22-7501

No. ______________ ORIGINAL

FILED
MAR 27 2023
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Leon Caril II (Jr.) — PETITIONER
(Your Name)

vs.

Jared B. Steed (attorney)
~~State of Washington~~ — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The Supreme Court of Washington
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Leon Caril II (JR.)
(Your Name)

Washington State Penitentiary
1313 North 13th Avenue
(Address)

Walla Walla, Washington 99362
(City, State, Zip Code)

1-509-525-3610
(Phone Number)

## QUESTION(S) PRESENTED

1. I want justice in deciding prosecutorial vindictiveness of appeals prosecutor's
2. I want justice in deciding of two count conviction for a single crime.
3. I want justice in deciding being sentenced twice for the same crime, once on 1-29-2021 and during denied appeals of 1-29-21 through 1-4-2023, Appeals used to correct these issue's.
4. I want justice in deciding reduction of offender score during appeals.
5. I want justice in misrepresentation of my appeals case, appeals assistance is used to correct scribener's error's, including legal mitigation of scribener's error's that were corrected on base's of same conviction during the same prison sentence which the appeals was used for.
6. I want justice in deciding incorrect witness testimony.
7. I want justice in deciding appropiate seriousness level for sentencing during appeals
8. I want justice for being denied doctor's witness testimony for mental incapacity.
9. I want justice in deciding intent of a crime during a verbal dispute while the victim was intoxicated on recreational drugs and alcohol.
10. I want justice of ineffective assistance of counsel of Appeals attorny Jared B. Steed, Nielsen Koch and Grannis, P.L.L.C. The Denny Building, 2200 Sixth Avenue, Suite 1250, Seattle, Washington 98121. Refusal to believe in my release paperwork signing from prison on 8-2-2021 to 8-20-2021 at WSP (Walla Walla, Washington 99362) as a means to correct past, present and future scribener's error's. All letter's I wrote he returned no believance in return letter's (Justice in sensible reasoning as a duty for defending attorney).
10. I want justice in appeals clearification of standard range sentencing arrangements from 1-29-2021 through 1-4-2023.
12. I want justice in deciding jury mishandling during appeals of 1-29-2021 through 1-4-2023
1. I want justice in deciding acquital, vacation of two counts by the jury but being convicted of two counts on 1-29-2021 for a single crime during appeals oversight from 1-29-2021 through 1-4-2023

## LIST OF PARTIES

☐ All parties appear in the caption of the case on the cover page.

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

Prosecuting Attornies, James Daniels and Adrienne McCoy

Appeals attorney, Jared B. Steed

Defendant attornies, Joshua Poisel, Seth Conant, Colleen O'connor

Judge, Patrick Oishi

State v. Turner 169 Wn. 2d 448, 464, 238 P.3d 461 (2010)

U.S. Const. amend. V; wash. const. art. 1, §9.

## RELATED CASES

Holmes, 547 U.S. at 326-27

constitutional right

U.S. Const. amends VI, XIV; wash. Const. art. 1, §22

Brown v. Ohio, 432 U.S. 161, 165, 97 S. Ct. 2221, 53 L. Ed. 2d 187 (1977)

State v. Giles, 196 Wn. App. 745, 756-57, 385 P.3d 204

Chambers v. Mississippi, 410 U.S. 284, 295, 93 S. Ct. 1038, 35 L. Ed. 2d (1973)

State v. Linton, 156 wn. 2d 777, 783, 132 P.3d 127 (2006)

State v. Jennings, 199 Wn. 2d 53, 58, 502 P.3d 1255 (2022)

State v. Arndt, 194 wn. 2d 784, 797-98, 453 P.3d 696 (2019)

State v. Markovich, 19 Wn. App. 2d 157, 167, 492 P.3d 206 (2021)

State v. markovich, 198 Wn. 2d 1036, 501 P.3d 141 (2022)

State v. Rice, 48 wash. App. 7, 11, 737 P. 2d 726 (1987)

State v. Anderson, 44 Wn. App. 644, 652, 723 P. 2d 464 (1986)

State v. Martinez, 78 Wn. App 870, 879, 899 P. 2d 1302 (1995)

Grp. Health coop. of Puget Sound, Inc. v. Dep't of Revenue, 106 wn. 2d 391, 399-400, 722 P. 2d 787 (1986)

State v. Wineberg, 74 Wn. 2d 372, 381-82, 444 P. 2d 787 (1968)

In re Det. of Marshall, 156 wn. 2d 150, 163, 125 P.3d 111 (2005)

In re det. of Coe, 175 wn. 2d 482, 513-14, 286 P.3d 29 (2012)

In re det. of Leck, 180 Wn. App. 492, 511, 513, 334 P. 3d 1109 (2014)

State v. Orn, 197 wn. 2d 343, 353, 482 P. 2d 913 (2021)

State v. Hudlow, 99 wn. 2d 1, 15, 659 P. 2d 514 (1983)

State v. Jones 168 Wn. 2d 713, 720, 230 P. 3d 576 (2010)

Cf. Holmes v. South Carolina, 547 U.S. 319, 323, 126 S. Ct. 1727, 164 L. Ed. 2d 503 (2006)

Crane v. Kentucky, 476 U.S. 683, 691, 106 S. Ct. 2142, 90 L. Ed. 2d 636 (1986)

Washington v. Texas, 388 U.S. 14, 16, 23, 87 S. Ct. 1920, 18 L. Ed. 2d 1019 (1967)

State v. Reynolds, 21 Wn. App. 2d 179, 187, 505 P.3d 1174 (2022)

State v. Blake 197 Wn. 2d 170, 195, 481 P. 3d 521 (2021)

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Vacation of single count's, calculating sentencing (in original trial)
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Vacation of single count (during resentencing Appeals error of calculation)
order setting Restitution (...)

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

## OPINIONS BELOW

[ ] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix ______ to the petition and is

[ ] reported at ______________________________; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the United States district court appears at Appendix ______ to the petition and is

[ ] reported at ______________________________; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

[X] For cases from **state courts**:

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

[X] reported at The supreme court of washington; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the Court of appeals, state of washington superior court appears at Appendix D to the petition and is

[ ] reported at ______________________________; or,
[X] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

## JURISDICTION

[ ] For cases from **federal courts**:

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

[ ] No petition for rehearing was timely filed in my case.

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

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including ________________ (date) on ________________ (date) in Application No. __A______.

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

[X] For cases from **state courts**:

The date on which the highest state court decided my case was 1-4-2023. A copy of that decision appears at Appendix C.

[ ] A timely petition for rehearing was thereafter denied on the following date: ______________________, and a copy of the order denying rehearing appears at Appendix ______.

[X] An extension of time to file the petition for a writ of certiorari was granted to and including 4-4-2023 (date) on 1-27-2023 (date) in Application No. CO A82334-5-1

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

## JURISDICTION

[ ] For cases from **federal courts**:

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

[ ] No petition for rehearing was timely filed in my case.

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[ ] An extension of time to file the petition for a writ of certiorari was granted to and including ________________ (date) on ________________ (date) in Application No. ___A______.

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

[X] For cases from **state courts**:

The date on which the highest state court decided my case was 1-4-2023. A copy of that decision appears at Appendix C.

[ ] A timely petition for rehearing was thereafter denied on the following date: ____________________, and a copy of the order denying rehearing appears at Appendix ______.

[X] An extension of time to file the petition for a writ of certiorari was granted to and including 4-4-2023 (date) on 1-27-2023 (date) in Application No. CO A B2334-S-1

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

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1.) Prosecutorial Vindictiveness: while courts have long recognized the "rough and tumble of legitimate plea bargaining" constitutional due process principles prohibit prosecutorial Vindictiveness. State v. Lee 69 Wn. App. 31, 35, 847 P.2d 25 (1993), review denied, 122 Wn. 2d 1003 (1993). The term prosecutorial vindictiveness describes the actions of the government when it acts against a defendant in response to the defendant's prior exercise of constitutional or statutory rights. The action is vindictive only "if designed to penalize a defendant for invoking legally protected rights." Professional misconduct of ABA standards of Criminal Justice, Prosecution function, 3-1.2(c) (4th ed. 2015). Prosecutor's "special responsibilities" under RPC 3.8 1) A prosecutor owes a duty to defendants to see that their rights to a constitutionally fair trial are not violated. Prosecutor's charging discretion at trial and appeals was overcharging (charged additional counts for a single crime one count jurisdiction possibility). The PLRA requires federal courts to screen all suits by prisoner's against government employee's, and all in forma pauperis case's, and to dismiss case's that are frivolous or malicious, that fail to state a claim on which relief may be granted or immunity of defendant damage claims (ABA Standards for criminal justice). 2. Issue of Effective Assistance of Counsel Raised on direct Appeal or Collateral Attack. A.) where the claim of ineffective assistance of counsel is brought on direct appeal, the burden is on a defendant alleging ineffective assistance of counsel to show deficient representation based on the record in the proceedings. The reviewing court will not consider matters outside the trial record. B.) 8.14 waiver of the Sixth Amendment right to counsel must be knowing, intelligent and voluntary. 8.18 washington applies the Two-Part Strickland test to claims of ineffective Assistance of counsel. B.) 1.) counsel's performance must fall below an objective standard of reasonableness. Part one of the Strickland test requires the court to determine whether counsel's representation fell below an "objective standard" of reasonableness. A defendant has the burden of proof alleging ineffective assistance and must overcome a strong presumption that counsel's performance was reasonable. In evaluating ineffectiveness claims, courts are highly deferential to counsel's decisions and the defendant must show in the record the absence of legitimate strategic or tactical reason's supporting the challenged conduct. B.) 2.) Defendant has the Burden to Demonstrate Prejudice arising from deficient Performance. Part two of the Strickland test requires defendant to demonstrate prejudice arising from the deficient performance. Prejudice is shown if there is a reasonable probability that, but for counsel's unprofessional error's, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome. This "reasonable probability" standard has been described as less than a "more likely than not" or preponderance standard.

## STATEMENT OF THE CASE

1.) During my original sentencing from 6-23-17 to 1-29-2021 I was charged to multipleEcounts for a single crime of murder producing prosecutorial vindictiveness. I was mislead by my attorney/ ~~Josh~~ Joshua Poisel into proceeding finishing trial on .-29-2021 and agree to a sentence of life without parole, because he never spoke if multiple counts jurisdiction the jury convicted me of before sentencing date of 1-29-2021. I wrote Joshua Poisel over 20 letters in a attempt to solve issue's in my case he never wrote in return. I wrote a formal complaint and told in return letter to prove more propriety. Until this day of 3-18-2023 I have never been given any explanation of why the prosecuting attornies in my case missed the double jeopardy verdict on 1-29-2021, before in pre-trial and during my appeals from 1-29-2021 through 1-4-2023 (appeals denied [with no correction to double jeopardy ruling on 1-29-2021, was charged with two counts of a crime for a single conviction and single crime]). Prosecuting attornies also have not given any notification of release paperwork I have signed from 8-2-2021 to 8-20-2021 to be released from prison. Currently I have no oversight of current conditions of confinement that are consistent with my factual and literal legal legislative accomendations or legislative agreements that have been made in my defense. I am in jeopardy of losing a substantial amount of legal rights and reduction's of current sentencing standard range's (amount of time I have to serve), I am reaching a "Critical Stage" a reason the outcome in multi court appearances has been diminished and the state prosecutor's oversight attornies have done nothing to correct these easy, sensible correction's. I have a group release plan approved by Senate bill 5164 (vacation of second degree robberies) and state v. Blake (vacation of cocaine convictions), that approve of mass incarcerated individuals to be given a second chance to make a difference in the stereo-type of singling out specific inmates as trouble maker's while a select amount of inmate's are trying to change (stop living a life of crime) and promote good cause's while living in the community after release from prison. Currently my resentencing is on 4-7-2023 being told by Joshua Poisel my resentencing attorney I continue to face two count jurisdiction after this two count conviction rate was ruled double jeopardy by Judge Patrick Oishi (King County Jail, 500 5th Ave., Seattle, Washington 98104). 2.) According to the Practice of Law Board I am granted access to affordable and reliabe legal and law-related service to expand public confidence in the administration of justice. My case was over charged on more than two counts, by scribener's error I continue to have 2 count conviction rate on my record. These actions have placed confusion in superior court litigation, leaving my personal arrangements non-servicable. By authorization, independence and governing, backing come together as a means to justify what laws are made for. I am advised in court rules law books to pursue my own possibilities if certain mistake's are made. The fact is I want an appeal. 4 I also would like further justice for all error's and cash lawsuit usels

# Constitutional and Statutory Provisions Involved

A failure to establish either part of the test defeats the ineffective assistance of counsel claim. Matters that go to trial strategy or tactics do not show deficient performance. The defendant has the burden to overcome this presumption of adequate counsel by a showing in the record there is no concevable legitimate tactic explaining counsel's performance. 17.11 Bringing a challenge under state constitution to discharge court appointed attorney: State courts have interpreted provision's of the washington constitution as being more protective of certain individual rights than the corresponding federal provisions in some instance's. In addition, the state exclusionary rule is broader than the federal exclusionary rule is to protect the individual right to privacy and provide a certain remedy when that right is violated.

B. Right to Counsel under the Sixth Amendment attaches after initiation of Adversarial proceedings "critical stage" in a criminal prosecution resulting in loss of liberty reached. A "critical stage" is one in which a defendant's rights may be lost, defense's waived, privileges claimed or waived, or in which the outcome of the case is otherwise substantially affected. Where defendant seeks to discharge his or her court appointed attorney, the defendant must bring a motion before the court for withdrawal and substitution of counsel and show good cause, such as a conflict of interest, an irreconcilable conflict, or a complete breakdown in communication. When arguing that a provision of the State constitution provides greater protection than that of the U.S. constitution, counsel must address the six criteria set forth in State v. Gunwall, 106 Wn.2d 54, 720 P.2d 808 (1986). Under the criteria announced in Gunwall, six nonexclusive Factors must be briefed before the court will consider an independent state constitutional claim: 1.) the textual language 2.) difference's in the texts 3.) constitutional history 4.) pre existing state law 5.) structural difference's and 6.) matters of particular state or local concern. In State v. mayfield, the state Supreme court clarified that a Gunwall analysis is not required to justify an independent analysis of article 1, section 7 in new contexts. When addressing the merits the mayfield decison further clarified that parties must provide "argument and relevant" authorities supporting the specific outcome they seek in light of the constitutional text, the historical treatment of the interest at stake as reflected in relevant case law and statutes, and the current implications of recognizing or not recognizing an interest.

4.) 17.12 Procedures For hearings under CrR 3.6 in Superior Court: A.) Judge must enter written findings of facts and conclusions of law: only if the court decides to hold an evidentiary hearing must the judge enter written findings of facts and conclusions of law. The purpose of written findings and conclusions is to preserve the issue's for appellate review. when reviewing a trial court's ruling on a suppression motion under CrR 3.5 or 3.6, the appellate court review's challanged findings of fact for substantial evidence, challenged conclusions of law de novo, and then determine's whether the findings support the conclusion's. Substantial evidence is evidence sufficient to convince a reasonable person of the truth of the trial court's finding. Where the court fails to enter written findings of fact and conclusion's of law that failure is error. However, the error has been held harmless where the trial court's oral finding's are sufficient to permit appellate review and the defendant does not demonstrate any prejudice (will be reversed when no findings and conclusion's were ever entered). A delay in filing findings of fact and conclusion's of law is reversible only if the delay prejudiced a defendant or the findings of fact and conclusion's of law were "tailored to meet the issue's presented in [the defendant's] appellate brief". where the trial court fails to enter written findings or fails to clearly articulate its finding and conclusion's so as to allow appellate review, the appropriate remedy is remand for entry of written findings and conclusion's. A reversal of conviction is not required absent prejudice to defendant.

5.) Judical Disqualification Overview: Judical disqualification is required under the Due Process clause of the state and federal constitution's as well as the "apperance of fairness doctrine", as codified in the Code of Judicial Conduct (CJC), where the judge is A.) biased against a party or B.) the judge's impartiality may reasonably be questioned. In addition to the rules governing mandatory disqualification, counsel also has a right to disqualify one judge for no reason at all, if the judge has not made a discretionary ruling in the case. This is a "pEremptory" type of disqualification and does not require grounds for it's exercise. Once disqualified, the judge is precluded from hearing the matter and must order the case transferred to another judge. There are difference's between superior and limited jurisdiction court procedure's for filing an affidavit of prejudice. In superior court, an attorney is required to file a "notice of disqualification". In courts of limited jurisdiction, an attorney is required to file an "affidavit of prejudice" and motion for transfer of case. If a judge becomes unable to continue to preside once trial has commenced, any other judge regularly sitting in the court, upon becoming familiar with the record of the trial, may proceed with the trial. In addition, Limitation on use of Prior conviction's under the 10 year rule of ER 609(b).(6.) 16.09 Double Jeopardy Prohibits multiple Conviction's for the same OFFense: A.) The "Unit of Prosecution" Analysis; where the conviction's at issue were under the same statutory provision, the court applies the "Unit of prosecution" analysis. Double jeopardy is violated when a person is convicted multiple times for the same offense. A person may not be convicted more than once under the same statute if the defendant commits only one "unit" of the crime. The "Unit of prosecution" analysis applies when a defendant has multiple conviction's under the same statutory provision; this analysis asks: "what act or course of conduct has the Legislature defined as the punishable act." the scope of the criminal act as defined by the legislature is considered the "unit of prosecution". To determine the "Unit of prosecution" the court engages in statutory interpretation and determines legislative intent. Once the court determines the legislative intent and defines the unit of prosecution, it looks at the facts in a particular case to ascertain if more than one "unit" is present. Where multiple

Conviction`s have been entered where only one is permitted, the remedy is to vacate the lesser offense. The "lesser offense" is the lesser included offense or the one that carries the lesser punishment.

B.) The "merger Doctrine": "merger is a doctrine of statutory interpretation the courts use to avoid violating a defendant's double jeopardy rights. Under the merger doctrine the court determine`s whether the legislature intended multiple crimes to merge into a single crime for punishment purpose`s. When the degree of one offense is raised by conduct seperately criminalized by the legislature, the court presumes the legislature intended to punish both offenses through a greater sentence for the greater crime. Under this circumstance, the trial court merges the lesser crime to avoid doubtly punishing behavior. The merger doctrine does not affect the validity of the underlying conviction. A court may not use the merger doctrine to dismiss a charge before trial. In State V. Berg, the state Supreme Court described the "merger doctrine" as a rule of statutory construction which only applies where the legislature has clearly indicated that in order to prove a particular degree of crime the state must prove not only that a defendant committed that crime but that the crime was accompanied by an act which is defined as a crime elsewhere in the criminal statutes. However "where two offenses would otherwise merge but have independent purpose's or effects" seperate punishment may be applied. The merger doctrine applies only when a defendant has been found guilty of multiple charges. The doctrine does not prevent the state from charging a defendant with multiple crimes, even if the crimes would merge if the defendant were found guilty of them. The merger doctrine is distinct from the "same criminal conduct" doctrine used at sentencing under the SRA when calculating a defendant's offender score. Even where offense's do not merge for purpose's of double jeopardy, they may involve the same criminal conduct under the SRA. 16.10 Double jeopardy protects a defendant from repeated prosecution's for the same offense: Declaration of Mistrial - State and Federal double jeopardy clause's protect a criminal defendant from repeated prosecution's for the same offense. This includes both protection against additional trials for the same offense following conviction or acquittal and the right of the defendant to be tried by the jury he or she choose's (Sometimes termed the right to have the trial completed by a "particular tribunal"). The protection against double jeopardy prohibits a new trial after a mistrial has been declared without the defendant's request or consent, unless there is "manifest necessity" for the mistrial, or the ends of the proper administration of public justice would be otherwise defeated. where manifest necessity to declare a mistrial exists, the prohibition against double jeopardy is not implicated and retrial is permitted. The decision to declare a mistrial is within the sound discretion of the trial court. If the judge does not exercise discretion properly, a mistrial is tantamount to an acquittal and double jeopardy prohibits retrial. If a jury is deadlocked, courts have held that discharge is necessary in the interest of the proper administration of justice. Retrial after mistrial because of a deadlocked jury is not barred by the protection against double jeopardy. There must be a factual basis on the record for the exercise of discretion to discharge a jury, and extraordinary and striking circumstance's must exist before the judge's discretion can be exercised. The jury's acknowledgment of a hopeless deadlock is such an extraordinary and striking circumstance. In State v. Fuller, the state Supreme court held where a jury acquits on one means of committing an offense but deadlocks on alternative mean's resulting in mistrial, defendant may be retried on that alternative mean's. If the state charges a person with greater and lesser offense's and the jury is unable to agree regarding the greater offense but finds the defendant guilty of the lesser offense and the defendant's conviction for the lesser offense is reversed on appeal, the State may retry the defendant for the greater offense without violating double jeopardy. Acquittal of aggravating circumstance's require's jury unanimity. In state v. Allen, the court held there is no logical or legal basis for holding that the element's of the crime for purpose's of the Sixth amendment right to trial by jury are different from the element's for purpose's of the fifth amendment double jeopardy clause.

7. Grounds for a new trial under CrR 7.5

A). receipt by the jury of any evidence, paper, document or book not allowed by the court.

B). misconduct of the prosecution or jury.

C.) newly discovered evidence material for the defendant, which the defendant could not have discovered with reasonable diligence and produced at the trial. D.) Accident or surprise

E.) Irregularity in the proceedings of the court, jury or prosecution, or any order of court, or abuse of discretion, by which the defendant was prevented from having a fair trial

F.) error of law occuring at the trial and objected to at the time by the defendant
G.) that the verdict or decision is contrary to law and the evidence
H.) that substantial justice has not been done
Grounds for granting Relief under CrR 7.8(b)
"the court may relieve a party from a final judgement, order, or proceeding for the following reasons": 1. mistakes, inadvertence, surprise, excusable neglect or irregularity in obtaining a judgement or order. 2. newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under rule 7.5 3. Fraud (whether here to fore denominated intrinsic or extrinsic) 4. misrepresentation, or other misconduct of an adverse party 5. The judgement is void 6. any other reason justifying relief from the operation of the judgement. Errors of law are not correctable through a motion to vacate, this must be accomplished through direct appeal. A motion under CrR 7.8(b) does not affect the finality of the judgement or suspend its operation. 8.) Rules of General Application: Rule 12. (of washington Court rules) washington state Bar Association; purpose's A.) In general, the washington state bar association strives to - 1.) Promote an effective legal system, accessible to all. 2.) Promote understanding

of and respect for our legal system and the law. 3.) Serve as a State-wide voice to the public and the branches of government on matters relating to these purpose's and the activities of the association. 4.) Provide periodic reviews and recommendation's concerning court rules and procedures. 5.) Administer an effective system of discipline of its members, including receiving and investigating complaints of lawyer misconduct, talking and recommending appropriate punitive and remedial measures, and diverting less serious misconduct to alternatives outside the formal discipline system 6.) maintain a legislative presence to inform member's of new and proposed laws and to inform public officials about bar position's and concern's B.) Use of Unsworn Statement in LIeu of Affidavit, Rule 13 (rules of general application [washington court rules]). 1.) whenever a matter is required or permitted to be supported or proved by affidavit, the matter may be supported or proved by an unsworn written statement, declaration, verification, or certificate executed in accordance with RCW 9A.72.085 C.) Rule 14 Office of Reporter of Decisions (style sheet) effective May 15, 2003, The seventeenth Edition of The Bluebook: A Uniform System of Citation is the basic citation resource for washington appellate court opinion's. D.) Rule 15 Destruction and sealing of court records

Constitutional and Statutory Provisions Involved

(Rules of General Application[washington courtrules]) 1.) Use of sealed Records on Appeal; A file, or any portion of it, sealed in the trial court shall be made available to the appellate court in the event of an appeal. Cases sealed in the trial court shall be sealed From public access in the appellate court subject to Further order of the appellate court. 2.) Effect on other Statutes; Nothing in this rule is intended to restrict or to expand the authority of clerks under existing statutes, nor is anything in this rule intended to restrict or expand the authority of any public auditor in the exercise of duties conferred by statute. E.) Rule 23. Rule for certifying Professional Guardians(rules of General Application[washington court rules]). 1.) Purpose and scope - This rule establishes the standards and criteria for the certification of professional guardians as defined by RCW 11.88.008 and prescribes the conditions of and limitations upon their activities. 2.) Records of investigations shall remain confidential except for documents showing the results of the investigation where there has been an appeal; and 3.) Records of disciplinary actions shall remain confidential except all formal complaints and the process after filing the formal complaint shall be public F.) Rule 25 Practice of Law Board(rules of general Application[washington court rules]). 1.) Investigation: The Board may, on its own initiative, and without any complaint being made to it, investigate any condition or situation of which it becomes aware that may involve the unauthorized practice of law. 2.) On request of the Supreme Court or any person or organization, or on its own initiative, the Board may recommend that non-lawyers be authorized to engage in certain defined activities that otherwise constitute the practice of law as defined in GR24. In forwarding a recommendation that non-lawyers be authorized to engage in certain legal or law-related activities that constitute the practice of law as defined in GR 24, the board shall determine whether regulation under authority of the Supreme Court is necessary to protect the public interest. G.) Rule 29 Presiding Judge in Superior court district and limited jurisdiction court District (rules of general application [washington court rules]). 1.) Oversight of Judicial Officer's - It Shall be the duty of the Presiding Judge to supervise judicial officers to the extent necessary to ensure the timely and efficient processing of cases. The Presiding Judge shall have the authority to address a Judicial officer's failure to perform judicial duties and to propose remedial action. If remedial action is not successful, the Presiding Judge shall notify the Commission on Judicial Conduct of a Judge's substantial failure to perform judicial duties, which includes habitual neglect of duty or persistent refusal to carry out assignments or directives made by the Presiding Judge, as authorized by this rule. 2. Judicial Services Contracts - A Judicial officer may contract with a municipal or county authority to serve as a judicial officer. The personal service contract shall not contain provisions which conflict with this rule, the Code of Judicial Conduct or statutory judicial authority, or which would create an impropriety or the appearance of impropriety concerning the judge's activities. The employment contract should acknowledge the court is a part of an independent branch of government and that the judicial officer or court employees are bound to act in accordance with the provisions of the Code of Judicial Conduct and this rule. 9. Code of Judicial Conduct (Preamble [Washington court rules]). Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to American concepts of justice and the rule of law. Intrinsic to all section's of this Code are the precepts that judge's, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legel system. The judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law. The code of Judicial Conduct is intended to establish standards for ethical conduct of judges. It consists of broad statements called Canons, specific rules set forth in sections under each Canon, a Terminology section, an Application section, and Comments. The Canons and Sections are rules of reason. They should be applied consistent with constitutional requirements, statutes, other court rules and decisional law and in the context of all relevant circumstances. The code is to be construed so as not to impinge on the independence of judge's which is essential in making judicial decisions. Terminology: "Appropriate authority" denotes the authority with responsibility for initiation of disciplinary process with respect to the violation to be reported. "Knowingly", "Knowledge", "Known" or "Knows" denotes actual Knowledge of the fact in question. "Require" - The rules prescribing that a judge "require" certain conduct of others are, like all of the rules in this Code, rules of reason. The use of the term "require" in that context means a judge is to exercise reasonable direction and control over the conduct of those persons subject to the judge's direction and control. [Adopted effective June 23, 1995; amended effective November 7, 1995.]. A.) Rules of General Application (code of Judicial Conduct [Washington court rules]). Canon 1, Judges Shall Uphold the

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Integrity and Independence of the Judiciary; An independent and honorable judiciary is indispensable to justice in our society. Judges should participate in establishing, maintaining, and enforcing high standards of judicial conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective. *Note - Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. The integrity and independence of judges depends in turn upon their acting without fear or favor. Although judges should be independent, they must comply with the law, including the provisions of this code. Public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violation of this code diminishes public confidence in the judiciary and thereby does injury to the system of government under law. [canon I amended effective march 25, 1988; June 23, 1995 and Comment adopted June 23, 1995]. B.) Code of Judicial Conduct (rules of general application [washington court rules]) CANON 2: Judges Should Avoid Impropriety and the Appearance of Impropriety in all their activities; 1.) Judges should respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. 2.) Judges should not allow family, social, or other relationships to influence their judicial conduct or judgment. Judges should not lend the prestige of judicial office to advance the private interests of the judge or others; nor should judges convey or permit others to convey the impression that they are in a special position to influence them. Judges should not testify voluntarily as character witnesses. *Note - maintaining the prestige of judicial office is essential to a system of government in which the judiciary function's independently of the executive and legislative branches. Respect for the judicial office facilitates the orderly conduct of legitimate judicial functions. Judges should distinguish between proper and improper use of the prestige of office in all of their activities. The testimony of judges as character witnesses injects the prestige of their office into the proceeding in which they testify and may be misunderstood to be an official testimonial. This canon, however, does not afford judges a privilege against testifying in response to a subpoena. 3.) Judges should not hold membership in any organization practicing discrimination prohibited by law. C.) Code of Judicial Conduct (Rules of General Application [Washington Court Rules]) Canon 3: Judges Shall Perform the Duties of Their Office Impartially and Diligently;

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The judicial duties of judges should take precedence over allother activities. Their judicial duties include all the duties of office prescribed by law. In the peformance of these duties, the following standards apply: 1.) Adjudicative Responsibilities - Judges should be patient, dignified, and courteous to litigants, Jurors, witnesses, lawyer's, and others with whom Judges deal in their official capacity, and should require similar conduct of lawyers, and of the staff, court officials, and others subject to their direction and control. 2.) Judges should accord to every person who is legally interested in a proceeding, or that person's lawyer, full right to be heard according to law, and, except as authorized by law, neither initiate nor consider ex parte or other communicatoons concerning a pending or impending proceeding. Judges, however, may obtain the advice of a disinterested expert on the law applicable to a proceeding before them, by amicus curiae only, if they afford the parties reasonable opportunity to respond. 3.) Judges shall perform judicial duties without bias or prejudice. 4.) Disciplinary Responsibilities - Judges having actual Knowledge that a lawyer has committed a violation of the Rules of Professional Conduct should take appropriate action. Judges having actual knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's Fitness as a lawyer should take or initiate appropriate corrective action, which may include informing the appropriate authority. 10. Discipline Rules for Judges (Rules of general application [washington court rules]) Rule 3. A judge who seeks to contest a recommendation of discipline or retirement must file a notice of contest with the Supreme Court and the commission. 11. Board for Judicial Administration Rules (Rules of general application [washington court rules]), Preamble - The power of the judiciary to make administrative policy governing its operations is an essential element of its constitutional status as an equal branch of government. The Board for Judicial Administration is established to adopt policies and provide strategic leadership for the courts at large, enabling the judiciary to speak with one voice. Rule 4.: The Board shall speak on behalf of the judicial branch of government and develop statewide policy to enhance the operation of the state court system. 12. Rules of Professional Conduct (Rules of General Application [washington Court rules]. Rule 1.14 - Preserving Identity of Funds and Property of a client; 1.) In determining whether to use the account specified, a lawyer shall consider only whether the funds to be invested could be utilized to provide a positive net return to the client, as determined by taking into consideration the following factors: A.) the

amount of interest that the funds would earn during the period they are expected to be deposited. B.) the cost of establishing and administering the account, including the cost of the lawyer's service's and the cost of preparing any tax reports required for interest accruing to a client's benefit, and C.) the capability of financial institutions to calculate and pay interest to individual clients (RCW 39.58.010 [2]). 2.) DEclining OR Terminating Representation (Rvele 1.15) (rules of general application [washington court rules]). A.) Except as stated, a lawyer shall not represent a client or, where representation has commenced, shall, notwithstanding RCW 2.44.040, withdraw from the representation of a client if: a.) 1.) The representation will result in violation of the Rules of Professional Conduct or other law. a.) 2.) the lawyer's physical or mental condition materially impairs his ability to represent the client or a.) 3.) the lawyer is discharged - B.) A lawyer may withdraw from representing a client if withdrawal can be accomplished without material adverse effect on the interests of the client, or if b.) 1.) The client persists in a course of action involving the lawyer's services that the lawyer reasonably believed is criminal or fraudulent b.) 2.) The client has used the lawyer's services to perpetrate a crime or fraud.
b.) 3.) The client insists upon pursuing an objective that the lawyer considers repugnant or imprudent.
b.) 4.) The client fails substantially to fulfill an

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obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled. b)5.) The representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client or b)6.) Other good cause for withdrawal exists. C.) when ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation. D) A lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law. 3.) Counselor (Advisor) Rule 2.1 (Rules of General Application [washington Court rules]): In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation. 4.) Advocate, Rule 3.4 Fairness to opposing party and counsel (rules of General Application [washington Court rules]). A.)

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A lawyer shall not: Unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act, B.) Falsify evidence, counsel or assist a witness to testify Falsely, or offer an inducement to a witness that is prohibited by law, C.) Knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists D.) In pretrial procedure, make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party, E.) In trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, or assert personal Knowledge of facts in issue except when testifying as a witness or, F.) In trial, state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused, but the lawyer may argue, on his or her analysis of the evidence, for any position or conclusion with respect to the matters stated herein. 5.) Trial Publicity Rule 3.6 (Rules of General Application [washington Court rules]). A lawyer shall not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding. (Guidelines for Applying RPC 3.6)

A.) Criminal - The kind of statement referred to in rule 3.6 which may potentially prejudice criminal proceedings is a statement which relates to: 1.) The character, credibility, reputation or criminal record of a suspect or defendant, 2.) the possibility of a plea of guilty to the offense or the existence or contents of a confession, admission or statement given by a suspect or defendant or that person's refusal or failure to make a statement. 3.) The performance or results of any investigative examination or test such as a polygraph examination or a laboratory test or the failure of a person to submit to an examination or test. 4.) Any opinion as to the guilt or innocence of any suspect or defendant 5.) The credibility or anticipated testimony of a prospective witness, and 6.) Information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial.

B.) The Public has a legitimate interest interest in the conduct of judicial proceedings and the administration of justice. Lawyers involved in the litigation of criminal matters may state without elaboration: 1.) The general nature of the charge or defense. 2.) The information contained in the public record, and 3.) The scheduling of any step in litigation, including a scheduled court hearing to enter a plea of guilty. C.) The public also has a right to know about threats to its safety and measures aimed at assuring its security. Toward that end a public prosecutor or other lawyer involved in the investigation of a criminal case may state: 1.) That an investigation is in progress, including the general scope of the investigation and, except when prohibited by law, the identity of the persons involved; 2.) A request for assistance in obtaining evidence and information 3.) A warning of danger concerning the behavior of a person involved when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest, and 4.) The identity, residence, occupation and family status of the accused: Information necessary to aid in apprehension of the accused; the fact, time and place of arrest, and; The identity of investigating and arresting officers or agencies and the length of the investigation. II Civil - The Kind of statement referred to in rule 3.6 which may potentially prejudice civil matters triable to a Jury is a statement designed to influence the Jury or to detract from the impartiality of the proceedings. 6) Lawyer as witness Rule 3.7 (Rules of General Application [washington court rules]). A lawyer shall not act as advocate at a trial in which the lawyer or another lawyer in the same law firm is likely to be a necessary witness except where: A.) The testimony relates to an issue that is either uncontested or a formality; B.) The testimony relates to the nature and value of legal services rendered in the case; or C.) The lawyer has been called by the opposing party and the court rules that the lawyer may continue to act as an advocate; or D.) The trial judge finds that disqualification of the lawyer would work a substantial hardship on the client and that the likelihood of the lawyer being a necessary witness was not reasonably foreseeable before trial 7.) Special Responsibilities of a Prosecutor, Rule 3.8 (Rules of General Application [washington Court rules]), A.) Make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense. and misconnection with

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sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal. 8.) Responsibilities of a Partner or Supervisory Lawyer, Rule 5.1 (Rules of General Application [washington Court rules]), A.) A partner in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in in the firm conform to the Rules of Professional Conduct. 9.) Law Reform activities Affecting client Interests, Rule 6.4 (Rules of General application [washington Court rules]): A lawyer may serve as a director, officer or member of an organization involved in reform of the law or its administration notwithstanding that the reform may affect the interests of a client of the lawyer. when the lawyer knows that the interests of a client may be materially benefited by a decision in which the lawyer participates, the lawyer shall disclose that fact but need not identify the client.

10.) Communications concerning a lawyer's services, Rule 7.1 (Rules of General Application [washington Court rules]), A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. is false or misleading

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3.) The fact is there are three deciding reason's double jeopardy is considered a legal means to determine an error in court judgment. The court should be held in contempt for missing these acussations more than once. My attorney Joshua Poisel once told me I had to be acqutted, vacated and dismissed of all counts consecutively before I could consider my charge's dropped. This statement was misleading and blunt use of prejudice, using a single use of judgment that carries higher governing powers than lower judgment for the same crime is evidently misleading me to believe I need to continue to file lawsuits and petitions even after a court of law has made attempts to correct my conviction rate in lower courts. My appeals is used to correct trial related issue's, the a fact is no court related trial correction's were ever considered or used to calculate my appeals relief and possible sentencing arrangements correctly. My appeals attorney claimed I contine to have two count conviction rate for a single crime (one conviction) during appeals from 1-29-2021 through 1-4-2023. He used a standard range of sentencing as a means to clarify my appeals, producing a standard range of sentencing is double jeopardy and not possible due to senate bill 5164, also senate bill State v. Blake or the simple reasoning fact the vacation of one count (one crime) is an immediate reversal of conviction with a release from prison.

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4.) Based upon State v. Blake (vacation of cocaine convictions) it is a "Fact" that I get a reduction of offender score to be calculated during appeals and resentencing. During my appeals my reduction calculation was not correctly completed. I wrote appeals attorney Jared B. Steed about error he responded claiming I would have the same offender score as original sentencing. I explained I get a reduction he chose not to calculate this legal personal right.

5.) During my appeals there was no principle's and judgment with regard to my circumsstance's, I was forced to accept acknowledge by a trained member(s) of the law. I sent my oral argument's by letter to my appeals attorney Jared B. Steed, including document's to prove my claim's and he refused to understand or dictate guidance according to what I asked for. As a attorney he his legally obligated to give me a response of claim's I raise regardless of what judgment a court of law may decide upon in the future, he refused to reasonable, sensible give me yes and no computable respone's. It is a "fact" an attorney is used as a Negotiator not a person in control of my mind or process I personaly want to take to address my court authorization. It is a "fact" an appeals process is used to correct mistake's, he claimed he corrected a mistake that was recently corrected day of sentencing on 1-29-2021 during appeals for the second time. Because of this error I am getting a standard range of sentencing

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instead of a release from prison. while appeals case was active from 8-2-2021 to 8-20-2021 I signed release paperwork, approved by a legislature or lawmaker and he claimed "I thought I was getting transfered" after I made it evident that I am supposed to get released from prison. 6.) According to rules of general application witness testimony is used as "actual Knowledge of the fact in question". Tammy Nyugen claimed I was aggresive and stabbed the victim three time's (I stabbed him once). This affected my outcome restricting me from an attornies plea for manslaughter one. Japier Hussien claimed I was walking out of a restuarant parking lot heading south and yelled at him when I left. I never entered a parking lot or yelled at him because I never made a visual of his location the night of the crime. Because of these claims my outcome of sentencing was severly affected. 7.) As a counsler of the judicial system an attorney ("counsler") is advised to account for the substantial advantages and risks involved that reasonable can be resolved on terms compatible with the client's (myself) best interests. when conducting law reform during appeals (from 1-29-2021 to 1-4-2023) my lawyer is to "serve as a director, officer or member of an organization involved in reform of the law or its administration. It is a "fact" the affect of my best interst's was altered including the outcome of my appeals, because the seriousness level for appeals was misleading. Having a reduction of sentencing is grounds to lower my seriousness

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level to calculate my appeals decison's. These calculations were not considered. 8.) My 6th Amendment rights were violated, as a defendant I was never allowed to provide personal notification to the prosecutor or court of law for designated hearing's by prosecuting attorney. 9.) During original sentencing and appeals my diminished capacity, involuntary manslaughter one (without intent) and cupable possibilities for sentencing were not discovered or considered due to disclosure of victim's intoxication level of recreational drugs, also alcohol. The "Fact" is this involves "suppression of evidence" and "impartiality of probable cause" reason the outcome of my case would have been different. 10.) My original sentencing attorney and appeals attorney are guilty of perjury, Ineffective assistance of counsel and unsensible reasoning ("Knowingly") without due process of enforcing past verdicts for calculation of appeals, sentencing and resentencing on 4-7-2023. All documented verdicts and provision's writtEn into law apply for correction in determination of sentencing (espicially a national and statewide group release from prison process [senate bill 5164 and senAte bill state v. Blake]) 11.) An error in a court of law is held at a greater value higher than an average mistake by a normal human being. Revoking my personal rights is a punishment that negate's constitutional standards. I have a legal right to sue the state of washington For scribener's error's. 12.) An unqaulified jury during sentencing and (state provided during appeals) is unconstitutional, grounds for new trial (possible dismissed charges). 13.) Joinder of offense's under rule 4.3 shall be consolidated. Force's one same conduct count conviction.

## REASONS FOR GRANTING THE PETITION

I should have my petition granted based upon a majority of mitigating facts, resulting from Superior court error of my personal court sentencing and the public opinion of passed change's in the law, the due process of Senate Bill 5164, also Senate Bill State v. Blake. The "critical stage" of my relief is based upon judicial discretion only, my personal defense is common by law, with any sensible reasoning it's evident I am entitled to mental health relief (testimony of an expert witness). My release from prison and granting of petition are binding court decison's of fact. I am currently chosen to accept current United state's law reform for incarcerated inmate's in numerous state's in the United State's of America. I am granting this petition in reasonable acceptance, I am granting this petition to provide effort in solving what United state's law maker's consider supreme court reform. The Superior court of the state of Washington has granted me double jeopardy by verdict in sentencing from 6-23-17 to 1-29-21 and denied my conviction of double jeopardy method as a change in the law during my Appeals, from 1-29-2021 to 1-4-2023. I have asked law firm agencies for assistance in spreading the knowledge of my case, I will have a message to provide to incarcerated inmate's who want a second chance. I am in the most in vunerable position, I cant lose my self integrity but can only gain the respect of the community and teach a valuable lesson at the same time. I have signed application's for release (new social security card applications, taken photo's for driver's license renewal, completed census bureau report's [account for location when released], been asked for my release address, signed consent forms to prove of my personal awareness of release/transfer for appeals court appearance and resentencing court appearance) and been given my final inventory bag slip in an attempt to prove to me that I am getting released. I have never given any personal attempt's to be released I was chosen to be released from prison. I should be granted a reason to be considered for a new trial or considered for petition to dismiss my single count conviction of 1-29-2021. I want my petition granted to prove to United state's law maker's I am another of many incarcerated inmate's that can accept and understand that being chosen for law reform is the way of United states democracy to independence. A choice and reason to believe that a governing branch believe's and accepts, with forgiveness, the dismissal of past convictions to prepare for economical existance in real time for a better community when I get released from prison, after being granted a "Petition for Certiorari"

~~[illegible]~~ Due process of government furlough that force's me to accept a cash
~~[illegible]~~ settlement or lawsuit for my petition effort's I will
~~[illegible]~~ gladly accept.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Leon Caril II (JR.)

Date: March 19, 2023