No. 18-8194

IN THE

SUPREME COURT OF THE UNITED STATES

"In re [JEROME HENDERSON]" — PETITIONER
(Your Name)

vs.

TIM SHOOP-Warden — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Sixth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jerome Henderson ID No. A186-271
(Your Name)
Chillicothe Correctional Institution
15802 State Route 104 North
(Address)
Post Office Box 5500
Chillicothe, Ohio 45601
(City, State, Zip Code)
Mr. J. Johnson, Unit Manager Death Row
740.774.7080; ext. 2118
(Phone Number)

"capital case"

QUESTION(S) PRESENTED

1) Whether, or to what extent, appointed counsel pursuant to Harbison v. Bell, 556 U.S. at 194 (2009) ... REBUFFED ... his demands to Brief and Raise the ineffective assistance of trial counsel claim (10(A)(13)), that had been procedurally defaulted; And, REBUFFED, to Brief and Raise his statutorily appointed counsel's deficient performance, due to attorneys' David C. Stebbins, et al., pattern of deviations from Ohios' post-conviction remedies [procedural] framework for raising the issue of ineffective assistance of counsel, where the allegations are based on facts not appearing in the record, against Jerome Henderson's demands; in coordination with and at the direction of the Ohio Public Defender Commission, in his Application for Executive Clemency, Stating: "BECAUSE DAVID STEBBINS IS A COLLEAGUE OF MINE'S!" ... Violated Federal Statutory Law [18 U.S.C. § 3599]? ... Or, Constituted Equal Protection Clause Violation?, U.S. Const. Amend. XIV, § 1.

2) Whether, or to what extent, appointed counsel pursuant to Harbison v. Bell, 556 U.S. at 194 (2009) ... REBUFFED ... his demands to Brief and Raise the ineffective assistance of trial counsel claim (10(A)(13)), that had been procedurally defaulted; And, REBUFFED, to Brief and Raise his statutorily appointed counsel's deficient performance, due to attorneys' David C. Stebbins, et al., pattern of deviations from Ohios' post-conviction remedies [procedural] framework for raising the issue of ineffective assistance of counsel, where the allegations are based on facts not appearing in the record, against Jerome

Henderson's demands; in coordination with and at the direction of the Ohio Public Defender Commission, in a 'subsequent' to her appointment., Id., at 185 and 188, "subsequent stage of available judicial proceedings," not previously available to Jerome Henderson and a legal basis enunciated in Martinez v. Ryan, 132 S.Ct. at 1309 and 1315 (2012), under 28 U.S.C. § 2254, 'seeking to vacate or set aside his death sentence,' Stating: "BUT, THAT WAS THE LAW BACK THEN!"; And, Bizarrely, Cited: Coleman v. Thompson, 501 U.S. 722 (June 24, 1991) ... Violated Federal Statutory Law [18 U.S.C. § 3599]? ... Or, Constituted Equal Protection Clause Violation?, U.S. Const. Amend. XIV, § 1.

3) BECAUSE, "THE JUDICIAL POWER SHALL EXTEND TO ALL CASES, IN LAW AND EQUITY, ARISING UNDER THIS CONSTITUTION, THE LAWS OF THE UNITED STATES, AND TREATIES MADE, OR WHICH SHALL BE MADE, UNDER THEIR AUTHORITY; -- TO CONTROVERSIES BETWEEN A STATE, OR THE CITIZENS THEREOF." U.S. Const. Art. III, § 2, [1] ... Whether, or to what extent, the State of Ohios' [LEGISLATURE] deprivation of due process and equal protections rights and as well the procedural default of a claim of ineffective assistance at trial in his initial state post-conviction remedies proceedings under that statute Ohio Revised Code Section 2953.21, et seg., the result of state action in violation of the . . . laws of the United States, due to an unlawful (State) source of invidiously systematic de facto racial discrimination; that is [D]eliberate(!), emanating from an official source in the State of Ohio, to wit: The Ohio Public Defender's Office; and, failure to fulfill its statutory obligation to provide the effective

assistance of counsel to pursue filing Jerome Henderson's initial petition for post-conviction relief pursuant to that Section [2953.21(I)], of the Ohio Revised Code, in an organized **Suspension Of The Writ**; foreclosing federal habeas corpus review; in coordination with and at the direction of the Ohio Public Defender Commission, and, contrary to clearly established state law for raising the issue of ineffective assistance of counsel, where the allegations of ineffectiveness are based on facts not appearing in the record, that . . . "worked to [Jerome Henderson's] actual and substantial disadvantage," in the context of the state's initial post-conviction remedies December 17 and 18th, 1990, (Evidentiary Hearing), Proceedings No. C-910146; And, Prejudice Ensued Pursuant To A Pattern Of Deviations, that, constituted organized activity, to deprive Jerome Henderson of his state and federal constitutional rights for the purpose of executing him with a lethal injection ... Constituted A "Continuing Existence Of A Live And Acute (Substantial) Controversy," Still Exists Within The Meaning Of [The United States Constitution Article III, § 2, [1]]? ... Or, Constituted Suspension Clause Violation?, U.S. Const. Art. I, § 9, [2].

4) Whether, or to what extent, appointed counsel pursuant to Harbison v. Bell, 556 U.S. at 194, at 185 and 188 (2009) ... **ABANDONMENT OF JEROME HENDERSON** ... Hereinabove, at (1) and (2), "in an affirmative act not only to conceal [hers'] and her colleague (attorneys' David C. Stebbins, et al.), involvement, but the very Ohio Public Defender Commission's pattern of deviations from Ohios' post-conviction remedies

[procedural] framework for raising the issue of ineffective assistance of counsel, where the allegations of ineffectiveness are based on facts not appearing in the record, (i.e., through Ohio Revised Code Section 2953.21, et seg.), pursuant to an intentional out and out unlawful (State) source of invidiously systematic de facto racial discrimination emanating from an official source in the State of Ohio, to wit: The Ohio Public Defender's Office, itself(!) -- i.e., Hereinabove, at (3)" ... Constituted [A] "Significant Conflict Of Interest" That Entitled Jerome Henderson To "Replace" Appointed Counsel (Shirley Adele Shank) With "Similarly Qualified Counsel . . . Upon Motion" Pro Se, Of Jerome Henderson Pursuant To 18 U.S.C. § 3599(e); (e.g., MOTION TO WITHDRAW COUNSEL; MOTION TO APPOINT NEW COUNSEL, Doc. No. 215, PageID #: at 15, 16 and 17.); (e.g., PETITIONER'S REQUEST FOR AUTHORIZATION, AND ... FOR NEW HABEAS COUNSEL [18 U.S.C. SECTION 3599(e)], TO CONDUCT STATE COURT LITIGATION, Doc. No. 223, Filed: February 13, 2015.)?

5) Whether, or to what extent, Jerome Henderson's statutory right under Ohio law to appointed counsel in initial state post-conviction remedies proceedings (attorneys' David C. Stebbins, et al.), guaranteed to "a person sentenced to death," pursuant to that Section [2953.21(I)], of the Ohio Revised Code, since their "Past Official Misconduct" has been, and, currently is, an Assistant Federal Defender at the Capital Habeas Unit for the Federal Public Defender's Office; And, Bizarrely, precluding the Capital Habeas Unit from representing Jerome Henderson and from reviewing attorneys' David C. Stebbins, et al., deficient

performance by intentionally deviating from Ohios' procedural framework that, clearly directs that state post-conviction proceedings outlined in Ohio Revised Code Section 2953.21, et seg., are the perferred-if not exclusive-means for raising claims of the denial of the effective assistance of counsel that are dependent on evidence dehors the record, and, from reviewing his substantial [preserved] ineffective assistance of trial counsel claim (10(A)(13)); procedurally defaulted, and as well, from ensuring that Jerome Henderson's "Ohio death sentence" was dealt with constitutionally, that ... Jerome Henderson is similarly situated to all other Ohio death row inmates, and, to other Ohio habeas corpus litigants' sentenced to death, who received different treatment; And That, his disparate treatment was motivated by invidious, "Retaliatory Animus" or "Ill Will," against Jerome Henderson for asserting his basic Federal Statutory Law [18 U.S.C. § 3599(e)], Entitlement, to meaningful access to the courts and adequate representation through [Conflict-Free Counsel]; where his life hangs in the balance, conferred by the legislative body of the federal government [The United States Congress] ... Constituted Equal Protection Clause Violation?, U.S. Const. Amend. XIV, § 1.

LIST OF PARTIES

[x] 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:

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

[x] For cases from **federal courts**:

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

[x] reported at No. 03-3988/03-4054/03-4080, at Pages 16-17; 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 B to the petition and is

[x] reported at 101 F.Supp. 2d 866, at 891-892 (1999); or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

[ ] For cases from **state courts**:

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

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

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

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

JURISDICTION

[x] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was August 08, 2018. id., APPENDIX C.

[ ] No petition for rehearing was timely filed in my case.

[x] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: November 29, 2018, and a copy of the order denying rehearing appears at Appendix D.

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

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

[ ] For cases from **state courts**:

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

[ ] 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

ARTICLE I:

Section 9, Clause [2] The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

Section 9, Clause [3] No Bill of Attainder or ex post facto Law shall be passed.

ARTICLE III:

Section 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services a Compensation, which shall not be diminished during their Continuance in Office.

Section 2, Clause [1] The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; -- to all Cases affecting Ambassadors, other public Ministers and Consuls; -- to all Cases of admiralty and maritime Jurisdiction; -- to Controversies to which the United States shall be a Party; -- to Controversies between two or more States; -- between a State and Citizens of another State; -- between Citizens of different States; -- between Citizens of the same State claiming Lands under the Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

Section 2, Clause [2] In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

Section 2, Clause [3] The trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

ARTICLE IV:

Section 2, Clause [1] The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

ARTICLE VI:

Clause [2] This Constitution, and the Laws of the United States which shall be made in Pursuance thereto; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Law of any State to the Contrary notwithstanding.

AMENDMENT I:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging

the freedom of speech, or of the press or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

AMENDMENT V:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence 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, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT VI:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

AMENDMENT VIII:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

AMENDMENT XIII:

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XIV:

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of 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, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provision of this article.

FEDERAL STATUTORY LAW:

18 U.S.C. § 3599(e) Title "Counsel For Financially Unable Defendants," provides for the appointment of counsel for two classes of indigents, described, respectively, in Subsections (a)(1)(Subsection (a)(1) describes federal capital defendants.), and (a)(2). Subsection (a)(2) mandates:

"IN ANY POST CONVICTION PROCEEDING UNDER SECTION 2254 OR 2255 OF TITLE 28, UNITED STATES CODE, SEEKING TO VACATE OR SET ASIDE A DEATH SENTENCE, ANY DEFENDANT WHO

IS OR BECOMES FINANCIALLY UNABLE TO OBTAIN ADEQUATE REPRESENTATION OR INVESTIGATIVE, EXPERT, OR OTHER REASONABLY NECESSARY SERVICES SHALL BE ENTITLED TO THE APPOINTMENT OF ONE OR MORE ATTORNEYS AND THE FURNISHING OF SUCH OTHER SERVICES IN ACCORDANCE WITH SUBSECTIONS (b) THROUGH (f). AFTER SUBSECTIONS (b) THROUGH (d) DISCUSS COUNSEL'S NECESSARY QUALIFICATIONS, SUBSECTION (e) SETS FORTH COUNSEL'S RESPONSIBILITIES. IT PROVIDES: UNLESS REPLACED BY SIMILARLY QUALIFIED COUNSEL UPON THE ATTORNEYS OWN MOTION OR UPON MOTION OF THE DEFENDANT, EACH ATTORNEY SO APPOINTED SHALL REPRESENT THE DEFENDANT THROUGHOUT EVERY SUBSEQUENT STAGE OF AVAILABLE JUDICIAL PROCEEDINGS, INCLUDING PRETRIAL PROCEEDINGS, TRIAL, SENTENCING, MOTIONS FOR NEW TRIAL, APPEALS, APPLICATIONS FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE UNITED STATES, AND ALL AVAILABLE POST-CONVICTION PROCESS, TOGETHER WITH APPLICATIONS FOR STAYS OF EXECUTION AND OTHER APPROPRIATE MOTIONS AND PROCEDURES, AND SHALL ALSO REPRESENT THE DEFENDANT IN SUCH COMPETENCY PROCEEDINGS AND PROCEEDINGS FOR EXECUTIVE OR OTHER CLEMENCY AS MAY BE AVAILABLE TO THE DEFENDANT."

STATEMENT OF THE CASE

1. "Defendant" Jerome Henderson is a Member of a suspect class of those so-called "discrete and insular" minorities that receive special protection under the Equal Protection Clause because of inherent personal characteristics; is on death row due to a conviction of aggravated murder, aggravated burglary and attempted rape by a jury. On direct appeal, the First Appellate District Court of Appeals, on January 14, 1987, affirmed his conviction and sentence of death. State v. Henderson, 1987 WL 5479 (Ohio Ct. App. Jan. 14, 1987)(unpublished). The Supreme Court of Ohio affirmed this decision on September 28, 1988, State v. Henderson, 528 N.E.2d 1237 (Ohio 1988).

2. **Jerome Henderson had a statutory right under Ohio law to appointed counsel in "initial" state post-conviction remedies proceedings guaranteed to "a person sentenced to death," pursuant to that statute [OHIO REVISED CODE ANNOTATED] § 2953.21(I), that . . . IMPROPERLY WITHHELD THE FINANCIAL ASSISTANCE EXPRESSLY SOUGHT BY JEROME HENDERSON IN 1988, UPON HIS REQUEST, AND, INTENDED FOR FORENSIC SCIENCE ASSOCIATES "NEW, CONCLUSIVE EXCULPATORY SCIENTIFIC DNA" EVIDENCE, AND "NEW FACTS," (SEE, FOR EXAMPLE: APPENDIX A - OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT, CASE NO. 03-3988/03-4054/03-4080, AT PAGE 16 (FILED: JUNE 09, 2006), HOLDING: "THIS COURT MUST UNDERTAKE A SIMILAR ANALYSIS OF PETITIONER'S SECOND HABEAS PETITION THAT ADDRESSES CERTAIN DNA EVIDENCE. WITH RESPECT TO CAUSE, PETITIONER FIRST LEARNED OF POLYMERASE CHAIN REACTION ("PCR") DNA TESTING IN FALL 1988.", id., (SEE APPENDIX G -**

CINCINNATI ENQUIRER, ARTICLE: TECHNIQUE DETECTS RARE GENES; SEPTEMBER 25, 1988.). "HE IMMEDIATELY SENT CORRESPONDENCE TO A LABORATORY IN CALIFORNIA INQUIRING ABOUT WHETHER DNA TESTING WOULD BE APPROPRIATE FOR HIS CASE.", id, (SEE APPENDIX H - LETTER ADDRESSED TO MR. WRAXALL, EXPERT IN BIOLOGY; OCTOBER 19, 1988.). "THE LABORATORY CONTACTED PETITIONER'S COUNSEL, AND HIS COUNSEL TOLD THE LABORATORY THAT TESTING WAS INAPPROPRIATE AT THAT TIME.", id., (SEE APPENDIX I - LETTER FROM BRIAN WRAXALL, CHIEF FORENSIC SEROLOGIST; NOVEMBER 30, 1988.). "PETITIONER'S COUNSEL CONTACTED PETITIONER AND TOLD HIM THAT DNA TESTING WOULD "HAVE TO WAIT" UNTIL POST-CONVICTION MOTIONS.", id., (SEE APPENDIX J - LETTER FROM APPOINTED COUNSEL IN "INITIAL" STATE POST-CONVICTION REMEDIES PROCEEDINGS (KATHLEEN A. McGARRY); NOVEMBER 30, 1988.). "WHEN PETITIONER WAS APPOINTED NEW COUNSEL IN EARLY 1989, HE AGAIN REQUESTED DNA TESTING, BUT HIS NEW COUNSEL DID NOT OBTAIN SUCH TESTING." ... "IN 1992, THE OHIO PUBLIC DEFENDER CIRCULATED A LETTER ASKING DEATH PENALTY INMATES TO EXPRESS CONCERN ABOUT THEIR REPRESENTATION.", id., (SEE APPENDIX K - CIRCULATED LETTER TO OHIO DEATH ROW INMATES; OCTOBER 21, 1992.). "IN RESPONSE, PETITIONER WROTE A LETTER TO THE OHIO PUBLIC DEFENDER EXPRESSING THAT HIS COUNSEL WAS RELUCTANT TO HAVE DNA TESTING PERFORMED.", id., (SEE APPENDIX L - LETTER ADDRESSED TO JAMES KURA; JULY 19, 1993.). "PETITIONER OFFERED A LETTER FROM HIS COUNSEL DATED MAY 17, 1993, IN WHICH HIS COUNSEL STATED THAT DNA TESTING WOULD BE UNHELPFUL, BECAUSE THE JURY MUST HAVE RELIED ON EVIDENCE OTHER THAN THE SEMEN FOUND IN THE VICTIM'S BODY TO CONVICT PETITIONER OF ATTEMPTED RAPE, AS THE JURY HAD ACQUITTED PETITIONER

OF RAPE.", id., (SEE APPENDIX M - LETTER FROM APPOINTED COUNSEL IN "INITIAL" STATE POST-CONVICTION REMEDIES PROCEEDINGS (HAROLD R. REINHART); MAY 17, 1993.).

3. Jerome Henderson proffers **APPENDIX N - The 10TV "Breaking News" (Transcript)**, that, the United States Court of Appeals for the Sixth Circuit [OMITTED] from its Opinion's sequential Holding; done in furtherance of the object of (the) unlawful race-based conspiracy to protect Ohio lawyering in wrongdoing -- i.e., "A MASS EXODOUS IS UNDERWAY AT THE STATE PUBLIC DEFENDER'S OFFICE.

THAT'S BECAUSE A FORMER EMPLOYEE IS BLOWING THE WHISTLE ON WHAT HE CALLS AN OFFICE "FULL OF CORRUPTION."

THE OHIO HIGHWAY PATROL SAYS A CRIMINAL INVESTIGATION IS UNDERWAY INTO THE PUBLIC DEFENDERS OFFICE. THEY'RE CHECKING INTO A SLEW OF ALLEGATIONS MOUNTED BY BRISS CRAIG, THE FORMER DEPUTY CHIEF OF INVESTIGATIONS. CRAIG TELLS US EXCLUSIVELY THAT IN THE 9 YEARS HE WORKED THERE HE SAW FIRSTHAND DIRTY DEALINGS BY HIS FELLOW WORKERS AND WATCHED CLIENTS IGNORED BECAUSE THEY WERE BLACK. ("I MAINTAIN THERE ARE BLACK CLIENTS IN PRISON RIGHT TODAY THAT POSSIBLY, POSSIBLY ARE INNOCENT.").

INNOCENT, BECAUSE THEY DIDN'T GET THE DEFENSE THEY DESERVED. BRISS CRAIG, THE FORMER DEPUTY CHIEF INVESTIGATOR WITH THE OHIO PUBLIC DEFENDERS OFFICE SAYS SOME INVESTIGATORS DON'T DO THEIR JOB WHEN THE CLIENT IS BLACK. ("I WORKED WITH TWO INVESTIGATORS WHO LITERALLY TOLD ME THAT HE DOES NOT LIKE NIGGERS.").

CRAIG CHARGES RACIAL DISCRIMINATION IS ONLY PART OF THE

PROBLEM IN THE DEFENDER'S OFFICE. ... THE INVESTIGATION MAY BE FORCING A TOTAL SHAKEDOWN HERE AT THE PUBLIC DEFENDER'S OFFICE. LAST WEEK THE TOP MAN, RANDALL DANA STEPPED DOWN...AND TODAY THREE MORE KEY PLAYERS RESIGNED."; OCTOBER 20, 1992, that is, evidence of the state of mental culpability in the State of Ohio, and, its Officers', have intentionally deviated from Ohio's post-conviction [procedural] framework for raising the issue of ineffective assistance of counsel and as well for presenting evidence of his **Retained Defense Counsel's** ineffectiveness, against Jerome Henderson's demands; and that, defy every tenet of fairness, motivated by "some racial, or perhaps otherwise class-based, invidiously discriminatory animus," or "ill will," in an organized [**Suspension Of The Writ**]; foreclosing federal habeas corpus review, that burdens Jerome Henderson's fundamental rights(!), and, violates Ohio Corrupt Practices Act, § 2923.31(C).

4. The United States Court of Appeals for the Sixth Circuit's [Opinion's] sequential Holding, above, at Paragraph 2., serves only to minimize appointed counsel's pattern of deviations [OMITTED] the following bracketed information in an effort to undermine Jerome Henderson's fundamental rights: "THE LABORATORY CONTACTED PETITIONER'S COUNSEL, AND HIS COUNSEL TOLD THE LABORATORY THAT TESTING WAS INAPPROPRIATE AT THAT TIME. [**'SHE WILL CONTACT ME AFTER YOUR APPLICATION TO THE SUPREME COURT IS CONCLUDED.'**]"; **WHICH SHE NEVER DID CONTACT MR. WRAXALL TO PERFORM THE TESTING**, id., (SEE **APPENDIX I - LETTER FROM BRIAN WRAXALL, CHIEF FORENSIC SEROLOGIST;** NOVEMBER 30, 1988.). "PETITIONER'S COUNSEL CONTACTED PETITIONER AND TOLD HIM THAT DNA TESTING WOULD

"HAVE TO WAIT" UNTIL POST-CONVICTION MOTIONS. ['THIS IS THE TYPE OF PROCEDURE OUR OFFICE WILL PURSUE AT THAT TIME BUT WE NEED TO GET COPIES OF ALL YOUR RECORDS AND PLAN A STRATEGY. OUR OFFICE WILL THEN PAY TO HAVE THIS TESTING DONE.']"; THE OHIO PUBLIC DEFENDER'S OFFICE DID NOT PURSUE THIS PROCEDURE NOR, DID THEY PAY TO HAVE THE TESTING DONE, IN HIS "INITIAL" STATE POST-CONVICTION REMEDIES PROCEEDINGS, id., (SEE APPENDIX J - LETTER FROM APPOINTED COUNSEL IN "INITIAL" STATE POST-CONVICTION REMEDIES PROCEEDINGS (KATHLEEN A. McGARRY); NOVEMBER 30, 1988.) ... "IN 1992, THE OHIO PUBLIC DEFENDER CIRCULATED A LETTER ASKING DEATH PENALTY INMATES TO EXPRESS CONCERNS ABOUT THEIR REPRESENTATION. ['AS YOU MAY BE AWARE, ALLEGATIONS HAVE BEEN MADE BY FORMER OHIO PUBLIC DEFENDER COMMISSION PERSONNEL ABOUT THE INVESTIGATIONS CONDUCTED IN SOME DEATH PENALTY CASES. IF YOU BELIEVE THAT YOUR CASE WAS NOT AFFORDED ADEQUATE INVESTIGATION BY THIS OFFICE, PLEASE WRITE TO ME WITH YOUR CONCERNS.']", id., (SEE APPENDIX K - CIRCULATED LETTER TO OHIO DEATH ROW INMATES; OCTOBER 21, 1992.). "IN RESPONSE, PETITIONER WROTE A LETTER TO THE OHIO PUBLIC DEFENDER EXPRESSING THAT HIS COUNSEL WAS RELUCTANT TO HAVE DNA TESTING PERFORMED. ['AND I FEEL THIS IS UNREASONABLE OF COUNSEL, BECAUSE IT IS NOT HIS LIFE IN THE BALANCE. I HAVE PRESENTED MYSELF TO COUNSEL AS A TEAM PLAYER, BUT TO NO AVAIL AND I MUST NOW TAKE THE NECESSARY STEPS OUTSIDE OF OUR ATTORNEY/ CLIENT RELATIONSHIP AS TO HAVE THIS RE-TESTING PERFORMED, AND LET THE CHIPS FALL WHERE THEY MAY. I WOULD LIKE THE RE-TESTING PERFORMED AT: SEROLOGICAL RESEARCH INSTITUTE 3053 RESEARCH DRIVE RICHMOND, CALIFORNIA 94806; (415) 223-7374 (SERI).']", id., (SEE

APPENDIX L - LETTER ADDRESSED TO JAMES KURA; JULY 19, 1993.). "PETITIONER OFFERED A LETTER FROM HIS COUNSEL DATED MAY 17, 1993, IN WHICH HIS COUNSEL STATED THAT DNA TESTING WOULD BE UNHELPFUL, BECAUSE THE JURY MUST HAVE RELIED ON EVIDENCE OTHER THAN THE SEMEN FOUND IN THE VICTIM'S BODY TO CONVICT PETITIONER OF ATTEMPTED RAPE, AS THE JURY HAD ACQUITTED PETITIONER OF RAPE. ['... THESE DOCUMENTS WERE PREPARED AFTER CONSULTATION WITH THE OHIO PUBLIC DEFENDER COMMISSION AND REPRESENT THE CURRENT BEST APPROACH ON THE INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL ISSUE. ... I AM IN RECEIPT OF YOUR LETTER REGARDING RETESTING. ... HOWEVER, RETESTING WOULD NOT HELP US WITH THE PRESENT CASE BECAUSE IT DOES NOT RELATE TO THE ISSUE WE ARE LITIGATING (i.e. INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL). IT MAY RELATE TO TRIAL COUNSEL INEFFECTIVENESS.']", id., (SEE APPENDIX M - LETTER FROM APPOINTED COUNSEL IN "INITIAL" STATE POST-CONVICTION REMEDIES PROCEEDINGS (HAROLD R. REINHART); MAY 17, 1993.).

5. Here, Jerome Henderson has taken all steps reasonably available to him to personally and in demands that his appointed counsel bring to bear Forensic Science Associates "New, Conclusive Exculpatory Scientific DNA" Evidence, id., (APPENDICES O - The DNA Report, and, P - The Attempted Rape Issue.), the "New Facts," and State Law, in support of his substantial [preserved] ineffective assistance of trial counsel claim (10(A)(13)), id., (See APPENDIX B.), in his "initial" state post-conviction remedies proceedings in conformity with [OHIO REVISED CODE ANNOTATED] § 2953.21, et seq., Futilely; and as well, that

was procedurally defaulted due to attorneys' David C. Stebbins, et al., pattern of deviations from Ohio's post-conviction remedies [procedural] framework, in coordination with and at the direction of the Ohio Public Defender Commission, is irrational because it is clearly contrary to law.

6. Jerome Henderson had a statutory right under Ohio law to appointed counsel in "initial" state post-conviction remedies proceedings guaranteed to "a person sentenced to death," pursuant to that statute [OHIO REVISED CODE ANNOTATED] § 2953.21(I), that . . . SYSTEMATICALLY OBSTRUCTED JEROME HENDERSON IN COMPLYING WITH OHIO'S POST-CONVICTION REMEDIES [PROCEDURAL] FRAMEWORK, CLEARLY ESTABLISHED, FOR RAISING THE ISSUE OF INEFFECTIVE ASSISTANCE OF COUNSEL; AND, ESPECIALLY, WHERE THE ALLEGATIONS OF INEFFECTIVENESS ARE BASED ON FACTS NOT APPEARING IN THE RECORD, THE OHIO LEGISLATURE HAS PROVIDED THIS PROCEDURE [OHIO REVISED CODE ANNOTATED] § 2953.21, ET SEG., WHEREBY JEROME HENDERSON COULD PRESENT EVIDENCE OF HIS RETAINED DEFENSE COUNSEL'S INEFFECTIVENESS . . . and, Jerome Henderson alleges and presents evidence that his disparate treatment was motivated by "animus or ill will," id., (See APPENDIX N - The 10TV "Breaking News" (Transcript); October 20, 1992.), in coordination with and at the direction of the Ohio Public Defender Commission, to wit: ["THE INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL ISSUE."], id., (See APPENDIX Q - The Motion To Amend Post-Conviction Petition/Amended Petition For Post-Conviction Relief; May 29, 1990.) ... in (1) an organized exclusion of "Newly Discovered DNA Evidence" and, "New Facts," dehors the record; Where, As Here, the trial court record

does not contain sufficient evidence regarding the issue of competency of Jerome Henderson's Retained Defense Counsel's ineffectiveness, id., (See APPENDICES G., H., I., J., K., L., M., N., O., and P.) ... in (2) an organized procedural default of Jerome Henderson's substantial [preserved] ineffective assistance of trial counsel claim (10(A)(13)), based on facts not appearing in the record, in coordination with and at the direction of the Ohio Public Defender Commission; infringing upon a constitutionally protected right or was so prejudicial that it constituted a denial of due process, to wit: ["THE INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL ISSUE."], id., (See APPENDIX Q - The Motion To Amend Post-Conviction Petition/Amended Petition For Post-Conviction Relief; May 29, 1990.) ... in (3) an organized prevention of Jerome Henderson from investigating and raising a cogent DNA claim collateral, civil attack on the criminal judgment against Jerome Henderson, in coordination with and at the direction of the Ohio Public Defender Commission, to wit: ["THE INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL ISSUE."], id., (See APPENDIX Q - The Motion To Amend Post-Conviction Petition/ Amended Petition For Post-Conviction Relief; May 29, 1990.) ... in (4) an organized denial, of the opportunity; and as well, the denial, of "[t]he statutory right under Ohio law to have file a post-conviction petition," that accurately presents to the judiciary allegations concerning violations of Jerome Henderson's fundamental rights secured and protected by the First Amendment to the United States Constitution, in coordination with and at the direction of the Ohio Public Defender Commission, to wit:

["THE INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL ISSUE."], id., (See APPENDIX Q - The Motion To Amend Post-Conviction Petition/ Amended Petition For Post-Conviction Relief; May 29, 1990.), and ... in (5) an organized [Suspension Of The Writ]; foreclosing federal habeas corpus review, in an obvious subterfuge to evade federal consideration of the denial of the effective assistance of counsel at Jerome Henderson's trial in violation of the First, Fifth, Sixth, Eighth and Fourteenth, Amendments to the United States Constitution, in coordination with and at the direction of the Ohio Public Defender Commission, to wit: ["THE INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL ISSUE."], id., (See APPENDIX Q - The Motion To Amend Post-Conviction Petition/Amended Petition For Post-Conviction Relief; May 29, 1990.) ... is irrational because it is contrary to state law. This is fundamentally unfair(!)

7. The Ohio Public Defender Commission is a Nine-(9) Member Board appointed by the Ohio Governor, and, the Supreme Court of Ohio, to oversee the Office of the Ohio Public Defender, were aware to continue the deviations from Ohio's post-conviction [procedural] framework for raising the issue of ineffective assistance of counsel and as well for presenting evidence of Jerome Henderson's Retained Defense Counsel's ineffectiveness, motivated by "animus or ill will," id., (See APPENDICES Q - The Motion To Amend Post-Conviction Petition/Amended Petition For Post-Conviction Relief; May 29, 1990 ... M - Letter From Appointed Counsel In "Initial" State Post-Conviction Remedies Proceedings (Harold R. Reinhart); May 17, 1993 ... N - The 10TV "Breaking News" (Transcript); October 20, 1992 ... S - Columbus

Dispatch, Article: PUBLIC DEFENDER'S OFFICE IS FOCUS OF PROBE; At The First Paragraph, Page 2 of 2, Friday, October 9, 1992 ... T - Letter From Central Records Supervisor, The Ohio State Highway Patrol; November 13, 2003 ... U - Letter From Central Records Supervisor, The Ohio State Highway Patrol; December 8, 2003 ... K - Letter From (Newly Appointed, By The Ohio Public Defender Commission), State Public Defender, James Kura, Circulated To Ohio Death Row Inmates; October 21, 1992, Respectively.), and, having both power to prevent or aid in preventing the commission of the coconspirators discriminatory acts, neglects or refuses to STOP an intentional out and out unlawful (State) source of invidiously systematic de facto racial discrimination emanating from an official source in the State of Ohio, to wit: The Ohio Public Defender's Office, that burdens Jerome Henderson's fundamental rights in violation of the Fourteenth Amendment to the United States Constitution(!)

8. Jerome Henderson proffers APPENDIX R - The Colloquy (Transcript) From His "Initial" State Post-Conviction Remedies December 17, 1990, (Evidentiary Hearing), On Issues Raised In Cause of Action-(8); (e.g., The eighth Cause of Action alleged ineffective assistance of trial counsel due either to attorney incompetence, denial of resources or both.), to wit: ["THE INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL ISSUE."], id., (See APPENDIX Q - The Motion To Amend Post-Conviction Petition/Amended Petition For Post-Conviction Relief; May 29, 1990.), in Case No. B-850996; and, PCR Remedies Proceedings No. C-910146, Page 1, 2, 3, at 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15, that is, the

colloquy between The Trial Court, The Hamilton County Prosecutor, and (His) Appointed Counsel, to demonstrate [Why] his appointed counsel (attorneys' David C. Stebbins, et al.), performed deficiently by intentionally deviating from Ohio's procedural framework that, clearly directs that state post-conviction proceedings outlined in [OHIO REVISED CODE ANNOTATED] § 2953.21, Et Seg., are the preferred-if not exclusive-means for raising claims of the denial of the effective assistance of counsel that are dependent on evidence dehors the record. The standard practice dictated by years of court rulings is that, **"it is impossible to determine whether the attorney was ineffective in his representation of appellant where the allegations of ineffectiveness are based on facts not appearing in the record. For such cases, the General Assembly has provided a procedure whereby appellant can present evidence of his counsel's ineffectiveness. This procedure is through the post-conviction remedies of R.C. 2953.21. This court has previously stated that when the trial record does not contain sufficient evidence regarding the issue of competency of counsel, an evidentiary hearing is required to determine the allegation. State v. Hester (1976), 45 Ohio St. 2d 71, paragraph four of the syllabus. Such a hearing is the proper forum for appellant's claim."** (See State v. Cooperrider, 4 Ohio St. 3d 228 (May 11, 1983))., id., (APPENDIX V.).

9. The Trial Court ... OVERRULED THE MOTION TO AMEND ... id., (See **APPENDIX W - Entry Denying Motion To Amend Post-Conviction Petition.**).

10 The United States Court of Appeals for the Sixth Circuit issued its OPINION in Case No. 03-3988/03-4054/03-4080, Holding: "THE FACTS SHOW THAT PETITIONER HAD CONSISTENTLY ASKED FOR DNA TESTING RIGHT UP TO WHEN HIS FIRST FEDERAL HABEAS PETITION WAS FILED ON FEBRUARY 15, 1994. HIS COUNSEL DID NOT UNDERTAKE SUCH TESTING FOR A VARIETY OF REASONS, AS EXPLAINED ABOVE. RESPONDENT'S CLAIM THAT PETITIONER HAD DELIBERATELY BYPASSED DNA TESTING IS INCORRECT; THE PARTY RESPONSIBLE FOR BYPASSING THE TESTING WAS PETITIONER'S COUNSEL. PETITIONER HAS ALWAYS SOUGHT DNA TESTING, ONLY TO BE REBUFFED BY COUNSEL." (See APPENDIX A - The Opinion of the United States Court of Appeals for the Sixth Circuit (Filed: June 09, 2006, at Page 17.)).

11 Through the assistance of appointed counsel, Jerome Henderson submitted his original petition for writ of habeas corpus, In Re, Henderson v. Tate, Originating Case No. C-1-91-866 (Filed: December 5, 1991)("ORDER," Habeas Corpus Petition DISMISSED On September 22, 1992, Without Prejudice To Refile After Exhaustion Of State Remedies.).

12 Through the assistance of appointed counsel, Jerome Henderson refiled his petition for writ of habeas corpus February 15, 1994. The District Court denied the petition August 4, 1999 (Relief granted on ground 9, reversed on appeal; grounds 1-7, 9-10, 13, 16-18, 20-23, 26, denied on the merits and, grounds 2, 8, 10-12, 14, 17, 19, 24, 25, procedurally defaulted based on a failure to exhaust.)(Henderson v. Collins, 101 F.Supp.2d at 891-892 (Claim 10(A)(13))(August 4, 1999)). Through the assistance of appointed counsel, Jerome Henderson appealed the

denial of the habeas petition to the Sixth Circuit Court of Appeals. The United States Court of Appeals for the Sixth Circuit denied the appeal **June 09, 2006.**

13 On December 13, 2010, Carol A. Wright, Supervising Attorney for the Capital Habeas Unit, Federal Public Defender's Office, Southern District of Ohio, recommended the district court to appoint attorney S. Adele Shank to represent petitioner in his state clemency proceedings pursuant to **Harbison v. Bell, 129 S.Ct. 1481 (2009).** (See **APPENDIX Y - Notice Of Recommendation Of Counsel;** December 13, 2010.). (See Also **APPENDIX Z - Letter From Deborah L. Williams, Federal Public Defender, Southern District of Ohio: "THERE IS NOTHING WE CAN DO IN REGARD TO YOUR PETITION SINCE IT RAISES CLAIMS AGAINST ONE OF OUR LAWYERS.";** February 8, 2016.).

(a) Bizarrely, attorney Shirley Adele Snank REBUFFED Jerome Henderson's demands that [she] brief and raise his substantial [preserved] ineffective assistance of trial counsel claim (10(A)(13)), that was procedurally defaulted, and, to brief and raise his appointed counsel's deficient performance due to attorneys' David C. Stebbins, et al., pattern of deviations from Ohio's post-conviction remedies [procedural] framework for raising the issue of ineffective assistance of counsel, where the allegations of ineffectiveness are based on facts not appearing in the record, and as well for presenting evidence of his **Retained Defense Counsel's** ineffectiveness, against Jerome Henderson's demands, in coordination with and at the direction of the Ohio Public Defender Commission, that is,

for attorney Shank to present this information within the Application seeking Executive Clemency of December 20, 2010, **on his behalf**, before the State of Ohio, Adult Parole Authority, and, **Then**, Governor Ted Strickland, pursuant to [OHIO REVISED CODE ANNOTATED] § 2969.07, and, attorney Shank REFUSED, Stating: **"BECAUSE DAVID STEBBINS IS A COLLEAGUE OF MINE'S!"**; done in furtherance of the object of (the) unlawful race=based conspiracy to protect Ohio lawyering in wrongdoing(!)

(b) **'Subsequently,' Bizarrely**, attorney Shirley Adele Shank REBUFFED Jerome Henderson's demands that [she] pursue his ineffective assistance of trial counsel claim (10(A)(13)); procedurally defaulted, and as well, to pursue his appointed counsel's deficient performance due to attorneys' David C. Stabbins, et al., pattern of deviations from Ohio's post-conviction remedies [procedural] framework for raising the issue of ineffective assistance of counsel, where the allegations of ineffectiveness are based on facts not appearing in the record, and, whereby [He] can present evidence of his **Retained Defense Counsel's** ineffectiveness, against Jerome Henderson's demands, in coordination with and at the direction of the Ohio Public Defender Commission: And, Especially Where, As Here, Ohio law is in clear plain English, that is, for attorney Shank to pursue a "subsequent stage of available judicial proceedings," under 28 U.S.C. § 2254, 'seeking to vacate or set aside his death sentence,' pursuant to 18 U.S.C. § 3599(e) ... Regulated by **Harbison v. Bell, 556 U.S. at 185 and 188 (2009)** ... and, attorney Shank REFUSED, Stating: **"BUT, THAT WAS THE LAW BACK**

THEN!"; Citing: Coleman v. Thompson, 501 U.S. 722 (1991), And, Bizarrely, attorney Shank 'UNETHICALLY ABANDONED' Jerome Henderson to where Jerome Henderson effectively has no counsel at all, done in furtherance of the object of (the) race-based conspiracy to protect Ohio lawyering in wrongdoing(!)

14 Similarly, the United States Court of Appeals for the Sixth Circuit **denied,** and continue to **deny,** Jerome Henderson the procedural safeguards contained in, and, mandated by, the United States Code, that is, his Federal Statutory Law [18 U.S.C. § 3599(e)], Entitlement, to "Replace" appointed counsel (attorney Shirley Adele Shank) with "similarly qualified counsel . . . upon motion" of Jerome Henderson invoked pro se, pursuant to 18 U.S.C. § 3599(e); (e.g., Motion To Withdraw Counsel; Motion To Appoint New Counsel, Doc. No. 215, Filed: June 13, 2014.)(**due to ABANDONMENT by attorney Shank and as well [she] has a "'disabling conflict of interest,'" subparagraph (a) and (b) of paragraph 13, and Jerome Henderson effectively "has no counsel at all" - as is the case when counsel is conflicted.). Martel v. Clair, makes clear that a conflict of this sort is grounds for substitution. Id., 132 S.Ct. at 1286. (See APPENDIX S - Columbus Dispatch, Article: PUBLIC DEFENDER'S OFFICE IS FOCUS OF PROBE; First Paragraph, Page 2 of 2, Friday, October 9, 1992.).**

STATEMENT OF JURISDICTION

15 Bizarrely, the United States Court of Appeals for the Sixth Circuit issued an "ORDER," in Case No. 18-3250, provides, in part, pertinently "ACCORDINGLY, PURSUANT TO THE PRIOR FILING RESTRICTION, WE DISMISS THIS APPEAL AS FRIVOLOUS. WE DENY ALL

PENDING MOTIONS AS MOOT. IF THE DISTRICT COURT DENIES HENDERSON'S CURRENT APPLICATION FOR A CERTIFICATE OF APPEALABILITY IN THIS ACTION AND IF HENDERSON ATTEMPTS TO FILE A NEW PRO SE APPEAL OR A PRO SE APPLICATION AS A RESULT OF SUCH DENIAL, THE APPEAL OR APPLICATION SHALL NOT BE DOCKETED." (Filed: December 10, 2018), id., (See APPENDIX X.); done in furtherance of the object of (the) unlawful race-based conspiracy formed to deprive Jerome Henderson of his state and federal statutory rights under Ohio Revised Code Section 2953.21, et seg., and, under the United States Code [18 U.S.C. § 3599(e)]: A BULWARK AGAINST THE ALL POWERFUL STATE OF OHIO; REVIEW IS NECESSARY TO PREVENT AN INCREDIBLE MISCARRIAGE OF JUSTICE(!)

16 As demonstrated in Paragraph 15, the Writ of Certiorari will be in aid of the supreme Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the supreme Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court.

17 A "live and acute controversy," still exists within the meaning of [The United States Constitution Article III, § 2, [1]]; that has been extant at all stages of review, and comes now Jerome Henderson squarely before the supreme Court's appellate jurisdiction pursuant to The United States Constitution Article III, § 2, [2].

STATEMENT OF THE ISSUE PRESENTED

18 Since Jerome Henderson's prior 28 U.S.C. § 2254 petition was denied, Martinez and the more recent decision in Trevino v.

Thaler, 133 S.Ct. 1911 (2013), represent an extraordinary change to the law of cause and prejudice as it relates to the right to counsel at trial, and "The Right To Counsel Is The Foundation For Our Adversary System." Martinez, 132 S.Ct. at 1317. The right to counsel at trial is so important that it is the only procedural safeguard that the supreme Court has ever found to be fully retroactive under Teague v. Lane, 489 U.S. 288 (1989). See Whorton v. Bockting, 549 U.S. 406, 419 (2007). The principles that support the fully-retroactive application of the right to counsel likewise support Jerome Henderson's pro se, Motions, Docket Nos. 207 and sub judice 245, (i.e., Respectively, United States Court of Appeals for the Sixth Circuit, Current Cases; Related: Lead 15-302, Member 15-3490, Start 05/07/2015, End 01/08/2016 ... Lead 15-302, Member 18-3250, Start 03/20/2018, End 08/08/2018.), based on the intervening decision of the United States Supreme Court in Martinez v. Ryan, 132 S.Ct. at 1309, Holding: "INADEQUATE ASSISTANCE OF COUNSEL DURING INITIAL-REVIEW COLLATERAL PROCEEDINGS MAY NOW| ESTABLISH CAUSE FOR A PRISONER'S DEFAULT OF A CLAIM OF INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL" (March 20, 2012).

19 The Equal Protection Clause of the Fourteenth Amendment commands that no state "shall deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1. This is "essentially a direction that all persons similarly situated should be treated alike." Bower v. Mt. Sterling, 44 Fed. App'x. 670, 676 (6th Cir. 2002)(citing City of Cleburne v. Cleburne Living Ctr., 473 U.S. 432, 439 (1985);

Richland Bookmart, Inc. v. Nichols, 278 F.3d 570, 574 (6th Cir. 2002). The purpose of the equal protection clause "is to secure every person within the State's jurisdiction against intentional and arbitrary" differential treatment, whether "occasioned by express terms of a statute or by its improper execution through duly constituted agents." Warren v. City of Athens, 411 F.3d 697, 710 (6th Cir. 2005)(citing Sioux City Bridge Co. v. Dakota County, 260 U.S. 441, 445 (1923)(internal quotation marks and citation omitted)); see also Olech, 528 U.S. at 564 (same).

20 Jerome Henderson proffers four-(4) separate OPINIONS; See, at Conclusion, by Michael R. Merz, United States Magistrate Judge, Southern District of Ohio ... 1. HENNESS V. BAGLEY, 2013 U.S. Dist. LEXIS 110672 (August 6, 2013), id., (APPENDIX AA.), 2. LANDRUM V. ANDERSON, 2013 U.S. Dist. LEXIS 138635 (September 26, 2013), id., (APPENDIX BB.), 3. MORELAND V. ROBINSON, 2014 U.S. Dist. LEXIS 124558 (September 2, 2014), id., (APPENDIX CC.), 4. MORELAND V. ROBINSON, 2015 U.S. Dist. LEXIS 2708 (January 8, 2015), id., (APPENDIX DD.) ... to demonstrate that the government treated Jerome Henderson disparately [in violation of the Equal Protection Clause] as compared to similarly situated persons and that such disparate treatment either burdens a fundamental right, tarkets a suspect class, or has no rational basis. Club Italia Soccer, 470 F.3d 298 (citations omitted).

21 Jerome Henderson has demonstrated "evidence of actions by the State of Ohio and its Officers', which have prevented [him] from presenting to the courts a non-frivolous claimed violation of [his] state and federal statutory rights."

22 The right to petition for the redress of grievances is widely understood to mean the right to seek a remedy from any part of the government. "The right of petition . . . governs the approach of citizens or groups of them to administrative agencies (which are both creatures of the legislature, and arms of the executive) and to courts, the third Branch of Government." Certainly the right to petition extends to all departments of the Government. The right of access to the courts is indeed but one aspect of the right of petition. **California Motor Transport Co., v. Trucking Unlimited, 404 U.S. 508, 510 (1972).**

23 The United States Court of Appeals for the Sixth Circuit, Panel of BATCHELDER, CLAY, and, DONALD, Circuit Judges, utterly fails to address the crux of the issue: **Jerome Henderson is entitled to meaningful access to and redress from the courts, and providing [conflict-free counsel] is essential to securing these rights. See e.g., The United States Code [18 U.S.C. § 3599(e)]; Battaglia v. Stephens, 824 F.3d 474 (same); Martel v. Clair, 132 S.Ct. at 1286 (2012).**

24 **"Among the historic liberties" protected by the Due Process Clause is the "right to be [free] from, and to obtain judicial relief from, unjustified intrusions on personal security." Ingraham v. Wright, 430 U.S. 651, 673 (1977)(emphasis added).**

25 **As long as an inmate has a life interest, i.e., is alive, at least some level of process is due. Woodard v. Ohio Adult Parole Authority, 523 U.S. 272 (1998)(O'Connor, J., concurring in part and concurring in judgment). Whatever that level is, it**

most certainly encompasses according the condemned inmate access to the courts, through [conflict-free counsel], to pursue "Every" "subsequent stage of available judicial proceedings, including motions for new trial, appeals, applications for Writ of Certiorari to the Supreme Court Of The United States," and "All," "available post-conviction process, together with applications for stays of execution," and "other appropriate motions and procedures," and "such competency proceedings and proceedings for executive or other clemency as may be available to the defendant," not previously available to the condemned inmate (sic) Jerome Henderson under 28 U.S.C. § 2254, 'seeking to vacate or set aside his death sentence,' enunciated in Martinez v. Ryan, 132 S.Ct. at 1309 (March 20, 2012); intended to remedy the situation in which a criminal defendant with a substantial ineffective assistance of trial counsel claim never received a merits determination on that claim because his post-conviction counsel provided ineffective assistance, where his life hangs in the balance, conferred by the legislative body of the federal government [The United States Congress] pursuant to 18 U.S.C. § 3599; Subsection (e): A BULWARK AGAINST THE ALL POWERFUL STATE, Regulated by Harbison v. Bell, 556 U.S. at 185 and 188 (2009). Accord Trevino v. Thaler, 133 S.Ct. at 1911 (May 28, 2013). See APPENDICES AA, BB, CC and DD, at Conclusion(!)

26 For purposes of this Writ of Certiorari, Jerome Henderson and all other Ohio death row inmates are each similarly situated condemned inmates subject to execution at the State of Ohios' and its Officers', hands merely by sharing the singular

characteristic that they are all subject to execution. See Perry v. McGinnis, 209 F.3d 597, 601 (6th Cir. 2000)(explaining that in assessing the "similarly situated" inquiry, "courts should not demand exact correlation, but should instead seek relevant similarity")(citing Ercegovich v. Goodyear Tire & Rubber Co., 154 F.3d 344, 352 (6th Cir. 1998)). And "[d]isparate treatment of similarly situated persons who are dissimilar only in immaterial respects is not rational." Trihealth, Inc. v. Bd. of Comm'rs, 430 F.3d 783, 790 (6th Cir. 2005).

27 The State of Ohios' pattern of deviations from its procedural framework through the post-conviction remedies of Ohio Revised Code Section 2953.21, et seg., treats each condemned inmate differently and such disparate treatment severely burdens Jerome Henderson's fundamental rights under the Eighth and Fourteenth Amendments to the United States Constitution.

28 The State of Ohios' pattern of deviations treats each condemned inmate differently and such disparate treatment is not rationally related in any way to any legitimate state interest.

THE CASE HAD POTENTIAL MERIT IF IT HAD NOT BEEN DISMISSED

29 (a) Therefore, the petitioner submitted SWORN AFFIDAVIT OF JEROME HENDERSON in District Court Case No. 1:94-cv-00106; in request for DNA Testing to be performed at the [SEROLOGICAL RESEARCH INSTITUTE 3053 Research Drive Richmond, California 94806], that the petitioner was not the perpetrator of the crime; that DNA Testing is relevant to his assertion of innocence; and that DNA Testing has not been done, Doc. No. 124, Filed: May 23, 2002, which DNA Testing request the District Court granted.

(b) FORENSIC SCIENCE ASSOCIATES (Cogent) "New, Conclusive Exculpatory Scientific DNA" Report, Doc. No. 158, Filed: January 30, 2003, id., (As APPENDIX O), subsequently, describes the investigation of the underlying case, and, the most relevant [BIOLOGICAL] evidence remaining in this capital case; NOW DISCREDITED, that is material, and, where as here, in retrospect to collaterally challenge the constitutional validity of his conviction under that statute [OHIO REVISED CODE ANNOTATED] § 2953.21(I) and (J) ... BUT FOR ... A SUBSTANTIAL VIOLATION OF AN ESSENTIAL DUTY OWED BY APPOINTED INITIAL POST-CONVICTION COUNSEL (ATTORNEYS', DAVID C. STEBBINS, ET AL.), TO THE PETITIONER; AND, PREJUDICE ENSUED, DURING HIS INITIAL-REVIEW COLLATERAL PROCEEDINGS:

(c) The alleged "Human Tissue" recovered from the Henderson Long Black Leather Coat #Q15, (State's Exhibit 5 [Item 5]), BELIED! See DNA, Report, (FILE DOCUMENTS REFER TO THIS SPECIMEN AS A SAMPLE OF FATTY TISSUE OF UNKNOWN ORIGIN FOUND AT CRIME SCENE.), at Page 4; and, at Page 8-9. Further, it is now known that State's Exhibit 5 [Item 5], was not recovered from the Henderson Coat #Q15, at all; and that, the following Sworn Testimony by Ms. Janna Flessa, Hamilton County Prosecutor, was false, ("THERE'S ALSO TISSUE, HUMAN TISSUE. THE TISSUE THAT WAS FOUND INSIDE THAT COAT HAD HUMAN BLOOD ON IT. IT WAS EXAMINED BY DR. JOLLY, AND IF YOU WILL RECALL, HE EXAMINED THAT TISSUE AND IT WAS TISSUE CONSISTENT WITH MANY OF THE INJURIES OF MARY ACOFF'S BODY.")(Trial Transcript; Closing Argument, Vol. VI, Page 414 (25); and, Page 415 (1-5)), id., (As APPENDIX EE), and disclose

that, Exhibit 5, Item 5, (Two Specimens, 5-1 and 5-2) does not possess any apparent cellular or nuclear structures. The aforesaid testimony affirmatively misled the 1985 Jury to the substantial prejudice of the petitioner.

(d) The alleged spermatozoa from the Acoff Vaginal Swab Sticks #Q1, (State's Exhibit 63 [Item 10-1]), BELIED! See DNA, Report, at Page(s) 10, 15; and, 16, Paragraph 12: JEROME HENDERSON IS ELIMINATED AS THE SOURCE OF THE SPERMATOZOA RECOVERED FROM THE MARY ACOFF VAGINAL SWAB STICKS #Q1, EXHIBIT 63 [ITEM 10-1].

(e) The alleged Rectal Swab #Q2, (State's Exhibit 63 [Item 10-2A]), BELIED! See DNA, Report, at Page(s) 10, 15; and, 16, Paragraph 12: JEROME HENDERSON IS ELIMINATED AS THE SOURCE OF THE SPERMATOZOA FROM THE MARY ACOFF RECTAL SWAB #Q2, EXHIBIT 63 [ITEM 10-2A].

(f) The alleged Spermatozoa And Non Sperm Cells From The Henderson Long Black Leather Coat #Q15, (State's Exhibit 5 [Item 2]), BELIED! See DNA, Report, at Page 16; and, 17, Paragraph 19: THE ABSENCE OF EITHER SPERMATOZOA FROM JAMES MARTIN OR EPITHELIAL CELLS FROM MARY ACOFF COMMINGLED WITH THE SPERMATOZOA FROM JAMES HENDERSON ON HIS LEATHER COAT #Q15, EXHIBIT 5 [ITEM 2] IN AREAS A AND I FAILS TO SUPPORT THE THEORY THAT THESE SEMEN DEPOSITS ARE THE CONSEQUENCE OF SEXUAL CONTACT WITH MARY ACOFF. Further, at the time of trial, the evidence was equivocal. The 1985 Jury considered this evidence and acquitted the petitioner of the charged rape, but convicted him of attempted rape, however, it is now known that there is no

evidence of attempted rape, (See APPENDIX P - The Attempted Rape Issue, Doc. No. 207-2, PageID #: 388, at 389, 390, 391 and 392.), this is the most significant result of FORENSIC SCIENCE ASSOCIATES (Cogent) "New, Conclusive Exculpatory Scientific DNA" Report, ibid.; because at the time of trial, the evidence supported attempted rape [ONLY] because FORENSIC SCIENCE ASSOCIATES (Cogent) "New, Conclusive Exculpatory Scientific DNA" Report, was unavailable. In 1985, the testing that had been done could not conclusively exclude petitioner as the source of the [BIOLOGICAL] evidence (Semen) recovered from the victim's vagina, and could not identify the presence or absence of epithelial cells from the victim or spermatozoa from the boyfriend on the petitioner's Long Black Leather Coat #Q15, (State's Exhibit 5 [Item 2]). Both the petitioner and the boyfriend have the same ABO Blood Type (TYPE O) and both are secretors. The state could and did effectively argue that petitioner raped the victim and/or that he at least attempted to rape her, based upon this equivocal evidence. The state's argument at the 1985 trial was that the physical evidence (SEMEN INSIDE THE VICTIM'S VAGINA) was the petitioner's, and the Semen upon his Long Black Leather Coat #Q15, (State's Exhibit 5 [Item 2]), circumstantially supported an attempted rape in that it was ejaculated during the attempted rape, ("WHAT ELSE IS INSIDE THERE? SEMEN, CONSISTENT WITH THE DEFENDANT'S BLOOD TYPE, O SECRETOR. THERE WAS SEMEN IN MARY ACOFF'S VAGINA.")(Trial Transcript; Closing Argument By Ms. Janna Flessa, Hamilton County Prosecutor, Vol. VI, Page 414 (21-24)), id., (As APPENDIX EE). FORENSIC SCIENCE ASSOCIATES (Cogent)

"New, Conclusive Exculpatory Scientific DNA" Report, now establishes that the arguments were founded upon a false assumption about this evidence, and the 1985 Jury was affirmatively misled about these crucial material facts to the substantial prejudice of the petitioner.

(g) The alleged Bloody Material Recovered From The Door Frame At The Henderson Residence #Q22, (State's Exhibit 61 [Item 4]), BELIED! See DNA, Report, at Page 8. The 1985 Jury was misled about this material fact during the trial phase deliberations to generate a specific question. THE COURT: You Can Sit Down. Mr. Nickerson, I Have Three Questions From You. THREE: WE WISH TO HEAR THE TESTIMONY OF THE WITNESS WITH REFERENCE TO STATE'S EXHIBIT NO. 61, THE BLOOD TEST FROM THE RESIDENCE OF 1909 HIGHLAND. I Think We've Isolated The Answer To Your Third Question, And Mrs. Perkins Will Read That Particular Testimony Of The Witness And We'll Find Out If That's What You Wish. (The Following Excerpt From Barbara Heizman's Testimony Was Read Back To The Jury.) [QUESTION]: MISS HEIZMAN, I'LL HAND YOU A SMALL ENVELOPE MARKED FOR IDENTIFICATION STATE'S EXHIBIT 61 AND ASK IF YOU CAN IDENTIFY THE CONTENTS OF THAT ENVELOPE? [ANSWER]: STATE'S EXHIBIT 1, (SIC) THIS VANILA ENVELOPE, BEARS MY MARKINGS, THE CASE NUMBER, THE DATE AND MY INITIALS. IT CONTAINS A SET OF SMALLER ENVELOPES, WHICH IS IDENTIFIED FROM SIDE DOOR FRAME NORTH SIDE OF RESIDENCE, APPROXIMATELY FOUR FEET THREE INCHES FROM GROUND ACROSS FROM KEY LOCK, 1909 HIGHLAND AVENUE. THIS IS A SAMPLE THAT I COLLECTED FROM THE SCENE AT 1909 # AT THE RESIDENCE AT 1909 HIGHLAND AVENUE. TEST FOR THE PRESENCE OF

HUMAN BLOOD ON THE THREADS INSIDE OF THESE ENVELOPES WERE POSITIVE. AN INSUFFICIENT QUANTITY OF BLOOD WAS PRESENT FOR ABO BLOOD GROUPING TESTS. I CAN THEREFORE CONCLUDE THAT THIS IS STAINED WITH HUMAN BLOOD. (Ends Reading.) THE COURT: Does That Answer Your Question? JUROR NICKERSON: Yes, Your Honor. Thank You. (Emphasis Supplied.)(Trial Transcript; Jury Charge By THE COURT, Vol. VI, Page 544 (13-25); and, Page 545 (1-23)), id., (As APPENDIX FF). Further, it is now known that this Sworn Testimony was false, that State's Exhibit 61, Item 4, (Two Specimens, 4-1 and 4-2) did not contain "Threads" which tested positive for human blood. This Sworn Testimony affirmatively misled the 1985 Jury to the substantial prejudice of petitioner.

(h) The alleged Bloody Henderson Sneakers And/Or Gym Shoes #Q20, (State's Exhibit 8 [Item 3]), BELIED! See DNA, Report, at Page 8. The 1985 Jury was misled about this material fact that the Shoes #Q20, State's Exhibit 8, Item 3, had blood on them. This Sworn Testimony affirmatively misled the 1985 Jury to the substantial prejudice of petitioner. Further, it is now known that this Sworn Testimony was false, that: "NO BLOOD WAS DETECTED ON THE OUTSIDE SURFACES OF THESE SHOES USING A SENSITIVE PRESUMPTIVE TEST."

(i) The alleged Bloody Paper Tissue Recovered From The Henderson Third Floor Bedroom #Q1C And/Or #Q17, (State's Exhibit 1 [Item 1]), BELIED! See DNA, Report, at Page(s) 6, 17; and, 18, Paragraph(s) 22, 23, and, 24. The 1985 Jury was misled about this material fact that the Paper Tissue #Q1C And/Or #Q17, State's Exhibit 1, Item 1, was a bloody facial tissue. This

Sworn Testimony affirmatively misled the 1985 Jury to the substantial prejudice of petitioner. Further, it is now known that this Sworn Testimony was false, that; "LIKE THE SEMEN DEPOSITS ON THE HENDERSON LEATHER COAT #Q15, EXHIBIT 5 [ITEM 2] IN AREAS A AND I, THE ABSENCE OF EITHER SPERMATOZOA FROM JAMES MARTIN -- THE BOYFRIEND -- OR EPITHELIAL CELLS FROM MARY ACOFF COMMINGLED WITH THE SPERMATOZOA FROM HENDERSON IN THE SEMEN DEPOSITS ON THE PAPER TISSUE IN THE HENDERSON ATTIC BEDROOM #Q1C, EXHIBIT 1 [ITEM 1] IN AREA C FAILS TO SUPPORT THE THEORY THAT THESE SEMEN DEPOSITS ARE THE CONSEQUENCE OF SEXUAL CONTACT WITH MARY ACOFF."

(j) FORENSIC SCIENCE ASSOCIATES (Cogent) "New, Conclusive Exculpatory Scientific DNA" Report, conclusively demonstrates that the only person Mary Acoff had sexual contact with the night she was killed was her boyfriend James Martin. See DNA, Report, at Page 16, Paragraph(s) 12 and 13.

(k) In 1985, when this homicide occurred, DNA Testing was not common. ABO Type and Secretor Versus Non Secretor Typing was done with respect to Semen, Blood, And Other Biological Evidence. The Semen was found to be from a type O secretor, and ... ultimately, [Petitioner] became the state's target as he was seen in the area at 5:45 AM, and, 6:00 AM, by two witnesses, and, he was found to be a type O secretor. [Petitioner] was wearing a Long Black Leather Coat #Q15, (State's Exhibit 5), over another Short-Length Black Leather Coat #Q19, (State's Exhibit 6); (e.g., Trial Transcript; Direct-Examination Of State's Witness [Delrick Johnson] By Mr. John D. Valentine, Hamilton County Prosecutor,

Vol. II, Page 138 (2-10), id., (As APPENDIX GG). The witness did not describe any large amounts of blood on [Petitioner's] hands, face, or clothes. [Petitioner] was seen in his own neighborhood, and he had a legitimate reason for being there as he lived there!

(l) See APPENDIX HH - Trial Transcript; Direct-Examination Of State's Witness [Officer William Davis, Cincinnati Police Dept.] By Mr. John D. Valentine, Hamilton County Prosecutor, Vol. II, gave Sworn Testimony that, ON MARCH 6, 1985, SPECIALIST JOHN BURKE ... "HE HAD MR. HENDERSON IN THE OFFICE, AND REQUESTED OUR ASSISTANCE IN THE INVESTIGATION. I OBTAINED A SEARCH WARRANT FOR THE RESIDENCE AT 1909 HIGHLAND AVENUE." Id., at 155 ... "THE SEARCH WARRANT WAS EXECUTED AT 12:01 PM, ON MARCH 6TH OF 1985." Id., at 156 ... "INSIDE THE ROOM ON THE THIRD FLOOR, WHICH IS THE ATTIC, I RECIVERED A WAIST-LENGTH, BLACK LEATHER JACKET. ... Q. WHAT DID YOU DO WITH THAT WHEN YOU RECOVERED THAT? A. IT WAS TAKEN TO OUR OFFICE." Id., at 158 ... "RECOVERED IN THE HALLWAY OFF THE KITCHEN WAS A FULL-LENGTH, BLACK LEATHER JACKET OR BLACK LEATHER COAT." Id., at 162. ... Q. "THANK YOU. WHAT DID YOU DO WITH THAT COAT AFTER YOU RECOVERED IT? A. IT WAS TAKEN TO OUR OFFICE AND TURNED OVER TO SPECIALIST BURKE AND POLICE OFFICER CAMERON." Id., at 163, id., (As APPENDIX HH).

(m) Bizarrely, Specialist John Burke, Cincinnati Police Dept., Then, ["RETURNED"] to the crime scene on March 7, 1985, (e.g., Trial Transcript; Direct-Examination Of State's Witness [Specialist Clarence Caesar, Cincinnati Police Dept., Homicide Squad, Crime Scene Technician (Ret.)], By Mr. John D.

Valentine, Hamilton County Prosecutor, Vol. III, Page 203 (16-25), id., (As APPENDIX II).

(n) This would account for the conspiratorially fabricated evidence (1) -- e.g., See DNA, Report, at Page 7, the Henderson Long Black Leather Coat #Q15, (State's Exhibit 5 [Item 2]), HAD WHAT APPEARED TO BE SMALL AMOUNTS OF BLOOD STAINS DETECTED ON THE INSIDE COAT LINING AT THE LEFT SLEEVE CUFF [AREA E], THE LEFT ELBOW [AREA F], THE RIGHT SLEEVE CUFF [AREA G], AND THE RIGHT ARMPIT LINING [AREA H] ... unlawfully created for the "Judicial Despotism" and arbitrary and capricious methods of prosecuting pretended offenses; and, to achieve, through unlawful racial subjugation the arbitrary and capricious conviction and as well the arbitrary and capricious sentence of death against the petitioner, pursuant to a concerted statewide (WEB) race-based conspiracy, to deprive the petitioner of his federal constitutional rights for the purpose of executing him with a lethal injection ... by Specialist John Burke, Cincinnati Police Department; someone who knows forensics.

(o) Executing the search warrant recovered both the Henderson Long Black Leather Coat #Q15, (State's Exhibit 5) and, the Henderson Short-Length Black Leather Jacket #Q19, (State's Exhibit 6) -- i.e., WORN UNDERNEATH AND, WITH ITS SLEEVES WITHIN THE BLOODY INSIDE SLEEVE LININGS OF THE HENDERSON LONG BLACK LEATHER COAT #Q15, (STATE'S EXHIBIT 5 [ITEM 2]) ... Is Clean ... Clean, Because No Alleged Purportedly Found Human Blood And/Or "Human Tissue" Originating From The Victim Is Detected Thereon, (See, e.g., INSTITUTE OF FORENSIC MEDICINE TOXICOLOGY AND

CRIMINALISTICS HAMILTON COUNTY CORONER OFFICIAL CRIME LABORATORY REPORT C.L. FILE #: 644-85S; MARCH 4, 1985, at Page(s) 3, 4 AND 7, id., (As APPENDIX JJ). (See, "Again!," e.g., Hereinabove At (c), The Alleged "Human Tissue"(!)).

(p) This would account for the conspiratorially fabricated evidence (2) -- i.e., The Crime Scene Photographs, (State's Exhibit(s) 16 and 19)(NOTE: "NO FINGERPRINT IS DEPICTED IN EITHER CRIME SCENE PHOTOGRAPH"(!)), to bolster such ["falsified"] alleged purportedly found "parcel" bloody fingerprint, (State's Exhibit 106), testimony, id., (As APPENDIX II). See, Also, e.g., APPENDIXES KK and LL, Respectively.

(q) The absence of evidence is evidence of absence or, at the very least, the inference of absence which must be drawn in petitioner's favor. A picture is worth a thousand words as demonstrated by [both] Specialist Clarence Caesar, Homicide Squad, Crime Scene Technician (Ret.), who processed and documented the initial found crime scene, and, Specialist John Burke, who returned with [Caesar] to the crime scene some four (4) days later to take "another photograph" depicting absolutely nothing, to establish the presence of "critical evidence". There is something inherently unfair about this ... this isn't just, and, this isn't justice(!)

(r) See APPENDIX MM - Trial Transcript; Closing Argument By Mr. John D. Valentine, Hamilton County Prosecutor, Vol. VI, provides in pertinent part "WHAT WOULD YOU THINK? I KNOW WHAT YOU WOULD THINK. WHAT THE HELL IS GOING ON? WHY DON'T THEY CHECK FOR FINGERPRINTS? WHY DON'T THEY TAKE PHOTOGRAPHS?",

at Page 470 (20-23).

(s) See APPENDIX NN - Trial Transcript; Closing Argument By Mr. John D. Valentine, Hamilton County Prosecutor, Vol. VI, provides in pertinent part "WHAT DID THEY DO IN THIS CASE? THEY TOOK THE PHOTOGRAPHS TO PRESERVE THE EVIDENCE. THEY TOOK THE PHOTOGRAPHS TO SHOW YOU AT A LATER TIME WHAT WAS THERE WHEN THEY FOUND IT.", at Page 471 (1-4). (See, "Again!," APPENDIX II, i.e., "State's Exhibit number 16 is a photograph of a kitchen wall where Mary Acoff lived and it is showing the blood. This is the partition between the kitchen and the living room shows blood on the floor and up the side of the wall and also an area where I made a fingerprint lift off of the wall.", at Page 203 (16-21)(NOTE: THE AREA WHERE HE PURPORTED TO HAVE MADE A FINGERPRINT LIFT, IS SMACK DAB WITHIN A BLOOD SMEAR ON THE KITCHEN WALL.), id., (As APPENDIX KK).

30 In Closing, the Henderson Short-Length Black Leather Jacket #Q19, (State's Exhibit 6) ... the Henderson "Levi's" Blue Jeans #Q21, (State's Exhibit 7) ... the Henderson Paring Knife #Q16, (State's Exhibit 2), and ... the Henderson Leather Key Chain & Whistle #Q18, (State's Exhibit 67) ... WERE CLEAN(!) If petitioner had committed this crime, and he had been covered with blood, and then put the clothes on we know he wore, the blood staining pattern would be different. There would be blood inside the [coat(s)'], and on the tops of his shoes, and perhaps on his hands or face. When he handled his leather key chain, there likely would have been blood on it.

31 Given the newly discovered evidence, and, new facts, disclosed by FORENSIC SCIENCE ASSOCIATES (Cogent) "New,

Conclusive Exculpatory Scientific DNA" Report, id., (As APPENDIX O) ... the State of Ohio, pursuant to a concerted statewide (WEB) race-based conspiracy, to deprive the petitioner of his Federal Constitutional Rights for the purpose of executing him with a lethal injection, no longer meets the burden of conviction in this capital case and, the petitioner move to vacate the conviction.

32 Petitioner's ineffective assistance of trial counsel claim (10(A)(13)), is clearly grounded in Federal Due Process concerns. If evidence introduced during the 1985 trial and presented to the factfinder as infallible "scientific" evidence has since been discredited, then the resulting verdict is so unfair that it constitutes a "breakdown in the adversarial process" in violation of a criminal defendant's due process rights. See Brecht v. Abrahamson, 507 U.S. 619, 639 (1993)("the Fourteenth Amendment prohibits the deprivation of life, liberty, or property, 'without due process of law'; that guarantee is the source of the Federal Right to challenge state criminal convictions that result from fundamentally unfair trial proceedings.'")(Stevens, J., concurring).

33 Federal Due Process concerns also involve "the right to a fair opportunity to defend against the state accusations." Chambers v. Mississippi, 410 U.S. 284, 294 (1973). This right includes the right to "meaningful adversarial testing." Strickland v. Washington, 466 U.S. 668, 696 (1984). Accordingly, the State of Ohio has procured the petitioner's conviction and death sentence based on evidence that subsequent reexamination

of the forensic findings by the state's Serologist, Barbara Heizman, now deems invalid, inaccurate, and, nonexistent, and the petitioner's Federal Right To Due Process Has Been Violated.

REASONS FOR GRANTING THE WRIT

34 Jerome Henderson had a statutory right under Ohio law to appointed counsel guaranteed pursuant to R.C. 2953.21(I); and that, [his] reliance on attorneys' David C. Stebbins, et al., representation was by detrimental reliance due to a pattern of deviations from Ohio's post-conviction [procedural] framework for raising the issue of ineffective assistance of counsel at trial.

35 The United States Supreme Court emphasized the narrowness of the new rule enunciated in Martinez: "COLEMAN HELD THAT AN ATTORNEY'S NEGLIGENCE IN A POST-CONVICTION PROCEEDING DOES NOT ESTABLISH CAUSE, AND THIS REMAINS TRUE EXCEPT AS TO INITIAL-REVIEW COLLATERAL PROCEEDINGS FOR CLAIMS OF INEFFECTIVE ASSISTANCE OF COUNSEL AT TRIAL." Id., at 1319. "THE RULE OF COLEMAN GOVERNS IN ALL BUT THE LIMITED CIRCUMSTANCES RECOGNIZED HERE." Id., at 1320.

36 The Sixth Circuit continues to deny, Mr. Henderson's basic Federal Statutory Rights to "Replace" appointed counsel due to a "'disabling conflict of interest'"; abandonment, and, to pursue a "subsequent stage of available judicial proceedings," mandated by 18 U.S.C. § 3599(e), in conflict with a decision of the Fifth Circuit on the same important matter, id., (See APPENDIX OO - Battaglia v. Stephens, 824 F.3d 474 (2016)).

CONCLUSION

The petition for a Writ of Certiorari should be granted.

Date: February 20, 2019

Jerome Henderson