

IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

U.S.C.A. - 7th Circuit
RECEIVED

OCT 18 2021 MLM

CASE NUMBER: 21-1495

MISS TONI FLY; 18658-023
AKA: WILLIAM ANTHONY FLY;
PETITIONER

V.

C. CARTER; WARDEN -
FBI FLORENCE
RESPONDENT

ORIGINAL CASE AND APPEAL
FROM No: 1820-CV-01412-CSB
IN THE CENTRAL DISTRICT
OF ILLINOIS; BEFORE THE
HONORABLE COLIN S. BRUCE,
UNITED STATES DISTRICT JUDGE

"EMERGENCY"
MOTION AND NOTICE OF FURTHER
BAD FAITH MISCONDUCT BY RESPONDENTS

I. MOTIONS:

1. MOTION FOR EXPANSION OF TIME, DUE TO BAD FAITH MISCONDUCT BY RESPONDENTS; AND THE PETITIONERS LACK OF LEGAL COUNSEL; AND NEWLY DISCOVERED EVIDENCE CONSISTANT WITH SUPPORT OF CLAIMS; AND DUE TO THE RESPONDENTS FINALLY PROVIDING A "LIMITED" AMOUNT OF THE PETITIONERS "LEGAL" RESEARCH CASE LAW IN WHICH PROVES CLAIMS; AND DID NOT PROVIDE THIS UNTIL AFTER THE COURTS DUE DATE, THEREFORE DENYING DUE PROCESS, IN THE VIOLATION OF THE UNITED STATES CONSTITUTION AMENDMENTS V AND XIV (5 AND 14); AND DUE TO PENDING TRANSFER IN VIOLATION OF FEDERAL RULES OF CIVIL PROCEDURE; AND APPELLATE PROCEDURE RULE 23
2. MOTION FOR LEAVE TO AMEND ALL PREVIOUS CLAIMS AND MEMORANDUM BRIEFS WITH SUPPLEMENTAL INFORMATION IN SUPPORT OF CLAIMS, PREVIOUSLY MADE.
3. MOTION AND NOTICE OF SENDING MEMORANDUM SUPPORTING CLAIMS TO THE SEVENTH CIRCUIT ON 29 JULY 2021; VIA UNITED STATES POSTAL SERVICE; CERTIFIED MAIL TRACKING NUMBER: 7020 0640 0001 3407 9922 BY PERSONALLY HAND DELIVERING TO CORRECTIONS OFFICER

4. To Prove The Court Actually Received All Of The 6 Documents Untampered With, This Is True And Correct As Of 26 August 2021 As Of Approximately 1200 hrs (6PM), After Dinner meal time. And SHU Staff Stated That All Of Today's mail Has Been Passed Out.
PS Form 3811 Domestic Return Receipt # 9590 9402 6083 0125 2837 49

5. Motion and Notice of Bad Faith misconduct By Respondents, and Further Attempts to hinder Investigations By Federal Judge's, and Motion For Appointment of Counsel, and Motion Pursuant to Federal Rules of Civil Procedure Rule 6.5

II. FACTS,

6. The petitioner has significant constitutional claims that are factually complex and legally intricate with facts that have been underdeveloped in which has hampered the petitioner from investigating claims due to indigence and her illegal incarceration, placement in SHU, repeated transfers, respondents conspiracy to deny rights upon the petitioner, and torture through rape, Raynaud's, chronic pain, allergies, and intersex related conditions including gender dysphoria. See United States v. Mula, 7 F.3d 1058, 1063-64 (1st Cir. 1993); Battle v. Armontrout, 902 F.2d 701, 702 (8th Cir. 1990)

7. The petitioner has current, past, present, and ongoing claims of mental competency issues in which claim that the respondents have used her as a weapon to deny her rights in the court proceedings, and torture into a coerced plea agreement. Therefore, it seems appropriate that [petitioner] appellant be represented by appointed counsel. Pike v. United States, 330 F.2d 53, 54 (5th Cir. 1964)

8. The PETITIONER DOES ASSERT THAT BOTH DURING PRE TRIAL AND POST CONVICTION, THAT THE RESPONDENTS HAVE INTENTIONALLY INTERFERED AND HINDERED WITH THE PETITIONER'S ABILITY TO PREPARE HER DEFENSE AND ARGUMENT TO PROVE HER FACTUAL AND ACTUAL INNOCENCE, DUE TO OVER BEATING HER MENTAL WILL, TORTURING HER THROUGH RAPE, RAYNAULTS, AND DENIAL OF CARE, INCLUDING HORMONE THERAPY, AND BY FREQUENTLY TRANSFERRING THE PETITIONER FROM ONE FACILITY TO ANOTHER, AND FORCING HER TO BE HOUSED IN THE SPECIAL HOUSING UNITS OF THOSE FACILITIES TO DENY LEGAL ACCESS, LAW LIBRARIES, LEGAL PROPERTY, PEN, PAPER AND LEGAL CONTACTS. SEE *Tate v. Woods*, 963 F.2d 20, 26 (2d Cir. 1997).

9. The PETITIONER ASSERTS THAT THE RESPONDENTS ILLEGALLY AND UNCONSTITUTIONALLY TRANSFERRED HER FROM A "PROTECTIVE CUSTODY" FACILITY TO AN "ACTIVE" GANG RAN FACILITY TO INTENTIONALLY CAUSE HARM UPON HER.

10. a. RESPONDENTS DISCONTINUED MEDICALLY NECESSARY ACCOMMODATIONS, ORDERS, AND PRESCRIPTIONS INCLUDING SINGLE CELL, LOWER BUNK, CLOTHING PROTECTION FOR RAYNAULTS, FEMININE SANITARY PADS (MAGGIDS) FOR INTERSEX RELATED GENITAL LEAKING, IN BETWEEN MEALS AND SNACKS FOR HYPOLYCEMIA, PAIN AND ALLERGY MEDICATIONS, AND ALORA ESTRODIOL PATCHES (HORMONE REPLACEMENT THERAPY), TO INDUCE INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS, ANXIETY, GENDER DYSPHORIA, PAIN AND SELF HARM, AND SUICIDE. IN VIOLATION OF THE 8TH, 5TH, AND 14TH AMENDMENTS, OF THE U.S. CONSTITUTION, WITH INTENT TO INTERFERE WITH FEDERAL COURT PROCEEDINGS, BY "OVER BEATING THE WILL OF THE [PETITIONER] VIOLATES DUE PROCESS!" *Brady v. UNITED STATES*, 742, 755 (1976)

11. b. PETITIONER ASSERTS THAT THE RESPONDENTS HAVE ASSAULTED HER SEXUALLY AND PHYSICALLY SINCE ARREST, AND PLACED HER

12. Most Recently These Assaults have included: AN 24 May 2021. Several staff members including Lieutenants UNconstitutionally and Illegally Removed The Petitioner From her single cell placement in Pueblo-Bravo Quarantine UNIT. (COVID-19); and placed her in Rear Restraints and escorted her to the Special Housing unit; where they did immediately violently assault her by slamming her head first into a brick wall, then head first into corner floor/wall, and jumping knees first on her;

13. Note: Newly Discovered Evidence - A witness came forward stating he witnessed this, and did notify the Special Investigations Agent (SIA), - This is believed to be an inmate Rhodes who was the orderly/ Porter at the time,

14. The Petitioner was falsely issued an Incident Report to cover up this misconduct in which these staff members stated "stop making PRA Reports" and to "Remove" "Omega Stevens" from a pending Civil Rights Litigation;

15. The Incident Report resulted in Loss of Good Conduct time, Loss of all Privileges and a Fine, and the Seventh Circuit held this to be "Properly Brought Pursuant to § 2241" Queen v. Miner, 530 F.3d 253, 255 n.2 (3d Cir. 2008) Because a "contest by a federal prisoner to a revocation of good-time credits rests on § 2241". ARNOLD V. MacBERRY, 351 Fed. Appx. 143, 144, 2009 US App. LEXIS 24803, at *2 (7th Cir. Nov. 13 2009).

16. "When Prison officials maliciously and Sadistically use force to cause harm, contemporary standards of decency are (4)

19. Co Cermak made Threatening Gestures to The Petitioner and Denied her recreation, IN RETALIATION TO THE PAYTON LETTER
20. UPON LEAVING THE CELL (Cody Payton-01236-151); another violent male was forced upon The Petitioner by Threat of serious Harm. Within minutes this man (William Wade) did violently assault The Petitioner from behind rendering her unconscious, and with a bump on The right rear side of her skull/head, and Bruises all over her Back, and causing Painful injuries and severe Emotional Distress.
21. Then staff violently beat, drag, and forced Petitioner into a cell with a Native American with whom is an Alleged child Rapist from The northern Cheyenne Indian Reservation; This though The Petitioner repeatedly objected and stated she would assault this person and hang herself, upon placement in The cell in order to prevent further staff forced sexual Abuse upon The Petitioner.
22. The Petitioner did hang herself, while several staff members looked in and seen her, that walked on ignorantly her. Then later, came and threatened her stating "Fuy, you NOT going to like it when we come in there and hurt you Really Bad".
23. A Large team of staff Breached The door and did Physically violently assault The Petitioner and intentionally inflicted pain upon her, Even by forcibly Pressing hard on her Hand twisting it onto steel Restraints (G).

24. The Petitioner was placed into a RESTRAINT cell for several hours, then returned to her single cell, and left alone.

25. The Petitioner was then removed from her cell to be interrogated by Lt. Arnold, about the Cody Payton and William Wade incidents.

26. The Petitioner was then taken to a cell with a very dangerous and violent and intimidating E2 Garcia, 62483-051; with whom has the number 666 tattooed upon his forehead, hands, and other places. Staff removed his cell mate, and placed that cell mate in the Petitioner's single cell, and forced her into the cell with Garcia, showing no Penological reason; and only did so to induce harm upon Petitioner.

27. E2 Garcia, had been disciplined for violent attacks upon a BSA transportation vehicle, and assaulting staff members, and he was in several altercations with cell mates. E2 takes medications for psychotic episodes, and states he is a Paranoid Schizophrenic, and was having "Angry Hallucinations" which Petitioner was forced to endure, in daily fear upon her life.

28. In or around 15 July 2021 E2 Garcia, became outwardly violent towards the Petitioner and threatened to physically assault her. Petitioner informed Dr. Rudolph and Dr. Dakesh of this. They did nothing.

29. E2 Garcia then started telling Petitioner that he wanted her to perform favors upon him. By stating "I will control" and that he wanted her

me", and "We should sleep together".

30. E2 Garcia Then Grabbed Petitioner's Breasts, and then twisted her nipples pinching them. The Petitioner did inform Garcia that this was a sexual assault, and he said "Don't tell on me". The Petitioner stated that she was going to, as this is exactly why she should only be single celled in a women's facility or released, as this does cause her severe emotional distress.

Note: Petitioner does concede that E2 Garcia does not have the mental capacity to truly understand the behavior or conduct he is doing. Yet still, BOP officials are required to prevent such conduct, not to induce it.

31. The Petitioner did inform Dr. Danesh of this and that she brought the two lieutenants who violently beat petitioner on 24 May 2021 and informed her to "stop" making PREA complaints. Lt's MURTON and ARRICA, with intent to intimidate her.

They stated they would not be taking Petitioner's complaint.

32. Petitioner received a disciplinary report from Dr. Danesh, Esq. falsely alleging that some unnamed, unknown staff members called her, and stated petitioner admitted to lying and said she was sorry. This the petitioner holds is entirely fabricated to cover up staff sexual abuse upon petitioner through forced placements to be sexually victimized, to interfere with Habeas and civil proceedings.

33. Petitioner reported to chaplain and clinical director this staff misconduct by Dr. Danesh, Lt. MURTON, Lt. ARRICA and others, and Dr. Danesh and Lt. ARRICA came to threaten

The PETITIONER AND STATED she would receive a New OUTSIDE charged offense, and a new incident report for lying, and further went on about all of the previous PREA reports LT. ARRIOLA had to deal with at previous facility he met with PETITIONER AT

34. PETITIONER received an incident report for calling DR. DANESH a "Lying BITCH", due to her fabrication of the previous incident reports, and forcing rape upon PETITIONER, and stating DR. DANESH AND LT. ARRIOLA will hopefully go to prison for their illegal misconduct and rape upon PETITIONER, No UAC hearing, nor PWD has been provided, denying due process.

35. PETITIONER was forced to cell with JOSHUA OLIVE whom is HIV positive, and does continually intimidate PETITIONER, and has been aggressively violent verbally towards her, and controls the whole house, making PETITIONER do his laundry, wind his radio, and does not allow her to flush the toilet or take showers at her normal times, and continually badgers her, belittles her, and has attempted other harms upon her by force.

36 BOP officials discontinued PETITIONER'S HIV PEP (truvada) medication, and have forced PETITIONER into a cell with Cody Puyton who is Hep-C positive and possibly HIV positive, then now, JOSHUA OLIVE to induce HARMs upon her, through "deadly" "maladies" "such as Hepatitis and venereal disease" *FARMER v. BRENNAN*, 511 US 825, 844-95, 114 S.Ct. 1970, 128 LEd 2d 211, (1994); citing *Helling v. McKinley*, 509 US 25, 33, 125 LEd 2d 22, 113 S.Ct. 2475.

also holding "it would indeed be odd to deny an injunction to inmates who plainly proved an unsafe, life threatening condition in their prison on the ground that nothing yet had happened to them", at F.D.

37. The Respondents in fact continue to intentionally inflict emotional distress upon the petitioner with the intent to deny due process and Equal Protections of Law; by and through cruel and unusual punishments, excessive use of force, and denial of right to redress and grievance the government, and by denial or blocking or hindering access to the courts and law libraries, and pens, and typewriter, and computer and email, and PACER, and denial of medical care, and forcing petitioner into sexual servitude by illegal housing assignments, in violation of the US constitution, Amendments 1, 4, 5, 8, 13, 14, and the convention against torture, and the Prison Rape Elimination Act, and the Americans with Disabilities Act, and the Rehabilitation Act, and the Geneva Convention, and the UN Nelson Mandela Rule, and the Declaration of Human Rights, and state and federal vulnerable adult laws, and criminal laws, under United States code.

See 18 USC § 241; § 242; § 1503; § 1512; § 2340; 2340A; § 2241; § 2243; 42 USC § 1985; § 1986; 5 USC § 706 (Administrative Procedures Act - "Arbitrary" and "capricious" actions by officials)

38. The petitioner does assert that respondents have done this since arresting petitioner, to conspire and deny her rights; to have an effect on the outcome of the proceedings, and further that this has been the "cause" for significant "prejudice" upon her and her proceedings, and her ability to defend or appeal or challenge, or attack the proceedings or their illegal and unconstitutional outcomes; or the miscarriage of justice that led to them. The petitioner asserts her factual and "actual innocence" to all charged or statutorily unchanged offenses, and the offense of wrongful conviction,

and due to the Respondent's Fraud upon the Court and the Chief US District Judge's Judicial Bias, and the Defense Counsel's Ineffective Assistance, and other misconduct in the proceedings in which are beyond the control of the Petitioner, due to the virtual God-like powers and control in which the Prosecution Government has had and still does have, in which has placed an unfair disadvantage upon the Petitioner; this has caused a significant prejudice upon her, and has resulted in, and continues to result in a fundamental miscarriage of justice, and the wrongful conviction and illegal incarceration of the Petitioner.

A Petitioner need only show "cause and prejudice" or "actual innocence". *Bousley v. United States*, 523 US 614, 622, 118 S.Ct. 1604, 1611, 140 L.Ed.2d 828 (1998) and professional misconduct may amount to egregious behavior and create extraordinary circumstances. see *United States v. Martin*, 408 F.3d 1089, 1093 (8th Cir. 2005).

39. Judicial Bias, Prosecutorial misconduct, Fraud upon the Court, Constructive Denial of Legal Counsel, Torture, Intentional Infliction of emotional distress, and conflict of interest by Defense Counsel, and intentional misrepresentations by Counsel, including those to coerce and induce an unknowing and involuntarily Plea Agreement are very egregious and do create "extraordinary circumstances" as the Petitioner "would have insisted on going to trial", *Hill v. Lockhart*, 474 US 52, 58-59, 82 L.Ed.2d 203, 104 S.Ct. 366 (1985), cited in *United States of America v. Todd*, 287 F.3d 1160, 1163-64 (D.C. Cir. 2002). "Unusual Cases, However Call For Unusual Remedies" at ID.

In this case, this requires immediate reversal and vacation of conviction, sentence, and restitution; and a finding of... for the Petitioner and to grant

40. The Respondents are illegally and unconstitutionally withholding evidence and discovery and documentation in which proves the Petitioner's claims of fraud upon the court, a conspiracy to deny rights and to induce the overbearing of the will of the Petitioner to wrongfully induce an unknowing and involuntarily plea and to effect the outcome of court proceedings in both the criminal and civil and Habeas proceedings.

41. The Petitioner should be allowed to amend or supplement her habeas petition with claims of newly discovered evidence of prosecutorial misconduct, *Carter v. Beggan*, 787 F.3d 1269 (10th Cir. 2015)

fraud upon the court; with intent to overbear the will of the Petitioner; to effect the outcome of the proceedings; denial of speedy and fair trial; constructive denial of legal counsel; and intentional infliction of emotional distress; and denial of medical treatments promised to the court; and rape upon the Petitioner acting in a conspiracy to deny rights; in a vindictive prosecution and unfair tactics to obtain an unfair advantage over the Petitioner in an illegal prosecution; with no jurisdiction to prosecute; and the use of perjury, and misrepresented evidence, testimony,

These conditions the Petitioner asserts are significant evidence of prosecutorial misconduct; in which is a "procedure... so configured as to deny a convicted defendant any opportunity for judicial rectification of so fundamental defect in [her] conviction" as continuous interference, bad faith misconduct and denial of due process. *Hampton v. Warden of Marion USP*, 2021 US 9150 LEXIS 91322 citing in *Re Davenport*, 147 F.3d 605, 611 (7th Cir. 1998).

42. The PETITIONER ASSETS THAT THE RESPONDENTS have again INFLICTED EMOTIONAL DISTRESS TO CAUSE THE "OVERBEARING OF THE WILL OF THE [PETITIONER]" IN ORDER TO DENY DUE PROCESS AND EQUAL PROTECTIONS THROUGH CRUEL AND UNUSUAL PUNISHMENTS, UPON THE PETITIONER TO HAVE A DIRECT EFFECT OR INDIRECT EFFECT ON THE PROCEEDINGS; JUST AS THEY DID SINCE ARREST AND THEN CONTINUOUSLY THROUGH ALL PRE-TRIAL, POST CONVICTION, APPEAL, 28 USC § 2255 AND 28 USC § 2241; AND CIVIL RIGHTS ACTIONS; AND YET CONTINUE TO DO SO TO HINDER THE PETITIONER'S HABEAS PROCEEDINGS. BRADY V. UNITED STATES, 397 US 742, 750-51, 25 L ED 2D 747, 90 S. CT. 1463 (1970).

AS THIS IS A CONSTITUTIONAL AND STATUTORY CLAIM IN WHICH ALSO DID OCCUR THROUGHOUT THE PRE-TRIAL, AND POST CONVICTION PROCEEDINGS, IN WHICH DID AND DOES NOW DENY DUE PROCESS AND EQUAL PROTECTIONS PURSUANT TO THE US CONSTITUTION AMENDMENTS 5 AND 14 THROUGH VIOLATIONS CONTINUOUSLY, AND ONGOING, AND DELIBERATELY WITH MALICIOUS AND SARCINIC INTENT PURSUANT TO THE US CONSTITUTIONAL AMENDMENT 8.

43. THE RESPONDENTS MAY NOT ABRIDGE OR IMPAIR PETITIONER'S RIGHT TO APPLY TO A [COURT] FOR A WRIT OF HABEAS CORPUS AS BOUNDS V. SMITH, 430 US 817, 822, 52 L ED 2D 72, 97 S. CT. 1491 (1997). AND YET GO TO GREAT LENGTHS TO DO SO.

44. THE RESPONDENTS HAVE CONTINUOUSLY IMPAIRED THE PETITIONER'S ABILITY TO PROSECUTE, DEFEND, PRESENT, OR ARGUE HER CLAIMS, OR PROVE HER INNOCENCE IN PRE-TRIAL, POST CONVICTION, APPEAL, OR HABEAS, OR CIVIL RIGHTS PROCEEDINGS DUE TO THEIR BAD FAITH MISCONDUCT, SINCE AT LEAST THE DATE OF PETITIONER'S ARREST ON 15 JULY 2016. THESE ACTS HAVE CAUSED SIGNIFICANT PREJUDICE UPON THE PETITIONER BY RESULTING IN A COERCED UNKNOWING AND INVOLUNTARY PLEA AGREEMENT, CONVICTION TO AN STATUTORILY UNCHARGED OFFENSE, IN WHICH SHE IS FACTUALLY AND ACTUALLY INNOCENT, AND A BREACH OF CONTRACT. IN PLEA AGREEMENT, AND LONGER SENTENCE THAN PROMISED BY VERBAL STATEMENTS, AND

and Equal Protections, and The DISMISSAL OF CIVIL RIGHTS actions, and 28 USC § 2255 Proceedings, and Lower Courts Habeas 2241 Proceedings,

45. The Petitioner asserts that on or about 6/05/2021 at or between approximately 0900 and 1000 hrs, Warden C. Carter did in fact order her subordinate staff to leave the recreation area, where she then berated petitioner, and using offensive vulgarities threatened the petitioner, and did inform her that she would be placed on a bus and transferred and that she does not "give a fuck about Federal Rules of Appellate Procedure Rule 23", and has made arrangements with the facility in which petitioner is to be "immediately" transferred without first seeking the courts permission. The petitioner fears that she is in serious imminent threat of harm, injury, rape, assault, and homicide upon her.

46. The petitioner does assert that the respondents do illegally keep the petitioner's legal preparation, research, discovery, case law, briefs, legal mail, legal documents, and all property from her to hinder this and other court proceedings.

47. The petitioner will be allegedly transferred 8 OCT 2021, and upon arrival to the new destination, she will likely be on a 21 day quarantine, and deprived of all legal documents, law libraries, property, phone, email, postal mail, and visitation.

48. The petitioner will likely be sexually/physically assaulted in violation of the US Constitution.

49. The Petitioner is UNCONSTITUTIONALLY ILLEGALLY BEING TRANSFERRED TO ANOTHER MALE FACILITY IN VIOLATION OF THE PRISON RAPE ELIMINATION ACT 28CFR 115.42 (a),(c),(e),(f) AND THE CONVENTION AGAINST TORTURE; AS "IT WOULD BE UNLAWFUL IN LIGHT OF *Farmer v. Brennan*, 511 US 825 (1994) FOR [RESPONDENTS] TO PLACE [Pety], AS A TRANSGENDER FEMALE, IN THE MALE POPULATION... WITH DELIBERATE INDIFFERENCE TO THE SERIOUS RISK OF HARM SHE FACETS... [65] THE SUPREME COURT'S HOLDING IN *Farmer* INDICATES WITH 'REASONABLE SPECIFICITY' THAT A PRISON OFFICIAL MAY VIOLATE A FEMALE TRANSGENDER PRISONER'S [RIGHTS] CONSTITUTIONAL RIGHTS IF THE OFFICIAL DELIBERATELY IGNORES AN EXCESSIVE RISK OF [HARM] TO THAT PRISONER'S SAFETY BY PLACING THE PRISONER IN THE MALE POPULATION". *Cameron v. Menard*, 2019 US DIST LEXIS 164487 ID AT *35-36. (D.V.T. aug 13, 2019). AS THIS IS A VIOLATION OF THE EIGHTH AMENDMENT OF THE US CONSTITUTION.

50. The Petitioner does assert that she is "UNLAWFULLY CONFINED IN THE WRONGLY INSTITUTIONAL." *Preiser v. Rodriguez*, 411 US 495, 496, 36 L.Ed.2d 439, 93 S.Ct. 1827 (1973) "AS IN *In re Bonner*, 151 US 242, 38 L.Ed 149, 14 S.Ct. 323 (1894); and *Humphrey v. Cady*, 405 US 504, 31 L.Ed.2d 394, 92 S.Ct. 1048 (1972);" BECAUSE BOP'S DECISION TO HOUSE [PETITIONER] IN A MALE'S FACILITY IS NOT BASED ON ANY LEGITIMATE PENOLOGICAL PURPOSES; ASSIGNMENT TO A WOMEN'S PRISON WOULD NOT ONLY AFFIRM [PETITIONER'S] GENDER IDENTITY, BUT IT WOULD PUT HER IN AN ATMOSPHERE WHERE SHE WOULD BE PROTECTED FROM ONGOING SEXUAL ASSAULT AND HARASSMENT, AND IT WOULD GIVE HER ACCESS TO THE MENTAL HEALTH SERVICES [Resolve Program For Females] SHE NEEDS TO STAY SAFE AND [ADDRESSING ISSUES OF RESPONDENTS' INFLICTED RAPE] TRAUMA DISORDERS AND LIVING WITH GENDER DYSPHORIA". *Tay v. DENNISON*, 457 F. SUPP. 3d 657, 682; 2020 U.S. DIST LEXIS 76911 ID AT *52-53 (S.D.ILL. MAY 1, 2020). AND "SOCIAL TRANSITION IS AN IMPORTANT COMPONENT OF MEDICAL TREATMENT" AND MISGENDERING SOMEONE WITH GENDER DYSPHORIA IS 'TRAUMATIC'. *Juniah Menroe v. Baldwin*, 924 F. SUPP. 3d 536, 545; 2019 US DIST LEXIS 217925 ID AT *46-47 (S.D.ILL DEC 19, 2019).

The Penalty' Farmer v. Brennan, 511 US 825, 834, 128 LEd 2d 811, 114 S.Ct. 1970 (1994), citing Rhodes v. Chapman, 452 US 337, 347, 69 LEd2d 59, 101 S.Ct. 2392 (1981),

51. The Petitioner Asserts That She "was Denied [her] CONSTITUTIONAL RIGHTS at TRIAL, as in Johnson v. Zerbst, [304 US 458, 82 LEd 1461, 58 S.Ct. 1019, 146 ALR 357 (1938)]" Preiser v. Rodriguez, 411 US 475, 486, 36 LEd2d 439, 93 S.Ct. 1827 [D at 486 (1973)]. Due to JUDICIAL BIAS, corruption, prosecutorial misconduct, vindictive prosecution, Fraud UPON The court, Denial of Fair Tribunal, Denial of Timely Discovery, Use of Perjured testimony and CONSTRUCTIVE Denial of Legal Counsel, Interference IN Proceedings, Fraud IN The inducement of a plea, Fraud IN The Factum, INTRINSIC Fraud, TORTURE, Coercion, Denial of Speedy Trial, FAILURE to charge an offense, UNLAWFUL Detainment, UNLAWFUL Search, UNLAWFUL Seizure, Denial of medical Treatment to induce an UNknowing and INVOLUNTARY plea agreement, Breach of Contract, JUDICIAL DISCRIMINATION, UNAuthorized Abstention by a Judge, MISREPRESENTATIONS IN Plea.

52. The Petitioner does Assert That She was "imprisoned prior to TRIAL on account of a defective indictment [or information] against [her], as in Ex parte Royall, 117 US 241, 29 LEd 869, 6 S.Ct. 734 (1886)" Preiser v. Rodriguez, 411 US 475, 486, 36 LEd2d 439, 93 S.Ct. 1827 (1973). "Section 2421 requires that the defendant [petitioner] both 'knowingly transport [an] individual in interstate or foreign commerce' and that the defendant [petitioner] have the 'intent that such individual engage in prostitution'" UNITED STATES OF America v. Shim, 584 F.3d 394, 396, 2009 US LEXIS 21536 7 D at 4 (2d Cir. Oct 1, 2009).

53. The Petitioner Asserts That CANVA Fly The prosecutrix Did "transport the [petitioner] to all locations as stated by the Respondents Prosecution Attorney. in his BRIEF IN OPPOSITION TO PETITIONERS 2255, Document 118 Page 6, Section B, Line 11 From TOP.

54. The PETITIONER ASSETS THAT ON Remand From The UNITED STATES SUPREME COURT IN TWITCHELL V. UNITED STATES, 84 S.Ct 637 (1964); IN Regards to The SOLICITOR GENERAL'S CONFESSSION OF ERROR, "TO RECONSIDER THE CONVICTION"; Based ON The WOMAN PROSECUTRIX PROVIDING her own TRANSPORTATION. THIS IS BECAUSE SECTION 2421 ONLY PROHIBITS TRANSPORTATION OF A WOMAN BY SOMEONE ELSE; IT IS NOT AN OFFENSE FOR The WOMAN TO TRANSPORT herself. "consequently IT CANNOT be an offense... TO counsel, command, OR advise her TO TRANSPORT herself". TWITCHELL V. UNITED STATES, 330 F.2d 759; 1964 US App. LEXIS 5730 ED at *1-2; 330 F.2d ID at *759-760. Travelling WITH a companion WHO may Engage IN Illegal Car Immoral "sexual Acts", THAT are "merely incidental TO The JOURNEY". UNITED STATES OF AMERICA V. SCHNEIDER, 817 F.Supp.2d 586, 598 2011 US DIST LEXIS 107206 ED at *24. CITING UNITED STATES V. HADY, 306 F.2d 52, 53-55 (7th Cir. July, 2, 1962); AS The respondents PROSECUTING ATTORNEY STATED IN his Brief Document 118, Page 6, lines 8-11, "C.F. [Canya Fly] testified THAT She TRAVELLED WITH The defendant [PETITIONER] WHO had a JOB TRANSPORTING cars around The UNITED STATES by DRIVING Them FROM one LOCATION TO ANOTHER. [Canya Fly] stated THAT The defendant [PETITIONER] WOULD TRANSPORT a car by DRIVING IT across The country, AND She [Canya Fly] WOULD FOLLOW IN The DEFENDANT'S CAR, so THAT She COULD TRANSPORT The defendant TO The NEXT JOB".

55. The PETITIONER ASSETS THAT NOT ONLY IS This Prosecutors STATEMENT A PRAND UPON The COURT TO INTENTIONALLY DECEIVE The COURT IN Regards TO The REGISTERED OR LEGAL OWNER OF The car; BUT This statement PROVES BEYOND A REASONABLE DOUBT THAT PURSUANT TO TWITCHELL V. UNITED STATES, 330 F.2d 759, 759-760 (7th Cir. APR. 14, 1964); Remand, TWITCHELL V. UNITED STATES, 84 S.Ct. 637 (1964). THAT The PETITIONER WAS Wrongfully arrested, Detained, TORTURED, coerced INTO a misrepresented, unknowing, and INVOLUNTARY plea, TO a STATUTORILY UNCHARGED OFFENSE,

56. The Petitioner does Admit that The charge in The [INFORMATION] did NOT comply with The statutory Requirement concerning The sequence of interstate travel and The violation of State Law, and Therefore charged No offense. The prescriptive Language of The statute is set out... IT Requires That Person to be guilty of its violation, [she] must have [transported an individual person] in interstate commerce... as defined by the statute [and have the intent to engage in prostitution or any crime in which an offense can be charged] [for conducting] The unlawful activity... The Federal statute Requires The acts committed after travel to be in violation of The laws of The state in which they are committed... This Language is plainly NOT SUPERFLUOUS". UNITED STATES V. ZEMATEL, 501 F.2d 540, 543-545; 1974 US APP. LEXIS 7479 TD AT*9-14 (7TH CIR. JULY, 25, 1974).

57. The INFORMATION did NOT Name a state statute in which was Allegedly violated "to establish The crime for which any person can be charged, i.e., to establish That The sexual activity was illegal". UNITED STATES OF AMERICA V. COLE, 262 F.3d 704, 708; 2001 US APP. LEXIS 18712 ID AT*7-8 (8TH CIR.-2001).

58. The charge on The [INFORMATION] did NOT state a crime, and IT could NOT prevail [on a] motion to dismiss since... The [INFORMATION] alleged NO crime, IT WAS ERROR TO allow [The Judge] to consider The charge... The fact That a Journey from one state to another is followed by [] intercourse, where The Journey was NOT for That purpose, BUT wholly for other reasons" as Admitted By The Respondents Prosecution, and The Prosecutors can't say, [IT] "cannot be regarded as a violation of The [Mann] Act." ALPERT V. UNITED STATES, 12 F.2d 352, 354; 1926 US APP. LEXIS 3243 ID AT*8-10 (2D CIR MAY 3, 1926). "The seventh circuit has explained That a 'procedure for post conviction relief can be fairly termed inadequate when IT is so configured as to deny a convicted

defendant [Petitioner] any opportunity for judicial rectification of so fundamental a defect in [her] conviction as having been imprisoned for a nonexistent offense", Hampton, v. Warden of Marion USA, 2021 US Dist. LEXIS 91322 ED AT *4 (S.D. Ill. May 13, 2021).

58. The Petitioner asserts "That because the [information] did not charge an offense no crime has been committed, for it is 'the settled rule that, despite a guilty plea, a defendant 'may urge' such a contention 'in the reviewing court.'" CLASS V. UNITED STATES, 138 S. CT. 798, 804; 200 L Ed. 2d 37, 43. (2018). CITING CARPER V. STATE, 27 Ohio ST. 572, 575 (1875).

59. The Petitioner asserts "The prosecutor used perjured testimony" that she has "newly discovered evidence", that there was "ineffective assistance of counsel", and significant prejudice was brought upon her by "The prosecution's failure to produce evidence under the Jencks Act 18 USC § 3500 (1972)". LINDHART V. UNITED STATES OF AMERICA, 585 F.2d 361, 364; 1978 US APP. LEXIS 8417 ED AT *5 "AN EVIDENTIARY HEARING IS REQUIRED TO DETERMINE WHETHER THE GOVERNMENT KNOWINGLY USED PERJURED MATERIAL TESTIMONY" AT ED CITING WALKER V. JOHNSTON, 312 US 287, 286-87, 61 S. CT. 574, 579, 85 L Ed 830 (1941). The Jencks Act "is not cognizable in a § 2255 proceeding" AT ED. Rendering it inadequate, and available under 28 USC § 2241.

60. The Petitioner asserts that she was wrongfully "convicted" for an statutorily uncharged offense [with which she] differed from the indictment returned by the grand jury [that was] actually charged", UNITED STATES OF AMERICA V. DELGADO, 367 F.5 APP, 3d 286, 293; 2019 US DIST. LEXIS 23215 ED AT *922 (M.D. PA. Feb. 13, 2019). "The prosecution's failure is clear". AT ED CITING UNITED STATES V. LEON, 739 F.2d 885, 890 (3d Cir. 1984). "A defendant [petitioner] can demonstrate a 'reasonable probability' of a different result if the government's suppression of evidence 'undermines confidence' in the outcome of the [proceedings], LEXIS ED AT *24. CITING KULES V. WHITLEY, 514 US 419, 433, 115 S. CT. 1553, 131 L Ed

61. The PETITIONER Asserts That her conviction and her sentence are UNAUTHORIZED and ILLEGAL, and That The coerced, UNKINDLY, and INVOLUNTARY, and MIS-REPRESENTED Plea agreement, was induced Through TORTURE in VIOLATION of The 14th and 5th Amendments RIGHTS to Due Process and Equal Protections, and there can be No Plea Bargain to an ILLEGAL Sentence" UNITED STATES OF AMERICA V. WAUPOOSE, 622 F. SUPP. 930, 940-41 (E.D. WIS. OCT. 15, 2008), CITING UNITED STATES V. GREAT WALKER, 285 F.3d 727, 729 (8TH CIR. 2002).

62. The PETITIONER also Asserts That The Judge did act with Discriminatory Bias upon The PETITIONER Due to her Gender Dysphoria, Intersex Gender, OR Transgender Female Status, or Identity, when he illegally acted with Abstinence; when he was made aware of virtually ALL CONSTITUTIONAL RIGHTS were being deprived upon The PETITIONER, This became very clear when He stated "I don't want to deal with Trans-Gender Issues" at sentencing, and it is well established that the "SUPREME COURT has decided that both ACTUAL Bias and the appearance of Bias Violate Due Process Principles" FRANKLIN V. MCGLAUGHRY, 398 F.3d 955, 961 (7TH CIR. JUNE 15, 2004 ARGUED, FEB 24, 2005 DECIDED) CITING BRACY V. SCHOMIG, 284 F.3d 406, 410-411 (7TH CIR. 2002), "A PETITIONER may Rely on CIRCUMSTANTIAL EVIDENCE TO PROVE THE CJ BIAS" FRANKLIN, 398 F.3d, SUPRA EA AT 960-961.

63. The PETITIONER Asserts That The ENTIRE Pre-Trial Process is riddled with "STRUCTURAL ERROR, such as Judicial Bias, [in which] harmless error analysis is irrelevant" at IO, and Prosecutorial misconduct and Vindictive Prosecution, and Bad Faith misconduct in a conspiracy to deny rights, and fraud upon The Court to deny medical care; to inflict torture and cruel and UNUSUAL Punishments with intent to effect the outcome of The Proceedings through inducement of a Plea (20)

64. The Petitioner Assesses That The Respondents Prosecution Did Construct an Information in Which is "So Vague and Standardless That It Leaves The Public Uncertain as to The Conduct It Prohibits or Leaves Judges and Jurors Free to decide, without any legally fixed standards, what is prohibited and what is not in each particular case" Does Not Provide Fair Notice of The Conduct It Purports to Prohibit, and Therefore Fails to Meet The Requirements of The due Process". UNITED STATES OF AMERICA V. SCHNEIDER, 817 F.SUPP.2d 586, 604, 2011 US DIST (LEXIS 107206 ID at *43-45, (E.D. PA. SEPT 21, 2011). And The Petitioner "challenges The constitutionality OR § 2421 as APPLIED TO [her]. SCHNEIDER 817 F.SUPP.2d ID at *302-03; LEXIS ID at *38-40. As The Statutorily uncharged offense is void for vagueness as "it does NOT allow a person of ordinary intelligence to determine what conduct it prohibits, OR IF IT AUTHORIZES ARBITRARY ENFORCEMENT". SCHNEIDER, SUPRA ID at 604; LEXIS ID at *43. CITING JS. V. BLUE MT. Sch. Dist. No. 08-4138, 650 F.3d 915, 2011 US APP. LEXIS 11947; at *49 (3d Cir. June 13, 2011), CITING HILL V. COLORADO, 530 US 703, 732, 120 S.Ct. 2480, 147 L.Ed. 2d 597. (2000), "Because 'The [Information] did NOT charge an offense No crime [was] committed". CLASS V. UNITED STATES, 138 S. CT 798, 804; 200 L Ed 2d 37, 43-44. (2018).

65. The Petitioner Assesses That she had a constitutional Right Not to be Haled into court at all upon The Felony Charge since "The very initiation of The proceedings against [her] Operated to deprive [her] due process of Law". CLASS, SUPRA ID at *803-04.

66. The Petitioner Assesses That "Where on The Face of The Record The Court had No Power to enter The conviction or impose The Sentence". CLASS, SUPRA, 200 L Ed 2d ID at *44 and There Fore The Petitioner is Being held in custody in Violation of The US Constitution.

67. The Petitioner Does Assess her actual and Pictual Injuries, and "But For" The Judicial Bias Prosecutorial

68. The statute in which [the Petitioner] stands convicted is unconstitutional, as in *Ex Parte Siebold*, 100 US 371, 25 L Ed 717 (1880) & *Preiser v. Rodriguez*, 411 US 475, 36 L Ed 2d 439, 93 S Ct 1327 (1973) 20 at 484, and that the Petitioner's 'Guilty Plea was Invalid' as in *Von Moltke v. Gillies*, 332 US 708, 92 L Ed 309, 68 S Ct 314 (1948) at 10.

69. The Petitioner is seeking designation [to] particular facility [a women's facility for her health and safety compliant with PREA 28 CFR 15.42 (c), (e)] for Petitioner's [illegal] sentence in which "challenges manner in which sentence is being executed, action is properly brought under section 2241, not section 2255" *United States v. Julili*, 925 F.2d 829, 893-94 (6th Cir. 1991), as she has been sexually/physically assaulted by approximately 70 separate inmates and staff members at male facilities.

70. The Petitioner asserts that during her disciplinary hearings that she was denied witness testimony and this is properly brought under section 2241 which governs "challenges to the length, appropriateness, or conditions of confinement" *Kingsley v. United States Bur. of Prisons*, 937 F.2d 26, 30 N.S. (2d Cir. 1991).

71. The Petitioner asserts that there is false, misleading, and misrepresented statements in any pre-sentence investigation report that has resulted in a quantum increase in custody and placement at the wrong prison facilities. *Monkton v. United States*, 844 F.2d 456, 460 (7th Cir. 1988), and section 2241 is only remedy.

72. The Petitioner is contesting the execution of [her] sentence. *Ben v. United States*, 48 F.3d 1042 (7th Cir. 1995).

73. The Petitioner seeks relief for due process, equal protections of law since being locked in ones

Cell 23 hours of the day is quantitatively different from having, as it were, the room of the prison." *UNITED STATES V. HARRIS*, 12 F.3d 735, 736 (7th Cir. 1994).

74. The petitioner is 'actually innocent' of the offense that she is being imprisoned for. *House v. Bell*, 547 US 518, 556, 165 LEd 2d 1, 126 Sct 2064 (2006).

75. The petitioner asserts that she is actually innocent of the offense in which she is currently serving the penalty of. The petitioner's custodian; the respondents are imposing housing, cruel and unusual conditions, of punishment for the wrong offense. The respondents are imposing the penalty of rape under 18 USC § 2241(a) upon her, not the penalty for 18 USC § 2421(a) prostitution, resulting in a quantum increase in level of custody, at the wrong institutions; increase in length of sentence, and severe retaliation and torture, and bias discrimination.

76. The petitioner asserts that the sole purpose of travel in interstate commerce was for legitimate employment as is clearly stated in the respondents' prosecuted response brief, and as affirmed in that brief by the prosecutory Coniya Fly, and the US Supreme Court held that if the journey was "innocent when it began, it remained so until it ended." *MORTENSEN V. UNITED STATES*, 322 US 369, 375-76, 28 LEd 1331 (1944).

77. The petitioner asserts that the respondents did "intentionally" "interfer" with her "medical treatments once prescribed" to effect the outcome of this Habeas proceeding, just as they did when acting in a conspiracy to deny rights, through a fraud upon the court during the pre-trial proceedings. *ESTELLE V. GAMBLE*, 429 US 97, 103-05 (1970).

78. The petitioner asserts that the respondents did intentionally intro br with their habeas proceedings in intention to

Palmer V. Watson, 2021 U.S. Dist. LEXIS 4336,
ED at *4. The Transgender Executive Council
(TEC) "authorized this transfer even though [they]
knows the [petitioner] is transgender and has been
a victim of violence" at all male facility
housing assignments, at ID,

79. The petitioner asserts that she is now again
pending transfer to interlock with this
court proceeding, and holds an investigation by
a Federal Judge in violation of Fed. R. App. P. 23.

80. For the aforementioned reasons the petitioner
does motion the court pursuant to Federal
Rules of Appellate Procedure Rule 23, and Federal
Rules of Civil Procedure Rule 65 for emergency
temporary restraining orders and preliminary
injunctive orders,

81. The petitioner does pray for the emergency order
of protection from current and future harms,
injuries, denial of medical care, sexual/physical
assaults, harassments, retaliation, denial of property
legal documents, legal preparation items, denial of
pens, paper, law libraries, phone, email, visitation
and postal mail.

82. Petitioner further motions the court to order
'emergency' immediate placement in a women's prison
facility for her health and safety and to prevent
further harm and/or injury.

I, Jami Toni Fry, 18658-023, do certify, swear, and affirm
the above aforementioned statements and pleadings
to be true and correct to the best of my information,
knowledge, and belief, under penalty of perjury
Jami Fry, 18658-023
Toni Fry, 7 OCT 2021.

CITATIONS:

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3. PIKE V. UNITED STATES, 330 F.2d 53, 54 (5th Cir. 1964)
4. TATE V. WOOD, 963 F.2d 20, 26 (2d Cir. 1992)
5. BRADY V. UNITED STATES, 742, 750 (1970)
6. QUEEN V. MINER, 530 F.3d 253, 255 N.2 (3d Cir. 2008)
7. ARNAOUT V. MARBETTY, 351 Fed Appx. 143, 144, 2009 US App. LEXIS 24803, at *7 (7th Cir. Nov. 13, 2009)
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10. BOWSLEY V. UNITED STATES, 523 US 614, 622, 118 S.Ct. 1608, 1611, 140 LEd2d 828 (1998).
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13. UNITED STATES OF AMERICA V. TODD, 287 F.3d 1160, 1163-64 (D.C. Cir. 2002).
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15. EN RE DAVENPORT, 197 F.3d 605, 611 (7th Cir. 1998)
16. BOUNDS V. SMITH, 430 US 817, 822, 52 LEd2d 72, 97 S.Ct. 1491 (1997)
17. CAMERON V. MENARD, 2019 US Dist LEXIS 164487 FD at *35-36 (D.Vt. Aug. 13, 2019)
18. PREISER V. RODRIGUEZ, 411 US 475, 486, 36 LEd2d 439,

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20. *HUMPHREY V. CADY*, 405 US 504, 31 LEd.2d 394,
92 Sct 1048 (1972)
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58 Sct 1019, 146 ALR 357 (1938)
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31. *UNITED STATES OF AMERICA V. SCHNEIDER*, 817 F. SUPP. 2d
586, 598; 2011 US DIST. LEXIS 107206 ED AT *24.

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33. TWITCHELL V. UNITED STATES, 330 F.2d 759, 759-60 (9th cir. 1964)
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45. KYLES V. WHITLEY, 514 US 419, 413, 115 S. CT 1555,
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46. UNITED STATES V. WAUPOOSE, 627 F.3d 930, 940-41
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49. BRACY V. SCHOMIG, 286 F.3d 406, 410-11 (7th Cir. 2002)
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52. HILL V. COLORADO, 530 US 703, 782, 120 S.Ct. 2480, 147 LEd.2d 597 (2000).
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54. EX PARTE SIEBOLD, 100 US 371, 25 LEd 717 (1880)
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57. UNITED STATES V. JALILI, 925 F.2d 889, 893-94 (6th Cir. 1991),
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59. KOLON V. UNITED STATES, 844 F.2d 456, 460 (7th Cir. 1988).
60. BELL V. UNITED STATES, 48 F.3d 1042 (7th Cir. 1995).

AND §§ 2241 and 2243.

82. 42 USC §§ 1985 and 1986

83. 5 USC § 706 The Administrative Procedures Act.

84. 28 USC § 2241.

85. Speedy Trial Act

86. 28 USC § 2255

87. US CONSTITUTION Amendments 5 and 14, 8.

88. 28 CFR 15.42 (a), (c), (e), (f).

89. CONVENTION AGAINST TORTURE.

Criminal Code

90. 18 USC § 2241 (a)

91. 18 USC § 2421 (a).

92. Fed. R. CIV. P. Rule 65

93. Fed. R. APP. P. Rule 23,

94. 28 USC § 2251.

61. UNITED STATES V. HARRIS, 12 F.3d 735, 736 (7th Cir. 1994)
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64. ESTELLE V. GAMBLE, 429 U.S. 97, 103-05 (1970)
65. PALMER V. WATSON, 2021 U.S. DIST. LEVLS 4356 ID AT 4

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67. FEDERAL RULES OF APPELLATE PROCEDURE RULE 23
68. FEDERAL RULES OF CIVIL PROCEDURE RULE 65.
69. US. CONSTITUTION AMENDMENTS 8, 5, and 14.
70. US CONSTITUTION AMENDMENT 4,
71. THE PRISON Rape ELIMINATION ACT (PREA)
72. US CONSTITUTION AMENDMENTS 1, 4, 5, 8, 14.
73. US CONSTITUTION AMENDMENTS 1, 4, 5, 8, 13, 14.
74. THE CONVENTION AGAINST TORTURE
75. THE AMERICANS WITH DISABILITIES ACT
76. THE REHABILITATION ACT
77. THE GENEVA CONVENTION
78. THE UN NELSON MANDELA RULE
79. THE DECLARATION ON HUMAN RIGHTS
80. STATE AND FEDERAL VULNERABLE ADULT (ABUSE IN INSTITUTION) LAWS,
81. UNITED STATES CODE (CRIMINAL LAWS,
82. 18 USC §§ 241, and 242, and 1503) and 1512, 2340, 2340A.