SCOTUS.

No. 24-7367

IN THE

SUPREME COURT OF THE UNITED STATES OF AMERICA

PETITION FOR WRIT OF CERTIORARI

Timothy D. Leners; Pro-Se / In Propria Persona Petitioner

vs.

State of Wyoming; Wyoming Attorney General, Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO:

United States Court Of Appeals – 10th Circuit

Timothy D. Leners
(Defendant)
"WSP"
Box 400, Rawlins, WY. 82301
(N/A incarcerated)
(Phone Number)

QUESTIONS PRESENTED

ONE:

Were **Defendant's 2nd *((or 5th or 6th or 14th))* Amendment Rights violated** when he was denied **'No Duty to Retreat' / *('Stand your Ground')* Jury instructions** where Disbarred D.A. confessed he was **"Legally Present": then denied 'Castle Doctrine' in his own HOME;** and where **Recorded Audio** (Exhibit 15) proved he was attacked in his own rented home and screaming for help, *and* Jury was denied **"Officer P66 Michael's Police Report"** with primary attacker confessions that he'd rented the home to Defendant, took his rent and deposit money, told him to "move in", confessing he "left to give the money to a friend"; only to return 30 min. later on **Recorded Audio;** breaking into Defendant's new **"Wyo. § 6-2-602 Home / Habitat"**; and attacking Defendant with an accomplice: **Causing** Defendant to legally defend himself with ***only one* NON**-lethal shot from his legally licensed & carried small caliber arm to the primary attacker (twice his size and not disabled), ***and*** police nurse injury pictures proved he was first severely beaten by the two audio recorded death threat screaming attackers, ***and*** crime scene pics proved he tried retreating outside *(exceeding all law)*?

TWO:

Were **Defendant's 2nd *((or 5th or 6th or 14th))* Amendment Rights violated** by trial Judge and Disbarred D.A., who in concert *also denied* Mr. Leners the protection of **"State Law Wyo. § 6-2-602 Use of force in Self Defense; No Duty to Retreat" in his own HOME**; with that law unequivocally stating Mr. Leners ***"Shall Not Be Prosecuted For Self Defense"*** – them even stating in Jury instruction conference that the ***"new version of the law (just weeks after Mr. Leners' arrest) was not retroactive"*** EVEN THOUGH in the case it was based on (Widdison v. Wyo. 2018 – Wyo.); that other Defendant was arrested BEFORE Mr. Leners', AND her case was appealed and overturned BEFORE Mr. Leners' trial.

THREE:

Were **Defendant's 2nd *((or 5th or 6th or 14th))* Amendment Rights violated** by ***either*** misconduct action of the Disbarred D.A., **when she told Jury in closing arguments: 1.)** the (100% lifetime crime-free 'legally licensed/carrying') **Defendant had no 2nd Amendment Right** to: *"bring 2 (small legal hand) guns with him"* when peacefully moving to WY, ***and*** also **2.)** had *"no right to legally pre-arm in case of conflict"* (all directly violating Jury instr. #21 (aggressor), the U.S. 2nd Amendment, and D.C. v. Heller 2008.)?

FOUR:

THIS CAN BE CALLED "LEGISLATION LAG-TIME" Were **Defendant's 2nd *((or 5th or 6th or 14th))* Amendment Rights violated**, where Judge (prompted by Disbarred D.A.) stated in Jury instruction conference transcripts ((ap X **"Appendix V-22"**)); that Mr. Leners could ***NOT*** have "Equal Protection of The Law", by denying him the protections of **"No Duty to Retreat"** he *felt* were *only* stated in the **"new 2018 version"** of "Wyo. § 6-2-602 Use of force in Self Defense; No Duty to Retreat"; **even though Misty Widdison's overturned 2016 case that preceded Mr. Leners' late 2017 case by about two years; proves she got those "Retroactive Protections" of the "new 2018 version" of the law**, because that laws was revised solely and only due to the overturn of her case – as this Writ will prove? Was Mr. Leners denied equal protection of those revision she got **"backdated"** to her 2016 arrest?

LIST OF PARTIES

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

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

DIRECTLY RELATED CASES

- **D.C. v. Heller (USA), Case No. 128SCT2783, U.S. Supreme Court, decided: 6-26-2008**
- **Widdison v. State (Wyo.), Case No. S-17-0138, Wyo. Supreme Court, decided: 2-16-2018**
- **Palmer v. State (Wyo.), Case No. --No # in Original--, Wyo. Supreme Court, decided: 1-13-1900**
- **Haire v. State (Wyo.), Case No. S-16-0187, Wyo. Supreme Court, decided: 5-8-2017**
- **Drennen v. State (Wyo.), Case No. S-11-0199, Wyo. Supreme Court, decided: 10-1-2013**

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Pages *Not* required to be in the "40 Page Count"

THESE PAGES *ARE IN* THE "40 PAGE – PAGE COUNT"

INDEX TO APPENDICES

With Great Respect: Mr. Leners states that the prison's "Newest version" of U.S. Supreme Court Rules is from 2009, and he has no access to a newer version of SCOTUS Writ of Certiorari Rules.

Additionally during these 6+ years, his own "Appendices" were consistently labeled in each pleading as ("Appendix A"), ("Appendix B"), though "Appendix Z".

This presents a dilemma because these rules state:
"Appendices A, B, C, D, E" are to be used for "Prior Court Decisions to be Reviewed by US Supreme Court".

Both can't be designated as the same *"Appendix A, B, C, D, E"*, and yet Mr. Leners original ("Appendices A, B, C, D, E"), must also be "Reference-able" in a way where his "**Original** Appendix Designations" are maintained or easily discerned for this Great Court.

Mr. Leners' solution is to add a **"SUFFIX"** to **ONLY *HIS* ORIGINAL** "Appendices A, B, C, D, E" like so: **("Appendix A-TL")** in order to obey the only version (2009) of the 'SCOTUS Rules' he has access to.

THEREFORE WHEN SCOTUS SEES:

("Appendix A-TL"), for instance; this is actually Mr. Leners' **ORIGINAL** **("Appendix A")**; as used in all appeals since before his 2022 "PCR". The rest of his original appendices **("Appendices A, B, C, D, E")** follows suit. Simply *'Remove the "TL" Suffix'* and you have Tim's "Original 'ApX' Designations". Thank you.

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"PRIOR COURT DECISIONS TO BE REVIEWED"

APx. "A":	USCA 10th Circuit: "**12-12-24 Order Denying Certificate of Appealability (COA)**" ECF#11143610, 'Document #83-1'
APx. "B":	USDC (Dist. of Wyo.) "**2-1-24 Order Denying 2254 Habeas Corpus**" [Actual labels]: 'Document #56 – Final Judgment' 'Document #55 – Order Granting Combined Motion to Dismiss and Motion for Summary Judgment [ECF 24]'
APx. "C":	USCA 10th Circuit: "**2-11-25 Order Denying En Banc After Re-Hearing per Rule 42.2 Motion to Reinstate Appeal was Granted**" ECF#11157979, 'Document #102'
APx. "D":	1st Dist. Ct. Laramie Co. Wy. "**4-18-23 Finding of Fact, Conclusions of Law, and Order Dismissing Petition for Post Conviction Relief**"
APx. "E":	Wyo. Supreme Ct: "**5-4-21 Order Denying Motion to File Pro Se Supplemental Brief**" (To remedy public defender's frivolous brief of appeal–DENIED without evaluating merit)

"ap Appendix #'s" for Mr. Leners "Orig. Appeal ap Appendices": for SCOTUS Writ of Certiorari

APx. 1:	**- Recovered Brady Evidence - Chris Trout's 11-11-2017 Death Threat Text Message to Timothy Leners, with Chris Trout's "self portrait" attached; before the altercation in Cheyenne Wyoming**
APx. 1-A:	**- Recovered Brady Evidence - Joyce Trout's 8-30-2017 public Facebook post lauding Timothy Leners**
APx. 2:	**- Recovered Brady Evidence - Joyce Trout's 12-21-2017 Death Threat Face Book Message to Timothy Leners; dated hours before the altercation in Cheyenne Wyoming**
APx. 3:	**- Recovered Brady Evidence - Joyce Trout's 12-23-2017 invitation to Timothy Leners **(with her address)**, dated hours before the altercation in Cheyenne Wyoming**
APx. 4:	**- Recovered Brady Evidence - Joyce Trout's 12-24-2017 "I almost killed..." confession message to Timothy Leners; dated hours after the altercation in Cheyenne Wyoming**
APx. 5:	**- Recovered Brady Evidence - Joyce Trout's 'May and June 2018' posted public death threats to Timothy Leners; dated six months after Timothy was already arrested**
APx. A-TL:	**Original copy of the "2017 Notated & Marked Affidavit of Probable Cause" – All "Hand Notes" are "2017 Original" as given by Tim to counsel (NOT 'new argument')**
APx. B-TL:	Mr. Leners' 3-23-2020 letter to appellate counsel Kirk Morgan, instructing Mr. Morgan with Constitutional Evidence to assert in direct appeal
APx. C-TL:	**IN ALL APPEALS, BUT NOT PROVIDED HERE TO SAVE SCOTUS SPACE**
APx. D-TL:	Mr. Leners' 9-16-2020 letter to appellate counsel Kirk Morgan, instructing Mr. Morgan with Constitutional Evidence to assert in direct appeal
APx. E-TL:	Appellate Counsel Kirk Morgan's 1-27-2021 letter back to Mr. Leners (several months after appeal was over) stating his disposition on Constitutional Claims Mr. Leners wrote him to assert (herein Appendices A, B, C, D).
APx. E-1:	**Mr. Leners 8-20-2018 email to 1st chair McKelvey urging McKelvey to obtain Missing Brady Evidence (recorded phone calls and texts on Mr. Leners' phone)**

APx. F:	Mr. Leners' 8-27-2018 email to 1st chair trial counsel McKelvey; with attached evidentiary sound clips of Chris Trout screaming death threats at Timothy during the altercation in Cheyenne Wyoming; instructing Mr. McKelvey to assert them
APx. G: In Color	**Recovered Brady Evidence - Police pictures of Mr. Leners' badly gouged defensive wounded palms that Timothy showed det. Hickerson on police interrogation video**
APx. H: In Color	**Sheriff Nurse Eastman's pictures of Mr. Leners' Body Bruisings, that Nurse Eastman took after Mr. Leners' arrival at Laramie co. jail, and testified to at trial**
APx. I:	Law Officer M. Kline's 12-16-2021 Affidavit as a previous Gage Co. NE. (Beatrice Nebraska) jailer; with regard to her knowledge of the altercation and 'victim(s)'
APx. J: In Color	**IN ALL APPEALS, BUT NOT PROVIDED HERE TO SAVE SCOTUS SPACE**
APx. K: In Color	*line & blood does not jump 5' UP to internally soak a bed about standing executioner*
APx. L: In Color	**Police pictures of the short 1" (one inch) long barrel of Mr. Leners' legally licensed and carried handgun - used during the altercation**
APx. M: In Color	**1.)Police pictures of the 15' diameter Bloody Fight Circle in the yard's "Fresh Snow"** **2.)Police pictures of Mr. Leners blood soaked clothing *"down to the 2nd layer"*** (these are in all prior appeals as "Appendix N")
APx. N: In Color	**IN ALL APPEALS, BUT NOW PART OF "APPENDIX M" AS ORIGINALLY SUBMITTED TO THE US SUPREME COURT IN 4-2-2025 WRIT of CERTIORARI**
APx. O:	**The (BY LAW) "*'FRANKS'* Reconstructed Affidavit of Probable Cause" that Mr. Leners asserted in all appeals**
APx. P:	**Kathy Leners' *(Mr. Leners' wife of 30 years)* 3-1-2018 letter to 1st chair trial counsel McKelvey and chief public defender Diane Lozano regarding their performance and various types of case evidence she stated (with Tim); they needed to obtain and assert**
APx. Q:	**Chief public defender Diane Lozano's 3-8-2018 letter back to Mr. Leners (& Mrs. Kathy Leners 3-1-2018 e-mail).**
APx. R:	**Judge Sharpe's written 'comments' about Mr. Leners and his case, in Sharpe's 8-13-2020 *"Order Denying W.R.A.P. 21 Motion for New Trial"* (2 pages)**

APx. S:	**News Article sent by Mr. Leners to trial counsel before trial, with official statements on the "old version" and "new version" of "Wyo. 6-2-602 No Duty To Retreat Law" by: Wyo. Gov. Mead, DA Jeremiah Sandburg, 'Trial Lawyers Assoc.' Tom Jubin**
APx. T:	Trial D.A. Leigh Anne Manlove's 6-11-2021 State Bar Disbarment Charges – written by "trial" and "WRAP 21 for new trial" Judge Steven K. Sharpe.
APx. U: With **"Part 1"** and **"Part 2"** **AFFIDAVITS**	**1.)2nd chair trial counsel Emily Harris' 6-2-2020 *"WRAP 21 for new trial"* AFFIDAVIT regarding her knowledge of Mr. Leners' trial (w/ her in charge of Jury instructions)** **2.)Chief trial counsel Brandon Booth 6-1-2020 *"WRAP 21 for new trial"* AFFIDAVIT (as 1st Chair McKelvey's and 2nd Chair Miss Harris' direct supervisor)**
APx. V:	**IN ALL APPEALS, BUT NOT PROVIDED HERE TO SAVE SCOTUS SPACE**
APx. V-22:	**"Jury Instruction Transcripts" stating that Mr. Leners was denied proposed Jury Instruction: "No Duty To Retreat" – as provided and cited in appeals**
APx. V-22-1:	**Officer P-66 Michael's police report with Chris Trout's 12-23-2017 hospital confession to her regarding Mr. Leners' apartment**
APx. V-22a:	**12-22-2018 email from prior 2nd chair: Kerri Johnson / now "The Honorable Kerri Johnson"; testifying to conditions at Public Defender's Office, and her leaving Tim's case.**
APx. V-22b:	**8-14-2018 email from Timothy to 1st chair McKelvey, with attached evidentiary audio recording of Chris Trout; and instructions for McKelvey to assert "No Duty to Retreat"**
APx. W: **AFFIDAVIT**	**4-19-2021 Affidavit** of Eye Witness Kathy Leners, as submitted in all appeals testifying to believed 6th Amendment violations
APx. X: **AFFIDAVIT**	**12-28-2021 Affidavit** of Eye Witness Kathy Leners, as submitted in all appeals testifying to believed 6th Amendment violations and Mr. Leners' documented crime-free life
APx. Y & Z: 	**IN ALL APPEALS, BUT NOT PROVIDED HERE TO SAVE SCOTUS SPACE**

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STATUTES AND RULES

Please note: The In Propria / Pro Se Defendant does not know if all "Laws" are reciprocal between "**Federal**" or "**Wyo.**" **Law**; so please forgive him if a *"Wyo. Precursor"* is accidentally left off *(it is not intentional and he has no way to tell the difference)*. Additionally if any below are "out of order", please forgive the non-lawyer Mr. Leners because it's unintentional.

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UNITED STATES SECOND AMENDMENT

.....Being necessary to a free State, the Right of the people to Keep and Bear arms Shall Not Be Infringed.

Constitutional Law > Bill of Rights > Fundamental Rights > Right to Bear Arms

The Second Amendment Protects The RIGHT To Possess FIREARMS And USE Them For Traditionally Lawful Purposes Including SELF-DEFENSE Within The HOME.

Wyo. Article 1. Declaration of Rights. § 24. Right to bear arms

The right of citizens to BEAR ARMS in defense of themselves and of the state shall not be denied.

Wyo. Chapter 8. Weapons. Article 4. Regulation by the state, § 6-8-401. Firearm, weapon and ammunition regulation and prohibition by state

(a) The Wyoming legislature finds that the right to keep and BEAR ARMS is a fundamental right. The Wyoming legislature affirms this right as a constitutionally PROTECTED RIGHT in every part of Wyo.

Wyo. Chapter 8. Weapons. Article 4. Regulation by the state, § 6-8-406. Legislative findings and declaration of authority

(a) The legislature declares that the authority for W.S. 6-8-402 through 6-8-406 is the following:

(iv) The SECOND AMENDMENT TO THE UNITED STATES CONSTITUTION reserves to the people the right to KEEP and BEAR ARMS as that right was understood at the time the original states ratified the bill of rights to the United States constitution, and the guaranty of the right is a matter of contract between the state and people of Wyoming and the United States as of the time the Act of Admission was agreed upon and adopted by Wyoming and the United States in 1889;

(v) Article 1, section 24, of the Wyoming constitution secures the right of citizens the right to keep and BEAR Arms and this RIGHT SHALL NOT BE DENIED. This RIGHT PREDATES THE UNITED STATES CONSTITUTION and the Wyoming constitution and is unchanged from the 1890 Wyoming constitution, which was approved by congress and the people of Wyoming, and the right exists, as it was agreed upon and adopted by Wyoming and the United States in the Act of Admission.

Wyo. Chapter 14. Protection of Constitutional Rights. § 9-14-101. Second amendment defense

The attorney general is directed to advance arguments protecting the Constitutional Right to BEAR ARMS.

UNITED STATES FOURTH AMENDMENT

The right of the people to be secure in their persons, houses, papers, and effects; against unreasonable searches and seizures; SHALL NOT BE VIOLATED, and no warrants shall issue but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

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Federal 'case law citations' that cited the above Constitutional Amendment; were removed to prevent them from being construed as 'additional argument'

UNITED STATES FIFTH AMENDMENT

No person shall be held to answer for a capital or otherwise infamous crime.... NOR be subject for the same offense to be twice put in jeopardy of life or limb, NOR shall be compelled in any criminal case to be a witness against himself, NOR be deprived of life, liberty, property; without due process of law, NOR shall private property be taken for public use without just compensation.

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Federal 'case law citations' that cited the above Constitutional Amendment; were removed to prevent them from being construed as 'additional argument'

UNITED STATES SIXTH AMENDMENT

In all criminal prosecutions, the accused SHALL enjoy the right to speedy and public trial, by an impartial Jury of the state and district where the crime shall have been committed;...and be informed of the nature and cause of the accusation; be confronted with witnesses against him; and to have compulsory process for obtaining witnesses in his favor, and assistance of counsel for his defense.

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Federal 'case law citations' that cited the above Constitutional Amendment; were removed to prevent them from being construed as 'additional argument'

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Federal 'case law citations' that cited the above Constitutional Amendment; were removed to prevent them from being construed as 'additional argument'

UNITED STATES FOURTEENTH AMENDMENT

All persons born in.....the United States, and subject to the jurisdiction thereof, are citizens of the United States in the State wherein they reside. NO STATE shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; NOR shall any State deprive any person of life, liberty, property; without due process of law, NOR deny any person within its jurisdiction – the equal protection of the laws..... (SEC 5. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.)

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Federal 'case law citations' that cited the above Constitutional Amendment; were removed to prevent them from being construed as 'additional argument'

W.R.Cr.P. 43(a) [See Wyo. Stat. Ann. 7-11-202]

The Sixth Amendment and the Due Process clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States {322 p.3d 1285} are held to guarantee an accused the right to be present (attend) during every stage of the criminal proceeding that is critical to its outcome"] Seeley v. State, 959 P.2d 170, 177 (Wyo. 1998).. The CONSTITUTIONAL GUARANTEE has been embodied into Wyo. Stat. Ann. 7-11-202 and W.R.Cr.P. 43(a). Id.

28 U.S.C. 2254(e)(2)(A)(ii):

(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court (shall) not hold an evidentiary hearing on the claim (if) unless the applicant shows that

(A) the claim relies on...

(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

§ 671.11 Relief From Procedural Impediments, Fundamental Miscarriage of Justice [2] [c]

Show A Fair Probability: When a habeas petition is based upon a claim of actual innocence, there must be an allegation of a constitutional violation as well as evidence of actual innocence. That is, "a claim of 'actual innocence' is not itself a constitutional claim, but instead a gateway through which a habeas petitioner must pass to have his otherwise barred constitutional claim considered on the merits. The Supreme Court has adopted a three-part test for determining whether this standard has been met: 1.) there must have been a constitutional error, 2.) the error must have had a probable effect on the jury's determination, and 3.) it must be probable that the constitutional violation resulted in the conviction of an innocent person. To satisfy the third element, the petitioner must make a colorable showing of factual innocence. In other words, the petitioner must demonstrate the existence of "at least sufficient claims and facts that—had the jury considered them—probably would have convinced the jury that the defendant was factually innocent. It is sufficient under this standard that the petitioner had an affirmative defense, like insanity or necessity, that the jury likely would have found to exist.

Habeas Corpus 14.5, 111 - state prisoner - exhaustion of remedies - sufficiency of claim:

1a, 1b, 1c. With respect to an accused who was convicted in a state court of crimes that he asserted, at trial, had been committed by one of the prosecution's witnesses, a Federal Court of Appeals improperly affirmed a Federal District Court's denial of the accused's petition for federal habeas corpus relief, as the Court of Appeals erred in concluding that, when seeking review in the state appellate court, the accused had failed to raise the federal claim based on prosecutorial misconduct, and also erred in concluding that the habeas corpus petition presented the prosecutorial-misconduct claim in too vague and general a form, **as (1) the failure of a state appellate court, in its opinion affirming the accused's conviction on direct review, to mention a federal claim did not mean that such a claim had not been presented to the state appellate court; (2) the District Court record contained the brief that the accused had filed in state court, and the brief set out the federal claim; and (3) the habeas corpus petition made clear and repeated references to an appended supporting brief that presented the accused's federal claim with more than sufficient particularity.**

Habeas Corpus 14.5 - exhaustion of remedies

2. "Whether the requirement that a state prisoner petitioning for federal habeas corpus relief must have exhausted the petitioner's state-court remedies has been satisfied **cannot turn upon whether a state appellate court chooses to ignore in its opinion a federal constitutional claim squarely raised in the petitioner's brief in the state court**.

Criminal Law & Procedure > Appeals > Reversible Errors

Error is prejudicial if there is a reasonable probability that the verdict might have been more favorable to the defendant if the error had not been made.

Criminal Law & Procedure > Appeals > Reversible Errors > Structural Errors

Structural error is a defect affecting the framework within which the trial proceeds, rather than simply errors in the trial process itself. Errors of this type are so intrinsically harmful as to require automatic reversal without regard to their effect on the outcome.

Criminal Law & Procedure > Appeals > Reversible Errors > Structural Errors

Structural errors affect "basic protections" without which a criminal trial cannot reliably serve its function as a vehicle for determination of guilt or innocence. Errors that relate to basic protections are so intrinsically harmful as to require automatic reversal regardless of their effect on the outcome.

Criminal Law & Procedure > Appeals > Reversible Errors > Structural Errors

The question in identifying structural error is whether the error affects the "framework" of the trial, rather than simply the trial process itself. In such instances, it is often difficult to assess the effect of the error because the nature of a structural error is to produce consequences that are necessarily unquantifiable and indeterminate. The frequently cited examples of such errors include the complete denial of counsel, a biased presiding judge, the denial of a public trial, and a defective instruction on reasonable doubt.

Criminal Law & Procedure > Defenses > Self-Defense

In the context of a defense of self-defense, arming oneself in anticipation of an attack does not render someone an aggressor.

Criminal Law & Procedure > Defenses > Self-Defense

Generally There Is No Absolute Duty Of Retreat; rather, the law requires that a person avoid using deadly force if there is a reasonable way to steer clear of it. However, when a person is the aggressor, he has a duty to withdraw or retreat before he could claim the right to self-defense.

Criminal Law & Procedure > Defenses > Self-Defense

The Castle Doctrine Applies Between Cohabitants

WY Criminal Law & Procedure > Defenses > Self-Defense

The majority of jurisdictions that have considered the issue have concluded a cohabitant does not have a duty to retreat in his own HOME when, through no fault of his own, he is assailed by another cohabitant.

WY Criminal Law & Procedure > Defenses > Self-Defense

When a person without fault is attacked in his HOME, he may defend himself. In Palmer, the Supreme Court of Wyoming first adopted the Castle Doctrine. The court explained that the law does not require that a person in his own HOME shall avoid the necessity by retreating before his assailant. His house is his Castle, and when it is invaded he is deemed to be "at the wall," and no further retreat is required. The court established that a person in his own HOME has a right to defend himself against ANY person who attacks him: every man has a right to pursue his peaceful avocations in his own house and about his own premises, unmolested by threats or violence, or unlawful interference by any other person or persons; and if, while pursuing these avocations, he is violently attacked in a manner indicating a purpose to perpetrate a known felony upon him, such as murder, mayhem, or the like, under such circumstances he is not obliged to retreat, but may pursue his adversary until he has freed himself from all danger. a man need not retreat if assaulted, without fault, in his own HOME.

Wyo. § 6-2-602 Use of force in self defense; no duty to retreat (a)

The use of defensive force is reasonable when it is the defensive force that a reasonable person in like circumstances would judge necessary to prevent an injury or loss, and no more, including deadly force if necessary to the person employing the deadly force or to another person. As used in this subsection, necessary to prevent imminent death or serious bodily injury includes a necessity that arises from an honest belief that the danger exists whether the danger is real or apparent.

Wyo. § 6-2-602 Use of force in self defense; no duty to retreat (b)

A person is presumed to have held a reasonable fear of imminent peril of death or serious bodily injury to himself or another when using defensive force, including deadly force if:

(i) The intruder against whom the defensive force was used was in the process of unlawfully and forcefully entering, or had unlawfully and forcibly entered, anothers HOME OR HABITATION or, if that intruder had removed or was attempting to remove another against his will from his HOME OR HABITATION; and

(ii) The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring.

Wyo. § 6-2-602 Use of force in self defense; no duty to retreat (c)

(c) The presumption set forth in subsection (b) of this section does not apply if:

(i) The person against whom the defensive force is used has a right to be in or is a lawful resident of the HOME OR HABITATION, such as an owner, lessee or titleholder, and there is not an injunction for protection from domestic violence or a written pretrial supervision order of no contact against that person;

(ii) The person sought to be removed is a child or grandchild, or is otherwise in the lawful custody or under the lawful guardianship of, the person against whom the defensive force is used; or

(iii) The person against whom the defensive force is used is a peace officer or employee of the Wyoming department of corrections who enters or attempts to enter anothers HOME OR HABITATION in the performance of his official duties.

Wyo. § 6-2-602 Use of force in self defense; no duty to retreat (d)

A person who unlawfully and by force enters or attempts to enter anothers HOME OR HABITATION is presumed to be doing so with the intent to commit an unlawful act involving force or violence.

Wyo. § 6-2-602 Use of force in self defense; no duty to retreat (e)

A person who is attacked in any place where the person is lawfully present SHALL NOT HAVE A DUTY TO RETREAT Before Using Reasonable Defensive Force Pursuant To Subsection (a) of this section provided that he is not the initial aggressor and is not engaged in illegal activity.

Wyo. § 6-2-602 Use of force in self defense; no duty to retreat (f)

A PERSON WHO USES REASONABLE DEFENSIVE FORCE AS DEFINED BY SUBSECTION (a) OF THIS SECTION SHALL NOT BE CRIMINALLY PROSECUTED FOR THAT USE OF REASONABLE DEFENSIVE FORCE.

Construction.

Subsection (f) is a mandatory immunity provision carrying with it a judicial gatekeeping function following the preliminary hearing. The accused must present a prima facie showing that subsection (f) applies; if the accused satisfies this minimal burden, the burden shifts to the State to establish by a preponderance of the evidence that subsection (f) does not apply. State v. John, 2020 WY 46, 460 P.3d 1122, 2020 Wyo. LEXIS 48 (Wyo. 2020).

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Text was removed to prevent it from being construed as 'additional argument'

Wyo. § 6-2-602 Use of force in self defense; no duty to retreat (g)

As used in this section:

(i) HABITATION means any structure which is designed or adapted for overnight accommodation, including, but not limited to, buildings, modular units, trailers, campers and tents, but does not include the inmate housing area of a jail, state penal institution or other secure facility under contract with the department of corrections to house inmates;

(ii) HOME means any occupied residential dwelling place other than the inmate housing area of a jail, state penal institution or other secure facility under contract with the department of corrections to house inmates;

(iii) Deadly force means force that is intended or likely to cause death or serious bodily injury.

WY Criminal Law & Procedure > Trials > Defendant's Rights > Right to Jury Trial Criminal Law & Procedure > Juries & Jurors > Province of Court & Jury > Factual Issues

Criminal defendants are entitled to a jury trial with jury as the sole fact-finder. Indeed, the sanctity of the jury's role as fact-finder has always been honored in Wyoming

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Criminal Law & Procedure> Trials> Closing Arguments> General Overview Legal Ethics> Prosecutorial Conduct

The prosecutor may argue all reasonable inferences from evidence in the record. It is unprofessional conduct for the prosecutor intentionally to misstate the evidence or mislead the jury as to the inferences it may draw. It is unprofessional conduct for the prosecutor to express his or her personal belief or opinion as to the truth or falsity of any testimony or evidence or the guilt of the defendant. The prosecutor should not use arguments calculated to inflame the passions or prejudices of the jury. The prosecutor should refrain from argument which would divert the jury from its duty to decide the case on the evidence, by injecting issues broader than the guilt or innocence of the accused under the controlling law, or by making predictions of the consequences of the jury's verdict.

Criminal Law & Procedure > Juries & Jurors > Province of Court & Jury > Factual Issues

The Jury - not the trial court and not the attorneys - resolves factual issues

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Criminal Law & Procedure > Juries & Jurors > Province of Court & Jury > Factual Issues Criminal Law & Procedure > Trials > Defendant's Rights > Right to Jury Trial

The aim of the guarantee of the right to trial by jury is to preserve the substance of the right of trial by jury as distinguished from mere matters of form or procedure, particularly to retain the concept that issues of law are to be resolved by the court and issues of fact are to be determined by the jury under appropriate instructions by court. The essential elements of trial by jury are there be impartial jurors, who unanimously decide facts in controversy under direction of a judge.

Criminal Law & Procedure > Appeals > Standards of Review > Abuse of Discretion Criminal Law & Procedure > Appeals > Standards of Review > De Novo Review > Jury Instructions Criminal Law & Procedure > Jury Instructions > Requests to Charge

An appellate court reviews the district court's refusal to give an offered instruction for abuse of discretion. An abuse of discretion occurs when the trial court acts outside the bounds of reason or commits an error of law. While the refusal to give an offered instruction is reviewed for an abuse of discretion, the question of whether the court invaded the province of the jury by making a factual determination constitutes an error of law is a legal question which we review De Novo. (reasonable doubt)

Wyoming Code of Judicial Conduct (WCJC) Rule 1.1. Compliance with the Law

A judge shall comply with the law, including the Code of Judicial Conduct.

Wyoming Code of Judicial Conduct (WCJC) Rule 2.2. Impartiality and Fairness

A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

[1] To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.

[2] Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question.

WY Criminal Law & Procedure > Counsel > Effective Assistance > Tests

When a claim of ineffective assistance of counsel can be resolved on the prejudice prong of the applicable test, a court need not address whether trial counsel was deficient. Because a defendant must establish both prongs, a court can decide an ineffective assistance claim on the prejudice prong without considering the deficient performance prong.

WY Criminal Law & Procedure > Counsel > Effective Assistance > Trials

Wyoming law, criminal law and procedure, effective assistance of counsel at trial states:
A failure to conduct an investigation may be grounds for ineffective assistance of counsel claims.

WY Criminal Law § 46.3 - Right To Counsel

2. The Sixth Amendment right to counsel exists, and is needed, in order to protect the fundamental right to a fair trial, since access to counsel's skill and knowledge is necessary to accord defendants the ample opportunity to meet the case of the prosecution to which they are entitled.

WY Criminal Law § 46.4 - Right to Counsel

4. That a person who happens to be a lawyer is present at trial alongside the accused is not enough to satisfy the Sixth Amendment; an accused is entitled to be assisted by an attorney, whether retained or appointed, who plays the role necessary to insure that the trial is fair.

WY Criminal Law § 46.4 - Ineffective Counsel

7. Counsel can deprive a defendant of the right to effective assistance of counsel simply by failing to render adequate legal assistance.

WY Criminal Law § 46.4 - Counsel – Duties

12. In representing a criminal defendant, counsel owes the client a duty of loyalty, a duty to avoid conflicts of interest, a duty to advocate the defendant's cause, a duty to consult with the defendant on important decisions, a duty to keep defendant informed of important developments in the course of the prosecution, and a duty to bring to bear such skill and knowledge as will render the trial a reliable adversarial testing process.

WY Criminal Law § 46.4 - Counsel – Effectiveness

8. The benchmark for judging any claim of the effectiveness of counsel is whether counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result.

WY Criminal Law § 46.4 - Counsel – Effectiveness

27. When a defendant challenges a conviction on the ground of prejudicial ineffectiveness of counsel, the question is whether there is a reasonable probability that, absent the errors, the factfinder would have had a reasonable doubt respecting guilt.

WY Criminal Law § 46.4 - Counsel - Effectiveness – Elements

10. A convicted defendant's claim that his counsel's assistance was so defective as to require reversal of a conviction or death sentence has two components, each of which the defendant must show in order to set <*pg. 677> aside the conviction or death sentence: (1) that counsel's performance was deficient, which requires a showing that counsel was not functioning as the counsel guaranteed the defendant by the Sixth Amendment; and (2) that the deficient performance prejudiced the defense, which requires a showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable.

WY Criminal Law § 46.4 - Counsel – Ineffectiveness

30. In adjudicating a claim of actual ineffectiveness of criminal defense counsel, the ultimate focus of <*pg. 680> inquiry must be on the fundamental fairness of the proceeding whose result is being challenged and on whether, despite the strong presumption of reliability, the result of the particular proceeding is unreliable because of a breakdown in the adversarial process that our system counts on to produce just results.

WY Criminal Law § 46.4 - Counsel - Performance Guides

13. In any case presenting a claim that counsel's assistance was constitutionally ineffective, the performance inquiry must be whether counsel's assistance was reasonable considering all the circumstances, and prevailing norms of practice as reflected in American Bar Association standards and the like are guides to determining what is reasonable, but they are only guides which cannot interfere with the constitutionally protected independence of counsel and restrict the wide latitude counsel must have in making tactical decisions.

WY Criminal Law § 46.4 - Counsel – Prejudice

25. The test for prejudice resulting from the ineffectiveness of criminal defense counsel requires the defendant to show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.

WY Criminal Law § 46.4 - Counsel – Prejudice

29. In determining whether prejudice resulted from a criminal defense counsel's ineffectiveness, the court must consider the totality of the evidence before the judge or jury, taking the unaffected findings as a given, and taking due account of the effect of the errors on the remaining findings, and then asking if the defendant has met the burden of showing that the decision reached would reasonably likely have been different absent the errors.

WY Criminal Law § 46.4; Habeas Corpus 47; New Trial 5 - Counsel – Ineffectiveness

33. The principles governing claims of the ineffectiveness of criminal defense counsel apply in federal collateral proceedings such as habeas corpus as well as on direct appeal or in motions for a new trial.

WY Evidence § 419 - Presumption - Denial of Counsel

22. Actual or constructive denial of the assistance of counsel altogether is legally presumed to result in prejudice.

WY Evidence § 419 - Presumption - Conflict of Interest

23. Prejudice to a criminal defendant by reason of his counsel's conflict <*pg. 679> of interest is presumed only if the defendant demonstrates that counsel actively represented conflicting interests and that an actual conflict of interest adversely affected his lawyer's performance.

Wyo. Post Conviction Law Stat. Ann. § 7-14-103 (b)

"....., a court may hear a petition based on any of the following:

(i) The petitioner sets forth facts supported by affidavits or other credible evidence which was not known or reasonably available to him at the time of a direct appeal;

(ii) The court finds from a review of the trial and appellate records that the petitioners appellate counsel provided constitutionally ineffective assistance by failing to assert a claim that was likely to result in a reversal of the petitioners conviction or sentence on his direct appeal".

RULES

Rule 13. Review on Certiorari: Time for Petitioning

1. Unless otherwise provided by law, **a petition for a writ of certiorari to review a judgment in any case**, civil or criminal, entered by a state court of last resort or a United States court of appeals (including the United States Court of Appeals for the Armed Forces) **is timely when it is filed with the Clerk of this Court within 90 days after entry of the judgment**. A petition for a writ of certiorari seeking review of a judgment of a lower state court that is subject to discretionary review by the state court of last resort is timely when it is filed with the Clerk within 90 days after entry of the order denying discretionary review.

2. The Clerk will not file any petition for a writ of certiorari that is jurisdictionally out of time. See, e.g., 28 U.S.C. 2101(c).

3. The time to file a petition for a writ of certiorari runs from the date of entry of the judgment or order sought to be reviewed, and not from the issuance date of the mandate (or its equivalent under local practice). **But if a petition for rehearing is timely filed in the lower court by any party, or if the lower court appropriately entertains an untimely petition for rehearing or sua sponte considers rehearing, the time to file the petition for a writ of certiorari for all parties (whether or not they requested rehearing or joined in the petition for rehearing) runs from the date of the denial of rehearing or, if rehearing is granted, the subsequent entry of judgment.**

10th Cir. R. 35.1.

A petition for rehearing may request consideration by the whole court sitting en banc. En banc consideration is often requested but seldom granted. **Ordinarily the court will grant en banc review only when necessary to secure or maintain uniformity of the circuit's decisions, to comply with a U.S. Supreme Court ruling in conflict, or to consider an issue of exceptional importance.** 10th Cir. R. 35.1.

Any petition for rehearing or rehearing en banc that fails to comply with Fed. R. App. P. 35(b)(1) and 10th Cir. R. 35.2(A) will not be circulated to the court en banc.

10th Cir. R. 40.2. Form; Copies and Attachments

Hard copies of petitions for rehearing are not required.
If the petition for panel rehearing also seeks en banc review, a copy of the opinion or order and judgment must be attached. **No other attachments may be included unless the petition is accompanied by a motion seeking permission which identifies the attachments with particularity and the reason for their inclusion.**

For information regarding filing petitions for panel rehearing and rehearing en banc, please see the CM/ECF User Manual at Section III(K). Seewww.ca10.uscourts.gov.
HISTORY: Amended Jan. 1, 2016; Jan. 1, 2017; Jan. 1, 2018; Jan. 1, 2019; Jan. 1, 2021.

OTHER
(ORDER OF PRESENTATION OF CASE & RELIEF)

This Petition for Writ of Certiorari is submitted respectfully and hopefully to the Good and Honorable United States Supreme Court; and Mr. Leners righteously but humbly requests SCOTUS have lower Courts deliver their records and judgments *(if any are missing herein – which Mr. Leners does not think is the case because he's provide FIVE OF THEM in "Appendices A-E")*; in order that they be properly reviewed as desired.

The Defendant presents and swears; that landmark considerations for accepting this case are provided in primary areas within – and furthermore THAT THIS LANDMARK CASE IS IN THE INTEREST OF ALL UNITED STATES CITIZENS *(NOT JUST HIMSELF)*; TO SAFEGUARD THIS NATION'S FUTURE GENERATIONS BY SCOTUS RULING ON IT, *and*:

I. Ruling on this Landmark Case is of Imperative Public Importance, in a Great Constitutional Question.

II. There are conflicts between decisions of which review is sought, and decisions of the lower Federal and State Courts (appellate courts).

III. A ruling is required to prevent further Constitutional Law and Rights violations that lower Courts have made in this case and countless others – thus providing the Nation with needed guidance to apply law and precedence homogeneously; in order to prevent further 'Denial of Substantial Constitutional Rights' to all citizens.

It is now respectfully requested the Honorable Court take into consideration; this filing by an "unlettered in law" / state manufactured Pro Se Defendant, and graciously forgive any unintentional 'mistake / err' he may have made herein that is not 'prejudicing' to anyone – and now rule on this case for the good of the entire United States of America.

scotus

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

Petitioner respectfully prays that a Writ of Certiorari issue to review the judgment below.

OPINIONS BELOW

[✓] **For CASE # 24-8008 - from the U.S. Federal Court of Appeals – 10th Circuit (USCA):**

[✓] The opinion of the **United States Court of Appeals (10th cir.)** appears at **Appendix "A"**.
The date was **12-12-2024** (and it is designated as "EFC 11143610" / "Doc #83-1").
[✓] This petition is unpublished.

[✓] The opinion of the **United States District Court of Wyo.** appears at **Appendix "B"**.
The date was **2-1-2024** (and it is designated as Case #1:23-cv-00121 "EFC 55" and "ECF 56").
[✓] This petition is unpublished.

(Extra Opinions per SCOTUS Rules)

[✓] The opinion of the 1st Dist. County Court / "Trial Court"; is included by Defendant in case it was referenced by the Federal Ct.; and it appears at **Appendix "D"**. The date was **4-18-2023**.

[✓] The Wyoming Supreme Court's denial of Defendant's timely filed **"Permission to File Pro Se Supplemental Brief in Direct Appeal"** *(to rectify State assigned appeal counsel's "frivolous / defective brief of appellate");* is included by the Defendant; and it appears at **Appendix "E"**. The date was **5-4-2021**.

JURISDICTION

[✓] **For CASE # 24-8008 from the U.S. Federal Court of Appeals – 10th Circuit (USCA):**

[✓] The date on which the **United States Court of Appeals (10th cir.)** decided my case was on **12-12-2024** (and it is designated as "EFC 11143610" / "Doc #83-1").

[✓] A timely petition for rehearing was denied by the United States Court of Appeals **on 2-11-2025** ***(After Appeal was Re-instated and viewed by the Panel – En Banc)***; and a copy of the order denying ***(after the)*** rehearing appears at **Appendix "C"**; (and it is designated as "EFC 11157979" / "Doc #102").

Most Current (2009) US Supreme Court Instructions Provided By The Prison:
III. The Time for Filing: You must file your petition for a writ of certiorari within 90 days from the date of the entry of final judgment in the United States court of appeals or highest state Appellate court; **Or 90 Days From The Denial Of A Timely Filed Petition For Rehearing (as is the case with this Pro Se filing)**

The Time From 2-11-25 "Re-Hearing" denial, Plus 90 Days, Is Mon., 5-12-25, So Petition Is Timely. Jurisdiction of the United States Supreme Court is invoked under 28 U. S. C. § 1254(1)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

❖ UNITED STATES SECOND AMENDMENT

.....Being necessary to a free State, the right of the people to keep and bear arms shall not be infringed.

❖ **United States Supreme Court Holding in District of Columbia v. Heller, 554 U.S. 570, 128 S. Ct. 2783, 171 L. Ed. 2d 637 (2008)**

The Second Amendment Protects Individuals Right To Possess Firearm Unconnected With Service In Militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home;....(etc.). **10.** Putting all of the textual elements of the operative clause of the Second Amendment together, the United States Supreme Court finds that they guarantee the individual right to possess and carry weapons in case of confrontation.....(etc). The Supreme Court looks to this because it has always been widely understood that the Second Amendment, like the First and Fourth Amendments, codified a pre-existing right. The very text of the Second Amendment implicitly recognizes the pre-existence of the right and declares only that it "Shall Not Be Infringed" (Scalia, J., joined by Roberts, Ch. J., and Kennedy, Thomas, and Alito, JJ.). As the Supreme Court said in United States v. Cruikshank, this is not a right granted by the Constitution. Neither is it in any manner dependent upon that instrument for its existence. There seems to the United States Supreme Court no doubt, on the basis of both text and history, that the second amendment conferred an individual right to keep and bear arms.

❖ **Constitutional Law > Bill of Rights > Fundamental Rights > Right to Bear Arms**

The Second Amendment Protects the right to possess firearms and use them for traditionally lawful purposes including self-defense within the home.

❖ **Criminal Law & Procedure > Defenses > Self-Defense**

The Castle Doctrine applies between cohabitants.

❖ **Criminal Law & Procedure > Defenses > Self-Defense**

In the context of a defense of self-defense, arming oneself in anticipation of an attack does not render someone an aggressor.

❖ **Criminal Law & Procedure > Defenses > Self-Defense**

To assert the theory of self-defense, the defendant first must present a prima facie case of each element of the affirmative defense. If the defendant carries this slight burden, the burden shifts to the State to prove that the defendant did not justifiably act in self-defense.

★ **NOTE:** Each Wyo. law known to be revised **years before Mr. Leners' trial (such as Wyo. § 6-2-602);** ***after*** the "Widdison v. Wyo. **2018 overturn**"; yet still denied to Mr. Leners - is indicated with a "STAR"

❖ **Wyo. Criminal Law & Procedure > Defenses > Self-Defense**

The castle doctrine can be available when one cohabitant attacks another.

❖ **Wyo. Article 1. Declaration of Rights. § 24. Right to bear arms**

The right of citizens to bear arms in defense of themselves and of the state shall not be denied.

❖ **Wyo. Chapter 8. Weapons. Article 4. Regulation by the state, § 6-8-401. Firearm, Weapon and Ammunition Regulation and Prohibition by State**

The Wyoming legislature finds that the right to keep and bear arms is a fundamental right. The Wyoming legislature affirms this right as a constitutionally protected right in every part of Wyoming.

❖ **Wyo. Chapter 8. Weapons. Article 4. Regulation by the state, § 6-8-406. Legislative findings and declaration of authority**

The legislature declares that the authority for W.S. 6-8-402 through 6-8-406 is the following:

(iv) The Second Amendment To The United States Constitution reserves to the people the right to keep and bear arms as that right was understood at the time the original states ratified the bill of rights to the United States constitution, and the guaranty of the right is a matter of contract between the state and people of Wyoming and the United States as of the time the Act of Admission was agreed upon and adopted by Wyoming and the United States in 1889;

(v) Article 1, section 24, of the Wyoming constitution secures the right of citizens the right to keep and bear arms and this right shall not be denied. This Right Predates The United States Constitution and the Wyoming constitution and is unchanged from the 1890 Wyoming constitution, which was approved by congress and the people of Wyoming, and the right exists, as it was agreed upon and adopted by Wyoming and the United States in the Act of Admission.

❖ **Wyo. Chapter 14. Protection of Constitutional Rights. § 9-14-101. Second Amendment Defense**

The attorney general is directed to advance arguments protecting the Constitutional Right to bear arms.

❖ **Wyo. Criminal Law & Procedure > Defenses > Self-Defense**

When a person without fault is confronted in **her** place of residence, either by an intruder or by a cohabitant, **she** need not retreat. However, if that person is the initial aggressor, **she** is not without fault, and therefore has a duty to retreat prior to defending **herself**. The rule that the right of self-defense is not available to an aggressor who provokes the conflict, unless the aggressor withdraws in good faith and informs the other person by words or actions of a desire to end the conflict, applies whether the person is in **her** residence or not.

❖ **Wyo. Criminal Law & Procedure > Defenses > Self-Defense**

The ***majority of jurisdictions*** that have considered the issue have concluded a cohabitant does not have a duty to retreat in his own HOME when, through no fault of his own, he is assailed by another cohabitant.

❖ **Wyo. Criminal Law & Procedure > Defenses > Self-Defense**

When a person without fault is attacked in his HOME, he may defend himself. In ***Palmer***, the Supreme Court of Wyoming first adopted the Castle Doctrine. The court explained that the law does not require that a person in his own HOME shall avoid the necessity by retreating before his assailant. His house is his Castle, and when it is invaded he is deemed to be "at the wall," and no further retreat is required. The court established that a person in his own HOME has a right to defend himself against ***ANY*** person who attacks him: every man has a right to pursue his peaceful avocations in his own house and about his own premises, unmolested by threats or violence, or unlawful interference by any other person or persons; and if, while pursuing these avocations, he is violently attacked in a manner indicating a purpose to perpetrate a known felony upon him, such as murder, mayhem, or the like, under such circumstances he is not obliged to retreat, but may pursue his adversary until he has freed himself from all danger. A man need not retreat if assaulted, without fault, in his own HOME.

❖ **Wyo. Criminal Law & Procedure > Appeals > Standards of Review > Abuse of Discretion Criminal Law & Procedure > Appeals > Standards of Review > De Novo Review > Jury Instructions Criminal Law & Procedure > Jury Instructions > Requests to Charge**

An appellate court reviews the district court's refusal to give an offered instruction for abuse of discretion. An abuse of discretion occurs when the trial court acts outside the bounds of reason or commits an error of law. While the refusal to give an offered instruction is reviewed for an abuse of discretion, the question of whether the court invaded the province of the jury by making a factual determination constitutes an error of law is a legal question which we review de novo.

❖ **Wyo. Criminal Law & Procedure > Trials > Defendant's Rights > Right to Jury Trial Criminal Law & Procedure > Juries & Jurors > Province of Court & Jury > Factual Issues**

Criminal defendants are entitled to a jury trial with the jury as the sole fact-finder. Indeed, the sanctity of the jury's role as fact-finder has always been honored in Wyoming.

❖ **Wyo. Criminal Law & Procedure > Juries & Jurors > Province of Court & Jury > Factual Issues Criminal Law & Procedure > Trials > Defendant's Rights > Right to Jury Trial**

The aim of the guarantee of the right to trial by jury is to preserve the substance of the right of trial by jury as distinguished from mere matters of form or procedure, particularly to retain the concept that issues of law are to be resolved by the court and issues of fact are to be determined by the jury under appropriate instructions by the court. The essential elements of a trial by jury are that there be impartial jurors, who unanimously decide the facts in controversy under the direction of a judge.

❖ **Wyo. Criminal Law & Procedure > Juries & Jurors > Province of Court & Jury > Factual Issues**

The jury-not the trial court and not the attorneys-resolves factual issues.

❖ **Criminal Law & Procedure > Appeals > Reversible Errors**

Error is prejudicial if there is a reasonable probability that the verdict might have been more favorable to the defendant if the error had not been made.

❖ WYO. § 6-2-602 USE OF FORCE IN SELF DEFENSE; NO DUTY TO RETREAT

(a) The use of defensive force whether actual or threatened, is reasonable when it is the defensive force that a reasonable person in like circumstances would judge necessary to prevent an injury or loss, and no more, including deadly force if necessary to the person employing the deadly force or to another person. As used in this subsection, necessary to prevent imminent death or serious bodily injury includes a necessity that arises from an honest belief that the danger exists whether the danger is real or apparent.

(b) A person is presumed to have held a reasonable fear of imminent peril of death or serious bodily injury to himself or another when using defensive force, including deadly force if:

(i) The intruder against whom the defensive force was used was in the process of unlawfully and forcefully entering, or had unlawfully and forcibly entered, anothers HOME or HABITATION or, if that intruder had removed or was attempting to remove another against his will from his HOME or HABITATION; and

(ii) The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring.

(c) The presumption set forth in subsection (b) of this section does not apply if:

(i) The person against whom the defensive force is used has a right to be in or is a lawful resident of the home or habitation, such as an owner, lessee or titleholder, and there is not an injunction for protection from domestic violence or a written pretrial supervision order of no contact against that person;

(ii) The person sought to be removed is a child or grandchild, or is otherwise in the lawful custody or under the lawful guardianship of, the person against whom the defensive force is used; or

(iii) The person against whom the defensive force is used is a peace officer or employee of the Wyoming department of corrections who enters or attempts to enter anothers home or habitation in the performance of his official duties.

(d) A person who unlawfully and by force enters or attempts to enter anothers home or habitation is presumed to be doing so with the intent to commit an unlawful act involving force or violence.

(e) A person who is attacked in any place where the person is lawfully present shall not have a duty to retreat before using reasonable defensive force pursuant to subsection (a) of this section provided that he is not the initial aggressor and is not engaged in illegal activity.

(f) A person who uses reasonable defensive force as defined by subsection (a) of this section shall not be criminally prosecuted for that use of reasonable defensive force.

(g) As used in this section:

(i) Habitation means any structure which is designed or adapted for overnight accommodation, including, but not limited to, buildings, modular units, trailers, campers and tents, but does not include the inmate housing area of a jail, state penal institution or other secure facility under contract with the department of corrections to house inmates;

(ii) Home means any occupied residential dwelling place other than the inmate housing area of a jail, state penal institution or other secure facility under contract with the department of corrections to house inmates;

(iii) Deadly force means force that is intended or likely to cause death or serious bodily injury.

CHARGES PROPERLY DISMISSED.
Trial court did not err by dismissing the first-degree murder charge against defendant because an eyewitness stated that defendant stepped back into his home when the victim charged up the steps, another eyewitness stated that the victim sprinted straight for defendant, **defendant told the officers he closed the door and the victim opened it and entered his home, and defendant said that the victim rushed him and he shot the victim. BECAUSE DEFENDANT WAS NOT THE INITIAL AGGRESSOR HE DID NOT HAVE A DUTY TO RETREAT. State v. John, 2020 WY 46, 460 P.3d 1122, 2020 Wyo. LEXIS 48 (Wyo. 2020).**

History. Laws 2008, ch. 109, 1; 2011, ch. 142, 1; 2018, ch. 26, 1; ch. 135, 1.

The 2011 amendment, effective July 1, 2011, in (b)(i), substituted home or habitation for occupied structure; and added (d).

The 2018 amendments. The first 2018 amendment, by ch. 26, 1, effective July 1, 2018, in (b)(iii), inserted or employee of the Wyoming department of corrections; in (d)(i), added but does not include the inmate housing area of a jail, state penal institution or other secure facility under contract with the department of corrections to house inmates at the end; and in (d)(ii), added other than the inmate housing area of a jail, state penal institution or other secure facility under contract with the department of corrections to house inmates at the end.

The second 2018 amendment, by ch. 135, 1, effective July 1, 2018, added (a); redesignated former (a) through (c) as (b) through (d); in (b), substituted force, including deadly force if for force that is intended or likely to cause death or serious bodily injury to another if; in (c)(iii), inserted or employee of the Wyoming department of corrections following peace officer; added (e) and (f); redesignated former (d) as (g); added (g)(iii); and made related changes.

This section is set out as reconciled by the Wyoming legislative service office.

Effective dates.
Laws 2008, ch. 109, 3, makes the act effective July 1, 2008.

Construction.
Subsection (f) is a mandatory immunity provision carrying with it a judicial gatekeeping function following the preliminary hearing. The accused must present a prima facie showing that subsection (f) applies; if the accused satisfies this minimal burden, the burden shifts to the State to establish by a preponderance of the evidence that subsection (f) does not apply. State v. John, 2020 WY 46, 460 P.3d 1122, 2020 Wyo. LEXIS 48 (Wyo. 2020).

Jury instructions.
Court erred in refusing defendants request to charge defense of another because the evidence was sufficient to support defendants reasonable belief that she had to act to defend her friend during the fight; **defendant was trapped under the two men, the victim continued yelling that he was going to kill defendants friend, and during the fight, the victim kept trying to hit defendants friend and defendant held the victims arm to keep him from hitting her friend and to try to calm him**. Smith v. State, 2021 WY 28, 480 P.3d 532, 2021 Wyo. LEXIS 35 (Wyo. 2021).

❖ UNITED STATES FOURTH AMENDMENT

The right of the people to be secure in their persons, houses, papers, and effects; against unreasonable searches and seizures; shall not be violated, and no warrants shall issue but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. *(Wyo. Article 1. Declaration of Rights. § 4. Security against search and seizure)*

❖ UNITED STATES FIFTH AMENDMENT

No person shall be held to answer for a capital or otherwise infamous crime.... NOR be subject for the same offense to be twice put in jeopardy of life or limb, NOR shall be compelled in any criminal case to be a witness against himself, NOR be deprived of life, liberty, property; without due process of law, NOR shall private property be taken for public use without just compensation. *(Wyo. Article 1. Declaration of Rights. § 6. Due process of law) + W.R.Cr.P. 43(a) [See Wyo. Stat. Ann. 7-11-202]*

❖ UNITED STATES SIXTH AMENDMENT

In all criminal prosecutions, the accused shall enjoy the right to speedy and public trial, by an impartial Jury of the state and district where the crime shall have been committed;...and be informed of the nature and cause of the accusation; be confronted with witnesses against him; and to have compulsory process for obtaining witnesses in his favor, and assistance of counsel for his defense. *(Wyo. Article 1. Declaration of Rights. § 10. Right of accused to defend) + W.R.Cr.P. 43(a) [See Wyo. Stat. Ann. 7-11-202].*

❖ UNITED STATES FOURTEENTH AMENDMENT

All persons born in.....the United States, and subject to the jurisdiction thereof, are citizens of the United States in the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; NOR shall any State deprive any person of life, liberty, property; without due process of law, NOR deny any person within its jurisdiction – the equal protection of the laws. (Sec 5. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.). *(Wyo. Article 1. Declaration of Rights. § 6. Due process of law) + W.R.Cr.P. 43(a) [See Wyo. Stat. Ann. 7-11-202]*

***"DUE TO LENGTH"*, Per SCOTUS forms stating:**

"XI. Constitutional and Statutory provisions involved: Set out verbatim the constitutional provisions, treaties, statutes, ordinances and regulations involved in the case. If the provisions involved are lengthy, provide their citation and indicate where in the Appendix to the petition the text of the provisions appears"; **THE DEFENDANT THUS RESPECTFULLY REFERS SCOTUS TO:**

"Pages P & Q" for "Other Primary Constitutional Laws Violated In This Case" – specifically:
which follow the "Table of Contents"

- **28 U.S.C. 2254(e)(2)(A)(ii)**
- **§ 671.11 Relief From Procedural Impediments, Fundamental Miscarriage of Justice [2] [c]**
- **Habeas Corpus 14.5, 111 - State Prisoner - Exhaustion Of Remedies - Sufficiency Of Claim**
- **Habeas Corpus 14.5 - Exhaustion Of Remedies**

STATEMENT OF THE CASE – "National Importance"

NATIONAL IMPORTANCE of this case is overwhelming because **1.) "No Duty to Retreat"** "Where one is legally present and doing no wrong", as well as **2.) "Castle Doctrine"** "In the home", affects **EVERY AMERICAN** living an innocent life in the **PUBLIC** realm, *or* even in their **HOME** as well. These are **Two Separate Pre-Existing / God Given Rights** and both require U.S. Supreme Court Writ.

This is especially true when like the Defendant, they are illegally denied these "Pre-Existing/ God Given Rights" despite an ***Audio Recording of the Attack*** and a ***Police Report Jury was Denied***; both proving Defendant was **"In his own HOME during the unprovoked deadly force attack on him"** by two death threat screaming assailants – *with* that Audio Recording proving the **Defendant** was crying out for the unprovoked deadly attack on him to stop: ***"Whoa! No! Stop! No! I Don't Want To Fight!! Aargh!"***; as both **attackers** beat Mr. Leners to death as Sheriff pictures prove (ap "**Appendices G, H**"), and they screamed recorded death threats (including but not limited to): ***"You Wanna Fucking Go!?...I'm Gonna Fucking Kill You!..They'll Never Find You Cause I'll Hide Your Body Where I Know Trapping Places!"***.

Jury was first illegally denied police report (ap "**Appendix V-22-1**") proving it was the Defendant's HOME he was attacked in, then the Judge illegally denied Mr. Leners "NO DUTY TO RETREAT" instructions in (ap "**Appendix V-22**"), and finally Jury was saddled with so many *"confusing pre-conditions for self defense"* – all illegally telling them Tim was ***required*** to retreat; it was a travesty. Police and Disbarred D.A. even lied to Jury *"there was no fight"* despite Timothy's proven frantic retreat outside (ap "**Appendix M**")!

Police, Disbarred D.A., Judge, and even sabotaging trial counsel all knew this evidence 1.5 years before trial, yet still denied Tim these **RIGHTS IN HIS OWN HOME**; *and* where he was doing no wrong; saying against all laws: ***"I do not believe that 'common law self defense', which is what we had until this point; addresses the issue that you have NO DUTY TO RETREAT where you are lawfully present."***

As a result of being illegally denied these RIGHTS that beseech Writ of Certiorari from the U.S. Supreme Court; the legally *and* factually innocent / 100% lifetime crime-free family man / Decorated United States **V.A. / D.O.D.** ***"100% Total & Permanently Disabled Marine Corps Veteran"*** **(Mr./Sgt. Timothy Leners);** was illegally convicted of a "crime" he never committed. Legal and minimal Self Defense is no crime; especially in the home!; but "because of local hate and prejudice"; this crime-free servant of America; **"Tim"**; has been tortured by 8 years! illegal incarceration since 12-23-17; *(the whole while being maliciously denied all required medical care his "100% VA USMC Service Disablement" requires).* As a result further assassinating his life of service to County; even his family of four young school kids and loyal wife of 30 yrs. also inhumanely suffer, and fallen so far below poverty; they are nearly homeless.

THIS IS NOT THE "AMERICA" OUR FOUNDERS *(and USMC Sgt. Tim Leners)* BLED FOR; and this has *(and will continue to)* assassinate many other law abiding U.S. Citizens until the U.S. Supreme Court inhibits thousands of "willy-nilly rulings" happening all over our Great County, caused by innocent people being illegally denied **"No Duty to Retreat"** and/or **"Castle Doctrine"** under attack.

Furthermore; attached Prior Court Decisions (ap "**Appendices A, B, C, D, E**"), and law herein prove that ALL Courts (USCA[1], USDC, Wyo. Supreme Ct., and Laramie Co. Ct.), willfully ruled contrary to the *United States Constitution, *U.S. Supreme Court Rule; and other *Federal District and Circuit Courts. Every single Court ruling 99+% refused to *even mention* the shocking evidence and (ap **Appendices**) Jury was denied and repeatedly violated Fed. Law in all *appeals* by illegally denying Tim hearings and counsel:

(All quoted verbatim in "Statues and Rules" "Pages P & Q")

- 28 U.S.C. 2254(e)(2)(A)(ii)
- § 671.11 Relief From Procedural Impediments, Fundamental Miscarriage of Justice [2] [c]
- Habeas Corpus 14.5, 111 - State Prisoner - Exhaustion of Remedies - Sufficiency of Claim
- Habeas Corpus 14.5 - Exhaustion of Remedies

The Constitutional violations in this case are staggering; yet unfathomably ***"no Court will touch / right this hot button 2nd Amendment case"*** of a lifetime crime-free man, attacked **On Audio** in his own **Home;** all because he *'peacefully came from out of state'*, had *'just rented it'*; but was next **Forced** to legally defend his life only 30 minutes later with his legal licensed-carried small arm; with only one **Non**-lethal shot to primary attacker Chris Trout:*1 of 2 police confessed killers w/lifelong criminal records Jury was also denied.*

Until the U.S. Supreme Court grants Writ and requires NATIONAL Equal Protection of Both "NO DUTY TO RETREAT" and "CASTLE DOCTRINE"; no American will ever be safe from violent attack in either the PUBLIC realm, or even in their own HOME. Tim's case proves this.

Illegal convictions "based on hate, local prejudice and politics" continue to prove that Americans everywhere are being illegally convicted by being illicitly denied their right to self defense, and **"No Duty To Retreat"** Jury Instructions where they are legally present and doing no wrong; *and / or* also being denied **"Castle Doctrine"** in their home: both just as Mr. Leners was when his Jury was illegally "Robbed of all Fact Finding Province" resulting from (but not limited to) **1.) Trial Court Judge's abuse of discretion: illegally denying Tim's Jury Instruction "No Duty to Retreat"** (ap **"Appendix V-22"**), where Timothy was not just known to be legally present, but also known to be in his own home; and also resulting from **2.) Illegally denying Jury the Police Report** (ap **"Appendix V-22-1"**) **proving the primary attacker Chris Trout confessed to cops, that it was Mr. Leners' home he just attacked him in.**

[1] In fact, the USCA 10th Cir. even illegally gutted Mr. Leners' "COA Appeal" on purpose, against the law, and for no reason; by refusing four times to file Mr. Leners' lawful required / valid evidentiary ("Appendices"), and even his "Table of Authorities"; that were in all prior appeals. These included but were not limited to: **1.)** Recovered Brady Evidence of Innocence denied to Jury by Disbarred D.A. & Police who LIED to Jury "didn't exist", **2.)** Jury Instruction Transcripts proving Unconstitutional Instructions, **3.)** Tim's Injury & Crime Scene Pics Disbarred D.A. & Police LIED to Jury "didn't exist", AND **4.)** E-Mails & Affidavits **("Appendix U")** to & from self confessed defective Trial Counsels, *one even by now Judge Kerri Johnson testifying: "TIM'S CASE and the Public Defender Office WAS IN CHAOS" **("Appendix V-22a")***). **See USCA 10th Cir. ECF 11160816 - 'Doc 104'**; referencing many objections for refusing to file Appendices & Table of Auth.- all ignored by USCA (ECF's 11070903, 11070990, 11086027, 11086404, 11087287, 11087477) – proving Structural Error 5th & 14th Amendment violations – illegally used knowing "No Appeal Could Stand Without Such Supporting Documents".

Both of these violations (with many more unconstitutional violations following herein this Writ / brief) caused the duped Jury to illegally deny Mr. Leners **BOTH** "No Duty to Retreat" and "Castle Doctrine" EVEN IN HIS OWN HOME - WHILE HE SCREAMED OUT FOR HELP ON RECORDED AUDIO.

And despite fact that Mr. Leners asserted and proved these all in (*and before*[1]) Direct Appeal [(1)] / Post Conviction Relief / § 2254 Habeas / 10th Circuit Appeal; all lower courts *still* ruled against SCOTUS and other courts, *maliciously* refusing to give the proven lifetime lawful Mr. Leners; Equal Protection of the Law through any one of the following that *directly or indirectly state* **"Every American Has A Right To No Duty To Retreat Where He Is Legally Present and doing no wrong"** *(Especially in his home!).*

- "The U.S. 2nd Amendment to the Constitution"
- "District of Columbia v. Heller (2008)"
- "Wyo. § 6-2-602 Use of Force in Self Defense; No Duty to Retreat"
- "Widdison v. State, Wyo. (2018)"
- "Palmer v. State Wyo. (1-13-1900)"

Writ is required to protect ALL Americans because ALL Courts in Mr. Leners' case illegally refused to overturn this holocaust for 8 years despite facts proving, and they well knew, ***"Mr. Leners was illegally denied No Duty to Retreat"*** (even in his home), and this violated all above laws predating his case.

To be clear all Courts illegally upholding Mr. Leners' illegal conviction well knew ***that the United States Supreme Court themselves*** "ALL BUT TYPED" the very words *NO DUTY TO RETREAT* in:

> ***United States Supreme Court: District of Columbia v. Heller, (citation omitted) (2008)***
>
> The Second Amendment Protects Individuals Right To Possess Firearm Unconnected With Service In Militia, **And To Use That Arm For Traditionally Lawful Purposes, Such As Self-Defense Within The Home**;....(etc.). **10.** Putting all of the textual elements of the operative clause of the Second Amendment together, the United States Supreme Court finds that they guarantee the individual right to possess and carry weapons **In Case Of Confrontation**. (etc). The Supreme Court looks to this because it has always been widely understood that the Second Amendment, like the First and Fourth Amendments, **Codified A Pre-Existing Right**. The very text of the Second Amendment implicitly recognizes the pre-existence of the right and declares only that it **"Shall Not Be Infringed"** (Scalia, J., joined by Roberts, Ch. J., and Kennedy, Thomas, and Alito, JJ.). As the Supreme Court said in United States v. Cruikshank, this is not a right granted by the Constitution. Neither is it in any manner dependent upon that instrument for its existence. There seems to the United States Supreme Court no doubt, on the basis of both text and history, that **The Second Amendment Conferred An Individual Right To Keep And Bear Arms.**

It is apparent that until SCOTUS does just that (Require With A Writ That "Every American has a right to No Duty To Retreat where he is legally present and doing no wrong") **thousands of Americans will continue to be illegally convicted for legal self defense and have their innocent lives raped & slain.**

[(1)] Orig "Appendix B" ***now ("Appendix B-TL")*); PROVES on its "PAGE #3"** that Mr. Leners asserted "NO DUTY TO RETREAT" / "STAND YOUR GROUND" going all the way back to months BEFORE his defective appeal counsel Kirk Morgan's 'Frivolous Brief of Appellate', by sending him that 3-23-20 letter specifically instructing him to assert this in appeal. Orig "Appendix E" *now **("Appendix E-TL")***) PROVES Mr. Morgan refused, even confessing refusal to communicate.

REASONS FOR GRANTING WRIT

This is the case of an innocent, crime-free, 100% disabled Veteran: Mr. / Sgt. Timothy Leners; who was attacked twice in his own home by the same "primary attacker"; **Chris Edward Trout & also Joyce Trout.**

THE 12-23-2017 ATTACK ON MR. LENERS WAS AUDIO RECORDED (STATE "EXHIBIT 15") (by Mr. Leners' phone), and unequivocally proves that Tim was screaming out in terror for help, was not the aggressor, and did not provoke both the Trout's dual deadly force attack – and yet the duped Jury convicted Tim anyway due to all the illegal constitutional violations in this case because the Judge illegally denied Mr. Leners **"No Duty to Retreat"** in (ap "Appendix V-22") which then caused Jury to also illegally deny Tim **"Castle Doctrine" in his own home**; and all because **Police Report** (ap "Appendix V-22-1") proving it was Tim's home was denied them; as well as other shocking evidence of Tim's innocence in exonerating **Brady Evidence** a Disbarred D.A. hid from jury/discovery.

Chris Edward Trout was a *'known man'* with a lifelong criminal record who had attacked Mr. Leners just 3 weeks before in Timothy's Fremont NE home (1st attack), and who was on probation when he attacked Mr. Leners the second time in Cheyenne Wyo. on 12-23-17 in Timothy's own **"Wyo. § 6-2-602 Home / Habitat"**[1] that Trout himself just rented to Mr. Leners 30 min. earlier **ON RECORDED AUDIO ("Exhibit 15")**, and who is heard telling Mr. Leners to "MOVE IN". Trout's prior attack, criminal record & probation were illegally denied to Jury despite the Leners begging counsel for it (ap "Appendices P, I").

Chris Trout confessed to Officer P-66 Michael that it was Mr. Leners' Home he just rented to him, but this police report was also illegally denied to the duped Jury as well (ap "Appendix V-22-1").

> *Criminal Law & Procedure > Trials > Defendant's Rights > Right to Jury Trial Criminal Law & Procedure > Juries & Jurors > Province of Court & Jury > Factual Issues*
>
> Criminal defendants are entitled to a Jury trial with Jury as the sole Fact-Finder. Indeed, the sanctity of the jury's role as fact-finder has always been honored in Wyoming.

Chris Trout was joined in the **AUDIO RECORDED ATTACK** on Mr. Leners by the conspiring 2nd attacker, Joyce (Finch) Trout (Trout's ex-wife); who confessed in det. Hickerson's interview that night that she lured Mr. Leners to "come help her by renting her apartment and moving in with her": **@43:00 (*"I Had A Plan To Get Tim To Come"*).** When the Trout's collected Mr. Leners' rent & deposit money **ON RECORDED AUDIO** – they both attacked Timothy 30 min. later, beating Timothy near to death as proven (ap "Appendices G, H") causing Timothy to legally defend his life with his small arm as he cried for help: *"Whoa! Whoa! No! Stop! No! I Don't Want To Fight!! Let Me Explain!! Aargh!!"*.

[1] See Pages 6 & 7 herein for full text of this law that also includes "revision history" which is vitally central to this WRIT.

After that SECOND attack in Wyo., Mr. Leners was illegally arrested on known False Affidavit of Probable Cause (ap "**Appendices A-TL & O**"), illegally detained and searched for "fruit of the poisonous tree"; then maliciously prosecuted by Disbarred D.A. Manlove (ap "**Appendix T**") and conspiring police.

Thus Defendant Mr. Leners, was illegally arrested and charged with of one count of Attempted Second Degree Murder through W.S. § 6-1-301(a), and W.S. § 6-2-104 on December 27, 2017 which violated:

> *Wyo. § 6-2-602 Use of Force in Self Defense; No Duty to Retreat*
> **(f)** A person who uses reasonable defensive force as defined by subsection (a) of this section **Shall Not Be Criminally Prosecuted For That Use Of Reasonable Defensive Force.**

1st chair Ross McKelvey was assigned - who records and affidavits (ap "**Appendices P, Q, W**) prove was an actual saboteur who refused to assert any exonerating evidence and Recovered Brady Evidence that both Mr. and Mrs. Leners sent him over a year before trial (ap "**Appendices 1, 1-A, 2, 3, 4, 5, A-TL, E-1, F, S, V-22b, X**). Mr. Leners' 2nd chair disastrously changed three times before trial from Devon Petersen to Kerri Johnson **and finally Emily Harris** [1] **only 5 weeks before trial** (Tr., Rule 21 Hearing, p.14 & p.62). This fact proved to also be fatal to Mr. Leners' defense because Miss Harris was placed in charge of defective Jury instructions and later testified in Affidavit and WRAP 21 (ap "**Appendix U**") to shocking 6th Amend. Violations including but not limited to statements like:

- "I was assigned to the case too late to come up to speed"
- "I told McKelvey I wasn't to be considered "50/50% responsible Counsel" (Tr.,Rule 21,p.15)
- "I told McKelvey to only assign me 'very specific' tasks" (Tr.,Rule 21,p.15)
- "I never exchanged discovery notes or exhibits with McKelvey"
- "I didn't review any of the cases case's extensive electronic discovery" (all BRADY phone evidence!)
- "I realized I was more uninvolved and unaware of this case than ever previously as 2nd chair".
- "I had only a fraction of the evidence and no discovery package"
- **"McKelvey [still] assigned me Jury instructions" (Tr.,Rule 21,p.15):**
  which (ap "**Appendices V-22, V-22b**") proved caused Structural Errors in ALL Grounds; thus causing Mr. Leners to be given unconstitutional Jury instructions as proven by Jury denied police report (ap "**Appendix V-22-1**"), and then being illegally denied **"No Duty to Retreat" and "Castle Doctrine"** and **In Timothy's Own Home** because Harris didn't know of "Heller", "Widdison / Palmer"; or even that the U.S. 2nd Amendment was enforceable in Timothy's home.

> *United States v. Gonzalez-Lopez, 548 U.S. 140, 147-148, 150, 126 S. Ct. 2557, 165 L. Ed. 2d 409 (2006).*
> Erroneous deprivation of the right to counsel of choice, with consequences that are necessarily unquantifiable and indeterminate, unquestionably qualifies as structural error.

[1] Despite these Structural Error 6th Amend. Violations; trial Judge Sharpe illegally denied Tim's Rule 21 Mo. for new trial, **erroneously** ruling on "prejudice" (R.A. p. 556); **then Sharpe wrote a nasty- Illegal "Epithet"** (ap **"Appendix R"**) against Tim- proving the most illegal vile hatred for Tim; **and that his WRAP 21 denial was abusive and invalid** due to his bias. Tim later filed a "Bias Motion" which put a target on Tim's back in every court. Inept appeal counsel Morgan also refused w/o communication (ap **"Appendix E-TL"**) to assert Jury Instr. / No Duty To Retreat per Tim's (ap **"Appendix B-TL"**).

Additionally the **prior 2nd chair trial counsel (NOW JUDGE) Judge Kerri Johnson** testified that Mr. Leners was being illegally denied counsel as well stating in (ap "**Appendix V-22a**") that she was: ***"APOLOGIZING THE PUBLIC DEFENDER IS IN CHAOS"***; STATING ***"TIMOTHY'S CASE WAS LOSING HER TOO"*** (she was the ***second*** / 2nd chair to disastrously leave Tim's case as 1st chair was derelict).

> *State Public Defender Lozano v. Circuit Court of the Sixth Judicial District, 2020 WY 44; 460 P.3d 721; 2020 Wyo. Lexis 45 S-19-0121 April 1, 2020, Decided by Supreme Court – Wy.*
>
> P4 Ms. Lozano explained the public defender policies on maximum workloads, how those policies were derived, and how she applied the standards contained in the policies. She further explained: "In essence, if the public defender field offices have workloads that exceed 100%, the right to counsel is jeopardized; a lawyer with an excessive workload cannot provide competent, diligent or conflict free representation.
>
> These attributes of effective assistance of counsel are required not only by case law but are requirements of the code of professional responsibility. The State Public Defender and Bar Counsel have worked closely on this matter and he agrees that excessive workloads result in unethical representation when an attorney cannot meet his ethical obligations, she not only jeopardizes the client's constitutional rights, she jeopardizes her license to practice law".

LOZANO'S CASE (AT THE SAME TIME AS TIM'S CASE) PROVES LOZANO KNEW SHE WAS NOT GIVING MR. LENERS THE 6th AMENDMENT ADVOCATE, WHICH WAS HIS RIGHT; BUT TO HAVE AN ACTUAL (NOW) JUDGE SAY **"THE PUB. DEFENDER WAS IN CHAOS"**; IS SHOCKING.

As can already be seen in just these first pages, the **Actual Recorded Audio** of the "Day of Criminal Attack on Tim" (read to jury by Disbarred D.A) was nothing like the ***"whimsical - trash description"*** in slanderous case law, or the lying False Affidavit of Probable Cause / police report; with all Hickerson's deliberate reckless lies and infantile nonfactual smears. THERE WAS NO FALSE: *"Leners packed his belongings in Wal-Mart bags"* **(Mr. Leners *(a global traveling Firefighting Eng.)* packed world class traveling luggage, and generously brought Joyce and her 8 y/o child 'M.T.', several bags of groceries)**, and no *"left his wife and four children"* **(Tim, Mrs. Leners and their kids discussed and knew Tim was coming right back after helping Joyce Trout).** Mr. Leners' illegal arrest was only purposed to: **"arrest an out of state man for perceived adultery and make him pay with his life"**; as easily proven from Hickerson's hateful lies and childish statements like: *"Leners and his little brother fought over Hot-Wheels growing up"*.

The incontrovertible **Eye Witness Audio Recording "Exhibit 15" Proved** that none of the true events, facts or even police pictured evidence of the scene or Mr. Leners' severe injuries (Trial Vol. III, p. 137) (ap "**Appendices G, H, M**"); ***"Followed Trout's version"*** as wrongly stated in USCA's regurgitation of it in their first 12-12-2024 ECF 11143610 / Doc. # 83-1 "Order denying Certificate of Appealability":

> *"Mr. Leners planned to oust Trout from the apartment, move in and begin life anew with Mrs. Trout. The reunion did not go as planned. By the end of the day Mr. Leners had shot Mr. Trout in the center of his chest..... Mr. Leners claimed he shot in self defense".*

In fact, that **"Exhibit 15 Audio"** even proves the kind & gentle Mr. Leners had no idea the Trouts were about to attack and try to murder him after they had his rent & deposit cash, because Mr. Leners is then clearly heard inviting Chris Trout and his other adult daughter that he lived with (Kyla); to Christmas! And yet the Jury even supposedly heard even this on "Exhibit 15 Audio"; and yet still convicted the "*Screaming Out For Help Mr. Leners*", because he was illegally denied **"NO DUTY TO RETREAT".**

And through all appeals have proven the "case law" is known false and slanderous, not even one court has investigated it in any appeal despite the shocking proof, nor will acknowledge the exonerating crime scene pictures or exonerating ACTUAL VERBAL CONTENT of the **"Exhibit 15 Audio Recording"** that Mr. Leners consciously made by activating it on his phone that fatal day of 12-23-2017; when Chris Trout started threatening Timothy with death / banging his fists on the table / and repeatedly telling Mr. Leners he was going to kill him. And all courts *knew* this all happened right there at Joyce Trout's kitchen table, as Joyce Trout herself is heard on recorded audio telling her ex-husband Chris Trout (her "tyrannical" lease holder) that she had begged Timothy to come in Jury denied (ap "**Appendix 3**") because Joyce herself told Trout she *"loved Tim"* (ap "**Appendix 1-A**"), and *"wanted Tim to pay the rent and deposit and move in with her because she couldn't live without him, and also wanted Tim to next take her back to Nebraska 'after a little while' so she would be safe from Chris Trout"*; (Who all still missing State & Police Suppressed Brady Evidence proves she repeatedly told Mr. Leners before that: ***"Chris is a ranging drunk again who raped me and is abusing my (the Trout's) 8 y/o daughter M.T".).***

> *Youngblood v. West Virginia, 547 U.S. 867, 869-70, 126 S. Ct. 2188, 165 L. Ed. 2d 269 (2006)*
> "The accused argued that the suppression of the purportedly exculpatory evidence violated the state's federal constitutional obligation, under Brady v. Maryland (1963) 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215, to disclose evidence favorable to the defense....." Resulting in The United States Supreme Court (Appeal 910.6, 1692.7; Constitutional Law 840.2 - grant of certiorari - REMAND - FAILURE TO DISCLOSE EVIDENCE granted the accused's certiorari petition, vacated the state's highest court judgment denying the accused's request for a new trial.

And even though that same audio recording proved Chris Trout even clearly stated he didn't even live in Joyce's apartment; **Chris Trout LIED to police & the D.A. he "lived there", and even worse the Disbarred D.A. and police all knowingly lied to jury: *"Trout lived there and Leners came uninvited to wreck poor Chris Trout's marriage!"*;** even though they knew from day #1 that Joyce herself is heard on that same recording saying she didn't want Chris / wanted their divorce final. USCA ***even*** refused overturn knowing Disbarred D.A. evilly told Jury in closing: ***"Leners is Dr. Jekyll & Mr. Hyde!!"*** (Tr. Trial, Vol. III, pp. 173 Id. at 185) *knowing* these monstrous names had nothing to do with evidence or Tim's 100% crime-free life; as **"Exhibit 15 Audio"** ***Tim was the only one*** one crying out for help as Trout's beat him!

And as if this wasn't enough proof that the Disbarred D.A. and police ***knew*** they convicted Mr. Leners on false evidence, and ***knew*** Chris Trout didn't even live in Joyce's apartment **(Now Tim's Apartment)**; *'det.'* Hickerson himself documented in his **3-30-2018 police report**; the FACT he ***knew*** **this one+ year before trial; by boldly interviewing YOUNG / 8yr. old "M.T."** then hiding it *(The Trout's only daughter Mr. Leners had been caring for many months in Fremont NE., because Chris Trout abandoned her).* Hickerson's report: Pg. 80 documents Chris Trout's 8 y/o daughter (M.T.) stated:

- ***"My dad lives with Kyla (Trout's adult daughter from another marriage) and I have many guns myself, and my mom often tells me to go get her (loaded) gun, when she hears noises".***

THERE IS NO DOUBT THE DISBARRED D.A. AND LYING POLICE / HICKERSON ALL KNEW MR. LENERS WAS ATTACKED *BY CHRIS TROUT WHO DIDN'T EVEN LIVE THERE* – BUT THEY ALL LIED TO THE JURY SAYING CHRIS TROUT *DID* LIVE THERE!

> *Napue v. Illinois, 360 U.S. 264, 267, 3 L. Ed. 2d 1217, 79 S. Ct. 1173 (1959)*
> Due process is denied when the State obtains a conviction through{1999 U.S. Dist. LEXIS 7} the knowing use of false evidence.

This willful lying to convict on **KNOWN FALSE EVIDENCE** is Federally illegal misconduct and evil; and it was the last nail in Mr. Leners' "coffin" as an innocent after being denied "No Duty to Retreat". The "Prejudice" is incalculable, and this Disbarred D.A. & Police Misconduct is why the Jury was fooled and erroneously denied Mr. Leners **"CASTLE DOCTRINE" in his own home**; because Judge Sharpe also ***FIRST*** illegally denied Mr. Leners **"NO DUTY TO RETREAT" (an "Appendix V-22")** **where even the Disbarred D.A. stated Timothy was legally present & known to be doing no wrong.**

> *Criminal Law & Procedure > Appeals > Reversible Errors > Structural Errors*
> The question in identifying structural error is whether the error affects the "Framework" Of The Trial, rather than simply the trial process itself. In such instances, it is often difficult to assess the effect of the error because the nature of a structural error is to produce consequences that are necessarily unquantifiable and indeterminate.

> *Freeman v. Georgia, 599 F.2d 65 (5th Cir. 1979) – (further citation omitted)*
> Actions of police detective in knowingly concealing eyewitness account amounted to the state suppressing evidence favorable to the accused, thereby depriving him of the due process guarantees of the Fourteenth Amendment.

> *Wilson v. Russo, 212 F.3d 781, 788 (3d Cir. 2000).*
> Even minor details can constitute a misleading statement where it demonstrates "that the affiant willingly and 'affirmatively distort[ed] the truth. " '216 Omissions are made with reckless disregard when an officer withholds information that any reasonable person would understand 'was the kind of thing the judge would wish to know' ".

Violations like this alone should've overturned this case long ago and this case should ***NEVER*** have happened at all as (first arresting) D.A. Sandburg's ***and*** the prior Governor of Wyoming ((Mr. Mead's)) press release so clearly stated about the **pre-2018** Wyo. "No Duty To Retreat Law" (**"Appendix S"**):

https://www.wyomingnews.com/news/local_news/officials-stand-your-ground-will-change-little-in-criminal-system/article_d8d22efc-2a6f-11e8-83c2-1fa5699c11c1.html

- D.A. Sandburg: "A person who is in reasonable fear of their life or of serious bodily injury does not have to consider whether it's reasonable to retreat".
- Wyo. Governor Mead: "I believe the existing law adequately addresses the concerns raised in the 'Stand Your Ground Bill' – **(Gov. Mead said in email - *while refusing to sign the new law*)**".
- While their associate attorney (Tom Jubin) stated this about the 'new version' of the law: "The laws that existed in Wyo. were clear and strongly allowed people to defend themselves ....This bill just makes hamburger out of that law ....and it's more confusing than anything else.".

And that ***"new version of state confessed confusing law"*** is verbatim herein on pgs. 5 & 6 of this very Writ of Certiorari; and yet Mr. Leners was denied **both** the ***"old version"*** as well as the ***"new version"***; not to mention the **U.S. 2nd Amendment, D.C. v. Heller**, and a **slew of others** (pages 2- 7 herein).

When a (then) state D.A. SANDBURG, and even the (then) GOVERNOR MEAD; all stated in the news, **that Mr. Leners and every law abiding person had the *"RIGHT NOT TO RETREAT WHERE LEGALLY PRESENT"*** (even before the law was revised in 2018 / a year before Tim's trial) – *why* did Judge Sharpe *still* illegally deny Mr. Leners **"NO DUTY TO RETREAT"** well knowing this!?

In fact *why* was Mr. Leners arrested in the first place, when police knew *before* his arrest that audio proved him screaming for help, the Trouts screaming death threats, Mr. Leners was badly beaten, and Mr. Leners was in his own **Wyo. § 6-2-602 Use of Force in Self Defense; No Duty to Retreat – HOME?**

Wyo. § 6-2-602 Use of Force in Self Defense; No Duty to Retreat

(a) The use of defensive force whether actual or threatened, is reasonable when it is the defensive force that a reasonable person in like circumstances would judge necessary to prevent an injury or loss, and no more, including deadly force if necessary to the person employing the deadly force or to another person. As used in this subsection, necessary to prevent imminent death or serious bodily injury includes a necessity that arises from an honest belief that the danger exists whether the danger is real or apparent.

(d) A person who unlawfully and by force enters or attempts to enter anothers home or habitation is presumed to be doing so with the intent to commit an unlawful act involving force or violence.

(e) A person who is attacked in any place where the person is lawfully present shall not have a duty to retreat before using reasonable defensive force pursuant to subsection (a) of this section provided that he is not the initial aggressor and is not engaged in illegal activity.

(f) A person who uses reasonable defensive force as defined by subsection (a) of this section shall not be criminally prosecuted for that use of reasonable defensive force.

And the "revision history" of this law is on Page 6 herein, and proves Mr. Leners was already protected under the ***PRE-2018 revision***, that Disbarred D.A. & Judge Sharpe illegally stated in Jury inst. (ap "**Appendix V-22**") that Tim: *"could not have* ***"No Duty to Retreat"*** *because up until 2018 all the state had was 'common law self defense'"*. ALL THE LAWS QUOTED HEREIN PROVE THAT FALSE.

- D.C. v. Heller (USA), **Case No. 128SCT2783**, U.S. Supreme Court, **decided: 6-26-2008**
- Widdison v. State (Wyo.), **Case No. S-17-0138**, Wyo. Supreme Court, **decided: 2-16-2018**
- Palmer v. State (Wyo.), Case No. **No # in Original**, Wyo. Supreme Court, **decided: 1-13-1900**
- Haire v. State (Wyo.), Case No. **S-16-0187**, Wyo. Supreme Court, **decided: 5-8-2017**
- Drennen v. State (Wyo.), Case No. **S-11-0199**, Wyo. Supreme Court, **decided: 10-1-2013**

But for "Heller", these Wyo. laws alone prove that not even the **alleged** *"self defense/ no duty to retreat/ castle doctrine state"* **can** *get it right*; and regularly convict innocents by denying No Duty to Retreat. Until SCOTUS steps in with a **"No Duty to Retreat WRIT"**, Americans in every state will pay the unholy price Tim has.

The simple unadulterated truth of this case that Jury was denied is: Mr. Leners went peacefully to Wyo. on 12-23-2017 to help Joyce Trout and her 8 y/o daughter (M.T.) escape Chris Trout: a criminal on probation / wife raping / child abusing / lifelong petty criminal; ***after*** Tim was falsely ***lured*** there by Joyce Trout herself in (ap **"Appendix 3"**) that the ***Jury Was Lied To "Didn't Exist".*** And did sabotaging 1st chair McKelvey expose this crucial LIE or any other still missing BRADY evidence Tim's dated - emailed (ap **"Appendices 1, 1-A, 2, 3, 4, 5, A-TL, E-1, F, S, V-22b, X)** proves he gave McKelvey 1+ years before trial? No, of course not...and proving complete denial of counsel he didn't even call Joyce Trout to the stand *or* cross-examine either of the Trouts on those shocking exonerating evidences the Jury was denied.

Mr. Leners then paid the rent and deposit on Joyce's apartment *(where Chris Trout AND even his 8 year old daughter "M.T." confessed he didn't live)*, and was then told on audio recording by both his soon to be attackers to "MOVE IN" – which Audio "Exhibit 15" proves Mr. Leners did. Chris Trout then **"Left to give the money to a friend"** as he confessed that night in the hospital to Officer P-66 Michael in her police report (ap **"Appendix V-22-1"**) that was also denied to the Jury: ***"I told Tim to give me the rent and deposit and the apartment was now theirs – then I left to give the money to a friend"***.

Chris Trout is then heard on recorded audio – leaving / .... only to return just 30+ minutes later; and the recorded audio clearly proves **Trout Forcibly Broke Open Mr. Leners' Locked Door**; then attacked Mr. Leners without warning or reason; in Mr. Leners own home, forcing Timothy to Legal Self Defense.

Wyo. § 6-2-602 Use of Force in Self Defense; No Duty to Retreat

(b) A person is presumed to have held a reasonable fear of imminent peril of death or serious bodily injury to himself or another when using defensive force, including deadly force if:

(i) The intruder against whom the defensive force was used was in the process of unlawfully and forcefully entering, or had unlawfully and forcibly entered, anothers Home or Habitation or, if that intruder had removed or was attempting to remove another against his will from his Home or Habitation;..etc. (see pages 5 & 6 for full version).

IT IS THAT SIMPLE! And for "coming to help another (Joyce)" (stated in 'Wyo. § 6-2-602 revisions' on page 6 herein), and "over-obeying all law", and even trying to retreat and run outside (ap "**Appendix M**") from his own proven **Wyo. § 6-2-602 Home / Habitat**; the Judge, Disbarred D.A., sabotaging trial counsel, and the duped Jury all illegally denied Mr. Leners **"NO DUTY TO RETREAT"** where Mr. Leners was legally present & doing no wrong; and even **"CASTLE DOCTRINE"** in Tim's home.

Wyo. § 6-2-602 Use of Force in Self Defense; No Duty to Retreat (Revisions Sec. of Law on Pg. 6)

"**JURY INSTRUCTIONS:** Court erred in refusing defendants request to charge defense of another because the evidence was sufficient to support defendants reasonable belief that she had to act to defend her friend during the fight; **defendant was trapped under the two men, the victim continued yelling that he was going to kill defendants friend, and during the fight, the victim kept trying to hit defendants friend and defendant held the victims arm to keep him from hitting her friend and to try to calm him.** *Smith v. State, 2021 WY 28, 480 P.3d 532, 2021 Wyo. LEXIS 35 (Wyo. 2021).*

All Mr. Leners' BRADY evidence proved HE TOO *"came to defense of another (Joyce & child)"* and the "Exhibit 15 audio recording of the attack" and Timothy's injuries proved that he too was *"trapped under two people while the 'victim' kept screaming he was going to kill defendant, WHILE the 'victim' was actually beating and trying to kill Timothy; as Timothy screamed for help"*. So why was Tim convicted?

Wyo. § 6-2-602 Use of Force in Self Defense; No Duty to Retreat (Revisions Sec. of Law on Pg. 6)

"**CHARGES PROPERLY DISMISSED:** Trial court did not err by dismissing the first-degree murder charge against defendant because an eyewitness stated that defendant stepped back into his home when the victim charged up the steps, **another eyewitness stated that the victim sprinted straight for defendant, defendant told the officers he closed the door and the victim opened it and entered his home, and defendant said that the victim rushed him and he shot the victim. Because Defendant Was Not The Initial Aggressor He Did Not Have A Duty To Retreat**. *State v. John, 2020 WY 46, 460 P.3d 1122, 2020 Wyo. LEXIS 48 (Wyo. 2020).*

And like the law above: Mr. Leners' "EYE WITNESS" was his **"Exhibit 15 Audio"** he activated when Trout started threatening him with death that day, and it and Chris Trout's other confessions to cops in police report (ap **"Appendix V-22-1"**) that was denied to Jury clearly proved Chris Trout: *"left with Mr. Leners rent / deposit money"*, that *"Timothy closed and locked his door to his new home"*, and the

Audio Recording proved *" 'victim' Trout came back 30 min. later – broke open Mr. Leners' door without even knocking"*, then *"rushed Mr. Leners – who then shot the 'victim'"* **but *ONLY AFTER* Mr. Leners was beaten near to death by both Chris & Joyce Trout as (ap "Appendices G, H") proves.** Mr. Leners' case was exactly like these "other cases" that Wyo. states in the "revisions pages" they "used as reason" to revise the law in 2018 **and yet they denied Tim both the old & new versions of it**.

> *Widdison v. State, 2018 WY 18; 410 P.3d 1205; 2018 Wyo. LEXIS 18 S-17-0138*
>
> P12 We conclude that the majority rule is the better-reasoned approach. When a person is attacked within her dwelling, the right to defend herself and the privilege of non-retreat should not depend upon the identity of the attacker. "Further, forcing a resident to retreat from the home is at odds with the historical notion of the home as a place critical for the protection of the family." *State v. Carothers, 594 N.W.2d 897, 901 (Minn. 1999).*

And though USCA and all Courts knew **Mr. Leners was forced from his home in illegal retreat** as proven by his statements in police interview **"Exhibit 17"** *and* the "BLOODY FIGHT CIRCLE IN THE FRESH SNOW OUTSIDE" **(ap "Appendix M")** that Hickerson lied on False Affidavit of Prob. Cause ***"Didn't Exist"*** – the Jury ***STILL*** convicted "the screaming for help Timothy Leners" – all because he was illegally denied **"No Duty to Retreat"** by Judicial Abuse of Discretion in **(ap "Appendix V-22")**.

And if it there was any doubt left that *death threat screaming Chris Trout* was the aggressor, *another* of Trout's "police report confessions" to *'det.'* Hickerson proved it when Trout grandiosely bragged:

- ***"I CAME IN AND THREW MY KEYS AND PHONE ON THE COUCH!!"***

These are ***not*** the *'statements or actions of a peaceful/non-violent man'*. No… This is what a **thug** does when he unlawfully breaks into another man's home to either kill him, oust him, or beat him to death as **(ap "Appendices G, H")** prove Chris Trout did. And this wasn't the end of Trout's "HEROIC" LIES when Trout flat out lied to the Jury on the stand: ***"I (after I the shooting) hollered at Leners to come back and finish the job, but he'd had enough!!"*** – which **"Exhibit 15 Audio"** also proved never happened – and instead it proved Timothy was kneeling down next to Trout, reassuring him that help was coming; and then proved Timothy called 911 for Trout; *after* Trout lunged at him again screaming:

- ***"THIS ISN'T OVER!!! I'M GONNA FUCKING KILL YOU!!!!"***

Additionally all courts have illegally denied this "NO DUTY TO RETREAT" case even knowing Chris Trout LIED to cops with "several more changing stories" that disproved Hickerson's False Affidavit lies. More blatant contradictions are in **(Hickerson's report page 27)** which stated that Hickerson also knew Trout lied: ***"After I put his stuff outside, he went to his truck and when he came back he had a gun".***

This was known by Hickerson to be false evidence too, because Mr. Leners' pickup truck was over 100' away across a darkened street and "Exhibit 15 Audio" of the attack proved there was **NO PAUSE in action from the 25 SECOND ATTACK, to the gunshot**. (Hickerson's report pg. 13) then even stated (contradicting the previous): ***"Trout came in screaming…..Leners was crying out 'Whoa, Whoa, No, No, and Stop, Stop'…then there are sounds of a struggle and almost IMMEDIATELY the sound of a single gunshot."*** (sic). 'det' Hickerson knew this left ***not even one second of time*** **for Tim to supposedly 'cover over 200 feet' both ways on a darkened / snowed-in street, carrying things, grab a gun, and return'**. Hickerson's report page 13 just proved that he and the Disbarred D.A. all knew there was also *"no pause"* in recorded audio for the lying Trout to *"put things outside"*. He knew Trout was the aggressor and again *still* knowingly convicted Mr. Leners on false evidence anyway; by lying to Jury and falsely making them think Mr. Leners was the "aggressor"; capped by denying Tim **"No Duty To Retreat"** instructions.

And further **"Using known false evidence to convict while denying No Duty To Retreat"**; the Disbarred D.A., *'det.'* Hickerson, and Chris Trout got up on the stand and blatantly LIED to the Jury (and before on False Affidavit of Probable Cause) that ***"poor Chris Trout slipped on the ice outside (now Mr. Leners') apt. door, and Leners 'straddled him and shot him' "***. This new lie was disproven in two ways: **1.)** (**"Appendix M"**) proved the bullet strike was 20+ feet from the door: Trout LIED. **2.)** Hickerson's report further exposed and punctuated Chris Trout's deliberate lie by documenting exactly what Trout did next: ***"Trout HELD HIS ARM OUT FULL LENGTH to show me (Hickerson)"***.

And next Hickerson's report also proved he knew he caught Chris Trout lying about this, because his own "pictures of Trout" he said he took proved Trout lied: (Hickerson's report pg. 27: Trout interview):

- ***"I noticed Trout had CONTACT POWDER BURNS around the entry wound (on his chest)…. I mentioned this to Trout and I photographed Trout's entry wound powder burns"***.

This proves Hickerson undeniably knew Tim was the only truthful one when he told cops in interrogation: *"I had to draw my gun with Trout on top of me and it was in contact with him when I was forced to fire because he tackled me when I dove outside to get away from him"*; **but Hickerson illegally told no one!**

Those **BRADY** *pictures Hickerson took* **DISAPPEARED FOREVER**, were never put in discovery, and Jury never saw them *because Hickerson knew* Mr. Leners' legally licensed & carried small handgun (**"Appendix L"**) – ***HAD A TINY 1" LONG BARREL***, proving ***"CONTACT POWDER BURNS"*** were physically and ballistically impossible had Tim *(allegedly)* stood 5 feet above Trout - as Trout ridiculously depicted Tim: **a *"100% V.A. Disabled 'Standing / Straddling' Dirty Harry Executioner".*** Hickerson's report proved he didn't question Trout any further and knowing this proved Timothy innocent; then did not alert Defense to this exonerating evidence – shattering all Federal law & ethics.

United States v. Cortez-Fisher, 711 F.3d 460, 2013 WL 1286985 (4th Cir. 2013)

To satisfy the 'fundamental miscarriage of justice' exception, 'a criminal defendant must make a colorable showing of factual innocence. Bowen v. Kansas (2008). "In so holding the court pointed out that factual innocence is not a prerequisite for such a finding and that its "decision to vacate Defendant's plea is supported by the important interest of deterring police misconduct." The defendant filed a post-sentence motion to withdraw his guilty plea, after belatedly learning that the officer involved in the investigation and prosecution of his case had made false representations on a search warrant affidavit, ...(etc). The Cortez-Fisher Court held that, "the officer's affirmative misrepresentation....(etc.)...violated his due process rights."

McCormick v. Parker, 821 F.3d 1240, 1246-47 (10th Cir. 2016)

("[T]he 'prosecution'{2018 U.S. App. LEXIS 14} for Brady purposes encompasses not only the individual prosecutor handling the case, but also extends to the prosecutor's entire office, as well as law enforcement personnel (police) and other arms of the state involved in investigative aspects of a particular criminal venture." (citation and footnote omitted)).

§ 671.11 Relief From Procedural Impediments, Fundamental Miscarriage of Justice [2] [c]

Show A Fair Probability: When a habeas petition is based upon a claim of actual innocence, there must be an allegation of a constitutional violation as well as evidence of actual innocence. That is, "a claim of 'actual innocence' is not itself a constitutional claim, but instead a gateway through which a habeas petitioner must pass to have his otherwise barred constitutional claim considered on the merits. The Supreme Court has adopted a three-part test for determining whether this standard has been met: **1.)** there must have been a constitutional error, **2.)** the error must have had a probable effect on the jury's determination, and **3.)** it must be probable that the constitutional violation resulted in the conviction of an innocent person. To satisfy the third element, the petitioner must make a colorable showing of factual innocence. In other words, the petitioner must demonstrate the existence of "at least sufficient claims and facts that—had the jury considered them—probably would have convinced the jury that the defendant was factually innocent. "It is sufficient under this standard that the petitioner had an affirmative defense, like insanity or necessity, that the jury likely would have found to exist. 69 (Murray v. Carrier, 477 U.S.['86])".

And though Mr. Leners overly-proved the ***"three part test"*** in the above Federal Miscarriage of Justice Law (as SCOTUS can clearly see in just the above); USCA, USDC, and every lower court *still* ruled against Fed. Law and maliciously refused Mr. Leners the overturn his innocence and case so desperately deserved by Federal Law. ***This is just the beginning of all*** "False evidence knowingly used to convict", "Immeasurable Prejudice", and "Police and Disbarred D.A. Misconduct" - - - and only a small portion of it is included here to prove to the U.S. Supreme Court that Mr. Leners was known innocence, and that all these evidentiary facts were known by everyone 1.5+ yrs. before trial; **all proving Mr. Leners was illegally denied "No Duty to Retreat" – and that his case exceeded proof of innocence as well.**

All prior courts refusing to overturn this landmark case of *the* "No Duty To Retreat" **and** "Castle Doctrine" ***denied*** **innocent Mr. Leners:** "Audio recorded screaming out for help in his own home" **as he was savagely beaten by** "The Death Threat Screaming Duo of Chris & Joyce Trout", **is holocaustic**; especially knowing Mr. Leners is a 100% V.A. Disabled Vet. / family man who's rotted in prison 7+ yrs for the Trout's crimes; and that both Trouts are still *"out there today knowing they got away with murder"*.

This Writ is nationally justified so Mr. Leners' life, and every other innocent American's life; is not knowingly *killed* in prejudice or evil, or even to hide state misconduct & criminal corruption; all of which happened to the innocent Timothy Leners- Lifelong crime-free Veteran and family man.

As a result of all the above and more, Mr. Leners trial concluded on May 10, 2019 *(after only 3 partial days due to inept counsel!!)* with his illegal conviction. On September 16, 2019 Timothy was illegally sentenced to a term of not less than twenty five (25) years, not more than thirty five (35) years for this so called ***"crime of self defense"*** that was *not* illegal; **after and as a DIRECT RESULT of denying Tim Constitutional Jury instructions of "NO DUTY TO RETREAT"** where even the Disbarred D.A. stated she knew Mr. Leners was *legally present*, where he was doing no wrong (ap "**Appendix V-22**").

As proven, 1st chair McKelvey sabotaged the case numerous times by refusing to assert ANY exonerating evidence such as but not limited to 11-11-2017 (ap "**Appendix 1**"), (before all later courts) that like all Mr. Leners' Appendices / dated communications with his *'atty.'*; proves Mr. Leners emailed it to him 1½ years before trial. **The evidentiary value in (ap "Appendix 1") that Jury was denied is immeasurable** because it proved that Tim's soon to be Wyo. attacker, Chris Trout stated (with his gross half naked picture attached for threat value): ***"I'M GONNA MAKE TIM (HIM) QUIT BREATHING!"***.

This is just one example of shocking exonerating evidence that McKelvey illegally denied the Jury, knowing it proved that after sending Mr. Leners this death threat; Chris Trout drove 400+ miles from his South Dakota trailer on or about 12-4-2017, to Timothy's Fremont NE home ***(just 3 weeks prior to the 12-23-17 self defense shooting in Wyo. Tim was illegally convicted for)***. Trout arrived at Tim's Fremont NE home at 2:00 am in the morning, and the Nebraska Police Report that was also denied to the Jury; proved Joyce Trout *(Trout's ex-wife who left Trout and lived in Mr. Leners' 2nd NE home with her 8 y/o daughter at Timothy's good will & expense)* called Fremont NE police on her own ex-husband Chris Trout. Joyce Trout herself reported to police that Chris Trout was drunk, armed with a gun, and tried breaking into Mr. Leners' 2nd NE home by punching a window out in Mr. Leners' face and screaming ***"Get out here you Motherfucker!! I'm gonna Fucking kill you!!"***. Joyce reported that Mr. Leners refused to go outside not wanting a law breaking fight or to be killed by Trout who was twice his size, but that Timothy was still cut / injured from shielding himself from the broken glass that flew into his home from Trout punching out the home window. Pictures proved the outside screen was punched in with such force it was actually torn and pushed inward – into Timothy's 2nd Nebraska home.

Chris Trout ran from the scene and Fremont NE police gave chase finally finding him holed up in a Fremont hotel. Inexplicably they did not arrest Chris Trout – who was on criminal probation in Colorado at the time. They crazily let Trout go only telling him to "leave town" and didn't even take his gun away which he showed them when confronted of his 1st deadly force felony. Had they arrested Trout as they should have; Trout would've never attacked Mr. Leners again **just 3 weeks later** in Cheyenne Wyo. in what was then *also* Mr. Leners' **"Wyo. § 6-2-602 Home/Habitat"**; that Jury was denied proof of. Thus the **Jury never knew Chris Trout tried killing Mr. Leners the first time on/about Dec. 4, 2017** in Tim's own Fremont NE 2nd home, after threatening Tim with death on (ap "**Appendix 1**") and ***several other still missing*** **BRADY evidence texts/calls**; all illegally withheld from Jury and never put in discovery by Wyo. police. And though Mr. Leners has begged all lower courts in every appeal for his BRADY evidence (still on Tim's illegally held phone!!), and Trout's criminal and probation records, and this full Fremont NE police report – every single court has maliciously denied Mr. Leners' lawful request against Federal Law.

This was Chris Trout's First Attack on Timothy, which a duped Jury was Illegally Denied, and this full report with *both* Joyce's & Mr. Leners full hand written statements was never put in discovery.

Further proving Mr. Leners' pre-trial know deserving of **"No Duty To Retreat"**, are all appeal records containing Mr. Leners' numerous dated emails to 1st chair McKelvey instructing him to get missing BRADY evidence and assert it (ap "**Appendix E-1**"). To be clear: all this still missing BRADY evidence proved that **Mr. Leners was in his own home during the Trout's Wyo. Attack**, rated **"No Duty To Retreat"**, and had been attacked and threatened numerous times before, **and had every reason to fear for his life** from not just Chris – but also Joyce Trout. These further proved the USDC, USCA, and all lower courts illegally denied Mr. Leners' PCR, Habeas and 10th Cir. appeals – all well knowing he requested these from them because they proved Structural Error suppression of Brady Evidence, as well as sabotaging counsel who refused 6th Amendment advocacy: All violating Federal Law and other USCA / USDC rulings.

Criminal Law § 46.4; Habeas Corpus 47; New Trial 5 - Counsel – Ineffectiveness

Principles governing claims of the ineffectiveness of criminal defense counsel apply in federal collateral proceedings such as habeas corpus as well as direct appeal or motions for new trial.

Amado v. Gonzalez, 758 F.3d 1119, 2014 U.S. App. LEXIS 14002 (9th Cir. Cal., July 11, 2014)

District court erred in denying petitioner habeas relief on his Brady claim because prosecution had BRADY OBLIGATION to produce witness' conviction and probation records and evidence was material, rendering government's failure to disclose it prejudicial.

These (ap "Appendices") consisted of specifically designated (ap BRADY EVIDENCE "Appendices") as well as (ap REGULAR EVIDENTIARY "Appendices"); and all of them were dated and proved Mr. Leners gave them to McKelvey 1+yr before trial / with evidence attached, *AND* specific instructions to assert each one. In spite of Mr. (and Mrs.) Leners doing McKelvey's job for him; McKelvey inexplicably / illegally denied all of them to Jury in pure sabotage. And even though Mr. Leners proved the verdict would have been not guilty had the duped Jury seen even one; the USCA, USDC, and trial court before them (in PCR & WRAP 21 for new trial): **all illegally ignored these Structural Errors / Fed. Law (6th).**

Evidence § 419 - Presumption - Denial of Counsel

Actual or constructive denial of assistance of counsel altogether is legally presumed to result in prejudice.

Criminal Law & Procedure > Appeals > Reversible Errors

The error is prejudicial if there is a reasonable probability that the verdict might have been more favorable to the defendant if the error had not been made.

These JURY DENIED (ap BRADY EVIDENCE "Appendices") consisted of but were not limited to the following:

- BRADY recovered (ap "Appendix 1") proved Chris Trout attacked Tim 3 weeks before in Tim's own Fremont NE home after sending Tim death threats: ***"This is me! I'm gonna make Tim quit breathing!"***. Trout being on probation during both attacks, and his criminal records were denied Jury – which USCA & USDC refused to get despite Legal Petitions proving prejudice (ECF 11143604 & 11143610).

- BRADY recovered (ap "Appendix 1-A") was Joyce Trout's 8-30-17 Public Facebook post showing her ***"true character and pursuit of Tim"*** as Trout's ***'wife'***. This would have proved to Jury that *'det'*. Hickerson lied to them about Joyce Trout being: ***"poor put upon Joyce"*** – and Tim as ***"obsessed"***.

- BRADY recovered (ap "Appendix 2") was Joyce Trout's 12-21-17 Death Threat Facebook Msg. that she sent to Mr. Leners only 36 hours before the Trouts' dual deadly force attack on Tim in Wyo.:
  - ***"Your LIFE will soon END! "I am one BITCH who will make your life HELL! Want to see who else stands for me? You won't like it!!"***. (This proved Joyce's premeditation)

- BRADY recovered (ap "Appendix 3") proved Joyce Trout LURED Timothy to come rent / live with her just 10 hours before both she and Chris Trout attacked Timothy; AFTER he paid rent/deposit:
  - ***"Tim honey please call me please!!!" "I need to hear your voice." "(My*redacted-address-is*) #4#9.I*peri*l.C*.W*y,.Cheyenne.Wy.820**!!!". "Call me now!!!!"***.

- This was further reinforced as true in Hickerson's Interview the night of shooting; proving Joyce confessed to **LURING** Mr. Leners: @ **43:00** ***"I had a plan to get Tim to come out here"***. Even though this report was in discovery (late), McKelvey didn't assert it or care, and so the Jury never knew this. Mr. Leners sabotaging 1st chair McKelvey *didn't even cross examine Joyce* proving he threw the trial.

- **BRADY recovered (ap "Appendix 4") was Joyce Trout's 12-24-17 Murder Confession and it proved Mr. / Sgt. Timothy Leners was truly legally, factually, and even morally innocent; and was indeed both the Trouts' victim! The confession is long but states in part (sic):**

  "Well see I have been hurting people including my children for so long that at times I don't know how else to act, which yes is an excuse and well I'm done with excuses cause before I was allowed to slide with those well not anymore. I need to dig inside of me and change. ***"Well yesterday (12-23-2017 – the day she and Chris Trout attacked and tried to Kill Mr. Leners) I went against something I promised this amazing guy (TIM) and we got into this huge fight which did not end well at all.*** *Well my heart has been breaking today and my soul hurts because see this guy is the other half of my soul* ***and I almost killed him (TIM) last night (12-23-2017 when she & Trout tried to Kill Mr. Leners) and if I could ever have one wish it would be to go back and never hurt him (TIM).*** *"*

Yes, Jury was even denied this Murder Confession by attacker Joyce Trout yet *still* no court overturned this sham trial; not even 2 lower Federal Courts knowing prejudice was immeasurable.

- (ap **"Appendices V-22b, F")** were an audio clips of Chris Trout that Mr. Leners sent to 1st Chair McKelvey on 8-14 & 8-27-2018 (a year before trial) proving Chris Trout demanded and collect the rent and deposit from Mr. Leners – **making the apartment Timothy's Wyo.§ 6-2-602 home / habitat**, then Chris Trout & Joyce are heard telling Timothy: ***"MOVE IN"***! The E-mail specifically instructed McKelvey to assert that Tim had **"No Duty to Retreat" in his 'Castle'**; and **"Stand Your Ground";** and that Trout's "Exhibit 15" audio recorded death threats proved Mr. Leners had every reason to "Fear for His Life"; and that Chris Trout even stated on the recorded audio that he didn't even live in that apartment with Joyce – contradicting what police and the disbarred D.A. lied to the duped Jury. Specifically Chris Trout stated on recorded audio as he left after telling Tim to "move in": **@58:30-59:56**): ***"I guess I'll go clean off MY bed in MY apart. with Kyla but I'm not F-ing happy about it!"***.

- Hickerson's 3-30-2018 Police Report (pg. 80) Jury was denied proving Trout's 8yr. old daughter "M.T." also confessed Chris Trout didn't live in Joyce's (Now Mr. Leners' paid for apt.):

  - ***"My dad lives with Kyla (Trout's adult daughter from another marriage) and I have many guns myself, and my mom often tells me to go get her (loaded) gun, when she hears noises".***

- The Police Report Jury was denied (ap "**Appendix V-22-1**") proving Chris Trout confessed to 'P66 Michael' after he attacked Tim: ***"I told Tim to give me rent and deposit and the apartment was now theirs, then I left to give the money to a friend"***. This was a KING PIN illegal denial that cost the trial. THIS JURY DENIED POLICE REPORT PROVED MR. LENERS WAS IN HIS OWN HOME AND RATED **"NO DUTY TO RETREAT"**. THIS JUDICIAL ABUSE OF DISCRETION COST THE TRIAL.

> *Criminal Law & Procedure > Appeals > Reversible Errors > Structural Errors*
>
> The question in identifying structural error is whether the error affects the "Framework" of the trial, rather than simply the trial process itself. In such instances, it is often difficult to assess the effect of the error because the nature of a structural error is to produce consequences that are necessarily unquantifiable and indeterminate. The frequently cited examples of such errors include the **Complete Denial of Counsel**, a biased presiding judge, the denial of a public trial, and **A Defective Instruction on Reasonable Doubt**.

- **The 12-23-17 ("Police Report / Interrogation") Jury was denied of Joyce Trout expressly CONFESSING SHE TOO JOINED IN ATTACKING [1] MR. LENERS WITH DEADLY FORCE:**

  a.) ***"I pushed Tim outside"*** **b.)** ***"I hit Tim in the face"*** **c.)** ***"I grabbed Tim by the neck"***

> *Washington v. Strickland, 466 U.S. at 694, 104 S. Ct. at 2068 (1984)*
>
> No fair-minded jurist objectively reviewing the unintroduced mitigating evidence in this case could conclude, with confidence, that the outcome would have been the same. There is simply "too much mitigating evidence that was not presented to now be ignored." *Porter 558 U.S. at 44.*

All above Pre-Trial known evidence proves Timothy was in Reasonable Fear of His Life from 2 attackers and By Law rated "No Duty to Retreat" Jury instructions he was denied.

> *Wyo. § 6-2-602 Use of Force in Self Defense; No Duty to Retreat*
>
> **(a)** The use of defensive force whether actual or threatened, is reasonable when it is the defensive force that a reasonable person in like circumstances would judge necessary to prevent an injury or loss, and no more, including deadly force if necessary to the person employing the deadly force or to another person. As used in this subsection, necessary to prevent imminent death or serious bodily injury includes a necessity that arises from an honest belief that the danger exists whether the danger is real or apparent.
>
> **(e) A person who is attacked in any place where the person is lawfully present shall not have a duty to retreat before using reasonable defensive force pursuant to subsection (a) of this section provided that he is not the initial aggressor and is not engaged in illegal activity.**
>
> **(f) A person who uses reasonable defensive force as defined by subsection (a) of this section shall not be criminally prosecuted for that use of reasonable defensive force.**

[1] This too was withheld from Jury by Disbarred D.A., because it proved that Joyce was a premeditated participant in attempted murder of Timothy *after* **luring Tim there to be killed in (ap "Appendix 3") – after robbing Tim of rent/ deposit $ first**. It also proved she lied and WASN'T *"calling 911"* as she LIED to police; she was an attacker.

There is simply no doubt that the 'False Affidavit writing Police', Disbarred D.A. Manlove, the Judge, and even Mr. Leners' own sabotaging trial counsel Ross McKelvey - *ALL* knew of the shocking PRE-Trial Known Evidence that proved Mr. Leners was absolutely and for real: "In Reasonable Fear of His Life" from 2 audio recorded death threat screaming attackers; and BY LAW rated "No Duty to Retreat" Jury instr. Tim was denied; because they'd all heard Tim's "Exhibit 15 Audio Recording" of the attack, and knew Mr. Leners' fear was both *Real* and *Apparent*.

CHRIS TROUT'S PRIMARY DEATH THREATS SCREAMED AT MR. LENERS, JUST MOMENTS BEFORE AND DURING HIS BEATING AND TRYING TO KILL MR. LENERS:

- @1:06:02: "I'll Fucking Kill You!! And They'll Never Find You!!"
- @1:06:30: "They'll Never Find you!!"
- @1:06:49: "I'll Fucking Kill You and They'll Never Find You Cause I'll Hide Your Body Where I Know Trapping Places!!"
- @1:11:35: "I Have a Gun I'll Be Bringing!"
- @1:17:xx: "I'm 290 lbs. And It's All Muscle!"
- @xx:xx:xx: "You Wanna Fucking Go!? .....I'm Gonna Fucking Kill You!!"
- @xx:xx:xx: "This Isn't Over!!!...I'm Gonna Fucking Kill You!!!" (After Tim defended his life)

Yet *'det.'* Hickerson **evilly *lied*** in his report-pg. 19 *(also uncontested by sabotaging 1st chair)*: ***"I told Leners Trout didn't threaten to kill him or beat him up before the shooting".*** (wow!!) These are the deliberately evil / reckless lies that got Tim illegally arrested, searched and convicted; so this isn't just a *"1983 civil violation"*; it's criminal because it killed Tim's innocent life and SCOTUS could vindicate on this alone.

> *Andrews v. Scuilli, 853 F.3d 690, 698 (3d Cir. 2017)*
> A statement "is made with reckless disregard when 'viewing all the evidence, the affiant must have entertained serious doubts as to the truth of his statements or had obvious reason to doubt the accuracy of the information he reported".

This all proves that Tim was in Reasonable Fear of His Life from two attackers, and Tim's severe injuries (ap "Appendices G, H") proved he was also beaten near to death and the "Fear was Real".

> *Wyo. § 6-2-602 Use of Force in Self Defense; No Duty to Retreat*
> **(a)** The use of defensive force whether actual or threatened, is reasonable when it is the defensive force that a reasonable person in like circumstances would judge necessary to prevent an injury or loss, and no more, including deadly force if necessary to the person employing the deadly force or to another person. **As used in this subsection, necessary to prevent imminent death or serious bodily injury includes a necessity that arises from an HONEST BELIEF THAT THE DANGER EXISTS WHETHER THE DANGER IS REAL OR APPARENT.**

And when the ***"crying out for help Mr. Leners"*** was ***still*** somehow illegally convicted because the Judge denied him **"No Duty To Retreat"** and then the duped Jury incomprehensibly followed suit and also denied Timothy **"Castle Doctrine"** in his own home; Timothy's wife ***MRS. (Kathy) Leners*** knew why:

Appeal records next prove USCA & USDC all illegally ignored ***MRS.*** Kathy Leners' **eye witness** sworn affidavits (ap "**Appendix W, page 5 & 8"**) and (ap "**Appendix X, page 10 & 11"**), saying she knew another possible reason Tim could've been so wrongly convicted because she was there and witnessed:

- ***"On the "Exhibit 15"Audio Recording of the Attack, the Jury had to have gotten the voices of Chris Trout & Mr. Leners mixed up in the loud courtroom, and didn't understand who was who"***; BECAUSE AS THE RECORDING PROVED, TIM WAS THE ONLY PEACEFUL ONE WHILE CHRIS TROUT WAS THE VIOLENT & THREATENING ONE ALWAYS SCREAMING COPIOUS DEATH THREATS @TIM.

> *United States v. Cortez-Fisher, 711 F.3d 460, 2013 WL 1286985 (4th Cir. 2013)*
> To satisfy the 'fundamental miscarriage of justice' exception, 'a criminal defendant must make a colorable showing of factual innocence. Bowen v. Kansas (2008).
> **Also § 671.11 Relief From Procedural Impediments, Fundamental Miscarriage of Justice [2] [c]*

** And while Mr. Leners cannot find the *case law* at this writing; he asserts to the U.S. Supreme Court (who surely knows of it) that this further proves 1st chair was inept because he ***knew*** that audio recording was ***"full of emotion"*** and ***"full of screaming" by only Chris Trout*** – so he should have **Transcribed it for Jury**; but because he didn't: this **error** also got Mr. Leners wrongly convicted because the Jury was ***confused*** by all the ***many voices***, ***emotion*** *and* all Disbarred D.A. / Police ***Misconduct*** proven herein. **

And while the police LIED more on False Affidavit of Probable Cause (ap "**Appendices A-TL & O"**) by falsely saying Mr. Leners was the aggressor, and even illegally telling Jury all other sorts of LIES *(that were all exposed in all Tim's prior appeals like a "cop" illegally telling Jury this "Decorated U.S. Marine (100% V.A. / D.O.D.) Disabled Sgt. Veteran" was instead a "Marine trained killer who was trained to shoot Chris Trout 'dead-center-mass'")*; **they all knew that "Exhibit 15 Audio of the Attack" undeniably proved that Mr. Leners was the only peaceful one who was audio recorded trying to diffuse Trout and crying for help and his life, as he was being killed by Chris** *and* **Joyce Trout:**

- ***"Whoa! Whoa! No! Stop! No! I Don't Want To Fight!! Let Me Explain!! Aargh!!"***

This type of vile misconduct was no accident. It was *ALL* premeditated and painstakingly rehearsed by Disbarred D.A. Manlove and conspiring police; and though Mr. Leners asserted it all in appeals – USCA, USDC, and every state Court refused to overturn trial on this and much more known Misconduct, False Evidence used to convict, Brady Violations, and even trial counsel outright sabotage; against all Fed. Law.

> *Berger v. United States, 295 U.S. 78, 89, 55 S. Ct. 629, 633, 79 L. Ed. 1314 (1935) & Const. § 1727 (2021)*
> Prosecutorial misconduct or prosecutor's comments and remarks in a criminal trial may deprive the accused of due process of law where they are so prejudicial as to deny the accused a fair trial.

Disbarred D.A. Manlove & *'det.'* Hickerson weren't done framing Timothy yet, and their False Affidavit of Probable Cause (ap "**Appendices A-TL & O**") also LIED: ***"Leners was uninjured"*** even though Hickerson took these pictures of Tim's **defensive wounded palms / injuries; that Jury was denied.** As seen these (ap "**Appendix G**") pics of Tim's wounds got no "state exhibit #", and Jury was denied them too.

These proved only Timothy was truthful when he told cops that he even tried retreating, but Chris Trout still tackled him on concrete outside. And as interrogation video **"Exhibit 17"** proves; Hickerson and his cops like Peterson viciously called Timothy a liar; then LIED more on False Affidavit of Probable Cause:

- ***"There was no sign of a fight in the fresh snow"*** **.....Contradicting: (ap "Appendix M")!**

As (ap "**Appendix M**") proves, Mr. Leners desperately fought for his life and was nearly beaten to death (ap "**Appendices H & G**") in what could only be described as a ***"15 Foot Diameter Bloody Gladiator Circle In The Fresh Snow"***, and still Hickerson and Disbarred D.A. illegally arrested, searched, and convicted Mr. Leners after knowingly lying to the duped Jury again: ***"There Was No Sign Of A Fight In The Fresh Snow".*** All this proves Mr. Leners was illegally arrested on a malicious False Affidavit of Probable Cause, and that *'det'* Hickerson recklessly and willfully lied to illegally arrest to next search Tim for illegal **"Fruit Of The Poisonous Tree"**; such as but not limited to Timothy's own innocent recorded calls that Disbarred D.A. illegally edited and pasted excerpts together to make **("Exhibit 50")** [(1)]; withholding it for 1.5 years in **Trial By Ambush** and lying to jury they were "complete calls".

> *Wong Sun v. United States, 371 U.S. 471, 477-78, 9 L. Ed. 2d 441, 83 S. Ct. 407 (1963)*
> "The search warrant must be voided and the fruits of the search excluded to the same extent as if probable cause was lacking on the face of the affidavit." 438 U.S. at 156.

And when Mr. Leners sent McKelvey this (ap "**Appendices A-TL & O**") original "Notated False Affidavit of Probable Cause" the first week of his illegal arrest begging McKelvey to assert a "Franks"; McKelvey refused and again all courts including USCA and USDC, have refused to overturn - violating Federal Law.

> *Franks v. Delaware, 438 U.S. 154, 155-56, 57 L. Ed. 2d 667, 98 S. Ct. 2674 (1978)*
> Under Fourth Amendment, when an affidavit contains a false statement or omission, probable cause is re-assessed after the false information is corrected or deleted & the information omitted is added. If there is no probable cause, evidence derived from the search and seizure implemented as a result of the warrant based on the deficient affidavit must be suppressed.

[(1)] WSC Appeal proved Disbarred D.A. Manlove took 3 "Fruit of The Poisonous Tree" calls Tim recorded on his a week before Trout's attack **and secretly deleted 100+ minutes – leaving only a few seconds of disparaging laments Tim innocently said to a friend**:

- ***"I'm really scared for her and I'd like to kill that guy".***

❖ **MANLOVE LIED TO JURY; SECRETLY DELETING OUT TIM THEN SAYING ON THE CALL:**

- ***"No I didn't mean it like that...That's sick and not like me at all."*** [USDC ECF-44/45] (Tr.; 7-16-202 Rule 21,Pg.77, Lines 7-11).

Manlove withheld her Manufactured false evidence from discovery for 1.5 yrs. in **"Trial by Ambush"** then sprung it on defense in the last hour of last trial day pretending she: *'just discovered it and made the CD'*. **Defense failed to object proving "no adversarial contest".**

Fennell v. State, 2015 (citation unknown)
We held trial Counsel's failure to ask that audio tapes of controlled buys at issue be played in their entirety was ineffective assistance of counsel. We reached that conclusion because the tapes would have been helpful in refuting SOME of prosecution's assertions."

And when Mr. Leners discovered early on while arrested in the Laramie Co. Jail that 1st chair McKelvey was violently refusing to represent him by his own hateful verbal refusals to him due to ***conflict of interest*** (ap "**Appendix W**"); both Mr. & **MRS.** (Kathy) Leners pleaded Chief public defender Diane Lozano for new counsel in (ap "**Appendix P**"); but Lozano refused and even disbarringly told Mr. Leners he had ***"No Right to Counsel of Choice"*** (ap "**Appendix Q**") - grossly violating the 6th Amendment.

United States v. Gonzalez-Lopez, 548 U.S. 140, 147-148, 150, 126 S. Ct. 2557, 165 L. Ed. 2d 409 (2006). Erroneous deprivation of the right to counsel of choice, with consequences that are necessarily unquantifiable and indeterminate, unquestionably qualifies as structural error.).

May, 62 P.3d 574, 585 (Wyo. 2003), citing Jenkins, 715 P.2d 716, 720 (Ariz.1986), Id. Sorensen, 6 P.3d at 663-64 (quoting King, 810 P.2d at 123): The right to effective assistance of counsel includes the correlative right that counsel be free from conflicts of interest. To demonstrate an adverse effect, the "defendant would only have to show that his attorney's conflict reduced his effectiveness." *Jenkins, 715 P.2d 716, 720 (Ariz.1986).* "[A]dverse effect is a less burdensome requirement than prejudice." Id. Sorensen, 6 P.3d at 663-64 *(quoting King, 810 P.2d at 123).*

"No Duty to Retreat" where one is legally present and doing no wrong, *IS A SEPARATE AND DISTINCT RIGHT* from **"Castle Doctrine" in one's own home / habitat / dwelling;** and *BOTH* require U.S. Supreme Court Writ and National Ruling to vindicate innocence and protect every American.

Mr. Leners and thousands more Americans like Widdison have been denied *pre-existing rights*; and it is proven herein that State Courts and even lower Federal Courts have illegally chosen to ignore and openly disobey the United States Constitution as well as undeniably clear and concise SCOUTS rulings. But the biggest illegality is that even knowing Mr. Leners was legally *and* factually innocent, *all* Courts *still* ignored the record and every appeal for 8+yrs: illegally denying Tim "No Duty to Retreat", which has resulted in the state of Wyo. literally murdering Mr. Leners' 100% crime-free life of service & honor.

This Happened To Tim, Widdison and Others; And Will Happen To Thousands More.

This is "Not Good Enough" for the American People and so Writ is desperately pleaded because it is evident that the U.S. Supreme Court must go further than "Heller" to protect Self Defense, the U.S. 2nd Amendment, as well as the 5th, 6th, and 14th; by unequivocally stating in full Remand: ***"Every American has the unequivocal and pre-existing right to 'No Duty to Retreat' where he is legally present and doing no wrong, 'Unrestricted Self Defense' when attacked; and like Jury Instructions".***

This WRIT is also proven necessary by more shocking facts proving all Courts also saw the following evidence in the record and all Mr. Leners' appeals; yet *still* defied the U.S. Second Amendment *and* U.S. Supreme Court "Heller" ruling, and even Widdison in their own state, knowing that all **required** or at least **implied**: **"No Duty To Retreat" (where legally present and doing no wrong)**; is a ***Required*** instruction.

In all appeals Mr. Leners asserted Jury inst. transcript (ap "**Appendix V-22**") that proved the Disbarred D.A. even stated in that conference, Mr. Leners was ***KNOWN*** to be **"Legally Present / Doing No Wrong",** **but following that and most shockingly she stated that** **SHE '*DIDN'T* RECOGNIZE THE 2nd AMENDMENT OR HELLER'** (in not so many words) – both laws being known to long precede Mr. Leners' case. She then stated ***"this is why"*** the Judge should deny Tim "No Duty to Retreat" ***knowing*** **Tim was legally present, doing no wrong, *and* even in his home when under audio recorded attack!).**

SEE NOW (ap "Appendix V-22") – JURY INSTRUCTION CONFERENCE TRANSCRIPTS

On "Lines 5-8" of this Jury instruction transcript; the Disbarred D.A. clearly states Mr. Leners was known to be **Legally Present** in a location where he was doing no wrong – and at the same time she (the D.A.) clearly stated in not so many words – that **(SHE) THE D.A. DIDN'T RECOGNIZE THE U.S. 2ND AMENDMENT OR THE 2008 SCOTUS RULING IN D.C. V. HELLER** by saying:

I. "I do not believe that ***'common law self defense'***, which is what we had until this point; addresses the issue that you have **no duty to retreat (from) where you are lawfully present.**"

Next on "Lines 12-13"; **the Judge clearly stated:**

II. "OK, and your response to that Miss Harris if you chose to make one?"

Next on lines 14-16; the (later/WRAP 21 for new trial) "self confessed defective 2nd chair counsel Emily Harris (ap "**Appendix U**") stated her **Preserving Objection** that no Court has acknowledged in 8+ yrs!:

III. (Harris @ line 14 says:) "NO.... We just....."
IV. (Judge @ line 15 says:) "All right"
V. (Harris @ line 16 says:) "I'LL NOTE MY OBJECTION"

There is no greater Structural error than illegally denying a man "**No Duty To Retreat**" *(in his home no less!)*; then every state and lower Federal (USCA/USDC) court illegally ignoring that **Error** and this **Preserving Objection**. It is now crystal clear *after 7+ yrs. of illegally denied appeals* that Mr. Leners was known to be in his own home, doing no wrong; and that everyone at the conference knew this, and also knew Jury was denied Officer P-66 Michael's police report (ap "**Appendix V-22-1**"); **that proved Chris Trout confessed he: *"Rented the apartment to Mr. Leners and then took the money to a friend"***, yet they *still* illegally denied Mr. Leners **"No Duty To Retreat"** Instruction against clear intent in Heller.

Both the 250 year old 2nd Amendment *and* Heller intended "NO DUTY TO RETREAT"!

> ***United States Supreme Court: District of Columbia v. Heller, (citation omitted) (2008)***
>
> The Second Amendment Protects Individuals Right To Possess Firearm Unconnected With Service In Militia, **and to use that arm for traditionally lawful purposes, such as self-defense within the home**;....(etc.). 10. Putting all of the textual elements of the operative clause of the Second Amendment together, the United States Supreme Court finds that they guarantee the **individual right to possess and carry weapons in case of confrontation**. (etc). The Supreme Court looks to this because it has always been widely understood that the Second Amendment, like the First and Fourth Amendments, **codified a pre-existing right**. The very text of the Second Amendment implicitly recognizes the **pre-existence of the right and declares only that it "shall not be infringed"** (Scalia, J., joined by Roberts, Ch. J., and Kennedy, Thomas, and Alito, JJ.). As the Supreme Court said in United States v. Cruikshank, this is not a right granted by the Constitution. Neither is it in any manner dependent upon that instrument for its existence. **There seems to the United States Supreme Court no doubt, on the basis of both text and history, that the second amendment conferred an individual right to keep and bear arms.**

It is also clear the Disbarred D.A., inept counsel, and even the Judge illegally denied Mr. Leners his **Constitutional 2nd Amendment "No Duty To Retreat" right to self defense in his own home** – by illegally denying the Jury **"All Fact Finding";** thus causing them to next illegally refuse to give Tim his Constitutional (and even state law) required **"Castle Doctrine"** in his home per State *and* Federal Law.

> *Criminal Law & Procedure > Appeals > Standards of Review > Abuse of Discretion Criminal Law & Procedure > Appeals > Standards of Review > De Novo Review > Jury Instructions Criminal Law & Procedure > Jury Instructions > Requests to Charge*
>
> Appellate court reviews district court's refusal to give offered instruction for abuse of discretion. an abuse of discretion occurs when the trial court acts outside the bounds of reason or commits an error of law. While the refusal to give an offered instruction is reviewed for an abuse of discretion, the question of whether **the Court invaded the province of the Jury by making a factual determination constitutes an Error of Law** is a legal question we review De Novo.

> *Widdison v. State, 2018 WY 18; 410 P.3d 1205; 2018 Wyo. LEXIS 18 S-17-0138*
>
> 1. Cohabitants and the use of the castle doctrine P10 The *Majority Of Jurisdictions* that have considered the issue conclude that a cohabitant does not have a duty to retreat in his own home **Castle Doctrine applied between cohabitants, and trial court abused its discretion by failing to instruct the jury on the doctrine**, because there were facts from which jury could have inferred that defendant resided in victim's home, including defendant testimony she considered victim's home to be her residence.

When a Disbarred D.A. actually states to a sitting Judge that ***"she doesn't recognize self defense where one is legally present"*** – and the Judge actually *"buys"* this and knowingly violates the U.S. Constitution, long standing U.S. Supreme Court rulings like **"D.C. v. Heller (2008)"**, and even State Law: **"Wyo. § 6-2-602 Use of Force in Self Defense; No Duty to Retreat"** requirements that specifically stated Mr. Leners had **"No Duty To Retreat"** and that his **"Prosecution Was Prohibited For Legal Self Defense"** (just below) – The American People are in severe and ever escalating danger, because Mr. Leners' illegal conviction has gone **"UN"**-overturned for 8+ years to purposely bury it; *and* Mr. Leners' innocent life was destroyed in a never ending holocaust that ensues to this very minute.

> *Wyo. § 6-2-602 Use of Force in Self Defense; No Duty to Retreat*
> **(f)** A person who uses reasonable defensive force as defined by subsection (a) of this section shall not be criminally prosecuted for that use of reasonable defensive force.

There is no question Mr. Leners was illegally denied the above *(PRE-2018 revision.!)* Wyo. Law; not to mention the U.S. 2nd Amendment! *and* "Heller"! too; which is proven by even the first D.A. (Sandburg) *and* Governor Mead's **Press Release** (ap "**Appendix S**") stating Timothy had every right **NOT** to retreat:

- Wyo. Governor Mead: ***"I believe the existing law adequately addresses the concerns raised in the 'Stand Your Ground Bill'*** – (Gov. Mead said in email - *while refusing to sign the new law*)".
- D.A. Sandburg: ***"A person who is in reasonable fear of their life or of serious bodily injury does not have to consider whether it's reasonable to retreat".***

TIM WAS EVEN DENIED THE *"EXISTING LAW"* THE GOV. SAID WAS SUFFICIENT! And as (ap "**Appendix V-22**") shows, the Disbarred D.A. ploy actually worked on trial Judge Steven K. Sharpe, even despite the fact that as a Judge and *constitutional scholar* he had to know that the 250 year old United States 2nd Amendment, Constitutional Law, and even his own state's Constitution applied:

> ***Constitutional Law > Bill of Rights > Fundamental Rights > Right to Bear Arms***
> The Second Amendment protects the right to possess firearms and use them for traditionally lawful purposes including self-defense within the home. The U.S. Second Amendment requires only that "The right of the people to keep and bear arms shall not be ***infringed***".

Where a Judge, Disbarred D.A., and even sabotaging trial counsel all knew Mr. Leners was ***audio recorded crying out for help in his own home*** while two death threat screaming / lifelong criminal record holding attackers beat Tim to death as his injuries prove (ap "**Appendices G, H**"); with those injuries even being testified to by Sheriff Nurse Eastman as being "SEVERE" **(Trial Vol. III, p. 137);** these "rule makers" **knew they illegally "*infringed* on Mr. Leners' 2nd Amendment Right" to Self Defense under violent attack, and this is why SCOTUS Writ must issue to protect all Americans and vindicate innocence.**

The assaults on the **American People's rights to self defense**, the U.S. Second Amendment, not to mention Mr. Leners' well documented 100% crime-free life of service and innocence were *still* not over; and following are ***even more reasons*** the U.S. Supreme Court is begged to issue Writ for all Americans. This Writ also proves the Disbarred D.A. even LIED TO JURY in most extreme prosecutorial misconduct "closing arguments", illegally instructing: ***"Leners had no (2nd Amendment) right to bring two (legally licensed & legally carried small) hand guns with him (when moving to Wyo)".*** She even illegally told Jury in closing arguments that Mr. Leners had 'No Legal Right to Pre-Arming in Case of Conflict' saying:

- ***"It's not self defense to bring two guns with you!"*** (when moving to Wyo.) (Tr.,Trial,Vol.,III,p.,173-74).

See Appendix D-TL

Legal ***"PRE-ARMING"* is not a crime**, AND IT ***IS "SELF DEFENSE"*** to **PRE-ARM**. It is also not a crime for a 100% lifetime crime-free American to legally carry or bring his / her legally licensed small self defense arms (when moving/traveling); **but Disbarred D.A. Manlove told Jury these were *crimes* in closing arguments**, and Mr. Leners' sabotaging counsel Ross McKelvey did nothing / no objection. When Disbarred D.A. Manlove illegally told Jury this she also grossly violated stated **Jury instruction #21**:

> "One who has reasonable grounds to believe that another will attack him and that the anticipated attack will endanger his life or limb or cause him serious bodily harm, **HAS THE RIGHT TO ARM HIMSELF TO RESIST THE ATTACK**. If that person armed himself in reasonable anticipation of that attack, that fact alone does not make that person the aggressor."

See Appendix D-TL

Mr. Leners' very conviction proves the duped Jury *did deny* him **"No Duty to Retreat"** *(even knowing he was in his own home screaming for help on recorded audio!)* – all proving Manlove's ploy worked, **and she succeeded in falsely "Manufacturing Malice" in the minds of the Jury from Mr. Leners' legal and normal behavior.** To be clear she maliciously demonized and vilified Mr. Leners and ***"falsely made Mr. Leners into an aggressor"*** with her Federal Law violating 'closing' misconduct(s).

What good are Jury instructions if shredded by a Disbarred D.A. to an unknowing Jury, and sabotaging counsel doesn't object? What good is "Habeas Corpus" and a Cir. Court appeal, when even the USCA and USDC illegally deny correct Federal Law rulings? The trial was a farce and Tim was a straw-man.

Furthermore Manlove, police and McKelvey all knew Federal records and police reports proved Mr. Leners carried specialized gun licenses for decades! – *and* their "right to own / carry / use" reciprocity covered 30+ U.S. States including Wyo. at the time he was **Forced** to use one for self defense.

> ***United States Supreme Court: District of Columbia v. Heller, (citation omitted) (2008)***
> The Second Amendment Protects Individuals Right To Possess Firearm Unconnected With Service In Militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home;....(etc). 10. Putting all of the textual elements of the operative clause of the Second Amendment together, **the United States Supreme Court finds that they guarantee the individual right to possess and Carry Weapons In Case Of Confrontation.**

These illegal "closing arguments" more than at ***"INFRINGED"*** on Mr. Leners' 2nd Amendment Rights" and again it's proven the assault on every American's **Rights to No Duty to Retreat, Legal Self Defense** and the **U.S. 2nd Amenedment** requires U.S. Supreme Court Writ of Certiorari, because when an elected (Disbarred) D.A. (ap X **"Appendix T"**) can assault an innocent American's **RIGHTS** so blatantly – and no one objects in the U.S.A.; the *"system of checks & balances"* is not just broken; it is totally shattered.

Still the assaults on the American People's **Rights to "No Duty to Retreat"**, U.S. Second Amendment self Defense, and Timothy's documented 100% crime-free life of service / innocence: were just beginning because all Courts refused overturn despite asserted State Law and other State cases they ***DID*** overturn!

To be clear Mr. Leners proved in every appeal that "willy-nilly rulings" were taking place not only in Wyo.; **BUT THAT THE ENTIRE COUNTRY IS FULL OF ILLEGAL CONVICTIONS, JUST LIKE MR. LENERS'; ALL BECAUSE OF THE ILLEGAL DENIAL OF NO DUTY TO RETREAT.** [1]

Yet despite Mr. Leners asserting numerous preceding cases that were overturned with far less proof of requirements for "No Duty to Retreat"; ***even including cases in Wyo. itself*** that lacked the proof he had of being in his own ***HOME*** when he was attacked and ***not being*** **the "aggressor"** when he was ***FORCED*** into legal 2nd amendment self defense; all courts still denied Mr. Leners Equal Protection of Law *OR* required overturn on the many known Structural Errors that illegally took his life and Freedom.

Further – should it *not* be believed THIS IS KNOWN BY COURTS to be happening all over the Nation, please now read the below "Wyo. case law" excerpt proving this statement true. This case PRE-DATES Mr. Leners' case, and even though he quoted it in every single appeal; it's been to no avail; because despite fact his cited evidence of "being in his own home / residence" and "doing no wrong" far exceeds that case; ALL COURTS STILL REFUSED MR. LENERS EQUAL PROTECTION OF LAW IN HIS OWN HOME.

> ***Widdison v. State, 2018 WY 18; 410 P.3d 1205; 2018 Wyo. LEXIS 18 S-17-0138***
>
> 1. Cohabitants and the use of the castle doctrine P10 The ***MAJORITY OF JURISDICTIONS*** that have considered the issue CONCLUDE THAT A COHABITANT DOES NOT HAVE A DUTY TO RETREAT IN HIS OWN HOME when, through no fault of his own, he is assailed by another cohabitant. 2 Linda A. Sharp, Homicide: duty to retreat where assailant and assailed share the same living quarters, 67 A.L.R.5th 637, § 2(a) (1999 & 2017 Supp.) **(FOURTEEN JURISDICTIONS HOLD COHABITANT HAS NO DUTY TO RETREAT; SEVEN JURISDICTIONS REQUIRE COHABITANT TO RETREAT, ONE OF WHICH (FLORIDA) HAS SINCE ABANDONED THAT RULE)**; see also State v. Shaw, 185 Conn. 372, 441 A.2d 561, 565 (Conn. 1981) (noting that most jurisdictions have adopted the rule that there is no duty of retreat with cohabitants and unlawful intruders). These courts reason that it would be illogical to require retreat when one is attacked in one's own home by a cohabitant, but not when attacked by a stranger. "The danger posed and the sanctuary of the dwelling is the same regardless of the status of the attacker." State v. White, 20 Neb. Ct. App. 116, 819 N.W.2d 473, 479 (Neb. Ct. App. 2012) (citation omitted). **CASTLE DOCTRINE APPLIED between cohabitants, and trial court abused its discretion by failing to instruct the jury on the doctrine, because there were facts from which jury could have inferred that defendant resided in victim's home, including defendant testimony she considered victim's home to be her residence.**

[1] See full cases herein this petition in section: "LIST OF PARTIES – DIRECTLY RELATED CASES"

- D.C. v. Heller (USA), Case No. 128SCT2783, U.S. Supreme Court, decided: 6-26-2008
- Widdison v. State (Wyo.), Case No. S-17-0138, Wyo. Supreme Court, decided: 2-16-2018
- Palmer v. State (Wyo.), Case No. --No # in Original--, Wyo. Supreme Court, decided: 1-13-1900
- Haire v. State (Wyo.), Case No. S-16-0187, Wyo. Supreme Court, decided: 5-8-2017
- Drennen v. State (Wyo.), Case No. S-11-0199, Wyo. Supreme Court, decided: 10-1-2013

This *'clearly stated Nation-Wide acceptance'* of *"MAJORITY OF JURISDICTIONS"* and "FOURTEEN JURISDICTIONS" vs. "SEVEN JURISDICTIONS" is the defect in law. This single "law" proves all by itself that "WILLY-NILLY RULINGS" are known to be happening all over the Country, and that this is *somehow* accepted as being *"valid"* despite the inhumane outcome of innocent Americans being "forever cancelled" based only on "local prejudice / hate / politics" for legal self defense.

This can't go on in a "Republic of Laws", and "Legal Self Defense" and "No Duty to Retreat" where one is legally present and doing no wrong (in the public or at home) is a Pre-existing / God Given RIGHT. Yet as Mr. Leners' case so tragically proves; he was *still* illegally denied 'Equal Protection of ***Widdison*** Law' – and was also even illegally denied all statues before and after their "**Widdison Revisons**"; even in the same state of Wyoming it was written due to / but not limited to most of the following:

1.) The Jury being illegally denied the **Police Report evidence** (ap "**Appendix V-22-1**") proving Mr. Leners' attacker confessed it was Mr. Leners' own home he attacked him in, and **2.)** multiple Court's "Abuses of Discretion" knowing this, yet *STILL* inhumanely refusing to vindicated the required overturn, and **3.)** epic and disbarring misconduct by a Disbarred D.A. telling a Jury in illegal closing that *"Mr. Leners "had no 2nd Amendment Right to legally Pre-Arm or even (evidently) own and carry his licensed small arm"* **thus** *"Manufacturing that legal behavior into 'Malice'"* to make Jury think Timothy was the "aggressor", and even **4.)** because the "hacked-up / confused / diluted version" of "right to self defense" given in **Jury instruction #23** [(1)] **was an utter unrealistic mess**: *STILL* illegally requiring Tim to retreat in his own home *"if"* a juror erroneously deemed him to be "aggressor"; which after all the preceding proving Manlove's illegal demonization and lies about gun laws; is exactly what happened, and **5.)** illegally giving Jury 2 conflicting definitions of "Malice"; **instruction #17**: *"You are instructed that you may, but are not required to; infer malice from the use of a deadly weapon"*. While Jury Instruction #16 contradicted that telling Jury malice was an "ACT" and not a (vilified legal) "WEAPON". Jury was illegally told they could "infer malice" against a legally carried and licensed "2nd Amend. Arm"

See Appendix D-TL

Allowing something so wrought with potential for abuse as *"Majority of Jurisdictions"* and *"Fourteen Jurisdictions" vs. "Seven Jurisdictions"* to exist as being "acceptable law", and also allowing ***"The Jury to be denied police report*** (ap "**Appendix V-22-1**") ***proving it was Mr. Leners' home"***, and also allowing ***"Provision to the Jury of a deliberately diluted / 'confudled' Jury instruction #23"*** to illegally nullify deserved "No Duty To Retreat" & "Castle Doctrine" in Jury's minds; **is also "Not Good Enough" for the American People and so SCOTUS Writ is desperately pleaded.**

(1) #23 *(if Leners was aggressor OR Trout and Leners agreed to fight)* The right to self defense is NOT available to aggressor unless aggressor has REGAINED HIS RIGHT to self defense. An aggressor may REGAIN his right by doing ALL FOLLOWING:

1.) He has actually tried in good faith to refuse to continue to fight
2.) He has by words or acts caused his opponent to be aware he wants to stop fighting
3.) He has by words or acts caused his opponent to be aware he has stopped fighting; and
4.) he has retreated as far as he safely could.

Retreat Is Not Required **IF it would have increased the danger to the defendant ***OR*** it reasonably appeared that the danger to the defendant would be increased by retreat. ** **IF** you find defendant has done **ALL FOUR OF THESE**, he has then **REGAINED** the right to self defense. **IF** any are missing – the defendant did not have the right to self defense.

Did not the innocent Mr. Leners / Disabled USMC Sgt.; ***(audio proven to have never been the 'aggressor in the first place!!)*** do all that in **Jury Inst. #23** while screaming for help on Recorded Audio, while getting the literal hell beat of him as proven in his injury pics (ap "**Appendices G, H**") – and even as he is proven to have been illegally forced to retreat outside his own home as (ap "**Appendix M**") proves?!?

THEN WHY WAS TIMOTHY DENIED **"NO DUTY TO RETREAT"** JURY INST. & CONVICTED?

Additionally as "Widdison V. State" (2018) states: ***"BECAUSE NO RECORD EXISTS OF WHY"*** *they found Mr. Leners guilty* - ***(IF Jury mistakenly thought Mr. Leners was an "aggressor" or not);*** IE; **"WHY"** they denied Mr. Leners both "Castle Doctrine" & "No Duty to Retreat" in his own home – .....**THE ERROR IS PREJUDICIAL AND THIS WRIT IS REQUIRED.**

> ***Widdison v. State, 2018 WY 18; 410 P.3d 1205; 2018 Wyo. LEXIS 18 S-17-0138***
>
> 1. P25 **We do *NOT* know *WHAT* Jury *CONCLUDED* with respect to the initial *AGGRESSOR* when it determined that Ms. Widdison's defense of self-defense was not applicable in this case** and convicted her on both counts, and **WE THEREFORE FIND THE ERROR WAS PREJUDICIAL**. There was a reasonable probability that, but for the Jury's lost opportunity to determine the factual question of whether Ms. Widdison resided in Mr. Jones' home, the Jury would have found that Ms. Widdison acted in self-defense and the outcome of the case would have been different. Ms. Widdison's convictions are reversed and remanded.

Just the fact that Wyoming **convicted *then overturned*** Widdison – but ***then still*** **illegally convicted** Mr. Leners and **maliciously refused** to rightly overturn his shocking case that exceeded hers proves Writ. **This too is "Not Good Enough" for the American People and so Writ is desperately pleaded so what happened to Mr. Leners (Ms. Widdison & others), can be Federally Prohibited and hopefully never happen again; because when *ANY* American is denied the right to "No duty to Retreat" and Self Defense anywhere they are not an 'aggressor'; the result is actual "murder of innocent life".**

Writ is desperately pleaded for ALL Americans and Mr. Leners because he is innocent! He was never the "aggressor"! Ms. Widdison and thousands more Americans were also innocent, and yet *still* this same tragedy is illegally inflicted on law abiding U.S. citizens every day being denied **"No Duty to Retreat"**!

Furthermore it is obvious Mr. Leners' trial and every denied appeal has been a sham to cover up what the State did to his innocent good life of service to all (ap "**Appendix X**") – and had it not been for all these STRUCTURAL ERRORS the verdict would have been NOT guilty. No reasonable person or Judge could say the 'verdict' in Mr. Leners' case was "reliable", and no one could ever deny that Mr. Leners' Jury was not only "Robbed of all Fact Finding" – but they were actually LIED TO many times.

The framing of and denial of "Equal Protection of the Law" to Mr. Leners was not done yet, and Jury instruction Transcript (an X **"Appendix V-22")** proves Mr. Leners was next illegally denied **all Wyo. State Statutes** that Wyo. modified ***AFTER*** the Widdison overturn / but ***BEFORE*** Mr. Leners' trial' when Disbarred D.A. Manlove and conspiring assistant D.A. Harper wrongly told Judge Sharpe that Mr. Leners ***COULD NOT HAVE*** **the protection of those "*revised* Wyo. § 6-2-602 Use of Force in Self Defense; No Duty to Retreat laws"** – illegally because they were *ALLEGEDLY* revised just *AFTER* Mr.Leners' arrest.

See herein Page 2 ("Constitutional and Statutory Provisions") for full versions of all Laws that Wyo. revised AFTER "Widdison v. Wyo." **but years before Tim's trial.** Each law **(such as Wyo. § 6-2-602)** that is known to be "revised" - yet was still illegally denied to Mr. Leners is indicated with a "STAR". ★

If this is in doubt SCOTUS can see the words **"HER"** & **"SHE"** proves it as in the below example:

> ***Wyo. Criminal Law & Procedure > Defenses > Self-Defense***
>
> When a person without fault is confronted in **HER** place of residence, either by an intruder or by a cohabitant, **SHE** need not retreat. However, if that person is the initial aggressor, **SHE** is not without fault, and therefore has a duty to retreat prior to defending **HERSELF**. ....etc..

BEFORE "WIDDISON" – NO WYO. LAW USED THE WORDS: **"HER"** & **"SHE"** .

> ***Widdison v. State, 2018 WY 18; 410 P.3d 1205; 2018 Wyo. LEXIS 18 S-17-0138***
>
> P14 When a person without fault is confronted in **HER** place of residence, either by an intruder or by a cohabitant, **SHE** need not retreat. However, if that person is the initial aggressor, **SHE** is not without fault, and therefore has a duty to retreat prior to defending **HERSELF**. ....etc.. *(citing Haire, 2017 WY 48, 36, 393 P.3d at 1314, applies whether the person is in her residence or not. See also Drennen v. State, 2013 WY 118, 39, 311 P.3d 116, 129 (Wyo. 2013); Cassels v. People, 92 P.3d 951, 956 (Colo. 2004).*

The undeniable fact is those "revised laws" were actually revised about **ONE YEAR *BEFORE*** Mr. Leners' trial (***AFTER*** Ms. Widdison's case was overturned); but just because of **"LEGISLATION LAG-TIME",** Mr. Leners' perfectly crime-free life of service was thrown in the trash before trial even began (on this technicality!). The entire reason for Wyo. revising §6-2-602 that Tim was illegally denied, was only because of "Widdison", who was convicted years ***BEFORE*** Mr. Leners' arrest. **Mr. Leners deserved and rated the protection of the below laws because dates prove Justice cries out for them.**

- Ms. Widdison was arrested **around 2016** –over a year ***BEFORE*** Mr. Leners illegal **12-23-17** arrest
- Ms. Widdison was convicted **about 2 years before Mr. Leners' 5-10-2019 conviction**
- Ms. Widdison's W.S.C. **direct appeal overturned her case on 2-16-2018; over one year and 3 mo. before Mr. Leners' trial; AND THIS IS WHEN NEW LAWS WERE "CT. WRITTEN".**

To be clear all laws indicated with a **"star"** on page 2-6 herein, were all denied to **Tim in his 2019 trial**, even though they were already ***written*** long before that **right after Widdison's overturned 2018 Appeal.**

Widdison was arrested in 2016 - almost ***2 years*** before Mr Leners Dec. 23, 2017 arrest; **and** her appeal was overturned in 2018 over ***1 year*** before his May 10, 2019 trial – yet ***"she"*** *clearly* got protection of the ***"2018 revised laws"*** **(Wyo. § 6-2-602 Use of Force in Self Defense; No Duty to Retreat)** ***"after the fact – backdated to her 2016 arrest"***. Mr. Leners cannot then be denied them either based on **"LEGISLATION LAG-TIME"** **(because she wasn't)** and his case must be overturned because those "revisions", made iron-clad: both ***"No Duty to Retreat"*** and ***"Whomever Uses Defensive Force in Accordance Herein – Shall NOT Be Prosecuted"*** ((sec (f) of the law), and Disbarred D.A. Manlove and conspiring assistant Harper **(both in (ap "Appendix T")** knew it ratified the 250 yr. old 2nd Amendment.

Mr. Leners asserts this WRIT because it is clearly illegal to give Widdison the "After The Fact Benefit" that PRE-dates the "2018 revised § 6-2-602 law's use" all the way back to HER 2016 arrest then illegally deny this "Equal Protection of Law" to Mr. Leners for HIS 2017 arrest and 2019 appeal.

MR. LENERS WAS ILLEGALLY DENIED THE EQUAL PROTECTION OF THESE LAWS BY JUST WEEKS! BECAUSE OF ***"LEGISLATION LAG TIME"***. AND SEVERAL ABUSES OF DISCRETION.

And to top it all off – even the U.S. District Court of Wyoming literally **DELETED WORDS OUT OF "D.C. v. HELLER (2008)"** (that Tim cited in all appeals); to illegally obscure and deny Mr. Leners' § 2254 Habeas Corpus through illegal bias and trickery. **By purposely Deleting words from that law: ~~"WITHIN THE HOME"~~** on **"Page 12" of their "Denial Order" / "ECF 55"**, it proved their entire denial of Mr. Leners' § 2254 Habeas was not based in fact – but instead based in clear and obvious bias.

> ***United States Supreme Court: District of Columbia v. Heller, (citation omitted) (2008)***
> The Second Amendment Protects Individuals Right To Possess Firearm Unconnected With Service In Militia, and to use that arm for traditionally lawful purposes, such as self-defense ~~**WITHIN THE HOME**~~;…(etc.). ⟵ USDC DELETED THOSE WORDS OUT

If this is not believed to have been purely biased / unlawful; their own 2-1-2024 "Order Granting Motion to Dismiss" & "Final Judgment" & (ECF's 55 & 56) ***"double proved it"*** when they absurdly stated:

- ***"The Second Amendment has no bearing on case"*** **(WOW! – emphisis added)**

USDC nonsensically stated this knowing all Tim's appeals *overly proved* the "2nd Amendment" violations were applicable, by use of his specially licensed concealed carry handgun - in his home - in self defense! USDC even went so far as to transparently and senselessly state that the **Widdison Case** *"didn't apply to Mr. Leners'* ***(GUN) CASE***"; while knowing Misty Widdison used a **KNIFE** to defend herself – and knowing her case was overturned based almost exclusively on the **"U.S. 2nd Amendment"** as now **quoted in all 2018 REVISED *Wyo. § 6-2-602 Use of Force in Self Defense; No Duty to Retreat* LAW!**

USCA 10th Cir. also ***knew*** of USDC's illegal-biased **"deletion of law to hide the facts"** *(in Tim's 4-17-24 "Application for C.O.A." 11085260 *Pg. 21 of 60*)*, and ALL Courts with USCA knew: **1.)** Jury was denied "P66 Police Report" *(App. "Appendix V-22-1")* Confessions by Chris Trout proving ***ON RECORDED AUDIO***: Trout **2.)** Offered the apartment to Mr. Leners for rent and deposit, **3.)** Trout collected those Monies from Mr. Leners, **4.)** Trout then told Mr. Leners to ***"MOVE IN – THE APT. WAS TIM'S"***; and **5.)** Trout even confessed to cops he: ***"THEN LEFT TO GIVE THE MONEY TO A FRIEND"***, only to **6.)** return 30 minutes later – audibly breaking into Mr. Leners new "Castle" ***ON RECORDED AUDIO*** to kill Timothy, **7.)** beating Timothy near to death with accomplice Joyce Trout as Tim's severe injury pictures proved *(App. "Appendices G, H")* (Trial Vol. III, p. 137), *and* **8.)** even *(App. "Appendix M")* proving Timothy was known to be illegally forced to retreat from his own home!!! – while also knowing Tim proved the **9.)** lying det. Hickerson wrote his *(App. "Appendices A-TL, O")* "False Affidavit of Probable Cause" in 100% contradiction of those crime scene pictures (to illegally arrest, search and frame Tim) *and* **10.) knowing both Hickerson and Disbarred D.A. Manlove – LIED TO JURY that *"Leners was uninjured!!"* and *"There were no signs of a fight in the fresh snow!!"*** – and ALSO THAT **11.)** all this was known ***before trial*** by Judge Sharpe and Disbarred D.A. Manlove who **12.)** maliciously denied Timothy **"No Duty To Retreat"** in Jury conf. *(App. "Appendix V-22")*; where **13.)** even the D.A. stated Timothy was known ***"legally present"*** but **14.)** she: "didn't recognize" the 250 y/o 2nd Amendment or Widdison – so (illegally) ***"Timothy couldn't have 'equal protection of the law' in Wyo. § 6-2-602";*** that she and everyone there knew was revised due to **Widdison** – who then **got** those protections of law **backdated to her 2016 arrest** (per her 2018 overturn) – **15.) yet Timothy couldn't have them for his 12-23-2017 arrest and illegally denied 2019 appeal though he asserted these in his timely filed** *"Permission to File Pro Se Supplemental Brief"* to WSC, to rectify his appeal counsel's frivolous brief; who self-confessed in *(App. "Appendix E-TL")* that he'd refused to even communicate with Tim, and refused Tim's clear instructions in *(App. "Appendix B-TL, on Pg. 3")* to assert ***"No Duty To Retreat"*** ; and even knowing **16.)** Mr. Leners told trial counsel 1.5 yrs before trial to assert ***"No Duty To Retreat"*** in Mr. Leners's several dated e-mails *(App. "Appendices V-22b, & F, & 1")*.

There has been a **CONSIRACY** from Day #1 against the innocent Mr. Leners by illegally arresting / searching / convicting / sentencing / caging him: then (for 8+ yrs.!) maliciously denying every single appeal – ***with all Courts incomprehensibly never mentioning in even one "denial"*** that Tim was illegally denied **"No Duty To Retreat"** where he was known to be doing no wrong, known to be in his own home (police report denied to Jury), **was Audio Recording proven *NOT* to be the "aggressor",** and was instead audio recorded crying from help while his two attackers screamed horrific animalistic audio recorded death threats!!! This happened to **"100% lifetime crime-free Sgt. Timothy Leners"** and thousands more U.S. Citizens. Please make this stop happening to hundreds of thousands of more innocent Americans and grant this WRIT on stated 'Question Presented' or any electively deemed worthy by the US Supreme Court.

CONCLUSION

The petition for a writ of certiorari should be granted. Respectfully submitted:

Timothy D. Leners: _____ Date: March 5, 2025