Petition to U.S. Supreme Court for Writ of Mandamus

IN THE
SUPREME COURT OF THE UNITED STATES

Case No. 12-6561

In re DR. LINDA LORINCZ SHELTON, *Petitioner*

DR. LINDA LORINCZ SHELTON,
Defendant - Petitioner,

v.

UNITED STATES SUPREME COURT CLERK,
ILLINOIS SUPREME COURT,
ILLINOIS APPELLATE COURT FIRST DISTRICT,
CIRCUIT COURT OF COOK COUNTY
AND JUDGE MICHAEL MCHALE,
Plaintiff - Respondent.

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The Petitioner has previously been granted leave to proceed in forma pauperis in the following court regarding this case: The Circuit Court of Cook County

Petitioner's affidavit or declaration in support of this motion is attached hereto.

Dr. Linda Lorincz Shelton

Dr. Linda Lorincz Shelton

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Plaintiff - Respondent.

Petition for Writ of Mandamus

LINDA LORINCZ SHELTON
9905 S. Kilbourn Ave
Oak Lawn, IL 60453-3539
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Petitioner, Pro Se

QUESTIONS PRESENTED FOR REVIEW

1. May the United States Supreme Court Clerk refuse a habeas petitioner the right to file a Petition for Certiorari to review a denial by the Cook County Circuit Court of a Petition for Writ of habeas Corpus, allegedly for failure to exhaust state remedies, despite the fact that the Illinois Supreme Court illegally barred her from filing any documents (thus waiving the State of Illinois' right to insist on exhaustion of state remedies), that the Illinois Appellate Court dismissed direct appeal due to failure to pay fees, after denying petition for in forma pauperis status of indigent defendant without explanation in defiance of Illinois Supreme Court [indigency] Rule 298 and previous United States Supreme Court holdings in *Smith v. Bennett* and *Marshall v. Bennett,* 365 U.S. 708, 81 S.Ct. 895 (1961), and that this refusal is in violation of the United States' Supreme Court holdings and dicta in the following line of cases, which stated that, in Illinois due to there being no method to appeal a denial of a Petition for Writ of Habeas Corpus by a local County Court [appeal to Illinois Supreme Court is not available] that the only possible direct appeal lies with the United States Supreme Court: *Young v. Ragen,* 337 U.S. 235, 69 S.Ct. 1073 (1949); *People v. Loftus,* 400 Ill. 432, 81 N.E.2d 495 (1948), in response to order of Court in *Loftus v. People of State of Illinois,* 334 U.S. 804, 68 S.Ct 1212 (1948); *Woods v. Niersheimer,* 328 U.S. 211, 66 S.Ct. 996 (1946); *White v. Ragen* and *Lutz v. Same,* 324 U.S. 760, 65 S.Ct. 978 (1945)?

2. May the Illinois Supreme Court bar an indigent, disabled, criminal defendant from filing in their court any Petition or Motion (including complaint for supervisory order, habeas petition, or mandamus) because she did not pay three previous fees in petitions for supervisory orders, for which she applied for in forma pauperis status as an indigent, disabled, person, on government approved SSI, and was denied in forma pauperis status without explanation in each case and the Illinois Appellate Court dismissed direct appeal due to failure to pay fees, after denying petition for in forma pauperis status of indigent defendant without explanation, in violation of *Smith v. Bennett* and *Marshall v. Bennett,* 365 U.S. 708, 81 S.Ct. 895 (1961) and Illinois Supreme Court [indigency] Rule 298, as well as the due process clause under the Fourteenth Amendment?

3. May the Illinois Appellate Court dismiss a criminal appeal because the indigent, disabled, defendant, on government SSI, did not pay filing fees, after the Illinois Appellate Court denied application for in forma pauperis status, without explanation, in is this a violation of *Smith v. Bennett* and *Marshall v. Bennett,* 365 U.S. 708, 81 S.Ct. 895 (1961) and Illinois Supreme Court [indigency] Rule 298 as well as the due process clause of the Fourteenth Amendment?

4. Does the fact that there is no statute or rule in Illinois allowing direct appeal of denial of a petition for writ of habeas corpus from county court require that the

only appeal available goes directly to the U.S. Supreme Court as per previous U.S. Supreme Court holdings in line of cases *Niersheimer, Regan, and Loftus*[1]?

5. May the Circuit Court of Cook County find a person in criminal contempt of court because they filed a next-friend habeas petition as a **non**-attorney or is this a violation of the suspension clause, Illinois Habeas Statutes, 735 ILCS Article X, and United States Supreme Court holdings and dicta in *Boumediene v. Bush*, 553 U.S. 723, 128 S.Ct 2229 (2008) and *U.S. ex rel. Toth v. Quarles*, 350 U.S. 11, 76 S.Ct 1 (1955), as well as the due process clause under the Fourteenth Amendment?

6. May the Circuit Court of Cook County find a person in criminal contempt of court because the Defendant vigorously verbally defended her filing of a next-friend habeas petition by stating that the judge's decision that such filing is illegal is an act of treason per *U.S. v. Will*, 449 U.S. 200 (1980) which affirmed the statement of Chief Justice Marshall in *Cohens v. Virginia*, 6 Wheat. 264, 5 L.Ed 257 (1821) that it is "treason on the constitution" when a judge "usurps [the jurisdiction] that which is not given" – referring to acting outside the law or violating the law including statutes and higher court holdings; and that it is a "war on the constitution" when a judge violates his oath of office to support it [including supporting statutes of a state due process], *Cooper v. Aaron*, 358 U.S. 1, 78 S.Ct. 1401(1958) or is this vigorous defense allowed under the Court's holding in *Sacher v United States*, 343 U.S.1 (1952)?

7. May the Circuit Court of Cook County summarily sentence a defendant to 16 months in jail as a result of consecutive sentences on three separate "cases" [defendant alleges "counts"] of criminal contempt, brought during one extended hearing, with one sentence being imposed on a day other than the day of alleged contempt, summarily without notice, representation by counsel, or any opportunity for a trial with full due process rights in violation of United States Supreme Court holdings *Bloom v. Illinois*, 391 U.S. 194 (1968) and in violation of Illinois sentencing statutes requiring concurrent sentences for the same conduct or acts occurring during the same state of mind, 720 ILCS 5/3-3, as well as in violation of the Fourteenth Amendment Due Process Clause?

8. May the Circuit Court of Cook County at summary sentencing order denial of statutory good time jail credits, 730 ILCS 130, on a finding of criminal contempt, when this statute gives the Cook County Jail Administrators authority to remove good time jail credits in a due process evidentiary hearing and not the judge or is this a violation of Illinois case law, *Kaeding v. Collins*, 281 Ill.App.3d 919 (1996) and due process under the Fourteenth Amendment?

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[1] *Young v. Ragen*, 337 U.S. 235, 69 S.Ct. 1073 (1949); *People v. Loftus*, 400 Ill. 432, 81 N.E.2d 495 (1948), in response to order of Court in *Loftus v. People of State of Illinois*, 334 U.S. 804, 68 S.Ct 1212 (1948); *Woods v. Niersheimer*, 328 U.S. 211, 66 S.Ct. 996 (1946); *White v. Ragen* and *Lutz v. Same*, 324 U.S. 760, 65 S.Ct. 978 (1945)

9. May a judge who is embroiled in controversy with litigant refuse to recuse himself to be replaced by another judge in a contempt case or is this a violation holding in *Mayberry v. Pennsylvania,* 400 U.S. 455 (1971) and of due process under the Fourteenth Amendment?

10. Is it constitutional to sentence an alleged contemnor for more than one count of contempt representing same motive or state of mind during one trial or case, or is this a violation of holding in *People v Brown,* 235 Ill.App.3d 945 (1992), a due process violation under the Fourteenth Amendment?

11. Is it constitutional to make a finding of criminal contempt on one day and summarily sentence the contemnor on another day without a due process trial or is this a violation of Illinois Supreme Court decision *In re Marriage of Betts,* 200 Ill. App. 3d 26 (1990) and therefore a violation of due process rights under the Fourteenth Amendment?

12. Are a judge's order void *ab initio* and subsequently when he violates State statutes regarding substitution of judge as a right, 735 ILCS 5/2-1001(a)(2), as well as *Jiffy Lube International, Inc., V. Agarwal,* 277 Ill.App.3d 722, 214 Ill.Dec. 609, 661 N.E.2d 463 (1996), making this also a violation of the due process clause of the Fourteenth Amendment?

13. Are a judge's orders void when the orders are made without jurisdiction as per holding in *United States v. United Mine Workers of America,* 330 U.S. 258 (1947), as well as a due process violation under the Fourteenth Amendment?

PARTIES

[X] All parties **do not** appear in the caption of the case on the cover page A list of all parties to the proceeding in the court whose judgment is the subject of the petition, not appearing on cover is as follows:

The Honorable Judges of the Illinois Supreme Court
Supreme Court Building
200 E. Capitol Avenue
Springfield, IL 62701
- Respondent

The Honorable Judges of the First District Illinois Appellate Court
160 N. LaSalle, 14th Floor
Chicago, IL 60601
- Respondent

Honorable Judge Michael McHale, Acting Presiding Criminal Court Judge Circuit Court of Cook County
2600 S. California Ave., Courtroom 101
Chicago, IL 60608
- Respondent

Honorable Judge Timothy Evans, Acting as CEO of the Circuit Court of Cook County
50 W. Washington, Rm 2600
Chicago, IL 60602
-Respondent

Illinois Attorney General Lisa Madigan, State of Illinois
100 W. Randolph
Chicago, IL 60601- Counsel for Respondents

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TABLE OF AUTHORITIES

PRIOR OPINIONS

The decisions of the Clerk of the United States Supreme Court refusing to file the Petition for Writ of Certiorari are SCA[2] AAA1-2. The orders of the Illinois Supreme Court banning filing of any documents are SCA MM1-3. The order of the Illinois Appellate Court denying leave to appeal in forma pauperis and banning filing any papers until fees are paid is SCA LL. The order of the United States Seventh Circuit Court of Appeals banning any filing in forma pauperis is SCA TT. The order and opinion of the Federal District Court dismissing Petition for Writ of Habeas Corpus is SCA SS. The orders finding Shelton in contempt of court and sentencing orders from Judge McHale are SCA B, E, F, G, and DD. Review of all of these decisions, orders and opinions is sought. The orders denying first and second petition for writ of habeas corpus by Judges Porter and McHale respectively are SCA A and SCA DD (Transcript is SCA CC7-9). None of these opinions are published to the best of Shelton's knowledge and belief.

[2] SCA = Supreme Court Appendix

JURISDICTION

Petitioner seeks this Court's review as supervisor of all courts in the land under the United States Constitution Article II (regarding federal rights for due process under the Fifth and Fourteenth Amendments) and under 28 U.S.C. § 1651(a) of orders:

1) by the Clerk of the U.S. Supreme Court, **erroneously** entered on August 17 & October 8, 2010, under U.S. Supreme Court Rule 1.1(SCA AAA) refusing to file her Petition for Writ of Certiorari twice **in violation of the U.S. Supreme Court holdings** in *Niersheimer, Regan,* and *Loftus* (*supra in Question I*),

2) by the Illinois Appellate Court, entered on January 20, 2011 denying Petition for Indigency in criminal appeal thus impairing appeal and **in violation of this Honorable Court's orders, regarding waiving fees due to indigency in criminal appeals**, in *Smith v. Bennett and Marshall v. Bennett*, 365 U.S. 708, 81 S.Ct. 895 (1961) and Illinois Supreme Court [indigency] Rule 298 (SCA LL),

3) executed by the Clerk of the Illinois Supreme Court on April 15, 2010 – based on **standing** orders of the Illinois Supreme Court entered on May 23, 1991 denying Shelton's right to file for leave to appeal again **in violation of this Honorable Court's orders** in *Smith v. Bennett and Marshall v. Bennett*, 365 U.S. 708, 81 S.Ct. 895 (1961) and Illinois Supreme Court's own [indigency] Rule 298 (SCA MM),

4) by the Circuit Court of Cook County entered on May 11, 2010 and June 10, 2010, modified on October 1, 2010 finding Petitioner ("Shelton") in criminal contempt of court three times (three "cases") during one continued court hearing on next-friend habeas petition which the court has two years later still refused to hear, and **then summarily**

sentencing Shelton to 16 months in jail, in violation of numerous U.S. Supreme Court holdings described in this pleading (SCA B, E, F, G, SCA CC7-9 and DD) ,

5) by the Federal District Court for the Northern District of Illinois entered on September 28, 2010 (SCA SS) **refusing to hear a petition for writ of habeas corpus [actually one handwritten filing that Shelton wrote from jail to cover all cases civil and criminal and habeas due to the fact that Shelton was denied access to any more paper, pen, mailing supplies – i.e. access to the court]** because Shelton did not exhaust state remedies (a false statement in violation of facts and *Niersheimer, Regan,* and *Loftus* (*supra*)) per 28 U.S.C. § 2241 and 1331

6) by the United States Seventh Circuit Court of Appeals

a) entered on August 9, 2006 **[by a three judge panel without any due process evidentiary hearing in violation of the Fifth Amendment based on hearsay and defamation of Shelton's character, as well as false statements about Shelton's pleadings]** fining Shelton $2400 as an indigent person and barring her from filing any pleadings in forma pauperis despite her indigent status on SSI (SCA TT), and

b) March 31, 2010 and April 8, 2010 illegal purported "Executive Committee" orders (**actually ex parte orders solely by Judge Holderman without any due process hearing in violation of the Fifth Amendment or meeting of the Executive Committee or 7th Circuit Council whatsoever**)

i) barring Shelton from communicating with the Clerk of the court by phone or in writing (SCA TT5, last paragraph),

ii) barring Shelton from the Dirksen federal building or using the library or ANY services in the building except for the 27th floor 7th Circuit Court (SCA TT3-6),

iii) barring Shelton from filing any federal suits, complaints or petitions (SCA TT3-6), and

iv) making the **FALSE** and **DEFAMATORY** statements that above orders are warranted as Shelton is disruptive (false) and a "litigant who was convicted and served time in prison for the felony of aggravated battery of a correctional officer" (SCA TT 3, 7, 8, 10, 12, 17) [although this is true, Shelton's **wrongful and malicious conviction is legally void *ab initio* due to a fatally flawed indictment and perjury by the only state witness**, that has not yet been acknowledged by any court due to judicial misconduct and for which a Petition for Writ of Mandamus is being prepared to be presented to this Hon. Court[3], as well as a **felony conviction is not a legal basis for barring someone from filing in federal court or using services in a federal building such as a law library**, and

v) making the **FALSE** and **DEFAMATORY** statements that Shelton "was diagnosed, as reported by her personal psychiatrist, as having a 'psychiatric condition' resulting in an 'altered mental state' and in her 'misconception of ongoing events,'" as the basis for barring her from filing in federal court or using services in the federal building such as the law library. Shelton's "mental illness" consists of non-violent flashbacks due to post-traumatic-stress-disorder due to Shelton being beaten by police and illegally

[3] See Appendix YY for details

drugged causing her to go into a respiratory arrest, then beaten again where the officer, Sgt. Salemi then falsified his records, committed perjury and thereby caused the above mentioned wrongful conviction for "aggravated battery of an officer" for allegedly "bumping" an officer with Shelton's wheelchair, causing abrasions and resulting in a two year sentence in violation of the U.S. Supreme Court holdings in *Cunningham v. California*, 127 S. Ct. 856 (2007). (see letter by Dr. Galatzer-Levy SCA UU, [purportedly quoted by Judge Holderman in his orders, SCA TT] who treated Shelton for PTSD which affirms Shelton's above statement and eviscerates Judge Holderman's false and defamatory statements which he used to make the above illegal ex parte orders.)

This petition is timely filed because the original Petition for Writ of Certiorari (SCA BBB) was timely filed with the U.S. Supreme Court Clerk as it was filed within 90 days of orders of Judges Porter and McHale on June 9, 2010 and October 1, 2010 respectively, but was illegally rejected in violation of this Hon. Court's holdings in *Niersheimer, Regan* and *Loftus*[4] by the U.S. Supreme Court Clerk twice on August 17 and October 8, 2010. Therefore, a mandamus petition is appropriate to correct this Hon. Court Clerk's error, as well as to uphold the Constitution and the United States' rules of law by this Hon. Court reviewing the above.

[4] *Young v. Ragen*, 337 U.S. 235, 69 S.Ct. 1073 (1949); *People v. Loftus*, 400 Ill. 432, 81 N.E.2d 495 (1948), in response to order of Court in *Loftus v. People of State of Illinois*, 334 U.S. 804, 68 S.Ct 1212 (1948); *Woods v. Niersheimer*, 328 U.S. 211, 66 S.Ct. 996 (1946); *White v. Ragen* and *Lutz v. Same*, 324 U.S. 760, 65 S.Ct. 978 (1945)

In addition this petition is timely because void orders (including the U.S. Supreme Court Clerk's "orders" illegally refusing to file the Petition for Writ of Certiorari, the unconstitutional Illinois Appellate and Supreme Courts' decisions to refuse to allow direct criminal appeal until fees are paid by an indigent person, and the erroneous Federal District Court Decision that State remedies have not been exhausted, as well as the lawless 7th Circuit Court decisions done in acts of false statements, defamation of character, and denial of due process), can be appealed at any time in any court directly or collaterally [5] as this is well-settled law. (*In Re Estate of Steinfield*, 630 N.E.2d 801, certiorari denied, See also *Steinfeld v. Hoddick*, 513 U.S. 809 (Ill. 1994), *Long v. Shorebank Development Corp.*, 182 F.3d 548 (C.A. 7 Ill. 1999), 12 Moore's Federal Practice § 60.44[c]; and *People v. Sales*, 551 N.E.2d 1359 (Ill.App. 2 Dist. 1990), *People v. Rolland*, 581 N.E.2d 907 (Ill.App. 4 Dist. 1991), *In re Adoption of E.L.*, 733 N.E.2d 846, (Ill. App. 1 Dist. 2000)).

Also, **plenary power of this Honorable Court allows it to extend the time to hear Petitions regarding void orders due to actual innocence** regarding these three (3) criminal contempt convictions, claimed by Shelton and

[5] Courts have been exceedingly lenient in defining the term "reasonable time," with regard to voidness challenges. In fact, it has been oft-stated that, for all intents and purposes, a motion to vacate a default judgment as void "may be made at any time." 12 Moore's Federal Practice § 60.44[c]; *McLearn v. Cowen & Co.*, 660 F.2d 845, 848 (2d Cir.1981); *Crosby v. The Bradstreet Co.*, 312 F.2d 483, 485 (2d Cir.1963) (judgment vacated as void thirty years after entry).

due to extraordinary circumstances and impossibility of obtaining relief in any other court in this land as described in detail in this pleading (U.S. Supreme Court Rules 20(4)(a) re: §1651 and §2241).

Therefore, this Petition for Writ of Mandamus is appropriate.

Jurisdictional basis in regards to appeal:

1) for Illinois Appellate Court is Illinois Supreme Court Rule 602-609 (direct appeal procedure) and Illinois Constitution Article VI, Section 6,
2) for the Illinois Supreme Court is Illinois Supreme Court Rule 315, and Illinois Constitution, Article VI, Section 4,
3) for the Seventh Circuit is 28 U.S.C. § 1651(a) and Fed. R. App. P. 21(a), and
4) for the District Court is 28 U.S.C. § 2241 and 1331.

to the conversation is committing, is about to commit, or has committed a criminal offense against the person or a member of his or her immediate household, and there is reason to believe that evidence of the criminal offense may be obtained by the recording;

725 ILCS 5/104-10

Sec. 104-10. Presumption of Fitness; Fitness Standard.) A defendant is presumed to be fit to stand trial or to plead, and be sentenced. A defendant is unfit if, because of his mental or physical condition, he is unable to understand the nature and purpose of the proceedings against him or to assist in his defense.

725 ILCS 5/104-11

Sec. 104-11. Raising Issue; Burden; Fitness Motions.) (a) The issue of the defendant's fitness for trial, to plead, or to be sentenced may be raised by the defense, the State or the Court at any appropriate time before a plea is entered or before, during, or after trial. When a bonafide doubt of the defendant's fitness is raised, the court shall order a determination of the issue before proceeding further.

(b) Upon request of the defendant that a qualified expert be appointed to examine him or her to determine prior to trial if a bonafide doubt as to his or her fitness to stand trial may be raised, the court, in its discretion, may order an appropriate examination. However, no order entered pursuant to this subsection shall prevent further proceedings in the case. An expert so appointed shall examine the defendant and make a report as provided in Section 104-15. Upon the filing with the court of a verified statement of services rendered, the court shall enter an order on the county board to pay such expert a reasonable fee stated in the order.

(c) When a bonafide doubt of the defendant's fitness has been raised, the burden of proving that the defendant is fit by a preponderance of the evidence and the burden of going forward with the evidence are on the State. However, the court may call its own witnesses and conduct its own inquiry.

(d) Following a finding of unfitness, the court may hear and rule on any pretrial motion or motions if the defendant's presence is not essential to a fair determination of the issues. A motion may be reheard upon a showing that evidence is available which was not available, due to the defendant's unfitness, when the motion was first decided.

725 ILCS 5/104-12

Sec. 104-12. Right to Jury. The issue of the defendant's fitness may be determined in the first instance by the court or by a jury. The defense or the State may demand a jury or the court on its own motion may order a jury. However, when the issue is raised after trial has begun or after conviction but before sentencing, or when the issue is to be redetermined under Section 104-20 or 104-27, the issue shall be determined by the

court.

725 ILCS 5/104-13 22

Sec. 104-13. Fitness Examination.

(a) When the issue of fitness involves the defendant's mental condition, the court shall order an examination of the defendant by one or more licensed physicians, clinical psychologists, or psychiatrists chosen by the court. No physician, clinical psychologist or psychiatrist employed by the Department of Human Services shall be ordered to perform, in his official capacity, an examination under this Section.

(b) If the issue of fitness involves the defendant's physical condition, the court shall appoint one or more physicians and in addition, such other experts as it may deem appropriate to examine the defendant and to report to the court regarding the defendant's condition.

(c) An examination ordered under this Section shall be given at the place designated by the person who will conduct the examination, except that if the defendant is being held in custody, the examination shall take place at such location as the court directs. No examinations under this Section shall be ordered to take place at mental health or developmental disabilities facilities operated by the Department of Human Services. If the defendant fails to keep appointments without reasonable cause or if the person conducting the examination reports to the court that diagnosis requires hospitalization or extended observation, the court may order the defendant admitted to an appropriate facility for an examination, other than a screening examination, for not more than 7 days. The court may, upon a showing of good cause, grant an additional 7 days to complete the examination.

(d) Release on bail or on recognizance shall not be revoked and an application therefor shall not be denied on the grounds that an examination has been ordered.

(e) Upon request by the defense and if the defendant is indigent, the court may appoint, in addition to the expert or experts chosen pursuant to subsection (a) of this Section, a qualified expert selected by the defendant to examine him and to make a report as provided in Section 104-15. Upon the filing with the court of a verified statement of services rendered, the court shall enter an order on the county board to pay such expert a reasonable fee stated in the order.

725 ILCS 5/104-14

Sec. 104-14. Use of Statements Made During Examination or Treatment.) (a) Statements made by the defendant and information gathered in the course of any examination or treatment ordered under Section 104-13, 104-17 or 104-20 shall not be admissible against the defendant unless he raises the defense of insanity or the defense of drugged or intoxicated condition, in which case they shall be admissible only on the issue of whether he was insane, drugged, or intoxicated. The

refusal of the defendant to cooperate in such examinations shall not preclude the raising of the aforesaid defenses but shall preclude the defendant from offering expert evidence or testimony tending to support such defenses if the expert evidence or testimony is based upon the expert's examination of the defendant.

(b) Except as provided in paragraph (a) of this Section, no statement made by the defendant in the course of any examination or treatment ordered under Section 104-13, 104-17 or 104-20 which relates to the crime charged or to other criminal acts shall be disclosed by persons conducting the examination or the treatment, except to members of the examining or treating team, without the informed written consent of the defendant, who is competent at the time of giving such consent.

(c) The court shall advise the defendant of the limitations on the use of any statements made or information gathered in the course of the fitness examination or subsequent treatment as provided in this Section. It shall also advise him that he may refuse to cooperate with the person conducting the examination, but that his refusal may be admissible into evidence on the issue of his mental or physical condition.

725 ILCS 5/104-15

Sec. 104-15. Report.) (a) The person or persons conducting an examination of the defendant, pursuant to paragraph (a) or (b) of Section 104-13 shall submit a written report to the court, the State, and the defense within 30 days of the date of the order. The report shall include:

(1) A diagnosis and an explanation as to how it was reached and the facts upon which it is based;

(2) A description of the defendant's mental or physical disability, if any; its severity; and an opinion as to whether and to what extent it impairs the defendant's ability to understand the nature and purpose of the proceedings against him or to assist in his defense, or both.

(b) If the report indicates that the defendant is not fit to stand trial or to plead because of a disability, the report shall include an opinion as to the likelihood of the defendant attaining fitness within one year if provided with a course of treatment. If the person or persons preparing the report are unable to form such an opinion, the report shall state the reasons therefor. The report may include a general description of the type of treatment needed and of the least physically restrictive form of treatment therapeutically appropriate.

(c) The report shall indicate what information, if any, contained therein may be harmful to the mental condition of the defendant if made known to him.

CORRECTIONS ii, 26

730 ILCS 130/ County Jail Good Behavior Allowance Act.

730 ILCS 130/3

Sec. 3. The good behavior of any person who commences a sentence of confinement in a county jail for a fixed term of imprisonment after January 1, 1987 shall entitle such person to a good behavior allowance, except that: (1) a person who inflicted physical harm upon another person in committing the offense for which he is confined shall receive no good behavior allowance; and (2) a person sentenced for an offense for which the law provides a mandatory minimum sentence shall not receive any portion of a good behavior allowance that would reduce the sentence below the mandatory minimum; and (3) a person sentenced to a county impact incarceration program; and (4) a person who is convicted of criminal sexual assault under subdivision (a)(3) of Section 11-1.20 or paragraph (a)(3) of Section 12-13 of the Criminal Code of 1961, criminal sexual abuse, or aggravated criminal sexual abuse shall receive no good behavior allowance. The good behavior allowance provided for in this Section shall not apply to individuals sentenced for a felony to probation or conditional discharge where a condition of such probation or conditional discharge is that the individual serve a sentence of periodic imprisonment or to individuals sentenced under an order of court for civil contempt.

Such good behavior allowance shall be cumulative and awarded as provided in this Section.

The good behavior allowance rate shall be cumulative and awarded on the following basis:

The prisoner shall receive one day of good behavior allowance for each day of service of sentence in the county jail, and one day of good behavior allowance for each day of incarceration in the county jail before sentencing for the offense that he or she is currently serving sentence but was unable to post bail before sentencing, except that a prisoner serving a sentence of periodic imprisonment under Section 5-7-1 of the Unified Code of Corrections shall only be eligible to receive good behavior allowance if authorized by the sentencing judge. Each day of good behavior allowance shall reduce by one day the prisoner's period of incarceration set by the court. For the purpose of calculating a prisoner's good behavior allowance, a fractional part of a day shall not be calculated as a day of service of sentence in the county jail unless the fractional part of the day is over 12 hours in which case a whole day shall be credited on the good behavior allowance.

If consecutive sentences are served and the time served amounts to a total of one year or more, the good behavior allowance shall be calculated on a continuous basis throughout the entire time served beginning on the first date of sentence or incarceration, as the case may be.

730 ILCS 130/3.1 **[procedure for revoking good time jail credits]** 26

Sec. 3.1. (a) Within 3 months after the effective date of this amendatory Act of 1986, the wardens who supervise institutions under this Act shall meet and agree upon uniform rules and regulations for

behavior and conduct, penalties, and the awarding, denying and revocation of good behavior allowance, in such institutions; and such rules and regulations shall be immediately promulgated and consistent with the provisions of this Act. Interim rules shall be provided by each warden consistent with the provision of this Act and shall be effective until the promulgation of uniform rules. All disciplinary action shall be consistent with the provisions of this Act. Committed persons shall be informed of rules of behavior and conduct, the penalties for violation thereof, and the disciplinary procedure by which such penalties may be imposed. Any rules, penalties and procedures shall be posted and made available to the committed persons.

(b) Whenever a person is alleged to have violated a rule of behavior, a written report of the infraction shall be filed with the warden within 72 hours of the occurrence of the infraction or the discovery of it, and such report shall be placed in the file of the institution or facility. No disciplinary proceeding shall be commenced more than 8 days after the infraction or the discovery of it, unless the committed person is unable or unavailable for any reason to participate in the disciplinary proceeding.

(c) All or any of the good behavior allowance earned may be revoked by the warden, unless he initiates the charge, and in that case by the disciplinary board, for violations of rules of behavior at any time prior to discharge from the institution, consistent with the provisions of this Act.

(d) In disciplinary cases that may involve the loss of good behavior allowance or eligibility to earn good behavior allowance, the warden shall establish disciplinary procedures consistent with the following principles:

(1) The warden may establish one or more disciplinary boards, made up of one or more persons, to hear and determine charges. Any person who initiates a disciplinary charge against a committed person shall not serve on the disciplinary board that will determine the disposition of the charge. In those cases in which the charge was initiated by the warden, he shall establish a disciplinary board which will have the authority to impose any appropriate discipline.

(2) Any committed person charged with a violation of rules of behavior shall be given notice of the charge, including a statement of the misconduct alleged and of the rules this conduct is alleged to violate, no less than 24 hours before the disciplinary hearing.

(3) Any committed person charged with a violation of rules is entitled to a hearing on that charge, at which time he shall have an opportunity to appear before and address the warden or disciplinary board deciding the charge.

(4) The person or persons determining the disposition of the charge may also summon to testify any witnesses or other persons with relevant knowledge of the incident. The person charged may be permitted to question any person so summoned.

(5) If the charge is sustained, the person charged is entitled to a written statement, within 14 days after the hearing, of the decision by

the warden or the disciplinary board which determined the disposition of the charge, and the statement shall include the basis for the decision and the disciplinary action, if any, to be imposed.

(6) The warden may impose the discipline recommended by the disciplinary board, or may reduce the discipline recommended; however, no committed person may be penalized more than 30 days of good behavior allowance for any one infraction.

(7) The warden, in appropriate cases, may restore good behavior allowance that has been revoked, suspended or reduced.

(e) The warden, or his or her designee, may revoke the good behavior allowance specified in Section 3 of this Act of an inmate who is sentenced to the Illinois Department of Corrections for misconduct committed by the inmate while in custody of the warden. If an inmate while in custody of the warden is convicted of assault or battery on a peace officer, correctional employee, or another inmate, or for criminal damage to property or for bringing into or possessing contraband in the penal institution in violation of Section 31A-1.1 of the Criminal Code of 1961, his or her day for day good behavior allowance shall be revoked for each day such allowance was earned while the inmate was in custody of the warden.

735 ILCS 5/1-101(b), 2-101 et seq 29

735 ILCS 5/1-101

Sec. 1-101. Short titles. (a) This Act shall be known and may be cited as the "Code of Civil Procedure".

(b) Article II shall be known as the "Civil Practice Law" and may be referred to by that designation.

(c) Article III shall be known as the "Administrative Review Law" and may be referred to by that designation.

735 ILCS 5/2-101

Sec. 2-101. Generally. Except as otherwise provided in this Act, every action must be commenced (1) in the county of residence of any defendant who is joined in good faith and with probable cause for the purpose of obtaining a judgment against him or her and not solely for the purpose of fixing venue in that county, or (2) in the county in which the transaction or some part thereof occurred out of which the cause of action arose.

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735 ILCS 5/2-102

Sec. 2-102. Residence of corporations, voluntary unincorporated associations and partnerships defined. For purposes of venue, the following definitions apply:

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735 ILCS 5/2-103

Sec. 2-103. Public corporations - Local actions - Libel - Insurance companies.

(a) Actions must be brought against a public, municipal, governmental or quasi-municipal corporation in the county in which its principal office is located or in the county in which the transaction or some part thereof occurred out of which the cause of action arose. Except as otherwise provided in Section 7-102 of this Code, if the cause of action is related to an airport owned by a unit of local government or the property or aircraft operations thereof, however, including an action challenging the constitutionality of this amendatory Act of the 93rd General Assembly, the action must be brought in the county in which the unit of local government's principal office is located. Actions to recover damage to real estate which may be overflowed or otherwise damaged by reason of any act of the corporation may be brought in the county where the real estate or some part of it is situated, or in the county where the corporation is located, at the option of the party claiming to be injured. Except as otherwise provided in Section 7-102 of this Code, any cause of action that is related to an airport owned by a unit of local government, and that is pending on or after the effective date of this amendatory Act of the 93rd General Assembly in a county other than the county in which the unit of local government's principal office is located, shall be transferred, upon motion of any party under Section 2-106 of this Code, to the county in which the unit of local government's principal office is located.

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735 ILCS 5/2-104

Sec. 2-104. Wrong venue - Waiver - Motion to transfer. . . . .

735 ILCS 5/2-105

Sec. 2-105. Defendants in different counties - Review

735 ILCS 5/2-106

Sec. 2-106. Transfer.. . . .

735 ILCS 5/2-107

Sec. 2-107. Costs and expenses of transfer. . . .

735 ILCS 5/2-108

Sec. 2-108. Place of trial. All actions shall be tried in the county in which they are commenced, except as otherwise provided by law.

735 ILCS 5/2-109

Sec. 2-109. Malicious prosecution - medical malpractice . . . .

735 ILCS 5/2-203 28

Sec. 2-203. Service on individuals.

(a) Except as otherwise expressly provided, service of summons upon an individual defendant shall be made (1) by leaving a copy of the summons with the defendant personally, (2) by leaving a copy at the defendant's usual place of abode, with some person of the family or a person residing there, of the age of 13 years or upwards, and informing that person of the contents of the summons, provided the officer or other person making service shall also send a copy of the summons in a sealed envelope with postage fully prepaid, addressed to the defendant at his or

her usual place of abode, or (3) as provided in Section 1-2-9.2 of the Illinois Municipal Code with respect to violation of an ordinance governing parking or standing of vehicles in cities with a population over 500,000. The certificate of the officer or affidavit of the person that he or she has sent the copy in pursuance of this Section is evidence that he or she has done so. No employee of a facility licensed under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the ID/DD Community Care Act shall obstruct an officer or other person making service in compliance with this Section.

(b) The officer, in his or her certificate or in a record filed and maintained in the Sheriff's office, or other person making service, in his or her affidavit or in a record filed and maintained in his or her employer's office, shall (1) identify as to sex, race, and approximate age the defendant or other person with whom the summons was left and (2) state the place where (whenever possible in terms of an exact street address) and the date and time of the day when the summons was left with the defendant or other person.

(c) Any person who knowingly sets forth in the certificate or affidavit any false statement, shall be liable in civil contempt. When the court holds a person in civil contempt under this Section, it shall award such damages as it determines to be just and, when the contempt is prosecuted by a private attorney, may award reasonable attorney's fees.

735 ILCS 5/2-1001(a)(2) 7, 25

Sec. 2-1001. Substitution of judge.

(a) A substitution of judge in any civil action may be had in the following situations:

(1) Involvement of judge. When the judge is a party or interested in the action, or his or her testimony is material to either of the parties to the action, or he or she is related to or has been counsel for any party in regard to the matter in controversy. In any such situation a substitution of judge may be awarded by the court with or without the application of either party.

(2) Substitution as of right. When a party timely exercises his or her right to a substitution without cause as provided in this paragraph (2).

(i) Each party shall be entitled to one substitution of judge without cause as a matter of right.

(ii) An application for substitution of judge as of right shall be made by motion and shall be granted if it is presented before trial or hearing begins and before the judge to whom it is presented has ruled on any substantial issue in the case, or if it is presented by consent of the parties.

(iii) If any party has not entered an appearance in the case and has not been found in default, rulings in the case by the judge on any substantial issue before the party's appearance shall not be grounds for

denying an otherwise timely application for substitution of judge as of right by the party.

(3) Substitution for cause. When cause exists.

(i) Each party shall be entitled to a substitution or substitutions of judge for cause.

(ii) Every application for substitution of judge for cause shall be made by petition, setting forth the specific cause for substitution and praying a substitution of judge. The petition shall be verified by the affidavit of the applicant.

(iii) Upon the filing of a petition for substitution of judge for cause, a hearing to determine whether the cause exists shall be conducted as soon as possible by a judge other than the judge named in the petition. The judge named in the petition need not testify but may submit an affidavit if the judge wishes. If the petition is allowed, the case shall be assigned to a judge not named in the petition. If the petition is denied, the case shall be assigned back to the judge named in the petition.

(4) Substitution in contempt proceedings. When any defendant in a proceeding for contempt arising from an attack upon the character or conduct of a judge occurring otherwise than in open court, and the proceeding is pending before the judge whose character or conduct was impugned, fears that he or she will not receive a fair and impartial trial before that judge. In any such situation the application shall be by petition, verified by the applicant, and shall be filed before the trial of the contempt proceeding.

(b) An application for substitution of judge may be made to the court in which the case is pending, reasonable notice of the application having been given to the adverse party or his or her attorney.

(c) When a substitution of judge is granted, the case may be assigned to some other judge in the same county, or in some other convenient county, to which there is no valid objection. If the case is assigned to a judge in some other county, the provisions of subsections (f) through (m) of Section 2-1001.5 shall apply.

ILLINOIS CODE OF CIVIL PROCEDURE 3, 6, 28

735 ILCS 5/Art. X heading

ARTICLE X

HABEAS CORPUS

735 ILCS 5/10-101

Sec. 10-101. Action commenced by plaintiff. In all proceedings commenced under Article X of this Act, the name of the person seeking the relief afforded by this Article shall be set out as plaintiff without the use of the phrase "People ex rel." or "People on the relation of".

735 ILCS 5/10-102

Sec. 10-102. **Who may file.** Every person imprisoned or otherwise restrained of his or her liberty, except as herein otherwise provided, may apply for habeas corpus in the manner provided in Article X of this Act, to obtain relief from such imprisonment or restraint, if it prove to be unlawful. [emphasis added]

735 ILCS 5/10-103 5, 23, 33

Sec. 10-103. **Application.** Application for the relief shall be made to the Supreme Court or to the circuit court of the county in which the person in whose behalf the application is made, is imprisoned or restrained, or to the circuit court of the county from which such person was sentenced or committed. **Application shall be made by complaint signed** by the person for whose relief it is intended, **or by some person in his or her behalf,** and verified by affidavit. Application for relief under this Article may not be commenced on behalf of a person who has been sentenced to death without the written consent of that person, unless the person, because of a mental or physical condition, is incapable of asserting his or her own claim. [emphasis added]

735 ILCS 5/10-104

Sec. 10-104. **Substance of complaint.** The complaint shall state in substance:

1. That the person in whose behalf the relief is applied for is imprisoned or restrained of his or her liberty, and the place where - naming all the parties if they are known, or describing them if they are not known.

2. The cause or pretense of the restraint, according to the best knowledge and belief of the applicant, and that such person is not committed or detained by virtue of any process, or judgment, specified in Section 10-123 of this Act.

3. If the commitment or restraint is by virtue of any warrant or process, a copy thereof shall be annexed, or it shall be stated that by reason of such prisoner being removed or concealed before application, a demand of such copy could not be made, or that such demand was made, and the legal fees therefor tendered to the officer or person having such prisoner in his or her custody, and that such copy was refused. [emphasis added]

735 ILCS 5/10-105 5

Sec. 10-105. Copy of process. **[Penalty for failure to produce] Any sheriff** or other officer or person having custody of any prisoner committed on any civil or criminal process of any court **who shall neglect to give such prisoner a copy of the process or order of**

commitment by which he or she is imprisoned within 6 hours after demand made by the prisoner, or any one on behalf of the prisoner, shall forfeit to the prisoner or party affected not exceeding $500. This Section shall not apply to the Illinois Department of Corrections. [Emphasis added]

735 ILCS 5/10-106 23

Sec. 10-106. **Grant of relief – Penalty** [to judge for failure to grant]. Unless it shall appear from the complaint itself, or from the documents thereto annexed, that the party can neither be discharged, admitted to bail nor otherwise relieved, the court shall forthwith award relief by habeas corpus. **Any judge empowered to grant relief by habeas corpus who shall corruptly refuse to grant the relief when legally applied for in a case where it may lawfully be granted, or who shall for the purpose of oppression unreasonably delay the granting of such relief shall, for every such offense, forfeit to the prisoner or party affected a sum not exceeding $1,000.** [Emphasis added]

735 ILCS 5/10-116

Sec. 10-116. **Neglect to obey order.** If the officer or person upon whom such order is served refuses or neglects to obey the same, by producing the party named in the order and making a full and explicit return thereto within the time required by Article X of this Act, and no sufficient excuse is shown for such refusal or neglect, the court before whom the order is returnable, upon proof of the service thereof, shall enforce obedience by attachment as for contempt, and the officer or person so refusing or neglecting shall forfeit to the party a sum not exceeding $500, and be incapable of holding office. [Emphasis added]

735 ILCS 5/10-119 4

Sec. 10-119. Examination. Upon the return of an order of habeas corpus, the court shall, without delay, proceed to examine the cause of the imprisonment or restraint, but the examination may be adjourned from time to time as circumstances require.

735 ILCS 5/10-124

Sec. 10-124. **Causes for discharge** when in custody on process of court. If it appears that the prisoner is in custody by virtue of process from any court legally constituted, he or she may be discharged only for one or more of the following causes: [Emphasis added]

1. Where the court has exceeded the limit of its jurisdiction, either as to the matter, place, sum or person.

2. Where, though the original imprisonment was lawful, nevertheless, by some act, omission or event which has subsequently taken place, the party has become entitled to be discharged.

3. Where the process is defective in some substantial form required by law.

4. Where the process, though in proper form, has been issued in a case or under circumstances where the law does not allow process to issue or orders to be entered for imprisonment or arrest.

5. Where, although in proper form, the process has been issued in a case or under circumstances unauthorized to issue or execute the same, or where the person having the custody of the prisoner under such process is not the person empowered by law to detain him or her.

6. Where the process appears to have been obtained by false pretense or bribery.

7. Where there is no general law, nor any judgment or order of a court to authorize the process if in a civil action, nor any conviction if in a criminal proceeding. No court, on the return of a habeas corpus, shall, in any other matter, inquire into the legality or justice of a judgment of a court legally constituted.

735 ILCS 5/10-133

Sec. 10-133. **Penalties - How recovered.** All the pecuniary forfeitures incurred under this Act shall inure to the use of the party for whose benefit the order of habeas corpus was entered, and shall be sued for and recovered with costs, by the Attorney General or State's Attorney, in the name of the State, by complaint; and the amount, when recovered, shall, without any deduction, be paid to the party entitled thereto. [Emphasis added]

ILLINOIS SUPREME COURT RULE 298 31

Rule 298. Application to Sue or Defend as a Poor an Indigent Person

(a) Contents. An application for leave to sue or defend as a poor an indigent person shall be in writing and supported by the affidavit of the applicant or, if the applicant is a minor or an incompetent adult, by the affidavit of some other another person having knowledge of the facts, stating:

(1) the applicant's occupation or means of subsistence; whether the applicant is receiving assistance under one or more of the following public benefits programs: Supplemental Security Income (SSI), Aid to the Aged, Blind and Disabled (AABD), Temporary Assistance for Needy Families (TANF), Food Stamps, General Assistance, State Transitional Assistance, or State Children and Family Assistance;

(2) the applicant's income for the year preceding the application; whether

the applicant's available income is 125% or less of the current poverty level as established by the United States Department of Health and Human Services;
(3) the source and amount of any income expected by the applicant; the nature and value of the applicant's assets;
(4) the nature and value of any property, real or personal, owned by the applicant; whether the applicant is eligible to receive civil legal services as defined in section 5–105.5 of the Code of Civil Procedure (735 ILCS 5/5–105.5);
(5) the particulars of all applications for leave to sue or defend as a poor person made by the applicant or on his behalf during the year preceding the application; whether the applicant is unable to proceed in an action without payment of fees, costs, and charges and the applicant's payment of those fees, costs, and charges would result in substantial hardship to the applicant or the applicant's family;
(6) that the applicant is unable to pay the costs of the suit; and the employment status of the applicant and the applicant's spouse;
(7) that the applicant has a meritorious claim or defense. the current income of the applicant and the applicant's spouse;
(8) whether the applicant is receiving or paying child support;
(9) the applicant's monthly living expenses (exclusive of payment of debts and child support); and
(10) that the applicant, in good faith, believes that he or she has a meritorious claim or defense.
(b) Ruling. If the application is denied, the court shall endorse the fact of denial on the application enter an order to that effect stating the specific reason for the denial. If the application is granted, the court shall enter an order allowing the applicant to sue or defend as a poor person permitting the applicant to sue or defend without payment of fees, costs or charges.

Illinois Supreme Court Rule 315. Leave to Appeal From the Appellate Court to the Supreme Court xv

(a) Petition for Leave to Appeal; Grounds. Except as provided below for appeals from the Illinois Workers' Compensation Commission division of the Appellate Court, a petition for leave to appeal to the Supreme Court from the Appellate Court may be filed by any party, including the State, in any case not appealable from the Appellate Court as a matter of right. Whether such a petition will be granted is a matter of sound judicial discretion. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of reasons which will be considered: the general importance of the question presented; the existence of a conflict between the decision sought to be reviewed and a decision of the Supreme Court, or of another division of the Appellate

Court; the need for the exercise of the Supreme Court's supervisory authority; and the final or interlocutory character of the judgment sought to be reviewed.

No petition for leave to appeal from a judgment of the five-judge panel of the Appellate Court designated to hear and decide cases involving review of Illinois Workers' Compensation Commission orders shall be filed, unless two or more judges of that panel join in a statement that the case in question involves a substantial question which warrants consideration by the Supreme Court. A motion asking that such a statement be filed may be filed as a prayer for alternative relief in a petition for rehearing, but must, in any event, be filed within the time allowed for filing a petition for rehearing.

(b) Time.

(1) Published Decisions. Unless a timely petition for rehearing is filed in the Appellate Court, a party seeking leave to appeal must file the petition for leave in the Supreme Court within 35 days after the entry of such judgment. If a timely petition for rehearing is filed, the party seeking review must file the petition for leave to appeal within 35 days after the entry of the order denying the petition for rehearing. If a petition is granted, the petition for leave to appeal must be filed within 35 days of the entry of the judgment on rehearing. The Supreme Court, or a judge thereof, on motion, may extend the time for petitioning for leave to appeal, but such motions are not favored and will be allowed only in the most extreme and compelling circumstances.

Illinois Supreme Court Rule 602. Method of Review xv

The only method of review in a criminal case in which judgment was entered on or after January 1, 1964, shall be by appeal. The party appealing shall be known as the appellant and the adverse party as the appellee, but the title of the case shall not be changed. . . .

Rule 603. Court To Which Appeal is Taken

Appeals in criminal cases in which a statute of the United States or of this State has been held invalid, and appeals by defendants from judgments of the circuit courts imposing a sentence of death, and appeals by the State from orders decertifying a prosecution as a capital case on the grounds enumerated in section 9–1(h-5) of the Criminal Code of 1961, or a finding that the defendant is mentally retarded after a hearing conducted pursuant to section 114–15(f) of the Code of Criminal Procedure of 1963 shall lie directly to the Supreme Court as a matter of right. All other appeals in criminal cases shall be taken to the Appellate Court.

ILLINOIS SUPREME COURT RULE 605 xv, 31

Rule 605. Advice to Defendant

(a) On Judgment and Sentence After Plea of Not Guilty.

(1) In all cases in which the defendant is found guilty and sentenced to imprisonment, probation or conditional discharge, periodic imprisonment, or to pay a fine, or in which a sentence of probation or conditional discharge has been revoked or the conditions attached to such a sentence have been modified, excluding except in cases in which the judgment and sentence are entered on a plea of guilty, the trial court shall, at the time of imposing sentence or modifying the conditions of the sentence, advise the defendant of the his right to appeal, of the his right to request the clerk to prepare and file a notice of appeal, and of the his right, if indigent, to be furnished, without cost to the defendant him, with a transcript of the proceedings at the his trial or hearing., and,

(2) In addition to the foregoing rights, in cases in which the defendant has been convicted of a felony or a Class A misdemeanor or convicted of a lesser offense and sentenced to imprisonment, periodic imprisonment, or to probation or conditional discharge conditioned upon periodic imprisonment, or in which a sentence of probation or conditional discharge has been revoked or the conditions attached to such a sentence have been modified and a sentence or condition of imprisonment or periodic imprisonment imposed, the trial court shall advise the defendant of the his right to have counsel appointed on appeal. The trial court shall also advise him that his right to appeal will be preserved only if a notice of appeal is filed in the trial court within 30 days from the date of the sentence.

Rule 606. Perfection of Appeal xv

(a) How Perfected. In cases in which a death sentence is imposed, an appeal is automatically perfected without any action by the defendant or his counsel. In other cases appeals shall be perfected by filing a notice of appeal with the clerk of the trial court. The notice may be signed by the appellant or his attorney. If the defendant so requests in open court at the time he is advised of his right to appeal or subsequently in writing, the clerk of the trial court shall prepare, sign, and file forthwith a notice of appeal for the defendant. No step in the perfection of the appeal other than the filing of the notice of appeal is jurisdictional.

(b) Time. Except as provided in Rule 604(d), the notice of appeal must be filed with the clerk of the circuit court within 30 days after the entry of the final judgment appealed from or if a motion directed against the judgment is timely filed, within 30 days after the entry of the order

disposing of the motion. When a timely posttrial or postsentencing motion directed against the judgment has been filed by counsel or by defendant, if not represented by counsel, any notice of appeal filed before the entry of the order disposing of all pending postjudgment motions shall have no effect and shall be stricken by the trial court. Upon striking the notice of appeal, the trial court shall forward to the appellate court within 5 days a copy of the order striking the notice of appeal, showing by whom it was filed and the date on which it was filed. This rule applies whether the timely postjudgment motion was filed before or after the date on which the notice of appeal was filed. A new notice of appeal must be filed within 30 days following the entry of the order disposing of all timely postjudgment motions. Within 5 days of its being so filed a copy of the notice of appeal or an amendment of the notice of appeal shall be transmitted by the clerk of the circuit court to the clerk of the court to which the appeal is taken. Except as provided in paragraph (c) below, and in Rule 604(d), no appeal may be taken from a trial court to a reviewing court after the expiration of 30 days from the entry of the order or judgment from which the appeal is taken. The clerk of the appellate court shall notify any party whose appeal has been dismissed under this rule.

(c) Extension of Time in Certain Circumstances. On motion supported by a showing of reasonable excuse for failing to file a notice of appeal on time filed in the reviewing court within 30 days of the expiration of the time for filing the notice of appeal, or on motion supported by a showing by affidavit that there is merit to the appeal and that the failure to file a notice of appeal on time was not due to appellant's culpable negligence, filed in the reviewing court within six months of the expiration of the time for filing the notice of appeal, in either case accompanied by the proposed notice of appeal, the reviewing court may grant leave to appeal and order the clerk to transmit the notice of appeal to the trial court for filing.

Illinois Supreme Court Rule 607. Appeals by Poor Persons xv

(a) Appointment of Counsel. Upon the imposition of a death sentence, or upon the filing of a notice of appeal in any case in which the defendant has been found guilty of a felony or a Class A misdemeanor, or in which he has been found guilty of a lesser offense and sentenced to imprisonment or periodic imprisonment, or to probation or conditional discharge conditioned upon periodic imprisonment, or in which a sentence of probation or conditional discharge has been revoked or the conditions attached to such a sentence modified and a sentence of imprisonment or periodic imprisonment imposed, and in cases in which the State appeals, the trial court shall determine whether the defendant

is represented by counsel on appeal. If not so represented, and the court determines that the defendant is indigent and desires counsel on appeal, the court shall appoint counsel on appeal. When a death sentence has been imposed, the court may appoint two attorneys, one of whom it shall designate as the responsible attorney and the other as assistant attorney for the appeal. Compensation and reimbursement for expenses of appointed attorneys shall be as provided by statute.

(b) Report of Proceedings. In any case in which the defendant has been found guilty and sentenced to death, imprisonment, probation or conditional discharge, or periodic imprisonment, or to pay a fine, or in which a hearing has been held resulting in the revocation of, or modification of the conditions of, probation or conditional discharge, the defendant may petition the court in which he was convicted for a report of the proceedings at his trial or hearing. If the conduct on which the case was based was also the basis for a juvenile proceeding which was dismissed so that the case could proceed, the defendant may include in his petition a request for a report of proceedings in the juvenile proceeding. The petition shall be verified by the petitioner and shall state facts showing that he was at the time of his conviction, or at the time probation or conditional discharge was revoked or its conditions modified, and is at the time of filing the petition, without financial means with which to obtain the report of proceedings. If the judge who imposed sentence or entered the order revoking probation or conditional discharge or modifying the conditions, or in his absence any other judge of the court, finds that the defendant is without financial means with which to obtain the report of proceedings at his trial or hearing, he shall order the court reporter reporting personnel as defined in Rule 46 to transcribe an original and copy of his notes. The original and one copy of the report shall be certified by the reporter court reporting personnel and filed with the clerk of the trial court as provided below, without charge, and in a case in which a death sentence is imposed, the original and two copies shall be certified and filed, without charge. The clerk of the trial court shall then, upon written request of the defendant, release a copy of the report of proceedings to the defendant's attorney of record on appeal. In the event no attorney appears of record, the clerk shall, upon written request of the defendant, release the report of proceedings to the defendant, his guardian or custodian. In a death sentence case, one copy of the report of proceedings shall be made a part of the duplicate record on appeal as provided by these rules. The reporter court reporting personnel who prepares a reports of proceedings pursuant to an order under this rule shall be paid pursuant to the uniform "Schedule of Charges for Official Court Reporters' Transcripts" approved by the court a schedule of charges approved by the public employer and employer representative for the court reporting personnel.

(c) Filing Fees Excused. If the defendant is represented by court-appointed counsel, the clerk of the reviewing court shall docket the appeal and accept papers for filing without the payment of fees.

(d) Copies of Briefs or Petitions for Leave to Appeal. If the defendant is represented by court-appointed counsel, the clerk of the Supreme Court shall accept for filing not less than 15 legible copies of briefs or petitions for leave to appeal or answers thereto; and the clerks of the Appellate Court shall accept for filing not less than 6 legible copies of briefs.

Rule 608. The Record on Appeal xv

(a) Designation and Contents. The clerk of the circuit court shall prepare the record on appeal upon the filing of a notice of appeal and in all cases in which a death sentence is imposed. In a death sentence case, the clerk also shall prepare in the same manner as the original, in accordance with these rules, a duplicate of the record which shall be so designated and used by the parties in any collateral proceedings. The record on appeal must contain the following:

(1) a cover sheet showing the title of the case;

(2) a certificate of the clerk showing the impaneling of the grand jury if the prosecution was commenced by indictment;

(3) the indictment, information, or complaint;

(4) a transcript of the proceedings at the defendant's arraignment and plea;

(5) all motions, transcript of motion proceedings, and orders entered thereon;

(6) all arrest warrants, search warrants, consent to search forms, eavesdropping orders, and any similar documents;

(7) a transcript of proceedings regarding waiver of counsel and waiver of jury trial, if any;

(8) the report of proceedings, including opening statements by counsel, testimony offered at trial, and objections thereto, offers of proof, arguments and rulings thereon, the instructions offered and given, and the objections and rulings thereon, closing argument of counsel, communications from the jury during deliberations, and responses and supplemental instructions to the jury and objections, arguments and

rulings thereon;

(9) in cases in which a sentence of death is imposed, a transcript of all proceedings regarding the selection of the jury, and in other cases the court reporter reporting personnel as defined in Rule 46 shall take full stenographic notes the record of the proceedings regarding the selection of the jury, but the notes record need not be transcribed unless a party designates that such proceedings be included in the record on appeal;

(10) exhibits offered at trial and sentencing, along with objections, offers of proof, arguments, and rulings thereon; except that physical and demonstrative evidence, other than photographs, which do not fit on a standard size record page shall not be included in the record on appeal unless ordered by a court upon motion of a party or upon the court's own motion;

(11) the verdict of the jury or finding of the court;

(12) post-trial motions, including motions for a new trial, motions in arrest of judgment, motions for judgment notwithstanding the verdict and the testimony, arguments and rulings thereon;

(13) a transcript of proceedings at sentencing, including the presentence investigation report, testimony offered and objections thereto, offers of proof, argument, and rulings thereon, arguments of counsel, and statements by the defendant and the court;

(14) the judgment and sentence; and

(15) the notice of appeal, if any.

Within 14 days after the notice of appeal is filed or after a sentence of death is imposed the appellant and the appellee may file a designation of additional portions of the circuit court record to be included in the record on appeal. Thereupon the clerk shall include those portions in the record on appeal. Additionally, upon motion of a party, the court may allow photographs of exhibits to be filed as a supplemental record on appeal, in lieu of the exhibits themselves, when such photographs accurately depict the exhibits themselves. There is no distinction between the common law record and the report of proceedings, for the purpose of determining what is properly before the reviewing court.

(b) Report of Proceedings; Time. The report of proceedings contains the testimony and exhibits, the rulings of the trial judge, and all other proceedings before the trial judge, unless the parties designate or stipulate for less. It shall be certified by the reporter court reporting

personnel or the trial judge and shall be filed in the trial court within 49 days after the filing of the notice of appeal, or, if a death sentence is imposed, the report of proceedings, and one copy for inclusion in the duplicate record, shall be certified and filed within 49 days from the date of the sentence. The report of proceedings shall be taken as true and correct unless shown to be otherwise and corrected in a manner permitted by Rule 329.

(c) Time for Filing Record on Appeal. The record, and, in a case in which a death sentence is imposed, a duplicate, shall be filed in the reviewing court within 63 days from the date the notice of appeal is filed in the trial court or from the date of the imposition of the sentence of death. If more than one appellant appeals from the same judgment or from different judgments in the same cause to the same reviewing court, the trial court may prescribe the time for filing the record in the reviewing court, which shall not be more than 63 days from the date the last notice of appeal is filed. If the time for filing the report of proceedings has been extended, the record on appeal shall be filed within 14 days after the expiration of the extended time.

(d) Extensions of Time. The reviewing court or any judge thereof may extend the time for filing, in the trial court, the report of proceedings or agreed statement of facts or for serving a proposed report of proceedings, on notice and motion filed in the reviewing court before the expiration of the original or extended time, or on notice and motion filed within 35 days thereafter. Motions for extensions of time shall be supported by an affidavit showing the necessity for extension, and motions made after expiration of the original or extended time shall be further supported by a showing of reasonable excuse for failure to file the motion earlier.

Illinois Supreme Court Rule 609. Stays

. . . .

(b) Imprisonment or Confinement. If an appeal is taken from a judgment following which the defendant is sentenced to imprisonment or periodic imprisonment, or to probation or conditional discharge conditioned upon periodic imprisonment, or from an order revoking or modifying the conditions attached to a sentence of probation or conditional discharge and imposing a sentence of imprisonment or periodic imprisonment, the defendant may be admitted to bail and the sentence or condition of imprisonment or periodic imprisonment stayed, with or without bond, by a judge of the trial or reviewing court. Upon motion showing good cause the reviewing court or a judge thereof may revoke the order of the trial court or order that the amount of bail be increased or decreased.

(c) Other Cases. On appeals in other cases the judgment or order may be stayed by a judge of the trial or reviewing court, with or without bond. Upon motion showing good cause the reviewing court or a judge thereof

may revoke the order of the trial court or order that the amount of bail be increased or decreased.

Circuit Court of Cook County Rule 15.2 Habeas Corpus 4, 28

Except in matters of emergency, the following procedures are followed in proceedings for a writ of habeas corpus:

(a) Petitioner with funds. If the petitioner has sufficient funds, the petition shall be filed with the Clerk of the Circuit Court, Criminal Division, and the filing fee shall be paid.

(b) Petitioner without funds - with attorney.

(i) If the petitioner is without funds, and has an attorney of his choosing, motion for leave to file a petition for writ of habeas corpus without payment of costs shall be presented to the presiding judge.

(ii) If the petitioner is represented by an attorney of his own choosing the docket fee may be waived by the presiding judge upon a motion supported by the affidavit of the petitioner stating that the petitioner is without funds and that his attorney is rendering services gratuitously.

(iii) If the presiding judge grants the motion, he shall enter an order granting leave to file without payment of costs.

(iv) If the presiding judge denies the motion, he shall endorse the fact of denial on the petition for leave to file.

(c) Petitioner without funds and without attorney.

(i) If the petition states the petitioner is without funds and the petitioner is not represented by an attorney, he shall submit a verified petition to the clerk. The clerk shall docket the petition and place it on the call of the presiding judge.

(ii) If the presiding judge finds that petitioner is without an attorney and without funds, the presiding judge shall appoint an attorney to represent the petitioner.

(d) Petition on behalf of another. A person signing a petition for writ of habeas corpus on behalf of another shall appear before the presiding judge in open court and may be examined as to his interest in or relation to the person on whose behalf the petition is presented.

[Adopted May 17, 1976, effective July 1, 1976.]

Constitutional Provisions

the person for whose relief it is intended or by someone acting in his behalf.
It shall allege the facts concerning the applicant's commitment or detention, the name of the person who has custody over him and by virtue of what claim or authority, if known.
It may be amended or supplemented as provided in the rules of procedure applicable to civil actions.
If addressed to the Supreme Court, a justice thereof or a circuit judge it shall state the reasons for not making application to the district court of the district in which the applicant is held.

Federal Rule of Appellate Procedure – Rule 21. Writs of Mandamus and Prohibition, and Other Extraordinary Writs xv

(a) Mandamus or Prohibition to a Court: Petition, Filing, Service, and Docketing.
(1) A party petitioning for a writ of mandamus or prohibition directed to a court must file a petition with the circuit clerk with proof of service on all parties to the proceeding in the trial court. The party must also provide a copy to the trial-court judge. All parties to the proceeding in the trial court other than the petitioner are respondents for all purposes.
(2)(A) The petition must be titled "In re [name of petitioner]."
(B) The petition must state:
(i) the relief sought;
(ii) the issues presented;
(iii) the facts necessary to understand the issue presented by the petition; and
(iv) the reasons why the writ should issue.
(C) The petition must include a copy of any order or opinion or parts of the record that may be essential to understand the matters set forth in the petition.
(3) Upon receiving the prescribed docket fee, the clerk must docket the petition and

submit it to the court.

Federal Rule of Appellate Procedure Rule 48. Masters (a) Appointment; Powers. A court of appeals may appoint a special master to hold hearings, if necessary, and to recommend factual findings and disposition in matters ancillary to proceedings in the court. Unless the order referring a matter to a master specifies or limits the master's powers, those powers include, but are not limited to, the following: (1) regulating all aspects of a hearing; (2) taking all appropriate action for the efficient performance of the master's duties under the order; (3) requiring the production of evidence on all matters embraced in the reference; and (4) administering oaths and examining witnesses and parties.	36
Article I, Section 9, US Constitution The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.	1, 25, 29, 33
Amendment I, United States Constitution in pertinent part provides: Congress shall make no law . . . prohibiting the free exercise thereof; or abridging the freedom . . . to petition the Government for a redress of grievances.	1
Amendment IV, United States Constitution in pertinent part provides: [N]o warrants shall issue, but upon probable cause	1
Amendment V, United States Constitution in pertinent part provides:	xi, 1

No person shall be deprived of life, liberty, or property, without due process of law.

Amendment XIV, Section 1, United States Constitution in pertinent part provides: i, ii, iii,

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

Introduction

This is a case where Petitioner ("Shelton") was **summarily illegally and unconstitutionally convicted and sentenced to an aggregate period of 16 months** through the unconstitutional and outrageous acts of a judge in three (3) cases (should have been counts) of criminal contempt of court during one prolonged hearing over several days, **for the legal act of filing, as a non-attorney**, a next-friend Petition for Writ of Habeas Corpus ("PWHC") **and then vigorously orally defending her right to do so,** per the First, Fourth, Fifth, and Fourteenth Amendments, during one hearing continued over several days. The Cook County Circuit Court **("CCCC") has to this day refused to hear the next-friend PWHC** leaving Annabel Melongo in jail pretrial with excessive bail of $330,000 for nearly two years in violation of the First, Fourth, Fifth, and Fourteenth Amendments, as well as the U.S. Constitution's Suspension Clause (Article I, Section 9).

The CCCC illegally denied Shelton's own PWHC on these three (3) outrageously wrongful contempt convictions, and in addition both the Illinois Appellate and Supreme Courts refused to waive fees despite her indigent status on Shelton's direct appeal thereby denying her access to the courts and waiving the State's right to insist on exhaustion of state remedies.

These multiple de facto suspensions of the right to PWHC are so extreme an unconstitutional act that it requires this Honorable Courts intervention.

This Petition for Writ of Mandamus is further necessitated because **the Clerk of the U.S. Supreme Court in violation of previous U.S. Supreme Court holdings** in

the line of cases *Niersheimer, Regan, and Loftus*[6] **several times refused to file** Shelton's timely filed Petition for Writ of Certiorari regarding denial of these Petitions for Writs of Habeas Corpus ("PWHC") by the CCCC . **The U.S. Supreme Court in this line of cases held that in Illinois there is no procedure for review of denials of PWHC from a local county court and review lies DIRECTLY with the U.S. Supreme Court, as the local county court therefore is considered the "highest court" in the State of Illinois under these specific and unique circumstances.**

State remedies have been exhausted, even if one ignores the previous U.S. Supreme Court rulings, because the State of Illinois waived its right to hear the case through direct appeal by the IL Appellate and Supreme Courts illegally denying a Petition for in forma pauperis status despite Shelton's status as disabled, indigent, and a recipient of SSI benefits. Therefore, no appeal has been heard on the merits, Shelton has exhausted state remedies and the ONLY avenue to hear it is before this honorable U.S. Supreme Court. Federal remedies are also exhausted as explained in the following.

Shelton believes a per curium order reprimanding the U.S. Supreme Court Clerk and overturning the Trial Court orders and convictions as well as an order to the Illinois Appellate Court and Illinois Supreme Court to vacate their orders from January 20, 2011 and April 15, 2010 (Clerk executing May 23, 1991 **standing** order) dismissing Shelton's appeals and barring her from filing in their courts in forma pauperis would be the appropriate remedy that this Honorable Court should grant. This order should then restore the right to PWHC in Illinois and should place the Illinois courts on notice that ignoring the

[6] *Young v. Ragen,* 337 U.S. 235, 69 S.Ct. 1073 (1949); *People v. Loftus,* 400 Ill. 432, 81 N.E.2d 495 (1948), in response to order of Court in *Loftus v. People of State of Illinois,* 334 U.S. 804, 68 S.Ct 1212 (1948); *Woods v. Niersheimer,* 328 U.S. 211, 66 S.Ct. 996 (1946); *White v. Ragen* and *Lutz v. Same,* 324 U.S. 760, 65 S.Ct. 978 (1945).

holdings of this Honorable Court, as well as blatantly denying due process and the Bill of Rights will not be tolerated.

Facts

Arrest and **summary** sentence, the first of three wrongful convictions and sentences for contempt in one (1) hearing (**consecutive** 120, 180, and 180 days = 16 mos.), occurred on May 11, 2010 (SCA[7] B1-2, D3-7, E), case no ACC100083-01, when Petitioner ("Shelton") was in the Courtroom of CCCC Presiding Criminal Division Judge Biebel, who was "at a CBA meeting" (SCA D3 line 5) and Judge McHale was sitting in his stead. Shelton had filed two (2) next-friend Petitions for Writ of Habeas corpus, 10 HC 00006 & 10 HC 00007, on April 20, 2010 (SCA II), on behalf of Cameroonian Annabel Melongo ("Melongo") who was wrongfully charged, without probable cause, with felony eavesdropping, a violation of 720 ILCS 5/14-2, for recording a phone conversation with a court reporter without their consent, CCCC case no. 10 CR 8092, and felony remote computer tampering, CCCC case no. 08 CR 10502-01. Shelton claimed that there was no probable cause for either charge (SCA II). The eavesdropping charge has been subsequently dropped in July 2012 (SCA JJ) because it was ruled "unconstitutional". Motion has been pending for a year to dismiss the computer tampering charge as lacking probable cause (SCA KK) and is scheduled to be heard within the next few months. Two (2) years later the habeas petitions have still not been heard.

Shelton had earlier attempted on April 20 and May 5, 2010 to have heard these two (2) next-friend PWHC (SCA II), under 735 ILCS 5/10-101 et seq., on behalf of Melongo, an acquaintance who had come to her as a confused foreigner concerning representing herself pro se on false charges against her by the CEO of a now defunct and clearly questionable agency now known to have fraudulently obtained government funding, Save-A-Life-

[7] SCA = Supreme Court Appendix

Foundation ("SALF"), who had accused her of remotely tampering with their computer to delete their financial files, just as an investigative reporter was questioning how they spent their government grants. (SCA NN). Melongo's cases and Shelton's relationship with her is described in detail in Appendix ZZ.

Shelton then filed two next-friend habeas petitions on April 20, 2010, in the Circuit Court of Cook County ("CCCC") Criminal Division (SCA II) with the hope that Melongo would be appointed an attorney and a French translator so that she could plead that there was no probable cause and obtain a release from jail with a lower bail and/or dismissal of the fraudulent charges. They were summarily dismissed October 1, 2010. (SCA CC39-40)

Shelton was familiar with habeas procedures as she had successfully filed a next-friend habeas petition in 2009, on behalf of Maisha Hamilton, and the defendant was appointed an attorney by Judge Biebel, Kent Law School Professor Coyne.

Habeas statutes, 735 ILCS 5/10-119, and the rules of the CCCC, Rule15.2(d), require that a petition for writ of habeas corpus (petition) be heard quickly by the presiding judge of the criminal division where the case is being heard. CCCC presiding Criminal Division Judge Biebel was not available the day the petition was filed on April 20, 2010. The court division supervising clerk, Peggy Anderson, told Shelton that the substitute judge, Joseph Kazmierski, after being called by the clerk made a verbal order to the clerk to send Shelton and her petition to the Trial Judge, Brosnahan, despite the fact that the CCCC rule 15.2 requires habeas petitions to be heard by the division's presiding judge.

Shelton went to Brosnahan's courtroom and Brosnahan as Shelton was walking in the door, taking no more than a few moments to read the petitions, told the deputies to kick her out of the courtroom as she would not hear the petition because "a person other than

the defendant or an attorney may not file documents in a defendant's case." Brosnahan wrote on the order in abbreviated form "Leave to File Denied" (SCA OO)

Shelton then went to Acting Presiding Criminal Division Judge Kazmierski's courtroom and requested to be heard. Judge Kazmierski stated he would not hear the petitions because they were filed by a non-attorney who therefore did not have standing. He made no written orders and there was no court reporter.

Shelton returned to the courthouse on May 7, 2010 and again requested the CCCC Clerk to motion the petition up before Judge Biebel who supposedly was present. However, when Shelton arrived at his courtroom she was told he was not present and substitute Judge Wadas would hear the petitions. Shelton went to Wadas' courtroom. Judge Wadas then also refused to hear the petitions because they were filed by a non-attorney. After reviewing the petitions for no more than a few minutes and listening to Shelton's argument that it would be a criminal act for the judge to refuse to hear the habeas petitions, with Shelton citing U.S. Supreme Court cases, Judge Wadas denied the habeas petitions (SCA OO).

Shelton told each judge that allowed her to speak (Kazmierski and Wadas), in open court, that they were violating Illinois Habeas Statute, 735 ILCS 5/10-103 and the U.S. Supreme Court holdings in *Boumediene v. Bush*, (2008) 553 U.S. 723, as well as the Constitution Art. I, Section 9 Suspension Clause. They ignored these statements and ruled that only an attorney or the defendant has standing to file a PWHC.

Of course, according to 735 ILCS 5/10-103 a petition for writ of habeas corpus could be filed **"by some person in his or her behalf", so all of these judges' statements are false and it was illegal for them to refuse to hear the habeas petitions. According to 735 ILCS 5/10-105 each of these judges and Judge McHale must be fined $1,000**

which is to be paid to Melongo for violating the habeas statute and refusing to hear or grant the habeas petition.

Shelton again tried to have the petitions heard on May 11, 2010 before CCCC Presiding Crim. Div. Judge Biebel. Judge Biebel was again absent from the court, as has been his practice for some time now, and Judge McHale was sitting in his stead. McHale, without any formality in opening the proceeding, asked if Shelton was an attorney. Shelton said "no". (SCA D3) Then Shelton asked to make a record [in order to state why she needed to file as a next-friend and to present case law and statute allowing next-friend filings for such a petition]. (SCA D4 line 2-3)

Unlike with attorneys who are routinely allowed to make a record to aid the court, McHale cut Shelton off saying "we need to get some things straight here." (SCA D4 line 4-5)

Shelton quickly stated that 735 ILCS 5/10 (IL civil procedure statute on Habeas Corpus) specifically allowed petitions to be filed by "other person on her behalf," and that "this is the only place in the law when non-attorneys can file [on behalf of another person]." (SCA D line 15-16)

Judge McHale said: "I don't read it that way." (SCA D4 line 17)

Shelton by then surprised, shocked, and astonished and by that time worn down by the lawlessness of the CCCC judges interrupted politely stating: "Oh, excuse me, the United States Supreme Court reads it that way." (SCA D4 line 19-20)

The following discussion then was recorded by the court reporter and appeared on the transcript – note that Shelton's Motion for In Forma Pauperis Status was never considered and therefore is still pending:

THE COURT: Whoa, whoa, We are not going to get very far if you're going to interrupt me.

MS SHELTON: Then I want to continue to Judge Biebel [A poorly worded request for substitution of judge as a right, due to constitutional violations by McHale]. (SCA D4-5 line 21-24 & 1)

Note that at the beginning of this preliminary discussion about the case, Judge McHale had offered to transfer the case to Judge Biebel, when Shelton stated that she thought that habeas petitions must be heard by the presiding judge, but when McHale answered her question affirmatively as to if he was going to follow statutes, she conditionally waived transfer to Presiding Judge Biebel, as long as Judge McHale "followed the law". (SCA D3 line 3-22). Under Illinois law, when SOJ as a right or for cause is requested the Trial Judge immediately loses jurisdiction and must transfer the case to the presiding judge, unless the SOJ motion is insufficient on its face. (735 ILCS 5/2-1001; *Curtis v. Lofy*, 394 Ill.App.3d 170, 176 (2009)) Judicial notice is given that it is standard practice in the CCCC to allow a litigant time to prepare a written motion when they orally request for a SOJ.

THE COURT: No, We have already started the hearing –

MS SHELTON: I did this before for another defendant and yet - -

THE COURT: Ms. Shelton, if you don't let me talk I'm going to take you into custody. Now be quiet.

MS SHELTON: You can do whatever you want.

THE COURT: All right, be quiet.

MS SHELTON: You can't violate the law. Then, you know, I have to come back to Judge Biebel this afternoon.

THE COURT: Ms. Shelton, the habeas petition says "the defendant or another," and I take "another" to be a licensed attorney in the State of Illinois You are not - - You have no right to file these things - -

MS SHELTON: Excuse me, Excuse me, your Honor, You are committing treason. It is an act of treason - -

THE COURT: Take her in the back. Take her in the back.

MS SHELTON: - - for a Judge to refuse to hear - -

THE COURT: You are in contempt - -

MS SHELTON: - - a next friend petition.

(SCA D5 line 2 to D6 line 5)

Shelton was taken into custody and five (5) hours later, when she was convinced she was found in contempt simply for filing a next-friend habeas petition, and this was an illegal act of treason by a rogue judge, Shelton was brought back to the courtroom. However, the Sheriff Courtroom officers during that time tortured Shelton by refusing to take her to a bathroom so that Shelton had to urinate on the floor of the holding cell. They used that incident as proof that Shelton is "crazy" in their continuing defamation of Shelton.

Shelton immediately stated firmly that: 1) even the U.S. Supreme Court allows Guantanamo Bay prisoners to have next friends, like fathers, file habeas petitions, and 2) due to U.S. Supreme Court holdings in *Cooper v. Aaron,* (1958) 358 U.S. 1 and *U.S. v Will,* (1980) 449 U.S. 200 FN 19 a judge who knowingly violated the law and U.S. Supreme Court holdings is violating his oath of office and committing an act of treason. (SCA D9-12)

Judge McHale said Shelton could say whatever she wants. Shelton said what needed to be preserved on the record about McHale violating statute, Suspension clause, and U.S.

Supreme Court holdings. (SCA D9-12) A short heated discussion ensued where Shelton re-emphasized that McHale was acting illegally in refusing to hear the petitions, his acts were treason thereby voiding his orders and removing his jurisdiction as judge on the case per *Will* (*supra*) and McHale saying three times either "I haven't yet decided your sentence" or "let me talk." Both Shelton and McHale spoke rapidly, loudly, passionately and interrupted each other (SCA D 8-12). Judge McHale again refused to listen and shut up Shelton by ordering her to be placed in the holding cell (SCA D10-12)

Shelton again was forcibly removed to the lock-up without any hearing on the petitions for Melongo and one (1) hour later brought back into the courtroom. After statements by McHale asking Shelton if she would be quiet and Shelton responding that she doesn't cooperate with traitors, in a sort of angry truce-like atmosphere, McHale stated that he held Shelton in contempt for "interrupting him" and calling him a "traitor" on the first contempt case. (SCA F) McHale then let Shelton speak.

Upon bringing Shelton out from the holding cell a second time, Shelton stated that orders from traitors are invalid and as a citizen she was obligated to protect the constitution and therefore she was obligated to say that without jurisdiction due to his treason she was placing Mr. McHale under a citizen's arrest for violation of civil rights under color of law. Sheriff staff refused to arrest the judge. Shelton knew this was a futile statement, though true, but simply wanted to preserve it on the record. (SCA D13-24)

Shelton stated that: 1) she had tried to present petition to three (3) other judges who all refused to hear it or denied it with void orders; 2) specific case law she quoted requires judges to hear next-friend habeas petitions, which is one of the most important rights in the Constitution, or they were violating law, the United States Supreme Court, and the Constitution in acts of treason as well as violating due process; 3) Judge McHale had also

violated the U.S. Supreme Court, State law, and the Constitution in acts of treason; and 4) Judge McHale's treasonous acts forfeited his jurisdiction and voided his orders. (SCA D13-24)

Shelton also gave a brief summary of documents and evidence that she had attached to Melongo's habeas petitions proving that there was no probable cause to arrest her on either charge or to detain Melongo, per the 4th Amendment (SCA D13-24).

Finally, Shelton explained that Judge Biebel, Judge McHale's supervisor, had eight (8) months earlier allowed her to file a similar petition for writ of habeas corpus as a next-friend for Ms. Hamilton and that as a result Judge Biebel appointed Hamilton an attorney who eventually helped to win Ms. Hamilton's freedom. (SCA D19 & QQ1-18 particularly 13)

Judge McHale then summarily sentence Shelton to 120 days in the Cook County Department of Corrections ("CCDOC") without statutorily required admonishment as to right of appeal for sentence or conviction, including the right to ask the court to order the clerk to file the notice of appeal for the defendant, as required by Illinois Supreme Court Rule 605 and Shelton was too stunned to request the court to file a notice of appeal. (SCA D25-27).

Judge McHale then said that the second contempt case was for during Shelton's second appearance before him that day "interrupting" him and not allowing him to speak, yelling in saying his orders were void and calling him a traitor and a jackass for committing treason (SCA D25-27 and F).

On May 12, 2010 Judge McHale wrote that Shelton was charged with criminal contempt (first "case" = ACC100083-01) , not for what he said in court, for filing a next-friend PWHC as a non-attorney (SCA D5 line 15-19), but for "interrupting him," and stating that he committed "treason" (SCA B1-2) and held second charge (he called second "case") of

criminal contempt sentence in abeyance until Shelton received an exam for fitness which he ordered on May 11, 2010 (SCA Q1, D8-27). His fitness exam order was not based on any specific fact as Shelton spoke rationally, intellectually, and with clear knowledge of case law in her allocution, spelling out with specificity why Judge McHale's actions holding her in contempt and refusing to hear the next –friend habeas petitions not just were illegal, concerning first contempt charge (SCA D13-24), but were criminal violations of the Constitution Suspension Clause, U.S. Supreme Court case law (*U.S. v. Will, (supra)*, *Cohens v. Virginia* (*Supra*), and Illinois statute (735 ILCS 5/10 et seq). His illegal orders had an appearance of harassment against Shelton and retaliation for Shelton writing a blog exposing corrupt acts of CCCC judges: http://cookcounty judges.wordpress.com, not only in the criminal court division concerning Melongo, but also in the CCCC Domestic Relations division case (including Re: U.S Supreme Court pending case 11-10790, later written by Shelton as a paralegal for pro se litigant Bambic) and CCCC Probate Division. (Re: case no. 10 P 6117).

In Illinois, a defendant is presumed fit to stand trial and will be considered unfit only if, because of the defendant's mental or physical condition, the defendant is unable to understand the nature and purpose of the proceedings against him or her or to assist in his or her defense. *People v. Griffin*, 178 Ill.2d 65, 79 227 Ill.Dec. 338, 687 N.E.2d 820 (1997). Clearly Shelton had no issues of fitness. The actions against Shelton by Judge McHale and subsequently by Judge Chiampas in case presently before this Honorable Court, case # 11-10814 have the appearance of retaliation for Shelton's complaints of corruption in the Circuit Court of Cook County and for her previous suits against judges who acted with no jurisdiction an example of which is detailed in Appendix (SCA XX).

Shelton also had a history of objecting to illegal proceedings and acts of judges in the CCCC child abuse court cases where she regularly had advocated for her pediatric patients parents, many of whom had been wrongfully accused of child abuse or neglect, as a pediatrician and medical director of a psychiatry group practice. Shelton had already helped win a major Federal Civil Rights case against Illinois Department of Children and Family Services as a medical fact witness, *Dupuy v. Samuels*, 397 F. 3d 493 (7th Cir. 2005), had served as an "authorized representative" and won a DCFS child abuse finding appeal for a wrongfully accused parent, C.H., and has prevailed thus far on 21 of 33 false arrests and malicious prosecutions brought against her, in the last 10 years (3 pending here, 6 pending in U.S. S. Ct case 11-10814), mostly for wrongful allegations of trespass, disorderly conduct, or assault/battery of an officer ("bumping" them with her wheelchair or walker – when in fact the officers assaulted her or walked in front of her walker so that she would bump them) in courthouses while she was defending herself or court watching.

Shelton has filed several federal civil rights suits against sheriff deputies for these false arrests and one is still pending (case # 09 C 6413 in the Northern District of Illinois Federal District Court) . Most were dismissed for want of prosecution when she was in jail pretrial on the other charges and denied access to the courts (refused access to law library, law librarian refused to research any issue and only provided copies of cases if given their citations, refused access to paper, pen, stamps, envelopes due to unexplained denial of access to commissary for months, and refused transportation or non-collect phone calls to the federal court so she could litigate her cases – **this was not denial of access due to usual conditions of incarceration.**) There are at least 16 instances of Sheriff Deputies who attacked, assaulted, or battered Shelton. Then to cover-up their acts of harassment and retaliation for Shelton bringing suit against their colleagues, they made false criminal

charges against Shelton. Shelton has prevailed pro se in most of them and has six (6) of these cases are presently pending before this Hon. Court in case # 11-10814.

Shelton filed a Petition for Writ of Habeas Corpus on May 26, 2010 regarding the first contempt conviction against her, ACC00083-01 (SCA C1-3) and it was transferred to Judge Porter and denied on June 9, 2010 (SCA A1) after a brief hearing, with Judge Porter completely ignoring the fact that the habeas was not about argument with Judge McHale's order, but was about such extreme statutory and constitutional violations by Judge McHale that his orders were void *ab initio*. (SCA PP) Judge Porter ignoring the arguments dismissed the PWHC. (SCA A1, PP).

Shelton was charged with a second "case" (actually count) of criminal contempt during same hearing on May 11, 2010 during allocution, CCCC case no. ACC 100093-01, and sentenced on June 10, 2010 to 180 days in jail to be consecutive to ACC 100083-01 (SCA F1-2, G1). Shelton was charged with a 3rd "case" (actually count) of criminal contempt on June 10, 2010 during allocution and sentenced on June 10, 2010 to 180 days in jail consecutive to other charges (SCA F3-4, G2). Contempt was allegedly for Shelton's "repeated interruptions of the court and her continuous yelling" as well as calling the judge a "jackass" on the second charge and for "again interrupted the court by yelling over him" and saying "I don't give a damn" and after sentencing while shocked and extremely frustrated, "fuck you" on the third charge. (SCA L) Total summary sentence was 16 months with an illegal order denying statutory good time jail credits. (SCA E, G1-2)[8]

[8] NOTE: Shelton had claimed before being charged in ACC 100083-01 that filing a next-friend habeas petition was legal and that refusing to hear it claiming she had no standing was judicial treason, which removed Judge McHale's jurisdiction over the cases. (SCA D9-24) Shelton knew at that point that ALL of Judge McHale's orders were now VOID per *Cooper v. Aaron*, (1958) 358 U.S. 1, *U.S. v Will*, (1980) 449 U.S. 200 FN 19 citing *Cohens v. Virginia*, 6 Wheat. 264 (1821) and the following case law per stare decisis.

Both Illinois and Federal law confirm that if a judge makes an order knowingly in violation of law, his order is void. The Illinois Supreme Court has held that "if the magistrate has not such jurisdiction, then he and those who advise and act with him, or execute his process, are trespassers." *Von Kettler et.al. v. Johnson,* 57 Ill. 109 (1870)

Under Federal law which is applicable to all states, the U.S. Supreme Court stated that if a court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; . . . . They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers." *Elliot v. Piersol,* 1 Pet. 328, 340, 26 U.S. 328, 340 (1828)

When judges act when they do not have jurisdiction to act, or they enforce a void order (an order issued by a judge without jurisdiction), they become trespassers of the law, and are engaged in treason (see Chief Justice Marshall's statement in *Cohens v. Virginia* (supra), quoted in FN 19 in *U.S. v. Wills* (*supra*).

Per above case law, when a judge acts as a trespasser of the law, when a judge does not follow the law, the judge loses subject-matter jurisdiction and the judge's orders are void, of no legal force or effect.

Shelton became increasingly frustrated with court acts/orders in her attempts to have heard her next-friend habeas petition on behalf of Melongo, which were by then VOID due to intentional constitutional, statutory, and due process violations by the Court, as well as total lawlessness by Judge McHale, condoned and aided by the Cook County State's Attorney and all members of the bar who were present in the courtroom and failed to speak up, including Professor Daniel Coyne of the Kent School of Law, whom Judge Biebel had

appointed to represent Maisha Hamilton on a next-friend habeas petition that Shelton filed for her in September 2009 case # 09 MR 00025 (SCA Group QQ).

Judge McHale then put on hold the sentencing of the second "Case" of contempt and ordered a fitness exam ("BCX") stating that Shelton's second appearance was so intense and passionate that he questioned her fitness and "held off" on deciding 2nd contempt sentence until fitness exam results received. Hearing was continued to June 10, 2010. (SCA M30-32) Summary sentencing on a day other than the day of contempt act requires a full due process trial per Illinois Appellate Court previous rulings. *In re Marriage Betts*, 200 Ill.App.3d 26 (1990); *Winning Moves,Inc., v. Hi! Baby, Inc.* 238 Ill.App.3d 834 (1992); *Kaeding v. Collins*, 281 Ill.App.3d 919 (1996). Yet, no trial was allowed.

Shelton in the CCDOC had great difficulty accessing the courts or communicating with anyone due to denial of access to the courts as explained in 11-10814 (another Petition for Writ of Mandamus by Linda Shelton presently before this Honorable Court). In summary concerning denial of access to the courts, the Cook County Sheriff bars detainees on medical or psychiatric units from accessing the Cook County Jail Law Library directly, without regard to their medical condition, status regarding segregation, or status regarding security risk. Shelton is disabled, requiring frequent medical monitoring and medications and therefore was housed while in jail on the medical unit. The law librarian tells detainees that she will not do legal research or answer legal questions. **She will only provide cases or statutes if the detainees provides her a full citation, despite their lack of access to the law library.** Thus there is **de facto denial of access to the courts** for any detainee at CCDOC who does not have physical access to the law library (all those on medical, psychiatric, and segregation units). In addition, if on a psychiatric unit, detainees are denied access to paper, pen, books, or documents as these are barred from their cells

and books can only be read in front of staff and cannot be taken into a cell. One piece of paper and one envelope is provided weekly with a pen under a one hour supervised period so that each detainee may write one letter per week. This is de facto denial of access to the courts.

Shelton, although not mentally ill, has been intermittently held on the psychiatry unit, purposely to impede her access to legal material and her ability to represent herself. Guards have also told her that she was placed there to prevent her providing legal information to other detainees. She has no psychiatric diagnosis except for non-violent post-traumatic-stress disorder with symptoms of nightmares and daytime flashbacks resulting from beatings by police. (SCA UU1-2). Her psychiatric records prove that she has been abused by jail staff as does an article by her psychiatrist written as an editorial in the United States' leading journal on psychiatry and the law. (SCA UU and VV respectively) In fact in this editorial Dr. Richard Rappaport rails against the abuse of Shelton by the courts and jail in claiming she is mentally ill and abusing her with psychotropic drugs.

Shelton was able to obtain a blank petition for writ of habeas corpus after two weeks in jail, fill it out using her attorney friend's pen (who came to visit her in jail) and give it to her attorney friend to file for her pro se with the court. (SCA C) Since Shelton was denied paper, pen, stamps, envelopes, and legal materials, she asked her attorney friend, Albukerk, to copy, file, and motion up her habeas petition, as well as have friends serve it appropriately. Shelton had dictated by phone and had published on an International Internet news site, for which Shelton at the time was an independent contractor, hired as a citizen reporter to write as their "Cook County Government Examiner [reporter]" to report news about corruption in Cook County. This article in detail described this case and the treasonous actions of Judge McHale in illegally jailing Shelton. (SCA C2-3)

Most judges in the CCCC criminal division are aware of Shelton's writings on the Internet, including in her blog about CCCC judicial corruption with evidence, http://cookcountyjudges.wordpress.com, where incompetent or criminal acts of numerous judges including Judge Kazmierski and Brosnahan are described and published in detail. This is the factual basis as to why most of the CCCC criminal judges are angry at Shelton and biased against Shelton, behind the scenes a known activist and whistle blower. **This has been verified by others, who will remain anonymous for their safeties, who have overheard conversations by judges in the CCCC criminal division.**

Shelton while incarcerated in 2010 had to slowly gather legal research by writing to her friends or telling them during a once weekly visit what she wanted to research and wait for them to research it and send her by mail the case law. Therefore, it took months for her to write her motions challenging the conviction or sentence.

Shelton's family hired attorney Albukerk to write a motion to try to free her. Without transcript and without consulting further with Shelton, Albukerk wrote an emergency motion to grant bail and rescind sentence. The prosecutor had fraudulently represented to him that Shelton was jailed because of a foul mouthed outburst. The transcript proves this a false statement (SCA D3-7) Albukerk therefore argued that: 1) since contempt requires intent the judge's order for fitness exam admits the court had significant questions as to if Shelton's acts were willful and knowing so summary finding of contempt was incompatible with the court not having all relevant facts before it and is a denial of due process (*People v. Meyers*, 352 Ill.App.3d 790 (2004) See also *People v. Sheahan*, 150 Ill.App.3d 572 (1986), and it is "incumbent on the court to afford the defendant [Shelton] an opportunity to fashion a defense based upon an affirmative defense of insanity." *People v. Wilson*, 302 Ill.App.3d 1004, 1006 (1999); 2) the court's holding was

legally in error per 735 ILCS 5/10-103 [IL Habeas Statute] and federal law, 28 U.S. C. 2242 that it was illegal for a non-attorney to file a next-friend habeas petition – Albukerk expressed the belief of Shelton that this was the court's basis for the contempt finding; 3) the court's holding that Shelton's use of the words traitor and treason was an act of contempt should be dismissed as these terms were used to make legal arguments based on case law and therefore was not meant to embarrass, hinder, or obstruct the court – Shelton quoted in open court *United States v. Will's* (supra) footnote 19, citing *Cohens v. Virginia*, 6 Wheat. 264 (1821) [To argue a judge has knowingly exceeded his jurisdiction, as Shelton said happened when Judge McHale over-ruled Illinois Habeas Law, Constitution Art I, Section 9, and U.S. Supreme Court dicta/holding in *Boumediene v. Bush* (supra), is to argue a judge is a traitor and committed treason in an act of knowingly violating law.]; and 4) continuing to hold Shelton in jail for contempt will cause multiple non-parties great hardship – as Shelton's father was dying, Shelton was his power of attorney, and family affairs and bills would not be cared for in her absence with the potential loss of a home.

Then on June 3, 2010 after Attorney Albukerk made a Motion to Rescind Sentence and Grant Bond based on case law that one cannot be held in contempt if there is a question of fitness per *People v. Meyers*, 353 Ill.App.3d 790, 182 (2004); *People v. Wilson*, 302 Ill.App.3d 1004, 1006 (1999) and that it was legally incorrect for Judge McHale to state that it is illegal to file a Next-Friend Habeas Petition as a non-attorney (SCA P3-7) Judge McHale claimed he never actually had a bona fide doubt of Shelton's fitness (SCA M10-16). He also claimed that he did not find Shelton in contempt for filing a next-friend habeas petition as a non-attorney, but for her statements interrupting him (SCA M6-12). This is inconsistent with what he said on May 11, 2010 documented in the transcript (SCA D3-7). It is also not sufficient to find someone in contempt according to higher case law precedent

where it was held that a vigorous defense was not contempt.[9] Shelton was vigorously trying to defend herself against Judge McHale's lawless act of defying State Habeas Corpus Law and the Suspension Clause and interrupting him was appropriate as any defense counsel has a right to object to the false statements of the court.

Shelton refused to answer questions of psychiatric examiner (SCA R1), because she will not follow an illegal and unjustified order, and Judge McHale then sue sponte declared her fit on June 3, 2010 (SCA L3 line 1 to L6 line 24) and on June 10, 2010 (SCA L3-6).

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[9] "We will reverse a finding of direct criminal contempt if the contemnor can show that his conduct was a good-faith attempt to represent his client without hindering the court's functions or dignity." *In re Marriage of Bartlett,* 305 Ill.App.3d 28 (1999).

In *People v. Coulter,* 228 Ill.App.3d 1014 (1992), "trial court's remarks, taken as a whole, exhibit hostility toward the defense". The courts have stated that overzealous, inappropriately sarcastic, and lack of civility in language of counsel during a vigorous defense does not automatically constitute contempt. Intent must be proven beyond a reasonable doubt and provocation in the underlying proceedings may be considered in determining intent.

"In attempting to obtain a favorable ruling on their motion for reconsideration, contemnors could have made better use of the English lexicon to further their client's cause, and the cause of professional civility, but we conclude that the language employed was not, in itself, sufficient to prove intent to embarrass or hinder the court beyond a reasonable doubt." *People v. Griffith,* 247 Ill.App.3d 21 (1993)

Search for essential elements of crime of contempt must be made with full appreciation of contentious role of trial counsel and attorney's duty to zealously represent client's interests, if conduct complained of is that of attorney engaged in representation of litigant; vigorous, independent bar is indispensable to system of justice. *Griffith,* id.

Even though defense counsel may have been overzealous or improperly sarcastic at times, record disclosed that his conduct in courtroom constituted good faith attempt to represent his client's without hindering court's functions or dignity and therefore did not constitute direct contempt of court. *People v. Miller,* 51 Ill.2d 76, 21 N.E.2d 292 (1972)

Although provocation is not a defense, the circumstances of the underlying proceedings may be weighed to determine whether the offense of criminal contempt was proved beyond a reasonable doubt. *In re Marriage of Bartlett,* 305 Ill.App.3d 28 (1999); *People v. Pearson,* 98 Ill.App.2d 203, 240 N.E.2d 337 (1968)

In determining whether direct criminal contempt has occurred, the reviewing court may consider provocation by the trial court and erroneous trial court rulings that may have triggered the contemnor's comments. *Bartlett,* id

The next-friend Petitions for Writ of Habeas Corpus have never been heard. Melongo was in jail until July 2012 when the eavesdropping charge was dropped (SCA JJ) and bail was reduced from $300,000 on the computer tampering charge to the original I-Bond on just the computer tampering charge.

Judge McHale heard Albukerk's motion (SCA P) on June 3, 2010 and denied arguments #2 and #3 stating he did not hold Shelton in contempt for filing the habeas petition but because she "interrupted me four times during her first appearance [a statement NOT compatible with the transcript of 5/11/10 SCA D4-5] and "the manner in which the defendant (Shelton) conducted herself in open court that led to her [2nd] contempt [finding]" [referring to his previous statement that defendant yelled to the gallery and attorneys in the room that the judge's actions were 'illegal" thus making "a complete spectacle of herself and creating a circus-like atmosphere in the courtroom.:] (SCA M8-9). Then Judge McHale states that there was no question of fitness and Shelton may have been an overzealous advocate during her second appearance after she was taken into custody illegally in violation of all law (SCA M11-12). Shelton alleges that Judge McHale brought the court into disrepute and that his orders are void and that any statements she made (SCA L & M) were true and correct.

Judge McHale continued his argument #1 as to fitness because "a mere concern on my part that the defendant might have fitness issue does not rise to a bona fide question as to her fitness." (SCA M14 line 7-9).

Judge McHale immorally as to argument #4 said Shelton if she had concerns for her family (<u>in a snide, disrespectful spectacle unbefitting a judge</u>) should have thought of that before committing contempt (SCA M16 line 20 – M17 line 2), also stating he understood from a POA attached to habeas petition by friend filling

it that Shelton gave POA to a friend so this was not an issue (SCA M17 line 8-11) [**this was a false statement by Judge McHale as friend only had POA over personal and not family's or Shelton's dying father's affairs.**]

Shelton then on June 3, 2010 said she wished to fire her attorney [for lack of funds] and Albukerk was granted leave to withdraw. (SCA M18-19) Shelton had said she had not seen or discussed motion before argument and wanted to file a different motion but was denied access to the courts by CCDOC including legal research, paper, stamps, and envelopes. She moved orally for an order from the court granting her physical access to the law library and these materials and it was granted (SCA H), but > 10 weeks later she was still denied access to the law library. Judge McHale delayed hearing a motion for rule to show cause.

Faretta admonitions were not given by the Trial Court in granting self-representation even with fitness exam pending (SCA M20-22). Shelton moved for standby counsel due to lack of access to law materials. This was denied. (SCA M22)

Shelton then orally moved for a stay of sentence pending appeal and due to family hardship noting her friend did not have POA over family affairs. [She knew that federal case law held that a stay of sentence is mandatory unless there was an issue of dangerousness when the sentence was shorter than the time it takes to appeal or the appeal is moot – yet as she was barred from access to the law library and her friends had yet to mail her research on this issue, she was unable to quote the case, which she now knows is: *St. Pierre v. United States*, 319 U.S. 41, 63 S.Ct. 910, 87 L.Ed. 1199 (1943)]. (SCA M18-26) This case, despite Shelton having completed the sentence, is not moot as there are still collateral consequences that per this Honorable Court's decision in *Sibron v. New York*, 392 U.S. 40 at 52, 88 S.Ct. 1889, 20 L.Ed.2d 917 (1968) allow an exception to the mootness

doctrine. This is shown due to the fraudulent conviction of Shelton in 2007 for felony battery to an officer (SCA YY) (falsely alleging "bumping" [from testimony at trial in August 2007] him with her wheelchair causing an abrasion) when she is actually innocent [the basis of another Petition for Writ of Mandamus in preparation for this Court – necessitated because the Illinois Supreme Court has banned Shelton from filing any document with them], and the subsequent decision by the Illinois Appellate Court to illegally, in violation of all tenants of due process, affirm this conviction, not based on the issues but based on an ad hominem attack against Shelton concerning the contempt convictions in **this case before this bar**. (see SCA YY which gives an on line link to the decision and appeal).

On June 3, 2010 (SCA M26) Judge McHale denied stay of sentence because of the fitness exam. This is a direct violation of the statute on fitness exams 725 ILCS 5/104-13(d) that states that a defendant may not have bail revoked or be incarcerated for the purpose of a fitness exam. It is also a violation of previous U.S. Supreme Court opinion that if an appeal takes longer than a sentence then due process requires that the defendant be released during the pendency of the appeal. *St. Pierre (supra).*

Judge McHale's violation of statute and precedent cruelly caused Shelton and her dying father tremendous uncalled for and inhumane mental stress by keeping her incarcerated during the appellate process [which was illegally stopped by the IL Appellate Court in an act of corruption denying her in forma pauperis petition] thus depriving Dr. Lorincz of the comfort of his primary caregiver and daughter, Shelton, during the last several months of his life. He had wanted to die at home, but was transferred to six different facilities, by a mentally ill family member and corrupt attorney who took advantage of Shelton's incarceration to exploit their father, during the three months prior

to his death and deprived of companionship of his daughter who had cared for him for several years due to the immoral cruelty of Judge McHale. Shelton still has nightmares of her father scared and suffering and prolonged mental stress (diagnosed as post-traumatic-stress-disorder) as a result of this immoral order. Judge McHale's conduct was treachery.

Judicial notice is given that appeals in Cook County criminal court are taking > two (2) years. This motion for stay of sentence during appeal was entered and continued due to fitness exam pending – in a heartless, unethical, and unconstitutional act by Judge McHale. (SCA M26 line 4-9)

Shelton moved to vacate the order for a fitness exam saying it was res judicata as several other judges had ordered exams, them withdrawn their order and Shelton was a pro se Plaintiff in several cases pending before the state and federal court, with no issues of fitness. Her oral motion was denied. (SCA M26-27)

Shelton moved to vacate all Judge McHale's orders as his act of treason made all subsequent orders void stating she could not give authorities due to lack of access to courts. Motion was denied. (SCA M27-29)

Judge McHale entered and continued Shelton's Petition for Writ of Habeas Corpus (an illegal act as a petition for writ of habeas corpus is an expedited matter of the highest importance according to statute) and entered and continued Shelton's oral motion to schedule hearing on her Melongo habeas petitions, which are still pending two (2) years later. One is now moot due to eavesdropping charge being dismissed, but the public interest exception to the mootness doctrine should be invoked. Judicial notice is given that lack of hearing a petition for writ of habeas corpus "forthwith" is a violation of 735 ILCS 5/10-103. Note also that 735 ILCS 5/10-106 requires that a judge who does not hear a petition for writ of habeas corpus "forthwith" is to be fined $1,000 to be paid to the defendant. (SCA M29-32)

The hearing was continued again to June 10, 2010. (SCA M32)

On June 9, 2010 Shelton's petition for writ of habeas corpus on 1st contempt case or conviction, ACC 100083-01, was presented before substitute Acting Presiding Criminal Court Judge Porter, as Judge Biebel was again unavailable. Judge Porter denied it stating that in Illinois habeas law is very limited and habeas petitions can only be granted if sentence completed and defendant was still in custody or if judge had no jurisdiction to convict defendant. Judge Porter ruled that even if Judge McHale made an error in refusing to hear Melongo habeas petition, his error did not cause him to lose jurisdiction for finding defendant in contempt. (SCA A and PP)

Shelton objected stating that due to Judge McHale's violation of Illinois law, constitution, and U.S. Supreme Court holding that next-friend non-attorney habeas petition filings are legal, Judge McHale's order was void and all subsequent orders were void and not voidable, as a judge who commits treason immediately loses jurisdiction (SCA D) [due to lack of access to legal resources except those mailed to her by a friend and a few cases brought to her by CCDOC law librarian – who only gives detainees cases if she gets full citation – in three (3) months she had refused to respond to ANY requests for legal research by keywords, physical access to all detainees housed in infirmary - Shelton is disabled and was housed in infirmary – top officer for infirmary Supt. Martinez, has refused to obey Judge McHale's written order to give Shelton physical access to the law library - - Shelton could only state an authority for a distantly related issue. In Illinois in a civil case if motion to substitute judge is improperly denied despite mandatory statutory requirement for compliance – all subsequent orders of that judge re void. *Jiffy Lube International, Inc. v. Agarwal,* 277 Ill.App.3d 722, 727, 214 Ill.Dec. 609, 661 N.E.2d 463 (1996)]

Although Shelton did not mention Judge McHale Denied Substitution of Judge [as a right] (SCA D3 line 3-22, p 4 line 24 to p 5 line 1-3) as a reason Judge McHale lost jurisdiction in habeas petition before Judge Porter on 1st contempt conviction, waiver of this issue on appeal does not apply as this involves fundamental due process constitutional rights not subject to waiver, and the fact it would be a grave miscarriage of justice to allow a judge who lost jurisdiction to deny constitutional right to liberty without due process. Also "challenges to void judgments may be raised at any time irrespective of principle of waiver." *People v Simmons*, 256 Ill.App.3d 651.

On June 10, 2010 Shelton was brought before Judge McHale and found to be fit without psychiatrist's report upon pronouncement of Judge McHale after he read that the psychiatrist would not decide fitness without interviewing Shelton and Shelton refused to answer questions. Shelton had refused to answer psychiatrist's questions because "She will not cooperate with traitors." She considered order for fitness exam void as she considered all Judge McHale's orders after he, in acts of treason, refused to hear Melongo's habeas petitions and refused to transfer case to [Chief] presiding criminal Court Judge Biebel on May 11, 2010, in violation of 735 ILCS 5/2-1001(a)(2) [law for substitution of judge as a right]. McHale then sentenced Shelton to 180 days jail consecutive to first contempt sentence, as well as denied good time jail credits (SCA F1-2, G1) in violation of statute.

In allocution on the 2nd contempt charge Shelton made essentially the same statement that she presented on May 11, 2010 that Judge McHale's refusal to hear Melongo's habeas petition was an act of treason for violating knowingly and willfully the constitution Article I, Section 9 Suspension Clause, Illinois Habeas law 735 ILCS 5/10-101 et seq. and U.S. Supreme Court holdings [and dicta] in *Boumediene v. Bush* (supra), again citing *Cooper v. Aaron* (supra) and *U.S. v. Will* (supra) FN19 citing Chief Justice Marshall's

exposition in *Cohens v. Virginia* (supra) that "usurping [the exercise of jurisdiction] that which is not given . . . [by a judge] would be an act of treason."]. (SCA L)

A heated discussion followed with both Shelton and McHale interrupting each other and taking over each other. Shelton stated that McHale had forfeited his authority as a Judge by his misconduct. (SCA LI)

Judge McHale then summarily ordered that Shelton may not make any allocution regarding 3rd contempt finding and he summarily found Shelton in contempt in a 3rd "case" for "interrupting him and a for a vulgar comment as she was led out of the courtroom" prior to his writing down the summary 3rd sentence of 180 days CCDOC consecutive to her contempt sentences (total 16 months summary sentences).

Judge McHale then in violation of statute, 730 ILCS 130/3.1, after ordering Shelton removed from the courtroom modified the sentences by ordering that mandatory statutory day for day good time jail credits be denied, in violation of *Codispoti v. Pennsylvania* 418 U.S. 506 (1974). Each contempt charge was declared to be a separate case in violation of statute 720 ILCS 5/3-3.

After three (3) months in jail, a jail physician and the law librarian in August 2010 finally gave Shelton some paper to write motions and other detainees gave her pens to write with. She then wrote and filed by mailing them to friends who filed the numerous well written pleadings with appropriate citations she had received in the mail by friends or which she knew by memory including:

1) Declaration of Shelton that Cook County Jail has Impeded her Ability to Access the Courts and refused to Transport Shelton to Court to Have Her 2nd Petition (prepared and filed by others after phone conversations) for Writ of Habeas Corpus Heard on August 23, 2010 re 10 HC 00012 filed August 23, 2010 (SCA K).

2) Emergency 1401F Petition to Vacate Orders Denying Day for Day Credit

3) Response to People's Motion to Dismiss Petitioner's Request for Habeas Corpus Relief filed October 1, 2010 (SCA BB)

4) Petition to Vacate All Orders 5/11/10 & 6/10/10 for Failure to Substitute Judge as Right and Transfer 10 HC 0006 & 7 to Judge Biebel filed August 16, 2010 (SCA T)

5) Motion for Substitution of Judge for Cause filed August 16, 2010 (SCA U)

6) Emergency Petition 1401F to Vacate Sentences & Convictions because Vigorous Defense of Constitution and Civil Rights is Not Contempt Because of lack of Intent filed August 16, 2010 (SCA V)

7) Memo in Support Vacate Sentences & Schedule Jury Trial filed August 16, 2010 (SCA W)

8) Second Emergency Motion for Stay of Sentence Instanter [pending appeal] filed September 3, 2010 (SCA X),

9) Emergency Motion to Advance and Hear Instanter (1) Motion for Rule to Show Cause, (2) 2nd Motion for Stay of Sentence Pending Appeal, (3) Motion for Defendant to be Declared Indigent, (4) Motion to Fine Judges & (5) Next-friend habeas Petitions 10 HC 00006 & 7 filed September 3, 2010 (SCA Y),

10) Motion for Defendant to be Declared Indigent for Clerk to File Late Notices of Appeal & for Court Reporter to be Ordered to File Set of Free Transcripts with Clerk for Appeal & to Provide Set of Transcripts to Defendant & for Clerk to Prepare Record on Appeal filed September 3, 2010 (SCA Z),

11) Memorandum of Fact to Correct Judge McHale's False Defamation Statements of 6/10/10 filed September 3, 2010 (SCA AA)

On October 1, 2010 Judge McHale brought Shelton, acting pro se, to his courtroom and said he would hear her motions. He ordered that she may not object to anything (SCA CC2-3) and he ordered that if she made any "disturbance" which he defined as anything Shelton had said in the past (presumably making objections, quoting the U.S. Supreme Court, or defending herself) that he would have her removed from the courtroom and would rule in her absence, thus not allowing any oral argument (SCA CC4-5) and sue sponte vacating Shelton's right to a defense..

Then Judge McHale denied Shelton's 2nd Petition for Writ of Habeas Corpus stating she did not properly serve it (SCA CC7-9), parroting the State's improper response to the petition (SCA WW) that it must be stricken for not following proper service upon them (SCA CC7-9). Judge McHale claimed that per 735 ILCS 5/2-203 the law requires all civil motion to be served by the Cook County Sheriff or a process server approved by the court. He dismissed Shelton's 2nd Petition for Writ of Habeas Corpus and refused to send it to the Presiding Judge of the Criminal Division as required by Circuit Court of Cook County Rule 15.2. Judge McHale illegally refused to follow the dictates of 735 ILCS 5/10-101 et seq. Judicial Notice is given that a Petition for Writ of Habeas Corpus is an ex parte proceeding and no notice is required.

When Shelton objected and tried to file her reply to the State's response, which had claimed that the habeas petition should not be heard because it was not served according to the Illinois Code of Civil Procedure on the Cook County State's Attorney and Judge McHale stated it was not served properly, Judge McHale ordered Shelton removed from the courtroom and thus denied her ANY counsel whatsoever. (SCA CC34-35) He then ruled ex parte on her all her other motions.

Shelton had tried to state what she said in her written reply, that the Illinois Supreme Court in *Henning v. Chandler,* 229 Ill.2d 18 (2008) held that 735 ILCS 5/10-101 et seq. includes specific procedural provisions regulating habeas corpus actions, and these sections control over the general procedural provisions contained in article II, known as the Civil Practice Law (735 ILCS 5/1-101(b), 2-101 et seq. (West 2002)). Thus a petition for writ of habeas corpus is an ex parte proceeding and service is not required via the Cook County Sheriff on the Cook County State's Attorney. The Petition must only be filed with the Court. Thus Judge McHale's orders dismissing the 2nd Petition for Writ of Habeas Corpus is VOID *ab initio,* is therefore still pending, and must be heard nunc pro tunc.

On October 1, 2010 Judge McHale ruled on Shelton's motion in absentia, ex parte as follows: 1) he vacated order denying day for day good time jail credits; 2) he dismissed Shelton's Notice of Motion for Rule to Show Cause Why All Jail Supervisors and Sheriff Thomas Dart Should not be Held in Contempt of Court [for failing to give Shelton access to the law library] because she did not properly serve the motion to the State's Attorney, 3) he denied Motion to Vacate All Orders for Failure to Substitute Judge as a Right with a circuitous argument that Shelton had allowed him to proceed [ignoring that she agreed he could proceed only if Judge McHale followed the law] and he had started to discuss her motion for writ of habeas corpus on behalf of Melongo, which is a false statement – he had just stated that she had no standing to bring that Petition so there was no formal hearing. McHale also claims that the case Shelton cited, *Jiffy Lube International v. Agarwal* (*supra*) was not on point because it applied to a motion for SOJ for cause and not on a motion for SOJ as a right, as Shelton had requested. McHale also said he denied the motion for SOJ as a right because her motion was not in writing, which was inconsistent with the common practice of continuing an oral motion for SOJ as a right until the litigant can put it in

writing and file it.; 4) he denied Petition to Vacate Convictions and Sentences Because of a Vigorous Defense of Constitutional and Civil Rights. He claims none of cases cited in motion by Shelton that vacated contempt charges because they were vigorous and enthusiastic defenses rather than serious attempts to embarrass, hinder, or obstruct the court (thus showing no intent required to convict on a charge of criminal contempt) were applicable and instead stated that *People v. Simak,* 161 Ill.2d at 297 applied.; 5) he denied Emergency Motion to Vacate Sentences Due to Void lack of Jurisdiction stating that the Illinois Code of Criminal Offenses does not apply to contempt charges, in regards to allowing only one charge for the same state of mind. He cited 720 ILCS 5/1-3 which states: "No conduct constitutes an offense unless it is descried as an offense in this code or another statute of the state. He stated that this statute does not affect the power of the court to punish contempt. (SCA CC31) Judge McHale incorrectly interprets *Codispoti v. Pennyslvania* (*supra*) to allow separate convictions as separate cases of contempt during the same hearing as long as they are temporarily separated, with each case allowing a sentence of 6 months without a trial; 6) he denied Petition to Vacate Aggregate Sentences Exceeding Six Months due to this Hon. Court's rulings in *Codispoti (supra)* as well as *Bloom (supra);* and due to Illinois court rulings *In Re: marriage of Betts (supra), and People v. Collins* 57 Ill.App.3d at 934. Judge McHale erroneously stated that each of these contempt convictions was a separate case which was not part of a single proceeding and therefore they were not aggregate sentences. He concluded that therefore, Shelton was not entitled to a jury trial. This is fantasy totally inconsistent with the facts and the U.S. Supreme Court holdings, as well as Illinois State Appellate and Supreme Court holdings cited in this petition.

Sentences were recalculated on October 1, 2010, due to the above filed motions and habeas petitions by Shelton. Note denying good time jail credits was a statutory violation of

and a violation of this Court's holdings in *Codispoti v. Pennsylvania* (1974) 418 U.S. 506. The orders to deny all good time jail credits were vacated (SCA DD). The order for ACC 100094-01 to be consecutive to ACC 100093-01 was changed to be concurrent. (SCA DD) The Petition for Writ of Habeas Corpus was summarily denied without transferring it to another judge as required by law in an outrageous display of incredible judicial misconduct and violation of law (SCA CC2-25). The motions to vacate all orders as well as all other motions were denied again in an incredible display of judicial misconduct and blatant mischaracterization of facts and law (SCA CC26-40).

Shelton appealed the three (3) contempt convictions (ACC 100083-01, ACC 100093-01, and ACC 100094-01) to the Illinois Appellate Court, filing a timely notice of appeal on October 26, 2010 (SCA EE). Judge McHale in violation of Illinois Supreme Court Rule 605(a)(1) refused to allow Shelton to request that the Trial Court order the Clerk to file a Notice of Appeal with free transcripts as she was indigent. (SCA CC) Shelton therefore filed her own Notices of Appeal on October 26, 2012 with the help of friends and borrowed money from family, without the ability to pay it back, to purchase the transcripts, so she could appeal.

Shelton moved for leave to file in forma pauperis (SCA FF), but the Illinois Appellate Court ruled that Shelton must pay the filing fees and when she was unable to do so, due to indigency, they dismissed her appeal on January 20, 2011 (SCA LL), in violation of this Honorable Court's orders in *Smith v. Bennett and Marshall v. Bennett*, 365 U.S. 708, 81 S.Ct. 895 (1961) and Illinois Supreme Court [indigency] Rule 298? In addition the Appellate Court violated ISC R 298(b) by not specifying the reason indigency petition was denied (SCA LL).

The Illinois Supreme Court through its Clerk carrying out a Standing order issued on May 23, 1991 (SCA MM), ordered that Shelton may not file any documents with the Illinois Supreme Court until she pays all past due fees, despite Shelton's present and previous indigency, for which payment was ordered in violation of this Honorable Court's orders in *Smith v. Bennett and Marshall v. Bennett*, 365 U.S. 708, 81 S.Ct. 895 (1961) and Illinois Supreme Court [indigency] Rule 298?

The Federal District Court for the Northern District of Illinois dismissed Shelton's Federal Petition for Writ of Habeas Corpus on ACC 100083-01, 93-01 & 94-01 (SCA SS) falsely stating that Shelton did not exhaust state remedies. .Judge Hart ignored and violated this Honorable Court's rulings in the line of cases *Niersheimer, Regan, and Loftus*[10].

ARGUMENT

The facts detailed above speak for themselves and prove that:

1. The U.S. Supreme Court Clerk illegally refused to file Shelton's Petition for Writ of Certiorari in violation of *Niersheimer, Regan, and Loftus(supra);*
2. The Illinois Appellate and Supreme Courts refused to hear direct appeal by denying indigent petitioner's right to appeal with waiver of fees in violation of this Court's rulings in *Smith v. Bennett and Marshall v. Bennett*, 365 U.S. 708, 81 S.Ct. 895 (1961) and Illinois Supreme Court [indigency] Rule 298;
3. The Federal District Court for the Northern District of Illinois in three previous habeas petitions and Shelton's all-encompassing motion/petition for several cases

[10] *Young v. Ragen*, 337 U.S. 235, 69 S.Ct. 1073 (1949); *People v. Loftus*, 400 Ill. 432, 81 N.E.2d 495 (1948), in response to order of Court in *Loftus v. People of State of Illinois*, 334 U.S. 804, 68 S.Ct 1212 (1948); *Woods v. Niersheimer*, 328 U.S. 211, 66 S.Ct. 996 (1946); *White v. Ragen* and *Lutz v. Same*, 324 U.S. 760, 65 S.Ct. 978 (1945)

criminal and civil (filed as one pleading due to prima facie proven denial of access to the courts by the Cook County Jail) (SCA SS) which was interpreted by Judge Hart as a petition for writ of habeas corpus, illegally denied this Petition and stated falsely that there was no exhaustion of state remedies, despite the above in (2) and in violation of this Hon. Court's rulings in the line of cases *Niersheimer, Regan, and Loftus(supra);* and

4. The 7th Circuit Court has actively and illegally impeded Shelton's access to their Court in an illegal act denying due process by placing sanctions without a due process evidentiary hearing (SCA TT) in violation of the First and Fifth Amendments, chilling Shelton's ability to access their court.

Therefore, this Petition for Writ of Mandamus should be granted and relief provided as described as follows.

REASONS FOR GRANTING THE PETITION

Failure to grant certiorari would encourage and condone systemic violation of innumerable U.S. Supreme Court holdings, discussed above; as well as condone 16 mos. summary sentencing without trial; condone violation of innumerable state statutes; and condone wholesale violation of Constitutional rights – even terminating the right to petition for writ of habeas corpus, as was done in this case, making our justice system worthless garbage and making the orders of this Hon. Court toothless..

Five (5) mostly senior judges in the CCCC violated repeatedly and blatantly one of the most fundamental Constitution rights – to petition for writ of habeas corpus. They see each other daily and may have decided together to act in this manner, perhaps even in retaliation for Shelton's well-known and discussed (100,000 + hits on the Internet on her blogs) criticism of the CCCC on the Internet – essentially snubbing their noses knowingly

at this Honorable Court's holdings in *Boumediene v. Bush* (supra) and *U.S. ex rel Toth v. Quarles* (supra), openly violating Illinois Statute, 735 ILCS 10/10-103, and trashing the Suspension Clause of the Constitution, Article I, Section 9. No judge, let alone five (5) senior judges can claim error or ignorance of such an important right and violate due process this grossly. Integrity of U.S. law and our justice system at all levels is at stake.

For this Court to also ignore violation of your ruling in *Codispoti v. Pennsylvania* (supra) and statute which deny jurisdiction to judges regarding good time jail credits, as well as ignore violation of this Honorable Court's ruling in *Codispoti* (supra) regarding due process right to jury trial if aggregate contempt sentences in one trial or proceeding exceed 6 months (along with controlling Illinois case law *in re Marriage of Betts*, (1990) Ill.App.3d 26) and in addition condone blatant violation of Illinois statutes voiding orders of judges who ignore request/motion for substitution of judge as a right, would give license to all courts to ignore higher court holdings, law and the Constitution, allowing legislation by the bench. Anarchy would be encouraged. Lawlessness becomes standard with each judge making up whatever law he decides and overturning precedent and stare decisis at their whim.

Such a situation is incompatible with the role of the United States Supreme Court in defending the Constitution, upholding stare decisis, and would overturn de facto previous rulings in *Cooper v. Aaron* (supra), *U.S. v. Wills* (supra) and *Cohens v. Virginia* (supra) which define judicial misconduct and/or treason.

Chief Justice Marshall's words in *Cohens v. Virginia* (supra) that it is treason for a judge to usurp jurisdiction when none is given as well as to refuse to follow law would be sent to the trash heap. U.S. Supreme Court holdings would be meaningless. Lawlessness would rule in the United States.

Judges would be given license to wholesale deny pro se litigants equal protection – the right to argue and present their case to the courts. Valid legal argument would be used as basis for contempt findings.

This case has wide-reaching national implications. Such blatant, systemic, and grotesque lawlessness, particularly in sue sponte terminating defendants' rights to petition for writ of habeas corpus, by senior judges in the largest count court system in the U.S. should be promptly and with great urgency quashed to preserve the Constitution and the rule of law. It would be disgraceful for this Honorable Court to refuse to enforce its holdings.

Judge Porter's denial of habeas petition saying essentially that a judge that knowingly and blatantly, particularly in view of a published set of articles by Shelton who had criticized this lawlessness and treason in the exact same manner by three (3) of his colleagues, does not lose jurisdiction in the face of an act of **CLEAR** misconduct in sentencing Shelton to 16 mos. with no trial and a baseless charge, is an insult to our system of justice and brings the courts into disrepute, even implying retaliation against critics of judicial misconduct is OK! Freedom of the press (in this case independent Internet press = Shelton) would be invalidated in violation of the First Amendment.

It is time for the United States Supreme Court to make a strong clear, prompt statement, perhaps as a supervisory order that this systemic lawlessness in the largest county court system in the United States will not be tolerated. All orders of contempt against Shelton as well as denial of a hearing on next-friend habeas petition are VOID. To set a clear example that such extreme lawlessness will not be tolerated perhaps the Court should refer this matter to the DOJ for investigation of treason and retaliation against a federal witness, as Shelton has a federal civil rights suit pending against corrupt officials

and sheriff deputies in the justice system in Cook County including friends of the judges who have wrongfully convicted and sentenced Shelton or who have illegally refused to hear her next-friend habeas petition for Melongo (herself a whistle blower against corrupt officials.)

CONCLUSION AND RELIEF SOUGHT

Integrity of the United States and Illinois justice system is at stake. All orders of Judge McHale are clearly **VOID** due to knowing and willful violation of statutes, Constitution, and U.S. Supreme Court holdings and should be held by this Hon. Court as **VOID**. Convictions are **VOID**. Not only should the Petition for Writ of Mandamus be granted, despite mootness because of the public interest exception and because the sentence was shorter than the time it takes to make an appeal, in order to maintain justice in our court system, but a strong and prompt supervisory order should be provided to all levels of our Federal and Illinois State Court system that U.S. Supreme Court holdings may not be ignored, statutes may not be disregarded or *de facto* overturned, and our Constitution must be strictly adhered to, **particularly the right to petition for writ of habeas corpus.** At the risk of undermining the public's confidence in the judicial process, the welfare of the parties must receive priority over other considerations and a strong message should be given that the harm to Shelton and her family was not just unjust, but was criminal. **At the very least this case should be remanded to the Illinois Supreme Court with an order for them and the Illinois Appellate Court to cease and desist violating U.S. Supreme Court holdings on waiver of fees for indigent persons.** Shelton's remaining next-friend petition for writ of habeas corpus on behalf of Melongo should be **ordered heard immediately** by Federal District Court Judge Hart.

In addition, serious consideration should be given to **appointing a special master**[11] to review, oversee, and order changes in the Cook County Court system to correct systemic injustices and Constitutional violations exposed in this case, especially **refusal** to file and hear petition for writ of habeas corpus, and exposed in Shelton's other case pending before this Hon. Court, 11-10814 (**refusal** to hear speedy trial motion, **refusal** to enforce compulsory process, etc.), and in a third pending case before this Hon. Court that Shelton helped write as a paralegal for a pro se litigant, 11-10790 (**blatant** violation of statutes and due process) regarding systemic problems in family courts in Cook County, as well as described in the affidavits attached from other victims of CCCC legal abuse in this third case, as well as described in this pleading where Shelton noted several other cases including those of Melongo and her own cases described in Appendix XX and Appendix YY, to review archaic and insufficient rules of the CCCC, to prepare an education program for the judges covering topics such as habeas, fitness, indigency, compulsory process, speedy trial, etc. (which presently are trashed or ignored with impunity in Cook County by the judges and government lawyers), that this petition and Shelton's other petitions presently before this Honorable Court , as well as other aforementioned cases suggest are necessary due to pervasive and systemic incompetence and maliciousness of the CCCC judges as well as grant all other requested relief as the Court may deem proper. The lawlessness of the CCCC must be stopped and the rule of law restored in Cook County. This Honorable Court's action is required in this regard.

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[11] Pursuant to new Fed. R. App. P. 48, the court of appeals is authorized to appoint a special master to hold hearings, as necessary, and make recommendations concerning factual findings and dispositions in matters ancillary to proceedings in the court. This rule is meant to aid the court concerning factual issues which may arise in the first instance in the court of appeals, such as applications for fees or Criminal Justice Act status.

Finally, consideration should be given for the special master to appoint a citizen committee chaired by Shelton, other pro se activists such as David Bambic, as well as including prominent law school professors to serve as a permanent oversight committee for the Cook County Judiciary, as well as to serve as an advisor to the legislative judiciary committee. Only when we no longer have the Fox (lawyers and judges) watching the henhouse (court, judges, and prosecutors) will our system of justice in the United States have a chance of being free of corruption, patronage, and lawlessness.

Respectfully submitted,

Dr. Linda Lorincz Shelton

Dr. Linda Lorincz Shelton, Petitioner *Pro Se*

9905 S. Kilbourn Ave
Oak Lawn, Illinois 60453-3539
(708) 952-9040

CERTIFICATE

I certify that one copy each of this Petition for Writ of Mandamus was hand delivered on or about June 6, 2012 to judge respondent and the Circuit Court of Cook County, Judge Timothy Evans CEO, that one copy was mailed to the Illinois Supreme Court Chief Justice and the Illinois Appellate Court Chief Justice of the First District as well as the U.S. Supreme Court Clerk and that three copies were hand delivered to the Cook County State's Attorney at the addresses indicated below. A separate, ~~notarized~~ Verified certificate shows the actual date of service.

The Hon. McHale
C/O (ret) Judge Petrone
50 W. Washington, Rm 2600
Chicago, IL 60602
- Respondent Judge

The Hon. Timothy Evans
C/O (ret) Judge Petrone
Chief Judge of the Circuit Court of Cook County
50 W. Washington, Room 2600
Chicago, IL 60602

Cook County State's Attorney Anita Alvarez
50 West Washington, Room 3rd Floor West Side
Chicago, IL 60602

Chief Justice Illinois Supreme Court
Supreme Court Building
200 E. Capitol
Springfield, IL 62701

Chief Justice Illinois Appellate Court
First District
160 N. LaSalle, 14th Floor
Chicago, IL 60601

U.S. Supreme Court Clerk
1 First Street, N.E.
Washington, D.C. 20543

INDEX TO APPENDICES

[12] CCCC = Circuit Court of Cook County

	Jail to Provide Shelton Access to Law Library and Paper and pen	
I	August 8, 2010 Memorandum [Declaration] by Shelton that she has been denied access to the Law Library, that the Law Librarian Refuses to Provide Assistance with Legal Research, and that the Jail has Denied Shelton Access to White Paper, Stamps, Envelopes, and Commissary	I1
J	August 5, 2010 2nd Petition for Writ of Habeas Corpus by Shelton – CCCC case no. 10 HC00012 regarding CCCC case nos ACC100083-01, ACC100093-01 and ACC100094-01, mailed to a friend, Davy Cady, and filed by him with CCCC on August 16, 2010	J1-6
K	August 23, 2010 Declaration of Shelton that Cook County Jail has Impeded her Ability to Access the Courts and refused to Transport Shelton to Court to Have Her 2nd Petition for Writ of Habeas Corpus Heard on August 23, 2010 re: CCCC case no. 10 HC00012	K1
L	Transcript of June 10, 2010 on ACC 100093 & 10 HC100094	L1-20
M	Transcript of June 3, 2010 on 10 HC 00006 & 10 HC 00007 and ACC 100093-01 [incorrectly labeled by court reporter]	M1-33
N	September 16, 2010 2nd Declaration of Linda Shelton re: Cook County Circuit Court case # 10 HC 00012 [that Shelton has been Illegally Denied a Hearing on this Petition for Writ of Habeas Corpus in a Timely Fashion]	N1
O	Verbatim Quotations of Illinois Statutes	O1
P	May 20, 2010 Emergency Motion to Rescind Sentence and Grant Bond by Attorney Albukerk	P1-11
Q	May 11, 2010 Order for Fitness Exam	Q1
R	June 10, 2010 Forensic Psychiatrist Report [Unable to Determine Fitness or Sanity as Defendant Refuses to Answer Questions]	R1
S	August 16, 2010 Emergency 1401F Petition to Vacate All Orders Denying Day for Day Credit as Void Due to Lack of Jurisdiction	S1-2
T	1401F Petition to Vacate All Void Orders 5/11/10 &	T1-2

HH	December 21, 2010 Presiding Criminal Court Judge Biebel Order for Free Record of Proceedings [Due to Indigency]	HH1-2
II	April 20, 2010 Next-Friend Petitions for Writs of Habeas Corpus by Shelton on behalf of Annabel Melongo	II1-92
JJ	2012 Order Dismissing Charge of Eavesdropping against Melongo, CCCC case no	JJ1-6
KK	Motion to Dismiss Charge of Computer Tampering	KK1-19
LL	January 20, 2011 Decision of the Illinois Appellate Court Denying Shelton's Petition for Indigency Status, thus Terminating Her Appeal and Ordering that Documents May NOT be Filed until ALL Filing Fees are Paid on Appeal of October 1, 2010 Orders Modifying Sentences [IL Appellate Court Case Nos. 10-3342, 10-3344, 10-3345]	LL1
MM	May 23, 1991 Standing Order of the Illinois Supreme Court that those Litigants who have not Paid Fees can File NO Documents before the Court and Letter from April 15, 2010 Illinois Supreme Court Clerk that Petitioner May not File ANY Documents with the Illinois Supreme Court until ALL Past Due Fees are Paid	MM1-3
NN	Articles Describing Investigative Reporter Chuck Goudie's and Other's	NN1-5
OO	Orders on 10 HC 00007 from 4/20/10 & 5/7/10	OO
PP	Transcript of June 9, 2010	PP1-11
QQ	Group Exhibit = Dockets & Documents Filed for Habeas Corpus cases – IL Supreme Court #M12264, CCCC # 09 CH 12736 changed to 09 MR 00025, Re: Medicaid Vendor Fraud Case in CCCC # 02 CR 16455-01 and perjury case # 05 CR 26027-01 regarding defendant Maisha Hamilton	QQ1-18
RR	FOIA requested Application from Illinois Medicaid Fraud Control Unit to U.S. DHHS – selected pages	RR1-8
SS	Order of the Federal District Court of the Northern District of Illinois	SS
TT	Order of the 7th Circuit Court	TT1-17
UU	Letter from Dr. Robert Galatzer-Levy and Psychiatric report by Dr. Richard Rappaport	UU1-23

VV	Editorial by Dr. Richard Rappaport in Journal of American Academy of Psychiatry and the Law in 2006 regarding Linda Shelton and Abuse of Defendants by the Courts	VV1-3
WW	States Motion to Dismiss 2nd Petition for Writ of Habeas Corpus	WW1-9
XX	Details of IL Attorney General's Fraudulent Prosecution of Shelton for Medicaid Vendor Fraud, Acquittal and 4 yr delayed response to Shelton's pretrial FOIA request, received post-trial, PROVING State of Illinois was committing Felony Federal Funding Fraud in its Application for Funding and Recertification of Illinois Medicaid Fraud Control Unit	XX1-2
YY	Details of Shelton's Conviction of Battery of an Officer	YY1-5
ZZ	Details of Melongo cases and Shelton's relationship to Melongo	ZZ1-6
AAA	Letters from U.S. Supreme Court Clerk	AAA1-4
BBB	Petition for Writ of Certiorari rejected by U.S. Supreme Court Clerk mailed from jail August 9, 2010 and received by court August 17, 2010 (BBB 1-27 – note proof of service is BBB59), then remailed in September ? , 2010 received by Clerk September 8, 2010. 2nd mailing after return was damaged by Cook County Jail Correctional Officers and full, complete document is not available (BBB28-74 is reconstruction). Reconstruction is from a copy I had that I was writing on to try to resubmit again so it has notations that were not on original 2nd submission. NOTE – Exhibits are same as above attached to this Petition for Writ of Mandamus so have not been reproduced a second time.	BBB1-74

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

In re Dr Linda Lorenz Sheltan PETITIONER
(Your Name)

U.S. Supreme Court Clerk, VS. Illinois Supreme Court ·
Illinois App. Court 1st Dist — RESPONDENT(S)
Circuit Court of Cook County, Judge Michael McHale

PROOF OF SERVICE

I, Linda Shelton, do swear or declare that on this date, Sept 5, 2012, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF ~~CERTIORARI~~ MANDAMUS on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

See attached service list P 39

I declare under penalty of perjury that the foregoing is true and correct.

Executed on Sept 5, 2012

Dr. Linda Lorenz Shelton
(Signature)