

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

REV. ERROL VICTOR SR. L.S.)

Plaintiff

)

VERSUS)

STATE OF LOUISIANA)

Defendant)

CIVIL ACTION NO:

20-3432

SECTION MAGISTRATE

SECT.J MAG.3

TENDERED FOR FILING

DEC 21 2020

U.S. DISTRICT COURT
Eastern District of Louisiana
Deputy Clerk

Page 1 of 15

COMPLAINT

JURISDICTION

1. EASTERN DISTRICT OF LOUISIANA

PARTIES

2. PETITIONER, REV. ERROL VICTOR SR.

COMPLAINT

3. A statement of claim:

COMPLAINT FOR DAMAGES, DECLARATORY JUDGMENT AND FOR PRELIMINARY INJUNCTION

1. This is a pleading for a permanent injunction and temporary restraining order enjoining the defendant(s) and each of them, their agents, employees from continuing their policy, custom and usage of violating plaintiff's constitutional rights, particularly, constitutional rights under the 4th Amendment, 5th Amendment, 6th Amendment, 7th Amendment, 8th Amendment, 9th Amendment, 13th Amendment, and the 14th Amendment of the United States Constitution.

Petitioner also asserts that defendant(s) are violating the United States Civil Rights Act; 42 U.S.C. 1983, Section 1985, and Section 1986, 18 U.S.C., Section 241 and Section 242.

Petitioner seeks redress for discrimination on account suffered by Petitioner and Petitioners in violation of the Constitution and Laws of the United States of America.

Petitioner alleges that rights of the constitutional procedural due process and due process that afforded Petitioner and Petitioners by law have been and are being infringed upon; rights to equal protection to the right to an unanimous jury has been violated, 4th Amendment rights against illegal seizure, 5th Amendment prohibition against double Jeopardy, 6th Amendment right to a speedy trial have been violated while Defendants(s) are continuing to hold/detain Petitioner(s) hostage under the color of law in their official and individual capacity attempting to reinstitute prosecution while prohibited by Federal

Constitution and barred from doing so, exceeding the limits of authority in violation of Federal protective Constitutional immunities, civil and human rights.

2. This is also a complaint for damages (Federal questioned jurisdiction and controversy is over \$1,000,000,000 dollars) and a proceeding for a declaratory judgement pursuant to the provision of Title 28, United States Code, Section 2201 and 2202, for the purpose of determining the following questions in actual controversy between the parties.

This Honorable Federal District Court should carefully review this Petition of which Petitioner (contends) supports the allegations contained herein and subsequent to such an examination, and find just cause to grant.

Specifically, the principal of strict scrutiny should be applied as Petitioner(s), Rev Errol Victor Sr., L.S. et ux et al are African Americans of suspect classified citizens who have historically been proven to be powerless in a majoritarian process, the court should at least require an evidentiary hearing wherein Petitioner(s) may submit evidence of the veracity of Petitioner's request.

A. Whether defendant(s) violated Petitioner(s) rights to a trial by an impartial jury pursuant to the sixth (6th) Amendment of the United States Constitution and denied Petitioner(s) Equal Protection of the Law as incorporated against the States under the Fourteenth (14th) Amendment of the United States Constitution.

B. Whether defendant(s) violated Petitioner(s) right to be protected from improper seizure of person and involuntary servitude prohibition protection pursuant to the fourth (4th) Amendment and the Thirteenth (13th) Amendment by restraining Petitioner/Petitioners powerless in their custody captive while forcing harder labor upon him/them, without a valid conviction denying Petitioner/Petitioners procedure of due process and Equal Protection of Law afforded Petitioner/Petitioners pursuant to the Fourteenth (14th) Amendment of the United States Constitution without just compensation.

C. Whether Defendant(s) violated Petitioner(s) procedural due process, due process and Equal Protection in violating Petition(s) Civil Rights pursuant to 42 United States Constitution Section 1983, for subjecting and causing Petitioner/Petitioners irrefutable deprivation of his/their rights, privileges and immunities secured by the Constitution and Laws of the United States of America, including the Civil Rights Act of 1964, barring discrimination based on race, color religion, sex, or national origin by Federal or State Government to prevent the abuse of Government powers, pursuant to 42 United States Constitution Section 1985, 1986, and 18 U.S.C. Section 241 and 242.

D. Whether Defendant(s) violated Petitioner(s) procedural due process, due process under the (4th) Fourth, (5th) Fifth, (6th) Sixth, (8th) Eight, (9th) Ninth, (13) Thirteenth and (14th) Fourteenth Amendments of the United States Constitution and the Laws and Statutes of the State of Louisiana by purposefully manufacturing wrongful convictions, attempting to manufacture wrongful convictions by methods of malicious prosecution by creating a scheme to;

1. Punish African American Louisianans, males in particular predicated on non-unanimous jury verdict unconstitutional convictions for serious crimes as is historically documented and according to the chairman of Louisiana's Constitutional Convention "to establish the Supremacy of the White Race" to undermine African American Louisianans Civil Rights, due process and Equal Protection Rights and privileges and immunities afforded them by the United States Constitution without fear of reprisal, as in this case sub judice suffered by your African American male Petitioner herein, Rev Errol Victor Sr.
2. Abuse of process by method of improper procedural application of Law, manifest error of Law, and misrepresentation of what the certified record connotes arbitrarily administration of acts discriminatively applied prejudicial to Petitioner(s) and contrary to protective Federal Constitutional protective rights, done in official capacity under the color of law.
3. Maximizing unlawful detainment causing vexation litigation and repeated habeas(s).
4. Unreasonably excessive bonds Pre-trail denying Pre-trial Liberty eroding Petitioner/Petitioners presumptions of innocence Pre-trial Privileges including reputation and economic stability.
5. Human trafficking Petitioner(s) across state lines and jurisdictions in violations of and contrary to Federal Constitutional protections and civil rights reenacting the fugitive slave act in practice prohibited.
6. Alienating the affection between husband and wife, children and parents causing forced separation, mental fatigue and anguish, psychological torment and tyranny, various chilling effects, emotional instability loss of income/financial strain, loss of property and loss of business assets, loss of consortiumship and conjugal rights for years without due process, without equal protection of the law guaranteed by the Federal Constitution of the United States of America without the State of Louisiana obtaining a valid lawful Constitutional conviction.

3. PARTIES

3. PETITIONER, ERROL VICTOR SR., Living Soul, is a citizen of the United States of America and is presently held illegally in custody of the St. Charles Parish Nelson Coleman Correctional Center within the jurisdiction of the Eastern District Court of the United States of the State of Louisiana, who owned business and personal property that exceeded Twelve Million (\$12,000,000.00) DOLLARS and his business economic life was estimated at \$500 Hundred Million (\$500,000,000.00) DOLLARS, over a fifty year period.

4. Defendant(s), STATE of LOUISIANA, its agents, entities, and employees in their individual and official capacity, who were and are at all times responsible for all acts in the violations of Petitioner's Federal protective Constitutional Rights, Civil Rights and Human Rights.

ALL PARTIES INDISPENSABLE INCLUDED

NATURE OF ACTION

5. This complaint for damages, reparations and relief is brought by the Petitioner(s) under the United States Constitution, the Constitution of the State of Louisiana because the defendants have violated plaintiff/Petitioner(s) due process, procedural due process, equal protection and civil rights protection of the law. The defendant(s) have created a scheme and conspiracy to take Plaintiff's life, liberty and pursuit of happiness, plaintiff's property and have taken plaintiff's business with an economic life projected at more or equal to \$500 Hundred Million (\$500,000,000.00) DOLLARS without due process, procedural due process or equal protection of the law. Petitioner seek general and special damages compensatory and punitive damages, reparation and injunctive relief against defendant(s).

JURISDICTION AND VENUE

6. Jurisdiction of this court is pursuant to 28 U.S.C. Section 1343, 28 U.S.C. Section 1331, 42 U.S.C. Section 1983 et seq. for violation of Right to Privacy, and the Fourth, Fifth, Sixth, Eighth, Ninth, Thirteenth, and Fourteenth Amendments to the United States Constitution. These violations were and are being committed within the Eastern District of the State of Louisiana. Plaintiff/Petitioner Rev. Errol Victor Sr. is incarcerated.

illegally in the Eastern District. See, Habeas filed 28 U.S.C. Section 2241 Pre-trial detained.

ALLEGATIONS TO SUPPORT ACTION

7. Plaintiff/Petitioner alleges that the State of Louisiana colluded and conspired to deprive Petitioner and Petitioners who are of African American Heritage (the descendants of former slaves) constitutional due process of law and specific civil rights stated in terms of racial equality, and rights denied which Petitioner/Petitioner cannot enforce in the Courts of Louisiana has demonstrated and continues to demonstrate a complete disregard for the Statutory and Constitutional rights of African American within its jurisdiction and in particular in Petitioner's case.
8. Respondent has demonstrated that in pursuit of African Americans (males in particular), that the State of Louisiana will close the legal due process and equal protection of law and immunities requirement of both Louisiana and the United States Constitutions.
9. Petitioner, the Rev. Errol Victor Sr. L.S. was indicted in a 3rd superseding indictment. Petitioner is African American. The instant superseding indictment was obtained following the District Court's termination of a second flawed superseding indictment obtained in violation of Louisiana and the United States Constitutions.
10. Louisiana filed the third flawed instant indictment consistent with a process employed obtaining indictment and/or bill of information against African Americans in violation of mandate for empaneling, appointing, or otherwise consisting of a grand jury and reinstitution of prosecution and allotment of cases under the law. A careful examination of the race practice reveals that African American Citizens are indicted/reindicted and/or charged by bill of information a disproportionate greater percentage of time, as opposed to Caucasian Americans arrested for the same or similar offenses that are more likely to be prosecuted and convicted in a court of law in the State of Louisiana.
11. Petitioner avers and show that the State of Louisiana in pursuit of African Americans rarely (if at all) apply to force and assets of their office to pursue Anglo Americans/White Americans with the same vigor that the State of Louisiana pursues African American-defendants. In this case, Rev. Errol Victor Sr., and wife Tonya O. Victor, both African American parents, have been indicted three (3) times for the same offense which has been twice (2) times acquitted by operation of law with previous indictments dismissed concluding in a Judicial Quash. Both Rev. Victor and wife were forced, contrary to their

Federal Speedy Trial Rights and Double Jeopardy protections of the U.S.C., to represent themselves; [Pro-SE] at a Capital Trial, facing life without any benefit of parole or probation, with no legal experience.

12. Incredibly, Miraculously, Petitioner still managed to achieve a 10-2 jury verdict. A non-unanimous jury verdict and thereafter unconstitutionally convicted.
13. Petitioner avers that the non-unanimous jury scheme in Louisiana codified at Article 1, Section 17 of the Louisiana Constitution and Code of Criminal Procedure Article 782 as was written and enforced by the State of Louisiana prior to Louisiana's November 06, 2018 election and amend constitution violated specific civil rights, 42 U.S.C. Section 1983 of Petitioner/Petitioners and specific Federal rights, namely the Fourteenth Amendment's Equal Protection Clause and Constitutional Immunities.
14. Petitioner may produce on the hearing on the merits evidence to support his contentions that, African Americans are treated differently due to their race in the State of Louisiana dating back to decades where these tactics are contrary to the laws of the United States and of which embraces Jim Crow and other racial practices. Such tactics are meted out to African American defendants as a matter of course in the State of Louisiana. This Honorable, Federal District Court for the Eastern District of Louisiana should exercise authority pursuant to 28 U.S.C. Section 1343, 28 U.S.C. Section 1331, 42 U.S.C. Section 1983, 1985, 1986, for violations of statutory rights incorporated by the Fourteenth Amendment of the United States Constitution against the States, and for the violations of the Fourth (4th), Fifth (5th), Sixth (6th), Eight (8th), Ninth (9th), Thirteenth (13th), Fourteenth (14th) Amendments incorporations thereof of the United States Constitution that are being committed within the Eastern District of Louisiana, assume jurisdiction in this matter and protect petitioner/petitioners as a class of citizens (African Americans) from the intentional, careless, and reckless non-conformity with jurisprudence and laws, civil rights, and the constitution of the United States, Petitioner reserves the right to enroll attorney in this matter.
15. Petitioner is presently held captive and falsely incarcerated in Nelson Coleman Correction Center (7) months after the United States Supreme Court granted his writ in Petitioner's case (See, Victor v. Louisiana, 19-5989 ____ U.S. ____ 2020, April 27th, 2020) and vacated his conviction and sentence, without a conviction, without sentence, without reinstatement or reinstitution of prosecution, without Bond and arguably without Louisiana procedurally able to prosecute due to Speedy Rights long since violated as well as double jeopardy prohibitions, Petitioner is unlawfully, in violation of Federal Protective Constitution Rights, is being, at the time of this writing illegal unconstitutionally forcefully detained by the State and State actors without fear of

reprisal. Petitioner, Rev. Errol Victor Sr. L.S. moves for the protection of his Federal Constitutional rights to be immediately release. (See, Habeas filed in this honorable court, Victor v. Robinson, Nov. 2020) and a Temporary Restraining Order Expeditiously.

16. The State of Louisiana consistently use the law arbitrarily and selectively with African American defendants. Petitioner alleges that Louisiana's long history of racism, discrimination and partial treatment of African Americans in its court system requires a minimum inquiry as to whether this case involving a 10-2 jury verdict, several civil rights violations, continual tort actions, speedy trial rights violation, double jeopardy violations, malicious prosecution, attempted malicious prosecution, crimes in official capacity misprision of felony by officers of the court and employees of the State in violation of oath of office, malfeasance, theft of public funds, as to whether this case (among others) should not be granted a permanent injunction and temporary restraining order enjoining the defendant for violating Petitioner's Civil Rights and Federal protections.

CAUSE OF ACTION

United States Supreme Court of America

ON REMAND

Victor v. Louisiana, 19-5989 (4/27/2005), 590 U.S. 2020

17. Holding: The Supreme Court Justice Gorsuch, held the Sixth Amendment right to jury trial, as incorporated against the states by way of the Fourteenth Amendment, requires a unanimous verdict to convict a defendant of a serious offense, abrogating Apodaca v. Oregon, 406 U.S. 404, 92 S. Ct. 1628, 32 L. Ed. 2d 184, and Johnson v. Louisiana, 406 U.S. 356, 92, S Ct. 1620, 32 L. Ed. 2d. 152, and on April 27, 2020 thereby Vacated petitioner herein, Rev. Errol Victor Sr.'s conviction and sentence and Remand to the inferior courts in light of this Ratio Decidendi, in Petitioner's case by an eight to one vote.

18. In 48 States and Federal court, a single juror's verdict to acquit is enough to prevent a conviction, but Louisiana have long punished people based on 10-to-2 verdicts. In this case, Rev Errol Victor Sr. was convicted of a serious crime in Louisiana Court by a 10-to-2 jury verdict. Instead of a mistrial he would have received almost anywhere else in the country, Rev Errol Victor Sr. was sentenced to life without parole. The United States Supreme Court Ruled his conviction by a non-unanimous jury was unconstitutional

denial of the Sixth Amendment Right to a jury trial and held that his Judgment of Conviction is to be VACATED (SEE, Exhibit "A") writ of Coram Nobis Exhibit attached.

19. Plaintiff states that said scheme to deny plaintiff(s) right to a jury trial and unanimous verdict to convict is in violation of 42 U.S.C. Section 1983, 1985, and 1986, and 18 U.S.C. Section 241 and 242.

42 U.S.C. Section 1983 provides that:

Every person who, under the color of any Statute, ordinance, regulation, custom, or usage, of any State or Territory or District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and law, suit in equity, or other proper proceeding for redress, shall be liable to the party injured in an action of law.

As a result of the aforementioned violation of Plaintiff's Statutory Rights as incorporated by the 14th Amendment of the Federal Constitution, defendant continuously violated Plaintiff's 4th Amendment, 5th Amendment, 6th Amendment, 8th Amendment, 9th Amendment and 13th Amendment without any fear of reprisal all incorporated against the States by the 14th Amendment of the U.S.C. See, Ramos v. Louisiana Opinion pg. (3 of 11) last paragraph, (4 of 11) First two First paragraph attached as Exhibit "(B)", Petitioner provide for supplement to petition "Written Reason for Judgment" by the Honorable Stephen B. Beasley, 11th JDC, Sabine Parish, Louisiana, State of Louisiana versus Melvin Cartez Maxie, Docket No. 13-CR-72522 for clarity in support of Petition.

42 U.S.C. 1985 provides that:

- (2) Obstructing justice; intimidating party, witness, or juror. If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully. And truthfully, or to injury such party or witness in his person or property...or if two or more person conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or

his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to equal protection if the law;

(3) Depriving person of rights or privileges. If two or more persons in any State or Territory conspire, or go in disguise on the highway or on the premise of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of equal protection of the laws, or of equal privileges and immunities under the law...In any case of conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for recovery of damages, occasioned by such injury or deprivation, against any one of the conspirators.

42 U.S.C. Section 1986 provides that:

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in the preceding section 1985, are about to committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representative, for all damages caused by such wrongful act, which such person by reasonable diligence could have pretended; and such damages may be recovered in an action on the case;

18. U.S.C. Section 241 provides that:

If two or more person conspire to injure, oppress, threaten, or intimidate any inhabitant of any State or Territory, District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or law of the United States, or because of his having so exercise the same; or if two or more persons go in disguise on the highway or on premise of another, with intent to prevent or hinder his free

exercise or enjoyment of any rights or privilege so secured-They shall be fined no

more than \$10,000.00 or imprisoned not more than ten years, or both, and if death results, they shall be subject to imprisonment for any term of years or for life.

18 U.S.C. Section 242 provides that:

Whoever, under the color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured by the laws of the United States shall be fined under this title or imprisoned not more than one year, or both; if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use or threatened use of a dangerous weapon, shall be fined under this title or imprisoned not more than ten years, or both;...

CAUSE OF ACTION 2

VIOLATION OF 5TH AMENDMENT DOUBLE JEOPARDY, 6TH AMENDMENT SPEEDY TRIAL AND 14TH AMENDMENT EQUAL PROTECTION DUE PROCESS, PROCEDURE DUE PROCESS

Plaintiff for argument submits "Plea In Bar" Dismissal pursuant to La. Cr. C. P. Art 532(f) in violation of Sixth Amendment of the United States Constitution Speedy Trial Rights incorporated against the States by 14th Amendment U.S.C. as well as due process and equal protection immunities and privileges afforded to Louisianans pursuant to the Louisiana Constitution, Art 1, Section 16, 2, 3, and 22, as attachment to this pleading submitted to the 40th JDC a total of 29 pages with exhibits.

CAUSE OF ACTION 3

VIOLATIOIN OF 6TH AMENDMENT DOUBLE JEOPARDY AND THE 14TH AMENDMENT

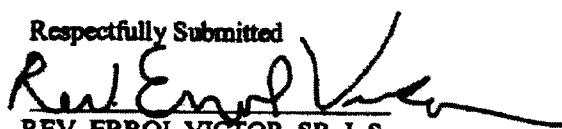
Plaintiff submits for argument "Writ of Coram Nobis/Vobis, Wit of Error, NUNC PRO TUNC in the violation of THE DOUBLE JEOPARDY DOCTRINE OF THE SIXTH AMENDMENT OF THE UNITED STATES CONSTITUTION INCORPORATED TO THE STATES by the Fourteenth (14th) Amendment as submitted to the 40th JDC, Writ (222) pages, Exhibits 13-40, with Judgment/order conceding that the original allotted case 2000-CR-165 ended with a motion to Quash Granted By the Trial Judge, never appealed, a Judicial Acquittal by operation of law due to an improper procedural dismissal by the State's Prosecutor thereafter the reinstitution of prosecution of the same case/cause/issue in another allotted division of Court against the Standing Rules of the Court and Federal Constitutional Prohibitions both the Sixth Amendment and the 14th Amendment U.S.C. Double Jeopardy and Equal Protection violations

WHEREFORE, plaintiff pray that this Court:

1. Assume jurisdiction of this action and issue a temporary restraining order, or a Preliminary injunction and a permanent injunction restoring plaintiff's Liberty, business, movable and immovable property, stop defendants from taking further action against plaintiff until such time that a hearing can be heard, and a permanent injunction restraining defendant(s) and its agents and servants from further injuring Plaintiff herein until there is a full-blown proper hearing before a jury;
2. Declare that the defendant(s) violated plaintiff's right to privacy, right to his property, violated plaintiff's equal protection of the law, immunities and privileges, violated his Constitutional Right to procedural due process, violated plaintiff's right to a trial by a fair and impartial jury as pursuant to the Constitution of the United States, ad set forth above;
3. Award plaintiffs \$3,200,200,000.00 for compensable plus punitive damages and reparations for the violation of Petitioner and all indispensable African American Louisianans and unknown parties similarly situated, of their protective Constitutional Federal Rights, loss of income, liberty, business, reputation, dignity, for mental anguish, alienation of affection, involuntary servitude for shame and unspeakable humiliation and dehumanization and their cost and attorney fees, pursuant to 42 U.S.C. Section 1983, and all available laws and statutes under the United States Constitution and State of Louisiana;
AND,
4. Enter such other and further relief as the Court deems just
5. Plaintiff request a trial by Jury
6. Plaintiff reserves the right to amend/supplement this pleading

Dated: 12-18-20

Respectfully Submitted



*In Proper Person

REV. ERROL VICTOR, SR. L.S.

P.O.Box 2181

Slidell, LA 70459

CERTIFICATE OF SERVICE

I, We, Certify that on this _____ day of _____, _____, a copy of the foregoing was filed with the Honorable Clerk of Court, by physically handing same to Correctional officer as per the mailbox rule to be placed with the U.S. Mail, postage prepaid in advance of mailing, to the opposing party.

Rev. Errol Victor Sr., L.S.
Pro Se PETITIONER

STATE OF LOUISIANA

AFFIDAVIT

I, Rev. Errol Victor Sr., HEREBY STATE UNDER PENALTY OF PERJURY THAT I AM THE AFFIANT HEREIN LISTED IN THIS PETITION AND THAT ALL STATEMENTS AND FACTS CONTAINED HEREIN ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

THUS DONE THIS _____ day of _____, _____

Rev. Errol Victor Sr.
PETITIONER

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

ERROL VICTOR SR. L.S.

DEFENDANTS

STATE OF LOUISIANA

20-3432
SECT.J MAG.3

County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

(b) County of Residence of First Listed Plaintiff

County of Residence of First Listed Defendant

(c) Attorneys (Firm Name, Address, and Telephone Number)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

 1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party) 2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	PROPERTY RIGHTS	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 376 Qui Tam (31 USC 3729 (a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	LAW	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 340 Marine	SOCIAL SECURITY	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 450 Commerce	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 490 Other Statutory Actions
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 835 Patent Abbreviated New Drug Application	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 896 Arbitration
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	Habeas Corpus:	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence		
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General		
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities Employment	<input type="checkbox"/> 535 Death Penalty		
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities Other	Other:		
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other		
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
			IMMIGRATION	
			<input type="checkbox"/> 462 Naturalization Application	
			<input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN (Place an "X" in One Box Only)

 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

VI. CAUSE OF ACTION
~~555-42-1983 - PRISONER PETITION CHALLENGING CONDITIONS OF CONFINEMENT~~
~~550-42-1983 - PRISONER CIVIL RIGHTS~~VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE

ROUND
2
SPEED
TRIAL
P16 HTS

40TH JUDICIAL DISTRICT COURT
ST. JOHNS THE BAPTIST PARISH
STATE OF LOUISIANA

Date: Nov. 12, 2020

C/O Honorable Clerk of Court

40TH JUDICIAL DISTRICT CT.

Post Office Box 280

Edgard, La. 70049

ref: AS # 2010-CR-172

Dear Sir or Madame,

Please find enclosed, "Pläd IN Bar" Dismissal
for Violation of Speedy Trial Rights, Equal Protection
Doctrine, Double Jeopardy Prohibition" Total of
29 pg's.

Please date/stamp/file/copy and send proof of same
to the below and above address, and make a part of the
official record. Expeditions Consideration !!

Thank You for Your Kindness and Sincere consideration
to this very serious matter.

Respectfully Submitted,
Rev. E. V. Jr.

REV. ERROL VICTOR, JR.
N.O.C.C. 5061 Hwy 3127
MILLONG, LA. 70057

40TH JUDICIAL DISTRICT CT.
ST. JOHN THE BAPTIST PARISH
STATE OF LOUISIANA

State of Louisiana CST 2010-CR-172

v.

Errol Victor, Jr. Div. "B"

FILED: Clerk of Court

"PIEA IN BAR"
DISMISSAL FOR VIOLATIONS

OF

SPEEDY TRIAL RIGHTS

EQUAL PROTECTION DOCTRINE

DOUBLE JEOPARDY PROHIBITION

PETITIONER'S CRIMINAL IMMUNITY

Respectfully Submitted
Rev. Errol Victor, Jr.

Errol Victor, Jr., L.S.
NCCC, 5061 Hwy 3127
KILLONZ, LA. 70057

40TH JUDICIAL DISTRICT COURT
ST JOHN THE BAPTIST PARISH
STATE OF LOUISIANA

State of Louisiana

CS# 2010 - CR - 172

4

ERROL VICTOR, SR.

DIV: "B"

FILED:

Clerk:

PLEA IN BAR

DISMISSAL PURSUANT TO L.A.C.C.R.P. ART 532(7),
FOR VIOLATION OF SPEEDY TRIAL RIGHTS, EQUAL PROTECTION

NOW INTO COURT, comes, Rev. Errol Victor, Jr. L.S., who move this honorable Court of conscience to dismiss and bar the above entitled action/case for the continual violations of L.A.C.C.R.P. art 57a and the Sixth Amendment of the U.S. Constitution incorporated against the State by the 14th Amendment U.S.C., as well as relevant due process and equal protection provisions afforded to the accused pursuant to the Louisiana Constitution, Art. I, Section 16, 2, 3, and 22.

1.

If it is an extremely irrefutable well settled fact that, "Once an accused' speedy trial rights is deemed to have been violated, then no further prosecution can ever be

instituted against the accused of the same case/cause/issue" A procedural bar from prosecution. Aggrieved Petitioner herein proceeds pursuant to the holding in the case of Barker v. Wingo, 407 U.S. 514, 92 S.Ct. (1972) standard and balancing test which consist of four factors; State v. Perkins, 374 S.O. 2d 1234 (La. 1979), only two needed

I LENGTH OF DELAY

~~Petitioner was arrested 3rd time on same charge 2013~~
In this case sub judice, your aggrieved petitioner herein trial began ON July 22, 2014. The trial jury in open court returned a non-unanimous jury verdict unconstitutional insufficient to establish guilt beyond a reasonable doubt nor to sustain a conviction. The Verdict (non-unanimous) was rendered ON August 01, 2014, OVER "Six(6) years" ago to date of this pleading and "Six(6) years" after arrest, a total of (12) yrs

The Rev. Errol Victor, St., living soul, has been held unconstitutional hostage/captured and falsely imprisoned by the State of Louisiana, its actors, entities and agencies without re-trial nor reinstatement of prosecution for what is more than Two - THOUSAND ONE - HUNDRED AND NINETY DAYS and counting in violation of La. C.Cr.P. Art. 578 which provides in pertinent part;

A. No trial shall be commenced nor any bail obligation be enforceable:

(2) In felony cases after two years from the date of institution of the prosecution

Specifically, in violation of the Sixth Amendment of the United States Constitution which provides in pertinent part:

A valid conviction,

"requires a unanimous jury verdict to convict a defendant of a serious offense, as well as, protects defendant's 'right to a speedy trial.'"

The Sixth Amendment is incorporated against the States under the Fourteenth Amendment U.S.C. due process and equal protection clause. The State's six years delay / silence, without declaring a mistrial, re-trial, or re-institution of prosecution, is an unreasonable delay and is, according to Miller v. Finnnett, 257 F. 2d 910 (10th Cir 1958), a form of assault and battery and is defined as false imprisonment. La.C.C.P. Art. 578 (Supre) demands, mandate, requires that petitioner's case by operation of law was closed final as of August 01, 2016, two years after the jury returned a non unanimous verdict, when 2 pair (2 of 12 jurors believed the State of Louisiana had failed to prove

Rev. Victor's guilt and voted to acquit.

Consequently, it is a well settle fact, that improper procedural application of law predicated upon a State's unconstitutional Statute "does not toll time". See, Norton v. Shelby, 118 U.S. 425 6 S.Ct. 1121, 30 L.Ed. 178 (1986)

Further, "A decision by a last Court of supervisory review (Court of last resort), holding that a state's Statute is unconstitutional, renders said Statute "void" from the date of its enactment, and not the date upon which it was judicially declared to be unconstitutional. See, International Harvester Co. v. Commonwealth, 170 Ky 41, 185 S.W. 102 (Ky Ct. App.) void ab initio, when retroactively applied.

Subsequently, beginning from August 01, 2014, the date of the non unanimous verdict returned by the trial jury and proof evident of the State of Louisiana's failure to prove guilt beyond a reasonable doubt to sustain a valid lawful conviction in this case of bar, all rulings, judgments, orders, and Appeals that was a result of an unconstitutional conviction and sentence, was in legal contemplation, null void and moot proceedings, inoperable in law, unrecognizable and is afforded no power to toll time. (See, Norton v. Shelby, Supra) Ultra vires, without legal authority or effect. THE Holding in Norton v. Shelby provides,

"An unconstitutional act is not law,

it confers no rights, it imposes no duties,
it affords no protection, it creates no office,
it is in legal contemplation as inoperative
as though it has never been passed."

Simply put, an unconstitutional statute has no power in law, *a fortiori*, all acts predicated upon an unconstitutional statute has no power in law. ~~Where~~ retroactivity is applicable (*State v. Ingel*, 308 A.2d 223, 18 Md.App. 514 (Md App. 1973) *id* (308 A.2d. 229))
The Status of this case/cause/issue sub judice, on Remand, from the Louisiana Fifth Circuit State Court of Appeal, on Remand, from the United States Supreme Court, must be in legal contemplation of law as though the proceedings after August 01, 2014 had never been entered. See, *Redstone Land Dev. Co. v. Boatwright*, 209 So. 2d 221, 44 Ala. App. 363 (Ala App. 1968) Quoting, *Shelby v. Norton* (*Supra*). THE State of Louisiana in this case at bar has had its day in court, and in a light more favorable to the state, has failed to prove guilt beyond reasonable doubt to a trier of fact to sustain a valid conviction. Further, the State in its failure to re-institute prosecution nor the Court to order a mistrial without the tolling of time, nor any interruption of time by the accuse, nor the consent of the accuse to a mistrial for what is now ^{more} than an excess of (6) six years running,

irrefutably violates Rev. Errol Victor, Sr's, petitioner herein, La.C.Cr.P. Art. 578, La.C.Cr.P. Art 775(2)(3), statutory procedural due process and time limitation for the institution of prosecution pursuant to the Sixth Amendment U.S.C. Right to a Speedy Trial incorporated by the 14 Amendment against the States.

Petitioner has satisfied the First Factor of the Barker's balancing test. (See, Barker v. Wingo, Supra) "LENGTH OF DELAY." Six years too late..

II REASON FOR DELAY

The trial court Judge herein, sub judice contrary to La.C.Cr.P. Art 775(2)(3), did not declare a mistrial as constitutionally required by the Sixth Amendment of the U.S.C., but rather unconstitutionally entered a Judgment of Conviction and ordered petitioner aggrieved herein, to be illegally sentence and unconstitutionally falsely incarcerated in violation of La.C.Cr.P. Art. 872, to life in prison without benefit of parole or probation at hard labor in bad-faith Ultra Vires, pursuant to the State's legislative historical statute Article 1, Section 17 of the Louisiana Constitution and Article 782 of the Louisiana Code of Criminal Procedure, both of which addresses Louisiana's non unanimous scheme to Quote the Louisiana Legislators "to establish the Supremacy of the white Race" trappings of the Jim Crow

era of racism practiced for over 122 years against African Americans "Black" citizens, male in particular, as is Rev. Errol Victor, Sr., your petitioner herein. A relic "traceable" to the State of Louisiana's defunct racial segregation that still "have discriminatory effects" that offends the Equal Protection Clause. This purposefully intended erroneously wrong statutory State precedent relegated to the dustbin of history, has been willfully stubbornly practice by the legislative, judicial, and executive branches of the State's Government in Bad-faith, contrary to well settled national jurisprudence universally agreed upon.

THE trial COURT IGNORED the Constitutional remedy pursuant to La.C.Cr.P Art 775(2) which provides;

ART. 775.

A Mistrial may be ordered, and in a jury trial the jury dismissed when;

(2) The jury is unable to agree upon a verdict,

A Mistrial may be ordered, and in a jury trial the jury dismissed when the state and the defendant jointly moved for a mistrial

The trial court failed to adhere to any of said constitutional remedy, and proceeded forward by way of nullifies, Ultra Vires acts constitutionally unrecognized, having no power in law of which the opposite party (aggrieved party), can treat as though never happen. State v. Marion. 261 La. (INERA)

THE State cannot six years later "declare a Mistrial" in violation of La.C.Cr.P. Art 591 which provides;

591

"No person shall be twice put in Jeopardy of life or liberty for the same offense, except;

- 1.) When on his own motion, a new trial has been GRANTED or judgment has been arrested,
- 2.) Or where there has been a mistrial legally ordered under the provisions of 775 or ordered with the express consent of the defendant.

None of this provision was satisfied or adhered to in the last six years of which time NEVER tolled, in violation of La.C.Cr.P. Art 578, the Sixth Amendment Speedy trial clause of the U.S. Constitution, Equal Protection Clause of the 14th Amendment, as time is irreparable and the State failed to reinstate, or retrial Petitioner in the time allowed by law absent a mistrial and or Aminal T. demand 101

"REASON FOR DELAY,"

PETITIONER HAS SATISFIED THE SECOND OF BARKER'S FOUR FACTORS.

III ASSERTION OF RIGHT

NOTE: (Not necessary under La.C.Cr.P. Art. 578) State v. ~~Petitioner~~ (Supreme Court Powers)

THE CERTIFIED RECORD IN THIS CASE, establishes prima facie proof evident that PETITIONER herein, "Six (6) years ago," motioned the trial court for a New trial which was "NOT GRANTED." Any granting of a New trial now, "Six (6) years later," must be considered an unreasonable delay and unfairly unconstitutional dialeterious in violation of Equal Protection Doctrines both, State and Federal. Relief must be available for the aggrieved petitioner when considering the clearly unreasonableness of such an error prejudicial to Your Petitioner herein. For the State to be allowed to use state procedures without reasonable application relevant to "time of assertion of Right," is to permit the State to identify the correct governing legal principles from the United States Supreme Court's decision, but to allow them to unreasonably apply that principle to the facts of petitioner's case, contrary to the Supreme Court's Ratio Decidendi, based upon it's own Obiter Dictum, exceeding the scope of the Mandate. See, Simpson v. Jones, 238 F. 3d 399, 405 (6th Cir 2000). PETITIONER ASSERTED HIS RIGHT TO A NEW TRIAL AND WAS DENIED SIX YEARS AGO without the tolling of time. PETITIONER HAS SATISFIED THE THIRD PRONG OF THE FOUR FACTORS OF THE BARKER'S BALANCING TEST. ~~AND THE EVIDENCE OF THE ASSERTION OF RIGHT~~

"EQUAL PROTECTION AND DOUBLE JEOPARDY"
PREJUDICE TO DEFENDANT

Note: (Not necessary under La.C.Cr.P. Art. 578) State v. Perkins (Supre)
 The improper procedural application of law must be weighed heavy against the state and ruled prejudicial to the aggrieved petitioner herein. "The clock never tolled" by the unconstitutional acts that was in legal contemplation invalid from its enactment by the legislative body of the State of Louisiana, adjudicated by its Judiciary by Contineous Ultra Vires proceedings, orders and judgments, and ^{then} executed and enforced by the State of Louisiana's Executive branch for subjecting petitioner to Six Years of illegally false incarceration in violation of Rev. Errol Victor, Sr's 5th Amendment, 4th Amendment illegal seizure, 6th Amendment Speedy Trial Rights, 13th Amendment prohibition of slavery, forcing hard labor without a conviction; as compared to the States in majority, cruel and unusual, petitioner's 8th Amendment violated, in the violations of Petitioner's Due Process and equal protection immunities incorporated to the States by the 14th Amendment, applicable to the State of La. Due Process and equal protection clauses of its relevant State Statutes, Art 1, Section 16, Art 1, Section 2, 3, 22, immunities. The non-unanimous jury verdict in petitioner's case without the re-institution of prosecution nor mistrial declared in over Six Years, is by operation of law, a "jury acquittal" pursuant to Speedy Trial Rights.

The State of Louisiana's procedurally flawed implications violated Rev Victor's due process concerns. The error of State as pleaded herein pertaining to the misapplication of U.S.C. Sixth Amendment right to an unanimous jury is of such magnitude that it takes an additional Federal scope in that it rises to the level of a "deprivation of liberty interest" implicating a violation of petitioner's rights under the 14th Amendment of the U.S.C.

Specifically, "the patent abuses surrounding the denial of the right to be tried by an impartial jury,² to be at liberty pre-trial absent a valid conviction,³ the right to not be compelled to be human trafficked into involuntary servitude (slavery), under the color of state law by state actors in official capacity,⁴ being deprived of the benefit of a jury who found that the State failed to prove guilt beyond a reasonable doubt,⁵ Petitioner's prejudice in having to be forced to substitute a different tribunal, who might otherwise not be of the same opinion as was the two jurors that voted to acquit.

The violation is of such a magnitude as held according to Hick v. Oklahoma, 447 U.S. 343 (1980), that petitioner's liberty interest is implicated and due process rights violated by the unconstitutional acts against him based upon an unconstitutional statute adjudicated and enforced to the demise of the accuse, stating in pertinent part:

"The defendant has a substantial and legitimate expectation that he will be deprived only of his liberty to the extent determined by the jury in the exercise of its statutory discretion, and that liberty of interest is one that the Fourteenth Amendment preserves against arbitrary deprivation by the State." (Unconstitutional null acts (*a fortiori*))

An unconstitutional statute that disregards the petitioner's "Right to Liberty" is a denial of due Process. Any ambiguity must favor the defendant and not the State. Any prejudicial relevance may be discounted in the face of open and obvious prejudice. (See, *Ross v. Petro*, 515 F.3d 653, 666-67 (6th Cir 2008))

The State has demonstrated no separation or balance of power or checks and balance that warrants any public trust on this issue sub judice. Neither has the State of Louisiana Branches of Government shown any fear of reprisal nor remorse for it's robbery of the dignity, freedom, and humanity of it's African American Louisianian. This Bad-Faith legislation, Adjudication, and wayward enforcement by it's executive prosecutorial Branches of State Government, inflicted contineous nullities, for action in a series of due process and equal protection violations of petitioner's 14 Amendment Constitutional protection, unfairly benefitting the State of Louisiana ¹⁷

causing ^{1.} unreasonable delay, thus, ^{2.} maximizing lengthy incarceration prior to a valid conviction. This impairment of Petitioner's liberty imposed, has extended disruption of Rev Victor's life, caused by arrest and the ongoing presence of unresolved criminal charges resulting in unreasonable delay. (See. State v. Kilpatrick, 104 N.M. 441, 722 P.2d 692 (Ct. App 1986), Quoting U.S. v. Marion, 404 U.S. 307, 92 S.Ct. 455, 30 L.Ed. 468 (1971), as well as together with, U.S v. Macdonald, 456 U.S.-1, 102 S.Ct. 1497, 71 L.Ed. 2d. 696 (1982). Your petitioner herein, Rev. Errol Victor, Sr. in this case at bar sub judice has satisfied the Fourth and all FOUR Factors of the Barker v. Wingo Standard irrefutably. The State is without Just Cause No Further rendition is necessary. "IT IS FINISHT" REV. E. VICTOR, JR must be immediately released.

PRAYER

REV. Errol Victor, Jr., prays that this honorable Court of Conscience do hereby dismiss this case/cause/dispute entitle State of La. v. ERROL VICTOR, SR., # 2010-CR-172, ON REMAND from the La. 5th Cir Court of Appeal, OR REMAND from the United States Supreme Court, with prejudice, for the violation of petitioner's La.C.Cr.P. Art. 578, the Sixth Amendment Right to a Speedy trial pursuant to the due process Clause of the Fourteenth Amendment incorporated by the States, and to cease

EXHIBIT

"A"

(pgs 19 thru Pg. 29, "Plea In Bar")

UNITED STATES SUPREME COURT

JUDGEMENT TO VACATE

JULY 27TH, 2020

FIFTH CIRCUIT COURT OF APPEAL ORDER
TO VACATE CONVICTION AND
SENTENCE

from violating petitioner's 4th Amendment rights against human trafficking under law (illegal seizure), as well as, the 13th Amendment right to be free from involuntary servitude (slavery) without a valid lawful conviction. Petitioner envoles all of his constitutional rights woving none and moves this Honorable Court for his "immediate release" as justice requires, for the State's violation of his Speedy Rights to a trial and Equal Protection Constitutional immunitiess. This Court should ORDER DISMISSAL FOR ^{TIME -} WANT OF PROSECUTION, INEXCUSABLE NEGLECT exceeding Limitation, Six(6) years, too Late. Respectfully Submitted,

Violating Lz.C.Cr.P. Art 578.

and (12) years without a

valid conviction, 10 yrs

falsely incarcerated, as with

credit for time served,

Pre-trial.

Rev. Errol L. Vactor

REV. ERROL VICTOR, JR. C.S.

N.C.C.C. SD61 Hwy 3127

Kill Devil, NC. 27957

* Propria Personis

In Formis Pauperis

40TH JUDICIAL DISTRICT COURT
ST. JOHN THE BAPTIST PARISH
STATE OF LOUISIANA

STATE OF LOUISIANA

CS# 2010-CR-172

v.

ERROL VICTOR, JR.

DIV "B"

FILE!

Clerk:

ORDER

IT IS HEREBY ORDERED, that the State show cause why petitioner's motion for "PLEA IN BAR" for violation of Speedy Trial Rights, Equal Protection Doctrine, Double Jeopardy Doctrine should not be granted on _____ day of _____
2020, in _____, La., at _____ am

Done this _____ day of _____, 2020

HONORABLE JUDGE

5/27/2020

Search - Supreme Court of the United States

EXHIBIT C^{b6}

	Search documents in this case:	<input type="text"/>	Search
No. 19-5989			
Title:	Errol Victor, Sr., Petitioner v. Louisiana		
Docketed:	September 18, 2019		
Lower Ct:	Court of Appeal of Louisiana, Fifth Circuit		
Case Numbers:	(15-KA-339)		
Decision Date:	May 26, 2016		
Discretionary Court Decision Date:	October 15, 2018		

DATE	PROCEEDINGS AND ORDERS
May 09 2019	Petition for a writ of certiorari and motion for leave to proceed in forma pauperis filed. (Response due October 18, 2019) Motion for Leave to Proceed in Forma Pauperis Petition Appendix Appendix Proof of Service
Oct 23 2019	Waiver of right of respondent Louisiana to respond filed. Main Document
Oct 25 2019	Defer Consideration of Petition Pending Decision in Similar Case of Errol Victor, Sr. not accepted for filing. (October 28, 2019)
Oct 25 2019	Motion to defer consideration of the petition for a writ of certiorari filed by petitioner Errol Victor, Sr. Main Document Proof of Service

EXHIBIT C^{b6}

4/27/2020

Search - Supreme Court of the United States

Oct 31 2019	DISTRIBUTED for Conference of 11/15/2019.
Nov 08 2019	Supplemental brief of petitioner Errol Victor, Sr. filed. Main Document Other Other
Nov 12 2019	Response Requested. (Due December 12, 2019)
Dec 10 2019	Motion to extend the time to file a response from December 12, 2019 to February 10, 2020, submitted to The Clerk. Main Document
Dec 13 2019	Motion to extend the time to file a response is granted and the time is extended to and including February 10, 2020.
Jan 31 2020	Motion to extend the time to file a response from February 10, 2020 to February 24, 2020, submitted to The Clerk. Main Document
Feb 03 2020	Motion to extend the time to file a response is granted and the time is further extended to and including February 24, 2020.
Feb 24 2020	Brief of respondent Louisiana in opposition filed. Main Document Other Proof of Service
Mar 12 2020	DISTRIBUTED for Conference of 3/27/2020.
Mar 23 2020	Reply of petitioner Errol Victor, Sr. filed. (Distributed) Main Document Other Proof of Service
Apr 20 2020	DISTRIBUTED for Conference of 4/24/2020.

40TH JUDICIAL DISTRICT COURT

ST. JOHN THE BAPTIST PARISH

STATE OF LOUISIANA

DOCKET NUMBER: 2008-CR-165

STATE OF LOUISIANA

VERSUS

ERROL VICTOR, SR.

WIRIT OF
CORAM NOBIS / VOBIS

WIRIT OF
ERROR, NUNC PRO

TUNC

Respectfully Submitted

Rev. Errol Victor, Sr.

N. E.C.C.C. 5061, Hwy 3127

KILLERIA, LA. 70057

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List of EXHIBITS

<u>Exhibit</u>	<u>Appx.</u>	<u>Document</u>
Exhibit "A"	1	U.S. SUPREME COURT, THE PRESIDENT OF THE UNITED STATES, JUDGMENT TO VACATE, REV. E. VICTOR, SE UNCONSTITUTIONAL CONVICTION
Exhibit "B"	2-6	LA. 5TH Cir Court of Appeal ORDER TO VACATE, REV. VICTOR'S CONVICTION ON REMAND, 40 TH DC vacate
Exhibit "C"	7-18	Case No 2008-CR-165 Minutes OF THE COURT, Judge JASMINE DIVISION "A" Quash Judgment
Exhibit "D"	19-39	State v. McGee, State v. Warner State v. STEWARD, Similarly Situated, NO Re-allocinement No New Case Number, 40 TH Jr.D.C.
Exhibit "E"	40-41	STATE'S "BRIEF" RESPONSE IN THE U.S.S.CT. TO DISMISSAL

VICTOR v. Robinsons
App. "21"

JURISDICTION OF THE COURT

Defendant's / Aggrieved Plaintiff's case was randomly allotted to Division "A" of the 46th Judicial District Court case number 2008-CR-165 still remains without a formal final judgment. Jurisdiction never divested CASE # 2010-CR-172, non-Judgee, non-de jure

STATEMENT OF THE CASE

On April 15, 2008, the State of Louisiana charged Aggrieved Petitioner, by grand jury indictment, with First degree murder, in violation of La.R.S. 14:30, Case no. 2008-CR-165. Aggrieved petitioner herein pled not guilty at arraignment. Bail was set at two-million dollars (\$2,000,000.00) after a P.E./Bond Hearing, ~~the~~^{ent} petitioner was released on bond. On September 22, 2009, the charges was amended by indictment to Second degree murder, while engaged in the perpetration of the crime of cruelty to a juvenile, in violation of La. R.S. 14:30 1(A)(2)(B)

On February 4, 2010, the Division "A" trial judge granted a defense motion to quash the indictments due to the potential improper conduct of the St. John the Baptist Sheriff's Office ("SJSBO") with respect to both the grand jurors and grand jury witnesses. Victor, 15-KA 339, 195 SO 2d at 138, (Ex "C"; Appx pp 14-18.)

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In granting the motion to quash, the Division "A" trial judge noted not only the potential impact on fellow grand jurors, but focused specifically, and materially, upon the potential effect on witnesses testifying before the grand jury to "influence, suppress, or alter testimony to the prejudice of the defendant/agrieved petitioner ~~or~~ herein.

After initially filing for reconsideration which was denied, ~~the court~~ ~~the~~ ~~judge~~, the state allegedly filed on April 6, 2010, a notice of dismissal without prejudice of all pending charges in defendant's case, State v Errol Victor, Sr., Tonya Victor and Errol Victor, Jr., 2008-CR-165. (There is no record, in the minutes or record, of any said filing).

However, merely, six days later, on April 12, 2010, a newly empanelled grand jury re-indicted petitioner and wife with the same second degree murder. Notwithstanding the clear requirements of Louisiana Uniform District Court Rule 14.1, the same case/cause/dispute was re-allocated to Division "B" and given the case number 2010-CR-172, avoiding the appeal of the judgment in the original case no 2008-CR-165 originally allotted to Division "A". Aggrieved Petitioner herein explicitly (and, by all reasonable measures, "strenuously" objected to the procedural default, Judge-shopping in the re-allocation of the case unconstitutionally to Division "B".

On May 9, 2019, defendant/Petitioner filed a Petition for Writ of Certiorari with/to the United States SUPREME

VICTOR v. ROBINSON,
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Court.

On November 12, 2019, the U.S. Supreme Court demanded a response to the Aggrieved petitioner's petition, from the State of Louisiana. In attempting to avoid the erroneous nolle prosequi and the erroneous procedural error of the same, the state expressly admitted to the highest Court in the land, that the character of the dismissal of the original matter, 2008-CR-165 was not a "Nolle prosequi" by the prosecution, but that the motion to quash the indictment was "sufficient on its own to dismiss the case." Ex. "E" Appx 40-41

On April 27, 2020, the United States Supreme Court granted certiorari on defendant/petitioner's petition, vacated the May 26, 2016 judgment of the Louisiana Fifth Circuit Court of Appeal, and remanded the case "for further consideration in light of Ramos v. Louisiana, 590 U.S.

Appx at pp. 1

THIS WRIT OF CORAM NIBIS/VOBIS, WRIT OF ERROR, follows.

REQUEST FOR EXPEDITED CONSIDERATION

Aggrieved Petitioner, Rev. Errol Victor, SR., herein requests expedited consideration of this writ of certiorari/nobis, writ of error or the grounds that he is wrongfully incarcerated because of procedural errors by the state and Court at Nelson Coleman Correctional Center, notwithstanding the fact that his conviction and sentence have been vacated by this 40th Judicial District Court on Remand, the 5th Circuit Appeal Court of La. on Remand, State v. Victor, 15-KA-339 (La. App. 5 Cir 5/15/2020) in light of the United States Supreme Court decision in VICTOR v. Louisiana, 19-5989 (4/27/20) Ex. "A", "B", Appx 1-6.

Because of uncorrected procedural errors allowed and not corrected amended or denied, Petitioner is held hostage with no remedy in law. Petitioner after an overturned conviction is being held with no conviction, no sentence, no re-instituted charges and no bond, in a case by operation of law twice Acquittal. These errors must be corrected or every continual act of the Court triggers continuous tort actions inflicting insurmountable, cumulative irreparable harms initiate by the fraudulent filings of procedurally wrongful documents by the prosecution causing impermissible distortion of the record unchallenged by the Court.

THE recent COVID-19 pandemic has created particularly

dangerous situation for all citizens of the State of Louisiana and the United States. This danger is magnified with respect to the incarcerated population of the State of Louisiana, particularly to elderly Black males.

At this time given the undisputed circumstances of this case, and with upmost respect, Petitioner's very health, safety, and potentially his life is being jeopardized by his confinement, and arguably needless incarceration at the Nelson Coleman Correctional Center. Defendant is therefore required or rather entitled to be release from custody at the earliest opportunity. Petitioner thus request for EXPEDITED CONSIDERATION. RESPECTFULLY.

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VICTOR v. LOUISIANA

VICTOR v. ROBINSON

App "24

HABEAS

40TH JUDICIAL DISTRICT COURT
ST. JOHN THE BAPTIST PARISH
STATE OF LOUISIANA

Docket Number: 2008-CR-165 Div "A"

STATE OF LOUISIANA

VERSUS

ERROL VICTOR, SR

WIT OF PETITION NOBIS/VOBIS, WRIT OF ERROR
NUNC PRO TUNC

IF IT PLEASE THIS HONORABLE COURT, now comes,
REV. Errol Victor, Sr., living Soul, who avers the
following:

1. The Writ of Cetam Nobis/Vobis is a writ which gives the judge unlimited plenary power to correct, amend, vacate his/her own error or that of the Court upon reviewing and examining the record.
2. Rev. Victor, aggrieved petitioner herein conviction and sentence has been determined to be unconstitutional by the Highest Court in the land (See, Ex. "A") VICTOR v. LOUISIANA, 19-5989 U.S. 2020, WL 1978, 934

VICTOR V. Robinson
App. "25"

(MEM) (U.S. April 27th, 2020), the Louisiana 5th Cir., Court of Appeal on Remand, as well as this 40th JDC has complied and conceded (Ex "B") Appx 4-6

3. Petitioner avers that a live controversy still exist in Division "A" between the parties entitled above and that this Honorable Division of Court still retains Subject-matter jurisdiction and has the continuing obligation to assure itself it's own jurisdiction, sua sponte, if necessary (See, United States v. Pedroz-Rocha, 5th Cir 2010 further, that the central legal issue of case # 2008-CR-165 at bar, Division "A", and case # 2010-CR-172, Division "B" are the same.
4. There was no, is no final resolution or adjudication, determination through a formal judgment by Judge Madeline Jasminne of the dispute sub judice (See, William v. Taylor, 529 U.S. 420, 436 (2000) (See, Ex. "C") (Minutes of the Court, case 2008-CR-165). Here is why; THE CLERK OF COURT was 35K, what was the final resolution?
5. STATE v. THOMAS, 442 So 2d 794 (La. App. 1983) pursuant to La.C.Cr.P., Art. 538 "IN OTHER CASES" Continued litigation procedural application of a Quash Indictment based upon grounds stipulated in this case at bar (Illegal Empaneling of Grand Jury) Establishing that the correction of an indictment (New Indictment) doesn't infer a new case.

VICTOR v. ROBINSON

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6.

In State v. Thomas (Supr), The trial Judge in granting the motion to Quash, did not order that the defendant be discharged nor that he be held in custody nor that his bail be continued, as the record shows, likewise, Judge Tassmine in Petitioner's case herein, did the same.

7.

THE Court concluded that the effect of such silence is that the court does not thereby order a defendant discharged. If the defendant is in custody, the result is that he continues to be held in custody *a fortiori*, continual litigation, with the right to demand that some specific time be fixed by the court within which a new information/indictment may be filed or be released.

8.

If defendant is on bail, the result of such silence of the court is that he continues at liberty on bail with a similar right to have a time specified for a new information/indictment or be released.

Because bail is continued, the defendant is not discharged nor is the case ended by the granting of a motion to Quash as in "OTHER CASES" of La.C.Cr.P. ART 538 as the record indicates was such ~~the case~~^{ex} in the case at bar.

9.

Further, the opposition argued that the amendment of the informations/indictment (*a fortiori*) was in effect a new information/indictment that should

VICTOR V. ROBINSON
APP. "27"

have had a new docket number, a new charge in respect to its correction.

10. The Court's view was to the contrary. The Thomas Court (Supr.) ruled, that the charge to answer is not a docket number, but rather an accusation of criminal behavior that remains "UNPENALIZED" by the corrections of technical errors or omissions in the bill of information / indictment.

11. Petitioner's case # 2008-CR-165 is still before this division of court tabled / pending without a final / formal determination by Judge Tasorne through a formal Judgment. There was no adjourning of the original case of which Division "A", subject-matter jurisdiction of the controversy in dispute was never divested.

12. THE Quashing of Rev. Victor's indictment as well as wife, Tonya Victor, did not, can not cause the same case to be procedurally re-allocated based upon the grounds of illegally Impaneling of the Grand Jury pursuant to La.C.Cr.P. Art 538 exception beneath Section 4 "IN OTHER CASES" (See, Ex "D") (State v. McGee, 2009-CR-515 Div. "B" 40TH Judicial district Court, State v. Warren, 2009-CR-554 Div "B" 40TH JDC., State v. Steward, 2009-CR-367 Div "A" 40TH JDC.) As a matter of statutory interpretation and constitutionally due process rights, Petitioner is entitled

VICTOR V. ROBINSON

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to have this matter transferred from Division "B" to "Division "A" of the 40TH J. D.C., and the District Court was erroneous to hold otherwise.

Statutory Interpretation:

13. First and foremost, Louisiana Uniform District Court Rule 14.1, which provided

a) Unless a different method is set forth in Appendix 14.1, if a defendant has a felony case pending and previously allotted, any new felony arrest for that defendant shall be allotted to the division to which the "pending felony" was allotted. This "felonies - follow - felonies" rule also applies to the pending felony arrests for a co-defendant with a new arrest and billed as a co-defendant.

14. Further, Louisiana Uniform District Court Rule 14.1(b) explicitly provides that "(b) For purpose of this rule, a felony case remain pending until any of the following events has occurred: (1) a bill of information or indictment is filed or amended, reducing the case to a misdemeanor; (2) the District Attorney's Office enters a "nolle prosequi" in a case, or (3) there is an adjudication of guilty by plea or trial id.

15. In this case, the state alleges that it filed a "dismissal without prejudice" on April 6, 2010, of which the record in case no. 2008-CR-165 has no recording.

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40TH-I.D.C. Consequently such an act is procedurally fraudulent, prohibited and would have no meaning in law, and would be irrefutably an erroneous and impermissible procedural default as a Quash can only be appealed, and cannot have any subsidiary motion applied to it.

16c EVEN if ~~this~~ permissible, the law is settled. No action of the prosecutor can cause a case to be re-allotted. (See, State v. Reed, 653 So. 2d 1176 (La. 4/28/95))

"Any Indictment or Information filed by the prosecutor that is allotted to "another Judge" (Re-allotted) invites manipulation of allotment"

State v. Cooper, 50, Bd So. 115, 124

"A rotation or allotment system is not acceptable if the event that triggers application of the system is dependent upon an action taken by the District Attorney"

17. Neither the Quashing of the indictment in case #2008-CR-165 at bar, on the grounds of illegal Empanel of the Grand Jury, nor an alleged Dismissal by the District Attorney, inspite of it's procedurally fraudulent

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App. "3C"

and wife, due process concerns, neither the quash in this instance nor D.A.'s dismissal can cause the re-allotment of Petitioner and wife, Tonya Victor original allotted case to Division "A" of the 40th Judicial District Court. See, State v. Simpson, 551 So. 2d 1303 (La 1989).

Constitutional Due Process

18. Additionally, the error pertaining to the misapplication of Rule 14.1 is of such magnitude that it takes an additional Federal Constitutional scope in that it rises to a level of a deprivation of liberty interest implicating a violation of petitioner's rights under the 14th Amendment of the United States Constitution. Specifically, the abuses surrounding the dismissal of charges and re-indictment of aggrieved petitioner and blatant violation of principles of judicial allotment, as clearly provided in Louisiana Uniform District Court Rule 14.1, resulted in aggrieved petitioner(s) being deprived of the benefit (and the state improperly avoiding the consequences of) a ruling that would most probably have been fatal to the State's Prosecution.

19. First and foremost, while the issue presented here implicate the application of a state procedural rule, such a procedural dispute can take on a Federal Constitutional dimension where the violation is of suc-

VICTOR v. Robinsons
App. "3L"

a magnitude that the due process Clause of the Fourteenth Amendment is necessarily implicated.

20. In Hicks v. Oklahoma, 447 U.S. 343 (1980), the U.S. Supreme Court recognized that a criminal defendant's liberty interest may be implicated, and his due process rights violated, by the arbitrary violation of a criminal procedural rule by the State. The Hicks U.S.S.C., Jud. ruled in pertinent part;

"The defendant has a substantial and legitimate expectation that he will be deprived only of his liberty to the extent determined by the jury in the exercise of its statutory discretion, and that liberty interest is one that the Fourteenth Amendment preserves against arbitrary deprivation by the State. That an arbitrary disregard of the petitioner's right to liberty is a denial of due process of law. (Id. at 346)

21. Just as in Hicks, Rev. Victor and wife, clearly had a "substantial and legitimate expectation" (a) that the respondent/state would be required to proper appeal the initial trial judge's February 4, 2010 decis. to quash the indictment against petitioner(s) (b) that respondent/state would otherwise be required to remediate to the Division "A" trial judge's satisfact.

VICTOR v. Robinson
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the potential prejudice pertaining to the witnesses and their testimony; (C) or, otherwise, that the State's prosecution would be dismissed against Rev. Victor and wife. It cannot be said that the distinction between the case pending before Division "A," versus Division "B," could be characterized as a technicality or a "harmless error". THE quash of the indictment by the judge in Division "A" was explicitly based upon the potential that the grand jury witness testimony was "influence(d), alter(ed), or suppress(ed) ... to the prejudiced of petitioner herein. (See, Ex "E") Appx. 7-18.

22. It is undisputed that the State consciously avoided the impact of this explicit finding by the Division "A" trial judge by fraudulently dismissing, then re-filing charges against petitioner(s), obtaining a different allotted division of the Court unconstitutionally, and ultimately obtaining the now unconstitutional non-unanimous conviction recently vacated.

23. Indeed, there is no indication from the record that the very serious (probably fatal) issues of potential undue influence on witness testimony, explicitly noted by the trial judge in Division "A", were ever even addressed, let alone cured, in the follow-on proceedings prohibited by operation of law held in Division "B". Division "B" CS# 2010 CR-172, indicted impermissibly,

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Appellate Collateral Proceedings barred by a parallel District Court in the violation of Collateral Estoppel, Issue Proclusio and Res JUDicata Principals. (See Bronstein v. Kalcheim, 126, III, App. 3d 643, 467 N.E. 2d 979, 81, III. Dec. 857 (1984), Bravo-Fernandez v. U.S., 1375, Ct.

24. It cannot be said that the Division "A" trial Judge's concerns of potential prejudice to the defendant(s) aggrieved petitioner(s) of undue influence upon the grand jury testimony was merely theoretical, as evidence of potential tainted grand jury testimony infected defendant(s)/aggrieved petitioner(s) trial.

25. Having referenced the aforementioned uncured error, the trial Judge of Division "A", the duly allotted judge in this matter, clearly saw something in the initial grand jury proceedings that caused her enough concern to explicitly note its potential for prejudice against the defen-

26. Aggrieved plaintiff(s) was, and is, as a matter of his/ constitutional due process, unquestionably entitled to the full benefit of that ruling to the extent it has not been reversed by a higher court. By its action, the State has completely and wrongfully deprived the petit of any benefit of that ruling. This fact, above all others, warrants that the defendant(s)/petitioner(s) be restored to the full benefit of the February 4, 2010 Order quashing his/their initial indictment by, having this matter restored to Division "A" of the 40th IDC

VICTOR v. Robinson

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CONCLUSION

27. Finally, the record clearly establishes as pleaded in this Writ of Coram Nobis/Vobis, Writ of Error, Nunne Pro Tunc, that your aggrieved petitioner and wife herein, is entitled to and do PRAY for the following relief much deserved.
- 1.) To continue litigation of case no. 2008-CI-165 to a formal final Resolution. Judgment never previously obtained (Res Judicata) sua spm if necessary. Case still an Open Case. Subject-Matter Jurisdiction, Sub Judice, Never Dismissed
 - 2.) Grant a Judgment of Acquittal as a final Resolution, due to years delay, exceeding the mandate of and in violation of La.C.Cr.P. Art 578, time-limitation, due to the states injunctive dismissal and procedural misapplication of law as constructive fraud on the court following the February 4, 2010 decision of the District Court to quash, the previous two (2) indictments, in violation of Due Process of the Fourteenth Amendment of the United States Constitution and Louisiana Constitutional Equal Protection Prohibited by, State v.

Respectfully Submitted

Rev. Errol V.

Rev. Errol Victor, SR.

N.R.C.C. 5061 Hwy 3127

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CASE NO. 2008-CR-165 DIV. "A"

VITI VITI VITI

Ex. (A, B, C, D, E) Appx. 1-41

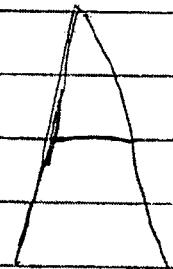
WIT OF CCRAM NCBIS/NCBIS, WIT OF ERROR

STATE v. ERROL VICTOR, SR.
2008-CR-165, DIV. "A"

VICTOR v. LOUISIANA, 19-5989, U.S. 2020

EXHIBIT

15 16



APPX. I

WRIT OF CORAM NOBIS / VOBIS, WRIT OF ERROR

STATE v. E. VICTOR, JR., 2008-CR-165

United States of America, ss:

THE PRESIDENT OF THE UNITED STATES OF AMERICA

19-5989

ERROL VICTOR, SR.,

Petitioner

v.

LOUISIANA

To the Honorable the Judges of the Court of Appeal of Louisiana, Fifth Circuit.

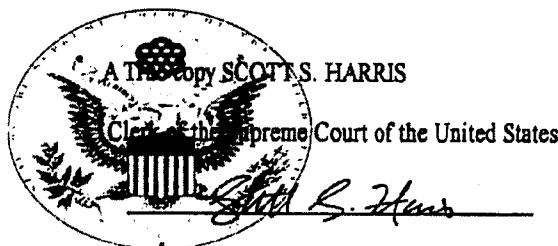
GREETINGS:

Court of Appeal of Louisiana, Fifth Circuit case, STATE OF LOUISIANA, Appellee v. ERROL VICTOR, SR., Defendant-Appellant, No. 15-KA-339, was submitted to the SUPREME COURT OF THE UNITED STATES on the petition for writ of certiorari and the response thereto; and the Court having granted the petition.

It is ordered and adjudged on April 27, 2020, by this Court that the judgment of the above court in this cause is vacated, and the cause is remanded to the Court of Appeal of Louisiana, Fifth Circuit for further consideration in light of *Ramos v. Louisiana*, 590 U. S. ___ (2020).

THIS CAUSE IS REMANDED to you in order that such proceedings may be had in the said cause, in conformity with the judgment of this Court above stated, as accord with right and justice, and the Constitution and Laws of the United States.

Witness the Honorable **JOHN G. ROBERTS, JR.**, Chief Justice of the United States, the 27th day of April, in the year Two Thousand and Twenty.



5th Cir (La.), 407th J.D.C. on Remand, VACATE

EXHIBIT

B

APPX. 2-6

APPX. (c)(B-1) - (d)(B-6)

TOTAL 10 pages

WITI OF COEAM NOBIS / VOBIS, WITI OF ERROR

STATE v. E. VICTOR, Jr., 2008-CR-165

STATE OF LOUISIANA NO. 15-KA-339
VERSUS FIFTH CIRCUIT
ERROL VICTOR, SR. COURT OF APPEAL
STATE OF LOUISIANA

Panel composed of Judges Susan M. Chehardy,
Jude G. Gravois, and Marc E. Johnson

ORDER

Considering the remand of this matter to this Court from the United States Supreme Court by grant of certiorari on April 27, 2020, and the Motion to Remand filed in this Court by mover/defendant, Errol Victor, Sr., on May 1, 2020:

On April 12, 2010, a St. John the Baptist Parish Grand Jury indicted defendant, Errol Victor, Sr., with the second degree murder of defendant's stepson, M.L. Lloyd, III, while engaged in the perpetration of the crime of cruelty to a juvenile, in violation of La. R.S. 14:30.1(A)(2)(b). Trial commenced before a twelve-person jury on July 22, 2014. On August 1, 2014, the jury returned a verdict of guilty as charged. The verdict was non-unanimous (10/12).

Prior to sentencing, defendant filed several post-verdict motions, including a motion for post-verdict judgment of acquittal, motion in arrest of judgment, and motion for a new trial, all of which were denied by the trial court on August 25, 2014. On September 15, 2014, defendant was sentenced by the trial court to life imprisonment at hard labor, without the benefit of parole, probation, or suspension of sentence, to run consecutively with any other sentence defendant may have been serving. Defendant's conviction and sentence were affirmed by this Court on appeal, and his writ was denied by the Louisiana Supreme Court. On

April 27, 2020, the United States Supreme Court granted certiorari in *Victor v. Louisiana*, 19-5989, --- U.S. ---- (2020), 2020 WL 1978934 (Mem.) (U.S. Apr. 27, 2020), vacated defendant's judgment of conviction, and remanded the matter to this Court for further consideration in light of *Ramos v. Louisiana*, No. 18-5924, 590 U.S. ---- (2020), 2020 WL 1906545 (U.S. Apr. 20, 2020).¹ See *State v. Victor*, 15-339 (La. App. 5 Cir. 5/26/16), 195 So.3d 128, *writ denied*, 16-1516 (La. 10/15/18), 253 So.3d 1300, *cert. granted, judgment vacated by Victor v. Louisiana*, 19-5989, --- U.S. ---- (2020), 2020 WL 1978934 (Mem.) (U.S. Apr. 27, 2020).

The penalty for a conviction of second degree murder is found in La. R.S. 14:30.1, which provides that whoever commits the crime of second degree murder shall be punished by life imprisonment at hard labor without the benefit of parole, probation, or suspension of sentence. Since the punishment for this offense is necessarily confinement at hard labor, a jury of twelve persons was required. See La. Const. Art. I, § 17; La. C.Cr.P. art. 782.²

Non-unanimous jury verdicts were previously allowed under both La.

¹ The grant of certiorari by the United States Supreme Court in this case reads in its entirety as follows, to-wit:

The motion of petitioner for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. The judgment is vacated, and the case is remanded to the Court of Appeal of Louisiana, Fifth Circuit for further consideration in light of *Ramos v. Louisiana*, 590 U.S. ---- (2020). Justice Alito, concurring in the decision to grant, vacate, and remand: In this and in all other cases in which the Court grants, vacates, and remands in light of *Ramos v. Louisiana*, I concur in the judgment on the understanding that the Court is not deciding or expressing a view on whether the question was properly raised below but is instead leaving that question to be decided on remand. Justice Thomas would deny the petition for a writ of certiorari.

² Both La. Const. Art. I, § 17 and La. C.Cr.P. art. 782(A) provide, in pertinent part, that a case for an offense committed prior to January 1, 2019, in which the punishment is necessarily confinement at hard labor shall be tried before a jury of twelve persons, ten of whom must concur to render a verdict, and that a case for an offense committed on or after January 1, 2019, in which the punishment is necessarily confinement at hard labor shall be tried before a jury of twelve persons, all of whom must concur to render a verdict.

Const. Art. I, § 17 and La. C.Cr.P. art. 782, and the circumstances of the instant case. However, in *Ramos*, the United States Supreme Court found that the Sixth Amendment right to a jury trial—as incorporated against the States by the Fourteenth Amendment—requires a unanimous verdict to convict a defendant of a serious offense. The Court concluded:

There can be no question either that the Sixth Amendment’s unanimity requirement applies to state and federal criminal trials equally. This Court has long explained that the Sixth Amendment right to a jury trial is “fundamental to the American scheme of justice” and incorporated against the States under the Fourteenth Amendment. This Court has long explained, too, that incorporated provisions of the Bill of Rights bear the same content when asserted against States as they do when asserted against the federal government. So if the Sixth Amendment’s right to a jury trial requires a unanimous verdict to support a conviction in federal court, it requires no less in state court. (Footnotes omitted.)

Id., slip op. at 7, 2020 WL 1906545 at *6.

For purposes of the Sixth Amendment, federal law defines petty offenses as offenses subject to imprisonment of six months or less, and serious offenses as offenses subject to imprisonment of over six months. The Sixth Amendment’s right to a jury trial only attaches to serious offenses. See generally *Lewis v. United States*, 518 U.S. 322, 327-28, 116 S.Ct. 2163, 135 L.Ed.2d 590 (1996); *Hill v. Louisiana*, 2013 WL 486691 (E.D. La. 2013).

Considering that the United States Supreme Court has vacated defendant’s judgment of conviction because defendant was convicted of a “serious offense” by a non-unanimous jury verdict,³ and that the instant case

³ Although defendant did not specifically challenge the non-unanimous jury verdict by assignment of error in his appeal to this Court, the jury verdict is considered part of our errors patent review. Louisiana courts have repeatedly held that the jury verdict is discoverable in the pleadings and proceedings for purposes of errors patent review. See *State v. Craddock*, 307 So.2d 342 (La. 1975); *State v. Sanford*, 248 La. 630, 181 So.2d 50 (1965); *State v. Anderson*, 07-752 (La. App. 5 Cir. 2/6/08), 979 So.2d 566, 571.

is still pending on direct appeal,⁴ in compliance with the United States Supreme Court's directive in *Ramos*, defendant is entitled to a new trial. Accordingly, the Motion to Remand filed in this Court by mover/defendant, Errol Victor, Sr., on May 1, 2020 is **HEREBY GRANTED**, and the matter is remanded to the trial court for further proceedings.⁵

Gretna, Louisiana, this 14th day of May, 2020.

JGG
SMC
MEJ

⁴ A judgment becomes final on direct review when either: (1) the defendant fails to petition timely the United States Supreme Court for certiorari; or (2) that Court denies his petition for certiorari; and either (a) the defendant, having filed for and been denied certiorari, fails to petition the United States Supreme Court timely, under its prevailing rules, for rehearing of denial of certiorari; or (b) that Court denies his petition for rehearing. *See State v. Holliday*, 17-1921 (La. 1/29/20), 2020 WL 500475; *State v. Reed*, 14-1980 (La. 9/7/16), 200 So.3d 291, 338. Because the United States Supreme Court granted defendant's petition for certiorari, defendant's case is still pending on direct review.

⁵ *See State v. Myles*, 19-965 (La. App. 4 Cir. 4/29/20), --- So.3d ---, 2020 WL 2069885, where the Louisiana Fourth Circuit Court of Appeal recently vacated the defendant's conviction and sentence and remanded the matter to the district court in light of *Ramos*.

VICTOR V. ROBINSON
APP. "35"

2008-CR-165 MINUTES OF THE COURT, QUASIT
JUDGMENT, JUDGE JASMINE, DIVISION A

- EXHIBIT

11 10


APPX. 7 - 18
MINUTES (APPX. 7-13) JUDGE Quasit (W-18, APPX.)

WRIT OF CORAM NOBIS/VOBIS, WRIT OF ERROR

STATE v. E. VICTOR, SR., 2008-CR-165

VICTOR v. Robinson
App "36"

Quash Judgment

FORTIETH JUDICIAL DISTRICT COURT

PARISH OF ST. JOHN THE BAPTIST

STATE OF LOUISIANA

NO. 2008 CR 165

DIVISION "A"

STATE OF LOUISIANA

VERSUS

ERROL VICTOR, SR.; TONYA VICTOR; AND ERROL VICTOR, JR.

FILED:

DEPUTY CLERK

JUDGMENT WITH REASONS

This matter came for hearing on the Court's regular docket:

PRESENT: Julie Cullen, Assistant Attorney General
Lionel Burns, Attorney for and defendants, Errol Victor, Sr., Tonya
Victor, and Errol Victor, Jr.

Considering the pleadings, testimony, evidence, arguments of counsel, and based upon
the applicable law,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the

Defendants' Motion to Quash the Grand Jury Indictment is GRANTED.

DISCUSSION

After considering all of the arguments and pleadings presented in support of, and in opposition to the defendants' Motion to Quash; this Court finds that the grand jury indictment in this case should be quashed. Specifically, this Court's decision was guided by the Louisiana Supreme Court's ruling in *State of Louisiana v. Sidney Paul Revere*.¹ In that case an investigator in the District Attorney's office, was administered an oath of secrecy, and thereafter, allowed to remain in the grand jury room to operate a machine, which recorded testimony that was given before the grand jury.² Although the State argued that the presence of the officer during the grand jury session was in the capacity of a stenographer as contemplated in R.S. 15:215; the Supreme Court upheld the trial court's ruling that the investigator was an *unauthorized person* in the grand jury room and that his presence was ground for quashing the indictment.³ In addition, the Supreme Court also used the *Revere* case to review the historical function of the grand jury in

¹ 94 So.2d 25 (La. 1957).

² *Id.*

³ *Id.* at 27-28.

Court of Appeal, Fifth Circuit
Case No: 20-K-159

Submitted On: 5/20/2020 12:23:31 PM
Accepted On: 5/20/2020 1:13:53 PM

VICTOR J. RABINSON
App. "37"

order to emphasize the significance of its opinion.

First, the Court concluded that "the grand jury has not only been, traditionally, an inquisitorial body charged with determining whether possible grounds for suspicion of a crime exists, but, from its very beginning, its sessions have been surrounded by a cloak of seclusion and secrecy that has been jealously guarded and preserved during the intervening centuries as the only means of insuring that it be permitted the freedom of action necessary for a vigorous and effective discharge of its duties."¹ Some of the reasons underlying this necessity for secrecy were that it: (1) promotes freedom in the disclosure of crime; (2) prevents coercion of grand jurors through outside influence and intimidation and thus permits a freedom of deliberation and opinion otherwise impossible; (3) protects the safety and freedom of witnesses and permits the greatest possible latitude in their voluntary testimony; (4) prevents perjury by all persons appearing before the grand jury; (5) prevents the subornation of perjury by withholding facts that, if known, the accused or his confederates might attempt to disprove by false evidence and testimony; (6) avoids the danger of the accused escaping and eluding arrest before the indictment can be returned; and (7) keeps the good names of the persons considered, but not indicted, from being besmirched.² Thus, the secrecy that has always surrounded the grand jury sessions is not only for the protection of the jurors and witnesses, but also for the state, the accused, and ultimately for society as a whole.³

Second, it cannot be doubted that "the proper administration of justice requires impartial and unobstructed conduct at every phase of the criminal process, including the proceedings in the grand jury sessions."⁴ However, as a general rule, the 'accused is neither permitted to attend the sessions of the grand jury either with or without counsel, nor is the accused allowed to know anything of the matters that occur there."⁵ Therefore, "[s]ince he has no rights in so far as that body is concerned except the right to have it duly impaneled and conducted according to the law, his right in this respect should be rigorously protected."⁶

The Revere Court dealt specifically with a case where the officer who was present in the grand jury room was deemed under the statute to be an unauthorized person. The Court found that even absent a specific showing of prejudice to the accused, "the right of the citizen to an

¹ *Revere*, 94 So.2d 25 at 29.
² *Id.* at 29-30.
³ *Id.* at 30.
⁴ *Id.* at 31.
⁵ *Id.*
⁶ *Id.*

VICTOR v. Robinson
App. "38"

investigation by a grand jury pursuant to the law of the land is invaded by the participation of an unauthorized person in such a proceeding, be that participation great or small.¹⁰ The Court went on to state that "it was not necessary that participation [by the unauthorized person] should be corrupt or that unfair means were used."¹¹

In the case at bar, this Court first acknowledges that unlike that investigator in *Revere*, the St. John the Baptist Parish Sheriff's Deputy here was not an *unauthorized person*. In fact, the sheriff's deputy who was present in the grand jury room was a duly impaneled grand juror and to date there are no laws that prohibit a law enforcement officer from serving as a grand juror. Nevertheless, the Court finds that this case, which involves a sheriff's deputy who wore his deputy shirt while participating in the grand jury indictment process, presents an even greater need for the Court to exercise an 'abundance of caution' to protect not only the sacredness of the grand jury process but also the freedom of the witnesses to testify openly and the rights of the accused than did the *Revere* case. This is a highly publicized case. Understandably anyone appearing before the grand jury might be anxious and nervous. However, the normal anxiety that a grand jury witness might experience could unnecessarily be heightened if a law enforcement officer were among the grand jury panelist. Although the Court does not suggest that the deputy in this case did anything wrong *per se* or that the defendant was in fact prejudiced by the deputy's participation on the grand jury, as the *Revere* Court reasoned "it is not the fact that prejudice actually resulted that is of primary and vital concern, but that an opportunity was made possible to exert prejudice and influence on members of the grand jury that must be guarded against."¹²

Significantly, the deputy in this case chose to participate in a grand jury session while wearing a shirt that advertised his employment as a deputy with the St. John the Baptist Parish Sheriff's Office. The very nature of his position as a sheriff's deputy is inherently aligned with the State. Therefore, regardless of whether the officer had actually worked on the defendants' case prior to being impaneled or whether he even had detailed knowledge of the case, by virtue of his job he had more access to information about the case than the average grand juror. The *Revere* Court noted that the "attendance of a police officer would afford opportunity for subjecting witnesses to fear or intimidation, for preventing freedom of full disclosure by

¹⁰ *Revere*, 94 So.2d 25 at 33.

¹¹ *Id.*

¹² *Id.*

Court of Appeal, Fifth Circuit
Case No. 20-K-159

Submitted On: 5/20/2020 12:23:31 PM
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VICTOR v. Robinson

App. "40"

testimony, and for infringing the secrecy of the proceeding.¹³ Moreover, because of the secrecy of the grand jury process, only in the "clearest situations would it be possible to show that any influence or prejudice had occurred. A change in expression, a pressure on the hand, or a warning glance would not be shown by the minutes but might well influence, suppress, or alter testimony to the prejudice of the defendant."¹⁴ These were all of the concerns addressed by the *Revere* Court at the mere presence of the investigator in the grand jury room.

Here, the sheriff's deputy, while donning a uniform work shirt, actually participated in rendering the grand jury indictment as a grand juror. One can only imagine as the *Revere* Court did, the amount of influence that a lay grand juror or witness could experience by witnessing an officer of the State sitting at the table of deliberation. Moreover, the "cloak of seclusion and secrecy" that has always surrounded the grand jury process prohibits the jurors or witnesses from being questioned about what actually took place during the process. For these reasons, this Court is of the opinion that the manner in which the deputy participated as a grand juror in this case "offers too great a possibility for the exercise of undue influence to be condoned."¹⁵

Importantly, the Court acknowledges the fact that this case is nearly two years old. However, as much as this Court is concerned with not delaying cases so that persons aligned with the State or the defense may move on with their lives; it is more concerned with the fair and impartial administration of the judicial process. For as the *Revere* Court so eloquently opined, "the inconvenience of resubmitting the matter to the grand jury is temporary, but the injustice of denying a defendant his right to have a grand jury investigation conducted pursuant to the law of land would be perpetual." Since "it is as important to a person that he be fairly and justly accused of crime as that he be fairly and impartially tried therefor,"¹⁶ the Court finds that the participation of the St. John the Baptist Parish Sheriff's Deputy in the grand jury process as a grand juror while wearing a shirt which openly advertised his employment with an office inherently aligned with the State; presents a valid ground for quashing the indictment. Thus, the defendants' Motion to Quash the Grand Jury Indictment is GRANTED.

THUS DONE AND SIGNED in Edgard, Louisiana, this 14 day of May, 2010.

JUDGE 40th Judicial District Court

¹³ *Id.*
¹⁴ *Revere*, 94 So.2d 25 at 34.
¹⁵ *Id.*
¹⁶ *Id.*

FORTIETH JUDICIAL DISTRICT COURT

PARISH OF ST. JOHN THE BAPTIST

STATE OF LOUISIANA

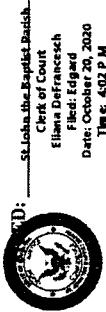
No. 2008-CR-165

DIVISION A

STATE OF LOUISIANA

VERSUS

ERROL VICTOR, SR.



DEPUTY CLERK

ORDER

Considering Defendant's pro se motion for *Writ of Coram Nobis/Vobis, Writ of Error,*

Nunc Pro Tunc:

Review of the record indicates that Division A case number 2008-CR-165 concluded with the granting of defendant's *Motion to Quash*. Further, 2010-CR-172, Division B is defendant's only open and pending case and it is believed that that Court has addressed the very issues presented herein.

FURTHER, the St. John the Baptist Clerk of Court is hereby ordered to direct all future pleadings in the matter to case 2010-CR-172, Division B.

THUS DONE AND SIGNED in Edgard, Louisiana, this 27th day of October 2020.

Eliana DeFrancesch
40th JUDICIAL DISTRICT COURT



VICTOR J. RUBINSON
App. #J4

Date: 2020
Filed: Edgaid
Time: 12:15 PM

Re: *Erin M. F. d.s.*

Attala Stet. Reg. 324

Kathleen L. H. Test T

Victor J. Robinson, Esq.
1250 Boylston Street

Boston, MA 02199

Telephone: 617-426-1444
Fax: 617-426-1445

Dear Ms. Robinson:

Please find enclosed, hereto attached, and hereto referred, the
above file name " (22) pages, Exhibits attached, (A) 2020
(54) pages,

Please always take time and read proof of some type
of the following address either above or below:

Please write first name middle initial last name
initials, and please stay away from initials

Thank you for patience, kindness, and friendliness
consideration for this very important matter.

Respectfully submitted,
Victor J. Robinson, Esq.

Attn: Stet. Reg. 3137
Boston, MA 02116

Phone: 617-426-1445

Viette v. Richardson
App. #43 "

417th Judicial District Court	Case No. 2020 CR-165
S. JOHN THE BAPTIST PARISH	
STATE OF LOUISIANA	
State of Louisiana Case No. 2020 CR-165	
Frank Miller, Jr.	Divided "A"
FILED:	Clerk:
ORDERED	
IT IS HEREBY ORDERED, DECREED AND ADJUDICATED,	
that the Judgment of Acquittal in cause 2020 CR-165,	
entitled, State of Louisiana versus Frank Miller, Jr.,	
is GRANTED in light of his P.R. Act §708 Time Limitations	
as well as due process and equal protection violations.	
FURTHER, this same Judgment of Acquittal (GRANT)	
in the aforementioned cause no. 2008 CR-165, extends to	
all other defendants enjoined, Sr. Fr. Fr. Tonyo O.	
Vicino, Defendant's wife, and Soni Walker, his partner.	
Done this day of December, 2020	
Divided "A" Judge	
S.B.F.J.	

LAEDdb_ProSeDocs

From: Belinda Brown <belindabrownlld@yahoo.com>
Sent: Saturday, December 19, 2020 4:25 PM
To: LAEDdb_ProSeDocs
Cc: LUI Citizens Oversight Committee Chiquite Mc Gowan; Joseph Peery; Pinkney Edward; Zena Crenshaw-Legal; Carolus Magnus Augustus; Strategictech@yahoo Com; rachel@microsoft.com; MILLION WOMAN MARCH; Robert Burns Sound Off Louisiana
Subject: See attached Pro Se file: 1983 Civil Suit with Exhibits
Attachments: Victor Complaint.pdf

CAUTION - EXTERNAL:

Please see the attached Documents:

1983 Civil Suit complaint about damages, declaratory judgment, and for preliminary injunction with Exhibits.

Respectfully Submitted,

In Proper Person
Rev. Errol Victor, Sr. L.S.

If you have any questions, please feel free to contact me via this email address or by phone at (985)-503-0626.

Thank You,

Belinda Parker Brown
CEO/Founder
Louisiana United International, Inc.
<http://www.launitedi.org>
Office: (985)-503-0626
Cell: (269)-369-4751
Email: info@launitedi.org

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