STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT III

Case No. 2022AP263-CR

STATE OF WISCONSIN,
Plaintiff-Respondent,

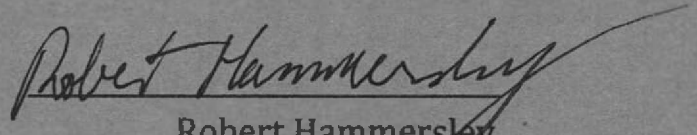
ROBERT E. HAMMERSLEY,
Defendant-Appellant.

On Appeal from an Order Denying a Petition for John Doe Investigation, an Order Denying a Motion for Reconsideration of the Denial, and Failure to Act Upon a Wis. Stat. 974.06/Writ of Coram Nobis Postconviction Motion in the Brown County Circuit Court, Branch VIII, Case No. 1998CT1403,
The Honorable Beau G. Liegeois, Presiding

# DEFENDANT-APPELLANT'S REPLY BRIEF

Dated this 2nd day of September, 2022.

Respectfully Submitted,



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

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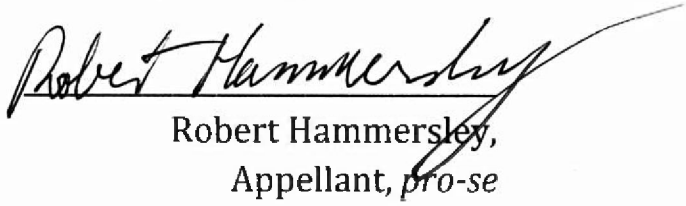

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**FEDERAL AND STATE DEFENSES**



**LAW REVIEW AND/OR OPINIONS**



*Publisher's note: **a)** Quotes of past submissions are font size 10 -point and single space block form all boxed up; **b)** all regular text is font size 13-point and double spaced; **c)** the font is mono spaced: Liberation Mono

**I.** *Citing* hon. Hammer's 2014 *clearly erroneous* baseless decision below (*see* appx. 283-319, 293-294). The *Habeas* filed then, like the *habeas* filed now, present the absolute truth that Hammersley's 2005+2009+2010 convictions and 2018 presentence are; **BASELY**: Based on these dirty rotten stinky horrid 1998 convictions - WHERE HAMMERSLEY WAS THE VICTIM AND HE HAD A COMPLETE DEFENSE TO THE OWI AND THE HIT-AND-RUN WAS UNCOMMITTED AS THE 2018 TRANSCRIBED - NEWLY DISCOVERED 1999 TRIAL TRANSCRIPTS CLEARLY ADMIT. **THERE ARE NO STATUTE OF LIMITATIONS INTO TERRORISM WITH ATTEMPTED HOMICIDE AND NEWLY COLORED INSTORE KIDNAPPING**. ALONGSIDE EVERY FILTHY JUDICIAL ADMISSION.

> The crux of Hammersley's lengthy petition is that sufficient investigation was not done in regard to what he classifies as an "attempted homicide" involving a tire iron being thrown at his vehicle [(*actually it was thrown into his vehicle barely missing striking him in the face*)] by another/other individual(s) in connection with the facts underlying his convictions in 98-CT-1403. Such alleged attempted homicide was the focus of a John Doe petition Hammersley filed in Brown County case number 13-JD-24. That petition was denied without a hearing, and it is this denial of a hearing which Hammersley appears to contest.
>
> First, even if, an attempted homicide actually took place, such action does not in any way suggest that Hammersley was innocent of the crime of operating while intoxicated. Therefore, use of the prior conviction for operating while intoxicated in 98-CT-1403 for penalty enhancement purposes on subsequent operating while intoxicated convictions is not rendered illegal based upon a supposedly uninvestigated offense committed by another/other individual(s). Additionally, Hammersley suggests that he has no other remedy based on his denial of a hearing because he cannot appeal a John Doe denial. This is simply inaccurate. However, the Court also notes that the resolution of the John Doe case Hammersley filed has absolutely no bearing on any of his own criminal charges or convictions.

**II. INTO-REINTRODUCTION OF CONSTITUTIONAL GROUNDS WITH NO TIME LIMITS**; The past 2013 *john doe* DECISIONS CITED BEING BARRED BY THE STATUTE OF LIMITATIONS; *Citing* pages 1-10 of the 4-21-2020 *john doe, see* below:

> Now comes Hammersley with an official **REQUEST-FOR**: A ***John Doe*** investigation, under **Wis. Stat. § 968.26**; **INTO**: **Brown County Case No. 98CT1403** For the Matter of John Doe; **AS-IN**: ***How can police enable and enact international hate crime targeting terrorism and torture policing protocols?***; **IN-ORDER**: To effectuate arrests of "***Americans***" with the assistance of foreign nationals acting as terrorist; **IN-BEING**: In Hammersley's case an American citizen in the United States was targeted by Foreign Nationals

endowed with Brown County policing authority to ram-check vehicles from behind around 2am in the morning on Main Street in Green Bay, WI, to then be afforded additional powers to implement improvised road-blocks atop bridges and to use deadly-force while pursuing victims of their authorized vehicular mayhem conveyed over a 15-mile distance, to then be able to assault and capture the targeted American after Hammersley pulled over and went into the Speedway gas station to report the attempted homicide. To then be procedurally used as the subterfuge conduit for the criminal arrests of the targeted victimized American Hammersley by other officialized Brown County law ... agents. **AS-IN**: "***The test is whether the executing officers' discretion has been limited in a way that forbids a general search. Here there was no question that the executing officers' discretion had been limited — they, as well as the reviewing courts, knew the precise limits of their authorization. There was simply no 'occasion or opportunity for officers*** [or noncitizen patrols] ***to rummage*** [terrorize and ransack] ***at large.***" *see* Zurcher v. Stanford Daily, *436 U.S. 547, 566 (1978) at 703, citing* Leon, 468 U.S. 897 (1984) at 965.

The ***terrorism*** perpetrated on Hammersley, a domestic American, by foreign nationals on American soil, with attempted murder, in violation of **18 USC § 113B. IN-BEING**: Under **18 U.S. Code § 3286(b)**. **No Limitation of statute of limitations** for offenses listed in section **2332b(g)(5)(B)**, if the commission of such offense resulted in, or created a foreseeable risk of, death or serious bodily injury to another person. **AND**: **It was construable as a continuation of torture** under the **1994 CAT Treaty**. **IN-WHICH**: Indeed, pierces the veil sovereign immunity of all culpable government officials; **TO-WIT**: Hammersley extends a grant of immunity to the Mexican national-terrorists, if they testify against Brown County Sheriff's deputy G. Haney's cowardice and dereliction of duty in covering up their attempted murder by letting them hide the tire iron Hammersley tried giving to the deputy, but the Mexican nationals were allowed to repossess. **FOR-WHICH**: This torture was continued by the aiding-and-abetting of Green Bay policeman R. Reetz.

**TO-WIT**: **1) It is construable as kidnapping** under **18 U.S.C. § 1201** and Smith, 360 U.S. 1 (1959); **AND**: **2) It is construable as terrorism** under **18 U.S. Code § 3286** and Henry v. U.S., 361 U.S. 98, 100-101, 80 S.Ct. 168, 4 L.Ed.2d 134 (1959); Giordenello v. U.S., 357 U.S. 480, 485-488, 78 S.Ct. 1245, 2 L.Ed.2d 1503 (1958); Frankel, Concerning Searches and Seizures, 34 Harv.L.Rev. 361 (1921), and U.S. v. Toscanino, 398 F. Supp. 916 (Fed. Dist. Court, ED New York, 1975); **AND**: **3) It is construable as a treaty violation** under the ***law of nations*** doctrine, 1994 CAT Treaty, 1978 Mexico Extradition Treaty, and the 1997 Charters of the Organization of American States; **FOR-WHICH**: Neither the foreign terrorists nor the responsible government officials cannot invoke the traditional treaties or the charters of the Organization of American States and/or the United Nations as personal defenses, U.S. v. Sobell, 142 F.Supp. 515 (S.D. N.Y.1956)(Kaufman, Judge), aff'd 244 282 F.2d 520 (2 Cir.), cert. den. 355 U.S. 873, 78 S.Ct. 120, 2 L.Ed.2d 77 (1957); **AS-FOR**: Being that Hammersley now extends the possible offering of immunity to any party collaborating the story that deputy G. Haney allowed the Mexican nationals to repossess the tire iron, that Hammersley did, in-fact, possess and tried giving to Brown County deputy G. Haney; **AND**: **4) It is construable as a discriminatory-hate-crime** in violation Apprendi, 530 U.S. 466 (2000), and **18 U.S.C. § 249**; **AND**: **5) It is construable as a criminal design policing action** under Mathews, 485 U.S. 58 (1988); **AND**: **6) It is construable as misconduct** with the lawlessness of the warrantless private property assault/battery/search-and-seizures in violation of Collins, 584 U.S. ___ (2018), and Welsh, 466 U.S. 740 (1984); **TO-WHICH**: The foreign terrorists and the ridiculousness of the government agents did-**not**-demonstrate **exigent circumstances** that overcome **the presumption of unreasonableness that attaches to all warrantless private property entries and seizures**; **AS**: Proscribed by Welsh, 466 U.S. at 748-753. Also, within the holding of Payton, 445 U.S. 573 (1980), and Steagald, 451 U.S. 204, (1981), absent **probable cause** and **exigent circumstances**, the unannounced warrantless-attack turnt arrests inside of a private property's building and inside the curtilage of the driveway/parking-lot are prohibited by the **Fourth Amendment** and the Announcement Rule under **Wis. Stat. § 968.14** (1997-98). **AND**: **7) It is construable as unlawful to seize after a prolonged timeframe** from driving with the initial purposeful vehicle ram checked engagement, 15-mile chase, and assaulted-into abduction, in violation of Rodríguez, 575 U.S. __ (2015), Carroll, 267 U.S. 132 (1925), and Prouse, 440 U.S. 648 (1979); **AND**: **8)** The incompetent illogical reporting of ... Reetz stating that Hammersley was found with the driver's side window halfway down ... **TO-WIT**: Was R. Reetz reasoning for disproving Hammersley's personal account of almost being murdered by a thrown tire-iron vehicle-*to*-vehicle, but actually Hammersley rolled the window halfway up after the tire-iron throw incident (*with officer Reetz searching Hammersley's vehicle for the tire iron that Hammersley took*

*out and shouted to ... Haney "these mother fuckers tried killing me!" Before setting it down in front of Haney, and Haney giving the tire-iron back to the Mexican terrorists Authorities*), in completely defrauding the court.

**INVESTIGATION REQUESTS I. INTO-BEING**: A ***john doe*** request is reviewable by writ and not by notice of appeal, under State ex rel. Reimann v. Circuit Court, 214 Wis. 2d 605, 625-26, 571 N.W.2d 385 (1997). Here, right now, this instant request for a ***John Doe*** investigation, if denied, will then be coupled with any future postconviction motion for reconsideration. For this reason, and because the result would be the same if Hammersley had filed a petition for a writ, a request to review the merits of the petition for ***John Doe*** investigation as part of any future postconviction motion would then be consecutively additionally concurrently supplemented. **BEING**: A criminal investigation is properly and timely commenced by a ***John Doe*** complaint that descriptively describe the defendants; **AS**: The police report is self-soliciting and empirically implicating the arresting officers Haney and Reetz for blatant misconduct and the misprision of felonies; **WITHIN**: The GUISE of the terrorism with attempted homicide, assault, battery, and kidnapping subterfuge for the warrantless seizure in a private storefront's building and driveway/parking-lot of an actual victim of capital crimes and Perjured Police Testimony of Hammersley's possessional PROFILE of the terrorists holding Hammersley's ripped off shirt and Hammersley holding the terrorists' tire-iron and trying to give it to that coward deputy G. Haney; **BASED**: On the unprofessionalism of the cowardly cops apparent cover up of the intoxicated foreign terrorists' terrorism, attempted murder, and ultimate kidnapping with the misprision of felonies and criminally charging and arresting the actual victim of capital crimes and fraudulently documenting the incident, defrauding the court and ... law enforcement perfunctory personnel.

II. **AS**: The preserved record demonstrates that Hammersley has a completely colorable claim under **18 U.S.C. § 249**. And, under **18 U.S. Code § 249(b) Certification Requirement**, Hammersley requests written certification to be issued by the Wisconsin Attorney General; **IN-BEING**: **18 U.S.C. § 249(a)**. Hate crime acts U.S. **(a)** In General. **(1)** Offenses involving actual or perceived race, color, religion, or **national origin**.—**Whoever, whether or not acting under color of law**, willfully causes bodily injury to any person or, through the use of fire, a firearm, a dangerous weapon, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or **national origin of any person**. **(2)** Offenses involving actual or perceived religion, **national origin**, gender, sexual orientation, gender identity, or disability. **(A)** In general.—**Whoever, whether or not acting under color of law**, in any circumstance described in subparagraph **(B)** or paragraph **(3)**, **willfully causes bodily injury to any person or**, **through the use of** fire, a firearm, **a dangerous weapon**, or an explosive or incendiary device, **attempts to cause bodily injury to any person**, because of the actual or perceived religion, **national origin**, gender, sexual orientation, gender identity, or disability of any person; Under **18 U.S. Code § 249(b) Certification Requirement**. Hammersley requests written certification to be issued by the Wisconsin Attorney General or a designee, that: **(A)** the State does not have jurisdiction; **(B)** the State has requested that the Federal Government assume jurisdiction; **(C)** the verdict or sentence obtained pursuant to State charges left demonstratively unvindicated the Federal interest in eradicating bias-motivated violence; or **(D)** a prosecution by the United States is in the public interest and necessary to secure substantial justice.

III. **BEING**: That it is construable as **kidnapping** under **18 U.S.C. § 1201** and Smith, 360 U.S. 1 (1959); **AND**: It is construable as **terrorism** under **18 U.S. Code § 3286** and Henry, 361 U.S. 98, 100-101, (1959); Giordenello v. U.S., 357 U.S. 480, 485-488, (1958); Frankel, Concerning Searches and Seizures, 34 Harv.L.Rev. 361 (1921), and U.S. v. Toscanino, 398 F. Supp. 916 (Fed. Dist. Court, ED NY, 1975); **AND**: It is construable as a **treaty violation** under the traditional treaties or the charters of the Organization of American States and/or the United Nations as personal defenses, U.S. v. Sobell, 142 F.Supp. 515 (S.D. N.Y.1956), aff'd 244 282 F.2d 520 (2 Cir.), cert. den. 355 U.S. 873, 78 S.Ct. 120, 2 L.Ed.2d 77 (1957). Hammersley requests written certification to be issued by the Wisconsin Attorney General for a federal investigation into: **1)** the terrorism with attempted homicide, **2)** treaty violation with road blocks and noncitizen patrolling, and **3)** kidnapping.

IV. **AND/OR**: With additionally, any possible inclusion of any results from the requested federal investigation under **28 U.S. Code § 535**, submitted at the clerk of courts for the Eastern District Federal Court of Wisconsin, filed on March 5, 2019, and January 8, 2020 (amended request), after, Hammersley reapplied for a *john doe* type federal investigation at the clerk's desk at the eastern federal district court, ... Hammersley asked for investigations into the 1998-1999 *four*-wrongful convictions and *three*-wrongful-prison-jail-DOT-sentences' judgements due to police misconduct, heinous crimes, the Mexico and United States treaty violations and etcetera... [*citing* **535** federal complaint:] *Now* comes Robert Hammersley, the defendant, *pro-*

*se*, moving this honorable Federal Eastern District of Wisconsin Court, possibly, pursuant to **28 U.S. Code § 535, (1)** There has been a **change of law** or fact (new evidence), **(2)** Where the court, in the **interest of justice**, feels that the collateral attack should be entertained and the prisoner makes a proper showing as to why he has not asserted a particular ground for relief...

**TRANSITIONAL STATEMENT AS**: The culpability of the listed policemen G. Haney and R. Reetz looms large, as Hammersley does not understand how duly respected, armed law enforcement officials can exhibit such ineptitude, incompetence and pure-cowardice without recognizing the illegality of the terrorism with the attempted homicide with the in-store assault-battery-and-abduction, unless this was a willfully designed approach with purposeful abandonment of justice that was instilled by deputy G. Haney effectuated by officer Reetz, formalized by the Brown County District Attorneys Madson and Luetscher, induced to plea under the guise of unfaithful and ineffective counsel Howe, and finalized by the Brown County Court bench perfunctory judge Atkinson. There has to be a means of reprimand, sanctioning, and acknowledgement of these serious failings of the unconstitutional tactical use of foreign terrorists to unlawfully seize Hammersley with the vehicle ram check, vehicular mayhem, make shift road blocks atop Tower Drive bridge, attempted homicide, and assault-battery-and-kidnapping to then be used as a subterfuge for criminal arrests of solely the kidnapped victim with the purposeful aiding-and-abetting foreign terrorists even giving the Mexican nationals back the tire-iron that was used to almost murder Hammersley while driving on the highway. There is retroactive prosecutorial misconduct based-on: no cognizable use of discretion with the wrongfully charged crimes retroactively violating the ***due process clause*** of the **Fifth** and **Fourteenth Amendments**; **AND**: This discernably implicates that Hammersley was denied his right to the effective assistance of counsel, plainly seen on the face of the record, as a retroactive **Sixth Amendment** and a Gideon Violation; **IN-BEING**: Hammersley does not know whether or not that with the passage of time that any parties are actually colorable under the statute of limitations for actual liability, but Hammersley would be willing to grant immunity to the Mexican terrorists if they assisted in telling the truth about deputy G. Haney's cowardly actions and officer R. Reetz's continued cowardice and fraudulent reporting; **TO-WHICH**: May not have a colorable retroactive effect for civil liability, but there still remains the obvious continuances of the present day collateral damage still being administered through this instant ***miscarriage of justice***.

**IN-BEING**: That the Supreme Court has long recognized that in a "***narrow class of cases... implicating a fundamental miscarriage of justice***," Schlup v. Delo, 513 U.S. 298, 314–15 (1995) (*quoting* McCleskey v. Zant, 499 U.S. 467, 494 (1991)), ***federal*** [or state] ***courts may hear the merits of a*** [post-convictional petition, or conduct an investigation without any] ... ***applicable procedural bar***... [because under **18 U.S. Code § 3286**, Hammersley was almost murdered and was taken hostage; **TO-WHICH**: Alleviates the restriction of the statute of limitation for these kinds of terrorism offenses. Hammersley] ***contends*** [there is instant prejudice being felt currently under his PRE-sentence detention for an arrest of an OWI in 2018, with current custody stemming directly from this 199[8] wrongful arrest and conviction], ***and th***[is] [Brown County] ***court*** [may] ***conclude..., that his ineffective-assistance-of-counsel claim should be considered on the merits despite its untimeliness because he*** [was a victim of foreign terrorists that did unlawfully seize Hammersley with the vehicle ram check, vehicular mayhem, make shift road blocks atop Tower Dive bridge, attempted homicide on HWY 41 North, and assault-battery-and-kidnapping inside the Speedway gas station. That was then used as the subterfuge for criminal arrests of solely the kidnapped victim Hammersley with purposeful aiding-and-abetting the foreign terrorists within the police misconduct and unlawful wrongful arrests]. "***[P]risoners asserting innocence*** [and victimhood] ***as a gateway to defaulted claims must establish that, in light of new evidence, 'it is more likely than not that no reasonable juror would have found petitioner guilty beyond a reasonable doubt.***'" House v. Bell, 547 U.S. 518, 536–37 (2006) (quoting Schlup, 513 U.S. at 327). ***If*** ... [Hammersley] ***satisfies this demanding standard, then he is entitled to have his federal*** [and/or State] ***claim heard on the merits notwithstanding the statute of limitations prescribed by*** **§ 2244(d)** [, **§ 2254**, or **Wis. Stat. § 974.06** and/or ***Coram Nobis*** construction], *see* Perkins, 133 S. Ct. at 1932," Larsen v. Soto, 742 F.3d 1083, 1095 (9th Cir. 2013).

The Brown County Court may properly exercise its discretion to address Hammersley's unpreserved arguments in these wrongful convictions under case no. 98CT1403, because of the fundamental right to be free from foreign terrorism on American soil, attempted murder, vehicular mayhem attacks, illegal searches and seizures, including being singled out as an American to be victimized by terrorist-Mexican-nationals to initiate the hate-crime pretext with the actuation of the vehicle ram check through to the assaulted-kidnapping transitioned into the unlawful warrantless searches, seizures, and spot-checks, of the actual

victim of capital offenses with the misprision of felonies, as the behavior exhibited by the patrolman, in the instant 1998 case; **TO-WIT**: This whole episodic ordeal was absolutely lawless, predatory and a complete victimization; **IN-BEING**: Completely demonstrative of foul play by the Mexican nationals and all responsible court officials to justify the terrorism, attempted homicide, assault, and kidnapping that was manifestly a lawless warrantless search, seizure, and spot-check of Hammersley's person and his car without a warrant while trying to report an attempted homicide and malicious attacks; **AS**: Being "***There was simply no 'occasion or opportunity for*** [Brown County] ***officers*** [and Mexican terrorist] ***to rummage*** [and pillage] ***at large,'***" *see* Zurcher v. Stanford Daily, 436 U.S. 547, 566 (1978) Id. at 703, *citing* Leon, 468 U.S. 897 (1984), at 965. **OF-WHICH**: Was violative of substantive precedence being a criminal design under Mathews, 485 U.S. 58 (1988); **AND**: Was misconduct with the lawlessness of the warrantless property search with seizures in violation of Collins, 584 U.S. ___ (2018), and Welsh, 466 U.S. 740 (1984); **TO-WIT**: The government agents did-**not**-demonstrate **exigent circumstances** that overcome **the presumption of unreasonableness that attaches to all warrantless private property entries and kidnapped seizures**. **AS**: Proscribed by Welsh, 466 U.S. at 748-753. Also, within the holding of Payton, 445 U.S. 573 (1980), and Steagald, 451 U.S. 204, (1981), absent **probable cause** and **exigent circumstances**, the unannounced warrantless-arrests inside of a private business' property and curtilage are prohibited by the **Fourth Amendment**; Also, in violation of Hammersley's **Fourth Amendment** through the substantive precedence of Prouse, 440 U.S. 648 (1979), and Carroll, 267 U.S. 132 (1925), holding the **Fourth Amendment** would not have permitted the noncitizen terrorist patrolmen, to conduct a vehicular ram-check in-order to kidnap Hammersley to then be criminally charged after being almost killed then assaulted-battered-and-kidnapped while trying to report the attempted homicide. ... Then, being criminally charged for traffic crimes as the actual victim of capital crimes.

**AND**: In violation of Hammersley's **Fourth Amendment** rights through the application of the retroactive substantive rules: 1) Hammersley could not object to an unconstitutional Wisconsin Implied Consent Statute, so Hammersley does qualify for a case by case review and the 1998 blood seizure was only allowable after a lawful arrest, in violation of **Wis. Stat. § 968.10 (1)** "***Searches and seizures; when authorized. A search of a person, object or place may be made and things may be seized when the search is made: (1) Incident to a lawful arrest***," and in violation of Schmerber, 384 U.S. 757, 770-72 (1966). *See* Seibel, 163 Wis. 2d at 183 n.14, 471 N.W.2d at 235. A blood draw in Wisconsin without a warrant is against a person's will (*because the implied consent laws have criminal penalties for refusal of which are compelled and not voluntary*); ... Was unreasonably drawn incident to the 1998 kidnapping and melee turnt unlawful arrest of the actual victim of terrorism, attempted homicide, and kidnapping, while no exigent circumstances existed. *See* Schmerber, 384 U.S. at 769-71 (*as the 1998 Implied Consent laws had criminal penalties for refusal*); and 2) There were two Birchfield Rule violations clearly on the record, that warrantless blood draws are unconstitutional for being under threat of criminal consequences to refuse to submit to a warrantless blood draw and the unlawful use of a civil refusal judgement as a countable criminal conviction in-order to enhance the victim's wrongfully applied criminal charges and penalties... is now, retroactive. Applying these retroactive rules, deem these actions unconstitutional plain errors on the face of the record: a) The misprision of felonies; b) The warrantless full-blown search of Hammersley's car in the Speedway parking-lot; c) Impounding Hammersley's car from the Speedway parking-lot/driveway without permission; d) The use of a refusal as a prior criminal OWI conviction incident to arrest; e) The warrantless blood draw; f) Forced blood draw, being a victim of capital offenses, turned into arrested seizure's placement with possibly being handcuffed to the blood draw chair; g) There is proof of consent contained in the record but the times are not corresponding. The informing the accused form states the blood draw was at 3:24am (*same time as arrest*) and the blood report paperwork states the draw was at 5am (~~*see* Appx. 103~~); h) The use of a refusal as a prior criminal OWI conviction to enhance the penalty structure, converting the OWI, into a third-criminal offense based on the 1995 refusal judgement; i) No crime but singled out for being an American citizen by Mexican nationals for discriminatory-hate-classified-crimes of terrorism, vehicular mayhem, attempted murder, and ultimately assaulted-into the kidnapping used for the unlawful arrest of the actual victim. Combined these actions and grounds were completely violative of Hammersley's ***due process*** rights and all proceedings based on the results of these warrantless searches and seizures, were, and still are contrary to the ***due process*** provisions of the **United States Constitution**. The Collins Rule, Apprendi Rule, and the Birchfield Rule with also Mathews, 485 U.S. 58 (1988), Payton, 445 U.S. 573 (1980), Steagald, 451 U.S. 204, (1981), Welsh, 466 U.S. 740 (1984), Rodriguez, 575 U.S. ___ (2015), Carroll, 267 U.S. 132 (1925), and Prouse, 440 U.S. 648 (1979) are substantive rules that apply retroactively to Hammersley's 1999 convictions on collateral review.

**Actual innocence**, also known as plain error, is a special standard of review in legal cases to prove that Hammersley did not commit the crime(s) that he was accused of, which is often applied by appellate courts to prevent a ***miscarriage of justice***. What makes the **actual innocence** standard especially applicable is that it may be invoked at any time, and not only in criminal proceedings but also in immigration and other civil proceedings. **AS-NOW**: The supplication is being made for an investigation into the 1998 attack and unlawful arrest of the actual victim seeking to report an attempted homicide; **AND/OR**: Order to reverse and vacate, and set aside/permanently void out of existence, no record ... the above Case No. 98CT1403's criminal convictions, sentences, and all records; **OF-WHICH**: Is being now tendered and thus supplicated.

... pursuant new substantive law, that has retroactive effect applicable under ***the ends of justice inquiry***, that the Supreme Court, a Justice thereof, a circuit judge, or a district court shall entertain an application for a request of an investigation with justice being served or ... that Hammersley is still suffering collaterally from and is in part instantly under the bonds of custody currently ***due*** directly as a result of these preexisting wrongful judgments ... on these grounds ... the arrest ..., federal laws, and treaties...

Hammersley challenges the sufficiency of the evidence adduced in such State court proceeding to support the State court's determination of a factual issue of no culpability for the hit and run charge as the Sate did make that determination on record, but proceeded against all odds in pressing an admitted unprovable crime with the hit and run charge; **TO-WIT**: The foreign terrorist actually caused the collision by hitting Hammersley's vehicle's right-side rear bumper. Hammersley, provides that admission during sentencing as recorded on record, that part of the record pertinent to a determination of the sufficiency of the evidence to support any such determinations. If on account of Hammersley's indigency or other reason is unable to produce additional such parts of the record, then the State shall produce such contested parts of the record. If the State cannot provide such pertinent part of the record, then the investigation shall determine under the existing facts and circumstances what weight shall be given to the State court's prior erroneous factual determinations and wrongful charges. Hammersley demands justice and collateral relief...

## III. INTO-REINTRODUCTION OF COMPLETE DEFENSE; The past 2013 *john doe* DECISIONS ERRONEOUSLY CITED BEING BARRED BY THE STATUTE OF LIMITATIONS; **BUT-FOR**: Being Actual Innocence with a complete defense: *See* pages 91-96 and 229 of the 4-21-2020 *john doe*/12-2-2020 974.06 motion below:

... Federal DEFENSE **1816**. **DURESS**. Duress is "***a defense for escape*** ... ***in the most egregious situations... faced with an immediate threat of death or serious bodily harm*** ... [with] ***the act of escaping***, *see* U.S. v. Bryan, 591 F.2d 1161, 1163 (5th Cir. 1979), cert. denied, 444 U.S. 1071 (1980); U.S. v. Boomer, 571 F.2d 543 (10th Cir.), cert. denied, 436 U.S. 911 (1978); U.S. v. Michelson, 559 F.2d 567, 569 (9th Cir. 1977); and U.S. v. Chapman, 455 F.2d 746, 749 (5th Cir. 1972). ***An indispensable element of such a defense is evidence of a bona fide effort to surrender*** ... Hammersley was] ***return***[ed] ***to custody*** ... ***as soon as the claimed duress or necessity ha***[d] ***lost its coercive force*** *see* Bailey, 444 U.S. 394 (1980); U.S. v. Garza, 664 F.2d 135. 141 (7th Cir. 1981), cert. denied, 455 U.S. 993 (1982); U.S. v. Trapnell, 638 F.2d 1016, 1030 (7th Cir. 1980)," ... Crim. Resource Manual 1826, JM 9-69.500.

... alternatively qualifying ... **Defenses of Necessity**. "***... the defense of duress with the defense of necessity. Both of them are based on a defendant being forced to commit a crime to avoid serious harm. The main response to either defense is that the defendant had another option to avert the harm. Sometimes courts combine these defenses, but technically they are separate. ... duress means that the defendant committed a crime because someone directly forced them to do it. Necessity involves a choice between two bad alternatives that could not be avoided, which arose from the circumstances rather than the actions of a specific person***," *citing* justia.com at www.justia.com/criminal/defenses/ duress/. "***At common law, the necessity defense, ... justification, permitted defendants to avoid criminal liability by appealing***

***to a 'balancing of evils.' If ... demonstrated that he perpetrated his crime ... to avert a greater evil, he would be acquitted,"*** ... Schwartz, at chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=5815&context=uclrev.

Within the possible application of **Wis. Stat. § 939.47** ... (1999); **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, except... first-degree intentional homicide."*

... **Wis. Stat. § 939.46(1)** (1999); **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, except ...first-degree intentional homicide."* ... the ***"State must disprove beyond reasonable doubt asserted coercion defense,"*** Moes v. State, 91 W (2d) 756, 284 NW (2d) 66 (1979).

... ***"The coercion defense is limited to the most severe form of inducement. ... A defendant seeking a coercion defense instruction must meet the initial burden of producing evidence to support giving an instruction. ...."*** State v. Keeran, 2004 WI App 4, 268 Wis. 2d 761, 674 N.W.2d 570

... **Wis. Stat. § 939.48(1)(2)(a)(b)(3)(4)(5)** (1998); **Self-defense**. ***"(1)*** *A person is privileged to threaten or intentionally use force against another for the purpose of preventing or terminating what the person reasonably believes to be an unlawful interference with his or her person by such other person. The actor may intentionally use only such force or threat thereof as the actor reasonably believes is necessary to prevent or terminate the interference.* ***The actor may not intentionally use force which is intended or likely to cause death or great bodily harm*** *unless the actor reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself. ...*

**AS**: The Self-defense caselaw cites' relate: ***"Whether defendant's belief was reasonable under (1) and (4) depends, in part, upon parties' personal characteristics and histories and whether events were continuous,"*** *citing* State v. Jones, 147 W (2d) 806, 434 NW (2d) 380 (1989), and ***"Discussion of self-defense and evidence of victim's reputation for violence,"*** *citing* State v. Daniels, 160 W (2d) 85, 465 NW (2d) 633 (1991). ***"The reasonableness of a person's belief under sub. (1) is judged from the position of a person of ordinary intelligence and prudence in the same situation as the defendant, not a person identical to the defendant placed in the same situation as the defendant. A defendant's psycho-social history showing past violence toward the defendant is generally not relevant to this objective standard, although it may be relevant, as in [other physical encounters and physical] abuse cases, where the actors are*** [entangled with] ***the*** [attempted] ***homicide*** [kidnapped] ***victim and*** [subsequently criminally penalized victim turnt] ***defendant,"*** *citing* State v. Hampton, 207 W (2d) 369, 558 NW (2d) 884 (Ct. App. 1996).

***"... aware ... Kidnaping Act of 1932 that '[t]he victim may be murdered or slain' if the kidnaper 'has nothing to gain by [keeping] the victim ... alive.'*** 75 Cong. Rec. 13285 (1932). ***... considerations ... in the omission of any death penalty provision in 1932,*** *see* Robinson, 324 U.S. 282, 289, n. 4..., ***but not a single member ... even hinted that the anti-kidnaping law should be defeated ... in the interest of the victim's safety. Given the law's fundamental objective of preventing interstate*** [international] ***kidnaping in the first instance, any such suggestion would have been unthinkable. Federal jurisdiction over kidnapping extends to the following situations: (1) kidnapping in which the victim is willfully transported in interstate or*** [by] ***foreign*** [actors/abductors]...; ***(2) kidnapping within the special maritime and territorial jurisdiction of the United States,"*** *citing* Jackson, 390 US 570 (1968), (*footnotes 36*).

***"The precise question at issue, therefore, is whether*** [Hammersley]***'s alleged violation of the Kidnapping Act*** [did not] ***ha***[ve] ***to be prosecuted by indictment***[; **IN-ORDER**: To finally free a victim of such heinous crimes; **WITHOUT**: Fully having to criminally prosecute the offenders now, of the past kidnapping episode; **AS**: Doing so is impossible due to the clear-cut misprision of felonies with the Brown County law enforcement officials G. Haney and R. Reetz aiding-and-abetting the commission of these capital crimes in 1998]. ***A number of statutory and constitutional provisions and the information charging petitioner are relevant to this inquiry. The Fifth Amendment provides ... "[n]o person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury," except in cases not pertinent here. But the command of the Amendment may be waived under certain circumstances, and the Federal Rules of Criminal Procedure, Rule 7 (a), provide as follows: An offense which may be punished by death shall be prosecuted by indictment. An offense which may be punished by***

***imprisonment for a term exceeding one year or at hard labor shall be prosecuted by indictment or, if indictment is waived, it may be prosecuted by information*** [or at the very least the kidnapping can be now cognizably recognized and jurisdiction over the victim Hammersley eradicated by the colorable unpunished kidnapping offenses]. ***Any other offense may be prosecuted by indictment or by information. An information may be filed without leave of court.*** [Hammersley's **victimhood** is heir apparent within the kidnapping being openly documented]' (Emphasis added.) ***These enactments become particularly pertinent in view of the language of 18 U.S. C. § 1201, the statute under which*** [the Mexican nationals were not charged under and hence consequently were not] ***convicted, which provides in part that:***" Smith, at 7.

***"'(a) Whoever knowingly transports in interstate... commerce, any person who has been unlawfully... kidnapped... shall be punished (1) by death if the kidnapped person has not been liberated unharmed, ..., or (2) by imprisonment for any term of years or for life, if the death penalty is not imposed.' The charging part of the information against*** [the] ***petitioner*** [in the Smith Court] ***stated that he 'did knowingly transport in interstate commerce... a person, to wit, ... Spearman ... who had been unlawfully seized, kidnapped, abducted, and carried away and held for the safe conduct of the three defendants...' The charge did not state whether Spearman was released harmed or unharmed,***" *citing* Smith, at 7.

... Federal Kidnaping Act, **18 U.S. C. § 1201 (a)**, provides: "**(a)** Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person... when **(1)** the person is willfully transported in interstate or foreign commerce, regardless of whether the person was alive when transported across a State boundary, or the offender travels in interstate ... or **foreign commerce** **[or Mexican nationals domestically in Wisconsin as workers with employment visas]** in committing or in furtherance of the commission of the offense; **(2)** any such act against the person is done within the... territorial jurisdiction of the United States; **(4)** the person is... an official guest [**or Mexican nationals domestically in Wisconsin as workers with employment visas**] as ... [**possibly**] defined in section **1116(b)** of this title... shall be punished by imprisonment for any term of years or for life and, if the death of any person results, shall be punished by death or life imprisonment." **18 U.S. C. § 1201 (b)**, provides: "**(b)** With respect to subsection **(a)(1)**, above, the failure to release the victim within twenty-four hours after he shall have been unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted, or carried away **shall create a rebuttable presumption that such person has been transported in interstate or foreign commerce**. **(c)** **If two or more persons conspire to violate this section and one or more of such persons do any overt act to effect the object of the conspiracy**, **each shall be punished** by imprisonment for any term of years or for life. ... or (3) an **offender is afterwards found in the United States**. ...

... "***The charging part of the information against*** [Hammersley, the] ***petitioner stated that*** [t]***he*** [noncitizen patrolmen] ***'did knowingly*** [chase down an American citizen over a 15-mile escapade with even improvised vehicle barriers atop the Tower Drive Bridge and use of deadly force with the attempted murder to then, assault/batter/and capture] ***transport inter***[nationally]... ***a person, to wit,*** [Robert Edgar Hammersley], ***...who had been unlawfully seized, kidnapped, abducted, and carried away and held for the safe conduct of the t***[wo] [kidnapping] ***defendants...' The charge did not state whether*** [Hammersley] ***was released harmed or unharmed*** [and the kidnappers were uncharged]," *citing* Smith, at 7.

**AS**: Attorney Howe stated this (*during the bench trial on January 12, 1999*): "***What's going on here is Mr. Hammersley is giving up a coercion defense on the*** [OWI charge and Hammersley was innocent of the] ***hit-and-run charge*** [(*contrary to attorney Howe's 1999 sentencing statement*)]. ***If it had gone to trial, it would have gone on that count. He had a belief that he was facing imminent death or great bodily harm if he did not flee from the site of the accident, specifically from the two Hispanic males that were in the other car. Mr. Hammersley told me he had been driving westbound on Main Street, admittedly...*** [had been drinking earlier]. ***The motor vehicles the other motor vehicle was*** [west]***bound*** [behind Hammersley in the right lane as Hammersley was in the left lane] ***on Main Street and they hit. There is a dispute as to who crossed the*** [yellow dashed] ***center line*** [dividing same directional lanes of moving traffic], ***and there is a belief on my client 's mind that somebody in the other car who was driving may have been drunk as well*** [both ... were, in fact, drinking before the kidnapping and were perceivably intoxicated].

***But in any event, the vehicles hit, and the accident occurred on Main Street between*** [Grove Street] ***and*** [Baird]. ***Mr. Hammersley said he immediately turned right off after Main Street and pulled off onto the*** [north] ***side of*** [Baird Street] ***and parked, and the other car pulled up*** [behind] ***him and it had the two males next to him. One of them could speak English better. He was on the*** [driver's] ***side and they were***

***yelling*** [right after they hit Hammersley's vehicle, pulling up on Hammersley's left side after Hammersley changed lanes, before turning onto North Baird Street and parking, and the other car pulled up behind Hammersley on North Baird Street and the two males parked behind him] ***and they*** [animatedly exited their car, as they] ***were yelling at him, and the other one said, 'Now we got you*** [it was incoherent but their body language and speech tones were aggressive and perceivably violent],' ***and held up a tire iron*** [it looked like one of them was holding something as they approached Hammersley's parked vehicle on foot. Hammersley seen this momentarily in the passenger door side mirror. It may have been the actual tire iron that was thrown into Hammersley's car just missing striking Hammersley's head as it spun circularly through the air, less than an inch from Hammersley's nose, while traveling on HWY 41 North in G. Haney's jurisdictional zone]. ***He believed he was going to get beat up, so he drove north on*** [Baird Street] [we]***st on*** [Day Street], [nor]***th on... Webster to 41. ... he was being pursued by the gentlemen in the other motor vehicle. He said that they had bumped his car. I've got all these photographs of his car ... little scratches and things on it. At a light he says he was bumped. They tried to stop him, they were yelling at him.***

***They pursued him on Webster up on 41. ... on***[to] ***41. They tried to*** [set up an improvised road block to] ***stop him on the*** [apex of Tower Drive] ***bridge, and he feared they would throw him off the bridge if he stopped. They kept going north near the Little Suamico area where he's from. He pulled into Speedway*** [after the noncitizen patrol terrorists attempted to murder Hammersley by throwing a 4-prong tire iron into Hammersley's car] ***and they pursued him*** [after disengaging and continuing north on 41], ***and*** [after returning and reengaging Hammersley, inside the Speedway gas station store area] ***a scuffle ensued where his shirt came off. And Frank Cox called 911, who is an employee of Speedway, reported that there was three people fighting.***" *citing* January 12, 1998, transcripts - **APPENDED** - (*See* Appx. 1-14, 6-7).

"***... indictments similar in terms to the charge here were sufficient to support capital punishments despite the absence of allegations that the kidnapping victim... w***[as] ***released harmed***, *see* U.S. v. Parrino, 180 F. 2d 613; Robinson v. U.S., 144 F. 2d 392. Cf. U.S. v. Parker, 103 F. 2d 857. ***... these holdings dispose of his case because they make clear that the statute creates a single offense of kidnapping which may be punished*** [**BUT-FOR**: Being the victim of the targeted terrorism ..., this was used as the subterfuge for the criminal punishment of the victim with the obvious misprision of felonies for the international kidnappers] ***...by ...the*** [police and subsequently the] ***prosecution***, [and on throughout the plea agreement and bench] ... ***trial, shows that the victim was released in a***[n] [overall] [un]***harmed condition*** [other than being almost killed by a thrown projectile vehicle-*to*-vehicle, blindsided and tackled inside the gas station, spit-on, punched, and shirt ripped off by the two international kidnappers, before being criminally charged by the two Brown County policing agents with their actions clearly being aiding-and-abetting]. ***The Government*** [may] ***claim..., however, that whether a specific kidnapping constitutes a capital offense*** [to then implement jurisdictional grounds] ***requires examination of the evidence to determine whether the victim was released harmed or unharmed; in other words, that the statute creates two offenses: kidnapping without harm, which is punishable by a term of years, and kidnapping with harm, which is punishable*** [too] ... ***Further, the Government*** [may] ***contend... that the mere*** [non]***filing of an information by the United States Attorney*** [or Brown County policing agents and prosecutor perfunctory] ... [that this] ***eliminate***[s] ***the capital element of the crime*** [**BUT-FOR**: Being the colorable kidnapping from the face of the record exposes the truth, that the victim of targeted terrorism, attempted homicide, kidnapping, and misprision of felonies is still being criminally punished]," Smith, at 8.

**SECOND**: The seized infraction in question was for "*not-stopping*." After, *stopping*, before, *driving*-away, and *stopping* again at the Speedway gas station; **TURNT-INTO**: Unknown inadmissible unsubstantiated ***drinking*** and ***driving***-enhanced charging-instruments-and-conviction. **BEING**: FIRST, presumed **guilty**, ***in dubio contra reum***, of *drinking* and *driving*... materializing into increased maximum punishment-sentencing along with the other charges and convictions. In *persuasive*-authority State v. L'Heureux, 150 N.H. 822 (2004), the defendant drove under the influence to avoid a crazed maniac of a neighbor who was menacing people with an automatic weapon (*and threatening to use it to shoot a beloved pet*). The trial court held that the accused had to show he had "*no lawful alternative*" to driving under the influence and disallowed the defense because theoretically, the accused could have sought help from a neighbor. The New Hampshire Supreme Court reversed the DWI conviction, holding that the defendant must show only that there was "*no reasonable alternative*" to driving under the influence, not that there was no lawful alternative. **AS-EVEN**: Hammersley can demonstrate "*no reasonable alternative*" to driving under the influence; **AND-EVEN**: Surrendering, when

he thought he was safe, at the Speedway gas station. The court's use of this enhanced OWI charging instrument, ... lawless warrantless unannounced unauthorized ***badger game*** entrapped-kidnappee's continued seizure, prohibited-hold's subterfuge for the unlawful criminal arrests, and warrantless compelled ***blood sport*** demanded extraction all being administrated as actions deployed against the held hostage Hammersley, under his honor Atkinson's own authority; **WITHIN**: The authority granted hon. Atkinson by the State ... and the Brown County Court system, was deficient oversight.

**IV.** Hammersley has held firmly his stance that the government misconduct - clearly admitted on record - **creates an actual gateway in time to reexamine these wrongful convictions**. *See* Page 3 of the 8-12-2020 reconsideration below:

"On 1/12/1999, Hammersley was convicted ... **OF-BEING**: In a place from which all kidnaped persons of pretextually traffic related rules and enforceable international terrorism laws were not to be excluded from reporting an attempted homicide, vehicular mayhem of 15-miles, terrorism, assault, battery, and kidnapping to the proper Brown County authorities; **WITHOUT**: Police aiding-and-abetting the aforementioned criminal conduct by tampering with exculpatory evidence, suppressing eye-witness testimony, and the misprision of felonies; **ALSO-WITH**: Being that all Wisconsin drivers are subjected to warrantless blood seizures under the threat of automatic lifetime criminal OWI penalties for refusal to submit to a blood draw; ... Hammersley's four wrongful convictions and multiple wrongful sentences were reaffirmed again erroneously by the honorable Brown County Court on 7/24/2020, without requested judicial notices and investigations into the government misconduct and international terrorism with **no statute of limitations** under "*the* ***terrorism*** *perpetrated on Hammersley, a domestic American, by foreign nationals on American soil, with attempted murder, in violation of* ***18 USC § 113B. IN-BEING****: Under* ***18 U.S. Code § 3286(b)****, that there is* ***No Limitation of statute of limitations*** *for offenses listed in section* ***2332b(g)(5)(B)****, if the commission of such offense resulted in, or created a foreseeable risk of, death or serious bodily injury to another person.* ***AND****:* ***It was construable as a continuation of torture*** *colorable under the* ***1994 Convention Against Torture Treaty*** *and* ***1978 Extradition Treaty*** *with Mexico,*"cf. Korematsu v. U.S., 323 U.S. 214, (1944), 584 F. Supp. 1406 (1984) at 1409.

...this petition for a reconsideration of the requested judicial notices and investigations for instant relief and/or to supplement future filings of a writ of ***coram nobis*** to vacate his convictions and sentences, premised on the earlier argued grounds "***of governmental misconduct. His allegations of misconduct are best understood against the background of events leading up to his conviction***[s]," *citing* Korematsu, 584 F. Supp. 1406 (1984), at 1409. The fraudulency of the terrorism combined with the government misconduct was in-violation of Brady, Giglio and **SCR 20:3.8(g)(h)**, and was a question of fact.

**This petition is now instantly supplemented by the color-ability of newly uncircumscribed settled questions of fact completely gleanable from the record that there was a completed international kidnaping with the victim not returned unharmed; COUPLED: Alongside the vehicular mayhem, roadblocks on Tower Drive bridge, attempted homicide, assault, battery that was violations of international law and treaties. TIED-TO: The Brown County Law Enforcement officials tampering with evidence, aiding-and-abetting, suppressing testimony, falsifying prefabricated crimes, and misprision of felonies; AND: The 1995 Implied Consent Refusal conviction was deemed in 2016 to not count as a criminal penalty under the retroactive Birchfield Rule.**

**V.** The past injustices were outlined in the prior Brief with **Wis. Stat. § 939.74(2)(a)1-2 - NO——Time limitations on prosecutions** [and/or investigations], *see* pages 18-20 below:

...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*** 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 FPC Secs. Corp,...

... **(I.)** Under **Wis. Stat. § 939.10** (1997-98), **Common taw 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...).

**(X.) Wis. Stat. § 939.46 Coercion**. (1) A threat ... 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 victim—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, 354; Apprendi...

**VI.** ADDITIONALLY - **TWO NEWLY SUBMITTED GROUNDS**: That due to the undocumented involvement of deputy G. Haney, there were no-timestamps of when the actual first response to the instore kidnapping happened. These undocumented timestamps led right into the newly presented evidence of unsubstantiated and **Wis. Stat. § 885** - statutorily noncompliant enhanced OWI charges and conviction.

Also, the Impeachability of officer R. Reetz looms large, because Reetz perjured another police report seven years later covering up another uninvestigated incident of terrorism, *see* Page 73-75 john doe reconsideration in the following:

**GROUND**...: 2005 Police Report was an obvious lie. ... ***"On 04-02-05 at 05:25 am I (Reetz) was dispatched to the area of N. Adams St/Pine St. for a male party passed out in a running vehicle. The caller stated that they were unsure if the male was breathing, and that the car was in the roadway. Upon my arrival I found a tan in color 1995 Eagle 4Dr. Wi. Lic.#455-CEA sideways on N. Adams St. the vehicle was running, officer could see the cars exhaust. Officer also saw that the vehicles reverse lights were also on and the vehicle's brake lights were also on. As I approached the vehicle I saw a male white driver slumped over the wheel in the drivers seat. I also saw that the vehicles shift lever was in reverse. I (Reetz) could see an open 40-ounce bottle of "Old English Malt Liquor" lying on a pile of clothes behind the passenger's front seat. I (Reetz) was able to open the passenger front door and shut the vehicles car off. I saw that the driver still had his foot on the brake pedal. I tried to wake the male driver up, but was unable to."***

How can a sleeping person with his head and arms resting over the steering wheel keep his foot compressed on the brake pedal? Hammersley is 5'11", the eagle vision specs are aforementioned. A body at rest, innately-moving-sleeping: "***slumped over the steering wheel***," ... **IN-BEING**: That the human body's symmetry, dictates that the positioning of a head and arms lying over the steering wheel would not allow for an animate awake person to naturally compress the brake pedal down without active force; **AS**: The Achilles-tendon intuitively-naturally lifts up in the siting prone position with the head and arms forward leaning and legs stretched forward. **TO-WIT**: It is impossible for a sleeping person to have his foot on the brake pedal with enough pressure to keep a vehicle engaged in reverse from moving for roughly ***10-30***-minutes. It is too awkward and oblong of a position while sleeping to be inactively pushing a foot down on the brake pedal, this was an implausible prefabricated lie-clearly-discernable from the perjured police reports.

**IN-BEING:** It was *more*-of a social-acceptance-of: a good nature and character related to normalized human understanding, compassion, and responsibilities for the 911-caller, Mr. Otto to oblige Hammersley's initial state of incapacitation to call 911 over actual concerns about Hammersley's health. **AS**: *Good Samaritan*, Mr. Otto spoke with 911 to give a detailed account of the situation and concern "***for a male party passed out in a running vehicle***." The 911-caller stated that he was "***unsure if the male was breathing, and that the car was in the roadway***." Then, officer "*Pinocchio*" R. Reetz, responding possibly ***10-30***-minutes after undocumented colorable international abduction and front street entrapment. Officer R. Reetz states "***I found a tan in color 1995 Eagle 4Dr. Wi. Lic.#455-CEA sideways on N. Adams St. the vehicle was running, officer could see the cars exhaust. Officer also saw that the vehicles reverse lights were also on and the vehicle's brake lights were also on. As I approached the vehicle I saw a male white driver slumped over the wheel in the drivers seat. I also saw that the vehicles shift lever was in reverse***." **INTO-BEING**: It was *more*-of a social-unacceptance-of: a professional nature related to normalized policing duties and responsibilities for the deputy to respond to the initial 911 call request through *good Samaritan*, Mr. Otto with the misrepresenting the truth by reporting a parked running car, that implausibly had the "***sleeping occupant*** ... *whilst* "***engaged in reverse***," but **somehow not moving**? What an awful lie by the phony Green Bay policeman (***to make matters worse, officer Reetz helped cover-up an attempted murder perpetrated...***).

## **CONCLUSION** - CONTRARY TO ADA HILLMANN'S LAST RESPONSE (Appx. 273):

"Robert E. Hammersley's claims procedurally barred because all of them are either: (1) previously litigated and thus barred by State v. Witkowski, 163 Wis. 2d 985, 990, 473 N.W.2d 512 (Ct. App. 1991); (2) could have been raised in Hammersley's previous appeals and thus barred by State v. Escalona-Naranj0, 185 Wis. 2d 168, 185, 517 N.W.2d 157 (1994); or (3) are based on arguments that are unintelligible and thus inadequately briefed for the State to formulate a response or for the Court of Appeals to independently review them and thus barred by State v. Pettit, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (1992); State v. Jackson, ...?"

"***Hammersley's claims*** [are not] ***procedurally barred because all of them*** [we]***re*** [n]***either: (1) previously*** [properly] ***litigated*** [and/or are completely admitted on the record's documented reports and transcripts] ***and thus***[ly] [not] ***barred by*** State v. Witkowski, 163 Wis. 2d 985, 990, 473 N.W.2d 512 (Ct. App. 1991); ***(2) could*** [not] ***have been raised in Hammersley's previous appeals*** [without an actual real investigation into the terrorism and government misconduct] ***and thus***[ly] [not] ***barred by*** State v. Escalona-Naranjo, 185 Wis. 2d 168, 185, 517 N.W.2d 157 (1994); ***or (3) are based on arguments that are unintelligible*** [because it is not intelligent for the government to break the law and openly enable terrorism] ***and thus***[ly] [the real] ***inadequa***[ci]***e***[s] [were not sufficiently] ***briefed for the State to formulate a response*** [in reassessing its own lawlessness and foul behaviors] ... ***and thus***[ly] [not] ***barred by*** State v. Pettit, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (1992); State v. Jackson, 229 Wis 328, 337, 600 N.W.2d 39 (Ct. App. 1999) [This was a *miscarriage of justice* on an indescribable level of pure malice and government belligerence. Befitting a "***narrow class of cases*** ... ***implicating a fundamental miscarriage of justice***," Schlup v. Delo, 513 U.S. 298, 314–15 (1995) (*quoting* McCleskey v. Zant, 499 U.S. 467, 494 (1991)).]"

**WHEREFORE**, for all the aforementioned, Hammersley has, indeed, intelligently implored that this honorable Court reconsider any investigations, hearings, reversal and/or other curative relief. This behavior in 1998-1999 went unheeded and uncorrected and was perjuriously revisited/repeated upon Hammersley in 2005 again by fraudulent/impeachable officer R. Reetz. Justice must be finally duly meted out, within the proper application of law through these submissions. Hammersley demands that this honorable Appeals Court and/or Brown County Court issue the judicial notices or state some reasoning for noncompliance with the dutifully requested action, within the proper application of law through these submissions.

Thank you for your time and consideration.

Dated this 2nd day of September, 2022.

Respectfully Submitted,

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STATE OF WISCONSIN
COUNTY OF BROWN

SUBSCRIBED AND SWORN BEFORE ME ON SEPTEMBER ____, 2022

_____
NOTARY PUBLIC / COURT OFFICIAL

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## CERTIFICATION AS TO FORM AND LENGTH

I certify that this reply brief, meets the form and length requirements of Rule 809.19 in that it is: 9,539 words (*this total includes symbols, numbers and characters; to-wit: the actual word count is significantly less*), using both a 10-point and 13-point monospaced font——*Liberation Mono* style, and is 13 pages.

*Publisher's note: **a)** Quotes of past submissions are font size 10 -point and single space block form all boxed up; **b)** all regular text is font size 13-point and double spaced; **c)** the font is mono spaced: Liberation Mono

Dated this 2nd day of September, 2022.

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