

FORM XXV. PETITION FOR POST-CONVICTION RELIEF

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF Maricopa

09 FEB 18 PM 12:19
FILED
MICHAEL K. JEANES, CLERK
BY J. Jeanes
DEP

Name John Chester; Stuart
Address 3303 W. Twain Court
City, state, zip Phoenix, Arizona (85086)
Phone number 480-232-0606

I. John Chester; Stuart
Petitioner's Name

CR 2008-006332-001 DT

N/A
Petitioner's prison number (if any)

II. Petitioner is now: A. On Parole
B. On Probation
C. Confined in N/A

III. (A) Petitioner was convicted of the following crimes:
ARS § 13-1002, 39-161, 13-702 702.1, 707 & 801

(B) Petitioner was sentenced on : 9/24/08 following a
 Trial by Jury
 Trial by a Judge without a Jury
 Plea of Guilty
 Plea of No Contest
in the Superior court for Maricopa County with
Judge McMurdie presiding.

IV. Petitioner is eligible for relief because of:
 The introduction at trial of evidence obtained pursuant to an unlawful arrest.
 The introduction at trial of evidence obtained by an unconstitutional search and seizure.
 The introduction at trial of an identification obtained in violation of constitutional rights.
 The introduction at trial of a coerced confession.
 The introduction at trial of a statement obtained in the absence of a lawyer at a time when representation is constitutionally required.

- Any other infringement of the right against self-incrimination.
- The denial of the constitutional right to representation by a competent lawyer at every critical stage of the proceeding.
- The unconstitutional suppression of evidence by the state.
- The unconstitutional use by the state of perjured testimony.
- An unlawfully induced plea of guilty or no contest.
- Violation of the right not to be placed twice in jeopardy for the same offense.
- The abridgement of any other right guaranteed by the constitution or the laws of this state, or the constitution of the United States, including a right that was not recognized as existing at the time of the trial if retrospective application of that right is required.
- The existence of newly-discovered material which require the court to vacate the conviction or sentence. (Specify when petitioner learned of these facts for the first time, and show how they would have affected the trial.)
- The lack of jurisdiction of the court which entered the conviction or sentence.
- The use by the state in determining sentence of a prior conviction obtained in violation of the United States or Arizona constitutions.
- Sentence imposed other than in accordance with the sentencing procedures established by rule and statute.
- Being held beyond the term of sentence or after parole or probation has been unlawfully revoked.
- The failure of the judge at sentencing to advise petitioner of his right to appeal and the procedures for doing so.
- The failure of petitioner's attorney to file a timely notice of appeal after being instructed to do so.
- The obstruction by state officials of the right to appeal.

() Any other ground within the scope of Rule 32 of the Arizona Rules of Criminal Procedure (please specify).

see Memorandum of Points and Authorities

V. The facts in support of the alleged error(s) upon which this petition is based are contained in Attachment A. (State facts clearly and fully; citations or discussions of authorities need not be included).

VI. Supporting Exhibits:

(A) The following exhibits are attached in support of the petition:

- () Affidavits (Exhibit(s) # _____)
- () Records (Exhibit(s) # _____)
- () Other supporting evidence (Exhibit(s) # _____)

(B) No affidavits, records or other supporting evidence are attached because

the court has all records and the defendant is unable to access such due to no representation and lack of financial resources.

VII. Petitioner has taken the following actions to secure relief from his convictions or sentences:

(A) Direct Appeal: () Yes (✓) No (If yes, name of the courts to which appeals were taken, date, number, and results.)

(B) Previous Rule 32 Proceedings: () Yes (✓) No (If yes, name the court in which such petitions were filed, dated, numbers, and results, including all appeals from decisions of such petitions.)

(C) Previous Habeas Corpus or Special Action Proceedings in the Courts of Arizona:
() Yes () NO (If yes, name the courts in which such petitions were filed, dates, numbers, and results, including all appeals from decisions on such petitions.)

denied by court

(D) Habeas Corpus of Other Petitions in Federal Courts:
() Yes () No (If yes, name the districts in which petitions were filed, dates, court numbers-civil action or miscellaneous, and results, including all appeals from decisions on such petitions.)

VIII. Petitioner was represented by the following lawyer at (place name of counsel in the blanks and their address if known):

Arraignment and Plea Jeremy Geigle
Trial Jeremy Geigle
Sentencing Hearing Jeremy Geigle
Appeal (if any) none

Preparation, presentation, or consideration of any previous petitions or motions for post-conviction relief filed in connection with this conviction.

none

XIV. The issues which are raised in this petition have not been finally decided nor raised before because: (State facts.)

all motions denied before being read by the judge and never answered by the prosecutor

X. Because of the foregoing reasons, the relief which the petitioner desires is:

- (A) () Release from custody and discharge.
- (B) () A new trial.
- (C) () Correction of sentence.
- (D) () The right to file a delayed appeal.
- (E) () Other relief (specify):

dismissal with prejudice and expungement of conviction

XI. Petitioner is presently represented by counsel.

() Yes () No. If yes, his name and address.

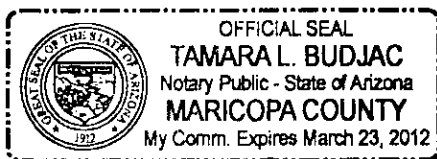
If no, does the petitioner request the court to appoint counsel to represent him in this proceeding? () Yes () No

I swear or affirm that this petition includes all the claims and grounds for post-conviction relief that are known to me, that I understand that no further petitions concerning this conviction may be filed on any ground of which I am aware but do not raise at this time, and that the information contained in this form and in any attachments is true to the best of my knowledge or belief.



Petitioner

Subscribed and sworn to before me on the 7TH day of FEBRUARY, 2009.



Tamara L. Budjac
Notary Public

MARCH 23, 2012
My Commission Expires

ATTACHMENT A**MEMORANDUM OF POINTS AND AUTHORITIES**

It must be noted that the Defendant has not been provided an attorney and is being forced by the court to act pro se and/or propria person, thus this motion, in accordance with the appropriate precedents, may only be judged by function and not form.

I COURT ERRORS

- 1) Entering documents into evidence is not the same as “filing documents in a public office” and in no way may entering documents into evidence be considered crime.
 - a) If entering “false and/or forged” documents into evidence is a crime then any time a prosecutor enters into evidence:
 - i) forged checks, or
 - ii) false document, or
 - iii) documents with forged signatures, or
 - iv) the like;as evidence against a defendant the prosecutor has then committed the same offense as Stuart was convicted of. Ergo, no such documents could ever be used in cases against defendants without allowing the defense to charge the prosecutor with criminal acts.
- 2) Prosecutor Charbel did “file” the same documents into the case for the grand jury, therefore Prosecutor Charbel MUST be guilty of the same crime if the court considers such “filing” a crime.
- 3) Stuart did not “file the documents” nor did Stuart “enter the documents” into evidence. Stuart’s attorney, Shawn Talbot Rice, wrote and executed all documents discussed in this case, Stuart ONLY signed said documents per Stuart’s attorney’s instructions.
- 4) No defendant may be held liable for the actions of his attorney, even if said attorney is “unlicensed.” It is the State’s responsibility, not a defendant’s, to monitor attorneys.
- 5) The court’s duty was to remove the documents from the record and/or prosecute Rice for Rice’s unlawful acts, if any, not hold a defendant in custody as an attempt to torture

1 the defendant into a false confession in a separate case.

2 6) Never, in Stuart's knowledge and the knowledge of ALL attorneys queried, in any
3 court in any STATE of THE UNITED STATES OF AMERICA has any person other
4 than Stuart been convicted or even tried for entering documents into evidence in a court
5 case. This precedent is in direct opposition to the adversarial role of the court and is
6 complete and utter fraud on the court unless defense attorney's can use the same law
7 against prosecutors and the STATE.

8 7) Stuart has requested an attorney be provided by the court yet the State has ignored Stuart's
9 request.

10 8) Stuart was jailed for eight months by the State in attempt to torture him into accepting a plea
11 on this and a separate charge yet Stuart's sentence for this crime was only four months.

12 9) Stuart was arrested for committing a felony while on probation yet as the court agreed this
13 crime shall only be considered a misdemeanor thus Stuart was unlawfully imprisoned for eight
14 months. Such is prima facie evidence of the prosecutor's misconduct and attempt to torture a
15 false confession out of Stuart.

16 10) The prosecution failed to answer ANY of Stuart's motions in a timely manner. Thus, Stuart's
17 motions were granted in accordance with the rule of *acquiescence*.

18 11) Judge McMurdie in an unprecedented move struck down twenty nine motions at one time
19 without responding to even one of them AND after the prosecution failed to answer ANY of
20 the motions even after ordered by Commission Mroz to answer ALL motions within ten days
21 from her order.

22 12) The prosecutor's failure to answer the motions timely requires the court to rule in favor of
23 Stuart's motions and even though Judge McMurdie dismissed the motions his dismissal was too
24 late and in violation of Commissioner Mroz's order to the prosecutor. Thus Stuart's motions
25 were agreed to by the court and any subsequent action by any judge is void. Therefore the
26 case was actually dismissed with prejudice before Judge McMurdie made his rulings and
27 before Stuart accepted any plea to stop from being further tortured as ALL of Stuart's motions
28 were thus law for the case.

29 13) If pleas are accepted when they are coerced through torture and not based in law and fact
30 then this country is no longer a lawful entity as the claims made by captured and tortured
31
32
33

1 American soldiers during the Viet Nam war stand as law and fact and thus our whole system of
2 government is in violation of the Geneva Convention and The Hague Accord.

3 4 **II ATTORNEY ERRORS**

- 5 1) Attorney Jeremy Geigle did state: "I will hand in my attorney license if you (Stuart)
6 are convicted. It will prove the court is completely corrupt and I can't be a part of that."
7 2) Attorney Jeremy Geigle threatened to resign as counsel for "conflict of interest" if
8 Stuart did not accept the fraudulent plea offered by Prosecutor Charbel. Attorney
9 Jeremy Geigle's firm was also negotiating a settlement for Stuart's then fiancé and
10 chose to continue representing Stuart's fiancé after said fiancé left Stuart. Such
11 coercion was in no way in the best interest of Stuart and further caused Stuart to accept the
12 fraudulent plea.

13 14 **III PERJURY BY PROSECUTOR**

- 15 1) Prosecutor Charbel did in fact know:
16 a) Stuart did not enter the documents into evidence and/or file said documents; and
17 b) Stuart did pay attorney Shawn Talbot Rice \$10,000 to defend Stuart; and
18 c) Said documents were entered into court as evidence by attorney Rice, not "filed in a
19 public office" by Stuart; and
20 2) Prosecutor Charbel had fraudulently obtained a warrant to have Stuart arrested on a
21 previous date by committing perjury to judge Baca about an INTERNAL REVENUE
22 SERVICE issue. Claims made by Charbel to judge Baca were untrue and Stuart was released
23 the next day. The IRS did not ask for Stuart to be arrested, nor did the IRS confiscate
24 Stuart's bond as falsely claimed by Charbel.

25 26 **IV COERCION BY STATE**

- 27 1) There are currently over 3,800 lawsuits against Sheriff Arpaio concerning jail
28 conditions. Maricopa County jails use various forms of "torture" in violation of several
29 laws and treaties to make prisoners "malleable" to accept plea agreements. Said torture
30 includes without limitations:

- 1 i) starvation, prisoners fed once every twelve hours, often at least one meal a day is
2 inedible due to “mold” and various other issues; and
3 ii) prolonged confinement in violation of the required sixteen hours per day ‘day room
4 access.’ Prisoners are “locked down over sixteen hours per day” and the schedule is
5 split so the prisoners are actually locked in a cell for twenty four hours straight then
6 let out in short increments; and
7 iii) denial of sunlight. Prisoners may be held for years without ever seeing any
8 sunlight, and
9 iv) denial of medical care. Almost all requests for medical assistance are denied.

10 Stuart was denied ALL requested medical care and never allowed to see a doctor or
11 be issued any medicine even when sick and injured.

12 **Such continuous torture and constant pain is used by the MARICOPA COUNTY**
13 **JAIL for no other reason then it works, as it did on Stuart. Any plea, confession,**
14 **deal or the like obtained through torture, especially STATE sponsored torture, is**
15 **in direct violation of the Constitution and the very foundation of this country and**
16 **this STATE.**

- 17 2) The use of “the tanks” as a holding facility before court is a highly effective form of
18 torture and prevents defendants, in this case Stuart, from being able to think clearly and
19 make rational decisions. “The tanks” are truly an oxygen deprivation chamber and
20 cause prisoners intense amounts of pain and prevents their brains from functioning
21 properly. Numerous studies have shown deprivation of oxygen is tantamount to short
22 term psychosis and may lead to permanent damage and even death. It is absolutely
23 impossible to think clearly after even a short time in “the tank.” Prisoner’s fear of
24 returning to the tank for repeated hearings is used by the prosecutors to secure plea
25 agreements as a normal part of court proceedings.

26
27 Dated this 17th day of February, 2009

28
29 _____
John Chester Stuart

1 ARIZONA SUPERIOR COURT COUNTY OF MARICOPA

2
3 SUPERIOR COURT OF ARIZONA IN
4 MARICOPA COUNTY,

5 Plaintiff,

6 vs.

7 JOHN C. STUART,

8 Defendant

} POST CONVICTION RELIEF FOR
Case No.: CR2008-006332-001 DT
DEFENDANT'S FINANCIAL STATEMENT

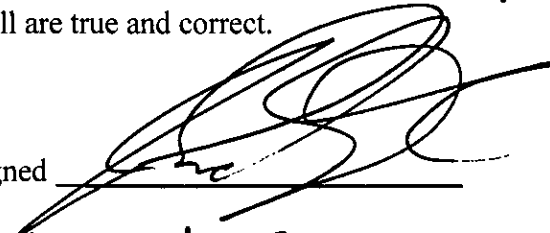
9
10 I. Financial Statement.

- 11 1. What is your monthly income? LESS THAN \$500
- 12
- 13 2. Do you own a home? NO If so, give its value N/A
- 14
- 15 3. Do you have any savings? NO If so, how much? N/A.
- 16
- 17 4. Do you have any outstanding loans? YES If so, how much? OVER \$500,000
- 18
- 19 5. Do you have any other property which is not needed by your family for day-to-day living
20 which you could use to pay for an attorney? NO

21 Describe ALL FORECLOSED ON AND/OR CONFISCATED AND/OR REPOSED

22 Approximate value N/A

23 Under the penalties of perjury, I declare that I have examined the above statements made by me
24 and to the best of my knowledge and belief each and all are true and correct.

25
26 Signed 

27 Dated 2-17-09