STATE WISCONSIN
COURT OF APPEALS
DISTRICT III

Case No. 2022AP263

STATE OF WISCONSIN,
Plaintiff-Respondent,

ROBERT E. HAMMERSLEY,
Defendant-Appellant.

APPEAL FROM A "NO"—ACTION ORDER DENYING A MOTION FOR POSTCONVICTION RELIEF 974.06 AND/OR FOR A WRIT OF ERROR CORAM NOBIS, ENTERED IN BROWN COUNTY CIRCUIT COURT, HONORABLE BEAU LIEGEOIS, PRESIDING; AND/OR SUPPLEMENTAL SUBMISSION TO THE UNHEARD UNDERLYING JUDICIAL NOTICE REQUESTS THRICE SUBMITTED

BRIEF OF DEFENDANT-APPELLANT

Dated this 8th day of April, 2022.

Respectfully Submitted,

Robert Hammersley,
Appellant, *pro-se*
309 Bayside Road
Little Suamico, WI 54141
(920) 434-9322

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LAW REVIEW AND/OR OPINIONS

Abbreviated Glossary:

1) *Entre-vous et moi*: French for "*in between you and me.*"

2)Retrospective: adj.: looking back on or dealing with past events or situations. (of a statute or legal decision) **taking effect from a date in the past.**

3) Reverse Retrograde Extrapolation: refers to the process of taking a known blood alcohol concentration ("BAC") from a given time, such as the results of a blood draw obtained two hours after defendant was arrested, and using that number to calculate what the defendant's blood alcohol concentration was at an earlier time

Publisher's note: **a)** The **emboldened-*italicized-text, is meant to highlight direct caselaw and/or record quotes; **b)** 49 highlighted Judicial Notice Re-Requests are font size 11-point and boxed up; **c)** All quotes from past submissions are font size 11-point and boxed up; **d)** Cited Statutes are font size 11-point and boxed up; and **e)** Segments from denials and correspondences are font size 11-point and boxed up and **(f)** All Court Record Document Cites are abbreviated as "**DOC NO.**"***

ISSUE PRESENTED

The County Court and/or Appeals Court Should Have Heard and/or Ordered to be Heard Hammersley's 4-21-2020 and 8-12-2020 *John Doe* Motions Along With Hammersley's Unheard 12-2-2020 **Wis. Stat. § 974.06** and/or *Coram Nobis* Postconviction Motion to Have Issued Judicial Notices, Forwarded Investigations, and/or Voided the 1998-2003 Wrongful Criminal Judgments and Unlawful 2008+2018 PAC .02 Arrests Against Hammersley.

STATEMENT ON ORAL ARGUMENT AND PUBLICATION

Whatever the Court determines appropriate.

STATEMENT OF THE CASE AND FACTS

1. On October 28, 1995, Hammersley was requested to submit to a test, as provided under **Wis. Stat. § 343.305(3)** (1995-1996), and refused. There was no blood draw. Hammersley was subsequently arrested for violating **Wis. Stat. § 346.63(1)(a)**(1995-96).....Appx. 201

2. On September 19, 1998, Hammersley was vehicularly bumped and chased 15-miles by two Mexican Nationals, there was a roadside attempted murder and he was violently taken hostage inside Speedway trying to report the roadside attempted murder.....Appx. 149-152

3. On September 19, 1998, Hammersley was arrested for hit-and-run, under **Wis. Stat. § 346.67** (1997-1998), for purportedly not stopping, when Hammersley in-fact stopped twice and without a reportable accident.....Appx. 146-160, 157

4. On September 19, 1998, Hammersley was requested to submit to a test, as provided under **Wis. Stat. § 343.305** (1997-1998), and refused. Hammersley was subsequently arrested for violation of **Wis. Stat. § 346.63(1)** (1997-1998).....Appx. 157

5. On September 24, 1998, officer Reetz filed the Notice of Intent with the court and it was delivered to the WI DMV.....Appx. 156

Comes now Robert Hammersley, appearing *pro-se*, pursuant to the **U.S. Const. 1st**, **4th, 5th, 6th, 8th, 11th, 13th** and **14th Amendments**; **Wis. Const. Articles I § I, 4, 7, 8, 9, 9m, 11**, **12**, **22**; **VII § 2, 5**; **XIII § 4**; and **XIV § 13**; **Wis. Stats § 775.05**, **782**, **783**, **901.03, 902.01, 906.11**, **939.10 939.74(2)(a)1-2, 971.31, 974.06**, and that the Court lacked all jurisdiction over Hammersley 1998-1999. With also, being that Hammersley cannot pursue any postconviction relief under the retrospective *ex post facto* designation affixed to the Implied Consent and the PAC .02 restriction laws; With judicial notice, previously requested on the dates of 4-21-2020, 8-19-2020, and 12-2-2020, under **Wis. Stat. § 901.03, 902.01, 906.11, 968.26** and/or any other Statutory equivalencies to authorities **Fed. Rules 8, 52, 82, 103, 201, 803**.

Adding these extra undertakings for Judicial Notice: **(1)** Hon. Liegeois' refused to judicially notice new evidentiary thresholds without statute of limitations within the 2018 transcription of the 1999 plea hearing that were thrice requested; The *clearly erroneous* 8-12-2020 appealable order with the *john doe's* reconsideration's denial; The gross refusal to rule on the righteously submitted 12-2-2020 **974.06**/*coram nobis*, no rulings on the imbedded judicial notice requests under **Wis. Stats. § 901.03, 902.01, 906.11** (Appx. 101-127; **DOC NOS.** 3, 8, 39); When these motions were reviewable under **901.03**:

"***(1) Effect of erroneous ruling. Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected ... (b) Offer of proof. (2) Record of offer and ruling. The judge may add any other or further statement which shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. ... (4) Plain error. Nothing in this rule precludes taking notice of plain errors affecting substantial rights although they were not brought to the attention of the judge.***"
Wis. Stat. § 902.01 "***Judicial notice of adjudicative facts. (1) Scope. ... judicial notice of adjudicative facts. (2) Kinds of facts. ... any of the following: (a) A fact generally known within the territorial jurisdiction***

of the trial court. (b) A fact capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. (3) When discretionary. A judge or court may take judicial notice, whether requested or not. (4) When mandatory. A judge or court shall take judicial notice if requested by a party and supplied with the necessary information. (5) Opportunity to be heard. A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken. (6) Time of taking notice. Judicial notice may be taken at any stage of the proceeding. (7) Instructing. The ... [fact finder] ***to accept as established any facts judicially noticed.***"

Wis. Stat. § 906.11 "***The judge shall ... (a) Make the interrogation and presentation effective for the ascertainment of the truth.***"

(2) Hon. Liegeois' prejudicial–facetious *"no response"* to: Inquiries—on: 5-18-2021 and 4-26-2021 (*asking if there will be a ruling or any unsent rulings*):

"***I have ... public records request ... April 12, 2021. The relevant court files ... are all open for public inspection at the Clerk of Courts Office in the basement of the Brown County Courthouse. You are free to inspect the files and make copies, at normal fees to members of the public, any day between 8:00 a.m. and 4:30 p.m.***" **AND**: "***As I previously stated ... court files are all open for public inspection at the Clerk of Court's office ... copies of documents can be made at normal costs to members of the public***" (Appx. 110-11; **DOC NOS.** 33, 36);

(3) *Clearly erroneous* egregiously-unheard filed 12-2-2020 *coram nobis* postconviction consideration (339-pages; **DOC NO. 12**); **(4)** *Clearly erroneous* 02-09-2022 no-action order (Appx. 112; **DOC NO. 42**); **(5)** *Clearly erroneous* 03-07-2022 appellate transmittal fee denial's unofficial ruling stating:

"***I am not*** [rul]***ing ... until you can articulate a claim, defense or appeal upon which the court may grant relief***" (*see* Appx. 113; **DOC NO. 51**);

(6) Hon. Liegeois'—admonishment-response-on: 8-3-2021—**to**: Inquiries to find out if there will be a ruling and/or if there was any unsent rulings:

"***I have reviewed your letter labeled as an "Open Records Request" dated June 9, 2021. A significant part of your letter discusses Wisconsin Statute 782.09, "Refusal of writ. Chapter 782, the Habeas Corpus chapter of the Wisconsin Statutes, only applies to persons who are presently in custody. Wisconsin Statute 782.01(1) states, "Every person restrained of personal liberty may prosecute a writ of habeas***

corpus to obtain relief from such restraint subject to ss. 782.02 and 974.06." … ***emphasiz***[ing] ***this point in*** State ex rel. Kelley v. Posner, 91 Wis. 2d 301, 282 N.W.2d 633 (Ct. App. 1979)***. Based on your filings, I have no reason to believe that you are in confinement anywhere in the State of Wisconsin, as your filings appear to come from an address in Little Suamico, and it seems you do receive mail sent to that address. It appears that you posted a cash bond in 18CF407 and have been making regular court appearances out-of-custody*** [*whilst* wearing the 24/7 electronic sweat monitoring bracelet that is not-for-free without any administrative remedies and arrested based on discriminatory prior convictional PAC .02 charging instruments]***. Your repetitive filings are starting to lack proper decorum expected of court filings in the State of Wisconsin. I have given you considerable leeway as a non-lawyer filing your court documents, and I have considered them just as I would consider any filing by any lawyer or non-lawyer member of the community. However, threatening financial penalties based on statutes that do not apply to you does cross a line into unreasonable demeanor in court filings, regardless of whether you are a lawyer or nonlawyer***" (Appx. 101-111, 101; **DOC NO. 39**);

(7) The *clearly erroneous* 02-02-2022 **Wis. Stat. § 809.51** *Writ's* ruling:

"…***reconsideration of this court's order dated December 22, 2021, denying … supervisory writ of mandamus. The motion reasserts claims that have already been denied by this court. Nothing in the motion alters this court's view that the writ petition was properly denied. Therefore, IT IS ORDERED … reconsideration is denied.***"

No consideration of the rightfully filed 1-7-2022 and/or 2-10-2022 **Wis. Stats. § 809.51** and/or **808** *Writs*, no consideration of filings to compel investigations and ethics review for Wisconsin casefiles 1998CT1403 and/or 2005CF361 (Appx. 140-141); **(8)** *Clearly erroneous* 12-22-2021 **§ 783** *writ of error's* ruling:

"… ***mandamus … challenging: (1) an order issued … on July 24, 2020, denying … John Doe investigation; (2) an order issued … on September 2, 2020, denying … reconsideration of the denial of the John Doe … directing Hammersley to apply to this court with any further requests for review of the John Doe proceeding; and (3) the circuit court's failure to act upon … December 2, 2020, … writ of coram nobis relating to conviction … 1998 … case. These appear to be essentially the same issues … in his "request for investigation" in No. 2021XX625. Aside from being procedurally barred from filing successive petitions seeking the same relief, … again fails to provide any grounds that would warrant the relief … . Hammersley has not provided copies of his original John Doe petition or the July 24, 2020, order denying it, … has not identified any facts that would demonstrate the judge violated a plain legal duty by denying the petition. … Hammersley***

continues to operate under the mistaken belief that the circuit court judge could issue a supervisory writ to himself upon reconsideration. As we have previously explained, the proper mechanism for review of an order denying a John Doe petition is by a supervisory writ petition to this court, not by a writ petition to the circuit court. See State ex rel. Unnamed Person No. 1 v. State, 2003 WI 30, ¶ 38, 260 Wis.2d 653, 660 N.W.2d 260. ... ***assuming we construe the circuit court's failure to act upon the coram nobis petition—in conjunction with its prior indication that it would not be addressing the matter further— as a constructive denial of the petition,*** ... ***no*** ... ***demonstrat***[ion] ... ***entitled to*** ... ***relief. The writ*** ... ***is of very limited scope. It is a discretionary writ which is addressed to the trial court. The purpose of the writ is to give*** ... ***an opportunity to correct*** ... ***an error of fact not appearing on the record and which error would not have been committed by the court if the matter had been brought to the attention of the*** ... ***court.*** ... ***grounds for the issuance of a writ*** ... ***must be shown the existence of an error of fact which was unknown at the time of trial and which is of such a nature that knowledge of its existence at the time of trial would have prevented the entry of judgment. The writ does not lie to correct errors of law and of fact appearing on the record since such errors are traditionally corrected by appeals and writs of error. Likewise where the writ of habeas corpus affords a proper and complete remedy the writ of error coram nobis will not be granted. On an application for a writ of error coram nobis the merits of the original controversy are not in issue. Jessen v. State, 95 Wis. 2d 207, 213-14, 290 N.W.2d 685 (1980)*** ... ***In short, Hammersley's complaints of "a whole slew of fundamental and/or structural errors in the 1998 conviction" are the types of alleged errors of law and fact that could have been addressed by a timely appeal, and they are not the proper subject of a coram nobis petition.***" (Appx. 142-144)

With no consideration of the rightfully filed preliminary *mandamus* and/or filings to compel *john doe* investigations with the reconsideration for nos. 2021AP1269-W and 2022XX249 for Wisconsin casefile nos. 1998CT1403 and 2005CF361; **AND**: **(9)** No authentic ethics review by the Judicial Commission perfunctory with denials on 7-16-2021 and 9-17-2021 (Appx. 163-166).

TO-WIT: No trustworthy answer to petition-status/open-records' inquiries, no actual consideration of the 4-21-2020 and 8-12-2020 *john doe* submissions and no-action/no-consideration for the rightfully submitted 12-2-2020 **974.06** and/or *coram nobis* filed postconviction motion, *clearly erroneous* appellate considerations on 12-22-2021 & 2-2-2022 & 3-7-2022, the

appellate court's past and foreseeable continued partisanship, the Judicial Commission's inaction and also DA Hillmann's failure to investigate real crime has become a continuum of irreparable harm that has indeed prejudiced this instant appeal. Thusly, before and after Hammersley was egregiously denied, he has earnestly sought after State remedies throughout this ongoing petition for redress. There is no *just cause* for not examining nor ruling on the unconstitutionality of the 1995-2022 Wisconsin Implied Consent Laws, in-stitched with the freshly newfangled needlework's 2008+2018 PAC .02 restrictions' dragnet—entangled into this horrid 1998-99 *miscarriage of justice* that perpetuates pure evil.

Hon. judge Liegeois' 2-9-2022 flounderingly *fishtailing*—in-action order to the 12-2-2020 **974.06** and/or *coram nobis* submission, after the final 2-7-2022 letter to hon. Liegeois from Hammersley, stating: *Entre-vous et moi*, "***Hello*** ... ***will you make a ruling on the 12-2-2020 submitted coram nobis for casefile 1998CT1403?***" (**DOC NO. 40**).

Citing Page 223 of 12-2-2020 *coram nobis*; **DOC NO. 12**: **Due *process*** requires an evidentiary hearing ... under Goldberg, *supra*, *see* also, Wolff, 418 U.S. 539, **Fed. Rule 103**, **Wis. Stat. § 901.03**. **IN-WHICH**: Specified under **Wis. Stat. § 901.03(4)**: "***nothing in this rule precludes taking notice of plain errors affecting substantial rights although they were not brought to the attention of the judge***". **AND**: **Wis. Stat. § 902.01**. Judicial Notice of Adjudicative Facts, are: "***(4) WHEN MANDATORY. A judge or court shall take judicial notice if requested by a party and supplied with the necessary information. (5) ... A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed.***" Hammersley has made several offers of proof as the necessary conditional prerequisite ..., State v. Moffett, 46 Wis. 2d 164, 174 N.W.2d 263 ... Brewer, 408 U.S. 471 (1972).

"***It*** [mu]***s***[t] ***be noted that the*** ... [1995] ***re***[fusal] [order's *act of attainder* prohibited *ex post facto* effect and the colorable Terrorism with government misconduct perpetrated against Hammersley] ... ***meet the***

requirements of [**Wis. Stats. § 805.18** and **908.03** and/or *persuasive* authority] ***Rule 803(8)*** ... ***as findings resulting from an investigation made pursuant to authority granted by law*** [**AND**: Transversely applicable under **Wis. Stat. § 974.06** motion rules of evidence as accordance with **2255** type of appeals through ***miscarriage of justice*** gateways into *coram nobis* standard reviewal under the **all writs statute** with Carrier standards of review]. ***Under the Rule***, ***it would be deemed admissible absent a showing of lack of trustworthiness***. **Advisory Committee Notes to Exceptions 803(8)**, Letelier v. Republic of Chile, 567 F.Supp. 1490, 13 Fed.R.Evid.Serv. 1731 (S.D.N.Y.1983). ***There is*** ...***thing***[s] ***to suggest the*** ... ***re***[fusal-][Order's *act of attainder* prohibited *ex post facto* effectuation and the colorable Terrorism with government misconduct perpetrated against Hammersley were absolutely compelled in the 1998-99 visitation's victimhood and foully enhanced alternate reality with police *aiding-and-abetting* Terrorism in the abhorrently induced 1999 plea bargain, that totally] ... ***lacks*** [all] ***trustworthiness***. ***Admission of the*** ... ***re***[fusal-][Order's *act of attainder* prohibited *ex post facto* effect and the colorable government misconduct perpetrated against Hammersley in the 1999 victimhood's flagrant plea bargain] ... ***under 803(8) would allow it to be weighed along with other evidence***, ... ***and permit the*** ... ***court to make its own findings***. ***Were the*** [honorable Brown County] ***court to take judicial notice of the findings under Rule 201***, ***by contrast***, ***the*** [historically illicit 1995+1998 arrests and 1995-1996 and 1998-1999] ***findings*** [of guilt] ***would become conclusive***[ly] [invalidated]," cf. Korematsu, 584 F. Supp. 1406 (N.D. Cal. 1984), at fn. 5.

"***Judicial notice may be taken of adjudicative facts in accordance with*** ... ***201*** [or **Wis. Stat. § 901.03** and **902.01**], ***as well as of legislative facts***. ... ***distinction between the t***[hree] [may] ... ***not always*** [be] ***readily apparent***, 1 Weinstein's Evidence 200, at 200-19. ***Adjudicative facts are*** ... ***facts that are in issue in a particular case***. ***Judicial notice of adjudicative facts dispenses with the need to present other evidence or*** ... ***to make findings as to those particular facts*** ... ***provid***[ing] ***that*** ... ***those*** ... ***facts*** ... ***not subject to reasonable dispute because they are*** ... ***known or 'capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned' may be judicially noticed***," Korematsu, 584 F. Supp. 1406, at 1415. **Fed. R. Evid. 201(2)(e)** [court] "***(2) must take judicial notice if a party requests it and the court is supplied with the necessary info***..." cf. **Wis. Stat. § 902.01**

There was a responsibility to respond to the thrice submitted judicial notice requests. That Hammersley, now "***seeks to have this court take judicial notice of the actual findings of the*** [Courts] ... ***and matters stated in documents contained in government files***. ***To the extent these matters are offered on the issue of*** [the *ex post facto* Implied Consent Laws and supplementary constitutional grounds. The] ***governmental misconduct*** [and ineffective counsel] ... ***are offered on the ultimate issue***. ***Taking judicial notice of them would be*** ...***appropriate,*** ... [these are plain error violations] ***conclusive***[ly] [in the record, police reports, and sentencing transcripts] ***according to Rule 201(g)*** [or **201(f)** and/or **Wis. Stat. § 901.03**]," cf. Korematsu, 584 F. Supp. 1406 (N.D. Cal. 1984), at 1415.

"***Two factors***[:] ... [**1**] ***The government has neither interposed any specific objection*** [**2**] ***nor put any facts in controversy***. ***Furthermore,*** ... ***no***... ***matter***[s] ... ***will ultimately be decided by a jury***... . ***Where the function of the court is to act*** [in a 1998-1999 review and 2018-2022 presentence capacity,] ***as a factfinder or exercise its discretion***, ***more leeway to take judicial notice is justified***, C. McCormick, Evidence § 332 (2d ed. 1972), cf. Korematsu, 584 F. Supp. 1406 (N.D. Cal. 1984), at 1415.

Hammersley offers another set of documents; **BASELY**:

> "***showing that there was critical contradictory evidence known to the government and knowingly concealed from the courts. These records present another question regarding the propriety of judicial notice. ... they are offered on the ultimate issue of governmental misconduct***," cf. Korematsu, 584 F. Supp. 1406 (N.D. Cal. 1984), at 1417. The "***memoranda***, ...***t***[ransc]***r***[ipt]***s*** [and reports (Appx. 114-127, 145-160)] ... ***may be admitted as nonhearsay within the purview of 801(c)***," cf. Korematsu v. U.S., 584 F. Supp. 1406 (N.D. Cal. 1984), at 1417.

"***It should be noted that the*** [1995 blood test] ***re***[fusal] [and the documented 15-mile chase, in-store assault/battery, and the completed kidnapping by two Mexican Nationals] ... ***meet the requirements of Rule 803(8)*** ... ***as findings resulting from an investigation made pursuant to authority granted by law*** ... ***would be deemed admissible*** ... **Advisory Committee Notes to Exceptions 803(8)**, Letelier v. Republic of Chile, 567 F.Supp. 1490, 13 Fed. R.Evid. Serv. 1731 (S.D.N.Y.1983). ***There is*** ... ***the*** ... ***lack***... [of all] ***trustworthiness*** [with the] ***Admission of the*** ... ***re***[fusal] [and documented unlawful arrest] ... ***under 803(8) would allow it to be weighed along with other evidence***, ... ***and permit the*** ... ***court to make its own findings***. ***Were the*** ... ***court to take*** [decisive] ***judicial notice of the findings under Rule 201, by contrast, the findings would become conclusive***," Korematsu v. U.S., 584 F. Supp. 1406 (N.D. Cal. 1984), fn. 5.

I. TO-WIT: Hammersley stresses that this honorable Court should mandate that the lower Court must reply to the judicial notice requests or that this court of its own volition might take judicial notice, or that either court should state sound reasoning why judicial notice cannot be made of the relevant issues of actual standing—stemming from the unlawful arrests in 1995+1997+1998 and 2018. This is the traditional way to force an inferior

tribunal from exceeding its jurisdiction without restraint. Thusly, upholding constitutional prescriptions, *see* **Wis. Stat. § 757.81(4)**, **775.05**, **782** and/or **FED. RULE 21**, also cf. City of Madison, 2003 WI 76, at 659.

Slightly Altered from Page 217 of the 12-2-2020 974.06/*coram nobis*; **DOC NO. 103**. **IN-WHICH**: **The judicial notice requests are herein repeated**:
1. **STRUCTURAL ERROR**: The forceful abduction inside Speedway gas station on 9/19/1998, was made by two Mexican nationals. **INTO-WHICH**: **Francisco Hernandez and Alvaro Cisneros-Razo were not U.S. citizens**.
2. **STRUCTURAL ERROR**: That Mexican nationals, Francisco Hernandez and Alvaro Cisneros-Razo were not authorized as law enforcement officials to perform vehicle ram-check spot checks in Green Bay, WI, were not authorized to setup improvised roadblocks on top of Tower Drive bridge, nor were authorized to use deadly force on the United States' roadways.
3. **STRUCTURAL ERROR**: That the Mexican nationals, **Francisco Hernandez and Alvaro Cisneros-Razo were not authorized as Brown County law enforcement officials** to perform warrantless unannounced storefront invasions, nor were not authorized to use assault and battery on U.S. citizens, nor were not authorized to forcefully take hostage U.S. citizens.
4. **STRUCTURAL ERROR**: That the honorable **Brown County Court officials used the entrapped into international terrorism with kidnapping for initial custody under the forceful abduction hold, as the subterfuge of the criminal arrests for the traffic offenses**.
5. **STRUCTURAL ERROR**: That the honorable **Brown County Sheriff's deputy G. Haney had a duty to report and document his involvement with the arrest on 9/19/1998**.
6. **STRUCTURAL ERROR**: That the honorable deputy G. Haney and/or policeman R. Reetz **had a duty to make an arrest** for the unannounced violent in-store assault and hostage taking seizure on 9/19/1998.
7. **STRUCTURAL ERROR**: The Wisconsin Dept. of Transportation (DMV/DOT), was recording the forbidden to use as a criminal penalty—95' civil refusal-Order—statutorily-converted into a criminal OWI. The Implied Consent 1995 civil refusal judgement was ruled *ex parte*, without counsel, and entered *in absentia on 12/12/1995*, that was and still is being invalidly used as an OWI conviction in 1996-1999, 2005, 2008-10, and 2018. **REMEDY**: Discontinue the 1995 Refusal's use as an OWI conviction in the aforesaid sentencing structures.
8. **STRUCTURAL ERROR**: Hammersley was being held hostage inside the Speedway store-area with his nonrunning car permissibly parked inside the curtilage zone of the building's parking-lot. **FROM-WHICH**: Deputy Haney warrantlessly made initial contact with the hostage in the storefront.
9. **STRUCTURAL ERROR**: Deputy Haney **made initial contact but remained undocumented**, under the guise of making the warrantless capture for uncommitted uninvestigated unproveable criminal traffic offenses in another jurisdiction of the kidnapped nondriver.

10. **STRUCTURAL ERROR**: Deputy Haney **did not document the intoxication levels of the Preliminary Breath Tests performed on Hammersley, Hernandez, nor Cisneros-Razo**, under the guise of making the warrantless capture for the uncommitted uninvestigated unproven criminal traffic offenses in another jurisdiction of the instore kidnapped nondriver.
11. **STRUCTURAL ERROR**: The Deputy Haney **had a duty to retain the Mexican Nationals' tire-iron that Hammersley initially possessed and tried to give to deputy Haney before the Mexican Nationals were allowed to retake it and stow it back in their vehicle**.
12. **STRUCTURAL ERROR**: The policeman, **officer Reetz—did not make initial contact** ... inside the Speedway storefront, w*hil*st becoming a secondary responding agency, taking over undocumented deputy Haney's first response, without warrants for the uncommitted uninvestigated criminal traffic offenses in the city of Green Bay's jurisdiction without an actual reportable accident—for the colorably kidnapped nondriver inside the store-area.
13. **STRUCTURAL ERROR**: The policeman, **officer Reetz—did not have permission** to perform a warrantless vehicle search of a permissibly parked nonrunning car—without equally searching for the mishandled thrown tire-iron in the Mexican Nationals' vehicle as well, that were both inspected from an exterior perspective in the devaluation of the nonreportable accident parked in the diesel-refueling spatial-area behind the Speedway, inside the curtilage zone of the Speedway Gas Station's parking-lot. **WITHIN**: The auspices of making the warrantless spot-check of a victim of capital crimes with the colorable hostage taking seizure and the subsequent singular car search for the uncommitted uninvestigated unproven criminal traffic offenses.
14. **STRUCTURAL ERROR**: **AS-FOR**: Being that afterwards, **officer Reetz warrantlessly unreasonably made initial contact with Hammersley**, under Collins, 584 U.S. __(2018); **INTO-BEING**: That the ... automobile exemption does not include the home or curtilage and that vehicles that are stored permissibly within Speedway's curtilage cannot be searched without a warrant. **AS**: Discriminatorily solely Hammersley's car-interior was searched; **IN-BEING**: The automobile exemption does not include the Speedway building or gas station parking lot's curtilage area and that vehicles stored within Speedway parking lot's curtilage cannot be discriminatorily selectively searched without a warrant. Because, a warrantless wellness check was not initialized, the mishandled tire-iron was not relocated in the other vehicle's passenger-side interior, and the traffic arrest was made of a nondriver impermissibly assaulted and taken hostage therein the inner storefront spaces.
15. **STRUCTURAL ERROR**: The policeman, **officer Reetz—did not have permission** to commence criminal traffic investigations under the auspices of making the warrantless spot-check and searches of the kidnapped nondriver and a permissibly parked nonrunning car; **FOR-WHAT**: For allegedly "*not-stopping*"; **FROM**: Whence, **there were certainly two stops**.
16. **STRUCTURAL ERROR**: After **the Mexican Nationals warrantlessly unreasonably made violent physical contact with Hammersley**, under Rodriguez, 575 U.S. 348 (2015). "***A seizure justified only by a police-observed traffic violation, therefore, "become[s] unlawful if it is prolonged beyond the time reasonably required to***

complete th[e] mission" of issuing a ticket for the violation," cf. Id., at 407. **INTO-BEING**: That the Mexican Nationals broke-off the pursuit after Hammersley veered around into the Speedway parking-lots' east-end. They did not follow Hammersley into the parking lot and continued north in the left lane on HWY41-NB. The Mexican Nationals had to turn around and come back to the Speedway gas station before unannouncedly storming into the storefront and taking Hammersley hostage by surprise; **IN-EVEN**: Being without a reportable accident... **IN-WHICH**: Is completely indicative of **no—"*observed traffic violation, therefore,* "*bec*[a]*me*... *unlawful* [as]... *it is prolonged beyond the time*" required for treaty permissions and traffic investigations.

17. **FACT**: **Deputy Haney** and/or policeman, **officer Reetz—did have permission** to request all three individuals submit to a PBT inside the parking lot under the guise of a warrantless first/second response to a violent instore hostage-taking and roadside attempted murder, Terry stop or wellness-check of the kidnapped nondriver for worries/health-concerns and to consider both the attempted homicide and the violent unauthorized false imprisonment.

18. **STRUCTURAL ERROR**: **BUT-FOR**: Being that thereinafter, **deputy Haney** and/or **officer Reetz warrantlessly unreasonably made contact with Hammersley with the foully prefabricated traffic arrests**, in violation of sheer treaty conditions, Castle Doctrine, and Terry, 392 U.S. 1. The searches, seizures, and arrests were for the uninvestigated uncommitted traffic crimes; **IN-BECOMING**: A criminally designed entrapment enacted with collusion and fraud betwixt involvement of the Mexican Nationals and the Brown County patrol, through *blackjacking* Hammersley, in-violation of **Wis. Stat. § 972.085,** Mathews, 485 U.S. 58 (1988), and Jacobson, 503 U.S. 540, 548 (1992). **AS**: The Mexican Nationals, deputy Haney, and/or officer Reetz cannot use of artifice, stratagem, pretense, or deceit to falsely establish committed traffic crimes, U.S. v. Nations, 764 F.2d 1073, 1080 (5th Cir. 1985).

19. **STRUCTURAL ERROR**: The Mexican Nationals, deputy Haney, and/or officer Reetz—**did not**—**have permission**—to commence unauthorized "hot-pursuit" with the use of deadly force, willful disengagement, unannounced instore assault and violent hostage-taking transitioned into the criminal traffic investigations pressed on the actual victim of capital crimes under the guise of making the warrantless capture, spot-check, car search and arrest of a person permissibly waiting inside a store area to report a roadside attempted murder for uncommitted uninvestigated criminal traffic offenses. Afterwards, first responder deputy Haney warrantlessly seized the instore kidnappee, that transitioned into secondary responder–officer Reetz's warrantless initialized contact with Hammersley, by the continuation of the seizure and arrest, with warrantless blood demand—All commencing within the inner space of the Speedway storefront and later-on within the Speedway parking lot's curtilage.

20. **STRUCTURAL ERROR**: The unauthorized unannounced entry and assault/hostage-taking that transitioned into the criminal investigation cannot be conducted without international permissions nor any warrants, under Welsh, 466 U.S. 740, at 755 and Alvarez-Machain, 504 U.S. 655 (1992). **FROM-WHICH**: The policeman could not seize Hammersley nor demand his blood within the "***warrantless, nighttime entry into the*** [S]***pe***...***e***[dway]'***s*** [st]***o***[r]***e***[front] ***to a***[s]***s***[aul]***t him for a civil*** ["*no-stop*"] ***traffic*** [vi]***o***[latio]***n***.... ***Such an*** [assault turnt] ***arrest, however, is clearly***

prohibited by the special protection afforded the individual in his home by the 4th Amendment [and/or for Hammersley inside territorial boundaries of the United States to be free from Terrorism visited upon him by Mexican Nationals]***. The petitioner's arrest was therefore invalid, the judgment of the*** [B]***r***[own] [County] ***Court of Wisconsin*** [mu]***s***[t] [be] ***vacated, and the case*** [mu]***s***[t] [be] ***remanded for further proceedings not inconsistent with th***[e] ***opinion***" of Welsh.

21. **STRUCTURAL ERROR**: Hammersley—**did**—**have permission** to permissibly wait inside the Speedway gas station; **IN-ORDER-TO**: Report the roadside attempted murder a mile or two from the Speedway gas station, with a thrown tire-iron vehicle-*to*-vehicle and the tire-iron sitting on Hammersley's passenger seat (*actually trying to give the tire-iron to deputy Haney later-on*).

22. **STRUCTURAL ERROR**: Hammersley had a reasonable expectation of privacy permissibly parked in the Speedway parking lot and waiting inside for inbound law enforcement (*with the store clerk calling and speaking with 911*) ... Without being unduly subjected to the unfettered discretion by the precognitive styled hunches of the Brown County patrolman in the field, after responding to the episodic terrorism event, under Camara, 387 U.S., at 532, 534-535; Marshal, *supra*, at 320-321; U.S., 407 U.S. 297, 322-323 (1972), Prouse, 440 U.S., 655 and Alvarez-Machain, 504 U.S. 655 (1992).

23. **STRUCTURAL ERROR**: The Mexican Nationals, deputy Haney, and/or officer Reetz—**did not**—**have any exigent circumstances** to forgo requesting any type of authorizations nor owner permissions prior to entering the store; neither judicial oversight and/or warrants before the unannounced violent instore hostage-taking, seized spot-check of a kidnappee, arrest of the actual victim of capital crimes, parking lot search and seizure of solely Hammersley's car, and warrantless demanded blood draw. Wherewithal **BEING**: Over 181-**minutes** removed from the alleged unproven hit-and-run nonreportable-car-accident—**INTO-BEING**: Then, inside the blood demand hospital room, that was over **three-hours** after the initialized driving event.

24. **STRUCTURAL ERROR**: The Mexican Nationals and deputy Haney **warrantlessly unreasonably made initial contact seized Hammersley**, along with officer Reetz's continuation of the terrorism with the arrest, and demanded his blood within the hospital's blood draw room; **FROM-WHICH**: Such conduct cannot be orchestrated without warrants nor any international permissions, under Alvarez-Machain, 504 U.S. 655 (1992) and McNeely, 569 U.S. 141 (2013). "***The question presented here is whether the natural metabolization of alcohol in the bloodstream presents a per se exigency that justifies an exception to the*** [treaties' prior authorizations and/or the] ***4th Amendment's warrant requirement for nonconsensual blood testing in all drunk-driving cases*** ... ***it does not, and*** ... ***consistent with general 4th Amendment principles, that exigency in this context must be determined case-by-case based on the totality of the circumstances***." **IN-BEING**: Neither the policeman nor the Mexican Nationals cannot be excused within the *exigency exception*. There were **actually two vehicular stops**, no delays after seizure and the compelled warrantless hospital blood draw was finalized in less than 96-minutes after officer Reetz's documented involvement.

25. **STRUCTURAL ERROR**: That for Hammersley's 2008+2018 traffic arrests the Brown County Sheriff's deputies used a warrantless PAC .02 OWI charged criminal seizure (*based on: the 1995+1997+1999 prior wrongful convictions*) to then administer additional warrantless whole blood seizures under the *ex post facto* Implied Consent Law without *exigent circumstances*.

REMEDY: Exclude the blood test results of the compelled 2018 Implied Consent warrantless blood seizure's evidentiary use, as evidence garnered under the poisonous tree doctrine. Dismiss pending charges underlining case no. 2018CF407.

26. **STRUCTURAL ERROR**: The policeman, **officer Reetz—did not provide any legal advice nor was counsel provided to Hammersley during the administration of the 1998 warrantless blood draw demand. Hammersley did not have a proper opportunity to make an intelligent, knowing, voluntary decision** to forgo submitting to a warrantless blood draw demand inside the hospital blood draw room.

27. **STRUCTURAL ERROR**: The policeman, officer Reetz—did not provide any legal advice nor was counsel provided to Hammersley during the administration of the warrantless blood draw demand. Hammersley did not know about any alternative to forgoing the instant lifetime criminal OWI conviction for refusing a warrantless blood draw. **TO-WIT**: Hammersley clearly did not—have a proper opportunity to make an intelligent, knowing, voluntary decision "***with eyes wide open***" to lawfully properly civilly decline submitting to a warrantless blood draw demand inside the hospital blood draw room, in violating both the substantive Gideon Rule and Faretta Rule.

28. **STRUCTURAL ERROR**: Thereinafter, officer Reetz warrantlessly unreasonably initialized contact with Hammersley, in continuance of the seized event, with arresting him, and demanding his blood under the threat of statutorily imposed criminal penalties; **FOR-WHICH**: Criminal penalties cannot be sanctionable under the civilly administered Implied Consent law without a warrant and proper *due process*. The fundamental requirement of ***due process-is-***the opportunity-*to-be*-heard "***at a meaningful time and in a meaningful manner***", *citing* Armstrong, 380 U.S. 545; **TO-WIT**: Was in violation of the Gideon Rule, Boykin Rule, Faretta Rule, Strickland Rule, Gagnon, 470 U.S. 522 (1985), at 525-26, and Hill, 474 U.S. 52, (1985). **IN-BEING**: The 1995 refusal's usage and the 1998 blood draw administration: "***was-not-valid for*** [criminal]... ***purposes. Specifically, under the rule of Scott and Argersinger, it was invalid for the purpose of depriving petitioner of his liberty***," under Baldasar, 446 U.S. 222 (1980).

29. **STRUCTURAL ERROR**: Thereinafter, officer Reetz warrantlessly unreasonably initialized contact with Hammersley, in continuance of the seized event, with arresting him, and demanding his blood under the threat of statutorily imposed criminal penalties; **IN-WHICH**: Criminal penalties cannot be sanctionable under the civilly administered Implied Consent law without a warrant and proper **criminal** *due process*. The blood-refusal's automatic statutorily imposed criminal 1995 convictional-Order's inauthentic use as evidence of guilt was in violation of the **4th**, **6th**, and **14th Amendments** and **Wis. Const. Art. I § 1, 7, 8,** and **11**, retroactively under Mapp, 367 U.S. 643 and Welsh, 466 U.S. 740 (1984). Also, under the plain language of the newer

holdings of Dalton, 2018 WI 85 and the Birchfield Rule. **IN-BEING**: The refusal "***was-not-valid for*** [criminal]... ***purposes*** [of guilt]***. Specifically, under the rule of Scott and Argersinger, it was invalid for the purpose of depriving petitioner of his liberty***," under Baldasar, 446 U.S. 222 (1980).

30. **LEGISLATIVE ERROR**: 1995-2022 Implied Consent laws, while, amidst the "***probationary-administrative-search phasing***" are ***ex post facto law*** violations under Calder, 3 U.S. 386 (1798); "***Legislative facts are 'established truths,*** ... ***pronouncements that do not change from case to case but [are applied] universally, while adjudicative facts are those developed in a particular case,'*** *see* U.S. v. Gould, 536 F.2d 216, 220 (8th Cir.1976). ***Legislative facts are facts of which courts take particular notice when interpreting a statute or considering whether Congress has acted within its constitutional authority***," Territory of Alaska, 358 U.S. 224, 227 (1959), *see* Korematsu, 584 F. Supp. 1406 (1984), at 1415. **TO-WIT**: "***every law that alters the legal rules of evidence, and receives less, or different-testimony, than the law required at the time of the commission of the offense, in order to convict the offender***," is a *ex post facto* law, under the **11th Amendment** and **Wis. Const. Art. I § 12.**

31. **STRUCTURAL ERROR**: The policeman, **officer Reetz—did not document the Preliminary Breath Tests conducted by deputy Haney on Hammersley and the two Mexican Nationals. TO-WIT**: Deputy Haney personally told Hammersley that the "***one with less to drink***" was driving the other vehicle involved. **FROM-WHICH**: The unreleased video evidence or eye witness testimony would have dispelled Haney's unverified hate crime policing tactics, methods, and sources.

32. **STRUCTURAL ERROR**: With a consensual breath test and with the uncommitted uninvestigated unproveable driving event's undocumented time of before 2am, there cannot be automatic statutorily imposed criminal penalties for the test refusal statute; **FROM-WHICH**: Criminal penalties cannot be sanctionable under the civilly administered Implied Consent law without a blood draw, without any warrants, and without proper *due process*. The fundamental requirement of ***due process****-is-*the opportunity*-to-be-*heard "***at a meaningful time and in a meaningful manner***," Armstrong, 380 U.S. 545. The refusal statute's blood draw administration "***was-not-valid for*** [criminal]... ***purposes***," under Baldasar.

33. **STRUCTURAL ERROR**: "[H]***a***[mmersley] ***is challenging the constitutional validity of his conviction***[s] ... ***Because*** [H]***a***[mmersley] ***is not seeking to suppress any evidence, the good-faith exception has no applicability***," [accept make known the inadmissibility of the blood test used for the enhanced PAC charges to the trier of fact that were statutorily noncompliant for *prima facie* usage in conviction without expert witness testimony under **Wis. Stat. § 885.235(3)** cf. State v. Trahan, at 222. "***In Birchfield, the Court reversed appellant Birchfield's test refusal conviction, which involved the refusal of a warrantless blood test***, cf. 136 S.Ct. at 2186***. as in B...e***[ylun]***d's case, the State has*** [impr]***o***[perly] ***used a***[ll] ***blood-test evidence to convict*** H]***a***[mmersley] [in 1999 with enhanced PAC .1+ BAC charges]***, and*** [H]***a***[mmersley] ***has not sought to exclude any evidence*** [that must already be excluded by statutory noncompliance]***. A...n...y***[-of] ***the State's attempt***[s] ***to argue that the***

test refusal statute is constitutional, as applied to [H]***a***[mmersley] ***by means of the good-faith exception, fails***," under *persuasive* authority State v. Trahan, 886 N.W.2d 216 (Minn. 2016), at 224.

34. **STRUCTURAL ERROR**: Hammersley was denied *meaningful access* to the courts with the 2020-2022 decisions' *clearly erroneous* denials and unissued opinions final egregious statement of: "***I am not waiving filing fees and costs until you can articulate a "claim, defense or appeal upon which the court may grant relief***" issued on 02-29-2022, with an appellate transmittal fee denial (*see* Appx. 113; **DOC NO. 51**); **BUT-FOR**: Being that **the Brown County Court's unmet duties—do-not—meet the fundamental requirements of *due process*-opportunity-*to-be*-heard "*at a meaningful time and in a meaningful manner*,"** for the automatic statutorily converted unconstitutionally processed, 10/28/1995—12/12/1995, criminal lifetime-OWI-Refusal-Order, and the 1998 terrorism turnt unlawful arrest and warrantless blood draw, under Armstrong, 380 U.S. 545 (1965).

35. **STRUCTURAL ERROR**: During the 1995-1996 and/or 1998-1999 plea agreement and sentencing proceedings; 10/28/1995–3/1/1996 and/or 9/19/1998-1/12/1999 (***each timeframe 115-125-days***). The criminalized 1995 Notice of Intent was filed on 12/7/1995 and the criminalized refusal-Order's entrance was on 12/12/1995... **FROM-WHICH**: The 1995 refusal-Order was then, transitionally used to support guilt from then forward 1995-2022, was used to enhance criminal penalties within the 1996 unconstitutional stipulation with 10-days of jailtime, and was a mandatorily enforced criminal penalty with the 1998 arrest and wholly induced 1999 plea agreement.

36. **STRUCTURAL ERROR**: That the honorable **Brown County Court did not have subject matter jurisdiction under the used terrorism and kidnapping for initial custody under the forceful abduction hold, as the subterfuge used for the criminal arrests for the traffic offenses and charging instruments**.

37. **STRUCTURAL ERROR**: That the honorable **Brown County Court did not have personal jurisdiction under the used terrorism and kidnapping for initial custody under the forceful abduction hold, as the subterfuge of the criminal arrests for the traffic offenses' charging instruments pressed upon Hammersley**.

38. **STRUCTURAL ERROR**: That the honorable **Brown County Court prosecutorial officials could not prove the hit-and-run traffic offenses' charging instruments**.

39. **STRUCTURAL ERROR**: That the honorable **Brown County Court prosecutorial officials used the inadmissible blood test results to illegitimately enhance the traffic offenses' charging instruments and conviction without statutorily required expert witness testimony**.

40. **STRUCTURAL ERROR**: That the honorable **Brown County Court prosecutorial officials used the inadmissible blood test results to impute PRE-determined guilt without statutorily required expert witness testimony**.

41. **STRUCTURAL ERROR**: That the honorable **Brown County Court prosecutorial officials used the 1995 Implied Consent refusal to**

enhance the traffic offenses charging instruments, that the refusal is now retrospectively invalid for criminal penalty enhancement.
42. **STRUCTURAL ERROR**: That the **defense attorney Howe had a duty to subpoena the video footage from Speedway and Frank Cox's statement from the arrest on 9/19/1998**.
43. **STRUCTURAL ERROR**: That the **defense attorney Howe had a duty to subpoena a statement from undocumented deputy Haney and/or cross examine Haney concerning the arrest on 9/19/1998**.
44. **STRUCTURAL ERROR**: That the **defense attorney Howe had a duty to challenge the driving arrest of a violently held hostage U.S. citizen by two Mexican Nationals after the vehicular ram and a 15-mile chase with also the roadside attempted murder**.
45. **STRUCTURAL ERROR**: That the **defense attorney Howe had a duty to challenge the driving arrest for the unproven, uncommitted, and uninvestigated nonreportable accident regarding the hit-and-run**.
46. **STRUCTURAL ERROR**: That the **defense attorney Howe had a duty to challenge the criminalized 1995 refusal-Order**.
47. **STRUCTURAL ERROR**: That the **attorney Howe had a duty to challenge the statutorily incompliant enhanced PAC .1+ BAC OWI charging-instruments/conviction without expert witness testimony**.
48. **STRUCTURAL ERROR**: **Defense attorney Howe had a duty not**—to enter into the unconstitutional wholly induced 1999 plea agreement.
49. **STRUCTURAL ERROR**: **Defense attorney Howe had a duty not** to call his client a liar about the tire-iron incidents and he had a duty to actually get evidence proving the police misconduct and misprision of felonies.

Wis. Stats. § 901.03 and/or **902.01** are "***intended to afford a means for the prompt redress of miscarriages of justice***," under Wiborg, 163 U.S. 632, 658 (1896). These Rules permit "***a criminal conviction to be overturned on direct appeal for "plain error"*** ... [*i.e.* within the *ex post facto* Implied Consent Law,] ***the*** [*clearly erroneous* criminal charging instruments, Terrorism's colorable kidnapping and covered up attempted homicide, and horrendously induced 99' plea agreements'] ***ju***[dicial] ***instructions***, under Frady, 456 U.S. 152 (1982). "***It grants the courts of appeals the latitude to correct particularly egregious errors***," under Frady, 456 U.S. 152 (1982), at 163, and Atkinson, 297 U.S. 157 (1936), at 160.

II. Additional protections—Under **Wis. Const. Art. I § 9, 9m, 11** and **12**; **Art. XIV § 13** "***Common law continued in force***"; **INTO-BEING**: That the "***common law privilege to forcibly resist an unlawful arrest is abrogated***," under State v. Hobson, 218 Wis. 2d 350, 577 N.W.2d 825 (1998) and **Wis. Stat. § 946.415**. Hammersley could not resist an unlawful arrest and the methods/sources are retrospectively examinable under **Wis. Stat. § 939.10**, "***common-law rules of criminal law not in conflict with chs. 939 to 951 are preserved***" under the pursuit of ***the ends of justice*** inquiry.

Undocumented Deputy Haney and documented officer Reetz do have *qualified immunity*. Although they objectively cannot refute any showing that their conduct, "***violate[d] clearly established statutory or constitutional rights of which a reasonable person would have known***," *see* Procunier, 434 U.S. 555, 565 (1978), Wood, 420 U.S. 308 (1975), at 322, under Harlow, 457 U.S. 800 (1982), at 818. Hammersley could not resist the unlawful arrest after first attempting to report the terroristic subterfuge. Both the latter involvement of the "*arresting*" GBPD officer and undocumented deputy, carelessly arrested Hammersley for an erroneously cited "*no stop*" traffic violation w*hil*st implicating officer Reetz's involvement through deputy Haney's concealment of evidence and misprision of felonies. Even if, this GBPD officer's ironic precognitive statement of "... ***officer did not find any tire-iron*** ... ***and there was no damage to the drivers window that open only half way***" (*citing* Detail Sheet, Appx. 149-152, 150). This without explaining the existence of any *psychic* abilities such as *divining the position of*: "*why a window is half-way-up/or-down*." The statement was unsupported by any additional evidence and **the mayhem of the hit-and-chase driving event was unreported**

(*the completed kidnapping uncharged and attempted murder concealed from the court*). Undocumented deputy Haney's and the *aiding-and-abetting* GBPD officer Reetz's liability may have expired under the statute of limitations and are affirmative defenses for them; **TO-WIT**: It "***is subject to tolling under* s. 939.74**," State v. Slaughter, 200 W (2d) 190, 546 NW (2d) 490 (Ct. App. 1996). **BUT-FOR**: Being it was construable as a continuation of torture under the 1994 CAT Treaty, foreseeably piercing all of the veiled bulwarks of immunity.

Citing Page 216 of the 12-2-2020 *coram nobis* (**DOC NO. 103**): **Pursuant-*to*-objectionable**: **(1)** ***clearly-erroneous*** prior-convictional-usage, **(2)** plain error prosecutorial nonuse of discretion, **(3)** plain error discriminatory misprision of felonies, **(4)** plain error discriminatory police practices by tactically aiding-and-abetting international terrorism (*by suppressing/ tampering-with the exculpatory eye-witness evidence, the tire-iron murder-weapon evidence, and the video footage evidence*), **(5)** plain error hate-crime completed instore international kidnapping, **(6)** plain error discriminatory misprision of felonies, **(7)** plain error discriminatory use of the nonexistence of the "*no-stopping*" infraction, **(8)** plain error prosecutorial admission that the hit-and-run was poorly-investigated and unproveable, **(9)** plain error police-officer admission that the hit-and-run was unbillable with the T-36 report-form's filing, **(10)** plain error ... Howe's admission nobody was-hurt stemming from vehicular contact, **(11)** plain error discriminatory use of excludable-inadmissible-unverified blood test result in the *prima facie* guilt imputed probative value and enhanced PAC .1+ BAC OWI ... and conviction (*blood draw demanded with an unlawful arrest and was over 3-hours after the hit-and-run event*), **(12)** plain error **invalid prior-**convictions used for enhanced *3rd-*degree charging-instruments and OWI-conviction, and **(13)** prior ***erroneous* post-**conviction orders denying relief. ... Contrary unrefuted rebuttal testimonial evidence disputing key details of the actual, happenstance-*to*-have occurred are ***now*** deemed admitted, *see* Charolais Breeding Ranches v. FPC Secs. Corp, 90 Wis. 2d 97, 109, 279 N.W.2d 493 (Ct. App. 1979).

III. Under Calandra, *supra*, Apprendi, 530 U.S. 466 (2000) and/or **Wis. Stat. § 939.645** (1997-1998), Penalty; crimes committed against certain people or property: "*(1) If a person does all of the following, the penalties for the underlying crime are increased as provided in sub. (2):* **(a) Commits a crime under chs. 939 to 951**." Thereinafter, Deputy Haney and Officer Reetz enabled the terrorism committed by Hernandez and Cisneros-Razo—there were

these colorably committed crimes governed under **Wis. Stats. § 939.10** and **939.74(2)(a)1-2 NO——Time limitations on prosecutions** [and/or **investigations**], **940.21 Mayhem**, **940.01**, **940.05,** *law of nations* doctrine, castle doctrine, Actual/Factual-Innocence and 1994 CAT Treaty**.**

(I.) Under **Wis. Stat. § 939.10** (1997-98), *Common law* ***Act of Attainder*** **punitive discriminatorily unlawful warrantless seizures/arrests** of the actual kidnapped victim inside the commercial storefront for uncommitted uninvestigated unproven traffic crimes without *probable cause*, no observed jailable crime, no *exigent circumstances*, no international authorizations, and no announcement, under the **4th** and **11th Amendments** and **Wis. Const. Art. I § 9, 9m, 11, 12**: "***No ... conviction shall work corruption of blood or forfeiture of estate***" **Art. XIV § 13** "***Common law continued in force***"; **INTO-BEING**: **Wis. Stat. § 939.10** (1995-96), The common-law rules of criminal law not in conflict with **chs. 939–951** are preserved. Along with **49** listed crimes or applicable statutes (*see* full list of 59 listed crimes or applicable statutes, Appx. 167-173, 209-211 and Beacon Report, Appx. 209-211).

(X.) Wis. Stat. § 939.46 Coercion. **(1)** A threat by a person other than the actor's coconspirator which causes the actor reasonably to believe that his or her act is the only means of preventing imminent death or great bodily harm to the actor or another and which causes him or her so to act is a defense to a prosecution for any crime based on that act, ... "***The coercion defense*** ... ***requires finding that the actor believed he or she was threatened with immediate death or great bodily harm with no possible escape other than the commission of a criminal act***," State v. Keeran, 2004 WI App 4, 268 Wis. 2d 761, 674 N.W.2d 570. **(XI.) Wis. Stat. § 939.47 Necessity**. Pressure of natural physical forces which causes the actor reasonably to believe that his or her act is the only means of preventing imminent public disaster, or imminent death or great bodily harm to the actor or another and which causes him or her so to act, is a defense to a prosecution for any crime based on that act... **(LII.) Wis. Stat. § 949.04 Application for award**. [After the 1998-1999 VICTIMHOOD.] **(LIII.) Wis. Stat. § 950.03 Eligibility of victims**. **(LIV.) Wis. Stat. § 950.04 Basic bill of rights for victims and witnesses**. **(LV.) Wis. Stat. § 950.06 Reimbursement for services** [and/or legal costs]. **(LVI.) Wis. Stat. § 950.07 Intergovernmental cooperation**.

[Ensuring] victims and witnesses of crimes receive the rights and services to which they are entitled under this chapter. **(LVII.) Wis. Stat. § 950.09 Crime victims rights board. (LVIII.) Wis. Stat. § 950.105** [Victimhood-] **Standing. (LIX.) Wis. Stat. § 939.645** (1997-1998): **The court shall direct that the trier of fact find a special verdict as to all of the issues specified in sub. (1),** Calandra, 414 U.S., 354; Apprendi, 530 U.S. 466 (2000).

IV. Judicial Notice may be taken at any time **901.03(4)** and **902.01(6)**:

"***Judicial notice*** ... ***in accordance with Fed. R. Evid. 201***[,] [**Rule 52** and/or **Wis. Stat. § 901.03**], ***as well as*** ... ***legislative facts***, 1 Weinstein's Evid. 200, at 200-19... ***Judicial notice of adjudicative facts*** [that are in issue,] ***dispenses with the need to present other evidence or for the factfinder to make findings as to those particular facts. Rule 201 provides that only those adjudicative facts which are not subject to reasonable dispute because they are generally known or 'capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned' may be judicially noticed***," Korematsu, 584 F. Supp. 1406 (1984), at 1415.

AND/OR: Under Federal Rules of Evidence: **Rule 52(b)** Plain Error. "***A plain error that affects substantial rights may be considered even though it was not brought to the court's attention***." And "**Rule 201**. Judicial Notice of Adjudicative Facts (a) Scope. This rule governs judicial notice of an adjudicative fact only, not a legislative fact. (b) Kinds of Facts That May Be Judicially Noticed. The court may judicially notice a fact that is not subject to reasonable dispute because it: (1) is generally known within the trial court's territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned. (c) Taking Notice. The court: (1) may take judicial notice on its own; or (2) must take **judicial notice** if a party requests it and the court is supplied with the necessary information. (d) Timing. The court may take judicial notice at any stage of the proceeding. **(e) Opportunity to Be Heard. On timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed**. If the court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard."

"***Legislative facts are 'established truths,*** ... ***pronouncements that do not change from case to case but [are applied] universally, while adjudicative facts are those developed in a particular case,'*** *see* U.S. v. Gould, 536 F.2d 216, 220 (8th Cir.1976). ***Legislative facts are facts of which courts take particular notice when interpreting a statute or considering whether Congress has acted within its constitutional authority***, *see* Territory of Alaska v. American Can Co., 358 U.S. 224, 227, (1959). ***So***, ***too***, ***historical facts***, [the 1995-2018 warrantless blood draw administration's uniform] ***commercial practices and*** [an unlawful arrest's unaccepted] ***social standards are frequently noticed in the form of legislative facts***," cf. Korematsu, 584 F. Supp. 1406 (N.D. Cal. 1984), at 1415.

Historically, under the Wisconsin refusal statute, Hammersley's 1995 Implied Consent refusal was used in the computational structuring in the instant successive numerically enhanced charging values, State offers, convictions and detentions. **COUPLED-WITH**: The 1998 terrorism transitioned into the kidnap-hold's unjustified warrantless arrest; **IN-BEING**: An instore assault/battery/and-hostage-taking after the roadside attempted murder, that commenced with the hit-and-chase traffic mayhem subterfuge that was pretextually used for demanding the warrantless compelled blood draw; **IN-VIOLATION-OF**: International **treaties** and domestic law under the ***law of nations*** doctrine, 1994 CAT Treaty, 1978 Mexico Extradition Treaty, and the 1997 Charters of the Organization of American States; **18 U.S.C. § 113B, 249, 3286(b)**, and **1201**; **Wis. Stats. § 885.235(3), 968.07,** and **968.10** (1997-98), under State ex rel. Warrender v. Kenosha County, 67 Wis.2d 333, 227 N.W.2d 450 (1975); also State ex rel. Furlong v. Waukesha County, 47 Wis.2d 515, 117 N.W.2d 333 (1970), *see* State ex rel. White v. Simpson, 28 Wis.2d 590, 137 N.W.2d 391 (1965). And **under historic means of automatic criminal penalties for refusal**, Leo Sheep Co., 440 U.S. 668 (1979).

Also, incorporating that there was Terrorism completed by two Mexican Nationals, the terrorism was covered up, and there was no blood sample after the 1995 refusal, converging into the "... ***expansive view of when*** [International Treaties,] ***scientific and commercial practices may be judicially noticed***," *see* Bryan, 264 U.S. 504, 517-33, (1923), and U.S. v. Various Articles of Obscene Merchandise, Schedule No. 1303, 562 F.2d 185, 187 n. 4 (2d Cir.1977), cf. Korematsu, 584 F. Supp. 1406 (N.D. Cal. 1984), 1415.

Hammersley "***seeks to have this court take judicial notice of the actual findings of the*** [apparent facts] ... ***and matters stated in documents contained in government files***. ***To the extent these matters are offered on*** [retrospective *ex post facto* grounds and Terrorism with supplementing review under *common-law rules* of the ***miscarriage of justice*** under the pursuit of ***the ends of justice*** extending into the] ... ***governmental misconduct*** ... ***offered on the ultimate issue***. ***Taking judicial notice of them would be*** ...***appropriate***, ***as*** ... [these are plain errors] ***conclusive***[ly] ***according to Rule 201(g)***[,]" Korematsu, 584 F. Supp. 1406 (N.D. Cal. 1984), 1415, **Rule 52**, **Wis. Stat. § 901.03** under Wiborg, 163 U.S. 632, 658 (1896).

This Court must find "***it proper to take judicial notice of the purpose of the*** ... [warrantless 1998 instore-hostage-taking and warrantless 1995 refusal]**,** [into] ***the manner in which*** [these] ... ***w***[ere] ***established and*** [used for the 1998 unlawful arrest]**,** [the kidnapping-hold's undocumented BrAC-LEVELS for the performed PBTs of all three driving participants (*with deputy Haney personally telling Hammersley that "the one who drank less was driving" the other vehicle*), enjoined with the demanded blood seizure DISCRIMINATIVELY-FROM-HAMMERSLEY without a warrant and over 3-hours after the alleged hit-and-run] ***subject to a finding of*** [un]***trustworthiness***[.] [Within] ***the general nature and substance of*** [the openly committed Terrorism and the Implied Consent Law's false charade of civil processes with criminal consequences'——testimonial with openly disregarding treaties and constitutionally required prerequisites with] ***its*** [victimhood under criminal punishment] ***conclusions***. ***Judicial notice of these facts may be used to inform the court's determination of whether denial of the motion***

would result in manifest injustice... [This] ***court may take judicial notice of concerns of the Federal*** [and/or State] ***Power***, c.f. Korematsu, 584 F. Supp. 1406 (N.D. Cal. 1984), at 1415; **IN-ORDER-TO**: Recognize that: **A)** The **good-faith exception** to the exclusionary rule might not apply, Hammersley admits everything, under Mathews, 485 U.S. 58 (1988), at 63; **TO-WHICH**: The blood test (*used for the enhanced PAC .1+ OWI charges/conviction*) was inadmissible without Expert Witness Testimony. **B)** The **automobile exemption** does not include the 1998 instore-kidnapping's Terrorism turnt arrest in the Speedway Gas Station's building or parking lot's curtilage area, under Collins, 584 U.S. ___ (2018), as an invited guest. **C)** Under McNeely, 569 U.S. 141 (2013), the "***metabolization of alcohol in the bloodstream***" is not an **exigency exception**. Nor was there the cited "*no-stopping*" violation when Hammersley, in-fact, stopped twice. There were **no exigent circumstances**.

The Speedway Gas Station spatial instore-kidnapping's Terrorism turnt arrest for the unproveable traffic crimes with the addition of automatic criminal penalties for refusal was a gross violation of Carroll, and the castle doctrine with violations of **Wis. Const. I § 6** and **11** in tandem with **4th** and **8th Amendment**: "***as expressed in speeches*** [and opinions] ***given by*** [the Court in Silverman, 365 U.S. 505 (1961), at 511, Jardines, 569 U.S. 1 (2013), at 6-7, Payton, 445 U.S. 573 (1980), and Steagald, 451 U.S. 204, (1981), Watson, 423 U.S. 411 (1976), Welsh, 466 U.S. 740 (1984), at 755, and 2016 Birchfield decision] ... ***even though specific facts stated may not be judicially noticed*** [but appropriately considered Treaty Violations and/or ***legislative facts***], *see* Southern Louisiana Area Rate Cases v. Federal Power Commission, 428 F.2d 407, 438 n. 98 (5th Cir.1970), [This] ***court may take judicial notice***

of '[the 1999 plea and sentencing's] [tra]***n***[s]***gressional proceedings and the existence of facts disclosed by them,'***" Overfield v. Pennroad Corp., 146 F.2d 889, 898 (3d Cir. 1944), Korematsu, 584 F. Supp. 1406, at 1415.

V. What the prior determinations did not address is that *Coram Nobis*, **Wis. Stats. § 901.03, 902.01** and **974.06, 28 U.S.C. § 1651(a), 1343(a)(3)(4),** and/or **1331** are ***"appropriate to correct fundamental errors and prevent injustice***," "[and/]***or other proper proceeding for redress***" for the "***deprivation of any rights, privileges, or immunities secured by the Constitution and laws***," under U.S. v. Correa-De Jesus, 708 F.2d 1283 (7th Cir.1983), *see* Korematsu, 584 F. Supp. 1406 (1984), at 1412, and **28 U.S.C. § 1651(a)**. The Courts' inadequate reviewal and responses, harmful plain errors, their utter failing to correct or recognize the *miscarriages of justice* and upshot *ex post facto* Implied Consent Laws, their forfeiture of responsibility and duty to investigate the Terrorism visited upon Hammersley are ethical violations, under the **Federal Ethics Canons 1-3**; alongside Wisconsin **SCR 20:3.1; 60.01-04**, and/or **Wis. Stat. § 757.19(4)(5)**. There are multiple Structural and/or Fundamental Errors, with a hatful of Reversable Plain Errors (*i.e. the court made a determination of the number of valid prior OWIs, is* ***actual innocence***). These errors absolutely may be challenged by *Coram Nobis Writs* when a **Wis. Stat. § 974.06** motion is unavailable.

The wrongful convictions visited on the actual victim of capital crimes and/or the incorrect sentences built-up from an invalid prior OWI are actual innocence. "***The "actual innocence" exception is concerned with actual, as compared to legal, innocence***, Whitley, 514 U.S. 419 (1995), at 339-40. ***Legal innocence addresses procedural or legal bases on which a***

sentence was based, Smith, 477 U.S. 527, 537 (1986)***. In contrast, actual innocence addresses circumstances in which an error "precluded the development of true facts [or] resulted in the admission of false ones***,"" cf. Mobley v. U.S., 974 F.Supp. 553 (E.D. Va. 1997), at fn. 10.

Hammersley "***clearly was prejudiced by the inclusion of the erroneous conviction record. The inclusion resulted in***" Hammersley receiving an egregiously criminalized 1996 civil stipulation with a stayed 10-day jail-sentence, *clearly erroneous* civilly enhanced criminal sentence in 1997, *clearly erroneous* misdemeanor/felony sentences and presentences in 1998+2005+2008+2018, and/or the *clearly erroneous* applied PAC .02 charging instruments in 2008+2018. And current *clearly erroneous* minimum mandatory three year prison sentence, cf. Mobley v. United States, 974 F.Supp. 553 (E.D. Va. 1997), at fn. 18. These have risen to the level of Structural Errors, and Fundamental and/or Reversable Errors, under Cotton, 535 U.S. 625 (2002).

Hammersley was denied the true opportunity to present his case-in-chief, during the 1995-2010 trials and 2018-*ongoing* postconviction and pending felony proceedings due to critical Treaty Violations and structural errors, ones that are "***so intrinsically harmful as to require automatic reversal***," under Neder, 527 U.S. at 7, In Re SMH, 2019 WI 14, at 819. The 95' refusal's statutory criminal OWI conversion and the 1998 Terrorism's aiding-and-abetting were not authorized by international treaties nor domestic law.

"***A "structural error,"*** ... ***is something that either affects the entire proceeding, or affects it in an unquantifiable way:*** "... ***structural defects in the constitution of the trial mechanism, which defy analysis by `harmless-error' standards***,"" State v. Pinno, 2014 WI 74, 356 Wis. 2d 106, 850 N.W.2d 207. "... ***structural error doctrine is to ensure insistence on certain basic, constitutional guarantees that should define the framework of any criminal trial***," *see* Weaver, 580 U.S. __ (2017), at 1907.

The cognizable structural errors surrounding the 95' refusal-Order and the 1998 International Terrorism's enabled aiding-and-abetting "[e]***ffect***[ed] ***the framework within which the trial proceeds, rather than being simply an***[y] ***error***[s] ***in the*** [the 1995-2021] ***trial process itself***," cf. Fulminante, 499 U.S. 279 (1991), at 310.

VI. The District III Court failed its own duties in appeal no. 21AP1269-W, through the *clearly erroneous* reconsideration denial's inaction on the preliminary **§ 809.51** *supervisory writ* submitted with the reconsideration and the subsequently filed **§ 808** *writ of error's* denial in no. 2022XX249 (below):

> ... "Wis. Stat. 808.02 Writ of Error" ... reconsideration of an ... on December 22, 2021, ... No. 202IAP1269-W, denying ... writ of mandamus. ... writ of error nor reconsideration are available ... A writ of error "shall be issued by the courts as the legislature designates by law." WIS. CONST. art. I, 21(1). The legislature has ... the mechanism for seeking a writ of error to address an arguably prejudicial error that occurred during circuit court proceedings. See State v. Pope, 2019 WI 106, 1121, 389 Wis. 2d 390, 936 N.W.2d 606. The legislature has not authorized the court of appeals to issue a writ of error against itself[?] Rather, the mechanism for asking the court of appeals to review an alleged error in one of its own decisions is by reconsideration. ... court has already ... den...i[ed] reconsideration ..., and the time for seeking reconsideration under WIS. STAT. RULE 809.24 has now passed. IT IS ORDERED that the motion for a writ of error seeking review of a supervisory writ decision is denied (Appx. 141).

BUT-FOR: Being No-Ruling on the **§ 809.51** submission that was egregiously unheard with the *clearly erroneous* 12-22-2021 ruling, plain error no-answer to the 11-20-2020 open records request by the appellate court clerk's office, hon. Stark's clear-cut overreaching and interference with the foully constructed open records request as: "*another reconsideration motion*" for closed no. 2018AP1022 with the *clearly erroneous* 12-2-2020 open-records misconstrued denial, the WI AG's failing to act on the 12-7-2020 *mandamus* to compel records discovery at the appellate clerk's office, and hon. Stark's non-recusal from the last *writs of mandamus* and *prohibition* in no. 2021XX325.

Alongside hon. Stark's earlier questionable 4-9-2014 remittitur in 2013AP1263, without consideration of the 4-4-2014 submitted **§ 809.24(1)** reconsideration When it could have been reviewed under **§ 809.24(3)** (Appx. 174).

Hammersley has solid standing and is colorably in custody related to the 95' refusal-Order and the 1998 event's police aiding-and-abetting terrorism, coupled with the set-aside nonexistent uncounseled 2003 AZ DUI, and 2008 refusal's forced gurney bound blood draw for pretextually four wrongful prior OWI convictions (1995-96, 1998-99, 2001-03, 2008-10); **COMBINED-INTO**: The newly formed 2008+2018 PAC .02 offenses wholly within the meaning of "*still suffering collateral consequences*"; "***The Supreme Court has, in fact, stated that a 'criminal case is moot only if it is shown that there is no possibility that any collateral legal consequences will be imposed on the basis of the challenged conviction,'*** *see* Lane, 455 U.S. 624, 632, (1982), *quoting* Sibron, 392 U.S. 40 (1968), at 57. ***This articulation places the burden on the government to show that*** [Hammersley] ***suffers no collateral consequences. The government, by its*** [own judicially authored] ***'Respons***[iv]***e*** [dismissals]***' has failed ... to overcome the presumption***," Korematsu, 584 F. Supp. 1406 (N.D. Cal. 1984), at 1418.

The arguments of police misconduct, hate crime policing, unlawful warrantless seizures, unlawful arrests, unlawful warrantless blood draw refusals enforced as criminal OWIs, prosecutorial misconduct, fraudulent arrests with sworn to discriminatory policing and false arrests, ineffective counsel, and that the 1995 refusal-Order along with the ruthlessly coerced 2008 warrantless parole held blood demanded medically unsound gurney bound blood draw; **FROM-WHICH**: The 1995-2010 escalated sentences and

2018-2021 presentences **were not authorized by law**; Indeed, advocates for the **rule of completeness'** acknowledgement, under State v. Anderson, 230 Wis. 2d 121, 600 N.W.2d 913 (Ct. App. 1999); State v. Eugenio, 219 Wis. 2d 391, 410, 579 N.W.2d 642, 651 (1998), in pursuit of the truthful factual basis.

In citing the 12-2-2022 Brown County Court **974.06***/coram nobis' reasoning* regarding the 1998 arrest and 1999 conviction, page 253 (**DOC NO. 101**): I. The ... Terrorism-Hate-Crime, Treaty-Violations, Kidnapping, Duress Defense, Entrapment Defense, Castle Doctrine, Exigency Doctrine, Prohibitionary-Seizure-Subterfuge, Prosecutorial Discretion, Perjury Trap, Miscarriage of Justice, ... Brady, Ker-Frisbie, Strickland, and Birchfield ... decisions render these convictions ... sentences, from the same...seizure ... 98CT1403, eligible for collateral-review and *ends of justice inquiry* retroactively. II. Because the convictions were the result of inducement-to-lawfully permissibly stop and drive away, and stop again to report an attempted homicide. Whilst waiting as guest in...a commercial space, Hammersley was violently taken hostage by two Mexican nationals. This seizure was continued ... through coordination of the Brown County Patrol with the terrorists. Through the application of the International Terrorism-Hate-Crime, Treaty-Violations, Kidnapping, Duress Defense, Entrapment Defense, Castle Doctrine, Exigency Doctrine, Prohibitionary-Seizure-Subterfuge, these convictions from the same-single-kidnapping-seizure ... became unconstitutional. III. ... the warrantless blood-draw was administered ... unconstitutionally: 1) Under the prohibitionary-hold. Under the imposition of a punishment penalty for being kidnapped inside a storefront and trying to report an attempted murder earlier with the police-misconduct ... forced demanded whole-blood extraction; 2) Under the threat of a ...OWI-convictional-penalty; 3) ... no...exigent-circumstances for warrantless draws... All convictional-proceedings were unconstitutional. IV. ... convictions were the direct result of violations of the Gideon Rule... Hammersley was ... guilty ... for 115-days during the ... proceedings without the effective assistance of counsel; ...All ... proceedings were completely unconstitutional. V. Once a Gideon and Birchfield Rule related equivalent retroactive constitutional violation, subject matter jurisdiction, personal jurisdiction, or other substantive rules or treaty violations ... became apparent; Then, the door-swings-wide-open for total collateral-review and *ends of justice* inquiries. VI. The complete lawless *miscarriage of justice* coupled with the Castle Doctrine along with newly discovered inadmissibility of the blood test, under Giles v. Maryland, 386 U.S. 66, 100 (1967), and Welsh along with new retroactive Collins Curtilage, Gideon, and Birchfield Rules ... new arguments or unpreserved arguments... for review. VII. Convictions from: the ...seizure ... are and were unconstitutional and enforcement thereof-is-no-Longer equitable... VIII. Hammersley-is entitled-to-relief ... to-PREVENT, the ... unconstitutional-usage-in-any other jurisdiction or its ... PRE-determinative guilt's predeterminate forward looking used-usage. IX. Hammersley-is-entitled-to-relief from these wrongful-convictions ... for ... 98CT1403, to-be... vacated/set-aside/...permanently-disavowed... under the substantive application of the ... Terrorism-Hate-Crime, Treaty-Violations, Kidnapping, Duress ..., Entrapment

Defense, Castle Doctrine, Exigency Doctrine, along-with the Birchfield Rule and Gideon Rule, being applied retroactively, with the unconstitutional-proceedings ..., prohibitionary seizure subterfuge, ineffective assistance of counsel, prosecutorial misconduct, ...blood test inadmissibility and unproven uninvestigated hit-and-run, no jurisdiction... void-prior-countable convictions used ... and-is-still-in-use trans-jurisdictionally, and...more ... when applying the ... constitutional-deprivations contextually-accomplished under the veiled vortex twister of these PRE-determinates of guilt.

VII. COLORABLE—STRUCTURAL-ERRORS: Factual errors effected the results from the 1998 arrest: **1)** The unreported BrAC-testing for the three participants; **2)** No BAC-testing on the two Mexican Nationals; **3)** Test refusal statute's automatic OWI offense and on-the-spot sentencing for refusing a warrantless blood draw demand; **4)** 95' Refusal-Order an OWI; **5)** Illegitimate 1998-99 hearings and the ill-begotten 99' bench trial; **IN-BEING**: PLAIN ERROR VICTIMHOOD continuance; **6)** Challenges to the 1995+1997+1998+2001+ 2005+2008+2018 unlawful arrests with the blood draws under the Implied Consent Law. These invalid prior 1995-2005 wrongful convictions make-up the *clearly erroneous* 2008 conviction's and 2018 bracelet custody's PAC .02 BAC charging instruments. Hammersley is entitled to relief under plain error review.

"***Petitioners are entitled to a trial free from the pressure of unconstitutional inferences***," under Payne, 356 U.S. 560 (1958), cf. Chapman, 386 U.S. 18, 26 (1967). The usage of the exemplified errors inescapably effected the fundamental integrity of the bench trials; **WITHIN**: **1)** 1995 refusal-Order and criminalized 1996 stipulation agreement; **AND**: **2)** 1999 pigeonholed plea sentencing hearing with the wholly induced plea agreement; **IN-BEING**: So intrinsically serious that harmless error review does not even apply. The Structural Errors, did undermine the essential *fundamental fairness* of the 1995-2022 proceedings for the unlawful arrests and seizures.

A) ADMITTED-FACTS 1-6: IMPLIED CONSENT Informing Accused:

#1. STRUCTURAL ERROR: The 2018+2008+**1998** Informing the Accused forms and/or **Wis. Stat. § 343.305**(1997-1998), do not inform of the automatic statutorily imposed criminal OWI offense consequences for refusal.

If you refuse to take any test this agency requests, your operating privilege will be revoked and **you will be subject to other penalties**. The test results or the fact that you refused testing can be used against you in court (2018+2008+1998 Informing Accused Forms, Appx. 154, 161-162).
Wis. Stat. § 343.305(1-2)(1997-98) ***Tests*** ... ***(1) (b) "Drive"*** ... ***the exercise of physical control over the speed and direction of a motor vehicle while it is in motion. (c) "Operate"*** ... ***the physical manipulation or activation of any of the controls of a motor vehicle*** ... ***to put it in motion.*** **(2) Implied consent. Any person who** ... **drives or operates a motor vehicle upon the public highways of this state**... **is deemed to have given consent to one or more tests of his or her breath, blood or urine**... **when requested to do so by a law enforcement officer**...

#2. STRUCTURAL AND/OR FUNDAMENTAL ERROR: The Notice of Intent form, filled out on 9/24/1998, indicates that officer Reetz signed the Notice of Intent form and that Hammersley did not sign the form. **AS-FOR**: Being Hammersley does not recall any forms presented nor any forms being read, before submitting to the 9-19-1998 warrantless blood draw demand.

See Notice of Intent (Appx. 156) with officer Reetz purportedly filling this out on 9-24-1998, 5-days after the arrest; Hammersley **did not sign** on 9-19-1998.

#3. STRUCTURAL AND/OR FUNDAMENTAL ERROR: Neither **Wis. Stat. § 343.305(4)(1)(d)**(1995) nor **343.305(4)**(1997-1999)**;** Along with the 2018+2008+1998 Informing the Accused forms—**Do not inform the accused of what the alternative test is:** That the "***Law enforcement-agency provides free-of-charge***," 2018+2008+**1998** Informing Accused Forms.

Stat. § 343.305(4)(d)(1995) "**After ... testing, *the person tested has the right to have an additional test made by a person of*** ... ***own choosing***"
2018+2008+1998 police interviews read from the Informing the Accused form, stating: "If. You take. All the. Requested-tests. You may choose. To-take.

Further test... You. **May. Take. The-alternative-test. That. This. Law enforcement-agency. Provides. Free-of-Charge**. ... You. However. Will. Have to. Make. Arrangements. For. That. Test" (*see* Appx. 154, 161-162).

#4. STRUCTURAL AND/OR FUNDAMENTAL ERROR: The 2018+2008+1998 Informing the Accused forms nor the 1995-96/1997-98 statutes do not inform the accused of how to obtain independent testing. On 8/27/2020, the Brown County Sheriff's Dept. reiterated that the forms do not inform the accused of how to obtain independent testing. The court, DOT, and WI AG's office have been silent in regards to: Retesting-Info/Arrangements.

If. You take. All the. Requested-tests. You may choose. To-take. Further test ... You. Also. May. Have a Test. Conducted-by qualified-personal. At your. Choice. At your-expense. You. However. Will. Have to Make. Arrangements. For That Test (*see* 2018+2008+1998 Inform Accused Forms Appx. 154, 161-162).
Wis. Stat. § 343.305(4)(1997-1998), ... **you may choose to take further tests. You may take the alternative test that this law enforcement agency provides free of charge. You also may have a test conducted by a qualified person of your choice at your expense. You, however, will have to make your own arrangements for that test.**
Below from 8/27/2020 Brown County Sheriff's letter: "***You may have a test conducted-by a qualified-person of your own choice at your-expense.***" "***The Brown County Sheriff's office would not be involved in that testing process***" (*see* 8/27/2020 County Sheriff's letter, Appx. 178).
All of Hammersley's 2018-2021 *pro-se* motions and records requests regarding blood retesting and reexamination have been unheard and/or unanswered.
6/16/2021 WI AG's letter: "***The public records law "does not require an authority to provide requested information if no record exists, or to simply answer questions about a topic of interest*** ..." (Appx. 179)
6-1-2021, Madison Crime Lab cannot conduct a retest, and provided a short list of possible retesting providers to Hammersley's attorney (*see* Appx. 180-182).

#5. FUNDAMENTAL ERROR: According to conceivably the same Call-Procedures, compared to 1998, with the Call-Procedures in 2018 as it relates to an OWI: **The Informing the Accused form is read**, and **then if refused**, another option ensues in which **a search warrant is requested**.

6/28/2018 Brown County Sheriff's letter Call-Procedures, Appx. 175-177; **Page 27**: "Offense 4th and above are felony. Section 2 Criminal. DA Referral. Prohibited Alcohol Concentration .02. Blood draw (with consent); or if refused,

apply for warrant unless exigency exist." **Page 26**: "If Refusal. Notice of Intent to Revoke form (*do not enter a DL # on form*). Apply for a search warrant for blood. Use forms in Pro-Phoenix. Includes 1st offense but warrant must be signed by a circuit court Judge not a commissioner for 1st offense.

#6. STRUCTURAL ERROR: The IMPLIED CONSENT law's "***'95 ... informing the accused forms ... used back then were misleading, especially to the average citizen, ... have since been modified***," in 1999.

On 1/12/1999, during the plea-sentencing hearing, defense attorney Howe ... challenged the 1995 refusal stating: "***The refusal was from '95. I don't think the refusal is nearly as serious as a drunk driving, especially considering how the informing the accused forms they used back then were misleading, especially to the average citizen, and have since been modified***" (Appx. 114-127, 122; **DOC NO. 27**).

B) ADMITTED-FACTS 1-15: 1995-2021 CRIMINAL TEST REFUSAL:

1. STRUCTURAL ERROR: Refusals are lifetime criminal OWI convictions under **Wis. Stat. § 343.307(1)(f)**(1995-2021), violating Doering v. WEA Ins. Grp., 193 Wis. 2d 118, 141, 532 N.W.2d 432 (1995).

1997 Manitowoc complaint segment 1995 refusal-Order as an OWI, Appx. 183

2. STRUCTURAL ERROR: The mandatory jail-hold on 9-19-1998, was based on using the 1995 refusal judgement and 1997 civil OWI illegitimately converted into a misdemeanor OWI used in tandem as criminal OWI offenses.

1998 police report documenting automatic use of 95' refusal (Appx. 149-152).

3. STRUCTURAL ERROR: The 1998-1999 Brown County plea agreement was based on using the 1995 refusal judgement and 1997 civil OWI that was illegitimately converted into a misdemeanor OWI; **IN-BEING**: Used as prior criminal offenses. Contrary to the opinions of the 7/30/2019 Appeals court decision; (Appx. 194-195); hon. Dietz's 2-7-2020 and reissued 2-11-2021 denial

decision for casefiles 1997CT218-220; (Appx. 184-185); And hon. Liegeois' Appeal Fee Waiver Denial for casefile 1998CT1403; (Appx. 149; **DOC NO. 53**):

"***Hammersley*** [did] ***argue... that, because of Birchfield, WIS. STAT. 343.307(1)(f) is unconstitutional because it permits his default revocation order to be used as a penalty enhancer in the statute's escalating penalty structure. He further contends the statute that authorized his court-ordered revocation,* WIS. STAT. 343.305** (1995-96)***, is unconstitutional because of Birchfield's holding that "no criminal penalties may be imposed for refusal."*** See Dalton, 383 Wis. 2d 147, 1166." And fn. 5 "***In Allstate, we observed that "a change in the judicial view of an established rule of law" is generally "not an extraordinary circumstance which justifies relief from a final judgment" under* 806.07(1)(h).** Id.***, (citation omitted). Thus, even if the holding in Birchfield v. North Dakota,*** 136 S. Ct. 2160 (2016)***, had any effect on Hammersley's case (which it does not), its effect would not be an extraordinary circumstance in and of itself. Hammersley has not demonstrated that his circumstance is so extraordinary to warrant a departure from the general rule. See Allstate,*** 305 Wis. 2d 400, ¶7."

"***nor does it make*** [Ham]***m***[ersley] ***subject to criminal penalties for a refusal. The "inactivated Schlup gateway"***... *Schlup, 513 U.S. 298 (1995)*".

Hon. Liegeois' *clearly vindictive* wishfully constructed officially *unruled*/ruling stating: "***I am not waiving filing fees and costs until you can articulate a "claim, defense or appeal upon which the court may grant relief***"

4. STRUCTURAL ERROR: On 10/12/2020, the WI AG's Office has denied a challenge to the constitutionality of the Wisconsin test refusal statute (*see* 9/8/2020 Notice of Claim and WI AG's response letter, Appx. 196-200).

5. STRUCTURAL ERROR: The tickets for the 1995 civil OWI, 1997 civil OWI and 1998 civil OWI offenses had mandatory court appearances and various other procedures based on *erroneous* escalation (Appx. 157, 201-202).

OWI Chart. Section 1. Civil. 1st OFFENSE. No Appearance Required (Appx. 177)

6. STRUCTURAL ERROR: The 1995 refusal-Order's acceptance in the 1996 **"civil" stipulation** was not authorized by law within the included the criminalized 95' refusal-Order statutorily converted into a lifetime criminal OWI and the stayed 10-day criminal jail-sentence (1996 Stipulation Appx. 203-204).

7. STRUCTURAL ERROR: The Manitowoc Court erroneously views the 1995 refusal-Order as a civil OWI offense (*see* 1997 Criminal Complaint Seg. and 2-11-2021 Denials Appx. 183-185, 190). Contrary to the 2-11-2021 decision: It "***does*** ... ***make*** [Ham]***m***[ersley] ***subject to criminal penalties for a refusal*** ...***activat***[ing] ***Schlup gateway***," Schlup, 513 U.S. 298 (1995).

8. STRUCTURAL ERROR: There is no right to "***consider refusals the same as a drunk driving conviction*** ... ***the law*** [does not] ***give***... [th]***e*** [court] ***the right to make this inference.*** ... ***the law requires*** [the opposite.]" Contrary to the 1/12/1999 sentencing, *see* the following:

> **THE COURT**: "***I consider refusals the same as a drunk driving conviction. Otherwise they could just be used to escape the legal ramifications of another drunk driving conviction. I presume a person refuses to take the test because they believe they are drunk and they don't want that evidence to be allowed to exist and they refuse. ... the law gives me the right to make this inference. ... the law requires I do. That's why you are charged with a third offense even though this is a refusal. ... I don't consider this to be your second, second and a half, or second and three quarters. It's your third. I presume for purposes of sentencing you were drunk when you refused***" (Appx. 114-127, 125).

9. STRUCTURAL ERROR: Civil "***refusals are much less serious,*** [criminal] ***refusals are very serious, and under the law a refusal is given the exact same weight,*** ... ***on a*** ... ***record as a drunk driving conviction***".

> Contrary to what the Brown County District Attorney stated this during the plea-agreement/bench-trial/and-sentencing-hearing (1/12/1999): "***Finally, the thing about the refusal, that refusals are much less serious, refusals are very serious, and under the law a refusal is given the exact same weight, if you will, on a person's driving record as a drunk driving conviction. And there is a reason for that because if it wasn't like that, a person could thwart the drunk driving prosecution process by simply refusing to submit to the blood test. So really no weight should be given to that argument***" (Appx. 114-127, 124; **DOC NO. 27**).

10. STRUCTURAL ERROR: First OWI offense is **civil**. No Appearance Required. The PLAINTIFF is the County. Prohibited Alcohol Concentration is .08.

Third OWI offense (*based on the 1995 refusal-Order and illegitimately criminalized 1997 civil OWI*) is **Criminal**. Appearance Required. The PLAINTIFF is the State. Prohibited Alcohol Concentration is .08.

"*call procedures*": (1st Offense in county is a must not appear); **AND**: OWI Chart. SECTION 1. **Civil. 1st OFFENSE**. No Appearance Required. The PLAINTIFF is the County. Prohibited Alcohol Concentration is .08. SECTION 2. **Criminal. 3rd OFFENSE**. Appearance Required. The PLAINTIFF is the State. Prohibited Alcohol Concentration is .08 (Appx. 175-177, 176-177).

11. STRUCTURAL ERROR: Fourth OWI offense (*based on the 1995 refusal-Order, illegitimately criminalized 1997 civil OWI and instant 1999 wrongful convictions*) and above, **Prohibited Alcohol Concentration is .02**.

"*call procedures*": OWI Chart. SECTION 4. **Criminal. 4th and above are felony OFFENSE**. Appearance Required. The PLAINTIFF is the State. **Prohibited Alcohol Concentration is .02** (Appx. 175-177, 177).

12. STRUCTURAL ERROR: First **civil** OWI offense or Second criminal OWI offense imprisonment is optional based on cooperativeness. Third OWI offense and above (*based on refusals*) are criminal, and immediate incarceration is mandatory. The 9-19-1998 arrest had immediate incarceration.

See recent "*call procedures*": "**Release to Responsible Party**? Yes - if cooperative. Complete release form. If not cooperative/no one available book into jail on 12 hour hold; No Release - book into jail for OWI 3rd (Appx. 175-177, 177).

13. STRUCTURAL ERROR: The **Prohibited Alcohol Concentration .02** OWI crime restriction for a fourth OWI offense (*based on refusals*) and above, **is used to support guilt and *probable cause***.

i.e., during a *probable cause* hearing 7-17-2009 (Appx. 205-208); "**COURT**: ***There is no disputed facts*** ... ***There is one witness. And his testimony is consistent throughout. So, there really aren't any disputed facts. ... the test ... today is not reasonable doubt whether this Defendant committed a crime. It's probable cause to believe that he had committed a crime. And if there are conflicting interests inferences that are equally plausible,*** [are]***n't resolve***[d] ***... here. ... Under the totality of the circumstances, did this Officer have probable cause to***

believe that this Defendant was operating a motor vehicle while under the influence of intoxicants and exceeding the very low blood alcohol level that is prohibited with his prior drunk driving convictions. It's not a .08. So, is there probable cause. ... ***finding almost proof beyond a reasonable doubt right now. This is a ton of probable cause.***

14. STRUCTURAL ERROR: The IMPLIED CONSENT law's "***refusal ... from '95. ... the refusal is n***[ot] ***as serious as a drunk driving***".

1/12/1999, plea/sentencing hearing, atty Howe challenged the 1995 refusal: "***The refusal was from '95. I don't think the refusal is nearly as serious as a drunk driving, especially considering how the informing the accused forms they used back then were misleading, especially to the average citizen, and have since been modified***" (Appx. 114-127, 122).

15. STRUCTURAL ERROR: 1995-2022 Implied Consent laws, with automatic criminal penalties, amidst, the "***probationary-administrative-search phasing***" are ***ex post facto* law** violations, Calder, 3 U.S. 386 (1798).

C) SIX-MISCELLANEOUS COLORABLE STRUCTURAL ERRORS:

Hammersley has demonstrated several factual errors that have effected the results within the greater context of the 1998 unlawful arrest with the Terrorism enabled by deputy Haney's and officer Reetz's *aiding-and-abetting*, *ex post facto* blood test refusal statute, Actual Innocence for the Hit-and-Run, Factual Innocence for the inadmissible blood test used for the **346.63(b)** PAC 0.1%+ BAC conviction without Expert-witness testimony under **885.235**, and the Unauthorized Unannounced Storefront Entry/Assault (*after purposeful disengagement*) in violation of the Castle Doctrine. Hammersley is entitled to relief under harmless error review, *see* Chapman, 386 U.S. 18 (1967).

The Structural Errors, indeed, did undermine the essential *fundamental fairness* of the proceedings with the lawlessness of the warrantless seizures with International Terrorism enabled by *aiding-and-abetting* policing.

1) AFORENOTED STRUCTURAL ERRORS 7, 26-32, 42-49: The total deprivation of the right to counsel under the **6th Amendment**, Gideon Rule. This includes the right to effective assistance of counsel with failing to challenge the warrantless hit-and-chase/roadside-mayhem/instore-hostage-taking alongside the Terrorism's enablement with police *aiding-and-abetting* by punishing the violently held-hostage for unproven traffic crimes. The ruse with colorable entrapment for the unproven traffic crimes w*hil*st violently held-hostage inside a storefront building cannot be used for traffic investigations. The Mexican nationals' instore attack (*while permissibly waiting inside a storefront to report the roadside attempted murder with police inbound)*; **INTO-BEING**: A violently held hostage when Haney arrived, the deputy's mishandling of the roadside attempted murder weapon and arresting the victim of capital crimes, the misprision of felonies, the uninvestigated criminal traffic arrests without a reportable accident, no *probable cause*, the warrantless blood draw under criminal penalties for refusal, *act of attainder*: 1995 refusal-Order's usage, prosecutorial misconduct, and the wholly induced 1999 plea agreement (Appx. 114-127, 145-160, 167-173, 183-208).

There was ineffective representation with the clear breach of fiduciary duty with defense counsel calling Hammersley a liar about the incident of: police mishandling the Mexicans' tire-iron, counsel told Hammersley he would not subpoena the video of the instore kidnapping nor the outside concealment of evidence, counsel told Hammersley he would not subpoena any eye-witness testimony, the defense counsel admitted during sentencing that he had a private phone telephone conversation with the Mexican Nationals, and all the other unmet challenges clearly violated Gonzlaez-Lopez, 548 U.S. 140.

Hammersley's case-in-chief is a prime example of what constitutes a total deprivation of counsel during the 9-19-1998 uncounseled criminalized test administration's warrantless blood draw of the actual kidnapee, along with ineffective assistance of counsel for the 1998-1999 court proceedings. Along with the Actual Innocence surrounding the 1997 criminalized civil OWI. That "***a showing that the performance of a defendant's lawyer departed from constitutionally prescribed standards requires*** [reversal or] ***a new trial regardless of whether the defendant suffered demonstrable prejudice thereby***" under Strickland, 466 U.S. 668, at 712.

When an otherwise qualified **28 U.S.C. § 2254** and/or **Wis. Stat. § 974.06** petitioner can demonstrate that his past 1995-1999 sentences and current 2018 presentence are enhanced where there was an actual absence of counsel for the imputation of the criminal penalties for the 1995 refusal proceeded by the failure of the effective assistance of counsel for the 1996 stipulation (*with 10-days jailtime*), both in violation of the **6th Amendment**, the 1997 civil OWI converted into a misdemeanor OWI, the instant past 1998-2003 egregiously enhanced sentences, and current 2018 felony presentence cannot stand and *habeas* relief is appropriate, *see* Tucker, 404 U.S. 443, 449 (1972). Thusly, necessitating "***vacatur of*** [1998-2003] ***sentence that was based in*** [whole on the ineffective assistance of counsel and based in] ***part on prior*** [denials of right to] ...***counsel***... [and the 2018-*ongoing* presentence based on these prior 1995-1999] ***state convictions***, under Coss, 532 U.S. 394, 404-5 (2001). Tucker applies to a conviction invalidated for the ineffective assistance of counsel, *see* Brown, 610 F.2d 672, 675 (9th Cir.1980).

U.S. Const. 6th Amendment and **Wis. Const. Art. I § 7** guarantee the right to counsel. The right is more than the right to nominal representation and must be effective, Cuyler, 446 U.S. 335 (1980); State v. Koller, 87 Wis.2d 253, 274 N.W.2d 651 (1979); State v. Harper, 57 Wis.2d 543, 205 N.W.2d 1 (1973), State v. Sanchez, 201 Wis. 2d 219, 228, 548 N.W.2d 69, 73 (1996).

Trial counsel Howe (retained 9-21-1998), here made a deliberate, reasoned decision to forgo challenging the hit-and-chase/roadside-mayhem/and instore-hostage-taking that was altogether enabled by means of police *aiding-and-abetting* through punishing the victim of capital crimes for uncommitted uninvestigated unproven criminal traffic crimes. The colorable entrapment for the unobserved unproveable traffic crimes w*hil*st violently held-hostage inside a storefront building cannot be used as the subterfuge for criminal traffic investigations. Howe did not challenge: the lifetime OWI conviction's statutory conversion from the uncounseled 1995 refusal, the 1998 warrantless compelled Implied Consent's blood draw demand of a kidnappee, Actual Innocence for the hit-and-run charges/convictions, and Factual Innocence regarding the inadmissible blood evidence that was used for the enhanced PAC .1+ OWI charge/conviction without statutorily required expert witness testimony nor lawful arrest, **Stats. § 885.235(3)** and **968.10**.

There is no indication of why any challenge would have jeopardized the 99' plea deal and/or Sentencing. Howe did not challenge the lawlessness used pretextually for the gross continuation of punishing the victim of capital crimes, nor challenge the prior 1995 refusal used as an OWI offense and/or the warrantless blood demand of an actual kidnappee under the threat of automatic criminal penalties for refusal. It appears that counsel Howe simply

reached his decisions without adequate investigation into challenging the entrapped warrantless instore kidnapping subterfuge used for the traffic crimes, the discriminatory arrest of kidnappee, the kidnappee's warrantless compelled Implied Consent blood draw's automatic criminal penalties for refusal, the invalid refusal conviction's guilt used for the arrest/plea-agreement, and the prior illegitimately criminalized 1997 civil OWI. "[C]***ounsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary***," under Strickland, 466 U.S. 668, 691 (1984). Counsel Howe, "***did not fulfill that duty here***," Ligtenberg, 2003 WI App 244, 268 Wis. 2d 294, 671 N.W.2d 864. These were "***Violation***[s] ***of the defendant's* 6th Amendment-*secured autonomy rank***[ing] ***as error of the kind that*** [the U.S. Supreme] [C]***our***[t] ***decisions have called 'structural'*** ..." McCoy, 584 U.S. ___ (2018), at 14.

2) AFORENOTED STRUCTURAL ERRORS 34-37: There were several judges whom showed partiality, unprofessionalism, and/or misgovernance within their involvement in the conduct of the 1998-99 trials and 2020-22 proceedings, Tumey, 273 U.S. 510 (1927), Frady, 456 U.S. 152 (1982), at 163.

RESTATED FROM EARLIER—PAGE 24: "The Courts' inadequate reviewal and responses, harmful plain errors, their utter failing to correct or recognize the *miscarriages of justice* and upshot ex post facto Implied Consent Laws, their forfeiture of responsibility and duty to investigate the Terrorism visited upon Hammersley are ethical violations, under the **Federal Ethics Canons 1-3**; alongside Wisconsin **SCR 20:3.1; 60.01-04,** and/or **Wis. Stat. § 757.19(4)(5)**. There are multiple Structural and/or Fundamental Errors, with a hatful of Reversable Plain Errors (*i.e. the court made a determination of the number of valid prior OWIs, is* ***actual innocence***). These errors absolutely may be challenged by *Coram Nobis Writs* when a **Wis. Stat. § 974.06** motion is unavailable."

Hammersley was denied the true opportunity to present his case-in-chief, during the 1998-1999 proceedings and 2020-*ongoing* postconviction proceedings, that were "[in]***capable of satisfying the demands of Mathews and Piper***," under In Re SMH, 2019 WI 14, at 814. These structural errors, are "***so intrinsically harmful as to require automatic reversal***," under In Re SMH, 2019 WI 14, at 819, and Neder, 527 U.S. 1 (1999), at 7.

3) AFORENOTED STRUCTURAL ERRORS 1-6, 8-24: Police investigation under the continuation of the Terrorism's subterfuge with the initialized hit-and-chase continued into the roadside attempted murder transitional disengagement and sudden reengagement with the unauthorized warrantless unannounced violent instore kidnapping, that cannot be used as the stratagem for any uncommitted unproveable traffic crimes without any *exigent circumstances*, *probable cause*, individual suspicion, no property owner permissions, and no international authorizations.

Indeed, this was an unlawful arrest with no warrants. There was a clear denial of International Territorial Treaty permissions under the ***law of nations*** doctrine, 1994 CAT Treaty, 1978 Mexico Extradition Treaty, and 1997 Charters of the Organization of American States; **18 USC § 113B, 249, 3286(b)**, and **1201**; **Wis. Stats. § 968.07**, **968.10**, **968.12**, and **968.13** (1997-98), State ex rel. Warrender v. Kenosha County, 67 Wis.2d 333, 227 N.W.2d 450 (1975); State ex rel. Furlong v. Waukesha County, 47 Wis.2d 515, 117 N.W.2d 333 (1970), State ex rel. White v. Simpson, 28 Wis.2d 590, 137 N.W.2d 391 (1965) and **4th Amendment** and **Wis. Const. Art. I § 11** rights, under Castle-Doctrine, Payton, Steagald, Welsh, Alvarez-Machain, and Rodríguez, *supra*.

4) AFORENOTED STRUCTURAL ERROR 1-6, 8-24, 28-33: There was a complete defense of ENTRAPMENT for the indifferent traffic crimes pressed upon the kidnapped victim of capital crimes. On 9-19-1998, before making contact with Hammersley, Police knew that he was getting assaulted by two other individuals inside the storefront while the clerk was still speaking with 911; **TO-WIT**: Hammersley's car was not running, parked, and was legally registered to a residence in Little Suamico WI; Also, inside Hammersley's car was the Mexican nationals' thrown tire-iron. Whilst Hammersley was found impermissibly torturously held hostage inside of the Speedway in Suamico, WI.

The Government must concede that the 1998-indictment and 1999 plea deal were, in-fact, based wholly on discriminatory methods and sources of a horrendously fraudulent nature; **OF-WHICH**: Indeed, rendered the State's case in chief *clearly erroneous* under the reasoning of Apprendi, *supra.* The entrapment for uncommitted uninvestigated unproven traffic crimes of a kidnappee violated the **14th Amendment's** *due process clause* and **Wis. Const. Art. I § 1**, under Mathews, Jacobson, Russell, *supra*, and Nations, 764 F.2d 1073, 1080 (5th Cir. 1985). This also violated **Wis. Stat. § 972.085**, and **Wis. Const. Art. I § 7** and the **6th Amendment's *"opportunity to be heard*** [w]***i***[th] ***the right to `present a complete defense***,'" *see* Trombetta, 467 U.S., 485, Brown Cty. v. Shannon R., 2005 WI 160, 65, 286 Wis. 2d 278, 706 N.W.2d 269. The "***inquiry must here become more pointed, more focused.*** [Th]***e*** [court] ***must determine whether a proceeding in which the defendant is not afforded an***[y] [true] ***opportunity to present his case may be fairly characterized as a "trial" capable of satisfying the demands of Mathews and Piper***," under In Re SMH, 2019 WI 14, at 431.

5) AFORENOTED STRUCTURAL ERRORS 1-49: Inconsistent testimony, *clearly erroneous* and statutorily incompliant charges, wrongful convictions, and wrongful sentences by the court.

The inconsistent testimony of no evidence of guilt. The criminal Hit-and-Run traffic offense was uncommitted by Hammersley. **BASELY**: Based on the 1999 Sentencing transcripts' judicial admissions that 1-Hammersley was not at fault, 2-there was no true investigation, 3-there was a chase, 4-that the accident was not serious and 5-the DA would not acknowledge the misprision of felonies: DA-**MR. LUETSCHER**: "**[1]** ***One thing is as far as the cause of the accident***, *I think that Mr. Madson formulating this offer* ***did give the defendant the benefit of the doubt about what caused the accident***. *In other words,* **[2]** ***I asked you for the left****—side guidelines as opposed to the right-side guidelines and* **[2]** ***so that***, ***you know***, **[2]** ***I'm not necessarily alleging that he was at fault for the accident***. **[2]** ***I don't know that the accident was investigated very completely***. **[2]** ***It doesn't look like it was***. *The other thing,* **[5]** *the chase and the coercion defense,* **[2]** *the police reports really don't support that.* **[3]** *There was a chase,* **[3]** ***but the Hispanic male individuals*** *I suppose I should give them names. Mr. Hernandez, the driver of the other vehicle,* **[3]** *said that* ***the chase took place because the defendant wouldn't stop***. *And* **[3]** ***he got him to stop one time and then he took off again*** *and* **[3]** ***that's why they pursued him up to the Speedway on Highway 41*** *and* **[3]** ***that's why the scuffle ensued***. **[4]** ***The accident was not really serious***, *although Mr. Hernandez did say that his vehicle was spun around as a result of the accident. So,* **[5]** ***I don't agree with that representation on the hit and run***. ***I can't***," *citing* 1/12/1999

hearing (Appx. 123-24); **TO-WIT**: These admissions were indeed denials of the *confrontation clause*, in violation of **Wis. Const. Art. 1 § 7** and **U.S. Const. 6th Amendment**, Gouveia, at 188; **AS**: ***"the false testimony*... *[did]*... *in*... *[every] reasonable likelihood* ... *affected the judgment of the ju***[dge] ..." in Hammersley's case, under Napue, supra, at 271, Giglio, at 154. This Structural Error was a gross violation of the defendant's right to autonomy in the conduct of the State's admissions and fraudulent evidence of guilt.

6) AFORENOTED STRUCTURAL ERRORS 1-6, 8-24, 32-33, 35-41: Unlawful arrest's *clearly erroneous* charges due to prosecutorial impropriety.

There was a complete defense of KIDNAPPING, UNLAWFUL ARREST, and HATE CRIME POLICING, under **Wis. Stat. § 972.085**, Immunity From Criminal Traffic Prosecution, and Under Mathews, Jacobson, *supra*, and Nations, 764 F.2d 1073, 1080 (5th Cir. 1985). ALONGSIDE: Undocumented Deputy Haney's undocumented initial involvement and no-timestamps led to using the inadmissible blood evidence as evidence of guilt in the enhanced OWI charges; **IN-BEING**: That the blood test was inadmissible to the fact-finder for the PAC .1+ OWI without expert witness testimony based on the alleged hit-and-run being over 3-hours before the blood draw, under **Wis. Stat. 885.235(3)**.

The unmet Coercion/Duress defenses, *clearly erroneous* criminal traffic citations pressed on the actual victim of capital crimes, inadmissible evidence, and hate crime policing violated the *due process clause* of **Wis. Const. Art. I § 1** and **U.S. Const. 5th** and **14th Amendments**. Also this was a complete denial of the right to a public trial under the **1st** and **6th Amendments** and **Wis. Const. Art. I § 4, 5,** and **7**, under Waller, 467 U.S. 39 (1984).

The prosecuted uncommitted, uninvestigated, and unestablished statutorily incompliant traffic crimes became "***suppression of evidence favorable to the accused was itself sufficient to amount to a denial of due process***," under Napue, 360 U.S. 264, 269; Alcorta, 355 U.S. 28; Wilde, 362 U.S. 607, cf. Durley, 351 U.S., 285. The Brady Court, "***held that suppression of material evidence justifies a new trial 'irrespective of the good faith or bad faith of the prosecution,'***" *see* ABA, Project on Standards for Criminal Justice, **§ 3.11 (a)**, under Giglio, at 154. An acquittal is required for Hammersley; **AS**: "***the false testimony***... ***[did]*** ... ***in*** ... ***[every] reasonable likelihood*** ... ***affected the judgment of the*** [judge and/or any potential] ***jury*** ..." in violation of Napue, supra, at 271, under Giglio, at 154. "***the individual prosecutor ha***[d] ***a duty to learn of any favorable evidence known to the others acting on the government's behalf in the case,*** [not] [e]***n***[ab]***l...ing the*** [unjustified arrest with the 15-mile hit-and-chase event with a roadside attempted murder and actual violent instore hostage-taking; **FROM-WHICH**: Was covered up through the discriminatory policing with aiding-and-abetting]. ... ***the prosecution's responsibility for failing to disclose known, favorable evidence rising to a material level of importance is inescapable***," under Kyles, 514 U.S. 419 (1995), at 438.

Cases voiding convictions for fraud and/or aiding-and-abetting involved situations where the investigatory body was acting outside its lawful authority, under Monia, 317 U.S., at 439-440, 442; United States v. Scully, 225 F. 2d 113, 118 (CA2), cert. denied, 350 U.S. 897 (1955). **IN-BEING**: That the fraudulency of the citation for driving whilst found violently held hostage after a 15-mile car chase involving an attempted murder with the uncommitted uninvestigated

falsified driving event without a reportable accident "***is an obstruction of justice; its perpetration well may affect the dearest concerns of the parties before a tribunal***," cf. Norris, 300 U.S., at 574. Convictions based on fraudulent testimony and/or aiding-and-abetting violate *due process*, under Giglio, 405 U.S. 150 (1972), Napue, 360 U.S. 264 (1959), Alcorta, 355 U.S. 28, and Annot, 11 A.L.R. 3d 1153 (1967).

"***Coram nobis also lies for a claim of prosecutorial impropriety***. ... ***The Taylor court observed that due process principles, raised by coram nobis charging prosecutorial misconduct, are not 'strictly limited to those situations in which the defendant has suffered arguable prejudice; ... [but also designed] to maintain public confidence in the administration of justice,'***" *citing* Korematsu, 584 F. Supp. 1406 (N.D. Cal. 1984), at 1420.

VIII. These **COLORABLE Structural Errors**: **A) IMPLIED CONSENT Informing the Accused Form 6-FACTS; B) 1995-2021 CRIMINAL PENALTIES FOR 1995 REFUSAL-ORDER 15-ADMITTED-FACTS; C) Six Structural Errors** (*With also being there was no blood sample taken in 1995*); These aforementioned are serious fractional "***structural defects in the constitution of the trial mechanism***[s]**,** [along with all of the **49 errors afore stated** on pages 7-16; **Of-**] ***which*** [these Structural and/or Fundamental Errors alongside many more Reversable Errors, that uniquely apply; Indeed] ***defy analysis by "harmless-error" standards. The entire conduct of the trial from beginning to end is obviously affected by the absence of*** [the effective assistance of] ***counsel for a criminal defendant*** [the actual victim of capital crimes, the DA's pitiful admissions, prosecutorial misconduct

prosecuting the unproveable statutorily incompliant traffic charges with wrongful convictions without a reportable accident and with a compelled blood demand], ***just as it is by*** ... ***a judge who is not impartial. Since*** [the] [C]***our***[t's] ***decision in Chapman, other cases have added to the category of constitutional errors which are not subject to harmless error*** ... ***Each of these constitutional deprivations is a similar structural defect affecting the framework within which the trial proceeds, rather than simply an error in the trial process itself. "Without these basic protections, a criminal trial cannot reliably serve its function as a vehicle for determination of guilt or innocence, and no criminal punishment may be regarded as fundamentally fair,""*** Rose, 478 U.S., at 577-578, Fulminante, 499 U.S. 279, 310 (1991).

These cognizable structural errors, indeed "***permeate***[d] ***the entire process***," under Nelson, 355 Wis. 2d 722, 849 N.W.2d 317. Upon this instant encounter with these structural errors, the court "***must reverse***," under Neder, 527 U.S. 1 (1999). "***Errors of th***[e]***s***[e] [arche]***type***[-levels] ***are so intrinsically harmful as to require automatic reversal without regard to their effect on the outcome***," under In Re SMH, 2019 WI 14, at 813.

IX. With no statute of limitations under the ***law of nations*** doctrine, 1994 CAT Treaty, 1978 Mexico Extradition Treaty, and the 1997 Charters of the Organization of American States; **18 USC § 113B, 249, 1201**, and **3286(b)**; Calandra, *supra*, Apprendi, 530 U.S. 466 (2000) and/or **Wis. Stats. § 939.645** and **939.74(2)1-2**.(1997-1998); Alongside **Wis. Stat. § 885.235(3)**; **IN-BEING**: That **Wis. Stats. § 901.03** and **902.01** are "***intended to afford a means for the prompt redress of miscarriages of justice***," under Wiborg,

163 U.S. 632, 658 (1896). These are Rules of Criminal Procedure that permit "***a criminal conviction to be overturned on direct appeal for "plain error***" ... [*i.e.* the fraudulent unlawful traffic arrest of the actual victim of capital crimes] ***the*** [*clearly erroneous* criminal charging instruments, criminalized refusal, and induced plea agreement's] ***ju***[dicial] ***instructions***," under Frady, 456 U.S. 152 (1982). "***It grants the courts of appeals the latitude to correct particularly egregious errors***," under Frady, 456 U.S. 152, 163 (1982), and Atkinson, 297 U.S. 157, 160 (1936).

AS: Hammersley petitions under the **1st Amendment** alongside of Wisconsin Constitution **Art. I § 4, 8(4), 9,** and **9m** rights;

IN-BEING: Under the **1st Amendment** "***Congress shall make no law ... abridging the ... right ... to petition the Government for a redress of grievances***." **Wis. Const. Art. I § 4, 8(4),** and **9**; **Right to petition-4**: "***The right of the people ... to petition the government, or any department thereof, shall never be abridged***"; **Prosecutions; habeas corpus-8**(4): "***The privilege of the writ of habeas corpus shall not be suspended unless, in cases of rebellion or invasion, the public safety requires it***"; **Remedy for wrongs-9**: "***Every person is entitled to a certain remedy in the laws for all injuries, or wrongs which he or she may receive in his or her person, property, or character; he or she ought to obtain justice freely, and without being obliged to purchase it, completely and without denial, promptly and without delay, conformably to the laws***."

Its known "***that sentence enhancement equals imprisonment for the earlier offense***," *citing* Baldasar, at 234. **TO-WIT**: Burgett, Tucker and Loper substantiate that the 1995 refusal conviction was in violation of the right to counsel and is too unreliable to enhance punishment under the recidivist statute, but repeatedly used as an OWI in 1996-1999, 2001, 2003, 2005, 2008-2010, 2018-2022 violating United States v. Allen, 556 F.2d 720, 723 (4th Cir. 1977). "***For this reason, a conviction which is invalid for purposes of imposing a sentence of imprisonment for the offense itself remains***

invalid* for purposes of increasing a term of imprisonment for a subsequent conviction under a repeat-offender statute**," *citing* Baldasar. An invalid enhancer and "imposed as a direct consequence of that uncounseled*** [refusal—"*lifetime OWI*"] ***conviction and is therefore forbidden under Scott and Argersinger***," under Baldasar, 446 U.S. 222 (1980), Doering v. WEA Ins. Grp., 193 Wis. 2d 118, 141, 532 N.W.2d 432 (1995)

AS: Hammersley's case is an appropriate case; **FOR-WHICH**: "[T]***hose principles*** [of comity and finality] ***must-yield to the imperative of correcting*** [Hammersley's] ***fundamentally unjust*** [wrongful criminal sentence creating more unjust-] ***incarceration***[s]." **INTO-BEING**: That the 1995 refusal and 1998 arrest were and are "***fundamental miscarriage***[s] ***of justice*** [that do]... ***meet the cause-and-prejudice standard***," under Wainwright, 433 U.S. 72 (1977), at 91, Engle, 456 U.S. 107, (1982) at 135.

WHEREFORE, Alvarez-Machain's, Leon's, Welsh's, Apprendi's, Burgess', Carmell's and Calder's rulings, thusly support Hammersley's arguments of Terrorism, police misconduct, discriminatory policing, unlawful warrantless seizures, unlawful arrest, unlawful warrantless blood draw demand, *ex post facto* Implied Consent law, prosecutorial misconduct, fraudulently fabricated uncommitted uninvestigated traffic crimes, statutorily incompliant PAC .1+ BAC OWI conviction without expert witness testimony, ineffective counsel, and that the convictions and sentences **were not authorized by law**. **TO-WIT**: The 1998-1999 "***trial***[s] [were] ***infected with error so "plain"*** [that] ***the*** [defense attorney,] ***trial judge and prosecutor were derelict in countenancing it....*** [This] ***obvious injustice*** [must now] ***be promptly***

redressed," under Frady, 456 U.S. 152 (1982), at 163, "***to serve the ends of justice*** ... ***to avoid a miscarriage of justice***,'" cf. Gerald, 624 F. 2d 1291, 1299 (CA5 1980) cert. denied, 450 U.S. 920 (1981); Also, under Monahan, 2018 WI 80. The "***Frady*** "***cause and prejudice***" ***requirement does not bar the relief sought in*** [Hammersley's] ***instant petition***," under Mobley v. United States, 974 F.Supp. 553 (E.D. Va. 1997), at 558.

HERETOFORE, Hammersley makes supplications that this honorable Court look past the phony whitewashed façade of this wrongfully criminalized 95' refusal-Order and the unlawful 1998 arrest with the covered up Terrorism's 15-mile chase, attempted homicide, and finalized violent instore kidnapping: By issuing judicial notice for those things that may be seen as such and/or reverse the *miscarriage of justice* with the wrongful 1999 convictions in Casefile No. 1998CT1403. That these may become Reversed and Vacated/Void/Set-Aside/Permanently-**Voided**-Out of Existence; No More Criminal Record and Civilly Expunged. As doing so is mandatory and not discretionary.

Dated this 8th day of April, 2022.

Respectfully Submitted,

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