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April 22, 2018

Honorable José L. Linares
Chief Judge, United States District Court
District of New Jersey
Martin Luther King, Jr.
Federal Building and Courthouse
50 Walnut Street, P.O. Box 999
Newark, New Jersey 07101-0999

Re: Paul W. Bergrin v. United States
Civil No. 16-3040

Dear Honorable Chief Judge Linares:

Enclosed please find Bergrin's Reply To The Government's Supplemental Memorandum In Opposition To Bergrin's Motion To Vacate, Set Aside And Correct My Convictions And Sentences Under 28 U.S.C. 2255.

I sincerely plead that you forgive the fact that it is handwritten. As stated in prior submissions, there are no typewriters, word processors nor any other means or methods to have it typewritten.

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I have made every effort to write it as neat as possible, but I am compelled to use a flexible rubber pen and write while sitting on a cement stool and hunched over a small concrete slab. It is different to write for any extended period of time and fully control the movement of the pen.

I plead for your forgiveness for minor grammatical errors, corrections, crossouts or write overs too. I attempted to edit my submission to the best of my ability but my finger blistered and began to bleed. I am sorry for any sloppiness.

Lastly, please be cognizant that although this submission is written by hand I have devoted my heart and soul to its content and accurate substance. Being on Special Administrative Measures (SAM), I cannot consult an attorney, seek administerial assistance, such as typing or help in legal research.

Thank you wholeheartedly.

Most respectfully,

PAUL W. BERGRIN

PAUL W. BERGRIN,
Movant,

v.

UNITED STATES OF AMERICA,
Respondent.

Civil No. 16-3040
(Crim. No. 09-369)

Hon. José L. Linares,
Ch. U.S.D.J.

REPLY TO GOVERNMENT'S SUPPLEMENTAL MEMORANDUM IN OPPOSITION TO MOVANT, PAUL BERGRIN'S MOTION TO VACATE, SET ASIDE AND CORRECT HIS CONVICTIONS AND SENTENCE UNDER 28 U.S.C. § 2255.

PAUL W. BERGRIN
PRO SE
April 22, 2018.

PRELIMINARY STATEMENT

On March 1, 2018, and over Movant's vehement opposition This Honorable Court granted Respondent an opportunity to reply to grounds 5, 6, 10 and 14 of Bergrin's motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255.

Respondent's had requested 45 days to submit their reply and the Court granted them 30 days. Bergrin's letter clearly delineating his objection and position on the Respondent's request was not received by the Court until after Respondent's request was granted. Bergrin essentially had no opportunity to make his position known.

The Respondent's blatant lack of candor and failure to make any effort nor attempt to discuss grounds 5, 6, 10 and 14 with Bergrin is disheartening and delineates their disrespect for This Court and their legal obligations; to be truthful in its written submissions and motions. The fact remains that Bergrin never sought to withdraw these magnanimous and meritorious grounds. He always believed in them.

Additionally, although the Court limited Respondent's submission to an April 1, 2018 deadline, they shunned their ethical, moral and legal obligations to provide Bergrin a timely copy and did not even submit it for mailing until 5 April 2018 at 1630 hours; being cognizant Bergrin would not receive it until after 1500 hours on 9 April 2018; as there is

no delivery of mail to inmates on weekends and all Bergrins mail must first be logged and approved for delivery, by both Special Investigative Services (SIS) and an agent of Respondents. Yet, Respondents wilful and Knowing failure to properly respond to all (emphas. added) 2255 grounds and their Knowing disregard of their obligations to provide Movant-Bergrin with a timely copy, so he could meet his Court ordered reply date of 1 May 2018, although contemptuous, is left unpunished.

Respondents opposition motion is replete with fabricated facts, Knowingly, purposeful and inaccurate statements and legal suppositions and deliberately misstated arguments. They are terrified of the truth being revealed at a hearing and witnesses testifying accurately to the truth, without their coaching, false suggestions and threats which coerced witnesses into believing that they would spend the rest of their lives in prison unless they falsely swore favorably for Respondents. This is the exact reason why they refuse to compel polygraphs to material witnesses. It would prove Bergrins position.

Respondents make vehement pleas for this Court to consider never reaching the merits of submitted and argued grounds and instead seek procedural defaults; because they

dread the potency of the facts ever being disclosed and decided. Their cowardice in refusing to seek justice and the truth is finally being proven. It is appalling and defies Logic, as well as the fundamental principle of our justice system. They shock the conscience of human decency and have completely usurped the truth seeking process with their arrogance.

The Grounds-Claims of Bergrin must (emphasis added), withstand procedural default, the "rubber stamp" response of Respondents. The interests of justice and manifest denial of a grave injustice, bemoan these Grounds-Claims not being heard and decided on their merits. This Honorable Court must carefully weigh Bergrin's equitable arguments, good cause shown and the indicia of his "actual innocence" in denying Respondents Procedural Default motions, in total.

Most importantly, an evidentiary hearing on fervently contested facts must be emergently ordered.

This Honorable Court must listen, hear and scrutinize the veracity and testimony of witnesses, devoid of Respondents sinking their grubby paws into them and thereby suborning false testimony; or coaching, suggesting, coercing and threatening witnesses.

Respondents veil "procedural default" arguments must pale in comparison to the quest for truth and justice.

ARGUMENT

V. EVERY CLAIM ESPOUSED IN GROUND-POINT FIVE MUST BE HEARD AND JUDGED ON ITS MERITS AND EQUITABLE CONSIDERATIONS AND THE INTERESTS OF JUSTICE WOULD NEVER PERMIT THE CLAIMS TO BE PROCEDURALLY BARRED.

The Respondent's shudder and decline to meet their Constitutional, legal and moral charge to seek justice, determine where the truth lies and to scrutinize the credibility of their witnesses and case. If they did they would polygraph their witnesses, commencing with Anthony Young and the "Keno" case and, once he is expertly opined to be deceptive, continue with others. I stream tears Knowing he would fail any polygraph.

The vital and crucial fact remains that if the truth is revealed and it proves Bergrin's actual innocence" it will deliberately effect the careers and potentially the liberty of Gay, Minish and Sanders, the prosecutors on Bergrin's case. That is the motivation for Sanders to have resigned his Associate position at Gibbons, P.C. and return to the Government, to contest Bergrin's motions. The prosecutors have a personal stake in the outcome, and ensuring at all costs there is never a factual evidentiary hearing and this is their basis for their committment to seek procedural dismissal of the Grounds alleged. The TRUTH would devastate them. (EA

There is no confidence for Sanders, whom

authored the government-respondent's opposition to have fled private practice, subsequent to unethically and unlawfully reviewing Bergrin's defense and new evidence, and having returned to an inferior position with less pay at the Office of the United States Attorney. He understands the impact the truth-justice will have on him and his career.

Bergrin's Ground 5 claims are clear, concise and supported by this submission. The jury charge was erroneous, prejudicial, deviated from the model jury charge, deleted sections, improperly mixed elements lowered the burden of proofs for the most serious offenses and were impossible to understand; especially by a lay jury.

Preliminarily, this Court must ask itself whether anyone could distinguish and rightfully apply instructions on 22 distinct and separate counts, which instruct jurors that this evidence could only be used for this purpose and not that; that this witness could only be considered for such limited purpose, but ignore it as it applies to others; that this such evidence negates, could be used for and applies only to this count. It was mind boggling and when you add the fact that it was erroneous and improper, this Ground becomes extraordinarily urgent and magnanimous. The government-respondents gloated over the confusion of the jury instructions and based their entire case on quantity of witnesses, not quality. They prayed that jurors would simply

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be satisfied that Bergrin had to be guilty because the prosecutors presented so many witnesses, not on the law and applicable instructions, nor credibility (guilty of testifiers.

A. <u>There are no procedural defaults.</u>

Bergrin has consistantly and vigorously argued that he is "actually innocent" and now avers "cause and prejudice; extraordinary prejudice resulting from legally defective jury instructions. Most importantly, a "fundamental miscarriage of justice will occur if this Court fails to hear and decide this issue. <u>Wainwright v. Sykes</u>, 433 U.S. 72, 97 S.Ct. 2497, 53 L. Ed. 2d 594 (1977) and <u>Coleman v. Thompson</u>, 501 U.S 722, 750, 111 S. Ct. 2546, 2564, 115 L. Ed. 2d 640, 669 (1991).

Bergrin never attended the jury instructions + charge conference nor had an opportunity to review the instructions prior to trial, (the day of the charge). He had minimal time to prepare for Summation as Pro Se Counsel and was on the verge of exhaustion. For months and the duration of the trial, He was housed at the Metropolitan Detention Center, Brooklyn, New York. He was in a noisy dormitory wherein inmates (approximately 150), stayed up all night gambling, watching television, conversing and listening to loud music. During trial he was awakened daily at 0400 hours,

removed to a cold cell in a holding area and waited for hours to be picked up by Marshalls for transportation to Newark, N.J. At Marshalls Holding Area he would wait for hours for Court to commence. When trial ended, Bergrin would wait in the Newark Marshalls cell for hours and until returned to the MDC. Upon arrival at the MDC he waited a minimum of two to three hours, before being brought to his unit. He arrived back at his unit, usually between 9-10p.m. He would eat dinner quickly, shower and prepare for the next days trial. This was the normal daily routine.

Despite pleading with Marshalls and Officers at the MDC to expedite Bergrin's process, it fell on deaf ears. Respondents are responsible for their Department of Justice (Marshalls - BOP) Agents.

Henceforth, Bergrin had extremely limited time to sole and exclusively prepare his summation. He did not have a video specialist, three other attorneys to assist him, multiple agents and even all the discovery - transcripts. Space and time was precious and summation crucial; especially preparation time.

Bergrin did not attend the jury charge conference and it was handled by Stand-By-Counsel. Bergrin was not consulted on the instructions nor did he review them, prior to their being given. As Bergrin listened to them he knew it was impossible to understand, confusing and convoluted.

Appellate Counsel prepared Bergrin's appeal and was charged with the presentment of legal arguments.

The "interests of justice," "cause and prejudice" and whole hearted claims of "actual innocence" overcomes any procedural defects and

thus require this Honorable Court to decide the motions merits. Bergrin's proofs of "actual innocence" would have prevailed and "no reasonable juror" would have convicted Bergrin had the instructions been clear, concise, less confusing, understandable and have comported with the law. United States v. Tyler, 732 F.3d 241, 254 (3d Cir. 2013) (Shwartz, J, dissenting).

Bergrin incorporates by reference all (emphasis added) claims, arguments and submissions in his habeas corpus motion, as if inserted in its entirety at this time. In accord with the arguments made, Bergrin submits that no reasonable, properly instructed juror would have voted and found him guilty when considering all the evidence presented. Id. at 255.

Most importantly, the totality of all Bergrin's claims, arguments, and writings warrant a consideration of this Ground and demands rejection of Respondent's misnomer of procedural default. Their "Rubber Stamp" response (Emphasis added)

B. Respondent's deceptively and grossly misstate the enormity of the concurrent sentencing doctrine. They miss the point that the McGray murder and its corresponding violent acts in aid of racketeering (VICAR) counts were the train that drove the charges in this indictment. Bergrin ardently submits that if the jury had been properly instructed on "aiding and abetting" the McGray murder, (emphasis added), and its corresponding counts, they would have acquitted Bergrin of not

only these offenses, but all others.

The erroneous "aiding and abetting" instruction infected the entire charge and verdicts.

C. Bergrin never procedurally defaulted his claims on the jury instructions and has shown the fervent deviation of this charge from The Model Instruction.

Bergrin has consistantly asserted his "actual innocence" in every claim and ground espoused in this motion. Moreover, he has impassionately proven that he is "actually innocent." Equitable considerations, actual prejudice and the interests of justice also counter-prevail over Respondents' cowardly attempts to avoid an evidentiary hearing and the truth being discovered.

The Honorable Judge Cavanaugh's jury instructions on intent mandate reversal by this Court as unconstitutional.

This unconstitutional instruction that was given to Bergrin's jury permitted him to be convicted albeit wrongfully, unlawfully and unconstitutionally premised on the actions and intent of the principals. Bergrins jury was charged-instructed that: "Paul Bergrins

acts themselves need not themselves be against the the law. In deciding whether Mr. Bergrin had the required Knowledge and intent, you may consider both direct and circumstantial evidence, including Defendant's words and actions and the other facts and circumstances.... The Government needs to show some affirmative participation by Mr. Bergrin which at least encouraged another to murder Mr. McCray. (Government - Respondents A 9891-92. (Emphasis added)

With this confusing and erroneous instruction Bergrin was unlawfully and unconstitutionally convicted of all major offenses in his indictment, based on the "specific intent" of the Principals; whom actually murdered Mr. McCray. The liberal and broad instruction to Bergrin's jury which never defined what direct and circumstantial evidence the jury could legally consider as well as what constituted "other facts and circumstances," permitted the jurors to conject, speculate and unconstitutionally convict Bergrin, pursuant to the "specific intent" of the principals; As Bergrin was never alleged nor accused of being the principal, a principal and "specific intent" was the preeminent issue for the jurors.

Bergrin's Constitutional right to

Due Process, under the Constitution's Fifth Amendment was eviscerated. He was wrongfully convicted based on the jurors unconstitutionally considering the "specific intent" of the principals. The trial court essentially commanded the jurors that the act of one can be considered the act of all, among accomplices, which was highly prejudicial and erroneous. The Third Circuit made this clear, categorical and unequivocal in the case of, Bennett v. Superintendant Graterford SCI, 2018 BL 102213, 3d. Cir. No. 16-1908, March 26, 2018.

This is why the standard deviation by the District Court, in Bergrin's case, between the charges, as Bergrin claims is very critical. It is the seminal issue.

Bergrin strongly avers that the ambiguity and erroneous language used relevant to "committing that murder and with the intent that the murder being carried out" is a valid argument, especially because the Respondents were able to skazily and treacherously insinuate Bergrin, along with the Curry Organization were involved in other murders, eg. Derrick Berrian on March 1, 2004. Because Respondents prejudicially inflamed the jury with false accusations pertaining to Bergrin's involvement in "other" murders, besides McCray, the jury

instructions permitted "misinterpretation." It was the Respondent's blatant misconduct which validates Bergrin's claims. They committed clear error which spilled into the jury instructions, when they inserted other murders that the Corry Organization were accused of, and how they integrated Bergrin into the realm of the organization and all its activities.

The Respondent's ludicrously argue that the jury knew the Court was referring to McGray merely through the instructions "that Someone (emphasis added) committed the §1512 murder offense," and second, "that Bergrin knew that "Someone" was committing or going to commit murder of McGray to prevent him from testifying at an official proceeding. This broad based and confusing instruction permits jurors to wrongfully and unconstitutionally convict on conduct that fails to delineate a specific intent to kill.

Additionally, the broadness and non-specificity of the instruction allows conviction of murder that may be unrelated to McGray and include other victims Respondents claimed were killed by the Corry Organization and Principals whose "specific intent" have no nexus to Bergrin. The remaining references in the erroneous instructions are wholly unrelated to McGray, non-instructive and not restrictive enough. They unconstitutionally permit too much speculation and conjecture of intent, principal conduct and wrongful accomplice liability.

Jury instructions must be clear, precise and definitive. They must instruct conclusively. These instructions rambled on for 6 hours and 150 pages. Jurors were improperly permitted to

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guess) that because the Court and Respondents admitted, mentioned and argued about a plethora of "other" murders, then the charge included them all. That is the only logical and reasonable interpretation.

Bergrin raised Rosemond v. United States, 134 S. Ct. 1240 (2014), to support claims relevant to his "actual innocence" and the fact that the Supreme Court opined he is innocent of his falsely connected alleged acts of others. In accord with the Highest Court's opinion in Rosemond, Bergrin could never be convicted of his alleged accomplices crimes. Yet, Respondents failure to contest this integral argument is a concession that they are legally and factually incapable of such contestation. They even concede that the Bergrin jury instructions are a gross deviation from the law Rosemond espoused. This, in and of itself, requires reversal of Bergrins convictions.

E. There are no "minor" deviations to a jury charge that could improperly influence a verdict and where a human beings life, is at stake. The flawed instructions convicted Berg.

There is no such thing as a "minor" deviation, which is not what occurred in Bergrins

case anyway. The modifications made by the District Court were extremely prejudicial and detrimentally effected Bergrin's verdict.

Respondent's absurd assertion relevant to the potential for inconsistant verdicts is irrational. It also confirms Bergrin's claim that there were substantial modifications made.

Bergrin's position is ardent and founded upon sound legal standing. The magnitude of the error resulted in fundamental violations of his Due Process Rights.

F. Jury Instructions On Mens Rea, Scienter and Intent Mandates Reversal Of Bergrin's Convictions.

1. The instructions relevant to aiding abetting and accomplice liability were unconstitutional.

It was virtually impossible for any jury to digest or even basically comprehend six(6) hours and approximately (150) one-hundred and fifty pages of intricate and complex jury instructions. Variable mental states comprising multiple pages of instructions, along with distinct mens rea elements as they applied to 22 separate offenses made the instructions virtually impossible to understand and apply. Then jurors had to understand using and applying limited evidentiary usages and the varied application to elements of separate offenses. After this jurors had to juxtapose the nexus to accomplice, conspiracy and aiding abetting liability. It was "nuts" and violated Bergrin's Constitutional

Rights to Due Process; especially since Bergrin was not the "Principal" on seminal charges and lacked the mens rea, intent and scienter to be held criminally liable. But, jurors never comprehended this fact.

Henceforth, his convictions rose or fell upon the jurors determination of these seminal issues, thereby accentuating the importance of the jury instructions pertinent to them.

The Rosemond, Elonis, and new Bennett case, Bergrin posits, wholly evinces why he is innocent; that Bergrin lacked the requisit intent to commit the offenses, that the unconstitutional and erroneous jury instructions severely prejudiced his rights to a fair determination of his intent and accomplice liability and how the "interests of justice" require that these claims be considered.

The instructions were so erroneous that the jury could not have known nor comprehended the applicable mental state standard(s) of proof and/or whether Bergrin should be convicted, based on the acts of others.

Henceforth, this was also why Bergrin referred to the Supreme Court's unanimous opinion, relevant to jury instructions in the dicta of, McDonnell v. United States, 136 S.Ct. 2355, 195 L.Ed.2d 639, (2016). That Court's cannot tolerate over-inclusive jury instructions. "Jury instructions must explain to the jury how to identify

the question, matter, cause, suit, proceeding or controversy. They must be specific and focused, concise and precise. Id. at 20, 21.

The instructions in the case at hand were so ambiguous, confusing and erroneous, that they paled in comparison to McDonnell's. The Supreme Court reversed McDonnell's conviction and made inherently clear: Jury instructions must not be overbroad and must be understood by jurors.

6. The specific application of evidence and its legal considerations and usage, required the Court to concisely delineate its appropriate permissible use.

Because the District Court permitted a plethora of evidence to be considered only on a limited evidentiary basis and counts, it must have precisely instructed the jury on these issues; otherwise, the jurors would improperly and unconstitutionally consider such evidence wrongfully and for "propensity" purposes. This is exactly what happened in the case sub judice and this influenced Bergrin's verdict and deliteriously prejudiced him.

This is why Bergrin made this claim and its constitutional magnitude, which caused a manifest denial of justice overcomes any frivolous procedural default claims, Respondents

dream and wish for.

Respondents summation accentuated that the jurors should convict Bergrin because he associated or was a representative, of an organization which they argued had violent propensities. It was purely a guilt by association theory and that jurors should hold Bergrin responsible for the unknown intent and actions of others. Consequently, they copiously detailed violent acts espoused by principals, like the murder of one Derick Berrian on the day prior to McCray.

Respondents wrongfully and unconstitutionally transferred the mental state and intent of principals to Bergrin, and through limited evidence unlawfully created the impression for Bergrin's propensity to commit violent crimes. This was wrong, erroneous and unconstitutional.

Bergrin was convicted by horrific and unconstitutionally violative jury instructions, which resulted in plain error.

THE JURY WAS NEVER INSTRUCTED THAT IT WAS THE SOLE AND EXCLUSIVE INTENT OF BERGRIN THAT MUST CONTROL THE JURORS DECISION. (Emphasis added). NOT THE INTENT OF OTHERS. (Emphasis added).

It is implored that this Court hold Respondents responsible for the flawed, erroneous and unconstitutional instructions. They prejudiced Bergrin inordinately and caused his convictions.

VI. The Claim in Ground - Point Six is supported by Statute, Our United States Constitutions Due Process Clause and Case Law.

Bergrin most respectfully pleads, implores and most emphatically begs This Honorable Judge, to sit in the jury box and have his Clerk's read the jury charge to him. As Chief Judge with infinite experience and wisdom, see if You could understand what was read to you!

Now, place yourself into the imagination and realm of lay individuals, devoid of any legal wisdom and training; and decide whether they had any chance of properly and legally separating limited admitted evidence from improper considerations, which intent applied to which one of the 22 counts and one-hundred fifty pages of a talking" indictment, which was not even evidence; when they could consider Federal Rules of Evidence 404(b) and which counts of the indictment it is applicable to; which witnesses could not be considered for "propensity" to commit a crime purpose; and fully comprehend, understand and apply six(6) hours of legal talk and instructions, in a complex case.

It was an impossible task.

The jury was asked to apply 160 pages of instructions, to an 150 page indictment which

alleged 23 counts, and five-six separate plots. In one count alone the jury was instructed about 22 different crimes. This does not even include the multitude of accusations as part and parcel of the RICO counts; the predicate acts and substantive counts. What about all the alleged predicate accusations wherein no evidence was ever presented, but still was submitted to the jury for their review. It was total insanity.

The instructions WERE (emphasis added) impossible to understand, legally apply and confusing. Crimes by the same name, such as conspiracy, (accomplice liability, aiding and abetting), were given different definitions, elements, burdens of proof depending upon New Jersey and or New York State Penal Law definitions, as well as federal law.

Respondent's Constitutional rights to Due Process of Law was trampled upon and the prejudice to him was enormous - infinite.

Because the jurors were devoid of any questions means absolutely nothing. The sumeal issue is whether the instructions themselves were unconstitutional and violative of Due Process. No reasonable person can argue they were not.

Jurors are reluctant to appear unintelligent at times. What is extraordinarily paramount is the fact (emphasis added), that PROOF

procedurally defaulted. It is meritorious and cries out for justice.

The pain and misery created by Respondents win at all costs trial tactics, must be addressed.

This Honorable Court's equitable analysis and discretion in hearing a Claim for these reasons, must be exercised on Bergrin's behalf. The ends of justice and Bergrin's actual innocence demands this.

X. In their treacherous, devious and malicious quest to win the case against Bergrin at all costs, Respondent's Knowingly, purposely and intentionally withheld material Brady and Giglio evidence, which detrimentally effected Bergrin's verdicts.

a). By withholding consequential exculpatory evidence, Respondents denied Bergrin a "fair trial" in contravention of his Constitutional Due Process Rights.

b). Shameless and obtrusive prosecutorial misconduct causes Respondent's to distort facts and deceitfully falsify representations to this Honorable Court.

Bergrin has copiously and meritoriously presented this claim in his motion. Every single fact, argument and representation made is exhaustively and absolutely true. (Emphasis added). These facts and submissions are irrefutable if Respondents are candid and frank with this Court. Unfortunately they are not!

Respondents should hunger for a hearing to prove Bergrin "invented" facts. But, they would Never dare to do that, because they shudder and are terrified of the truth, the whole truth being revealed. That is the disgraceful reason - motive they refuse to polygraph Anthony Young or any other witnesses, when they had Ben Klahn submit to one.

Respondents have suborned perjury, subverted justice, withheld and actually concealed exculpatory evidence, coached, coerced and unlawfully suggested responses from witnesses and continuously failed to reveal Sub-rosa promises and agreements with their witnesses.

An evidentiary hearing will conclusively establish whether Bergrin or the Respondents are being truthful and

candid and the grave injustice that occurred in this case.

There is no coincidence in Sanders seeking employment at Gibbons P.C., the firm that has represented Bergrin since 2010 and then ghastly scurrying back to Respondents Office, after a short period of time and in order to author Respondents opposition papers. He Knows the Consequences of Respondents misconduct; Blatant and flagrant unconstitutional actions.

A. An evidentiary hearing will corroborate and confirm what Bergrin copiously delineated in his motion: that (1) evidence was suppressed; (2) that the suppressed evidence was extremely favorable to Bergrin; and (3) that the suppressed evidence was material to both (emphasis added) Bergrin's innocence and the inordinate punishment he received. United States v. Pelullo, 399 F.3d 197, 209 (3d Cir. 2005).

Bergrin will prove each and every one of these elements to an absolute certainty and the representations encompassed in the motion wholly confirms this. The Respondents unlawful, unethical, unprofessional and criminal concealment of this material and seminal evidence resulted in Bergrin's convictions. There is no doubt as to this fact. (Emphasis added). It resulted in violations of Bergrin's Constitutional Right To Due Process Of Law and His Failure To Reveal Anything That

Even Resembled A Fair Trial," exactly what Respondents intended and vociferously sought. (Emphasis added).

The totality of evidence circumstances espoused in this extremely seminal ground is copiously exhibited in Bergrin's motion and prove that Respondent's impaired, curtailed and deliberately prevented a fair and just trial.

B. Overview of meritorious and valid claims.

1. The government failed to disclose instrumental and crucial impeachment and exculpatory evidence either they actually possessed or in their constructive possession. The facts and evidence has proven that even when Respondent's provided a scintilla of the information, they withheld and concealed the heart of it; which substantially impeded, limited and caused extraordinary prejudice to Bergrin and limited his cross examination on crucial issues. What could have been effective interrogation turned to ineffective and incompetent examination, due to Respondents misconduct and deliberate obstructions. They eviscerated Bergrin's chance at a fair trial and level playing field, by incessantly holding back exculpatory evidence in their possession.

2. Bergrin consistently used his vast trial experience as a Judge, Advocate General, Federal and State Prosecutor and Criminal Defense Counsel, to examine witnesses, but could not be effective devoid of the ammunition he was entitled to. Respondents shredded any opportunity to effectively control

witnesses, as well as his ability to effectively cross examine witnesses and represent himself, it was obliterated by Respondents misconduct - actions. Bergrin was able to ascertain limited knowledge about Respondent's witnesses, through rumors, conversations at jail, newspaper articles and by knowing several cooperating witnesses. Henceforth, he attempted to use this information when examining witnesses who cooperated with Respondents, and who Bergrin learned subsequent to trial had revealed this evidence to Respondents, which was extremely exculpatory but withheld anyway.

It is an outright lie that Respondents claim they only learned about exculpatory evidence through Bergrin's examination at trial. Respondents meticulously interviewed each and every witness, copiously questioned them during proffer sessions and pretrial preparation and spent hundreds of hours on each cooperating witness. They insult this Court's intelligence and prove their incredulousness, by averring they only learned about exculpatory evidence at trial, and through Bergrin. A hearing will establish how much they knew and what evidence of exculpation they possessed.

3. The Respondents knew about and possessed every shred of evidence Bergrin wrote about in his motion. They mendaciously and dishonestly write that Bergrin baldly asserts facts without a shred of evidence. That is precisely why a hearing must be held. It will conclusively prove you cannot trust

Respondents and the lengths they have gone through to perpetrate fraud upon this Court and conceal their misconduct. They are truly disgusting defenders of justice.

If Bergrin was provided and or received a fair trial this Court would not be reading these submissions. Bergrin would be home with his children and grandkids.

The interests of justice, equity, fundamental fairness and Bergrin's "actual" innocence implore this Court to hear and decide these issues.

There exists no procedural bars, defaults or technical reasons for this Court to dismiss these claims. An "innocent man" has spent the last nine years imprisoned and Respondents failure to protect his Constitutional Rights was the cause and effect. But for Respondents withholding materially favorable evidence, Bergrin would have been acquitted. This injustice cannot continue.

4. Lachoy Walker

Walker began cooperating with Respondents on or about March 1, 2004. He was one of the closest friends, comrades and Curry's alleged right hand man in his organization. According to Respondent's.

Walker was the prime witness against Curry at the trial of United States v. Hakeem Curry and Rakim Baskerville. Furthermore, Walker allegedly stored

Curry's weapons for him as well as herein. (According to Walker).

Bergrin has ascertained that Respondents interviewed Walker in proffer sessions, as a material cooperating witness and during trial preparation. Walker was queried extensively about Anthony Young and his relationship with Curry, as well as whether Walker ever observed Curry in Young's circle. Most importantly, Walker was methodically interrogated as to the McCray murder and emphatically insisted that Young was not involved. In fact he informed Respondents that Malik Lathiner murdered McCray and not Young. Walker also discredited Young about any (Emphasis added) member of the Curry organization, clique, circle of cronies, ever used or converted their weapons to automatic, as Young swore. Walker denied all these facts, yet Respondents NEVER provided this extraordinarily powerful exculpatory and impeachment evidence to Bergrin. Not one report reflects all this.

More importantly, Bergrin learned all this information recently, as well as the fact that Walker informed Respondents that Young lied about a meeting with Bergrin and Bergrin's guilt. Walker will testify Young fabricated Bergrin's involvement!

The evidence does not get more important than this and a hearing will prove everything stated. Respondents can no longer hide from the truth.

As far as the disclosure of Walker's

Kidnapping and assault convictions. The Respondents' lack of candor is captivating.

Bergrin was provided a criminal case history of Walker and never any valuable materials relevant to the offenses, who was involved with Walker, what occurred, how the case was developed or solved nor any reports of investigation. It made examination impossible.

Bergrin was denied material evidence of an impeachment nature because Walker was also suspected and accused of murder, had denied all accusations and was proven to have lied to law enforcement and wrongfully incriminated an innocent individual. All evidence Bergrin discovered to late for trial and impeachment of Walker, but that Respondents knew about, but never informed Bergrin.

Additionally, Respondents possessed homicide reports of Walker being the prime suspect in the murder of Derrick Barrian on March 1, 2004, which they intentionally concealed. This motive to fabricate evidence was extraordinary.

Any denials by Respondents of their knowledge and possession of all this material will be proven in an evidentiary hearing. Then this Court will witness the magnitude of Respondents' lies, the magnitude of obscured evidence and unimaginable misconduct.

Bergrin could not have known about this evidence nor ever obtained it, in time for use at trial. Bergrin

did not Know about any of this extraordinarily compelling Brady evidence, in time for his trial. Respondent's Know this is true. This Court is wholly cognizant that Lachay Walker, whom became a major cooperating witness within 24 hours of the McGray, Berrian murders, had to have been extensively questioned by Respondents about BOTH of them; YET BERRIAN WAS NEVER PROVIDED EVEN ONE REPORT, NOTE, memo, NOR ANYTHING ABOUT THESE manslaughter CASES. (Emphasis Added). WHY ?????

5. Johnny Davis:

Davis who was McGray's step father and so close to him when he was murdered that his face burned from splattered gun powder was shown a photograph of Young, BY RESPONDENTS and when Young commenced his cooperation in January, 2005 (Emphasis added). Respondents logically showed Davis the first photographs of Young, which he replied was not the shooter of his son. A fact Respondents concealed.

Davis was shown photographs by Bergen's investigators and when he signed Young's photo he wrote that he was 1000% positive he was NOT THE SHOOTER. On Malik Lathimer's photo, Davis wrote he was 1000% positive HE WAS THE SHOOTER! (Emphasis added). This was Davis' second positive I.D. of Lathimer, the first being months after McGray's murder and at the Newark Homicide Sqd.

Furthermore, Davis had a previous confrontation w. th LATTIMER the day after McGray was killed and was threatened with death if he identified Lathimer as McGray's shooter. All facts known and concealed by Respondents.

Davis' credibility was wrongfully but forcefully attacked by Respondents. Their refusal and intentional failure to provide this amazing information relevant to Davis' prior identification and statement about Young and Lattimore, decimated Bergrin's theory of the McCray homicide, and was a game changer in his guilty verdict.

Respondents continue to present a distortion of the evidence and facts to this Court in their quest to hide from the truth. They possessed strong evidence that Young was mercilous and did not shoot McCray.

BERGRIN NEVER FABRICATED AN IOTA OF FACTS IN HIS CLAIMS AND AN OBJECTIVE HEARING OF THE FACTS WILL PROVE THIS! IT IS RESPONDENT'S WHOM SHAMEFULLY AND DISGRACEFULLY INVENTS FICTITIOUS EVIDENCE AND FACTS! (Emphasis added).

Bergrin's motion was submitted and executed under oath and subject to the laws of perjury. Moreover, Bergrin has incorporated by reference multiple submissions, certifications (sworn) and his Rule 33, motion, Federal Rules of Criminal Procedure which contains and will corroborate his claims. There is not a chance Davis was never shown Young's photo by Respondents. Not a chance. (Emphasis added).

6. Yolanda Jauregui

Please ask yourself: Why Respondents failed to call Her as their witness! The unsigned Certification of Jauregui is the absolute truth and extremely exculpatory to

Bergrin. It proves he is innocent of all the drug charge

The Sworn Certification of Attorney, Brian McVan, establishes the truth and authenticity of Jauregui's Certification, exculpating Bergrin.

What is preeminent in Jauregui's information, that she gave to Respondents, is the exculpatory evidence completely annihalating Bergrin's involvement with drug dealing with Abdul Williams, Rondre Kelly and Eugene Braswell, the Respondents main witnesses in their proof of Bergrin's involvement in drug trafficking. The entire case!

Jauregui also informed Respondents that: Thomas Moran perjured himself in relation to Bergrin paying her boyfriend, Alejandro Castro, to store drugs at 710 Summer Avenue, Newark, New Jersey; that Bergrin was innocent of the drugs seized (53 Kilograms) at Summer Avenue; and that William's perjured himself concerning the multiple Kilogram transaction with Jauregui, while he was incarcerated at the Hudson County Jail. Through Jauregui, they knew of Bergrin's innocence

All material exculpatory evidence secreted from Bergrin, by Respondents. That is the motivation for Respondents not calling Jauregui to testify at Bergrin's trial and for recommending she be sentenced to ten years imprisonment. (Emphasis added)

Bergrin became cognizant of all this great exculpatory evidence subsequent to trial and

his appeal.

Bergrin's Court appointed investigators, as well as witnesses such as Theresa Vanney, will confirm these facts. There are no fabrications nor baseless assertions by Bergrin, only truisms.

The fact remains that Respondents never disclosed vital exculpatory admissions made by Jauregui, because they were concerned she would single-handedly dismantle their entire drug cases against Bergrin.

Jauregui's immediate family members, such as Robert Vanney, Jr. and Marissa Jimenez, as well as others will affirm Bergrin's position.

Importantly, if Jauregui disavowed the Rule 33 submitted Certification, there would have been a statement from her, delineating that None exists which is a firm indicator it contains the whole truth. As far this Court is aware, Jauregui never denied any facts in her Certification.

C. Anthony Young.

It is disheartening, spell-binding and deplorable that Respondents withheld absolut proof, that Young was not only incredulous and a perjurer, but that Bergrin is "actually innocent." It is inconceivable and beyond comprehension that Respondents lacked cognizance that Young falsely swore during proffer sessions, perjured himself on material issues at the trial of William Baskerville, in 2007 and was continuing facts and evidence against Bergrin.

Respondents and their agents, the FBI, DEA and local law enforcement, conducted an intensive investigation into the McCray homicide and interviewed hundreds of sources, cooperators, witnesses and others; except for Young, not a single shred of evidence supports Young's fabricated and contrived revelation against Bergrin, and this contrived Avon Avenue alleged meeting wherein the indicted offense occurred.

What is extraordinarily troublesome and torturous to Constitutional principles of Due Process and justice, is that not a single word in any reports reflected the exceptionally explosive exculpatory evidence given to Respondents by Lachoy Walker, Hassan Miller as well as others. This magnanimously powerful exculpatory evidence would have vindicated Bergrin of the McCray homicide and been the impetus of corroborative evidence that would effect all other charges Bergrin was falsely accused of.

These cooperative Respondent witnesses informed Respondent that Bergrin is actually unequivocally and categorically innocent and that they must not believe Young, yet not a single note about their information was ever given to Bergrin. Now this Court can see why they hid the telephone recordings that conclusively confirmed Bergrin's innocence and proved Young must never be believed. IT ALSO ESTABLISHES RESPONDENTS' MOTIVE FOR <u>REFUSING TO POLYGRAPH YOUNG</u>! (Emphasis added).

The greatness of Bergrin's exculpatory evidence was developed post trial: such as Madison, Miller, Correia, Williams, and

others. All of whom establish with credible proofs that Bergrin is "actually innocent" this doesn't even include the impact of the Corey recordings which show to an absolute certainty, Bergrin is innocent.

D. Horatio Jones.

Respondents lack any candor and frankness relevant to Jones. They failed to provide any records, reports or even direct testimony depicting the fact that they went to Beth Israel Hospital, Newark, New Jersey and corroborated Jones alibi. His wife was bleeding heavily and in jeopardy of losing her fetus, on March 2, 2007 when McCray was shot, and Jones was at her side all day. Young falsely implicated Jones in capital murder.

The critical question must be: why did Respondents permit and even subborn Young's perjury when he plead guilty and stated: on March 2, 2007, Horatio Jones was with him when McCray was murdered and was the co-conspirator that identified the victim for Young and ordered the positive identification for him. They Knew this to be totally false. They also failed to inform Bergrin they had corroborated Jones alibi and that Jones was not present at the scene of McCray's death.

Subsequent to Young's plea, he testified on cross to the exact same lie. That Jones was at the homicide scene and was the co-conspirator when identified McCray, so he could be killed.

Bergrin never Knew that this fact occurred and that

they Knew Young was lying. Not one record was turned over
What is also unconscionable is that
Knowing Jones was not involved in any manner
in McCray's death, Respondents allowed Young to
swear to a federal Judge at his plea, that Jones
was his co-conspirator in the murder of McCray.
Bergrin's cross examination was based
upon Young's plea colloquy, and information obtained
by investigators. If Bergrin was properly provided the
records Respondents possessed from the hospital, proving
Young was perjuring himself, as well as falsely accusing
another person whom is innocent, it would have been
magnanimous. Young was a proven liar and they Knew it.
Respondents Brady violations precluded
Bergrin from establishing Young was untruthful and
must not be believed; as Young lied and stuck to his
false proffer statements he made to the Federal Bureau
of Investigation pre-trial in reference to Jones. Re-
spondents subborned Young's perjury wrongfully inculpating Jones.
E Automatic Weapons Being Converted
From Semi Automatics, According To Young.

Respondents must be delusional. It
is despicable how they ignore their Brady and Constitution
obligations, when they possessed reports which they never gave Bergrin.
Young swore for the first time
at Bergrin's second trial, in 2013, that he

allegedly Killed McCray with an automatic weapon. He further perjured himself at trial and testified that Curry had all members of his organization convert their semi automatic handguns to automatic, that every gun was thereby converted.

Respondents Knew to an absolute certainty (emphasis added), that this fact was completely false, yet they sat on their hands AND SAID NOT A WORD. (Emphasis added). Young perjured himself and they remain mute

This Young testimony was condemning proof that Young is dangerous as a witness and the cause of justice, yet Respondents whom obtained, possessed and had objective evidence of this falsity did nothing. They never uttered a word.

Respondents agents arrested multiple Curry organization members, seized many weapons, and forensically tested them; yet this evidence was never provided Bergrin. They also possessed interview notes from Lachey Walker which would have disproved Young. They provided nothing to Bergrin, except the Trigger Lock Federal Complaint charging Young, which depicted he was arrested with a SEMI AUTOMATIC HANDGUN and not a converted weapon to automatic. As a matter of fact, as to all weapons seized not one of them was an automatic weapon conversion. They were all semi-automatics. (Emphasis added).

Respondents NEVER provided any of this

evidence to Bergrin, which was significantly exculpatory and would have impeached the sole and exclusive witness against him, in the McGray case. Most importantly, they knew McGray was not (emphasis added) killed with an AUTOMATIC. They are perjurers like Young.

Bergrin was able to cross examine witnesses based on his vast experience as an homicide prosecutor and knew the shot pattern in McGray, entry and exit points and shell casing locations were inconsistent with an AUTOMATIC WEAPON. (Emphasis added). This is enormous. Bergrin needed the records of Respondents to prove Young even contrived the shooting of McGray. These records were inordinately important and relevant. It would have resulted in Bergrin's complete acquittal.

If Bergrin was provided exculpatory records he was constitutionally entitled to, then he could have hired a forensic, pathological and ballistics expert, and proven to a conclusive certainty Young contrived and fabricated evidence and perjured himself. Respondents never even provided Bergrin a statement that Young had changed this magnanimous scenario and would be testifying that he killed McGray with an automatic weapon. This would have made the World of a difference and Bergrin could have proven blatant perjury and contrived vital facts.

Lastly, Bergrin should have been provided every evidence report of every alleged Crips member, whereas weapon was seized, to prove Young lied F. RASHEEDA TARVER - Bergrin was NEVER (emphasis added) given law enforcement reports, complaints, statements which proved Young was arrested for domestic violence aggravated assault and aggravated arson, Respondents

provided no (emphasis added) materials, discovery nor reports, which they possessed in reference to these serious crimes, by their star witness Young.

Special Agent Brokus had interviewed the Assistant Essex County Prosecutor's Investigator and the actual prosecutor assigned Young's case, but never memorialized the interview. She deliberately concealed the interview as well as investigative reports about these major incidents, which were sent to her, prior to Bergrin's trial.

Young adamantly denied he committed either the arson or assault and based exclusively upon Respondents' deflections, Bergrin was precluded from confronting him with viable reports and proofs. He pointed a gun at Tavers's head and burnt down her home. Additionally, Bergrin was deprived of meticulous investigative details which would have established Young lied again, and of course Respondents refused to make the truth known nor admonish and correct Young. As a matter of fact when Brokus was examined relevant to Young's lying on the witness stand and her investigative knowledge of the facts, her memory became amnesia and sketchy.

If Respondents had executed their Statutory and Constitutional obligations, and provided proofs they possessed, the verdicts would have differed.

Respondents accentuated Young's alleged motivation for contacting the Federal Bureau of Investigation in January, 2005. They argued that Young's sole objective or motivation for calling The Bureau was to seek

his protection because he feared retaliation and violence, from Jamal McNeil and Jamal Baskerville, after he advised his fiance' Rasheeda Tarver, that these individuals committed a murder and she allegedly informed them.

Again, Respondents attempt to evade the material aspect of their derelictions; the fact that Agent Brokus allegedly contacted the homicide unit at the Irvington Police Department to corroborate Young.

Most importantly, Brokus had obtained instrumental, exculpatory and critical impeachment material against Young, that she never revealed. That Young was determined to be incredulous, unbelievable and that experienced expert Detectives and Prosecutors refused to charge McNeil or Baskerville, because they did not believe Young. A non prosecution memo was prepared despite Young.

Similar to the Bergrin case, the New Jersey Star Ledger newspaper provided details about the shooting of "Nuts" girlfriend, and, Bergrin submits that State and Municipal law enforcement experts, whom deal with these types of cases on a regular basis and lying incredulous informants like Young, would not prosecute it. An objective determination that Young is a liar was made!

Brokus possessed all these reports and information but to impede Bergrin having an effective cross-examination of Young and receive a fair trial, never provided any of these details or information to defense. They just let Young lie and falsely accuse McNeil of capital murder.

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H. THE CURRY RECORDINGS.

The intercepted telephone recordings that Bergrin methodically and painstakedly outlined in his original Habeas Motion, is both Brady evidence and conclusive proof of his "actual innocence." They are overwhelmingly compelling and irrefutable.

There is not a single incriminating recording against Bergrin as Respondent's fallaciously submit and merely dream or fantasize about. If there was any that genuinely did exist Respondent's would have aggressively sought their admission, whether legally or illegally, as they wrongfully and unlawfully did throughout trial; whether with speeches before the jury, loud and obnoxious speaking objections or some other nefarious method.

Moreover, if Respondents possessed any indicia of decency, professionalism, morality, integrity or believed in our Constitution, they would never had made false and misleading statements to Bergrin that there are no recordings which assist his defense, are useful by any means or impeach a witness, nor do any offer any evidence of exculpation. If they had any inkling of their ethical, legal or Constitutional burdens they would have disclosed - revealed - informed Bergrin that there are recordings he should listen to - that exculpate him and which would have saved Bergrin's life from a wrongful conviction, and a life of misery, sorrow and constant grief.

The recordings conclusively establish that Young wholly and completely contrived and fabricated the alleged Avon Avenue meeting with Bergrin and that "no Kemo, no case"

was ever uttered or believed by Bergrin, Curry and others and that Will was going to receive a prison term of life, if Komo testifies; but that if Komo does not testify, Bergrin will win the case and that Will would go free.

The recordings prove Bergrin never (Emphasis added) uttered these words. They are indisputable!

Respondent's argument's on this claim is absurd, meritless and comical. No matter how they attempt to spin the recordings the voices and words lead to Bergrin's actual innocence.

I. The Respondent's failed to disclose any evidence they possessed as to Young's assertions as to why he lied and continued to be untruthful.

Q. Respondent's never revealed material and exculpatory evidence they possessed that Young perjured himself at Bergrin's trial and as to Young's false accusations against his defense Counsel(s).

Young testified at Bergrin's trials, that upon contacting the Federal Bureau of Investigation, on January 14, 2005 and thereafter and continuing with meetings until November, 2005, that he lied because his attorney's never informed him to "tell the truth, and if they had he would have."

Respondent's KNEW and possessed interview notes that Young was AGAIN being perjurous and AGAIN making false accusations against innocent attorneys; the same as Young did against Bergrin. (Emphasis added). He just continued to fabricate evidence

Never forget Young's willingness to put me to death.

Respondents argue that these facts that they possessed were NOT material to guilt. (Emphasis added). They also totally ignore the fact that their sole and exclusive witness against Bergrin incessantly made false statements during interviews with federal agents and testified falsely at Bergrin's trials.

These facts were never disclosed to Bergrin by Respondents. NEVER. (Emphasis added)

Bergrin learned that Young had multiple representatives when he cooperated with the Respondents and got lucky during cross examination. Young insisted he was telling the truth about none of his attorney's ever telling, advising or instructing him to tell the truth during proffers and at trial; and if Bergrin was provided the proper exculpatory evidence the Respondents possessed, he could have confronted Young properly and proven in front of the jury that Young is falsely testifying and wrongfully accusing his attorney's of misconduct. This evidence was material and Respondents argument depicts their misguided mind set concerning their legal obligations.

Bergrin submits that these false allegations by Young against other attorney's, similarly situated to Bergrin, could have been influential to a jury as to his guilt. The life and career of attorney's mean nothing to Young or Respondents. They continue to defend

Young because they are intrically interwoven into his perjury:

(1) Christopher Spruill:

On March 6, 2004, and a short time subsequent to the murder of McCray, Spruill was confronted by Malik Lattimer and threatened with death, if he was to give evidence against Lattimer in McCray's murder. Lattimer mis-thought Spruill as a witness. The Respondents possessed positive identification evidence of Spruill's photographic identification of Lattimer, but never provided these proofs. Their submissions leave out this fact. Spruill identified Lattimer's photograph as being the individual whom threatened him at the site of Kemo's murder, and this fact would have resulted in Bergrin's acquittal, if all the evidence had been provided to him. It would have substantiated Johnny Davis' positive and conclusive identification of Lattimer as the person who shot and killed McCray, and disproved Young was the shooter. The identification was strong. Davis was 1000% positive Young contrived the fact he shot McCray and 1000% convinced and positive it was Lattimer, the same person whom confronted him the very next day and threatened to kill Davis, if he cooperates with the police in McCrays murder. Lattimer was also the same individual Davis positively identified at Newark Police Departments Homicide Section, as the Killer of McCray, even though Respondents lie about this.

Although Respondents possessed the photo identification by Sprill and other investigative reports, they never surrendered these astronimically important impeachment and exculpatory materials to Bergrin. It would have incinerated Young's credibility and destroyed Respondents entire theory of the McGray case. The engine that drove Bergrin's indictment and conviction.

Respondents now argue to this Court that they timely disclosed this critical evidence, when they withheld most of it; the vital and crucial investigative notes and reports. They also devilishly fail to inform this Honorable Court that Gray, vociferously objected during Bergrin's summation that Sprill ever identified Lattimer and, in fact informed the Jury in a "speaking objection" that Bergrin is lying and making this fact up. That Sprill made no such ID.

If Bergrin was given, as he was legally entitled to, this extraordinarily potent impeachment materials, he would have been vindicated. Sprills identification supported Bergrin's entire theory and conclusively proves Young lied.

K. Hassan Miller

Miller, a cooperating government witness, whose integrity and veraciousness the Respondents attacked to, gave a recorded statement to Bergrin's investigators that Young lied about Bergrin and that Bergrin is INNOCENT. How dare the Respondents attack one

of their previous cooperation, that they used exclusively to obtain Department of Justice consent to record Young in an confinement facility.

Miller has no motive nor any reason to assist Bergrin nor offer false evidence against Young. None whatsoever. He doesn't even know Bergrin personally.

In the interests of justice and solely because he knows Bergrin is innocent has he come forward.

This statement alone should result in an evidentiary hearing and reversal of Bergrin's convictions. The Respondents possessed Miller's knowledge that Young continued Bergrin's involvement, but hid it; they knew that their case against Bergrin would be materially effected with Miller's exculpation of him.

There is NO contemporaneous recording of Miller's interviews with Respondents and their agents. Respondents just continue to lie to this Court and their reprehensible misconduct and criminality MUST BE STOPPED! (Emphasis added).

Respondents purposely concealed Miller's knowledge of Bergrin's innocence because they are aware that this extremely exculpatory evidence would have resulted in Bergrin's acquittal. Miller was Young's closest friend and similar to Charles Madison, has no relationship with Bergrin.

Respondents have no concern nor compassion for whether Bergrin was ever actually guilty as charged. If they did they would polygraph Young instead of

making veiled attacks, that are baseless against Miller and Madison. How could they polygraph Ben Hahn, but not Young!

Bergrin's claims withstand any procedural attacks because the evidence evinces his "actual innocence;" and due to "equitable considerations" and "the interests of justice" command they be heard. The materials are convincing, overwhelmingly material and beyond powerful. If Bergrin possessed this evidence, which Respondent's hid, the jury would have acquitted him. Bergrin was unable to exercise his fundamental Constitutional Rights to effectively represent himself, cross examine and confront important witnesses and receive a fair trial. Respondents cannot shield themselves from their misconduct of withholding exculpatory materials. They can lie, connive, continue and intentionally lie. But they cannot hide the truth.

L. Young's mental defects, deficiencies and illness.

How dare Respondents deny that they lacked records, evidence or knowledge of Young's psychiatric, psychological and mental deficiencies, or his treatment and medications. Young is imprisoned in a Federal Bureau of Prisons Institution and in the Custody of the U.S. Attorney General. The Respondents. For them to argue that Bergrin manufactured this fact about Young related to his care for his mental illness and treatment is an indication of how far they will go to prevaricate to this Court. They are being wholly deceptive and a hearing will prove this fact.

Young has been in counselling, taking medication for his mental illness and receives regular treatment.

These are facts Young partially admitted during Bergrin's cross examination of him, at trial; but Bergrin could not delve into, because Respondent's never provided the records in their possession.

Bergrin submits that Young made exculpatory statements relevant to his testimony and this was ascertained through Bergrin's investigation, post appeal. A statement by Hassan Miller corroborates all these facts. Bergrin has the right to be provided medical records and statements made by Young to BOP personnel.

M. Respondent's supplemental position (D).

The Ben Hahn claim is well grounded and could never be procedurally barred.

Subsequent to Bergrin filing his appeal and during investigation for post conviction relief, Bergrin was informed by an inmate from Jamaica that Hahn was intimidated, coerced and threatened by Respondent's and their agents, when he informed them Young is a liar. Hahn was questioned for hours and gave exculpatory evidence relevant to the melting of a handgun by Young which contradicted Young's trial testimony and proffer statements.

According to Hahn, he is absolutely certain and informed the FBI that Young NEVER

came to his business in March 2004 to melt any handguns; and that it occurred in November. A substantial fact in the Bergrin trial that undermines Young's entire veracity.

Hahn was certain he told this to government Agents and reconfirmed his position during pre and post polygraph examinations. He also confirmed the fact that notes were taken by Respondents and their Agents during interviews and that this issue was not the subject of his polygraph examination.

Since these reports strike at the heart of Respondent's case and their chief witness Young's veracity, they should have been provided to Bergrin for trial; or when Young testified about this point. Respondents used this fact to corroborate Young did the shooting.

Respondents possessed Hahn's interviews, statements, polygraph results and ambushed Bergrin at trial and during his cross examination of Case Agent Brokos. When Bergrin asked her if she gave anyone polygraphs she volunteered the fact that Hahn was given one and he failed; this was subsequent to Attorney Lawrence Lustberg, Stand By Counsel for Bergrin making a Discovery Request, pre trial for any polygraph examinations, and Respondents lying and responding none were given.

It should also make this Court wonder, not shockingly, why they would

refuse to disclose Hahn's statements and polygraph results, if it was supportive of Young. It is unequivocally because it was not. Hahn called Young a LIAR.

Most Importantly: This Court Must Be Concerned And Troubled That Respondents Would Polygraph Ben Hahn, Conceal His Results; Yet Refuse To Polygraph Young When There's Overwhelming Evidence Of Rampant Perjury And Inconsistant Statements. (Emphasis added). THERES ACTUAL PROOF YOUNG CONTRIVED MATERIAL FACT:

Hahn's statements were grossly material and Respondents deliberately shunned their Brady obligations by concealing all the reports and statements concerning Hahn. Respondents used the melting of the gun to confirm or prove Young shot McCray.

In reference to Alejandro Castro's exculpatory evidence about Bergrin. Attorney Laurence Lustberg, Esquire was contacted in 2017 by Castro's Attorney, David Glazer and informed Bergrin is innocent of the drug charges. That Castro only inculpated Bergrin to obtain a favorable plea deal and that Castro is willing to be interviewed by Investigators for Bergrin. He will accentuate the fact that Abdul Williams perjured and fabricated the entire testimony about Bergrin's drug trafficking, as did Rondre Kelly and Eugene Braswell. Castro would also swear under oath

as to promises made to him, off the record by Respondents; if he incriminated Bergrin. It saved Castro an additional ten (10) years in prison, at a minimum. Respondents made him lie.

Castro has informed Bergrin's investigators that Jauregui and her brother Ramon Jimenez were also coerced by Respondents to offer false testimony against Bergrin.

Other facts posited by Castro will prove the following: that Thomas Moran wholly contrived the fact and his testimony that Bergrin ever paid him $2500 per month to store cocaine at Summer Avenue; and that Moran testified falsely about meeting Castro at Summer Avenue.

Castro will admit that the 53Kg of cocaine seized at 710 Summer Avenue were solely and exclusively his and Bergrin had no knowledge about it. Castro picked up the cocaine on May 21, 2004, after Bergrin was arrested and brought them to his apartment.

What this Court must query Respondents about is how they failed to file an Information enhancing Castro for his prior drug felony, especially in light of their knowledge that he was an illegal alien from the Mexican Sinaloa Cartel, of that posits he trafficked in thousands of Kilograms of cocaine, but refused to cooperate with Respondents; and after having evidence of the magnitude of his international drug contacts. It is beyond mind-boggling.

Respondents in their Supplement, Page 28, FN 9.

Just contrive facts to this Court, in reference to Special Agent Greg Hilton, DEA.

The revelations pertinent to Hilton is a genuine indication of how far Respondents will go to Cover-up, Conceal, Obscure and fantasize about facts and evidence. It is so Contrary to protecting and defending our Constitution and their obligation to seek truth and justice. Why don't they just burn the Constitution.

Now this Court can clearly note why the Respondents would polygraph Ben Hahn and refuse to administer this same exam to Young, or Abdul Williams or any other witness who has been conclusively proven to have committed perjury. They know the exam would prove Bergrin innocent!

Respondents desire to "win at all Costs" is proof of their nefarious motives.

None of any of this evidence is even close to being procedurally defaulted.

Individually this evidence vindicates Bergrin. In totality it overwhelmingly proves that he suffered a "grave miscarriage of justice and is "actually innocent."

Bergrin has the absolute right to refresh a witnesses recollection with any object, article, statement, declaration in his possession. With Respondent's cavalier, apathetic and distorted judgment, they opine that they are the ones whom decide how an individual could defend his case; and they wickedly believe they have the right to withhold or conceal evidence if it exculpates a defendant or evicerates the credibility of one of their witnesses.

This Honorable Court must instruct them otherwise.

E. (In Respondent's Supplemental Opposition).
Abdul Williams.

Bergrin will present surreptitously recorded statements, wherein Williams admits he perjured himself against Bergrin. These recordings can only convince the Court that Bergrin was wrongfully convicted, is an innocent man and that Bergrins submissions are legally and factually accurate and true.

This Court must now be cognizant that although Williams faced multiple life sentences, when he decided to cooperate against Bergrin, he was sentenced to time served and released from detention.

Williams is now back in federal custody charged with additional crimes. He is a violent career criminal, an expert manipulator of the criminal justice system

and when he commenced cooperation with Respondents, innately and inherently cognizant about what he needed to fabricate and contrive, to both become a cooperator and gain his freedom. Obviously he succeeded.

Respondents just contine to intentionally mislead this Court. They must be stopped now.

Jauregui's F.B.I. 302 is clear. She informed Respondents that while Williams was incarcerated at the Hudson County Jail and in pre-trial detention with Alejandro Castro, the three of them agreed and arranged a seven Kilogram cocaine transaction.

Williams set up the terms of the deal wherein Jauregui and Castro's brother were to transfer 7 Kilograms of cocaine to Williams father and be paid subsequent to the transaction. Williams cousin replaced his father and Jauregui emphatically stated, and the 302 relayed, that a successful transaction was completely consummated. (Emphasis added). There is not one mention of this transaction in any of Williams' FBI 302's. Nothing!

Bergrin attempted to cross examine Williams, at trial in 2013 and Williams completely denied everything about the cocaine deal. He testified the entire incident was false. Confirmed by Jauregui

Brokus was called as Bergrin's witness to confirm what Jauregui proffered to Respondents and what was contained in the FBI

302. Bergrin had to impeach Williams credibility and perjured, damaging testimony. Bergrin attempted to prove that it was Williams who just committed perjury and not Jauregui who lied.

Brokus had amnesia on the witness stand and testified that the cocaine deal was never consummated. When Bergrin attempted to refresh Brokus' recollection with Jauregui's 302 that Brokus authored, Respondents objected. The Court sustained the objection and Bergrin was never permitted to impeach Williams. His perjury remains unabated.

Jauregui was never called as a government witness, although Bergrin was informed that both She and Her brother, Raman Jimenez were being called the next day. Both Jimenez and Jauregui refused to testify for Bergrin. Bergrin was left without ability to impeach Williams. This was devastating.

Respondents never provided Williams proffered statements about a major cocaine distribution deal, while being held in pre trial detention and cooperating with the government. It is also an abomination and detestable that the Respondents permitted Williams to get away with false statements during his proffer agreement and perjury at trial, while stymieing any chance Bergrin had to prove Williams false testimony and defiance of the law. The jury was left with perjury.

Williams dealt, trafficked in, and sold

thousands of Kilograms of pure grade heroin and was the Kingpin for all drugs trafficked in and at the Newark Bradley Court's Projects. He also sold thousands of Kilograms of cocaine in a large distribution network in New Jersey; and the Essex County Prosecutors Homicide Squad had a strong murder case against him, in the retaliatory killing of his closest friend Maurice Lowe, aka FACE.

Respondent's insultingly and disgracefully write in their Supplemental Opposition papers that Williams was offered no other benefits, other than those delineated in his plea agreement. LIES-LIES-LIES.

In Williams' plea agreement there is no mention whatsoever that he will not be charged and prosecuted for these offenses, well known and easily capable of proof. He avoided prosecution for dealing massive amounts of heroin-cocaine. Bergrin was cognizant of these crimes based upon his prior representation(s) of Williams, but his arguments and examination of Williams was inhibited by the four corners of the plea agreement and the potency of these "benefits" was obscured by them not being written into the plea agreement. Respondents privately agreed to never prosecute Williams.

Respondent's argument that Bergrin explored these matters during cross examination and in arguments begs the genuine issue. That Williams received unordinate and extraordinarily vast benefits that should have been written into his plea

agreement and made objectively known to a jury. It detrimentally effected the impact of Bergrin's examination and prevented him from ever receiving a "fair trial."

The jury, through Bergrin, had the right to view in writing what promises Respondent's made to Williams, and every crime not being prosecuted, along with their penalties and the entire scope of Williams' benefits, for his cooperation.

What added insult to injury is Respondent's admission into evidence of Williams' plea agreement which made no mention of these promised and benefitted non-prosecutions. It was Respondent's way of adding salt to a wound and fictitiously argue to the jury and convince jurors, how Williams only received the benefits entered in the agreement. The promises and benefits went way beyond Williams' plea.

Respondent's again deliberately and knowingly attempt to deceive the Honorable Court by writing, in their Supplemental Opposition, "that Richard Robert's representation of Williams was a public record" thereby making Bergrin's claim meritless. This is a BOLD FACE LIE. (Emphasis added).

Robert's NEVER (Emphasis added) entered any Notice of Appearance on behalf of Williams, nor is this fact represented in any docket sheet, FBI report nor record. It was secreted by Respondent's who were acutely cognizant of this fact and used Robert's as a de-facto agent, knowing Robert's faced disbarment due to major and serious ethical breaches. He also

had open serious ethics complaints which would lead to disbarment. This does not even factor in Roberts federal crimes that were coincidentally delayed and Indicted after Bergrin's case. By the way, despite Roberts commission of major felonies, he received a non-custodial sentence after a plea of guilty. The offenses, coincidentally preceded Bergrin's case, but Roberts was not charged until after Bergrin's sentencing.

Respondents were also fully cognizant that Roberts was retained to represent Albert Castro, Bergrin's client, by Correia, a cooperating witness and with stolen informant funds. They also had knowledge Roberts represented cooperator Ronde Kelly, Albert Castro's partner and co conspirator in drug trafficking, and that Kelly perjured himself when he testified Roberts refused to represent him because he was cooperating against Bergrin. Respondents filed no objections to the conflict that Roberts was retained and also represented Abdul Williams and even convinced Jauregui to plead guilty and cooperate against Bergrin. Roberts was involved in several conflicts.

Bergrin only learned that Roberts represented Williams through Syed Rehman, Williams best friend, fellow Muslim and closest confident at the Hudson Jail. Rehman was informed by Williams that Bergrin is definitely innocent of all charges but that Williams must contrive evidence to save himself from imprisonment. Williams faced life but was sentenced to time served. Rehman has no relationship to Bergrin and his faith has compelled him to come forward.

Rehman discussed with Williams how he was going to completely contrive, fabricate and make up facts against Bergrin, in order to become a cooperator and avoid prison. Williams divulged to Rehman his plan, scheme and plot to wholly lie about Bergrin and how he retained Roberts, paid by bank check and that Roberts was in on the scheme. Williams informed Rehman that although Bergrin is completely innocent that he did not care; it was either Williams' life or Bergrin's. Williams further informed Rehman how he was intimately involved with Yolanda Jauregui.

Why wouldn't the Respondents want to interview Syed Rehman to learn the truth. Place Rehman and Williams on a polygraph and ascertain if justice was done against Bergrin. Recordings prove Williams perjury.

Rehman has no motive whatsoever to assist Bergrin and never had any relationship whatsoever with Bergrin. He doesn't even like Bergrin, and Rehman and Drew Rahe were both present when Williams planned and discussed fabricating evidence against Bergrin. Both these witnesses proffered with Respondents Office relative to their case. Respondents knew Williams was committing perjury; but Williams was an intricate and material witness against Bergrin in the drug trafficking charges and McKay murder. Rehman and Drew will prove Bergrin's innocence of serious drug charges.

THIS COURT IS IMPLORED TO

COMPEL REHMAN'S TESTIMONY AND JUDGE HIS CREDIBILITY. BERGRIN GUARANTEES WITH AN ABSOLUTE CERTAINTY AND BEYOND DOUBT THAT REHMAN WILL PROVE BERGRIN WAS WRONGFULLY CONVICTED AND A GRAVE MISCARRIAGE OF JUSTICE HAS OCCURRED. (Emphasis added). Rehman lives right in Jersey City.

It is incomprehensible, unbelievable and unimaginable why Respondents will not take 15 minutes out of their days to interview Rehman; then again, that is just consistent with why they withheld this extremely exculpatory evidence against Bergrin and permitted his unjust conviction. It is also the reason they refuse to POLYGRAPH CRITICAL-SEMINAL WITNESSES. (Emphasis added). Yet POLYGRAPH BEN NAHN.

Rehman and Drew never had an opportunity to testify at Bergrin's trial. Respondents agents of the Department of Justice, The Marshalls, held up their transport to District Court and the trial would have been delayed 24 hours.

Respondents gloated and cried out in glee when the Court erroneously denied the delay; when justice demanded they object. Respondents even objected to any reference to these witnesses, despite their fictitious writings to this Court.

Bergrin was denied EVER mentioning the substance of Rehman's or Drew's testimony, proffered evidence or statements to the jury. Respondents are LIARS. This evidence was unconstitutionally suppressed, in its entirety. Never heard by jurors!

Brady claims were raised on appeal but the magnitude

of them was not known ~~to them~~, he was curtailed and limited in his presentation to the Appellate Division.

If Respondents had been transparent and met their Constitutional burdens and obligations, instead of concealing this magnanimous Brady material, both the trial and appeal would have favored Bergrin. He would have been acquitted at trial. This extraordinarily favorable Brady material would have meant the difference between acquittal and conviction.

Respondents make an absurd reply about harmless error and overwhelming evidence, despite their concealment of this inordinate amount of Brady evidence.

This Court is infinitely aware that when Respondents must resort to that kind of rhetoric, it is a last ditch effort to save their sinking ship and conceal lies.

The Brady evidence Respondents possessed, but failed to lawfully disclose was potent, influential and captivating. It impeached the heart and soul of their entire case against Bergrin. Most importantly, it conclusively proves he never received a fair trial and his Constitutional Due Process Rights were trampled upon.

Only God knows what effect this extremely critical evidence, unlawfully withheld,

obscured and hidden by Respondent's would have meant at trial and upon the verdict Bergrin submits that he would have been acquitted of all charges.

Bergrin has fully espoused and disproved Respondent's arguments, relevant to Alejandro Castro, on page 31 of their Supplement. Respondent's admit that there exists no procedural bar and cannot defend against Bergrin's submission. This evidence alone, is compelling and proves Bergrin is innocent of drug trafficking offenses he was wrongfully convicted of and sentenced to multiple life sentences.

F. Claims regarding Eugene Braswell must be heard. They are valid, worthy and have not been procedurally defaulted.

Braswell purposefully and knowingly lured a drug accomplice to his to his home, under false pretenses of receiving payment and murdered him. When Bergrin attempted to cross examine Braswell on this murder, Respondent's strongly objected and the examination was precluded. Because Bergrin was Never (Emphasis added) provided investigative reports that Respondent's possessed, he was unable to prove to the Court, that due to Bergrin's knowledge that Braswell murdered the victim,

in cold blood, Braswell was motivated to contrive and falsify evidence to shut Bergrin up. The only way to do this at this time was to contrive evidence which would result in a life sentence. Braswell was able to eliminate the only living witness against him for murder and Bergrin was denied any opportunity to disclose his motive.

Respondent's Supplementation on Page 32, is innately false: Bergrin never had an opportunity to use this exculpatory evidence at trial and it certainly was not immaterial. Respondent's objections at trial precluded Bergrin from exploring and ultimately revealing, Braswell's motive to fabricate; besides the fact he was a terminated Correction Officer being sent to prison and faced three(3) life sentences federally and twenty-five to life on his State Kingpin Indictment.

But for Respondent's obnoxious and baseless objections and their failure to turn over their Brady evidence in their possession, Bergrin would have been acquitted of the Braswell and other drug violations.

Ramon Jimenez advised Respondent's that Petitioner provided him small quantities of cocaine for his personal use. He never advised Respondents that he introduced Braswell to Petitioner and that they sold multi Kilograms of cocaine to Braswell. That was wholly contrived lies by Braswell, suborned by the treachery and deceitfulness of Respondent's. At a hearing, Braswell will admit these lies.

Braswell's Brady material was beyond exculpatory. It was powerful to not only prove Braswell's schemes to fabricate evidence, but the breadth of Respondent's prosecutorial misconduct. Respondents possessed the evidence to exculpate Bergrin and they also

possessed affirmative exculpatory materials that the criminal witnesses were being untruthful. But, they simply ignore these facts because it would detrimentally impact their case against Bergrin and incriminate them.

Respondents failure to turn over material Brady evidence to Bergrin, was an abolishment of basic but fundamental tenets of our Constitution. It completely prevented Bergrin from having a chance at a "fair trial." It precluded Bergrin from having any ability whatsoever to contest the facts against him, and was the exclusive reason he was convicted. Jurors were prevented from having a fair and objective opportunity to hear all the evidence.

Equitable Considerations, substantial deprivations of Bergrin's Due Process Rights and the manifest denial of justice begs that a hearing be held to resolve all these issues. They must never be procedurally defaulted. Never!

Respondents admit, on page 33 of their Supplement that the Saluti, Esquire and remaining claims are not subject to their "rubberstamp" procedural default defense.

Disgraced and disbarred, Saluti, is presently under indictment, with Co Conspirator, Co-Defendant, Roberts in Morris County, N.J. for serious crimes of fraud and moral turpitude.

Saluti consulted Braswell, for Roberts and bribed him on testifying against Bergrin. These connections about Braswells

cooperation and nefarious connections nexus to Saluti, Richard Roberts and ultimately Respondents must not be procedurally barred.

Respondents repeatedly, actually incessantly debriefed Brasuell, spent an inordinate amount of time with him in proffer sessions and trial preparation and then restarted the entire process subsequent to his second federal arrest and charge, while out on bail.

Brasuell, Saluti, Roberts, Nuzzi and Respondents had all the time they needed and extraordinary leverage over Brasuell to motivate his false testimony.

Multiple witnesses have come forward to divulge Brasuells deviousness; including Sharffe his first cousin (See Certification in Rule 33) and now Kamu Montiser, who actually saved Brasuells emails discussing contriving and falsifying evidence against Bergrin.

Respondents Knew that Roberts and Saluti were law partners and even though Brasuell was represented by Attorney Vincent Nuzzi, that Saluti visited him in jail. Why would they fail to reveal this and Brasuells emails, while in their custody. The reason has to be blatantly apparent to this Court.

For Respondents to even attempt to disclaim all this material Brady evidence defies logic, reason and any sense of ethical and professional morality.

Bergrin's decimation of Respondents Seminal witnesses in their drug allegations and charges against Bergrin removes their specious and absurd claims relevant to overwhelming evidence.

G. The Claims Regarding Lachoy Walker Are Material, Relevant And Have Not Been Procedurally Barred.

Respondent's called Lachoy Walker as a government witness and to testify about Bergrin's alleged connection to Curry's alleged cocaine distribution. This Court must note that Walker was the prime cooperating witness in the case of United States v. Curry and Rakim Baskerville and had been a cooperating witness for Respondent's since the date of his arrest, on March 3, 2004. He testified against Bergrin in 2013. Despite Walker being interviewed, proffering, his pre-trial preparation to testify against Curry and Rakim Baskerville and his actual trial testimony, he had never mentioned Bergrin ever being involved in any illegal activities; and not one report, note, DEA or FBI 302 ever mentioned that Walker ever mentioned Bergrin providing a drug connection to Curry. Walker even admitted this fact in 2013, when he testified against Bergrin at his trial and stated his lie in the trial. Walker testified that while at the location known as the Dungeon, in Orange, New Jersey he assisted Curry in counting money and Curry stated "he is going to see Paul's connect." Nothing more nor less. That was the first time so stated from 2004 to 2013. Walker whom was Curry's alleged right hand

man and closest confidant, testified he was with Curry daily for a substantial period, prior to his arrest. He was so close to Curry that he was given Curry's alleged semi-automatic 9mm handgun and heroin to secure. All in March 2004, when McGray was killed.

Walker further testified that he never heard, observed and ever knew Bergrin to be involved in drug dealing and never knew about any alleged Avon Avenue meeting with Young, Curry, the Basketballs and Jamal McNeil and relevant to McGray's murder.

Walker was extremely important as a witness and at the time of his arrest, under intense investigation for an Essex County murder, which the Respondents knew about yet failed to provide investigative reports to Bergrin for effective examination about Walker's motive to fabricate; the fact he faced 30 years to life in prison on State charges and life for federal narcotic trafficking was magnanimous.

Respondents also possessed notes, reports, memorandums and federal agent data relevant to Walker's interrogations and interviews about homicides he committed, was an accomplice to or had knowledge of, including the McGray homicide and that of Derrick Berrian. (Berrian disappeared on 1 March 2004, McGray, 2 March 2004) -

Respondents NEVER Provided even one note, word, sentence about Walker's questioning and responses to McGray's murder and

other homicides he knew about or was involved in. (Emphasis added). This would have cleared Bergrin.

Walker was Curry's closest ally and confidante. His nickname or alias was "Pooh." He was with Curry daily and was confided in as to Curry's deepest secrets. He was interviewed by multiple federal agents, prosecutors and law enforcement agencies; Respondents have those reports yet NEVER provided any to Bergrin, because they would exculpate Bergrin in the McGrory homicide and Walker knew there was never any meetings with Bergrin, as Young fabricated. He also knew LaTiner killed McGrory, (Emphasis added) and NOT Young!!!

The reports and lease of the Dungeon was also extremely important; since records, bullets, and important meetings took place there. None ever involving Young nor turned over to Bergrin.

As a matter of fact, Walker testified on vigorous cross examination that Young was not a member of Curry's Organization, nor had he ever seen Curry with Young. Very important facts.

How dare Respondents write on page 33, of their supplement, that they turned over all records in their possession or that ~~failed to~~ if they it is not material to guilt.

Walker's motive to falsely testify, intricate connection to the Dungeon, and notes + reports

of law enforcement interviews are life or death vital to Bergrin. Due Process demands that this issue be heard on its merits and Walker compelled to testify; the equitable considerations and interests of justice implore and withstand any procedural default defense.

I cannot understand the apathetic mind-set of Respondents and their refusal to seek the truth or justice. POLYGRAPH Young! He lied. They polygraphed Ben Hahn but not Young. WHY!!??

H. The Claims Regarding Thomas Moran Are Neither Procedurally Defaulted Nor Meritless.

Moran was a cooperating witness of Respondent's and interviewed multiple times. As a pre-trial detainee in the care and custody of the Federal Bureau of Prisons, Respondents and their Agents, they possessed all Moran's telephone call recordings, e-mails, his mail (both in-coming and out-going) and visitor records.

Respondents knew and possessed material records that Moran was receiving newspaper articles which copiously referenced every fact Moran testified to relevant the McGray case; prior to his testimony.

Most importantly, not one proffer session nor 302 reflected the fact that Moran

was sent, read and possessed the newspaper article he testified about. To date they still have not provided Bergrin a copy; which, Bergrin submits provided Moran the substance of his testimony against Bergrin. An important fact

Moran testified he informed Respondents about receiving the newspaper articles from friends and surrounding events, yet Bergrin was deprived of any notice of this fact because Respondents concealed it, never noted this in a report, nor informed Bergrin.

Consequently, Bergrin did not even have a copy of the article, nor Moran's communications with family or friends for cross-examination. All of which Respondents possessed. (Emphasis added).

Bergrin was unable to explore all this extraordinarily relevant information, because he did not have materials he was clearly entitled to.

Moran was provided information, which he used against Bergrin, by third party outside sources. Respondents knew about this as they concede on page 34 of their supplement, but according to Respondents this was not material. It gave Moran the ability to manufacture evidence against Bergrin, but that's not material to them. This depicts their nefarious thinking process.

It is inconceivable and preposterous how Respondents dare even mention that there was a plot to Kill Moran. That is a flagrant LIE!

The genesis of this fantasy was a letter sent by Ronald Bergrin, my Cousin, to the Honorable

Judge Martini, stating that one Abdul Jenkins asked him, if he should kill Moran. It was a delusion by Ronald.

What makes this so absurd and Respondents a bunch of clowns, is the fact that they Knew Ronald was mentally incompetent, declared insane and even incompetent to stand trial, and all the other crazy accoxations contained in the letter. The letter was comical and never given any weight. To even mention it in their opposition papers and this supplement is a clear indication of their desperate state and warped minds. It makes Respondent's as insane as Ronald Bergrin and as delusio

Moran whom lived in Hackensack, New Jersey was given the BENEFIT and PROMISE, that Respondents would move him from the Hudson County Jail SHU to Bergen County, where his family lived, Knew many officers at this facility and where Moran would be treated like a King. This information was never provided to Bergrin and it sure is Giglio. He was not moved based on anything other than convenience, desire and a gift for his cooperation. Moran received an extreme benefit.

Most importantly, Respondents Knew to an absolute certainty Bergrin did not have anything to do with Ronald Bergrin's letter, Abdul Jenkins nor any of their non-sensical actions, and Moran was never moved from Bergen County Jail based on these threats, which actually never occurred.

The false defenses by Respondents regarding Morans Monmouth County Indictment and Hudson County open case, is also baseless. They assisted him tremendously.

Upon Morans commencement of his cooperation, he had two serous and OPEN State Court Indictments. In Monmouth County he was charged with four counts of Aggravated Assault with serous bodily injury. Moran struck a family of four in their van, knocking it over and injuring all family members inside. His blood alcohol level was two times the legal limit. In the Hudson County charges, Moran was involved in a high speed chase with undercover narcotic detectives and speeds exceeding 100mph. He was Indicted for 2° eluding. Two major felony Indictments.

Since the Esteves - Cordova case originated in Monmouth County and was originally in that jurisdiction as a narcotics case, Respondents assisted Moran in his open aggravated assault case. WHILE A COOPERATING RESPONDENT WITNESS, MORAN RECEIVED A PROBATIONARY SENTENCE IN MONMOUTH COUNTY. (Emphasis added). Illogical and inconceivable for those charges devoid of Respondents' assistance. Yet, Borgia was provided with not one communication, note, report relevant to contacts between Respondent's and Monmouth County prosecutor's, even though he begged for it. Borgia knew what they did but had no proof.

Moran used this fact, that Borgia was not provided communications, any reports, notes, contacts

relevant to his case to his advantage. Moran lied on the witness stand as to how he received a probationary sentence and such favorable treatment by Monmouth County, and Bergrin lacked impeachment evidence to contrast him.

In the Hudson County case, Bergrin was an experienced State and Federal Prosecutor and Criminal Defense Counsel. He handled hundreds of cases in Hudson County. Hudson County placed Moran's file on inactive status pending resolution of his federal case. A great promise and benefit

Bergrin subpoenaed Moran's Hudson County file and the Prosecutor's Memo for the status of placing a file on the inactive list. A rare motion for prosecutors. Hudson County and Respondents objected to Bergrin ever receiving a copy of their file and reports, Bergrin was stymied by Respondents unconstitutional and inappropriate actions and incapable of cross-examining Moran on this enormous prosecutorial benefit, in exchange for his cooperation. As a matter of fact Moran's case was held inactive for 4 years. Respondents made this happen.

Respondents used every improper, illegal and unconstitutional means and methods to make sure Bergrin never received a "fair trial." This was only one of their techniques. It essentially tied Bergrin's hands in cross examining Moran. Bergrin was now helpless.

Respondents are <u>LIARS</u> about Moran checking himself into the SHU at Hudson Jail. (Emphasis

added).

On May 20, 2009, the date Bergrin and Moran were arrested, he (Moran) was detained and taken to the Hudson County Jail. Upon commencement of incarceration, Moran was immediately secured in the SHU.

Respondents continually and intentionally lie. I pray by now they have lost all credibility. At the Hudson SHU, Moran begged and pleaded to be placed in General Population, but was denied. He was also suffering severe psychological illness from drug and alcohol deprivation. He had drug withdrawal and alcohol illness.

Respondents clearly knew about all this as it was presented to them at a Detention Hearing. Most importantly, they used this as a promise and benefit, to convince Moran to cooperate.

Bergrin was only provided deminimis references to all these facts. If given full disclosure relevant to Moran, he could have impeached his credibility and dispelled his false testimony. He could have also proven false the accusation that it was Moran who checked himself into the SHU; an accusation wholly false. Moran also denied the Hinds Eluding charges and Bergrin could not impeach him.

Bergrin has clearly shown his innocence on the false drug charges. Respondents delusionally claim that all this evidence for impeachment is immaterial; or that the evidence

was overwhelming. They misguidedly convince themselves that quantity of incredulous witnesses overrides QUALITY. (Emphasis added).

There are now independent and objective witnesses, with absolutely no motive to fabricate or in any way assist Bergrin that will prove quantity pales in comparison to quality; especially when these new and quality witnesses have recorded Williams admitting his perjury, and others whom were present and assisted him in his planning of fabricated evidence. There are new witnesses who have direct knowledge Brasuell contrived his cooperation and testimony against Bergrin and a multitude of quality witnesses to dispel and actually prove, Bergrin is innocent of all drug charges. The evidence was not overwhelming!

The recordings Respondents allude to are exculpatory to Bergrin and evidence that Rondre Kelly's testimony was false.

The 53kg of cocaine picked up and brought to 710 Sumner Avenue, by Castro was his. He has admitted that to investigators and his attorney, David Glazer. He has also now come forward and offered truthful evidence, Bergrin is innocent of the drug charges and that he would never conduct any business with Bergrin nor trust him with his freedom. Castro further swears that the drug traffickers he did business with, fabricated and contrived evidence against Bergrin, and that Moran lied about ever coming to 710 Sumner and meeting Castro; or Castro being paid by Bergrin to store contraband.

Any reference to Bergrin paying Castro to store cocaine at 710 Summer Avenue. This never happened. It is contrived.

Bergrin's investigator and Mr. Lustberg, Esquire are in the process of taking a formal statement (sworn) from Castro himself; but interviews have confirmed what Bergrin submits.

Respondents continue to be less than candid and fail to truthfully reveal to this Court what the recordings depict:

the recordings were part of an investigation of Ronde Kelly for his participation in major drug trafficking of both hundreds of Kilograms of cocaine and heroin in Newark, N.J. and Pennsylvania. The recordings were made seven years prior to Bergrin being charged in the case sub judice. Kelly was Never charged with all his drug trafficking in New Jersey in exchange for his cooperation.

The fact is that the recordings prove Bergrin's innocence and completely exonerates him of being a leader, organizer or supervisor of a drug distribution network and as falsely alleged. Additionally, the recordings prove Bergrin was never involved in drug trafficking and this is why he was never charged when the recordings were made. They are extremely exculpatory for Bergrin.

Bergrin is not going to rehash his arguments and position about the Jauregui certification. The Certification completely exculpates Bergrin of all drug charges and proves Moran perjured himself.

Jauregui has not submitted any statement,

certification nor acknowledged in any way the affidavit Bergrin submitted is false.

Bergrin's attorney, Brian McVan, Esquire whom is more credible than Chris Adams has certified to the veracity of Jauregui's submission. There will be further evidence by Theresa Vannoy and many others corroborating the statements' truthfulness.

Respondents wishful thinking will not make Jauregui's statement false. A hearing will delve out who is being candid with this Court. One thing is clear and unequivocal. That Respondents failed to call Jauregui as a witness at Bergrin's trial because she could not be coerced to testify falsely and she would have decimated their entire drug case against Bergrin. Her certification is completely accurate and they know it. Respondent's failure at coercion and intimidation lead to her 9 year sentence.

I. Bergrin's Claims Regarding Rondre Kelly Must Be Heard. They Have Not Been Procedurally Defaulted.

Rondre Kelly cooperated in the Districts of New York and Pennsylvania. As a matter of fact he testified at multiple trials in Pennsylvania.

Bergrin demanded all reports, notes

and trial transcripts in possession of Respondents' and relevant to Kelly. He was entitled to this material.

Bergrin was never provided a single page of discovery pertaining to Kelly's proffers and cooperation in sister Districts. Credible and very important impeachment and exculpatory evidence was contained in these materials, because as Kelly admitted at trial of Bergrin, he never informed these other Districts of Bergrin. Bergrin had the right to know exactly what was said. It must be noted that the very first time Bergrin was never incriminated by Kelly, was when Richard Roberts, Esquire set up a proffer session, at the Allegheny Jail, Pittsburgh, Pennsylvania with Robert's, Kelly and Respondents. Further be cognizant that during direct examination by Respondents, Kelly vociferously denied he was ever represented by Roberts and that Roberts refused to represent him because he was going to cooperate against Bergrin, a fact Respondents KNEW was false and perjured; but they suborned Kelly's false response and actually elicited it at Bergrin's trial. They are PERJURERS.

Bergrin has the right to raise this extremely important matter on collateral attack. It proves that Kelly was provided the benefits of non-prosecution for major New Jersey and New

York heroin and cocaine trafficking, that Roberts acted as a defacto agent of Respondents in suborning false testimony and perjury (a fact Bergrin had no way of knowing until after his appeal was decided) and that there existed vital evidence of Bergrin's "actual innocence in notes, testimony proffer statements and reports never provided Bergrin. Pursuant to Respondents quashing all this evidence for use at Bergrin's trial, he was clearly deprived Due Process of Law and his fundamental right to a fair trial. Bergrin is INNOCENT. Of course, Respondents want to suppress this magnanimous evidence. Bergrin's ability to contrast and cross examination Kelly was stopped by Respondents.

J. The Cordova Claims Are Ripe And Not Procedurally Defaulted.

Respondents are again insulting this Court with their blatant lies. They are despicable. Respondents had their cooperating witness, Maria Correia, recording Bergrin and Cordova at the same time. They never turned over Correia's recordings of Cordova. These instrumental recordings and debriefings of Correia would completely vindicate Bergrin in the alleged Esteves plot, as Bergrin made it abundantly clear and categorical

to Correia, that he knew Cordova was an informant and continuing his relationship to Lord Coco and the Latin Kings. Bergrin insisted Cordova was an informant.

This phenomenal evidence was suppressed by Respondents whom were informed of these facts by Correia. A certification - affidavit has been obtained by her which will be submitted with Bergrin's Rule 33 motion. This evidence substantiates Bergrin's entire defense.

Bergrin NEVER was able to obtain confirmatory evidence and debriefing evidence relevant to Cordova's background, other attempts at cooperation, nor even one report on whether DEA did any investigation to prove Cordova's credibility; for instance, Cordova testified that he committed other murders, a fact Bergrin disbelieved. A single paragraph in a DEA report alleged Cordova committed at least 4 murders for Vincente Esteves and was solicited to commit another 3 murders; that Cordova collected millions of dollars for Esteves and secured narcotic distribution routes for him; that Cordova admitted being involved in gang rapes, being a confidant of Mexican drug cartel bosses and a host of other major crimes.

Bergrin asked for but was refused and never received even a single investigative report relevant to all these Cordova admissions in a DEA debriefing. Cordova was supposed to have been used as

an informant in the past and even testified previously. Bergrin received nothing. As a matter of fact, in spite of this information being contained in a one page DEA 6 of a Cordova interview, Bergrin was given no other report nor evidence in which to examine Cordova. When Cordova denied ever making most of these statements contained in the report, there was no way to impeach his credibility; and eventually prove he does nothing but contrive and fabricate evidence. His credibility and recanting knowledge was critical.

Respondents held Lord Gino in their custody. They knew Cordova was not his son and possessed his prison records. They purposely concealed these records and impeded Bergrin's cross examination by objecting to this line of questioning because Cordova was getting upset. They suborned Cordova's perjury while possessing Gino's prison records.

Upon discovery that Cordova committed perjury and completely contrived and fabricated evidence, he was being threatened and his life in jeopardy; the Respondents knew they would never prosecute him. As a matter of fact, instead of withholding payment for Cordova's false testimony, perjury and the fact he cost them hundreds of thousands of dollars in security; the Respondents gave Cordova thousands of more dollars for cooperating.

It is beyond absurd. It is ludicrous that Respondents would pay Cordova thousands of additional federal funds, after knowingly committing perjury costing the government hundreds of thousands in dollars and committing federal crimes. Respondents, Cordova's perjurous partner knew from their payment to him he was not going to be prosecuted. He did his job for them and lied.

This Court knows to an absolute certainty that when Cordova stated to DEA at his witness debriefing, that he committed multiple murders, he is in contact with upper echelon Mexican Cartel drug lords, he has distributed thousands of kilograms of cocaine for Estevez (who swore he never met Cordova), that Cordova has upper level Colombian drug contacts, that he knows of distribution points, is aware of trafficking routes of drugs, witnessed gang rapes and killings, and a host of other serious major crimes; that there must exist reports, investigation and memorandums supporting these accusations or proving them false. For Respondents to deny their existence is insane, unfathomable and pure deceit. Page 38 of the Supplement is a hoax. Bergrin does not live in La La Land. These unprovided reports and Brady would have provided Bergrin the ammunition he needed to prove Cordova contrives and manufactures false evidence to manipulate others.

Respondents refusal to turn over this Brady evidence deprived Bergrin of his Due Process Rights and curtailed any meaningful cross-examination of Cordova.

The Brady material on Cordova and other evidence of hidden recordings by them would have acquitted Bergrin of the Cordova-Estevez plot and all other counts in the Indictment.

Most Importantly: Bergrin Knew Oscar Cordova was an informant, a cooperating witness and was toying - playing with Oscar. This is CONFIRMED by a former confidential Source, major Respondent Cooperating Witness and someone whom they trusted wholeheartedly. This Cooperator informed Respondents that BERGRIN IS WHOLLY AWARE - COGNIZANT - KNOWS OSCAR IS AN INFORMANT AND NOT RELATED TO LORD GINO AND THE LATIN KINGS. Bergrin should have been provided as Brady this statement and all reports from Respondents and their agents reflecting Cordova's false statements and prior history of deception. BERGRIN RECEIVED NOTHING. (Emphasis added).

This is so critical because it emphatically evinces that the Cordova - Bergrin recordings were words devoid of meaning. Idle Banter. If Respondents met their Constitutional burdens and responsibilities, Bergrin would have been acquitted. They wrongfully caused this verdict.

Cordova was stopped for a DWI and the passenger in the car has provided a sworn certification, of Respondents intervention. They needed Cordova to perpetuate their theory.

K. Respondents Deliberately Concealed Promises And Unrevealed Assistance To Both Natalie McClennan And James Cartopassi.

McClennan was indicted for tax evasion and laundering over a million dollars in cash; along with promoting prostitution. She received a 26 day, time served sentence. No plea agreements were in writing; coincidentally.

Bergrin was never provided any plea agreements, the terms of any negotiated pleas or a list of any benefits given to McClennan. This is disgraceful and preposterous.

It is a proven fact that the Manhattan District Attorney's Office, New York County worked in coordination and conjunction with Respondents; and especially in debriefing McClennan and Compassi and obtaining their cooperation against Bergrin. Yet Bergrin was NOT provided with even a shred of any evidence delineating this fact. Not one shred of paper, notes, communications.

Bergrin was informed by New York Detective, Myles Mulady, essentially the case agent on the New York case that he was in communication with FBI Brokus for a year and on a daily basis, relevant to the two offices cooperating against Bergrin. "They worked out a mutual agreement."

An evidentiary hearing will establish these communications, coordinated efforts, benefits and promises given to McClennan and Compassi but sought.

McClennan was deported to Canada upon her plea of guilty in New York County. Law prohibits her from reentry into the United States. She testified that due to her cooperation she was permitted by the FBI to

visit her father in the United States. A true benefit.

Cortopassi graduated law school but pursuant to a New York Indictment and drug distribution charges in New Jersey he was unable to obtain admission to the practice of law. Respondents agreed to help him gain admission to the bar.

Respondents assisted both McClennan and Cortopassi and secreted these facts from Bergrin. As a point of fact, Cortopassi's New York Indictment containing first and second degree charges were dismissed; because he agreed to cooperate against Bergrin. Nothing in writing was ever turned over.

The serious question Respondents should be answering to this Court is: why wasn't Bergrin ever provided with copies of any plea agreements, cooperation agreements, memorandums discussing dismissing charges, terms of any agreements between cooperators or a list of any benefits or promises made. Why wasn't Bergrin ever informed of the coordination between New York County and Respondents to convince witnesses to cooperate and of Respondents coordinated efforts at assistance. The two witnesses walked. Is this not a benefit to cooperate and fabricate? Bergrin was NOT (emphasis added) ever provided with this extremely important exculpatory

and impeachment materials. Consequently, without knowing all the facts, promises, agreements, it was impossible to explore motives to fabricate on cross examination or to divulge biases, prior inconsistant statements etc.. He was unconstitutionally ambushed

The aforementioned facts eviscerated Bergrin's constitutional rights to a fair trial.

Bergrin had an absolute right to these materials and Respondents misnomer is that they genuinely attempted to guide Bergrin's confrontation of witnesses and to limit it, as much as they could.

L. Bergrin's Claims in Reference To Yolanda Jauregui Are Meritorious And Could Never Be Defeated.

Prior to trial one Respondents wrongfully convinced Jauregui's sister Maria Jimenez and her nephew Jose Jimenez to relocate to Alaska.

Respondents made ludicrous allegations about their lives being in danger and threatened and Bergrin lost two extraordinarily valuable defense witnesses. Both these witnesses would have exculpated Bergrin and vehemently testified that Bergrin had no knowledge at all of Yolanda Jauregui's secret relationship

with Alejandro Castro. Both these witnesses were warned and admonished by Jauregui, to never let Bergrin know about her activities, and relationships with Castro. That Bergrin would not tolerate what she is doing and dump her.

Bergrins investigators interviewed both Maria and Jose Jimenez who stated that there is no way they ever feared Bergrin, and, most importantly Jauregui and Castro took great efforts to make sure Bergrin never learned about their business and personal relationship. Furthermore, as soon as they came to their senses and realized that Respondents are mere blow, they immediately moved back to New Jersey, Belleville from Alaska. They also reestablished their true identities. They realized that Agent Brooks deliberately lied to them, put them into false fear and moved them to Alaska, to prevent their exculpatory testimony at Bergrins trial. They strongly believe they were tricked.

Bergrin was never provided any information of any threats nor is there any evidence to support relocating witnesses.

Theresa Vanney will adamantly swear to Bergrins innocence, especially on the drug trafficking offenses. She was with Jauregui and Castro daily and for hours. She witnessed their fervent misconduct and was threatened against Bergrin ever learning about their relationship and drug trafficking. She was even assaulted several times by Jauregui, as caution against Bergrin learning about drug dealing. She is an exceptional and unbiased witness.

Respondents never stop fabricating. Jauregui conceited

to forfeit almost a million dollars in real estate: a single family home at 398 Little Street, Belleville, New Jersey and a multi residence building and restaurant at 710 Summer Avenue, Newark, New Jersey. She signed the plea agreement in 2009 and to date still owns the properties; and is benefitting from both of them. A hearing will prove that there was a sub rosa agreement that Respondents would never move for forfeiture; and that these provisions would only be made part of a plea agreement to create the false impression of Jauregui being punished appropriately; and to also give the appearance that she is more credible because she is not receiving any great benefits by cooperating.

Respondents also misled the Court about non prosecution of Jauregui's mother or niece. They were intricate co-conspirators of her sale of Kilograms of cocaine to Maria Correia, an informant of Respondents. They acted as security, strip searched Correia and helped Jauregui store multi Kilograms of cocaine, at her Belleville address. They were also completely cognizant of Jauregui's relationship with Castro and, most importantly, that Bergrin had no idea whatsoever that Jauregui and Castro were drug trafficking together.

The most important question Respondents

deliberately fail to respond to is: why was Bergrin never informed about the non-prosecution of the beloved mother and niece of Jauregui. How can Respondents ever explain their intentional failure to NEVER (emphasis added) move for forfeiture of the properties, or to at least evict all Jauregui's family members from the properties.

Additionally, why wasn't Bergrin ever provided an itemized list of benefits, promises, and a copy of redacted reports relevant to Respondents' hiding witnesses. This is unbelievable and unconstitutional.

Bergrin was NOT aware of any of these extraordinary benefits, promises, non-prosecution agreements and they are extremely important.

Jauregui and her brother Ramon Jimenez would do or say anything to protect their mother, niece, sister and nephew, and home they continue to live in.

It deprived Bergrin of any semblance of a fair trial and must not be defaulted. The interests of justice plead for a fair determination of these issues. Bergrin had the right to know that Jauregui's sister and nephew had been accepted into Wit Sec and that her mother and multiple family members would be permitted to live at her "alleged" forfeited properties indefinitely too.

M. The Claims Relevant To Ramon Jiminez Are Firmly Entrenched In Law And Fact And Were Not Defaulted.

Respondents definitely suborned the perjury of Jiminez. The Honorable Judge William Martini, Judge, United States District Court, New Jersey actually stated this fact emphatically. Judge Martini excused the jury and admonished Respondents for presenting false and incredulous evidence-testimony to the jury. Martini Knew Jiminez' testimony against Bergrin was false.

Respondents forget, just coincidentally, to inform this Court that Jiminez formally complained to the Essex County Bar Association that Prosecutor John Gay and his defense counsel, John Azzolino, coerced, threatened and forcefully suggested that Jiminez must testify falsely and swear exactly as they suggest, or he would go to prison for life. When Judge Martini heard this he became enraged and knew immediately of the prosecutors misconduct.

Respondents never provided Bergrin ~~of~~ any letters, correspondence or specific promises made to Jiminez. By RESPONDENTS WRITING THAT THE CLAIM BY BERGRIN THAT JIMINEZ'

COURT APPOINTED COUNSEL (AND FORMER NEW JERSEY AUSA JOHN AZZOLINO) AND GOVERNMENT'S COUNSEL (GAY) COERCED JIMINEZ TO PROVIDE PERJURED TESTIMONY AGAINST BERGRIN IS FALSE. BUT EVEN IF TRUE... (Emphasis added).

How amazing is their admission of truth. There is irrefutable evidence that Gay and Azzolino, his crony buddy, tag teamed Jiminez and coerced, suggested and intimidated him to falsify evidence against Bergrin. Similar to every other seasoned and major witness. The choice was extremely limited. Testify in accord with what Respondent's want to hear or spend the rest of your life in prison.

Respondent's were innately aware that for almost six(6) months and one interrogation session after another, JIMINEZ INCRIMINATED THE DANGEROUS SINOLOA MEXICAN DRUG CARTEL CASTRO, HIS OWN SISTER JAUREGUI, HIS FATHER, ABDUL WILLIAMS, CURRY, AND OTHERS, BUT NOT BERGRIN. (Emphasis added). He swore Bergrin had no knowledge of all the drug deals.

The first time Jiminez incriminated Bergrin was subsequent to being indicted, facing life in prison and the coercive, suggestive interrogation by Gay and Azzolino; and only after promises he would not be arrested nor charged if he becomes the "man they are looking for to hurt Bergrin.

Jiminez' proffer was one-thousand percent inconsistant to Rookie Kelly; in that Jiminez denied he delivered cocaine to Kelly for Bergrin. He also denied Bergrin was a Courier for Williams and Braswell's

completely manufactured testimony that Jimenez introduced him to Peruvians so he could transact multi Kilogram cocaine deals. Jimenez NEVER INTRODUCED BRASWELL TO ANYONE ESPECIALLY PERUVIANS. THIS WAS WHOLLY CONTRIVED BY BRASWELL AND SUBORNED PERJURY BY RESPONDENTS (Emphasis added).

Respondents never provided any exculpatory evidence about the coercion of Jimenez, his reports about it and Jimenez' flagrant denials as to the false testimonies.

Jimenez' plea agreement makes no mention that they promised him that he would not be prosecuted for all his drug activities, but that he was indicted and faced life in prison, because he refused - couldn't lie against Bergrin. There is no reports depicting any promises. No reports, agreements, memorandums ever mention non-prosecution of his mother, niece or that the house they lived in would remain untorfeited as a benefit for his cooperation. Nothing ever indicated Respondents contacting Pennsylvania Parole for a concurrent sentence or reduction in his parole charges and sentence as they promised and did.

Jimenez was guilty of an armed robbery in Essex County that conveniently and coincidentally, was dismissed.

Not one benefit, promise, deal, gift to Jimenez was ever disclosed to Bergrin. Respondents went through great efforts to conceal their promises to Jimenez and Serrano from Bergrin and deprived him of a fair trial.

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N. The Enormity of The Correia, Castro, Roberts And Respondent Scheme Cannot Be Accentuated Enough.

1. Correia fully informed Respondents of not only Albert Castro's perjury and their scheme, but that Bergrin was certain Oscar Cordova was a government informant. With Bergrin's Knowledge about Cordova, it makes him actually innocent of the Cordova-Esteves plot.

BERGRIN HAS OBTAINED A SWORN STATEMENT FROM CORREIA EVINCING THE ENORMITY OF PROSECUTORIAL MISCONDUCT, CRIMINALITY AND A SCHEME TO ENSURE BERGRIN WAS WRONGFULLY CONVICTED OF THE MCCRAY MURDER AND THE DRUG ACCUSATIONS. (Emphasis added) AS WELL AS ESTEVES PLOT.

It is appalling, amoral and incomprehensible how on page 42, of Respondent's Supplemental Reply, they could simply state, "SO WHAT" there was perjury, schemes to wrongfully convict Bergrin and the most despicable misconduct known to the law. They Know of Bergrins pain in prison but do not feel it.

It does not matter at all that neither Albert Castro nor Maria Correia were not called as witnesses at Bergrin's second trial.

Correia swears she informed Respondents that Albert Castro, with a plot-scheme created by Richard Roberts, Esquire and her assistance, arduously sought

to make sure Bergrin was convicted. Their plan to testify falsely and contrive the seminal fact that Albert was offered (ten) thousand dollars to Kill McCray; was demonic.

Respondents Knew Roberts was charged and awaited trial before the State Bar's Ethics Committee, who sought disbarment. Roberts had delayed his scheduled hearings for over three years and during the pendency of Bergrin's case. They were also fully cognizant that he laundered money and never paid taxes, since 2000. He was also involved in serious conflicts of interest and subborned perjury. All facts made Known to Respondents by Correia and during the course of their investigation of Bergrin. Blind, deaf and dumb prosecutors would Know what was happening.

Despite being cognizant of all these facts, Respondents made no mention of this to the Court nor Bergrin. It would have created the nexus - the connection Bergrin needed to not only prove he is innocent, but how Abdul Williams, Albert Castro, Ronde Kelly, Yolanda Jennings, Eugene Boswell and others schemed, conspired and coordinated with each other. Roberts was just one of their means and methods, but an important and intrinsic component. He is also a convicted felon and awaits trial and the disposition of Serious State charges.

The enormity of this correlation and link is beyond comprehension and Judge Martini saw it immediately when Albert Castro and Ramon Jimenez testified. He was upset and horrified. It was also the heart and soul of Bergrin's entire

defense and he had the absolute right to be informed. To withhold such enormously exculpatory evidence and information from Bergrin, is similar to shredding and burning the Constitution.

This Court must never lose sight of the crucial fact that Prosecutor John Gay, the same immoral, perjurous and unethical individual whom coerced, threatened and wrongfully suggested Ramon Jimenez' testimony; is the same individual whom - just accidentally and coincidentally failed to surrender and turn over Albert Castro's visitation records, at the Essex Jail, until trial was over. These records clearly depicted the amount of visits by Correia to Castro and on pertinent dates, times and dates right before he proffered with Respondents.

Respondents cannot explain nor disguise this coincidence. It would have meant Bergrin's full acquittal of all charges, including the Esteves-Cordova plot.

The fact that, according to Correia, (who has absolutely no motive and reason to fabricate), Respondents KNEW that Bergrin was aware Cordova was an informant, not the Leader of The Latin Kings or Lord Gino's son; this fact would have completely vindicated Bergrin. It was

the entire essence of Bergrin's defense. That he knew Cordova was an government informant and would never conspire nor scheme with him. (Emphasis add

If Bergrin was provided Correia's statements to Respondents and extraordinarily powerful exculpatory evidence, there is not a chance he would have been convicted. It would have also proven his entire theme of defense and effected the other verdicts. Bergrin was crucified through Respondents treachery

Bergrin was DEPRIVED of this inordinate Brady and Giglio evidence by Respondents misconduct. They certainly knew the impact of this vital evidence, held Correia's imprisonment and charges open (for years) when she was terminated as a cooperator, changed her name and incarcerated her in Louisiana. They took great efforts to hide and conceal her, because of her consequential testimony. (Emphasis added).

This Court must permit this claim to move forward. It is unbelievably important to Bergrin's Constitutional Due Process Rights. When heard and proven, this Courts jaw will drop open. The Court may also shed a tear with Bergrin.

O. Respondents Threatened Alejandro Barazza-Castro With A Sentencing Enhancement, Doubling

His Potential Sentence If He Exculpated Bergrin (Emphasis added):

Alejandro Barraza-Castro had a prior felony drug conviction when he was arrested, on May 21, 2007. Moreover he was arrested in possession of 53kg of cocaine, which federal law enforcement officers had surveilled him picking up and bringing to 710 Summer Avenue, Newark, New Jersey. Statutorily he was facing life.

Respondents had overwhelming evidence that Castro was an illegal alien unlawfully in the United States and a representative of the dangerous and reknown Mexican Sinaloa Cartel, ran by Chapo Guzman. There was abundant evidence that he trafficked in thousands of Kilograms of cocaine with Jauregui and other, but not Bergrin.

Subsequent to Bergrin's appeal and in preparation of the Rule 33, motion, Bergrin's attorney was contacted by David Glazer, Esq, Castro's representative.

According to Glazer, Castro falsely exculpated Bergrin in drug trafficking and is willing to certify and swear Bergrin was innocent. He would attest to Respondent's misconduct and their coercive methods, in which they used to compel Castro to falsely incriminate Bergrin in drug trafficking with Williams, Kelly and Braswell, as well as Jauregui and Jimenez.

As of this writing Bergrins Investigators were going to take a sworn Statement from Castro.

I most respectfully beg this Honorable Court to compel Respondents to answer as to why Castro never received an sentencing enhancement to 20 years imprisonment and, why they recommended the minimum sentence of 10 years. They had overwhelming evidence of Castros guilt.

This information is vital to Bergrin. If Respondents had accepted their Constitutional mandates and sought the truth from Castro, then he would have been Compelled to testify on Bergrin's behalf He would have completely and dichotomously contested the Respondents three drug trafficking witnesses against Bergrin. His honesty would have vindicated Bergrin.

Castros testimony would have been extraordinary, as there is no love lost between him and Bergrin. He is the one who began an intimate relationship with Jauregui, unbeknownst to Bergrin, got her involved in major drug trafficking and secretly set up drug deals with Williams, Kelly and others. Castro also was aware and involved in the drug deal with Williams, Jauregui and Williams father for 7 kg of cocaine; and while he was in the Hudson Jail with Williams. A fact Williams denied on the witness stand, but perjurous Respondents condoned.

Irrefutible evidence has been presented that proves Bergrin was Knowingly denied over-powering exculpatory evidence.

Respondents cannot alleviate their Brady obligations by consistently and incessantly yelling Procedural Default or Harmless Error.

The impact this type of exculpatory evidence has on a jury and the effect on their fair determination of Consequential issues is the paramount issue. The Due Process Clause was promulgated to ensure a "fair trial." It is the Respondents through their nefariousness that created all these issues and Concerns and they expect the Court to simply ignore their conduct and dismiss these claims on unsound technical grounds.

Respondents must not be permitted to Keep slithering away and hiding beneath a rock, thereby escaping Consequences for their misconduct.

The failure of Respondents to turn over to Bergrin Brady and Giglio material resulted in his manifest denial of justice. He is a Convicted human being dying in prison (Solitary Confinement) due to the devious misconduct of Respondents. They even have taken great efforts to torture, hurt and bury Bergrin in the ADX, so he Cannot defend himself properly and reveal their crimes.

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P. Bergrin's Claims About Drug Enforcement Administration Special Agent Gregory Hilton Merit Consideration And Are In No Way Procedurally Barred.

This Most Honorable Court Must Ask The Preeminent Question: How does Respondent's Explain Fifty-Four (54) Telephone Communications Over a Relatively Short Time Frame Between Bergrin and Hilton (Emphasis added).

Respondents must concede that every single telephone call, contact and communication occurred in the relevant time period of when Alejandro Bazarro-Castro, initially arrived in New Jersey, as a representative of the Mexican Sinaloa Drug Cartel to distribute one Hundred Kilograms of cocaine; and met Jimenez and Jauregui.

Respondents must also admit that Bergrin and Hilton had no relationship at this time when all the calls occurred, neither professionally nor personally; and that in any event there existed no type of relationship between the parties; nor open criminal cases pending.

The relevant time period for this extensive amount of telephone calls occurred

at the exact same time that Castro commenced his drug trafficking, in New Jersey and met Ramon Jimenez, who then introduced him to his sister Yolanda Jauregui. Jimenez and Jauregui contacted Abdul Williams and Rondre Kelly and Bergrin never had any clues of their actions transactions They made sure of this.

Most importantly, if Bergrin was in any way WHATSOEVER complicit with drug trafficking, as Respondents foolishly hypothesize and allege, then he would never -ever be contacting Hilton. (Emphasize added). That would be suicidal, place Bergrin in a life imprisonment conspiracy and destroy everything in life Bergrin has ever worked for, including his family, impeccable and honorable military career of 30 years, children, grandchildren and law practice. He would lose everything in life he loves.

I Know this Honorable Court gets the entire picture and Can envision the motive for Hilton's amnesia, Respondents deceptions and cover-ups, as well as their wrongful refusal to surrender Bergrin's CONTACT LIST for his cellular telephone. (Emphasis added) To excuse their conduct with the lame excuse of it being a security list is reprehensible.

Bergrin was provided in discovery thousands upon thousands of pages of telephone records. They included approximately a year of records from his law firm, home telephone, cellular telephone, the phone records of at least five alleged co-conspirators and more. There was well over 100,000 pages of telephone records and over a year time period.

What Respondents REFUSED to provide was Bergrin's CONTACT LIST for his cell telephone, which included NAMES to be matched to numbers. (Emphasis added).

Bergrin had over 200 contacts on his list which included but was not limited to family, friends, clients, Courts, Judges Chambers, government offices, City, State and Federal, law enforcement officers, military commanders and fellow soldiers etc... It was impossible for him to remember everyones numbers.

Respondents refused to provide Bergrin's CONTACT LIST for the fallacious excuse of security reasons. (Emphasis added). To an absolute certainty, this deprived Bergrin an opportunity to cross match numbers. Every single call Bergrin made to Hilton was on an unlisted Drug Enforcement Administration telephone and number personally given to Bergrin, by Hilton, to converse and provide valuable information on Castro, his Sinaloa Cartel family and major drug trafficking business. That was the sole and exclusive reason, motive and justification for over 54 communications, between Bergrin and Hilton. Not one other topic was brought up nor discussed. Ever. It was about Castro.

As a side note. There was not a single call between Castro and Bergrin, alleged partners in drug deals.

This Brady violation is enormous and troublesome. Bergrin could not confront Hilton who refused to be honest with these calls. This Court must consider this extraordinary fact.

Crucially, why would Hilton refuse to acknowledge he had

Over 54 calls with Bergrin. No Agent could ever forget even one of these calls, none the less 54. That is totally impossible and beyond comprehension. It could never happen or be true.

Respondent's blindness for truth and justice created this quagmire and they cannot escape responsibility with their "rubber stamp" response. They cannot excuse their conduct, action and failure to turn over critical documentation they possessed.

Their misnomer is their procedural default excuse.

Hilton is a responsible, professional, career agent of the DEA. It is extremely troublesome and even an insult to this Court when Respondent's write that none of these conversations (54) were ever memorialized, reported nor investigated. That is impossible - ludicrous - beyond reason, logic and DEA's Standard Operating Procedures. Bergrin provided substantial information relevant to a major drug cartel trafficker and Hilton cannot remember even one call. This must be unacceptable and inexcusable to this Court.

All this extremely material evidence was deliberately suppressed by Respondent's and thwarted any ability Bergrin had in receiving a "fair and just trial"

If Bergrin was provided the "contact list" he would have compelled Hilton to the witness stand, refreshed his recollection and made jurors aware of the relevant Castro time frame.

Bergrin would have been vindicated of the drug charges. The exculpatory material espoused Supra was mandamus, extraordinary and destroys Respondents case.

Respondents must be held responsible for their actions and fundamental principles of justice maintained. Their failure to act within our mandates of seeking justice had deliterous effects to Bergrin and resulted in wrongful convictions and multiple life sentences. There is nothing more important to our system of justice!

Respondents ran from the truth. Their misconduct cannot be permitted nor tolerated.

XIV. Ground Fourteen Was Never Procedurally Defaulted And Is Meritorious

Bergrin has maintained, continually expressed and never faltered nor equivocated and has cried out that he is "ACTUALLY INNOCENT." He never stopped fighting to prove his innocence and until the dark of his death never will.

The merits of this claim has been methodically-explicitly voiced. Within the sanctity of this claim is the unmistakable and devout pleas of "actual innocence" Clearly. For Respondents to even attempt to fictitiously disavow Bergrin's claim with their "rubber stamp" preposterous cries of procedural default is asinine; but not surprising for them. All they ever cared about was winning. The rules of the game never mattered.

Respondents' opposition submission is devoid of even a scintilla of factual argument disproving Bergrin's claim. They cannot argue, prove or provide any evidence controverting Bergrin's facts. They are all part of history.

Independent Special Prosecutor, Howard Shapiro, a former Assistant U.S. Attorney, Southern District of N.J. and former counsel to former F.B.I. Director, Louis Freeh was handed an indictment against Bergrin by Alito, Chertoff and Paul Fishman. Subsequent to Shapiro conducting an intense investigation and scrutinization of the evidence he requested it be dismissed. He knew the charges were both false and retaliatory malicious prosecution. He called the charges "bullshit."

In Shapiro's 14 page request to Chief U.S. District Court Judge, Joseph Rodriguez, he acknowledged that Bergrin's indictment resulted from incredulous, perjured testimony and that the two cooperating witnesses were incredulous. He conceded that Respondent's witnesses planned, schemed and plotted against Bergrin in order to receive the benefits of cooperation. Sound familiar? He asked the Honorable Chief Judge to dismiss all charges, "in the interests of justice." All charges in the continued indictment were dismissed. Respondents put Bergrin through living hell and got their pound of flesh from him. The indictment was malicious retaliation because Bergrin testified as a defense witness and against Respondents. There was no coincidence. The timing proves this.

Respondents cannot refute nor dispute Bergrin's revelation in the most important torture and prisoner abuse case in history; that the U.S. Government Ordered it. A fact originally denied by the D.O.J., Department of Defense, CIA and White House. In Objective Iron Triangle, Bergrin proved defenseless enlisted soldiers were being accused of murder and scapegoated; because Bergrin

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and these soldiers presented false claims that the Samarra Chemical Plant, in Iraq contained weapons of mass destruction. In the Leon Parker Tank battle and friendly death, again Bergin vigorously accused the White House of persecuting Parker and scapegoating him.

Bergin's defense of Parker appeared on the front page of the military's number one newspaper, Stars and Stripes. It delineated the white houses scapegoating of American Soldiers to appease the newly formed Iraqi government and Arab partners.

The Leon Parker friendly fire homicide was the last straw. Bergrin travelled to Iraq and Afghanistan six times and proved that the soldiers he defended and loved were being scapegoated, following Orders and that the highest levels of our Government violated international laws on torture, and rules of engagement; and were attempting to conceal their misconduct through the young soldiers on the battlefield. It was horrible. Bergrin refused to sacrifice even one American Soldier to protect the highest levels of our government including the fabrication of there being weapons of mass destruction in Iraq; thereby justifying the invasion of Iraq by the American Government.

Respondents cannot disprove, claim falsity and allevate their elaborate participation in Bergrin's retaliation. It commenced with the Office of the United States Attorney, District of New Jersey and ended, in Bergrin's indictment, conviction and sentence. They could attempt to assert frivolity but without any ability to prove even one accusation false, they lose all credibility. Every fact Bergrin asserts can be proven!

Bergrin has painstakingly and meticulously memorialized and set forth facts and proven his points. They are inescapable and cannot be disproven. The U.S. torture memos are now public record.

Bergrin is being punished, castigated and lynched because of his invocation of his legally protected rights: to defend wholeheartedly his clients, articulate his legal and factual opinions and defend to his death, the principles promulgated by our Founding Fathers, in the United States Constitution. Bergrin never left a fellow soldier behind.

Respondents are unable to justify the events Bergrin has endured. They cannot simply assert that they exercised discretionary prosecutorial functions. The events and incidents are chronologically related and cannot be coincidental. They were schemed, planned and plotted; and the plethora of false and fictitious witnesses, subborned perjury, prosecutorial misconduct and nefariousness all supports Bergrin's position. Their actions against Bergrin, especially in this try beseeches them.

IF RESPONDENTS COULD DISPROVE BERGRINS CLAIMS OR PROVE ANY PART OF THEM FALSE - THEN THEY WOULD HAVE DONE IT. THEY

CANNOT. (Emphasis added) Every fact and incident revealed is confirmed by Court records, documentation and even history.

Bergrin has clearly, precisely and logically-methodically set forth sequential facts and details which enhanced Respondents malicious and retaliatory prosecution of him. For Respondents to retardedly write on page 46, of their Supplemental Reply that Bergrin cannot assume their knowledge about Abu Ghraib is pathetic and unbelievable. Their lack of veracity is incredible.

The publicity surrounding the atrocities and war crimes at Abu Ghraib and Bergrin's role in exposing it and attacking the credibility of our Government, was common knowledge, especially at Respondents Office former United States Attorney Michael Chertoff and United States Attorney (Brown), Samuel Alito, who rose to our Highest Court were intricately involved. Chertoff was the Chief of the D.O.J. Criminal Division who redefined torture and approved the White House's Torture Memo permitting what occurred at Abu Ghraib and was in clear violation of International Law and Treaties; Alito spoke at the Federalist Society and wrongfully convinced the White House that by following the Torture Memos, the CIA, FBI, NSA and Soldiers were not violating any laws or treaties.

Respondents knew that Bergrin vociferously attacked the scapegoating of our soldiers, obtained a Court Order precluding President Bush from razing the prison and revealed the White House, United States Attorney General, DOJ, FBI and others knowledge and condonation of torture. These acts, based on Bergrin's trade and legal right lead to massive world-wide condemnation and investigations.

WHY DO RESPONDENTS CONTINUALLY

lie to this Court. That is when you Know they are being deceptive and incapable of defending Bergrin's claims. (Emphasis added).

Bergrin has shown a clear and unequivocal connection and nexus between this Indictment, Sub-judice and the events leading up to this case. There can no longer be any question about this.

On page 47, of Respondent's outrageously false supplement, they post that Bergrin ordered the murder of a cooperating witness. This Court, even giving Respondent all favorable inferences Knows this is totally false in the McCray case it was Young who swore at United States v. Baskerville, in 2007, that he made the decision to kill McCray after learning that he crossed a Baskerville. He further testified at that trial that Curry, but then Baskerville gave the order. Facts he also admitted, reluctantly at Bergrin's trials.

In 2009 and 2013, Young testified that the alleged orders to kill McCray were given by others and NOT Bergrin; and that they were given subsequent to Bergrin leaving this continued meeting.

If Respondents are speaking about the alleged Oscar Cordova-Esteves plot. Cordova

Came to Bergdahl with the plots, schemes, plans and underhanded and incessantly suggested the actions. Bergdahl NEVER initiated any plots or campaigns to do anything. It was Cordova and only Cordova. Bergdahl acquiesced, to prolong contact with Cordova and receive additional legal funds (Emphasis added).

When Respondents get desperate and frustrated by the potential for the truth being exposed, they alter, change and misrepresent facts. Additionally, they contrive, fabricate and seek to personally attack Bergdahl. That depicts their cowardice.

They cannot hide behind their shields. How can they dispute Abu Ghraib and its historically proven facts. How can they deny that when Bergdahl made the firm decision to defend with all his heart and soul, his fellow soldiers at Abu Ghraib, Objective Iron Triangle and the Parker Tank Command Homicide, Respondents hand delivered him a letter, executed by The Secretary of the Department of Defense and threatening him from going to Iraq and Afghanistan. The letter was explicit and fallaciously labelled "Hold Harmless Agreement" even though Bergdahl was a Career Soldier. Bergdahl was told that if he was to accept representation in these cases he is risking substantial chances of death, disablement, disfigurement, capture by a hostile enemy and never seeing his loved ones again. Bergdahl tore up the letter and returned 6 times to Iraq and Afghanistan to defend his fellow soldiers and let them know he would never desert nor

abandon them in their times of need.

How can Respondents refute what happened to the young soldiers, The Band of Brothers of the 101st Airborne Division at Objective Iron Triangle; whom were given the Rule of Engagement "to kill every military age male" on the Island of Samarra, Iraq. But then they did just that and were charged with capital murder. All because they defied commands and foiled the government's chance to justify the invasion of Iraq.

JUDGE MARTINI, District of New Jersey, Icon, NEVER made a judicial finding that Bergrin's retaliatory claim was frivolous. (Emphasis added) He stopped Bergrin's mentioning of Abu Ghraib because he opined that he did not want to retry that case and that Bergrin should concentrate on the single charge of the McGray homicide. That is why he severed all other counts. He knew that Respondents were untrustworthy and their case would essentially be a propensity claim, which would be prejudicial and violative of Bergrin's Due Process Rights.

For Respondents to defend their clueless position on malicious retaliatory prosecution by even making false supporting claims by a Judge, is despicable.

Neither Bergrin nor any other Petitioner could ever make a stronger case for Vindictive and retaliatory prosecution.

Bergrin has meticulously, methodically and copiously set forth a deliberate scheme and plan by Respondents to punish him for exercising Constitutionally permissive and protected conduct.

Bergrin was excoriated and tortured through prosecution and this case, based exclusively on his devout commitment to the Constitution. His fundamental rights must be protected by this Court.

CONCLUSION

Bergrin has wholeheartedly demonstrated and clearly proven, each and every claim he averred. Respondent's have not set forth an iota, shred nor scintilla of legal nor factual disclaimers nor justification for This Honorable Court to deny his claims.

An evidentiary hearing must (Emphasis added) be held in the interests of justice and in order to avoid an manifest denial of justice.

The Claims Grounds of Bergrin are meritorious and well founded in both fact and law. (Emphasis added).

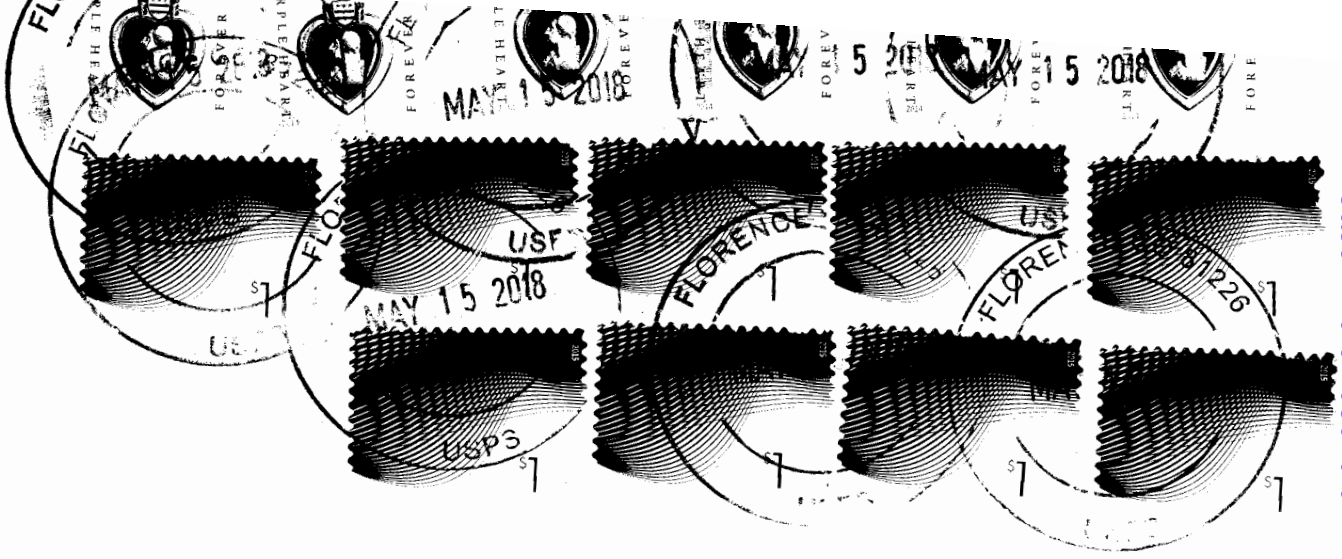
Bergrin cries out as an innocent man and prays that the overwhelming support espoused herein Convinces This Honorable Court to grant his motion.

Most respectfully submitted,

Paul Bergrin

PAUL W. BERGRIN

Dated: April 22, 2018.



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