

NO: 23-5735

IN THE
SUPREME COURT OF THE UNITED STATES

APRIL 2, 2024

Michael James French vs Salamon, Warden/Clearfield County Court Of Pennsylvania

On Petition For Writ Of Certiorari, For Rehearing to
The United States Court Of Appeals (3rd) Circuit, Merits Brief
For Writ Of Certiorari.

PETITION FOR WRIT OF CERTIORARI

GROUND FOR MERIT: Intervening Circumstances By All Post Conviction Court(s) Of Pennsylvania.

(1) [PROBABLE CAUSE], For The Crime Of Aggravated Assault With Serious Bodily Injury.

The Clearfield County Court Of Pennsylvania, Nor any post conviction Court(s), Federal or State, have confirmed or documented the legality of Merit, establishing precedent of [PROBABLE CAUSE], for this felony of the first degree. There is [No] "valid evidence/definitive actions committed" that Constitutes Aggravated Assault W/SBI.

The written, "Negotiated Plea Agreement", for (12) months show's [No] "Factual Basis/Elementsof" the

crime of Aggravated Assault W/SBI, only that of intervening circumstances by [Ineffectiveness Of Counsel's] unlawful direction, that all questions are to be circled "Yes", see [EXHIBIT A].

The Transcripts of the "Plea On Record Colloquy", also show [No] "Material Facts" of a crime whatsoever. There is [No] specific (e.g.) of [PROBABLE CAUSE], the nature and or elements of the crime of Agrivated Assault W/SBI. The coercion of [Ineffectiveness of Counsel's] unlawful direction at the "Plea Colloquy" that includes Judge Paul E. Cherry's, "evasive intervening circumstances" of Mr French's question of [PROBABLE CAUSE] to the Court, at page (16) of (21) in Petiton For Rehearing, postmarked January 30, 2024; at page (8), line (21) in the transcripts of "Plea On Record Colloquy", counsel's failure to [Object], see [EXHIBIT B] at Appedices and Exhibits. Also see Pittman v Kyler (2003 U.S. Dist. LEXIS 23036, includes Commonwealth v Harris, 403 Pa. Super 435,589 A.2d 264 (Pa. Super 1991), at page (17) of (21) in Petition For Rehearing, postmarked January 30, 2024 , and included in this Petition For Rehearing at Page (9) of (14).

Citing: Commonwealth v Vaughn, 459 Pa. 35 1974 Pa. LEXIS 447, Notation in [459 Pa. 38], ("*We think it is logical and correct that if a defendant pleads guilty to a criminal charge, and in the next breath contravenes the plea by asserting facts which, if true, would establish that he is not guilty, that the plea is of no effect and should be rejected. For on its face, such a situtation would show that the plea was not entered with complete comprehension of its impact*"), Commonwealth v Roundtree, 440 Pa. 199,202,269 A.2d 709 (1970).

Overarching Standard/Probable Cause; 28 U.S.C. §2254 (d)(2).

Within the Overarching Standard of §2254, a petitioner may attack specific factual determinations made by the State Court(s) that are subsidiary to the ultimate decision, Lambert, F.3d at 23. Here, 28 U.S.C. §2254 (e)(1) instructs that the State Court(s) factual determination must be aforted a presumption of correctness that the petitioner can rebut by clear and convincing evidence, at 235, and in [FRENCH] is the ["Expert Medical Statement"]: In the final analysis, even if the State Court(s) individual factual determinations are overturned,

- the remaining findings must still be weighed under the Overarching Standard of 28 U.S.C. §2254 (d)(2), at Lambert, 287 F.3d at 235-36.

First Appeal, the P.C.R.A. court appointed counsel, Patrick Lavelle Esq., [failed] to ammed or address the [Preserved] inquiry of [Probable Cause] presented, constituting Merit for the crime of Aggravated Assault W/SBI. This is deliberate "Intervening Circumstances" by [Ineffectiveness Of Counsel], which has been presented before and "Ignored" by "all" post conviction Court(s). Court appointed counsel, deliberatly ignores the [Preserved] primary claim of [Probable Cause] with "misinformation/misdirection to the Court to withdraw; the [No Merit] letter, regarding "Witnesses" and there "Statements", deliberatly contradicting the statements themselves in favor of the Court to Deny the P.C.R.A.; at pages (18-19) of (21) in Petition For Rehearing, postmarked January 30, 2024, and the "Witnesses Statements" in Appendices and Exhibits at [EXHIBITS E & F]. P.C.R.A. is DENIED as "Moot" with [No] confirmation of "Factual Basis/Specific (e.g.)" of the [Preserved] inquiry of [Probable Cause]. Selected pages of P.C.R.A. at [EXHIBIT C] in Appendices and Exhibits postmarked January 30, 2024.

(2nd) Appeal to the Superior Court Of Pennsylvania, W.D., approves the Denial of the P.C.R.A. .
Matters Complained Of On Appeal 1925(b), raised [Probable Cause], [Miscarrage Of Justice] and [K.V.I.], Superior Court "ignores" primary claims, for the crime of Aggravated Assault W/SBI, again there is [No] "Factual Basis/Elementsof, Specific (e.g.) of [Probable Cause] confirmed. There is just [Mere Iteration] of the crime Aggravated Assault W/SBI, for this crime was "coerced and manipulated" into the [Unconstitutionally Induced Guilty Plea], again, there was [No] one "Harmed" or in danger of "Harm" at any time , [Knowingly or Recklessly] in this case, nor has this crime been legally documented with "Facts", see [APPENDIX E], and pages of Matters Complained Of On Appeal 1925(b) at [EXHIBIT D] in Appendices and Exhibits, postmarked January 30, 2024.

Mr French submittd Clear and Factual Evidence, refuting any [Reasonable Doubt] of [Probable Cause], the [Expert Medical Statement] by Dr Steven Fine of Strong Memorial Hospital's I.D. Clinic in Rochester NY, at [EXHIBIT G]. That in [FRENCH] (*"This Factual information, regarding U=U HIV and its [Prejudicial Impact], induced by counsel", to obtain the "Unlawful", "Undocumented", induced crime of Aggravated Assault W/SBI does [not] constitute this violent crime"*) This [Unconstitutionally Induced Guilty Plea] was Not "Knowingly", "Voluntarily" or "Intelligently" entered, when counsel was informed, by Mr French of this medical information during the plea inducement.

The [Expert Medical Statement] should have satisfied the prrequisit for **28 U.S.C. §2254 (e)(2)(B)**, the Facts and the "Overarching Standard of **28 U.S.C. §2254 (d)(2)**, constituting and [Evidentiary Hearing]. This "Newly Discovered", [Exculpatory Evidence] justified investigation of [Probable Cause] and was ignored by "all" post conviction Court(s), beging with The Superior Court Of Pennsylvania,W.D., under **28 U.S.C. §2254 (e)(2)(A)**, showing the "intervening circumstances", [Actaul Prejudice] and [Actual Innocence] with Unreasonable Determination of Facts; with the Pennsylvania Court(s) involved, disregarding the "princibles of [Criminal and Constitutional Law].

[Probable Cause] for the crime of Aggravated Assault W/SBI is not legaly documented anywhere, other than [Mere Iteration] in the Plea. The [Unprecedented] issue of U=U HIV and its [Prejudicial Impact], does not constitute Aggravated Assault W/SBI, and to fabricate this violent crime into a Plea Deal on [Prejudice Alone], by counsel threatening the defendant with this "Inadmissible/Misinformation" is [Unconstitutional]. This also shows that "all" post conviction Court(s), Federal and State had {Preconceived Presumption Of Guilt} without investigation of [Probable Cause], by simply ignoring or misdirection of this [Exculpatory Evidence] with [Actual Prejudice]. For in [FRENCH], (*" Mr Shawn Bell was [Not] "Harmed] in anyway or form, [Nor] was Mr Shawn Bell in danger of "Harm] in anyway or form"*) . Under **28 U.S.C. §2254 (e)(2)(B)** and **28 U.S.C. §2254 (d)(2)**.

FINAL ANALYSIS OF [PROBABLE CAUSE]:

That "All" post conviction Court(s) of Pennsylvania, Federal and State, have [f]ailed to produce any [Factual Evidence] to support the violent crime of Aggravated Assault W/SBI; only [Ineffectiveness of Counsel's] manipulative tactic's, threatening Mr French with his Undetectable/Untransmittable HIV status to obtain this [Unconstitutionally Induced Guilty Plea] in the first place, (3) days before trial. Then for "all" post conviction Court(s) of Pennsylvania to [e]rroniously DENY Petitions, with [a]mbiguous legal commentary, focusing on errors found in Petitions with misinformation and misdirection, [i]gnoring/avoiding the Primary Claims of [Probable Cause] and [Due Process]; Thus, Deying Mr French's Constitutional Right's to be heard.

[Constitutional Ammendments], (6th), (8th) and (14th) Ammendments apply, this includes the fact that Mr French's education does not exceed a General Education Deploma, and for the Court(s) to prey on the [i]gnorance of Mr French's knowledge of the law and his inability to understand or properly prepair a Petiton; with legal presentation of [Unconstitutional Prosecution], with the "intervening circumstances" by "all" post conviction Court(s) involved, is Unconstitutional.

(2) [DUE PROCESS]; [Intervening Circumstances, Suppressing Mr French's Constitutional Right's.

Mr French, [Notwithstanding, Lack Of Understnading] his Constitutional Right to [DUE PROCESS], at the time of the "Plea Inducement". The (1st) [Exculpatory Evidence] presented are the "Witnesses Statements", regarding Mr Shawn Bell's "Reputation and Character", concerning the original charge of (I.D.S.I.), again witnesses statements are at [EXHIBITS E & F]. This [Newly Discovered Evidence], at the time was suppressed with "intervening circumstances" by the Court, that "Warrented" a New and Proper evaluation of Mr Shawn Bell, by a psychiatrist that does not work for the police department or the Court. This would prove that Mr Shawn Bell was not only soliciting sexual encounters "before" and well "after" the incident with Mr French, his [Intent/Concent], but would also confirm with Legal Documentation that Mr Shawn Bell did not give Mr French oral sex, concerning the crime of (I.D.S.I.). This was presented in Petition For Rehearing, in REASONS FOR GRANTING WRIT at page (1 1) of (21), pages (13-14) of (21) and pages (19-20) of (21), postmarked January 30, 2024.

The (2nd) item of [Exculpatory Evidence], concerning Aggravated Assault W/SBI, is the [Expert Medical Statement] by Dr Steven Fine, regarding U=U HIV at [EXHIBIT G]; shows the melevolance of the Court(s) denying Mr French's right to [DUE PROCESS]. This is [Actual Prejudice] and how [Ineffectiveness Of Counsel] and the Court's tactic's in obtaining this [Unconstitutionally Induced Guilty Plea] in the first place. For the Court and Counsel "intervened" with "manipulative" actions to obtain this Plea. Citing, **Commonwealth v Spiewak, 533 Pa. 1,8 A.2d 697,699(1999)**; (*"the presumption regarding the existence of material fact, where evidence is only admissible were the probative value of evidence outweighs its prejudicial impact"*). and **Hull v Kyler, 190 F.3d 88,110 (3rd 1999)**; (*"probability sufficient to undermine confidence in the out come"*).

This Plea was coerced and was [Not] "Knowingly", "Voluntarily" or "Intelligently" entered by Mr French. Had counsel presented a [Course Of Action For Defense], Mr French would have proceeded to Trial with "Valid" witnesses, a "New" and proper evaluation of Mr Shawn Bell, and would [not] have been facing the charge of Aggravated Assault W/SBI at Trial, for Mr Shawn Bell was not "Harmed" nor was Mr Bell in danger of "Harm" at anytime. Citing, **Commonwealth v Hines, 496 Pa. 55,559,473 A.2d 1180,1182 (1981)**; (*"it has been long established principles of constitutional Due Process that the decision to plea guilty must be Voluntarily made by the accused"*).

The [Expert Medeical Statement] was presented to The Superior Court Of Pennsylvania, W.D., and to "All" Court(s) from thenceforth, showing [Actual Prejudice, "intervening" by Denying/Ignoring investigation of [DUE PROCESS] and [PROBABLE CAUSE], that constituted an [Evidentiary Hearing]. This again showed the [Unconstitutionally Induced Guilty Plea], for in [FRENCH] is, (*"that the Expert Medical Statement is a factual predicate and should have been acknowledged as "Newly Discovered Evidence" under 28 U.S.C. §2254 (e)(2)(A) (ii), and was not acknowledged as so, for this factual information was [E]plicitly [E]xplained to "Ineffective Counsel" during the Plea Inducement, and Mr French was denied Due Process"*).

When valid Witnesses Statements and the Expert Medical Statement were submitted to the Court(s), [Due Process] was denied with [Actual Prejudice], this showing the [Manifest Injustice] standard, by counsel intimidating Mr French, [Not Knowingly, Not Voluntarily], of how a 'jury' would conceive this 'Inadmissible" statement of HIV; to obtain a plea with a crime not committed or initialy charged with. Citing, **Commonwealth v Boyle, 733 A.2d 663 Super (1999)**; (*"Prejudice of which severance rule speaks is rather that which would occure if evidence tended to convict only by showing his propensity to commit crimes alleged or because a jury was incapable of seperating evidence or could not avoid cumulating evidence"*). Counsel's intimidation tactic's to obtain an easy conviction. Citing, **Nix v Whiteside, 475 U.S. 157,175 (1986)**; (*"confidence in the outcome because of counsel's deficeincies"*).

FINAL ANALYSIS OF [DUE PROCESS]:

[Due Process], [Probable Cause] and [K.V.I.] were not know to Mr French at the time of the [Unconstitutionally Inducement Of Plea], what they were or what they meant, [n]ot "Knowingly", [n]ot "Intelligently]. The Court(s) have dictated this case for the benifit of the State without Mr French's right to be heard. Mr French's Testimony of what actually occured, at [EXHIBIT H], The [Witnesses Statements at [EXHIBITS E & F], that 'warrented'a New evaluation of Mr Shawn Bell, see [EXHIBIT J], The [Expert Medical Statement] at [EXHIBIT G], showing [Actual Prejudice] and how this Plea was "Unconstitutionally obtained in the first place. Citing, **Lopez v Folino, U.S. Dist. 124244 (E.D. Pa)**; (*"strategic decision not to abide by defendants version of what happend"*).

Statutes And Rules:

§59 Criminal Law-Guilty Plea-Voluntariness: (*"Because a Guilty Plea is an admission of all elememts of a criminal charge, it cannot truely be Voluntary unless the defendant possesses an understanding of the law in relation to the facts"*). This Statute was actually presented in the P.C.R.A., but was not titled as so, at [EXHIBIT C], page (56) of (70) in Appendices and Exhibits, postmarked January 30, 2024.

Authentification and Identification, Under Rule 901(a); (Aggravated Assault W/SBI), In General ("To satisfy the requirements of authentication and identification an item of evidence, the proponent must provide evidence to support a finding and what that proponent claims it is.") For when a defendant, giving another person consensual oral sex, that has U=U HIV, Diabetes or Cancer, does [n]ot Constitute (Aggravated Assault W/SBI).

Under 28 U.S.C. §2254 (e)(2)(B): ("The facts for the underlying claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense."). Citing, *Sail v State*, 862 N.E. 2d 702 (Ind. App. 2007): ("The guilty plea was not K.V.I. because the defendant was not advised to the elements of the crime, so the plea was not intelligent").

§835 Constitutional Law-Due Process-Guilty Plea: ("If a defendant's guilty plea is not Voluntary or Knowingly, it has been obtained in violation of Due Process and is therefore void").

This concludes the majority of the amended Petition For Rehearing. Due to time constraints to submit Petition, the following pages of this Petition For Rehearing have not been reduced or amended; this regarding "Type" and "some redundancy", but have [concise statements], consistent with "Intervening Circumstance" by the Court(s). These pages were submitted in Petition For Rehearing, postmarked January 30, 2024, pages (17-21) of (21)

- (1) In, **Pittman v Kyler** (2003 U.S. Dist. LEXIS 23036), is **Commonwealth v Harris**, 403 Pa. Super. 435,589 A.2d 264 (Pa. Super 1991). Page (9) of (14) of this Petition.
- (2) **P.C.R.A./Ineffectiveness Of Court Appointed Counsel.** Page (10) of (14) of this Petition
- (3) **Moreover To Primary Claims; Manipulation of Multiple Plea Deals & Witnesses Statements.** Page (11) of (14) of this Petition.
- (4) **Psychiatric Evaluation of Mr Shawn Bell.** Page (12) of (14) of this Petition
- (5) **CONCLUSION.** Page (13) of (14) of this Petition
- (6) **Newly Submitted; A Factual Article by Mr French regarding the [1994 Crime Bill] and Legality Of Sentencing.** page (14) of (14) of this Petition

What [c]onstitutes the (F1) crime of "Aggravated Assault (W/SBI) ?? ("well Mr French signed and plead to the "Compromised" crime(s) not committed or "factual Basis" there 'of") This somehow constituting this violent crime ?? . . . There is No indication that Mr French understood , or had been [E]xplained by counsel , the "Nature/Elements Of the crime of "Aggravated Assault". Furthermore , the [I]ndeterminable actions alledged to have been committed by Mr French , [Fail] , constituting the crime of "Aggravated Assault (W/SBI)".

Therefore , had counsel evaluated the Nature and Circumstances alledged and compaired the same to the lead charge ; Any competent attorney would be incapable of allowing their client , , to enter into a Plea , , with a crime , , which the lack of facts , , do not merit the charge, hence ("Unconstitutionally Induced Guilty Plea"). Mr French submitted to the "Court Of Appeals,(3rd)" , in "*Request For, Pannel and En Banc Rehearing*" , In *Pittman v. Kyler (2003 U.S. Dist. LEXIS 23036)* , . . is Commonwealth v Harris , is in fact, inherent to Commonwealth v French.

"Commonwealth v. Harris, 403 Pa. Super. 435, 589 A.2d 264 (Pa. Super, 1991);

In *Commonwealth v. Harris*, 403 Pa. Super. 435, 589 A.2d 264 (Pa. Super 1991). In that case, after Harris pleaded guilty to various offenses and was sentenced, he timely appealed to this court, arguing that his plea counsel was ineffective for failing to object to the plea colloquy on the basis that, *Inter alia*, the trial court failed to explain the nature of the charge to which harris was pleading guilty. *Id.* at 264-65.

In regards to Harris's claim that he was not informed of the nature of the charges, we emphasized that "the record must disclose that the elements of the crimes charged were outlined in understandable terms". *Id.* (citing *Commonwealth v. Tabb*, 477 Pa. 115, 383 A.2d 849 (1978) , (quoting *Commonwealth v Ingram*, 455 Pa. 198, 316 A.2d 77 (1974). This requirement was not satisfied at the oral plea colloquy in Harris, were "[t]he oral plea colloquy ... provide[d] no information as to the nature of the charges in question..." and "[d]uring the oral plea colloquy , neither the court nor counsel explained the nature or elements of the crimes charged."

We furhter concluded in *Harris* that the written plea colloquy was not adequate to satisfy the requirements that Harris be advised of the nature of the charges pending against him. The written colloquy completed by Harris did "Not discuss or explain those factors which are defendant specific, e.g., the nature and/or elements of the specific crimes charged." *Id.* at 265. We also noted that the written colloquy did not ask Harris "Whether trial counsel explained the nature of the crime" to him. *Id.* However, we made a point to state that we did "not suggesting that such question would suffice .." *Id.* at 265 n.1.

Ultimately, we decided in *Harris* that the ineffective assistance of counsel claim had arguable merit, and that [p]rejudice was "clearly indicated because [Harris] was not permitted to withdraw his plea notwithstanding his lack of understanding." *Id.* at 266. Nevertheless, we found that, "although unlikely, we must consider the possibility that trial counsel had a reasonable basis for following this course of action. " *Id.* (citing *Commonwealth v. Glaze*, 366 Pa. Super. 517 , 531 A.2d 796 (Pa. Super. 1987) . Accordingly , we remand for an evidentiary hearing.

In this case , . . as in *Harris*, Appellant was not informed during the oral plea colloquy of the elements of the charge of Aggravated Assault. Additionally , the written plea colloquy did not set forth the elements of that offense. While Appellant did indicate in the written colloquy that his counsel explained to him " all the things that a person must have done to be guilty " of that crime , there is no record of what counsel told Appellant. Guilty.Plea Colloquy , 9/17/10 , at 3 ¶ 14. Thus, we cannot even begin to assess whether the information provided by counsel was sufficient, in and of itself, to satisfy the requirement that Appellant understood the nature of the charges to which he was pleading guilty . We also have no indication of counsel's rationale for not objecting to the omission of this component from the oral or written colloquies. Therefore , as in *Harris*, we are compelled to vacate the order denying Appellant's PCRA petition and remand for an evidentiary hearing on Appellant's first claim of ineffectiveness. 3

In Appellant's secound issue, he avers that his Plea counsel was also ineffective for not objecting to the Plea colloquy's factual basis for the charge of aggravated assault as a felony of the first degree. During the guilty Plea Colloquy .

P.C.R.A. / Ineffectiveness of Court Appointed Counsel :

After Mr French was sentenced to a Max of (8) years on the charge of [Aggravated Assault W/SBI] , [not] committed or [s]pecific knowledge of , knew nothing of "Direct Appeal" or "P.C.R.A." . Once Mr French is in the D.O.C. , does he learn of this (Miscarriage Of Justice) that has been bestowed upon him , and poorly files his P.C.R.A. , just before the (1) year time limit . Mr French's lack of knowledge of the law , his "Constitutional Rights" , and how to properly file a petition is appointed counsel by the Court that induced the plea , Patrick Lavelle Esq. .

Mr French fills out the P.C.R.A. petition with (7) pages of argument and does in fact cover all basis of [Actual Innocence] and even , unknowingly states "***§59 Criminal Law-Guilty Plea-Voluntariness***",K.V.I. . Protocol states that the Court ORDER to counsel , to [a]mend P.C.R.A. , file date **January 12, 2019** . Court appointed counsel has no intention to amend Mr French's P.C.R.A. . Mr French , "Notwithstanding" lack of understanding of **28 U.S.C. §2254 (b)(3)(C)** and **28 U.S.C. §2254 (e)(2)(g) ?** , followed by the [facts] of **28 U.S.C. §2254 (e)(2)(B)** and **28 U.S.C. §2254 (d)(2)** .

(P.C.R.A.) 10 pages , 1,4,7,8, at [EXHIBIT C]

(Ineffective Counsel) , Affirmative Action Harmful To Defendant , (1) Page at [EXHIBIT C]

(Ineffective Counsel) , P.C.R.A. My Legal Rights , (1) Page at [EXHIBIT C]

(Ineffective Counsel) , Statements Of Case , (3) Pages

(Ineffective Counsel) , Failure To Investigate Or Assert A Defense , (1) Page

(Ineffective Counsel) , Mr French's case is in Accordance With The Standard Set Forth By Strickland,
(1) Page .

Court Appointed Counsel , Patrick Lavelle Esq. , [failed] to amend P.C.R.A.regarding the [Presented and Preserved] , stated (Just Cause/Probable Cause) , concerning any Factual Basis for the charge of [Aggravated Assault W/SBI] , pages 4,7,8, at [EXHIBIT C] along with (2) pages of argument , ("Ineffective Counsel , Affirmative Action Harmful To Defendant") and ("P.C.R.A. My Legal Rights") , of [K.V.I.] . Mr French unknowingly does not number pages in P.C.R.A. .

Counsel goes on to deliberately contradict the (Witnesses and their Statements) , by [Falsely] claiming that the ("Witnesses had sexual contact with Mr Bell and would not testify in fear of being charged with a crime") . Witnesses Statements [c]learly show that the witnesses did not have sexual contact with Mr Bell , and that there are other witnesses to attest that they were sexually approached by Mr Bell , by him offering money or by other means . Mr French has stated these facts throughout , Federal and State proceedings , that have been ignored , showing [Ineffectiveness Of P.C.R.A. Appointed Counsel] . The P.C.R.A. was denied as [Moot] with no "Legal Precedent" for crimes alleged .

P.C.R.A. counsel , Patrick Lavelle Esq. has become involved with the the [Prosecutorial misconduct] by the Clearfield County Court Of Pennsylvania ; [I]gnoring the inquiry of [Probable Cause] presented and [Failure] to amend the P.C.R.A. . The witnesses and their statements , [Exculpatory Evidence] are "strategically contradicted" , oppressing Mr French's Constitutional Right to [Due Process]

The [Expert Medical Statement] by Dr Steven Fine , at [EXHIBIT G] showing "This" [Exculpatory Evidence] for the unlawfully induced crime of [Aggravated Assault W/SBI] , was not obtained until after the P.C.R.A was filed. Nevertheless , this issue was raised in the P.C.R.A. argument , (1) [Probable Cause] and (2) ("Ineffective Counsel , Affirmative Action Harmful To Defendant") , [Consult Medical Expert] along with [Secure Valid Witnesses] at [EXHIBIT C] . "Notwithstanding" lack of understanding , under **28 U.S.C. §2254 (b)(3)(C)** . I , Michael James French have never [A]tttempted or [C]ommitted a violent crime in my life .

MOREOVER TO PRIMARY CLAIMS : Multiple Plea Deal Offers/Witnesses/Psychiatric Evaluations ;

Preying on the ignorance of Mr French's Constitutional Right to [Due Process], with the Court(s)/Counsel(s) desception and deflection of valid witnesses , regarding Mr bell's actual [reputation and character], and his ongoing intent to solicit sexual encounters . Then when the court acknowledged [Actual Innocence] , the court decided to manipulate the violent crime of Aggravated Assault W/SBI into the Plea Deal with [Actual Prejudice] alone ; this with [no] definitve actions committed/elementsof , [Probable Cause] for this (F1) crime . This is not only Unconstitutional its criminal/judicial misconduct by the Justice System itself .

A month before the "Criminal Call Hearing" , Mr French submits Witness Statement by [rebutle witness] Romie Young , at [EXHIBIT E] . Now (2) weeks before the Criminal Call Hearing , Mr French is offered his (1st) Plea Deal offer for (5) years to plead to the crime of [I.D.S.I.] , Mr French Denied that Plea Deal offer . [At] the Criminal Call Hearing , counsel , public defender Leanne R. Nezda , , now First Assistant District Attorney , , presented Mr French with a (2nd) Plea Deal offer for (2) years , with the crime of [I.D.S.I] [r]emoved and the crime of [Aggravated Assault] attached . Mr French Denied that Plea Deal aswell .

Before "Jury Selection" , Mr French submits Witness Statement offered by Kevin Osborn , at [EXHIBIT F] . [At] Jury Selection , Mr French now has different counsel , Assistant Chief Public Defender , Douglas Campbell and public defender Curtis Erwin . Mr French observed the [Noterized] statement by Kevin Osborn and does not observe the Statement by rebutle witness Romie Young . Both witness statements have been preserved in all post conviction proceedings with **Certificate Of Compliance , Pursuant to Pa. R. Crim. P. 113.1** . Notwithstanding lack of understanding under **28 U.S.C. §2254 (b)(3)(C)** ? or **28 U.S.C. §2254 (e)(2)(G)** ? Witness Statements have been ignored by [all] court(s) involved , to attest to Mr Bell's [reputation and character] . These witnesse were infact mentioned at Jury Selection to see if any potential Jurors knew them , and from thenceforth the witness statements have been ignored .

(2) months after Jury Selection , No New charges are [admissible] to Mr French's case , for there was no [A]tempt of "Harm" tword Mr Bell , nor did any "Harm" occure to Mr bell . Counsel Douglas Campbell haphazardly spoke out of content when speaking with Mr French , "Quote" , ("Because of this incident with you , may have inadvertently saved Bell's life ") . After Mr French's reaction to Mr Campbell's statement , [counsel quickly misconstrues statement as misspoken] , regarding another issue . Mr French , at that time is unaware of the disapearance and murder of [Rebutle Witness] , Chase Anderson . Mr Anderson was afraid to give Mr French a written statement because of all the media and circumstances surrounding Mr French's case , in **May of 2017** . Chase Anderson informed Mr French of how he knew Mr bell and his sexual advance tword him in the summer of **2016** .

Mr French can only surmise that Mr Bell's reaction to Mr Andersons murder was "Attentively Profound" , and that [D]uring the Plea Inducement , , after counsel stated to Mr French that the "Obtainable Witnesses" could not be found and would [not] get them for trial , , that Mr Shawn Bell was put into a home with no explanation as to why , (His own safty) ?? For at this point , the Court/Prosecution now [K]now's of Mr Bell's solicitation's , [Before] and continued well [After] the incident with Mr French .

(3rd) Plea Deal , (3) days before trial , was presented to Mr French with , ("You are not getting your witnesses for trial") , ("You have HIV") and ("Mr Bell was put into a home") , so you can take this Plea Deal for (12) Months , or "Quote" , ("You can roll the dice and take your chances at trial") , with (12) month Plea Deal in hand . [Counsel had no course of action for defense , nor intended to] . This Plea was [Not] "Knowingly" , "Voluntary" or "Intelligent" , No [Due Process] , [Probable Cause] or [Premissible Range Of Sentence] .

How many Plea Deal Offers are Constitutionally acceptable , just to assure a conviction ?? This Plea Deal , compromising the {Principles} of [Criminal and Constitutional Law] with [Unprecedented] issues that have been condoned with [Actual Prejudice] by "all" Pennsylvania State court(s) involved .

These witness statements constituted "Newly Discovered Evidence" , and despite this evidence , it was now more about a conviction , a push to convict . Suppressing [c]onfirmation of Mr Bell's activities [B]efore and [A]fter the incident with Mr French , that Mr bell "did not" give Mr French oral sex . To discredit and "outright" ignore Mr Bell's confirmed conduct in and around the town of Clearfield , and Mr French's Constitutional Rights to [Due Process] .

The [I]mproper evaluation of Mr Shawn Bell by psychiatrist Dr Jennifer Hartey , on call for the police department , claimed (8) to (10) year old mentality of Mr Bell , and his inability to consent . Mr Shawn Bell's evaluation , Pages 2,3 of 4 were presented to the ***SUPERIOR COURT, SUPREME COURT*** of Pennsylvania and was presented to the ***DISTRICT COURT*** in the ***Memorandum Of Law In Support Of §2254*** , pages 30,31 of 83 and were ignored . Mr Shawn Bell's evaluation States that Mr Bell [Initialy Lied] to police that said incident even occurred , Mr Bell's understanding of Consent , That Mr Bell wants to learn how to budget his own money and have his own appartment , Mr Bell wants to go to Seminary School and become a pastor , write his own sermans for service ; These things , you would not expect to hear from a (8) to (10) year old . This does not include Mr Bell's sexual prowess when exposing his erection to Mr French when he knew he wanted this sexual encounter to occure .

Mr Michael James French is not "disputing" Mr Bell's disability , for I have read Mr Bell's evaluation , only that Mr French was under the influence of alcohol and did not observe anything out of the ordinary with Mr Bell , nor was I looking . "No Red Flags" indicating Mr Bell's disability until the police showed up , did Mr Bell show odd behavior , by swaying back and forth in front of the other officer . See evaluation pages (2,3 of 4) , ***"Behavioral Observation and Mental Status"*** at [EXHIBIT J] . There was no "malice or malicious" intent when meeting Mr Bell , (Note) Page (1) of evaluation with the intentionally obscured information that Mr French was Denied a clear copy of .

Citing , ("Strategic decision not to abide by defendants version of what happened") ***Lopez v Folino U.S. Dist. 124244 (E.D. Pa.)*** . Mr French's written testimony has been ignored since the "Preliminary Hearing" and has been submitted throughout . I , Mr French have taken "Accountability" for my actions from the day of the incident , I , Mr French did in fact , briefly give Mr Bell oral sex , which Mr Bell "cosciously initiated" ; that Mr Bell did Not give Mr French oral sex , indicated in the [Affidavit Of Prabable Cause] with "Interjectional Statement" that did not occure , (I.D.S.I) . Affidavit Of Probable Cause , shows [no] crime of Aggravated Assault W/SBI , that was produced (7) and a half months [a]fter said incident occurred , and the "Inducement" of the Aggravated Assault into the Plea Deal , was (6) months after the [Affidavit Of Probable Cause] , at [EXHIBIT I].

With the [d]iscovery of the [Witness Satesments] , had shown the improper evaluation of Mr Shawn Bell , by Dr Jennifer Hartey . This with "misconstured information" [by] Mr Bell himself , regarding his previous sexual encounters , {Blushing} during evaluation , [Warrenting] a new and proper evaluation by a psychiatrist that does not work for the police department . There was no "documented statement" from Mr Bell or the [Fact] that Mr Bell was not [Harmed] in any way or form , nor was Mr Bell in danger of [Harm] in any way or form , this showing the [Prosecutorial Misconduct] and the [Manifest Injustice] standard .

Please see Mr French's "Written Testimony", at [EXHIBIT H] , presented throughout all petitions submitted . The "Witnesses Statements" at [EXHIBITS E & F] are accurate and true , against the "Affidavit Of Probable Cause" , this does not [Constitute] (I.D.S.I.) or (Aggravated Assault W/SBI) , For the Court(s) only want to maintain possession of the recognized "Unlawfully Induced" felony conviction , [R]egardless of the [Evidential Facts] presented , this includes the [Expert Medical Statement] by Dr. Steven Fine at [EXHIBIT G] .

CONCLUSION

In this case, does not "New Precedent need to be set forth" ? for this [Prosecutorial Misconduct] is [Unconstitutional] . The State of Pennsylvania and there tactics in obtaining this unlawful conviction , from this [Unconstitutionally Induced Guilty Plea] with crimes not committed ; due to the [Prejudicial Impact] by counsel to obtain this Plea Deal in the first place , regarding U=U HIV . This official misconduct , acknowledged behind closed doors with [Actual Prejudice] , by all post conviction Court(s) , Federal and State , [Showing no crime of Aggravated Assault was factually committed] . Preying on the ignorance of the defendants knowledge of the law and his Constitutional Right to [Due Process] , in addition of "Misinformation/Misdirection" of [Probable Cause] with erroneous/ambiguous legal commentary .

In final declaration , may this Supreme Court Of The United States be attentive to the profound wisdom and facts expressed hereto and come to agree with the Petitioner's reasoning . Base on the foregoing , the petitioner , Mr Michael James French respectfully request that the Supreme Court Of The United States grant the "*Petition For Writ Of Certiorari*" and the following relief .

That petitioner , Michael James French's conviction and excessive sentence be [Vacated With Prejudice] , "Pending" the resolution of weather the petitioner's conviction and sentence are free from any undue influence , Constituting deficient prosecution and representation of [all] counsel and court(s) of record .

The petition for Writ Of Certiorari schould be Granted .

Respectfully Submitted



Michael James French-NF2309

Date : APRIL 2, 2024 ,

RE: "1994 Crime Bill and Legality of Sentences"

Michael James French of SCI Rockview

The first time I read *Graterfriends*, I came across the article, "1994 Crime Bill and Legality of Sentences" by John Passmore from SCI Somerset. This was regarding The Violent Crime Control and Law Enforcement Act of 1994.

If someone is truly innocent or has been coerced or manipulated into a guilty plea because of ineffective counsel, it is now up to the uneducated defendant to become a self taught litigator and attorney. It is up to them to obtain a law degree from the prison law library with little to no help, with or without a GED.

These circumstances give the courts an easy way to ping pong one's case out of their court, preying on the ignorance of the defendant's knowledge of the law and his/her constitutional rights.

I was coerced and manipulated into a 12 month negotiated plea agreement with no indication of a max sentence on the crime of aggravated assault, which I was convicted of. It wasn't until sentencing that I was informed of the 1 to 8 year sentence on this fabricated crime. However, there was no factual basis that this aggravated assault was committed. The indifference that parole shows to inmates and the biased recommendation from the court means I will probably max out my 8 years on a crime I did not commit. Just before I filed my Certificate of Appealability, I read an article in the *Criminal Legal News*, by Dale Chappell, concerning confirmation bias that coincided with my case. This article was about prosecutorial misconduct, wrongful persecutions, and the shielding of evidence evaluations, which all show the misconduct by the criminal justice system itself.

I have watched other inmates' frustration and anger while they are trying to fight their injustice with no prevail. They will give up or get washed out of court due to their lack of knowledge of the law.



**Additional material
from this filing is
available in the
Clerk's Office.**