

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

ANTONIO MOLINA

— PETITIONER

(Your Name)

vs.

PENNSYLVANIA

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT OF PENNSYLVANIA

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ANTONIO MOLINA # FR-1711

(Your Name)

1100 PIKE STREET

(Address)

HUNTINGDON, PA. 16654-1112

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. THE PETITIONER IS ACTUALLY INNOCENT AND THE PENNSYLVANIA COURTS HAVE DENIED THE PETITIONER THE OPPORTUNITY TO PRESENT THE EVIDENCE OF ACTUAL INNOCENCE AT A HEARING.
(EXHIBITS PROVING ACTUAL INNOCENCE WERE ATTACHED TO THE STATE COURT FILING AND ARE ALSO ATTACHED TO THIS PETITION)
2. PENNSYLVANIA HAS DENIED AN INNOCENT PRISONER THE OPPORTUNITY TO PROVE HIS ACTUAL INNOCENCE.

LIST OF PARTIES

- [] All parties appear in the caption of the case on the cover page.
- [x] 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:

The counsel representing Pennsylvania in this instant petition
is: THE DISTRICT ATTORNEY OF PHILADELPHIA
THREE SOUTH PENN SQUARE
PHILADELPHIA, PA. 19107-3499

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	10
CONCLUSION.....	12
PROOF OF SERVICE	13

INDEX TO APPENDICES

APPENDIX A	PENNSYLVANIA SUPREME COURT ORDER
APPENDIX B	SUPERIOR COURT OF PENNSYLVANIA OPINION THREE JUDGE PANEL DECISION WAS 2 TO 1 WITH THE RETIRED PA. SUPREME COURT JUSTICE DISSENTING.
APPENDIX C	EXHIBIT OF NEW INFORMATION
APPENDIX D	EXHIBIT OF NEW INFORMATION SANTOS AFFIDAVIT
APPENDIX E	EXHIBIT OF NEW INDORMATION
APPENDIX F AND G	EXHIBITA OF NEW INFORMATION

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
BRADY V. MARYLAND, 373 U.S. 83 (1963)	10
GIGLIO V. U.S., 405 U.S. 150 (1972)	10
KYLES V. WHITLEY, 514 U.S. 419 (1995)	10
YOUNGBLOOD V. WEST VIRGINIA, 126 S.CT. 2188 (2006)	10
<u>STATE CASE:</u>	
COMMONWEALTH V. SHAWN BURTON, 2017 PA. LEXIS 664	5

STATUTES AND RULES

42 PA. C.S.A. § 9545(b)(1) AND (b)(2)

OTHER

THIS INVOLVES A CASE WHERE THE PROOF IS CLEARLY EVIDENT THAT THE PETITIONER IS ACTUALLY INNOCENT.

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

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

OPINIONS BELOW

☐ For cases from **federal courts**:

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

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

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

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

☒ For cases from **state courts**:

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

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

The opinion of the SUPERIOR COURT OF PA. court appears at Appendix B to the petition and is

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

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

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

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

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

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

☒ For cases from **state courts**:

The date on which the highest state court decided my case was May 8, 2018.
A copy of that decision appears at Appendix A.

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

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

THE SIXTH AMENDMENT, THE EIGHT AMENDMENT AND THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION ARE INVOKED HERE.

THE PETITIONER IS ACTUALLY INNOCENT AND WRONGFULLY CONVICTED.

PETITIONER IS WRONGFULLY INCARCERATED FOR A CRIME HE CAN PROVE THAT HE IS INNOCENT OF.

STATEMENT OF THE CASE

THIS IS A CASE WHERE PETITIONER MOLINA IS ACTUALLY INNOCENT AND HAS OBTAINED PROOF THAT HE WAS CONVICTED BECAUSE OF THE DELIBERATE MISCONDUCT EMBRACED BY THE (then) DISTRICT ATTORNEY. THE FORMER D.A. MR. SETH WILLIAMS IS NOW A FEDERAL PRISONER AT THIS TIME.

A THREE JUDGE PANEL OF THE PA. SUPERIOR COURT CONSISTING OF JUDGE BENDER, JUDGE OTT, AND JUSTICE FITZGERALD (sitting by designation for this case) HEARD THE APPEAL PREPARED BY THE PRO SE PETITIONER. IN A 2 TO 1 DECISION THE SUPERIOR COURT DENIED RELIEF TO PETITIONER MOLINA, *WITH JUSTICE FITZGERALD NOTING HIS DISSENT. SEE EX. B APPENDIX.

THE PETITIONER TIMELY FILED FOR AN ALLOWANCE OF APPEAL WITH THE PA. SUPREME COURT BUT THE ALLOWANCE OF APPEAL PETITION WAS DENIED. SEE EX. A APPENDIX.

NO OPINION WAS ISSUED JUST A ROUTINE DENIAL OF THE ALLOWANCE OF APPEAL.

THE SUPERIOR COURT HELD IN WHAT IS A SLANTED OPINION (2 to 1) THAT PETITIONER MOLINA WAS NOT DILIGENT IN PURSUING THE SWORN TO UNDER PENALTY OF PERJURY, GIVEN BEFORE A MAGISTRATE, BY DE LOS SANTOS, THE AFFIDAVIT, WHICH IS ATTACHED TO THIS PETITION AND WHICH SHOWS THAT SANTOS FABRICATED HIS TRIAL TESTIMONY-->>TO CONVICT PETITIONER AND RECEIVE THE LENIENCY SECRETLY PROMISED TO SANTOS BY THE D.A. OFFICE. SEE APPENDIX "C" AND "D" AND "E" AND "F" AND "G" ATTACHED.

HERE IS THE ABSOLUTE PROOF THAT THE STORY SANTOS TESTIFIED TO WAS COMPLETELY FABRICATED WITH A MOTIVE FOR LENIENCY/EARLY RELEASE.

THE SUPERIOR COURT STATED THAT MOLINA COULD HAVE PURSUED THIS AFFIDAVIT A DECADE BEFORE RECEIVING THIS INFORMATION-BUT THIS IS NOT ACCURATE-NOR IS IT AN HONEST OR SENSIBLE FINDING BECAUSE IT FAILS TO TAKE INTO CONSIDERATION THAT PETITIONER MOLINA HAD NO HELP, NO ATTORNEY, NO PRIVATE DETECTIVE, TO APPROACH SANTOS. IT SHOULD ALSO BE NOTED THAT SANTOS WAS NOT WILLING TO COMMUNICATE WITH THE PETITIONER AND THE PETITIONER IS INCARCERATED SO HE COULD NOT CONTACT SANTOS, OR EVEN LOCATE HIM. SEE COMMONWEALTH V. SHAWN BURTON, 2017 PA. LEXIS 664 (3-28-2017).(This describes the severe limitations a prisoner in Pennsylvania has to work under when litigating his case pro-se). WE HAVE NO INTERNET, NO SEARCH ENGINES, NO ON-LINE ACCESS TO COMPUTERS, AT ALL. PETITIONER MOLINA IS INDIGENT AND HAS HAD NO FINANCIAL RESOURCES TO LOCATE SANTOS, OR TO APPROACH SANTOS OR TO INTERVIEW SANTOS, FROM THE TIME MOLINA WAS INCARCERATED IN THE STATE PRISON SYSTEM IN PENNSYLVANIA. MOLINA, AS A PRISONER IN THE PENNSYLVANIA PRISON SYSTEM COULD NOT MAKE PHONE CALLS "UNLESS" THEY WERE APPROVED SO TRYING TO CALL AGENCIES TO LOCATE SANTOS AND THEN TO FIND OUT IF SANTOS WOULD BE WILLING TO DISCUSS THIS CASE WAS NOT WITHIN PETITIONER MOLINA'S REACH NOR DID MOLINA HAVE ANY RESOURCES WITH WHICH TO ATTEMPT TO RETAIN SUCH INVESTIGATIVE HELP. THE STATE COURTS FORGET, IT SEEMS, THAT A PENNSYLVANIA PRISONER IS VERY, VERY, LIMITED AS TO HIS ABILITY TO LOCATE WITNESSES, OR MAKE CONTACTS, WITH OUTSIDE COMMUNITY MEMBERS. THIS IS A MAXIMUM SECURITY PRISON.

PETITIONER MOLINA HAS NO COMPUTER ON-LINE ACCESS, NOR DOES HE HAVE FREE USE OF THE PHONE. ALL CALLS MUST BE PRE-APPROVED. THE FINANCIAL RESOURCES DO NOT ALLOW FOR PETITIONER MOLINA TO OBTAIN A LAWYER WHO WOULD BE RETAINED TO LOCATE SANTOS AND TO ARRANGE FOR AN INVESTIGATOR TO APPROACH SANTOS TO EXPLORE THE POSSIBLE OPPORTUNITY TO ATTEMPT AN INTERVIEW. NONE OF THIS WAS AVAILABLE TO PETITIONER MOLINA. MOLINA HAD TO DO EVERYTHING HE COULD FROM WITHIN THE PRISON WALLS, WITH NO MONEY OR RESOURCES.

YET THE SUPERIOR COURT (2) JUDGES STATED THAT MOLINA FAILED TO DILIGENTLY PURSUE SANTOS EARLIER. THIS IS ABSOLUTELY NOT A WELL REASONED STATEMENT BY THE STATE JUDGES. IT IS OBVIOUS THAT THEY DO NOT KNOW JUST HOW LIMITED AN INDIGENT PRISONER IS WHO IS PRO SE AND WRONGFULLY CONVICTED. HERE, MOLINA IS ACTUALLY INNOCENT.

THE (then) DISTRICT ATTORNEY OFFICE WITHHELD THE INFORMATION ABOUT THE LENIENCY DEAL WITH SANTOS FOR HIS TESTIMONY. THE STATE OF PENNSYLVANIA BROUGHT THE CHARGES IN THIS CASE AGAINST MOLINA SEVEN (7) YEARS AFTER THE DEATH OF THE DECEDENT. HOW DID THIS COME ABOUT ? SANTOS GOT ARRESTED AND CONVICTED IN AN UNRELATED CASE/OFFENSE WHICH INVOLVED THE AGGRAVATED ASSAULT OF A POLICE OFFICER. WHILE IN PRISON SANTOS DECIDED TO CONTACT THE D.A. AND OFFER TO TESTIFY AGAINST MOLINA IF LENIENCY AND RELEASE FROM THE PRISON SENTENCE SANTOS WAS SERVING WOULD BE HIS REWARD. IT WORKED FOR SANTOS WHO TESTIFIED TO A COMPLETE FABRICATION AND LIE, JUST TO CONVICT MOLINA.

MOLINA WAS THEN ARRESTED, AND TRIED. NO WEAPON, NO HIT-MAN, NO WITNESSES, NO PHYSICAL EVIDENCE WHATSOEVER. JUST SANTOS WHO WAS THE "KEY" STATE WITNESS. THIS RESULTED IN MOLINA, AN INNOCENT MAN BEING CONVICTED FOR A MURDER HE HAD NOTHING TO DO WITH.

N O W S A N T O S E X P L A I N S W H A T H E D I D .

(See Exhibits/Appendix "C" and "D")

THE (then) D.A.(Office) KNEW THAT WHAT SANTOS WAS GIVING TESTIMONY ABOUT WAS NOT TRUTHFUL AND WAS NOT FACTUAL. IN THE PROSECUTOR'S QUEST TO SOLVE AN OLD MURDER CASE AND TO WIN A CONVICTION THE D.A. OFFICE (at that time) COACHED SANTOS AND MADE SANTOS A LENIENCY GET OUT OF JAIL DEAL, BUT KEPT SECRET AND NOT MADE KNOWN TO THE PETITIONER.

THIS INFORMATION, AS SET FORTH IN THE SANTOS AFFIDAVIT, ATTACHED AND MARKED EX.D APPENDIX, WAS NEVER KNOWN BEFORE-TO ACTUALLY BE FACT AND TO BE AVAILABLE, PRIOR TO THE PETITIONER RECEIVING IT. THESE FACTS WERE NOT PREVIOUSLY KNOWN TO "ACTUALLY" EXIST PRIOR TO SANTOS GIVING THE AFFIDAVIT (EX.D APPENDIX). PRIOR TO THIS AFFIDAVIT BEING GIVEN BY SANTOS AND RECEIVED BY PETITIONER MOLINA, THIS INFORMATION WAS NOT KNOWN TO "REALLY" BE AVAILABLE. MANY, MANY, RUMORS EXISTED AND THESE RUMORS WERE FAR FROM ANYTHING THE PETITIONER COULD VERIFY OR HAVE DETERMINED TO BE SOMETHING OTHER THAN RUMOR, AND STORIES, SPREAD BY PEOPLE SIMPLY MAKING TALK BUT NOT BASED IN FACTS. NOT UNTIL THE SANTOS AFFIDAVIT WAS RECEIVED DID THE PETITIONER MOLINA KNOW ABOUT

THE INFORMATION THAT IS DETAILED IN THE SANTOS AFFIDAVIT. SANTOS WAS LIVING IN THE DOMINICAN REPUBLIC, AND WENT THERE IMMEDIATELY AFTER BEING RELEASED FROM PRISON FOR HIS TESTIMONY AGAINST MOLINA. SANTOS WAS RELEASED FROM THE SERIOUS CHARGE OF AGGRAVATED ASSAULT ON A POLICE OFFICER (he tried to kill a police officer) ALMOST IMMEDIATELY-AFTER HIS TESTIMONY-DOING ONLY 1/2 OF HIS SENTENCE. PETITIONER MOLINA ACTED DILIGENTLY AND IMMEDIATELY FILED THE NEW INFORMATION WITH THE COMMON PLEAS COURT IN PHILADELPHIA, PENNSYLVANIA. PETITIONER MOLINA DID MEET THE REQUIREMENTS OF 42 PA. C.S. §9545(b)(2). THIS RULE REQUIRES NEW INFORMATION TO BE FILED WITHIN 60 DAYS. EVEN THE SUPERIOR COURT "AGREED" THAT MOLINA DID MEET THE REQUIREMENTS OF §9545(b)(2). (SEE EX.B APPENDIX)(PAGE 5).

PETITIONER MOLINA COULD NOT HAVE RECEIVED THIS NEW INFORMATION ANY SOONER THAN HE DID. **||EMPHASIS||**

AS STATED EARLIER, MOLINA HAD NO COMPUTER ON-LINE ACCESS, NO FUNDS WITH WHICH TO HIRE A PRIVATE INVESTIGATOR TO TRAVEL TO THE DOMINICAN REPUBLIC AND TO EXPLORE THE POSSIBILITY OF FINDING SANTOS. SANTOS EXPRESSED TO WILLINGNESS TO SPEAK TO MOLINA AND MOLINA HAD NO SUCH CONTACTS WITH SANTOS PRIOR TO RECEIVING THE AFFIDAVIT BY SANTOS. (SEE EX.D APPENDIX).

PETITIONER MOLINA WAS BANKRUPT, AS A RESULT OF HIS ARREST AND INCARCERATION. HE HAD NO SUPPORT GROUP, NO FUNDS, NO LAWYER, AND NO WAY TO CONTACT SANTOS IN THE DOMINICAN REPUBLIC.

WITH NO SUPPORT AND BEING INDIGENT WITHOUT FUNDS, PETITIONER MOLINA COULD DO VERY LITTLE IN TRYING TO LOCATE SANTOS AND TO HIRE SOMEONE TO TRAVEL TO THE DOMINICAN REPUBLIC TO TRY AND FIND HIM AND TO HAVE THE TRUTH KNOWN, BY SANTOS. NOT UNTIL HE RECEIVED THE-->>*SANTOS AFFIDAVIT (who converted to become a Christian) WAS PETITIONER MOLINA ABLE TO OBTAIN THIS NEW INFORMATION. SEE EX.D IN ATTACHED APPENDIX. (SANTOS AFFIDAVIT). **||EMPHASIS||**

THERE IS NOTHING MORE THAT COULD BE DONE EARLIER BY MOLINA TO HAVE OBTAINED THIS NEW INFORMATION FROM SANTOS.

PETITIONER DID DEMONSTRATE HIS DILIGENT ATTEMPT TO PROVE THAT HE WAS WRONGFULLY CONVICTED ALMOST IMMEDIATELY UPON BEING CONVICTED AND INCARCERATED, IN A MAXIMUM SECURITY PRISON. THERE WAS NOTHING MORE THAT PETITIONER MOLINA COULD DO TO LOCATE SANTOS IN THE DOMINICAN REPUBLIC FROM WITHIN PRISON, WITH NO COMPUTER ON-LINE ACCESS, NO FUNDS, NO SUPPORT, NO LAWYER, AND EXTREMELY LIMITED PRE-APPROVED PHONE ACCESS, NO PRIVATE INVESTIGATOR, AND ALMOST NO KNOWLEDGE (then) OF THE ENGLISH LANGUAGE. IT SIMPLY IS NOT REALISTIC TO EXPECT THAT PETITIONER MOLINA COULD HAVE BEEN MORE DILIGENT IN HIS EFFORTS AT LOCATING AND THEN INTERVIEWING SANTOS, WHO WAS IN THE DOMINICAN REPUBLIC.

THE STATE OF PENNSYLVANIA COURTS RULED THAT PETITIONER MOLINA WAS NOT DILIGENT IN HIS EFFORTS TO LOCATE SANTOS AND TO OBTAIN THIS NEW INFORMATION. THIS IS ABSOLUTELY A DISINGENUOUS FINDING, BY THE PENNA. COURTS. PETITIONER MOLINA COULD NOT HAVE BEEN MORE DILIGENT UNDER HIS CIRCUMSTANCES.

REASONS FOR GRANTING THE PETITION

NOW THAT THIS COURT HAS BEFORE IT THE SANTOS AFFIDAVIT AND THE ADDITIONAL EXHIBITS PRESENTED TO THE PENNSYLVANIA STATE COURTS, MARKED AS EXHIBITS C,D,E,F, & G, AS WELL AS THE STATEMENT OF THE CASE, SET FORTH IN THE PRECEDING PAGES-THERE IS PROOF THAT THERE WAS A LENIENCY DEAL PROMISED TO SANTOS BY THE (then) D.A. OFFICE AND THAT THIS LENIENCY DEAL WAS WITHHELD FROM THE PETITIONER.

THERE IS PROOF THAT THE SANTOS TESTIMONY WAS FABRICATED AND IT WAS NOT TRUE. SEE EXHIBIT D APPENDIX. THERE IS NOW DEMONSTRATED PROOF THAT THE LENIENCY DEAL WITH SANTOS WAS KEPT HIDDEN FROM THE PETITIONER MOLINA BY THE DISTRICT ATTORNEY, THEN IN OFFICE. IT IS ACKNOWLEDGED THAT IN JANUARY OF 2018 A NEW DISTRICT ATTORNEY TOOK THE OATH TO BECOME THE DISTRICT ATTORNEY OF PHILADELPHIA, AND THAT THIS NEW DISTRICT ATTORNEY HAD NOTHING TO DO WITH THE MISCONDUCT DEMONSTRATED BY THE PREVIOUS D.A. WITH REGARD TO THIS CASE.

THE MISCONDUCT BY THE DISTRICT ATTORNEY (then) RESULTED IN THE PETITIONER MOLINA (who is actually innocent) BEING WRONGFULLY CONVICTED. SEE EXHIBIT D APPENDIX.

THIS MISCONDUCT VIOLATED YOUNGBLOOD V. WEST VIRGINIA, 126 S.CT. 2188 (2006); BRADY V. MARYLAND, 373 U.S. 83 (1963); KYLES V. WHITLEY, 514 U.S. 419 (1995); GIGLIO V. U.S., 405 U.S. 150, 154 (1972).

A C T U A L I N N O C E N C E

PETITIONER MOLINA WAS NOT EVEN ARRESTED FOR 7 YEARS AFTER THE DECEDENT'S MURDER. THE ARREST CAME ABOUT BECAUSE OF THE FABRICATED

TESTIMONY OF SANTOS, WHICH SANTOS ADMITS WAS FABRICATED, AND WAS PART OF A DEAL FOR LENIENCY/RELEASE MADE WITH THE PROSECUTOR. THE AFFIDAVIT OF SANTOS TELLS THE ENTIRE STORY, AND IS ATTACHED AS EXHIBIT D APPENDIX. PETITIONER IS ACTUALLY INNOCENT AND THE (then) D.A. KNEW THE SANTOS TESTIMONY WAS FABRICATED. THE (then) D.A. HID FROM THE PETITIONER THE LENIENCY DEAL GIVEN TO SANTOS AND THE D.A. FAILED TO CORRECT THE FALSE TESTIMONY OF SANTOS WHEN SANTOS DID TESTIFY UNDER OATH, AT THE TRIAL OF PETITIONER MOLINA.

THE LENIENCY DEAL IS NOW KNOWN TO HAVE EXISTED, BETWEEN THE (then) D.A. AND SANTOS.

THE TESTIMONY OF SANTOS IS NOW KNOWN TO BE FALSE AND WAS FABRICATED FOR THE PURPOSE OF RECEIVING THE LENIENCY RELEASE FROM JAIL.

NOT ONE IOTA OF PHYSICAL EVIDENCE WAS PRESENTED AGAINST THE PETITIONER ANTONIO MOLINA. NO EYE-WITNESS TESTIMONY WAS PRESENTED AGAINST PETITIONER MOLINA. THERE WERE NO CONFESSIONS BY MOLINA. MOLINA WAS CONVICTED BECAUSE OF THE STAR WITNESS SANTOS.

THE SANTOS AFFIDAVIT PROVES THAT MOLINA IS WRONGFULLY CONVICTED OF A MURDER THAT HE HAD NO INVOLVEMENT IN. THE CONVICTION CAME ABOUT BECAUSE OF THE MISCONDUCT BY THE (then) DISTRICT ATTORNEY OFFICE. THE SANTOS AFFIDAVIT, DETAILS THE MISCONDUCT, THAT THE D.A. EMBRACED TO CONVICT PETITIONER MOLINA. AN ACTUALLY INNOCENT PRISONER IS IN PRISON AND LOST HIS FREEDOM BECAUSE OF THE MISCONDUCT BY THE (then) D.A. OFFICE.

IT IS AN APPALLING, GHASTLY, CIRCUMSTANCE, WHEN AN ACTUALLY INNOCENT CITIZEN IS INCARCERATED IN PRISON, SUFFERS THE LOSS OF HIS FREEDOM AND THE LOSS OF HIS FAMILY AND PROFESSION, FOR A CRIME THAT HE DID NOT COMMIT. HERE THE MISCONDUCT BY THE PROSECUTOR RESULTED IN THE WRONGFUL CONVICTION OF PETITIONER MOLINA.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

X Antonio Molina FR1711

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1100 PIKE STREET - HUNTINGDON, PA. 16654-1112

Date: MAY 31, 2018

M A I L E D O N:

JUNE 4TH, 2018 BY PRISON MAIL.