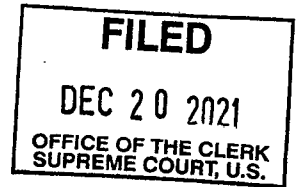


ORIGINAL

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

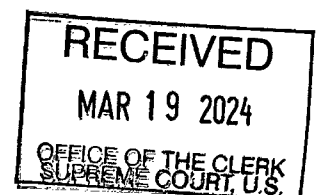
EIGHTH CIRCUIT COURT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

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 AFFIREMTIVE 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 ADBANDONMENT DURING HIS HEARING TO WITHDRAW GUILTY PLEA?

(5)

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

(6)

(6).WAS MR.GREGORY DENIED 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 ENFORNCE 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 20-2306; 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☒ is unpublished.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

Federal Case:

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

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

(B) vs Bryan Lee Gregory vs USP Maroon Warden, 3:20-cv-0035 NJR, Western Southern 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 , pursuant to 28 USCS 144- Rule 60-B

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

RE REASON FOR GRANTING THE PETITION

Mr. Gregory case is a miscarriage 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 original trial file that Mr, Gregory possessed and was required to litigate his 2255 off memorie. Mr. Gregory was clearly entitle to a evidentary on his claims , but was denied the district and appeallant court. Mr. Grgeory suffer bias by Judge Steven Bough all the way upotto the Chief Judge of the 8th Circuit Judge Smith, to even the judical 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. Coppeldge 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 hearingito 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 derectrappeal because of this conflict. Mr. Gregory clearly has a sentencing error, that denmands relief.

STATEMENT OF CASE

Mr. Gregory was indicted on a unlawfull indictment that was muilt-
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- BNITED STATES VS. BRYAN
GREGORY, CRIM Doc 17-3077,

During Mr.Gregory's arrest that was recored on a 6fficer's body cam
shows that Mr.Gregory was waarch by the officer without being pat
search, not once but twice. The officer did not pat search Mr.Gregory
before he reach and went into Mr.Grgeory's pockets . The officer
unlawfull seized with propable cause to serch Mr.Grgeory's pockets
\$120.00 in bills , 2000 in change some stereo 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.Grgeory 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 30-30 deer rifle. Note: After the defendant pleaded

guilty and finally saw pictures of the gun he discovered that the gun could have been used as evidence to impeach the government's witnesses as it was burnt physically impossible and inconsistent with the laws of nature that what the witness testified to in the suppression 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 search of his truck. This caused the government to conspire with his witnesses and commit perjury about where they located the gun in Mr. Gregory's truck and how they located it.

During this hearing on July 24, 2018, Crim. Doc. _____, Judge Rush told Mr. Gregory he had been a prosecutor for 19-years and as a prosecutor he prosecuted people who he thought was innocent until they started representing themselves and then he knew they were guilty see exhibit-(K).

During this hearing Mr. Gregory inform 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 expenses to hire an expert witness.

Judge Rush statement was material evidence that he was "bias" as he clearly stated that he prosecuted people who he thought was innocent at first. This denied Mr. Gregory his rights to a fair trial to have his suppression hearing by unbiased 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 suppression hearing, thus violating Mr. Gregory's rights under Brady, and even hide these photos from Gregory until after he pleaded guilty. If Mr. Gregory would

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

Even though this video was admitted 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 showed 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 obtained his attorney's original trial file and Mr. Gregory finally got to review this video in prison.

Mr. Gregory's attorney failed to use this video in the suppression hearing to impeach the witnesses and it could have changed the outcome of the suppression hearing.

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

GUILTY PLEA CONTRACT

Mr. Gregory's attorney trick him into a plea agreement that only benefited the government and not him whatsoever! This attorney originally to to get him to agree to a a 4-point enhancement under 'USSC 2k2.1, that was part of the original plea 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 stipulated set of facts of the day of 10/28/26 did not consist of his admitted 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 plea concerning that pursuit.

His attorney also inform him that pursuant to the plea agreement that the government could not argue for any more enhancements outside what was in the plea agreement.

His attorney also inform him that he could appeal any prosecution misconduct prior to pleading guilty has the contract clearly reads that Mr, Gregory could appeal prosecutor misconduct and ineffective assistance of counsel to the 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 inform Mr. Gregory to what count of the two count indictment he was pleading guilty to, the court did explain what rights he was waiving in his plea agreement and the court did not even inform Mr. Gregory to what he was even was pleading guilty to.

The record is bare of any of this factual evidence , Note: How could the appellate court rule in the direct appeal that Mr. Gregory's plea

knowly when the indictment had two counts and the plea agreement stated 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 he discovered that his attorney had some photos of the gun and of the crash scene of his truck he had never seen before. He asked his attorney if he could look at them and he discovered that these photos were Brady evidence in his favor. He asked his attorney if he could have them as souvenirs. Note: That in the Southern District, of the Western District Courts "by court rules defendants are not allowed to possess copies of their discovery and can only review it when their attorney discloses it to them.

Mr. Gregory did not say anything 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 attorney's office demanding to talk to his attorney to file a motion to withdraw his guilty plea. This attorney refused to speak with Mr. Gregory, Mr. Gregory and his family and friends called his office over a 100 times, but he refused to speak with him. Mr. Gregory's cellmate was his attorney's client and even came to see him, his name was Bryan, before his cellmate saw Brady A Muskgrave that day, Mr. Gregory told his cellmate to tell Brady that he wanted to talk to him, when his cellmate told Brady this, Brady told his cellmate, that Mr. Gregory was again in his ass. And Brady refused to speak with Mr. Gregory.

Mr. Gregory finally ran into his attorney in the jail hallway while 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 UNLAWFUL 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 mandated that the government obtain permission before they release any property that was seized by the local and state police departments to any federal government agencies. The firearm was unlawfully released to the ATF by the police department, as the court pursuant to §513.647 Rsmo 1994) did not approve this transfer of 30-30 deer rifle, and the federal court did not have jurisdiction over the gun to prosecute Mr. Gregory because the Howell County State of Missouri still had jurisdiction over the case as it still had pending charges against Mr. Gregory for being a felony in possession of a firearm. Mr. Gregory refused to file any motions at Mr. Gregory's request to withdraw his guilty plead so Mr. Gregory filed these motions pro se, see civil Do (86) (93) (94).

SENTENCING HEARING

Prior to Mr. Gregory's sentencing hearing that morning his attorney had called out for an attorney client meeting in the basement of the court house, When his attorney tried to trick and manipulate 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 will accept the 60 point enhancement under USSC 1B1.3 , he could get the Government to drop the 4-point enhancement under USSC 2B2.1 , That Mr. Gregory refused to accept on his own advice . Mr. Gregory asks his attorney are you "fucking nuts" why would I accept an enhancement that violates the plea agreement, to get the prosecutor to drop an enhancement that he knew he could beat. and he asked his attorney have you been in a meeting with the judge and prosecutor, and ask why would you do 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 an 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 plea, 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 plea, 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 3-Ln. 12-12

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 an 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 addendum 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 discovered 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 violate Mr. Gregory's 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 bound by the plea agreement.

Mr. Gregory was clearly denied a fair sentencing hearing and appeal-
-ant review as prosecutor Casey Clark committed "perjury" 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~~B~~) 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 perjury and lied to the court and psi was falsified about this objection, in his conflict of interest with Mr. Gregory also advocated for the government, see exhibit (b) Crim Doc-105 pg-6 ln.9-11. He stated that there's no agreement by the probation office as to the "calculation or agreed upon guidelines" Certainly it's not binding upon you. It's evident based upon his testimony to the court guidelines in the plea agreement was binding on the government and he had a conflict of interest with Mr. Gregory by fraud upon the court making it look like that the psi writer advocated for this enhancement over Mr. Gregory's objection that the government violated

the plea written agreement, and if the plea agreement allow the government to advocate for any more enhancement not in the plea agreement he would have certainly inform the court of this, [B]ut he didn't.

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 alleged pursuit of 10/28/2016, see exhibit-(g). pg-4, ln. 11-17, Crim Doc-105.

Mr. Gregory continue to argue that he was not in possession of that deer rifle the night of 10/28/2016 during that pursuit, (B)ut his attorney keep arguing against him see-exhibit-(g) Crim Doc-105, pg-25, Ln. 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 totally inconsistent and a conflict of interest with Mr. Gregory's statement and testimony to the court that he was not in possession of that gun during the alleged pursuit of 10/28/2016,

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

Mr. Gregory's rights were 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 defenses, but sand bag defense, and claim in the direct appeal that he need to prove that Mr. Gregory had that gun during that pursuit as he all ready stipulated to that fact in his plea written agreement. But the stipulated facts in Mr. Gregory's 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 informed by his attorney that the set of setup facts of the day of 10/28/2016 was not during the time period of the alleged pursuit as he clearly questioned about this fact as he had pending charges in Howell county Missouri over this alleged incident. (A)nd once again his attorney argue against Mr. Gregory claiming 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 ABANDONED BY HIS ATTORNEY AT A CRITICAL STAGE OF CASE , IN HIS HEARING TO WITHDRAW HIS GUILTY PLEA , AND THAT HE HAD A CONFLICT OF INTEREST DURING THE SENTENCING HEARING. And even though this conflict is evident on the face of the record even when Mr. Gregory's attorney pointed this fact out to the court when he told the court that he informed Mr. Gregory that he had no intentions of getting behind his pro se motions to withdraw his guilty , it did not inquire into this conflict.

POST DIRECT APPEAL APPEAL

After Mr. Gregory was sentenced he called his attorney and informed 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 work allow Ms. Carlye to represent him in his direct appeal. Mr. Gregory informed him that he would not allow anybody he knew represent 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 WRECK, NOTE ; she only had a cut broken finger. Once again this attorney clearly had a conflict of interest with Mr. Gregory. When Mr. Gregory raised this fact in his 2255 his attorney did not dispute this fact in affidavit, his attorney did not dispute

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

DERECT APPEAL

Mr. Gregory's attorney filed a motion in the 8th Circuit to withdraw from the direct appeal. His good cause being "irreconcilable differences" or conflict of interest, in appeal # 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 interest with Mr. Gregory's wishes as clearly inform his attorney that he did not want her on his direct appeal and even refuse to sign the paper work to allow her to represent him in his direct appeal. See-exhibit-(G).

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

Michael 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 further violated Mr. Gregory's Due Process right under 27b as Mr. Gregory did not consent to allow her to represent him in his direct appeal, Mr. Gregory had a due process protected right not to consent to attorney that agreed to represent him in his direct appeal. Even though he does not have a choice to a particular 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 tries to force upon him in his direct appeal.

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

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

(3). It did not inquire in rather Mr. Gregory's waiving his rights to
counsel was knowingly 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 Appellant 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's attorney lied to him about this.

Either way the court violated the plea agreement or Mr. Gregory's plea
was not knowingly as his attorney told him that he could appeal any pro-
secution 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 expressly 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 knowingly used perjury 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 conditional 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 special Conditions of his supervised release.

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

When Mr. Gregory received this file he discovered exhibit-() a Email from Prosecutor Casey Clark to Probation Officer Karla Duryea who wrote the psi report and Mr. Gregory discovered that Prosecutor Casey Clark had committed Perjury during the sentencing when he testified to the court that he did not have no objections to the psi report,, and probation officer Karla Duryea committed fraud upon the court by falsifying the psi report claiming that the government had no objections to a psi report, these unlawful acts alone denied Mr. Gregory a fair sentencing hearing and appellant review of this claim. (But when Mr. Gregory sent the Appellant court a copy of this email as exhibit support his new supplemental brief challenging this fact, 8th Circuit Court Clerk Micheal Gans "REFUSED" to file it and forward it back to Mr. Gregory unfiled [a]nd the Appellant judge panel refuse to address or rule on Mr. Gregory's claim even though prior judge panel had ruled

that there was no reason why the appellat court could not rule on and address this issue, thus the crinal jurisdiction of this issue lies with the appeallant court and the district lack jurisdiction over this issue and this appeallant court's ruling was not a final order subject to review even by the United States Supreme Court on a Writ of Certiorari. The 9th Circuit Appeallant court refused to address and rule on the merits because Mr. Gregory had previously sent the court a supplimental brief and the Governments very own email that was evidence of material fact the government committed a federal crime during the sentencing hearings 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 subvert the plea written agreement, Karla Duryea did not file no affidavit disputing this fact.

WRIT OF CERTIORARI OF HIS DERECT APPEAL

After the Apeallant Court denied Mr. Grgeorys Derect appeal, see, US v. Gregory ; 788 Fed Appx 1038, 8th Cir 2021, Mr. Gregory was placed in the Special 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 contain all of Mr. Gregorys oringal letters that he sent his attorney concerning his case. Mr. Gregory was denied his right to to appeall his derect appeal to United States Supreme, Mr. Gregory then file a 28 USCS 2241 in the Eastern District Court of Illinois, see 3:20-cv-100350 -NJR, SW Dist 7/11, 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 prosecuting his 2255 motion as this BOP Prison Guard a agent of the plaintiff in this case threw material evidence that could help prove his conflict of interest claims and ineffective assistance claims against his attorney.

Even though Mr. Gregory felt that this court's 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 regardless it had served its purpose as Mr. Gregory did not want to file this issue directly in the the 2255 and the court held that the the 2241 was proper legal vehicle.

28 USC 2255 PROCEEDINGS

When Mr. Gregory filed his 2255 he filed it based solely off of memories as this guard had thrown away his all of his legal file, [REDACTED] Mr. Gregory even filed a motion to get another 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 these items from other inmates, but was denied this request, see Civ Doc-39

Mr. Gregory also filed a motion 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 USC 455. Judge Steven Bough never served Mr. Gregory with a copy of his response as ordered by the appellate court, and Mr. Gregory was not allowed to file a reply brief, as Michael Gans submitted 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 ,

Mr. Gregory tried to seek another writ of mandamus against Judge Bough pursuant to the petition under 144 that is a different 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. Gregory's right but become part of the conspiracy with Micheal Gans and Judge Steven Bough to deny Mr. Gregory access to the appellate or review of the United States Supreme Court as his 90-day time period was up, and that case number was mooted that's why Micheal Gans Court Clerk and this Judge Panel did this.

In Mr. Gregory's 2255 he request for a evidentiary and Mr. Gregory was entitled to a evidentiary hearing as he adldged facts that was outside of the record these facts consisted 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

pleaded guilty and his attorney hide this evidence from him in this attorney conflict of interest with him.

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

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

(4). His attorney told him that the set of stipulated facts of 10/28/2016 did not consist of the alleged pursuit 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 prior his enter a plea of guilty."

NOTE: Mr. Gregory'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 communications and meeting prior to his sentencing hearing and discuss the merits and issues in Mr. Gregory'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 video from the fire truck as the fire chief "Kurt Wilbanks" inform Mr. Gregory that the government, the police department and prosecutors office came and seized the video from the fire truck that recorded the unlawful search of his Truck. This video could have been used even in his sentencing hearing to impeach West Plains City Police Officer Sgt Ellison testimony in this hearing as this video is evidence that he committed perjury during the hearing to suppress the evidence of the gun/deer rifle.

Mr. Gregory stated fact that the prosecutor Casey Clark and probation officer Karla Duryea conspire to violate and circumvent Mr. Gregory's

plea agreement with United States .

NOTE: PROBATION OFFICER : PSI WRITER _KARLA DURYEA DID NOT FILE NO AFFIDAVIT DISPUTING THIS FACT!!!!

Mr.Gregory was clearly entitle to a evidentary 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 AFFIRMITRIVE DEEENSE THAT MR.GREGORY WAIVED HIS RIGHTS TO CHALLENGE THESES CLAIMS JUDGE STEVEN BOUGH BEING "BIAS" RASIED THIS DEFENSE SUE SPONTE , AND SOME OF THESE ISSUE WAS NON WAIVABLE 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 gover-nment.

ISSUE -8

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

interest with his attorney" Note: Mr. Gregory was allowed to challenge ineffective assistance claims [a]nd the government did raise any affirmative defenses claiming that Mr. Gregory waived his right to appeal this issue , Note: Judge Steven Bough being biased raised this defense sua sponte in favor of the government and it violated the plea agreement : MORE IMPORTANT... Is that the court failed to inquire into Mr. Gregory's multiple conflicts of interest issue on the record.

ISSUE-9

In issue -9 Mr. Gregory raised the claim that he was sentenced by a biased judge as Judge Steven Bough had ex parte communications and meeting concerning his sentencing hearing prior to his sentencing hearing. Note: the government did not raise any affirmative 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 raised in issue 26 that the government /court did not have jurisdiction to prosecute him because the State of Missouri still had jurisdiction of the gun/res in Howell County Missouri as the gun was subject to forfeiture criminal proceeding of Mr. Gregory's state charge for being a convicted 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 raise no waiver defense , furthermore a court's 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 government

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 issue 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 waive

In *BURGESS VS. UNITED STATES*, 874 F.3d 1292 (11th Cir. 2017) held that district court lack authority to involve its own sentence of collateral action waiver from the defendant plea agreement and dismissed the defendant's 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 U.S. 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 state's deliberate § 2244 (b) defenses. *WOOD VS. MARYLAND* 566 U.S. 463 464 (2012).

This issue is more troubling in Mr. Gregory's case because he was either allow to appeal these issue per plea agreement or it was non waivable. The 8th Circuit held in *STATE VS. LEWIS*, 673 F.3d 758, (2011) Allowing the government to breach the a promise that induce the a guilty plea violates Due Process, If the government breaches the plea agreement is no longer enforceable as before, Allowing the the Government to breach the the plea agreement especially one by the District Court agreed to be be bonded implicates 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 U.S. 257 (1971).

Judge Steven Bough being bias allow the government to violate the 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 exparte commucations 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 judical power because he had a perucary interst 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 a objective standard, so what matters is not reality of bias or prejudice, [ITS APPERANCE], LIKEKY VS UNITED STATES ,510 USW 540, (1994), objective standard ...WILLIAMS VS PENNSYLVANIA, 579 US 1, (2016).

QUESTION -2

~~DAD~~ MR.GREGORY RECIEVED 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 rasied in issue (9) of his 28 USCS 2255 petition that he was sentence by a bias judge as Judge Steven Bough had exparte cvommucations with the prosecutor Casey Clark prior to his sentencing hearing and discuss the merits of issues in Mr.Gregory sentencing hearing.

A defendant is entitle 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 absene of counsel, HALLER VS. ROBINS 409 F2d 857, (1st Cir.1969) While the court is entitle to report of criminal conduct charge there there is no particlar nessity for such to be made by prosecutor exparte, there being however an envasion 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. Gregory 2255 proceedings as he had filed a motion pursuant to 28 USCS 144 with supporting affidavit made in good faith that Judge Bough had separate communications and meeting with federal prosecutor and discuss the merits of Mr. Gregory sentencing hearing prior to the sentence hearing. This Honorable Court has held in BERGER VS UNITED STATES 255 US 22, 41 (1921), If the affidavit is sufficient than the judge could pass upon it's legal sufficiency, [b]ut he could not pass upon the truth or falsity of facts affirm and was without authority to try defendant. Judge Bough had another further 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 pecuniary interest 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. Gregory even an evidentiary 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 /appellant brief by Michael Gans Court Clerk, or the Appellant judge panel itself. The 8th Circuit held IN RE KANSAS PUB. EMPLOYEES RETIREMENT SYS, 85 F3d 1533 (1996).

that in 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 an interest that could substantially be affected by the outcome of the proceeding. The interest discussed in §455 (b) (iii) includes noneconomic as economic interest and 28 USCS §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 rights to challenge this issue, when he did not waive this right in his plea agreement as his plea agreement clearly states that he is allow to appeal a legal sentence, be sentence by a bias judge who did have authority to sentence Mr. Grgeory would make his sentene 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 DISTRICT COURT AND APPELLANT VIOLATE DUE PROCESS AND RIGHTS BY FAILING TO INQUIRE INTO HIS CONFLICT OF INTEREST WITH HIS ATTORNEYS.

Prior to Mr. Gregory being sentence he discovered 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 486-90-94, 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 derect appeal because of a] a conflict of enterst, Mr. Gregory even stated that his attorney had a conflict of enterst by recommending that Ms. Carlyle to his derect

appeal in his 2255 proceedings as he raise this as a issue ,
Mr.Grgeory argue this fact in his derect appeal when he filed a motion
conflict free appeallant attorney. [B]oth Courts was aware of this
conflict as his attorney made the distrcit court and appellant aware
of this conflict. The conflict is clearly on the record of the sentencing
transcripes, and the Appeallant 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 ineffective assitence
of counsel claims who assert ineffective assistance of claims because
of conflict of enterest claims involving thier attoreny, HOLLAWAY VS.
ARKANSAS 435 US 475 (1980) addresses situations where thecourt is made
aware of potentinal 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
failedd 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 HOLLWAY, THIS PERSE OF REVERSAL APPLIES REGARDLE OF NATURAL
OF CONFLICT , ATLEY 191 F3d at N4. Note: Judge bough had ruled in the
2255 ruling thato Mr,Gregory waived his right to challenge this conflict.
Bothof the courts was very aware 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 attoreny 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 attoreny 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 crimnal 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 (8nd Cir.2003) (WinterJ.dissentencing (collecting cases).see, US VS JOLSIN, 434 F2d 526, 529-30 (D.C.1970). Since the proceeding on May 16th is a interial part of the criminal proceeding appeallant was of course entitle to counsel on his request to alter his guilty plead. e.g. COLEMAN VS. ALAMBAMA 399 US 11 (1970) MEMBER VS RHAY 389 US 128 (1969) appeallant ~~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 irrelevant that Jolsin was allow to speak freely for himself and he made arguments in his favor of postition. 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 signiture 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.Karyåle 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 seabèlt ticket, he he 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 interest, and it violated his 6th amendment to client attorney privileges as he discuss the merits of Mr.Gregory's case with another attorney without Mr.Gregory's permission.

Mr.Gregory filed a motion to be appointed new counsel because of this conflict, but was forced to represent himself pro se. The appellant court did not inquire why Mr.Gregory wanted a new attorney, they did inquire rather Mr.Gregory's rights to counsel was waived knowingly and it did not inquire into this conflict even though that Mr.Gregory's attorney good cause to withdraw from this direct appeal was that he had a conflict with Mr.Gregory the record is silent of the appellant mandating these inquiries insuring Mr.Gregory's rights to counsel was protected as mandated by the constitution, Mr.Gregory was denied complete counsel in his direct appeal. This Honorable Court held in KIMELMAN VS MORRISON 477 US 365 (1986) The right to effective assistance of counsel is not confined to trial, but extends to the first appeal of right .

QUESTION-5

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

Mr.Gregory stated facts outside 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 enhancements 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 plea. (4) That his attorney hide the sentencing memorandums that the government filed and that he filed in Mr.Gregory's

(5). He told Mr.Gregory that the stipulated set of facts of 10/28/2016 in the plea agreement did not consist of the alleged 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 represent him in his direct appeal, and Mr.Gregory refused to , as he told his attorney you got me ten years and his attorney responded and told Mr.Gregory "THAT HE DESERVED 10-YEARS"!

(7). He clearly verbally inform his attorney that he did not want Ms.Carlyle to represent him in his direct appeal "because" they were personal friends, "they " meaning the two attorneys.

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

PROSECUTION MISCONDUCT:

(1). Mr.Gregory stated fact that the government had suppressed a video from the fire. As this fact was confirmed to Mr.Gregory by two fire Chiefs, and the latest one being :Kurt Wilbanks, He informed Mr.Gregory that the Prosecutor and police department came and seized the video of the fire truck and the camera itself that recorded the video. This video captured the unlawful search and seizure of the firearm by fireman Chris Norris Bell. This video is material evidence of federal crimes committed by the government's witnesses of "perjury", obstruction 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 to lie to the court about how and when that Chris Bell located the deer rifle in his truck; Note this video could have been used to impeach officer Sgt Ellison's testimony during the sentencing as it was material evidence.

advice/counsel gave him. This Honorable Court further 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 establishing ineffectiveness of counsel" [a]nd even meritorious claims would fall short on direct appeal if the trial record is inadequate. This Honorable Court has further held MACHIBRODA VS. UNITED STATES 368 US 487, 494-95 (1962). The government answer and affidavits are not conclusive against the movant, and if they raise disputed issues of fact a hearing must be held.

Mr. Gregory was clearly entitled to an evidentiary hearing and was clearly denied this right by the District court and sustained by the appellate court ignoring the United States Supreme court's instructions in Id. MACHIBRODA; also see TOWNSEND VS SAIN 372 US 293 (1963).

QUESTION

QUESTION - 2

WAS JUDGE BOUGH ALLOW TO DENY MR. GREGORY A CHANCE TO FILE A REPLY BRIEF? Judge Steven Bough even after allow Mr. Gregory extra time to file a reply brief ruled on the merits of Mr. Gregory's 2255 claims without allowing him to file a reply brief. Under Rules governing Section 2255 proceedings (D) States: REPLY: THE MOVING PARTY MAY FILE A REPLY TO THE RESPONDANT'S answer or other pleading. The Judge must set a time frame to file unless the time is already 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 determine whether or not to allow the moving party to file a reply in a case under 2255. The court version amendment was prompted by decisions holding that the court's retain the authority to bar reply. As amended the first sentence of subsection (d)

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

(2). Mr. Gregory stated that prosecutor Casey Clark had conspired with the p.s.i writer federal probation officer "Karla Duryea" to commit fraud 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 "perjury" to the court that he had no objections to the psi report, Mr. Gregory also filed as exhibit of fact the governments own email from Casey Clark to probation officer Ms. Duryea objecting to the the psi report to add a new enhancement. Further note: Federal Probation officer "Karla Duryea" DID NOT FILE A AFFIDAVIT DISPUTING THIS FACT.

JUDICIAL MISCONDUCT:

Mr. Gregory stated in issue 9 , that the government had ex parte communications 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) determination in making such a determination a court must accept a plaintiff factual allegations 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 properly developed record for the purpose of determining a claim of ineffective assistance counsel claim "would include cross examination 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 response answer 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 file for submit.

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 BANISTER VS. DAVIS, 207 US 2d 58, (2020) That A state prisoner is entitled to one fair opportunity to seek federal habeas relief from conviction.

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

QUESTION -8

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

In Mr. Gregory's direct appeal in US VS. GREGORY, 788 Fed Appx 1038 (8th cir. 2019), It held it assume that Mr. Gregory's 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 the claims was non waivable. Claims raised and litigated on direct appeal may not be relitigated through a 2255 motion. See UNITED STATES V. SHABAZZ. 657 F.2d 189, 190 (8th Cir. 1981) ("It is well settled that claims which was raised and decided on direct appeal cannot relitigate on motion to vacate pursuant to 28 USC § 2255.") DALL V. UNITED STATES, 957 F.2d 571, 572 (8th Cir. 2003). The law of the case doctrine requires that the decisions requires decision by the Eighth Circuit handed down on direct appeal, remain in claim for the court.

undistrib in subsequent proceedings . BARANSKI 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 appellants waivers in Mr.Gregory's plea agreement, because the direct appeals court assumed that it did not bar Mr.Gregory's appeal, the district court was required to assume the same fact and reach the merits of all Mr.Gregory's claims.

.. .

QUESTION

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

Mr.Gregory received a history point for a unpermissible conviction for a dwi that he served time for. It raised his history score from a category 4-to 5, and Mr.Gregory suffered prejudice behind his attorney ineffectiveness as it allow the government to breach the plea agreement. In the plea agreement the government could not argue for a sentence beyond the guideline score . this error allow the government to argue for a sentence years beyond it could argue if his attorney would had objected to this error. This Honorable Court held in GLOVER VS UNITED STATES , 531 US 198 , 200 (2001), if trial or appellate counsel failure to challenge calculation of guidelines they are ineffective. The 8th Cir.held in US VS. DURHAM 836 F3d 903 (2016) Held it was a serious error to improperly calculate the application of the U.S. Sentencing Guideline manual range, MOTINA MARTINEZ VS UNITED STATES, 136 S.Ct 1335 , 1345 (2016), quoting GALL 552 US at 151 by UNITED STATES VS PARKER 762 f3d 801 , 805 (8th Cir 2014).

Mr. Gregory raised two claims to this error in 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 an ineffective counsel claim and Mr. Gregory is clearly entitled to relief. And Judge Steven Bough clearly erred and was biased towards Mr. Gregory as Judge Steven Bough raised a defense sua sponte that the government could not raise itself and it violated Mr. Gregory's plea agreement. This clear error has caused Mr. Gregory to suffer prejudice even in spite of the BOP as he had received a lot higher custody level because of this error.

Judge Steven Bough being biased knowingly 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. Gregory's case.

CONCLUSION

It is evident based solely off the record that Judge Bough was biased against Mr. Gregory in the sentencing hearing and the 2255 proceedings. Mr. Gregory had multiple conflicts of interest on the record with his attorney, his attorney abandoned him at trial stage in his case. Mr. Gregory was clearly entitled to a suppression hearing if not outright relief. Mr. Gregory has never received one fair chance to have any of this clear errors and structural errors reviewed. Mr. Gregory has suffered bias by his sentencing judge, the court clerk Michael Gaas, Chief Judge of the 8th Circuit Judge Smith, Mr. Gregory even suffered judicial bias by the 8th circuit judicial Council.

Mr. Gregory seeks this Honorable Court's compassion to use its power to grant Mr. Gregory one fair chance of an unbiased review.

There is so many constitutional erros , 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 Unites States for PREJURY.

THANK YOU

&

GOD BLESS YOU