

26-5234

No.

ORIGINAL

FILED

APR 06 2026

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

~~CAND ANNE DUGGINS AMM.~~

CAND ANNE CAPPASCO

— PETITIONER

(Your Name)

VS.

ELFE GUERRERO, DIRECTOR,

TEXAS DEPT. CORR. JUSTICE, CEO — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE
FIFTH CIRCUIT

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

PETITION FOR WRIT OF CERTIORARI

~~CAND ANNE DUGGINS AMM.~~

CAND ANNE CAPPASCO #2262766

(Your Name)

805 NORTH AVENUE F, DALLAS, TEXAS

(Address)

POST, TEXAS 79356-9304

(City, State, Zip Code)

(806) 990-2175

(Phone Number)

CORRECTION MAIL 7022 3330 0002 2556 0716

RETURN RECEIPT 9590 9402 9295 4295 0838 68

QUESTION(S) PRESENTED

- (1) IS A PETITIONER ENTITLED TO CONSTITUTE TOLLING OF THE CLOCK, WHEN HE IS A PRISONER, PURSUING DILIGENTLY HIS RIGHTS WHEN NOTICE FROM THE COURT OF APPEALS WAS DELAYED DUE TO MISLIEGE AT THE INSTITUTION, CAUSING RESPONSE UNTIMELY AT TIME OF RECEIPT, BE PRECLUDED FROM FILING A MOTION FOR REVERSAL OF C.O.A., WHEN HIS FILING WAS WITHIN (14) FOURTEEN DAYS OF NOTICE BY MAILBOX RULE, AFFIDAVIT OF FILING, AND CERTIFIED MAIL?
- (2) IS A PETITIONER ENTITLED TO C.O.A. WHEN THE COURT OF APPEALS HAS OVERTLOOKED CONSTITUTIONAL UNDERPINNINGS; SUPREME COURT; AND ITS OWN CORRECT PRECEDENT ON CLAIMS; BY A PRO SE PETITIONER, THAT FIND THE UNITED STATES DISTRICT COURT'S DECISION DEBATABLE AMONG JURISTS OF REASON, ENCOURAGING FURTHER INQUIRY, OR THAT THE PETITION COULD HAVE BEEN HANDLED DIFFERENTLY, WHERE THE UNITED STATES DISTRICT COURT HAS FAILED TO ADDRESS OR HAS NOT FULLY ADDRESSED THE PETITIONER'S GROUNDS AND CONSTITUTIONAL UNDERPINNINGS UNDER 28 USC § 2254?
- (3) IS A PETITIONER ENTITLED TO RESCUE UNDER 28 USC § 2254 OR AT LEAST A REASONED MOTION OF INQUIRY, WHEN HE HAS BEEN DENIED FULL AND FAIR LITIGATION OF HIS CLAIMS, SHORT OF SUMMARY DENIAL?
- (4) IS THE GOVERNMENT AT LIBERTY TO VIOLATE THE LAW IN ORDER TO CREATE A CRIMINAL CHARGE, CONVICTION, AND SENTENCE OF OTHERWISE LAWFUL ACTS OF AN ACCUSED CITIZEN?
- (5) IS THE GOVERNMENT FREE TO CHARGE, CONVINCE, AND SENTENCE THE ACCUSED WITHOUT PRESENTING THE ELEMENTS REQUIRED BY STATUTE AND PRECEDENT PROPERLY INTRODUCED TO THE GRAND JURY AND AT TRIAL?
- (6) SHOULD CONTRACT LAW, STATUTE, AND PRECEDENT BE WHOLLY DEREGULATED IN A CHARGE, CONVICTION, AND SENTENCE FOR THEFT OF PROPERTY IN CONNECTION WITH A CONTRACT OR SHALL ALL OF THESE FACTORS BE CONSIDERED AND ADDRESSED OVER FIDELITY?
- (7) IS A CONVICTION AND SENTENCE A MISFEASANCE OF JUSTICE WHEN IT IS CONTRARY TO DIRECT AND UNDISPUTED EVIDENCE?

CERTIFICATE OF INTERESTED PARTIES

CHRIS ALAN RUSSELL A.K.A. CHRIS ALAN CAPPASIO, Respondent - Appellant

HONORABLE CATHERINE HANES, United States Circuit Judge

HONORABLE ROOD O'CONNOR, United States District Judge

BILL PATTON, Attorney General TEXAS

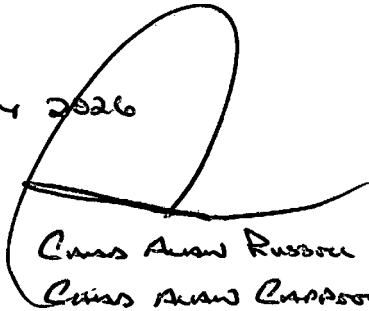
SARAH MORANNA HARRIS, Asst. Attorney General TEXAS, Criminal
Appellate Division

LAUREN HAWLEY, Asst. Attorney General TEXAS

ERIC GARRARD, Director TEXAS Dep. Criminal Justice Respondent -
Appellee

THE PRECEDING INTERESTED PARTIES HAVE AN INTEREST IN THE OUTCOME
OF THIS APPEAL. THIS CERTIFICATE COMPLIES WITH FED RULES OF APPEAL
PROC. 26.

Respectfully Submitted This 23RD Day of July 2026



CHRIS ALAN RUSSELL A.K.A.

CHRIS ALAN CAPPASIO

TDCSF 2262766

DAUBY UNIT

805 W. AVE. F

POST TX 79356

CORRECTION 9589 0710 5270 1407 0050 15

RETURN RECEIPT 9590 9402 9793 5266 2249 97

LIST OF PARTIES

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

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

~~See "MOTION FOR COMPT TO SUBPOENA ORIGINAL POTENTIAL FOR CORRUPTION
TO COMPLY WITH PROVISIONS OF RULE 14.1(b)(1) AS REQUIRED BY COURT RULE
4.5" PG 2 OF 7~~

~~Canter produce cups so canbess of adwer mowen served on Respendow~~

PHOTOS APPEAR ON THE COVER OF THE CASE ON THE COURT AHEAD:

~~Chris Alan Carrasco~~ Chris Alan Carrasco, Prisoner

v.

ERIC GUSTAFSON, TDCS, CSD, DISTRICT, RICHMOND

RELATED CASES

- STATE OF TEXAS v. CHAS ALAN CARROLL, NO. 1554954, 213th DISTRICT COURT TARRANT COUNTY, TEXAS. JUDGMENT ENTERED MARCH 10, 2019
- CHAS ALAN CARROLL v. STATE OF TEXAS, NO. 02-19-00197-CR, 2ND COURT OF APPEALS FT. WORTH, TEXAS. JUDGMENT ENTERED MARCH 5, 2022; REHEAR DENIED JULY 7, 2022
- ~~IN RE CARROLL~~ ^{EX PARTE} CARROLL, 2022, NO. ~~02-22-00197-CR~~ ^{PA-0297-22} ~~1554954~~, TEXAS COURT CRIMINAL APPEALS. JUDGMENT ENTERED JULY 27, 2022
- CHAS ALAN CARROLL v. STATE OF TEXAS, ^{NO. 225868} SUPREME COURT UNITED STATES. JUDGMENT ENTERED JANUARY 9, 2023
- CHAS ALAN CARROLL v. SECOND DISTRICT COURT OF APPEALS TEXAS. WR-89, 367-03 JUDGMENT ENTERED MARCH 22, 2023. TEXAS COURT CRIMINAL APPEALS
- EX PARTE CARROLL, TRCT NO C-213-WO12344-1554954-A; @ TEXAS COURT CRIM. APP. NO. WR-89, 367-04. TEXAS COURT CRIMINAL APPEAL JUDGMENT ENTERED NOVEMBER 15, 2023
- CARROLL v. LUMPKIN, NO. 4-24CV-047-0, U.S. DIST COURT, NORTHERN DISTRICT

Recent Cases (Cont)

OF TEXAS, F.WORTH DUBSON. JUDGMENT ENTERED - FEBRUARY 19, 2025

- *CARD CASPUS V. GUERRERO*, NO. 25-10480, FROM COURT COURT OF APPEALS, JUDGMENT ENTERED NOVEMBER 24, 2025
- *CARD ALAN CASPUS V. ERIC GUERRERO*, DORRER, T.D.C.J., C.F.D., APP. NO. 25A973, SUPREME COURT UNDER STARS, JUDGMENT ENTERED MARCH 5, 2026 GRANTING TIME TO FILE RESPONSE TO AND DISMISS APRIL 6, 2026.

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

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

OPINIONS BELOW

☒ For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix ~~_____~~^A to the petition and is ~~IN MOTION FOR OUT OF TIME REHEARINGS FOR C.O.A. (PENDING)~~

☐ reported at N/A; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished. - ~~PETITION FOR C.O.A. WAS DENIED 11/24/2025.~~
~~IN MOTION FOR OUT OF TIME REHEARINGS + RECONSIDERATION~~
~~BY BANK~~

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

☒ reported at 2025 U.S. Dist. LEXIS 29223; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

~~For~~ For cases from state courts: - 2254 F.R.D. + C.O.A. ASKS FOR REVIEW

The opinion of the highest state court to review the merits appears at Appendix ~~_____~~^E to the petition and is - ~~DENOT HAVE A COPY~~

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was November 24, 2026. Docket of C.O.A.

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

~~Underlying the denial of this petition, no notice was given to the petitioner.~~

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix C-1. ~~C-1~~ REASON: COURT CLERK TOOK NO ACTION WHEN REQUESTED REHEARING ON TIME. SEE FOR REVIEW AS IT WAS AN OBVIOUS DECISION APPX C.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including April 6, 2026 (date) on March 5, 2026 (date) in Application No. 25 A 973.

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 _____.
A copy of that decision appears at Appendix _____.

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

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION IN PART "That Congress shall make no law ... abridging the freedom ... TO PETITION THE GOVERNMENT FOR A REDRESS OF GRIEVANCES. THE DISTRICT COURT AND NOW THE FIFTH CIRCUIT COURT OF APPEALS KNOWINGLY AND WILLFULLY DEPRIVES PETITIONERS RUSSO AND SOUTHERN GROWERS OF ITS RIGHTS 28 USC § 2254 BY REFUSING TO COMPLY WITH THE UNITED STATES FOURTH, FIFTH, SIXTH, AND FOURTEENTH AMENDMENTS AND ARTICLE I SEC 10 "Contract Clause"; AND 28 U.S.C. (b)(1)(B)(i)(i); ALONG WITH TEXAS CONSTITUTION ARTICLE 1 § 3, 9, 10, 16, AND 19.

THOSE MANDATES PARTICULARIZED BY RUSO AND LAW WERE ENACTED TO PROTECT THE PUBLIC'S INTEREST IN UNREASONABLE SEARCHES BY THE GOVERNMENT... AND NO WARRANT SHALL ISSUE WITHOUT PROBABILE CAUSE, SUPPORTED BY OATH... AND PARTICULARLY DESCRIBING THE PLACE TO BE SEARCHED, AND PERSONS OR THINGS TO BE SEARCHED; NO STATE SHALL PASS ANY LAW IMPAIRING THE OBLIGATIONS OF CONTRACTS; DUE PROCESS- NO PERSON SHALL BE HELD TO ANSWER... INFAMOUS CRIME UNLESS ON PROSECUTION OR SUBPOENA OF A GRAND JURY... NOR BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY WITHOUT DUE PROCESS OF LAW; RIGHTS OF THE ACCUSED IN ALL CRIMINAL PROCEEDINGS, THE ACCUSED SHALL ENJOY THE RIGHT TO... BE INFORMED OF THE NATURE AND CAUSE OF THE ACCUSATION; BE CONFRONTED BY THE WITNESSES AGAINST HIM, ... AND HAVE THE ASSISTANCE OF COUNSEL FOR HIS DEFENSE AND; ... NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF THE CITIZENS OF THE UNITED STATES; NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW; AND THE PROMPT TERMINATION OF UNLAWFUL INCARCERATION CAUSED BY THOSE VIOLATIONS. THE COURTS' DURATION AND OR VIOLATION, WITHOUT ^{REASONABLE DILIGENCE} ~~REASONABLE DILIGENCE~~, OF THOSE MANDATES CONSTITUTES A VIOLATION OF PETITIONERS' CONSTITUTIONAL RIGHT "TO PETITION THE GOVERNMENT FOR REDRESS OF GRIEVANCES."

STATEMENT OF THE CASE

POTTSBORO UNWITTINGLY RECEIVED ORDER DENYING C.O.A. THE MARE ROOM AT THE INSTITUTION WHERE POTTSBORO WAS IMPRISONED, TOWNS DEPARTMENT OF CRIMINAL JUSTICE'S BILL CLEMENTS UNIT, HAD THE MARE BEYOND (14) FORTYFOUR DAYS OF THE ORDER. WITHIN (14) FORTYFOUR DAYS OF RECEIPT THE POTTSBORO FILED A MOTION TO EXTEND TIME TO FILE REPLY, THE MOTION WAS ACCOMPANIED WITH A FILING AFFIDAVIT TO EXERCISE THE MAREBOX RULE AND SENT CORRECTED MARE. POTTSBORO HAS NOT BEEN UNWITTINGLY ON ANY FOLLOWS FOR THE LAST (7) SEVEN YEARS IN PURSUIT OF HIS CLAIMS, AFTER DORET ADVICE.

THE CLERK OF THE FORTH CIRCUIT COURT OF APPEALS SENT NOTICE "NO ACTION IS BEING TAKEN ON YOUR MOTION FOR RECONSIDERATION." POTTSBORO THEREBY FILED A MOTION FOR RECONSIDERATION BY "COURT POWER" TO EXTEND TIME IN ACCORDANCE TO LOCAL RULE 27 AND FED. R. APP. PROC. 40, ALONG WITH FILING AFFIDAVIT WITHIN (14) DAYS OF DATE OF ^{ORDER} ~~NOTICE~~ BY THE CLERK. CLERK FOR THE FORTH CIRCUIT SENT NOTICE "NO ACTION IS BEING TAKEN ON YOUR MOTION FOR RECONSIDERATION," THEREAFTER, POTTSBORO FILED FOR LEAVE AND MOTION FOR OUT OF TIME ADVICE RECONSIDERATION AND OR RECONSIDERATION ON BANC AS A HYBRID MOTION FOR C.O.A., TO DATE IS PENDING.

THE COURT OF APPEALS HAS OVERLOOKED CONSTITUTIONAL UNLAWFULNESS THAT GO DIRECTLY TO THE CHARGE, CONVICTION, AND SENTENCE OF POTTSBORO. THE COURT OF APPEALS HAS ALSO OVERLOOKED SURVEYS OF REASON WHO SUPPORT POTTSBORO'S FACTS AND CLAIMS SHOWING THE DISTRICT COURT DECISION TO BE AT LEAST DEBATABLE AND THAT THE MOTION COULD HAVE BEEN HANDLED DIFFERENTLY, ENCOURAGING FURTHER INQUIRY TO PROCEED.

THE UNITED STATES DISTRICT COURT PRECLUDED POTTSBORO FROM ARGUMENT AND LEGAL AUTHORITY OF HIS CLAIMS, SHORT OF RESPONSE TO RESPONDENTS ORIGINAL DEFENSES. THE DISTRICT COURT GROSSLY STRUCK POTTSBORO'S MEMORANDUM OF LAW IN SUPPORT OF FACTUAL CLAIMS IN HIS 28 U.S.C. § 2254 MOTION. THE DISTRICT COURT IMPROPERLY CALCULATED PAGE ALLOTMENTS AND DISALLOWED ANY AMENDMENT TO CURB, TO ENSURE FULL AND FAIR HEARING OF POTTSBORO'S CLAIMS, TO ENCOURAGE FURTHER INQUIRY.

THE UNITED STATES DISTRICT COURT HAS GROSSLY PRECLUDED BARRING POTTSBORO'S CLAIMS FOUR, SEVEN, TEN THROUGH THIRTEEN AS UNPRACTICED IN THE STATE COURT, FACED TO GIVE A REPLYING MOTION

OF INQUIRY INTO THE CONSTITUTIONAL UNDERPINNINGS THAT GO DIRECTLY TO THE LEGALITY OF THE CHARGE, CONVICTION, AND SENTENCE OF PETTERSON ON MULTIPLE GROUNDS AND ONLY PREVIOUSLY PARTIAL DISCUSSIONS OF THE REMOVAL GROUNDS.

THE GROUNDS THAT HAVE REMOVAL UNDERPINNINGS HAVE AT ALL LEVELS OF JUDICIAL BEING EITHER NOT ADDRESSED OR HAVE BEEN SUMMARILY DENIED WITHOUT WRITTEN ORDER. THUS, ALLOWING THE FEDERAL COURTS THE ABILITY TO REVIEW DE NOVO, RATHER THAN DEFERENTIALLY. THE GROUNDS NOT AFFORDED FULL AND FAIR LITIGATION INCLUDE BUT ARE NOT LIMITED TO LEGAL INVOLOCOS REFRAMED AS CONSTITUTIONAL; FIRST OF THE PERSONS TRUST; INTERFERENCE WITH PRIVATE AND CONTRACT, HINDERING PERFORMANCE BY ABROGATING THE RELATIONSHIPS OF THE PARTIES TO UNLAWFULLY CHARGE, CONVECT, AND SENTENCE PETTERSON FOR LEGAL ACTS OF CONDUCT; AND REFUSE TO PRESENT THE GROUNDS JURY WITH THE RELEVANT ELEMENTS SPECIFIC TO THAT IN CONNECTION WITH A CONTRACT AS REQUESTED BY STATUTE, PRECEDENT PROPERLY INTERPRETED; AND PRESENTMENT AT TRIAL START.

THE CHARGE, CONVICTION, AND SENTENCE ARE CONTRARY TO CONTRACT LAW, STATUTE, AND PRECEDENT ALL OF WHICH HAVE BEEN WHOLLY DISREGARDED IN FAVOR OF PENALTY. THE CONVICTION AND SENTENCE ARE CONTRARY TO THE AGREED TERMS OF UNAMBIGUOUS CONTRACTS, AGREED DOLLAR AMOUNTS, AND WITHOUT CONSIDERATION OF COMPLETED PHASES OF EACH CONTRACT MANIFESTED BY THE PARTIES.

THE QUESTION IS NOT ONLY WHETHER THE EVIDENCE PRESENTED AT TRIAL IS SUFFICIENT TO SUSTAIN CONVICTIONS, FOR THAT IN CONNECTION WITH A CONTRACT, BUT WHETHER IN EACH QUESTIONED INSTANCE WAS THE PETTERSON CONVECTED ON A DECEPTION, FALSE PRETEXT FRAUD THEORY PRIOR TO TRANSFER OF FUNDS OR WAS HE CONVECTED OF THE GENERAL STATUTE, THAT OF PROBITY? IF THE LATTER, THE CONVICTION CANNOT STAND.

FACTS OF THE CASE

PETTERSON AND HIS COMPANY, EXTREME REMODELING LLC, CONTRACTED PROJECTS FOR MAJOR RENOVATIONS IN TARRANT COUNTY, TEXAS, IN MARCH AND APRIL OF 2017. THE PROJECTS INCLUDED COMPLETED PORTIONS AND PHASES SPECIFIC TO EACH INDIVIDUAL CONTRACT, AS MANIFESTED BY THE PARTIES. THE PROJECTS

WORE ALL BEING COMPLETED AS ORIGINALLY CONTRACTED AND AGREED, UNTIL AN UNEXPECTED CONVERSION AND INCARCERATION IN HOPKINS COUNTY, TEXAS.

POTTSWORM WAS CONVECTED ON THREE SEPARATE COUNTS, IN A BIFURCATED TRIAL, TARRANT COUNTY, TEXAS. THE SECOND COURT OF APPEALS, AFFIRMED COUNT ONE THREE OF PROPERTY GRANTS THAN \$30,000, EXCEEDED, UPHOLDING A (47) FORTY-SEVEN YEAR SENTENCE AND REVERSED JUDGMENTS OF ACCOUNT IN COUNTS TWO AND THREE.

SCOTT, TROTSCH, AND MARSHALL ARE THE SUSPECT CONTRACTS AND ALLEGATIONS OF COUNT ONE. THE FACTS OF THESE CONTRACTS, MONITOR RECEIPTS, PAYMENTS COMPLETED, USE OF FUNDS, AND THE CASE ALLEGES ARE AS FOLLOWS:

SCOTT, CONTRACTED WITH POTTSWORM ON MARCH 15, 2017. THAT SAME DAY MADE AN, "EARNEST MONEY" PAYMENT, REPRESENTING (50), FIFTY PERCENT "INITIAL INVESTMENT" FOR CONSIDERATION IN A HOME IMPROVEMENT PROJECT IN THE AMOUNT OF \$12,980. THE CONTRACT WAS SUBSTANTIALLY COMPLETED AND MANIFESTED BY THE PARTIES SAME. THE DRAINAGE WAS TORN OUT AND A COMMERCIAL GRADE DRAINAGE WAS INSTALLED. THE DRAINAGE WAS COMPLETED ON MARCH 22, 2017 AT WHICH TIME THE SCOTTS CHOSE TO SUSPEND FURTHER COMPLETION. A MODIFICATION WAS MANIFESTED TO PUT THE PROJECT ON HOLD AND AN "INVOICE FOR COMPLETION OF THE DRAINAGE" WAS ISSUED IN THE AMOUNT \$5,000. THE INVOICE WAS PAID ON OR ABOUT APRIL 22, 2017, REPRESENTING A TOTAL DRAINAGE COST OF \$10,000. THE CONTRACTS, MODIFICATIONS, AND CHECK MEMOS, PROVE THESE FACTS. MATERIALS WERE ORDERED AND AWAITING SCHEDULING. BOTH OF THE SCOTTS WERE DECEASED AT THE TIME OF TRIAL.

TROTSCH, CONTRACTED WITH THE POTTSWORM ON MARCH 21, 2017. THAT SAME DAY, AN "EARNEST MONEY" PAYMENT "TO HOLD THE PRICE", AND BEGIN DESIGN OF A MAJOR REMODEL OF TWO BATHROOMS IN THE AMOUNT OF \$1,298 WAS MADE. THAT SAME DAY THE CONTRACT WAS MODIFIED STATING, "40% EARNEST MONEY ONCE DESIGN COMPLETED," (\$5,192) WAS TO BE PAID TO THE POTTSWORM. AFTER (45) FORTY-FIVE DAYS OF REGULAR DESIGN AND MULTIPLE TRIPS, BY POTTSWORM, DESIGN WAS COMPLETED. ON OR ABOUT MAY. 6, 2017, A CONFIRMATION OF EVERY DETAIL OF DESIGN WAS COMPLETED AND MANIFESTED BY THE TWO PARTIES SAME. A CHECK "FOR COMPLETION OF DESIGN" WAS ISSUED, IN THE AMOUNT OF \$5,192 AND \$500 FOR CONSIDERATION OF AN UPGRADE AS "EARNEST MONEY." ALL MATERIALS WERE ORDERED AND

AWASTON, SCHEDULED.

MARSHDALE, CONTRACTED WITH POTTSBORO ON APRIL 10, 2017. THAT SAME DAY AN "ERANST MONEY PAYMENT TO HOLD THE PRIZE", IN THE AMOUNT OF \$1,500 WAS ISSUED. ON MAY 13, 2017 AN ADDITIONAL, "ERANST MONEY" PAYMENT IN THE AMOUNT OF \$7,500 WAS MADE IN CONSIDERATION OF THE CONTRACTS, "INITIAL INVESTMENT." ON MAY 14, 2017 MARSHDALE WENT ON A FELLOW TRIP UNTIL END OF ABOUT MAY 23, 2017. MARSHDALE REFUSED TO HAVE ANY WORK DONE UNTIL HIS RETURN. THUS, IT WAS THE PERFORMANCE OF A THREE TO FOUR DAY PROJECT, INSTALLING A PATCH ON A FLAT ROOF GARAGE.

UNFORTUNATELY, ON MAY 24, 2017, POTTSBORO WAS UNLAWFULLY SEIZED, INCARCERATED, AND DENIED AN APPROPRIATE BOND WITHOUT HEARING IN HARRIS COUNTY. THE STATE COURT OF APPEALS, REVERSED REMOVAL AN APPROPRIATE BOND HEARING. THE HEARING FINALLY TOOK PLACE AND WAS GROSSLY DENIED. POTTSBORO COULD NOT AFFORD AN APPELLATE ATTORNEY TO GO FORWARD, ONE THEREFORE WAS NOT PROVIDED.

WHILE INCARCERATED, THE TARRANT COUNTY INVESTIGATORS, FOR THE STATE, THOROUGHLY INTERVIEWED WITH SCOTT, TROSCHE, AND MARSHDALE CONTRACTS, ABROGATING THE CONTRACTUAL RELATIONSHIPS, UNDER GUARD OF POLICE POWER. INVESTIGATOR TAYLOR IN HIS TESTIMONY AT TRIAL, STATED HE RESEARCHED EXTREME REMOVAL'S BANK ACCOUNTS, THE POTTSBORO'S LLC; AND CALLED THE DEPOSITORS, INCLUDING SCOTT, TROSCHE, AND MARSHDALE, SUSPECT COMPANIONS. THE SUSPECT COMPANIONS WERE NOT COMPANIONS UNTIL AFTER THIS INTERFERENCE. THE CONVICTION BY THE STATE CAUSED SUSPECT COMPANIONS TO HOLD THE PERFORMANCE OF UNPAID PHASES OF THE CONTRACTS, CANCEL ^{AND} ~~RE~~ REFUSE THEIR AGREEMENTS ^{TO} ~~TO~~ BRING CRIMINAL CHARGES AGAINST POTTSBORO FOR ^{HOLDING} ~~CONTRACT~~ PORTIONS OF THE CONTRACTS. POTTSBORO, EXTREME REMOVAL, OR A THIRD PARTY HURTS BY OTHER WORK PRECLUSION FROM FURTHER COMPLETION OR REMOVAL PURSUANT TO THE CONTRACTS OR THE PARTIES, DUE TO THE STATE INTERFERENCE. POTTSBORO WAS CHARGED UNLAWFULLY FOR WHAT THE LAW PROBABLY ALLOWS HIM TO DO.

THE STATE SECURED A GRAND JURY INDICTMENT, ACCUSING POTTSBORO OF THEFT OF PROPERTY, GRANTING THEM \$30,000 WITHOUT CONSIDERING THE ELEMENTS REQUIRED IN CONNECTION WITH A CONTRACT OR THE TERMS AND MODIFICATIONS FOR THE COMPLETED PHASES AND SACRED USE OF FUNDS MANIFESTED BY THE PARTIES. THE

JUDGMENT EXCLUDED SPECIFIC ACCUSATIONS OF "DURESS" TO MAKE CONSENT INEFFECTIVE AND A "RAISE PRICE OR FRAUD" TO CAUSE DAMAGE, BOTH OF WHICH MUST APPEAR TRANSFER TO MAKE THIS OTHERWISE LEGAL ACT CRIMINAL. THE JUDGMENT ONLY SET FORTH, THAT OF PROPERTY, IN THE WORDS OF THE GENUINE STATUTE. THIS MAKING THE GRAND JURY JUDGMENT INVALID FOR THE CRIME TO BE PUNISHED, RENDERING THE PROCEEDINGS VOID. NOTWITHSTANDING, A CARRAGEOUS TRIAL TOOK PLACE.

THE STATE PUT ON TESTIMONIAL EVIDENCE, THROUGH MARK BARKLEY AND ITS DISCREPANCIES TAKEN AND HANNA, ON BEHALF OF THE SCOTT, A DEFENSE PARTY AT THE TIME OF TRIAL, THIS RAISE AND MISLEADING TESTIMONY SERVED AS A LUNcheon TO THE STATE'S CASE, IN SHOWING ELEMENTS ONLY THE SCOTT COULD CONFIRM OR DENY. THE STATE BOLSTERED THIS TESTIMONY THROUGHOUT TRIAL.

THE STATE CONTINUED ITS CRIMINAL ACTS OF MISCONDUCT, ONLY TO SECURE A CONVICTION, RATHER THAN ITS DUTY TO SHOW THE TRUTH. THIS ACT THOUGH NOT EXHAUSTIVE, CREATED A CRIMINAL OFFENSE FROM LEGAL ACTS OF THE PROSECUTOR AND HIS COUNSEL. THE STATE PUT ON FALSE AND MISLEADING EVIDENCE, THAT MATERIALLY AFFECTED THE JURY'S DISCREPANCIES. THE STATE'S MISCONDUCT WAS PRESENT FROM ~~BEFORE~~ INVESTIGATION TO CLOSING SUMMATION. THIS, CAUSED PROSECUTOR TO BE CHARGED, CONVICTED, AND SENTENCED FOR WHAT THE LAW PLAINLY ALLOWS HIM TO DO.

THE PROSECUTOR'S TRIAL COUNSEL FAILED TO CHALLENGE THE DISCREPANCIES OF THE JUDGMENT, INCLUDING MULTIPLE FACTS ON ITS FACE, AND RAISED TO FEEL APPROPRIATE PROTECTIVE MEASURES TO PROTECT PROSECUTOR'S INTERESTS AND RIGHTS. NONE OF THESE FACTORS COULD BE CONSIDERED SOUND TRIAL STRATEGY. TRIAL COUNSEL WAS MADE AWARE OF THE DEFECTS OF THE PROSECUTION, MONTHS BEFORE TRIAL. DURING TRIAL, COUNSEL FAILED TO CHALLENGE BOTH THE STATE'S ARBITRARY INTERUSION WITH PROSECUTOR'S PRIVATE PARTY CONTRACTS AND THE CONFESSION VIOLATIONS OF SCOTT'S TRANSACTION.

THE PROSECUTOR WAS EXPOSED TO AN ILLEGAL SENTENCE. THE ALLEGED DOLLAR AMOUNT OF \$33,880, (COUNT 1), WAS CONTRARY TO THE MANIFESTED CONTRACTS. THIS OVERSIGHT MADE A SIGNIFICANT DIFFERENCE IN THE INTERPRETATION OF THE PROCEEDINGS. THE MINIMUM THRESHOLD OF \$30,000, COULD NOT BE SUSTAINED TO ELEVATE THE LEVEL OF OFFENSE TO A THIRD DEGREE FELONY NOR THE ENHANCEMENTS ASSESSED. PROSECUTOR WAS SENTENCED TO (47) FORTY-SEVEN YEARS IN THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE.

ON DIRECT APPEAL POTTSBORO'S APPELLATE COUNSEL FAILED TO:

- (1) SECURE A WRIT OR MOTION FOR A NEW TRIAL;
- (2) CHALLENGE THE SUFFICIENCY OF THE GRAND JURY INDICTMENT AND JURISDICTION OF THE COURT TO ~~IMPOSE~~ ^{IMPOSE} CONVICTION AND SENTENCE;
- (3) CHALLENGE THE CONSTITUTIONAL VIOLATION OF THE SCOTTS, WHICH WAS PROPERLY PRESERVED, IN POTTSBORO'S PRO SE MOTION FOR A NEW TRIAL.
- (4) CHALLENGE THE SUFFICIENCY OF THE EVIDENCE TO SUPPORT THE VERDICT FOR THEFT BY CONVICTION WITH A CONTRACT
- (5) FILE ANY RESPONSE BRIEFS TO CORRECT CLEARLY ERRONEOUS CLAIMS BY THE STATE AND SECOND COURT OF APPEALS WITH REGARD TO INTENT AND DOLLAR AMOUNT, CONTRARY TO DATES OF PAYMENT AND AMOUNTS.

THE SECOND COURT OF APPEALS TEXAS DENIED FULL AND FAIR LITIGATION OF CLEARLY ERRONEOUS FACTS OPENED IN ITS OPINION TO INCLUDE:

(1) DETERMINATION SUFFICIENCY OF EVIDENCE, OF BOTH THE VERDICT AND SENTENCE, BY ERRONEOUS CONCLUSIONS OF LAW AND FACTS OF THE CASE.

(A) RELEVANT EVIDENCE WAS NOT CONSIDERED IN DETERMINING THE SUFFICIENCY OF BOTH VERDICT AND SENTENCE.

(B) IMPRISONABLE ^{AND UNREASONABLE} EVIDENCE WAS USED ~~IN~~ IN DETERMINING THE ALLEGED DOLLAR AMOUNTS, CONTRARY TO THE UNAMBIGUOUS CONTRACTS, MANIFESTED BY THE PARTIES.

(C) AN INCOMPLETE STANDARD OF REVIEW WAS USED, RELYING ON ONLY THE GENERAL STATUTE OF THEFT, RATHER THAN THE REQUESTED SPECIFIC PRECEDENT OF THEFT BY CONVICTION WITH A CONTRACT, FOR OTHERS OF LEGAL ACTS.

APPELLATE COUNSEL WAS FURTHER INEFFECTIVE AFTER THE SECOND COURT OF APPEALS OPINION WROTE:

(1) FAILED TO INFORM POTTSBORO OF HIS PRO SE RIGHT TO FILE A PETITION FOR DISCRETIONARY REVIEW AS CODED TEX. RULE APP. PROC. 47.1

(2) FAILED TO INFORM POTTSBORO OF HIS INTENT TO FILE A PETITION FOR DISCRETIONARY REVIEW, OUTSIDE OF HIS APPOINTMENT; WHILE THE POTTSBORO HAD A PRO-SE MOTION FOR REMANENCE PENDING IN THE INTERMEDIATE SECOND COURT OF APPEALS.

(3) APPELLATE COUNSEL BROUGHT THE WORST OF APPALACHIAN ERRORS TO TEXAS COURT CRIMINAL APPEALS. THUS, CLOSING THE CASE AND DENYING POTTSBORO OF AT LEAST (2) TWO FULL PROCEDURES.

Finally, in the Texas Court of Criminal Appeals, the Petitioner advanced her grounds for ~~xxx~~ relief to the Court by way of writ of mandamus for her insufficiency of evidence claims, (grounds too through Thornton), as Texas has no funds this type of claims non-coercible, as well claims ruled on in direct appeal. The remaining grounds (one through ^{and fourteen}) were ~~over submitted~~ in Petitioner's 2832254 were submitted to the Texas Court of Criminal Appeals under State Habeas Corpus. In each proceeding the Court denied without written order. Thus, not affording Petitioner full and fair hearing of her claims.

Summary of Proceedings

The Circuit Judge's decision to deny issuance of C.O.A., attached in the appendix of this Petition is contrary to the decisions of the Supreme Court of the United States and/or precedents of the Fifth Circuit, other Circuits, Supreme Court of Texas and the Texas Court of Criminal Appeals. The Court of Appeals Circuit Judge opinion is flawed by not recognizing constitutional underpinnings and jurisprudence of reason finding the District Court decision ~~in~~ ^{disputed} or wrong, in support of Petitioner's grounds. The Circuit Judge has overlooked the District Court's refusal to address constitutional underpinnings with a reasoned method of inquiry consistent with courts, necessary to secure and maintain uniformity of decisions of the Court.

The Clerk of the Fifth Circuit Court of Appeals has deviated from the accepted and usual course of judicial proceedings, by not recognizing proper affidavits of facts, ~~and~~ the mailbox rule, and denies notice or order by no fault of a prisoner confined in an institution, in then "taking no action" on motions filed pro se precluding reviewing of C.O.A. without submission to the Court of Appeals for review.

Statement of Facts

On or about the 24th day of January 2024, Petitioner filed a motion-does 2832254 in her motion, Petitioner particularized that

- (1) The State tortiously interfered with Petitioner's private party contracts, unlawfully bringing criminal proceedings to a lawful act.
- (2) Grand Jury indictment did not set forth each essential element to ~~prosecute~~ ^{prosecute} theft in connection with a contract.

(3) Petitioner's Right to Confrontation in the Scott Transmission was Violated.

(4) No Evidence to Support Elements to Indict, Prosecute, Convict, or Sentence Theft of Property, Greater Than \$30,000 in Connection with a Contract.

(5) Prosecutorial Misconduct from Indictment to Closing Summation, Caused Petitioner to Be Charged, Convicted and Sentenced for what the Law Literally Allows Him to Do.

(6) Petitioner was Denied Effective Assistance of Trial Counsel

(7) Petitioner was Exposed to an Illegal Sentence, (Count 1), Theft of Property Greater Than \$30,000. The Alleged Aggregate Total, is Contrary to Unambiguous Contracts, Obscurely Mandated.

(8) Petitioner was Denied Effective Assistance of Counsel on Direct Appeal.

(9) Petitioner was Denied Effective Assistance of Appellate Counsel After Direct Appeal Opinion.

(10) Evidence is Insufficient to Support the Alleged Dollar Amount Greater Than \$30,000.

(11) Evidence is Literally Insufficient to Support the Verdict for Theft of Property in Connection with a Contract.

(12) The State Court's Opinion is Unreasonable by Estimation of an Incomplete Standard of Review, Causing Fair Dispute Due to Error in Applying the Law and Weighing the Evidence.

(13) The State Court's Opinion was Unreasonable in its Factual Determination of the Trial Record by Not Considering the Relevant Evidence Towards Sufficiency to Support Both the Verdict and the Sentence.

(14) The Court of Appeals Misapplied the Standard of Review to Determine Whether the Decision the Trial Court made that was Clear Error was Harmless.

The State of Texas had Fair Opportunity to Correct these Mischaracterizations of Justice and Misrepresentation of the Legal System for more Details See Amended C.O.A. (Doc 16-13-16), APPX.A-3

On or About the 19th Day of February^{THE DISTRICT COURT} Issued its Order to Deny Petitioner's 28 USC § 2254 and C.O.A. Without Addressing the Merits of His Constitutional Claims.

ON OR ABOUT THE 27TH DAY OF JUNE 2025, PETITIONER FILED AN ORIGINAL PETITION IN THE UNITED STATES COURT OF APPEALS FIFTH CIRCUIT, SEVENTH JUDICIAL CIRCUIT OF C.O.A. THE CLERK REQUESTED THAT C.O.A. TO BE AMENDED, DUE TO EXCEEDING LOCAL PAGE LIMIT. ON OR ABOUT THE 24TH DAY OF AUGUST, 2025 AN AMENDED PETITION WAS FILED SEVENTH C.O.A.

ON THE 24TH DAY OF NOVEMBER, 2025, THE COURT OF APPEALS CIRCUIT JUDGE, FOR THE FIFTH CIRCUIT ISSUED HER ORDER TO DENY PETITIONER'S PETITION SEEKING A C.O.A. WHICH HE DID NOT PRESENT UNTIL AFTER TIME TO FILE MOTION FOR REHEARING HAD EXPIRED.

ON THE 22ND DAY OF DECEMBER 2025, LESS THAN (14) FOURTEEN DAYS AFTER NOTICE TO DENY C.O.A., PETITIONER, FILED MOTION FOR EXTENSION OF TIME TO FILE PETITION FOR REHEARING AND MOTION FOR COURTESY COPY OF AMENDED PETITION FOR C.O.A. TO FURTHER HIS CLAIMS.

ON THE 21ST DAY OF JANUARY, 2026, PETITIONER RECEIVED NOTICE FROM THE CLERK DATED 9TH DAY OF JANUARY, ~~2026~~²⁰²⁶ STATING "WE ARE TAKING NO ACTION ON YOUR MOTION FOR EXTENSION OF TIME TO FILE REHEARING"; SEPARATELY THAT SAME DAY PETITIONER RECEIVED ~~ANOTHER~~ ORDER FROM THE COURT OF APPEALS GRANTING AND PROVIDING A COURTESY COPY OF THE AMENDED PETITION FOR C.O.A.

ON THE 22ND DAY OF JANUARY, 2026, PETITIONER FILED A MOTION FOR RECONSIDERATION BY "COURT PANEL" FOR EXTENSION OF TIME TO FILE PETITION FOR REHEARING AND REHEARING BY BANK AS A HYBRID MOTION FOR C.O.A. AND A MOTION FOR STAY OR RECALL OF ~~MANDATE~~^{MANDATE}.

ON OR ABOUT THE 18TH DAY OF FEBRUARY, 2026, PETITIONER HAD A THIRD PARTY CALL THE CLERK OF THE COURT OF APPEALS FIFTH CIRCUIT FOR STATUS OF MOTIONS DATED 22ND DAY OF JANUARY, ABOVE, AND TO PROVIDE CURRENT OF ADDRESS. THE CLERK STATED "THE MOTIONS WERE PENDING AND THE COURT HAS THE CHANGED ADDRESS".

ON THE 19TH DAY OF FEBRUARY, 2026 PETITIONER SENT BOTH THE CLERK OF THIS HONORABLE COURT AND THE CLERK OF THE COURT OF APPEALS FIFTH CIRCUIT A FORMAL CHANGE OF ADDRESS, AS HE WAS MOVED TO ANOTHER UNIT OF ASSIGNMENT.

ON OR ABOUT FEBRUARY 26TH, 2026, POTTSOMER RECEIVED NOTICE FROM THE CLERK FOR THE COURT OF APPEALS FIFTH CIRCUIT "WE ARE TAKING NO ACTION ON YOUR MOTION FOR RECONSIDERATION BECAUSE IT IS UNTIMELY" DATED FEBRUARY 5TH, 2026; CONTRARY TO WHAT WAS STATED TO THE THIRD PARTY ON ABOUT FEBRUARY 18, 2026, ABOUT.

ON MARCH 12TH, 2026 POTTSOMER Sought LOUPE AND FILED A PRO SE PETITION SEEKING IN AND OUT OF TIME AVOID REVERSING AND REVERSING AND HAVE REVERSING AS A HYBRID PETITION. TO DATE THE MOTION IS PENDING.

ON MARCH 13TH, 2026, POTTSOMER RECEIVED NOTICE FROM THE HONORABLE COURT DATED MARCH 5TH, 2026, GRANTING HIS APPLICATION TO EXTEND TIME ON PETITION FOR WRIT OF HABEAS CORPUS, UNTIL APRIL 6TH, 2026, HIS FIRST EXTENSION.

ON MARCH 25TH, 2026, POTTSOMER FILED AN APPLICATION FOR A SECOND EXTENSION OF TIME ON PETITION FOR WRIT OF HABEAS CORPUS AS POTTSOMER WAS AWAITING A RULING ON HIS MARCH 12TH 2026 REQUEST SEEKING OUT OF TIME REVERSING AND A MOTION FOR COPIES OF THE RECORD, WRITORS FOR HABEAS CORPUS RECORD, NOTICE WHICH HAVE BEEN RECEIVED FROM THE COURT OF APPEALS FIFTH CIRCUIT. LATER ON THE DAY ON MARCH 25TH 2026 THE POTTSOMER RECEIVED AN ORDER FROM THE COURT OF APPEALS FIFTH CIRCUIT DATING SIX OF MARCH DATED MARCH 12TH, 2026, THAT THE CLERK OF THE COURT MAILED TO THE PREVIOUS ADDRESS OF POTTSOMER, REGARDING THE CHANGE OF ADDRESS PROVIDED ON BOTH ~~THE~~ FEBRUARY 18TH 2026 AND IN WRITING FEBRUARY 19TH 2026, THAT PRESUMABLY THE COURT OF APPEALS CLERK ALREADY HAD. ALSO DELIVERED NOTICE TO POTTSOMER.

HOWEVER NOW POTTSOMER FILES HIS PETITION FOR WRIT OF HABEAS CORPUS TO CURE ANY FURTHER MISMANAGEMENT OF JUSTICE.

SUMMARY OF THE ISSUES

THE CIRCUIT JUDGE WAS IN ERROR WHEN SHE DENIED POTTSOMER'S MOTION FOR C.O.A.

(1) THE CIRCUIT JUDGE WAS IN ERROR WHEN SHE FAILED TO GRANT A C.O.A. BASED ON THE DISTRICT COURT'S UNREASONABLE DENIAL OF POTTSOMER'S LEGAL

AUTHORITY, ARGUMENT, AND EVIDENCE IN SUPPORT OF HIS GROUNDS, SAID ^{LAW} RICH TO THE RESPONDENTS DEBATES, DENYING AN ANSWER MEMORANDUM OF, AND CONSIDERING PREVIOUS GROUNDS FOUR, SEVEN, TEN THROUGH THIRTEEN, SHORT OF AN OBVIOUS PROCEDURAL BAR.

(2) THE CORRECT JUDGE WAS IN ERROR WHEN SHE FAILED TO GRANT A C.O.A. BASED ON THE UNITED STATES DISTRICT COURT'S OBVIOUS PROCEDURAL BAR OF STATE EXHAUSTION FOR GROUNDS FOUR, SEVEN, TEN THROUGH THIRTEEN; OVERLOOKING SUBSTANCE OF CLAIMS BEING EXHAUSTED, EXCEPTIONS AND EXEMPTIONS TO STATE EXHAUSTION THAT JUSTICE OF REASON SUGGESTING PETITIONER'S CLAIMS OF EXHAUSTION, DISMISSING ENCOURAGEMENT TO PROCEED FURTHER.

(3) THE CORRECT JUDGE WAS IN ERROR WHEN SHE FAILED TO GRANT A C.O.A. OVERLOOKING JUSTICE OF REASON THAT FOUND THE DISTRICT COURT'S OPINION TO BE DEBATABLE, WRONG, AND CONTRARY TO UNDISPUTED FACTS, RECORD, CIRCUMSTANCES; AND THE DISTRICT COURT'S FAILURE TO ADDRESS A FULL ANALYSIS OF CONSTITUTIONAL UNDERSTANDINGS, OF WHICH CLAIMS AN UNLAWFUL CHANGE, CONVERSION, AND SITUATION OF PETITIONER.

(4) THE CORRECT JUDGE WAS IN ERROR WHEN SHE FAILED TO GRANT A C.O.A. OVERLOOKING PETITIONER'S LEGAL INNOCENCE CLAIMS REGARDING AS CONSTITUTIONAL, SUPPORTED BY JUSTICE OF REASON WHO WOULD FIND THE DISTRICT COURT'S DECISION DEBATABLE OR WRONG, DISMISSING ENCOURAGEMENT TO OFFER SUPPORTING EVIDENCE TO PROCEED FURTHER INSURING THIS UNLAWFUL MISCHARACTER OF JUSTICE IS REVERSED OR REMANDED

(5) THE CLERK OF THE FOURTH CIRCUIT COURT OF APPEALS HAS WHOLLY DISREGARDED TO QUOTABLE TOLLING OF STATUTE OF LIMITATIONS FOR POWER RETRACTION AND RETRACTION IN BANK, WHEN PETITIONER HAS BEEN PURSUING HIS RIGHTS DELEGATELY AND THE COURT HAS ASSIGNED FAILURE TO DISCOVER HIS MISTAKE UNTIL AFTER THE LIMITATION ~~DATE~~ FOR RETRACTION WAS UNKNOWN; AND THE CLERK HAS DISREGARDED THE PRESENCE MASTER RULE WITH REASON AFFIDAVIT, SAME. THIS, PREVIOUSLY REMANDED BY TAKING "NO ACTION" ON PETITIONER'S MOTIONS.

REASONS FOR GRANTING THE PETITION

It has been overlooked that the Petitioner was not only Precluded, in the United States District Court for Argument and Legal Authorities for Grounds Four, Seven, and Ten through Thirteen of his Timely Filed 28 U.S.C. § 2254, Composed to an Erroneous Procedural Bar of Exhaustion of Grounds Same But was Prejudiced by the United States District Court's Refusal to Address a Full Answer of Constitutional Claims. (ECF-10; 11; 12; 13; 16; 17; 21); (ECF-32-6-10-O.P.N.); (ECF 33; 34; 35); and (Doc 16-18-28). APPX A-3; APPX B-1

The State and Federal Judges over the last (7) Seven years, have failed to address multiple grounds of relief, short of Summary Denial, Erroneous Procedural Default, and Incomplete or Erroneous Standards of Review Contrary to the Directive, Undoubtedly Evidenced That Jurists of Reason Found Unreasonable, Debatable, or Clearly Wrong. Thus, Foreclosing Petitioner opportunity of both Full and Fair Litigation, meaningful hearings, ^{with} ~~and~~ a Reasonable Method of Inquiry of his Grounds, same. Petitioner Appellant has been denied a full Answer of Constitutional Rights, including but not limited to Being Denied his Right to Redress of Grievances, Due Process, Due Process of Law, and Equal Protection of the Law. (DOC-16); (Supra); APPX A-3

Erroneous Procedural Bar

The Circuit Judge was in error when she failed to Grant a C.O.A. Based on the District Courts Decision to erroneously Bar Exhausted Claims Four, Seven, Ten through Thirteen as Exhausted and Non-Cognizable in the State Courts. The Circuit Judge overlooked Jurists of Reason who would find the District Courts Opinion Debatable or Wrong and the Petition could be resolved in a different manner Adequate to Deserve Encouragement to Proceed Further (ECF 35-6-8); (ECF 32-6-10-O.P.N.); (Doc 16-18-20). APPX B-2; APPX A-3; APPX B-1

Exceptions and Grounds to Exhaustion

(1) LEGAL INNOCENCE REFRAMED AS CONSTITUTIONAL

Ground Four - "SUMMARILY" NO ELEMENTS TO SUSTAIN THIEF IN CONVERSION WITH A CONTRACT; Ground Seven - "SUMMARILY" ILLEGAL SUFFICIENT TO SUSTAIN LEVEL OF OFFENSE AND ENHANCEMENT; Grounds Ten THROUGH THIRTEEN "SUMMARILY" INSUFFICIENT EVIDENCE, ALL OF WHICH CAN NOT SUSTAIN CONVERSION OR SUFFICIENT OF PETERSONER THEREFORE, CONSTITUTIONAL "LEGAL INNOCENCE" EXEMPTIVE MANY PROCEDURAL BARS OTHERWISE IMPOSED. (ECF 1-22-25); (ECF 1-35-37); (ECF 1-43-45). APP. B-1

PETERSONER'S BEHAVIOR BY STATUTE AND PRECEDENT, FOR THIEF IN CONVERSION WITH A CONTRACT, DOES NOT CONSTITUTE CRIMINAL AND REQUIRES REVERSAL MORRIS V. DICKER, 90 F. APPX 62 (5TH CIR 2004) (CITING SAYRE V. WHITNEY, 505 U.S. 333, 339 (1992)). THE PETERSONER WAS WRONGLY CONVICTED BECAUSE HE IS INNOCENT OF ESSENTIAL ELEMENTS, WHICH MAKE THIS OTHERWISE LEGAL ACT CRIMINAL. NAMELY, INTENT TO DEFRAUD, DECEPTION TO APPROPRIATE, FALSE PRETEXT OR FRAUD TO INDUCE PAYMENT, ALL OF WHICH MUST PRECEDE TRANSFER OF FUNDS, TO CONSTITUTE THIEF OR PROPERTY IN CONVERSION WITH A CONTRACT WORTH V. STATE, 361 S.W.3d 694, 697 (TEX. CRIM. APP. 2012). THE FIFTH AMENDMENT REQUIRES JURORS TO FIND ELEMENTS BEYOND REASONABLE DOUBT STANDARD SULLIVAN V. LOUISIANA, 508 U.S. 275 (1993). THE QUESTION IS NOT ONLY WHETHER THE EVIDENCE PRESENTED AT TRIAL IS SUFFICIENT TO SUSTAIN CONVICTIONS FOR THIEF IN CONVERSION WITH A CONTRACT, BUT WHETHER IN EACH QUESTIONED INSTANCE WAS PETERSONER CONVICTED ON AN INTENT, DECEPTION, FALSE PRETEXT, FRAUD THEORY OR WAS HE CONVICTED OF THE GENERAL STATUTE OF THIEF OF PROPERTY? IF THE ^{LATER} ~~EXETER~~ ANALYSIS, THE CONVICTION CANNOT STAND.

UNDER THE DUE PROCESS CLAUSE OF THE FEDERAL CONSTITUTION'S FOURTEENTH AMENDMENT, JURY DETERMINATION THAT A CRIMINAL DEFENDANT IS GUILTY BEYOND REASONABLE DOUBT OF EVERY ELEMENT OF CRIME CHARGED IS REQUIRED - AMONG OTHER PROCEDURAL PROTECTIONS - IN ORDER TO PROVIDE CONCRETE SUBSTANCE FOR THE PRESUMPTION OF INNOCENCE, AND TO REDUCE THE RISK OF ERRONEOUSLY IMPOSING LOSS OF LIBERTY AND STIGMA OF CONVICTION APPENDIX V. NEW JERSEY, 530 U.S. 466, 120 S.Ct. 2348, 147 L.Ed.2d 435 (2000). (ECF 1-35,36); (ECF 1-22-25); (ECF 1-43-45). APPX B-1

UNDER THE INNOCENCE EXCEPTION TO PROCEDURAL DEFAULT AS PRESUMPTIVE CAN OBTAIN REVERSAL OF THOSE CLAIMS EVEN IF HE DID NOT RAISE THEM IN STATE COURT. "THERE CAN BE NO ROOM FOR DOUBT" THAT "CONVICTION AND PUNISHMENT... FOR AN ACT THAT THE LAW DOES NOT MAKE CRIMINAL INHERENTLY RESULTS IN A COMPLETE MISCHARACTER OF JUSTICE" AND PRESENTS EXCEPTIONAL CIRCUMSTANCES" DAVIS V. UNITED STATES, 417 U.S. 333 AT 346 (1974); (ECF 1-22-25); APPX B-1 THE FIFTH CIRCUIT HAS CONCLUDED "A SHOWING OF FACTS ESTABLISHING AN AFFIRMATIVE OFFENSE THAT WOULD RESULT IN AN ACQUITTAL CONSTITUTES A SUFFICIENT SHOWING OF ACTUAL INNOCENCE" FOWLEY V. JOHNSON, 243 F.3d 215, 221 (2001). THE RASURE TO CORRECT A PLEAD SUFFICIENTLY ERROR WOULD

SERIOUSLY AFFECT THE FAIRNESS AND PUBLIC PERCEPTION OF JUDICIAL PROCEEDINGS - "REGARDLESS OF ITS ULTIMATE REASONABLENESS, A SENTENCE THAT LACKS PROPORTIONATE- BECAUSE OF UNJUST PROCEDURES MAY WELL UNDERMINE PUBLIC PERCEPTION" RODRIGUEZ-MERCEDES V. UNITED STATES, 585 U.S. 129, 131 (2018). THE PETITIONER'S SENTENCE AND EXHAUSTION BASED ON AN ALLEGED TOTAL OVER \$30,000 IS CONTRARY TO COMPUTED PAYMENTS AND USE OF FUNDS MANIFESTED IN THE CONTRACTS, COUPONS WITH EVIDENCE OF CHECKS DATES AND MEMOS IN THE CLERKS RECORD, NOT PRESENTED TO THE JURY (THE CHECKS) IS CRITICAL EVIDENCE THAT JURY COULD ^{NOT} HAVE FOUND DUBIOUS, AND ALLEGED TOTAL OF \$33,880 TO SUSTAIN THE CONVICTIONS AND LEVEL OF OFFENSE (CR-86, 95, 91, 98, 93, 101); APPX-D-1

SECTION 2254(d)(1) ALLOWS COURTS TO TREAT LOCAL INNOCENCE CLAIMS DIFFERENTLY FOR PURPOSES OF DETERMINE WHAT SUPREME COURT ADEQUATE COURTS UNDER SECTION 2254(d)(1) BECAUSE OF THE NATURE OF LOCAL INNOCENCE CLAIMS. THEREFORE, GRONE V. FASHOR, 565 U.S. 34, 36 (2011) MIGHT INDICATE SOME WILLINGNESS TO ALLOW FEDERAL COURTS TO TREAT LOCAL INNOCENCE CLAIMS DIFFERENTLY WHEN DETERMINE WHETHER 2254(d)(1) REQUIRES ONLY A VERY LIMITED REASONABLENESS REVIEW OF A PETITIONER'S LOCAL INNOCENCE CLAIMS.

PETITIONER'S CLAIMS HAVE BEEN REFRAMED AS CONSTITUTIONAL. JURISTS OF REASON HAVE FOUND THE DISTRICT COURT'S DECISION DEBATABLE AND THE PETITION COULD BE RESOLVED IN A DIFFERENT MANNER ADEQUATE TO DENY EXHAUSTION TO PROCEED FURTHER. ALL OF WHICH SHOULD AT LEAST C.O.A. SHOULD ISSUE OR BE REMANDED TO RECONSIDER.

(2) SUBSTANCE OF CLAIMS EXHAUSTED

PETITIONER HAS REPEATEDLY SUBSTANTIATED THE SUBSTANCE OF GROUNDS FOUR, SEVEN, TEN THROUGH THIRTEEN. THOSE GROUNDS WERE PRESENTED AT EVERY LEVEL OF JUDICIAL IN THE TEXAS STATE COURTS AND OPPORTUNITY TO CONSIDER THEM HAS BEEN PRESENTED TO THE TEXAS COURT OF CRIMINAL APPEALS, THE HIGHEST CRIMINAL COURT IN TEXAS, TWICE. "SEE" SOFFER V. DROTKO, 366 F.3d 441, 467 (5TH CIR. 2004). ONCE A FEDERAL CLAIM HAS BEEN PRESENTED TO THE STATES HIGHEST COURT, THE EXHAUSTION REQUIREMENT IS SATISFIED EVEN IF THE STATE COURT FAILS TO ADDRESS THE FEDERAL CLAIM SMITH V. DEGMON, 434 U.S. 332 (1978). (DOC 16-19, 20); (ECF 32-1-3, 6-10); (STATE HABEAS 11.07-12-15-O.P.N.); (11.07 MEMO. OF LAW-6-8, 18-22, 39-42-O.P.N.); (MANDAMUS-2-12-O.P.N.); (PRO SE MOTION FOR RETRAC-2ND CIR. APP-1-8-O.P.N.); (PRO SE MOTION FOR NEW TRIAL-TRAC RECD); APPX. A-1, APPX. E-2, 3, APPX. F-3

THE SUBSTANCE OF THOSE CLAIMS PRESENTED TO EVERY STATE JUDICIAL AND THE FEDERAL COURTS HAS ONLY BEEN DENIED WITHOUT WRITTEN ORDER, DENIED ALL TOGETHER, OR ERRONEOUSLY PROCEDURALLY BARRED FOR EXHAUSTION.

NO NEW LEGAL THEORIES OR FACTUAL CLAIMS HAVE BEEN PRESENTED IN PETERSON'S PETITION OTHER THAN THAT IN THE STATE COURTS "SEE" Jordan v. Drake, 416 F. 3d 363, 367 (5th Cir 2005).

THE UNITED STATES DISTRICT COURT STATED IN ITS DECISION (ECF-35-4) ^{APPX B-2} "AND THE TEXAS COURT OF CRIMINAL APPEALS DOES NOT WITHOUT WRITTEN ORDER SUCH RULING IS A DISMISAL OF THE MOTIONS" EX PARTE TORRES, 943 S.W. 2d 469, 472 (TEX. CRIM. APP. 1997). SPECIFICALLY, THE TORRES COURT STATED "IN OUR WRIT OF HABEAS CORPUS A 'DISMISSAL' SIGNIFIES THAT WE ADDRESS THE MOTIONS OF A PARTICULAR CLAIM[S] WHILE A 'DISMISSAL' MEANS WE DECIDE TO CONSIDER THE CLAIM[S] FOR REASONS UNRELATED TO THE CLAIMS MOTIONS" ID AT 472 H₄. THEREFORE, THE STATE COURTS CHOOSE NOT TO RLY ON A PROCEDURAL BAR AND THERE IS NO BASIS FOR A FEDERAL HAWKINS COURT'S REFUSING TO CONSIDER THE MOTIONS OF A FEDERAL CLAIM HAWKINS v. ROOD, 489 U.S. 255, 265 n12 (1989).

PETERSON GAVE THE STATE COURTS FAIR OPPORTUNITY TO ACT ON HIS CLAIMS, FULFILLING 2254(C) O'SULLIVAN v. BOECKEL, 526 U.S. 838, 844 (1999). THEREFORE, PETERSON LEGALLY SATISFIED STATE EXHAUSTION OF GROUND FOUR, SHOWN, TON THROUGH THIRTEEN.

(3) ABSENCE OF STATE CORRECTIVE PROCESS

ONCE THE APPELLATE ATTORNEY WENT BEYOND HIS APPOINTMENT, FILING A PETITION FOR DISCRETIONARY REVIEW (ECF 1-38-42) ^{APPX. B-1}; (Doc 16-38,39) ^{APPX. A-3} NOT TO INCLUDE THE SUBSTANCE OF GROUND FOUR, SHOWN, TON THROUGH 13, WHILE PETERSON'S PRO SE MOTION WAS PENDING IN THE INTERMEDIATE 2ND COURT OF APPEALS, DIRECT APPEAL OPTIONS EFFECTUALLY CLOSED. PETERSON WAS NOT INFORMED OF THIS FILING UNTIL ON OR ABOUT THE 23RD DAY OF JULY 2022. ON THE 26TH DAY OF JULY 2022, PETERSON, BY MAJOR RULF AND FOLLOWS AFTERMATH, FILED A MOTION TO STAY AND ASKED PETERSON FOR DISCRETIONARY REVIEW TO SUPPLEMENT AFTER RULING ON BRIEF IN THE 2ND COURT OF APPEALS. TO DATE THAT MOTION HAS NOT BEEN RULED ON, BY TEXAS COURT OF CRIMINAL APPEALS. ON JULY 27TH 2022, THE TEXAS COURT OF APPEALS REFUSED PETERSON FOR DISCRETIONARY REVIEW. PETERSON WAS NOT NOTICED OF THIS REFUSAL UNTIL THE 2ND COURT OF APPEALS RETURNED HIS RECONSIDERATION AND REMOVAL ON BRIEF, RECEIVED BUT NOT FILED IN AUGUST 2022, "AS THE CASE IS CLOSED". THIS, DENYING PETERSON OF AT LEAST (2) TWO HOURS ON DIRECT APPEAL.

AN UNDERSTANDING THAT SOMETHING EXTERNAL TO THE STATE PRISONER HAS INTERFERED WITH THE ABILITY TO COMPLY WITH THE EXHAUSTION REQUIREMENT AND, AS A RESULT, NO COURT HAS FAIRLY CONSIDERED THE PRISONER'S UNDERLYING FEDERAL CLAIMS "SEE" WILLIAMS v. SYKES, 433 U.S. 72, 84-85 (1977), IN WILLIAMS v. TAYLOR, 429 U.S. 420, 432 (2000) THE COURT NOTED THAT A STATE PRISONER "IS NOT

AT FAULT WITH HIS DELIBERATE EFFORTS TO PERFORM AN ACT AND TOWARD, FOR
EXAMPLE, BY THE CONDUCT OF ANOTHER OR BY CIRCUMSTANCES."

GROUNDS TEN THROUGH THIRTEEN HAD BEEN SUMMARILY DENIED IN PRO SE MOTION
FOR ^{AT} HARRISON IN THE ^{COMMON} DISTRICT COURT OF APPEALS. TEXAS STATE HARBOR
FINDINGS, CLAIMS RULES AND IN DISTRICT APPEAL AND CLAIMS OF INSUFFICIENT GUIDANCE
WAS CONSIDERABLE. PETITIONER HAD NO OTHER DISTRICT APPEAL OPTIONS OR POST-
CONVERSION OPTIONS REMAINING AT THE STATE LEVEL A PREREQUISITE TO FILE
WITH THE TEXAS COURT OF APPEALS FOR WRIT OF HABEAS CORPUS, WHICH WAS DENIED
WITH OUT WRITING ORDER (ECF 1-3, 43-45); (ECF 32-7-10); (DOC 16-19720); APPX B-1
APPX A-3

FURTHER THE UNITED STATES DISTRICT COURT DECIDED (ECF 35-7) "DENIALS OF
GROUNDS FOUR AND SEVEN, IN PETITIONER'S STATE AND FEDERAL HARBOR FINDINGS,
ARE NOW CONSIDERABLE, EX PARTE GREGORY, 137 S.W. 3d 673, 674 (TUT. CRIM. AP. 2004).
THEREFORE, CONCEDED A CLEAR ABSENCE OF STATE CORRECTIVE PROCEEDINGS. THUS,
STATE EXHAUSTION IS SATISFIED

THE FOURTH CIRCUIT RULED IN DAWSON V. DAVIS, 863 F.3d 346, 374 (5th Cir 2017)
THAT "CIRCUMSTANCES EXIST THAT RENDER [THE STATE] PROCESS INADEQUATE TO
PROTECT THE RIGHTS OF THE APPELLANT" EMPOWERING THE COURT TO REVIEW
THE MERITS OF THESE CLAIMS ABSENT EXHAUSTION UNDER § 2254(b)(1)(B)(i).
THUS, ENTITLING PETITIONER A REVIEW OF HIS GROUNDS IN FEDERAL HARBOR.

(4) FASTER INQUIRY INTO RELEVANT QUESTIONS OF LAW AND FACT

IN EACH OF THE EXHAUSTED AND ERRONEOUSLY DENIED GROUNDS FOUR, SEVEN,
TEN THROUGH THIRTEEN, HARBOR RELIEF SHOULD BE GRANTED. THE COURT STATED
IN PAGE V. JOHNSON, 334 U.S. 266 (1948) THAT "THE PRIMARY PURPOSE OF A HARBOR
CORPUS PROCEEDING IS TO MAKE CERTAIN THAT A MAN IS NOT UNJUSTLY IMPRISONED,
AND IF FOR SOME REASON HE WAS PREVIOUSLY UNABLE TO ASSERT HIS RIGHTS OR
WAS UNAWARE OF THE SIGNIFICANCE OF RELEVANT FACTS, IT IS NEITHER NECESSARY
NOR REASONABLE TO DENY HIM AN OPPORTUNITY OF OBTAINING JUDICIAL
RELIEF" ID AT 291

BOTH THE STATE COURTS AND UNITED STATES DISTRICT COURT HAVE FAILED TO "PROVIDE
A REASONED MOTION OF INQUIRY INTO THE RELEVANT QUESTIONS OF FACT AND LAW"
UNITED STATES EX REL. CONROY V. BOMBARD, 426 F.3d 97, 109 (2nd Cir [S.D. NY]
1976). NO STATE OR FEDERAL JUDICIAL HAS ADDRESSED THE STRUCTURAL ERRORS
THAT GO TOWARD THE LEGALITY OF THE CHARGE, CONVERSION, OR SENTENCE OF
PETITIONER FOR OTHERED LOGICAL ACTS (ECF 1-10, 26-27, 35-37, 43-45); (DOC 16-
13-16, 18-20). APPX B-1; APPX A-3

(5) CLAIMS REVIEW ACCORDING TO TEXAS LAW

SHORT OF THE MANNER WHEN GROUNDS FOUR, SEVEN, TEN THROUGH THIRTEEN
WERE PRESENTED TO TEXAS STATE COURTS BY DORRIS, MAWDAHUS, AND SMITH HABIBAS
"ANY GROUNDS RULED ON, IN DORRIS REVIEW OR AS INSUFFICIENT COUNTER" IS
FURTHER FOR TEXAS POST CONVERSION COLLATERAL REVIEW "SEE EG" NEL V. WHITFIELD,
475 U.S. 157, 163 n 3 (1986) (THE EXHAUSTION REQUIREMENT IS NOT
'SINCE FURTHER PROCEEDINGS WOULD BE FUTILE'). THERE ARE EXCEPTIONS TO STATE
EXHAUSTION WHEN THE CORRECTIVE PROCESS IS SO CLEARLY DEFECTIVE AS TO RENDER
FURTHER ANY EFFORT TO OBTAIN RELIEF DUCKWORTH V. STRANDBERG, 454 U.S. 1, 3 (1981).

THE HIGHEST TEXAS CRIMINAL COURT HAS CONSCIOUSLY REVERSED INSUFFICIENCY
OF COUNTER CLAIMS IDENTICAL TO THE PETITIONS WHEN COUNTER FALLS
UNDER THE PETITORY EXCEPTION AS WELL "SEE" FESTER V. TOWNS, 169 F. 3d 296,
303 (5TH CIR 1999).

THERE IS UNDISPUTED AND DORRIS EVIDENCE CONTRARY TO THE ALLEGED FACTS
OPENED BY THE 2ND COURT OF APPEALS, TEXAS THAT HAS REMOVED UNRESCUED,
THE CAUSE OF AN ILLEGAL CONVICTION AND SENTENCE. THOSE GROUNDS WERE
DIRECTED TO THE TEXAS COURT OF CRIMINAL APPEALS, TWICE. THIS GAVE THE
HIGHEST STATE CRIMINAL COURT FULL OPPORTUNITY TO ADDRESS THE CONSTITUTIONAL
LOGIC PRINCIPLES, OF GROUNDS FOUR, SEVEN, TEN THROUGH THIRTEEN, TO THE FACTS
BORROWED ON PETITIONER'S CONSTITUTIONAL GROUNDS AND DORRIS THE STATE
COURTS ALLOWED TO THE FEDERAL INDICATIONS OF HIS GROUNDS. THOSE
GROUNDS, THROUGH DORRIS APPEAL ^{2ND COURT OF APPEALS} ~~AT THE STATE COURT~~ TO THE TEXAS COURT
OF CRIMINAL APPEALS HAVE BEEN DENIED WITHOUT WRITTEN ORDER. THE
UNITED STATES DISTRICT COURT HAS ERRONEOUSLY DENIED THOSE GROUNDS TO
BE UNEXHAUSTED, WHILE THE PETITIONER HAS USED EVERY AVAILABLE REMEDY
OF THE STATE OF TEXAS. THE COURT OF APPEALS FOR THE FORTH CIRCUT
HAS DENIED C.O.A. IN ERROR, AGAIN DENYING PETITIONER EFFORTS
OF HIS RIGHT TO REDRESS GRIEVANCES TO THE GOVERNMENT. THIS VIOLATES
HIS FIRST, FOURTH, FIFTH, EIGHTH, AND FOURTEENTH AMENDMENTS IN
CONSTITUTION OF ALL HIS GROUNDS FOR RELIEF.

THE STATES HAVE A RESPONSIBILITY UNDER THE DUE PROCESS CLAUSE "TO
FURNISH A CRIMINAL DEFENDANT WITH A FULL AND FAIR OPPORTUNITY TO
MAKE HIS DEFENSE AND LETTHER HIS CASE" AND IF THEY FAIL TO DO SO,
"THE DUE PROCESS CLAUSE ITSELF DEMANDS THAT ITS CONCLUSIONS OF FACT
AND LAW SHOULD NOT BE RESPECTED" (PAUL M. BATOR, FUNDAMENTAL CRIMINAL
AND FEDERAL HABEAS FOR STATE PRISONERS, 76 HARV. L. REV. 441, 456); (SEE ALSO)
JUSTICE MARSHALL, IS GUILT DEPOSITIVE? FEDERAL HABEAS AFTER MARSHALL,
55 WM & MARY L. REV. 2071, 2071-72 (2014) (ARGUING THAT RECENT CASES SUGGEST
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A MOVE TO GREATER FOCUS ON THE FAIRNESS OF PROCEDURES RATHER THAN INNO-
CONC).

THE DIFFERENTIAL STANDARDS OF REVIEW ARE ONLY TRIGGERED WHEN THE
UNDISMISSED FEDERAL CLAIM AT ISSUE "WAS ADJUDICATED ON THE MERITS
IN A STATE COURT PROCEEDING" 28 USC § 2254(d). THE DIFFERENCE GOES TO A
STATE COURT'S FACTUAL FINDING IN 28 USC § 2254(e)(1), WHICH CONTAINS THE
PRESUMPTION OF CONSERVATION, ONLY APPLICABLE WHEN A STATE COURT HAS MADE A
"DETERMINATION OF A FACTUAL ISSUE"

THE FEDERAL COURTS HAVE UNIFORMLY HELD THAT A STATE COURT DECISION
IS NOT AN "ADJUDICATION OF THE MERITS" DETERMINATION OF 2254(d) DEFERRED
WHEN THE DECISION (1) RESTS ON PROCEDURAL GROUNDS (2) FAILED TO ADDRESS
THE FEDERAL CLAIM BECAUSE IT WAS NOT PRESENTED TO THE STATE COURT
OR (3) FAILED TO ADDRESS A PARTICULAR ASPECT OF THE FEDERAL CLAIM BECAUSE
THE STATE COURT RESOLVED THE CLAIM ON OTHER GROUNDS (SEE RICHARD HORTZ
& JAMES S. LEBMAN, 2 FEDERAL HANDBOOK ON FEDERAL AND PROCEDURAL § 32.2 (7TH ED
2017) (COLLECTING CASES)). IN SHORT IF THE STATE COURT CONSIDERED A CLAIM, AND
HABEAS IS THE PETITIONER'S FIRST REAL OPPORTUNITY TO PRESENT A FEDERAL CLAIM,
§ 2254(d) DEFERENCE WILL NOT APPLY.

THE PETITIONER CONTENDS THAT THE STATE PROCEEDINGS OF HIS GROUNDS WERE
SUCCESSFULLY DISMISSING THAT THE STATE COURT'S DECISIONS SHOULD NOT BE
CONSIDERED AN ADJUDICATION ON THE MERITS AND THE FACTUAL FINDINGS
UNDERLYING THE STATE COURT'S DETERMINATIONS SHOULD BE REVIEWED UNDEFERRED
AND THE RESULTING DETERMINATIONS ARE NOT SUBJECT TO DEFERENCE.
WITHOUT AN ADJUDICATION ON THE MERITS, THE DIFFERENTIAL STANDARDS OF
2254(d) DO NOT EVEN APPLY AND THE FEDERAL COURT WILL REVIEW THE PETITIONER'S
CLAIMS DE NOVO (GORDON V. BRAXTON, 780 F.3d 196, 202 (4TH CIR 2015)).

PREJUDICE

PREJUDICE HAS BEEN PRESTIDGED, IN THAT NO STATE OR FEDERAL JUDGMENT
TO DATE HAS ADDRESSED THIS MISMANAGEMENT OF JUSTICE, CAUSING AN ECONOMIC
CONSEQUENCE AND SURVIVAL, FOR LOCAL ACTS OF PETITIONER. THE DIRECT EVIDENCE
OF UNAMBIGUOUS CONTRACTS AND CHECKS IN THE CLERK'S RECORD, SHOWED DATES
OF PAYMENT AND USE OF FUNDS. THE CONTRACTS WERE ADMITTED INTO EVIDENCE
AT TRIAL BUT THE ONLY CONSIDERATION OF EACH WAS SURVIVAL AND COST ASSOC.
DATED; WHOLELY DISREGARDING, PROVISIONS, TERMS, AND REMEDY OF EACH. THE
CHECKS IN THE CLERK'S RECORD IN ~~BRAXTON~~ THANNANT COUNTY WERE NOT PERSONAL
TO THE JURY SHOWING DATES OF PAYMENT, USE OF FUNDS IN THE MIND,
THAT WERE CONTRARY TO THE AGREEMENT DOLLAR AMOUNT AND DATES OF

Payments, opened in the 2nd Court of Appeals, Texas, that the Court stated "went toward debt used by state" and "determined the level of offense over \$30,000," triggering enhancement provisions.

The direct evidence for use of funds was unreasonably calculated and contrary to both the contract and a check from the Scott's a Dream Party claiming in the memo "for completion of driveway" (CR-95) on the amount of \$5,000. The alleged dollar amount was \$33,880 without consideration of the "completion of the driveway". Those facts have been totally disregarded to elevate the level of offense and enhancement provisions, otherwise not sustainable.

Therefore, Peterson was subjected to a conviction and sentence based on an erroneous verdict and Court of Appeals ^{opinion} ~~opinion~~, which ^{opinion} ~~opinion~~ has been denied without written order, contrary to dates of allocation, unambiguous contracts, completed phases, use of funds, and dollar amounts agreed by the parties to contract. ^{APPX. B-1} (ECF 1-10, 24-29, 31-37, 39-45); ^{APPX. B-1} (ECF 32-34, 36-40, 42-44, 46-48); ^{APPX. A-3} (Doc 16-12-16, 18-25, 29, 30, 32-35, 37-39); ^{APPX. F-3} "See also" (State v. ^{State v. ~~Minimus~~ - OAN' 2, 3, 5-12}); (State v. ~~Hanson~~

The unambiguous contracts and canceled checks clearly show:

(1) Funds received by Peterson and the property of Peterson's LLC as ~~payment~~ money for completed phases of unambiguous contracts, directly affecting ownership, legality of the verdict, conviction and sentence.

(2) The ~~information~~ 2nd Court of Appeals ~~opinion~~ ^{opinion} ~~opinion~~ Rules 2, 3 false and misleadingly state Peterson accepted funds from Scott, Trisch, and ~~Minimus~~ "after conviction in Harris County but before sentencing." The Court went on to say "that [this is what] the state used for debt." This erroneous fact of when funds were accepted, is contrary to the dates of the contracts and dated checks issued. Thus, affecting both the reliability of the verdict and sentence.

(3) Completed phases of funds received were not deducted from the aggregate total \$33,880 as agreed by the parties to contract. Thus, subjecting Peterson to a level of offense and enhancement that cannot be sustained, an illegal sentence.

The state has falsely and misleadingly used the contracts and total dollar amounts of each without ^{proper} consideration of the above facts;

CONCERNING OWNERSHIP OF MORTGAGE RECEIPTS, ~~NOT~~ LACK OF INTENT, AND REQUIRED
SALIENT ELEMENTS - IN CONNECTION WITH A CONTRACT, TO AFFECT AN EQUITABLE
CONVEYANCE AND SUFFICIENT FOR LOCAL ACTS OF RETENTION, AND HAS EASED
TO CORRECT ITS ERRONEOUS CONCLUSIONS.

THE DUE PROCESS CLAIMS OF THE FOUNDATION AMENDMENT HAS BEEN
MADE CLEAR "THE AIM OF THE REQUIREMENT OF DUE PROCESS IS NOT TO
EXCLUDE PRESUMABLY FALSE EVIDENCE, BUT TO PREVENT FUNDAMENTAL
UNFAIRNESS IN THE USE OF EVIDENCE WHETHER TRUE OR FALSE" LESNEY V.
CALIFORNIA, 314 U.S. 219, 236, 237 (1941).

CONCLUSION TO EXHAUSTION

RETENTION HAS FROM PRESENTED GROUNDS FOUR, SEVEN, TEN THROUGH THIRTEEN,
TWELVE, TO THE TEXAS COURT OF CRIMINAL APPEALS. THE COURT HAS ~~CONSIDERED~~ ^{CONSIDERED}
ALL CLAIMS ON THE MORTGAGES, IN ITS DECISIONS WITHOUT WRITTEN OPINION "SEE"
EX PARTE TERRY, 943 S.W.2d 469, 472 (TEX. CRIM. APP. 1997); (SUPRA P. 18) BUT HAS
"FAILED TO FURNISH [RETENTION] WITH A FULL AND FAIR OPPORTUNITY TO MAKE
HIS DEFENSE AND LITIGATE HIS CASE" (SUPRA P. ^{9, 10} 15), AND IS NOT CONSIDERING
AN ADJUDICATION OF THE MORTGAGES UNDER 28 USC 2254(d). THEREFORE,
THE DOCTRINAL STANDARDS NO LONGER APPLY, WHICH ALLOW REVIEW OF THE
CLAIMS. DE NOVO. GORDON V. BRUNER, 780 F.3d 196, 202 (4TH CIR 2015). (SUPRA-5, 21)

THE FACTS AND EXCEPTIONS ABOVE ARE CONTRARY TO THE UNITED STATES DISTRICT
COURT DECISION (^{APPX. B-2} ECF 35-4) THE EXHAUSTION REQUIREMENT IS SATISFIED WITH THE
SUBSTANCE OF THE FEDERAL HABEAS CLAIM HAS BEEN FROM PRESENTED TO THE
HIGHEST STATE COURT" PEREZ V. CONNER, 404 U.S. 270, 275-278 (1971). IN THE
ALTERNATIVE THAT EXIST EXCEPTIONS TO EXHAUSTION PRESENTED ABOVE (SUPRA-
15-22).

^{REFERRED}
RETENTION THOSE LOCAL PRINCIPLES CLAIMS UNDER JACKSON V. VERGARA,
443 US 307, 316-318 (1978) AND AGUIRRE V. NEW JERSEY, 530 U.S. 466, 475-477
AMONG OTHERS. IN 1984, THE TEXAS COURT OF CRIMINAL APPEALS ADOPTED THE
JACKSON STANDARD. THE STATE AND FEDERAL COURTS HAD A FAIR OPPORTUNITY
TO APPLY THE CONTROLLING LOCAL PRINCIPLES, WHICH ARE THE SAME UNDER
TEXAS AND FEDERAL LAW, TO THE FACTS BEARING ON RETENTION'S CONSTITU-
TIONAL CLAIMS.

SECONDLY, RETENTION CITED AUTHORITY THAT WOULD DEROGATE THE STATE
COURT'S ADJUDICATION TO THE FEDERAL CONSTITUTIONAL INTERPRETATIONS OF HIS
CLAIMS

CONTRARY TO THE DISTRICT COURT'S OPINION (^{APPX. B-2} ECF 35-5) NOW REVERSIBLE
EVIDENCE WAS PROVIDED TO EVERY JUDGE SUBSEQUENT AND THE DISTRICT COURT,
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THE CANCELED CHECKS OF SCOT THORSEN, AND MARTINDALE FROM THE TARRANT COUNTY CLERKS RECORD (CR-86, 95; 91, 98; 93, 101) WHICH WERE WHOLLY DIS-
REGARDED (SUNAM-AP ^{APPX. B-1, 2}) "SUN" ROSARIO-MARTINEZ V. UNITED STATES, 585 US 129, 131. Thus, NEGATIVE EVIDENCE USED BY THE STATE AND CONFORMING THE ALLGAIN ALLEGATIONS TOTAL TO BE LESS THAN \$30,000. THIS EVIDENCE NOT PRESENTED TO THE JURY AND THE JURY NOT BEING INSTRUCTED ON CONSUMER LAW, UNDER THE FACTS OF THIS CASE IS CRITICAL EVIDENCE THAT NO JURY ACTING REASONABLY WOULD HAVE VOTED TO FIND PROSECUTOR GUILTY OF THE ALLEGED CRIME OR ALLEGATIONS DECLAR AMOUNT \$33,860 TO SUSTAIN THE LEVEL OF OFFENSE GREATER THAN \$30,000 SCHUP V. DUBO, 513 US 298 324, 329 (1995).

CONTINUED TO THE UNITED STATES DISTRICT COURT'S OPINION (ECF 35-7), THE COURT HAS OVERLOOKED THE RECORD BEING VIOLATIONS OF THE PROSECUTOR'S OATHS, TO MAKE THOSE OTHERWISE LOCAL ACTS CRIMINAL. EVERY LEVEL OF STATE JUDICIARY AND THE UNITED STATES DISTRICT COURT HAD A FAIR OPPORTUNITY TO APPLY THE CONSTITUTIONAL LEGAL PRINCIPLES WHICH ARE THE SAME UNDER TEXAS AND FEDERAL LAW, TO THE FACTS BORROWING ON PROSECUTOR'S CONSTITUTIONAL GROUNDS. THE COURT HAS FAILED TO PROVIDE ANY REASONED MOTIONS OF INQUIRY BASED ON FACTS AND LAW.

^{APPX. B-2}
THE UNITED STATES DISTRICT COURT'S OPINION (ECF 35-7) "VIOLATIONS OF GROUNDS FOUR AND SEVEN MEANS GROUNDS NOT CONSIDERABLE" IS CONTINUED TO THE FOURTH COURT OPINION IN WALTONS V. QUINN, 258 F.3d 697 (5TH CIR 2001). GROUNDS TWO, FOUR, AND SEVEN WERE CONSIDERED ON THE MOTIONS NOT DISMISSED ON PROCEDURAL GROUNDS MILLER V. JOHNSON 200 F.3d 274, 281 (5TH CIR 2000); "SUN ALSO" EX PARTE TORRES, 943 S.W.2d 469, 472 (TEX. CRIM. APP. 1997). FURTHER, CONTINUED TO THE DISTRICT COURT'S OPINION GROUND TWO - "INVIOLATED INDEMNITY" AND GROUNDS SEVEN - "ILLEGAL SENTENCE" ARE CONSIDERABLE ^{TERMS} IN STATE HABITUS EX PARTE ROSE, 194 S.W.3d 508, 512 (TEX. CRIM. APP. 2006). UNDER TEX. CODE CRIM. PROC. 11.07, POST CONVICTION REVIEW IS AVAILABLE FOR CLAIMS INVOLVING JURISDICTIONAL DEFECTS AND VIOLATION OF FUNDAMENTAL AND CONSTITUTIONAL RIGHTS.

THE TEXAS COURT OF CRIMINAL APPEALS HAS LONG HELD THAT A CLAIM OF AN ILLEGAL SENTENCE IS CONSIDERABLE ON HABITUS CORPUS. AN ILLEGAL SENTENCE IS DISTINGUISHABLE FROM A PROCEDURAL ILLEGALITY OR INACCURATE JUDGMENT MILLER V. STATE, 119 S.W.3d 804, 806 (TEX. CRIM. APP. 2003) (A SENTENCE OUTSIDE THE MAXIMUM OR MINIMUM RANGE OF PUNISHMENT IS UNAUTHORIZED BY LAW AND IS THEREFORE ILLEGAL). A DEFENDANT MAY OBTAIN RELIEF FROM AN UNAUTHORIZED SENTENCE ON DIRECT APPEAL OR BY WRIT OF HABITUS CORPUS. THE SUPREME COURT OF UNITED STATES HAS CONCLUDED THAT A

Somewhat that is based on UNRELIABLE OR COMPLETELY GROUNDSLESS INFORMATION IS CAUSE THAT RESULTS IN AN UNLAWFUL SOMEBODY GALL V. UNITED STATES, 552 U.S. 38 (2007).

The United States Court of Appeals, Circuit Judge has OVERLOOKED THE POTENTIAL BUREAU PRECLUDED FROM ARGUMENT AND LEGAL AUTHORITY IN THE UNITED STATES DISTRICT COURT, CONSENTS ONLY TO AN GROUNDSLESS PRECEDENTIAL BAR TO GROUNDS FOUR, SEVEN, TEN THROUGH THIRTEEN BUT WAS ALSO PREJUDGED BY THE UNITED STATES DISTRICT COURT'S REFUSAL TO ADDRESS A FULL PALETTE OF CONSTITUTIONAL GROUNDS (DOE 16-3, 13, 16, 18-20, 22, 28, 29, 31, 32, 37, 39) ^{APPX. A-3}

IT IS MANDATORY THAT REQUIREMENTS DISTRICT COURTS TO RESOLVE ALL CLAIMS FOR RELIEF RAISED IN HABEAS PROCEDURES REGARDLESS OF WHETHER RELIEF IS GRANTED OR DENIED. "SEE" CLEGG V. JONES, 960 F.2d 925, 936 (11TH CIR 1992) (ON BARE) "A CLAIM FOR RELIEF IS ANY ALLEGATION OF A CONSTITUTIONAL VIOLATION. TWO CLAIMS MAY BUT DO NOT HAVE TO BE BOTH ALLEGATIONS ARISING FROM THE SAME SET OF OPERATIVE FACTS" ID. WHEN A DISTRICT COURT FAILS TO ADDRESS ALL OF THE CLAIMS WE WILL VACATE THE DISTRICT COURT'S JUDGMENT WITHOUT PREJUDICE AND REMAND THE CASE FOR CONSIDERATION OF ALL REMAINING CLAIMS ID. AT 938.

WHEREAS AS HERE, THE DISTRICT COURT DENIES A HABEAS PETITION WITHOUT REMOVING THE PERSON'S UNDERLYING CONSTITUTIONAL CLAIMS, A C.O.A. SHOULD ISSUE WHEN THE PERSON SHOWS AT LEAST THAT A SURGE OF REASON WOULD FIND IT DEBATABLE WHETHER THE PETITION STATES A VALID CLAIM OF A DENIAL OF A CONSTITUTIONAL RIGHT AND THAT A SURGE OF REASON WOULD FIND IT DEBATABLE WHETHER THE DISTRICT COURT WAS CORRECT IN ITS RULING. SLACK V. MCDANIEL, 529 U.S. 473, 484 (2000); GOZULOWS V. THALRE, 132 S.Ct. 641, 648 (2012); "SEE ALSO" MULLER-EL V. COCKRELL, 537 US 322, 338 (2003)

IN SENA V. WOODFORD, 279 F.3d 825, 832-833 (9TH CIR 2002) THE COURT NOTED THIS AMOUNTS TO A MODERST STANDARD (QUOTING LAMBERT V. STOWART, 220 F.3d 1020, 1025 (9TH CIR 2000)). A C.O.A. SHOULD ISSUE WHEN THE CLAIMS PRESENTED ARE "ADEQUATE TO DESERVE ENCOURAGEMENT TO PROCEED FURTHER" SLACK, 529 US AT 483, 484 (QUOTING BARTFOOT V. ESTELLE, 463 US 880, 893 (1983)). IF A REASONABLE SURGE COULD "DEBATE" WHETHER THE PETITION COULD BE RESOLVED IN A DIFFERENT MANNER THAN C.O.A. SHOULD ISSUE MULLER-EL, 537 US AT 330,

PETITIONER'S CLAIMS UNDER THE ABOVE RULES AND LAW REMAINING TO GROUNDS FOUR, SEVEN, TEN THROUGH THIRTEEN SHOULD BE CONSIDERED EXHAUSTED AND SHOULD BE ADDRESSED ON THEIR INDIVIDUAL MERIT. A REASONABLE METHOD OF ENOUGH

INTO THE RELEVANT QUESTIONS OF LAW AND FACT SHOULD BE PROVIDED, ENSURING THE RIGHTS OF DEFENDERS NO LONGER REMAIN ABANDONED AS TO PROVIDE A FUTURE MEASUREMENT OF JUSTICE.

Removable Claims

Tortious Interference By The State

APPX. B-2

THE UNITED STATES DISTRICT COURT'S OPINION (ECF 35-8) IMPROPERLY ADDRESSES THE TORTIOUS INTERFERENCE CLAIMS, ADDRESSING THE CONSTITUTIONAL UNDERPINNINGS THAT CREATED AN UNLAWFUL CHANGE, CONVERSION, AND SURRENDER OF POSSESSION. THE COURT JUSTICE HAS OVERLOOKED THE FACTS AND AVOIDANCE OF DISTRICT COURT'S FAILURE TO PROPERLY ADDRESS STATE. (ECF 1-5, 23); (ECF 32-0.P.N'-10-14); (Doc 16-3, 14-16, 20-22). APPX B-1', APPX. A-3

THE QUESTION FOR THE COURT THAT REMAINS UNRESOLVED IS:
HOW CAN THIS CHANGE, CONVERSION, AND SURRENDER BE LAWFUL UNDER THE PROCEEDINGS AND FOLLOWING FACTS?

THE STATE OF TEXAS WITHOUT PROBABLE CAUSE FROM COMPROMISING SECRET, TRUST AND MISDEMEANOR, HONORING PERFORMANCE OF PRIVATE PARTY CONTRACTS, BY ABANDONING THE RELATIONSHIPS OF THE PARTIES, CAUSING COMPROMISING TO REPUDIATE, BREACH CONTRACT, AND SIMULTANEOUSLY CHANGE POSSESSION FROM STATE FOR NOT COMPLETING THE REFORMATION OF UNLAWFUL HONORED PARTIES OF THE CONTRACTS, E.G.?

THE STATE OF TEXAS ENGAGED IN ILLEGAL CONDUCT ABANDONING THE PROSECUTOR'S INALIENABLE CONSTITUTIONAL AND FUNDAMENTAL RIGHTS, IN WARDEN V. UNITED STATES, 308 US 338 (1939) THE COURT HELD THAT THE PROSECUTOR COULD NOT USE ILLEGALLY OBTAINED INFORMATION. THE ESSENCE OF A PROSECUTION FORBIDDING ACQUISITION OF EVIDENCE IS NOT MERELY EVIDENCE SO ACQUIRED SHALL NOT BE USED BEFORE THE COURT, BUT THAT IT SHOULD NOT BE USED AT ALL. "KNOWLEDGE GAINED BY THE GOVERNMENT'S OWN WRONG CONDUCT CANNOT BE USED BY IT SIMPLY BECAUSE IT IS USED DERIVATIVELY" SILVERMASTER GUNBOAT CO. V. UNITED STATES, 251 US 385, 392 (1920). ANY EVIDENCE DISCOVERED AS A RESULT OR EXPANSION OF A PRIMARY ILLEGALITY IS INADMISSIBLE AS "FRUIT OF THE POISONOUS TREE" WARDEN AT 341.

THE ISSUE OF PROBABLE CAUSE SHOULD BE CONSIDERED BY THIS HONORABLE

COURT AND THE COURT OF APPEALS. THE ONLY NOTION THAT CAN BE PUT ON THE SCALES TO TURN SUSPICION INTO PROBABLE CAUSE IS PETITIONER'S CONVICTIONS BY A JURY BASED ON SUBSTANTIAL EVIDENCE. THE RESULTS OF A CONVICTION AGAINST UNLAWFUL SEARCH AND SEIZURE ARE PROTECTED EVEN IF THE RESULTS MIGHT HAVE BEEN ACHIEVED IN A LAWFUL WAY SILVERTHORN AT 392.

ILLEGITIMATE AND UNCONSTITUTIONAL PRACTICES GOT ~~THE~~ THEIR FIRST FOOTING BY SLOW APPROACHES AND SILENT DETERMINATIONS FROM LEGAL MODOS OF PROCEDURE. THIS CAN ONLY BE OBTAINED BY ADHERING TO THE RULE THAT CONSTITUTIONAL PROVISIONS FOR THE SECURITY OF A PERSON AND PROPERTY SHOULD BE LIBERALLY CONSTRUED. A CLOSURE AND LITERAL CONSTRUCTION DEPRIVES THEM OF HALF THEIR EFFICACY, AND LEADS TO GRADUAL DESTRUCTION OF THE RIGHT, AS IF IT EXISTED MORE IN SOUND THAN IN SUBSTANCE. IT IS THE DUTY OF THE COURTS TO BE WATCHFUL FOR THE CONSTITUTIONAL RIGHTS OF THE CITIZEN AND AGAINST ANY SILENTLY ENCRUMENED THEREON, THEIR MOTTO SHOULD BE "OBSTA PRINCIPES" BOYD V. UNITED STATES, 116 US 616, 635 (1886).

TEXAS JURISPRUDENCE HAS LONG RECOGNIZED A PARTY TO A CONTRACT HAS CAUSE OF ACTION FOR TORTUOUS INTERFERENCE AGAINST A THIRD PARTY, (MOREOVER A "STRANGER TO THE CONTRACT") WHO WRONGFULLY INTERFERES WITH THAT CONTRACT HOLLOWAY V. SKENNER, 898 SW 2d 793, 794 (S.C. TEX 1995).

THE RECORDS IN TRIAL AND THE CLERKS RECORDS SHOW THE STATE OF TEXAS ENGAGED IN ALL THE ELEMENTS OF TORTUOUS INTERFERENCE WITH EXISTING CONTRACTUAL RELATIONS.

THE STATE COURTS DID NOT PROVIDE AN ADEQUATE FORUM FOR LITIGATING THIS "Fruit of the poisonous tree" VIOLATION. THIS GROWS OUT AS ALL PETITIONER'S GROUNDS IN STATE COURT WERE DENIED WITHOUT WRITING OR REASON ^{THAT} SINCE ^{THAT} WAS NO PRIOR STATE COURT ADJUDICATION NOR ANY PROCEDURAL BAR OF THIS CLAIM, THE FEDERAL COURTS REVIEW OF THIS CLAIM WILL BE DE NOVO CONF V. BOLL, 556 US 449, 472 (2009).

APPX B-1

THE RESPONDENT IN ITS ANSWER (ECF 20-) CONCEDES THAT TORTUOUS INTERFERENCE SHOULD BE PRESUMED IN § 1983 RATHER THAN § 2254. HOWEVER, THIS INTERFERENCE WAS ILLEGAL CONDUCT ON THE PART OF THE STATE OF TEXAS WITHOUT PROBABLE CAUSE FROM THE SUBJECT COMPLAINANTS;

ABROGATING THE PETITIONER-APPELLANT'S INALIENABLE CONSTITUTIONAL AND
FUNDAMENTAL RIGHTS SET FORTH ABOVE (ECF 1-5, 24^{APPX. D-1})(ECF 32-10-14)^{OPV}; (DOC 16-11-13),
AND THROUGHOUT THOSE PROCEEDINGS AT ALL LEVELS OF JUDICIARY, THE
ILLEGAL CONDUCT BY THE STATE OF TEXAS' TORTUOUS INTERFERENCE CAUSED
A CRIMINAL CHARGE, CONVICTION, AND SENTENCE WITH COMPASSIONATE
SCOTT, TROTSCH, AND MARCONDALE FOR LAWFUL ACTS OF PETITIONER-APPELLANT
AND HAS REMAINED UNADDRESSED BY EVERY LEVEL OF JUDICIARY TO
DATE

THE OBJECTIVE OF DETERRING IMPROPER POLICE CONDUCT IS ONLY PART
OF A LARGER OBJECTIVE OF SAFEGUARDING THE INTEGRITY OF OUR
ADVERSARY SYSTEM HARRIS V. NEW YORK, 401 U.S. 222, 231 (1971). IT'S
MONSTROUS THAT COURTS SHOULD ASK AND ASK THE LAW BREAKING OF
THE STATE. IT IS ABSOLUTELY TRUE THAT "NOTHING CAN DESTROY A GOVERN-
MENT MORE QUICKLY THAN ITS FAILURE TO OBSERVE ITS OWN LAWS,
OR WORSE, ITS DISREGARD OF THE CHARACTER OF ITS OWN EXISTENCE"
MAPP V. OHIO, 367 U.S. 643, 659 (1961). AGAIN, THE DUE PROCESS CLAUSE
OF THE FOURTEENTH AMENDMENT HAVE BEEN MADE CLEAR THAT "THE
AIM OF THE REQUIREMENTS OF DUE PROCESS IS NOT TO EXCLUDE PRESUMP-
TIVELY FALSE EVIDENCE, BUT TO PREVENT FUNDAMENTAL UNFAIRNESS IN
THE USE OF EVIDENCE, WHETHER TRUE OR FALSE" LEONISA V. CALIFORNIA,
314 U.S. 219, 236.

THE ILLEGALLY OBTAINED AND CREATED UNLAWFUL EVIDENCE
VIOLATES "THE FRUIT OF THE POISONOUS TREE" - FOURTH AMENDMENT; "NO
PROBABLE CAUSE FROM SCOTT, TROTSCH, OR MARCONDALE" - FIFTH AMENDMENT;
"EQUAL PROTECTION OF EQUAL LAWS" EIGHTH AMENDMENT; "TORTUOUS INTER-
FERENCE ALSO" - "CONTRACT CLAUSE" ART 1 SEC 10 OF THE UNITED STATES
CONSTITUTION AND, TEXAS CONSTITUTIONS ART. 1, SEC 3, 10, 13, 16, 19.

CONFIRMATION (ECF 1-8, 24, 25^{APPX. B-1}; ECF 32-23, 24^{APPX. B-1}; ECF 35-10, 11^{APPX. B-2})(DOC 16-13, 14, 15, 16^{APPX. A-3})

THE CORRUPT JUDGE HAS OVERLOOKED, THE RECORD AND CITATIONS OF THE
GROUND'S FACTS AND JURISDICTION THAT ALIGNS WITH PETITIONER-
APPELLANT. FURTHER, THE CORRUPT JUDGE HAS OVERLOOKED THE UNITED STATES
DISTRICT COURT'S FAILURE TO ADDRESS UNDERLYING CONSTITUTIONAL CLAIMS
CONTRARY TO UNDISPUTED FACTS AND EVIDENCE IN THE RECORD (ECF 43); APPX. D-2
STATEMENT OF EVIDENCE UNDER FED. R. C.P. 10(c); PRIMARILY THE CONSTITUTIONAL
DEFECT EVIDENCE AND CANCELLED CHECKS OF THE DEFENDENT PARTY, THE SCOTT'S
(CR-95)^{APPX. C-1}, WITH HOLD FROM THE JURY (SUPRA 21, 22^{6, 17}); (INFER- APPX. A).

THE UNITED STATES DISTRICT COURT HAS OBLIVIOUS PETITIONER-APPELLANT

"FACTS TO CITE THE RECORD." THE RECORD OF WHICH, HAS BEEN DENIED AT EVERY
LEVEL OF STATE JUDICIARY AND THE UNITED STATES DISTRICT COURT (ECF-28). AFTER
POTTSBORO - APPELLANT'S REQUEST OF DESIGNATION OF RECORD ON APPEAL
(ECF 42), THE DISTRICT COURT RULED (ECF 44) "POTTSBORO CAN MAKE ARRANGE-
MENTS WITH CLERK TO BORROW THE RECORD." APPX B-1

THE DENIALS WITHOUT WRITTEN ORDER ARE UNREASONABLE. THE UNITED
STATES DISTRICT COURT AVOIDS A COMPLETE REASONED INQUIRY INTO THE
RELEVANT FACTS AND LAW OF THE COMPLAINT (ECF 1-8, 24, 25) (ECF 32-10-14)
APPX. A-3 APPX B-1 APPX. B-1
(DOC 16-22, 23, 24, 25). THE PROSECUTION, CONVICTION, AND SENTENCE WAS ON
THE BASIS OF INFORMATION THAT IS MATERIALLY FALSE, UNRELIABLE AND
MISLEADING. THE UNDISPUTED FACTS AND EVIDENCE ABOUT CLARK MAKE
A DIFFERENCE IN THE LEVEL OF OFFENSE AND ENHANCEMENT'S SUSTAINED.
THUS, A FACTUAL AND EVIDENTIARILY SUPPORTED MISCHARACTER OF JUSTICE
HAS OCCURRED IN VIOLATION OF POTTSBORO - APPELLANT'S FIFTH, SIXTH, AND
FOURTEENTH AMENDMENT RIGHTS. THESE VIOLATIONS HAVE REMAINED
UNRESOLVED BY ANY JUDICIARY.

INVALID GRAND JURY INDICTMENT (ECF 1-7, 23, 28) (ECF 32-19-23) (ECF 35-10)
APPX B-1 APPX. B-1 APPX. B-1
(ECF 43-3) (DOC 16-25, 26, 27, 28).
APPX. D-2 & APPX. A-3

THE UNITED STATES DISTRICT COURT HAS FAILED TO ADDRESS THE INVALID
INDICTMENT BEING SO DEFECTIVE IT FAILS TO GIVE SUBSTANCE TO THE
TRIAL COURT. THE GOVERNMENT'S LACKING OF INTENTION TO MAKE THIS OTHERWISE
LEGAL ACT CRIMINAL AND FALSE ARREST OR FRAUD TO INDUCE PAYMENT, BOTH
OF WHICH ARE REQUIRED IN TEXAS TO SUSTAIN THE IN CONVICTION WITH A
CONTRACT. THEREFORE, AS PRESENTED (DOC 16-26, 27, 28) (ECF 32-19-23) JURORS
APPX. A-3 APPX B-1
OF REASON HAVE BEEN SHOWN THE DISTRICT COURT'S OPINION (ECF 35-10) TO
BE DEBATABLE AND WRONG, AS OPINED BY THE FORTH CHEROKEE COURT
AND THE
UNITED STATES SUPREME COURT. THE CORRECT JUDGE HAS OVERLOOKED THOSE
PRESENTED FACTS BY POTTSBORO - APPELLANT AND THE FIFTH AND SIXTH AMENDMENT
VIOLATIONS THAT HAVE OCCURRED. FURTHER, THE CORRECT JUDGE HAS OVERLOOKED
PROSECUTORIAL MISCONDUCT IN SECURING THE INDICTMENT HAS OCCURRED, BY NOT
INCLUDING THE REQUIRED ELEMENTS FOR THEFT IN CONVICTION WITH A CONTRACT
SEEKING INDICTMENT ONLY FOR THE GENERAL STATUTE OF THEFT OF PROPERTY. THIS
LESSONING THE STATE'S BURDEN.

IN ORDER FOR A GRAND JURY TO HAVE MADE THE ULTIMATE DECISION TO
INDICT POTTSBORO - APPELLANT FOR THEFT OF PROPERTY IN CONVICTION WITH
A CONTRACT, IT HAD TO DETERMINE THE SUBJECT UNDER INQUIRY, TO MAKE
A GROSS WHAT THE GRAND JURY HAD IN THEIR MINDS WHEN THEY INDICTED

them, "Would deprive [them] of a basic protection which the guarantee of the institution of a grand jury was designed to secure... Because a defendant could be convicted on a basis of facts not found by, and perhaps not even presented to, the grand jury which indicted him" Russell v. United States, 369 U.S. 749, 770 (1962); (Doc 16-27). APPX. A-3

If those requirements were undermined the accused would have no assurance that the grand jury would have returned an indictment against him the forth Amended. Basis of this well settled rule is explained in United States v. Outler, 659 F.2d 1306, 1310 (1981): "Unless every element of the offense appears in the indictment it is impossible to ensure the defendant that the grand jury properly determined probable cause of the offense". This constitutional requirement was affirmed again in United States v. Dotson, 20 F.3d 139, 145, 146 (5th Cir 1994) and the validity of the rule and its forth Amended. Rationale was reinforced again in United States v. Gonzales, 259 F.3d 355, 360 n3 (5th Cir 2001).

The question that those facts raise is why, if genuine conviction by a jury is structural error, taking one of the elements of the crime away from a grand jury should be treated differently from taking all of them away - since failure to prove one, no less than failure to prove all utterly prevents conviction? ...

The Fifth Circuit has held "that any practice that threatened the jury's ability to perform its function, posed a threat to the truth determining process itself" Thomas v. Blackburn, 623 F.2d 383 (5th Cir 1980) Therefore, the indictment ^{is} ~~is~~ invalid on its face because it fails to charge petitioner-appellant for the crime intended to be punished, lacking elements to sustain threat of property, in conviction with a contract Worth v. State, 361 S.W.3d 694, 697 (Tex. Crim. App. 2012); (ECF 1-7, 23, 28; ECF 32-^{OPM} 19-23); (Doc 16-25-28) Thus, depriving the trial courts jury's decision to make a finding of guilt or impose a sentence. The fourth Amended. Is clear "No state shall make or enforce any law which abridges the privileges or immunities of a citizen of the United States," Prosecutorial Misconduct (ECF 1-5, 22, 28, 29); (ECF 32-^{OPM} 10-19); (ECF 35-9); (Doc 16-25-3², 20-22); (Swann - 7, 8, 10, 11, 26-29). APPX. B-1 APPX. B-2 APPX. B-3

The State knowingly presented misleading and falsified evidence, allowing it to go uncorrected when it appeared in trial, causing an unconstitutional conviction and sentence contrary to the United States District Court's opinion (ECF 35-9). The Circuit Judge of United States Court of Appeal has overlooked jurists of Reason that find the

DOCKET CASE OPENED DOCKET.

THE STATE WAS AWARE OF THE FALSE AND MISLEADING NATURE OF ITS EVIDENCE. THE EVIDENCE IN QUESTION IS SUBSTANTIATED BY THE RECORD AND ON BOTH STATE'S WITNESSES JUDGE CLAY HARRISON AND INVESTIGATOR HANNA'S TESTIMONY RECORDED IN POTTSBORO'S § 2254 PETITION (ECF 1-28,29)(ECF 32-OPN' 14-16); (DOC 16-29,30).

JUDGE CLAY HARRISON'S ASSERTION "HE KNEW HE WAS GOING TO JAIL" WAS CALCULATED TO MISLEAD THE JURY ON INTENT. INVESTIGATOR HANNA'S ASSERTION "PROSECUTOR BE RAISED UNTIL COMPLETE" WAS DESIGNED TO MISLEAD THE JURY ON ALLEGED ALLEGED DOLLAR AMOUNT. THAT ASSERTION WAS CONTRARY TO THE ^{MANIFESTED} ~~ALLEGED~~ CONTRACTS OF THE PARTIES. HANNA HAD NOT READ THE UNAMBIGUOUS CONTRACTS AND MODIFICATIONS PRIOR TO MAKING THIS MISLEADING AND FALSE REPRESENTATION. THE STATE BOLSTERED THESE STATEMENTS THROUGHOUT THE TRIAL AND IN CLOSING ARGUMENTS. THE FALSE AND MISLEADING STATEMENTS, MISLED THE JURY TO DISREGARD THE CONTRACTS PROVISIONS, USE OF FUNDS, AND CONTRACTED PARTIES. THIS SUBVERTING POTTSBORO TO A LEVEL OF OFFENSE AND ^{OPN'} ENHANCEMENT PROVISIONS, OTHERWISE NOT SUSTAINABLE (ECF 1-28,29); (ECF 32-14-16); (DOC 16-29,30); NOBLE V. SOWSEN, 127 F.3d 409,415 (5TH Cir 1997).

THE STATE ENGAGED IN A PATTERN OF MISCONDUCT FROM INVESTIGATION TO CLOSING SUMMATION:

- (1) TORTUOUS INTERFERENCE - (ECF 1-5,22); (ECF-32-OPN' ¹⁰⁻¹⁴); (DOC 16-20-22) (Supra)
- (2) MISLED THE GRAND JURY BY OMITTING ELEMENTS REQUIRED TO DETERMINE PROBABLE CAUSE TO INDICT POTTSBORO FOR THAT IN CONNECTION WITH A CONTRACT; REMAIN ONLY ON GENERAL STATUTE THAT OF PROPERTY WHICH IN ITSELF CANNOT SUSTAIN CONVICTION OR ENHANCEMENT FOR THIS OTHERWISE LAWFUL ACT. (ECF 1-28,29); (ECF 32-OPN' 14-23); (DOC 16-25-28); (Supra)
- (3) USED FALSE AND MISLEADING EVIDENCE TO CONVINCE THE JURY OF INTENT, ELEMENTS, AND ALLEGED DOLLAR AMOUNT ONLY TO OBTAIN A CONVICTION, SENTENCE, AND ENHANCEMENT OTHERWISE NOT SUSTAINABLE; ^{OPN'} RATHER THAN THE PROSECUTOR'S DUTY TO FIND THE TRUTH. (ECF 1-28,29); (ECF 32-OPN' 14-17); (DOC 16-29,30); (Supra)
- (4) DIRECTION THE JURY TO DEFER TO A DECISION OF ANOTHER JURY IN DETERMINING THE VIOLATION, FROM ANOTHER COUNTY IN AN UNRELATED CASE. (ECF 1-^{29,30} ~~28~~); (ECF 32-17-A); (DOC 16-30-32).

(5) The State also misused the State and Proceedings in the Defendant's Court of Appeals to Bolster False, "The Defendant Received Money From The Complainants After Conviction But Before Sentencing That The Court Of Appeals Opined" Was What The State Used For Defense?

The Supreme Court has "made [it] clear that Deliberate Deception of a Court and Jurors by the Presentation of Known False Evidence is Incompatible with the Rudimentary Demands of Justice" Gearty v. United States, 405 U.S. 150, 153 (1972) (Quoting Murray v. Hocking, 294 U.S. 103, 112 (1935). (Doc 16-29-30); See Also Arguement (Doc 16-31).

INDEFINITE ASSISTANCE - Trial Counsel (ECF 1-31-35); (~~ECF 32-0012~~); (ECF 35-6);
(Doc 16-32-37) APPX. B-1 APPX. B-2
APPX A-3

These Counsel Failed To Suppress Evidence of Defendant's LLC Bank Account Foregone By ^{State} Cause Unlawfully The Possibilities, Tortuously Interfering With, Harassing, and Abusing The Constitutional Relationships of The Parties, Without Probable Cause of Scott, Tirsch, and McDonalds (Supra-26); (ECF 1-5, 22, 28); (~~ECF 32-0012~~); (Doc 16-33-35)

Contrary to the District Court's Opinion (ECF 35-6) The Court's Approval of Suppression is Unreasonable According to the State Border of the Doubt Where It Has, At the State Level, INDEFINITE ASSISTANCE Was Denied With out Written Order. Counsel Was Ineffective on Multiple Issues Not Addressed By the District Court (ECF 1-31-35); (Doc 16-32-37).

The Evidence Obtained Due to the State Unlawful Acts and Counsel's Failure to Suppress Evidence Same, Clearly Violates Defendant's Fourth, Fifth, Sixth and Fourteenth Amended Rights. The Circuit Judge has Overlooked These Constitutional Unlawfulnesses As Well Jurors of Reason In Support of Defendant's Grievances.

The Failure to Suppress the Evidence from the Unlawful Acts of the State ~~APPEAL~~ Without Probable Cause From Scott, Tirsch, and McDonalds and Without Written Same, Was INDEFINITE ASSISTANCE, Even if the Search Did Not Infringe Defendant's Constitutional Rights, Defendant Was Successfully Persuaded By the Introduction of the Facts of this Search to Reverse Reversal under McDonald v. United States, 335 U.S. 451 (1948). This Guarantee of Protection Extends to the Innocent and Guilty Alike Id At 453. The Law Provides a Sanction Against the Flouting of this Constitutional Safeguard, The Suppression of Evidence Secured As a Result of this Violation. "See" Weeks v. United States, 242 U.S. 383, 392 N.Y. (1914).

A SEARCH WITHOUT A WARRANT DEMANDS CIRCUMSTANTIAL CONCLUSIONS "SEE" Johnson v. United States, 333 U.S. 10, 14, 15 (1947). TRIAL COURT FAILED TO ~~SEARCHED~~ PRESERVE THE SUPPRESSION FOR APPEAL AND BY NOT FIGHTING WITH THE TRIAL COURT APPROPRIATE MOTIONS FOR REASONS IN ATTORNEYS ORGANEL HARRIS AND C.O.A. (LTC 1-31, 32); (Dec 16-33-36).

THE STATE COURT DID NOT PROVIDE AN ADEQUATE FORUM FOR CONSIDERING PETITIONER'S FOURTH AMENDMENT CITIZENSHIP, THEREFORE THE FEDERAL COURT WILL CONSIDER THE CLAIM ON HARRIS "SEE" (RUSSELL HOLTZ & JAMES S. LOEBMAN, 2 FEDERAL HARRIS COPIES PREVIOUS AND PROCEDURAL § 27.3 (7th ED 2017) (COVERED CASES)).

FEDERAL COURTS HAVE REFUSED TO BAR FEDERAL REVIEW WHEN A STATE PROSECUTOR HAD CONSTITUTIONALLY INEFFECTIVE TRIAL OR APPEAL ATTORNEY WHO FAILED TO PROPERLY PRESENT A FOURTH AMEND. CLAIM KEMMELMAN V. MORRISON, 477 US 365, 378 (1986). THE INQUIRY INTO WHETHER THERE WAS FULL AND FAIR ~~OPPORTUNITY~~ TO LITIGATE A FOURTH AMEND. CLAIM IN STATE COURT REMAINS THE CIRCUMSTANTIAL INQUIRY THAT ANSWERS THE EXCEPTIONS TO THE PROCEDURAL BARRIERS TO REVIEW. IF STATE PROCEDURES WOULD FAIL AND ADEQUATE REVIEW UNDER THE EXHAUSTION AND PROCEDURAL DEFAULT DOCTRINES, THEY WOULD PROBABLY ALSO BE INADEQUATE TO BAR FEDERAL CONSIDERATION OF A FOURTH AMEND. CLAIMS "SEE EG" MACIACKE V. HOEBANER, 213 F.3d 947, 952 (6th CIR 2000); (SUPER-

THE STATE OF TEXAS' POST CONVERSION RULES SUGGEST INEFFECTIVE ASSISTANCE OF COUNSEL CLAIMS BE WORTHY FOR STATE HARRIS REASON 11.07 AND THE STATE ROUTINELY REFUSES TO PROVIDE STATE PROSECUTORS WITH COUNSEL AT THAT STAGE. THERE IS A ~~SYSTEMIC~~ ^{SYSTEMIC} PROBLEM IN TEXAS. THE STRUCTURE AND DESIGN OF THE STATE COURT SYSTEM EFFECTIVELY PREVENTS PROSECUTORS FROM EVER BEING ABLE TO CHALLENGE THEIR ATTORNEY'S PERFORMANCE.

CONSIDER SUPREME COURT DECISIONS IN MARTINEZ V. REYES, 196 US 1 (2012) AND TRUENO V. THAYER, 569 US 413 (2013) THEY ALSO PROVIDE SUPPORT FOR STATE PROSECUTORS WHO WANT TO SUPPLEMENT INEFFECTIVE ASSISTANCE OF COUNSEL CLAIMS PROBABLY RAISED IN STATE POST CONVERSION BUT WERE NOT ADEQUATELY SUPPORTED DUE TO PRO SE STATUS MARTINEZ ^{AT} 13-14; TRUENO AT 423. !

PETITIONER'S TRIAL COUNSEL WAS INEFFECTIVE BY ALLOWING THE PROSECUTION TO COUNTERACT ITS UNBROKEN, ILLEGAL ACTS TO OBTAIN A CONVERSION, AND BY NOT PROTECTING PETITIONER'S CONSTITUTIONAL RIGHTS.

INTELLIGENT ASSISTANCE - APPELLATE COUNSEL

THE CIRCUIT JUDGE FOR THE UNITED STATES COURT OF APPEALS FORTH CIRCUIT HAS OVERLOOKED INTELLIGENT ASSISTANCE OF COUNSEL CLAIMS OF BOTH TRAM (ABOVE) AND APPELLATE COUNSEL THAT PETITIONER HAS SHOWN SURVEY OF REASON WOULD FIND THE DISTRICT COURT OPINION DEBATABLE AND THE DISTRICT COURT HAS FAILED TO ADDRESS MANY OF THE PETITIONER'S CLAIMS TO INTELLIGENT ASSISTANCE OF BOTH TRAM AND APPELLATE COUNSEL (ECF 1-38-42 APPX. B-1); (DOC 16-37-39 APPX. A-3); (SUPRA)

PETITIONER'S APPELLATE ATTORNEY (ECF 1-38-42); (DOC 16-37-39).

(1) FAILED TO RAISE OBVIOUS WINNING ARGUMENTS ON APPEAL TO INCLUDE PETITIONER'S GROUNDS FOUR, SEVEN, TEN THROUGH THIRTEEN. (ECF 1-38-42; APPX B-1); (DOC 16-37-39); (SUPRA)

(2) FAILED TO CORRECT CLEARLY ERRONEOUS OPINION OF 2ND COURT OF APPEALS TO INCLUDE DATES OF CONTRACTS AND CHECK PAYMENTS TO PETITIONER IN COMPARISON TO DATE OF CONVERSION IN HOKANS COUNTY, WISCONSIN WAS OPENED THAT "THE STATE USED FOR ENTRY" (ECF 1-41,42); (DOC 16-38,39); (SUPRA)

(3) FAILED TO CHALLENGE THE UNREASONABLENESS OF 2ND COURT OF APPEALS FINDINGS CONTRARY TO THE WRITING AGREEMENT AND IDENTIFYING THE CHECKS IN THE CLERKS RECORD, NOT DESCRIBED TO THE JURY, IN SUPPORT OF DATES OF PAYMENTS AND USE OF FUNDS (CR-86,95; 91,98; 93,101) (ECF 1-41,42); (DOC 16-38,39); (SUPRA) APPX. B-1 APPX. A-3

PETITIONER'S DIRECT APPEAL OPTIONS WERE CLOSED DUE TO APPELLATE ATTORNEY BEING BEYOND HIS APPOINTMENT, FILING A LATE PETITION FOR DISCRETIONARY REVIEW, ADVANCEING THE WORKSHEET OF TWO CLAIMS, WHILE PETITIONER HAD A PRO SE MOTION PENDING AT THE 2ND COURT OF APPEALS. APPELLATE ATTORNEY FAILED TO COMMUNICATE WITH PETITIONER OF HIS INTENT AND FILING. (ECF 1-41,42); (DOC 16-39); (SUPRA) APPX. B-1 APPX. A-3

SUCH MISFEASANCES REWARDED ARGUMENTS BASED ON DIRECTLY CONTRADICTORY PRINCIPLE SHOULD BE DISCOVERED AND BROUGHT TO THE COURT'S ATTENTION UNITED STATES V. WILSON, 183 F.3d 458, 462-463 (5TH Cir 1999).

C.O.A. SHOULD ISSUE AN PROPER A REASONED METHOD OF INQUIRY TO THE RELEVANT QUESTIONS OF LAW AND FACT OF PETITIONER'S GROUNDS.

CLERK FOR THE FOURTH CIRCUIT COURT TOOK "NO ACTION" (Super 4),

THE CLERK OF THE FOURTH CIRCUIT COURT OF APPEALS WHOLLY DISREGARDED PETITIONER'S CLEARLY TELLING AND PROSECUTOR MANDER RUL, TAKING "NO ACTION" ON MOTION FOR EXTENSION OF TIME FOR RETURNING, ~~AND~~ "NO ACTION" ON MOTION FOR RECONSIDERATION BY "COURT ORDER" FOR EXTENSION OF TIME FOR RETURNING. THUS, IMPAIRING PETITIONER'S RIGHT TO FULL AND FAIR LITIGATION OF HER CLAIMS. THUS, DEPRIVING FROM THE ACCORDING AND USUAL COURSE OF JUDICIAL PROCEEDINGS.

PETITIONER FOUND BY MANDER RUL AN EXTENSION OF TIME TO FILE MOTION FOR RETURNING FOR ISSUANCE OF C.O.A. WITHIN (14) FOURTEEN DAYS OF NOTICE FROM THE COURT. PETITIONER WENT BACK COUNCIL IN AMARISTO, TX TEXAS WITHIN THE MARE FROM PETITIONER UNTIL ~~THE~~ ACTION MOTION FOR RETURNING CLAIMS HAD BEEN UNDOUBT BY FED. R. APP. PROC. 40. PETITIONER HAS BEEN PURSUING DISCOVERY HER CLAIMS FOR OVER (7) SEVEN YEARS TO INSURE RESOLVE OF HER CLAIMS

A CERTAIN IT IS ENTITLED TO QUOTABLE TELLING WHEN "(1) IT HAS BEEN PURSUING HER RIGHTS DISCOVERY, AND (2) THAT SOME EXTRAORDINARY CIRCUMSTANCES STOOD IN HER WAY AND PREVENTING TIMELY FILING" MONUMENTAL INDEMNITY TRUST OF WISCONSIN V. UNITED STATES, 136 S. Ct. 750, 755 L. Ed 652 (2016) QUONIA HOLLAND V. FLORIDA, 560 U.S. 631, 649 (2000); CANALYS V. CONSUMERS, 2023 U.S. APP. LEXIS 1362 (5TH CIR).

A DOCUMENT IS CONSIDERED "FILED" ON THE DATE THE PROSECUTOR PLACES THE FILED IN THE PROSECUTOR MARE SYSTEM CAUSEY V. CASEY, 450 F. 3d 601, 607 (5TH CIR 2006); UNITED STATES V. MORGAN, 582 F. APPX 316 (5TH CIR 2014).

IN ALL INSTANCES REASON FOR EXTENSION OF FILING AND DELAY IS INCLUDING ALONG WITH FILING ACCOUNTANT AND CONFIDENTIAL OF SERVICE DATED AT TIME OF MANDER FILING; ALL OF WHICH SHOULD HAVE BEEN CONSIDERED TIMELY. ALL FACTS CONSIDERED PETITIONER SHOULD HAVE BEEN GRANTING EXTENSION OF TIME TO FILE RETURNING AS A TIMELY MOTION.

PETITIONER WAS FOR AN OUT OF TIME MOTION FOR RETURNING AND RETURNING ON BEHALF AS A HYBRID MOTION ON MARCH 12, 2026. PETITIONER TO DATE HAS NOT RECEIVED NOTICE OF RULING AT HIS NEW UNIT OF ASSIGNMENT. A COUNCIL OF ADDRESS WAS PROVIDED TO THE FOURTH CIRCUIT CLERK FEBRUARY 19, 2026. HOWEVER, CLERK HAS SENT PREVIOUS RULING DENYING Recall OF MANDATE TO THE PROSECUTOR ADDRESS AT BACK COUNCIL ACTION NOTICE RECEIVED OF NEW ADDRESS WHEN HAD DOCUMENTED NOTICE UNTIL MARCH 25, 2026.

PETITIONER'S MOTIONS SHOULD BE CONSIDERED TIMELY RATHER THAN OUT OF TIME; THUS, ALLOWING FOR RETURNING OF C.O.A. OR GRANTING C.O.A. TO FOURTH CIRCUIT

TO DATE ALL LEVELS OF JUDICIARY HAVE FAILED TO GIVE A REASONED MOTION OF INQUIRY INTO THE RELEVANT FACTS AND LAW OF GROUNDS ONE, FOUR, SEVEN, TEN THROUGH THIRTEEN; AN EXHAUSTIVE AND ERRONEOUS INQUIRY OF GROUNDS TWO, THREE, FIVE, SIX, EIGHT, NINE, AND FOURTEEN. THUS, DENYING PETITIONER OF FULL AND FAIR HEARING OF ALL HIS GROUNDS IN THE STATE COURT'S "DENIALS WITHOUT WRITTEN ORDER"; AND INCOMPLETE HEARING AT THE FEDERAL LEVEL ABOUT

PETITIONER HAS SHOWN A PATTERN OF CONSTITUTIONAL UNDERTAKINGS THAT HAVE EITHER BEEN PARTIALLY OR WHOLLY DISREGARDED TO INCLUDE ART 1 SEC 10 "CONTRACT CLAUSE", FIRST AMEND. "RIGHT TO REDRESS OF GRIEVANCES" FOURTH, FIFTH, SIXTH, EIGHTH, FOURTEENTH AMEND. OF UNITED STATES CONSTITUTION; AND TEXAS CONSTITUTIONS ART 1 § 3, 10, 13, 16, 19.

PETITIONER HAS SHOWN SURDS OF REASON THAT FIND THE DISTRICT COURT'S OPINIONS DISTRUSTWORTHY OR WRONG, ENCOURAGING FURTHER INQUIRY, AND THAT PETITIONER'S 28 U.S.C. 2254 COULD HAVE BEEN RESOLVED IN A DIFFERENT WAY

THE CIRCUIT JUDGE'S DECISION TO DENY C.O.A. IS CONFORMANT TO THE DECISIONS OF THE SUPREME COURT OF THE UNITED STATES, PRECEDENTS OF THE FOURTH CIRCUIT, AND OTHER CIRCUITS. THE CIRCUIT JUDGE'S DECISION IS FLAWED NOT RECOGNIZING CONSTITUTIONAL UNDERTAKINGS AND SURDS OF REASON FINDING THE DISTRICT COURT'S DECISION DISTRUSTWORTHY OR WRONG IN SUPPORT OF PETITIONER'S CLAIMS. THE CIRCUIT JUDGE HAS OVERLOOKED THE DISTRICT COURT'S REFUSAL TO ADDRESS CONSTITUTIONAL UNDERTAKINGS WITH A REASONED MOTION OF INQUIRY CONSISTENT WITH COURTS, NECESSARY TO SECURE AND MAINTAIN UNIFORMITY OF DECISIONS WITH THE COURT. THE CIRCUIT JUDGE HAS OVERLOOKED PETITIONER'S LEGAL INNOCENCE CLAIMS REITERATED AS CONSTITUTIONAL, DENYING ENCOURAGEMENT TO PROCEED FURTHER INSURE THE UNLAWFUL MISMANAGEMENT OF JUSTICE IS REVERSED OR REMANDED

UNDER THE FACTS OF THIS CASE PETITIONER SHOULD BE ALLOWED REMOVAL OF COA, GRANTED C.O.A., ~~BE~~ RELEASED FROM UNLAWFUL RETENTION, OR RESENTENCED WITHIN THE PROPER RANGE OF PUNISHMENT.

THOSE GROUNDS "HOWEVER IN AN AFFIRMATIVE MANNER ARE SUFFICIENT TO CALL FOR OPPORTUNITY TO OFFER SUPPORTING EVIDENCE" HAYES V. KORTER, 404 US 519, ~~520~~ 520 (1972). THE UNITED STATES SUPREME COURT HOLDS ALLEGATIONS OF A PRO SE LITIGANT TO LESS STRINGENT STANDARDS ~~THE~~ THAN FORMAL PLEADINGS DRAFTED BY LAWYERS.

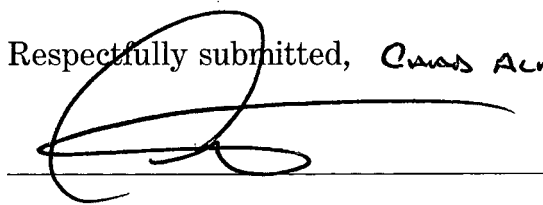
THE COURTS HAVE RECOGNIZED THAT C.O.A. REQUIREMENTS SHOULD

Be applied in a flexible manner that avoids penalizing inadvertent
technical errors. At the least C.O.P. should issue.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted, Charles Alan Russell AKA Charles Alan Cassano



Date: April 5th 2026

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