "NEWLY DISCOVERED
27 EXCULPATORY EVIDENCE," THAT WAS NOT
28 PRESENTED DURING PETITIONER'S TRIAL IN

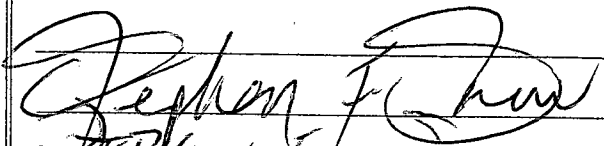
1 1998, IS THE ALLEGED VICTIM TESTIFYING IN
2 2009 THAT PETITIONER DID NOT PERFORM
3 AN ACT OF SEXUAL INTERCOURSE WITH HER;
4 AND THAT PETITIONER NEVER THREATENED
5 HER; THAT HER WRISTS WERE NOT TIED,
6 BOUND, OR RESTRAINED BY THE ROPE/CORD,
7 IT WAS KIND OF LOOSELY DRAPED AROUND
8 HER WRISTS AND SHE COULD EASILY GET
9 IT OFF HER WRISTS; AND THE CHAIN
10 AROUND HER ANKLE WAS NOT TIED TO
11 ANYTHING AND DID NOT RESTRICT HER
12 MOVEMENT.

13 10. WHICH DEMONSTRATES PETITIONER'S
14 CONVICTIONS AND SENTENCE ENHANCEMENTS
15 WERE BASED UPON THE "FALSE EVIDENCE"
16 OF THE PROSECUTION" EXPERT WITNESS,
17 DR. VALERIE BARNES, WHO TESTIFIED AGAINST
18 JAMES EDWARD KING IN 1997. BUT, KING
19 WAS GRANTED HABEAS CORPUS RELIEF. (SEE
20 KING V. EVANS, 621 F. Supp. 2d 850, 854, 855-
21 867, 862, 854 FN. 5 (N.D. CAL., 4/14/2009, CASE
22 NO. C 00-01988 SI)

23 11. I BELIEVE, BASED UPON THE
24 FOREGOING REASONS, THAT THIS HONORABLE
25 COURT WILL FIND "GOOD CAUSE" FOR PETITIONER
26 TO FILE HIS 46-PAGE PETITION FOR WRIT OF
27 CERTIORARI WITH THIS HONORABLE COURT.
28

1 I DECLARE UNDER THE PENALTY
2 OF PERJURY, 28 USC § 1746, THAT THE
3 FOREGOING IS TRUE AND CORRECT BASED
4 UPON MY OWN PERSONAL KNOWLEDGE
5 FROM READING PETITIONER'S LEGAL
6 DOCUMENTS.
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8 EXECUTED ON THE 20TH DAY OF
9 2021, AT MULE CREEK STATE
10 PRISON, CA. 95640-0909
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15 STEPHEN F. SNOW KEEVIN, DECLARANT.
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