QUESTIONS PRESENTED

1. Whether trial-counsel erred by not filing a motion to quash the indictments, despite the overwhelming-evidence that proves the investigating officers never obtained search-warrants, and gave false-testimony to The Grand-Jury?

2. Whether trial-counsel erred by not calling as a witness, Sgt. Randy Young of The Strafford Police Department?

3. Whether collusion occurred during trial; based on the fact that The State begged The Court in front of Defense-Counsel, to exclude The State's Chief-Witness (Randolph H. Young) whom built the entire case for The State: and prevent the wire-tap recording from being admitted into evidence, that proves attempted-extortion, criminal-threats, & warrantless-search by The Strafford P.D., in which may be a Plain-Error Standard?

4. Whether trial-counsel erred by not filing a motion for a suppression hearing or to dismiss all charges, prior to trial?

5. Whether trial-counsel erred by not filing a motion for a probable-cause hearing, prior to trial?

6. Whether trial-counsel erred by not consulting with his client prior to filing a motion for a 'Richard's-Hearing'; and after The Court granted his motion, Robert J. Watkins failed to ask The Court on the day of the hearing, to commence with Officer Randy Young on the stand for questions about his illegal-acts?

7. Whether trial-counsel erred by excluding the Defendant (Brim Bell) from the last two-days of trial?

8. Whether trial-counsel erred by failing to object, when Judge Howard made bias remarks about the evidence; in the presence of the jury, while Mr. Bell was left at the jail?

9. Whether trial-counsel erred by not objecting, when Judge Howard entered live-deliberations (alone) on several occasions, and allowed inadmissible-evidence to be admitted at trial?

10. Whether trial-counsel erred by not challenging the admissibility of The State's Evidence, or failing to object when The State knowingly elicited false-testimony during trial?

11. Whether appellate-counsel erred by not raising any of the issues that his client demanded, repeatedly? LIST INCLUDES;
    a) Ineffective Assistance of Trial-Counsel
    b) Warrantless-Search by Strafford P.D. & Somersworth P.D.
    c) Prosecutorial-Misconduct & Malicious-Prosecution
    d) Attempted-Extortion & Criminal-Threats by Sgt. Randy Young

12. Whether appellate-counsel erred by failing to withdraw from this case; despite the numerous calls to his boss, demanding the removal of Thomas A. Barnard, and Petitioner filed several motions to The Supreme Court of New Hampshire requesting new-counsel, unaffiliated with the New Hampshire Public Defender Program?

13. Whether appellate-counsel erred by using The State's fictitous perjury charge against Brim Bell; as black-mail & used criminal-threats, to coerce Mr. Bell to DROP his Direct-Appeal?

14. Whether appellate-counsel erred by his failure to raise Ineffective Assistance of Trial-Counsel, during oral-argument on February 17, 2022 and/or advise his client to file a Writ of Certiorari and Federal Habeas-Corpus?

15. Whether the Strafford County Attorney (Thomas P. Velardi) erred by knowingly, used tainted evidence to indict Brim Bell and elicited false-testimony to The Grand-Jury?

16. Whether The State Prosecutor (Chelsea E. Lane) erred by purposely misleading the jury; by falsifying exculpatory-evidence, that led to Mr. Bell's conviction?

17. Whether The Court erred by abusing it's discretion by charging the jury with erroneous instructions and made bias comments; to lead the jury down a road of a guilty-verdict?

18. Whether the investigating-officer (Sgt. Randy Young) erred by not obtaining a search-warrant prior to seizing private-property from Brim's Shop & Home; as well as his failure to disclose the illegally seized property, which includes photographs of sensitive information that enabled this case?

19. Whether The Trial-Court erred by knowingly allowing trial to commence, without the Defendant's accuser going up on the stand; and failing to call for a mistrial?

20. Whether trial-counsel (Robert J. Watkins) erred by purposefully violating his client's Sixth-Amendment Right to Confrontation and Testing in the Crucible of Cross-Examination?

21. Whether the investigating-officer (Randoph H. Young) erred by waiting twenty-two months to write the Incident-Report that pertains to the initial warrantless-search; on October 20, 2016, thats based solely on hearsay & NO Probable-Cause?

RELATED CASES

State of New Hampshire v. Brim Bell, No. 219-2017-CR-617, 604, 606, 614, Strafford County Superior Court. Judgment entered January 2, 2019.

State of New Hampshire v. Brim Bell, No. 2019-0047, The State of New Hampshire Supreme Court. Judgment entered November 18, 2022.

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STATUTES AND RULES

IN THE

SUPREME COURT OF THE UNITED STATES OF AMERICA

PETITION FOR WRIT OF CERTIORARI

OPINIONS BELOW

The opinion of the highest state court to review the merits appears at Appendix-A to the petition, and is reported at https://www.courts.nh.gov/our-courts/supreme-court

The opinion of The Strafford County Superior Court appears at Appendix-B to the petition, and is reported at reporter@courts.state.nh.us.

JURISDICTION

The date on which the highest state court decided my case was August 16, 2022. A copy of that decision appears at Appendix-A.

A timely petition for rehearing was thereafter denied on the following date: November 18, 2022, and a copy of the order denying rehearing appears at Appendix-C.

An extension of time, or late-file the petition for writ of certiorari was postmarked: June 6, 2023 and received by the clerk of the courts on June 12, 2023. quoting-clerk: "However, you may promptly submit an **UNTIMELY PETITION:** FOR A WRIT OF CERTIORARI in a criminal case, which will be submitted to The Court with a notation of untimeliness. A sample petition for a 'Writ of Certiorari' and a copy of the Rules of this Court are enclosed". Sincerely, Scott S. Harris, (clerk) By: Susan Frimpong (202) 479-3039. MOTION TO LATE-FILE @ APPENDIX-E

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

CONSTITUTIONAL & STATUTORY PROVISIONS INVOLVED

Amendment IV : The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable-cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V : No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in militia, when in actual service in time of war or public danger; nor shall be compelled in any criminal case to be a witness against himself , nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI : In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained [by] law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Amendment VIII : Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment XIV : (section 1) All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

INTERSTATE THREATS: in violation of 18 U.S.C. § 875(c) knowingly and willfully transmitted in interstate . . . commerce a communication containing a threat to injure the person of another, for the purpose of issuing the threat, knowing that it would be interpreted as a threat, and recklessly disregarding the risk that his communication would be interpreted as a threat . . . in violation of 18 U.S.C. § 875(c). Id.

18 U.S.C.S. § 875(b) & (d): prohibit certain types of threats, but expressly include a mental-state requirement of intent to extort. SECTION: § 875(b): the Government also must prove that the threat was transmitted with the specific intent to extort-money or a thing of value. SECTION: § 875(d): proscribes threats to property or reputation made with intent to extort. SECTION: § 875(c): while the Government is required to prove that the defendant's phone calls crossed a State-Line; the gov. does not need to prove that the defendant knew of the interstate nexus.

28 U.S.C.S. § 455(a): an order that the District Judge recuse himself on the ground that the judge's impartiality could reasonably be questioned. (See: STATE OF NEW HAMPSHIRE CODE OF JUDICIAL CONDUCT -- Rule: 2.3 "Bias, Prejudice, and Harassment".)

42 U.S.C.S. § 1983: In order for a person to be sued in a § 1983 CIVIL RIGHTS ACTION, he must be acting under 'Color of Law' 42 U.S.C.S. § 1983, United States Constitution Amendments XI & XIV. NOTE: Amendment XI resulted from the decision in the case of Chisholm v. Georgia, (1793) 2 U.S. 419, 1L Ed 440, in which it was held that a State was suable in The Supreme Court by individual citizens of another State.

PLAIN-ERROR REVIEW: Fed. R. Crim. P. 52(b): provides that a Court of Appeals may consider errors that are plain & affect substantial rights, even though they are raised for the first time on appeal. The U.S. Supreme Court established three conditions that must be met before a Court may consider exercising it's discretion to correct the error. (1) there must be an error that has not been intentionally relinquished or abandoned. (2) the error must be plain that is to say, clear or obvious. (3) the error must have affected the defendant's substantial rights.

Fed. R. Crim. P. 43 (a)(2): A judge's responding to a jury note, outside the presence of Counsel & Defendant; also violates Fed. R. Crim. P. 43, which states that the stages of a trial at which, the Defendant must be present at every trial stage, including jury impanelment and the return of the verdict.

STATEMENT OF THE CASE: A

Petitioner (Brim Bell) seeks a Writ of Certiorari; asking this Honorable Court to review the procedure and conduct of The State of New Hampshire in initiating Criminal-Proceedings through a State Grand-Jury. Wherein, The State knowingly sought and obtained indictments against the Petitioner by misleading The Grand-Jury through evidence obtained in violation of the Fourth-Amendment to The United States Constitution. By (one) Sergeant Randolph H. Young of The Strafford Police Department. Through a warrantless search of Brim's Auto Restoration and residence. In which, Sgt. Young conducted under 'Color of his Authority as a Policeman'. As a favor for one James N. Lund, the owner of the property. That Brim Bell rented as both his business and home, to assist Mr. Lund in a scheme to remove the legal-tenant from the property without having to comply with the (lawful eviction procedure) and obtaining a Writ of Possession from The Court. [NOTE: there was testimony from the landlord (James Lund) that Sgt. Young was a friend and long-time neighbor; whom had assisted Mr. Lund in removing tenants from other rental properties].

Further, The Strafford County Attorney (Thomas P. Velardi) allowed Sgt. Young to give perjured-testimony to The Grand-Jury. To the effect that -- QUOTING-YOUNG: "he was never at Lund's place while anyone was there; taking anything". See: Attached Exhibit-C:1. when in fact, during a recorded conversation between Sgt. Young & Mr. Bell, Young stated; "that he was present when people were removing vehicles, parts, & Brim's tools." Asking Mr. Bell; "well then, why was I there at the shop while these people were loading up their cars, and YOU — weren't there video-taping it"? See: Exhibit-A pg. 43 line 18-20.

B

Sgt. Randolph H. Young, was the person who conducted the 'Illegal-Investigation'; at the behest of Brim's landlord. Whom, had a personal-relationship with Mr. Young, and whom had previously called on Young to remove other tenants from rental property. And —— despite the fact that there had been NO legal-process to evict Brim Bell. Nor, any Writ of Possession from The Court. Sgt. Young had the landlord unlock Brim's leased-building. Also, embarked on a 'Illegal Fishing-Expedition'. Searching for any evidence, in which he could use to accuse Brim Bell of 'Criminal-Conduct'. In conducting illegal-entry of Brim's leased property, and 'Unconstitutional-Search'. Sgt. Young seized (vin numbers) from vehicles within Brim's fenced-in curtilage, and automotive shop. With the intent to identify ownership; took 'Photographic-Evidence' of the vehicles, as well as Mr. Bell's personal property. Including his residence, business files, and personal business records. Young copied names and contact information of Brim's clients, seized business records, and used the information from the illegally seized items to locate and contact Brim's clients.

Sergeant Young subsequently began contacting those clients, telling them —— that he was conducting an investigation into Brim's Auto Restoration, that he believed that Mr. Bell was fraudulently obtaining money from them, and that he needed those—clients to contact State's Attorney to file 'Criminal-Complaints' based upon Young's urging. As well as, his claim that he was conducting a 'Criminal-Investigation of Brim Bell'. [NOTE; other than the (true-statement) from James Lund, that his 15 year tenant was behind on rent payments. There was absolutely no legal basis for Sgt. Young to even initiate a 'Criminal-Investigation']. Indeed, Brim's clients were contacted by Randy Young using information Officer Young obtained through an illegal warrantless search.

C

That information, and other evidence were used by Young to manipulate Brim's clients into filing criminal complaints.

In August of 2017, The State convened a Grand-Jury; seeking to obtain indictments against Brim Bell for THEFT BY UNAUTHORIZED TAKING. The State's Chief Witness at The Grand-Jury was Sgt. Randolph H. Young. Young's testimony was composed entirely of his conduct, and actions, in entering Brim's Auto Shop & Private residence, searching for evidence to use against Brim Bell. While it is plainly obvious, that Sgt. Young colored his search as part of a 'Criminal-Investigation'. What The State of New Hampshire, The Superior Court Judge, The New Hampshire Supreme Court, and Brim's Defense-Attorney seem to intentionally ignore is the fact that, other than James Lund contacting Randy Young regarding Mr. Bell allegedly taking a vehicle belonging to Mr. Lund, and being late on rent payments. No one had filed Criminal Complaints against Brim Bell; that would justify Sgt. Young, in, initiating a 'Criminal Investigation'. Pro se Petitioner contends that the fact, that there had not been any allegation by any of his clients to even suggest a crime —— had occurred. Randy Young had no probable-cause to initiate a 'Criminal-Investigation'. And —— even less justification to enter Brim's Auto Restoration, and private residence, searching for evidence. The Petitioner asserts that Sgt. Young's warrantless-entry into his private dwelling, by cutting the locks on the doors was nothing more than a 'Unconstitutional Fishing-Expedition'; intended to find evidence of a crime.

The only evidence presented to The Grand-Jury was evidence derived from Sgt. Young's warrantless search. Mr. Young took photographs of vehicles belonging to Brim's clients, noted vin-numbers.

Searched and Seized business records, containing contact information for Brim's clients. And used that information to enlist the clients to file criminal-complaints against Brim Bell. All of the evidence presented to The Grand-Jury, including Jason Konopacki; one of Brim's clients who was called to The Secret Grand-Jury Hearing to testify, was derived from the Warrantless-Entry and Search of Brim's Home and Auto Shop.

D

Furthermore, there is clear evidence that, not only did Mr. Young present 'Illegally Obtained Evidence to The Grand-Jury', he also committed perjury. Under oath stated that -- "he was not present at Brim's auto shop & home when unidentified people were allowed to enter and remove various items from the business, including vehicles, vehicle parts, as well as —— other private-property". [NOTE: the defendant's trial included testimony from Alexandra Moore (alleged-victim). Ms. Moore was very emotional, crying, and told the jury that she did not know where Agnes/1975 VW was, that the vehicle was not returned to her]. However, despite Young's Grand-Jury Testimony, that he -- 'was not present' when unidentified people were showing up at Brim's Auto Restoration, and removing his clients vehicles. There is a transcribed telephone colloquy between Sgt. Young & Mr. Bell wherein, Randy Young asked Brim Bell -- QUOTING-YOUNG: "well then, why was I there at the shop while these people were loading up their cars, and you weren't there video-taping it"? See: Attachment/Exhibit-A pg. 43 line 18-20. Petitioner's Defense-Counsel never challanged the Warrantless-Search. Despite having been informed by State-Prosecutor (Chelsea E. Lane) that Mr. Young had told The Grand-Jury, that he was not present at the shop -- "while anyone was there taking cars, parts or pieces of cars, out of the shop. Young stated that -- "he was never at Lund's place while anyone was there taking anything". See: Exhibit-C:1/Memo (discovery pg.790).

E

Defense-Counsel Watkins, did not introduce the transcripts or challange the 'legality' of the evidence, and testimony that The State presented to The Grand-Jury.

Officer Randolph H. Young was listed as The State's Chief-Witness. The State subpoenaed Young to testify at the trial. Young's investigation, and his warrantless-entry into Brim's leased-building, from which all of the evidence The State presented had derived, was 'The State Case in Chief'. See: Exhibit-A pg. 13-14 line 18-23 & 1.

At the opening of the trial, The State and Petitioner's Defense-Counsel made opening-statements. State's Prosecutor ADA Lane made no reference to Sgt. Young (Brim's accuser). But, Defense-Counsel Watkins gave an opening-statement, outlining the evidence he intended to present to the jury. Because all of the evidence Watkins received from The State was evidence Officer Young gathered, and which The State presented to The Grand-Jury. Mr. Watkins' Opening-Statement, and Mr. Bell's Defense, was focused on the conduct of Young. Watkins had received The State's witness-list indicating that Randy Young was The State's chief-witness, and Watkins prepared Brim's-Defense under the belief that he would have the ability to 'Confront & Cross-Examine' Randy Young, after The State presented Young's-Testimony. In defense's opening, Watkins told the jury that they would hear testimony from The State's Witness and that Defense intended to show that Officer Young had attempted to EXTORT Brim Bell during a telephone conversation that had been recorded & transcribed. Defense-Counsel Watkins was also aware that the Prosecutor ADA Lane, had provided discovery that indicated Sgt. Young testified at The Grand-Jury; that he had not been there at the Shop, when unidentified people were allowed to remove vehicles & parts

F

belonging to Brim Bell; as well as his clients. Wire-tap recording exposes Officer Young bragging that he had been there. QUOTING-YOUNG: "Well then —— why was I there at the shop while these people were loading up their cars, and you weren't there video-taping it"? Mr. Bell directed Mr. Watkins to question Mr. Young, as to whether he had obtained a warrant to search Brim's leased-building. See: Exhibit-A pg. 43.

Immediately after Defense's Opening-Statement, State-Prosecutor ADA Lane requested a side-bar conference; and made an omnibus objection to Attorney Watkins' opening-statement. When The Court asked what she was objecting to, Ms. Lane stated -- QUOTING-LANE: "I just wanted to note for the record, The State's objection to the Defense's opening-statement, in reference to Randy Young call. Defense -- which our Defense is reference to the Randy Young phone call. The Defense is aware that The State is not going to call Randy Young. If the Defense were to call Randy Young themselves, I don't see how that evidence comes in as not hearsay ——— so I just believe that it was". See: Exhibit-B T-T pg. 37 line 9-16 (9-26-18). The Court responded by inquiring about the prosecutor's assertion, that the statements of Sgt. Young during his conversation with Mr. Bell. During which, Young 'Attempted to Extort Brim Bell', and made statements that conflict with Randy Young's testimony to The Grand-Jury. [NOTE: there had been a Richard's-Hearing granted by The Superior Court. QUOTING-THE COURT: "The Court will hear from the parties on this issue at the 9-12-18 Final Pre-Trial Conference"]. See: MOTION: FOR A RICHARDS HEARING 8-8-18. (the same type of hearing as The Federal Courts provide for witnesses who may be asked questions that could result in criminal-liability). Which, had been scheduled prior to Mr. Bell's trial. However, the richard's hearing did not commence. The Defense intended to question Officer Randy Young

relative to the statements Young made during the telephone colloquy with Brim Bell. Which were plainly attemps to extort Mr. Bell; and contrary to Mr. Young's Grand-Jury Testimony. During the colloquy between The Prosecutor, Defense-Counsel, and The Court. The Court commented about The Defense calling Young to the stand, and the wire-tap recording of Sgt. Young & Mr. Bell's telephone conversation. In which, the audio-version was to be played for the jury; while Officer Young was giving testimony under oath. But, The State & Trial-Counsel failed to call Brim's accuser, that built the entire case for The State of New Hampshire. See: Exhibit-B / T-T pg. 37 & Exhibit-A pg. 22. G

State Prosecutor ADA Lane, informed The Court that The State had decided that they were not going to call Randy Young as a witness, and contended that, since The State was not going to have Sgt. Young testify. The statements contained in the transcripts are hearsay; therefore Defense-Counsel's opening-statements to 'The Petit-Jury'. That they would receive evidence that would impeach Sgt. Young as a witness; by Young's attempt to extort Brim Bell. Should not be considered by, or argued by Defense-Counsel Watkins to the jury. The Court overruled the prosecutor's objection. Id. at T-T pg. 32-38 & Exhibit-C:1 / Memo 790.

Despite the fact that Sgt. Young was the person who investigated, and entered Brim's home & garage without a search-warrant, to gather evidence to charge Mr. Bell with a crime. Also, every piece of evidence that The State intended to and did present, was the product from Young's warrantless-search. The State subpoenaed Young, and indicated to Brim's Defense-Counsel that Young was intended to be The State's Chief-Witness. It was not until the opening-statements to the jury were made, that Defense-Counsel and The Court were informed that The State did not intend to present Officer Randolph H. Young as a State-Witness.

REASONS FOR GRANTING THE PETITION: ARGUMENT/QUESTION #1

This argument begins with the failure of Trial-Counsel, by not challenging the indictments. Robert J. Watkins (trial-counsel), received a Memo from Chelsea E. Lane, A.C.A. & Patrick Conroy, A.C.A. on 8-15-2018 that exposes several key facts about the investigating-officer. Sgt. Randy Young's testimony-review reveals perjury; based on his statement: "the only time he was there regarding this case was when Jim Lund called him about it". But even more compelling is Young's other statement: "he was never at Lund's place while anyone was there taking anything". Now lets review the attached Exhibit-A were Sgt. Young says to Mr. Bell: "Well then, why was I there at the shop while these people were loading up their cars and you weren't there; videotaping it"? See: Exhibit-A pg. 43 line 18-20. Thirdly, let's look at attached Exhibit-D to review Mr. Lund's deposition under oath: MR. WATKINS: "Have you ever met with Officer Young at the facility to tour the facility"? MR. LUND: "YEAH, I probably had to unlock it if he came to meet someone there and they wanted to go inside. I would have had to have unlocked it". MR. WATKINS: "OKAY. How many times did he meet people there"? MR. LUND: "I have no idea"! See: Exhibit-D pg. 68 line 15-23 & pg. 69 line 1-6. & Exhibit-C:1 Discovery pg. 790/RE: TESTIMONY-REVIEW of Sgt. Randy Young-Grand Jury. Despite Attorney Watkins' knowledge of invalid-indictments, he never filed a motion to Quash the indictments. See: Pierre v. Louisiana, 306 U.S. 354 (1939) also see United States v. Cronic, 466 U.S. 648 (1984) HN2: RIGHT TO COUNSEL "Of all the rights that an accused person has, the right to be represented by far the most pervasive for it affects his ability to assert any other rights he may have". (see cronic)

ARGUMENT/QUESTION #2

Robert J. Watkins (trial-counsel) erred repeatedly, regarding the anticipated testimony of The State's Chief-Witness Randolph H. Young. Prior to trial, pre-meditated trial-strategy was in [place] for the trial of State of New Hampshire v. Brim Bell. 'But', when Judge Howard asked MR. WATKINS; "are there going to be anymore witnesses"? Very Quickly Watkins jumped up and said; "NO YOUR HONOR THE DEFENSE RESTS" See; T-T pg. 38 line 10-20.

Remember, through out the entire trial Mr. Watkins made it plain and clear that Sgt. Young would be giving testimony. Most importantly Attorney Watkins' Opening-Statement brought into the light several illegal-acts by Sgt. Young. But what's most profound, is the fact that Young's illegal behavior caused the demise of Brim's Auto Restoration. Also titled; acting under the Color of State Law. The Attempted-Extortion of $200,000 in cash, that was used to disrupt Brim's business across State lines. See; Exhibit-A pg. 22 line 1-23, also see T-T pg. 32 line 6 & U.S. v. Cronic, 466 U.S. 648 (1984) CRIMINAL-LAW § 46.6 MEANINGFUL ADVERSARIAL TESTING. head-note; "The adversarial process protected by the Sixth-Amendment requires that the accused have counsel acting in the role of a advocate, and the right to the Effective Assistance of Counsel is thus the right of the accused to require the prosecution's case to survive the Crucible of Meaningful Adversarial Testing; when a true Adversarial Criminal-Trial has been conducted, even if the defense-counsel may have made demonstrable errors, the kind of testing envisioned by the Sixth-Amendment has occurred.

'But', if the process loses it's character as a Confrontation between Adversaies, The Constitutional Guaranty is violated. Also, could convert the appointment of counsel into a sham & nothing more then a formal compliance with The Constitution's requirement that an accused be given the assistance of counsel, cannot be satisfied by mere formal appointment". See: Avery v. Alabama, 308 U.S. 444, 446 (1940) & Strickland v. Washington, 466 U.S. 668 (1984).

Never at any point did Attorney Watkins show any true-defense; or that he was defending Brim Bell in anyway, shape, or form. Failed to even come close to the Crucible of Meaningful Adversarial Testing for his client. As well as the 3 prong system to survive the test of a Strickland-Claim. It's safe to say, that Mr. Watkins' is Constitutionally Deficient on every level or prong of Strickland & Cronic.

By failing to bring into the light, the SMOKING-GUN: Randolph H. Young's testimony, that would have exposed the illegal, invalid-trial of State of New Hampshire v. Brim Bell. In which, Mr. Watkins' performance actually prejudiced the Defendant's case causing a conviction. See: Davis v. Alaska, 415 U.S. 308 (1974) "In an opinion by Burger, ch. J., expressing the view of seven members of the Court, it was held that the Sixth-Amendment Right of Confrontation of witnesses requires that a defendant in a State Criminal-Case be allowed to impeach the credibility of a prosecution witness by Cross-Examination". See: Greene v. McElroy, 360 U.S. 474 (1959) HN2: "They have ancient roots. They find expression in U.S. Consti. amend. VI which provides that in all criminal-cases the accused shall enjoy the right 'to be Confronted with the Witnesses against him.' The U.S. Supreme Court has been zealous to protect these rights from erosion".

ARGUMENT/QUESTION #3

Collusion was raised repeatedly by Brim Bell on Sentencing-Day. Solely based on personal observations and the interractions between Ms. Lane & Mr. Watkins. The Trial-Record clearly reveal and/or expose their efforts to sabotage and deprive Mr. Bell of Due Process by causing an unfair-trial. Due-Process is synonymous with Fair-Trial. See: S-T pg. 39-52 & U.S. v. Dominguez-Benitez, 542 U.S. 74 (2004) "The burden of establishing entitlement to relief for Plain-Error is on a defendant claiming it". See: PLAIN-ERROR: Fed. R. Crim. P. 52.

Trial-Counsel is a witness to the events that cause a mistrial of State v. Bell. See: T-T side-bar conference 9-26-18 pg. 37 line 5-19. 'But', Mr. Watkins failed to seize the moment; to orally motion The Court for a mistrial. Immediately after the Defense's Opening Statement, ADA Lane (state-prosecutor) appeared to be on the verge of a nervous-breakdown. She tells The Court that The State is not calling there Chief-Witness (Sgt. Young) for testimony & implies that the phone call/wire-tap recording is hearsay; as well as Sgt. Young's up coming testimony, that Watkins' already promised the jury they will hear about how Sergeant Young Attempted to Extort $200,000 from Brim. Id. See: United States v. Whiffen, 121 F. 3d 18 (1997) quoting Whiffen: "Defendant was convicted on four-counts of transmitting threatening communications in Interstate-Commerce in violation of 18 U.S.C.S. § 875(c) ; does not require specific intent in regard to the threat-element of the offense, but only general intent". See: Exhibit-A pg.22 18 U.S.C.S. § 875(b)&(d) prohibit certain types of threats, but expressly include a mental-state requirement of intent to EXTORT.

Trial-Counsel knowingly failed to call for a mistrial. How can the trial commence after this monumental-moment; that exposes serious violations of the Defendant's Fundamental Rights of Due Process of the Fourth, Fifth, and Fourteenth Amendments to the U.S. Constitution. 'But', in this case AMENDMENT SIX [is] the true-catastrophe —'The Right to Confrontation & Cross Examination of his Accuser', more importantly 'The Right to Effective Counsel for Trial & Appeal'. The simple fact, that the appeal is based on the errors of the trial in question. It's been well established by The United States Supreme Court, that when both Trial & Appellate Counsel are ineffective. A petitioner is better equipped to raise an 'Ineffective Assistance of Counsel Claim'. For either Federal Habeas Corpus, or Certiorari.

Furthermore, The Court should have suggested to both parties at side-bar conference on September 26, 2018, that a mistrial, or a miscarriage of justice will occure if The Defense's entire Defense is based off Sgt. Randy Young's testimony, that must be initiated by The State Government to produce the proper prepared Defense that was in the makings, over a four month period, prior to the trial date. This issue does imply, that The Court (Mark E. Howard) is not a neutral-party that a jury trial requires by law, and must recuse without being asked too. In which, the Federal Plain-Error Statute fits this issue like a glove, as well as Abuse of Discretion. See: PLAIN-ERROR: Fed. R. Crim. P. 52 & In re U.S., 441 F. 3d 44 "An order that the District-Judge recuse himself on the ground that the Judge's impartiality could reasonably be questioned". 28 U.S.C.S. § 455(a).

ARGUMENT/QUESTION #4

Robert J. Watkins (trial-counsel) knew four-months prior to trial, that The State did not disclose any of the required search-warrants; to validate the evidence that was to be presented to the jury. Also, The Court Record showed that the Defendant (Brim Bell) was not evicted from either business location, or his residence in Strafford New Hampshire. The facts are plain and obvious, that search-warrants were required by law; for The State to have any legal standing, to criminally charge Mr. Bell. But at the time of the initial warrantless-search, there was no evidence of a crime. Only False Written Reports & False Statements by Mr. Bell's landlord (James N. Lund) to Sergeant Randy Young of the Strafford P.D.; on October 20, 2016. Therefore, when Sgt. Young broke in based on hearsay. Made the illegal invasion of Brim's leased-building, into nothing more or less than a Illegal Fishing Expedition. In which, the entire case stems from. Attorney Watkins never filed for a suppression hearing; to exclude all 'The Fruit of the Poisonous-Tree'. See: Mapp v. Ohio, 367 U.S. 643 GL ed 1081, 81 S. Ct. 1684, 84 A.L.R. 2d 933 (June 19, 1961) quoting-Mapp: "On appeal The Court reversed The State Supreme Court decision. The Court held that the Due Process Clause of the Fourteenth Amendment extended to The States; Fourth Amendment Right against Unreasonable Searches and Seizures. And, as necessary to ensure such rights, as the [MAPP EXCLUSIONARY-RULE]. Which prohibited the introduction into evidence of material seized in violation of the 'Fourth-Amendment', likewise applied to The State's Prosecution of State-Crimes". See: Fahy v. Connecticut, 375 U.S. 85 (1963) quoting-Fahy: "Presumptively, it's admission was error, because evidence obtained by an Illegal Search & Seizure was inadmissible under the MAPP-RULE". . .

ARGUMENT/QUESTION #5

Robert J. Watkins (trial-counsel) failed to file a motion for a Probable-Cause Hearing; prior to the commencement of trial. Which shows negligence, based on the fact that the case file contains not even one search warrant. More importantly, the Incident-Report from Strafford P.D. fails to mention an investigation of any type of crime, or that Mr. Bell was evicted. Sgt. Young does not state, that Mr. Bell moved out of State, or any mention of a stolen car that belonged to Mr. Lund. See: Exhibit-C/Incident #: 18STR-620-OF Call #: 18-59210 8-13-18. But, on January 31, 2017 Sgt. Young told Mr. Bell, that his justification to enter Brim's garage and home; was because James Lund (landlord) told Sgt. Young that Mr. Bell was evicted, and stole Mr. Lund's (fictitous car). As well as, Mr. Bell abandoned all his property and all his clients property, and was on the run from justice; driving Mr. Lund's car. First of all, we should ask why is there no mention of these False Reports in Sgt. Young's Incident-Report, that was written 19 months later? See: Exhibit-A pg. 13-43.

Even if, the False-Reports justify probable-cause to conduct a search of a private dwelling? A law enforcement officer, would still have a legal obligation to go before a judge with an application, to obtain a search warrant. Also, with a list of items to be seized, and where they are located. See: Dias-Nieves v. United States, 128 F. Supp. 3d 449 (2015) "Plaintiffs failure to prove absence of Probable-Cause was sufficient to defeat a Malicious-Prosecution Claim". . .

ARGUMENT/QUESTION #6

Robert J. Watkins (trial-counsel) failed to consult with his client (Brim Bell) regarding the secretly filed motion; to protect his friend from incriminating himself. This is one of the most revealing moments in this case; that exposes who Attorney Watkins is really defending? Yes, the 'Richard's-Hearing' had only one objective. The objective is plain and obvious, showing corruption in the New Hampshire Justice System. Watkins did all he could to keep Officer Randolph H. Young from going to prison, for Attempted Extortion across State-Lines. Also to cover-up, the numerous warrantless-searches of Brim's Auto Restoration, as well as Mr. Bell's residence in Strafford. Let's not forget the False-Testimony to The Grand-Jury by Sgt. Young. Brim Bell was indicted solely on 'Illegally Obtained Evidence' and 'Perjury'; by the Strafford Police Department. See: Exhibit-C:1/Memo Re: Testimony-Review/Grand-Jury Date: August 15, 2018 & Exhibit-H MOTION: FOR A RICHARD'S HEARING (secretly submitted by trial-counsel). See: State v. Richards, 129 N.H. 669-No. 86-384 (1987) 'FIFTH-AMENDMENT'

There is overwhelming injustice in all 50 States of The United States of America. This case is another example of the Break-Down and erosion of our justice-system as a whole. The Petitioner believes, that this case just might become a major case; that sets a new precedent.

ARGUMENT/QUESTION #7

October 3 & 4, 2018 Brim Bell put on a suit and tie in preparation of going to his trial. 'But', the Strafford County Sheriff's Department never showed-up, to transport Mr. Bell to The Strafford County Superior Court. (Recess at 12:25 p.m., recommencing at 3:00 p.m.) THE COURT: "All right. So first -- is Mr. Bell still over at the jail?" MR. WATKINS: "Yes, sir". THE COURT: "Are you okay with proceeding without him being present"? MR. WATKINS: "I am. I mean, this is a -- this is not something that a client generally has control over; how I respond to a question". THE COURT: "Okay". MR. WATKINS: "So, I think, I have an obligation at some point to consult with him; and let him know that there was a question, what the question is, but I'm not bound to how he wants to respond. So it's my opinion he doesn't need to be here". See: T-T pg. 831 line 4-18 & United States v. Gagnon, 470 U.S. 522 (1985) quoting-Gagnon: "Without written consent of the Defendant, defense-counsel can-not proceed in any type of Court-Proceeding; especially his trial". Ineffective Assistance of Counsel is plain & obvious. But, to be sure that the absence of Brim Bell, does not get over-looked by this Court, the Petitioner asserts the Federal Plain-Error Standard: under Fed. R. Crim. P. 52 (b) 'DEFENDANT MUST BE PRESENT FOR TRIAL TO COMMENCE; LEGALLY IN THE UNITED STATES COURTS'

See: Mulligan v. Kemp, 771 F. 2d 1436 at 1441 (11th Cir. 1985) quoting-Mulligan: "A Defendant's U.S. Const. amend. VI rights are his alone; and trial-counsel while held to a 'Standard of Reasonable Effectiveness', is still only an assistant to the Defendant, and not the Master of the Defense". 'WATKINS IS IN VIOLATION OF AMENDMENT 6'.

ARGUMENT/QUESTION #8

Mark E. Howard (presiding-justice) made it crystal-clear, that he can-not comment on the evidence presented. See: COURT INSTRUCTIONS FOR THE JURY. 'But', on October 3, 2018 in open Court, the jury witnessed Judge Howard utter bias comments about evidence that was admitted for jury deliberations. His comment suggest that Mr. Bell is guilty of a crime. This was based off the first charge, that the jury had a copy of. quoting jury-note: "(1) layman's term of 1st charge ~~does obtained~~ What does 'exercised unauthorized control' mean?" 10-3-18 PJM 2:45 p.m./COURT'S EXHIBIT NO. 2 DKT # 17-CR-604 10-3-18. The State Prosecutor chimes in with -- MS. LANE: "The only thing that came to mind was, you know, it means exercising control that's not authorized. And so I don't -- I don't know -- THE COURT: "Boy it sure does, doesn't it"! . . MR. WATKINS: "Obtains is easy because it's defined within the statute". As you can plainly see, Attorney Watkins completely ignores Judge Howard's violation of The New Hampshire Code of Judicial Conduct/Rule: 2.3 'Bias, Prejudice and Harassment'. See: T-T pg. 834 line 1-6. Please note, this one comment by Judge Howard more than likely affected the verdict; because it most definitely prejudiced the Defendant's case. For example, the jury look to The State Prosecutors and Judges for guidance, because most people as a whole believe and trust the people that run our justice-system.

Prior to trial, trial-counsel was asked to motion The Court for the recusal of Judge Howard based on the way he treated Brim during bail hearings, in which Howard refused to grant new counsel without any logical reason. And made it known that he had personal-interest in one of the alleged victims Christine Tibbetts a N.H. lawyer.

ARGUMENT/QUESTION #9

Robert J. Watkins (trial-counsel) allowed The Court (Mark E. Howard) to enter the jury-room on several occasions to retrieve exhibits, and give Supplemental Jury Instructions; during live-deliberations. For the record, trial commenced once again without the Defendant (Brim Bell) being present on October 4, 2018. (Proceedings commence at 2:26 p.m.) THE COURT: "All right. Thank you, Counsel. We have a question from the jury, and it's regarding Exhibit-25. I have not begun to formulate an answer. My thought was, first, with counsel's permission that I would go to the jury-room and retrieve Exhibit-25, so I can see exactly what they are talking about on the exhibit they have in the room". MR. WATKINS: "What -- yes. That was my initial thought". THE COURT: "And --" MS. LANE:"I do have a copy of it, if The Court would like to receive the -- " THE COURT: "But I don't know what they have". MR. WATKINS: "Yeah". MS. LANE: "Okay. So -- " THE COURT: "That's what I'm concerned about". MR. WATKINS: "We have a copy of what we intended for them to see". THE COURT: "Right". MR. WATKINS: "We don't know that, that's what they have". . . THE COURT: "I remember there was an exhibit that you cut in half or something. Is that the same one"? MR. WATKINS: "No". MS. LANE: "No. This is the -- " See: T-T pg. 840 line 1-25 also see United States v. Gagnon, 470 U.S. 522 (1985) quote: "Judge & Juror had violated the defendants right to be present at all stages of the trial; under 'Due Process Clause of the Fifth Amendment, and their right under Fed. R. Crim. P. 43. The Court of Appeals reversed the convictions, holding that the judge's discussion with the juror violated all four respondents U.S. Const. amend. VI 'Right to an Impartial Jury' & their right under Fed. R. Crim. P. 43". Brim Bell did not know about an ex parte, because Brim was excluded from trial.

ARGUMENT/QUESTION #10

Robert J. Watkins (trial-counsel) knowingly allowed 'Illegally Obtained Evidence' to be admitted into evidence at trial. The State failed to disclose the required search warrants, to show validation of the evidence gathered from investigating Officer Young. When the trial began, Attorney Watkins had an opprotunity to challenge the State's-Evidence; because there was overwhelming evidence showing numerous warrantless-searches of Mr. Bell's leased-building by local-police. During trial, Mr. Watkins pretended to defend Mr. Bell. How can we as a country, just stand by like a bunch of helpless sheep; watching our fellow man or woman get eaten by the 'Wolves of Injustice'? The Petitioner prays that this High-Court, will Take Judicial Notice of this manifestation of injustice across the entire country. This case presented today is not just about Brim Bell being held hostage by The State of New Hampshire; going on six years of illegal detainment. But rather, a wake-up call to all Americans. That at anytime, anyone can be plucked out of society and put in a cage illegally. If the Constitution of the United States becomes another compromised document, with out integrity or the proper weight to Govern this country. Then 'We The People' will lose our Democracy, that was built on Common Law Standards.

The State of New Hampshire ignored The Law of The Land, on every level to convict Brim Bell of a crime that he did not commit. This is not a Land Without Law. Therefore, the Petitioner has spent many months working on a 'Writ of Certiorari'. For two reasons, first, because of the injustice by New Hampshire. Second, as stated during allocution: "I am a true patriot of The United States of America. To me, this country is a land of great opportunities. I still believe in the

documents that our forefathers wrote, just a few hundred years ago: 'The Declaration of Independence', 'The Bill of Rights', and 'The Constitution of the United States of America'. If I was not a true patriot, I would not trust our justice system enough to take my case to trial. The law states that a person is innocent until proven guilty in a Court of Law, unless the trial is unfair. To the best of my knowledge, there was not a Exclusionary-Rule in place during my trial. Therefore, Chelsea Lane had no reason to suppress the key evidence from the jury, unless she was trying to hide the truth from the jury in order to win the case, which is against the law based on Constitution Law, Criminal Law, and The Constitution of the State of New Hampshire". See: S-T pg. 40 & Brady v. Maryland, 373 U.S. 83-83 (1963).

Exhibit-25 is exculpatory evidence, that proves The State knowingly elicited false-testimony during trial. Trial-Counsel knew about the last cut-off line during trial, that would have impeached the entire testimony of State's Witness (Jason Konopacki). The Court allowed Attorney Watkins to approach the bench, to study The Court's copy because Watkins never saw this exhibit before trial. The Defendant, did not receive a copy of Exhibit-25 prior to trial, either. After trial-counsel reviewed the exhibit, he seemed very distraught. Then without any other comment on the exculpatory-exhibit, suddenly said; "NO OBJECTION". The State immediately entered the exhibit-25 into evidence, as if somehow she was going to be stopped from entering this Falsified Document. As if she, was having trouble holding her guilt back. Considering, this illegal-invalid trial was created by her self-serving motives. More than likely, Chelsea E. Lane wanted to become the next County Attorney; at the expence of Brim's LIFE, LIBERTY, or PROPERTY in violation of the Fourteenth Amendment.

ARGUMENT/QUESTION #11

Thomas A. Barnard (senior appellate defender) failed to follow a direct order from the 'Master of His Own Defense'; Brim Bell. The direct order was to raise only the cardinal issues, and major errors that occurred during trial. The list of cardinal issues include;

a) Ineffective Assistance of Trial-Counsel

b) Warrantless-searches by Strafford P.D. & Somersworth P.D.

c) Prosecutorial-Misconduct & Malicious-Prosecution

d) Attempted-Extortion & Criminal-Threats by Sgt. Randy Young

All issues listed were raised on the trial record, and raised in the 'Notice of Appeal' under Rule 7. See; S-T pg.38-52 & United States v. Clemens, 738 F. 3d 1 (2013) quoting-Clemems: "At trial for sending threats to injure another across State-Lines in violation of 18 U.S. C.S. § 875(c), The District Court did not err in not adopting defendant's jury instructions". These issues are non-frivolous, and should have been raised by Appellate Counsel. See; Jones v. Barnes, 463 U.S. 745 (1983) In Jones case, the issue is that appellate-counsel chose not to raise each and every non-frivolous claim. The Court found, the decision regarding what issues to present, was left in the discretion of counsel. But, in this case before the Court today, is the simple fact that Attorney Barnard chose not to raise any of the issues requested by the Master of His Defense. Nor did appellate-counsel raise the one and only issue raised in the Rule 7/Notice of Appeal. "Whether trial-counsel erred by not calling as a witness, Sgt. Randy Young of the Strafford Police Department"? Clearly, this self admission of ineffectiveness by trial-counsel. Sergeant Randolph H. Young is The State's Chief-Witness, that conducted the entire investigation prior to the indictment. Young is Brim's accuser who never took the Stand.

ARGUMENT/QUESTION #12

The Supreme Court of New Hampshire refused to grant new-appellate counsel unaffiliated with the New Hampshire Public Defender Program, without any type of explanation, whatsoever. Numerous motions were filed to have both appellate-defenders removed from this case due to Conflict of Interest; and Ineffective Assistance of Counsel. Thomas A. Barnard and Anthony J. Naro have proven by there actions to be part of 'The State Government Attack Machine' that only cares about keeping innocent people in prison as long as possible. These attorney's never use the legal-term titled; justice. Nor do they fight for justice, in anyway, shape, or form. Once Mr. Barnard sabotaged the oral-argument, Tom mailed a letter. Stating in the context; "The Court affirmed your conviction, so now you get to finish out your sentence". There was no mention of what was said during oral-argument; on February 17, 2022. Even after numerous letters to his office, demanding the oral-argument record, Brim Bell still has no idea of what Attorney Barnard said on Mr. Bell's behalf? Remember this is the same attorney that refused to send his client a copy of the trial transcript; unless he was paid in cash $950 dollors. The odd part of all this, if you check the Rule 7: NOTICE OF APPEAL Trial-Counsel (Robert J. Watkins) made it perfectly clear that trial-transcripts will not need to be ordered for Direct-Appeal. So Mr. Bell motioned the trial Court for a copy of the trial-transcripts, and told Judge Howard about Attorney Barnard holding the Defendant's transcripts for ransom of $950 bucks. Howard said this accusation was unfounded, and without any explanation failed to send the necessary trial record, that legally belonged to Brim Bell. The Direct-Appeal went on for six months, before the trial transcripts were sent by David J. Betancourt; but the JURY-SELECTION phase was missing. 'Chief-Executive Defender Betancourt only worked for Thomas P. Velardi.'

Furthermore, The Supreme Court of New Hampshire forced Brim Bell to use two appointed attorneys, that were hand picked by the exact same New Hampshire Justices that gave an erroneous opinion regarding the evidence and facts of this case. The State's Highest Court, would not give the Defendant (Brim Bell) a fact-finding hearing, or proper explanation to why new-counsel unaffiliated with the New Hampshire Public Defender Program, could not be granted. The State's Supreme Court had only one response to the numerous request for new-counsel; 'DENIED'. Court records Show Mr. Bell had numerous Attorney's that were members of The State's Largest-Law Firm; 'New Hampshire Public Defender Program'. In which, not one lawyer told Mr. Bell the truth about the facts of his case. Especially, the fact that on the first day of the police investigation, a local police officer broke into Mr. Bell's leased-building, without probable-cause, or search-warrant. See; Weaver v. Massachusetts, 137 S. Ct. 1899 (2017) quoting-Weaver: "That right is based on the Fundamental Legal-Principle that a Defendant must be allowed to make his own choices about the proper way to protect his own liberty. Because, harm is irrelevant to the basis underlying the right, judicial precedent deems a violation of that right 'Structural-Error', HN3." "An error has been deemed structural if the effects of the error are simply TOO-HARD to measure. For example; 'when a defendant is denied the Right to Select His Own Attorney, the precise effect of the violation cannot be ascertained'. Because, the Government will as a result find it almost impossible to show that the error was harmless beyond a reasonable doubt, the efficiency cast of letting the Government try to make the showing, are unjustified, HN4". "An error has been deemed structural if the error always results in Fundamental-Unfairness, HN5". See: PLAIN-ERROR: Fed. R. Crim. P. 52.

"The concept of prejudice is defined in different ways, depending on the context in which it appears. In an ordinary Strickland case, prejudice means a reasonable probability that, but not for Counsel's Unprofessional Errors, the result of the proceeding would have been different; HN14". See: Neder v. United States, 527 U.S. 1, 7, 119 S. Ct. 1827, 144L. Ed 2d 35. (1999).

DISSENT: by Justice Breyer: "The Court has recognized that Structural-Errors distinctive attributes make them defy analysis by harmless error standards. It was therefore categorically exempted Structural-Errors from the case by case harmlessness review to which trial errors are subjected. Our precedent does not try to parse which Strucural-Errors are the truly egregious ones. I simply view all Structural-Errors as 'Intrinsically Harmful' and holds that any Structural-Error Warrants AUTOMATIC-REVERSAL on Direct-Appeal without regard to it's effect on the outcome". See: PLAIN-ERROR: Fed. R. Crim. P. 52.

See: United States v. Rodriguez, 745 F. 3d 586 (2014) quoting-Rodriguez: "Defendant's conviction and sentence were vacated because the District-Court violated his Sixth Amendment Right to Counsel; when it forbade him from retaining 'New-Counsel' without conducting any inquiry into his conflict with his present-counsel". Let's dicuss the overwhelming-evidence, that proves both Court appointed counsel was not looking out for the Best-Interest of Brim Bell. A review of Mr. Naro's Principle Brief shows that he raised the issue; 'Insufficiency of The Evidence to Convict'. But, failed to raise the key element of this issue. That the evidence was insufficient, because it was 'Illegally Obtained Evidence', which is inadmissible in all Courts of the United States of America. Also, Mr. Barnard raised the very same issue in his Reply-Brief; but failed to mention the true illegality. Every piece of evidence admitted into evidence is 'Fruit of the Poisonous-Tree'.

ARGUMENT/QUESTION #13

Thomas A. Barnard (senior appellate-defender) spent 3.5 hours pretending to be on Mr. Bell's team. But, after three and one-half hours, Barnard's objective regarding my case became vivid & clear. Attorney Barnard, was sent by The State to make sure the direct-appeal gets dropped. As the hours went by Mr. Barnard began to grow more agitated. Which exposed the fact that he was not working for Brim Bell. Also, he never once tried to help move forward with the appeal process. Barnard used the term 'nothing' over and over again. He said we have nothing to work with for the Direct-Appeal. Further, Mr. Barnard said he let his colleagues review the case, and just like him, they found nothing worthy of raising on the brief.

Eventually, Attorney Barnard played his wild-card. He said that, after several conversations with Chelsea Lane (state-prosecutor), he was informed that she would drop the perjury-charge. But only if Brim Bell drops his Direct-Appeal? At this point, the cat was out of the bag. This shows, that the only reason there was a perjury-charge, was to blackmail Mr. Bell to drop his appeal. Also, the Court-Record does reveal that there was not any evidence of perjury. The State dropped the charge before the last pre-trial conference, without an explanation. Mr. Barnard, as a last resort tells Mr. Bell; "if you don't drop your appeal, your going to prison for perjury. Because perjury in a jury trial is a CLASS-B FELONY, and your looking at 3½ to 7 years in the State prison. See: Martinez v. Ryan, 566 U.S. 1 (2012) quoting-Martinez: "While 28 U.S.C.S. § 2254(i) precluded relying on IA of a post-conviction attorney as a ground for relief, it did not stop it's use to establish cause to excuse 'Procedural Default".

ARGUMENT/QUESTION #14

Thomas A. Barnard (senior appellate-defender) failed to raise the most central part of this case; that boils down to the nucleus. Also known as 'Ineffective Assistance of Trial-Counsel', that was not raised during oral-argument on February 17, 2022 at The State Supreme Court. Even though The Court excluded the Defendant from attending the hearing, we can infer that the issue would have been mentioned in the opinion, that was finalized on November 18, 2022. See: Exhibit-M MODIFIED OPINION/DIRECT-APPEAL, also see United States v. Cronic, 466 U.S. 648 (1984) quoting-Cronic: "The presumption that counsel's assistance is essential requires The Court to conclude that a trial is unfair if the accused is denied counsel at a 'Critical-Stage' of his trial. Similarly, if counsel entirely fails to subject the prosecution's case to 'Meaningful Adverserial-Testing' then there has been a DENIAL of rights under U.S. Const. amend. VI that makes the adversary-process itself presumptively unreliable".

If Attorney Barnard raised the cardinal-issue requested by Mr. Bell, more than likely oral-argument would have been moot. Let's review the automatic-reversable issues that were not briefed by Thomas A. Barnard or Anthony J. Naro, on direct-review.

a) Ineffective Assistance of Trial-Counsel

b) Prosecutorial-Misconduct & Malicious-Prosecution

c) Illegal Search and Seizure by Local Police

d) Attempted Extortion & Criminal-Threats by Randolph H. Young

Also, what strikes the petitioner is the fact that none of the key-points or issues mentioned above a) through d) were spoke about by name; by any of the Justices of The State's Highest Court.

ARGUMENT/QUESTION #15

Thomas P. Velardi (strafford county attorney) had in his possession, grotesque stacks of illegally obtained evidence. That certainly must have failed the 'Chain of Custody Test'; prior to the Secret Grand-Jury Hearing in August of 2017. The State had zero legal standing to proceed with the indictment of Brim Bell. Which means the Strafford County Superior Court, never had juristiction over this 'Illegal-Invalid Case'. Attorney Velardi knew right from the get go, the entire case was illegally manufactured by Officer Randolph H. Young of the Strafford P.D.. The case file is proof enough, that Mr. Velardi was well aware of the numerous illegal-acts of Sgt. Young; prior to the indictment process. Even though The State had no case against Brim Bell, they rolled the dice anyway. Malicious-Prosecution is the absolute, and only reasonable explanation, that can explain all the injuries to Brim Bell. Further, The State had up to a year to stop the malicious-prosecution before the trial commenced on September 25, 2018. The sad part of this story is, trial-counsel knew all about the illegal-acts of The State of New Hampshire in this case. 'But', Watkins chose not to file for a Suppression-Hearing or to Dismiss all charges. See: Youngblood v. West-Virginia, 547 U.S. 867 (2006) quoting-Youngblood:"A Brady-Violation occurs when the Government fails to dislose evidence materially favorable to the accused. The Brady-Duty extends to impeachment-evidence as well as exculpatory-evidence, and suppression occurs when Government fails to turn over, even evidence that is known only to Police-Investigators and not to the prosecutors. Such evidence is material if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different although a showing of materiality does not require demonstration by a preponderance that disclosure of

the suppressed-evidence, would have resulted ultimately in the defendant's ACQUITTAL. The reversal of a conviction is required upon a showing that the favorable evidence could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict." The Youngblood case is relevant to this case, because Thomas Velardi was aware before the indictment process, that Officer Young failed to hand over the pictures of highly sensitive documents; that enabled Sgt. Young to illegally manufacture the entire case for The State Government. Also, at the first Grand-Jury Proceeding, Officer Young failed to write the incident-report in time to present the report to the Grand-Jury. Note: (this missing incident-report never surfaced until twenty-two months after the warrantless-search; in the report there was no mention of any criminal-acts by Brim Bell).

In re Grand Jury Proceedings, 700 F. Supp. 626 (1988) "The Grand-Jury has traditionally occupied a prominent position as an instrument of Justice and is enshrined in the Constitution. U.S. v. Sells Engineering, Inc., 463 U.S. 418, 77L. Ed. 2d 743, 103 S.Ct. 3133 (1983) Costello v. United States, 350 U.S. 359, 361-362, 100L. Ed. 397, 76 S. Ct. 406 (1956). The Fifth Amendment to the Constitution provides that no person shall be Federally Prosecuted for a felony without having been indicted by a Grand-Jury. The Grand-Jury is a preconstitutional-institution given Constitutional-Stature by the Fifth Amendment, but not relegated by the Constitution to a position within one of three Branches of Government. The Grand-Jury is free, within Constitutional and Statutory Limits, to operate 'independently of either prosecuting attorney or judge'. Stirone v. United States, 361 U.S. 212, 218, 4L. Ed. 2d 252, 80 S. Ct. 270 (1960) (footnote omitted)". See: Exhibit-C:2 STRAFFORD POLICE DEPARTMENT/INCIDENT-REPORT: August 13, 2018 Incident #: 18STR-620-OF Call #: 18-59210 (occurred: October 20, 2016).

A Grand-Jury performs dual functions: 1) the determination of whether there is probable-cause to believe a crime has been committed, and 2) the protection of citizens against unfounded Criminal-Prosecutions. Branzburg v. Hayes, 408 U.S. 665, 668-87, 33 L. Ed. 626 92 S. Ct. 2646 (1972). See: Exhibit-C:1/Memo Re: Testimony Review.

Furthermore, State Prosecutor Velardi knowingly, willingly, and purposely allowed false-testimony by Officer Randolph H. Young to be presented to The Grand-Jury. The wire-tap recording from January 31, 2017 that is proof from Young's own admission that he was at Brim's shop when unknown people were loading up property, without the presence of Brim Bell. For Officer Young to allow illegal activity by his friend James N. Lund, that violates the 'Equal-Protection Rights' of the legal-tenant (Mr. Bell). Also failed to protect the Federal Constitutional Rights of the legal-tenant under the Fourth Amendment 'Right to Privacy'. Exhibit-A shows Officer Young's justification of his illegal entry of the petitioner's private dwelling by stating; "No. You had been evicted. According to Jim Lund, you were evicted, because you owed him so much money". See: Exhibit-A pg. 44 line 1-3. Now a quote from petitioner's allocution on January 2, 2019; "But owing money to your lanlord is not a crime. But when James Lund broke into my workshop, he committed criminal trespassing, breaking and entering, robbery. James Lund had no legal grounds to enter the building that I had been leasing over 15 years. I was not evicted, and did not abandon the building. The building was locked up tight when I left on my business trip. I did not give the key to my landlord. He had to cut the locks. I believe, out of financial stress, he would do very upsetting things, just to get back at me. James Lund would push all my clients' cars out in the rain, take pictures, text the photos to me and my clients.

This is the main reason my clients started to come over in a panicked state. The only way that James Lund could have acquired contact information for my clients is because Randy Young illegally took the VIN numbers off my clients' cars. Sgt. Young committed 'Illegal Search and Seizure'. Mr. Young never obtained a Search-Warrant or had grounds for a Search-Warrant". See: Exhibit-B/ALLOCUTION: January 2, 2019.

Therefore, upon the testimony-review of Sgt. Young at The Grand-Jury, we discover that Young told The Grand-Jury that "he was never at Lund's place while anyone was there taking anything". See: Exhibit-C:1/Memo Re: Testimony-Review 8-15-18. This statement misled The Grand-Jury, and was a cover-up to Officer Young's illegal-acts. The wire-tap was recorded by the Strafford County Sheriff's Office. That is located one floor below Thomas P. Velardi's Office. To even suggest that Mr. Velardi was unaware of this recording, that took place over 6 months prior to the initial Grand-Jury Proceeding; would be ludicrous. Ironically, on the floor above County Attorney Velardi's Office is the Strafford County Superior Court. In which, raises the possibility that the Trial-Judge (Mark E. Howard) knew about Exhibit-A/WIRE-TAP; long before trial commenced on September 25, 2018. Also, Judge Howard is the same judge that showed in open court a personal interest with one of the alleged victims; Christine Tibbetts Esquire who practices law in the State of New Hampshire. Only a hint is needed to establish a 'Conflict of Interest Claim'. Also denied new defense-counsel on several occassions, without any reason or explanation, whatsoever. Id. See: Exhibit-D/DEPOSITION OF JAMES LUND: 8-14-18. & Barone v. United States, 2008 U.S. Dist. LEXIS 133370 "In particular, he argued that his 'Rights to Due-Process & a Fair-Trial' had been violated because the Government failed to disclose information that could have led to the suppression of electronic-evidence surveillence".

ARGUMENT/QUESTION #16

Chelsea E. Lane (state-prosecutor) falsified State's Exhibit-25, by knowingly and purposefully cut the last line off the exhibit; that reads -- "I'm Fucking With You" which contradicts his entire testimony. If the jury heard Jason Konopacki (alleged-victim) read this last line of Exhibit-25, it would have impeached his testimony and shown the jury deliberate deception by the State Prosecutor. See: Exhibit-E/FALSIFIED-EVIDENCE also see Exhibit-F/JURY NOTE: Dated-October 4, 2018.

Robert J. Watkins (trial-counsel) was given an opportunity to make an objection, sometime after The State's Witness already read from the stand. But even so, trial-counsel failed to object. Therefore, the jury found Mr. Bell guilty on this count. See: T-T pg. 321 line 16-25 & pg. 322 line 1-6. The issue here is, Watkins did not have a copy of Exhibit-25 prior to trial. Therefore, when konopacki was reading from the State's Exhibit-25; Watkins had no way of knowing if there was a chance to make an objection. The State should have given the Defense this exculpatory evidence prior to trial. Id. quoting -- MR. WATKINS: "Could I see the picture, Judge? I don't seem to have that in my file". THE COURT: "All right. Sure. Go ahead". MR. WATKINS: "No objection". (State's Exhibit 25 received) See: Roszkowski v. Zarella, 2016 U.S. Dist. LEXIS 185988 "Roszkowski claims that the defendant State-Troopers Cris Zarella & Baruti, worked with a civilian informant to (entrap) Roszkowski into committing a crime he was not otherwise inclined to commit, 'Falsified-Evidence' against Roszkowski, & knowingly provided 'False-Testimony' at Roszkowski's Trial. Roszkowski also claims that Federal-Prosecutors /Dambruch & Chin participated in 'Fabricating-Evidence' against Roszkowski; released 'False-Information' to the media

in order to taint the jury-pool, knowingly presented 'False-Evidence' at trial, failed to correct witness testimony they knew to be false & withheld exculpatory-evidence." The Roszkowski case, is relevant to this case based on the exact fundamental U.S. Constitutional Rights Violations. Such as Due-Process of the Fourth, Fifth, & Fourteenth Amendments. See: Taal v. Zwirner, 2004 DNH 54 (2004) quoting-Taal: "CONSPIRACY AGAINST RIGHTS: it is unlawful for persons to conspire for the purpose of depriving, either directly or indirectly, any person or class of persons of equal-protection of the laws, or of equal-privileges or immunities, or for the purpose of hindering constituted authorities from securing equal-protection to all persons, 42 U.S.C.S. § 1985(3)." McDonough v. Smith, 139 S. Ct. 2149 (2019) OVERVIEW: HOLDINGS: 1 - "The Statute of Limitations for petitioner's 42 U.S.C.S. § 1983 CLAIM: alleging that he was prosecuted using 'Fabricated-Evidence' began to run when the criminal proceedings against him terminated in his favor i.e., when he was acquitted at the end of his second trial. That conclusion was justified because a civil claim asserting that 'Fabricated-Evidence' was used to pursue a criminal judgment implicated the concerns of avoiding parallel criminal and civil litigation over the same subject matter and the related possibility of conflicting civil & criminal judgments".

Trial-Counsel had a golden opportunity to invoke the 'Confrontation Clause' of the Sixth Amendment, relative to the alteration of The State's Exhibit-25; while The State's Witness was knowingly giving 'False-Testimony'. See: Crawford v. Washington, 541 U.S. 36 (2004) 177 124 S. Ct. 1354, 158 L. Ed. 2d, 177, 2004 U.S. Lexis 1838 "The Confrontation Clause's ultimate goal is to ensure reliability of evidence. But, it is a procedural rather than a substantive guarantee."

ARGUMENT/QUESTION #17

The Court (Mark E. Howard) gave erroneous jury instructions. quoting-Howard: "Having addressed what you cannot consider in deciding this case, I will now turn to what you should consider. In short, you should consider only the legally admissible evidence, which in this case consists of the testimony under oath of the witnesses, during both direct and cross examination, and the exhibits which have been admitted into evidence. It is your duty to consider all of the evidence in the case, no matter who produced it, and give that evidence what weight you think it deserves. You must not guess or speculate. You must judge the case based on the evidence and the reasonable inferences you draw from the evidence". See: JURY INSTRUCTIONS pg. 4/section:(evidence in the case). Considering Judge Howard's involvement in this case, the petitioner asserts that it would be next to impossible, for Howard not to be aware that both police departments never obtained search warrants. Which is proof enough, that the evidence in this case is inadmissible in a Court of Law.

Furthermore, Judge Howard States to the jury; "Now, I cannot comment on the evidence, as that is not my role. As I said previously, it's up to you to evaluate the evidence and use your own recollection of it". See: T-T pg. 829 line 6-8. But, during supplemental jury instructions, based on a question from the jury-room; "(1) Laymans' term of 1st charge ~~does obtained~~ -- what does 'exercised unauthorized control' mean"? 10-3-2018 PJM 2:45 p.m. Exhibit-B. MS. LANE: "I am not sure what exercised unauthorized control means -- I just don't know"? THE COURT: "Boy it sure does-doesn't it"? See: T-T pg. 834 line 1-4. Trial-Counsel failed to object during this most revealing bias comment regarding the evidence by the Presiding Justice, in the presence of the jury.

United States v. Argentine, 814 F. 2d 783 (1985) JUDICIAL OFFICERS: "A Court may not step-in and direct a finding of contested fact in favor of the prosecutor regardless of how overwhelmingly the evidence may point in that direction. The Trial Judge is barred from attempting to override or interfere with the jurors independent judgment in a manner contrary to the interests of the accused."

Crosby v. United States, 2015 U.S. Dist. LEXIS 24388 (2015) quote: "The Governing statute 28 U.S.C. § 455(a) provides that a judge shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned". The trial-record clearly shows favoritism by Judge Howard from start to finish. This fact alone, is sufficient to show a violation of the defendant's Due Process Rights to have a Fair-Trial. But, the most egregious act by The Court was the violation of Fed. R. Crim. P. 43. See: United States v. Campos, 534 F. 3d 1 (2008) quoting-Campos: "A judge's resonding to a jury note, outside the presence of counsel & defendant; also violates Fed. R. Crim. P. 43, which states that the stages of a trial at which the defendant must be present at every trial stage, including jury impanalment & the return of the verdict". Fed. R. Crim. P. 43 (a)(2). "Like other rules for the conduct of trials, Fed. R. Crim. P. 43 is not an end in itself and while lapses should be closely scrutinized, when it appears with certainty that no harm has been done, it would be the merest pedantry to insist upon 'Procedural-Regularity'. When all the circumstances about the communications are known, and when it can be said with certainty that no harm has been done, it would be insisting on form to reverse". See: T-T pg. 842 line 6-11 THE COURT: "-- back on the record. And for the record, I retrieved the Exhibit-25 from the jury room and instructed the jury to cease their deliberations until they've received an answer from us. Counsel's free to approach to look at the exhibit.

It does appear to be consistent with the copy that you have". MR. WATKINS: "This is the one you retrieved"? THE COURT: "That's the one I retrieved". MR. WATKINS: "It's the sameone we have, right"? THE COURT: "All I can tell you is that it appears to be consistent with the one you showed me earlier". MR WATKINS: "Yeah. So if the question is, the last line was not presented to us. I'm not quite sure what that means"? THE COURT: "It probably means that what -- ". MR. WATKINS: "Because it was presented, if it's marked as an exhibit". THE COURT: "Right". MR. WATKINS: "Change the context of it. Can we use the last line in our deliberation"? See: T-T pg. 842 line 12-25. For the record, the petitioner was not present for trial during this unjust colloquy. This is an out-rage, that shows on the record all parties were working together; against the defendant (Brim Bell). The list includes; a) THE COURT b) MR. WATKINS c) MS. LANE. This does infer collusion, during trial behind the back of Mr. Bell. Trial-Counsel failed to object, when Judge Howard went into the jury room, alone. Also, reads the jury note out loud; but failed to comment on The State's Witness that gave 'False-Testimony'. The last cut-off line states; 'I'm Fucking With You'. Which contradicts, Mr. Konopacki's entire testimony at trial. Attorney Watkins knowingly allowed The State to convict Mr. Bell, by excluding the defendant from trial and then assisted The State & The Court, to violate the 'Fundamental Constitutional Rights' of Brim Bell. Which include, the Fourth, Fifth, Sixth, and the Fourteenth Amendments to the United States Constitution. See: Strickland v. Washington, 466 U.S. 688, 695 (1984) This case fits together with the 3 prong standard of a Strickland-Claim. United States v. Cronic, 466 U.S. 648 (1984) In Cronic, The Court makes it clear, that trial-counsel can not be a friend of The Court. Gideon v. Wainwright, 372 U.S. 335 (1963) "The case is important for overruling an earlier decision Betts v. Brady, 316 U.S. 455 (1942)" 'FUNDAMENTAL RIGHTS IN TRIAL'. . .

CONCLUSION

The untimely petition for a 'Writ of Certiorari' should be granted; based on the reasons precisely articulated in this petition, and the 'Extraordinary-Circumstances' that were raised in Petitioner's MOTION: FOR A 60 DAY EXPANSION or LATE-FILE UNTIL July 15, 2023. That was postmarked June 6, 2023, and received June 12, 2023 by this Honorable Court. See: Attachment/Clerk's Letter June 12, 2023 and Appendix-E.

Dated: September 12, 2023

Respectfully submitted,

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