

Russell v Borders

***Writ
Of
Habeas Corpus***

Ground 7

Cumulative Error

1 **GROUND 7. CUMULATIVE ERROR**

2 Petitioner raises seven grounds in the instant habeas
3 petition and argues each ground in and of itself warrants an
4 evidentiary hearing because of the magnitude and complexity of
5 the issues raised and the degree the separate issues permeated
6 the entire proceeding. Petitioner contends each of the grounds
7 competently presented and argued at an evidentiary hearing is
8 sufficient to warrant reversal of his conviction on all counts.

9 Petitioner further contends an astute legal mind will have
10 no difficulty in drawing the conclusion as to the
11 inter-relatedness of the grounds and issues raised in the
12 instant petition such that; the magnitude and impact of earlier
13 ground(s) on the outcome of the trial is amplified over and over
14 again successively in subsequent grounds. In other words,
15 Petitioner contends there is an obvious clear relationship
16 between denial of his right to speedy trial, reasonable doubt to
17 each and every element in each and every count, insufficient and
18 false evidence, ineffective assistance of trial counsel, counsel
19 's conflict of interest and counsel's failure to investigate;
20 prosecutorial misconduct, Brady violations and yes, even the
21 ineffectual assistance of appellate counsel.

22 If granted an evidentiary hearing in this matter ^{Petitioner} intends to
23 closely examine the inter-relatedness of these issues and will
24 argue each ground and its attendant issues compounded the
25 contaminating effect on the proceeding and prejudicial effects
26 of all grounds presented in the instant petition. Petitioner
27 will argue the cumulative effect of the contamination and
28 prejudice to Petition resulted in a gross miscarriage of justice

(Ronald Russell, Habeas Corpus Petition, Ground Seven, page 78.)

1 which can only be cured by reversal of his conviction on all
2 counts.

3 Petitioner will briefly outline the inter-relatedness as
4 follows.

5 A. RIGHT TO A SPEEDY TRIAL

6 The right to a speedy trial provides protection to a
7 defendant that the prosecution doesn't have the advantage of
8 time on his side to investigate, investigate and re-investigate
9 matters while the defendant languishes in a jail cell. The
10 "advantage of time" manifests itself in such a way, with the
11 passage of time, witness recollections of events, situations,
12 circumstances and hard facts become less clear, fuzzy and
13 distorted. "Eye witness testimony" is often said to be the
14 least dependable, because with the passage of time witnesses
15 grow more susceptible to suggestion and deception, and
16 unscrupulous fellow witnesses, investigators and prosecutors can
17 more easily manipulate witnesses recollections with deception
18 and suggestive techniques.

19 In the instant case, prosecution witnesses testified in 2014
20 as to matters occurring between 2006 and 2010. For the most
21 part, their eye witness testimony pointed to a basic set of
22 facts surrounding a business transaction with Petitioner. The "
23 advantage of time" crept in where the prosecution introduces
24 subsequent circumstantial evidence and obtains their testimony
25 about what they were believing, experiencing, feeling and
26 thinking five or more years ago. Prosecution uses this
27 testimony in attempts to establish Petitioner's nefarious
28

(Ronald Russell, Habeas Corpus Petition, Ground Seven, page 79.)

1 intent, false pretense and knowledge of wrong doing. Defendant
2 is prejudiced by this passage of time in any attempt to
3 establish and re-establish his good intent, even benign intent,
4 lack of false pretense and he had no knowledge of wrong doing
5 before the jury. Similarly, Petitioner was prejudiced when the
6 prosecution directed the jury to consider the aggregate
7 testimony of prosecution witnesses to be proof beyond a
8 reasonable doubt as to all of the elements of the crime for each
9 count charged. Some witnesses forgot they had a contractual
10 promise, hadn't requested a refund or Petitioner kept in touch
11 with them and responded to their e-mails.

12 The 'advantage of time' prejudiced Petitioner's counsel
13 allowing the prosecution to submit more than 6,000 pages of
14 documentation overwhelming counsel's ability to sift through
15 documents and separate the relevant from the irrelevant or
16 contend with any duplication. The passage of time interfered
17 with defense counsel's ability to properly investigate matters
18 because Petitioner's potential supporting documents became lost
19 and memories faded. A reasonable argument is made if it were
20 not for such a long delay in bringing the matter to trial,
21 Petitioner's counsel would have provided effective assistance to
22 Petitioner preparing for pretrial and trial matters and
23 representing Petitioner at trial. On the other hand, Petitioner
24 's own counsel, against Petitioner's express request moved for
25 several later trial dates making him complicit in violating
26 Petitioner's right to a speedy trial.

27 In a similar way, the effect of denying Petition a speedy
28 trial giving the 'advantage of time' to the prosecution is
(Ronald Russell, Habeas Corpus Petition, Ground Seven, page 80.)

1 compounded in Petitioner's claims as to prosecutorial misconduct
2 and Brady claims. The more time the prosecution had, the more
3 opportunity the prosecution had to overwhelm Petitioner's
4 counsel with irrelevant and duplicative documentation which
5 clearly was a major prosecution strategy. Time advantage
6 provided the prosecution greater opportunity to coax and coach
7 prosecution testimony to the point witnesses are testifying to
8 matters in their conversations with Petitioner when the witness
9 where such matters were never discussed with Petitioner or the
10 witness had no such conversation with Petitioner. Furthermore,
11 the prosecution presented some witnesses who made the point in
12 front of the jury: No, sir. I didn't say any such thing to your
13 investigator. That isn't what happened. What happened was ...
14 The prosecution made numerous mis-statements of material fact at
15 trial and got away with it because of the passage of time.

16 Similar arguments about apparent Brady violations can be
17 made. Had Petitioner been granted his right to a speedy trial
18 there would have been less opportunity to "discover" evidence,
19 withhold it from the defense, spring damaging evidence on the
20 defense at trial and in a similar way these Brady concerns would
21 have been exposed much earlier.

22 Finally, the ineffective assistance of appellate counsel
23 thwarts any judicial review as to the denial of Petitioner's
24 right to a speedy trial because she totally ignores it as an
25 issue on direct appeal.

26 **B. REASONABLE DOUBT AS TO EACH & EVERY**
27 **ELEMENT OF THE OFFENSES CHARGED.**

28 Petitioner maintains there is an abundance of reasonable
doubt as to every element of the crime charged both in the
(Ronald Russell, Habeas Corpus Petition, Ground Seven, page 81.)

1 totality of the crime charged, and the individual counts
2 charged. Petitioner contends the task entrusted to his defense
3 counsel was to illuminate for the jury this abundance of
4 reasonable doubt as to Petitioner's criminal intent, the
5 existence of any false pretense, Petitioner's conduct and
6 business violated any law and Petitioner knew or reasonably
7 should have known he was engaging in wrong doing. To accomplish
8 the task, his attorney needed to produce evidence and/or
9 repeatedly highlight existing evidence for the jury sustaining
10 reasonable doubt as to his criminal intent, lack of false
11 pretense and knowledge of wrong doing. This would require
12 counsel's timely investigation, gathering sufficient evidence of
13 Petitioner's good intentions, Petitioner's best information as
14 the basis of all representations he made to complaining
15 witnesses, historical information about the real estate market
16 and acceptable real estate business practices.

17 Hence we can draw a nexus between reasonable doubt,
18 insufficient evidence and ineffective assistance of counsel.
19 Simply put: counsel's lack of investigation, lack of preparation
20 and lack of knowledge were responsible for Mr. Slaughter's
21 failure to show the jury the whys and wherefores of reasonable
22 doubt. At the very heart of the matter was the question why
23 would a 73 year old defendant with an impeccable reputation,
24 thirty years in the real estate business without a single
25 complaint and absolutely no criminal history intentionally
26 become Bernie Madoff, lie to everyone he meets in order to take
27 their money, illegally spend their money, and pretend he didn't
28 know he had done something wrong?

(Ronald Russell, Habeas Corpus Petition, Ground Seven, page 82.)

1 Similarly we can observe a nexus between reasonable doubt as
2 to each element of the offense and the prosecution's
3 over-the-top effort to first demonize and vilify the Petitioner
4 and insist to the jury Petitioner is a bad person and therefore
5 you the jury can't possibly harbor any reasonable doubt about
6 Petitioner's criminal intent, false promises, self-serving
7 motivation "Mr. Russell only does what is good for Mr. Russell"
8 and ridiculous claims he didn't know it was wrong! Look at all
9 the victims!

10 We also observe the nexus between reasonable doubt as to
11 every element of the crime charged when we examine Brady
12 concerns. Petitioner contends the comprehensive investigation
13 by the Bureau of Real Estate and their Investigation Findings
14 and Report available to the prosecution but never provided to
15 the defense (Brady violation) addressed the matters of
16 reasonable doubt and insufficient evidence because it found no
17 wrong doing on the part of Petitioner. Had the Bureau of Real
18 Estate determined a violation of law or other wrong doing they
19 would have ordered Petitioner to Cease and Desist immediately
20 and ultimately suspend or revoke Petitioner's Broker's License.
21 In a similar way, Petitioner contends the Brady concern about
22 providing the defense complete statements of Wonda Raymond and
23 Margretta Cannon can be tied to the issue of reasonable doubt
24 about Petitioner's intent and the alleged false pretenses.

25 Finally, the ineffective assistance of appellate counsel
26 thwarts any judicial review as to the issue of reasonable doubt
27 to each and every element of the offense as to all of the counts
28 because appellate counsel exclusively focused her attention on
(Ronald Russell, Habeas Corpus Petition, Ground Seven, page 83.)

1 Petitioner's award of pre-sentence credits on direct appeal.

2 C. ELEMENT OF THE OFFENSE OMITTED

3 - KNOWLEDGE OF WRONG DOING

4 Petitioner contends the element of wrong doing was omitted
5 as necessary to each count of the crime charged. This stems
6 from two reasons: 1.) The prosecution offered two (2) theories
7 of the crimes being theft by fraud and theft by embezzlement.
8 There are separate elements for each, the criminal intent is
9 formed at different times and consequently any knowledge of
10 wrong doing would be different. 2.) The prosecution provided the
11 jury a smorgasbord of element to choose from when determining
12 Petitioner's guilt on any particular count and the jury did not
13 need to agree whether Petitioner was guilty on a particular
14 count under either theory. As a practical matter, this
15 essentially required the jury to deliberate on each individual
16 count based on the totality of the prosecution's evidence.
17 Petitioner believed the fee paid to him by each complaining
18 witness became his property upon receipt of the fee and he spent
19 the funds to operate the business. The representations he made
20 to customers were not false or reckless, but based on his best
21 information at the time the representations were made.

22 Hence he had no knowledge of wrong doing by either
23 embezzlement or fraud. The missing element of the crime issue
24 is directly tied to the problem of insufficient evidence in that
25 there is no direct evidence of any plan by Petitioner to
26 systematically steal the money of complaining witnesses under
27 false pretenses nor any legal basis for the theory Petitioner
28 held the complaining witnesses' money in trust, stole the money

(Ronald Russell, Habeas Corpus Petition, Ground Seven, page 84.)

1 and converted it to his own purposes. Somehow, the jury was
2 supposed to infer from the outcome Petitioner's business failed
3 because he intended it to fail and it failed because he stole
4 the victim's money. The upside-down logic aside, the direct
5 evidence demonstrated Petitioner's business failed when he could
6 not obtain the commitment of private investor(s) and the
7 application to the HUD Neighborhood Revitalization Program was
8 denied.

9 The evidence was insufficient to establish Petitioner
10 intended by design to steal the money of complaining witnesses
11 by either fraud and false pretenses or by embezzlement and he
12 did so knowingly his business plan constituted either and/or
13 both fraud and embezzlement. Petitioner contends the
14 prosecution's misconduct that included demonizing Petitioner,
15 misleading the defense and mis-stating evidence account for the
16 omission of necessary elements of the offense went unnoticed by
17 the jury. The prosecution's strategy amounted to
18 unsubstantiated claims Petitioner's business was a scam and a
19 "ponzi scheme" which is proof the Petitioner is a bad person.
20 From that point forward, anything and everything the Petitioner
21 said or did was evidence of his nefarious intent from which
22 knowledge of wrong doing could be readily assumed as proven.
23 Petitioner told everyone a "pack of lies". Petitioner violated
24 customer's trust when he spent "their money" to operate his
25 business. Petitioner was wrongfully failed to provide refunds.
26 Petitioner wrongfully paid refunds out of the fees he collected
27 from other customers. Petitioner doesn't pay his debts and
28 obligations and Petitioner obtained a huge profit for himself by

(Ronald Russell, Habeas Corpus Petition, Ground Seven, page 85.)

1 all his wrong doing. The prosecution attacked Petitioner's
2 religious faith as a means of impugning Petitioner's charity and
3 good will to the point Petitioner is so dishonest he has answer
4 for everything and you can't believe a word he says. That
5 repetitive character assassination created the context where
6 omitting essential elements, particularly criminal intent and
7 knowledge of wrong doing were particularly egregious.

8 Petitioner makes the same connection to the Brady concerns
9 adding the materials withheld from the defense go directly to
10 the omission of essential elements because they evidence THERE
11 WAS NO NEFARIOUS INTENT and PETITIONER HAD NO KNOWLEDGE OF WRONG
12 DOING BECAUSE THERE WAS NO FINDING OF WRONG DOING BY THE BUREAU
13 OF REAL ESTATE.

14 And finally, once again, the ineffective assistance of
15 appellate counsel thwarts any judicial review as to the issues
16 omitting essential elements of the offense as to all of the
17 counts because appellate counsel exclusively focused her
18 attention on award of pre-sentence credits on direct appeal.

19 **D. INSUFFICIENT EVIDENCE,**
20 **FALSE EVIDENCE &**
21 **EXPERT WITNESSES**

22 Petitioner incorporates here by reference Section C. above
23 to demonstrate and argues the inter-relatedness of insufficient
24 evidence, false evidence and denial of expert witness funds and
25 increased cumulative effect prejudicing Petitioner's right to a
26 fair trial. Most, if not all of the evidence produced by the
27 prosecution against was largely irrelevant, false and redundant.
28 The evidence that was presented utilized the spaghetti strategy:

(Ronald Russell, Habeas Corpus Petition, Ground Seven, page 86.)

1 See how much spaghetti you can throw against the wall and hope
2 something sticks. The second prosecution strategy involve the
3 principle: If you repeat a falsehood loud enough and often
4 enough, persons will likely come to consider the falsehood
5 generally true. The two major oft-repeated falsehoods were:
6 Petitioner's Rent To Own business was really a ponzi scheme a
7 scam; and Petitioner is a corrupt dishonest person only
8 concerned about himself. Reject both hypothesis, take them away
9 as untested assumptions or truisms, and there is absolutely no
10 evidence in the case ANY CRIME was committed by anyone.

11 The Prosecution creates two cyclical patterns of logic where
12 the irrelevant evidence and false evidence further supported the
13 conclusion Petitioner's Rent To Own business is a ponzi scheme
14 and scam because of the final outcome: - Petitioner didn't keep
15 his false (contractual) promises. Because the Petitioner made
16 all these false promises - didn't intend to fulfill any of his
17 false promises like refunds (contractual obligations,) we know
18 he was operating a scam or a ponzi scheme. 2.) Petitioner is a
19 corrupt, dishonest individual with wholly self-serving interests
20 which are the criminal traits of those who operate scams and
21 Ponzi schemes to steal money from vulnerable people by fraud and
22 embezzlement. His past is not irrelevant here: He made huge
23 commissions for him- self in 2006 with that Haven of Hope
24 fourplex deal but drove one of the organization's officers into
25 bankruptcy AND the organi- zation also lost the property. He
26 took a car from Mr. Mora, promised to pay for it but never did.
27 He stiffed his landlord out of \$10,000 he promised to pay for
28 rent. He told all the victims the same lies because that is
(Ronald Russell, Habeas Corpus Petition, Ground Seven, page 87.)

1 what he does. So pay no attention to his explanations about
2 anything. It is all a pack of lies. How can we be sure of
3 that? He was operating this Ponzi scheme. Rent To Own was
4 nothing but a scam.

5 Of course, the same evidence graphically demonstrated
6 Petitioner's Rent To Own program was a business that failed
7 primarily because the real estate market conditions took
8 veterans by surprise, definitely not attractive to most
9 legitimate private investors, and because HUD denied the
10 application to the Neighborhood Revitalization Program. These
11 two (2) calamities came as unexpected surprise blows to the
12 Petitioner whose best information was: Receipt of private
13 investor funds and Approval of the HUD application are imminent.
14 The same personal history the prosecution presented as to
15 Petitioner's dishonest, corrupt, self-serving behavior was
16 factually evidence of Petitioner's helpful, generous,
17 considerate nature and impeccable reputation - at least in the
18 eyes of the witnesses who offered the testimony.

19 The cyclic reasoning, illogical false conclusions drawn from
20 insufficient evidence, false evidence were largely enabled by
21 defense counsel's ineffective assistance. This is most clearly
22 illustrated by counsel's failure to investigate and counsel's
23 failure to obtain funds for expert witness testimony. Less
24 obvious however is the likelihood Petitioner's defense counsel
25 hadn't, couldn't and didn't comprehend nor anticipate the
26 evidence and arguments the prosecution was putting together in
27 the People's case against the Petitioner. The latter occurred
28 for two reasons: 1.) Counsel's lack of knowledge regarding

(Ronald Russell, Habeas Corpus Petition, Ground Seven, page 88.)

1 accepted real estate market practices, private investor funding
2 and applicable state and federal laws. 2.) The prosecution
3 deliberately overwhelmed the defense with questionably relevant
4 evidence, withheld evidence in the state's possession and misled
5 the defense about their intention to utilize specific evidence.
6 Hence we observe again the inter-relatedness of insufficient
7 evidence, false evidence and defense's lack of expert witness
8 testimony in both of the Petitioner's grounds raising
9 ineffective assistance of counsel and prosecutorial misconduct.

10 And once again we observe the heightened cumulative impact
11 culminating in deprivation of Petitioner's right to a fair trial
12 because there was no post-conviction judicial review in result
13 of appellate counsel's myopia and ~~exclusive focus on pre-~~
14 sentence custody credits for direct appeal.

15 **E. INEFFECTIVE ASSISTANCE OF COUNSEL:**

16 Petitioner largely presented the basis of the claims that
17 his trial counsel provided ineffective assistance of counsel in
18 the foregoing. Subsequently, he pointed to how and why the
19 cumulative effect of everything from the prosecution's unfair
20 'advantage of time' in result of denying Petitioner his right to
21 a speedy trial, missing elements of the offense and problems
22 with evidence resulting from denial of Petitioner's right to a
23 fair trial. Petitioner further contends; Given the reality he
24 remained in jail, and thus unable to assist in crafting his own
25 defense; Counsel's woeful lack of knowledge about acceptable
26 practices, standards, definitions and ethics in the real estate
27 industry, defense counsel's acknowledgment he needed Petitioner
28 at his side to properly represent him: It would be very highly
(Ronald Russell, Habeas Corpus Petition, Ground Seven, page 89.)

1 improbable, if not virtually impossible for any criminal
2 defendant under these circumstances to receive a fair trial if
3 in fact they were pinning all their faith and hopes on the
4 performance of an over-worked public defender. Nevertheless
5 this was exactly the naive Petitioner's situation.

6 The prosecution had correctly sized up the situation early
7 on in pretrial matters. Prosecutor concluded as long as he
8 could keep the Petitioner in custody and invite his public
9 defender to chase his tail in the proverbial haystack, winning a
10 conviction in the matter would be as easy as shooting fish in a
11 barrel.

12 But the prosecution had no interest in the pursuit of
13 justice. If the prosecutor claimed he was seeking justice for
14 the complaining witnesses, he lied to himself. The prosecution
15 knew before filing charges against the Petitioner that the
16 complaining witnesses would be made financially whole and
17 receive a full refund of the fee they paid to Petitioner through
18 the Bureau of Real Estate's Consumer Recovery Fund. The
19 prosecution also knew Petitioner had already provided customers
20 the necessary information and directed them how to obtain their
21 refund them. The prosecutor knew some individuals had already
22 obtained their refund in this manner.

23 The prosecution lied to these complaining witnesses; telling
24 them they would only obtain their refund if they testified
25 against Mr. Russell in a criminal trial. Justice for these
26 complaining witnesses would have allowed them to obtain their
27 refund 3-4 years earlier rather than delay their refund
28 application until after the trial concluded

(Ronald Russell, Habeas Corpus Petition, Ground Seven, page 90.)

1 Obviously, the prosecution had no interest or intention in
2 the innocent Petitioner obtaining justice - the prosecutor was
3 only concerned with obtaining Mr. Russell's conviction and so
4 "the end justified the means." The cumulative effect of all the
5 foregoing ordained it virtually impossibility of the Petitioner
6 receiving a fair trial.

7 And why did this monumental miscarriage of justice escape
8 judicial review on direct appeal? Appellate counsel narrowly
9 focused on the award of pre-sentence custody credits as the
10 singular appeal issue.

11 F. PROSECUTOR'S MISCONDUCT

12 Petitioner contends all the foregoing created the perfect
13 storm for a miscarriage of justice and the perfect storm was
14 driven largely by the prosecution's misconduct.

15 The sensational prosecution of the elderly Petitioner on
16 fifty-two counts of grand theft by fraud or embezzlement did not
17 occur in some vacuum of time and space. The California Bar
18 Association was receiving a steady stream of complaints about
19 lawyers operating scams purported to save property owners from
20 foreclosure on their homes. Sacramento news media had begun
21 breaking these stories. The allegations in these stories about
22 unscrupulous lawyers had uncanny resemblance to the false public
23 allegations against Petitioner. Public sentiment was 'this is
24 wrong, somebody should have to pay.' The jury in the instant
25 case were representative of the Sacramento area and likely
26 harbored the same sentiment: 'this is wrong, somebody should
27 have to pay.' Petitioner wasn't a lawyer but he made a living

28 (Ronald Russell, Habeas Corpus Petition, Ground Seven, page 91.)

1 in real estate so that was good enough. Ironically, the
2 prosecutor who painted Petitioner to be a self-serving
3 opportunist saw his opportunity in time and place to personally
4 score big time in this case by obtaining a conviction. We can
5 infer this much from the record. Prior to arraignment, the
6 court entertained discussion by counsel whether the case was in
7 fact really a civil matter or a criminal matter. For Deputy
8 D.A. Archibald, it was his (perhaps only) golden opportunity for
9 career advancement. He was willing to shell out tens of
10 thousands of dollars in witness fees and spring for the cost of
11 a twenty-seven (27) day trial. Subsequently, with that sizeable
12 investment the prosecutor was "justified" for demonstrating his
13 "end justifies the means", win at any cost philosophy, utilizing
14 his over-the-top tactics to convict Petitioner.

15 **G. INEFFECTIVE APPELLATE COUNSEL.**

16 The 74 year old Petitioner spent 583 days (nearly 20 months)
17 in the county jail while the prosecution investigated assembling
18 more than 7,000 pages of documentation. In a twenty-seven day
19 long trial the prosecution presented repetitive testimony of
20 fifty-four complaining witnesses but no direct evidence of any
21 kind demonstrating Petitioner stole anyone's money, and for that
22 matter, no direct evidence of any kind demonstrating Petitioner
23 committed any crime at all. His defense counsel was largely
24 unprepared, had no clear trial strategy, called no expert or
25 rebuttal witnesses and didn't make a case for defense. The
26 judicial process created a record on appeal consisting of
27 seventeen (17) volumes. The record on appeal is prepared and
28

(Ronald Russell, Habeas Corpus Petition, Ground Seven, page 92.)

1 provided to the indigent Petitioner's appointed appellate
2 counsel. Appellate counsel has custody and control of the
3 record for twenty-seven (27) months, requests a series of time
4 extensions delaying filing of Petitioner's opening appeal brief.
5 The only issue appellate counsel addresses - presentence custody
6 credits is a matter of statute and had previously and quickly
7 resolved by a California Department of Corrections and
8 Rehabilitation records technician shortly after Petitioner
9 enters the Department of Corrections an Rehabilitation rendering
10 it "a non-issue." The People agree with appellate counsel that
11 Petitioner received significantly less custody credit than the
12 law provides and the Appellate Court weighs in holding both
13 appellate counsel and counsel for the People are correct.
14 Appellate counsel never consults with Petitioner regarding the
15 content of the record, appealable issues or tentative direction
16 or progress on the appeal. Petitioner receives the Appellate
17 Court's opinion in July 2016.

18 Petitioner has been a model prisoner. Based on the current
19 law and regulations governing award of custody credit,
20 Petitioner is due to be released on parole in February 2017. He
21 will be 77 years of age. Mr. Russell continues to maintain his
22 innocence of any criminal wrong doing in these matters and will
23 do so until the day he dies. Heretofore, Petitioner set forth
24 with particular clarity how the added cumulative effect of these
25 errors led to his conviction, denied him a fair trial and hence
26 denied him justice.

27 The ineffective assistance of appellate counsel factors into
28 the cumulative effect in that it further denied justice to
(Ronald Russell, Habeas Corpus Petition, Ground Seven, page 93.)

1 Petitioner. Petitioner had a right to appeal which in this case
2 would have required significantly more than a cursory review of
3 sentencing hearing record. At the least, Petitioner, on appeal
4 was entitled to an objective examination of the entire record to
5 determine whether the evidence supports the assumption this was
6 a criminal matter and not as Petitioner has continued to
7 maintain, a civil case about contractual matters of specific
8 non-performance. Petitioner, as a matter of appeal right was
9 entitled to judicial review that would closely examine the
10 legality of the prosecution's premise that the jury need not
11 rely on the evidence provided proving all the necessary elements
12 in a specific count, but should rely on the totality of the
13 evidence generally. Petitioner, as a matter of appeal right was
14 entitled to judicial review that in this case would closely
15 examine the legal legitimacy of the prosecution's basic premise
16 that Petitioner was operating a ponzi scheme or scam the
17 Petitioner called his Rent To Own program business. This
18 erroneous premise is particularly important because the element
19 of criminal intent of the operator is assumed in a ponzi scheme.

20 Appellate counsel's ineffective assistance precluded post
21 conviction judicial review in this case effectively negating
22 Petitioner's right to appeal.

23 Cumulatively speaking, the ineffective assistance of
24 appellate counsel caused further delay in Petitioner obtaining
25 justice and combined with the others continued to deny justice
26 to the Petitioner. At age 77, statistically speaking Petitioner
27 has met, perhaps exceeded his life expectancy. It is clearly
28 unlikely Petitioner will obtain post-conviction relief before he

(Ronald Russell, Habeas Corpus Petition, Ground Seven, page 94.)

1 is released from custody but will continue his quest for relief
2 during his period of parole supervision for a single purpose:
3 Judicial recognition he was wrongfully charged, wrongfully
4 convicted for crimes of which he is innocent and must clear his
5 name before his death.

6 7 C o n c l u s i o n

8 If an evidentiary hearing is granted in this matter,
9 Petitioner will argue each of the grounds cited in themselves
10 warrant reversal. He will present evidence showing the
11 seriousness and prejudicial nature of an earlier ground is
12 manifestly compounded in later grounds such that the cumulative
13 effect denied Petitioner a fair trial, acquittal on all charges
14 in the interests of justice. Petitioner will argue the only
15 reasonable and proper relief to be granted at this juncture is a
16 complete reversal of his wrongful conviction.

17 A P P L I C A B L E C A S E L A W : 18

19 Chambers v. Miss., 410 U.S. 284 (1949) Petitioner was denied
20 DUE PROCESS by the combined effect of individually harmless
21 errors which, in combination (i.e. CUMULATIVE ERROR) rendered
22 the defense far less persuasive than it other would have been
23 violating petitioner's Fifth Amendment right to due process.
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28 (Ronald Russell, Habeas Corpus Petition, Ground Seven, page 95.)