No. 25-6805



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**IN THE**

**SUPREME COURT OF THE UNITED STATES**

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**ANTONIO PROPHET** — PETITIONER

vs.

**JONATHAN FRAME, SUPERINTENDENT** — RESPONDENT(S)

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ON PETITION FOR A WRIT OF CERTIORARI TO

THE FOURTH CIRCUIT COURT OF APPEALS

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# PETITION FOR WRIT OF CERTIORARI

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Antonio Prophet, *pro se*
Prisoner #3484869
Mount Olive Correctional Complex
One Mountainside Way
Mount Olive, West Virginia 25185

## QUESTION(S) PRESENTED

**1.** When a federal criminal conspiracy initiated in the State court is then carried over into 2254 federal habeas corpus proceedings by a State Respondent's deliberate failure to include in its "Answer and Exhibits" court-filed documents required by Rule 5 to be included therein—court-filed documents which were suppressed and secreted in the State court specifically because said documents were the only ones in the entire State court record that timely and precisely raised the "federal question"—do such actions constitute a fraud on the *federal* court?

## LIST OF PARTIES

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

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**APPENDIX A:** Complete Copy of the 4th Circuit Court of Appeals' ***Per Curiam Opinion*** Denying Petitioner's Motion for a Certificate of Appealability. Filed: October 1, 2025.

**APPENDIX B:** Complete Copy of the Northern District Court's ***Order Denying Relief Under Rule 60***. Filed: May 22, 2024.

**APPENDIX C:** Copy of the 4th Circuit Court of Appeals' ***Order*** Denying Petitioner's Petition for Rehearing *En Banc*. Filed: November 4, 2025.

**APPENDIX D:** Complete Copy of Petitioner's ***Informal Opening Brief for a Certificate of Appealability.*** Filed: July 11, 2024.

**APPENDIX E:** Copies of ***Other Material Court Filings Petitioner Believes Essential to Understand the Petition***, per Rule 14(i)(vi).

**APPENDIX F:** Vital Portions of the ***Pre-Trial, Trial, and Post-Trial Transcripts*** Concerning Matters Addressed in this Petition.

(1) Partial (**Trial**) Transcripts of July 13, 2012, **Volume VII**, pgs. 1-156, 213-14.

(2) Partial (**Trial**) Transcripts of July 16, 2012, **Volume VIII**, pgs. 1-4, 31-120.

(3) Partial (**Sentencing**) Transcripts of September 12, 2012, **Volume IX**, pgs.1-42.

** For guidance and clarity for the Court, Appendix E is referred to in the Brief as an italicized *E*, and each of its 816 pages can be located by reference to a single page number, numbered 1-816. (For example: *E 816*). The remainder of the appendices are referred to in the Brief as *App. A*, *App. B*, and so on.

## TABLE OF AUTHORITIES CITED

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**RULES**

**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 **A** to the petition and is

☒ is reported at *Prophet v. Terry, 2025 U.S. App. LEXIS 25462, 2025 WL 2794284 (Oct. 1, 2025)*.

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

☒ Unpublished.

## JURISDICTION

☒ For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was **October 1, 2025**.

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

☒ A timely petition for a rehearing was denied by the United States Court of Appeals on the following date: **November 4, 2025**, and a copy of the Order denying rehearing appears at Appendix **C** and is reported at *Prophet v. Terry 2025 U.S. LEXIS 28997, 2025 LX 465187 (Nov. 4, 2025)*.

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

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

**CONSTITUTION OF THE UNITED STATES, 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."

**CONSTITUTION OF THE UNITED STATES, 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 witness against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of counsel for his defence."

**CONSTITUTION OF THE UNITED STATES, 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 in the United States, or any place subject to their jurisdiction."

**CONSTITUTION OF THE UNITED STATES, 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."

## STATEMENT OF THE CASE

This is a petition for a Writ of Certiorari to the Fourth Circuit Court of Appeals from the Denial of a **Certificate of Appealability** (*App. A*), followed by the Denial of a timely filed **Petition for Rehearing *En Banc*** (*App. C*); which denials were entered on October 1, 2025, and November 4, 2025, respectively, and which affirmed the Northern District Court of West Virginia's summary Denial and Dismissal of **Petitioner's Motion to Reopen his Case Under Rule 60** for his claims of a glaring Fraud committed against the Federal Courts. [*App. B*].

On June 17, 2010, Petitioner Antonio Prophet (hereinafter, Petitioner) was arrested and charged by the State of West Virginia with two (2) counts of first degree murder and one (1) count of first degree arson for the deaths of Angela Devonshire, her three year old son, Andre White, and the intentional burning of their home; crimes which Petitioner Prophet has always vehemently denied committing. At the time of his arrest, Petitioner was *Mirandized* and a custodial interrogation was initiated, at which time Petitioner denied any culpability for said crimes and exercised his right to remain silent in order to consult with an attorney before making any further statements. [*App. F(1)* at 34:14-16]. At that point, detectives ended their interview of the Petitioner.

Within days of his arrest, Petitioner met with his court-appointed "panel attorney,"[1] Mr. Manford, and relayed to him his exculpatory version of events regarding the crime in question. (It must be noted here that Petitioner's version of events conveyed to counsel at that time was the exact same version of events Petitioner testified to at his trial more than two years later.)

At trial, which began on July 10, 2012, the State presented its case-in-chief against the

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[1] A "panel attorney" is a private-practice attorney who also acts as a court-appointed attorney provided by the State at a free or reduced rate to an indigent defendant. See *W.V. Code § 29-21-9.* Whether said rate is free or merely reduced (and who pays it) is determined primarily by whether or not the indigent defendant is convicted of the charged crimes. See *W.V. Code § 29-21-16(g)(1).* Petitioner contends that this, as you will see, creates a massive financial and civic incentive for the State and its agents to ***ensure*** that the indigent defendant ***is*** (and ***stays***) ***convicted*** of his or her alleged crimes. This, in turn, has contributed greatly to the Statewide impropriety and conflict of interest Petitioner contends exists amongst the State's court-officer personnel.

Petitioner. Petitioner took the stand in his own defense, swearing before his jury absolutely no participation or legal culpability in the charged offenses, and providing competent, corroborated, and compelling testimony and evidence supporting his defense theory that other identifiable persons (i.e. State witness Joseph Medina) had committed the crimes in question.

During cross-examination, and over defense counsel's objection, the State first questioned Petitioner about a violent fictional novel he'd authored over ten years previously. [*App. F(1)* at 14-32]. Immediately thereafter, the prosecutor asked Petitioner:

> **Q.** And you told us today that you wrote this work of fiction and you've told us this story that you've told us about what happened on the night of the events and that particular story was never told to anyone of law enforcement – [*App. F(1)* at 32:17-21]

Petitioner's counsel objected and the following discussion took place at sidebar:

> **[Petitioner's Counsel] Manford**: I could be wrong but isn't that commenting on prior statements? She's trying to say you didn't tell anybody that. That's his right until he comes to court.
>
> **[Judge Wilkes]**: He can say why he didn't do it, but I think she's entitled to say this is the first time it has come up, yeah.
>
> **Manford**: So I'm not arguing again, but I had this in another case in Morgan County where the prosecutor made a reference to the Defendant never . . .
>
> **[Judge Wilkes]**: Exercising his right to silence to the police officer. **She can't say you never told it to the police or anything like that.** Did you ever tell it to anyone. You can't say when the police got you[,] you didn't tell them that, did you. This is one of those cases where there could be an exception because he did make contact after the event to Mr. Devonshire and she could say why didn't you tell him[,] but you can't – pre-arrest silence is not the same as post-arrest. It's statements to law enforcement that is exercising your right to silence so you can't ask him about anything about law enforcement. . . . **But you can say he contacted Mr. Devonshire after and you didn't tell him things like that because that's not exercising your right to silence.**
>
> **Manford**: **I agree.**
>
> **[Judge Wilkes]**: **Pre-arrest. Pre-arrest silence is allowed in. Post-arrest silence isn't.**
>
> **[Petitioner's Counsel] Prezioso**: After he was arrested he did – [Lt.] Harmison did try to interview him and he asserted his Fifth Amendment right.

**[Judge Wilkes]**: All of that stays out. **It has to be pre-arrest.**

**Manford**: **That was two years ago, right. Your Honor, just so we have a time, pre-arrest silence was two years ago.**

**[Judge Wilkes]**: Unless he made a statement to someone – I mean, if it's – if it's non law-enforcement he made a statement.

**Manford**: Some snitch in the jail, sure.

**[Judge Wilkes]:** Or something like that, **but pre-arrest silence does not – the Fifth Amendment has not attached.**

**Manford**: **I agree.** [*Id.* at 33-35]

Despite the court's seeming ambivalence on the matter and failure to sustain defense counsel's legitimate objection to the prosecutor's improper question informing the jury that Petitioner's "story was never told to anyone of law enforcement"—(even though the court had just acknowledged that such a question was unlawful when it said, "She can't say you never told it to the police or anything like that")—still, this sidebar colloquy did establish that the parties *agreed* that: (1) After he was arrested, Petitioner "asserted his Fifth Amendment right"; (2) Prior to his arrest, "Fifth Amendment [protection] ha[d] not attached"; (3) Petitioner's "pre-arrest silence is allowed in[,] [his] [p]ost-arrest silence isn't"; and (4) Petitioner's **pre**-arrest silence had *ended* and his **post**-arrest silence had *begun* "two years ago," upon Petitioner's arrest and assertion of his 5th Amendment privilege. [*Id.* at 33-35].

Despite this clear understanding, just seconds after the sidebar ended, the prosecutor asked Petitioner the following:

**Q.** You did not tell anyone the story you told us yesterday prior to taking the stand; is that correct?[2] [*Id.* at 35:13-15]

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[2] Petitioner contends this question, too, just like the one before it, was a comment on his post-arrest silence, as the words "***prior to taking the stand***" clearly refer to anytime prior to trial, which would include **post**-arrest. Petitioner further contends that this language was intentionally used by the State to piggy-back on its first post-*Miranda* silence question cited above, in order to unlawfully inform the jury that Petitioner had stood on his Constitutional right to silence after arrest and "prior to taking the stand," and that his trial testimony was the first time law-enforcement was hearing his version of events.

Petitioner's counsel objected to this question as well, and moved to strike, stating:

> **Manford**: Objection. Move to strike based on the ruling. Unless I totally misunderstood what the Court –
>
> **[Judge Wilkes]**: Well, no. What I said – I'm going to allow that and leave it at that. I will overrule the objection based on that. [*Id.* at 35]

The court, astonishingly, overruled this well founded objection, thereby not only permitting the prosecutor to successfully make use of Petitioner's post-arrest silence at that particular time, but also implicitly permitting her to further pursue this post-arrest silence line of questioning and argument later if she so chose, which she in fact soon did. As a result, and with just these first 2 prosecutorial post-arrest silence remarks alone—both of which were objected to by counsel and overruled by the court—a due process violation under *Doyle/Boyd* had already occurred.[3]

After this objection was overruled, the prosecutor immediately segued into questioning Petitioner about his **pre**-arrest failure to fully reveal to the father/grandfather of the victims the version of events he'd testified to at trial. [*Id.* at 35-36]. During the remainder of cross and recross, the prosecutor lawfully referenced Petitioner's eleven days of **pre**-arrest silence in other ways as well. [*Id.* at 61, 65, 76-77, 117-18, 120, 128, 132]. Then, in ending her examination, the prosecutor once again unlawfully focused the jury's attention on the two years of silence that came **after** Petitioner's assertion of *Miranda* and **before** his trial with:

> **Q.** And in this instance, you've had two years to make up this story?
>
> **A.** I didn't make up any story, ma'am.
>
> **Q.** And you've had two years to review all of the discovery, all of the pieces, all of the elements –
>
> **A.** I didn't –
>
> **Q.** – before you came here to testify?

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[3] A *Doyle* violation occurs when: (1) the prosecutor makes use of a defendant's post-*Miranda* silence at trial through questioning or during argument; and (2) the trial court permits such use by overruling defense counsel's legitimate objection. *Greer v. Miller, 483 U.S. 746, 764-65 (1987).*

**A.** I didn't make up any story ma'am.

**Q.** But you've had two years to review absolutely every detail of this case?

**A.** If you want to look at it like that, yes, ma'am. [*Id.* at 156]

During summation, the prosecutor argued:

> "He studied the records. In every criminal case in West Virginia the State must hand to the defendant everything we know about this case. He has had two years to go through each and every record in this case, each and every phone record, each and every cell record, each and every statement. Everything we have he's had the opportunity to do it." [*App. F(2)* at 40]
>
> "He never tells a living soul his story until he takes that stand." [*Id.* at 53]
>
> "Remember that? He's got two years to craft his story." [*Id.* at 54]
>
> "He waits to be on the stand to craft his story. All of his pieces fit. They fit because you can look at every piece of evidence and go oh, this must be what happened. This must be what happened. This may be what happened." [*Id.* at 63-64]
>
> "He's crafted his story. He sat there slick and polished after two years and wrote his story because if he fails in this story he goes to prison for the rest of his life so connect all the little dots." [*Id.* at 106]
>
> "It's a story. He wrote a tale and he sat upon the witness stand and he told you that tale after he looked at every sheet of paper that he went over it mile after mile, and he weaved and crafted it into a fine story." [*Id.* at 107]

Petitioner's counsel failed to object to any part of the prosecutor's wholly unlawful summation. Further, during counsel's closing argument, rather than focus on the litany of evidence supporting Petitioner's theory of the case, Mr. Manford instead squandered Petitioner's closing—in fact, used it as a weapon against him—by, first, delivering an extraordinarily weak argument in which counsel failed to significantly highlight Petitioner's testimony and other evidence supporting Petitioner's theory of the case (*Id.* at 64-103); and, second, by actually conceding Petitioner's guilt to the 2nd degree murder of Angela, which, as a result of said concession, succeeded in conceding Petitioner's guilt to the 1st degree murder of Andre and 1st degree arson of the home. [*Id.* at 102:8-15].

After closing arguments Petitioner confronted Manford regarding his: (1) failure to object to the prosecutor's improper remarks and glaring attacks on his post-arrest silence; (2) failure to

adequately highlight and argue Petitioner's testimony, evidence, and theory of the case; and (3) his express and absurd concession of Petitioner's guilt to the 2nd degree murder of Angela.

Manford advised Petitioner that the reason he didn't object to the prosecutor's improper post-arrest silence remarks during closing arguments is because the court had already overruled his previous objection to that line of questioning, and, therefore, controlling law dictated that he need not continue to object when he had "previously made an objection concerning the substance of the argument and obtained a ruling on the objection by the court." See *State v. Walker, 207 W.Va. 415, 419, 533 S.E. 2d 48, 51-52 (2000).*

Regarding Petitioner's complaint that Manford's closing argument was extraordinarily weak and contained very little recounting of Petitioner's evidence and testimony supporting the defense theory that others were directly responsible for the crimes at issue, Manford informed Petitioner that just as he was about to delve into that particular topic, the court warned him that he only had "ten minutes left" for summation[4] (see *App. F(2)* at 99:2), and, simply because he'd run out of time, he

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[4] Petitioner always found the timing of the Judge's extraordinarily loud and abrupt "10 minutes left" announcement very suspicious. [See *E 497, pt. C*]. However, until Petitioner was able to get his hands on a copy of his Docket Sheet, and thus discover that the "Clerk's Notes of the Trial" even existed (see *E 723, #339*), Petitioner never realized just how scandalous this particular event was. Behold:

Prior to closing arguments, Judge Wilkes advised the parties that they would each have "an hour" for summation. [See *App. F(1)* at 213:12-14]. According to the Clerk's Notes, Manford began his closing at 10:53 am. [See *E 751*]. Meaning, if he had "an hour" to make his closing, his closing would end at 11:53 am. However, as can be seen from the Clerk's Notes, Manford ended his closing arguments at 11:48 am—five (5) minutes early! Yet, according to Manford's express statement to the jury—"I know I'm out of time. I didn't go through everything I wanted to"—the only reason he hadn't argued "everything [he] wanted to" was because his hour was up. [See *App. F(2)* at 102:18-19]. However, this was a lie, as he still had five minutes left for his summation. [*E 751*]. Petitioner contends Judge Wilkes shouted out "Ten minutes left" at the time and in the manner he did, not because Manford truly only had ten minutes left (as it is apparent that he actually had about fifteen (15) minutes left), but because Manford and Judge Wilkes had agreed, ***pre-closing***, that as soon as Manford mentioned the name Joseph Medina in the context of arguing his possible culpability, Judge Wilkes would announce that Manford only had ten minutes left for summation, thereby cutting short Manford's argument regarding Medina and providing Manford with a fraudulent excuse to give Petitioner on why he failed to argue Petitioner's testimony and evidence supporting Petitioner's theory of the case. ***Outrageous!***

It's now abundantly clear that all of the above was done in collaborative concert to substantially prejudice Petitioner's case, defraud him out of his U.S. Constitutional rights to a fair trial and effective counsel, and to assist the State in its unlawful efforts to avoid Petitioner's lawful acquittal.

was therefore unable to fully and adequately assert Petitioner's theory of the case as supported by the defense evidence and testimony.

And, finally, as for Petitioner's grievance that Manford had undermined his testimony, evidence, and claims of innocence—and virtually guaranteed his conviction!—by conceding that "if [Petitioner] did it, it had to be something done . . . in the heat of passion,"[5] Manford explained that he'd made those remarks in an effort to give the jury a legitimate reason to find Petitioner guilty of the lesser included offense of 2nd degree murder if they did in fact think him guilty of these crimes, thereby potentially giving Petitioner the "opportunity to come home one day."[6]

Though Petitioner disagreed with the propriety of Manford's argument to the jury that "if Petitioner did it, it was in the heat of passion," and though he considered many of the other closing remarks of Manford's to be ill-advised and completely ineffective, nevertheless, Petitioner found Manford's explanations of his shortcomings at least somewhat plausible. Thereafter, on July 16, 2012, Petitioner was convicted of each of the charged crimes. [*App. F(2)* at 113-116].

**(i) Post-Trial Motions for a New Trial**

Immediately after his conviction, and unable to reach his attorneys to discuss his post-trial

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[5] Petitioner was so upset by this particular remark—as it seemed so inherently unfair for a lawyer to suggest as much to a jury at a trial where the defendant had testified to his innocence—he felt that it had to be contrary to the law in some fundamental way, and he expressed as much to both Manford and Prezioso. Both lawyers assured him, however, that this line of argument and acquiescence is indeed lawful and acceptable under their authority as trial counsel to formulate and independently act upon certain "trial strategies and tactics."

[6] Petitioner contends that Manford's concession argument not only effectively conceded his guilt in the alleged "in the heat of passion" murder of Angela, but, by logical extension, also conceded his guilt in the alleged 1st degree murder of Andre' (the child victim) and alleged 1st degree arson of the home; because, based on counsel's ridiculous concession and argument, if Petitioner did in fact kill Angela (whether with premeditation and deliberation, or "in the heat of passion," or, even in self-defense), then, by simple deduction, he also must have killed Andre' and set fire to the home as well; which criminal acts, conducted in that particular order, would certainly entail the *mens rea* of premeditation and deliberation, and would therefore satisfy the elements of 1st degree murder of the child and 1st degree arson of the home, and, appropriately, would *virtually guarantee* that Petitioner would never get the "opportunity to come home one day" as Manford had purportedly surmised, thereby making the logic of his argument not just unreasonable but totally and irreconcilably irrational.

motions, Petitioner drafted and timely forwarded to the court his own *pro se* Motion for a New Trial. [*E 143-49*]. In addition to the court, Petitioner also forwarded copies of said Motion to his attorneys and the prosecutor. [*E 143*]. In said motion, though an inexperienced layman, Petitioner cited the State and Federal Constitutions and the controlling WVSC case law regarding, amongst many other things, the State's unlawful attacks on his post-arrest/pre-trial silence. [*E 145*]. Specifically, Petitioner actually quoted some of the challenged post-arrest/pre-trial silence remarks made by the prosecutor at trial and then cited and quoted the controlling law regarding post-arrest/pre-trial silence as held in the WVSC cases of *State v. Boyd, 160 W.Va. 234, 233 S.E. 2d 710 (1977)* and *State v. Oxier, 175 W.Va. 760, 338 S.E. 2d 360 (1985)*, both of which were based on the U.S. Supreme Court's holdings of *Miranda v. Arizona, 384 U.S. 436 (1966)* and *Doyle v. Ohio, 426 U.S. 610 (1976)*, each of which hold as unconstitutional the State's use of a defendant's post-arrest/post-*Miranda* silence against him at trial. [*Id.*].

About forty (40) minutes after the court received and docketed Petitioner's Cover Letter and *pro se* Motion for a New Trial, counsel's "expertly drafted" motion for a new trial drafted on Petitioner's behalf was received and docketed by the court. [*E 151*]. Unlike Petitioner's layman's *pro se* Motion for a New Trial—wherein Petitioner cited the State and Federal Constitutions (*E 144*), cited and quoted WVSC case law (*E 145-49*), and quoted some of the challenged words and actions of the prosecutor and trial judge (*Id.*)—counsel's expertly drafted motion contained only vague and conclusory arguments; it cited neither the State nor Federal Constitutions; nor did it mention the words "post-arrest/pre-trial silence," nor cite or quote even one WVSC or U.S. Supreme Court case law controlling the same. [*E 151-53*].

Furthermore, as reflected in the case's official Docket Sheet (*E 156*), though Petitioner's Cover Letter and *pro se* Motion for a New Trial were clearly received and docketed by the court *before* counsel's Motion was received and docketed, the court clerk, clearly at the behest of someone very powerful, trashed the originally filed, court time-stamped and docketed *pro se* Motion for a New Trial, and, provided with an identical copy of Petitioner's *pro se* Motion by "someone"—

(Petitioner contends that "someone" was either Manford, Prezioso, or Ms. Neely (the prosecutor); see *Id., Entry #357* and the "cc's" thereon)—the court clerk forged the record of Petitioner's case by placing a new and fraudulent time-stamp on a secondary copy of Petitioner's *pro se* Motion for a New Trial. [See *E 144*, and the fraudulent time-stamp placed thereon, reflecting a more than three (3) hour time difference between the two documents (the Cover Letter and Motion) that were received and originally time-stamped and docketed at the same time—12:22 pm (*E 143*); and compare the same with the official Docket Sheet of the case (*E 156, Entry #'s 356-359*) and the official, chronological order in which these documents were docketed by the court.]. However, though stealthy, due to the court clerk's apparent inability to secretly alter the actual Docket Sheet of the case, and due to the fact that Petitioner's handwritten Cover Letter was sent to the court clerk, and *only* the court clerk, and thus there were no extra copies of said cover letter for her to forge, evidence of the court's malfeasance is obvious till this very day, more than thirteen (13) years later.

**(ii) Post-Trial Motions/Sentencing Hearing**

Just prior to his post-trial motions hearing, Petitioner met and spoke with his attorneys, each of whom acknowledged their receipt of Petitioner's *pro se* Motion for a New Trial but informed Petitioner that the court itself had neither received nor filed a copy of the same, as it had apparently been lost in the mail. With that news, Petitioner expressed his desire to read his entire *pro se* Motion for a New Trial on the record at the hearing. Manford and Prezioso discouraged Petitioner from this course, however, telling him that virtually the entire Berkeley County Prosecutor's Office—the very people who would be challenging his direct appeal contentions—would be in attendance at the hearing that morning and that it would be unwise to make the State aware of the strength and diversity of his anticipated claims "so early in the game." Counsel further advised Petitioner that post-trial motions and hearings were a mere "formality"; that there was "no way" the court was going to reverse its trial rulings and grant him a new trial; and that the contents of his direct appeal, ultimately, was all that mattered. Based on this advice, Petitioner relented in his desire to read his motion for a new trial on the record at the hearing, but got assurances from counsel that they would

emphasize to the court Petitioner's position that based on a plain reading of both State and Federal law his **post**-arrest silence had clearly been unconstitutionally attacked at trial.

Despite their assurances, at Petitioner's Sentencing Hearing, during the post-trial motions and arguments portion of the same, Mr. Manford expressed to the court the following: "Mr. Prezioso was kind enough to file . . . the motion for a new trial. He was very succinct in his arguments and factual recitation. . . . Mr. Prophet also provided us with some thoughts as well on the motion for a new trial. In particular he would like me to emphasize the fact that he believes it was improper to allow the State to comment on his silence prior to indictment, prior to arrest. We argued those at sidebar. I think we fleshed them all out. We've preserved those arguments for appeal, Your Honor." [*App. F(3)* at 3-4]. (It should be noted here that Petitioner failed to catch Mr. Manford's fraudulently raised "prior to indictment, prior to arrest" remark because, at that exact moment, Mr. Prezioso, in a clearly pre-planned effort to distract Petitioner, began waving papers at Petitioner and speaking to him in glowing terms about plans and meritorious arguments for his upcoming direct appeal.)

Accordingly, on September 10, 2012, Petitioner's post-trial motions, as is now clear, were denied *by design* by a biased and corrupt trial court. [*Id.* at 3-13].

**(iii) Direct Appeal**

Subsequently, after receiving the trial transcripts in his case and meeting with Prezioso in preparation of briefing his direct appeal, Petitioner noticed the "prior to indictment, prior to arrest" remark made by Manford at the Sentencing Hearing, and, having no recollection of those particular remarks, asked Prezioso about them, to which Prezioso informed Petitioner that Manford definitely hadn't said that, and that the prosecutor must have doctored the transcripts.

Petitioner was aghast; however, having witnessed firsthand Ms. Neely's misconduct committed at his trial, he didn't doubt it a bit. When Petitioner asked about the whereabouts of Manford and his responsibility for correcting the record and making the court aware of the State's

misconduct, Prezioso informed Petitioner that Manford had withdrawn from the case.[7] Prezioso nevertheless informed Petitioner that that particular line (the "prior to indictment, prior to arrest" line), was inconsequential, as they were clearly challenging in Petitioner's direct appeal the State's attacks on Petitioner's post-arrest/pre-trial silence.

After perusing a copy of his direct appeal brief—which wasn't provided to him, frustratingly enough, until *after* it had already been filed with the WVSC—though not entirely pleased with counsel's drafting of his post-arrest/pre-trial silence ground (as it did not cite U.S. Supreme Court authority or pinpoint with specificity the entirety of the post-arrest/pre-trial silence remarks made by the prosecutor at trial), Petitioner did see that the argument was indeed argued as a post-arrest/pre-trial silence ground, as Prezioso had promised. [*E 270*]. What Petitioner failed to realize at the time, however—partly because he believed in and trusted Prezioso wholeheartedly, and partly because he was just too legally unsophisticated to catch it at the time—was the fact that Prezioso had very cunningly, and fatally, linked Petitioner's direct appeal's post-arrest/pre-trial silence ground directly to Manford's fraudulently raised "prior to indictment, prior to arrest" argument made at the post-trial motions hearing. [See *Id.*, wherein Prezioso designated the post-arrest/pre-trial silence ground as

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[7] At that time, Petitioner expressed his frustration to Prezioso that he hadn't prior to that point been told about Manford's departure from his case or provided a copy of Manford's motion to withdraw. To which Prezioso promised to forthwith forward to Petitioner a copy of the same—which he never did. Petitioner has since learned that no motion to withdraw as his counsel was ever filed by Manford in either the circuit or the WV Supreme Court. [See *E 73*]. However, this is "somewhat" perplexing, because though the court assigned Manford to be Petitioner's appellate counsel (see *App. F(3)* at 41:13-24), and though Manford "entered an appearance" in the action (see *E 221, pt.3*) thus requiring that he file a motion to withdraw when departing the action (see *W.Va. R.A.P. Rule 3(d)*), interestingly enough, though the record reflects that Manford never legally withdrew as Petitioner's counsel—meaning he remained Petitioner's counsel throughout the entirety of Petitioner's direct appeal proceedings—Petitioner *never saw or heard from Manford ever again after his Sentencing Hearing*, and, most notably, Manford *never collected a fee* for his supposed direct appeal services to Petitioner. [See *E 726, Entry #425*; and *E 747*, wherein the record reflects a fee payment to Prezioso for his appellate services to Petitioner but is silent in regard to a fee payment to Manford for the same. [*E 726-27*]. Which begs the obvious question: If Manford never withdrew and was Petitioner's counsel for the entirety of his direct appeal proceedings, *why was he never paid?* . . . Petitioner contends that this discrepancy in the record is just one of the many circumstantial pieces of **documentary evidence** *proving!* an attorney-client conflict of interest and court officer conspiracy to defraud Petitioner out of his Constitutional rights.

"The Circuit Court Committed Reversible Error ***When It Failed to Grant Petitioner's Motion for a New Trial*** as the State Improperly Used Petitioner's Post Arrest/Pre-Trial Silence to Impeach Petitioner." (Petitioner failed to grasp the significance of this particular Assignment of Error designation at the time; but, in retrospect, how could the circuit court have committed reversible error for failing to grant Petitioner's motion for a new trial based on post-arrest/pre-trial silence when counsel never specifically raised a post-arrest/pre-trial silence argument, either in their ineptly drafted written motion for a new trial or during oral post-trial motions and arguments at the Sentencing Hearing?[8]) [See *E 151-53, 161:3-4*].

Though the above-described conflict-of-interest and travesty of justice was apparent on the superficial face of the record—and was therefore presumably *obvious* to anyone with the proper legal education, training, and background; and, therefore, was presumably *obvious* to each and every lawyer, prosecutor, judge, and WV Supreme Court Justice that reviewed this case[9]—nevertheless,

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[8] And this further explains why the court felt the need to forge with a fraudulent time-stamp Petitioner's *pro se* Motion for a New Trial and hide evidence of the same from him for over a decade by refusing to provide him with a Docket Sheet of his own case, because Petitioner's *pro se* Motion for a New Trial raising the federal question and citing controlling law regarding post-arrest silence in fact superseded, both legally and chronologically, counsel's deliberately sabotaged motion for a new trial, and thus would have provided Petitioner legal vitality in his post-conviction claims and proceedings, both State and Federal, if he'd ever found out about it. Which, unfortunately for the court, now he has.

[9] Petitioner's two attorneys, who were the same two individuals for both his trial and direct appeal, first argued **post**-arrest silence at trial, then argued **pre**-arrest silence during post-trial motions, then did a complete 180 and again argued **post**-arrest silence in Petitioner's direct appeal, but linked, fatally, said **post**-arrest silence argument to the **pre**-arrest silence argument made during post-trial motions. This odd series of events—coupled with knowledge of WVSC case law like *Syl. Pt. 2 State v. Noll, 223 W.Va. 6, 672 S.E. 2d 142 (2008)*, which holds that "a defendant may not assign as error, for the first time on direct appeal, an issue that could have been presented initially for review . . . on a post-trial motion"—should have made it crystal clear to anyone with a law degree that a glaring conflict-of-interest existed between Petitioner and his counsel and that some type of legal shenanigans were taking place in Petitioner's case. In fact, Petitioner contends that, though a layman, had he not trusted his lawyers and believed their many lies and misleading legal advice, he would have immediately spotted and recognized the above-described series of events for exactly what it was—trial and post-conviction proceedings "rigging"! The fact that not one lawyer, prosecutor, judge, or Supreme Court Justice that reviewed this case made express note of this obvious conflict-of-interest and travesty of justice is a clear indication that a Statewide, multi-level ***conspiracy*** exists within the WV criminal justice system to defraud petitioners out of their Constitutional rights. And Petitioner believes he knows why. [See *E 200-02, n.7*].

the WVSC affirmed Petitioner's convictions in a suspiciously crafted *per curium* Opinion; an opinion which conflicts with State and Federal law, an opinion which fails to address numerous important issues in Petitioner's direct appeal, and an opinion in which all five Justices of the Court felt neither the confidence nor the legal compulsion to put their name to. [See *E 309, 314, 338—not one Justice's name anywhere on this fraudulent legal document*]. Most notably, in passing on the merits of Petitioner's claims, and in addressing only the first 2 of the 12 total post-*Miranda*-silence remarks challenged by the Petitioner, the WVSC concluded that the 2 questions it had analyzed were "ambiguous and isolated" and were not "pursued improperly into the realm of post-arrest silence." [*E 331*]. The WVSC failed/refused to rule on the many post-*Miranda*-silence remarks made by the prosecutor during recross and summation, in which the prosecutor suggested that Petitioner's two years of silence after arrest and before trial was indicative of guilt, indicative of perjury, and indicative of her assertion that the only reason his testimony was so believable was because he took a two year post-*Miranda* opportunity to study the discovery evidence. [See *E 639-42*].

**(iv) Petition for Rehearing**

After examining the Court's Opinion and re-examining the relevant facts and law, Petitioner was even more confident in his legal determination that the State had clearly and unconstitutionally attacked his post-arrest/pre-trial silence at trial. Therefore he personally drafted and forwarded to Prezioso for filing with the Court a Petition for Rehearing. [*E 178*]. In said petition, Petitioner again cited the WV and U.S. Constitutions, cited and quoted relevant WVSC and U.S. Supreme Court case law, and gave a detailed accounting of the facts and law and how the Court had apparently misapprehended both. [*E 183-92*].

After the WVSC refused/denied Petitioner's Petition for Rehearing, Petitioner requested from both Prezioso and the Court a transcript of his direct appeal's oral arguments and a court time-stamped copy of his Petition for Rehearing—to which he received no response from either party. In fact, until just recently, in late 2023, when the WVSC finally forwarded to him a requested copy of the same (*E 98*), Petitioner has never had a complete, counsel-signed, court-filed copy of his Petition

for Rehearing, despite his numerous requests to both counsel and court for the same.

**(v) Petition for a Writ of Certiorari**

Petitioner timely filed a *pro se* Petition for a Writ of Certiorari to the United States Supreme Court on September 8, 2014; which was denied on November 17, 2014.[10] *Prophet v. West Virginia, 135 S.Ct. 683, 684, 190 L.Ed. 2d 396 (2014).*

**(vi) First State Habeas**

In preparation of launching his first State habeas action, and having never received a requested copy of his docket sheet from counsel, Petitioner wrote Berkeley County Circuit Court Clerk, Ms. Virginia Sine, and requested from her for the first time a copy of his criminal case's docket sheet—to which he got no response.[11] Undeterred, Petitioner submitted a *pro se* habeas corpus petition and accompanying Memorandum of Law to the Circuit Court of Berkeley County on February 2, 2015, wherein Petitioner immediately advised the court that he was hereby "waiv[ing] his right to the appointment of counsel, as he wishes to remain a *pro se* litigant." [*E 387*]. Despite Petitioner's waiver and express desire to proceed *pro se*, Petitioner's habeas judge, Judge Lorensen, refused to respect Petitioner's desire and Constitutional right to proceed *pro se*, and, instead, noted

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[10] Petitioner has since learned that because of the criminal conduct of State court officers in (1) unconstitutionally deceiving and conspiring against him, (2) unconstitutionally suppressing and secreting his *pro se* court filings in which the "federal question" was timely and precisely raised, and (3) deliberately and unconstitutionally omitting the "federal question" from the post-conviction proceedings and petitions drafted on his behalf by criminally-conflicted counsel, Petitioner was thus unable to demonstrate to the U.S. Supreme Court that he had timely and with fair precision raised the "federal question" in the State court during his post-trial motions and on direct appeal; thereby leaving the Supreme Court without jurisdiction to grant him a Writ of Certiorari. See *Street v. New York, 394 U.S. 576, 584 (1969):* the U.S. Supreme Court lacks jurisdiction to consider a State petitioner's federal Constitutional claims unless it can be shown that the Constitutional claim purportedly raised in the State has been "brought to the attention of the state court with fair precision and in due time." *Id.* Also see *Syl. Pt. 1 Quimby v. Boyd, 128 U.S. 488 (1888)*: "a federal question not [shown to be] raised in the court below will not support this court's jurisdiction." *Id.*

[11] Though this would be the first time Petitioner wrote the court requesting a copy of his docket sheet, it wouldn't be the last. Over the course of many years, Petitioner requested from counsel and court a copy of his docket sheet over a dozen times—all to no avail.

Petitioner's objection to the appointment of counsel in an **Order** forcing counsel upon him and directing newly-appointed counsel to file an Amended Petition on his behalf. [*E 529*].

Having had habeas counsel and an Amended Petition forced upon him by the court, Petitioner met with assigned counsel, Ms. Lisa A. Green, and informed her of all of the above-described facts and circumstances regarding his trial, direct appeal, and the words, actions and failures of his attorneys during both. In fact, on speaking with Ms. Green about the concession of guilt issue and informing her that both Manford and Prezisoso had each advised him that this line of concession and argument was perfectly acceptable under the law, and on further informing her that his novice research into the issue had revealed nothing for him to sink his teeth into, he asked her if she knew of or could find any case law to the contrary. To which, Ms. Green, following in the diabolical footsteps of both Manford and Prezioso, too, intentionally deceived and misled Petitioner regarding this issue, advising him that, yes, counsel did in fact have the legal authority and autonomy to concede a defendant's guilt in this fashion; and, since no law existed limiting said authority, briefing that particular issue would be a waste of precious briefing "real estate."

Additionally, Petitioner also advised Ms. Green that Prezioso had informed him that Ms. Neely must have doctored the Sentencing Hearing transcripts, as Prezioso was confident Manford never uttered the phrase "prior to indictment, prior to arrest," but that Petitioner was unable to verify this from Manford himself, as Manford had withdrawn from the case before Petitioner could speak with him. Moreover, Petitioner specifically and repeatedly asked Ms. Green to provide him with a copy of his underlying criminal case's Docket Sheet, advising her that he could get no response from either his former attorneys or the court regarding the same.

Despite Petitioner making Ms. Green aware of all of the above and more; and despite Ms. Green being legally educated, trained, and experienced in the esoteric science/art of law; and despite Ms. Green having unfettered access to Petitioner's entire case file, including docket sheets and other court documents and papers; and despite Ms. Green having the ability to independently investigate and interview witnesses—specifically, the circuit court clerk and Messrs. Manford and Prezioso—

despite all these things, Ms. Green failed to conduct any semblance of an adequate habeas corpus investigation. She spoke to nor interviewed not one witness; she added no new grounds, law, or arguments to Petitioner's petition; and she failed/refused to provide him with a copy of his docket sheet and, apparently, to even scrutinize the document and its accompanying entries herself.

Most ineffective, however—and highly suggestive a secretly harbored conflict-of-interest —is the fact that after being advised by Petitioner that Prezioso had placed responsibility for the "prior to indictment, prior to arrest" remark at the feet of Ms. Neely, Ms. Green utterly failed to advise Petitioner of at least four very important legal points regarding this issue that any competent and qualified attorney should have immediately noted and provided proper legal guidance for. For instance, habeas counsel had a duty to advise Petitioner that:

> (1) Due to case law like *Syl. Pt. 2 State v. Noll*, supra.,[12] and *Syl. Pt. 5 Montgomery v. Montgomery, 147 W.Va. 449, 128 S.E. 2d 480 (1962)*,[13] being that the "prior to indictment, prior to arrest" remark appeared on the post-trial motions hearings record—(regardless of who was responsible for it being there)—and being that Prezioso's Assignment of Error designation forever fastened said remark to Petitioner's direct appeal's post-arrest silence claim, these two adhered-together procedural deficiencies on the part of counsel were singularly fatal to that particular ground.
>
> (2) Said deficiencies had to have been undertaken *intentionally*, and for the obvious purpose of prejudicing Petitioner's post-arrest silence ground on appeal while at the same time *tricking* Petitioner into believing that **he had** raised a legitimate post-arrest silence challenge on appeal, when, in actuality, **he hadn't**.[14]

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[12] Which holds that: "[A] defendant may not assign as error, for the first time on direct appeal, an issue that could have been presented initially for review . . . on a post-trial motion."

[13] Which holds that: "[E]rrors relied on for reversal must be specifically set out . . . in the assignments of error in the [WVSC] before such matter will be considered on appeal."

[14] It's clear Petitioner labored for over a decade under the counsel-induced belief that he'd raised a Constitutional **post-**arrest (not **pre-**arrest) silence challenge to the prosecutor's remarks at trial. [See *E 354-55, 183-92, 431-42, and 666-671*]. But, of course, due to their commitment to the fraud, and though it was their duty to the contrary, Petitioner's attorneys did nothing to disabuse him of this false notion. This, alone, proves the conflict of interest.

(3) Due to case law like State v. Vance, *207 W.Va. 640, 535 S.E. 2d 484 (2000),*[15] and Yarborough v. Alvarado, *541 U.S. 652, 664 (2004),*[16] said deficiencies also had to have been undertaken in an effort not just to trick Petitioner into believing that he'd raised a legitimate post-arrest silence challenge on direct appeal, **when he hadn't**, but also to *trick* subsequent reviewing bodies in his case, both State and Federal, into believing that he **had not** raised federal constitutional claims (and thus federal constitutional "questions of law") in his post-trial motion for a new trial. And that this, too, was fatal to his direct appeal and federal habeas claims, because rather than the WVSC review said claims *de novo*—which is what the law requires for a "question of [Constitutional] law"—the biased and corrupt trial court was instead given undeserved deference in the WVSC on appeal, and "dual layers" of undeserved deference in the 2254 Federal courts. See *Renico v. Lett, 559 U.S. 766 (2010).*

And (4) that in order to have this issue properly addressed in his first habeas action, Petitioner would need to raise a habeas corpus claim of ineffective assistance of trial and direct appeal counsel for their deficiencies causing prejudice during Petitioner's post-trial motions-briefing and -hearing, and in deliberately crafting for failure his Direct Appeal's Assignments of Errors. Or, even better, Ms. Green was duty-bound to advise Petitioner that he clearly had a valid claim of ineffective assistance of counsel based on an *actual* conflict of interest and constructive abandonment!

However, rather than provide Petitioner even one of the above points of very basic legal advice—which should have been, and Petitioner contends *was*, obvious to her—instead, Ms. Green deceived Petitioner, advising him simply to raise the habeas corpus claim described in the *Losh* list as: *Falsification of Transcripts by the Prosecutor.* [*E 570, pt.17*]. And then, to add insult to injury, Ms. Green didn't even investigate or attempt to fully develop the record or attain evidence to support or debunk that particular allegation either. [*Id.*].

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[15] Which holds that: "In reviewing challenges to findings and rulings...[of] a circuit court, we apply a two-pronged deferential standard[.] We review the rulings of the circuit court concerning a new trial under an abuse of discretion standard, and...underlying factual findings under a clearly erroneous standard. Questions of [Constitutional] law are subject to a de novo review."

[16] Which holds that: "The more general the rule [used by the State court (a rule like, "the trial court erred")], the more ***leeway*** courts have in reaching [alternative] outcomes in case by case determinations."

The "Amended Petition"[17] was submitted by counsel on May 12, 2015, and included requests for an evidentiary hearing and that Petitioner's *pro se* petition be considered in conjunction with the Amended Petition. [*E 554*]. Petitioner's petition was summarily denied, in part, as *res judicata*, on June 24, 2015, and in full, as meritless, on October 28, 2015. [*E 12, 31*]. Said denial and dismissal came without benefit of the due process-mandated "opportunity to be heard" at an evidentiary hearing for the fair opportunity to fully develop the record, present the relevant facts, and provide the court with evidence from the most significant witnesses, trial counsel. [*E 12-44*]. Again, despite the fact that counsels' criminal conduct and conflict-of-interest was apparent on the superficial face of the record, the WVSC nevertheless affirmed said denial in a Memorandum Opinion entered on June 21, 2016. *Prophet v. Ballard, W.Va. Lexis 566 (2016).*

**(vii) 2254 Federal Habeas Petition**

After the U.S. Supreme Court denied Petitioner a second timely filed Writ of Certiorari, Petitioner filed a § 2254 petition with the District Court of WV; which too was summarily denied

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[17] The words "Amended Petition" are used very loosely here, as the amended petition forcibly submitted on Petitioner's behalf did not amend or improve upon Petitioner's *pro se* petition at all; but, in fact, deliberately weakened his asserted claims. See *E 27*, wherein the habeas court denies Petitioner's Judicial Misconduct 9F Ground because the Amended Petition "cites no rule or law the Court violated." However, in Petitioner's *pro se* petition, Petitioner cited at least six (6) rules and laws the trial court violated by verbally attacking him before the jury. [See *E 487-93*]. Additionally, habeas counsel deliberately failed to argue the absolutely **required-for-relief** *prejudice* prong of *Strickland* in the "amended petition." Thereby leaving Petitioner's otherwise meritorious IAC claims subject to summary denial as well. [See *E 623-29* (the amended petition's IAC claims) and compare to *E 506-19* (the *pro se* petition's IAC claims, wherein Petitioner cited the prejudice prong of *Strickland* and argued prejudice on every one of his IAC claims)]. The fact of the matter is Petitioner's *pro se* petition was of much higher quality than counsel's, thereby dispelling Judge Lorensen's fraudulent claim that Petitioner's *pro se* petition "as filed, [wa]s not sufficient for the court to conduct a fair adjudication of the matter" and that's why Petitioner was forced to endure appointed counsel and an "amended petition." [*E 529*]. (See *E 683-85, 812-15*, for Petitioner's comprehensive discussion of this matter.) Accordingly, it's now abundantly clear, Judge Lorensen specifically forced Ms. Green and an amended petition on Petitioner not because Petitioner's petition was "not sufficient," but because his petition was *too **proficient***, and thus clashed with the judge's agenda of deliberately prejudicing Petitioner's habeas action in order to summarily dismiss his claims. (Compare *E 478-98* to *E 616-20* and you be the judge on whether the amended petition prejudiced Petitioner's arguments for his Judicial Misconduct ground; a ground which was later summarily denied as being "just a mere recitation of a ground without providing adequate factual support," as having "cited no rule or law," or as having "show[n] no prejudice." [*E 26-27*].

for "failure to state a federal claim for which relief could be granted." *Prophet v. Ballard, 2018 U.S. Dist. Lexis 51752 (2018).* No COA was granted by the 4th Circuit Court of Appeals.[18] *Prophet v. Terry, 825 Fed. Appx. 139; U.S. App. Lexis 32576 (2020).* Lastly, Petitioner timely filed a final Petition for a Writ of Certiorari to the U.S. Supreme Court; which was denied on June 1, 2021. *Prophet v. Terry, 141 S.Ct. 2712, 210 L.Ed. 2d 877 (2021).*

**(viii) Second State Habeas Petition**

On July 26, 2023, after years and years of being misled, blindfolded, and spun in circles by his attorneys regarding the above issues, and after years and years of requests to the circuit court of Berkeley County for a docket sheet of his underlying criminal case (requests which were either silently refused or ignored), Petitioner was finally and for the first time forwarded a copy of said docket sheet by the newly-installed and current circuit court clerk. [*E 709*].

Upon perusal of said docket sheet and relevant law, Petitioner uncovered evidence reflecting the fact that his trial and direct appeal counselors had deceived him regarding: (1) the court's supposed non-receipt and non-filing of Petitioner's *pro se* Motion for a New Trial, (2) Manford's

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[18] Again, Petitioner has learned that the 2254 courts lacked jurisdiction to grant him federal relief on his claims, because, after filing his 2254 brief in the Northern District Court of WV, the WV Attorney General's Office **willingly joined in on the fraud, conspiracy, and suppression of Petitioner's *pro se* court filings** by deliberately failing to include in its "Answer and Exhibits" the only two documents in the entire State court record that timely and with fair precision raised the "federal question" in the State court—Petitioner's *pro se* Motion for a New Trial and *pro se* Petition for Rehearing on Appeal! The WV Attorney General's criminal, conspiratorial conduct in this instance—along with fraudulently used State court principles of *res judicata*—prevented Petitioner from demonstrating to the federal court that he'd timely and precisely raised the federal question below. See *Mallory v. Smith, 27 F.3d 991, 994 (4th Cir. 1994)*: federal court jurisdiction is lacking unless a Constitutional claim raised in the State court has been "presented face-up and squarely; the federal question . . . plainly defined." *Id.* And see the "look through" doctrine of *Tice v. Johnson, 647 F.3d 87, 106 (4th Cir. 2011)(quoting Ylst v. Nunnemaker, 501 U.S. 797, 804 (1991)*, which declares that when the last State court to review a claim summarily disposes of the claim—for example, by declaring it *res judicata*—the 2254 federal habeas court must "look through the denial to the last ***reasoned*** State court decision on the merits" (*Id.*) in order to decide if the State petitioner's federal claims have been decided "contrary to, or involv[ing] an unreasonable application of, clearly established Federal law, as determined by the [U.S.] Supreme Court." *28 U.S.C. § 2254(d)(1).* Which, in Petitioner's case, would be the direct appeal adjudication of his claims, where the federal question was deliberately and conspiratorially never raised, thereby leaving the 2254 habeas court wanting for jurisdiction on those particular grounds. See pgs. 9-15 of this petition above.

supposed filing of a motion to withdraw as his appellate counsel, and (3) the supposed lawfulness and propriety of Manford's argument conceding Petitioner's guilt.

Based on these now confirmed deceptions, Petitioner initiated a second State habeas action for relief. [*E 74-88*]. Meanwhile, upon further perusal of said Docket Sheet and comparison of the same to other court documents he'd requested and received from the court clerk, and upon further investigation and research sparked as a result thereof, Petitioner was able to conclusively and definitively determine that Manford and Prezioso, working in concert with Prosecutor Neely, Judge Wilkes, and, later, Judge Lorensen and Lisa A. Green, intentionally torpedoed his trial, deliberately sabotaged his post-trial motions and arguments, deceived him with misleading advice regarding his direct appeal, and, finally, sneakily subverted the entirety of his post-conviction proceedings, both State and Federal. Upon this absolutely shocking discovery, Petitioner immediately contacted the WV State Bar, the Office of Disciplinary Counsel, and the Judicial Investigation Commission, relaying to them his discovery and promising to forward to each a memorandum of law detailing the evidence and arguments needed to prove his assertions when he had finished drafting the same. [*E 94-97*]. Petitioner also forwarded a letter to the circuit court clerk, wherein he moved to disqualify from hearing his case the Circuit Court of Berkeley County, the Berkeley County Prosecutor's Office, and any and all Berkeley County attorneys. [*E 752-53*].

Subsequently, on January 28, 2024, Petitioner forwarded to the circuit court his "Amended Addendum to Petitioner's Habeas Petition," with attached exhibits (*E 99-219*), wherein he laid out his handwritten case for his claims of a glaring conflict-of-interest and court officer conspiracy to engineer his trial and post-conviction proceedings for failure and to deliberately and unlawfully omit the federal question from his post-conviction briefs and proceedings in an effort to unlawfully circumvent the Appellate Jurisdiction for federal claims bestowed upon the U.S. Supreme Court by the U.S. Constitution (*Art. III, Sec.2*), and to effectively and unlawfully suspend "the privilege of the writ of habeas corpus" (*Art. I, Sec. 9*) as it pertains to Petitioner, and thereby effect a "clean getaway" of the State's egregious, criminal, conspiratorial violations of Petitioner's Constitutional rights under

color of law based on his race and indigence. [See 18 USCS § 241, § 242, § 245, and § 371].[19]

Additionally, on March 5, 2024, Petitioner filed in the Northern District Court of WV a *pro se* Rule 60 Motion to Reopen his 2254 Case for Fraud on the Federal Court for the WV Attorney General's Office willingly joining in on the fraud, conspiracy, and suppression of Petitioner's *pro se* court filings, by deliberately failing to include in its "Answer and Exhibits" the only two documents in the State court record that timely and precisely raised the "federal question" in the State court—Petitioner's *pro se* Motion for a New Trial and *pro se* Petition for Rehearing on Appeal. Said motion was denied on May 22, 2024, with the District Court concluding that Petitioner's claims amounted to a successive habeas petition attacking the constitutionality of his State court conviction; and were time barred and were not a fraud on the *federal* court. [*App. B*]. Petitioner then submitted an Informal Opening Brief for a Certificate of Appealability to the 4th Circuit Court of Appeals on July 8, 2024, reclarifying his position that the Respondent's fraudulent representations to the federal district court and fraudulent acts in suppressing and secreting Petitioner's *pro se* court filings timely and precisely raising the federal question in the State court related ***directly*** to the "integrity of the [federal] judicial process," and was, therefore, **not** a successive habeas attacking with new grounds his State court conviction, but was in fact a mere description of a fraud on the federal court. [See *App. D*]. Said request for a COA was summarily denied. [*App. A*]. Petitioner's timely filed petition for Rehearing En Banc was denied on November 4, 2025. [*App. C*].

Hence, having discovered and exposed this insidious plague running rampant through the State of West Virginia's judiciary, and having been denied and defrauded of his Constitutional rights by conflicted State court officers utilizing procedural "tricks" and other criminal deceptions to defraud not only the Petitioner but the federal courts as well (including the U.S. Supreme Court and

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[19] These federal statutes hold that it is a federal crime to: **Conspire against rights** (§ 241), **Deprive rights under color of law** (§ 242), **Deprive of Federally protected activities – (access to the courts)** (§ 245), and **Conspire to defraud the United States – (for the State court officers conspiring to defraud the U.S. federal courts of their rightful jurisdiction)** (§ 371); crimes for which even judges have no immunity.

the full panoply of the 2254 Federal Courts); and having been summarily denied a full briefing and hearing on this very important matter in both the District Court of WV and the 4th Circuit Court of Appeals, Petitioner now prays that this Court, the U.S. Supreme Court, grants this petition for a Writ of Certiorari in order to uphold Petitioner's Constitutional rights and to do its part to uphold, defend and protect the Constitutional rights of all WV citizens, and indeed, the Constitutional rights of every citizen of our Nation.

## SUMMARY OF THE REASONS FOR GRANTING THE WRIT

Petitioner affirmatively asserts that there is a secret, criminal element looming large within the West Virginia judicial system. Said element is well-educated and well-financed. Said element is unbelievably powerful and influential. Said element is dead-set on weakening the fundamental fabric of our country, undermining the sanctity of our U.S. Constitution, unlawfully circumventing U.S. Supreme Court and lower federal court authority, destroying the Constitutional rights and privileges of its Black and indigent citizens charged with criminal offenses, and eroding America's confidence in the rule of law and its civil and criminal institutions of justice. Moreover, to add insult to injury, said criminal element is made up entirely of the very court officers and legal experts who have taken a solemn oath to uphold, defend, and protect the ideals enshrined in the U.S. Constitution.

Petitioner further asserts that, generally speaking, many of the State's highest profile court officers—from defense attorneys, to prosecutors, to Attorney Generals, to circuit court judges, and, yes, even some WV Supreme Court Justices—have discovered and are exploiting a "loophole" found in the U.S. Constitution's and AEDPA's edicts issued for federal court oversight regarding U.S. Constitutional claims, as enacted by our Founding Fathers and Congress, respectively, wherein the State is unlawfully, and despicably, utilizing court-appointed "panel attorneys" to engineer for failure the trial and post-conviction proceedings of its Black and indigent criminal defendants, and deliberately omitting the raising of the "federal question" from the same's post-trial petitions and proceedings in an effort to unlawfully circumvent federal court review of said Black and indigent defendants' unconstitutional State court convictions.

Accordingly, and specifically as it relates to this particular case—and based on the totality of the evidence, and Manford's and Prezioso's seeming zealous advocacy of him prior to closing arguments—Petitioner contends that during his underlying criminal trial, after he'd closed his case-in-chief on Friday evening, July 13, 2012, at which time it was obvious that he had proven his case and that his acquittal was imminent, that weekend, Judge Wilkes and Prosecutor Neely contacted defense counsel Manford and worked out an arrangement with him—(likely involving some sort of *quid pro quo* regarding favorable pleas and sentencing for one or more of his paying clients)—wherein Manford would not object to any portion of Prosecutor Neely's wholly improper and outrageous closing argument unlawfully attacking Petitioner's post-arrest/pre-trial silence and other improper remarks; and, in addition to that, Manford himself, working in direct conjunction with Judge Wilkes during closing arguments, would deliberately prejudice Petitioner's closing arguments by delivering an extraordinarily weak argument wherein he would tentatively concede Petitioner's guilt to the 2nd degree murder of Angela, and thereby definitively concede Petitioner's guilt to the 1st degree murder of Andre and 1st degree arson of the home, and thus assist the prosecutor in convincing the jury that the State had proven its case against Petitioner beyond a reasonable doubt, in an unlawful effort to avoid Petitioner's lawful acquittal. . . . And Manford obliged.

Then, after Petitioner had unwittingly thrown a potential monkey wrench into their plan to sabotage his post-trial motions and arguments for a new trial by filing his own *pro se* Motion citing the Federal Constitution and challenging with controlling case law the prosecutor's trial attacks on his post-arrest/pre-trial silence, Judge Wilkes, armed with an identical copy of Petitioner's *pro se* Motion which had been forwarded by Petitioner to his attorneys, compelled the circuit court clerk to alter the chronological record of the case by trashing Petitioner's originally filed and docketed *pro se* Motion and forging with a fraudulent time stamp a secondary copy of Petitioner's Motion; thereby making it appear upon superficial inspection of those documents that counsel's motion had been filed *before* Petitioner's, thereby making Petitioner's *pro se* motion appear "untimely," and thus, at least potentially, stripping it of State and Federal legal vitality.

Then, at the Sentencing Hearing—after first deceiving Petitioner regarding the Court's supposed non-receipt and non-filing of Petitioner's *pro se* Motion, but convincing him that that was a "good thing" so as to not alert the State to the strength and diversity of his claims "so early in the game"—and as Petitioner was being distracted by Prezioso, Manford, acting in collaborative concert with Prosecutor Neely and Judge Wilkes, fraudulently asserted the nonsense about Petitioner challenging the State's trial remarks attacking his silence "prior to indictment, prior to arrest," thereby successfully sabotaging Petitioner's post-trial motions for a new trial.

After accomplishing that, and though court-ordered to assist Petitioner in his direct appeal, Manford disappeared from Petitioner's case without a trace, abandoning him without notice or a properly filed motion to withdraw—primarily to avoid being questioned by Petitioner about the "prior to indictment, prior to arrest" remark made at the Sentencing Hearing. Prezioso, for his part, did his best imitation of a loyal and dutiful attorney, giving every appearance and impression that he was working diligently on behalf of Petitioner and the success of his direct appeal, yet, in reality, he was actually deceiving Petitioner at every turn, using procedural tricks and fraudulently crafted Assignment of Error designations to sneakily subvert what, if properly drafted, should have been a meritorious and relief-garnering direct appeal.

Then, the WV Supreme Court, having no doubt seen on the face of the record the clear cut conflict-of-interest between Petitioner and his counsel (as Petitioner's post-arrest silence ground could not even be properly analyzed and adjudicated without first noticing the conflict, as Manford's fraudulent post-trial motions' argument was fundamental to said analysis!), but also having no doubt seen the "federal question" conspicuously omitted from Petitioner's claims—and thus knowing that U.S. Supreme Court and lower federal court review of said claims would be prohibited for want of jurisdiction—took the roguish opportunity through a pure and simple "meeting of the minds,"[20] to unlawfully deprive Petitioner of almost every single U.S. Constitutional right he can think of—a fair

[20] No secret calls necessarily had to be made; no clandestine notes passed.

and unbiased tribunal, due process, equal protection of the law, meaningful review of his convictions, etc.—by unlawfully joining in on the scheme and conspiracy initiated by the Berkeley County Circuit Court and its officers to defraud Petitioner and the Federal Courts, by failing/refusing to properly and lawfully address the multitudinous improper prosecutorial remarks, judicial misconduct, and other plain and reversible errors apparent on the face of the trial record.

With that, and with the State courts having now successfully suppressed and secreted Petitioner's *pro se* Motion for a New Trial wherein the "federal question" was timely and precisely raised, and with Petitioner's criminally-conflicted counsel having deliberately omitted the raising of the "federal question" from their ineptly- and conspiratorially-drafted motion for a new trial and direct appeal brief drafted on Petitioner's behalf, this Court, the U.S. Supreme Court, lacking jurisdiction, had no choice but to deny Petitioner a Writ of Certiorari on his claims.

Following that, the State habeas court, Judge Michael D. Lorensen, in a clear and indisputable effort to keep Petitioner from ever successfully developing the record on his trial and direct appeal counsels' failures, omissions, and obvious conflicts, deliberately saddled Petitioner with conflicted habeas counsel, Ms. Lisa A. Green, who, in turn, deliberately failed to investigate, develop the record on, and properly brief in Petitioner's initial habeas action any of the obvious (to anyone with a law degree) "dead bang winner" claims raised and briefed in Petitioner's second and successive *pro se* State habeas corpus action (*E 105-36*); and who further deliberately weakened Petitioner's federal claims raised in his initial *pro se* habeas corpus petition by, among other things, failing to cite or argue the prejudice prong of *Strickland* on Petitioner's IAC claims. [See *E 623-29*].

And then, as the *coup de grace* to Petitioner's entire case and post-conviction proceedings, Judge Lorensen—in an effort to conceal evidence of the federal criminal conspiracy so obvious on the face of the court record—unfairly and unlawfully refused Petitioner his due process-mandated evidentiary hearing so as to deny Petitioner the opportunity to examine on record his trial and direct appeal counselors, and thereby potentially reveal their many failures, omissions, and obvious conflicts; and, instead, summarily denied and dismissed as either "fully and finally adjudicated,"

"waived," or meritless the entirety of Petitioner's obviously meritorious habeas corpus petition for relief, thereby leaving Petitioner's strongest Constitutional grounds forever *res judicata* in the State courts, and forever barring him from improving upon in both the State and Federal courts counsel's deliberately sabotaged and inadequately argued claims and getting a full and fair ruling thereon. And, again, despite the fact that both court's and counsel's crimes and conflicts were apparent on the superficial face of the record, and that this alone entitled Petitioner by both State and Federal law to an evidentiary hearing, the WVSC again affirmed.

And, finally, once Petitioner filed his 2254 petition in the Northern District Court of WV and the Respondent was ordered to show cause why Petitioner's petition should not be granted, the WV Attorney General's Office willingly joined in on the fraud, conspiracy, and suppression of Petitioner's *pro se* court filings raising the "federal question," by deliberately and conspiratorially failing to include said documents in its "Answer and Exhibits," in violation of Rule 5; and then moved for summary denial and dismissal of Petitioner's claims, asserting that Petitioner had "failed to raise a federal claim for which relief could be granted," or, in other words, had failed to timely and precisely raise the "federal question" in the State court. And, of course, due to 2254 federal court principles regarding State court deference and comity, when the last State court to review a claim summarily disposes of the claim—for example, by declaring it *res judicata*—the 2254 federal habeas court must "look through the denial to the last ***reasoned*** State court decision on the merits"[21] in order to decide if the State petitioner's federal claims have been decided "contrary to, or involv[ing] an unreasonable application of, clearly established Federal law, as determined by the [U.S.] Supreme Court." *28 U.S.C. § 2254(d)(1).* Which, in Petitioner's case, would be the direct appeal adjudication of his claims where, you guessed it, the federal question was deliberately and conspiratorially never raised. Thereby leaving the 2254 federal habeas court wanting for jurisdiction or otherwise forced to answer in the negative the "contrary to...federal law" question cited above, and thus ***requiring*** that

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[21] *Tice v. Johnson, 647 F.3d 87, 106 (4th Cir. 2011)(quoting Ylst v. Nunnemaker, 501 U.S. 797, 804 (1991).*

the 2254 habeas court dismiss Petitioner's 2254 petition for "failing to raise a federal claim for which relief could be granted."

Thus concluding the State court-sponsored *scheme* and *conspiracy* to deliberately engineer for failure Petitioner's trial and post-conviction proceedings and to defraud him out of his U.S. Constitutional rights merely because he is Black and indigent, and, what they thought (and where they miscalculated), too stupid to ever figure it out. And thereby ***ensure*** not only that he ***is convicted***, but that he ***stays convicted*** of his alleged crimes; and further thereby ***ensure*** that he be made to reimburse the State for the tens of thousands of dollars paid out of the State's coffers for the **Court Costs** (for his sham trial) and **Attorneys Fees** (for his conflicted counsel). [See *E 745-46*].

The entire scheme is remarkably clever, difficult to detect, usually almost impossible to prove, and was carefully crafted to trick and defraud Petitioner into believing that he was receiving effective and conflict-free assistance of counsel and meaningful review of his convictions, when he wasn't; to trick and defraud the U.S. Supreme Court and lower Federal courts into believing that Petitioner had failed to timely and precisely raise the federal question in the State courts below, when he hadn't; and to trick and defraud the citizens of WV into believing that they have an upright, honest, law abiding judiciary in their State, when they don't.

And it all came to light because of Petitioner's ***Actual Innocence***, which compelled him to utmost diligence and the filing of his *pro se* Motion for a New Trial and *pro se* Petition for Rehearing on appeal, each of which timely and precisely raised the "federal question," and thereby forced the State to reveal its criminal, conspiratorial hand by suppressing said documents.

As a direct result of the State's above-described "deliberately planned and carefully executed scheme" to undermine the "integrity of the [federal] judicial process"[22] and the Respondent's entry into said scheme by its unlawful suppression and secretion of Petitioner's *pro se* submissions raising the "federal question," and their other combined criminal deceptions to defraud, the State courts of

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[22] *Hazel-Atlas Glass Co., 322 U.S. 238, 244-45 (1944).*

WV (and its officers) have thus effectively defrauded not only the Petitioner and itself, but have also defrauded the U.S. Supreme Court on Certiorari (x 3) and the U.S. 2254 Federal Courts on habeas, by conspiring to defraud the same of their rightful and lawful jurisdiction in Petitioner's case; and thereby committed a score of State and Federal crimes in the process! And have thus opened the door for Petitioner's legitimate pursuit of a Rule 60 Motion to Reopen his 2254 Case for a Fraud on the *Federal* Courts. Thus, this Petition for a Writ of Certiorari regarding the same.

## REASONS FOR GRANTING THE PETITION

**Question 1.** When a federal criminal conspiracy initiated in the State court is then carried over into 2254 federal habeas corpus proceedings by a State Respondent's deliberate failure to include in its "Answer and Exhibits" court-filed documents required by Rule 5 to be included therein—court-filed documents which were suppressed and secreted in the State court specifically because said documents were the only ones in the entire State court record that timely and precisely raised the "federal question"—do such actions constitute a fraud on the *federal* court?

### A. The Lower Federal Court's Decision Conflicts with Decisions of the U.S. Supreme Court and Every Other U.S. Court of Appeals on What Constitutes a Fraud on the Federal Courts.

In Petitioner's Motion to Reopen his 2254 Case Under Rule 60 for, amongst other things, a Fraud on the Federal Courts, Petitioner asserted that the fraud described in the Statement of the Case, above, and in his other federal court filings (e.g. *App. D* at 12-18), was perpetrated *first* on the circuit court of Berkeley County, WV, but *simultaneously* and *peripherally* on the federal courts, **by** the circuit court of Berkeley County, and its officers, in an effort "to forever zap legal vitality out of Petitioner's duly- and timely-raised post-conviction federal Constitutional claim that his post-arrest/pre-trial silence had been unlawfully attacked at his trial, in a clear and, ultimately, successful attempt by the [circuit] court to convince subsequent reviewing bodies in Petitioner's case (namely...the Federal Courts) that Petitioner **had not** raised Federal Constitutional claims . . . in his post-trial motion for a new trial and subsequent post-conviction petitions for relief." [See ECF No. 122 at 6; and *App. D* at 19-20].

Petitioner further asserted in his Motion for relief Under Rule 60 that during Petitioner's 2254 proceedings a further fraud (whether viewed as a continuation of the first or as a separate and secondary one) was perpetrated *directly* against the federal courts when the Respondent failed to include in its Answer and Exhibits documents required by Rule 5 to be included therein, "in a deliberate and continuing effort by agents . . . and officers of the State courts to continue to unlawfully zap Petitioner's Federal Constitutional claims . . . of Federal legal vitality by tricking the federal courts into believing that the Petitioner **had not** [timely and precisely] raised Federal Constitutional claims in the State court." [See ECF No. 122 at 7; and *App. D* at 20-21].

Petitioner then presented the lower court with argument and citation to law showing that such a "deliberately planned and carefully executed [continuing] scheme" severely undermined the integrity of not only the State, but also the federal, judicial process, and thus, constituted a fraud on the *federal* court as well as the State court, as implicitly held by the U.S. Supreme Court and every other federal Court of Appeals in the land. [ECF No. 122 at 8-9, 14-17]. In short, the fraud was perpetrated on the ***federal court*** specifically because it ***resulted directly*** in the summary denial/dismissal of Petitioner's 2254 habeas corpus petition for relief.

In the District Court's Order denying Petitioner relief, the court used several different rationales to dispose of Petitioner's motion; the most important and pertinent for our purposes here being: (1) that Petitioner's motion is "barred as a successive § 2254 petition . . . [as it] presents new claims attacking the constitutionality of his state conviction." [See *App. B* at 12]; (2) that the documents filed by Petitioner which timely and precisely raised the federal question in the State courts and which were omitted from the Respondent's Answer and Exhibits were not *necessarily* required by Rule 5 to be included therein. [*Id.* at 15-17]; and (3) that Petitioner's "attempts to characterize his claims under Rule 60(d)(3)" fail and should be denied. [*Id.*].

In Petitioner's subsequent Petition for a COA to the 4th Circuit Court of Appeals, Petitioner argued that reasonable jurists would find the district court's assessment and denial of Petitioner's Rule 60 Motion for Relief debatable or wrong because: (1) Petitioner's motion is not a successive § 2254 petition presenting new claims attacking the constitutionality of his State conviction, "but is instead a mere description of [court officer actions] and court record facts used to demonstrate a fatal 'defect in the integrity of the federal habeas proceeding,' thus making it a 'true Rule 60[] motion . . . not subject to preauthorization requirement.'" [*App. D* at 22]; (2) Petitioner's claim fits "squarely within the 'black letter' Supreme Court case law's description of a fraud on the Court," as described in *Hazel-Atlas*, supra., at 246, and as further described in virtually endless lower federal court case law. [*App. D* at 25-29]; and (3) that Rule 5 is clear in its directive that "**any brief** that [a] petitioner submitted . . . contesting an adverse judgement or order in a post-conviction proceeding" **must** be included in the State's Answer and Exhibits. [*Id.* at 29-30].

The 4th Circuit Court of Appeals denied Petitioner a COA on these issues, agreeing with the district court that Petitioner's Motion Under Rule 60 was: (1) a "successive attack[] on his convictions for which he had not obtained prefiling authorization" (*App. A* at 2); and (2) that Petitioner had "not made the requisite showing" for issuance of a COA. [*Id.* at 3]. However, Petitioner contends that reasonable jurists would agree with Petitioner's analysis of fact and law articulating a fraud on the federal court, and would therefore find the district court's assessment and denial of Petitioner's Rule 60 Motion debatable or wrong. Thus, the 4th Circuit Court of Appeals' decision is in conflict with relevant decisions of the Supreme Court and other federal courts of appeals.

Additionally, Petitioner further contends that federal court conspiracy-law principles further support Petitioner's position that the fraud and conspiracy initiated in the State court, but carried

over into the federal court by the Respondent's latching onto the same by failing to include in its Answer and Exhibits the suppressed and secreted documents in question, should be viewed as a fraud on the *federal* court because federal court principles regarding a conspiracy are clear in that "the gist of conspiracy is, of course, agreement. [And] in order to support a determination of conspiracy, the evidence must be sufficient to permit the inference that the alleged coconspirators entered into a joint enterprise with consciousness of its general nature and extent." *United States v. Beech-Nut Nutrition Corp., 871 F.2d 1181, 1191 (2nd Cir. 1989).* The agreement "need not be explicit but may be tacit." *Id.*, citing *Direct Sales Co. v. United States, 319 U.S. 703 (1943).* "Though accidentally parallel action is not enough to establish a conspiracy," an individual or entity "may be deemed to have agreed to join a conspiracy if there is . . . some indication that the [individual or entity] knew of and intended to further the illegal venture[.]" *Beech-Nut Nutrition Corp.,* supra. "A single conspiracy, rather than multiple conspiracies may be found where the coconspirators had a 'common purpose.'" *Id.*, quoting *Kotteakos v. United States, 328 U.S. 750, 769 (1946).* "[W]hen the plot contemplates bringing to pass a continuous result that will not continue without the continuous cooperation of the conspirators to keep it up, and there is such continuous cooperation," such is a single conspiracy. *United State v. Kissel, 218 U.S. 601, 607 (1910).* "[A]s such . . . an overt act [done by] . . . one partner may be . . . [attributed to all the others] without any new agreement specifically directed to that act." *Id.*, at 608. Once a conspiracy is formed and initiated, and "so long as the partnership . . . continues, the partners act for each other in carrying it forward . . . [and] 'an overt act of one partner may be the act of all[.]'" *Pinkerton v. United States, 328 U.S. 640, 646 (1946).* In short, "the overt act of one partner in [the conspiracy] is attributable to all." *Id.*, at 647.

Based on the above federal conspiracy-law principles, Petitioner contends that he has shown "the agreement" (*Beech-Nut*), "consciousness of its general nature and extent" (*Id.*), "the intent to

further the illegal venture" (*Id.*), "the common purpose" (*Kotteakos*), and "the continuous cooperation of the conspirators to keep it up" (*Kissell*), amongst the various parties (including the Respondent), as the documents suppressed and secreted by the Respondent in the federal court were *first* doctored, suppressed and secreted by the initiating coconspirators in the State court. And that the clear purpose in doctoring, suppressing and secreting these documents was to create the impression that Petitioner had failed to raise the federal question in a timely and precise manner in the State court, as said documents were the only ones in the entire State court record that did so. Thus, by the Respondent's willful entry into, and/or latching onto, the conspiracy initiated in the State court and advancing it forward into the federal court with a common purpose, all of the acts of the plot engaged in *before* the Respondent's entry therein are thus still attributable to the Respondent as if the Respondent had committed or engaged in the acts himself; and, therefore, each and every fraudulent act initiated in the State court was, for all intents and purposes, also initiated by the Respondent in the federal courts. Therefore, whether taken as one large and continuing fraud and conspiracy from inception in the State court to culmination in the federal court by the State; or, as a secondary and smaller fraud and conspiracy by the Respondent in which it "merely" deliberately omitted from its Answer and Exhibits documents required by Rule 5 to be included therein; whatever the case, a glaring fraud was nevertheless committed on the *federal* courts. Accordingly, a Writ of Certiorari is fervently prayed.

**B. <u>This Issue Raises a Question of Significant Importance that Should be Settled by the Court.</u>**

In addition to the above, this case also involves a question of exceptional importance, because not only was this particular scheme and conspiracy—(wherein court-appointed panel attorneys, working in conjunction with State prosecutors, Attorney Generals, circuit court judges, and WVSC Justices, deliberately and conspiratorially failed to properly raise and argue the "federal question" and Petitioner's strongest grounds during his post-trial motions for a new trial in an effort

to deliberately engineer the preclusion of said grounds from legitimate direct appeal and State and federal habeas corpus review)—clearly enacted against Petitioner, but, through his independent and extensive research and investigation, Petitioner has discovered that this very same scheme has been, and *is being*, surreptitiously enacted against hundreds, if not thousands, of other unsuspecting Black and indigent criminal defendants (and possibly scores of civil court litigants as well) in the State of West Virginia—and is being done so in an effort primarily to advance the political agendas and careers of the court officers involved and to financially enrich themselves and their respective municipalities. [See *E 117, 128-30, 200-02 n.7, 699, 745-46*]. Thus, through the devious machinations of this scheme, the State of WV has essentially reestablished itself as a "slave state," wherein its criminally accused are tried and convicted without due process of law and then forced to work extremely-low paying prison jobs to reimburse the State for the Court Costs and Attorneys Fees paid out of the State's coffers for its sham trials and conflicted court-appointed counsels. *Id.* And all in blatant violation of the *8th Amendment, Section 1, of the U.S. Constitution*, which outlawed "involuntary servitude" (without due process of law) in our country more than 150 years ago. *Id.*

In short, the State of West Virginia's use of the above-described scheme and conspiracy to unconstitutionally gain and maintain the criminal convictions of its Black and indigent criminally-accused threatens to make the United States of America the first industrialized Nation in the modern world to re-institute slavery! Needless to say, a wide-ranging State and court officer scheme of this nature could be used to undermine the Constitutional rights of every person in America. And it matters not how much money you have or how intelligent you are; it matters not if you are white or black, rich or poor; Jew or Gentile, Christian or Muslim—if you have no knowledge of the esoteric science/art of law and are ignorant to its many complex procedures, you too can be duped and have your Constitutional rights unlawfully curtailed when corrupt legal experts conspire to engineer a layman's legal proceedings to ensure a particular outcome. In short, this is a clear and imminent threat to the continued effective functioning of our Nation's entire judiciary. Period, full stop.

Therefore, the question raised in this petition is of such exceptional and monumental

importance that a Writ of Certiorari is fervently prayed.

**Condensed Summary of the Reasons for Granting the Writ**

(1) The lower federal court's decision, summary denial, and denial of a COA in this matter conflicts with decisions of this Court and every other lower federal court in the Nation regarding what constitutes a fraud on the court. Additionally, considering the natural and vital connection and impact State court activities and procedures have on U.S. Supreme Court and 2254 federal court procedures and jurisdiction, this issue provides the Court the opportunity to expound on what constitutes a fraud on the federal courts as it relates to fraudulent acts initiated in the State court.

(2) This issue involves a question of exceptional and monumental importance that should be addressed by the highest Court in the land, as the scheme and conspiracy executed on Petitioner by the State in this case is also being executed on hundreds, if not thousands, of other WV citizens by the State of WV; and is effectively re-instituting "slavery" in the United States of America, and doing so under color of law. Which should terrify every person in America, and should be permitted to persist in our country for not a second longer.

(3) This issue provides the Court the opportunity to revisit and provide a modern day exposition on the absolutely vital and important role habeas corpus provides for a free people to maintain a free nation, especially at a time when the political and financial agendas of the States and their agents are seemingly paramount.

**CONCLUSION**

For the above extraordinary reasons, and in the interests of justice, Petitioner prays that this Honorable Court, the United States Supreme Court, grants this petition for a writ of certiorari; or, in the alternative, orders that the 4th Circuit Court of Appeals grants Petitioner a COA on this matter.

Date: 1/26/2026

Respectfully submitted,

Antonio Prophet, *pro se*