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SUPREME COURT, U.S.

D.C. NO. 2:21-CV-00045-JB-JMR

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

ERNIE A. SACOMAN — PETITIONER
(Your Name)

vs.

GEORGE STEPHENSON — RESPONDENT(S)
WARDEN OF LEA COUNTY CORRECTIONAL FACILITY
ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ERNIE A. SACOMAN

(Your Name)

HOUSING UNIT 2C #204

LEA COUNTY CORRECTIONAL FACILITY

(Address)

6900 WEST MILLEN DRIVE

HOBBS, NEW MEXICO 88244

(City, State, Zip Code)

(575) 392-4055

(Phone Number)

QUESTION(S) PRESENTED

YOU STATE THE WRIT OF CERTIORARI IS NOT A RIGHT, BUT OF JUDICIAL DISCRETION. ALSO YOUR PRIMARY CONCERN OF THIS COURT IS NOT TO CORRECT ERRORS, BUT DECIDE CASES PRESENTING ISSUES OF IMPORTANCE BEYOND THE PARTICULAR FACTS AND PARTIES INVOLVED. IF THIS PETITIONER HAD AN ATTORNEY FROM THE BEGINNING WHO HAD THE TIME AND PROFESSIONALISM TO REPRESENT HIM THROUGH THIS JUDICIAL PROCESS, INCLUDING APPEALS. THEN THERE WOULD BE NO ARGUMENTS, ALL TIME LIMITS WOULD HAVE BEEN MET AND PETITIONER IS CONFIDENT HE WOULD NOT HAVE TO GO TO THIS COURT WITH HIS PLEAS. IT IS BELIEVED ONLY THIS HIGH COURT CAN ANSWER THE TWO QUESTIONS WE BRING TO THIS COURT?

(1.) CAN A COURT OR CORRECTIONAL FACILITY CHANGE PETITIONER'S PAROLE FROM 31-21-10 (C) 1ST DEGREE FELONY AND WHO HAS SERVED THE SENTENCE OF IMPRISONMENT IMPOSED BY THE COURTS IN A CORRECTIONS FACILITY DESIGNATED BY THE CORRECTIONS DIVISION OF THE CRIMINAL JUSTICE DEPARTMENT SHALL REQUIRED TO UNDERGO A TWO-YEAR PERIOD OF PAROLE: TO (S) FIVE YEARS, 31-21-10 (B) CONVICTED OF A CAPITAL FELONY, THE PERSON SHALL BE UNDER THE GUIDANCE AND SUPERVISION OF THE BOARD... LAWS OF 1980 CHAPTER 28... SECRETLY? THIS WAS NOT ONLY DONE TO PETITIONER, BUT TO ALL PEOPLE DOING A LIFE SENTENCE. IN JULY 19TH OF 2011. IT WASN'T UNTIL 2016 AT MY FIRST PAROLE HEARING AND DENIAL, I BECAME AWARE AND LEARNED THAT MY PAROLE WAS SECRETLY RAISED TO FIVE YEARS, AND SO WHEN I RAISED THE ISSUE, IT SEEMS INSTEAD OF LOOKING AT MY ISSUE AND ARGUMENTS. THE COURT IS ONLY INTERESTED IN FINDING EXCUSES TO DISMISS THE APPEAL ON ANY KIND OF ERROR, AND AS A PRO SE DEFENDANT, I AM ALWAYS REMINDED THAT IGNORANCE IS NO EXCUSE. I JUST CAN'T UNDERSTAND HOW THE COURTS CAN SAY THAT, JUST BECAUSE I DO NOT KNOW ANYTHING ABOUT THE LAWS AND PRIOR TO TRIAL I WAS SO IGNORANT TO THE LAW THAT I PUT MY LIFE, TRUST IN SOME LAWYER'S THAT I KNEW NOTHING ABOUT. I TRUSTED HE WAS DOING WHAT WAS BEST FOR ME, BUT 38 YEARS LATER I KNOW ENOUGH TO SAY PUBLIC DEFENDER JOHN BOGREN AND RICHARD KNOWLES SOLD ME OUT. IF SOMEONE, ANYONE WOULD JUST LOOK AT MY CASE OF HEARSAY. I'M SURE THEY WOULD CLEARLY SEE THAT I WAS DONE WRONG, AND INSTEAD OF CORRECTING A WRONG, THE COURTS FIND REASONS TO DISMISS IT AND PASS IT DOWN THE LINE. SINCE THIS COURT IS MY LAST CHANCE, I JUST ASK YOU TO PLEASE, PLEASE... JUST LOOK AT THE TWO ISSUES I RAISE. HEAR ME OUT, AND ALLOW ME A FAIR CHANCE.

SECOND QUESTION(S) PRESENTED

2.) CAN A COURT OR CORRECTIONAL FACILITY HOLD PETITIONER BEYOND HIS 30 YEAR SENTENCE? WHEN PETITIONER WAS SENTENCED 1987, HE WAS GIVEN A LIFE SENTENCE, LIFE MEAN'S THIRTY YEARS TO BE FOLLOWED BY TWO YEARS PAROLE. PETITIONER UNDERSTOOD THIS SENTENCE TO MEAN HE GOT 30 YEARS AND THE TWO YEARS MEANING HE CAN ACQUIRE GOODTIME AND LUMP SUM AWARDS WHICH COULD REDUCE THAT SENTENCE SUBSTANTIALLY, 1980 LAW CHAPTER 28, 31-21-10, (A) AND 31-21-10 (C.) WHEN PETITIONER ARRIVED AT THE CENTRAL NEW MEXICO CORRECTIONAL FACILITY IN LOS LUNAS, NEW MEXICO, CORRECTIONAL IN 1987, HE DID SIGN PAPERS SHOWING HE WAS CREDIT GOODTIME AND EVEN LUMP SUMS, AND EVEN TO THIS DATE HE CONTINUES TO SIGN FOR GOODTIME EVERY 90 DAYS.

IN 2016 PETITIONER COMPLETED HIS 30 YEAR LIFE SENTENCE, EVEN THOUGH PETITIONER HAS AN EXCEPTIONALLY GOOD PRISON RECORD, HE HAS ACCUMULATED OVER 50 CERTIFICATES SHOWING HE HAS COMPLETED R.D.A.P. = RESIDENTIAL, DRUG, ABUSE, PROGRAM, T.C. = THERAPEUTIC COMMUNITY, MRT = MORAL RECONCILIATION THERAPY, SMALL BUSINESS, DOG GROOMING, ANGER MANAGEMENT, PROJECT ECHO AND MANY OTHER POSITIVE ACHIEVEMENTS. IF YOU LOOK AT HIS DISCIPLINARY HISTORY, HE HAS NOT ONCE PICKED UP A FELONY, AND 38 1/2 YEARS ONLY A HAND FULL OF MISCONDUCT REPORTS, AND YET THE NEW MEXICO PAROLE BOARD HAS DENIED HIM PAROLE FOUR (4) TIMES.

FOR SECOND, THIRD AND FOURTH DEGREE SENTENCES, WHEN AN INMATE COMPLETES THE SENTENCE, HE IS AUTOMATICALLY DOING WHAT'S CALLED IN-HOUSE PAROLE UNTIL HE HAS AN APPROVED PAROLE PLAN. AND WHILE HE IS DOING IN HOUSE PAROLE, HE IS GIVEN GOODTIME CREDIT. FOR EXAMPLE: IF AN INMATE HAS TWO (2) YEARS PAROLE, AS LONG AS HE FAITHFULLY TRIED PAROLING OUT, HE COULD DISCHARGE IN ONE YEAR BECAUSE HE WOULD HAVE RECEIVED ONE-YEAR OF GOODTIME CREDIT, HE WOULD DISCHARGE HIS NUMBER AFTER SERVING ONE YEAR IN HOUSE PAROLE, AND IF YOUR DOING ONLY ONE-YEAR PAROLE, YOU WOULD ONLY HAVE TO DO SIX MONTHS IN-HOUSE PAROLE BEFORE DISCHARGING. IN PETITIONERS CASE, HE WAS GIVEN A 30 YEAR LIFE SENTENCE, NOT 32, 36 OR 40 YEARS. HE WAS GIVEN THIRTY YEARS, SO IN 2016 WHEN HE COMPLETED HIS 30 YEARS, HE WAS DENIED PAROLE IN 2016, HE SHOULD HAVE STARTED HIS IN-HOUSE PAROLE, AND IF WITHIN TWO AND A HALF YEARS HIS PAROLE PLAN WAS UNEXCEPTABLE, THEN HE SHOULD HAVE BEEN DISCHARGED, JUST LIKE THE PROCESS FOR 2ND, 3RD AND 4TH DEGREE FELONIES.

WHY WOULD SOMEONE SENTENCED TO A LIFE WITH PAROLE BE TREATED DIFFERENTLY, AND WHERE AND WHEN IS PETITIONER CONSIDERED DOING IN-HOUSE PAROLE OR DOES IT EVEN EXIST FOR SOMEONE DOING LIFE A (30) THIRTY YEAR SENTENCE WITH A (5) FIVE YEAR PAROLE, BUT INSTEAD THE NEW MEXICO ADULT PAROLE BOARD HAVE DENIED PETITIONER FOUR TIMES EVERY TWO YEAR'S INTERVAL, THAT'S EIGHT AND HALF YEARS ADDED ON TO THE (30) THIRTY YEAR LIFE SENTENCE. SACOMAN HAS NOW SERVED 38 1/2 YEAR'S WITH NO END INSIGHT. THE PETITIONER ONCE AGAIN WAS SCHEDULE TO GO BEFORE THE NEW MEXICO PAROLE BOARD FOR THE FIFTH TIME IN FEBRUARY 2024, BUT TO THIS VERY DATE (9-01-2024) PETITIONER HAS NOT YET SEEN THE PAROLE BOARD WHICH DENIES SACOMAN'S DUE-PROCESS, ACCORDING TO THE NEW MEXICO PAROLE BOARD POLICIES AND LAWS, PETITIONER IS TO GO BEFORE THE PAROLE BOARD EVERY TWO YEARS INTERVAL, LAST PAROLE HEARING WAS MARCH 15, 2022.

On the memorandum opinion and order filed 11-30-2020, it states on page 6 of 7 under Certificate of Appealability that Mr. Sacoman has not raised a colorable argument for tolling. The District Court sentenced Sacoman to thirty (30) years life sentence with two (2) years parole. Please see Appendix B. Sacoman filed Petition for writ of habeas corpus in 1997. All courts from the District Court in Bernalillo County to the Tenth Circuit Court of Appeals in Denver, Colorado accepted Sacoman's thirty (30) years with two-years parole. It was final, no argument was made about the two years parole, but now in July 2011, all of a sudden they amended by changing the two (2) years to five (5) years parole, without the approval of the higher courts. Mr. Sacoman just can't understand how state and federal courts made no issue about the two years parole, if the two years parole was wrong or error, that would make his judgement and sentence illegal from the very beginning and yet not the state nor federal recognized this error, until 2011, to this day Sacoman continues to be denied parole. Please see Appendix K.

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:

RELATED CASES

SKIDGEL V. HATCH, 2013-NMSC-019, 301 P.3d 854
SACOMAN V. SANTISTEVAN 504 F.Supp. 3d 1206 (2020 U.S. DIST)
SACOMAN V. WILLIAMS 141 F.3d 1185 (1998) SEE APPENDIX).
GRIFFITH V. BRYANT, 625 FED. APPX. 914 (10TH CIR. 2015)
OWENS V. SWOPE 1955-NMSC-079
CANDELARIA V. GRIFFIN 1981-10TH CIR, 641 F.2d 868, 870.
FRY V. LOPEZ 2019-NMSC-013
ROBINSON V. COX 1966-NMSC, 419 P.2d. 253
SOTELO V. HADDEN 721 F.2d 700, 702 (10 CIR. 1983).

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- APPENDIX I: *FINAL ORDER (11-30-2023, 1 OF 2 PAGES).*

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APPENDIX J: ORDER DENYING CERTIFICATE OF APPEALABILITY,
BUT GRANT MR. SACOMAN'S MOTION TO PROCEED
WITHOUT PREPAYING COSTS OR FEES.
(6-13-2024, 1 OF 4 PAGES).

Appendix K. Sacoman V. Sarmistevan 504 F. SUPP. 3d. 1206
From The United States District Court. Memorandum Opinion and Order.

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

STATE V. HOVEY 1975-NMCA 534 P. 2d 777
STATE V. MCGUIRE 1990-NMSC, 795 P. 2d 996
STATE V. CRESPIN 1981-NMCA, 633 P. 2d 1238
STATE V. WILSON 1982-NMCA 1641 P. 2d 1081

STATUTES AND RULES

SECTION 31-21-10, NMSA 1978
SECTION 31-21-10(A) NMSA, 2009

OTHER

SENATE BILL 56 (31-21-10 NMSA, 1978)
SENATE BILL 18/4 DA-29-26 THROUGH,
40A-29-34 (NMSA 1953)

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 J to the petition and is ORDER DENYING CERTIFICATE OF APPEALABILITY BUT GRANT MR. SACOMAN MOTION TO PROCEED WITHOUT PREPAYING COSTS OR FEES. (6-13-2024, 1 OF 4 PAGES); or,
☐ reported at COSTS OR FEES. (6-13-2024, 1 OF 4 PAGES); 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 K to the petition and is

☒ reported at SACOMAN V. SANTISTEVAN 504 Supp. 3d 1206 (2020 U.S. Dist.); or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

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

☒ reported at STATE V. SACOMAN 762 P.2d 256 (1988 NMSC); or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

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

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

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was MARCH 12TH, 1998 (SEE APPENDIX C.)

☐ No petition for rehearing was timely filed in my case.

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

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

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

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 9-27-1988
A copy of that decision appears at Appendix A. 10-24-1988 (MANDATE)
STATE V. SACOMAN

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

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

No Person Should be twice Put in Jeopardy for the same offense. See New Mexico Constitution Article II Section 15 and the United States Constitution Amendment V. Petitioner feels the Constitution under Double Jeopardy is Being Violated by Not Releasing Him or Paroling him after serving 30 Years.

The New Mexico Constitution Article II Section 13, No Persons shall be subject to cruel and Unusual Punishment. It is Very Cruel and Unusual for an Attorney to tell Defendant He is only going to do Half A 30 year sentence, Then in 2011 Change His Parole From 2 years to Five years, and For Petitioner to Complete His Thirty Year Life Sentence and For Eight Years Be Denied Parole With No end in sight.

The New Mexico Constitution Article II, Section 18, No person shall be deprived of Life, Liberty or Property Without Due Process of Law, nor shall any person be denied equal Protection of the Laws. Equality of Rights Under Law shall not be Denied on Account of the sex of any person. Petitioner was given A 30 Year sentence and any time over 30 years would be depriving Petitioner of his Liberty, his Freedom and Due Process. Petitioner was to go to the Parole Board February or March of 2024, . But Here we are in September 2024 and Petitioner has Not seen The Parole Board, This is straight up Denying Him of His Due Process Rights, But of course This Court will probably tell him that Issue has Not Been Exhausted, so He must Wait till The US Supreme Court makes A Final Decision, Then if Petitioner wishes, He can File A State Habeas and Raise The Due Process Issue, Throughout The 30 years Petitioner has done, He has maintained His Innocence, and The state has continuously Punished Mr. Sacoman by Raising his Parole From 2 To 5 years, making him serve over 30 years He was ordered to serve.

STATEMENT OF THE CASE

PETITIONER FILED A DIRECT APPEAL TO THE NEW MEXICO SUPREME COURT ON 9-27-1988, WHICH AFFIRMED THE CONVICTION AND SENTENCE. PETITIONER THEN FILED VARIOUS STATE HABEAS MOTIONS: 3-16-1992, 1-10-1995 AND 6-30-1995, ALL WHICH HE FILLED PRO SE, BUT THE COURTS ALL DENIED PETITION RELIEF.

ON 1-30-1996 PETITIONER FILED HIS FIRST FEDERAL PETITION FOR WRIT OF HABEAS CORPUS 28 U.S.C. § 2254, PLEASE SEE, SACOMAN V. WILLIAMS, et al, NO. CIV 96-0128 LFG, AND DISMISSED THE ACTION WITH PREJUDICE ON 1-7-1997, THEN APPEALED TO THE 10TH CIRCUIT COURT OF APPEALS ON 4-21-1997, SEE SACOMAN V. 141 F.3d 1185 (1998 U.S. APP. LEXIS 14138). PETITIONERS APPLICATION FOR CERTIFICATE OF PROBABLE CAUSE DENIED AND APPEAL DISMISSED, JULY 13TH, 2020 SACOMAN FILED A FEDERAL PETITION FOR WRIT OF HABEAS CORPUS CHALLENGING HIS ORIGINAL ISSUES FROM HIS 1996 PETITION - i.e., MURDER, ARMED ROBBERY, TAMPERING WITH EVIDENCE AND CONSPIRACY, PLUS PETITIONER RAISED THE ISSUE OF A JULY 19TH, 2011 ORDER AMENDING HIS JUDGMENT AND SENTENCE, IT WAS ENHANCED FROM TWO YEARS PAROLE TO FIVE YEARS PAROLE, PETITIONER WAS NEVER NOTIFIED OF THIS ENHANCEMENT, SEE CASE NO. D-202-CR-1986-41225. THE ORDER STATES: "THE COURT HEREBY FINDS THAT THE JUDGMENT AND SENTENCE NEEDS TO BE CORRECTED TO REFLECT THE CORRECT PAROLE TERM APPLICABLE AT THE TIME OF THE OFFENSE AND THE SENTENCING IN THIS CASE PURSUANT TO § 31-21-10(B), NMSA 1978, THE COURT HEREBY ORDERS THAT THE DEFENDANT, UPON COMPLETION OF THE LIFE SENTENCE OF IMPRISONMENT, SHALL BE REQUIRED TO UNDERGO A MINIMUM PERIOD OF PAROLE OF FIVE (5) YEAR'S". SACOMAN CONTINUED TO ARGUE THAT THE 2ND JUDICIAL DISTRICT COURT VIOLATED PETITIONERS DUE PROCESS RIGHTS BY ENTERING THE JULY 2011 ORDER WITHOUT NOTICE NOR OPPORTUNITY TO OBJECT, AND HE ALSO MENTIONS THE REPEATED DENIAL OF HIS PAROLE, BASED ON HIS DECISION TO MAINTAIN HIS INNOCENSE.

THE NEW MEXICO SUPREME COURT ISSUED A MEMORANDUM OPINION AND ORDER ON 10-15-2020, BASICALLY DISMISSING ANY ARGUMENT DEALING WITH THE 1986 CONVICTION AND EXPLAINING THE ONE (1) YEAR STATUTE OF LIMITATIONS REGARDING § 2254, PLUS THE DIFFERENCE BETWEEN THE 2254 AND 2241 PETITION FOR WRIT OF HABEAS CORPUS (SEE APPENDIX).

CONTINUES

STATEMENT OF THE CASE CONTINUES

ON 1-19-2021 PETITIONER FOLLOWED THE COURTS ADVICE AND FILED PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. 2241 (SEE APPENDIX). AND ON 1-17-2023 THE U.S. DISTRICT COURT ISSUED THE MEMORANDUM OPINION AND ORDER TO ANSWER AND DISMISSING CERTAIN CLAIMS (SEE APPENDIX), ON 3-13-2023 THE STATE RESPONDED TO PETITIONER, THEN ON JUNE 28TH, 2023 PETITIONER REQUESTED AN EXTENTION OF TIME TO RESPOND TO THE STATES RESPONSE, THEN ON 6-28-2023 THE UNITED STATES MAGISTRATE JUDGE JENNIFER M. ROZZONI GRANTED THE EXTENTION OF TIME TO AUGUST 7TH 2023, PETITIONER ENCLOSED A NUMBER OF ATTACHMENTS TO BACK UP HIS ARGUMENT, AND THEN ON 10-18-2023 THE U.S. DISTRICT COURT ISSUED A PROPOSED FINDINGS AND RECOMMENDED DISPOSITION ON 10-18-2023 (SEE APPENDIX); ON 11-6-2023 PETITIONER RESPONDED, THEN ON 11-30-2023 THE U.S. DISTRICT COURT ISSUED ITS MEMORANDUM OPINION AND ORDER ADOPTING PROPOSED FINDINGS AND RECOMMENDED DISPOSITION, FROM THE, MAGISTRATE JUDGES, (SEE APPENDIX). ALSO ON 11-30-2023, THE UNITED STATES DISTRICT COURT ISSUED ITS FINAL JUDGMENT BY DISTRICT JUDGE JAMES O. BROWNING (SEE APPENDIX). ON 12-21-2023 PETITIONER SUBMITTED HIS NOTICE OF APPEAL TO THE UNITED STATES DISTRICT COURT, THEN ON 6-13-2024 THE TENTH CIRCUIT COURTS OF APPEALS IN DENVER COLORADO DENIED PETITIONER A CERTIFICATE OF APPEALABILITY, BUT DID GRANT PETITIONERS MOTION TO PROCEED WITHOUT PAYING COSTS OR FEES, AND SO NOW, PETITIONER APPEALS TO THE UNITED STATE'S SUPREME COURT IN WASHINGTON D.C. AND ASKING THIS COURT TO HOWER THE TENTH CIRCUITS MOTION GRANTING PETITIONER'S MOTION TO PROCEED WITHOUT PREPAYMENT DUE TO HIS INDIGENT STATUS.

THE TWO ISSUES RAISED IN THIS COURT ARE THE FOLLING ISSUES:

1.) CAN A COURT OR CORRECTIONAL FACILITY CHANGE PETITIONERS TWO YEARS PAROLE TO FIVE YEARS PAROLE WITHOUT COUNSEL, WITHOUT DUE PROCESS OR AN OPPORTUNITY TO REFUTE THE ACTION. (SEE APPENDIX)

2.) CAN A COURT OR CORRECTIONAL FACILITY HOLD PETITIONER BEYOND HIS THIRTY (30) YEAR LIFE SENTENCE, WHEN IT CLEARLY STATES 30 YEARS NOT 32, 34, 36, NOR 40, HE HAS LIFE WITH PAROLE, NOT LIFE WITHOUT PAROLE.

STATEMENT OF THE CASE

FEB. 20, 1986 SACOMAN WAS ARRESTED AND CHARGED WITH 1ST DEGREE FELONY MURDER WITH AGGRAVATING CIRCUMSTANCES, CONSPIRACY TO COMMIT FELONY MURDER, ARMED ROBBERY, CONSPIRACY TO COMMIT ARMED ROBBERY, ATTEMPT TO COMMIT ARMED ROBBERY, TAMPERING WITH EVIDENCE AND FELON IN POSSESSION OF A FIREARM.

HIS JURY STARTED ON OR ABOUT OCTOBER 2, 1986, AND ON OCTOBER 10, 1986 HONORABLE ALBERT S. MURDOCH DECLARING A MISTRIAL BECAUSE OF MANIFEST NECESSITY. ON 3-6-1987 SACOMAN WAS RETRIED AND CONVICTED ON MARCH 23, 1987 OF MURDER IN THE FIRST DEGREE AS CHARGED IN COUNT ONE, MURDER IN THE FIRST DEGREE AS CHARGED IN THE ALTERNATIVE COUNT ONE, CONSPIRACY TO COMMIT MURDER, AS CHARGE IN COUNT TWO, ARMED ROBBERY AS CHARGED IN COUNT III, CONSPIRACY TO COMMIT ROBBERY, AS CHARGED IN COUNT FOUR TAMPERING WITH EVIDENCE AS CHARGED IN COUNT FOUR.

ON 8-12-1987 SACOMAN WAS SENTENCED TO LIFE IMPRISONMENT FOR COUNT ONE, NINE YEARS FOR COUNT TWO, NINE YEARS FOR COUNT THREE AND ONE-YEAR FOR FIREARM ENHANCEMENT, THREE YEARS AS TO COUNT FOUR AND EIGHTEEN MONTHS FOR COUNT FOUR, ALL TIME TO RUN CONCURRENT TO ONE ANOTHER, TO RECEIVE CREDIT FOR 516 DAYS PRE-SENTENCE CONFINEMENT, AND PLACED ON TWO YEARS PAROLE, (SEE APPENDIX A). AGAIN MR. SACOMAN IS SERVING A TERM OF LIFE IMPRISONMENT WITH RESPECT TO COUNT 1, AND A COMBINED 23 1/2-YEARS TERM FOR COUNTS 2; 3; 4 AND 6. FIRST OFFENSE AS AN ADULT.

WHEN SACOMAN WENT TO HIS FIRST TRIAL, HE WAS FACING THE DEATH PENALTY, BUT DUE TO A HUNG JURY, 8 WANTED TO CONVICTED AND 4 NOT GUILTY, AGAIN SACOMAN WAS RETRIED ON 3-4-1987 AND THIS IS WHERE I BELIEVE THE MISTAKE OR MISUNDERSTANDING COMES IN PLAY, IF YOU LOOK AT 31-21-10 NMSA, 1978 PAROLE AUTHORITY AND PROCEDURE (SEE APPENDIX J) IN THE SECOND TRIAL THE DISTRICT ATTORNEY DID NOT SEEK FOR THE DEATH PENALTY AFTER SPEAKING, WITH SACOMAN'S 1ST TRIAL JUROR'S, WHEN SACOMAN WAS CONVICTED AND SENTENCED. JUDGE MURDOCH SENTENCED SACOMAN ACCORDING TO 31-21-10 (C.) NMSA, 1978/CHAP 28 LAW OF 1980 31-21-10 (C.) "AN INMATE WHO WAS CONVICTED OF A FIRST, SECOND OR THIRD DEGREE FELONY AND WHO HAS SERVED THE SENTENCE OF IMPRISONMENT IMPOSE BY THE COURT IN A CORRECTIONS FACILITY DESIGNATED BY THE CORRECTIONS DIVISION OF THE CRIMINAL JUSTICE DEPARTMENT SHALL BE REQUIRED TO UNDERGO A TWO-YEAR PERIOD OF PAROLE..."

REVISED 31-21-10, PAROLE AUTHORITY AND PROCEDURE, (2009)
NOW 31-21-10 (C.) NMSA, 1978 BECAME 31-21-10 (D.) AND
31-21-10 (C.) READS: AN INMATE OF AN INSTITUTION WHO
WAS SENTENCED TO LIFE IMPRISONMENT WITHOUT POSSIBILITY
OF RELEASE OR PAROLE IS NOT ELIGIBLE FOR PAROLE AND SHALL
REMAIN INCARCERATED FOR THE ENTIRETY OF INMATE'S NATURAL
LIFE. RIGHT NOW THE PAROLE IS ABUSING SACOMAN WITH
SUCCESSION, 31-21-10 (C.) REVISED (2009). IN (2009) 31-21-10
(B.) STATES UNLESS THE BOARD FINDS THAT IT IS IN THE BEST
INTEREST OF SOCIETY AND THE PAROLEE TO REDUCE THE PERIOD
OF PAROLE, A PERSON WHO WAS SENTENCED TO LIFE IMPRISONMENT
SHALL BE REQUIRED TO UNDERGO A MINIMUM PERIOD OF PAROLE
OF FIVE YEARS. DURING THE PERIOD OF PAROLE THE PERSON SHALL
BE UNDER THE GUIDANCE AND SUPERVISION OF THE BOARD.

REASONS FOR GRANTING THE PETITION

ON JULY 19TH, 2011 AN ORDER WAS ISSUED AMENDING JUDGMENT AND SENTENCE TO CORRECT PAROLE TERM (SEE APPENDIX D). MR. SACOMAN WAS NOT AWARE OF THIS ENHANCEMENT UNTIL THE DAY HE WENT TO HIS VERY FIRST PAROLE HEARING, AFTER SERVING (30) THIRTY YEARS STRAIGHT ON A LIFE SENTENCE WITH PAROLE. HIS FIRST PAROLE HEARING WAS 2-17-2016 DENIED, AND IT WAS AT THE PAROLE HEARING THAT HIS CASE MANAGER MRS. MOORE SHOWED HIM A COPY OF THE JULY 19TH 2011 ORDER. PRIOR TO 2016 MR. SACOMAN WAS NEVER ADVISED IN ANYWAY, SHAPE OR FORM THAT HIS SENTENCE WAS BEING ENHANCED, IT IS A WELL KNOWN FACT THAT PROBATION AND PAROLE PERIODS ARE PART OF THE SENTENCE. ROBINSON V. COX 1966-NMSC, 419 P.2d 253. PAROLE AND PROBATION ARE NOT A RIGHT, BUT A PRIVILEGE. OWENS V. SWOPE 1955-NMSC-079

MR. SACOMAN FILED A STATE PETITION FOR WRIT OF HABEAS CORPUS IN THE SECOND JUDICIAL DISTRICT COURT, BERNALILLO COUNTY, ALBUQUERQUE, NEW MEXICO ON 11-07-2018 ARGUING THAT THE NEW MEXICO CORRECTIONAL DEPARTMENT (NMCD) WAS MISTAKENLY REQUIRING HIM TO SERVE CONSECUTIVE SENTENCES BY ENHANCING SENTENCE, BY PAROLE PLUS DENYING PAROLE AFTER SERVING (30) THIRTY YEARS, (LIFE SENTENCE), DISMISSED; JUDGE DANIEL GALLEGOS Division XV. MR. SACOMAN CONTINUES TO BE DENIED AFTER SERVING 38 1/2 YEARS-STATE V. JOHN 2010-NMSC-041

THE STATES ARGUMENT IS THAT IT WAS JUST A TYPO OR MISUNDERSTANDING BY THE LATE JUDGE PAT MURDOCH, BUT BACK ON AUGUST 12TH, 1987 IT WAS EXPLAINED TO MR. SACOMAN THAT BY GIVING HIM 30 YEARS PLUS 2 YEARS PAROLE, MEANS MR. SACOMAN WAS AND COULD EARN GOOD TIME CREDITS AND LUMP SUMS AND REDUCE HIS SENTENCE TO FIFTEEN YEARS, EVEN LESS WITH LUMP SUMS. WHEN MR. SACOMAN GOT TO THE CENTRAL NEW MEXICO CORRECTIONAL FACILITY IN LOS LUNAS, HE SIGNED FOR HIS MONTHLY GOOD TIME, 50%, IN FACT TO THIS VERY DAY HE CONTINUES TO ACQUIRE AND SIGN FOR GOOD TIME FOR THE RECORD?, AND HAS COMPLETED MANY PROGRAMS SUCH AS PROJECT ECHO, A PEER-EDUCATOR AND R.D.A.P AS A MENTOR FOR THE LAST 24 YEARS, WHICH ALSO GIVES LUMP SUMS FOR THE COMPLETION OF THESE PROGRAMS.

CONTINUES...

REASON FOR GRANTING THE PETITION

A COURT FAILURE TO COMPLY WITH A SENTENCING
STATUTE REQUIRED RESENTENCING. (SEE STATE V. MCGUIRE
1990-JMSC, 795 P.2D 996 FIXING OF PENALTIES SUCH
AS SENTENCING AND PAROLE IS A LEGISLATIVE
FUNCTION, STATE V. HOVEY, 1975-JMCA, 534 P.2D 777;
STATE V. CRESSPIN 1981-JMCA, 633 P.2D 1238, ALSO SEE
STATE V. WILSON 1982-JMCA, 641 P.2D 1081.
IN NEW MEXICO THE PAROLE BOARD, MICHELLE LUJAN
GRISHAM, GOVERNOR, ABRAM AMAYA, CHAIR MEMBER,
CISCO MCSORLEY, EXECUTIVE DIRECTOR AND MEMBERS,
FACTS ARE CONSTITUTELY ABUSES IT'S POWER THAT IS EFFECTING
300 HUNDRED PEOPLE WHO HAVE BEEN SENTENCED TO A
LIFE SENTENCE (30) THIRTY YEARS WITH PAROLE. THIS
PROBLEM WAS ADOPTED AND CREATED BY FORMER GOVERNOR
SUSANA MARTINEZ, SANDRA DITZ, CHAIR MEMBER,
SHERY STEPHENS, EXECUTIVE DIRECTOR, SAME BOARD MEMBERS.
FOR THE INTEGRITY OF THE LAW AND SENTENCE, ALL THE
PAROLE BOARD IS REQUIRED TO DO IS HONOR THE EXECUTION
OF THE COURT'S ORDER. (SEE, SOTELO V. HADDER, 721 F.2D
700, 702 (10TH CIR. 1983). MR. SACOMAN COURTNUES TO
ARGUE THAT HIS CONTINUED PAROLE DENIALS CONTRIVE -
MEETS VIOLATE THE EX POST FACTO CLAUSE WHICH PROHIBITS
STATES FROM PASSING OR INCREASE THE PUNISHMENT
FOR CRIMINAL ACTS. SEE THE UNITED STATES
CONSTITUTION, ART. I § 10; POWELL V. RAY 301 F.3D 1200, 1203
(10TH CIR. 2002) SEE SMITH V. SCOTT 223 F.3D 1191, 1193-94
(10TH CIR. 2000).

THERE IS NO REASONABLE REASON FOR THE NEW MEXICO PAROLE BOARD TO DENY MR. SACOMAN PAROLE, WHEN HE WENT BEFORE THEM ON FEBRUARY 17TH, 2016. PAROLE AND PROCEDURES 31-21-10 (A.) REVISED IN 2009. THE NEW MEXICO PAROLE BOARD MEMBERS HAVE A CHECK MARK LIST THAT THEY USE TO DENY PAROLEE'S EVERY TWO YEAR'S INTERVALS. NO ACCOUNTABILITY ON THEIR CONSCIOUS, JUST A CHECK MARK, ON THE LIST. WHEN PETITIONER FILED HABEAS CORPUS UNDER 28 U.S.C. 2241, CHALLENGING THE EXECUTION OF OF THE SENTENCE, IT REVEALED BY DENYING MR. SACOMAN, FOR THE SERIOUSNESS OF THE OFFENSE, WITH A CHECK MARK IT'S A VIOLATION OF DOUBLE JEOPARDY. CHECK MARK DENYING SACOMAN A WEAPON WAS INVOLVED, AGAIN. DOUBLE JEOPARDY DENYING ON PAST DISCIPLINARY REPORTS = DOUBLE JEOPARDY. MR. SACOMAN HAS DONE 38 1/2 YEAR'S ON A 30 YEAR LIFE SENTENCE...

CONCLUSION

CONTINUES...

FOR THE REASONS STATED MR. SACOMAN REQUESTED HE BE ALLOWED TO PAROLE OR BE DISCHARGED FROM THIS CASE.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Ernie A. Sacoman
ERNIE A. SACOMAN

Date: SEPTEMBER 6TH, 2024.

AFTER SURVIVING 38 1/2 YEAR LIFE SENTENCE AND NO FELONY. THE FACT IS THE NEW MEXICO PAROLE BOARD CATERING TO THE FAMILY OF THE VICTIM. THE STATE ARGUES THAT SACOMAN IS NOT ENTITLED TO PAROLE. MR. SACOMAN IS ONLY ENTITLED TO A PAROLE HEARING AND MERE HOPE. VIOLATING MY EIGHT AMENDMENT, CRUEL AND UNUSAL PUNISHMENT. AS GOD IS MY WITNESS, I WAS NOT OUT THERE AND I DID NOT TAKE AWAY BRIAN MARTINEZ'S LIFE. A GROUP OF PEOPLE OF MY PEER'S CONVICTED ME. NO MATTER HOW WRONG THEY WERE. THE STATE OF NEW MEXICO HAS HELD UP THE INTEGRITY OF THEIR CONVICTION. FOR THE NEW MEXICO PAROLE BOARD TO CONTINUE TO TOY WITH ME, THAT IS SO WRONG. THE PAROLE BOARD ARGUES, WE ARE NOT JUST DOING THAT TO MR. SACOMAN, BUT TO 300 OTHER PEOPLE WHO DOING A LIFE (30) THIRTY YEAR SENTENCE WITH PAROLE. AT PRESENT THE NEW MEXICO PAROLE BOARD IS VIOLATING MY DUE PROCESS. MR. SACOMAN WAS SCHEDULED TO GO BEFORE THE PAROLE BOARD FEBRUARY 2024, EVERY TWO YEAR'S INTERVALS. 7 MONTH'S LATER AND PATIENTLY WAITTING.