EIGHTH JUDICIAL DISTRICT COURT FOR CLARK COUNTY NEVADA

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| STATE OF NEVADA  Plaintiff,  vs.  Mark Derrick Cordova  Defendant,\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | )  ) CASE NO: C-13-291657-1  ) 13F06748X  )  ) |
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**MOTION TO BE SCHEDULED FOR CALANDER HEARING TO WITHDRAW AND FOR WITHDRAWAL OF COUNSEL OF RECORD AND REPRESENTATION HAVING BEEN DISMISSED, TERMINATED AND FIRED FOR INEFFECTIVE ASSISTANCE/ ATTORNEY MALPRACTICE/ CONCEALMENT AND OBSTRUCTION OF ACCESS TO THE COURT   
  
COUNTER COMPLAINT FOR ATTORNEY MALPRACTICE, CONCEALMENT AND OBSTRUCTION OF DEFENDANT’S INEFFECTIVE ASSISTANCE CLAIMS AND ACCESS TO THE COURT RESULTING IN UNJUST CONVICTION OF INNOCENT FOR CAUSE PREVIOSLY SHOWN REQUESTING EVIDENTIARY HEARING**COURT CLERK INSTRUCTIONS AND JUDICIAL NOTICE

Further refusal of the person of the *clerk of court* to file and schedule a calendar hearing of Defendant Cordova’s petition(s) for redress of grievance and motion(s) stating good cause, grounds and reasons to withdraw and replace counsel having already been terminated and replaced for ineffective assistance, attorney malpractice, concealment, and obstruction with intent to impede access to the court as previously shown and noticed to all parties and the court, will serve as evidence of further obstruction and dereliction of duty by court personnel in their private and official capacities in federal court, and just cause for dropping the names and addresses of deserving court personnel by counsel to shady clients for possible enforcement of additional penalties by unconventional means without recourse and in the interest of justice.

EXHIBIT A **MOTION TO WITHDRAW PLEA AND VACATE SENTENCE FOR CAUSE SHOWN**  
MOTION FOR EVIDENTIARY HEARING REQUIRED TO SUBMIT TESTIMONY AND EVIDENCE IN SUPPORT OF UNOPPOSED CLAIMS AND CONTENTIONS PREVIOUSLY ADVANCED BY “NCR RULE 7.40(b)(2)(ii) VERIFIED MOTION AND APPLICATION TO REPLACE COUNSEL AND PROCEED IN PROPER PERSON”

Note : Exhibit (A) previously filed with court on 3/16/16

EXHIBIT B

NOTICE OF REVOCATION OF POWER OF ATTORNEY

**NCR RULE 7.40(b)(2)(ii)** **VERIFIED MOTION AND APPLICATION TO REPLACE COUNSEL AND PROCEED IN PROPER PERSON WAIVING FORMAL RULES OF PLEADING PRACTICE AND SEEKING POST CONVICTION RELIEF FOR INNEFECTIVE ASSISTANCE OF COUNSEL AND DUE PROCESS ERRORS RESULTING IN CUMMLATIVE PREJUDICE FOR CAUSE HEREIN SHOWN REQUESTING AN EVIDENTIARY HEARING FOR AN OFFER OF PROOF**

NOTICE OF MOTION TO VACATE SENTANCE AND WITHDRAW PLEA OBTAINED BY DEFENSE COUNSEL'S THREATS AND COERSION

Note : Exhibit (A) previously filed with court on 1/13/16

**COMES NOW** Mark Cordova, herein after CORDOVA, and shows the Court as follows; To Wit:

1. THAT on 1/13 16, CORDOVA, further providing notice of ‘liberal pleading construction,’ filed a “Motion to Replace Counsel (See CORDOVA’S Exhibit B attached and affixed hereto and being incorporated and referenced as if restated in full herein)” for counsel’s refusal to immediately withdraw as instructed by CORDOVA on 8/26/15, when CORDOVA terminated Counsel’s representation after CORDOVA identified Counsel’s perceived intent to conceal and obstruct CORDOVA’S ‘Ineffective Assistance of Counsel’ claims discussed between Cordova and counsel at that same said time.

2. THAT on 8/26/16 Counsel of record, Mark Sullivan, recorded by the NSA, assured defendant CORDOVA that his Plea would be withdrawn, and partner Mike Periente assured CORDOVA that he may proceed on his own if dissatisfied with substandard representation provided by counsel of record.

3. THAT on 3 /16 /16 when attempting to file his “Motion To Withdraw Plea and Vacate Sentence (See CORDOVA’S Exhibit A attached and affixed hereto and being incorporated and referenced as if restated in full herein),” CORDOVA was instructed by the *clerk of court* that the merits of his cause and grounds stated in support of his previous “Motion to *Replace* counsel,” including his affidavit and verified statement in support of his ‘Ineffective Assistance of Counsel’ and attorney malpractice claims contained and included therein, would only be heard or entertained by the court and admitted into the record if phrased as a “Motion To *Withdraw* Counsel.”   
4. THAT CORDOVA’S instant ‘Motion to Withdraw and for Withdrawal of Counsel and Representation” and relief sought and petitioned for is predicated on CORDOVA’S previous filings and notice to prior counsel and representation attached and affixed hereto, Exhibit A and B, incorporated and referenced as if restated in full herein.

5. THAT CODOVA is currently trained, advised, counseled, and represented by a collective of 1700 Anti BAR attorneys and lawyers, the BAR being a closed union shop in government undermining the lawful operation of the courts in violation of law and the Taft/ Hartley Act as determined by numerous congressional investigations and reports.

**RELIEF, REMEDY, MAINTENANCE AND CURE SOUGHT AFTER AND PETITIONED FOR**

**WHEREFORE** all the good cause, proper grounds and reasons stated herein, in CORDOVA’S Exhibit “A” attached and affixed hereto and being incorporated and referenced as if restated in full herein, and in CORDOVA’S Exhibit “B” attached and affixed hereto and being incorporated and referenced as if restated in full herein, CORDOVA petitions the BAR compromised court for specific performance of official duties and obligations it has thus far neglected in failing to provide CORDOVA a fair and impartial hearing as reflected in the record of the instant proceedings and grant the relief sought and stated therein CORDOVA’s Exhibit “A” and “B” petitions and pleadings previously filed with the court yet by the court, prior counsel and attorney for the state thus far ignored, in continuation of these clearly arbitrary and capricious proceedings reflecting all the trappings of a kangaroo court.

**CERTIFICATE AND PROOF OF SERVICE**

I, the undersigned and above named, do hereby Certify that a copy of the foregoing was served upon all parties to the instant action including opposing counsel, by placing a true and correct copy of the same in the United States postal service, certified mail, all postage paid, notice to agent being notice to principle, on this the \_\_\_\_ day of the \_\_\_\_ month, this the year of our Lord, Two Thousand Sixteen A.D.

**VERIFICATION IN AFFIRMATION**

In Witness, Whereof, knowing the law of bearing false witness before both God and Man, I solemnly swear or affirm that I have read the foregoing and know the contents thereof to be true and correct to the best of my own knowledge and understanding or belief, and as to those matters stated based upon my understanding or belief I believe them to be true and will testify to these in the legal or lawful court of any nation on earth under penalty of perjury and the laws of the united states of America before both Man and God so help me.

Dated this the \_\_\_\_ day of the \_\_\_\_ month, this the year of our Lord, Two Thousand Sixteen A.D.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_

Mark Cordova day

(702) 773-3294

329 Wisteria Ave.

Las Vegas, NV [89107-2669]

Subscribed and sworn to before me by Mark Cordova this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 2016.  
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Notary

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY NEVADA

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| STATE OF NEVADA  Plaintiff,  vs.  Mark Derrick Cordova  Defendant,\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | )  ) CASE NO: C-13-291657-1  ) 13F06748X  )  ) |

**MOTION TO WITHDRAW PLEA AND VACATE SENTANCE FOR CAUSE SHOWN**

MOTION FOR EVIDENTIARY HEARING REQUIED TO SUBMIT TESTITOMY AND EVIDENCE IN SUPPORT OF UNOPPOSED CLAIMS AND CONTENTIONS PREVIOUSLY ADVANCED BY “NCR RULE 7.40(b)(2)(ii) VERIFIED MOTION AND APPLICATION TO REPLACE COUNSEL AND PROCEED IN PROPER PERSON”

**COMES NOW** Mark Cordova, herein after “Petitioner,” by and through his proper natural person, and for his liberal pleading practice construction in Pro Se, waiving the benefits and privileges of representative capacity and being a layman held to less stringent pleading practice standards than a licensed attorney, herewith further waiving the special formal rules of pleading practice and proceeding in accordance with the Supreme Court's guaranteed accommodation and due deference afforded Special Appearances and Visitations upon the court by “***Liberal Pleading Construction***” which “...shall be so construed so as to do substantial justice...” (**Maty v. Grasselli Chemical Co. 303 U.S. 197 . Conley v. Gibson, 355 U.S. 41, 45 (1957**); "Pro Se Litigants pleadings are to be construed liberally and held to less stringent standards than lawyers" (**Haines v. Kerner, 404 U.S. 519 (1972**)); “Court errs if court dismisses pro se litigant without instructions of how pleadings are deficient and how to repair pleadings.” (Plaskey v. CIA, 953 F.2d 25); "The trial judge should inform a pro se litigant of the proper procedure for the action he or she is obviously attempting to accomplish."(Breck v. Ulmer, 745 P.2d 66, 75 (1987)); **“**Defendants in criminal cases have a constitutional right to proceed pro se, and counsel may not be imposed on them over their objection.” (**Faretta v. California, 422 U.S. 806 (1975)**); and for his Motion to withdraw plea and for a new trial as en-captioned above, states as follows; To Wit:  
1. On 1/13/16 Petitioner filed a “NOTICE OF REVOCATION OF POWER OF ATTORNEY,” alternatively fashioned, “NCR RULE 7.40(b)(2)(ii) VERIFIED MOTION AND APPLICATION TO REPLACE COUNSEL AND PROCEED IN PROPER PERSON” ( incorporated by reference as if restated herein full), stating and articulating his cause and grounds for an offer of proof and requesting an opportunity to submit testimony and additional evidence in support of his contentions and claims seeking post conviction relief for numerous issues pertaining and related to his actual innocence and ineffective assistance of counsel, including counsel's failure and refusal to investigate or present Alibi witness' testimony, failure and refusal to impeach complainant for her manifest perjury and contradictory statements at preliminary hearing, counsel's failure and refusal to present evidence of actual innocence, and counsel's threats and coercion compelling Petitioner to accept plea bargain under duress, these individual errors collectively constituting cumulative prejudice to the accused and the defense resulting in an unjust and unfair out come that would likely have been different if not for the same said errors and deprivation of substantive and procedural due process rights and guarantees, as further stated and shown in Petitioner's 'Verified Statement' and affidavit in support, attached and incorporated therein the body of Petitioner's same said prior Motion, being unopposed by prior defense and opposing counsel or the court as of the time of this filing.  
2. That the deadline for the filing of this 'Motion to Withdraw Plea and Vacate Sentence,' seeking post conviction relief and a new trial for Ineffective assistance of counsel and evidence of actual innocence expires April of 2016, this same said motion being timely and previously noticed to opposing counsel by prior motion, and is as of the time of this filing remains unopposed where responsive pleading is required, the Petitioner having received no response in answer to his prior motion or notice of this instant Motion as styled.   
3. In accordance with the general rules of federal and state procedure all facts alleged in support of the Petitioner's claims and contentions previously advanced and set forth shall be presumed by the court as true, until and unless rebutted or denied by timely required responsive pleading in answer (See **Cruz v. Beto, 405 U.S. 319, 322 (1972)**), the court being limited upon evidentiary hearing to determining only whether the facts alleged state sufficient grounds and cause of action for the Petitioner's claims, further being required to publish and provide a written finding of probable cause facts and conclusions of law for appeal and review, as “courts are prohibited from substituting their evidence, testimony, record, arguments and rationale ...” (AISI v US, 568 F2d 284) for the prosecution, the accused being entitled to Due Process of law and a fair and impartial hearing even in administrative proceedings.  
4. THAT For the reason that opposing counsel has failed to respond in opposition or contest Petitioner's prior motion, and has further failed to deny or rebut Petitioner's facts alleged in support of the same where a responsive pleading is required, opposing counsel's default in failure to respond and deny or rebut in a timely manner, latches incurring absent good cause shown, serves as Petitioners basis for belief opposing counsel's silence, being acquiescence, serves as admission and stipulation to Petitioner's allegations of facts stated in support of petitioner's instant and prior motion filed with the court.  
5. THAT the Petitioner now seeks and requires specific performance of the Honorable Court in scheduling and conducting and evidentiary hearing and providing an appeal-able finding of fact and conclusion of law regarding Petitioner's claims and contentions upon submission of testimony and evidence in support, and for this purpose requires access to the courts compulsory process for the obtaining of witnesses favorable to the defense, and for the court to compel the appearance of Defendant's Alibi witness, the complainant, and prior counsel for additional questioning regarding ineffective assistance of counsel claims, Subpoena Duces Tecum Required.

**MEMORANDA OF LAW AND POINTS IN AUTHOITY IN SUPPORTING PETITIONERS REQUEST FOR AN EVIDENTIARY HEARING**

“In *Parr v. United States*, 255 F.2d 86, 88, cert. denied, 358 U.S. 824 (1958), the court held that, as a general rule, a party may not preclude his adversary’s proof by an admission or offer to stipulate.” … A piece of evidence can have probative value even in the event of an offer to stipulate to the issue on which the evidence is offered. A cold stipulation can deprive a party “of the legitimate moral force of his evidence,’’ 9 *Wigmore on Evidence* §2591 at 589 (3rd ed. 1940), and can never fully substitute for tangible, physical evidence or the testimony of witnesses. In most cases, a party has the right “to present to the jury a picture of the events relied upon.’’ (***Parr, supra*, 255 F.2d at 88; *United States v. Grassi*, 602 F.2d 1192 (5th Cir. 1979), 448 U.S. 902 (1980))**.

**REMEDY RELIEF MAINTENANCE AND CURE PETITIONED FOR AND SOUGHT**

WHEREFORE all the good and proper grounds and reasons stated above and in Marc Cordova's “NCR RULE 7.40(b)(2)(ii) VERIFIED MOTION AND APPLICATION TO REPLACE COUNSEL AND PROCEED IN PROPER PERSON,” being entitled to an opportunity to present his proofs and evidence at a fair and impartial evidentiary hearing of his claims, Petitioner Moves this Honorable Court to schedule an evidentiary hearing to afford the Petitioner an opportunity to acquire redress of his stated grievance(s) and an opportunity to submit and provide testimony and evidence in support of his claims and contentions previously stated by unopposed motion seeking post conviction relief including (i) withdrawal of plea, (ii) for the court to vacate sentence and (iii) dismiss the complaint and charges for lack of sufficient credible testimony and evidence; *or in the alternative*, grant a new trial or show cause for denial of the same by appealable written finding of fact and conclusion of law, and award any other relief the court deems just and fair in equity, good faith, and conscience.

**CERTIFICATE AND PROOF OF SERVICE**

I, the undersigned and above named, do hereby Certify that a copy of the foregoing was served upon all parties to the instant action including opposing counsel, by placing a true and correct copy of the same in the United States postal service, certified mail, all postage paid, notice to agent being notice to principle, on this the \_\_\_\_ day of the \_\_\_\_ month, this the year of our Lord, Two Thousand Sixteen A.D.

**VERIFICATION IN AFFIRMATION**

In Witness, Whereof, knowing the law of bearing false witness before both God and Man, I solemnly swear or affirm that I have read the foregoing and know the contents thereof to be true and correct to the best of my own knowledge and understanding or belief, and as to those matters stated based upon my understanding or belief I believe them to be true and will testify to these in the legal or lawful court of any nation on earth under penalty of perjury and the laws of the united states of America before both Man and God so help me.

Dated this the \_\_\_\_ day of the \_\_\_\_ month, this the year of our Lord, Two Thousand Sixteen A.D.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_

Mark Cordova day

(702) 773-3294

329 Wisteria Ave.

Las Vegas, NV [89107-2669]

Subscribed and sworn to before me by Mark Cordova this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 2016.  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY NEVADA

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| STATE OF NEVADA  Plaintiff,  vs.  Mark Derrick Cordova  Defendant,\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | )  ) CASE NO: C-13-291657-1  ) 13F06748X  )  ) |

NOTICE OF REVOCATION OF POWER OF ATTORNEY

**NCR RULE 7.40(b)(2)(ii)** **VERIFIED MOTION AND APPLICATION TO REPLACE COUNSEL AND PROCEED IN PROPER PERSON WAIVING FORMAL RULES OF PLEADING PRACTICE AND SEEKING POST CONVICTION RELIEF FOR INNEFECTIVE ASSISTANCE OF COUNSEL AND DUE PROCESS ERRORS RESULTING IN CUMMLATIVE PREJUDICE FOR CAUSE HEREIN SHOWN REQUESTING AN EVIDENTIARY HEARING FOR AN OFFER OF PROOF**

NOTICE OF MOTION TO VACATE SENTANCE AND WITHDRAW PLEA OBTAINED BY DEFENSE COUNSEL'S THREATS AND COERSION

**Preliminary Notice of Applicable Provisions of NCR Rule 7.40 and Standard of Review**

NCR Rule 7.40. Appearances; substitutions; withdrawal or change of attorney.

(a) When a party has appeared by counsel, the party cannot thereafter appear on the party’s own behalf in the case without the consent of the court.

(b) Counsel in any case may be changed only:

(2) When no attorney has been retained to replace the attorney withdrawing, by order of the court, granted upon written motion,

(ii) If the application is made by the client, the client must state in the application the address at which the client may be served with notice of all further proceedings in the case in the event the application is granted, and the telephone number, or last known telephone number, at which the client may be reached and must serve a copy of the application upon the client’s attorney and all other parties to the action or their attorneys.

In accordance with the general rules of federal and state procedure, all factual allegations advanced and set forth herein shall be presumed by the court as true, until and unless rebutted by opposing counsel (**Cruz v. Beto, 405 U.S. 319, 322 (1972)**), and until and unless the petitioner has been afforded an opportunity to present testimony and proof in support of his contentions, the court being limited to determining whether the facts alleged state a cause of action, as “courts are prohibited from substituting their evidence, testimony, record, arguments and rationale ...” (AISI v US, 568 F2d 284) for the prosecution where a responsive pleading in answer, admission or denial is required, the accused being entitled to Due Process of law even in administrative proceedings.

Ineffective assistance claims are governed by the familiar two-part test of ***Strickland v. Washington*, 466 U.S. 668 (1984)**, under which the plaintiff must show that his attorney's performance "'fell below an objective standard of reasonableness' and that the unreasonably deficient performance resulted in prejudice." (*Lucero v. Kerby*, 133 F.3d 1299, 1323 (10th Cir. 1998 quoting *Strickland*, 466 U.S. at 688). A petitioner can establish prejudice by showing "that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Strickland*, 466 U.S. at 694. A showing that a defendant received ineffective assistance of counsel establishes cause to excuse procedural defaults. ( *Ellis v. Hargett*, 302 F.3d 1182, 1186 (10th Cir. 2002)).

**COMES NOW** Mark Cordova in Pro Se, by his given Christian name, hereinafter “Affiant,” holding no official title of public office or elective civil service, and in a non-representative capacity by and through his proper person being a layman held to less stringent pleading practice standards than a licensed attorney, waiving the special formal rules of pleading practice and proceeding in accordance with the Supreme Court's guaranteed accommodation and due deference afforded “Liberal Pleading Construction,” which “...shall be so construed so as to do substantial justice,” (**Maty v. Grasselli Chemical Co. 303 U.S. 197 . Conley v. Gibson, 355 U.S. 41, 45 (1957**); "Pro Se Litigants pleadings are to be construed liberally and held to less stringent standards than lawyers" (**Haines v. Kerner, 404 U.S. 519 (1972**)); “Court errs if court dismisses pro se litigant without instructions of how pleadings are deficient and how to repair pleadings.” (Plaskey v. CIA, 953 F.2d 25); "The trial judge should inform a pro se litigant of the proper procedure for the action he or she is obviously attempting to accomplish."(Breck v. Ulmer, 745 P.2d 66, 75 (1987))**.**

Affiant, herewith, revoking all power of attorney previously exercised by counsel of record for dereliction of duty, breach of contract, attorney malpractice and ineffective assistance of counsel as herein shown, and therefore being without the benefit of representation in this matter, **“**Defendants in criminal cases have a constitutional right to proceed pro se, and counsel may not be imposed on them over their objection.” (**Faretta v. California, 422 U.S. 806 (1975)**); Affiant invokes the rights and immunities of natural born citizens of New Mexico state, to counsel of choice, to self-defense, equal protection and due process of law, and equal access to the court for redress of grievance.

**VERIFIED STATEMENT OF MARK CORDOVA IN SUPPORT OF VERIFIED MOTION AND APPLICATION TO PROCEED IN PROPER PERSON SEEKING POST CONVICTION RELIEF**

Affiant, Mark Cordova, first being duly sworn states his cause of action and points in authority under oath for and in support of his self styled "REVOCATION OF POWER OF ATTORNEY,” alternatively captioned “VERIFIED MOTION AND APPLICATION TO PROCEED IN PROPER PERSON,” as follows; to wit:

1. Affiant states he was charged in the instant action by Amended Information alleging STATUTORY SEXUAL SEDUCTION (Category C Felony – NRS 200.364, 200.368) and SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE ( Category A Felony – NRS 200. 364, 200.366).  
2. Affiant states that immediately following his release from custody on bond and service of the indictment or information that he retained the services of alleged Attorneys Mike Perienta, and partner Shawn Sullivan, and that Mike Perienta took the lead role in offering consultation, preparing and providing his representation and defense.

COUNSEL'S FAILURE TO INVESTIGATE OR PRESENT ALIBI WITNESS TESTIMONY

3. Affiant states that documentation he received early in the case in the normal course of discovery, identified as “Event # 130127-2166,” indicates that an alibi witness, Ashleigh McLean, had been initially interviewed by Detective K. Pool, this alibi witness being a chaperone hired by the affiant to transport the alleged victim to the accused place of business for, and to supervise, musical training and recording sessions, and despite insistence and repeated demands prior to and during his preliminary hearing that defense counsel subpoena and produce this witness, Ashleigh McLean, and her initial statements to police investigators, for examination at his preliminary hearing, as her initial statements to investigators contradict those of the alleged victim's initial interview and testimony as provided at the accused preliminary hearing in various instances, this witness initially informing detectives that the alleged victim was at no time left alone with the accused, defense counsel refused or failed to procure this witness as instructed, and withheld this exculpatory evidence from the Court, this evidence being his alibi witness and her interview with police, which affiant has not been able to locate with the clerk of court entrusted with the official record of these proceedings, presumed to have been removed or misplaced therefrom, except that she, the alibi witness, is briefly mentioned in the aforementioned statement of detective K. Pool, in the statement and Case Report No.: II V~30127002166 filed by Officer I.D. # 13415, Sunny K. Brannin, and in the amended Information provided by Steven B. Wolfson, District Attorney within and for the County of Clark, Nevada State, both on file in the official record of the instant proceedings with the court.  
4. Affiant states and contends that counsel's performance as previously stated fell below reasonably objective professional standards and was ineffective as a result of his refusal and failure to call any witness for the defense, including the alibi witness the defendant suggested and demanded of defense counsel, namely, Ashligh McLean, and that this significantly prejudiced the defense, and for the additional reason that counsel entirely failed to test the prosecution's claims in any manner, resulting in a breakdown in the adversarial process.   
In analyzing an ineffective assistance of counsel claim, the overriding concern is to determine whether counsel's conduct so undermined the functioning of the adversary process that the proceedings cannot be relied upon as having produced a just result. (See **Strickland v. Washington, 466 U.S. 668, 686 (1984))**. In Cronic, the Court described the type of situation from which prejudice is presumed, such as when counsel entirely fails to subject the prosecution's case to meaningful adversarial testing. (**Cronic, 466 U.S. at 659 & n.25**)   
In a similar case, Daniel Larsen was convicted of possessing a knife used in an assault in a parking lot outside a bar on the testimony of a single police officer. The California Innocence Project discovered two witnesses who said that Larsen did not possess the knife. Before trial, Larsen’s defense counsel was told about these witnesses but never took any steps to find or interview these witnesses. In 2010, Magistrate Judge Suzanne H. Segal of the U.S. District Court reversed Larsen's conviction, saying, "had the jury been able to consider [the McNutts' testimony], no reasonable juror would have found [Larsen] guilty beyond a reasonable doubt." The judge called Consiglio's lack of investigation "absurd" and said there was "no question" that "counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable."

5. Affiant states that preceding his preliminary hearing, and during initial consultations with defense attorneys named above, the accused informed defense counsel, that he is and was circumcised, before his first year and sometime after his birth for an offer of proof.   
6. Affiant states that at his preliminary hearing the alleged victim, Melanie Chabin, there and then initially testified that she had at no time seen the penis of the accused and could not identify it, then later during additional testimony she provided at the same preliminary hearing contradicted this statement, and proceeded to describe the accused circumcised penis as being uncircumcised.  
7. Affiant states that prior to, and at the time and place of his preliminary hearing, he insisted and demanded defense counsel require the witness to identify his penis, which defense counsel did, and to then place the foregoing evidence and facts regarding his circumcision on record and impeach the witness for her contradicting and false statements, which counsel refused or failed to do prejudicing the defense.  
8. Affiant contends that counsel asked probative questions with respect to the foregoing issue at his preliminary hearing, but failed to then render any legal defense. In Cuyler v. Sullivan, 446 U.S., at 344, the court found that counsel deprives a defendant of the right to effective assistance, by failing to render "adequate legal assistance,"and moreover, In Cronic, the Court described the type of situation from which prejudice is presumed, such as when counsel entirely fails to subject the prosecution's case to meaningful adversarial testing. (**Cronic, 466 U.S. at 659 & n.25**) 9.Affiant, in his own consideration of the forgoing facts, concludes and contends the alleged victim was proven to be unreliable in three instances, when claiming to have never seen the penis of the accused, contradicting her later statements describing it, and further failing to describe it correctly, therewith committing perjury on record at the aforementioned preliminary hearing, further disqualifying herself as a credible witness by these same said contradictory statements, for an additional offer of proof, being the fact that affiant was circumcised at the time of the alleged crime, this fact being not made a part of the record at the preliminary hearing do to ineffective assistance of counsel, who refused or failed to present these facts at the preliminary hearing as instructed, the accused defendant being denied ultimate control and authority in his defense.

10. Affiant states, believes and contends the foregoing facts stated support a reasonable conclusion that defense counsel did not impeach the witness or obtain a dismissal of the case at the time of his preliminary hearing, because if he had, he could not then sell a plea agreement to the prosecution with whom he maintains a working relationship, which he later did, for possible remuneration or future consideration, in light of the following additional facts submitted:

11. Affiant states that over the two years following his preliminary hearing, he was incrementally coerced and progressively threatened by counsel, Mike Pariente, into excepting a plea agreement and pleading guilty to a reduced charge, a crime he was actually innocent of, and that those threats and coercion took the form of statements, advice and counsel provided by attorney Mike Pariente, to the best of affiant's recollection, Mike Pariente stating as follows :  
A) That the Judge in this case, Conrad Hafen, always insists on the case going to trial if there is no plea bargain, even if there is no credible witness or reliable evidence, and cases such as this are not dismissed even if it's obvious that the complainant is lying, because none of the attorneys, including the judge and prosecutor can bill for further services if the case is dismissed prematurely.  
B) That the jury, paid by the state to decide in favor of the state, will be chosen and fixed by the prosecutor, and will believe the alleged victim who will be coached, because she is just a little girl, even as an adult testifying about her alleged childhood, even if the defense can prove the witness has already lied or fabricated facts and details, because her prior testimony will be discounted and ignored, as you are not presumed innocent once charged, but are presumed guilty once you have pled not guilty, and must then prove your innocence, because not guilty is a negative that cannot be proven.  
C) That proving the alleged victim lied concerning material facts at the preliminary hearing and is not credible is not sufficient to avoid conviction, whereas the additional burden the defense maintains in disproving her testimony is proving at trial 'why' she lied.

D) That ‘If you insist on going to trial you will be convicted and sent to prison considering the circumstances, and you can’t win or defeat the presumption of guilt that you must bear once charged.’

E) That the plea agreement we have prepared for you is the only way of avoiding a certain conviction and imprisonment.  
12. Affiant states that defense counsel waited a full two years following his not guilty plea and preliminary hearing, counsel being preoccupied with selling off the writers property, to hire investigators who interviewed no witnesses and provided no investigation except to visit and bully the accused, at that time and at affiant's residence, these same investigators stating and insisting that 'these kind of cases never go to trial and always end in a plea agreement or you go to prison.' (subpoena duces tecum requested in connection with these witnesses and evidentiary hearing requested, pursuant to accused right to a compulsory process for obtaining testimony of witnesses in his favor)  
13. Affiant states that he was further informed by defense counsel, Mike Perienta, that the only way he could violate the terms of the plea agreement offered would be if he should be charged with drunk driving, and that there would be no other conditions of probation, and affiant now understands this to be entirely untrue.

14. Affiant states that through his additional research, due diligence, and examination of the record and particulars of the instant action and proceedings on file with the court,that he believes he was asked by defense counsel Mike Perienta to sign a plea agreement and other documents that do not appear in the official record, but that the signature page from those documents were removed and attached by defense counsel, or someone acting in agency on his behalf, to entirely different documents and a plea agreement that affiant did not sign, these being some of those, including the plea agreement, currently made a part of the record of the instant proceedings.

COURT ERRED IN EXCEPTING PLEA

15. Affiant states that through his additional research, due diligence, and examination of the record and particulars of the instant action and proceedings on file with the court, he has come to believe and contends that he did not qualify to enter either a plea of Guilty, or the Alford Plea ultimately entered, that the court erred in accepting any such plea, and that counsel's performance fell below reasonable standards and was ineffective for suggesting or proposing and formulating such a plea for the accused, for the reason that nothing in the record “strongly indicates guilt.” The Supreme Court ruled in ***North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160 (1970)**, that “the defendant can enter such a plea only "when he concludes that his interests require a guilty plea and the record strongly indicates guilt," not when as in the instant action the record reflects no evidence or credible testimony of guilt that the court can or has identified by specific written finding of fact or conclusion of law that would allow him to accept such a plea as due process would require.  
16. Affiant states that the court, Judge M. P. Villani presiding, as reflected in the official record of these proceedings, accepted affiant's Alford plea of guilty to the substitute, reduced charge of “Attempted sexual assault,” without first obtaining or stating for the record sufficient factual basis or evidence of criminal intent for a finding of guilt or the plea ultimately accepted, all in violation of the minimum requirements of substantive and procedural due process in criminal proceedings.   
17. Affiant states that through his additional research, due diligence, and examination of the record and particulars of the instant action and proceedings on file with the court,he has come to believe and contends that the warrant and Information or Indictment required to be substantiated by complaining parties sworn statement, was instead predicated and based on the hearsay reports and statements of police detective K. Pool, identified as “event # 130127-2166,” and Case Report No.: II V~30127002166 filed by Officer I.D. # 13415, Sunny K. Brannin, and although detective's aforementioned statement, including interviews of the complaining witness conducted by the same, alleges that an original sworn complaint bearing the same identification number, “Event # 130127-2166” was filed by the alleged victim, Melanie Chabin, no such original sworn complaint appears to be present in the record of the instant proceedings, leading this writer and many experts with which affiant has consulted to conclude that where the record of proceedings lack a sworn statement by the complaining witness, the court was, by this incomplete and insufficient service of formal written process, deprived of probable cause to issue a warrant, and deprived of subject matter and personal jurisdiction to act further, the initial process being predicated on the insufficient hearsay testimony of a detective and officer, and not the sworn testimony of an original complaining party of interest under oath as required by the general rules of procedural Due Process, rendering the proceedings void, Ab Initio, nunc pro tunc, for failure to comport with mandatory minimum pleading practice standards and requirements in criminal proceedings from its commencement.  
18. Affiant states, believes and contends that with respect to the foregoing facts stated, that he was deprived of due process of law prejudicing the defense, overlooked as a result of counsel's ineffective assistance, for the following reasons and authorities stating general principles of law in support : “No information shall be presented until affidavit has been made by some credible person charging the defendant with an offense. The affidavit shall be filed with the information. It may be sworn to before the district or county attorney who, for that purpose, shall have power to administer the oath, or it may be made before any officer authorized by law to administer oaths.” Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, (Art. 21.22. ) (eff. Jan. 1, 1966)); Statutes forbidding administering of oath by attorney's in cases in which they may be engaged applies to affidavits as well. (Deyo v. Detroit Creamery Co 241 N.W.2d 244 Mich (1932); The practice of an attorney filing an affidavit on behalf of his client asserting the status of that client is not approved, inasmuch as not only does the affidavit become hearsay, but it places the attorney in a position of witness thus compromising his role as advocate. (Porter v. Porter 274 N.W.2d 235 N.D. (1979)).

Federal and State Rules of Evidence hold there must be a first hand competent fact witness to all complaints. “An attorney for the plaintiff cannot admit evidence into the court. He is either an attorney or a witness... Statements of counsel in brief or in argument are not facts before the court... [O]pposing attorney ...is not allowed to testify on the facts of the case... ” (**Trinsey v. Pagliaro 229 F.Supp. 647 D.C.Pa. (1964 )**) “The Prosecution is not a witness; and he should not be permitted to add to the record either by subtle or gross improprieties.” **Donnelly v. Dechristoforo 416 U.S. 637, 53 41709 (1974)**); "Manifestly, [such statements] cannot be properly considered by us in the disposition of [a] case." **United States v. Lovasco 431 U.S. 783, 97 S. Ct. 2044, 52 L. Ed. 2D 752 (06/09/77)**); “...[S]ince they merely embody - statements of counsel (a detective, or police officer) concerning the facts as they suppose them to be and their appreciation of the law which they deem applicable, there being, therefore, no attempt whatsoever to state the ultimate facts by a consideration of which we would be able to conclude whether or not the judgment was warranted." **Gonzales v. Buist. 224 U.S. 126, 56 L. Ed. 693, 32 S. Ct. 463 (04/01/12))**. "And it is remarkable, we submit, that in a case of this magnitude... the complainants... now rest the charges... only upon the bare statements of (a detective, an officer, and of) counsel. The lives of all the witnesses are clean, their characters for truth and veracity un-assailed, and the evidence of any attempt to influence the memory or the impressions of any man called, cannot be successfully pointed out in this record... " (**Dolbear v. American Bell Telephone Company, Molecular Telephone Company v. American Bell Telephone Company. American Bell Telephone Company v.. Molecular Telephone Company, Clay Commercial Telephone Company v. American Bell Telephone Company, People's Telephone Company v. American Bell Telephone Company, Overland Telephone Company v. American Bell Telephone Company, 126 U.S. 1, 31 L. Ed. 863, 8 S. Ct. 778 (1988) ).**   
19. Affiant further states that through additional research, the exercise of due diligence and private consultation following sentencing, he has come to understand and contends that counsel he employed for his defense is not licensed to practice as an attorney by any government agency or authority of Nevada state, but rather, is a member of a non-governmental private union in the legal community who fraudulently hold out their union membership to be a government issued license to practice law, knowingly and intentionally providing dishonest services and engaging in deceptive trades and practices for unlawful gain, that the right to “counsel of choice” does not include the right to 'representation approved' by any private union such as the Nevada BAR operating a closed union shop monopoly in government in violation of the Taft /Hartley Act as determined by Senate Report No. 93-549, and that The "*CERTIFICATE*" issued by the Supreme Court of each state IS NOT A license to practice Law as an occupation, nor to do business as a Law Firm, but rather authorizes only the practice of Law "*IN COURTS*" as a member of the State Judicial Branch of Government, to represent only “Wards of [the] court, Infants and persons of unsound mind..." as “Clients are also called ‘wards of the courts’ in regard to their relationship with their attorneys” (See Davis’ Committee v. Loney, 290 Ky. 644, 162 S.W. 2d 189, 190; Montgomery v. Erie R. Co., C.C.A.N.J., 97 F.2d 289,292;Corpus Juris Secundum Volume 7, Section 2-4 ) and “…(A)n attorney occupies a dual position which imposes dual obligations..." the same being a conflict of interest, the accused being an individual who does not qualify for such inappropriate and unlawful services which have substantially prejudiced the defense as stated above, and that the accused must invoke rights in his proper person because 'attorneys cannot invoke rights for any private individual' (U.S. v. Johnson, 76 F. Supp. 538 ).   
20. In conclusion and summary of the statements and facts alleged herein, Affiant states and contends that if not for counsels ineffective assistance and representation that fell below objective standards of professional or reasonable performance, that (1) the fatally defective information or indictment would have been dismissed or quashed for failure to comport with the mandatory minimum requirements of procedural and substantive due process as previously stated, or (2) the complaining witness would have been impeached for perjury as previously stated, if not on the face of her own testimony, then by the testimony of the alibi witness counsel refused or failed to investigate and obtain as a witness at his preliminary hearing, (3) that the accused would not have accepted the plea agreement unless threatened and coerced by counsel as previously stated, and (4) that counsels deficient performance as previously stated significantly prejudiced the defense in each instance and cumulatively as previously stated, and if not for counsels deficient performance and cumulative errors in judgment and representation that fell below objective standards of professional performance that the outcome would have been significantly and substantially different.

DEMAND FOR RELIEF

WHEREFORE all the good and proper reasons stated above, Mark Cordova, in preparation for filing his post-conviction relief “Motion to Vacate Sentence And Withdraw Plea,” to be filed henceforth and upon receipt of requested permission from this court, prays this honorable court grant said permission in consideration of the merit of the facts herein alleged and presumed to be true, to proceed without the benefit of representation and in his proper person under the substitute private counsel of choice he has obtained through various private organizations for judicial reform, or *In The Alternative*, the petitioner requests this court accept this application which may by the court be alternatively fashioned “ Motion to vacate Judgment and Withdraw Plea,” and award the relief sought : withdraw plea, vacate judgment and grant a new trial, or *In the Alternative* : vacate judgment, withdraw plea and dismiss the charges with or without prejudice, for all the good and proper reasons herein stated, and award any other relief the court deems just and fair in equity, good faith, and conscience.

**CERTIFICATE AND PROOF OF SERVICE**

I, the undersigned and above named, do hereby Certify that a copy of the foregoing was served upon all parties to the instant action including opposing counsel, by placing a true and correct copy of the same in the United States postal service, certified mail, all postage paid, notice to agent being notice to principle, on this the \_\_\_\_ day of the \_\_\_\_ month, this the year of our Lord, Two Thousand Sixteen A.D.

**VERIFICATION IN AFFIRMATION**

In Witness, Whereof, knowing the law of bearing false witness before both God and Man, I solemnly swear or affirm that I have read the foregoing and know the contents thereof to be true and correct to the best of my own knowledge and understanding or belief, and as to those matters stated based upon my understanding or belief I believe them to be true and will testify to these in the legal or lawful court of any nation on earth under penalty of perjury and the laws of the united states before both Man and God so help me.

Dated this the \_\_\_\_ day of the \_\_\_\_ month, this the year of our Lord, Two Thousand Sixteen A.D.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_

Mark Cordova day

(702) 773-3294

329 Wisteria Ave.

Las Vegas, NV [89107-2669]

Subscribed and sworn to before me by Mark Cordova this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 2016.  
  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Notary