

ORIGINAL

FILED

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

NO. 25-7546

IN THE SUPREME COURT OF THE UNITED
STATES

EASTERN DISTRICT OF ARKANSAS

TERRY ANTONIO LEE 120960# PETITIONER

V.

DEXTER PAYNE, DIRECTOR RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI
TO

EIGHTH CIRCUIT COURT OF APPEALS

NAME OF COURT THAT LAST RULED ON
MERITS OF CASE

PETITION FOR WRIT OF CERTIORARI

TERRY ANTONIO LEE 120960

EAST ARKANSAS REGIONAL

UNIT

P.O. BOX 970

MARIANNA ARK. 72360

Questions

by allowing defense on successive habeas corpus in situation where the state does not have an adequate procedural ground state rule which must be firmly established (Pet 3-19) The District Court Judge adopted the magistrate judge recommendation without making an independent written finding of fact according to Federal Law (Pet 17-16) where petitioner did opposition to recommendation (Pet 14-17) does District Court adoption of recommendation violate the Magistrate Act 28 U.S.C. 631 Seq. AL. and 28 U.S.C. 636(b), or does it violate Fed R. Civ. P. 56(c) (Pet. 14-16), or AND ABUSE OF discretion (Pet 14-30), Certificate of Appealability was denied by the District Court and the United States Court of Appeals Eighth Circuit should Certificate of Appealability should have being granted by Federal Law (Pet 3-30) IS IT ABUSE OF discretion of constitutional claims (3-30 Pet) should relief be granted on claims (Pet 3-30)

LIST OF PARTIES

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is provided below. If a party is a corporation with a stock ticker symbol, that symbol is also included.

Terry ANTONIO Lee	Petitioner
Dexter PAYNE Director	Defendant

RELATED CASES

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(I) TERRY LEE NOTICE OF

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TABLE OF AUTHORITIES

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HERNDON, 365 Ark. 180, 226 S.W. 3d
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ALSO ARKANSAS DEPT OF HUMAN SERVS.
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365 Ark. 389, 214 S.W. 3d 856 (2005)

TIMOTHY LAMONT HOWARD V. STATE
OF ARKANSAS APRIL 26, 2012 Ark 177
403 S.W. 3d 38.

MOSS V. STATE 2010 Ark. 284, 2010 WL
2210933 (2010) cert. denied - U.S. 131 -
S. Ct 425, 178 1 Ed 2d 332 2010

LEE, 2013 Ark. App. 209 At 1-2

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443 U.S. 307, 99 S. Ct 2781 61 L. Ed
2d 560

GACHO V. BUTLER 792 F. 3d 732, 735
36 (774 cir 2015)

YANG V. ROY 743 F. 3d 622, 625; (874
cir 2014)

Terry Antonio Lee v. Dexter Payne

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Terry Antonio Lee v. Dexter Payne

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Terry Lee v. State of Ark. NO. 60 CV-23-
7100

Terry Lee v. State of Ark Laboratory

60 CV-23-500

Byrd v. Henderson 110 F. 3d 34 36-
37 (D.C. Cir 1997)

Almuhaimin v. Berkeley Civil

Action NO. 13-CV-00365 LTO

D. Col. Mar. 05 2014

Haines v. Kerner 404 U.S. 519-
520 -21 (1972)

U.S. v. HAAK 403 F. 3d 997 (8th
Cir 2005)

KEEN v. TXO Production Corp. 738
F. 2d 968 (8th Cir 1984)

T.O. A Pg 2

Speiser v. Randall 357 U.S. 513, 520
78 S.Ct 1332, 1339 2, L.Ed 1460
(1958)

B. STANFORD v. NAT I Grange Ins CO,
64 SUPP. 3d 649 E.D. PA 2014

Jessie Goins v. State of Arkansas
No. CR-972 October 9, 2003

Terry Antonio Lee v. Dexter Payne
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Sanders Governor No. 4:24-CV-00
418-KLB

Walker v. Martin 562 U.S. 307, 310
(2011)

Netherland v. 95 F.3d 1214, 1241
474 Cir

Gacho v. Butler 792 F.3d 732
735-36 (774 Cir 2015)

Freeman v. Chandler 645, F.3d 863
868 (774 Cir 2011)

Chamberlaine, 501 U.S. At 74 III, S.Ct
2123

Renshaw v. Larry D. Norris Director,
Arkansas Department of Correction

T.O. APS 3

NO. CR 97-1074 MAY 13 (1999)

SANDERS v. UNITED STATES SUPRA 373

U.S. AT 18, 83 S. CT 91 1078

PRICE v. JOHNSON, 334 U.S. 266, 291,

68 S. CT 1049, 1063, 92 L. ED 1356

(1948)

JOHNSON v. COPINGER, 420 F. 2d

395, 399 (4th CIR 1969)

JACKSON 12 F 474 60 (6th CIR 2021)

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215 (1963)

NAPUE v. ILLINOIS, 360, U.S. 264, 269,

79, S. CT 1173 3. L. ED 2d 1217

(1959)

ALCOURT v. TEXAS 355 U.S. 28 78

S. CT 103 2, L. ED 2d 9 (1957)

MOONEY v. HOLLOMAN, 294 U.S. 103

55 S. CT 340. 79 L. ED 791 (1935)

TOWNSEND v. BURKS 334 U.S. 736

68 S. CT 1252 92 L. ED 1690 (1998)

SCHLEP v. DELO JAN 23 1995, 513

U.S. 298 115 S. CT 851, 136 L. ED 2d

808 83, USL 4089

IN re SWEARINGER, 556 F. 3d 344

348 (5th CIR 2009)

T. O. A PG 4

e.g. *In re Williams* 330 F.3d 277

283 474 cir 2003

e.g. *MUNCHINSKI v. Wilson* 694

F.3d, 308, 335, 37 (3rd cir 2012)

U.S. v. Williams 790, F.3d 1059, 1082

(10th cir 2015)

MCCLESKEY v. ZANT 499, U.S. 467, 497,
495 (1991)

NEONER v. Norris 499, F.3d 831, 833,
34 (8th cir 2002)

Bare Foot v. Estelle 463, U.S. 880, 8
93, 1983

Fieger v. Delo 16, F.3d 878 883, (8th
cir 1999)

MILLER - EL v. Cockroft 537 U.S. 322
338 (2003)

CONSTITUTIONAL AND STATUTORY PROVISION

INVOLVED:

28 U.S.C. 2254

28 U.S.C. 2253 (c) (1)

42 U.S.C. 1985 AND 1986

FED. R. CIV. P. 59 (e)

28 U.S.C. 631 et seq

28 U.S.C. 636 (b)

FED. R. CIV. P. 56 (c) (1)

FED. R. CIV. P. 56 (C)

~~37~~ ARK. R. C. P. 37.2

ARK. CODE, ANN. 16-90-111 (1987)

ARK. CONST. ST. ART. 2 SEC. 11

RULE 9

28 U.S.C. 2244 (b) (2) (B) (i)

28 U.S.C. (b) (3) (C)

A.C.R. 16-112-103

28 U.S.C. 2244 (b) (2) (B) (i)

14th Amendment U.S.C.

6th Amendment U.S.C.

OPINION BELOW

ARKANSA SUPREME COURT
DENIAL OF PETITION FOR WRIT OF ERROR
CORAM NOBIS

ARKANSAS SUPREME COURT DENIAL
OF WRIT OF ERROR CORAM NOBIS
RECONSIDERATION

THE UNITED STATES DISTRICT COURT ORDER
EASTERN DISTRICT (DKT NO. 20)

THE UNITED STATES DISTRICT COURT
JUDGMENT OUT EASTERN DISTRICT
(DKT NO. 21) AND (DKT NO. 24)

UNITED STATES COURT OF APPEAL FOR
THE EIGHTH CIRCUIT ORDER JULY 25,
2025 ORDER JULY 25, 2025

UNITED STATES COURT OF APPEAL
FOR THE EIGHTH CIRCUIT JUDGMENT
OCTOBER 14, 2025

UNITED STATES COURT OF APPEALS FOR
THE EIGHTH CIRCUIT MANDATE
DECEMBER 21, 2025

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was Oct 14, 2025.

☐ 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: Stollen, Nov. 25, 2025, 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 JAN 21, 2025.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: JULY 17, 2025, 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).

Jurisdiction

OVER APPEAL under 28 U.S.C. 1291

MANIVANNAN v. U.S. DEPT OF ENERGY

42 F. 4th 163, 169, (3rd cir 2022)

FINDING THAT error DENNY v.

SCHULTZ 708 F.3d 140, 143 (3rd

cir 2013) THE U.S. SUPREME COURT

MAY EXERCISE JURISDICTION OVER

FINAL JUDGMENT or DECREES

RENDERED BY THE HIGHEST COURT
OF A STATE IN WHICH A DECISION

COULD BE HAD 28 U.S.C. 1257 THE
HIGHEST COURT OF A DECISION COULD

BE HAD IS CONSIDER THE LAST STATE
TRIBUNAL TO WHICH THAT COULD

BE BROUGHT FOR REVIEW GERMAN
v. WASHINGTON UNIV. 316, 65, 98 101

(1942) LONG YOU GIVE THE HIGHEST
COURT OPPORTUNITY TO HEAR CASE.

STATEMENT OF CASE

PETITIONER Terry Lee Filed A writ Error
CORAM NOBIS IN THE ARKANSAS SUPREME
COURT ON A BRADY VIOLATION ON NEW
DISCOVERY EVIDENCE, CLAIM ON INSUFFI
CIENT ADDRESS, CLAIM ON ILLEGAL

SENTENCE AND CONVICTION. THE ARKANSAS
SUPREME COURT DENIED WRIT OF ERROR
CORAM NOBIS WITH OUT A WRITTEN
OPINION OF LAW PETITIONER FILED A

RECONSIDERATION OF THE WRIT OF ERROR
CORAM NOBIS WHICH WAS ALSO DENIED
WITH OUT A WRITTEN FINDINGS OF FACT AND

LAW BOTH ADDED TO PETITION APP A-B)

PETITIONER FILED HABEAS CORPUS
IN THE DISTRICT COURT STATING THE
SAME GROUNDS BUT ADDED OLD GROUNDS
THAT WAS STATED IN THE FIRST HABEAS
CORPUS PETITION THAT THE DISTRICT
COURT DIDNT REACH ON THE MERITS
ON THE INEFFECTIVE ASSISTANT OF
COUNSEL FAILURE TO INVESTIGATE

CLAIMS THAT WAS IN CASE Terry
ANTONIO LEE V. BETTER PAYNE NO. 5218-
CV-00045 (Dkt NO. 2). A motion
TO DISMISS WAS FILED (Dkt NO. 6)

AND PETITIONER FILED AN OPPOSITION
TO MOTION TO DISMISS (DKT NO. 12)
MAGISTRATE JUDGE FILED RECOMMENDATION
(DKT NO. 14) PETITIONER FILED OPPOSITION TO
RECOMMENDATION (DKT NO. 19), DISTRICT COURT
JUDGE FILED ORDER DISMISSING PETITION
ADOPTING MAGISTRATE JUDGE RECOMMEND
ATION WITHOUT MAKING AN INDEPENDENT
WRITTEN FINDINGS OF FACT OF THE LAW.
(DKT NO. 20) AND FILE JUDGMENT (DKT NO.
21) PETITIONER FILED PURSUANT TO FED. R.
CIV. P. 59(e) (DKT NO. 22) DISTRICT COURT
JUDGE DENIED (DKT NO. 24) PETITIONER
APPEAL TO THE UNITED STATES COURT OF
APPEAL ~~EIGHTH~~ EIGHTH CIRCUIT
FOR CERTIFICATE OF APPEALABILITY AND
ABUSE OF DISCRETION, THE UNITED STATES
COURT OF APPEALS DENIED CERTIFICATE OF
APPEALABILITY AND FAIL TO RULE ON THE
ABUSE OF DISCRETION CLAIMS. WHICH WAS
ALSO STATED IN RECONSIDERATION WHICH
ALSO WAS DENIED. NO RULING ON THE
MERITS. SOME HOW WHEN PETITIONER
GOT SHED TO NEW UNIT LEGAL DOCUMENTS
OF THE RECONSIDERATION RULING GOT LOST.
PETITIONER FILED A NOTICE OF APPEAL

that's ADDED to Petition that Court of
APPEALS EIGHTH Circuit SENT BACK, IT
WAS ADDRESS to go to THE UNITED SUPREME
Court. PETITIONER FILED writ of certior
ari for the United State Supreme Court
could review the merits of Petitioner
INNOCENCE, illegal detention, Brady
violations, INSUFFICIENT OF EVIDENCE,
INEFFECTIVE ASSISTANT OF COUNSEL,
Certificate of APPEALABILITY CLAIMS,
ABUSE OF DISCRETION CLAIMS, THE
LAW ON SUCCESSIVE HABEAS CORPUS
CLAIMS, THE Fed. R. CIV. P. 56(c)
CLAIMS, by TERRY LEE RECEIVING
EXCESSIVE SENTENCE OF 85 YEARS WHERE
NOBODY WAS INJURED IN CASE, AND
by THE STATE did NOT ESTABLISH
AN ADEQUATE PROCEDURAL GROUND
~~WHICH~~ STATE RULE WHICH MUST BE
FIRMLY ESTABLISH AND REGULAR
FOLLOW WHICH STATED IN Petition 3-19
by the District Court AND THE UNITED
STATES COURT OF APPEALS REFUSE to
REVIEW AND RULE ON THE ILLEGALITY OF
PETITIONER CONVICTION LEAVING PETITIONER
IN CARCERATE 16 YEARS ON NOBODY INJURED

REASON For GRANTING THE WRIT OF Certiorari Petition

A writ of Certiorari is extraordinary relief in determining its application the court will not look beyond the face of the record to ascertain the actual merits of controversy, or to control discretion, or to review a finding of fact, or to reverse a trial courts discretionary authority there are two requirements that must be satisfied in order for this court to grant a writ of Certiorari. The first requirement is that there ~~can~~ can be no other adequate remedy but for the writ of Certiorari lies only where (1) it is apparent on the face of the record that there has been a plain, manifest clear

gross abuse of discretion, or (2)
There is a lack of jurisdiction
an act in excess of jurisdiction
on the face of the record, or
the proceedings are erroneous
on the face of the record.

Arkansas Game Fish Comm'n
v. Herndon, 365 Ark. 180 226
S.W. 3d 776 (2006) (citations
omitted) emphasis added) see
also Arkansas Department of
Human Services v. Circuit Court of
Sebastian County, 363 Ark.
389, 214 S.W. 3d 856 (2005) The
United States Supreme Court
will see in this case all the above
factors and more that petitioner
was taken advantage cause he
proceeded pro se without counsel
and very limited resources
petitioner clearly proven in
case several due process
violations, actual innocence,
illegal and unlawful detention
excessive sentencing, conspiracy to
deny access to the courts, abuse.

PETITIONER FILED A WRIT OF ERROR
CORAM NOBIS TO THE ARKANSAS
SUPREME COURT CITING CASE:

TIMOTHY LAMONT HOWARD V.
STATE OF ARKANSAS APRIL 26, 2012
ARK. 177 403 S.W. 3d 38 THE
STATE ACKNOWLEDGES A BRADY
VIOLATION ARE NOT COGNIZABLE
UNDER RULE 37 MOSS V. STATE
2010 ARK. 284, 2010 WL
2210933 (2010) CERT DENIED - U.S. -
131 - S. CT 425, 178 1 Ed 2d
332 2010 (HOLDING THAT PROSECUT
IONAL MISCONDUCT IS NOT A
CLAIM COGNIZABLE IN A RULE
37 PETITION) WHICH THE STATE
STATES: IT MAKE NO SENSE TO
THIS COURT THAT A BRADY
VIOLATION FOR PROSECUTORIAL
MISCONDUCT WOULD BE BARRED
BY A RULE 37 PETITION SINCE
SUCH A BRADY CLAIM IS NOT
COGNIZABLE UNDER RULE 37, MORE
OVER, THIS COURT HAS REPEATEDLY
STATED THAT MATERIAL EVIDENCE
WITH HELD BY THE PROSECUTOR

IS ONE OF THE FUNDAMENTAL
errors IN A trial THATS
WARRANTS error CORAM NOBIS
RELIEF LARIMORE 341 ARK. 397,
406, 17 S.W. 3d 87. 92, THE
BRADY VIOLATION WHERE THE
DNA HAND WRITTEN LABORATORY
REPORTS BY THE LABORATORY
ANALYSIS JAMIE HART WICK
AND BOBBY HUMPHRIES, EVIDENCE
OF MNI RAZOR BLADE, A STATE
DOCUMENT THAT STATES TERRY
LEE THREATENING TO GET GUN, COME
BACK AND KILL EVERY BODY IN
THE HOUSE, OR ANY REPORT
FROM A VICTIM STATING THEY
BEING SHOT. ALL NOTIFICATION
OF EVIDENCE ABOVE CAME
AFTER TRIAL THE EVIDENCE WAS
SUPPRESSED WILLIFULLY OR
INADVERTENTLY WHERE PETITION
ER WASNT ABLE TO PROVE HIS
INNOCENCE DURING TRIAL AND IF
PETITIONER WAS AWARE OF THE
EVIDENCE HE COULD HAVE PROVE TO
THE JURY BY THE FINGER PRINTING

IT WASN'T HIM AND IMPEACH THE
DETECTIVE MICHAEL GIBBSON WHO
TESTIFIED A FALSE STATEMENT STATE
ING AT JURY TRIAL THE BULLET SHELL
WASN'T TESTED SEE (ABSTRACT PG 208)
PETITIONER TERRY LEE COULD ALSO
PROVE HIS INNOCENCE ON ANIETHER
FALSE STATEMENT OR REPORT THAT
STATED LEE THREATING TO GET
GUN AND KILL EVERY BODY IN THE
HOUSE CAUSEING THE ARKANSAS
COURT OF APPEALS AFFIRMING
CONVICTION SEE CASE LEE, 2013 ARK.
APP, 209 AT 1-2, AND ALSO
PETITIONER TERRY LEE COULD PROVE
HIS INNOCENCE ON THE PROSECUTOR
REPORT THAT WAS FILED AFTER
TRIAL STATING A VICTIM WAS
SHOT AGAIN ANIETHER FALSE
REPORT TO GET PETITIONER TERRY
LEE CONVICTION AFFIRM BY THE
ARKANSAS COURT OF APPEALS THESE
ARE CLEARLY BRADY VIOLATION
THAT VIOLATE DUE PROCESS WHICH
THE ARKANSAS SUPREME COURT DISMISS
WITHOUT WRITTEN FINDINGS OF FACTS.

Second claim that was Filed in
the writ of error coram nobis
citing case: TIMOTHY LAMONT
Howard v. State of Arkansas April
26, 2012 ARK. 177. 403 S.W. 3d 38
under claims not cognizable
in A Rule 37 by Docket State
Judge Herbert Wright as the
Judge and case assigned by the
Pulaski county clerk means Judge
Herbert Wright have original
jurisdiction over matter and
was required by law to here
case Judge Barry Sims out of
774 Division proceeded illegally
by having petitioner proceed
in his court room which was
not prescribed by law whose
act must be regarded as
coram non iudice and void
Dunn v. State 252, Brumley
v. State 20 ARK. 77 Grimmer
v. Askew 48 ARK. The Rule is
applicable to the proceedings
of a court held at place not
authorized by law

THE JUDGMENT CONVICTION AND
COMMITMENT ORDER IS INVALID ON
ITS FACE A COURT A COURT THATS
NOT PRESCRIBE BY LAW IS A MORE
COLLECTION OF OFFICIAL ACTS ARE
VOID WILLIAM V. REUTZEL ARK,
JAN 12, 1895 6 ARK. 153 PETITION
ER ASK FOR RELIEF FROM AN CONVIC
TION OR SENTENCE BY A PERSON IN
STATE CUSTODY PETITIONER IS BEING
HELD. IN VIOLATION OF CONSTITUT
IONS, LAW TRESTIES OF THE UNITED
STATES VIOLATE DUE PROCESS 14TH
AMENDMENT THE ARKANSAS
SUPREME COURT FAIL TO WRITE A
FINDINGS OF FACT OF THIS CLAIM
ALSO JUST DISMISSED.

THIRD CLAIM CITING CASE: JACKSON
V. VIRGINIA JUNE 28 1979 443
U.S. 307 99 S.Ct 2781 61 L.Ed 2d
560 WHICH STATE INSUFFICIENT
OF EVIDENCE CLAIM IS COGNABLE
UNDER 2254 WHICH STATES:
INSUFFICIENT EVIDENCE IN VIOLAT
ION OF DUE PROCESS 14TH AMEND
MENT OF THE UNITED STATE

Constitution A conviction upon
a charge not made or upon a
charge not tried is a denial of
due process U.S.C. Const. Amend
14th A person cannot incur the
loss of liberty for an offense
without notice and meaningful
opportunity to defend. If not
the right to a trial itself,
presumes as well that a total
want of evidence to support a
charge, a charge will conclude
the case in favor of the accused
U.S.C.A. Const. Amend due process
requires that no person be made
to suffer the onus of a criminal
conviction except upon
sufficient of proof, defined as
evidence a trier of fact beyond
reasonable doubt of the existence
of every element of the offense
U.S.C.A. Const. Amend 14 The
critical inquiry on review of
the sufficiency of evidence to
support criminal conviction
must be not simply to determine

JURY WAS PROPERLY INSTRUCTED, BUT TO
DETERMINE WHETHER RECORD EVIDENCE COULD
REASONABLY SUPPORT A FINDING OF GUILT
BEYOND A REASONABLE DOUBT, THE RELEVANT
+ QUESTION IS WHETHER AFTER VIEW-
ING EVIDENCE IN LIGHT MOST FAVORABLE
TO PROSECUTION, ANY RATIONAL
TRIER OF FACT COULD HAVE FOUND THE
ESSENTIAL ELEMENT OF THE CRIME
BEYOND A REASONABLE DOUBT U.S.C.A.
AS THE PROSECUTOR STATED IN TRIN L SEE
(R. 682) (ABST PG 237) THE STATE GO THREW
EACH ELEMENT OF THE CRIMES OFFENSES.
FOR THE TERRORISTIC ACT ERICA BROWN
TESTIMONY STATING TERRY LEE SHOT AT
HER HOME 7 TIMES. IT STATES HOW-
EVER TO PROVE CRIMINAL ATTEMPT TO
COMMIT BATTERY IN THE FIRST DEGREE
SEE (R. 683) (ABSTRACT PG 238) ROBERT
BROWN WAS SHOT AT 8 TIMES THE
TESTIMONY PROVEN ERICA BROWN GAVE
FALSE TESTIMONY, ROBERT BROWN TEST-
IMONY SHOW THE OFFICER STATEMENT
WAS FALSE SEE R 683) (ABSPS 239) ROBERT
BROWN TESTIFIED A BULLET HIT THE
BRICK BY HIS FACE AND THE OTHER 7

SHOTS WAS AT HIM WHILE HE WAS RUNNING but ALL testimony stated it WAS A BULLET HOLE IN THE WINDOW SILL WHICH IS IMPOSSIBLE CAUSE ONLY ONE BULLET WAS SUPPOSE TO HIT THE HOUSE AND ROBERT BROWN TESTIFIED IT HIT THE BRICK SO HOW THAT THERE WAS ANY PHOTOS OF A WINDOW SILL WITH A BULLET HOLE WHEN DETECTIVE MICHAEL GIBBSON STATED IN REPORT ALL PHOTOS TO THE CRIME SCENE WAS LOST (Pkt NO. 2) SO HOW PETITIONER IS CONVICTED OF TERRORISTIC ACT BY AGGRAVATE ASSAULTS FOR THE ONE BULLET THAT SUPPOSELY HIT THE HOUSE THREW TESTIMONY AND EVIDENCE PROVE IMPOSSIBLE. AND FOR THE CRIMINAL ATTEMPT TO COMMIT FIRST DEGREE BATTERY ROBERT BROWN GAVE TWO IMPOSSIBLE STATEMENTS HE TESTIFIED A BULLET HIT A WINDOW SILL WHEN SOME ONE WAS SHOOTING AT HIM THEN HE TESTIFIED A BULLET HIT THE BRICK BY HIS FACE BUT ONLY ONE BULLET HIT THE HOUSE SUPPOSELY BUT NO PHYSICAL EVIDENCE PERIOD AND SUPPOSELY BE EVIDENCE

Came up 1st and Criminal Attempt to
Commit 1st degree battery Have to
suffer AN INJURED Nobody was
INJURED in case THE Essential

Elements the Prosecutor stated in
(R. 682) (Abst pg 237) WASNT Proven
but ONLY Prove Petitioner INNOCENCE,
THE ARKANSAS SUPREME COURT fail to
ADDRESS issue in Writ error CORAM
NOBIS nor District Court Judge WHICH
WHO WAS Required by JACKSON V.

VIRGINIA JUNE 28, 1979 443 U.S. 307 99 set
FOURTH CLAIM Petitioner brought back
that WAS Filed in the First Habeas
CORPUS WAS INEFFECTIVE OF Assistant
Counsel. 6th Amendment Claim on
Fail to Investigate CLAIMS that
WAS brought up see Terry Antonio
Lee v. Dexter PAYNE Director 5:18-
CV-00045 (Dkt No. 2) AND (Dkt No. 25)
by District Court didnt Reach the
MERITS OF CLAIMS THEY NOT CONSIDER
SUCCESSIVE 28 U.S.C. 2253(C) (1) A EPA
GACHO V. BUTLER 792 F.3d 732, 735-
36. [7th Cir 2015 YANG V. ROY 743,
F.3d 622, 625 8th Cir 2014]

ALL KIND CONSPIRACIES BEING GOING ON
WITH THIS CASE SEE TERRY ANTONIO LEE
V. DEXTER PAYNE DIRECTOR 5:18-CV-00045
KGB (DKT NO. 80), SEE TERRY LEE V.
AMANDA GRANGER NO. 18-1755 DISTRICT
COURT JUDGE DISMISSED ALL PETITION
CIVIL COMPLAINTS BASIS OFF MOTION
FILED TO RECUSE SEE TERRY ANTONIO
LEE V. DEXTER PAYNE DIRECTOR NO.
5:18-CV-00045 KGB (DKT NO. 66)
DISTRICT COURT JUDGE DISMISSED 3 CASES
IN ALL (1) TERRY ANTONIO LEE V. DEXTER
PAYNE DIRECTOR CASE NO. 4:24-CV-00
497-KGB-PSH WHICH IS THIS CASE I AM
APPEALING (2) TERRY ANTONIO LEE V.
DEXTER PAYNE DIRECTOR NO. 4:24-CV-
00418 WHICH IS ON THE 42 U.S.C.
1985 AND 1986 CONSPIRACY CLAIM
1985 (2) AND (3) (3) CASE NO. 5:18-CV-
00045 45 PETITIONER FILED (DKT NO. ~~70~~
72) DISTRICT COURT JUDGE DISMISSED (DKT NO.
79) IN SAME CASE SEE MOTION FOR
RECUSAL (DKT NO. 66). THE ATTORNEYS
GENERAL, PROSECUTORS AND THE CIRCUIT
COURT CLERK ARE APART OF THESE CONSPIR
NOT SEE CASE NO. 60 CV-23-7100 AND CV-23-520

PETITIONER Filed reconsideration
Pursuant to Fed. R. Civ. P. 59(e) see
(Dkt No. 22) The District Court Judge
AND THE eighth court of Appeal Fail
to reach merits on illegality of my
detention Byrd v. Henderson 110 F.
3d 34-36-37 (D.C. Cir 1997) where judg-
ment is inadequate or ineffective to
test the legality of my Detention
Almuh Sinn v. Berkeley civil Action
No. 13-cv-00865 LTB (D. Cal. Mar. 05
2014) ON Fed. R. Civ. P 56(e) The
District Court must construe motion
liberally because Plaintiff is not
represented by an attorney see
Haines v. Kerner 404 U.S. 519 520-21
(1972) The District Court Judge Abuse
discretion see U.S. v. Mack 403 F.3d
997 (8th Cir 2005) In Mack the court
applying the Abuse of discretion
standard cited Keen v. TXO
Production Corp. 738 F.2d 968
(8th Cir 1984) as follows: which we
say a decision is discretionary we
do not mean that the District Court
may do as it please has a range of choice

decision will not be disturbed as long as it stays within the range and is not influenced by mistake of law or abuse of discretion on the other hand can occur there principal ways when a relevant factor that should be given significant weight is not considered when an irrelevant or improper factor is considered and given significant weight and when all proper factors and improper ones are considered but the court weighting those factors commits a clear error by not making an independent written of fact findings where the magistrate judge recommended (DKT NO. 14) and petitioner filed opposition to magistrate recommendation (DKT NO. 19) District court Judge just adopted magistrate judge recommendation (DKT NO. 20) and District Judge declines to issue certificate

OF APPEALABILITY OF MAGISTRATE
JUDGE recommendation ALONG

VIOLATING THE MAGISTRATE ACT 28
U.S.C. 631 et seq AND 636(b)

SPEISER V. RANDALL 357 U.S. 513
520 78 S.Ct 1332 1339 2, LEd
1460 1958 THE FEDERAL JUDGE ON
A HABEAS CORPUS APPLICATION IS

REQUIRED TO SUMMARILY HEAR AND
DETERMINE THE FACTS AND DISPOSE
OF THE MATTER AS LAW AND
JUSTICE REQUIRE 28 U.S.C. 2243

THIS HAS LONG BEEN THE LAW R.S.
761, OLD 28 U.S.C. 461 BY THE
DISTRICT COURT JUDGE NOT DISPUTING
THE FACTS OF PETITION (DKT NO. 2)

, OR OPPOSITION TO MOTION TO
DISMISS (DKT NO. 12), OR AND OPPOSIT
ION TO FINDINGS AND RECOMMENDAT
ION (DKT NO. 19) BY PETITIONER TERRY

LIE VIOLATE Fed. R. CIV. P. ~~56~~
56(c)(1) A PARTY TO ADDRESS THE

SUPPORTED FACTUAL ASSERTIONS
MADE BY ANOTHER PARTY STANFORD
V. NAT I GRANGE INS. CO. 64

SUPP. 3d 649 E.D. PA, 2014

SEE Fed R. Civ. P. 56(c) giving the Court discretion to consider facts undisputed if a party fails to properly support an assertion of fact or fail to properly address another party's assertion of fact as required by Rule 56(c) see District Court Judge Kristine G. Baker order (Dkt No. 20) and judgment (Dkt No. 21) in both (Dkt Nos 20, 21) no written finding of facts against Petitioner Lee (Dkt Nos. 2, 12, 19) If District Court Judge would have looked at the facts of the habeas corpus petition (Dkt No. 2), opposition to motion to dismiss (Dkt No. 12), and opposition to findings recommendation (Dkt No. 19) the District Court Judge would have known that under ~~Goins~~ Jessie Goins v. State of Arkansas No. CR-972 October 9, 2003 Quote by Robert L. Brown Justice, states: concurring I write to emphasize that which Arkansas Rule of Criminal Procedure

37.2 Prescribe time Limits For Post-
CONVICTION RELIEF that superseded
our state statute dealing with

illegal sentences (ARK, CODE ANN.
16-90-111 (1987) It does not AND CAN
NOT supersede the privilege of
THE WRIT OF HABEAS CORPUS

guaranteed to our citizens under
THE ARKANSAS CONSTITUTION ARTICLE

2 SECTION 11 OF THE ARKANSAS
CONSTITUTION PROVIDES: THE PRIVILEGE
OF THE WRIT OF HABEAS CORPUS
SHALL NOT BE SUSPENDED EXCEPT

by the General Assembly, IN CASE
OF rebellion, INSURRECTION or
INVASION, WHEN THE PUBLIC
SAFETY MAY require it. Rule 37

is A COURT-ADOPTED rule that
(1) WAS NOT ENACTED BY THE General
Assembly AND (2) does not pertain
to "rebellion Insurrection or

INVASION" ACCORDINGLY Rule
37 does NOT SUSPEND IN ANY

WAY A CITIZENS PRIVILEGE TO
HABEAS CORPUS RELIEF AS YOU CAN
SEE IN CASE Terry Antonio Lee v.

DEXTER PAYNE, DIRECTOR CASE NO. 5:18 -
CV-00045, see CASE Terry Antonio Lee
V. STATE OF ARKANSAS CASE NO. CR
14-923 AS WELL AS THIS CASE FILED see
(DKT NO. 6) BRIEF IN SUPPORT OF motion
to Dismiss, ~~AND~~ see MAGISTRATE Judge
FINDINGS IN recommendation (DKT
NO. 14) AND see District Court order
AND Judgment (DKT NOS. 20, 21) ALL
GOING OFF POST-CONVICTION WHICH CLAIMS
WERE MISCHARACTERIZED AND MISADDRESSES
but THE POST-CONVICTION STOP
MEANINGLESS REVIEW ON THE ILLEGALITY
OF PETITIONER DETENTION AND HABEAS
CORPUS REVIEW ON THE MERITS OF
Petitioner illegality AS CRIMINAL CASE
WAS STOP BY THE ADC DEFENDANTS
see CASE Terry Antonio Lee V. DEXTER
PAYNE DIRECTOR CASE NO. 5:18-CV-
00045 (DKT NO. 80) ALSO CASE
Terry Lee V. SARAH MUCKABEE
JANDERS ET AL CASE NO. 4:24-CV-00
418-156B FOR ADC DEFENDANTS
STOPPING RECONSIDERATION THAT WAS
FILED NOW PETITIONER Terry Lee
BRINGS CLAIMS UNDER TIMOTHY

LAMONT HOWARD V. STATE OF ARKANSAS
April 26, 2012 ARK. 177 463 S.W.

3d 38 WHICH STATES HOW COULD A
CLAIM NOT COGNIZABLE UNDER POST-
CONVICTION BE BARRED, PETITIONER LEE

GOT 1-4 CLAIMS UNDER HOWARD IN
THIS PETITION STATED AS REASON FOR
THE GRANT OF THIS PETITION, EVEN

AS THAT SAID TO QUALIFY AS AN

ADEQUATE PROCEDURAL GROUND A
STATE RULE MUST BE FIRMLY ESTABLISH
ED AND REGULARLY FOLLOWED.

WALKER V. MARTIN 562 U.S. 307, 316

(2011) [quotation marks removed]

AS A GENERAL MATTER FROM STATE
STATUTES AND SUPREME COURT

RULES ARE FIRMLY ESTABLISHED

NETHERLAND, 95 F.3d 1214, 1241

4TH CIR BOTH CASES CITED IN

PETITION PROVE THAT THE STATE OF

ARKANSAS PROCEDURAL GROUND NOT

FIRMLY ESTABLISHED CASE: JESSIE

GOINS V. STATE OF ARKANSAS NO. CR-

972 OCTOBER 9, 2003) AND

LAMONT HOWARD V. STATE OF ARKANSAS

April 26, 2012 ARK. 177 463 S.W. 3d

38 AND BY THE DISTRICT COURT + STILL
COULDN'T RULE AND STATE THE PETITION
IS SUCCESSIVE BECAUSE ALL CLAIMS ARE
MENTION IN THE FIRST HABEAS CORPUS
PETITION SEE (DKT NO. 6) BRIEF IN
SUPPORT OF MOTION TO DISMISS 28
U.S.C. 2253(C)(1) ACPA ORDER NOT FIN
AL WHEN DISTRICT COURT JUDGE DID
NOT RESOLVE MERITS OF PETITION
CLAIM GACHO V. BUTLER 792 F. 3d
732 735-36 (7TH CIR 2015) MOTION
NOT TREATED AS SECOND AND SUCCESSIVE
WHEN IT'S ARGUED THAT DISTRICT COURT
ABUSE DISCRETION IN PROCEDURALLY DIS
MISSING PRIOR HABEAS PETITION BUT
NOT REACH MERITS FREEMAN V. CHAND
LER 645 F. 3d 863, 868 (7TH CIR 2011)
AND IF THE COURT FELT CASE WAS
SUCCESSIVE IT SEVERAL EXCEPTIONS
THAT PETITIONER STATED SEE (DKT NOS
12, 19) AND CASE GOT STOP BY THE
ADC DEFENDANTS SEE TERRY ANTONIO
LEE V. DEXTER DAYNE DIRECTOR NO. 5:18-
CV-00045 KLB (DKT NO. 80) SEE
TERRY LEE V. SARAH HUCKABEE NO. 4:24-
CV-00418-KLB SEE THE CONSPIRACIES.

Just because A district court HAS THE INHERENT POWER to rescind a discharge order does NOT MEAN that it is APPROPRIATE to use that power in every case, because the exercise of AN INHERENT power in the interest of promoting efficiency MAY risk undermining other vital interests related to the FAIR ADMINISTRATION OF JUSTICE A district courts INHERENT POWERS must be exercised WITH RESTRAINTS

SEE CHAMBERS 501 U.S. AT 44, 111, 5, ET 21 23 (BECAUSE OF THEIR VERY POTENCY, INHERENT POWERS MUST BE EXERCISED WITH RESTRAINTS AND DISCRETION.

AS IN CASE RENSNAW v. LARRY D. MORRIS Director ARKANSAS DEPARTMENT OF CORRECTION NO. CR 97-1074 MAY 13 (1999) STATES DETENTION FOR ILLEGAL PERIOD OF TIME IS PRECISELY WHAT A WRIT OF HABEAS CORPUS IS DESIGNED TO CORRECT WHEN A HABEAS CORPUS PETITIONER ALLEGES THAT SENTENCE IS VOID OR ILLEGAL THE SUPREME COURT REVIEW THE MATTER OF THE TRIAL COURT

subject matter jurisdiction to enter such sentences regardless whether an objection was made to the trial court habeas corpus petition can not be waive which prove none of petitioner claims that are illegal, void could be waive, even if the defendants mischaracterize and misaddress claims but never rule on the legality of detention of the merits, the principle behind rule 9(b) is to dismiss those petitions that constitute needless piece litigation or whose purpose is to vex, harass, or delay *sanders v. united states*, *supra* 373 U.S. at 18, 83 S.Ct at 1078 petitioner cannot be charge with having abuse the writ of habeas corpus if at the time of his earlier petition, he was unaware that those facts constituted a basis for which his newly asserted claims are based, or was unaware that those facts constituted a basis for which federal habeas corpus relief could be granted this the petitioner

MAY HAVE ADEQUATE REASON FOR NOT
PRESENTING HIS CLAIM EARLIER SEE
PRICE V. JOHNSON, 334, U.S. 266, 291,
68 S. CT 1049, 1063, 92 LEd 1356 (1948)
JOHNSON V. LOPINGER, 420, F. 2d 395
399 (4TH CIR 1969) WHILE A PRISONER
SHOULD NOT BE ALLOWED TO ABUSE THE
WRIT OF HABEAS CORPUS. HE SHOULD NOT BE
PENALIZED FOR AVAILING HIMSELF OF
ACCESS TO THE COURTS SIMPSON V. WAIN
WRIGHT SUPRA AT 496. THE SUPREME
COURT HAS STATED THAT IN A HABEAS
CORPUS PROCEEDING THE "PRIMARY
PURPOSE" IS TO ASSURE THAT NO ONE
IS UNJUST IMPRISONED. THEREFORE,
IF A PRISONER IS UNAWARE OF THE
LEGAL SIGNIFICANCE OF RELEVANT
FACTS, IT WOULD BE UNREASONABLE TO
PROHIBIT HIS ATTEMPT FOR JUDICIAL
RELIEF, PRICE V. JOHNSON SUPRA 334
U.S. AT 291 68 S. CT 1063 IN THIS
CASE A HOLDING FOR ABUSE OF WRIT IS
NOT WARRANTED THERE WAS NEITHER
INEXCUSABLE NEGLECT NOR DELIBERATE
WITH HOLDING OF A GROUND FOR
RELIEF TERRY LEE HAS BEEN WITHOUT

The benefit of Counsel throughout the proceeding in his Post-conviction Hearing or Filing of Post-conviction Petition, or Habeas Corpus Petition without hearing on the merits. It cannot be assumed that he would be familiar with Federal Procedures, or the legal basis that may justify his cause as the Supreme Court said in Price prisoners are often unlearn in the law and unfamiliar with the complicated rules of pleading since they act so often as their own counsel in Habeas Corpus proceedings we cannot impose on them the same high standards of the legal art which we might place on the members of the legal profession especially is this where the imposition of those standards would have a retroactive and prejudicial effect on the petitioner in an artistically drawn petition. As 28 U.S.C. 2254 section (A) states: permits a Federal court to entertain only those applicant

ION ALLEGES that A PERSON IS IN
state custody in violation of
the Constitution, or LAWS, or
treaties of the United States
WHICH PETITIONER ALLEGE IN TWO
OF HIS CLAIMS see (Dict NO. 2)
ONE ON THE DOCKET CLAIM, THE OTHER
IS ON INSUFFICIENT OF EVIDENCE
BOTH ARE MENTION IN THIS PETITION
under 2244(b)(2)(B)(i) THERE IS
A NARROW EXCEPTION TO AEDPA
PROHIBITION ON SUCCESSIVE HABEAS
ON BRADY VIOLATION AND ~~2244~~ 2244
(b)(3)(e) CITING CASE JACKSON 12
F 4th 60 (6th Cir 2021), AS
PETITIONER STATED IN Dict NO. 12/
(Dict NO. 19) DISTRICT COURT AND THE
UNITED STATES COURT OF APPEAL OUT
OF EIGHTH CIRCUIT IGNORED CLAIM
REVERSE RULE ON MERITS. PETITIONER
LEE ~~FOURTH~~ 14TH AMENDMENT RIGHT
DENIAL DUE PROCESS WAS VIOLATED
WHILE THE PROSECUTOR, THE ~~Q.A.~~ KANSAS
COURT OF APPEAL, DISTRICT COURT JUDGE
AND THE UNITED STATES COURT OF
APPEALS EIGHTH CIRCUIT BY ALLOWING

PETITIONER TERRY LEE OBTAINED A
CONVICTION EITHER BY THE KNOWING
USE OF FALSE MATERIAL, TESTIMONY
OR BY THE INTENTIONAL SUPPRESSION
OF EVIDENCE SEE, E.G. BRADY V. STATE
OF MARYLAND, 372 U.S. 83, 87, 83.
S.Ct. 1194, 10 L.Ed. 2d 215 (1963) NAPOE
V. ILLINOIS, 360 U.S. 264, 269, 79, S.Ct. 1173
3 L.Ed. 2d 1217 (1959) ALICOURTA V. TEXAS
, 355 U.S. 28, 78 S.Ct. 103 2 L.Ed. 2d
9 1957 MOONEY V. HOLLOMAN, 294 U.S.
103 55 S.Ct. 340, 79 L.Ed. 791 (1935) THE
FALSE EVIDENCE PROSECUTOR REPORT
(DKT NO. 2 PG 114 OF 115) STATING DEFEN
DANT SHOT A HOUSE AND 1 VICTIM
NOBODY WAS SHOT IN CASE, THE COURT
OF ARKANSAS COURT OF APPEALS AFFIRM
CONVICTION OF FALSE EVIDENCE
STATING APPELLANT THREATENED TO
RETURN AND KILL EVERY BODY IN THE
HOUSE DKT NO. 2 PG 105 OF 115) THE
MAGISTRATE JUDGE RESPONSE TO
PETITION OF WRIT OF HABEAS CORPUS
DKT NO. 2 PG 106 OF 115 / ALSO STAT
ING FALSE STATEMENT LEE THREATING
TO RETURN WITH A GUN AND KILL

EVERY ONE IN THE HOUSE, THEN THE NEW
OBTAINED EVIDENCE THAT THE PROSECUT
OR KNEW CASE WAS PROCEEDING IN 774
DIVISION illegal that the CASE WAS
WAS STILL IN FOURTH DIVISION see (DKT
NO. 2 PGS 108, 109 OF 115) THE NEW
DISCOVERED EVIDENCE THAT PROVE
PROSECUTOR NEW see (DKT NO. 2 PG 111
OF 115) WHICH PROVE PETITIONER illegal
117 OF DETENTION WHICH CIRCUIT
COURT JUDGE BARRY SIMS TRIED TO HIDE
WITH HIS OWN DOCUMENT OF THE
PROCEEDING (DKT NO. 2 PG 110). DUE
PROCESS REQUIRES THAT A CONVICTED
PERSON CANNOT BE SENTENCED ON
MATERIAL UNTRUE ASSUMPTION, OR
MISINFORMATION see TOWNSEND V.
BURKS 334 U.S. 736 68 S. CT 1252
92 L. ED 1690 (1998) WHICH CLAIMS
COULD NOT BE WAIVED ACCORDING TO
A.C.A 16-112-103 see RENSHAW V.
LARRY MORRIS DIRECTOR ARKANSAS
DEPARTMENT OF CORRECTION NO. CR 97-
1074 MAY 13 (1999) ALSO NARROW
EXCEPTION IN SCHIEP V. DELO JAN 23,
1995, 513, U.S. 298 115, S. CT. 851, 130,
PG 27

LED 2d 808 83, USL 4089 to excuse
ANY procedure rule LONGS it stated
that ACTUAL INNOCENCE under 2244
(b)(2)(B)(i) there is NARROW Except
ION to AEDPA prohibition ON
SUCCESSIVE HABEAS PETITIONER
STATED IN (DKT NO. 2), (DKT NO. 12),
AND (DKT NO. 19) OF HIS INNOCENCE but
District Court AND the United State
Court OF APPEAL out OF Eighth Circuit
REFUSE to RULE ON the MERITS OF
CLAIM EVEN AFTER SHOWING CAUSE AND
PREJUDICE AND SHOWING THE NARROW
EXCEPTIONS Certificate OF APPEALabi
ty SHOULD HAVE BEING GRANTED FOR
REVIEW ON the MERITS OF CLAIMS
Certificate OF APPEALABILITY SHOULD
HAVE GRANTED ACCORDING to PETITIONER
(DKT NO. 2), (DKT NO. 12) (DKT NO. 19) AND
(DKT NO. 22) ALL WAS APPEAL to the
United State Court OF APPEALS out OF
Eighth Circuit. Certificate OF APPEAL
ABILITY SHOULD HAVE BEING GRANTED AS
SEE 28 U.S.C. 2244(b)(2)(B)(i) see p. 9
IN re SWEARINGEN, 556 F.3d 344,
348 (5th Cir 2009) NEW Giglio claim
pg 28

OF STATE SPONSORING FALSE OR MIS
LEADING WITNESS TESTIMONY JUST AS
DETECTIVE MICHAEL GIBBONS WHO TESTI
FIED THAT THE BULLET SHELL WAS NOT
TESTED (ABSTRACT 208) WHEN THEY WAS
SEE (DIST NO. 2) CERTIFICATE OF APPEAL
ABILITY SHOULD BEING GRANTED AND RULE ON
MERITS JUST AS CASES? SEE E.G. IN RE
WILLIAMS 330 F.3d 277, 283, 474 C.R.
2003 (CONSTITUTIONAL ERROR PRONG OF
2241(b)(2)(B)(i) SEE E.G. MONCHINSKI
V. WILSON 694 F.3d 308, 335, -37
(3rd CIR 2012) RELIEF GRANTED WHEN
PETITIONER SHOW A CLEAR AND
CONVINCING EVIDENCE THAT FOR BRADY
VIOLATION JURY WOULD FOUND HIM
INNOCENCE U.S. V. WILLIAMS 790 F.3d
1059, 1082 (10th CIR 2015) RELIEF
GRANTED WHEN PRIME FACIE SHOWING
FACTUAL INNOCENCE REGARDING
FIRM CONVICTIONS ETC. CERTIFICATE
OF APPEALABILITY AND RULE ON MERITS
ACCORDING TO SECTION 2244(b)(2)(B)
BUILD ON THE MISCHANCE OF JUSTICE
AND ACTUAL INNOCENCE AND CAUSE
FOR FAILING TO DISCOVER EARLIER THE

FACTUAL basis claim see *McGleskey*

v. ZANT 499 U.S. 467 497, 495 (1991)
Certificate of Appealability and Rule on
the Merits of Claims because of post-
conviction considered successive

Neuner v. Morris 499 F.3d 831 833-
34 (8th Cir 2002) Petitioner is

entitled to certificate of appealability if
he makes "A substantial showing of
the denial of a constitutional right

28 USC 2253 THE U.S. SUPREME COURT IN
Barefoot v. Estelle, 463 U.S. 880, 893

(1983) held this meant that appellant
need not show that he would prevail on
the merits but must the issue are

debatable among jurists to proceed

further *Fieger v. Delo* 16 F.3d 878
883 (8th Cir 1994) *Miller-El v. Cockrell*

537 U.S. 322, 338 (2003)

CONCLUSION:

1. discharge from custody

2. reverse new trial

3. reverse re sentence

4. vacate sentence

5. over turn conviction

6. what the court feel just relief