

ORIGINAL

FILED

IN THE TENNESSEE SUPREME COURT AT NASHVILLE

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EDWARD JEROME HARBISON,

APPELLATE COURT CLERK
NASHVILLE

VS

CASE NO: M1986-00098-SC-07-D

STATE OF TENNESSEE.

DEATH PENALTY CASE

**MOTION TO HOLD CASE IN ABEYANCE UNTIL A DETERMINATION ON
PETITIONER'S OTHER CLAIMS WHICH WERE NOT FULLY DEVELOPED
IN THE TRIAL COURT OR APPELLANT COURT IN THIS DEATH PENALTY
CASE**

COMES NOW, EDWARD JEROME HARBISON, PRO SE PETITIONER, TO
PETITION THIS COURT FOR AN ORDER TO HOLD THIS CASE IN ABEYANCE
UNTIL TRIAL COURT RULE ON THE MERITS OF THE CLAIMS AND DEFENSES
PRESENTED BY THE PETITIONER AS TO THE FOLLOWING CLAIMS:

WHETHER ITS PROPER FOR THE PETITIONER COULD ASSERT CLAIMS
OF FRAUD UPON THE COURT PERPETRATED BY OFFICERS OF THE COURT?

WHETHER THE JUDGMENT WAS OBTAINED AS A RESULT OF A
SCHEME OR COLLUSION THAT IS DESIGNED TO INFLUENCE CORRUPTLY
THE PROCEEDINGS IN THIS CASE OR TO INHIBIT THE ABILITY OF AN
AFVERSE PARTY TO FULLY PRESENT HIS CASE OR MERITORIOUS DEFENSE,
WHICH HAS THE EFFECT OF FORECLOSING THE PETITIONER THE
OPPORTUNITY TO HAVE A FAIR AND COMPLETE TRIAL?

WHETHER CORRUPT ABUSE OF THE JUDICIAL PROCESS PLAYED A
PART IN PETITIONER BEING CONVICTED AND SENTENCED TO DEATH
THAT WERE PERPETRATED BY POLICE OFFICERS AND ASSISTANT
DISTRICT ATTORNEY GENERALS THAT PARTICIPATED IN THE
INVESTIGATION, PRESENTATION AND PROSECUTION OF THIS CASE?

WHETHER THE POLICE OFFICERS AND ASISTANT DISTRICT
ATTORNEY GENERALS THAT PARTICIPATED IN THE INVESTIGATION,
PRESENTATION, PROSECUTION OF THE CASE PRESENT FRAUDULENT
EVIDENCE IN THIS CAPITAL CASE?

WHETHER THE POLICE OFFICERS AND ASSISTANT DISTRICT ATTORNEY GENERALS THAT PARTICIPATED IN THIS CASE WILLFULLY PERPETRATED MISREPRESENTATIONS AND FABRICATION OF EVIDENCE IN THIS CASE?

WHETHER POLICE OFFICERS AND ASSISTANT DISTRICT ATTORNEY GENERALS THAT PARTICIPATED IN THIS CASE DELIBERATELY PRESENTED KNOWINGLY FALSE AND PERJURED TESTIMONY TO CONVICT PETITIONER?

WHETHER THE CONDUCT BY AN OFFICER OF THE COURT, DIRECTED TOWARDS THE JUDICIAL MACHINERY ITSELF THAT IS INTENTIONALLY FALSE, WILLFULLY BLIND TO THE TRUTH OR IS IN RECKLESS DISREGARD FOR THE TRUTH IS A POSITIVE OR DELIBERATE CONCEALMENT WHEN OR IS UNDER A DUTY TO DISCLOSE THAT DECEIVES THE COURT?

WHETHER THERE WERE EVIDENCE THAT WERE NOT BEFORE THE JURY WHICH THE JURY COULD CONCLUDE THE PETITIONER DID MAKE DECISIONS BASED ON THE INTENTIONAL FRAUDULENT ASSERTIONS OF THE STATE'S KEY WITNESSES CONCERNING ACTIVITIES OF UNLAWFULLY INCARCERATING PETITIONER AGAINST HIS WILL PRIOR TO FORCING HM TO SUBMIT TO THE OFFICERS AUTHORITY ON 2/21/83 DESPITE PETITIONER'S PROFERRED EXPLANATIONS?

WHETHER THE JUDGMENT HAD BEEN PROCURED BY FRAUD?

WHETHER THE JUDGMENT DEPRIVED PETITIONER OF HIS DUE PROCESS AND RIGHTS TO A FAIR TRIAL?

WHETHER THE VALIDITY OF THE SEARCH WARRANT CLAIMED TO HAVE BEEN ISSUED 2/21/83 FOR PETITIONER'S VEHICLE AND THE USE OF THE SAME MENTIONED SEARCH WARRANT TO ARREST AND INCARCERATE PETITIONER COMPLIED WITH THE REQUIREMENTS OF THE FOURTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND THE CORRESPONDING ARTICLES AND SECTIONS OF THE TENNESSEE CONSTITUTION AND AS OF THE RESULTS WHETHER CONSENT AND WAIVER OF RIGHTS WERE FRUITS OF AN INVALID SEARCHES AND SEIZURES?

WHETHER THE TRIAL COURT ERRED BY ITS FAILURE TO SUPPRESS THE EVIDENCE SEIZED PURSUANT TO THE SEARCH WARRANT, ISSUED 2/21/83 AS CLAIMED BY OFFICERS AND THE ASSISTANT DISTRICT ATTORNEY GENERALS THAT PARTICIPATED IN THE INVESTIGATION, PRESENTATION AND PROSECUTION OF THE CASE?

WHETHER THERE WAS NON-COMPLIANCE WITH TENNESSEE RULE OF CRIMINAL PROCEDURES RULES 41(C), 41(E), 41(D) AND 4(A)(3)?

WHETHER THE PURPOSE OF HAVING THE MAGISTRATE RETAIN A COPY OF THE SEARCH WARRANT IS TO INSURE THE PURITY OF THE SEARCH PROCESS?

WHETHER THE DIFFERENCES SHOWN IN THE SEARCH WARRANT IN THE RECORD WOULD CONSTITUTE GROUNDS FOR HOLDING THE SEARCH WARRANT INVALID?

WHETHER THE EVIDENCE, STATEMENTS AND WAIVERS WERE OBTAINED BY THE EXECUTION OF A SEARCH WARRANT ON 2/21/83 CLAIMED TO BE OBTAINED, AS OF RESULT OF, THAT THE EVIDENCE, STATEMENT AND WAIVER OF RIGHTS WERE OBTAINED ILLEGALLY IN THAT THE OFFICERS EXECUTION THE SEARCH WARRANT DID NOT COMPLY WITH THE PROVISIONS OF THE RULES OF CRIMINAL PROCEDURES 41(C) AND (D) AND 4(A)(3), SPECIFICALLY, WHETHER THE OFFICERS FAILED TO SERVE OR READ A COPY OF THE SEARCH WARRANT ON THE PETITIONER AND DID NOT LEAVE THE PETITIONER A RECEIPT FOR THE SEIZED PROPERTY IN THIS CASE THE PETITIONER'S VEHICLE AND PETITIONER'S PERSON?

WHETHER THE UNREASONABLE SEARCH AND SEIZURE WERE, AS THE PETITIONER CONTENDS, UNREASONABLE, ILLEGAL AND THE TRIAL COURT IMPROPERLY DENIED THE PETITIONER'S MOTION TO SUPPRESS, WHETHER THE SEARCH WARRANT WAS CONDUCTED IN COMPLIANCE WITH THE TENNESSEE RULES OF CRIMINAL PROCEDURE, AS PETITIONER CONTENDS THAT THE OFFICERS FAILED TO COMPLY WITH TENNESSEE RULE OF CRIMINAL PROCEDURES 4 AND 41, WHICH GOVERNS THE EXECUTION OF SEARCH WARRANTS, IN TWO WAYS: 1) BY NOT GIVING HIM A COPY OF THE SEARCH WARRANT, AND 2) BY NOT GIVING HIM A COPY OF THE RECEIPT OF ITEMS TAKEN FROM THE PREMISES PURSUANT TO RULES 41(E), 41(C), 41(D) AND 4(A)(3)?

WHETHER THE DESCRIPTION OF THE PROPERTY TO BE SEIZED AS STATED IN THE SEARCH WARRANT ON 2/21/83 OF THE PROPERTY TO BE SEIZED WAS OR COULD BE CONSIDERED A GENERAL WARRANT SO AS TO RENDER THE WARRANT INVALID?

WHETHER THE SEPARATE PROVISION OF TENNESSEE RULES OF CRIMINAL PROCEDURE RULE 41(C) AND RULE 4(A)(3) REQUIRES AN ENDORSEMENT BY THE MAGISTRATE OF THE OFFICER TO WHOM THE WARRANT WAS "DELIVERED FOR EXECUTION? WHETHER THE LATTER PROVISION OF 41(C) OBVIOUSLY REQUIRES THE PERSONAL PRESENCE OF THE OFFICER TO WHOM IT WAS "DELIVERED FOR EXECUTION BY THE

ISSUING MAGISTRATE? WHETHER THE LANGUAGE IN THE "FATAL" CLAUSE CONCERNING THE FAILURE TO "ENDORSE ... THE NAME OF THE OFFICER TO WHOM ISSUED" RELATED TO THE REQUIREMENT TO "ENDORSE ... THE NAME OF THE OFFICER TO WHOM THE WARRANT WAS DELIVERED FOR EXECUTION?

WHETHER THE OFFICERS DELIBERATELY PRESENTED FALSE TESTIMONY TO ESTABLISH PROBABLE CAUSE FOR THE ISSUANCE OF THE SEARCH WARRANT ON 2/21/83 FOR PETITIONER'S RESIDENCE AND VEHICLE?

WHETHER THE FRUITS OF THE SEARCH WARRANT CLAIMED BY OFFICERS ON 2/21/83 TO IMPOUND PETITIONER'S VEHICLE FROM THE BACKYARD OF THE PRIVATE RESIDENCE 918 EAST EIGHTH STREET, CHATTANOOGA, TENNESSEE 37403, WHERE PETITIONER ALSO RESIDED AT SHOULD HAVE BEEN SUPPRESSED BECAUSE THE PROBABLE CAUSE THAT WAS USED TO JUSTIFY THE ARREST OF THE PETITIONER WAS BASED UPON THE DISCOVERIES MADE PURSUANT TO THE SEARCH WARRANT OF 2/21/83?

WHETHER THE OFFICERS DELIBERATELY PRESENTED FALSE TESTIMONY TO ESTABLISH PROBABLE CAUSE FOR THE ISSUANCE OF THE SEARCH WARRANT ON 2/21/83 FOR THE PETITIONER'S RESIDENCE AND VEHICLE AND PETITIONER?

WHETHER THE SEARCH WARRANT OF 2/21/83 WAS ILLEGALLY EXECUTED?

WHETHER THE SEARCH AND SEIZURE OF THE PERSON EDWARD JEROME HARBISON WAS UNREASONABLE?

WHETHER THE EVIDENCE PREPONDERATE AGAINST THE TRIAL COURT'S FINDING AS TO PROPER EXECUTION OF THE SEARCH WARRANT ON 2/21/83?

WHETHER OFFICERS ENTRY ON 2/21/83 ON A PRIVATE RESIDENCE 918 EAST EIGHTH STREET, CHATTANOOGA, TENNESSEE 37403 TO EXECUTE THE CLAIMED SEARCH WARRANT LAWFUL?

WHETHER THE DATE OF ISSUANCE WAS RECORDED ON THE 2/21/83 SEARCH WARRANT OR WERE LOGGED IN THE DOCKET BOOK?

WHETHER THE 2/21/83 UNREASONABLE DEPRIVATION OF PETITIONER'S LIBERTY WAS THE INITIAL INTRUSION THAT TAINTED THE ENTIRE EPISODE CUMULATING IN THE CONFRONTATION WITH PETITIONER AND THE SEARCH AND SEIZURE OF THE VEHICLE PARKED IN THE BACKYARD OF THE PRIVATE RESIDENCE?

WHETHER THE COURT COULD ARRIVE AT THE INESCAPABLE CONCLUSION THAT THE EVIDENCE WAS NOT SEIZED AS PART OF ANY LAWFUL AUTHORITY?

WHETHER PETITIONER HAS A CONSTITUTIONALLY ORDERED RIGHT TO BE SECURE IN HIS PERSON AND POSSESSIONS AND TO BE FREE FROM "ARBITRARY INVASIONS SOLELY AT THE UNFETTERED DISCRETION" OF THE POLICE OFFICERS ON 2/21/83?

WHETHER THE COURT COULD ARRIVE AT THE INESCAPABLE CONCLUSION THAT THE EVIDENCE OF THE CRICUMSTANCES OF PETITIONER'S CONSENT TO SEARCH AND WAIVER OF RIGHTS THAT WAS OBTAINED WERE NOT INCIDENT TO THE 2/21/83 LAWFUL INTRUSION UPON PETITIONER'S EXPECTATION OF PRIVACY, BUT WERE UNREASONABLE SEARCHES AND SEIZURES, UNLAWFUL DETENTION AND INCARCERATION WAS VALID ON 2/21/83 WHILE AT 918 EAST EIGHTH STREET, CHATTANOOGA, TENNESSEE 37403 AND THEREAFTER?

WHETHER THE TENNESSEE SUPREME COURT IN **Hampton v. State, 148 Tenn. 155, 161, 252 S.W. 1007, 1008-09 (1932)**, REFLECTS A CONCERN THAT BOTH OFFICERS AND MAGISTRATES MUST BE VIGILANT IN INSURING THAT THE REQUIREMENTS OF THE CONSTITUTIONS AND THE STATUES BE FOLLOWED? AND WHETHER THE REQUIREMENTS WERE FOLLOWED IN PETITIONER'S CASE?

WHETHER IN **Talley v. State, 208 Tenn. 275, 287, S.W.2d 867, 869 (1961)**, THE TENNESSEE SUPREME COURT STATED THAT THE INTENT OF THE STATUE "WAS TO SECURE THE CITIZEN AGAISNT CARELESSNESS AND ABUSE IN THE ISSUANCE AND EXECUTION OF SEARCH WARRANTS? (EMPHASIS ADDED). AND WHETHER THE ABUSE IN THE ISSUANCE AND EXECUTION FOLLOWED IN THIS CASE?

WHETHER THE TRIAL COURT COULD POINT OUT TO PETITIONER OR ANY OTHER COURT THAT PETITIONER RECEIVED A **COPY** OF THE 2/21/83 SEARCH WARRANT THAT WAS ""IDENTICAL IN EVERY RESPECT"" TO THE ORIGINAL SEARCH WARRANT CLAIMED TO HAVE BEEN RECEIVED BY POLICE OFFICERS AND THE ASSISTANT DISTRICT ATTORNEY GENERALS THAT PARTICIPATED IN THE INVESTIGATION, PREPERATION, PRESENTATION AND PROSECUTION OF THE CASE?

WHETHER THE 2/21/83 SEARCH WARRANT USED BY POLICE OFFICERS AND THE ASSISTANT DISTRICT ATTORNEY GENERALS THE PARTICIPATED IN THIS CASE, THAT LED TO THE UNREASONABLE SEARCH AND SEIZURE OF PETITIONER AND THE IMPOUNDMENT OF HIS VEHICLE FROM THE BACKYARD OF A PRIVATE RESIDENCE 918 EAST EIGHTH STREET, CHATTANOOGA, TENNESSEE 37403, A RESIDENCE WHERE

PETITIONER ALSO RESIDED AT VIOLATED BOTH STATE AND FEDERAL CONSTITUTIONS THE FOURTH AND FOURTEENTH AMENDMENT RIGHTS TO THE UNITED STATES CONSTITUTION AND ARTICLES AND SECTIONS OF THE CORRESPONDING TENNESSEE CONSTITUTION AS WELL AS TENNESSEE RULE OF CRIMINAL PROCEDURES RULES 4(A)(3) AND 41(C), 41(E), 41(D)?

WHETHER THE MAGISTRATE ISSUED THE WARRANT IN RELIANCE ON A DELIBERATELY OR RECKLESSLY FALSE AFFIDAVIT ON 2/21/83?

WHETHER THE MAGISTRATE ABANDONED HIS OR HER JUDICIAL ROLE AND FAILED TO PERFORM HIS OR HER NEUTRAL AND DEETACHED FUNCTION ON 2/21/83?

WHETHER THE 2/21/83 WARRANT WAS BASED ON AN AFFIDAVIT SO LACKING IN INDICIA OF PROBABLE CAUSE AS TO RENDER OFFICIAL BELIEF IN ITS EXISTENCE ENTIRELY UNREASONABLE?

WHETHER THE 2/21/83 WARRANT WAS SO FACIALLY DEFICIENT THAT IT FAILED TO PARTICULARIZE THE PLACE TO BE SEARCH AND THE THINGS TO BE SEIZED?

WHETHER PETITIONER'S ARREST WERE PURSUANT TO AN VALID WARRANT AS CLAIMED BY OFFICERS ON 2/21/83 WHEN PETITIONER WAS ARRESTED AT 918 EAST EIGHTH STREET, CHATTANOOGA, TENNESSEE 37403 WHERE PETITIONER ALSO RESIDED AT?

WHETHER PETITIONER'S VEHICLE WERE IMPOUNDED PURSUANT TO AN VALID SEARCH WARRANT THAT WAS CLAIMED BY OFFICERS TO IMPOUND PETITIONER'S VEHICLE FROM THE BACKYARD OF THE PRIVATE RESIDENCE ON 2/21/83?

WHETHER OFFICERS DELIBERATELY PRESENTED FALSE AND PERJURED TESTIMONY TO ESTABLISH PROBABLE CAUSE FOR THE WARRANTS EXECUTED ON 2/21/83 COMPLIED WITH **State v. Little, 560 S.W.2d 403, 407 (Tenn. 1978); U.S. v. Luna, 525 F.2d 4, 6-7 (6th Cir. 1978); Franks v. Delaware, 438 U.S. 154, 155-156, 98 S.Ct. 2674, 2676, 57 L.Ed.2d 667 (1978))?**

WHETHER THE POLICE OFFICERS AND THE ASSISTANT DISTRICT ATTORNEY GENERALS THAT PARTICIPATED IN THE INVESTIGATION, PRESENTATION, PROSECUTION AND COLLATERAL PROCESS IN THESE PROCEEDINGS WILLFULLY CONCEALED FAVORABLE EVIDENCE FROM THE COURT, JURY AND DEFENSE IN ORDER TO DEFRAUD AND DECEIVED THE COURT, JURY AND DEFENSE?

WHETHER THE STATE AND POLICE OFFICERS THAT WILLFULLY AND INTENTIONALLY CONCEALED, MISREPRESENTED AND PRESENTED

FABRICATED EVIDENCE TO THE COURT, JURY AND DEFENSE TO PREVENT PETITIONER FROM PRESENTING AN ADEQUATE DEFENSE TO THE CHARGES BROUGHT AGAINST PETITIONER?

WHETHER PETITIONER WAS ENTITLED TO INFORMATION WITHIN KNOWLEDGE AND CONTROL OF POLICE OFFICERS AND ASSISTANT DISTRICT ATTORNEY GENERALS THAT PARTICIPATED IN THE INVESTIGATION, PRESENTATION AND PRESECUTION OF THE CASE?

WHETHER THE OFFICERS AND DISTRICT ASSISTANT ATTORNEY GENERALS DELIBERATELY PRESENTED FALSE TESTIMONY AND FABRICATED EVIDENCE CONCERNING RECEIVING JUDICIAL AUTHORITY UNDER THE SEARCH WARRANT CLAUSE OF THE FOURTH AND FOURTEENTH AMENDMENT RIGHTS OF THE U.S. CONSTITUTION AND THE CORRESPONDING ARTICLES AND SECTIONS OF THE TENNESSEE CONSTITUTION WERE DONE TO INTENTIONALLY PREVENT PETITIONER FROM ASSERTING AND CHALLENGING THE UNCONSTITUTIONAL ACTIONS TAKEN AGAINST PETITIONER ON 2/21/83?

WHETHER A PERSON WHO UNREASONABLY AND SERIOUSLY INTERFERES WITH ANOTHER'S INTEREST IN NOT HAVING HIS AFFAIRS KNOWN TO OTHERS OR HIS LIKENESS EXHIBITED TO THE PUBLIC IS AN ADEQUATE ACTION FOR INVASION OF PRIVACY TO THE OTHER?

WHETHER IT IS UNDISPUTED THAT ON 2/21/83 OFFICER ENTERED A PRIVATE RESIDENCE 918 EAST EIGHTH STREET, CHATTANOOGA, TENNESSEE 37403 AT APPROXIMATELY 4:30 P.M. WITH THE INTENT TO IMPOUND PETITIONER'S VEHICLE FROM THE BACKYARD AND TO INCARCERATE PETITIONER, WHETHER OFFICERS MADE IT CLEAR THAT THEY WOULD PLACED PETITIONER IN HANDCUFFS AND/OR PUT HIM IN THE BACK OF A PATROL CAR AND TOOK PETITIONER DOWN TO THE POLICE STATION (POLICE SERVICE CENTER), WHEREIN THE INTENT OF THE OFFICERS AT THE TIME OF THEIR ENTRY ON THE PREMISES WITHOUT CONSENT OR POSSESSING A LEGAL WARRANT FOR SEARCH OR ARREST, AS CLAIMED TO HAVE RECEIVED, WAS ACTUALLY EITHER TO ARREST WITHOUT WARRANT OR SEARCH WITHOUT WARRANT?

WHETHER IT COULD BE CONCLUDED THAT THE ON 2/21/83 OFFICERS OF THE CHATTANOOGA POLICE DEPARTMENT CAME AND GAINED ACCESS TO 918 EAST EIGHTH STREET, OFFICERS DID NOT COME TO THE RESIDENCE WITH THE INTENT FOR THE PURPOSE OF CONVERSING, THEY DID SO WITH THE INTENT TO INCARCERATE, DETAIN, RESTRAIN PETITIONER AND TO IMPOUND PETITIONER'S VEHICLE FROM THE BACKYARD OF THE PRIVATE RESIDENCE, A RESIDENCE WHERE OFFICERS KNEW THAT PETITIONER ALSO RESIDED AT?

WHETHER THERE WAS JUDICIAL MISCONDUCT INVOLVING BOTH POLICE OFFICERS AND THE ASSISTANT DISTRICT ATTORNEY GENERALS THAT PARTICIPATED IN THE INVESTIGATION, PRESENTATION AND PROSECUTION OF THE CASE, AS IT APPLIES TO THE PETITIONER'S CASE?

WHETHER THE OFFICER OF THE COURT AT TRIAL AND IN HIS CLOSING ARGUMENTS DELIBERATELY MISREPRESENT THE FACTS, CIRCUMSTANCES AND EVIDENCE IN THE PRESENT CASE?

WHETHER THE POLICE OFFICERS AND ASSISTANT DISTRICT ATTORNEY GENERALS THAT PARTICIPATED IN THE INVESTIGATION, PRESENTATION AND PROSECUTION OF THE CASE, CONSPIRE TO DEPRIVE THE PETITIONER OF HIS FOURTH, FIFTH, SIXTH AND FOURTEENTH AMENDMENT RIGHTS TO THE U.S. CONSTITUTION & THE CORRESPONDING ARTICLES AND SECTIONS OF THE TENNESSEE CONSTITUTION DEPRIVE PETITIONER OF HIS RIGHTS TO DUE PROCESS AND A FAIR TRIAL?

WHETHER THE ACTIONS AND CONDUCT OF THE POLICE OFFICERS AND ASSISTANT DISTRICT ATTORNEY GENERALS THAT PARTICIPATED IN THE INVESTIGATION, PRESENTATION AND PROSECUTION OF THE CASE CONTINUE TO CONSPIRE IN THE FURTHERANCE OF THE CONSPIRACY TO DEPRIVE PETITIONER OF HIS FOURTH, FIFTH, SIXTH AND FOURTEENTH AMENDMENTS RIGHTS TO THE UNITED STATES CONSTITUTION AND THE CORRESPONDING ARTICLES AND SECTIONS OF THE TENNESSEE CONSTITUTION AS IT APPLIES TO THE PETITIONER'S CASE?

WHETHER THE COURT COULD ALSO REVIEW THE CLAIMS PRESENTED BY PETITIONER AS AN INDEPENDENT ACTION IF THE JUDGMENT WERE PROCURED BY FRAUD UPON THE COURT?

WHETHER THE POLICE OFFICERS AND ASSISTANT DISTRICT ATTORNEY GENERALS THAT PARTICIPATED IN THE INVESTIGATION, PRESENTATION AND PRESECUTION OF THE CASE CONTINUE TO CONCEAL, SUPPRESS AND WITHHOLD MATERIAL DOCUMENTS, INFORMATION AND EVIDENCE UNTIL THE PETITIONER WERE OUT OF STATE COURT AND CONTINUE TO DO SO IN THIS CASE?

WHETHER THE COURT COULD CONCLUDE THAT DELIBERATE MISREPRESENTATIONS AND UNLAWFUL ACTIONS BY THE POLICE OFFICERS ON 2/21/83 SHOULD HAVE BEEN BUT WERE NOT PRESENTED TO PETITIONER'S JURY?

WHETHER OFFICER MISCONDUCT WERE DELIBERATELY CONCEALED FROM THE COURT, JURY AND DEFENSE IN THIS CASE?

THAT WERE WILLFULLY DONE TO DECEIVE AND DEFRAUD THE COURT, JURY AND THE DEFENSE IN THIS CASE?

WHETHER THE COURT AND JURY HAD A RIGHT TO RECEIVE AND HAVE THE CORRECT FACTS AND CIRCUMSTANCES OR THE OFFICERS WILLFUL MISCONDUCT ON 2/21/83 KNOWN TO THEM BEFORE DECISIONS WERE MADE TO RULE ON BY THEM?

WHETHER THE PETITIONER COULD RELY ON THE POLICE OFFICERS AND ASSISTANT DISTRICT ATTORNEY GENERALS DELIBERATE MISREPRESENTATIONS THAT WERE MADE BY THE POLICE OFFICERS AND ASSISTANT DISTRICT ATTORNEY GENERALS TO THE COURT, JURY AND DEFENSE IN THIS CASE WHEN THE STATE'S KEY WITNESSES WILLFULLY PRESENTED FALSE AND PERJURED TESTIMONY AND FABRICATED EVIDENCE TO CONVICT PETITIONER IN THIS CASE?

WHETHER PETITIONER WAS ENTITLED TO MATERIAL INFORMATION, DOCUMENTS AND EVIDENCE WITHIN THE KNOWLEDGE AND CONTROL OF THE POLICE OFFICERS AND ASSISTANT DISTRICT ATTORNEY GENERALS?

WHETHER PROOF IN THIS CASE REFLECTS THAT THIS DELIBERATE MISREPRESENTATION ACTION CONCERNING THE OFFICERS ACTIONS TAKEN AGAINST PETITIONER ON 2/21/83 BY FRAUDULENT ASSERTIONS ON THE COURT BY PRESENTING FALSE AND PERJURED TESTIMONY OF RECEIVING JUDICIAL AUTHORITY UNDER THE SEARCH WARRANT CLAUSE TO IMPOUND PETITIONER'S VEHICLE FROM THE BACKYARD OF A PRIVATE RESIDENCE 918 EAST EIGHTH STREET, CHATTANOOGA, TENNESSEE 37403 AND USED THIS SAME MENTIONED AUTHORITY TO ARREST PETITIONER AT 918 EAST EIGHTH STREET, WHERE PETITIONER ALSO RESIDED AT WITHOUT HIS CONSENT, WARRANT OR EXIGENT CIRCUMSTANCES FOR DOING SO?

WHETHER THE PROOF IN THIS CASE REFLECTS THAT THE OFFICERS GAINED ENTRY TO THE PRIVATE RESIDENCE 918 EAST EIGHTH STREET, ON 2/21/83 AND USED A SHOW OF AUTHORITY THEREAFTER?

WHETHER THE PROOF IN THIS CASE REFLECTS THE OFFICERS MADE CONSCIOUS ACTIONS IN ASSERTING THEIR SHOW OF AUTHORITY ON 2/21/83 TO ENTER, IMPOUND AND ARREST THE PETITIONER IN THIS CASE?

WHETHER THE PETITIONER'S VEHICLE WERE TAKEN AGAINST HIS WILL OR CONSENT ON 2/21/83?

WHETHER THE PETITIONER WERE INCARCERATED BY POLICE OFFICERS AGAINST HIS WILL OR CONSENT ON 2/21/83?

WHETHER A FINDING THAT A RIGHT MERITS SUBSTANTIVE DUE PROCESS PROTECTIONS MEANS THAT THE RIGHT IS PROTECTED AGAINST CERTAIN GOVERNMENT ACTIONS REGARDLESS OF THE FAIRNESS OF THE PROCEEDINGS USED TO IMPLEMENT THEM?

WHETHER DUE PROCESS CLAUSE WHICH CONTAINS A SUBSTANTIVE COMPONENT THAT BARS CERTAIN ARBITRARY WRONGFUL GOVERNMENT ACTIONS AS IT APPLIES TO THIS CASE?

WHETHER PETITIONER'S PRESENTS A CASE WHERE A JUDGMENT, CONVICTION AND SENTENCE OF DEATH THAT WERE ILLEGALLY PRECURED BY CONCEALMENT OF A MATERIAL FACT OR BY WILLFUL MISREPRESENTATIONS AND FABRICATED EVIDENCE AND FRAUD?

WHETHER THE POLICE OFFICERS AND ASSISTANT DISTRICT ATTORNEY GENERALS KNOWINGLY MISREPRESENTED MATERIAL FACTS AND CIRCUMSTANCES UNLAWFUL SEIZED THAT WERE PRESENTED TO INFLUENCE THE RELEVANT DECISION MAKER'S DECISION IN THIS CASE?

WHETHER THE DETERMINATIONS WERE MADE BY POLICE OFFICERS AND ASSISTANT DISTRICT ATTORNEY GENERALS WOULD BE BASED ON AN ALLEGED DELIBERATE MISREPRESENTATIONS IN AN ISSUE OF MATERIALITY TO THIS DEATH PENALTY CASE?

WHETHER PETITIONER'S CONTENTIONS THAT THE 2/21/83 SEARCH WARRANT CLAIMED BY THE OFFICERS & PROSECUTORS IS NOT AN AUTHENTIC LEGAL DOCUMENT IS CREDIBLE, CRUCIAL OR VALID?

WHETHER GIVEN THE CREDIBILITY DETERMINATION MADE WITH RESPECT TO THE ELEMENTS OF THE SEARCH WARRANT ON 2/21/83 THE STATE'S CASE, THE COURT'S FACTUAL FINDINGS WERE CLEARLY ERRONEOUS WITHOUT A FINDING OF EXIGENT CIRCUMSTANCES?

WHETHER THE DOCUMENTS, EVIDENCE THT SUPPORTD THE KEY WITNESSES CORROBORATIVE EVIDENCE WERE ASSERTIONS OF FALSE AND PREJURED TESTIMONY, TESTIFIED TO RECEIVING SEARCH WARRANT ON 2/21/83 WAS AN AUTHENTIC DOCUMENT, BUT OFFERS NO EVIDENCE IN THE TRIAL RECORD TO SUPPORT THEIR FRAUDULENT ASSERTIONS?

WHETHER THE STATE'S KNOWINING USE OF PERJURED TESTIMONY AND FABRICATED EVIDENCE AT TRIAL VIOLATES DUE PROCESS WHEN IT COULD DECEIVE THE JURY, AND COURT INTO UNJUSTLY CONVICTING AND SENTENING THE PETITIONER?

WHETHER THIS ARGUMENT IS PARTICULARLY INRONIC, INASMUCH AS OFFICERS AND PROSECUTORS THAT INVESTIGATED AND PROSECUTED

THE CASE REPEATEDLY RELIED ON OFFICER'S FOSTER'S AND DAVIS'S TESTIMONY TO SUPPORT POINTS BENEFICIAL TO THE OFFICERS ACTIONS OF 2/21/83 AND TO DELIBERATELY PREVENT PETITIONER FROM ASSERTING AN ADEQUATE DEFENSE TO THE CHARGES BROUGHT AGAINST HIM BY THE OFFICERS AND ASSISTANT DISTRICT ATTORNEY GENERALS?

WHETHER THE PETITIONER'S CHALLENGE TO THE AUTHENTICITY OF THE LEGAL DOCUMENT ON VARIOUS GROUNDS WOULD HAVE RESULTED IN A DIFFERENT OUTCOME OF THE PROCEEDINGS BUT FOR THE STATE'S KEY WITNESSES REPEATEDLY FRAUDULANT ASSERTIONS OF TESTIMONIAL CORROBORATION AS TO HAVE RECEIVED JUDICIAL AUTHORITY ON 2/21/83 IS DEVASTING TO THE PETITIONER'S CONTENTIONS THAT THERE WAS NO ARREST OR SEARCH WARRANT ON 2/21/83?

WHETHER BECAUSE AS PETITIONER ASSERTS THESE ACTS WERE DELIBERATELY DONE TO PREVENT PETITIONER FROM ASSERTING AN ADEQUATED DEFENSE AND TO COVER-UP THE MISCONDUCT OF THE OFFICERS ACTIONS ON 2/21/83?

WHETHER THE ALLEGATIONS OF THE POLICE OFFICERS CLAIMING JUDICIAL AUTHORITY ON 2/21/83 UNDER A SEARCH WARRANT (**T.T. at pages 603-604**), AT PETITIONER'S TRIAL ARE IN FACT CRUCIAL OR VALID?

WHETHER THE COURT WOULD FOCUS THE INQUIRY ON FRAUD UPON THE COURT?

WHETHER THE COURT WOULD FOCUS THE INQUIRY ON AN INDEPENDENT ACTION?

WHETHER THE **RECORD SHOWS** THE PROSECUTOR'S KEY WITNESSES' DELIBERATELY PRESENTED FALSE AND PERJURED TESTIMONY AND FABRICATED EVIDENCE AT PETITIONER'S TRIAL?

WHETHER THE **RECORD SHOWS** THE PROSECUTORS LEARNING ABOUT THE OFFICERS CLAIMS OF JUDICIAL AUTHORITY ON 2/21/83 AND FAILED TO CORRECT IT WHEN IT APPEARED?

WHETHER **RECORD SHOWS** THE ASSISTANT DISTRICT ATTORNEY GENERALS KNEW OR SHOULD HAVE KNOWN OFFICERS FOSTER AND DAVIS WILLFULLY PRESENTED FALSE, PERJURED TESTIMONY & EVIDENCE AT PETITIONER'S TRIAL AND FAILED TO CORRECT IT?

WHETHER THERE A DELIBERATELY FRAUDULENTLY AND RECKLESS MISREPRESENTATIONS OF MATERIAL FACT AND RECKLESS DISREGARD FOR THE TRUTH IN THE AFFIDAVIT TO ESTABLISH PROBABLE CAUSE FOR THE WARRANTS MADE BY THE AFFIANT ON 2/21/83?

WHETHER ON 2/21/83 THE WARRANTLESS ENTRY BY LAW ENFORCEMENT OFFICERS UPON 918 EAST EIGHTH STREET, CHATTANOOGA, TENNESSEE 37403 A PRIVATE DWELLING OF THE PETITIONER'S, FOR PURPOSE OF MAKING AN ARREST OR SEARCH VIOLATE CLEARLY ESTABLISHED STATE AND FEDERAL CONSTITUTIONS LAW PURSUANT TO THE FOURTH AND FOURTEENTH AMENDMENTS RIGHTS OF THE UNITED STATES CONSTITUTION AND THE CORRESPONDING ARTICLES AND SECTIONS OF THE TENNESSEE CONSTITUTION?

WHETHER THE UNLAWFUL CONDUCT ON 2/21/9\83 WAS SUFFICIENT TO RENDER THE SUBSEQUENT STATEMENT INVOLUNTARY, THE PURPOSE F ELICITING INCRIMINATING STATEMENTS FOR USE IN A SUBSEQUENT PROSECUTION ENTENDS ALSO TO THE WRITTEN STATEMENT AS A FRUIT OF THE INTERROGATION?

WHETHER THE EVIDENCE AT ISSUE IF FAVORABLE TO THE ACCUSED, EITHER BECAUSE IT IS EXCULPATORY OR BECAUSE IT MAY IMPEACH IMPORTANT INCULPATORY EVIDENCE WAS SUPPRESSED AND IN PETITIONER'S CASE CONTINUES TO BE SUPPRESSED BY THE STATE, EITHER WILLFULLY OR INADVERTENTLY AND PERJUDICE HAS ENSURED TO PETITIONER BECAUSE THE STATE CONTINUES TO ASSERT THAT EVERYTHING IS DISCLOSED TO PETITIONER?

WHETHER THE EVIDENCE WAS FAVORABLE TO PETITIONER, AND WHETHER THE EVIDENCE WAS FAVORABLE AND THAT THE EVIDENCE, INFORMATION, DOCUMENTS WAS MATERIAL?

WHETHER THE STATE'S AND POLICE OFFICERS, BY FAILURE TO DISCLOSED THE EVIDENCE "UNDERMINES CONFIDENCE IN THE VERDICT[] BECAUSE THERE IS A REASONABLE PROBABILITY THAT THERE WOULD HAVE BEEN A DIFFEENT RESULT HAD THE MATERIAL EVIDENCE, INFORMATION, DOCUMENTS OR TESTIMONIAL STATEMENTS UNDER OATH BEEN DISCLOSED TO PETITIONER?

WHETHER WHEN PROSECUTION DELIBERATELY CONCEALS SIGNIFICANT EXCULPATORY EVIDENCE AND REPEATEDLY ASSERTS THAT ALL EXCUPATORY EVIDENCE HAD BEEN DISCLOSED, IT NORMALLY IS INCUMBENT UPON THE STATE TO SET THE RECORD STRAIGHT, NOT THE PETITIONER TO UNGVER THE EVIDENCE, INFORMATION, DOCUMENTS, OR TESTIMONIAL STATEMENTS MADE UNDER OATH?

WHETHER COERCIVE POLICE ACTIVITY IS A NECESSARY PREDICATE TO THE FINDING THAT A CONFESSION IS NOT "VOLUNTRAY" WITHIN THE MEANING OF THE DUE PROCESS CLAUSE?

WHETHER AN INTENTIONAL MISREPRESENTATION WITH REGARD TO A MATERIAL FACT, KNOWLEDGE OF THE REPRESENTATION[‘S] FALSITY-THAT THE REPRESENTATION WAS MADE “KNOWINGLY” OR “WITHOUT BELIEF IN ITS TRUTH,” OR “RECKLESSLY” WITHOUT REGARD TO ITS TRUTH OF FALSITY, THAT THE PETITIONER, JURY AND COURT REASONABLY RELIED ON THE MISREPRESENTATIONS AND PETITIONER SUFFERED DAMAGE AND PRJUDICE IN NOT HAVING HIS DEFENSE ASSERTED AND TO CHALLENGE THE UNLAWFUL ACTIONS OF THE POLICE OFFICERS ON 2/21/83, WHICH DEPRIVE PETITIONER OF DUE PROCESS AND A FAIR TRIAL, AND THAT THE MISREPRESENTATIONS RELATES T AN EXISTING OR PAST FACT, OR IF THE CLAIM IS BASED ON FRAUD?

WHETHER SUPPRESSION BY THE STATE OF EVIDENCE FAVORABE TO THE ACCUSED VIOLATES THE DUE PROCESS CLAUSE WHERE THE EVIDENCE IS MATERIAL TO EITHER GUILT OR PUNISHMENT, IRRESPECTIVE OF THE GOOD OR BAD FAITH OF THE PROSECUTION?

WHETHER THE RESPONSIBILITY RESTS ON THE PROSECUTOR, TO DISCLOSE FAVORABLE MATERIAL EXCULPATORY EVIDENCE, INFORMATION, DOCUMENTS OR TESTIMONIAL STATEMENTS MADE UNDER OATH TO THE DEFENSE?

WHETHER PETITIONER’S RIGHT TO A FAIR TRIAL VIOLATED BY THE UNREASONABLE ACTIONS OF THE POLICE OFFICERS AND PROSECUTORS IN THIS CASE, IN THESE PROCESSINGS?

WHETHER PETITIONER’S DUE PROCESS RIGHTS VIOLATED BASED ON ADMISSION OF ERRONEOUS EVIDENCE, THAT RENDERED THE TRIAL SO “ARBITRARY AND FUNDAMENTALLY UNFAIR THAT IT VIOLATED BOTH STATE AND FEDERAL DUE PROCESS OF LAW?

WHETHER THE ~~BIAS~~ OR PREJUDICE OF EVEN A SINGLE JUROR WOULD VIOLATE THE PETITIONER’S RIGHT TO A FAIR TRIAL?

WHETHER THERE IS DOUBT THAT THE JURY’S ASSESSMENT OF PETITIONER AND THE STATE’S KEY WITNESSES CREDIBILITY WAS CRITICAL TO ITS DECISION?

WHETHER IN THIS CASE, THE EXTRINSIC EVIDENCE-THE TESTIMONY REGARDING THE “SEARCH WARRANT” OF 2/21/83 AND POLICE OFFICER’ CONCLUSIONS REGARDING IT WAS ACTUALLY RECEIVED BY THE ENTIRE JURY IN THIS CASE, BY THE TRIAL COURT AND BY THE DEFENSE WHICH VIOLATES THE FOURTH, FIFTH, SIXTH FOURTEENTH AMENDMENT RIGHTS TO THE U.S. CONSTITUTION AND THE CORRESPONDING SECTIONS AND ARTICLES OF THE TENNESSEE CONSTITUTION?

On April 19, 2007, herein Petitioner received from Mr. Kenneth O. Fritz, Special Counsel, a April 11, 2007, letter that asserts as to the following: ("This letter is sent in response to your letter dated April 4, 2007. It appears you assert you did not receive a copy of the Chattanooga City Court docket book for February 21, 1983. Copies of the docket book entries for February 21, 1983, are enclosed") ("You also requested copies of "Applications of all Warrants and Summons for that day 2/21/83." Chattanooga City Court no longer has jurisdiction to hear state criminal cases. That jurisdiction is now vested in the General Sessions Court of Hamilton County. Chattanooga City Court sent all of the records it maintained on "Warrants and Summons" to that Court. As such, Chattanooga City Court does not have any "Applications of all Warrants and Summons for that day 2/21/83" that can be provided to you.")) Sincerely, signed, Mr. Kenneth O. Fritz, Special Counsel.

Petitioner contends that as herein asserted in above, at page 14, that on April 19, 2007, Petitioner received the "City Court of Chattanooga, Tennessee, City Court Docket Book log for the whole day of February 21, 1983, from attorney Mr. Kenneth O. Fritz, Special Counsel, representing the City of Chattanooga, Tennessee. Clearly shows that the Police Officers that participated in the present case, could not have received a Judicial Authority under a Search Warrant for Petitioner's vehicle on February 21, 1983, as Detective Swafford asserted, see (P.T. at p. 178), and as the State asserted, see (T.T. at p. 603), and as Detective Foster testified to at trial, see (T.T. at Pp. 603-604). What is clear is that on 2/21/83 the Officers Entered 918 East Eighth Street, Chattanooga, Tennessee, 37403, asserting under color of authority, under color of law, claiming authority under the law pursuant to a Search Warrant issued 2/21/83, to impound / tow Petitioner's vehicle from the backyard of the private residence were Petitioner's also resided at, see (T.T. at 444, 473, 544, 550); (State's

Exhibit Nos. 2-4), and Defense Exhibit Nos. 5-6). Algonac Manufacturing Company v. United States, 458 F.2d 1373, 1373 (United States Court of Claims, May 12, 1972) (the Government has an affirmative Duty to Disclose such Knowledge which is vital to the proformance of the Warrant, It cannot remain silent with impunity). On 2/21/83, Officers used a show of authority to subjected Petitioner to Unreasonable Searches and Seizures, and Transported Petitioner and His vehicle to the Chattanooga City Police Service Center were Petitioner was held for Investigative Purposes Only see (T.T. at Pp. 543, 549), without a proper Warrant, Exigent Circumstances or Probable Cause against His will and without His Consent prior to 5:46 p.m. Is relevant to the Court and Jury conclusions that could have changed the outcome of the proceedings in the present case, the Petitioner who in this present proceeding, has been convicted of murder and sentenced to death should be entitle to the relief He seeks, because the net effect of the State's and Police Officers due process violation in failing to disclose evidence favorable to the Petitioner raises a reasonable probability that disclosure of the Fabricated Evidence would have produced a different result in the proceedings. Had the State or Police Officers disclosed the Willfulness of the Officers fabricating evidence and presenting false and perjured testimony as well as the Officers and State's deliberate unlawful misconduct, misrepresentations to the Court, Jury and Defense in the present case, when false information is intentionally provided to the Court and Jury with the Intent to Deceive and Defraud the Court.

Petitioner contend it would be unjust to allow the verdict to stand because the present Judgment were deliberately obtain by Fabricated Evidence; False and Perjured Testimony; Misconduct, Misrepresentations intentionally prevented to Deceive and Defraud the Court, Jury and Defense.

Petitioner contend that since, on April 19, 2007, Petitioner received

sufficient facts entitling him to relief, and pursuant to Townsen v. Sain to determine whether it is necessary to grant an Hearing, see Cardwell v. Greene, 152 F.3d at 331 (citing Townsend v. Sain, 372 U.S. 293, 313, 83 S.Ct. 745, 9 L.Ed.2d 770 (1963) (overruled in part)). In Townsend the Court establishes six circumstances where a court must grant an evidentiary hearing: 1) the merits of the factual dispute were not resolved in the State hearing; 2) the State factual determination is not fairly supported by the Record as a whole; 3) the fact finding procedure employed by the State Court was not adequate to afford a full and fair hearing; 4) there is a substantial allegation of Newly Discovered Evidence; 5) the Material Facts were not adequately Developed at the State-Court Hearing; or 6) for any reason it appears that the State trier of fact did not afford the Petitioner a Full and Fair Hearing, Townsend v. Sain, 372 U.S. at 313, 83 S.Ct. 745; Maupin v. Smith, 785 F.2d 135, 138-39 (authority therein cited).

WHEREFORE PREMISES CONSIDERED:

Petitioner prays that: 1) the Material Facts were not adequately Developed at the State-Court Proceeding;

2) that the Claims and Defenses which were not fully developed in the Trial Court or placed before any Jury in this death penalty case be held in Abeyance until a Determination on Petitioner's other claims which were not Fully Developed in the Trial Court;

3) that all available remedies in which Petitioner has be exhausted;

4) that the "Chattanooga City Docket Book" obtained by Petitioner on April 19, 2007, for the whole day of 2/21/83, ("reflecting pages 9579-9598, therein cited), so that it could be properly includable upon the Trial Record;

5) Petitioner also pray that the Tennessee Public Records are ruled to be Admissible Evidence in this present case;

6) Further Petitioner Would be prejudiced if the Evidence is not placed into the Record;

7) that it is mandatory that Petitioner's case goes through a Review with the Solicitor General's Officer because it is a Death Penalty Case;

8) And prays for any other appropriate relief the court deems proper.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Edward Jerome Harbison".

Edward Jerome Harbison, #108926
Pro Se, Petitioner
RMSI, Unit-2, D-Pod, Cell-109
Riverbend Maximum Security Institution
7475 Cockrill Bend Boulevard
Nashville, Tennessee 37209-1048

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT A TRUE AND EXACT COPY OF THIS MOTION HAS BEEN SENT VIA UNITED STATES MAIL TO:

THE OFFICE OF THE ATTORNEY GENERAL,
425 FIFTH AVENUE NORTH,
NASHVILLE, TENNESSEE 37243 (615) 741-4150.

BY PLACING A COPY IN THE UNITED STATES MAIL, FIRST-CLASS, PASTAGE PREPAID.

ON THIS, THE 10th DAY OF August 2007

Edward Jerome Harbison

EDWARD JEROME HARBISON, #108926

PRO, SE PETITIONER

RMSI, UNIT TWO, D-POD ROOM 109
RIVERBEND MAXIMUM SECURITY INSTITUTION
7475 COCKRILL BEND BOULEVARD
NASHVILLE, TENNESSEE 37209-1048

PETITIONER'S VERIFICATION UNDER OATH SUBJECT TO PENALTY FOR PERJURY

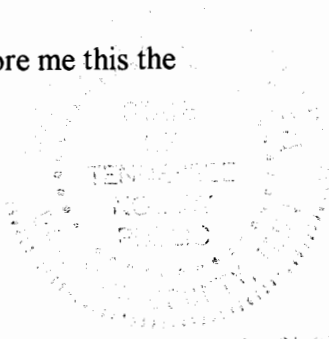
I swear (or affirm) under penalty of perjury that the forgoing is true and correct.

Executed on August 10, 2007
(Date)

SWORN TO AND SUBSCRIBED before me this the

10th day of August 2007

Christy S. _____
Notary Public



My Commission Expires: _____