

23-5709

No. _____

ORIGINAL

FILED
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OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES
OF THE SOVEREIGNTY

Guy Lewis,jr.:Coulston – PETITIONER

VS.

LAWRENCE G. WASDEN – REPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO
PETITION FOR WRIT OF CERTIORARI

Guy Lewis,jr. of the Coulston family

Saguaro Correctional Center

1252 E. Arica Road

Eloy, AZ. 85131

QUESTION(S)/CHALLENGES PRESENTED

I, Guy Lewis, Jr. of the Coulston family DO NOT acknowledge "ALL CAPITAL LETTER NAME" Therefore I am NOT a Corporation, Straw-man, person.

"I have 'NOT' expatriated myself from my country, I am not an enemy combatant of the state;"

I am a Sovereign Individual/Private person Subject to the jurisdiction thereof and to the jurisdiction of the Cause, My Individual rights, by the law of the land, United States Constitutional rights, NOT subject to the discretion of the equity court system. The case Thus Presents the following question;

Did the District court through the 9th circuit court of appeals and Prosecution, and My Trial counsel err in discretion to a **Void Judgment** that lead into a Substantial miscarriage of justice by trying my Corporation/Straw-man/person in an equity court system, lack of subject-matter jurisdiction and lack of personal jurisdiction without NO Due Process of law?

LIST OF PARTIES

ALL Parties appear in the caption of the case on the cover page.

A Corporate discloser

I Do NOT acknowledge name in ALL CAPITAL LETTERS,- GUY LEWIS COULSTON JR.

therefore I'm NOT a corporation/company/Straw-man/person

(IDAHO CODE, 28-1-201, (27-Person=CORPORATION) AND FED. CODE, 15 USCS § 78c
(9-PERSON=COMPANY)

I am a sovereign Citizen-Individual-private person

PURSUANT TO USCS Fed. Rules Civ. Pro. R 17 (a),(1),(A),(3)

I, Guy Lewis, Jr. of the Coulston family want to be joined as "REAL" Party of Interest with CORPUS
and ALL PROPERTY

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner—"sovereign citizen-individual" respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

Federal Courts:

The date on which the United States Court of Appeals appears at Appendix-B, to the petition and decided My Certificate of appealability was denied. was May 25, 2023.

The opinion of the United States district court appears at Appendix-A, to the petition and the date which decided is March 31, 2022. and is not yet published .

State courts;

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

The opinion of the **First Judicial District of the State of Idaho court** appears at Appendix-D, to the petition and is unpublished.

JURISDICTION

Federal Courts:

The date on which the United States Court of Appeals appears at Appendix-B, decided My Certificate of appealability was denied. was May 25, 2023.

The opinion of the United States district court appears at Appendix-A, to the petition and the date which decided is March 31, 2022. and is not yet published .

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

State Courts:

The date on which the highest state court decided my case was July 15, 2015. A copy of that decision appears at Appendix-C.

A timely petition for rehearing was thereafter denied on the following date: August 4, 2015 and a copy I do not have. Appendix-C,

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

USCS CONSTITUTIONAL ARTICLE III, § 2, CI 2

(Supreme court jurisdiction)

In all cases affecting Ambassadors, other public ministers and consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. In all the other cases before as to how and fact, with such Exceptions, and under such Regulation as the Congress shall make.

USCS CONSTITUTIONAL ARTICLE III, § 2, CI 1

(Subject of jurisdiction)

The judicial power shall extend to all cases, In ~~law~~ and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their Authority;-to all cases affecting ambassadors, other public ministers and Consuls;-to all cases of admiralty and maritime jurisdiction;-to controversies to which the United States shall be a party;-to controversies between two or more states;-between a state and citizens of another state;-between citizens of different states;-between citizens of the same state claiming land under Grants of different states; and between a state, or the citizens thereof, and foreign states, citizens or subjects.

28 USCS § 1251 (Original Jurisdiction)

(b) The Supreme court shall have original but not exclusive jurisdiction of:

- (2) All Controversies between the United States and a State.
- (3) All actions or proceedings by a state against the citizens of another State or against aliens.

5 USCS § 552a,(Records maintained on Individual)

a) definitions

2) The term "individual" means a Citizen of the United State or an alien lawfully admitted for residence.

15 USCS § 78c

a),(Definitions)

9), The term "person" mean a natural person, Company, government, or political subdivision, agency, or instrumentality of a government.

28 USCS § 1331, (Federal Question)-The district courts shall have original jurisdiction of all civil actions arising under the constitution, law, or treaties of the United States.

28 USCS § 1332,-(Diversity of Citizenship: amount in Controversy; Costs)

a) The District courts shall have original jurisdiction of all civil actions where the matter in Controversy exceeds the sum or value of \$75,000, exclusive of interest and cost, and is between-

- 1) Citizens of different states;
- 2) Citizens of a foreign state; except that the district court shall not have original jurisdiction under this subsection of an Acton between Citizen of a state and Citizens or subjects of a foreign states who are lawfully admitted for permanent residence in the United States and are domiciled in the same state;
- 3) Citizens of different states and in which Citizens or subjects of a foreign state are additional parties; and
- 4) a foreign state, defined in section 1603(a) of this title [28 USCS § 1603(a)], as plaintiff and citizens of a state or of different states.

18 USCS § 241, (Conspiracy against rights)-If Two or more person conspire to injure, oppress, threaten, or intimidate any person in any state, territory, commonwealth, possession, or district in free exercise or enjoyment of any right or privilege secured to him by the constitution or laws of the United States, or because of his having so exercised the; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured-

They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both or may be sentenced to death.

18 USCS § 242, (Deprivation of rights under color of law)-Whoever, under color of any law, statute, ordinance regulation, or custom, willfully subjects any person in any state, territory, commonwealth, possession, or district to the deprivation of any rights, privileges, or immunities secured or protected by the constitution or laws of the United States , or to different punishments, pains, or penalties in account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of Citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

28 USCS § 1367, (Supplemental Jurisdiction)-

- a) Except as provided in subsection(b) and;
- c) or as expressly provided otherwise by Federal statute, in any civil action of which the

district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. Such Supplemental Jurisdiction shall include claims that involve the joinder or intervention of additional parties.

b) in any civil action of which the district court have original jurisdiction founded solely on section 1332 of this title [28 USCS § 1332], the district courts shall not have supplemental jurisdiction under subsection(a) over claims by plaintiffs against persons made parties under Rule 14, 19, 20, or 24 of the **Federal Rules of Civil Procedure** or over claims by persons proposed to be joined as plaintiffs under Rule 19 of such rules 24 of such rules, when exercising supplemental jurisdiction over such claims would be inconsistent with the jurisdictional requirements of section 1332 [28 USCS § 1332].

15 USCS § 78aa, (jurisdiction of offenses and suits)- also known as (pendent jurisdiction)-

a) In general, the district courts of the United States and the United States courts of any territory or other place subject to the jurisdiction of the United States shall have exclusive jurisdiction of violations of this title [15 USCS §§ 78a et seq.] or the rules and regulations thereunder, and of all suits and equity and actions at law brought to enforce any liability or duty created by this title [15 USCS §§ 78a et seq.] or the rules and regulation thereunder. Any criminal proceeding may be brought in the district wherein any act or transaction constituting the violation occurred. In any action or proceeding instituted by the Commission under this title [15 USCS §§ 78a et seq.] in a United States district court for any judicial district, a subpoena issued to compel the attendance of a witness or the production of documents or tangible thing (or both) at a hearing or trial may be served at any place within the United States. Rules 45(c),(3),(A),(ii) of the federal rules of civil procedure shall not apply to a subpoena issued under the preceding sentence. Any suit or action to enforce any liability or duty created by this

title [15 USCS §§ 78a et seq.] or rules and regulations thereunder, or to enjoin any violation of such title [15 USCS §§ 78a et seq.] or rules and regulations, may be brought in any such district or in the district wherein the defendant is found or is an inhabitant or transactions business, and process in such cases may be served in any other district of which the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 1254, 1291, 1292, and 1294 of this title 28, United States code. No Costs shall be assessed for or against the Commission in any proceeding under this title [15 USCS §§ 78a et seq.] brought by or against it in the supreme court or such other court.

18 USCS § 1951, (Interference with commerce by treats or violence)-also known as the (Hobbs Act)

a) Whoever in any way or degree obstructs, delays or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do any thing in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.

b) As used in this section-

- 1) The term "robbery" means the unlawful taking or abstaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining.
- 2) The term "extortion" means the obtaining of property from another, with his consent, include by wrongful use of actual or threatened force, violence, or fear, or under color of official right.

- 3) The term "commerce" means commerce within the district of Columbia, or any territory or possession of the United States; all commerce between any point in a State, territory, possession, or the district of Columbia and any point outside thereof; all commerce between points within the same state through any place outside such state; and all other commerce over which the United States has jurisdiction.

28 USCS § 1343, (civil rights and elective franchise)-

- a) The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person;
 - 1) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a Citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 of title 42;
 - 2) To redress the deprivation, under color of any state law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of Citizens or of all person within the jurisdiction of the United States.

Idaho code §19-4902 - "Commencement of proceedings – verification – filing – services – DNA testing"

D): The trial court should allow the testing under reasonable conditions designed to protect the state's interest in the integrity of the evidence and the testing process upon a determination that:

- 1): The result of the testing has the scientific potential to produce new, noncumulative evidence that would show that it is more probable than not that the Petitioner is Innocent;
- 2): the testing method requested would likely produce admissible results under the Idaho

rules of evidence.

USCS Fed Rule Evid Rule 609

Idaho code 609 Impeachment by evidence of a criminal conviction

(a) In general, the following rules apply to attacking a witness's character for truthfulness by evidence of a criminal conviction:

(2) for any crime regardless of the punishment, the evidence must be admitted in the courts can readily determine that establishing the elements of the crime required proving or the witness's admitting a dishonest act or false statement.

18 USCS § 1621

Idaho code § 18-5401. Perjury defined, Every person who , having taken an oath that he will testify, declare, depose, or certify truly, before any competent tribunal, legislative committee, officer, or person in any of the cases in which such an oath may by law be administered, willfully and contrary to such oath, states as true any material matter which he knows to be false, is guilty of perjury.

Idaho code 412 sex crime cases; relevance of victim's past behavior.

Rule 412 (b) Not notwithstanding any other provision of law, in a criminal case in which a person is accused of a sex crime, evidence of a victim's past sexual behavior other than reputation or opinion evidence is also not admissible, unless such evidence other than reputation or opinion evidence is -

C) false allegation of sex crimes made at an earlier time; or

C,1) If the person accused of committing a sex crime intends to offer under subdivision (b) evidence of specific instance of the alleged victim's past sexual behavior, the accused shall make a written motion to offer such evidence not later than five days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later

date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties.

USCS Fed Rules Civ. Proc. R. 60-(Relief from a judgment or order)

b) Grounds for Relief from a final judgment, order, or proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reason:

- 1) mistaking, inadvertence, surprise, or excusable neglect;
- 2) Newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- 3) Fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- 4) The judgment is VOID;
- 5) any other reason that justifies relief.

USCS Fed Rules Civ. Proc. R. 12-(Defenses and Objections: when and How Presented; motion for judgment on the Pleading; consolidating motions; waiving defense; pretrial hearing)

b) How to present defenses. Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required but a party may assert the following defenses by motion:

- 1) Lack of Subject-matter jurisdiction
- 2) Lack of personal jurisdictional

USCS Fed Rules Civ. Proc. R. 17-(Plaintiff and Defendant; Capacity; Public officers)

- a) REAL Party in interest

1) Designation in General. An Action must be prosecuted in the name of the REAL party in interest. The following may sue in their own names without joining the person for whose benefit the action is brought:

A) An executor

3) Joiner of the REAL party in interest. The court may not dismiss an action for failure to prosecute in the name of the real party in interest until, after an objection, a reasonable time has been allowed for the real party in interest to ratify, join, or be substituted into the action. After ratification, joiner, or substitution, the action proceeds as if it had been originally commenced by the real party in interest.

United States Constitutional Amendment 1st

(Religious and political freedom)-

abridging the freedom of speech, or of the press; and to petition the government for a redress of grievances.

United States Constitutional Amendment 4th

(Unreasonable search and seizures)-

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.

United States Constitutional Amendment 5th

(Criminal actions-provisions concerning- Due Process of law and just compensation clause)-

Nor be Deprived of life, liberty, property, without due process of law; nor shall private property be taken for use, without just compensation.

United States Constitutional Amendment 6th

(Right of the accused)-

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 previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witness against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of counsel for his defense

United States Constitutional Amendment 8th

(Bail-Cruel and unusual punishment)-

Nor cruel and usual punishments inflicted, unlawful arrest and unlawful incarceration.

United States Constitutional Amendment 11th

The judicial power of the United State shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of the another state, or by citizens or subjects of any foreign state.

United States Constitutional Amendment 14th

[Citizen of the United States]-sec.1-

All persons born or naturalized in the United States, and Subject to the jurisdiction thereof. Are Citizens of the United States and of the States 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 law.

STATEMENT OF THE CASE

NOTICE TO SUPREME COURT CLERK AND PANEL JUDGE'S

Petitioner/Sovereign individual/private person, (Pro se Cutis), REQUESTING The Honorable judge's and the clerk of the court to Take JUDICIAL NOTICE Pursuant to USCS FED. RULES EVID. R. 201 (judicial notice of adjudicative fact) (c) TAKING NOTICE, (2), (e) OPPORTUNITY TO BE HEARD , On this **NOTICE**, it is to inform the Clerk of the supreme court and the panel of Judge's that I'm invoking my Individual right's /by the law of the land / my Constitutional right's, I am asking to allow this **Notice and Petition of Writ of Certiorari Pursuant to My "Individual" 5 U.S.C. § 552a(a),(2), Right's**, Pursuant to my United State Constitutional Right's, USCS CONST. Article. III, § 2, CI 2, and USCS CONST. Article. III, § 2, CI 1 and my U.S. Const. Amdt. 11th 5th ,and 14th . By the Law of the Land, God give Right's, and my rights as a private person/sovereign-Citizen of the United States of America-Individual, **I, Guy Lewis,Jr. : Coulston am living, breathing, flesh and blood "REAL" man with a soul, pursuant to USCS fed rules Civ. Proc. R. 17 -(Plaintiff and Defendant; Capacity; Public officers)-(a),(1),(A),(3)** I want to be joined to my Corpus and All Property as "REAL", am a (PRO SE CUTIS),[see **Johnson v. Seceretary of/and U.S. Dept't of Housing and Urban Dev., 544 F. Supp. 925 (Ed La 1981)**]Which states: "Person who, according to governing substantive law, is entitled to enforce right is "REAL PARTY IN INTEREST".

INTERROGATION, That was coerced

QUESTIONING, 2 potential jurors off record and a hung jury for 3days, and a bias juror DNA, that was mishandled by state of Idaho lab

PERJURY, admitted my alleged victim lying about sexual accusation

STD, "CHLAMYDIA that alleged victim had, and Mr. Coulston did NOT and NOT listed as a sexual partner-also is new evidence that is being ignored, by the court's, Prosecution and all Petitioners Attorney's. these are all err in violation's of my DUE PROCESS OF LAW.

CHALLENGING THE SUBJECT-MATTER JURISDICTION

Petitioner/Individual/Citizen (Pro Se Cutis), Affiant asserts that with the filing of this Petition, Pursuant to USCS fed. Rule Civ. Proc. 12 (b) Defense (1) lack of subject-matter jurisdiction,(2) lack of personal jurisdiction, Failure to join "REAL" a party under Rules 17 and to exercise my pendent jurisdiction, Then Relief pursuant to USCS Fed. Rules Civ. Proc. R. 60 (b) Grounds for relief from a final judgment,order, or proceeding-(2),(3),(4) **void judgment**,(6), this honorable court has original jurisdiction of the federal claim contained in this complaint pursuant to 28 USCS § 1251(Original jurisdiction) 28 USCS § 1331-32 (Diversity of citizenship; amount in controversy) and 28 USCS § 1343 (civil rights and elective franchise)(a)(3). Jurisdiction is proper in this matter because Appellant/Individual/Citizen (Pro Se Cutis), brings this action pursuant to 18 USCS § 242-(Deprivation of rights under color of law),
18 USCS § 241-(constantly to deprivation of Rights), Guy Lewis, Jr.: Coulston/Naturally "Born" citizen of the United States of America, Living, Breathing Flesh and Blood "REAL"man with a soul/emotion's U.S. Const 1th Amendment, U.S. Const 4th Amendment, U.S. Const. 5th Amendment, U.S. Const. 8th Amendment "cruel and unusual punishment", U.S. Const. 11th Amendment, 14th Amendment "Due Process of Law" and 6th Amendment "Right to effective assistance of counsel").
Along with Challenging under the "absence of law", Fundamental error - "NEXUS-MINIMUM CONTACTS TEST.",

Petitioner/Individual/Citizen, (Pro se cutis), furthermore, invokes "supplemental jurisdiction" pursuant to 28 USCS" § 1367 of the Court and then to adjudicate Pendent Jurisdiction State law claims pursuant to 15 USCS § 78 aa.(a), Venue is proper in this Honorable Court because defendants constitutional violence international tort's and otherwise violates conduct accordance within "Hobbs Act." and "Brady" violation pursuant to 18 USCS § 1951(a)(b)(1)(2)(3), leaving out "potentially exculpatory evidence" within the Courts of Idaho. As Follow's;

The ALL-CAPITAL-LETTERS "named" defendant in the above referenced alleged criminal Case/Cause is not an "individual" as such word/term is used/employed in state and federal statutes/laws; and, is not defined as a "citizen of the United States."; and said definition is not a reference to the XIVth Amendment of the Corporate united Charter/ Constitution; and, said reference does not denote said "Named" individual as that of a "trust Entity" [see: title 5 U.S.C. § 552a (a)(2)] "Herein, **"CITIZEN"** equates to the word **'subject'** as in subjects of Great Briton, and it is suggested to one who an action into these foreign courts to define, if you are the defendant or the plaintiff, that " I am a 'private sentient man , a living being with a soul , flesh and blood and not a **"subject"** of the federal or state government and for the purpose of this action, per the rule of this court that parties so named be in **CAPITAL LETTERS**, the entity bring (or the defendant responding to) this action may be called a **CITIZEN;**"

associated Industries of New York State v. Ickes, C.C.A. 2, 134 F.2ds. 699, 702

The **subject-matter** jurisdiction of the Courts; and specifically that of the alleged Court of record within the above referenced criminal Case/Cause, involves the actual thing involved in the Controversy; e.g. property, money, tort or wrong one committed against another, a Contract, marriage, bankruptcy, lien; the Crime or Public offense that is allegedly committee, subject-matter jurisdiction would exist if the "thing" involved in the Controversy does not, and never did exist (see: Stilwell v. markman, 10 P.2d 15,16 (Kan. 1932), which states: "the subject-matter of a criminal offense is the crime itself. Subject-matter in its broadest sense means the Cause: the object, the thing in dispute."); Black's Law Dictionary, Rev. 4th Ed. 1968, P. 53 at ACTUAL, which state: Real; substantial; existing presently in act, having a valid objective [of or having to do with a material object as Distinguished from a mental concept; having actual existence of reality] existence [as opposed to artificial; e.g. Corporations, L.L.C's, Franchises, ens. legis entities existing only in Contemplation of or by Force of Law; i.e., in the mind only, a mental concept, and its "by-laws" which are; ipso facto, artificial law of the artificial entity existing only in Contemplation of or by force of law, a mental concept] as apposed to that which is merely theoretical or possible. Something real, in opposition to constructive or speculative.;

[State v. Brown, 64 S.W. 2D 841 849 (tenn. 1933), Which states: "personal jurisdiction, or the Authority to judge a person, is primarily one of the venue or procedure. Generally, if one is standing in a court, it has some degree of jurisdiction over the person. This , if one is named in suit, but is

"ABSENT" from court by being either in person or by escape, there is a want of jurisdiction over that person, and the court cannot proceed with the trial.]: A court's jurisdiction over the person "named" in matter brought before it; and specifically as this related to and bears upon the "name" alleged defendant within the above referenced alleged criminal **Case/Cause**, is not conferred upon the court by/through consent, waiver, pleading to the merits, and by the "named" party/defendant /person appearing through counsel. (see: smith v. state, 148 S. 858, 860 (Ala. App. 1933); state v. smith, 70 A. 2d 175, 177 N.J. Super. 85 (1949).;

pursuant USCS fed. Rule Civ. Proc. R. 60 (b),(**Relief**),(2),(3),(4)-**void judgment**(6)

Omer v. Shalala, 30 f.3d 1307, 1310 (10th Cir. 1994) quoting V.T.A., Inc. v. Airco, Inc., 597 f.2d 220. 224 n.8 (10th Cir. 1979)), which states Where Rule 60(b),(4), is properly invoked on the basis the the underlying judgment is void, "relief is not a discretionary matter; it is mandatory."

Pursuant USCS fed. Rule Civ. Proc. 12 (b) Defense (1) lack of subject-matter jurisdiction,(2) lack of personal jurisdiction, "A recent discussion of the Rule 60(b),(4) grounds for attack on a void judgment may be found in Fisher v. Amaraneni, 565 So. 2D 84 (Ala. 1990) the judgment was set aside for lack of personal jurisdiction based on improper service by publication. The court defined a judgment as void "only if the court rendering it lacked jurisdiction of the Subject-matter or of the parties, or if it acted in a manner inconsistent with DUE PROCESS." id. At 86 (citing wonder v. Southbound Records, Inc., 364 So. 2D 1173 (Ala. 1978)).It should be noted here that a Rule 60(b),(4)motion involves a different standard of review than the other Rule 60(b) Subsections since that court held "[w]hen the granting or denial turns on the validity of the judgment, discretion has no place for operation. If the judgment is void it must be set aside... "Fisher, 565 So. 2D at 87.

on this claim ans issue (Interrogation), please see(Appendix-A, pg.17-pg.20-pg.30)-(Appendix-D, pg.44)

Mr. Coulston an Individual, On November 29,2011 Appellant/Individual, living, breathing, flesh and blood man with a soul/emotions was called down to the Kootenai County Sheriff's office for what Appellant/principal/citizen did not know at the time was an interrogation. When

the questioning started I found out very quickly the alleged allegation was about sexual misconduct with alleged victim (A.R.M.). During this questioning, Mr. Coulston an Individual denied any sexual misconduct with (A.R.M). At one point during the interrogation Detective Oyler gets frustrated and starts trying to coerce statements from Mr. Coulston an Individual (Transcript trial pg. 275, Ln. 10-22), also see (11:12 fifth amendment claims and coerced confessions) 5th amendment

at which point Mr. Coulston an Individual asks for an attorney,

(I better talk to attorney).

Allegedly, I did not ask for attorney the proper way. The court states: "*Where an individual has invoked a right to counsel, the police may not continue to interrogate until the individual has either been provided with access to an attorney or re-initiates communication with the police. Id. In Edwards v. Arizona, 451 U.S. 477, 485, 101 S. Ct. 1880, 68 L. Ed. 2D 378 (1981))*

also see, (**memorandum and order, Appendix to order-4**): Oyler: (ignores the last statement.)

See (Docket 41396 Appellate Supreme Court)

" **PROVISION** for admission of voluntary confession or self-incriminating statement in **18 USCS § 3501 does not trump Edwards**, which provide that defendant is not "**SUBJECT** to further interrogation after he has invoked his right to counsel , and thus defendant's incriminating statements, which were unconstitutionally elicited after he invoked his right to counsel, were not admissible under § 3501. **UNITED STATES v. Cheely**, 36 F.3d 1439, 94 D.A.R. 13898, 29 FED. R. SERV. 3d. (Callaghan) 1418, 1994 U.S. App. LEXIS 27587 (9th cir. 1994)" However, in Mr. Coulston an Individual mind he was asking for an attorney. Nobody asked Mr. Coulston an Individual why allegedly said that or what his mental state was at the time and/or what voice he was answering to. The detective started using Mr. Coulston an Individual kids as a weapon/leverage,

see (transcript pg. 277, Ln. 12-20 – pg. 278, Ln. 2-25 – pg. 279, Ln. 1-25) to get some kind of alleged coerced statements from Petitioner/Individual Now, pursuant to Title 18 crimes and criminal procedure, § 3501, Admissibility of Confessions [caution: In *Dickerson v. United States* (2000, US) 530 US 428, 147 L Ed 2d 405, 120 S. Ct. 2326, 2000 US Lexis 4305, 68 USLW 4566, the Supreme Court held that Congress did not have constitutional authority to supersede *Miranda V. Arizona*, (1966, US) 386 us 436, 16 L Ed 2d 694, 86 s ct. 1602, 1966 us Lexis 2817, by enactment of subsections (a) and (b) this section.] (8th cir. July 20, 2001) Mental state alone cannot render confession involuntary because government coercion is also required factor; defendant's claim of *Kasper v. Estep*, 256 fed. Appx.. confession was wrongfully admitted because the confession was coerced. Under this the courts need to analysis the interview/interrogation to see if coercive, the detective Olyer first, “*ignores*” Mr. Coulston an Individual request/invoking right for counsel/Agent. Then Detective Olyer uses Mr. Coulston an Individual Kids as a leverage point, to get alleged coerced statement. to see if confession was voluntary. It is not voluntary when Detective has to use leverage to get an alleged statement, *Miranda*. “*Any*” questioning after Mr. Coulston an Individual request for counsel/Agent is “*Fruit of the poisonous tree*”, ”*Wong sun v. United States, 371 U.S. 471 (1963)*” a clear “*error*” of my United States Constitution 14th Amendment 1) Section due process of law. Mr. Coulston an Individual trial counsel/Agent admits his own ineffective assistance of counsel and 5th Amendment of the United States Constitution, Due Process of law, coerce statement. APPENDIX-A, PG.30-

PG.32/APPENDIX-D,PG.24-PG.35. Then questioning of 2 potential jurors off record. (1) Ms. Leatham (2) Ms. Evans. (trial transcripts pg. 86 – Ln 7-10) Prospective Juror Evans: Yes, it is in private (Trial transcript pg. 86 – Ln. 25), (*Proceeding in chamber.*), (Trial transcript pg. 87 – Ln. 1-11) from (Trial transcript pg. 87, starting at Line 5)-

Courts: (and - - about this process, and that “discussion took place off the record” does either side have any objection to having this type of hearing take place outside the presence of the jurors and outside the presence of any potential press?)

(Ln. 10) Mr. Verharen: No, judge

(Ln. 11) "Trial counsel/Agent" Mr. Baughman: No, your honor.

At this point in time trial counsel "*errors*" in not properly advising Individual, living, breathing, flesh and blood man with a soul/emotions of his constitutional rights to have an open court hearing pursuant to 1st Amendment "abridging the freedom of speech or of the press.", 6th Amendment -"right to a speedy and public trial", 14th Amendment section (1) "Due process; nor deny to any person within its jurisdiction the equal protection of the law." and Idaho's Constitution, (Article I, "Section 13, 18 and/or 22") At that point trial counsel/Agent fails to object, contrary to what trial counsel says on Affidavit

APPENDIX-A, PG.30-PG.32/APPENDIX-D,PG.24-PG.35.

"I would have objected to any question of prospective jurors outside Mr. Coulston and I". As you can see on "(Trial transcript pg. 86 Ln. 11-25) that this point in time both potential jurors go off record in judge's chambers. Now, what everybody is attacking is Appellant/principal's did not object to this," see(Trial transcript pg. 87 – Ln. 20.) ; however if you look at (pg. 87 – LN. 12-20) the court is asking Appellant/Individual trial counsel/Agent:

(Ln. 12) The court: and does your client understand that he has a right to have this type of questioning take place in the courtroom in front of the press?

(Ln. 15) Mr. Baughman: "He does now,"

"Once Prima facie showing of under-representation has been made, burden of proof shifts to state to rebut presumption of unconstitutional action and government may rebut presumption of unconstitutional action by showing sufficient absence of discriminatory intent. **UNITED STATES V. HOLMAN**, 510 F. supp. 1175, 1981 U.S. Dist. LEXIS 12856 (N.D. Fla. 1981), modified, 680 F.2d 1320, 11 FED. R. EVID. SERV. (CBC) 209, 1982 U.S. App. LEXIS 17246 (11th Cir. 1982). Now, Appellant/Individual, is now saying this point, trial counsel/Agent is in clear "*error*" of Idaho rule of court (1.1) Competence and Rule (1.4) communication (A) a lawyer shall: (1) promptly inform the

client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0 (E) is required by these rules; (2)-(3) (4 and 5) (b) please for more insight on these Rules.

What's even shocking is that juror "Ms. Evans" was allowed to remain on the jury, "after admitting she was a victim of a similar incident of her own past." Which states: Bias of a juror conclusively presumed on account of his/her relation to a party or the "***Case/Cause.***" ***United States v. Wood,*** 299 US 123, 81 L. Ed 78, 57 S. Ct. 177, reh den 299 US 24, 81 L. Ed. 459, 57 S. Ct. Which allowing Ms. Evans to remain on the jury after admission, is "***error***" in violation of U.S. Const. 14th Amendment, due process of law. This is where Appellant/Individual, living, breathing, flesh and blood man with a soul/emotions has a problem with this is; when the judge ask, see (Trial transcript pg. 85 – Ln. 24 through 86 – Ln. 1-3), this juror should have been challenged.

(Ln. 24) The court: "Here's the question. Do any of you have any other reason why you "cannot" give this case your undivided attention and render a fair and impartial verdict? Is there anyone who feels that way? If so, please raise your hand."

Now, prospective juror Ms. Leatham and Ms. Evans raise there hands (Trial transcript pg. 86 – Ln. 4-10) Then on (Trial transcript pg. 86 – Ln. 22-25)

(Ln. 22) The court: "So, I'm going to excuse you until ten minutes until 11:00 and if you two could come in the hallway with Mr. Smith and we'll meet back there.

(Ln. 25)-(proceeding in chamber)

Now, the record is showing that the judge took both Ms. Leatham and Ms. Evans to his chambers "**off record**", out of the courtroom by themselves, "**before**" going to courtroom #9 and then Ms. Evans admits that she thinks she could be impartial to alleged allegation that was "so very similar" to Ms. Evans past.

see (Trial transcript pg. 90 – Ln. 1-11)

(Ln. 9) The court: Okay: would either side care to inquire?

(Ln. 11)Agent/counsel, Mr. Baughman: I have no questions,

Again no objection. Trial counsel/Agent should have objected and challenged that juror, remember Ms. Evans is already acknowledge to the court that she "**cannot give this case her undivided attention and render a fair and impartial verdict?"** see (Trial transcript pg. 85 – Ln 24-25 – pg. 86 – Ln 1-10). Now, the question that Mr. Coulston/Individual is/was trying to bring up is, in what court system under law with a "living, breathing, flesh and blood 'real' man" Individual/Citizen, can counsel/Agent "*error*" in violating U.S. Const. 1st , Amendment freedom of speech in front of press. 6th Amendment- right to effective assistance of counsel for, defense and 14th Amendments Section 1) due process of law "rights." Then for the Courts ask, the Individual/Citizen, permission "*after the fact*" of "questioning potential prospective jurors off record" and "*before*" asking to waive Appellant/Individual/Citizen, rights is a clear "*error*" in violating of Individual U.S. Cont. 14th Amendment section 1) due process of law. Then by trial counsel/Agent not objecting and challenging potential juror is a "*error*" of Individual's/ U.S. Const. 6th Amendment- right to effective assistance of counsel for his defense. asks to vacate conviction and remand for new trial.

on this claim and issue(DNA) **please see(**Appendix-A,pg.7)-(Appendix-D,pg.41)

Mr. Coulston has argued with "all" his attorney's on this issue of DNA testing. The issue that the accusation started on November 29, 2011, however the alleged incident happened on November 26, 2011. That's a 3 day difference and alleged victim admits taking showers, so the question is how did they find my DNA after 3 days and 2 showers later.

Affidavit of Rick Baughman (Ln. 16) "The decision to stipulate to admission of DNA evidence was strategic/tactical, as the evidence would likely have come in despite any challenge on behalf of Coulston and the opportunity to cross-examine remained. The decision also served to save Coulston a significant amount of money."

This decision is not strategic/tactical, it's not up to trial counsel to finalize that decision. Individual/Citizen, living, breathing, flesh and blood man with a soul/emotions has a U.S. Constitutional 6th Amendment right to effective assistance of counsel for his defense.

Mr.Coulston/Individual has a right ***Pursuant to 18 USCS § 3600 (a),(1),(4)*** and to ***Idaho code §19-4902 – DNA testing (D),(1)*** and a U.S. Const. 14th Amendment; **without due process of law**; nor deny to any person within its jurisdiction the equal protection of law and U.S. Const. 6th Amendment right to; To have compulsory process for obtaining witness in his favor; and to have effective assistance of counsel for his defense. U.S. Const. 6th right to effective assistance of counsel for his defense and 14th Amendment section 1) due process of law),***Pursuant to 18 USCS § 3600 (a),(1),(4) Idaho code §19-4902***, Idaho state police forensic services laboratory states witness, Rylene Nowlin; testifies and this is what transpired:

(Ln. 7) Q: And pursuant to this analysis, what did you find?

(Ln. 8) A: In this analysis I did find sperm present on the vaginal swabs that were contained within the kit. I also found a limited number of sperm present on a swab labeled “back and inner thighs”.

(Ln. 13) Q: And so what did you do in regards to those particular swabs that were positive for semen?

(Ln. 15) A: The swabs that were positive for semen I placed back in the envelope they came in, I tape sealed that, and then placed it into the DNA packet.

(Trial transcript pg. 392, Ln. 7-17)

In order to be concise Mr.Coulston/Individual will only present the specific information as pertaining to the State's Lab tech's misconduct and inaccurate misleading testimony which resulted in an obvious lie regarding the testing results and the chain of custody of evidence.

(Trial transcript pg. 393, Ln. 1-25/pg. 394, Ln. 1-25/pg. 395, Ln. 1-25) where trial counsel goes through chain of custody.

Mr.Coulston/Individual asserts that Ms. Rylene Nowlin of the Idaho State police Forensic Laboratory, states in testimony:

(Ln-16)Q: “what do you recognize 1 and 2 to be?”

(Ln-17)A: "Item 1 is a sexual assault evidence collection kit collected from Alaysia Marshall. And item 2 were the oral swabs collected from Guy Coulston."

(Ln- 20)Q: "All right. So in terms of No. 2, the actual swabs, themselves, they don't reside in that envelope any longer?"

(Ln- 23)A: "No I labeled it as empty because I kept those in the Laboratory."
(Trial transcript pg. 395, Ln. 16-24)

Ms. Nowlin testimony continues with:

(Ln. 2)A: "And in regards to plaintiff's Exhibit 1, what's missing out of the original sexual assault kit that came to you when you did your initial analysis?"

(Ln. 5) A: "The vaginal swabs are missing. The back and inner thigh swabs are missing. And then a portion of the blood that was in the blood tube is missing."

(Ln. 8)A: Other than those objects, in terms of plaintiff's 1 and 2, do those things appear to be now in the same or substantially same condition as they were when you got them?
"Keeping in mind the exceptions that we just talk about"

(Ln. 13)A: "Yes. I can see the seals that I placed are still intact with my initials and the date across the seals."

(Ln. 16)Q: "Looking at these two pieces of evidence, can you tell us whether or not there are any indications that a proper chain of custody was not followed, at least in your office?"

(Ln 20)A: "I don't. I can see where the forensic evidence specialist signed it; so it appears chain of custody has been maintained."

(Ln 23)Q: "On both exhibits?"

(Ln 24)A" "Yes."

(Trial transcript pg. 396, Ln. 1-25)

So, the question here is, if Rylene Nowlin is the first person to get the kit to first see and if there is sperm on "all" swabs. Then allegedly Stacy Guess did analyzing on the swabs. Why is it Stacy Guess is not on the chain of custody? Then Rylene Nowlin is the only one that examined the kit in the beginning of her testimony said she found semen on all swabs "vaginal, back, and inner thigh" but then the swabs are "missing" from kit at trial. There is a lie going on and manufacturing of evidence or a

broken chain of custody here. In 2015, the Idaho State Police Forensic Laboratory was found with over 300 sexual assault kits “Untested”, however had statistics to them.

(Individual/citizen) would like to point out the label “forensic evidence specialist” is a person that just stores the evidence, (trial transcript pg. 393, Ln. 5-11)

(Ln. 5)A: “Once I was finished with the packet, I took it up to the front of our laboratory. We have individuals known as forensic evidence specialists, and they take care of all evidence that comes into and out of the laboratory. I turned the custody of that packet over to them. And they placed it into a freezer in our secure vault. And that is where it is at”

Attorney should have moved for a motion to suppress the DNA evidence.

In *Green v. Nelson* the court states in relevant part: counsel's failure to move for suppression of DNA and blood evidence based on “admittedly mistaken view of the evidence in this case” was deficient performance and not a strategic decision; “filing a motion to suppress could have had no negative impact on Green's defense and if granted, would have almost assuredly precluded his conviction”; no prejudice, however, because warrant authorized collection of DNA and blood evidence properly issued. Ineffective assistance of counsel. *GREEN v. NELSON*, 595 F. 3d 1245, 1248-52 (11th cir. 2010)

(Individual/citizen) asserts that trial counsel took it upon himself to not get DNA test outside Idaho see(*Affidavit of Rick Baughmen* pg. 4, Ln. 16), Mr. Baughmen states:

(Ln. 16) “The decision to stipulate to admission of DNA evidence was strategic/tactical, as the evidence would likely have come in despite any challenges on behalf of Coulston and the opportunity to cross-examine remained. The decision also served to save Coulston a significant amount of money”

Mr. Baughman says he did not have them tested stating that counsel's decision “served to save Coulston a significant amount of money.” That is not up to trial counsel to make that decision. This is a clear “*error*” in violation of Mr. Coulston/Individual U.S. Const. Sixth Amendment Rights; to have compulsory process for obtaining witnesses in his favor, and to have the right to effective assistance of counsel for his defense and is “*error*” in violation of Fourteenth Amendment right to due process of law.

Now, on Stacy Guess states expert the Idaho State Police Forensic Services Laboratory. Now,

let Mr. Coulston remind you that Rylene Nowlin was the only one to touch test, and examine the vaginal swab, back, and inner thigh swab “by chain of custody”

State witness Stacy Guess states in part that she analyzed vaginal swab and bloodstain, Ms. Guess testimony is as follows in relevant part;

(Ln. 13)Q: “BY MR. VERHAREN: You did some analysis in this case?

(Ln. 15)A:”Yes, I did.”

(Ln. 16)Q:“Can you describe when you did that, please”

(Ln. 17)A: “I did two different periods of analysis on this. The first I began in April, April 11 of 2012.”

(Ln. 19)Q: “And what it is on that particular date that you analyzed?”

(Ln. 21)A: “On that date I analyzed a – the evidence sample that I analyzed was a vaginal swab. And then I also analyzed two known samples, one from Ms. Marshall that was a known bloodstain. And then a known or reference oral swab from Mr. Coulston.”

(Trial transcript pg. 407, Ln. 13-25)

There is obviously inaccurate testimony and/or a broken chain of custody because Stacey Guess clearly testified to the fact that she physically was in control of the DNA evidence at some point of the investigation, however, she was never listed on any of the documentation as to having any authority to do so. Ms. Guess was never presented by the State through reports or information as to being authorized to handle said evidence in this case, thus, this in fact violates the chain of custody that contains to the testing of the “**only**” swab's Appellant/Individual/Citizen, living, breathing, flesh and blood man with a soul/emotions filed with the District Court a motion to investigate the entirety and integrity of sexual assault kit.

Pursuant to 18 USCS § 3600 (a),(8),(9), States, ”Defendant had brought himself within the reach of IPA and the DNA Testing had to be ordered.” United States v. Fasono, 577 F3d. 572, 2009 U.S. App. LEXIS 17026 (5th Cir. 2009) If motion is granted it will prove an “**error**” and a clear violation of my U.S. Const. 14th Amendment of due process of law and U.S. Const 6th Amendment right to effective assistance of counsel for his defense because trial counsel “**erred**” in challenge the DNA or put motion to suppress, along with testing outside Idaho lab to secure that there was “NO” Tampering with, replaced, or altered in any respect material to the proposed DNA TESTING; (Trial transcript pg. 419

Ln. 24-25) (*Ln.24) Q. So you can't tell us that it was, in fact his DNA?* (Trial transcript pg. 420 Ln. 1)

(Ln. 1) A. I cannot say for sure that is his DNA, "NO".

On this claim and issue (Perjury) please see(**Appendix-A, pg.36)-(Appendix-D, pg.37)**

Then Mr. Coulston was convicted on perjured and inaccurate testimony. Started with one miscarriage of justice and lead into another miscarriage of justice after another miscarriage of justice. During trial when trial counsel was questioning states material witness "alleged victim" the question asked was;

(Ln. 21)Q: "At no time was there oral sex?"

(Ln 22)A: "No"

(Ln 23)Q: "At no time - -"

(Ln 24)A: "*Yes, there was. I lied*"

(Ln 25)Q "Excuse me?"

for more insight also see (Trial transcript pg. 354-Ln. 21-25)

Pursuant to USCS Fed Rule Evid Rule 609 and Idaho code 609 Impeachment by evidence of a criminal conviction. The same question was asked at preliminary hearing.

(02:29:50 pm) "Ms. Marshall – No oral or anal sex"

Now Pursuant to **18 USCS § 1621**, and pursuant ***Idaho code § 18-5401. Perjury defined***,

I don't know what laws Idaho court, attorney, and prosecutors want to make up. Testifying at a **preliminary** hearing the states material witness, "alleged victim", had to take an oath to testify "**truly**" and for states material witness "alleged victim" to testify at **trial** she had to take an oath to testify "**truly**" and admitting lying about a previous testimony is "**perjury**".

This is more that transpired from states material witness "alleged victim's" testimony trial

Q: "You also testified at a hearing in this case on or about January 5 of 2012, did you not?"

A: "I did"

Q: "And at the time of that testimony on January 5, you were sworn under oath to tell the truth; correct?"

A: "Correct"

Q: "You were sworn under oath to tell the whole truth, nothing but the truth, so help you God; correct?"

A: "Correct"

Now, Pursuant to **18 USCS § 1621** is to keep process of justice free from contamination of false testimony; it is for wrong done to courts and administration of justice that punishment is given, not for effect that any particular testimony might have on out come of any given trial. **United States v. Manfredonia**, 414 F.2d 760, 1969 U.S. App. LEXIS 11203 (2d Cir. 1969). Idaho code **§18-5401** (***Perjury Defined***) this is perjury as she admits to lying under oath

Now, Individual/Citizen, wants to also point out some inaccurate parts of states material witness "alleged victim's" testimony. At Preliminary hearing (A.r.m.) testifies that Mr. Coulston would be gone most of the time.

(02:29:50) Ms. Marshall - "sometimes he would be gone for a week at a time"

Then at trial (A.r.m.) states material witness testifies;

Q: "And during most of the time you were living there, Guy, as you indicated, drove truck"

A: "Yes"

Q: "five day a week, and he was usually home on the weekends, correct?"

A: "Depending on the job"

Q: "Was he or was he not usually home on the weekends?"

A: "Usually he was"

Q: "And he'd be working on his truck on those weekends usually; correct?"

A: "Sometime"

Q: "Guy was raising you and your sisters as a single parent for most of those years; correct?"

A: "Yes"

Q: "Even though your mother was there, she wasn't much into parenting, was she?"

A: "No"

Now, states material witness "alleged victim's" testimony is going to change.

Q: "Now, you indicated in your testimony - - and correct me if I'm wrong - - that Guy was having sex with you from the time you were 10 years old until you were 15 years old, two to four times a week, sometimes every night, sometimes once a week?"

A: "Yes"

Q: "Alaysia, that's not what you testified to at the January 5 hearing is it?"

A: "I don't remember exactly what I said"

Q: "Immediately after that beginning on line 14 your answer is, "uh, throughout the years maybe, uh, a few times - - a couple times a week once or twice. Sometimes a little less; sometimes a little more." But that was your answer; correct?"

A: "Yes"

Q: "And, again, you testified today two to four times per week. That's not what you told Deputy Stinebaugh"

Now, (A.r.m.) states material witness "alleged victim" testified under oath. Mr. Coulston is gone throughout the week, which Mr. Coulston was a regional truck driver, Washington, Oregon, Idaho, Montana, Utah and Wyoming Mr. Coulston had log books to prove this, however; allegedly having sex with her 2 to 4 times a week or everyday. **Weird** that this is happening throughout the week or all the time when out making a living driving truck "**away**" from home. On a weekly bases for 11 years.

Then more inaccurate testimony, see (trial transcripts pg.364 Ln. 2-5 and pg. 365 Ln. 8-10)

Ln. 2) Q: If I understand your testimony correctly, he had sex with you, ejaculated inside you, and when he was finished, he pulled your panties back on?

Ln. 5) A: I believe so.

(Trial transcript pg. 364 Ln. 2-5)

Ln. 8) Q: So after having sex, it's your testimony that you put your panties and your sweats back on?

Ln. 10) A: Yes.

(Trial transcript pg. 365 Ln. 8-10)

Now, there is inaccurate testimony all through alleged victims testimony and admitted lying. Pursuant to **18 USCS § 231**, predecessor of **18 USCS §1621**, false testimony is material only if it is "**Germane**" to "**Matters**" properly within power of tribunal to investigate. **Seymour v. United States**, 77 F.2d 577, 1935 U.S. App. LEXIS 4654 (8th cir. 1935)

Mr.Coulston is going to point out a part of (A.r.m.) states material witness, "alleged victim's" testimony and why this false accusation accord.

Q: "Do you recall also telling Detective Olyer that the reason you wanted out of the house was because Guy was an ass because he hits me, he's over protective?"

A: "Yes"

Q: "So, it wasn't because you were scared. It's because you were angry; right?"

A: "Both"

Q: "You were angry with Guy, weren't you?"

A: "Yes"

Q: "And angry with the restrictions that he had been placing on you?"

A: "Yes"

Now, (A.r.m.) is admitting she is angry with Mr. Coulston for grounding her that morning.

Literally one hour later (A.r.m.) makes the accusation at school " Individual/Citizen, had text messages to prove this but his trial counsel/Agent would not let him put as evidence. This did not turn into a sex charge til she got to the sheriffs offices and started talking to detective Olyer. It was just an abuse accusation at school. (A.r.m.) is wanting ill-will.

§35:1, The right to effective assistance of counsel also Individual's rights U.S. Const. 6th Amendment “and to have effective assistance of counsel for his defense.” and U.S. Const. 14th Amendment section 1. “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 law.”

At this point trial counsel/Agent has “*erred*” in clear violation of /Individual/Citizen, U.S. Const. 6th Amendment “right to effective assistance of counsel” and U.S. Const. 14th Amendment “deprive any person of life, liberty or property **without due process of law**.”

Because the courts “*erred*” in contrived a guilty verdict from inaccurate testimony and admitted perjured testimony by states material witness “alleged victim”, the allegations that are put on Mr.Coulston by state material witness/alleged victim are horrendous and a lie. Trial counsel/Agent should have impeached her testimony from preliminary hearing through her testimony at trial.

“One recognized method of impeachment is by showing that on a prior occasion, the witness made a statement inconsistent with testimony he gave at trial. In Idaho, a prior inconsistent statement can also be used as substantive evidence, so long as the Declarant testifies at trial, is subject to cross-examination concerning the statement and the statement was given under oath at a prior proceeding.” Idaho Rules of Evidence 801(d)(1)

Case was vacated and remanded

STATE v. JOHNATHAN E. ELLINGTON, 151 Idaho 53; 253 P. 3d; 2011 Ida. Lexis 87

“Obtaining conviction of perjured testimony known to prosecuting authorities to be perjured, as denial of due process. 98 A.L.R .411.”

“It is a requirement that cannot be deemed to be satisfied by mere notice and hearing if a state has contrived a conviction through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through a deliberate deception of court and jury by the presentation of testimony known to be perjured. Such a contrivance by a state to procure the conviction and imprisonment of a defendant is as inconsistent with the rudimentary demands of justice as is the obtaining of a like result by intimidation.”

Case was vacated and the case remanded

BRADY v. MARYLAND, 373 U.S. 83 10L Ed 2d 215, 83 s. ct. 1194 (1963)

“We have no way to know whether or not the prosecutor had any knowledge of the falsity of Cpl. Rice's testimony given his past testimony and training materials, but we recognize the serious constitutional implications of the possibility. It is extremely disturbing to this court that an office of the law would present false testimony in any case, especially a murder case. In this case, however, it is impossible to believe there was any truth to the testimony of Cpl. Rice. It is abhorrent to this court, as it would be to any other court, that a man can be sentenced to twenty-five years for second degree murder based primarily on the false testimony of a trooper of this state.”

Case was vacated and remanded

UNITED STATES v. AGURS, 427 U.S. 97, 103, 96 s. ct. 2382, 2397, 49 2 Ed. 2D 342 (1976)

Now, remember states material witness “alleged victim” outward admitted lying.

(Ln. 21)Q: “At no time was there oral sex?”

(Ln. 22)A: “No”

(Ln. 23)Q: “At no time - -”

(Ln. 24)A: “***Yes, there was. I lied***”

Now her whole testimony is questionable. There was no recantations and no rehabilitation of “alleged victims” testimony. What else is states material witness (A.r.m.) lying about and because the courts contrived a verdict off admitted perjured testimony and counsel “Rick Baughman/trial counsel/Agent” “***erred***” in not do “anything”. No motion for mistrial or motion for new trial. Individual is “***error***” and continually being violated in is his U.S. Const. 6th Amendment right to effective assistance of counsel for his defense and his U.S. Const. 14th Amendment, section (1) “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 law.”

on this claim and issue(**STD-chlamydia**)-Please see(**Appendix-A, pg.32 and pg. 60**)-**Appendix-D**,

pg. 50,51,52)

“Generally “[A]ttorney error, even when egregious almost always require[s] analysis under

Strickland's prejudice prong "(1) U.S. v. THEODORE, 468 F. 3d 52, 56 (1st cir. 2006). But in very limited circumstance, prejudice is presumed once a sixth amendment violation is demonstrated. In these cases, relief is automatic – either in the form of a reversal of the conviction or the grant of the writ of Habeas corpus." This issue is new evidence Mr. Coulston asserts that this issue was argued at pretrial between prosecution and trial counsel, where Trial counsel argued not to bring the issue of an STD at trial.. The state keeps arguing that rule 412: sex crime cases; relevance of victim's past behavior.

Idaho Code Rules of Evidence, Rule 412: sex crime cases; relevance of victim's past behavior. States in relevant part:

Rule 412 (a) Not notwithstanding any other provision of law, in a criminal case in which a person is accused of a sex crime, reputation or opinion evidence of the past sexual behavior of an alleged victim of such sex crime is not admissible.

Then, Individual, keeps getting quoted this case law

IDAHO v. OZUNA, 155 Idaho 697

"That thee accused cannot bring up allegation against thee alleged victim" Rule 412 (A)(B) The district court correctly determined that such evidence was evidence of a victim's past sexual behavior.

However, that did not happen in Appellant/Individual/Citizen, living, breathing, flesh and blood man with a soul/emotions case.

(02:29:50) "Ms. Marshall: I did get Chlamydia from him, I found that out a few weeks ago. I went and had a rape check done and they found that out."

At that point Individual has a U.S. Const. 6th Amendment right to present a defense, U.S. Const. 14th Amendment, section (1) "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 law "right to a fair trial" "right to defend myself of any wrong doing."

also, that opens the door for rebuttal evidence and that's where,

IDAHO v. OZUNA, 155 Idaho 697; cites

"*Ozuna* cites to, three cases in support of his argument. Two of the cases are distinguishable

because, in those cases, the state had offered evidence of the victim's STD as evidence that the defendant had engaged in sexual contact with the victim. Thereby opening the door for rebuttal evidence, see ("REECE v. STATE, 192 Ga. App 14, 383 S. E. 2d 572,574(Ga. ct. App. 1989) "holding that the trial court erred by excluding defendant's proffered evidence that neither he or his wife had contracted an STD after the state had introduced evidence that the victim had contracted the disease after the alleged sexual contact"); (EVAN v. COMMONWEALTH, 14 va. App. 118,415 S. E. 2d. 851,855,8 va. Law Rep. 2391(va. ct. App. 1992)"Holding that the victim waited to report the crime until after she learned she had contracted an STD was relevant and of probative value because it tended to show that the charge may have been false and motivated by ill-will.") Only one case cited by Ozuna actually held that evidence of a victim's STD was not evidence of past sexual behavior se (STATE v. STEELE, 510 n.w. 2D 661, 666-67 (s.d. 1994)"concluding evidence that the victim had an STD, which the defendant did not subsequently contracted, was not evidence of prior sexual conduct prohibited under the state's rape shield statute")

Now, remember Ms. Marshall accused Mr. Coulston personally at preliminary hearing of Individual/Citizen, giving Ms. Marshall chlamydia,

(02:29:50 pm) "I did get chlamydia from him", I found that out a few weeks ago. However, judge does answer this on summary dismissal. Then Mr. Coulston trial counsel/Agent talks about on his affidavit "Coulston and I disagreed regarding the value of the sexually transmitted disease (STD) evidence and testimony. Coulston stated that he wanted to present the evidence to attack the victim's credibility. I counseled him that the issue was not the STD, but rather, whether Mr. Coulston actually penetrated the victim's vagina." An STD does prove if there was "allegedly any" penetration into the alleged victim's vagina by Mr. Coulston

("STDs generally occur as the result of sexual intercourse or sexual contact")

STATE v. CUNNINGHAM, 164 Ore. App. 680, 995 D. 2d. Slet, 568(or. Ct. App. 2000)

"CDC fact sheets""*You can get chlamydia by having vaginal, anal, or oral "sex" with someone who has chlamydia.*"

Now, where Mr. Coulston is says this should have been argued, because he has a U.S. Const. 14th Amendment 1. Section. Due process of law, Idaho Code 412,

"remanding for a hearing on claim that attorney was ineffective for failing to rely on exceptions to the rape shield law permitting introduction of evidence showing victim was not sexually assaulted.

SHAW v. UNITED STATES, 24 f. 3d 1040 (8th cir. 1994)

filed a motion for department of health records to be reviewed by in camera inspection case No cv-28-18-9706 which was denied with by the State District court. It will show that (A.R.M) did not list Appellant/Individual/Citizen, living, breathing, flesh and blood man with a soul/emotion's as a sexual partner, it will prove more perjury and will show ill-will to Appellant/Individual/Citizen, and you can see Mr. Coulston/Individual living, breathing, flesh and blood man with a soul/emotion's "negative" test results, (A.r.m.) "positive" test results on. Then -CDC fact sheet, you'll read that chlamydia "needs" to be treated, it's an STD that does not go away on its own. Appellant/Individual/Citizen, living, breathing, flesh and blood man with a soul/emotion's trial counsel/Agent **erred** in violating do his U.S. CONST. 14th Amendment , section (1) "**without due process of law**; nor deny to any person within its jurisdiction the equal protection of the laws." Mr. Coulston is deprived and violated his U.S. CONST. 6th Amendment right to effective assistance of counsel for his defense. Also see "Defense counsel failure to investigate victim's medical records constituted" Ineffective assistance of counsel under STRICKLAND"

CHEVNG v. MADDOCK, 32f. Supp. 2D. 1150(M.D. Cal. 1998)

(-Affidavit of Rick Baughman, Ln. 20)

The decision not to investigate the victim's alleged sexual partners was a strategic/tactical decision made in light of Idaho Rule of Evidence 412;

Contrary to that statement Idaho Rule of Evidence 412; (C)(C,1)

"Counsel's failure to investigate was deficient performance in prosecution for sexual assault where records existed evidencing child's propensity for lying."

BERKELL v. CROUSE, 468 f. 3d 684 (10th cir. 2006).

"On the extraordinary facts of Maples' case, there is "**cause**" to excuse the default. Maples maintains that there is, for the lawyers he believed to be vigilantly representing him had abandoned the case without leave of court, without informing Maples they could no longer represent him, and without securing any recorded substitution of counsel. We agree. Abandoned by counsel, Maples was left unrepresented at a critical time for his state

post conviction petition, and he lacked a clue of any need to protect himself pro se. In these circumstances, no just system would lay the default at Maples' death-cell door. Satisfied that the requisite cause has been shown, we reverse the Eleventh Circuit judgment."

MAPLES v. THOMAS, 565, U.S. 266 132 s. ct. 912 (2012)

"We agree that, under agency "***principles***" a client cannot be charged with the acts or omissions of an attorney who has abandoned him. Nor can a client be faulted for failing to act on his own behalf when he lacks reason to believe his attorney of record, in fact, are not representing him. We here fore inquire whether Maples has shown that his attorneys of record abandoned him, thereby supplying the "extraordinary circumstances beyond his control." ibid., necessary to lift the state procedural bar to his federal petition."**MAPLE**,

Mr.Coulston trial counsel/Agent left out exculpatory evidence proving there was no penetration and false allegations were made against Petitioner/Individual/Citizen, living, breathing, flesh and blood man with a soul/emotions name won't be on sexual partner list.

I have tried to add this issue and claims in on my direct appeal, and on my post-conviction please see(Appendix-A, pg.32)-(Appendix-A, pg.58) and Appendix-D, pg.4) and was ignored on direct appeal and the mail box rule was not recognized on post-conviction.

STATE OF IDAHO v. SAMUEL M. LEE, 117 Idaho 203 also quotes: **HOUSTON v. LACK**, 487 U.S. 266, (1998)

"for mailing by the institution; and that he had no control over the processing of his notice of appeal after it was delivered to prison authorities. Lee cited to the court the recent case of **HOUSTON v. LACK**, 487 U.S. 266, 108 S. Ct. 2379, 101 L. Ed. 2D 245 (1988) hold that notices of appeal by prisoner who represent themselves are to be considered filed, for purposes of federal Rule of Appellate procedure 4(a)(1), at the moment such notices are delivered to prison authorities for forwarding to the court clerk. After receiving Lee's response, the Supreme Court entered an order withdrawing the conditional dismissal and directing that Lee's appeal be reinstated." also known as the "Houston rule"

“...at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subject..without none to govern but themselves; the citizens of America are equal as fellow citizens, and as joint tenant in the sovereignty” **CHISHOLM vs. GEORGIA**, (U.S.) 2 Dall 419, 454, 1 L Ed. 440, 455 @DALL 1793, pp.471-472.;

REASONS FOR GRANTING THE PETITION

In sum, this Case/Cause was Orchestrated as a Commercial Transaction pursuant to Idaho's Uniform Commercial Code Title 28 and I was Recognized as a Straw-man/Corporation/Commodity with No Constitutional Rights, that's why my Evidence keeps getting ignored/over seen and justified.

Now with the Court's and Prosecutor Wrongfully Convicting the "Artificial Person" and NOT A Living, Breathing Flesh and Blood "REAL" man with a Soul/emotion's. Now I am a "Ward of the State" that makes me "Tangible/intangible Property" and being "Warehoused", which in return makes me a Commodity and a Shell Corporation with my personal Information being sold on the International

Market for Pecuniary Profit ; Affirm Truth: "I have never been presented with any proper paperwork to support my assessment. I have never seen any sworn affidavit, commercial affidavit that would provide validity to your assessment, to the violation of the constitutional value of my alleged crime and/or to give my permission to allow any government, state or federal to sell or make any profit off any Bonds, in my "NAME" or "SSN"or"EIN", "GSA" Bonds or any other Bonds that could validate the misconception to my incarceration/alleged crime. It is my best and considered judgment that such

paperwork or affidavit's even exist.";

Then for the reasons set for within the petition All court's decisions and opinions and Memorandum decision and order are consistent with an equity court system and trying an Individual as a Straw-man person not an Individual with Individual rights of the United States of Americas Constitution and a Writ of Certiorari should be grant to Sovereign Individual to protect this great countries by the law of the land, Constitution.

CONCLUSION

The Petition For a writ of Certiorari be granted, to the Sovereign Citizen-Individual,

Respectfully Submitted,

Guy Lewis, Jr. : Carlton
Petitioner/ individual/Citizen, (Pro se Cutis)

Date: September 22, 2023.

CERTIFICATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury:

That I am the Petitioner/Individual in this action, that I have read the WRIT OF CERTIORAR, and that the information contained is NOT to Misled and the WRIT OF CERTIORAR is true and correct and complete in accordance with the laws of the UNITED STATES OF AMERICA to the best of Knowledge and Belief. 28 U.S.C. §18 U.S.C. §1621.

DATED this 22 day of September, 2023.

Guy Lewis, Jr.:Coulston
Petitioner/individual/Citizen, (Pro Se Cutis)

CERTIFICATE/PROOF OF SERVICE

I HEREBY CERTIFY That on the 22 day of September, 2023. I mailed a true and correct copy of the WRIT OF CERTIORAR, via prison mail system for processing to the U.S. mail system to:

SOLICITOR GENERAL OF THE UNITED STATES
ROOM 5614
DEPARTMENT OF JUSTICE
950 PENNSYLVANIA AVE.. N. W.
WASHINGTON, D. C. 20530-0001

OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C. 20543
CERTIFIED OF MAILING # Priority mail

Witness to prison via mailing system

Guy Lewis, Jr.:Coulston
Petitioner/individual/Citizen, (Pro Se Cutis)
(Guy Lewis,Jr.:Coulston)