Favorable Case Law

ACLU of Mo. Found. v. Lombardi, 59 F. Supp. 3d. 954 (2014). Officers of the state, who are clothed with some duty in regard to the enforcement of the laws of the state, and who threaten and are about to commence proceedings, either of a civil or criminal nature, to enforce against parties affected an unconstitutional act, violating the Federal Constitution, may be enjoined by a federal court of equity from such action.

@ 957: "Injury is the chilling effect on their ability to engage in protected speech."

@ 960: In Kitchen, 755 F. 3d. @ 1201: "[an] officer need only have a particular duty to enforce the statutes in question and a demonstrated willingness to exercise that duty." The defendant's actions falls within Ex Parte Young doctrine 209 U.S. 123, 28 S. Ct. 441, 52 L. Ed. 714 (1908), because the defendants are seeking, and have enjoined to do so, the enforcement of an allegedly unconstitutional act: denying the petitioner to fulfill a court-ordered attendance in a program (Sex Offender Treatment Program), (because he still pleas "Not Guilty", a protected act under the Free Speech of the First Amendment), so he can eventually obtain his release. [7 pgs.]

Adams v. Bertrand, 453 F. 3d. 428 (7th Cir) (2006). Defendant was denied a critical witness. [13 pgs.]

Adhesion Contract: A contract so heavily restrictive of one party, while so nonrestrictive of another, that doubts arise as to whether it is a voluntary agreement because of a grave unconscious able inequity (such as with the "Rules of Supervision"). The "Rules of Supervision" fit the definition of an adhesive contract, thus the rules are unconstitutional.

Any contract (where a person had no choice but to sign) is not a contract in any meaningful sense of the word: they are adhesive contracts. If an instrument is used as a contract (requiring the signature of both parties), it is called a contract.

The freedom of contract is illusionary when the choices are both against the weaker party: agree, or be punished for disagreement – both are false choices, thus unconstitutional.

Freedom of contract is a basic right protected as liberty and property under the due process clause of the Fourteenth Amendment.

The "Liberty of Contract" is protected by the Fifth, and Fourteenth Amendments, and inferred by the Ninth Amendment. The "Rules of Supervision" are violating all three Amendments.

Any free choice must have free minds with true information. Any tainted choices are unconstitutional, null, and void. "All men are entitled to equal treatment under the law." (Mayflower Compact, November 11, 1620.) Equality was established by law, before the U.S. Constitution was enacted, thus the U.S. Constitution cannot void preexisting rights. When the United States becomes an arrogant, selfish, and punitive society, it becomes unconstitutional. An unjust society is an unstable society. Parolees have a constitutional choice to reject an ersatz agenda based on gender roles.

Laws like the “Rules of Supervision” become suspect when subjective arbitrary distinctions lead to inequitable results. The “Rules of Supervision” are a “Double Jeopardy” punitive act in violation of the Fifth Amendment. A sex offender registry and a lifelong registry are Eighth Amendment violations of cruel and unusual punishment: the convicted are sentenced to a term of confinement, and then a registration for life which is a form of malice against them. Registration is as humanly unconstitutional as the “Scarlet Letter” during Puritan times or the Nazi “Star of David”.

Discrimination against parolees, or any suspect class, that can be established by proof of discrimination impact. Equal protection should be about constitutional rights, not about an agenda, motive, or popularity. The Fair Housing laws must apply to all Americans equally, even parolees, if the state is serious about integration and rehabilitation.

The U.S. Supreme Court, and lower courts, all have a duty to stop violation of rights and privileges, and to enforce constitutional guarantees even when it is unpopular to do so. No court can demand that a person must surrender their constitutional rights to obtain their freedom.

A preeminent purpose of the U.S. Constitution is to restrain majoritarian or totalitarian passions and make sure that our short-term impulses do not cause us to abandon our long-term values.

The sex offender registry laws fit the concept that supported the Salem Witch trials as an example of hysteria-driven mass persecution and a complete failure of impartial justice. The sex offender treatment program (S.O.T.P.) is just political pandering to the Feminist Inquisition, an ideological re-education program of propaganda brainwashing.

A person cannot contract himself into slavery, as he cannot surrender his inalienable rights.

Adverse Inference: Witness tampering by the state, to deny the defendant a favorable witness. (Defendant had numerous witnesses denied to him because the state had put some of them under a guardianship, against their wills, to deny the defendant of favorable witnesses.)

Aggrieved Party: A person who has been injured, or suffered a loss by a judgment, order, or decree, whenever it operates with a bias or prejudice, and directly upon one’s rights.

Aguilar v. U.S. Immigration and Customs Enforcement 510 F. 3d. 1 (1st Cir) (2007). (Civil-rights remedy under § 1983 encompasses violations of rights secured by federal statutory, as well as constitutional law.) [28 pgs.]

Akao v. Shimoda, 832 F. 2d. 119 (9th Cir) (1987). An Eighth Amendment violation occurs when overcrowding “engages violence, tension, and psychiatric problems” and allows the prisoners to file an Amendment violation.

Ake v. Oklahoma, 470 U.S. 68 (1985). HN4: When a state brings its judicial power to bear on an indigent defendant in a criminal proceeding, it must take steps to assure that the defendant has a fair opportunity to present his defense (Fourteenth Amendment Due Process) access to adequate legal counsel competent to the level of complexity of the case. HN6: Psychology is an inexact science.

Al-Amin v. Smith, 511 F. 3d. 1317 (11th Cir) (2008). Punitive damages by Prison Litigation Reform Act of 1995 (PLRA), Pub. L. No. 104 – 134, 110 Stat. 1321 (1996). (Regardless of actual injury, nominal damages are available to successful plaintiff proving First Amendment violation.) [28 pgs.]

Albertson v. S.A.C.B., 382 U.S. 70 (1965). Requiring undesirable citizens to register violates their Fifth Amendment privilege against self-discrimination. [17 pgs.]

Allgeyer v. Louisiana, (1897). Established that the Fourteenth Amendment supported the concept of a person's "liberty to contract" under the Due Process clause – a freedom to contract (or not).

Allocution: The requirement that, following a verdict of conviction, the judge must ask the defendant to show legal cause why the sentence should not be pronounced. It is a mandatory part of a valid sentencing in federal system. The judge must ask the defendant for mitigating circumstances. (Judge Cameron has NEVER asked this defendant about this mitigating circumstances, nor did my defense counsels.)

Aliviado v. Kimoto, 2012 U.S. Dist. Lexis 108118 (2012). Fourteenth Amendment right to marry was violated by interfering with First Amendment right to marry. A right to marry comes from under the equal protection clause, and Fourteenth Amendment's right to privacy. [15 pgs.]

Americans with Disabilities Act, 42 U.S.C. §§ 12101 – 12213. Prohibits state and county governments and other public entities from discriminating against any "Qualified individual with a disability", (a pattern of irrational discrimination).

Amerisource Bergen Corp. v. Dailyist West, Inc., 465 F. 3d. 946 (9th Cir) (2006). HN10: Fed. R. Civ. P. 15(a) is very liberal and leave to amend shall be freely given when justice so requires. (Courts should permit amended pleadings when justice requires it.) [24 pgs.]

Anderson v. Kingston, 2009 U.S. Dist. Lexis 90415 (2009). State must prove criminal intent. [13 pgs.]

Anderson v. State, 41 Wis. 430 (1877). Accuser must have independent evidence to support charges. [6 pgs.]

Apprendi v. New Jersey, 530 U.S. 466 (2000). HN4: Enhancement of sentence was reversed because constitutional law required that a jury, on the basis of proof beyond a reasonable doubt, make a factual determination authorizing the sentence increase. [67 pgs.]

Aragon v. Tafoya, 42 Fed. Appx. 255; 2002 U.S. App. Lexis 12833 (2002). Defense council was ineffective because he refused to call a witness. "The client … is the master of his … defense." (*Teague, 953 F. 2d. At 1533*) [4 pgs.]

Argersinger v. Hamlin, 407 U.S. 25 (1979). HN1: Due process requires that the accused have the assistance of counsel for his defense, that he be confronted with the witnesses against him, and that he have the right to a speedy and public trial, the right to be informed of the nature and cause of the accusation, the right to confront and cross-examine witnesses, the right to compulsory process for obtaining witnesses, it is simply not arguable, nor has any court ever held, that the trial of a petty offense may be held in secret, or without notice to the accused of the charges, or that in such cases the defendant has no right to confront his accusers or to compel the attendance of witnesses in his own behalf.

Arizona v. Youngblood, (2018). “When the Judiciary fails to interpret and enforce constitutional rights and limits, it shrinks from its central duty and drains the constitution of its meaning.” (Judge Clint Blolick)

Arujo v. Welch, 742 F. 2d. 802 (3rd Cir) (1984). Public official acted beyond his outer perimeter of his official duties, thus the intentional infliction of emotional and physical distress was unconstitutional. [8 pgs.]

Ashley v. United States, 266 F. 2d. 802 (7th Cir) (2001). Petitioner’s claim was substantial to appeal. [9 pgs.]

Audett v. Johnson, 142 F. 2d. 739 (9th Cir) (1944). … Purporting to create the offense, violates the Constitution because it makes it a crime of mere an intent to an offense – something which cannot be done under our system of government. (Government’s interpretation may be different than accused’s interpretation, which is not a crime.)

Austin v. Bell, 126 F. 3d. 843 (6th Cir) (1997). Ineffective assistance of counsel during sentencing: failure to investigate evidence. [10 pgs.]

Babcock v. White, 102 F. 3d. 267, 275 (7th Cir) (1996). Claim that official delayed inmate’s transfer was actionable “even if the official’s actions did not independently violate the constitution.”

Bagola v. Kindt, 131 F. 3d. 632 (CA7 Ind) (1997). HN4: The law of the case doctrine should not be read so rigidly that it precludes a party from raising an argument that it had no prior opportunity to raise. HN13: … Assertion of general federal question jurisdiction under U.S.C.S. § 1331 is correct as basis for implied federal cause of action alleging deprivation of constitutional rights. [25 pgs.]

Bailey v. Alabama, 219 U.S. 219, 244 (1911). The court must take a realistic look at itself: a statute is unconstitutional as it is apparent that it furnishes a convenient instrument for coercion. [22 pgs.]

Bailey v. Ohio State University, 487 F. Supp. 601 (S.D. Ohio) (1980). Ex Parte Young 209 U.S. 123 (1908) evolved the rule that a state official directly involved in an unconstitutional act could be subject to suit in federal court. (Civil rights suit alleging denial of right to freedom of speech and asserting jurisdiction under 28 U.S.C.S. § 1331 and 1343, and Civil Rights Act, 42 U.S.C.S. § 1983.) [7 pgs.]

Baily v. Runyon, 220 F. 3d. 879 (8th Cir) (2000). (Award or damages for emotional distress must be supported by evidence of genuine injury.) (High blood pressure of over 205 is a sign of emotional injury.)

Ballew v. United States, 160 U.S. 187 (1895). HN3: The word “withholding” has a definite signification, and contemplates, as used in Rev. Stat. § 4786, not the fraudulent obtaining of money, from a pensioner, but the withholding of money before it reaches the hands of the petitioner and passes under his dominion and absolute control. [16 pgs.]

Baldasar v. Illinois, 446 U.S. 222 (1979). Sentencing enhancement was vacated because defendant was not constitutionally counseled. [15 pgs.]

Barefoot v. Estelle, 463 U.S. 880 (1983). HN2: Psychiatric testimony was unconstitutional because psychiatrists cannot predict the future. [54 pgs.]

Bart v. Telford, 677 F. 2d. 622 (7th Cir) (1982). HN4: The effect on freedom of speech may be small, but since there is no justification for harassing people for exercising their constitutional rights, it need not be great to be actionable. To support a retaliation claim, must show sufficient adverse action to deter an exercise of a constitutional right. [6 pgs.]

Barth v. State, 26 Wis. 2d. 466 (1965). Defendant was convicted upon extrajudicial confession that was not corroborated. [5 pgs.]

Batson v. Kentucky, 476 U.S. 79 (1986). Defendant's Sixth and Fourteenth Amendment rights, to a jury drawn from a cross-section of a community was violated. [59 pgs.]

Bayard v. Singleton, (1787). No legislative act could by any means repeal or alter the Constitution of the land; even judges must obey the Constitution.

Benton v. Maryland, 395 U.S. 784 (1969). "The same constitutional standards apply equally against both state and federal actions." (Similar tactics were used during the inquisitions in Europe. Some people have called the conditions here in the United States similar to the inquisitions: You are guilty because someone says you are guilty by a biased and distorted interpretation of your actions. The State of Wisconsin STILL has NO evidence, witnesses, corroboration, or proof of criminal intent against me to support the charges in violation of my constitutional rights and protections. I, among many others, am a victim of the "Feminist Inquisition", as they use gender tactics of fear to file false charges and false witnesses, against those who are exposing the plain, simple truth.)

Berman v. Parker, 348 U.S. 26 (1954). HN10: For the power of eminent domain is merely the means to the end. [17 pgs.]

Bernstein v. GTE Directories Corp., 827 F. 2d. 480 (1987). An adhesion contract has been defined as a standardized contract form offered, … and the weaker party has no choice. [6 pgs.]

Berry v. New Jersey, 454 U.S. 1017 (1981). A confession cannot be the sole evidence against the accused. [14 pgs.]

Betts v. Brady, 316 U.S. 455 (1942). HN5: Due process of law is secured against invasion by the federal government by the Fifth Amendment, and is safeguarded against state action in identical words by the Fourteenth Amendment. [23 pgs.]

Bieregu v. Reno, 59 F. 3d. 1445 (3rd Cir) (1995). HN3: Confinement does not result in the forfeiture of all constitutional rights. [23 pgs.]

Bivens v. Six Unknown Narcotics Agents, 403 U.S. 388 (1971). Bivens only applies if:

1) The government agent's conduct was intentional, not negligent;
2) Their conduct not only harmed a person but also violated their constitutional rights;
3) Those rights were already "clearly established", that is, so well established as to be "beyond debate."

These statutes give federal courts jurisdiction to hear civil rights claims filed by inmates:

28 U.S.C. Stat. § 1331. Provides jurisdiction for federal questions including claims alleging violations of the U.S. Constitution.

28 U.S.C. Stat. § 1343(A)(3). Provides jurisdiction for alleged violations of the U.S. Constitution and federal statutes providing for the "Equal Rights" of all persons.

28 U.S.C. § 2254 (d)(1), A state prisoner may file a habeas corpus petition in federal court if the state court's denial resulted in a decision that is contrary to or involved an unreasonable application of federal law. Every Supreme Court case is "established law".

42 U.S.C. Stat. § 1983. Allows inmates to seek a remedy for constitutional and statutory violations committed by state and local government officials (like in Wisconsin).

Timing: File grievances and appeals as soon as you can. If you miss a deadline, you should submit your grievance anyway, explain why you missed the deadline, even if your grievance is denied.

Under Color of Law: People who do not work directly for the government act "Under color of state law" whether employed by the government or not (such as a subcontractor).

Individual and Official Capacity: The Ex-Parte Young Function – you may sue a state official in his/her official capacity for injunctive relief to force the state or state agency for whom the official works, to obey the U.S. Constitution. If you want damages, sue the responsible municipal, state, or federal officials in their individual capacity and/or a municipality directly.

Blackledge v. Perry, 417 U.S. 21 (1974). Charging for a more serious offense on retrial is vindictiveness. Vindictive abuse is unconstitutional. [19 pgs.]

Blakely v. Washington, 542 U.S. 296 (2004). HN13: Every defendant has the right to insist that the prosecutor prove to a jury all facts legally essential to the punishment. [45 pgs.]

Board of Directors of Rotary International v. Rotary Club of Duarte, 481 U.S. 537 (1987). HN1: Impediment to the exercise of one's right to choose one's associates can violate the right of association protection by the First Amendment. HN4: The Constitution protects against unjustified government interference with an individual's choice to enter and maintain certain or private relationships. Such relationships may take various forms, including the most intimate. HN6: State cannot interfere with a person's moral behavior. [21 pgs.]

Boddie v. Schnieder, 105 F. 3d. 857 (2nd Cir) (1997). [mental, verbal and psychological] abuse may meet both the objective and subjective elements to an Eighth Amendment violation claim because such abuse can cause physical as well as psychological harm. [9 pgs.]

Note: Being threatened to the extent that one's blood pressure goes up to 205, is both mental and physical harm.

Bolling v. Sharpe, 347 U.S. 497 (1954). Classifications based on selected discriminatory criteria, are suspect. Generalizations should be held to strict scrutiny. Chief Justice Warren's opinion stated: "That the concepts of the Equal Protection and Due Process … are not mutually exclusive. The Equal Protection of the laws is a more explicit safeguard of prohibited unfairness … but as this court has recognized, discrimination may be so

unjustifiable as to be violating Due Process." These requirements to take certain tests and pass an agenda are forms of discrimination. [9 pgs.]

Bonds v. Smith, 430 U.S. 817, 828 (1997). Holding that the fundamental constitutional right of access to the courts requires prison authorities to assist with preparation and filing meaningful legal papers by providing prisioners with adequate law libraries or adequate assistance from persons trained in law.

Bond v. United States, 1 F. 3d. 631 (7th Cir) (1993). Ineffective assistance of counsel by both trial and appellate counsel denied the petitioner any remedy, thus a section 2255 motion was the only means to bring forth constitutional claims. Counsel did not make motion to suppress statement. [12 pgs.]

Bonnett v. Vallier, 116 NW 885, 136 Wis. 193 (1908). HN2: An act of legislature is to be sustained unless it violates some constitutional limitation beyond reasonable question … Said law is so unreasonable as to be unconstitutional and void. Plaintiff has no adequate remedy at law for the injuries to him threatened as foresaid. The court found that the state, as applied to all situations throughout the state, was unreasonable. The statute was impossible for ordinary persons to comply with and unfairly subjected them to criminal penalties. The court found that the statute exceeded the reasonable police powers of the state and that it was unconstitutional in its entirety. [16 pgs.]

Boreta v. Kirby, 328 F. Supp. 670 (1971). HN4: An official who is guilty of using his powers for any personal motive not connected with the public good should not escape liability for the injuries he may cause. HN6: The Civil Rights Act provides for relief only against those who are personally involved in the deprivation of constitutionally protected rights. [8 pgs.]

Borucki v. Ryan,827 F. 2d. 836 (1987). HN6: Zones of privacy are created as well by specific constitutional guarantees, such as those of the U.S. Constitutional Amendments 1, 3, 4, and 5. The right of privacy as established by a part of tort law. [23 pgs.]

Note: A citizen owes no duty to submit his privacy to the state, since he receives nothing from the state, which is then free to distort that information against the citizen.

Botello v. Gammick, 413 F. 3d. 971, 979 (9th Cir) (2005). County may be liable for retaliation by a district attorney.

Bounds v. Smith, 430 U.S. 813 (1977). Legal papers are protected from seizure by the government in the Fourth Amendment.

Bowers v. Hardwick, 478 U.S. 186 (1986). Criminalizing mutual sodomy would create a serious Eight Amendment issue. [31 pgs.]

Boyd v. United States, 116 U.S. 616 (1886). The court is to protect against any encroachment of constitutionally protected rights. [22 pgs.]

Brandenberg v. Ohio, 395 U.S. 444, 457 (1969). The court ruled that all innocuous speech is absolutely protected. Opinion of Justice Black: " … government has no power to invade that sanctuary of belief and conscience." (Petitioner's "Not Guilty" plea cannot be punished.) [16 pgs.]

Brech v. Abrahamson, 507 U.S. 619 (1993). Clear evidence proves that a defendant had been harmed by prejudice in the trial. [40 pgs.]

Brewer v. Williams, 430 U.S. 387 (1977). HN6: The right to counsel does not depend on a request by a defendant, and the courts indulge in every reasonable presumption of waiver. [47 pgs.]

Bridges v. Gillbert, 557 F. 3d. 541 (7th Cir) (2009). HN1: An intended act against the exercise of a constitutional right abrogates immunity. HN2: An appellate court construes pro se complaints liberally. [17 pgs.]

Brimmer v. Rebman, 138 U.S. 78 (1891) HN1: There may be no purpose upon the part of a legislature to violate the provisions of the United States Constitution, and yet a statute enacted by it, under the forms of law, may, by its necessary operation, be destructive of rights granted or secured by the Constitution; in which case, the courts must sustain the Supreme Law of the land by declaring the statute unconstitutional and void … The principle reaffirmed that, independently of any question of intent, a state enactment is void, if, by its necessary operation, it destroys rights granted or secured by the Constitution of the United States. [7 pgs.]

Brookhart v. Janis, 384 U.S. 1 (1966). Defense council did not have the right or power to waive the defendant's right to cross-examine. [13 pgs.] (This defendant was not allowed to cross-examine any witness.)

Brooks v. Walls, 279 F. 3d. 518 (7th Cir) (2002). Petition may be untimely, but allowed if defendant can show just cause. [9 pgs.]

Brown v. Farkas, 158 Ill. App. 3d. 772. Farkas was entitled to an award of special damages without the necessity of proof. Defendant entitled to damage award as counts and corroboration could not be innocently construed, therefore an award of special damages may be given without necessity of proof. [11 pgs.]

Brown v. Lockart, 781 F. 2d. 654 (8th Cir) (1986). HN3: Jury bias required an evidentiary hearing. HN5: Pro se Habeas petitions deserve to be read with indulgence. [8 pgs.]

Bruce v. Ylst, 351 F. 3d. 1283 (9th Cir) (2003). The Federal Pro Bono Project "Some evidence standard" of "Superintendent v. Hill". HN6: A chilling effect on a prisoner's First Amendment right to file prison grievances is sufficient to raise a retaliation claim. (Prisoner's retaliation claim stated when officials effectively "chilled" his First Amendment right to file grievances; sufficient under § 1983.) [12 pgs.]

Bryars v. United States, 273 U.S. 28 (1927). It is the duty of the courts to be watchful for the constitutional rights of the citizen and against any stealth encroachment therein. [9 pgs.]

Buckley v. Valeo, 424 U.S. 1 (1976). "The concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others, is wholly foreign to the First Amendment."

Burghard v. Commissioner of Social Services, 2008 U.S. Dist. Lexis 117889 (2008). I.Q. can be stable with medications. An I.Q. range of 50 – 60 = mildly retarded. [10 pgs.]

Burke v. Johnson, 452 F. 3d. 665 (7th Cir). Rooker-Feldman Doctrine … [7 pgs.]

Burns v. United States, 501 U.S. 129 (1991). HN9: Before a court could depart from an agreed upon sentence range, it had to give the parties reasonable notice of such intentions; and specific grounds for it to allow them to comment upon matters relating to the appropriate sentence. (allowed ten days.) [27 pgs.]

Bushell's Case (1670): Edward Bushell, a juror, was arrested and fined with the rest of the jury for returning a verdict that upset the king in "King v. Penn and Mead". The arrest and fine were overturned by the higher courts, as a jury cannot be punished for its verdict, thus the concept of jury nullification was born: a jury nullifies a law it thinks improper by finding a defendant "Not Guilty" regardless of its belief in the defendant's guilt strictly by the letter of the law.

The sex offender registry laws fit that concept and should be nullified. The sex offender registry laws rivals the Salem witch trials as an example of hysteria-driven mass persecution and a complete failure of impartial law.

Butterworth v. Smith, 494 U.S. 624 (1990). HN7: Absent exceptional circumstances, reputational interests alone cannot justify the proscription of truthful sprrch. [17 pgs.]

Butz v. Economou, 438 U.S. 478 (1978). Immunity does not exist for officials who act with malice, retaliation, or revenge. [47 pgs.]

Byrd v. Maricopa County Dheriff's Dep't., 565 F. 3d. 1205 (9th Cir) (2009). HN1: Due process requires that a [retrial detainee be not punished. HN4: U.S.C.S. § 1983 claim based on equal protection violations must plead intentional unlawful discrimination or allege facts that are at least susceptible of an inference of discriminatory intent (an abuse of discretion). HN6: Evidence that may have been otherwise excluded under rule 403 may become admissible based on events at trial (Curative and miscibility). HN1: Punitive intent can be inferred. Some mental element must be attributed to the inflicting officer before it can qualify as punitive. (Minimum civilized measure of life's necessities: punitive intent) (Under PLRA, prisoners must show physical injury to support an award in damages for mental and emotional harms.) (Petitioner's high blood pressure of 205 exposes the after effects of constitutional violations and threats for trying to assert those rights.) [28 pgs.]

C – D

Cage v. Louisiana, 498 U.S. 39 (1990). HN1: In state criminal trials, the due process clause of the Fourteenth Amendment protects the accused against conviction upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged. [7 pgs.]

Calder v. Bull, 3 U.S. 386 (1798). HN5: Any procedure that modifies the rigor of criminal law, or increases punishment, or changes the rule of evidence, is an **Ex Post Facto** law. No legislature is omnipotent. No legislature can make right wrong; or wrong, right. No legislature can make light, darkness; or darkness, light. No legislature can make men, things; or things, men. Nor is any legislature at liberty to disregard the fundamental principles of rectitude or justice. Whether restrained or not by Constitutional provision, there are acts beyond any legitimate or binding legislative authority. A legislature: cannot authorize injustice by law; cannot nullify private contracts; cannot abrogate the securities of life, liberty, and property, which, it is the very object of society, as well as of our constitution of government, to provide; cannot make a man a judge of his own case; cannot repeal the laws of nature; cannot create any obligation to do wrong, or neglect duty. No court is bound to enforce unjust laws; but, on the contrary, every court is bound, by prior and superior obligations, to abstain from enforcing such law. [16 pgs.]

Caldwell v. Bell, 288 F. 3d. 838 (6th Cir) (2002). HN3: State must prove malice, aforethought, and premeditation. [11 pgs.]

Calhoun v. Detella, 319 F. 3d. 936 (2003). HN6: Claims for emotional injury did not require a prior showing of physical injury; a rational basis established the constitutionality. Behavior meant to demean and humiliate the victim was an Eighth Amendment violation. (What a public official was doing to Ms. Tina Lynn Hayden and her witnesses for filing a criminal complaint against the public official; just as attorneys, law enforcement, and the Chippewa County Victim/Witness Protection office told us to do.) [11pgs.]

Campbell v. Peters, 256 F. 3d. 695 (2001). "If through deliberate indifference to the requirements of state law the correctional officials kept plaintiff imprisoned too long, his Eighth Amendment rights were violated, even if the additional time was not very long. [11 pgs.]

Campbell v. Hennman, 931 F. 2d. 1212 (7th Cir) (1991). HN1: Court must consider if exculpatory evidence exists. Evidence is material if it helps the defense. (Legal contracts signed by the alleged victim, would prove that she was competent, conflicting the testimony of an expert witness psychologist in the trial court.) [8 pgs.]

Campino v. United States, 968 F. 2d. 187 (2nd Cir) (1992). HN1: Petitioner must show a just cause for a late claim. [6 pgs.]

Cannon v. Macon County, 1 F. 3d. 1558 (11th Cir) (1993). HN2: The substantial evidence standard requires evidence of such quality and weight that reasonable and fair-minded jurors might reach different conclusions. (If defendant had been allowed the evidence and witnesses he had requested, he would have not be convicted, but his trial state public defense counsel denied him of that right.) [10 pgs.]

Carey v. Population Services Int'l., 431 U.S. 678 (1977). [The court notes] … to observe that "the outer limits of the decision-making aspect of the right to privacy" have not been marked by the court. (Right to privacy is a right of independence in making certain kinds of important decisions … undeterred by any government restraint – the solicitude of mind.) (The right to privacy is a fundamental right and can be invaded only where the people can demonstrate a compelling state interest and only where the invasion is no larger than necessary to accomplish that interest, and "be narrowly drawn to express only those interests.") It is settled law that the right to privacy is a fundamental right. [39 pgs.]

Carmel v. Clapp & Eisenberg, P.C. 960 F. 2d. 698 (7th Cir) (1992). HN4: Counsel for the defense cannot remain silent, or raise no objections. [10 pgs.]

Carney v. Fabian, 441 Supp. 2d. 1014 (2006). A petitioner must show that the issues to be raised on appeal are debatable among reasonable jurists.

Cate v. State, 204 Cal. APP. 4th. 270 (2012). Public official told a mentally ill person to harm themselves. Circumstances surrounding an event are important. (In 2003, someone told Ms. Tina Lynn Hayden to run her wheelchair out into the street in front of a bus or truck to escape from the mental, verbal, and psychological abuse (bullying, demeaning) from a public official. There are witnesses to that, but those witnesses were denied to us at our trials.) [19 pgs.]

Chambers v.Armontrout, 885 F. 2d. 1318 (8th Cir) (1989). Counsel's failure to call a requested witness was ineffective assistance of counsel; defendant denied his Sixth Amendment rights. (Trial defense counsel and appellate counsel both ignored requested witnesses.) [17 pgs.]

Chambers v. Mississipi, 410 U.S. 284 (1973). HN1: The right to confront and cross-examine witnesses in one's own behalf, is essential to due process. (Defendant was NOT allowed to ask any witnesses certain relevant questions during trial.) [17 pgs.]

Chandler v. Fretag, 348 U.S. 3 (1954). The defendant is the master of the defense because it is his liberty at stake. [11 pgs.]

Chandler v. Shinseki, 24 Vet. App. 23 (2010). A special monthly pension via 38 U.S.C.S. § 1521€ for 65 or over with service-connected disability is under 38 U.S.C.S. § 1513. [18 pgs.]

Chapman v. Houston Welfare Rights Org., 441 U.S. 600 (1970). HN10: Statutory rights concerning food and shelter are rights of essentially personal nature, and 42 U.S.C. § 1983 provides a remedy which may be invoked to protect such rights. Section § 1983 is an act of congress providing for the protection of civil rights within the meaning of that jurisdictional grant. HN24: 28 U.S.C.S. § 1443 applies only to rights that are granted in terms of equality, and not to the whole gamut of constitutional rights. HN28: To confer equal rights, vital to our way of life bestowing them upon all. (Federal Courts have original jurisdiction over claims brought under § 1983 (based upon the Fourteenth Amendment.) See also: **Maher v. Gagne** 448 U.S. 122 (1980) [71 pgs.]

Chatom v. White, 858 F. 2d. 1479 (1988). Defendant's witness was protected by shield laws. [16 pgs.]

Citizens United v. Federal Election Commission, 558 U.S. 310 (2010). Speech by nonvoters is always entitled to at least as much protection under the First Amendment as speech about other issues. The First Amendment prohibited restrictions distinguishing among different speakers, allowing speech by some but not others.

City of Chicago v. Jesus Morals, Et. Al., 527 U.S. 41 (1999). In subjective legal terms, "We can never expect mathematical certainty from our language." … "There are limitations in human concepts that are ignored by people with an agenda." … "There are objective mathematical notions, but only subjective legal notions." [58 pgs.]

City of Chicago v. Wilson, ( ). No statute in judicial history has been upheld when it is unconstitutionally vague and an unreasonable and arbitrary exercise of police power.

City of Cleburne v. Cleburne Living Center, 473 U.S. 432 (1985). HN12: Mentally handicapped were not a quasi-suspect class. Denial had no rational or legal purpose. [39 pgs.] (Tina Lynn Hayden had filed a valid criminal complaint against a public official who was mentally, verbally, and psychologically abusing her, just as attorneys, law officers, and the Chippewa County Victim/Witness Protection Office told her to do.)

Clement v. California Dept. of Corr., 364 F. 3d. 1148 (2004). Prisons may not ban mail simply because it contains material downloaded from the internet.

Cobens v. Virginia, (1921). The state's highest court was not coequal in power to the United States Supreme Court. Final decisions on Constitutional issues "arising" in the state courts be made only by the Supreme Court. The U.S. Supreme Court's duty is to protect the U.S. Constitution from state encroachments.

Cochran v. Veneman, 359 F. 3d. 263 (3rd Cir) (2004). (The right to refrain from speech or association is protected by the First Amendment.) (Petitioner is protected from changing his "not guilty" plea to a "guilty' plea.) (Coercion.)

Cohens v. Virginia, 19 U.S. 264 (1821). HN4: A case arising under the constitution of the laws of the United States is cognizable in courts of the Union, whoever may be the parties to the case. [87 pgs.]

Coker v. Georgia, 433 U.S. 584 (1977). HN7: A punishment requires the existence of aggravating circumstances to the victim. [34 pgs.]

Collins v. City of Parker Heights, 503 U.S. 115 (1992). HN3: 42 U.S.C.S. § 1983 provides a remedy against "any person" who, under color of law, deprives another of rights protected by the United States Constitution. HN14: The due process clause protects individual liberty interests against certain government actions regardless of the fairness of the procedures used to implement them. [25 pgs.]

Collins v. Walker, 329 F. 2d. 100 (5th Cir) (1964). HN3: Conviction was procured in part by an unconstitutionally induced confession. A federal court must grant an evidentiary hearing to a habeas applicant under the following circumstances: 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 substantial allegation of newly discovered evidence; 5) The material facts were NOT adequately developed at the state court hearing; 6) Or for any reason it appears that the state trier of fact did not afford the habeas applicant a full and fair fact hearing. (Defendant was denied evidence and witnesses, and denied his right to cross-examine witnesses, and his jury was 11 women, one man, no veterans, none of the jury had a disability, and no jurors had any experience taking care of the disabled, and the jury was at least ten years younger than what the defendant was.)

Collusion: The making of a secret agreement with another to commit fraud or in a legal activity, with an illegal end in mind, usually against a third party. (Defendant's legal counsels all were in collusion with prosecutors to deny the defendant his rights in court.)

Cooper v. Dellon, 403 F. 3d. 1208, 1221-1223 (11th Cir) (2005). Municipality liable for police chief's decision to enforce unconstitutional statute, could also be a governor, legislatures, judges, prosecutors, etc.

Commonwealth v. Caton, (1782). The judiciary has the power to declare a law void for repugnancy to the Constitution.

Commonwealth v. Johnson, 119 N.E. 3d. 669 (2019). GPS monitoring is considered a search. (Acquisition of GPS data violated one's Fourth Amendment rights.)

Commonwealth of Pennsylvania v. Bonado, 415 A. 2d. 47 (1980). A person who is competent to enter legal contracts is competent to enter a relationship. (Ms. Tina Lynn Hayden could enter into legal contracts, and there are plenty of witnesses to support that, but those witnesses and contracts were denied to us at our trials.)

Contempt: 1) Direct contempt: disruptive or disrespectful in court;

2) Indirect criminal contempt: disobey a court order;

3) Coercive civil contempt;

4) Remedial civil contempt.

Cooley v. Board of Wardens, 53 U.S. 299 (1851). Where national and state laws are in conflict, the federal rule prevails (Justice Benjamin R. Curtis). Does a state act put an unreasonable burden on a constitutional right? (So as to diminish it, or nullify it?) Burdens on rights become unconstitutional when they become discriminatory. [27 pgs.]

Cooper v. Aaron, 358 U.S. 1 (1958). No state legislator or executive or judicial officer can war against the United States Constitution without violating their undertaking to support it. [21 pgs.]

Corpus v. Estelle, 414 U.S. 932 (1973). Mr. Justice Douglas, with whom Mr. Justice Marshall concurs, dissenting: It is well established, that "If the only objective of a state practice is to discourage the assertion of constitutional rights, it is "Patently unconstitutional". [3 pgs.]

Counselman v. Hitchcock, 142 U.S. 547 (1892). Congressional legislation could not amend the constitution or minimize its protections. [Petitioners should not have] to contend that they should be denied the protection of the Fifth Amendment privilege intended to relieve claimants of the necessity of making a choice between incriminating themselves and risking serious punishments for refusing to do so. [Petitioner's] claims are substantial and far from frivolous … against an inquiry in an area permeated with criminal statutes, where the response to any of the form's questions in context might involve the petitioners in the admission of a crucial element of a crime. No legislation (state or federal) can abridge constitutional privileges. Opinion of Mr. Justice Blatchford: "No person … shall be compelled to disclose facts before a court or grand jury which might subject him to a criminal prosecution." @ 573: "By the narrowest construction, this prohibition extends to all investigations of an inquisitional nature, instituted for the purpose of discovering crime, or the perpetrators of crime … this principle applies equally to any compulsory disclosure of his guilt by the offender himself." HN11: It is quite clear that legislation cannot abridge a constitutional privilege. HN16: This is an ancient principle of law. [24 pgs.]

County of Sacramento v. Lewis, 523 U.S. 833 (1998). [Ms. Hayden was subject to] … an attitude and behavior [of abuse] that should "shock the contemporary conscience." [from a public official]. [34 pgs.]

Crane v. Kentucky, 476 U.S. 683 (1986). Fourteenth Amendment right to a complete defense [was denied to the defendant.] [14 pgs.]

Crawford v. Washington, 514 U.S. 36 (2004). “Judges, like other government officials, could not always be trusted to safeguard the rights of the people.” [Elected judges are direct threats to constitutional rights.] “People in elected positions are more interested in preserving their job than in doing the best job possible.” (John Paul Stevens)

Cronin v. Adams, 192 U.S. 108 (1904). Rights guaranteed by the Constitution cannot be violated; that if it is obnoxious to vested rights and unreasonable, the courts will declare the law void; that it must be exercised so that all are affected by it, and not one class favored and another class imposed upon. [8 pgs.]

Cupp v. Naughten, 414 U.S. 141 (1973). HN3: Due process requires the state to prove guilt beyond a reasonable doubt. [16 pgs.]

Dache v. United States, 250 F. 566 (2nd Cir) (1918). HN3: Government must prove criminal intent. [6 pgs.]

Daily v. Parker, 61 F. Supp.701 (1945). HN3: Every person ought to find a certain remedy in the laws for injuries. Alienation of affection is protected under the Constitution. (Ms. Tina Lynn Hayden’s abuser said that they were going to destroy everyone that was a witness and had a hand in the complaint against them filed by Ms. Hayden. We ALL lost our freedoms on trumped-up charges because our state-appointed public defenders denied us of both evidence and witnesses that would have helped us.)

Dalehite v. United States, 346 U.S. 15 (1953). (The Federal Tort Claims Act requirement of 28 U.S.C. § 1346(b) that liability be based on a “negligent or wrongful act or omission” precludes “strict” liability.) (Alleged victim (Ms. Hayden), petitioner, and two of our witnesses are still suffering under a continuous tort violation.)

Daubert v. Merrell Dow, 509 U.S. 579 (1993). Federal evidence rules superseded common law’s standards for reliability. [27 pgs.]

Davis v. Alaska, 415 U.S. 308 (1974). HN5: Confrontation includes cross-examination for bias of an adverse witness. [17 pgs.] (Petitioner was not allowed to cross-examine any witnesses, even after he told his state appointed defense counsel when a state witness was committing perjury, and the evidence of it was in the papers they had on the desk in front of them. The counsel ignored this petitioner. That is ineffective assistance of counsel.)

Dawson v. Newman, 419 F. 3d. 656 (7th Cir) (2005). Parole board members are not absolutely immune for allegations of failing to investigate plaintiff’s entitlement to release in ordinary course of everyday duties.

Deering v. Reich 183 F. 3d. 645 (1999). HN5: There was no jury instruction to consider the “Totality of Circumstances” … a Fourth Amendment violation on reasonableness. Time and manner are a part of the totality of circumstances. [11 pgs.]

Delaware v. Van Arsdall, 475 U.S. 673 (1986). HN2: A witnesses’ bias and motivation is subject to exploration at trial and is always relevant as discrediting the witness and affecting the weight of the testimony [by cross-examination.] [34 pgs.]

De Mayo v. Nugent, 517 F. 3d. 11, 19 (1st Cir) (2005). Persons are liable to be sued for wrongdoings. State officials may also be sued for monetary damages in their personal, but not official, capacities. (Cognizable claim for damages against police officers.)

Devbrow v. Kalu, 705 F. 3d. 765 (7th Cir) (2013). Deliberate indifference to treating cancer is an Eight Amendment violation. [10 pgs.]

D.C. v. Ames, 107 U.S. 519 (1883). HN1: Even though mentally impaired, witness statements were admissible. [8 pgs.]

Dictado v. Ducharme, 244 F. 3d. 724 (9th Cir) (2001). Time limit was tolled by petitioner's diligent pursuit of petition. [9 pgs.]

District of Columbia v. Heller ( ). The second Amendment protects an individual right to bear arms. "The Constitution was written to be understood by the voters, its words and phrases were used in their normal and ordinary as distinguished from the technical meaning."

D. L. v. Huebner, 110 Wis. 2d. 581 (1983). HN8: Wis. Stat. § 904.01 (1979n – 1980) considers evidence relevant if it has any tendency to make the existence of fact more or less probable than it would be without the evidence. [46 pgs.] (Evidence that alleged victim Ms. Hayden could enter legal contracts during the period of our affair, was ignored by state appointer defense counsel for all of us, the counsels were told where to obtain those legal contracts, but we were ignored.)

Dodd v. Knight, 533 F. Supp. 2d. *44 (2008). HN3: state criminal defendant is entitled, by the Sixth via Fourteenth Amendment, to the effective assistance of counsel at both trial and appeal. HN4: Counsel did not raise any constitutional issues in appeal. [14 pgs.]

Doe, Et. Al. V. Pataki, 919 F. Sup. 691 (1966). No matter how compelling the reasons, no matter how pure the motive, constitutional protections for individuals, even unsympathetic ones, cannot be cast aside in the name of the greater good. HN2: Sex offenses in the Second Degree are not "sexually violent offenses", [Hence, second degree offenses should not be applicable to Chapter **980.01** of Wisconsin statutes, as only first degree applies.]HN9: A movant seeking a preliminary injunction who alleges a violation of their constitutional rights to be free from ex post facto laws, has shown a constitutional injury that is per se irreparable harm. HN15: simply by labeling a law regulatory, a legislature does not thereby immunize it from scrutiny under the ex post facto law. [19 pgs.]

Doganiere v. United States, 914 F. 2d. 165 (1990). When a defendant's allegations … are based on facts outside the record, an evidentiary hearing is required. [9 pgs.]

Douglas v. Alabama, 380 U.S. 415 (1965). HN1: Defendant was not allowed to cross-examine witness. [13 pgs.]

Douthit v. Jones, 619 F. 2d. 527 (5th Cir) (1980). HN2: to establish a cause of action under § 1983, … a party must also show that the defendant, while acting under the color of law, deprived him a right secured by the Constitution and laws of the United States. [16 pgs.]

Drake v. Filko, 724 F. 3d. 426 (3rd Cir) (2013). HN4: In the First Amendment context, strict scrutiny is triggered when the government imposes content-based restrictions on speech in a public form. In essence, this is the core of the First Amendment. [41 pgs.] (A valid criminal complaint filed in court is a form of free speech in a public form. Therefore, a public official retaliating against the person who filed that complaint and their witnesses is a violation of that petitioner's and the witnesses' First Amendment rights.)

Duarte v. United States, 81 F. 3d. 75 (7th Cir) (1996). HN4: A claim of ineffective assistance of counsel is open as it could not have been presented on the original record. [5 pgs.]

Dugas v. Jefferson, 931 F. Sup. 1315 (1996). HN2: An official must show his authorization was founded in law. (Immunity does not exist for those who deny a constitutional right.) [38 pgs.]

Dunn & Bradstreet, Inc. V. Greenmoss Builders, Inc., 472 U.S. 749 (1985). HN4: Compensation supported even in absence of "actual malice". [38 pgs.]

Duren v. Missouri, 439 U.S. 357 (1979). HN6: Defendant has a standing challenge to the exclusion resulting in a violation of the fair cross-section requirement, whether he is a member of the excluded class, or not. [24 pgs.]

Derelict – Official Act: A statute that mandates forfeiture of office if the holder willfully neglects or fraudulently fails to perform official duties. Lacking a sense of duty. In breach of a legal or moral obligation. Acts must be unconstitutional or a criminally malperformance of a duty.

E – F

Edge v. Astrue, 627 F. Supp. 2d. 609 (2008). I.Q. tests are invalid. [8 pgs.]

Elder v. Comm'r of Soc. Sec., 2008 U.S. dist. Lexis 60929 (2008). The appropriate issue should have been whether the claimant's I.Q. test was valid, and not whether she functioned as a retarded person. [14 pgs.]

Elrod v. Burns, 427 U.S. 347 (1976). Political patronage dismissals violated U.S. Constitutional Amendment one and fourteen, granting a preliminary injunction, and severely restricted political belief and association – a valid claim for relief. HN3: No official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. HN6: The government may not deny a benefit to a person on a basis that infringes his constitutionally protected interests – especially his interest in freedom of speech. Such interference with constitutional rights is impermissible. HN8: The denial of a public benefit may not be used by the government for the purpose of creating an incentive enabling it to achieve what it may not command directly. The liberties of religion and expression may not be infringed by the denial of or placing of conditions upon a benefit or privilege. HN14: The loss of freedoms guaranteed by the U.S. Constitutional Amendment One, even for minimal periods of time, unquestionably constitutes irreparable injury for the purposes of granting a preliminary injunction. (First Amendment deprivations, regardless of how short the duration, constitute irreparable harm.) (Petitioner has been harmed by the denial of attending the SOTP class because he refuses to change his plea from "Not Guilty" to "Guilty" in order to pass the class. That is an unconstitutional coercion.)

Emmerson v. Johnson, 243 F. 3d. 931 (5th Cir) (2001). HN5: Statute limitations are tolled during state proceedings. [8 pgs.]

Enis v. Dept. of Health & Social Services, 962 F. Supp. 1192 (7th Cir) (1996). HN9: Government did not prove that a person was dangerous to himself or others. [18 pgs.]

Equal Protection of the Laws: From the Fourteenth Amendment: "No state shall … deny to any person within its jurisdiction the equal protection of the laws." By denying defendant evidence, witnesses, the right to cross-examine witnesses, denial of an expert witness, denied participation in jury selection, denied a jury of peers: there were No veterans, No disabled jurors (defendant, alleged victim, and some requested witnesses were 100% disabled persons.), nobody near defendant's age (all much younger), and no jurors had any direct experiences with disabled persons … all unconstitutional biased jurors for the jury.

Equitable: According to natural rights or natural justice; marked by due consideration for what is fair and impartial.

Epperson v. Arkansas, 393 U.S. 97, 106-107 (1968). "Forbids alike the preference of a religious doctrine, or the prohibition of theory which is deemed antagonistic to a particular dogma."

Estellr v. Gamble, 429 U.S. 97 (1976). (The "deliberate indifference" of a prisoner's detention beyond a sentence constitutes cruel and unusual punishment.) (Petitioner had been detained in the Chippewa County jail after sentence was finished and is now doing a felony sentence for asserting his constitutional rights.) "If a state elects to impose imprisonment as a punishment for crime, I believe it has an obligation to provide the persons in custody with a healthcare system which meets minimal standards of adequacy." (Justice John Paul Stevens) (A duty of care responsibility.)

Estelle v. Smith, 451 U.S. 454 (1981). HN5: The fact that a defendant's statements are uttered in the context of a psychiatric examination does not automatically remove them from the reach of the Fifth Amendment. The particular psychiatrist's biases and prejudices, and possible alternate strategies should be examined. Defendant needed the guiding hand of counsel. [26 pgs.]

Eury v. Huff, 141 F. 2d. 554 (4th Cir) (1944). Not only has an attorney authority, but by virtue of his retainer and general employment in a case, to control all matters of procedure in the action, but he has control of such matters to the exclusion of his client … [even though this involves a violation of his client's constitutional rights?] (The rules as to the exhaustion of states remedies is a criminal action against the convicted for *Habeas Corpus* because the profession is too vulnerable to human folly.) [3 pgs.]

Evidence: All the means by which ANY alleged matter of fact, the truth of which is submitted to investigation at judicial trial.

Evitts v. Lucey, 469 U.S. 387 (1985). HN8: The guarantee of counsel cannot be satisfied by mere formal appointment. [25 pgs.]

Ewing v. O'Brian, 60 F. Supp. 2d. 813 (1999). HN1: Malicious prosecution is recognized by the Seventh Circuit. The court assumes all facts alleged in the complaint are true – and construe the allegations liberally as well as draw all reasonable inferences in plaintiff's favor. [9 pgs.]

Ex Parte Pickerill, 44 F. Supp. 741 (1942). One must assert one's right to a speedy trial by jury. May file a bill of particulars. [3 pgs.]

Ex Parte Scott, 66 F. 45 (E.D. Virginia) (1895). The state … has no real or substantial relation to such an object, but, by its necessary operation, is a regulation of commerce, beyond the power of a state to establish. [6 pgs.]

Extortion: Illegal use of fear or coercion to obtain an involuntary objective (act) from another. (What state does to poor defendants to get them to plea "guilty" in a plea bargain.)

Ex Post Facto: The United States Constitution in Article 1, § 9, prohibits ex post facto situations. A change in the legal rules of evidence in effect after the alleged crime was committed so to convict the defendant. [At the time of the alleged sexual assault, the alleged victim was her own guardian, could enter into legal contracts at state, federal and private levels, earned her own wages at a job she had for over ten years, could spend her own money, owned her own transportation, and could socialize as she wished. After she filed a valid criminal complaint (guided by, and encouraged by attorneys, law enforcement, and the County Victim/Witness Protection Office) about Elder Abuse from a public official, with a requested restraining order against her abuser, the judge blocked and denied the complaint. Then the abusive public official retaliated against her and all of us witnesses who had signed on as witnesses. The public official had her declared "incompetent" so as to destroy the complaint, and silence her cries for help. Then the public official brought false charges against the witnesses, while putting some under involuntary guardianships, and brought criminal charges against me. We could not afford attorneys, so we got state appointed public defenders who only wanted all of us to plea "guilty" in a plea bargain. We ALL lost our freedoms for trying to do exactly what we were told to do: file a complaint. The abusive public official told us "I can do anything to anybody because there is nothing you can do about it." That is the sign of a tyrant. If the alleged victim was competent to enter legal contracts, then they were competent to enter a relationship. There are witnesses and evidence to support that, but all of our public defenders would not allow any of that to be brought into our trials to defend us. Plaintiff told the alleged victim's abuser that she was a lot smarter than they gave her credit for. They laughed and replied, "You're right, and we will not make that mistake, again." That shows that they did not care about her full awareness of what they were doing to her: an Eighth Amendment violation against her. They falsely said her I.Q. was low, but I.Q. tests are the most abused medical practice in science. "A charge of [sexual] assault cannot be made against a person who was given consent from another who was later declared "incompetent" by a [biased] court." (From page 114 of "The Grammar of Criminal Law, Vol. 1" by George P. Fletcher. ISBN: 970-0-19-51-310-6)

Fang v. Village of Roseelle, 1996 U.S. Dist. Lexis 9512 (1996) HN3: A ongoing tort is occasioned by continuing unlawful acts and conduct, not by continual ill effects from an initial violation. [10 pgs.]

Farley v. Lafler, 2005 U.S. Dist. Lexis. 30266 (2005) HN2: In order to obtain a Certificate of Appeallability, a prisoner must make a substantial showing of the denial of a constitutional right. HN3: In order to obtain a Certificate of Appeallability, a habeas petitioner need not show that his or her claim will succeed. [5 pgs.]

Farmer v. Brennan, 511 U.S. 825 (1994). Prison official's deliberate indifference to a prisoner's health, violated the Eighth Amendment. Wardens have no authority in medical decisions. Correctional officials do not trump over state and federal laws. (In Re Quinlan, 355 A. 2d. 647 (NJ 1976). Wardens, jailers, and public officials are not authorized to make medical decisions for prisoner-patients. Medical visitation restrictions may violate state laws and also ethics violations. Prison or jail policies or practices cannot deny medical necessities. (The Chippewa County Jail refuses to give me hearing aid batteries, in violation of my medical rights.)

Fay v. Noia, 372 U.S. 391 (1963) HN2: Court has power to grant relief despite lack of state court opportunity under 28 U.S.C.S. § 2254. [71 pgs.]

Federickhouse v. Nelson, 210 F. Supp. 2d. 993 (2002). There is no case that rules that a parolee must take a lie detector test to remain, or gain, his liberty.

Fegans v. Norris, 537 F. 3d. 897 (8th Cir) (2008) HN8: Aside from punitive damages, the Prison Litigation And Reform Act limits recovery for mental or emotional injury to nominal damages. (Punitive damages available when officials act with malice in depriving constitutional rights, and where necessary to defer future conduct.)

Felce v. Fielder, 974 F. 2d. 1484 (7th Cir) (1992). The court held that Wis. Stat. Ann. § 302.11 created a liberty interest by granting all inmates mandatory parole when they had completed two-thirds of their sentences. There needs to be a neutral decision maker to pass that judgment. HN4: Liberty interests may arise from two sources, the Due Process Clause itself and the laws of the United States. [23 pgs.]

Fellers v. United States, 540 U.S. 519 (2004). HN1: Court of appeals erred … statements made by the accused were elicited … in absence of counsel. [11 pgs.]

Feltmeier v. Feltmeir, 333 Ill. App. 3d. 1167; Lexis 861 (2003). Domestic abuse could be a basis for a claim of intentional infliction of emotional distress (Eighth and Fourteenth Amendment violations.) [21 pgs.]

Fernandez v. Sterns, 227 F. 3d. 977 (7th Cir) (2000). Untimely appeals are for discretionary review. [8 pgs.]

Ferrill v. Parker Group, Inc., 168 F. 3d. 468 (11th Cir) (1999). HN8: Although compensable damages must be proven, general compensatory damages, as opposed to special damages, need not be proven with a high degree of specifity. Compensatory damages may be inferred from the circumstances as well as proved by the testimony. HN9: A plaintiff may be compensated for intangible, psychological injuries as well as financial, property, or physical harms. (Plaintiff would bring a civil rights claim on all of these elements, as he has had psychological, physical, anxiety, high blood pressure over 200 (205), stress, loss of pensions, property, and other intangibles.) [15 pgs.]

Fisher v. Gibson, 282 F. 3d. 1283 (2002). Counsel has a duty to investigate all reasonable lines of defense. [41 pgs.]

Fitzpatrick v. Bitzer, 427 U.S. 445 (1976). HN1: The definition of "person" in 42 U.S.C.S. § 2000(a), has been amended by the Equal Opportunity Act of 1972, 42 U.S.C.S. § 2000(a), to include governments, government agencies, and political subdivisions. HN5: Congress may, in determining what is "appropriate legislation" for the purpose of enforcing the provisions of the Fourteenth Amendment, provide for private suits against state or state officials which are constitutionally impermissible in other contexts. [16 pgs.]

Fludd v. Dykes, 863 F. 2d. 822 (8th Cir) (1989). Defendant denied a favorable jury. Defendant was denied "Equal Protection" under the Fourteenth Amendment. [15 pgs.]

Fogle v. Pierson, 435 F. 3d. 1252 (10th Cir) (2006). HN5: The doctrine of equitable tolling allows flexibility when the defendant's wrongful conduct prevented the plaintiff from filing within limits. HN9: To succeed on an Eighth Amendment claim, an inmate must allege facts demonstrating that the deprivation is sufficiently serious and that prison officials acted with deliberate indifference to the inmate's health. HN22: Prison officials may

not retaliate against or harass an inmate. (Claims of retaliation for the exercise of First Amendment rights are actionable under § 1983.) See also: **Powell v. Alexander**, 391 F. 1283 (9th Cir) (2003). [20 pgs.]

Forte v. United States, 94 F. 2d. 236 (1937). HN2: No conviction with just uncorroborated confession. [15 pgs.]

42 U.S.C.S. § 300(a)-7, Public Health … Longstanding Federal laws to protect conscience.

42 U.S.C. § 2000b&c, (Public Health & Civil Rights). A summary judgment is appropriate if the pleadings, dispositions, together with the affidavits, show that there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law: Fed. R. Civ. Pro. 56 ©. In ruling on a motion for summary judgment, a district court is not to weigh the evidence or determine the truth of the matter, rather it is to determine whether there is a genuine issue of triable fact. To make out a prima facie case of retaliation, a plaintiff must establish that: 1) he or she, engaged in statutorily – protected expression; 2) He or she suffered an adverse action by an authority because of that expression; and 3) There is a casual link between the protected expression and the adverse action. A citizen may engage in statutorily protected expression under **42 U.S.C. § 2000-3(a)**. A defendant was not required to answer questions about their thinking or conduct at the time of the charged offenses posed by the government's mental health experts during an exam ordered by the court.

Foucha v. Louisiana, 504 U.S. 71 (1992). HN8: Prosecution failed to establish by a clear and convincing evidence that petitioner was a danger to society, and therefore was to be released.

Fraud: A species of conduct defined primarily by the social status between two parties, resulting in some social harm, usually more than just an economic value or moral environment. Thus it overlaps into the commerce clause of the U.S. Constitution when it affect's a person's Constitutional Rights in some way. An intentional deception resulting in injury to another, by misrepresentation, or misleading conduct. Types: constructive [legal] fraud. And extrinsic [collateral] fraud.

Frazier v. Cupp, 394 U.S. 731 (1969). HN2: The voluntariness of a confession must be decided by viewing the "Totality of the Circumstances". [15 pgs.]

Fross v. County of Allegheny, 612 F. Supp. 2d. 651 (2009). A sex offender ordinance raised constitutional, Fair Housing Act, and state law challenges … as the ordinance forbade what the state allowed. State or home-rule statutes cannot violate constitutional Equal Protection Laws. [15 pgs.]

Frost v. Symington, 197 F. 3d. 348 (9th Cir) (1999). HN2: A prisoner has a due process liberty intent under United States Constitutional Amendment Fourteen, in receiving notice that his incoming mail is being withheld by prison authorities. (Pro Se litigant's pleadings must be construed liberally in favor of plaintiff on motion for summary judgment.) [15 pgs.]

Frothingham v. Melllon, 288 F. 252 (1923). State taxpayers are allowed to bring suit in state courts based on the unconstitutionality of state laws and official acts. [3 pgs.]

Furgess v. Pennsylvania Dept. of Corrections, 933 F. 3d. 285 (3rd Cir) (2019). Applied Title II of the ADA and section 504 of the RA, for not providing an inmate a handicapped-accessible shower. A section 504 defines

a “Program or activity” quite broadly to include “All operations of a state instrumentality” … a prison’s provision of showers is one of the operations of the facility.

Furman v. Georgia, 408 U.S. 238 (1972). Persons who are outcasts of society, and are unpopular, deserve equal protection of the law. [All sex offender registry laws are unconstitutional because they provide no guidelines or limits for courts or juries to exercise discretion.] [160 pgs.]

G – H

Gagne v. Booker, 606 F. 3d. 278 (6th Cir) (2010). HN5: Right to present a complete line of defense is a fundamental principle to finding the truth. [30 pgs.]

Garcia v. San Antonio Metro. Auth., 469 U.S. 528 (1985). HN13: “The nature of Federal interest must be substantial enough to justify state submission.” [48 pgs.]

Geir v. American Honda Motor Co., 529 U.S. 861 (2000). HN6: When state conflicts with Federal, Federal is followed. [41 pgs.]

Gertz v. Robert Welch, Inc., 418 U.S. 323 (1974). Actual malice, that is, with knowledge that it was false or reckless disregard of whether it was false or not, need only prove some degree of fault. Mental anguish is a compensable form of actual malice. [64 pgs.]

Gilbert v. Wisconsin, 342 Wis. 2d. 82 (2012). HN1: The language of Wis.Stat. Ch. 980 authorizes only two methods by which a circuit court may dismiss a pending commitment: 1) Failure to find probable cause to believe that the person is a sexually violent person under § 980.04(3); or 2) Failure to prove beyond a reasonable doubt that the person is a sexually violent person under § 980.05(5).

Giles v. Maryland, 386 U.S. 66 (1967). HN1: Consent to the act at any time prior to penetration deprives the subsequent intercourse of its crime and nature. [45 pgs.]

Gonzales v. O’Connell, 355 F. 3d. 1010 (7th Cir) (2004). HN3: Exhaustion may be excused … where substantial constitutional questions are raised. [18 pgs.]

Goodman v. Bertrand, 467 F. 3d. 1022 (7th Cir) (2006). Defendant granted a new trial because he was denied certain witnesses. [13 pgs.]

Graham v. Richardson, 403 U.S. 365 (1971). HN1: The term “person” in the context of United States Constitutional Amendment Fourteen encompasses lawfully admitted resident aliens as well as citizens of the United States and entitles both citizens and aliens to the Equal Protection of the laws of the state in which they reside. HN6: The U.S. Supreme Court has rejected the concept that constitutional rights turn upon whether a government benefit is characterized as a “right or a privilege”. HN7: The saving of welfare costs cannot justify an otherwise invidious classification. HN11: … (Classifications … like those based on nationality or race, are inherently suspect to close judicial scrutiny.) (Classifications of former prisoners as to their sex-offender status is an unconstitutional classification: the sex offender laws do not allow rehabilitation or integration back into society.) You cannot punish on speculation of future behavior. [26 pgs.]

Gray v. Greer, 778 F. 2d. 350 (1985). HN3: Ignored issues were stronger than presented ones. [8 pgs.]

Green v. Black, 755 F. 2d. 687 (1985). HN2: The court of appeals reviews a district court's dismissal under 28 U.S.C.S. § 1915(d) under abuse-of-discretion standard. Inmates have a liberty interest in parole release. [5 pgs.]

Gregg v. Georgia, 428 U.S. 153 (1976). Court cannot deny a person of their humanity. [67 pgs.]

Gregory-Bey v. Hanks 1996 U.S. App. Lexis 17169 (7th Cir) (1996). Appellate counsel failed to instate a direct appeal. Cross-examination is the greatest legal engine ever invented for the discovery of truth. [6 pgs.]

Griffin v. California, 380 U.S. 609 (1965). Compulsion can be presumed from the circumstances surrounding it.

Griffin v. Illinois, 351 U.S. 12 (1965) Holds that everybody is entitled to due process at every stage of the proceeding, and a free transcript, too. Due process is defined, in part, as including notice and meaningful opportunity to defend. Title 5 U.S. Code Section 556(d), Sec. 557, Sec. 706: Courts lose jurisdiction if they do not follow due process of law. … "There can be no equal justice where the kind of trial a man gets depends on the amount of money he has."

Griffin v. United States, 109 F. 3d. 1217 (7th Cir) (1997). HN4: Ineffective assistance of Counsel, as counsel did not file a timely appeal. [8 pgs.]

Griswold v. Connecticut, 381 U.S. 479 (1965). HN5: Citizens have unremunerated rights with full constitutional status … The First, Third, Fourth, Fifth, and Ninth Amendments created "zones of privacy" justifying "right to freedom of association" and "zones of privacy" including the most intimate. (Justice Douglas).

Grosclose v. Bell, 130 F. 3d. 1161 (1997). Defendant's counsel failed to develop a defensive theory to establish doubt. [31 pgs.]

Gunter v. Astrue, 2012 U.S. dist. Lexis 41323 (2012). Intimate relations are normal even with low I.Q. [13 pgs.]

H. v. State, 169 Wis. 2d. 469 (1992). Defendant has a right to cross-examine witness.

Hammer v. State, 739 N.E. 2d. 157 (2000). Petitioner for post-conviction relief was entitled to evidentiary hearing where his pleading raised issues of fact that required resolution before his petition could be ruled upon. [8 pgs.]

Haines v. Kerner, 404 U.S. 519 (1972). HN1: The allegations of a pro se complaint are held to less stringent standards than formal pleadings by lawyers. [6 pgs.]

Holladay v. Roberts, 425 Supp. 61 (N.D. Miss.) (1977). … need not resort to state form since 28 U.S.C.S. § 1331 provides federal court jurisdiction.

Hamilton's Bogarts, Inc. v. Michigan, 501 F. 3d. 644 (6th Cir) (2007). HN18: When the government defends a regulation on speech … it must demonstrate that the recited harms are real, not merely conjectural, and that the regulation will in effect alleviate these harms in a direct and material way. (State officials are considered "persons" for the purpose of a § 1983 action when plaintiff is seeking prospective injunction relief ..) [15 Pgs.]

Haran v. Forssenius, 380 U.S. 528 (1965). HN4: The right to vote is constitutionally protected, and the conditions imposed by the states upon that right must not contravene any constitutional provision or congressional restriction enacted pursuant to constitutional power. [23 pgs.]

Harden v. Pataki, 320 F. 3d. 1289 (11th Cir) (2003). A plaintiff can recover for any injury such as emotional distress caused by the deprivation of due process. (Nominal damages are available without showing of an actual loss when constitutional rights are violated.) (Petitioner's loss of liberty is a serious loss due to violation of his Constitutional Rights and Protections from his defense counsel, the court, and the state.) [20 pgs.]

Harless v. Anderson, 664 F. 2d. 610 (6th Cir) (1981). HN1: Malice cannot be inferred. A defective definition of malice was given to the jury which denied due process. State must prove beyond a reasonable doubt. Law does not imply malice from the act. Petitioner lacked requisite intent or malice to justify a conviction. [5 pgs.]

Harlow v. Fitzgerald, 457 U.S. 800 (1982). HN13: Within the sphere of official duties, a public official who takes action with malicious intention to cause a deprivation of Constitutional Rights or other injury [is not protected by immunity.] [33 pgs.] (A public official told the alleged victim that if she wanted the abuse to stop, to run her wheelchair out into the street in front of a bus or truck and get herself run over. There are plenty of witnesses to that exchange, but they were all denied to defendants.)

Harold E. Staples III v. United States, 511 U.S. 600 (1994). HN1: The prosecution must prove that the defendant had prior knowledge and criminal intent. HN9: silence to a *mens rea* does not eliminate the intent to use *mens rea.* [39 pgs.]

Harpman v. Whitney, 7 Ill. 32 (1875) HN4: Court cannot impute malice where none existed. Malice is in no case a legal presumption from the act. [11 pgs.]

Harris v. Forklift Systems, Inc., 510 U.S. 17 (1993). HN5: A person deserved the protection of the U.S. Constitution before they were harmed. [14 pgs.]

Hartman v. Summer, 878 F. Supp. 1335 (1995). HN7: In a Habeas Corpus proceeding, a state trial judge's factual findings are presumed to be correct absent one of eight exceptions listed in 28 U.S.C.S. § 2254(d). HN18: Petitioner did not receive a full, fair, and adequate hearing in the state court proceedings. [26 pgs.]

Hemstreet v. Greiner, 378 F. 3d. 265 (2nd Cir) (2004). HN1: An appellate court may consider a prior ruling … particularly when it is faced with extraordinary circumstances and the realization that injustice would ensue. [6 pgs.]

Hernandez v. Texas, 347 U.S. 475 (1954). Community prejudices are not static. [13 pgs.]

Hill v. Maloney, 927 F. 2d. 646 (1st Cir) (1990). HN3: Jury instruction that malice was implied from any deliberate or cruel act was unconstitutional, because it improperly relived prosecution of burden of proving malice beyond a reasonable doubt in the petitioner's trial. [21 pgs.]

Hines v. Gomez, 108 F. 3d. 265, 269 (9th Cir) (1997). Prisoners may still base retaliation claims on harms that would not raise due process concerns.

Hohn v. United States, 524 U.S. 236 (1998). HN2: Certificates of Appeallability may issue only if the applicant has made a substantial showing of the denial of a constitutional right, 28 U.S.C.S. § 2255© (2). HN6: If no express request for a certificate is filed, the notice of appeal shall be deemed to construe a request addressed to the judges of the court of appeals Fed. R. App. P. 22(b). (32 pgs.)

Holladay v. Roberts, 425 Supp. 61 (N.D. Miss.) (1977). (Need not resort to state form, since 28 U.S.C.S. § 1331 provides federal court jurisdiction.

Holland v. State of Florida, 539 F. 3d. 1334 (2008). In the post conviction context, prisoners have no constitutional right to counsel. Pure professional negligence by defense counsel is not enough to entitle a petitioner to equitable tolling of the one year limitation set forth in 28 U.S.C.S. § 2244(d)(1). [10 pgs.]

Holmes v. Buss, 506 F. 3d. 576 (2007). HN5: There are cases in which a district judge may properly find that a criminal defendant is competent even though the experts on mental functioning disagree with him. [10 pgs.]

Horton v. Zant, 941 F. 2d. 1449 (1991). HN12: Mitigating evidence, when available, is appropriate in every case. To fail to do any investigation because of the mistaken notion that mitigating evidence is inappropriate is indisputably below reasonable professional norms. [31 pgs.] (My state-appointed public defense counsel, Ms. Carol A. Conklin, was given a computer DVD with all the names and addresses of witnesses, and where to find the evidence needed to prove my innocence. But, she ignored all that data and my attempts to get it all into my trial.)

Howard v. Killquist, 833 F. 2d. 639 (7th Cir) (1987). HN7: A finding is clearly erroneous when, although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed. HN8: An act in retaliation for the exercise of a constitutionally protected right is actionable under § 1983. (Public official retaliated against alleged victim, defendant, and our witnesses because we had filed a criminal complaint against that public official just as attorneys, law officers, and the Chippewa County Victim/Witness protection Office told us to do. Both trial and appellate defense counsels would not contact the County Victim Office for information.) HN9: 28 U.S.C.S. § 1915(d) provides that the court may request an attorney to represent any person proceeding *in forma pauperis* unable to employ counsel. [13 pgs.]

Hudson v. McMillan, 503 U.S. 1 (1992). A victim need not prove a "significant injury" requiring medical attention in order to establish cruel and unusual punishment in violation of the Eight Amendment. (Thus Ms. Tina Lynn Hayden's criminal complaint of mental, verbal, and psychological abuse from a public official (verified by many witnesses), is still a valid constitutional claim.) (Ms. Hayden's abuser said that they "Will destroy Ms. Hayden and her witnesses, and that there was nothing we could do about it." I replied that they were "very cruel", but they replied, with a big smile: "There's nothing you can do about it." That arrogance exposes a very sadistic public official.)

Humphrey's Executor v. United States, 295 U.S. 602 (1934) [24 pgs.]

Hurly v. Irish American Gay, 515 U.S. 516 (1984) HN7: The U.S. Constitution looks beyond written or spoken words as mediums of expression. [30 pgs.]

Hurtado v. California, 110 U.S. 516 (1884). Defendant's constitutional rights were violated. [30 pgs.]

Hutchins v. McDaniels, 512 F. 3d. 193 (5th Cir) (2007). Nominal and punitive damages available under PLRA even without showing a physical injury.

Hyun v. Landon, 219 F. 2d. 404 (1955). Defendant has a right to refuse to testify. [8 pgs.]

I – J

In Re Neagle 135 U.S. 1 (1890). The effect of the Supremacy Clause is straightforward: a federal law, if constitutional, can override any state law and even a state constitution. Essentially, the Supremacy Clause of the U.S. Constitution, and laws made pursuant to it, "The Supreme Law of the Land", overriding state laws.

Ill. Central v. Illinois (1892). Courts cannot imped truth and justice relevant to the issue in front of it.

Indiana v. Edwards, 554 U.S. 164 (2008). "Mental illness is not a unitary concept. It varies in degree. It can vary over time. It interferes with an individual's functions at different times in different ways." (From a brief filed by the American Psychiatric Association, on behalf of Edwards.) [25 pgs.]

Intent: A state of mind wherein the person knows and desires the consequences of their act. Intent must exist at the time of the offense is committed. Nobody can assume intent, must be proven beyond a reasonable doubt.

Irwin v. Callhoun, 522 F. Supp. 576 (1981). (28 U.S.C.S. § 1331 … has been regarded as the "culmination of a movement … to strengthen the federal government against the states.) [11 pgs.]

Island Tree v. Pico. Our Constitution does not permit the official oppression of ideas.

Irvin v. Dowd, 366 U.S. 717 (1961). HN3: A fair trial in a fair tribunal is a basic requirement of due process. [18 pgs.]

Ivanov v. Gonzales, 157 Fed. Appx. 939 (7th Cir) (2005). HN5: Police inaction may be a sign of persecution. [6pgs.]

Jackson v. Foti, 670 F. 2d. 516 (1982). HN5: A person must be a danger to himself and others to be confined. [12 pgs.]

Jackson v. State, 29 Wis. 2d. 225 (1965). HN4: There must be some corroboration to support defendant's statement. [8 pgs.]

James v. Illinois, 493 U.S. 307, 319 (1990). "… we are committed to protecting the people from the disregard of their Constitutional rights."

Jane Doe 1, Et.Al. v. Thomas, Et. Al. 194 S. W. 3d. 833 (2006). A statute is presumed to be valid and will not be declared unconstitutional unless it clearly contravenes some constitutional provision … a statute cannot supersede a constitutional provision, and neither the language of the statute nor judicial interpretation thereof can abrogate a constitutional right. [23 pgs.]

Jensen v. Frank, 912 F. 2d. 517 (1st Cir) (1990). HN8: Proof of a system violation necessitates more than merely the occurrence of an isolated incident of discrimination. [14 pgs.]

Johnson v. Ashby, 808 F. 2d. 676 (8th Cir) (1990). HN2: While a party may believe that it would be futile, so far as the trial court is concerned, to make an objection, and that the objection may irritate the court, it is still incumbent upon the party to make the objection in order to preserve the issue for appeal. [6 pgs.]

Johnson v. Hoffman, 424 F. Supp. 490 (E.D. Mo.) (1977). While sovereign immunity does not necessarily bar suit pursuant to 28 U.S.C.S. §§ 1331 and 1343, certain types of relief might be precluded.

Jones v. Jones, 406 Ill. 448 (1950). HN4: Expert witness testimony was merely an opinion, not a direct, positive fact. [6 pgs.]

Jury Nullification: The most basic, and perhaps the most common, example of a jury to refuse to convict criminal defendants for reasons wholly unrelated to the strength or weakness of the government case against civil disobedience misdemeanors or felonies. If a jury disagrees with the application of the law is some particular context, its members have the raw constitutional power to acquit the defendant notwithstanding the evidence.

K – L

Kaczorowski v. Warren, 2008 U.S. Dist. Lexis 6996 (2008). Same sentencing court considering roughly the same facts, and imposes a higher sentence: vindictiveness. [8 pgs.]

Kansas v. Hendricks, 521 U.S. 346 (1997). HN1: The Sexually Violent Predator Act … establishes procedures for the civil commitment of persons who, due to a mental abnormality or a personality disorder, are likely to engage in predatory acts of sexual violence. HN5: … a trial would be held to determine beyond a reasonable doubt whether the individual was a sexually violent predator. HN6: The individual also receives the right to present and cross-examine witnesses, and the opportunity to review documentary evidence presented by the state. HN10: Previous instances of violent behavior are an important indicator of future violent tendencies. HN11: Persons eligible for confinement are those who are unable to control their dangerousness. HN14: The mere fact that a person is detained does not inexorably lead to the conclusion that the government has imposed punishment. HN15: The state may not punish twice for the same offense. HN18: The Ex Post Facto Clause, which forbids the application of any new punitive measure to a crime already consummated, has been interpreted to pertain exclusively to penal statutes. [44 pgs.]

Kasper v. Enrich, 265 Wis. 318; Lexis 349 (1953). HN1: Statute of limitations for alienation of affection began to run at the last time of the last alienation. [5 pgs.]

Keeler v. Superior Court, (1970). Court must interpret an ambiguous criminal statute "as favorably to the defendant as its language and the circumstances of its application may reasonably permit."

Keenan v. Tejeda, 290 F. 3d. 252 (5th Cir) (2002). (Limitations on or retaliation for exercising right of speech is prohibited by First Amendment.) (Petitioner's :Not Guilty" plea is rejected by the state as "Free Speech".)

Kerr v. Farrey, 95 F. 3d. 472 (7th Cir) (1996). HN1: State could not coerce inmate. [13 pgs.]

Kimmel v. Morrison, 477 U.S. 365 (1986). The Constitutional guarantee of counsel cannot be satisfied by mere formal appointment. (EVERY state-appointed public defender for defendant only wanted him to plea

"guilty" in a plea bargain. None of them would help him plea "not guilty", they all refused to recognize his existence or answer questions. They all sat mute in court for the parole violation hearings.)

King v. Federal Bureau of Prisons, This case banned restrictions on prisoner's rights to receive books, including computer books.

Knowlin v. Heise, 420 Fed. Appx. 593 (7th Cir) (2011). HN2: A liberty interest may rise from an expectation. [7 pgs.]

Kolender v. Lawson, 461 U.S. 352 (1983). HN4: Statutory limitations on individual freedoms guaranteed by the United States Constitution are examined for substantive authority and content as well as for definiteness or certainty of expression. The void-for-vagueness doctrine requires that a penal statute define the criminal offense with sufficient definiteness so that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement. Although the doctrine focuses both on actual notice to citizens and arbitrary enforcement, the more important aspect of the vagueness doctrine is not actual notice, but the requirement that a legislature establish minimal guidelines to govern law enforcement. Where the legislature fails to provide such minimal guidelines, a criminal statute may permit a standard less sweeping that allows policemen, prosecutors, and juries to pursue their own personal predilections. [In other words, their own biases and prejudices may guide them … an unconstitutional leeway.] [26 pgs.]

Kreisner v. City of San Diego, 988 F. 2d. 883, 898 (9th Cir) (1993). [The right to plea "Not Guilty" is speech], and entitled to exactly the same protection from government restriction as any other kind of speech – no more and no less. [Petitioner] … has suffered severe and irreparable injury as a result ... and continues to suffer … [for exercising his constitutional right to plea "Not Guilty"]

Kring v. Mo., 107 U.S. 221 (1882). HN2: Any law passed after the commission of an offense, which, in relation to that offense, or its consequences, alters the situation of a party to his disadvantage, is an Ex Post Facto violation.

Kyllo v. United States, (2001) Police may not use sense-enhancing technology that is unavailable to the general public to gather information about a protected area, such as a home, without a warrant.

Laffer v. Cooper, 566 U.S. 156 (2012). To establish prejudice under Strickland for IAC: 1) You have to show a "reasonable probability" that you and the prosecutor would have reached an agreement; 2) The court would have accepted it; 3) Your conviction or sentence would have been less severe under the plea deal than what you received after losing by going to trial.

Lawrence v. Texas, 539 U.S. 558 (2004). HN3: Petitioner was entitled to respect in private lives. [39 pgs.]

Lax v. Astrue, 489 F. 3d. 1080 (2007). HN6: I.Q. score is not an accurate reflection of intellectual capabilities. [15 pgs.]

Lee v. Kemma, 534 U.S. 362 (2002). HN7: State ground may be inadequate to stop a federal consideration. [40 pgs.]

Lee v. United States, 137 S. Ct. 1958 (2017). The court acknowledged that in some cases throwing a "Hail Mary" by going to trial might seem more rational than pleading guilty with a guaranteed losing outcome. (The chances of success at trial matter little if it's the only rational option available other than a plea bargain.)

Lego v. Twomey, 404 U.S. 477 (1972). HN2: The voluntariness of a statement, and used against him, has a due process right to a reliable determination. HN10: It is impermissible to introduce evidence obtained in violation of a defendant's Fourth Amendment's rights. [22 pgs.]

Lemieux v. Consolidated Freightways, 1997 U.S. Dist. Lexis 16287 (1997). Whistle-blower complaint does not need to name a specific crime; retaliation is unconstitutional. [7 pgs.] (Ms. Tina Lynn Hayden and her witnesses (including this defendant) were directed by attorneys, law enforcement, and the Chippewa County Victim/Witness Protection Office to file a complaint against a public official … we all lost our freedoms to retaliation from that public official: Ms. Kathleen Leonard. There are plenty of witnesses to support us, but those witnesses were denied to us by our state-appointed public defenders.)

Lewis v. Bell 2008 U.S. Dist. Lexis 21417 (2008). If evidence to support claim might exist, then court should allow discovery. [8 pgs.] (Contracts for all of us witnesses and Ms. Hayden existed, all of our state-appointed public defenders would not allow that evidence, even when they knew were to obtain it.)

Lewis v. Casey, 518 U.S. 343 (1996). Deprived right must result in actual harm. [56 pgs.] (Being denied evidence and witnesses that contributed to loss of our freedoms is a serious harm.)

Lindsey v. Washington 301 U.S. 397. A law that deprives a person accused of a crime of a substantial right in which he was protected and granted immunity by the law in force at the time of the commission of the offense, is an ex post facto situation. (Defendant had an affair with the alleged victim while she was her own guardian, and she could enter legal contracts, owned her own transportation, had a job for over 10 years, could spend her own money, take her own medications, and socialize as she wished. But, after she filed a complaint against a public official, just as she was directed to do by attorneys, law officers, and the county Victim/Witness protection office of a "Elder Abuse" charge against that public official, she was declared "incompetent" by the retaliation from that public official to void the complaint, and then charges were brought against this defendant to silence a witness.)

Lockett v. Puckett, 980 F. Supp. 201 (1997). HN27: As a general rule, jury instructions which contain errors of state law do not form the basis for federal habeas relief. Habeas relief may only be granted when the challenged instruction so infects the entire trial that the resulting conviction violated due process. [75 pgs.]

Lockhart v. Fretwell, 505 U.S. 364 (1993). HN1: The right to counsel under the U.S. Constitutional Amendment IV exists to protect the fundamental right to a fair trial. [26 pgs.]

Long v. Norris, 929 F. 2d. 1111, 1115 (6th Cir) (1991). Public officials not entitled to qualified immunity when relying on ignorance of esoteric aspects of law to avoid liability.

Loving v. Virginia, 388 U.S. 1 (1967). Right to privacy extends to personal decisions – avoiding disclosure of personal matters. [17 pgs.]

Lowery v. Sullivan, 979 F. 2d. 835 (11th Cir) (1992). HN4: Inconsistences in the I.Q. testing. Not even a scintilla of evidence. [7 pgs.]

Lozada v. Deeds, 498 U.S. 430 (1991). Ineffective assistance of counsel deprived petitioner of opportunity to appeal. [7 pgs.]

Lucas v. South Carolina Coastal Council, 505 U.S. 1003 (1992) HN1: No matter how minute the intrusion, and no matter how weighty the public purpose behind it, the United States Supreme Court has required compensation. [64 pgs.]

Lugar v. Edmondson Oil Co., 457 U.S. 922, 937 (1982). HN3: 42 U.S.C.S. § 1983 provides a remedy for deprivations of rights secured by the constitution and laws of the United States when that deprivation takes place under color of any statue, ordinance, regulation, custom, or usage of any state or territory. HN4: In cases under 42 U.S.C. § 1983, under color of law has consistently been treated as the same thing as state action required under U.S. Constitution Amendment XIV. HN5: (Private individuals have acted under the color of state law for the purposes of § 1983 action when: 1) The claimed deprivation was caused by the exercise of a right or privilege created or imposed by the state or undertaken by a person for whom the state is responsible, and, 2) The private party is fairly characterized as a state actor.) [34 pgs.]

Lujan v. Defenders of Wildlife, 504 U.S. 555 (1992). HN15: Past exposure to illegal conduct does not in itself show a present case or controversy regarding injunction relief if unaccompanied by any continuing present adverse effects. Standing Controversy – Actual Injury: 1) The plaintiff must have suffered an "injury in fact" (an invasion of a legally protected interest that is "concrete and particularized" and is "actual or imminent"; 2) A "casual connection" must exist between the injury and the conduct complained of; 3) It must be "likely", and not merely speculative, that the injury will be redressed by a favorable decision. [51 pgs.]

Lujan v. Mansmann, 1997 U.S. Dist. Lexis 14987 (1997). HN9: Every doubt is to be resolved in favor of a plaintiff. A lack of knowledge, mistake, or misunderstanding, do NOT toll the running of the statute of limitations. HN9: The statute of limitations begin to run when the injured party possesses sufficient critical facts to put them on notice that a wrong has been committed and they need redress. [28 pgs.]

Lumpkin v. Smith, 439 F. 2d. 1084 (5th Cir) (1971). When a client makes known to counsel that he wants to appeal, he must be told procedure, time limit, and obtain right to counsel. [46 pgs.] (All these things were denied to petitioner.)

Luna v. Cambra, 306 F. 3d. 961 (2002). Counsel failed to investigate and present the testimony of alibi witnesses. [16 pgs.]

M – N

McGreal v. Ostron, 368 F. 3d. 658, 686 (7th Cir) (2004). Municipalities may be liable for police chief's actions.

Mach v. Steward, 137 F. 3d. 630 (9th Cir) (1998). HN3: Even if only one juror is biased or prejudiced, the defendant is denied his constitutional right to an impartial jury. (Jury was tainted during *voir dire* by a discussion between the juror and the prosecutor. Jury was eleven women and one man, non were veterans, none

had a disability, and none had any direct experience with disabled persons, knowledge was just by hearsay.) [9 pgs.]

Maine v. Moulton, 474 U.S. 159 (1985). The Sixth Amendment to the Constitution is violated when the state obtains incriminating statements by knowingly circumventing the accused's right to have counsel present in a confrontation between the accused and a state agent. Such statements are inadmissible at trial of the charges. (Defendant had filed a complaint and made statements to law enforcement that were then distorted into a "confession" without being notified or mirandized that those statements were to be used against him and there was no counsel to assist him.) [30 pgs.]

Maine v. Violette, 576 A. 2d. 1359 (1990). HN2: An increase in sentencing violates due process. [8 pgs.]

Malloy v. Hogan, 378 U.S. 1 (1964). The Fifth Amendment provides that "No person shall be compelled in any criminal case to be a witness against himself." [32 pgs.]

Mapp v. Ohio, 367 U.S. 643, 659 (1961). "Nothing can destroy a government more quickly than its failure to observe its laws."

Marbury v. Madison, 5 U.S. 137 (1803). The Constitution of the United States is the supreme law of the land. Any law that is repugnant to the Constitution is null and void of law.

Marchetti v. United States, 390 U.S. 39 (1968). HN13: The Supreme Court agrees that the constitutional privilege against self-incrimination is meaningfully waived merely because those "inherently suspect of criminal activities" have been commanded either to cease wagering or to provide information to incriminate themselves. HN15: The central standard for the privilege against self-incrimination is confronted by substantial and "real", not merely trifling or imaginary, hazards of incrimination. [30 pgs.]

Markell v. Nash, 841 F. 2d. 254 98th Cir) (1998). HN1: Public official's conduct was beyond the outer limits of their official duties and caused the victim emotional distress. [3 pgs.]

Martin v. Indiana, 521 F. 2d. 682 (7th Cir) (1975). No counsel appointed after charges were preferred, or after they were impermissibly suggested. [6 pgs.]

Martin v. Ohio, 480 U.S. 228 (1987). State must prove criminal intent. [17pgs.]

Massachusetts Board of Retirement v. Murgia, 427 U.S. 307 (1976). Stated, "The Equal Protection analysis requires strict scrutiny of a legislative classification only when the classification impermissibly interferes with the exercise of a fundamental right or operates to the peculiar disadvantage of a suspect class. [17 pgs.]

Massachusetts v. Mellon, 262 U.S. 447 (1923). HN7: A state could not, in its role of *parens patriae*, institute judicial proceedings to protect its citizens from the operation of otherwise valid federal laws. [30 pgs.]

Massiah v. United States, 377 U.S. 201 (1964). HN5: Petitioner was seriously imposed upon since he did not even know that he was under interrogation. (Petitioner was questioned by Chippewa Falls police about the criminal complaint he helped file against a public official, then the complaint was distorted and twisted into a "confession", which was used against him at trial. His state appointed public official would not help him dismiss the illegally gained information.) [16 pgs.]

McCandless v. Vaughn, 172 F. 3d. 255 (3rd Cir) (1999). HN2: Person in state custody … in violation of constitutional laws or treaties of the United States (28 U.S.C.S. § 2254 (a)). A Sixth Amendment right to have critical witnesses was denied to the defendant. [21 pgs.]

McCardle Ex. Parte, 74 U.S. 506 (1864). Court must give a constitutional review (when constitutional issues are involved). 11 pgs.]

McCullough v. Archbold Ladder Co., 587 N.E. 2d. 158 (1992). Trial court abused discretion by not allowing a rebuttal witness.

McCulloch v. Maryland, 17 U.S. (4 Wheat) 316 (1819). No state statute, or law can abridge or annihilate a constitutional right. A power to destroy, if wielded by a different hand, is hostile to, and incompatible with, … the U.S. Constitution. The Constitution is empowered by all the citizens of the United States, and may not be overtaken by a minority. States have no power, by taxation or otherwise, to retard, impede, burden, or in any manner control, the operation of the Constitutional laws. "We must never forget that it is a Constitution we are expounding. The United States Constitution was "ordained and established in the name of the people"; it was not a compact among the states." (Chief Justice John Marshall) [51 pgs.]

McCurry v. Moore, 242 F. Supp. 2d. 1167 (2002). HN6: The underlying constitutional right is well established. When a prisoner's sentence has expired, he is entitled to release. [21 pgs.]

McElroy v. Lopac, 403 F. 3d. 855 (7th Cir) (2005). Limited free speech for prisoners to matters of public concern. (28 C.F.R. § 551.90) [6 pgs.]

McKenna v. McDaniel, 65 F. 3d. 1483 (1990). HN3: It is unconstitutional error for the sentence to give weight to an unconstitutionally vague factor. (Judge Cameron's selective, subjective opinion was an act beyond his human abilities, duty, and expertise: he is not a "mind reader". There was No constitutionally recognized "expert Medical testimony" during resentencing about Ms. Tina Lynn Hayden's PRESENT condition (at resentencing) to base his opinion upon to unconstitutionally increase sentence, a bias and prejudice becoming malice and vindictiveness. Ms. Hayden's condition at resentencing was more than five years after the last consensual and healthy contact with defendant. If Ms. Hayden's mental health was unhealthy at resentencing (which it was), it was from the mental, verbal, and psychological abuse of her guardian and the public official who was retaliating against all of us. Those public officials bragged that they were going to "destroy" Ms. Hayden for having the courage to file a complaint against the public official, Ms. Kathleen Leonard.)

McKey v. Hyde Park Village, 134 U.S. 84 (1890). "Waiver" meant to assert one's rights and are not conclusive evidence of such dedication, for it may be rebutted; and the party is always allowed to show facts and circumstances to overcome such presumption. [13 pgs.]

McKinney v. Whitfield, 736 F. 2d. 766 (1984). Immunity does not exist for public officials who violate constitutional rights. [10 pgs.]

McKune v. Lile, 536 U.S. 24 (2002). Sex offender treatment program requires offender to admit guilt (unconstitutional coercion). The Fifth Amendment makes no references to a person's position under the jurisdiction of the U.S. Constitution. (**Spevack v. Klein**, 385 U.S. 511. (1967): "penalty" is not restricted to fine

or imprisonment; (**Griffin v. California**) imposition of any sanction which makes the assertion of the Fifth Amendment "costly" is unconstitutional; (**Turner v. Saftley**, 482 U.S. 78 !987). [34 pgs.]

McKoy v. North Carolina, 494 U.S. 433 (1990). HN1: Any barrier to mitigating evidence is unconstitutional. (Defendant's own defense counsel denied the defendant of critical evidence, even when they knew where and why it was important.) [34 pgs.]

McQueen v. Indianapolis, 412 N.E. 2d. 138 (1980). HN2: No evidence was introduced to support malice. [8 pgs.]

McQuiggin v. Perkins, 133 S. Ct. 1924; No. 12-126; Lexis 4068: "Actual Innocence" if proved, is a gateway through which a habeas prisoner can make it into federal court, even though AEDPA statute of limitations has run (via equitable tolling). [34 pgs.]

Mendz v. Barnhart, 439 F. 3d. 360 (2006). Location influences abilities. Totality of circumstances applies. [5 pgs.]

Menez-Soto v. Rodriguex, 448 F. 3d. 12 (1st Cir) (2006). (In some contexts, emotional damages may be recoverable under § 1983.)

Mesa v. Prejean, 543 F. 3d. 264 (5th Cir) (2008). (Psychological injuries are actionable under § 1983.) (Petitioner's anxiety, stress, and tension are causing high blood pressure.)

Metropolitan Life Ins. Co. v. Christ, 979 F. 2d. 575 (7th Cir) (1992). HN4: When state conflicts with federal, state must give way, even in fields such as domestic relations that have been traditionally governed by the state law.

Michigan v. Harvey, 494 U.S. 344 (1987). Miranda requires police interrogations to advise criminal suspects of their rights under the Fifth and Fourteenth Amendments. A waiver of that right cannot be established by showing that the accused responded to further police-initiated custodial interrogation even if he is advised of his rights. Such a discussion by police is presumed invalid, and evidence or testimony obtained pursuant to such conduct is in violation of constitutional rights. (The Chippewa Falls, WI police distorted a criminal complaint and a statement by the defendant (without counsel) into a "confession" without ever stating his Miranda rights.) [28 pgs.]

Michigan v. Mosley, 423 U.S. 96 (1975). Trial court should have suppressed the confession. [26 pgs.]

Miller v. Senkowski, 268 F. Supp. 296 (2003). Cumulative effect of all the defense counsel's errors was prejudice. [26 pgs.]

Miller v. Florida, 482 U.S. 423 (1987). A procedural change may come under an ex post facto doctrine. Retrospective charges after a change in circumstances are unconstitutional. (Ms. Tina Lynn Hayden was declared "incompetent" in a biased court, after we had an affair, to silence and squash her criminal complaint, and then defendant was charged with "sexual assault" for an affair that occurred before she was declared "incompetent". She was also able to enter into contracts before being declared "incompetent".)

Miller v. Prince George's County 475 F. 3d. 621, 631-632 (4th Cir) (2007). Officer not entitled to qualified immunity when falsifying arrest warrant despite approved by magistrate because right to be free from unlawful seizure clearly established.

Mills v. Alabama,384 U.S. 214 (1966). The prohibition is based on content of speech, a First Amendment violation.

Miranda v. Arizona, 384 U.S. 436 (1996). The admissibility of a confession in a state criminal case was governed by the Due Process "voluntariness" or "totality of circumstances" test. "Voluntariness" may pass, but the "totality of circumstances" test fails. (Both must pass.) The invisibility of police interrogation made it easy for society to be complacent about what really takes place. [103 pgs.]

Misdemeanor: A class of criminal offenses less serious than felonies and sanctioned by less severe penalties. Class "A", Class "B", Class "C". You cannot convict a person of a misdemeanor, and then give them a felony sentence.

Missouri v. Frye, 566 U.S. 134 (2012). Because guilty pleas are "so central" to the criminal justice system, the Sixth Amendment right to counsel necessarily extends to "The plea-bargaining process". The decision to plea guilty belongs to the defendant, not their counsel.

Mitchell v. Horn, 318 F. 3d. 523 (3rd Cir) (2003). (PLRA's provision barring claims for mental or emotional damages, absent a showing of a non-*de minimis* physical injury, does not apply to claims for nominal and punitive damages, nor does it bar injunctive or declaratory relief; because such relief does not remunerate injury.)

Mitchell v. Mason, 325 F. 3d. 732 (6th Cir) (1999). There was no prior communication between petitioner and his counsel before or during interrogation. [24 pgs.] (There was no warning from the Chippewa Falls police that there was an interrogation going on, and the accused did not have counsel during statement that was distorted and twisted into a confession.)

Monell v. New York City Dept. of Social Services, 436 U.S. 658 (1978). Municipal corporations were persons who could be sued under 42 U.S.C.S. § 1983, as the official policy was a violation (since 1871). Local governments … may be sued for constitutional deprivations. [55 pgs.]

Montgomery v. Peterson, 664 F. Supp. 398 (1987). Defense counsel failed to investigate a lead.

Montgomery v. State, 615 So. 2d. 226 (5th Cir) (1993). HN2: When no evidentiary hearing is held, the allegations of a defendant's motion for post-conviction relief must be accepted as true. Defense counsel made promises to client that were not recorded to the court. An evidentiary hearing was required to address that portion of the motion. [5 pgs.]

Moody v. Daggett, 429 U.S. 78 (1976). (Fifth and Fourteenth Amendment due process protects parolee's significant liberty interests.) (Petitioner has been a "parolee" who was denied his liberty twice by sentencing extensions because his appointed public defenders did not do anything to defend their client.) [21 pgs.]

Moore v. Mitchell, 2008 U.S. Dist. Lexis 104323 (2008). A certificate of Appealability should not be denied because the court doubts success. [9 pgs.]

Morrison v. Hald, 261 F. 3d. 896 (2001). Prison may not ban receipt of subscription publications sent by bulk, third, or fourth class.

Morris v. Slappy, 461 U.S. 1 (1983). The burden of a new trial must be borne by the prosecution, the courts, and witnesses; the constitution permits nothing less. [27 pgs.]

Morrissey v. Brewer, 408 U.S. 471 (1972). A hearing is required for parole violations. [36 pgs.]

Morrison v. Hald, 261 F. 3d. 896 (2001). Prison may not ban receipt of subscription publications sent by bulk, third, or fourth class.

Muench v. Israel, 715 F. 2d. 1124 (7th Cir) (1983). HN6: A state is not constitutionally compelled to recognize the doctrine of diminished capacity. [32 pgs.]

Mullaney v. Willbur, 421 U.S. 684 (1975). The state has the burden of proving beyond a reasonable doubt the existence of all elements of the crime [for each and every charge]. (The state still has NO evidence, witnesses, corroboration, or proof of criminal intent that the defendant committed a crime, much less a certain number of crimes.) [16 pgs.]

Muncy v. Apfel, 247 F. 3d. 728 (8th Cir) (2001). Mildly retarded could enjoy a married life. [11 pgs.]

Murdock v. Penn, 319 U.S. 105 (1943). No state shall convert a liberty into a privilege, license it, and attach a fee to it. A state may not impose a charge for the enjoyment of a right, granted by the federal constitution. [29 pgs.]

Murphy v. Commonwealth, 172 Mass. 264; 52 NE 505 (1899). HN5: The question in each case is whether it will increase the penalty, or operate to deprive a party of substantial rights or privileges to which he was entitled as the law stood when the offence was committed, or in short, which in relation to the offence or its consequences, alters the situation of a party to his disadvantage. [13 pgs.] (At the time of the affair with the alleged victim, Ms. Tina Lynn Hayden, she was her own guardian, could enter into legal contracts, had a job for over ten years, owned her own transportation, could spend her own money, identify her own medications, and socialize with her own friends. All part of normal social activities of a citizen of the United States.)

Myers v. United States, (1926). HN4: It is a maxim, not to be disregarded, that general expressions, in every opinion, are to be taken in connection with the case in which those expressions are used. If they go beyond the case, they may be respected, but ought not to control the judgment in a subsequent suit when the very point is presented for decision. [140 pgs.]

NAACP v. Alabama, 377 U.S. 288, 307 (1964). A First Amendment freedom of association case, for the principle that a "government purpose to control or prevent activities constitutionally subject to state regulation may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedoms." " … the laws of our country have given us a right – the liberty – both of exposing and opposing arbitrary power … by speaking and writing truth." [27 pgs.] (Ms. Tina Lynn Hayden was asserting her constitutional right to expose an abusive public official, with the help and guidance from attorneys, law officers, and the Chippewa County Victim/Witness office. But she was betrayed by Judge Roderick A. Cameron, who allowed that public official, Ms. Kathleen Leonard, to retaliate against her and all of us witnesses.)

National Bank v. Baltimore, 1900 U.S. App. Lexis 4233 (4th Cir) (1900). Courts should be compelled to declare this legislation void, as obnoxious the the provisions of [the] United States Constitution.

Near v. Minnesota, 283 U.S. 697 (1931). The right of a free press could not be lost by exercising the right … and does not depend on proof of truth. Courts could not issue injunctions to stop "nuisance" or obnoxious speech as long as it was true. [30 pgs.]

Nebbia v. New York, 291 U.S. 502 (1934). HN8: but subject only to constitutional restraint the private right must yield to public need. HN9: The Fourteenth Amendment ... conditions the exertion of the admitted [government] power … that the laws shall not be unreasonable, arbitrary, or capricious. [46 pgs.]

Nichol v. Arin Intermediate Unit 28, 268 F. sup. 2d. 536 (2003). A content driven [agenda or policy] which violates plaintiff's right to free (symbolic or expressive) speech on a matter of public concern [is unconstitutional]. Speech is protected by insuring its full expression.

Nietert v. Overby, 816 F. 2d. 1464 (10th Cir) (1987). HN3: Whether the acts are within the agent's course of duty is a question of law. (Immunity test is where actions crossed a line of duty.) [10 pgs.]

New York v. Eno, 155 U.S. 89 (1894). The obligation of state courts to give full effect to federal laws is the same as that of federal courts. [12 pgs.]

§939.615(6)(i) If the court granted a petition requesting termination of lifetime supervision and the person is registered with the department under §301.45, the court may order that the section may knowingly violate a condition or regulation of lifetime supervision established by the court or by the department, (8i) except as provided in subdivision 2, whoever violates paragraph (A) is guilty of a class F-A misdemeanor; (1) violation of paragraph (A) is guilty of a class F-A misdemeanor; (2) violation of paragraph (A) is guilty of a class I felony if the same conduct that violated paragraph (A) also constitutes a crime that is a felony: source: 2001 ACT 109, §§559v to 561,(effective February 01, 2003).

§971.17(6) Expiration of confinement order: (A) at least 60 days prior to the expiration of a confinement order under subparagraph (1), court that committed the person; (2) district attorney of the county in which the commitment order was entered; (3) the appropriate county department under §51.42 or §51.437; (B) upon the expiration of a commitment order under subparagraph (1), the court shall discharge the person under §51.42 or §51.437 to proceed against the person under chapter 51 or 55:

Nixon v. Administrator of General services, 433 U.S. 425 (1977). Constitutional right to privacy, specifically the right grounded in an individual's interest in avoiding a distortion of the facts. [120 pgs.]

Noble v. Kelly, 246 F. 3d. 93 (2nd Cir) (2001). Sixth Amendment right to have witnesses was violated. [16 pgs.]

Norfleet v. Walker, 684 F. 3d. 688 (7th Cir) (2012). HN1: Courts are supposed to analyze a litigant's claims and not just the legal theories that he propounds --- especially when he is litigating pro se. HN4: Pro se litigants can be excused from full compliance with technical procedural rules provided there is substantial compliance. [5 pgs.]

North Carolina v. Pearce, 395 U.S. 711 (1969). HN10: Judge's vindictiveness was unconstitutional. [41 pgs.]

Norton v. Shelby County, 118 U.S. 425 (1886). An unconstitutional act is not law; it confers no rights; imposes no duties; affords no protection; it creates no office; it is in legal contemplation, as inoperative as if it had never been passed. [22 pgs.]

O – P

O'Conner v. Donaldson, 422 U.S. 563 (1975). Mere public intolerance or animosity cannot constitutionally justify the deprivation of a person's liberty. A state cannot … a non-dangerous individual who is capable of surviving safely in freedom by himself or with the help of willing and responsible family members or friends. [27 pgs.]

Offutt v. United States, 348 U.S. 11 (1954). Justice must satisfy the appearance of justice. Judge should have recused himself. (Judge Cameron was the judge who blocked our criminal complaints filed against an abusive public official. Defendant requested a different judge, but his state-appointed public defender blocked that request even though the counsel understood the confliction.) [14 pgs.]

Ohio Adult Parole Authority v. Woodward, 523 U.S. 272 (1998). Invoking the Fifth results in a mandatory punishment – punitive – state cannot threaten … because the inmate exercised a Constitutional right in the Fifth Amendment. [24 pgs.] (This parolee has twice been sent back to prison because he refuses to take a polygraph (lie detector) test, which is a violation of his Fifth Amendment right not to incriminate himself.)

Olden v. Kentucky, 488 U.S. 227 (1988). Defendant had a right to conduct reasonable cross-examination. [13 pgs.] (Both the judge and defense counsel rejected defendant's request to cross-examine witnesses.)

Olmstead v. United States, 277 U.S. 438 (1928). The makers of our Constitution … conferred, as against the government, the right to be let alone – the most comprehensive of rights and the right most valued by civilized man. [35 pgs.]

O'Neal v. Beland, 1523 Ill. App. 597 (7th Cir) (1907). A witness's grounds of knowledge could not be ignored. (neither could defendant's knowledge be ignored.)

O'Neal v. McAninch, 513 U.S. 432 (1995). Court was required to give the petitioner the benefit of doubt on constitutional claims. [21 pgs.]

Opper v. United States, 348 U.S. 84 (1954). Exculpatory and oral statements both require corroboration. [16 pgs.] (State still has NO evidence, witnesses, corroboration, or proof of criminal intent against defendant.)

Oregon v. Mathiason, 429 U.S. 492 (19770. HN3: Miranda applies only when one is put into custody. [11 pgs.]

O'Rouke v. City of Providence, 235 F. 3d. 713 (2001). HN2: A plaintiff may be unable to appreciate that he is being discriminated against until he has lived through a series of acts and is thereby able to perceive the overall discriminatory pattern. [32 pgs.]

Overholser v. Russell, 283 F. 2d. 195 (1960). A person not dangerous to himself or others must be released. (Fed. R. § 24 – 301). [6 pgs.]

Osborn v. Bank, 22 U.S. 738 (1824). “Courts are the mere instruments of the law, and can will nothing.” (Chief Justice John Marshall) [70 pgs.]

Owens v. City of Independence, 445 U.S. 622 (1980). Officers of the court have no immunity when violating a constitutional right from liability, for they are deemed to know the law. The state is prohibited from violating substantive rights. [52 pgs.]

Pacific Gas & electric Co. v. Energy Resources Conversation And Development Commission, 461 U.S. 190 (1983). “The matter on which the state asserts to act is in any way regulated by the Federal government.” [46 pgs.]

Palazzolo v. Rhode Island, 533 U.S. 606 (2001). HN13: “A state, by *ipse dixit*, may not transform private property into public property without compensation. [47 pgs.]

Palterson v. County of Oneida, 375 F. 3d. 206, 230 (2nd. Cir) (2004). Cognizable, Stat. § 1983 claims for monetary damages against lieutenant and corrections officer in their individual capacities.

Palmer v. Johnson 193 F. 3d. 346, 350, 354 (5th cir) (1999). Totality of circumstances denied constitutional rights. Cognizable stat. § 1983 claims for monetary damages against prison warden, assistant warden, in their individual capacities because wardens were not entitled to qualified immunity. [12 pgs.]

Papachristou v. City of Jacksonville, 405 U.S. 156 (1972). HN2: Ordinance is void for vagueness and it encourages arbitrary and erratic arrests and convictions. [19 pgs.]

Paredes v. Atherton, 224 F. 3d. 1160 (10th Cir) (2000). HN2: The court may take a “quick look” at the face of the complaint to determine whether the petitioner has facially alleged the denial of a constitutional right. [4 pgs.]

Patrasso v. Nelson, 121 F. 3d. 297 (19970. Counsel’s effort was so lack that it invites application of Cronic rather than Strickland. [12 pgs.] (Both Mr. Thorson and Mr. Field applied less than a minimum effort in the defense of their client: they both sat mute in court.)

Patterson v. Nutter, 78 Me. 509; 1886 Me. Lexis 105 (1886). The presumption of law is that the degree of punishment is in accordance with the exercise of honest judgment, and that the punishment is without malice and not excessive … or that it was inflicted through malicious motives. [5 pgs.]

Paul v. Davis, 424 U.S. 693 (1976). Right to privacy is the right to be left alone via First and Fourteenth Amendments (personal liberty). [37 pgs.]

Pavlov, Ivan Petrovich (1849 – 1936) found that by repeated associations, an artificial stimulus could be substituted for a natural stimulus called a “conditioned reflex”. Behavior – adjusted to fit an agenda.

Pelly v. United States 214 F. 2d. 597 (7th Cir) (1954). HN1: The purpose of the proceeding under 28 U.S.C.S. § 2255 is to give the prisoner a method for a direct attack on his sentence in the court. HN2: Only where the sentence is void or otherwise subject to collateral attack may the attack be made under § 2255. [10 pgs.]

Pennsylvania Co. v. Hjnsley, No. 2752, Lexis 9 (1899). A court's attitude on the intelligence of a witness was improper, as that invaded the realm of the jury. [23 pgs.]

Penry v. Lynaugh, 492 U.S. 302 (1989). Though but a child in mental age and maturity, [a person] was found to be legally sane and competent. [48 pgs.] (Ms. Tina Lynn Hayden was still able to enter legal contracts, and spend her own money.)

People v. Fields, 409 Ill. App. 3d. 398 (2011). Defendant has a Sixth Amendment right to a conflict-free representation. [12 pgs.] (This defendant has never had a "conflict-free" representation: every one of his state-appointed defense counsels wanted him to plea "guilty" in a plea bargin and would not discuss any defense strategy.)

People v. Kitchen, 189 Ill. 2d. 424 (1999). HN4: A petition deserves a hearing when there is a substantial showing of a constitutional violation. [10 pgs.}

People v. Onofre, 51 N.Y. 2d. 476, 485-486 (1980). The right to privacy grows out of the First Amendment guarantees of freedom of speech and association, the Fourth Amendment right to freedom from unreasonable government searches and seizures, the Ninth Amendment reservation to the people of power not expressly granted to government, the Fourteenth Amendment's Equal Protection Clause, the concept of liberty inherent in the Fourteenth Amendment Due Process Clause, and the Penumbras of history and logic surrounding the Bill of Rights as a whole. [23 pgs.]

People v. Uplinger, 58 N.Y. 2d. 936 (1983). Court ruled that the state cannot constitutionally punish loitering which is neither is done for a criminal purpose nor is "offensive or annoying to others". [9 pgs.]

People v. Whitford, 314 Ill. App. 3d. 335 (2000). Writ should be granted because there is a gist of meritorious constitutional claim. [13 pgs.]

People v. Yeargan, 229 Ill. App. 3d. 219 (1992). Corroboration needed to support evidence. [16 pgs.]

Perkins v. Kansas Dep't. of Corr., 165 F. 3d. 803 (10th Cir) (1999). (Psychological pain can violate the Eighth Amendment.) (Psychological terrorism was a Nazi tactic, now used by feminists against those charged of a sex offense.)

Phelps-Roper v. Heineman, 57 F. Supp. 3d. 1146 (U.S. Dist. Court of Nebraska) (2014). The First Amendment protects the most obnoxious speech, the most despicable, the most repulsive. The First Amendment sometimes is inconvenient, but nonetheless, it's important. [31 pgs.]

Philadelphia v. New Jersey, 437 U.S. 617 (1978). State interest is out-weighted by a national interest. The state's "protectionist" interest of isolationism is unconstitutional where an unpopular commerce (waste) was banned by New Jersey. (20 pgs.)

Phillips Chemical Co. v. Hullbert, 301 F. 2d. 747 (5th Cir) (1962). Malice cannot be lightly inferred, but must be proven by convincing evidence. State could not bring evidence to support every aspect of all [ten] charges. [7 pgs.] (State still has no evidence, no witnesses, no corroboration, and no proof of criminal intent.)

Plessy v. Ferguson, 163 U.S. 537 (1896). Justice John Marshall Harlan wrote the dissent opinion: States could not regulate conduct based on race. “In the eyes of the law, there is in this country no superior, dominant, ruling class of citizens. There is no chaste here. Our Constitution is color-blind, and neither knows or tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law.” [21 pgs.]

Plyer v. Doe, 457 U.S. 202 (1982). The protection of the Fourteenth Amendment extends to everyone and guarantees that no state shall deny any person within its jurisdiction, the equal protection of the laws. [48 pgs.]

Poindexter v. Mitchell, 454 F. 3d. 564 (2006). Defense counsel pursued only one possible defense choice. Defense failed to consider other lines of defense. [30 pgs.] (Defense council only wanted to help a plea bargain, and did not want to help defendant plea “Not Guilty” by denying him of evidence and witnesses that would have proven his innocence.)

Polk County v. Dodson, 454 U.S. 387 (1985). Public defender did not act in an adversial manner. [20 pgs.] (Public defenders would not investigate evidence or witnesses, even when they knew where to find that information.)

Poolman v. Nelson, 802 F. 2d. 304 (8th Cir) (1986). Hn1: All facts in a summary judgment are to be liberally in favor of the accused. [10 pgs.]

Porterfield v. Bell, 258 F. 3d. 484 (6th Cir) (2001). HN4: A certificate of Appeallability is granted when a denial of a constitutional claim arises. [8 pgs.]

Portuondo v. Agard, 529 U.S. 61 (20000. No real effort was put forth to discover the truth. [26 pgs.]

Powell v Alexander, 391 F. 3d. 1 (1st Cir) (2004). (Retaliation for exercise of First Amendment right is actionable under § 1983.) (Petitioner is being retaliated against for holding onto his “Not Guilty” plea.)

Prater v. U.S. Parole Comm., 802 F. 2d. 948. HN2: any action, innocent when it was done, should be afterwards converted to guilt by a subsequent law [or procedure], [and accused] had no cause to abstain from it, all punishment for it must be cruel and unjust. [19 pgs.] (Defendant had affair with the alleged victim before she was declared “incompetent” by a biased court for filing a criminal complaint against a public official, just as she was told to do. That public official retaliated against all of us who tried to be witnesses on her behalf.)

Premier-Pabst Sales Co. v. Grossup, 298 U.S. 226 (1936). HN1: One who would strike down a state statute as obnoxious to the Federal Constitution must show that the alleged unconstitutional feature injures him. [5 pgs.]

Prince v. Massachusetts, 321 U.S. 158 (1944). The state must respect the private realm of intimacy. [18 pgs.]

Prude v. Clarke, 2011 U.S. Dist. Lexis 78669 (7th Cir) (2011). Complaints filed by unrepresented prisoners are supposed to be construed liberally. [7pgs.]

Q – R

Rehabilitation Act of 1973, Prohibits federal, state, and local agencies that receive federal financial assistance, from discriminating against individuals because of their disability (see U.S.C. § 794).

Reichle v. Howards, 566 U.S. 658 (2012). Existing precedent must have placed the constitutional question beyond debate.

Reno v. Flores, 507 U.S. 292 (1993). The Fifth and Fourteenth Amendments forbid infringement of certain fundamental liberty interests. HN4: Must establish that under no set of circumstances exists under which a regulation would be valid. [54 pgs.]

Reome v. Levine, 692 F. Supp. 1046 (2012). HN9: Neither may a state involuntary confine someone who is not mentally ill, but possibly dangerous in the ordinary sense of the word. [12 pgs.]

Revels v. Sanders, 519 F. 3d. 734 (2008). State must prove criminal intent. [15 pgs.]

Richards v. Mitcheff, 696 F. 3d. 635 (7th Cir) (2012). HN6: A complaint that invokes a recognized legal theory and contains plausible allegations on the material issues cannot be dismissed under Fed. R. Civ. P. 12. [6 pgs.]

Riley v. Payne, 352 F. 3d. 1313 (9th Cir) (2003). When defense counsel failed to contact a potential witness, … that decision may constitute deficient conduct. [17 pgs.]

Ring v. Arizona, 536 U.S. 584 (2002). HN6: Enumerated aggravating factors did not exist. No justificable reason to extend sentence. [33 pgs.]

Rivera v. Smith, 2005 U.S. Dist. Lexis 43497 (2005). Petitioner was not asked if he had read the sentencing report prior to sentencing, and was denied the right to allocution. [3 pgs.]

Robinson v. Ignacio, 360 F. Supp. 1044 (2004). HN8: Ineffective assistance of counsel at resentencing denied petitioner his Sixth Amendment right to counsel: as counsel did not challenge extended sentence (extended confinement). [17 pgs.] (State made paperwork mistake for filing the sentence, not the defense – confinement was extended from six years to eight years, and defense sat mute.)

Rogers v. Israel, 746 F. 2d. 1288 (7th Cir) (1984). Counsel's failure to call an expert witness was ineffective assistance of counsel. HN9: Where material facts were not adequately developed at the state court hearing, the petitioner is entitled to an evidentiary hearing in the federal district court. [9 pgs.]

Rohman v. City of Portland, 909 F. Supp. 767 (1995). Congress shall make no law … abridging the freedom of speech. [16 pgs.]

Roman v. Digugielmo, 675 F. 3d. 204 (3rd Cir) (2012). A state program that requires an inmate to incriminate himself solely for the purpose of gathering incriminating statements against him will not pass constitutional muster.

Romer v. Evans, 517 U.S. 620 (1996). HN1: A classification of persons undertaken for its own sake is something the Equal Protection Clause does not permit. Class legislation is obnoxious to the U.S. constitution (Equal Protection violation). [30 pgs.]

Rose v. Clarke, 478 U.S. 570 (1986). First degree requires proof of premeditation and deliberation. Second degree requires proof of malice. Malice has three parts: 1) Express hatred, 2) Ill-will or spite, 3) An inherently

dangerous act with knowledge that it can cause injury. [30 pgs.] (State did not prove any degree of malice, but defendant is being punished for malice because counsel remained silent.)

Rose v. Lundy, 455 U.S. 509 (1982). Errors that undermine confidence in the fundamental fairness of state trial will satisfy issuance of writ. [38 pgs.]

Roth v. United States, 354 U.S. 467 (1957). It is unfair to criminally punish individuals who cannot reasonably ascertain whether their conduct is unlawful. (U.S. justice William Brennan, Jr.)

Rouse v. Benson, 193 F. 936, 939 (8th Cir) (1999). Retaliation transfer is actionable, under § 1983.

Russell v. Lazar, 300 F. Supp. 2d. 716 (E.D. Wis.) (2004. "Incarcerating a prisoner beyond the termination of his sentence without pentological justification violates the Eighth Amendment prohibition of cruel and unusual punishment when it is the product of deliberate indifference." HN3: To state a claim under 42 U.S.C.S § 1983, a plaintiff must allege that the defendant deprived him of a right secured by the Constitution or laws of the United States, and that the defendant acted under color of the law. HN6: The Fourteenth Amendment applies to violations in novel factual circumstances. [14 pgs.]

Rutgers v. Waddington, (1784). By the supremacy clause, state judges were directed to set aside laws that conflicted with federal responsibilities.

S – T

Salinas v. O'Neill, 286 F. 3d. 827 (5th Cir) (2002). (Damages for emotional distress may be appropriate when suffering sleeplessness, anxiety, stress, martial problems, and humiliation, under 42 U.S.C.S. § 2000-ea(a)). [11 pgs.]

Salisbury v. List, 501 F. Supp. 105 (1880). Denied right to marry was unconstitutional. Extent of state regulations is subject to U.S. Constitutional limits on state power. [10 pgs.]

Sanders v. Brady, 57 F. Supp. 87 (1944). Statute was unconstitutional, prior adjudications under precisely similar conditions. Prosecution was based on an unconstitutional act. [7 pgs.]

Sanchez v. Pereira-Costillo, 590 F. 3d. 31 (1st Cir) (2009). Involuntary exploratory surgery violates a prisoner's Fourth Amendment rights.

Sanders v. Sanford, 138 F. 2d. 415 (5th Cir) ( ). Trial court failed to give effect to the federal constitution provision (Inappropriate exercise of state power (10th Amendment)). Validity of the state on the charge is biased. [3 pgs.]

Sanders v. State, 823 N.E. 2d. 313 (2005). Defendant's statements were taken out of context, allowing inference that he was guilty. [11 pgs.] (Defendant's statement was distorted into a "confession" when the "totality of circumstances" was ignored.)

Santiago v. Ware, 205 Wis. 2d. 295 ( ). HN2: Due process requires notice and opportunity to be heard before a deprivation of life, liberty, or property. HN7: An inmate's interest in his mandatory release date is like his intent

in good-time credits: a Fourteenth Amendment's liberty interest. HN22: The touchstone of due process is protection of the individual against arbitrary action of government. [35 pgs.]

Santillanes v. Unites States Parole Comm'n., 754 F. 2d. 887 (1985). If petitioner's claim that he was denied ineffective assistance of counsel could be proved, then his conviction was invalid. [7 pgs.]

Santobello v. New York, 404 U.S. 257 (1971). A guilty plea constitutes a waiver of several fundamental rights … the extreme importance of which … leaves the prosecutor to set the price for the exercise of those rights. Many defendants have been tricked by their defense counsel's misrepresentations, so as to deny the defendant of due process and influenced by threats. [16 pgs.]

Satterwhite v. Texas, 486 U.S. 249 (1998). HN7: The harmless error rule applies to the admission of psychiatric testimony in violation of U.S. Constitutional Amendment VI right to psychiatric examinations designed to determine future dangerousness. [21 pgs.] (Psychiatrists cannot predict the future by any means.)

Schall v. Martin (Allows courts to sentence people for crimes they might commit.) (Unconstitutional)

Schmerber v. California, 384 U.S. 757 (1966). Justice Holmes Stated: "The prohibition of compelling a man in a criminal court [or in a position where his liberty is at stake] to be a witness against himself is a prohibition of the use of physical or moral compulsion to extort communications from him." [27 pgs.]

Scott v. Allen, 466 U.S. 522, 541-544 (1984). Judicial immunity is no bar to prospective injunction against judge who imposed charged sanctions with non-jailable offenses, superseded by statute 110 stat. 3847, sec. 309© of the federal courts improvement act. Amendments stat. § 1983, in an action against a judicial officer, ""Injunction relief shall not be granted unless a declared decree was violated or declaratory relief was unavailable."

Shamaeizadeh v. Cunigan, 338 F. 3d. 535 (6th Cir) (2003). (Damages for pain, suffering, embarrassment, and humiliation are recoverable under § 1983 action.)

Sharpiro v. Thompson, 398 U.S. 618 (1969). Citizens have a constitutional right to try and improve their lives. It is a "fundamental" right that required the application of strict scrutiny. [59 pgs.] (Ms. Tina Lynn Hayden was trying to improve her life by stopping a public official (Ms. Kathleen Leonard) from mentally, psychologically, and verbally abusing her. There are many witnesses to these abusive tirades, but none of those witnesses were allowed to testify in our trials.)

Shelton v. Ciccone, 578 F. 2d. 1241 (8th Cir) (1978). HN5: Evidentiary hearing required when petitioner shows an infringement of a constitutional right. [7 pgs.]

Sheppard v. Maxwell, 231 F. Supp. 37 (1964). The results of lie detector tests are inadmissible because the tests lack sufficient reliability to justify the admission of expert testimony based upon those results.

Sherwood v. State, 453 N.E. 2d. 187 (1983). HN2: Where incompetence of counsel is alleged by the petitioner in a petition for post-conviction relief, this is an allegation creating "an issue of material fact" requiring an evidentiary hearing. [6 pgs.]

Shuttesworth v. Birmingham, 373 U.S. 262 (1963). It the state converts a liberty into a privilege, the citizen can engage in the light with impunity. [7 pgs.]

Simmons v. United States, 390 U.S. 377 (1968). Defendant may assert one right without sacrificing some other right. [24 pgs.]

Simon v. Craft, 182 U.S. 427 (1901). The essential elements of due process are notice and opportunity to defend. Numbers beyond count have been convicted without benefit of government adherence to these elements. Today, information is being filed and prosecuted by "Accepted Practice" rather than due process of law. A legal consensus is not a constitutional fair trial. A court action must satisfy two parts: due process and "totality of circumstances". Due process may pass, but if the totality of circumstances fails, there can be no constitutionally lawful conviction. (Totality of circumstances means within the accordance of the total conditions of rights and privileges.) [15 pgs.]

Simos v. Gray, 356 F. Supp. 265 (1973). HN1: Evidence was denied to the defendant. [9 pgs.] (Evidence of legal contracts signed by the alleged victim and petitioner was denied, even though the defense counsel for each of us knew where to obtain copies.)

Skare v. Extendicare Health Services, 515 F. 3d. 836 (8th Cir) (2008). HN3: Whistleblower must blow the whistle for the purpose of exposing an illegality. [8 pgs.] (Wisconsin is persecuting whistleblowers, just as in any other tyranny.)

Skinner v. Oklahoma, 316 U.S. 535 (1942). Justice Douglas stated that strict scrutiny of the classification which a state makes in law is essential, lest unwittingly or otherwise, individual discriminations are made against groups or types of individuals in violation of their constitutional guarantees of "equal protection of the laws" is a pledge of the protection of equal laws. [9 pgs.]

Slack v. McDaniel, 529 U.S. 473 (2000). Certificate of Appeallability granted when a constitutional right is denied. The court will not pass such a question. [25 pgs.]

Smith v. Alum Rock Union Elementary School District, 6 CAL App. 4th. 1651; 8 Cal. RPTR 2d. 399 (1992). Supremacy clause required that federal law be read into state law when conflicts occur. [10 pgs.]

Smith and Botelho v. Doe, Et. Al., 538 U.S. 84 (2003). Registration act is punitive in nature. [30 pgs.]

Smith v. Cambell, 250 F. 3d. 1032 (6th Cir) (2001). (Actionable claim when prisioner is retaliated against for exercising his/her constitutional rights.) [10 pgs.]

Smith v. Dretke, 89 Fed. Appx. 859 (5th Cir) (2004). Petitioner must show that a substantial claim exists to obtain a Certificate of Appeallability. [8 pgs.]

Smith v. Dugger, 911 F. 2d. 494 (11th Cir) (1990). Defense counsel failed to move to suppress statement. [8 pgs.] (Complaint and statement were distorted into a "confession" even though both were made without counsel, and our state-appointed public defenders did not object to the distortion.)

Smith v. Wainwright, 777 F. 2d. 609 (1985). Defense counsel failed to move to suppress statement … prejudicial. [23 pgs.]

Sorrels v. McKee, 290 F. 3d. 965 (2002). Prison may not ban gift publications for which prisoner has not paid.

Soumahoro v. Gonzales, 415 F. 3d. (7th Cir) (2005).). HN5: Loss of liberty may be a sign of persecution. [8 pgs.]

Spevack v. Klein, 385 U.S. 511 (1967). The self-incrimination clause of the Fifth Amendment has been absorbed in the Fourteenth Amendment. The Fourteenth Amendment secures against state invasion the same privilege that the Fifth Amendment guarantees against federal infringement – the right of a person to remain silent unless he chooses to speak in the unfettered exercise of his own will, and to suffer no penalty for such silence. "Penalty" is not restricted to fine or imprisonment. It means the imposition of any sanction which makes assertion of the U.S. Constitution “costly”. The U.S. Constitution amendment V, operating through the U.S. constitution XIV forbids either comment by the prosecution on the accused’s silence or instructions by the court that such silence is evidence of guilt. The privilege against self-incrimination does not have classifications of people so as to deny it to some and extend it to others. [16 pgs.]

Staples v. United States, 511 U.S. 600 (1994). HN8: *Mens rae* defense denied to the accused. [40 pgs.]

State v. Alfonsi, 33 Wis. 2d. 469 (1967). State must prove that defendant had a guilty mind. [16 pgs.] (State still has NO evidence, NO witnesses, NO corroboration, and NO proof of criminal intent against defendant.)

State v. Bangert, 131 Wis. 2d. 246 (1968). Totality of circumstances may deny constitutional protections, and required a new trial for petitioner. [40 pgs.]

State v. Bani, 97 Haw. 285; No. 22196; Hawaii Supreme Court; 21 Nov. 01; Lexis 11 (2001). The state must allow a registered sex offender a meaningful opportunity to argue that he or she does not represent a threat to the community and that public notification is not necessary. [26 pgs.]

State v. Bushman, 112 Wis. 2d. 670; No. 82-607; Lexis 3307 (1983). Defense did not call a witness that defendant requested. [6 pgs.]

State v. Butler, 70 Fla. 102; 69 So. 771 (1915). HN8: It is the duty of the court in proceedings where the matter is appropriately presented to support, protect, and defend the U.S. Constitution, by giving effect to its provisions, even if in doing so the statute is held to be inoperative. [26 pgs.] This can be applied to the sex offender registry laws.)

State v. Byrge, 225 Wis. 2d. 702 (1999). Many mentally ill people are competent. [16 pgs.]

State v. Coble, 134 N.C. App. 607; 518 S.E. 2d. 251 (1999). Second degree requires proof of malice. Malice requires three parts, EACH of which must be proven: 1) Express hatred, 2) Ill-will or spite, 3) An inherently dangerous act with knowledge that it can cause injury. [9 pgs.] (State did not prove any degree of malice, but defendant is being punished for malice because his counsel remained silent. What state is doing to defendant and the alleged victim and our witnesses is malice.)

State v. Dunlap, 239 Wis. 2d. 423 (2000). Court erred in not allowing testimony. [15 pgs.]

State v. Dwyer, 149 Wis. 2d. 850 (1989). HN2: Many people are competent, even when they cannot distinguish a truth from a lie. [7 pgs.] (This exposes the faults of polygraph devices.)

State ex. Rel. Avery v. Percy, 99 Wis. 2d. 459 (1980). The court quotes, "When an offender reaches the Mandatory Release Date, release onto the streets must be made if the offender has not lost any good time … and this time is served out of prison as a matter of right." [9 pgs.]

State ex. Rel. Hauser v. Carballo, 82 Wis. 2d. 51. This court also held that the parole portion is viewed as an extension of the prison walls, but under also less restrictive conditions when released at Mandatory Release Date. [21 pgs.]

State v. Farwell, 226 Wis. 2d. 447 (1999). A person is not incompetent because they have thoughts that a mature, healthy individual would have. A diagnosis of mental illness is not a categorical reason to doubt competency. (Even Albert Einstein and Winston Churchill had contemplated suicide.)

State v. Godschalx, 2002 Wi. App. 840 (2002). HN1: Court did not have new evidence to increase sentence. [6 pgs.]

State v. Hanna, 13 Wi. 2d. 1991). HN4: A witness's ability to communicate intelligent answers were considerations of competency and credibility. [11 pgs.]

State v. Hauk, 2002 Wis. App. 226 (2002). Was there enough intention to commit a crime? [20 pgs.]

State v. Jordan A.C., 220 Wis. 357 (1998). HN2: There was no physical evidence to support a conviction. [4 pgs.]

State v. Loomis, (2013). Loomis raised the use of the "Black Box" algorithm in the criminal justice system to a constitutional skeptism. The use of Compas (Correctional Offender Management Profiling for Alternate Solutions) (for influencing sentences) could be biased. Research has shown that hidden bias can be inadvertently (or intentionally) coded into an algorithm. Illegal bias can also result from the selection of data, type of questions asked, and gender bias, all unconstitutional at sentencing. Eric Loomis had challenged the creators of COMPAS (Northpointe Inc.) to reveal source code for COMPAS to check for bias. Loomis lost in the U.S. Supreme Court. **NOTE:** The ONLY input to COMPAS is from the State or prosecutor. There is no input from the defense, an unconstitutional bias. In **United States v. Coonce**, 967 F. 2d. 1268 (7th Cir) (1992), the court stated that a criminal defendant has a due process right to have the court consider only accurate information. If the defense is not allowed to know what is input to COMPAS's algorithm, how can that input be verified for accuracy?

State v. Masino, 216 LA 352: 43 So. 2d. 685 (1949). HN3: If the new statute alters the situation of the accused to his disadvantage, it is ex post facto. HN4: A general rule of law for the punishment of offenses which endeavors to reach by its retrospective operation acts previously committed as well as to prescribe rules of conduct for situations in the future is VOID in so far as it is respective but such invalidity will not affect its operation in the future. HN22: An ex post facto law in one that operates upon a subject not liable to it at the time before the law was made. [8 pgs.]

State v. Neuman, 179 Wis. 2d. 687 (1993). Intent is not an element of the offense of second degree sexual assault. (This is in conflict with federal law, which has priority.)

State v. Parent, 2006 Wi. 132 (2006). HN1: Defendant did not receive a copy of the sentencing report. (Wi. Stat. § 809.61) and (Wi. Stat. 972.15(4m))). [23 pgs.

State v. Rberson, 157 Wis. 2d. 447 (1990). HN1: Defendant did not harbor the requisite criminal intent. [7 pgs.]

State v. Skaff, 152 Wis. 2d. (1989). HN3: Defendant has a right to read a PSI report. [13 pgs.] (This defendant (and many others) has never read any PSI report.)

State v. Smith, 215 Wis. 2d. 84 (1997). HN2: Sexual contact is not completely denied with the mentally ill. [11 pgs.]

State v. Strupp, Wisc. Ct. App. 2010AP1806-CR (2011). The law states that a criminal defendant cannot be penalized merely for exercising a constitutional right.

State v. Verhasselt, 83 Wis. 2d. 647 (1978). HN4: Conviction cannot be based on statement alone. [18 pgs.]

State v. Violette, 576 A. 1359 (Maine). HN1: Any increase in sentencing violates due process. [8 pgs.]

State v. Von Ruden, 221 Wis. 2d. 222 (1998). Wis. Const. Art. I, § 7, which gives everyone, whether they committed a felony or a misdemeanor, the right to have a twelve-person jury; the right of trial by jury shall remain inviolate. [4 pgs.]

Statute § 939.165(c): If prosecution is seeking lifetime supervision for a serious sex offense, the court shall direct that the trier of fact, a special verdict as to whether the conduct consisting the offense was for actor's sexual arousal or gratification. Serious sex crime: sexual offense involving unlawful sexual contact. Serious offense: an offense not classified as a petty offense. A violation of the law; crime: an act that the law makes punishable.

Statute § 939.165(3)(A)(B)(C): (A) If the person is placed on probation when lifetime supervision begins: For the serious sex offense upon their discharge from probation; (B) If the person is sentenced to prison for the serious sex offense upon their discharge from parole or extended supervision; (C) If the person is sentenced to prison for the serious sex offense and is being released from prison because they have reached the expiration date of their sentence, upon their release from prison; (D) If the person has been committed to the Department of Health and Family Services under § 971.17, for service of serious sex offense, upon the termination of their commitment under § 971.17(5) OR their discharge from the commitment under § 971.17(6), whichever is applicable; € If Paragraph A, B, C, & D does not apply, upon the person being sentenced for the serious sex offense.

(4) Only one period of lifetime supervision may be proposed for a serious sex offense that can only be placed once whether there are one or more alleged violations.

(5) Conditions of lifetime supervision; powers of Department; Conditions set by the Court and regulations established by the Department being necessary to protect the public and promote the rehabilitation of the person placed on lifetime supervision.

(5)(B) The department shall charge a fee to a person placed on lifetime supervision and services. The department shall set varying rates for persons placed on lifetime supervision based on ability to pay with the goal of receiving at least $1.00 per day as the department may decide not to charge a fee while a person placed in lifetime supervision is exempt as provided under Paragraph (C). Collection of fees collected must be put (deposited) in an appropriation account under § 20.410(1)(gh).

Stavriots v. Eisenberg, 960 F. 2d. 698 (7th Cir) (2003). 42 U.S.C. § 1997(e) does not bar action for damages under the Eighth Amendment involving no physical injury. The district court improperly constructed the defendant's statement in a way that disfavored the defendant. (Psychological refitting) [7 pgs.]

Stavriots v. Lyles, 66 Fed. Appx. 18 (7th Cir) (2003). Counsel cannot remain silent or raise no objection.

Stoia v. United States, 22 F. 3d. 766 (7th Cir) (1994). HN2: It is necessary for the court to bring in evidence that was denied in the trial court. (The evidence that the alleged victim had been entering into legal contracts was denied to the defendant in the trial court, even though the defense council knew where those contracts were.) [13 pgs.]

Stone v. Powell, 428 U.S. 465 (1978). State courts, like federal courts, have a constitutional obligation to safeguard personal liberties and to uphold federal law. [56 pgs.]

Sorrels v. McKee, 290 F. 3d. 965 (2002). Prison may not ban gift publications for which prisoner has not paid.

Strauder v. West Virginia, 100 U.S. 1830 (1880). HN6: Equal protection exists for juries. [13 pgs.] (Defendant's trial jury was eleven women and one man, no veterans, none had a disability (both alleged victim and defendant were 100% disabled), and none of the jury had any direct experience with disabled persons in any context, thus denying the defendant a jury of peers.)

Straw v. Chase Revel, Inc., 813 F. 2d. 356 (11th Cir) (1981). Jury instruction error over the requirement for common law malice, and actual malice, where the constitution required actual malice must be shown. [12 pgs.]

Strickland v. Washington, 466 U.S. 668 (1984). The right to counsel is the right to effective assistance of counsel. [53 pgs.]

Stump v. Sparkman, 435 U.S. 349 (1978). Judicial immunity remains in force even if the judge's actions are alleged to be the result of a conspiracy undertaken with others. [27 pgs.]

Sturgeon v. Chandler, 552 F. 3d. 604 (7th Cir) (2009). Evidence should have been allowed for appeal process. [10 pgs.]

Sullivan v. Fairman, 819 F. 2d. 1382 (7th Cir) (1987). HN2: Witnesses denied to defense, even though counsel knew who, and where, they were. [20 pgs.]

Sullivan v. Louisiana 508 U.S. 275 (1993). HN8: Court cannot presume malice from predicate facts. Court cannot presume malice. The Sixth Amendment provides that in all criminal prosecutions, the accused shall enjoy the right to an impartial jury. [12 pgs.]

Summit v. Blackburn, 795 F. 2d. 1237 (1986). No direct or circumstantial evidence corroborating the charges. Defendant was prejudiced by the defense counsel, who failed to raise the *corpus delicit* issue. [10 pgs.]

Swift v. California, 384 F. 3d. 1184, 1191 (9th Cir) (2004). Parole office not absolutely immune for investigation of alleged parole violations.

Tabor v. United States, 152 F. Supp. 1093 (1968). Sentence enhancement unconstitutional under the Due Process Clause.

Tamayo v. Blagojevich, 526 F. 3d. 1074, 1090-1091 (7th Cir) (2008). Cognizable stat. § 1983 claims for damages against public employer in his/her individual capacity because employer not entitled to qualified immunity when complaint alleged sufficient facts to state constitutional violations.

Tarver v. City of Edna, 410 F. 3d. 745 (5th Cir) (2005). (Psychological injuries can serve as a basis for § 1983 liability.)

Teller v. Fields, 280 F. 3d. 69, 84 (@nd Cir) (2000). Defendant has burden to show entitlement to qualified immunity.

Tensfly, 309 F. 3d. ***. Limitations on free speech are invalid, even for minimum periods of time, constitute irreparable harm.

Terry v. Ohio 392 U.S. 1, 16, 19 (1968). The U.S. Court held that a "stop and frisk" was a search and seizure within the meaning of the Fourth Amendment.

Texas v. Johnson, 491 U.S. 397, 414 (1989). "If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable."

Thakkar v. State, 644 N.E. 2d. 609; Lexis 1805 (1994). HN3: Judge should have recused himself. [6 pgs.] (Judge at trial was the same judge who blocked alleged victim's criminal complaint, of which this defendant was a witness for. Defendant had tried to get a different judge, but defense counsel blocked my attempt to get a different judge.)

Thompsn v. Armontrout, 647 F. Supp. 1093 (6th Cir) (1986). Sentence enhancement was unconstitutional. [6 pgs.]

Thompson, Et. Al. V. Commonwealth of Kentucky, Et. Al., 712 F. 2d. 1078 (1983). While in prison, inmates retain certain rights … they may not be denied basic rights of conscience. [8 pgs.] (Right of Conscience Act) The free exercise clause of the U.S. Constitution Amendment 1, guarantees a liberty interest, a substantive right … both the free exercise and the equal protection clauses protect the basic right of conscience … without fear of penalty.

Thompson v. Opeiu, 74 F. 3d. 1492 (6th Cir) (1996). HN4: Damages for emotional distress may be appropriate when suffering sleeplessness, anxiety, stress, marital problems, and humiliation. [28 pgs.] (Alleged victim (TLH) was suffering from these listed emotional distress (except marriage problems) from the mental, verbal, and psychological abuse from a public official. There were many witnesses to these abuses, but our state-

appointed public defenders all refused to allow us to have those witnesses testify on our and the alleged victim's behalf.) (We ALL lost our freedoms.)

Thompson v. Zirkle, 2007 U.S. Dist. Lexis 77654. Acting under color of law is misuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law. [3 pgs.]

Tijerna v. Plentl, 984 F. 2d. 148 (5th Cir) (1993). (Eighth Amendment does not require serious injury to support a constitutional claim.) [7 pgs.]

Tinge v. United States, 38 F. 2d. 573 (8th Cir) (1930). Extrajudicial confessions must be corroborated by independent evidence. [5 pgs.]

Toller v. Wis. Dept. of Corrections, 461 F. 3d. 871 (7th Cir) (2006). Constitutional denial voids immunity. [11 pgs.]

Toro v. Fairman, 940 F. 2d. 1065 (7th Cir) (1991). HN5: Counsel's legitimate tactical choices did not include abandoning a client's only defense. [8 pgs.] (Defendant knew alleged victim was competent via being able to enter legal contracts. But defense counsel refused to follow up on leads to obtain any of those contracts, or their parties.)

Trop v. Dulles, 356 U.S. 86 (1958). "Citizenship is not a right that expires upon misbehavior." (Chief Justice Earl Warren)

Torres v. Wisc. Dept. of Health and Social Services, 838 F. 2d. 944 (7th Cir) (1988). The right to privacy is personal and does not extend to members of their family. [20 pgs.]

Totality of Circumstances Test: A test used to determine whether certain constitutional rights of a defendant have been violated. The test looks to all the circumstances attending the alleged violation, rather than to any particular factors. While some factors may recur more frequently than others, the relative importance of any one factor depends upon the particular factors of a case. The test was originally used to determine whether a confession was coerced from a defendant in violation of his or her privilege against self-incrimination, until the Miranda case required that a defendant have his or her rights read to him or her. The test is currently used to determine whether a defendant consented to a warrantless search, and whether probable cause exists for the issuance of a search warrant. [The Chippewa Police officers never read defendant his rights under Miranda, nor did they tell defendant that his criminal complaint witness signature and his written statement would be used against him in a court of law, all without a warning that he could have legal counsel to assist him during the interrogation. Defendant thought the interrogation was all about "clarification" of the criminal complaint he had helped file against the alleged victim's abuser. The defense counsel SHOULD have made a strong motion to have that statement withdrawn from consideration and use in court, but counsel would not do so even after questioned about it from the defendant. Then the jury was allowed to read that statement during jury deliberations. The Totality of Circumstances are: 1) Illegal statement from interrogation was NOT removed, 2) Denied requested evidence of signed contracts by alleged victim of which defendant was one of the witnesses for, 3) Denied requested witnesses, even when counsel knew who, and where, and why they were needed, 4) Denied right to ask questions during jury selection, 5) was denied a request for a different judge (Roderick Cameron) by defense counsel, 6) Jury was eleven women, one man, NO veterans, NO jurors had a disability

(both alleged victim and defendant were 100% disabled persons), NO jurors had any direct experience with persons who had disabilities (all by hearsay) or taking care of disabled persons, and 7) NO jurors over 60 years old (defendant was 62 years old at trial). Thus the "Totality of Circumstances" shows that the defendant did NOT get a constitutional fair trial.]

Tower v. Glover, 467 U.S. 914 (1984). HN1: Those who act under color of law are not to deprive their client of their constitutional rights; else, they shall be liable to a lawsuit. [14 pgs.] (Every state-appointed public defender for defendant ONLY wanted him to "plea guilty" in a plea bargain. None wanted to help him with a "not guilty" plea. That is Ineffective Assistance of Counsel against all of his defense counsels.)

Trevett v.Weeden, (1786). It was the duty of the courts to measure laws of the legislature against the Constitution of the land.

Ttea v. Yslets Del Sur Pueblo, 181 F. 3d. 676 (5th Cir) (1999). (State sovereign immunity does not bar declaratory or injunction relief against state actions.) [12 pgs.]

Tucker v. Day, 969 F. 2d. 155 (1992). HN1: Counsel made no attempt or effort to represent his client at resentencing: a constructive denial of right to counsel. [11 pgs.] (Mr. Thorson sat mute while sentence was extended by two years because the state made a mistake in its calculations.)

Tumley v. Ohio, 273 U.S. 510 (1927). HN1: Trial by a biased judge .. results in acquittal. [20 pgs.] (Judge Roderick Cameron was the judge who blocked the alleged victim's valid complaint, and then was the judge who took defendant's trial. Defendant requested a different judge, but defense counsel blocked that idea in August 2007.)

Turner v. Safley, 482 U.S. 78 (1987). Prison walls do not form a barrier separating prison inmates from the protection of the U.S. Constitution. Convicted persons retain a variety of important rights that the courts must be alert to protect. Right to privacy survives incarceration.

28 U.S.C.A. § 461. A judge must hear the testimony and arguments.

28 U.S. Code Service § 2201, Title 28, Chapter 151 (> 200 pgs.)

Ullman v. United States, 350 U.S. 422 (1956). Justice Douglas stated that to publically disgrace and dehumanize a citizen as a classified group is maliciousness and vindictiveness, a barrier against rehabilitation. [34 pgs.]

Unconstitutional: Conflicting with some provision of the United States Constitution. A statute found to be unconstitutional is considered void or as if it had never been, and consequently all rights, contracts or duties that depend on it are void. Similarly, no one can be punished for having refused obedience to that law once it has been found to be unconstitutional. (The registry laws were declared unconstitutional in *Smith and Botelho v. Doe, Et. Al., 538 U.S. 84 (2003))*

United Mine Workers v. Illinois State Bar Ass'n. 389 U.S. 217, 222 (1967). HN4: The rights of free speech and a free press are not confined to any field of human interest. The court noted that it has "repeatedly held that laws which actually affect the exercise of these vital rights cannot be sustained merely because they were enacted for the purpose of dealing with some evil within the state's legislative competence, or even because the

laws do in fact provide a helpful means of dealing with such an evil." HN4: The rights of free speech and a free press are not confined to any field of human interest (Under the First and Fourteenth Amendments.) [13 pgs.]

United States v. Aguilar, 515 U.S. 593 (1995). HN2: A person lacking knowledge … lacked the evil intent to obstruct (or the intent to commit a crime with malice.) [25 pgs.]

United States v.Alvelo-Ramos, 945 F. Supp. 19 (1996). The failure of the officer to Mirandize defendant required suppression of the statement. [7 pgs.] (Chippewa Police took complaint and statement without a Miranda warning, or that they would be used against him, and no counsel present.)

United States v.Amlani, 111 F. 3d. 705 (1997). HN5: Prejudice can destroy the defendant's confidence in his attorney. HN13: Abuse of discretion in limitation of cross-examination. [22 pgs.] (Defendant was ignored by his counsel when defendant wanted to ask witnesses certain important questions.)

United States v. Aponte, 1999 U.S. App. Lexis 19895 (7th Cir) (1999). HN2: Evidence is material only if there is a reasonable probability that it would have changed the result at trial. [7 pgs.] (Legal contracts signed by alleged victim were not brought into the trial because the defense counsel did not want them, even when counsel knew where, and why, those legal contracts were needed.)

United States v. Arvizu, (2002). The standard for reasonable suspicion must rely on the "Totality of Circumstamces".

United States v. Ash, 413 U.S. 300 (1973). HN1: Sixth Amendment guarantees that the accused obtains aid in coping with their legal problems. Petitioner has sent enough information to the court. [37 pgs.]

United States v. Ballard 322 U.S. 78, 86 (1994). Men may believe what they cannot prove.

United States v. Bennet, 24 F. CAS. 1090 (1874). HN2: By 17 Stat. 575 § 31 … any agent … who shall wrongfully withhold from a pensioner or claimant the whole, or any part of, the pension or claim allowed and due such pensioner or claimant, … shall be deemed guilty of a misdemeanor, and punished by a fine of not exceeding $500 or by imprisonment not to exceed two years, or both. [9 pgs.]

United States v. Birdsbill, 243 F. Supp. 2d. 1128 (2004). HN3: Behavior testing must be objective, not opinion. [12 pgs.] (ALL behavior testing is assumption, opinion, and subjective, thus biased by human expectations.)

United States v. Black, 480 F. 2d. 504 (1973). HN1: A defendant must object to improper statements by opposing counsel during closing arguments to preserve these objections for appeal. The purpose of the rule is to allow the trial judge to attempt to correct the error, if any was committed. [16 pgs.] (Defendant tried to get his counsel to object to what a witness said, but was ignored. Defendant did NOT know that he could object as the defendant without his counsel's support.)

United States v. Bothwell, 17 M.J. 684 (1983). HN1: A psychological stress evaluation (PSE) is unaccepted in medicine or science, and could not be admissible. [8 pgs.]

United States v. Brown, 28 M.J. 644 (1989). HN1: Defendant denied witnesses; granted a new trial. [12 pgs.] (Defense counsel knew where, and why, certain witnesses were needed, but did not obtain them.)

United States v. Bryant, 420 F. 2d. 1327 (1969). HN1: : The jury must be told that corroboration of the testimony is essential. [17 pgs.] (Corroboration was never mentioned to the jury in any form.)

United States v. Bryce, 208 F. 2d. 346 (2nd Cir) (199). Could not prove all elements of a crime. Court did not support finding of guilt beyond a reasonable doubt, so his conviction was reversed. (Court did not even try to establish any elements of a crime, thus conviction is unconstitutional.)

United States v. Budd, 496 F. 3d. 517 (6th Cir) (2007). HN2: The distinction between a variance and a constructive amendment is sketchy. HN8: 18 U.S.C.S. § 242 prohibits a person acting "under color of law" from subjecting any person to the deprivation of any rights, privileges, or immunities secured or protected by the constitution or laws of the United States. [27 pgs.] (Prisoner alleged viable Eighth Amendment claim … when prisoner was merely being obnoxious, posing no threat, and [retaliation] was not justified by any legitimate pentological interest.)

United States v. Butler, (1936). Clear Meaning: "The judicial branch of the government has only one duty - to lay the article of the Constitution which is involved beside the [state] statute which is challenged and to decide whether the latter squares with the former." (Justice Owen J. Roberts).

United States v. Butler, 955 F. 3d. 1052 (2020). The National Academy of Sciences published a ground-breaking report in 2009, finding that "no scientifically accepted statistics exist about the frequency with which particular characteristics of hair are distributed in the population," and noted there was no scientific data to support the practice of microscopic hair analysis, which involves comparing two hair samples side-by-side to find their similarities.

United States v. Canino, 212 F. 3d. 383 (200). HN1: Illegal sentence under Fed. R. Crim. (P 35 (A) &@). Wrongful Conviction under 28 U.S.C.S. § 2255. [4 pgs.]

United States v. Carolene Products, 304 U.S. 144 (1938). Prejudice against discrete insular minorities may be a special condition … deserving judicial solicitude. [18 pgs.]

United States v. Carver, 260 U.S. 490 (1922). "The denial of a *Writ of Certiorari* imports no expression of opinion upon the merits of the case."

United States v. Cifuetes, 11 M.J. 385 (1981). When a plea bargain has been entered into and all the trial personnel have evidence on the record their understanding of that bargain, an accused is entitled either to have the bargain complied with according to that understanding or, in the alternative, to enter another plea to the charges. [5 pgs.]

United States v. Classic, 313 U.S. 299 (1941). HN3: 19 U.S.C.S. § 51 condemns as a criminal offense any conspiracy to injure a citizen in the exercise of any right or privilege secured to him by the U.S. Constitution or laws of the United States. Section 20 of the Criminal Code, codified at 18 U.S.C.S. § 52 makes it a penal offense for anyone who, acting under color of law, willfully subjects, or causes to be subjected, any inhabitant of any state to the deprivation of rights, privileges, and immunities secured and protected by the U.S. Constitution and laws on the United States. HN26: Misuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law, is acting under color of state law. HN28: 18 U.S.C.S. § 52, protects inhabitants of a state from being subject to different punishments, pains or

penalties, by reason of alienage, color or race, than are prescribed for the punishment of citizens. HN29: 18 U.S.C.S. § 52, authorizes the punishment of two different offenses. The one is willfully subjecting any inhabitant to the deprivation of rights secured by the U.S. Constitution. (A person acts under cover of state law for the purposes of § 1983, when the power misused is "possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law.")

United States v. Coonce, 961 F. 2d. 1268 (7th Cir) (1992). HN6: A criminal defendant has a due process right to have the court consider only accurate information.

United States v. Corona-Garcia, 210 F. 3d. 973 (9th Cir) (2000). HN6: Government must adduce some independent corroborating evidence. [16 Pgs.]

United States v. Crea, 968 F. Supp. 826 (1997). The Supreme Court has ruled that persons, who are no longer dangerous, or no longer insane, must be released from custody. [16 pgs.]

United States v. Cronic, 466 U.S. 648 (1984). HN1: Lawyers in criminal cases are necessities, not luxuries. [26 pgs.]

United States v. Dalhouse, 534 F. 3d. 803 (7th Cir) (2008). HN2: There was no corroboration to support confession: no sufficiency of evidence. [7 pgs.]

United States v. Davenport, 151 F. 3d. 1325 (1998). Hn3: Defendant denied access to the presentence report before sentencing. (Allowed ten days.) [7 pgs.]

United States v. Demaree, 459 F. 3d. 791 (9th Cir) (1997). HN1: Citizens should not be punished for actions not criminal at the time of occurrence. [6 pgs.]

United States v. Echeles, 222 F. 2d. 144 (7th Cir) (1955). HN3: Accused shall enjoy the right to have compulsory process for obtaining witnesses in his favor. HN5: A conviction cannot rest upon a confession unless it is corroborated by evidence establishing the *corpus delicti*. [21 pgs.]

United States v. Esparza-Herra, 2007 U.S. Dist. Lexis 65001 (2009). HN1: Did not qualify as an act of violence under U.S. Sentencing Guidelines Manual § 2L.1.2(b)(1)(A)(iii) .. general definitions. [11 pgs.]

United States v. Eubanks, 591 F. 2d. 513 (9th Cir) (1979). HN1: Even if only one juror is biased or prejudiced, the defendant is denied his Constitutional right to an impartial jury. [15 pgs.]

United States Ex. Rel. Barnard v. Lane, 819 F. 2d. 796 (7th Cir) (1948). HN2: Failure of appellate counsel to raise constitutional issues was ineffective assistance of counsel. [12 pgs.] (Ms. Devon M. Lee of the Wisconsin Public Defender's Office only raised a corroboration issue in the appeal (which is not a "constitutional issue") even though she had a DVD with a list of constitutional issues sent to her for a valid constitutional appeal. Ms. Lee ignored all that information from her client: an ineffective assistance of counsel issue.)

United States Ex. Rel. Cross v. De Roberts, 819 F. 2d. 796 (7th Cir) (1987). Defense counsel did not investigate a lead. [11 pgs.] (Trial defense counsel did not try to find legal contracts to support defendant's claims.)

United States Ex. Rel. Duncan v. O'Leary, 806 F. 2d. 1307 (7th Cir) (1986). HN2: The failure to raise constitutional deprivations on direct appeal operates as a procedural default and hence a waiver ... a state prisoner may not obtain federal habeas relief absent a showing of cause and actual prejudice. [11 pgs.]

United States Ex. Rel. Feeley v. Ragen, 166 F. 2d. 975 (7th Cir) (1981). The trial was such a sham and a denial of due process in that the realtor had in reality no counsel. (A fourteenth Amendment violation.)

United States Ex. Rel. Zembowski v. De Roberts, 598 F. Supp. 914 (1984). HN8: [Damage may occur] … of positive actions that on their face are actually harmful to defendant. [13 pgs.]

United States v. Fearn, 589 F. 2d. 1316 (7th Cir) (1978). HN4: A conviction must rest upon firmer ground than the uncorroborated admission or confession. [16 pgs.] (The state still has no evidence, witnesses, corroboration, or proof of criminal intent against me.)

United States v. Fellers, 397 F. 3d. 1090 (8th Cir) (2005). HN1: Officers had deliberately elicited statements in violation of his Sixth Amendment right to counsel. [15 pgs.] (The Chippewa Falls, WI. Police had taken a statement from defendant without telling him that it would be distorted and twisted against him, all without him having assistance of counsel.)

United States v. Fisher, 28 M.J. 544 (1988). HN4: An accused cannot be convicted on his confession alone. Where were Miranda warnings before the first statement? There was animosity with a possible revenge motive between parties. [8 pgs.] (Defendant was a part of a group of witnesses against a public official whom we had filed a complaint against. That public official (Ms. Kathleen Leonard of Eau Claire County Human Services) retaliated against all of us, and we all lost our freedoms.)

United States v. Forrest, 639 F. 2d. 1224 (1981). HN1: There was no corroborating evidence to convict. [8 pgs.]

United States v. Fox, 94 U.S. 315 (1877). A sovereign is not a "person" in a legal sense and as far as a statute is concerned. [8 pgs.]

United States v. Gains, 979 F. Supp. 1429 (1979). A low I.Q. may be the result of abuse. [20 pgs.] (Alleged victim (T.L.H.) was subjected to so much abuse that she filed a complaint with us as witnesses. Her abusers said that they would "destroy" her so that she could not testify against them, when they put her under a guardianship. Her abusers said that they could do "anything to anyone" because we could not stop them from doing so. They had four years (from Oct 2003 to Aug 2007) to mentally brainwash her before my trial so that she would say anything.)

United States v. Garcia, 28 F. 2d. 1331 (8th Cir) (1994). A court is not empowered to suspend constitutional guarantees. [7 pgs.]

United States v. Garey, 483 F. 3d. 1159 (2007). Defendant has a right to appointed counsel. [17 pgs.]

United States v. Georgia, (2006). The U.S. Supreme Court has held that prisoners can seek damages under Title II if the conditions they are challenging would also violate the U.S. Constitution.

United States v. Hale, 422 U.S. 171 (1975). HN4: Judge gave limiting instructions, but an utterance, a prejudicial statement tainted the jury. [15 pgs.] (Judge Cameron had to "correct" a juror, and defense counsel did not object.)

United States v. Hanrahan, 2010 U.S. Dist. Lexis 52300 (2010). Whether the attorney is influenced by loyalties to other defendants, third parties, or the government, if he entirely fails to subject the prosecution to a meaningful adversarial testing, then there has been a denial of Sixth Amendment rights. [20 pgs.]

United States v. Haynes, 265 F. Supp. 2d. 914 (2003). There has to be intent of harm to be a crime. [16 pgs.] (State did not prove intent of harm.)

United States v. Howard, 445 F. 2d. 821 (9th Cir) (1971). HN1: The government failed to present corroborating evidence. [4 pgs.]

United States v. Howard, 179 F. 3d. 539 (7th Cir) (1999). HN2: The government must prove all elements of charged offense. [11 pgs.] (State has no evidence, no witnesses. No corroboration and no proof of criminal intent against me: just malice, vindictiveness, and retaliation against me for being a witness against a public official.)

United States v. Huang, 827 F. Supp. 945 (1993). Defendant was denied witnesses. [15 pgs.] (Defense counsel (Ms. Carol Conklin) was given a list of witnesses, where they were, and why they were necessary. But Ms. Conklin ignored her client's requests of witnesses: an ineffective assistance of counsel situation. But both state and federal appeal courts ignored those Constitutional violations.)

United States v. Isenburg, 1953 CMA, 8 C.M.R. 149 (1953). An accused cannot be convicted on his uncorroborated confession or admission.

United States v. Irvine, 98 U.S. 450 (1878). HN1: By § 3 of the Act of July 8, 1870 (United States), pensions are forbidden to be paid to attorneys and agents any more, and are required to be paid directly to the pensioner. HN3: … there is a duty of immediate payment to the pensioner. HN4: A refusal to pay on demand without just cause would constitute withholding at once. There must be no unreasonable delay. There is but one offense – when it is committed, the party is guilty and subject to criminal prosecution. And from that time, also, the statute of limitations applicable to the offense begins to run. (Even though 20+ years pass, the offense remains.) HN5: In the context of a withholding of a pension, whenever the act or series of acts necessary to constitute a criminal withholding of the money have transpired, the crime is complete, and from that day the statute of limitations begins to run. [6 pgs.]

United States v. Jackson, 32 F. 3d. 1101 (1994). HN3: The court vacated appellant's sentence and remanded to the district court for resentencing because appellant was not given proper notice of upward enhancement for abuse of trust and would have presented a meritorious defense if he had proper notice. HN5: Fed. R. Crim. P 32 requires that the defendant receive some notice of potential enhancement. [18 pgs.]

United States v. Jackson, 2006 U.S. Dist. Lexis 34745 (2006). A person with an I.Q. of under 50 is competent (mild mental retardation). [14 pgs.] (Ms. T.L.H. had an I.Q. above 60, and there were witnesses, including her doctor, who knew that information, but they were all denied to us at our trials by our state public defenders, and

that she could, and did, enter into legal contracts of which our state appointed defense counsels knew where to find those contracts, but refused to do so.)

United States v. Johnson, 383 F. Supp. 2d. 1145 (2005). A defendant was not required to answer questions about their thinking or conduct at the time of the charged offenses posed by the government's mental health experts during mental health exams ordered by a court. [29 pgs.]

United States v. Jordan, 915 F. 2d. 622 (11th Cir) (1990). HN1: Federal courts have an obligation to look behind label of pro se claims. HN5: 18 U.S.C.S. § 3742 provides either the defendant or the federal government may challenge on direct appeal a sentence "imposed in violation of law" … 18 U.S.C.S. §§ 3742 (a)(1), 3742(b). [15 pgs.]

United States v. Khandjian, 489 F. 2d. 133 (5th Cir) (1974). HN2: No proof that a crime was committed; confession cannot be admitted until the *corpus delicit* has been established. 11 pgs.]

United States v. Leach, 639 F. 3d. 769 (7th Cir) (2001). HN5: Supremacy clause establishes that state constitutional provisions cannot overrule federal statutes: U.S. Constitutional Art. C1. 2. [8 pgs.]

United States v. McAllister, 55 M.J. 270; No. 00-0252; Lexis 891 (2000). HN3: Judge abused his discretion by not allowing an expert witness for the defense. [22 pgs.] (State appointed expert witness refused to show up for trial. Judge Cameron refused to appoint another expert witness, saying: "You only get one bite at the apple.")

United States v. Madoch, 935 F. Supp. (1996). HN3: Crime required an element of intent. [17 pgs.] (The state still has NO evidence, NO witnesses, NO corroboration, and NO proof of criminal intent to support any of the charges.)

United States v. Mahon, 2011 U.S. Dist. Lexis 89668 (2011). The examiner's report states that "no opinion can be rendered with regard to this polygraph examination due to incorrect question formulation." In *United States v.Cordoba 104 F. 3d. 225, 228 (9th Cir) (1997),* the Ninth Circuit noted that "polygraph evidence has grave potential for interfering with the deliberative process." "District courts are free to reject the admission of polygraph evidence …" (*United States v. Benavidez-Benavidez, 217 F. 3d. 720, 724 (9th Cir) (2000).*[4 pgs.]

United States v. Mateo, 950 F. 2d. 44 (1991). Ineffective assistance of counsel. [13 pgs.]

United States v. Miller, 382 F. Supp. 2d. 350 (2005). HN3: Defendant was entitled to suppression of a statement he made in response to custodial interrogation before he was advised of his Miranda Rights. [43 pgs.] (The Chippewa Police Department never told defendant that the questions and statements were going to be used against him in a court of law. There was no Miranda read to him, nor was there any defense counsel present or recommended to him.)

United States v. Miller, 2011 U.S. Dist. Lexis 38291 (2011). When a suspect has "agreed to accompany" officers to a police station or interrogation room, courts have been less convinced that the suspect was in custody. An interrogator is permitted to make false statements to suspects, but false statements made by the interrogator can affect the voluntariness of a confession. [19 pgs.] (The Chippewa Falls police asked about complaint that defendant was a witness for, and then distorted statement into a "confession" without warning defendant and without a legal defense counsel present.)

United States v. Montoya, 632 F. Supp. 1069 (1986). HN3: Defendant did not waive his Fifth Amendment privilege nor his Sixth Amendment right to counsel with respect to his statements taken by police. [15 pgs.] (Police did not warn defendant that any statement about criminal complaint that he had filed against a public official would be used against him.)

United States v. Moore, 845 F. 2d. 683 (7th Cir) (1988). HN4: Denied letters had probative value. [8 pgs.] (Defendant gave trial counsel and appeal counsel each a computer DVD disc with information about e-mails and addresses where evidence could be found. BOTH counsels ignored that information for defense.)

United States v. Morrison, 449 U.S. 361 (1978). HN4: The remedy is to suppress the invalid evidence and/or statement, or order a new trial (if defendant is convicted). The remedy in the criminal proceeding is limited to denying the prosecution of the fruits of its transgression. [11 pgs.] (The statement was taken under fraudulent circumstances.)

United States v. Nagib, 44 F. 3d. 619 (1995). HN2: Appellant's challenge based on ineffective assistance of counsel was remanded for the court to determine whether his counsel's filing of a wrong motion and untimely notice of appeal was abandonment, and if appellant had to show prejudice. [11 pgs.]

United States v. Nasci, 632 F. Supp. 2d. 194 (2009). Congress may not constitutionally impose a registration requirement onto all sex offenders regardless of whether they remain wholly in state or travel out of state. Any conviction under § 2250(a) is likewise unconstitutional, because a defendant's obligation to register pursuant to § ___ is a predicate for conviction. [10 pgs.] (Section § 16913 unconstitutionally establishes a federal obligation for sex offenders to update their registration.)

United States v. Neverson, 1 Mackey 152; 1880 U.S. App.; Lexis 2904 (1880). HN5: Threats are a type of evidence, and there is no particular limit to time. [17 pgs.] (Ms. T.L.H. was threatened by her public official abuser and her guardian: "We will destroy anyone who tries to bring charges against us. We can do anything to anyone, because there is nothing you can do about it." I told them that they were "Very cruel" and they just laughed at us.)

United States v. Osguthorpe, 13 F. Supp. 2d. 1215 (1998). HN10: State must prove recklessness. [11 pgs.]

United States v. Patrick, 985 F. Supp. 543 (1997). If a person is competent to enter legal contracts, they are competent to enter a relationship. HN8: Defendant must file a 28 U.S.C.S. § 2255 motion if he wishes to raise an ineffective assistance of counsel claim. HN23: … if the omitted evidence creates a reasonable doubt that did not otherwise exist, constitutional error has been committed. HN26: A reasonable probability must exist to obtain a new trial. A district court may grant a new trial in the interests of justice. [34 pgs.]

United States v. Pisani, 787 F. 2d. 71 (2nd Cir) (1986). Court could not increase sentence where there were no aggregating circumstances. [17 pgs.] (Court made a mistake in calculations, and increased defendant's sentence with no real reason to do so, and defense counsel did not object or raise a demand for a reason.)

United States v. Pitner, 969 F. Supp. 1246 (1997). The results of a polygraph test may NOT be admitted in trial. (Unless BOTH parties agree to admit the test.) Polygraph tests have intrinsic flaws. [9 pgs.]

United States v. Portela, 469 F. 3d. 496 (6th Cir) (2006). HN3: Defendant's sentence was improperly enhanced … pursuant to U.S. sentencing guidelines … which required proof of the reckless use of force against a person. Was not a "crime of violence". [6 pgs.]

United States v. Prudden, 424 F. 2d. 1021 (5th Cir) (1970). Silence can only be equated with fraud where there is a legal or moral duty to speak. [22 pgs.]

United States v. Rounds 30 M.J. 76 (1990). HN1: Confession was not sufficiently corroborated to sustain the conviction. [15 pgs.]

United States v. Rusmisel, 716 F. 2d. 301 (1983). HN5: Counsel failed to listen to client in trial. [29 pgs.] (Counsel ignored questions from client during cross-examination that would have exposed perjury by the witness.)

United States v. Rhynes, 218 F. 3d. 310 (4th Cir) (1997). HN10: Defendant's lawyer improperly violated defendant's constitutional rights to have favorable witnesses. [37 pgs.] Counsel at trial and in appeal both ignored a witness list from defendant with names, addresses, and phone numbers, and why they were required as witnesses.)

United States v. Salerno, 481 U.S. 739 (1987). Persons are accountable for past actions, not anticipated future actions. [32 pgs.] (If the sex offender treatment program worked as advertised, then the registry and yearly fee would not be necessary. As it is now, all are malice, vindictiveness, and retaliation, and violations of both the Equal protection Clause and Due Process Clause in the Fourteenth Amendment.)

United States v. Sanders, 211 F. 3d. 711 (2nd Cir) (2000). Due Process prohibits the government from punishing people for lawful conduct. (Wisconsin is persecuting whistleblowers.)

United States v. Schimmel, 943 F. 2d. 802 (7th Cir) (1991). A discussion between the prosecutor and a jury member tainted the jury. [13 pgs.] (Both the prosecutor and the judge had to "correct" a juror's interpretation.)

United States v. Shafer, 472 3d. 1219 (10th Cir) (2007). HN4: Fed. R. Evid. 704(b) plainly prohibits an expert witness from stating an opinion or interference as to whether the defendant did or did not have a specific mental state or condition constituting an element of the crime charged or of a defense thereto. [11 pgs.] (State expert witness made a claim about the state of mind of the alleged victim during the crime(s). Nobody can sense the mind of another person in the past, especially a stranger's.)

United States v. Sheehan, 512 F. 3d. 621 (2008). HN12: A *mens rae* requirement was implied. As evidence that the intent to commit a crime was lacking, evidence of intent was excluded. HN14: … the United States Constitution guarantees criminal defendants a meaningful opportunity to present a complete defense. [19 pgs.] (A state witness stated that the act implied intent to commit a crime … A mutual affair has no criminal intent.)

United States v. Sosa, 387 F. 3d. 131 (2nd Cir) (2004). HN13: Court failed to resolve issues of doubt raised by the defendant. [13 pgs.] (Defense counsel would not help defendant explain irregularities by the prosecution.)

United States v. Spotted War Bonnet, 882 F. 2d. 1360 (1989). HN5: Witness was competent enough by recalling and describing events. [26 pgs.]

United States v. Sustaita, 1 F. 3d. 950 (1998). HN2: To sustain a claim of impermissibly selective prosecution, a defendant must demonstrate that he was selected for prosecution on the basis of an impermissible ground such as race, religion, or the exercise of a Constitutional Right. HN6: Defendant was not allowed to examine or discuss any pre-sentence report with his counsel. [9 pgs.] (Defendant and alleged victim (and our witnesses) were targets of retaliation.)

United States v. Tweel, 550 2d. 297 (5th Cir) (1977). HN2: The mere failure of an agent to warn of criminal charges, taints the investigation. [7 pgs.] (The Chippewa Police never warned defendant that the interrogation was being used to collect statements for a criminal charge, and there was no counsel for the defendant.)

United States v. Wade, 388 U.S. 218 (1967). HN1: Prejudicial conditions, perhaps created unintentionally, may exist when an accused is without legal counsel. [21 pgs.] (Defendant had no legal counsel to advise him during interrogation by the Chippewa Police.)

United States v. Wilkinson, 646 F. Supp. 2d. 194 (2009). HN1: State must prove dangerousness. HN5: A finding of dangerousness, standing alone, is ordinarily not a sufficient ground upon to justify indefinite involuntary confinement. [21 pgs.]

United States v. Whitley, 734 F. 2d. 994 (4th Cir) (1984). HN5: Due process bars an increased sentence where no intervening conduct or events justifies the increase. [10 pgs.] (State increased sentence without a constitutional justification: state said it made a "mistake" in calculations, but did not give the defendant a warning, or allow the defense counsel to object.)

United States v. Wright, 22 F. Supp. 2d. 751 (1998). HN1: Generally, the results of polygraph examinations are inadmissible at trial. HN2: The general rule against admission of polygraph examination results is ordinarily followed in cases where there is no prior agreement and/or stipulation between the parties … HN5: Because of the lack of consensus on the reliability of polygraphy in the scientific community, the court finds the probative value of polygraph examinations to be questionable and unreliable. HN6: Federal and state courts are also divided over the reliability of polygraph evidence. [6 pgs.]

United States v. Velquez, 2009 U.S. Dist. Lexis 99266 (2009). Newly discovered evidence that if proven and viewed in the light of the evidence as a whole … would find the defendant not guilty. [7 pgs.] (Judge Cameron knew that a legal contract signed by the alleged victim and the defendant could still be found at Lakeside Nursing and Rehabilitation Nursing Home, just north of Chippewa Falls, Wisconsin on Chippewa County "I", but he and the defense counsel refused to make any attempts to obtain that evidence.)

Vandelft v. Moses, 31 F. 3d. 794 (9th Cir) (1994). Prisoners have a constitutional right to access the courts. Cannot be denied meaningful access. [12 pgs.] (But a large fee can be a barrier.)

Victor v. Nebraska, 511 U.S. 1 (1994). HN1: Absolute certainty is unattainable in matters relating to human affairs. Did the jury apply "reasonable doubt" in an unconstitutional manner? [35 pgs.]

Village of Willowbrook v Olech, 528 U.S. 562, 145 L. Ed. 2d. 1060, 120 S. Ct. 1073 (2000). The Equal Protection Clause of the Fourteenth Amendment can be applied to a class of one.

Virgian R. Co. v Armentrout, 166 F. 2d. 400 (4th Cir) (1948). HN4: Jury cannot return a verdict on sympathy. [15 pgs.]

Waiver … Meant failure to assert one's rights and are not conclusive evidence of such dedication, for it may be rebutted; and the party is always allowed to show facts and circumstances to overcome such presumptions. [13 pgs.] (See: *McKey v. Park Hyde Village, 134 U.S. 84 (1890).)*

Wallace v. Jaffree, 472 U.S. 38 (1985). The establishment clause imposes identical restraints on state and national governments. The free exercise clause and the establishment clause were complementary components of a broader concept of individual freedom of mind. [59 pgs.]

Warszower v. United States, 312 U.S. 342 (1941). Corroboration must reach to each element of the *corpus delicit*. [8 pgs.]

Washington v. Hivey, 695 F. 3d. 641 (7th Cir) (2012). Intent is a mental state, hence subjective. Judges and jurors are not mind readers. [6 pgs.] (Nor are expert witnesses and psychologists.)

Washington v. Smith, 48 Supp. 2d. 1149 (1999). Witnesses known, but not called. [28 pgs.] (Defense counsel and appellant counsel had a computer DVD with names, addresses, phone numbers, and reasons why those witnesses were needed by the defendant, where the evidence was at, but, neither counsel tried to use that information and bring it into the courts. An ineffective assistance of counsel situation.)

Watson, Et. Al. v. City of Memphis, Et. Al. 373 U.S. 526 (1963). Any deprivation of constitutional rights calls for prompt rectification. Constitutional rights could not be denied simply because of their hostility to their assertion or exercise. [21 pgs.]

Weaver v. Denton, 595 F. 2d. 1227 (1979). Jurisdiction is proper under 28 U.S.C.S. § 1331 over claim that prison employees alleged actions were Constitutional violations. [4 pgs.]

Weems v. United States, 217 U.S. 349 (1910) Punishment was improper because it was not proportionate to his offense, and the prisoner's sentence violated the probation against cruel and unusual. [42 pgs.]

Westcott v. Crinklaw, 68 F. 3d. 1073 (1995). An expert witness may not usurp the exclusive function of the jury [14 pgs.]

Westfall v. Erwin, 484 U.S. 292 (1988). Absolute immunity did not protect officials who act outside their duties. [15 pgs.]

West Virginia v. Barnette, 319 U.S. 624 (1943). "Freedom is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order. If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or matters of opinion or force citizens to confess by word or act their belief therein."

Whalen v. Roe, 429 U.S. 589 (1977). There is a constitutional protected zone of privacy that included the interest in avoiding disclosure of personal matters … is protected by the Fourteenth Amendment. [25 pgs.]

Whistleblower Protection Act of 1989,
Office of Special Counsel is responsible for protecting Whistleblowers.

White v. Johnson, 180 F. 3d. 648 (1999). Counsel did not inform petitioner of appeal rights, even after petitioner asked to appeal. [12 pgs.] (Defendant did not know about appeal rights until after several months in prison.)

White v. Nicholls, 44 U.S. 266 (1845). (Defamation) words used in the course of a legal or judicial proceeding are not privileged communications. [30 pgs.]

Wiggins v. Smith, 539 U.S. 510 (2003). Strategic choices … by defense counsel .. denied defendant constitutional rights. [40 pgs.]

Williams v. United States, 503 U.S. 193 (1984). Increasing sentence was vacated … as it was unconstitutional. [33 pgs.] (State increased my sentence because it said that the state made a "mistake" in my sentencing. There still has been NO explanation, nor was I given any warning or a chance to contest the increase.)

Williams v. Washington, 59 F. 3d. 673 (7th Cir) (1995). Counsel did not call witnesses. [14 pgs.] (Defense counsel had a DVD disc with a list of names, addresses, phone numbers, and the reason those witnesses were required, but BOTH of my defense counsels ignored all that information.)

Wilson v. Noonan, 35 Wis. 321 (1874). A mitigating circumstance of the lack of malic had to be specially pleaded and not implied. [32 pgs.] (Malice must be proved beyond a reasonable doubt. But defense counsel sat mute while state witnesses implied malice against the defendant. A mutual affair has no malice.)

Wilton v. Seven Falls Co., 515 U.S. 277 (1995). Declaratory Judgment Act 28 U.S.C.S. § 2201(a), courts must point out "exceptional circumstances" to justify staying or dismissing proceedings. [16 pgs.]

Winston v. Lee, A prisoner cannot be compelled to submit to surgery to remove a bullet that will be used as evidence against him.

Wis. Bell, Inc. v. Callisto, 733 F. Supp. 2d. 1040 (W.D. Wis.) (2010). HN3: 28 U.S.C.S. § 1331 gives District Courts jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States. This subject matter (Constitutional rights and protections) jurisdiction exists under § 1331. [11 pgs.]

Wisconsin v. Mitchell, 508 U.S. 476 (1993). The legislature could not criminalize bigoted thought with which it disagreed. [21 pgs.]

Witney v. California, 274 U.S. 357, 375 (1927). "It is hazardous to discourage though, hope, and imagination; that fear breeds repression; that repression breeds hate; that hate menaces stable government; that the path of safety lies in the opportunity to discuss freely supposed grievances and proposed remedies; and that the fitting remedy for evil counsels is good ones." (Justice Louis Brandeis) (Free speech is tied to the ability to think freely, and the ability to think freely as tied to the avoidance of fear, repression, and tyranny.) (Free speech is linked to the discovery of the truth.) (Emotion and false beliefs lead to tyranny.)

Woodard v. Sargent, 806 F. 2d. 153 (1986). No jury instruction about mitigating circumstances. Trial defense counsel submitted no theory of defense. The omission was serious and important. [8 pgs.] (When defendant

complained to, counsel that counsel was ignoring important evidence and witnesses, he was told to hire his own attorney.)

Woodman v. Goodrich, 234 Wis. 565 (1940). Action alleging alienation

Woods v. White, 689 F. Supp. 874 (W.D. Wis.) (1988). An actionable invasion of the right to privacy is the unwarranted appropriation or exploration of one's "personality". [8 pgs.]

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Yates v. United States, (1957). The government can only punish an action, but not a belief.

Yick Wo v. Hopkins, … (1886). A law that looked neutral still might be discrimination, if enforced differently between different classes of citizens. [16 pgs.] (As the difference between rich and poor defendants.)

Younger v. Harris, 401 U.S. 374 (1971). When criminal persecution can be leveled against persons because they express unpopular views, the society of dialogue is in danger. [28 pgs.]

Zablocki v. Redhail, 434 U.S. 374 (1978). HN2: Where there are no ambiguities in a statute for a state court to resolve, and no issues of state law that might affect the posture of federal constitutional claims, individuals seeking relief under 42 U.S.C.S. § 1983 need not present their constitutional claims in state court before coming to a federal form. [37 pgs.]

Zadvydas v. Davis, (2001). The U.S. Supreme Court has held that an immigrant being deported cannot be held indefinitely, if its native country will not take him back. (These people are considered "stateless", and the United Nations has a protocol to take care of those situations, but the United States is ignoring that act of humanity.)

Zecevic v. U.S. Parole Comm'n., 163 F. 3d. 731 (1998). Totality of circumstances must be considered. [10 pgs.]

Inmates have a First Amendment right to read material critical of their captors, in a federal free speech case. Prison officials cannot ban material that supports dissent. (Wisconsin Judge Barbra Crabb).

"To be silent in the face of corruption or tyranny is to be in contempt of both truth and justice. We each have a legal and moral duty to speak." (**United States v. Prudden**, 424 F. 2d. 1021, (5th Cir) (1970)

"It takes courage, commitment, and sacrifice to speak out." (Dr. Sam Sugar, pg. ix, "Guardianships and the Elderly")

"The disabled have enough problems without having conventional guilt-laden values forced upon them. Private sexual satisfaction takes precedence over public approval; therefore any guilt is wrong, and sexually, for disabled people, anything goes." (Dr. Milton Diamond, expert on sex and the disabled, Uni. of Hawaii.)

No sexual act between consenting adults is deviant or kinky, provided it is not harmful or painful to one of them. Open communications, discussion, and experimentation will let each couple know what brings the greatest sexual pleasure to each other: oral, anal, or digital sex is not kinky if both are comfortable with it.

"A charge of [sexual] assault cannot be charged against a person who was given consent by another person who was later declared incompetent by a [biased] court." (From page 114 of "Grammar of Criminal Law, Vol. 1" by George P. Fletcher, ISBN: 970-0-19-51-310-6). (**An ex post facto violation**.)

"The U.S. Constitution places the Bill of Rights outside the reach of the courts." (Justice Clarence Thomas, 1997.) (Thus, no court can deny rights under the Bill of Rights, especially to parolees.)

There are individual rights that exist without any government awareness under the Ninth Amendment.

Our founding fathers created the Bill of Rights to promote liberty over government with the enumeration of rights, the founders wanted to ensure that liberty came first: the constitution was about possibility, not limitations.

*** * * * BOOKS * * ***

"Tried and Convicted: How Police, Prosecutors, and Judges Destroy our Constitutional Rights" by Mr. Michael D. Cicchini. ISBN: 978-1-4422-1717-1 (2012)

"Convicting Avery" by Mr. Michael D. Cicchini. ISBN: 978-1-63388-255-1 (2017)

"The Chickenshit Club" by Jesse Eisinger, ISBN 978 1 5011 2137 1

"Presumed Guilty" by Martin Yant, ISBN: 13-978-0-87975-643-7

"Convicting the Innocent" by Stanley Cohen, ISBN: 978-1-63220-646-6

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