

24-5831

No. _____

FILED
AUG 20 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE UNITED STATES SUPREME
COURT

COLBY DRANOEL LEONARD
PRO-SE

Vs.

- STATE OF LOUISIANA (Appendix T₁¹U)
- KEITH Deville, (Appendix I₁¹K)
- KEITH COOLEY, (Appendix A₁¹B)
- JAMES CAIDWELL, JR. (Appendix A₁¹B)

ON PETITION FOR A WRIT OF
CERTIORARI
FROM

UNITED STATES FIFTH CIRCUIT COURT OF APPEALS
LOUISIANA

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QUESTIONS PRESENTED

- 1.) Whether or not did the Federal Court error when it ordered demonstrative defect in Pro-se litigants petition that raised constitutional right violations when Pro-se litigants are given more freedom to correct defects?
- 2.) When officers state they didnt see the accused committing a crime. Is it Constitutional to seize an identity and perform a search of evidence to justify an arrest?
- 3.) Whether or not the Constitution upholds suggestive identification procedures without a emergency or urgency Constitutional?
- 4.) Whether or not is the filing of a intiation of a prosecution by Bill Of Information for a Felony outside the limitations window is Constitutional in any Jurisdiction?
- 5.) Where does the Constitution charts for State representatives permission to disobey a judges order to disclose for trial?
- 6.) Is it Constitutional to administer evidence during a trial who's nature proved nothing in the committing of the alleged offense?
- 7.) When a victim/witness indicates confidence in their statement. Is it Constitutional to REFRESH from previous testimony while on trial in testimony?
- 8.) When a counsel remains silent with knowledge of Constitutional deprivements more than 6 times. Do the counsel's silence and failure to object meets the standard of a competent effective counsel?

a.

LIST OF PARTIES

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

RELATED CASES

Louisiana vs. Leonard, 2008-KA-2090, 1st Cir. C.O.A. Louisiana order 93-27-09)

Louisiana vs. Leonard, 2009-KO-0908, Louisiana Supreme Court, Judgement rendered(1-8-10)

Leonard vs. Steven Rader ET AL, 04-07-0409, Louisiana 19th J.D.C., Judgement (5-1-13)

Louisiana vs. Leonard, 2013-KW-0861, Louisiana 1st Cir. C.O.A., Judgement (8-27-13)

Louisiana vs. Leonard, 2013-KW-1729, Louisiana 1st Cir. C.O.A., Judgement (2-27-14)

Louisiana vs. Leonard, 2014-KH-0682, Louisiana Supreme Court, Judgement (1-9-15)

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Leonard vs. Keith Deville,ET AL, 18-30374, United States 5th Cir. C.O.A. Judgement (12-17-18)

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

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

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix B 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 F¹ G to the petition and is

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

For cases from **state courts**:

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

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

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

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

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 8-1-24 (Appendix B)

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: 8-26-24, and a copy of the order denying rehearing appears at Appendix A.

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

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

For cases from **state courts**:

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

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).

JURISDICTIONAL STATEMENT

Mr. Leonard has been appealing a wrongful conviction of a #3.00 Armed Robbery in the State of Louisiana 19th Judicial District Court Parish of East Baton Rouge since 3-27-09 in this following order Louisiana Supreme Court 2009-KO-0908 (1-8-10) / "Recommendation" Louisiana 19th Judicial District Court 04-07-0409 (3-26-13) / "Order" 19th J.D.C. 04-07-0409 (5-1-13) / "Order" 1st Circuit C.O.A. 2013-KW-0861 (8-27-13) / "Order" 1st Circuit C.O.A. 2013-KW-1729 (2-27-14) / "Order" Louisiana Supreme Court 2014-KH-0682 (4-9-12) / "Recommendation" U.S.D.C. Middle District of Louisiana 15-73-SDD-EWD (2-14-18) / "Order" U.S.D.C. Middle Louisiana 15-73-SDD-EWD (3-8-18) / "Order" U.S.D.C. Middle District Louisiana 15-73-SDD-EWD (3-22-18) / "Order" U.S.D.D. Middle District Louisiana 15-73-SDD-EWD (5-4-18) / "Order" U.S.C.O.A. 5th Circuit 18-30374 (12-17-18) / "Judgement" U.S.C.O.A. 5th Circuit. 18-30374 (2-3-20) / "Rehearing Petition" U.S.C.O.A. 5th Cir. 18-30374 (5-15-20) / "Judgement" U.S.C.O.A 5th Cir. 18-30374 (5-15-20) / "Order" U.S.D.C. Middle District 15-73-SDD-EWD (10-5-21) / "Recommendation" U.S.D.C. Middle District Louisiana 15-73-SDD-EWD (8-29-23) / "Order" U.S.D.C. Middle District Louisiana 15-73-SDD-EWD (9-27-23) / "Order" United States Court of Appeals Fifth Circuit 23-30781 (1-22-24); (8-1-24); (8-26-24).

THE JURISDICTION OF THIS COURT IS INVOKED UNDER 28 U.S.C.1254(1)

CONSTITUTION (VERBATIM)

FOURTH AMENDMENT;

" guaranteeing the right of persons to be secure in their homes and property from unreasonable Searches and Seizures.

Louisiana Declaration of Rights Article 1 & 2

" DUE PROCESS OF LAW"

Louisiana Declaration of Rights Article 1 & 4

" Right to Property"

Louisiana Declaration of Rights Article 1 & 5

" Right to Privacy"

Louisiana Declaration of Rights Article 1 & 6

" Freedom from Intrusion"

Louisiana Declaration of Rights Article 1 & 16

" Right to Fair Trial"

FIFTH AMENDMENT;

" ④ that neither life, liberty nor property may be taken without Due process of Law."

4th Amendment; guaranteeing the right of persons to be secure in their homes and property from unreasonable Searches and Seizures.

6th Amendment; entitles the accused in a criminal trial the right to a Speedy Trial, and to have effective assistance of counsel

Louisiana Declaration of Rights Article 1 & 2

" Due Process of Law"

CONSTITUTION (VERBATIM)

Louisiana Declaration of Rights Article 1 & 4

"Right to Property"

Louisiana Declaration of Rights Article 1 & 5

"Right to Privacy"

Louisiana Declaration of Rights Article 1 & 6

"Freedom from Intrusion"

Louisiana Declaration of Rights Article 1 & 13

"Rights of Accused"

Louisiana Declaration of Rights Article 1 & 15

"Initiation of Prosecution"

Louisiana Declaration of Rights Article 1 & 16

"Right to Fair Trial"

SIXTH AMENDMENT;

"entitles the accused in a criminal trial the right to"

a Speedy Trial,

by an impartial jury, to be informed of the charges against him,
and to have effective assistance of counsel.

5th Amendment; guaranteeing the right (4) that neither, life, liberty
nor property may be taken without Due process of Law.

Louisiana Declaration of Rights Article 1 & 2

"Due Process of Law"

Louisiana Declaration of Rights Article 1 & 13

CONSTITUTIONAL (VERBATIM)

Louisiana Declaration of Rights Article 1 & 13

" Rights of the Accused"

Louisiana Declaration of Rights Article 1 & 15

" Initiation of Prosecution"

Louisiana Declaration of Rights Article 1 & 16

" Right to Fair Trial"

FOURTEENTH AMENDMENT;

" Protects all persons from State Laws that attempt to" deprive them of life, liberty or property, without Due process of Law, or that attempt to deny them Equal Protection of the Laws.

4th Amendment; guaranteeing the right of persons to be secure in their homes and property from unreasonable Searches and Seizures.

5th Amendment; that neither life, liberty nor property may be taken without Due process of Law.

6th Amendment; entitles the accused in a criminal trial the right to a **Speedy Trial**, and to have effective assistance of Counsel

Louisiana Declaration of Rights Article 1 & 2

" Due Process of Law "

Louisiana Declaration of Rights Article 1 & 4

" Right to Property"

CONSTITUTIONAL (VERBATIM)

Louisiana Declaration of Rights Article 1 & 5
" Right to Privacy"

Louisiana Declaration of Rights Article 1 & 6
" Freedom from Intrusion"

Louisiana Declaration of Rights Article 1 & 13
" Rights of Accused"

Louisiana Declaration of Rights Article 1 & 15
" Initiation of Prosecution"

Louisiana Declaration of Rights Article 1 & 16
" Right to Fair Trial"

STATEMENT OF THE CASE

The core of every procedure attempt was surrounded around issues that Leonard was wrongfully convicted for 35 years for Armed Robbery for \$3.00 dollars (three-dollars). The Rights of Mr. Leonard was violated in the approach of arresting officers in the said offense while he was being seated in a vehicle. During trial the officers stated that he seen the accuse not doing anything that he could see, see **Demonstrative Exhibit trial transcript pgs. 197-199**. The suspect that officers were pursuing the officer did not see get in the vehicle with Leonard and the other occupant. Officers upon approaching the vehicle ordered Leonard and the accused out of the vehicle with weapons drawn forcing them to comply with their procedures **Frisk, Seizure of Identity and Search**. That approach itself violated the rights constitutionally when the bases of their approach had no probable cause leading to an illegal arrest and seizure of identity, there was no consent of a vehicle mobile search in its nature to find evidence that Leonard and the occupant of the vehicle was breaking Law. Neither did the state prove a valid ,knowing and intelligent consent was given. In the process of prosecuting procedure the counsel remained silent in the defense of Leonard falling below a level of a reasonable objective depriving Leonard of Fair Trial, Fairness, Due Process, Equal Protection of the Laws and Right to a Effective Counsel and to be Free in his Person and Privacy.

Leonard was apprehended by Louisiana's East Baton Rouge City Police Department and transported from place "x" to place "y" for a suggestive identification alternative where the state's victim/witness and arresting officer/witness became testifying witness to the illegal procedure see, **Demonstrative Exhibits trial transcripts pgs.149, pg.163, pg.189-190, pg. 203-204**. In discovery of finding procedures like this that violates the constitutional rights of the accused raising the issues with in appeals court is the accused only right. Controlling case law provides jurisprudence establishing to the courts of the land in the United States that suggestive procedure like the one done in that particular case provides law for mirror reflecting cases like Leonard's in line-ups with just the

accused Leonard **single, handcuffed, exiting a police unit, fitting a description** violates the constitution and identification from procedure done out-of-court like the one done here taints the in-court identification and excludes them both not accepting them when they are based on alternatives like the one done in Leonard's case mirror reflecting the controlling cases provided. During trial the counsel for Leonard remained silent on the constitutional violation depriving him of his right to Fairness, Fair Trial, Due Process, Equal Protection of the Laws, and his right to an effective counsel throughout out trial.

Another issue is that the court lost its jurisdiction on the opportunity to initiate the prosecution which points to the immediate release of Leonard according to the Speedy Trial rights. Leonard pointed to the sentencing court that the limitation on the prosecution for filing by Bill of Information had expired on the prosecution of a felony. See, **Demonstrative Exhibits trial transcripts pg.11** which provides the arresting date and the actual date that the Bill of Information was filed exceeding its limitation. Mr. Leonard was still prosecuted and the counsel for Leonard still remained silent on constitutional issues that violates the rights of the accused depriving him of Fairness, Fair Trial, Due Process, Equal Protection of the Laws, his Speedy Trial Right and the right to an Effective counsel. Inside the State's magistrate recommendation the magistrate stated the only remedy for its error and the courts failed to apply it see **Appendix U**.

At the preliminary examination the state's victim/witness stated that she gave a written statement for officers. See, **Demonstrative exhibits trial transcript pgs.105-106, pg.159, pg.160** The attorney at the preliminary examination staged raised to the Judge attention that the defense had not been provided a copy of that statement after a Motion for Discovery was filed the Judge ordered the state to disclose for the exculpatory purpose. The accused went through trial without the statement being disclosed and the counsel for the accused remained silent on the matter falling below a reasonable objective of an effective counsel that deprives Leonard of Fairness, Fair Trial, Due process,

Equal protection of the laws, and his right to an effective counsel.

During Trial the State introduced evidence that was illegally seized and proved nothing in the committing of the said offense . It did not at all exclude the hypothesis of innocence and was insufficient in the finding of something. The state tendered evidence that was never proved to be used in the offense neither was it taken during the alleged offense. Nor did anything in the possession of Leoanrd that was put into evidence prove that leonard had committed the said offense or did anything jeoprodize the safety of the arresting officers. How was this evidence admissible? what was it admissible for? What was relevant about it nature and what part of the offense? See,

Demonstrative exhibits trial transcripts pages 184-188. Leonard had advised the courts that his constitutional rights had been violated and for his counsel remaining silent on the matter again falling below a reasonable objective standard counsel's actions deprived Leonard of his right to Fairness, Fair Trial, Due process, Equal protection of The laws and his right to an effective counsel.

Again in trial, the victim/witness stated that she could give a independent statement. Once that was indicated the courts still allowed the State to let the victim/witness **REFRESH** while on trial testifying under oath forfeiting the defense's cross-examination under impeachment to attack the the victim/witness credibility see, **Demonstrative Exhibits trial transcripts pages 151-157.** At this point in trial here again the counsel for the defense remained silent continuing to fall below a reasonable objective depring the accused of his right to Fairness, Fair Trial , Due Process, Equal Protection of the laws and a effective counsel.

The counsel's repetitive actions of silence on matters of great importancefor the defense was clear actions of incompetence. The counsel was not at all effective on behalf of Leonard's defense through the trial on constitutional matters which forfeited and deprived Leonard of his rights to Fairness, Fair Trial, Due Process, Equal Protection of the Laws, Speedy Trial and effective counsel.

REASON FOR GRANTING THE PETITION

FEDERAL COURTS CONFLICTING

United States 5th Circuit Court of Appeals had an Order that ruled that Leonard a Pro-se litigant did not demonstrate. Upon a Motion to Retain Documents leonard was DENIED the opportunity to access the files that the State District attorney had submitted to the courts from the United States District Court Middle District Of Louisiana stating that " Leonard has no constitutional right to the documents that the state had submitted to the United States District Court Middle District of Louisiana.

The United States 5th Circuit Court of Appeals ordered a ruling stating that there existed no conflict of the courts or no debatable issues between the procedure of the courts and that there was no demonstration over all the constitutional right violations that was deprived Leonard.

On 1-5-24 the United States District Court Middle District of Louisiana in a order stated that the indigent defendant has no constitutional right to aquire a copy of his transcript or court records for use in a collateral proceeding see, **Appendix D.**

The United States 5th Circuit Court of Appeals ordered that Pro-se indigent litigant Leonard did not demonstrate 8-1-24 see, **Appendix B.**

Upon the Motion to Retain Documents request to obatin court records was exactly to use as demonstrative exhibits. The United Sates District Court Middle District of Louisiana denied Leonard records of supporting material preventing him from using the documents as collateral material proceeding see, **Appendix D.** That exact action from the court its deprived Leonard of his right to Fairness, Fair Trial, Due Process, Equal Protection of the Laws. as long as Leonard could have shown a relevant reason for the request of records, The petitioner must show a need for and relevancy of the requested records see, **(United States v. MacCollom, 426 U.S. at 326-328(1976).** The United States District Court Middle District of Louisiana also requested that Leonard be denied the right to proceed

in Forma Pauper knowing that Leonard was a indigent petitioner pursuing his appeal right Pro-se see 9-27-23 **Appendix D and Appendix F**. Also, the United States District Court Middle District of Louisiana ordered that Leonard Pro-se litigation in his State Post-Conviction application was not presented and based on Federal law grounds stating that the claims was not subject to Federal Habeas Corpus review. At the State District Court level Leonard provided the definition of the United States Constitutional Amendments 6th Speedy Trial. Leonard even within the states Louisiana Code of Criminal Procedure Article 701 Speedy Trial qouted and covered State and Federal bases there just under the **SPEEDY TRIAL** Statement is enough being that it qoutes the constitution in part...**VERBATIM**
The Magistrate for the State District Court gave a Recommendation see, **Appendix U**, stating the Article 701 in **FAVOR** of Leonard that defines **SPEEDY TRIAL** remedy for violation of the State and Federal constitution indicating to apply the State's forum in In Article 701 **SPEEDY TRIAL**.

All Mr. Leonard asked the higher court to do was apply, In diversity cases, a Federal court must apply Federal procedure rules and the substantive Law of the Forum state see, **(Hyde v. Hoffmann- La Roche inc, 511 F.3d 506, 2007 WL 4441065(2007))**.

United States District Court Middle District of Louisiana had order ruling that Leonard did not provide the litigation of **SPEEDY TRIAL** error at the State level conflicts with the State's Magistrate Recommendation that qouted the "**ONLY REMEDY**" that could be legally applied see, **Appendix U SPEEDY TRIAL**. As to any defect Leonard should ahve been given more freedom from litigants represented by counsel to **CORRECT** defects in service of processand pleadings, see **(Moore v. Agency for Int'l Dev., 301 U.S. App. D.C. 327, 994 F.2d. 874,876 (D.C.Cir.1993), (Haines v. Kerner, 404 U.S. 519, 520, 30 L.Ed.2d 652, 92 S.ct.594(1972) and U.S. Supreme Court Digest, Lawyer's edition 130 Pro-Se litigants complaint.**

ILLEGAL SEARCH AND SEIZURE

Testimony was given by a competent witness under oath that was recorded and also transcribed making the testimony evidence establishing the existence of an intrusion and seizure in violation of the **Louisiana Declaration of Rights Article 1&2, art. 1&4, art. 1&5, art.1&16 and the United States Constitutional Amendments 4th, 5th and the 14th**. This cause of action for grounds for relief was relief inside the Habeas Corpus application alphabets*(c),(d),(i). The State of Louisiana police exceeded the limits of an investigative stop after they lost a suspect on foot pursuit. Officers at gunpoint in lost of thier suspect ordered two individuals out of a vehicle at gunpoint to cooperate with a brief investigation procedure asking the individuals to identify themselves which was unnecessary. The officers then in cooperation conducted a frisk of the personal pockets of the individuals for the purpose obtaining incriminating evidence. Nothing in violation of the law was collected from the personal possession of the accused that would even jeopradize the life of officers or justify the frisk. Officers still indicated that the accused mr.Leonard was not free to go. The arresting officer in this case did testify that Leonard and the other occupant of the vehicle were not at all involved in criminal activity stating "**NOT THAT HE COULD SEE**". see trial transcript pg. 201 Nor, did he see the suspect that he was in pursuit of get into the vehicle with Leonard, see trial transcript 199. (197-199) There was no way that officers could point to facts supporting his conclusion that Leonard in any way "**LOOKED SUSPICIOUS**", the officers lacked Terry grounds to suspect or believe Leonard was engaged in criminal conduct see, **(Brown v Texas, 99 S.ct. 2637(6-25-79),(State v. Snee, 743 So.2d 270(9-1-99))** There was no actions illegal enough at the time to establish probable cause these aren't sufficient enough: *See Demonstrative exhibit trial transcript pg. 197- 201*

*probable cause:(**Sibron v. New York,392 U.S. 40, 73, 88 S.Ct.1889 L.Ed.2d. 917(1968)**)

*mere flight:(**Wang-sun v. United States, 371 U.S. 471,83 S.ct. 407,9 L.Ed.2d. 441(1963)**)

*vague description: (**Fisher v. United States, 702 f.2d. 372 (3rd Cir.1983)**)

*Inarticulable hunches:(**Brown v. Texas, 460 U.S. 730,743,103,443 S.Ct. 1535, L.Ed.2d.507 (1983)**)

*suspicion,hunches or guess work:(**Hicks v. Arizona**, U.S. 107 S.Ct.1149,1152,1153 L.Ed.2d(1987)

*warrantless arrest:(**Watson v. United States**,423,U.S.411,432n.6,46 S.Ct.820,46 L.Ed.2d 598(1976

"EXCLUSIONARY RULE". Under the "Fruit of the Poisonous Tree" doctrine.

LSA -C.CR.P.Art.215.1(A)(B)(C)(D)/1997 La.Sess.Serv.Act.759(H.B.351)(identifying INSIGNIA)

Temporary questioning of persons in public places;frisk and search for weapons also,**Fed.R.Cr.P.12**

Pleadings and pretrial motions (3) motions must be made before trial (c) Supression of evidence

see, **Dibella v United States**, 369 U.S 121 (1962)/**United States v. Howard**,138 F.Supp 376,380 also,

see **Fed.R.Cr.P.41** search and seizure also see, **18 U.S.C.A.-3113/25 U.S.C.A-246 & 251 & 252** this

mentions introduction or about to introduce/probable cause and **18 U.S.C.A-2236** searches with-

out warrant **(b)committing or about to commit an offense in the presence of an officer.**

Knowing that the police officer seen **NOTHING**. There existed nothing for weight and

reliability that could lead officers to conclude that the law had been violated. At that point the question

remains, **What constituted probable cause?** The officer had no trustworthy information under the

circumstances to believe that two men just sitting in a vehicle has committed or is committing or about

to committ an offense see,(**Corona v. City of Clovis**, 406 F.supp.3d 1187 2019 W.L. 3797050(8-12-19

(**Sinclair v. City of Grandview**, 973 F.supp.2d 1234, 2013 W.L. 5406211(9-26-13),(**Terry v. Ohio**,

392 U.S. 1, 21-22 88 S.Ct. 1868, 20 L.Ed.2d.889(1968).(**Vidal v. United States**, 637 F.supp. 327

(S.D.N.Y.1986). With knowing at that present moment that coming into contact with Mr.Leonard that

NO law was being broken. **When did probable cause for an arrest and search or seizure exist?**

The two occupants of the vehicle gave the officers no reason to believe that there was fair probability

that contraband or evidence of a crime would be found on the individuals or in the vehicle. Officers can

not in no way point to facts in support of his conclusion that Leonard **LOOKED SUSPICIOUS**. The

officer lacked Terry grounds and grounds to suspect and believe Leonard was engaged in any type of

criminal conduct (**Brown v. Texas**, 99 S.Ct. 2637(6-25-79), (**State v. Snee**, 743 So.2d 2709(9-1-99)

"EXCLUSIONARY RULE" The Supreme Court has held that a stop of a automobile and brief detent-

ion of it's occupants which significantly curtails the freedom of action of the driver and passenger is in violation of the constitution, see (**Berkemer v. McCarty**, 468 U.S. 42,104 S.Ct. 2924,82 L.Ed.2d.36 (1984)). Further, when validity of a search rest upon consent the state has burden of proving that a necessary consent was obtained and that it was freely and voluntarily which is not satisfied by show of mere submission to claim lawful authority. Investigating a person who's no more than suspected of criminal activity the police may not even perform a full search of a person to seize personal info or search the vehicle or other effects. Nor, may the police verify thier suspicion by means that approach the conditions of arrest. **The Constitutional Amendment 4th** protection is not diluted in situations where it has been determined that legitimate law enforcement interests justify warrantless searching. The searches are limited to police when it is out of thier control. With this we should know that the police officers may not carry out a full search of a person or automobile especially if its not in the immediate control of the accused and he **CAN NOT** give consent see, (**Florida v. Royer**, 103 S.Ct.1319 (3-23-83)), (**Bumper v. California**, 391 U.S. 543,88 S.ct. 1788, 20 L.Ed.2d.797(1968)), (**Matlock v. United States**, 415 U.S. 164,171,94 S.Ct. 988,39 L.Ed.2d. 242(1974)), (**Robinson v. United States**, 414 U.S. 218,94 S.Ct. 467,38 L.ed.2d. 427(1973)), (**Gustafson v. Florida**, 414 U.S. 260, 94 S.Ct. 488 38 L.Ed.2d. 456(1973)), (**Rakas v. Illinois**, 439 U.S.128,148-149,99 S.Ct. 421,58 L.Ed.2d 387(1978)). Things like this RESTS upon desirability of having magistrates rather than police determine when searches and seizures are permissible and what limitations should be placed see, (**Trupiano v. United States**, 334 U.S. 699, 705(1948) see, (**Chimel v. California**, 395 U.S. 752, 758(1969)). When did police officers meet the burden of proving that consent was given from any one of the people in the vehicle? See, **LSA-C.Cr.P.Art.215.1 (A)(B)(C)(D)** questioning of persons in public places/ frisk and search for weapons see, **18 U.S.C.A.-2236** searches without warrant, (b) commitiing or about to commit an offense in the presence of a officer see, (c)making a search at the request or invitation with consent of the owner see, **25 U.S.C.A.-252** to introduce or about to introduce see, **68 Am.Jur.2d serach and seizures~4 (I) serach and seizures in general (A.)search and seizures**

general considerations (3) Requirement od Individualized suspicion for search and seizure:

A search generally must be based on some level od individualized suspicion or wrongdoing see,

(**Polston v. State, 360 Ark. 317, 201 S.W.3d 406 (2005)**). Also, a degree of individualized suspicions is required for serach determining sufficiently high probability that criminal conduct is occurring to make intrusion of privacy reasonable see,(**Parks v. Com., 192 S.W. 3d 318(Ky.2006)**). see more,

29 Am.Jur.2d Evidence~627 suppression of tainted evidence (V.)Admissibility, generally

(E)Admissibilty of illegally obtained evidence, (3) Evidence derived from illegally obtained evidence,(a): "Fruit of the poisonus Tree" doctrine, see(Murray v. United States, 487 U.S. 533 108 SCt.2529, 101 L.Ed.2d 176 (1969)**). In situations like this evidence is inadmissible in a criminal prosecution see,(**Alderman v. United States, 394 U.S. 165,89 S.ct. 961 22 L.Ed.2d 176(1969)**).**

The counsel for Leonard prior to trial and during trial remained silent on matters of great importance which deprived Leonard of his rights.The counsel should not have been silent on matters on matter that the officers lacked probable cause, that officers had no valid reason for intrusion, nor did the officers at that time seek a consent and even in the approach asking him to identify himself at gunpoint.

The counsel's approach in defense failed below the valid standard level of a effective counsel and the performance deprived Leonard of constitutional rights as well as the officers procedure see,

Louisiana Declaration of Rights 1&2;1&4;1&5;1&13;1&16 and United States Constitutional Amendments 4; Amend. 5; Amend. 6; Amend. 14.

SUGGESTIVE IDENTIFICATION

Under oath the victim/witness and police/ witness gave testimony that was recorded and transcribed establishing the existence of Leonard's Constitutional Rights being violated by East Baton Rouge a parish in the State of Louisiana city police department in thier alternative performing a suggestive idetification procedure that was testified to by the state witness/victim and the arresting officer/witness founding a cause of action which happens to be a ground for relief inside the Habeas Corpus application alphabets **(c),(d),(i).**

Mr.Leonard was unlawfully apprehended and illegally seized searched/frisked and then placed in the back of a police unit and transported from place "x" to place "y" just to be viewed as a culprit of a said offense while no emergency or urgency existed in a crime that had been committed with no life threatening injuries without an attorney counsel privledge see trial transcript pgs.163 203-204. The arresting officer testified to the arrest and transfer of the accused. Mr.Leonard was

SINGLE, HANDCUFFED, EXITING THE BACK OF POLICE UNIT,SURROUNDED BY THE OFFICERS. In the line-up no other men in a line-up were shown as culprits except the accused and courts have ruled that single suspects for review have been widely condemned see, **(Stovall v. Denno, 388 U.S. 302, 18 L.Ed.2d 1199 , 87 S.Ct. (1967)**. There was a victim in this offense that suffered no injury so there was no urgency for the alternative that the officers used suggestively. Influential police as well as performing coercive procedures like that one the officers performed by the possibility fraud indication of conscientious police work only enhances probative force and slovenly police work diminishes it determining the sloppiness of police investigation during identification procedure when fairer alternatives are available. At the performance of these type of suggestive identification procedure the human perception and memory is inherently **UNRELIABLE** and the accused Mr.Leonard had no

scientific means of **EXONERATING** himself .These type of suggestive procedures violates the fundamental concept of justice when its so **EXTREMELY UNFAIR**, and **UNTRUSTWORTHY** when its

gathered in a suggestive way it should be excluded. Mr.Leonard is asking the court to apply the law and constitution to the procedures that violated his rights see,LSA-C.Cr.P.Art.252 (6) fillers, (8.) live line-up, (9.) photo line-up/LSA C.Cr.P.Art. 253 eye witness identification procedures (a)(ii)(b)(c)(e)(3) (f)(h)(1)(2)/LSA-251(B) to convict the guilty and protect the innocent/Fed.R.O.E.102 purpose/ FED.R.O.E.402/28 U.S.C.A. obtaining identification evidence in violation of the constitution is not admissible/FED.R.Cr.P.12 (b)(3) unnecessarily suggestive line-up;Due Process violation/ Fed.Pr.forms~20:626 evidence of pretrial identification or tainted potential courtroom identification/ also see, 29 Am.Jur.2d Evidence~622-Suggestive line-up, V. Admissibility, general, E. Admissibility of illegally obtained evidence, 2. grounds for suppressing evidence, C. Improper identification evidence. Pretrial identification violates Due Process when there are suggestive elements in the identification procedure that make it all but inevitable that the victim will identify only one person as a culprit see,(Wooten v. State ,325 Ark. 510, 931 S.W.2d 408 (1996), (Sims v. State, 196 So.3d 180 (miss.ct.app.2016). Line-ups are unduly suggestive when its virtually inevitable that the witness will select the individual who police have singled out,see (Crume v. Bete 383 F.2d. 36, 39 (CA5 1967), (Foster v. California, 394 U.S. 440,443 89 S.Ct. 1127, 22 L.Ed.2d 402,407(1969 Reversed). Suggestive identification procedures undermines the reliability of the victim these type of procedures violates Due Process, (Biggers v. Tennessee, 390 U.S. 404, 407 88 S.Ct. 979, 980, 19 L.Ed.2d 1267, (People V. Caruso, 68 Cal.2d 183,188,65 Rpter. 336, 340, 436 P.2d 336,340(1968). Conduct of identification procedure may become so unnecessarily suggestive and conducive to irreparable mistake identity that suggestive procedures are done not to prevent mistaken identification they are at the same

time depriving the accused of Due Process and Equal Protection of the Law (**Simmons V. United States** 390 U.S. 377, 383, 88 S.Ct. 967, 970, 19 L.Ed.2d 1247(1968)). Police procedures that are suggestive and unnecessary (**Stovall v. Denno**, 388 U.S. 377, 19 L.Ed.2d 1247, 88 S.Ct. 964(1968)), (**Neil v. Biggers**, 409 U.S. 188, 34 L.Ed.2d 401, 93 S.Ct. 375(1972)). Consequently, the state courts committed constitutional error in eliciting of identifications made by suggestive tainted procedure and since it has made no attempt to show that its error was harmless beyond a reasonable doubt under the teachings of (**Chapman v. California**, 386 U.S. 18, 87 S.Ct. 824, 17 L.Ed.2d 705(1967)). 29 Am.Jur.2d Evidence~ 632 line-up identification following illegal arrest. V. Admissibility, generally, E. Admissibility of illegally obtained evidence, 3. Evidence derived from illegally obtained evidence, b. particular evidence. Line-ups, photograph line-up and etc. accused have rights see, (**Dunaway v. New York**, 442 U.S. 200, 99 S.Ct. 2248, 60 L.Ed.2d. 824(1967)), (**Wade v. United States**, 388 U.S. 218, 87 S.Ct. 1926, 18 L.Ed.2d 1149(1967)), (**Stovall V. Denno**, 388 U.S. 293, 87 S.Ct. 1967, 18 L.Ed.2d 1199(1967)) (**Royer v. Florida**, 460 U.S. 491, 498, 103 S.Ct. 1319, 75 L.Ed.2d 229(1983)), (**Johnson v. Louisiana**, 406 U.S. 356, 92 S.Ct. 1620, 32 L.Ed.2d 152(1972)). Even a description of clothing gave no assurance that the victim/witness could identify from a number of persons of similarity and things were heightened when the police work was coercive and suggestive, (**Simmons v. United States**, 390 U.S. at 83, 88 S.Ct. 967, 19 L.Ed.2d 229(1968)). When Fair assurance is what Leonard deserves required by Due Process see, (**Lovasco v. United States**, 431 U.S. 783, 790, 52 L.Ed.2d 752, 97 S.Ct 2044(1977)), (**Wallace v. Smith**, 414 U.S. 1115, 38 L.Ed.2d 743, 94 S.Ct. 848(1973)), (**Rochin v. California**, 342 U.S. 165, 170-172, 96 L.Ed.2d 183, 72 S.Ct. 205, 25 ALR2d 1396(1952)). The Due Process protects against admission of evidence derived from suggestive identification procedures see, (**Simmons v. United States**, 390 U.S. 377, 19 L.Ed.2d 1247, 88 S.Ct. 967(1968)), (**Coleman v. Alabama**, 399 U.S. 1, 26 L.Ed.2d 387, 90 S.Ct. 1999(1970)), (**Foster v. California**, 399 U.S. 440, 22 L.Ed.2d 402, 89 S.Ct.

1127(1969). The counsel for Mr. Leonard should not have remained silent at no point on any constitutional issues that deprived Mr. Leonard of his rights. Remaining silent on the matters was unprofessional becoming a error that prejudice Leonard which is a probability sufficient enough to undermine the confidence in the outcome. The counsel's challenge of the suggestive identification procedure would have had it excluded due to the illegality of it and its unconstitutional performance of obtaining the evidence which deprived Leonard of the **Louisiana Declaration Of Rights Articles 1&2; Art.1&4; Art.1&5; Art.1&6; Art.1&16 and the United States Constitution Amendments 4th Amend.5th; Amend.6th; Amend.14th**

BILL OF INFORMATION

initiation of prosecution

Louisiana's 19th Judicial District Court for the parish of East Baton Rouge had lost its jurisdiction when the time limit for initiating the prosecution on a felony had expired for felony offense. The Bill initiating the arrest was filed outside the 60 day to initiate the prosecution. Trial transcripts provide the fact and also briefs from the state district attorney and the magistrate's judge recommendation also admits that the state was outside the 60 day time limit to initiate the prosecution. This is what established the existence of a cause of action which is a ground for relief inside the habeas Corpus application alphabets (d),(i). see trial transcript page 11.

A arrest is a public act that seriously interfered with Leonard's liberty whether he is free or on bail or 1-10-07 arrest date and the filing date of the felony Bill 4-16-07 displayig 96 days existed before a bill of information was filed for a felony offense elapping the 60 day window limitation for a felony and for the error depriving Leonard of his rights he ask the court to apply, see **LSA-C.Cr.P.Art.230.2 (A.)(B(1)(2) determination of probable cause within 48 hours/ LSA-C.CR.P.Art.701(1)(a) Limitation for initiation of prosecution/ 18 U.S.C.A.~3161(b)(c)(1) Time limits and exclusions / 6th Amendment**

The arrest disrupts his employment, drain his financial resources, curtail his associations, subject him to public obloquy and creates anxiety in him, his family and his friends. It's either a formal indictment or information or the actual restraints imposed by the arrest and holding to answer on criminal charges that engages the prosecution of the Speedy trial. Mr. Leonard can not incur the lost of liberty for an offense without notice and meaningful opportunity to defend himself or to lose his defense see trial transcripts 11 which establishes the existence of the initiation of prosecution by the bill of information

U.S.C.A. Const. Amend. VI-jury trials- 18 U.S.C.A. part 11 ch.208 U.S.C.A.~3173/ Fed.R.Cr.P.Rule

2 Interpretation/ Fed.R.O.Ev. 102 Purpose. Let the court clarify the event in Leonard's Speedy Trial clock upon the initial arrest which took place 1-10-07 the day of his intial appearance before officer and the filing date of the felony bill of information 4-16-07 outside the window see **LSA-C.Cr.P.Art.701(1)(a) and 18 U.S.C.A.~3161(c)(1)** also see, **(United States v. Burrell, 634 F.3d 284, 287(5th Cir.),(United States v. Westbrook, 119 F.3d 1176,1186(5th Cir.1997))**. More over this issue, whether, the Bill of Information complies with the requirements of the State of Louisiana and Federal Rules of Criminal Procedure measured by practical considerations that do not prejudice Leonard. The court is determined soley that constitutional notice requirements imposed by the **Louisiana Declaration of Rights Article 1&2; Art. 1&13;Art.1&15; Art.1&16 and the United States Constitutional Amendments 5th; Amend. 6th; Amend.14th** see also, **(United States v. Boffa,513 F.supp. 444, 7 Fed.R.Evid.Serv.1734(D.Del.1980), 41 Am.Jur.2d Indictments and Informations~87, VII. Charging Offense, A. General, 1. Overview/ 41 am.Jur.2d Indictments and Informations~283 XVI. Cure of defects in charge or charging process~283.** Indictments or Information shall be held invalid when the violation prejudice the substantial rights of the accused see, **(Coumer v. State, 888 S.W.2d 356(Mo.Ct.App.S.D.1994))**. The State of Louisiana had lost its jurisdiction on the initiation of the prosecution for filing a Bill of Information for a felony offense being outside the set 60 day time limitation. The legal principle to be applied had been provided to the courts when the State failed to initiate the offense timely by these Legal statuses; **LSA~C.Cr.P.Art.386**

failure of grand jury to indict/ LSA~C.Cr.P.Art.701 (b.) failure to initiate information timely constitutes release/ 18 U.S.C.A.~3162 sanctions (a)(1),(2)/ (Lopez-Valenzuela v. United States, 511

F.3d 487 (12-19-07)Reversed/ LSA-C.O.E.Art. 612(D) Failure to comply / Fed.Rule 1.3 Failure to comply. With theses types of issues being challenged here in Leonard appeal this type of jurisdictional issue the court should being considered in light of the fact that jurisdictional issues like these can be raised at anytime see, (Molony v.United States ,287 F.3d 236, 239-240(2nd Cir.2002), (Panarella v. United States, 277 F.3d 678, 684-685(3rd Cir.2002),(Calirera-Teran v. United States, 168 F.3d 141,143(5th Cir.1999).

For the court and counsel not assuring that legal priciples be applied violates the rights of Mr.Leonard and deprives him of his Speedy Trial rights his Due Process and Equal Protection of the Laws. An effective counsel would nopt have remained silent at all on the matter. A effective counsel would have not have been silent at all on the matter taking a strategic approach through proper Motion to dismiss the late intiation of the prosecution which would have resulted to the immediate release of Mr.leonard from custody of being wrongfully accused. with the accused Leonard counsel unprofessional error with performance falling below that standard level of effective counsel. The counsel deficiency prejudiced the defense which is also sufficient to undermine confidence in the outcome. The conviction of Mr. Leonard have been obatined through unconstitutional procedure in violation of the **Louisiana Declaration Of Rights Article 1&2: Art.1&13;Art.1&15; Art. 1&16** and the **United States Constitutional Amendments 5th; Amend.6th;Amend.14th.**

BRADY

The victim in this case independently stated that she wrote a written statement and had it submitted to the arresting officers.During preliminary examination it had been established that the

statement had not been disclosed as the it was raised to the courts attention and the Judge ordered the state to disclose the the statement for the purpose that it needed to be inspected to see if it had held exculpatory evidence even as to a mislikihood of misidentification especially a suggestive one. During trial the state district attorney did not furnish the statement for trial after a judge's order. Fairness and Due Process as well Equal protection of the laws was deprived Mr.Leonard forfieting him a fair trial which is a ground for relief inside the Habeas Corpus alphbets letters, (d),(i).

On trial transcript **pages 105- 106** Attorney for the defense at the time Mr.Cunningham discussed with the court at that point the existence of the statement, **evidence that impeaches a testimony** (**Giglio v. United States, 405 U.S. 150,154-155, 92 S.Ct. 763,766,31 L.Ed.2d 104(1972); LSA-C.E.Art.103(A)(B) Rulings on Evidence, LSA-C.O.E.Art.802 production and inspection; LSA-C.Cr.P.Art.1421 Discovery methods; LSA-C.Cr.P.Art.1425(B.)(C.)**)
Expert;Pretrial disclosures; Scope of discovery; LSA-R.S.15:283(B) testimony taken outside the courtroom; F.R.O.Cr.P. Rule 2 interpretation; Fed.R.O.E. 102 Purpose; Fed.R.O.Ev.R. 1002 Requirement of original; Fed.R.O.Cr.P. Rule 16 Discovery & Inspection ,(c.) continuing duty to disclose(1.)(2.)/(d.) regulating discovery ; **C.O.F.R. Title 1,Chapter 3,part 304.4, Disclose of records and Information; C.O.F.R. Title 1, chapter 3, part 304.6,reponses to request; C.O.F.R. Title 1,chapter 3, part 304.28, Notice of record ordered and emergency disclosures; Fed.R.O.Ev. rule 103/ 28 U.S.C.A. (a.)(b.) also see case laws Disclosing or furnishing evidence information to the Judge for exculpatory purposes see, (Agurs v United States, 427 U.s. 97, 106, 96 S.Ct. 2392, 2399, 49 L.ed.2d 342 (1967); (Bagley v. United States, 473 U.s. 667, 105 S.Ct. 3375, 87 L.Ed.2d. 481(1985); (Brady v. Maryland, 373 U.s. 83, 10 L.Ed.2d 215, 83 S.Ct. 1194(1963); (Kyles v. Whitley, 514 U.S. 419,131 L.Ed.2d 490, 115 S.Ct 1555(1995);(Cobb v. State, 419 So.2d 1237,1241(La.1982);(Ray v State, 423 So.2d 1116,1118 (La.1982);(Rosiere v. State, 488 So.2d 965, 970(La.1986).**

The missing statement In Mr.Leonard's trial case that was called to the Judges's attention alerting him so that proper course of action may take place to enable the counsel to take proper corrective measures that would have made a different result the counsel didnt advise the court during trial depriving the accused of his rights that Mr.leonard now asks the court to apply the **JENCKS STATUTE 18 U.S.C.~3500(a.)(b.)(c.)(d.)(e.(1)(2)(3)/ incorporated into F.R.Cr.P.26.2.** The statement in its form are admissible in court all for the purpose of production and inspection with the view to cross-examination after inspection for impeachment from a trial judge that determines admissibility, ,evidentaty questions of inconsistency, materiality and relevancy of the contents see, LSA-C.E.Art. 607 attacking and supporting credibility (A)(B)(C)(D(2); LSA-C.E.Art. 612 writing used to refresh memory (D.); Fed.R.O.E. 607 who may impeach witness/ 28 U.S.C.A.; Fed.R.O.Ev. 612 writing used to refresh memory(b.)(c.) and Fed.R.O.Ev.806/ 29 Am.Jur.2d Evidence~312, V. admissibility,generally, A. Relevant, competent and Material evidence(Rule 401,401), 3. Specific types of Evidence, b. Evidence admissible for limited purpose.

Impeachment is not admitted a sevidence in favor to establish the truth of the subject matter, but merely to destroy the credibility of a witness, may be plain error when the impeaching evidence is extremely damaging, the failure to give it is so **PREJUDICIAL** as to affect substantial rights of the accused Mr.Leonard see, **(Garcia v. United States, 530 F.2d 650, 2 fed.R.Evid.serv 564(5th Cir.1976)/** also **Impeachment evidence is considered exculpatory for BRADY purposes** see, **(Alvarez v. City of Brownsville, 904 F.3d 382(9-18-18 5th cir.) Reversed...**

Criminal action should have been dismissed when the State or government on the grounds of privilege elects not to comply with a order to produce for the accused written statement for inspection and for admission in evidence relevant statements or reports. Leonard had a full trial without exculpatory statement that could have been used for impeachment not at all being disclosed from the state for inspection. The culmulative effect of all suppressed evidence is considered rather than each

item of evidence individually. The court needed the statement to determine whether it was in violation . Any the State fails to disclose to the accused evidence of innocence that would have produced a different result violates. The state is not free of the obligation to disclose the evidence even if it's not requested. Failing to produce falls under all three situations that a Brady claim may arrive. The State prosecution have duty to learn of any evidence known to others acting on governments behalf in cases including police officers to avoid these types Brady violations. If the State succeeds or fail in meeting the obligation to disclose material or exculpatory evidence we know its inescapable. The prosecution remains the one responsible for the duty of disclosing evidence regardless of whether police or investigators failed to inform the prosecution because prosecution can establish any procedures and regulations to insure communication of all relevant informationn with all individuals in each department dealing with it. Discounting any material or exculpatory evidence in light of undisclosed evidence there would not be enough to convict with the strong possibility of aquittal on criminal charges understanding that the statement could have put the case in a different light undermining the confidence. The question is not whether absence of the evidence/statement for impeachment did Mr. Leonard recieve a fair trial. Question is, Whether or not did Leonard recieve a fair trial resulting in a verdict worthy of confidence with the state failing to disclose evidence that should have been collected ,collectively,as a whole? These type of errors or issues that Mr. Leonard **DO NOT** have to demonstarate to the court. Under **BRADY**, it does not require demonstration by preponderance that the disclosed evidence would have resulted to aquittal see, **LSA-C.O.E.Art.612 failure to comply (D.); LSA-C.Cr.P.Art. 729.5 failure to comply; Federal rule 1.3 failure to comply ; Fed.R.Cr.P.Rule 16 Discovery and Inspection (2) Failure to comply (A.)(D.)/ (State v. Williams, App.3.Cir 1984, 452 So.2d 7244),(State V. Hooker,app 2.Cir 1993 623 so.2d 178)**

" STATE DIDN'T DISCLOSE IN A RECKLESS DISREGARD OF TRUTH".

Mr. Leonard's Due Process was violated and a effective counsel should not have been silent

on matters of great importance when one possess the knowledge of the fact that in cross-examination the defense could have used the statement for impeachment.Being silent on the matters of great constitution importance was a unprofessional error making the counsel perfomance continuosly deficient prejudicing the defense from the **Louisiana Declaration of Rights Articles 1&2; Art. 1&13; Art. 1&16 and the United States Constitutional Amendments 5th; Amend.6th and Amend.14th.**

INSUFFICIENT EVIDENCE

Officers illegally seized evidence that did not exclude the hypothesis of innocence in the alleged offense. Evidence did not prove the accused committed the alleged offense and was insufficient in the supporting the finding of the offense. The evidence was admitted without the court applying the relevancy test. The counsel for Leonard remained silent on the issue which which deprived Leonard of his right to a fair trial and effective assistance from counsel being grounds for relief inside the Habeas Corpus application alphabets (c.)(d.)(i.).

Evidence seized illegally by Baton Rouge's city police department collected and admitted into evidence without suppression in compliance with court procedures see, (**Carlson v. United States , 236 F.supp 2d 686 (6-28-02)**). The court admitted into evidence in trial evidence without any challenge see **trial transcripts pages 184-188**. All evidence used at trial was with intent to prove that every piece points to the guilt of Leonard and his involvement of every element of the crime.Evidence that officers seized illegally had nothing to do with the said alleged offense.All evidence at trial in **trial transcripts pages 184-188** should have been in compliance with **LSA-C.Cr.P.Art 821 (c) and Fed.Rule 103; LSA-C.Ev.Art. 103 Rulings on evidence (1.) Ruling admitting evidence (A.)(B.), (2.) Ruling excluding evidence (b.) (c.) (d.); LSA-C.E.Art.402 Relevant evidence generally admissible; irrelevant evidence inadmissible/Fed.R.O.Ev.402, 28**

U.S.C.A.;/ Relevancy see LSA-R.S. 15:435/ LSA-R.S.15:441/ LSA-R.S.442 also see the LSA-C.O.E. 607 Relevancy Test (D)(2)/Fed.R.O.Ev. 401/28 U.S.C.A.; see, Fed.R.O.Ev.102 Purpose and Fed.R.Cr.P.rule 2 interpretation.

The items found was in discovered in a vehicle not in control or owned by the accused and was irrelevant to the said offense nor did anything of the evidence belong to the victim of the alleged offense.If the relevancy test was applied in what nature of the offense was the evidence admissible for? Court held that every element of the evidence that the state had intended to use at trial HAVE to prove the accused guilty beyond reasonable doubt excluding the hypothesis of innocence LSA-R.S. 15:438. Evidence was insufficient that was used at trial the state never proved a valid waiver to search,nor did the evidence prove Leonard used,held or carried or even possessed the seized items and how they were used in the said offense this is why and how the evidence was insufficient see, (Bailey v. United States, 516 U.S. 137, 143 (1995) vacated and reversed- 18 U.S.C.A. 924 (c)(1)(A) 29 Am.Jur.2d Evidence~305 ,(V.) Admissibility,generally, (A.) Relevant,competent, and material evidence Rules 401,402, (3.) Specific types of evidence, (a.) circumstantial evidence

Evidence of an intent to committ a crime ,if circumstantial, must exclude every reasonable hypothesis except guilt, (McGuire v. State, 288 So.2d 271(Fla.4th DCA 1974), (Graham v. State 422 So.2d 123(La.1982), (Jackson V. Virginia, 443 U.S. 307, 995 S.Ct. 2781, L.Ed.2d 560(1979), (Doby v State,540,544 So.2d 398, 1008(La.App2d.cir1989). Due Process, requires that no person be made to suffer onus of a criminal conviction by sufficient proof. The critical inquiry on a review of the sufficiency of the evidence to support a criminal conviction must not be simply to determine whether the jury was properly instructed but to determine whether record evidence could support reasonably a finding of guilt beyond reasonable doubt that every element of every piece of evidence the state prosecution used at trial proved that Mr.Leonard possessed,carried and used or took and obtained during the time of committing the alleged offense. A relevant question exists, Did every piece of

evidence seized and admitted into evidence prove that Leonard used or obtain it from the said offense? Why was the evidence admitted? what nature was it apart of? See, **(Prieur v. State, 277 So.2d 122(La.1973).** What rule excludes or suppresses evidence obtained in violation of a person's rights? Once the state meet the burden that they can show a knowing and intelligent voluntary waiver of rights see, **(Bumper v. North Carolina 391 U.S. 543,88 S.ct. 1788,20 L.ed.2d 797(1968).** Why did Leonard's counsel continue to remain silent on the matter of the relevancy test? Remaining silent on matters of depriving the accused of constitutional rights is unprofessional error that deprives rights. these type of errors that continued throughout trial was deficient performance that continued to prejudice Leonard being probability sufficient enough to undermine the confidence in the outcome when it deprives Leonard of **The Louisiana Declaration Of Rights Articles 1&2; Art.1&13; Art. 1&16** and the **United States Constitutional Amendments 5th; Amend.6th ; Amend.14th.**

IMPROPER COURT PROCEDURE

Here was established the existence of a improper court procedure. the victim during trial had stated that she could independently testify and remember what she gave a previous statement to the court. The court during trial still allowed the victim to read while on stand under oath a previous statement that she gave in an attempt to **REFRESH** which was improper and depriving Leonard of a fair trial,due process and equal protection of the laws. The counsel of the accused failed to object remaining silent on the matter depriving the accused of his rights. Which is a cause of action that is ground for relief inside the Habeas Corpus application alphabet **(i).**

Inside the **trial transcript pages 152-157** the procedure took place that violated the rights of the accused depriving him Due process and right to Fair trial and the Equal protection of the laws. Mr.Leonard asks the court are those type of procedure violating? When they are outside the

compliance of LSA-R.S. 15:279 trial procedure; LSA-C.E.Art.612 writing used to refresh memory (B.); Fed.R.O.Ev. 102 Purpose; Fed.R.O.Cr.P.Rule 2 Interpretation; Fed.R.Ev. 612 (a) Scope(1.)(2.)(b.). With that procedure and the law to apply, Did the procedure violate? Are the Courts state and federal against the type on trial **REFRESHING** once the victim/witness indicate independence. Procedures like the one administered during Leonard's trial is under the impression that the courts has ruled those type of procedures deprive the accused and prejudice the accused of constitutional rights. During trial the counsel continued to remain silent on the violation of the Due process, Fair trial and Equal Protection of the Laws at the cross-examination point in defense of Leonard that's was so unprofessional and points to the deprivement of an effective counsel during times of his constitutional rights violation that deprived him of **Louisiana Declaration of Rights Article 1&2; Art. 1&13; Art.1&13; Art. 1&16 and the United States Constitutional Amendments 5th; Amend. 6th; Amend. 14th.**

INEFFECTIVE COUNSEL

During the procedure of the state's prosecution multiple rights continued to be violated of the accused Mr.Leonard left unchallenged due to the unprofessional silence of his counsel. There existed multiple issues that a effective counsel learned in law would not have failed to raise in defense of Leonard .The matters of great importance that the counsel failed to take strategic approach on and in the defense of the accused Mr.Leonard. Proper motion would have changed the result of the outcome.The counsels actions fell below a reasonable standard of a effective counsel which prejudiced the accused depriving him of a competent counsel and constituional rights od Due Process, Fair trial and Equal protection of the Laws becoming grounds on the Habeas Corpus application grounds for relief alphabet ~~on~~ (i.).

The counsel's unprofessional errors failing to raise matters of great importance,failing the defense and unprotecting rights constitutionally in no way protecting or preserving them. being one knowing and intelligent in the practice of Law strategically taking proper motion would have been effective,professional. Leonard's counsel was inadequate for the purpose of defending his rights. Mr.Leonard attempted to demonstrate:

1) This first instance,counsel should not have been silent on the matter that the police had no probable cause to apprehend Leonard and seize his person and property:

a.) Had the counsel challenge the arrest and seizure taking the correct strategic approach in proper motion of suppression of the evidence.

b.) The suppression of the evidence in the defense of Leonard's rights would not have even been challenged due to Fairness, Due Process and Equal Protection of the Laws.

c.)The result of that process would have been favorable to the defense preserving the rights of Leonard favorable by the constitution excluding all unlawfully obtained information leading to an illegal arrest and seizure.

2) Again for the second time,counsel should not have been silent on the matter that identification evidence was obtained in an illegal suggestive procedure.

a.) Counsel of the defense could have challenged the admission of the suggestive identification procedure in the defense of Leonard's rights constitutionally which was deprived of him that could of been best in his interest.

b.) Suppressing that suggestive identification procedure and the identification admission into evidence would have had the identification procedure and any identification admission to the court excluded in the interest of Leonard's constitutional rights that would not have been challenged or canceled due to the right of the defense's Fair Trial, Due process and Equal Protection of the law.

c.) The ending result of its process would have been favorable to the defense excluding any admission of evidence to the identification procedure due to its tainted suggestive out-of-court alternative that taints the in-court identification as well which excludes it.

3) For the third time, counsel remained silent on the matter that the state lost its jurisdiction to initiate the prosecution on a untimely Bill of Information to charge a felony offense.

a.) Effective counsel would have motioned to dismiss upon a untimely Bill of Information initiating an untimely offense for a felony to protect and preserve the rights of the accused Mr. Leonard Speedy Trial right.

b.) Filing that proper motion moving the court under Speedy trial procedure on the fact that court lost its jurisdiction or any legal procedure on the matter. Defense of Leonard's rights could have been motioned in defense of his rights before losing its defense under Speedy Trial exercising his Fair Trial, Due process and Equal Protection of the Laws without and challenge or cancel from the state.

c.) Result of that process would have immediately released Leonard from prison in favor of the defense by reason of the State and Federal Constitutional Rights leading to the dismissal of the charges and immediate release.

4) For the fourth time, counsel should not have remained silent on the fact that the state still had not disclose an exculpatory statement that could have been used for impeachment after the Judge had ordered that it be disclosed.

a.) The counsel should have challenged the state failure to disclose the written statement that the state's victim had established the fact that it was written and turned over to officers that the judge ordered to be disclosed.

b.) The request for the production of the statement was proper court procedure and requested by counsel that was removed from the case in interest of Fairness, Due Process and Equal Protection of the

Laws for impeachment purpose that the state could not have challenged or canceled.

c.) Result of that process would have ended in a cross-examination impeachment that would have undermined the confidence in the outcome when it comes to the fact about what actually happened in the offense and the description given to officers about the culprit in the offense.

5.) For the fifth time, counsel remained silent on the matter that the evidence adduced at trial did not exclude the hypothesis of innocence and that the evidence was insufficient and inadequate in proving or finding the fact that it was involved in the actual offense and in what nature of the offense did it prove beyond reasonable doubt.

a.) Counsel should have filed motion to suppress strategically taking a great defensive approach in defending the right to a Fair Trial, Due process and Equal Protection of the Laws. To have irrelevant evidence admitted during trial deprived Loenard of those rights and a effective counsel would have protected and preserved those rights having irrelevant evidence excluded being that it did not exclude the hypothesis of innocence.

b.) The insufficient evidence being excluded that was inadequate in proving any facts in the said offense would have the trial court exclude the evidence that had nothing to do with the offense or found in the possession of Leonard or the vehicle he had no control over or gave consent or could give consent to search as a passenger.

c.) The end result of that suppression would have favored that defense having the court to exclude irrelevant evidence that didn't prove anything as to the elements of the crime. In what nature was the evidence admissible depriving Leonard of a Fair Trial, Due Process and Equal Protection of the Laws.

6) During the prosecution of Mr. Leonard for the sixth time, counsel remained silent as the State district attorney and the court violated Leonard's right to Fairness, Due Process and Equal Protection of the Laws when it allowed the State's victim/witness to **REFRESH** from a previous statement she made

after she laid foundation that she could testify independently.

a.) Had the counsel object to the court procedure at the time according to proper manner and procedure of the court in defense of Leonard's right to Fairness ,Due Process and Equal Protection of the Laws challenging the **REFRESHING** approach after the victim/witness testified that she could testify independently.

b.) Challenging that **REFRESH** approach that deprived Leonard of several rights of the constitution Fairness, Due Process and Equal Protection of the Laws would have went unchallenged and could not have been cnaceled by the state.

c.) The end result of that process would have allowed the court to exempt the approach of the State in Leonard's defense in attempt to cross-exam attacking the victim/witness crediblity during impeachment that would have been excluded awarding the accused his right to Fair Trial, Due Process and Equal Protection of the laws. Abesent exceptional circumstances a defendant is bound by the tactical decisions of a competent counsel who is reponsible for strategical approaches even when making oblection see

La.C.Cr.Pr.Art.841 (A) objection from counsel necessary and Fed.R.12 (b)(6), Fed.R.12 (h)(2)&(b) Failure by counsel not objecting . When the counsel falls below the objective standard of reasonablnes

and the defendant was prejudice as result of such conduct see, (**Washington v. Strickland**,466 U.S.668 688, 692, 104 S.Ct. 2052, 2064-2065, 2067, 80 L.Ed.2d 674(1984), (**New York v Kieser**, 56 F.3d 16, 18 (2d.Cir 1995) . The counsel's ineffectiveness is procedure forfeiture see, (**Hearst v. United States**, 638 F.2d. 1190(7th Cir.1980), (**Indiviglo v. United States**, 612 F.2d. 624 (2cnd Cir.1971), (**Sincox v. United States**,571 F.2d 876 (5th Cir.1978), Leonard's counsel remained silent through the trial ...

See, **28 U.S.C.A. ~ 2254 (d.) unreasonable performance ,(Bass v. United States, 310 F.3d 321 (5th**

cir. 10-16-22) Vacated and Reversed. Leonard's in his writ of certiorari intends to demonstrate six times how the counsel's unprofessional error deprived him of **Louisiana declaration of Rights Article 1&2; Art. 1&13; Art. 1&16 and the United States Constitutional Amendments 5th; Amend. 6th; Amend. 14th.**

CONCLUSION/PRAYER

In this,Leonard concludes that the court finds that the United states District Court Middle District of Louisiana errored in denying Leonard documents that could have been submitted as demonstrative exhibits to the United states 5th Circuit court of Appeals as supporting materials. Let the court find that the denial of the United states 5th Circuit Court of Appeals and the United States District Court Middle District of Louisiana could be debatable upon on the fact that the United Stated District Court Middle District of Louisiana refused to provide Pro-Se litigant documents to demonstrate.The court errored by not advising the State of Louisiana district attorney to serve all parties on the matter in compliance with the court rules upon recieving the documents that the state submitted by mailing them to the indigent Pro-Se litigant.

Further, Let the court conclude that each constitutional violation should have been addressed with jurisprudence within opinion from the courts published for the public interest of how the judicial system upholds the Law for reason that Higher courts can monitor how the lower courts address constitutional violation issues with controlling cases governing how law is applied to overturn 'wrongful convictions.

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