No. 22-7408

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

ROBERT E. HAMMERSLEY— PETITIONER
(Your Name)

vs.

STATE OF WISCONSIN— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO:

WISCONSIN SUPREME COURT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

MOTION FOR ACCEPTANCE/CHECKLIST COMPLETE FOR
PETITION FOR WRIT OF CERTIORARI

ROBERT E. HAMMERSLEY
(Your Name)
309 BAYSIDE ROAD
(Address)
LITTLE SUAMICO, WI 54141
(City, State, Zip Code)
(920) 434-9322
(Phone Number)

QUESTION(S) PRESENTED

The Wisconsin Supreme Court Should Not Have EX PARTE discriminatively continued with the 2018-ongoing DENIALS OF the UNHEARD PETITIONS FILED FOR JUDICIAL NOTICE, INVESTIGATION, POSTCONVICTION RELIEF and PRESENTENCE RELIEF FILED UNDER Wis. Stats. § 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26, and 974.06/Coram Nobis for Postconviction Motioning. The Wisconsin Supreme Court Should Have Issued remand for Judicial Notices, Forwarded Investigations, resentencing and/or Voided the 1995-1996 and 2003 Wrongful Criminal Judgments' usage and recognize the Unlawful 2008+2018 PAC .02 Arrests implemented under the ex post facto Implied Consent and PAC .02 Laws underlying the 2018 charges and 2005-2010 sentences.

LIST PARTIES

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

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

RELATED CASES

WISCONSIN AND ARIZONA CRIMINAL TRAFFIC CASEFILE NOS. 1995TR3265, 1997CT218-220, 1998CT1403, TR-200101991, 2005CF361, 2008CF1114 (*forming the currently applied .02 PAC OWI Charging Instrument*) - in the PENDING CRIMINAL TRAFFIC CASEFILE NO. 2018CF407.

APPEAL NOS. 2020AP837-2020AP838.

Past Federal 1983 - Casefile No. 19-C-1853

TABLE OF CONTENTS

BELOW TAKEN FROM PAGE [**A**] OF ORIGINAL *WRIT* SUBMISSION:

ISSUE PRESENTED

The Wisconsin Supreme Court Should Not Have discriminatively continued with the 2018-ongoing *EX PARTE* DENIALS OF the UNHEARD PETITIONS FILED FOR JUDICIAL NOTICE, INVESTIGATION, POSTCONVICTION RELIEF and PRESENTENCE RELIEF FILED UNDER **Wis. Stats. § 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26**, and **974.06**/*Coram Nobis* for Postconviction Motioning. The Wisconsin Supreme Court Should Have Issued remand for Judicial Notices, Forwarded Investigations, resentencing and/or Voided the 1995-1996 and 2003 Wrongful Criminal Judgments' usage and recognize the Unlawful 2008+2018 PAC .02 Arrests implemented under the *ex post facto* Implied Consent and PAC .02 Laws underlying the 2018 charges and 2005-2010 sentences.

STATEMENT ON ORAL ARGUMENT AND PUBLICATION

Whatever the Court determines appropriate.

Hammersley would deliver an oral argument towards these *miscarriages of justice*.

STATEMENT OF THE CASE AND FACTS

INDEX TO APPENDICES

An appropriate appendix was part of the original submission. *SEE* ABOVE REITERATION ON PAGE 6, AFOREMENTIONED.

TABLE AUTHORITIES CITED

STATUTES AND RULES

OTHER

An appropriate table of authorities/statutes/rules/other was part of the original submission.

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

OPINIONS BELOW

[X] 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, [X] 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, [X] is unpublished.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED [REITERATED FROM BEFORE]:

Violation of federal law under **28 U.S.C. § 1331, 28 U.S.C. § 1343** and **42 U.S.C. § 1983**. MULTIPLE Federal questions including "***can police use a lawless warrantless unannounced home invasion at gunpoint to enforce an entrapped into no-drink parole violation and continue this into a criminal traffic investigation?***" – "***can a parole hold be used in conjunction with the Implied Consent and PAC .02 restriction laws to warrantlessly force Hammersley into a medically unsound and cruel gurney bound blood used as punishment for complaining about an earlier forced urination?***" – "***is newly discovered evidence about the past 2008 fatally flawed blood test result reviewable in a postconviction motion?***" among others, Several Wisconsin Statutes are punitive prohibited *ex post facto* laws (*i.e. Implied Consent and PAC .02 restriction laws*), and conflicting computational statutes for counting prior convictions to be used to support guilt and lower elementary thresholds. INVOKING **28 U. S. C. 1257(a)**.

The supreme court shall enjoy original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

STATEMENT OF THE CASE:

The Wisconsin Supreme Court Should Not Have discriminatively continued with the 2018-ongoing *EX PARTE* DENIALS OF the UNHEARD PETITIONS FILED FOR JUDICIAL NOTICE, INVESTIGATION, POSTCONVICTION RELIEF and PRESENTENCE RELIEF FILED UNDER **Wis. Stats. § 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26**, and **974.06**/*Coram Nobis* for Postconviction Motioning. The Wisconsin Supreme Court Should Have Issued remand for Judicial Notices, Forwarded Investigations, resentencing and/or Voided the 1995-1996 and 2003 Wrongful Criminal Judgments' usage and recognize the Unlawful 2008+2018 PAC .02 Arrests implemented under the *ex post facto* Implied Consent and PAC .02 Laws underlying the 2018 charges and 2005-2010 sentences.

REASONS FOR GRANTING THE PETITION:

Violation of federal law under **28 U.S.C. § 1331, 28 U.S.C. § 1343** and **42 U.S.C. § 1983**. MULTIPLE Federal questions including "***can police use a lawless warrantless unannounced home invasion at gunpoint to enforce an entrapped into no-drink parole violation and continue this into a criminal traffic investigation?***" – "***can a parole hold be used in conjunction with the Implied Consent and PAC .02 restriction laws to warrantlessly force Hammersley into a medically unsound and cruel gurney bound blood used as punishment for complaining about an earlier forced urination?***" – "***is newly discovered evidence about the past 2008 fatally flawed blood test result reviewable in a postconviction motion?***" among others, Several Wisconsin Statutes are punitive prohibited *ex post facto* laws (*i.e. Implied Consent and PAC .02 restriction laws*), and conflicting computational statutes for counting prior convictions to be used to support guilt and lower elementary thresholds.

HAMMERSLEY IS COLORABLY IN CUSTODY DUE TO AN UNLAWFUL 2018 ARREST RELATED DIRECTLY BACK TO USING THIS 2008-2010 *MISCARRIAGES OF JUSTICE* AND PRIOR CONVICTION AS EVIDENCE OF GUILT IN THE REDUCED PENDING CHARGING INSTRUMENTS OF THE WISCONSIN PAC .02 RESTRICTION OWI LAW.

CONCLUSION, SEE BELOW COPIED FROM PETITION'S PAGES 32-35:

"The courts' officials have flagrantly and willfully ignored the FACTUAL/ACTUAL INNOCENCE exception under Sawyer, 505 U.S. 333 (1992). Hammersley did bring forth sufficient evidence and unambiguous clear arguments substantiating constitutional grounds for claims of both FACTUAL and ACTUAL INNOCENCE; **BUT-FOR**: Being the belligerency of these unfaithful courts have refused to follow *stare decisis* with their inconsistent rulings that are, in-fact, contrary to well established law. By doing so, these courts' officials continue to dishonor the laws and constitutions of our nation. Thusly, the ethical condition of each judicial official involved is absolutely infirm with their recurrent genocidal constitutional annihilationism.

Citing page 34 of the brief for appeal nos. 20AP837-838: "***The "actual innocence" exception is concerned with actual, as compared to legal, innocence*** [i.e. Hammersley's now set-aside judgement of guilt invalid uncounseled 2003 Arizona prior DUI conviction, uncounseled 1995 refusal invalid OWI prior conviction, the 2008 invalid blood test result's forged accuracy, and 2010 perjured expert witness testimony based on the 2008 invalid blood test result's personally forged accuracy], *see* Sawyer, 505 U.S. at 339-40, 112 S.Ct. at 2518-19. ***Legal innocence addresses procedural or legal bases on which a sentence was based*** [i.e. perhaps some overlapping factual, actual, and/or jurisdictional questions surrounding Hammersley's arrest under a warrantless parole search subterfuge, the entrapped no drink violation, the parole hold's warrantless forced gurney bound blood draw without *exigent circumstances*, and/or the 1995 refusal used as a prior criminal OWI convictional penalty], *see* Smith v. Murray, 477 U.S. 527, 537, 106 S.Ct. 2661, 2667-68, 91 L.Ed.2d 434 (1986). **[AS:]** ***In contrast, actual innocence addresses circumstances in which an error "precluded the development of true facts [or] resulted in the admission of false ones,""*** cf. Id. at 538, 106 S.Ct. at 2668, *citing* Mobley v. United States, 974 F.Supp. 553 (E.D. Va. 1997), footnote 10.

This situation from conception towards continuation has been a charade of partisan judiciary dysfunctionality; **WITHIN**: The Dual processing of parole resentencing and fraudulent OWI traffic crimes-Trials' Proceedings, Into the predetermined PRE-Judgements of Convictions, That Cannot Be Meted-Out, Without, Being Unduly Predisposed and Were Contributively Significantly Demonstrable Factually "***As a Matter of Fact and Law,***" a *Miscarriage of Justice*; **IN-**

BEING: That Both-Apply, Throughout, the Instantaneous *Pursuit of the Ends of Justice Inquiry,* Under Frady, 456 U.S. (1982), at 163 and Atkinson, 297 U.S. (1936), at 160.

Citing page 35-36 of the brief for appeals 837 and 838: "***In*** [observing the ... Court's recent decisions, basically] ***reaching this conclusion,*** [honorable] ***Judge Sprouse*** [may have] ***emphasized that, it is an unacceptable deviation from our fundamental system of justice to automatically prevent the assertion of actual innocence simply because*** ... [Hammersley] ***has not observed procedural avenues available to him***, cf. Id. at 892 (*citing* Engle, 456 U.S. 107, 135, (1982)). **[IN-BEING**: That] ***The*** [Maybeck court's] ***panel*** [may have] ***concluded that the "actual innocence" exception applied*** [to Hammersley] ***because it was clear that*** [likened unto] ***Maybeck*** [Hammersley] ***was*** [also] ***innocent of a predicate*** [felony and/or PAC .02 BAC OWI] ***offense and, thus, improperly sentenced as a career offender***, cf. Id. at 893-894. ***Accordingly,*** [also] ***in this*** [Appellate] ***circuit*** [correspondingly, like in the Fourth Circuit for Mobley], ***"actual innocence" of a non-capital*** [but a criminal felony charge, continuing disabled constitutional rights, and/or pending] [PRE-]***sentence excuses a petitioner from meeting the Frady "cause and prejudice" requirement for raising a defaulted claim***," *citing* Mobley v. United States, 974 F.Supp. 553 (E.D. Va. 1997), at 557.

TO-WIT: "***These principles, applied here, point persuasively to the conclusion that*** [Hammers]***ley's*** [predisposed] ***failure to*** [properly assert his rights and] ***challenge the error in his criminal record at*** [the 2005, 2009, and 2010] ***sentencing*** [hearings,] [n]***or direct appeal*** [nor current 2018-*ongoing* presentence and detention] ***does not preclude the availability of habeas relief from his*** [erroneously] ***enhanced sentence***[s]. ***The*** [2/28/2020 Brown County] ***government*** [decisions] ***contend***[ed] ***that*** [Hammers]***ley has n***[ever] ***demonstrated an acceptable cause for his default*** [and/or that Hammersley's petitions are not factual, but legal error ... that cannot be examined under *coram nobis* and that Hammersley is simply-*too*-late.] ***The*** [.... Court's] ***government*** [decisions] ***contend***[ed] ***that*** [Hammers]***ley has n***[ever] ***demonstrated an acceptable cause for his default*** [because Hammersley is not in custody]. [**BUT-FOR**: Being,] ***A***[ccorde]***d*** [that], ***indeed, it appears that*** [Hammers]***ley's*** [arguments of governmental misconduct supplements and] ***excuses*** [him] ***for his default*** [and, thus] ***are ...sufficient to constitute "cause" for the purposes of Frady***," *see* Mobley v. United States, 974 F.Supp. 553 (E.D.Va.1997) at 558.

FROM-WHICH: Exposes the *clearly erroneous* fraudulent and discriminative nature of

Hammersley's recent *ex parte* denial by the Wisconsin Supreme Court, with even the clear and persistent use of the unconstitutional uncounseled 2003 Arizona DUI **that is now factually - a set aside judgement of guilt**.

Citing page 37 of the brief for appeals 837 and 838: "***Th***[e]***s***[e] ***case***[s] [in Hammersley's circumstance] ***hold*... *no more than the following: where, as here, a specific*** [PRE-sentence,] ***sentence*** [and newly formed crime are] ... ***statutorily mandated on the basis of a predicate criminal record and that criminal record is officially but erroneously recorded,*** ... [Hammersley] ***may obtain relief pursuant to 28 U.S.C. § 2255*** [**974.06**, and/or *coram nobis*] ***without showing "cause" under Frady. Indeed, the result reached is no more than a recognition of a principle fundamental to our criminal justice system — the law should never ignore actual innocence and punish*** [Hammersley] ***in the face of it***," *citing* Mobley v. U.S., 974 F.Supp. 553 (E.D. Va. 1997), at 557.

Citing page 44 of the brief for appeals 837 and 838: What the Russell Court inferred: "[W]***e*** ***...a***[re] [t]***o...day*** ... ***presented with a situation in which the conduct of law enforcement agents is so outrageous that due process principles would absolutely bar the government from invoking judicial processes to obtain a conviction*** ..., 411 U.S. at 431-32. ***In light of this statement, it is surprising that t***[w]***e***[lv]***e years later, th***[is] [honorable Brown County] ***ju***[dge] ***would write: '[in*** [Hammersley's case]***] [***[h]***]e ruled out the possibility that the defense*** ... ***based upon governmental misconduct in a case, such as this one, where the*** [policemen's targeting, entrapment, unlawful parole-search-policing, dishonesty, forgery, and trial perjury created the] ***predisposition of the defendant to*** [have] ***commit***[ted] ***the crime*** [that] ***was*** [foully] ***established,*** *see* Hampton, 425 U.S. 484, 488-89 (1976), ***suggest that a due process defense is available to a predisposed defendant who has been*** [violat]***ed by flagrant governmental conduct***. Id. 495, 497. ***For cases involving an application of a due process defense,***" *see* note 63 supra., *citing* Russell, 411 U.S. 423 (1973), at 433.

There should be sanctions enforced against these past railroading jurists before making any-more undoubtedly discriminatorily predatory dismissals/denials verses UNHEARD *pro-se* defendants, under **Wis. Stat. § 757.19** some should become recused and state a reasoning why under **757.19(5)** - (***When a judge is disqualified, the judge shall file in writing the reasons and the assignment of another judge shall be requested under*** **s. 751.03**). There is trait evidence of discrimination, denial of *meaningful access* and unethical-abuse on a systemic level from Brown County Court on throughout the appellate courts. These issues have not been HEARD. This is clear cut misconduct, partiality, and discrimination in ethical violation of **SCR 60** and violating all of the rights surrounding filing a *habeas corpus* petition. This is colorable for $1,000 indemnity to be

applied multiple times to each judicial official under **Wis. Const. Art. I § 8, 9, 9m, Wis. Stats. § 782.09, 968.26, 974.06, 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6)**, and/or *coram nobis*. This indemnification may be transferable to the judicial oversights' continued misgovernance and misguided oversight.

Regarding the denied DOT 6-26-2020 removal request letter and appended 3-17-2021 response (*with the 2-26-2020 AZ Order setting aside the 2003 DUI and the Nonexistent AZ DOT Record on 12-20-2018,* Appx. 112): The Wisconsin DOT continues to administer and enforce the punitive *ex post facto* Implied Consent and PAC .02 restriction laws and/or the Wisconsin court system continues to promote and/or enable entrapment, government misconduct, victimhood, punitive *ex post facto* laws and wrongful convictions. This is clear cut misconduct, partiality, and discrimination in ethical violation of **SCR 60**.

The petition for a writ of certiorari should be ACCEPTED.

Respectfully submitted,

Robert E Hammersley

Date: April 23, 2023

No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

ROBERT E. HAMMERSLEY— PETITIONER
(Your Name)

vs.

STATE OF WISCONSIN— RESPONDENT(S)

PROOF OF SERVICE

I, ROBERT E. HAMMERSLEY, do swear or declare that on this date, April 23, 2023, I HAVE MAILED A COPY OF THIS INSTANT: "MOTION FOR ACCEPTANCE/CHECKLIST COMPLETE FOR PETITION FOR WRIT OF CERTIORARI"

I, ROBERT E. HAMMERSLEY, do swear or declare that on March 22, 2023, as required by Supreme Court Rule 29 I have served the PRIOR 3-22-2023 ADDENDUM TO PETITION FOR A WRIT OF CERTIORARI on THE STATE OF WISCONSIN ATTORNEY GENERAL'S OFFICE AND I have served the enclosed ORIGINAL 2-13-2023 PETITION FOR A WRIT OF CERTIORARI on THE STATE OF WISCONSIN ATTORNEY GENERAL'S OFFICE to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

THE STATE OF WISCONSIN ATTORNEY GENERAL'S OFFICE
http://www.doj.state.wi.us.
608-266-1221.
17 West Main Street. , Madison. 53703.
PO Box 7857. , Madison. , 53707

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 4-23-2023

Robert E. Hammersley

(Signature)

ROBERT E. HAMMERSLEY
(Your Name)

309 BAYSIDE ROAD
(Address)

LITTLE SUAMICO, WI 54141
(City, State, Zip Code)

(920) 434-9322
(Phone Number)

ADDITIONAL QUESTIONS/CONCERNS REGARDING CORRECTIONS FOR ACCEPTANCE:

What To File Unless you are an inmate confined in an institution and not represented by counsel, file:

—An original and ten copies of a motion for leave to proceed *informa pauperis* and an original and 10 copies of an affidavit or declaration in support thereof. See Rule 39.

DOES THIS COURT NEED 8 ADDITIONAL COPIES? Is that why there is additional filing requirements.

—An original and 10 copies of a petition for a writ of certiorari with an appendix consisting of a copy of the judgment or decree you are asking this Court to review including any order on rehearing, and copies of any opinions or orders by any courts or administrative agencies that have previously considered your case. See Rule 14.1(i).

No. 2023 _____

WISCONSIN APPELLATE FILE NOS. 2020AP837-838

IN THE SUPREME COURT

OF THE

UNITED STATES

ROBERT E. HAMMERSLEY,
Petitioner.

vs.

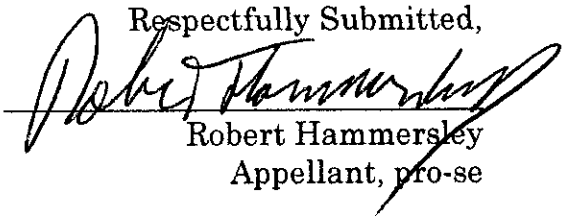
STATE OF WISCONSIN,
Respondent.

Petition For a Writ of Certiorari to the United States Supreme Court;
From Wisconsin Casefile Nos. 2005CF361, 2008CF1114, and 2018CF407.

PETITION FOR CERTIORARI

Dated this 13th day of February, 2023.

Respectfully Submitted,



Robert Hammersley
Appellant, pro-se

309 Bayside Road
Little Suamico, WI 54141
(920) 434-9322

TABLE OF CONTENTS

PAGE

PAGE

CASES CITED

WISCONSIN CASELAW **PAGE**

PAGE

PAGE

U.S. SUPREME COURT CASELAW

PAGE

SEVENTH CIRCUIT CASELAW

PERSUASIVE FEDERAL COURT CASELAW

PAGE

WISCONSIN STATUTES

WISCONSIN SUPREME COURT RULES

WISCONSIN CONSTITUTION

PAGE

UNITED STATES CONSTITUTION

UNITED STATES STATUTES AND RULES

Law Reviews – Manuals

QUOTES

ISSUE PRESENTED

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STATEMENT ON ORAL ARGUMENT AND PUBLICATION

Whatever the Court determines appropriate.

Hammersley would deliver an oral argument towards these *miscarriages of justice.*

STATEMENT OF THE CASE AND FACTS

0. ISSUE PRESENTED:

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I. BACKGROUND

In December, 2018 - roughly *eight*-years after his conviction – Hammersley petitioned the court of Brown County for a *john doe* investigation that was denied and subsequently added to a **974.06** filing on 12-13-2019. The **974.06** was denied and appealed and denied on 11-16-2022. The Wisconsin Supreme Court has denied the petition for review of the *john doe* investigation/**974.06** *coram nobis* filing's denied appeal nos. 2020AP837-838, and now this is the subsequent petition for certiorari of that decision.

In the primary *john doe* requests Hammersley alleged that his trial attorneys 2005-2010 rendered ineffective assistance by failing to challenge any of the numerous constitutional violations used for arrest, charging instruments, blood test, and convictions. The Wisconsin Supreme Court denied Hammersley's petition *ex parte*, violating Lopez-Quintero, 2019 WI 58, see below:

*"**IT IS ORDERED that the petition for review is denied.**"*

CITE-I; **FROM-WHENCE**: HAMMERSLEY COMPLETELY SUBSTANTIATED ALL OF HIS 41-GROUNDS IN THE 974.06 MOTION/*WRIT OF CORAM NOBIS* ALONGSIDE ADDED MOTIONING. NO COURT HAS PROPERLY EXAMINED THESE 41-GROUNDS THROUGH ALL OF THE MIS-CONSTRUCTED FLAGRANT DENIALS OF CLEAR AND PRESENT DEFAULTED RIGHTS. **INTO-WHICH**: Hammersley SUBMITTED

AN APPELLATE BRIEF, REPLY BRIEF AND A PETITION FOR REVIEW. IN-FULLY-CITING THE 6-12-2021 REPLY BRIEF VERBATIM (pages 1-13) BELOW (In 10pt. Font):

CONDENSED INTRO From the Trial Court's denial: "***What Mr. Hammersley does not understand is that the Writ of Coram Nobis requires a mistake of fact, not of law. It is a question of law where the court made a determination of the number of OWI priors of Mr. Hammersley. A legal error may not be challenged by a Writ of Coram Nobis. Clearly, Mr. Hammersley does not like that, The collateral attack of OWI priors is a legal error. He enclosed 555 pages to support his motions. Mr. Hammersley lists 41 grounds supporting his motion. There is nothing in either file that would constitute a mistake of fact. In sum... the Court is denying all' of the motions.***"

The Attorney General stated: The court ... denied Hammersley's request for a writ of error coram nobis. (R. 2020AP837, 103:2—3.) It recounted Hammersley's past challenges to his convictions and concluded that there was "nothing new in either file that would support" the writ. (R. 2020AP837, 103:2—3.) The court also said that it thought Hammersley was trying to collaterally challenge a prior drunk driving conviction so that a current charge he was facing would have a lower penalty. (R. 2020AP837, 103:3.) The number of Hammersley's convictions, the court explained, was a question of law, not a mistake of fact that can be remedied by coram nobis. (R. 2020AP837, 103:3.)

I. What hon. Hinkfuss and hon. Hock did not understand is that the [974.06/]Writ of *Coram Nobis* "*is appropriate to correct fundamental errors and prevent injustice*," under United States v. Correa-De Jesus, 708 F.2d 1283 (7th Cir.1983), *see* Korematsu, 584 F. Supp. 1406 (1984), at 1412. The Court's, alongside of the Attorney General's inadequate reviewal, their utter failing to recognize the *miscarriages of justice*, and their forfeiture of responsibility and duty to investigate the forged blood evidence are, in-fact, ethical violations, under **SCR 20:8.4(c)(e)(g)** and **SCR 20:3.8(a)(f)(g)(h)**. There are multiple STRUCTURAL ERRORS and/or FUNDAMENTAL ERRORS, including a slew of REVERSABLE PLAIN ERRORS (*including where the court made a determination of the number of OWI priors of Mr. Hammersley, that is* ***actual innocence***). Any Structural Errors, Fundamental Errors and/or Plain Errors absolutely may be challenged by a **[974.06/]**Writ of *Coram Nobis*.

The setting aside of a conviction or in correcting a sentence built-up from invalid prior OWIs is actual innocence not a legal error. "***The "actual innocence" exception is concerned with actual, as compared to legal, innocence***, *see* Sawyer, 505 U.S. at 339-40. ***Legal innocence addresses procedural or legal bases on which a sentence was based***, *see* Smith v. Murray, 477 U.S. 527, 537 (1986). ***In contrast, actual innocence addresses circumstances in which an error "precluded the development of true facts [or] resulted in the admission of false ones***,"" Id. at 538, 106 S.Ct. at 2668, *citing* Mobley v. United States, 974 F.Supp. 553 (E.D. Va. 1997), at footnote 10 (cf. page 34 of the 2/13/2021 Brief).

Hammersley "***clearly was prejudiced by the inclusion of the erroneous conviction record. The inclusion resulted in*** [Hammersley receiving an erroneously enhanced felony sentence in 2005, erroneously enhanced maximum felony sentence in 2010, and/or the erroneously applied PAC .02 charging instruments in 2008+2018. Within also, currently facing an erroneously enhanced minimum mandatory three year prison sentence], cf. Mobley v. United States, 974 F.Supp. 553 (E.D. Va. 1997), at footnote 18. **OF-WHICH**: Have arisen to the level of Structural Errors, along with the duopolistic transparent Fundamental and/or Reversable Errors.

Hammersley was denied the true opportunity to present his case-in-chief (*see* **Admitted Facts Section** Appx. 101-124 and comprehensive summary pages 6-8 in Appellant's 2/13/2021 submitted brief), during the 2005 proceedings, 2008-2010 proceedings and 2018-ongoing postconviction proceedings [- these] are critical structural errors, ones that are "***so intrinsically harmful as to require automatic reversal***," under Neder, 527 U.S. at 7, 119 S. Ct. 1827, *see* In Re SMH, 2019 WI 14, at 819.

"A "structural error," ... is something that either affects the entire proceeding, or affects it in an unquantifiable way: ... they "are structural defects in the constitution of the trial mechanism, which defy analysis by `harmless-error' standards." Structural defects[:] *affect "[t]he entire conduct of the trial from beginning to end,"" see* State v. Pinno, 2014 WI 74, 356 Wis. 2d 106, 850 N.W.2d 207. *"The purpose of the structural error doctrine is to ensure insistence on certain basic, constitutional guarantees that should define the framework of any criminal trial," see* Weaver, 580 U.S. ___, 137 S. Ct. 1899, 1907, (2017). The cognizable structural errors "[e]*ffect*[ed] *the framework within which the trial proceeds, rather than being simply an*[y] *error*[s] *in* [ei]*the*[r] [the 2009 reincarceration hearing and/or 2008-2010 felony] *trial process itself,*" Id. at 1907, *quoting* Fulminante, 499 U.S. at 310, 111 S. Ct. 1246.

II. Contrary to the Attorney General, the circuit court erroneously denied Hammersley's motion, because he is in custody; **BASELY**: Based on the erroneous 2018 PAC .02 charging instruments that are based on these 2005 and 2008-2010 prior wrongful convictions, the erroneous 2008 PAC .02 charging instrument was based on more prior wrongful convictions, and Hammersley has identified 121 admitted errors of fact, (*see* **Admitted Facts Section** Appx. 101-124). Hammersley showed several offers of proof and errors of fact to garner mandatory relief. *"Respondents on appeal cannot complain if propositions of appellants are taken as confessed which they do not undertake to refute,"* under Charolais Breeding Ranches v. FPC Securities, 90 Wis.2d 97 (1979). *"The Supreme Court has, in fact, stated that a 'criminal case is moot only if it is shown that there is no possibility that any collateral legal consequences will be imposed on the basis of the challenged conviction,' see* Lane v. Williams, 455 U.S. 624, 632, 102 S.Ct. 1322, 1327, 71 L.Ed.2d 508 (1982), *quoting* Sibron v. New York, 392 U.S. at 57, 88 S.Ct., at 1899. ***This articulation places the burden on the government to show that*** [Hammersley] ***suffers no collateral consequences. The government, by its 'Response' has failed to come forward with evidence to overcome the presumption,"*** under Korematsu, 584 F. Supp. 1406 (1984), at 1418.

Simply saying: **There are no facts**—is insufficient to refute the underlying truth. Hammersley has shown that the circuit court wrongly concluded that he was not alleging any errors of fact. **TO-WIT**: *"**actual innocence addresses circumstances in which an error "precluded the development of true facts [or] resulted in the admission of false ones,**"* Id. at 538, 106 S.Ct. at 2668, *citing* Mobley v. United States, 974 F.Supp. 553 (E.D. Va. 1997), at footnote 10. **INTO-WHICH**: Advocates for the acknowledgement of the **rule of completeness**, that is applicable, under State v. Anderson, 230 Wis. 2d 121, 600 N.W.2d 913 (Ct. App. 1999), review denied, 230 Wis. 2d 275, 604 N.W.2d 573 (1999), see also, State v. Eugenio, 219 Wis. 2d 391, 410, 579 N.W.2d 642, 651 (1998). **IN-EVEN**: Under **Wis. Stat. § 906.11(1)(a)**, the trial court had a duty: *"**(1) The judge shall exercise reasonable control ... to do ... the following: (a) Make the interrogation and presentation effective for the ascertainment of the truth**."*

Citing the 12/13/2019 *coram nobis*, pg. 327: "Hammersley admits to **driving-earlier** and **drinking-later**, with the admission of the CD interview 10/17/2008, [*"**Parole**"*] interview 10/20/2008, and stated in open court on 1/13/2009. **AS**: In-Fact, evidence, that is, to be clearly inferred from the parole-compelled and honest testimonials; ... Under Mathews, 485 U.S. [58 (1988)], at 62, Hammersley is raising his defenses, arguing, that he, in-fact, did-**not**-commit the OWI-crimes, but, that, he was entrapped into drinking, after, driving."

III. COLORABLE STRUCTURAL ERRORS:

Hammersley has demonstrated several factual errors that have affected the results within the greater context of the 2008 arrest and BAC-test, 2009 resentencing hearing and 2010 jury trial. Hammersley is entitled to relief under harmless error review, *see* Chapman v. California, 386 U.S. 18 (1967). Some of these exemplified errors, are so serious and capable of affecting the fundamental integrity of the jury trial and resentencing hearing that harmless error review does not even apply. The Structural Errors, indeed, did undermine the essential *fundamental fairness* of the proceedings and unlawful warrantless seizures.

1) The total deprivation of the right to counsel under the **Sixth Amendment**, under Gideon. This includes the right to effective assistance of counsel with failing to challenge the warrantless parole search and interview

without an *Evans warning* that cannot be used as the subterfuge for criminal investigations, the colorable entrapment for the no-drink clause inside a private domicile, the no-knock entry through the closed shut service door into the 4.5 stall heated garage (*with an indoor lavatory*) at gunpoint, warrantless parole held implied consent forced gurney bound blood draw, the gurney bound blood draw was actual punishment for questioning an earlier forced urination, the blood test results were fatally flawed with contamination and carryover, the inconsistent testimonies of Cherovsky and Kolinski, no trial testimony of the warrantless gurney bound blood draw; **TO-WIT**: These unmet challenges were violations of Gonzlaez-Lopez, 548 U.S. 140 (2006).

Hammersley's case-in-chief is a clear example of what constitutes a total deprivation of counsel. That "***a showing that the performance of a defendant's lawyer departed from constitutionally prescribed standards requires*** [reversal or] ***a new trial regardless of whether the defendant suffered demonstrable prejudice thereby***" under Strickland, 466 U.S. 668 (1984), at 712.

When an otherwise qualified **28 U.S.C. § 2254** petitioner can demonstrate that his current sentence was enhanced on the basis of a prior conviction that was obtained where there was a failure of the effective assistance of counsel in violation of the **Sixth Amendment**, the current sentence cannot stand and habeas relief is appropriate, under Tucker, *supra*, 404 U.S. 443, 449 (1972). Thusly, necessitating "***vacatur of*** [2005] ***sentence that was based in part on prior*** [denial of right to counsel and the 2008-2010 proceedings without the effective assistance of] ...***counsel***... [in these prior] ***state convictions***, *see* Lackawanna Cnty. Dist. Attorney v. Coss, 532 U.S. 394, 404-05, 121 S. Ct. 1567, 1574, 149 L. Ed. 2d 608 (2001). Tucker applies to a conviction invalidated because of the ineffective assistance of counsel, *see* Brown v. U.S., 610 F.2d 672, 675 (9th Cir.1980).

The U.S. **Const. Sixth Amendment** and **Const. Art. 1 § 7** of the State of Wisconsin guarantee the right to counsel. The right to counsel is more than the right to nominal representation. Representation must be effective, under Cuyler v. Sullivan, 446 U.S. 335 (1980); State v. Koller, 87 Wis.2d 253, 274 N.W.2d 651 (1979); State v. Harper, 57 Wis.2d 543, 205 N.W.2d 1 (1973), *see* State v. Sanchez, 201 Wis. 2d 219, 228, 548 N.W.2d 69, 73 (1996).

There is evidence of record to show that both trial counsels here made a deliberate, reasoned decision to forgo challenging the uncounseled 1995 refusal statutorily converted lifetime OWI conviction, the (*now set aside*) uncounseled 2003 Arizona DUI, the warrantless parole search, entrapment, warrantless parole held Implied Consent forced gurney bound blood draw, and the flawed blood test results' forged accuracy and perjured expert testimony. In the 6/2010 sentencing testimony, Hammersley opined that counsel should have investigated the validity of the waiver for the uncounseled 2003 Arizona DUI. However the judge disavowed any challenges by saying: "***even if one of these prior convictions didn't count, you would still be on number five. And number five and number six have exactly the same maximum penalties***." As the judge suggested that counsel made a sound, strategic decision to forgo a challenge to the 2003 uncounseled Arizona DUI in order to proceed with a maximum sentencing.

There is no indication of why a challenge to the number of prior offenses would have jeopardized the Sentencing. It appears from this sentencing testimony, **admission nos. 78+105** coupled with **admission no. 90**, that Donarski stated: "***Your Honor, I can state that we're not challenging the, the blood test itself***," that counsels Froelich and Donarski simply reached their decisions without adequate investigation into challenging the entrapped warrantless parole hold subterfuge used for criminal investigations, the warrantless parole held Implied Consent forced gurney bound blood draw, the invalid prior convictions, and fatally flawed blood test results. "[C]***ounsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary***," under Strickland, 466 U.S. at 691. Hammersley's defense counsels "***did not fulfill that duty here***," under State v. Ligtenberg, 2003 WI App 244, 268 Wis. 2d 294, 671 N.W.2d 864.

Without challenging the blood evidence's *prima facie* valued effectuation of guilt, no challenge to the prior uncounseled convictions, erroneous PAC .02 BAC charging instruments, no drink rule entrapment and erroneous prior parole sentence; **INTO-WHICH**: Were "***Violation***[s] ***of the defendant's*** **Sixth Amendment-**

secured autonomy rank[ing] ***as error of the kind that*** [the U.S. Supreme] [C]***our***[t] ***decisions have called 'structural'*** ..." under McCoy v. Louisiana, 584 US ___ (2018), at 14.

2) Another violation, there were several judges whom showed partiality, unprofessionalism, and/or misgovernance within their involvement in the conduct of the administrative parole hearing, the criminal trials and postconviction proceedings, in violation of Tumey, 273 U.S. 510 (1927), Frady, 456 U.S. 152 (1982), at 163.

#82. Hinkfuss; STRUCTURAL ERROR: Honorable Hinkfuss fully knew that the unannounced entrapped into warrantless parole search used for the home invasion at gunpoint, under his authority ... was also being used for the criminal traffic investigation and additional criminal OWI charges in separate pending felony proceedings. **# 17. Bischel; STRUCTURAL ERROR**: Hammersley retrieved his Arizona Cardinals sweatshirt out of his car. This sweatshirt was misidentified as some kind of contraband the size of a Sears catalog by witness Cherovsky, and the State in closing statements before the jury, and apparently relied upon for sentencing. **#83. Bischel; STRUCTURAL ERROR**: Honorable Bischel fully knew that the unannounced entrapped into warrantless parole search used for the home invasion at gunpoint, was used for the criminal traffic investigation, gurney bounded blood draw, and criminal OWI charging instruments in the pending felony proceedings. **#87. Bischel; STRUCTURAL ERROR**: April 12, 2010 Hon. Bischel's abilities of crystallomancy, foresaw Neuser's formula for his perjured extrapolation testimony, by using the internet to predict-formulas for the calculations. **#95. Bischel; STRUCTURAL ERROR**: Hon. Bischel stated the mention of prior convictions was basically harmless error. Her reasoning was, that the PAC Charging Instrument is basely based on prior convictions and any informed jury must know that anyway. **#99. Bischel; STRUCTURAL ERROR**: Judge Bischel openly lied to the impaneled jury. In order to act on the part of the prosecutor and preserve no mistrial. **#121. Hinkfuss, Bischel, Hock; STRUCTURAL ERROR**: The 2008 police misconduct, 2008 flawed blood test, 2010 perjured trial testimony, 2010 perjured expert witness testimony, and 2018 undocumented deputy contact with verbal no contact orders were presented *via* a *john doe* request submission underlying this instant appellate review.

3) Police investigation under a warrantless parole search and seizure.

#54. STRUCTURAL ERROR: The police interview started immediately after arriving at St. Vincent's Hospital. Without a parole-hold's *Evans warning*, but with a criminal investigation's *Miranda warning*.

This was a complete denial of **Fifth**, **Eleventh** and **Fourteenth Amendment** rights and Wisconsin Constitution **Art. I § 7**, **8**, and **12**; **IN-BEING**: *Miranda rights* are rooted in **Wis. Con. Art. I § 8's** and the **Fifth Amendment's** protection against self-incrimination. Under a parole hold, the parolee is compelled to give a truthful statement. Wherewithal there are no personal rights against self-incrimination. This is a contractual violation under **Wis. Con. Art. I § 12** and the **Eleventh Amendment**. And using a warrantless parole search home invasion at gunpoint to commence criminal traffic investigations are **Fourteenth Amendment** and **Wis. Con. Art. I § 7** *due process* violations. These fundamental violations are akin to deprivations of *the right to self-representation at trial* and *the right to public trial*, cf. Waller, 467 U.S. 39 (1984), McKaskle, 465 U.S. 168, 177-178, n. 8 (1984).

4) There was an unholstered no knock entry into the residence's detached 4.5-stall garage for the warrantless seizures and arrest.

#45. PENNED-POINTER STRUCTURAL ERROR: There was an unholstered no knock entry into the residence's detached 4.5-stall garage. **#47. PINNED-POINTER STRUCTURAL ERROR**: Hammersley was arrested at gunpoint with an open beer in his hand, after a no-knock entry inside of Brumlic's garage. **#48. PINPOINT STRUCTURAL ERROR**: On October 17, 2008, Hammersley was arrested immediately, without warrants, on-sight (inside a private residential domicile over three-hours after he was involved in a single vehicle rollover accident) for a PROBATION-VIOLATION (of the no-drink clause, for: case no. 05CF361); AS: Being, that Hammersley was found at gunpoint with a beer in his hand.

There was a clear denial of **Fourth Amendment** rights and **Wis. Con. Art. I § 11**, under Castle-Doctrine, Payton, Steagald, Welsh, Collins, and Rodríguez, *supra*, the Announcement Rule **Wis. Stat. § 968.14** (2007-08) and State

v. Davis, 2000 WI 270. And without a lawful arrest under **Wis. Stat. § 968.10**, and no warrants under **Wis. Stats. § 968.12** and **968.13**.

5) Police knew Hammersley had 5-OWIs with a PAC .02 BAC restriction and that he was on probation and parole before making contact with him.

#22. PINPOINT STRUCTURAL ERROR: The DMV vehicle check informed police Hammersley had 5-OWIs with a PAC .02 BAC restriction and that he was on probation and parole. **#43. PINCH–POINT STRUCTURAL ERROR**: Before deputy Peterson arrived at Brumlic's place he knew about Hammersley's OWI record, PAC .02 BAC restriction and that he was on probation and parole.

The Government must concede that the 2008 indictment's 2005 parole sentence's no-drink violation and the PAC .02 BAC OWI restriction were newly formed crimes erroneously based on wrongful convictions; **OF-WHICH**: Indeed, rendered the State's case in chief clearly erroneous under the reasoning of Coss, 532 U.S. 394, 404-05, (2001), Tucker, *supra*, 404 U.S. 443, 449 (1972), Apprendi and Jones. There should have been a "***vacatur of*** [the 2005] ***sentence that was based in part on prior*** [denials of right to counsel and the 2008-2010 proceedings without the effective assistance of] ...***counsel***... [in these prior] ***state convictions***, under Coss, 532 U.S. 394, 404-05, (2001). **IN-EVEN**: This appellate opinion gives weight to dropping PAC .02 BAC OWI charge based on invalid prior convictions, *see* State v. [Fredrick] Scott, 2012 Wisc. App. Lexis 712.

The Government must concede that this error was plainly "***where the law at the time of trial was settled and clearly contrary to the law at the time of appeal[,] it is enough that an error be `plain' at the time of appellate consideration***," *see* Johnson, 520 U.S. 461 (1997), at 468. Hammersley has made out a "***substantial claim that the alleged error undermined the accuracy of the*** [2005 parole sentence, 2008 PAC .02 charge and conviction,] ***guilt*** [and/]***or sentencing determination***," under Smith, 477 U.S. 527, 539 (1986) and State v. Baker, 169 Wis. 2d 49, 61, 485 N.W.2d 237, 241 (1992). "***Burgett, Tucker and Loper establish that a conviction in violation of the right to counsel is too unreliable to*** [form the 2005 parole sentence, new 2008 PAC .02 BAC OWI crime,] ***show guilt or enhance punishment under a recidivist statute, to form the basis for an increased sentence***," *citing* U.S. v. Allen, 556 F.2d 720, 723 (4th Cir. 1977). The 2005 and 2008-2010 proceedings would "***have been different ... if the sentencing judge had known that at least two of the respondent's previous convictions had been unconstitutionally obtained***," *see* Tucker, 404 U.S. 443 (1972).

"***The evidence of materiality, however, was "overwhelming" and "essentially uncontroverted."*** Id., at 470. ... ***that there*** [i]***s*** "... ***basis for concluding that the error***[s] `***seriously affect[ed] the fairness, integrity or public reputation of*** [the 2005 and 2008-2010] ***judicial proceedings***,'" under Cotton, 535 U.S. 625 (2002), at 633. Hammersley "***is eligible for habeas relief ... because the record reflects that*** [Hammersley] ***is "actually innocent" of the enhanced sentence***[s] [and erroneous newly formed charges] ***he received***," cf. Maybeck, 23 F.3d at 893-94. ... ***Accordingly, the Frady "cause and prejudice" requirement does not bar the relief sought in*** [Hammersley's] ***instant petition***," *c*[f.] Mobley v. United States, 974 F.Supp. 553 (E.D. Va. 1997), at 558.

6) There was a complete defense of ENTRAPMENT.

#33. PINCH–POINT STRUCTURAL ERROR: Police working alongside Thomas Brumlic cancelled the inbound taxi. Hammersley was no longer free to leave Brumlic's residence and was then colorably in Brumlic's custody. **#42. FACT**: Officers were able to identify Hammersley, before they arrived at Brumlic's residence from Brumlic's 911-calls and Brumlic's description of Hammersley. In stating Hammersley was wearing one shoe, a t-shirt, blue jeans and went by Robert. **#40. STRUCTURAL ERROR**: Police knew Hammersley was permissibly drinking with the owner, before their warrantless arrival, no-knock entry at gunpoint, and on-sight parole-hold. **#43. PINCH–POINT STRUCTURAL ERROR**: Before deputy Peterson arrived at Brumlic's place he knew about Hammersley's OWI record, PAC .02 BAC restriction and that he was on probation and parole.

The entrapment violated the *due process clause* of the **Fourteenth Amendment** and **Wis. Const. Art. I § 1**, under Mathews, Jacobson, Sorrells, Russell, *supra*, and Nations, 764 F.2d 1073, 1080 (5th Cir. 1985). This also violated **Wis. Stat. § 972.085**, and **Wis. Const. Art. I § 7** and the **Sixth Amendment's "*opportunity to be heard***

[w]*i*[th] ***the right to `present a complete defense,'***" under Brown Cty. v. Shannon R., 2005 WI 160, 65, 286 Wis. 2d 278, 706 N.W.2d 269, in *quoting* Trombetta, 467 U.S. 479, 485, 104 S. Ct. 2528, 81 L.Ed.2d 413 (1984). That means the "***inquiry must here become more pointed, more focused.*** [Th]***e*** [court] ***must determine whether a proceeding in which the defendant is not afforded an opportunity to present his case may be fairly characterized as a "trial" capable of satisfying the demands of Mathews and Piper,***" under In Re SMH, 2019 WI 14, at 814.

7) Parole hold's warrantless forced gurney blood draw.

#67. SHOCKING STRUCTURAL ERROR: FORCED BLOOD DRAWS STRAPPED TO GURNEYS ARE NOT STANDARD WITH OBSTRUCTING GURNEY STRAPS [*OVER THE ANTECUBITAL VEIN*] AND MULTIPLE INSERTION POINTS FOR BLOOD EXTRACTION ABOVE THE HEART; MEDICALLY UN[*/*]U[*STIFIE*]D TECHNIQUES FOR DRAWING BLOOD FROM PAROLEES FROM AN UNAUTHORIZED UNSUPERVISED PHLEBOTOMIST. **#71. APPALLING STRUCTURAL ERROR**: The actual blood draw event was a prone face down hands behind the back strapped in head clasped gurney bound blood draw. That was conducted without a doctor supervising the lab technician, with the extraction point negligently above the heart and covered by obstructing gurney straps. Hammersley's body temperature moments later was borderline cold at 97.7.

There was a clear denial of **Fourth, Eighth** and **Eleventh Amendments** and **Wis. Const. Art. I § 6, 11**, and **12** rights under Welsh 466 U.S. 740 (1984), during a parole hold, without a lawful arrest under **Wis. Stat. § 968.10**, and no warrants under **Wis. Stats. § 968.12** and **968.13.**

This was not the administration of a blood "***test by a police officer, at the request and on behalf of a probation agent during a probation*** [hold at] ... ***the*** ... [hospital]**,** [this was not] ***for probation purposes and*** [definitely was]***for*** [the] ... ***independent police purpose, was*** [not] ***a probation search,*** ... [and was] ***a police search, and was*** [completely] [un]***lawful,***" under State v. Devries, 2012 WI App 119, 344 Wis. 2d 726, 824 N.W.2d 913. Warrantless police searches used under the guise of parole searches are prohibited, under State v. Bauer, 2010 WI App 93, 327 Wis. 2d 765, 787 N.W.2d 412. This "***is a question of constitutional fact to be reviewed in a 2-step review of historical and constitutional fact. A determination of reasonableness of the search must also be made. A search is reasonable if the probation officer has reasonable grounds to believe that the probationer has contraband. Cooperation with police officers does not change a probation search into a police search,***" under State v. Hajicek, 2001 WI 3, 240 Wis. 2d 349, 620 N.W.2d 781. The compelled seizures and coerced confessions [of innocence] touched rules of evidence, under Chambers, 309 U.S. 227 (1940).

8) Witness testified Hammersley had prior convictions.

#94. STRUCTURAL ERROR: During jury trial Kolinski admitted that Hammersley had prior convictions. **#95. Bischel; STRUCTURAL ERROR**: Hon. Bischel stated the mention of prior convictions was basically harmless error. Her reasoning was, that the PAC Charging Instrument is basely based on prior convictions and any informed jury must know that anyway. **#99. Bischel; STRUCTURAL ERROR**: Judge Bischel openly lied to the impaneled jury.

"***Burgett, Tucker and Loper establish that a conviction in violation of the right to counsel is too unreliable to*** [form the 2005 parole sentence used for seizure, to form the new 2008 PAC .02 BAC OWI crime,] ***show guilt or enhance punishment under a recidivist statute, to form the basis for an increased sentence,***" *citing* United States v. Allen, 556 F.2d 720, 723 (4th Cir. 1977).

"***The admission of a prior criminal conviction which is constitutionally infirm under the standards of*** Gideon v. Wainwright ***is inherently prejudicial and*** [any] ***instructions to disregard it***[,] [did not] ***ma***[k]***e the constitutional error "harmless beyond a reasonable doubt" within the meaning of***" Chapman, 386 U.S. 18 (1967), *citing* Burgett, 389 US 109 (1967), at 115. Failure to correctly instruct the jury on "***stri...k***[i]***n***[g]... ***consider***[ing] ***that testimony*** ... ***o***[f] ... ***prior drunk driving convictions. It*** [wa]***s*** [not] ***totally irrelevant. It*** [wa]***s totally ...material*** ... [It was not enough to simply say:] ***You cannot consider that testimony at all.*** ... **[IN-EVEN**: Her honor later stating this:] ***I fibbed to them also. I told them I have no idea whether he has any***

prior drunk driving convictions," was in violation of the **Fifth** and **Fourteenth Amendments, Wis. Const. Art. I § 1** and **8**, cf. Sullivan, 508 U.S. 275 (1993) and Victor, 511 U.S. 1, 5 (1994). Such instructions lack candor, are clearly disingenuous, confusing, and inherently Harmful Error.

9) Forged, Blood Test Results; PERJURIOUSLY used as ACCURATE.

#101. STRUCTURAL ERROR: Clearly "Forged," Blood Test Results; PERJURIOUSLY BEING USED AS ACCURATE. And **nos. 102, 109-121.**

The requirements for granting a new trial for newly discovered evidence are: "***(1) The evidence must have come to the moving party's knowledge after a trial;*** [Hammersley did not discover the underlying data charts until 8/2/2018.] ***(2) the moving party must not have been negligent in seeking to discover it;*** [The forged accuracy was wholly accepted by all of the responsible court officials. A 2014 request also, thwarted discovery.] ***(3) the evidence must be material to the issue;*** [The forged accuracy of the fatally flawed blood test results was used as *prima facie* evidence of guilt for two prison sentences and three convictions.] ***(4) the testimony must not be merely cumulative to the testimony which was introduced at trial;*** [The forged accuracy was perjuriously testified to in the expert reverse extrapolation testimony.] ***and (5) it must be reasonably probable that a different result would be reached on a new trial.*** [Exposing the forged accuracy would have led to excluding the blood test results and to further expose the gurney bound tortured blood extraction.]" Sheehan v. State, 65 Wis.2d 757, 768, 223 N.W.2d 600, 606 (1974); State v. Herfel, 49 Wis.2d 513, 521—22, 182 N.W.2d 232, 237 (1971). State v. Boyce, 75 Wis. 2d 452, 457, 249 N.W.2d 758, (1977), at 760-61.

There was a complete defense of FORGERY and PERJURY, under **Wis. Stat. § 972.085**, Immunity From Criminal Traffic and/or Parole Forfeiture Prosecution, and Under Mathews, Jacobson, *supra*, and Nations, 764 F.2d 1073, 1080 (5th Cir. 1985). The forged accuracy and perjured expert testimony violated the *due process clause* of the **Fourteenth Amendment** and **Wis. Con. Art. I § 1**. And was a complete denial of the right to a public trial under the **First** and **Sixth Amendments**, cf. Waller v. Georgia, 467 U.S. 39 (1984).

"***suppression of evidence favorable to the accused was itself sufficient to amount to a denial of due process***," 195 F. 2d, Id. at 820, under Napue, 360 U.S. 264, 269; and also, Alcorta, 355 U.S. 28; Wilde, 362 U.S. 607, cf. Durley, 351 U.S. 277, 285. **INTO-WHICH**: The Brady Court, "***held that suppression of material evidence justifies a new trial 'irrespective of the good faith or bad faith of the prosecution,'***" *see* American Bar Association, Project on Standards for Criminal Justice, Prosecution Function and the Defense Function **§ 3.11 (a)**, under Giglio, at 154. A reversal or acquittal is required for Hammersley; **AS**: ***"the false testimony... [did] ... in ... [every] reasonable likelihood ... affected the judgment of the jury ...***" in Hammersley's case, in violation of Napue, supra, at 271, under Giglio, at 154. "***the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in the case, including the*** [lab workers and witnesses]. ***But whether the prosecutor succeeds or fails in meeting this obligation, the prosecution's responsibility for failing to disclose known, favorable evidence rising to a material level of importance is inescapable,***" under Whitley, at 438.

The expert witness testimony was a perjury trap. Cases voiding convictions for perjury involved situations where the investigatory body was acting outside its lawful authority, under Monia, 317 U.S., at 439-440, 442; Scully, 225 F. 2d 113, 118 (CA2), cert. denied, 350 U.S. 897 (1955). **IN-BEING**: That "***Perjury is an obstruction of justice; its perpetration well may affect the dearest concerns of the parties before a tribunal,***" *citing* Noms, 300 U.S. 564 (1937), at 574. Convictions based on perjured testimony violate *due process*, under Giglio, 405 U.S. 150 (1972), Napue, 360 U.S. 264 (1959), Alcorta, 355 U.S. 28 (1957), and generally Annot, 11 A.L.R. 3d 1153 (1967).

"***Coram nobis also lies for a claim of prosecutorial impropriety***. ... ***The Taylor court observed that due process principles, raised by coram nobis charging prosecutorial misconduct, are not 'strictly limited to those situations in which the defendant has suffered arguable prejudice; ... [but also designed] to maintain public confidence in the administration of justice,'***" *citing* Korematsu, 584 F. Supp. 1406 (1984), at 1420.

10) The inconsistent testimony and omissions by the State's witnesses.

#10. STRUCTURAL ERROR: Both witnesses Cherovsky and Kolinski testified to traveling east on hwy 29 towards Kewaunee and both being approximately an 1/8-1/4 mile distance—10-20 seconds away. **BUT-FOR**: Being neither testifies to traveling behind the other and that Hammersley's event was unobstructed in-front of each of them, impossibly corresponding in the **same place** at the **same time**. **#11. STRUCTURAL ERROR**: Both witnesses Cherovsky and Kolinski testified to meeting Hammersley as he came out of the vehicle. **BUT-FOR**: Being neither testifies to having the other person nearby, impossibly corresponding in the **same place** at the **same time**. **#12. STRUCTURAL ERROR**: Both witnesses Cherovsky and Kolinski testified to being the person who called 911 with Kolinski's phone. **BUT-FOR**: Being that it is logical to assume that only Kolinski used his own phone. Neither testifies to having the other person nearby while speaking on the phone, impossibly corresponding in the **same place** at the **same time**. **#70. STRUCTURAL ERROR**: The Lab Assistant at St. Vincent Hospital HOLLY J. ALLEN AKA HOLLY J. VANDERLINDEN, fraudulently testified by stating the immobilized 4-minute gurney bound medically negligent blood draw was "the standard accepted technique for drawing blood". **#96. STRUCTURAL ERROR**: In the police reports and during jury trial, deputy Peterson misrepresented the medically improper forced gurney bound blood draw by completely omitting it.

The inconsistent testimony of the State's witnesses Kolinski and Cherovsky, with also the complete omission of the gurney bound blood extraction by the State's witnesses Peterson and Allen, were denials of the *confrontation clause*, in violation of **Wis. Const. Art. 1 § 7** and **U.S. Const. Sixth Amendment**. This was a Structural Error—the violation of the defendant's right to autonomy in the conduct of the State's witnesses.

IV. These aforementioned **Ten Structural Errors and/or Fundamental Errors** are serious fractional "***structural defects* in the constitution of the trial mechanism**[s], [along with all of the 121 admitted factual errors; of] ***which*** [these 10 Structural Errors and/or Fundamental Errors along with many more Reversable Errors, that may] ***defy analysis by "harmless-error" standards. The entire conduct of the trial from beginning to end is obviously affected by the absence of*** [the effective assistance of] ***counsel for a criminal defendant, just as it is by the presence on the bench of a judge who is not impartial. Since*** [the U.S. Supreme] [C]***our***[t's] ***decision in Chapman, other cases have added to the category of constitutional errors which are not subject to harmless error ...*** [corresponding with Hammersley's list] ***Each of these constitutional deprivations is a similar structural defect affecting the framework within which the trial proceeds, rather than simply an error in the trial process itself. "Without these basic protections, a criminal trial cannot reliably serve its function as a vehicle for determination of guilt or innocence, and no criminal punishment may be regarded as fundamentally fair,"*** under Rose v. Clark, 478 U.S., at 577-578, *see* Fulminante, 499 US 279 (1991), at 310.

These cognizable structural errors, indeed "***permeate***[d] ***the entire process***," under Nelson, 355 Wis. 2d 722, 849 N.W.2d 317. Upon this instant encounter with these structural errors, the court "***must reverse***," under Neder, 527 U.S. 1, 119 S. Ct. 1827 (1999). "***Errors of th***[e]***s***[e] ***type***[s] ***are so intrinsically harmful as to require automatic reversal without regard to their effect on the outcome***," *see* In Re SMH, 2019 WI 14, at 813.

V. **Wis. Stats. § 901.03(1)(a)(b)(4)** and **902.01(2)(a) (4-6)** are "***intended to afford a means for the prompt redress of miscarriages of justice***," cf. Wiborg, 163 U.S. 632, 658 (1896). These are Rules of Criminal Procedure that permit "***a criminal conviction to be overturned on direct appeal for "plain error"*** ... [*i.e.* the perjured testimonies, along with] ***the*** [erroneous PAC BAC .02 measurement, erroneous .0[85] BAC measurement, and erroneously stricken prior conviction testimony] ***jury instructions***, under Frady, 456 U.S. 152 (1982). "***It grants the courts of appeals the latitude to correct particularly egregious errors***," under Frady, 456 U.S. 152 (1982), at 163 and Atkinson, 297 U.S. 157 (1936).

WHEREFORE these "***trial***[s] [were] ***infected with error so "plain"*** [that] ***the*** [defense attorney,] ***trial judge and prosecutor were derelict in countenancing it.... The ... careful balancing of ... all trial participants to seek a fair and accurate trial ... that*** [this] ***obvious injustice*** [must now] ***be promptly redressed***," under

Frady, 456 U.S. 152 (1982), at 163, "***to serve the ends of justice*** ... ***to avoid a miscarriage of justice***," cf. Gerald, 624 F. 2d 1291, 1299 (CA5 1980) cert. denied, 450 U.S. 920 (1981); Also, under Monahan, 2018 WI 80.

II. RECAP - Within Hammersley's filed petition for review, he disavowed the appellate court's denial based in part on erroneous views that there was NO FACTS OF ERROR. Now the Wisconsin Supreme Court has "passed the buck," through its simplistic one sentence denial by its open promotion and enablement of complete victimhood and injustice.

OR-EVEN: The Wisconsin Supreme Court's *ex parte* denial "***[a]t the very least*** [did not] ***order the State to respond, a***[gai]***n... ... Under*** Coleman, ***"[t]he State has the burden of proof in regard to all the elements of its*** [no] [f]***a***[ct]***s defense" therefore "the court of appeals*** [and Wisconsin Supreme Court] ***erred when it assumed*** [i]***t...s prejudic***[ial] [stance] ***by*** [rejecting all of] [Ha]***m***[mersley]***'s*** [past UNHEARD, inconsistently ruled on and/or *erroneously* ruled on arguments or the appearance of an] ***unreasonable delay***." Coleman, 290 Wis. 2d 352, ***The*** [Wisconsin Supreme] ***court of appeals did in fact deny the motion ex parte without a response from the State, and*** [under] Lopez-Quintero [this necessitates] ***petition***[ing] ***this*** [higher] ***court for review, which w***[as] ***granted*** [afore unto Lopez-Quintero]," *see* Lopez-Quintero, 2019 WI 58, at 485.

III. ANALYSIS

A. In "***th***[e] ***case*** [of Lopez-Quintero, 2019 WI 58,] ***resolve***[d] ***whether the*** [Wisconsin Supreme] ***court of appeals may deny an otherwise sufficiently pled habeas petition ex parte, without a hearing or a response from the State, solely because the*** [Wisconsin Supreme] ***court of appeals deems it to be un***[wor]***t***[h]***y***[.] [When the truth of the matter is that the each court has either *erroneously* ruled or has never *meaningfully* heard these **new grounds** and **presented constitutional issues**]. [Th]***e*** [Wisconsin Supreme Court INDEED has] ***h***[e]***ld that the court of appeals may not deny a habeas petition ex parte on the ground the petitioner failed to demonstrate he sought relief in a prompt and speedy manner*** [and/or UNHEARD **new grounds**

and **presented constitutional issues**]. ... ***Any equitable concerns regarding*** [the] ***substantial ... Standard of Review***[;] [Th]***e*** [U.S. Supreme Court INDEED] ***review***[s] ***the legal issues arising out of a habeas petition independently.*** Coleman, 290 Wis. 2d 352. ***This case requires ... interpret***[ing] **Wis. Stat. § *(Rule)* [974.]0[6]** [and uncodified since the 60's a coram nobis petition]**, *which presents a question of law*** [and fact], *see* State v. Ziegler, 2012 WI 73, 37, 342 Wis. 2d 256, 816 N.W.2d 238, cf. Lopez-Quintero, 2019 WI 58, at 485.

B. "***General Legal Principles*** ... ***"A petition for writ of habeas corpus*** and/or the] [**Wis. Stats. § 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26**, and **974.06**/*Coram Nobis* filings'] ***commence***[d] [the] ... ***civil proceeding wherein the petitioner*** [Hammersley has, in-fact,] ***claim***[ed] [m]***an***[y] [substantial] ***illegal denial***[s] ***of his ... liberty."*** Coleman, 290 Wis. 2d 352, ***Often referred to as the "Great Writ," habeas corpus "indisputably holds an honored position in our jurisprudence."*** Engle, 456 U.S., 126 (1982). ***Its roots spring from English common law, and "its availability is guaranteed by the U.S. Constitution, the Wisconsin Constitution, and by state and federal statute."*** State ex rel. Marberry v. Macht, 2003 WI 79, 22, 262 Wis. 2d 720, 665 N.W.2d 155, *see* State ex rel. Haas v. McReynolds, 2002 WI 43, 11, 252 Wis. 2d 133, 643 N.W.2d 771); State ex rel. L'Minggio v. Gamble, 2003 WI 82, 17, 263 Wis. 2d 55, 667 N.W.2d 1; **Wis. Stat. § 782.01(1)** ***("Every person restrained of personal liberty may prosecute a writ of habeas corpus to obtain relief from such restraint subject to [Wis. Stat. §§] 782.02 and 974.06*** [along with the **Wis. Stats. § 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26**, and *coram nobis* filings]***"). The Great Writ constitutes "a bulwark against convictions that violate 'fundamental fairness.'"*** Engle, 456 U.S., 126. ***Founded on principles of equity, habeas corpus "test[s] the right of a person to his personal liberty."*** Marberry, 262 Wis. 2d 720, 22. ***"The purpose of the writ is to protect and vindicate the petitioner's right to be free from illegal restraint.""*** cf. Lopez-Quintero, 2019 WI 58, at 486.

Under Zdanczewicz v. Snyder, 131 Wis. 2d 147, 151, 388 N.W.2d 612 (1986), ***"Its function is to provide a prompt and effective judicial remedy to those who are illegally restrained of their***

personal liberty." State ex rel. Wohlfahrt v. Bodette, 95 Wis. 2d 130, 133, 289 N.W.2d 366 (Ct. App. 1980). ... [Hammersley, the] ***party seeking habeas relief*** [ha]***s***... ***be***[en] ***restrained of his liberty and*** [has] ***"show***[n] ***that the restraint was imposed by a body without jurisdiction or that the restraint was imposed contrary to constitutional protections."*** Haas, 252 Wis. 2d 133, 12. ***Additionally,*** [Hammersley] ... "[ha]***s***... ***show***[n] ***that there was no other adequate remedy available in the law***"; *see* also Waley v. Johnston, 316 U.S. 101, 105 (1942) (***extending the use of the writ "to those exceptional cases where the conviction has been in disregard of the constitutional rights of the accused, and where the writ is the only effective means of preserving his rights."***)."" cf. Lopez-Quintero, 2019 WI 58, at 486.

However, contrary to the ruling of Marberry, 262 Wis. 2d 720, 23, 25, 665 N.W.2d 155, "***[t]he extraordinary relief provided by the writ of habeas corpus is available only in limited circumstances," and the writ "does not issue as a right.***" There is a statutory authority for liable consequence $1,000 indemnity to be applied under **Wis. Stat. § 782.09.** "[I]***ts availability is guaranteed by the U.S. Constitution, the Wisconsin Constitution, and by state and federal statute."*** State ex rel. Marberry v. Macht, 2003 WI 79, 22, 262 Wis. 2d 720, 665 N.W.2d 155, *see* State ex rel. Haas v. McReynolds, 2002 WI 43, 11, 252 Wis. 2d 133, 643 N.W.2d 771); State ex rel. L'Minggio v. Gamble, 2003 WI 82, 17, 263 Wis. 2d 55, 667 N.W.2d 1. There is a constitutional basis enshrined in both State and federal constrictions that quite literally mean there is a right, under **Wis. Const. Art. I § 8, 9, 9m** and **Federal Const. Article I, Section 9, Clause 2**, states:

"The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it."

"Ultimately, "the burden [wa]***s*** [sufficiently presented by] ***the petitioner ... to demonstrate by a preponderance of the evidence that his detention***[s] [pa]***s***[t] [and present were absolutely] ***illegal*** [and thusly the burden should have shifted back to the State; **IN-BEING**: That Prosecutorial Misconduct is automatically conveyed with the 2008 and 2018 fatally flawed blood tests along with

the perjured blood chain gang testimonials and the Burden of Proof Shifts back to the State, under the harmful error's effectuation]," *see* State ex rel. Hager v. Marten, 226 Wis. 2d 687, 694, 594 N.W.2d 791 (1999), cf. Lopez-Quintero, 2019 WI 58, at 486, cf. Korematsu, 584 F. Supp. 1406 (1984), at 1420.

The "***habeas petition***[s] ***filed in*** the [Wisconsin Brown County circuit court,] ***court of appeals*** [and Wisconsin Supreme Court] ***under*** **Wis. Stat[s]. [§ 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26**, and **974.06**/*coram nobis* for Postconviction Motioning] "[INDEED] ... ***contain***[ed] ***a statement of the legal issues and a sufficient statement of facts that bear on those legal issues, which if found to be true, would entitle the petitioner to relief.***" Coleman, 290 Wis. 2d 352, 18. ***The***[se] ***statute***[s] [basically] ***provide***[-the-main-thru]***s***[t-that]***: (1) A person may request the court to exercise its supervisory jurisdiction or its original jurisdiction to issue a prerogative writ over a court and the presiding judge, or other person or body, by filing a petition and supporting memorandum. ... The petition shall contain: (a) A statement of the issues presented by the controversy; (b) A statement of the facts necessary to an understanding of the issues; (c) The relief sought; and (d) The reasons why the court should take jurisdiction.***" cf. Lopez-Quintero, 2019 WI 58, at 487. Hammersley has met and exceeded the criteria with every filing since the initial December, 2018, *john doe* investigation request, throughout the 12-13-2019 **974.06** filing, on-*towards* the petition for review in appeal nos. 2020AP837-838, et al.

The Wisconsin Supreme Court ruled *ex parte*; **AS-FOR**: Being that "***the State***['s] [representative – AG's Office] ***bears the burden to raise and prove all elements of the d***[i]***s***[missal], Id., ***2. The*** ... ***issue presented is whether the*** [Wisconsin Supreme] ***court of appeals may deny a habeas petition ex parte*** [by absolute discrimination through enabling, enforcing and promoting *miscarriages of justice*, punitive *ex post facto* laws, entrapment, perjury, forgery, and judicial belligerence] ***for the petitioner's failure to*** [get] [reli]***e***[f] ***that his claim was brought in a timely manner.*** [Th]***e*** [U.S. Supreme Court must] ***conclude it may not.*** [Hammersley's] ***habeas petition was sufficiently*** [bri]***e***[fe]***d in accordance with the statutory prescriptions. The petition contained a***

"statement of the legal issues and a sufficient statement of facts [bearing] *on those legal issues, which if found to be true, would entitle* ... [Hammersley] *to relief,"* Coleman, 290 Wis. 2d 352, Lopez-Quintero, 2019 WI 58, at 488, under Frady, 456 U.S. 152 (1982), at 163 and Atkinson, 297 U.S. 157 (1936), at 160. The Wisconsin court system is delinquent in its administration of justice.

Hammersley's petition alleged that he repeatedly communicated his desire to seek postconviction relief by indicating his intent "to seek postconviction relief" on the Notice of Right to Seek Postconviction Relief form, twice, once in 2009 during the parole resentencing hearing and after the convictions in 2010 to which his trial attorneys also signed, *"explicitly acknowledging the attorney's "duty to file the Notice ... of Intent to Pursue Postconviction Relief," see* **Wis. Stat. § 973.18(5)** *(explaining that "[i]f the defendant desires to pursue postconviction relief, the defendant's trial counsel shall file" the notice of intent to pursue postconviction relief). The petition*[ing] *further alleges that he relied on his attorneys to file the notice of intent to pursue postconviction relief, which is a precondition to pursuing an appeal, see* **Wis. Stat. § ... 809.30(2)(a)-(b)**. [Hammersley]*'s a*[ppellate-][a]*ttorney*... [Jefren Olsen, twice] *failed to* [meaningfully pursue appeal with no action in 2009 and a no merit report in 2012] ..., *depriving* [Ham]*m*[ersley] *of any* [meaningful] *opportunity to appeal.* [Appellate] ... *counsel's "failure to perfect an appeal when the defendant has indicated a desire to appeal constitutes* [a continuation of the] *ineffective assistance of counsel* [during resentencing, trial and on both appeals]*," see* State ex rel. Flores v. State, 183 Wis. 2d 587, 615, 516 N.W.2d 362 (1994), cf. Lopez-Quintero, 2019 WI 58, at 489.

"Whenever ineffective assistance of counsel results in the "complete denial of [two meaningful] *appeal*[s]*, prejudice is presumed,"* Id. at 620; *see* also Garza v. Idaho, 139 S. Ct. 738, 744 (2019) ... *"prejudice is presumed 'when counsel's constitutionally deficient performance deprives a defendant of an appeal that he otherwise would have taken'" quoting* Roe v. Flores-Ortega, 528 U.S. 470, 484 (2000)); Flores-Ortega, 528 U.S. at 477 ... *explain*[s] *that "... a lawyer who disregards specific instructions from the defendant to file a notice of appeal* [and/or fails to

present certain prevalent specifically instructed constitutional challenges] ***acts in a manner that is professionally unreasonable," and "'[w]hen counsel fails to file a requested appeal, a defendant is entitled to [a new] appeal without showing that his appeal would likely have had merit'"; "Actual or constructive denial of the assistance of counsel altogether is legally presumed to result in prejudice,"*** Strickland, 466 U.S. 668, 692 (1984); ***(explaining that "[i]f the defendant told his*** [appellate] ***lawyer to appeal*** [the 2009 resentencing's sentence], ***and the lawyer dropped the ball, then*** [and after the 2010 convictions Jefren Olsen would not challenge the 2003 uncounseled DUI conviction relied upon for the 2009 resentencing and 2010 sentencing; ALONGSIDE unheard claims of factual and actual innocence,] ***the defendant has been deprived, not*** [only] ***of effective assistance of*** [trial] ***counsel, but of any*** [meaningfully effective] ***assistance of counsel on appeal," which is a "per se violation of the sixth amendment"*** *see* Castellanos v. U.S., 26 F.3d 717, 718 (7th Cir. 1994); "***Because a habeas petitioner need not plead that his petition was filed in a timely manner,*** [**TO-WIT**: "***a postconviction motion under 974.06 section is not subject to the time limits set forth in s. 809.30 or 973.19***," State v. Nickel, 2010 WI App 161, 330 Wis. 2d 750, 794 N.W.2d 765; nor should the petitioner have to plea that these issues were not meaningfully brought on a previous appeal]. [Th]***e*** [U.S. Supreme Court INDEED must] ***reverse the*** [Wisconsin Supreme] ***court of appeals' decision denying*** [Hammersley's petition likened unto] Lopez-Quintero's ***statutorily-compliant petition and remand for further proceedings,***" cf. Lopez-Quintero, 2019 WI 58, at 489.

Wis. Stats. § (Rules) 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26, and 974.06/*coram nobis* for Postconviction Motioning (cf. *also with* ***§ 809.51***) - do not impose any deadline within which a petitioner must bring a *habeas* petition. Th e Wisconsin Supreme Court, INDEED, has already implicitly recognized the absence of a statutory time limit in Coleman, *see* also, State v. Nickel, 2010 WI App 161, 330 Wis. 2d 750, 794 N.W.2d 765. The Coleman Court, in-fact, has explained "***that, in this respect, Wisconsin's rules on state habeas claims differ from the federal rules, which provide that relief "is available to a state prisoner for only one year after the state conviction becomes***

final," *see* Coleman, 290 Wis. 2d 352, 24 n.5. "***Wisconsin's rules contain no such limit***," cf. Lopez-Quintero, 2019 WI 58, at fn. 11.

C. CONCLUSION, There is clear and persistent evidence of inconsistent rulings in violation of **Wis. SCR 60**, the Wisconsin Supreme Court INDEED has "***h***[e]***ld that neither*** [**Wis. Stats. § (Rules) 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26,** and **974.06**/*coram nobis* **for Postconviction Motioning**, cf. also with] ***Wis. Stat. § (Rule) 809.51 nor equity imposes a "prompt and speedy" pleading requirement in the filing of a petition for habeas corpus.*** [Although, there is precedent for a SPEEDIER and/or IMMEDIATE RELEASE, under Preiser, 411 U.S. 475 (1973), holding: "***When a state prisoner challenges the fact or duration of his physical imprisonment and, by way of relief, seeks a*** [PRE]***determination that he is entitled to immediate release or a speedier release, his sole federal remedy is a writ of habeas corpus.***" Pp. 411 U. S. 488-499.] ***The equitable defense of laches exists to address any prejudice to the State caused by a petitioner's unreasonable delay in the filing of a habeas petition. A habeas petition may not be denied ex parte*** [by the Wisconsin Supreme Court] ***solely because the petitioner failed to assert and demonstrate he sought relief in a "prompt and speedy" manner. Instead, the State bears the burden to raise laches*** [and/or anything else] ***as a defense and prove (1) unreasonable delay, (2) lack of knowledge that the petitioner would bring a habeas claim, and (3) resulting prejudice. The State did not do so here because the*** [Wisconsin Supreme] ***court of appeals erred in denying the petition ex parte without giving the State the opportunity to respond and prove laches*** [and/or **no factual errors**]. [Th]***e*** [Wisconsin Supreme Court INDEED must] ***recognize that "habeas corpus should ... be 'made the instrument for re-determining the merits of ... cases in the legal system that have ended in*** [wrongful] ***detention***[s;] [**AS-FOR**: Being these wrongful convictions were *miscarriages of justice* that are currently being used to lower elementary thresholds and to support guilt in the *ex post facto* charge/law of the .02 PAC restriction violating Scott, 440 U.S. 367 (1979); Argersinger, 407 U.S. 25 (1972); Baldasar, 446 U.S. 222 (1980); Burgett, 389 U.S. 109 (1967); Townsend, 334 U.S. 736 (1948);

Tucker, 404 U.S. 443 (1972); Birchfield, 579 U.S. __ (2016); Carmell, 529 U.S. 513 (2000); Burgess, 97 U.S. 381 (1878); and Calder, 3 U.S. 386 (1798),]'" cf. Rose, 443 U.S. 545, 581 (1979), cf. Lopez-Quintero, 2019 WI 58, at 490.

The decision now, must be a narrow one, seemingly without assessing of the merits of Hammersley's petition, much less the merits of his appeal should the highest court of appeals in the land, reinstate his appellate deadlines and/or finally order relief; It is sufficient to solely recognize his right to have his statutorily-compliant petition considered without the court of appeals imposing a non-existent timeliness and ignoring the factual and actual innocence's UNHEARD arguments. The court has always stated a time limit and/or legal error as the basis for past dismissals. TIME and/or UNHEARD ARGUMENTS cannot form the basis for denying the petition *ex parte*. Accordingly, The U.S. Supreme Court INDEED must reverse the Wisconsin Supreme Court's *ex parte* decision denying Hammersley's **Wis. Stats. § (Rules) 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26,** and **974.06**/*coram nobis* **for Postconviction Motioning**, for *habeas corpus* typified relief and remand to the Wisconsin court of appeals for further proceedings, cf. Lopez-Quintero, 2019 WI 58, at 495.

There is precedence for the "***[r]eview***[al] ***of existing judgments," which includes claims of ineffective assistance of appellate counsel. ... it may vacate the judgment of conviction and reenter it, allowing the defendant a new appeal. On occasion, stated the court of appeals, ineffective assistance of appellate*** [and trial] ***counsel may justify a new trial,"*** *see* Page v. U.S., 884 F.2d 300 (7th Cir. 1989), at 302. The courts in Page and Sullivan concluded that trial courts are better forums to hear a claim of ineffective assistance of appellate and/or trial counsel, *see* Page, 884 F.2d at 302; Sullivan, 371 A.2d at 474-75. These courts concluded that a motion to the trial court for postconviction relief is not suitable for a defendant's claim of ineffective assistance of appellate counsel: Feldman v. Henman, 815 F.2d 1318, 1321 (9th Cir. 1987); Hemphill v. State, 566 S.W.2d 200, 208 (Mo. 1978). Although, if the Wisconsin Brown County trial court concludes that the claim of

ineffective assistance of counsel is meritorious, the trial court proceeding results in an order setting aside the appellate decision, not in an order setting aside the trial proceedings.

These courts also conclude that from the standpoint of institutional capability, the appellate court that rendered the decision in the appeal is in the best position to evaluate claims of ineffective assistance of appellate counsel. The Wisconsin state appellate court district III heard the initial appeal and may best judge the conduct of appellate counsel Olsen, cf. Hemphill, 566 S.W.2d at 208.

IV. ETHICS MEMORANDUM IN SUPPORT OF PETITION/GRIEVANCES' MERITS

Hammersley will specify within the following details of what constitutes misconduct or indicates disability. Regarding the appended 11-16-2022 decision for Case nos. 2005CF361, 2008CF1114 and 2018CF407: The honors continue to delegitimize normative policework and parole-rules, ALONGSIDE the wholesale promotion and/or enablement of the punitive *ex post facto* Implied Consent and PAC .02 OWI restriction laws, woefully wrongful convictions/presentence (2005CF361, 2008CF1114 and 2018CF407), entrapment, government misconduct, and victimhood. This is clear-cut misconduct, partiality, and discrimination in ethical violation of **SCR 60.**

Hammersley screams vehemently likened as unto what the great prophets John the Baptist and Isaiah, exclaimed: "***I am the voice of one crying in the wilderness***, (John 1:23, KJV Bible), ***Make straight the way of the L***[aw], ***The voice of him that crieth in the wilderness, Prepare ye the way of the L***[aw], ***make straight in the desert a highway for our Go***[o]***d***. ... ***and the crooked shall be made straight, and the rough places plain: And the glory of the L***[aw] ***shall be revealed*** (cf. Isaiah 40:3-5, KJV Bible). There has to be a means of challenging these punitive *ex post facto* Implied Consent and PAC .02 restriction laws, alongside these wrongful convictions' *miscarriage of justice* continuing usage - procreating more *miscarriages of justice*. Simply IGNORING the Law must STOP.

A. TO-REEMPHASIZE:

I. The Wisconsin Supreme Court has failed again to overrule the lower courts' *clearly erroneous* decisions. This last above mentioned 11-16-2022 egregious denial was of a Petition For Review of a *Habeas Corpus* denial pertaining case nos. 2005CF361, 2008CF1114 and 2018CF407.

II. The Wisconsin Supreme Court has failed again to overrule the lower courts' *clearly erroneous* prior decisions without stating any reasoning why it was taking no action. Thusly, by taking no action, the Wisconsin Supreme court was acting *ex parte* in opposition and contrary to established rights, constitutional forbearances, codified precepts and obligatory guideposts.

III. The Wisconsin Appellate and Brown County courts have ruled repeatedly that Hammersley is simply out of time. The Appellate and Brown County courts have ruled that they cannot consider postconviction legal errors and somehow consider everything as a legal error without any distinguishment nor delineation between a factual error and legal error. **TO-WIT**: ***"a postconviction motion under 974.06 section is not subject to the time limits set forth in s.* 809.30 *or* 973.19**," State v. Nickel, 2010 WI App 161, 330 Wis. 2d 750, 794 N.W.2d 765; **BUT-FOR**: Being that the recent **Wis. Stats. § 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26**, and **974.06**/*coram nobis* for Postconviction Motioning *habeas corpus* Petition denial, the Wisconsin Supreme court's *ex parte* decision opined simply that Hammersley was denied. **INTO-WHICH**: Hammersley has EVEN had an appellate attorney for both appeals taken after the 2008 arrest's resentence and convictions; **FROM-WHICH: Being every denial from the appeals court classified everything as either a legal error and/or untimely and would not entertain anything-EVER**; **BUT-FOR**: Being that a *Habeas Corpus* typified motion with newly discovered evidence allows the court to finally entertain FACTUAL ERRORS and cannot be untimely; **IN-OTHERWARDS**: There is no more *escape goat* for the appeals court to hide behind, now that they have venomously failed again to do their sworn duty with yet another *clearly erroneous* decision; **TO-WIT**: ***"Sentence modification and postconviction relief under* [974.06/782/809.51] *... are separate proceedings such that filing one does not result in a waiver of the other.***" State v. Melton, 2013 WI 65, 349 Wis. 2d 48, 834 N.W.2d 345.

There can be no excuse for these courts not to recognize the **long laundry list of meritorious issues**. There is no perceivable precedent for judges to knowingly act and rule contrary to well established and settled law. In this instance the honors enabled the pure evil of entrapment, fraud and perjury 2008-2010 alongside of the 2009-2010 wrongful convictions' continued usage in 2018 and disavowed factual innocence, actual innocence, challenges to the preexisting *ex post facto* Implied Consent/PAC .02 Laws, and newly discovered evidence throughout their **constitutional failure to act** and the prior partisan published recorder - untruthfully stating that any of Hammersley's arguments were ever HEARD within any meaningful *john doe* investigation and/or rightful determination opining substantive reasoning. These issues have not been HEARD. This is clear-cut misconduct, partiality, and discrimination based on socioeconomic, pro se and/or prisoner classified conditions in ethical violation of **SCR 60** and violating all of the rights surrounding filing a *habeas corpus* petition. This is colorable for $1,000 indemnity to be applied multiple times to each judicial official under **Wis. Const. Art. I § 8, 9, 9m** and **Wis. Stat. § 782.09**. And this indemnification is quite possibly transferable to the Wisconsin judicial commission oversight perfunctory agents' continued misgovernance and misguided oversight.

B. Here are the main points:

1. These Courts and officials, have all unanimously denied - all *john doe* investigation requests and transversely all Postconviction procedure; **IN-BEING**: Hammersley has satisfied the same typified filing requirements for **Wis. Stats. § 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26, and 974.06/*coram nobis* for Postconviction Motioning. 974.06(1)** After the time for appeal or postconviction remedy provided in **s. 974.02** had expired a-prisoner-like-Hammersley in bail custody under the pretrial sentence of the Brown County court and a person wrongfully convicted 6 times of OWI whom was placed under the *clearly erroneous* and unconstitutional PAC .02 prohibition restriction implemented through Wisconsin DOT Authority. Whom now claiming the right to be released upon the grounds that the 2018+2008 PAC arrests, 2009-2010 convictions and 2018 PRE-

sentence were imposed in violation of the U.S. constitution and the constitution and laws of the state of Wisconsin, that the Brown County court was without jurisdiction to impose such sentences under the *ex post facto* Implied Consent and PAC .02 OWI laws, that the sentences were in excess of the maximum authorized by law, that the sentences were unauthorized by law and were otherwise subject to collateral attack. 2018-*Ongoing*, Hammersley has moved the Brown County and appellate courts for an investigation into the government misconduct 2008-2010 and 2018 and/or to vacate, set aside or correct the 2005 & 2009-2010 wrongful convictions and 2018 unlawful presentence.

TO-WIT: UNDER **974.06(2) - A motion for such relief is a part of the original criminal action, is not a separate proceeding and may be made at any time**. Coalescing with **Wis. Stat. § (Rule) 809.51** of which also does not impose any deadline within which a petitioner must bring a *habeas* petition. The Wisconsin Supreme Court, INDEED, has already implicitly recognized the absence of a statutory time limit in Coleman. The Wisconsin Supreme Court, in-fact, has explained ***"that, in this respect, Wisconsin's rules on state habeas claims differ from the federal rules, which provide that relief "is available to a state prisoner for only one year after the state conviction becomes final,"*** *see* Coleman, 290 Wis. 2d 352, 24 n.5. ***"Wisconsin's rules contain no such limit,"*** cf. Lopez-Quintero, 2019 WI 58, at fn. 11.

The supreme court may prescribe the form of the motion. **IN-EVEN**: The appellate court's final decision prior to the last 11-16-2022 decision, was a denial based on: **no appellate attorney** and **no 809 extension of appellate time motioning**. WHEN-In-fact, Hammersley did have an appellate attorney for the direct appeals of the 2009 resentencing and 2010 convictions.

Under **974.06(3)**, the motion and the files and records of the action INDEED conclusively show that Hammersley was entitled to relief; **BUT-FOR**: Being that the lower Brown County court did deny the seemingly UNHEARD *john doe* and/or **974.06** motion. The appeals court subsequently

denied the **Wis. Stats. § 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26**, and **974.06**/*coram nobis* for Postconviction relief appellate motioning. The trial court and the appellate court failed to:

1. Cause a copy of the notice to be served upon the district attorney who shall file a written response within the time prescribed by the court, under **974.06(3)(a)** and **Wis. Stats. § 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26, *coram nobis* for Postconviction Motioning**.

2. It appeared that counsel was necessary with even scientific issues surrounding the new evidence of the 2008 fatally flawed blood test and Hammersley did claim to be indigent, but the Brown County and Appeals court did not issue any referral to the state public defender for an indigency determination and appointment of counsel under **ch. 977**, under **974.06(3)(b)**.

3. The Brown County Court nor the appellate courts did not Grant any hearings, under **974.06(3)(c)** and **Wis. Stats. § 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26**, *coram nobis* for Postconviction Motioning.

4. No court has ruled any meritorious determination as to the real issues and made findings of fact without negative treatment and inconsistent conclusions of law. No court has ever sought to find that these judgments were rendered without jurisdiction, nor has any court sought that the sentence imposed was not authorized by law nor has any court otherwise reopened the 2005, 2009 and 2010 convictions and/or 2018 PRE-sentence to collateral attack, there have been such denials and infringements of Hammersley's constitutional rights as to render these wrongful judgments vulnerable to collateral attack ***"[o]n account of these 'collateral consequences'"*** of these convictions, his case was "***not moot***," under Ginsberg v. New York, 390 U.S. 629. The Brown County, Appellate, and Supreme courts have not vacated and set aside the 2005, 2009 and 2010 judgments and Hammersley has not been discharged nor has Hammersley been resentenced nor has Hammersley been granted a new trial nor has there been any remedy to correct the wrongful

sentences nor correct the wrongful 2018 presentence as may appear appropriate, under **974.06(3)(d)** and **Wis. Stats. § 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26**, and *coram nobis.*

Almost 95% of the newly presented grounds for relief available and stated under **974.06(4)** and **809.51(1)(a-d)** have not been raised in the original, supplemental or amended motioning, nor have ever been actually adjudicated. Because any ground previously UNHEARD or erroneously adjudicated or not so raised, or unknowingly, involuntarily and unintelligently waived in the proceeding that resulted in the 6 prior wrongful OWI convictions or sentences or in any other proceeding that Hammersley has taken to secure relief, may be the basis for a subsequent motion, under Sawyer, *supra*, meeting both factual and actual innocence thresholds. The court must find more than one ground for relief asserted for which sufficient reason was not asserted, was UNHEARD or was inadequately raised and/or was not opined or incorrectly reasoned in the original, supplemental or amended motioning.

Any of these courts - should have entertained and made an actual proper determination for the postconviction motioning. The postconviction motioning should have been heard, likened under **s. 807.13**, *see* **974.06(5), 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26**, and *coram nobis.* Hammersley has met civil standards of *burden of proof* in both the *john doe* requests, and the postconviction motioning for: **1)** PRESENTED empirical EVIDENCE of the invalid usage of the 2003 set-aside conviction and 1995 refusal as FACTUAL INNOCENCE; **2)** PRESENTED AUTHENTIC EXCULPATORY EVIDENCE OF THE FATALLY FLAWED CHROMATOGRAMS as uninvestigated FACTUAL INNOCENCE; **3)** PRESENTED AUTHENTIC EXCULPATORY EVIDENCE OF THE NOW TRANSCRIBED 2008 POLICE AUDIO RECORDING as uninvestigated ACTUAL INNOCENCE OF ENTRAPMENT AND PERJURY; **4)** PRESENTED AUTHENTIC EXCULPATORY EVIDENCE OF THE FATALLY FLAWED CHROMATOGRAMS THAT WERE USED FOR THE PERJURED JURY TRIAL EXPERT WITNESS TESTIMONY as uninvestigated ACTUAL INNOCENCE; **5)** Using a warrantless parole search

continued into a criminal OWI investigation presents a CONSTITUTIONAL QUESTION, *see* **974.06(6), 809.51(1)(a-d), 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26,** and *coram nobis.*

There have been no *meaningful* appeals taken from any order entered on any postconviction motioning nor from the final judgments or 2018-*ongoing* presentence, cf. **974.06(7)** and **809.51(1).**

Hammersley has been completely UNHEARD while petitioning for an investigation into government misconduct and *writ of habeas corpus* or any of these typified actions seeking that remedy on behalf of himself. **OF-WHOM**: Hammersley was authorized to apply for relief by motion under **974.06**. And it has become a holistic infirm systemic failure; **IN-WHICH**: Inaction and *clearly erroneous* decisions have ruled the day; **BUT-FOR**: Being this petition must be entertained from the clear appearance that, the applicant has applied for relief, by motion, to the Brown County court which was the sentencing court; **IN-BEING**: That the Brown County court has denied the renewed postconviction investigation requests and any wrongful conviction relief, it also appears that the remedy by motion was INDEED adequate and/or effective to test the legality of the past and current detentions, *see* **974.06(8)** and **809.51(1)(a-d).**

IN-EVEN, these listed caselaw under **974.06** annotated completely support the position of using **974.06**/or-**901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26,** and *coram nobis* petitioning:

A. The 2005 "***guilty plea can be withdrawn as a matter of right if it is established that: 1) there was a violation of a relevant constitutional right; 2) the violation caused the defendant to plead guilty; and 3) at the time of the guilty plea the defendant was unaware of potential constitutional challenges to the prosecution's case because of that violation***." State v. Carlson, 48 Wis. 2d 222, 179 N.W.2d 851 (1970).
B. "***The complete failure to produce any*** [unflawed] ***evidence could be reached*** ... [under **974.06**], ***because*** [the 1995, 2003, 2005, 2009-2010] ***conviction***[s] [were] ***without evidence of guilt*** [and] ***w***[er]***e a denial of due process***." Weber v. State, 59 Wis. 2d 371, 208 N.W.2d 396 (1973).
C. "***The failure to establish a factual basis for a guilty plea*** [in 2005 and 2009 and/or guilty verdicts 2009-2010 are] ... ***of constitutional dimensions and*** [are] ... ***the type of error that can be reached by a*** [postconviction] ***motion under*** Loop v. State, 65 Wis. 2d 499, 222 N.W.2d 694 (1974).

D. "***Procedures made applicable by the postconviction relief statute shall be the exclusive procedure utilized to seek correction of an allegedly unlawful sentence***." Spannuth v. State, 70 Wis. 2d 362, 234 N.W.2d 79 (1975).

E. "***A court should permit post sentencing withdrawal of a guilty or no contest plea*** [in 2005 and 2009 and/or to set aside the 2009-2010 guilty verdicts] ... ***to correct a "manifest injustice.***"' State v. Krieger, 163 Wis. 2d 241, 471 N.W.2d 599 (Ct. App. 1991).

F. "***Section 973.13 commands that all sentences in excess of that authorized by law be declared void, including the repeater portion of a sentence. Prior postconviction motions that failed to challenge the validity of the sentence do not bar seeking relief from faulty repeater sentences.***" State v. Flowers, 221 Wis. 2d 20, 586 N.W.2d 175 (Ct. App. 1998). Hammersley has PRESENTED empirical EVIDENCE of the invalid usage of the uncounseled 2003 vacated judgement of guilt DUI conviction and 1995 refusal in creating faulty FELONY repeater sentences 2005-*ongoing*.

G. The Brown County trial court and/or then the appeals court had a duty "***to correct obvious errors in sentences when it*** [wa]***s clear that a good faith mistake was made in*** [the] ... ***initial sentencing pronouncement***[s], ***the court*** [should have] ***promptly recognize***[d] ***the error, and the court, by reducing an erroneous original sentence on one count ... seeks to impose a lawfully structured sentence that achieves the overall disposition the court originally intended.***" State v. Gruetzmacher, 2004 WI 55, 271 Wis. 2d 585, 679 N.W.2d 533.

H. "***A hearing on a postconviction motion is required only when the movant states sufficient material facts that, if true, would entitle the defendant to relief. The***[re] [has been more than the] ***mere assertion of a claim of manifest injustice, in th***[e]***s***[e] ***case***[s] [Hammersley have requested investigations and provided new evidence of flawed underlying data charts and the police interview transcribed that do support] ***the ineffective assistance of counsel*** [claim], ***does ... entitle a defendant to*** [a hearing and/or] ***the granting of relief***. State v. Allen, 2004 WI 106, 274 Wis. 2d 568, 682 N.W.2d 433.

I. "***A sufficiency of the evidence challenge may be raised directly in a motion under this section because such a claim is a matter of constitutional dimension***." State v. Miller, 2009 WI App 111, 320 Wis. 2d 724, 772 N.W.2d 188.

J. "***The failure to raise the***... [issues now presented] ***may or may not have contributed to the court of appeals' failure to identify issues of arguable merit, but the court of appeals and appellate counsel should have found them and the defendant may not be barred from bringing an***[y] ***motion under this section if the no-merit procedure was not followed*** [by that meritorious issues were grossly neglected and foully overlooked and/or for ineffective appellate counsel], State v. Allen, 2010 WI 89, 328 Wis. 2d 1, 786 N.W.2d 124.

K. "***If the court of appeals fails to discuss an issue of actual or arguable merit, the defendant has the opportunity to file: ... 3) an immediate motion under*** ... [**974.06, 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26**, and *coram nobis*], ***identifying any issue of arguable merit that was overlooked*** ..." State v. Allen, 2010 WI 89.

L. In this case, the underlying data charts were released 8-years after the jury trial, demonstrating the blood test was fatally flawed. This alongside the newly transcribed 2008 police audio recording substantiates that all of the government's crucial blood custodial witnesses perjured their sworn

and/or attested to 2010 jury trial testimonies. **TO-WIT**: "***years after the trial that were offered as newly discovered evidence averred that t***[he] [three] ***trial witnesses admitted to the affiants prior to trial that the witnesses intended to falsely acc***[ount][-and/or-]***use the defendant***['s][-blood,] ***of*** [unheard medical abuse, police misconduct and fraudulent] ***involvement in crimes in order to reduce*** [or omit] ***their own*** [behavior's liability and criminal] ***punishment. That evidence differed from classic recantation testimony in the temporal sense and also because there was no formal or public renunciation of the witnesses' testimony. However, the affidavits*** [of the certified fatally flawed underlying data charts alongside the newly transcribed 2008 police audio recording] ***bore a similarity to recantation evidence in that*** [w]***h***[at] [was] ***used what was claimed to be the witnesses' own words***[,] [actions, and/or own flawed testing] ***to allege the witnesses lied at trial. Under*** McCallum, 208 Wis. 2d 463 (1997), ***when recantation testimony is presented as newly discovered evidence, the recantation must be corroborated by other newly discovered evidence. No less was required for the affidavits presented in this case.***" State v. McAlister, 2018 WI 34, 380 Wis. 2d 684, 911 N.W.2d 77.

M. **ADDITIONALLY**: "***years after the trial that were offered as newly discovered evidence averred that*** [that the State's] ***two trial witnesses*** [from the scene of the 2008 car rollover] ***admitted to the affiants prior to trial that the witnesses intended to*** [contradict each other, while still] ***falsely accuse the defendant of involvement in crimes in order to reduce their own p***[erceived] [liability]. ***That evidence differed from classic recantation testimony in the temporal sense and also because there was no formal or public renunciation of the witnesses' testimony. However, the affidavits bore a similarity to recantation evidence in that they used what was claimed to be the witnesses' own words to allege the witnesses lied at trial. Under*** McCallum, 208 Wis. 2d 463 (1997), ***when recantation testimony is presented as newly discovered evidence, the recantation must be corroborated by other newly discovered evidence. No less was required for the affidavits presented in this case.*** State v. McAlister, 2018 WI 34, 380 Wis. 2d 684, 911 N.W.2d 77.

N. "***When postconviction counsel failed to assert a claim of ineffective assistance of trial counsel in a postconviction motion under s. 974.02, the defendant's opportunity to argue that claim on direct appeal was foreclosed. The appropriate forum for asserting ineffective assistance of postconviction counsel for failure to raise ineffective assistance of trial counsel was in a collateral motion under this section.***" Page v. Frank, 343 F.3d 901 (2003).

O. **974.06 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26**, and *coram nobis* are "***in fact, ... statute***[s] ***addressing collateral relief.***" Graham v. Borgen, 483 F.3d 475 (2007).

The *john doe* statute, **974.06**, **901.03(1)(a)(b)(4), 902.01(2)(a)(4-6)**, and/or *coram nobis* should have been granted. The judiciary does not have the right to pick and choose winners/losers nor may they choose what laws not to follow. The **901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26,** and/or *coram nobis* statutes serve a great disservice if they are **barriers** and not allowed to be used as **avenues for relief**; Wherewithal **Wis. Const. Art. I § 8** circumscribes *habeas* relief; **TO-WIT**: All Wisconsin and federal law suffers erosion if these blatant 2005, 2009-2010, 2018-*ongoing* manifest *miscarriages of justice* are not set aside and/or corrected!

2. Even under **28 U.S.C. § 2254(e)(2)** Hammersley has shown that—**(A) the newly tendered claim relies on—(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, And a newly set aside conviction that was also previously unavailable**; **WITHIN**: The setting aside of the judgment of guilt for the 2003 DUI; AND **The newly applied Birchfield Rule for the 1995 Implied Consent refusal judgement's prohibited use as a prior lifetime criminal OWI conviction**. **TO-WIT**: Wisconsin's Implied Consent is a prohibited punitive *ex post facto* law for having automatic criminal penalties for refusal to submit to a warrantless blood draw. Without challenge to Wisconsin's prohibited punitive *ex post facto* Implied Consent law these cases suffer erosion: Dalton, 2018 WI 85; Forrett, 2022 WI 37; Birchfield/Beylund, 579 U.S. ___ (2016); Carmell, 529 U.S. 513 (2000); Burgess, 97 U.S. 381 (1878); and Calder, 3 U.S. 386 (1798). **FROM-WHICH**: All priors can be collaterally attacked for no counsel during the warrantless blood demand forum for future usage composing the prohibited discriminatory punitive *ex post facto* PAC .02 OWI restriction law.

The judiciary has not been consistent with its discriminative rulings verses Hammersley by ruling the opposite for the defendant in Dalton, 2018 WI 85 and Forrett, 2022 WI 37; **AS-FOR**: Being these crooked courts will not examine the unconstitutionality of the 1995 refusal used as a lifetime OWI, that was **without a driving event** and **without a blood draw**. **There was a clear-cut duty to address these constitutional issues stemming from the 1995 refusal that are *still* unmet**.

3. THE UNMET / UNHEARD - TEN JUDICIAL NOTICE REQUESTS:

1.	That the honorable **San Luis Municipal Court filed an order setting aside the unconstitutional 2003 uncounseled DUI conviction on 2/26/2020** (Appx. 112)
2.	That the honorable (AZ-DOT), **Department of Transportation for the State of Arizona, had no record of the unconstitutional 2003 uncounseled DUI conviction in 2018** (Appx. 105)
3.	That the honorable (WI-DMV), **Dept. of Transportation for the State of Wisconsin, was recording the nonexistent unconstitutional 2003 uncounseled DUI conviction in 2018**

4.	That the honorable (WI-DMV), **Department of Transportation for the State of Wisconsin, was recording the unconstitutional 1995 uncounseled, ruled *ex parte* and in absentia Implied Consent refusal judgement as a forbidden to use criminal OWI and was invalidly being used as a lifetime OWI conviction in 2005, 2008, and 2018**
5.	That the honorable **Brown County Court officials used an entrapped into no drink parole violation for initial custody under a parole hold, as the subterfuge of the criminal arrests for the uncommitted traffic offenses in 2008**
6.	That the honorable **Brown County Sheriff's deputies used a warrantless parole search to initiate the criminal arrests for the uncommitted traffic offenses in 2008**
7.	That the honorable **Brown County Sheriff's deputies used a warrantless parole held seizure along with the unconstitutional Implied Consent Law to compel nonconsensual bloodletting by the forceful gurney bound head clasped blood demanded extraction**
8.	That the honorable **Madison Crime Lab officials certified a fatally flawed blood test as fraudulently accurate in Thomas Neuser's finalized blood testing results on 10/21/2008 and with Patrick Harding verifying the flawed results on 10/22/2008**
9.	That the honorable **Madison Crime Lab officials certified a blood test with another person's blood registering along with Hammersley's underlying data and bloodwork, as fraudulently accurate in Thomas Neuser's finalized blood testing results on 10/21/2008 and with Patrick Harding verifying the flawed results on 10/22/2008**
10.	That the honorable **Madison Crime Lab official, Thomas Neuser perjured his expert extrapolation testimony by perjuriously verifying his fatally flawed blood test as fraudulently accurate during the jury trial on 4/27/2010**

There were clear-cut duties to address these judicial notice requests that are *still* unmet.

4. Welsh v. Wisconsin, defines that there is personal absolution from abandoning the car in the ditch in 2008 and 2018. And condemns the Brown County and Appellate Court Officials for enabling the warrantless 2008 unannounced unholstered home invasion for a no-drink violation.

- **This was an uninvestigated and unheard argument of government misconduct**. These 2009-2010 convictions and 2018 presentence erode the precedence of Welsh, 466 U.S. 740 (1984); Announcement Rule under **Wis. Stat. § 968.14** (2007-08); State v. Davis, 2000 WI 270; Steagald, 451 U.S. 204 (1981); and Payton, 445 U.S. 573 (1980).

5. SORRELLS v. UNITED STATES, and **Wis. Stat. § 972.085** define that there is both civil and criminal immunity from entrapment for breaking the no-drink rule on 10-17-2008. All alcohol was supplied by the government and its witnesses. And condemns the Brown County and Appellate Court Officials for enabling an unannounced unholstered home invasion for the 2008 ENTRAPPED INTO no-drink violation.

- **This was an uninvestigated and unheard argument of government misconduct and entrapment**. These 2009-2010 convictions and 2018 presentence erode the precedent of Sorrells, 287 U.S. 435 (1932); **Wis. Stat. § 972.085**; Mathews, 485 U.S. 58 (1988).

6. Under State v. Evans, 77 Wis. 2d 225, 231, 252 N.W.2d 664 (1977) and Hajicek, 2001 WI 3, Hammersley was fortified within giving a truthful statements to police and at the resentencing hearing, after the ENTRAPMENT - for breaking the no-drink rule. All alcohol was supplied by the government and its witnesses. The government should have been barred from continuing to Use the Warrantless Entrapped Into No-Drink Seizure as a Subterfuge for Criminal Investigations Without An *Evans Warning*. This INDEED condemns the Brown County and Wisconsin Appellate Court Officials for enabling unauthorized government conduct. The government must be barred from any future usage of these manifest *miscarriages of justice* in 2005, 2008-2010 and prevented from continuing the current 2018-*ongoing* manifest *miscarriage of justice*.

- **This was an uninvestigated and unheard argument of government misconduct and entrapment implemented under a warrantless parole search and home invasion seizure**. These 2009-2010 convictions erode the precedent of State v. Evans, 77 Wis. 2d 225, 231, 252 N.W.2d 664 (1977) and Hajicek, 2001 WI 3.

7. State v. Braunschweig, 2018 WI 113, dictates that Expunction does not invalidate a conviction; **BUT-FOR**: Being that the uncounseled 2003 DUI conviction became a set aside judgement of guilt on 2-26-2020 transforming into a Vacatur that invalidated the DUI conviction itself, whereas

expunction merely deletes the evidence of the underlying criminal conviction from court records. **Wis. Stat. 343.307(1)** ("*The court shall count the following...*")(emphasis added). The statute defines "conviction" as including any "unvacated adjudication of guilt" **Wis. Stat. 340.01(9r)**. No Wisconsin court has considered the Arizona order setting aside the judgement of guilt (*See* Appx. 112, *This was immediately presented during this appeal to the Brown County court in May of 2020 for case nos. 2005CF361 and 2008CF1114; AND for case no. 2018CF407 Court appointed attorney Lee D. Schuchart mistakenly believed was an expungement and unethically would not bring forth the meritorious issue*).

- This vacated judgement of guilt fortifies the fact that the uncounseled set aside 2003 DUI conviction needs to be removed from the wrongful felony convictions it *clearly erroneously* effected. **Wis. Stat. 340.01(9r)** suffers serious erosion without being divested of this vacated judgement of guilt

8. The courts ignored the warrantless unannounced indoor spot check at gunpoint for a no drink violation continued into the PAC .02 OWI investigation that was completely unconstitutional Without Probable Cause nor Individual-Suspicion, violating Prouse, Rodriguez, and Edmond, *supra*.

- Permitting coexisting parole and simultaneous police investigations inside residential homesteads by means of home invasions for alcohol entrapment and timed out OWI traffic crimes; INDEED, erodes the precedence of Edmond, 531 U.S. 32 (2000); Rodriguez, 575 U.S. ___ (2015); Prouse, 440 U.S. 648 (1979); State v. Evans, 77 Wis. 2d 225, 231, 252 N.W.2d 664 (1977); Hajicek, 2001 WI 3.

9. The courts willfully ignored the Forced Deliberately Indifferent Gurney Bound Blood-Draw that was completely in Violation Farmer, 511 U.S. 825 (1994), And wrongfully administered Within the Parole-Hold Under the Prohibited *Ex-Post-Facto* Implied Consent Law. This violated **Wis. Const. Art. I § 6, 11** and **12**, the **Fourth**, **Eighth** and **Eleventh Amendment**, Welsh, Birchfield Rule, and Calder v. Bull, 3 U.S. 386. The deputies initiated the forced blood draw after the implied consent agreement / parole hold agreement / and after Hammersley mentioned the former incident of the deputies forcing him to "piss on himself" by denying Hammersley a nearby restroom at Brumlic's.

- This events' uninvestigated and concealed hostile warrantless parole held forced gurney bound blood draw under criminal penalties for refusal – breaks all *common law* contract clauses, also puts cruel and unusual punishment in a whole new sadistic category of unconstitutional cruelty and erodes **Wis. Const. Art. I § 6, 11** and **12**, the **Fourth, Eighth** and **Eleventh Amendments**.

10. The courts' flagrantly and willfully ignored the Forged Fatally Flawed Blood Test, Perjured Expert Witness testimony and Perjured Blood Chain Gang Testimonies; **TO-WIT**: This Was Newly-Discovered evidence, and Retroactively In-Violation of Brady, 373 U.S. 83 (1963); Giglio, 405 U.S. 150 (1972); And Sawyer, 505 U.S. 333 (1992). Alongside, the automatic attachment of prosecutorial misconduct in violation of ethics under **Wis. SCR 20:3.8(g)(h)**.

- This events' uninvestigated and unrecognized 2008 Forged Fatally Flawed Blood Test, 2010 Perjured Expert Witness testimony and Blood Chain Gang Testimonies - erode the precedents of Brady, 373 U.S. 83 (1963); Sawyer, 505 U.S. 333 (1992); and Giglio, 405 U.S. 150 (1972); And ERODE the principles of NEWLY DISCOVERED EVIDENCE and FACTUAL/ACTUAL INNOCENCE.

11. The courts failed to hear anything related to the **Invalid** Blood Test and **Invalid** Prior OWI-Convictions Used For the 2008 Charging Instruments and the 2005, 2009 and 2010 wrongful Convictions' pleas/verdicts and sentencing In-Violation of the Holdings of Scott, 440 U.S. 367 (1979); Argersinger, 407 U.S. 25 (1972); Baldasar, 446 U.S. 222 (1980); Burgett, 389 U.S. 109 (1967); Townsend, 334 U.S. 736 (1948); Tucker, 404 U.S. 443 (1972); and Birchfield, 579 U.S. __ (2016).

- This events' uninvestigated and unrecognized court enabled Forged Fatally Flawed Blood Test, Perjured Expert testimony and invalid convictions were used to support guilt and lower elementary thresholds. This, in-fact, erodes the precedents of Brady, 373 U.S. 83 (1963); Giglio, 405 U.S. 150 (1972); Scott, 440 U.S. 367 (1979); Argersinger, 407 U.S. 25 (1972); Baldasar, 446 U.S. 222 (1980); Burgett, 389 U.S. 109 (1967); Townsend, 334 U.S. 736 (1948); Tucker, 404 U.S. 443 (1972);

Birchfield, 579 U.S. __ (2016); Carmell, 529 U.S. 513 (2000); Burgess, 97 U.S. 381 (1878); and Calder, 3 U.S. 386 (1798).

12. Hammersley does have *common law* claims of government misconduct, victimhood and wrongful convictions. Throughout these appeals Hammersley has been discriminated against by these foully-wrong-rulings. These claims are being unethically systemically ignored. THERE CAN BE NO EXCUSE FOR THIS CONTINUED ABUSE. Nor for the last unethical *ex parte* denial.

13. ***"A habeas petition may not be denied ex parte solely because the petitioner failed to assert and demonstrate he sought relief in a "prompt and speedy" manner. Instead, the State bears the burden to raise laches*** [and/or anything else] ***as a defense..."***

- These denials for legal error, untimeliness, inconsistent rulings and evidently UNHEARD arguments erode the precedence of Wisconsin statutes **974.06, 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6), 968.26,** *and coram nobis*; and seriously eroding Lopez-Quintero, 2019 WI 58.

V - CONCLUSION:

The courts' officials have flagrantly and willfully ignored the FACTUAL/ACTUAL INNOCENCE exception under Sawyer, 505 U.S. 333 (1992). Hammersley did bring forth sufficient evidence and unambiguous clear arguments substantiating constitutional grounds for claims of both FACTUAL and ACTUAL INNOCENCE; **BUT-FOR**: Being the belligerency of these unfaithful courts have refused to follow *stare decisis* with their inconsistent rulings that are, in-fact, contrary to well established law. By doing so, these courts' officials continue to dishonor the laws and constitutions of our nation. Thusly, the ethical condition of each judicial official involved is absolutely infirm with their recurrent genocidal constitutional annihilationism.

Citing page 34 of the brief for appeal nos. 20AP837-838: ***"The "actual innocence" exception is concerned with actual, as compared to legal, innocence*** [i.e. Hammersley's now set-aside judgement of guilt invalid uncounseled 2003 Arizona prior DUI conviction, uncounseled 1995 refusal invalid OWI prior conviction, the 2008 invalid blood test result's forged accuracy, and 2010 perjured expert witness testimony based on the 2008 invalid blood test result's personally forged accuracy],

see Sawyer, 505 U.S. at 339-40, 112 S.Ct. at 2518-19. ***Legal innocence addresses procedural or legal bases on which a sentence was based*** [i.e. perhaps some overlapping factual, actual, and/or jurisdictional questions surrounding Hammersley's arrest under a warrantless parole search subterfuge, the entrapped no drink violation, the parole hold's warrantless forced gurney bound blood draw without *exigent circumstances*, and/or the 1995 refusal used as a prior criminal OWI convictional penalty], *see* Smith v. Murray, 477 U.S. 527, 537, 106 S.Ct. 2661, 2667-68, 91 L.Ed.2d 434 (1986). [**AS**:] ***In contrast, actual innocence addresses circumstances in which an error "precluded the development of true facts [or] resulted in the admission of false ones,"*** cf. Id. at 538, 106 S.Ct. at 2668, *citing* Mobley v. United States, 974 F.Supp. 553 (E.D. Va. 1997), footnote 10.

This situation from conception towards continuation has been a charade of partisan judiciary dysfunctionality; **WITHIN**: The Dual processing of parole resentencing and fraudulent OWI traffic crimes-Trials' Proceedings, Into the predetermined PRE-Judgements of Convictions, That Cannot Be Meted-Out, Without, Being Unduly Predisposed and Were Contributively Significantly Demonstrable Factually "***As a Matter of Fact and Law***," a *Miscarriage of Justice*; **IN-BEING**: That Both-Apply, Throughout, the Instantaneous *Pursuit of the Ends of Justice Inquiry*, Under Frady, 456 U.S. (1982), at 163 and Atkinson, 297 U.S. (1936), at 160.

Citing page 35-36 of the brief for appeals 837 and 838: "***In*** [observing the ... Court's recent decisions, basically] ***reaching this conclusion,*** [honorable] ***Judge Sprouse*** [may have] ***emphasized that, it is an unacceptable deviation from our fundamental system of justice to automatically prevent the assertion of actual innocence simply because*** ... [Hammersley] ***has not observed procedural avenues available to him***, cf. Id. at 892 (*citing* Engle, 456 U.S. 107, 135, (1982)). [**IN-BEING**: That] ***The*** [Maybeck court's] ***panel*** [may have] ***concluded that the "actual innocence" exception applied*** [to Hammersley] ***because it was clear that*** [likened unto] ***Maybeck*** [Hammersley] ***was*** [also] ***innocent of a predicate*** [felony and/or PAC .02 BAC OWI] ***offense and, thus, improperly sentenced as a career offender***, cf. Id. at 893-894. ***Accordingly,*** [also] ***in this*** [Appellate] ***circuit*** [correspondingly, like in the Fourth Circuit for Mobley], ***"actual innocence" of a non-capital*** [but a criminal felony charge, continuing disabled constitutional rights, and/or pending] [PRE-]***sentence excuses a petitioner from meeting the Frady "cause and prejudice" requirement for raising a defaulted claim***," *citing* Mobley v. United States, 974 F.Supp. 553 (E.D. Va. 1997), at 557.

TO-WIT: "***These principles, applied here, point persuasively to the conclusion that*** [Hammers]***ley's*** [predisposed] ***failure to*** [properly assert his rights and] ***challenge the error in his criminal record at*** [the 2005, 2009, and 2010] ***sentencing*** [hearings,] [n]***or direct appeal*** [nor current 2018-*ongoing* presentence and detention] ***does not preclude the availability of habeas relief from his*** [erroneously] ***enhanced sentence***[s]. ***The*** [2/28/2020 Brown County] ***government*** [decisions] ***contend***[ed] ***that*** [Hammers]***ley has n***[ever] ***demonstrated an acceptable cause for his***

default [and/or that Hammersley's petitions are not factual, but legal error ... that cannot be examined under *coram nobis* and that Hammersley is simply-*too*-late.] ***The*** [.... Court's] ***government*** [decisions] ***contend***[ed] ***that*** [Hammers]***ley has n***[ever] ***demonstrated an acceptable cause for his default*** [because Hammersley is not in custody]. [**BUT-FOR**: Being,] ***A***[ccorde]***d*** [that], ***indeed, it appears that*** [Hammers]***ley's*** [arguments of governmental misconduct supplements and] ***excuses*** [him] ***for his default*** [and, thus] ***are ...sufficient to constitute "cause" for the purposes of Frady,"*** *see* Mobley v. United States, 974 F.Supp. 553 (E.D.Va.1997) at 558. **FROM-WHICH**: Exposes the *clearly erroneous* fraudulent and discriminative nature of Hammersley's recent *ex parte* denial by the Wisconsin Supreme Court, with even the clear and persistent use of the unconstitutional uncounseled 2003 Arizona DUI **that is now factually - a set aside judgement of guilt**.

Citing page 37 of the brief for appeals 837 and 838: "***Th***[e]***s***[e] ***case***[s] [in Hammersley's circumstance] ***hold... no more than the following: where, as here, a specific*** [PRE-sentence,] ***sentence*** [and newly formed crime are] ... ***statutorily mandated on the basis of a predicate criminal record and that criminal record is officially but erroneously recorded,*** ... [Hammersley] ***may obtain relief pursuant to 28 U.S.C. § 2255*** [**974.06**, and/or *coram nobis*] ***without showing "cause" under Frady. Indeed, the result reached is no more than a recognition of a principle fundamental to our criminal justice system — the law should never ignore actual innocence and punish*** [Hammersley] ***in the face of it,"*** *citing* Mobley v. U.S., 974 F.Supp. 553 (E.D. Va. 1997), at 557.

Citing page 44 of the brief for appeals 837 and 838: What the Russell Court inferred: "[W]***e*** ***...a***[re] [t]***o...day*** ... ***presented with a situation in which the conduct of law enforcement agents is so outrageous that due process principles would absolutely bar the government from invoking judicial processes to obtain a conviction*** ..., 411 U.S. at 431-32. ***In light of this statement, it is surprising that t***[w]***e***[lv]***e years later, th***[is] [honorable Brown County] ***ju***[dge] ***would write: '[in*** [Hammersley's case]***] [***[h]***]e ruled out the possibility that the defense ... based upon governmental misconduct in a case, such as this one, where the*** [policemen's targeting, entrapment, unlawful parole-search-policing, dishonesty, forgery, and trial perjury created the] ***predisposition of the defendant to*** [have] ***commit***[ted] ***the crime*** [that] ***was*** [foully] ***established***, *see* Hampton, 425 U.S. 484, 488-89 (1976), ***suggest that a due process defense is available to a predisposed defendant who has been*** [violat]***ed by flagrant governmental conduct***. Id. 495, 497. ***For cases involving an application of a due process defense,"*** *see* note 63 supra., *citing* Russell, 411 U.S. 423 (1973), at 433.

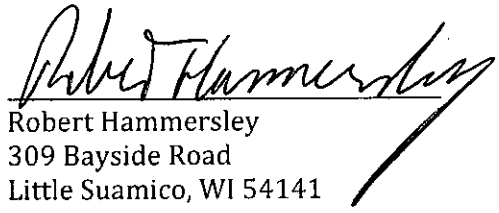
There should be sanctions enforced against these past railroading jurists before making any-more undoubtedly discriminatorily predatory dismissals/denials verses UNHEARD *pro-se* defendants, under **Wis. Stat. § 757.19** some should become recused and state a reasoning why under **757.19(5)** - (***When a judge is disqualified, the judge shall file in writing the reasons and the***

***assignment of another judge shall be requested under* s. 751.03**). There is trait evidence of discrimination, denial of *meaningful access* and unethical-abuse on a systemic level from Brown County Court on throughout the appellate courts. These issues have not been HEARD. This is clear cut misconduct, partiality, and discrimination in ethical violation of **SCR 60** and violating all of the rights surrounding filing a *habeas corpus* petition. This is colorable for $1,000 indemnity to be applied multiple times to each judicial official under **Wis. Const. Art. I § 8, 9, 9m, Wis. Stats. § 782.09, 968.26, 974.06, 901.03(1)(a)(b)(4), 902.01(2)(a)(4-6)**, and/or *coram nobis*. This indemnification may be transferable to the judicial oversights' continued misgovernance and misguided oversight.

Regarding the denied DOT appended 6-26-2020 removal request letter and 3-17-2021 response (*with the 2-26-2020 AZ Order setting aside the 2003 DUI and the Nonexistent AZ DOT Record on 12-20-2018,* Appx. 112): The Wisconsin DOT continues to administer and enforce the punitive *ex post facto* Implied Consent and PAC .02 restriction laws and/or the Wisconsin court system continues to promote and/or enable entrapment, government misconduct, victimhood, punitive *ex post facto* laws and wrongful convictions. This is clear cut misconduct, partiality, and discrimination in ethical violation of **SCR 60**.

WHEREFORE Hammersley has independently requested the DOT remove the 1995 refusal and 2003 AZ DUI to no avail. HAMMERSLEY HAS AUTHENTIC GROUNDS FOR RELIEF AND $1,000 INDEMNITIES PER DISCRIMINATORY OFFICIAL FOR ABUSE OF DISCRETION. Hammersley prays for postconviction and presentence relief.

Date: February 13, 2023.

Signature: 

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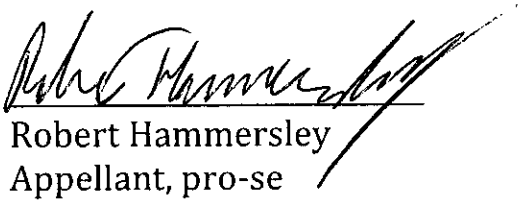
CERTIFICATION AS TO FORM AND LENGTH

I certify that this Petition for Certiorari for appeal nos. 2020AP837-838 meets the form and length requirements of the Rules in that it is: 15,583 words (*this total includes symbols, numbers and characters; to-wit: the actual word count is significantly less*), using a 11-point monospaced font—*Liberation Mono* style, for the body of 35 pages. With outer parts in *Liberation Mono*, *Ariel* Font and/or *DejuVu Sans* font.

Dated this 13th day of February, 2023.

Respectfully Submitted,



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