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FILED

April 16, 2024

OFFICE OF APPELLATE COURTS

STATE OF MINNESOTA

IN SUPREME COURT

A23-1610

Michael Collins Iheme,

Petitioner,

vs.

State of Minnesota,

Respondent.

O R D E R

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the petition of Michael Collins Iheme for further review is denied.

Dated: April 16, 2024

BY THE COURT:

Natalie E. Hudson

Natalie E. Hudson
Chief Justice

APPENDIX "C"

APPENDIX J: One of many kites to DOC mailroom petitioner requested the April 26, 2024 order of Minnesota Supreme Court stated in the U.S. Supreme Court letter of Sept. 18, 2024, to no avail.

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Iheme

STATE OF MINNESOTA

IN COURT OF APPEALS

A23-1610

Michael Collins Iheme, petitioner,

Appellant,

vs.

State of Minnesota,

Respondent.

ORDER OPINION

Hennepin County District Court
File No. 27-CR-08-37043

Considered and decided by Segal, Chief Judge; Smith, Tracy M., Judge; and Bratvold, Judge.

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

1. On April 9, 2009, the Hennepin County District Court convicted appellant Michael Collins Iheme of second-degree intentional murder and sentenced him to 367 months in prison. Appellant filed a direct appeal from the judgment of conviction, which this court affirmed on June 8, 2010. *State v. Iheme*, No. A09-1225, 2010 WL 2265667 (Minn. App. June 8, 2010), *rev. denied* (Minn. Aug. 10, 2010). Following the Minnesota Supreme Court's denial of his petition for further review in that appeal, appellant filed four separate petitions for postconviction relief, each of which the district court denied. The current appeal concerns the most recent of these orders, filed on September 5, 2023.

2. In his most recent petition for postconviction relief, appellant argues that he received ineffective assistance of trial and appellate counsel, that his trial and conviction

"APPENDIX A"

violated due process and other constitutional rights, that he received an unlawful upward sentencing departure, and that the judicial officer presiding over his trial and sentencing was biased.

3. In denying relief without a hearing, the district court determined that the petition was time-barred pursuant to the two-year limitation period imposed by Minn. Stat. § 590.01, subd. 4 (2022), and that the claims asserted in the petition were procedurally barred from consideration by *State v. Knaffla*, 243 N.W.2d 737 (Minn. 1976). Appellant argues generally on appeal that the district court erred in these determinations.

4. This court reviews the denial of a petition for postconviction relief for abuse of discretion. *Hannon v. State*, 957 N.W.2d 425, 432 (Minn. 2021). "A court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record." *Riley v. State*, 792 N.W.2d 831, 833 (Minn. 2011).

5. Minnesota Statutes section 590.01, subdivision 4, provides that a petition for postconviction relief may not be filed more than two years following the final disposition of the petitioner's direct appeal. The final disposition of a direct appeal occurs 90 days after a decision by the Minnesota Supreme Court, once the time to petition for a writ of certiorari in the United States Supreme Court has expired. *Hannon*, 957 N.W.2d at 435. In appellant's case, the availability of postconviction relief expired on November 8, 2012—two years and 90 days after the Minnesota Supreme Court's order denying further review of his direct appeal. Accordingly, appellant's petition was presumptively untimely and not properly before the district court.

6. An otherwise untimely petition may nevertheless be considered by the district court if the petitioner establishes that one of the statutory exceptions to the time-bar applies. Minn. Stat. § 590.01, subd. 4(b). Appellant, however, does not argue on appeal that any such exception is applicable to his case, and our independent review satisfies us that none in fact do. Accordingly, the district court did not abuse its discretion in determining that appellant's petition for postconviction relief was time-barred.

7. "[O]nce a direct appeal has been taken, all claims raised in that appeal, known at the time of appeal, or that should have been known at the time of appeal will not be considered in a subsequent petition for postconviction relief." *Allwine v. State*, 994 N.W.2d 528, 536 (Minn. 2023) (citing *Knaffla*, 243 N.W.2d at 741). And any "claims asserted in a second or subsequent postconviction petition are procedurally barred if they could have been raised on direct appeal or in the first postconviction petition." *Schleicher v. State*, 718 N.W.2d 440, 449 (Minn. 2006).

8. Minnesota recognizes two exceptions to the application of this prohibition, however: "(1) a novel legal issue is presented that was unavailable at the time of the direct appeal; or (2) the interest of justice requires review." *Chavez-Nelson v. State*, 948 N.W.2d 665, 673 (Minn. 2020). In this context, "[t]he interests-of-justice exception applies only when the claim has substantive merit and the petitioner did not deliberately and inexcusably fail to raise the claim" in previous proceedings. *Thoresen v. State*, 965 N.W.2d 295, 304 (Minn. 2021) (quotations omitted).

9. As to appellant's claims that he received ineffective assistance of trial and appellate counsel, that his trial violated constitutional protections, and that the presiding

judicial officer was biased, they all were either raised or could have been raised in prior postconviction proceedings. And because appellant does not argue that his claims are novel and could not have been raised earlier, or that he did not deliberately or inexcusably fail to raise them earlier, consideration of these claims was barred by *Knaffla*. We thus discern no abuse of discretion by the district court in denying relief on this basis.

10. Appellant, however, also appears to argue for the first time in his most recent petition for postconviction relief that his sentence constituted an unlawful upward durational departure. Because a district court may correct an unlawful sentence "at any time," Minn. R. Crim. P. 27.03. subd. 9, this claim may not be subject to application of the statutory time-bar of section 590.01, *Reynolds v. State*, 888 N.W.2d 125, 133 (Minn. 2016), and is not forfeited by a defendant's failure to raise it in a prior proceeding, *State v. Pugh*, 753 N.W.2d 308, 311 (Minn. App. 2008), *rev. denied* (Minn. Sept. 23, 2008).

11. The district court sentenced appellant to 367 months for his conviction for second-degree intentional murder. Based upon the sentencing guidelines applicable to appellant's offense, the presumptive sentencing range for this offense and for a defendant with a criminal-history score of zero is between 261 and 367 months. Minn. Sent'g Guidelines IV, VI (Supp. 2007). Because appellant received a sentence within the presumptive range prescribed by the guidelines, his sentence did not constitute a departure and so was not unlawful for this reason.

12. Because we conclude that appellant would not have been entitled to relief on his sentencing claim had it been considered by the district court, and because the remainder of appellant's claims were time-barred and *Knaffla*-barred, the district court did not abuse

its discretion in denying appellant's petition for postconviction relief without a hearing. *See Blanche v. State*, 988 N.W.2d 486, 491 (Minn. 2023) ("A district court need not hold an evidentiary hearing if the alleged facts, when viewed in a light most favorable to the petitioner, together with the arguments of the parties, conclusively show that the petitioner is not entitled to relief." (quotation omitted)).

IT IS HEREBY ORDERED:

1. The postconviction court's order denying postconviction relief is affirmed.

2. Pursuant to Minn. R. Civ. App. P. 136.01, subd. 1(c), this order opinion is nonprecedential, except as law of the case, res judicata, or collateral estoppel.

Dated: 1/31/24

BY THE COURT

Chief Judge Susan L. Segal

STATE OF MINNESOTA

HENNEPIN COUNTY

DISTRICT COURT

FOURTH JUDICIAL DISTRICT

State of Minnesota,

Plaintiff,

v.

Michael Collins Iheme,

Defendant.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER DENYING POSTCONVICTION RELIEF UNDER MINN. STAT. § 590.01

Court File No. 27-CR-08-37043

The above-entitled matter came before the Honorable Judge Toddrick S. Barnette of Hennepin County District Court on the Petitioner's Notice of Motion for Petition in Support of Post-Conviction Relief. Michael Iheme (hereinafter "Petitioner") is representing himself. The State is represented by Anna Light, Assistant Hennepin County Attorney.

Based upon the evidence adduced, the argument of the parties, and all of the files, records and proceedings herein:

FACTS AND PROCEDURAL HISTORY

1. On or about July 24, 2008, Michael Iheme (hereinafter "Petitioner") was charged with the following felonies: (1) Count 1 – Murder in the First Degree – Premeditation; (2) Count 2 – Manslaughter in the First Degree – Intentionally Cause Death in Heat of Passion; and (3) Count 3 – Murder in the Second Degree.
2. Following a trial, before the Honorable Mel. I. Dickstein, Judge of Hennepin County District Court, a jury found Petitioner guilty of Count 3 – Murder in the Second Degree, and not guilty of the remaining counts.

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3. A sentencing hearing was held on April 9, 2009, where the Court imposed a prison sentence of 367-months for the second-degree murder conviction, and Petitioner received 260 days credit for time already served in custody.

4. On July 9, 2009, Petitioner filed an appeal petition to the Minnesota Court of Appeals. The appellate court rejected Petitioner's arguments and affirmed his conviction on June 8, 2010, and subsequently the Minnesota Supreme Court denied review of Petitioner's appeal on August 10, 2010.

5. Petitioner has since filed several requests for post-conviction relief containing the same and/or substantially similar arguments, including but not limited to allegations that he was denied his right to counsel, ineffective assistance of counsel, insufficient evidence at trial, judicial bias, and the assertion of complete innocence to the second-degree murder conviction.

6. Petitioner's prior requests for post-conviction relief, appeals on each decision, and the courts actions are as follows:

   i. Petition filed Feb. 4, 2011 – district court denied May 23, 2011
      - Appeal filed – appellate court affirmed: *Iheme v. State*, No. A11-1053 (Minn. App. Dec. 20, 2011) (order op.); supreme court denied review Feb. 29, 2012.

   ii. Petition filed Oct. 16, 2015 – district court denied Jan. 14, 2016
      - Appeal filed – appellate court affirmed in *Iheme v. State*, No. A16-0416 (Minn. App. June 15, 2016) (order op.) (holding that petition was procedurally and statutorily time-barred by Minn. Stat. § 590.01, subd. 4(a));

   iii. Petition filed Feb. 23, 2018 – district court denied May 24, 2018
      - Appeal filed – denied by appellate court in *Iheme v. State*, No. A18-1003 (Minn. App. Jan. 29) (order op.) (holding that petition was procedurally and statutorily time-barred by Minn. Stat. § 590.01, subd. 4(a)).

7. On June 8, 2023, Petitioner filed his fourth request for postconviction relief which is now before this Court.

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Upon review of the files, records, and proceedings herein, this Court agrees with the State that 1) several of Petitioner's claims were already raised in prior appeals or postconviction petitions and that 2) several of Petitioner's claims were mere argumentative assertions without factual support or fail to allege a claim upon relief may be granted.

ISSUE

Petitioner requests relief in the form of a new trial or squashing of his illegal conviction, illegal upward sentencing departure, or illegal imprisonment. This Court notes that Petitioner made many allegations in his petition. Several assertions were merely argumentative while others failed to state a claim upon which relief could be granted.

Furthermore, this Court notes that Petitioner raised several arguments that were essentially identical to those contained in previous petitions including:

i. Ineffective assistance by trial counsel (raised in first and second postconviction relief petitions)
ii. Ineffective assistance by appellate counsel (raised in first and second postconviction relief petitions)
iii. Violation of Due Process and Constitutional Rights (raised in first and second postconviction relief petitions)

In this current petition, Petitioner raised new allegations including:

i. Illegal Upward Sentencing Departure
ii. Bias conduct by Judge Mel I. Dickstein

ANALYSIS

I. Minn. § Stat. 590.01 Establishes Standard for Postconviction Relief

Minnesota law establishes the standard for postconviction relief. Under § 590.01, subd. 2, a person may petition the court for relief which may include setting aside the judgement, resentencing, granting a new trial, correcting the sentence, or making other dispositions as may be appropriate.

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This statute also provides specific requirements for filing a petition for post-conviction relief. First, the petition must contain a statement of the facts and grounds upon which the petition is based, if petitioner claims that (1) their conviction violated their rights under the Constitution, state, or federal laws; or (2) scientific evidence not available at trial and obtained under subdivision 1(a) establishes their innocence. Minn. Stat. § 590.02, subd. 1-2 (2022). Additionally, the petition should be filed in the district court in the county in which the conviction took place. *Id.* Next, the petition must be filed no more than two years after "the later of (1) the entry of judgment of conviction or sentence if no direct appeal is filed; or (2) an appellate court's disposition of petitioner's direct appeal." Minn. Stat. § 590.01, subd. 4 (2022).

However, there are five exceptions to the two-year limitation: (1) preclusion due to physical disability or mental disease; (2) under a clear and convincing standard, newly discovered non-cumulative evidence establishes that the petitioner is innocent of the offense(s) for which the petitioner was convicted; (3) petitioner asserts a new interpretation of federal or state law that is retroactively applicable; (4) the petition is brought pursuant to subdivision 3; or (5) the petitioner establishes that the petition is not frivolous and is in the interests of justice. Minn. Stat. § 590.01, subd. 4(a).

A. Petitioner's Claims are Statutorily Time-Barred

Under Minn. Stat. § 590.01, subd. 4, absent an exception, Petitioner had two years to file a postconviction relief petition after "the later of (1) the entry of judgment of conviction or sentence if no direct appeal is filed; or (2) an appellate court's disposition of petitioner's direct appeal." If no exception applies, a postconviction court may properly dismiss a postconviction petition filed past the two-year deadline. *Moua v. State*, 778 N.W.2d 286, 288 (Minn. 2010).

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A petitioner's conviction becomes final when "judgement of conviction has been rendered, the availability of appeal exhausted, and the time for a petition for certiorari [has] elapsed or a petition for certiorari [has been filed and] finally denied." *O'Meara v. State*, 679 N.W.2d 334, 339 (Minn. 2004) (quoting *Griffith v. Kentucky*, 479 U.S. 314, 321 n.6 (1987)). The conviction becomes final 90 days after the district court enters the judgement of conviction unless an appeal is filed. Minn. R. Crim. P. 28.02, subd. 4(3)(a).

Here, Petitioner filed a direct appeal after his conviction on July 9, 2009, and the Minnesota Court of Appeals affirmed the district court's decision on June 8, 2010. On August 10, 2010, the Minnesota Supreme Court denied the petition for review. Thus, Petitioner's conviction became final 90 days thereafter on November 8, 2010. Petitioner had until November 8, 2012, to file a postconviction relief petition.

Petitioner filed the current postconviction relief petition on June 8, 2023, which is over 10 years past the two-year statue of limitations as required by Minn. Stat. § 590.01, subd. 4. Because Petitioner did not argue that any exceptions apply to him, this Court finds the petition to be time-barred.

II. Petitioner's Claims are Procedurally Barred under *State v. Knaffla*

Under Minn. Stat. § 590.01, a convicted defendant is entitled to at least one review by an appellate or postconviction court. *State v. Knaffla*, 243 N.W.2d 737, 741 (Minn. 1976). Yet, where a petitioner's claim for postconviction relief is premised upon facts that he previously raised on direct appeal, or that he knew or should have known at the time of that appeal but failed to raise, Minnesota courts will not allow subsequent consideration of those issues. *Id.* at 741. This rule extends to bar consideration of claims that were, or could have been, raised during a prior

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postconviction petition. *Hooper v. State*, 838 N.W.2d 775, 787 (Minn. 2013) *cert. denied*, 134 S. Ct. 2147 (2014).

There are however, two exceptions to this general rule, which allows courts to consider otherwise *Knaffla*-barred claims: (1) if the petitioner presents a claim raising a novel legal issue, or (2) if the interests of justice require consideration of a claim that has merit and was "asserted without deliberate or inexcusable delay." *Buckingham v. State*, 799 N.W.2d 229, 231 (Minn. 2011). These exceptions are limited to circumstances in which fairness requires consideration of the claims. *Sanders v. State*, 628 N.W.2d 597, 600 (Minn. 2001). A petitioner's *pro-se* status does not suffice as a basis for applying the interests-of-justice exception to the *Knaffla* rule. *El-Shabazz v. State*, 754 N.W.2d 370, 375 n.3 (Minn.2008). Moreover, before a court will consider reviewing a petitioner's claim, the burden is on that petitioner to present "a colorable explanation of why he failed to raise [the] claims previously." *Perry v. State*, 731 N.W.2d 143, 147 (Minn. 2007).

Here, this Court finds that the factual bases for Petitioner's fourth petition were known, or should have been known, to Petitioner at the time of his direct appeal as well as at his first, second, and third postconviction relief petitions. More specifically, Petitioner's claims for ineffective trial and appellate counsel as well as violation of his Due Process and Constitutional Rights were already raised in his first and second postconviction petitions. As for Petitioner's claim for illegal upward sentencing departure and bias judicial conduct from Judge Dickstein, these are claims that he knew or should have known and raised at the time of his direct appeal.

Furthermore, Petitioner failed to satisfy either of the exceptions to the *Knaffla* rule because the claims he raises in his present petition do not present novel legal issues and nor do the interests of justice require their consideration. Petitioner has not offered any colorable explanation to justify his delay in bringing these claims. Thus, his claims are *Knaffla*-barred.

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CONCLUSION OF LAW

Based on all the filings, evidence, and arguments, the Court finds Petitioner's petition to be statutorily and *Knaffla*-barred.

IT IS HEREBY ORDERED:

1. Petitioner's request for post-conviction relief is **DENIED**.

BY THE COURT:

Date: ~~August 18, 2023~~
Sept. 5, 2023

The Honorable Toddrick S. Barnette
Chief Judge of District Court

STATE OF MINNESOTA

IN SUPREME COURT

A23-1610

Michael Collins Iheme,

Petitioner,

vs.

State of Minnesota,

Respondent.

O R D E R

On February 22, 2024, petitioner Michael Collins Iheme filed a petition for review from the decision of the court of appeals filed on January 31, 2024. Petitioner now moves for leave to file an amended petition so he can make "minor changes."

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the motion of petitioner Michael Collins Iheme to file an amended petition for review is granted. The amended petition for review is accepted as filed and served as of March 5, 2024. Respondent shall have 20 days from the date of this order to file a response to the amended petition for review.

Dated: March 13, 2024

BY THE COURT:

Natalie E. Hudson

Natalie E. Hudson
Chief Justice

"APPENDIX  "D"

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Iheme

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"APPENDIX D"

DECLARATIONS AND REVELATIONS AND CRITERIONS: CASE # 27-CR-08-37043.

1.This petition is subject to federal rule of procedure 657.5 (1 & 3) and Minnesota criminal law and procedure 4th Edition §39.7 volume 9 Minnesota practice series 2013-2014.

2. Under Minnesota criminal law "23 Dunnell Minn.-digest (5th ED. 2007) §1.01", it says, where there are clear and brutal violations of rights on the record RES JUDICATA IS INPLICABLE TO HABEAS CORPUS. Judgement may be collaterally attacked. Also see Fay V. Nioa, 372 U.S. 391 (1963).

3.The allocation of power to counsel to make binding decisions in many aspects of trial strategy can only be justified by the defendant consent at the outset to accept counsel as his representative. Ferratta V. California, 425 U.S.806, 45 l. ED. 2D 799.

4. Minnesota Courts and DOC have indulged in criminal and genocidal dilatory tendencies and impediments of access to justice system against petitioner and also indulged in covert disavowal of their sworn oath to the constitution and God to commit intentional injustice and bigotry and gross abuse of discretion to commit intentional illegal imprisonment against petitioner as established hereto. The disregard to rule of law and due process were absolute and conspicuous.

5. Although this is beyond the realm and scope of this petition hereto, it worth noting that there have been several clandestine attempts in many ways to take petitioner's life or murder and assassinate him and still on going in order to close his cases for cover ups of illegal imprisonment, a felonious acts, including holding him hostage and incommunicado in Minnesota DOC in utter disregard of rule of law and due process, statute and constitution of the United States and Minnesota. The Minnesota DOC, and court denying the petitioner, illegally, evidentiary hearing and holding him hostage, have been accused of the above, the reason supposedly, they are holding petitioner hostage and attempting on his life to affect the above to close his cases.

6. According to Minnesota criminal law and federal holdings as clearly established and quoted hereto, petitioner is entitled to evidentiary hearing, release from prison, throw this case out of court or new trial at least, but he is still illegally deprived and held hostage or illegally imprisoned.

7. Minnesota DOC has clearly indulged in deprivation and impeded petitioner's access to facilities' law library, contact to attorneys, confiscation of petitioner's legal documents, law suits, legal mails, letters court transcripts, threats against relatives, friends, staffs, cruel and unusual punishments, malicious neglects and deprivations. This petition was once hand-written with many copies, a torturous process, since 2021 to date August 4, 2023 because the DOC and John Landretti Stillwater library supervisor, deleted petitioner's files in the computer, impeded petitioner access to facility library including state law library, refused to make photo copies legal documents and petition and evidences to make things very difficult and to impede petitioner's right and access to justice system an obstruction of justice of first order.

8. Petitioner pose here twelve legal questions and issues to the court. He expects the court to answer them all to prove the legitimacy of their conviction and sentencing in the process of rational refutation of gross violations of the rule of law and due process to hold petitioner hostage under the cloak of prison and judicial system. There are too many legal questions and issues on the record because this was no trial at all in any civilized society in any legal projections. It was a case bungled up due to personal interest and bigotry.

9. The absolute fact this conviction was a contrivance of a pretense of court and jury to quickly send black man to prison without due process and rule of law in order to save money in medications and surgery for a white man promotion, raises and praises at expense of minority inmate is not subject to any rational refutation. To this white man in justice system Minnesota, a black man is nature of spite and reviled person. Therefore, any dead victim is always right if black man is the accused. Hence, he must be deprived of all rule of law and due process and send to prison as the case here.

10. Petitioner was convicted of 2nd degree felonious murder in a kangaroo court on a charge or murder he denies or not guilty, but he was sentenced to a 1st degree conviction without jury approval or jury rejection of upward departure of 367 months about two times 2nd degree presumptive sentence in violation of both federal and state guidelines and law and a clear-cut illegal imprisonment or hostage situation since 2008 to date. Also, petitioner wants Americans to know the truth of how it all happened and marriage history to determine who was the victim and abuser first, in order to improve and realign Minnesota justice system. The state is covering up the truth to hold petitioner hostage under the cloak of prison. Petitioner's petition not in the system since 2014 to date to impede public from reading them for cover ups.

11. Judge Mel Dickstein is a Jew and the incident happened in the Jewish establishment. He was incompetent and grossly prejudice to the core. He disregarded and disrespected every rule of law and due process because of Jewish implication.

12. The denial by a state of any judicial process by which a conviction obtained and by suppression of impeaching evidences may set aside the conviction, is a deprivation of liberty without due process of law in violation of fourteenth amendment, see, Mooney V. Holohan, 294 U.S. 103-115, 79 L. Ed 791.

13. The constitution requirement of due process is not satisfied where a conviction is obtained by the state through known proforma and reluctant defenders for the defendant. See Mooney V. Holohan.

14. Even though there was hearing or trial and appellate counsel in substance, within the meaning of due process of law is denied. Mooney V. Holohan.

15. The state had contrived a conviction through the pretense of a trial in which in truth is, but used as a means to deprive this defendant of his liberty through a deliberate deception of court and jury by impeding pertinent evidences, witnesses and deprivation of

fundamental rights and due process. The state was aware of proforma attorneys-Defenders. See, Mooney V. Holohan.

16. If the state of Minnesota could challenge the above let the hearing begins right now or else petitioner should be released from the prison and state begins a restorative justice immediately.

17. The rule of law, due process and the constitution of the United States are binding to all of us, the Judge, prosecutor, defenders and defendant, we are all protected by them equally or isn't?

18. The state, defenders and court showed no fidelity to the rule of law and constitution of the United States and that was fatal to the defendant who is black man and held hostage under the cloak of prison and his life perennially threatened with tortures and attempted murder and impeded access to justice system. The state must ask itself whether it provided this petitioner fair trial through rule of law and due process or they acted like a monarch. The answer will be answered in the evidentiary hearing motioned by petitioner.

LEGAL QUESTIONS AND ISSUES

BECAUSE THERE ARE SO MANY LEGAL QUESTIONS PETITIONER SELECTED FEW, ALTHOUH FACT FINDERS MAY DISCOVER AND ADD MORE AS THIS IS POSSIBLE FOR INTEREST OF JUSTICE.

1. Petitioner's trial ended September 29, 2008 after the judge in T7 deprived petitioner all his right to participate or express opinions "IN ANYTHING" in petitioner's criminal proceeding but declared him competent to face trial at the same time, an oxymoron. Should this petitioner be convicted and sent to prison while deprived all his rights? Isn't this an incompetent tribunal? Shouldn't the conviction be overturned and thrown out of court because of this?

2. Petitioner sent messages in five different ways to his female defenders to step down and not defend him anymore and above all he the defendant has no "faith" in them the defenders. This include two motions to the court T6 and Ex. 7As and also the messages repeated in the court to the Judge by the defenders in the court that defendant has no faith in us T4, September 29, 2008, but the Judge did nothing, no disposition of petitioner's motion to remove proforma and abusive attorneys and no removal of the attorneys but shouted petitioner down T7, fundamental constitutional right deprived. Should petitioner be convicted and sent to prison under the above circumstances? Isn't this perfectly established an illegal and incompetent tribunal? Should petitioner be left to the mercies of illegal and incompetent tribunal of his case, as the Supreme Court of the United States held in Padilla V. Kentucky? Shouldn't the conviction be overturned and thrown out because of the above?

3. Did the Judges disregard and disrespect of the holdings in Feratta V. California, a grave structural error that should cause to overturn the conviction for not removing attorneys and no hearing on petitioner's motions before decision, a violation of federal due process of law?

4. Ms. Laskaris, a proforma and reluctant defender had stated both off and on record, in front of the Judge, that her client petitioner, who was denying the charge, was guilty before jury verdict without investigating the case and without interview with anyone, no marriage history and police record of marriage 911 calls knowledge, impeded almost all witnesses including two people on the spot, victim's parents, close relatives of the victim and petitioner's, impeded pertinent evidences including Ex. 5As the DNA test of petitioner's son Justin the news of it almost claimed petitioner's life in suicide which the victim knew before marriage, including Ms. Laskaris utterance in T606 line 11-15 that should cause mistrial or her removal by the judge as incompetent and reluctant defender to no avail. Shouldn't the above cause the overturn of the conviction?

5. Petitioner's court instructions to the jury were the worse than in Pollard V. State, (2017) overturned. There was no" unintentional acts" to consider by the jury and more. Both trial attorneys and appellate counsel were reluctant intentionally to challenge it in

trial and Direct Appeal. Isn't this bad enough to overturn the conviction like in State V. Pollard, (2017)?

6. Shouldn't the jury know all the utterances by the victim and attempts on petitioner's life Ex. 1A impeded by Ms. Nancy Laskaris? And shouldn't Ms. Laskaris' threats to petitioner February 6, 2009, on the phone be presented in the sentencing and direct appeal which was impeded by Ms. Laskaris and appellate counsel reluctant about it to cause an overturn of the conviction?

7. Petitioner was not represented on January 28, 2009, when defender Ms. Mitchell, for the second time stated she was not ready again, and did not participate in the argument but the judge told the prosecutor to argue it T156 to T159 and they went on to decide the issue against the petitioner even though nobody represented petitioner on the issue. Shouldn't that overturn the conviction?

8. Petitioner was deprived and denied the documents and contents of the PSI both during sentencing phase and sentencing hearing and did not have any character witness testimony including the absence of close relatives who knew detail of the marriage and petitioner's roommate Mr. Davidson Nwengwu who would have testify on petitioner's behalf and petitioner did not have any attorney consultation during the sentencing hearing phase from February to April 9, 2009, when it was very vitally important as a customary consultation due process of sixth amendment in such a case, between attorney and client meeting to strategize for mitigation. Shouldn't the above grave structural errors and absolute reluctance overturn the sentence?

9. Petitioner was convicted in 2nd degree felonious murder by illegal and incompetent tribunal and deprived all his immutable rights as stated hereto and on the record but sentenced in the first degree to 367 months two times second degree presumptive sentence that was not sent to the jury or jury blatantly rejected first degree conviction the illegal upward departure and where the documents and contents of PSI were withheld from the defendant both during sentencing phase and during sentencing hearing to impede proper response from defendant and defendant has no blemishes in his record. Shouldn't this illegal and underhanded act and secret and farcical sentencing be overturned as it constitutes first class illegal imprisonment or hostage situation?

10. Judge Dickstein has utter disregard and disrespect to both federal and state laws and holdings: (1) In Bobo V. State, evidentiary hearing is needed in issues raised from the record, no matter how unlikely, unsupported or doubtful the issues or evidence raised by the defendant in order to separate the ridiculous from the probable. (2) In Blakely V. Washington, State V. Henderson, State V. Gayles, holdings on upward departure and or illegal imprisonment the reasons must be contested by the petitioner and defendant must know the contents of PSI, jury must decide it which was absent here. (3) The 6th and 14th amendments- the rule of laws and due process violations stated below in the trial, direct appeal, and sentencing that deprive petitioner his liberty, such as without representation and no participation or no opinion in his criminal proceeding. (4) The

Ferratta V. California, holdings- on power to the counsel to make binding decisions for defendant as they were not accepted by the defendant T4 to T7 Sept. 29, 2008. (5) Violation of Minnesota statute §589.01 for illegal imprisonment- no substantial and compelling reasons and no jury approval of 1st degree sentencing of 367 months, defendant impeded proper response of upward departure of illegal and incompetent tribunal dicta, a void. (6) Abuse of discretion to hold defendant in illegal imprisonment by depriving him legal and long merited evidentiary hearing for stated genuine material facts on the record raised in post-conviction since 2012 to date as established in the "13 Dunnell Minn.-Digest Criminal law §14.00 (5th ED. 2004)". Shouldn't all the above overturn the conviction and sentence and throw the case out of court or at least a remand for new trial?

11. Reading from the headline underlined hereto the "aberrant conducts of appellate counsel", shouldn't this case be thrown out of court or a remand for a new trial at least with all its illegality and underhandedness and refusal by appellate counsel to expose Judges and defender's shortcomings?

12. Very seriously and quintessentially, should the state laws and limitations (procedural default) override federal laws and federal courts holdings in order to resurrect and resuscitate a case laden with structural errors of 6th and 14th amendments, and illegal, incompetent tribunal as the case here-to? And shouldn't any of the legal questions here.to prove or constitute illegal imprisonment and incompetent tribunal, at least where the defendant was never represented by an attorney in any legal projections T3 to T7 Sept. 29, 2008?

STATE OF MINNESOTA | DISTRICT COURT

COUNTY OF HENNEPIN | FOURTH JUDICIAL DISTRICT

Court File Number: 27-CR-08-37043
Case Type: Criminal

Michael Collins Iheme
Petitioner

vs

State of Minnesota,
Respondent

Notice of Motion and Motion FOR NEW TRIAL OR SQUASHING ILLEGAL AND INCOMPETENT TRIBUNAL CONVICTION; 2. SQUASHING ILLEGAL UPWARD DEPARTURE AND ILLEGAL IMPRISONMENT

TO: The honorable Chief Judge of Hennepin County, please take notice that petitioner mentioned above begs to move the court and serve notice to the Attorney General of Minnesota, Hennepin County District Attorney and the Court to release petitioner from prison and squash his conviction and sentence or new trial due to here-to stated reasons. Since Judge Mel Dickstein has quit or retired it is in your purview to appoint another Judge on petitioner's case for this motion and petition for reasons stated here-to.

MOTION

1. ILLEGAL AND INCOMPETENT TRIBUNAL.

As in this case here and others when a Judge, defenders and prosecutor indulged in a grave secret and farcical trial and sentencing because one is indigent, personal reason, black male the sentencing also defies all rule of law and constitution in order to give them the time to retire than be called out in the office. First and foremost, for the record, Ms. Maria Mitchell and Ms. Nancy Laskaris were "never" my attorneys in any legal sense projections, see T3-T4 Sept. 29, 2008. This was unquestionably stated in the record, by petitioner's mail, verbally,

voice mail, phone and two motions to the court Sept. 22 and a more formal motion on Sept. 29, 2008 delivered in hand by petitioner to the Judge. However, none of the motions was disposed of before conviction and sentencing and the petitioner was also threatened and intimidated by the Judge and defenders stating stop, I am not asking for your opinions, "in anything Sir" T7. It is gravely preposterous and farcical that petitioner has no right or opinions in his trial but competent to stand trial. This is an oxymoron. The above was said after the defenders had told the Judge that petitioner clearly stated to them in about five different ways that "he has no faith in us the defenders and they must step aside in his case T4". What more could the petitioner do or expected of to do otherwise as an ordinary lay person for his motion to be heard? The court refused to produce the copies of petitioner's formal motionT6 September 29, 2008 to the Judge. This is an epitome of the beginning of cover ups of secret and farcical trial by the institution charged for upholding the law and sworn to the constitution and God not to render intentional injustice as it constitutes egregious felonious act by itself and disavowal of the oath sworn to. There are two motions not disposed of to date and petitioner convicted and sentenced to illegal upward departure imprisonment. Petitioner was tried and, convicted and sentenced without attorney representation or proforma attorneys or without the rights to represent himself. This is absolutely an illegal and incompetent tribunal or isn't? Petitioner's trial, in all legal sense ended September 29, 2008.

In **Feratta V. California**, Court held "The allocation of power to counsel to make binding decision in regard to many aspects of trial strategy can only be justified by the defendant consent at the outset to accept counsel as his representative". Did Minnesota Court have the power to override this holding on September 29, 2008? Petitioner did not want these

defenders to represent him and was stated in many different ways including motions. Petitioner has done his part in court, however the court refused to do its part of formal hearing of petitioner's motion because the verdict had already been rendered before the trial and the proceedings steered to that directions because petitioner was an indigent, black man, and nobody will come to his rescue they concluded supposedly. Petitioner does not know anywhere in the world or in medieval time or even in the Bible where it was stated that a dead person is always right because a black man is the accused except in Minnesota and therefore the black man is guilty as charged and no due process and rule of law should be accorded to him for fact findings.

The Judge in this case stated with malicious glee, an oxymoron, T7, shouted petitioner down "stop. You are competent to face trial but your opinions and or participation is not needed in anything". And so, it was throughout. As petitioner tried to remind the Judge again that these defenders were not his attorneys stated in writing and they were abusive, incompetent, and disrespectful. Petitioner was blatantly stripped all his immutable rights to represent himself, to be represented by able attorneys, to remove abusive and incompetent attorneys who were reluctant champions in representation.

From here on, any hearing or trial Ms. Mitchell and Ms. Laskaris appeared on petitioner's behalf is an illegal and incompetent tribunal as they have been formally informed to step aside by the right of petitioner. Petitioner never waived his right to defend himself, or to be defended by competent attorneys and never waived his right to remove his abusive and reluctant attorneys or by whatever reason as a competent defendant to stand trial as declared by the Judge. Therefore, the slightest presence of denial of any of the above rights is a structural error, **see Bonga V. State; Arizona V. Fulminante, Johnson V.**

Zerbst. Hence, an illegal and incompetent tribunal decisions are a void and a kangaroo court. Sentence pronounced by such court like in this case here unenforceable or illegal imprisonment. The Judge was aware of the fact this indigent black defendant has immutable rights to a hearing of his motions to remove attorneys in his case but he suppressed it in violation of sixth and fourteenth amendments and the holdings **in Johnson V. Zerbst**. It holds that "Courts shall indulge in any reasonable presumptions against a waiver of fundamental constitutional rights and do not assume acquiescence in their loss." Judge Mel Dickstein and Judge Mark Warnick were aware of this holding to no avail.

Also, did the presence of Ms. Michell and Ms. Laskaris in the court constitute a representation after they had been told to step down in more than five different ways not to represent the defendant by the defendant himself? The answer is a big capital "NO". Not to the holdings **in Johnson V. Zerbst,:-** the defendant's rights must be enforced, no acquiescence in their loss; not to the holdings **in Gideon V. Wainwright, Reece V. State of Georgia:-** that the presence of an attorney by the side of defendant in the court does not constitute representation unless active and zealous advocacy, and defendant has right to effective and competent attorney; and not to the holdings **in Feratta V. California**:- defendant did not accept the defenders, no allocation of power to binding decision. Is there any more ambiguity that this is an illegal and incompetent tribunal?

From all that have been stated already about the tribunal, trial and sentencing, it is inconsistent with [The fourteenth amendment], it says "nor shall any state deprive any person of life, of liberty or property without due process of the law; nor deny to any person within its jurisdiction the equal protection of the law." Indeed, these provisions are universal in their

application to all persons within the territorial jurisdiction without regard to any difference of race, of color or nationality; and the equal protection of the law is a pledge of protection of equal laws. Indeed, the deprivation of petitioner's rights and attorneys stated above, the pro-forma attorneys, in order to win a case, were a deprivation of equal protection of the law and due process in violation of sixth and fourteenth amendments. Hence, they are structural errors and decisions are a void.

TRIAL REQUESTS OR DEMANDS BY DEFENDANT DENIED AND SUPPRESSED BY DEFENDERS FOR THE STATE INTEREST;

Defendant requested that both the parents and close relatives of the victim and petitioner to be called as witnesses in the trial. This is to determine what they know and when they knew it and involvement, provocations and who is abusing who. 2. Petitioner needed exhibit 5As the DNA of petitioner's son Justin the victim knew about the impact to petitioner before marriage that the petitioner almost died of suicide because Justin was fathered by another man and he ended the marriage. The victim pretended to be a sympathizer of this mishap before marriage but had ***a Green Card Fraud in mind***. She forced herself into petitioner to marry her to make him forget the past and focus, but she sent petitioner "from fry pan to deep fire." The DNA ex. 5As were indeed to establish the relationship between the past and the present and the state of mind of petitioner with sudden hard news from the victim with intention to hurt: - "Colleen is not your daughter, no DNA, old goat and deadly attempt to run petitioner over in the car" Ex. 1As. 3. The distance victim's car traveled back and forth, victim's car tire marks on the ground and grass, the scratches on the adjacent mini van all in police report and Ex. 1As impeded in the trial by the proforma defender and prosecutor. 4. Two persons on the spot Ms. Molina and Mr. Benson. Ms. Molina was in her mini van

adjacent to victim's car. She heard arguments going on, all were in police report also. Mr. Benson right behind petitioner in his car saw actions and saw petitioner approached the victim **at first without gun** as petitioner went to request for his beloved daughter's DNA as of right and as agreed upon before marriage in the presence of her parents and relatives. The jailhouse phone heard the above news as I was talking to my brother about it and they passed on the above information to the prosecutor and defenders when petitioner stated calling victim's parents and our relatives as witnesses will be to his advantage. The above made the prosecutor and defenders to impede the parents and relatives from coming to the trial, and other evidence that would have been to petitioner's advantage. Petitioner's pro-forma defenders helped prosecutor to impede these witnesses by being reluctant to call these witnesses and many evidences including Ex. 5As. 5. Brooklyn Center Police 911 calls of marriage history impeded to also establish who is abusing who. One day in August 2007, petitioner called police. He was bleeding very badly. Petitioner's lips and mouth were bruised. Police arrived and said "we don't know if you did it to yourself" than arrest, or charge or question the accused because I am a black man and does not deserve justice. If a woman had reported the same thing against a man, more so black man, he would have been arrested without question and the pictures of the injuries would have been taken as an evidence. The evidence was there on my cloths the blood stain and DNA and finger-prints of the victim on my lips and mouth. The conduct of Minnesota police is very hard to swallow to date. 6. The DNA of petitioner's daughter Colleen Iheme has not been received to date requested since 2008 to date. It was requested in the trial and after trial and was needed. This was to expose the so- called victim, her intentional very high provocation in order to leave the marriage fraud to claim abuse that caused fatal confrontations, her sexual starvations,

tortures, and violence she inflicted at petitioner seeking confrontations which was presented in family meetings and denied having affair and claimed some kind of child birth syndrome caused loss of interest in sex but indeed was having sex with **Mr. Wilfred Meari**, what her parents, relatives knew and what the victim told them in the family meetings of six-way phone call made by petitioner and marriage fraud of Green Card to be presented. 7. The number of false 911 calls made by the victim when she became increasingly very violent in order for me to respond to her violence to enable her claim false abuse. Also, the number of times police warned her of false police call of 911. 8. Petitioner request independent psychiatrist to examine him and his issues and the case to explain what happened on the spot and petitioner's state of mind at the time to no avail than the county's psychologist who violated petitioner's 5th amendment right by forcing him into the room and locked up petitioner and blocked the door regardless of petitioner's shout, uncooperative acts and objections to rule 20 at this time but to do it on later date to no avail. Petitioner needed the postponement because (a) to recollect his thoughts and did not need any interview at that time because he was a little disoriented. (b) he needed some phone numbers and contact addresses of some people who knew his conditions after the DNA results of his son Justin. The rule 20 was an absolute false report for the interest of the county by any projections because petitioner did not participate and also rule 20 was crippled by violation of 5th amendment. Therefore, any trial based on that rule 20 in the first place was very illegal and secret and farcical and therefore a void. They had wanted to get petitioner out of Hennepin county by all means possible, whether due process or not, rule of law or not, they did not care, the evidence was everywhere.

It is easy to say, out of intentional obscurity of truth, that defenders have the discretion to which witnesses and evidences to employ as a trial strategy. It could also mean a reluctant strategy. However, it is incumbent upon fact finders to weigh the importance of each petitioner's requests of witnesses and evidences to his case his attorneys intentionally ignored to the interest of the state to establish performance below an objective standard of reasonableness and reluctant representation in violation of sixth amendment. **The Supreme Court of the United States in Padilla V. Kentucky, held that "it is the responsibility of this court under the constitution to ensure that no criminal defendant, whether citizen or not is left to the mercies of illegal and incompetent tribunal or counsel", USCA. Const. Amend. Six**. Petitioner believes that the court in Minnesota shares the above holding or are they going to leave this petitioner to the dicta and mercies of the illegal and incompetent tribunal of his case? Petitioner met these two female pro-forma attorneys only one time for 15-20 minutes together before lynch law trial. They were very coarse, abusive, unprofessional, detached, incompetent and reluctant defenders. They did not discuss anything pertinent to the investigation issues of the case than: (a) by Ms. Mitchell, "you don't have respect for women and wherever you came from". (b) by Ms. Laskaris, "anyone who committed such act must serve long time in prison". (c) by Ms. Mitchell, "I don't know what to do and where to start". Yes, indeed, they did not know what to do or where to start just to scare defendant. They were, indeed, from day one, reluctant attorneys and never ready to defend petitioner and that was very evidenced on January 27, 2009 T146 line 9-16. Ms. Mitchell was not ready and she pleaded to the Judge she would be ready tomorrow. On January 28, 2009, Ms. Mitchell was not ready again T156-T159 till line 1-15. She requested for the third day again but both the Judge and prosecutor refused than

removing her in my case as requested earlier. In order to infuriate the Court, the prosecutor sarcastically said, "your honor, I have prepared something so I am prepared to argue it whenever the court finds it convenient". The Judge responded, "why don't we start now. Go ahead Ms. Russell". The court went ahead without Ms. Mitchell and nobody represented petitioner. This occurred because there was no due process of customary consultations between client and attorneys and no loyalty to client in violation of sixth amendment, **see Powell V. Alabama, Strickland V. Washington**. Judge Mel Dickstein was aware of the incompetence and violation of sixth amendment. The defenders were acting as a detached court agent evaluating petitioner's claims and in fact that was what they were throughout the trial than work together with petitioner to establish strategies and discuss petitioner's issues to get evidence and witnesses.

Petitioner sent defenders list of items he needed as listed here-to in his trial three times without response. There was no discussion of their importance. It was indeed a secret and farcical trial. **The court in Padilla V. Kentucky**, went further to say, "it is quintessentially the duty of counsel to provide client available advice about issues that are important to client." That was true then and today and inherently in the business of defending a client. However, that did not happen here in this case in violation of petitioner's sixth amendment, therefore a grave structural error. The failure to do so by the attorneys as stated here about Padilla satisfies the "Strickland analysis" of reluctant defenders. **In Powell V. Alabama, Cuyler V. Washington, Evitts V. Lacey, Anders V. California and Entsminger V. Iowa**, the court held that both trial and appellate counsels, from the outset to appeal, most be zealous and active advocates and show professional loyalty to their

client. The above was deprived petitioner in the kangaroo court mentioned here-to. The arbiters of judgment of the above holdings deprived petitioner are (a) one meeting of about 15-20 minutes in July 2008 till trial. (b) petitioner was sitting separately, I mean completely separately in the court room from the two women attorneys detached during the trial and the Judge knew that. (c) petitioner's list of items for trial suppressed and deprived without consultation of their importance. (d) petitioner was deprived the **PSI** documents and its contents before and during sentencing hearing until about seven months in prison. (e) he was deprived consultation during sentencing phase period from February 5, 2009 to April 9, 2009, when consultation is very vital in the sentencing phase in violation of sixth amendment, **see Brewer V. Aiken**. What else could be more secret and farcical of a trial and sentencing? What else could be illegal and incompetent tribunal? (f) petitioner's immutable rights stripped away from him by both the Judges and defenders. The illegality and incompetence of the tribunal were overwhelming even to ordinary lay person's knowledge. It is the reason they impeded evidentiary hearing criminally in violation of rule of law and due process for hostage or illegal imprisonment.

THE ATTORNEYS' ABERRANT LEGAL CONDUCTS: Nancy Laskaris:

1. Ms. Laskaris, did not consult with the petitioner for customary consultation due process between client and attorney during trial and sentencing when such consultations are very vital in violation of sixth amendment**, see Powell V. Alabama**. They did not make attempt to request petitioner's roommate Mr. Davidson Nwengwu to appear on behalf of petitioner in the trial and sentencing to mitigate for the interest of the state, how much more working with petitioner to pull up history and police record of 911 calls of petitioner and victim's fraud and Green Card fraud marriage. 2. Ms. Laskaris, stated on the record that her

client who denied the charge was guilty as charged and how quickly the Judge could send him to prison. Ms. Laskaris was acting as a Judge, jury, executioner, prosecutor, and defender at the same time T606 line 11-15. She did not mind of her client being sentenced right away without mitigation and character witnesses and this was what exactly happened on April 9, 2009 sentencing. 3. **Ms. Laskaris, literally, with prejudice and incompetence refused to question petitioner, to focus jury's attention, on petitioner's life regarding the DNA of his son Justin EX. 5As, fathered by another man that almost claimed his life in suicide, see Brewer V. Aiken**- the epitome of incompetent and reluctant attorneys which prompted the Judge, good Judge, to appoint another attorney for the defendant in order for the judge to fulfill his moral and rational duty to his profession and an oath sworn to the constitution and God, and very much unlike Minnesota Judge Mel Dickstein. 4. It was Laskaris who warned petitioner both out of record and on record that petition cannot add or bring up anything of his own or expose any issue she did not want in the court. As petitioner tried to do otherwise Ms. Laskaris stopped him cold and said, "NO. You have to wait until I have question for you Okay" T476. Ms. Laskaris was acting as the Judge stated September 29, 2008 that petitioner had no right or opinion or participation "in anything" but petitioner is competent to stand trial. This an oxymoron of the highest kind and an intentional injustice. 5.On February 6, 2009, in Hennepin County jailhouse phone, Ms. Laskaris threatened petitioner and stated "if petitioner talks about their incompetence in the sentencing hearing she would tell the Judge to add more twelve years on the 2nd degree conviction. On the record, the phone discussion record was requested but Hennepin County jailhouse refused to produce them for cover ups. 7. Ms. Laskaris did not talk to petitioner on the sentencing day and as such did not give petitioner his PSI and its contents withheld from him. Petitioner was

sentenced to 367 months for 2nd degree felony murdered conviction instead of 190 to 230 months even though he had no blemish in his record an illegal upward departure without hearing also and no attorney representation in the sentencing phase. It was just as Ms. Laskaris had wanted as threated on February 6, 2009 on the phone. Petitioner was given 1st degree conviction sentencing but was convicted 2nd degree in illegal and incompetent tribunal because petitioner is a black man. 8. Ms. Laskaris warned petitioner not to bring forward in court the utterances of the victim on the spot July 24, 2008, "Colleen is not your daughter, no DNA, old goat", and attempted to run him over in a car Ex. 1As. These exhibits were not shown in the court for cover ups. Instead Ms. Laskaris asked petitioner to say "when victim said "Colleen is not your daughter, Colleen appeared dead to petitioner and caused him to react." Should the jury know fully all the utterances and weigh in the impact of the utterances on the petitioner and attempts to run petitioner over on her car to cause provocation, inducement and facilitation of fatal confrontation? Petitioner could not know anyone who could not have gone berserk on the above utterances and attempts on his life to run him over in the car and this is the second time this has happened to him taken advantage of for a Green Card marriage fraud with insult and deadly attacks in the car. Petitioner requested for independent psychiatrist examiner but was deprived in order to win a case by all means because defendant is a black man. Petitioner's trial was steered to its foregone conclusion by the illegal and incompetent tribunal. 9. Ms. Laskaris indulged in high level deception, misinformation against her client, and wanted him convicted and wanted the judge to send him into prison before jury verdict. This is the highest level of conflict of interest openly done and a prejudice in any legal system T. 606 Line 11-15, yet judge Dickstein refused to declare mistrial or remove attorneys. Is there any more question this is an illegal and

incompetent tribunal? It is one of the pivotal reasons the court is gripped with perennial fear for evidentiary hearing, therefore holding petitioner hostage and incommunicado as terrorists do. They refused to follow the rule of law for their own personal interest as they disavow their sworn oath to the constitution and God to uphold the law and or not render intentional injustice and earning a living on their crimes. 10. Ms. Laskaris also refused to call Ms. Molina and Mr. Benson who were on the spot whose testimonies to police would have favored petitioner on the truth of what they saw and heard. 11. Both Ms. Laskaris and Ms. Mitchell did not challenge the Judge's instructions to the jury, 1st degree murder, 2nd degree murder, 3rd degree murder, all intentional. There was no unintentional murder to consider. Petitioner went to meet the victim for his beloved daughter's DNA test as stipulated in marriage, with eyewitness Mr. Benson on the spot, saw petitioner come out of his car without a gun initially and that was stated in the police report by Mr. Benson. It was indeed the reason the prosecutor did not call him and pro-forma defenders did not call him for the interest of the state than their client. These are reluctant and incompetent pro-forma defenders. Petitioner has every right to go there for the DNA need in an infidelity marriage, child support, and child custody fight and process. Also, petitioner's ordeal in his son Justin DNA that was fathered by another man compelled him after the Judge and the victim's attorney was indulging in what seemed as a cover ups and dilatory tendency and suppression of the truth than tell the victim to say the truth or submit to a DNA test. The evidences and witnesses both the prosecutor and reluctant defenders impeded from the trial would have established that the victim concocted Green Card fraud marriage as a result to leave the marriage provoked, induced, and facilitated the fatal confrontation that sent petitioner into frenzy and temporary psychosis, **see State V. Wilbur.** When people are in a Green Card

fraud marriage they can do anything to execute the fraud and that was the case here. However, Ms. Laskaris refused to focus the jury's attention to the predicaments of her client because she was working for the state interest as a pro-forma defender. The victim came to America in 2004, began infidelity 2005, and conceived a child with another man. In 2006 June the child was born and she continued the infidelity that exposed her. She became very violent from 2006 to 2007 to seek my response so she could claim abuse. After no response from petitioner and in August 2007 when she bruised petitioner's lips and mouth, she took our children and left to go live with a man by name Mr. Wilfred Meari. Petitioner filed for divorce and wanted his children. Nance Laskaris reluctantly and incompetently refused to focus the jury on the above. Also, when one compares petitioner's case court instructions to the jury to that of **State V. Pollard, 2017**, one must conclude that Ms. Laskaris was working for the state against her client, a conflict of interest of the highest order in violation of sixth amendment. She did not contest the instruction, she wanted conviction for the state.

MARIA MITCHELL LEGAL ABERRANT CONDUCTS.

She was the lead attorney who did not know how to develop questions for her client so Ms. Laskaris took over the responsibility. They purposefully gave her the case to mess it up since she is very weak and incompetent. 1. The first and only day the two women met with petitioner she said "I don't know what to do and where to start." So why accepted a case above the scope of your knowledge to the detriment of someone's life? 2. She openly stated "We were told not to say anything good about him" in the closing argument and they never did to mitigate to the jury. She was reading her closing argument from papers she had than present her client and his predicaments with victim's very high provocation. 3. She did not call petitioner's witnesses and she did not look for petitioner's evidences as listed above. She

was a complete reluctant, incompetent and pro-forma defender to the bone. 4. She did not request or interview petitioner's roommate Mr. Davidson Nwengwu. Even Mr. Davidson Nwengwu, came to jailhouse to inform petitioner that he is very angry and disappointed at his defenders. 5. Ms. Mitchell, never answered petitioner's mails and the list of trial request of witnesses and evidences as stated above. 6. She impeded and refused to call as witnesses the parent and relatives of the victim and petitioner who knew the history and what the victim concocted. Ms. Mitchell and prosecutor impeded these people from coming because the prosecutor was informed about the petitioner's phone discussions that the witnesses will be to his own advantage. They would have been asked what they know when they knew it about the victim and marriage history. One could easily imagine about the obscurity or cover ups about the parents and relatives' absence in the prosecution of one accused of killing their daughter. Hennepin County Court transported the parents and close relatives of a white woman killed by Minneapolis police officer Mr. Noor who lived half way the world in Australia to Minnesota. However, the victim's parent and close relatives and that of petitioner's close relatives who lived very closer to Minnesota were not transported, barred and impeded by the prosecutor and petitioner's defenders to his detriments. Did it speak volume of secret and farcical trial and sentencing? 7. Ms. Mitchell, was indeed helping Ms. Patricia Wormwood- the victim's attorney in the divorce who was a witness in the trial. It is either Ms. Mitchell did not know anything about law or trial or that she is grossly incompetent and reluctant champion, see T358 to T360 line 1-5 cross questioning Ms. Wormwood. Ms. Mitchell would have been very adversarial to Ms. Wormwood asking her why didn't she instruct her client that she must do the DNA test or say the truth as your husband has the right to know in marriage divorce, child support, and child custody? Ms.

Mitchell, reluctant to ask shrill questions to prosecutor's witness to petitioner's detriment. 8. Ms. Wormwood, who never wrote petitioner any letter about DNA stated in court she wrote him about their position for DNA test which was a fantasy. But there was no letter on the record or presented to court as evidence. Both the judge and defenders were mute to demand the letter so they were working in cahoots. 9. Ms. Mitchell withheld PSI documents and contents to petitioner both before and during sentencing hearing and she did not call anybody on behalf of petitioner. It was just as Ms. Laskaris had stated on the phone on February 6, 2009 and wanted T606 line 1-15. There was no consultation during the sentencing phase by the attorneys when it was vital to strategized for mitigation from February to April 9, 2009. 10. The two attorneys were in cahoots with the Adult Detention Center medical unit head nurse Ms. Mandy, prosecutor, and Judge Mel Dickstein to subject petitioner to lynch law trial and send him to prison without rule of law and due process. They contrived lies and deception. Their objective was to impede medical treatments requiring surgery to save money for the county and to send petitioner to prison by all means and long sentence to cover them up till they retire against indigent black man who has nobody to come to his rescue. They wanted the petitioner to accept that he did not need the surgery for the duration of the trial and sentencing so they could ship him away without medical treatments and expense to the county. The truth was they were supposed to schedule the surgery that week but no surgery was scheduled on January 27, 2009 as claimed by the head nurse, defenders, and Judge Mel Dickstein, it was all fraud since there were no preparations for such surgery over night as it should be. The deception, torture and lies were recorded January 26, 2009 T26 to T28. They had no regard to petitioner's life and health in the illegal and incompetent tribunal. They were absorbed in shipping petitioner to prison and morally, rationally and

conscientiously empty because trial does not supersede health issues but health issues supersede trial. Trial could be rescheduled but life cannot be brought back if it goes off or if it comes to an end. Petitioner sued Hennepin County adult detention center and the 8th Circuit Court of Appeals ruled in petitioner's favor and they continued to suppress the case through the Minnesota DOC. They have all implicated themselves and refused to face the rule of law but earn their livings at the back of those who faced the law in order to maintain themselves and family. This is the epitome of crimes against humanity and hypocrisy. 11. Petitioner made a request of his beloved daughter's DNA test before trial, during trial and after trial, to date Ms. Mitchell has not sent it or the Judge since more than fifteen years. It means that the court, prosecutor, Judge and defenders are hiding something from petitioner and in cahoots in violation of sixth amendment. Maria Mitchell is an absolute proforma and reluctant defender and incompetent.

THE ABERRANT LEGAL CONDUCTS OF APPELLATE COUNSEL:

Petitioner cannot pick out from any crowd or line up who his appellate counsel was to date. Petitioner does not know the appellate counsel assigned to him is a man or woman., black, white, brown, green, or purple except that appellate counsel wrote name down as Jessica Godes. Jessica is a female in our society here. All the people appointed to petitioner were women from trial to probation officer to appellate counsel. It was a foregone conclusion trial they set up. 2. Petitioner called appellate counsel appointed to him to meet and strategize as a formal due process of customary consultation. However, counsel declined affirmatively to meet. Petitioner was deprived the right to meet attorney, a due process customary consultation of sixth amendment under the holdings of the court **in Powell V. Alabama, Strickland V. Washington**, showing no loyalty to client. Indeed, appellate counsel

overrode this holding. 3. Petitioner pointed out to no avail some shortcomings of the trial in his letter and phone call to the counsel, including being sentenced with **the PSI documents and contents with**held from petitioner for illegal upward departure sentencing which appellate counsel was very aware and it was the counsel who brought the PSI from Ms. Maria Mitchell the defender to the petitioner more than seven months after sentencing in prison. 4. Petitioner was convicted of 2nd degree felony murder which is about 190 to 230 months in Minnesota but he was given 367 months about two times second degree conviction, a prejudicial and criminal upward departure sentencing without any substantial and compelling reasons in violation of **Minnesota §589.01 and sixth amendment and overriding Blakely V. Washington holdings**. The appellate counsel was aware of this fully but showed reluctance to the interest of the state than her client constituting conflict of interest, therefore a violation of sixth amendment and lack of loyalty to the client **in violation of Strickland V. Washington and Blakely holdings**. 5. Appellate counsel knew and also petitioner requested counsel to appeal the erroneous findings or assertions of the direct appeal court that petitioner's car was 17 (seventeen) space parking distance from victim's car for him to get back to get his gun and cool off from the victim's utterances and attempts on his life by the victim to run him over in the car. However, petitioner's car was perpendicular to other cars in the parking lot and at right angle with the victim's there. That was true and also stated in the police report by Mr. Jason Patrick Hornbuckle an eyewitness on the scene. Petitioner was subjected to temporary psychosis by the conduct of marriage fraud green card victim from sudden hard news, "Colleen is not your daughter, No DNA, Old goat," and attempt on his life to run him over in the car by the victim Ex.1As. The prosecutor and defenders impeded Ex. 1As in the trial. It was the above sudden

hard news and attempt on his life that caused the fatal confrontation that lasted about 15-20 seconds. The appellate counsel looked toward unproductive directions in the appeal as a reluctant and incompetent advocate for the interest of the state in order to hold petitioner in prison in violation of 6th and 14th amendments and in cahoots with illegal and incompetent tribunal. It should be noted here also that the direct appeal court was not looking at the court record and police record about the statements of eyewitness Mr. Jason Patrick Hornbuckle and the illegal upward departure sentencing of 367 months without establishing substantial and compelling reasons and neither the jury permitted nor any substantive reason in the fabricated falsehood of the PSI the documents and contents of which were withheld from the petitioner both before and during sentencing hearing. 6. Appellate counsel refused to focus the attention of the direct appeal court on the nature of terrible court instruction s to the jury which was worse than **State V. Pollard, 2017,** overturned. Everything in the petitioner's case court instruction to the jury was **intentional** and none was **unintentional** to the jury even though petitioner's legitimate request for independent psychiatrist evaluator was impeded by the prosecutor and defenders to evaluate petitioner's action on the spot with regard to victim's provocation, inducement and facilitation of a fatal confrontation and also petitioner was not with his gun when he met the victim initially for his daughter's DNA. Also, it appeared conclusively that the victim's attorney, defender's and the court knew the victim's secrets and activities and therefore ignored petitioner's request and curiosity and emotions with regard to his daughter's DNA in relation to his son DNA ordeal again that almost claimed his life in suicide, too hard for anyone to handle on the moment. How could the above or actions of the petitioner be an intentional act, a man subjected to intentional psychosis by the victim? Appellate counsel could have legitimately raised the issue of bad

court jury instructions defenders ignored intentionally and many other issues here-to to direct appeal court but counsel intentionally refused to do so in order to appease the state. Even if we weigh the performance of the appellate counsel on the premise **of Leake V. State**, holding that "appellate counsel need not raise all possible claims in direct appeal court and a claim cannot be raised if appellate counsel could have legitimately concluded it will not prevail", still, appellate counsel failed woefully, a reluctant advocate in cahoots with illegal and incompetent tribunal stated above. Any incorruptible Judge must ask what is the most or first issues appellate counsel would have raised as a fact finder as compare to what appellate counsel raised? Aren't there no attorney representation and illegal imprisonment or sentencing of 367 months in 2nd degree conviction without substantial and compelling reasons as required by statute and incompetent tribunal? Also, important to raise is the guilty verdict and sentencing pronounced by Ms. Laskaris before jury verdict against her client T606 and the Judge did nothing as it defined conflict of interest which appellate counsel was a reluctant advocate. Compare it **to Brewer V. Aiken,** where the Judge removed the incompetent attorney. This was a competent and incorruptible Judge with the credibility of the profession in mind. 7. Could any competent, zealous and active advocate appellate counsel forget to raise the issue that her client was deprived the documents and contents of his PSI both before and during sentencing hearing and subjected to illegal upward departure sentencing since it was the appellate counsel who got the PSI from the defenders to petitioner in prison? 8. Could any appellate counsel who is not reluctant advocate forget her client was stripped his immutable rights and had no attorney but proforma attorneys and was not allowed to participate in his trial or express his opinion in anything stated by the Judge T6. Indeed, appellate counsel was an absolute reluctant advocate for the interest of the state to the

detriments of her client in violation of sixth amendment and a denial of due process to deprive petitioner his liberty in violation of 14th amendment.

THE JUDGES' ABERRANT CONDUCTS:

Although many things here may have been repeated or stated above it may be necessary to some degree to put them under the heading underlined they belong. Petitioner was convicted in kangaroo court of 2nd degree felony murder but the Judge sentenced him to 1st degree imprisonment of 367 months and deprived him the constitutional right of PSI documents and contents withheld from petitioner used in upward departure sentencing in utter disregard and disrespect of the holdings **in Blakely V. Washington, State V. Henderson, and State V. Gayles** because defendant is an indigent black man. The Judge knew what he was doing was wrong and against the law. Petitioner believes the illegal and incompetent tribunal may have thought that petitioner did not know his left and right hands to understand the law and nobody will come to his rescue. The Judge, defenders, prosecutor, appellate counsel, direct appeal court knew it was wrong and illegal as there were no substantial and compelling reason for upward departure and there was no opportunity given to petitioner to contest it and jury did not approve it and would not have allowed it in violation of sixth amendment. 2. Judge Dickstein, knew that defenders were proforma and not really defendant's attorney, at least under **Ferrata V. California, Johnson V. Zerbst, holdings** and sixth and fourteenth amendments. 3. Judge Dickstein is a Jew and the incident happened in a Jewish establishment in St. Louis Park Minnesota and petitioner believes that motivated Judge Dickstein to unprofessional, illegal, and savage delight for hostage taking and illegal imprisonment of a black man in utter disregard **of Blakely V. Washington, State V. Gayles and State V. Henderson** as stated above

in violation of Minnesota sentencing guideline and due process. 4. Judge Dickstein reproached Ms. Laskaris off record that she had given petitioner great weapon for great appeal after Ms. Laskaris infamous statement before jury verdict on record T606 line 11-15 as she was acting like executioner, defender, prosecutor, jury, Judge and reluctant champion defender, and so she was than the Judge to remove her or declare mistrial as was done **in Brewer V. Aiken.** Instead Judge Dickstein, stated in T606 line 16-18 "I think that is something that we should discuss and we do that immediately following jury verdict if there is any sentencing". How could any incorruptible Judge send anyone to prison who was not represented by an attorney with the above utterances except by prejudicial Judge and proforma, incompetent and reluctant defender if justice is justly administered. 5. Judge Dickstein was implicated in a law suit petitioner received decision against Hennepin County from 8th Circuit Court of Appeals case # 13-2393, as such, Judge Dickstein and Hennepin County has been holding vendetta against petitioner through his cases with the help of Minnesota DOC and others than be professional and uphold the law he sworn to the constitution and God. 6. Judge Dickstein, never asked defenders whether they have gone through the PSI with defendant to be aware of the contents as the Judge should. It was a big concocted cover ups and a big secret and farcical trial and sentencing hearing to send an indigent black man to prison without rule of law and due process. 7. Both the court and Judge Dickstein were in cahoots to impede petitioner's advanced post-conviction petitions filed from 2014-2016 and 2018-2023 or to date from appearing in the system in order to prevent anyone from seeing the issues petitioner raised which constitute admission of wrong doing, crimes against humanity and epic cover ups. Judge Dickstein, has an utter disregard and disrespect of state and federal laws and holdings in order to deprive petitioner rule of law and merited evidentiary hearing as follows: **In Bobo V. State,** the court held that defendant is required to allege facts on the

record which petitioner has done as established above. The court went further to say "no matter how unlikely, unsupported or doubtful the issue or the evidence raised by the defendant an evidentiary hearing is in order to separate the probable from the ridiculous". **In Dobbins V. State**, the court held "any doubts about to conduct an evidentiary hearing should be resolved in favor of the defendant". **In kromiga V. State,** court held that "evidentiary hearing is in order where there are material issues raised by the petitioner". Petitioner raised many of them from stripping him his immutable rights to being convicted in the court by the Judge and Ms. Laskaris before the jury verdict, to illegal upward departure sentencing to no attorney representation during trial and sentencing hearing phase when it was very vital for attorney consultation to withholding the documents and contents of PSI from defendant before and during sentencing hearing and more. **In Ferguson V. State,** court held that "any uncertainty should favor a hearing for petitioner". **In Brock V. State**, court held that "any doubt about whether an evidentiary hearing should be in favor of petitioner but petitioner's allegations must be less argumentative". Isn't it a fact petitioner filed two motions not disposed of to date to remove the proforma attorneys Ms. Mitchell and Ms. Laskaris T3 to T7 September 29, 2008? Isn't it a fact petitioner's immutable rights were stripped away from him and impeded to participate in his trial or impeded to have any opinion in his criminal proceeding? Isn't it a fact and on the record that the Judge did nothing when defender stated "they have been asked to step aside by the defendant and that he has no faith in us defenders? Isn't it a fact Ms. Laskaris stated her client is guilty as charged and how quickly the Judge could send him to prison without mitigation? Isn't it a fact to illegal upward departure without substantial and compelling reasons required by the law, sentenced almost two times the presumptive sentence of 2nd degree conviction? Petitioner could go on for many pages of the Judges and the defenders' structural violations of 6th and 14th

amendments. Judge Dickstein, for personal reason abused his court discretions and showed clear-cut prejudice than up hold the rule of law, due process he sworn on oath to the constitution and God of no intentional injustice. 7. He purposefully impeded evidentiary hearing in order to illegally imprison and held petitioner hostage from the illegal and incompetent tribunal he conducted **in violation of Minnesota statute §589.01 and 14th amendment of federal due process to deprive petitioner his liberty. The rule of law is "it is an abuse of discretion for post-conviction court or Judge to fail to hold evidentiary hearing when petitioner raised a genuine material fact", see 13 Dunnell Minn.-Digest criminal law §14.00(5th ED. 2004), also see Wilson V. state, 2007**. Judge Dickstein continue to hide behind illegal "procedural default" that is very inconsistent with 6th and 14th amendments that demand due process and rule of law. This is a case laden with sixth and fourteenth amendments violations which are structural errors and cannot be resurrected and resuscitated by the procedural default or any state law limitations. Also, illegal and incompetent tribunal's pronouncements is a void, see structural errors in **Arizona V. Fulminante; Bonga V. State; State V. Dorsey**. The court held that the presence of any slightest structural error precludes harmless error analysis and required reversal. **In Wong Wing V. United State**, the court held that "any infringement or even possible infringement of fundamental constitutional rights such as (6th and 14th amendments) gives the federal government the power to remedy despite the state protest of federalism balance". Therefore, any clear-cut violations of sixth and fourteenth amendments are structural errors and Judge Mel Dickstein and Judge Mark Warnick and the defenders committed bundles of them in this Case through their illegal and incompetent tribunal. Hence, petitioner is held hostage in prison against his will, a crime against humanity of highest order.

COMPARISON OF RECENT CASES

Honorable Judge Paul Scoggi, in Hennepin county court overturned the case of Mr. Javon James Davis, 2020, stated "there is nothing in his decision that exonerate Mr. Davis from the charge and his decision was purely on the performance of the trial and appellate counsels". He stated unambiguously that both counsels were remiss. Both counsels' performances were below reasonable objective standard. He stated that trial attorneys did not focus jury's attention on pertinent issues while appellate counsel refused to expose the shortcomings of the trial court. Contrast the above position of honorable Judge Paul Scoggi to petitioner's case here with post-conviction court of Judge Mel Dickstein who did not weigh the trial and appellate counsels' performances. Petitioner declared in writing he had no faith in the proforma attorneys on the record and repeated on the record by the attorneys themselves in the court in front of the Judge to no avail T4. However, petitioner's rights were deprived him. The performances of the trial and appellate counsels were worse than dismal and prejudicial just as Judge Paul Scoggi stated in Javon Davis' case and above all they were very conspicuously reluctant defenders on the record, far more than in Mr. Davis's case that was overturned still petitioner is still held in prison as hostage under the cloak of prison and deprived merited and legal evidentiary hearing long overdue. If the appellate counsel had the free hands to use or not to use whatever issues pleases her or him without being blamed for being below objective reasonable standard perhaps honorable Judge Scoggi would not have overturned the case. However, appellate counsel must be held responsible for solid issues ignored purposefully to the detriment of defendant, otherwise there is no need for appellate counsel representation, **see Evitts V. Lacey and Strickland V. Washington**. It was the reason honorable Judge Scoggi overturned Mr. Davis case. In petitioner's case here,

appellate counsel was worse than dismal and conspicuously reluctant advocate with regard to many issues counsel ignored purposefully about trial court for the interest of the state but to the detriment of petitioner in violation of sixth amendment. **In the case of State V. Pollard, 2017,** appellate court held, "we cannot conclude that erroneous jury trial instructions were harmless beyond a reasonable doubt, we reverse appellant conviction of 2nd degree felony murder and remand for new trial. Because we remanded for new trial we do not address applicant's additional claims of error." At least, they found one error from many errors Ms. Pollard listed. That was the court instruction to the jury. In comparison and contrast to petitioner's case here, there were numerous structural errors ten (10) times more than above two cases combined including very bad court instructions to the jury: 1st degree murder, 2nd degree murder and 3rd degree murder, all intentional. There was no unintentional murder to consider in the instructions to the jury, even though petitioner was completely in good intention initially, went there without gun to meet the victim in her car for his beloved daughter DNA as the specter of the past in his son's DNA haunted him again, and as stipulated in the marriage with the victim, her parents and our close relatives as witnesses and the mute by the court and her attorney too long and ignored to the request by a lay defendant pro se of DNA test of his beloved daughter to date. The court ignored the raw emotion and right of defendant to the interest of the state and the victim and her attorney to prejudice defendant. Apparently, the court, defenders, victim's attorney Ms. Wormwood and prosecutor were nursing some secrets to the detriments of petitioner the reason they illegally ignored the DNA request to date. Also, to avoid negating the intentional murder instructions to the jury, the court, defenders and prosecutor impeded Ms. Molina and Mr. Benson as witnesses who were on the spot or at the scene because of what they stated in the police

report that he did not see petitioner approach victim's car initially with gun and Ms. Molina also stated she heard people talking or arguing and the gun may have showed up when petitioner jumped back into his car second time perhaps with temporary psychosis due to sudden hard news about his daughter, insult, and deadly attempts on his life by the victim to run him over in the car after insult Ex. 1As. It was a very high provocation, inducement and facilitation of a fatal confrontation that lasted about 15 to 20 seconds. It was a gory reminder of the DNA of petitioner's son Justin which the victim was very aware of but still subjected petitioner to the same ordeal again in a marriage she persuaded petitioner to marry her to make him forget the past. Instead, the victim exacerbated petitioner's situation as soon as she stepped her feet in American soil with different agenda. Both proforma trial attorneys and mirage appellate counsel withheld a lot of information from the jury and the direct appeal court respectively. It is among top reasons they are depriving petitioner evidential hearing illegally and holding him hostage and incommunicado in disguise of prison. This type of aberrant conduct is very debasing of a nation and our judicial system.

When our judicial system is about power, station, privilege, race, entitlement and no accountability, like the days of queens and kings, then there are no rule of law, due process and fact findings, but only "if we want to give you justice it is our prerogative, not on facts or whether you are right or not guilty, innocent or not." Then we are in Minnesota as a bogus and genocidal society holding some people hostage in prison in disguise as terrorists do or isn't it? It is one of the reasons for this comparison. In **Greere V. State,** the court stated, with all intensity, that "impartiality, is the very foundation of the American judicial system." The question here with this comparison is, are there inconsistencies and partialities from

Minnesota trial court and Appellate court between the two cases and petitioner? The answer is big yes.

2. UPWARD DEPARTURE AND ILLEGAL IMPRISONMENT.

Petitioner begins by saying that Judge Mel Dickstein's upward departure sentencing of petitioner is at best prejudicial and above all it is pronounced by illegal and incompetent tribunal as already established above here-to, therefore is a void. Also, the fabricated falsehood **PSI** documents and contents were withheld from petitioner for the sentencing. The sentencing failed every guideline of Minnesota sentencing guideline such as: "If a trial court departs from a presumptive sentence, the court must disclose in writing or on record the particular substantial and compelling circumstances that made the departure more appropriate than the presumptive sentence"- **Minn. Sentencing Guidelines 11. D (2009)**; The Minnesota Rules of Criminal Procedure, also stated that the trial court shall make findings of facts regarding its reason for departure **Minn. R. crim. P 27.03 sub-d 4©;** Also see **State V. Haggin.** Throughout the trial and sentencing both the Judges and defenders gravely abused their discretions by indulging in many aberrant conducts as established above already. When a court and defenders contrived to withhold documents and contents of **PSI** from defendant in order to indulge in an illegal upward departure and deprived defendant proper response in sentencing then the court has violated a grave 6th and 14th amendments and cause illegal imprisonment and hostage situation or denial of liberty and a crime against humanity of the first order. It is a denial of liberty without due process of law. Such clandestine hostage situation is unenforceable and incongruity with the holdings of **Blakely V. Washington,** that the facts supporting the upward departure were neither admitted by

the defendant nor found by the jury and the jury would not have supported it or imposed such sentence. Such was the same in this case here where petitioner was given 367 months which was done out of prejudice and incompetence. Judge Dickstein is a white man and a Jew and the incident happened in a Jewish establishment- Shalon Home parking lot and that awaken Judge Dickstein's prejudice and racism. In **State V. Henderson**, the court held "all facts going to punishment had to be found by jury." However, that was not the case here with petitioner's case in sentencing and Judge Dickstein respects no law and holdings apparently. The court went further in **State V. Henderson**, to say "the determination of criminal conduct under Minnesota **statute §609.1095 (2004)** went beyond solely the fact of prior conviction and imposition of enhancement sentencing base in trial court finding of pattern of criminal conducts violated sixth amendment right to trial by jury to weigh this upward departure reasons and approve the sentencing. In **State V. Martinson**, and **State V. Gayles**, the court held that "district court may not use an element of the offence to support a departure from the sentencing guideline, Judge Dickstein mentioned the victim was shut more than one time but blinded to level of provocations." Where did Judge Dickstein get his support for upward departure but prejudice and incompetence? Petitioner has no criminal record. A man with MBA degree in international business and finance (international trade), a member of powerful student senate in the university, a long time, member of Igbo fest, a member of Umunne Cultural Association, a member of finance committee for Minnesota cultural center for minorities and has worked in some big companies as manager and district manager and operated his own small business called Pfrimedia. The president of Press Club in National High School.

Petitioner is held hostage in Minnesota prison in disguise as he is criminally deprived merited and long overdue evidentiary hearing and immutable fundamental rights stripped from him by Judge Mel Dickstein and Judge Mark Warnick. The Judges and the court knew that they could not withstand the truth and facts against them and Judge Dickstein's illegal and incompetent tribunal was very overwhelming. Petitioner, therefore, supplicate to this new Judge to be appointed in his case, to touch his or her good heart's soft spot, to show courage and moral duty to their profession charged to uphold and respect the rule of law, due process, justice and constitution of the United States than fraternity, regardless of the state of judicial upheaval and frenzy in Minnesota judicial system against minorities. Hence, petitioner begs this judge to throw off the window the conviction, sentence and upward departure sentencing that make the great state of Minnesota looks like bogus and genocidal society that holds some minorities hostage under the cloak of judicial system and prison.

We were told to believe that in the face of the law we are all equal to face it than suppress the law for cover ups. And equal protection of the law is a pledge of the protection of equal law. Is it true or just a statement?

CONCLUSION

Petitioner is an absolute hostage and held incommunicado and held against his will and many attempts of murder made on his life in order to close his cases because he is an indigent and a black man in violation of everything justice and rule of law and due process America stands for and international community recognized and accepted laws and customs. When police record of marriage history of 911 calls requested by the defendant were ignored by the public defenders- proforma attorneys working for the state than client and the prosecutor impeded in a family issues trial; when news and probational officer reported that a review of Brooklyn

Park police record shows a long history of abuse of the victim but was not presented in the trial or court; when the tribunal was illegal and incompetent because Ms. Mitchell and Ms. Laskaris were never petition's attorney from outset but proforma by every legal projections T3 to T7 on record and they also indulged in heated argument with their client in front of Judge and Judge did nothing; when Judge Mel Dickstein indulged in intentional injustice, at least in T606 line 11-18 and others; when proforma attorney Ms. Laskaris stated that her client was guilty as charged before jury verdict in front of Judge Dickstein, a conflict if interest of first order and Judge did nothing; when Judge Mark Warnick stated in T6 September 29, 2008 that the defendant he declared competent to stand trial was not allowed to participate in his trial or have no opinion in his criminal proceeding in "anything", an oxymoron, an intentional injustice and suppression; when Judge Mark Warnick did not dispose of two petitioner's motions T6 presented to the judge before his decision and before the court conviction and sentencing; when the DNA evidence of Justin, petitioner's son, that was fathered by another man that almost claimed his life in suicide which the victim knew about before marriage the deep pains of it was covered up; when Judge Mel Dickstein and defenders withheld the **PSI** documents and contents from the defendant both during sentencing hearing phase when it is very vital to strategize with the defendant for mitigation and during sentencing hearing was deprived him; when defendant had no attorney during sentencing phase when it is very important to look for witnesses to vouch for character; when the victim's parents and our close family members who knew full detail of the marriage and what was going on were not called as witnesses nor invited to the court requested by defendant, in fact, they were impeded to come to court and Minnesota; when two people who were on the spot of the scene Ms. Molina and Mr. Benson and in police record were impeded

to come to court by prosecutor and defendant's attorneys and I mean defendant attorneys; when defendant, to date, does not know who his appellate counsel is, whether a man or woman, black, white, brown, purple or green. All the above are absolute precept of hostage situation, sham trial, lynch law trial, kangaroo court trial and illegal imprisonment whatever you may call it. If justice is justly administered and anyone with moral and great rationality could argue otherwise against the above structural errors stated here and or deprivation or denial of immutable rights with different evidence let him or her come forward and let there be robust evidentiary hearing as required by the law and right for the interest of justice and respect to our democratic code we all subscribed in America. There are more evidences that render the trial and sentencing a secret and farcical affair. They did not want to know who is abusing who from the police record and relative witnesses. Is there any more ambiguity this was a lynch law trial and sentencing?

Petitioner supplicates to the Judge to throw his conviction, sentence and upward departure sentencing out of the window because of a grave intentional injustice as already established on the record and hereto. This is an utter disregard of rule of law, due process and constitution of the United States and Minnesota and above all, the credibility of the judicial system and profession in America. The judges and the defenders in this case could not careless of their aberrant conducts. Petitioner strongly believe that both the judges and defenders concluded that petitioner did not know his left and right hands to know iota thing in the law and therefore, they disregarded and disrespected every rule of law, due process, and the credibility of the profession and Minnesota court to send petitioner to prison. It was an epitome of crimes against humanity and in the mind of petitioner it was an epic terrorism against all minorities as this may not be the first time or the last. **In Pederson V. State**,

the court stated vehemently that "to maintain public trust and confidence in the judiciary, Judges should act to ensure that parties have no reason to think their case is not being fairly judged". The above statement was not in the repertoire of the judges and the defenders in the petitioner's case. Petitioner concluded also that based on the trial process and the outcome of the trial and the sentencing hearing the court blatantly disregarded and disrespected the United States 14th amendments. It says, "nor shall any state deprive any person of life, of liberty, or property without due process of law; nor deny any person within its jurisdiction the equal protection of the law". Indeed, these provisions are universal in their application to all person within the territorial jurisdiction without regard to any differences of race, of color, or nationality; and equal protection of the law is a pledge to the protection of equal laws. Indeed, this petitioner did not receive an iota equal protection of the law and his liberty denied him without due process of the law. The comparison and contrast of petitioner's case with **honorable Judge Paul Scoggi in Javor James Davis case overturned (2020)** and **State V. Pollard, (2017)** are very incongruent with the pledge of the protection of equal laws of the fourteenth amendment.

Petitioner pleads to this new Judge on the case for at least a remand for new trial as is necessary or utterly throws the case out of court due to (a) the evil and atrocious delay and deprivation of greatly merited an evidentiary hearing in order to hold petitioner hostage in absolute disregard and disrespect of rule of law and due process. (b) the inexpiable and inexplicable medieval and aberrant conducts of the Judges and defenders in this case, so conspicuous even to ordinary person without knowledge of legal system, to the debasement of the system, judicial profession and America as a whole. We must not be afraid of the outcomes of our rule of law and due process in our cases

because is in the package of the democratic code we all subscribed for living in America. However, when there are some invisible hands in our rule of law and due process the system becomes medieval and atrocious like in this case here.

How could any incorruptible Judge condone the denial a declared competent defendant his immutable rights to participate or exercise an opinion in his criminal proceedings? The Judge stated he did not need petitioner's opinion **"in anything"** and shouted him down. How could any incorruptible Judge condone the defendant being convicted and sentenced with two motions still in court not disposed of? How could any incorruptible Judge condone defendant being deprived attorney representation or represent himself, but proforma and reluctant attorneys known to the Judge, who openly declared petitioner guilty before he is convicted by the jury in front of the Judge and the attorneys asked how quickly their client could be sent to prison with upward departure sentence and where the **PSI** documents and contents withheld from the petitioner? How could any incorruptible Judge condone the sentence of a defendant who did not have attorney consultation during the sentencing phase from February to April 9, 2009 when it was very vital for consultation to strategize for mitigation and character witnesses in a case like this and a show of no loyalty to client professionally, a due process right of sixth amendment plainly violated? Petitioner could write many more pages of structural errors in his case. Intentional injustice is a felony by anyone sworn on oath to the constitution and God to uphold the law whether he or she charged, convicted or not in petitioner's belief system. It is very unspeakable and disquieting to know that these Judges who should show wisdom and grace to uphold the law and due process at their older age indulged in aberrant conducts disregarding and disrespecting the law, due process and absolutely showed no mea-culpa and preside over others in our judicial system. It is unheard

of anywhere in the world or at least in any civilized society that defendant has or still have two motions in the court not disposed of and convicted and sentenced to upward departure with the documents and contents of the **PSI** withheld from him. It is only in Minnesota USA. Petitioner pleads the new Judge to be appointed in his case to throw this case out of court or at least a remand for new trial if justice is justly administered.

Respectfully submitted,

DATE: September 15, 2023

(Signature)
Michael Collins Iheme, OID # 229098
1101 Linden Lane
Faribault, MN 55021

8/15/2008

09 AUG 10 PM 1:39

STATE OF MINNESOTA — DISTRICT COURT

COUNTY OF HENNEPIN — FOURTH JUDICIAL DISTRICT

HENN CO. DISTRICT COURT ADMINISTRATOR

State of Minnesota,

Plaintiff,

and

Michael Collins Iheme,

Defendant.

COPY

Court File No. 27-CR-08-37043

TRANSCRIPT OF PROCEEDINGS

The above-entitled proceeding came before the Honorable Thorwald H. Anderson on the 15th day of August 2008, at approximately 1:30 p.m. in Courtroom 142 at the Public Safety Facility, City of Minneapolis, County of Hennepin, State of Minnesota.

APPEARANCES:

Imran Ali, Esquire, with and for the Defendant.

Dominick Mathews, Esquire, for the State of Minnesota.

EXHIBIT 2-A (9) PAGES

(WHEREUPON, the following proceeding was duly had:)

THE CLERK: Your Honor, calling line 13, Michael Iheme.

MR. ALI: Imran Ali on behalf of Maria Mitchell, who is the attorney of record.

Mr. MATHEWS: Good afternoon, your honor. Dominick Mathews, Assistant Hennepin County Attorney, on behalf of the State.

MR. ALI: Your Honor, it is my understanding this date has -- this was a murder two, and it went out as an indictment. It is my understanding the date has already been changed. I emailed Ms. Hendrickson I believe yesterday regarding that date change, who I don't see here today. Madam Clerk, does it show a date change on MNCIS?

THE CLERK: For Mr. Iheme?

MR. ALI: Yes.

THE CLERK: I'll have to check. Just a second, please.

MR. ALI: Okay.

THE COURT: Well, I have an indictment here. Do you have a copy of the indictment?

MR. ALI: I do not.

THE COURT: Well, I only have this one.

THE CLERK: We'll have to make either a copy of it or the county attorney can give him a copy?

MR. ALI: Do you have a copy?

THE COURT: So does he need to be identified on that?

THE CLERK: Yes. On the indictment, he does, Your Honor.

THE COURT: Well, okay, will you identify the defendant.

THE CLERK: Mr. Iheme, could you please state for the record your full name.

THE DEPENDANT: Michael Collins Iheme.

THE CLERK: Your full address, city and zip included.

THE DEFENDANT: What?

THE CLERK: Your date of birth.

THE DEFENDANT: 9-22-57.

THE CLERK: Thank you.

THE COURT: Okay. What's next on the agenda?

THE CLERK: The only other date that I have is August 26, is added to the --

MR. ALI: And I think that's the date.

THE CLERK: In front of Judge Wernick.

MR. ALI: That's correct.

THE COURT: That's for judicial assignment?

THE CLERK: It's set for 8:30, so --

MR. ALI: I believe so, your Honor.

THE COURT: Okay. The bail situation?

MR. ALI: I think that was maybe argued or maybe reserved beforehand.

MR. MATHEWS: It looks like bail was set at $1 million dollars previously on the first appearance on July 28, 2008. However, because the defendant is now being charged with premeditated first degree murder, the State would be asking that the bail be increased to $1.5 million based on the crime.

MR. ALI: No argument. Reserve bail.

THE COURT: $1 million, $500,000. Bail is reserved.

(WHEREUPON, the proceeding concluded at approximately 1:35 p.m.)

"APPENDIX H"

8/15/2008

STATE OF MINNESOTA
09 AUG 10 PM 1:39
HENN CO. DISTRICT COURT ADMINISTRATOR
DISTRICT COURT

COUNTY OF HENNEPIN
DEPUTY
FOURTH JUDICIAL DISTRICT

State of Minnesota,

Plaintiff,

COPY

and

Court File No. 27-CR-08-37043

Michael Collins Iheme,

TRANSCRIPT OF PROCEEDINGS

Defendant.

The above-entitled proceeding came before the Honorable Thorwald H. Anderson on the 15th day of August 2008, at approximately 1:30 p.m. in Courtroom 142 at the Public Safety Facility, City of Minneapolis, County of Hennepin, State of Minnesota.

APPEARANCES:

Imran Ali, Esquire, with and for the Defendant.

Dominick Mathews, Esquire, for the State of Minnesota.

EXHIBIT 2-A (9) PAGES

(WHEREUPON, the following proceeding was duly had:)

THE CLERK: Your Honor, calling line 13, Michael Iheme.

MR. ALI: Imran Ali on behalf of Maria Mitchell, who is the attorney of record.

MR. MATHEWS: Good afternoon, your honor. Dominick Mathews, Assistant Hennepin County Attorney, on behalf of the State.

MR. ALI: Your Honor, it is my understanding this date has -- this was a murder two, and it went out as an indictment. It is my understanding the date has already been changed. I emailed Ms. Hendrickson I believe yesterday regarding that date change, who I don't see here today. Madam Clerk, does it show a date change on MNCIS?

THE CLERK: For Mr. Iheme?

MR. ALI: Yes.

THE CLERK: I'll have to check. Just a second, please.

MR. ALI: Okay.

THE COURT: Well, I have an indictment here. Do you have a copy of the indictment?

MR. ALI: I do not.

THE COURT: Well, I only have this one.

THE CLERK: We'll have to make either a copy of it or the county attorney can give him a copy?

MR. ALI: Do you have a copy?

THE COURT: So does he need to be identified on that?

THE CLERK: Yes. On the indictment, he does, Your Honor.

THE COURT: Well, okay, will you identify the defendant.

THE CLERK: Mr. Iheme, could you please state for the record your full name.

THE DEFENDANT: Michael Collins Iheme.

THE CLERK: Your full address, city and zip included.

THE DEFENDANT: What?

THE CLERK: Your date of birth.

THE DEFENDANT: 9-22-57.

THE CLERK: Thank you.

THE COURT: Okay. What's next on the agenda?

THE CLERK: The only other date that I have is August 26 is added to the --

MR. ALI: And I think that's the date.

THE CLERK: In front of Judge Wernick.

MR. ALI: That's correct.

THE COURT: That's for judicial assignment?

THE CLERK: It's set for 8:30, so --

MR. ALI: I believe so, your Honor.

THE COURT: Okay. The bail situation?.

MR. ALI: I think that was maybe argued or maybe reserved beforehand.

MR. MATHEWS: It looks like bail was set at $1 million dollars previously on the first appearance on July 28, 2008. However, because the defendant is now being charged with premeditated first degree murder, the State would be asking that the bail be increased to $1.5 million based on the crime.

MR. ALI: No argument. Reserve bail.

THE COURT: $1 million, $500,000. Bail is reserved.

(WHEREUPON, the proceeding concluded at approximately 1:35 p.m.)

STATE OF MINNESOTA — DISTRICT COURT
COUNTY OF HENNEPIN — FOURTH JUDICIAL DISTRICT

STATE OF MINNESOTA,
PLAINTIFF,
Vs.
MICHAEL COLLINS IHEME,
DEFENDANT.

HEARING

MNCIS FILE NO. 27-CR-08-37043
APPELLATE FILE NO. A09-1225

The above-entitled matter came on for hearing before the HONORABLE MARK S. WERNICK, one of the judges of the District Court, at the Hennepin County Government Center, City of Minneapolis, County of Hennepin, State of Minnesota, on the 29th day of September, 2008.

APPEARANCES

DEBORAH RUSSELL, ESQ., appeared as counsel on behalf of the State.

NANCY LASKARIS, ESQ. & MARIA MITCHELL, ESQ., appeared as counsel on behalf of the defendant.

The Defendant personally appeared.

Michael Everson, Law Clerk.

Cara M. Nasi-Pinardi, Official Court Reporter.

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2 PAGES

Court will note by reviewing the report that Ms. Peuschold did not do any collateral testing. There were no determination of whether or not Mr. — it looks like she met with him one time, so there was no determination as to whether the symptoms that my client has are possibly varied. The only information that she looked at was from the medical clinic at the Public Safety Facility.

Although my client has not seen another psychiatrist in the United States, he did refer to some treatment that he received in Nigeria for his past problems with mental illness.

Furthermore, by only observing him one time, I think it would be difficult to diagnose anybody with any sort of disorder or diagnose him with a mental health condition. It usually takes an observation of more than one time.

The other thing is I noticed that he didn't speak to any — that the doctor didn't speak to any of Mr. Iheme's family members regarding what they have observed from Mr. Iheme.

I would also note that in his —

PROCEEDINGS

THE COURT: Ms. Russell, go ahead.

MS. RUSSELL: Thank you, Your Honor. This is the State of Minnesota v. Michael Collins Iheme. It's District Court File No. 27-CR-08-37043. I'm Deborah Russell, assistant county attorney, on behalf of the State. The defendant is present, and he is represented by Maria Mitchell and Nancy Laskaris.

We are before the Court this afternoon for a return on a Rule 20.01 and 20.02 evaluation. Those both were done by Dr. Dawn Peuschold, with court services. All parties received copies of the report. We have had an opportunity to discuss this in chambers. At this time, the State would submit both the issue of competency and of criminal responsibility on the report.

THE COURT: Ms. Mitchell.

MS. MITCHELL: Your Honor, we are prepared to proceed on the report, but we have a little bit of brief argument to accompany it.

THE COURT: Okay. Go right ahead, Ms. Mitchell.

MS. MITCHELL: Your Honor, if the within the report, there is a hand-written letter that was typed up from Mr. Iheme discussing his lack of faith in counsel which, again, we are on his side, so that would indicate that he would not have the ability to discern that and work with his representation if there is any kind of paranoia regarding his representation.

He spoke of Ms. Laskaris and I as being abusive, which is a random — which I have never been accused of in my eight years of practice. I think there are some issues here that were not explored, and I would urge the Court to find Mr. Iheme incompetent at this time to stand trial.

THE COURT: Well, Ms. Mitchell, the rule says that if you file a written objection within 10 days of my receipt of the report, then you get a hearing and the burden is on you to prove whatever it is you want to prove. If you don't file the objections, then I can determine competency based on the report. Are you going to be filing written objections to the report?

MS. MITCHELL: We are asking the Court to determine it based on what the report has put

forward. We are just pointing out the inadequacies within the report and for the Court to determine based on our agreement and in the report what occurred.

THE COURT: Okay. Ms. Russell.

MS. RUSSELL: Well, Your Honor, just briefly. Counsel for the defendant indicates that there was no collateral information obtained, but the defendant stated both to Dr. Peuschold and to the psychiatrist in the jail that he had never previously had a mental health assessment or treatment, so I'm not sure where any collateral information would be obtained.

I agree with the Court though. I'm hearing that despite Dr. Peuschold's clear conclusions that the defendant is both competent and was not so mentally ill as to not become criminally responsible for his actions. Counsel is seeking to have this Court somehow find the defendant incompetent, and I don't see that there's any basis in the report to do that.

THE COURT: All right. Well —

MS. MITCHELL: Your Honor, may we approach?

THE COURT: Yes.

MS. MITCHELL: I withdraw the request.

THE COURT: You withdraw —

MS. MITCHELL: — the request to approach.

THE COURT: Well, I'm going to — based on Ms. Mitchell's representations that she is not going to be filing written objections to the report, I am going to make my decision based on the report, and the report convinces me that Mr. Iheme — how do you pronounce your last name?

THE DEFENDANT: Iheme.

THE COURT: Iheme.

THE DEFENDANT: But I have a letter here for you.

THE COURT: I have that letter quoted in full in the report.

THE DEFENDANT: I know, but I have all the letters that she didn't have for you if you don't mind, Your Honor.

THE COURT: Okay. I'll take a look.

MS. MITCHELL: I would like to look at them first.

THE COURT: Show them to your lawyer, and then we'll get them marked as a court

exhibit.

MS. MITCHELL: Are these written by you?

THE DEFENDANT: These are my letters.

MS. MITCHELL: Oh. Okay. These are not from other people?

THE DEFENDANT: No.

THE COURT: Here is what we are going to do.

MS. MITCHELL: I will let you have these.

THE COURT: It's not going to be me. It's going to be everybody. What I want you to do is — I'll do this. I am going to make a finding right now of competency based on the report. The report makes out a very strong case, sir, that you are malingering. That means you're faking it. Stop. I'm not asking for your opinions on anything, sir. I'm just telling you what the report says, and it makes out a very strong case of that.

At the same time, if Ms. Mitchell decides to change her mind and ask — object to this report, then you have 10 days from today to do so, and I'll withdraw my finding and reserve it until after a hearing. For now, I'm making a finding of competency.

The trial date in this case is January 26, 2009. I'll be issuing an order within the next few days assigning this case out, and then the judge who this case is assigned to will thereafter make a scheduling order, and so Mr. Iheme may be brought back here before the trial date, but I just don't know those dates yet. Thank you.

MS. MITCHELL: Thank you, Your Honor.

(PROCEEDINGS WERE CONCLUDED.)

CERTIFICATE PAGE

STATE OF MINNESOTA)

COUNTY OF HENNEPIN)

I, Cara Nasi-Pinardi, Registered Professional Court Reporter, hereby certify that the foregoing pages are a true and correct transcript of my stenographic notes taken relative to the aforementioned matter on the 29th day of September, 2008, in the City of Minneapolis, County of Hennepin, State of Minnesota, before the Honorable MARK S. WERNICK, Judge of the District Court.

Signed this 13th day of August, 2009.

Cara M. Nasi-Pinardi

Cara M. Nasi-Pinardi, Court Reporter
Hennepin County Government Center
300 South 6th Street
Suite 1000
Minneapolis, MN 55487
612-596-9202

totality of the circumstances in this particular case, the post-warned statements given to Agent Reilly should be suppressed.

With that, I believe I have addressed the pre-trial issues and we are ready to have the jury up. Is there anything either counsel has before we do that?

MS. MITCHELL: Your Honor, I think we should put on the record the call that we got from the jail this morning.

THE COURT: Yes. I think we do. I think we should. Ms. Russell, is there anything else in addition from your perspective?

MS. RUSSELL: No, Your Honor. Thank you.

THE COURT: All right. Then the record should reflect that this morning I received a call from a deputy, or police officer, informing me that Mr. Iheme was scheduled for some surgery tomorrow, something that had not been brought to my attention previously. And after my inquiry apparently Defense counsel did not know either. And so counsel have now had an opportunity to speak with Mr. Iheme and I believe you want to make a record.

MS. LASKARIS: Thank you, Your Honor. I did have a chance to speak to Mr. Iheme. Apparently he

was unaware himself that the surgery had been scheduled for tomorrow. The symptoms that have caused him to go to the doctor have subsided to the extent that he feels the surgery can safely be postponed and would not — and the symptoms would not interfere with the trial or his ability to participate.

THE COURT: All right. Thank you. Mr. Iheme, I'm going to address you. Would you raise your right hand for a moment.

(Whereupon, Michael Collins Iheme was administered the oath.)

THE COURT: And counsel, you may put your hand down, if I ask anything inappropriate you may certainly object. Mr. Iheme, you have heard your attorneys say that they have spoken with you and that you feel comfortable proceeding with trial; is that correct?

THE DEFENDANT: That's correct.

THE COURT: And my understanding is that the surgery was in the nature of a prostrate issue; is that correct?

THE DEFENDANT: That's correct.

THE COURT: But that it is not emergency surgery; is that right?

JAN 26, 2009

THE DEFENDANT: That's correct.

THE COURT: And you're not uncomfortable such that you couldn't proceed?

THE DEFENDANT: That's correct.

THE COURT: Now, you understand that these proceedings will be lengthy, that is, they will take all day and they may continue all of this week and into all or a part of next week; do you understand?

THE DEFENDANT: That's correct.

THE COURT: And while we will break mid-morning and mid-afternoon and during the lunch hour, we may not break much in addition; do you understand that?

THE DEFENDANT: Yes. That's correct.

THE COURT: Are you comfortable with that?

THE DEFENDANT: Sure.

THE COURT: All right. Counsel is comfortable after speaking with Mr. Iheme in proceeding as well?

MS. LASKARIS: Yes, Your Honor.

THE COURT: All right. Anything further on that subject?

MS. LASKARIS: No.

MS. RUSSELL: Nothing from the State, Your Honor.

THE COURT: All right. Then we will advise the jury office that we are ready and we will have the jury up. We will have the jury congregate just outside the courtroom before bringing them in and we will be in recess until they are here. Thank you.

MS. RUSSELL: Thank you, Your Honor.

(Proceedings in recess.)

(Proceedings resume. Prospective jury panel not present in the courtroom.)

THE COURT: Let the record reflect that we have just had a discussion procedurally how to handle the questionnaire. And the questionnaire, the record should reflect, will be distributed to the jurors. The jurors will be instructed to complete them. And my clerk will remain in the courtroom with the jurors until that process is complete. I will then invite the parties, including Mr. Iheme and the deputies, to join me in chambers and we will all file out. Is that procedure acceptable to everyone?

MS. LASKARIS: Yes, it is, Your Honor.

MS. RUSSELL: Yes, Your Honor.

THE COURT: Very well. Thank you.

(Proceedings in recess.)

(Proceedings resume. Prosepctive jury panel not present in the courtroom.)

STATE OF MINNESOTA DISTRICT COURT

COUNTY OF HENNEPIN FOURTH JUDICIAL DISTRICT

State of Minnesota,
Plaintiff/Respondent, App. Court File A09-1225
Trial Court 27-CR-08-37043
vs. VOLUME 3
Michael Collins Theme, 1-27-09
Defendant/Appellant.

The above-entitled matter came before the Court, the Hon. Mel I. Dickstein, in District Courtroom No. C-1556 of the Hennepin County Government Center, Minneapolis, Minnesota, on January 27, 2009, and the following proceedings were had:

TRANSCRIPT OF PROCEEDINGS

145
Lines 1-10

146 Lines agree to do foundation Nearly finished

1 page

JAN. 26, 2009

APPEARANCES

Deborah Russell, Assistant Hennepin County Attorney, appeared for and on behalf of the State of Minnesota.

Maria Mitchell, Assistant Hennepin County Public Defender, and Nancy Laskaris, Assistant Hennepin County Public Defender, appeared for and on behalf of Michael Collins Theme, who was personally present.

Also present: Lynne Blom, court reporter.

(Whereupon, the following proceedings were had, and entered into the record, to wit:)

(Proceedings resume. Court and counsel present in the courtroom. Prospective jury panel members not present in the courtroom.)

THE COURT: The record should reflect that we are in session in the matter involving the State of Minnesota versus Michael Collins Theme. Court file 27 CR 0837043. Welcome. Mr. Theme is not yet present. All counsel are now present. Are there any matters preliminary that we need to address?

MS. RUSSELL: Well, Your Honor, I did drop off an offer of proof to the Court yesterday and have given a copy to counsel. There was some comments made yesterday by counsel indicating they intended to object to the foundation of the 911 calls and —

THE COURT: All right. Let me just stop you. I meant strictly administrative. Anything substantive we will take up with Mr. Theme here.

THE DEPUTY: Your Honor, the Defendant is it on his way up.

THE COURT: Very well. Then let's just wait and we will address that.

MS. LASKARIS: Your Honor, we you did ask us to make comments on things that would be helpful to

to your clerk.

THE COURT: Yes.

MS. LASKARIS: Is that appropriate now?

THE COURT: Certainly. We can go off —

MS. LASKARIS: Off the record.

(Off-the-record discussion between the Court and counsel.)

(On the record. The Court, counsel and Defendant present in the courtroom.)

THE COURT: All right. The record should reflect that we are back in session. Mr. Theme is now present. Ms. Russell, you wanted to address the offer of proof that you delivered it my office. I take that that Defense counsel have it as well?

MS. RUSSELL: Yes, Your Honor. We don't need to deal with that at this point, but it was brought to my attention yesterday that counsel intended to object to the foundation of these 911 calls and I thought that it might be prudent to have the court see the offer of proof ahead of time and be able to contemplate it prior to us actually being in trial. So I did draft the offer of proof and attach some case law just for the Court's purposes as well as counsel's. And I would prefer at some point if we can argue it and have the Court rule on it prior to

actually being in trial.

THE COURT: Ms. Laskaris?

MS. LASKARIS: That's fine.

THE COURT: By the way, I should ask the two you, which of you is the lead counsel?

MS. LASKARIS: Maria.

THE COURT: Then should I address myself in the first instance to Ms. Mitchell?

MS. LASKARIS: Yes.

THE COURT: All right. And then let me also say this, during trial, whoever gives the opening will give the opening. Whoever gives the closing will give the closing; that only one attorney will give the opening and only one attorney will give the closing.

MS. LASKARIS: That's our plan.

THE COURT: As regards cross examination, or direct and cross examination, as the case may be, only one attorney will do it for each witness, just so that — certainly the attorneys can confer with one another. But if someone does the direct then that same person will do any redirect. If somebody is doing the cross, that person will do the cross and recross or however many times we go back and forth. All right?

MS. MITCHELL: Okay.

MS. LASKARIS: That's our plan.

THE COURT: And Ms. Mitchell —

MS. MITCHELL: Yes, Your Honor.

THE COURT: Then Ms. Russell asks that I address this issue pretrial. Do you agree that that's appropriate?

MS. MITCHELL: I agree, Your Honor.

THE COURT: All right. Then let's plan to do that. Why don't we see how the day goes. Are you prepared to do it today or tomorrow?

MS. MITCHELL: I would think about doing it tomorrow then, because I'm not prepared to do it today.

THE COURT: All right. Then let's plan to do that. We will do it as the schedule permits. Right now let's proceed with the first juror.

MS. MITCHELL: Your Honor, actually Deb Russell and I were just talking about Ms. Larson, who is number 6 on the list. She has indicated that she has a family hardship and we were discussing stipulating for cause, that in that way she could go instead of having to wait for us to get to her as number 6.

THE COURT: Ms. Larson is the individual who

is the doctor; is that right?

MS. MITCHELL: Yes. That's correct, Your Honor.

THE COURT: Is that correct, Ms. Russell?

MS. RUSSELL: Yes, Your Honor. It appears that the recent events involving her mother is significant enough that I don't object to releasing her for cause.

THE COURT: All right. Why don't you have Ms. Larson out.

(Voir dire. Not requested.)

THE COURT: All right. We have one more juror. Do you want to take that juror after the break or do you want to do it now?

MS. LASKARIS: I would prefer to do it after the break since we have an hour and a half.

THE COURT: All right. We will resume at 1:30. We will let the juror know to return at 1:30.

MS. LASKARIS: Thank you, Your Honor.

THE COURT: Thank you. We are adjourned.

(Proceedings adjourned. Lunch recess.)

(Proceedings resume. The Court, counsel and Defendant present in the courtroom.)

THE COURT: The record should reflect that we are back in session in the matter of Michael

Theme. All counsel are present. We are ready to proceed. We will have the next juror in. That would be Mr. Wilson.

(Voir dire. Not requested.)

THE COURT: All right. We will be in recess until 3:15. We will resume at 3:15 promptly. And I believe we have three more potential jurors. Thank you.

MS. RUSSELL: Thank you, Your Honor.

(Proceedings in recess.)

(Proceedings resume. The Court, counsel and Defendant present in the courtroom.)

THE COURT: The record will reflect that we are back in session; that Mr. Theme is here, as are all counsel. We will now proceed with Mr. Todd Smith.

(Voir dire. Not requested.)

THE COURT: All right. What I have done is for tomorrow morning I have asked my law clerk to contact seven prospective jurors and eight for the afternoon. Seven because we are going to stop at 11:30. But otherwise I have asked for eight because it seems to me that's consistent with the tempo at which we are progressing here.

MS. LASKARIS: Okay.

MS. RUSSELL: Even though we only got

STATE OF MINNESOTA DISTRICT COURT

COUNTY OF HENNEPIN FOURTH JUDICIAL DISTRICT

State of Minnesota,

Plaintiff/Respondent, App. Court File A09-1225

Trial Court 27-CR-08-37043

vs. VOLUME 4

Michael Collins Theme, 1-28-09

Defendant/Appellant.

The above-entitled matter came before the Court, the Hon. Mel I. Dickstein, in District Courtroom No. C-1556 of the Hennepin County Government Center, Minneapolis, Minnesota, on January 28, 2009, and the following proceedings were had:

TRANSCRIPT OF PROCEEDINGS

157
1-22
(
1-28-09

JAN 28, 2009

APPEARANCES

Deborah Russell, Assistant Hennepin County Attorney, appeared for and on behalf of the State of Minnesota.

Maria Mitchell, Assistant Hennepin County Public Defender, and Nancy Laskaris, Assistant Hennepin County Public Defender, appeared for and on behalf of Michael Collins Theme, who was personally present.

Also present: Lynne Blom, court reporter.

(Whereupon, the following proceedings were had, and entered into the record, to wit:)

(Proceedings resume. The Court, counsel and Defendant present in the courtroom.)

THE COURT: Let the record reflect that we are back in session in the matter of the State versus Michael Collins Theme. All counsel are present, as is Mr. Theme. And we will now proceed with Mr. Parnier.

(Voir dire. Not requested.)

THE COURT: You're excused. We will take a 15-minute recess.

MS. LASKARIS: Thank you.

MS. MITCHELL: Thank you.

(Proceedings in recess.)

(Proceedings resume. The Court, counsel and Defendant present in the courtroom.)

THE COURT: All right the record should reflect we are back in session. All counsel is present, as is Mr. Theme. We will now proceed with the next prospective juror, Retcem Soliza.

(Voir dire. Not requested.)

THE COURT: We are adjourned until 1:30, unless counsel wanted to take anything up after Mr. Timm leaves.

JAN 28, 2009

MS. LASKARIS: No. I have nothing, Your Honor.

MS. RUSSELL: Nothing from the State.

MS. MITCHELL: Nothing.

THE COURT: All right. Thank you.

(Proceedings in recess.)

(Proceedings resume. The Court, counsel and Defendant present in the courtroom.)

THE COURT: Good afternoon everyone. The record should reflect we are back in session. Both counsel are present, as is Mr. Theme. We will now proceed with the next prospective juror, Michael Cullen.

(Voir dire. Not requested.)

THE COURT: We will be taking a 15-minute break now. We will resume at five minutes to 3.

MS. MITCHELL: Thank you.

MS. LASKARIS: Thank you.

(Proceedings in recess.)

(Proceedings resume. The Court, counsel and Defendant present in the courtroom.)

THE COURT: The record should reflect that we are back in session. All counsel are present, as is Mr. Theme. And we will begin again with Mark Anderson.

(Voir dire. Not requested.)

THE COURT: Before we proceed to the next prospective juror, I thought it might be appropriate to review with counsel the individuals who have been excused for cause.

MS. LASKARIS: Okay.

THE COURT: Juror 2, Mr. Kelly, was excused for cause. Both sides agreed. Juror 6, Ms. Larson, was excused for cause. Both sides agreed. Juror Smith, Todd Smith, was excused for cause. Both sides agree. Juror Soliza was excused for cause. Both sides agree. And Juror Canady was excused for cause. That was upon motion of the Defendant. Finally, Juror Anderson was excused for cause. That was agreed by both parties. Have I stated that correctly?

MS. LASKARIS: Yes.

MS. RUSSELL: Yes, Your Honor. And if I could just make a quick comment. I do have some concerns that I expressed off the record to the Court. We have come up now with several jurors that are clearly in their second week of jury service and I do think that there does come to be a significant financial burden to people who then are expected to serve an additional week. And I don't know how many of these people are second week jurors. We have had a few of them indicate on the questionnaire. I don't know if it was something they would offer up. From here on out I would ask the Court or Defense counsel would inquire right up front to see where we're at. These people would seem to think they would be at the end of their jury commitment and we will be asking them to be here potentially for another full week.

THE COURT: I note I appreciate your comment. I note that the questionnaire does inform the jurors that this may be a two-week long case and does ask them about the impact of that. And so we have their responses which should help at the outset. And then, of course, you're entitled to make any further inquiry that you may wish. As long as we are reviewing the status of the jurors, I should indicate that my notes reflect that we have 9 jurors selected and that the Defense has used five peremptory challenges and that the Prosecution has used four.

MS. LASKARIS: That's correct.

THE COURT: Very well. Then we will proceed next with Zachary Johnson.

(Voir dire. Not requested.)

THE COURT: That was our last juror, which is gratuitous, perhaps, because you wanted to discuss

the admissibility of the tape.

MS. MITCHELL: Oh, I forgot.

THE COURT: The 911. Well, let's have some discussion. Why don't we take a five minutes recess. If we need to continue this to another time we will.

MS. RUSSELL: Can we be off the record?

THE COURT: We can.

(Off-the-record discussion between the Court and counsel. Proceedings in recess.)

THE COURT: All right. We are back in session. All counsel and Mr. Theme are present. Did counsel wish to discuss the issue the admissibility of the 911 tape now or wait until a later time?

MS. MITCHELL: I would prefer if we wait until tomorrow.

THE COURT: Ms. Russell.

MS. RUSSELL: Your Honor, I have prepared something, so I am prepared to argue it whenever the Court finds it convenient.

THE COURT: Why don't we start now, and then if we need to continue we will. Go ahead, Ms. Russell.

MS. RUSSELL: Well, Your Honor, I guess I would defer to the Defense because it is my understanding that they are seeking to have the Court

find inadmissible the 911 calls. And there hasn't been a formal motion regarding that. It just sort of popped up in discussions that we have had preliminarily.

And I sort of took it upon myself, I guess, to provide an offer of proof as to why I think both 911 calls are admissible, why there is proper foundation and why the Court can admit that, rather than have us have a heated discussion at the time I am attempting to offer these items.

THE COURT: I appreciate that. It is good to address these matters pretrial so as to not to keep the Jury waiting unnecessarily. Why don't you tell me the basis on which you think the 911 tapes are admissible.

MS. MITCHELL: Your Honor, before she begins, I will just say that our objection is on foundation, just to narrow it down, so she can address that.

MS. RUSSELL: In my offer of proof I indicated that I intend to have two witnesses testify. There is one witness who was, in fact, one of the 911 callers who it is my expectation she will testify that it is her voice on the call.

Secondly, I have secured the 911 operator

with each person. If there is significant others they will talk to the significant others. It usually is about a 40-hour project for that particular person. And then they make a recommendation to the court.

Q Now, on behalf of Ms. Theme, what were you advocating for in terms of custody?

A She was seeking sole physical custody.

Q And do you know what her husband, Michael Theme, was seeking in terms of custody?

A It seemed at the time that he was willing to or he was wanting to agree to, or having her agree to, joint physical custody, something to the effect at one point I read where he was looking to have maybe like the children would be staying with him for a month or two months and then they would be a month or two months staying with her. Then they came down to an agreement of one week on and then one week off. The judge, when he accepted — the referee when he accepted that agreement at the initial case management, was leery that perhaps she was not entering into this whole heartedly and she seemed very hesitant of agreeing to this, and so he made it clear that it was just a temporary order.

Q And was that the situation while this custody

evaluation was being done?

A Yes.

Q Now, did that custody evaluation get done?

A No, it did not get completed. Initially what had happened was that the order came down, and when this happens the order comes down —

MS. MITCHELL: Objection, Your Honor.

THE COURT: What is the objection?

MS. MITCHELL: Relevancy. May we approach?

THE COURT: You may approach.

(Off-the-record discussion between the Court and counsel out of the hearing of the Jury.)

THE COURT: All right. The objection is overruled.

MS. ROSSELL: I'm sorry, could you read back the question.

(Whereupon, the Question on Page 340, Line 3, was read back by the court reporter.)

BY MS. ROSSELL:

Q Now, my understanding from your partial answer, Ms. Wormwood, is that the custody evaluation had not been completed. And I wanted to just ask you if you have a time frame that we are talking about?

A The initial order came down in April. And when the order comes down there is a notice that is sent to

the clients, or the parents, to contact the counselor. And through a miscommunication Ms. Theme did not contact the counselor at the appropriate amount of time and a letter was sent back to the court saying that the custody evaluation they didn't follow through and that it should just be stopped.

Q Let me stop you there. Did you intercede at this point?

A Yes, I did. I wrote a letter to the judge. Well, first of all I talked to my client and she told me that she had made several attempts —

MS. MITCHELL: Objection.

THE COURT: Sustained.

BY MS. ROSSELL:

Q Without going into what Ms. Theme said, what did you do?

A I sent a letter to the judge and I basically asked the judge to reopen and start the custody evaluation again through no error of either party.

Q And was that custody evaluation then reordered?

A Yes, it was.

Q And when was that?

A And that was in May. May 22nd it came out.

Q Now, did you have correspondence with Ms. Theme's husband?

A Yes, I did.

Q And did you receive letters from him?

A Yes, I did.

Q Approximately how often would you receive letters from Mr. Theme?

MS. MITCHELL: Objection. Relevancy.

THE COURT: Overruled.

THE WITNESS: I would receive them — toward the end it was sometimes it was almost like on an ever other day basis.

MS. ROSSELL: May I approach the witness, Your Honor?

THE COURT: You may.

BY MS. ROSSELL:

Q Ms. Wormwood, I'm going to show you what has been marked as Exhibit 97. And can you tell me if you recognize this document?

A Yes, I do.

Q And what is this document?

A This was a letter that was written by Mr. Theme to Referee Piper.

Q And how is it that you recognize this document?

A He sent me a copy of it. He copied me in.

Q And what is the date on that letter?

A The date on the letter is June 12th of 2008.

MS. ROSSELL: State offers Exhibit 97.

MS. MITCHELL: Objection. Do you want us to approach?

THE COURT: What is the objection?

MS. MITCHELL: The objection is relevancy.

THE COURT: May I see it.

MS. MITCHELL: Objection for the fact that she receives the letter, as well as authentication. I guess there is no objection to having received the letter.

THE COURT: Counsel approach.

(Off-the-record discussion between the Court and counsel out of the hearing of the Jury.)

THE COURT: All right, ladies and gentlemen, there is a matter that I need to take up with the lawyers and we need to excuse you to the jury room and we will have you back as soon as that is completed.

(Jury exits the courtroom.)

THE COURT: The record should reflect that the Jury has been excused. And I wanted to invite counsel to make their arguments. I have before me Exhibit 97. I understand that there will be some additional exhibits offered. May I see those?

MS. RUSSELL: Yes, Your Honor. Just for the

record, they have been marked Exhibits 98 through 102. I have showed them to counsel and I have put them in chronological order.

THE COURT: I have reviewed Exhibits 97, 99, 101, 100, 102 and 98 as they were presented to me in chronological order. I will now give you an opportunity, both sides, to make argument.

MS. MITCHELL: Your Honor, I am not sure which exhibit number was assigned to each letter, so I will start with the July —

THE COURT: Do you have copies, Ms. Russell, so that Ms. Mitchell —

MS. RUSSELL: Yes.

MS. MITCHELL: I have the letters. I just don't know the exhibit number that's assigned.

THE COURT: And I have asked Ms. Russell to provide that to you if she has it.

MS. RUSSELL: I don't have the copies with the exhibit number on them, Judge. I just have the — we can refer to them by date, though.

THE COURT: Let me tell you, Ms. Mitchell. The June 12th letter is 97. July 2 letter is 99. Slow me up if you wish.

MS. MITCHELL: Okay.

THE COURT: The July 11 letter is 101.

MS. MITCHELL: Okay.

THE COURT: The July 16 letter is 100.

MS. MITCHELL: Okay.

THE COURT: The July 19 letter is 102.

MS. MITCHELL: Okay.

THE COURT: And the June 25th letter is 98. That's the order in which they have been presented to me. It doesn't appear as though the June 25th letter is chronologically presented. They are otherwise.

MS. MITCHELL: I will start with 98 then. 98 I believe is — I think that it is quite — to admit 98 would be cumulative in light of the other letters that I have reviewed. It is a recitation of the entire Family Court — should I stand or you're okay?

THE COURT: Either way. You may sit.

MS. MITCHELL: It is a recitation of the entire history of the Family Court, as well as of the marriage according to Mr. Theme. There is a lot of things in here that aren't relevant regarding the immigration process, the opinion of the court system, as well as who did or who didn't contact the Family Court evaluator. Whereas in 99, it covers pretty much what is in 98 and it is a much shorter version of what is going on. So I would not object to 99 in

terms of being cumulative. And 100 also in a much shorter form addresses that he is requesting the DNA test.

And then I would say that 97 is basically the same as 98 in terms of it's talking about the child support, it is talking about — I can understand the State's request to show motive, but at the same time to put — there could be testimony about the volume of letters if they would like. Oh, Ms. Wormwood is in here right now. I didn't realize that. I don't know if that's a problem or not.

THE COURT: Do you want her to be excused? It is up to you. Do you want her to be excused for this argument?

MS. MITCHELL: Okay, no. That's fine.

THE COURT: All right.

MS. MITCHELL: I think that the witness can testify about the volume of letters and the phone calls that she may have received from Mr. Theme. But I think that the crux the — what the State is trying to achieve could be achieved in 99, 100 and maybe 102. But we do not need 97 and 99, which are four-page documents in length talking about the history of the marriage and the history of the Family Court proceedings, including child support and

objecting to the evaluation again, starting again, and the DNA test.

Q Now, at some point did you have a phone conversation with somebody that you believed to be Michael Iheme?

A That's correct. I believe that — I don't — I honestly do not know whether he called me or I called him. I believe I called him.

Q And you had a phone number in order to reach him?

A Yes.

Q And what was the reason that you were calling Mr. Iheme?

A The reason for the conversation is it was a number of things going on at the time, one of which was the custody evaluation and his objection to that. The other was his insistence upon having DNA testing. And so the discussion centered around those two issues.

Q Do you recall when it was that you had that telephone conversation with Mr. Iheme?

A The — by my notes it was somewhere between July the 2nd and July the 9th.

Q And what was the nature of that conversation?

A The nature of the conversation was basically Mr. Iheme telling me what it is that he wanted to have done and it was pretty much a one-sided conversation.

Q And what was his demeanor like?

A Extremely confrontational.

Q What do you mean by that?

A There was no — I could not basically get a word in edgewise. We kept coming back to the topics he wanted to talk about, and if I tried to stray from that he would come back. He was yelling. He was just very, very confrontational on the phone.

Q How did that make you feel?

MS. MITCHELL: Objection. Relevance.

THE COURT: Sustained.

BY MS. RUSSELL:

Q How did the phone call end?

A I hung up on him.

Q Now, had a DNA test been set up?

A No.

Q Was Mr. Iheme requesting that one be set up?

A Yes.

Q And do you recall the date that was expected for this DNA testing to occur?

A He had — on July 19th he had sent a letter to the court and to me wanting to have a phone conference in order to have the court order DNA testing.

Q And did you respond to that?

A And I responded to that telling him that, number one,

the date was he had arbitrarily set up the phone conference with myself and Referee Piper was not going to work for me. I didn't know about the Referee. And that if he was going to request DNA testing that it was not going to be through a phone conference, that he would have to do it through proper legal methods.

Q And I'm sorry, what was the date that Mr. Iheme had requested for this DNA — or I'm sorry, for the phone conference?

A He had asked for the phone conference on July the 23rd.

Q And as far as you know, did that phone conference occur on July 23rd?

A No, it did not.

MS. RUSSELL: Thank you. I don't have any additional questions.

CROSS EXAMINATION

BY MS. MITCHELL:

Q Ms. Wormwood, how many conversations did you have with Mr. Iheme?

A One, to my recollection.

Q The rest of your communication was through correspondence by letter?

A Yes.

Q And you have been a Family Court lawyer or a family law lawyer for how long?

A 25 years.

Q 25 years. And during that time people do become upset during Family Court proceedings; is that correct?

A Of course.

Q And Mr. Iheme called you that day because he was upset for what he, whether it was true or not, but what he perceived to be Ms. Iheme blowing off the custody evaluator; is that correct?

A Yes. That was one of the issues.

Q And in your 25 years as a Family Court lawyer, is it normal that at some point during a proceeding that one or the other parent or mostly the fathers would ask that it comes up that a father would ask for a DNA test when there is infidelity at issue?

A I have had that happen before, yes.

Q And have you received angry phone calls from clients before, I mean from opposing pro se litigants before?

A Yes, I have.

Q And is it fair to say that family law is very emotional?

A Yes.

Q And have you ever been in a situation where you have

received multiple letters from a pro se litigant before?
A Not to this extent that I remember, no.
Q But you have received multiple letters but maybe not as many as Mr. Theme wrote; is that correct?
A Yes.
Q And normally the pro se litigants they aren't correct on the law, is that fair to say?
A Yes.
Q And they may ask for things that they may not be entitled to, is that fair to say?
A Yes.
Q And at any time did — was it related to Mr. Theme that the DNA test would be denied or was it just the conference that was being denied?
A No. In my letter I told him that he would have to, and I believe I might have mentioned that on the phone, that there were certain methods; that when a child was born during the marriage there is a presumption that the child is of the marriage so there are certain procedures that you have to go through in order to have DNA testing if the other party didn't agree, which she didn't. And I relayed that I believe on the phone as well as in a letter to him, too.

Q But you did not flat out say that he would not get a DNA test; is that right?
A No. I told him he just had to go through the proper legal methods.

MS. MITCHELL: Okay. No further questions, Your Honor.

THE COURT: Anything further?

MS. ROSSELL: No, Your Honor. Thank you.

THE COURT: You're excused.

THE WITNESS: Thank you, Your Honor.

MS. ROSSELL: The State's next witness is Colleen Osborn.

THE COURT: Before you're seated if you would raise your right hand.

(Whereupon, Colleen Osborn was administered the oath.)

THE COURT: Thank you. Please be seated. And state your name for the record and spell your last name as well, please.

THE WITNESS: Colleen Osborn. O-S-B-O-R-N.

THE COURT: Please proceed.

MS. ROSSELL: Thank you, Your Honor.

COLLEEN OSBORN,

having been administered the oath, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. ROSSELL:
Q Ms. Osborn, where do you work?
A Kindercare Learning Center.
Q Where is it located?
A Brooklyn Park.
Q And how long have you worked there?
A 23 years.
Q What do you do there?
A I'm a pre-school teacher.
Q And let me ask you this, have you ever through your work come in contact with a man by the name of Michael Theme?
A Yes.
Q Do you see that person in the courtroom today?
A Yes.
Q Can you tell me where he is sitting and what he is wearing?
A He is sitting in front of me wearing a gray shirt.

MS. ROSSELL: Your Honor, if the record could reflect that the witness has identified the Defendant.

THE COURT: It may.

BY MS. ROSSELL:
Q Now, Ms. Osborn, how long did you know the Defendant?

A About two, two-and-a-half months.
Q And what was the context that you knew him?
A I took care of his children.
Q How many children were there?
A Two.
Q And if you could briefly describe the procedure for people dropping off their children to your facility?
A Well, they walk into the building and they bring the children to their classrooms. Like Colleen gets dropped off first and then Michael got dropped off.
Q And how old was Colleen last year?
A Two.
Q And how old was the other, Michael?
A Three.
Q And who would drop the children off?
A Their dad.
Q And would you interact with him when he dropped the children off?
A Yes. We would, you know, say good morning, ask how things were.
Q Now, was this an every day occurrence or how often would you say the Defendant was dropping off the children?
A Every time the children came.
Q Did they come every day or do you remember?

A For divorce and for custody of my kids and stuff.
Q Okay. Now, at some point did you agree on a temporary custody arrangement?
A Yes.
Q And that's what you talked about before when you went to her work at the Sholom Home parking lot?
A That's correct.
Q What month was that?
A November.
Q November?
A Yes. The month we met for 50/50.
Q Okay. That's when you agreed, but — all right. Was it November or February?
A February is when we exchanged — she forgot the children's bag, yes.
Q Okay. That was during — all right. So early on you approached her and talked about 50/50. What is 50/50?
A That is — we all have time with the kids.
Q And how did it work?
A It worked very good.
Q No. I mean, what does 50/50 mean?
A 50/50, that she would take the children for one week and then the next week they were — I take the children.

Q Okay. So one week with the children, one week without the children?
A Yes.
Q And that worked well?
A Yes.
Q Okay. Now, during the time between December 2006 and June of 2007, did you have any contact with Anthonia regarding holidays?
A 2000 what?
Q Christmas of 2006 and June of 2007.
A The way I have contact with her?
Q I mean 2007.
A 2007, yes.
Q December 2007 and June of 2008, excuse me.
A Yes. One thing I wanted to do was to make the children feel comfortable. She approached me that she wants, it was my Thanksgiving time, and then she says she wants the children if I don't mind.
Q Okay. So you let her have the children?
A Yes.
Q What day was what?
A Huh?
Q What day was that?
A I think it was on the 22nd or 21st of November.
Q What was the reason? What was the holiday?

A Thanksgiving holiday.
Q And what day?
A Thanksgiving.
Q Okay. And how about later on in the spring of 2008?
A The spring of 2008?
Q That's okay.
A No. I think what happened is this: She took — she took — she begged me to have the children for Thanksgiving. It was my time. I don't know whether she has planned somewhere to go. So I said okay, you take the children, but I will take — you are going to exchange it with your Christmas.
Q Okay.
A Then I let her take the children.
Q Okay.
A Then when Christmas came, she forgot that she had made arrangements. She had give that for the Thanksgiving. So I was with the kids for Christmas. Police called on the phone, said where is the kids. I said they are here. He said when are you return? I said no, that's my time.
Q Okay. Did you work that out?
A Yes. She instead of — because she doesn't have a good mind, she went and told the police that I was kidnapping the kids.

Q She had forgotten about that?
A Yes. Then after the police talked to me they said forget about it.
Q All right. And what happened around Mother's Day and her birthday?
A Christmas —
Q What happened around Mother's Day and her birthday?
A I called. I have the children. And we sing happy birthday for her and happy Mother's Day for her, 2008, too, but —
Q So you encouraged the children to keep in contact with their mother?
A Yes. For the record, we also did sing. Even though I had the children for Christmas, we sing Merry Christmas for her.
Q On the telephone?
A On the telephone, yes.
Q Now, there was testimony that the court ordered a custody study. How did you feel about the custody study?
A The custody study was good. I think they were trying.
Q They were what?
A They were trying, because she was trying so hard to take the children away from me, but they applied for

ENE.

Q Which is what?

A Early —

Q That's the custody study?

A — Neutral Evaluation custody.

Q Okay.

A And when they apply for that it shouldn't have been but I said I will go along with it.

Q So it didn't bother you to do the study?

A No, it didn't bother me.

Q How did you feel it might come out?

A How did I feel it might come out?

Q Yes.

A I know it come out in my favor pretty good.

Q You believed it would come out in your favor?

A Yes.

Q Okay. So —

MS. LASKARIS: Your Honor, may I approach again?

THE COURT: You may.

BY MS. LASKARIS:

Q Mr. Iheme, I'm showing you what has been received into evidence as Exhibit number 98. Do you recognize this?

A Yes. My letter.

Q Okay. And do you remember the testimony of Ms. Wormwood?

A Yes.

Q And she was Anthonia's attorney, her Family Court attorney, correct?

A Yes.

Q Now, why did you write — you heard her testify that Anthonia got an extension on the study?

A She —

Q Got an extension because she didn't have her papers in on time or she didn't return a phone call regarding this custody study; is that correct?

A That's a different situation. Yes. It was not about — she said I was mad. No. I wasn't mad about that.

Q Okay. She said you were mad because of the study; is that correct?

A Yes.

Q What were you mad about?

A I was mad — I think she was playing a double standard.

Q Who was playing a double standard?

A Her attorney.

Q Her attorney?

A Yes.

Q Okay. So were you mad about the study or were you mad about the fact that Anthonia got an extension?

A No. I am mad Anthonia got an extension. I needed a reason for it.

Q You didn't know why she got an extension?

A Yes.

Q Did you think it was fair?

A No. I didn't think it was fair.

Q And is that why you wrote this letter?

A Yes. That is why I wrote the letter.

Q And who is the letter to?

A To Referee Piper.

Q And he was the Referee in your proceedings?

A That's correct.

Q Okay. Thank you.

A And —

Q No. You have to wait until I have a question.

A Okay. I wanted to add something to it.

Q You have to wait. Let me ask a question.

A Okay.

Q Now, you just testified that you were angry about the extension, you didn't know why she had got an extension?

A Yes.

Q And you didn't have a problem with the study

generally?

A That's correct.

Q Is that true?

A Yes.

Q Is there something else you were mad about?

A She wasn't treating me like — she was treating me, because I am not a lawyer, you know, and she will write you. I said come on, if you don't do this, we will do this.

Q So Ms. Wormwood you felt wasn't treating you well?

A No.

Q Okay.

A Even the Referee also weren't treating me well.

Q You felt you weren't being treated well in the Family Court system?

A That's correct.

Q Okay.

A But I was lucky that the Family Court Services are really very open minded people so they focus on the issue towards that, because when we went to ENE they needed all the information. They got all the information and they maintain the 50/50, because they didn't want the 50/50 anymore, they wanted Anthonia to get the kids. Instead of that, instead of every other week, they say no that I have — the children

verdict.

Do counsel wish to bring to my attention any error in reading the instructions?

MS. RUSSELL: Nothing from the State, Your Honor.

MS. LASKARIS: Yes, Your Honor. May we approach?

THE COURT: You may.

(Off-the-record discussion between the Court and counsel outside the hearing of the Jury.

THE COURT: All right. Ladies and gentlemen, counsel brought to my attention an error in jury instruction number 11. I am now going to read it to you correctly. The elements of murder in the first degree are first, the death of Anthonia Iheme must be proven. Second, the Defendant caused the death of Anthonia Iheme. Third, the Defendant acted with premeditation and with the intent to kill Anthonia Iheme.

Premeditation means that the Defendant considered, planned, prepared for or determined to commit the act before the Defendant committed it. Premeditation being a process of the mind is wholly subjective and hence not always susceptible to prove by direct evidence. It may be inferred from all the

circumstances surrounding the event.

It is not necessary that premeditation exist for any specific length of time. A premeditated decision to kill may be reached in a short period of time. However, an unconsidered or rash impulse, even though it includes an intent to kill, is not premeditated. To find the Defendant had an intent to kill you must find that the Defendant acted with the purpose of causing death or believed that the act would have that result. Intent being a process of the mind it is not always susceptible to proof by direct evidence but may be inferred from all the circumstances surrounding the event.

Fourth, the Defendant did not act in the of passion provoked by such words or acts as would provoke a person of ordinary self-control in like circumstances. Even if the Defendant acted with premeditation and with intent to kill Anthonia Iheme, if the Defendant acted in the heat of passion, Defendant is not guilty of murder in the first degree. However, such heat of passion is not a complete defense for the killing of another person. The heat of passion may cloud the Defendant's reason and weaken willpower and this is a circumstance the law considers in fixing the degree of guilt. If the

heat of passion is provoked by words or acts that would provoke a person of ordinary self control in the same circumstance, an intentional killing is reduced to manslaughter in the first degree.

Fifth, the Defendant's act took place on July 24, 2008, in Hennepin County.

If you find that each of these elements has been proven beyond a reasonable doubt, the Defendant is guilty of murder in the first degree.

If you have a reasonable doubt that there was premeditation, but you find that each of the other elements has been proven beyond a reasonable doubt, the Defendant is guilty of murder in the second degree. The crime of murder in the second degree differs from murder in the first degree only in that the killing was done with intent to kill a person but not with premeditation.

Whether or not you find premeditation, if you find that each of the other elements has been proven beyond a reasonable doubt except that you find it has not been proven that the Defendant did not act in the heat of passion, the Defendant is guilty of manslaughter in the first degree. If you find that any other element has not been proven beyond a reasonable doubt, the Defendant is not guilty of

murder in the first or second degree or of murder in the first degree. Have I read that correctly, counsel?

MS. LASKARIS: Yes.

MS. RUSSELL: Yes, Your Honor.

THE COURT: All right. Thank you. Well, ladies and gentlemen, I have now completed my instructions to you. I will say this to you before I release you and before I identify for you who are the alternates. From time to time, jurors make a request for transcripts. I should indicate to you that that is not a process easily -- a request easily complied with. The process is, as you see, that we have a court reporter who takes down every word that has been said. That is taken down in stenographic form. In order for a transcript to be prepared the court reporter would have to find the testimony amidst the many feet of stenographic paper, would have to read it, would have to type it up, proof it and put it in a form. That is a lengthy process. I don't say that to discourage you. I say that so that you understand what would potentially be involved.

Second, from time to time jurors have questions. If you have a question then the question should be put into written form, given to the

bailiff, the bailiff will give it to the Court. The process is unlike that which you may see in the movies or television. The Court doesn't just answer your question. What is necessary is that all of the participants reconvene from wherever they may be and that always takes time. Counsel will go back to their offices and about their other business and will be called when they are needed. So they will be summoned and we will all reconvene, you will come back in here, the question will be read to you and to the extent appropriate a response given.

At this time I have to identify who the alternates are. This is a bittersweet moment because for some, to be sure, it's a relief that you don't have to render a verdict. On the other hand, most people having attended to the trial and listened as carefully as I know you all have want to see the process through. But we do have two alternates that were selected just in case somebody became ill or otherwise unavailable and those are Dominique Brown and Nicole Hanson. And so Ms. Brown and Ms. Hanson, remain seated, and the others of you are now excused to return to the jury room to commence your deliberations. We will shortly send in a copy of the Instructions and the Exhibits. Thank you.

MS. RUSSELL: Your Honor, the deputy needs to be sworn.

THE COURT: I'm sorry. The deputy will approach the clerk and will be sworn.

(Deputy administered the oath.)

THE COURT: Thank you. All right. You, except for Ms. Brown and Ms. Hanson, you're now excused to follow the Deputy.

(Jury exits the courtroom.)

THE COURT: Well, Ms. Brown and Ms. Hanson, I want to thank you. You have done yeoman's duty. You have sat here throughout this trial and taken time out of your lives to be here to be a part of this process. And it was an important function that you served. If any juror had become ill or had a family emergency or otherwise become incapacitated then one or both of you may have returned to deliberate with the other jurors, and so you are an essential part of this process. We know about the imposition that it has on your lives, that you have come here each day and you have been attentive and it takes time and effort and we appreciate it and I want to express that appreciation for the court and for all of the participants. So thank you. At this time I am going to excuse you to return to the jury office

for any instructions that they may have for you. Thank you again. You should leave your pads on the chair. Thank you. And you're excused. The Deputy will retrieve your things if they are in the deliberation room.

(Alternate jurors exit the courtroom.)

THE COURT: All right. Counsel will be available in the event of a question or other matter and I trust you will get my law clerk your contact numbers, your cell phone numbers.

MS. LASKARIS: Your Honor, I have just one question. In a case like this it is clear there will be a guilty verdict of some sort. What is your procedure on sentencing? Will he be sentenced right away or will there be a sentencing date?

THE COURT: I think that is something that we should discuss and we will do that immediately following.

MS. LASKARIS: Thank you.

THE COURT: Anything else?

MS. RUSSELL: Nothing for the record.

THE COURT: Then we are adjourned.

(Proceedings adjourned.)

STATE OF MINNESOTA)
)
COUNTY OF HENNEPIN)

I, Lynne Blom, do hereby certify that the above and foregoing transcript consisting of the preceding 63 pages is a full, true and complete transcript of the proceedings to the best of my ability.

Dated: October 12, 2009

Lynne Blom
Official Court Reporter
C-1200 Government Center
300 South Sixth Street
Minneapolis, MN 55487
(612)348-5622

EXHIBIT 5-A (2) PAGES

DX11 D/T

MEMORIAL BLOOD CENTERS OF MINNESOTA
Your independent community blood center

Jed B. Gorlin, MD — Medical Director
Elizabeth H. Perry, MD — Associate Medical Director
Medicare # 24L0008045
CLIA # 24D0663800

Mr. Michael Iheme
Personal & Confidential
3433 N. 53rd Avenue, #101
Brooklyn Center, Minnesota 55429

18-Dec-2000

Case No. 106286
Tina Chinwe Iheme
Vs.
Michael Iheme
Agency Case No.

Dear Mr. Iheme:

The **Final Report** (page 2) contains the results of the genetic marker testing obtained in our laboratory on specimens from the individuals listed. Shown are the most probable phenotypes (observed genetic characteristics) for the individuals tested. A gene system index (odds ratio) has been calculated for each genetic system tested. This index compares the chance that Michael Iheme contributed the paternal gene to Justin Uzoma Iheme with the frequency of this gene in random men in the Black population.

Based on testing the genetic systems shown on the **Final Report**, it can be established that Michael Iheme is not one of the biological parents of the child in question. This conclusion is based on the fact that the results of testing in the D2S44, D7S467, D12S11, and D17S79 genetic systems do not follow the expected rules of inheritance. Thus, the protocol shows a zero (0) for the probability that the alleged father contributed to the genetic pool of the child, Justin Uzoma Iheme.

In this case, in the D12S11 system, the child has inherited 9.15, which is absent in both the presumed mother and the alleged father. Since this genetic marker (9.15) must have been inherited from one of the parents, failure to find it in either is proof of non-paternity for the alleged father, Michael Iheme.

The findings in the D2S44, D7S467, and D17S79 genetic systems further corroborate the exclusion of Michael Iheme as the father of the child, Justin Uzoma Iheme.

Subscribed and sworn to before me this 21st day of Dec 2000
Elaine M. Bieringer
Notary Public in and for the State of Minnesota

ELAINE M. BIERINGER
NOTARY PUBLIC - MINNESOTA
MY COMMISSION EXPIRES JAN. 31, 2005

Sincerely,

Elizabeth H Perry MD

H. F. Polesky, M.D.
Elizabeth H. Perry, M.D.
Jed B. Gorlin, M.D.

Anthonia READ this DNA Report before ever we talk about marriage. She promised she will NEVER DO LIKE HER IN WRITING. I WARNED HER THAT I WILL NOT GO THROUGH THIS HEART BREAK AND EMOTIONAL BREAK DOWN AGAIN. I ANTHONIA AGREED ANY TIME I ASK FOR D.N.A SHE WILL BE OBLIGE AND SUBMIT TO TEST.

2304 Park Avenue Minneapolis, MN 55404-3789
Phone: (612) 871-3300 Fax: (612) 871-1359 www.mbcm.org
Hematopoietic Progenitor Cell - Ext. 2217 Parentage - Ext. 2239
Transfusion Support Services - Ext. 2228 Viral Serology - Ext. 2201

21

Final Report

Memorial Blood Centers of Minnesota
2304 Park Avenue
Minneapolis, MN 55404-3789

Case Number: 106286 12/15/2000

Mother:	Tina Chinwe Iheme	12/4/2000	Black
Child:	Justin Uzoma Iheme	12/4/2000	
Alleged Father:	Michael Iheme	10/30/2000	Black

Reporting Rep: Mr. Michael Iheme, Personal & Confidential, 763-537-1156

Gene System	Mother		Child		Alleged Father		Gene System Index
DNA Fragment Length Polymorphisms							
Locus: D12S11 R.E.: Pst I	9.46	20.11	9.15	9.46	9.46	14.93	0.0000
Locus: D17S79 R.E.: Pst I	4.14		3.36	4.14	3.57	4.00	0.0000
Locus: D7S467 R.E.: Pst I	3.88	6.93	5.76	6.93	5.66	7.59	0.0000
Locus: D2S44 R.E.: Pst I	7.75	10.54	7.60	7.75	8.79	11.08	0.0000

Paternity Index: 0.0

Likelihood of Paternity: 0.000%

Gene Frequency Set: Black

Computed Using: 1998 Dataset

Reviewed by: _____

* NR = No results..

days I was in a good mood." Mr. Iheme denied any history of suicidal ideation, suicide attempt, or self-injurious behavior.

Mr. Iheme also appeared to be feigning or exaggerating psychotic symptomatology. He indicated that his wife was in his "home" with us during the interview and asked if I was able to see her. Mr. Iheme stated, "I hear voices. I don't know if other people hear voices." He stated that he first experienced auditory hallucinations "when I told [man's name], 'Back off. This is someone's wife.'" Mr. Iheme stated that the voices were both male and female and spoke to him in English and Nigerian. I asked if the voices ever made the sounds of animals and he replied, "Yeah. Some have sounded like animals." Mr. Iheme said that the voices sometimes sounded like "elephants and lions." I asked if they ever hissed at him like a cat. Mr. Iheme stated, "Yeah. Sometimes. And sometimes like a whistle." He added that the voices gave him "a bad instruction that I am not allowed to say here. I suppressed it." Mr. Iheme indicated that the instruction came from an older male voice that was "mad." He said that he received instructions "many times" but was always able to resist them. When asked if he ever followed the instruction, Mr. Iheme replied, "sometimes it's something spontaneous." I asked again if he ever followed the instruction. Mr. Iheme stated that he wanted to "skip" the question but then said, "Suppose someone said your husband fathered a child outside of your marriage and you wanted a DNA test and your husband said, 'I won't take a DNA test. I fathered the child.'" I told Mr. Iheme that he seemed to be talking about the events that led to the alleged offense. I stated, "Putting that aside, was there any other time that you received instruction from a voice and followed it." Mr. Iheme said that there was not. He then volunteered, "There was something that was said that was very unexpected and you go and react to it." I asked if he was talking about "something that was said by a real person" or "something that was said by a voice in your head." Mr. Iheme replied, "By a person." I asked, "Are you saying that a real person said something so stunning that it caused you to go out and act?" Mr. Iheme stated, "Yes."

When asked if he ever had unusual, delusional, paranoid, or irrational thoughts, Mr. Iheme stated that he did. He was unable to provide any examples and said, "I don't know" when asked to describe the actions he took secondary to those thoughts.

HANDWRITTEN LETTER FROM MR. IHEME:

The following is a transcription of the handwritten letter that Mr. Iheme asked me to read and include in my report.

> Dear Evaluator and Honorable Judge;
> I think you are good person and came here today in good intention and to do an honest work for me, the Court and the general public in which you are paid.
> It is important that we do nothing today or stop doing anything until the fulfillment of the Constitutional Promise of Equal Access to court, justice and competent, honest and effective Representation. My impoverish status has denied and restricted me to availabilities of competent and Equal

representation promised by the Constitution. Since I have been in jail I have seen three Public Defenders. The first was Marie Mitchell and another Public Defender visited me for about ten to twenty minutes at most. They were hostile, unfriendly, detached, cold, abusive, unprofessional and never asked deeper and or pertinent questions. As they were about to leave Marie Mitchell tried to scare me Psychologically and said "I do not know where to Start in this case." Since then she and her friend have not talked to me again. The second meeting and third Public Defender was Imra Ali on August 15, 2008. Mr. Ali never told me what the issue of hearing was, never asked about my case and issues of the case, ignorant of everything about me and the case but said you are charged only. Mr. Ali never asked me what I think about the day hearing, never inquire if there is information I could provide to him that may help the day hearing, and Mr. Ali never told me what he was going to do or say on the issue and why, and finally, Mr. Ali, Ms. Mitchell and the third defender never told me what was decided or outcome. I learned about increase instead of decrease of my bail on 8/26/08 when I was talking to a lawyer who went to internet and found out. The increase was as a result of the hearing of August 15, 2008. I did not hear very well what the prosecutor was saying because we were inside a box outside the stage but I heard the Judge say to him do you have anything to say about that to Mr. Ali and he said NO your Honor. It is really very shameful that we criticize the world all the time about Human Right and repressive system and injustice while we have the most Inhumane, Shameful, Repressive and Covert injustice system that is condemned by God and human and world wide. I do not have any information about my case and what is going on. My Defenders do not reply my letters or visit or return my calls or since I am in jail visit me to know what is going on with me and how I am treated. Then there is no representation. The Defenders are looking for easy way out or covert means to hand me over to prosecutors as their behavior represented so. When I was pushed into the court on 8/26/08 before the Judge and someone appeared at my left hand, as defender and Judge said they will do mental evaluation on me and I was whisked out of the Court. I forgot to tell the Judge that I do not have a lawyer or defender that can work on my behalf to secure my Liberty as promised by the constitution. As a result my friends have asked me to give you this letter for your record and to give the Judge why you did not do your job. I need a counsel to advise me on issues and I do not have one. I need a counsel to represent me fairly. My very freedoms are infringed upon because of my poverty. Equal fair and impartialities in my case have been tarnished in my basic rights. I strongly feel and believe that "Adequate Representation" in my case can not be met through an Assistant Public Defender. The charge is serious and needs serious Defender not Pretender. This is not Car Parking Meter space charge. It is a serious charge that calls for serious actions. Therefore before any further Legal activities are taken I Beg and Request that a counsel be appointed to me to advise and handle my case other than Present Assistant Public Defender

See transcript August 15, 2008 Ti to Tf

very clear

as allowed in the Statue §611.27, sub 8, 9, 10, and 11. Anyone who believes in fairness, justice and constitution and our basic Rights knows that the charge against me is serious and have big implications and as such I need honest, competent and effective Representation. I have been advised to keep this letter with me at all times since I forget a lot these days and sometimes confused due to my condition. I have formerly asked the Public Defenders to step down. I am looking forward to having my evaluation process with you. We Americans have the BEST Legal System in the world and nobody comes close but only if we let it florish the way the Constitution intended without covert hand manipulating it. It is not only satisfying the process but a meaningful, competent, honest and adequate representation and process with covert intention.

Very clear for impartial Judge for Inquiry

NOTE

Sincerely,
Michael C. Iheme

The notes in the margin of the letter stated, "She has never responded to any of my letters not even acknowledgment or any hope she will talk to me soon. There are so many things I would like to discuss with my Public Defender but could not. There are also some information I would like my Defender to secure now before it is too late but I can see or hear from her."

NOTE

ABILITIES RELATED TO COMPETENCE TO PROCEED:

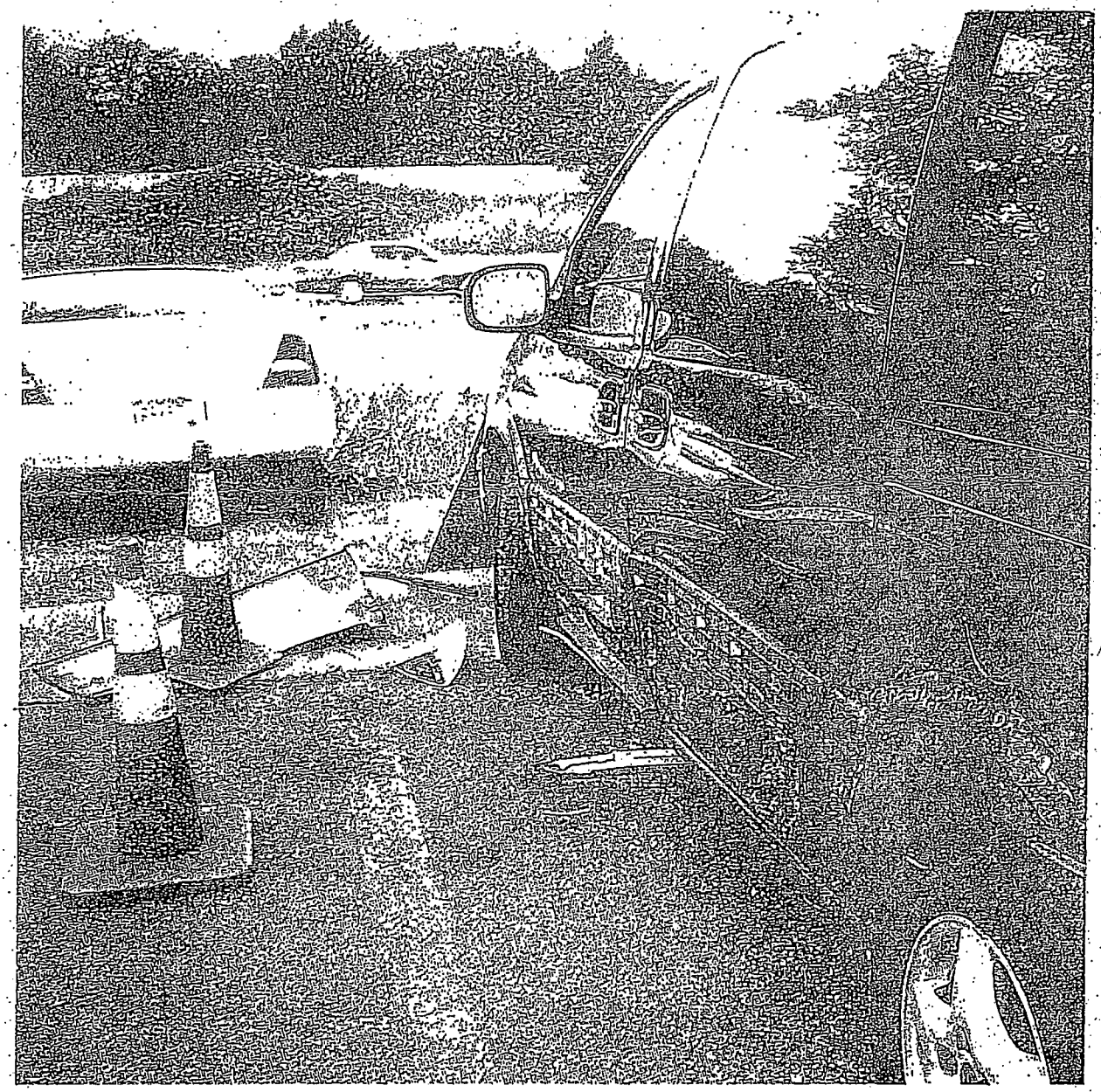
Mr. Iheme stated that he did not know the charge against him. When asked, "What did your lawyer say you were charged with," Mr. Iheme replied, "She said I was charged. That's it." I told him that he was charged with murder and asked him to tell me what he was charged with. Mr. Iheme said that he did not know. I stated that he was charged with stealing something, setting a fire, or killing someone and asked him to tell me which charge he had. Mr. Iheme would not guess. I repeated the options and asked him to pick one of the three. He stated that he had all three charges and added, "They have said all these things." I asked Mr. Iheme to tell me what he allegedly stole and he replied, "I don't know." I asked him to describe what he allegedly set on fire and he stated, "I don't remember. These things come and go." I showed Mr. Iheme the Complaint and stated, "You are charged with murder because they are saying that you killed your wife in July." He asked, "Is this July?" For the next several minutes, I attempted to teach Mr. Iheme the name of his charge. I repeatedly stated, "You are charged with murder" and then immediately asked him to name his charge. Mr. Iheme was reportedly unable to do so and instead made statements like, "When was that," "They never told me that," "I don't know what I'm charged with," and "What is the name of my charge?" He eventually asked with a confused expression, "You said I'm charged with murrrrderrrr?" Given that Mr. Iheme was reportedly unable to describe the act that would be associated with a murder charge, I again told him that he was accused of "killing your wife." When asked if the charge of murder was serious, Mr. Iheme replied, "murrrrderrrr?" I asked again, "How serious is your charge?" Mr. Iheme said, "The charge of murder? Is that what you said?" I asked, "Is the charge serious?" and he replied, "I don't know." I stated, "Is it a major or a minor charge?" Mr. Iheme said, "I

EXHIBIT 1-A (5) PAGES

SCANNED

08004429

8 of 31



Exh 1A

SCANNED

08004429

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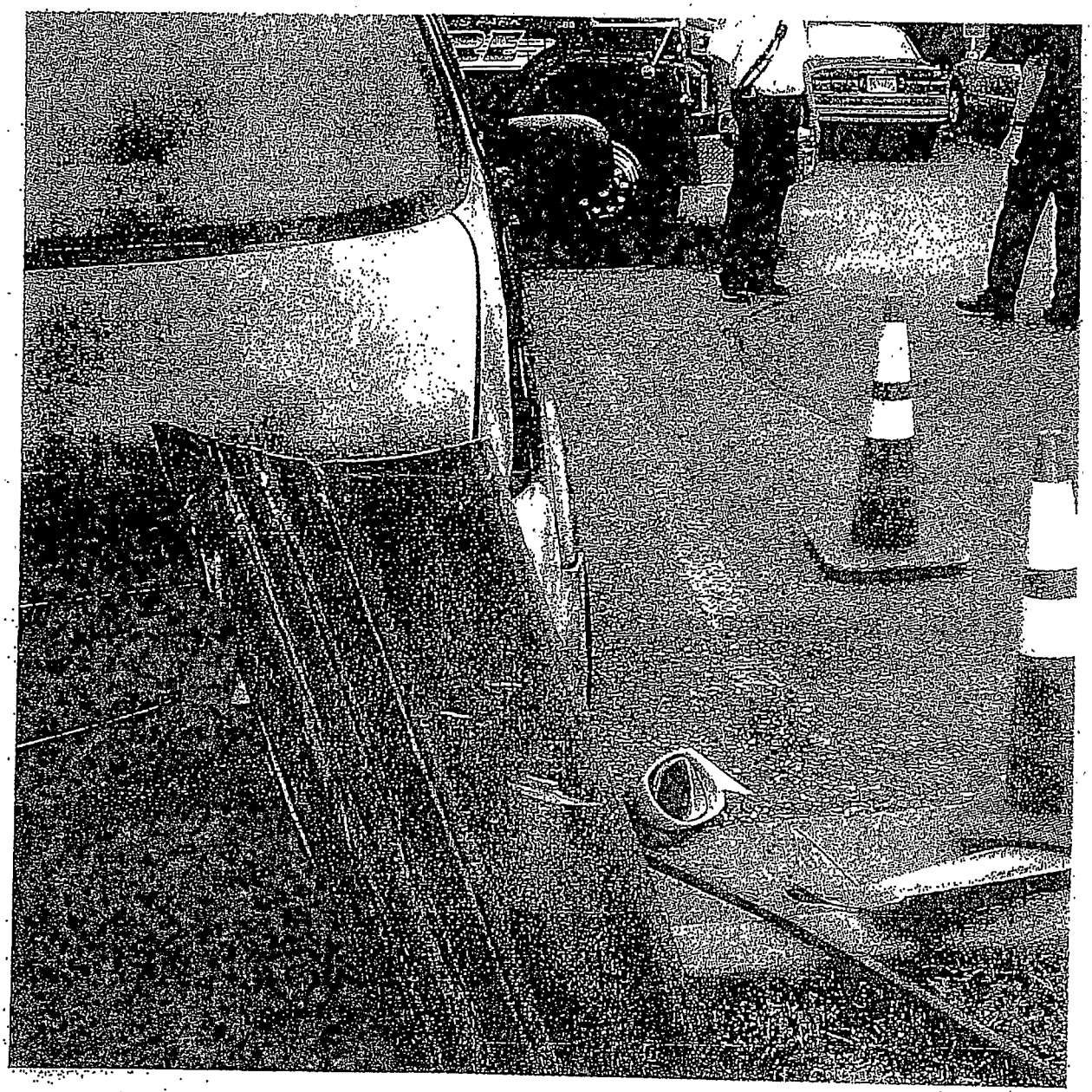
Exh 1A

SCANNED

08004429

11 of 31



Exh 14

SCANNED

08004429

16 of 31

EX 8A

From: tonia iheme
To: ihemecollins@earthlink.net
Date: 2/9/2004 11:49:33 AM
Subject: this is an emotional truama

4 9 04

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baby
i think this is the most painful letter u have ever sent me .i want u to know that i really love u and that i have never loved like this b4.since we got married i ve trusted u like my own self .i have never dobted ur faithfulness even 4 one day .even till tomorrow .this letter has really given me a big pshcological warfare .that my own husband ,my one and only ,my true love no longer trust me .
i dont know how to bare my heart to u ,if i do u will know that i really love u more than wprds can say .i talk to u on line stteady ,i communicate with u on internet everyday ,what kinb of heart do i have that after all this ,being so close to u i will then allow another man to talk to me romantically not to talk of touching me .this is out right impossible .
if u want me to vow 4 u abt my faithfulness with the most precoius things in my life . MY LIFE ,MY WOMB ,MY MARRAGE ,MY PARENTS I WILL DO THAT .cos im sure of what im saying .
ur number always reflects no number in my set that is why i didnt know it was u when i saw a no there.
honey i know what u mean to me when i feel u so much i run to call u on the phone just to hear ur voice makes me feel complete .I CANT EVEN DATE ANOTHER MAN COS I CANT DO IT .I LOVE U SO MUCH.

Michael Iheme <ihemecollins@earthlink.net> wrote:

> HALLOWEEN DAY IS WHEN PEOPLE DRESS LIKE DEVILS AND DO CRAZY THINGS. THEY CALL IT TREAT OR TRICK. CHILDREN GO ABOUT ASKING FOR CANDIES. DURING THIS TIME THEY SHOW SCARY MOVIES ON THE TELEVISIONS. OBIDIYA, SOMETIMES I WONDER IF YOU TELL ME THE TRUTH ABOUT YOURSELF AS YOU BAFFLE ME WITH THE BOOKS YOU READ THAT EXCITE SEXUAL NEEDS YET YOU TALK ABOUT BIBLE AND PRAYER. ALSO YOUR OBSESSION WITH BLUE FILMS MAKES ME EVEN MORE DOUBTFUL ABOUT YOU UNDERSTANDING THAT YOUR HUSBAND IS NOT AROUND AND YOU ARE CONSUMED BY THESE SEXUAL THINGS. I ASK YOU AGAIN ARE YOU BEING FAITHFULLY SEXUAL TO YOUR HUSBAND? I DO HOPE YOU UNDERSTAND WHOM I AM SO ANY GOSSIP ABOUT YOUR CONDUCT WILL NOT GO WELL WITH YOU AND ME. I WARN AGAIN IF YOU DO NOT WANT TO FALL DO NOT GO TO SLIPPERY GROUNDS. I AM HOPEFUL THAT YOUR PARENTS WILL GET THEIR MEDICINE BY ENDING NEXT WEEK OR LATER BECAUSE THE GUY IS IN NIGERIA BUT HE WILL SEND PEOPLE. I DID NOT GO TO WORK TODAY BECAUSE MY COMPANY HAS FILED FOR BANKRUPTCY PROTECTION AND THINGS ARE NOT LOOKING WELL IF THEY CLOSE. IT WAS ON THE HEADLINE OF EVERY MAJOR NEWS PAPER AND I WAS SHOCKED AND DEPRESSED.

> —— Original Message ——
> **From:** tonia iheme
> **To:** ihemecollins@earthlink.net
> **Sent:** 2/4/2004 10:04:01 AM
> **Subject:** i feel like drowning my self into u
>
> honey how are u today ,how was the weather last night i feel 4 u ooo.i missed u so much and i wanted to hear ur voice that was why i called u .honey i want u to help me answer some questions.
> 1i was reading a novel today and it says that people that are sex starved eat enormous portion of chocolate

EX 8A

From: tonia iheme,
To: ihemecollins@earthlink.net
Date: 3/25/2004 10:28:32 AM
Subject: Re: To my natural husband

Michael Iheme <ihemecollins@earthlink.net> wrote:

> I have answered all your questions now it is your turn to answer my questions. You must answer questions 1 to 7 and I want answers right away and honestly as if you are before God The Almighty: 1) WILL YOU SEEK AND MAINTAIN PEACE IN OUR MARRIAGE? 2) WILL YOU GO BACK TO NIGERIA ANY TIME I, YOUR HUSBAND MICHAEL COLLINS IHEME SAY I AM TIRED OF THE UNITED STATES OF AMERICA AND WILL LIKE MY WIFE TO GO HOME WITH? 3) WILL YOU LISTEN TO MY INSTRUCTIONS AND CARRY THEM OUT AND LOYAL TO ME? 3) WILL YOU LOVE ME NOW AND FOREVER REGARDLESS OF WHAT? 4) WILL YOU FOREVER BE SEXUALLY FAITHFUL TO ME. 5) HOW DID THE UMUAHIA MAN GET YOUR EMAIL ADDRESS AND WHY? 6) WHEN WAS THE LAST TIME YOU SAW HIM? 7) WHEN WAS THE LAST TIME HE WROTE YOU OR EMAIL YOU? From your husband Mike Collins Iheme love you.
>
> Michael Iheme
> ihemecollins@earthlink.net
> Why Wait? Move to EarthLink.
>
> i love u the more when u talk like this .it means u value our marriage justy the way i do .b4 i start i want to ask u 4 a favour ,when we start living if 4 any reason u start to notice some deviations in my behavoiur pls dont hesitatye to call me bacjk to other and if i do not change slap me back to my senses .i love u so much and i promise to let peace and love reign in our fam,ily cos it leads to good health.on ur ques 2,you are my husband and im meant to be by ur side whenevrr so any day u decide 4 us to go any where it is it is not a question of choice i have to oblige.i will continue to love u nomatter what happens .
>
> honey i promise to remaion faithful to u all my life .i pray everyday that whatever is going to lead to our seperation not to come even if it is wealth .i have been faithful all these while im alone i dont know why i shoul start that now that i will be with u.abt the umuahia man ,all my friends still uses ebitonia2000,which u said i shld change cos it bears my maiden name.so that is the ad,he has .and that was the one he used to write.i told himto stop writting me in May which he did ,but he wrote me a letter last 2 weeks asking me to give himadvice on how to start another relationship i can give u my password on that so that u can see the letter.i lost communications with him delibretly cos he may be my slippery floor .i love u honey and i hope i didnt miss any question.

MR. MICHAEL IHEME'S WANTS, CONCERNS, WORRIES AND HESITANCE IN WRITING AND THE RESPONDENT PROMISES, PLEDGES, AND VOWS IN WRITING BEFORE THE MARRIAGE AND BEFORE I COULD BE A GUARANTOR TO HER VISA TO USA AS MY WIFE AND MOTHER OF MY CHILDREN. SHE WAS THE ONE WHO WANTED THE MARRIAGE MORE BY ALL MEANS.

From: tonia iheme
To: ihemecollins@earthlink.net
Date: 3/16/2004 4:33:15 AM
Subject: Re: To my Queen

EX 8A

---

my husband and i are one and as such we have nothing to hide from each other .about our age differewnces we did talk about it ,personally he asked me about that many times before he came to pay my bride price .OURS IS WHAT IS KNOWN AS THE POWER OF LOVE .true love doesnt have reservations .he told me his age and i agreed to marry him becos i love him and not because i want to take undue advavtage of him .i had many suitors some young and some old and some both in london and america.but i rejected their proposals because i didnt find what i was looking for .but when he came along i accepted him because i found 99percent of what i want in a man in him.that when he gets old i will still be young is a better arrengement because i will be strong enough to train our kids to our taste .for him to marry an older person is wronge cos the two will gety old at the same time leaving the children at risk .i want to make this clear thet i married my love because he is the love of my life and no other person can make me love this way .if people think it is a sacrifice let it be a sacrifice for love cos i will do more than that for him .i can even die for him .i love him and i will always stand by him even at gunpoint .and im missing him very much .its been long we were together last.

Michael Iheme <ihemecollins@earthlink.net> wrote:

> Obidiya: I received a letter from the USA Embassy yesterday and they where asking me if you and I talked about the age difference before marriage? and what your feelings are about it?and if you accepted it with out reservations?. That I will get much older before you get old do you care about that?. That am I sure if I get older that you will leave me? That am I sure you are committed to this marriage?. That are you looking for ways to get visa to the USA. They want me to have you send me Email to your answers and that I must fax the answers to them by Friday the 19th of March 2004 before they interview for visa and that they will like to see your Email address on the fax I send to them. Please do not delay on this issue so that they get it before you get there. As you know, when I fax it they will get it the same day. Please give them an honest and truthful answer by sending it it to me this week so that I fax it them so that they will believe that you and I have talked about it before marriage. I will be looking for your Email by monday or Tuesday
>
> Michael Iheme
> ihemecollins@earthlink.net
> Why Wait? Move to EarthLink.

From: tonia iheme
To: IHEMECOLLINS@EARTHLINK.NET
Date: 1/10/2004 5:34:05 AM
Subject: sweetie pie

EX 8A

i will call u some time next week cos im on duty today.hon ,i want us to know that im doing this 4 our own good .i dont want a broken home or hearth .i have not been there b4 so i dont want to visit there.but i want to say though i admire ur telling me the truth abt ur escapades with girls in the past it do hurt me .and i want u to stop it .again i think u werent so careful when u came back here .cos u dont make love here nomatter how close u people are without condom here unless u partner .

from, ur letter it was as if dee sys wife forced me on u ,but though she gave me the impression it was the other way round .may be they were trying to lift my spirit .

abt my sis she has always been engaged with uncle ROY since her O.N.D .he asked her to wait 4 him cos he was traing his siblings then cos his father died early .that is why she rejected all suitors ranging from abroad to nigerians .at a time people started saying that she is possessed .

abt me i have phobia 4 nagging cos im always afaid it may result to something bad .abt ur qestion 1im one girl that has always prophesied against ALABAMACITY SAGA .THAT IS WHAT I CALL GUYS THAT COMES TO NIGERIA TO MARRY NURSES.when i was in amaigbo ,i nursed some old women and men who wanted me to be their daughter in law . though there sons are young ,some old i didnt want to think abt it cos i already hold the impression that they use them as a money machine there. that is aiso why my friends now accuse now ,1 even said i made her not to marry a guy there that came 4 her hand ,i know it is not trueu cos i didnt personalise it .so the qes .of my marrying u cos u are there does not arise instead i shld hate u 4 that .

2i wanted a love that will last long and i saw u as a guy that is very romantic that can make my marriage colourful.

3i want u to know that it is not every woman that dates around .when i was dating im always faithful no doubts even 4 a day .so i dont see why i shld start it now at this my OLD AGE .love is not all abt good times it has to do with patience ,and tolerance .,i admire women that takes care of their husband when sick i always tease them abt giving hinm LOVE OVERDOSE .WHICH WILL MAKE HIM TO RECOVER QUICKLY.so i dont see why i shld abandon u when the road is rough.

4our marriage is 4 eternity nothing can brigde it but some factors can make a marriage BITTER.,LIES,TWO TIMING ,COMPARISM ,INTOLERANCE .I KNOW UR AGE I GOT IT FROM URdriving licence the day we went to amaigbo .if i dont love u that and the fact that u have been married is enough to change my mind .but i know we are meant 4 each other .that where ever u may go . what ever u may do u will still come back to me . I LOVE U SO MUCH AND IM VERY JEALOUSE AND POSSESIVE .BE WARNED I DONT SHARE MY MAN.

From: Ibe Suleman
To: ihemecollins@earthlink.net
Date: 2/27/2004 8:52:46 PM
Subject: Thanks For Your Care

EX 8A

My Dear Son,

I have the pleasure of dropping this few lines to you.I know you are healthy as my Good God will always be your guide.Amen.

I thank God inimensely for the type of sons In-law he gave me.You all are caring men.The behaviors of three of you gives me joy.I thank you for the medicine you sent out to me.I am happy even though i have not got it,It shows how you care.

I am happy over how you changed your mind and looks forward to bringing your wife near you,that is very nice.You have to train her to your taste, you will study her and she will study you.My greatest concern is you building up your own family.I want you to build a nice,happy home that people will imitate.Please be prayerful and forget about the third party in your marriage,your wife will listen and obey you.

In the first letter of the st.Paul to the Corinthians 12:31-13:13.At the end you will see where he said that there are three things that last (1)Faith (2)Hope(3)love.And the greatest of these is Love because Love takes no pleasure in other people sins but delights in the truth.Remember people will fight you both physical and spiritual but God is there to deliver you.When you come close to our family you will taste and confirm that you have entered Gods own family.It is no boast,you will say it yourself.

Your wife and my husband are still at Lagos,Let us pray hard for their success i know you do hear from her.We cover that 2nd march with blood of Jesus Amen.

Thanks and God bless.

Yours Mother In-Law
Ibe Alice Ucheoma (Mrs)

STATE OF MINNESOTA
IN THE SUPREME COURT
MICHAEL COLLINS IHEME

THE THRESHOLD OF INCOMPETENT TRIBUNAL AND KANGAROO COURT CASE # A23-1610

On record and protested, whenever appellant requested to meet the law librarian Ms. Valerie Salazar- State Librarian, the DOC and the library must have someone listening inside the room at the back of petitioner and someone by the side of Ms. Salazar on the other side in a virtual contact directing her what to say. Also, it takes at least one month, unlike other inmates, for my requested package to arrive which must be opened by the DOC. In all cases some forms and literatures were removed or absent. A good evidence was the certificate of length of petition which was sent to appellant later by the Clerk of Appellate Courts which was not in the appellant requested package for application for petition sent by the library and DOC. That is another defrauding perpetrated against this appellant in order for the state to prevail against him by dilatory tendency. This form should have been in the application package as usual. Appellant filed on record with Court of Appeals to Chief Judge Susan L Segal, that the DOC was impeding appellant access to justice system by broadly denying him access to make legal documents copies. Appellant had to search old documents to remove some copies of transcripts to send his petition in order to avoid dilatory or untimely petition. In September 2023, the district court purposefully sent their order of denial to some address in Minneapolis even though the state knew petitioner is in prison. Also, the state was meddling with date of filing order. First, August 15, 2023, crossed out, second, September 5, 2023, third mailing the order October 9, 2023 and received October 13, 2023 on record. This is just a few of plethora of meddling and frauds in order to win a case without due process and rule of law.

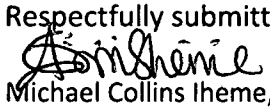
"APPENDIX I"

The prima facie of this case is the state is lamed and has no case here due to its aberrant legal conducts and frauds resulting to illegitimacy and or invalidity of conviction and sentencing and upward departure sentencing plus the defendant denied all charges and guiltfree of conviction and 367 months illegal sentencing that defied all rule of law and due process and holdings of the court. State has no case here and the arbiters of that are on the record established in exhibits 7As and T3-T7 September 29, 2008 and more. State conviction and sentencing were absolutely illegitimate and wholly void with incompetent tribunal, and fraudulent. State is looking for minor mistake from the petitioner and compliant court in order to get away from its glaring disregard and contempt of rule of law and due process. The arbiters are follows: 1. On Sept. 17, 2008, petitioner refused to meet with Dr. Dawn Peuschold, the Hennepin County Psychiatrist. Appellant plainly told Dr. Peuschold he will like to meet with her on a later date as he was very disoriented and perplexed, confused and could not sit down for interview with her and also, that he needed to get some names, addresses and phone numbers of people who knew his conditions and suicidal due to the DNA result of his son Justin fathered by another man. Dr. Peushold could not take no for an answer because defendant a black man she has no respect for. Defendant was dragged into the room locked up and Dr. Peuschold blocked the door with chairs to block uncooperative client making him to stay and listen to what he objected to do in violation of his 5th Amend right that crippled rule 20 and the trial because of fraudulent rule 20, Ex. 7As. In a fraud all decision is incompetent.

2. On Sept. 22, 2008 Ex. 7As, again, defendant protested in a motion sent to the Judge to remove his abusive, incompetent and reluctant defenders to no avail. The Judge has no respect for any black man and could not accord defendant his constitutional inalienable rights to hear

his motion. On Sept. 29, 2008, defendant, again T6, handed to the Judge another motion face to face about the removal of his abusive, incompetent and reluctant champion defenders stating clearly and plainly in many different ways in the motion that he had no faith in the defenders T4, and that he had informed the defenders in at least five different ways to step aside and not defend him to no avail. None of these motions was disposed of to date. What more could this defendant do to be accorded his constitutional inalienable rights? The motions are still in the court but defendant convicted and sentenced to 367 months upward departure where the PSI also fraudulent and was withheld from defendant so he could not contest it and without iota substantial and compelling reason. Does state still have a case with fraud and structural errors of federal inalienable rights? I hope the U.S. Supreme Court could not eschew its responsibility here to constitutional issues. State of Minnesota Judicial system from the lowest level to highest level have grossly exhibited a decay of all moral, credibility, integrity and civility and above all shamelessness to unlawful detainee bordering hostage situation. Appellant strongly hopes that this court will bring Minnesota to its senses. We are all responsible for our actions under the rule of law and due process and the Minnesota DOC and the court are also responsible for their actions to answer for them. This is our democratic code in America. I refused any plea deal, demanded full trial with rule of law and due process. That shows my belief and fidelity to rule of law, due process and the constitution of the United States. What I got from the state were despotism and monarchism equal to privilege, entitlement, controlling, suppression and no accountability. The above is just a tip of the iceberg of the illegal and incompetent tribunal that culminated to state loss of jurisdiction of defendant and subject matter, an intentional outlawry.

Respectfully submitted, March 8, 2024



Michael Collins Iheme, OID # 229098
1101 linden Lane
Faribault, MN 55021

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STATE OF MINNESOTA
IN THE APPELLATE COURTS
PETITION FOR A REVIEW OF DISTRICT COURT DENIAL.
APPELLATE COURT NUMBER__A 23-1610
FOURTH JUDICIAL DISTRICT CASE NUMBER, HENNEPIN COUNTY- 27-CR-08-37043

TYPE OF CASE: FELONY
STATE CLAIMED DATE OF ORDER September 5, 2023
DATE OF MAILING POSTAL MARK October 9, 2023.
DATE RECEIVED ON RECORD October 13, 2023.

MICHAEL COLLINS IHEME
PETITIONER.

V.

STATE OF MINNESOTA
RESPONDENT.

STATEMENT OF THE CASE

DEFENDANT WHO WAS CHARGED OF MURDER SINCE 2008 AND CONVICTED OF 2ND DEGREE FELONIOUS MURDER AND SENTENCED TO UPWARD DEPARTURE SENTENCING OF 1ST DEGREE CONVICTION EVEN THOUGH HE HAS NO RECORD OF ANYTHING AT ALL AND THE SENTENCING PSI DOCUMENTS AND CONTENTS WITHHELD FROM HIM DURING SENTENCING PHASE AND HEARING FEBRUARY TO APRIL 9 2009, DENIED ALL THE CHARGES AND ALSO STANDS ON GUILT-FREE UNDER THE CONSTITUTION AND CLAIMED HE WAS STRIPPED ALL INALIENABLE RIGHTS AND HIS APPEALS SUPPRESSED AND EVIDENTIARY HEARING IMPEDED UNDER THE COVER OF INANE PROCEDURAL DEFAULT THAT VIOLATED FEFERAL LAWS FLAGRANTLY. HE MADE HIS INTENTIONS KNOWN IN MANY WAYS AND FORMS TO NO AVAIL TO THE DEFENDERS AND THE JUDGE T4 INCLUDING TWO MOTIONS EX. 7As AND T6 September 29, 2008, UNDISPOSED OF TO DATE LIKE IN FERATTA V. CALIDORNIA WHERE DEFENDANT PROTESTED AGAINST DEFENDERS BUT UNLIKE IN STATE EX. REL. MAY V. SWENSON WHERE DEFENDANT DID NOT PROTEST AGAINST DEFENDERS, STILL, DEFENDANT WAS MALICIOUSLY DENIED RELIEF IN HABEAS CORPUS. ABOVE ALL, FOR THE STATE TO COVER UP THEIR ILLEGAL IMPRISONMENT, IT MALICIOUSLY IMPEDED EVIDENTIARY HEARING LONG OVERDUE. ALSO, DEFENDANT, WHOSE JUDGE AND DEFENDERS INDULGED IN IRREGULARITIES T126- T128 JANUARY 26, 2009, THAT CONSTITUTED AN ABSOLUTE ILLEGAL AND INCOMPETENT TRIBUNAL LIKE IN SLACUM V. SIMMS & WISE WHERE DECISION OR CONVICTION AND SENTENCING WERE RENDERED WHOLLY VOID WAS ALSO DENIED HABEAS RELIEF. INVARIABLY, DEFENDANT HERE NOW, SUPPLICATES TO APPELLATE COURT FOR HABEAS RELIEF TO END THIS HOSTAGE SITUATION OR ILLEGAL IMPRISONMENT AND COVER UPS.

FACTS AND ARGUMENTS

The defendant 's right to an impartial Judge and finders of fact, represent himself or competent attorney representation <u>under the due process clause of the United states constitution</u> was

"APPENDIX E"

compromised by the conducts of district court Judge Mel Dickstein, Judge Mark Wernick, and the defenders, who, sitting as advocates betrayed their client to indulge in irregularities and deprivations of petitioner's unalienable rights, suppressions and deceptions and in cahoots with head nurse Mandy to deprive defendant due process, rule of law and medical treatments to risk his life, as they conducted illegal and incompetent tribunal to procure illegal conviction, sentencing and upward departure sentencing.

It is well founded that the state has never denied any of these serious allegations of judicial aberrant conducts, hence, the illegitimacy of its conviction, sentencing, and upward departure sentencing procured by this means should be wholly void. The illegitimacy is well established in petitioner's petition to the district court and therefore petitioner requests a review as it is in the memorandum and hereto.

The state has only encrusted itself on the **INANE PROCEDURAL DEFAULT and Minn. Stat. §590.04 subd.** 1, to cover up its improprieties that lamed the Judges, defenders and appellate counsel as explicitly stated here and in petitioner's memorandum to the district court, **see Slacum V. Simms & Wise, 9 U.S. 363; Bongo V. State, 701 N.W. 2d 639 (Minn. 2009); Arizona V. Fulminante, 499 U.S. 279 and State V. Dorsey, 701 N.W. 2d 238, 252-253 (Minn. 2005),** wholly void decision, conviction and sentencing.

ANSWERING STATE'S ARGUMENTS AND POSITION

Even if petitioner takes the state on its finding of fact memorandum on pages three and four the state woefully failed on its **Minn.§ Stat. 590.01 that Establishes Standard for**

Postconviction Relief. That is defendant pointed to facts on the record for aberrant conducts in the trial and sentencing to trigger evidentiary hearing the state is impeding for cover ups.

Petitioner met all requirements for relief as established by law and justice in which he enumerated the aberrant conducts of the judges, defenders and appellate counsel both on and off record that culminate to absolute illegal and incompetent tribunal. State should make rational refutation of these issues on the record in the evidentiary hearing long overdue if they are not abusing discretions. Defendant's state and federal inalienable rights were flagrantly deprived and appeals suppressed with inane procedural default and the rule of law and due process disregarded conspicuously. It justifies defendant's steadfastness for petition as the state indulged in cover ups and suppression.

Again, the state's claims in Statutory Time- Barred and Knaffla Rule is Absolutely Inane.

This is because, invariably, the historic office of procedural rule is a vindication of respect to the rule of law and due process which is absent here. Hence, the inanity of state's claims of time-barred and procedural default-Knaffla Rule is absolute. If the state's procedural default and or Knaffla rule is not enrooted in fidelity to rule of law, due process and constitution of the United States for its conviction and sentencing then state must be dubbed a criminal and racketeering enterprise masquerading as judicial system.

The illegal activities of the Judges and the defenders on January 26, 2009 T126 to T128 on record and other irregularities as established in petitioner's memorandum petition to district

court to annihilate defendant medical treatments and subjected him to lynch law trial to send him to prison for long time and to save medical cost to the county was very aberrant and indeed lamed the Judge and defenders to be legitimate in this case. Hence, conviction and sentencing should be wholly void without any rational refutation state can make. State can come to evidentiary hearing to prove otherwise than impede and suppress for cover ups. The state acts as if the appellate court is pliant to them. Petitioner hopes otherwise for justice. The Eighth Circuit Court of appeal has ruled against the state activities of January 26, 2009 case number 13-2393 that there is sufficient evidence, that the case should go on trial as petitioned. But state and DOC in suppressing the case with every instrument they have had indulged in reprisal, tortures, threats, confiscation of mails, documents, phone contacts, visit right and denials of habeas relief to petitioner in his criminal case acting like monarchs and despots than uphold the law and come to court for evidentiary hearing or throw the case out of court and be man enough to show meaculpa and redress of their actions. This case should not have come to this point if the court were acting legitimately.

LEGAL QUESTIONS AND ISSUES

1. Petitioner requests Appellate Court to decide whether or not this case was wholly void to be thrown out of court or remand at least as it exhibited illegal and incompetent tribunal: (a) when Judge Mark Wernick stripped the defendant, on September 29, 2008 all his unalienable rights flagrantly and stated defendant was competent to stand trial but his participation and or opinions were not needed in "ANYTHING" T7 and shouted him down. If the defendant has no opinion in "ANYTHING" then he not competent to stand trial per law or is it? (b) when defendants two motions T6 and Ex. 7As were never

disposed of to date, the right to remove abusive and incompetent defenders, the right to represent himself or be represented by able and unabusive attorneys and (c) when defender stated that the defendant wrote us to step aside he has no faith in us and the Judge did nothing T4. Hence the state has lost its jurisdiction resulting to the loss of defendant and subject matter. Petitioner present to this court that a dead case cannot be resurrected and resuscitated by any state's limitations or procedural default as validity and legitimacy of conviction and sentencing could be collaterally attacked at any time due to allegation of federal law violated, see, **FAY V. NOIA, SLACUM V. SIMMS & WISE, ARIZONA V. FULMINANTE, BONGA V. STATE, STATE V. DORSEY.**

2. Petitioner requests this court to decide the inanity of procedural default and knaffla rule to this case that was already wholly void on January 26 2009 T126-T128 when Judge Mel Dickstein, defenders and head nurse Mandy of Adult Detention Center Medical Center were in cahoots in fraudulent and deceptive acts purporting receiving a phone call and surgery scheduled for defendant the next day January 27, 2009, in order to deceive defendant to annihilate him treatments to save money for the county and to subject defendant to a lynch law trial to quickly send him to prison. Petitioner is very steadfast that evidence exists that there was no surgery scheduled on January 27, 2009 and no phone call from the hospital. Hence, this is illegal and incompetent tribunal, therefore the dicta of the district court here were wholly void. The Judge and defenders were lamed by their aberrant conducts in this case due to federal constitutional right violated. This case should be thrown out of court or state faces evidentiary hearing to make

rational refutation against evidence against them, see **SLACUM V. SIMMS & WISE, ARIZONA V. FULMINANTE, BONGA V. STATE, STATE V. DORSEY.**

3. Petitioner requests this court to decide that conviction, sentencing and upward departure sentencing in the case were wholly void as it stands on record on January 28, 2009 T146, T156-T159, when defendant had no attorney representing him on a hearing. This is an illegal and incompetent tribunal. The Judge showed willful blindness. The Judge and defenders were lamed in this case here, henceforth, court lost its jurisdiction of the defendant and the subject matter, and also for the interest of justice where defendant was defrauded due process for deprivation of representation on January 28, 2009, a federal structural error of aberrant conduct, see, **ARIZONA V. FULMINANTE, SLACUM V. SIMMS & WISE, BONGA V. STATE, STATE V. DORSEY, BLAKELY V. WASHINGTON, STATE V. HENDERSON AND STATE V. GAYLES.**

4. The Judge, Defenders and Probational Officer were in cahoots to withhold from defendant or defraud defendant the documents and contents of fabricated pre - sentencing investigation report **(PSI)** during sentencing phase and during hearing and no consultation of attorney in sentencing phase from February to April 9, 2009. Petitioner requests this court to decide whether this is an illegal and incompetent tribunal. Hence, its dicta wholly void and procedural default or time limitation in a fraud is inane. Petitioner requests this court to decide the inanity of state's instrument of procedural default that is historically rooted in legality and legitimacy of trial and appellate appeal. Petitioner was deprived due process to respond to the contents of **PSI defrauding him**, See, **ARIZONA V. FULMINANTE, STATE ex rel. HOLM V. TAHASH, BONGA V. STATE,**

of federal law and or fraudulent act in criminal proceeding trigger wholly void **and inane procedural default. See, SLACUM V. SIMMS & WISE, ARIZONA V. FULMINANTE, STATE V. DORCEY, BONGA V. STATE, LACEY V. KAVANAUGH, EVITTS V. LACEY.**

7. **P**etitioner asks this court to decide whether the holding here makes state procedural default in this case inane with respect to structural federal and state errors claimed hereto and the memorandum to district court? The Supreme Court of the United States held that "federal court jurisdiction is conferred by the allegation of an unconstitutional restraint and it is not defeated by anything that may occur in the state court proceedings. The state procedural rules plainly must yield to the overriding federal policy", see **FAY V. NOIA.**

CRITERIA AND HOLDINGS

It must be noted that in **Mooney V. Holohan**, the Supreme Court of the United State held that even though there was hearing in substance, within the meaning of due process of law denied. In the same manner it could be said here that even though there were trial and appellate representation in substance, within the meaning of due process of law were denied and that constitute illegal and incompetent tribunal and conviction and sentence wholly void due to improprieties intentionally done and procedural default or and state time limitation inane. If the state disagrees let it make rational refutation in evidentiary hearing or throws the case out of court.

Also, and very important here, the Supreme Court of Minnesota held that "where the time to appeal has expired, habeas corpus is available to collaterally attack the validity of a prior conviction employed to increase the sentence imposed upon the ground of a claimed denial

of federal constitutional rights". The above could be applied in every aspect of this case, See STATE EX REL. HOLM V. TAHASH.

CONCLUSION

The state is absolutely very afraid of evidentiary hearing of hard facts. You must agree with me that organized suppression and intentional injustice are among serious felonious act. State should not indulge in it. Also, any irregularities and or defrauding defendant due process in any form and ways in a criminal proceeding wholly void conviction and sentencing and procedural default inane, see, **SLACUM V. SIMMS & WISE, HOLM V. TAHASH**. This court should agree with petitioner that to maliciously defraud and withhold the documents and contents of a fabricated falsehood PSI from the defendant during sentencing phase and hearing and indulged in upward departure sentencing absolutely constitute illegal imprisonment and or hostage situation under the disguise of prison, hence this case should be wholly void and defendant should be released from prison.

Petitioner respectfully Submitted, November 20, 2023

Michael Collins Iheme, OID # 229098 **Sign**----------

MCF- Faribault facility
1101 linden Lane
Faribault, MN 55021

STATE OF MINNESOTA
IN THE SUPREME COURT
PETITION FOR REVIEW OF DECISION OF COURT OF APPEALS
APPELLATE COURT CASE NUMBER A23-1610

DATE OF FILING COURT OF APPEALS DECISION: January 31, 2024
DECISION COURT OF APPEALS ORDER
DISTRICT COURT ORDER

MICHAEL COLLINS IHEME
Petitioner

v.

STATE OF MINNESOTA
Respondent

TO: The Supreme Court of Minnesota: The petitioner Michael Collins Iheme requests Minnesota Supreme Court Review of the above entitled decision of the court of appeals, where the state encrusted itself in procedural default than make rational refutation against egregious judicial aberrant conducts and the evidences against them regarding fraudulent conducts and illegitimacy and or invalidity of their conviction, sentencing and upward departure sentencing or throw the case out of court. There are many legal questions and issues from the record the case presents, as that could be evidenced in the two briefs to district court and court of appeals. Petitioner being mindful of the justices' time constraint and other applicants narrowed to just very few legal questions or issues and predicated as follows:

STATEMENT OF LEGAL ISSUES AND THEIR RESOLUTION BY THE COURT OF APPEALS:

1 (a) should federal structural errors of inalienable rights on September 29, 2008 T3-T7, where defendant motioned to remove defenders but motion not disposed of, see Memorandum to District Court (MDC) pages 9-13, brief to court of appeals pages 4 & 5 legal questions and issues, constitute illegal and competent tribunal, wholly void the case, state lost jurisd[illegible] subject matter and defendant and inane state procedural default?

"APPENDIX "G"

District Court Silent and Claimed Procedural Default and Court of Appeals Held in Negative per Decision.

(b) Did the fraud on T126 to T128 January 26, 2009, to quickly imprison petitioner without due process, cause the state loss of jurisdiction of subject matter and defendant, illegal and incompetent tribunal, wholly void the case and inane procedural default, judicial acts are all rendered incompetent by interest or participation in fraud and A FORTIORI ARE A JUDGE and DEFENDERS?

District Court Silent and Claimed Procedural Default and Court of Appeals Held in Negative per Decision.

(c) January 28, 2009, T146, T156 to T159 defendant had no attorney representing in an issue of hearing in a criminal proceeding, a violation of inalienable federal right, Judge was indifferent. Did this act cause state the loss of jurisdiction of subject matter and defendant, illegal and incompetent tribunal and inane state procedural default?

District Court Silent and Claimed Procedural Default and Court of Appeals Held in Negative per Decision.

(d) From February to April 9, 2009, sentencing phase period, see page 7 question 7 (MDC) and page 6 brief to Court of Appeals, petitioner had no attorney at this time when it was very vital. A due process right for attorney customary consultations with client to strategize for mitigation deprived and defrauded defendant. Above all, The Judge, defenders and probational officer were in cahoots to withhold the PSI documents and contents from the defendant during sentencing period and hearing to impede proper response from him in order to indulge in illegal sentencing upward departure from presumptive 2nd degree conviction sentencing. Did this fraud cause state the loss of jurisdiction of subject matter and defendant, wholly void the case and inane state procedural default in a fraud, judicial acts are all rendered incompetent by interest or participation in fraud and FORTIORI ARE A JUDGE AND DEFENDERS?

District Court Silent and Claimed Procedural Default and Court of Appeals Held in Negative per Decision.

(e) Should the dicta of illegal and incompetent tribunal be wholly void where the Judge, defenders and appellate counsel indulged in irregularities, hence loss of jurisdiction of subject matter and defendant when: (a) the Judge could not declare mistrial or at least remove defender who stated her client was guilty as charged and how quickly the Judge could send him to prison without mitigation prejudicing her client before jury verdicts as such acting as the jury, judge, executioner, prosecutor, and defender T606 line 10 to 18 and other Judge's impropriety as established from the record in the (MDC) pages 29 to 32, (b) Defender who threatened defendant on the phone February 6, 2009, to increase sentence term if he exposes them in sentencing hearing, abusive, disloyal to her client with evidence exist and (c) appellate counsel- a mirage, reluctant, disloyal and in cahoots with illegal and incompetent tribunal. All,

constitutional implication of inalienable rights of defendant deprived and debasing the profession and the United States judicial system done without regard to legal restrictiveness?
District Court Silent and Claimed Procedural Default and Court of Appeals Held in Negative by Decision

STATEMENT OF THE CASE

Defendant who was charged of murder since 2008 and convicted of 2nd degree felonious murder and sentenced to 367 months, an upward departure of 1st degree murder sentencing even though he has no blemishes in his record. Defendant, indeed, denies all the charges and also claimed guiltfree of conviction under the constitution and or rule of law. Defendant declined any form of "PLEA DEAL" and requested "FULL TRIAL" with all pertinent evidences like Ex. 5As, 1As, 7As etc. and witnesses, more so, some very close relatives witnesses of the victim and defendant who knew the happenings in the marriage, including the parents of the victim, petitioners' roommate and two persons who were on the spot of the scene Mr. Benson and Ms. Molina. Defendant also requested police records calls of all 911 of marriage history of a Green Card fraud marriage, as that will bear great testimony of who was abusing who and provoking confrontations. The court did not hear attempted murder attack, and all the utterances of insult to injury of the victim to defendant. However, the apostate Hennepin County District Court assembled illegal and incompetent tribunal operating like monarchs and despots impeded all the above in order to procure illegal conviction by lynch-law and to deprive defendant medical treatments to risk his life and quickly send him to prison to save money for the county to the detriment of defendant's life. The tribunal also indulged in egregious fraudulent acts to withhold the documents and contents of fabricated falsehood PSI during the sentencing phase and hearing February to April 9 2009 to procure illegal upward departure sentencing without iota regard to legal restrictiveness, and or rule of law and showed no compelling and

substantial reason for the departure and also, to prevent defendant from giving proper response to PSI, an absolute fraud. Petitioner had no attorney representation during the sentencing phase when it was very vital for attorney customary consultation to strategize for mitigation, a due process federal law and loyalty to client. Petitioner was stripped all his inalienable constitutional rights and his appeals suppressed and evidentiary hearing impeded under the cloak of inane procedure default that violated all laws flagrantly. Petitioner, unavailingly, made his intentions known in many ways to the Judge and defenders T4 about proforma attorneys' reluctancy and his lack of faith in them. Defendant also brought two motions Ex. 7As and T6 Sept. 29, 2008, undisposed of to date. What more legal protest is expected of this defendant before accorded his inalienable rights? Still he was maliciously denied relief in habeas corpus. Above all, for the state to cover up its illegal imprisonment, it maliciously impeded evidentiary hearing long overdue. Also, defendant, whose Judge and defenders indulged in irregularities T126 – T128 January 26, 2009, that constituted fraud and illegal and incompetent tribunal like in Slacum V. Simms & Wise, where decision or conviction and sentence where rendered wholly void was also denied habeas relief. Invariably, defendant here now, supplicate to this Court for habeas relief to end this hostage situation or illegal imprisonment and cover ups.

STATEMENT OF THE CRITERIA OF THE RULE RELIED UPON TO SUPPORT THE PETITION

Petitioner respectfully requests review because the questions and issues petitioner presented are important ones upon which the Supreme Court should rule as the constitutional inalienable rights deprived and rule of law and due process obliterated flagrantly and also, the judicial

aberrant conducts of court agents of District Court and Appellate Counsel were accorded indifference by Court of Appeals, hence, constitutional issues and debasing judicial professions.

2. This court unequivocally held in state Ex. Rel. Farrington V. Rigg, 78 N.W. 2d 721 (Minn. 1956) that jurisdiction is conferred to this court when appellant must plainly and affirmatively make issues from the record presented. Petitioner presented bundles of them from the record against the state.

ARGUMENTS IN SUPPORT OF PETITION

Fraud decimates anything or profession it enters or touches. Fraud is fraud and certainly people in the judicial system must be held in the highest standard than the society. The fact some court agents here, the Judge, defenders, appellate counsel, county head nurse were in cahoots in frauds does not make fraud legal or is it? It simply means they acted fraudulently, debased great and respected profession and odious. All judicial acts in a fraud are incompetent and wholly void regardless when discovered as the case here. Fortiori are a Judge and defenders here. Also, a blatant lack of fidelity to rule of law, due process and constitution of the United States in order to convict minority defendant is a serious judicial aberrant conduct. If state had any iota legitimacy or validity in their conviction and sentencing they would have called for evidentiary hearing than their odious abuse of discretion to encrust themselves in inane procedural default and state limitation instruments. In a fraud, procedural default and or any state limitations is inane. State must show there is no fraud and there was no record in order to prove the validity of conviction and sentencing to prevail. Court of Appeals didn't deal with validity of conviction and sentencing and upward departure sentencing with regard to

fraudulently withholding falsehood PSI from defendant. Indeed, state has no rational refutation to make here and should throw the case out and begins a redress of their actions or come to evidentiary hearing to face the evidence against them than impediments and cover ups and attempting on the life of defendant in order to close his cases.

In any civilized societies Judicial system, the court agents, if Minnesota is among, are held in the highest standard about fraud. Enough is enough in attempting assassination, murder, torture and debilitating defendant, who requested fidelity to rule of law, due process and constitution of the United States, in order to close his cases for cover up. Petitioner may have been poisoned already, only time will tell of cancer and other issues. That's crime covered up with crimes by a judicial system or isn't it? Imagine that! Imagine also, an ordinary citizen doing the same thing, the consequences because defendant requested for justice and rule of law.

Petitioner hopes this court will not tolerate the aberrant, bestial, procrustean, and medieval conducts of some people in the judicial system and DOC who bring a fat wrecking-ball to the struggling credibility and integrity of Minnesota Judicial System as a whole and the DOC. Most people know what is going on in the DOC and District Court working in cahoots to tortures, hostage situation, cruelty, threats to inmate life, impediments of contacts, confiscation of documents and legal mails, deprivations, outlawry, suppression, scofflaw with regard to this case and attempted murders.

The fact is, there is nobody charged with crimes since 2008 and illegally convicted of 2nd degree felonious murder, without blemishes in his record, per federal and state laws and holdings who is still in prison except this petitioner held hostage and perennially tortured and attempted murder on his life to close his cases or perhaps another black man. This is absolutely "a hostage

situation and definitely a crime against humanity or clandestine genocide". Petitioner strongly hopes this Supreme Court will rise to its creed of legal decency and thereby applying the law to the truths and facts on the record at least before it is too late.

Respectfully submitted FEB 18, 2024

Michael Collins Iheme
1101 Linden Lane
Faribault, MN 55021

MICHAEL COLLINS IHEME
OID NUMBER 229098
MCF-FARIBAULT
1101 LINDEN LANE
FARIBAULT, MN 55021

MS. CHRISTA RUTHERFORD-BLOCK
CLERK OF APPELLATE COURTS
305 MINNESOTA JUDICIAL CENTER
25 REV. DR. MARTIN LUTHER KING JR. BLVD
ST. PAUL, MN 55155-6102

RE: MICHAEL COLLINS IHEME V. STATE OF MINNESOTA. APPELLATE CASE MUNBERA23-1610, WHERE RESPONDENT DISRESPECTED AND DISREGARDED CHIEF JUSTICE OF MINNESOTA SUPREME COURT'S ORDER ATTEMPTING TO PREVAIL IN FRAUDS, OUTLAWRY, SCOFFLAW, MALEVOLENCE, SUPPRESSION AND DISDAIN TO RULE OF LAW IN CRIMINAL PROCEEDING

MOTION

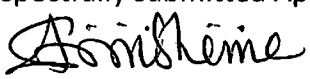
REQUEST TO THROW THE CASE MENTIONED ABOVE OUT OF COURT, EXPUNGE THE CONVICTION, PETITIONER RELEASE FROM HOSTAGE-PRISON AND RESPONDENT INVESTIGATED FOR ABERRANT LEGAL CONDUCT CONTEMPTUOUS TO MINNESOTA JUDICIAL SYSTEM AS A WHOLE AND DISRESPECT OF CHIEF JUSTICE OF MINNESIOTA SUPREME COURT AND REFUSAL OF HER ORDER.

Dear Ms. Rutherford-block,

Please find enclosed an amended protest and complaints of petitioner about the irregularities of the respondent filed by the petitioner to replace the one he recently sent to you for this court as the base of this action. Petitioner seriously supplicate to this court to expunge respondent's trial, conviction, and sentencing from the record and petitioner release from prison. This is because: 1. Respondent, by any projections staged the trial, a showcase trial since the evidences and witnesses would have absolutely turned against them, such as police record 911 calls of Green Card marriage history, a fraud, that was absolutely necessary in this trial. It was requested but the state and defenders impeded it in order to procure illegal conviction. Petitioner has two motions in the court since September 2008, never disposed of to date to remove the abusive and incompetent defenders as of right and legal, still defendant

disregarding her order to prevail. I don't know how such respondent could be allowed, trusted, believed in the highest Court of the state. The above is among many reasons they will never respond to petitioner's petition for review (PFR). Petitioner, therefore, requests this court to expunge his conviction and state investigated. Petitioner's memorandum to the district court and his brief to Court of Appeals, transcripts and exhibits evidences give great credence to the above. They are all filed with Clerk of Appellate Courts during Court of Appeals process. They serve as a great Bible to this case which state refused to answer legal questions and issues.

Respectfully submitted April 25, 2024



Michael Collins Iheme, OID # 229098

1101 Linden Lane

Faribault, MN 55021

Note, Petitioner needs protection in the prison. His life severely threatened.

STATE OF MINNESOTA
IN THE SUPREME COURT
MICHAEL COLLINS IHEME

THE THRESHOLD OF INCOMPETENT TRIBUNAL AND KANGAROO COURT CASE # A23-1610

On record and protested, whenever appellant requested to meet the law librarian Ms. Valerie Salazar- State Librarian, the DOC and the library must have someone listening inside the room at the back of petitioner and someone by the side of Ms. Salazar on the other side in a virtual contact directing her what to say. Also, it takes at least one month, unlike other inmates, for my requested package to arrive which must be opened by the DOC. In all cases some forms and literatures were removed or absent. A good evidence was the certificate of length of petition which was sent to appellant later by the Clerk of Appellate Courts which was not in the appellant requested package for application for petition sent by the library and DOC. That is another defrauding perpetrated against this appellant in order for the state to prevail against him by dilatory tendency. This form should have been in the application package as usual. Appellant filed on record with Court of Appeals to Chief Judge Susan L Segal, that the DOC was impeding appellant access to justice system by broadly denying him access to make legal documents copies. Appellant had to search old documents to remove some copies of transcripts to send his petition in order to avoid dilatory or untimely petition. In September 2023, the district court purposefully sent their order of denial to some address in Minneapolis even though the state knew petitioner is in prison. Also, the state was meddling with date of filing order. First, August 15, 2023, crossed out, second, September 5, 2023, third mailing the order October 9, 2023 and received October 13, 2023 on record. This is just a few of plethora of meddling and frauds in order to win a case without due process and rule of law.

APPENDIX "1"

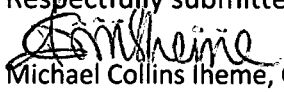
The prima facie of this case is the state is lamed and has no case here due to its aberrant legal conducts and frauds resulting to illegitimacy and or invalidity of conviction and sentencing and upward departure sentencing plus the defendant denied all charges and guiltfree of conviction and 367 months illegal sentencing that defied all rule of law and due process and holdings of the court. State has no case here and the arbiters of that are on the record established in exhibits 7As and T3-T7 September 29, 2008 and more. State conviction and sentencing were absolutely illegitimate and wholly void with incompetent tribunal, and fraudulent. State is looking for minor mistake from the petitioner and pliant court in order to get away from its glaring disregard and contempt of rule of law and due process. The arbiters are follows: 1. On Sept. 17, 2008, petitioner refused to meet with Dr. Dawn Peuschold, the Hennepin County Psychiatrist. Appellant plainly told Dr. Peuschold he will like to meet with her on a later date as he was very disoriented and perplexed, confused and could not sit down for interview with her and also, that he needed to get some names, addresses and phone numbers of people who knew his conditions and suicidal due to the DNA result of his son Justin fathered by another man. Dr. Peushold could not take no for an answer because defendant a black man she has no respect for. Defendant was dragged into the room locked up and Dr. Peuschold blocked the door with chairs to block uncooperative client making him to stay and listen to what he objected to do in violation of his 5th Amend right that crippled rule 20 and the trial because of fraudulent rule 20, Ex. 7As. In a fraud all decision is incompetent.

2. On Sept. 22, 2008 Ex. 7As, again, defendant protested in a motion sent to the Judge to remove his abusive, incompetent and reluctant defenders to no avail. The Judge has no respect for any black man and could not accord defendant his constitutional inalienable rights to hear

his motion. On Sept. 29, 2008, defendant, again T6, handed to the Judge another motion face to face about the removal of his abusive, incompetent and reluctant champion defenders stating clearly and plainly in many different ways in the motion that he had no faith in the defenders T4, and that he had informed the defenders in at least five different ways to step aside and not defend him to no avail. None of these motions was disposed of to date. What more could this defendant do to be accorded his constitutional inalienable rights? The motions are still in the court but defendant convicted and sentenced to 367 months upward departure where the PSI also fraudulent and was withheld from defendant so he could not contest it and without iota substantial and compelling reason. Does state still have a case with fraud and structural errors of federal inalienable rights? I hope the U.S. Supreme Court could not eschew its responsibility here to constitutional issues. State of Minnesota Judicial system from the lowest level to highest level have grossly exhibited a decay of all moral, credibility, integrity and civility and above all shamelessness to unlawful detainee bordering hostage situation. Appellant strongly hopes that this court will bring Minnesota to its senses. We are all responsible for our actions under the rule of law and due process and the Minnesota DOC and the court are also responsible for their actions to answer for them. This is our democratic code in America. I refused any plea deal, demanded full trial with rule of law and due process. That shows my belief and fidelity to rule of law, due process and the constitution of the United States. What I got from the state were despotism and monarchism equal to privilege, entitlement, controlling, suppression and no accountability. The above is just a tip of the iceberg of the illegal and incompetent tribunal that culminated to state loss of jurisdiction of defendant and subject matter, an intentional outlawry.

Michael Collins Iheme OID# 229098
MCF- Faribault
1101 Linden Lane
Faribault, MN 55021

Respectfully submitted, March 8, 2024



Michael Collins Iheme, OID # 229098
1101 linden Lane
Faribault, MN 55021

Minnesota Department of Corrections

OFFENDER KITE FORM

Offenders are encouraged to communicate with staff at all levels, but it is expected that the chain of command will be used. Your kite should be directed to the staff who can best answer your question. If you send a kite requiring an answer to the wrong staff, it will be returned to you. Kites are to be used for offender to staff correspondence only. If your kite is not specific, and/or the top portion is not completely filled out, legible, and using your committed name, it will be returned for additional information. If you want your kite reviewed further up the chain of command, you must attach all previous kites to show the previous responses. Offender kite form 303.101A is used for general inquiries. Use kite form B for Health Services, Behavioral Health, and treatment inquiries.

~~To~~ MS. T. NOLTE - MAIL ROOM - FOREMAN **Date:** SEPT 24, 2024

TO ~~From~~: MICHAEL COLLINS HEMC **OID#** 229098

Facility/Unit ~~OSH~~ **Room/Cell** 1005A24 **Case manager:**

Other staff you have contacted regarding this issue and the outcome/decision (attach responses):

MS. T. NOLTE THIS IS MY THIRD KITE REQUESTING YOU SEND ME MY LEGAL MAILS YOU RECEIVED PER YOUR RECORD ON MAY 2, 2024

Issue: SUPPOSEDLY FROM MINNESOTA SUPREME COURT. WHY ARE YOU HOLDING OR CONFISCATING MY LEGAL MAILS? YOUR RECORD SHOWED UNEQUIVOCALLY AND ABSOLUTELY THAT YOU HAVE NOT DELIVERED THE MAIL TO ME. WHEN MUST YOU GIVE ME MY LEGAL MAIL YOU RECEIVED MAY 2, 2024? THIS IS A CRIME, THIS IS A FRAUD AND THIS IS A CRIME AGAINST HUMANITY. ALSO STOP OPENING MY LEGAL MAILS BEFORE SENDING THEM OUT AND STOP HOLDING MY MAILS FOR DILATORY TENDENCY. AGAIN, I NEED THIS MAIL YOUR MAIL ROOM IS HOLDING SINCE MAY 2, 2024, A LEGAL MAIL. THANKS. THIS IS VERY SERIOUS AND FRAUDULENT AND CONSTITUTE A HOSTAGE SITUATION. I HOPE I DON'T HAVE TO WRITE YOU ANOTHER KITE THE FOURTH ABOUT THIS. THANKS AGAIN. I NEED MY LEGAL MAIL YOU ARE HOLDING.

Response from: T Nolte **Date:** 9-26-24

We don't open your legal mail before sending it out.

Return to: _____ OID#: _____ Unit: _____ Room/Cell: _____

Distribution upon completion of response: Original to offender; copy to respondent 303.101A (10/2018)

APPENDIX J

MICHAEL COLLINS IHEME
OID NUMBER 229098
MCF- FARIBAULT
1101 LINDEN LANE
FARIBAULT, MN 55021

CATHRYN MIDDLEBROOK
CHIEF APPELLATE PUBLIC DEFENDER
540 FAIRVIEW AVENUE NORTH
ST. PAUL, MN 55104

REQUEST FOR A REPRESENTATION BY APPELLATE PUBLIC DEFENDER

Dear Ms. Middlebrook,

Please take notice that this petitioner requests for representation by appellate public defender from your office. Someone came to me today asking me to write you and your department. Earlier this year someone by name Ali came to me with a letter from your office written to him about his case. He approached me, so unusually, to write you for a representation. I told him I have done that twice to no avail but your department continued to ignore the untenable position and aberrant judicial conducts of Jessica Mes. Godes who was a mirage and claimed to be my defender from hell, as she exhibited reluctancy to the issues, privilege, entitlement, suppression, legal fraternity, monarchism and no accountability to anyone than loyalty to client and fidelity to the rule of law, due process and constitution of the United States.

Since Ali's unusual approach I have been fighting Minnesota Judicial system and determined to take them to Supreme Court of the United States if the need be but they have continued to indulge in obstruction of justice and throwing shades on me and they indulged in all kind of illegal activities and underhandedness that could constitute felony, frauds, deception in cahoots with DOC. This also include meddling with my petition for a writ of certiorari to Supreme Court of the United States as I fight on.

This morning, Mr. Ben Russell, as we were engaged in a discussion, he declared that I was never represented at all in any legal sense projections and he strongly advised me to write you, the Chief Attorney Appellate Defender. He asked me to forget the past and request for appellate representation and legal call from your office. Ben Russell is a new friend and I could read some degree of candor and probity in his nuance.

I concluded that Minnesota Judicial System is afraid of being defeated face to face in legal arena under rule of law and due process by a pro se black man they hold hostage with a glaring bundle of evidences of judicial aberrant conducts of some of their court agents, as they avoid to face him head- on. The binding factor of all of us is the love and rule of law of this nation,

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APPENDIX "K"

America. There are people who want to be in power by unravelling the democratic code and or foundation of this republic. They are only in the positions they were appointed not necessarily merited or qualified more than everyone else in the society to uphold the law instead they make their own law with different people the same situation. Univocally, the rule of law and due process implicated in my case affected all Americans nationwide and worth fighting for or even die for it if so be. I truly believe that each one of us adults, regardless of station and or position is responsible for his or her actions under the rule of law and due process, not under fraternity of group of people, despotism, monarchism, privilege, entitlement.

Above all, people who are court agents must be held to the toughest standard about fraud, or irregularities and fidelity to the rule of law, due process and the constitution of the United States than the society could be held accountable of their actions. The truth is my mirage and reluctant champion appellate defender by name Jessica Mes. Godes knew that defendant had no attorney representing him, at least 1. T4 showed that and ex.7As and T6. 2. Petitioner proffered two motions, on record, undisposed of to date, for attorney representation T6 and ex. 7As September 22, and 29, 2008. 3. Defendant stated abuse, reluctancy, incompetence of proforma attorneys and demanded them to step aside on record. 4. On record, defendant demanded, in five different ways, contacted the proforma attorneys, to step aside and not defend him any more T4. 5. Godes knew that PSI documents and content were withheld from defendant both during sentencing phase February to April 2009 and hearing. Mr. or Ms. Godes was the one who collected **PSI** from Maria Mitchell, a proforma attorney and knew it was withheld. This is just a tip of the iceberg. ***Ms. MIDDLEBROOK, WITH ALL DUE RESPECT TO YOU, PLEASE INFORM ME, WITH ANY IOTA CANDOR AND PROBITY IN YOU AND YOUR MERITE TO YOUR POSITION AND PUBLIC MONEY SALARY YOU DRAW EACH BI-WEEKLY TO DEFEND INDIGENTS, AND HENNEPIN COUNTY JUDICIAL INSTITUTION IS OR NOT GENOCIDAL KINGDOM MONARCHY OF THE HIGHEST ORDER OF THE WORLD, WHAT MORE PROTEST IS REQUIRED OF THIS DEFENDANT BEFORE HE COULD BE ACCORDED HIS INALIENABLE CONSTITUTIONAL RIGHTS AND FOR HIS MOTIONS, TWO OF THEM, TO BE HEARD WHICH ARE STILL LAYING IN THE COURT SINCE 2008 TO DATE WHILE HE WAS CONVICTED AND HELD HOSTAGE OR EUPHEMISTICALLY AN UNLAWFUL DETAINEE?***

Ms. Middlebrook, what is the gender, race of Mr. or Ms. Godes? How tall or short is your attorney Godes? Isn't it reasonable for you or any defendant to pick his or her attorney from the crowd or line up? Isn't it good and reasonable for your attorney to accord you due process of customary consultations and strategize with you for professional loyalty in your interest? Is it good for anyone to draw salary from a job they purposefully refused to do? Isn't it a felonious act for one's attorney to be in cahoots with prosecutors and still earn a living for defending defendant since 2008 to date? Isn't it like a bank manager who robs and steals from the bank and draws salaries while the manager puts up surveillance cameras to catch a thief to save the bank? You must agree with me that people should be in a position they are suited and have rapport with their job and earn a legitimate living than stealing public money from a job they are not qualified or refused to perform and commit fraud of nonperformance.

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Any institution which murdered or attempted murder in clandestine of anyone or inmate or prisoner in order to close his case for cover ups is genocidal, and terroristic and should be ashamed, sorry to them. It is a career of infamy and losers by any projections and there will be no rational refutation of this regardless of the money in it. It is an absolute shame.

We must never, Ms. Middlebrook, become numb to hostage situations or unlawful detainee which is caused by deprivation or absence of fidelity to the rule of law, due process and constitution of the Unite States. It is the epitome of depravity of cruelty and atrocity of any judicial institution and prison or DOC. ***Also, you must note, Ms. Middlebrook, that "The precept of hostage situation, genocide, terrorism and unlawful detainee is universal, whether they occurred in Minnesota-America, Germany, Russia, Iran, North Korea, China, Middle East, or anywhere".*** You must agree with me on the above if Minnesota is not the world self-righteous evil of the world masquerading as an angel or Minnesota nice or is it? This is a defendant who did not ask for mercy, leniency, or to walk, rejected any plea deal, demanded full trial with all pertinent evidences and witnesses and let our rule of law, due process convict or acquit but your people said no to show white man pernicious bigotry, privilege, entitlement, suppression, monarchism, terrorism to minorities, sophomoric acts, and no accountability. The history of my case number 27-CR-08-37043 is fully documented in my memorandum to the District Court submitted May 2023 and it is the Bible of my case and the trial in which Jessica Mes. Godes was absolutely and definitively knew the contents, and my appellate brief number A23-1610.

Whether you believe it or not, Ms. Middlebrook, institution is defended by people sacrificing life and everything to uphold the rule of law and due process implicated in their cases as your society in Minnesota becomes deadly than no other in the world. Institution does not defend itself, so we must fight, if the need be to the death, to defend the democratic code and creed of this nation the United States. We must all take responsibility of our actions regardless of stations and positions under the rule of law and due process not by throwing shades, obstruction of justice, show of criminal privilege, entitlement, suppression, controlling, and no accountability. It is the darkest day of this nation that those paid to uphold the law are destroying them than the society, and show no iota fidelity to the rule of law, due process and the constitution of the United States. Sorry. This is an absolute extortion of public money under the cloak of salary. Criminal acts and fraud are criminal acts and fraud, it does not matter whether it is committed by some Judges, attorneys against minorities or is it?

The conducts of some judges and attorneys minister the question about the state and credibility of the school that conferred upon them the degrees to such people, how they got the job and which state licensed them? We must trust our legal system and the people in it to make our prison and DOC legitimate institution than concentration camps.

Ms. Middlebrook, does your law education, licensing and professionalism give you moral and legal authority to hold hostage or euphemistically unlawful detainee of anyone or defendant who was barred **T6-T7** to participate or have an opinion in his trial "**in anything**" and also,

his two motions Sept. 22 and 29, undisposed of since 2008 to date T4, T6-T7, Ex. 7As. Isn't it an absolute legal standard and position that anyone who could not express opinion or participate in anything in his trial is incompetent to stand trial? Or does your law in Minnesota changes with race, nationality, gender, and status? This is just a tip of the iceberg of the crimes committed on record to hold someone hostage in Minnesota and covered up to the rest of the world and looking for clandestine means to murder him close his case for cover ups. should someone who was not represented by attorney in the trial and appellate process in direct appeal, in all legal sense projections be convicted and hold hostage under the disguise of prison? Should any defendant whose PSI documents and its contents withheld from him during sentencing phase and hearing February to April 9, 2009 be sent to prison and above all subjected to illegal upward departure? The evidence Jessica Mes Godes, your appellate defender was in cahoots with the District Court to commit this crime or euphemistically a show of no iota fidelity to the rule of law, due process and constitution of the United States is very glaring.

There is a new evidence now obtained that Judge Mel Dickstein is a Jew and the incident happened in the Jewish establishment that accounted for the Judge's prejudice to the core in this case. This information was covered up during and after trial even though requested by the defendant from the proforma, reluctant and abusive defenders working for the state fraudulently against their client as established on the record

Finally, and very important, defendant was deprived all promises of Gideon V. Wainwright, 372 U.S. 335, and Douglas V. California, 372 U.S. 353 and Jessica Mes. Godes was fully aware of it and participated on record. In the same case of Evitts V. Lucey, 469 U.S. 387, the court held that "due process clause of the fourteenth amendment guarantees a criminal defendant effective assistance of counsel on first appeal as of right, pp391-405 and as such nominal representation on appeal as of right does not suffice to render the proceedings constitutionally adequate. A party whose counsel is unable to provide effective representation or here in addition, in my honest opinion, a fraudulent representation, is in no better position than one who has no counsel at all". I was denied representation and effective representation also. Therefore, Jessica Mes. Godes, a mirage defender, did not represent petitioner here in every legal sense projection. Hence, petitioner requests for representation for active advocate as of right and law from your office.

I therefore respectfully submit October 14, 2024

Michael Collings Iheme