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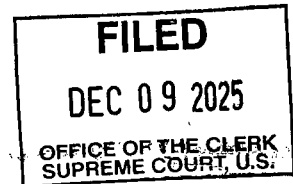
No.

In the Supreme Court of the United States

Malik Allah-U-Akbar, Petitioner,

v.

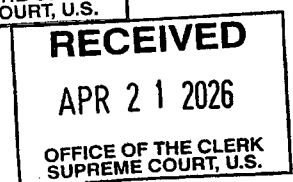
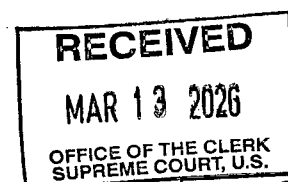
William R. Niemi, Respondent.



ORIGINAL

On Petition for a Writ of Certiorari to the Ohio Supreme Court

Malik Allah-U-Akbar
Ashtabula County Jail
25 W. Jefferson Street
Jefferson, Ohio 44047
Petitioner, Pro Se



QUESTIONS PRESENTED

1. Whether the Petitioner is detained in violation of the Constitution, where unconditional release upon an unconditional writ of habeas corpus has been ordered yet the state has denied such release.
2. Whether the Petitioner's continued detention violates due process where a vacated judgment is void ab initio, and the court fails to give legal effect to its own vacatur.
3. Whether the Petitioner is detained in violation of the U.S. Constitution's Double Jeopardy and Process Clauses when denied the presumption of innocence of the underlying predicate "aggravated robbery," dismissed, June 9, 1998.
4. Whether detention violates the Fifth and Fourteenth Amendments where the Constitution requires indictment by a grand jury, and the purported indictment fails to allege each and every element Necessary to constitute the purported offense where state law holds this fails to confer jurisdiction but consistently refuses to apply such holding.
5. Whether arrest, warrant, and detention without probable cause violate the Fourth and Fourteenth Amendments, rendering detention unlawful.
6. Whether a petitioner is unlawfully detained and entitled to dismissal of the indictment and immediate release where His Sixth and Fourteenth Amendment Rights to a Speedy Trial and Due Process has been violated.

7. Whether complete denial of bail violates the Eighth and Fourteenth Amendments, rendering detention unconstitutional.

8. Whether denial of a preliminary hearing violates Due Process and Equal Protection of the Laws, resulting in unlawful detention.

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment of the Supreme Court of Ohio. In light of *Hewitt v. United States*, 145 S. Ct. 2165, 2173-74 (2025), and *Chiaverini v. City of Napoleon*, 602 U.S. 556, 562–63 (2024), Petitioner requests that the Court grant certiorari.

The statutory mandate, 28 U.S.C. § 2254 (a), (b)(1), (d), (e)(1), limited the Sixth Circuit to no less than vacating "the judgment."

Because § 2254 applies only to custody pursuant to a state-court judgment, that "judgment" is inextricable and essential to relief. *Magwood v. Patterson*, 561 U.S. 320, 321, 333 (2010).

A person cannot be held in custody "pursuant to" a sentence, but only pursuant to "the" (e.g., one) judgment, which includes both the conviction and sentence. *Magwood v. Patterson*, 561 U.S. 320, 357 (2010) (J., Kennedy, dissenting).

Because the statute, 28 U.S.C. § 2254 allows no less than vacation of "the [entire] judgment" that is "the judgment" of the District Court. Because "release" could not otherwise be lawful, that must be "the judgment" of the District Court.

Preemption is jurisdictional. 28 U.S.C. § 2254 and 28 U.S.C. § 2243 preempts any state action contrary to vacation of "the judgment" and release.

**LIST OF PARTIES TO THE PROCEEDING
AND RELATED CASES**

Petitioner: Malik Allah-U-Akbar

Respondent: William R. Niemi, Sheriff

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STATEMENT OF THE CASE

On November 14, 2023, the Sixth Circuit denied the state's request for second extension of the conditional writ mandate. APPENDIX I.

The lower court's "extension" of the "trial date" on **October 6, 2023**, via docket entry, to **May 20, 2024**, is in clear violation of the Sixth Circuit's denial of extension of that mandate on **November 14, 2023**. APPENDIX I.

On November 22, 2023, the mandate (to conduct resentencing pursuant to the conditional writ) expired.

On February 29, 2024, the U.S. District Court granted an unconditional writ of habeas corpus, formally nullifying and replacing the conditional writ terms, with a new mandate to vacate the judgment and unconditionally release Akbar from custody within five business Days. *[Allah-U-Akbar] v. Bradshaw*, 2024 U.S. Dist. LEXIS 35794, Pg. 32, fn. 1. APPENDIX B.

The February 29, 2024 U.S. District Court Opinion States:

A. Unconditional Release

Conditional grants of the writ of habeas corpus provide the state with a window of time within which it may cure constitutional error. *Satterlee v. Wolfenbarger*, 453 F.3d 362, 369 (6th Cir. 2006). "[T]he sole distinction between a conditional and an absolute grant of the writ of habeas [*15] corpus is that the former lies latent unless and until the state fails to perform the established condition, at which time the writ springs to life." *Gentry v. Deuth*, 456 F.3d 687, 692 (6th Cir. 2006). Accordingly,

"[w]hen the state fails to cure the error, i.e., when it fails to comply with the order's conditions, '[a] conditional grant of a writ of habeas corpus *requires* the petitioner's release from custody.'" Satterlee, 453 F.3d at 369 (quoting Fisher v. Rose, 757 F.2d 789, 791 (6th Cir.1985) (emphasis in original)); *see also* Wilkinson v. Dotson, 544 U.S. 74, 87, 125 S. Ct. 1242, 161 L. Ed. 2d 253 (2005) (Scalia, J., concurring) ("Conditional writs enable habeas courts to give States time to replace an invalid judgment with a valid one, and the consequence when they fail to do so is always release."); Henderson v. Frank, 155 F.3d 159, 168 (3d Cir. 1998); Phifer v. Warden, 53 F.3d 859, 864-65 (7th Cir. 1995)); 2 Randy Hertz & James S. Liebman, *Federal Habeas Corpus Practice & Procedure* § 33.3, at 1684 (5th ed. 2005) ("If the state fails to act within the time set for retrial (or for some other proceeding) to occur, the petitioner must be released from custody immediately.").

... Accordingly, because the State failed to comply with the conditions of the Sixth Circuit's writ, the circuit court's mandate requires this court to order that Jones' unconstitutional death sentence be vacated and that [*17] [Akbar] be immediately released from custody."

On March 5, 2024 the state violated the U.S. District Court mandate to unconditionally release Akbar by transferring Him to the Ashtabula County Jail pursuant to a purported "warrant to arrest on indictment." Exhibit Z.

The state has continued to detain Akbar in the Ashtabula County Jail claiming to be operating according to a "remand" and "mandate" to conduct "resentencing" contrary to:

1. The Sixth Circuit's November 14, 2023 final order denying an extension of Time to conduct "resentencing", APPENDIX I;
2. The November 22, 2023 expiration of the mandate to conduct "resentencing";
3. The U.S. District Court's February 29, 2024 mandate to vacate the judgment and unconditionally release Akbar. *[Allah-U-Akbar] v. Bradshaw*, 2024 U.S. Dist. LEXIS 35794, Pg. 32. APPENDIX B.
4. Vacation of the June 9, 1998 judgment of conviction, on May 29, 2024. Crim. R. 32 (C).

In its Motion to Dismiss, June 9, 1998, Ex. 38, the state of Ohio *admitted* that it deemed Akbar "convicted of Aggravated Murder and sentenced to the death penalty in Case Number 97-CR-221." The only Thing that existed on June 9, 1998 is the judgment filed 3 hours earlier, "State Exhibit A," attached to the State Motion to Vacate, February 7, 2023, that was vacated May 29, 2024.

The "trial court" / state of Ohio *admitted* that vacating "State Exhibit A," APPENDIX E, "get[s] rid of everything." February 14, 2023, T.p. 24-25, Ashtabula

C.P. Ex. 1 (B), then, after vacating it, APPENDIX D, pretends vacating it has no legal effect.

The state *admitted*, February 17, 2023 entry, pg. 3, that, under Ohio law "Ohio defines a 'conviction' as 'consist[ing] of [a] verdict and sentence,'" citing *Smith v. Coleman*, 521 Fed. Appx. 444, 449 quoting *State v. McGuire*, 80 Ohio St. 3d 390, 399 (1997), and that there is no sentence. Yet, it continues to fraudulently assert / pretend / claim there is a "conviction" without a sentence.

The state renewed its motion to vacate, March 31, 2023, T.p. 15 after being warned that it is the judgment of conviction. The state admitted it "would live with the outcome of the vacation ... it's our idea, so—so if it falls apart, apart, then that's on us." March 31, 2023, T.p. 39-40.

The state court *admitted* to understanding there were "collateral consequences" to vacation, March 31, 2023, T.p. 40: "that motion [to vacate] by the State did not take into consideration the law as it existed at that time, nor did it take into consideration the potential *collateral consequences*.... And it was for those reasons that this court denied that motion." (Emphasis added.)

In an Affidavit, May 26, 2023, APPENDIX I, the state court arbiter admitted:

Understanding "the need for an extension of the mandate." Para. 11.

He was "moving this matter" lest "the writ ... become absolute." Para 16.

His "obsession ... resulted in a 190 day extension" accusing the state of "jeopardizing the state's ability to seek the death penalty." Para. 35.

He was "deeply concerned" about "collateral consequences" of granting the state's motion to vacate." Feb. 17, 2023 entry.

The "extension" was "essential" lest "the state ... just let the clock run out on the mandate." Para 79.

"but for" his "intervention" "the writ may have become absolute, unconditional."
Para. 86.

APPENDIX I.

The state court has offered no justification, legal or otherwise, as to why his previous statements of law / fact, that vacation 'get[s] rid of everything,' which is a Correct understanding of the term 'vacate,' now means nothing.

The state has conceded Racial, Religious discrimination, Judicial bias and other structural error by the trial court. APPENDIX J.

The state has admitted that the Sixth Circuit orders are binding on the lower court, citing *Martin v. Hunter's Lessee*, 14 U.S. 304 (1816). Pg. 2, State Motion to Vacate, February 7, 2023.

That is an admission that the unconditional release order is binding.

Yet, the same state actor, prosecutor, is the one who requested the "warrant to arrest on indictment," contrary to its admission that Sixth Circuit orders are binding.

The state is bound by its admissions: the "vital feature" of a judicial admission is "universally conceded to be its conclusiveness upon the party making it. *Std. Fire Ins. Co. v. Knowles*, 568 U.S. 588, 592 (2013).

REASONS FOR GRANTING THE PETITION

I. Unconditional Writ of Habeas Corpus, Vacation of Judgment and Unconditional Release orders are the effective Mandates which the state has no authority to deviate from, anything other than that is Unlawful under the Supremacy and Suspension Clauses.

An unconditional release order pursuant to an unconditional writ of habeas corpus, per 28 U.S.C.S. 2254 and 28 U.S.C.S. 2243, is not a remand, nor a mandate to conduct "resentencing," such order is a mandate for unconditional release and preempts any proceedings "to the contrary." Supremacy Clause, Art. VI, cl. 2, Suspension Cl. Art. I sec. 9, cl. 2, Privileges and Immunities Clause, U.S. Const XIV.

On February 29, 2024, The U.S. District Court specifically mandated unconditional release: "because the State failed to comply with the conditions of the Sixth Circuit's writ, the circuit court's mandate requires this court to order that Jones' unconstitutional death sentence be vacated and that [Akbar] be immediately released from custody." *[Allah-U-Akbar] v. Bradshaw*, 2024 U.S. Dist. LEXIS 35794, pgs. 31-32.

The state court has "no power or authority to deviate from the mandate" and ignore the denial of extension to comply. *Briggs v. Pennsylvania Railroad Co.*, 334 U.S. 304, 306 (1948).

The "trial court's" "extension" of the "trial date" on October 6, 2023, via docket entry, to May 20, 2024, is in clear violation of the Sixth Circuit's denial of extension of that mandate on November 14, 2023, APPENDIX I.

The "arrest on warrant on indictment" on March 5, 2024, is contrary to the unconditional release mandate of February 29, 2024 and violates the Supremacy Clause, Art. VI, cl. 2, Suspension Cl. Art. I sec. 9, cl. 2, Privileges and Immunities Clause, U.S. Const XIV.

Habeas corpus is a "Privilege." Suspension Cl. Art. I sec. 9, cl. 2. Such Privilege is a substantive right. *Dept. of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 143-144 (2020), (J., Thomas concurrence). "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." U.S. Const. amend. XIV. Detention after an unconditional release order in habeas is a suspension of the writ. *Thuraissigiam*, 144.

The District Court specifically laid out that the results of failure to comply with a conditional writ is release:

... Accordingly, because the State failed to comply with the conditions of the Sixth Circuit's writ, the circuit court's mandate requires this court to order that [Akbar's] unconstitutional death sentence be vacated and that [*17] [Akbar] be immediately released from custody."

The Sixth Circuit recently held: If the state fails to satisfy the writ's condition within the time set, the writ "springs to life" and requires the petitioner's immediate

release from custody. *Gentry v. Deuth*, 456 F.3d 687, 692 (6th Cir. 2006); *see also* *Wilkinson v. Dotson*, 544 U.S. 74, 87, 125 S. Ct. 1242, 161 L. Ed. 2d 253 (2005) (Scalia, J., concurring) ("Conditional writs enable habeas courts to give States time to replace an invalid judgment with a valid one, and the consequence when they fail to do so is always release."). *Smith v. Davis*, 2025 U.S. App. LEXIS 16507, pg. 10 (6TH Cir. July 2, 2025).

The Petitioner in *Smith* is Free, Akbar is not. Release cannot mean different Things under the same exact federal statutes.

The lower court's extension of the mandate and continued detention to attempt "resentencing" is a violation of the terms of the unconditional writ, vacation, and order to unconditionally release Petitioner within five business days of February 29, 2024, and is preempted by 28 U.S.C.S. 2254, 28 U.S.C.S. 2243, Suspension Cl. Art. I sec. 9, cl. 2, Supremacy Clause, Art. VI, cl. 2, and the Privileges and Immunities Clause of the Fourteenth Amendment.

In *Hewitt v. United States*, 145 S.Ct. 2165, 2173–74 (2025), this Court held that vacated judgments are **void ab initio** and lack any prospective legal effect. Vacatur "renders [a judgment] null and void, and the parties are left in the same situation as if no trial had ever taken place." *Id.*

The state's failure to give legal effect to vacatur violates the Fourteenth Amendments Due Process and Equal Protection Clauses.

Even state law prohibits reimprisonment after release on habeas. R.C. 2725.23 states, in pertinent part, "A person who is set at large upon a writ of habeas corpus shall not be imprisoned again for the same offense..."

Ohio law holds: When a federal court grants habeas corpus relief, the state is forbidden to enforce the judgment of conviction, rendering that judgment "a nullity." *Flenoy v. Ohio Adult Parole Authority*, 56 Ohio St. 3d 131, 132-133 (1990). Judgment which became a nullity ... was rendered ineffective and void. *Id.*

Yet, Ohio refuses to follow its own law, depriving Akbar of Due Process and Equal Protection of the law. Ohio's detention of Petitioner after the unconditional writ, unconditional release mandate violates the Supremacy and Suspension Clauses.

By ignoring the unconditional writ, Ohio has undermined federal supremacy and unlawfully detained the Petitioner. This Court's intervention is necessary to reaffirm the binding nature of federal habeas relief.

II. The judgment of conviction is void ab initio upon vacation May 29, 2024, per *Hewitt* and the lower courts are failing to give legal effect to vacatur, in violation of *Hewitt*.

In *Hewitt v. United States*, 145 S.Ct. 2165, 2173-2174 (June 26, 2025), the United States Supreme Court issued a ruling based on the "Legal Effect" and "Nature of vacatur":

[V]acated court orders are void *ab initio* and thus lack any prospective legal effect, at 2173;

"[V]acating the former judgment . . . render[s] it null and void, and the parties are left in the same situation as if no trial had ever taken place in the cause," at 2173-2174;

A criminal defendant whose judgment of conviction has been vacated is to be treated going forward as though he were never convicted, at 2174;

[O]ne whose conviction is vacated "stand[s] in the position of any [person] who has been accused of a crime but not yet shown to have committed it," at 2174;

"[V]acatur causes a conviction to be "wholly nullified and the slate wiped clean," at 2174.

The June 9, 1998 judgment was the judgment of conviction. Ohio Crim. R. 32 (C), *State v. Ketterer*, 2010-Ohio-3831, P. 17, 18 (2010), *State v. Griffin*, 2013-Ohio-5481, P. 20 (2013), and *State v. Thompson*, 2014-Ohio-4751, P. 39 (2014), (State Exhibit A).

The state of Ohio admitted the June 9, 1998 judgment ("State Exhibit A") was the judgment of conviction. Ex. 38.

To claim anything different now, violates Akbar's Right to Due Process and Equal Protection of the Laws.

Controlling federal law, 28 U.S.C. sec. 2254 (a), (b)(1), (d), limits federal courts in habeas corpus to acting upon "the judgment."

Such "judgment," under Ohio Crim. R. 32 (C), includes "conviction" and "sentence" in one document. Thus, vacating the sentence vacates the conviction. "A judgment of conviction does not exist without a sentence." *State v. Gwen*, 2012-Ohio-5046, P. 12 (2012).

Therefore, per the May 29, 2024 vacation, Ex. 1 (B), Akbar "stand[s] in the position of any [person] who has been accused of a crime but not yet shown to have committed it." *Hewitt*.

A. Vacation of the judgment of conviction is the new Controlling Fact.

Vacation of judgment of conviction is *the* new, Controlling Fact. *Johnson v. United States*, 544 U.S. 295, 307 (2005).

"[V]acating the former judgment . . . render[s] it null and void, and the parties are left in the same situation as if no trial had ever taken place in the cause," *Hewitt*, at 2173-2174.

A "judgment which is vacated, for whatever reason, is deprived of its conclusive effect, ... When he won his appeal and the judgment was vacated, all such factual determinations were vacated with it, and their preclusive effect surrendered." *Dodrill v. Ludt*, 764 F.2d 442, 444-445 (6th Cir. 1985) *citing Hinton v. McNeil*, 5 Ohio 509, 511 (1832) ("by reversal a judgment is made void, and the matters, litigated in the case

reversed, again becomes open for litigation between the same parties"); When a federal court grants habeas corpus relief, the state is forbidden to enforce the judgment of conviction, rendering that judgment "a nullity." *Flenoy v. Ohio Adult Parole Authority*, 56 Ohio St. 3d 131, 132-133 (1990). Judgment which became a nullity ... was rendered ineffective and void. *Id.*

For those reasons, the Legal Effect and Nature of vacatur announced in *Hewitt* must be applied to the May 29, 2024 vacation. APPENDIX D.

B. Akbar is unlawfully restrained of His Liberty where the Legal Effect of vacatur is denied.

"Since that conviction has been [vacat]ed, unless and until petitioner should be retried, he must be presumed innocent of that charge." *Johnson v. Mississippi*, 486 U. S. 578, 585 (1988). *Nelson v. Colorado*, 581 U.S. 128, 130 (2017).

Hewitt and other Supreme Court precedents are "binding on states and must be obeyed." *Sims v. Georgia*, 385 U.S. 538, 544 (1967); Supremacy Clause, Art. VI, Cl. 2.

Purported "arrest on warrant on indictment," Crim. R. 9, and the legal Effect of vacation of the judgment of conviction, May 29, 2024, per *Hewitt*, renders R.C. 2929.06 (B) inapplicable, i.e., the court lacks jurisdiction to sentence after vacation of the judgment of conviction.

C. "Appellate decisions" based upon a now vacated judgment have no Legal Force or Effect.

Consistent with the Principle announced in *Hewitt*, wherein vacation renders a judgment void *ab initio*, the Sixth Circuit "declines to give any preclusive effect to the prior federal habeas opinions, as they were based on [the] now-vacated state court conviction." *Siggers v. Alex*, 2021 U.S. Dist. LEXIS 182956, Pgs. 10-12.

The June 9, 1998 judgment being rendered void *ab initio*, as of May 29, 2024, means that everything that came after it is void, too.

If "no trial ha[s] ever taken place," no "appeals" have taken place either and such "decisions" "lack any prospective legal effect," Akbar is to be treated as "never convicted" and the "slate is wiped clean." *Hewitt*, 2174.

For these reasons, Akbar is Entitled to immediate release and the court patently and unambiguously lacks jurisdiction to detain, sentence Him. U.S. Const. amend. V; U.S. Const. amend. VI; U.S. Const. amend. XIV.

D. Akbar is in custody pursuant to "the indictment."

The state admits Akbar is merely "charg[ed] with the offense(s) of aggravated murder w/ specifications 1-4 2903.01A," APPENDIX C, and was arrested on "warrant on indictment," March 5, 2024, APPENDIX C, yet, the court continues to refer to "limited remand" and pretend to operate according to a "mandate" to "resentence," June 12, 2024 entries, etc., and claims Akbar is "convicted."

The process of law to be followed regarding such arrest is found in Crim. R. 9, 10, 11, etc. which describes arraignment, bail, and plea proceedings, etc. Crim. R. 1(A), (B).

"Rearrest" and "retrial" after writ of habeas corpus pertains to "the same indictment" and it is that "indictment" Akbar is "being held pursuant to." *Eddleman v. McKee*, 586 F.3d 409, 413 (6th Cir. 2009). APPENDIX C.

To act contrary to its own judicial admission violates Akbar's Right to Due Process and Equal Protection of the Laws. Judicial admissions are conclusive. *Std. Fire Ins. Co. v. Knowles*, 568 U.S. 588 (2013).

"Once charged, the suspect stands accused but is presumed innocent until conviction upon trial or guilty plea." *Betterman v. Montana*, 578 U.S. 437, 441 (2016).

Ohio's refusal to give legal effect to the February 29, 2024 unconditional writ, vacation, and unconditional release order and May 29, 2024 vacatur directly violates *Hewitt* vacatur Principles.

III. Petitioner is denied the Presumption of Innocence of aggravated robbery, the purported predicate offense of aggravated murder, and Double Jeopardy us violated where such predicate was attempted to be charged, prosecuted separately, and was dismissed, yet still used to aggravate the alleged murder.

The state purportedly charged Akbar with two counts of "aggravated robbery," 1997-CR-220, dicmissed, *nolle prosequi*, June 9, 1998. APPENDIX G.

The same exact "aggravated robbery" was the subject matter of "Count One," aggravated murder with prior calculation and design, and "Specification 1," in case no. 1997-CR-221. APPENDIX C.

Case 1997-CR-221 is a successive prosecution for the "same offense" and barred by the Double Jeopardy and Due Process Clauses.

- a. The two "indictments" violated Akbar's valued Right to have a "trial completed by the particular tribunal selected for that purpose." *Crist v. Bretz*, 437 U.S. 28, 32 (1978). The Double Jeopardy Clause requires the prosecution to join at one trial all charges. *Ashe v. Swenson*, 397 U.S. 436, 453, 454 (1970). APPENDIX C, APPENDIX G.
- b. A state may not prosecute an [aggravated] murder and the predicate felony separately because the predicate is an element of the greater offense. *Illinois v. Vitale*, 447 U.S. 410, 420-421 (1980). APPENDIX C, APPENDIX G.
- c. Dismissal of aggravated robbery, APPENDIX G, is a final judgment. *State v. Jackson*, 2017-Ohio-7469, P. 10 (2017).
- d. "When a trial court unconditionally dismisses a case or a case has been properly voluntarily dismissed * * *, the trial court patently and unambiguously lacks jurisdiction to proceed." *State ex rel. Douglas v. Burlew*, 2005-Ohio-4382, P. 14 (2005).

- e. Regarding aggravated robbery and any "case" based upon it, "a present and justiciable controversy does not exist because the case was "over" when the trial court granted the state's motion to dismiss." *State v. Bryski*, 2012-Ohio-3518, P. 8 (11th Dist.) APPENDIX G.
- f. Dismissal of aggravated robbery resolves some elements of aggravated murder, rendering it an acquittal, barring post-acquittal fact-findings. *Evans v. Michigan*, 568 U.S. 313, 318 (2013). APPENDIX G.
- g. The statute of limitations for "aggravated robbery" lapsed on / about November 8, 2017, R.C. 2901.13 (A)(3)(a), Necessitating an entry of acquittal of aggravated robbery and the aggravated murder dependent on aggravated robbery. *United States v. Barber*, 219 U.S. 72, 78 (1911); *United States v. Oppenheimer*, 242 U.S. 85, 87 (1916).
- h. Akbar "may not be subjected to multiple prosecutions when proof of the one offense is necessary, as a practical matter, to prove the other." Successive prosecutions are barred *where the second prosecution requires the relitigation of factual issues already resolved by the first.*" *State v. Liberatore*, 4 Ohio St. 3d 13, 14-15 (1983) interpreting *Ashe v. Swenson and Harris v. Oklahoma*, 433 U.S. 682 (1977).
- i. Where successive prosecutions are at stake, the double jeopardy guarantee serves "a constitutional policy of finality for the defendant's benefit." *United States v. Jorn*, 400 U.S. 470, 479 (1971). That policy protects the accused

from attempts to relitigate facts underlying a prior acquittal. *Ashe v. Swenson*, 397 U.S. 436 (1970).

- j. Requiring someone to defend against a charge of which he has already been acquitted is prejudice *per se* for purposes of the Double Jeopardy Clause. *Smith v. Massachusetts*, 543 U.S. 462, 473 fn. 7 (2005).
- k. The defendant is not [by dismissal] denied a judgment in his favor, cannot be tried or sentenced on such filings after term, and, in effect, assumes his original status of one against whom formal charges have never been lodged. See *In re Golib*, 99 Ohio App. 88, and authorities cited." *Columbus v. Stires*, 9 Ohio App. 2d 315, 317 (10th dist. 1967).
- l. Upon entry of the *nolle prosequi*, APPENDIX G, Akbar was "discharg[ed]" therefrom, *Douglas v. Allen*, 56 Ohio St. 156, 159-160 (1897), and the court patently and unambiguously lacks jurisdiction over His Person for "aggravated robbery" and aggravated murder dependent on aggravated robbery.

Double Jeopardy is enforceable against the states through the Fourteenth Amendment. *Benton v. Maryland*, 395 U.S. 784 (1969).

Due Process violations must be corrected by the state. Supremacy Clause, Art. VI, Cl. 2. Where a claim is controlled by federal law, the state court has a duty to grant the relief that federal law requires. *Montgomery v. Louisiana*, 577 U.S. 190, 204 (2016).

The state has refused to correct its error.

"Absent conviction of a crime, one is presumed innocent." *Nelson v. Colorado*, 581 U.S. 128, 130 (2017). APPENDIX G; APPENDIX C, "Specification 1."

Consequently, "aggravated robbery" "provides no legitimate support" for the theory of aggravated murder with prior calculation and design, predicated on aggravated robbery. *Johnson v. Mississippi*, at 586; *Brown v. Sanders*, 546 U.S. 212, 217 (2006).

Therefore, the court lacks subject matter jurisdiction over aggravated robbery and Akbar's Person, *per se*, and as an "essential element" of aggravated murder.

A dismissed case cannot be appealed, so there is no other / available remedy. For these reasons, the Court should grant the writ.

Petitioner's Motion to Strike emphasized estoppel: the state admitted it had not found Akbar guilty of aggravated robbery by its motion to dismiss *nolle prosequi* and is bound by that admission. Judicial admissions are conclusive. *Std. Fire Ins. Co. v. Knowles*, 568 U.S. 588 (2013).

The Ohio Supreme Court ignored this binding effect, allowing proceedings based on a dismissed offense. To fail to give legal effect to judicial admission violates Akbar's Right to Due Process and Equal Protection of the Laws.

Dismissal deprived the court of subject matter jurisdiction over aggravated robbery and over Akbar's Person, rendering the court's June 11, 1998 judgment void *ab initio*. "It is true that the issue of subject-matter jurisdiction can be challenged at

any time and that a court's lack of subject-matter jurisdiction renders that court's judgment void ab initio," *Bank of N.A. v. Kuchta*, 2014-Ohio-4279, P. 17 (2014).

The Ohio and federal courts are blatantly refusing to follow clearly established federal law and their own precedent, denying Akbar due process and equal protection of the law.

IV. The alleged indictment is baseless/ invalid under the Fourth Amendment, per *Manuel*, *Chiaverini*, *Apprendi* and such invalidity constitutes Jurisdictional Defects

The constitutional provisions provided further support, in his view, because of the requirements for a proper accusation at common law and because of the common-law understanding that a proper jury trial required a proper accusation: "The idea of a jury trial, as it has always been known where the common law prevails, includes the allegation, as part of the machinery of the trial An accusation which lacks any particular fact which the law makes essential to the punishment is . . . **no accusation** within the requirements of the common law, and it is **no accusation** in reason." 1 Bishop, Criminal Procedure § 87, at 55. See *id.* § 88, at 56 (notice and indictment requirements ensure that before "persons held for crimes . . . shall be convicted, there shall be an allegation made against them of every element of crime which the law makes essential to the punishment to be inflicted"). *Apprendi v. New Jersey*, 530 U.S. 466, 511 (2000) (J. Scalia, J. Thomas, concurring); accord, *Blakely v. Washington*, 542 U.S. 296, 301-302 (2004); *S. Union Co. v. United States*, 567 U.S.

343, 344 (2012); *United States v. Haymond*, 588 U.S. 634, 642 (2019); *Erlinger v. United States*, 602 U.S. 821, 831-832 (2024).

A court's "felony jurisdiction is invoked by the return of a proper indictment by the grand jury of the county." *Click v. Eckle*, 174 Ohio St. 88, 89 (1962); *State ex rel. Parker v. Black*, 2022-Ohio-1730, P. 17 (2022).

"There can be no trial, conviction, or punishment for a crime without a formal and sufficient accusation. In the absence thereof the court acquires no jurisdiction whatever, and if it assumes jurisdiction, a trial and conviction are a nullity." *Stewart v. State* (1932), 41 Ohio App. 351, 12 Ohio Law Abs. 74, 181 N.E. 111, citing *Doyle v. State*, 17 Ohio 222 (Ohio 1848).

Subject-matter jurisdiction may never be waived and may be challenged at any time. *State v. Mbodji*, 2011-Ohio-2880, P. 10 (2011). "[I]n the absence of subject-matter jurisdiction, a court lacks the authority to do anything but announce its lack of jurisdiction and dismiss." *Smith v. Ohio State Univ.*, 2024 Ohio 764, P. 18.

Without the state charging the offense of "aggravated robbery," in case no. 1997-CR-221, Akbar "cannot be held to answer for" it, Section 10 of Article I of the Ohio Constitution. *Schmuck v. United States*, 705, 717 (1989).

"After the charges against him have been dismissed, 'a citizen suffers no restraints on his liberty and is [no longer] the subject of public accusation: his situation does not compare with that of a defendant who has been arrested and held

to answer." *United States v. Loud Hawk*, 474 U.S. 302, 311 (1986) citing *United States v. MacDonald*, 456 U.S. 1, at 9 (1982).

The state admitted T.p. 2331, that aggravated robbery was an element of its theory of prior calculation and design.

Then the state admitted it had not proven Akbar guilty of aggravated robbery in its motion to dismiss, nolle prosequi. APPENDIX G.

Necessarily, then, it has admitted it has not proven each and every element of aggravated murder with prior calculation and design. APPENDIX C, "COUNT ONE" and "Specification 1."

Consequently, there is insufficient evidence, Akbar is acquitted, and Entitled to dismissal.

A state may not prosecute an [aggravated] murder and the aggravated robbery separately because the predicate is an element of the greater offense. *Illinois v. Vitale*, 447 U.S. 410, 420-421 (1980).

Without the state charging the offense of "aggravated robbery," in case no. 1997-CR-221, the court cannot impose even the "mandatory minimum" sentence of "life imprisonment with parole eligibility after serving twenty years." U.S. Const. amend. V, U.S. Const. amend. VI, and U.S. Const. amend. XIV. *Alleyne v. United States*, 570 U.S. 99, 103 (2013).

Thus, the "indictment" "lacks a[] particular fact which the law makes essential to the punishment is . . . no accusation," rendering the indictment invalid and baseless under the Fourth, Fifth, Sixth, and Fourteenth Amendments to the U.S. Constitution.

Section 10 of Article I of the Ohio Constitution provides that, "* * * no person shall be held to answer for a capital, or otherwise infamous crime, unless on presentment or indictment of a grand jury * * *." This provision guarantees the accused that the essential facts constituting the offense for which he is tried will be found in the indictment of the grand jury. *Harris v. State* 125 Ohio St. 257, 264 (1932). Where one of the vital elements identifying the crime is omitted from the indictment, it is defective and cannot be cured by the court as such a procedure would permit the court to convict the accused on a charge essentially different from that found by the grand jury. *State v. Headley*, 6 Ohio St. 3d 475, 478-479 (1983).

Akbar "cannot be held to answer" and the writ should issue where the state fails to abide by clearly established federal law and its own precedents, violating Akbar's Right to be Free of unreasonable search and seizure, Due Process and Equal Protection of the laws.

V. Akbar's purported arrest on warrant on indictment is not supported by probable cause and violates the Fourth Amendment

The Fourth Amendment requires probable cause for arrest and detention. As the request for warrant shows, there was no oath or affirmation made, no probable cause determination, in violation of the Fourth Amendment. In *Manuel v. Joliet*, this Court held: "Pretrial detention can violate the Fourth Amendment not only when it precedes, but also when it follows, the start of legal process." 580 U.S. 357, 364-369 (2017).

Similarly, in *Chiaverini v. City of Napoleon*, the Court reaffirmed: detention based on a defective or baseless charge constitutes an unreasonable seizure under the Fourth Amendment. 602 U.S. 556, 562–63 (2024).

A. There is no "oath or affirmation" supporting issuance of the alleged warrant. APPENDIX C.

Therefore, there has not been a probable cause determination by a neutral and detached magistrate and the "warrant" was issued in violation of U.S. Const. amend. IV.

B. There is no charge for aggravated robbery in the "indictment," therefore, no probable cause that Akbar "committed" it. APPENDIX C.

Therefore, there is no probable cause Akbar "committed" aggravated murder to escape "aggravated robbery," i.e., aggravated murder with prior calculation and design. APPENDIX C. That is legally impossible and defies Logic.

C. The state requested and was granted dismissal of said "aggravated robbery" charges June 9, 1998, *nolle prosequi*. APPENDIX G.

The accused is deprived of a trial, by the entry of a *nolle prosequi*. *Douglas v. Allen*, 56 Ohio St. 156, 160 (1897). The prosecution being so ended, there can thereafter be no conviction of the accused in that proceeding, and therefore no opportunity to establish in that proceeding the existence of probable cause for the prosecution. *Douglas*, 159.

D. Dismissal, therefore, Establishes absence of probable cause.

The Fact that the state alleged "aggravated robbery" was "the purpose of" aggravated murder with prior calculation and design (APPENDIX C, "Specification 1"), but failed to include a charge for it, while they purported to charge it separately, Ex. 7, is Evidence the purported aggravated robbery charge lacked probable cause.

The purported indictment for aggravated robbery, Case No. 1997-CR-220, lacked probable cause, where it failed to allege the "inflict or attempt to inflict serious physical harm" element of R.C. 2911.01(A)(3) and, therefore, is not an indictment for "aggravated robbery." APPENDIX G.

Therefore, there is no probable cause Akbar committed murder "for the purpose of" escaping ... "aggravated robbery," Count One and Specification 1.

Again, the state admitted aggravated robbery was an element of the prior calculation and design theory, T.p. 2331. Failure to charge that element is results in lack of probable cause for the greater offense.

Under *Vitale*, the aggravated robbery is an element of aggravated murder, and without a charge, the indictment is baseless, invalid and lacks probable cause.

The Ohio Supreme Court held that commission of aggravated robbery was an "essential element" of Specification 1. Failure to charge it results in lack of probable cause and the charge is baseless, invalid. *State v. [Akbar]*, 91 Ohio St. 3d 335, 345-347 (April 18, 2001).

Moreover, the aggravated robbery case was dismissed and cannot support any probable cause for the greater offense, Exhibit 7, Exhibit 38, Exhibit 5.

Dismissal of purported "aggravated robbery," Ex. 38, is a final judgment. *State v. Jackson*, 2017-Ohio-7469, P. 10 (2017). The dismissal is a favorable termination of that prosecution.

Under *Douglas v. Allen*, 56 Ohio St. 156, 160 (1897), the entry of a nolle prosequi deprives the accused of a trial and forecloses any opportunity to establish probable cause in that proceeding.

Dismissal therefore establishes the absence of probable cause. See *Douglas*, 159.

Dismissal of aggravated robbery is a final judgment resolv[ing] some elements of aggravated murder, rendering it an acquittal, barring post-acquittal fact-findings. *Evans v. Michigan*, 568 U.S. 313, 318 (2013). Ex. 38.

Dismissal establishes favorable termination for aggravated robbery, negating probable cause. *Froelich v. Ohio Dep't. Mental Health*, 114 Ohio St. 3d 286, P. 16, P. 19 (2007).

"To demonstrate a favorable termination of a criminal prosecution for purposes of the Fourth Amendment claim under §1983 for malicious prosecution, a plaintiff need only show that his prosecution ended without a conviction." *Thompson v. Clark*, 596 U.S. 36, 39 (2022).

The law is settled: the entry of a *nolle prosequi* before the defendant has been placed in jeopardy relegates the parties to the position in which they stood prior to the filing of the affidavit, indictment or information. The defendant is not, therefore, denied a judgment in his favor, cannot be tried or sentenced on such filings and, in effect, assumes his original status of one against whom formal charges have never been lodged. *Columbus v. Stires*, 9 Ohio App. 2d 315, 317 (10th dist. 1967) citing *In re Golib*, 99 Ohio App. 88.

E. Repealed statute R.C. 2929.04(A)(6) cannot support probable cause.

The statute sought to be charged in "Specification 2" and "Specification 3" was repealed, Eff. September 16, 1997, and therefore, cannot support probable cause.
APPENDIX C; APPENDIX F.

Accordingly, probable cause is lacking and the indictment is invalid, baseless, detention violates the Fourth Amendment.

No Action thereupon, except dismissal, is "provided by law," thus "jurisdiction" is absent over a "charge" which has as an "essential element" thereof, the dismissed case, and jurisdiction is absent over the Person discharged by dismissal.

"Repeal deprived the court of jurisdiction over the subject matter." *Norris v. Crocker*, 54 U.S. 429 (1852). "Repeal of the statute takes away the jurisdiction." *Hendrix v. United States*, 219 U.S. 79, 81 (1911).

Where there is no law, there is no crime and can be no penalty. *Sparf v. United States*, 156 U.S. 51, 88 (1895).

Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is power to declare the law, and when [the law] ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause. *Ex Parte McCordle*, 74 U.S. 506, 514 (1869).

A conviction under an unconstitutional law "is not merely erroneous, but is illegal and void, and cannot be a legal cause of imprisonment... if the laws are unconstitutional and void, the [] Court acquired no jurisdiction of the causes." *Montgomery v. Louisiana*, 577 U.S. 190, 203 (2016). A conviction or sentence imposed in violation of a substantive rule is not just erroneous but contrary to law and, as a result, void. *Id.*

Akbar's "arrest" pursuant to the "warrant on indictment" is an unreasonable seizure, as is continued custody and proceedings. The "indictment" "lacks a[]

particular fact which the law makes essential to the punishment is . . . no accusation," rendering the indictment invalid and baseless under the Fourth, Fifth, and Fourteenth Amendments to the U.S. Constitution.

The grand jury relied on that baseless charge to convert murder into aggravated murder: as shown by Ex. G.J., Pg. 2, the case was before one grand jury, before being later split into two, 1997-CR-220, 1997-CR-221.

The purported robbery victim testified in the midst of others who testified about the alleged murder. Ex. G.J., Pg. 2.

Because that baseless, invalid charge caused Petitioner's detention to start or to continue, His Fourth Amendment Rights are violated and custody must be terminated immediately. *Chiaverini*, 563.

The Fourth Amendment preempts prosecution. Supremacy Clause, Art. VI, Cl. 2.

Omission of these elements render the "indictment" insufficient to charge an offense and to support probable cause. Accordingly, Akbar is entitled to dismissal and immediate release; He was denied Due Process and equal Protection by the state's failure to enforce clearly established federal law and their own precedents.

The Ohio Supreme Court's failure to apply clearly established federal law and its own precedents requires this court's granting of the writ.

VI. Akbar has been denied a Speedy Trial and is entitled to Dismissal

Ohio has failed to comply with the unconditional writ. The conditional writ mandate expired November 22, 2023, and the unconditional writ ordered unconditionally release within five business days of February 29, 2024.

The state has failed to comply, claiming to be acting according to a "mandate" / "remand" to "resentence," where it has been voided by:

- denial of extension, November 14, 2023;
- issuance of the unconditional writ and unconditional release order, February 29, 2024;
- vacation of the judgment pursuant to 28 U.S.C.S. 2254, 28 U.S.C.S. 2243, May 29, 2024.

The state court has "no power or authority to deviate from the mandate" and ignore the denial of extension to conduct "resentencing" proceedings. *Briggs v. Pennsylvania Railroad Co.*, 334 U.S. 304, 306 (1948).

According to the state, Akbar is "charg[ed] with" an ["offense"], APPENDIX C, rendering Him "accused" as distinct from "convicted." *Betterman v. Montana*, 578 U.S. 437, 443 (2016).

According to the state, Akbar was arrested March 5, 2024 on a warrant on indictment. APPENDIX C.

The judgment of conviction, APPENDIX E (State Exhibit A), was vacated May 29, 2024, APPENDIX D. Counting from either of those dates, it has been about 2 years and the Speedy Trial Right has been violated.

"Once charged, the suspect stands accused but is presumed innocent until conviction upon trial." *Betterman*, 441.

Prior to conviction, the accused is shielded by the presumption of innocence ... The Speedy Trial Clause implements that presumption by "prevent[ing] undue and oppressive incarceration prior to trial." *Id.*, at 442.

Reflecting the concern that a presumptively innocent person should not languish under an unresolved charge, the Speedy Trial Clause guarantees "the accused" "the right to a ... speedy trial." *Id.*

The sole remedy for a violation of the speedy trial right—dismissal of the charges, see *Strunk v. United States*, 412 U. S. 434, 440, 93 S. Ct. 2260, 37 L. Ed. 2d 56 (1973); *Barker*, 407 U. S., at 522, 92 S. Ct. 2182, 33 L. Ed. 2d 101—fits the preconviction focus of the Clause. *Betterman*, at 445.

Thus, appeal does not constitute an adequate remedy, as "preconviction" is the "focus" and "violation of the right demands termination of the prosecution" *Betterman*, n. 6, not reversal on appeal.

Therefore, Akbar is entitled to dismissal and immediate release.

Akbar Moved for acquittal, trial, and dismissal, April 23, 2024, April 24, 2024, June 11, 2024. Denied June 12, 2024 Ashtabula C.P. entry, pgs. 4, 6.

Akbar filed another Motion to Dismiss, Jan. 21, 2025, which has not been answered and further violates Speedy Trial, Due Process. U.S. Const. amend. VI, U.S. Const. amend. XIV.

According to the Sixth Circuit, "rearrest" and "retrial" pursuant to an unconditional writ of habeas corpus pertains to "the same indictment" and it is that "indictment" Petitioner is "being held pursuant to," *Eddleman v. McKee*, 586 F.3d 409, 413 (6th Cir. 2009), which the state concedes, Exhibit Z; APPENDIX C.

Either "arrest," March 5, 2024, or vacation, May 29, 2024, started the speedy trial time. Per R.C. 2945.71 (C) (2), the state had 90 Days from March 5, 2024 to bring Petitioner to trial, which ended on/ about June 3, 2024.

According to the state, "speedy-trial protections of the Sixth Amendment to the United States Constitution and Article I, Section 10 of the Ohio Constitution apply when a conviction is vacated. *State v. Hull*, 110 Ohio St.3d 183, 2006-Ohio-4252, 852 N.E.2d 706, ¶ 20.

90 Days from May 29, 2024 was on/ about August 27, 2024. There have been no arraignment, plea hearings, or trial proceedings consistent with "arrest" on warrant on indictment and Akbar being merely "accused," *Betterman*, 441-443, again, violating Petitioner's Speedy Trial Rights.

The Ohio Supreme Court's reliance on "adequate remedy by appeal" unreasonably violates substantive constitutional guarantee.

This Court should grant certiorari to reaffirm that Constitutional commands, prohibitions, and guarantees are jurisdictional bars, not matters of discretion. Fourteenth Amendment's privileges and immunities, due process, and equal protection clauses, the Supremacy Clause, Art. IV., Cl. 2., *Cooper v. Aaron*, 358 U.S. 1, 16-20 (1958), and Suspension Clause, Art. I, sec. 9.

Assuming, *arguendo*, the "indictment" constitutes an accusation, the Sixth Amendment guarantees the right to a speedy trial. *Klopfer v. North Carolina*, 386 U.S. 213, 223 (1967).

Petitioner has been detained since 1997 without trial on the predicate and, thus, the greater offense. Decades of detention without trial for "aggravated robbery" constitutes a clear violation of speedy trial rights. *Klopfer v. North Carolina*, 386 U.S. 213 (1967).

VII. Denial of Bail

According to the state, Akbar was "arrested" March 5, 2024, on a "warrant on indictment." Ex. Z.

According to R.C. 2937.011(J)(1), Akbar was Entitled to a bail hearing within two days after "arrest," March 5, 2024. He has been denied any such hearing, resulting in complete denial of bail.

Per R.C. 2937.011 (J)(1): A person who has been arrested, either pursuant to a warrant or without a warrant, and who has not been released on bail, shall be brought before a judicial officer for an initial bail hearing not later than the second court day following the person's arrest. That bail hearing may be combined with the initial appearance provided for in the Rules of Criminal Procedure.

"Arrest" on "warrant on indictment" is prescribed in Crim. R. 9; the process to follow is described in Crim. R. 10, Crim. R. 11, Crim. R. 12, etc., which describes arraignment, bail, pleas, pleadings before trial.

According to Crim. R. 1(A): Applicability. These rules prescribe the procedure to be followed in all courts of this state in the exercise of criminal jurisdiction, with the exceptions stated in division (C) of this rule.

According to Crim R. 1 (B): Purpose and construction. These rules are intended to provide for the just determination of every criminal proceeding. They shall be construed and applied to secure the fair, impartial, speedy, and sure administration of justice, simplicity in procedure, and the elimination of unjustifiable expense and delay.

A "petition for a writ of habeas corpus is the proper cause of action for a person seeking to challenge the unlawful restraint of his liberty due to excessive bail or the complete denial of bail." *Mohamed v. Eckelberry*, 2020-Ohio-4585.

Yet, the Ohio Supreme Court unreasonably refused to apply its own precedent regarding denial of bail, denying Akbar Due Process and Equal Protection of the Laws in a sua sponte dismissal of habeas corpus.

The Eighth Amendment prohibits excessive bail and guarantees reasonable bail. In *Stack v. Boyle*, this Court held: "Unless this right to bail before trial is preserved, the presumption of innocence, secured only after centuries of struggle, would lose its meaning." 342 U.S. 1, 4 (1951).

Petitioner has been denied any bail proceedings altogether, based on denial of the legal effect of vacatur and the Right to the presumption of innocence following vacatur. Such denials violate both federal and state constitutional guarantees.

Akbar is therefore unlawfully restrained of His Liberty and Entitled to immediate release. The state's failure to abide by clearly established federal law and its own precedent denies Akbar Due Process and Equal Protection of the Laws.

VIII. Denial of Preliminary Hearing

Assuming *arguendo* a charge of felony is pending, R.C. 2945.71 (I), Akbar was Entitled to a preliminary hearing within 10 Days.

Assuming *arguendo* a charge of felony is pending, R.C. 2945.71 states: A person against whom a charge of felony is pending: (1) Notwithstanding any provisions to the contrary in Criminal Rule 5(B), shall be accorded a preliminary

hearing within ... ten consecutive days after the person's arrest if the accused is held in jail in lieu of bail on the pending charge.

Per R.C. 2945.73 (A), A charge of felony shall be dismissed if the accused is not accorded a preliminary hearing within the time required by sections 2945.71 and 2945.72 of the Revised Code. Such a dismissal has the same effect as a *nolle prosequi*.

Powell v. Nevada, 511 U.S. 79, 83 (1994), 114 S.Ct. 1280, 128 L.Ed.2d 1. *County of Riverside v. McLaughlin*, 500 U.S. 44, 114 L. Ed. 2d 49, 111 S. Ct. 1661 (1991), the Nevada Supreme Court recognized, made specific the probable-cause promptness requirement of *Gerstein v. Pugh*, 420 U.S. 103, 43 L. Ed. 2d 54, 95 S. Ct. 854 (1975); *McLaughlin* instructed that a delay exceeding 48 hours presumptively violates the Fourth Amendment.

Akbar is denied Due Process and Equal Protection of the Laws due-to denial of preliminary hearing. *Gerstein v. Pugh*, 420 U.S. 103 (1975).

Akbar was purportedly arrested March 5, 2024 and was not provided a preliminary hearing and is therefore Entitled to dismissal and immediate release.
Ex. 5.

There is no probable cause that Akbar committed any aggravated robbery where such proceedings were terminated in His favor by the state's abandonment of those proceedings. Ex. 38.

Thus, there is an absence of criminal liability for aggravated robbery, Ex. 38, the *causa sine qua non* of aggravated murder with prior calculation and design based entirely on commission of aggravated robbery.

Absent a conviction for aggravated robbery, Akbar must be presumed innocent. *Nelson v. Colorado*, 581 U.S. 128, 130 (2017).

Thus, there can be no probable cause Akbar "committed" "aggravated robbery" and then "committed" murder "to escape" therefrom.

Failure to afford Akbar any preliminary hearing, probable cause determination proceedings is an unreasonable search and seizure, denies Due Process, Equal Protection of the Laws, and Entitles Him to dismissal.

Petitioner's detention is completely arbitrary and unreasonable in violation of the Suspension Clause, Supremacy Clause, and the Fourth, Fifth, Sixth and Fourteenth Amendments.

The state courts' refusal to abide by clearly established federal laws and its own precedents denies Akbar Due Process and Equal Protection of the Laws are compelling reasons to grant the writ.

CONCLUSION

Petitioner Requests this Court grant the writ for the foregoing reasons.

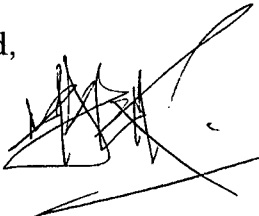
Respectfully submitted,

Malik Allah-U-Akbar

Petitioner, Pro Se

25 W. Jefferson Street

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A handwritten signature in black ink, appearing to be 'Malik Allah-U-Akbar', written over a horizontal line.