No. 26-6183

FILED
DEC 08 2025
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

David P. Webster — PETITIONER
(Your Name)

vs.

Rob Jackson — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

9th circuit court of Appeal, USCA9 No. 25-4065
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

David P. Webster #862925
(Your Name)

Washington corr. center - P.O. Box 900
(Address)

Shelton, WA. 98584
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

(1.) Is there A clearly established constitutional due Process Right not to be subjected to criminal charges on the basis of False evidence that was deliberately fabricated by the government?

(2.) If the conviction charge of- solicitation to murder, is . . . . "inextricably intertwined" with the Police officer's initial Act of Fabrication- A November 16, 2002- Report of A crime the Petitioner had not, could not, and did not commit, is the Judgement and sentence wholly void?

(3.) CAN the "original information" containing the single count charge of- First degree Rape ("For which the Petitioner was subsequently Acquitted") be lawfully Amended on the basis of False-evidence that was deliberately fabricated by Police officers, TO Add the fabricated- charge of solicitation to murder?

(4.) Does the Acquittal of the crime originally and legally made, terminates the Prosecution, if the defendant enjoy A constitutionally federal Protected Right to be free from Prosecution based on deliberately fabricated evidence with Respect to Any remaining charge, or charges?

(5.) CAN the infliction of "substantial bodily harm-or-serious physical injury" during the "ASSAULT" constituting the original charge of "Rape" be charged by Amended- information AS A separate And distinct, or A noncluded offense of Rape, when the "ASSAULT" is AN "Aggravating-factor" elevating the Rape-Acquittal crime to first degree?

(6.) Is The defendant who has been "duly" acquitted of the crime "actually" charged entitled to "immediate Release", if he cannot be "duly" convicted of a crime manufactured by the government?

(7.) Is A "void-Judgement", which is NO Judgement at All, A legal Nullity, and not attributable to any state court Judgement?

(8.) May the state of Washington "Presume the Petitioner-defendant," Adjudged guilty of NO crime, OR crime charged on the basis of false evidence that was deliberately fabricated by the Police officers, OR guilty enough for monetary exactions, even after he has been "duly" Acquitted of the crime "actually" charged?

(9.) ARE Judgements that do not include a defendant's credit for Jail time served Prior to a sentence ordering confinement, invalid?

(10.) "Since the court make no distinction between fabricated evidence leading to a wrongful conviction and wrongful Criminal charges, "How does any court give the Petitioner credit for time served on a wrongful conviction charge of-solicitation to murder, and a Double-Jeopardy barred charge of second degree assault with intent to commit the acquittal charge of- First degree Rape, which established the final Judgement?

(11.) If the "hearing and deciding" on the fabricated charge of solicitation to murder - is something which takes place only after the criminal charge has been legally made, and if the Petitioner-defendant has a clearly established federal constitutional Right" not to be subjected to criminal charges on the basis of False evidence that was deliberately fabricated by the government",..." has the Petitioner-status for nearly-two decades", after a Prosecution terminated by a valid and final Judgement of an acquittal, been unconstitutionally that of a "Pretrial-detained-Prisoner", "unconstitutionally detained without [redacted] bail or trial, and unlawfully placed under the Jurisdiction of the Department of correction"?

(12.) is an Acquittal for Purposes of the Double Jeopardy Clause a question of Federal, not state, law?

(13.) [redacted] Does "count-one" of the amended information, which was charged on the basis of "false-evidence" that was deliberately fabricated by the government, which omitted the "Essential element" of "Premeditation" Relevant to the underlying charge of murder in the first degree, which Also failed to identify any victim of this manufactured crime, ... (1) violate the constitutional Right to unreasonable-Pretrial detention; (2) constitutional Right to notice of the specific charge, and a chance to be heard in a trial of the issues raised by this specific charge-which is inextricably intertwined with the Police officer's initial Act of Fabrication - A november 16, 2002- report of A crime the defendant had not, could not, and did not commit; (3) "Right to effective counsel and Fair trial; (4) "Right to Presumption of innocence created by A false presumption of guilt"; (5) "Proof beyond A reasonable doubt by competent Admissible evidence"; And (5) Right to be "duly" discharged from Jurisdiction of the trial court after "duly" acquitted of the crime originally and legally charged"?

(14.) is count-one of the amended information A Possible criminal charge that is unrelated and remote in time and gravity to the original charge upon which the defendant was tried, Acquitted and entitled to immediate discharge?

(15.) May A defendant challenge An "Amended-information" setting forth A criminal charge that was never legally made At any time, or An "Amended-information" setting forth A crime charged on the basis of False-evidence that was deliberately fabricated by the government, At any time?

(16.) is the Petitioner entitle to counsel, once the court grant-certiorari, due to Perjurious-Record constituting fraud committed upon the court and created by Fabricated charge of-solicitation to murder?

(17.) Is the filing of a "case" under a separate cause number necessary to give the superior court jurisdiction to hear and determine the case related to the fabricated charge of-solicitation to murder?

(18.) Is the danger of a notice" deceiving the Petitioner of this Petition into believing he was being charged with another offense other than the acquittal offense of- First degree Rape, a loss of jurisdiction in the trial court, and a fraud committed upon the court"?

(19.) Can the trial Judge be both "Adjudicator and accuser" of the Petitioner at any time in the Proceeding Related to the "solicitation to murder- case that was never Filed", and not violate the [redacted] "The supreme law of the land"?

(20.) can the Judgement and sentence related to the conviction charges be collaterally attacked in any Proceeding tied to the defense of-subject matter jurisdiction?

(21.) Is a void Judgement "a dead limb upon the Judicial tree" affecting the jurisdiction of the court,? and "may be lopped off at any time"?

(22.) If the "Prosecutor" sign his Approval of the "court order" Related to the November 17th, 2002 - Recorded investigation - Potential crime of - solicitation to murder, then Allowed the Police officer - Detective Jody Jones" to "falsely" give testimony About A November 16th, 2002 - Crime of - solicitation to murder that Never occurred, is the "Prosecutor" failure to correct the "Perjurious testimony" An Act of "subornation of Perjury"?

(23.) If "Detective Jody Jones" who applied for the "court-order" on November 15th, 2002 (signed by the trial Judge and Prosecutor, who knew the Petitioner could not be secretly recorded until November 17th, 2002), created A "false-Report" About A November 16th, 2002 - Crime of - solicitation to murder, which had not occurred, then forward the "false-report" to the Prosecuting Attorney's office for the Prosecutor to charge the Petitioner with the November 16th, 2002 - incident that never occurred," is the November 16th, 2002 - criminal charge of solicitation to murder related to the Judgement and sentence," false?

(24.) If the Questions Asked by the Petitioner supported by the evidence, show the criminal charge of - solicitation to murder, is false, will the court delay Justice?

(25.) CAN A superior court have the Power to "consolidate" A "case" not File with A "case" Pending before it?

(26.) whether the "evidence" relevant to the criminal charge of "solicitation to murder" is obtained through the "criminal Act of illicit wire-tapping", OR created through the "criminal Act of Perjury, AND subornation of Perjury", has the criminal law-related to the charges of-solicitation to murder, AND second degree ASSAULT, been enforced by state officials with "AN evil eye AND AN unequal hand" IN VIOLATION of the "equal Protection Provision of the fourteenth Amendment to the united states constitution?

(27.) Is Perjury the deliberate testifying to something AS true which is NOT, IN FACT, true?

(28.) If the Police testified that NO crime of-solicitation to murder WAS committed ON November 17th, 2002, yet stated IN open court IN AN "affidavit" ON November 15th, 2002, submitted to the trial Judge AND signed by the Prosecutor, that A crime of-solicitation to murder will be Potentially-occurring ON November [redacted], [redacted] 17th, 2002, when confronted with the November 16th, 2002 - charge of-solicitation to murder, is the testimony Related to the charge, AND the charge, FALSE?

(29)* CAN A "false-oath" be Justified on the ground that the Person to whom it is made knows or should know the truth dispite the "falsehood", or on the ground that the Person who benefit from the use of testimony tied to a "false-oath" knows or should know the truth dispite the "falsehood"???

(30)* is the "legal system" virtually defenseless against the united forces of a corrupt Attorney and a Perjured witness???

(31)* Does a "Jurisdictional fraud" refers to obtaining or maintaining a court's Jurisdiction thrugh a "material falsehood, concealment, or fraudulent conduct concerning facts that determine the court's Authority to hear the matter"???

(32)* Does a "Jurisdictional Fraud" makes a Judgement "void ab initio" and legally no Judgement at all???

(33)* Does a fabricated-criminal charge makes a Judgement "void ab initio" and legally no Judgement at all???

(34)* Does a sphinx-like silence on the trial court's and Prosecuting Attorney's Part about the November 15th, 2002-Affidavit of a Police officer Precludes anyone (including an appellate-tribunal) from learning the truth about the detention of the Prisoner???

LIST OF PARTIES

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

[V] 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: "Dean Mason" and "Nicholas W. Brown" ("superintendent" having custody of the Petitioner; and - the "Attorney General" for the state of Washington).

RELATED CASES

The case related to the fabricated charge of solicitation to murder, which was never Filed under cause number. 03-9-51160-7, does not relate to the case Filed under cause number. 02-1-50413-1, and the case Filed under Franklin county cause no. 05-1-50321-1, relates to the case Filed under cause no. 02-1-50413-1, only in the sense that the Prosecutor used the illegal sentence from the case Filed under cause number. 02-1-50413-1 to create a "faulty-DNA-Data-Base" to initiate the criminal Proceeding related to case no. 05-1-50321-1, then tied the case Filed under cause number 02-1-50413-1 to the trial and sentencing stage of the trial and Appeal related to the [redacted] case Filed under cause number. 05-1-50321-1, in the ongoing commission of a Jurisdictional fraud committed upon the courts. See-Appendix-A-1, 17; and-B-27

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APPENDIX F (Granted leave to proceed in forma pauperis in-Federal District court, and Washington state Supreme court-march 31, 2026)

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
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STATUTES AND RULES: 28 U.S.C.S. § 2241 (c)(3); 18 U.S.C.S § 241 and 242; 18 U.S.C.S. § 3731 (Double Jeopardy); Wash. Rule 2.2(b) (Double Jeopardy); 18 U.S.C. § 1621 (federal crime of Perjury); CrR. 2.1(d); CrR 1.1; RCW 10.73.090(1); 140" (1); RCW 10.73.140; RCW 9.73.090 (2); RCW 9.73.090(1)(b)(iii); 030; 050; 18 U.S.C. § 1622 (Subornation of Perjury); 28 U.S.C. § 1915 (e)(1); 28 U.S.C.S. § 2253(c)

OTHER Please take "Judicial notice" of cause number. 03-9-51160-7, which is different from cause number. 02-1-50413-1, stamped on face of Judgement and sentence and mandate certified by appellate court clerk.

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 E to the petition and is

[✓] reported at NO. 25-4065; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

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

[✓] reported at D.C. No. 4:24-cv-05170-TOR; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

[✓] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix B-6 to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[✓] is unpublished.

The opinion of the State of Washington court appears at Appendix B-6 to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[✓] is unpublished.

JURISDICTION

[N] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was November 17, 2025. see Also - Webster v. Uttecht, NO. 4:07-CV-05024-EFS, denied on the merit on August 1, 2008.

[ ] No petition for rehearing was timely filed in my case.

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

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

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

[N] For cases from **state courts**: "DON'T HAVE" (SHAM AND PRETENSE - HEARING).

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix - A-17. -[B-6]

[ ] 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"

4th, 5th, 6th, 8th, 13th and 14th amendments to the united states constitution, which is enough to satisfy the requirement of-28 u.s.c.s. § 2241 (c)(3), because the "void Judgements" created by the "acquittal" charge of- First degree Rape, Fabricated charge of-solicitation to murder, and invalid conviction charge of-second degree assault (which omit the "essential nonstatutory-element of-sexual motivation"), is no Judgement all All, and is not a detention attributable to any state court Judgement. "18 u.s.c.s. § 241 and 242 (Federal offense); RAP 2.2(b) of state court Rule, like-section 3731 of federal court Rule related to-"federal constitutional law of- Double Jeopardy," is Jurisdictional".

Facts of universal notoriety need not be Proved. Among the things of which "Judicial notice" is taken are things which must happen according to the laws of nature; the coincidences of the days of the week with those of the month; and if the Judge's memory about the november 17th, 2002-investigation which makes the november 16th, 2002-charge of solicitation to murder, false, and the testimony, Perjurious, is at fault, he may refresh it resorting to any means for that purpose which he may deem safe and Proper (such as his november 15, 2002-court order authorizing the november 17, 2002-Secret Recorded-investigative Alleged caminal solicitation to murder-conversation). see- Brown v. Piper, 91 U.S. 37, 42 (1875); Berenyi v. Dist. Dir., 385 U.S. 630, 636 (1967)(citing, Napue v. illinois, 360 U.S. 264, 271-272 (1959)); 28 U.S.C. § 2254(d)(1) and (2); 28 U.S.C. § 2253(c)(2).

"A void Judgement is not subject to one year time bar, or successive Petition Rule of any court".

STATEMENT OF THE CASE

ON the 3rd day of November, 2002, the Petitioner was Arrested for the Alleged crime of- First degree Rape. ON the 4th day of November, 2002, Honorable Robert C. Swisher, Superior Court Judge, found Probable cause to believe that the defendant, upon the 3rd day of November, 2002, committed the crime of Rape in the first degree. Before Arraignment on the Alleged crime of- First degree Rape, the "trial- Judge" who became both "Adjudicator and Accuser" Found Probable cause Pursuant to RCW 9.73.090 (2) to believe that on November 17th, 2002 (which was on a Sunday, 24-hours from the November 16th, 2002 - Perjury testimony given by Detective Jody Jone) the Petitioner would commit a "new" crime of- "solicitation to murder", and Probable cause was limited to obtaining evidence through the use of A Recording - device in support of Adding the New charge of solicitation to murder, if committed by Petitioner on or about the 17th day of November, 2002. Use of body wire on the "16th" would constitute the crime of illicit wiretapping. RCW 9.73.030; 090(1)(b)(iii); 050.

The Petitioner Pause for the court to note there is A distinction to be drawn from the "on or about" Sunday November 17th, 2002 criminal incident and an "on or about" Saturday November 16th criminal incident of solicitation to murder, and that A testimony about A November 16th, 2002 incident of the crime of- solicitation to murder, would make the evidence Proof of the crime of "illicit- wiretapping", and also the crime of Perjury committed on November 15th, 2002 in open court to secure the "body- wire" order. See- LaChance v. Erickson, 522 U.S. 262, 267 (1998)("one who File A false- Affidavit required by statute may be fined or imprisoned"); RCW 9.72.090; RCW 9A.72.020; 030; State v. Lewis, 85 Wn. 2d 769, 771 (1975)(Perjury- conviction).

crucial - "The state's trial evidence Resembles A house of cards" see - Wearry v. Cain, 577 U.S. 385, 393-394, 395 (2016) (Petition for writ of certiorari Granted)(citing, 28 U.S.C.S. § 1257)). see - Glossip v. oklahoma, 604 U.S. 226 (2025)(writ of certiorari), because before November 17th, 2002, Detective Jody Jones of the Pasco Police Department, Fabricated A November 16th, 2002 - report of A "similar-Crime" the Petitioner had not, could not, and did not commit, then had the undercover-Police officer to secretly investigate and record his conversation with the Petitioner as a suspect of the crime manufactured by - Detective Jody Jones, Detective Jody Jones forward the falsified - November 16, 2002 report to the Prosecuting Attorney office, and based on the fake - Police report, the Petitioner was falsely accused of the crime of solicitation to murder through unlawful and criminal Amendment of the original - single count information of - First degree Rape in violation of CrR 2.1(d), which governs the Amendment of information. Before trial, the Prosecutor, with "an evil eye and unequal hand" which denied [redacted] "equal Protection of the law" Attempted hamper Petitioner's in Asserting his federal and state civil Rights with a "Plea offer deal of - 11 - months and credit for time Already served in An effort to Free the Proceeding of the Fabricated charge of solicitation to murder". See - united states v. Patterson, 150 U.S. 65, 68 (1893)("[redacted] The hearing and deciding on A criminal charge is something that takes Place only After the criminal charge has been legally made"); united states v. Falk, 479 F.2d 616, 618 (7th circuit. 1973)(citing, Yick Wo v. Hopkins, 118 U.S. 356, 373-374 (1886)); MacDonal v. musick, 425 F.2d 373, 374, 376 (9th cir. 1970)(citing, 28 U.S.C.S. § 2241(c)(3)); Dixon v. District of columbia, 394 F.2d 966, 968 n. 4 (D.C. cir. 1968)(The court vacated the decision of the lower court and remanded the cause with instructions to dismiss the information;

noting that equal Protection of the law is denied when an otherwise valid law is applied "with an evil eye and an unequal hand")(citing, Yick Wo v. Hopkins, 118 U.S. 356, 373-374 (1886)). See- Page- 16 of 40 & 18 of 40". Not only would "suppression of evidence" related to the invalid charge of solicitation to murder, have the same effect of ending the Prosecution because the Petitioner was actually acquitted of the Rape-charge related to the case Filed under cause no. 02-1-50443-1, but the Plea-deal, which would have drop the fabricated charge of-solicitation to murder, and Acquittal charge of Rape, if the Petitioner allowed himself to become an "escapegoat", would have allowed the Prosecution validly charge and convict by Plea deal on the crime of-second degree Assault without Allegation of-"sexual motivation", which is an "essential nonstatutory element" which must be included in the information to satisfy the "constitutional Right to notice and opportunity to be heard, which is elementary and of universal application, and is founded on the "Plainest Principle of Justice". After Petitioner rejected the Arbitrary-Plea deal, the "oath-beholden servants of the law" who applied the law with "an evil eye and an unequal hand", unconstitutionally attack with A "wrongful Prosecution, conviction and sentence of imprisonment, then allowed the "trial-attorney" to remain as "Appellate-Attorney" of A Prosecution terminated on September 24, 2003 by A "duly" verdict of Acquittal. United States v. Ball, 163 U.S. 662, 671 (1896); Dixon v. District of Columbia, 394 F.2d 966, 968 n.4 (1968). The Petitioner writes this Petition from the "hole" where he has been for

most of this unconstitutional - confinement, the creation of "stress", the "silent" killer.

For nearly two decades, the Petitioner has been searching for a case that would justify the charge, trial, conviction and imprisonment of a person before the case is filed, and have only found cases that show the Prisoner was detained for a cause not recognized by the law as ground for a judgement of imprisonment, and therefore not within the possible jurisdiction of any court, because the filing of a "case" is necessary to give the court jurisdiction to hear and determine the case", which does not refer to a power to hear every illegally made criminal charge".

with respect to the fabricated charge of - solicitation to murder, which relates to cause no. 03-9-51160-7, and was not stamped as the "judgement" until after the trial (Appendix - A-1, and A-17), The Police officers, Prosecutors and Judges "puts the cart before the horse". see- state v. moen, 150 wn. 2d 221, 227 (2003)(citing, "wayte v. united states", 470 u.s. 598, 608 (1985).

Even if the state had file a "case" related to the fabricated charge of - solicitation to murder, the resulting restraint would still be unlawful due to conviction based on insufficient evidence, because no court order authorizing a November 16, 2002 - Recordation of a jail-house conversation was issued by the trial judge. see- state v. van cleve, 5 wash. 642, 643 (1893)(The Amendment of the information was unlawful, because the charge could not be proven by evidence satisfying the jury); state v. salinas, 121 wn. 2d 689, 692-693 (1993)(citing, state v. Fjermestad, 114 wn. 2d 828, 836 (1990)); prp of martinez, 171 wn. 2d 354, 364, 369 (2011)(citing, Jackson v. virginia, 443 u.s. 307, 316 (1979)). "Rubber-stamp of Judgement."

[redacted]

REASONS FOR GRANTING THE PETITION

The subject matter of the action Falsely created by the fabricated charge of solicitation to murder - case was so Plainly beyond the court's Jurisdiction that its entertaining the action was a "manifest abuse of authority"; because filing of a "case" under cause number. 03-9-51160-7 was necessary to give the court Jurisdiction to hear and determine the case. State v. moen, 150 wn.2d 221, 227 (2003)(citing, wayte v. united states, 470 u.s. 598, 608 (1985); state v. norby, 122 wn. 2d 258, 269 (1993); state v. karpov, 195 wn. 2d 288, 294, 293 (2020).

The fabricated charge of solicitation to murder could not give the trial court Jurisdiction to Proceed on two separate tracks, because it is Plain that an offense charged on the basis of False evidence that was deliberately fabricated by the government is not within the class of offences Placed by the law under the Possible Jurisdiction of any court. see- In re Bonner, 151 u.s. 242, 257 (1894)(It is Plain that a court has Jurisdiction to render a particular Judgement only when the offense charged is within the class of offences Placed by the law under its Jurisdiction); williamson v. Berry, 49 u.s. 495, 542, 543 (1850)(The want of Jurisdiction makes a record utterly void and unavailable for any Purpose; and where a limited tribunal takes upon itself to exercise a Jurisdiction which does not belong to it, its decision Amounts to nothing, and does not create a necessity for an appeal); Hall v. L.A., 697 F.3d 1059, 1066, 1068 (9th cir. 2012)("There is a clearly established - constitutional due Process Right not to be subjected to criminal charges on the basis of False evidence that was deliberately fabricated by the government", a Right derived from the supreme court's holding in - Pyle v. kansas, 317 u.s. 213, 216 (1942)); arenas v. united states, 95 F.supp. 196, 970, 972 (s.d. cal. 1951)(A void Judgement is "A dead limb upon the Judicial tree" and may be lopped off at any time"), Aff'd, 197 F.2d 418 (9th cir. 1952); Ackerman v. Ackerman, 517 F.supp. 614, 620 (s.d. n.y. 1981)("same"); united states v. choy, 309 F.3d 602, 607 (9th cir. 2002)(Even under Plain Review, if the constructive Amendment of the information Prejudiced the Petitioner, the conviction must be [redacted] vacated); In re Bonner, 151 u.s. 242, 261 (1894)(In the interest of Justice and to Prevent its defeat, federal courts might well delay the discharge of the Habeas corpus Petitioner for such reasonable time

As may be necessary to have him taken before the state court where the Judgement was rendered, that the defects for want of Jurisdiction which are the subject of complaint in that Judgement may be corrected); Dixon v. District of Columbia, 394 F.2d 966, 968 N. 4 (D.C. CIR. 1968)(The information should have been dismissed, because Equal Protection of the law is denied when state officials impermissibly enforce the law with an evil eye and an unequal hand)(notably, citing - Yick Wo v. Hopkins, 118 U.S. 357, 373-374 (1886)).

→ The state constitution - art. IV, § 6, which use the term "Jurisdiction" to describe the fundamental power of courts to act, is not the building block of law for a case not filed; and because "no man should be held to answer in a court that has not acquired Jurisdiction over a case in a lawful way", State v. Hamshaw, 61 Wash. 390, 391 (1910); Seattle v. Mathewson, 194 Wash. 350, 351 (1938), A dismissal under the mistake belief that the court had or had no Jurisdiction is in no sense a Judicial Act; for it Rest upon a disclaimer, mistaken claim, or collusive vested Power of the Judicial function. The court has neither heard nor determine the case related to the fabricated charge of "solicitation to murder - "cause number. 03-9-51160-7", because the case was never filed, and could not be heard before the criminal charge can be legally made. United States v. Patterson, 150 U.S. 65, 68 (1893)." It refused to do either, making the Judgement a "nullity", a "void thing", a "dead limb upon the Judicial tree". Kanzelberger

→ v. Kanzelberger, 782 F.2d 774, 777 (7th CIR. 1986)("If the facts place the district court on notice that the Jurisdictional Allegation is false, the court is duty-bound to demand Proof of its truth, otherwise it is closing it eye to an effort to confer Jurisdiction collusively"); Watts v. Pinckney, 752 F.2d 406, 409 (9th CIR. 1985)("Judgement is void if the court that considered it lack Jurisdiction of the subject matter, or if the court acted in a

manner inconsistent with due Process of law); Williamson v. Berry, 49 U.S. 495, 543 (1850)(The operation of every Judgement depends upon the Jurisdiction of the court to render it. The rule is, that where a limited tribunal takes upon itself to exercise a Jurisdiction which does not belong to it, its decision Amounts to nothing, and does not create a necessity for an appeal); Ex parte Bradstreet, 32 U.S. 634, 647 (1833)("Every Party has a Right to a Judgement of the court").

It is the duty of the superior court to see that it had Jurisdiction to Adjudicate the facts Relevant to the Fabricated charge of-solicitation to murder, because A false charge could not give it. see- United states v. Patterson, 150 U.S. 65, 68, 14 S.Ct. 20 (1893)(A criminal charge, strictly speaking, exists only when A formal written complaint has been made Against the Accused And A prosecution initiated. In the eyes of the law A person is charged with crime only when he is called upon, in A legal proceeding to Answer to such A charge. Mere investigation by prosecuting officers, or even the inquiry and consideration by examining magistrates of the propriety of initiating A prosecution, do not of themselves create A criminal charge. "The hearing and deciding on A criminal charge is something which takes place only After the criminal charge has been legally made"); In re Bonner, 151 U.S. 242, 257, 14 S.Ct. 323 (1894)(It is plain that A court has Jurisdiction to render A particular Judgement only when the

offense charged is within the class of offences placed by the law under its Jurisdiction); steel Co. v. Citizens for a Better Env't, 523 U.S. 83, 94-95, 118 S.Ct. 1003, 1013 (1998)(Jurisdiction).

→ The court was without Jurisdiction to render the particular Judgement related to the fabricated charge of solicitation to murder, because an offense charged on the basis of False evidence that was deliberately fabricated by the government is clearly not within the class of offences placed by the law under the possible Jurisdiction of any court; and because there is "A clearly established constitutional due process Right not to be subjected to Prosecution of any crime charged on the basis of False evidence that was deliberately fabricated by the government", the sentence obtained in violation of this clearly established constitutional due process Right is a nullity. See- united states v. smith, 331 U.S. 469, 475, 67 S.Ct. 1330 (1947)(For a possible miscarriage of Justice, habeas corpus provides a remedy for Jurisdictional and constitutional errors occurring on the trial of a criminal case, without limit of time)(citing, Johnson v. Zerbst, 304 U.S. 458, 468, 58 S.Ct. 1019 (1938); waley v. Johnston, 316 U.S. 101, 105 (1942))); Horn v. Bailie, 309 F.2d 167, 168 (9th Cir. 1962)(citing, waley v. Johnston, 316 U.S. 101, 105 (1942); Johnson v. Zerbst, 304 U.S. 458, 468 (1938))); united states v. munoz-Garcia, 455 F. Supp. 3d 915, 923, 926 (D. Ariz. September 25, 2019)(Dismissal

of criminal charges" is appropriate when the investigatory or prosecutorial process has violated a federal constitutional or statutory right and no lesser remedial action is available")(citing, United States v. Hasting, 461 U.S. 499, 505 (1893). see "PAGE-16 of 40".

→ Since no offense can be charged on the basis of false evidence that was deliberately fabricated by the government, or evidence of the crime of illicit wiretapping committed by police officers (November 16th, 2002), see-Gray v. Raines, 662 F.2d 569, 573 n. 1 (9th Cir. 1981)(noting that "a court is without jurisdiction to try a person for an offense unless the offense has been charged by information"); Giordenello v. United States, 357 U.S. 480, 485 (1958); State v. Walker, 153 Wn. App. 701, 708-709 (Div. 3, 2009)("when a trial court's jurisdiction over criminal charges is challenged and the record before the appellate court is insufficient to resolve the claim, the appellate court may remand the case to the trial court for further proceeding on the question)(citing also-CrR 3.6-hearing)); United States v. Patterson, 150 U.S. 65, 68 (1893)("The hearing and deciding on a criminal charge is something which takes place only after the criminal charge has been legally made"); Nelson v. Colorado, 581 U.S. 128, 136 n. 10 (2017)(noting that "an invalid conviction is no conviction at all").

→ The case related to cause number. 03-9-51160-7 (The solicitation to murder-case that was never filed) does not relate to cause no. 02-1-50413-1 (The "Rape" acquittal case dismissed on september 24, 2003, because the "assault" used by the state to elevate the "Rape" acquittal charge to first degree could not be charged as a separate and distinct or a nonincluded offense, and the "Rape" offense could not be divided into "discrete bases of liability" under different theories and counted as separate offenses for Purposes of Double Jeopardy). see also-Hamdi

v. Rumsfeld, 542 U.S. 507, 530 (2004); Johnson v. United States, 576 U.S. 591, 623 (2015)(quoting, Hamdi v. Rumsfeld, 542 U.S. 507, 589 (2004)); Yick Wo v. Hopkins, 118 U.S. 356, 373-374 (1886)(Equal Protection is denied when an otherwise valid law is applied with an evil eye and unequal hand). see - PAGE - 16 of 40; and - Appendix - D.

→ While the criminal statutes related to the fabricated - charges of - solicitation to murder, and invalid charge of - second degree assault be fair on its face and impartial in appearance, they are constitutionally invalid as applied by the Prosecutor with an evil eye and unequal hand, and operates to vest state courts with Power to violate the "supreme law of the land", which deprive the Petitioner of his Protected federal Rights, even though the general validity as a measure enacted in the legitimate exercise of state power is beyond question. Boddie v. Connecticut, 401 U.S. 371, 378-379 (1971). There can be no crime without criminal intent, and the state cannot create a criminal intent on the basis of a criminal charge that could not be legally made to serve as a basis for "subject matter Jurisdiction";... "illicit wiretapping is a criminal offense", ←

→ and The illegal use of a "body wire" to capture a "conversation" that will be used by the state as a basis for a criminal charge, is a search within the meaning of the "fourth amendment's" Protection, Berger v. New York, 388 U.S. 41, 51 (1967); and the use of a "lie" to charge, convict and imprisoned me, is like the falsification of Papers by a "modern-day-slave master" to Put a "free" Former "slave"

back on the "imprisonment-Plantation" in violation of the 4th, 5th, 6th, 8th, 13th and 14th Amendments to the United States constitution through the fabrication of a criminal conversation of attempted murder by solicitation, and then having the Judges, Prosecuting and defense Attorneys and officers of a Police Department look the other way when confronted by the real Possibility of being complicit in the wrongful use of False evidence related to a caminal case that was never Filed to secure a conviction in court, and [redacted] keep an Acquitted defendant unjustly incarcerated for over two decade like the Prisoner in the case of- Horn v. Bailie, 309 F.2d 167, 168 (9th cir. 1962), which is a case that expose the same unlawful Acts of the Franklin county superior court of the state of Washington, and is A Perfect Reasoned-Analysis of how the same court Falsely" Proceed on two separate tracks", resulting in the wrongful conviction of the Petitioner (David P. Webster, who was "duly" Acquitted on september 24th, 2003); Hayes v. Brown, 399 F.3d 972, "988" (9th cir. 2005); Nix v. Whiteside, 475 U.S. 157, 166, 167-168, "169" (1986); mooney v. Holohan, 294 U.S. [redacted] 103, 112-113 (1935); united states v. Patterson, 150 U.S. 65, 68 (1893) ("To be Heard and decided, charge must be legally made"); Lanuza v. Love, 899 F.3d 1019, 1025, 1035 (9th cir. 2017) (The federal courts have an obligation to set their ~~face~~ against enforcement of law by lawless means or means that violate rationally vindicated standards of Justice, and to refuse to sustain such methods by effectuating them. PUBLIC confidence in

the fair and honorable administration of Justice upon which ultimately depends the rule of law, is the transcending value at stake)(citing, Napue v. Illinois, 360 U.S. 264, 269 (1959); Pyle v. Kansas, 317 U.S. 213, 215-216 (1942); Mooney v. Holohan, 294 U.S. 103, 112-113 (1935); Sherman v. United States, 356 U.S. 369, 380 (1958)))))." The following contentions are critical".

→ "To be heard and decided for the purpose of a Judgement and sentence, The charges of solicitation to murder, and second degree assault, must first be legally made", United States v. Patterson, 150 U.S. 65, 68 (1893), and "cannot be legally made by caminal acts of state officials."

→ In-Nardone v. United States, 308 U.S. 338, 341 (1939), the supreme court granted "writ of certiorari", because like in the case of silverthrone Lumber Co. v. United States, 251 U.S. 385, 392 (1920), "The government could not use knowledge allegedly gained from it wrong to frame a "new-information" and use the evidence in a Prosecution teminated by a Jury verdict of Acquittal". So do the government still want to "lie" about the "use of illicit wire tapping" occuring on "November 16th 2002" to conceal the Fabricated charge of solicitation to murder?" see-PRP of Dean, 27 Wn. App. 2d 265, 269, 537 P. 3d 1040 (Div. 3, 2023)(when a "state had no Power to proscribe the conduct for which the Petitioner was imprisoned it could not constitutionally insist that he remain in Jail")(citing,

Montgomery v. Louisiana, 577 U.S. 190, 202 (2016)); Voigt v. Webb, 47 F.Supp. 743, 746, 749-750 (E.D. Wash. 1942)(citing, Brown v. Mississippi, 297 U.S. 278, 286, 287 (1936)); Shelley v. Kraemer, 334 U.S. 1, 17 N. 17 (1948).

The "state had no power to Proscribe the conduct for which the Petitioner is now imprisoned", because not only is the invalid charge of- "solicitation to murder" one fabricated by Police officers, Chiaverini v. city of Napoleon, 602 U.S. 556, 563 (2024), but to cover up the "crime of Perjury" related to the false-charge lead to the-False conviction, the state tell the courts that its officials committed the "crime of illicit wiretapping" on "November 16, 2002", because "no court-order for this date was ever Authorized by the trial Judge". See-Devenpeck v. Alford, 543 U.S. 146, 149, 155 N. 3 (2004)(violation of Washington's Privacy Act law, is a crime)(citing- RCW 9.73.030)); Dixon v. District of Columbia, 394 F.2d 966, 968 N.4 (D.C. Cir. 1968)(The criminal information was dismissed, because "Equal Protection of the law is denied" when state officials enforce the law "with an evil eye and an unequal hand"(notably, citing- Yick Wo v. Hopkins, 118 U.S. 356, 373-374 (1886)); United States v. Kalustian, 529 F.2d 585, 588-89, 590 (9th Cir. 1975)(The trial court's order denying Appellant's motion for suppression of electronic surveillance- evidence is reversed, and "all consolidated cases are remanded for a new trial") (citing, United States v. Giordano, 416 U.S. 504 (1974); Berger v. New York, 388 U.S. 41, 51 (1967))); Nelson v. Colorado, 581 U.S. 128, 136 N. 10 (2017)(A state may not presume A person, Adjudged guilty of no crime, nonetheless guilty enough for monetary exactions. "A detainee who has not be Adjuded guilty of any crime" may not be punished; and "an invalid conviction is no conviction at all") United States

v. Ball, 163 U.S. 662, 671 (1896)(As to the defendant who had been acquitted by the verdict "duly" returned and received, the court could take no other action than to order his discharged, because the verdict of acquittal was final, and could not be reviewed, on error or otherwise, without putting him twice in Jeopardy, and thereby violating the constitution); Fong → Foo v. United States, 369 U.S. 141, 143 (1962)("The trial terminated with the entry of a final Judgement of acquittal, even if it was based upon an egregiously erroneous foundation). "The successive Petition → Rule of RCW 10.73.140, does not apply to a case that was never filed".

While the state separately charged the Petitioner with the crime of second degree assault, without reference to the "essential" nonstatutory element of "sexual motivation" created from the use of the "assault" to elevate the "acquittal" crime of "Rape" to first degree (which would have put the defendant on notice that the defense of consent was applicable to both "Rape and Assault" constituting a single offense for purposes of Double Jeopardy - States v. Williams, 156 Wash. App. 482, 494-495, 234 P.3d 1174, review denied, 170 Wn.2d 1011 (2010)), both the Washington state supreme court and the 9th circuit court of appeal have recognized the danger of a notice "deceiving the defendant into believing he was being charged with another offense", because "an offender whose liberty is in Jeopardy should not be misled, subjected to guessing games, or asked to hit a moving target". In Re Pers. of Blackburn, 168 Wn.2d 881, 886-888 (2010)(citing, United States v. Haviер, 155 F.3d 1090, 1093, 1094 (9th Cir. 1998)); United States v. Choy, 309 F.3d 602, 607 (9th Cir. 2002). "Jurisdiction is the Power to declare the

law (the defendant is legally accused of violating), and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause", see- steel co. v. citizens for a better env't, 523 u.s. 83, 94 (1998)(quoting, Ex parte McCardle, 74 u.s. 506, 7 wall, 506, 514 (1869)); see- MacDonald v. musick, 425 F.2d 573, 574 (9th cir. 1970)(citing, 28 u.s.c.s. §2244)).

The november 16th or 17th testimony evidence related to the fabricated charge of- solicitation to murder, deny "equal protection of the law" in violation of the fourteenth amendment of the united states constitution, and "casts the Prosecutor in the role of an Architect of a Proceeding that does not comport with standards of Justice"; and required the trial Judge to dismiss the "amended information" and order the state to Proceed only on the "original information", because the invalid charge of solicitation to murder allowed the Prosecutor to apply an otherwise valid law with "an evil eye and an unequal hand", see- simmons v. united states, 390 u.s. 377, 394 (1968)("It would be "intolerable" to require a criminal defendant to surrender" one constitutional Right ... in order to assert another"); united states v. sampson, 371 u.s. 75, 78-79 (1962)(Finding irrelevant that charges had not been established by the evidence, because a motion to dismiss "the information must be tested by its sufficiency to charge an offense"); Dixon v. District of Columbia, 394 F.2d 966, 968 n. 4 (D.C. cir. 1968)(The information should have been dismissed, because the Prosecution was impermissibly brought against defendant with an evil eye and unequal hand)(notably, citing- Yick Wo v. Hopkins, 118 u.s. 356, 373-374 (1886); Horn v. Balie, 309 F.2d 167, 168 (9th cir. 1962);

Hall v. city of L.A., 697 F.3d 1059, 1066, 1068 (9th cir. 2012)(citing, Hall v. Dir. of corr., 343 F.3d 976 (9th cir. 2003); Devereaux v. Abbey, 263 F.3d 1070, 1076 (9th cir. 2001); Pyle v. Kansas, 317 U.S. 213, 216, 63 S.Ct. 177 (1942))); United states v. Patterson, 150 U.S. 65, 68, 14 S.Ct. 20 (1893)(The hearing and deciding on a criminal charge is something which takes place only after the criminal charge has been legally made); Brady v. Maryland, 373 U.S. 83, 86, 87 (1963) ("our system of justice suffers when the accused is treated unfairly").

→ NO criminal charge can be legally made, or created on the basis of false evidence that was deliberately fabricated by the government, and the state cannot, in the exercise of control over local laws and practice, vest state courts with power to violate the supreme law of the land;" and for this reason, see - Gelpcke v. Dubuque, 68 U.S. 175, 206, 207 (1864)(It is the settled rule of the united states supreme court in cases where the highest state courts have given constructions to the laws and constitution of their own states to follow the decisions of the state courts. But there have been heretofore, in the judicial history of the court, as doubtless there will be hereafter, many exceptional cases.

→ The court shall never immolate truth, justice, and the law, because a state tribunal has erected the altar and decreed the sacrifice); Lanuza v. Love, 899 F.3d 1019, 1025, 1035 (9th cir. 2017)(The supreme court has long recognized that "the principle

that A state may not knowingly use false evidence ... to obtain A tainted conviction is implicit in Any concept of ordered liberty", And A violation of due process; And for this reason," The federal courts have An obligation to set their face against enforcement of the law by lawless means or means that violate rationally vindicated standards of Justice, And to refuse to sustain such methods by effectuating them. ... Rublic confidence in the fair And honorable administration of Justice, upon which ultimately depends the rule of law, is the transcending value at stake")(citing, Napue v. illinois, 360 U.S. 264, 269 (1959); Ryle v. Kansas, 317 U.S. 213, 215-216 (1942); mooney v. Holohan, 294 U.S. 103, 110, 112-113 (1935); sherman v. united states, 356 U.S. 369, 380 (1958))))); united states v. LaPage, → 231 F.3d 488, 492, N. 17 (9th cir. 2000)(A Prosecutor has A special duty commensurate with A prosecutor's unique power, to assure that defendants receive fair trials." It is As much his duty to refrain from improper methods calculated to produce A wrongful conviction As it is to use every legitimate method to bring About A Just one)(citing, Berger v. united states, 295 U.S. 78, 88 (1935)). → See - Appendix - B-19 thru 25; Appendix - D; Appendix - A-1, 4, 12, 21, 28-31.

The sentence And Judgement of conviction secured by the Prosecution use of False-evidence, is void, united states ex rel. Montgomery v. Ragen, 86 F. Supp. 382, 387 (N.D. Ill. 1949) (A prosecutor must, to be fair, not only use the evidence Against the criminal, but must not willingly ignore that which

is in an accused's favor. It is repugnant to the concept of due process that a prosecutor introduce everything in his favor and ignore anything which may execuse the accused for the crime with which he is charged)(cited with approval by - Napue v. Illinois, 360 U.S. 264, 269 (1959)); Brady v. Maryland, 373 U.S. 83, "87", 86 (1963)("Prosecutor [redacted] Architect of A Proceeding").

→ There is **Direct and circumstantial evidence** in the record sufficiently to indicate that vital evidence in the form of a "**November 16, 2002 - Police Report**", which formed the evidence used by the Prosecutor to charge the defendant with the Fabricated - offense of - solicitation to murder, and same evidence that Formed the testimony the Police knew they would be expected to give in court, was ignored by the Judges, Attorneys and Police officers, which, if such evidence had been brought to the attention of the Jury, and not ignored by the trial Judge, would certainly have resulted in the Acquittal and immediate Release of the Petitioner on September 24, 2003, instead of the acquittal and immediate Jail - hold and subsequent imprisonment of the Acquitted - defendant under the guise of an conviction, which is patently, invalid and no conviction at all, because the Acquitted - defendant, cannot be "duly" convicted of a crime charged on the basis of False evidence that was deliberately fabricated by the government, nor legally Prosecuted, on evidence constituting the crime of "illicit - wiretapping", RCW 9.73.030; 090(2),

→ see - Appendix - A - 1, 4, 15 and 30 (The Judgement and sentence related to the invalid charge of - solicitation to murder, is "inextricably - intertwined" with the police officers initial Act of Fabrication - the November 16, 2002 - report of a crime the defendant could not, had not, and did not commit); see - Appendix - B - 19 thru 20, 21, 22 thru 24, 14, 38 thru 39, 71 thru 72, 73 and 74 (The evidence relevant to the Police officer's initial Act of Fabrication, is "inextricably - intertwined" with the Judgement and sentence - charge of solicitation to murder, which was knowingly ignored by the trial - Judge, Prosecutors, Police officers, trial and appellate - Attorney, who deprived me of an Appellate Review of this lawless - Judgement through - ineffective assistance of Appellate Counsel, which hid this obstruction of Justice, and commission of a federal crime under - 18 U.S.C.S. § 241 and 242, which subject the Judges, Attorneys and Police officers to federal criminal Prosecution)." Police or Prosecutor would have to file a false affidavit - Related to solicitation to murder",

→ under Washington law - RCW 9A.72.050; "Perjury consist of A person making inconsistent statements under oath knowing one to be false". See - Appendix - B - 19 thru 20, and 21; United states v. Norris, 300 U.S. 564, 574 (1937) (The telling of a deliberate lie by A witness under oath completed the crime of perjury as defined by law. Perjury is an obstruction of Justice. Deliberate material falsification under oath constitutes the crime of Perjury); RPC 3.3 (a)(1) and (4); Lachance v. Erickson, 522

→ U.S. 262, 267 (1998) ("one who files a false affidavit required by statute may be fined and imprisoned")

Because the Prosecutor "amended the original-information" on the basis of false-evidence to add the change of-solicitation to murder, Reversal is required, because the Prosecutor knowingly introduced and argued from false evidence, in the form of a criminal charge that was never legally made, see - united states v. Patterson, 150 U.S. 65, 68 (1893); Brown v. Borg, 951 F.2d 1011, 1017 (9th Cir. 1991)(citing, mooney v. Holohan, 294 U.S. 103, 112 (1935)), and could not be legally made without Filing the "case".

→ This united states supreme court should at least Remand for a hearing, because the hearing and deciding on the criminal charge of solicitation to murder, one fabricated by Police officers, which cannot take place before the criminal charge can be legally made, united states v. Patterson, 150 U.S. 65, 68 (1893), must be a real one, not a sham or a pretense. Moore v. Dempsey, 261 U.S. 86 (1923); united states ex rel. montgomery v. Ragen, 86 F. Supp. 382, 387-388 (N.D. Ill. 1949)(citing, mooney v. Holohan, 294 U.S. 103, 112 (1935)); voigt v. Webb, 47 F. Supp. 743, 749, 750 (E.D. Wash. 1942)(citing, Brown v. Mississippi, 297 U.S. 278, 286, 287, 56 S.Ct. 461, 465 (1936)).

Even in a case where the perjury was not known, as the Prosecutor might "Perjuriously" claim, until nearly two decades after the trial, A federal court has determined that the conviction was in violation of the 14th Amendment and released the Petitioner upon a writ of habeas corpus. united states ex rel. montgomery v. Ragen, 86 F. Supp. 382, 389-390 (N.D. Ill. 1949).

→ The variance between the charge of First degree Rape Filed in the "original-information" and the "fabricated" charge of solicitation to murder Filed in the "amended-information", allowed the jury to convict on grounds not "substantially" charged in the "unlawfully Amended information" and "destroyed the defendant's substantial Right to be tried only on the charge legally made and Presented to the "magistrate" in the "original-information" filed under cause number: 02-1-50413-1. This was fatal, because it also Allowed the trial court to retain jurisdiction over a case dismissed by a jury verdict of an Acquittal, which was "duly" returned and received on september 24, 2003. see - United states v. Ball, 163 U.S. 662, 671 (1896); cole v. Arkansas, 333 U.S. 196, 201 (1948); In re oliver, 333 U.S. 257, 273, 278 (1948)(citing, chambers v. Florida, 309 U.S. 227, 236-237 (1940)); De Jonge v. oregon, 299 U.S. 353, 362 (1937); United states v. Patterson, 150 U.S. 65, 68 (1893); Hall v. city of L.A., 697 F.3d 1059, 1066, 1068 (9th cir. 2012)(citing, Ryle v. Kansas, 317 U.S. 213, 216 (1942)). see -
→ Appendix - A-4, 21 thu 31; Appendix - B-19-20, and 21.

→ In Marino v. Ragen, 332 U.S. 561, 562 (1947), the court issued the writ of certiorari, after Permission to Proceed in forma pauperis was granted, vacated the Judgement, and remanded to the state circuit court, because the state admitted the facts and consented to a reversal of the Judgement below, stating that a

writ of habeas corpus was a proper remedy under state law when the undisputed facts clearly indicated a denial of due process under U.S. const. amend. XIV.

The state's Attorney General, who will undoubtly represent the Respondent in the Present case, will be compel to Admit the undisputed facts, or commit the federal crime of Perjury, under - 18 U.S.C.S. § 1621, which is an "obstruction of Justice", and the commission of an ongoing federal-crime, under - 18 U.S.C.S. § 241 and 242.

The Government - Prosecuting officer has already committed the federal crime of Perjury during the first Petition, under 18 U.S.C.S. § 1621, because section 1746 of title 28, united states code, is a declaration, certificate, verification, or statement under penalty of Perjury, concerning documents related to the fabricated-charge of solicitation to murder, which falsify the Record related to the Judgement and sentence. ★ See - united states v. shotwell, 355 U.S. 233, 242 (1957)

see - Johnson v. Zerbst, 304 U.S. 458, 467, N. 21 (1938) (To deprive a citizen of his only effective remedy would not only be contrary to the "rudimentary demands of Justice" but destructive of a constitutional guaranty specifically designed to prevent injustice)(citing, mooney v. Holohan, 294 U.S. 103, 112, 55 S.Ct. 340 (1935)); united states ex rel. montgomery v.

Ragen, 86 F.Supp. 382, 387 (N.D. Ill. 1949)(Though unfair means may happen to result in doing Justice to the prisoner in the particular case, yet, Justice so attained is unjust and dangerous to the whole community)(citing, Hurd v. People, 25 mich. 405; Brown v. mississippi, 297 U.S. 278, 286 (1936); mooney v. Holohan, 294 U.S. 103 (1935))).

The Petitioner-defendant has been kidnapped under the guise of a criminal conviction, and missing for decades, which is a federal offense. 18 U.S.C.S. § 241 and 242.

→ "The record of the trial court"

see- Douglas v. California, 372 U.S. 353, 358 (1963)(The indigent, where the record is unclear or the errors are hidden, has only the Right to a meaningless ritual, while the rich man has a meaningful appeal); Napue v. Illinois, 360 U.S. 264, 271, 272 (1959)(The U.S. supreme court has a duty to make its own independant examination of the record when federal constitutional deprivations are Alleged); Chessman v. Teets, 350 U.S. 3, 4 (1955)(The Petitioner, convicted of crime in a state court, applied for habeas corpus, Alleging that the highest state court, in hearing his appeal, had before it a transcript of the proceedings which had been fraudulently prepared by the Prosecuting Attorney and the court reporter. The supreme

court, granted the writ of certiorari sought by the petitioner, reversed the Judgement of the court of Appeals, and remanded the case to the District Court for a hearing. The charges of Fraud stated in the Application for habeas corpus were said to set for a denial of due Process in violation of the fourteenth Amendment)(citing, mooney v. Holohan, 294 U.S. 103, 112 (1935)); Dooly v. Mahoney, 42 F. Supp. 890, 891 (W.E.D.C. 1942)(The only record before this court which has been Pleaded and Proved is the - Judgement and sentence heretofore referred to which is void upon its face); voigt v. Webb, 47 F. Supp. 743, 749, 750 (E.D. Wash. 1942)(citing, Brown v. mississippi, 297 U.S. 278, 286, 287 (1936)); United states v. shotwell, 355 U.S. 233, 242 (1957)(citing, Mesarosh v. United States, 352 U.S. 1, 14, 77 S.Ct. 1 (1956)).

A criminal sentence is part of the Record of court proceeding, which in the Present case, is wholly void, because "A sentence obtained in violation of constitutional Rights, is a Nullity", Not Attributable to Any state court Judgement. Berman v. United States, 302 U.S. 211, 212 (1937); Horn v. Bailie, 309 F.2d 167, 168 (9th Cir. 1962) (citing, Waley v. Johnston, 316 U.S. 101, 105 (1942)); chessman v. Teets, 354 U.S. 156, 164 (1957)(consistent with procedural due Process, A state court's Affirmance of A Petitioner's conviction upon A seriously disputed record, whose Accuracy the Petitioner [redacted] has had NO voice in determining, cannot

be Allowed to stand); Cole v. Arkansas, 333 U.S. 196, 202 (1948)
→ (To conform to due Process of law, petitioners were
entitled to have the validity of their convictions Appraised
on consideration of the case as it was tried and as the issues
were determined in the trial court); United States v. Tsinhnahijinnie,
112 F.3d 988, 991 (9th Cir. 1997)(citing, Berger v. United States,
295 U.S. 78, 82 (1935)); United States v. Patterson, 150 U.S. 65, 68
→ (1893)(The hearing and deciding on a criminal charge is
something [redacted] which takes place only after the criminal
charge has been legally made); Hovey v. Elliott, 167 U.S. 409, 414-
→ 415, 416, 418 (1876)(Notice of the charge made is Jurisdictional).
→ The criminal charges remaining after the acquittal
charge of First degree Rape, were vitiated by the "amended
information", because the "amended-information" was
vitiated by the clearly established "constitutional Right
not to be subjected to criminal charges on the basis of
False evidence that was deliberately Fabricated by the
government", which is a "substantial constitutional-Federal
Right" within the meaning of CrR 2.1(d) ("The court
may permit an information... to be amended at any time
before verdict or finding if substantial Rights of the
defendant are not prejudiced); CrR 1.1 ("These rules shall
not be construed to affect or derogate from the
constitutional Rights of any defendant").

→ Critical facts: (1) PPD Rape case #: 02-32800 related to cause number. 02-1-50413-1, was Filed by information on November 6, 2002, Arraigned on Feburary 4, 2003, and dismissed by virtue of A Jury verdict of Acquittal on september 24, 2003, because the Amended information which added the charge of second degree ASSAULT could not constitutionally serve as A basis for "subject matter Jurisdiction" over the conviction charge of "second degree ASSAULT" which elevated the Arraignment and Acquittal charge of Rape to first degree. See- State v. Williams, 156 WN. App. 482, 494 (Div. 3, 2010), review denied, 170 WN. 2d 1011 (2010) (The defendant was given notice of the charges, because the information contain AN Allegation that the crime of second degree ASSAULT which elevated the crime of RAPE to First degree WAS committed with "sexual-motivation") (citing, RCW 9A.36.021(1)(a); RCW 9.94A.835; RCW 9A.44.040(1)(c)); State v. Bandura, 85 WN. App. 87, 95 N. 15, 931 P. 2d 174, review denied, 132 WN. 2d 1004 (1997) (The constitutional Right to "Notice of the crime" with which the ACCUSED is charged Precludes the State from charging ONE offense AND then convicting "of A separate AND distinct OR A NONINCLUDED offense"), "SEXUAL motivation" IS AN "essential NONSTATUTORY element of-second degree ASSAULT"

→ Critical facts: (2) PPD solicitation to murder case #: 02-33736 related to the false cause number. "03-9-51160-7" WAS NEVER Filed (see- Appendix-A-1 AND A-17; Appendix-B-18-19, 21 AND 25), AND is A Rubber-stamping of the Judgement hidden under Judgement related to cause number: 02-1-50413-1,

when determining whether a defendant has receive fair notice of the charge against him, the court begins by analyzing the content of the information. Cole v. Arkansas, 333 U.S. 196, 198 (1948); Sanabria v. United States, 437 U.S. 54, 66 (1978)(quoting, Russell v. United States, 369 U.S. 749, 764 (1962)); Communist Party v. Subversive Activites Control Board, 351 U.S. 115, 124-125 (1956)("Fake testimony"). ←

Although, a hearing was required, Sanders v. United States, 373 U.S. 1, 5-6 (1963), see - In re Stroh, 97 Wn. 2d 289, 295 (1982)("The legal system is virtually defenseless against the united Forces of a corrupt Attorney and Perjured witness"),... "The legal system for nearly 24-year (after the september 24, 2003 - acquittal verdict [redacted] terminating the Prosecution) has been virtually defenseless against the united forces of corrupt Judges, Attorneys and Perjured witnesses that are part of the - Pasco and Richland Police Departments"; and the → Arbitrary attempt to secure a Plea deal for eleven months and credit for the eleven months of "unlawful Pretrial-detention" [redacted] already served Partially on the-fabricated charge of-solicitation to murder, "would have been a Perfect cover-up of unconstitutionality". Boykin v. Alabama, 395 U.S. 238, 243 (1969); mooney v. Holohan, 294 U.S. 103, 112 (1935); Voigt v. Webb, 47 F. Supp. 743, 749-750 (E.D. Wash. 1942)(citing, Brown v. Mississippi, 297 U.S. 278, 286, 287 (1936)); United States v. Malcolm, 432 F.2d 801, 812, 816, 818 (2nd. Cir. 1970)(citing, Brady v. Maryland, 373 U.S. 83, 87 (1963)); United States v. [redacted], 497 F.2d 781, 786-787 (9th Cir. 1974). ←

"Right to counsel"

The 9th circuit court of Appeal must, under the rule of - Johnson v. Zerbst, 304 U.S. 458 (1938), which is Jurisdictional, Afford one who challenges a District court's certification the Aid of counsel unless he insists on being his own. Johnson v. United States, 352 U.S. 565, 566 (1957)(The united state supreme court granted - certiorari and held that: (1) upon a Proper showing a court of Appeals had a duty to displace a district court's certification; (2) A court of Appeals had to Afford one who challenged that certification the Aid of counsel unless he insist on being his own Counsel; (3) either defendant or his Assigned counsel had to be enabled to show that the grounds for seeking an Appeal from the Judgement of conviction were not frivolous and did not Justify the finding that the Appeal was not sought in good faith; and (4) because the court of Appeals did not Assign counsel to Assist defendant in the Application for leave to Appeal in forma pauperis and because it did not Appear that the court of Appeals Assured defendant Adequate means of Presenting it with a fair basis for determining whether the district court's certification was warranted, the Judgement had to be vacated and remanded);

→ The Petitioner Filed this Petition in an effort, without counsel, to Reveal a void Judgement, which is "A dead limb upon the Judicial tree," and "may be lopped off At any time", like, today. Schlett v. King, 258 F.2d 561 (9th cir. 1958)(citing, 28 U.S.C.S. § 2253(c))); Dominguez v. Kernan, 906 F.3d 1127, 1129 (9th cir. 2018)(citing, 28 U.S.C.S. § 2241 (A) and (C)(3))); voigt v. Webb, 47 F.Supp. 743, 749, 750 (E.D. Wash. 1942)(citing, Brown v. Mississippi, 297 U.S. 278, 286, 287 (1936); MacDonald v. Musick, 425 F.2d 573-574 (9th cir. 1970)(citing, 28 U.S.C.S § 2241(C)(3)).

→ In United States v. Shotwell, 355 U.S. 233, 242 (1957), on writ of certiorari, the court vacated the Judgement of the court of appeal, and remanded the case to the district court for further proceedings, because the evidence allegedly showed that the Judgement of the court of appeals was based on a perjurious Record due to fraud, so the case had to be remanded to determine what was true". The same is true in the Present case, if the court don't believe the record of the "Franklin county superior court", because the record created by the fabricated-charge of-solicitation to murder, is Patently, Perjurious. without the Fabricated charge of solicitation to murder, there would be no Record of-conviction, and only A record of an Acquittal, which terminated the Prosecution on Sept 24, 2003, because the probable cause, Arraignment and Acquittal charge of-First degree Rape, is the only criminal charge that was legally made before the Arraignment, trial and final Judgement established by the Jury verdict of Acquittal "duly" returned and received on september 24, 2003. see-United States v. Kalustian, 529 F.2d 585, 590 (9th cir. 1975).

→ The state court's denial of Petitioner's constitutional claims rested on a unreasonable determination of the facts created by defective fact-finding, because the facts created by a deliberate deception of court and Jury by the presentation

of testimony known to be perjured, work an unacceptable corruption of the truth-seeking function of the trial Process, and a criminal conspiracy to Rig the Jury and deprive the defendant of a fair trial, or a hearing call his "Day in court". United states v. Patterson, 150 U.S. 65, 68 (1893); N. Mariana Islands v. → Bowie, 243 F.3d 1109, 1124 (9th cir. 2001)(False testimony and False evidence corrupts the criminal Justice system and makes a mockery out of its constitutional goals and objectives. It is Just as constitutionally unacceptable for the government to put a guilty Person in Prison on the basis of False evidence as it is to have an [redacted] innocent Person suffer the same fate); coffin v. United states, 156 U.S. 432, 452, 454 (1895)("Let all accusers understand that they are not to prefer charges unless they can be Proven by proper witnesses or by conclusive documents, or by circumstantial evidence which amounts to indubitable Proof and is clearer than day"); United states v. Basurto, 497 F.2d 781, 785-786 (9th cir. 1974)(citing, Napue v. illinois, 360 U.S. 264, 269 (1959); Pyle v. kansas, 317 U.S. 213, 216 (1942))).

→ Cause No. 03-9-51160-7 ("solicitation to murder") is a "Jurisdictional Fraud."

→ For the Jurisdictional Fraud committed upon the court which destroys the Judgement and vitiates everything tainted by it, Batey v. Batey, 35 Wn.2d 791, 799 HN. 5 (1950), "it is beyond question, a federal court have Power to investigate whether the Judgement was obtained by Fraud and make whatever modification is necessary, at any time. see-United states v. Smith, 331 U.S. 469, 475 N. 4 (1947)(Granting certiorari)(Notably, citing-universal oil co. v. Root Refining Co., 328 U.S. 575, 580 (1946)).

"If the supreme court finds after Proper hearing that Fraud

has been practiced upon it, or that the very temple of Justice has been defiled, the entire cost of the proceedings could Justly be assessed against the guilty parties. A court cannot deprive A successful party of his Judgement without A proper hearing, Universal oil Co. V. Root Refining Co., 328 U.S. 575, 580 (1946); Lanuza v. Love, 899 F.3d 1019, 1025, "1035" (9th Cir. 2017) (citing, Napue v. illinois, 360 U.S. 264, 269 (1959); Pyle v. Kansas, 317 U.S. 213, 215-216 (1942); mooney v. Holohan, 294 U.S. 103, 110, 112-113 (1935); sherman v. United states, → 356 U.S. 369, 380 (1958))))). one well-settled definition of the term "fraud" requires an intentional showing of wrongdoing. See, e.g., Fraud, Black's Law Dictionary (11th ed. 2019) (def. 1) (defining "fraud" as "A knowing misrepresentation or knowing concealment of a material fact made to induce another to act to his or her detriment"), and (def. 2) (defining "fraud" as "a reckless misrepresentation made without Justified belief in its truth to induce another person to act"); Black's Law Dictionary 685 (8th ed. 2004) (defining "fraud" as "A knowing misrepresentation of the truth").

The united states supreme court defined fraud as "anything that counts as 'Fraud' and is done with wrongful intent", Husky Int'l Elecs., Inc. V. Ritz, 578 U.S. 355, 360 (2016); mooney v. Holohan, 294 U.S. 103, 112 (1935), like Rubber-stamping of A Judgement for cause number, 03-9-51160-7 (related to Fabricated charge of solicitation to murder).

clearly, the wrongful use of evidence that violate the "Washington privacy Act law", or wrongful use of a "lie" to wrongfully convict and detain the Petitioner until the day he "die", is to allow the state officials to enforce an otherwise valid law with an "unequal hand and an evil eye", which is a "denial of the equal Protection of the law" secured by the "fourteenth Amendment", in commission of a "Fraud" committed upon the court, which is a "fraudulent use of the Justice system". see- united states v. shotwell, 355 U.S. 233, 242 (1957); mooney v. Holohan, 294 U.S 103, 112-113 (1935); sherman v. united states, 356 U.S 369, 380 (1980); Dixon v. District of columbia, 394 F.2d 966, 968 N.4 (D.C. cir. 1968)(Notably, citing- Yick wo v. Hopkins, 118 U.S. 356, 373-374 (1886)); State v. Pyles, 9 WN. App. 246, 253, 511 P.2d 1374, review denied, 82 WN. 2d 1013. (1973)(Allowing the information to be amended to conform to the evidence Prejudice the substantial Right to "equal Protection of the law"); united states v. Kalustian, 529 F.2d 585, 588, 590 (9th cir. 1975)(The trial court's order denying appellant's motions for suppression of electronic surveillance evidence was reversed, and all- "consolidated cases" are remanded for a new trial. All evidence gathered through electronic surveillance Pursuant to the original court order and its extensions shall not be admitted in subsequent proceedings); montgomery v. Louisiana, 577 U.S. 190, 198, 204-205 (2016)(citing, Yates v. Aiken, 484 U.S. 211, 218 (1988)); Blakely v. Washington, 542 U.S. 296, 301-303 (2004); State v. Madry, 8 WN. App. 61, 68 (1972)(citing, In re murchison, 349 U.S. 133, 136 (1955)). "This Petition is an quintessential exposition of claims controlled by federal law, for which both state and federal courts "has a duty to grant relief", montgomery v. Louisiana, 577 U.S. 190, 204-205".

"Jurisdictional Fraud" is a defense that destroys the Judgement:

The Judgement and sentence related to the fabricated charge of solicitation to murder involves a fraud of a character going to the very jurisdiction of the court preventing it from obtaining the requisite power to entertain or decide the issues in controversy. There can be no question as to the vitiating effect of Fraud of this description or of what has been termed fraud upon the court vitiating everything tainted by it. It invalidates the Judgement because it precludes the acquisition of that power or jurisdiction without which, the courts shall see, a judicial determination is a mere nullity.

The courts, prosecutors and defense attorneys, and clerks of the courts, new that the filing of a "case" related to the fabricated charge of solicitation to murder, is necessary to give the superior court jurisdiction to enter a criminal Ruling, or Judgement and sentence contrary of the Final Judgement established by the "Acquittal-charge of First degree Rape" which relates to the only case that was Filed with the court on "November 6, 2002," under cause-number. 02-1-50413-1, which was dismissed on september 24, 2003, → (see - Appendix - A-21 and A-29, then A-1 and A-17).

Evidence of this "Jurisdictional-Fraud" is on the face of the Judgement and sentence, because the trial Judge, Prosecuting Attorneys, defense Attorneys, and clerk, signed off

on the Judgement and sentence - document with knowledge of the False cause number, "03-9511607", which is later boxed in on the face of the appellate court mandate Related to case No. 22594-1-III, as "Judgement" - NO. 03-9-51160-7 (see - Appendix - A-1 and A-17). see - state v. Ford, 33 WN. App. 788, 791 (1983)(Two cause numbers, Jurisdiction not Justified for one).

The filing of a "case" under a separate cause number in relation to the fabricated charge of - solicitation to murder, is necessary to give the court "subject matter Jurisdiction over the manufactured crime of - solicitation to murder without which, the court shall see, the evidence of a "Jurisdictional - Fraud" committed upon the court which destroys the Judgement and vitiates everything tainted by it.[1] see - Appendix - "B-26 and 27".

The case Filed under cause no. 02-1-50413-1, was about the acquittal charge of - First degree Rape, and the "want of Jurisdiction" over the case of solicitation to murder, makes the record utterly void and unavailable for any purpose. see Williamson v. Berry, 49 U.S. 495, 542-543 (1850); Orting v. Ruchner, 66 WN. 2d 732, 734 (1965).

[1] see - Batey v. Batey, 35 WN. 2d 791, 799 HN. 5 (1950)(The vitiating effect of a - Jurisdictional Fraud destroys the Judgement by reason of the fact that it defeats the Jurisdiction upon which the Judgement must rest is Fraud inhering in the Proceeding itself); Brown v. Mississippi, 297 U.S. 278, 286, 287 (1936); Townsend v. Burke, 334 U.S. 736 (1948).

→ clearly, "an assault with intent to commit the acquittal crime of- First degree Rape" is a "factual" assault on a female with intent to have intercourse with her by force and against her will, NOT a separate and distinct or nonincluded offense of the acquittal crime of Rape. see- state v. Rye, 81 wash. 388, 390, 142 P. 873 (1914)
→ ("crimes are known by the charging part of the information, and not by the particular name used by the Pleader"); united states v. Tsinhnahijinnie, 112 F.3d 988, 991-992 (9th cir. 1997)(citing, Berger v. united states, 295 U.S. 78, 82 (1935)); state v. Leach, 113 wn. 2d
→ 679, 689, 782 P.2d 552 (1989)(the "essential elements" rule requires that a charging document allege facts supporting every element of the offense, in addition to adequately identifying the crime charged). "sexual motivation" is a nonstatutory element of- "second degree assault". NO criminal information on the basis of False evidence that was deliberately Fabricated by the government can adequately and factually identify the crime actually charged, and for this reason, the facts stated in count no. 1 of the information, as amended, do not charge the crime of solicitation to murder, nor do the information, as amended, charge the crime of "second degree assault" as a separate and distinct offense or nonincluded offense of the Probable cause, Arraignment and Acquittal crime of- First degree Rape, because the state supreme court of washington has made it clear in a number of decisions that "double Jeopardy" exist if the "lesser offense"

(...of-second degree ASSAULT) CAN be said to be A CONSTITUENT element in the perpetration of the greater offense (here, the ACQUITTAL charge of First degree Rape). see- Harris v. WASHINGTON, 404 U.S. 55, 92 S.Ct. 183 (1971); State v. Brown, 127 WN.2d 749, 756, 903 P.2d 459 (1995) (UNDER the First degree Rape-statute-RCW 9A.44.040, the INFLICTION of SERIOUS physical INJURY during the ASSAULT constituting the Rape is AN AGGRAVATING factor elevating the crime to first degree Rape, AND the PLAIN LANGUAGE of the statute supports NO other CONCLUSION); SANABRIA v. UNITED STATES, 437 U.S. 54, 72", N. 29", 98 S.Ct. 2170 (1978) (Government may NOT, under-Double JEOPARDY clause, "FRAGMENT what is IN FACT A single crime INTO its component"). see- Appendix-B-40 ("The Prosecutor's Purpose for adding the ASSAULT").

" The Prosecutor's version of the ASSAULT described IN AN AFFIDAVIT, is AS follow: ASSAULT with INTENT to commit the crime of RAPE" (VAGINAL PENETRATION) AND (ORAL SEX). see- Appendix-24-25, 26-28. see- JOHNSON v. MISSISSIPPI, 486 U.S. 578, 581, N. 2, 585, 108 S.Ct. 1981 (1988) (Petitioner presumed INNOCENT of A charge of-second degree ASSAULT with INTENT to commit First-degree Rape, AFTER CONVICTION of that offense IN 1963, had been Reversed) (cited with APPROVAL by- NELSON v. COLORADO, 581 U.S. 128, 135-136, N. 10, 137 S.Ct. 1249 (2017)); see- UNITED STATES v.

Bryant, 420 F.2d 1327, 1335-1335-1336 (D.C. CIR. 1969) (ASSAULT is A lesser included offense UNDER ASSAULT with intent to commit RAPE); NUNEZ V. Gov't of virgin islands, 2010 U.S. Dist. Lexis 76951, *11, *13, *31 (2010) ("The only fact the Government needs to Prove under the RAPE-statute that it need NOT Prove under the ASSAULT-statute is - sexual intercourse". AS such, ASSAULT with intent to commit RAPE is A lesser-included offense of RAPE, AND identical to Attempted RAPE); McElrath v. Georgia, 601 U.S. 87, 96, 97 (2024) (Double JEOPARDY FOR the Purposes of AN ACQUITTAL is [redacted] A question of federal, not state, LAW).[2]

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

David P. Webster

DAVID P. Webster

Date: AUGUST 31, 2026

SINCE "SEXUAL motivation" WAS AN essential "NONSTATUTORY element of-second degree ASSAULT;"

[2] The Petitioner Relies heavily ON- SANABRIA V. UNITED STATES, 437 U.S. 54, 72 N. 29, 73 N. 32 (1978) for the Proposition that the single offense of "RAPE" could NOT be divided INTO "discrete bases of liability" UNDER different theories AND counted AS separate offenses FOR purposes of- double JEOPARDY, AND this is why the "ASSAULT" constituting the "serious Physical injury" element of "RAPE" could NOT be used by the state to charge "ASSAULT" AS A separate AND distinct offense, AND creation of A Void Judgement

see-Pg, 29 of 40

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

NOV 17 2025

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

DAVID P. WEBSTER,

Petitioner - Appellant,

v.

ROB JACKSON,

Respondent - Appellee.

No. 25-4065

D.C. No. 4:24-cv-05170-TOR
Eastern District of Washington,
Richland

ORDER

Before: TALLMAN and KOH, Circuit Judges.

The court has considered all filings submitted by appellant in support of the request for a certificate of appealability ("COA"). The request for a COA (Docket Entry No. 5) is denied because appellant has not shown that "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see also* 28 U.S.C. § 2253(c)(2); *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012).

Any pending motions are denied as moot.

DENIED.

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jan 17, 2025

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

DAVID P. WEBSTER, Petitioner, v. ROBERT JACKSON, Respondent.	NO: 4:24-CV-5170-TOR ORDER DIRECTING TRANSFER TO NINTH CIRCUIT COURT OF APPEALS

Petitioner, a prisoner at the Washington State Penitentiary, seeks to file *in forma pauperis* a *pro se* Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. This is Mr. Webster's second federal habeas action challenging his 2003 Franklin County jury convictions for solicitation to commit murder in the first degree and second-degree assault. ECF No. 1 at 1–2. *See Webster v. Uttecht,* No. 4:07-cv-05024-EFS, denied on the merits on August 1, 2008. ECF No. 87. On June 16, 2009, the Ninth Circuit denied a certificate of appealability. ECF No. 112.

A district court lacks authority to review second or successive habeas petitions filed without authorization from the Circuit Court of Appeals. 28 U.S.C. § 2244(b)(3)(A). Specifically, the habeas corpus statute provides:

> "Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application."

See 28 U.S.C. § 2244(b)(3)(A); *see also* Ninth Circuit Rule 22-3. Petitioner provides no authority for this Court to consider his second or successive petition at this time.

When a second or successive petition is mistakenly submitted to the district court, that court shall refer it to the court of appeals. Ninth Circuit Rule 22-3(a).

Accordingly, **IT IS ORDERED** this case is T**RANSFERRED** to the Ninth Circuit Court of Appeals, pursuant to 28 U.S.C. § 1631 and Ninth Circuit Rule 22-3(a).

Petitioner is advised that this transfer does not of itself constitute compliance with § 2244(b)(3) and Ninth Circuit Rule 22-3; he must still make the showing required by § 2244(b)(2). Petitioner is directed to consult this statute and Ninth Circuit Rule 22-3 for further information.

The Clerk of Court is directed to terminate this case and transfer the documents to the Ninth Circuit Court of Appeals. The Clerk of Court shall retain

the docketed application and this Order in the file. The Clerk of Court is further directed to enter this Order, provide a copy to Petitioner, and **close** the file.

DATED January 17, 2025.

THOMAS O. RICE
United States District Judge

Additional material from this filing is available in the Clerk's Office.