No. 23 - 6678

IN THE

SUPREME COURT OF THE UNITED STATES

In Re Wagoner – PETITIONER

ON PETITION FOR A WRIT OF MANDAMUS

PETITION FOR WRIT OF MANDAMUS

Tina Lynne Wagoner

3595 State School Road

Albion, New York 14411-9399

(585) 589-5511

CONSTITUTUIONAL QUESTION

On October 30, 2012, a key witness to advocate for the People, as a veteran pediatric medical specialist on child sexual abuse determined, under peer review, from multiple magnified images of hymen which by demonstration concluded that the thick-ring of redundant tissue to the tip of the hymen was a normal finding in the twelve-year-old adolescent. She explained by contrast that a thin-ring would demonstrate multiple acts of sexual abuse or multiple acts of sexual intercourse.

On February 5, 2015, the advocate of the People made a discretionary decision to file multiple counts of sexual intercourse (rape) and multiple counts of sexual conduct related offenses (prostitution-promoting) against multiple defendants, with respect to the finding on the twelve-year-old.

Are the elements of the crimes charged justified by the facts presented in the above-stated evidence?

If prosecutorial discretion constitutes the ability to make decisions on whom to charge, with what crime and how severely to punish, what form of legal standard would justify these charges?

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NATURE OF QUESTION PRESENTED

By all appearances hat tricks and illusions are the local policy functional equivalent in this districts pattern and practice. However, in sum and substance, such functional equivalents (pp. vii) are neither sufficient as to the rules of evidence or in matters of law with respect to probable cause to believe that a person has committed a crime.

The nature of a criminal court's business or process follows arrest, arraignment, pleadings and disposition based on eyewitness sufficiency making an actionable instrument.[i]

In this case, a substantial and novel issue in which local criminal court and its law enforcement arm abandoned its duty to arrest the accused prevented proper due process on a Penal offense. Civil court action or process is not a functional equivalent to the criminal court process based on an arrest and arraignment of an adult, where witnesses complained about the ongoing or crime in progress and commission of a serious sexual abuse against a minor. By Salamanca City Court and its law enforcement arm abandoning

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[i] CPL 1.20 definitions in general: Sub. (8) felony complaint more fully defined and described in Article 100, filed with the local criminal court which charges one or more defendants with the commission of one of more felonies and which serves to commence a criminal action, but not as a basis for prosecution thereof.
CPL 10.10(3)(c) A city court; or…fits the description of the proper criminal court described above
CPL 10.10(7) Notwithstanding any other provision of this section, a court specified herein which possesses civil as well as criminal jurisdiction but does not act as a criminal court while solely in the exercise of its civil jurisdiction, and in order or a determination made by such a court in its civil capacity is not an order or determination of a criminal court even though it may terminate or otherwise control or effect a criminal action or proceeding – against a juvenile [civil actions between family; youth actions with respect to adjudications of delinquency on status offenses and misdemeanor charges pursuant to Penal Law 30.00 infants; pursuant to CPL 722.10 referencing Penal Law 30.00 with respect to misdemeanor offenses connected to felony offense committed by an adult or another adolescent or juvenile].
CPL 120.20(1) When a criminal action has been commenced in a local criminal court or the youth part of a superior court by filing therewith of an accusatory instrument, against the defendant who has not been arraigned upon such an accusatory instrument and has not come under control of the court with respect thereto; (a) Such a court may, if such an accusatory instrument is sufficient on its face, issue a warrant for such defendant's arrest; or 120.20(3) Notwithstanding the provisions of subdivision 1, if a summons may by issued in lieu of a warrant of arrest pursuant to section 130.20 and if the court is satisfied the defendant will respond thereto it may not issue a warrant of arrest.

its obligation to arrest and process, a four year delay opened the door to wide opportunity for misrepresenting both facts and evidence. The instrument's appearance in Family Court[ii] opened the door to delay and a four year fishing expedition which proved unfruitful, as was demonstrated in prosecution's Answering Affidavits. See cf.n. 14-19, p 9-11. See Appendix p. 8 – eye-witness to "on-going-crime"

Such local policy set both adult and minor adrift at sea, and the adult un-tethered from criminal due process. The fishing expedition gave opportunity to transform interviews with the adolescent witness into custodial interrogation sessions without legal constraints or enjoyment of rights and privileges by said child. These two persons were caught up and captured, held hostage, to non functional equivalent to their Constitutional right under due process of law. And both will suffer collateral consequences.

[ii] **Local Criminal Court's Abandonment of Actionable Instrument and Divorcement from Process** CPL 100.55 Practice Commentaries **"Road Map for Preliminary Jurisdiction"**

"The basic significance is that of the "trigger for commencement" in a local criminal court. Failure to comply with these filing limitations for local criminal court accusatory instrument invalidates any action taken by a court where the instrument was misfiled thus for example, a warrant issued by a local criminal court is nullity; it confers no authority to arrest.

"In considering this, it is important to recognize a distinction between 'preliminary jurisdiction' and 'trial jurisdiction' [CPL 1.20(24)], as not all judicial officers with preliminary jurisdiction have trial jurisdiction. Thus, a judge or a justice of a superior court acting as a local criminal court has "preliminary jurisdiction" over local criminal court accusatory instrument, [See Sub. 7; see also 10.20(3)], but does not have "trial jurisdiction" as over actions prosecuted by such instrument [See CPL 10.30] and judges or justices of town or village courts have preliminary jurisdiction over felonies committed in any town of the county [See Sub. 6] but lack trial jurisdiction over felonies; city courts not included in Sub. 6 for this county wide expanded authority."

- ***"Functional Equivalent"** – The civil court process is never a functional equivalent of a criminal court process. The laws of procedure, the rules of evidence, and the proof required between the two courts is substantially and significantly different.
- Spoliation from one court to another rests on matters of privacy or the court's discretion in the third court or trial court arena.
- Absent such material information gives opportunity to shift interpretations of facts and evidence and wholly shifts the burden from prosecution to defense in such cases as this.
- In essence, Salamanca city court essentially divorced accused from the proper criminal court process and divorced itself from the burden of its responsibility to accused in a criminal matter, depriving her of the enjoyment afforded under due process, essentially obstruction justice.

The primary question is whether void and/or nullity should follow all actions, judgments and orders issuing upon Salamanca City Courts abandoned actionable instruments. And subsequent divorce of process itself and the party accused from proper due process under criminal court procedures?[iii]

The final question is whether the mootness doctrine[iv] should follow all actions issuing from local criminal court's repugnant abandonment of conduct[v] and courts obvious mode of proceeding error. Considering the effect from abandonment has reached into other Executive agencies, with respect to the integrity of their records and mandated program requirements stemming from an indictment instrument which was filed in bad faith. See collateral consequences - SOCTP, SORA, Protection Order. [vi]

[iii] See CPL 100.15; CPL 70.10(1) and (2) Legally sufficient evidence does not require corroboration. Reasonable cause to believe that a person has committed an offense exists when evidence or information which appears reliable discloses facts or circumstances which are collectively of such weight and persuasiveness as to convince a person of ordinary intelligence, judgment and experience that it is reasonably likely that such an offense was committed and that such person committed it. See also Appendix Exhibit 1.

[iv] Mootness Doctrine: Should this court find that the answer given to the primary question is that void and/or nullity do follow a finding of mode of proceedings error, then constitutional deprivations, such as those found under:

Amendment IV "against **unreasonable search and seizure, shall not be violated**, and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized" and under **Amendment V** "no person shall be held to answer…nor be compelled in any criminal case to be…**deprived of life, liberty or property**, without due process of law, nor shall private property be taken for public use without just compensation" and under **Amendment VI** "in all criminal prosecutions, the accused shall enjoy the right…to be informed of the nature and cause of the accusation; **to be confronted with the witnesses against him; to have a compulsory process for obtaining witnesses in his favor…**"

Such constitutional errors would appear moot on either void or nullity, but exception to exhaustion…

Amendment V "No person shall be held to answer…nor shall be compelled in any criminal case to be…deprived of life, liberty or property without due process of law, nor shall private [familial] property be taken… without just compensation."

Amendment VI "The admission of a non-testifying person given in testimony by a witness [co-defendant or key witness] violated the 6th Amendment Confrontation Clause. Crawford v. Washington, 541 US 36 (2004).

[v] **Exception to exhaustion exists** where actions repugnant to the constitution or conduct unbecoming a court or law enforcement officer is expressed in deprivation of some protected right: whether accused or victim, whereby actions are either wholly beyond their power or fail to reach its authorized expectation of such conduct.

[vi] Since 2016, numerous 440 motions; 1983 actions; civil court collateral attacks; and numerous applications for permission to appeal whether above trial court or above appellate court jurisdiction have

PARTIES TO PROCEEDINGS – R.14.1 (b-iii)(g-i)

RELATED CASES

Salamanca City Court, county and local law enforcement, which abandoned and divorced proper local criminal court [CPL 10.00(3)] and accused person from proper process on sufficiency of actionable instrument. See c.f.n.1B.p3. Cattaraugus County sheriff's office, Deputy Dombeck "suspected abuse form" on eye-witness statement/SPD narrative 10/29/2012 [spoliation August 28, 2012 CCSO Deputy Robert Kosinski execution of mid-morning arrest Christopher Terhune from dispatched response to Tiffany Wolfanger's 911 call]. See c.f.n.1B,p3-Numerous "eye-witnesses" to commission of crime, yet no arrest of primary suspect in either August or October 2012. Why? See Appendix – A.

Secondary court, civil in nature, different interest and different intent over object – youth, operating under different laws and rules: Cattaraugus County Family Court using above stated instruments for different purpose. Not the fundamental equivalent to preliminary criminal court process afforded under Salamanca city court. City Court's abandonment of incumbent duty and obligation to arrest and arraign, opened the door for an opportunity to conduct a 4-year fishing expedition. Notwithstanding CPL 1.20(18) "criminal proceedings meaning any proceedings which…involves a criminal investigation," whether criminal investigation is initiated under either civil or criminal court action. But is functional equivalent *[1] to arrest/arraignment *[2] pursuant to "criminal

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been denied and therefore, applicant has been denied her right to a full and fair review on these weighty matters. Substantial and novel as the issues may be, they have completely evaded review.

proceeding"[CPL 1.20(18)] because it involved a criminal investigation. See Trx. 6/15/2016 SPD Owens testimony. See Appendix – B.

Third court, or trial court, Cattaraugus County, indictment 15-48, May 17, 2016, decision and order denying dismissal of indictment; and trial counsel's failure to appeal denial of *Singer* hearing *[3] gave opportunity to maintain successive spoliation. Answering affidavits indicate no probable cause to arrest beyond the illusion from which the sealed indictment imparted on the crimes charged. See Appendix – C.

LIST OF PARTIES

Fourth court, Appellate Division Fourth Judicial Department, June 21, 2021 published decision constituted lies about facts easily proved and spoliation, as to medical specialists testimony given on evidence which, by all appearances indicated the case should have been dismissed in the second court. See Appendix – D.

Fifth court, Court of Appeals State of New York denied permission to appeal September 29, 2023. See Appendix – E.

Statute Drawn into Question. See Appendix – F.

New York State Criminal Justice Services – RAP Sheet. See Appendix – G.

*1 Ying Li v. City of New York, 246 F. Supp.3d 578 (2017) "caseworker's initiation of removal [proceedings] of child from parents custody was 'functional equivalent' of police officers making arrests in criminal cases."
*[2]See cf.n.19***p.13; See also cf.n. p3-1B.
*[3]Counsel's failure to appeal trial court denial of Singer Hearing was not in clients best interest, collectively, errors suggests conflict of interest.

Simply Stated

Pursuant to CPL 10.10(3) Salamanca City Court was proper preliminary or pre-trial court which abandon duty and divorced itself and parties to proceeding: People v. Wagoner. And, upon actionable – instrument's arbitrary appearance in CPL 10.10(7) secondary court –civil, ~~couth~~ or family – SPD's initiation of "criminal investigations"*[4] and case worker's initiation of removal of child from parental custody *[5] *1-p.vii constituted functional equivalent of Wagoner's arrest on October 30, 2012, commencement of criminal proceedings *[6], whereupon such facts it would appear Wagoner was taken into custody in deprivation of process: arraignment, pleadings and disposition, with respect to October 29, 2012, city court instrument, along with said child. *[7] who likewise was detained after "pre-hearing" proceeding on October 30, 2012. See Appendix pp. 7-11

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*4 CPL 1.20(18) commencement of criminal action...criminal proceeding...involved criminal investigation. See Trx. 6/15/2016 Direct – Salamanca Police Dep't. Inv. Owens: began investigation in September 2012 – after Terhune's arrest on Wagoner's property.

*5 "Next Friend"- child's next friend in court action is mother, "truly dedicated to the best interest of her child" "concluding that although child was placed with the state dep't of human services, the child's mother 'was, and still is, a proper next friend' to bring this action on behalf of'[the child], notwithstanding termination of her parental rights..."but not obligations. See Amerson v. Iowa Dept. of Human Services, 59 F.3d 92,93n.3 (8th Cir. 1995); See also In re Raymond, M. 254 AD2d 833 (4th Dept 1998). DSS unwilling to return child to parent [choosing rather spoliation/refuse to disclose exculpatory evidence which reasonable required government to return child]. See also People v. Fortin, 184 Misc. 2d 10, 706 NYS2d 611 (Nassau Cou) and Baca v. City of New York, Slip Copy 2016 WL 819 3580 (12/2012) isolating-child-for-years while conducting "fishing expedition strongly suggests "parental alienation" syndrome was governments goal.

*6 Appearance of copied speech "solution" of alcohol and exchange"- In re Douglas, NN. 277 AD2d 749, 716 NYS2d 156 (3rd Dep't 2000).

*7 Fourteen day fact finding limit set by FCA in connection to "pre-hearing emergency –placement" proceeding from which "temporary custody" order issued October 30, 2012-In re Martin R., 268 AD2d 277, 700 NYS 2d 712 (1st Dept 2000). See also cf.n. 18. Evidence and Interference and Presumption, p. 11 this petition **Trx. June 21, 2016** – Jury Trial. With respect to Defenses' subpoenaed witnesses, page 3 demonstrated prosecutor's interference with appearance of key witnesses:

> Rieman: **"I got a hold of Dr. Zuckerman yesterday he said if he has to, he could be here this afternoon...booked up...so do you want to call him as a witness?"**
> Wagoner: **"I was under the impression that if you were subpoenaed, you had to show up... Rieman: "You do, you do' and he will. I just want to confirm..."**

Zuckerman's testimony, like his interview with Emily on November 21, 2012, would have shown that the "confession" was shown to Wagoner's daughter, who then told Zuckerman that it was not her mother's handwriting.

Trx. Page 5; Court: "There were several subpoenas requesting production of documentation.
Trx. Page 7 Milks: "Judge we are completing a motion for some documentation...p 9. SPD records, August 28, 2012... Page 11. Rieman: "Bryan I would be really careful to distinguish between employment records and roster records...

OPINIONS BELOW

State Courts

Opinion of the high state court of review the merits appear at Appendix – E.

Opinion of the Appellate Division Fourth Department appears at Appendix – D.

JURISDICTION

State Courts

The date on which the highest state court decided my case was June 17, 2021. a copy of that decision appears at Appendix – D.

A timely petition for rehearing was thereafter denied on September 29, 2023 and a copy of the order denying rehearing appears at Appendix – E.

TABLE OF AUTHORITIES CITED

CASES

STATUTES AND RULES – Watershed Rules 2012-2016

OTHER

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United Stated Constitution:
Article III, Courts Original Jurisdiction/Subject Matter –Collateral Consequences cf.n. *1-*3, p i

Article III, Section 1, 2, 3 – public trust in federal and state court system drawn into question

Article IV, Section 1 "Full Faith and Credit Shall be Given in Each State to Public Action, Records and Judgment and Proceedings"

Article VII

Amendment IV "against **unreasonable search and seizure, shall not be violated**, and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized".....cf.n. v, p iv

Amendment V "No person shall be held to answer…nor shall be compelled in any criminal case to be…deprived of life, liberty or property without due process of law, nor shall private [familial] property be taken… without just compensation." cf.n. v, p v

Amendment VI "in all criminal prosecutions, the accused shall enjoy the right…to be informed of the nature and cause of the accusation; **to be confronted with the witnesses against him; to have a compulsory process for obtaining witnesses in his favor…**" .....cf.n. v, p v

Amendment XIV "No state shall make or enforce any laws which shall abridge the privileges or immunities of citizens of the United States…" cf.n. *1 "probable cause"; "fair-dealing" cf.n. 3-C, p 4-; "equal treatment"cf.n. 7, p5, p 1-14

Statutory Provisions

STATEMENT OF THE CASE

Absent the elements of the Penal Law offenses charged there is neither basis in fact or law which would justify Indictment 15-48 charges and in consequence there would be no evidence from which Cattaraugus County Department of Social Services can justify retention of custody of the twelve-year-old on October 30, 2012, as was demonstrated from the law enforcement interviews conducted between October 30, 2012, through October 15, 2013. Such was the conclusion made by Bryan R. Milks, Esq., counsel for respondent in Docket No. NN-1344-12 and later counsel for defendant in Indictment 15-48.

Following the hearing on the morning of October 30, 2012, child sex abuse specialist Dr. Pamela Salzman conducted a gynecological exam under the auspice of the Child Advocacy Center. At the same time an interview was taken by Salamanca police investigator from the twelve-year-old adolescent who was named in the 2012 statements.

Taken together, testimony given by the medical specialist years later reveled that neither Cattaraugus County Department of Social Services nor the District Attorneys Office held probable cause to either arrest or proceed to grand jury. And even less to proceed to trial. These facts are according to the District Attorney's admissions made in her Answering Affidavits which were made years later.

REASONS FOR GRANTING THE PETITION

Based upon the admissions of the prosecutor prior to trial in 2016 and knowledge of the information gathered from the medical specialists in October 2012 prior to proceeding to grand jury, Petitioner holds true to her claim of factual innocence.

The consequences suffered such as foremost the loss of her priceless private familial property in 2012 and subsequently her freedom and collateral consequences, inflicted upon her conscious or moral fiber as to the crimes accused and wrongfully convicted of, so as to result in collateral in-term conscious invasive SOCTP mandatory programming and twenty years beyond SORA. In addition to the fifty years order of protection is essentially depriving her of a lifetime of memories Petitioner should be sharing with her daughter rather than remaining falsely imprisoned.

The privilege of discretion and the related power there from require justification. In this case, petitioners lack of culpability or guilt in either of the erroneous charging instruments (Indictment 15-48, from Cattaraugus County Family Court Docket Number NN-1344-12) demand reversal in the furtherance of justice.

Docket No. _____
SCOTUS
Writ of Mandamus
T.L. Wagoner, *Pro Se*
ACF. – 16G0694

ARGUMENT
MEMORANDUM OF LAW

PEOPLE V. WAGONER, T.
Abandoned – Salamanca City Court
Cattaraugus County Ind. 15-48; Fourth Department 195 A.D.3d 1595 (2021); de hors the record Cattaraugus County Family Court Docket #: NN-1344-12-and F-684-13 and 13/19A

The Supreme Court of the United States in *Sibron* said presumption of collateral consequences from conviction raises subject matter jurisdiction, that courts are obligate *sua sponte* issues that parties have disclaimed or have not presented, that incarceration alone constitutes concrete injury caused by conviction. Collateral consequences raises bar to redressable by invitation of the collateral consequences.

The collateral consequences from sexual conduct cases can ~~not only reach~~ reach not only beyond 20-yr. 20-~~years beyond~~ term of imprisonment [SORA] but invades upon ~~term~~ in-term through mandatory program participation [SOCTP], imposing forced participation in group sessions in which convicts sharing graphic, heinous, detailed descriptions of sexual abuse against children which are conscious-encroaching experiences functionally equivalent to sexual assault and power rape in instances where strong possibility of wrongful conviction or innocence exists with the listener. Such experience reaches beyond on the pale of cruel and inhumane treatment. FOURTH DEPARTMENT DECISION

The decision from the appellate court appears to rest on the merits of testimony* evidence.[1] The Legislative bodies policy on the law and the rules of evidence appears to

* Bolstered by bootstrap misattributation to victim as speaker

[1] Character and competence of testimony

1A. "...the victim specifically testified that the man at issue [Terhune]...gave defendant alcohol 'in-part' to have sex with [the victim']".

Ms. Rieman – Direct – E. Wagoner

Q. "Tell us about a time when Christopher Terhune came over?"

A. "It was around 2012, Christopher Terhune, he met my mom through some friends [Rick Rios], and so then he decided he wanted to hang out and everything else. And he tried to bring a solution of alcohol for exchange and just like trying to have a good time, hanging out with my mom and what not, and so he got a little over intoxicated. His girlfriend called him and he was giving his girlfriend grief and

everything. She was asking him where he was, he hold her and she decided to show up a few hours later, knocking on our door, threatening to call the cops. And then Chris Terhune tried having intercourse with me and then he went after Tiffany, running around the trailer park, streaking naked..."

Q. "When you say he tried to have sex with you, how did that come about?"

A. "He tried but it didn't work..."

Q. "Did he give something to your mother when he came over?"

A. "Basically, it was like half and half, more like it because of the fact that he was drinking to have a good time really, and then **I don't know what made him about to do that [try to have sex with her]."***

*In the normal course of responding to an invitation to a gathering, event or a party, it is good manners to bring an appropriate item, such as wine or alcohol.

*The candid reply that she didn't know what made Terhune try to do what he did directly injured the prosecutor's position.

CPL 60.35 Practice Commentary on the rules of evidence and impeachment of party's witness "by proof of prior contradictory statement, (1) the introduction of either written or oral statement must appear on record.

The prosecutor held no such proof of prior-incrimination outside the bald, self-serving statements made in affidavits.

Therefore, while the illusion of readiness and the illusion of probable cause prevailed prior to going blind into trial the bootstrap of a leading question, which assumed material facts in controversy, took what was "realistically if not literally a defense witness, converting back into state's key-witness turning a gift to the host of the gathering into an exchange for sexual conduct:

Q. "Did he give your mom alcohol though?"

A. "Yes."

Q. "And why did he give her alcohol?"

A. "Because she wanted it."

Q. "And did he give it to her to have sex with you?"

A. "I – yeah."

Then, the lower court applied the bolstering affect in the published decision: "[t]he victim, specifically testified that the man at issue...gave defendant alcohol 'in-part' to have sex with [the victim]."

Character and competence continued

1-B. "...In addition the victim testified* that the man's then girlfriend [Tiffany Wolfanger] came to defendant's home on the night in question and...The girlfriend entered the bedroom and observed* the man, naked from the waist down, in –bed with the victim..."

* The Supreme Court held in Crawford v. Washington that the admission of statements from non-testifying person in testimony given by co-defendants or other material witnesses violated the 6th Amendment confrontation clause [514 U.S. 36 (2004)].

Normally, prosecution would not have amputated official law enforcement arms and other material witnesses from giving testimony and introducing artifacts, e.g. witness statements and other reports. Nor would a court look the other way when a prosecutor goes one-step further, to interfere with the appearance of witnesses subpoenaed by defense – in an attempt to re-attach those arms. Copies of subpoenas and the trial record bears out the issue which was brought to the lower court's attention. Why? de hors the record reveals dates, times, events all altered.

Instead, the prosecutor chose to present testimony from the "intoxicated" who plead to endangering the welfare of a child from an attempted- rape in the first charge, absolving him from his participation in either SORA or SOCTP. At the last moment, prosecution gave Terhune over to appear as witness for Defense. The summarily demonstrated before the jury his persistent predicate felony history, drawing prosecution's powers of discretion into issue over the leniency of the plea deal. And, on re-direct impeaching every statement made on cross-examination, the prosecutor yells "you can't impeach your own witness!" on the face of proffered prior statements on record. All in all, this testimony appeared to be "much" more damaging evidence to the lower court, than that in counts one and two.

The admissions in the affidavits effect a confession of sorts to fabrication of a reason to believe that the prerequisite conduct and intent exist solely on the position's authority from which the statements,

draw the appellate court's decision into question[2] and, the Court of Appeals holding on limitations of joinder of two crimes or persons tends to draw the elements based test into question[3]. Such joinder creates an untenable and indefensible situation. The apparent

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however bald, are given. See Prince Edwards on Evidence §8-101 [Farrell, 11th Ed., and Practice Commentary on CPL 60.35 rules of Evidence and Hearsay].

[2] Legislative bodies policy on law and the rules of practice and evidence

2-A. By the very nature of the charge, promoting prostitution is a lynch-pin, like-mindedness offense. The intent and the act must both concur to constitute the crime. Notwithstanding the aggravating factors of age, use of force and the prosecutor's business. Scienter or guilty knowledge knowingly, like-mindedness is key to corroborating any underlying information from which charge rests, whether it be receiving alcohol or the suggestion from evidence uncovered in an exam, knowledge and intent are proven from demonstration of the commercial relationships existence between the promoter and the prostitute, and in this case the prostitute's commission of the graveman act, pursuant to CJI PL 230.30(2) instruction charge.

Penal Law 230.30(2) does not involve the use of force or coercion to compel a person to engage in prostitution activity, notwithstanding age. For this reason, the Legislative bodies themselves are constitutional judges, in Penal Law 230.00 Practice Commentary said "[f]or former Penal Law crimes which were analogous to the present promoting and compelling [PL 230.30(1)] prostitution offenses, the law held that the prostitute and promoter were not accomplices, thus corroboration of the prostitute was not required, pursuant to 'accomplice-corroboration' rule. Notwithstanding that case law, a former Penal Law statute required corroboration of the prostitute's testimony, not as an accompli e, but rather as a matter of policy [former Penal Law 2460(9)]. When enacted, the current Penal Law continued the statutory requirement of corroboration of the prostitute's testimony. See Penal Law 20.00 Accomplice as a witness and CPL 60.22.

"No clarifying legislation has been forthcoming. Instead, in 2005, as part of legislation adding the crime of 'compelling prostitution,' this accomplice statute was amended to declare that a less-than-17-year-old person compelled into prostitution was not an accomplice, even though anyone of any age compelled against their will to be a prostitute would not in any event be deemed an accomplice of the compeller..."

2-B. Thus, given the lower court's implication that "defendant...left the residence while the man remained there...'Despite any conduct* that may have occurred between him and the victim...[referencing conclusion on counts one and two.]" the victim engaged in prostitution under her own volition, and the offense charged [Penal Law 230.30(2)] was not an offense committed by the act of force, coercion to compel the victim's engagement in prostitution activity – then prerequisite proof of the existence of a profit sharing commercial agreement should have appeared on record from such inference.

* Indefensible is the bolstering and bootstrap application of the factor of age to imply force and the exclusion of the prerequisite testimonial-evidence's appearance on the record. To compare as equal the legal-incapacity to consent to the use of physical force and coercion to compel a person against their will creates an untenable situation in prejudice to defense.

[3] The Court of Appeals limitation on joinder of two crimes or persons or permission of statutory provisions

3-A. Charging decisions are made upon material elements extracted from the evidence on hand. From the admissions in the affidavit, a medical exam and law enforcement interview are two records from which to base a sound decision. Items referenced came into law enforcements possession mid-day on October 30, 2012. From these records alone, no probable cause exists to charge multiple offenses no less a single offense in regard to medical exams conclusion that there was no evidence to support the inference that multiple acts of sexual abuse or multiple acts of sexual intercourse had ever occurred.

3-B. The record itself noted a "healed-looking" tear and a "laceration-type" appearance which was in stark-contrast to the condition of the hymen itself.

Ms. Rieman – Direct – Dr. Salzman 6/15/2016, p. 42-45

Q. "Can you tell us about your observations with respect to her vaginal exam?

A. **"...the hymen had some redundant tissue to it which was a normal finding...I also noted that the posterior hymen was not-thin."**

Q. **"And what does that mean?"**

A. **"If there's tremendous thinning of the posterior ring one would think that multiple acts of sexual abuse or multiple acts of sexual intercourse occurred...but the ring was not thin."**

So shocking was the contradiction to this 19-year veteran of pediatric medicine and CHAMP's trained in the detection of child sex abuse, a second opinion* was sought from the CHOB-CAC-Erie County medical specialist, Fr. Jack Coyne, to better explain the apparent contradiction between the appearance of "healed" injuries to what would otherwise appear to be a virgin with her posterior hymen intact or normal.

* The second opinion was not disclosed pursuant to either local civil/criminal or trial court rules, possibly for the wrong reason. De hors the record reveals CHOB [Dr. Oz and Dr. Galpin] responded to the life-threatening need to repair similar such injuries recently sustained in a two-car head-on collision, involving internal organs – shattered spleen, several bile duct – located between a broken-back and a broken right femur, while restrained by a seat belt. Request for opinion so noted on record.

* The interview between law enforcement and the 12-year-old likewise was suppressed from disclosures pursuant to discovery rules. CAC tape recording of the interview dated October 30, 2012 summary from interview given in October 31, 2012 amended family court petition stating that on August 28, 2012, Emily told law enforcement that on August 28, 2012, Christopher Terhune came into her bedroom and had sexual intercourse with her. According to the author of the petition, caseworker Patricia Growney, Emily also said that she told the defendant days later that Christopher Terhune had done this but defendant failed to report it.

Whereupon this information the prosecutor claimed justification and reason to believe that in charging three multiple sets of two offenses under Penal Law 130.35(4) and Penal Law 230.30(2) was, in her opinion, justice would be served in this case. Notwithstanding the medical examiner's conclusion.

While the matter on justification upon which to base the charging decision appears to be moot, at this stage, the Court of Appeals limitations on joinder of two crimes or persons or permission of statutory provisions appears to weigh into this argument.

Statutory provisions under CPL 200.20, 200.40, and 40.10(2) coalesce to form the basis of joinder, originally applied in the interest of judicial economy. Where joining two persons is in issue, application of Penal Law 20.00 practice commentary on accomplice as a witness to Penal Law offense 230.30(2), corroboration is not abrogated from, pursuant to 60.22 accomplice corroboration rule prerequisite from appearance of such testimony on record.

CPL 40.10(1), lynch-pin like-mindedness in criminal transaction underpins all such persons joined together. However, such elements absence on the face of the absence of the normal condition attributed to a years-long engagement in prostitution alone would under reasonable circumstances, or in common understanding, preclude application of Penal Law 230.00 statutes in general.

Even in spite of permission by statutory provisions found under CPL 722.21 or Penal Law 30.00(3)(d), or immunity in subsequent proceedings pursuant to CPL 722.21(6)©, the conduct and condition of the adolescent is insufficient to sustain even a reasonably educated persons opinion that sexual conduct is an element in this case, outside of the affidavit's admissions.

The two-offenses are not sufficiently similar outside aggravating factor of legal-incapacity to consent.

The common understanding of the word rape is the use of force or coercion to overcome the will of another, in spite of age or gender.

The common understanding of victim is a person who suffers loss, injury, death or some other adverse affect from another person's commission of a crime against that person. That person is in fact and truth a victim.

And, while **legal incapacity to consent does not establish the true nature of a victim** in the Penal Law 230.30(2) offense, but does establish such in PL 230.30(1) – use of force. These two subsections are not two sides of the same coin, but rather, two different coins, effecting different degrees, yet both are charged under PL 230.30 Promoting Prostitution in the Second Degree.

unconstitutional application of law stemming from duplication of offense charged according to the number of patrons rather than the number of prostitutes involed[Penal Law §230.30(2)]. This misapplication appeared to confuse the five judge panel with respect to its application of the sex trafficking statute, where joinder of sole promoter and sole prostitute misconstrued as promoting patronizers of a single prostitute [CPL §40.10(2)]. As is inferred by the joinder. Questions of law may be drawn from facts[4], misconstruing the natural or common meaning or words, e.g. victim with respect to trafficking. Numerous patrons' perceived as victims of the promoter and sole "prostitute,"[5] contrary to common understanding and nature of a "victim."[6]

The **difference in degrees** becomes **apparent from the CJI jury charge** given – printed from – the 230.30(2) offense. Therein is stated, "under our law…is a third Degree crime…" a class D felony, which for all intent and purposes may not require either jail or prison terms.

The comparability of the elements to conduct appears to be abrogated by the aggravating factors age and that of force, inherent in one offense [130.35] but, distinguished in the other [PL 230.30(2) vs. 230.30(1)].

Further, distinguished through statutory language from – the element of force – is the commercial engagement of graveman prostitution activity and the promotion there-of. And while both offenses constitute sexual conduct, the conduct is not similar to instance of, nor the common understanding of rape. This creates an untenable situation in which a jury's common understanding of either prostitution or rape would be indistinguishable from elements of the other crime. It is an indefensible situation in respect such joinder, and even less so when couple with the plea of guilty to one offense to naturally infer guilt to the other parties enjoined in a separate, and unrelated crime, with respect to the plea to rape.

From the confusion wrought by this joinder of offenses, even the 5-judge panel in the lower court misperceived this case with respect to trafficking statues applied. Or, in other words, reasoned that the aggravated patronizers of the sole prostitute were, in essence, victims of promoter and prostitute.

As David C. Schoop, CEO and attorney for Appellant said in Point IV on July 16, 2020, p. 70, "These self-serving statements are ripe for exploration…A time frame warranting full exploration and vetting…" where 18 months passed between removal from appellant's custody [Octover 30, 2012], then 18-months more to trial, on the face of wide-omissions from discovery.

Of the 6-count indictment, 2-counts were dismissed prior to trial; two-counts were reversed 5-years later; and two-counts were left standing on the merits of testimony which merited no-weight at all; yet it continues to inflict a punishment far greater than the disparity between co-defendants and defendants term of imprisonment – county year vs. 35 years – to encroach upon not only the body but, the mind [SOCTP] in term.

This case now has existed for nearly 11-years from local court [August 31, 2012 – Terhune] to trial court [2/18/2015 – 6/2016] to appellate court [June 2020 to June 2021].

Is it so unreasonable to ask or expect from this court to either require the warranted full vetting on the affidavits, or reverse and dismiss a case from which the exam rendered the charges moot, in the first place.

[4] See footnote 3. See also, PL 230.30(2) versus CJI 230.30(2) See also CPL 40.10(2) #victims = # counts.
[5] See CPL 40.10(2) number of victims may equal number of offences charged. Cf.n. 3-A p 3-4.

pgs. 65-79. From the start to the finish the prosecutors lack of evidence is a nonsequitur.[10] And, without exception, statements attributed to the victim respecting sexual conduct is sufficiently shown to be widely-fabricated.[11]

Had it not been for the appearance of ~~local court~~ appellate court reliance on bootstraps, bolstering, mis-attributations and the consistency of affront to the natural course of the rules of evidence to frame-in the merits given to testimonial-evidence in counts five and six, the conclusion that the verdict with respect to these two counts would, in principle, have been viewed as against the weight of the evidence.[12]

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[10] See affidavits compared to trial testimony June 15, 2016: E. Wagoner; Dr. Salsman.
June and July 2015, answering affidavits and supplemental answering affidavit demonstrate by the People's own admission they held no probable cause to arrest defendant prior to using sealed grand jury instrument. "The only Defendant who was **cooperative** was Thomas Doner, who provided a confession to the police. Although, he already indicated his **encounter** was **setup** by the Defendant in **exchange** for her (the victim) to have sexual intercourse with **men.** See #39 in the Answering Affidavit dated 6/20/2015. Now compare to Fourth Department June 21, 2021 Decision and Order reversing Counts 1 and 2 with respect to Doner's testimony. "You were asked to wear a wire by Salamanca Police Department, Why didn't you?...**because you never sold your child to me.**"

[11] It is reasonable to conclude that wide fabrication of facts and statements attributed to the victim existed in contrast to medical professionals' main conclusion that there was no evidence showing either multiple acts of sexual abuse nor multiple acts of sexual intercourse during that exam.
Anthony Boyd v. City of New York, 336 F. 3d 72 (2d Cir. 2003), false arrest/false imprisonment/malicious prosecution rests on genuine issue of fact whether criminal prosecution was supported by probable cause – affirmed in part, reversed in part.
Probable cause to arrest exists when authorities have knowledge or reasonable trustworthy information sufficient to warrant a person of reasonable caution in the belief that an offense has been committed by the person to be arrested. Cf.n. 3-B, p 3-4.
Colon, 60 NY2d at 82, 468 NYS 2d 453, N.E.2d 1248: fraud –Id. at 83, 468 NYS 2d 453, NE2d 1268: Riccutti v. NYC Transit Authority: indictment procured by fraud, perjury the suppression of evidence and/or police/prosecutorial misconduct undertaken in bad faith.

[12] de hors the record, executive department NYDOCCS legal time computation credited jail time calculation 1 year 5 months and 21 days pre-trial incarceration. Audit is accurate, court declaration belies the fact.
Legal jail time audit reveals Wagoner was committed to Cattaraugus County Jail on February 18, 2015-one day prior to February 19, 2015 - the date of indictment instrument upon which she was arrested. This information corroborates Wagoner's claim that trial court records and **Arraignment** and other proceedings as to dates and testimony were altered when she received her copy on appeal, i.e. **Arraigned** on February 19, 2015 – records dated February 20, 2015. Imprisoned without warrant or warrant February 18, 2015. NYS Criminal Justice Services in Albany records **Arraignment** date as February 19, 2015. contrary to Catt. Co. Ct. transcript on Arraignment Feb. 20; and testimony altered – "there was no warrant judge". ADA Kierling.

ADDENDUM TO MEMORANDUM OF LAW

[Cattaraugus County Family Court Docket # NN-1344-12; Cattaraugus County Department of Social Services, o/b/o E. Wagoner v. Tina Wagoner, respondent]

The highest degree and most serious harm suffered from loss of intimate possession is that which was held between mother and 12 year old child, where parent's natural-right to custody of her child and juvenile's[13] right to remain with or have access to her parent. And while the doctrine of *parenis patria* authorizes the court to act in the best interests of a child, the laws of New York State clearly regulate[14] the interaction which is taken on behalf of the child.

Instant issue, predating concrete injury suffered from conviction and collateral consequences therefrom, is original concrete injury suffered from termination of parental rights, over protest from 12 year old adolescent[15], held competent to participate in family court proceeding. A protest against[16] the truthfulness of a third party's accusation that was made against the mother whose legal standing and right to protest against removal

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[13] Infants, Adolescents and juveniles – FCA sections 301: 2 definitions; 722.24(2)(1) a person at least 12 but less than 18; adjudication of delinquency, a person over age 7 but under 18 who has committed an act which could constitute a crime if an adult. See *in re Winship*, Supreme Court of the United States 1972 decision; Black's Law (1891-2009) definition: infancy, presumed to be without criminal capacity, ending at age 7 years old. See also, Appellate court's application of laws in regard to labeling the 12 year old adolescent and "infant" and the impact on the legal standard applied to as in "vulnerable victim" status in its determination. E. Wagoner was an adolescent, not an infant, in this case.

[14] Family Court Act Sections 1055(b)(1)B and 1089(d)(2-vii)(B); 1089(d)(2-vii) – establishing visitation rights; 1089 in general; 166 inspection and copy in records pending and relating to custody; 1032 attorney for child, family court Act 249(d)(2) and 22 NYCRR 7.2 function of the attorney for the child, constraints: not allowed to be a witness in litigation [grounds upon which Counsel Mitchell substituted her judgment for the competent-judgment of the 12 year old child. See pre-hearing proceeding transcript dated October 30, 2012; counsel's actions pre-hearing – aided CPS by accosting child in waiting room while mother was in the court, ushering her to a private room where CPS proceeded to interrogate the child without knowledge or consent of the parent]. Mother never seen child after 10/30/2012 removal until 6/15/16 trial.

[15] 22 NYCRR 7.2 function of the attorney for the child, constraints: not allowed to be a witness in litigation [grounds upon which Counsel Mitchell substituted her judgment for the competent-judgment of the 12 year old child. See pre-hearing proceeding transcript dated October 30, 2012-12 yr. old denied 3rd party accusations against mother.

[16] See Family court transcript cited above – child adamantly denies third party accusations that were made against her mother in court hearing. From 10/29/2012 - Salamanca City Court - People v. Tina Wagoner - unprocessed instrument lodged against Wagoner, upon Thomas Ginnery's SPD complaint.

from parent's custody was abandoned by counsel, in lieu of counsel's judgment which she chose to substitute in place of child's own judgment.[17]*A

Instant the government's possession of the child's body, active spoliation[18] commenced thereafter. Suppressing Sex abuse Specialist's findings. No

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[17] See 22 NYCRR 7.2 and practice commentaries therefrom.

*A June 15, 2016 trial transcript page 11. **Ms. Wagoner – cross – E. Wagoner**

Q. "How did I end up asleep and you and Chris in the bedroom?"
A. "Because you were intoxicated."
Q. "Do you remember the day we went to court, when they took you that day?
A. "Yes."
Q. "And do you remember [when I left you alone in the waiting room] when I went into the courtroom, what did they do with you when I was in the courtroom?"
A. "They took me into a room and **told me** I was going to be taken away, I was gonna be placed in foster care temporarily...Allegheny – Limestone..."
Q. "Do you remember taking [stealing] Patricia Groney's cell phone from her?"
A. "Yes."
Q. "Do you remember calling my phone and leaving a message?"
A. "Yes."
Q. "Do you remember being taken to Jones Hill, WCA from the Wolf residence [Allegheny – Limestone]?"
A. "Yes."

Bald statements on "treatment" in answering affidavits are shown to be from "suicidal ideations." See December 4, 2012 "Confidential Family Court Report" submitted by Patricia A. Groney.
This is persuasive material defense intended to introduce as evidence in cross-examination of prosecutor's witnesses. Information is considered *Rosario* material and provides foundation through that avenue. Further, prosecution's interference with the appearance of defense witnesses at trial prevented Patricia Groney, among others, from appearing.

EVIDENCE: Inference and Presumption

If a party fails to produce evidence that is within his or her control, it may be inferred that the evidence would be unfavorable to him or her, his or her legal position and unsupportive of his or her theory.

The Second Circuit held that it can be inferred from defense summoning – calling witnesses, rather than failing to summon, that the testimony would have been favorable rather than unfavorable to defense.

Prosecution's interference with the appearance of defense's summoned witnesses strongly suggests that testimony could lead to direct injury to her case. Further, preceding that action, "special prosecutors" obstruction of the hearing on the matter involving Terhune strongly suggests he knew that such hearing would not only directly injure his position, but expose fabricated information submitted by Salamanca Police Department officials, used as grounds to initiate the action taken against Wagoner on August 31, 2012.

[18] Spoliation in the legal world means destruction of evidence or deliberately making evidence unavailable. Cross-referencing indictment 15-48 trial court records with docket # NN-1344-12 family court records reveals widespread spoliation.
Demonstration involving Christopher Terhune given by contrasting information from DSS amended petition page 7 dated October 31, 2012; Jury charge June 21, 2016; Cross-reference with Practice Commentary on Penal Law Section 130.35 "Female Defendants"

Neglect Petition, page 7:

"Also upon information and belief, on October 30, 2012, E. Wagoner participated in a forensic interview and sexual assault medical exam at Southern Tier Child Advocacy Center, during the interview ["One Stop

Demand for production of cause from DSS to retain custody was filed with court by Wagoner's assigned Counsel, Bryan R. Milks. Milks intentionally neglected to file complaint with trial court when prosecutor turned over exculpatory CAC tapes in trial court; knowing such tapes were suppressed from FC proceedings.

Shop" "gets law enforcement, CPS and medical all in one room"], Emily Wagoner disclosed that on August 28, 2012, that Christopher Terhune who is an adult male…took said child in her room and had sexual intercourse with her. Said child indicated in the interview that some time after this abuse by Mr. Terhune, she informed her mother…"

Jury Charge page 167 – 6/21/2016

"Now under our law **Thomas Doner and Christopher Terhune are both accomplices** because there is **evidence that they participated in** [patronizing a child prostitute; rape and attempted rape in the first degree] and were convicted of **a crime based upon the conduct** [female promoting prostitution of sole-child prostitute] included in these allegations here **against this [female] defendant**…"

Penal Law 130.35 Practice Commentary "Female defendants"

"While only male can be perpetrator of a crime of rape under this section, nonetheless, **female can be guilty of violation on this section and punished thereunder as aider and abettor to the male perpetrator.**"

Clearly then, charging male co-defendants as aider and abettor to female commission of promoting prostitution not only confused and misled the jury, but confused the professional jurists as well, when determining statute application under which this appeal would be prosecuted: **Trafficking statutes.**

cf.n.19***

Ms. Wagoner's/Defense's opening remarks

[TRX. 6/15/2016 – pgs. 32-35]

"I'm going to introduce into evidence for you a copy of those statements, regarding Christopher Terhune…August 28 and 29 of 2012…and I'm also gonna enter a police report from Salamanca City Court/SPD October 29 of 2012…and what I'm gonna ask you to do when you read this is ask yourself: why didn't they arrest her right there and then, all right?...because it's very important to ask yourselves these questions…I'm telling you there are things behind this case and for the length of time it took them to bring this case to indictment [on this same evidence], frankly, has things to do with other circumstances…I wasn't arrested…they dropped the statement on me in family court…took my daughter…couldn't get a hearing or a trial…my attorney wouldn't get me this…DA released recorded interviews [CAC tapes 11/21/2012 to 10/15/2013 – but never the original recorded interview made on the same day as the gynecological ezam 10/30/2012; and 4/2/2014 CAC tape with the alleged incrimination], ask yourselves for what purpose?...rather than coming to arrest me, they took the statements to CPS, dropped them on me there. They mandated I bring my daughter and there those statements were good enough to take my daughter away but it wasn't good enough to arrest me and give me a fair trial, why? Because when they failed to arrest me in 2012 they denied me numerous, numerous rights…upon arrest I would have been arraigned, I would have been incarcerated. Upon that incarceration period I would have been given 45 days to a grand jury indictment hearing. I would have been afforded the opportunity to testify before that grand jury…

cf.n.19*** May 17, 2016 Decision and Order by Judge Ploetz: "There was no prior felony complaint on which the defendant had been arraigned within a local court. As such, statutory protection set forth in CPL 190.55 are not applicable…motion to dismiss is denied." See also cf.n. 4 p. viii.

Ms. Rieman's response to Defense's opening remarks

Ms Rieman: "Objection Your Honor. This has nothing to do with the proof that is going to be offered at trial.

Ms. Wagoner: "This all does…"

Ms. Rieman: "…And Judge, I would also submit that she is testifying and she is not under oath…"

The obstructive objections and sustentions prevented defense from pursuing a full and fair presentation and cross-examination and curtailed recall of prosecution's witness: Dr. Salzman, hence, preventing a fair trial.

Whereupon, this instant application submits, with respect to local, lower and appellate court errors committed against the very nature of a court's business[19] resulted in relevant information *de hors* the record skewed judicial administrator's judgment in these actions. In due respect actions contemporaneously captioned above and on initial memorandum in application made to restore parental rights on review of collateral consequences from concrete injury suffered by both parent and child in issuance of temporary custody order from a **pre-hearing emergency placement proceeding** on October 30, 2012, coerced termination of parental rights on October 14, 2014, and all orders issued interim as to child support and order of protection protested on grounds of spoliation and in process.

Applications to the Supreme Court State of New York, with respect to Cattaraugus County Family Court, places relevance and significance to "full faith and credit" contrasted between family and trial court records. Information *de hors* the record presents grounds as to the respective cases for initiating and arguing each item at issue within this court.

As a matter of law, when such widespread spoliation is brought to this court's attention it become the duty of this court to act. To act upon state court negligence.

[19] The very nature of a court's business is to verify the claims that are put before it. Jurisdiction is conferred through the visible active review of competent credible evidence placed in support of the claim. Jurisdiction obtained outside normal procedures is defective in every respect. Such omissions in this case led to the widespread shifting of interpretations which conflict between one court's records and the other. Typically, such issues will evade court review. These constitutional issues involving due process of law and the right to confrontation present an exception to the *mootness doctrine* even this late in the game.

The trial court judge's refusal of specific pre-trial requests from Counsel Milks regarding disclosures from DSS – suppressed during processing under the family court judge's watch, and pro se specific requests for WCA – relevant to treatment which was being provided – and CHOB material – relevant to recent similar injuries sustained in head-on collision in December 2011 – prevented defense from questioning prosecution's witnesses from a reasonable line of thinking as to the events and occurrences which took place, however different from the trial theory upon which prosecution was pursuing.

It is Applicant's contention that based on the relevant state interest and the articles of faith at issue, with respect to the published decisions of the Appellate Court and lower court records, petition presents the strong possibility of wrongful detention or imprisonment. When the above records are contrasted against the audit with respect to the legal time calculation made by New York State Department of Corrections and the Albany Repository regarding RAP sheets and spoiliated information from New York State Youth and Family Services, this court should exercise the power of *collateral estoppel* over the connected cases in controversy presented. Review with respect to prosecutor's privilege of discretion and prior knowledge of information which should have prohibited duplicitous charges made with respect to prostitution related conduct draws such powers into question.

The possibility of having persons confined within State Institutions under illegitimate circumstances, such as the local special prosecutor or prosecutors knowledge of holding exonerative evidence while pretending by bald statements that **sufficient evidence to corroborate the existence of probable cause** – is a determination which this court needs to make. Therefore, it is the court's duty and the nature of its work to verify claims which come before it, whether civil or criminal such as in this case.

CONCLUSION

This Petition demonstrates widely conflicting information with respect to related proceedings, repugnant to the Constitution of the United States Article IV Section 1. The conduct of local, district and state officials as to tampering with physical evidence, tampering with witnesses, and abuse of discretion is repugnant with respect to the Due Process Clause under Article VII Amendments IV, V and VI.

Therefore, all actions, proceedings, orders and judgments made or obtained on the basis of or as a result to the information contained in the official records originating under the official arm, Salamanca Police Department, acting on behalf of or in conjunction with the jurisdiction of Salamanca City Court, must be made void and null in the furtherance of justice and in the interest of public trust in the Government's system of justice.

Dated: October 24, 2023

Tina Lynne Wagoner, *Pro se*
ACF-16G0694
3595 State School Road
Albion, NY 14411-9399