NO.# 24-5147 ORIGINAL

IN THE UNITED STATES SUPREME COURT

OF THE UNITED STATES

****

LAMON BOYD-PETITIONER,

VS.

STATE OF OHIO-RESPONDANT(S) ET AL

ON PETITION FOR A WRIT OF CERTIORARI
CASE NO. 2021-CR-0007/1
***

SECOND APPELLATE DISTRICT COURT OF APPEALS OF OHIO
CASE NO. CA-29447
***

SUPREME COURT OF OHIO
CASE NO. 2023-1211
***

Lamon D. Boyd #798900
Pickaway Correctional Institution
11781 State Route 762

Orient, Ohio 43146

CONSTITUTIONAL QUESTIONS PRESENTED

The First Constitutional question presented, stands upon the Federal 4th Amendment, and 14th Amendment Due Process Clause applicable to the State that require State Courts to exclude evidence which stems from unconstitutional search and seizure, under the State v. Mapp, 367 U.S. 643. and Wolf v. Colo, 338 U.S. 25. Was it constitutional for officers to, seizing the Appellants Keys from his person, entering the Appellant's home without a warrant presented by the law enforcement officers prior to ransacking the Appellant's home as he sat in the cruiser and watched for 45 minutes, as officer's seizing evidence not in plain sight, to which the Trial Court overruled the Motion to Suppress the guns, drugs and marijuana, seized, contrary to the (Exclusionary Rules) and need to deter such future conduct to which the Appeals Court affirmed unconstitutionally?

The Second Constitutional question presented stand upon, Did the Dayton Police Departments Officers and Detectives have Exigent Circumstances, to due a Security Sweep, and Emergency Aid, and seizing evidence without a warrant, after choosing to not use S.W.A.T. or Force, to enter the home on January 2, 2021, waiting a full 7 hours to obtain a warrant? Was the Appellants 4th and 14th amendments to be protected in his home being searched and property seized even if it was guns, drugs and marijuana, in violation of the due process clause rights?

The Third Constitutional question stands as to whether the Court of Appeals violated the United States Constitution's 6th Amendment to ta Fair and just trial and appeal absences of the and 14th Amendment Due Process Clause by affirming the Conviction knowing that George Kloos was in fact a material witness who should have been forced to testify as one with full knowledge of the illegal search and seizure, and one first on Scene on January 1, 2021, and January 2, 2021. The question of him not testifying is substantive to the Appellants Liberty and exoneration of this case where this office simply implied he remembers nothing to which his police report was suppressed?

The Fourth Constitutional question presented as to, could the Trial Court prohibit a fair and just trial under the 6th Amendment in overruling the Motion to Dismiss after on17 hours without a full investigation, in violation of the 14th Amendments due process clause, where the statement of an angry alleged victim was held as fact by the Second Appellant District court of Appeal affirming the Conviction and Sentence on the inaccurate information as to what actually took place, contrary to the forensic evidence and DNA, which contradicts such allegations?

The Fifth Constitutional question, in this cases depended upon by the appellant in State v. Price opinion, id at 122 Ohio App. 3d 65. Under Luna, 2 Ohio, St. 3d 57, State v. Mathews, 81 Ohio St. 3d 375, and Bolate v. United States, 559 U.S. 196, at *¶215-218. As to The Appellant Court ignored the Price opinion and solely standing upon the Butcher ex parta, where the Trial Courts made an unreasonable error to the unconstitutional decision pertaining to the Appellants Motion to dismiss where the Prosecutor did not rebut the motion to which the Court failed to address, this is a 14th Amendment due process clause issue to be decided by this honorable court.

LIST OF PARTIES

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

[ ] 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:

LAMON BOYD- Petitioner/Appellant

vs

STATE OF OHIO [redacted], Respondant/Appellee

TABLE OF AUTHORITIES CITED

STATUTUES AND RULES

Constitutional Provisions

The following provisions of the United States Constitution are involved:
U.S. Const. Amends. IV, VI, and XIV. The test of said provisions are attached hereto as Appendix "A" (B).....

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JURISDICTION

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

The date on which the United States Court of Appeals decided my case was N/A.

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

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

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including N/A (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: June 23, 2023, 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 N/A (date) on _____ (date) in Application No. A_____.

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

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 N/A 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 N/A to the petition and is

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

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

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

[X] reported at GEN-2023-1211; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

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

[X] reported at 2023-Ohio-2079; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

MEMORANDUM OF PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE UNTIED STATES

Petitioner, Lamon Boyd, respectfully prays that a writ of certiorari issues to review the judgement, opinion of the Montgomery County Second Appellate District Court of Appeals order and affirmation of the conviction in case No. 29447, and the Supreme Court of Ohio's denial of jurisdiction, of the memorandum of Jurisdiction filed...

Judicial Jurisdiction

Jurisdiction is conferred upon this Court by 28 USCA, Section 1257(3), to review by writ of certiorari a final judgment rendered by the highest Court of a state in which a decision could be had.

Constitutional Provisions

The following provisions of the United States Constitution are involved: U.S. Const. Amends. IV, VI, and XIV. The test of said provisions are attached hereto as Appendix "A" (B)...

Statutory Provisions Involved

United States Constitutional Rights to a Fair and Just Trial that the 6th Amendment demand, have material witnesses like George Kloos to testify in the Suppression hearing to the violations of the Appellant's 4th Amendment rights from the illegal search and seizure of his home, to have access to the Due Process Clause of the 14th Amendment through the criminal proceedings and Speedy Trial Rights pursuant to the Ohio Revise Code § 2945.71 thru R.C. § 2945.73.

Opinion Below

In the Proceeding below what has been said by the Montgomery County Court of Appeals in its opinion pertaining to the Direct Appeal is as followed:

The Second Appellant District Courts decision and opinion affirming the Trial Courts decision to Deny the Motion to Dismiss, and Overrule the Motion to Suppress, was beyond simply an abuse of discretion, it stands firm on violations of the Appellants United States

Constitutional Rights to a Fair and Just Trial that the 6th Amendment demand, have material witnesses like George Kloos to testify in the Suppression hearing to the violations of the Appellant's 4th Amendment rights from the illegal search and seizure of his home, to have access to the Due Process Clause of the 14th Amendment through the criminal proceedings and Speedy Trial Rights pursuant to the Ohio Revise Code § 2945.71 thru R.C. § 2945.73.

The facts in the opinion in making the decision are inaccurate and misleading, because they are from unsubstantiated speculations from R.H. never proven, to the level that the trial Court and Court of Appeals stated them as fact and failed to allow these facts and evidence to be suppressed or challenged. The Appellant has discovered new evidence not allowed to be used that has been hidden by Detective Howard in this case, such as:1. The Affidavit, warrant, 2. George Kloos police Report, 3. Officer's body came footage, 4.The Appellants Table.

The Appeals Court made its decision predicated upon it opinion:

Overview: HOLDINGS: [1]-No speedy trial violation occurred under R.C. 2945.73(B) because defendant entered a plea before the time period to try him ended; [2]-Defendant's constitutional speedy trial challenge was rejected because of the 387 days that elapsed, only 60 days were attributable to the State; there was no evidence in the record to suggest that defendant was prejudiced by the delay; [3]-The trial court did not err in overruling defendant's motion to suppress because the officers lawfully entered his home under the emergency aid exception out of concern for the safety of two missing juveniles; information demonstrated that the missing juveniles potentially had been injured by the consumption of illegal substances or by defendant himself or had been engaged in illicit sexual activities at his direction.

Because we have concluded that the warrantless entry in this case was lawful, any observations the police made while inside Boyd's home could have been used to obtain the subsequent search warrant. Consequently, any evidence collected pursuant to the execution of the search warrant was admissible, and the trial court did not err in overruling Boyd's motion to suppress in its entirety. Boyd's second assignment of error is overruled.

[*P72] Having overruled both of Boyd's assignments of error, the judgment of the trial court is affirmed.

TUCKER, J. and HUFFMAN, J., concur.

Appellate Counsel Lucas Wilder failed to raise any prejudice nor ineffective assistance of trial counsel, of no fault of the Appellant and was a prejudice and Due Process Clause violation in the Direct Appeal Process in and of itself. The Second Appellate District Court has held the Appellant is fully held to all his counsel's ineffective assistance and unreasonable issues, that has not been fully address in this case up to this point. This is the reason a stay has been requested to bring the other issues up through the State Courts that has been filed, dealing with the new evidence suppressed and evidence ignored being:

- Post-Conviction Relief timely filed; Appellate Rule 26(B), that was delayed by Institutions mail room for 44-days, grieving PLRA remedy;
- Requesting leave to Amend Post-Conviction Relief for new evidence discovered;
- Filing a 32.1 Motion to Withdraw the Guilty Plea due to Court negotiating and accepting plea, when State of Ohio offered no plea.

The Appellate Statement of the Case

Under the Second Appellate Court of Appeals Opinion, affirmed the Conviction from the Montgomery County Court of Common Plea of Ohio, on two issues and assignments of error after that trial court overruled the Motion to Suppress pertaining to the evidence illegally seized under the unconstitutional use of the Exigent Circumstances Doctrine for a Security Sweep and Emergency Aid, ignoring the exclusionary Rule Doctrine, and Denied the Motion to Dismiss where the State of Ohio failed to take the Petitioner to trial within the (90) days or (270) days. The fact that Officer George Kloos was not made to testify in the suppression hearing was a substantive constitutional violation. This officer was the material witness to prove that the evidence seized was illegally obtained.

The Appellant Boyd's had to file the Delayed Appeal for the very same reason, that the P.C.I. mail room did withhold the mail for days and plus, appointed Counsel held the opinion for `10-days, and the Second Appellate District Court of Montgomery County never sent a certified Copy of the Appeals Court's opinion to the Plaintiff, to this very date he has never received a copy of the June 23, 2023 opinion from that clerk's office. The Appellant Boyd's, was forced to file a Delayed Appeal in the Ohio Supreme Courts Case No. 2023-1211, filed September 21, 2023. The Supreme Court of Ohio Denied taking Jurisdiction over this case, on February 20, 2024.

In light of discovering the new evidence, the Appellant Boyd's is working on preparing to file in the Montgomery County Court of Common Pleas, a Motion to Withdraw his No Contest Plea, under the grounds that the new Evidence is proof that he would not have taken the plea of No Contest, had the Police Report of George Kloos, the Affidavit, and Warrant were presented to him during the pretrial proceedings by his Counsel Karl Kordalis and second Counsel Lieberman.

The Appellant Boyd's also sought a Petition for Post-Conviction on April 26, 2023, that is still pending, and in light of this new evidence and issues off the records. All of it could effect that hearing and appeal. That is why a Stay on these issues have been officially requested in this court to ensure that this honorable Court receives all the evidence that effects this case after the State has had a full adjudication of all the evidence that it did not have presented to it and was just discovered on February 8th, 2024, by assistance of friend's family and Sgt. Janson E. Rhodes. The Appellant has contacted many of state agencies and officials who has continually pointed to each other and no one seems to know where Officer Kloos police Reports for January 1, 2021 and January 2, 2021 are? All of this evidence is being hidden or has been destroyed, but it's said that Officer Howard has made sure no one can obtain it. See attached Affidavit of Verity.

The Appellant Boyd's Appeal to the Ohio Supreme Court was denied jurisdiction without this new evidence, and because the case must be predicated on this evidence, the need to withdraw the No Contest Plea is important, especially when the Appellant found out that it was the Judge who offered the No Contest Plea, agreed to the No Contest Plea, and negotiated the 11 years. The State has made it clear that "It offered no Plea deals..." This evidence was not presented in the

Direct Appeal or the App. Rule 26(B), because it was not discovered at that time as an issues. The Appellant is in the process, of trying to obtain this evidence through the Ohio Revised Code § 149.43, to All Counsels and State of Ohio. This will give this honorable Court a full opportunity to have all the evidence placed before it.

In this Current Direct Appeal from the Ohio Montgomery County Second Appellate District Court of Appeals is thus presented to this Honorable United States Supreme Courts under the two assignments of errors presented by Attorney Lucas Wilder, as followed: **FIRST ASSIGNMENT OF ERROR:** The trial Court should have granted Boyd's "Motion to Dismiss" on grounds that his speedy trial rights were violated. **SECOND ASSIGNMENT OF ERROR:** The trial Court abused its discretion in overruling Boyd's "Motion to Suppress"

These assignments of errors where presented to the Second Appellate District Court of Appeals without all of the evidence presented in the direct appeal. This prevented a full adjudication of the law and facts in the interest of justice in this case, prevented a fair and just trial, allowed a No Contest Plea to be taken that was negotiated by the Judge and not the State of Ohio, and therefore, must be reversed where the above assignment of errors were in sufficient to present a full opinion on the facts and to uphold the full weight of discretion in the way the law and due process effected their opinion, thus standing on an unconstitutional decision that has injured the Appellants in his Due Process and Liberty, to a fair and just Direct Appeal on all the evidence and facts.

Again, it's clear that the Judgment and Opinion was filed on February 8th, 2022, and does unconstitutionally distort and inaccurately state facts that was without factual evidence to provide the attached opinion in this case. The facts have been so distorted that the accuracies must be questioned. And is being questioned, to the level of it substantively effecting the outcome of the appeals decision, where the outcome would have surely been different, with the new evidence, presented and the with the oral arguments being weighed in and fully considered on the Speedy Trial rights.

Because the Appellant Boyd's, cannot present new evidence in this appeal, he is left to stand upon what was provided in the direct appeal by Counsel Lucas Wilder, until he can get his Appellate Rule 26(B)into the Ohio Supreme Court, after the Pickaway Corrections Institution withheld his Documents for 44-days, leaving only one day to file his Ohio Supreme Court appeal on the 26(B). In that being said, it's clear that, the opinion on the very Assignments of Errors filed in the Court of Appeals was sufficient to have this case reversed, even though the Appellant Boyd's, has raised ineffective assistance of Counsel issues in the App, R. 26, (B), he must stand upon his constitutional questions from that appeal at this time.

Statement of the Facts

A. The April 2023, Oral Arguments issues not part of the decision of the Second Appellate Court in weighing in the factors in the oral argument hearing raises questions not answered by the knowing that it was said there were conflicts and confusions about why the Judge did what she done concerning the un-journalized and journalized continuances from June 17, 2021 through December 21, 2021, then denied the Motion to Dismiss, knowing the Appellants Speedy trial rights had been violated by her personally.

On the Records in the Oral arguments the Prosecutor P. Allen agreed with Counsel Lucas Wilder and conceded in saying, "It is confusing...and there is a conflict in what the judge said, because on January 24, 2022 during the motion to dismiss, the judge said, that she was not quite ready to rule on the motion to suppress...Yet, on September, 23. 2021 the judge said on record that she was ready to issue her decision yesterday..." In that same oral arguments the state prosecutor stated, "No one knows what she was thinking, or what she had planned, or why she done what she did, for none of that was on record."

The State at no time objected when Counsel Lucas Wilder brought to the Courts attention that: "What is clear is on June 17th, 2021 officer Kloos did not testify on June 17, 2021..." This was said to be trial strategy by the trial counsel as to what was stated in the Appellate Courts opinion. Lucas Wilder also stated, "On June 17, 2021, there is nothing on the records concerning from June 17, 2021 to September 22, 2021 as to the reason for the un-journalized continuances...It's also clear with no objections from the prosecutor that on September 22, 2021 Karl Kordalis and judge signed off on a continuance from September 22, 2021 to October 14, 2021, without reason...It is also clear that on October 14, 2021 there was no hearing held, and another un-journalized continuance was allowed from October 14, 2021 to November 11, 2021.

The oral arguments have also addressed the issues pertaining to the illegal search and seizure issues by the three (3) panel Judges who addresses the motion to suppress issues concerning State v. Byrd, 2017-Ohio-6903 in stating in asking the State of Ohio prosecutor the following:

"What is the difference between State v. Byrd and this case?" The State of Ohio prosecution did not and could not answer that question, to the point that one of the panel of judges interjected and tried to answer it for the State of Ohio, to which was then ignored."

There is no difference in State v. Byrd in dealing with the fact that in Byrd, like the Appellants case, the officers between January 1, and January 2, of 2021, did not hear anything; did not see anything; and did not see anyone come and go as they sat on the house without a warrant. The law enforcement did not make any contact until they say a light come on at 7:00 am, to which the Appellant did come out and spoke to the Officer Kloos and Myers, who then arrested the Appellant took his keys from his pocked, unlocked his front door, and searched the house and seized the guns, drugs and marijuana, without a warrant.

The oral arguments should have been fully taken into consideration as to the conflict and unanswered questions in this case as to the reason Kloos did not testify, and why ask for an un-journalized continuance on September 22, 2021, if the speedy t trial time was not actually running? Why ask for a continuance to stop the speedy trial time from running if the time was not running in the minds of both the Judge and Counsel with also proves that the Judge was ready to rule on her motion to suppress prior to September 2021, where she said on September 23, 2021, that "...I was ready to rule on the Motion to Suppress yesterday, but because Counsel is in current plea negotiations We will hold off on making the decision on the Motion to Suppress..."

The Appellate has filed his Post-Conviction Relief, on the issues however, the Oral arguments is not part of the direct appeal on the issue. But the Court of Appeals had not even addressed these issues in the opinion, not one word about the Oral Argument as to the conflicting issues or unrebutted issues by the State of Ohio's prosecution that raises significant questions on both the judges and counsel actions in the court.

In comparison to bringing the Appellants 26(B) up to this court. What was said in that decision to deny the 26(B) is not properly before this court at this time, but to provide the evidence of what was said by the Court about the decision of Kloos not testifying on June 17, 2021, the Appellate Court stated the following on page, #5: "Ass it relates to Boyd's motion to suppress, Boyd argues that his trial counsel was ineffective for failing to have Kloos testify...No testimony was presented that day because his trial counsel declined to have Kloos testify, since Officer Kloos did not remember anything from the events in question..." It has been discovered that the Police Report by Kloos was hidden by Detective Howard to the point no one could get to it. However, the Court of Appeals side further, "...Boyd submitted a alleged copy of the police report with his application for reopening...Furthermore, counsel's decision whether to call a witness generally false within the rubric of trial strategy and will not be second-guessed by a reviewing court..."

The problem with that decision is Kloos testimony is material and his report is not alleged but real and has been withheld from the Appellant. It is exculpatory evidence that did change the outcome of the case to going to trial against the exclusionary rule of the evidence. The Trial Court went on in stating in the 26(B) denial that: "Absent any evidence in the record as to Officer Kloos' potential testimony, we cannot conclude that Boyd suffered any prejudice as a result of officer Kloos' failure to testify or Boyd's appellate Counsel's failure to raise the issue. This is not to say that Boyd could not make the same argument for ineffective assistance of trial counsel in a petition for post-conviction relief by relaying upon evidence that is not in the records..."

The Appellant just discovered these issues and has filed a post-Conviction on what he knew as to the off record issues in time pursuant to R.C. § 2953.21. It has been over a year since the

Post-Conviction Relief was filed in April 26, 2023. The Appellant has address this issue but did not discover that Kloos police report was not part of the records or discovery, until after the appeal was denied and conviction affirmed. And is the reason the appellate has requested a stay for his to bring up the remaining off record issues and post-conviction relief issues that was not considered, with the 26(B), 26(A), and Motion to Withdraw his Guilty Plea...

What is clear is that the Oral Arguments has proved proof that there is conflict and confusion in the Trial Courts calculations of the speedy trial time predicated upon the trial courts own actions in this case and trial Counsel deception that there was a plea taking place when the state of Ohio offered no pleas. It was the Court who actually made the plea and time in the plea not the State of Ohio. The fat the Court was ready to rule on the Motion to suppress prior to September 22, 2021 b3fore the Un-journalized continuance her and counsel forced outside the records is issue addressed in the Post-conviction, as well as why Kloos did not testify. It was not trial strategy, it was no hearing on June 17, 2021.

So in light of all that has been done from the oral arguments there is clear evidence to take this case up and address the constitutional issues and questions in this case. Why is the oral arguments excluded from the final decision and opinion in this case?

On March 4, 2021 the Appellant filed a motion to suppress, then a supplemental motion on April 20, 2021. Tom Cope, Scott Myers and John Howard testified for the State of Ohio. The State requested the ability to subpoena and call to testify Officer Kloos. Tr., pg. 102. The matter was set for additional testimony to be heard on June 2, 2021. Tr., Pg. 105. On June 2, 2021 Officer Kloos was not available and the matter was rescheduled for June 17, 2021. Of Note, there is nothing on the records about June 17, 2021.

There was not even a briefing schedule set until July 9, 2021. The briefing went forward and The Trial Counsel filed its brief on July 30, 2021, and the State replied on August 13, 2021. The Trial court set the motion to suppress for decision on September 23, 2021. 5/24/21 Tr., Pg. 113. On September 23, 2021 the 2021, the defense filed a continuance until October 14, 2021. (There was no reason was stated why the continuance was necessary). See Docket Entry for 9/22/21. The matter was then continued until November 10, 2021 but no motion was filed and there was no journal entry. On November 10th, 2021 the trial court set a trial court date for June 31, 2022. But that decision was not filed on the record.

B. Facts addressing the overruling of the Motion to Suppress and 4th and 14th Amendment United States Constitutional illegal search and seizure of the Petitioner Boyd's Person and Home:

The fact in this case were one of the constitutional issues in this case that must be corrected in how the Second Appellate District Court ruled in affirming the convictions. It was bias, and opinionated through speculation not factual adherence to what actually took place between January 1, 2021 and January 2, 2021. The Appellate Court in its Opinion made the following statements about the facts in their opinion, that are inaccurate and speculative, without any evidence to support them, and without all the actual statements police reported, that has been named herein above, as new evidence in this case.

These facts used in this opinion are clearly prejudiced and defaming against the Appellant Boyd's, where it's clear that the Appellant Boyd's was originally arrested and booked into the Montgomery County Jail on Rape, and Kidnapping charges, not the guns, drugs and marijuana illegally seized from the illegal search and seizure of the house. These charges of Rape and Kidnapping were dropped and the Drugs, guns and Marijuana was what the Appellant Boyd's was convicted with, and is fruit of a poisonous tree.

The facts on the Fourth and Fourteenth Amendment Illegal Search and Seizure issues, stands inaccurate and distorted to a constitutional level where the Court of Appeal never addressed the evidence pertaining to the report of the officer George Kloos, and the Affidavit and Warrant. The Court of appeals ignored the factual records presented by Appointed Counsel Lucas Wilder, and depicted their own set of facts predicated solely on the testimony of RH as stated in the opinion:

It's clear that appointed Appellate Counsel Lucas Wilder presented in his Second Assignment of error, "The trial Court abused its discretion in overruling Boyd's "Motion to Suppress" the following on page 14-15 of the Merit Brief:

"On or about Hew Years' eve, December 31, 2020, three juveniles, R.H...M.H...and B.H. together, voluntarily left their group home, (These Girls ran away from the group home and was told "if they left thy could not come back."), where they came into contact with Quintin Howard ("Howard"), Howard and the juveniles discussed parting together. The juveniles agreed and got into his vehicle where they drove to 1728 Kensington Drive, Dayton, Ohio 54506 where Boyd resides. Through the course of the evening on December 31, 2020, the three juveniles voluntarily consumed drugs and alcohol." (By the time they came to the House they were already high on something).

"At some point that evening Boyd and the juveniles shot off a firearm in the air in celebration of the New Year; a common method of celebration in the neighborhood during the holiday. The next day, the juveniles voluntarily left in Boyd's vehicle..." (Stole the vehicle), to go shopping where they wrecked the vehicle into a POD storage unit, **at ¶63.**

"On January 1, 2021, juvenile R.H. left the Kensington residence to return to the group home. The other two juveniles, B.H. and M.H. elected to remain at the house and continue to parting. During that time, B.H. posted on Instagram inviting others to come join the party and provided the address on Kensington."

The fact that the reports written in (The Narrative Information) report by the officers are just as inaccurate and conflicting, as what the Second Appellate District Court stated in the public records. If what has been said by the Court of Appels in the Second District and in the Police and Detectives reports, is allowed to stand as written then this case will forever be one of injustice. What is being addressed in this case is the fact that the Dayton Police Department officers sat on the house from 3 am, to 7 am, and seen no one come or go, nor any movement in the house

before they illegally entered the house, after seizing the house keys from Boyd's pocked. It's a fact that the Appellant Boyd did lock the front door, that was entered without a warrant.

Even though the Appellant Boyd's, had been provide 2 of 12 pages to (The Narrative Information) report by the officers and Detectives, he has discovered that there are another 1 of 29 more pages of (The Narrative Information) report by the officers, that is without George Kloos report, who was with DPD officer Myers were the first on the scene and first in the house on January 2, 2021. What has been discovered it the fact that Detective Howard has hidden or destroyed Kloos police Report. The written testimonies and the video testimonies will contradict the reports.

This information cannot be addressed in this very appeal in this United States Supreme Court, without coming up through the State Court, and it's not. The Appellant Boyd's, is simply presenting the facts he had in the (The Narrative Information) report by the officers and detectives from the first 2 of 12 pages he received from his trial counsels in 2021. The hope is that he is able to bring these issues back before this court after presenting them in his Criminal Rule 32.1, motion to Withdraw the Guilty Plea. What is hoped is that this honorable court will have granted the Stay until the remaining issues can be brought up to this level so that they all can be addressed at once.

It's clear that the decision and opinion of the Second Appellate Court on the Motion to Suppress was a blatant violation of both the 14th Amendment and an abuse of their discretions knowing these facts used are not even the facts speculated by R.H. when she gave them to her mother, the DPD and Detectives. In providing the facts from the first 2 of 12 pages of (The Narrative Information) report by the officers, it's clear that none of the other girls B.H. nor M.H.

told this same story, as the facts that happen to them. Had these facts been used in trial it would have been proven that it was not what actual took place between December 31, 2020, and January 2, 2021.

As evidence to the facts the came directly from (The Narrative Information) report by the officers, and Detectives, what can be read that would have been clearly crossed and rebutted is not complete without Officer George Kloos part of the Report where there are two reports which states different facts, to which Kloos report is in neither one:

Officer Brown Matthew P. #29557, stated the Girls were missing, never stating that they had run-away from the Victory House. This indicates to the public and Jury that there was a kidnapping that took Place. The Kidnapping charges were dropped by the State of Ohio.

It's Clear that the girls B.H. R.H. and M.H. all lied about their age to both the Co-defendant, and Appellant Boyd's, that they were 19 years old and of age. This was never taken into consideration in the appeal by the Second Appellate District Court.

It's clear that there was no physical evidence or DNA evidence that any such assault took place physical or sexually. None of the girls B.H. R.H. Nor M.H. had any scars browses or even a broken fingernail on them.

It clear that the Girls B.H. R.H. and M.H. where found to have anything marijuana, and fentanyl in their system, but no fentanyl was found in what was seized from the Appellants home. They got the marijuana from the CO-defendant, before ever getting to the house on Kensington. The Marijuana tested from the house with the other drugs had nothing that would prove the girls received it from the Appellant and for them to have hallucination, would have shown up in the drugs tested from the house.

It's clear that the Appellant Boyd's did not snort cocaine, did not supplied the Girls with alcohol, or more marijuana that he had. They had already smoked some with the Co-defendant before he brought them to the Appellant Boyd's home.

R.H. made the allegation that the Plaintiff had engaged in consensual sex with B.H., but believing that she was 19 years old made her legal age to consent, however, not knowing was not the issue because no such sexual interaction ever took place. There was no D.N.A. that proved any such sexual contact ever took place, because it did not!

It's Clear, these were young girls who chose to run-away from the group home, with the intent of having fun and parting for the New Year's coming in, and did just that. TO the point of

inviting others to the Appellant Boyd's home un knowing to him. The very Tablet that the Plaintiff had his family to provide to Counsel Karl Kordalis has come up missing and never returned after requesting it be returned.

It's Clear that once R.H. decided to leave she was free to do so, without anyone stopping her, to the point that B.H. and M.H. provided her with food and money. As run-aways they did this to ensure when she would be okay until she got where she was going, wherever that was. They were in criminal behavior trying not to be detected. However, at this time the Appellant Boyd's was in his bed asleep, drunk from the parting. Even the Detective Howard said "he could not talk to Boyd when they arrested him because he was to drunk." This is not evidence of a man who was kidnapping young girls and trafficking them out to the sex trade!

It's a clear fact that R.H. was very angry at her partners in crime, because they had chosen to continue their parting, and let her leave on her own free will. She was so angry that she called her mother and made up the worst story she could by distorting facts and misplacing facts turning them into a web of lies to ensure that the police when to the house in order to get back at her friends for making her leave alone, after they came together.

What was said about the fact that the Appellant Boyd's was asking about the girls selling drugs and selling sex, was of a two-part matter that was stated before the girls ever wrecked the truck, and was miss-placed by the Court at ¶63, and DPD in their report. What the Appellant Boyd's said to the girls about these issues spoken of by the Court and in the report was, after his Co-defendant had left, and the girls were trying to get drugs that the Petitioner Boyd did not provide. I told these young ladies:

"It's crazy that dude has left yawl here like yawl about to move in or something. I asked them what were yaw going to do if yaw was to try and live here, which yaw are not going to do, so what was yaw going to do get jobs, do web cam, or sell Reggie? This was said jokingly. I said Come On! Living with me is not an option." We never made any agreement that they would live with me, or do any sexual favors, or cam nothing like that to pay rent for staying in my house."

"That questions was asked to make them think and know that they should go back to where ever they came from. I was celebrating the New Year's Coming in, and something was off because it was new year's eve and instead of being with their families and friends they were at my house. I am a stranger they did not know, at 3:30 am in the morning. I was not just going to put them out with no ware to go. I myself called the Co-defendant Howard and left a message to come get these young ladies. He did not call back."

"I said yaw are stuck at my house and want to stay her but, I can't afford to take care of yaw. I need yaw to figure out something in the morning when the sun comes up. After the conversation

about what they were going to do about finding a different living arrangement, we all had gown to sleep in separate rooms."

It's Clear that once the DPD has been sitting outside my home from 3 am to 7 am, I started asking serious questions, and only then did the truth of how old they were and where they had run-away from come into play. Once DPD knocked on the door (Kloos and Myer's), I when out to talk to them because I wanted nothing more to do with this type of trouble. I had placed the guns, drugs and marijuana out of the way and put it away so they could not find it. Once I opened the door, stepped outside and locked the door behind me, I was searched arrested and my keys taken and the house opened and searched.

It's a fact that B.H. and R.H. did not want me to open that door, but I was not hiding from the police, I was asleep and was woken by these girls at that time, that is why it took so long to answer the door, they were spilling their guts about why they were at my house, and did not want me to open the door to go out and speak with them.

This was a fishing expedition "in the hope that something would turn up from the words of angry juvenile who wanted to make sure that everyone was punished for making her leave alone, after she was not having any more fun, and was ready to go home, but her friends wanted to stay at the house and made her leave by herself. The Appellant Boyd was in the bed asleep when the girls left the first time and took the truck. Boyd was sleep again when R.H had left, and had no knowledge that she was even gone until he woke up. It was B.H. and M.H who supplied R.H. with some money and food when she left of her own free will.

Reason for Granting the Writ

THIS CASE IS ON THAT VIOLATED THE STATE AND FEDERAL EXCLUSIONARY RULES OF EVIDENCE SEARCHED FOR, FOUND AND SEIZED FROM THE APPELLANT'S HOME BEFORE ANY AFFIDAVIT OR WARRANT WAS PROVIDED. THE EVIDENCE USED TO CONVICT THE APPELLANT WAS NOT IN PLAIN SIGHT DURING AN ILLEGAL SEIZURE AND SEIZURE OF HIS HOME, AFTER ARRESTING AND SEIZING THE APPELLANTS HOUSE KEYS FROM HIS PERSON/POCKETS, OPENING HIS LOCKED FRONT DOOR, PREDICATED UPON THE NEED FOR AN EMERGENCY AID AND PROTECTIVE SWEEP, ALL PREDICATED UPON FALSE INFORMATION PROVIDED BY A VERY ANGRY GIRL.

THIS CASE HAS VIOLATED THE STATE AND FEDERAL RIGHTS TO A SPEEDY TRIAL WITHIN 90-DAYS AFTER THERE WAS QUESTIONABLE UN-JOURNALIZED AND JOURNALIZED CONTINUANCES, THAT WAS NOT CONSIDERED ADEQUATELY BY THE TRIAL COURT TO COURT OF APPEALS, TO WHICH WAS EVEN MORE QUESTIONABLE AFTER THE ORAL ARGUMENTS WERE GRANTED. THE STATE ADMITTED THAT THERE WERE CONFLICTS AND CONFUSING ISSUES NOT RESOLVED DURING ORAL ARGUMENTS AS TO CALCULATION OF WHY THE COURT DID WHAT IT DONE IN GRANTING THE CONTINUANCES. THE APPELLATE APPEAL OVER LOOK, THE FACT THAT THE STATE OF OHIO DID NOT MEET IT BURDEN OF PROVING IT GOT THE APPELLANT TO TRIAL IN 90-DAYS.

THE TRIAL COURT FAILING TO PROVIDE A FINAL; APPEALABLE ORDER TO WHEN IT MADE ITS DECISION TO DENY THE MOTION TO DISMISS WITHIN 17 HOURS ON RECORD, FAILED TO PROVIDE AN ORDER AND ENTRY AS A FINAL APPEALABLE ORDER TO BE APPEALED FROM, MAKING THE DECISION VOID AND NOT A FINAL APPEALABLE ORDER. THIS WAS NOT ADDRESSED BY THE APPOINTED COUNSEL OR THE COURT AND SHOULD BE ALLOWED TO BE DROUGHT BACK BEFORE THE COURT OF APPEALS ON DIRECT APPEAL.

THE TRIAL COURTS MADE AN UNREASONABLE ERROR TO THE UNCONSTITUTIONAL DECISION PERTAINING TO THE FACT THAT THE STATE OF OHIO FAILED TO RESPOND TO THE APPELLANTS MOTION TO DISMISS IN CLAIMING THAT THERE WAS A SCHEDULED PLEA WHEN IT WAS THE TRIAL COURT WHO NEGOTIATED THAT PLEA NOT THE STATE OF OHIO. THIS CASE WAS NOT ADDRESSED UNDER THE STATE V. PRICE OPINION, ID AT 122 OHIO APP. 3D 65. THE APPELLANT COURT IGNORED THE PRICE OPINION AND SOLELY STOOD UPON THE BUTCHER EX PARTA.

There are three issues standing on the Constitutional rights of the Appellant that has been brought before the State Courts in Ohio as followed: FIRST ASSIGNMENT OF ERROR: The trial Court should have granted Boyd's "Motion to Dismiss" on grounds that his speedy trial

rights were violated. **SECOND ASSIGNMENT OF ERROR:** The trial Court abused its discretion in overruling Boyd's "Motion to Suppress"

These issues raised as Assignments of Error by Appellate Counsel Lucas Wilder in the Appellant Boyd's Direct Appeal, affirmed the Trial Courts decisions. The Appellant pro se filed a delayed Appeal do to the Opinion being withheld by Counsel Lucas Wilder for 10 days and the Pickaway Correctional Institution for another 7 days taking away seventeen (17) days to have filed the Appeal to the Ohio Supreme Court. The Ohio Supreme Court, refused to take jurisdiction over the case.

The reason for granting the Writ, stands upon Constitutional grounds that the Trial Court has failed to take into full substantive consideration, to which the Supreme Court of Ohio has refused to take jurisdiction over. The Constitutional issues in this case are clearly reversible and in need to be heard in the public's interest and interest of justice.

A. The argument of the Constitutional question on this issue of the Motion to Suppress being overruled to the Exclusionary Rule of the evidence used to Convict the are substantive and fundamental to the Appellants 4th 6th and 14th Amendment United States Constitutional Rights, to which the Second Appellate District Court's Opinion and decision is clearly erroneous.

The Appellant was never given a fair and just due process and equal opportunity to present his evidence in this case, because he had no idea that this evidence was even material until after his Post-Conviction Relief, Direct Appeal, Ohio Supreme Court Appeal, and Appellate Rule 26(B), was all filed. The Appellant had no knowledge that the Police Report of Kloos, and the Affidavit and Warrant were being suppressed and hidden or destroyed, with the Camera footage and video footage of the officers on January 2, 2021.

The fact that there are Brady v. Maryland, 373 U.S. 83, Exculpatory evidence; Giglio v. United States, 405 U.S. 104, Material Evidence; Rock v. Arkansas 478 U.S. 44, Rights to call

Officer George Kloos to testify in the Suppression hearing; Giles v. Maryland, 386 U.S. 66 Police Reports by Officer Kloos not being provided and by The prosecution and Detective Howard, who has suppressed it as material and exculpatory evidence to the testimony of officer Kloos in this case; The illegal search and seizure where the law enforcement did not know if anyone was in the house, saw nothing, heard nothing, and waited until a light come on before even seeking a warrant and affidavit, through Detective Howard, between 3:36am to 1:36pm. See State v. Byrd, 2017-Ohio-6903, and State v. Boyd, 2013-Ohio-1067, both of these cases stand upon the United States precedence in Maryland v. Buie, 494 U.S. 325, 119 S. Ct. 1093, 108 L. Ed. 2d. 276 (1990).

What has not been addressed is the fact that it is Deceive Howard who has withheld the police report of Officer Kloos, with the affidavit and warrant and body camera footage. The State of Ohio's prosecution is very aware that this evidence has either been destroyed to hidden so deep that not even the records department can find it in the public records office etc...

The trial Court abused its discretion in overruling Boyd's "Motion to Suppress" and the Court of Appels decision to affirm that decision was erroneous This case is on that is unconstitutional and depending on both State v. Byrd, 2017-Ohio-6903, and State v. Boyd, 2013-Ohio-1067, both of these cases stand upon the United States precedence in Maryland v. Buie, 494 U.S. 325, 119 S. Ct. 1093, 108 L. Ed. 2d. 276 (1990). In State v. Byrd, like this case, none of the officer's seen anything or heard anything as to movement in the house as they watched it for hours. There was no urgency by the law enforcement between the time they reach the house until they illegally entered the house. They made the decision to not use S.W.A.T., and also chose not to do a direct force entry, so waiting for the warrant was all that was left to do. However, the officer George Kloss and Myers decided that without Detectives on scene and in root, they were

going to go in and not only look for M.H. and B.H., they would search the house find whatever they could and cover it up. Now no one can find Kloos Police Report, nor the Affidavit and Warrant. That police report was to bring back to Kloos memory what actually took place at the scene.

The Appellant in this case stands on the same conclusion. The law is clear and has not been fully considered as applied before this honorable Court where the fist issues stands, where the trial Court should have granted the Appellant Boyd's "Motion to Suppress" on grounds that there was an illegal search and seizure, predicated upon the 4th and 14th Amendments to the United States Constitution.

The Testimony of Officer Kloos was material and exculpatory and the Appellant has a right to have Kloos testify in the Suppression hearing, because the claim that Officer Kloos did not remember anything is not trial strategy. His Police Report is to bring back to his membrane what actually took place at the moment he and officer Myer's decide to take the Appellant s keys form his person and unlock the front door and illegally search the house claiming the evidence was in plain sight when it was not. The right to have Kloos to testify to these issues are under Rock v. Arkansas,478 U.S. 44 this Court said:

"The right to testify is also found in the Compulsory Process Clause of the Sixth Amendment, which grants a defendant the right to call "witnesses in his favor," a right that is guaranteed in the criminal courts of the States by the Fourteenth Amendment. Washington v. Texas, 388 U.S. 14, 17-19 (1967). Logically included in the accused's right to call witnesses whose testimony is "material and favorable to his defense," United States v. Valenzuela-Bernal, 458 U.S. 858, 867 (1982)"

The evidence to have Kloos testify is both Exculpatory and Material, because of what is said in Brady v. Maryland, 373 U.S. 83, Exculpatory evidence; and Giglio v. United States, 405 U.S. 104, Material Evidence; Brady said on the exculpatory issues quote:

"We now hold that, the suppression by the prosecution of evidence favorable to [****8] an accused upon request violates [**1197] due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.

In Giglio that Court said:

"As long ago as Mooney v. Holohan, 294 U.S. 103, 112 (1935), this Court made clear that deliberate deception of a court and jurors by the presentation of known false evidence is incompatible with "rudimentary demands of justice." This was reaffirmed in Pyle v. Kansas, 317 U.S. 213 (1942).In Napue v. Illinois, 360 U.S. 264 (1959), we said, "the same result obtains when the State, although not soliciting false evidence, allows it to go uncorrected when it appears." Id., at 269. Thereafter Brady v. Maryland, 373 U.S., at 87, held that suppression of material evidence justifies a new trial "irrespective of the good faith or bad faith of the prosecution." See American [*154] [****8] Bar Association, Project on Standards for Criminal Justice, Prosecution Function and the Defense Function § 3.11 (a)."

The evidence has been suppressed by both the Detective Howard and State of Ohio's prosecution, to which no one in the Ohio Court systems has payed any attention to as a substantive violation of the Appellants Right to a fair and just trial, and suppression hearing before going to trial. The Evidence seized was not only used but the Appellant was charged with it, after the original charges of Kidnapping and Rape were dropped one the Appellant was booked in ton the Montgomery County Jail. This was contrary to what the ignition reason for what was said to be exigent circumstances were for an emergency aid and protective sweep, to enter the Appellants home.

The United States Supreme Court delt with another issues in the United States v. Leon, 468 U.S. 897. Leon makes clear that:

"police officers also play a role in protecting Fourth Amendment rights. They are required to (1) be truthful in search-warrant affidavits, (2) not rely on warrants that they know were rubber-stamped by a judicial officer who did not make an independent determination of probable cause, (3) know that a warrant is facially deficient when it fails to state with [****20] particularity the item or place to be searched and the things to be seized, and (4) not execute a warrant that is so lacking in indicia probable cause that no well-trained officer would reasonably rely on it. See Leon at 923. Courts reviewing a challenged search warrant also play a role in upholding the Fourth Amendment; they are required to suppress evidence when the good-faith exception to the exclusionary rule does not apply because one or more of these four requirements has not been met and it was unreasonable for the police officer to rely on the warrant. See Leon at 923."

As stated above in the Facts the challenge to the Affidavit, Warrant and missing report of officer Kloos, is standing upon the exclusionary rule issues on the illegal search and seizure of the evidence being guns, drugs, and marijuana, that the Appellant was not originally charged

with when he was arrested. The charges for rape, and kidnaping was the original charges, then adding the trafficking in persons. The Leon Court concluded in deciding that:

"Our holding today is that the appellate court erred in applying the [****21] good-faith exception to the exclusionary rule in this case, and we reverse the appellate court's judgment on that basis. However, we affirm the appellate court's determination that the warrant affidavit did not establish probable cause and that the warrant [***926] should not have been issued."

What is even more important about the Leon case is in the Dissent by: BRENNAN; STEVENS, that pointed to the Courts getting back to the original Constitutional standards of the 4th Amendments in saying, id at [¶*932]:

"If those independent tribunals lose their resolve, however, as the Court has done today, and give way to the seductive call of expediency, the vital guarantees of the Fourth Amendment are reduced to nothing more than a "form [****61] of words." Silverthorne Lumber Co. v. United States, 251 U.S. 385, 392 (1920). A proper understanding of the broad purposes sought to be served by the Fourth Amendment demonstrates that the principles embodied in the exclusionary rule rest upon a far firmer constitutional foundation than the shifting sands of the Court's deterrence rationale. But even if I were to accept the Court's chosen method of analyzing the question posed by these cases, I would still conclude that the Court's decision cannot be justified."

The Court holds that physical evidence seized by police officers reasonably relying upon a warrant issued by a detached **[*931]** and neutral magistrate [***704] is admissible in the prosecution's case in chief, even though a reviewing court has subsequently determined either that the warrant was defective, No. 82-963, or that those officers failed to demonstrate when applying for the warrant that there was probable cause to conduct the search, No. 82-1771. I have no doubt that these decisions will prove in time to have been a grave mistake. But, as troubling and important as today's new doctrine may be for the administration of criminal [****62] justice in this country, the mode of analysis used to generate that doctrine also requires critical examination, for it may prove in the long run to pose the greater threat to our civil liberties.

"At bottom, the Court's decision turns on the proposition that the exclusionary rule is merely a "'judicially created remedy designed to safeguard Fourth Amendment rights generally through its deterrent effect, rather than a personal constitutional right.'" Ante, at 906, quoting United States v. Calandra, 414 U.S., at 348. The germ of that idea is found in Wolf v. Colorado, 338 U.S. 25 (1949), and although I had thought that such a narrow conception of the rule had been forever put to rest by our decision in Mapp v. Ohio, 367 U.S. 643 (1961), it has been revived by the present Court and reaches full flower with today's decision...Such a reading appears plausible, because, as critics of the exclusionary rule never [****64] tire of repeating, the Fourth Amendment makes no express provision for the exclusion of [***705] evidence secured in violation of its commands. A short answer to this claim, of course, is that many of the Constitution's most vital imperatives are stated in general terms and the task of giving meaning to these precepts is therefore left to subsequent judicial decision making in the context of

concrete cases. The nature of our Constitution, as Chief Justice Marshall long ago explained, "requires that only its great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects be deduced from the nature of the objects themselves." McCulloch v. Maryland, 4 Wheat. 316, 407 (1819).

"A more direct answer may be supplied by recognizing that the Amendment, like other provisions of the Bill [****65] of Rights, restrains the power of the government as a whole; it does not specify only a particular agency and exempt all others. The judiciary is responsible, no less than the executive, for ensuring that constitutional rights are respected."

The Trial Court being upheld by the Second Appellate District Courts decision stands far from that its own precedence and federal case points to in deciding the illegal search and seizure of the evidence that should have been excluded and suppressed in the suppression hearing, especially after the material witness officer Kloos was not made to testify and called a trial strategy by the Appeals Court, after he claimed he did not remember anything!

The emergency aid and protective sweep was predicated upon the angry words of R.H. As professional who had experience in this field like, Kloos, Det. Howard, and Det. Bailey, they all knew that depending upon the statement of R.H. alone was not sufficient to anything but obtain a warrant from Det. Howards Affidavit and they did not wait for that warrant to be obtained after they decided not to us S.W.A.T. or force to go in. They chose to wait for seven hours after the contact on the January2, 2021 illegal entrance if the home.

(1) **Search & Seizure** ☑ The Fourth Amendment protects the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable **searches and seizures**. Ashcroft v. al-Kidd, 563 U.S. 731 1.Payton v. New York, 445 U.S. 573 2.Terry v. Ohio, 392 U.S. 1 3.City of Ontario v. Quon, 560 U.S. 746 To justify a warrantless search, the government must establish a sufficient nexus between (1) criminal activity, and (2) the things to be seized, and (3) the place to be searched. United States v. Scott, 987 A.2d 1180 1.79 J. Crim. L. & Criminology 1105 1-3 Criminal Constitutional Law § 3.02 3.97 Iowa L. Rev."

(2) **Scope of Protection** ☑ The Fourth Amendment's [scope of] protection extends beyond the sphere of criminal investigations. The Amendment guarantees the privacy, dignity, and security of persons against certain arbitrary and invasive acts by officers of the government, without regard to whether the government actor is investigating crime or performing another function. City of Ontario v. Quon, 560 U.S. 746 1.City of Ontario v. Quon, 560 U.S. 746 2.Mapp v. Ohio, 367 U.S. 643 3.Camara v. Municipal Court of San Francisco, 387 U.S. 523."

(3) **Warrants** ☑ "The Warrant Clause of the Fourth Amendment categorically prohibits the issuance of any warrant except one "particularly describing the place to be searched and the persons or things to be seized." The manifest purpose of this particularity requirement [is] to prevent general searches. By limiting the authorization to search to the specific areas and things for which there is probable cause to search, the requirement ensures that the search will be carefully tailored to its justifications, and will not take on the character of the wide-ranging exploratory searches the Framers intended to prohibit. Horton v. California, 496 U.S. 128 1.United States v. Leon, 468 U.S. 897 2.Malley v. Briggs, 475 U.S. 335 3.Illinois v. Gates, 462 U.S. 213"

In determining the Detective Howards affidavit and warrant is sufficient in this situation, the court of appeals did not considers one or more of the following factors: (1) whether probable cause exists to seize all items of a particular type described in the warrant; (2) whether the warrant sets out objective standards by which executing officers can differentiate items subject to seizure from those which are not; and (3) whether the government was able to describe the items more particularly in light of the information available to it at the time the warrant was issued.

The question of whether did the affidavit and search warrant, with reasonable effort ascertain and identify the place intended to be searched is clear. In determining whether the description of the place to be searched is sufficient, the inquiry is whether the place to be searched is described with sufficient particularity to enable the executing officer knowledge to locate and identify the premises with reasonable effort, and whether there is any reasonable probability that another premise might be mistakenly searched. United States v. Montgomery, 395 Fed. Appx. 177 1.Groh v. Ramirez, 540 U.S. 551 21.Courts have consistently compared the level of probable cause necessary to support an affidavit warrant with a reasonable belief standard and have not equated the existence of probable cause with proof beyond a reasonable doubt. The Current Probable Cause was unclear to the need for an emergency aid and protective sweep in this case, used to illegally enter the house. Once the Appellant stepped out the House there was no further

need for a protective sweep, and by the law enforcements delay in even seeking the warrant there was surely no emergency aid needed as they saw it.

The only evidence was predicated upon information from a very angry run-away who lost support of her other run-away friend, there becomes a question as to how reliable that information is as to the greater need for a warrant before entering the home to be searched without a warrant, that in this case. A "protective sweep" is a quick and limited search of premises, incident to an arrest and conducted to protect the safety of police officers or others. It is narrowly confined to a cursory visual inspection of those places in which a person might be hiding. It is never used to fine and search out evidence to be seized, as done in this case.

(4) **Probable Cause**☐ 1.Probable cause is defined as reasonable grounds for belief, supported by less than prima facie proof but more than mere suspicion, that there is a fair probability that contraband or evidence of a crime will be found in a particular place. United States v. King, 227 F.3d 7321.Illinois v. Gates, 462 U.S. 213 2.Terry v. Ohio, 392 U.S. 1 3.United States v. Leon, 468 U.S. 897 Probable cause is reasonable grounds for belief, supported by less than prima facie proof but more than mere suspicion. United States v. Howard, 621 F.3d 433.

The fact that officer Kloos was not even allowed to testify to these fact, and was clear error when he would have proven that the keys were not only taken from the Appellant's pocket after he locked his front door, but will also prove that it was officer Kloos who actually unlocked the front door, and after going into the house. The Appeals Court said it was unclear as to if the front door was locked or not? These facts were never clarified as to Kloos opening the front Door because his testimony has been suppressed because he said he did not remember anything. The evidence was not in plain sight, but hidden and was clearly searched out, to which the Appellants home was trashed as the Appellant sat in the cruiser for 45 minutes watching them law enforcement come out and slap hands and taunt the Appellant hours before the warrant was

obtained by Detective Howard. This was all predicated upon lies and false information from R.H.

(7) **Totality of Circumstances Test** "covers the totality of the circumstances test to measure the sufficiency of the information supplied by an informant or an applicant for a warrant to establish probable cause. 1.Herring v. United States, 555 U.S. 135 2.United States v. Leon, 468 U.S. 897 3.United States v. Gourde, 440 F.3d 1065 When assessing the existence of probable cause, courts have traditionally cited various factors as probative, including: (1) lies and false information in response to questions; (2) implausible, conflicting, evasive or unresponsive answers to questions; (3) furtive gestures or demeanor; (4) association with suspicious others; and (5) the particular area or other geographical factors pertinent to the encounter. United States v. Tudor an, 476 F. Supp. 2d 205"

However, when Kloos, Myer's and other law enforcement officers entered the Appellants home, the did so after sitting outside for hours and failed to execute a warrant prior to going in afar having more than enough time to have done so. In depending on both State v. Byrd, 2017-Ohio-6903, and State v. Boyd, 2013-Ohio-1067, both of these cases stand upon the United States precedence in Maryland v. Buie, 494 U.S. 325, 119 S. Ct. 1093, 108 L. Ed. 2d. 276 (1990). In State v. Byrd, like this current case none of the officer's seen anything or hear anything as to movement in the house as they watched it for hours. There was no urgency by the law enforcement between the time they reach the house until they illegally entered the house. They made the decision to not use S.W.A.T., and also chose not to do a direct force entry, they were not even waiting for the warrant at that time. Illegally entering the house was all that was left to do. Officer George Kloss and Myers decided that without Detectives on scene and in root, they were going to go in and not only look for M.H. and B.H., they would search the house find whatever they could and cover it up. Now no one can find Kloos Police Report, Body Camera footage, nor the Affidavit and Warrant. That police report was to bring back to Kloos memory what actually took place at the scene, him saying he did not remember anything is insufficient to refuse to allow him to testify in the Suppression hearing.

B. The Arguments of the Constitutional question on this issue of the Motion to Dismiss being denied from the Speedy Trial Rights violated under R.C. § 2945.71 thru R.C. § 2945.71, are substantive and fundamental to the Appellants 6th and 14th Amendment United States Constitutional Rights, to which the Second Appellate District Court's opinion and decision are clearly erroneous.

The Opinion and Decision by the Second Appellate District Court on June 23, 2023 to Affirm the Trial Courts January 24, 2022 Dismissal of the Motion to Dismiss, was erroneous to which the Supreme Court of Ohio refused to take Jurisdiction of the Case These decisions to denying the Appellant the only opportunity left in the State of Ohio to have his errors and Constitutional rights corrected in this case, is left to this very United States Supreme Court, for the following reasons:

What is clear from the Second District Court of Appeals decision is the fact that they said there was still thirty (30) days of speedy trial time left at the time the trial court on November 10, 2021, ordered and scheduled the January 31, 2022, trial date. The Appellate Court stated:

"[*P35] The second factor to consider is the reason for the delay. "Only the portion of the delay which is attributed to the government's neglect is to be weighed in a defendant's favor." *Triplett*, 78 Ohio St.3d at 569, 679 N.E.2d 290, citing *Doggett*, 505 U.S. at 658, 112 S. Ct. 2686, 120 L.Ed.2d 520. As we previously addressed, the entirety of the time it took for the trial court to rule on Boyd's motions was reasonable under the circumstances of this case. Thus, of the 387 days that [***18] elapsed, only 60 days were attributable to the State. This factor weighed heavily against Boyd."

What the Trial Court and Appellate Court failed to closely look at in this case in the issue of the Motion to Suppress decision and the time that was used to delay the speedy trial time, from June 17, 2021 up to the December 21, 2021 decision on the Motion to Suppress. We know that the Motion to suppress was said to not be ready to be decided upon by the Trial court. But that was not said until after the Journalized Continuances on September 22, 2021, September 23, 2021, and December 21, 2021, was erroneously allowed by the Court. We know that the Trial Court made it clear on September 23, 2021 that "...She was ready to rule on the Motion to

Suppress yesterday..." We also know that the September 23, 2021 continuances was granted solely because a third party told the Court that Trial Counsel told them to notify the Court that: Plea negotiations were currently taking place between the State of Ohio and Counsel..." We also know that this is not true, because in the Tr., on January 25, 2022, the State of Ohio made it clear that, "...There was no Plea negotiations going on..."

So it's clear that the Trial Court was in fact ready to rule on the Motion to Suppress prior to the December 21, 2021 decision and there was no reason for the delay. From June 17, 2021, to December 21, 2021. Even if the 30-days left as the Appellate Court has said was left, when the tie between January 22, 2021, September 23, 2021, to December 21, 2021 decision on the Motion to Suppress, we can clearly count more than 30-days not actually calculated by the trial court or the Court of Appeals who said that the Court was still trying to make a decision on the Motion to suppress when the records clearly prove that that was not the factual truth.

There was clearly 90-days from September 22, 2021, through September 23, 2021 to December 21, 2021, that must be counted to the State of Ohio. What no one in the State of Ohio's Court system has looked at and taken into consideration is the fact that from the very moment that it was said the George Kloos was not going to testify by Counsel off the records, there was a Briefing scheduling that took place, and at no time was any continuances sought.

But the main point to make in this situation is the fact that if the speedy trial time was not running in the minds of the Court and Counsel Kordalis, then why seek out a continuance on September 22, 221, and grant that continuances, then say on September 23, 2021, that a continuance is needed because pleas negotiations were taking place? If the decision on the Motion to Suppress was still controlling the speedy trial time, then why seek these continuances

and grant them? This factor weighed heavily against the State of Ohio, and decisions of both the trial Court and Court of Appeals.

[T]he Supreme Court set forth a balancing test that considers the following factors to determine whether trial delays are reasonable under the Sixth and Fourteenth Amendments to the United States Constitution:

> (1) The length of delay, the length was caused by the trial court itself. (2) the reason for the delay, the reason was said to be plea negotiations going on when no such pleas were ever going on. See Exhibit ( ). (3) the appellant's assertion of his right, the right was asserted in the motion to dismiss once the appellant discovered the issue could be dismissed. (4) the prejudice to the appellant suffered, the prejudice was the fact the appellant was not discharged his motion to dismiss was denied, his constitutional rights were violated to a fast and speedy trial, and a 11-year plea deal was negotiated by the Court judge Montgomery and accepted by the Court without the State of Ohio. The Appellant took the Plea of No contest to fight the 11 years rather than a 22 year sentences that counsel told him he would serve if he took this case to trial and not win..."

See State v. Taylor, 98 Ohio St.3d 27, 2002-Ohio-7017, 781 N.E.2d 72, ¶ 38, quoting Barker v. Wingo, 407 U.S. 514, 530, 92 S. Ct. 2182, 33 L.Ed.2d 101 (1972). "These four factors are balanced considering the totality of the circumstances, with no one factor controlling." State v. Perkins, 2d Dist. Clark No. 2008-CA-81, 2009-Ohio-3033, ¶ 8, citing Barker.

Under the first Barker factor, the "length of the delay is to some extent a triggering mechanism." Barker at 530.

"Until there is some delay which is presumptively prejudicial, there is no necessity for inquiry into the other factors that go into the balance." Id. Appellate Counsel never raised any prejudice on behalf of the Appellant in this case and is the reason a 26(B) has been filed and need to bring before this honorable Court. If the delay is not presumptively prejudicial, courts need not engage in the balancing test. State v. Adams, 144 Ohio St.3d 429, 2015-Ohio-3954, 45 N.E.3d 127, ¶ 89. "

The Court of Appeal should have engaged in the balance test, because there was a need for the September 22, 2021 and September 23, 2021 continuances, but not for legal and legitimate reasons.

A delay becomes presumptively prejudicial as it approaches one year in length." Id. at ¶ 90, citing Doggett v. United States, 505 U.S. 647, 652, 112 S. Ct. 2686, 120 L.Ed.2d 520 (1992), fn. 1. The Motion to Suppress decision was ready to be ruled on before the September 22, 2021 and September 23, 2021 continuances were sought and granted. There were no Plea negotiations ever taken place, on or off the records at these times as said by counsel and the court.

The Court of Appeals state the following on the subject:

"[*P33] Boyd was arrested on January 2, 2021, and entered no contest pleas on January 25, 2022. Generally, as a case approaches the one-year mark, the delay is enough to trigger the Barker inquiry. However, cases involving serious charges with complex issues allow for more delay than "an ordinary street crime." Barker at 531. Furthermore, "[b]before calculating any delay in proceeding to trial, the court must subtract the part of the delay attributable to the defendant." State v. Anderson, 7th Dist. Columbiana No. 2002 CO 30, 2003-Ohio-2557, ¶ 17, citing State v. Myers, 97 Ohio St.3d 335, 2002-Ohio-6658, 780 N.E.2d 186, ¶ 65-66."

However, both the witness and plea issues must be clarified in this case as to the reason the continuances were requested and granted, in violation of the Appellants Constitutional rights to speedy trial rights that were clearly asserted, proven. The Appellant has addressed the fact that prejudice was not brought forth by the Appellate Counsel Lucas wilder in the Appellant's Appellate Rule 26(B), that is being brought through the State Court and at this time in a grievance procedure process. See Request for Stay.

The Wango Court goes on to state that the Prejudice factor is the fourth factor that in this case is the most important in saying:

" A fourth factor is prejudice to the defendant. Prejudice, of course, should be assessed in the light of the interests of defendants which the speedy trial right was designed to protect. This Court has identified three such interests: (i) to prevent oppressive pretrial [****35] incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to limit the possibility that the defense will be impaired. Of these, the most serious is the last, because the inability of a defendant adequately to prepare his case skews the fairness of the entire system. If witnesses die or disappear during a delay, the prejudice is obvious. There is also prejudice if defense witnesses are unable to recall accurately events of the distant past. Loss of memory, however, is not always reflected in the record because what has been forgotten can rarely be shown."

In this case the witness Kloos said he did not remember anything, and was not allowed to testify said to be trial strategy as a trial strategy, said by the Court of Appeals. However, this witnesses Police report was hidden from public view by Detective Howard, to which the Appellant had not discovered until 2023, and has still not been provided that actual police report, that would bring back to the material witness as the first officer on the scene and whom seized the Appellants keys from his person, and unlocked his home entered it seized evidence, that the Appellant was charged with after the State of Ohio dropped the charged that was used to be the probable cause for illegally entering the Appellants home. It was substantially substantive and fundamental in bringing back to his memory, the events that took place on January 1st and 2nd, in 2021.

Officer Kloos not testifying on June 17, 2021 was the start of the Speedy trial rights violations as the inception of the reasons this case took the unconstitutional slide down this slippery slope, in this case of needing to request the continuance on September 22, 2021 to stop the time from running or why seek out the September 22, 2021 continuance without any reason or answer for granting it?

It was said by the Court of Appeals that "the Trial Court judge stating that she was not ready to make her decision on the Motion to Suppress from June 17, 2021 and because of that, the time had stopped running." See opinion at *¶25. But no one took into consideration the fact that this same judge stated on the public record in the September 23, 2021 Scheduling Conference hearing that, "I was ready to rule on the Motion to Suppress yesterday..." The day before and behind the September 22, 2021 continuance. I will provide that here:

"**[*P25]** Another hearing was held on September 23, 2021, at which point the [**1011] trial court indicated that defense counsel had requested a continuance until October 14, 2021. This was also reflected in a written motion for a continuance that was signed and filed by defense counsel the previous day. According to the trial court, it agreed to hold off

on issuing a decision on the motions to suppress at the request of defense counsel in order for the parties to work on a resolution. We are aware that the trial court indicated it had set the September 23, 2021 hearing date in order to render a decision on the motions to suppress. However, subsequent statements by the trial court reflected that it was still working on writing the final decision. On November 10, 2021, the trial court scheduled Boyd's final pretrial and jury trial dates. The trial court also stated that it would be issuing a "decision on the motion to suppress shortly." Supp. Tr. at p. 3. Notably, the trial court later explained that, [***13] at the November 10, 2021 hearing, "we wanted to secure that date [for trial] even though I was not quite finished with the motion to suppress — or the motion to suppress' decision." (Emphasis added.) Hrg. Tr. p. 133. It has long been held that a trial court speaks only through its journal entry. State v. King, 70 Ohio St.3d 158, 162, 1994-Ohio-412, 637 N.E.2d 903 (1994). Thus, where a trial court has yet to deliver judgment, the court's decision is not yet final, and the court is not precluded from modifying its decision prior to rendering a final entry."

The decision in miss placed and misapplied were its clear on the records and Sup. Tr. On Sep. 23, 2021, that she was ready to rule on the Motion to Suppress. The Appellant points to the December Motion to Suppress Decision in the Conclusion, on pg.#15. The September 23, 2021 Secluding Conference was scheduled for September 23, 2021. This is proof that that decision was already prepared prior to December 2021, because it can no reach back into the past... that Continuance scheduled until October 10, 2021 was because a third party told the Court in the September 23, 2021 hearing that, Kordalis said he needed time because plea negotiation was going on..." There were no such Pea negotiations going on ever. The State in the January 25, 2022 tr. On pg.# ---said "No Please were ever offered..." And it's clear that the Judge said she was ready to rule on the Motion to Suppress on September 23, 2021, not after.

The Trial Court said it herself in the January 25, 2022, Supp. Tr, pg. 2:

"Because Counsel has notified the Court that there are currently Plea negotiations going on, we will continue this case until October 10, 2021..."

The Trial Court at no time ever stated she needed more time on September 23, 2021 to make her ruling, she gave the continuance under deception on the public records as to plea negotiations not her need to complete the Motion to Suppress decision. The case stands firmly on State vs. Mincy, 1981 Ohio App. LEXIS 11793:

"The trial court in this case granted a sua sponte continuance extending defendant's trial date beyond the mandatory time limitations of R.C. 2945.71(C)(2). However, at no time prior to the expiration of the ninety day period set forth in R.C. 2945.71(C) (2), did the trial court enter an order or entry granting a sua sponte continuance, with such order or entry setting forth facts demonstrating the necessity and reasonableness of such continuance. As this Court stated in City of Dayton v. Russell, No. 6968, **[*5]** Montgomery County Court of Appeals (January 14, 1981): "This failure of the trial judge to record an order or entry . . . of the continuance . . . prevented the operation of subsection (H) of R.C. 2945.72." See also, State v. Montgomery (1980), 61 Ohio St. 2d 78, 399 N.E.2d 552; State v. Siler (1979), 57 Ohio St. 2d 1, 384 N.E.2d 710; State v. Eberhardt (1978), 56 Ohio App. 2d 193, 381 N.E.2d 1357." ...Pursuant to R.C. 2945.73(B), a defendant shall be discharged if he is not brought to trial within the time required by R.C. 2945.71 and 2945.72. As defendant was not brought to trial within ninety days after his arrest, and there is no trial court order or entry prior to the expiration of the ninety-day period as regards the sua sponte continuance, the charges against defendant must be dismissed. The assignment of error is well taken. The judgment of the trial court is hereby reversed, and defendant is discharged pursuant to R.C. 2945.73."

In Conclusion of this Motion to Dismiss issue: The Appellant Boyd's second argument under this assignment of error is that he was denied his constitutional right to a speedy trial under the Sixth and Fourteenth Amendments to the United States Constitution and by Section 10, Article I of the Ohio Constitution. The Appellant is asking this honorable Supreme Court to take up the Jurisdiction on this Constitutional question as to whether the reasons the Trial Court granted it Continuances between June 17, 2021 and December 23, 2021, where for good faith reason as to this honorable Courts precedence.

Should the Motion to Dismiss have been granted predicated upon the facts and issues of law in the case? The Appellant is requesting that this case be reminded back to the Ohio Supreme Court to accept jurisdiction or to the Second Appellate District Court for further proceedings on these issues, especially when its clear in the Oral arguments conceded by the State of Ohio "that there is confusions and conflict about the September 22, 2021, September 23, 2021 and those dates of continuance..."

The fact that there are Brady v. Maryland, 373 U.S. 83, Exculpatory evidence; Giglio v. United States, 405 U.S. 104, Material Evidence; Rock v. Arkansas 478 U.S. 44, Rights to call Officer George Kloos to testify in the Suppression hearing; Giles v. Maryland, 386 U.S. 66 Police Reports by Officer Kloos not being provided and by The prosecution and Detective Howard, who has suppressed it as material and exculpatory evidence to the testimony of officer Kloos in this case; The illegal search and seizure where the law enforcement did not know if anyone was in the house, saw nothing, heard nothing, and waited until a light come on before even seeking a warrant and affidavit, through Detective Howard, between 3:36am to 1:36pm. See State v. Byrd, 2017-Ohio-6903, and State v. Boyd, 2013-Ohio-1067, both of these cases stand upon the United States precedence in Maryland v. Buie, 494 U.S. 325, 119 S. Ct. 1093, 108 L. Ed. 2d. 276 (1990).

The Trial Courts made an unreasonable error to the unconstitutional decision pertaining to the fact that the State of Ohio failed to respond to the Appellants Motion to dismiss in claiming that there was a scheduled Plea when it was the Trial Court who negotiated that Plea not the State of Ohio. This case was addressed

under the State v. Price opinion, id at 122 Ohio App. 3d 65. The Appellant Court ignored the Price opinion and solely stood upon the Butcher ex parta.

"[*P42] While it is true that the State did not respond to Boyd's motion, this case is distinguishable from the situation in Butcher. Boyd's case was scheduled for a plea hearing the day after Boyd filed his motion. The record reflects that Boyd's motion to dismiss was filed at 5:37 p.m. on January 24, 2022, which was after the close of business."

The opinion in price was very substantive in this case as applied in the Direct Appeal. The Appellate Court's dependence of the Butcher in saying:

"[*P40] Finally, Boyd contends that the State did not respond to his motion to dismiss and therefore never met its burden of production. Boyd relies on State v. Butcher, 27 Ohio St.3d 28, 27 Ohio B. 445, 500 N.E.2d 1368 (1986), to allege that once a defendant makes a prima facie case of a speedy trial violation, the burden of production shifts to the State to establish justification for the extension of speedy trial time. Boyd contends that the failure of the State to produce sufficient evidence to extend the speedy trial time necessitates reversal."

"[*P41] In Butcher, the defendant filed a motion for dismissal alleging that he had not been afforded a speedy trial because he had remained in jail since the date of his arraignment "solely on this pending cause." Id. at 30. Due to the length of time [***21] Butcher was held, absent him being held on multiple offenses, his speedy trial time had expired. At the oral hearing on the motion, the State alleged that Butcher was not being held solely on the charge in the indictment, but was also being held on several other charges, such that Butcher was not entitled to the triple-count provision of R.C. 2945.71(E). Id. However, the Court found that the State had failed to document its position by producing records demonstrating that Butcher was not entitled to the triple-count provision. Id. Absent any evidence to demonstrate that Butcher was not entitled to the triple count provision, the Court concluded that Butcher's speedy trial rights had been violated. Id."

On appeal, Price argued that the trial court erred in overruling his motion to dismiss based on the violation of his right to a speedy trial under § 2945.71. The court sustained defendant's assignment of error. The court found that defendant's right to a speedy trial was violated because the prima facie case he presented was not rebutted by the State. Defendant's timely motion to dismiss should have been granted by the trial court. The State could have met its burden by way of records, including, but not limited to, court records, journal entries, or jail records. However,

the State presented no evidence to the trial court to sustain its burden of proof. The court reversed the conviction for unauthorized use of property, possession of criminal tools, and tampering with evidence, and discharged defendant. Defendant's remaining assignments of error were moot. The **Outcome was that** the court reversed the judgment, which convicted defendant of unauthorized use of property, possession of criminal tools, and tampering with evidence. The court ordered that defendant be discharged.

The Appellant Mr. Boyd is similarly situated with the Price Case State v. Price, 122 Ohio App. 3d 65, that used the Butcher case posit of what the second appellate District Court has, and must be reversed where Priced clearly explains:

"At the time the motion to dismiss was presented to the trial court, it was incumbent upon the state to demonstrate to the court that appellant's speedy trial rights had not been violated. The state could have met its burden by way of records, including, but not limited to, court records, journal entries, or jail [*69] records. See Butcher. However, in this case, the state presented no evidence to sustain its burden of proof. In fact, the record unequivocally demonstrates the state's failure to properly introduce any evidence to rebut appellant's prima facie motion for discharge. [***7]"

"In this court, the state now attempts to rebut appellant's prima facie case by including in the appendix to its brief all of the entries for continuances filed both in the original case, 94CR-05-2938, which was later nolle prosequi, and the case before us, 95CR-06-3892. These records should have been presented to the trial court and introduced into evidence. The entries in case No. 94CR-05-2938 are not in the record of the case before us, 95CR-06-3892, and, thus, cannot be considered by this court. See Prairie Twp. [***8] Bd. of Trustees v. Stickles [**44] (Feb. 22, 1996), 1996 Ohio App. LEXIS 618, Franklin App. No. 95APC07-941, unreported (1996 Opinions 602), and Singh v. Holfinger (Jan. 29, 1991), 1991 Ohio App. LEXIS 414, Franklin App. No. 90AP-639, unreported (1991 Opinions 302)."

"The Ohio Supreme Court has repeatedly held that the requirements of R.C. 2945.71 and 2945.73 are mandatory and must be strictly followed by the state. State v. Cross (1971), 26 Ohio St. 2d 270, 271 N.E.2d 264. Therefore, this court finds that appellant's right to a speedy trial was violated since the prima facie case he presented was not rebutted by the state. Accordingly, appellant's motion to dismiss, which was timely filed, should have been granted by the trial court."

From the time the Trial Court Counsel Karl Kordalis, filed the September 22, 2021 un-journalized Continuance, without any reason for granting it or requesting it, this issues as been sliding down this slippery slope in evading the Due Process Clause of the United States 14th Amendment, and 6th Amendment. The Statute in this case is mandatory to follow, yet has not been followed. The very same equal protections of the 14th Amendment is due to the Appellant in this very case

. Newly discovered issues as Non-Appealable Order issues on Motion to Dismiss, and Speedy Trial Rights:

The trial court failing to provide a final; appealable order to when it made its decision to deny the motion to dismiss within 17 hours on record, failed to provide an order and entry as a final appealable order to be appealed from, making the decision void and not a final appealable order. This was not addressed by the Appointed Counsel or the Court and should be allowed to be drought back before the Court of Appeals on Direct Appeal. Under Luna, 2 Ohio St. 3d 57, State v. Mathews, 81 Ohio St. 3d 375, and Bolate v. United States, 559 U.S. 196, at *¶215-218. The trial court only denied the Appellant's Motion to Dismiss on the Speedy Trial Rights issue on record, and never provided a final appeal order in documentation to provide to the Second District Appellate Court of Appeals.

The Appellant, is seeking to also bring this back before this honorable Court through the Motion to Withdraw the Guilty Plea. Under Luna, 2 Ohio St. 3d 57, State v. Mathews, 81 Ohio St. 3d 375, and Bolate v. United States, 559 U.S. 196, at *¶215-218.

It was in fact the Judge Montgomery as the Court who offered the Plea and accepted the Plea as to the 11 years to 16 in a half year. The State of Ohio not only failed to respond to the Motion

to Dismiss, the State of Ohio also never made any plea offers in this case. This Case should be vacated under the Price opinion as clear State precedence to be followed as to the state's failure to rebut the Appellants motion to Dismiss in this case.

What's even more substantial that compounds the murky issues in the Direct Appeal is the fact that there was never a final appealable order provided on the Motion to Dismiss filed by the Appellant in January, 24 of 2022.

Conclusion

In conclusion the fact that the Motion to Suppress has been overruled unconstitutionally without the all the evidence in this case where new evidence has been discovered after the Appellant in the Seconds Appellate District Court has been decided, to which the Second District

Courts opinion is unconstitutionally misleading and deceptive to the facts and law, from the missing evidence discovered by the Appellant/Petitioner.

The fact that the Motion to Dismiss was denied on speedy trial rights after a misdirection of facts, and evidence not provided in this case. The need to be able to present the evidence e to this honorable court that no plea was ever negotiated by the State of Ohio, yet, this is the very issue that has been used by the Trial Court and Appeals court to violate the Appellants constitutional rights in his Speedy trial time. It has not been even look at, as to there being no Pleas made by the State, and is the very reason the speedy trial rights were violated on September 23, 2021, that then found its way to the Court negotiated plea on January 25, 2022.

From the moment that the witness Officer George Kloos said he did not remember anything about the illegal search and seizure on January 2, 2021, it has been said by the Court that it was considered trial strategy by the Appellant's counsel, to which has never been spoken as such by said counsel on any record. The missing, hidden or destroyed police report of officer Kloos was to bring back to his memory what actual he said on January 2, 2021, and without it this case has been allowed to deny the Appellant his constitutional rights to a fair and just Suppression hearing that did prevent him from having a fair and just trial. Taking the Plea was the only way to fight the Appellants way out of 11 to 16 in a half year, rather than 22 years. Appalling the issues from the No contest plea was the safest way to protect the appellant form what he has discovered about his case.

Had Officer Kloos been able to testify, his body came footage, police report, and testimony would have proven as exculpatory evidence, and as a material witness, whom was first on the scene, and first in the house after using the Appellants keys to unlock the front door of his home,

and searched the home using the excuse of a protective sweep and emergency aid, when there was nothing in plain sight. This officer's testimony would have and is still the exonerating witness who has been denied this case. Suppressing this evidence would have given the state nothing to prosecute. The Rape Charges and Kidnapping were all dismissed, as the original holding charges.

The trial court failing to provide a final; appealable order to when it made its decision to deny the motion to dismiss within 17 hours on record, failed to provide an order and entry as a final appealable order to be appealed from, making the decision void and not a final appealable order. The trial courts made an unreasonable error to the unconstitutional decision pertaining to the fact that the state of Ohio failed to respond to the Appellants motion to dismiss in claiming that there was a scheduled plea when it was the trial court who negotiated that plea not the state of Ohio. This case was not addressed under the State v. Price opinion, id at 122 Ohio app. 3d 65. The appellant court ignored the price opinion and solely stood upon the butcher ex parta.

Once the Appellant is able to obtain the New evidence not provided that is currently being obtained, this case will surely prove the genuine constitutional violations and facts in this. At this time the Detective Howard has made it were no one can publicly review the police report, not find it even if it cannot be reviewed. It was not allowed to be used in the Appellant trial proceedings, that the Appellant has just recently discovered.

There was no fair and just Motion to Suppress hearing nor process of speedy trial rights in this case in direct violation of the United States 6th, and 14th Amendments.

Petitioner/Appellant's Writ of Certiorari should be granted.

Respectfully Submitted by,

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Samon Boyd

Date: 5-16-24