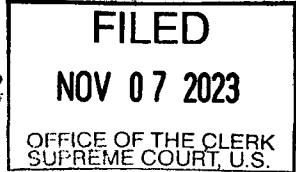


No. 23 - 6944



IN THE
SUPREME COURT OF THE UNITED STATES

In Re Bob Eugene West — PETITIONER
(Your Name)

ON PETITION FOR A WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS

Bob Eugene West
(Your Name) Sid# 10897927

777 Stanton Blvd
(Address)

Ontario, Oregon 97914
(City, State, Zip Code)

541-881-4537
(Phone Number)

QUESTION(S) PRESENTED

Question #1 Presented for review

Under the 14th Amendment of the United States Constitution, can an Oregon State Inmate file a federal habeas corpus asking the United States Supreme Court to [vacate] a conviction under Ramos v. Louisiana in State case (prior 2020)?

Question # 2 Presented on review

When the state of Oregon will not allow or will obstruct an inmate from using State and Federal Remedies, can an inmate use the 14th Amendment to seek relief through federal habeas? [or] what can be an option / alternative?

Question # 3 Presented for review

When a Petitioner is approved by the Post- Conviction Court to proceed prose pursuant to United States Supreme Court ruling in Faretta v. California, do the rights attach to the claims, [or] does the post-conviction court have discretion to [ignore / or alter the claims]?

Question # 4 Presented for review

Does the Oregon State Department of Correction (State of Oregon) through its mail rooms have any discretion to make decision's on opening "outgoing" legal and decide what will be filed on a Court by an inmate and what will not?

Introductory Statement for question # 1 on review

Petitioners trial was held in November 2005. Defense Counsel placed “biased” juror’s on the jury panel, a 6th Amendment violation ; Defense counsel “suppressed” witnesses that cleared petitioner of all charges (6) months prior to trial, a 5th, 6th, 8th, and 14th Amendment violations; Defense counsel and prosecutor fabricated a sex abuse case during the trial using the petitioner, a 4th, 5th, 6th, and 14th Amendment violations; defense counsel “testified” for the states alleged victim and “vouched” for the credibility of the states primary witness, a 4th, 5th, 6th, 8th, and 14th Amendment violations, Defense Counsel [**verbally informed the petitioner that physical harm could come to the petitioners kids ,”if” the petitioner tried to speak to the Judge or Testify.**] Defense Counsel ignored the evidence demonstrating that the States primary witness Patricia Carol Gurney (actually did) sexually abuse the victim, but Defense Counsel to deliberately wrongfully convict his own Petitioner, and the damage that defense counsel and state caused this defendant, the jury verdict was still [10-2].

In (2020), the United States Supreme Court held that the Sixth Amendment to the U.S. Constitution requires that a jury reach a [unanimous] verdict to convict a defendant. *Ramos v. Louisiana* – U.S., 140 S. Ct. 1390, 206 L. ed 2d 583 (2002). **In (2022) The Oregon Legislature introduced Senate Bill 1511. The Bill was sought to create a process by which a person convicted or found guilty as a result of a [non-unanimous] jury verdict could file a petition for post-conviction relief within one year of the acts effective date, in other words, the bill would have applied the Ramos decision “Retroactively”. The bill died in Committee in early 2022, therefore, denying (all prior) Convictions the right to Due Process of Law, and any person within the court’s jurisdiction, the Equal Protection of the laws.

Introductory Statement for question # 2 on review

In March-April 2004, petitioner reported that his (11) year old son Matt had been sexually abused by his (mother) Patricia Carol Gurney. Defense counsel [ignored] the crime ; Gurney was then allowed to falsely claim that Matt was suicidal which enabled her to lock him away and conceal her crime ; Defense counsel chose to assist the prosecution with prosecuting a fabricated case ; Defense counsel chose to assist the prosecution and placed biased jurors on the jury ;

Defense counsel assisted in the fabrication of this case during the trial and used petitioners (former) friend Jerry Morris as a witness to the crime, without Morris knowledge and after Morris explained that there was no crime ; Defense counsel encouraged the States primary witness to use [bribery] on Morris ; Defense counsel assisted the states primary witness with the fabrication of a sexual abuse allegation and then attempted to conceal her participation ;

Defense counsel testified for the alleged “victim” and “vouched” for (Gurneys) credibility ; Defense counsel assisted the states primary witness with framing the petitioner in a pornography scheme ; Defense Counsel [suppressed] evidence demonstrating that the states primary witness Patricia Carol Gurney participated in and was actively involved with sex offenders during the fabrication of this case against the petitioner ; Defense counsel would not allow the petitioner to defend himself [or his son Matt] and suppressed [all] evidence clearing the petitioner ; Defense counsel refused to allow the petitioner to testify which would have exposed counsel’s fraud on the court and [verbally] threatened] physical harm to petitioners kids if petitioner did try to testify.

Petitioner was convicted in November 2005. In October 2006, Petitioner filed a Motion to

be relieved from judgment and order pursuant to ORCP 71(B). In December 2006, the Oregon Department of Corrections (Banned) petitioner from filing "any" documents with Deschutes County Circuit Court and/or Presiding judge Michael C. Sullivan [or] any of the courts, therefore, petitioner [has no access to the courts]. See Exhibit # 238 Out going mail Restriction.

[11] years later

On August 1st 2017, petitioner sent the supporting facts of the Extraordinary writ of habeas corpus evidence packets (1, 2, 3, 4, and 5) to the Office of the Oregon State Police at 63319 W. Hwy 20, Bend, Oregon 97702, Att: Caption Bill Fugate, to report that states primary witness Patricia Carol Gurney sexually abused his son and used the Deschutes County District Attorneys Office to conceal her crime. See Exhibit # 25, Exhibit # 26 Envelope/ Letter.

On August 16th 2017, The Oregon Dept of Corrections (staff) opened the outgoing mail, and in turn, informed the petitioner that the case will not be investigated, therefore, the state of Oregon is blocking petitioner's access to the court. See Exhibit # 27 and #24 Envelope and letter dated August 18th 2017.

[4] years earlier in Post- Conviction

Petitioner raised (72) claims of inadequate assistance od trial and appellate counsel alleging that the Court adjudicated each of the claims. See Exhibit # 222 – State of Oregon- Respondents Answering Brief. [10] Months earlier during the Post-Conviction trial General Judgment – The State of Oregon's Post Conviction Court, only addressed (19) issues. Petitioner unclear as to which claims. The State of Oregon has prevented the Petitioner from accessing the State and Federal Courts and has become another [branch of the Chinese Communist Party.

Introductory Statement for question # 3 on review

In 2012, Petitioner grew tired of Court appointed State attorneys interfering with gaining relief through the proper State / or Federal Remedies, and the Post -Conviction Court approved the Petitioner to proceed pro se Pursuant to Faretta v. California. Petitioner raised 72 claims of inadequate and ineffective assistance of appellate/ trial counsel. The Petitioner compelled the Court to meet the Requirements of the Oregon Supreme Court Ruling in Datt v. Hill, 347 Or 672, 227 P3d 714 (2010), and ORCP 62 A.

Post -Conviction Trial was held on September 17th 2013. Petitioner raised and argued the 72 claims, and has a (a copy of the trial transcripts to prove this). The Post-conviction Court failed to adjudicate the claims, and was not clear about the (18) issues in the General Judgment that it Mentioned, therefore, this Petitioner was deprived of his right to use the Post-Conviction and the Federal Habeas Remedies.

Introductory Statement for question # 4 on review

On December 22nd 2006, The State of Oregon / Oregon Department of Corrections banned/restricted the Petitioner from filing any, and all mail (legal or otherwise), filed on Deschutes County Circuit Courts or Presiding Judge Michael Sullivan. This act could have been legally done through a court order. Please see outgoing Mail Restrictions/ ban – The Oregon Department of Corrections at Snake River Correctional Facility (Mail Room) denied Petitioner access to the Deschutes County Circuit Court.

[2017- 11 years later]

On August 1st 2017, Petitioner sent a letter and copies of Evidence Packets (1),(2),(3),(4),

and (5) to the Office of the Oregon State Police at 63319 W. Hwy 20 Bend, Oregon 97702, ATT. Capt. Bill Fugate to report that Patricia Carol Gurney sexually abused his son and used the Deschutes County District Attorney's Office to conceal her crime.

On August 16th 2017, The Oregon Dept. of Corrections mail room opened the Petitioner's "out bound legal mail", and used their own institution's *Oregon State Police Cover Letter Template* used for facility criminal gang activity and informed the Petitioner that the case will not be investigated. Therefore, the Oregon Attorney General's Office can control all cases through its Department of Corrections Mail Room at S.R.C.I. (see letter Exhibit # 27 and Exhibit # 24 Envelope dated August 18th 2017).

List of Parties

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

Oregon Attorney General's Office
1162 Court St. NE
Salem, Oregon 97301-4096
(503) 378-4402

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Motion for Appointment of Counsel

Appendix A: Letter from Post-Conviction counsel dated July 27th 2010 (5) years after trial explaining that he providing petitioner with the entire discovery to include a transcript of the trial two and a half years “after” direct appeal. This is first time Petitioner examines discovery.

Appendix B: To understand how to create a State and Federal Document and raise claims correctly, On December 8th 2011, Federal Defender Tonia Moro provided Petitioner with examples of State Court Trial Memorandum in support of Petitioners Supplemental pro se First Amended Petition for Post-Conviction Relief, and Federal habeas corpus Brief, for which [all] of the Petitioners documents are created from. [see Extraordinary writ].

Appendix C: Defense Counsel deliberately violating the rights of this petitioner during the trial, preventing petitioner from having counsel for his defense. 6th Amend. U.S. Const. see Extraordinary writ for Federal habeas corpus – Rule 20.4.

Appendix D: Out of the Presence of Counsel, The Court allowing the State to alter an exhibit in (4) areas after the jury has already viewed it, but prior to being examined by the appellate courts or federal courts. From a DVD to Audio Tape.

Below is the only true criminal act which was committed by

Patricia Carol Gurney (States primary witness)

Appendix E: The States key witness (Gurney) having sexually abused our son Matthew. Evidence Packet # 1: Post-Conviction Petition Claim # 27.

Appendix F: While the case is being fabricated using the petitioner, the State and Defense counsel are “unaware” that Gurney is trying to conceal a potential witness for the defense (Charlie “son”), tampering with the investigation see Post Conviction Petition Claim # 28.

After Conviction

Appendix G: The Oregon Department of Corrections denying Petitioner access to the Courts in [2006 and in 2017] Controlling which cases will be submitted to the courts and which will not.

Appendix H: Petitioners Post-Conviction Closing Argument: Bringing to the Courts Attention the entire discovery in this case consists of crimes committed by States primary witness Patricia Carol Gurney. See “all” evidence packets.

Appendix I: Post-Conviction Court General Judgment contains (18) unidentified issues, therefore, the court failed to adjudicate the (72) claims, Comply with the Oregon Supreme Court Ruling in Datt v. Hill, and ORCP 62 A. – Petitioner was denied the State Post Conviction Remedy which also defaults him for Federal habeas.

Appendix J: Respondents Answering Brief- Confirming that the petitioner raised 72 claims.

Datt v. Hill, and ORCP 62A. Defense Counsel denied this petitioner his 6th Amendment right to counsel during trial, therefore, advocating for the state, which is the Respondent. Petitioner has never had Counsel in this case.

Appendix K: (9/2014) Petitioner petitioned for review in the Oregon Supreme Court, arguing that the Post -Conviction Court failed to adjudicate any of his claims, failing to comply with Datt v. Hill, and ORCP 62 A.

Appendix L: Amended Petition under 28 U.S.C § 2254 For Writ of habeas corpus .

Petitioners (Former DA) Michael T. Dugan and his Deputy Prosecutor Ruth Victoria Roe were the only ones with anything to lose, Modified the Petitioners Original Claims for the sole purpose of [stalling the Petitioners case] in the system for as long as possible, so that the Court(s) would not be able to examine his [unethical work] in the case.

The claims listed in the Extraordinary writ were removed, and the existing claims (unsupported) were duplicated and placed in front of the court in place of the claims that were removed. The claims in the Extraordinary writ of habeas are just a few of the original claims.

Defense Counsel placed biased jurors on the jury panel; he testified for the States alleged victim; he vouched for the credibility of the States primary witness; he assisted in fabricating a case of sexual abuse “during trial”; He suppressed his entire investigation which cleared petitioner of all charges; he assisted the States witness with framing the petitioner in a pornography scheme; he made a verbal threat to the petitioner that if the petitioner tried to get on the witness stand [or] attempted to speak to the court, petitioners kids could be physical hurt.

Table of Authorities Cited

Cases:

Ramos v. Louisiana – U.S., 140 S.Ct 1390, 206 L. ed 2d 583 (2002).....

Strick v. Washington (1984) 446 U.S. 668, 80 L.Ed 2d 674, 104.....

Benn v. Lambert, 283 F ed 1040 (9th Cir 2002).....

Brady v. Maryland, 373 U.S. 83,83, S.Ct at 420....

Faretta V. California 422, U.S. 806, 45, L.Ed. 2D 562, 95 S. Ct 2525 (1975).

STATUTES AND RULES.....

United States Supreme Court Rule 20.4

28 U.S.C. § 2254

AEDPA, U.S.C. § 2254 (d) (a) (B) (i) (ii)

OTHER: After you have filed your federal habeas corpus, you can then request that the federal court conduct an evidentiary hearing. A habeas petitioner is entitled to an evidentiary hearing when he or she establishes a “Colorable” claim for relief and when he or she has never been given a state or federal hearing on his claims. Earp v. Oronski, 431 F.3d 1158, 1167 (9th Cir 2005), citing Townsend v. Sain, 372 U.S. 293 (1963). To state a “Colorable” claim, you must allege specific facts, which if true, would entitle you to relief. Since the function of an evidentiary hearing is to try issues of fact, such a hearing will not be held when only issues of law are raised. Yeamans v. United States, 326 F.2d 293 (9th Cir 1963).

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF HABEAS CORPUS

Petitioner respectfully prays that a writ of habeas corpus issue.

OPINIONS BELOW

For cases from **federal courts**:

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

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

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

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

For cases from **state courts**:

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

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

The opinion of the _____ court appears at Appendix _____ to the petition and is

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

JURISDICTION

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

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

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

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

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

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

[] For cases from **state courts**: *- See Face of Extraordinary Writ.*

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

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

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

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

Constitutional and Statutory Provisions Involved

4th Amendment: The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause.

5th Amendment: Nor be deprived of life, liberty, or property, without due process of law.

6th Amendment: In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury, to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

8th Amendment: Cruel and Unusual Punishment shall not be inflicted.

14th Amendment: No State shall deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE FACTS

This is a case where a (11) year old boy disclosed to his father that he had been sexually abused by his mother. In order for the mother to conceal her crime against her own son, she fabricated medical documents and locks her own son away keeping him away from his father and continues to conceal her crime. The father and his Girlfriend Looked for the boy, but due to restraining order and no contact orders taken out by the mother, she was able to keep (both) apart.

The mother attempted to frame the father in (2) sex abuse schemes which she failed at and a pornography scheme that also failed at the time. While still looking for Matt, the father and girlfriend planned to marry December 8th 2004. Gurney Manipulated the Deschutes County District Attorneys office in pursuing a fabricated criminal case against the petitioner. Petitioner was arrested on April 27th 2005. Defense Counsel was appointed on May 4th 2005. Petitioner informed counsel's investigator of an order form for pornographic movies that came from Gurney's Scheme that the girlfriend had possession of, That the Prosecution was not aware of.

The investigator took possession of the order form, Suppressed the girlfriend from the case, and the investigator worked with the District Attorney and finished Framing the petitioner according to Gurney's plan. Defense Counsel and the Investigator [are to be credited for convicting his own defendant], for District Attorney Michael T. Dugan and his [2006] bid to stay in the District Attorney's office.

STATEMENT OF THE CASE

& RULE 20.4 (A) Statement

HOW THIS CASE DEVELOPED

1.

On March 16th 2004, Petitioners (11) year old son Matthew disclosed to the Petitioner that he had been sexually abused. On March 17th 2004, Matt feared his mother Patricia Carol Gurney and would not speak in front of her, therefore, Petitioner assisted Matt with filing a report with the Bend Oregon Police Department and met with two officers. The officers followed petitioner to Matts school where the officers spoke to Matt by himself. Matt had informed the officers that he had been sexually abused by his mother's ex- boyfriend Michael Lee Premus. (See Bend Police Department Narrative Report 3-17-04.)

In April 2004, just weeks after speaking to police, Matt informed the petitioner by phone that he wasn't honest with the officers, but was (scared). Matt explained that it was his own mom (Patricia Gurney) who sexually abused him, framed her boyfriend for her crime and that why he wanted to speak to petitioner. Matt explained that he couldn't say anything on March 17th because she (Gurney) walked in while he was trying to tell the petitioner. In April 2003, when the incident happened, she had already threatened his life if he told anybody. (see Bend Police Department Narrative Report dated 4-30-03.)

When the April 2004 phone call ended, petitioner contacted the Bend Police Dept with the new information about Matts claim regarding his mom. Petitioner was informed that after he had helped Matt file the March 17th 2004 report, Gurney called the Bend Police Dept, and claimed that Matt was only looking for attention and had nothing more to offer. To protect herself, Gurney had

undermined any possibility of being investigated. A few hours after the call, Matt's brother (Charlie West) called the petitioner and explained that Gurney overheard Matt's side of the conversation and now was trying to figure out what to do with Matt to keep him quiet. [Gurney was able to make Matthew disappear] breaking all contact between Matt and Petitioner.

Petitioner and (Girlfriend) Marianne Wright began making trips from Roseburg Oregon to Bend looking for Matt. Petitioner found Matt's brothers Charlie and Timothy, but the boys explained that out of fear of their mother, they couldn't tell their father anything. Gurney finally confronted the petitioner but refused to allow petitioner to know where Matt was. She informed Petitioner and Ms. Wright that "if" he didn't end his relationship with Ms. Wright and didn't stop looking for Matt, she would ["put the petitioner in prison" for the rest of his life]. Petitioner ignored Gurney's threats and continued looking for Matt.

During the November 2005 trial, Gurney stopped just short of incriminating herself of sexual abuse. Exhibit # 10-Patricia Gurney Tr. Tr. -D pages 438-442 / 464-465. Certificate – Court Transcriber-page 874.

2.

On 3-17-04, immediately after the report to police, petitioner had Matt evaluated at the Kids Center of Bend Oregon. Matthew made a "suicide ideation". Gurney was present. (It wasn't known yet that it was Gurney who sexually abused Matt.): Matt made a "comment" at the Kids Center, Gurney turned that "Comment" into [claims] while locking Matt away into Trillium Family Services, and during trial, Matt admitted to making a "comment" to his brother Tim. During trial, Gurney made the comment into a fabricated suicide story.

It was alleged by the State of Oregon and Defense Counsel that petitioner sexually abused his twin sons Matt and Timothy age (11) and that the petitioners former friend Jerry Morris came to the aid of the boys immediately afterwards.

According to the State of Oregon, on December 13th 2004, Deschutes County Sheriff Detective Chad Everett Davis interviewed Timothy. In the report Davis alleged that Jerry Morris assisted Timothy immediately after a horrific event. (Deschutes County Sheriffs Office Supplemental Report # 2)

According to the State of Oregon, on December 28th 2004, Det. Davis interviewed Matt and Davis alleged that Morris came to his assistance after a horrific event. (Deschutes County Sheriffs Office Supplemental Report # 3)

On May 24th 2005, (6) months prior to trial, Defense Counsel's investigator Brad Halvorson interviewed Jerry Morris. Morris explained that he never heard anything from the boys about being sexually abused [or] saw no evidence of sexual abuse. Morris also explained that he was not aware of any issues between West and the boys. * Morris was not questioned [nor] made aware of (Deschutes County Sheriffs Office Supplemental Reports #2 and #3).

On October 3rd 2005, according to discovery, Det. Chad Davis interviewed Jerry Morris. Morris "again" clarified that the boys did not say anything to them about being hurt by Bob West. (Deschutes County Sheriffs Office Supplemental Report # 13).

During the November 2005 trial on Direct Examination of Jerry Morris, Jerry Morris is not

questioned in regards to or relation to Sexual abuse of Matt or Tim.

On Cross Examination, Jerry Morris is never questioned in regards to or relation to sexual abuse of the boys. (Jerry Morris Tr. Tr. 131-143 / -x 144-148)

Jerry Morris was actually a witness for the Defense and cleared petitioner of all charges in May 2005, therefore, this case should have been dismissed with prejudice in May 2005. Defense Counsel “himself” denied the petitioner the Constitutional right of having the (The Compulsory process for obtaining witnesses in his favor, and to have the assistance of Counsel for “my” defense.

4.

Voir Dire / Jury Selection

Defense Counsel and Prosecutors placed (2) biased jurors on the Jury Panel. Juror Norman Hale informed the Court that he believed that the petitioner [ought to be taken out and shot]. Mr. Hale also informed the Court that his wife was “raped” by her grandfather when she was young. Juror Mr. Pefferly informed the court that he was aware of some sexual abuse that [personal to him] and that he did not wish to disclose it. The Court and jury were not aware that Defense Counsel and the Prosecution were fabricating a case, using the trial, while counting on the biased jurors.

5.

During the November 2005 trial, Michael T. Dugan (then) Deschutes County District Attorney used his office to (influence) Defense Counsel to assist him in placing “biased” jurors on the jury panel. **Federal habeas corpus ground 4. – Post Conviction Claims 42 and 46.**

During the November 2005 trial, Michael T. Dugan (then) Deschutes County District Attorney used his office to (influence) Defense Counsel to "assist" in the fabrication of a sex abuse case during the trial using Petitioners former friend Jerry Morris's (in name only) coming to their rescue, while Jerry Morris "never knew" his name was used, **which (also) includes (Gurney) "Bribing" States witness Jerry Morris. Federal habeas corpus ground 5. – Post Conviction claim 21**

During the November 2005 trial, Michael T. Dugan (then) Deschutes County District Attorney used his office to (influence) Defense Counsel to "avoid" questioning a crucial witness Michael Griffith about the disclosure of sexual abuse that Gurney claimed that Matthew made to him, while she (conceal her presence) at the Detention Center on that day that she attempted to frame the Petitioner; **Federal habeas corpus ground 6. – Post- Conviction claim 18**

During the November 2005 trial, Michael T. Dugan (then) Deschutes County District Attorney used his office to (influence) "Defense Counsel to "Testify" for his victim and "vouch" for the "credibility" of his primary witness (Gurney). **Federal habeas corpus ground No. 7. – Post -Conviction claim 19**

During the November 2005 trial, Michael T. Dugan (then) Deschutes County District Attorney used his office to (influence) Defense Counsel to "suppress" his entire investigation from the court which cleared petitioner of all charges and frame his own defendant using Gurney's pornography scheme. **Federal habeas corpus ground 8. – Post Conviction claim 20**

During the November 2005 trial, Michael T. Dugan (then) Deschutes County District

Attorney used his office to (influence) Defense Counsel to " suppress" his entire investigation that would have cleared petitioner of all charges. In May of 2005, At the request of the petitioner, Defense Counsel's investigator Conducted (3) interviews, Jerry Morris, Marianne Wright, and Charlie West. Morris and was not questioned about the allegations prior [or] during the trial.

In May of 2005 and October 2005, Morris clarified to (both) the Defense investigator Brad Halvorson and the Sheriff Detective Chad Davis that he witnessed no abuse and the boys never complained about any abuse. this case should have been dismissed by May 2005. Therefore case Dismissed **Federal habeas corpus ground 10. – Post Conviction claim 23**

During the November 2005 trial, Michael T. Dugan (then) Deschutes County District Attorney used his office to (influence) Defense Counsel preventing Petitioner from testifying or saying a word to the judge, petitioner was ordered not speak to anyone, and [not] ask to testify; and verbally informed the Petitioner that "if" he tries, [Petitioners kids could be "Physically Hurt"]! **(Please examine this case and let a court decide "if" Counsel would have created a reason for making this extreme threat?**

During Opening "and" Closing Arguments; Defense Counsel made it very clear to the Court and jury that he [did not have a case and that Petitioner would not testify]. The Court was not aware of the threat made by the Prosecution, or that the Prosecution [and] Defense Counsel fabricated the case using the petitioner and his family, and that the State's Primary witness (Gurney) did in fact sexually abuse Matthew. **Federal habeas corpus ground 11. -Post Conviction claim 37.**

During the November 2005 trial, Michael T. Dugan (then) Deschutes County District Attorney used his office to (influence) Defense Counsel to **[Suppress the evidence**

demonstrating that (Gurney) has always been actively involved with Sex offenders]. In April 2003, Gurney moved her registered sex offender boyfriend Mike Premus into her apartment, (she) sexually Mattew, Framed Premus for her crime, threatened Matts life to keep him quiet. Gurney (claimed) that she was not aware of Premus Registered Status.

[(2) Two years later]

According to discovery, (2) years later in April 2005, while a case was being created against Petitioner, oldest son (Charlie) is trying to put a stop to (mom) Gurney's Deceitful acts that hurt the family and get her some help. Gurney was (OK) with 16 – year old Charlie living with her sex offender friend Jonny Cole, until Charlie and the plaintiff got together. Gurney reported Charlie as a Runaway having him arrested. **Federal habeas corpus ground 9. – Post Conviction claim 28.**

*Exceptional circumstances exist that warrants the exercise of this court's discretionary powers, because adequate Relief cannot be obtained in any other form or from any other court!

The State of Oregon – ODOC denying access to the Courts. Federal habeas corpus ground (1). Petitioner filed for relief through direct appeal and was granted permission to file a Supplemental Brief. Defense Counsel, and D.A. Mike Dugan refused to provide petitioner a copy of the Trial Transcripts of the proceedings and informed the petitioner that he had to wait until he seeks Post Conviction Relief. Petitioner was prevented from filing a Supplemental Brief, denying him access to the Court of Appeals with his Pro Se claims. **Denied access to The Oregon Court of Appeals in presenting his pro se claims. Petitioner would have prevailed in direct appeal.**

[2006]

In October 2006, (11) months after Conviction while in Direct Appeal, Petitioner filed a

Motion to be relieved from Judgment and Order, Pursuant to (ORCP 71(b) (1)(c)(C) bringing to the attention of Deschutes County Circuit Court and Presiding Judge Sullivan that Defense Counsel Suppressed the evidence of the State's primary witness (Gurney) sexually abused, her own son, and Defense Counsel "Suppressed" the crime Framing his own defendant in a Pornography Scheme.

On December 22nd 2006, The State of Oregon / Oregon Department of Corrections banned/restricted the Petitioner from filing any, and all mail (legal or otherwise), filed on Deschutes County Circuit Courts or Presiding Judge Michael. This act could have been legally done through a court order. Please see outgoing Mail Restrictions/ ban – The Oregon Department of Corrections at Snake River Correctional Facility (Mail Room) denied Petitioner access to the Deschutes County Circuit Court.

[2017- 11 years later]

On August 1st 2017, Petitioner sent a letter and copies of Evidence Packets (1),(2),(3),(4), and (5) to the Office of the Oregon State Police at 63319 W. Hwy 20 Bend, Oregon 97702, ATT. Capt. Bill Fugate to report that Patricia Carol Gurney sexually abused his son and used the Deschutes County District Attorney's Office to conceal her crime.

On August 16th 2017, The Oregon Dept. of Corrections mail room opened the Petitioner's "out bound legal mail", and used their own institution's *Oregon State Police Cover Letter Template* used for facility criminal gang activity and informed the Petitioner that the case will not be investigated. Therefore, the Oregon Attorney General's Office can control all cases through its Department of Corrections Mail Room at S.R.C.I. (see letter Exhibit # 27 and Exhibit # 24 Envelope dated August 18th 2017).

Petitioner was denied access to the Circuit Courts and the Authorities such as the Oregon State Police. By the Oregon Department of Corrections (aka) State of Oregon.

Timothy was recorded (4) times explaining to Det. Chad Davis that he was not sexually abused, that Matthew was not sexually abused by the petitioner, and that his mother (Gurney) fabricated all of her claims to conceal the truth that (she) sexually abused Matt. Tim also explained that his mom was trying to frame the petitioner in a pornography scheme, and instead of Tim giving the porno order form to the Petitioner, Tim gave it to Mrs. Wright and asked for her help in getting his mom (Gurney) Mental Health treatment. The jury heard everything!. At the end of trial, The court allowed the Prosecution to remove (4) sections that Contained all of Tims information, so that it could not be examined by another Court. (The Court and Prosecution Tr. Tr. Page 611- Audio made from a DVD.)

September 17th 2013 Post Conviction Trial, the Court failed to adjudicate the Petitioner's prose claims. Petitioner believes that it was his (former) Prosecutor / Deschutes County District Attorney Michael T. Dugan who switched the prose claims with Generic unsupported claims while he was a visiting Prosecutor in the Post -Conviction Court in Spring-Summer 2013, a few months before trial, therefore, **[the Petitioners prose claims were not in front of the Court.]**

Petitioner filed for Post-Conviction relief in Malheur County Circuit Court in September 2008 in No. 08096840P. In July 2010, (5) years after trial, Post-Conviction Counsel allows Petitioner to examine the Newly Discovered Evidence which contained evidence of crimes committed by Patricia Carol Gurney, including sexually abusing her own (11) year old son in April 2003. Post- Conviction Counsel [refused] to allow this petitioner to use any of the newly

discovered evidence to support any of his claims, and tried to prevent the Petitioner from raising any claims such as those raised in the [(9) Ground Brief in support of petition for extraordinary writ of habeas corpus.]

The Post-Conviction Court approved the petitioner to proceed pro se in the fall of 2012. Petitioner created his Pro se Post-Conviction Petition and Memorandum of Law according to the [examples] that were provided by federal counsel “originally” raising (72) claims. see Exhibit # 003- December 8th 2011 letter. The petitioner “attached” the supporting facts for each claim to the petition, and went the “extra mile” and [typed] within the documents, the “supporting facts” so that the court(s) could clearly see the “egregious injustice” by Defense Counsel and read it like a book.

Petitioner no longer had counsel to interfere with his Pro-se claims being presented to the Post Conviction Court. In the Spring – Summer 2013, petitioners’ (former) prosecutor Michael T. Dugan requested and was granted permission by Presiding Judge Patricia Sullivan to be a visiting prosecutor in the Malheur County District Attorney’s Office and was paid through an account that Sullivan controlled [541-473-5127]. This put Dugan (6) hours away from his private Law Office in Bend Oregon. Petitioner learned of Dugan’s actions through Staff at Snake River Correctional Institution and Ontario Oregon Argus News Paper. This gave the former prosecutor access to petitioner’s pleadings prior to the Post-Conviction trial and Court and Petitioner would never know. Mike Dugan is the only person with anything to lose and now able to blocked Petitioners access to all Courts and caused the Petitioner to Default.

Post-Conviction Trial was held on September 17th 2013. Petitioner raised and argued (72) claims, and had filed Motion's with the court to compel the Court comply with ORCP 62 A which is (Mandatory) and the standards established by the Supreme Court of Oregon in Datt v. Hill,220, Ore. App. 657, 188 P. 3d 384, 2009, and adjudicate each and every individual claim on its merits.

During the Post-Conviction trial Closing Arguments, the petitioner made it clear to the court that the State of Oregon has a case against Patricia Carol Gurney, (see Exhibit # 17.) Petitioner also brought to the Courts attention that the entire discovery in this case consists of crimes committed by Patricia Carol Gurney.

The Respondent presented no challenge pertaining to the claims, how they were plead, raised, or supported, and the petition was not dismissed. (Petitioner immediately requested and received a copy of the PCR Transcripts, which were provided) Therefore, the Petitioner can actually demonstrate that he did raise and verbally argue all of his prose claims, regardless, of what document that the court may have had in front of it.

On September 20th 2013, (3) days after raising (72) claims at the trial, Petitioner was surprised when he received his copy of the General Judgment listing (19) "issues" that did not make sense, and do not refer to [any] of petitioners claims. It "appeared" that the Post-Conviction Court failed to adjudicate any of the Petitioners Pro se Claims. [but] Petitioner firmly believes that Dugan switched claims prior to Post-Conviction trial.

9. POST CONVICTION APPEAL

Petitioner raised (2) issues during the Appeal. (1) The Post-Conviction Court ignored the Standards of Review Established in the AEDPA, § 2254 (d), Petitioner filed appeal in Case No. CA A155299; (2) the Post-Conviction Court [failed to Comply] with Datt v. Hill and ORCP 62 A: which would have (compelled) the Court to adjudicate “each” and “every claim” on their “merits”. Petitioner sought review of the Oregon court of appeals decision by the Oregon Supreme Court in Case No. S 055873 which denied review on December 11th 2014.

Petitioner filed for Federal habeas corpus relief raising the (72) claims that the Post-Conviction Court failed to adjudicate. A U.S. District Court (Clerk) returned the (72) claim brief back to the petitioner claiming that the claims were not the same as those presented to the Post Conviction Court, but did not provide petitioner with a copy of the claims that the U.S. District Court now had. * see Exhibit # 2. Amended Petition under 28 U.S.C. § 2254 for writ of habeas corpus. The Judge did hear the Petitioner raise and argue his (72) claims, (“but” if the claims in Exhibit # 2 were in front of the Judge, the Petitioners claims were denied access to the Court(s).

Since the Petitioner was unable to get his claims adjudicated on their merits at the State Post Conviction and Federal Habeas Corpus levels, Petitioner wanted to make it easier on the Federal Courts. He condensed his claims down to (11) grounds which are found in the Prose Brief in support of extraordinary writ of habeas corpus, raising only those claims that Under the United States Constitution would require reversal of the case and dismissal.

A Clerk at The United States District Court Clerk returned the (11) Ground Brief back to the Petitioner and claimed that his claims were not raised in the Post-Conviction court and that the claims that were presented to the court were considered defaulted. Petitioner was now being denied access to the United States District Court with his Pro se Pleadings. Petitioner didn't know what to do to protect his rights.

Therefore, proceeded on his own to the (9th Circuit Court of Appeals) raising his (11) grounds, even though he had nothing to appeal and was "Stuck" and did not know how to get his claims in front of a Court (and get justice for his son). Then went onto the Supreme Court of the United States in hopes, somehow, somebody would give him an idea on how to remedy this situation that the State of Oregon deliberately caused and be able to help his son.

Unfortunately, it wasn't until November 2021 (9) years later, and thanks to a Clerk at the Supreme Court of the United States who found that the Post-Conviction Court had a total different document in front of it than the Respondent and the Petitioner. The Issues within the General Judgment are similar to those issues in Exhibit # 2. Amended Petition under 28 U.S.C. § 2254 for writ of habeas corpus, therefore, "someone" (Mike Dugan) is the only person with anything to lose, had access to petitioners' pleadings while he was a [visiting] Prosecutor in the Malheur County District Attorney's Office.

Petitioners Conclusion

Matt's (1st) attempt to disclose the sexual abuse to Petitioner was on April 28th 2003 (by phone) see Evidence packet #1 - Exhibit # 29- Bend Police Department Narrative Report Dated

April 30th 2003, See Federal habeas Ground No. 2 Post Conviction Petition Claim # 27;

Matts (2nd) attempt to disclose that his mom sexually abused him was on March 17th 2004, while visiting the boys at Gurneys apartment see Evidence Packet # 1 Exhibit # 30- Bend Police Dept. Narrative Report Dated March 17th 2004;

Matts (3rd) attempt to disclose the abuse was when he took Matt to the Kids Center for a medical evaluation and Gurney accompanied. Matt made a comment about suicide. (It wasn't yet known that it was **Gurney** who sexually abused him). See Evidence packet # 2.

Matts (4th) attempt. In April 2004, By Phone he explained that it was (Gurney) his mother who sexually abused him, but he couldn't say anything because Gurney had threatened life. Petitioner immediately called the Bend Police Department to inform officers of the new information. The (BPD) informed the petitioner that on March 17th 2004, right after they took the report, Gurney called them and claimed that Matt was only looking for attention and had nothing more to offer.

Even though the court will find that the petitioner assisted his son Matt in reporting to the Bend Oregon Police Department that Matt had been sexually abused by his mom, there was nothing to support Matt's claims until after July 27th 2010, (5) years after trial when the entire discovery and the trial transcript was provided to the petitioner. of the

Raised as Post Conviction Claim # 27- Petitioners Son reported to petitioner that he had been sexually abused by his own Mother Patricia Carol Gurney. See Bend Police Department Narrative Report dated March 17th 2003; see also Bend Police Department Narrative Report Dated April

30th 2003. And examine her testimony. Defense Counsel ignored her crimes.

Patricia Gurney falsified Medical Records Claiming Matt to be suicidal, enabling her to lock Matt away. Gurney had friend file a false Police Report using the Deschutes County Juvenile Justice Center to try and frame the petitioner of sexual abuse. She failed at the time. (Gurney) forces our 12year old son to try and frame his own father for contributing pornography to a minor (Tim), the scheme fails until Defense counsel makes it a success during trial.

Patricia Gurney falsifies medical records (again) this time claim that Tim disclosed to her that he was sexually abused. Gurney's story is so unbelievable that Defense Counsel had to "testify" for Timothy because Tim wasn't aware of her scheme, Defense counsel had to "vouch" for Gurneys credibility in hopes the jury will believe it.

Patricia Carol Gurney did in fact sexually abuse my son Matthew, and that the Prosecution and Defense Counsel were fully aware of these facts prior and during the trial and continued to use her as their primary witness while fabricating the case against Petitioner.

REASONS FOR GRANTING THE PETITION

1.) This Petitioner, Bob Eugene West, imprisonment is illegal and the proceedings that the state of Oregon and its associates in Deschutes County Oregon, in 2005, resulted in a substantial denial of this petitioner's rights in violation of ORS 138.510 – 138.680, and violates the petitioner's rights that are guaranteed under the 5th, 6th, and 14th Amendments of the United States Constitution, therefore, the case must be reversed and vacated.

2.) An Evidentiary hearing has never been conducted in a State or federal Court, and once an evidentiary hearing has been conducted, the Court will find that this petitioner was wrongfully convicted of crimes that were committed by the State's primary witness against the petitioner, Patricia Carol Gurney, therefore, the judgement in Deschutes County Circuit Court Case # 05FE0621MS must be reversed and vacated.

3.) The court will find that in March 2004, petitioner's son, Matthew, disclosed to petitioner that he had been sexually abused by his mother, Patricia Carol Gurney. The Court will find that to protect herself, Gurney manipulated the Deschutes County District Attorney's Office into fabricating a case against the petitioner. Counsels were unaware that Gurney herself is the person who violated Matthew, using the District Attorney's office to conceal her crime, therefore, the judgement in Deschutes County Circuit Court Case # 05FE0621MS **must be reversed and vacated.**

Mrs. Garner, United States Supreme Court, you have been provided with plenty evidence to corroborate my claims against Patricia Carol Gurney and the lack of evidence to continue my incarceration. The question I pose is this: Is my son, Matthew, not entitled to justice?

CONCLUSION

The petition for a writ of habeas corpus should be granted.

Respectfully submitted,

Bob Eugene West-

Date: Bob Eugene West

DECLARATION UNDER PENALTY OF PERJURY: Pursuant to: 28 U.S.C. § 1746 – Un
Sworn Affidavit & declaration, I, hereby declare that the above statements and information are
true and correct to the best of my knowledge and belief and are subject to penalty of perjury, and
used as evidence in a court of law.

Dated this 7 day of February, 2024

Respectfully Submitted,

Bob Eugene West
Bob Eugene West

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