

No. 25-7078

**ORIGINAL**

Supreme Court, U.S.  
FILED  
**FEB 23 2026**  
OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Brian K. Schwab — PETITIONER  
(Your Name)

vs.

People of MICHIGAN — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Brian Keith Schwab # 388934  
(Your Name)

34625 26 MLE RD  
~~3500 North Elm Ave~~  
(Address)

LENOX, MI 48048-3000  
~~JACKSON, MI 49301~~  
(City, State, Zip Code)

N/A  
(Phone Number)

## QUESTION(S) PRESENTED

- 1) WAS SCHWAB'S A MICHIGAN PAROLEE FOURTH AMENDMENT PROTECTION/RIGHTS VIOLATED AFTER HE EXERCISED HIS CONSTITUTIONAL RIGHT TO WITHDRAW CONSENT TO WARRANTLESS SEARCHES PRIOR TO ANY SEARCH? SEE APPX H PG 1-18  
SEE ALSO APPX H IN ENTIRETY
- 2) DID THE CHARGING DOCUMENTS IN THIS CASE MEET THE CONSTITUTIONAL STANDARD UNDER THE 14<sup>TH</sup> AMENDMENT DUE PROCESS CLAUSE OR ARE THEY NULL AND VOID HOLDING NO WEIGHT? SEE APPX H PG 19-27 AS WELL AS APPX H ENTIRELY
- 3) WAS SCHWAB'S MIRANDA RIGHTS SCRUPULOUSLY HONORED OR IN FACT VIOLATED FAILING TO MEET CONSTITUTIONAL REQUIREMENTS?  
SEE APPX H PG 28-34 AND APPX H ENTIRELY
- 4) WAS THERE IN FACT A BRADY VIOLATION AND IF SO WAS SCHWAB ENTITLED TO THE ONLY RELIEF POSSIBLE - DISMISSAL WITH PREJUDICE?  
SEE APPX H PG 35-48 AS WELL AS APPX H ENTIRELY
- 5) WAS DEFENSE COUNSEL'S MOTION TO SUPPRESS ERRONEOUSLY DENIED AND IN CONFLICT WITH FEDERAL PRECEDENT OF THIS COURT  
SEE APPX H PG 133-142 AS WELL AS APPX H ENTIRELY
- 6) WAS SCHWAB DENIED HIS SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL AT ALL LEVELS OF THIS CASE OR AT ANY STAGE OF THIS CASE?  
SEE APPX H PG 71-100 AS WELL AS APPX H ENTIRELY
- 7) WAS MR SCHWAB'S RIGHT TO SPEEDY TRIAL GUARANTEED BY FEDERAL STATUTE AND THE CONSTITUTION DENIED AND/OR VIOLATED BEYOND THE THRESHOLD NECESSARY TO BECOME CONSTITUTIONALLY PREJUDICIAL?  
SEE APPX H PG 49-55 AS WELL AS APPX H ENTIRELY

QUESTION(S) PRESENTED

- 8) WAS THE EVIDENCE IN THE CASE ILLEGALLY SEIZED THEN SEARCHED IN VIOLATION OF THE CONSTITUTION AND SHOULD THAT EVIDENCE HAVE BEEN SUPPRESSED? SEE APPX H PG 56-70 AS WELL AS APPX H ENTIRELY
- 9) WAS MR SCHWAB'S RIGHT TO DUE PROCESS OF LAW GUARANTEED BY THE 14<sup>TH</sup> AMENDMENT VIOLATED AND IF SO DID THE STATE LOSE ALL JURISDICTION IF ANY WAS HAD TO BEGIN WITH? SEE APPX H PG 161-167 AS WELL AS APPX H ENTIRELY
- 10) DID THE STATE GOVERNMENT'S ACTIONS CAUSE THE COURT PROCEEDINGS TO BECOME SO FUNDAMENTALLY UNFAIR THAT MR. SCHWAB LOST ALL CHANCE AT RECEIVING A CONSTITUTIONALLY FAIR TRIAL?  
SEE APPX H ENTIRELY
- 11) WAS THE PLEA RENDERED IN THIS CASE ILLUSORY ENOUGH TO FALL BELOW THE CONSTITUTIONAL THRESHOLD TO BE KNOWINGLY, VOLUNTARILY AND INTELLIGENTLY MADE AND UNDER MR SCHWAB'S OWN FREE WILL?  
SEE APPX H PG 147-149 AS WELL AS APPX H ENTIRELY
- 12) WAS SCHWAB'S SENTENCED ON ACCURATE INFORMATION MEETING THE CONSTITUTIONAL STANDARD OF SUFFICIENCY OR SHOULD HIS JUDGMENT BE VACATED? SEE APPX H PG 150-158 AS WELL AS APPX H ENTIRELY
- 13) WHEN LOOKING AT THE OVERALL PICTURE OF REALITY, WAS IT ENOUGH SHAME AND SUFFERING OF MR SCHWAB AND HIS FAMILY TO TRULY STATE BEYOND A REASONABLE DOUBT THAT MR SCHWAB IS IN FACT GUILTY?  
SEE APPX H ENTIRELY

## LIST OF PARTIES

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

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

## RELATED CASES

- \* People v. Schwab, # 18-11018-FC, 17<sup>th</sup> circuit Kent county
- \* People v. Schwab, # 356443, Michigan Court of Appeals, Direct Appeal
- \* People v. Schwab, # 163423, Michigan Supreme Court, Appeal
- \* People v. Schwab, # 18-11018-FC, Post Conviction, Trial Court
- \* People v. Schwab # 371624, Michigan Court of Appeals, Post Conv. Appeal
- \* People v. Schwab, # 168385, Michigan Supreme Court, Post Conv. App.

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

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

**OPINIONS BELOW**

For cases from **federal courts**:

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

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

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

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

For cases from **state courts**:

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

- reported at People v. Schwab, 2023 Mich. LEXIS 703; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the Michigan Court of Appeals court appears at Appendix A to the petition and is

- reported at People v. Schwab, 2021 Mich. App. LEXIS 3778; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

## JURISDICTION

For cases from **federal courts**:

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

No petition for rehearing was timely filed in my case.

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

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

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

For cases from **state courts**:

The date on which the highest state court decided my case was MAY 2<sup>nd</sup>, 2023.  
A copy of that decision appears at Appendix C.

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

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

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

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

**FOURTH AMEND:** The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation and particularly describing the place to be searched, and the persons or things to be seized ...

**FIFTH AMEND:** 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 ...

**SIXTH AMEND:** In all criminal prosecutions, the accused shall enjoy right to speedy trial and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which districts 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 defense ...

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

**EIGHTH AMEND:** EXCESSIVE BAIL shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted

**FOURTEENTH AMEND:** All person's 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 citizen's 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

### FACTS TO QUESTION ONE.

- (1) ON July 31<sup>st</sup> 2018 PARKIE AGENT MITCHEL ARREDS, along with WYOMING POLICE OFFICER MATTHEW ROOKS arrived at defendant's Motel Room regarding an anonymous parkie tip
- (2) Agent Arrends was given my cellular phone by alleged victim.
- (3) Agent Arrends demanded the password to the phone and defendant kindly refused, then reminded agent Arrends that all verbal and written consent to warrantless searches previously given was provided by defendant in a legal notarized document dated July 15<sup>th</sup> ~~2018~~ 2018 and served upon his office
- (4) Agent Arrends threatened defendant that if he did not provide the password he would seek sanctions and defendant still refused.
- (5) Agent Arrends returned to the police cruiser where defendant was detained, and asked defendant if he needed any phone numbers out his phone before being transferred to the County Jail.
- (6) Defendant specifically and clearly stated Agent Arrends had very limited consent to enter only the phones contact list to provide defendant with his attorney number, however agent took the phone once it was unlocked, walked away and manually took the steps to disable the phones locking mechanism and then proceeded to thoroughly search the entire phones contents.

## STATEMENT OF THE CASE

- (7) Agent Arrends then refused to give defendant any numbers out of his phone, including the attorney's number.
- (8) Agent Arrends upon searching the phone and finding no evidence of wrong doing went outside his authority given by law and without reasonable suspicion or probable cause decided to transfer the phone to the Michigan State Police Computer crime lab on August 1<sup>st</sup> 2018 @ 2:30 am and placed it into the possession of Gabriel Cedillo with a specific request to forensically search the phone and reconstruct all past data that has been deleted back to date of phones manufacture.
- (9) Defendant did not have diminished expectation of privacy in his cellular phone even as a parolee because there was no cellular phone/internet agreement signed by defendant describing the phones as being allowed to be warrantless searched at any time. These agreements are very device specific and there is not one in existence pertaining to defendant's cellular phone that was ultimately searched.
- (10) Agent Arrends did not have reasonable suspicion because his only suspicion was based on defendant's criminal record alone which does not amount to any reasonable suspicion by itself.
- (11) Agent Arrends provided no articulable reasons and no particular/objective basis for his suspicion to ignore defendant's refusal of consent and to continue with his search of the phones and to seek aid in searching beyond plain view of the phones contents.
- (12) Agent Arrends had no factual information to uphold the search.
- (13) The phone was searched a second time which was by MSP Gabriel Cedillo.
- (14) Agent Cedillo performed a forensic ~~cellular~~ cellular device data extraction upon defendant's phone using a program called "celebrite ufed4pc" along with "celebrite physical analyzer" which extracts data such as phone lock, pictures, video, text messages, call logs, and also reconstructing deleted mobile data, passwords, file system dumps etc.

QUESTION(S) PRESENTED

- (15) Agent Cedillo completed this search and reconstruction then viewed the results before speaking with Wyoming detective Margaret McKinnon who falsely claimed to have a warrant.
- (16) Wyoming detective McKinnon met agent Cedillo and together they completed a third search upon the phone this time making a mirrored copy of the phones data and then created five still shot photos from a video that was reconstructed from deleted data. They took these pictures to interview several people including the alleged victim at the child advocacy center, on August 2<sup>nd</sup> 2018
- (17) Detective admitted she took learned information from alleged victims interview regarding seized photos to file probable cause for the warrant to search the cellular phone and seize the ~~photos~~ <sup>photos</sup> ~~to interview her~~ after she already illegally searched the phone and seized the photos prior to alleged victims interview.
- (18) Detective listed probable cause on the affidavit for search warrant on defendants phone that "The victim was forensically interviewed at child advocacy center and identified her pink/white/blue flowered underwear and her teal/black/white bathing suit and stated she didn't know how photos of her were on defendants phone." and "The mother identified the underwear and bathing suit as belong<sup>ing</sup> to her daughter" when only way these statements could be made is if detective already seized the photos from the phone in order to show the alleged victim and her mother to claim mere identification of the clothing as probable cause.
- (19) Agent Cedillo and detective McKinnon as well as agent Arments made the intelligent, and willing and free choice to respectfully search the defendants phone.

QUESTION(S) PRESENTED

- (20) Detective McClaman intentionally searched defendant's motel room circumventing warrant requirements by pleading with alleged victim's mother & motel manager of janitorial services to use her master key to allow detective entry into defendant's room knowing neither ~~because~~ detective or the manager had authority to allow detective to enter defendant's motel room.
- (21) Detective ~~once~~ in defendant's motel room started searching closed containers and drawers where she seized a birthday card of alleged victim's / papers / was ~~gone~~ and took pictures with her camera phone of all defendant's prescriptions and over the counter medications. None of these things were in plain view w/o first opening containers and drawers.
- (22) Detective upon entering defendant's motel room started removing furniture from its resting place to which a stand wedged between the bed and the wall where she seized a five page letter that was behind the stand.
- (23) Kent County prosecutor Bonnie Prewette acting under color of law and her own free will typed and mailed a letter to the Kent County Correctional Facility mailroom command requesting them to seize all defendant's ~~incoming~~ and outgoing mail, open it, copy it, and turn copies over to the government.
- (24) Prosecutor Bonnie Prewette in her letter to mail room stated no probable cause or reasonable suspicion to believe that defendant posed a risk to himself, to others, or to institutional security and no proof defendant was trying to intimidate any witness or coach anyone in testimony. Justifying her request to seize, open, copy and turn over defendant's mail.
- (25) Prosecutor Bonnie Prewette caused a chain of actions resulting in the seizure and invasion of defendant's confidential correspondence between defendant and defense counsel as well as caused the forced production of private papers which ~~caused~~ caused defendant's own words to be used against his right to remain silent and against self incrimination.

QUESTION(S) PRESENTED

(26) Detective And prosecutor Bonnie Brewette filed for an arrest warrant on August 13<sup>th</sup> 2018 listing Probable Cause as;

- \* "Defendant did penetrate victim 13 under digital/vaginal" However detective knew he believed to be victim stated nothing happened to her by defendant.
- \* "Defendant did engage in sexual contact with 11yr old Jolene Vandeveld" However Jolene already told detect defendant did no sexual or inappropriate thing to her.
- \* "Defendant knowingly Allowed 11yr old to engage in CSAM for producing any sexual material" However Jolene already told detective defendant did nothing to her and she had never been sexual or inappropriate with anyone.
- \* "Defendant did use his smartphone to produce CSAM" However detective already knew michigan state police crime labs confirmed defendants phone was not used to produce/make/share/alter/or forward alleged CSAM.
- \* "Defendant did fail to comply with sex offender registry requirement" However it was known by detective that defendant gave motel main address as place he spent the majority of his time as he lacked a temporary or fixed Residence.

(27) Detective listed Probable Cause to Arrest as;

- \* Videos/photos with 11yr old being digitally penetrated by defendant
- \* Swimsuit and underwear in photos identified by alleged victim and her mother
- \* Defendant phone had CSAM
- \* Defendant was in violation of SOGA - Wrong Address
- \* Defendant stated 11yr old put his hand on her crotch twice
- \* Defendant SOGA - not around kids

## QUESTION(S) PRESENTED

- (28) Detective presented this Affidavit for arrest/charges drawing her own inferences and chose to present those inferences to the Magistrate under guise of facts instead of presenting facts as known at that time.
- (29) Detective sought warrants after she realized she found alleged incriminating evidence and needed to cover up her illegality.
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## FACTS QUESTION TWO:

- (1) Affiant/detective Margaret McKinnon filed "Affidavit of probable cause for felony complaint" on 8-13-18
- (2) Detective described events allegedly proving elements of crimes charged, however events detective listed were unfounded, her bare assumptions, and were directly rebutted by the alleged victim, defendant, and evidence.
- (3) The events detective stated were gained information obtained through three separate illegal searches upon defendant's constitutionally protected "effect" to wit his cellular phone.
- (4) Detective listed probable cause to arrest defendant based off her assumptions, not the facts she knew of at the time as well as probable cause information stated was unfounded, stale, and fruits of a 4<sup>th</sup> Amend. violation.
- (5) Detective swore under oath to this affidavit that the information listed was true however prior to detective creating this affidavit and swearing to it, she knew factual information that what she believed was in fact false yet she stated false information on the affidavit anyways.

QUESTION(S) PRESENTED

- (6) Detective disregarded the truth that there was no way anyone could mistake probable cause when the facts known didn't amount to defendant committing any crime against alleged victim so she made the intentional choice to state unfounded information and lies under guise of being facts
- (7) The Complaint in this case is defective/nucial and legally required dismissal due to it being (a) unsigned, (b) unsigned, (c) The process issued and required by M.C.R. 2.116(c)(2) was insufficient (d) The service process required by M.C.R. 2.116(c)(3) was insufficient.
- (8) Defendant was never properly served/issued/provided a copy of the complaint against him due to (a) it lacked the signature of the complaining witness, (b) was not sworn/subscribed under oath by a Judge/magistrate (c) lacked the signature of the Judge/magistrate
- (9) Detective filed a Complaint that moreover contained statements based on detectives McKinnon's information and belief which are insufficient under the laws mandate that facts must be made on personal knowledge.
- (10) on the record detective McKinnon relied on inadmissible evidence illegally seized.
- (11) on the record detective McKinnon and detective Kroschell confirmed their version of events that occurred to fit the requirements of the law.
- (12) on the record while swearing to Facebooks and phone warrants/Affidavits detective McKinnon admitted to illegally seizing and searching evidence from the phone, social media, home, and mail.

QUESTION(S) PRESENTED

- (13) Detective McKinnon admitted to re-writing/wording and tampering with witness statements to fit her understanding, sense, and liking.
- (14) Detective's opinions and self serving conclusory statements in the charging documents/ complaint are inappropriate and were required to be stricken because they were not reliable or fact based.
- (15) The complaint cannot certify, verify, confirm or endorse that its supported to be true, legal, valid under requirements of law and court rule
- (16) The prosecution did not meet with Constitutional sufficiency the precise cause of action that alleges the breaking of statutes ④ MCL 750.500B; ⑤ MCL 750.520C; ⑥ MCL 750.145C(2); ⑦ MCL 752.796; ⑧ 752.7973(F); and ⑨ MCL 28.729(C)(4) which denied the defendant proper notice and to be properly informed to be able to defend against said charges.
- (17) If complaint was to be reviewed under the four corner rule and only after removing tainted information, false information, and bare conclusions of detectives there will remain no legal probable cause for any complaint to allege defendant committed a crime.
- (18) The prosecution failed to meet the requirements of the prosecutor office in that she failed to ensure officers information did not consist of conclusions but of facts

QUESTION(S) PRESENTED

- (19) The prosecution failed to meet the requirements of the prosecutor office in that she failed to have/provide certified sworn copies of all documents upon which the affiant relied
- (20) The prosecutor failed to meet the requirements of the prosecutor office in that she failed to ensure affiant's information did not consist of conclusions but of facts admissible as evidence.
- (21) The prosecutor failed to meet the requirements of the prosecutor office in that she failed to show affirmatively that affiant is sworn as a witness to testify completely there to
- (22) The entire unsigned/unsworn complaint is hearsay and the defendant has since day one objected to it as it is arbitrary and frivolous.
- (23) The information/complaint does not establish "probable cause" nor "reasonable grounds" since the information it is based on is vague, ambiguous, and come from untested sources.
- (24) The complaint is unlawful and unconstitutional, all inferences are incompetent hunches and are uncorroborated. Detective possessed no means or legal training to test video/photos or the veracity of the statements about content of said video/photos.
- (25) The original plea instrument which sets forth claims for relief and cause of action against defendant is unconstitutional and lawfully null and void as its not supported by oath that the information presented is true, correct, and complete and does not uphold the 14th Am. right to due process
- (26) The unsworn/unsigned complaint is not supported by oath violates michigan procedural law and is "void ab initio"

QUESTION(S) PRESENTED

FACTS TO QUESTION THREE:

- (1) on August 9<sup>th</sup>, 2018 detective Margaret McKinman and officer April Kroschell came to De Muskegon County Jail to interrogate me which interrogation lasted roughly 2.5 hours
- (2) Detective wrote "yes" on Miranda form indicating I understood/waived Miranda instead of myself. I only acknowledged they were read to me, not that I understood them or waived Miranda.
- (3) During interview I invoked my right to remain silent and against self incrimination which detective blatantly ignored.
- (4) During interview I attempted to exercise my right to end interrogation and return to my cell yet detectives stopped me by standing in my way under false pretense that I had to talk to them because I was on parole and also needed to wait for jail officer escort.
- (5) The detective refused to end interrogation once I exercised his right as required by law, rule, procedure.
- (6) I clearly kept repeating I was "confused" and did not understand anything being said to me so its clear I didn't understand not even when detective maliciously wrote "yes" on the waiver form instead of myself
- (7) I stated interview was done and stated to leave, no longer wishing to speak with police.
- (8) I answered some questions and volunteered some statements not material to the case but that did not deprive <sup>me</sup> of my right to refrain from answering any further inquiries until I met with counsel and consented to questioning.

## QUESTION(S) PRESENTED

- (9) I was swept from unfamiliar surroundings into police custody surrounded by antagonistic forces and subjected to the techniques of persuasion by detectives
- (10) Detective falsely represented under false pretenses that I was required to speak to them as a requirement of parole.
- (11) Trial Judge erred in stating/ruling that Miranda was not violated because I re-initiated the conversation when that is not true and law also says otherwise than what trial judge said
- (12) Miranda recording of statements made by defendant were nothing other than the product of compulsion.
- (13) Detectives never promptly ended interrogation as required by law nor gave a significant break in questioning as required nor gave a new set of Miranda rights as which is required by law.
- (14) Detectives during interrogation used "improper police misconduct" which law is clearly against.
- (15) My due process rights were violated when the trial court admitted instead of suppressing the Miranda recording as evidence over objection because it contained according to police a confession when it is taken as a confession its coerced
- (16) This alleged confession was obtained in violation of law/rules by detectives direct and/or implied promises.
- (17) Nothing I said was voluntarily made nor intelligently made because I was experiencing psychotic features; going through withdrawal and was being deprived medication by the jail causing me to be incompetent and of unsound mind.

## QUESTION(S) PRESENTED

- (18) No one scrupulously honored my invocation/right to remain silent
- (19) Detectives never said there was an attorney available to speak with me and the failure to do so precluded any knowing and intelligent waiver of Miranda rights.
- (20) I was interviewed a second time regarding joined case #20-00609-FH where I was never given a waiver/Miranda card, waiver form and did not waive any right.
- (21) During this second interview I requested my attorney several times and finally told detectives to leave or charges would be filed in civil court.
- (22) Detectives then locked me in the interview room and went and illegally searched my cell rumaging through legal folders, took pictures with a cellphone, and left with papers out of my cell from legal files.

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## FACTS TO QUESTION FULL:

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- (1) Prosecutor office ignored repeated request by myself and defense counsel to obtain discovery of Brady material, witness statements, expert witness proposed testimony/reports etc with bad faith motives and ill intentions for close to two years.
- (2) Detective/prosecutor withheld two interviews disc from two separate interviews of alleged victim where alleged victim clearly stated defendant did nothing sexual or inappropriate to her.

- (3) These interview discs were only turned over after defendant brought them to the trial Judges attention on the record after twenty months of being withheld however it was too late to fairly utilize them.
  - (4) The Judge was in violation when he heard of these Brady violations, acknowledged them then refused to hold/schedule a proper hearing to determine if there's been non compliance of discovery rules and to inquire into the cause thereof which was an abuse of discretion.
  - (5) The prosecution was in clear violation of discovery rules which went unsanctioned.
  - (6) Defendant was denied due process by this failure to disclose Brady material and other discovery.
  - (7) The trial Judge/detective/and prosecution ignored repeated request for discovery of police/detective personnel files to verify that they were previously sanctioned for violations of numerous defendants rights in the past and that was in fact being done in my case.
  - (8) Detective failed to turn over witness statements including Brock NEBELS statement that Detective admitted to having rewrote and re-worled.
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### FACTS TO QUESTION FIVE :

- (1) Defense Counsel Anna Rapa filed suppression motions to try suppressing evidence illegally seized, Miranda recording, statements made by me, etc
- (2) I filed several pro per motions to suppress evidence and all were ignored.
- (3) I filed two motions to "strike, suppress the evidence and dismiss the information" and both were erroneously denied.

- (4) The Judge erroneously denied Counsel's motion claiming that defendant's phone was allowed to be searched without a warrant solely because he was on parole and states claim there was a consent to search form signed by defendant in parole officer Mitch Arrinds possession yet could not produce said consent form.
- (5) on July 15<sup>th</sup> 2018 a full two weeks prior to my arrest I served the parole office etc with a valid legal document withdrawing all written and verbal consent to warrantless searches/seizures and my acceptance of the consequences of refusing any search.
- (6) I had a right under established law to deny parole/police or anyone to search me, my belongings or my property.
- (7) Not only did I provide that legal document but also told Parole Agent he did not have consent to search phones data/content and none else had a warrant or permission.
- (8) There was no consent form with my signature allowing parole to search said cellular phone.
- (9) Parole agent did not and could not provide articulable reasons and particular/objective basis for his suspicion to search my phone himself or to seek aid in data reconstruction/searching beyond plain view.
- (10) Parole Agent went beyond scope of limited consent to enter phones contacts list only.
- (11) Detective admits in paragraph two of the Facebook warrant affidavit that she brought five still shot photos to interview alleged victim who identified her clothes in photos as hers which then lead detective to apply for a warrant for the cellular phone in fact admitting she had the photos off the phone before she had the warrant to seize those photos.
- (12) In detectives affidavit for search warrant on my cellular phone she stated that alleged victim was interviewed at the CAC and identified her clothes from the photos taken from my cellular phone.

- (13) The court erroneously ignored the United States Supreme Court established law of *Riley v. California* when they ruled police needed no warrant to search defendant's cellular smart phone.
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### FACTS TO QUESTION SIX :

- (1) I was appointed defense counsel Justin McCarthy in the beginning stages of the proceedings in Wyoming 62A District Court and during his time of representing me he was ineffective in the following ways;
- (2) Counsel failed to conduct a reasonable investigation which he had a duty to do and his failure to conduct a investigation into the facts and evidence of my innocence; facts and evidence of the fabrication of evidence by detective.
- (3) Counsel deprived me of the effective assistance of counsel right I was entitled to when he refused/failed to investigate and obtain records from the alleged victims counseling sessions.
- (4) Counsel also refused my request for him to do an investigation on the claims of the alleged victim that defendant was innocent and did nothing to her, and to obtain her counseling records etc to verify and use as evidence to state that there was no disclosure of abuse at all and which would discredit the presumption's of the state that alleged victim identified herself in the illegally seized photos/videos.
- (5) Counsel failed to investigate and obtain information from witness Kathrine Martin who could of provided exculpatory evidence/testimony.
- (6) Counsel was constitutionally ineffective when he failed to conduct a proper investigation of police reports and to interview witnesses in my case especially where detective unknowingly admitted to tempering with witness statements, fabricating evidence and several other constitutional violations.
- (7) Counsel did not know enough about the evidence or the weaknesses in the prosecution's case not to use it or at least investigate where it would lead.

- (8) Counsel was ineffective when he failed to object to the indictment/information/complaint and move for its dismissal where the document was not properly served or authoritative due to it lacking the required signatures and swearing under oath.
- (9) Counsel was ineffective for refusing to move for the recusal of the judge on grounds of Bias/prejudice/impartiality not only against myself but against my defense, as well when in counsel's own words the judge is catholic and biased against those accused of crimes against women and children.
- (10) Counsel was ineffective because instead of listening to alleged victim and myself that nothing happened he continually only put forth effort into me becoming informant on another case or pleading out, even going as far as to say my guidelines would start at 30 years and I would loose at trial if I went because they didn't need a actual victim to convict me when legally that's not the case.
- (11) Counsel despite clear evidence refused to listen and argue that the evidence in police custody was illegally seized from my cellular phone, and home with no valid warrant which the warrant was obtained after the fact and there was proof of this.
- (12) Counsel failed to object to ~~the~~ information/complaint/arrest warrant related to this case even after I pointed out evidence that the documents claimed I sexually assaulted a 11yr old child to wit Julene Vanderveide and allowed her to engage in Abusive Activity knowing alleged victim Julene said I did nothing to her and she made no video. That there was no evidence of the alleged crimes ever being slightly possible.
- (13) Counsel failed to file a motion to dismiss on any of the meritable grounds; improperly served complaint/information; lack of evidence; lack of probable cause to arrest/charge; claiming false witness in order to fabricate charges; due process violations; speedy trial violations; miscarriage of justice; prosecutorial misconduct; malicious misconduct/prosecution etc.
- (14) Counsel failed to file any pretrial motions and he continued to advise me to waive preliminary exam along with other errors which constituted ineffective assistance of counsel
- (15) Counsel failed to move to suppress prior convictions and allegations proven false
- (16) Counsel provided constitutionally ineffective assistance of counsel for failing to investigate and call witnesses which counsel ~~recognized~~ recognized could provide beneficial testimony which would of effectively defeated essential elements of the states case.

- (17) Counsel provided erroneous advice on clear points of law when he advised me no victim was needed to convict me of the charges and that advice lead to me being denied a fair trial because without the erroneous advice I would of never waived my preliminary examination/probable cause hearings.
- (18) Counsel failed to object to prosecutorial misconduct because the prosecutor had knowledge of detectives illegal actions, the lack of probable cause and was in fact withholding exculpatory evidence to cover up the fabrication of the case.
- (19) Counsel failed to object to police accusation that they believed a/c crime was committed by defendant against alleged victim Myra Jstene Vandeveldde which was plain error...
- (20) Counsel failed to exercise reasonable professional judgment when deciding to forego particular investigations relevant to the defense including his failure to identify the factual predicate of ~~each~~ each of the charged counts; his failure to consult a ~~defense~~ witnesses and his failure to sufficiently develop a defense to present
- (21) Counsel was ineffective when he refused to affirmatively assist in defendant's defense because he made no effort to present aiki witnesses whos testimony even if not conclusive would have been useful.
- (22) My Third Trial Attorney WAS ANNA RAPA who was appointed after my second attorney Lindsey Dubis was removed against my wishes because the prosecutor initiated an intrusion into confidential attorney-client mail. miss Rapa was ineffective in the following way;
- (23) Counsel conducted no independent investigation when she had a duty to do so
- (24) Counsel refused to obtain alleged victims counseling records to prove no abuse was disclosed
- (25) Counsel ignored my request to investigate the alleged victims claims of my innocence which would of lead her to be able to discredit the states presumption that alleged victim identified herself in photos/videos and that she was traumatized, lying and in love with me.
- (26) Counsel failed/refused to interview defendant's mother who was a exculpatory witness as she was at my home the right alleged photos/videos in question were taken and physically saw the actual female who was in said photos/videos wearing those clothes identified by alleged victim.
- (27) Counsel misinformed me on applicable law when she told me that the state did not need a victim complaining of being sexually assaulted, that all they needed was detective and the identification of clothes in photos/videos
- (28) Despite my inquiries to counsel regarding my innocence and ~~her~~ reluctance to plead anything but not guilty she did nothing but continue to advise me to plea because I would be found guilty at trial without a actual victim being identified.

- (29) Counsel failed to interview witnesses which could of brought out the substantial weaknesses of the states case.
- (30) Counsel did not know enough about the evidence to make a reasonable and sound decision not to use it.
- (31) Counsel failed to move to quash/dismiss the defective information/complaint on grounds that it was invalid and it was not signed/ sworn nor was it properly served and were its multiplicity violated the double jeopardy clause.
- (32) Counsel refused to seek recusal of the Judge were the Judge was biased/prejudicial against defendant and his defense and was not impartial where he let his hatred towards defendants of crimes against children get in his way of his decisions.
- (33) Counsel prejudiced me by not investigating/obtaining mitigating evidence.
- (34) Counsel failed to alert the Judge and head prosecutor that the prosecutor on the case threatened to penalize defendant with harsher sentence if he exercised his right given by head prosecutor to remand back and run preliminary hearing.
- (35) Counsel failed to properly argue that all the evidence was illegally seized and that the warrant was invalid because it was obtained after the illegal search and tainted information in its affidavit even after the Judge clearly stated on the record that if she would attack the warrant then there would of been an actual issue.
- (36) Counsel failed to attack the illegal and defective complaint/information/arrest warrant based on state/false information that was fabricated in order to falsely accuse defendant.
- (37) Counsel failed to file a motion to dismiss the case on clear meritable grounds.
- (38) Counsel failed to seek suppression of the past case conviction and past allegations proven false.
- (39) Counsel failed to interview/utilize exculpatory witness to alleged night of crime who could of effectively defeated essential elements of the states case.
- (40) Counsel failed to investigate factual information to support the no contest plea that was conditional.
- (41) Counsel failed to investigate that which could of lead to my innocence.
- (42) Counsel misadvised me that if I did not take the offered plea and chose to go to trial I would loose and be found guilty on the clothes identification case and I would not have plead out without this incorrect advice.
- (43) Counsel failed to investigate family background; Abusive and violent childhood; loss of family members; mental defects; social background; psychological background; and to present mitigating evidence at the sentencing phase.

- (44) Counsel failed to properly prepare for evidentiary hearing and ignored clear evidence in my favor.
- (45) Counsel failed to make reasonable efforts to obtain and review material she knew the prosecution would probably rely on as evidence of aggravation.
- (46) Counsel failed to interview defense clinical psychologist about his investigation/findings and to hire trained mitigation specialist.
- (47) Counsel failed to exercise reasonable professional judgment when deciding to forgo particular investigations and to sufficiently develop any defense to present at trial.
- (48) Counsel made no effort to present alibi witness who's testimony even if not conclusive would of been useful.
- (49) Counsel failed to object to prosecutorial misconduct.
- (50) Counsel failed to object to detective and parole agents perjured testimony at the evidentiary hearing.
- (51) Counsel failed to object to the alleged victims mother and others testimony/statements concerning child's hearsay statements which were not properly admissible as excited utterances
- (52) Counsel failed to object to the states misconduct of concealing Brady material.
- (53) Counsel refused to seek a Frank's Hearing to challenge the warrants and their affidavits that contained perjured statements; false claims and the reckless disregard for the truth.
- (54) I was appointed Appellate Counsel WEIL Liethauer who was ineffective in the following ways;
- (55) Counsel failed to raise ineffective trial counsel claim
- (56) Counsel failed to raise the states suppression of exculpatory evidence/information
- (57) Counsel failed to supply the court with proper documents to support appeal.
- (58) Failed to raise states violations to my Constitutional rights.
- (59) Counsel failed to raise misapplication of state/federal law by the trial court
- (60) Counsel failed to raise due process violations
- (61) Counsel failed to raise police misconduct
- (62) Counsel failed to raise perjury by state witnesses.
- (63) Counsel failed to raise Brady violations
- (64) Counsel failed to raise states Abuse of process

- (65) Counsel failed to raise the fabrication of evidence by the state
- (66) Counsel failed to object to malicious prosecution
- (67) Counsel failed to raise denial of Exculpatory witness to Address Court
- (68) Counsel failed to adequately communicate with me the defendant.
- (69) Counsel failed to request a Bill of Particulars
- (70) Counsel failed to request officer notes
- (71) Counsel failed to request state witnesses criminal records
- (72) Counsel failed to obtain Alleged victims Counseling records
- (73) Counsel failed to obtain witnesses/alleged victims interview recordings
- (74) Counsel failed to raise invalid search warrants
- (75) Counsel failed to raise invalid arrest warrant
- (76) Counsel failed to raise lack of probable cause to search/arrest
- (77) Counsel failed to raise lack of required victim defined by MCL 250.5209
- (78) Counsel failed to raise speedy trial violation
- (79) Counsel failed to raise grounds for relief from plea
- (80) Counsel failed to raise judicial bias/prejudice/impartiality
- (81) Counsel failed to raise denial of the presumption of innocence
- (82) Counsel failed to raise court error in allowing ~~406~~ evidence
- (83) Counsel failed to raise states intrusion upon Attorney-Client Confidentiality
- (84) Counsel failed to raise/argue need for expert testimony
- (85) Counsel failed to raise motion to fix the PSI Report
- (86) Counsel failed to investigate
- (87) Counsel failed to raise the courts violation of Their own rules
- (88) Counsel failed to raise states failure to properly identify female in photos/videos
- (89) Counsel failed to raise prosecutions Abuse of office powers
- (90) Counsel failed to raise prosecutions violation of Michigan Rules of Professional Conduct
- (91) Counsel failed to raise lack of intent under M.R.E. 401
- (92) Counsel failed to raise unfair prejudice under M.R.E. 403
- (93) Counsel failed to argue photos/videos were demonstrative and would lead Jury to abdicate its truth finding function and convict on passion alone

- (94) Counsel failed to raise Courts error to not put uncharged acts under M.C.L. 768.279 to the M.R.E. 403, balancing test.
- (95) Counsel failed to raise trial courts error in admitting 4016 evidence under prosecutor pretending it to demonstrate absence of mistake or accident.
- (96) Counsel failed to raise Medical Examiner went beyond her medical expertise and offered her opinion as evidence
- (97) Counsel failed to raise Courts error in ignoring M.R.E. 803(1) first Corroborative statement of the Alleged victim.
- (98) Counsel failed to raise lack of Probable cause for felony Complaint as it was based on false statements and illegally obtained evidence.
- (99) Counsel failed to seek dismissal for speedy trial violation
- (100) Counsel failed to challenge improper scoring of the DV's and PRU's
- (101) Counsel failed to raise insufficient factual basis to support plea.
- (102) Counsel failed to perfect a direct appeal when I requested him to do so on the meritable claims he provided.
- (103) Counsel failed to challenge sufficiency of evidence supporting the Conditional No Contest plea.
- (104) Counsel prejudiced me by omitting significant and obvious issues which would have resulted in reversal on appeal.

## FACTS TO QUESTION SEVEN...

- (1) Defendant was Arrested under authority of an invalid warrant on August 13<sup>th</sup> 2018 and had his liberty restrained by being housed in the Kent county Jail.
- (2) On March 2<sup>nd</sup>, 2020 defendant filed a motion "to argue speedy trial violations and to dismiss the case" because my multiple attempts to assert my Speedy Trial right was ignored
- (3) Throughout the entire process alleged victim stated nothing happened and I did nothing to her

- (4) Throughout the entire process I asserted my innocence
- (5) At this time I filed my motion to dismiss on speedy trial grounds my liberty had already been restrained by my seizure and holding in the Kent County Jail for approximately two years, all along the court and counsel ignoring my attempts to have a speedy trial
- (6) Throughout this prejudicial delay the state failed to give me the benefit of all reasonable doubt and denied the chance to clear my good name and restore my reputation by not holding a speedy trial
- (7) Throughout this prejudicial delay the government withheld exculpatory evidence in several forms
- (8) The prosecution has prejudicially/maliciously prolonged the process with the sole purpose and intent to deny a speedy trial in hopes that they would get alleged victim to lie and say something happened or that I would break down and plea.
- (9) The delay has caused prejudice to me and my defense because the actual person in the illegally seized footage the state has could of come forward and testified as well as shown further video/photographic evidence of her on the night the seized photos/videos were taken showing her face and whole body wearing the clothes shown in the footage police have. However that person has become unable to be located, due to her not being from Michigan
- (10) Exculpatory witness information, exculpatory evidence, etc was lost due to detective ordering the alleged victim's mother (defendant's landlord) to have no contact with my family or anybody associated with us which caused the exculpatory information/evidence along with thousands of dollars worth of my property to be thrown away which could of been avoided if given a speedy trial.
- (11) My good name was unconstitutionally tarred by the states overly extended accusation which made it clear and evident that it would of been impossible to find a fair and unbiased jury of my peers, which put the trial itself at stake due to the delay.
- (12) I was never offered the right to have compulsory process for obtaining witnesses in my favor which denied my right to present a defense
- (13) Me filing two motions to dismiss on speedy trial grounds is proof I indeed wanted to exercise my speedy trial right.
- (14) Trial never commenced within 20 days of filing of the information as required by law.

- (15) Defense Counsel ignored the speedy trial violations and my Request to file a motion to dismiss on speedy trial violation grounds.
  - (16) Prejudice was caused by the delay because the delay was ~~not~~ engineered by the prosecution's refusal to turn over exculpatory evidence even after multiple requests as well as prosecution's illegal actions such as initiating the illegal search/opening/copying my mail including Attorney Mail.
  - (17) Prosecution caused delay intended to chill the exercise of my speedy trial right by refusing to turn over Brady material when repeatedly requested to do so.
  - (18) I received two types of prejudice, prejudice to my person, and prejudice to my defense.
  - (19) The loss of evidence and the loss of defense witness memories prejudiced me due to the long delay.
  - (20) Both of my competency Exclusions caused delay which was longer than the ten days allowed by statute, and is presumptively unreasonable when it comes to speedy trial purposes.
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### FACTS TO QUESTION EIGHT...

- (1) Defense Counsel Anna Rapa filed a suppression motion to try suppressing the evidence illegally seized, my statements, etc.
- (2) I filed several proper motions to suppress evidence but they were ignored by the court.
- (3) I filed two motions to strike, suppress the evidence and dismiss the information and both were erroneously ignored.
- (4) The Judge erroneously denied Counsel's motion claiming that my phone was allowed to be searched without a warrant solely because I was a parolee and the state claims there was a consent form signed by myself in parole officer Mitch Arraras possession and because detective lied about having a warrant prior to the search.
- (5) On July 15<sup>th</sup> 2018 a full two weeks prior to my arrest I served parole office, etc with a valid legal document withdrawing all written and verbal consent to warrantless searches/seizures and my acceptance of the consequences for refusing any search.

- (6) I had a right under established law to deny parole/police or any one to search ~~him~~ me, my belongings, or my property.
- (7) Not only did I provide that legal document but also told Parole Agent he did not have consent to search my Cellular phone Data/content and none else had a warrant or consent.
- (8) There is no consent form with my signature allowing Parole to search said cellular phone.
- (9) Parole agent did not and could not provide articulable reasons and particular/objective basis for his suspicion to search my phone himself or to seek forensic aid in data reconstruction and searching beyond plain view.
- (10) Parole Agent went beyond scope of limited consent to enter phones context list only.
- (11) Detective admits in paragraph two of Facebook warrant Affidavit that she brought five still shot photos to interview alleged victim who identified her clothes in photos as hers which then led detective to apply for a warrant for my cellular phone in fact admitting she illegally had the photos off the phone before she had the warrant to search said phone and seize said photos.
- (12) In detectives Affidavit for the search warrant on my phone she stated that alleged victim was interviewed at the CAC and identified her clothes from the photos taken from my phone.
- (13) The court erroneously ignored the United States Supreme Court clearly established law of *Riley v. California* when they ruled police needed no warrant to search my cellular phone.
- (14) The photos/videos illegally taken from my cellular phone after their forensic reconstruction did not and does not fairly and accurately depict the assault claimed by detective/prosecution to have happened to alleged victim Jalene Vandeveld.
- (15) No relevance of these photos/videos has been shown because they know they do not have a solid identity to show beyond a reasonable doubt who the female in the photos/videos actually is.
- (16) No relevance of the bathing suit and underwear can be shown when it came to the alleged abuse against alleged victim because there is no evidence in fact connecting them to alleged assault of Jalene Vandeveld for a fact and because witnesses put totally different person wearing said clothes the night photos/videos police have were captured.

- (17) Prosecution sought and the court allowed the Admittance of statements made by me during miranda interrogation which were illegally obtained after I was confronted with the evidence/information from a fourth Amendment violation.

(18)

## FACTS TO QUESTION NINE...

- (1) I was denied due process when I was convicted through the knowledge of false/illegal evidence being used.
- (2) I was denied due process when I was denied my right to present a alibi witness by ~~my~~ my Counsel, detective and others
- (3) I was denied due process of law when the Judge, detective, And prosecution denied me my presumption of innocence
- (4) I was denied due process when my fourth Amend. right was violated which was incorporated into the due process clause
- (5) I was denied due process when my 5<sup>th</sup> Amend. right was violated which was incorporated into the due process clause
- (6) I was denied due process when my 6<sup>th</sup> Amend. right was violated which was incorporated into the due process clause.
- (7) I was denied due process of law and as a result the court lost all Jurisdiction if they had any to begin with.
- (8) The Complaint was not properly served in violation of the protection of due process as it was not signed, subscribed to or sworn before a Judge/clerk in violation of law and Court rule.
- (9) Due process was violated when my liberty interest which is protected by due process violated.

- (10) Due process of law was violated when the charging document claimed a false victim and contained statements that Affiant knew was false.
- (11) Due process was violated when the government used the identity of Jolene Vandeveld as the victim when she did not meet the definition of "victim" under statute MCL 750.5709 which governs criminal sexual conduct.
- (12) Due process was violated when I was denied fair and impartial proceedings by the Judge/prosecution.
- (13) Due process was violated when detective created false evidence likely to influence the jury and forwarded it to the prosecution.
- (14) Substantive Due process was violated by the coercive nature of the plea bargain.
- (15) Substantive Due process was violated when the court failed to make sure I did in fact understand the charges and penalty of the plea and where there was no factual basis for the plea determined.
- (16) Due process was violated when the government committed violations to the double jeopardy clause.
- (17) Due process was violated when I was denied speedy trial.
- (18) Due process violated by government's Brady violations.
- (19) Due process violated when counsel did not prepare for or present the suppression issue properly.
- (20) Due process violated when detective allowed to sign affidavits on bare assumptions not facts actually known.
- (21) Due process violated when government was not forced to produce alleged signed consent form to search phone.
- (22) Due process violated when government was allowed to circumvent warrant requirements and the judge ignored it.
- (23) Due process violated when detective violated Miranda and the judge allowed it.
- (24) Due process violated when judge refused to correct PSI to reflect alleged victim's statement that NOTHING HAPPENED.

## FACTS TO QUESTION TEN.

- (1) In Criminal cases Judges have an affirmative duty to ensure fairness and Justice because they are the only ones who can force the prosecution and their investigators and experts to comply with due process. However the Judge ignored his affirmative duty by ignoring the facts showing that detective, prosecutor, and state were violating due process, Brady, and how their actions were not seeking fairness or Justice.
- (2) The trial Judge failed to refer for prosecution the detectives and others perjury on the stand.
- (3) Trial Judge was biased/prejudicial during his presence and involvement with the trial process and sentencing of defendant
- (4) The Judge showed a pre-conceived notion of guilt towards the defendant
- (5) Trial Judge's behaviour pierced the veil of Judicial impartiality
- (6) Trial Judge Broke the Judicial Code of Conduct on purpose
- (7) Trial Judge violated his oath of office by his failure to honor and uphold the Federal Constitution and Federal laws.
- (8) Trial Judge established prejudice by increasing my sentence
- (9) Trial Judge made insulting and offensive comments to defendant and counsel
- (10) The Judge refused to ~~recuse~~ recuse himself
- (11) I have evidence in my possession within transcripts where Judge ignored Brady violations after he said if it was a Brady violation there would be a serious problem
- (12) The Judge became nothing but a rubber stamp for the prosecution ignoring all my arguments and issues.
- (13) Judge erroneously said interview was stopped by me and my invocation of my right but was re-started by me talking when videotapes detective's actions shown she never stopped interview at all
- (14) Judge ignored several laws that have already been clearly established when he made statements and ruled against suppression.
- (15) The prosecution abused court process by not using the court process to inquire into the fair ascertainment of the truth, instead using illegal means/means to at all cost portray me as guilty even though she had evidence as well as information to show reasonable doubt that a crime was committed.

- (16) Prosecution failed their duty to ensure that I received a fair trial.
- (17) Prosecution failed their duty to insure that justice was in fact accomplished when she ignored evidence that no probable cause for charges existed; that there was no actual victim identified; and all claimed evidence was illegally seized.
- (18) Prosecution failed their duty to turnover exculpatory Brady material even after several request for it was made.
- (19) Prosecution violated due process and her ~~charging~~ charging discretion when she filed and/or allowed filing of charges that require an actual identified victim when prosecution knew or should of reasonably known the person detective claimed as the victim had already stated and confirmed that nothing happened to her; that there was no eyewitness to any crime as well as statements on Complaint felony affidavit where proven false.
- (20) Prosecution was in violation for using and/or allowing the evidence she knew or should have known was the result of an illegal search/seizure and the fruit thereof.
- (21) Prosecution intentionally initiated and caused the seizure/search of all my U.S. postal mail and then having it copied/Read/Copied/turned over to government all without probable cause or warrant.
- (22) The prosecution let 11yr old Julene Vandeveldt to become a fictitious victim in order to charge me of crimes when only crime Julene was a victim of was humility and shame caused by police/government corruption and fabrication.
- (23) The prosecution pursued charges using 11yr old Julene Vandeveldt as the victim when she knew me and Julene both said nothing happened between us and there was no evidence to prove otherwise.
- (24) The prosecution violated Michigan rules of professional conduct Rule 3.8 for prosecuting this case knowing it was not supported by probable cause or legal evidence.
- (25) The prosecution violated ABA MODEL CODE OF PROFESSIONAL RESPONSIBILITY - ETHICAL CANNON 7-13 by seeking to convict me at all cost instead of seeking actual justice when it was their duty to seek justice not merely to convict.
- (26) Prosecution was in violation of ABA MODEL CODE OF PROFESSIONAL RESPONSIBILITY ETHICAL CANNON 7-14 for not refraining from prosecution of this case that is obviously unfair, and who for lack of merit ~~in~~ this case failed to advise her supervisor of her recommendation to avoid unfair litigation.

- (27) Prosecution in violation of disciplinary rule 7-103A for instituting criminal charges when she knew or it was obvious that the charges were not supported by probable cause.
- (28) Prosecution is in direct violation when they disregarded Michigan Compiled Law 750.535 (3)(a) which states "in order for a crime to exist four elements must exist" and chose to proceed without meeting those four elements.
- (29) The prosecution did not and can not meet the required proof of each element of the charged offenses beyond reasonable doubt to support the conviction.
- (30) Prosecution failed to identify the government's evidence and what it would prove at trial before the court accepted the plea deal of ~~defendant~~ defendant who maintains his innocence even to today.
- (31) Prosecution manifested actual vindictiveness by advising defense counsel that if I exercised my right to demand back to full Preliminary Examination that the prosecutor would seek trial, remove all plea negotiations and seek maximum sentence with mandatory minimums.
- (32) Prosecutor violated her primary Constitutional duty to reveal perjury by her witnesses and her Constitutional duty to investigate my claims of her witnesses committing perjury yet she failed to do so.
- (33) The prosecution knowingly used false and/or misleading evidence which was unethical and a violation of due process.
- (34) The prosecution used improper methods and information calculated to produce a wrongful conviction.

## FACTS TO QUESTION ELEVEN...

- (1) My conviction resulted from a no contest conditional plea where I plead against my will based off being misinformed of the facts and accurate law by defense counsel/trial judge and prosecution.
- (2) I repeatedly asserted my innocence throughout two years of court proceedings and only accepted the plea based on force by the prosecution's threats of greater punishment/charges.
- (3) The trial process was highly stacked in favor of the prosecution where defendant was not receiving effective assistance of counsel and prosecution withheld exculpatory evidence.
- (4) States witnesses perjured themselves numerous times which went unaddressed.

- (5) I was cornered into a take it or leave it plea that expired in hours which was done before exculpatory evidence and testimony could be disclosed.
- (6) I filed a post sentencing motion to withdraw my plea which was erroneously denied by the trial judge along with several other motions.
- (7) I have the right to challenge the legality of the conviction based on a non-existent offense.
- (8) I did not and could not intelligently plea where I did not know the elements of the offense to which I was pleading.
- (9) The court failed to follow court rule concerning pleas of *nolo contendere* where they did not find factual basis for the plea which may require reversal.
- (10) I did not accept my plea out of guilt but I did so while believing myself innocent because I did not want to risk a conviction on greater charges.
- (11) The plea was based on seven other charges (felony) being dismissed in exchange for the plea. Even though I had evidence to prove beyond a reasonable doubt that no legal conviction on the other seven felonies could be obtained and the state knew this but illegally used dismissed felonies as bargaining tools.
- (12) There was no factual basis where counsel allowed me to plea to an offense that by law I was not guilty of committing and there was insufficient legal evidence.
- (13) My plea was invalid where it was made under improper threat and coercion by prosecution.
- (14) My plea was induced by threats/promises which did deprive it of the character of a voluntary act and made it become void.

## FACTS TO QUESTION TWELVE...

- (1) I was sentenced to one count of criminal sexual conduct second degree; and one charge of child sexually abusive material by the Judge Joseph Rossi out of Kent County Michigan.

- (2) I was given this sentence based on a No-Contest Conditional plea that resulted in a sentence of twenty to fifty years.
- (3) The statutory max for second degree criminal sexual conduct is fifteen years.
- (4) The statutory max for CSAM is twenty years.
- (5) Michigan State Police Computer crime lab verified I did not make/send/transfer/alter/copy/download/send/share/forward/request/etc any CSAM and that it was not created by my phone it was sent in a text message to me and immediately deleted.
- (6) During sentencing facts were made known regarding the inaccuracies of the information however the trial judge ignored these facts out of bias after he did acknowledge the errors.
- (7) The PSIR contained false prejudicial information that the court relied upon.
- (8) Sentence was harsh for a alleged single criminal episode and falls under cruel and unusual punishment of the 8<sup>th</sup> amend.
- (9) The Guidelines were prejudicially miscored to the level of a serious significant amount that it changed the scoring by years not months.
- (10) OVI 4 was miscored at ten points
- (11) OVI 10 was miscored at fifteen points
- (12) OVI 18 was miscored at twenty five points

## REASONS FOR GRANTING THE PETITION

Reasons are self explanatory  
outside of it being a miscarriage of Justice to not ~~not~~ hear this petition  
As the issues are pertaining to society as a whole not just petitioners  
individually.

**CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

  
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Date: 2-18-21