

11/01/10

Dear Researchers,

Thanks for the research, because we (prisoners) are the "forgotten ones". Nobody cares about our situations, once we get convicted. On that notion, even prosecutors who were supposed to uphold the law, cease to be true to the laws and Constitution they swore to uphold and protect. Especially at the state level, prosecutors do not care because the law, which also should keep them (prosecutors) accountable, is the same law which gives them the power to be untouch-ables. The law sure is a two edged-sword, and the powerful, the opulent and the court-witty gifted get to enjoy the JUSTICE. But the poor, the indigent and less fortunate does not even enjoy a real, tangible piece of this pie named JUSTICE, which the CONSTITUTION guaranteed each and every person under that great CONSTITUTION; because it has been stolen, and traded like a commodity on "Wall Street", and everybody is running toward the money bag, sometimes including the (12) jurors of "Our peers".

My story is a classic representation of that system of "Just-ice" (Justice) because it is ice cold for us, who are innocent, sometimes partly innocent. this is my story and I want the world to know it. All of it. This should not be happening in the U.S. of A., but it has. For the patriotic, the activist, the progressivist it is time to do something about it.

the question is: "Will you do something? Will you let this moment not pass you by, and not do something when you know you can something?"

Human issues such as world hunger, poverty and injustice can touch the bosom of compassion and the feeling of guilt ect., but none of it mean anything until actions are taken. Even "Love" does not manifests until two romantically touched in dividuals do prove it.

Thank You because the heart of God really did touch your heart, and this not just a research, believe me it is an act of love. Research involves "Science", our situation is not only scientific, it is psychological, it is spiritual. When you meet "Men" and "Women" at their wit's end, they are beyond man's salvation. Only God can intervene in a supernatural way. That is why prisoners turn to religion. They are searching for God cause man has broken and re-arranged all we had left (our LIBERTY).

Thank's for reading and listening and comprehending, By C. Maxy, 11/01/10

P.S. please scan all of it and publish it. Thanks

LA CROSSE COUNTY CASE NO.00-CF-106
NOT ACQUITTED

doc #1

It was February 26, 2000. I was at my so called girlfriend's home, it was Saturday and the weather was fair for that day, it was sunny. Julie and I were supposed to go to the Mall of America in Minnesota. It was a two hour drive from French Island near La Crosse Wisconsin. We woke up late, and Julie was just winning how I never take her anywhere. So we decided to drive to Minnesota.

I had recently upgraded Julie's computer and our argument centered around this issue. But I knew that the basis of the argument was more than the computer. Because I had already told Julie to call the manufacturer of the game, that her son Jimmy loves to play, it was some type of animated learning CD, and the boy really love that tune, that came along with the animated dinosaurs. So she started the argument with the fact that Jimmy can't play his game no more, because I had transferred all the files to the new hard-drive and game was not functioning perfectly. After she mentioned the game once more. I defended my position and told Julie that: "all you have to do is call the manufacturer of the game and get a driver for the sound and the game will be as new", she agreed the first time I told her that.

This particular day, Julie had other things on her mind to tell me including how I never take her out. But we went out last weekend I thought. Her neighbor and close friend came over after we yelled at each other, Julie had called her. She served like a mediator, and it was already past noon. After Roxie came over, it was like 2:00 P.M. and it look like our trip to the Mall of America was cancelled. And from that point on Julie started to drink, so I joined her and Roxie who did not drink brought over some marijuana. Julie and I drank, and Roxie and I smoked simultaneously for the whole day. Roxie had a perpetual connection for pot, and Julie sent me to the store for more beer and this Swisher sweet cigarette that Roxie liked. It was about 6:00 P.M. and I took Julie's car, cause mine was not in good shape. I bought a case of beer.

At about some minutes before Eleven O'clock I returned to the computer to try figuring out a way to get around ordering the disk from the game manufacturer, and re-configured the game driver, so Jimmy could play when he returned from his visitation with his father.

It was no more than a quarter of an hour later I returned to the kitchen table where the three of us were drinking and smoking. After a while I became extremely paranoid, and afraid even of the girls who I was drinking with, so I left the house. I vaguely remembered that it was sleeting. I remembered running down the street and it was cold and the headlights were in my eyes like a big blur, "what was happening to me?" I thought. It felt like an eternity, and this darkness; what is this? Then I found myself hiding behind buildings and parked cars. "What is it I am afraid of?" Finally I was at a convenient store, and I look up there was Kevin, Kevin wore these big thick glasses, I saw his name on the name tag he was wearing, and it seems like I know this guy. Kevin looked me up and down and he looks like he was terrified, no, he was not terrified he was suprised to see me the way I was, the way I look. For a moment I could see myself and I was suprised to see myself that way. I had mud all over my pants and hands, like I've been swimming in mud. Did I miss this part of swimming in the mud? I did. I asked Kevin: "What's wrong with me Kevin?" Kevin was dumbfounded by this question. We were both confounded by that parade.

NOT ACQUITTED (Continued)

Kevin was bewildered because he couldn't understand why I was asking him questions about me. And I was confused because I did not know how I got that way. In addition it was bizarre to ask another questions about what happened to me. Why was I asking him questions? Was it because I did not know? Yes I needed answers!

Shortly after the display in the store where the attendant was clueless of my questions. And in the presence of patrons who braced themselves not to laugh at me and my foolishness. I started to loose conciousness completely, and I started to run again, I thought.

(In the police report)(there were two police reports by two officers)

It was now about 12:00 A.M. I found myself in the middle of someone's living-room, I saw the photos, I saw the frame of the home, I saw a simple couch, unlike Julie's home. Why am I in here and How did I get in here? In the police report it was said that I used the bathroom, flushed the toilet and closed the bathroom door so loud that it woke up Mr. Pfister, the homeowner.

(In the police report)(continued)

Furthermore, it was written that I further went downstairs to the basement where I made so much commotion that Mr. Pfister had to come down to figure out who was making that much noise and who was making that ruckus.

It was also written that: Mr. Pfister had left the front door open for his college kids who were in town for Easter vacation. Both of Mr. Pfister's two kids went out to a party. And Mr. Pfister thought that his kids were returning from the party, and possibly brought some friends home, and that was the source of the commotion and Mr. Pfister was going to scold them, assuming that the guest room was downstairs and maybe one of the kids was getting the spare room ready for their friends. When Mr. Pfister went downstairs his kids neither of them were downstairs, instead he found a stranger (Me).

According to the police reports I was downstairs in Mr. Pfister's home in the guest bedroom making all types of commotions, opening drawers, and closet and my shirt was off and on the bed and I was standing at the base of the bed in the dark.

It was written that when Mr. Pfister entered the guest's room I was standing at the base of the bed, and he confronted me and I "plunged" at Mr. Pfister, and a struggle ensued and we wrestled, (in Pfister's testimony at trial), we wrestled from the bedroom to the bar area and finally Mr. Pfister said that I was choking him, while I straddled him and Pfister continued saying that I was choking him to the point of death, if his wife Peggy did not intervene to help him, where Peggy struck me with a totem pole and a wine bottle, but before she did this she called the cops.

The police arrived at about 12:05 A.M., and they both notice I was laying in a pool of blood, Officer Fischer said he notice I had two large lacerations in the back of my head. One of the officers called Tri-State ambulance service and I was transported to St. Francis hospital.

NOT ACQUITTED (Continued)

NOTICE

Everything in the police report were not my account of what I remembered happened, and what I remembered seing.

In the police report also that I was in the hospital for close to three hours, blood sample was draw from me at 2:45 P.M. And stapples were applied to the lacerations, and I was taken to Cat-Scan for my head.

Most of the events and activities in the police reports I do not remember What I remembered was what I testified to at trial:

The questions at trial were tricky, but I testified to things I remember seing. But I don't remember how I got in the house. I don't remember being in the bathroom; I don't remember how I got in the basement, I don't remember fighting Mr. Pfister. I don't remember event being in the guest bedroom.

(Before trial) I ASKED MY ATTORNEYS FOR A PSYCHIATRIST FOR THE DEFENSE

I knew that I could not remember what happened because I blacked out. But there was a problem with the whole thing, because a person in a blackout is not supposed to remember anything (so everybody thought). But because of the confusion I 've experienced, I requested a psychiatrist, to help me with my defense.

The first attorney who handled the case told me that I did not need a psychiatrist, so I was weary of this and I trusted Michael J. Colgan before. But this defense he was going to present to the jury.

The second attorney who next handled my case did not discuss the trial strategies with me, and he promised me that he would bring forth the witnesses I asked him to call, including Kevin (the Kwik-Trip) attendant who happened to be Kevin Larson, according to the witnesses notes of the judge (Judge Michael J. Mulroy); but Russell Hanson, my second attorney did not do what he promised me. He did not bring "Kevin Larson" to testify he did not bring a psychiatric expert to testify and explain to the jury why I acted the way I did, and what possibly caused these acts.

AT TRIAL

At trial I had a "all white jury", and my victim was a white family, and of course I was the only black man in the whole court-room. It was hard for me not to think that I was discriminated against. I KNOW THAT ALL WHITE PEOPLE ARE NOT RACIST AND PREJUDICE! Because my daughter is bi-racial, her mother is white. But the fact was (it was easier to port-ray me as a monster), and I knew also that the jury was stacked against me. And I did not have money to hire an attorney. The state appointed attorney definitely did not help my criminal case. In fact I believe he helped railroad me.

CONTINUE TO READ AND YOU'LL DISCOVER THAT SOMETHINGS
WENT TERRIBLY WRONG AND NO-ONE IN THE SYSTEM IS WILLING TO HELP ME !

I was charged with 1) Attempted Intentional Homicide; 2) Burglary; 3) Bail jumpimg.

NOT ACQUITTED (Continued)

I was convicted of all the charges and I was sentenced to 60 years of prison confinement, under Wisconsin's new "Truth in Sentencing Law". Judge Michael J. Mulroy said to me at sentencing: "Mr. Maxy I am sentencing you to the extent that you will spend the rest of your life in the Wisconsin Prison System." I was shocked to hear the judge said that.

I was looking for answers about how and why I entered this man's home and this is what I found "Life In Prison?" I was not only the only black person in the court room. I was also the only witness who testified on my behalf. There was a warning flag when my state appointed attorney refused me witnesses to represent me at trial, and he lied about it. Telling me "I can't find the witness Kevin Larson". And provide the psychiatric assistance needed in this case.

3 years incarcerated.

In 2003, I filed a "pro-se" post-conviction motion that's when the deep hidden secrets of the judge (Mulroy) and the District Attorney, now a judge (Scott L. Horne) and My attorney and (family commissioner in a nearby county) (Russell Hanson), in addition to that Scott L. Horne was President of the Wisconsin's District Attorney Association). Just finding out who they were is not the secret, what they did is what they want to keep secret, and they have had help. Because they are GIANTS in the Wisconsin judicial system, and will pull all strings to keep their little secrets more secretive. the Wisconsin courts will not reverse my case because if they do, they will embarrass the judicial GIANTS, and the whole house will crumble down. And the Wisconsin Supreme Court's Board of Attorneys and Professional will not do nothing either, (see Milwaukee Magazine' article in 2004 on the Board). Because the lawyers and judges fund this committee of lawyers and judges.

Nevertheless, I filed a 974.06 (Post-Conviction Motion) in the trial court with judge (MULroy) presiding; in the motion I raised a constitutional claim for the (State's obligation to provide psychiatric assistance for indigent defendants like me).(See Ake v. Oklahoma), among other issues I raised. Judge Mulroy denied the claim. In his opinion he wrote, Mulroy said that I was not eligible for relief, that was the extent of his opinion, he quoted no precedent to support his decision, (he made a law, although he is not a lawmaker). And the Wisconsin Court of Appeals affirmed the decision by Mulroy.

The Wisconsin Supreme court did not even consider looking at the review of the claims. The United States District Court, Judge Barbara C. Crabb presiding could not give me relief, but she concluded that I was acting bizarre on the record before the crime.

Anyone who is familiar with the law knows that the State is obligated to appoint a psychiatrist for an indigent defendant like me, when the defendant' state of mind is at issue. the United States Supreme Court had ruled that in Ake v. Oklahoma, but because of the judicial GIANTS involved in Wisconsin and me going pro-se against them, everybody shut their eyes to the injustices done to me, and I am stuck in prison, it has been ten years. But in 2009, after I found a study on alcohol and marijuana blackout by Dr. Aaron White of Duke University for the National Institute of Alcohol and Alcohol Abuse. The paper on blackout explained clearly that what happened to me on February, 26-27, 2000 was blackout (fragmentary blackout) which none knew existed; also in that same paper I found out also that blackout occurred at the minimum number of drinks and blackouts are more common among social drinkers these were not known to the medical and scientific field of psychiatry, at the time of my conviction, which makes these facts New Evidence.

9 years of incarceration

After I discovered these new facts in the new study by Aaron White, I filed another 974.06 Motion (Post-Conviction) in 2009. That's when I found out that the District Attorney had lied, at the time of the filing of my first 974.06 Motion in 2003. I was vigorously pursuing the reason why the President of the Wisconsin District Attorney would lie to uphold a conviction. When the answer to this puzzled question came to me, the knowledge of it was getting clearer and the cause of it was getting larger as more entities in the State of Wisconsin appeared to be involved in the injustices, either voluntarily or involuntarily.

Here Is The Scoop On The Whole Thing

The psychiatrist appointment was the duty of either of these two "Offices", according to Wisconsin Statutes (see Wis Stats., 977.05 (4r); and 885.08). In these two statutes, there is a conflict as to who should pay the fees for experts appointed to represent indigent defendants. Regardless of the overlapping of the statutes, one of those two agencies should pay for the mobilization fee for the psychiatric expert in my case. Attorney Michael J. Colgan had already told me that he could not afford to get me expert witness without the approval of the public defender office.

§ 977.05 provides that: "The state public defender may not provide reimbursement for expert services...unless the [attorney] received authorization from the state public defender to retain...an expert."

But 885.08 provides also that: "The treasury of the county shall pay for witnesses in criminal case." In sum, when Michael Colgan withdrew as my trial attorney. The court appointed an other attorney to represent me (Russell Hanson). Since Colgan already made it clear that the public defender office will not authorize the appointment of expert witness, then the county would be responsible for the appointment of expert witness. Then the county treasury would have to pay for the expert's fee. So if the appointed attorney wanted to he could arrange for the county not to pay for the fees. And if he wanted a conviction in conspiracy to help the prosecution, he could also do the same thing, he could arrange to have the expert witness suppressed. And that is exactly what the attorney did. In either case both the prosecutor (the State) and the county treasury benefit from that decision (killing two birds with one stone); and the indigent defendant is the only loser, and may spend years behind bars as a result of this obvious misconduct by the attorney. And the reward for the malfeasance of the attorney will be winning on future cases. That is exactly what I feared have happened. Unfortunately in my case, it is a little too late in the midnight hour in terms of remedies. Because the consequential remedy for this type of misconduct is monetary damage for the years spent in prison and for the injury suffered by the indigent defendant (me).

IT TAKES REAL POWER TO STRIKE JUDICIAL GIANTS

All the courts in Wisconsin know that to grant me relief is not beneficial to the State of Wisconsin, and the state is going thru financial trouble. To grant relief to an indigent, alien citizen is judicial suicide and humiliation for the Wisconsin judicial GIANTS; and that's not an option. The lesser of the two evils in their eyes is to keep me in prison regardless how much evidence I have. As long as I proceed "Pro-Se", I will loose, this I know by experience. So I need a criminal attorney who is not afraid of the GIANTS .

HELP DAVID AGAINST GOLIATHS; KITTY VERSUS LIONS

Dear Friend,

My name is Childeric Maxy, I am 45 years old. I've been incarcerated for 10 years now I was arrested on an incident, where I entered a house thru the front door. I was intoxicated on alcohol, I smoked some marijuana too. I took some pills for a headache shortly before I left the home of Julie (a girlfriend at the time) where I was before. Due to the combination of alcohol and marijuan and of course ibuprofen; I blacked out, because I did not remember the majority of the events. I don't even know how I got in the home that I was accused of trying to burglarize. *
fatal

I went to trial and was convicted of all the charges, and convicted to 60 years in prison under the Wisconsin "Truth In Sentencing". The charges were: 1) Attempted Intentional Homicide; 2) Burglary and 3) Bail jumping.

I entered the home in a blackout state, I don't remember how I got in the home. I saw myself in the living room, and I saw photos, but I didn't know where I was or how I got there. The homeowner confronted me; I don't remember fighting him, next thing I know. I woke up in the hospital.

The charges extended to "Almost choking the homeowner to death", and of "burglary", even though I did not have a gun, or knife or burglary tools. The police reports stated that I asked the officers: "Where am I?" and "What happened?" and "What's going on?". Officer Fischer's report said that "Childeric eyes were bloodshot red" and at trial Fischer said "he was incoherent to time and place". Officer Yang wrote: "He was dazed" and was "asking 'where am I?'". Plus Mr. Pfister testified that I was making alot of commotion in the home, and that I used the bathroom, and flushed it and closed the bathroom door so loud that it woke him out of sleep. And he heard commotion downstairs from his bedroom upstairs. the commotion was so loud that Mr. Pfister was forced to go check it out. So a burglary charge, even an attempted homicide charge was inappropriate; because I was experiencing a blackout, and when I discovered the research by Aaron White Ph.D. from the National Institute on Alcohol and Alcohol Abuse, and Dr. Donald Sweeney, an internal medicine doctor. That's when I knew what happened to me on that February night. It was obvious that I didn't know where I was and did not know where I was. Even United States District Court Judge Barbara C. Crabb concluded in her opinion that I was acting bizarre. The jury did not believe me because there were no expert psychiatrist to help my defense, and even my attorney knew this because he intentionally did not provide the expert witness needed for the defense. So he can get a conviction, it was an intentional act on his part.

I was found guilty and the judge at sentencing said to me: "I am placing you in the wisconsin prison system until you die". For what? I did not kill anyone, and the incident or the so called "fight" could have happened in a tavern, and the real problem is with "Intentional Homicide", if I blacked out it could not have been "intentional". For the judge to say that: "You will spend the rest of you life in prison" is outrageous. There are people in this prison system who killed people who will not spend the rest of their lives in prison. In addition this is my first felony, I barely have a criminal record. I was 35 years old when that judge sentenced me to 60 years of prison confinement. My entire criminal record consisted of two misdemeanors where I had spent 8 months in jail for with work release privileges.

Before trial I asked my attorney for the assistance of a psychiatrist, that request was denied. Why? because my attorney Russell Hanson knew quite well that not calling the expert psychiatrist and the last person who saw me in my state of confusion in the store was fatal to my defense; but he did it anyway, and in the process fulfilled the prosecutor's wish to convict me without adversarial defense. Hanson had to cut a deal with the district attorney for future winnings, this how the judicial system works, especially in Wisconsin.

HELP DAVID AGAINST GOLIATHS; KITTY VERSUS LIONS (Continued)

What confirmed my long held suspicions are:

- 1) My attorney Russel Hanson told me that he could not find the witness (Kevin Larson) at trial. Three years later, when I received the transcripts from my appellate attorney, (Kevin Larson's) name was found in the copy of the Judge's notes that: "Kevin Larson was to testify in the P.M. hours" of the trial. WOW!
- 2) Also three years later the prosecutor Scott L. Horne lied on the record, in a Habeas Corpus procedure to uphold the same conviction, which Russell Hanson helped Scott Horne get. Because I trusted my attorney and because I trusted the system. I did not think that Russell Hanson and (now) Honorable Scott L. Horne would lie to me or to the courts.

I filed a complaint with the Board of Attorney and Professional about Hanson. They did not even complete the investigation. The investigation was incomplete. Then later I found out that Hanson was a member of the Board of Attorney and Professional. Hanson was not investigated. WOW!

HELP ME GET JUSTICE FROM THIS CORRUPTED JUDICIAL SYSTEM

Also because of this conviction full of misconducts, Immigration and Naturalization Service gave me my deportation orders for this crime. Here's the take on Immigration (INS). INS will not deport someone except for "Crime of Moral Turpitude". Moral turpitude is symbiotic with "Intentional Crime" which is what the State convicted me of this Perjurious conviction. Thus if INS knew that this conviction is perjurious, or if it is proven that this crime is not intentional, in fact this crime is not intentional, because it is proven in the record of the case that I was acting bizarre, and the new evidence of fragmentary blackout is a potential constitutional claim (see Ake v. Oklahoma). And the old request for a psychiatrist is revived again that: "An indigent defendant is entitled to an expert psychiatrist at the state's expense if his state of mind is at issue".

I do not have money for legal representation. All of the above statements are true and throughout my 10 years of incarceration, I learned and researched the law to try and litigate what my state appointed attorneys did not or would not do. While I discovered alot of misconducts and malfeasances contrary to the law that these attorneys and judges took an oath to uphold and protect. I also came to the realization that these GIANTS are too powerful for me to fight on my own, because their friends and the guardians of their beloved careers are committed to suppress every motion and any litigation with my name on it will be denied, despite the potential constitutional claims raised on them.

My fight against these judicial GIANTS is like David and Goliaths; and a Kitty-Cat against lions. everytime I brought an issue of constitutional importance, it is knocked down by the Wisconsin courts, they and the attorneys I am fighting are of one mind, one judicial community. I also realize that only fire could fight fire. So I need professional legal help, in order to bring my case to the courts; if I am to find relief. I have no funds.

I also need the assistance of a knowledgeable psychiatrist who can look at my case objectively and give an accurate report and an affidavit to the education of the courts on this issue of "alcohol and marijuana induced amnesia".

So I appeal to you friends in the world Wide Web to help me achieve this humanitarian, merciful quest for real justice. And also to expose the dark secrets of the judicial community, so urgent is the exposure of these elected officials in Wisconsin. I represent their transgressions. They were the author of my worst nightmare. I am their judicial crucifixion.

Page eight.

HELP DAVID AGAINST GOLIATHS; KITTY VERSUS LIONS (Continued)

My constitutional rights were not protected and I can't fight those powerful people by myself. I need help. Will you help me in anyway you can to bring about "Truth In Justice?" Anything you can do. Just telling another person about it and to lead them to log unto this website to see for themselves. Even to tell a powerful person whom you have access to. Words of mouth can help me. You may ask what can I do? Do you know a psychiatrist or a psychologist? Do you know a lawyer? Or a law professor? Let them see this! And then best of all can you copy this blog? And can you let some activists know about this? Or about this one can you take time to write a letter? Advise someone to read this "Blog".

Among other things these are the things you can do to help me.

THANK YOU VERY MUCH E-FRIEND FOR READING THIS BLOG YOU HAVE MADE A DIFFERENCE AND YOU CAN MAKE A BIGGER DIFFERENCE!

Address All Correspondences to:
Childeric Maxy#332930
Waupun Correctional Institution
P.O. BOX 351, Waupun WI 53963-0351

P.S. There is a chance to stand for a change, may be this time is now. Today if you don't take this opportunity, this day will for ever be written in history without your name sketched in it annals and you will not leave a legacy in it of what you firmly believe in, "Justice, Liberty and Freedom". By C. Maxy

P.S.II, If you feel like you are moved to help this poor immigrant win his liberty financially, your financial contribution can be sent to: C. Maxy, P.O. Box 247, Waupun WI, 53963. Please advise me by letter at the address above that you have contributed (P.O. BOX 351, Waupun WI, 53693-0351).

Doc # 2

Dear Investigative Reporter,

I have a story that is currently unfolding, I is a story that is truth. A number of lawyers and judges are invloved in the Wisconsin Judicial System. Please bare with me, you will like the end of this story.

I was arrested in La Crosse WI on Feb. 27, 2000, I was laying in a pool of my own blood when I got arrested. The headline in the La Crosse Tribune read: "BLOODY BREAK-IN IN FRENCH ISLAND", that was my story, then.

I was transported to the hospital due to my "unconsciousness" and large lacerations on the back of my head--I woke-up in the hospital, asking "what happened?" that night, because I blacked-out, from drinking alcohol and smoking Marijuana. I understand a crime was committed, and I was involved in it.

But due to the procedures that I went thru, I don't and no-one want to go thru this again. I was in a alcohol blackout, and I have no idea what happened I don't remember clearly "nothing that happened" that night. Some were blurry to me, some were like I was in total darkness.

The judicial system in that county was not very friendly to me, because of the crime (it could have been election year too), I do not know. But he message was clear. The judge when he sentenced me told me: "Mr. Maxy I am placing you in the Wisconsin prison system until you die", I did not kill anyone, this is my first felony! Anyway, I had a public defender appointed for me. He was doing things, and he suddenly withdraw, his name Michael Colgan. Then another attorney was appointed for me, his name was Russell Hanson; What I did not know was Hanson was a court commissioner (judge), in another county (Westby).

Hanson was also a member of the Board Of Attorney and Professional in Wisconsin. He definitely did not help me in my defense (I really thought he was working with the Prosecutor (Scott L. Horne, now Judge in La Crosse), Horne also was the "President of the D.A. Association in Wisconsin". The judge who presided at my trial was Michael J. Mulroy (Ex-District Attorney), possibly Horne's teacher, but they worked together in the D.A.'s office.

I had some problem with finding a document that I was looking for because I only had (copy of the very first page only). It is not like me to throw-away important document. I asked every attorneys involved in the case, including the prosecutor, Mr. Horne. No-one answered my letters. I became really suspicious that something was going on. At the time I did not know that these individuals were involved in these powerful associations and Judicial "Clubs". So I wrote to the La Crosse Public Defender Office, hoping that I would get the document. That First Public Defender was Elliot M. Levine (now judge in LaCrisse too). Levine sent a copy of my letter to Hanson and wrote Hanson also, Hanson did not respond.

When I filed my first 974.06 (Motion), I was going to call in and subpoena: Colgan, Hanson, Levine and Dennis Schertz (my appellate attorney), to get to the bottom of why I did not get the full copy of the document, and why was this document so vital and important to these Judicial giants?". Throughout my trial, appeal, post-conviction, I was also asking the attorneys and the Public Defender Offices, both La Crosse and Madison for a psychiatrist to help investigate and assist me and my defense of "Intoxication", eventually that would help me explain to the jury "why I could not "REMEMBER" the events that night , but no-one wanted to help me in that direction. Colgan mentioned something about the P.D. having no "Funding", then He withdrew as my attorney. When Hanson took over as my attorney, he promised that he would defend me.

What he did was entirely contrary to what he was hired to do.

But Hanson disappointed me. Remember now, I had no felonies, no substantial criminal record, I had two "attempted battery" as my whole criminal record at the age of 35.

When I filed my (Newly Discovered Evidence) in October 2009. The judge who presided over the motion was (Elliott M. Levine) the guy who was arbitrating between me and my attorney Hanson, he shouldn't have entertained the motion, because of conflict of interest. He denied the motion even though, I had potential claims in the motion. He also denied the claims because I also have a potential claim against the Public Defender Office in La Crosse, remember he use to head that office.

So I write this letter to you the Press to assist me, at least get the story out. The press have a responsibility to let the people know the iniquities of the people the constituency elect into office, especially if they lie or commit perjury. And the above named individuals in the judicial system are using the same system that was made to abide by the Wisconsin and the United States Constitutions.

I also I am not a criminal by trade, this incident which leads to my first felony was an accident that happened, because I blacked-out on alcohol. I am also an immigrant from Haiti, I had a child by a white woman, and the prosecutor went as far as to the mother of my child. My child's mother is Susan V. Walz, (a teacher) and convinced her and lied to her. He even tried to get her to testify against me at trial, (she was not a witness) in the incident. He told her that I would be going to prison for a long time, and I would not be part of the child's life, (the child was born while I was in jail for this offense). The child is nine years old now; I saw her when she was a newborn, cause Susan brought her to see me in the county jail, at that time, Susan told me what Scott Horne said. Now he is judge, elected by the people of La Crosse. In addition I discovered that he lied on the record about me and involved other law enforcement officers in it (the Sheriff Dpt.) and subpoenaed the judge (Judge DuBois) and the Judge (Judge Heister) to stop me from subpoenaing the judge (Judge DuBois) and the Judge (Judge Heister).

Because Susan was married, when paternity determination was done the family commissioner at the time Roger Le grand gave me physical placement. Yet, because of what Horne said about me She was convinced that I am a core criminal. when I filed a motion to enforce that order of physical placement, the new commissioner (Gloria Doyle denied the motion, I tried reconsideration, she denied that too. But when I write Ramona Gonzales, the real reason came out. Gloria Doyle, the family commissioner made some racist comment about me and the child, and mentioned my "crime" as the real reason why she denied me physical placement with my child, She said: "...the child is biracial... Mr. Walz was not the father...I was the guardian ad litem...and the crime he committed was heinous..." Judge Gonzales said she was satisfied with the report that commissioner Doyle wrote. They are keeping me from my only child as an extra punishment for a crime i had no recollection of committing.

Even the clerk of court in that county hate me. Only because of the crime, If I write the clerk or the police they would not even answer my letters. They files my motions because by law they have to do it. I have been black balled in that county. No judge wants to fairly listen to my claims of statutory innocence, because alot of powerful people are involved. And the judges and attorneys are too deep in the numerous constitutional violations against me.

I truly need the Press to get this dark story out to the world. I have been suppressed for 10 years now, and even in prison the judicial powers are over-reaching . I had my mail returned many times, undelivered, I had mail sent to me I 've never received. I need the Media's help to help me investigate. That is why I got this mail sent to you by a third party, otherwise you would

PLEASE HELP ME AN MY CHILD GET RE-UNITED, MY ONLY CHILD!!!

Back to the heart of the story. the problem with this whole case is: EVERY BODY IN THE JUDICIAL BODY IN LA CROSSE WANTS THE CONVICTION TO REMAIN. because they did not believe me when I said " I don't remember what happened", every one thought I was lying, and because the crime was a black on white crime, I was a black man and who entered a white man's house (thru the front door in a blackout) they all, including the jury believed that I was guilty. And the jury was stacked against me, and convinced the jury that I was a monster. Fortunately, the victim did testified that I entered thru the front door, cause he left it open, he said I used the bathroom, flushed it. made so much commotion that I woke him up out of sleep, and he found me standing in the dark, in a room in the basement, that his wife kept meticulously clean, and he turned on the light, I was standing there with no shirt on. I was not acting normal apparently.

The United States District Court Judge Barbara Crabb (bless her hear), found that "I was acting bizarre and did not sound as a burglar... he was acting bizarre...I see why the petitioner believes that if it was not for a toxic drug that he ingested he would not have committed this crime...Unfortunately for petitioner I can't find out if he is innocent or guilty..." She couldn't find that in her federal court at the time, until House v. Bell, and she wrote that opinion just about a month before the Bell case. And U.S. of Appeals for the Seventh Circuit denied a successful petition because they think that I was raising the same claim that I am "INNOCENT", statutorily.

The U.S. Court of Appeals recognized that I had "Newly Discovered Evidence", bu the State of Wisconsin Court by Elliot M. Levine don't think I have newly discovered evidence, Judge Levine was supposed to recuse himself from the case, because he was a witness who was to be subpoenaed, he did not recuse himself, instead he entertained the motion and purposely applied the wrong standard to trick me, when I file a motion for reconsideration and corrected him and showed him that he sould have applied the correct standard set by the Wisconsin Supreme Court and the court of appeals, he still denied the motion. saying that I did not meet the third prong, he was wrong and I know why he did it.

Judge Levine does not want to give me a new trial because:

- 1) Everybody in the county (Judicial Giants) will be upset at him, and he will not be re-elected.
- 2) The other Judicial Giants I mentioned above are pressuring him, and he ended up ruling on a case he was supposed to recuse himself from by statute
- 3) He rule also on the motion to preserve the integrity of the Public Defender Office in La Crosse, which he used to be the head of. Plus the headline: "BLOODY DREAK-IN IN FRENCH ISLAND" had wide media attention and if he rule on the motion "good or bad", he will get media attention too, in that area, (and hoping that I don't catch his scheme".

The local media gave the case so much attention that they had an "after-show" where they were offering to bring expert to sell alarm systems.

Now that I have "New Evidence from the NATIONAL INSTITUTE ON ALCOHOL AND ALCOHOL ABUSE, at <http://niaaa.nih.gov>, that is scientific evidence of black-out , and witnesses at:MikeLee.org, testimonies of common people (social drinkers) who had the same experience as me, except they did not commit a crime. I was acting bizarre, and woke the homeowner out of sleep, and did all these things that I don't remember doing. I must have blacked-out. And the attorneys and the Public Defender Office denied me a psychiatris. Every body believes that I was acting bizarre and could have blacked-out, except the judicial system in La Crosse. PLEASE HELP ME PUBLISH THIS, PUT IT OU THE WORLD SO THEY COULD SEE THE POLITICS,RACISM, GRIDLOCK IN LA CROSSE.

December 13, 2009.

doc #3

9:06 whom I t May Concern,
Feb. 26, 2000. I was arrested in a home after I blacked out and entered the premises. I was brought to the hospital to treat my injuries I had two large lacerations on the back of my head. I was unconscious, at the hospital I was asking the hospital staff "where am I?" I was later transported to the police station where I was questioned.

I stayed in the county jail for six months, after that I got a trial and was convicted of attempted Intentional Homicide. (I was charged with trying to choke a man when I entered the home).

I knew the all white jury was stacked against me. I am a black man (immigrant) with abi-racial daughter. the "All White Jury" found me guilty, despite all my appeals to the attorneys and the public defender that I "DONT REMEMBER THE EVENTS" due to my blackout, and my "acting bizarre". I did asked for a psychiatrist to help investigate the reason why I don't remember and to guide the jury; that request was denied.

There were a few other things that raised a eyebrow: like the juror who knew one of the state's witnesses who was her customer, and sidebar discussion was held that I did not know anything about, plus that juror was picked to be the alternate juror, I believe she was picked right after the incident where she recognized the witness, but the problem with that was that she did not tell the judge that until the trial was over with. I did not know of these decisions at trial.

And the same witness contradicted her statement to the police on the stand as to the amount of alcohol I drank that night, (my defense was intoxication) so that was material to me. That witness statement also contradicted the only other witness who I was drinking with, who testified that I was drinking more.

But the worst happened, after my conviction, I filed a post-conviction motion, I was granted a hearing where I was supposed to call my witnesses, these witnesses were: attorneys: Michael Colgan; Russell Hanson; Elliot M. Levine; Dennis Schertz, and was trying to subpoena my witnesses. The prosecutor Scott L. Horne, representing the State of Wisconsin said on the record:

"The State appears by Scott Horne. Mr. Maxy appears in person without counsel. Judge we had goofed up in terms of communication with the Sheriff's Department Mr. Maxy has filed another 974.06 Motion and was brought back because of the hearing that had been scheduled"

This whole statement on the record was false, a perjury to hinder the defendant from getting relief, and to forcibly squash the subpoenas, and in the process Mr. Horne lied to the court; and lied about the defendant; he also lied on law enforcement officers (the Sheriff's Dept.), he also lied on the clerk of the circuit court.

because there was no other (974.06 Motion filed by the defendant) at that time, and the Clerk of the Circuit Court will have no record filed by Mr. Maxy; this is Mr. Maxy's first and only felony. He lied about a non-existent "974.06 motion" he said I filed which was the reason I was transported to the the La Crosse County Jail, from GreenBay Correctional Institution (a state prison in Wisconsin). He lied because he wanted to obstruct the court's power to grant the subpoenas; he lied because he wanted to obstruct the evidentiary hearing that was guaranteed to me, because I had relief in order.

3973

Now Scott L. Horne is still in the judicial system, he was elected judge Michael Mulroy and Scott L. Horne knew what they both did, they just did not anticipated that the defendant (an immigrant) who they injured badly would found out. The judiciary powers were invested in these men and they abuse that powers, due to their prejudices.

This case file is La Crosse county 00-CF-106; Court of Appeals 2009AP2949. and the defendant is Childeric Maxy, #332930, W.C.I., P.O. Box 351, Waupun WI, 53963-0351

Interestingly, there is another case that was alleged to be a case, where perjury was also used. Case # 99-CF- 1841, perhaps, coincidentally the same two appeared again, Michael J. Mulroy was judge, and Scott L. Horne was D.A., it was alleged that a witness by the name of Jane Koninski (a social worker? at Gundarsen Lutheran Clinic) it was alleged that she was told to lie on an other man was facing some charges, he too was a black man by the name of Jessie Bennett. It was also alleged that she showed up at trial while the jury was benched and made the statement the she was told to lie, an she told them that she was not a racist person.

I would ask to investigate this case too, because they are similar in nature, and qualifies as a hate crime, according to the Federal law.

Respectfully Submitted,

CHILDERIC MAXY#332930
Waupun Correctional Institution
P.O. Box 351 Waupun WI 53963-0351

**
This letter was sent to
the FBI & The
U.S. Department of Justice
U.S. Attorney general
in D.C.*



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

February 26, 2010


Mr. C. Maxy, #332930
Post Office Box 351
Waupun, WI 53963

Dear Mr. Maxy:

This letter is in response to the correspondence that you addressed to FBI Headquarters.

The allegations that you have brought to our attention do not warrant any action by the FBI. You may wish to pursue these issues with the assistance of an attorney.

Sincerely yours,


Cynthia M. Deitle
Chief, Civil Rights Unit
Criminal Investigative Division

*This is the FBI's
Response to the letter
Copy of this letter was sent
to the U.S. Attorney office in D.C.*

doc # 4

ADDRESS

JURISDICTION

§ 19.41 Declaration of Policy. (1) It is declared that the high moral and ethical standards among the state public officials and the state employees are essential to the conduct of free government; that the legislature believes that a code of ethics for the guidance of state public officials and state employees will help them avoid conflicts between their personal interests and their public responsibilities, will improve standards of public service and will promote and strengthen the faith and confidence of the people of this state in their state public officials and state employees.

(2) It is the intent of the legislature that in its operations the board shall protect to the fullest extent possible the rights of individuals affected.

§ 17.06 Removal of state officers; impeachment; address. (1) Any civil officer of this state may be removed from office by impeachment for corrupt conduct in office, or crimes and misdemeanors as provide in Article VII, Section 1 of the constitution; and any supreme court justice or circuit court judge may also be removed from office by address of bothe houses of the legislature as provided in Article VII Section 13 of the constitution.

COMPLAINT

The Honorable Scott L. Horne circuit court judge of La Crosse County, when he was District Attorney committed misconduct of perjury in a hearing against a pro-se litigant to uphold a conviction that he obtained. The lie extended to the point where Mr. Horne was ordered to write a "Writ of Habeas Corpus Ad Testificandum" to have the pro-se litigant transported to the La Crosse County Jail from Green Bay Correctional institution for a hearing scheduled on Nov. 18, 2003. When the pro-se litigant (Childeric Maxy) a resident alien with limited english (broken english) arrived at the appointed hearing D.A. Scott L. Horne perjured himself saying:

"Judge we goofed up in terms of communication with the Sheriff's Department. Mr. Maxy has filed another 974.06 motion and was brought back because of the hearing tha has been scheduled..." R. 105 of case No. 00-CF-106; Court of Appeals 2009AP2949-CR and 2010AP000323-CR; see also 2010AP998-W(Supp. Writ).

The reason why the District Attorney lied was because Mr. Maxy had a claim of "Denial of Psychiatric Expert" because of temporary amnesia induced by alcohol and marijuana he ingested before the commission of the crime. The claim was in page 20 of the only 974.06 motion which Mr. Maxy filed and for which Judge Michael J. Mulroy ordered a "Mackner Hearing". Mr. Horne lied for the sake of the record (making it seem in the record that Maxy has filed another 974.06 motion in 2003. But Maxy has never filed another 974.06 motion in 2003. Judge Mulroy knew what D.A. Horne was doing, because Mulroy himself ordered the Writ to transport Maxy, and because Mulroy was the county's D.A. and Horne's boss at one time..

The psychiatric claim was never addressed, a claim which was a guaranteed reversal of Maxy's case. And judge Mulroy helped D.A. Horne cover the misconduct, by not sanctioning the prosecutor for the misconduct.

AN OTHER DISTRICT ATTORNEY COMMITTED MISCONDUCT OF PERJURY
TO KEEP A MAN IN PRISON AND UPHOLD A CONVICTION

WHAT HAPPENED?

A former D.A. Scott L. Horne and former President of the Wisconsin D.A. Association, and who is now a sitting judge in La Crosse County Wisconsin lied to keep a man in prison and maintain a conviction.

Childeric Maxy, an alien resident was convicted of Attempted Intentional Homicide (for almost choking another man in Feb. 2000 in La Crosse County Case No. 00-CF-106).

Maxy's defense was that he could not remember what happened due to his temporary amnesia, induced by alcohol and marijuana he ingested that night. Maxy was not given a psychiatrist by his attorney Russell Hanson and La Crosse First Public Defender Elliott M. Levine per Wisconsin Statutes § 885.10 and ch 977.

When Maxy brought the psychiatric issue on postconviction (which is a constitutional ground for an automatic reversal by the judge). Scott L. Horne who was D.A., and President of the D.A. Association at the time, was ordered by the judge Michael J. Mulroy to write a Writ Of Habeas Corpus Ad Prosequendum to have Maxy transported to the La Crosse County Jail for a Hearing set for Nov. 18, 2003.

At the hearing Horne who knew that Maxy was not learned in the law took advantage of the situation lied to the judge saying: "Judge we goofed up in terms of communication with the Sheriff's Department. Mr. Maxy has filed another 974.06 motion and was brought back because of the hearing that had been scheduled..."

But the record of the Clerk of the Circuit Court will show no record of "Another 974.06 Motion". And because of this lie the hearing for Maxy was dismissed and set for another later date which Maxy could only be heard by phone.

phone, instead of in person (Habeas Corpus).

Maxy is still in prison. And Horne elected La Crosse County Circuit Court Judge. And, notably Judge Michael J. Mulroy was La Crosse county D.A., and closely working with Scott L. Horne for years. Judge Mulroy had to know that D.A. Horne lied, for Mulroy ordered Horne to write the Writ to bring Maxy to the county jail.

Maxy is still in prison and a psychiatrist was never given to Maxy despite the fact that U.S. District Court Judge Barbara C. Crabb in a Federal Habeas Petition Case NO.05-C-0479-C, found Maxy acting bizarre and a man who was intoxicated and a man who don't remember the events of his crime.

Maxy filed a Supervisory Writ hoping that the Wisconsin Court of Appeals and the Supreme Court would address the misconduct on Case No. 2010AP998-W . The Court of Appeals and the Supreme Court both denied the Writ.

doc #5

SUPREME COURT OF WISCONSIN
PETITION FOR REVIEW
CASE NO. 2009AP2949-CR & 2010AP323-CR

STATE OF WISCONSIN,
Plaintiff-Respondent,

v.

CHILDERIC MAXY,
Defendant-Appellant-Petitioner.

PETITION FOR REVIEW

ISSUES PRESENTED

1. IS IT FAIR TO DENY A DEFENDANT PSYCHIATRIC TESTIMONY AFTER
HE WAS FOUND ACTING BIZARRE ?

THE COURT OF APPEALS ANSWERED YES

2. DID PETITIONER BRING ENOUGH NEW EVIDENCE TO WARRANT A NEW
TRIAL ?

THE COURT OF APPEALS ANSWERED NO

CHILDERIC MAXY#332930
WAUPUN CORRECTIONAL INSTITUTION
P.O. BOX 351
Waupun WI 53963-0351

ISSUE PRESENTED

1. IS IT FAIR TO DENY A DEFENDANT PSYCHIATRIC TESTIMONY AFTER HE WAS FOUND ACTING BIZARRE?

This issue was raised in the briefs in the court of appeals and that court answered: YES.

2. DID PETITIONER BRING ENOUGH NEW EVIDENCE TO WARRANT A NEW TRIAL?

This court of appeals answered: NO.

CRITERIA FOR REVIEW

The issues present a real and significant question of federal and state constitutional law. This petition for review demonstrates a need for the supreme court to consider establishing a policy within its authority. In addition the court of appeals' decision is in conflict with controlling opinions of the United States Supreme Court or the supreme court or other court of appeal' decisions. For these reasons, the criteria of Rule 809.62 (1)(a) and (1r)(b) and (d) are satisfied.

STATEMENT OF THE CASE

Statement of Facts

On February 28, 200 Childeric Maxy was charged in a complaint with burglary, substantial battery, reckless endangerment, and felony bail jumping, these charges are the result of an incident where Maxy walked in a home thru the front door while he was intoxicated. Maxy fought the homeowner after he was discovered in the basement in the dark. (R.3). Maxy was later charged in an information with one count of attempted first degree homicide, substituting the (reckless endangerment), adding other charges of: burglary and bail jumping. (R.8). At his trial Maxy testified that he did not remember many of the events, and of fighting the homeowner .(R.81: 190-95). In his testimony Maxy also mentioned how he was drinking throughout the day (R.81: 182). Roxanne Theisen testified of Maxy's drinking (R.81:231), Julia Meyer testified of more drinking (R.81:35), contradicting each other the witnesses don't know how much Maxy drank. The jury convicted Maxy of all the charges. Maxy's attorney colgan filed for additional crime lab. to find the reasons for Maxy's bizarre and erratic behaviors, and for his amnesia (R.17). On March 28,2001 attorney Dennis Schertz still looking for Maxy's behaviors in the evidence wrote a stipulation for additional blood test to a laboratory in Pennsylvania (R.61). Attorney T. Olson had the blood tested for paxil (R.88-90). In sum all the attorneys were searching for answers for Maxy's amnesia and bizarre and erratic behavior. Finally Maxy himself put a motion to retain the blood sample for future testing (R.92). Maxy filed a postconviction motion per WIS STATS., 974.06, on page 20 of the motion (R.96), Maxy asked for an "evidentiary hearing", the prosecutor lied about the nature of the hearing, (R.105:2)(when Maxy found out in 2009, that the prosecutor committed perjury and contempt to courts), Maxy filed a "Supervisory Writ", in the court of appeals and this court (see 2010AP000998W) the court of appeals and this court denied the Writ. Maxy was not given the evidentiary hearing.

STATEMENT OF THE CASE (Continue)

Maxy filed this motion per WIS STATS., 974.06, bringing new evidence of alcohol blackout and marijuana induced blackout, and new evidence of en-bloc blackout and fragmentary blackout; and evidence of memory impairment after "just one or two drinks", Maxy also brought the old evidence of requesting a psychiatrist (R.113-exht D), and evidence of his erratic and bizarre behavior (A-103)(R.113-exht D)(R.17;R.23;R.61;R.88-90. Maxy moved the court for an evidentiary hearing and appointment of counsel for mobilization of psychiatrist (R.114-115). The court denied the motions and treated the motions as a sentence modification. When Maxy filed for a motion for reconsideration and corrected the presiding court. The court denied the motion using the wrong legal standard. This court of appeals affirmed stating that: "The court properly denied the motion, even if it applied the wrong framework."

Procedural History

This is an appeal from the judgement of conviction entered on October 2, 2000 in the circuit court for La Crosse County, Michael Mulroy, Judge; and denial of postconviction motion dated October 27, 2009, and November 13, 2009, and January 28, 2010. The court of appeals affirmed the judgment and order. (A-101-102).

ARGUMENT

THE COURT OF APPEALS USED AN ERRONEOUS APPLICATION OF LAWS

The court of appeals decision relied on State v. Coogan, 154 Wis 2d 387, 394-95, 453 N.W. 2d 186 (Ct App. 1990).

The court's opinion stated:

" We conclude that the allegations in Maxy's motion are insufficient to meet several of these factors... It is ordered that the order denying a new trial and order denying reconsideration are summarily affirmed under WIS STAT., Rule 809.21 (1)."

And: " Even if it [the court] analyzed it under the wrong legal framework."

But this is an erroneous application of Coogan itself. Coogan was dealing with a petitioner raising new evidence that was produced from a defendant at an hypnosis session; and which was the expert's opinion. In sum the court decided that the evidence that Coogan brought to the court was inadmissible.

MAXY PRESENTED ADMISSIBLE EVIDENCE

In contrast, to Coogan's new evidence, Maxy's new evidence was of psychiatric clinical studies of alcohol and polysubstance induced blackouts.(R.113-exhA). The study conducted by the National Institute of Alcohol Abuse and Alcoholism.

The study found that: 1) There are two types of alcohol and drug induced blackouts (which was not clear and established by the medical community). There are "en bloc" and "fragmentary blackouts; en bloc blackout is when one remembers nothing.; And fragmentary blackout is when one remember part of the events, (which is what Maxy said happened to him).

2) The study found also that: Alcohol and marijuana, each drug alone produces blackouts, (this was not known by the psychiatric community), the record showed that Maxy ingested both
drugs.

How could the Wisconsin court of appeals concluded that a man who was acting bizarre (R. 113-exht M), who said he does not remember the majority of the events (R. 113-exht D), who asked for a psychiatrist before trial, because he doesn't remember events; How could the court concluded that the clearly new evidence are not material to an issue of the case?

While Maxy's bizarre and erratic behavior was on going, Maxy entered a home thru the front door, made enough noise to wake the homeowner out of bed (R.81).

Moreover Maxy went downstairs to the guest room in the basement, not only did he make more noise in the dark, but the noise was so continuous, while opening drawers and closets, that the homeowner was compelled to investigate (R.81).

Does these behaviors constitute a person whose state of mind was at issue? The U.S. District Court said yes (R.113-exht M).

MAXY DESERVES THE ASSISTANCE OF A PSYCHIATRIST FOR HIS DEFENSE

" An indigent defendant is constitutionally entitled to an examining physician at the state's expense when mental status is an issue." State v. Burdick, 166 Wis 2d 785, 480 N.W. 2d 528 (Ct. App.1992); Ake v. Oklahoma, 470 U.S. 68(1985).

The Wisconsin court of appeals opined that:

"Scientific evidence that marijuana use can cause blackouts is not new." That opinion by the court is wrong. Here is why. On page 4 of (R.113-exht A). A study on the combination drugs was not done until the year 2002. Aaron White Ph.D. noted on page 4:

" In a subsequent study white and colleagues (2004) interviewed 50 undergraduates students, all of whom had experienced at least one blackout to gather more information about the factors related to blackout. As in the previous study, students reported engaging in a range of risky behaviors during blackouts. Including sexual activity with both acquaintances and strangers, vandalism, getting into arguments and fights, and others. During the

night of their most recent blackout most students drank liquor alone or in combination with beer. Only 1 student out of 50 reported that the most recent blackout after drinking beer alone. .. similarly, the combination of alcohol and THC, the primary psychoactive compound in marijuana, produces greater impairments than either drug is given alone. (Ciccocioppo et al 2002). Given that many college students use other drugs in combination with alcohol (O'Malley & Johnston 2002), some of the blackouts reported by students may arise from polysubstance use rather than from alcohol alone...White and colleagues (2004) observed that, among 50 undergraduate students with a history of blackout, only 3 students reported using other drugs during the night of their most recent blackouts and marijuana was the drug in each case." Pg 4 of (R. 113-exht A).

Even in this article it is proven that never before did anyone concluded that marijuana's THC was the cause of blackouts. The court of appeals was wrong and made an adverse decision in those remarks that: "alcohol and marijuana's THC causing blackouts is not new". Nowhere in this article is there a factual reference to any work or research done on THC for blackout. the court of appeals made no reference to the source of this "Scientific data". So the court was wrong.

NOTICE

Every scientific study or clinical experiment on alcohol blackout by scholarly psychiatric professor is included in this article. Blackouts by alcohol, THC, diazepam (valium) flunitrazepam (Rohypnol) and benzodiazepam are noted in this article. And the works and clinical researches, the credentials to the works are accredited to the respective scientists from 1935 to 2009. Nowhere does it mentioned THC causing blackouts, before 2002.

Notice also that all the drugs that was known to cause blackouts: diazepam, flunitrazepam, benzodiazepam; except THC were in Maxy's Motion for Additional Crime Lab. analysis of Maxy's blood sample. (R.17). Although the court of appeals missed these facts on the record. Maxy will further demonstrate that the court of appeals' opinion was unreasonable and adverse to the laws of the land and the facts of this case.

The court of appeals was wrong also in making these statements:

" Maxy filed a postconviction motion and appeal challenging his sentence. After that was unsuccessful, he filed a pro se motion WIS STATS., 974.06, claiming inter alia, that trial counsel provided ineffective assistance by failing to hire psychiatrist to present testimony that Maxy was intoxicated to the point that he could not form the requisite intent to commit the offenses, despite Maxy's explicit pretrial request for such an expert. The trial court deemed that motion to be procedurally barred, and this court affirmed.

This court of appeals made it seem as if the trial court or this court of appeals properly addressed the psychiatric issue. The court is wrong again. In fact the court is only partially right when it said that the trial court "deemed" the whole motion to be procedurally barred. This court of appeals did affirm. (A-101, pg 3 ¶3).

However, this court disagreed with the trial court on "being procedurally barred". This court of appeals wrote:

"The circuit court concluded Maxy's motion was barred by WIS STATS., 974.06(4) as interpreted by State v. Escalona-Naranjo, 185 Wis 2d 168, 517 N.W. 2d 157 (1994), because Maxy failed to show "sufficient reason" for not raising the issue in his original postconviction proceeding we disagree... Therefore we turn to the merits of the motion." (A-101).

But this court never gave Maxy an evidentiary hearing, like Maxy asked for. Although the court of appeals disagreed with the trial court, that Maxy was not barred from raising the motion. The court never remanded the case to the trial court for an evidentiary hearing (see In re Davis U.S. 2009)(citations omitted), on the psychiatric issue as commanded by Ake v. Oklahoma, 470 U.S. 68 (1985). And the psychiatric issue was buried. Instead, the court wrote that:

"Maxy also argues counsel should have obtained an expert witness to testify on the effects of the caffeine, ibuprofen and other substances found in his blood. However he provides no basis to conclude such an expert would have testified in a manner that assisted Maxy's defense. Again this is insufficient allegation of prejudice."

Now Maxy brought evidence and the basis where an expert would "testify to his defense". The court will not give maxy that

expert as stated in Ake, as the obligation of the state. Now Maxy still an indigent defendant gathered all he can on blackout or amnesia (which Maxy claimed since before trial)(see R. 17; R. 113-exht D), and Maxy identified all the substances in his system and on the record, by testimonies of the witnesses of alcohol consumption, (R. 81), and bizarre behavior (R. 17; R. 113-exht M), and Maxy made motion for an evidentiary hearing, the court response was this:

"The articles Maxy attached to his motion discuss the blackout effect of "large amount" of alcohol", or a combination of alcohol and THC. Here, however the lab reports indicated that Maxy had no alcohol in his system[(see 885.235(4), Meyer and Theisen testified tha Maxy consumed alcohol in their presence)(R.81)] and a low level of THC which was present in his blood. Therefore the articles are not material, and there is no reasonable probability that having an expert testify about them would have produced a different result at trial. Accordingly we conclude the trial court properly denied Maxy's motion for a new trial, even if it analyzed it under the wrong framework."

Outrageously, the court of appeals is wrong again, because Aaron White Ph.D. who is a better expert than this court of appeals is wrote:

On (R. 113-exht A, pg 1and2)

"Alcohol produces detectable memory impairments beginning after just one or two drinks. As the doses increases, so does the magnitude of the memory impairment. Under certain circumstances, alcohol can disrupt or block the ability to form memories for events that transpire while a person is intoxicated a type of impairment known as blackouts."(R.113-exht A pg 1).

Here again Dr. White wrote about memory impairments starts at just one or two drinks (since everybody's phsysiognomy is different) and Dr. White wrote how the impairments progresses, as the drinker increases the doses. But the court of appeals opined that the article discuss only the blackout effect of large amount of alcohol and combination with THC, well Maxy consumed both drugs in the record.

Dr. White continues in his article:

"However beginning with just one or two drinks, subjects begin to show impairment in the ability to transfer information into long-term storage. Under some circumstances alcohol can impair this process so severely that, once sober again, subjects are unable to recall critical elements of events, or entire events, that occurred while they were intoxicated. These impairments are known as blackout." (R. 113-exht A, pg 2).

Aaron White Ph.D. also discuss the difference between en bloc and fragmentary blackouts on page 3 of the article.

" Unlike en bloc blackouts, fragmentary blackouts involve partial blocking of memory formation for events that occurred while the person was intoxicated Goodwin and colleagues reported that subjects experiencing fragmentary blackouts often become aware that they are missing pieces of events only after being reminded that the events occurred. Interestingly, these reminders trigger at least some recall of initially missing information. Research suggest that fragmentary blackout blackouts are far more common than those of the en bloc variety. (White et al 2004; Hartzler and Fromme 2003b; Goodwin et al 1969)."

As this court can see that the articles discuss about many stages of alcohol and polysubstance uses, of memory impairments, and of blackouts by small amount of alcohol and of large amount. And of memory impairment and blackouts by other drugs beside alcohol and marijuana.

The article also discussed everything from impairment by one or two drinks to , en bloc blackout, and fragmentary blackout , to behavioral condition of a person in a blackout who can walk, talk, fight, have sex ect., and not remember the events.

" The newly discovered evidence showed that there had been a shift in mainstream medical opinion [psychiatric opinion] as to the cause of blackout/or alcohol induced amnesia or when a person can't remember." (see State v. Edmunds, 2008 WI App 33.

Maxy has been forever trying to prove his blackout state, (R.17); without psychiatric expert assistance to analyze Maxy's case, the best Maxy can do as an indigent defendant is to present the research and articles, when there is ample evidence on the record that his state of mind was at issue.

