

UNITED STATES SUPREME COURT

Jason Krumback (Prose) *

Appellant, *

**APPLICATION FOR WRIT OF
EMERGENCY INJUNCTION**

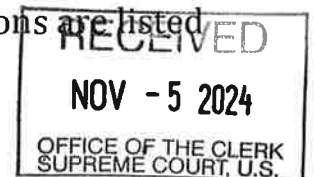
v. *

Teressa Bittinger, et.al. *

Appellee,

IT COMES NOW: Appellant Jason Krumback, (pro se) respectfully submits the above captioned action, Application for writ of Emergency Injunction, which is presented under the jurisdiction of **28 U.S.C.1651 (A)** pursuant to **Fed. R. civ. Proc. Rule 87** and **Fed. R. Civ. Proc. Rule 65**.

The action is brought before the court due to the 8th circuit court of appeals is prolonging and suspending the adjudication of habeas corpus case's certificate of appealability by failing the review materials and failing to rule on several filed motions that are in facts acts of congress. The motions are listed



as: a motion for expedite consideration under 28 U.S.C. 1657, a motion to compel judicial review, a motion for Jurisdictional Transfer under 28 U.S.C. 1631, motion for change of custody were release is sought under **Frap 23(B)(2)** a motion for Personal Recognize while the matters is under review under **FRAP 23C**, and a motion for oral argument under **FRAP 34**.

The facts present a conflicting conduct of an appeal court, as a “court cannot needlessly prolong a habeas Corpus case, particular given the essential need to promote the finality of a state conviction” (see: **CALDERON V. THOMPSON, 523 U.S. 538, 118 S. Ct. 1489, 140 L. Ed. 2d 728 (1998)**) as “habeas corpus is a presently available for use by a court when within its resonated jurisdiction whenever necessary to prevent an unjust and illegal deprivation of human liberties” (see: **PRINCE V. JOHNSTON, 411U.S. 226, 688 S. Ct. 1049**) as the “ function of a writ to secure the release of an illegal conviction” (see: **PRISER V. RODRIGUEZ, 411 U.S. 475-499,95 (1975)**) which rulings are controlling as Mr. Krumback was illegally convicted of Witness Tampering pursuant to **SDCL 22-11-19** as all “ proceedings “ were closed prior to the illegal charge filing as the prosecution in fact gave misleading evidence not only to the Probable cause determination hearing, but to the grand jury that Mr. Krumback was in an official proceeding when

concerning event occurred which by her own testimony is untrue and incorrect.

The merits of the writ under **28 U.S.C 2254** are undisputable to show the “constitutional violations resulted in open who is innocent” (see: **MURRAY V. CARRIER 477 U.S. 478, 106 S. Ct. 2639, 916 L. Ed. 2d 377(1986)** **SCHULP V. DELO, 513 U.S. 298, 113 S. Ct. 851, 130 L.Ed. 2d 808 (1995)**) as in “light of the new and reliable evidence” of the hearing transcripts that were “not available before the Plea” (see: **JOHNSON V. NORRIS, 170 F.3D 816, 818 8TH CIRC. (1994)**) as the constitutional violations occurred at the Change of Plea and sentence hearing on October 4, 2022 when the South Dakota, Minnehaha county State attorney presented the factual bases addressment that established 13 words after the start proves the wrongful conviction by providing “Mr. Krumback was sentenced on April 8th 2021 and you (court)ordered him” (**Hearing Transcripts, HT. page 17 line 21-22**) in addition to the court’s address: “do you agree after I (court) sentenced you” (**HT. page 17 line 22**) which merits present, Mr. Krumback is factually innocent as he must be convicted of “each and every element of the crime charged” under the protection of due process entirely, as Factual innocence is actual innocence” (see: **BOUSLEY V UNITED STATES, 523 U.S.**

614, 188 S. Ct. 1504, 140 L.Ed. 2d 825 (1998) as SDCL 22-11-19 essential element of proceeding defined as, “ a process of appearing before a court so that a decision can be made about an argument about a legal claim” (see: Webster’s Dictionary 2022 ed.) presents the constitutional question under 28 U.S.C. 1331, How can testimony be withheld after its been given? The merits sustain the “miscarriage of justice exception to cause serves as an additional safeguard against compelling an innocent man may suffer an unconstitutional loss of liberty” (see: **STONE V. POWELL, 432 U.S. 465, 96 S. Ct. 3037, 49 L. Ed. 2d 837 (1963).**

The fact the 8th circuit court continues to neglect these rulings in front of meritless matters as seen in recent rulings in the line of cases: **UNITED STATES V. C ONTREAS, 24-1767** which over saw an appeal when the right was waived upon a plea, which was submitted on September 18, 2024 and heard on September 24, 2022, **UNITED STATES V. WAITES, 24-1316**(sentence issue), **UNITED STATES V. GLOSSON, 24-1539**(appeal waiver). By these conduct, the 8th circuit court continues to neglect the administration of justice to “guaranteeing the hands of justice will be served” (see: **McCLESKEY V. ZANT, 499 U.S. 467, 111 S. Ct. 1454 (1991).**

The undisputable fact that the appeal court continues to put lawsuits over civil liberties is a conflict of the historic ruling in **TOM TONG, 108 U.S. 556 SUP ST. Reb 8716 (1883)** which put civil liberties (freedom) before civil rights which conflict is displayed in the line of recent rulings: **RICHARDSON V. DUNCAN, 23-1414**(prison gay relationship between a guard and an inmate), **WALMALEY, MOSS V. FEDERAL TRADE COMP., 23-2687, ABSOLUTE ESSENCE LLC. V. PUBLIC CONSULTING GROUP, 23-1642, WHIPPLE LONGRGANGAN V. DHHS COMMITTEE, 24-1138)** as said performance continues the illegal deprivation of freedom under the 14th amendment, which presents the question, what's more important, freedom or suits?

By the appeal court's suspension of habeas corpus matters conflicting with the 2nd clause of section 9 (see: **FISHER V. BAKER, 203 U.S. 174, 27 S. Ct. 135, 51 L.Ed. 142 (1906)**)" as the suspension clause ensures that except during periods of formal suspension of writ of habeas corpus , the judiciary will have time tested device, the writ , to maintain the delicate balance of governance that itself the surest safeguard of liberty" (see: **BOUMEDINE V. BUSH, 553 U.S. 723, 128 S. Ct. 2229, 171 L. Ed. 2d 41 (2008)**) which balance is ignored by the court of appeals. The fact the court has the matter

since June 12, 2024 after the South Dakota District Court dismissed the writ without ruling on the merits which conflicts with a line of this court's rulings (see: **STICKLAND V. WASHINGTON, 466 U.S. 668,685 (1984)** (Failure to exhaust state remedies may not be a absolute bar to appellant consideration on the merits) **HERRERA V. COLLINS, 506 U.S. 390 , 505 (1993)** (Petitioner must pass to have otherwise barred constitutional claim considered on the merits) **Mc QUIGGIN V. PERKINS, 569 U.S. 383 ,133 (2013)** (actual innocence should open reach of the procedural barred claims) as "the sanction for failing to exhaust state remedies, properly is given their separate name of procedural default " (see: **WOODFORD V. NGO 598 U.S. 81,126 S.Ct 2378(2006)**)

During the prolonged and suspension of the writ , Mr. Krumbach has sustained and continues to suffer from irritable harms as he is suffering from his major depression disorder (**see HT. page 28**) which the American Institute of mental health defines the symptoms of irritability and restlessness which was triggered when his grandmother Mary Ann Olson passed. Obvious irritability is defined as a "quick excitement to annoyance, inpatients and anger which is the reason for the urgency of the emergency review fashion. The fact during the delay of justice, Mr. Krumbach has been subjected to his

step daughter, Mercedes luze being sexual assaulted, his grandchildren being separated from the home, his niece has attempted suicide, which is why Mr. Krumback filed a Emergency Motion for Personal Recognize under **FRAP 23(c)** while the judicial review occurs: however such symptoms and irritable harms have been ignored by the court's failure to uphold the act of congress.

This court ruled in **SLACK V. McDaniel, 529 U.S.473, 484-85, 120 S.CT.1595, 146 L.Ed. 2d 542(2000)** as it overlooked that “when a district court denies a habeas corpus petition on a procedural ground without reaching the petitioner claim , a COA should issue when a prisoner shows at least that a jurist of reason would find it debatable whether petition states a claim of denial of a constitutional right” which ruling's application is absolutely proper to the matter, as the District court denied the petition on the procedural ground of unexhaustion without reaching the merits of the constitutional claims of: Ineffective assistance of counsel under the 6th amendment violation, by failing to object to the factual bases assessment, as said performance completely fell below ant reasonable standard of ethical decency as a few words into the address the wrongful conviction was established which caused prejudicial injury as without the error the outcome would have been different. Counsel's failure to investigate the communication

of the (dismissed) 22 counts of **SDCL 25-10-13** that feel outside the law's purpose (see: **STATE V. HAUGE, 1996 SD 48**) as detailed within the writ of habeas corpus. Counsel's failure to defend his client as counsel in fact writ of habeas corpus. Counsel's failure to defend his client as counsel in fact knew his client was innocence and being wrongfully convicted by his own testimony "getting to the sentencing" (**H.T. page 28 line 24**) which failures establish the "claim that counsel assistance was so defective as the require a conviction to be reversed" (see: **STRICKLAND V. WASHINGTON, 466 U.S.668,684(1884)**, The constitutional claim of "prosecutorial misconduct under the 14th amendment violation, by the interference into counsel's ability to defend his client (see: **GEDES V. UNITED STATES 425 U.S. 580, 96 S.Ct. 1330 (1976)**)in addition to the malicious prosecution under the 4th amendment under the finding **in HECK V. HUMPHREY 512 U.S. 477,144 S.Ct. 2364 L.Ed. 2d 383 (1984)**, as detailed within the petition, in addition to the judicial abuse of discretion under the 6th and 14th amendment violations, by accepting a plea when the factual bases had not established the evidence of the essential element of the underlying offence as detailed within the petition of habeas corpus.

The “extordinary relief” is warrant (see: **WEINBERGER V. ROMERO-BARCELO, 456 U.S. 305, 312,102 S. Ct. 1798, 72 L. Ed. 2d 91 (1982)**) by enforcing that, “ so long as the case is not moot, litigates are otherwise entitled to emergency injunction” (see: **TANDON V. NEWSOM, 593 U.S. 141, S. Ct. 12, 94, 209 L. Ed. 305,5 (2021)**) as Mr. Krumbach is likely to succeed on the merits of the South Dakota District abuse of discretion of not ruling on the merits, as the expeditious of the administration of justice so requires the court’s “judicial process” (see: **AKEN V. HOLDER, 556 U.S. 418, 129 S. Ct. 1749, 173 L. Ed. 2d 550 (2009)**) as to deprive or disregard the constitutional rights (of liberty)of the accused , and where the will is only effective means of preserving his rights” (see: **WALEY V. JOHNSON, 316 U.S. 101, 104-05, 625 S. Ct. 964-66,986 L. Ed. 1302 (1942)**) by this court’ injunction will ensure that no citizen is held in violation of his constitutional rights.

The sought relief is in fact justified and warranted as this court has the ability and jurisdiction to enforce the rulings that a court cannot prolong or suspend habeas corpus cases by ruling on frivolous matters which defines the needlessly prolongment entirely. Why should a wrongfully convicted person be subjected to the irritable harms of suffering from a terrific disorder while a court of such nature denies justice contrary to the sole purpose of the court’s

existence? Why should a victim of a wrongful accusation be subjected to his freedom being deprived behind injustice?

Obviously, Mr. Krumback has exhausted his remedies by filing the expeditious consideration motion in addition to the motion to compel judicial review as Mr. Krumback is not at fault for the crises. What must an innocent person have to do to get his liberties heard?

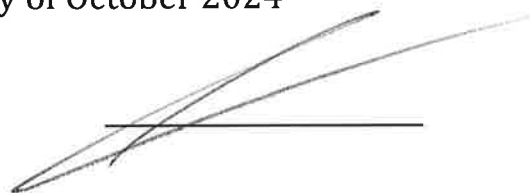
Mr. Krumback wishes to thank the extremely honorable Court for its time and deep considerations towards preserving justice is heard and ordered.

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WHEREFORE: Appellant Jason Krumback (prose) respectfully moves the Honorable Supreme Court of the United States of America grant the sought relief under the following terms.

1. Order the permanite injunction of the 8th circuit court of a appeals is to immediately stop prolonging habeas corpus cases under **18 U.S.C 3226(A)(1) , 18 U.S.C. 3226 99(ii)(iii)**
2. Order permanite injunction of the 8th circuit court of a appeals is to immediately stop suspending habeas coupes cases under **18 U.S.C 3226(A) (1), 18 U.S.C. 3226 99(ii) (iii)**
3. Order permanite injunction of the 8th circuit court of a appeals is to immediately stop ruling on lawsuit matters over habeas corpus Cases under **18 U.S.C 3226(A)(1), 18 U.S.C. 3226 99(ii)(iii)**
4. Order any remedy this court finds just.

Respectfully submitted on this 24 day of October 2024



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