No. 23-7260

IN THE

SUPREME COURT OF THE UNITED STATES

Geary W. Walton — PETITIONER
(Your Name)

vs.

Ryan Thornell et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Geary W. Walton
(Your Name)

ASPC-E-Cook Unit, P.O. Box 3200
(Address)

Florence, AZ 85132
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. Did the District Court/Ninth Circuit Court abuse its discretion/err by failing to comport to statute obligation under due process in denying Petitioner a certificate of appealability ("COA") based on "newly discovered evidence" of incompetency to stand trial or sentencing at the time of offenses alleged in violation of the U.S. Constitution and laws?

2. Did the District Court/Ninth Circuit Court abuse its discretion/err by failing under due process to grant Petitioner a COA on his claim of double jeopardy/multiple punishment for the same offense in violation of the U.S. Constitution and laws?

3. Did the District Court/Ninth Circuit Court abuse its discretion/err in violation of due process under the U.S. Constitution and laws in denying Petition a COA on his claim of "a government agent or prosecutorial misconduct inference with defense witnesses without an evidentiary hearing?

4. Did the District Court/Ninth Circuit Court abuse its discretion/err in denying Petitioner a COA and opportunity to evidentiary hearing on his claim of newly discovered evidence and ineffective assistance of counsel ("IAC") for failing to explore his mental health/medical issues . . . at the time of and prior to his offenses alleged of incompetence to stand trial or sentencing in violation of the Constitution and laws?

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

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

RELATED CASES

State of Arizona v. Jocelyn Vinson, CR1987-009953, Maricopa County Superior Court, Jdgmnt enter 1988

State of Arizona v. Ray Anthony Green, CR1987-010264, Maricopa County Superior Court, Jdgmnt enter 1988

Geary Wayne Walton v. David Shinn, et al., No. 23-2820, U.S. Court of Appeals Ninth Circuit, Jdgmnt 11/28/2023

Geary Wayne Walton v. David Shinn et al., No. 2:22-cv-01277-DLR-JFM. U.S. District Court, Dist. of Ariz. (Phoenix) Jdgmnt. 08/11/2023

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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 ______ to the petition and is

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

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

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

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

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

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

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

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

JURISDICTION

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

The date on which the United States Court of Appeals decided my case was December 15, 2023.

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

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: February 1, 2024, and a copy of the order denying rehearing appears at Appendix A.

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

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

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

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

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

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution 1st, 4th, 5th, 6th, 8th, and 14th Amendments; and 18 U.S.C. § 249, § 2241-46 and § 4241 (a). See also 42 U.S.C. § 12101 et seq.; A.R.S. § 13-4505 (A)(2); A.R.S. §§ 13-1401-28 and 13-1501-08 and § 13-3623. A.R.S. § 13-116.

"The lower courts erred/abused their discretion by failing, sua sponte, to revisit the issue of petitioner's competence. In this regard, the court clearly misapprehended its statutory obligations under 18 U.S.C. § 4241(a).

STATEMENT OF THE CASE

Petitioner has filed previous petitions for writ of habeas corpus challenging his conviction in Maricopa County Superior Court No. CR1987-009953, for one count of attempted sexual abuse, eight counts of sexual conduct involving a minor, and one count of sexual indecency before a minor. At sentencing he was given an aggravated term of 35 years on attempted sexual abuse, aggravated terms of life without the possibility of parole for 35 years on each of the eight sexual conduct counts, and an aggravated 6-year term for indecent exposure. All terms to run consecutive. Base upon Petitioner August 11, 1977, prior bad acts alleged in CR97176 on Lewd and Lascivious Acts. On August 7, 1995, Petitioner filed his first writ of habeas corpus petition regarding that conviction, Walton v. Lewis, CV 2:95-01606-PHX-EHC (D. Ariz. 1995). In a September 30, 1996 Order (Doc. 28 in CV 2:95-01606-PHX-EHC), the Court denied the petition, and the Clerk of Court entered Judgment accordingly (Doc. 29 in CV 2:95-01606-PHX-EHC). Petitioner subsequently filed three further 32254 Petitions while "suffering from traumatic brain injury and PTSD and other mental health/medical issues, resulting from multiple gunshot wounds to the head. See Walton v. Stewart, CV 2:03-00111-PHX-EHC (LOA) (D. Ariz. 2003); Walton v. Ryan, CV 2:09-02418-PHX-FJM (LOA) (D. Ariz. 2009); and Walton v. Ryan, CV 2:11-00578-PHX-ROS (D. Ariz. 2011). Case 2:03-00111-PHX-EHC (LOA) was dismissed as second or successive (Doc. 3 in CV 2:03-00111-PHX-EHC (LOA)); case CV 2:09-02418-PHX-FJM (LOA) was voluntarily dismissed by Petitioner (Docs. 9, 10 in CV 2:09-02418-PHX-FJM (LOA); after obtaining leave from the Ninth Circuit to file a second or successive 32254 Petition (Doc. 1 in CV 2:11-00578-PHX-ROS), was dismissed but certainly not on the merits of Petitioner's "significant constitutional change in law" claim of SCOTUS decision in Crawford v. Washington, 514 U.S. 36 (2004) or 18 U.S.C. § 4241(a). All constituting "cruel and unusual punishment."

REASONS FOR GRANTING THE PETITION

1. The lower courts applied the two-prong analysis in Strickland, regarding IAC claim (i.e., counsel's performance fell below "objective standard of reasonableness" and "a reasonable probability that, but for counsel's error, the result... would have been different"; the former is commonly referred to as the performance prong and the latter the prejudice prong). Based here on his newly discovered evidence, Petitioner argues that jurists of reason could certainly disagree about whether Cronic clearly established an exception to Strickland's prejudice requirement" based on the facts of this case and a COA should have issued.

2. Moreover, Petitioner argues there is no statute time bar but the court is statute obligated to hear, if there is reasonable cause to believe that the Petitioner may presently be suffering from a mental disease or defect rending him mentally incompetent to the extent that he is unable to understand the nature of the proceedings against him or to assist properly in his defense (as here).

3. Petitioner asserts that he "suffered from traumatic brain injury and PTSD and other mental health/medical issues prior to and at the time of his crimes alleged," that a "government agent or prosecutorial misconduct interfered with defense witnesses," that he was subjected to "double jeopardy/multiple punishment [for the] same offense," and that these claims are "newly discovered" because of "counsel's failure to conduct investigation into [Petitioner's] mental health/medical issue...."

Petitioner Geary W. Walton, in Forma Pauperis - pro se, respectfully, pursuant to Rules 10-14 of the Supreme Court of the United States; Amendments 1, 4, 5, 6, 8, and 14 of the Constitution to the United States and laws, an inmate confined at the Arizona Department of Corrections, Florence - state prison Eyman complex Cook Unit hereby Petitions this Honorable Court for a Writ of Certiorari Review based upon the facts set forth below:

1) The application for authorization to file a second or successive 28 U.S.C. § 2254 habeas corpus petition in the district court certificate of appealability ("COA") was denied. Though Petitioner made a prima facie showing under 28 U.S.C. § 2244(b)(2) that:

(A) the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable, or

(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and (ii) the facts underlying the claim, if proven and viewed in light of the evidence as whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found Petitioner guilty of the underlying offenses beyond a reasonable doubt. Id.

28 U.S.C. § 2244(b)(2)

2) The Supreme Court held in Schlup v. Delo, 513 U.S. 299, 130 L.Ed.2d 808, 115 S.Ct. 851 (1995) A credible claim of actual innocence involves the Petitioner's supporting his constitutional claim with "new reliable evidence - whether it be exculpatory scientific evidence, trustworthy, eyewitness accounts, or critical physical evidence - that was not presented at trial." Id. The court "is not bound by the rules of admissibility that would govern a trial." A should "consider the probative force of relevant evidence that was either ex-

cluded or unavailable at trial." Id. "[A] petitioner does not meet the threshold requirement unless he persuades the district court that, in light of the new evidence, no juror, acting reasonably, would have voted to find him guilty beyond a reasonable doubt." Id. Also see, Mccoy v. Norris, 958 F. Supp. 420 (E.D. Ark. 1996).

A. Confrontation Right

1. The Supreme Court remarked that "[d]ispensing with confrontation because testimony is obviously reliable is akin to dispensing with jury trial because the Petitioner is obviously guilty." Crawford v. Washington, 541 U.S. 36 (2004), Melendez-Diaz v. Massachusetts, 557 U.S. 305 (2009), Bullcoming v. New Mexico, 564 U.S. 647 (2011) and Danforth v. Minnesota, 552 U.S. 264 (2008) The standard for whether scientific evidence is 'testimonial' for confrontation rights purposes.

2. In Stewart v. Martinez-Villareal, 523 U.S. 637 (1998) The Supreme Court held that: "the accused's 1997 request for federal habeas corpus on the basis of reopening his Ford claim was not subject to the restriction in § 2244(b), as amended by AEDPA, on second of successive applications, for (1) even though the accused's 1997 request may have been the second time that he asked the federal courts to provide relief on his Ford claim, (a) there was only one application for the federal habeas corpus relief, and (b) the accused's was entitled to an adjudication on all the claims presented in his 1993 application for relief and (2) if the accused's 1997 request were to be considered a second or successive application, then the implications for federal habeas corpus practice would be far reaching and seemingly perverse." Id. "Similar, to the Petitioner's incompetency claim here." Id. 18 U.S.C. § 4241(a).

3. On Petitioner's PTSD claim of newly discovered evidence the trial court ruled as follows:

> Walton did not demonstrate by clear and convincing evidence there were newly

discovered material facts to support his claim that he had PTSD at the time of trial, thus warranting a reversal of his conviction or a reduction in his sentence. The only evidence provided by Defendant Walton was that he had PTSD in 2017 while in prison. This diagnosis was based upon Defendant Walton's self-reported symptoms. No doctor has provided any opinion that Defendant Walton had PTSD at the time of the offenses were committed. Thus, Defendant Walton failed to raise a colorable claim of actual innocence by clear and convincing evidence that would be sufficient to show that no reasonable fact-finder would have found him guilty of the offenses beyond a reasonable doubt.

(ME 09/05/2019 pg. 2)

Petitioner filed a Motion for Rehearing from his denial of his 24th PCR which the Court denied; Petitioner had already file a Petition for Writ of Habeas Corpus in the trial court on October 24, 2019 which was regarded as his 25th PCR proceeding. (ME 01/06/2020). His then appointed PCR counsel, Amy Bain, filed a Notice of Completion. 01/08/2021.

Petitioner's Petition for Writ of Habeas Corpus (his 25th PCR petition) raised multiple issues including: newly-discovered evidence of a traumatic brain injury from multiple gunshot wounds to the head in 1979, PTSD..... (see Petition for Writ of Habeas Corpus, filed 10/25/2019).

On April 15, 2021, the Court ordered in relevant part as follows:

> While the Court agrees with the State that the issues raised in the pending Petition for a Writ of Habeas Corpus (25th PCR proceeding) filed on October 25, 2019 are precluded or otherwise are not colorable for the reasons stated in the State's Response to 15th Post-Conviction Relief Petition and Supplemental Motions filed March 30, 2021 the Court will permit Petitioner to have one additional continuance to further supplement his habeas

petition filed on October 25, 2019 regarding his contention that he had mental health and/or medical issues at the time the crimes were committed.

(ME 04/15/2021, italics in original).

In accordance with the Court's orders, new Counsel after reviewing voluminous medical records (some 3000 pages of documents), supplemented Petitioner's Petition for Writ of Habeas Corpus as follows:

In November 1979, Walton did in deed sustain multiple gunshot wounds to the head and was treated at St. Joseph's Hospital and Maricopa County General. "The patient was admitted to the ICU following discussion with neurosurgeon, Dr. Sontag. It was her determination that Walton had incurred no life threatening or neck injury and the next day Walton insisted he be discharged (against medical advice). Doctors had planned to perform an emergency eye surgery to "explore and remove foreign bodies." On November 6, 1979, Walton removed his IV and left the ICU; he was temporary restrained after he became violent and abusive to the staff. Eventually, Walton left without medications or future appointments.

In 1956, Dr. Richard Thompson, in correspondence to Dr. H.W. Dunford wrote in relevant part:

[Walton] has some hallucinations when he gets very sleepy and has run off the road on occasions. ... On November 4, 1979, he was shot twice or three times in the right temple by a girlfriend while he lay sleeping. He was hospitalized and unconscious for two or three days and then awoke confused and has poor recall of events. He does not know when the seizures started exactly but he started having grand mal seizures without warning about twice a month thereafter. He was placed on Dilantin three a day a more recently in just the past few months ... he was increased to four per day and the seizure frequencies have been reduced. ... He has injured himself on occasion... and has also bitten his tongue...

It is my impression this patient has narcolepsy from childhood and it is inherited... he also has a post-traumatic seizure disorder and still has one seizure a month which is unacceptable. I would recommend that blood levels be checked and if his Dilantin blood level would permit it that he be increase... Mysoline and Phenobarbital probably would not work well because of the history of narcolepsy...

On March 30, 1980, Walton was given a psychological evaluation that showed "evidence of substantial, generalized psychotic pathology, which tends to make his behavior bizarre and inappropriate". Anti-psychotic drugs were recommended but there was no indication he was ever prescribed any medication.

Records from 11/1979 to 10/2014 were provided by the Department of Corrections mostly in paper form; after 2014 the files were digitized. Many of the notes, though handwritten, were nonetheless still legible and substantiated that Walton suffered from PTSD prior to committing the crimes for which he was ultimately convicted. Similarly, he complained of mental health issues (that were only later diagnosed as PTSD). This information supports Walton's newly discovered evidence claim that he suffered from PTSD and this information was not presented to the trial court for consideration. (Exhibit "Motion by Zhivago Law with Supplemental Exhibits in Support of Petition for Writ of Habeas Corpus" filed 02/08/2022).

B. FACTS MATERIAL TO THE CLAIM FOR RELIEF

1. The Petitioner here, because of limited pagination for Writ of Certiorari, see (Appendix, Exhibits) Petitioner as a precautionary will cite only to the relevant parts following:

"No Prosecution of 60 in Sting Romley Assistant Assails Deputies, Upsetting Arpaio"

Arizona Republic, The (Phoenix, AZ) June 16, 2004 Author: David J. Cieslak and Emily Bittner.

About 60 people arrested last year in a prostitution sting will not be criminally charged because Maricopa County Sheriff's deputies used tactics including nudity and sexual contact in their undercover operations (as here), county prosecutors announced Tuesday.

County prosecutors believe the two-month sting, which targeted prostitution suspects and men accused of soliciting sex for money, was botched by sheriff's officials who allowed undercover deputies and Sheriff's Posse members to remove their clothing and engage in sex acts on videotape (as here).

"The credibility of the officers and the tactics they used are so abhorrent that we believe the likelihood of conviction has disappeared," Special Assistant County Attorney Barnett Lotstein said. "At no time did our office ever explicitly or implicitly sign off on anything relating to the conduct they employed.

In a hastily scheduled news conference, a visibly frustrated Arpaio defended his staffers, saying he believed they acted professionally and followed the law.

Arpaio hinted that politics played a role in Tuesday's decision to reject the cases but would not discuss a renewed strain on his relationship with Maricopa County Attorney Rick Romley.

The cases rejected by county prosecutors stem from arrests made from September to November last year during two investigations dubbed Operation House Call and Destiny. Deputies targeted 33 homes and 10 massage parlors in House Call, while Destiny was a sting operation out of three Valley hotels.

i) See Ingraham v. Wright, 430 U.S. 669, 51 L.Ed.2d 711, 97 S.Ct. 1401, 1409-10 (1977).

Sheriff's Capt. Don Schneidmiller said county prosecutors took part in planning the meetings and Knew that deputies planned to remove their clothing and possibly engage in "inadvertent" sexual touching.

Schneidmiller, who raised his voice several times while discussing Tuesday's development, described the prosecutors' decision as "ridiculous" and accused the County Attorney's Office of misrepresenting his operation.

Lotstein insisted prosecutors were unaware of any plans of nudity and would not have condoned such tactics. (as here).

David Dusebury, a retired deputy chief of police who has lectured and taught vice investigations in California, said authorities who engage in sexual contact have committed a crime (as here).

"Oh my. That's not acceptable," Dusenbury said. "You just have to back away and figure out another way to skin the cat."

If the investigators had sexual contact with the women, "then what you have is vice officers actually engaged in prostitution," Dusenbury said. "Then you've committed a crime yourself" (as here).

C. RECENT HEAD SCAN & HYPERTENSION EXAMINE

1. A recent 07/13/2023 CT Head injury report from: SimonMed Diagnostic Imaging in correspondence to Dr. Pamela Ann Olmstead wrote in relevant part:

Impression: (1) Multiple bullet fragments with significant beam hardening artifact in the right frontal lobe. Mild encephalomalacia in the right frontal lobe, (2) No acute hemorrhage, mass, or medline shift. No abnormal intracranial enhancement, (3) Multiple bullet fragments in the right orbit with remote right lamina papyracea and inferior orbital wall

ii) See *Gregg v. Georgia*, 428 U.S. 153, 49 L.Ed.2d 859, 96 S.Ct. 2909, 2923 (1976).

fractures. These orbital bullet fragments preclude MRI, and (4) Bullet fragments in the right maxillary sinus with remote right inferior maxillary sinus wall fracture. No acute or chronic sinusitis.

2. On 08/07/2023, NP Shiny Thomas, in correspondence to Clinical Coordinator Florence Correctional in a new consult for Hypertension, and abnormal ekg wrote in relevant part: "Mr. Walton is a 64-year-old male. He is a correctional facility inmate. He has a past medical history of type 2 diabetes, hypertension, arrhythmia and gunshot injury and migraines. The patient reports he has been experiencing palpitation and he feels like his heart is stopping. Patient has dizziness and near syncopal episodes in the past. EKG today in the office showed sinus bradycardia. He reports he has exertional dyspnea. Blood pressure is controlled on current medications. He has a history of hepatitis C and cirrhosis. He denies any lower extremity symptoms. Patient is on propranolol for possible migraine headaches. During my interview the patient denies any chest pain, shortness of breath or palpitations.

3. On September 21, 1988, nine exhibits by Superior Court Order were "sealed" containing the Petitioner's pre-screening Rule 11 report consisting of only one mental health examiner in violation of A.R.S. § 13-4505(A)(2) requiring that two or more mental health experts be appointed in CR1987-009953 felonies to examine the petitioner. See State v. Hansen, 146 Ariz. 226, 705 P.2d 466 (App. 1985) It was error for the trial court to appoint only one mental health expert under this rule. State v. Bishop, 137 Ariz. 5, 667 P.2d 1331 (App. 1983) The Petitioner has the right to a mental examination and hearing to determine his competence where reasonable grounds exist to support the examination and hearing. See also Maxwell v. Roe, 606 F.3d 561 (9th Cir. 2010) The Petitioner was entitled to habeas relief because his due process rights were

iii) See Estelle v. Gamble, 429 U.S. 97, 50 L.Ed.2d 251, 97 S.Ct. 285, 290 (1976) violated when the court failed to conduct a competency hearing sua sponte under circumstances that would have caused a reasonable trial judge to have bona fide doubt about his ability to consult with his lawyer with a reasonable degree of rational understanding. 18 U.S.C. § 4241(a) and Godinez v. Moran, 509 U.S. 389, 398-99 (1993).

4. In CR1987-009953, while Petitioner was released to the custody of Officer Helen Newsom on pretrial bail. He also was repeatedly drugged with mind-altering drugs, in complete nudity, and repeatedly raped sexually by Officer Newsom and other Authorities during interrogations while suffering mental health and/or medical issues....

5. In addition, on the date in question in CR1987-009953 T.W., K.V-1 and K.V-2 were allegedly chased by a male stranger into a liquor store located at 42nd Avenue & Bethany Home Road, in Phoenix. The store manager locked T.W., K.V-1 & K.V-2 inside his store and, via phone, summoned the Petitioner and codefendant Jocelyn Vinson ("Jocelyn") to come to his store to retrieve T.W., K.V-1 and K.V-2. The Petitioner and Jocelyn, together, drove to that liquor store in Petitioner's car and did in fact, retrieve T.W., K.V-1 & K.V-2 from locked inside that store.

6. However, when Petitioner sought to arrange an interview between trial counsel, Joseph Chornenky and the liquor store manager, he was accompanied by Officer Helen Newsom. Officer Newsom later returned to that store persuading the manager not to assist in Petitioner and Jocelyn's criminal defense, which counsel failed to further explore. Not knowing whether or not T.W., K.V-1 and K.V-2 were fact sexually molested by, either or both, the male stranger or store manager while locked inside that store.

7. Moreover, in CR1987-010264, the only parties engaged in that sexual threesome involved only this Petitioner and Officer Helen Newsom and named codefendant Ray Green, inside Ray

iv) See Lockyer v. Andrade, 538 U.S. 63, 155 L.Ed.2d 144, 123 S.Ct. 1166, 1172 (2003).

Green's mobile home, in Phoenix.

D. THE ACCRUAL RULE

1. It is important that the Court note, with regards to Petitioner's incompetence claim prior to and at the time of his crimes alleged that: "The current Petition is not a second or successive application, because the facts underlying the claim were never adjudicated on the merits but only accrued by the time of the initial petition to date, via, newly discovered evidence.

2. The accrual rule. (1939) A doctrine delaying the existence of a claim until the Petitioner has discovered it. The accrual rule arose in fraud cases as an exception to the general limitations rule that a claim comes into existence once the Petitioner knows, or with due diligence should know, facts to form the basis for a cause of action. See Merck & Co. v. Reynolds, 559 U.S. 633, 646-47, 130 S.Ct. 1784, 1794-95 (2010). See Discovery Rule. (Appendix, Exhibits).

3. To come into existence under the accrual rule, as an enforceable claim or right to an examination and hearing to competence; to arise < the Petitioner's cause of action for his traumatic brain injury and PTSD and other mental health and/or medical issues.... did not accrue until Petitioner knew or had reason to know of the diseases >. See Exhibits "Newly Discovered Evidence".

4. Furthermore, the Petitioner also was prepped and accompanied by Officer Helen Newsom to his Rule 11 pre-screening and followed Officer Newsom's directions to answer the examiner's questions as best he could. See State v. Ashby, 247 A.3d 521 (Conn. 2020) The Supreme Court of Connecticut ruled that under Massiah v. United States, 377 U.S. 201 (1964), and its progeny, a jailhouse informant can be an agent of the State - even in the absence of any formal agreement between the

v.) See Kennedy v. Louisiana, 554 U.S. 407, 171 L.Ed.2d 525, 128 S.Ct. 2641, 2642 (2008).

government and an informant - and use of evidence obtained by the informant violates the Petitioner's Sixth Amendment right to counsel. See also United States v. Marshank, 777 F. Supp. 1507 (N.D. Cal. 1991) The government agent or prosecutorial misconduct interference violated Petitioner's Fifth and Sixth Amendment rights. 18 U.S.C. § 4241 (a) under the government agent or prosecutor misconduct, Supreme Court opinion in Berger v. United States, 295 U.S. 78, 88 (1935) "That United States Attorney is the representative not of an ordinary party to a controversy, but to a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a particular and very definite sense the servant of the law, the two-fold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor - indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one." {see also Donnelly v. DeChristoforo, 416 U.S. 637, 40 L.Ed.2d 431, 94 S.Ct. 1868}.

E. DOUBLE JEOPARDY/MULTIPLE PUNISHMENT VIOLATION

1. The Petitioner here contends that, the Fifth Amendment guarantee against double jeopardy, also is enforceable against the States through the Fourteenth Amendment, and protects against a second prosecution for the same offense after acquittal, against a second prosecution for the same offense after conviction and against multiple punishments for the same offense. U.S.C.A. Const. Amends. 5 and 14; North Carolina v. Pearce, 395 U.S. 711, 89 S.Ct. 2072, 23 L.Ed.2d 656 (1969). see also: State v. Arnoldi, 176 Ariz. 236, 860 P.2d 503 (App. 1993); A.R.S. § 13-116 and State v. Cooper, 166 Ariz. 126, 800 P.2d 992 (App. 1990) Trial court may not vacate acceptance of guilty plea sua sponte

vi) See U.S.C.S. Fed. Rules Crim. Proc. 16

and set case for trial; to do so would violate constitutional proscription against double jeopardy. U.S.C.A. Const. Amend. 5.

a) Under Ariz. R. Evid. 410(a)(2) provide:

Except as otherwise provided by statute, in a civil or crimina case, or administrative proceeding, evidence of the following is not admissible against the Petitioner who made the plea or participated in the plea discussion:

1. . . .

2. a nolo contendere or no contest plea

see Ariz. R. Evid. 410; State v. Stewart, 131 Ariz. 251, 254, 640 P.2d 182, 185 (Ariz. 1982).

b) A.R.S. § 1-246 provides:

When the penalty for an offense is prescribed one law and altered by a subsequent law, the penalty of such second law shall not be inflicted for a breach of the law committed before the second took effect, but the offender shall be punished under the law in force when the offense was committed.

see A.R.S. § 1-246 and Ariz. R. Evid 410(a)(2) governs over A.R.S. § 13-604 (1987) and § 13-604.01 (1987).

2. On February 13, 2012, the Honorable Edward Bassett in a Minute Order authorized the Petitioner to have access to the Certificate of Absolute Discharge in the record of the Department of Corrections. The Department in 2012, ultimately issued the Petitioner's "Certificate of Absolute Discharge" from the imposed sentence and judgment in compliance with the requirements of Sections 13-906 and 13-912 of the Arizona Revised Statute. It is effective on the expiration date of this commitment on Maricopa County Cause No. CR97176 on a no contest

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vii) see Bousley v. United States, 523 U.S. 614, 118 S.Ct. 1604, 140 L.Ed.2d 828 (1998).

plea on Lewd and Lascivious Acts sentence start date on 11/22/1979 and discharged on 06/15/1983. See, however, 10/03/1988 R.T., at pp. 59-82 and 82-__; 02/16/1989 R.T., at 3-12, placing the Petitioner a second time in jeopardy for the same offense and multiple punishment of sentence punishment for natural life (Appendix, Exhibits).

3. In CR162271, for a sex crime against a minor previously dismissed with prejudice on February 18, 1987. ME 02/19/1987, Hon. Bernard Dougherty) The Petitioner was reindicted on CR162271 under CR1987-010264, tried, and he was acquitted.

4. On May 6, 2021, the Internal Revenue Service ("IRS") mailed two Stimulus Payments in amount $600 and $1,254.80 to the Petitioner here at the Department. However, based "solely" on Petitioner's status as "a person incarcerated" the stimulus payments were intercepted by the Department and deposited into Petitioner's prison inmate trust account ("ITA") totally $1,854.80, and $1,254.80 forfeited by the Department in violation of U.S. v. $191,910.00 in U.S. Currency, 16 F.3d 1051, 1066-71 (9th Cir. 1994) (use of criminal convictions for probable cause in a civil forfeiture case disallowed under Double Jeopardy). Accordingly, the Petitioner hereby argue that he has paid in full... his debt to society in full... in CR1987-009953.

5. United States v. Foumai, 910 F.2d 617 (9th Cir. 1990) "The Double Jeopardy Clause protects the integrity of a final judgment and prohibits multiple prosecutions even when no final determination of guilt or innocence has been made." citing: United States v. Scott, 437 U.S. 82, 92, 98 S.Ct. 2187, 2194, 57 L.Ed.2d 65 (1978) "It is well established that the double jeopardy clause prohibits augmentation of a criminal sentence when it would violate the Petitioner's reasonable expectation of finality." citing: United States v. Arellano-Rios, 799 F.2d 520, 523 (9th Cir. 1986) (sentence becomes final and irrevocable no later than the date it is fully served); United States

v. DiFrancesco, 449 U.S. 117, 136-38, 101 S.Ct. 426, 437-38, 66 L.Ed.2d 328 (1980); United States v. Earley, 816 F.2d 1428, 1434 (10th Cir. 1987).

6. "Double Jeopardy challenges raise special concerns that deserve immediate appeal to prevent the Petitioner from being subjected to further proceedings in violation of constitutional rights." (at 621), citing: Abney v. United States, 431 U.S. 651, 662, 97 S.Ct. 2034, 2041-42, 52 L.Ed.2d 651 (1977); United States v. Baptiste, 832 F.2d 1173, 1174 (9th Cir. 1987)

7. Pennsylvania v. Goldhammer, 474 U.S. 28, 106 S.Ct. 353, 88 L.Ed.2d 183 (1985) "[T]he basic design of the double jeopardy provision [is to] bar... repeated attempts to convict, with consequent subjection of the Petitioner to embarrassment, expense, anxiety, and insecurity, and the possibility that he may be found guilty though innocent. ..." quoting; U.S. v. DiFrancesco, 449 U.S. 117, 101 S.Ct. 426, 66 L.Ed.2d 328 (1980) Similarly, "the State with all its resources and power should not be allowed to make repeated attempts to convict the Petitioner for an alleged offense, thereby subjecting him to embarrassment, expense and ordeal and compelling him to live in a continuing state of anxiety and insecurity. Green v. United States, 355 U.S. 184, 2 L.Ed.2d 199, 78 S.Ct. 221, 61 ALR2d 1119 (1957).

8. Under a Fifth Amendment Double Jeopardy review, the Court should have limited its inquiry only to the question of whether or not the Petitioner was subjected to the burden of two trials for the same offense. If Petitioner was "twice put to the task of marshalling [his] resources against those of the State, [and] twice subjected to the 'heavy personal strain' which such an experience presents," then the Double Jeopardy prohibitation was violated. Breed v. Jones, supra, at 421 U.S. 533, 95 S.Ct. 1787, citing United States v. Bacn, 400 U.S. at 479, 91 S.Ct. at 554. See also Green v. United States, 355 U.S. 184, 2 L.Ed.2d 199, 78 S.Ct. 221 (1957); Ex parte Lange, 15 Wall. 163, 21 L.Ed. 872 (1874). (See Appendix, Exhibits)

Consequently, Petitioner argues that his conviction and sentence and sentencing imposed in CR1987-009953 are unconstitutional, and, he hereby moves the Court to reverse and remand the judgment and conviction in this case in its entirety with instructions. Alternatively, it is requested that the court order on constitutional grounds the issuance of a COA in this case, because jurists of reason under 18 U.S.C. 3424(a) and Miller-El v. Cockrell, 537 U.S. 322, 154 L.Ed.2d 931, 123 S.Ct. 1029 at 1034 (2003) could certainly differ in opinion from that of the district court's procedural ruling under the Fifth and Fourteenth Amendments noted earlier in this Petition above and following.

F. ATTORNEY ABANDONMENT

1. In this case where Petitioner's lawyer was present at trial and sentencing but did "absolutely nothing" to help him, this Court should grant Petitioner habeas corpus relief, ruling that the attorney abandonment does not always mean that the attorney physically left his client during a critical stage. Such as, trial counsel taking the witness-stand against Petitioner in the middle of his criminal trial, see 10/11/1988 R.T., at 19-49; 02/16/1989 R.T., at p. 7, L. 2-10.

2. Petitioner asserts that he "suffered from traumatic brain injury and PTSD and other mental health and/or medical issues prior to and at the time of his crimes alleged... yet, without a competence examine by two or more mental health experts - he was tried, convicted and sentenced on ten counts of the same offense on felony sex crimes involving a minor, see 02/16/1989 R.T., at p. 7, L. 2-10. The court held a sentencing hearing and gave to counsel an opportunity to speak on behalf of his client in hopes of a lower sentence. However, counsel simply stated: "Judge, the position I find myself in is one as the attorney who is the attorney for sentencing purposes only. It puts me, and I believe Geary, at somewhat of a disadvantage to have any sort of recommendation coming from me. However, I think it is incumb-

ent on me to adopt the recommendation of both Mr. Chornenky and Mr. Bernays in this matter, so I would do so at this time., see 02/16/1989 R.T., at p. 7, L. 8-10. That was the entirety of counsel's involvement or assistance at sentencing. He did nothing to offer mitigating evidence of Petitioner's trouble upbringing, persc riptions med. addiction resulting from multiple gunshot wounds to the head or, his sexual abuse through drugs during interrogations in the custody of a government agent or prosecutorial misconduct interference with defense witnesses in this matter.

3. Petitioner was sentence to 301 years ("natural life"), over and above the maximum allowable by law. Once his appeals were exhausted, he filed a pro se post-conviction petition. But because of his mental disease or defect, and, being without trial transcript and records in his feeble attempt to delineate his claim that counsel failed to do anything for him at trial or sentencing and him being without counsel or assistance of counsel the trial court denied an evidentiary hearing. However, Petitioner contends that "counsel's performance, all stages, were clearly deficient." Moreover, applying the ineffective assistance of counsel ("IAC") standard under Strickland v. Washington, 466 U.S. 668 (1984), the court denied relief by finding the Petitioner failed to show prejudice by counsel's deficient performance. In short, the court agreed with the State that no matter what help counsel could have provided. Petitioner was going to receive the maximum punishment.

4. Filing for habeas corpus in the U.S. District Court for the District of Arizona (Phoenix), Petitioner again sought to argue that counsel, all stages, abandoned him, but habeas counsel assigned to Petitioner failed to conduct an investigation into his medical history to help him. The district court, however, could not second-guess the state court's decision unless it was an unreasonable application of "clearly established federal law," as defined

by the U.S. Supreme Court. 28 U.S.C. § 2254(d)(1). The state court "assuming" applied the two-prong analysis in Strickland, regarding IAC claims (i.e., counsel's performance fell below "objective standard of reasonableness" and "a reasonable probability that, but for counsel's errors, the results .... would have been different"; the former is commonly referred to as the performance prong and the latter the prejudice prong.) In Lewis v. Zatecky, 993 F.3d 994 (7th Cir. 2021) the district court determined that no Supreme Court case was on-point with Lewis' claimed error and therefore denied relief. However, the court stated that "[r]easonable jurists could disagree about whether Cronic clearly established an exception to Strickland's prejudice requirement" based on the facts of that case and granted a certificate of appealability on this issue.

5. Similarly, here Petitioner contends that if "Cronic applies . . . then matters are quite different, because prejudice need not be shown." (Appendix, Exhibits) In United States v. Cronic, 466 U.S. 648 (1984), decided the same day as Strickland, the Supreme Court recognized an "exception" to Strickland's standard analysis when "circumstances ... are likely to prejudice the Petitioner that the cost of litigating their effect in this particular case is unjustified," i.e., presumption of prejudice so that only the performance prong needs to be satisfied.

The Cronic Court identified three such situations: (1) "The complete absence of counsel at a critical stage," (2) "Counsel's total failure to subject the prosecution's case to meaningful adversarial testing," and (3) "other circumstances" where even competent counsel could not have provided effective assistance.

6. The Seventh Circuit explained that for the Cronic rule to apply, counsel's extreme failure must have occurred during a critical stage of the proceedings. See Florida v. Nixon,

543 U.S. 175 (2004). See also Godinez v. Moran, 509 U.S. at 396 (1993) (emphasis mine added). The Court noted that "the Supreme Court has emphasized for years the 'critical nature of trial and sentencing in a criminal case ....'" Quoting Mempa v. Rhay, 389 U.S. 128 (1967) and Chambers v. Mississippi, 410 U.S. 284 (1973) The Supreme Court reinterated the Sixth Amendment right to counsel during the trial and sentencing phase in Lafler v. Cooper, 566 U.S. 156 (2012); id., at 509 U.S. at 396. Thus, the Court should conclude that Petitioner's counsel's clearly deficient performance at his trial and sentencing occurred at a critical stage warranting a COA that reasonable jurists could disagree with the district court's resolution in this case.

7. Petitioner's argues here that "a showing of prejudice is not necessary in this 'situation in which counsel has entirely failed to function as his clients' advocate." See Nixon. Petitioner argues that the [Cronic] Court articulation must be taken at its word when it says that it is simply offering illustrations of the rule announced ...." The Court cautioned that judicial "opinions must not be confused with statutes, and general expressions must be read in light of the subject under consideration." Quoting United States v. Skoien, 614 F.3d 638 (7th Cir. 2010) As such, the Court determined the three situations identified in Cronic are not the exclusive situations in which the Cronic rule may apply.

The Court reiterated that clearly established federal law in a Supreme Court case does not have to perfectly align with the facts of the case at hand. See Panetti v. Quarterman, 551 U.S. 930 (2007) It cautioned that it has never held a court must find an exact match for the case before it that the Supreme Court had decided in order for it to be clearly established federal law when determining whether to apply deference under

§ 2254(d)(1). See Williams v. Taylor, 529 U.S. 362 (2000).

5. Petitioner argues in this case, that his conviction, sentence and sentencing via trial "was an announcement of abandonment." It characterized counsel's behavior as the "functional equivalent" of "total absence of counsel" at a critical stage of the proceedings. (Appendix, Exhibits). It explained exactly the fate the Strickland Court had mentioned: the actual or constructive absolute denial of assistance of counsel (Cronic category one)". Thus, the Court should conclude that counsel gave up on Petitioner and left him entirely without the assistance of counsel at the trial and sentencing stages of a felony sex crime of a minor case mentally and/or medically incompetent to fend for himself. Rare though Cronic cases may be, Petitioner contends this is one of them and qualifies for a certificate of appealability and hearing, because of Petitioner newly-discovered evidence. (Appendix, Exhibits).

6. New Genotyping Technology

1. Rule 32.12(d) was amended to remove the requirement that before ordering a post-conviction DNA testing, a court must find that the evidence is in a condition that allows DNA testing to be conducted. Given the current state of the art, such a determination cannot be made without actually performing the test.

2. Accordingly, pursuant to Ariz.R.Crim.P. 32.17(a), 33.17(a); and 18 U.S.C. § 3600(a)(1)(B), the Petitioner hereby Petitions this Court for an Order to DNA testing of all evidence relating to the allegations of the trial court findings and/or the failure to develop the factual basis of the claim relevant to, 02/16/1989 R.T., at p. 5, L. 7-21, of the alleged facts of fellatio, cunnilingus, and oral sex acts performed on a friend to obtain drugs constituting in a sense, prostitution; also in the alleged Glendale incident, my injecting cocaine into my arm as blood dripped

down to the floor that had to be wiped up by T.W. and while committing further sexual acts causing physical and particularly emotional harm to T.W. and K.V-1, including but not limited to, 02/16/1989 R.T., at pp. 3-4, L. 24, 25, 1-10, alleged prior bad acts.

3. Petitioner pursuant to Ariz. R. Crim. P. 15.1(a), 32.17(a), 33.17(a) and §3600(a)(1)(B) hereby petition this Court for the necessary order required and promulgated and Congress adopted the Rule Governing § 2254 Case under Rule 6(a) to invoke the process of discovery; see Bracy v. Gramley, 520 U.S. 899, 138 L.Ed.2d 97, 117 S.Ct. 1793, 1795-96, 1799 (1997) for all forensic and biological and blood evidence, linen, underwear, clothes, oral and vaginal swabs, etc. relating to victims T.W., K.V-1 and alleged victims of prior bad acts in CR97176, and that surrounding Officer Helen Newsom and other Authorities and codefendant Ray Green involved in this case for DNA testing that may relate the store manager and/or the male stranger who allegedly chased T.W., K.V-1 and K.V-2 into that liquor store.

4. Petitioner asserts that he is the perfect candidate for post-conviction DNA testing. See Harvey v. Horan, 119 F.Supp.2d 581, 582-84 (E.D. Va. 2000), contending that the results could prove exculpatory results, which could be a basis for proving innocence. See United States v. De Watson, 799 F.3d 1174 (9th Cir. 2015) where defendant was convicted of sexual assault and, seven years later, moved for DNA testing of underwear, clothes, and vaginal swabs, motion should have been granted because new DNA tests that make previously useless DNA capable of identification amount to "newly discovered DNA evidence"; defendant moved in timely fashion for previously unperformed DNA testing, based on newly discovered evidence - results of DNA testing not possible at time of trial - that could well prove defendant's actual innocence and mistaken identity (as here). Any doubt must be resolved in Petitioner's favor; see also Bousley v. U.S., 523 U.S. 614, 140 L.Ed.2d 828, 118 S.Ct. 1604, 1608-09, 1611-12 (1998) (See Exhibit - Affidavit of Brice

E. Buehler- dated 23 March 2015) (Appendix, Exhibits). Id.

5. Consequently, as computer hardware and software became cheaper and more ubiqutous in the early 2000s, a whole industry developed around using computers to try to remove some of the subjectivity of probalistic genotyping. But not all these forensic tools are well made, and like breathalyzer technology, the software used to run them can make decisions or assumptions that undermine the reliability of the results. Public crime labs in New York, Texas, and Washington have had to temporarily shut down testing or switch tools because of flaw discovered in DNA testing tools being used.

Lab analyst "make it seem like its a completely objective process," said Bicka Barlow, a California attorney with a master's degree in genetics and molecular biology. "But I'm 100 precent convinced that there are many people who are incarcerated who were convicted with DNA evidence who are innocent."

"There are probably 5,000 to 6,000 innocent people in Texas prison alone," lamented lawyer Mike Ware, executive director of the Innocence Project of Texas. "How many of them could benefit from such a reanalysis of DNA that was used to convict them?"

For instance, in Lydell Grant arrested for the December 2010 stabbing death of Aaron Scheerhoon outside a bar in Houston. Several witnesses identified Grant in a photo line-up (a notoriously unreliable identification method), though Grant had an alibi for that night. The only other evidence presented by the State was a DNA sample collected from under the victims fingernails - a mixture containing that of two people, the victim and a second male

vii) Petitioner seek further the disclosure of all warrant(s) sought and/or issued to Authority(ies) for his home/resident and/or vehicle(s) operated for variety challenge to affidavit(s), in which, he was drugged and sexually abused by Authority while suffering incompetence. United States v. Jones, 565 U.S. 400, 181 L.Ed.2d 911, 132 S.Ct. 945 (2012) and Franks v. Delaware, 438 U.S. 154, 57 L.Ed.2d 667, 98 S.Ct. 2674, 2676, 2681, 2684 (1978).

profile. See Ex parte Grant, 622 S.W.3d 392 (Tex. Ct. Crim. App. 2021)

According to NBC News, "Houston's crime lab at the time was unable to conclude that the other genetic material was Grant's, and the State's expert's testimony suggested to the jury that Grant 'could not be excluded.'" Grant was later convicted and spent almost a decade in prison.

The Innocence Project of Texas partnered with Angie Ambers, an associate professor of forensic science at the University of New Haven in Connecticut. "Years after Lydell Grant was convicted and sent to prison, there was a paradigm shift in how we interpreted DNA mixtures in criminal casework." Rather than having a human DNA analyst interpret a mixture of DNA, computer software programs were developed to reduce the subjectivity in interpretation."

Ambers referred Grant's team to a company called Cybergenetics, which had created probablistic genotyping software called TrueAllele. This software was able to separate Scheerhoon's DNA from the other male's and create a profile of the suspect. The suspect profile was not a match to Grant, so the team sought assistance in locating a suspect. A South Carolina crime lab then allowed the team to upload the profile for comparison against the FBI's Combined DNA Index System or CODIS. The database returned a match to Jermarico Carter, an Atlanta man who was in Houston on the night of the murder. Carter later confessed to the crime, a subsequently, a Texas judge has recommended that the state's highest court invalidated Grant's conviction.

TrueAllele and STRMix are currently the two main private competitors in the probablistic genotyping forensic software market. And "we simply cannot know what the probability that a person contributed to a DNA mixture is, see 02/16/1989 R.T., at p. 8, L. 7-21, including but not limited to the store manager/male stranger, and/or, Officer Helen Newsom and other Authorities and Ray Green. Unless in a controlled testing, we Know whether a person's DNA was a part of a DNA mixture or not, but there is no way to figure out whether it was 100 times more likely that the donor's DNA rather than an unknown person's contributed to the mixture, or a million times more likely." Accordingly, as noted earlier in the arguments above, the Petitioner hereby Petitions this Court for an immediate DNA testing Order in this matter including prior bad acts alleged in CR97176. Alternatively, it is requested that the Court reverse his convictions, dismissed the Indictments with prejudice on all charges and order his immediate release, or, order the reversal and remand of this case with instructions for new trial. See: "Standard of proof In re Winship, 397 U.S. 362, 25 L.Ed.2d 368, 90 S.Ct. 1068, 1071 (1970). Reasonable Doubt Standard.

H. The Right To Confrontation

1. Failing to make DNA testing available in this instance - at least under the circumstances argued above earlier throughout the body of this Petitioner - converts the newly discovered evidence and DNA analysis tools into a mockery whose reliability cannot be realistically appreciated to form a challenge to what amount to hearsay evidence, and juries will accept the results of court findings without question. See id. at p. 8, p.L. 7:21.

2. The Supreme Court remarked that "[d]ispensing with confrontation because testimony is obviously reliable is akin to dispensing with jury trial because the Petitioner is obviously guilty." Crawford v. Washington, 541 U.S. 36 (2004), Melendez-Diaz v. Massachusetts, 557 U.S. 305 (2009), Bullcoming v. New Mexico, 564 U.S. 647 (2011) and Danforth v. Minnesota, 552 U.S. 264 (2008).

3. The right to confrontation should not be limited to the confines of the trial proper; the inner workings of any forensic tool must be available even during pretrial and sent-

encing hearings. The power dynamic in Arizona's current criminal justice system is already heavily weighted towards prosecutions, and nearly all cases are disposed of by plea agreement.

4. The ability to challenge evidence - including pretrial and sentencing - better ensures real access to justice and provides more than just a sham appearance of due process as in this case. See Crime Victims R.S. v. Thompson, 485 P.3d 1068 (Ariz. 2021) Arizona Supreme Court's Announced 'Reasonable Possibility' Standard in Balancing Right to Present Complete Defense Against Victim's Refusal to Disclose Privileged Medical Records, denied to Petitioner. Ariz.R.Crim.P. 32.1(g).

I. THE ALL WRITS ACT, § 1651 AND THE HABEAS CORPUS RULE 6(a) FOR DISCOVERY

1. In addition to the above and following, Petitioner further petitions the Court pursuant to the All Writs Act § 1651, that gave federal courts the power to "fashion appropriate modes of procedure to discovery adopting the Rules Governing § 2254 Cases pursuant to Rule 6(a) for all statements presented in this case, written or electronic notes, policy and agency reports relevant to Catherine Sims. Catherine Sims, is a witness, who operated in concert against Petitioner, with Officer Helen Newsom and Authorities taking advantaged of his mental health/medical issues

suffered ... in violation of A.R.S. § 13-3623 child or vulnerable adult abuse, emotional abuse that entitles Petitioner to the full measure of the portrait and defense of a complete developed state record ..., to enable him to demonstrate that he is entitled ... to relief from prosecution, having been prosecuted "solely" on the basis of his mental disease or defect as a result of multiple gunshot wounds to the head suffered and perscribed medications addiction. Bracy v. Gramley, 520 U.S. 899 (1997) and United States v. Marshank, 777 F. Supp. 1507 (N.D. Cal. 1991). See also State v. Ashby, 247 A.3d 521 (Conn. 2020) Use of jailhouse informant violate Sixth Amendment right to counsel under Massiah v. United States, 377 U.S. 201 (1964), and its progeny, State v. Bilke, 162 Ariz. at 52-53, 781 P.2d at 29-30, See also Godinez, 509 U.S. at 398-99, and Martinez v. Ryan, 566 U.S. 1 (2012). See also Fed. Rules Crim. Proc. 16.

CONCLUSION

Because Petitioner was incompetent at trial to stand trial and was without counsel or mental health expert assistance, he requests the Ninth Circuit and district court's COA rejection be reversed and remanded with instructions to grant certificate of appealability, appoint counsel and set an evidentiary hearing on this Petition for relief entitled.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jerry W. Walton

Date: March 13, 2024