UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

Steven Alan Magritz

Plaintiff,

v.

Jon E. Litscher

Defendant.

NOTICE OF APPEAL

Case No. 18-C-0455

Notice is given that the plaintiff/[redacted], Steven Alan Magritz, appeals to the United States Court of Appeals for the Seventh Circuit from the final judgment entered in this action on 11/28/2018; Rule 60 motions 02/22/2019 & 03/18/2019.

Dated and signed this twenty-first day of March, 2019 A.D.

Milwaukee, Wisconsin.

The REQUEST to Circuit Justice Brett Kavanaugh for a Certificate of Appealability dated March 21, 2019 A.D. and the four Attachments thereto are part and parcel of this Notice and are incorporated herein by reference in their entirety as if fully reproduced herein.

By: /s, Agent
(Signature)

Attn: Magritz, Steven Alan, Agent
c/o [Street Address]
(Street Address)

[City], Wisconsin [zip code]
(City, State, Zip)

Steven Alan Magritz
Attn: Magritz, Steven Alan, Agent
c/o [Street Address]
[City], Wisconsin [zip code]

REQUEST to Circuit Justice Brett Kavanaugh for a Certificate of Appealability, Case Number 18-C-0455, District Court of the Eastern District of Wisconsin

To:
Circuit Justice Brett Kavanaugh, Seventh Circuit Court of Appeals
c/o The Supreme Court of the United States
One First Street, N.E.
Washington, D.C. 20543,
and,
c/o United States Court of Appeals for the Seventh Circuit
Everett McKinley Dirksen United States Courthouse
219 S. Dearborn Street, Room 2722
Chicago, IL 60604

INTRODUCTION

This septuagenarian was heartbroken, reduced to tears, perhaps more so than most people, watching the vicious, politically motivated character assassination inflicted upon Justice Kavanaugh during his confirmation hearing. Since 2001, after exposing corruption in government, I have had my reputation destroyed, my business which was built solely upon my character ruined, my *very* valuable property in which I held vested rights granted by the United States of America prior to statehood stolen at gunpoint and turned into a county park, my personal property stolen, my finances reduced to penury, and my liberty taken from me when I petitioned for redress of grievances, all by corrupt attorneys and judges. My story could have been included in Sidney Powell's book, *Licensed to Lie*.

This Request for a Certificate of Appealability is made to Circuit Justice Kavanaugh, *explicitly* Circuit Justice Kavanaugh, and most emphatically *not* to District Court Judge Lynn Adelman of the District Court of the Eastern District of Wisconsin. Further this request is not made to a judge *nor* to the court of appeals, but directly to Circuit Justice Brett Kavanaugh.

Question: Should the dismissal of a petition for writ of habeas corpus filed under 28 U.S.C. § 2254 be allowed to stand wherein the District Court judge *knowingly* applied a *fabricated*, *conjured up, non-existent* state "rule" to "find" a "procedural default", resulting in the continuing cover-up of a politically motivated, out-of-control, state court judge who manifested egregious, antagonistic bias or prejudice in pursuing a personal vendetta to punish and imprison an informant, victim, and witness of crime?

This Request is made under Rule 22(b), "Certificate of Appealability", of the Federal Rules of Appellate Procedure ("FRAP"), pursuant to Title 28 U.S.C. § 2253, Appeal. On March 22, 2018, petitioner filed a petition for habeas corpus under 28 U.S.C. § 2254 in the United States District Court, Eastern District of Wisconsin (Milwaukee). On November 28, 2018, District Court Judge Lynn Adelman dismissed the petition based upon an *alleged* procedural default premised upon a *fabricated, known non-existent* "rule". Adelman declined to issue a Certificate of Appealability. On February 28, 2019, Adelman denied a Rule 60 (b)(3), (b)(4), (b)(6) motion for Relief. On March 18, 2019, Adelman denied a second Rule 60 motion, this time made under Rule 60(b)(1), based upon Adelman's "mistake or

inadvertence" in applying a *non-existent* "rule" to "find" a procedural default. Adelman, *with knowledge that his dismissal order was based upon a fabricated, non-existent "rule"*, denied the 60(b)(1) motion for relief in a curt, four sentence "Order". Adelman's denial of the 60(b)(1) motion is *his acknowledgement* that he knowingly, purposely, intentionally applied a *fabricated, conjured up, non-existent state "rule"* to justify dismissal of the petition for habeas corpus with the result being a continued cover-up of the malversation of the out-of-control state judge, whose husband is a prosecutor.

This Request encompasses both the initial dismissal of the habeas petition on November 28, 2018, the denial on February 22, 2019 of the Rule 60 (b)(3), (b)(4), (b)(6) motion filed on December 20, 2018, and the denial on March 18, 2019 of the Rule 60(b)(1) motion filed on March 12, 2019. Both Rule 60 motions and briefs, and the motion for reconsideration, are incorporated herein by reference, Dkt. 18 (motion), Dkt. 19 (brief), Dkt. 22 (reconsideration motion), Dkt. 25 (motion), & Dkt. 26 (brief), respectively.

Because the egregious animus manifested by the "unexplainable" numerous, odious, dissimulations of Judge Adelman *are beyond belief and shock the conscience*, Brief in Support Dkt. 19, Brief in Support Dkt. 26, and Reconsideration motion Dkt 22, *are attached hereto and incorporated herein* by reference in their entirety.

Collateral Attacks

Title 28 U.S. Code § 2253 reads, in pertinent part: "(c)(1) Unless a ***circuit justice*** or judge issues a certificate of appealability, an appeal may not be taken to

the court of appeals from— (A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a Statecourt; …"

Title 28 Section 2253(c) and Appellate Rule 22(b) require petitioners attacking criminal convictions to file a notice of appeal and obtain a certificate of appealability before being allowed to proceed on appeal. *Evans v. Cir. Ct. of Cook Cy., Ill.*, 569 F.3d 665 (7th Cir. 2009). An appeal will not be certified under § 2253(c) unless the petitioner can make a substantial showing of the denial of a constitutionally secured right. If the district court's decision was based on an [alleged] procedural shortcoming, the petitioner must demonstrate not only a debatable constitutional claim, but also that the procedural ruling is debatable. *Davis v. Borgen*, 349 F.3d 1027 (7th Cir. 2003).

"When the district court denies a habeas petition on procedural grounds without reaching the prisoner's underlying constitutional claim, a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right (sic) and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

In this case, Judge Adelman's denial on procedural grounds is not merely "debatable", it is ***flat out wrong***, and *knowingly, purposely, intentionally "wrong"* as demonstrated, in spades, in Adelman's March 18, 2018 denial of the Rule 60(b)(1) motion filed March 12 which *clearly evidenced Adelman's dismissal was based upon a fabricated, non-existent "rule".* Adelman's denial was short, curt, and non-

responsive, thus acknowledging his "mistake" was not a mistake, but rather the *calculated, intentional application of a fabricated, non-existent "rule".*

Alleged Procedural Default

There was *NO* "procedural default", but rather a "*mistaken* or *inadvertent"* application of a *non-existent "rule"* by Judge Adelman. In the Decision and Order, Dkt. 16, dated November 28, 2018, dismissing the petition for habeas corpus, on page five (5) Judge Adelman stated:

> In the present case, the Wisconsin Court of Appeals rejected Magritz's habeas petitions based on a state procedural rule: the rule that a criminal defendant cannot seek habeas relief with respect to claims that he could have raised on direct appeal or in a motion under Wis. Stat. § 974.06. There is no doubt (sic) that the Wisconsin Court of Appeals actually relied on this state-law procedural ground in denying Magritz's habeas petitions, …"

And on page 6 Adelman stated:

> Here, Magritz decided to forego his direct-appeal rights, and therefore the Wisconsin Court of Appeals' rejection of his federal claims involved a principled application of well-established Wisconsin law.

BUT - there is no such "law". It is *nonsense*. There is no state law, *nor can there be any law*, *federal or state*, which denies a man remedy by habeas corpus merely because he does not file a direct appeal. Adelman took this non-existent "law" or "rule" from one of the *twelve (12) or more false representations to the court* made by the attorneys for the respondent in their brief for dismissal filed on May 29, 2018. On July 12, 2018, petitioner *Noticed* Adelman of the false representations by way of a sixteen (16) page "*Mandatory Judicial Notice – FRE 201(c)(2) With Exhibits A through J (22 pages)*" in support, Dkt. 10, signed under the pains and penalty of perjury, which is incorporated herein by reference.

The record of the district court *extensively* evidences egregious, rapacious, unrefuted, pervasive, outrageous, *antagonistic* bias by State court judge Williams, therefore remedy by way of motion to the sentencing court would be not

only futile, inadequate or ineffective, but also foolish, ridiculous, and masochistic. The egregious *exhibited* bias of Williams, *known as a "structural defect" or "structural error"* in the proceedings, requires that the controlling, and "well-established Wisconsin law" relevant to this case be applied and adhered to, namely:

Wisconsin Statute § 974.06:

> (8) A petition for a writ of habeas corpus or an action seeking that remedy in behalf of a person who is authorized to apply for relief by motion under this section shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court which sentenced the person, or that the court has denied the person relief, **unless it also appears that the remedy by motion is inadequate or ineffective** to test the legality of his or her detention. (emphasis added)

Section (8) was taken *directly* from 28 U.S.C. § 2255. The Seventh Circuit recognized this prohibition on habeas corpus would have been unconstitutional except for the "saving" clause, *Stirone v. Markley*, 345 F.2d 473, (7th Cir. 1965), to wit:

> **"unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his or her detention."**

In *Stirone*, 475-476, the Seventh Circuit Court of Appeals said:

> "For an even more fundamental reason section 2255 is not a deprivation of constitutional rights. Habeas corpus **continues to be available** when the remedy under that section is shown[1] to be "inadequate ***or ineffective***." The section 2255 provision merely prescribes a procedure different from that of habeas corpus whereby one ***may*** collaterally attack a conviction. So long as this procedure is available ***with provision for habeas corpus*** in the event a section 2255 proceeding is "**inadequate *or ineffective***," there is no constitutional issue." (emphasis added).

This applicability of Wis. Stat. § 974.06(8) is expounded upon at length and in detail in **Dkt. 18**, Motion for Relief, Fed. R. Civ. P., Rule 60; **Dkt. 19**, Memorandum in Support (of Dkt. 18); **Dkt. 22**, Motion for Reconsideration of Denial of Rule 60 Motion for Relief; **Dkt. 25**, Motion for Relief, Fed. R. Civ. P. Rule 60(b)(1); and, **Dkt.**

[1] The statute uses the term "appears".

26, Memorandum in Support (of Dkt. 25); all five (5) documents are incorporated herein by reference as if set out fully at length herein. Judge Adelman did *error*.

Constitutional Issues

The innumerable violations of petitioner's constitutionally secured rights, including but not limited to denial of substantive and procedural due process, have been extensively detailed beginning with petitioner's initial filing under 28 U.S.C. § 2254 on March 22, 2018, which consisted of a 28 page application plus 142 pages of exhibits, all incorporated therein by reference, which were subsequently bolstered by an additional 175 plus pages of exhibits, affidavits, memorandum, etc., all of which are incorporated herein by reference.

Most, if not all, of the exhibited, manifested, or evidenced deprivations of petitioner's constitutionally secured rights by the trial court judge, Sandy A. Williams, could be subsumed under the umbrella of *extreme, antagonistic judicial bias* arising out of a politically motivated *personal vendetta* for exposing the malversation of Williams when she was a prosecutor and then later a judge.

Petitioner, a victim/witness of crimes, filed criminal reports/affidavits against an attorney who was the county Corporation Counsel. These "criminal complaints" were filed with the governor, lieutenant governor, state attorney general, legislators, judges, sheriff, county prosecutor, and others.

Sandy A. Williams was named in petitioner's final complaint filed in 2011 charging Williams with misprision of felony for refusing to prosecute her associate, the county Corporation Counsel. Petitioner sued Williams in 2012 in federal court

(dismissed for want of jurisdiction) for breach of fiduciary duty and misconduct in public office. In 2013 Williams was featured on the www.OzaukeeMob.org website as a corrupt prosecutor, and, as a corrupt judge for ruling on her own cause in a motion brought by petitioner in the county court in 2011. At the sentencing hearing in February, 2016, Williams verbally and visually expressed her displeasure and disdain at having been featured on the OzaukeeMob website.

The following "constitutional issues" were set forth as "grounds" in the petition filed March 22, 2018. As stated above, most can be attributed to the animus and prejudgment disposition for a judicial lynching by state court judge Williams:

- Petitioning for redress of grievances was converted into a "crime".
- Freedom of speech on a matter of public interest was converted into a "crime".
- Failure to give "fair notice" that correcting the public record could be construed as a "crime".
- Biased judge, a "*structural defect*" or "*structural error*"; Brady material/ affidavits/ exculpatory evidence twice removed from court clerk's files – concealed and never returned (judge is chief suspect); gagged and threatened by judge from introducing or even mentioning Brady material.
- Denial of assistance of counsel, a "*structural defect" or "structural error*", at preliminary hearing, *at arraignment*, and throughout the entire persecution. The attorney who was appointed by judge Williams to sit next to the "targeted man" was explicitly, on the record, not accepted as counsel, stand-by or otherwise.
- Biased prosecutor, a former assistant to judge Williams when she was prosecutor; suspect in removal and concealment of court records, supra; estopped from prosecuting by 2012 agreement and foreknowledge that his "Criminal Complaint" was false; sued for breach of fiduciary duty in 2012 for filing a known false "Criminal Complaint" in December, 2011.
- Fraud upon the court by the prosecutor at the preliminary hearing by suborning false testimony from his witness, which testimony both the prosecutor and judge Williams had *known for four years was false*.
- No notice of preliminary hearing, no notice of arraignment; from day of false arrest without a warrant in September, 2015, throughout the star-chamber proceedings, and until transport to state prison in February, 2016, the

"targeted man" was held *incommunicado in solitary confinement*, without a single telephone call to an attorney or anyone else, and without visitors.

- Denial of witnesses in defense – identical or similar to prosecutor's witnesses.
- Obstruction of justice, jury tampering, removal of defense witness from witness stand during trial, thus preventing witness from introducing Brady material.
- Confrontation clause violation: there were no witnesses against the "defendant"; prosecutor's star witness, a title insurance company attorney, testified there was no injured party or damage to property, thus no *corpus delicti*, which was brought to court's attention in writing, but ignored.
- Fraud upon the court by judge Williams by ignoring the captive's plea of "*non assumpsit by way of confession and avoidance*" for himself, a man, and entering a *Liar's Plea* of "not guilty" for the "defendant", thereby creating a controversy when none existed.
- Prevented from presenting a defense to which the prosecutor's complaint "opened the door", but the "door" was slammed shut by Judge Sandy A. Williams' threats (plural) and gag orders (plural).
- No *mens rea* element in the "charging statute"; no *mens rea* was ever alleged, let alone proven; and no *mens rea* instruction was given to the jury.
- The trial court was in want of subject matter jurisdiction because there was no *corpus delicti*.
- The charging statute is unconstitutional in that it is so standardless that it authorizes or encourages seriously discriminatory or wanton enforcement.
- The "trial" court was in want of personal jurisdiction over the man who was falsely mustered, imprisoned, and who is currently restrained of his liberty by public officers who are in want of knowledge. The man was kidnapped and "forced" to undergo persecution for a pseudo "complaint" or "charges" against a Registered Business Name, Minnesota File Number 1072311400028, which has no contract with the public *corporation* named "State of Wisconsin", Wis. Stat. 706.03(1)(b).

In further support of the issues of denial of due process, denial of a fair trial, and denial of assistance of counsel, attached hereto and incorporated herein is Dkt. 9, Affidavit of Bias, 8 pages, with all exhibits Dkt. 9-1 through Dkt. 9-7, for a total of twenty-five (25) pages. Also incorporated herein by reference, but not attached, are Dkt. 12 and Dkt. 13, Statement of Facts, and Memorandum in Support of Summary Judgment, respectively.

I REQUEST / MOVE Justice Kavanaugh forthwith issue a Certificate of Appealability to the Seventh Circuit Court of Appeals.

Declaration under 28 U.S.C. § 1746 (1):
I, declare under the pains and penalties of perjury of the laws of the United States of America that the foregoing facts are true and correct, and as for any statement made upon information, reason, or belief, I believe and so charge them to be true. Executed on this May 7, 2019.

By: Magritz, Steven Alan, Agent, Power-of-Attorney, Name Holder