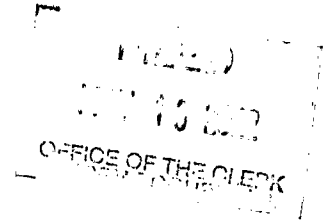


22-5351

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Gary Johnson — PETITIONER
(Your Name)

vs.

U.S. Court of Appeals 8th District et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the 8th District
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

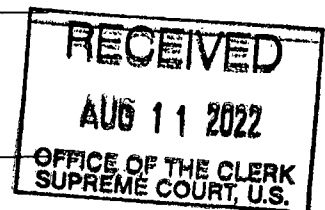
PETITION FOR WRIT OF CERTIORARI

Gary Johnson
(Your Name)

1101 Linden Lane
(Address)

Faribault, MN. 55021
(City, State, Zip Code)

507-334-0700
(Phone Number)



RECEIVED

JUN 29 2022

U.S. COURT OF APPEALS
EIGHTH CIRCUIT

QUESTION(S) PRESENTED

1. When is a States Sovereignty allowed to override a U.S. citizens first 10 unalienable rights?
2. Is it "beyond ridiculous" to challenge State procedure and law with Federal law?
3. When Courts are the last line of righteousness in the system, should the nature of the case have precedence over law?
4. Is there any allowable time legally, that a State does not have to abide by its Oath of Office, and not follow this Courts previous rulings and/or U.S. Constitution?
5. When a Court appointed public defender lies to his client, is it ineffective^{ness} or malpractice?
6. Should victim statements ever be uncorroborated by the evidence of the case?
7. When a client bases a decision to plead guilty on the word of his public defender as to what the evidence says and later finds the lawyers advice incorrect, what claim does the client have?
8. Should this Court have to make a determination on a Criminal Case when the subordinate Courts should have corrected the errors previously?
9. When should other crimes committed before, during, or after not be investigated?
10. Should Courts be allowed to determine public interest?
11. When streamlining procedure should law be ignored?
12. Did the DNA, physical evidence, physical rape examination, and the doctors assessment prove beyond reasonable doubt that a crime occurred?

LIST OF PARTIES

☐ 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

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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

☐ For cases from **federal courts**:

The opinion of the United States court of appeals 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 United States district 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.

☐ 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

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

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

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

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

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ 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

Please refer to ~~lined paper under above wording.~~
Table of Authorities

STATEMENT OF THE CASE FOR STATE

9-30-2011 Petitioner arrested
 10-3-2011 Order For Detention, Rule 8 hearing, First Appearance
 10-14-2011 Initial Appearance
 11-22-2011 Hearing, Omnibus
 1-09-2012 Hearing, Pre-trial Notice
 3-5-2012 Pre-trial
 3-20-2012 Plea Hearing
 5-7-2012 Sentencing
 5-2-2014 Amended Court Decision
 11-24-2015 Petitioner files Correction of Sentence
 11-25-2015 Ms. Foss Files Objection to Petitioners Motion
 12-23-2015 Order Denying Motion
 2-22-2016 Petitioner seeks Change of Venue and to Vacate Sentence
 2-23-2016 Ms. Foss Files Objections to Motions
 2-25-2016 Petitioner Files Amendment to Motion
 3-1-2016 Order Denying Motion
 3-7-2016 Petitioner Files Rebuttal to Motion
 3-15-2016 Ms. Foss files Objection to Rebuttal
 3-21-2016 Ms. Foss Files Objection to Amendment
 8-1-2016 Petitioner Files Postconviction Relief
 8-15-2016 Ms. Foss Files Response to Postconviction
 8-25-2016 Order Denying Petition
 10-28-2016 Notice of Appeal
 12-19-2016 Appellate Court Order
 2-7-2017 Petitioner Files Motion to Dismiss
 3-7-2017 Order Denying Motion
 6-26-2017 Petition for Postconviction Relief

7-19-2017	Order Deny Postconviction
8- 3 -2017	Petitioner files Notice of Appeal
2-6-2018	Appellate Court Order
5-8-2018	Appellate Court Opinion
6-26-2018	Petition For Postconviction
8-23-2018	Order Denying Motion
9- 30 -2018	Petitioner files Notice of Appeal to Appellate Court
4-15-2019	Appellate Court Opinion
6-25-2019	Appellate Court Judgment
8-28-2019	Petition For Postconviction
9-18-2019	Order Denying Motion
10-04-2019	Appellate Notice of Case Filing
3-4-2020	Appellate Court Order
6-29-2020	Appellate Court Opinion
7-23-2020	Appellate Court Order
8-24-2020	Petition For Review of Decision of Court of Appeals
10- 08 -2020	Appellate Court Judgment

REASONS FOR GRANTING THE PETITION

This is a liberty ~~issue~~^{interest} case that involves 1000's of Minnesotans, probably 100,000's of United States citizens Federally protected unalienable Constitutional rights.

For instance, the first example being, when dealing with Felony cases Federally the Fifth Amendment of the Constitution of the United States says in clear and concise wording that, "no person shall be held to answer for a capital or otherwise infamous ^{crime} ~~case~~, unless on presentment or indictment of a grand jury." Minnesota's Statute 628.02 almost exactly mirrors that unalienable right in that it says, "the grand jury shall ³ inquire into all offenses committed or triable in the county, and report them to the court by indictment. Clear and concise language, correct? Minnesota Statute 628.10 follows this more clearly by stating, "the first pleading on the part of the State is the indictment,..." Yet in Courtroom Practice §1B:13 the Minnesota Courts say in clear and concise language, that, "Presentments, while legislatively sanctioned, were held in disfavor by the Courts. The customary charge to the grand jury under the superseded⁴ law generally discouraged return of a presentment as against the public interest." Forgive the petitioner if he is incorrect, but is the United States Constitution still a legal document? Also, isn't our right to be tried under those unalienable rights current as of today? Here is what the Clay County prosecutor of Minnesota, Pamela Foss, had to say about Federal law and this Courts right to impose it when challenged by the petitioner, "The FACT that Mr. Johnson is challenging State law with Federal law is beyond ridiculous and shows he has

a misguided idea as to how the legal system works." Ms. Foss's words, not the petitioners. Doesn't *Norton v. Shelby County*, 118 U.S. 425 state that, "an unconstitutional act is not law, it confers no right, it imposes no duties, affords no protection, it creates no office, it is in legal contemplation, as inoperative as though it had never been passed." There is only one of two choices the petitioner sees for this Court. 1) It can stand up against such tyranny, and show Ms. Foss and the Minnesota Courts, its true authority in enforcing the Constitution, or 2) every Justice can remove their robes, step down from the bench and let people like Ms. Foss and the Minnesota judges continue to do illegal acts in which people like Floyd will continue to die at the hands and knees of Court protected entities. "Every person is entitled to an opportunity to be heard in a court of law upon every question involving his rights or interests, before, he is affected by any judicial decision on the question." (*Earle vs. McVeigh*, 91 US 503, 23 L Ed 398). In allowing the petitioners conviction and illegal sentence to stand, this Court is saying that ~~my~~^{his} Korean War vet, grand father, Donald Johnson, ~~my~~^{his} mother's Air Force vet, ~~my~~^{his} father's Army vet, ~~my~~^{his} uncle's Army vet, and ~~my~~^{his} cousin's Marine Corps vet, time and pride upholding the Liberty the Constitution affords us was all for ~~not~~^{nothing}.

"The FACT that Mr. Johnson is challenging State law with Federal law is beyond ridiculous...." Ms. Pamela Foss, supporter of Chauvin around the country. Chauvin who had always been protected by Minnesota Courts, and probably still would have been if his acts weren't recorded, did not give ~~Robert~~^{the} Floyd^{the} opportunity of *Earle vs. McVeigh*. By not seeking an indictment as required by Minnesota

law, Ms. Lisa Borgen, and Ms. Pamela Foss also took this right away from the petitioner, and gave him an illegal 360 month prison sentence, and when challenged using Federal law they believed it ~~was~~ ^{was} "beyond ridiculous."

Around 1996-1997 petitioner not being indicted⁵ for theft and theft by check was given a deal by, then prosecutor, Lisa Borgen. Then in 2008 after becoming a judge in Clay County, Ms. Lisa Borgen is assigned D.C. Files: 14-CR-08-1481 and 14-CR-08-1453 which involved criminal matters against alleged victim A.D., ~~for~~ Included in these cases were Thad Stafford⁶ detective in Moorhead of whom the petitioner was convicted, ~~for~~ for alleged death threats, Debra Nagle a child protection worker, and the petitioner. Ms. Borgen upon seeing petitioners name, recused herself on grounds that she couldn't be impartial because of her involvement with the petitioner in^{the} 1996-1997 cases.⁷ However, in 2011 when a police detective seeking a probable cause warrant specifying the alleged victim as A.D. and the defendant as Mr. Johnson, she can be impartial in the issuing of the Warrant. Then after several Motions to remove judge, D.C. File: 14-CR-11-3353, in which Ms. Borgen had previous knowledge about, via Warrant, was assigned to the now impartial judge Ms. Lisa Borgen.⁸ A case that once again involved Ms. Nagle, Mr. Stafford, Petitioner, and alleged victim A.D. A CHIPS petition is filed by Ms. Nagle and the State of Minnesota, and the Court hearing is adjudicated by none other than Ms. Lisa Borgen. Ms. Lisa Borgen recuses herself in 2008, signs Warrants in 2011, adjudicates criminal case against petitioner in 2011, and then adjudicates civil CHIPS hearing in 2011.

In *State vs. Dorsey*, 701 N.W.2d 238, 253 (2005 Minn) it is stated, "some errors are not subject to harmless error review and require automatic reversal." ~~that~~ ^{Dorsey} is a case dealing with a biased judge. When petitioner challenged the jurisdiction of Lisa Borgens to adjudicate D.C. File: 14-CR-11-3353, Judge Fritz denied Motion relying solely on Minn. Stat. 590, and the Knaffla rule. Petitioner, however, was not challenging conviction, just the jurisdiction of Ms. Lisa Borgens right to adjudicate. Since the petitioner has gone all the way to this Court the following case law is relevant. "A judgment does not create any binding obligation. Federal decisions addressing void state court judgments include:

A judgment which is void upon its face, and which requires only an inspection of the judgment roll to determine its wants of vitality, is a dead limb upon the judicial tree, which should be lopped off, if the power to do so exists. (*People vs. Greene*, 71 Cal. 100 [16 Pac. 197, 5 Am. St. Rep. 448]). If a Court grants relief, which under the circumstances it hasn't any authority to grant, its ^{judgment} ~~judgment~~ is void. (1 *Freedman on Judgments*, 120c) An illegal order is forever void." Ms. Borgens adjudication was void, Judge Fritz knew this, the State Appellate Court knew this, the State Supreme Court knew this, the Federal District Court knew this, and the Federal Court of Appeals knew this, and still denied every filing of the petitioner. Petitioner asks this Court to remember Ms. Foss's tyrannical words, "The FACT that Mr. Johnson is challenging State law with Federal law is beyond ridiculous." Apparently every Court to this point agrees that this Courts rulings have no authority. Petitioner asks this Court to grab

its pruner and lop off this dead limb, thereby saving 4,000's of future citizens from having their unalienable rights trampled ^{on} ~~by~~ ^{by this} Courts authority to make decisions.

Secondly, Ms. Foss's, Lisa Bergen's, Judge Fritz's, and every other Court below this one, is showing their Vanity and disdain for this Courts authority by not following rules of Evidence, Case law about Corroborating testimony with Conclusive Evidence. On April 5th, 2011 an anonymous ^{man} comes in to possession of items later believed to be evidence to a crime. Fifteen days later on April 20th of 2011 he brings said items across Minnesota's borders, and into Moorhead. He leaves said items with an executive assistant who receives no more information than he found them in a storage unit "up North." "If the relevance of an object depends on its use in a crime, the offering party must ⁹ establish, through a chain of custody or otherwise, a connection between that object and the crime." (People v. Brown, 115 A.D.2d 610, 496 N.Y.2d 272 (1985)). (piece of rug recovered five days after crime held inadmissible). The main object in contention is a letter supposedly written to A.D. by petitioner. A widely practiced and accepted Rule in Minnesota and Federal agencies is Rule 901 of the Rules of Evidence in which two things must be done when written evidence is submitted. The first being establishing a chain of custody. This rule requires that every person who has physical custody of the object must account for their possession in order to rule out tampering or any alterations. The Moorhead police detective did not account for the Fifteen days of the anonymous mans physical custody of the letter. Just on those grounds it was inadmissible. ¹⁰ The ~~second~~ second thing that must be done is

authentication^{ion} and identification by a ^{hand} handwriting expert. The letter did not specify who it was written to or who wrote it. "Authentication or identification of real evidence refers to the requirement of proving that an item of evidence is genuine, i.e., that it is what its proponent claims it to be." (Chain of Custody and the handling of Real Evidence, 20 Am. Crim. L. Rev. 527 (1983); the identification of original evidence, 37 Mont. L. Rev. 144 (1976); Michael + Adler, Real proof, 5 Vand. L. Rev. 344 (1952); and ~~presentations~~ preconditions for admission of demonstrative evidence, 61 N.W. U.L. Rev. 472 (1966)). "Such is the case with many objects which have special identifying characteristics, such as a number, or mark, or are made to have such identifying characteristics by special marks." (State vs. Contey, 32 Ohio App.2d 54, 58, 288 N.E.2d 296, 300 (1971)). Unlike Clay County Court and every Court in the process to this Court, there was at least one whom followed law and procedure. In Robinson vs. Commonwealth, the Court reversed a rape conviction due to ~~the~~ a break in the chain of custody: "the mere FACT that the blouse and panties were identified [by the victim at trial] did not prove the chain of possession necessary to validate the FBI analysis of them." (United States vs. Ladd, 885 F.2d 954, 957 (1st Cir. 1989). See also 212 Va 136, 183 S.E.2d 179 (1971) Id. At 139, 183 S.E.2d at 81). Here is how this all breaks down, the letter was not accounted for before April 20th 2011. Until an unrecorded interview¹² on September 30th 2011 the alleged victim knew nothing about the letter, she did not know who wrote it, and neither did the police or Debra Nagle, who asked if A.D.'s brother could have written it, and regardless of any admittance on or

after September 30th, 2011 it would have been a lay persons¹³ identification and could not have been used in litigation. Besides being inadmissible due to an incomplete chain of custody, it would and should have been inadmissible as evidence due to it being only identified by lay people. The main thing this Court needs to remember and decide this case is that it is Minnesota's standing that challenging State with Federal is "beyond ridiculous." The best qualified judges in the Nation and your decision would be beyond ridiculous if you sided with the petitioner because you would also be challenging the Great Almighty State of Minnesota (whom by the way let officers kill people over less than a twenty dollar counterfeit bill before Floyd). So be beyond ridiculous, forget the nature of the case, look only at the evidence and the authority behind it and make a decision that is Constitutionally based. Even before Minn. Stat. 590's deadline petitioner questioned and asked ^{Appellate} Counsel about the sufficiency of the DNA and physical evidence, but was again lied to by that Counsel as well.

As to the sufficiency of the evidence, Minn. State 634.04 states, "A conviction cannot be had upon testimony of an accomplice¹⁵, unless it is corroborated by such other evidence as tends to convict a defendant of a commission of ~~another~~ offense, and the corroboration is not sufficient if it merely shows the commission of the offense or circumstance thereof." If the evidence proved anything by the deposition of A.D., it would prove ~~proset~~ prostitution had occurred and that A.D. admitted to it. A.D.'s sworn words were, "the defendant came home and she went into his bedroom with him. The defendant told her to remove her pants and underwear which she

did. The defendant then removed his pants and underwear. The victim stated she was lying on her stomach on the bed and the defendant was ~~standing~~ behind her. The victim stated the defendant went into the bathroom and got what she believed was Vaseline. The victim stated the defendant came back and rubbed the Vaseline on her anus. The victim stated defendant ~~standing~~ ^{behind} ~~between~~ her ~~spread~~ with his knees leaning against the bed penetrated her anus. The victim stated that the defendant stopped after some time and went in the bathroom. The victim did not believe the defendant ejaculated inside her. The victim stated she got dressed, grabbed the iPad she was to receive for this act and left. "There are several issues with this accounting of the events. The first being the anal penetration. Petitioner is 6'3" in a standard prison cell ~~this~~ ^{there's} a stainless steel sink and toilet combo. This combo is roughly 3 meters ~~fall~~ from the floor to top of the sink, or approx. 36 inches. Standing with no shoes on in front of the sink the petitioners scrotum doesn't even touch the top of the sink. So if it were assumed that a standard metal frame without wheels, a stand ^{and} box ^{spring} of about 12-14 inches, and a plain mattress that is the ~~same~~ same approximate height of the ~~box~~ spring. You would get roughly 30-34 inches in height. At 36 inches petitioners scrotum did not touch the top of the sink. Now let's add in the FACT that petitioner had an erection, it would still require the petitioner to lift ~~the~~ A.D.'s hips up to him in order to perform any sexual penetration of the anus. A.D. however, stated she remained lying on her belly during the entire session. That particular act ~~is~~ was physically impossible. Let's assume that after only 12-hours since

the assault happened she forgot that her hips were lifted so as to make her anus easier to penetrate, then there would have been bruised finger marks on her hips. Upon Bates 110-111 of the physical exam Dr. Aine Graf made no mention of marks, bruises or any other kind of abnormality in that area. So with that being said and it being physically impossible for the petitioner to be in the position A.D. said, it leads to wonder who actually had anal sex with A.D.

Next issue was that A.D. claimed Vaseline was used, however, on the results of the petitioners voluntarily given penile swab (also 12-hrs later), there was no Vaseline or like substance found on the petitioners penis. Then the FACT that A.D.'s DNA was not on that swab as well kind of blows that accounting out of the water. Since it was semen and Amy Jo Johnson's DNA found on the penile swab it is safe to assume the petitioner did not sexually assault A.D. Now assuming petitioner did have anal sex with A.D. using Vaseline then sometime within the next 12-hrs he had sex with his wife never cleaning up in between (as stated on Court record), then petitioners swab would have had semen, A.D.'s DNA, Vaseline, and Amy's DNA on it at the same time. Could there have been another male, physically able to meet those criteria, in the apartment, the building or household? Other than her brother the only other male she spent an awful lot of time alone with was Anthony Wagoner in apartment 7. Yet because Nagle & Stafford were so focused on the petitioner that that never occurred to them. Even upon ^{Anthony's} ~~this~~ arrest not long after, ^{of Anthony} in the exact apartment A.D. claimed the assault happened.

The last issue with A.D.'s Claims is that she received an iPod¹⁷ for a sexual act. By definition that was prostitution, it's plain and simple. Sex + payment = Prostitution. Yet again, Nagle, Stafford, and Ms. Foss were so focused on convicting the petitioner that they never even looked into or investigated that avenue. A.D. was 15 years old, she knew where condoms were in the house, she knew where the Vaseline + KY jelly were, but because Minn. Stat. 609.342 in its entirety says consent is not a ~~fact~~ defense when she is under the age 16, prostitution is improbable? Regardless of the age of the male at the time of any sexual encounter, is it correct to assume that not one teenage mother gave consent because they were under 16 and legally were not able? With that thought process we as a society should lock up every male ~~who~~ who, no matter his age, had sex with his girlfriend or otherwise while she was at sexual maturity but not legal maturity. Think about this, how many women in your family lost their virginity between ages 13-16? Even though it was rape, ~~my~~ ^{petitioner's} daughter lost hers at 14, her half-sister consensually lost hers at 13. Petitioner is not saying it is ok, just that Constitutionally it is wrong to convict saying consent is not a defense.

Now let's bring constitutionality into the equation. The United States Constitutional Amendment XIV which deals with the State in part says, "All persons born or naturalized... are citizens of the United States and of the State wherein they reside. No State shall abridge the privileges or immunities of citizens of the United States... nor deny to any person within its jurisdiction the equal protection of the laws." As A.D. was born in Fargo, North Dakota and lived in Minnesota her whole 15 years this amendment goes

for^{her} as well, correct? keep^{ing} everything Constitutionally based and not morally right or wrong, lets bring Amendment I into this as well. Namely the Freedom of Religion. Muslims¹⁹ marry off females at sexual maturity regardless of age because their religion allows it. Most pagan customs have sexual acts of one kind or another in limited amount in some of their rituals, there is no credence or Rede specifying age or who can perform those rituals. For the Christians within the Court their own Bible gives an ambiguous age of sexual maturity and afforded a woman with no right to consent to or against sex or marriage. Leviticus 18:19 says, "you shall not ~~lay~~ lay with a woman upon her time^{of} menstruation." This is stated again in Leviticus 20:18. Leaving morality aside and looking only Constitutionally it is illegal to say a female can not consent to acts of the body. Minnesota Constitution similarly provides with a lot more clarity, "... the right of every man to worship God according to the dictates of his own conscience shall never be infringed... Nor shall any control of or interference with the rights of conscience be permitted, or any preference be given by law to any... mode of worship." Morally, the petitioner does not agree with sexual acts with anyone under the age of 18, however, it is illegal Constitutionally to say that a person can not consent because they are under the age of eighteen no matter what. Amendment XIV in clear and concise mandatory words says, "all persons born or Naturalized...", and "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens... nor deny... the equal protection of the laws." "A crime thus barred by the Constitution is, by definition, unlawful." (Montgomery, 136 S.Ct. at 729-30).

In *State vs. Johnson*, 775 N.W. 2d 377 (Minn. 2009)²⁰, the Appellate Court while stating their opinion still reversed petitioner's conviction because the law required it. Minn. Stat. 645.17(13) (2008) specifically states "that when ascertaining legislative intent, courts should presume that 'the legislature does not intend to violate the Constitution of the United States or of this State.'" No matter how it is looked at Minnesota Statute 609.342 subdivision 1g is illegal. "A crime thus barred by the Constitution is, by definition, unlawful." (Montgomery, 136 S.Ct at 729-30). A Supreme Court decision. "If a court grants relief, which under the circumstances it hasn't any authority to grant, its judgment is to that extent void. (1 Freeman on Judgments, 120c) An illegal order is forever void." As is the conviction given to the petitioner by a biased judge Lisa Borgen. In closing of this section let the petitioner make a quote, "Justice is blind, and if you train a ^{man} laws are for thee, not for me... well, then you shouldn't be surprised if he someday fails to see the distinction between a terrorist and a corrupt self-serving bureaucrat."

Minnesota's CSC statutes have a statute of limitations of two years after reporting the offense, however, when Amy Jo Johnson made the statement that she got pregnant by a 24 year old man when she was 16, a crime nonetheless as she was a Minnesota resident at that time, the ~~Moort~~ Moorhead police detective taking ^{at} her statement made no attempt to report that provable crime. In FACT, he decided to coerce and strongarm Amy into cooperating with the investigation lest she get charged as well. The questions that arise from this situation are, 1) does A.D.'s claim become

more important than her mothers, 2) if Amy's claim could be proven beyond any doubt, in that A.D. was the product of that sexual act, shouldn't there have been charges filed, and 3) how does the State of Minnesota justify not only not bringing charges against Jason Gregory but also use him as a possible witness against the petitioner? Crimes are crimes no matter who they happen to, unless it has to do with the petitioner? The first two questions are easy to answer: Constitution of Minnesota Article I, Section 2, says, "No member of state shall be disfranchised or deprived of any of the rights or privileges secured to any citizen thereof,..." Article IV in the first sentence of the United States Constitution says, "The citizens of each state shall be entitled to all privileges and immunities of citizens in the several States...." Furthermore, Amendment XIV of the same important document says, "All persons born or naturalized in the United States, and 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 the United States;" The crime committed against Amy Johnson was not given the same weight as that of her daughter's alleged assault. Petitioner is doing 360 months for an alleged violation of Minnesota Statute, yet Jason Gregory, whom impregnated a sixteen year old girl when he was 24 years old, is allowed not only to walk freely, but was on the petitioners witness list ^{for} by the State.

"Justice is blind, and if you train a man laws are for thee, not for me... well, then you shouldn't be surprised if he someday fails to see the distinction between a terrorist and a corrupt self-serving

~~be~~ bureaucrat." You've heard the saying, that, "vengeance is a dish best served cold." Well then, injustice freezes it and wraps it in dry ice.

Lastly, the LPRB of Minnesota claims that Mr. Brian Toay did his job as is Constitutionally required. The question left to this Court would then be, did Mr. Toay do his job to the best of his ability while protecting his clients ^{well's} unalienable rights? As ^{he's} a public defender in the Federal system as ^{well's} it should be assumed he knows at a minimum at least the Bill of Rights. Mr. Toay did not provide the petitioner with a copy of the case file or evidence against him. In FACT Mr. Toay advised petitioner that, having a copy of the evidence in his jail cell, especially due to the nature of the claims, would not be a good idea. Then after receiving a 20 year ²³ plea agreement offer from the state, Mr. Toay advises petitioner not to accept that deal on account of the evidence to that point not being sufficient to justify that offer. He told the petitioner that the evidence supported at least a 10-12 year sentence, and that he believed he could bargain for less. Two weeks later, Mr. Toay tells petitioner that after the DNA results came back the DNA on the petitioner's penile swab was A.D.'s and that because of that Ms. Foss would ~~only~~ accept a 360 month deal and it had to be accepted within 24 hrs. Petitioner had asked Mr. Toay several times which swab it was and Mr. Toay stated the penile. However, the DNA was Amy Johnson's. Due to that false information, the petitioner accepted the 360 month "deal," which turned out that by Minnesota Sentencing Guidelines was the max the Courts could sentence. There were ~~no~~ weapons, no drugs or alcohol ~~was~~ involved, and other than the alleged

assault there was no violence. Due to ~~Hernandizing~~ ^{Convictions} this was considered a lone crime with no previous ~~criminal history~~ of this kind, and therefore did not meet the requirements of a patterned sex offense. "A defendant claiming ineffective assistance must show that Counsel's representation fell below an objective standard of reasonableness." (*Cooper vs. State*, 565 N.W.2d 27). Mr. Toay did not challenge jurisdiction, he did not provide petitioner with the actual FACTS or evidence of the case, and he ~~was~~ was not truthful to petitioner about DNA evidence. All these FACTS were also brought to the attention of Sean McGuire, assigned as counsel within the 2 year limit allowed by Minn. Stat. 590, and he himself said everything in the case proved guilt, but he would get the conditional release changed back to the 10 years agreed upon. If lying to a client is "an objective ²⁴ standard of reasonableness," then this case has no merit or validity. Minnesota believes it is reasonable, and as Ms. Moss believes, it would be "beyond ridiculous" for this Federal Supreme Court to say ~~otherwise~~ otherwise.

In closing, the reason(s) for this Court to accept and rule on this ~~issue~~ ^{with} is as follows:

- 1) Petitioners OID number of 237853 was given to him on May 10, 2012. As of this current date the MNDoc is issuing OIDs in the 260,000's range. Assuming 10% of these are capital cases where indictment is required, ^{19932.3} ~~237853~~ prisoners are in prison without presentment or ~~an~~ indictment as required by State law previously mentioned, and as the 5th Amendment of the United States Constitution requires. Sworn to uphold the law and both Constitutions the Minnesota Court systems have not done

what is required in that Oath, and it is this Courts right and obligation to correct lower Courts's arrogance and mutinous behavior.

2) As to sex crimes taking this case will also help thousands of people in Minnesota alone who have been convicted on only an alleged victims word.

3) Taking and adjudicating this case will protect thousands of Floyd's by holding Minnesota Courts accountable to their Oaths.

4) This will show the police and Court officers that a person's Constitutional Rights shall never be overlooked in order to win a conviction regardless of who is involved.

5) This will guarantee that every person whether a victim or perpetrator will at least have Constitutional security.

6) This will hold public defenders accountable for any unlawful and/or untruthful actions they may decide to take in the future.

The arrogance and blatant disregard for the Federal law and this Courts authority to enforce it is summed up well in the words of Pamela Foss during state appeal when she stated, "the FACT that Mr. Johnson is challenging state law with Federal law is beyond ridiculous and shows his misguided idea of how the justice ~~system~~ system works." Under the United States Constitution, Article VI section 2 and Amendment XIV it is the petitioners hope and prayer that this Court proves otherwise.

Another very important FACT that was left out, was the FACT that petitioner at the beginning of the ~~2020~~ school year

had purchased an \$1100 laptop for the alleged victim and did not require any sexual favor, yet for a \$60 iPod he allegedly required anal sex for payment. Petitioner also purchased all of her school required supplies, his daughters supplies and her laptop, and his step-sons school supplies and a \$600 radio controlled vehicle, out of petitioner's Pell Grants without requiring sexual favor.

A plea agreement must be accurate, meaning the evidence must prove the claims. Dr. Anne Graf's assessment was "patients physical exam shows no residual either acute or chronic at this time." No Vaseline was found on petitioner, A.D.'s DNA was not found on petitioner, semen was found on petitioner but not on A.D.'s person, Vaseline was found on A.D. but not petitioners semen or DNA, and it was only petitioners wifes DNA that was found on petitioner and along with Amy's deposition proved they had had sexual intercourse. So if these facts are what prove accuracy of the plea, then the plea is valid.

A plea agreement must be voluntary,²⁷ meaning no influence of an outside party that would induce an agreement. First, a judge who should never have adjudicated had previously recused²⁵ himself in 2008, signed warrants in 2011, adjudicated criminal case, and then adjudicated a civil case²⁶ where the exact same facts were in dispute at the exact same time. Second, petitioners public defender refused to give petitioner a copy of the case file (and does so to this day), he lies to petitioner about what DNA evidence proved guilt and then gets petitioner a state maximum sentence for patterned sex offender offenders. If this proves voluntariness then petitioners plea is valid.

A plea agreement must be knowing,²⁸ meaning the defendant knew at the time all the facts of the case. Petitioner knew the facts as his

lawyer had given him previously and upto May 7, 2012. If all the above stated FACTS proves knowledge, then petitioners plea is valid. If it does not, then this Court is the only hope the petitioner has left for correction.

As to the Religious aspect of this case in the New Testament Jesus and his disciples teach that the coming together of a man and woman is the same as our modern idea of marriage, so using this and the Minnesota Constitution in which it states "to the dictates of his conscience... and the Mode of worship" it is reasonable to infer that by A.D.'s own admission of alleged sexual encounters that by Constitutional provision the petitioner was in essence married^{ed} to her and all her statements would then be privileged ~~as~~ under the marital privilege law and therefore was inadmissible as evidence. Petitioner was a practicing Christian, is now ordained, and Minnesota Constitution clearly allows his conscience and mode of worship to not be violated.

"A crime thus barred by the Constitution is, by definition, unlawful."
(Montgomery, 136 S.Ct. at 729-30)

FOOTNOTES FOR WRIT Definitions by Blacks Law Dictionary

- 1) Has a duty to; more broadly, is required to. This is the mandatory sense that drafters typically intend and that courts typically uphold.
- 2) (Of conduct) that is punishable by indictment imprisonment.
- 3) Same as definition in #1
- 4) To annul, make void, or repeal by taking place of. (See Appendix)
- 5) Minn. Stat. 628.10 + 628.02 (See Appendix)
- 6) Whom has a 72 page discipline record with Moorhead police department.
- 7) This falls in line with Rule 2.11 of the Code of Judicial Conduct provided by petitioner. (See Appendix)
- 8) Whom recused herself in 2008 not being able to be impartial.
- 9) Refer to Minn. Stat. 645.44
- 10) (Of evidence) excludable by some Rule of evidence. (Rule 901)
- 11) Broadly, the act of proving that something (as a document) is true or genuine, esp. so that it may be admitted as evidence; the condition of ~~being~~ so proved < authentication of the handwriting >. 2) Specific, the assent to or adoption of a writing as one's own.
- 12) Held by Debra Nagle on September 30, 2011 at the Moorhead High School without a lawyer, a parent, or authorized ad-litem, and was not recorded.
- 13) Someone who is not a member of a profession or an expert on a particular subject, esp. by comparison with someone who is. (MNBCA)
- 14) Specific to case law following Rule 901 of Rules of Evidence.
- 15) Someone who is in any way involved with another in the commission of a crime, whether as principal in the first or second degree or as an accessory. 2) Someone who knowingly, voluntarily, and intentionally unites with the principal offender in committing a crime and thereby becomes punishable for it. (A.D.)
- 16) Someone who engages in sexual acts in exchange for money or anything else of value. (iPod mentioned in quotes with the actions taken)

17) The "or anything else of value" in #16.

18) 15 year olds are always truthful and will always have no reason to lie?

19) Whether extremist or not

20) Register of Actions provided in Appendix.

21) "Nor deny... the equal protection of the laws." Amendment XIV

22) Same as #21

23) Provided to previous courts in letter form from Mr. Toay, by petitioner.

24) Without bias, or prejudice

25) To remove (oneself) as a judge in a particular case because of disqualification, such as prejudice or conflict of interest. (1990's theft, 2008 cases [ROA in Appendix])

26) Something that incapacitates, disables, or makes one ineligible; esp., a bias or conflict of interest that prevents a judge or juror from impartially hearing a case, ... (Consistent with Rule 2.11 of the Code & # 2.5 [Code in Appendix])

Comes
before 23
in document

27) Unconstrained by inference; not impelled by outside influence. (Mr. Toay's lie about the DNA evidence)

28) Having or showing awareness or understanding; WELL-INFORMED! (Was only informed with false DNA results by Mr. Toay)

* Figures provided in Appendix

** Diagram provided in Appendix

APPROXIMATE UNINDICTED FELONS

Prison population since 2012:

Petitioners OJD 237853

Current OJD 260,000's

Approximate Current total 22,107

Approximate after 10% indictment 19,896.30

Approximate in U.S. 994,815.00

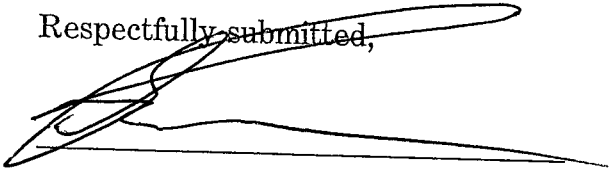
These figures don't include citizens convicted of felonies that never went to prison. Minnesota estimates mainly

Average per year 1,658.02

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in dark ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

Date: 5-13-2022