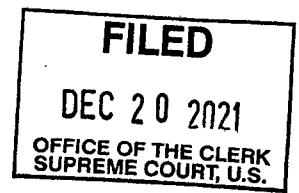


ORIGINAL

No. _____

23-7031



IN THE

SUPREME COURT OF THE UNITED STATES

BRYAN LEE GREGORY — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

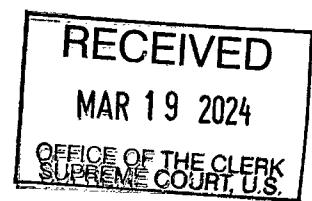
EIGHTH CIRCUIT COURT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

BRYAN LEE GREGORY
(Your Name) #32331045
F.C.I. MARIANNA FEDERAL PRISON
P.O.BOX-7007
(Address)

MARIANNA, FLORIDA, 32447
(City, State, Zip Code)

(Phone Number)



QUESTIONS PRESENTED

(1)

(1). WAS JUDGE STEVEN BOUGH BIAS FOR RAISING A AFFIREMATIVE DEFENSE FOR THE DEFENSE WHEN THE GOVERNMENT DIS NOT RAISE THIS DEFENSE OR IT DID NOT APPLY.

(2) ..

(2). DID MR.GREGORY RECIEVE A FAIR 28 USC 2255 BU UNBIAS JUDGE.

() (3)

(3). DID THE FEDEREAL DISTRICT COURT AND APPEALLANT COURT VIOLATE DUE PROCESS RIGHTS BY FAILING TO INQUIRE INTO HIS CONFLICT OF ENTEREST WITH HIS ATTORNEYS.

(4)

(4) WAS MR.GREGORY DENIED DUE PROCESS RIGHTS TO COUNSEL BY HIS ATTORNEY ADBANDOMENT DURING HIS HEARING TO WITHDRAW GUILTY PLEA?

(5)

DID THE APPEALLANT COURT DENY MR.GREGORY COUNSEL DURING HIS DERERECT APPEAL.

(6)

(6). WAS MR.GREGORY DENIES A FAIR 2255 PROCEEDINGS BY NOT BEING GRANTED A EVIDENARY HEARING.

() (7)

(7). WAS JUDGE BOUGH ALLOW TO DENY MR.GREGORY A CHANCE TO FILE A REPLY BRIEF.,

(8)

(8). COULD JUDGE STEVEN BOUGH ENFORCE A PLEA WAIVER WHEN THE APPEALLANT COURT ASSUME IN THE DERECT APPEAL IT DID NOT APPLY.

(9)

(9). DID THE COURT VIOLATE MR.GREGORY'S RIGHTS BY VIOLATING THE PLEA

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

STATUTES AND RULES

OTHER

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

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

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

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

reported at 21-2306; or,
[] has been designated for publication but is not yet reported; or,
[x] 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

Federal Case:

(1). On October 1, 2021, the United States 8th Circuit decided my case.
see
see, appendix-(A).

(2) AAttimley petition for rehearing was denied by this court on this day of December 21, 2021.

This Honorable Court has jurisdiction under 28 USCS § 1254 (1).

RELATED CASES

(A). Bryan Lee Grgeory vs Chris Bell Et al, 6:19-cv-033393, The Western District of Missouri, a 1983 Civil lawsuit.

(B) Bryan Lee Gregory vs USP Marion Warden, 3:20-cv-0035 NJR, Western Sourtern District of IL, 28 USCS 2241-Writ of Habeas Corpus.

(C). 21-2539- Petition for successive 2255,

(D). 21-1302 - Petition for Writ of Mandamus ,

(E) 23-23-2830-Writ of Mandamus , purusnat 28 USCS 144- Rule 60-B

(F). 23-2980- Writ of Mandamus P pursuant to 28 USCS 144-Rule 60-B

RE REASON FOR GRANTING THE PETITION

Mr.Gregory case is a misscarriage of Justice as its a complete denial of justice. Mr.Has never been given his one fair chance for a writ of habeas corpus. Judge Boughs ruling and actions in Mr.Gregory's 2255 proceedings is not just a abuse of discretion or bad ruling it's unlawfully. Mr.Grgeory Gregory was denied a copy of the record after a prison guard threw away all his legal papers and even his attorney's oringal trial file that Mr,Gregory possessed and was required to litigate his 2255 off memorie. Mr.Gregory was clearly entitle to a evidetary on his claims , but was denied the district and appealant court. Mr. Grgeory suffer bias by Judge Steven Bough all the way up to the Chief Judge of the 8th Circuit Judge Smith, to even the judicial counsel, There was noting fair within the meaning of justice in Mr.Gregory's 2255. This Court has held Id BANSTER, that a defendant is entitle to one fair chance in a writ of habeas corpus.. This Hornorable Court also held in id. Coppedge 396 US 438 (1960) that it's the duty of the United States Supreme Court to assure the greatest degree possible within the statutory frame work of Congress "equal treatment" for every litigant for everyone before the bar. Mr.Gregory was not even given a fair review by the appeal courts as they was just as bias as Judge Bough against Mr. Gregory as Mr.Grgeory was clearly abandone by his attorney during the hearing to withdraw his guilty plead , even told the court on the record "I" inform Mr.Gregory I have no ententions of getting behind him in his pro se motions to withdraw his guilty plead. Mr.Gregory trial record of the sentecing hearing is eat up with mutipals conflict of entersts but no body has inquired into this conflict, Mr.Gregory's attorney even withdraw from his drectrappeal because of this conflict. Mr.Gregory clearly has a sentencing error,that demands relief.

STATEMENT OF CASE

Mr. Gregory was indicted on a unlawfull indictment that was mult-
plious, chargeing with 2-counts for possessing the same firearm on
Count 1-10/28/2016 and Count 2- 10/29/2016. NOTE: this unlawfull
indictment was never challenge by the 5-attorneys appointed to re-
-persent Mr. Grgeory through out his case.

See full detail of Mr. Gregorys arrest at UNITED STATES VS. BRYAN
GREGORY, CRIM Doc 17-3077,

During Mr. Gregory's arrest that was recored on a officer's body cam shows that Mr. Gregory was search by the officer without being pat search, not once but twice. The officer did not pat search Mr. Gregory before he reach andewent into Mr. Grgeory's pockets . The officer unlawfull seized with propable cause to serch Mr. Grgeory's pockets \$120.00 in bills , 200 in change some stero wires , bottal caps , and a spent 30/30 shell caseing , and a eenscent burner that the the police label as meth pipe, but the enscent burner was bought leagaly and had no drug residue on it , nor did Mr. Gregory have any history of drug ussage.

The prosecutor used this so-called meth pipe to inflame the grand jury and the judge of the suppression hearing. [A]nd even though the vedio of the cops unlawfully seizure of the shell casing this unlawfull search and seizure was never challenge by 5-different attorneys that was appoint to Mr. Gregory by the court.

POST SUPPRESSION HEARING

Mr. Gregory had a post counsel hearing conncerning counsel Darryl Johnson, Mr. Grgeory felt like he was not prepare to due the suppression hearing as he did not do nothing to prepare for this hearing. He did not inspect the 30-30deer rifle. Note: After the defendant pleaed

guilty and finally saw pictures of the gun he discoverd that the gun could had been used as evidence to impeach the governments witnesses as it was burnt physcially impossiable and inconsisent with the laws of nature that what the witness testified to in the supresion heing hearing. Mr.Gregory later found out that this attorney made the Government aware of the fact he was the owner of his truck and had right to contest to the serach of his truck. This caused the goverment to conspire with his witnesses and committ prejury about where they located the gun in r.Gregory's truck and how they loccted it.

During this hearing on July 24, 2018, Crim. No. _____, Judge Rush told Mr.Grgeory he had been a prosecutpr for 19-years and as a prsecutorhe prosecuted pepole who he thought was innocent until they started repesenting them selves and then he knew they was guilty see exhibit-(K).

During this hearing Mr.Gregory enform the judge that he had not seen no photos of the gun yet , but he knew that the gun was not going to be burnt as to what the government's is stating , he even ask the judge for espenses to hire a expert witness.

Judge Rush statement was material evidence that he was "bias" as he clearly stated that he prosecuted pepole who he thought was innocent at frist. This denied Mr.Gregory his rights to a fair trial to have his supression hearing by unbias judge.

SUPPRESSION HEARING

Mr.Gregory was appointed Brady:A.Muskgrave. This attorney question no witness, he did not examine the gun. This attorney allowed the government to disclose Brady evidence during the supression hearing, thus violation Mr.Gregory's rights under Brady, and even hide these photos from Grgeory until after he pleaed guilty. If Mr.Gregory would

had known that this photo's existed He would had never had plead guilty and would insisted going to trial preserving his rights to appeal. These photo's was a picture of the gun full length , both photo's was brady evidence that could been used to impeach the government witnesses. His attorney also hide the contents of a 8-second video of West police Sgt Ellisons body cam. This video was enter into the evidence as exhibit-(5). This video is material evidence that (1). His attorney knew that the witness committed prejury and that the prosecution knew his witnesses committed prejury, (2).The government knew that the witness was lying.

Even though this video was addmited into evidence that day and played to the judge it was only 8-seconds long and Mr.Gregory is near sighted and did not have glasses so he did not get to see this video. His attorney show Mr.Gregory this video and He did become aware of it until after his direct appeal when he started representing himself pro se, he had obtain his attorney's orningal trial file and Mr.Gregory finaly got to review this video in prision .

Mr.Gregory's attorney failed to use this video in the supression hearing to impeach the witnesses and it could had change the outcome the of the supresion hearing.

Mr.Gregory's attorney amounted to no attorney at all as he did not question no witnesses, he did not inspect the gun, he hide evidence of the photos and video from him. He hide the information from him that he knew that the government witness committed prejury, and that the prosecutor knowly used prejury testimony during the supression hearing. He did not inform Grgeory that he had a right to appeal the magistrate judge's ruling to the district judge.

GUILTY PLEA CONTRACT

Mr. Gregoy's attorney trick him into a plea agreement that only benifited the government and not him whatsoever! This attorney orinaly to to get him to agree to a a 4-point enhancement under USSG 2k2.1, that was part of the opingal plead agreement Mr. Gregory on his own refused to agree to these 4-points as he knew that he was not guilty of it.

Mr. Gregory's attorney also told him that the stepuated set vof facts of the day of 10/28/26 did not consist of his adledged pursuit with the West Plains Police Department. Mr. Gregory even ask him that very question as he still had pending charges in Howell County Missouri and knew that he could not enter into a guilty plead concerning that pursuit.

His attorney also enform him that pursuant to the plead argreement that the government could not argue for anymore enhancements outside what was in the plea agreement.

His attorney also enform him that he could appeal any prosection misconduct prior to pleading guilty has the contract clearly reads that Mr, Gregory could appeal prosecutor misconduct and ineffective assistance of cousel to thye finding of guilt"

The plea agreement stated that Mr.Gregory would plea guilty to a "SOLE COUNT"

During the rule -11 hearing the court did not enform Mr.Grgery to what count of the two count indictment he was pleading guilty to, thecourt did explain what rights he was waiving in his plea agreement and the court did not even enform Mr.Gregory to what he was even was pleading guiolty to.

The record is bare of any of this factual evidence , Note: How could the appelliant court rule in the derect appeal that Mr.Gregorys plead

knowly when the indictment had two counts and the plea agreement statedd that he was pleading guilty to a sole count, so which count did Mr.Gregory plead guilty to , the record is bare of that fact.

POST SENTENCING HEARING

Prior to the sentencing hearing the defendants attorney came to see at the county jail, During this meeting Me, discovered that his attorney had some photos of the gun and of the crash sceen of his truck hehad never seen before. He ask his attorney if he could look at them and he discoverd that these photos was Brady evidence n his favor. He ask his attorney if he could have then as sovernies , Note: That in the ~~Southern~~ District , of the Western District Courts "by court rules defendants are not allow to possess copys of their discovery and can only review it when thier attorney dicloses it tyo them.

Mr.Gregory did not say nothing to his attorney of what he discovered as he was in fear that he would take these photos back. When he got back into his unit he gave these photos to a friend to hide and the very next day started calling his attorneys office demanding to talk to his attorney toifile a motion to withdraw his guilty plead. This attorney refused to speack with Mr.Gregory, Mr.Gregory and his family and friends cal his office over a 100 times, but he refused to speack with him. Mr.Gregorys cellmate was his attorney's client and even came to see him , his name was Bryan, before His cellmate seen Brady A Muskgrave that day , Mr,Gregory told his cellmate to tell Brady that he wanted to talk to him, when his ceelmate to Brady this , Brady told his ceel mate , that Mr,Gregory was apain in his ass. And Brady refused to speak with Mr.Gregory.

Mr.Gregory finaly run into his attorney in the jail hallway while he he was doing legal research. Mr.Gregory clearly told him that he wanted

AND NOT ALLOW HIM TO APPEAL CLAIM-(29), AS THIS WAS A CLEAR SENTENCING
ERROR AND MR.GREGORY RAISED THIS CLAIM THAT HIS ATTORNEY WAS INEFFECTIVE
FOR NOT OBJECTING TO THE PSI REPORT THAT COUNTED A UNLAWFULL DWI
CONVICTION THAT HE SERVED TIME FOR AS A HISTORY POINT.

to withdraw his guilty plead and why, he also told him that he wanted to withdraw his guilty plead as the federal government and the City of West Plains Police department violated state law §513.647 Rsmo 1994, As this law mandatedsthat the government obtain permission before they release any property that was seized by the local and state police departments to any fderal government agencies. The firearm was unlawfully releasae to the ATF by the police department, as the court pursuant to §513.647 Rsmo 1994) did not apporve this transfere of 30-30 deer rifle, and the federal court did not have jursidiction over the gun to prosecute Mr.Gregory because the Howell County State of Missouri still had jurisdiction over the res as it still had pending charges against Mr.Gregory for being a felony in possession of a firearm. Mr.Gregory refuseed to file any motions at Mr.Gregorys reqwest to withdraw his guilty plead so Mr.Gregory filed theses motioins prose, see civil Do (86) (93) (94).

SENTENCING HEARING

Prior to Mr.Gregory's sentencing hearing that morning his attorney had call out for a attorney client meeting in the basement of the court house, When his attorney tried to trict and munipulate Mr.Gregory in another deal conspiring with the government and judge Bough. He tells Mr.Gregory I think i got a deal for you , If You well acceppt the 60point inhancement under USSG 1B1.3 , he could get the Government to drope the 4-point inhancement under USSG 2K2.1 , That Mr.Gregory refuse to accept on his on advice . Mr.Gregory ask his attorney are you "fucking nutts" why would I accept a inhancement that violates the plea agreement, to get the prosecutor to drope a inhancement that he knew he could beat. and he askd his attorney have you been in a meeting with the judge and prosecutor, and ask why would you as that

question, and Mr. Gregory responding back to his attorney it's that
fuck deal you just tried to trick me into. Note: His attorney did not
deny this meeting them or in a affidavit in Mr. Gregory's 2255 proceedings

HEARING TO WITHDRAW GUILTY PLEAD

Prior to being sentenced the court took up Mr. Gregory's pro se motions
to withdraw his guilty plead, the judge denied them one of the reasons
he was represented by Counsel. "BUT" Mr. Gregory had been abandoned and
was without counsel at a critical stage of his criminal proceedings
his attorney even inform the court that he told Mr. Gregory that he
had no intentions of getting behind his pro se motions to withdraw his
guilty plead, This is material evidence of fact on the record that
his attorney abandoned him during this hearing to withdraw his guilty
plea, and that they was conflict of interest with his attorney. And
Mr. Gregory was forced to be represented by counsel that the court
was aware of the conflict of interests and not to be represented at all.
This fact along : That Mr. Gregory was abandoned by his attorney and
not represented by counsel demanded Mr. Gregory's conviction be vacated.
See exhibit (A) , Crim Doc-105, pg 4-Ln. 4-10

After the court over ruled his pro se motions to withdraw his guilty
plea Mr. Gregory objected the PSI report that the government violated
the plea agreement pro se in oral argument by adding a enhancement
of (181.3) that was not part of the written plea agreement see-
exhibit-(C), Crim Doc-105 pg-4 ln. 4-10. "BUT" when the Court
question Casey Clark :federal prosecutor he respondent to the court
that the government had read the psi report and had [NO OBJECTIONS]
to the psi report, see Crim Doc-105, pg-7, Ln.8-13.

The federal probation officer Karla Duryea who wrote the psi report
also stated in the psi report addem also stated that the government

had [NO OBJECTIONS] to the psi report, see EXHIBIT doc-(L).

After Mr.Gregory was forced to represent himself unwilling he received his trial attorney Brady A.Muskgraves trial file of case by attorney Ms.Elizabeth Unger Carlyle and he discoverd a email that was sent from federal prosecutor Casey Clark to probation officer Karla Duryea objecting to the psi report to add the 3A1.2(c) enhancement.

This federal prosecutor Casey Clark and psi writer probation officer conspired to violated Mr.Gregorys civil rights to a fair trial as they conspired to circumvent the plea agreement by making the record look like the the psi writer advocated for this enhancement as the probation office or the court was bonded by the ple agreement.

Mr.Gregory was clearly denied a fair sentencing hearing and appellate review as prosecutor Casey Clark committed "prejury" and fraud upon the court, and psi writer falsified a written document to the court to defraud the court. These two committed real federal crimes.

Mr.Gregory's attorney was very aware of this fraud upon the court but did not object to it, see exhibit-(E) Crim Doc -105, pg-8 Ln.16-20.

(a)nd even though he knew that the government had objected to the psi report and had committed prejury and lied to the court and psi was falsified about this objection , in his conflict of enterst with Mr. Gregory also advocated for the government , see exhibit (b) Crim Doc- 105 pg-6 ln.9-11. He stated that theres no agreement by the probation office as to the "calculation or agreed upon guidelines" Certainly it's not binding upon you. Its evident based upon his testimony to the court guidelines in the plea agreement was binding on the government and he had a conflict of enterst with Mr.Gregory by fraud upon the court making it look like that the psi writer advocated for this enhancement over Mr.Gregorys objection that the government violated

the plea written agreement, and if the plea agreement allow the government to advoacte for any more enhancement not in thje plea agreement he would had certainly inform the court of this, [B]ut he did'nt.

Mr.Gregory also objected to the fact that the enhancement day of the 10/28/2016 , that it involved a day he did not know he was pleading guilty to. He thought he was pleading guilty to the day the firearm was seized 10/29/2016, and that he was not guilty of having the firearm during the adledged pursuit of 10/28/2016, see exhibit-(C). pg-4, ln. 11-17, Crim Doc-105.

Mr.Gregory continue to argue that he was not in possision of that deerb rifle the night of 10/28/2016 during that pursuit, (B)ut his attorney keep argueing against him see-exhibit-(E) Crim Doc-105, pg-25, Ln.2 20-21. Out nowhere he told the court that Rhonda said all along "I think he put it in the car that night, this was tottaly inconsistent and a conflict of enterst with Mr.Gregorys statement and testimony to the court that he was not in possession of that gun durring the adledged pursuit of 10/28/2016,

The judge agreed with Mr.Gregory that the testimony we just heard onds the 28 had nothing to do with a gun, see exhibit-(E), Crim Doc-105, pg-22, Ln.1-17.

Mr.Gregory's rights was violated under rule -32 as the government did produce no evidence on the record when Mr.Gregory disputed these facts in the psi report.

The government did not raise any defendences, but sand bag defense , and claim in the derect appeal that he need to prove that Mr.Gregory had that gun during that pursuit as he all all ready stepuated to that fact in his plea written agreement. But the stepulated facts in Mr.Gregorys plea agreement does not set a time frame, and his plea agreement stated

that he was pleading guilty to a sole count, see Crim Doc-()). And Mr.Gregory was inform by his attorney, that the set of setuplated facts of the day of 10/28/2016 was not during the time period of the adleged pursuit as he clearly question about this fact as he had pending charges in Howell county Missouri over this adlegded inccident. (A)nd once again his attorney argue against Mr.Grgeory caliming that the factual basis for the plea agreement accounted for both days see, exhibit-(b) Crim Doc-105, pg-6 , Ln.7-9.

IT IS EVIDENT ON THE FACE OF THE SENTENCING RECORD THAT MR.GREGORY WAS ABANDONE BY HIS ATTORNEY AT A CRITICAL STAGE OF CASE , IN HIS HEARING TO WITHDRAW HIS GUILTY PLEA , AND THAT HE HAD A CONFLICT OF ENTERST DURING THE SENTENCINGHEARING. And even though this conflict is evident on the face of the record even when Mr.Gregorys attorney pointed this fact out to the court when he told the court that he informed Mr.Gregory that he had no ententions of getting behind his proesse motions to withdraw his guilty , it did not inquire into this conflict.

POST DERECT APPEAL APPEAL

After Mr.Gregory was sentence he called his attorney and inform him that he wanted to appeal his case , his attorney went and seen him at the county jail. Upon this meeting he tried to get Mr.Gregory to sign some paper worl allow Ms.Carlye to repersent him in his derect appeal. Mr.Gregory inform him that he would not allow anybody he knew repersent him in a seat belt ticket "as he got him 10-years in prison" and he responded back to Mr.Gregory , YOU DESERVED 10-YEARS AS YOU ALL MOST KILL THAT GIRL IN THAT WREAK, NOTE ; she only had a cut broken finger. Once again this attorney clearly had a conflict of entersty with Mr. Gregory. When Mr.Gregory raised this fact in his 2255 his attorney did not dispute this fact in aaffidavit, his attorney did not dispute

any of Mr.Gregorys facts outside of the record as he did file a affidavit in Mr.Gregorys 2255 proceedings.

DERECT APPEAL

Mr.Gregory's attorney filed a motion in the 8th Circuit to withdraw from the derect appeal . his good cause being "irreconcible differes" or conflict of enterst, inappeali# 19-1583, (and) even though that Mr.Gregory would not sign the papers agreeing to allow Ms.Carlyle to represent him attorney Brady Muskgrave and Ms.Carlyle still put her on his motion to withdraw to have her assign to his case in a conflict of enterst with Mr.Gregorys wishes as clearly inform his attorney that he did not want her on his derectr appeal and even refuse to sign the paper work to alow her to represent him in his derect appeal. See-exhibit-(G).

Mr.Gregory then filed a pro se motion to be appointed new counsel as he had a conflict with of enterst with Ms. Carlye.

The Court denied Mr.Gregory's motion for new conflict free counsel and was mandated to represent himself pro se against his own wishes . Micheal Gans without judicial authority allow his attorney to withdraw pursuant to rule 27b. as this withdraw was only allow leave of the court for good cause shown. The court futher violated Mr.Gregorys Due Process right under 27b has Mr.Gregory did not consent to allow her to represent him in his derect appeal, Mr.Gregory had a due process protected right not to consent to attorney that agreed to represent him in his derect appeal. Even though he doesnot have a choice to a perticalur attorney but he has a due process right protected by court rule 27b to either consent or not to consent to any attorney his attorney trys to force upon him him in his derect appeal.

The 8th Circuit Court of Appeals futher violated Mr.Gregory's Due Process

as it did not inquire into why Mr.Gregory wanted a differnt Counsel,
(2). It did not inquire into Mr.Gregory's conflicxt of enterst claim with this attorney,

(3). It did not inquire in rather Mr.Gregory was waiving his rights to counsel was knowly and voluntary.

All these 3-things is mandated by the United States Supreme but was not done by the 8th Circuit Court of Appeals.

The Appealant court forced Mr.Gregory to represent himself without a attorney, and violated its own court rules while doing this.

The 8th Circuit Court of appeals allow the government to violate the agreement as the plea agreement clearly stated that Mr.Gregory could appeal the finding of guilt or Mr.Gregory attorney lied to him about this.

ether way the court violated the plea agreement or Mr.Gregory's plea was not knowly as his attorney told him that he could appeal any prosecution misconduct prior to pleading guilty to his charge. See Crim

Doc 76, pg-10, WAIVER OF APPELLANT AND POST CONVICTION RIGHTS:

(a) The defendant acknowledges , understands and agrees that by pleading guilty pursuant to this plea agreement, he waives his right to appeal or collaterally attack a finding of guilty following the acceptance of this plea agreement , except on the grounds of (1). ineffective assistance of counsel or (2). prosecutorial misconduct; and b. The defendant especially waives his right to appeal his sentence on any ground except claims of (1). ineffective assistance of counsel (2) prosecutorial misconduct or (3) illegal sentence .

When Mr.Gregory raised the issue that the government suppressed evidence and knowly used prejury testimony in the suppression hearing , the appellant appellant ruled that Mr.Gregory waived all rights to challenge any thing prior to his guilty plea, and cited a case that was not controlling

on Mr. Gregory issue as this person only plead guilty outright Mr. Gregory had a condictional plea that preserved his right to appeal prosecutor misconduct to the finding of guilt. Even the case the Court cited for Mr. Gregory's challenging his issue of speacial Conditions of his supervise release.

Mr. Gregory rasied in issue (4) that the government violated the plea writtern agreement by advocating for the (181.3) inhnacement , in the government response Prosecutor Casey Clark argue that the Psi writer Karla Duryea was the the one who advocated for this inhnacement. After Mr. Gregory had been repersenting pro se after he filed his appealant brief Attorney Ms. Carlyle sent Mr. Gregory his trial attorney's oringal trial on Mr5.Gregorys case this consist of some videos and Mr. Gregory's oringal letters he wrote his attorney and the copies of the letters that he sent to Mr. Gregory.

When Mr. Gregory recievede this file he discoverd exhibit-() a Email from Prosecutor Casey Clark to Probation Officer Karla Duryea who wrote the psi report and Mr. Gregory discoverd that Prosecutor Casey Clark had committed Prejury during the sentencing when he testify to the court that he did not have no objections to the psi report,, and probation officer Karla Duryea committed fruad upon the court by falisfing the psi report claiming that the government had no ojections to a psi report, these unlawfull acts alone denied Mr. Gregory a fair sentencing hearing and appealant review of this claim. (B)ut when Mr. Gregory sent the Appealant court a copy of this email as exhibit support his new sumplimental brief challenging this fact , 8Th Circuit Court Clerk Micheal Gans "REFUSED" to file it and foward it back to Mr. Gregory unfiled [a]nd the Appealant judge panel refuse to address or rule on Mr. Grgeorys claim even though prior judge panel had ruled

that there was no reason why the appellant court could not rule on and address this issue, thus the crinal jurisdiction of this issue lies with the appellant court and the district lack jurisdiction over this issue and this appellant court's ruling was not a final order subject to review even by the United States Supreme Court on a Writ of Certiorari. The 8th Circuit:Appeallant court refused to address and rule on the merits because Mr.Gregory had previously sent the court a supplemental brief and the Governments very own email that was evidence of material fact the government committed a federal crime during the sentencing hearing of prejury and the federal Probation officer "Karla Duryea" committed fraud upon the court by falsifying that the government had no objections to the Psi report , note : that when Mr.Gregory raised this issue that The prosecutor Casey Clark and probation officer Karla Duryea conspired to sucumvent the plea written agreement, Karla Duryea did not file no affidavit disputing this fact.

WRIT OF CERTIORARI OF HIS DRECT APPEAL

After the Apeallant Court denied Mr.Gregorys Derect appeal , see, USV v. Gregory , 788 Fed Appx 1038 , 8th Cir 2021 , Mr.Gregory was placed in the Speacial Housing Unit at USP Marion , aka "SHU" when the officer Mr.Merryman pack his property out of malice he threw away all Mr. Gregorys property that constin his attorney's oringal trial file , that containm all of Mr.Gregorys oringal letters that he sent his attorney concerning his case. Mr.Gregory was denied his right to to appeal: his derect appeal to United States Supreme, Mr. Gregory then file a 28 USCS 2241 in the Estern District Court of Illinois, see 3:20-cv-100350 -MJR , SW Dist 7/1 , Mr.Gregory argue in this petition that he was denied his right to appeal his ruling to the United States Supreme in a writ of Certiorari , and

that it prevented him from prosecutong his 2255 motion as this BOP Prison Guard a agent of the plaintiff in this case threw mateial evidence that could help prove his conflict of enterst claims and ineffective assitence claims against his attorney.

Even though Mr.Gregory felt that this couerts ruling was in error, as the court ruled that he could raise this issue in a 2255, Mr. Gregory did not appeal it as he was running out of time to file his 2255, and reguardless it had served it's purpose as Mr.Gregory did not want to file this issue derectly in the the 2255 and the court hold that the the 2241 was proper legal vehicle.

28 USCS 2255 PROCEEDINGS

When Mr.Gregory filed his 2255 yhe filed it based soley off of memorie as this guard had threw away his all of his legal file, [REDACTED] Mr.Gregory even filed a motion to get anothe copy of the record and transcripts but was denied this request by Judge Steven Bough see- Civ Doc -29,

Mr.Gregory also filed a motion and request to the court to require the prison to provide Mr.Gregory with a pen , paper, access to a law computer. Mr.Gregory had to trade his only food he got in then SHU for stamps so he could trade for this items from other inmates, But was denied this request, see Civ Doc-39

Mr.Gregory also filed a motions for judge Steven Bough to recuse himself see Civ Doc 15.

Mr.Gregory also filed a writ of mandamus under case 21-1302 pursuant to these prior motions under 28 USCS 455. Judge Steven Bough never served Mr.Gregory was a copy of his respose as order by the appellant court, and Mr.Gregory was not allow to file a reply brief , as Micheal Gans submietd his response to the judge panel the very next day and

entitled Mr. Gregory his 7-days as allow by the court to file a reply brief.

MR. Gregory also filed a separate motion under 144 for judge Bough to withdraw with support affidavit and the court refuse to address it so Mr. Gregory attempted to file another writ of mandamus [b]ut pursuant to 28 USCS 144, see Civ Doc-47 , it is a filer of 455 Mr. Gregory tried to seek another writ of mandamus against Judge Bough pursuant to the petition under 144 that is a differnt law than 455 and is not a successive petition of 455, But Micheal refuse to file it, and label it as only a letter to the court and filed it under 21-1302 on 5/03/2021,

When Micheal refused to properly file it Mr. Gregory tried to file a writ of mandamus against Micheal to him court order to file the new writ of mandamus against Judge Steven Bough, once again this was filed as a motion for reconsideration, on 6/11/2021. "A"nd even though the court did not have jurisdiction to rule on this denied it, but this evidence of material fact on the record that this Judge Panel was very aware of this constitutional violation of Mr. Grgeorys right but became part of the conspricy with Micheal Gans and Judge Steven Bough to deny Mr. Grgeory access to the appealant or review of the United States Supreme Court as his 90-day time periood was up, and that case number was mooted tharts why Micheal Gans Court Clerk and this Judge Panel did this.

In Mr. Gregorys 2255 he request for a evidetary and Mr. Gregory was entitle to a evidetary hearing as he adledged facts that was outside of the record these facts consitted of :

(1). His attorney hide evidence from him some photos and video, that if Mr. gregory had been aware of this Brady evidence he would never

pledged guilty and his attorney hide this evidence from him in this attorney conflict of enterst with him.

(2). Mr.Gregory stated facts that the lasty time he saw his attorney at the jail ,"His attorney tol him he deserved 10-years!"!

(3). His attorney told him that the government could not add any more sentencing ihanacement outside the written plea agreement.

(4). His attorney told him that the set of sepulated facts of 10/28/2016 did not consist of the adledged pursuait of the DWI check point in West Plains Missouri.

(5). His attorney told him that the plea agreement "allow him to appeal any prosecutor misconduct priopr his enter a plead of guilty.

NOTE: Mr.Grgeory's attorney Brady A.Muskgrave did not file no affidavit disputing these facts .

Mr.Gregory stated facts that Judge Steven Bough and the Prosecutor had ex parte commucations and meeting prior to his sentencing hearing and discuss the merits and issues in Mr.Grgeory's sentencing hearing
NOTE:: The government did not dispute this fact in his response brief.

(A). Mr.gregory stated fact that the government suppressed and hide the vedio from the fire truck as the firechief "Kurt Wilbanks" inform Mr.Gregory that the government , the police department and prosecutors office came and seized the vedio from the fire truck that recorde the unlawfull search of his Truck. This vedio could had been used even in his sentencing hearing to empeach West Plains City Police Officer Sgt Ellison testimony in this hearing as this vedio is evidence that he committed prejury during the the hearing to supresse the evidence of the gun/deer rifle.

Mr.Gregory stated fact that the prosecutor Casey Clark and probation psi writer Karla Duryea conspire to violate and surcumvent Mr.Grregory's

plea agreement with United States .

NOTE: PROBATION OFFICER : PSI WRITTER KARLA DURYEA DID NOT FILE NO AFFIDAVIT DISPUTING THIS FACT!!!!

Mr.Gregory was clearly entitle to a evidetary but was denied this right as held by the United States Supreme Court being bias against Mr.Gregory .

Judge Bough futher violated Mr.Grgeory's rights under law is that he did not allow Mr.Gregory file a relpy brief as allow in 28 USC 2255.

JUDGE BOUGHS UNCONSTITUTIONAL RULING IN THE 2255

EVEN THOUGH THE GOVERNMENT DID NOT RAISE THE AFFIRMATIVE DEFENSE THAT MR.GREGORY WAIVED HIS RIGHTS TO CHALLENGE THESEES CLAIMS JUDGE STEVEN BOUGH BEING "BIAS" RASIED THIS DEFENSE SUE SPONTE , AND SOME OF THESE ISSUE WAS NON WAIVIABLE AND/OR MR.GREGORY WAS ALLOW TO APPEAL THE ISSUE.

ISSUE-6

In issue-6 Mr.Gregory raised the claim that the prosecutor committed prosecution misconduct during the sentencing hearing as he knowly committed "prejury" about having any obection to the psi report. Mr. Gregory even filed a email mail the prosecotor Casey Clark as evidence objecting to the psi report as evidence. Note: Mr.Gregory was allow and preserved this issue to appeal in the written agreement: And even though the government did not did not raise any affirmative defenses that Mr.Gregory waived his right to appeal this issue Judge Steven Bough being bias raised this defense sue sponte and allow the government to violate the plea agreeemnt , "but" become a advocate for the government .

ISSUE -8

In issue -8, Mr.Grgeory raised the issue that he "had a conflict of

interst with his attorney" Note: Mr.Gregory was allow to challenge ineffective assistance claims [a]nd the government did raise any affirmitive defenses claiming that Mr.Grgeory waived his right to appeal this issue , Note: Judge Steven Bough being bias rasied this defense sue sponte in favor of the government and it violated the plea agreement : MORE IMPORT... Is that the court failed to inquire into Mr.Grgeorys multipal conflicts of intersts issue on the record.

ISSUE-9

In issue -9 Mr.Gregory rasied the claim that he was sentenceby a bias judge as Judge Steven Bough had ex parte commucations and meeting concerning his sentencing hearing prior to his sentencing hearing. Note: the government did not rasied any affirmitive defenses that Mr.Gregory waived his right to appeal this issue [a]nd under 28 USCS 455 (E) , this conflict can not be waived under section 5 b of 455.

ISSUE -26

Mr.Gregory rased in issue 26 that the government /court did not have jurisction to prosecute him because the State of Missouri still had jurisdict of the gun/res in Howell County Missouri as the gun was subject to foriture criminal proceeding of Mr.Gregory's state charge for being a convict felony with a firearm. And Under state law §513. 648 Rsmo 1994, the state of Missouri did not give the local law permission to release the gun to a federal agency. Note: The government did not rase no waiver defense , futhermore a courts jurisdiction can not be waived

ISSUE -28

In issue Mr.Gregory raised the issue that the court or his attorney did not inform him of the rights he was waiving, Note , The goverment

did not6 raised no waive of of defense and Mr.Grgeory was entitle by law and plea agreement that he was allow to appeal this issue.

ISSUES 131-32

IN these isue Mr.Gregory raise the issue that he was denied as the courts as the denied him access to the courts and threw away his legal papers and his attorney trial file , This misconduct done by the United States and he is allow to appeal prosecotor misconduct.

ISSUE 34

IN ISSUE-34, Mr. Grgeory raised the issue that he was denied his 6th amendment right to assit in his defense because of District Court denied Mr.Gregory his right to possess in his own discovery, Note: The government did not raise a waiver defense and Judge Bough being bias raised in the government behafe, allow the government to breach it's own written contract with Mr.Gregory.

ARGUMENT IN SUPPORT

Mr. Gregory went in depth with his statement of facts as He wanted to show this Honorable how many times his rights has been violated . Everybody , local , state and federal governments , every federal and clerk has conspire to deny Mr.Gregory had Due process rights to a fair trial. (but) Mr.Grgeory is requesting the court to review only a few issues and they did not a coa to appeal.

QUESTION -1

WAS JUDGE STEVEN BOUGH BIAS FOR RASING A AFFIRMTIVE DEFENSEFOR THE DEFENSE WHEN THE GOVERNMENT DID NOT RAISE THIS DEFENSE OR IT DID NOT APPLY.

Judge Steven in his bias as acting as a agent for the goverment pursuant to rule-8 , sue sponte rasied a defense that Mr.Grgeory did not waived

In BURGESS VS.UNITED STATES , 874 f3d 1292 (11th Cir.2017) held that district court lack authority to invoke its own sense of collative action waiver from the defendant plea agreement and dismissed the defendants motion on the basis applying Fed R.C.V.P (8) (C) (12) (b) and (15) (a) was not inconsistent with the rules governing 28 USC 2255 proceedings so that government forfeited a collateral action waiver defense by failing to expressly invoke the defense), (In GREENLAW VS. UNITED STATES , 554 US 237, 243 (2008) , This Honorable Court held , if a court engages in what may be preserved as a bidding of one party by raising claims or defenses on its own behalf the court may cease to appear to be neutral arbiter and that could be damaging to our system of justice . It further held abiding the federal rules of civil procedures for raising affirmative defenses avoids this problem , a court may not override a states default 2244 5 (b) defenses. WOOD VS MARYLAND 566 US 463 464 (1012).

This issue is more troubling in Mr. Gregorys case because he was either allowed to appeal these issues per plea agreement or it was non waivable. The 8th Circuit held in STATE VS. LEWIS, 673 F3d 758, (2011) Allowing the government to breach the promises that induce the guilty plea violates Due Process, If the government breaches the plea agreement is no longer enforceable as before , Allowing the government to breach the plea agreement especially one by the District Court agreed to be bonded implaicates the Honor of the government public confidence in the fair administration of Justice and effective administration of justice in the federal scheme of the government.

Also see...SANTOLELLO VS. NEWYORK, 404 US 257 (1971).

Judge Steven Bough being biased allowed the government to violate the plea agreement as he advocated for the government to raise defense

that violated the plea agreement or was non waivable like issue (9) , Mr.Gregory raised the issue that he was sentence by a bias judge as the judge had ex parte communications and meeting with Federal prosecutor Casey Clark and discussed the merits of his sentencing hearing. Under 28 USCS 455 (E) this issue can not be waived, but here this bias judge used his judicial power because he had a pernicious interest in the outcome of that issue. Rather its 144 or 455 , it's rather a reasonable person of knowledge of all facts would conclude that the judges impartial might be question. "[T]his is an objective standard, so what matters is not reality of bias or prejudice, [ITS APPERANCE], LIKEY VS UNITED STATES ,510 USW 540, (1994), objective standard ...WILLIAMS VS PENNSYLVANIA, 579 US 1, (2016).

QUESTION -2

Did MR.GREGORY RECEIVED A FAIR 28 USCS 2255 HEARING BY UNBIAS JUDGE. Mr.Gregory filed a couple of motions pursuant to 455 to require Judge Bough to recuse himself, Mr.Gregory also filed a 28 USCS 144 petition that the court would not rule on , [and] Mr.Gregory also raised in issue (9) of his 28 USCS 2255 petition that he was sentence by a bias judge as Judge Steven Bough had ex parte communications with the prosecutor Casey Clark prior to his sentencing hearing and discuss the merits of issues in Mr.Gregory sentencing hearing.

A defendant is entitled to Due Process at the sentencing hearing.. TOWNSEND VS BURKE , 334 US 736 (1948). Its improper for the prosecutor to convey any matter to the merits of a case or sentence with the judge absent of counsel, HALLER VS. ROBINS 409 F2d 857, (1st Cir.1969) While the court is entitled to report of criminal conduct charge there there is no particular necessity for such to be made by prosecutor ex parte, there being however an invasion of a constitutional right. The burden

of proven of lack of prejudice is on the state [a]nd it's a heavy one. ... CHAPMAN VS CAL, 386 US 18 (1967). Judge Steven Bough had a duty under law to recuse from Mr. Grgeory 2255 proceedinds as he had file a motion pursuant to 28 USCS 144 with supporting affidavit made in good faith that Judge Bough had esparte commucations and meeting with federal prosecutor and discuss the merits of Mr. Gregory sentencing hearing prtior to the sentence hearing. This Honorable Court has held in BERGER VS UNITED STATES 255 US 22, 41 (1921), If the affidavit is sufficant than the judge could pass upon it's legal sufficency , [b]ut he could not pass upon the truth or falsity of facts affirm and was ~~without~~ was without authority to try defendant. Judge Bough had another futher duty to withdraw under 28 USC 455, pursuant to WILLIAMS VS PENN, 599 US 1 (2016). As Judge Steven refusing to withdraw when he would had a percuray enterst in the outcome proceedings , and then rule that Mr. Gregory waived his right to appeal this issue and its non-waivable under 28 USCS 455 (E), would and does appear to bias, and he had knowledge of these undisputed facts and denied Mr. Grgeory even a evidetary to prove this claim.

Note: Mr. Gregory did not need a COA to appeal this issue , see NELSON VS UNITED STATES, 297 Fed Appx 563 (8th Cir.2008), but Mr. Gregory was denied his right to file a brief of error /appeallant brief by Micheal Gans Court Clerk, or the Appeallant judge panel itself. The 8th Ciruit held IN RE KANSAS PUB.EAMPLES RETIREMENT SYS, 85 f3d 1533 (1996). thatsin 28 USCS §455)b) (5) (iii) which requires recusal if the judge or a person or a person with the 3rd degree of relation to him is known by the judge to have a enterst that could substantially afflicted by the outcome of of the proceeding. The enterst discussed in §455 (b) (iii) includes noneconomic as economic interst and 282USCS:§455 (e)

Provides that a 28 USCS §455 (b) "cannot be waived", so why would judge Steven Bough knowing the law, rule that Mr. Gregory waived his right to challenge this issue, when he did not waive this right in his plea agreement as his plea agreement clearly states that he is allowed to appeal a legal sentence, be sentence by a bias judge who did have authority to sentence Mr. Grgeory would make his sentence unlawfull. and the law states this conflict can not be waived, "unless" he is bias, as he broke the law and did not have power to make that ruling.

QUESTION -3

DID THE FEDERAL DISTRCIT COURT AND APPEALLANT VIOLATE DUE PROCESS RIGHTS BY FAILING TO INQUIRE INTO HIS CONFLICT OF INTEREST WITH HIS ATTORNEYS.

Prior to Mr. Gregory being sentence he discoverd that his own attorney had hid and with held some photos from him prior to being sentence. Mr. Gregory filed pro se motions to withdraw his guilty plea after his attorney would not do it, see Crim Doc 86-90-94, also see Crim Doc-105, pg-3-12 pg-12-22. Mr. Grgeory even inform the court that he told Mr. Grgeory that he had no ententions of getting behind his pro se motions to withdraw his guilty plea. During throught this hearing Mr. Gregory's attorney keep objecting to Mr. Grgeorys testimony. Mr. Gregory even stated in 2255 , that his attorney told him he deserved 10 years for all most killing the girl in the wreak Note : She only had a cut and broken finger, (a)nd his attorney did not dispute that he told Mr. Grgeory that in a affidavit in his 2255 proceedings , as his attorney did not dispute any of the facts that Mr. Gregory stated about him. This attorney even withdraw from his direct appeal because of a] a conflict of enterst, Mr. Gregory even stated that his attorney had a conflict of enterst5by recommending that Ms. Carlyle to his direct

appeal in his 2255 proceedings as he raise this as a issue , Mr.Grgeory argue this fact in his drect appeal when he filed a motion conflict free appeallant attorney. [B]oth Courts was awear of this conflict as his attorney made the distrcit court and appellant awear of this conflict. The conflict is clearly on the record of the sentencing transcripes, and the Appealant court said they review the record real carefully (really)? The 8th Circuit held in CUBAN VS UNITED STATES, 281 US 778 (2001). In Two cases prior to STRICKLAND the court held it might be ligherrfor defendants who assert a ineffectve assitence of counsel claims who assert ineffective assistance of claims because of conflict of enterest claims involving thier attoren, HOLLOWAY VS. ARKANSAS 435 US 475 (1980) addresses situations where thecourt is made awear of potental conflict of interst before , during, and after trial, or in some instances after trial, under those circumstances the had a duty to conduct a seraching inquiry into the possible confict see ...WOOD VS:JEORGIA 450 US 261 ,271 (1981), Noteing that CYLER VS SULLIVAN 446 US 335 ,347 (1980) mandates reversal when the court has failed to make inquiry,even though or reasonably should know that a particular conflict exsist) ATLEY VS AULT 191 F3d 865 , 873 (8th Cir. 1999), see also Id at 870, when a trial court fails to discharge it's duty to determine rather defendant is recieving by the conflict of enterest , prejudice is presume and reversal of conviction is automatic , citing HOLLOWAY, THIS PERSE OF REVERSAL APPLIES REGARDLE OF NATURAL OF CONFLICT , ATLEY 191 F3d at N4. Note: Judge bough had ruled in the 2255 ruling that Mr,Gregory waived his right to challenge this conflict. Both of the courts was very awear of that fact that Mr.Gregory rights under the 6th amendment was violated because of this confict of enterst. Mr.Gregory made statement of facts that his attorney hide evidence from

him, even hide the sentencing memorandums that the government and he filed in Mr.Gregory's case. Told him he deserve ten years, conspired with the prosecutor to ineffective , and this attorney did not file no affidavit disputing these. And the court must accept Mr.Gregory's facts as true as they are not disputed by the record or affidavits, They was clearly had knowledge that this conflict was real but fail it's duty to inquire into this conflict. Based on this holding Justice demands that Mr:Grgeory should be vacated.

QUESTION -4

WAS MR.GREGORY DENIED DUE PROCESS RIGHTS TO COUNSEL BY HIS ATTORNEY ABANDONEMENT DURING HIS HEARING TO WITHDRAW HIS GUILTY PLEA?

Mr.Gregory filed pro se motions to withdraw his guilty plead as he discoverd his attorenry had hide evidence from him, his attorney refuse to file thes motions so Mr.Gregory had to file them himself. During the sentencing hearing his attorney failed to assit him and abandone him. [H]is attorenry even inform the court that he told Mr.Gregory that he had no ententions of getting behind his pro se motions. This attorney clearly abandone Mr.Gregory at a critical stage of his crimmal case and was left without assitence of counsel. The 8th Cir held in FIORITA VS US, 821 F3d 999 (8th Cir.2016) Every court of appeals that has consider has concluded that a plea withdraw hearing is a croitical stage of the proceedimng , HINES VS MILLER 318 F3d 157 , 167 (2nd Cir.2003) (WinterJ.dissenting (collecting cases).see, US VS JOLSON , 434 F2d 526, 529-30 (D.C.1970). Since the proceeding on May 16th is a interial part of the criminäl proceeding appellant was of course entitle to counsel on his trequest to alter his guilty plead . e.g. COLEMAN VS. ALAMBAMA 399 US 1 (1970) MEMBER VS RHAY 389 US 128 (1969) appellant counsel was techecically the defense attorney during this hearing not

release until close, (b)ut he did not assume this role , on the record he made points against his client and said nothing in his argument to support in favor of his petition. It is irrellevent that Jolsin was allow to speak freely for himself and he made arguments in his favor of position. The right to counsel as promiess on the postulate the defendants artulate stable , even intelligent ones need the guiding hand at every critical stages, GIDEON VS WAINWRITE 327 US 355 344-45 (1963))(see US VS ELLISON 798 F2d 1102 , 1107 -1108 (8th Cir 1986). Counsel testimony against client at hearing to withdraw plea gave raise to conflict)), see...US VS SEGARRA REVERA 473 f3d 381 , 385 (1st Cir. 2007) Defendant asserted that counsel counsel excupatory evidence, manipulated him into signing a plea agreement to advoid trial for which counsel failed to prepare for trial and used improper means to obtain defendants signture in plea agreement. Counsel admitted the very same thing that defendant begg him to withdraw plea.

The record is evidence on it's face that this is the very samething that Happen to Mr.Grgeory , even his attorney told the court on the record "I TOLD MR.GREGORY I HAVE NO ENTENTIONS OF GETTING BEHIND HIS PRO SE MOTIONS"

QUESTION -5

DID THE APPEALLANT COURT DENY MR.GRGEORY COUNSEL DURING HIS DEERECT APPEAL.

Before Mr.'Gregory's attorney filed his motion to withdraw from his derect appeal he went to the county jail and meet with Mr.Gregory and try to get Mr.Grgeory to sign to paper work to allow MS.Karyale to repersent him in his derect appeal and Mr.Grgeory told him no but hell no and that he would not let anybody he know repersent him a seabelt ticket, he has got him 10-years , he responded back to Mr.Grgeory that he deserved 10-years . When His attorney with draw he recommended for

this attorney to be appointed Mr.Gregory's appeal without and against his verbal know wishes. This attorney violated Mr.Gregory's right as this was a conflict of enterst, and it violated his 6th amendment to client attorney previledges as he discuss the merits of Mr.Gregory's case with another attorney without Mr.Gregorys opermission.

Mr.Gregory filed a motion to be appointed new cousel because of this conflict, but was forced to repersent himself prose, The appealant court didnot inquire why Mr.Gregory wanted a new attorney, they did inquire rather Mr.Gregory's rights to counsel was waived knowly and it did not inquire into this conflict even though that Mr.Gregory's attorney good cuase to withdraw from this drect appeal was that he had a conflict with Mr. Gregory the record is silent of the appellant mandating these inquirings insuring Mr.Grgeorys rights to counsel was protected as mandated by the constitution, Mr.Gregory was denied complete cousel in his drect appeal, This Honoable Court held in KIMELMAN VS MORRISON 477 US 365 (1986) The right to effective assistance of counsel is not confine to trial, but extends to the frist appeal of right .

QUESTION-5

WAS MR.,GREGORY DENIED A FAIR 2255 PROCEEDING BY NOT BEING GRANTED A EVIDENTARY HEARING ON HIS CLAIMS.

Mr.Gregory stated facts out side of the record that his attorney (1). Hide evidence of photos and video from him, (2) That his attorney told him that the government could not add any more inhnancements outside the written contract . (3). that he told Mr.Gregory that he could appeal and attack any prosecution misconduct that was committed prior to him entering a guilty plead. (4) That his attorney hide the sentencing memo randums that the government filed and that he filed in Mr.Gregory's

(5). He told Mr.Gregory that the stepulated set of facts of 10/28/2016 in the plea agreement did not consist of the adledged pursuit that night with the West Plains Police City Department.

(6). Mr.Gregory's attorney Brady A Musgrave told him the last time seen him at the county jail when he tried to get Mr.Gregory sign some papers to allow Ms.Carlyle to repesent him in his drect appeal, and Mr.Gregory refuse to , as he told his attorney you got me ten years and his attorney responded and told Mr.Grgeory "THAT HE DESERVED 10-YEARS"!

(7). He clearly verberbally inform his attorney that he did not want Ms.Carlyle to repesent him him his drect appeal "because" they was personal friends, "they " meaning the two attorneys.

These statement was clearly made outside the court room and court record. NOTE: MORE IMPORTLEY IS "THAT HIS ATTORNEY DID NOT WRITE A AFFIDAVIT DISPUTING ANY OF MR.GREGORY'S FACTS .

PROSECTION MISCONDUCT:

(1). Mr.Gregory stated fact that the government had suppressed a video from the fire. As this fact was confirm to Mr.Gregory by two fire Chiefs, and the latest one being :Kurt Wilbanks, He inform Mr.Gregory that the Prosecutor and police deppartment came and siezed the video of the fire truck and the camera itself that recorded the video. This video capture the unlawfull seach and seizure of the firearm by fireman Chris Norris Bell. This video is materail evidence of federal crimes comitted by the governments witnesses of "prejury", obstrcution of Justice , conspiring to violate Mr.Gregory's civil rights. These federal crimes consisted with the federal prosecutor "Casey Clark" as he knew and conspired with witnesses tlie to the court about how and when that Chris Bell located the deer rifle in his truck; Note this video could had been used to impeach officer Sgt Ellison's testimony during the sentencing as it was material evidence.

advice[counsel gave him. This Honorable Court futher held in MASSARO VS UNITED STATES 538 US 500 (2003) that a defendant in a 2255 proceeding "has a full opportunity to prove his facts estblishing ineffectiveness of counsel" [a]nd even meritoris claims would fall short on derect appeal if the trial record is inadequate. This Honorable Court has futher held MACHIBRODA VS. UNITED STATESS 368 US 487, 494-95 (1962). The governemnt anwser and affidvits are not conclussive against the movant, and if they raise disputed issues of fact a hearing must be held.

Mr.Gregory was clearly entitle to a evidenatry hearing and was clearly denied this right by the District court and substain by the appellant court egnoreing Th United States Supreme court's instructions in Id. MACHII BRODA; also see TOWNSEND VS SAIN372 US 293 (1963).

QUESTION

QUESTION -7

WAS JUDGE BOUGH ALLOW TO DENY MR.GREGORY A CHANCE TO FILE A RELPY BRIEF? Judge Steven Bough even after allow Mr.Gregory extra time to file a reply brief ruled on the merits of Mr.Gregorys 2255 claims without allowing himto file a reply brief. Under"Rules governing Section 2255 proceedings (D) States: REPLY: THE MOVING PARTY MY FILE A REPLY TP THE RESPONDANT"S anwser or other pleading. The Judge must set a time frame to file unless the time is all ready set by local rule.

Notes of the 2019 Advisory Committee amended adding , "The moving party has a right to file a reply brief sub sec (d) added in 2004) removed the discretion of the court to determing whether or not to allow the moving party to file a reply in a acse under 2255. The court version admendment was prompt by decisions holding that the court's retain the authority to bar reply . As amended the frist sentence of subsection (d)

was material evidence of the crime of prejury during the suppression hearing.

(2). Mr.Gregory stated that prosecutor Casey Clark had conspired with the p.s.i writer fderal probation officer "Karla Duryea" to commit fruad on the court and lie in the psi report that the prosecutor Casey Clark did not have no objections to the psi report, Also note prosecutor Casey Clark committed "prejury" to the court that he had nojections to the psi report, Mr.Grgeotry also filed as exhibit of fact the governments own email from Casey Clark to probation officer Ms. Duryea objecting to the the psi respot to add a new inhnacement. Futher note: Federal Probation officer "Karla Duryea" DID NOT FILE A AFFIDAVIT DISPUTING THIS FACT.

JUDICAL MISCONDUCT:

Mr.Gregory stated in issue 9 , that the government had ex parte commu-
-tions and meeting prior to Mr.Gregory's sentencing hearing . Note:
The government did not dispute this fact in his response.
The 8th Cir held in SMITH vs. CITY OF ST. PAUL 747 f3d 391 (2013) In the context Rule 12 (b) (6) determiation in making such a detrmination a court must accept a plaintiff factual alleations as true and determine whether the plaintiff has alleged a plausible entitlement to relief. The facts Mr.Gregory stated in 2255 was facts outside of the record and Judge Bough was require to accept his facts as being true as the government had not even dispute this statement of facts with affidavits. see. BELL ALT CORP VS. TWOMBLEY 550 US 544 (2007).

The 8th Circuit held in UNITED STATES VS RAMIREZ 449 f3d 829 (8th Cir.), A properley developed record for the purpose of determining a claim of inefefctive asistence counsel claim"would include cross exmination by Mr.Ramirez -Hernandez of his counsel of what advice

(d). makes it even more clearer that the moving party has a right to file a reply to the respondance anwser or pleading. It retains the word (may) which is used throughout the federal rules to mean is permitted to (or) has a right to "No change in the meaning is extended of filefor submitt.

The law makes it clear that Mr.Gregory had a right to file a reply brief and Mr.Gregory was denied his right to his one fair opportunity under a 28 USC 2255. This Honorable Court held in BANSTER VS.DAVIS, 207 US Led 2d 58,(2020) That A state prisoner isentitle to one fair opportunity to seek dereal habeas relief from conviction.

This right was violated by Judge Steven Bough as there is nothing about Mr.Gregory was fair as it'sa complete misciarriage of justice by design by the judges who as require to protect Mr.Gregory's rights.

QUESTION -8

COULD JUDGE STEVEN BOUGH ENFORCE A APPEALLANT PLEA WAIVER WHEN THE APPEALLANT COURT ASSUME IN THE DERECT APPEAL IT DID NOT APPLY.

In Mr.Gregory's derect appeal in US VS. GREGORY, 788 Fed Appx 1038 (8th cir.2019), It held it assume that Mr.Gregorys appeal waiver did not block that appeal. But when Judge Steven Bough ruled on his 2255 petition, he sue sponte and raised waiver for the defense/the government that the government did not raise or/and teh claims was non wivable. Claims raised and lititgated on derect appeal my not be relitigated through a 2255 motion . See UNITED STATES V.SHABAZZ. 657 F.2d 189, 190 (8thCir.1981) ("It is well settal that claims which was raised and decided: on derect appealcannot relitigate on motion to vacate pursuant to 28 USCS §2255.") DALL V.UNITED STATES , 957 F2d 571, 572 (8th Cir. 2003). The law of the case doctrine requires that the decessions requires decession by the Eight Circuit handed down on derect appeal , remain available for appeal.

undistrub in subsequent proceedings . BARAANSKI V.US, 515 F.3d 857, 861 (8th Cir.2008).

Based on the 8th Circuit's on holding Judge Steven Bough could not enforce any of the appellant waivesrs in Mr.Gregorys plea agreement, because the derect appeals court assumed that it did not bar Mr.Gregory's appeal, the disctrict court was required to assume the same fact and reach the merits of all Mr.Gregory's claims.

QUESTION

DID THE COURT VIOLATED MR:GREGORYS RIGHTS BY VIOLATING THE PLEA AGREEMENT AND NOT ALLOWING TO APPEAL CLAIM -() AS THIS WAS A SENTENCING ERROR AND MR.GREGORY RASISED THE CLAIM THAT HIS ATTORNEY WAS INEFFECTIVE FOR NOT OBJECTING TO THE PSI REPORT AS TEH COURT COUNTED A UNLAWFULL DWI CONVICTION THAT MR.GERGORY SERVED TIME FOR A HISTORY POINT.

Mr.Gregory recieived a history point for a unpermissible conviction for a dwi that he served time for. It raised his history score from a catogory 4-to 5, and Mr.Gregory sufferd prejudice behind his attorney ineffectiveness as it allow the government to breach the plea agreement. In the ple agreement the government could not argue for a sentence beyond: the guide lines score . this error allow the government to arge for esentence years beyond it could og argue if his attorney waould had objected to this error. This Honorable Court held in GLOVER VS UNITED STATES , 531UUS 198 , 200 (2001), if trial or appealan counsel failure to challenge cacuation of guidelines they are ineffectiv. The 8th Cir.held in US VS. DURHAM 836 F3d 903 (2016) Held it was a serious error to inproperly calculate teh application of the U.S. Sentnecing Gudiline manual range, MOTINA MARTINEZVS UNITED STATES, 136 S,ct 1335 , 1345 (2016), quoting GALE 552UUS:at 51. by UNITED STATES VS PARKER 762 f3d 801 , 805 (8th Cir 2014).

Mr.gregory raised two claims to this error in his his 2255 petition (1). The psi error and (2).Ineffective assistance of counsel. Mr.Gregory clearly had a right to challenge this clear sentencing error under a ineffective counsel claim and Mr.Gregory is clearly entitle to relief. And judge Steven Bough clearly error and was bias towards Mr.Gregory as judge Steven Bough raised a defense sue sponte that the government could not raise itself and it violated MrGregory's plea agreement. This clear error has caused Mr.Grgeory to suffer prejudice even inside the BOP has he had received a lot higher custody level because of this error.

Judge Steven Bough being bias knowly denied Mr.Gregory relief over this error because he knew the issue of the prosecutor and psi writer conspiring to violate the plea agreement would come back around and all other clear constitutional errors in Mr.Grgeory case.

CONCLUSION

Its evident based soley off the record that judge Bough was bias against Mr.Gregory in the sentencing hearing and the 2255 proceedings. Mr.Grgeory had mulitipal conflicts of enterst on the record with his attorney, his attorney abandoned him in critical stage in his case. Mr. was clearly intitle to a suppression hearing if not outright relief. Mr.Gregorys has never received one fair chance to have any of this clear errors and structural errors review . Mr.Grgeory has suffer bias by his sentencing judge , the court clerk Micheal Gans . Chief Judge of the 8th Circuit Judge Smith, Mr.Gregory even suffer judicial bias by the 8th circuit judicial Counsel.

Mr.Gregory seeks this Honorable Court's compassion to use it's power to grant Mr.Gregorys one fair chance of a unbias review.

There is so many constitutional errors , I am tired to add all, but
all the errors are in the statement of facts.

RESPECTFULLY SUBMITTED

Bryan Lee Gregory

BRYAN LEE GREGORY

I hereby declare that all facts are true and correct under the laws
of the United States for PERJURY.

THANK YOU

&

GOD BLESS YOU