25-7303 ORIGINAL

U.S. SUPREAM COURT No._____

IN THE SUPREME COURT OF THE UNITED STATES

WASHINGTON, D.C. 20543



SEAN A. ROGERS — PETITIONER

VS.

WYOMING — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
THE
SUPREME COURT OF WYOMING

# PETITION FOR A WRIT OF CERTIORARI

Sean Rogers #33279 / *In Propria Persona* / UNTRAINED LITIGANT
WSP
P.O. Box 400
Rawlins, WY 82301

## QUESTION(S) PRESENTED

1. Was the lack of contention by the direct appeal council of the Petitioner's right to a speedy trial violated given the significant delay between his arrest and the commencement of the trial, contrary to the principals, ways, and means outlined in the speedy trial act and relevant state laws, thus infringing upon his rights guaranteed by the constitution?
2. Did the lack of contention by the direct appeal council of the addition of a new charge of Sexual Abuse of a Minor six business days before trial violate the Petitioner's right to adequate notice and preparation time, thus infringing upon his due process rights guaranteed by the constitution and speedy trial act.
3. Was the petitioner denied effective assistance of counsel during trial when the attorney refused to authorize funding for DNA testing on evidence that could have been pivotal to the defense and failed to challenge the credibility of witnesses who admitted to providing false testimony, thus infringing upon his due process rights guaranteed by the constitution?
4. Did the Appellate attorney association with the same public defender's office which represented the Petitioner during a conflict of interest at trial constitute ineffective assistance of counsel on direct appeal, thus infringing upon rights guaranteed by the constitution?
5. Did the Wyoming courts err in failing to address the conflict of interest arising from the same public defender's office representing both the Petitioner and a key witness, AG and Brandy Blaylock who testified against the petitioner during trial, thus infringing upon his rights guaranteed by the constitution?
6. Did the District Attorney's reliance on discredited testimony compromise fairness of the trial, thus infringing upon his rights guaranteed by the constitution?

## LIST OF PARTIES

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

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**Note*** incorporate by reference all cited Cases, Acts, Rules, and Constitutional Provisions in the Table of Authorities into reasons I through x in this petition of Writ should be granted

**Note*** incorporate by reference all cases listed in Lexi Nexi under the constitutional Amendments 1st, 5th, 6th, and 14th into reasons I through x in this petition of Writ should be granted

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

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

## OPINIONS BELOW

[X] For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix C1 to the petition and is

[X] Has been designated for publication but is not yet reported; or, [X] is unpublished, [X] I'm unsure if it's published.

## JURISDICTION

[x] For cases from state courts:

The date on which the highest state court decided my case was November 5th 2021.

A copy of that decision appears at Appendix_C1.

[X] A timely petition for rehearing was thereafter denied on the following date:11/23/21, and a copy of the order denying rehearing appears at Appendix__C1_____ .

[ ] 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 28U.S.C.§1257(a).

## TABLE OF AUTHORITIES CITED

| **Cases** | **Reasons for Granting Writ** |
|---|---|
| brady v. maryland (1963) 373 us 83, 10 l ed 2d 215, 83 s ct 1194 "exculpatory evidence" | I-X |
| strickland v. washington (1984) "ineffectiveness of criminal defense" | I-X |
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united states v. toombs (10th cir. 2009) "The remedy for the violation of the speedy trial act is dismissal with prejudice" I-X

arizona v. youngblood (1988), 488 u.s. 51, 5758, 109 s. ct. 333, 102 l. ed. 2d 281 "government did control the disposition [appendix D18pg 34-37] or [pg.36] of the evidence to gain a tactical advantage at trial which did prejudice fundamental rights." I-X

**ACT's** **Reasons for Granting Writ**

Speedy Trial Act.1979 (18 USCS § 3161–3174) I-X

False Claims Act, (31 U.S.C.S. 3730(b)) if a witness lies on the stand it can't be used to secure conviction and district attorney should move to dismiss. I-X

Public Defenders Act. I-X

**Rules** **Reasons for Granting Writ**

(18 u.s.c.s.§ 3174(b)) Judicial emergency and implementation I-X

(18 u.s.c.s. §3161(c) (2)) Time limits and exclusions I-X

**Constitutional previsions** **Reasons for Granting Writ**

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U.S.CONST.ART. 5th I-X

U.S.CONST.ART. 6th I-X

U.S.CONST.ART. 14th I-X

NOTE* I want to use all applicable cases listed under the constitutional U.S.CONST.ART. 1st, 5th, 6th, 14th

## STATEMENT OF THE CASE

In February 2019 I was in a bar called Boot Hill Nightclub in Gillette Wyoming where I met the Mother, AKA Brandy Blaylock who worked there. I also met her daughter, AKA AG who was dancing at the nightclub, the alleged victim in my criminal case. I met them in the dispensing room (i.e., the bar and dance hall which is located on the second floor above the restaurant. **(WYO.STAT.12-4-410 (b) (d))** they card at this entrance, and no one under the age of 21is allowed upstairs. Only an employee over 18 is allowed to be in the dispensing room. I naturally assumed she was 21 because of the fact that she was dancing in the dance club portion of the establishment and I didn't see her working. In other words, I believe they both were over the age of 21**(WYO.STAT.6 -2-308)**.The Witnesses are; a bouncer, two patrons [Appendix B1], and a lyft driver. Three and a half months later, the mother and I had a falling out over the fact that she had been taking her under age daughter to bars and gambling establishments.

On October 18, 2019 I was originally charged with 1st degree sexual assault and delivery of marijuana. On July 20th 2020, two weeks before the trial the court added a 2nd degree sexual abuse of a minor charge which is illegal federally **(18 U.S.C.S. §3161(C) (2))**. These two sexual charges contradicted one another. August 3 2020, my affirmative defense **(WYO.STAT.ANN.6-2-308)** was expanded to three large paragraphs confusing the jury. They changed my affirmative defense from a compound sentence in its original form to three paragraphs and place the preponderance of proof on me, rather than on the State as it should have been within the jury instruction. This confused the jury deliberations causing them to come back 2 times with questions like, "what's the age of consent? ". I was found innocent of the original two charges listed above. The judge would not let them go home till they came back with a unanimous decision. The jury after 12 hours of deliberation found me guilty of 2nd degree sexual abuse of a minor. The mother under oath on the stand admitted to being at Boot Hill with her underage daughter 3 different times dancing upstairs, as well as lying to law enforcement several times.

I. Sean Rogers was arrested on October 18, 2019 on charges of Sexual Assault in the First Degree and Delivery of a Controlled Substance. The trial court did not commence until August 3, 2020; resulting in a delay of over nine (9) months. During this period, Mr. Rogers constantly asserted his right to speedy trial, as guaranteed by the 6th Amendment and Speedy Trial Act.[see appendix D1&D2] strickland v. washington (1984) "ineffectiveness of criminal defense"

II. Six (6) business days before trial, the Prosecution added a new charge of Sexual Abuse of a Minor. This late addition raised significant concerns regarding Mr. Rogers ability to adequately prepare a defense against the new charge, thereby implicating his due process rights.[See Appendix D3] baker v. wingo (1972) "right to speedy trial is fundamental"

III. The jury ultimately found Mr. Rogers not guilty on the original charges. However, the legal proceedings concerning the new charge continued, prompting Mr. Rogers to challenge the fairness and timing of the prosecutorial actions. [See Appendix D11 & D10 & D1] strickland v. washington (1984) "ineffectiveness of criminal defense" baker v. wingo (1972) "right to speedy trial is fundamental"

IV. The Petitioner, Sean Rogers, was affected by the conflict of interest [Appendix D & C & D1 & D9]as both the Petitioner and key witness, Brandy was represented by the same public defender's office at the trial. The public defender's office and the district attorney entered into a deal with Brandy and she was protected under a 303 deferral[ See Appendix D6] Brandy admitted to lying to law enforcement and her daughter provided false testimony about her presence in the bar [Appendix D4 & D5], contradicting Brandy's own statements! Despite these admissions the Prosecutor relied on their testimonies. The Petitioner's trial attorney failed to adequately challenge their inconsistencies and refusal to find DNA testing on a sex toy that could have yielded exculpatory evidence [Appendix D8 & D12 & D13]. Furthermore, the Appellate Attorney was also from the same Public Defender's office, continuing the conflict of interest and failing to zealously assert the Petitioner's position on appeal because they had another interest in this outcome of the trial. [See Appendix D5 & D6 & D7] [See Appendix C] brady v. maryland (1963) 373 us 83, 10 l ed 2d 215, 83 s ct 1194 "exculpatory evidence" Hahn v. sargent (1975) It is material if it effects the outcome of the claim

V. I never had a chance to have an attorney who would zealously assert my position[ Appendix D1]. I was always in conflict with my attorney for not wanting to get DNA evidence from my sex toy [Appendix D1 letter to judge begging for good attorney who will use exculpatory evidence] [Appendix D12 begging my attorney to test toy],[Appendix D13], shows there was a third persons DNA, and I know it was moved by someone to my bathroom. My attorney would never hire someone to do testing on my sex toy to see if the alleged victim's, her mother, my girlfriend touched it. [See Appendix D&C ] strickland v. washington (1984) "ineffectiveness of criminal defense" Hahn v. sargent (1975) It is material if it effects the outcome of the claim

VI. When I got the discovery I started seeing all the alleged victims were caught in so many lies during the course of the pretrial; my attorney kept getting information from me in confidentiality and then go behind my back and present it to the district attorney. [See Appendix D9 & D13]

## REASONS FOR GRANTING THE WRIT

I feel the higher court should review the case because:

I. **Violation of Speedy Trial Rights:** The delay from the arrest on October 18, 2019, to the trial commencement on August 3, 2020 exceeds the typical time frames outlined by the Speedy Trial Act and relevant state laws. This delay warrants examination under the Sixth Amendment's guarantee of a speedy trial. The petitioner constantly objected to delays emphasizing his right to a prompt resolution of the charges.

[APPENDIX D2]My position on speedy trial, however I asserted mine October 2019 in my initial bond hearing when I was left to represent myself (yes, I mean I was left without representation in all proceedings in this very serious case like the constitution guarantees). [APPENDIX C2] I wrote many Letters to appellant attorney and his boss expressing my frustration he wasn't zealously asserting my position like the lawyers preamble explains.

if they were going to use(18 u.s.c.s.§ 3174(b)) Judicial emergency and implementation, they should have released me into the parking lot and rearrested me.

*(18 u.s.c.s. §3161(c) (2)) Time limits and exclusions*

*(c) (1) In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs. If a defendant consents in writing to be tried before a magistrate [United States magistrate judge] on a complaint, the trial shall commence within seventy days from the date of such consent.*

*(2) Unless the defendant consents in writing to the contrary, the trial shall not commence less than thirty days from the date on which the defendant first appears through counsel or expressly waives counsel and elects to precede pro se.*

*(18 u.s.c.s.§ 3174(b)) Judicial emergency and implementation*

*(a) In the event that any district court is unable to comply with the time limits set forth in section 3161(c) [18 USCS § 3161(c)] due to the status of its court calendars, the chief judge, where the existing resources are being efficiently utilized, may, after seeking the recommendations of the planning group, apply to the judicial council of the circuit for a suspension of such time limits as provided in subsection (b). The judicial council of the circuit shall evaluate the capabilities of the district, the availability of visiting judges from within and without the circuit, and make any recommendations it deems appropriate to alleviate calendar congestion resulting from the lack of resources.*

*(b) If the judicial council of the circuit finds that no remedy for such congestion is reasonably available, such council may, upon application by the chief judge of a district, grant a suspension of the time limits in section 3161(c) [18 USCS § 3161(c)] in such district for a period of time not to exceed one year for the trial of cases for which indictments or informations are filed during such one-year period. During such period of suspension, the time limits from arrest to indictment, set forth in section 3161(b) [18 USCS § 3161(b)], shall not be reduced, nor shall the sanctions set forth in section 3162 [18 USCS § 3162] be suspended; but such time limits from indictment to trial shall not be increased to exceed one hundred and eighty days. The time limits for the trial of cases of detained persons who are being detained solely because they are awaiting trial shall not be affected by the provisions of this section.*

II. **Due Process Concerns:** The introduction of a new charge just days before trial July 23rd 2020 without adequate time for preparation "bond, preliminary hearing, scheduling order, and pretrial etcetera "undermines the fairness of the legal process and the Petitioner's ability to mount an effective defense. This late addition deprived Mr. Rogers of the opportunity to fully investigate and prepare for the new allegations, thus violating his due process rights. This violation warrants examination under the first, fifth, Sixth, and fourteenth Amendment's

[Appendix D3] showing my arraignment on [Thursday July 23rd] the only charge I was found guilty of was days before trial [Monday August 3rd] 6 business days before trial."my lawyer wouldn't even work weekdays"

[Appendix B2]Sworn Affidavit by my pastor violating penitent privilege of the first amendment violation used as excuse to add charge days before trial. The district attorney said it was information he gleaned from listening to a federally protected privileged conversation under the first amendments between me and my pastor. And by admitting to listening to private conversations on systems I was forced to use during CoVid19 also means he was listening to me and my attorney strategize about how we would win the case and how we would disprove the force element [has suspicious timing why he added the charge at the last min] proves he was listening to me and my attorney as well because I was forced to use those systems due to CoVid19.

Incorporate by reference in reasons why Writ should be Granted: **II due Process concerns & IV presence of conflict**

The state appeals courts position was in [APPENDIX C1pg5&6 paragraphs 13, 14, and 15] is I never raised violation of penitent privilege under the 1st Amendment and Speedy trial Act. Under the 6th Amendment, so there was no need to address the issue, defeating it on technicalities. [APPENDIX D1.1] telling The trial judge about speedy trial, Sex Toy, conflict, lost evidence "pg.19 detailed incident report" written on 2/14/20.[APPENDIX D9] rebuts the state supreme courts position. I told my attorneys boss of the conflict. I told him I asked my attorney [D12] to attack the state's evidence which was DNA, it was the only thing they had left at the time of the letter, written 4/1/2020 to the boss of my attorney's local office. [APPENDIX D9] Another letter 5/1/20 to him saying we must get text and location data so I can prove where we were at the club.my public defenders investigator went to my house and collected text and pictures of my house and my toy. She didn't subpoena the geo tag information which would have proven my location at the club with AG. My attorney went behind my back and gave the text messages to the district attorney on a Friday in February, because they told a completely different truth. The district attorney magically decided not to use them in trial. I was furious with my attorney, why would he violated the rules of professional conduct [D9, D20] by not discussing it with me first about giving my defense away. He told me he was ethically obligated to, I said "no your ethically obligated to me before making any decision that would effect my case" he said "I didn't want the district attorney to use them in trial" I said "I did, because it shows she lied even more to the officers" text messages available upon request" so I raised the issue on all the four platforms the court on a civil platform[D20] the trial judge, my attorney, and my attorneys boss , I was betrayed, bewildered, and could see my attorney worked for the state of Wyoming. What else is a ignorant man supposed to do? Freak out in the courts like the idiots on Court TV "No" remain a dignified man with civility? "Yes" the record is littered with me begging for someone to represent me! The court clerk wouldn't allow me to file civil or criminal stiff pro see and would send it to my attorney to block me. I would fight with my attorney not to intercept these filings and that I had every right to make a record of all the injustice I was going through. I demanded he give the file back and have the clerk do her sworn duty "Record". I reported these issues on the court record only to be met with threats of having to represent myself [D22] and contempt. [D15] is clearly recorded in trial court claiming ineffective assistance of counsel, my desire to sever charges, DNA, no time to mount a defense "Speedy Trial Act.", witnesses purged themselves, 1st amendment violation "calling my pastor as a witness.", this pro see motion was magically allowed to be filed Motion

for new trial and acquittal was done the day after trial, these are the same issues the Supreme Court of Wyoming said I didn't raise at the trial court level. the Supreme Court of Wyoming had blinders on and exercised a skill called [Confirmation Bias] easily looked up on Wikipedia [Appendix D11] I did not keep secrets or gotcha moments from the trial court I was bewildered and scared for my life, but always forth coming about my needs to defend these claims. The next filing in [D15] shows me asking for a new trial because my attorney abandoned me and didn't sever charges giving me time to offer a defense and how my attorney violated trust by not offering evidence I told him we needed to prove AG and her mother brandy lied about text messaging and how they said AG didn't have a phone. On top of that I always wanted my geo tags "location history" subpoenaed to show we were at the bar, and how my 6th Amendment was violated. In [D16] it shows I had serious conflicts with the public defender's office, there was a Breach of Fiduciary Trust and many violations I listed that violated the rules of professional conduct. This public defender's office showed the district attorney our whole game plan to rebut all his so called evidence and it was brought up to my attorneys bosses [D9] I talked about [D16 new attorney] how my 1st, 6th, and 14th Amendment were violated, and the impact and prejudice it caused by violating my speedy trial rights and penitent privilege. These all violated the Public Defenders Act. My attorney didn't attach the states witness about disregarding my sex toy [D12 "Sargent Hyland" contrary to what Wyoming Supreme Court says about the issue I brought up in trial court, they used [D11 confirmation Bias]. The record is clear I was threatened by my own attorney Andrew Jackson [D20 CV#039161] with [D15pg.114,115] trial penalty and put it on the record very clearly in [D1] and told the trial judge [D1.1] February 14th 2020. Only to have the judge use bias and violate the cannons/Rules of judicial conduct and vouch for the loss of evidence [D19 motion to dismiss, D21 CV3039225] that could have changed the outcome of the case (Hahn v. sargent (1975) It is material if it effects the outcome of the claim) this is only the beginning and end of the case I speak about and show this court. There are incidents all the way through the case where I could not sit idly by and allow my attorney to ignore the important points on hearing I was having to demand my attorney ask for. The judge would threaten me with having to represent myself or contempt of court [D22] the judge continued protecting the narrative of Sean Rogers is guilty into trial [D5] protecting the people who committed the ultimate No No "False Information Act." they purged them se4lfes, he wanted to protect them and there narrative as to not prejudice it, it's like they took all my rights and gave them to the ones lying throw-out the case. The Public Defender's Office, the District Attorney, and the Campbell County Court didn't represent the values of the country I pledged my elegance to. Then to put a cherry on top [D21, D20 CV#039468] the judge left me again without an attorney to

zealously assert my position in this hearing, didn't allow me to speak, conspired with 2 or more people to make sure this narrative was carried out into my direct appeal with the Wyoming Supreme Court and it was regardless of the pleas I made all along [C2, C3, C4, C5] the state of Wyoming had one thing right they said my direct appeal attorney couldn't write a cogent argument [D15pg.116] would be evidence of ineffective assistance of counsel.

The State Supreme Court disregarded my rouge direct appeal attorney assigned by Dina Lozano. [Appendix C2] I wrote to my appellant attorney 2/1/21 "way before State Supreme Court ruled 11/4/21" expressing what position I wanted them to zealously assert including: DNA, pastor penitent privilege, alleged Vic AG purging herself "21 and over portion of the club", and all the civil rights actions "Conflicts" [D20] & [APPENDIX C3] where I wrote the supreme court of Wyoming 7/12/21 telling them the same story as mentioned above even adding things like giving me my PSI 5 days before sentencing. The Supreme Court of Wyoming's position was, I never brought that up in trial court therefor defeat him on technicalities; **ON THE CONTRARY**, the truth tells a very different story. these events call for review under the 1st 5th 6th 14th Amendments of the united states constitution.

[See APPENDIX D15 and D16], my attorney failed to sever charges, challenge fairness, and timing, of charge added 6 days before trial.

[See Appendix D19] in the motion to dismiss I had to fight with my attorney to get, he kept avoiding the sex toy mentioned early to Sargent Hyland in the initial interview and in the lost evidence [Appendix D18] which magically disappeared and she never bothered to call me back and ask hay I deleted your message what did you want to tell me, I would have told her my toy was moved. Instead because it didn't match her narrative she lost the message and then testified later at my motion to dismiss she didn't lose any evidence, which is clearly a lie. That's why I filed the law suits in [Appendix D20] on 6/24/20 case #CV039225 **I was bewildered** and didn't know what to do, my own attorney was letting it go rather than dragging her through the mud about losing and controlling crucial evidence that was material. *Hahn v. sargent (1975) It is material if it effects the outcome of the claim. arizona v. youngblood (1988), 488 u.s. 51, 5758, 109 s. ct. 333, 102 l. ed. 2d 281 "government did control the disposition [appendix D18pg19 ] or [pg.36 of motion to dismiss] of the evidence to gain a tactical advantage at trial which did prejudice fundamental rights."* Then my attorney allowed the district attorney and the judge to vouch for her that it wasn't intentional, the truth is it was very intentional. The judge used [confirmation bias] to agree with everything the district attorney said about lost evidence up to that point. They ignored my toy even though I wrote the judge about it [APPENDIX D1.1] at that point and my attorney and his boss and filed suit [APPENDIX D20]. When I told her about it in the initial interview she acted like a professional saying DNA can't transfer like that. I said there is no other way. Later she was proven wrong in trial when the states DNA professional said IT CAN [See Appendix D13] I did not know how to fight these professionals who were clearly fighting against me. [D13 Page 21] of this detailed incident report shows a conversation with the lady named amber at the state crime lab who later testified at my trial, she said to Sargent Hyland the mysterious third persons DNA wasn't as strong as Seans. This shows Sargent Hyland knew she controlled a potential source however decided it wasn't material (Hahn v. sargent (1975) It is material if it effects the outcome of the claim) and it couldn't change the outcome of the case (arizona v. youngblood (1988), 488 u.s. 51, 5758, 109 s. ct. 333, 102 l. ed. 2d 281 "government did control the disposition [appendix D18pg 34-37] or [pg.36] of the evidence to gain a tactical advantage at trial which did prejudice fundamental rights.") at that point she acted like the judge

and jury by controlling what evidence gets admitted into the case. And remember in my motion to dismiss the judge and district attorney advocated she didn't lose any evidence in [D18]

[APPENDIX D20] they gave me my PSI 5 days before sentencing not allowing me the time set forth by the rules to review and contest all the wrong stuff that was mentioned in it and very prejudicial, they also forced me to go with the public defender's office [See APPENDIX C3 50-13p31, 32, 33] my plea to the state supreme court to get them to reconsider my request for a new attorney due to all the conflicts. I had many complaints about Dina Lozano, she had to do with all my complaint about every attorney having their hands tied by her, and there only concern was getting it done before the 1 year mark so it didn't trigger a federal review. [Appendix D3] also shows they didn't afford me any of the prerequisites for trial after adding new charge I should have been given bond hearing, preliminary hearing, case management schedule exedra.

on October 21st 2019 i went in front of judge bartlet, she set an oppressive bond, i wasn't even afforded a lawyer for my bond hearing. They violated every constitutional right from the beginning. I'm entitled to have an attorney at every stage of the case the petitioner demanded a speedy trial in writing.

[APPENDIX D21] The last law suit in [Appendix D20] I mentioned how they were there representing there agenda, and how they were going to continue to make the public defender's office represent me although I had an issue with Dina Lozano because she wouldn't get her office to collect evidence for me or contest all the issues I was seeing in the case without a fight. I had to deal with the conflict from the beginning of the case when Andrew Johnson told me I would never get a fair trial because of my hair, he also said I better take a deal [see lawsuits in [D20] about the incident that was in our first meeting then I didn't even know I had court and he was supposed to be representing me on a high profile case [APPENDIX D1] the leader of all the public defenders told them how they would represent me and would not stop **planning to defeat my claim at the appellant level** of ineffective assistance. Look at the hearing in D21 how she plans to defeat my claim my attorney threw the case and never cared from the beginning [D1] this conflict violates my 6th and 14th amendments. You notice this time they did not threaten for me to represent myself? **This is supposed to be the attorneys representing me!!!**

[APPENDIX D4, D5, D6, D7] Incorporate by reference the argument in Roman numeral [III pg.17] titled [APPENDIX D4, D5, D6, D7] false claim

III. **Prosecutorial Timing and Fairness:** The sequence of events, including the acquittal of the original charges and the subsequent introduction of a new charge July 23rd 2020 raises questions about the fairness and motivation behind the Prosecutorial overreach, which may have implications for the overall integrity of the judicial process. This timing was suspicious and wrong many ways. This violation warrants examination under the fifth, Sixth, and fourteenth Amendment's

Petitioner renews argument I through X by reference in [appendix D17 & D18 and first page in 19] I'm saying the prosecutor and investigators [bobby profit and Jenna Highland]knew I didn't have an ID but was saying I bought weed from a dispensary, [they themselves used fraudulent pictures of weed that didn't belong in my case to secure warrant] knowing Brandy Blaylock got caught with it months prior committing bank fraud with her co-conspirators [See Appendix D17, D8], if she would steel my identity what would stop her at steeling my DNA [Appendix D13] and trying to black mail me, like I told the officers she did, then the officer allegedly lost the calls and messages [See Appendix D18pg34-37] "arizona v. youngblood (1988) government did control the disposition of the evidence to gain a tactical advantage at trial which did prejudice fundamental rights." Even could have gotten my DNA Evidence I told then about in the beginning [Appendix D13] see detailed incident report about how they got my DNA

[See Appendix D19] in the motion to dismiss I had to fight with my attorney to get, he kept avoiding the sex toy mentioned early to Sargent Hyland in the initial interview and in the lost evidence [Appendix D18] which magically disappeared and she never bothered to call me back and ask hay I deleted your message what did you want to tell me, I would have told her my toy was moved. Instead because it didn't match her narrative she lost the message and then testified later at my motion to dismiss she didn't lose any evidence, which is clearly a lie. That's why I filed the law suits in [Appendix D20] on 6/24/20 case #CV039225 **I was bewildered** and didn't know what to do, my own attorney was letting it go rather than dragging her through the mud about losing and controlling crucial evidence that was material. *Hahn v. sargent (1975) It is material if it effects the outcome of the claim. arizona v. youngblood (1988), 488 u.s. 51, 5758, 109 s. ct. 333, 102 l. ed. 2d 281 "government did control the disposition [appendix D18pg19] or [pg.36 of motion to dismiss] of the evidence to gain a tactical advantage at trial which did prejudice fundamental rights."* Then my attorney allowed the district attorney and

the judge to vouch for her that it wasn't intentional, the truth is it was very intentional. When I told her about it in the initial interview she acted like a professional saying DNA can't transfer like that. I said there is no other way. Later she was proven wrong in trial when the states DNA professional said IT CAN [See Appendix D13] I did not know how to fight these professionals who were clearly fighting against me.

[Appendix D3] showing my arraignment on [Thursday July 23rd] the only charge I was found guilty of was days before trial [Monday August 3rd] 6 business days before trial is what the second page shows. We actually started the walk through Friday July 31st and jury selection Monday Aug. 3rd.

[Appendix B2] is a Sworn Affidavit by my pastor violating penitent privilege of the first amendment violation used as excuse to add charge days before trial. The district attorney said it was information he gleaned from listening to a federally protected privileged conversation under the first amendments between me and my pastor. And by admitting to listening to private conversations on systems I was forced to use during CoVid19 also means he was listening to me and my attorney strategize about how we would win the case and how we would disprove the force element [has suspicious timing why he added the charge at the last min] proves he was listening to me and my attorney as well because I was forced to use those systems due to CoVid19.

[APPENDIX D4, D5, D6, D7] the prosecutor relied on information from someone who purged them self's on the stand and prior [see page 80 or 247 of the transcript] she admitted to lying before the whole gang of them are liars including AG **False Claims Act, (31 U.S.C.S. 3730(b)) if a witness lies on the stand it can't be used to secure conviction and district attorney should move to dismiss.** AG lied on the stand saying she never was in the 21 and over portion of the club.

IV. **The presence of a conflict:** of evidence, prosecutorial misconduct, reliance on discredited testimony and ineffective assistance of counsel at both trial and Appellate levels rise significant questions about the Petitioner's right to a fair trial and effective legal representation. The lower trial court's failure to address these issues warrants review to ensure the integrity of the judicial process and protection of constitutional rights. This violation warrants examination under the fifth, Sixth, and fourteenth Amendment's

[See Appendix D20] had filed many lawsuits against my public defender's office, because they wouldn't put in the work to secure a win. I did everything in my power to make sure my position was being asserted

only to be met with threats like defend yourself or take the public defender's office. Soon as I realized it was Dina Lozano who worked out of Cheyenne as the director of the Wyoming public defender's office who was refusing for professional witnesses for me and my toy to be tested I was furious. I also mentioned her in my law suits because she was part of the meeting on Skype to find out who will be my next attorney after trial because I fired the public defender's office once again. Dian Lozano was only concerned about her office having my sentencing done before the year is up so it didn't trigger a review by the federal courts. Dian Lozano also wanted her office to keep representing me through appeal process [appendix D20] case # cv039468. And I had already fired the public defender's office and I couldn't take any more of their deliberate legal malpractice. Look how they protected someone who purged themselves [AppendixD4] and protected one they represented out of the same Wyoming public defender's office, they couldn't make themselves look bad for doing a deal with the devil so my conviction had to go through. The original are at the court but this is a transcript of what they said and the case numbers. These actions violate the public defenders act.

[See Appendix D19] in the motion to dismiss I had to fight with my attorney to get, he kept avoiding the sex toy mentioned early to Sargent Hyland in the initial interview and in the lost evidence [Appendix D18] which magically disappeared and she never bothered to call me back and ask hay I deleted your message what did you want to tell me, I would have told her my toy was moved. Instead because it didn't match her narrative she lost the message and then testified later at my motion to dismiss she didn't lose any evidence, which is clearly a lie. That's why I filed the law suits in [Appendix D20] on 6/24/20 case #CV039225 **I was bewildered** and didn't know what to do, my own attorney was letting it go rather than dragging her through the mud about losing and controlling crucial evidence that was material. *Hahn v. sargent (1975) It is material if it effects the outcome of the claim. arizona v. youngblood (1988), 488 u.s. 51, 5758, 109 s. ct. 333, 102 l. ed. 2d 281 "government did control the disposition [appendix D18pg19] or [pg.36 of motion to dismiss] of the evidence to gain a tactical advantage at trial which did prejudice fundamental rights."* Then my attorney allowed the district attorney and the judge to vouch for her that it wasn't intentional, the truth is it was very intentional. When I told her about it in the initial interview she acted like a professional saying DNA can't transfer like that. I said there is no other way. Later she was proven wrong in trial when the states DNA

professional said IT CAN [See Appendix D13] I did not know how to fight these professionals who were clearly fighting against me.

[see APPENDIX D6 and D7] both show the illegal contract [301 deferral] of silence entered into between my public defender's office, the district attorney, and the witness's testifying against me regarding a case about steeling my id and checks and being caught with them in her safe which led to all these events.

I had to go to the DMV to replace it, the district attorney was saying I went into a dispensary to buy weed knowing she was caught with it, and the investigators called me months before my alleged crime saying it was used in bank fraud, I explained it was stolen then [see Appendix D8]. I'm saying the prosecutor and investigators [bobby profit and Jenna Highland] knew I didn't have an ID and was an identity theft target, however they said i bought weed from a dispensary, knowing Brandy Blaylock got caught with it months prior 4-26-19 [appendix D18] committing bank fraud with her co-conspirators [See Appendix D17, D8], if she would steel my identity what would stop her at steeling my DNA [appendix D13] and trying to black mail me, like I told the officers she did, then the officer allegedly lost the calls and messages [See Appendix D18 pg34-37] "arizona v. youngblood (1988) government did control the disposition of the evidence to gain a tactical advantage at trial which did prejudice fundamental rights." Even could have gotten my DNA Evidence I told them about in the beginning [Appendix D13] see detailed incident report about how they got my DNA. They lost the evidence that didn't fit **there narrative they were building with the person they knew just stole my identity.**

[see APPENDIX D15 and D16] my attorney abandon me right after trial "Gregory Stewart", I did fire him when he failed to bring forth my affirmative defense, allowed the jury instructions to be taken from a compound sentence to three paragraphs, aloud an impartial jury, and never contested the lies told on the stand, tried to give the jury the Allen charge at 12pm Friday night while there was someone still holding out for my innocence and the judge ordered they couldn't leave till all 12 came to a unanimous decision. I felt he was wrong for not letting them go home over the week end.

[see APPENDIX D4] AG's alleged victim testimony about boot hill violating False Claims Act, 31 U.S.C.S. 3730(b). Saying she has never been in 21 over club, and my attorney never moved for dismissal and he abandoned me at a crucial pivotal point [APPENDIX D15, D16].

[see APPENDIX D5] AG's mother Brandy Blaylock's testified about her daughter being in the 21 and over portion of boot hill contrary to AG's testimony violating the False Claims Act, 31 U.S.C.S. 3730(b).

[see APPENDIX C2] My attorney's boss [Dian Lazano] constantly blew me off and disregarded the many complaints throughout direct appeal. The whole case is littered with conflicts I put on the record and threats of having to represent myself or settle for the bad job being done on my case [see APPENDIX D1, D1.1].

[see APPENDIX D1.1] I even wrote an letter to the judge begging for help when I thought he was supposed to be neutral but he was not it didn't help.

[APPENDIX D20] they gave me my PSI 5 days before sentencing not allowing me the time set forth by the rules to review and contest all the wrong stuff that was mentioned in it and very prejudicial, they also forced me to go with the public defender's office [See APPENDIX C3 50-13p31, 32, 33] my plea to the state supreme court to get them to reconsider my request for a new attorney due to all the conflicts. I had many complaints about Dina Lozano, she had to do with all my complaint about every attorney having their hands tied by her, and there only concern was getting it done before the 1 year mark so it didn't trigger a federal review. [Appendix D3] also shows they didn't afford me any of the prerequisites for trial after adding new charge I should have been given bond hearing, preliminary hearing, case management schedule exedra.

[see APPENDIX D1] you can see my trial attorney was not zealously asserting my position by not being prepared to represent me on such a serious charge, "Andrew Johnson" he later told me I need to take a deal to first degree rape because I could never get a fair trial here in this state because of my hair. They never challenged the evidence against me in my preliminary hearing **[there were pictures used to swear a warrant out against me of marijuana that didn't even come from my case I found out in February when I got my discovery]** or even show up for my bond hearing **[the public defenders did not show up at my bond hearing]**. I asked multiple times **[10 times in trial court and 4 times in direct appeal]** to get an attorney who didn't work for the same office I had a conflict with. **[The public defender's office treated my case with gross neglect considering the seriousness of the effect it would have on my life]** my assigned attorney didn't challenge the fraud taking place to sear the warn out for first degree rape, for the **element of force** needed to be met and they did it with **pictures that were not mine**. Saying I used **weed as the**

**element of force** could have been challenged early in the case if I had an attorney who cared. They got him off the case but like I said my problem was with the public defender's office because he told me they would never pay the money to get me the professional witness I needed. The same public defender's office was still assigned to my case. And I told the judge numerous times I wanted them off the case.

[see APPENDIX C2] see the Letters to appellant attorneys boss expressing my position regarding frustration I had towards my trial council, how I wanted them to raise ineffective assistance of council but my appellant attorney wasn't zealously asserting my position like the lawyers preamble explains. In fact he just ignored it all together; he told me he couldn't disparage his colleague. It was stamped as received by my attorney's office.

[see APPENDIX C3] letter to appellant court asserting my attorney was rouge and I needed a different one assigned. I renew the arguments made in appendix C3 at that time and they still ring true today. I mentioned Dina Lozano again in trying to get a new attorney. The Wyoming Supreme Court should have recognized the conflict all along. They refused to reconsider assigning a new attorney even though the same stuff was going on with my appellant attorney.

[see APPENDIX C4] this was the only proof I had that my attorney never meet with me regarding my appeal. He had an appointment with me to find out my position then never came once to meet me, he was rouge, never asserting my position like the lawyers preamble goes. I had to write my case worker to find out what happened to him. Then when he sent me a copy of the brief he wrote it was too late because he already turned it in and used up every postponement the court would issue. See the Question &Answer about attorney's absence.

[see APPENDIX C5] I asked multiple times **[10 times in trial court and 4 times in direct appeal]** to get an attorney who didn't work for the same office I had a conflict with. See the Order denying motion for new attorney in one order showing all my multiple attempts. The same boss who denied the money for my DNA testing on my toy is the same one who assigned the next attorney for my direct appeal. Look at all the lawsuits I tried filing against her "case# cv 39468 Dina Lozano" office [APPENDIX D20] all because she wouldn't get her office to work for me they already had a narrative "confirmation bias" they started in there office with deals to the devil [Appendix D7]. The prosecutor and my attorney should have moved to dismiss for this.

[see APPENDIX C6] Look at the level of care my direct appeal attorney took when handling my case. Letter from attorney affirming he didn't even care enough to get my name right look at who he wrote it to. He didn't care enough to get my name right. He wrote **dear Picek**

[APPENDIX D21] The last law suit in [Appendix D20] I mentioned how they were there representing there agenda, and how they were going to continue to make the public defender's office represent me although I had an issue with Dina Lozano because she wouldn't get her office to collect evidence for me or contest all the issues I was seeing in the case without a fight. I had to deal with the conflict from the beginning of the case when Andrew Johnson told me I would never get a fair trial because of my hair, he also said I better take a deal [see lawsuits in [D20] about the incident that was in our first meeting then I didn't even know I had court and he was supposed to be representing me on a high profile case [APPENDIX D1] the leader of all the public defenders told them how they would represent me and would not stop planning to defeat my claim of ineffective assistance. **Look at the hearing in D21 how she plans to defeat my claim at the appellant level.** My attorney threw the case and never cared from the beginning [D1] this conflict violates my 6th and 14th amendments. You notice this time they did not threaten for me to represent myself? **This is supposed to be the attorneys representing me!!!**

V. **The significance of the legal question:** petitioner incorporates by reference **reasons for granting the petition** [Roman numeral I **through X**] arguments , appendix, along with the overall effect of how the cumulative error effected the case, and how the lower court's decision conflicted with the precedents previously set and/or raises important legal issues. This violation warrants examination under the first, fifth, Sixth, and fourteenth Amendment's.

VI. **The representation of both Sean Rogers and Brandy Blaylock by the same public defender's office during trial process:** creating a conflict of interest. This violation warrants examination under the fifth, Sixth, and fourteenth Amendment's

[see APPENDIX D7] she admitted to lying and made deals to convict me with the same office who represented me. They would not secure a win by bringing out, DNA on my toy, phone records, text messages, and location data that I zealously asked for even to the judge. I begged the judge to force my public defender to bring all the evidence we could. She was caught with my id in her safe. I had to go to the DMV to replace it, the district attorney was saying I went into a dispensary to buy weed

knowing she was caught with it, and the investigators called me months before my alleged crime saying it was used in bank fraud, I explained it was stolen then [see Appendix D8]. I'm saying the prosecutor and investigators [bobby profit and Jenna Highland] knew I didn't have an ID and was an identity theft target, however they said i bought weed from a dispensary, knowing Brandy Blaylock got caught with it months prior 4-26-19 [appendix D18] committing bank fraud with her co-conspirators [See Appendix D17, D8], if she would steel my identity what would stop her at steeling my DNA and trying to black mail me, like I told the officers she did, then the officer allegedly lost the calls and messages [See Appendix D18 pg34-37] "arizona v. youngblood (1988) government did control the disposition of the evidence to gain a tactical advantage at trial which did prejudice fundamental rights." It gets better they got my id from Brandy Blaylock at the bar she worked at, can you guess? Yes boot hill where I met her daughter. This is a disgusting miscarriage of justice. "sorry for my mouth I'm just hurt"

[see APPENDIX D6] the public defender's office made deals with brandy not to bring up the blackmail or extortion stuff that could have changed the view of the jurors had I had effective assistance of counsel.

[see Appendix C2, C3, C4, C5, C6] I renew the arguments in IV by reference about how I wanted my appellant attorney to raise ineffective assistance of council but would not. Dian Lozano constantly blew me off and disregarded the many complaints throughout my trial and direct appeal. These are the issues a good attorney would have raised.

VII. **The Prosecutor's decision to rely on testimony from Brandy and her daughter**, despite inconstancies and admissions of falsehood. Brandy's admission to your attorney about lying to law enforcement and her daughter's false testimony regarding her presence in a bar; which were not adequately challenged during the trial. This violation warrants examination under the fifth, Sixth, and fourteenth Amendment's

[see APPENDIX B1] is testimony from a patron at the bar putting us all there and he was never brought to trial by my rouge attorney.

[see APPENDIX D4] AG's alleged victim testimony about boot hill violating False Claims Act, 31 U.S.C.S. 3730(b). Saying she has never been in the 21 and over portion of the club.

[see APPENDIX D5] AG's mother Brandy Blaylock's testified about her daughter being in the 21 and over portion of boot hill contrary to AG's testimony violating the False Claims Act, 31 U.S.C.S. 3730(b).

[APPENDIX D6 and D7] they continued to coddle someone who has already lied and perjured themselves violating the False Claims Act, (31 U.S.C.S. 3730(b)) if a witness lies on the stand it can't be used to secure conviction and district attorney should move to dismiss.

VIII. **The attorney's refusal to pay for DNA testing on my sex toy**, which could have impacted the case outcome [APPENDIX D8, D13] DNA professional said there was exculpatory evidence that could have been gleaned but was not, for If it weren't for my family going to DMV to get receipts I would have been found guilty of delivery also. This violation warrants examination under the fifth, Sixth, and fourteenth Amendment's

The paperwork even says from Mr. Rogers's parents [see Appendix D8] and stamped as received by the public defender's office. The DMV records that were retrieved by my family is one example of the lack of effort to investigate that lead to bigger problems.

[APPENDIX D1.1] I even wrote a letter to the judge begging for help when I thought he was supposed to be neutral but he was not it didn't help.

[APPENDIX D13]All of the exculpatory [DNA from my toy potently showing it was used as a bingo dabber by the alleged victims] they might have even found the mysterious 3rd person DNA. Evidence I speak of would have been material, because it would have changed the outcome. It is material if it affects the outcome of the claim Hahn v. Sargent (1975)

The state or a private lab "my parents found one in highlands ranch CO. but we couldn't afford it" could have found Brandy's or AG DNA on my sex toy, I came home after the initial interview with Sargent Hyland and called her right away telling her my toy was moved to the bathroom on the floor by the trash can and it was odd I never put it there, it's usually by my bed or in the shower being cleaned.

IX. **The Appellate attorney's association with the same public defender's office which was fired after trial**, which continued the conflict of interest from trial and affected the zeal and effectiveness of your appeal. This violation warrants examination under the fifth, Sixth, and fourteenth Amendment's

[C2, C3, C4, C5] incorporate by reference argument on [pg.13.1]

[ See Appendix D16] my attorney abandon me right after trial "Gregory Stewart", I did fire him when he failed to bring forth my affirmative defense, allowed the jury instructions to be taken from a compound sentence to three paragraphs, aloud an impartial jury, and never contested the lies told on the stand, tried to give the jury the Allen charge

at 12pm Friday night while there was someone still holding out for my innocence and the judge ordered they couldn't leave till all 12 came to a unanimous decision. I felt he was wrong for not letting them go home over the week end.
[APPENDIX D21] The last law suit in [Appendix D20] I mentioned how they were there representing there agenda, and how they were going to continue to make the public defender's office represent me although I had an issue with Dina Lozano because she wouldn't get her office to collect evidence for me or contest all the issues I was seeing in the case without a fight. I had to deal with the conflict from the beginning of the case when Andrew Johnson told me I would never get a fair trial because of my hair, he also said I better take a deal [see lawsuits in [D20] about the incident that was in our first meeting then I didn't even know I had court and he was supposed to be representing me on a high profile case [APPENDIX D1] the leader of all the public defenders told them how they would represent me and would not stop planning to defeat my claim of ineffective assistance. Look at the hearing in D21 how she plans to defeat my claim at the appellant level. My attorney threw the case and never cared from the beginning [D1] this conflict violates my 6th and 14th amendments. You notice this time they did not threaten for me to represent myself? This is supposed to be the attorneys representing me!!!

X. Incorporate reason #1 by reference, You can't hear one side of the Story when it comes to the speedy trial act. **In my case both sides were violated causing prejudice that call for dismissal with prejudice**; holding trial too soon and trial too late. I **was not given a fair chance to present the correct speedy trial act. arguments in my trial and direct appeal because my attorney refused to disparage his colleague.** which violate my due proses rights under (U.S.CONST.ART.5, 6, 14) and chills my protected speech under (U.S.CONST.ART.1) This violation warrants examination under the first, fifth, Sixth, and fourteenth Amendment's

A. The speedy trial act is very clear when it comes to doing the trial too soon (30 days), or too late (after 180 Days). The prejudice attached after trial, if my trial was held on time I would have won because the Charge introduced 6 days [Appendix D3] before trial was the only one I was found guilty of. [see B2] Sworn Affidavit of first amendment violation used as excuse to add the new charge days before trial. The district attorney said it was information he gleaned from listening to a federally protected privileged conversation under the first amendments

between me and my pastor. Having my trial too soon caused great prejudice, it did not allow me time to prepare a defense, and I was found innocent on the original two charges. I demanded a speedy trial the second day in jail at my bond hearing. I sat in prison awaiting trial on for 280 days.

**"Speedy trial violation" "prejudice"**

Where neither government nor defendant complied with local rule requiring notification to court as to status of case, defendant was not precluded from securing dismissal for violation of Speedy Trial Act since defendants are not required to insure speediness against themselves and under rule obligation of notification was mutual. United States v. Miranda, 835 F.2d 830, 24 Fed. R. Evid. Serv. (CBC) 910 (11th Cir. 1988).

Sixth Circuit will not countenance maneuvers aimed at merely paying lip service to requirements of Speedy Trial Act, and may find that trial did not "commence" before Act's 70-day deadline, even where voir dire occurred within 70 days, where such machinations are apparent. United States v. Brown, 819 F.3d 800, 2016 FED App. 0071P (6th Cir. 2016), reh'g denied, reh'g, en banc, denied, 2016 U.S. App. LEXIS 13042 (6th Cir. June 27, 2016).

Questions of policy inherent in Speedy Trial Act are for people, acting through their duly elected legislative power, and under doctrine of separation of powers, it is court's judicial duty to give full force to legislative purpose declared in Speedy Trial Act, without regard to personal opinion as to whether it is good law, bad law, or law which is partly good and partly bad. United States v. Koch, 438 F. Supp. 307 (S.D.N.Y. 1977).

Unlike protection afforded by Double Jeopardy Clause or doctrines of immunity, Speedy Trial Act, 18 USCS § 3161, does not, either on its face or according to decisions of federal courts, encompass right not to be tried, which must be upheld prior to trial if it is to be enjoyed at all; it is delay before trial, not trial itself, that offends against statutory guarantee of speedy trial; proceeding with trial does not cause or compound deprivation already suffered. United States v. Wilkes, 368 F. Supp. 2d 366 (M.D. Pa. 2005).

In context of 18 USCS § 3161(e), "factors resulting from passage of time" reference changed circumstances between conclusion of first trial and close of original 70-day period, which make it impractical to afford retrial within that period. United States v. Shellef, 111 A.F.T.R.2d (RIA) 2013-

2068, 2013 U.S. App. LEXIS 10398 (2d Cir. May 23, 2013), corrected, 718 F.3d 94 (2d Cir. 2013).

At heart of 18 USCS §§ 3161 et seq. and ABA Standards is principle that defendant must be discharged if not brought to trial within specified number of days; such absolute time pressure, leading to dismissal of indictment if schedule is violated, arguably suggests and may even require exception to schedule for certain variables not subject to strict control by trial court managers. Day v. United States, 390 A.2d 957 (D.C. 1978), overruled, Graves v. United States, 490 A.2d 1086 (D.C. 1984).

Speedy Trial Act (18 USCS §§ 3161 et seq.) is not designed to provide new substantive defenses in criminal cases but represents major congressional effort to implement Sixth Amendment's goal of ensuring that those who are accused of crime are brought speedily to trial and expresses public's interest in prompt conviction of guilty and accused's interest in prompt acquittal when charge is not supported by evidence. United States v. Bullock, 551 F.2d 1377 (5th Cir. 1977).

As result of dissatisfaction with Rule 50(b) of USCS Rules of Criminal Procedure requiring all district courts to adopt plan for prompt disposition of criminal cases, Congress enacted Speedy Trial Act of 1974 (18 USCS § 3161–3174) setting uniform time limits for all phases of criminal process and directing all district courts to adopt transitional plans for gradually implementing Act over three-year period, and directing district courts to adopt interim plans for persons in custody and persons labeled as high-risk prisoners. United States v. Strand, 566 F.2d 530 (5th Cir. 1978).

Policy and purpose of Speedy Trial Act of 1974, 18 USCS §§ 3161 et seq., and of all speedy trial plans have been to expedite processing of pending criminal proceedings, not to supervise exercise by prosecutor of his investigative or prosecutorial discretion at time when no criminal proceeding is pending before court; to invade latter area might well involve legislative and judicial branches in matters that fall primarily, if not exclusively, within jurisdiction of executive branch; by same token, neither Act nor Plans were intended to impose time limits in addition to those provided for by Constitution with respect to government investigations undertaken while defendant is not subject of formal proceedings; taken together, 18 USCS §§ 3161(d) and (h)(6) make it clear that Congress' purpose was to disregard period after dismissal of complaint and prior to filing of indictment for same offense; although § 3161(h)(6), read literally, suspends running of Act's time limits upon Government's dismissal of indictment, as distinguished from complaint, it follows that upon voluntary dismissal of complaint period thereafter up to

filing of indictment should not be included, if not disregarded entirely pursuant to § 3161(d). United States v. Hillegas, 578 F.2d 453 (2d Cir. 1978).

Purpose behind 18 USCS § 3161(c)(2) was to prevent trial from being held so quickly that defendant would not have time to prepare; it was not intended that excluded time provisions should not apply during initial 30-day period. United States v. Mers, 701 F.2d 1321, 12 Fed. R. Evid. Serv. (CBC) 1734 (11th Cir.), reh'g denied, 707 F.2d 523 (11th Cir. 1983), cert. denied, 464 U.S. 991, 104 S. Ct. 482, 78 L. Ed. 2d 679 (1983).

Congress has formalized concern over delay in disposition of criminal cases by enactment of Speedy Trial Act of 1974 (18 USCS §§ 3161 et seq.) and court has demonstrated its concern for minimizing undue delay in prompt disposition of criminal cases by adopting plan to achieve this desired goal pursuant to Rule 50(b); therefore, motion of defendant to dismiss indictment pursuant to Rule 48(b) will be granted. United States v. Dowl, 394 F. Supp. 1250 (D. Minn. 1975).

18 USCS § 3161(b) leaves no room for discretion and its very aim is to ensure uniformity in guaranteeing criminal defendants their right to prompt disposition of criminal charges and to promote sense of security and safety by requiring accused to answer for their actions in expeditious manner. United States v. Iaquinta, 515 F. Supp. 708 (N.D. W. Va. 1981), rev'd, remanded, 674 F.2d 260 (4th Cir. 1982), disapproved, United States v. Bittle, 699 F.2d 1201, 226 U.S. App. D.C. 49 (D.C. Cir. 1983).

Speedy Trial Act (18 USCS §§ 3161 et seq.) was designed to implement and enforce Sixth Amendment right to speedy trial and to insure uniformity of speedy trial concept throughout nation. United States v. Jones, 602 F. Supp. 1045 (E.D. Pa. 1985).

Speedy Trial Act requires court, in determining whether to dismiss action without prejudice, to weigh impact of re-prosecution on both administration of statute and administration of justice; pattern of disregard for responsibility to adhere to provisions of Speedy Trial Act has potential for nullifying requirements of Act, for if government suffers only dismissals without prejudice on motion of defendant, it in effect gains successive continuances; furthermore, pattern of disregard for speedy trial rights is also detrimental to administration of criminal justice system since delays risk loss of important evidence, and repetitive prosecutions on same charges cause wasteful replication of effort; however, when charged crime is serious one, permitting government to re-file indictment benefits

administration of justice as whole. United States v. Munlyn, 607 F. Supp. 2d 394 (E.D.N.Y. 2009).

## CONCLUSION

**The fact the Appellate attorney was from the same public defenders that represented me during trial, where a conflict of interest was present adds another layer of complexity to my case, this situation could potentially compromise the effectiveness of my appeal due to the continuation of the conflict of interest. I know the court job is to try to understand my position in spite of my lack of training because it's in the interest of justice. I expressed the apathetic disregard for my rights by the trial and direct appeal court and attorneys.**

I. I expressed the speedy trial act. Was violated both ways. Trial held too soon & Trial held too long. You can see the two claims about speedy trial act. run hand in hand. ((baker v. wingo (1972) "right to speedy trial is fundamental")) And if they were going to use(18 u.s.c.s.§ 3174(b)) Judicial emergency and implementation, they should have released me into the parking lot and rearrested me.

II. I expressed my discontent for my attorney's effort in regards to such a serious case, and only a few of the violations that took place during trial and direct appeal by the same office which I had no choice but to represent myself. I would have been a fool to except the trial courts offer to do that, for I still can't make a cogent argument.

III. Never uphold a conviction by alleged victims who purged themselves

IV. Please don't disregard this on technicalities

V. I showed you the conflict from my first attorney who told me to take a deal, imagine I had! I would have gotten a life sentence.

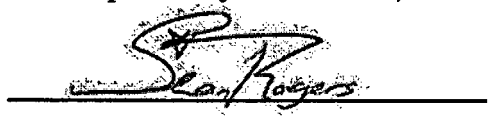
**I ask this court to order:**

**(1) Declare a mistrial and vacate the Sentence against the petitioner with prejudice.**
**-and/or-**
**(2) Order the state to do whatever this honorable court deems true and correct.**
**-and/or-**
**(3) Assign an attorney who will fight for justice, inspect the record, and all the miscarriages of justice that took place.**

**For the foregoing reasons, the Petitioner, Sean Rogers, respectfully requests that this Court grant the petition for writ of Certiorari.**

This is an affidavit of the forgoing; Factual allegations, Damages, and legal claims said here in and asserted by Sean Rogers. Under penalty of perjury under united states laws that my statements on this form are true and correct **(28U.S.C.§1746 & 18 U.S.C.§1621)**

Respectfully submitted,



Sean Rogers #33279 / *In Propria Persona* / UNTRAINED LITIGANT
WMCI
7076 Road 55F
Torrington, WY 82240

## APPENDIX AND EXHIBITS

**NOTE* all records are available upon request**

APPENDIX B:

B1.