Steven Alan Magritz November 16, 2017

Address

City, Wisconsin

To:

Diane M. Fremgen, Clerk of Court of Appeals

110 E. Main St., Suite 215

P.O. Box 1688

Madison, WI 53701

**REFUSED FOR FRAUD and Non-acceptance of the “Offer”, the “opinion and order”** dated November 7, 2017, mailed November 8, 2017, **case no. 2017AP1531-W,** presumptively by Lisa Neubauer, Paul F.Reilly, and Brian Hagedorn.

Dear Clerk Fremgen:

 This is my timely **REFUSAL FOR FRAUD** and **Non-acceptance** of the unsigned “offer” dated November 7, 2017 on letterhead of “OFFICE OF THE CLERK WISCONSIN COURT OF APPEALS, denoted an “opinion and order”, presumptively mailed by you or upon your authority, in the case captioned “State of Wisconsin ex rel. Steven Alan Magritz, Petitioner, v. Jon Litscher, Respondent”. The offer was mailed in an envelope with the name of the sending party being a commercial entity located at 10 E. Doty St. in Madison. Both the offer and the misaddressed envelope it was mailed in via *United States mail*, which was opened by mistake, are appropriately marked “Refused for Fraud” and/or “Your offer is not accepted” , and returned to you herewith.

 **Take notice:** All public officers are fiduciaries of the Public Trust and are required to display, at all times, honesty, integrity, and good faith towards me, a beneficiary of the Public Trust. The sole legitimate purpose of public officers is to protect the unalienable rights of the people - read the Declaration of Independence of 1776. Lisa Neubauer, Paul F. Reilly, and Brian Hagedorn have failed to do so. The “opinion and order” is refused for fraud. It also should be noted that twice repeating a previously exposed false and deceitful statement, constituting 44% of the verbiage of said “opinion and order”, is troubling.

 **Take notice:** The current offer is unsigned. No signature, no risk, **NO AUTHORITY, NO VALIDITY**.

 **Take notice:** On or about January 23, 2017 I filed a hand-written petition for Common Law writ of Habeas Corpus which was assigned case number 2017AP189-W.

 **Take notice:** On or about August 1, 2017 I filed an amended (shortened) petition for Common Law Writ of Habeas corpus which was assigned case number 2017AP1531-W.

 **Take notice:** On September 14, 2017, I again submitted the “Amended Petition For Common Law Writ of Habeas Corpus Ad Subjiciendum Pursuant to Article I, Section 8 of the constitution of Wisconsin, 1848 A.D.” along with a **“pay to”** instrument clearly conditioned for use only as payment for said Common Law Writ of Habeas Corpus. The Court **accepted** the tendered payment, thus creating a **contract**, which the officers of the court then breached by not issuing the Common Law Writ of Habeas Corpus.

 **Take notice:** My petition for Common Law Writ of Habeas Corpus was also purposed to make known to the Court crimes as required to be reported pursuant to Title 18 U.S.C. § 4, Misprision of Felony. Thus I reported to Lisa Neubauer, Paul Reilly and Brian Hagedorn crimes including but not limited to tampering with public records, tampering with a witness, subornation of false testimony, concealment from the court constituting fraud upon the court, misprision of felony, retaliation against a victim or witness, et cetera, to which they turned a blind eye and a deaf ear.

*Fraud in its elementary common law sense of deceit*—and this is one of the meanings that fraud bears in the statute, see *United States v. Dial,* 757 F.2d 163, 168 (7th Cir.1985)—includes the deliberate concealment of material information in a setting of fiduciary obligation. *A public official is a fiduciary* toward the public, including, in the case of a judge, the litigants who appear before him, and *if he deliberately conceals material information from them he is guilty of fraud*. *US v Holzer*, 816 F.2d 304, 307.

*Fraud in the common law sense of deceit* is committed by deliberately misleading another by words, by acts, or, *in some instances*—*notably where there is a fiduciary relationship*, which creates a duty to disclose all material facts—*by silence*. *US v Dial*, 757 F.2d 163, 168. [Italics added in both cases].

 On or about January 23, 2017, I, Steven Alan Magritz, filed a handwritten petition under the **COMMON LAW** for the Great Writ, habeas corpus ad subjiciendum. It was assigned case number 2017AP189-W. A Petition for such a writ must to be acted upon immediately – without delay. Further, I tendered valuable consideration to the court for the issuance of the Great Writ, which the court accepted, thereby creating a contract which the officers of the court thereafter breached.

 My letter to the clerk dated September 14, 2017 filed in case No. 20171531-W which set forth intervening events, my motions, and the Court’s stonewalling in case No. 2017AP189-W, is incorporated herein by reference verbatim as if set forth at length herein.

I received no response from the court for four (4) months, and then not until ***after*** I notified the clerk I wanted to have copies from the court file. How “coincidental” that the very same day I visited the office of the clerk, June 6, 2017, an *ex parte* “opinion and order” was entered denying my petition with the non-constitutional *excuse* of being “oversize” and totally ignoring its merits. No reason was given for the four (4) months of stonewalling by the court.

Also within the aforesaid “opinion and order” were numerous false statements, including but not limited to the deceitful and false statement which was regurgitated in the November 7, 2017 “opinion and order”. I timely refused for fraud that “opinion and order” and exposed the deceit of falsely quoting from the *Haas* case. My June 15, 2017 Refused for Fraud, case number 2017AP189-W is incorporated herein by reference verbatim as if set forth at length herein.

On August 1, 2017A.D., prior to “Remittitur” on August 7, 2017, thus prior to closing of case number 2017AP189-W, I filed an amended petition titled “AMENDED Petition For Common Law Writ of Habeas Corpus Ad Subjiciendum Pursuant to Article I, Section 8 of the constitution of Wisconsin, 1848 A.D.” via registered United States mail. This amended petition was, and is, less than thirty-five (35) pages and less than 8,000 words; therefore it was not “oversize”. The clerk’s office refused to file my amended petition in case number 2017AP189-W notwithstanding it having been received prior to August 7, 2017, the date of “Remittitur”, and filed it as a new case assigning it No. 2017AP1531-W.

On or about August 12, 2017 A.D., I received from Clerk Fremgen an “Acknowledgement of Filing of Writ/Petition” with case number 2017AP1531-W. My amended petition in case number 2017AP189-W had been treated as a new case filing by the clerk. This “Acknowledgement” was dated August 3, 2017 A.D. and was accompanied by an order also dated August 3rd stating “The Filing Fee in the above matter has not been received as required by Rule 809.25(2). IT IS ORDERED that unless within five (5) days of the date of this order, the filing fee is received by the clerk of the court of appeals, the action will be subject to dismissal under Rule 809.83.” Both the acknowledgement and “order” were dated August 3rd, but they were not mailed until August 9th, as evidenced by the postmark, a date outside of the “ordered” five (5) day time frame, thus making it absolutely impossible to respond within the five (5) days and raising a question of intent. Not only was this “order” untimely mailed, it failed to state a sum certain to be tendered, thus leaving the door open to concluding that since the state was the plaintiff and I was merely the relator, no fee was required pursuant to Rule 809.25(2)(b). The court dismissed this petition for failing to pay the unstated sum certain.

As stated above, on September 14, 2017 I again filed a complete copy of my August 1 amended petition, this time accompanied by the aforesaid “pay to” instrument, which the court apparently treated as a re-opening of case No. 2017AP1531-W, and which Neubauer, Reilly and Hagedorn refer to in their “order and opinion” dated November 7, 2017 as having been filed on September 18, 2017.

The dolus or fraud in the November 7, 2017 “opinion and order” includes, *but is not limited to the following*:

**On pages 1-2 of the “opinion and order” – court statements in quotes:**

1. “Our June 6, 2017 order in ***State ex rel Magritz v. Champagne***, No. 2017AP189-W, denied Steven Magritz’s (sic) petition for writ of habeas corpus seeking relief from his (sic) February 2016 Ozaukee County conviction for criminal slander of title after a jury trial.”
* *Fraud*: My name is Steven Alan Magritz, not Steven Magritz, a fact well known to anyone reading my Petition. See Petition section titled “Parties”. I have one, and only one, name, which is Steven Alan Magritz. The continued identity theft and transmogrification of my name, started by attorneys Gerol and Williams for the purpose of presuming jurisdiction without a contract, an injury, injured party, or common law crime, is fraud.
* *Fraud*: “his (sic) … conviction”. I, Steven Alan Magritz, was not convicted, as I was not the defendant, nor was I the fiduciary, trustee, representative, agent, accommodation party, surety, or acting in any way for, or on behalf of, any artificial entity, including but not limited to the defendant. See section titled “Parties” and Exhibit I, incorporated therein by reference, and Petition pages 2, 6, 12, 14, 23, 27. I, Steven Alan Magritz, did not see, nor was I ever presented with, any document created by a state actor or issuing from the tribunal in Ozaukee County case no. 2011CF236 bearing my name. There was no summons, complaint, capias, Notice, Information, Accusation, Indictment, witness list, motion, Order, Judgment, Judgment of Conviction, etc. bearing my name. I requested evidence that the tribunal had jurisdiction over my person, but no evidence was ever presented.
* See Petition pages 6, 12, 27. Both my unrebutted sworn testimony and my unrefuted sworn 34 page Petition with 61 pages of exhibits incorporated therein stand as true.

**On page 2 of the “opinion and order” – court statements in quotes:**

**2.** “The pending habeas petition seeks relief (sic) from the criminal conviction.”

* *Fraud:* I petitioned for *remedy*, not “relief”. Attorneys should know the difference.

**3.** Footnote 2: “In April 2016, the State Public Defender denied Magritz’s (sic) request for counsel. Thereafter, Magritz took no steps to act upon or otherwise preserve (via an extension request) his (sic) RULE 809.30 direct appeal rights”

* *Fraud:* I, Steven Alan Magritz, did not pursue any 809.30 “direct appeal rights” as I was **not the defendant** in the malicious prosecution which resulted in my false imprisonment, and said rule is applicable to, in particular, “A **defendant** seeking postconviction relief in a criminal case.” (809.30(1)(b)(1.)) Further, my signature is not on any notice of intent or request for *public* defender.
* *Fraud:* The State Public Defender did not deny “my” request for counsel, as *I did not request their counsel*. CCAP actually reads: “04-22-2016. Letters/correspondence. From Wisconsin State Public Defender to Defendant stating SPD cannot appoint a lawyer for the appeal case.”

**4.** “Magritz asks this court to void his conviction (sic) due to the errors (sic) he alleges.”

* *Fraud:* The judgment of the circuit court ***is void*** for want of jurisdiction. I requested the court “Adjudge that Ozaukee County Case no. 2011CF236 is VOID ***ab initio”***.
* *Fraud:* “Errors”? Really? “*Errors*”? And “alleges”? Lisa Neubauer, Paul Reilly, and Brian Hagedorn, being highly trained in the law and bound by oath to support both the federal and state constitutions, deny, defy, and rebel against the same (see section 3 of the Fourteenth Amendment and the repercussions set forth in section 4), by claiming that the unrebutted facts set forth in my petition substantiating obvious and egregious infringement upon and denial of my constitutionally secured rights, including but not limited to those set forth in the First, Fourth, Fifth and Sixth Amendments, are “errors”? Even if the acts and actions of Sandy Williams and Adam Yale Gerol were not the *conscious, deliberate, intentional* trespass upon or deprivation of my unalienable rights, which they were, they certainly cannot be called “errors”. Call them what they are: **Constitutional Torts** resulting in forfeiture of jurisdiction, ***if*** it ever existed.

*How many of the following are* ***Constitutional Torts****? I will specifically identify only several. An attorney would/should have no problem categorizing each of them.*

* The presiding officer, Sandy A. Williams, was biased. I had filed criminal complaints against Williams at least as far back as July, 2011, sued her in federal court for breach of fiduciary duty in 2012, and featured her as a corrupt attorney on www.OzaukeeMob.org in 2013. *Denial of due process, Fifth Amendment purviewed through the Fourteenth*.
* The prosecutor, Adam Y. Gerol, was biased. I had filed complaints because of Gerol protecting a corrupt attorney from prosecution, filed criminal complaints against Gerol as far back as December, 2011, sued him in federal court for breach of fiduciary duty in 2012, and featured him as a corrupt attorney on www.OzaukeeMob.org in 2013.
* I was not given **“fair notice”** that anyone could or would construe that correcting my own deed in the public record was a wrongful act or that I could be prosecuted for any such act, contrary to clearly established law as articulated in *FCC v. Fox Television Stations, Inc.*, 567 U.S. 239; *Grayned v. City of Rockford*, 408 U.S. 104; *Lanzetta v. New Jersey*, 306 U.S.451; and others. *See Exhibit A,* one page, and Petition pages 6, 8, 11, 12, 31, 32. *Violation of the First Amendment*.
* The “criminal complaint” was **false**, and the person making the false statement therein failed or refused to testify for the state at trial after his false statement was exposed. *See Exhibit B*, two pages, and Petition pages 12, 13, 14, 21, 22, 23, 26, 30.
* I was subjected to a malicious prosecution for exercising my secured First Amendment right to petition government for redress of grievances. State actors Williams and Gerol converted a secured right into a crime.
* I was gagged by presiding officer Williams from presenting my First Amendment defense of petitioning government for redress of grievances from an earlier void judgment, notwithstanding the fact the prosecutor had “opened the door” to my defense in his criminal complaint and the void judgment was the foundational premise of his suit.
* I was threatened by Williams from presenting my defense; Williams made good her threat by stopping the proceedings more than once, clearing out the jurors, and haranguing me not to present my First Amendment defense or introducing or testifying about my exonerating affidavits which were removed from the court file and concealed.
* My “12/09/2011 Report of Criminal Activity By Victim/Witness” (sworn affidavit) mailed December 9, 2011 to Scott Walker, Rebecca Kleefisch, Glenn Grothman, Daniel R. LeMahieu, J.B. Van Hollen, A. John Voelker, J. Mac Davis, Mary Lou Mueller (filed with the court), Paul V. Malloy, Tom R. Wolfgram, Sandy A. Williams, Jeff Taylor, and unnamed others, and filed a second time with the court on January 5, 2012, was removed from the court file and concealed. This affidavit reported criminal activities of attorneys Sandy A. Williams (d/b/a judge) and Adam Y. Gerol (d/b/a District Attorney) and others. *See Exhibit C,* seven pages. *Denial of due process*.
* Adam Y. Gerol was **estopped** from prosecuting Ozaukee County case no. 2011CF236 which Gerol filed December 1, 2011, by failing to respond to my two affidavits and Notice that his “Criminal Complaint” was false, which were served upon him on January 10, 2012. Gerol’s failure to withdraw his false complaint evidences his bad faith and malicious prosecution. See *Exhibit D*, thirteen pages, petitioning Gerol for redress of grievances, and Petition pages 6, 17, 18.
* I received no notice of the preliminary hearing, was caught by surprise, had no assistance of counsel, was restrained and unable to examine the witness, and was denied a reopening of said hearing. See Petition pages 20, 21, 22, 23.
* Prosecutor Gerol suborned false testimony at the preliminary hearing, which both he and presiding officer Sandy A. Williams had known for four (4) years was false. See Petition pages 21, 22.
* My counterclaim *as a third-party intervenor* against the falsely testifying witness was dismissed by presiding officer Williams.
* My counterclaim *as a third-party intervenor* against Gerol and the State was ignored by presiding officer Williams.
* I was denied an evidentiary hearing.
* I was expressly, explicitly, repeatedly denied assistance of counsel at arraignment by presiding officer Sandy A. Williams. See Petition pages 23, 24, 25, 26, 29, 32, and Exhibit K, transcript of hearing. *Violation of the Sixth Amendment*.
* Presiding officer Williams refused to hear my plea for my natural person of “Nonassumpsit, by way of Confession and Avoidance”. Williams entered a Liar’s Plea of not guilty for the “defendant”, which was not me, thereby creating a “controversy” which the court could “hear”. See Exhibit K, 15 pages, transcript of arraignment, and Petition pages 19, 24, 26, 29.
* I was denied witnesses for the defense of my natural person by Williams quashing my subpoenas while the prosecutor was allowed the same or similar witnesses. See Petition pages 7, 16, 27, 28, 29, 30. *Violation of Sixth Amendment*.
* My exonerating and exculpatory affidavits were twice filed and twice removed from behind the locked doors of the clerk’s office and thereafter concealed. I was threatened by presiding officer Williams to not talk or testify about them. The only persons known to have both motive and opportunity for their removal (a felony) and concealment (another felony) are Sandy A. Williams and Adam Y. Gerol. See Exhibit C, seven pages, and Petition pages 5, 7, 14, 15, 16, 17, 22, 24, 29.
* Williams and Gerol prevented me from introducing exhibits, such as the twice removed and concealed affidavits, at trial for the defense of my natural person.
* Williams ordered my witness off the witness stand when she found he was about to testify about exonerating evidence removed from the court file.
* Williams coached from the bench a hostile witness I had subpoenaed.
* The state’s expert witness, an attorney, testified to the fact there was no *corpus delicti*.
* Both presiding officer Sandy A. Williams and prosecutor Adam Y. Gerol committed fraud upon the court.
* I was denied adequate time for opening and closing statements, adequate voir dire questions, access to the jury, and the ability to present a defense.

This list is not all inclusive. See my 34 page Petition, including 61 pages of exhibits.

**On page 3 of the “opinion and order” – court statements in quotes:**

**4.**  “A party cannot have habeas relief if the party did not pursue an alternative remedy. ***State ex rel Haas v. McReynolds***, …”

* *Fraud:* This is a misstatement obviously *intended* to deceive *by omission* of two words, i.e., “**other adequate**”. The court actually stated in the Haas case: “We have long and consistently held that the extraordinary writ of habeas corpus is not available to a petitioner when the petitioner has **other adequate** remedies available.” (Emphasis added). In the Haas case, Haas had filed a petition for habeas corpus with the circuit court which was denied. The Supreme Court stated his **adequate** remedy was to continue his initial appeal of the habeas denial instead of withdrawing it and filing a (new) second petition with the court of appeals.
* *Fraud squared:* Since this court has repeatedly incorrectly, deceitfully, falsely “cited” the Haas case, first on June 6, 2017 and now twice on November 7, 2017, I can only conclude that it was perpetrated intentionally and purposely in order to deny me remedy and cause me injury or harm.

**5.** “Magritz (sic) may still seek WIS. STAT. § 974.06 relief from his (sic) conviction to the extent he has constitutional and/or jurisdictional issues to raise.”

* *Fraud:* The author(s) of the “opinion and order” attempt to induce me, a beneficiary of the public trust of which they are fiduciaries, into accepting a statutorily created counterfeit of the Corporation named “STATE OF WISCONSIN” (Wis. Stat. §706.03(1)(b)), a subunit of the Public Trust created in 1848 A.D., which ***supplants*** the Great Writ, habeas corpus ad subjiciendum, thus denying me remedy secured by Article I Section 9 Clause 2 of the federal Constitution, The Northwest Ordinance, 1 Stat. 50 of the Statutes at Large, and Article I Section 8 of the state Constitution, when he/they know, should know, and have reason to know after reading my petition, **that remedy by motion to the sentencing court would be inadequate and/or ineffective to test or remedy my unlawful restraint of liberty**.
* *Fraud:* The judges of the Court of Appeals, District II know, should know, and have reason to know that **the sentencing court was not only wholly without jurisdiction, but acted so lawlessly that requiring me to return to that forum would only compound the illegality**.
* *Fraud:* The judges of the Court of Appeals, District II know, should know, and have reason to know the statute provides no relief to a person attacking, for example, sufficiency of the evidence, jury instructions, error in admission of evidence or other procedural errors, *and know that I have raised such issues in my petition for writ of habeas corpus, thus knowingly denying me remedy for wrongs*.
* *Fraud:* Lisa Neubauer, Paul Reilly and Brian Hagedorn *know* that tortfeasors Williams and Gerol would admit no wrongdoing since their acts and actions were purposeful and intentional in the first instance, that I would be denied remedy by them, and further that I would be foreclosed in their corporate venue from subsequently petitioning for habeas corpus.

I presume the judges of the Court of Appeals *have read* my petition; thus, it must be obvious to them that I am the victim of “misuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law, [which] is action taken ‘under color of’ state law”, *United States v. Classic*, 313 U.S. 299, a malicious prosecution, and that, using the oft-repeated terminology of the Wisconsin Supreme Court, I have **no other adequate remedy** available in the law other than habeas corpus, and that issued by a court **other than** the sentencing court.

I have evidenced facts to this court, by way of my sworn 34 page “Amended Petition For Common Law Writ of Habeas Corpus Ad Subjiciendum Pursuant to Article I, Section 8 of the constitution of Wisconsin, 1848 A.D.”, that *I have no adequate remedy available by returning to the sentencing court*.

**Take Notice**:

 When an adequate remedy or forum does not exist to resolve disputes or provide due process, the courts can fashion an adequate remedy. *Collins v. Eli Lilly Co.*, 324 N.W.2d 37.

 Notwithstanding the statute’s purpose being to ***supplant*** habeas corpus, the statute contemplates that in certain circumstances, a prisoner’s remedy may lie in an application for habeas corpus and not in a motion for post-conviction relief under the statute. *State v. Johnson*, 305 N.W.2d 188.

 By the language of the statute itself, relief under sec. 974.06, Stats., is available only to a prisoner attacking the imposition of his sentence. *The statute provides no relief to a prisoner attacking, for example, sufficiency of the evidence, jury instructions, error in admission of evidence or other procedural errors*. Peterson v. State, 54 Wis.2d 370, 381, 195 N.W.2d 837, 845 (1972). Further, by the language of the statute itself, the grounds for attacking the imposition of the sentence are limited to matters of jurisdictional or constitutional dimensions. Id. *State v. Johnson*, 305 N.W.2d 188.

 Such issues as sufficiency of the evidence, jury instructions, error in admission of evidence, and other procedural errors cannot be reached by a sec. 974.06 motion. The question of sufficiency of evidence was reached on a habeas corpus proceeding here in the recent case of State ex rel. Kanieski v. Gagnon (1972), 54 Wis.2d 108, 112, 113, 194 N.W.2d 808. This was possible under the unusual circumstances of that case in which the scope of habeas corpus was expanded to include that question. *Peterson v. State*, 195 N.W.2d 837.

 When one alleges that he or she is being unlawfully restrained, notions of comity should not interfere with that person’s right to a swift determination of the legality of the detention. A person’s right to liberty is paramount to a judge’s concern for comity. JV by Levine v Barron, 332 N.W.2d 796.

 **AND**, since the court has repeatedly incorrectly, deceitfully, falsely “cited” ***State ex rel. Haas v. McReynolds***, here is an actual cite from ***Haas***: “The writ of habeas corpus has its origins in the common law, and its availability is guaranteed by the U.S. Constitution, the Wisconsin Constitution, and by state and federal statute. … Habeas corpus is essentially an equitable remedy, which is available to a petitioner when there is a pressing need for relief **or where the process or judgment by which a petitioner is held is void**.”

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Steven Alan Magritz