UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

1:18-cv-013128

JOHN GREGORY LAMBROS,
Re-Entry Center, 2825 East Lake Street,
Minneapolis, Minnesota 55406;

Plaintiff,

Vs.

UNITED STATES OF AMERICA, Attn: Attorney General of the U.S., 950 Pennsylvania Ave., N.W., Washington, DC 20530; **AND**

UNITED STATES BUREAU OF PRISONS, Attn: General Counsel, 320 First Street, Washington, DC 20534.

Defendant's.

CIVIL ACTION NO. _____

DEMAND FOR TRIAL BY JURY.

AFFIDAVIT FORM

COMPLAINT

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1. COMES NOW, Plaintiff-Petitioner – Movant JOHN GREGORY LAMBROS (Hereinafter "MOVANT"), Pro Se, and requests this court to construe this filing liberally. See, HAINES vs. KERNER, 404 U.S. 519, 520-21 (1972); RICHARDSON vs. U.S., 193 f.3D 545, 548-49 (D.C. Cir. 1999), and not limit the jurisdictional statutes identified in this complaint. See, BRUCE vs. CONSULATE OF VENEZUELA, 2005 U.S. Dist. LEXIS 18898 (D.C. 2005)(citing, GERRITSEN vs. de la MADRID HURTADO, 819 f.2D 1511, 1515 (9TH Cir. 1987). "The court may sustain jurisdiction when an examination of the entire complaint reveals a proper basis for assuming jurisdiction other than one that has been improperly asserted ...."" Id. Therefore, this action is not limited to the **FEDERAL TORT CLAIM ACT (FTCA)**, 28 U.S.C. 2401-02, 2411-12, 2671-80 et seq.;

2. This action incorporates the following companion and/or related cases:

a. U.S. PAROLE COMMISSION WARRANT for John Gregory Lambros, issued on August 21, 1989. **EXHIBIT C.**

b. U.S. vs. JOHN GREGORY LAMBROS, Criminal file number CR-4-89-82(05), District of Minnesota.

c. Federal Supreme Court of Brazil extradition judgment #539-1, of John Gregory Lambros to the United States of America, as to USA vs. LAMBROS, Criminal File No. CR-4-89-82(5) and August 21, 1989 U.S. PAROLE COMMISSION WARRANT. Movant Lambros was arrested in Brazil by DEA and Brazilian Federal Police on August 21, 1989 Parole Commission Warrant. See, **EXHIBIT D**. Brazil granted **"PARTIAL EXTRADITION"** on April 30, 1992. See, **EXHIBIT E.**

d. U.S. vs. LAMBROS, 65 f.3d 698 (1995)(8th Cir. 1995).

3. Movant JOHN GREGORY LAMBROS declares under penalty of perjury that all facts and statements contained herein are true and correct, as per Title 28 U.S.C. 1746.

I. PRELIMINARY STATEMENT.

4. Minnesota stockbroker, investment banker and international businessman John Gregory Lambros was arrested on May 17, 1991, in Rio de Janeiro, Brazil on the U.S. Parole Commission Warrant issued on August 21, 1989. Plaintiff was not allowed an initial hearing by a judge as to his restraint of liberty after arrest – 72 hours by law in Brazil – 48 hours after arrest in U.S. and was transported to a torture interrogation center in Brasilia, Brazil 58 days later.

5. Plaintiff Lambros was illegally transported to Brasilia, Brazil by August 1991 and informed that he was arrested and being held due to a U.S. Parole Commission Warrant dated August 21, 1989. DEA Agent Terryl Anderson testified before U.S. Magistrate Judge Jonathan Lebedoff on December 9, 1992, stating that he arrested Plaintiff Lambros on May 17, 1991, pursuant to the parole violation warrant. See, **EXHIBIT D.** ("REPORT AND RECOMMENDATION", filed on December 21, 1992 by Judge Lebedoff, specifically pages 1,2,3, 11, and 13. Movant also incorporates **EXHIBITS B, E, F, and H.**

6. Plaintiff was placed within a depatterning cell, depatterned, tortured daily, forced implanted with brain control implants that monitor and control Movant's mental functions, thoughts, deeds to this day. See, www.Lambros.Name.

7. On or about August 15, 1991, Plaintiff Lambros went before Brazilian Supreme Court Justice Carlos Velloso, as to his extradition in U.S. vs. LAMBROS, CR-4-89-82, from the U.S. District Court for the District Court for the District of Minnesota. This was the first time Lambros had been seen by a Brazilian Judge since his arrest on May 17, 1991. Justice Velloso informed Movant Lambros his extradition request by the United States was based upon a **PAROLE VIOLATION WARRANT** and the May 17, 1989 indictment, CR-4-89-82, that listed nine (9) counts and Movant Lambros was charged in Counts 1, 5, 6, 8, and 9. All counts, except for Court 9, carried sentences of either **MANDATORY LIFE WITHOUT PAROLE OR MAXIMUM LIFE SENTENCES WITHOUT PAROLE:**

a. **COUNT 1: MANDATORY LIFE WITHOUT PAROLE;**

b. **COUNT 5: MAXIMUM LIFE IMPRISONMENT WITHOUT PAROLE;**

c. **COUNT 6: MAXIMUM LIFE IMPRISONMENT WITHOUT PAROLE;**

d. **COUNT 8: MAXIMUM LIFE IMPRISONMENT WITHOUT PAROLE;**

e. **COUNT 9: Brazilian Supreme Court DID NOT extradite Movant Lambros on this Court, as it is not a crime in Brazil.**

Movant was informed that the U.S. Parole Commission WARRANT – that he was arrested on – was not a crime in Brazil and he would not be extradited on it. The U.S. Embassy attorney agreed with Movant's attorney's and Justice Velloso that the August 21, 1989 U.S. PAROLE COMMISSION WARRANT WAS NOT A CRIME IN BRAZIL.

8. The above sentences can be confirmed from the November 16, 1992, **"PLEA AGREEMENT AND SENTENCING GUIDELINES RECOMMENDATIONS,"** with the November 16, 1992 letter from U.S. Attorney Thomas B. Heffelfinger and Douglas R. Peterson, Assistant U.S. Attorney to Movant Lambros' attorney Charles W. Faulkner, stating "Enclosed please find the government's written plea proposal consistent with our discussions within the last ten days." Also, Attorney Faulkner's letter with copy of the plea agreement and the November 16, 1992, dated November 17, 1992 to Movant Lambros stating, **"The agents would prefer you go to trial and get life."** All three (3) of the above documents may be reviewed in PDF format at: **www.Tort.Lambros.Name.**

9. **APRIL 30, 1992:** The Brazilian Supreme Court **GRANTED IN PART** the extradition of Movant Lambros to the United States in U.S. vs. LAMBROS, CR-4-89-82, District of Minnesota, **in extradition case No. 539-1.** The Justices decided, however, by majority of votes, that Movant Lambros should be **PROSECUTED AND TRIED IN THE U.S. ONLY FOR CHARGES** - (A) one count of conspiracy to possess with intent to distribute and to distribute more than five kilograms of cocaine, in violation of 21 U.S.C. 846; (B) three counts of possession with intent to distribute cocaine an aiding abetting such possession, in violation of 21 U.S.C. 841(A)(1) and 841(B)(1)(b) and 18 U.S.C. 2; **AND NOT FOR (C) one count of**

Travel in Interstate Commerce in carrying out illegal activity; i.e., the distribution of cocaine, in violation of 18 U.S.C. 1952(A)(3) and 1952(B)(1). See, **EXHIBIT E.**

10. **PAROLE VIOLATION WARRANT – APRIL 30, 1992:** The Brazilian Supreme Court **DID NOT GRANT EXTRADITION ON THE AUGUST 21, 1989 "WARRANT" BY THE U.S. PAROLE COMMISSION, THAT MOVANT WAS ARRESTED ON BY DEA AGENT TERRYL ANDERSON IN BRAZIL ON MAY 17, 1991.** This "WARRANT" clearly stated Movant was to serve 5,357 days (14 ½ years). For an excellent overview as to why the Treaty of Extradition Between Brazil and the United States **DOES NOT** allow extradition of U.S. Parole Commission Warrants, review Movant Lambros' letter to Johanna Markind, Assistant General Counsel, U.S. Parole Commission, dated December 12, 2014. The December 12, 2014 letter may be downloaded in PDF Format at: www.Parole.Lambros.Name. See, **EXHIBITS B,C, D and E.**

I(A). AUGUST 21, 1989 - U.S. PAROLE COMMISSION "WARRANT" IS A "DETAINER" AND "PENALTY – PUNISHMENT":

11. The terms "penalty, forfeiture, or liability" in the general federal savings statute, Title 1 U.S.C. 109 "were used by Congress to include ALL FORMS OF PUNISHMENT FOR CRIME." WARDEN vs. MARRERO, 417 U.S. 653, 661 (1974), (The Supreme Court held that MARRERO's **PAROLE INELIGIBILITY WAS A PENALTY UNDER SECTION 109).** The MARRERO court also stated that the words "PENALTY, FORFEITURE AND LIABILITY," are synonymous with "**PUNISMENT**" in connection with crimes of the highest grade. Id. at 661. **SPECIAL PAROLE IS A PENALTY** within the meaning of the savings clause. See, U.S. vs. GARCIA, 877 F.2d 23, 24 (9th Cir. 1989). See, **EXHIBIT G.**

12. Under MARRERO and GARCIA, the **ONGOING SUPERVISION AFTER RELEASE** mandated by 18 U.S.C. 4164 is a **"PENALTY"** within the meaning of the savings clause. MARTIN vs. U.S. PAROLE COMMISSION, 108 F.3d 1104, 1106 (9th Cir. 1997). See, **EXHIBIT G.**

13. **PAROLE VIOLATION IS AN ESCAPE:** Movant Lambros - **a PAROLEE IN BRAZIL** – was in legal effect on the same plane as an ESCAPE FROM CUSTODY and custody and control of the warden. Movant's status and rights were analogous to those of an **ESCAPED CONVICT.** See, ANDERSON vs. CORALL, 263 U.S. 193, 196; U.S. vs. POLITO, 583 F.2D 48, 55 (2nd Cir. 1978).

14. **ARTICLE II, U.S. AND BRAZIL EXTRADTION TREATY: SPECIAL PAROLE AND/OR PAROLE ARE NOT INCLUDED WITHIN THIS SECTION OF THE TREATY,** as an extraditable offense. Until 1987, federal prisoners were subject to PAROLE rather than supervised release. See, 18 U.S.C. 3551 et seq. (setting forth the provisions of the Sentencing Reform Act of 1984). **ARTICLE II, Paragraph 30,** within the Treaty states, "Aiding the **ESCAPE** of a prisoner **BY FORCE OF ARMS.**" Movant Lambros was only traveling and visiting and did not report to his parole officer. Also, **ESCAPE IS NOT A CRIME IN BRAZIL WITHOUT FORCE OF ARMS, NOR MAY A PERSON BE EXTRADITED FOR SAME!!**

15 **JULY 4, 2017:** Movant Lambros completes the required 85 percent of his current 30-year sentence and would start his supervised release if he **DID NOT** have the August 21, 1989 U.S. PAROLE "WARRANT" pending "DETAINER".

16. **JULY 4, 2016:** August 21, 1989 "WARRANT" from U.S. Parole Commission **PREVENTS** Movant's prerelease custody. Without the "WARRANT" Movant Lambros would be eligible for "PRE-RELEASE CUSTODY" to a halfway house on **JULY 4, 2016.** Inmates are allowed one (1) year within pre-release to adjust and prepare for reentry into the community. See, 18 U.S.C. 3624(c)(1) and 28 C.F.R. 570.21(a).

17. **JULY 4, 2015:** U.S. Parole Commission "**WARRANT" – "DETAINER" PREVENTS** Movant Lambros from attending and participaton within the "**RESIDENTIAL DRUG ABUSE PROGRAM (RDAP)**" that would of

allowed Movant Lambros **ANOTHER TWELVE (12) MONTHS OFF OF HIS SENTENCE. THEREFORE, A RELEASE DATE OF JULY 4, 2015.** See, 18 U.S.C. 3621(e)(2)(B). Also, ESPINOZA vs. LINDSAY, 500 Fed. Appx. 123, 125 FN. 2 (3rd Cir. 2012)(Inmates with detainers lodged against them are ineligible for RDAP.).

I(B). EXTRADITION TREATY WITH BRAZIL.

18. **MAY 29, 1961:** On May 29, 1961, U.S. President Lydon B. Johnson ratified the "TREATY OF EXTRADTION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED STATES OF BRAZIL", and the additional protocal on October 29, 1963, in pursuance of the advice and consent of the U.S. Senate, and the government of the United States of Brazil. The treaty entered into force on December 17, 1964.

    a. **ARTICLE XI:** States extradition shall be made in accordance with the **DOMESTIC LAW OF THE REQUESTED STATE**, AND THE PERSON WHOSE EXTRADITON IS DESIRED SHALL HAVE THE RIGHT TO USE SUCH **REMEDIES AND RECOURSES AS ARE AUTHORIZED BY SUCH LAW.**

19. **SPECIALTY DOCTRINE:** The Supreme Court of Washington stated, "The requested state **RETAINS AN INTEREST IN THE FATE OF A PERSON WHOM IT HAS EXTRADITED**, so that if, for example, he is **TRIED FOR AN OFFENSE OTHER THAN THE ONE FOR WHICH HE WAS EXTRADITED, OR GIVEN A PUNISHMENT MORE SEVERE THAN THE ONE APPLICABLE AT THE TIME OF THE REQUEST FOR EXTRADITION**, the rights of the requested state, **AS WELL THE PERSON, ARE VIOLATED.**" See, FootNote 56. "**Restatement** (Third) of the Foreign Laws of Nations, Ch. 7, at 557-58." Quoting, PANG, 940 P.2d at 1318 and FootNote 56. (Brazil is the requested State). Also see the following **Eighth Circuit cases: U.S. vs. THIRION**, 813 F.2d 146, 151 (8th Cir. 1987)**(an extradited individual "MAY RAISE WHATEVER**

OBJECTIONS TO HIS PROSECUTION THAT {THE SURRENDERING COUNTRY} MIGHT HAVE."); **LEIGHNOR vs. TURNER,** 884 F.2d 385 (8th Cir. 1989)("The **RULE OF SPECIALTY** is based on principles of international comity and is designed to guarantee the surrendering nation that the extradited individual **WILL NOT** be subject to indiscriminate prosecution by the receiving government. U.S. vs. THIRION, 813 F.2d at 151, 153. .....Thus, in addressing Leighnor's claim that the **PAROLE COMMISSION VIOLATED THE RULE OF SPECIALITY, WE MUST FOCUS ON THE QUESTION OF WHETHER THE FEDERAL REPUBLIC OF GERMANY WOULD CONSIDER THE COMMISSION'S ACTION TO BE A BREACH OF THE SPECIALITY PRINCIPLE.** See, U.S. vs. JETTER, 722 F.2d 371, 373 (8th Cir. 1983)(per curiam).

I(C). FALSE ARREST AND/OR FALSE IMPRISONMENT – DISTRICT OF COLUMBIA COMMON LAW.

20. To make a legally cognizable claim and prevail on a "FALSE ARREST and/or FALSE IMPRISONMENT" claim under District of Columbia law, this Plaintiff must allege and prove "(1) that [the defendant] detained or restrained the plaintiff against [his] will within the boundaries fixed by [the defendant], and (2) the unlawfulness of the restraint." COTTON vs. DISTRICT OF COLUMBIA, 541 f. Supp. 2d 195, 205 (D.D.C. 2008). **All defendants DETAINED AND RESTRAINED PLAINTIFF LAMBROS AGAINST HIS WILL.** See, SMITH vs. DIST. OF COLUMBIA, 2015 U.S. Dist. LEXIS 167624 (D.D.C. 2015).

21. Please note, "[t]he gist of any complaint for false arrest and false imprisonment **is an unlawful detention.**" DENT vs. MAY DEPT. STORES CO., 459 A.2D 1042, 1044 (D.C. 1982).

22. For Plaintiff Lambros to prevail, he must demonstrate "that the police acted **WITHOUT PROBABLE CAUSE, IN AN OJECTIVE CONSTITUTIONAL SENSE, TO EFFECTUATE HIS ARREST."** See, TAYLOR vs. DIST. OF COLUMBIA, 691 A.2d 121, 125 (D.C. 1997). See, BARNHARDT vs. DIST. OF COLUMBIA, 723 F.Supp. 2d 197, 214 (D.D.C. 2010).

23. **PLAINTIFF LAMBROS PREVAILS WHEN THIS COURT ASKS THE KEY QUESTION**: Whether, at the time of Movant Lambros' arrest – and before – did the arresting U.S. Bureau of Prisons, should and did know that Movant Lambros was not extradited from Brazil on the U.S. Parole Commission Warrant issued on August 21, 1989, when the U.S. DEPARTMENT OF STATE NOTIFIED ALL GOVERNMENT AGENCIES THAT MOVANT WAS NOT EXTRADITED ON THE AUGUST 21, 1989 WARRANT.

24. Defendant's actual malice or bad faith is not an essential element of an action for false imprisonment. MARSHALL vs. DIST. OF COLUMBIA, 391 A.2d 1374 (D.C. 1978).

25. Any period of unlawful confinement, **HOWEVER BRIEF**, may result in liability for false imprisonment. MARSHALL, 391 A.2d 1374. 1380-81 (D.C. 1978). Reasonable period of detention may become tortious, if the detention **EXCEEDS THE STATUTORY TIME LIMIT, AS IN THE CASE OF DELAY IN ARRAIGNMENT.** OVLATT BY AND THROUGH WAUGH vs. PEARCE, 954 F.2D 1470 (9TH Cir. 1992).

26. **COMMITMENT WITHOUT JURISDICTION: Liability for FALSE IMPRISONMENT may be premised on an ORDER OF COMMITMENT BEING MADE WITHOUT JURISDICTION, BECAUSE THE**

STATUTORY REQUIREMENT FOR COMMITMENT WERE NOT FOLLOWED. JILLSON vs. CAPRIO, 181 f.2D 523 (D.C. Cir. 1950)(psychiatrist liable as instigator) Police officers committed both false arrest and false imprisonment where they seized a person for an emergency mental evaluation WITHOUT PROBABLE CAUSE. BAILEY vs. KENNEDY, 349 f.3D 731 (4TH Cir. 2003).

27. Actions for false imprisonment accrues, for limitations purposes, on the **TERMINATION OF THE IMPRISONMENT OR CONFINEMENT**, and not the completion of the completion of the proceedings resulting from the arrest. WARREN vs. BYRNE, 699 F.2d 95, 97 (2nd Cir. 1983).

28. **ISSUE FOR JURY**: The question of probable cause is often considered one of fact, which is for the jury to decide; DISTRICT OF COLUMBIA vs. MURPHY, 635 A.2d 929 (D.C. 1993); unless there is no dispute as to the facts. MOOREHEAD vs. DISTRICT OF COLUMBIA, 747 A.2D 138 (D.C. 2000).

29. **PUNITIVE DAMAGES**: Evidence of malice or the like may be sufficient to justify sumitting the question of punitive damages in a false imprisonment case, to the jury. TOLSON vs. DISTRICT OF COLUMBIA, 860 A.2D 336 (D.C. 2004).

SUMMARY OF FACTS AND DOCUMENTS USED TO ARREST AND FALSE IMPRISON PLAINTIFF LAMBROS:

30. Movant Lambros arrested on May 17, 1991 on U.S. Parole Commission Warrant, issued on August 21, 1989.

31. **APRIL 30, 1992:** The Brazilian Supreme Court **GRANTED IN PART** Plaintiff Lambros' extradition in extradition case number 539-1, that **did not include the August 21, 1989 U.S. Parole Violation Warrant.**

DEFENDANTS, et al., KNEW THEY DID NOT HAVE JURISDICTION TO "ARREST" PLAINTIFF LAMBROS:

32. **THE OFFICE OF INTERNATIONAL AFFAIRS:** The "OIA" , Justice Department reviewed the request for Plaintiff's extradition and was informed on or **about MAY 5, 1992** by telex, as was the the following U.S. Government Offices:

a. Secretary of State;
b. U.S. Department of Justice, Washington DC;
c. All Embassies and consulates within Brazil;
d. DEA Washington;

That Plaintiff Lambros was only extradited on criminal indictment U.S. vs. LAMBROS, Criminal No. CR-4-89-82(05), District of Minnesota. See, **EXHIBIT E.** Also see, EXTRADITION TREATY BETWEEN U.S. AND BRAZIL, Article XXI, - A person extradited may not be tried or punished by the requesting state for any crime or offense committed prior to the request for extradition, other than that which gave rise to the request, ...) **EXHIBIT H, page 1360, Article XXI.**

33. **May 25, 2017:** Plaintiff Lambros wrote Defendant Office of General Counsel for the U.S. Bureau of Prisons (BOP), Washington DC, U.S. Certified Mail No. 7012-3460-0001-8775-3990, requesting Defendant's to **DISENGAGE EXISTING BLOCK ON PLAINTIFF LAMBROS' WEBSITE www.Lambros.Name.** Defendant's placed a "LOGOGRAM" block leading to Movant Lambros' website, denying access to "BOP" employees. Further investigation by staff at U.S. Penitentiary Leavenworth determined that the **BOP denied access due to "POLITICAL – SOCIAL ADVOCACY", AFTER REVIEWING ALL CONTENT WITHIN PLAINTIFF LAMBROS' WEBSITE.** PLEASE NOTE THAT LAMBROS' SUBDOMAIN www.PAROLE.LAMBROS.NAME is contained within www.Lambros.Name. Therefore, Defendants **reviewed all documents submitted to the U.S. Parole Commission BEFORE MAY 25, 2017 BY PLAINTIFF LAMBROS AND KNEW THAT PLAINTIFF LAMBROS WAS NOT EXTRADITED FROM BRAZIL ON THE AUGUST 21, 1989, U.S. PAROLE COMMISSION WARRANT.**

34. **JUNE 23, 2017:** Plaintiff Lambros filed a PETITION FOR WRIT OF MANDAMUS against Defendant Nicole English, Warden for the U.S. Penitentiary Leavenworth, Leavenworth, Kansas. See, LAMBROS vs. Nicole English and U.S. Parole Commission, U.S. District Court for the District of Kansas, Civil Docket No. 17-3105. The Writ of Mandamus again placed Defendant BOP and the U.S. Parole Commisison on notice of the fact that Plaintiff **was not extradited on the August 21, 1989 U.S. Parole Commisison Warrant that was preventing Plaintiff's release from BOP custody. See, EXHIBIT J.** Please note that the exhibit contains page 14 of the WRIT OF MANDAMUS that refers to attached EXHIBIT J., which is copy of Plaintiff Lambros' May 25, 2017 letter to the Office of General Counsel, U.S. BUREAU OF PRISONS, as described within paragraph 33 above. Also attached, page 1 and 2 of www.Lambros.Name. Movant has placed an X next to the above described June 23, 2017, Petition for Writ of Mandamus – thus attempting to guide this Court to the above-entitled document for easy review.

II. PLAINTIFF.

35. Plaintiff JOHN GREGORY LAMBROS, was arrested on May 17, 1991 in Brazil by DEA and Brazilian Police and has been in custody to this date, due to the above-entitled extradition from Brazil to the United States. Plaintiff is currently confined at the Volunteers of America, Residential Reentry Center, Minneapols, Minnesota 55406.

III. DEFENDANTS.

36. **UNITED STATES OF AMERICA: MAILED TO - ATTORNEY GENERAL OF THE UNITED STATES:** U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington DC 20530.

37. **UNITED STATES FEDERAL BUREAU OF PRISONS:** Attn: General Counsel. 320 First Street, Washington, DC 20534.

IV. JURISDICTION AND VENUE.

38. On or about 1993 or the early part of 1994 the "USPC" forwarded to Plaintiff Lambros, pursuant to 18 U.S.C. 4214(b)(1), an application for a dispositional record review of Plaintiff's outstanding August 21, 1989 "WARRANT" by the USPC, while Plaintiff was housed at U.S. Penitentiary Leavenworth. This information was processed thru staff of Defendant U.S. Bureau of Prisons. Defendant "BOP" informed Plaintiff that he had the right to be represented by an attorney and that it would be best to contact the U.S. Public Defenders Office to appoint an attorney due to the confusion regarding the legality of Plaintiff's extradition from Brazil on the August 21, 1989 U.S. Parole Commission Warrant. Plaintiff

requested services of court appointed attorney on March 29, 1994, to assist in the dispositional record review of August 21, 1989 "WARRANT". On April 6, 1994, the Court appointed Attorney David J. Phillips, a federal public defender, to assist Plaintiff. **Plaintiff Lambros requested Attorney Phillips to pursue claims concerning the illegal arrest and extradition of Plaintiff from Brazil on the August 21, 1989 "WARRANT", by the US PAROLE COMMISSION ("USPC")**. During the "USPC" dispositional record review of Plaintiff Lambros, Attorney Phillips argued that the parole commission warrant was having **ADVERSE IMPACT ON THE PLAINTIFF'S SECURITY CLASSIFICATION AS WELL AS THE TYPES OF PROGRAMS AND EMPLOYMENT TO WHICH PLAINTIFF HAD ACCESS WHILE INCARCERATED WITHIN INDEFENDANT "BOP" FACILITIES.** "He also included several documents discussing various issues Plaintiff Lambros thought pertinent, **such as his allegedly ILLEGAL EXTRADITION FROM BRAZIL**. On September 14, 1994, the "USPC" ordered that the parole violation warrant remain in place (ORDER)..." See, LAMBROS vs. U.S., 1997 U.S. Dist. LEXIS 2373 (D.C. Kan. 1997)("FootNote 3, The U.S. sought to extradite the plaintiff to stand trial in the U.S. District Court for the District of Minnesota for alleged narcotic crimes contained in his indictment **AS WELL AS HIS PAROLE VIOLATIONS CONTAINED IN HIS PAROLE VIOLATION WARRANT (PVC).**

39. **JULY 3, 2017:** Plaintiff Lambros is released from his past sentence – U.S. vs. LAMBROS, criminal file number CR-4-89-82(5), District of Minnesota – after completing the entire 85 percent of the sentence, **mandatory release with no halfway house.**

40. **JULY 3, 2017:** Warden John B. Fox, Oklahoma City, Oklahoma U.S. Bureau of Prisons Federal Transfer Center, **ARRESTS** Plaintiff Lambros on August 21, 1989 U.S. Parole Commission Warrant.

41. **OCTOBER 12, 2017:** U.S. PAROLE COMMISSION holds revocation hearing on Special Parole violation that was the foundation for the August 21, 1989 WARRANT.

42. **OCTOBER 26, 2017**: U.S. PAROLE COMMISSION issued a "NOTICE OF ACTION" due to the revocation of Plaintiff Lambros' revocation of SPECIAL PAROLE – "None of the time spent on special

parole will be credited. Parole effective January 3, 2018 after the service of six (6) months. You shall reside in and participate in a program of the Residential Re-Entry Center as instructed by your U.S. Probation Officer until discharged by the Center Director, but no later than 120 days from admission." **See, EXHIBIT A.**

43. Plaintiff Lambros was arrested on May 17, 1991 in Brazil by DEA and Brazilian Federal Police and has been in custody to this date, due to his arrest on the August 21, 1989 U.S. Parole Commisison Warrant and later arrest on U.S. vs. LAMBROS, criminal file No. CR-4-89-82(5), District of Minnesota, within Brasilia, Brazil.

44. **TREATY WITH BRAZIL, DECEMBER 12, 1828 – ARTICLE XII:** Brazil and the United States have a treaty that accords Americans and Brazilians access to U.S. Court, equivalent to that provided American citizens. See, TREATY OF AMITY, COMMERCE, AND NAVIGATION; DECEMBER 12, 1828, Article XII: "Both the contracting parties promise and engage formally to give their special protection to the persons and property of the citizens and subjects of each other, of all occupations, who may by in their territories, subject to the jurisdiction of the one or the other, transient or dwelling therein, leaving open and free to them the tribunals of justice for their judicial intercourse, on **THE SAME TERMS WHICH ARE USUAL AND CUSTOMARY WITH THE NATIVES OR CITIZENS AND SUBJECTS OF THE COUNTRY IN WHICH THEY MAY BE;** for which they may employ, in defense of their rights, such advocates, solicitors, notaries, agents and factors, as they may judge proper in **ALL THEIR TRIALS AT LAW.**" See, CONSTRUTORA NORBETO OBERBRECHT S.A. vs. GE, 2007 U.S. Dist. LEXIS 79219 (S.D.N.Y. 2007).

45. **PLAINTIFF LAMBROS IS A RESIDENT OF WASHINGTON D.C.:** The ultimate responsibility for federal prisonsers [Plaintiff] remains with the U.S. Attorney General in Washington, D.C. See, U.S. vs. ROCHA-LEON, 187 f.3D 1157, 1159 (9TH Cir. 1999) (18 U.S.C. 751, "The director of the Bureau of Prisonsons is appointed by the Attorney General and is subject to her direction. See, 18 U.S.C. 4041; ... U.S. vs. WILSON, 503 U.S. 329, 331 (1992)("The Attorney General, through the Bureau of Prisons (BOP), has responsibility for imprisoning federal offenders."). The Supreme Court stated in RUMSFELD vs. PADILLA, 542 U.S. 426, 438 (2004):

> "... **IMMEDIATE PHYSICAL CUSTODIAN RULE**, by its terms, does not apply

When a habeas petitioner challenges something **OTHER THAN HIS PRESENT PHYSICAL CONFINEMENT. ..."**

"Under BRADEN, then, a habeas petitioner who **CHALLENGES A FORM OF "CUSTODY" OTHER THAN PRESENT PHYSICAL CONFINEMENT MAY NAME AS RESPONDENT THE ENTITY OR PERSON WHO EXERCISES LEGAL CONTROL WITH RESPECT TO THE CHALLENGED 'CUSTODY.'"**

RUMSFELD, 542 U.S. at 438.

46. The Federal Tort Claims Act (FTCA) allows suit against the federal government for torts committed by its employees. See, 28 U.S.C. 1346(b), 2671-80.

47. **VENUE**: "[I]f there is is no District in which an action may otherwise be brought," 28 U.S.C. 1391(b)(3) provides for venue in "any judicial District in which any Defendant is subject to the court's personal jurisdiction with respect to such action." 28 U.S.C. 1391(b)(3).

48. The United States can be a defendant to a claim under the FTCA. See, 28 U.S.C. 2679(a); COX vs. SEC'Y OF LABOR, 739 F.Supp. 28, 29 (D.D.C. 1990).

49. **LIABILITY UNDER THE FTCA**: Assault, battery, false imprisonment, false arrest, abuse of process, and malicious prosecution, are actionable when committed by federal investigative or law enforcement officers. See, 28 U.S.C. 2680(h). This category includes federal correctional officers and employees of the U.S. Bureau of Prisons who are empowered to make arrests for certain federal law violations. See, SHEPPARD vs. U.S., 537 f. Supp. 2d 785, 790-791 (D. MD. 2008) and cases cited. The Supreme Court held

the BOP were law enforcement officers in interpreting another section of the FTCA. See, ALI vs. FEDERAL BUREAU OF PRISONS, 552 U.S. 214 (2008).

V. FILING AND DENIAL OF FEDERAL TORT CLAIM STANDARD FORM 95

50. **NOVEMBER 13, 2017**: Plaintiff Lambros filed a Federal Tort Claim against Defendant Federal Bureau of Prisons, for a total amount of twenty (20) million dollars for false imprisonment and unlawful detention. See, **EXHIBIT K.**

51. **DECEMBER 12, 2017:** Jason A. Sickler, Regional Counsel for Defendant BOP wrote Movant Lambros acknowledging receipt of Movant's November 13, 2017 Federal Tort Claim, informing that a response is due from his office on or before May 21, 2018. The following Administrative Tort Claim number was assigned to this claim: TRT-SCR-2018-01267.

52. **APRIL 4, 2018**: Jason A. Sickler, Regional Counsel, Federal Bureau of Prisons, South Central Regional Office, Grand Prairie, Texas 75051, mailed Plaintiff a certified letter stating, "You claim that Federal Tranfer Center staff executed an invalid U.S. Parole Commission warrant against you on July 3, 2017. You seek $20,000,000.00 in compensation. You failed to claim a loss caused by the negligence of an employee of the Untied States acting within the scope of employment. Therefore your claim is **denied.** See, **EXHIBIT L.**

VI. ADMINISTRATIVE REMEDY PROCESS - BOP TRACKING NO. 917434-F1, R2, etc.

53. Plaintiff Lambros' ADMINISTRAIVE REMEDIES in this above-entitled matter have been denied on the following dates:

a. BP-9: October 26, 2017, by Warden Fox.

b. BP-10: April 18, 2018: by Mike Connel, Central Sector Administrator. Denied due to lack of jurisdiction of BOP. Claims Movant Lambros does not have a right to appeal to Office of General Counsel for BOP, Washington, DC.

c. BP-11: Submitted on May 4, 2018, U.S. Certified Mail No. 7017-2680-0000-6464-8197.

The BP-11 contained copy of the above BP-9, 10 and responses of denial from Defendant BOP.

See, EXHIBIT M.

VII. PAST JURY SETTLEMENTS IN FEDERAL DISTRICT COURTS FOR "FALSE IMPRISONMENT" HAVE INCLUDED "$500,000.00 FOR EACH MONTH THAT PLAINTIFF WAS INCARCERATED."

54. The U.S. District Court for the District of New Mexico, stated within the January 8, 2013 "ORDER", "Next, the **JURY FOUND** the Detention Center liable for the torts of **FALSE IMPRISONMENT** ...Finally, the **JURY FIXED THE AMOUNT OF COMPENSATORY DAMAGES AT $15.5 MILLION, TO INCLUDE $500,000.00 FOR EACH MONTH THAT PLAINTIFF WAS INCARCERATED**, plus an additional $1 million for

each year since Plaintiff's release from custody." See, SLEVIN vs. BOARD OF COMMISSIONERS FOR THE COUNTY OF DONA ANA, 934 F. Supp. 2d 1282, 1285 (Dist. of New Mexico, January 8, 2013).

55. The above federal case is only offered to give the Defendants and this Court an idea of current jury settlements for the tort of **FALSE IMPRISONMENT.**

56. Plaintiff Lambros also offers the excellent "FINDING OF FACT AND CONCLUSION OF LAW," by the Honorable John M. Mott, Superior Court of the District of Columbia, Civil Division, within civil action case No. 2013-CA-003237-B. See, SANTAE A. TRIBBLE vs. DISTRICT OF COLUMBIA, February 26, 2016. Judge Mott offers an overview on how damages are calculated for **FALSE IMPRISONMENT CLAIMS** and damages post-parole, including future damages. **See, EXHIBIT N.**

ARGUMENT

COUNT 1.

VIII. FALSE ARREST AND/OR FALSE IMPRISONMENT IN VIOLATION OF FEDERAL AND DISTRICT OF COLUMBIA - COMMON LAW TORT.

57. Plaintiff Lambros hereby re-alleges and incorporates paragraph 1 through 56 of this Complain as if stated in full herein.

58. From at least in or about May 17, 1991 and continuing in or about February 27, 2018 and/or until this court "ORDERS" injunctive relief for Defendant's to correct the following fraud and artifice, in Washington, D.C., Brazil and elsewhere, the Defendants engaged in a pervasive pattern of fraudulent, deceptive, and otherwise improper legal practices through misrepresentations, omissions, and false innuendo, violating the **"RULE OF SPECIALTY"** contained in the Treaty between the United States of America and Brazil, pursuant to which Plaintiff Lambros was extradited.

59. The "**RULE OF SPECIALTY**" is based on principles of international comity and is designed to guarantee the surrendering nation [Brazil] that the extradited individual {Plaintiff Lambros] **WILL NOT** be subject to indiscriminate prosecution by the receiving government. See, U.S. vs. THIRION, 813 f.2d 146, 151, 153 (8TH Cir. 1987). Plaintiff incorporates and restates paragraphs 18 and 19 above.

60. Plaintiff Lambros specifically incorporates and restates paragraphs 20, 21, 22, 23, 24 and 25 here.

61. **COMMITMENT WITHOUT JURISDICTION:** Liability for FALSE IMPRISONMENT may be premised on an **ORDER** of commitment being made **WITHOUT JURISDICTION, BECAUSE THE STATUTORY REQUIREMENT FOR COMMITMENT WERE NOT FOLLOWED**. JILLSON vs. CAPRIO, 181 f.2D 523 (D.C. Cir. 1950)(psychiatrist liable as instigator) Police officers committed both false arrest and false imprisonment where they seized a person for an emergency mental evaluation WITHOUT PROBALBE CAUSE. BAILEY vs. KENNEDY, 349 F.3d 731 (4th Cir. 2003).

62. The facts are simple and clear as to Plaintiff Lambros' arrest on May 17, 1991 on the August 21, 1989 U.S. Parole Commission Warrant by DEA and Brazilian Federal Police. No Probable cause hearing was held in Rio de Janeiro, Brazil. On or about August 15, 1991, Plaintiff was seen by Brazilian Supreme Court Justice Carlos Velloso and all parties agreed the August 21, 1989 WARRANT was not valid in Brazil, as a parole violation is not a crime in Brazil. See, Paragraph 7 and 10 above. Finally, the Brazilian Supreme Court did not grant extradition on the August 21, 1989 WARRANT. See, Paragraph 9 above.

63. **The OFFICE OF INTERNATIONAL AFFAIRS ("OIA"):** The "OIA" and the Department of State notified all federal agencies as to the exact status of Plaintiff's extradition and crimes he could be tried upon in the United States **without first being released from prison and given thirty (30) days to leave the United States and return to Brazil without being prosecuted on the August 21, 1989 WARRANT, as per the treaty**. See, Paragraph 32 above. Also see, **EXHIBIT – O**. (State of Washington vs. PANG, 940 P.2d 1293, 1360 (Wash. 1997) – ARTICLE XXI of Brazil and U.S. Extraditon Treaty).

64. The August 21, 1989 U.S. Parole Violation Warrant has caused negative false imprisonment effects to Plaintiff Lambros since his custody within Defendant U.S. Bureau of Prisons and has denied Plaintiff's release – due to the detainer status of the Warrant – since July 4, 2015. See, Paragraphs 15, 16, and 17.

65. Defendant U.S. Bureau of Prisons illegally arrested Plaintiff on July 3, 2017. See, Paragraphs 39 thru 42.

66. **February 27, 2018:** The U.S. Parole Commission, U.S. Department of Justice, issued a **"NOTICE OF ACTION ON APPEAL,"** to Plaintiff Lambros stating:

> "The Natonal Appeals Board examined the appeal of the above named and ordered the following:
>
> Terminate parole supervision on your original federal sentence in CR3-75-128, 3-76-54, and 3-76-17 and close case.
>
> **REASONS:**
>
> The National Appeals Board concludes that the Rule of Specialty applies in your case.
>
> Consequently your sentence in CR3-75-128, 3-76-54, 3-76-17 has expired.
>
> All decisions by the National Appeals Board on appeal are final.

See, **EXHIBIT I.**

67. The U.S. Department of Justice, U.S. Parole Commission **ADMITS** that Plaintiff Lambros should of never been arrested in Brazil on the August 21, 1989 "WARRANT" and **Article XXI of the**

Treaty of Extraditon between Brazil and the United States of America should have been followed by releasing Plaintiff Lambros on or about July 4, 2015, as Plaintiff Lambros would have been able to take advantage of all programing he was denied due to the August 21, 1989 WARRANT. **See, EXHIBIT – O.**

REQUESTED RELIEF

68. WHEREFORE, Plaintiff Lambros requests that the Court grant the following relief:

69. Issue a declaratory judgment stating that Defendants United States of America and the U.S. Bureau of Prisons violated the Treaty of Extradition by committing the acts of false arrest and false imprisonment by detaining, arresting, convicting, and incarcerating Plaintiff Lambros on the August 21, 1989, U.S. Parole Commission Warrant that that Plaintiff was arrested on by DEA and Brazilian Federal Police on May 17, 1991, in Rio de Janeiro, Brazil and not extradited on by the Brazilian Supreme Court on April 30, 1992.

70. Defendants failure to take action to curb the violations of Plaintiff's rights under the United States Constitution and Brazil's Constitution and the Treaty of Extradition constituted fraud, negligence,

False representation, discrimination, misrepresentation of law, false arrest and false imprisonment that adversely affected Plaintiff Lambros' life.

71. **AWARD COMPENSATORY DAMAGES:** Twenty (20) million dollars ($20,000,000.00) jointly and severally against Defendant United States of America and U.S. Bureau of Prisons for false arrest, false imprisonment and emotional injuries sustained as a result of the above actions.

72. Plaintiff Lambros believes the consequences of his **false imprisonment** will not vanish upon his release from prison and/or halfway house incarceration, as the ordeal did not merely deprive Plaintiff of his liberty in a constitutional sense – it ruined his life, leaving him broken in body and spirit and, quite literally, dying.

73. Grant such other relief as it may appear that Plaintiff Lambros is entitled.

74. I JOHN GREGORY LAMBROS, have read the foregoing complaint and hereby verify that the matters alleged therein are true, except as to matters alleged on information and belief, and, as to those, I believe them to be true. I declare under penalty of perjury that the foregoing is true and correct. See, Title 28 U.S.C. 1746.

EXECUTED ON: May 25, 2018

John Gregory Lambros, Pro Se
Volunteers of America, Re-entry Center
2825 East Lake Street
Minneapolis, Minnesota 55406
www.Lambros.Name

U.S. Department of Justice
United States Parole Commission
90 K Street, N.E., 3rd Floor
Washington, D.C. 20530

Notice of Action

Name: LAMBROS, John

Institution: Oklahoma FTC

Register Number: 00436-124

Date: October 26, 2017

FEDERAL INSTITUTIONAL REVOCATION

As a result of the hearing conducted on October 12, 2017, the following action was ordered:

Revoke special parole term. None of the time spent on special parole shall be credited. Parole effective January 3, 2018 after the service of 6 months.

You shall reside in and participate in a program of the Residential Re-Entry Center as instructed by your U.S. Probation Officer until discharged by the Center Director, but no later than 120 days from admission.

FINDINGS OF FACT:

The Commission finds as a fact that you violated conditions of release as charged as indicated below:

Charge No. 1 - Failure to Submit Supervision Reports.

Basis: Your admission to the examiner.

Charge No. 2 - Failure to Report Change in Employment.

Basis: Your admission to the examiner.

Charge No. 3 - Failure to Report Change in Residence.

Basis: Your admission to the examiner.

REASONS:

Your parole violation behavior has been rated as administrative violation(s) of Category One severity. Your salient factor score is 6. See the attached sheet for an explanation of your individual Salient Factor Score items. The table at the bottom presents the points for Salient Factor Score Item C. As of October 1, 2017, you have been in confinement as a result of your violation behavior for a total of 3 month(s). Guidelines established by the Commission indicate a customary range of 0 - 8 months to be served before release.

After review of all relevant factors and information, a departure from the guidelines at this consideration is not warranted.

THE ABOVE DECISION IS APPEALABLE.

Ex. - A.

You may obtain appeal forms from your caseworker or supervising officer and they must be filed with the Commission within thirty days of the date this Notice was sent.

Copies of this Notice are sent to your institution and to your supervising officer. In certain cases, copies may also be sent to the sentencing court. You are responsible for advising any others you wish to notify.

cc: Designation & Sentence Computation Ctr
U.S. Armed Forces Reserve Complex
Grand Prairie Office Complex
346 Marine Forces Drive
Grand Prairie, TX 75051

District of Minnesota
406 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415-1320

Julia Summers
Federal Public Defenders Office
Western District of Oklahoma
Old Post Office Building
215 Dean A. McGee Avenue
Suite 109
Oklahoma City, OK 73102

LAMBROS REQUESTS U.S. PAROLE COMMISSION TO INVESTIGATE HIS TORTURE IN BRAZIL

Lambros has tried for years to have the U.S. Department of Justice investigate and disclose the torture he experienced in Brazilian custody, to no avail. Lambros was arrested on **May 17, 1991 by DEA AGENT TERRY ANDERSON IN RIO DE JANEIRO, BRAZIL PURSUANT TO THE AUGUST 21, 1989 "WARRANT" BY THE U.S. PAROLE COMMISSION.**

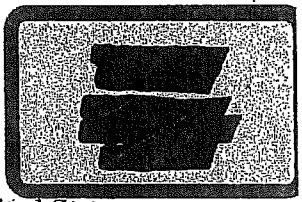
On December 7, 2011, The Wall Street Journal published an article entitled "U.S. Says Mexico Tortured American in Custody", by Nicholas Casey, Page A15. The article stated that on December 1, 2011, the U.S. Parole Commission made a finding that American citizen **SHOHN HUCKABEE, 24, was "TORTURED IN FOREIGN CUSTODY"** after his arrest on drug charges. The article also stated:

> "The parole board reduced the five-year sentence given to him [Shohn Huckabee] by a **MEXICAN JUDGE, AND RELEASED HIM WITH 'TIME SERVED,'** or 26 months, under a treaty signed between the two countries. The commission didn't comment on the marijuana charges."
>
> "The Dec. 1 finding could raise tensions between Washington and Mexico City over how Mexico is pursuing the drug war. Under terms of the **MERIDA INITIATIVE**, the $1.4 billion aid package given to Mexico and Central America government to fight drugs, Mexico could lose 15% of the aid if there is **EVIDENCE OF HUMAN-RIGHTS VIOLATIONS."**
>
> "A spokesman for **SENATOR KAY BAILEY HUTCHISON (R., Texas)**, warned Tuesday that the State Department "should be very carefully vetting **MERIDA FUNDING,**" and asked that it "investigate the reported torture of **SHOHN HUCKABEE."**

Lambros has taken the following steps requesting Johanna Markind, Assistant General Counsel for the United States Parole Commission to open an investigation into Lambros' torture in Brazil by Brazilian authorities:

1. **JANUARY 7, 2012:** John Gregory Lambros' letter to Johanna Markind, Assistant General Counsel for the United States Parole Commission, requesting assistance in opening an investigation into Lambros' torture by Brazilian authorities AFTER being arrested by both U.S. and Brazilian authorities in May 1991. Lambros included as exhibits the December 7, 2011, article "U.S. SAYS MEXICO TORTURED AMERICAN IN CUSTODY", by Nicholas Casey that appeared within THE WALL STREET JOURNAL, Page A15 and page 699 from U.S. vs. LAMBROS, 65 F-3d 698 (8th Cir. 1995). This document is two (2) pages in length with two (2) pages of exhibits, a total of four (4) pages. **THIS DOCUMENT IS IN PDF FORMAT.**

Ex. B



DOWNLOAD JANUARY 7, 2012 LAMBROS LETTER TO U.S. PAROLE COMMISSION, HERE IN PDF.

2. **JANUARY 25, 2012:** Attorney Johanna E. Markind, U.S. Department of Justice, United States Parole Commission letter to John Gregory Lambros, as to receipt of Lambros' January 7, 2012 letter. This letter is from Rockne J. Chickinell, General Counsel by J. Markind. J. Markind states "Please

note that the Commission does not have jurisdiction over your sentence, which was imposed by a federal district court (D.Minn.) under the Sentencing Reform Act. It is not a transfer case."

DOWNLOAD JANUARY 25, 2012 MARKIND LETTER TO LAMBROS, HERE IN PDF.

3. **FEBRUARY 6, 2012:** John Gregory Lambros' letter to Attorney Johanna E. Markind, Assistant General Counsel for the U.S. Parole Commission via U.S. Certified Mail No. 7008-1830-0004-2646-8997. Lambros responded to Attorney Markind's letter dated January 25, 2012, stating that she was incorrect that the U.S. Parole Commission did not have jurisdiction. Lambros stated the following facts: a) On August 21, 1989 the U.S. Parole Commission issued a **WARRANT** for Lambros' arrest and sentencing to **5,357 DAYS (141 years)**; b) On May 17, 1991, DEA Agent Terryl Anderson arrested John Gregory Lambros in Brazil **PURSUANT TO THE AUGUST 21, 1989 "WARRANT" BY THE U.S. PAROLE COMMISSION;** c) Lambros was **TORTURED IN BRAZILIAN CUSTODY AFTER BEING TRANSFERRED TO THE TORTURE INVESTIGATION FACILITY IN BRASILIA, BRAZIL;** d) Lambros was not allowed to see a judge or any type of court administrator while in custody in Rio de Janeiro, Brazil after his arrest and was **ILLEGALLY MOVED** to Brasilia, Brazil to be tortured and interrogated; e) Lambros offers court documents from DEA Agent Terryl Anderson as to his arrest of Lambros **PURSUANT TO THE AUGUST 21, 1989 "PAROLE VIOLATION WARRANT".** This document is four (4) pages in length with four (4) pages of exhibits, a total of eight (8) pages. **THIS DOCUMENT IS IN PDF FORMAT.**

DOWNLOAD FEBRUARY 6, 2012 LAMBROS LETTER TO U.S. PAROLE COMMISSION, HERE IN PDF.

4. **MAY 5, 2012:** John Gregory Lambros' letter to Attorney Johanna E. Markind, Assistant General Counsel for the U.S. Parole Commission via U.S. Certified Mail No. 7008-1830-0004-2646-9277. Lambros informs Attorney Markind that he has not received a response from his February 6, 2012 letter. Also Lambros offers an overview of documents as to proof of his torture in Brasilia, Brazil, which included: a) October 20, 1991, Sunday newspaper article from **CAMPINAS [Sao Paulo, Brazil]** entitled **"MAFIOSO DA CAMORRO PRESO SOFREU TORTURAS NA DITADURA!"** by Jose Francisco Pacola, states **FRANCISCO TOSCANINO** is currently being held at the **Federal Police Station in Brasilia, Brazil AWAITING HIS EXTRADITION TO ITALY.** B) February 12, 1996 letter from **MAXIME TOSCANINO** the son of **FRANCISCO TOSCANINO** offering information as to the name of FRANCISCO TOSCANINO'S lawyer in Brazil - **Dr. Julio Cardella** - and the location of his father - a maximum security prison near Naples, Italy. Maxime also included a copy of the October 20, 1991 newspaper article from Campinas. FRANCISCO TOSCANINO was tortured in the same facility and cell block Lambros was tortured in January 1973. See, **U.S. vs. FRANCISCO TOSCANINO, 500 F.2d 267, 269-270 (2nd Cir. 1974).** Finally, Lambros offers information regarding the January 11, 1993 **"SUBPOENA"** the U.S. Embassy received for **MARGARET MURPHY, COUNSEL GENERAL FOR THE U.S. EMBASSY IN BRASILIA, BRAZIL.** The Subpoena was an ORDER for Margaret Murphy to appear on January 14, 1993, in the U.S. District Court, District of Minnesota, Courtroom 3 at 9:00 a.m. - Margaret Murphy did not appear to testify as to the torture Lambros received in Brasilia, Brazil. This document is four (4) pages in length with no exhibits. **THIS DOCUMENT IS IN PDF FORMAT.**

4.

DOWNLOAD MAY 5, 2012 LAMBROS LETTER TO U.S. PAROLE COMMISSION, HERE IN PDF.

5. **MARCH 8, 2012: CARLOS QUIJAS, 38 WAS RELEASED FROM A U.S. PRISON FRIDAY BY THE U.S. PAROLE COMMISSION,** which reduced his five-year sentence to time

served. Carlos Quijas was the second American released from jail **WHO WAS CONVICTED OF DRUG TRAFFICKING IN MEXICO AFTER CLAIMING THAT HE HAD BEEN TORTURED BY THE COUNTRY'S MILITARY.** [Shohn Huckabee was the first] Mr. Quijas and Shohn Huckabee, were convicted in a Mexican court of drug trafficking in 2010 and transferred to the United States to serve their sentences. The two men deny the charges. This information appeared in an article entitled "U.S. Releases American In Cross-Border Drug Case", by Nicholas Casey. See, THE WALL STREET JOURNAL, Thursday, March 8, 2012, Page A12.

6. August 28, 2012: John Gregory Lambros' letter to Attorney Johanna Markind, Assistant General Counsel for the U.S. Parole Commission. Lambros informs Ms. Markind of the June 1, 2012 article that appeared within the magazine **"THE WEEK"**, page 6, as to **Brazilian President DILMA ROUSSEFF RECEIVING $10,000.00 from Brazil as compensation for having been tortured for three (3) years after her capture in 1969.** Lambros also suggests that the U.S. Parole Commission contact the **SEVEN MEMBER TRUTH COMMISSION** that President Rousseff created to investigate human rights abuses. This document is one (1) page in length with a one (1) page exhibit, a total of two (2) pages. **THIS DOCUMENT IS IN PDF FORMAT.**

DOWNLOAD AUGUST 28, 2012 LAMBROS LETTER TO U.S. PAROLE COMMISSION, HERE IN PDF.

7. August 22, 2012: Lambros received this letter a day after he mailed his August 28, 2012 letter to Attorney Johanna E. Markind. Attorney Johanna E. Markind and General Counsel Rockne J. Chickinell of the U.S. Parole Commission inform Lambros that they will not investigate his torture in Brazil until Lambros finishes serving his 30-year term of imprisonment and starts his 15-year term of imprisonment for the U.S. Parole Commission that Brazil did not extradite Lambros on. Therefore, a breach of the treaty and order of the Brazilian Supreme Court. This document is one (1) page in length and in **PDF FORMAT.**

DOWNLOAD AUGUST 22, 2012 LETTER FROM JOHANNA E. MARKIND AND ROCKNE J. CHICKINELL TO JOHN GREGORY LAMBROS, HERE IN PDF.

8. JANUARY 29, 2013: Rockne J. Chickinell, General Counsel and Johanna E. Markind, Attorney for the U.S. Parole Commission wrote John Gregory Lambros in response to Lambros' letters dated February 6, 2012, May 5, 2012, and August 28, 2012. Ms. Markind states "the Commission's pending detainer warrant ~~**WILL NOT BE EXECUTED UNTIL YOU HAVE FINISHED**~~ **SERVING THE 30-YEAR TERM IMPOSED BY THE U.S. DISTRICT COURT FOR THE DISTRICT OF MINNESOTA IN CASE NO. 89-cr-82-05.** After it is executed, the Commission will conduct a **REVOCATION HEARING**, at which you should raise any arguments you wish to present concerning revocation." This document is one (i) page in length and in **PDF FORMAT.**

DOWNLOAD JANUARY 29, 2013 LETTER FROM U.S. PAROLE COMMISSION TO LAMBROS, HERE IN PDF FORMAT..

9. JANUARY 30, 2013: "NOTICE OF ACTION", from U.S. Parole Commission to John Gregory Lambros, the following action was ORDERED: "Pursuant to the Commission's November 23, 1988 Certificate of Early Termination, you were **DISCHARGED FROM PAROLE ON THAT DATE AND BEGAN SERVING YOUR SPECIAL PAROLE TERM.** Upon execution of the pending August 21, 1989 **WARRANT**, the Commission shall conduct a hearing to determine whether to revoke your **SPECIAL PAROLE TERM ONLY." THE ABOVE IS NOT APPEALABLE."**

DOWNLOAD JANUARY 30, 2013, "NOTICE OF ACTION" FROM U.S. PAROLE COMMISSION, HERE IN PDF FORMAT..

10. JUNE 12, 2014: "SENTENCING MONITORING COMPUTATION DATA AS OF JUNE 12, 2014" from U.S. Bureau of Prisons. The document clearly states Lambros' statutory release date is projected at JULY 4, 2017 and expiration full term date is **MAY 15, 2021.**

DOWNLOAD JUNE 12, 2014 "SENTENCING COMPUTATION DATA" FOR LAMBROS FROM U.S. BUREAU OF PRISONS, HERE IN PDF FORMAT.

11. DECEMBER 12, 2014: LAMBROS' LETTER TO JOHANNA MARKIND, U.S. PAROLE COMMISSION. U.S. Certified Mail No. 7013-2630-0000-5381-3567. This letter request the U.S. Parole Commission "TO GRANT RELIEF AND CONSERVE JUDICIAL RESOURCES BEFORE JOHN GREGORY LAMBROS PROCEEDS AGAINST **'BRAZIL'** REGARDING EXTRADITION JUDGMENT #539-1, PURSUANT TO **'THE FOREIGN SOVEREIGN IMMUNITIES ACT' FOR FALSE IMPRISONMENT."** This letter outlines the facts and laws regarding Lambros **NOT BEING EXTRADITED FROM BRAZIL ON THE AUGUST 21, 1989 'WARRANT" ISSUED BY THE U.S. PAROLE COMMISSION.** Therefore, Lambros will seek justice by legal process via "THE FOREIGN SOVEREIGN IMMUNITIES ACT" against Brazil for **EVERY DAY LAMBROS IS INCARCERATED AFTER JULY 4, 2016, THE DAY LAMBROS IS ELIGIBLE FOR "PRERELEASE CUSTODY".** Lambros' action is a **TORT** and Title 28 U.S.C. Section 1605(a)(5) under the FSIA allows claims for a) the infliction of mental or emotional distress; b) **FALSE IMPRISONMENT**; c) **FALSE ARREST**; d) conspiracy to aid and abet false arrest and false imprisonment; e) battery; f) assault. **A FEDERAL JURY IN 2013 AWARDED $500,000.00 A MONTH FOR FALSE IMPRISONMENT.** See, SLEVIN vs. BOARD OF COMMISSIONERS FOR THE COUNTY OF DONA ANA, et al., 934 F. Supp. 2d 1282, 1285 (Dist. of New Mexico, January 8, 2013)(Jury found defendants liable for the **TORT OF FALSE IMPRISONMENT** and awarded **COMPENSATORY DAMAGES OF $500,000.00 FOR EACH MONTH THAT PLAINTIFF WAS INCARCERATED, PLUS AN ADDITIONAL $1 MILLION FOR EACH YEAR SINCE PLAINTIFF'S RELEASE FROM CUSTODY).** This document is 19 pages total, including 2 pages of exhibits, in PDF FORMAT.

DOWNLOAD DECEMBER 12, 2014 LAMBROS LETTER TO U.S. PAROLE COMMISSION, HERE IN PDF FORMAT.

~~**12. FEBRUARY 3, 2015: LAMBROS REMAILS DECEMBER 12, 2014 LETTER TO U.S. PAROLE COMMISSION.**~~ U.S. Certified Mail No. 7008-1830-0004-2648-9916. The December 12, 2014 mailing of the December 12, 2014 letter, as entitled above, was lost by the U.S. Mail Service. Lambros remailed same and it was received on **February 10, 2015**, as verified by the U.S. Postal Service website.

DOWNLOAD FEBRUARY 3, 2015 LAMBROS LETTER TO U.S. PAROLE COMMISSION, HERE IN PDF.

13. March 10, 2015: Lambros writes to his **"BOYCOTT BRAZIL SUPPORTERS"** requesting that they consider the following question, **"WHETHER BRAZIL'S CONSTITUTION 'DISCRIMINATES' AGAINST FOREIGN CITIZENS IN BRAZIL, WHEN THEY ARE NOT ENTITLED TO THE SAME CONSTITUTIONAL RIGHTS - FUNDAMENTAL AND ORGANIC LAW OF THE NATION THAT BRAZILIAN'S ENJOY?".** This short "MEMORANDUM OF LAW" offers an overview as to foreign citizens within the United States enjoying the protection of the U.S. Constitution under the Fifth Amendment. Also, facts and law supporting **"PURPOSEFUL DISCRIMINATION"** by Brazil against foreign citizens within Brazil. This document is 11 pages total, including 4 pages of exhibits, in PDF FORMAT.

6.

DOWNLOAD MARCH 10, 2015 OVERVIEW OF "PURPOSEFUL DISCRIMINATION" BY BRAZIL AGAINST FOREIGN CITIZENS WITHIN BRAZIL, HERE IN PDF FORMAT.

14. MAY 11, 2015: Lambros "MEMORANDUM" to supporters regarding the **DENIAL OF HIS RELEASE ON "JULY 14, 2015" DUE TO AUGUST 21, 1989 U.S. Parole Commission "WARRANT" THAT LAMBROS WAS NOT EXTRADITED ON.** Lambros offers an excellent legal overview as to his DENIAL of the U.S. Bureau of Prisons **"RESIDENTIAL DRUG ABUSE PROGRAM (RDAP)"** that allows twelve (12) month early release prior to expiration of term of incarceration. Prisoners with **"WARRANTS"** and **"DETAINERS" LODGED AGAINST THEM ARE INELIGIBLE FOR SUCH TREATMENT.** See, TITLE 18 U.S.C. §3621(e). This document is two (2) pages total in PDF Format.

DOWNLOAD MAY 11, 2015 "MEMORANDUM" AS TO DENIAL OF LAMBROS' RELEASE ON "JULY 14, 2015" DUE TO ILLEGAL DETAINER BY PAROLE COMMISSION, HERE IN PDF FORMAT.

15. June 1, 2015: "SENTENCE MONITORING COMPUTATION DATA", from the U. S. Bureau of Prisons. This document clearly states, **"REMARKS: DETAINER: U.S. PAROLE COMMISSION, Kansas City, MO. 64153."**

DOWNLOAD June 1, 2015: "SENTENCE MONITORING COMPUTATION DATA here in PDF.

U.S. Department of Justice
United States Parole Commission

Warrant

To Any Federal Officer Authorized To Serve Criminal Process Within the United States:

WHEREAS, LAMBROS, John Gregory 00436-124 was sentenced by the United States District Court for the _____ District of Minnesota to serve a sentence of 22 years, 00 months, and 00 days for the crime of Create, Manufacture, Distribute, or Dispense Controlled Narcotic Drug Under Schedule I and was on the 3rd day of October, 19 83, released on parole or in accordance with Volunteers of America Sec. 4163, Title 18, U.S.C. (*Mandatory release*) or Public Law 91-513 (*Special Parole Term*), from the (FCI, Oxford) with 5,357 days remaining to be served;

AND, WHEREAS, reliable information has been presented to the undersigned Member of this Commission that said released prisoner named in this warrant has violated one or more conditions of his release;

NOW, THEREFORE, this is to command you by authority of Sec. 4213, Title 18, U.S.C., to execute this warrant by taking the above-named, wherever found in the United States, and hold him in your custody either until he is released by order of the Parole Commission, or until you are authorized to transport him for further custody.

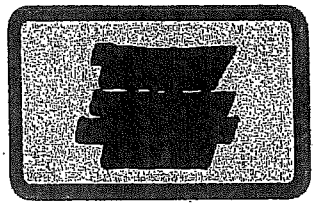
WITNESS my hand and the seal of this 21st day of August, 19 89

Rose Pavlock Kitty
U.S. Parole Commissioner

NORTH CENTRAL
Region

Ex. - C.

8.



PAROLE FORM H-31
APR. 85

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

United States of America,

Plaintiff,

v.

John Gregory Lambros

Defendant.

CR-4-89-82

REPORT AND RECOMMENDATION

Assistant United States Attorney Douglas R. Peterson for plaintiff.

Charles W. Faulkner, Esq. for defendant.

THIS MATTER came before the undersigned United States Magistrate Judge on the 9th day of December, 1992 for a hearing on defendant's pretrial motions. Defendant was present in court. The court heard testimony from Deputy United States Marshal John Marchiniak and Drug Enforcement Administration ("DEA") Special Agent Terryl Anderson. The defendant testified on his own behalf.

I. PROCEDURAL HISTORY.

On May 17, 1991, defendant Lambros was arrested in Brazil by DEA Agent Terryl Anderson and Brazilian authorities pursuant to a parole violation warrant. Defendant arrived in the country through an extradition process on June 20, 1992. Defendant Lambros made his initial appearance before this court on June 22, 1992, and moved to have his detention hearing postponed until June 25, 1992. The detention hearing was held on June 25, 1992. Defendant appeared before this court and alleged that Brazilian

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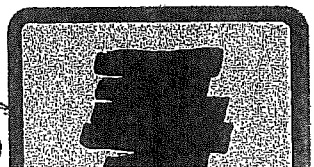

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authorities implanted a bionic device in his head. The defendant's allegations prompted this court to order a competency hearing on the court's own motion pursuant to 18 U.S.C. § 4241(a). Defendant also moved, on June 25, 1992, to postpone his arraignment. See Order dated June 26, 1992. Magistrate Judge Noel granted defendant's motion to postpone his arraignment after giving defendant the option of pursuing the extradition issues during the normal pretrial schedule, which option defendant declined. On September 30, 1992, defendant Lambros appeared before the court for a hearing to determine whether he was competent to stand trial. The court, by order dated October 30, 1992, found defendant competent to stand trial. Defendant's arraignment was held on November 6, 1992. Pretrial motions were heard on December 9, 1992. The trial date is set for January 4, 1992.

II. FINDINGS OF FACT.

Drug Enforcement Administration ("DEA") Special Agent Terryl Anderson testified regarding defendant's arrest in Brazil on May 17, 1991. Transcript of the hearing held on December 9, 1992, hereinafter "Tr." at 6 - 32. Agent Anderson testified that he had received information early in 1991 from DEA agents in Minneapolis, Minnesota that defendant was most likely in Rio De Janeiro, Brazil, as a fugitive. (Tr. 7, 21). Agent Anderson then explained the extradition process between the United States and Brazil. The United States Attorney's office presents a case to the Department of Justice in Washington, D.C. The Department

of Justice then submits the case to the United States' State Department or the embassy in Brazil. An attorney who works for the United States government then in turn presents the case to the Brazilian Supreme Court. (Tr. 8). Under the extradition treaty the United States has with Brazil, any law which is punishable in Brazil and in the United States for the same offense, the offense may be extraditable after the Brazilian Supreme Court has examined the case and rules upon it. (Tr. 7).

Agent Anderson's role in defendant's case was mostly to provide information to the Brazilian federal police. (Tr. 8). During the process of submitting the information concerning defendant's case to the Brazilian supreme court, a provisional arrest warrant for defendant was issued in Brazil by the Brazilian authorities on May 17, 1991. (Tr. 8). At the time, there was also an outstanding warrant for the arrest of defendant from the District of Minnesota. (Tr. 10). On May 17, 1991, Agent Anderson, DEA Agent Aubrey Sue, along seven or eight Brazilian federal police including Sergeant Ray Pautry, and ~~police officers Agosta and Vincente, went to the Rio~~ International Airport to find defendant and execute the arrest warrant. (Tr. 8-10). Agent Anderson saw defendant come into the airport from the outside, and then stand waiting near the baggage area. (Tr. 22). Agent Anderson identified defendant from a photograph of the defendant that the agent was carrying. (Tr. 22). Defendant was arrested at the airport, outside the baggage recovery area for a flight from Miami, Florida. (Tr. 9-10, 21).

Defendant was placed under arrest and a Brazilian officer frisked defendant and patted him down. (Tr. 23). A key and a photocopy of a Canadian passport in the name of Bruce Dalton were taken from defendant. (Tr. 11). See Government's Exhibit 5.

Agent Anderson testified that defendant's arrest was quiet and there "was nothing physical about it." (Tr. 13). Agent Anderson stated that he was aware of no mistreatment of the defendant by either DEA or Brazilian federal authorities. (Tr. 13). Defendant was taken to the main Brazilian federal police headquarters, Praca Maua, about an one-half hour drive from the airport. (Tr. 24, 25). Agent Anderson went to the police station separately, arriving one-half hour after defendant's arrest. Agent Anderson saw defendant through a window to an interview room. (Tr. 25). Defendant was handcuffed and interviewed by Brazilian authorities. (Tr. 13). Agent Anderson stated that he saw no mistreatment of defendant at that time. (Tr. 14). Agent Anderson then left the station, approximately one hour after arriving. (Tr. 25). Up to that point, Agent Anderson stated that defendant refused to admit who he was, and where he resided. (Tr. 26). Agent Anderson did not see defendant after this time. About ten days after defendant's arrest, Agent Anderson directed another agent, perhaps Aubrey Sue, to inquire of defendant whether he wished to speak to the DEA, and defendant informed the agent that he did not. (Tr. 14).

Defendant testified as to his account of the arrest in Brazil and his confinement following the arrest. (Tr. 32 - 69).

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Defendant stated that he had a copy of a Canadian passport for Bruce Dupasquier, a business associate of his, for whom he was trying to obtain a visa. (Tr. 34, 57). Defendant's version of the arrest followed Agent Anderson's, with the exception that defendant claimed he acknowledged that he was John Lambros at the time of the arrest. (Tr. 36). Defendant testified that the Brazilian authorities threatened him with shocks at Praca Maua, but that they did not shock him at that time. (Tr. 36). Defendant testified that he was not beaten or tortured on that day. (Tr. 38).

Defendant testified that he was kept in a holding cell in the same facility for sixty (60) days, during which time he believed the authorities drugged his food, as defendant experienced dizziness. (Tr. 38). Defendant also believed that the authorities planted an agent in his cell to interrogate him. (Tr. 38-40).

Defendant was then transported to another jail which he called "Brasilia" where he remained for approximately nine-months. (Tr. 41). Defendant stated it was there that he began to fear for his life. (Tr. 41). Defendant testified that he was gassed, beaten on one occasion, tortured with jolts of electricity and psychic driving, the replaying of recorded messages into defendant's brain, and kept in unsanitary conditions. (Tr. 41 - 46). Defendant stated that he was then transferred to Funap penitentiary. (Tr. 46). There defendant testified authorities tortured him daily through the implants in

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his body by electric shocks. (Tr. 47). Defendant stated that he was kept in unsanitary conditions, and allowed out of his cell for only two hours in sixty (60) days. (Tr. 48). Defendant testified that he believed the DEA was behind the torture inflicted upon him. (Tr. 51). Defendant also testified that he believed that the DEA was continuing this torture even after defendant was brought to the United States. (Tr. 54). During the time defendant was confined in Brazil, defendant was represented by Brazilian counsel who contested the extradition proceeding against defendant. (Tr. 49).

United States Deputy Marshall John Marchiniak testified regarding defendant's booking in Minneapolis, Minnesota on June 22, 1992. (Tr. 2 - 5). Deputy Marshall Marchiniak conducted routine booking procedures for defendant, including obtaining history information, a picture, notations of tattoos, moles or other identifying features, and obtaining fingerprints. Deputy Marshall Marchiniak stated that he followed the standard procedures used by the Marshal's office in booking defendants. The standard form he used that day was admitted as the Government's Exhibit 1. Deputy Marshal Marchiniak did not given defendant Miranda warnings before beginning the procedure according to the standard procedures for the Marshal's office. (Tr. 5).

III. CONCLUSIONS OF LAW.

Defendant has brought a motion to dismiss for violation of his speedy trial rights, a motion to dismiss for violation of the

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extradition treaty between the United States and Brazil, and motions to suppress the evidence obtained at his arrest and statements made during his arrest booking process. For the reasons stated below, defendant's motion should be denied.

A. Defendant's Speedy Trial Motion.

Defendant seeks to dismiss the indictment on the grounds that the Speedy Trial Act, Title 18 U.S.C. § 3161 et seq., was violated. The Speedy Trial Act requires that trial commence within seventy (70) days from the date which defendant was charged in an indictment, or from the date the defendant appears before a judicial officer of the court in which such charge is pending. Defendant argues that the date from which the seventy (70) days must be counted is August 24, 1992 under 18 U.S.C. § 3161(h)(1)(H).

Defendant's analysis fails to take into account the time frame allowed for his own request to continue the detention hearing, the hearing held regarding mental competency, and also defendant's own request to postpone his arraignment to argue the extradition issues. Defendant first appeared before this court on June 22, 1992. Under 18 U.S.C. § 3142(F), defendant's request for a continuance of the detention hearing from June 22, 1992 to June 25, 1992, is exempted from the computation of time. Under 18 U.S.C. § 3161(h)(1)(A), the period of delay caused by the mental competency hearing is exempted from the computation of time. On June 25, 1992, the court ordered that a competency hearing be held, and the defendant undergo medical examination.

The competency hearing was held on September 30, 1992. The court ruled upon the matter on October 30, 1992. This excludes the period from June 25, 1992 to October 30, 1992 under § 3161(h)(1)(A). In addition, on June 25, 1992, defendant requested that his arraignment be postponed. The arraignment was held on November 6, 1992. Under § 3161(h)(1)(F), the period from June 25, 1992 until November 6, 1992 is also excluded from the computation of time. As a trial date of January 4, 1992 is well within the seventy day period mandated by the statute, defendant's right to a speedy trial has not been violated.

B. Defendant's Extradition Motion.

Defendant seeks to dismiss this lawsuit, arguing that this court has no jurisdiction over him as his extradition was wrongful; first, because life imprisonment is barred by the Brazilian constitution, and second, because he was tortured during his confinement in Brazil. For the reasons stated below, the undersigned recommends that defendant's motion be denied.

1. The Term of Life Imprisonment.

~~Defendant argues that because the Brazilian federal~~ constitution bars life imprisonment under Article XLVII, the United States wrongfully extradited him. Defendant relies on Article V of the extradition treaty between Brazil and the United States, which states that extradition shall not be granted:

> When the legal proceedings or the enforcement of the penalty for the crime or offense committed has become barred by limitation according to the laws of either the requesting state or the requested state.

Treaty of Extradition, January 13, 1961, U.S.-Brazil, U.S.

Extradition Treaties 90.1, 90.10. Defendant argues that the Brazilian constitution places a limitation on the offense, prohibiting life imprisonment, exempting any crime with this punishment from extradition.

The government argues that defendant has no standing to raise this issue, and in the alternative, that the terms of the treaty allow for extradition even if the penalty is life imprisonment. Article VI states:

> When the commission of the crime or offense for which the extradition of the person is sought is punishable by death under the laws of the requesting state and the laws of the requested state do not permit this punishment, the requested state shall not be obligated to grant the extradition unless the requesting state provides assurances satisfactory to the requested state that the death penalty will not be imposed on such person.

Treaty of Extradition, January 13, 1961, U.S.-Brazil, U.S. Extradition Treaties 90.1, 90.10-90.12.

Without addressing the standing issue, the court finds that defendant has failed to present a legal argument. The clause defendant is relying upon to invalidate his extradition relates to whether the "legal proceedings" or the "enforcement of the penalty" for the crime committed has become barred by limitation. This clause refers to the statute of limitation for the crime, not whether the penalty is barred. See Matter of Assarsson, 687 F.2d 1157, 1160 (8th Cir. 1982). The limitation the clause refers to relates to the "legal proceedings" or the "enforcement of the penalty," not to the penalty itself. The argument regarding limitation as defendant is construing it is

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sophistical. Defendant has raised no claim with respect to the terms of the treaty. Any punishment is allowable under the treaty except capital punishment. Defendant's motion to dismiss for lack of jurisdiction with respect to the terms of the extradition treaty should be denied.

2. Defendant's Allegations of Torture.

Defendant also argues that this court should be divested of jurisdiction by virtue of the conduct of the Brazilian authorities and the DEA during defendant's confinement in Brazil. Defendant argues that his treatment by the authorities rises to the level alleged in United States v. Toscanino, 500 F.2d 267 (2d Cir. 1974). Defendant also states that he was in the same cell as Toscanino, and met him.

Under the Ker-Frisbie rule, a court's power to prosecute a defendant is not impaired and due process is not violated by the illegality of the method by which jurisdiction is obtained, including forcible abduction of the defendant. Ker v. Illinois, 119 U.S. 436 (1886); Frisbie v. Collins, 342 U.S. 519 (1952). This broad rule is tempered only in cases of truly egregious and shocking government conduct, such as where a defendant is drugged and tortured. See Toscanino, 500 F.2d 267 (2d Cir. 1974).[1] Absent such extreme conduct, courts will find no due process violation. United States v. Reed, 639 F.2d 896, 901 (2d Cir.

[1] After the remand of Toscanino, the district court denied Toscanino's motion to dismiss, ruling that there was no claim of participation of United States agents in Toscanino's abduction and torture. United States v. Toscanino, 398 F.Supp. 916, 197 (E.D.N.Y. 1975).

1981). There exists a distinction between the re-capture of a fugitive from justice and the initial capture of a defendant by which jurisdiction is initially obtained by illegal means. Id. Later courts have found that the Toscanino exception is limited, and does not apply to fugitives brought back to the United States to face charges against them. Matta-Ballesteros, 697 F.Supp. at 1047.

The court finds that Toscanino[2] is not compelling for several reasons. Defendant in the instant case was a fugitive who had stopped reporting to his parole officer. Defendant Lambros was lawfully seized pursuant to a Brazilian federal search warrant. In Toscanino, the allegedly illegal acts were predicate to obtaining jurisdiction over defendant's person and the seizure of evidence. In the instant case, none of the illegal activities defendant Lambros alleges resulted in any illegal seizures. Defendant was already lawfully in custody, and any evidence the government has sought to present was also lawfully obtained. Last, under case law that has interpreted Toscanino, the exception is not applied to fugitives such as defendant. Defendant's motion to dismiss should be denied.

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[2]. The court also notes that the application of Toscanino, or similar arguments, has been markedly restricted. It has been rejected by the Fifth, Ninth, Tenth and Eleventh Circuits. See United States v. Postal, 589 F.2d 862 (5th Cir.) cert. denied, 444 U.S. 832 (1979); United States v. Cotten, 471 F.2d 744 (9th Cir.) cert. denied, 411 U.S. 936 (1973); Hobson v. Crouse, 332 F.2d 561 (10th Cir. 1964), United States v. Rosenthal, 793 F.2d 1214 (11th Cir. 1986), cert. denied 480 U.S. 919 (1987). No court applying Toscanino has dismissed an indictment. Matta-Ballesteros ex rel. Stolar v. Henman, 697 F.Supp. 1040, 1045 (S.D.Ill. 1988).

C. Defendant's Motion to Suppress Evidence.

Defendant moves to suppress the photocopy of the passport and key taken from defendant's person at the time of his arrest as being obtained in violation of his constitutional rights.

The Supreme Court has held that the "United States is entirely a creature of the Constitution. Its power and authority have no other source. It can only act in accordance with all the limitations imposed by the Constitution. When the Government reaches out to punish a citizen abroad, the shield which the Bill of Rights and other parts of the Constitution provide to protect his life and liberty should not be stripped away just because he happens to be in another land." Reid v. Covert, 354 U.S. 1, 5-6 (1957). As the Supreme Court has applied the fourth amendment, after making a valid custodial arrest, the police may conduct a warrantless search of a suspect without probable cause or a reasonable articulable suspicion that the suspect possesses either weapons or evidence. New York v. Belton, 453 U.S. 454, 461 (1981). Unlike a limited pat down search during an investigative detention, the police may make a full search of the suspect for both weapons and evidence during a search incident to arrest. United States v. Robinson, 414 U.S. 218, 229 (1973).

Neither the Fourth Amendment to the United States Constitution nor the exclusionary rule of evidence, designed to deter federal officers from violating the fourth amendment, is applicable to the acts of foreign officials. Stonehill v. United States, 405 F.2d 738, 743 (9th Cir. 1968), cert. denied 395 U.S.

960 (1969). Because the fourth amendment does not itself require exclusion of unlawfully obtained evidence, and because excluding reliable evidence will not force foreign officers to abide by the norms of the fourth amendment, the exclusionary rule has no application to searches conducted by a foreign government. Id. The Fourth Amendment could, however, apply to raids by foreign officials if Federal agents so substantially participated in the raids so as to convert them into joint ventures between the United States and foreign officials. Id.

Assuming without decided that United States officials were involved in the arrest of defendant, no violation of defendant's constitutional rights occurred during the arrest. Defendant was arrested pursuant to a valid arrest warrant issued by Brazilian federal authorities. The evidence was seized pursuant to defendant's valid arrest and is admissible. The undersigned recommends that defendant's motion be denied.

D. Defendant's Motion To Suppress Statements.

Defendant argues that the statements made to United States Deputy Marshal Marchiniak should be suppressed as made without Miranda warnings, in violation of his right to counsel, and as the fruit of an illegal search.

Questions to secure biographical data necessary to complete booking or pretrial services asked for record-keeping purposes only fall within a "routine booking question" exception to Miranda. Pennsylvania v. Muniz, 496 U.S. 582, --, 110 S.Ct. 2638, 2641 (1990) citing United States v. Horton, 873 F.2d 180,

181 n. 2 (8th Cir. 1989). Deputy Marshal Marchiniak testified that he followed routine booking procedures for defendant. The information obtained from defendant in the booking procedure is admissible under the "routine booking question" exception to Miranda.

IV. RECOMMENDATION.

Based upon the foregoing findings of fact and conclusions of law, IT IS HEREBY RECOMMENDED that:

1. Defendant's motion to dismiss for violations of the Right To Speedy Trial Act be DENIED;

2. Defendant's motion to dismiss for violations of the extradition treaty be DENIED;

3. Defendant's motion to suppress evidence obtained through illegal search and seizure be DENIED; and

4. Defendant's motion to suppress statements, admissions and answers be DENIED.

DATED: Dec. 21, 1992

JONATHAN LEBEDOFF
United States Magistrate Judge

Pursuant to Local Rule 72.1(c)(2), any party may object to this report and recommendation by filing with the Clerk of Court and serving all parties, within ten days after being served with a copy thereof, written objections which specifically identify the portions of the proposed findings, recommendations or report to which objection is being made, and a brief in support thereof. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under this rule shall be limited to ten pages. A judge shall make a de novo determination of those portions to which objection is made.

Unless the parties are prepared to stipulate that the District Court is not required by 28 U.S.C. § 636 to review a transcript of the hearing in order to resolve all objections made to this report and recommendation, the party making the objections shall timely order and cause to be filed within 10 days, a complete transcript of the hearing.

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AMCONSUL PORTO ALEGRE
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SUBJ: EXTRADITION: JOHN GREGORY LAMBROS - EXTRADITION GRANTED

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1. THIS IS AN ACTION MESSAGE.

2. SUMMARY. ON APRIL 30, 1992, THE BRAZILIAN FEDERAL SUPREME COURT (STF) GRANTED, IN PART, BY MAJORITY OF VOTES, THE U.S. REQUEST FOR THE EXTRADITION OF JOHN GREGORY LAMBROS. THE FUGITIVE IS WANTED IN MINNESOTA TO STAND TRIAL FOR VIOLATION OF NARCOTICS LAWS. HE SHOULD BE READY TO BE REMOVED FROM BRAZILIAN TERRITORY WITHIN APPROXIMATELY ONE WEEK. END SUMMARY.

3. LAMBROS IS CHARGED WITH A) CONSPIRACY AND POSSESSION WITH INTENT TO DISTRIBUTE COCAINE; B) AIDING AND ABETTING, POSSESSION WITH INTENT TO DISTRIBUTE COCAINE; AND C) TRAVEL IN INTERSTATE COMMERCE WITH INTENT TO DISTRIBUTE COCAINE. IN HIS ORAL PRESENTATION TO THE STF, THE EMBASSY'S FSN LEGAL ADVISOR REITERATED ALL THE POINTS CONTAINED IN THE LAMBROS EXTRADITION DOCUMENTATION PROVIDED BY THE USG. THE STF JUSTICES DECIDED, HOWEVER, BY MAJORITY OF VOTES, THAT LAMBROS SHOULD BE PROSECUTED AND TRIED IN THE U.S. ONLY FOR CHARGES (A) AND (B) LISTED ABOVE, AND NOT FOR (C), I.E., FOR TRAVEL IN INTERSTATE COMMERCE BECAUSE THIS IS NOT A CRIME IN BRAZIL. THE U.S.-BRAZIL EXTRADITION TREATY AND BRAZILIAN LAW PROVIDE THAT EXTRADITION CAN BE EFFECTED ONLY WHEN THE ACT ATTRIBUTED TO THE FUGITIVE IS CONSIDERED A CRIME BOTH IN THE U.S. AND BRAZIL.

[redacted]

[redacted]

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U.S. Department of Justice

United States Marshals Service

District of Minnesota

ARREST REPORT

On June 19, 1992, at approximately 18:30 hours, John Gregory Lambros was arrested by Deputy U.S. Marshals Supervisor [redacted] pursuant to an arrest warrant for narcotics violations issued out of the District of Minnesota, as well as a Parole Violation.

The subject's original charge was the sale of Heroin and Cocaine.

The arrest was made without incident at the airport in Rio de Janeiro, Brazil.

The Arrestee was transported and booked into ~~Anoka County Jail on June 20, 1992 after being extradited back to~~ the District of Minnesota.

The Arrestee was brought before United States Magistrate Frank Noel, District of Minnesota, on June 22, 1992 at 15:00 hours for an Initial Appearance.

(The Attached Describes The Facts and Circumstances Surrounding the Arrest.)

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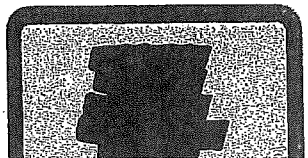

Subject: Arrest of John Gregory Lambros

Report Prepared by: [redacted]

Signature of Preparer: [redacted]

Date: June 23, 1992

On May 17, 1991 John Gregory Lambros was arrested by the Brazilian authorities in Rio de Janeiro, Brazil. Lambros was held in the Brazilian authorities custody while he fought extradition proceedings. Supervisory Deputy U.S. Marshal [redacted] and Deputy U.S. Marshal [redacted] assumed custody of Lambros from the Brazilian authorities on June 19, 1992, and extradited him back to the District of Minnesota.

27.

Article 21 of the Treaty of Extradition between the U.S. and Brazil as to the use of appellant's prior convictions. Judge Murphy stated on page 4:

> Federal Court are prohibited from issuing advisory opinions.

THE TERMS "PENALTY, FORFEITURE, OR LIABILITY".

The terms "penalty, forfeiture, or liability" in the general federal savings statute, Title 1 U.S.C. §109 "were used by Congress to include all forms of punishment for crime." WARDEN vs. MARRERO, 417 U.S. 653, 661, 41 L Ed 2d 383, 390 (1974), quoting UNITED STATES vs. ULRICI, 28 F. Cas. 328, 329 (C.C.E.D. Mo. 1875)(The Supreme Court held that Marrero's parole ineligibility was a "penalty" under section 109). Also, the Supreme Court stated in WARDEN vs. MARRERO, Id. at 391, that the words "penalty, forfeiture and liability," are synonymous with "PUNISHMENT," in connection with crimes of the highest grade. SPECIAL PAROLE is a penalty within the meaning of the savings clause, UNITED STATES vs. GARCIA, 877 F.2d 23, 24 (9th Cir. 1989).

Under MARRERO and GARCIA, the ongoing supervision after release mandated by 18 U.S.C. §4164 is a "PENALTY" within the meaning of the savings clause, MARTIN vs. U.S. PAROLE COMMISSION, No. 95-35878, D.C. No. CV-94-01551-BJR, Filed March 10, 1997, 9th Cir., page 2649 (Barclays Law Publishers slip opinion).

Article 21 of the Treaty of Extraditon between Brazil and the U.S. stated in part, "A person extradited by virtue of the present treaty may not be TRIED or PUNISHED for any crime or offense committed prior to the request for extradition; other than that which gave rise to the request and those that the person was extradited on."

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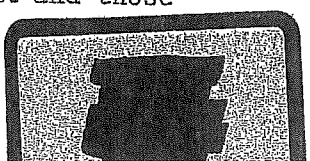

been frivolous. Denial of Stenson's request served no legitimate purpose.

Most disturbing about the majority's rejection of Stenson's claim is the fact the majority cites nothing in the record upon which it could conceivably be argued Stenson equivocated in his request. The majority merely notes Stenson did not refute the trial court's conclusion he did not really wish to proceed without counsel, as if the trial court's conclusion stands as evidence of Stenson's state of mind. While Stenson's main objective in his motions was [776] to remove Leatherman from his case, his desire in the event his motion for substitution was denied was clear: he wished to represent himself. A conditional request is not an equivocal one. The majority's decision, therefore, stands as the triumph of form over substance.

The denial of the right to self-representation is not amenable to a harmless error analysis: "The right is either respected or denied; its deprivation cannot be harmless." *McKaskle v. Wiggins*, 465 U.S. 168, 177 n. 8, 104 S.Ct. 944, 950 n. 8, 79 L.Ed.2d 122 (1984).

CONCLUSION

I would reverse Stenson's conviction and remand for a new trial without consideration of other issues.

KEY NUMBER SYSTEM

132 Wash.2d 852

[852] STATE of Washington, Respondent,

v.

Martin Shaw PANG, Petitioner.

No. 64786-1.

Supreme Court of Washington, En Banc.

Argued April 8, 1997.

Decided July 31, 1997.

Defendant was charged with four counts of murder in the first degree and one count of arson in the first degree. The Superior Court, King County, Larry Jordan, J., denied motion to dismiss or sever murder counts. Defendant moved for direct discretionary review. The Supreme Court, Smith, J., held that: (1) defendant had standing to object to violation of terms of order on extradition issued by Federal Supreme Court of Brazil; (2) Brazil did not waive any objection it could have made to prosecution for murder; (3) specialty doctrine prohibited state from prosecuting defendant for crimes specifically excluded in extradition order; and (4) state was obligated to follow decision of Federal Supreme Court of Brazil which ruled that, as a condition for extradition, defendant could not be prosecuted on murder counts.

Reversed.

Durham, C.J., filed dissenting opinion in which Dolliver and Talmadge, JJ., joined.

Alexander, J., filed opinion joining in dissent.

1. **Extradition and Detainers** ⇐19

In absence of asylum country's consent to prosecution of accused for crime other than that for which accused was extradited, extradited person may raise any objections to post-extradition proceedings that might have been raised by rendering country.

2. **Extradition and Detainers** ⇐19

Only asylum country's express consent to prosecution will be considered a waiver of doctrine of specialty, under which requesting country may not prosecute accused for a crime other than that for which accused was extradited.

3. **Extradition and Detainers** ⇐19

Letter from Brazil Minister of Justice to United States Attorney General, in which Minister discussed ruling by Brazil's Federal Supreme Court that state could try extraditee for arson but not for murder, was neither an implicit waiver nor an explicit waiver of doctrine of specialty, and thus defendant had standing to assert limitations on his post-extradition prosecution; Minister explained in follow-up letter than he had provided no type

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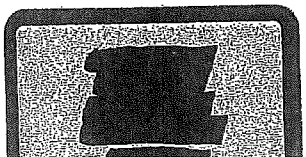

of interpretation of content and reach of Federal Supreme Court's decision.

4. Extradition and Detainers ⇐19

Brazil did not implicitly waive objection to state's prosecution of extraditee for murder; Brazil's Federal Supreme Court issued decision rejecting extradition on murder charges and rejected appeal and motion for clarification, and Brazil's President and Minister of Justice affirmatively declined request of United States President that Brazil waive its right to object to murder prosecution.

5. Extradition and Detainers ⇐19

Under international law, specialty doctrine generally prohibits requesting state from prosecuting extraditee for offense other than the one for which surrender was made.

6. Extradition and Detainers ⇐1

For extradited defendant to be charged with a crime, that crime must be specified in treaty and be included in extradition petition.

7. Extradition and Detainers ⇐19

Specialty doctrine may be implied where extradition treaty is silent on the issue and there is no reason to assume signatory nations did not abide by principles of comity.

8. Extradition and Detainers ⇐19

Doctrine of specialty prohibited prosecution of extraditee for murder, where grant of extradition from Brazil specifically excluded murder charges from grant. 18 U.S.C.A. § 3192.

9. Treaties ⇐1

Treaties are binding on states as well as federal government.

10. Treaties ⇐7

Courts must interpret treaties in good faith.

11. Extradition and Detainers ⇐19

In interpreting terms and conditions of extradition treaty, court should not seek, by doubtful construction of some of treaty's provisions, to obtain extradition of person for one offense and then punish him for another and different offense.

12. Extradition and Detainers ⇐2

Right to demand and obtain extradition of accused criminal is created by treaty.

13. Extradition and Detainers ⇐5

Treaty must ordinarily list offense complained of in request for extradition as an extraditable offense.

14. Extradition and Detainers ⇐5

Under doctrine of dual criminality, accused person may be extradited only if conduct complained of is considered criminal by jurisprudence or under laws of both requesting and asylum countries.

15. Extradition and Detainers ⇐5

Determination of whether crime is within provisions of extradition treaty is within sole purview of requested country.

16. Extradition and Detainers ⇐19

Extradition Treaty between United States and Brazil prohibited state from prosecuting extraditee for crimes not authorized in extradition order.

17. Extradition and Detainers ⇐19

State was obligated to follow decision of Federal Supreme Court of Brazil which ruled that, as a condition for extraditing defendant, he could be prosecuted only for crime of arson resulting in four deaths, without additional charge of four counts of first-degree murder.

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[854] Browne & Ressler, John H. Browne, Mark T. Dole, Allen M. Ressler, Seattle, for petitioner.

Norm Maleng, King County Prosecutor, Marilyn B. Brenneman, Timothy A. Bradshaw, Deputies, Seattle, for respondent.

SMITH, Justice.

Petitioner Martin Shaw Pang seeks review of a King County Superior Court decision which denied his motion to dismiss or sever four counts of murder in [855] the first degree from one count of arson in the first degree based upon his claim that the Federal Supreme Court of Brazil approved his extradition from that country for prosecution in the

30.

OPINION APPENDIX A—Continued

FULL SESSION

EXTRADITION No. 654–1

UNITED STATES OF AMERICA

VOTE

THE HONORABLE JUSTICE SEPÚLVEDA PERTENCE (PRESIDENT): My vote, with the utmost respect to the Assigned Justice and all the others who voted with him, follows the Honorable Justice Maurício Corrêa's vote, His Honor's corrected vote, that is.

Concerning the object of the extradition, I do not doubt this Court's power to restrict it in this case. The dual criminality decision, the most basic one, [and] one of the first tasks of this hearing's passive judgment, is applied to the fact described in the charge to which it answers, or to the sentence imposed on the person sought. Not on the coincidence of legal systems, taken in abstracts (v.g. Extr. 605, Celso de Mello).

What do we know about the case? Clearly, in the note requesting extradition, it says that, having committed the crime of Arson, during this fire, the collapsing of one of the slabs caused the death of four firemen. The case, to me, is typical of Arson, with the special enhancement clause—the resulting death, mentioned in [962]the Penal Code, Article 258. And, furthermore, it seemed to me during the discussion, that not even in American Law there would be the concurrence of Arson with Murder in the First Degree. It is much more than clear, that in American Law, Murder in the First Degree, in the event of Intentional Fire-Setting, presupposes that the agent kill someone to commit the Arson, or in escaping, after setting the fire. A typical case would be someone who wants to gain entry into a building to set a fire and kills the watchman; or, after setting the fire [the agent] kills the watchman who tries to arrest him, when he was leaving. Obviously, this is not the case, as described by the Requesting State in its Diplomatic Note, now the object of this extradition hearing.

But, I am not going to venture into the extremely delicate area—although [a matter over which] the passive extradition court has competence to verify dual criminality in the original State; the Brazilian Law is sufficient for me, where, besides Arson qualified by the resulting death; there can also be Arson concurrent Homicide; if Homicide is committed, according to Article 121, Par. 2, no. 5 "to ensure the execution, cover-up, impunity or advantage of another crime".

The other question—eligibility or not of the commutation of a life sentence—expected to be exciting, wasn't, because the Court's majority preferred to maintain its established jurisprudence.

My position is known. I was overruled, and I reaffirm my opinion. I understand that we must demand commutation of penalties forbidden by the Constitution in Brazil. I am not going to debate the entire issue over again, but I understand that the problem does not conform with the other constitutional guarantees.

An extradition is an international cooperation for penal suppression and, according to me, the imposition of penalties that were found to be offensive to human dignity or to the very function of the penalty as conceived by the Constitution, which for this reason, clearly forbade it, must be excluded from this cooperation.

Therefore, agreeing with the votes of the Honorable Justices Maurício Corrêa, Marco Aurélio and Celso de Mello, I also would demand the commutation of the penalties.

[Signature illegible]

OPINION APPENDIX A—Continued

OPINION APPENDIX B

TREATY OF EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED STATES OF BRAZIL[1]

The United States of America and the United States of Brazil, desiring to make more effective the cooperation of their respective countries in the repression[963] of crime, have resolved to conclude a treaty of extradition and for this purpose have appointed the following Plenipotentiaries:

1. Signed on January 13, 1961, entered into force on December 17, 1964, 15 U.S.T.2093; T.I.A.S. No. 5691; Additional Protocol to Treaty, signed on June 18, 1962, entered into force on December 17, 1964, 15 U.S.T. 2112; T.I.A.S. No. 5691, Clerk's Papers at 50–60.

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OPINION APPENDIX B—Continued

The President of the United States of America: His Excellency John Moors Cabot, Ambassador of the United States of America to Brazil, and

The President of the United States of Brazil: His Excellency Horacio Lafer, Minister of State for External Relations,

Who, having communicated to each other their respective full powers, found to be in good and due form, agree as follows:

Article I

Each Contracting State agrees, under the conditions established by the present Treaty and each in accordance with the legal formalities in force in its own country, to deliver up, reciprocally, persons found in its territory who have been charged with or convicted of any of the crimes or offenses specified in Article II of the present Treaty and committed within the territorial jurisdiction of the other, or outside thereof under the conditions specified in Article IV of the present Treaty: provided that such surrender shall take place only upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his commitment for trial if the crime or offense had been there committed.

Article II

Persons shall be delivered up according to the provisions of the present Treaty for prosecution when they have been charged with, or to undergo sentence when they have been convicted of, any of the following crimes or offenses:

1. Murder (including crimes designated as parricide, poisoning and infanticide, when provided for as separate crimes); manslaughter when voluntary.

2. Rape; abortion; carnal knowledge of (or violation of) a girl under the age specified by law in such cases in both the requesting and requested States.

3. Malicious wounding; willful assault resulting in grievous bodily harm.

OPINION APPENDIX B—Continued

4. Abduction, detention, deprivation of liberty, or enslavement of women or girls for immoral purposes.

5. Kidnapping or abduction of minors or adults for the purpose of extorting money from them or their families or any other person or persons, or for any other unlawful end.

6. Bigamy.

7. Arson.

8. The malicious and unlawful damaging of railways, trains, vessels, aircraft, bridges, vehicles, and other means of travel or of public or private buildings, or other structures, when the act committed shall endanger human life.

9. Piracy, by the law of the nations; mutiny on board of vessel or an aircraft for the purpose of rebelling against the authority of the Captain or Commander of such vessel or aircraft; or by fraud or violence taking possession of such vessel or aircraft.

1964 10. Burglary, defined to be the breaking into or entering either in day or night time, a house, office, or other building of a government, corporation, or private person, with intent to commit a felony therein; housebreaking.

11. Robbery.

12. Forgery or the utterance of forged papers.

13. The forgery, falsification, theft or destruction of the official acts or public records of the government or public authority, including Courts of Justice, or the uttering or fraudulent use of the same.

14. The fabrication or the utterance, circulation or fraudulent use of any of the following objects: counterfeit money, whether coin or paper; counterfeit titles or coupons of public debt, created by national, state, provincial, territorial, local, or municipal governments; counterfeit bank notes or other instruments of public credit; and counterfeit seals, stamps, dies, and marks of State or public administration.

15. The introduction of instruments for the fabrication of counterfeit coins or bank notes or other paper currency as money.

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OPINION APPENDIX B—Continued

16. Embezzlement by any person or persons hired, salaried or employed, to the detriment of their employers or principals.

17. Larceny.

18. Obtaining money, valuable securities or other property by false pretenses, or by threats of injury.

19. Receiving any money, valuable securities or other property knowing the same to have been unlawfully obtained.

20. Fraud or breach of trust by a bailee, factor, trustee, executor, administrator, guardian, director or officer of any company or corporation or by anyone in any fiduciary capacity.

21. Willful non-support or willful abandonment of a minor or other dependent person when death or serious bodily injury results therefrom.

22. Perjury (including willfully false expert testimony); subornation of perjury.

23. Soliciting, receiving, or offering bribes.

24. The following offenses when committed by public officials: extortion; embezzlement.

25. Crimes or offenses against the bankruptcy laws.

26. Crimes or offenses against the laws of both countries for the suppression of slavery and slave trading.

27. Crimes or offenses against the laws relating to the traffic in, use of, or production or manufacture of, narcotic drugs or cannabis.

28. Crimes or offenses against the laws relating to the illicit manufacture of traffic in substances injurious to health, or poisonous chemicals.

29. Smuggling, defined to be the act of willfully and knowingly violating the customs laws with intent to defraud the revenue by international traffic in merchandise subject to duty.

30. Aiding the escape of a prisoner by force of arms.

OPINION APPENDIX B—Continued

31. Use of explosives so as to endanger human life or property.

1965 32. Procuration, defined as the procuring or transporting of a woman or girl under age, even with her consent, for immoral purposes, or of a woman or girl over age, by fraud, threats, or compulsion, for such purposes with a view in either case to gratifying the passions of another person; profiting from the prostitution of another.

33. The attempt to commit any of the above crimes or offenses, when such attempt is made a separate offense by the laws of the Contracting States.

34. Participation in any of the above crimes or offenses.

Article III

Except as otherwise provided in the present Treaty, the requested State shall extradite a person accused or convicted of any crime or offense enumerated in Article II only when both of the following conditions exist:

1. The law of the requesting State, in force when the crime or offense was committed, provides a possible penalty of deprivation of liberty for a period of more than one year; and

2. The law in force in the requested State generally provides a possible penalty of deprivation of liberty for a period of more than one year which would be applicable if the crime or offense were committed in the territory of the requested State.

Article IV

When the crime of offense has been committed outside the territorial jurisdiction of the requesting State, the request for extradition need not be honored unless the laws of the requesting State and those of the requested State authorize punishment of such crime or offense in this circumstance.

The words "territorial jurisdiction" as used in this Article and in Article I of the present Treaty mean: territory, including territorial waters, and the airspace therefor, belonging to or under the control of one of the Contracting States; and vessels and aircraft be-

ONLY 8 MONTHS!

NOT A CRIME!

33.

OPINION APPENDIX B—Continued

longing to one of the Contracting States or to a citizen or corporation thereof when such vessel is on the high seas or such aircraft is over the high seas.

Article V

Extradition shall not be granted in any of the following circumstances:

1. When the requested State is competent, according to its laws, to prosecute the person whose surrender is sought for the crime or offense for which that person's extradition is requested and the requested State intends to exercise its jurisdiction.

2. When the person whose surrender is sought has already been or is at the time of the request being prosecuted in the requested State for the crime or offense for which his extradition is requested.

3. When the legal proceedings or the enforcement of the penalty for the crime or offense committed has become barred by limitation according to the laws of either the requesting State or the requested State.

4. When the person sought would have to appear, in the requesting State, before an extraordinary tribunal or court.

[966]5. When the crime or offense for which the person's extradition is requested is purely military.

6. When the crime or offense for which the person's extradition is requested is of a political character. Nevertheless

a. The allegation by the person sought of political purpose or motive for the request for his extradition will not preclude that person's surrender if the crime or offense for which his extradition is requested is primarily an infraction of the ordinary penal law. In such case the delivery of the person being extradited will be dependent on an undertaking on the part of the requesting State that the political purpose or motive will not contribute toward making the penalty more severe.

b. Criminal acts which constitute clear manifestations of anarchism or envisage the overthrow of the bases of all political organizations will not be classed as political crimes or offenses.

c. The determination of the character of the crime or offense will fall exclusively to the authorities of the requesting State.

OPINION APPENDIX B—Continued

Article VI

When the commission of the crime or offense for which the extradition of the person is sought is punishable by death under the laws of the requesting State and the laws of the requested State do not permit this punishment, the requested State shall not be obligated to grant the extradition unless the requesting State shall not be obligated to grant the extradition unless the requesting State provides assurances satisfactory to the requested State that the death penalty will not be imposed on such person.

Article VII

There is no obligation upon the requested State to grant the extradition of a person who is a national of the requested State, but the executive authority of the requested State shall, subject to the appropriate laws of that State, have the power to surrender a national of that State if, in its discretion, it be deemed proper to do so.

Article VIII

The Contracting States may request, one from the other, through the channel of their respective diplomatic or consular agents, the provisional arrest of a fugitive as well as the seizure of articles relating to the crime or offense.

The request for provisional arrest shall be granted provided that the crime or offense for which the extradition of the fugitive is sought is one for which extradition shall be granted under the present Treaty and provided that the request contains:

1. A statement of the crime or offense of which the fugitive is accused or convicted;

2. A description of the person sought for the purpose of identification;

[967]3. A statement of the probable whereabouts of the fugitive, if known; and

OPINION APPENDIX B—Continued

4. A declaration that there exist and will be forthcoming the relevant documents required by Article IX of the present Treaty.

If, within a maximum period of 60 days from the date of the provisional arrest of the fugitive in accordance with this Article, the requesting State does not present the formal request for his extradition, duly supported, the person detained will be set at liberty and a new request for his extradition will be accepted only when accompanied by the relevant documents required by Article IX of the present Treaty.

Article IX

The request for extradition shall be made through diplomatic channels or, exceptionally, in the absence of diplomatic agents, it may be made by a consular officer, and shall be supported by the following documents:

1. In the case of a person who has been convicted of the crime or offense for which his extradition is sought: a duly certified or authenticated copy of the final sentence of the competent court.

2. In the case of a person who is merely charged with the crime or offense for which his extradition is sought: a duly certified or authenticated copy of the warrant of arrest or other order of detention issued by the competent authorities of the requesting State, together with the depositions upon which such warrant or order may have been issued and such other evidence or proof as may be deemed competent in the case.

The documents specified in this Article must contain a precise statement of the criminal act of which the person sought is charged or convicted, the place and date of the commission of the criminal act, and they must be accompanied by an authenticated copy of the texts of the applicable laws of the requesting State including the laws relating to the limitation of the legal proceedings or the enforcement of the penalty for the crime or offense for which the extradition of the person is sought, and data or records which will prove the identity of the person sought.

The documents in support of the request for extradition shall be accompanied by a duly certified translation thereof into the language of the requested State.

OPINION APPENDIX B—Continued

Article X

When the extradition of a person has been requested by more than one State, action thereon will be taken as follows:

1. If the requests deal with the same criminal act, preference will be given to the request of the State in whose territory the act was performed.

2. If the requests deal with different criminal acts, preference will be given to the request of the State in whose territory the most serious crime or offense, in the opinion of the requested State, has been committed.

3. If the requests deal with different criminal acts, but which the requested State regards as of equal gravity, the preference will be determined by the priority of the requests.

Article XI

The determination that extradition based upon the request therefor should or should not be granted shall be made in accordance with the domestic law of the requested State, and the person whose extradition is desired shall have the right to use such remedies and recourses as are authorized by such law.

Article XII

If at the time the appropriate authorities of the requested State shall consider the documents submitted by the requesting State, as required in Article IX of the present Treaty, in support of its request for the extradition of the person sought, it shall appear that such documents do not constitute evidence sufficient to warrant extradition under the provisions of the present Treaty of the person sought, such person shall be set at liberty unless the requested State or the proper tribunal thereof shall, in conformity with its own laws, order an extension of time for the submission by the requesting State of additional evidence.

Article XIII

Extradition having been granted, the surrendering State shall communicate promptly

OPINION APPENDIX B—Continued

to the requesting State that the person to be extradited is held at its disposition.

If, within 60 days counting from such communication-except when rendered impossible by *force majeure* or by some act of the person being extradited or the surrender of the person is deferred pursuant to Articles XIV or XV of the present Treaty-such person has not been delivered up and conveyed out of the jurisdiction of the requested State, the person shall be set at liberty.

Article XIV

When the person whose extradition is requested is being prosecuted or is serving a sentence in the requested State, the surrender of that person under the provisions of the present Treaty shall be deferred until the person is entitled to be set at liberty, on account of the crime or offense for which he is being prosecuted or is serving a sentence, for any of the following reasons: dismissal of the prosecution, acquittal, expiration of the term of the sentence or the term to which such sentence may have been commuted, pardon, parole, or amnesty.

Article XV

When, in the opinion of competent medical authority, duly sworn to, the person whose extradition is requested cannot be transported from the requested State to the requesting State without serious danger to his life due to grave illness, the surrender of the person under the provisions of the present Treaty shall be deferred until such time as the danger, in the opinion of the competent medical authority, has been sufficiently mitigated.

Article XVI

The requesting State may send to the requested State one or more duly authorized agents, either to aid in the identification of the person sought or to receive his surrender and to convey him out of the territory of the requested State.

1969 Such agents, when in the territory of the requested State, shall be subject to the applicable laws of the requested State, but

OPINION APPENDIX B—Continued

the expenses which they incur shall be for the account of the State which has sent them.

Article XVII

Expenses related to the transportation of the person extradited shall be paid by the requesting State. The appropriate legal officers of the country in which the extradition proceedings take place shall, by all legal means within their power, assist the officers of the requesting State before the respective judges and magistrates. No pecuniary claim, arising out of the arrest, detention, examination and surrender of fugitives under the terms of the present Treaty, shall be made by the requested State against the requesting State other than as specified in the second paragraph of this Article and other than for the lodging, maintenance, and board of the person being extradited prior to his surrender.

The legal officers, other officers of the requested State, and court stenographers in the requested State who shall, in usual course of their duty, give assistance and who receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the requesting State the usual payment for such acts or services performed by them in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

Article XVIII

A person who, after surrender by either of the Contracting States to the other under the terms of the present Treaty, succeeds in escaping from the requesting State and takes refuge in the territory of the State which has surrendered him, or passes through it in transit, will be detained, upon simple diplomatic request, and surrendered anew, without other formalities, to the State to which his extradition was granted.

Article XIX

Transit through the territory of one of the Contracting States of a person in the custody of an agent of the other Contracting State, and surrendered to the latter by a third

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OPINION APPENDIX B—Continued

State, and who is not of the nationality of the country of transit, shall, subject to the provisions of the second paragraph of this Article, be permitted, independently of any judicial formalities, when requested through diplomatic channels and accompanied by the presentation in original or in authenticated copy of the document by which the State of refuge has granted the extradition. In the United States of America, the authority of the Secretary of State of the United States of America shall be first obtained.

The permission provided for in this Article may nevertheless be refused if the criminal act which has given rise to the extradition does not constitute a crime or offense enumerated in Article II of the present Treaty, or when grave reasons of public order are opposed to the transit.

Article XX

Subject to the rights of third parties, which shall be duly respected:

[970]1. All articles, valuables, or documents which relate to the crime or offense and, at the time of the arrest, have been found in the possession of the person sought or otherwise found in the requested State shall be surrendered, with him, to the requesting State.

2. The articles and valuables which may be found in the possession of third parties and which likewise are related to the crime or offense shall also be seized, but may be surrendered only after the rights with regard thereto asserted by such third parties have been determined.

Article XXI

A person extradited by virtue of the present Treaty may not be tried or punished by the requesting State for any crime or offense committed prior to the request for his extradition, other than that which gave rise to the request, nor may he be re-extradited by the requesting State to a third country which claims him, unless the surrendering State also agrees or unless the person extradited, having been set at liberty within the requesting State, remains voluntarily in the requesting State for more than 30 days from the

OPINION APPENDIX B—Continued

date on which he was released. Upon such release, he shall be informed of the consequences to which his stay in the territory of the requesting State would subject him.

Article XXII

The present Treaty shall be ratified and the ramifications thereof shall be exchanged at Washington, as soon as possible.

The present Treaty shall enter into force one month after the date of exchange of ratification. It may be terminated at any time by either Contracting State giving notice of termination to the other Contracting State, and the termination shall be effective six months after the date of such notice.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Treaty and have affixed hereunto their seals.

DONE in duplicate, in the English and Portuguese languages, both equally authentic, at Rio de Janeiro, this thirteenth day of January, one thousand nine hundred sixty-one.

[SEAL] JOHN M. CABOT

[SEAL] HORACIO LAFER

ADDITIONAL PROTOCOL TO THE TREATY OF EXTRADITION OF JANUARY 13, 1961, BETWEEN THE UNITED STATES of America and the United States of Brazil

The United States of America and the United States of Brazil,

Having concluded at Rio de Janiero, on January 13, 1961, a Treaty of Extradition for the purpose of making more effective the cooperation between the two countries in the repression of crime,

And desiring to make clear that their respective nationals will be subject to extradition only if the constitutional and legal provisions in force in their territories permit it,

[971]Have resolved to sign an Additional Protocol to the aforementioned Treaty of Extradition and, to this end, have appointed the following Plenipotentiaries:

The president of the United States of America: His Excellency Lincoln Gordon, Ambassador Extraordinary and Plenipotentiary to Brazil, and

OPINION APPENDIX B—Continued

The President of the Republic of the United States of Brazil: His Excellency Francisco Clementino de San Tiango [sic] Dantas, Minister of State for External Relations,

Who, having communicated to each other their respective full powers, found to be in good and due form, agree as follows:

Article I

Article VII of the Treaty of Extradition concluded between the countries at Rio de Janeiro, on January 13, 1961, shall be interpreted as follows:

"The Contracting Parties are not obliged by this Treaty to grant extradition of their nationals. However, if the Constitution and laws of the requested State do not prohibit it, its executive authority shall have power to surrender a national if, in its discretion, it be deemed proper to do so."

Article II

The present Protocol shall enter into force on the same date as the Treaty of Extradition of January 13, 1961, and shall cease to be effective on the date of termination of the Treaty.

In WITNESS hereof, the respective Plenipotentiaries have signed the present Additional Protocol and have fixed hereunto their seals.

DONE in duplicate, in the English and Portuguese languages, both equally authentic, at Rio de Janeiro, on this eighteenth day of June, one thousand nine hundred sixty-two.

LINCOLN GORDON

FC DE SAN TIAGO [SIC] DANTAS

[SEAL]

WHEREAS the Senate of the United States of America by their resolution of May 16, 1961, two-thirds of the Senators present concurring therein, did advise and consent to the ratification of the treaty and by their resolution of October 22, 1963, two thirds of the Senators present concurring therein, did advise and consent to the ratification of the additional protocol;

OPINION APPENDIX B—Continued

WHEREAS the President of the United States of America ratified the treaty on May 29, 1961 and the additional protocol on October 29, 1963, in pursuance of the advice and consent of the Senate, and the Government of the United States of Brazil has duly ratified the treaty and the additional protocol;

WHEREAS the respective instruments of ratification of the treaty and the additional protocol were duly exchanged at Washington on November 17, 1964;

AND WHEREAS it is provided in Article XXII of the treaty that the treaty shall enter into force one month after the date of exchange of ratification, and it 972 is provided in Article II of the additional protocol that the additional protocol shall enter into force on the same date as the treaty;

NOW, THEREFORE, be it known that I, Lyndon B. Johnson, President of the United States of America, do hereby proclaim and make public the said treaty and additional protocol, to the end that the same and every article and clause thereof may be observed and fulfilled in good faith on and after December 17, 1964, one month after the day of exchange of instruments of ratification, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this twentieth day of November, in the year of our Lord one thousand nine hundred sixty-four and of the independence of the United States of America the one hundred eighty-ninth.

[SEAL]

Lyndon B. Johnson

By the President:

GEORGE W. BALL,

Acting Secretary of State

WEST KEY NUMBER SYSTEM

38

U.S. Department of Justice
United States Parole Commission
90 K Street, N.E., 3rd Floor
Washington, D.C. 20530

Notice of Action on Appeal

Name: Lambros, John | Institution: District of Minnesota

Register Number: 00436-124 | Date: February 27, 2018

The National Appeals Board examined the appeal of the above named and ordered the following:

Terminate parole supervision on your original federal sentence in CR3-75-128, 3-76-54, and 3-76-17 and close case.

REASONS:

The National Appeals Board concludes that the Rule of Specialty applies in your case. Consequently your sentence in CR3-75-128, 3-76-54, and 3-76-17 has expired.

All decisions by the National Appeals Board on appeal are final.

cc: Designation & Sentence Computation Ctr
U.S. Armed Forces Reserve Complex
Grand Prairie Office Complex
346 Marine Forces Drive
Grand Prairie, TX 75051

U.S. Probation Office
District of Minnesota
406 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415-1320

Ex. - I

39.

June 23, 2017

John Gregory Lambros
Reg. No. 00436-124
U.S. Penitentiary Leavenworth
P.O. Box 1000
Leavenworth, Kansas 66048-1000
Website: www.Lambros.name

U.S. CERTIFIED MAIL NO.
7016-3560-0000-0442-8648

CLERK OF THE COURT
U.S. District Court for the District of Kansas
500 State Ave.
Kansas City, Kansas 66101-2400

RE: FILING OF CIVIL ACTION: LAMBROS vs. ENGLISH, Warden, et al.

Dear Clerk:

Attached for **FILING** are the following motions and documents:

1. **PETITION FOR WRIT OF MANDAMUM,** PURSUANT TO TITLE 28 U.S.C. §1361; AND TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION.

2. APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES AND AFFIDAVIT BY BY A PRISONER.

3. AFFIDAVIT OF FINANCIAL STATUS.

Thank you in advance for your assistance in filing the above civil action. Please contact me if I have not filed any of the forms correctly and/or additional forms are needed to complete the filing of this civil action.

Sincerely,

John Gregory Lambros, Pro Se

CERTIFICATE OF SERVICE

I JOHN GREGORY LAMBROS, certify that I mailed a copy of the above-entitled motions and documents within a stamped envelop with the correct postage to the following parties from the U.S. Penitentiary Leavenworth Mailroom and/or mailbox with the living units at Leavenworth, on **JUNE 23, 2017, TO:** (Pursuant to: 28 U.S.C. §1746)

1. Clerk of the Court, as addressed above.
2. Nicole English, Warden U.S. Penitentiary Leavenworth, 1300 Metropolitan Ave., Leavenworth, Kansas 66048.
3. U.S. Parole Commission, Attn: General Counsel, 90 K. Street, N.E., Washington, D.C. 20530.

John Gregory Lambros, Pro Se

Ex. J

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JOHN GREGORY LAMBROS
Reg. No. 00436-124
U.S. Penitentiary Leavenworth
P.O. Box 1000
Leavenworth, Kansas 66048-1000
Websites: www.Lambros.Name
www.PAROLE.Lambros.Name

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

JOHN GREGORY LAMBROS, Plaintiff, vs. **NICOLE ENGLISH, Warden for the U.S. Penitentiary Leavenworth, 1300 Metropolitan Ave., Leavenworth, Kansas 66048;** **UNITED STATES PAROLE COMMISSION, Attn: General Counsel, 90 K. Street, N.E., Washington, D.C. 20530.** Defendant's (Severally and Jointly liable)	*	**CIVIL ACTION NO. 17-3105** **AFFIDAVIT FORM** **URGENT ATTENTION REQUESTED:** Defendant's intentionally interfering with **PRESCRIBED MEDICAL TREATMENT.** See, ERICKSON vs. PARDUS, 551 U.S. 89, 90 (2007); ESTELLE vs. GAMBLE, 429 U.S. 97, 105 (1976).

PETITION FOR WRIT OF MANDAMUS
PURSUANT TO TITLE 28 U.S.C. §1361;

AND

TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION.

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1. COMES NOW, Plaintiff - Petitioner - Movant JOHN GREGORY LAMBROS (Hereinafter "MOVANT"), Pro Se, and requests this Court to construe this filing liberally. See, HAINES vs. KERNER, 404 U.S. 519, 520-21 (1972); RICHARDSON vs. U.S., 193 F.3d 545, 548-49 (D.C. Cir. 1999), and not limit the jurisdictional

PLAINTIFF LAMBROS' WEBSITES MAY NOT BE AVAILABLE
TO DEFENDANTS DUE TO U.S. BUREAU OF PRISON'S BLOCK.

www.Lambros.Name

www.PAROLE.Lambros.Name

39. MAY 10, 2017: U.S. Federal Bureau of Prisons, Department of Justice, determined Movant Lambros' websites:

www.Lambros.Name

www.PAROLE.Lambros.Name

will be BLOCKED DUE TO "POLITICAL - SOCIAL ADVOCACY".

40. MAY 25, 2017: Movant Lambros writes the Office of General Counsel, U.S, Federal Bureau of Prisons, requesting the agency to DISENGAGE THE EXISTING BLOCK on website: www.Lambros.Name - due to the First Amendment guarantee's to U.S. Citizens. Requesting the agency to review: NEW YORK TIMES CO. vs. SULLIVAN, 376 U.S. 254, 270-271 (1964).

See, EXHIBIT J. (May 25, 2017, Movant Lambros' letter to U.S. Federal Bureau of Prisons).

ATTORNEY FEES AND COSTS TO PLAINTIFF LAMBROS

41. Movant requests that this Court award recovery of costs incurred in filing fees, telephone, e-mails, copy charges, typing ribbons, envelops, etc. incurred by Movant, including reasonable attorney fees, if applicable, due to defendants unconstitutional actions. Also, Movant requests this Court to award additional damages to Movant for his time and pain/suffering, if allowed.

42.

CONCLUSION

May 25, 2017

John Gregory Lambros
Reg. No. 00436-124
U.S. Penitentiary Leavenworth
P.O. Box 1000
Leavenworth, Kansas 66048-1000
Website: www.Lambros.Name

U.S. CERTIFIED MAIL NO.
7012-3460-0001-8775-3990

OFFICE OF GENERAL COUNSEL
U.S. FEDERAL BUREAU OF PRISONS
320 First Street, N.W.
Washington, D.C. 20534
USA

RE: REQUESTING FEDERAL BUREAU OF PRISONS TO DISENGAGE EXISTING BLOCK ON WEBSITE: www.Lambros.Name

Dear Sir or Ma'am:

On or about May 10, 2017, it was brought to my attention that the "Department of Justice - Federal Bureau of Prisons" **"LOGOGRAM"** appeared when an employee of the Federal Bureau of Prisons attempted to access my website:

www.Lambros.Name

with the information that access to **Lambros.Name is DENIED.** Further investigation by staff at U.S. Penitentiary Leavenworth determined that the U.S. Federal Bureau of Prisons is **DENYING ACCESS DUE TO:**

"POLITICAL - SOCIAL ADVOCACY"

FIRST AMENDMENT GUARANTEES OF U.S. CITIZENS:

1. The U.S. Bureau of Prisons must "consider this case against the background of a profound national commitment to the principle that debate on public issues should be **UNINHIBITED, ROBUST, AND WIDE-OPEN,** and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials. .... The present **ADVERTISEMENT, AS AN EXPRESSION OF GRIEVANCE AND PROTEST ON ONE OF THE MAJOR PUBLIC ISSUES OF OUR TIME, WOULD SEEM CLEARLY TO QUALIFY FOR THE CONSTITUTIONAL PROTECTION. THE QUESTION IS** whether it forfeits that protection by the falsity of some of its factual statements and by its alleged defamation of respondent." See, NEW YORK TIMES CO. vs. SULLIVAN, 376 U.S. 254, 270-271 **(1964).**

2. Federal Bureau of Prisons, **PROGRAM STATEMENT NO. 5350.27 (7-27-99) "INMATE MANUSCRIPTS":** This policy statement encourages inmates to use their leisure time for **CREATIVE WRITING** to prepare manuscripts for private use or for **PUBLICATION.**

43.

 EXHIBIT J.

22.

3. The website: www.Lambros.Name contains legal records and evidence of his illegal extradition from Brazil to the United States regarding his current incarceration at U.S. Penitentiary Leavenworth. Also, information regarding exhibits presented to the U.S. Parole Commission that will be used during Lambros' forthcoming parole hearing.

CONCLUSION:

4. Please advise how the **CENSORSHIP** of www.Lambros.Name is **JUSTIFIED** due to:

"POLITICAL - SOCIAL ADVOCACY"

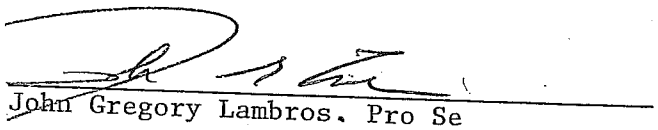
as I do not understand what important or substantial government interest UNRELATED TO THE SUPPRESSION OF EXPRESSION exists within the material contained in the website.

5. It is my understanding that my website: www.Lambros.name is available through other offical U.S. government agency and/or department sources, avenues and servers.

6. I am requesting the U.S. Department of Justice, Federal Bureau of Prisons to **DISENGAGE THE EXISTING BLOCK ON WEBSITE: www.Lambros.Name.**

Thank you in advance for your consideration in this most important First Amendment issue and please feel free to inform me of any documents that further one or more of the substantial governmental interests of security, order, and rehabilitation.

Respectfully submitted,



John Gregory Lambros. Pro Se

c:
File
Press Release

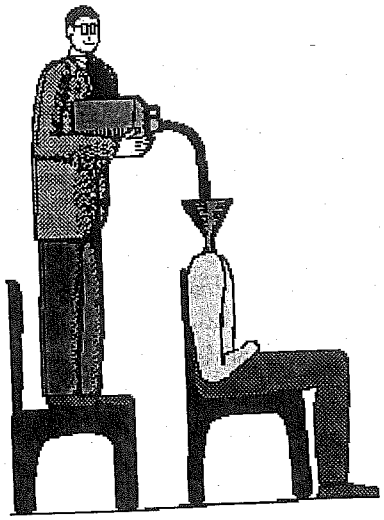
44.

23.

1,

Boycott Brazil

PLEASE COPY AND PASTE THE ABOVE LOGO ON YOUR SITE AND THROUGHOUT THE INTERNET.
Thank you for your support.



The Extradition, Torture and Electronic Mind Control of U.S. Citizen John Gregory Lambros, a Native of Minnesota

Go directly to a third-party explanation of what happened to John Gregory Lambros.

What's new?

APRIL 5, 2018: BOYCOTT BRAZIL SUPPORTERS press release to "Brazilian taxpayers paying $15,000.00 a day due to mistake by Supreme Court of Brazil during extradition 'ORDER'." Two page release with two pages of exhibits in PDF FORMAT.

DOWNLOAD "BOYCOTT BRAZIL SUPPORTERS" press release to Citizens of Brazil. Four pages total release in PDF FORMAT.

MARCH 21, 2018: Lambros informs court of U.S. Parole Commission, NOTICE **OF ACTION** that concludes May 17, 1991 arrest in Brazil, extradition from Brazil and incarceration in the United States on the August 21, 1989 PAROLE VIOLATION WARRANT **WAS ILLEGAL. REASON: "RULE OF SPECIALTY" applied to Lambros' case.** This is a 3 page motion with 2 pages of exhibits. See, LAMBROS vs. FEDERATIVE, et al., No. 2017-CA-929-B. PDF FORMAT.

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DOWNLOAD MARCH 21, 2018: COMPANION CASE "ORDER" BY U.S. PAROLE COMMISSION - U.S. DEPARTMENT OF JUSTICE - THAT VALIDATES PLAINTIFF LAMBROS' CLAIMS WITHIN THIS ACTION AND WILL ASSIST THE COURT, FUTURE JURY, DEFENDANTS AND ALL INTERESTED PARTIES CONCERNED. 6 PAGES TOTAL.

Ex. J

FEBRUARY 27, 2018: Lambros WINS NATIONAL APPEAL FROM U.S. PAROLE COMMISSION. The U.S. Parole Commission admits that Lambros was arrested and extradited illegally from Brazil and incarcerated illegally in the United States on the **August 21, 1989 PAROLE VIOLATION WARRANT. REASON: DOCTRINE OF SPECIALTY LAW. See, STATE OF WASHINGTON vs. MARTIN SHAW PANG, 940 P.2d 1293, 1318 and FootNote 56 (Wash. 1997). Pang was extradited from Brazil.** Lambros has attached PANG, at 1293, 1318-1322, that offers an excellent overview of the DOCTRINE OF SPECIALITY. This document is in PDF FORMAT. Eight (8) total pages.

DOWNLOAD FEBRUARY 27, 2018 "NOTICE OF ACTION" FROM U.S. PAROLE COMMISSION IN PDF FORMAT - 8 PAGES TOTAL.

JUNE 23, 2017: PETITION FOR WRIT OF MANDAMUS, PURSUANT TO TITLE 28 U.S.C. §1361; and TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION. Filed within the U.S. District Court for the District of Kansas, Civil Division. LAMBROS vs. NICOLE ENGLISH, Warden U.S. Penitentiary Leavenworth; U.S. Parole Commission. The COMPLAINT is 15 pages in length and exhibits are 23 pages in length, with a 1 page cover letter. Total pages: 39 in **PDF FORMAT.** This MANDAMUS requests the Court to "ORDER" the defendant's to allow Lambros to stay at USP Leavenworth, due to his medical treatment and forthcoming parole violation hearing.

DOWNLOAD JUNE 23, 2017 "WRIT OF MANDAMUS" IN PDF FORMAT - 39 TOTAL PAGES.

46.

November 13, 2017

John Gregory Lambros
Reg. No. 00436-124
F.C.I. 2 - Butner
P.O. Box 1500
Butner, NC 27509

U.S. Certified Mail No.
7016-2070-0000-5526-5037

Federal Bureau Of Prisons
Attn: General Counsel
320 First Street, N.W.
Washington, D.C. 20534

RE: FILING OF FEDERAL TORT CLAIM

Dear Sir or Ma'am:

Attached for filing is Standard Form 95 for claim for damage, injury or death, dated November 13, 2017, in the total amount of $20 Million for personal injury to John Gregory Lambros.

Please notify me if I have not filled the Federal Tort Claim form out correctly.

Thank you in advance for your consideration in this matter.

Sincerely,

John Gregory Lambros

c:
Lambros family
File

Ex. K

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CLAIM FOR DAMAGE, INJURY, OR DEATH

INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.

FORM APPROVED
OMB NO. 1105-0008

1. Submit to Appropriate Federal Agency:

Federal Bureau of Prisons
320 First Street, N.W.
Washington, D.C. 20534

2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code.

John Gregory Lambros
Reg. No. 00436-124
FCI 2 Butner
P.O. Box 1500, Butner, NC 27509

3. TYPE OF EMPLOYMENT	4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT	7. TIME (A.M. OR P.M.)
☐ MILITARY ☒ CIVILIAN	8-13-1950	Single	July 3, 2017	12:01 A.M.

8. *BASIS OF CLAIM* (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). On July 3, 2017, Warden Fox and staff executed and committed Lambros to the U.S. Bureau of Prisons FTC Oklahoma City, OK, due to 8-21-1989 invalid U.S. Parole Commission Warrant. Lambros was arrested in Brazil on May 17, 1991 on the 8-21-1989 WARRANT and not extradited to the U.S.A. by the Supreme Court of Brazil on April 30, 1992. Therefore, false imprisonment, unlawful detention of Lambros. See, www.Parole.Lambros.Name

PROPERTY DAMAGE

9. NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).

PERSONAL INJURY/WRONGFUL DEATH

10. STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.

False arrest and False imprisonment that includes emotional distress, economic loss, and pain and suffering during the false imprisonment and forthcoming parole on same. See, Dent v. May Dept. Stores, 459 A.2d 1042, 1044 (D.C. 1982).

WITNESSES

11.

NAME	ADDRESS (Number, Street, City, State, and Zip Code)
Warden John B. Fox U.S. Bureau of Prisons	FTC Oklahoma City, OK 73189

AMOUNT OF CLAIM (in dollars)

12. (See instructions on reverse).

12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights).
	$20 Million		$20 Million

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).	13b. PHONE NUMBER OF PERSON SIGNING FORM	14. DATE OF SIGNATURE
	N/A incarcerated	11-13-2017

CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM

The claimant is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).

CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS

Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)

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NSN 7540-00-634-4046

STANDARD FORM 95 (REV. 2/2007)
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2

Authorized for Local Reproduction
Previous Edition is not Usable

95-109

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☒ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☒ No

17. If deductible, state amount:

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

N/A

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☒ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. *Authority:* The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. *Principal Purpose:* The information requested is to be used in evaluating claims.

C. *Routine Use:* See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.

D. *Effect of Failure to Respond:* Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

49c

United States Department of Justice

Federal Bureau of Prisons

South Central Regional Office

U.S. Armed Forces Reserve Complex
344 Marine Forces Drive
Grand Prairie, Texas 75051

Date Mailed: APR - 4 2018

CERTIFIED MAIL
7000 0520 0022 2671 9108

John Lambros
Register No. 00436-124
Volunteers of America
2825 East Lake Street
Minneapolis, MN 55406

Re: Tort Claim No. TRT-SCR-2018-01267

Mr. Lambros:

Your claim has been considered for administrative settlement under the Federal Tort Claims Act (FTCA) 28 U.S.C. § 2672, et seq., and authority granted by 28 C.F.R. §0.172.

Section 2676 of the Federal Tort Claims Act delegates to each federal agency the authority to consider, determine and settle any claim for money damages against the United States for loss of personal property or injury caused by the negligent or wrongful act or omission of any employee of the agency acting within the scope of his office or employment.

You claim that Federal Transfer Center staff executed an invalid U.S. Parole Commission warrant against you on July 3, 2017. You seek $20,000,000.00 in compensation.

You failed to claim a loss caused by the negligence of an employee of the United States acting within the scope of employment. Therefore your claim is denied.

You are advised that if you are dissatisfied with the determination in this matter, you are afforded six (6) months from the date of the mailing of this communication within which to bring suit in the appropriate United States Court.

Ex. L.

50.

Sincerely,

for
Jason A. Sickler
Regional Counsel

cc: John B. Fox, Warden
FTC Oklahoma City

51.

May 4. 2018

John Gregory Lambros
Volunteers of America – Residential Re-entry Center
2825 East Lake Street
Minneapolis, Minnesota 55406

U.S. CERTIFIED MAIL NO.
7017-2680-0000-6464-8197

United States Federal Bureau of Prisons
Attn: General Counsel for Central Office
320 First Street, NW
Washington, DC 20534

RE: ADMINISTRATIVE REMEDY NO. 917434-R2 - FILING OF BP-11 APPEAL PROCESS

Dear Sir or Ma'am:

Attached for filing in the above entitled administrative remedy appeal process is my completed BP-11, within the 30 day limit.

Please note that my BP-10 administrative remedy in this action was denied on April 18, 2018.

Thank you in advance for your consideration in this matter.

Sincerely,

John Gregory Lambros

Ex. M.

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U.S. Department of Justice

Federal Bureau of Prisons

Central Office Administrative Remedy Appeal

Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-DIR-9 and BP-DIR-10, including any attachments must be submitted with this appeal.

From: Lambros, John G. (LAST NAME, FIRST, MIDDLE INITIAL) 00436-124 (REG. NO.) Re-Entry Program (UNIT) Minnesota (INSTITUTION)

Part A—REASON FOR APPEAL BP-10 - DENIED ON 4-18-2018 by Mike Connel. North Centra Regional Office, stating, "NO JURISDICTION", THIS IS NOT TRUE! Lambros restes that he was Arrested illegally on July 3, 2017 on a U.S. Parole Violation warrant which was lodged on August 21, 1989, The warrant was executed in Brazil and the Supreme Court of Brazil did not extradite Lambros on the warrant. The Department of State notified all government agencies of what charges Lambros was extradited on. Lambros was false imprisoned due to his arrest on July 3, 2017 by WARDEN FOX. Lambros is requesting that the Bureau of Prisons admit to the illegal arrest of Lambros on July 3, 2017.

RESPONSE TO ADMINISTRATIVE REMEDY NO. 917434-R2 - Dated: 4-18-2018

MAILED U.S. CERTIFIED MAIL NO, 7017-2680-0000-6464-8197

By: John Gregory Lambros, Volunteers Of America, ~~2825~~ East Lake Street, Minneapolis, Minnesota 55406

May 1, 2018 (DATE)

SIGNATURE OF REQUESTER

Part B—RESPONSE

DATE

GENERAL COUNSEL

ORIGINAL: RETURN TO INMATE

CASE NUMBER:

Part C—RECEIPT

CASE NUMBER:

Return to: (LAST NAME, FIRST, MIDDLE INITIAL) (REG. NO.) (UNIT) (INSTITUTION)

SUBJECT:

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

BP-231(13)
APRIL 1982

USP LVN

U.S. Department of Justice
Federal Bureau of Prisons
North Central Regional Office
Residential Reentry Management
Kansas City, KS 66101-2492

Date: April 18, 2018

FROM: Mike Connel, Central Sector Administrator

SUBJECT: Administrative Remedy Appeal-Case No. 917434-R2

MEMORANDUM FOR John Gregory Lambros, 00436-124
Volunteers of America - Minnesota

This is in response to your letter received on April 5, 2018.

___1. Your appeal was answered on ____. If you have not received your copy by now, you may ask the institution Administrative Remedy Coordinator to provide you with a copy from the Warden's Administrative Remedy File.

___2. Your appeal was filed on _____ and a response is still in progress. If more than 30 days have elapsed since the filing date, you are entitled to consider your appeal denied. However, some cases cannot be decided within this time period. In that event, the time for response may be extended for an additional 30 days. Staff will provide you with a computer-generated notice of extension to inform you of the extension.

___3. Our records indicate that the appeal you reference has not been filed with this office.

___4. You have not provided sufficient information for us to respond to your inquiry. If your inquiry concerns an administrative remedy, please provide the case number, the date filed in this office or date mailed by you, your name and register number, and the subject of your administrative remedy. If you cannot provide all of this information, please provide as much as possible.

___5. A review of your inquiry reveals it contains issues you should first bring to the attention of institution staff. If you are unable to resolve the issue(s) informally, you may present your complaint to the Warden via the Administrative Remedy Procedure. This procedure is available to inmates confined in federal facilities to complain about any aspect of their confinement.

___6. Extensions are granted only if an inmate's submission is untimely by no fault of his own. Requests for extensions are only considered when submitted with the complete appeal packet.

___7. If you are dissatisfied with your response, you may appeal to the Office of General Counsel, Federal Bureau of Prisons, 320 First Street, NW, Washington, DC 20534. Your appeal must be received in the Office of General Counsel within 30 days from the date of your response.

_X_8. We can only address issues within the jurisdiction of the Federal Bureau of Prisons. Your issue is one of __USPO_____ jurisdiction.

___9. Other:.

5.4.

March 28, 2018

URGENT

John Gregory Lambros
Volunteers of America – Residential Reentry Center
2825 East Lake Street
Minneapolis, Minnesota 55406

U.S. CERTIFIED MAIL NO.
7017-2680-0000-6464-8180

STACY RIMMER
CENTRAL SECTOR – US BUREAU OF PRISONS
Residential Reentry – Community Correction
Gateway Complex, Tower II
Suite 800
400 State Ave.
Kansas City, Kansas 66101

RE: ADMINISTRATIVE REMEDY NO. 917434-R1 - REGIONAL APPEAL - 3rd ATTEMPT - URGENT.

Dear Stacy Rimmer:

On March 26, 2018, I spoke with Ms. Collier, Correctional Assistant within the North Central Regional Office at the above address – who was extremely helpful in determining that the North Central Office had lost my BP-10 that was sent to your office on January 19, 2018 and received on January 22, 2018 at 12:58 pm.

Ms. Collier consulted with a gentleman within the Central Sector, Residential Reentry, Community Correction department of your office and transferred me to him. I'm sorry I can-not recall his name. I was instructed to re-mail my January 19, 2018 letter to Stacy Rimmer, so the regional appeal process could move forward again. The gentleman confirmed my certified mailing to the North Central Regional Office and your receipt of the January 19, 2018 BP-10 timely filing.

I am requesting your assistance in **FAST TRACKING my BP-10**, as new information has moved forward as to the issues contained within my BP-10. On February 27, 2018, the U.S. Parole Commission ruled that I was being held illegally, on the issues addressed within the action – **REASON: "The National Appeals Board concludes that the RULE OF SPECIALTY APPLIES IN YOUR CASE."** See attached copy of NOTICE OF ACTION.

Thank you for your consideration in FAST TRACKING THIS ACTION that was within your computer base since November 2017. See attached NOVEMBER 16, 2017, REJECTION NOTICE – ADMINISTRATIVE REMEDY" from Administrative Remedy Coordinator, South Central Regional Office.

Sincerely,

John Gregory Lambros, Pro Se

c: File

U.S. Department of Justice
United States Parole Commission
90 K Street, N.E., 3rd Floor
Washington, D.C. 20530

Notice of Action on Appeal

Name: Lambros, John | Institution: District of Minnesota

Register Number: 00436-124 | Date: February 27, 2018

The National Appeals Board examined the appeal of the above named and ordered the following:

Terminate parole supervision on your original federal sentence in CR3-75-128, 3-76-54, and 3-76-17 and close case.

REASONS:

The National Appeals Board concludes that the Rule of Specialty applies in your case. Consequently your sentence in CR3-75-128, 3-76-54, and 3-76-17 has expired.

All decisions by the National Appeals Board on appeal are final.

cc: Designation & Sentence Computation Ctr
U.S. Armed Forces Reserve Complex
Grand Prairie Office Complex
346 Marine Forces Drive
Grand Prairie, TX 75051

U.S. Probation Office
District of Minnesota
406 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415-1320

EG.

January 19, 2018

John Gregory Lambros
Volunteers of America – Residential Reentry Center
2825 East Lake Street
Minneapolis, Minnesota 55406

U.S. CERTIFIED MAIL NO.
7016-2070-0000-5526-5136

North Central Regional Office for the Bureau of Prisons
Gateway Complex, Tower II
Suite 800
400 State Ave.
Kansas City, Kansas 66101

RE: ADMINISTRATIVE REMEDY NO. 917434-R1 – REGIONAL APPEAL

Dear Sir or Ma'am:

On January 2, 2018, I received your November 16, 2017 rejection and return of the above entitled BP-10, that was filed in a timely manner on November 8, 2017, via U.S. Certified Mail number: 7016-2070-0000-5526-5020, to the South Central Regional Office, Grand Prairie, Texas, as per the direction of Warden Fox within his BP-9 response on 10-26-2017.

Please note that I was released from Butner FCI 2 on January 3, 2018 and was not able to take your mailing with me and was forced to place your correspondence with my attached BP-10 within a box shipped to me at the above halfway house that arrived on or about January 15. 2018.

I've attached copy of your November 16. 2017 "REJECTION NOTICE – ADMINISTRATIVE REMEDY – that was signed by the unit officer on January 2, 2018, as to my receipt of same.

It is my position that the attached BP-10 was filed on or about November 9, 2017, as JOHN GREGORY LAMBROS FOLLOWED THE DIRECTIONS OF WARDEN FOX WITHIN HIS BP-9 DENIAL HE SIGNED ON OCTOBER 26, 2017.

Please advise as to the status of my BP-10, as I would like to file a BP-11 in this action, as a tort claim is pending in this above entitled matter.

At you convenience, please forward a BP-11 administrative remedy form, as forms are not available at the halfway house I'm staying at.

Thank you in advance for your consideration in this matter.

Sincerely,

John Gregory Lambros

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REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: NOVEMBER 16, 2017

Ben Briesch

FROM: ADMINISTRATIVE REMEDY COORDINATOR
SOUTH CENTRAL REGIONAL OFFICE

TO : JOHN GREGORY LAMBROS, 00436-124
BUTNER MED II FCI UNT: M UNIT QTR: M01-043L
P.O. 1500
BUTNER, NC 27509

FOR THE REASONS LISTED BELOW, THIS REGIONAL APPEAL IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDY ID : 917434-R1 REGIONAL APPEAL
DATE RECEIVED : NOVEMBER 14, 2017
SUBJECT 1 : OTHER RECORDS MANAGEMENT
SUBJECT 2 :
INCIDENT RPT NO:

REJECT REASON 1: YOU SUBMITTED YOUR REQUEST OR APPEAL TO THE WRONG LEVEL. YOU SHOULD HAVE FILED AT THE INSTITUTION, REGIONAL OFFICE, OR CENTRAL OFFICE LEVEL.

REJECT REASON 2: YOU MAY RESUBMIT YOUR APPEAL IN PROPER FORM WITHIN 15 DAYS OF THE DATE OF THIS REJECTION NOTICE.

REJECT REASON 3: SEE REMARKS.

REMARKS : YOU MUST SUBMIT YOUR APPEAL TO THE REGION YOU ARE ASSIGNED. MID-ATLANTIC REGION.

Received Jan 2, 2018
J. Hayes

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U.S. Department of Justice

Federal Bureau of Prisons

Regional Administrative Remedy Appeal

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-229(13) including any attachments must be submitted with this appeal.

From: LAMBROS, John G. | 00436-124 | M-A | FCI BUTNER 2

LAST NAME, FIRST, MIDDLE INITIAL | REG. NO. | UNIT | INSTITUTION

Part A - REASON FOR APPEAL BP-9 - DENIED ON 10-26-2017 By Warden Fox, FTC OK. **LAMBROS RECEIVED BP-9 on 11-7-2017 at FCI BUTNER 2.** Lambros restates that hw is being held illegally - unlawful detention - due to arrest and execution of 8-21-1989 U.S. Parole Commission Warrent on 7-3-2017 by Warden Fox. Lambros was arrested on the above warrant in Brazil on May 1991 and was not extradited on same by the Supreme Court of Brazil on April 30, 1992.
The Bureau of Prison only needs to contact the Department of STate to verify that Lambros was NOT EXTRADITED ON THE 8-21-1989 warrant. LAMBROS REQUESTS IMMEDIATE RELEASE DUE TO HIS FALSE IMPRISONMENT.

RESPONSE TO ADMINISTRATIVE REMEDY NO. 917434-F1.
MAILED NOVEMBER 9, 2017 - U.S. CERTIFIED MAIL NO.

7016-2070-0000-5526-5020

NOVEMBER 8, 2017

DATE

SIGNATURE OF REQUESTER

Part B - RESPONSE

RECEIVED
NOV 1 4 2017
BUREAU OF PRISONS
LEGAL DEPARTMENT, SCRO

RECEIVED
NOV 1 3 2017
SCRO

DATE

REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 917434-R1

Part C - RECEIPT

CASE NUMBER: _____

Return to: _____

LAST NAME, FIRST, MIDDLE INITIAL | REG. NO. | UNIT | INSTITUTION

SUBJECT: _____

FEDERAL TRANSFER CENTER (FTC), OKLAHOMA CITY, OKLAHOMA
PART B - RESPONSE TO REQUEST FOR ADMINISTRATIVE REMEDY #917434-F1

This is in response to your Request for Administrative Remedy, received on October 4, 2017, wherein you state you are being detained illegally and unlawfully. For relief, you request an immediate release from federal custody.

On October 5, 2017, contact with the United States Parole Commission (USPC), revealed you completed your Federal sentence on July 3, 2017. You are being detained on a USPC arrest warrant, which was lodged August 21, 1989, and executed on July 3, 2017. You are currently being housed at the FTC pending review by the USPC. You were reviewed by the USPC on October 12, 2017. The final disposition from the USPC is pending.

Based on the above, this response to your Request for Administrative Remedy is denied.

If you are not satisfied with this response, you may appeal to the Regional Director at Bureau of Prisons, South Central Regional Office, U.S. Armed Forces Reserved Complex, 344 Marine Forces Drive, Grand Prairie, Texas 75051. Your appeal must be received in that office within 20 calendar days of the date of this response.

John B. Fox, Warden

10/26/17
Date

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UNICOR FEDERAL PRISON INDUSTRIES INC.
LEAVENWORTH, KANSAS

U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons

REQUEST FOR ADMINISTRATIVE REMEDY

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: LAMBROS, JOHN G.	00436-124	3-C	FTC OK.
LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

Part A- INMATE REQUEST BP-8- DENIED ON 9-20-2017. LAMBROS STATES HE S BEING HELD ILLEGALLY - UNLAWFULL DETENTION - DUE TO EXECUTION OF 8-21-1989, U.S. PAROLE COMMISSION WARRANT ON 7-3-2017. SEE ATTACHED 9-19-2017 ADDENDUM TO WARDEN FOX FOR DETAILS. - RESPONSE TO BP-8 STATES LAMBROS IS BEING HELD ON VALID 8-21-1989, U.S. PAROLE COMMISSION WARRANT. LAMBROS REQUESTS IMMEDIATE RELEASE.

9-21-2017
DATE

SIGNATURE OF REQUESTER

Part B- RESPONSE

61.

DATE

WARDEN OR REGIONAL DIRECTOR

dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

Attachment A

Unit	3C	Logging No.	2017-141	Staff Initials/Date	GS 9-18-17

INFORMAL RESOLUTION ATTEMPT FORM

Inmate's Name	Lambros, John	Register Number	00436-124

1. Briefly state your complaint. Include all details and facts which support your request and the date on which the basis for the complaint occurred. UNLAWFUL DETENTION OF JOHN G. LAMBROS DUE TO EXECUTION OF 8-21-1989, U.S. PAROLE COMMISSION WARRANT ON 7-3-2017. SEE ATTACHED - SEPTEMBER 19, 2017, ADDENDUM TO WARDEN FOX FOR DETAILS.

2. Briefly state the action you request to resolve your complaint.

IMMEDIATE RELEASE FROM CUSTODY.

3. Briefly state the action(s) you have taken and with whom you have spoken to resolve your complaint.

CONTACTED U.S. PAROLE COMMISSION AND INFORMED UNIT TEAMS AT U.S.P. LEAVENWORTH AND FTC OKLAHOMA CITY, OK.

4. **GIVE THIS COMPLETED FORM TO YOUR UNIT COUNSELOR FOR RESPONSE.**

Date Received by Counselor for Response	09/19/2017

RESPONSE

Per legal services:
Our review of the matter indicates you are being held on a valid warrant, pending review by the US Parole Commission.

Counselor's Signature/Date	9-20-17
Unit Manager's Signature/Date	for 9.20-17
Date Response Delivered to Inmate	9.20.2017

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SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

SANTAE A. TRIBBLE,	*	
	*	
Plaintiff,	*	
	*	Civil Case No. 2013 CA 003237 B
v.	*	Calendar IV
	*	Judge John M. Mott
DISTRICT OF COLUMBIA,	*	
	*	
Defendant.	*	

FINDINGS OF FACT & CONCLUSIONS OF LAW

On August 18, 1978, seventeen-year-old Santae Tribble was arrested for a murder he did not commit of a man he did not know. During the twenty-five years that followed, Mr. Tribble was charged, convicted, and sentenced to concurrent terms of twenty years to life in prison. During his imprisonment, Mr. Tribble was transported from the D.C. Jail to the District of Columbia's former prison in Lorton, Virginia, and from there to institutions around the United States, far from his home, his family, and his friends. This journey of injustice subjected Mr. Tribble to all the horror, degradation, and threats to personal security and privacy inherent in prison life, each heightened by his youth, actual innocence, and life sentence.

The consequences of Mr. Tribble's unjust imprisonment did not vanish upon his release from prison; on the contrary, he endured continuing restrictions on his freedom while on parole and during periods of re-incarceration, and he currently suffers from the "triple diagnosis" of severe depression, drug addiction, and chronic medical conditions (HIV and Hepatitis C), all caused by his unjust imprisonment. In sum, Mr. Tribble's ordeal did not merely deprive him of his liberty in a constitutional sense—it ruined his life, leaving him broken in body and spirit and, quite literally, dying.

EXHIBIT N.

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In this lawsuit brought against the District of Columbia ("the District"), Mr. Tribble seeks relief through the civil justice system pursuant to the District of Columbia Unjust Imprisonment Act ("the Act" or "DCUIA").[1] The Act requires no finding of malicious prosecution or, even, bad faith on the part of the government and, indeed, is in no way based on the circumstances surrounding the initial arrest and prosecution; rather, once the requirements of the Act are met, as the parties agree they have been in the present case, the Act renders the District strictly liable for compensatory damages, as awarded by the court, sufficient to make the plaintiff whole.[2]

FINDINGS OF FACT

Born on April 6, 1961, Santae Tribble grew up and attended school in the District of Columbia. His father was a factory worker, and his mother was a nurse's aide. Mr. Tribble's parents separated when he was five or six years old, and while he was raised primarily by his "no-nonsense" mother, he saw his father regularly. Plaintiff was particularly close with his older sister, Jule, who, as he described it, looked out for him as a "buddy," "mother," "mentor," and "teacher". He was also close with his older brother James (and, later, with James' wife, Deborah) and his grandfather, who would often sit on the porch supervising Mr. Tribble and his friends at play. Mr. Tribble's good friend, George Mozee, spent much of his time over at plaintiff's house from the age of five (when plaintiff was three years old). Mozee testified at trial that plaintiff had a good childhood, where he was surrounded by friends, work, discipline, and a "proud" family who "cared for each other."

[1] D.C. Code §§ 2-421–424 (2012 Repl.).

[2] The DCUIA places the District in a position of defending against lawsuits based on prosecutions with which they had no specific involvement, given that the United States Attorney's Office prosecutes violent crime in the District of Columbia. Under the Act, however, the District must fairly compensate plaintiff to the full extent of his damages.

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By all accounts, Mr. Tribble was a positive, fun-loving, and resilient child and youth. Mozee described Mr. Tribble as "someone who could pick his [own] spirits up" and who was never anxious, nervous, or depressed. Mr. Tribble had many friends and was a top athlete. Even Mr. Tribble's learning difficulties, and his particular issues with reading and spelling, which caused him to drop out of Sousa Middle School at age fifteen, did not diminish his happiness and optimism. As described by all, Mr. Tribble was a good kid with a strong peer group and family.

As he moved into his teenage years, Mr. Tribble spent much of his time playing sports and socializing with his friends. He used alcohol and marijuana casually, but had no contact with harder drugs besides a single instance of PCP use.[3] With respect to heroin, the drug that plays a central role in this case, none of plaintiff's friends used the drug, and plaintiff did not know anyone who did.

Plaintiff also followed his family's example and worked hard. Willie James Calloway, who mentored and employed plaintiff during Mr. Tribble's teenage years, described plaintiff as motivated, conscientious, inquisitive, and willing to learn and follow instructions. Calloway commented that along with his "happy-go-lucky" and fun-loving attitude, plaintiff maintained a strong work ethic and a sense of pride in his workmanship. Mr. Tribble and his childhood friend George Mozee talked at length about joining the military and serving in the same unit, and they even visited the recruiting station on Good Hope Road together. Mozee enlisted on July 29, 1979. By that time, Mr. Tribble was incarcerated.

On August 18, 1978, just four months after his seventeenth birthday, the police arrested Mr. Tribble for the July 26, 1978 armed robbery and murder of a taxi driver named John McCormick. The United States Attorney's Office for the District of Columbia charged plaintiff with felony murder and other offenses related to the killing. These events forever altered the

[3] According to Mr. Tribble, this minor drug and alcohol use ceased prior to his incarceration.

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course of Mr. Tribble's life, and although he consistently protested his innocence, he was forced to spend the next twenty-five years in prison.

Having grown up with respect for authority and the judicial system, Mr. Tribble fully expected that, as an innocent man, he would be exonerated and released. To his shock, however, a jury found him guilty of armed robbery and felony murder on January 21, 1980. Mr. Tribble was devastated. His lawyer argued for a Youth Act sentence, but the trial court sentenced him on May 12, 1980, to concurrent prison terms of twenty years to life.

The combination of the injustice of his false imprisonment, his youth, and the belief that he might never again be free, crushed Mr. Tribble's sense of hope and optimism. The happy-go-lucky, optimistic, and resilient teenager descended into depression, anger, and despair from which he has not emerged. He turned to heroin to cope with a situation that appeared unbearable and unending. As a consequence of his intravenous heroin use, Mr. Tribble contracted HIV and Hepatitis C, which have ravaged his body and mind. Recognizing the potential consequences of his diagnoses, Mr. Tribble constantly wondered whether he would even be released before his death.[4]

Plaintiff remained confined for exactly twenty-five years from that date of his arrest, a time period that permanently altered plaintiff both physically and emotionally.[5] Imprisonment was excruciatingly difficult for Mr. Tribble. In addition to the severe deprivation that came from incarceration generally, including the complete loss of freedom, privacy, and control over his life, time behind bars meant constant fear and threats to his sense of security and actual safety. Plaintiff suffered particularly acutely knowing that he was, in fact, innocent of the charges that led to his incarceration.

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[4] Plaintiff testified that when he first learned of his HIV diagnosis, in 1999, he felt that he had received another life sentence.

[5] Plaintiff's Exhibit 11 sets forth the chronology of Mr. Tribble's incarceration.

66.

Mr. Tribble spent the first almost nine years of imprisonment confined in District of Columbia facilities: the Correctional Treatment Facility at the D.C. Jail ("CTF"); the Youth Center at Lorton Reformatory ("Lorton"), a prison complex formerly operated by the District of Columbia in Lorton, Virginia; CTF again; and, from June 13, 1980, until July 20, 1989, at either the Maximum or the Central facility at Lorton.

During his time in District of Columbia facilities, Mr. Tribble's family visited him regularly, providing some, albeit brief, respite from the monotony and loneliness of prison life. His father came nearly every Saturday, which brought the two closer together. Mr. Tribble's son, Santae Tribble Jr., who was born during plaintiff's imprisonment, testified that his first memories of his father derive from the prison visits that occurred at least once a week as a toddler.

Despite the happiness they brought, these visits had another effect: they served as reminders of people, events, and experiences missed, and of a life lost. Stories of family and friends brought temporary enjoyment, but they also intensified Mr. Tribble's feelings of isolation and deprivation. Plaintiff's father, mother, and sister died while he was incarcerated, and plaintiff agonized over not being able to be with them or to attend their funerals. And Mr. Tribble missed much more. Santae Jr. commented that he noticed his father's sadness and disappointment at not being able to watch his only son grow up, help his son's mother, or simply "be there" for his family. Plaintiff overflowed with emotion as he testified about the despair he felt as an innocent man forcibly removed from friends and family and confined.

Mr. Tribble was deprived of his ability to even see family and friends on July 20, 1989, when he was transferred out of Lorton and, for the most part, out of range of loved ones. He did time at FCI Petersburg, USP Lewisburg, FCI Raybrook, a facility in Talladega, Alabama, FCI

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Ashland Kentucky, a facility in Springfield, Missouri, and another stint at FCI Petersburg. Years went by without a visit, and even telephone calls were expensive and difficult to arrange. Plaintiff returned to Lorton on July 23, 1992, and remained there until February 3, 1999, when the District of Columbia closed Lorton permanently, after which he was transferred to prisons in Sussex, Virginia, and Terre Haute, Indiana.

The transfers to prisons out of the jurisdiction dramatically worsened the conditions of Mr. Tribble's imprisonment on two levels: first, his loneliness and lack of connection to friends and family increased; and second, he was acutely aware of the negative impact his absence had on his family. For example, Mr. Tribble's family sent a letter to the authorities requesting that Mr. Tribble be transferred closer to home so that his father, who had been diagnosed with cancer, and Santae Jr. could visit him.[6,7]

Certain placements also brought increased physical suffering. During his transfer from Lorton to the Sussex facility in 1999, for example, plaintiff was tasered, tear-gassed, and, at one point, held in four-point restraints and strapped to a concrete bed for four to five days, where he was forced to urinate and defecate on himself, all while in severe physical pain. In addition, at various times during his incarceration, Mr. Tribble was held in solitary confinement, alone in a small cell for twenty-three to twenty-four hours per day, for up to nine months at a time, for a total of between three and one-half to four years.[8]

When Mr. Tribble became eligible for parole, he held out hope that he would be released before his son graduated from high school. He allowed himself to dream that he could sit in the

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[6] Pl. Ex. 38.

[7] While the court will not consider evidence of the effect of Mr. Tribble's incarceration on family and friends in fashioning the award of compensatory damages, it will take into account the clear evidence that Mr. Tribble himself knew of the suffering of his family and friends and that this awareness negatively affected his own mental health.

[8] One of plaintiff's expert witnesses, Dr. Ryan Shugarman, testified that solitary confinement has profound effects on a person's mental health.

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bleachers and watch Santae Jr. on the football field and, later, attend his son's graduation. This was not to be. At parole hearings, Mr. Tribble felt that the examiners would not consider his release unless he admitted guilt and showed remorse, and the denials of parole that followed further crushed Mr. Tribble's spirit. Eventually, Mr. Tribble was returned to the District of Columbia in 2003 and was released on parole from Hope Village Halfway House on August 18, 2003.

Mr. Tribble emerged from prison angry, bitter, drug-addicted, sick, and anything but the resilient and optimistic young man of twenty-five years before. He found parole supervision to be exceedingly difficult. He bridled under its restrictions, which he considered unfair (since he was an innocent man) and arbitrary. According to Dr. Ryan Shugarman, a psychiatrist with substantial experience with both addictive disorders and the criminal justice system, the fact that Mr. Tribble had been incarcerated at such a young age, and for such a long time, interfered with the normal maturation process and his ability to cope once released. Dr. Shugarman also opined that plaintiff suffered on parole both emotionally and physically, including from the sleep disorder and recurrent depression that began in prison.

Addicted to heroin, Mr. Tribble turned to the drug regularly and often withdrew from family and friends. At times, plaintiff was homeless, living in a car or with friends; at others, he would barricade himself in his house for days. Santae Jr. and Mr. Calloway described him as a broken man. The court heard testimony that plaintiff was diagnosed by clinicians at various times during this period with depression and post-traumatic stress disorder ("PTSD"). Dr. Shugarman testified that although he did not possess enough information to make such a diagnosis, he found that plaintiff exhibited multiple symptoms of PTSD—including a sleep

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disturbance, a foreshortened sense of the future, hyperarousal, anger, and avoidance—and that Mr. Tribble is suffering no less emotional distress than someone with PTSD.

Not surprisingly, plaintiff regularly violated his parole, and he was re-imprisoned four times on parole violations for a total of two years, four months, and twelve days: from August 11, 2005, to March 31, 2006; from May 1, 2007, to December 28, 2007; from April 15, 2009, to October 14, 2009; and from September 21, 2010, to September 20, 2011.

While on parole, as he did in his teenage years, Mr. Tribble found reward and comfort in work. He sought and held manual jobs, including a position in a facility for individuals with intellectual disabilities and as a groundskeeper at Walter Reed Hospital, both of which he thoroughly enjoyed and found meaningful.[9] As Mr. Tribble described poignantly at trial, however, his parole officer undermined this employment.[10] In the process, Mr. Tribble was damaged financially and emotionally, as he lost the opportunity to work, self-esteem, and hope for recovery.

Throughout his eight years, eight months, and twenty-eight days under parole supervision, plaintiff continued to assert his innocence. All the while, however, the system treated him like a murderer, which enhanced his bitterness and resentment.[11] In 2009, the Innocence Project took his case, and the process of establishing his actual innocence began. Finally, on May 16, 2012, he was released from his parole commitment.

Despite the absence of parole-related restrictions, Mr. Tribble has continued to suffer greatly since his release from parole supervision. He lives with the "triple diagnosis" of

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[9] Plaintiff also worked for shorter periods of time at a factory and on a construction site.

[10] Plaintiff resigned his position at Walter Reed when, as he described it, his parole officer threatened to reveal to his employer his status as a convicted felon if Tribble did not.

[11] Plaintiff testified that his drug use steadily increased on parole.

depression, substance abuse disorder, and chronic medical condition. The symptoms of these conditions are severe, interrelated, and debilitating.

In terms of mental health, plaintiff has been and continues to be severely depressed and, at times, suicidal. Consequently, he has not followed up regularly with mental health, drug, or HIV treatment, and he has been and remains angry, anxious, and fragile. In addition, despite some recent favorable results from treatment with Suboxone, Mr. Tribble's substance abuse continues to affect him both physically and emotionally.

Finally, Mr. Tribble is living with the diseases he contracted in prison, HIV and Hepatitis C, which have reached a stage in which they negatively impact his cognition and impair his executive functioning, while also shortening his life. Dr. Frederick Altice, a world-renowned medical expert who specializes in addiction medicine and the epidemiology of HIV and other diseases in prisons, testified that Mr. Tribble will more likely than not die within four years of the date the doctor testified at trial—by June 9, 2019. Specifically, Dr. Altice stated that "in four years, he would have a sixty percent chance of death". Tr. 256.[12,13] Mr. Tribble suffers with this knowledge, which, in turn, adds to his distress, lowers his quality of life, and makes heroin use more attractive. Importantly, all of these consequences were caused by Mr. Tribble's unjust imprisonment.

On February 11, 2011, Mr. Tribble moved for post-conviction DNA testing, to which the United States, the respondent in the post-conviction proceedings, consented on June 29, 2011. In the original criminal trial, the prosecution had presented testimony regarding the high level of similarity between Mr. Tribble's hair and hairs found on a stocking mask believed to have been

[12] All citations to the trial transcript are "Tr."
[13] Dr. Altice explained that his survival rate is mostly impacted by the liver damage caused by Hepatitis C. Tr. 255–56.

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worn by McCormick's murderer. Mitochondrial DNA testing, however, excluded plaintiff as the source of any of the hairs found on the stocking mask.

Subsequently, on January 18, 2012, Mr. Tribble moved to vacate his conviction, a request which the United States agreed should be granted. Associate Judge Laura A. Cordero presided over the proceeding, granted Mr. Tribble's unopposed request for a certificate of actual innocence, and issued an order exonerating plaintiff on December 27, 2012. Judge Cordero found that Mr. Tribble had proven by clear and convincing evidence that he was actually innocent of the charges against him, that he did not commit any of the acts charged, and that he did not by misconduct or neglect bring about his own prosecution.

Mr. Tribble sought relief under the Federal Unjust Conviction and Imprisonment Act ("federal UIA"), which, unlike the DCUIA, caps damages at $50,000 per year of incarceration, and was awarded $1,392,191.78. On July 2012, he brought the instant civil action under the DCUIA, seeking damages against the District of Columbia for his wrongful imprisonment.

In a previous Order, dated October 7, 2014, this court found that although the DCUIA contains identical statutory language to the federal UIA, neither the federal UIA nor the DCUIA expressly precludes recovery against both the District of Columbia and the federal government; thus, plaintiff is entitled to do so, and the amount of his recovery in federal court will in no way affect the award of damages in the present case.

Initially, the District took the position that Judge Cordero's earlier determination was not binding on this litigation and did not establish liability under the DCUIA. The District stipulated prior to trial, however, that Mr. Tribble met all but one of the elements for liability under the Act: it agreed he was convicted and sentenced for a crime he did not commit; that his conviction was reversed or set aside on the ground he is not guilty; and that he is, in fact, actually innocent.

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During trial, which took place from June 9, 2015, to June 16, 2015, the District conceded liability fully by also stipulating, for the first time, that Mr. Tribble did not, by his own misconduct, cause his prosecution. Thus, the parties agree that only one issue remains before this court: the amount of damages that will adequately compensate Mr. Tribble for his unjust imprisonment.[14] The parties have submitted post-trial memoranda, which this court has considered as proposed findings of fact and conclusions of law, portions of which the court has adopted and incorporated into this Order.

CONCLUSIONS OF LAW

Throughout the trial, the court heard unrebutted evidence of Mr. Tribble's loss of liberty and family connections, and the serious emotional, economic, and medical consequences of his unjust imprisonment. The District of Columbia admits that this case is "tragic" and that Mr. Tribble suffered a "terrible loss", and it does not dispute either the horror of Mr. Tribble's incarceration or his post-release hardships.

Although aware far in advance of trial that Mr. Tribble would present fact and expert witnesses, the District of Columbia failed to present expert witnesses to challenge the testimony of Mr. Tribble's psychiatric or medical experts, and presented no fact witnesses to contest his account of his upbringing, the manner and extent of Mr. Tribble's suffering while in prison, the hardships he faced while on parole, or his continued suffering since his exoneration. The only witness the District of Columbia presented was an economist, Dr. Thomas Grogan, whose testimony supported its argument that Mr. Tribble did not suffer any actual loss of earnings as a result of his nearly three decades of unjust incarceration. Despite its limited factual defense, the District of Columbia nonetheless argues that certain categories of damages, and damages

[14] The District maintains its position, however, that it is entitled to a set-off in the amount of Mr. Tribble's earlier settlement with the United States and, alternatively, that Mr. Tribble has already received an adequate remedy under the federal UIA.

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suffered during particular periods of time, are not compensable, and that Mr. Tribble's damage award should be limited in certain important respects.[15]

The District of Columbia Unjust Imprisonment Act of 1980

Pursuant to the DCUIA, "[a]ny person unjustly convicted of and subsequently imprisoned for a criminal offense contained in the District of Columbia Official Code may present a claim for damages against the District of Columbia." D.C. Code § 2-421 (2012 Repl.). The Act "permits suit by any person imprisoned for a D.C. Code offense," and is not limited to persons "prosecuted by District officials or tried in the Superior Court of the District of Columbia." D.C. Council, Report on Bill 3-251 at 5 (July 9, 1980). The claimant must establish the following two conditions:

> (1) That his conviction has been reversed or set aside on the ground that he is not guilty of the offense of which he was convicted, or on new trial or rehearing was found not guilty of such offense, as appears from the record or certificate of the court setting aside or reversing such conviction, or that he has been pardoned upon the stated ground of innocence and unjust conviction; and
>
> (2) That, based upon clear and convincing evidence, he did not commit any of the acts charged or his acts or omissions in connection with such charge constituted no offense against the United States or the District of Columbia the maximum penalty for which would equal or exceed the imprisonment served and he did not, by his misconduct, cause or bring about his own prosecution.

D.C. Code § 2-422. The plain language of the Act neither places nor implies any limits on the compensatory damages that may be awarded to the rare claimant, like Mr. Tribble, who meets

[15] For example, in the absence of statutory support, the District of Columbia improperly asks the court to, in effect, assume a legislative role and to consider the financial interests of the District when awarding damages. No authority exists for the proposition that the Council of the District of Columbia intended that the Act provide anything other than full relief to the victims it intended to benefit, and the District of Columbia's assertion that Mr. Tribble should receive anything less than full compensatory relief finds no support at all in the language of the Act or its legislative history. The District of Columbia's position was also rejected by Associate Judge Neal E. Kravitz in *Odom v. District of Columbia*, No. 13-3239 (D.C. Super. Ct. Feb. 27, 2015).

the statute's requirements for liability.[16] Section 2-423 states simply that "[u]pon a finding by the judge of unjust imprisonment in accordance with the standards set by § 2-422, the judge may award damages. Punitive damages may not be awarded."

The absence of any statutory limitation reflects the Council of the District of Columbia's ("the Council's") intention that the court should be guided by the traditional legal understanding of compensatory damages—that the "primary purpose of compensatory damages ... is to make the plaintiff whole." *District of Columbia v. Barriteau*, 399 A.2d 563, 566 (D.C. 1979); *see also Parker v. K & L Gates, LLP*, 76 A.3d 859, 877 (D.C. 2013) ("[A] well-settled canon of construction favors interpreting statutes so as to be consistent with, rather than contrary to, general background principles of law.").

Without question, a plain reading of the legislative text—particularly where only one type of damages (punitive) is expressly excluded—counsels the court to employ the full range of traditional methods of determining reasonable damages based on evidence of injury. The District of Columbia stipulates that all requirements have been met in the present case and that plaintiff is entitled to a measure of damages. Without question, he is.

In addition, the Act's legislative history, as set forth in the Council's Report, confirms the legislature's intent to provide a narrow class of qualifying claimants compensatory damages in an amount derived using traditional methods and without a cap. As the Committee on the Judiciary wrote, since the Act is "[g]rounded upon the principle of fundamental fairness, this legislation calls upon the District government to assume responsibility for the unjustified deprivation of a person's liberty." Report on Bill 3-251 at 2.

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[16] In fact, only two other Superior Court judges have reached decisions pursuant to this thirty-five-year-old statute: former Associate Judge Ricardo M. Urbina in *Brown v. District of Columbia*, No. 81-11595 (D.C. Super. Ct. July 12, 1985); and Judge Kravitz in *Odom, supra* note 15.

In fact, the Council specifically rejected any attempt to limit the types of compensatory damages that a victim of unjust imprisonment should receive in his cause of action against the District of Columbia. Rather, qualifying claimants are entitled under the Act to receive "monetary compensation for harm imposed *as a result* of the unjust imprisonment," including compensatory damages for nonpecuniary harm where appropriate. *Id.* at 5 (emphasis added). As the Report explains:

> This suggestion [to limit damages] was rejected for a number of reasons. First, as pointed out in both the comments of the Public Defender Service and the D.C. Department of Corrections and in the fiscal impact section of this report, instances of unjust imprisonment which would qualify for relief under this bill are extremely rare. More importantly, while a monetary award cannot restore time spent wrongfully imprisoned or erase the horror of such a confinement, it is the purpose of this bill to compensate, in accordance with the traditional legal methods of assessing damages, persons who have been unjustly imprisoned. Setting a ceiling on the amount of damages that can be awarded may serve to restrict recovery of the damages actually suffered by a person who has been unjustly imprisoned in an arbitrary fashion, and consequently is contrary to the purpose of the bill.
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> ***
>
> A third related suggestion was to require that the claimant prove actual pecuniary injury sustained through erroneous conviction and imprisonment. This suggestion, which was opposed by another executive agency, would limit the kinds of compensatory damages that could be awarded. Traditionally, while certain kinds of compensatory damages, such as harm to property, harm to earning capacity and the creation of liabilities do require proof of pecuniary loss, other kinds of compensatory damages, such as bodily harm and emotional distress, do not require proof of pecuniary loss. Since it is the intent of the bill to offer compensation for the tragic consequences of an unjust imprisonment, the bill does not limit the kinds of compensatory damages which may be awarded. However, the bill has been amended to specifically preclude recovery of any punitive damages against the District of Columbia.

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Id. at 9–10. The legislative history of the DCUIA plainly demonstrates that the Council intended for judges to calculate a damages award "in accordance with the traditional legal methods of assessing damages." *Id.* at 9.

In addition, the legislative history of the Act also underpins this court's denial of the District of Columbia's request for a *pro tanto* credit, which would offset the damages awarded in the instant case by the amount Mr. Tribble recovered under the federal UIA. Indeed, according to the Report, "[t]he creation of a new, local statutory remedy for unjust imprisonment is not intended to preclude a person from also seeking compensation under the more restrictive provisions of the current federal law 28 U.S.C. §§ 1495 and 2513." *Id.* at 5. Despite the introduction of amendments by members of the current Council that could potentially alter this compensatory framework, the Act remains unaltered, and, of course, this court must apply existing law.

The Legal Basis for an Assessment of Damages

The parties agree that once the plaintiff has established liability, as is undisputed in the present case, the court must calculate the amount of compensatory damages using traditional legal methods.[17] The court is "required to award damages in a sum which would fairly and reasonably compensate [plaintiff] for all the damages he suffered which were proximately caused by [his unjust imprisonment]." *Bernard v. Calkins*, 624 A.2d 1217, 1220–22 (D.C. 1993); *see also* Standardized Civil Jury Instructions for the District of Columbia, No. 13.01 (2011 ed. rev.) (providing examples of twelve elements of damages that may be awarded for an injury).

Under District of Columbia law, damages are proximately caused by an act (here, the unjust imprisonment) whenever it appears by a preponderance of the evidence (more likely than

[17] The District acknowledged this at trial despite arguing separately that the doctrine of sovereign immunity shields it from certain liabilities.

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not) that the act played a "substantial part" or was a "substantial factor" in bringing about the damage, and that the damage was either a direct result or a reasonably probable consequence of the act. *Roberson v. United States*, 961 A.2d 1092, 1097 (D.C. 2008). As the District of Columbia Court of Appeals has described, a "substantial factor" is one that "has such an effect in producing the harm as to lead reasonable [persons] to regard it as a cause." *Butts v. United States*, 822 A.2d 407, 417 (D.C. 2003).

An injured party is "entitled to recover the value" of what he has lost, even if "[m]easuring that value [is] no easy undertaking." *Trs. of Univ. of District of Columbia v. Vossoughi*, 963 A.2d 1162, 1174 (D.C. 2009). As the Court of Appeals has explained:

> An injured party will not be precluded from recovering damages because he cannot prove his exact damages so long as there is a reasonable basis for approximation. [The plaintiff is] not required to prove the value of his [losses] with mathematical precision, but only with a fair degree of probability, or what we have termed "reasonable certainty." Thus, while an award of damages may not be based on speculation or guesswork, it may be a just and reasonable estimate based on relevant data. Probable and inferential considerations as well as direct and positive proof may provide the basis for an award.

Id. at 1174–75 (internal citations omitted). Thus, once the plaintiff has shown by a preponderance of the evidence that he has suffered harm caused by an act, the plaintiff then "need only provide 'some reasonable basis on which to estimate damages.'" *Hill v. Republic of Iraq*, 356 U.S. App. D.C. 142, 146, 328 F.3d 680, 684 (2003) (citation omitted); *see also Story Parchment Co. v. Paterson Parchment Paper Co.*, 282 U.S. 555, 562 (1931) ("[T]here is a clear distinction between the measure of proof necessary to establish the fact that petitioner had sustained some damage and the measure of proof necessary to enable the jury to fix the amount.").

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The trier of fact may award damages even in cases where the nature of the harm itself makes it difficult or impossible for the plaintiff to establish the precise extent of the plaintiff's injury. *See* W. Page Keeton et al., *Prosser and Keeton on the Law of Torts* § 52, at 350 (5th ed. 1984) ("[T]he courts quite reasonably have been very liberal in permitting the jury to award damages where the uncertainty as to their extent arises from the nature of the wrong itself, for which the defendant, and not the plaintiff, is responsible."); *Vossoughi, supra*, 963 A.2d at 1175; *Hawthorne v. Canavan*, 756 A.2d 397, 401 (D.C. 2000). Of course, the fact-finder must "assess the evidence and determine the amount to award ... [without] prejudice, passion or partiality." *District of Columbia v. Harris*, 770 A.2d 82, 93 (D.C. 2001).

Analysis

Mr. Tribble was arrested and taken into custody for the McCormick murder on August 18, 1978, convicted of that crime on January 21, 1980, and sentenced on May 12, 1980, to two concurrent terms of twenty years to life. All of the time Mr. Tribble spent incarcerated between arrest and sentencing, 633 days, was credited toward his sentence.

Mr. Tribble argues that he should be compensated for the entire time he spent incarcerated, from arrest to release from prison, a period of twenty-seven years, ten months, and four days; the over eight years he spent on parole; and the time he has spent and will spend post-parole for the rest of his life. In addition, plaintiff contends that all categories of damages flowing from his unjust imprisonment are compensable.

The District concedes that Mr. Tribble should recover for certain types of harms, but argues that the Act does not permit damages for the following: the time Mr. Tribble served presentencing, including damages for time served between the verdict and the sentencing; the time he spent on parole, including damages from his re-incarceration on parole revocations; and

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the time after Mr. Tribble's release on parole, including all other harms plaintiff will continue to suffer in the future. The District of Columbia contends that the compensable period must begin on the date of his sentencing, on May 12, 1980, and end at the time of his initial release on parole on August 18, 2003, a period of twenty-three years, three months, and seven days. In addition, the District argues that Mr. Tribble's award should be limited so as to not include damages suffered in non-District of Columbia facilities, damages related to acts of third parties, and damages related to Mr. Tribble's use of heroin and contraction of HIV and Hepatitis C.

A. The Canon of Sovereign Immunity Neither Shields the District of Columbia from Liability Nor Limits Its Liability Under the Act.

The District acknowledges that the Act waives its sovereign immunity. Nonetheless, it argues that despite the clear statutory language and legislative history of the DCUIA, the canon of sovereign immunity should separately limit Mr. Tribble's recovery to the years spent actually imprisoned, and in other respects. The District's position at trial and in its post-trial memorandum rests on a flawed premise: that the Act's waiver of sovereign immunity must be narrowly interpreted. In fact, for the limited group of potential claimants of which Mr. Tribble is clearly a member, the waiver of sovereign immunity with respect to damages is expressly very broad, limited only by the exclusion on punitive damages.

The District has pointed to no language in the Act or its legislative history suggesting any additional limitation on damages.[18] In fact, none of the restrictions advanced by the District can be found in the text or stated purpose of the DCUIA. Indeed, to impose such restrictions would contradict the Council's plain intent to waive sovereign immunity[19] and to fully compensate

[18] Indeed, had the Council intended for compensation to be limited to periods of incarceration, it could have provided for specific damages to be awarded per year of incarceration. However, the Council specifically rejected proposed amendments imposing annual damage caps.

[19] Report on Bill 3-251 at 3 n.4 ("[I]t appears that the sovereign immunity doctrine continues to preclude suits for unjust imprisonment in the absence of a specific statutory remedy.")

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individuals who were "unjustly convicted and imprisoned," without "restrict[ing] recovery of the damages actually suffered." Report on Bill 3-251 at 4, 9. In the instant case, "[t]here is no need ... to resort to the sovereign immunity canon because there is no ambiguity left ... to construe."[20] *Richlin Sec. Serv. Co. v. Chertoff*, 553 U.S. 571, 590 (2008). Without question, the Act should be interpreted broadly to advance its remedial purpose. *See Hamilton v. Hojeij Branded Food, Inc.*, 41 A.3d 464, 474 (D.C. 2012) ("'Remedial statutes are liberally construed to suppress the evil and advance the remedy.'") (citation omitted).

B. The Compensable Period Under the DCUIA Begins Upon the Issuance of the Guilty Verdict.

A central issue before this court concerns whether, as urged by Mr. Tribble, the entire time plaintiff spent incarcerated, including the time served toward his sentence prior to his guilty verdict and sentencing, is compensable. In analyzing this question, it is essential to distinguish between the requirements for eligibility to receive any compensation under the Act and the compensable time period covered by the Act. The court turns first to eligibility.

Without question, the Act's narrow eligibility requirements permit claims to be brought only by those who are both unjustly convicted and imprisoned as a result. *See* D.C. Code § 2-421. The Council emphasized that the "cause of action created by this bill is limited" to "persons who are convicted and subsequently imprisoned for offenses which they did not commit." Report on Bill 3-251 at 1. By carefully limiting the scope of potential claimants, the

[20] The District also overstates the importance of this canon. "The sovereign immunity canon is just that—a canon of construction. It is a tool for interpreting the law, and we have never held that it displaces the other traditional tools of statutory construction." *Id.* at 589; *see in re M.M.D.*, 662 A.2d 837, 851 (D.C. 1995) ("[R]eliance on any particular canon of statutory construction cannot be conclusive; indeed, for every canon, one can find an applicable countercanon.") (citation and quotation marks omitted). As the District of Columbia Court of Appeals has repeatedly instructed, "[s]tatutory interpretation is a holistic endeavor"; while "the primary rule is to ascertain and give effect to legislative intent and to give legislative words their natural meaning ... there is wisely no rule of law forbidding resort to explanatory legislative history no matter how clear the words may appear on superficial examination." *Grayson v. AT&T Corp.*, 15 A.3d 219, 237–38 (D.C. 2011) (citations and quotation marks omitted). In the present case, the language of the Act is unambiguous, and the canon of sovereign immunity does not apply.

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Council made it clear that the Act would not apply to the potentially large numbers of innocent people who are either never convicted in the first place, or who are convicted but not imprisoned. *See id.* (the Act "does not apply if a person is unjustly convicted but is not sentenced to a form of incarceration"). The Council intended to preclude recovery by innocent persons who experienced only pretrial detention. *See id.* at 3 (the Act applies only to those who "have been sentenced to and served a sentence of incarceration, a requirement that is not met by time spent in pretrial detention"); *see also id.* at 1 (the cause of action "does not address time spent in pretrial detention").[21]

The parties disagree on what the Act contemplates as the compensable time period. Plaintiff argues that all time credited to the claimant's sentence of imprisonment—including any pretrial detention—is compensable. On the other hand, the District contends that the Act's compensable period is even more limited: that even after being found guilty, an individual is not entitled to damages for their unjust incarceration until after the trial court sentences the individual.

This court finds that the compensable time period begins not upon arrest, as urged by plaintiff, or at sentencing, as argued by the District, but upon the issuance of the guilty verdict.[22] In other words, for purposes of ascertaining damages under the Act, Mr. Tribble's period of unjust imprisonment began when a District of Columbia jury found him guilty on January 21, 1980. Although Mr. Tribble correctly points out that all of his time spent incarcerated from the

[21] The Council noted that individuals who are not unjustly convicted, or who are convicted but not sentenced to a term of imprisonment, have other potential causes of action such as claims for false imprisonment. *Id.* at 5 n.10.

[22] Judge Kravitz reached the same conclusion in *Odom*, *supra* note 15, No. 13-3239 at 44–45. On the other hand, Judge Urbina concluded in *Brown, supra* note 16, No.81-11595 at 7, that the compensable period begins on the sentencing date.

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date of his arrest was credited toward his prison sentence,[23] the legislative history clearly establishes that the drafters intended that the District's liability for damages not commence upon arrest. As the Council wrote, "[t]he cause of action created by this bill is limited: it does not apply to time spent in pretrial detention ...." Since the Council did not expressly indicate whether the compensable time period begins at the guilty verdict or sentencing, however, this court will further address this issue.

The District's argument that an incarcerated defendant is not formally imprisoned until sentenced is contrary to basic fact, could lead to arbitrary results, and fails to explain why time spent post-verdict and credited to the sentence should not be compensable. In addition, plaintiff correctly emphasizes that for those claimants who meet all of the Act's requirements, nothing in the Act precludes an award of damages from covering all of the time they spent post-verdict and pre-sentencing.

This court finds that the compensable period is not meant to be linked to the sentencing date. Indeed, the date of sentencing has no special significance in cases involving lengthy sentences because all of the time served pre-sentence must be credited toward the sentence and is subsumed within it. Under the District's theory, if the sentencing date is continued for any reason (and many reasons exist to continue sentencing), the otherwise-eligible claimant would simply lose out on the ability to recover for that period of delay. The argument that a claimant's damages should turn on the date that they were sentenced simply cannot be squared with the intent of the Council to fully compensate claimants for the harms they suffered without any "arbitrary" limits. Report on Bill 3-251 at 9.

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[23] Thus, when the U.S. Parole Commission decided to parole Mr. Tribble on August 18, 2003, he was found to have served 300 months: twenty-five years to the day of his August 18, 1978 arrest, a time period which included his pretrial detention.

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C. The Time Plaintiff Spent on Parole, During His Re-imprisonment, and After Parole Is Compensable.

Mr. Tribble suffered significant harms while on parole and after his exoneration, all of which resulted from his unjust imprisonment and will continue into the future. Despite unrefuted lay and expert testimony to this effect, however, and the Act's remedial purpose, the District urges the court to limit its award to exclude any of these damages. The District's position finds no support in the language of the Act or its legislative history.[24]

The DCUIA contains no exclusion for post-release damages, and as our Court of Appeals has explained, "[t]he first step in construing a statute is to read the language of the statute and construe its words according to their ordinary sense and plain meaning." *Hospitality Temps Corp. v. District of Columbia*, 926 A.2d 131, 136 (D.C. 2007) (internal quotation marks and citations omitted). The Act simply states that "[u]pon a finding by the judge of unjust imprisonment in accordance with the standards set by § 2-422, the judge may award damages. Punitive damages may not be awarded." D.C. Code § 2-423. The term "damages" in the Act is unambiguous and, as such, and consistent with basic principles of statutory construction, should not be interpreted to "create ambiguity where the statute's text and structure suggest none." *Ali v. Fed. Bureau of Prisons*, 552 U.S. 214, 227–28 (2008); *1618 21st St. Tenants' Ass'n v. Phillips Collection*, 829 A.2d 201, 204 (D.C. 2003) (the Court of Appeals will not rewrite a statute to create ambiguity where the statutory scheme is unambiguous).

This principle has particular force in the present case because the term "damages" was and is well-defined, as reflected in the Standardized Civil Jury Instructions. This standard clearly recognizes that the damages an individual suffers are not limited to the moment of injury

[24] Indeed, the position was rejected by Judge Kravitz in *Odom, supra* note 15, No. 13-3239 at 41, who wrote that "[t]hese arguments cannot be reconciled with the Council's plainly articulated intention to create a complete and adequate remedy for persons proved to be wrongfully convicted," and expressly awarded plaintiff substantial post-release damages.

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alone; rather, damages resulting from an injury can extend into the future. *See* Standardized Civil Jury Instructions for the District of Columbia, No. 13.01 (categories of damages to be awarded include "any physical pain and emotional distress that the plaintiff may suffer in the future," "any medical expenses that the plaintiff may incur in the future" and "any loss of earnings or earning capacity that plaintiff may incur in the future"). The Council is presumed to know these background principles of common law when it legislates. *District of Columbia Pub. Schs v. District of Columbia Dep't of Emp't Servs.*, 95 A.3d 1284, 1287 (D.C. 2014).

Indeed, the District points to no similar statute in which the term "damages" has been interpreted to be anything less than full compensatory relief for past, present, and future harms proximately caused by an injury. This court will not adopt the District's proposed statutory interpretation that, instead, "the judge may award damages *suffered during imprisonment*." As the Supreme Court has observed, "[t]he manner in which the law 'could have been written,' has no bearing; what matters is the law the legislature did enact." *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 403 (2010).

In addition, by adopting the District's interpretation of the statute, the court would also contravene another important rule of statutory interpretation: the Act's express exclusion of one traditional form of monetary damage—punitive damages—demonstrates that it intended to authorize all remaining traditional categories of damages. *Cf. Odeniran v. Hanley Wood, LLC*, 985 A.2d 421, 427 (D.C. 2009) (applying canon of *expressio unius est exclusio alterius*: "when a legislature makes express mention of one thing, the exclusion of others is implied") (citation and quotation marks omitted).

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This court finds that no express or implied limitation on the scope of damages exists in the present case, that the court must apply "traditional legal methods of assessing damages," Report on Bill 3-251 at 9, and that the "purpose of compensatory damages ... is to make the plaintiff whole." *Barriteau*, 399 A.2d at 566. In addition, when an injury causes ongoing harm that will persist for the rest of plaintiff's life—as in the present case—proven future damages must be awarded in order to make the plaintiff person whole. An award of damages to compensate a person for the ongoing harms he experiences as the result of unjust imprisonment is absolutely not, as the District suggests, equivalent to providing "a life-long subsidy;"[25] rather, such an award is what the Act contemplates, what its drafters intended, and what a traditional assessment of damages proximately caused by unjust imprisonment requires. Restricting damages to only the period of imprisonment would contradict the Council's plain intent "to provide monetary compensation for harm imposed *as a result of* the unjust imprisonment." Report on Bill 3-251 at 5 (emphasis added).

D. All Damages Caused by Plaintiff's Unlawful Imprisonment Are Compensable.

While the Council certainly intended to limit the number of people eligible for compensation under the Act, it was equally insistent that the "bill does not place a limit upon the amount of damages which may be awarded in a particular case." Report on Bill 3-251 at 3. Likewise, since the court must calculate an award under the DCUIA using traditional legal methods for assessing damages, the court rejects the District's argument that certain categories of damages should be excluded from the calculus. This includes injury to plaintiff at non-District facilities, his exposure to violence and victimization by other inmates and guards, and his development of a substance abuse disorder and resulting contraction of HIV and Hepatitis C. Mr. Tribble has met his burden to show by a preponderance of the evidence that his unjust

[25] Def. Post-Trial Br. at 12.

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imprisonment proximately caused each of these forms of damages, all of which were the foreseeable and "tragic consequences"[26] of Mr. Tribble's unjust imprisonment.

1. The Act Does Not Preclude Compensation for Damages Suffered Outside Lorton.

No legal support exists for the District's contention that it cannot be liable for injuries plaintiff suffered in non-District institutions—approximately ten years of his over twenty-seven years of incarceration. *See* Pl. Ex. 11 (prison chronology). Under the Act, a strict liability statute, the District's responsibility or fault for Mr. Tribble's day-to-day experiences while in prison is irrelevant. Rather, the Council recognized that the District has a moral responsibility to compensate those who were wrongfully convicted and imprisoned. Restricting his award of damages to the time he happened to be housed at Lorton, rather than in federal or state facilities to which he was sent either by the District or because the District closed Lorton, would impose an arbitrary restriction on the damages Mr. Tribble suffered, contrary to the purpose of the Act.

Moreover, as Judge Kravitz ruled in *Odom, supra* note 15, no indication exists in the language of the Act or its legislative history that the Council intended to exclude from a judge's calculation of damages time spent by claimants in non-District facilities. Indeed, such a determination would make no sense and would lead to arbitrary and grossly unfair results, limiting the compensation of those claimants who happened to serve some or all of their sentences outside Lorton. *Id.* at 26. The history of the placement of District prisoners bears this out.

Over the years, the District has routinely housed prisoners in federal and state facilities, even when the District had its own prison in Lorton, Virginia. In fact, since Lorton closed in 2001, District prisoners are exclusively housed in federal or state facilities. *See* National Capital

[26] Report on Bill 3-251 at 10.

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Revitalization and Self Government Improvement Act of 1997, Pub. L. No. 105-33, § 11201 (b), 111 Stat. 712 (1997). Surely the District is not arguing that plaintiffs unjustly imprisoned after 2001 can recover nothing under the Act because all time was served outside of the District. Indeed, it is difficult to imagine a more unfair result than forcing District of Columbia inmates to be placed far from friends and family by closing the District's prison at Lorton, and then offering no compensation to those unjustly imprisoned because they failed to serve their time in a District facility. This result would be entirely inconsistent with the Council's clear purpose to provide a remedial statute that did not restrict the types of compensatory damages available under the Act.

2. The Act Does Not Preclude Compensation for Damages Caused by the Acts of Third Parties.

The District argues unconvincingly that it cannot be found liable for certain specific injuries Mr. Tribble suffered while in prison—such as repeatedly witnessing violence and assaults; and being assaulted himself by fellow inmates and prison guards—that were not the result of its own negligence, but were the result of the intervening negligent or intentional conduct of third parties. Mr. Tribble need not, however, as the District asserts, prove tort-based elements such as "a standard of care" and breach of that standard to recover damages under the Act. As Judge Kravitz explained in *Odom, supra* note 15:

> [N]othing in the Act or its legislative history suggests any intent on behalf of the Council to apply the common law fault-based rules pressed here by the District, and questions of negligence and the foreseeability of intervening causes thus have no place in the court's analysis.

Id. at 29. Since the Act is a strict liability statute, and the District's liability is not in question, only one question remains in this case: whether Mr. Tribble has shown, by a preponderance of the evidence, that the harms he experienced were proximately caused by or, as the Council put it, are the "tragic consequences" of his unjust imprisonment. Report on Bill 3-251 at 10.

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No doubt exists that Mr. Tribble's wrongful incarceration played a "substantial part", or was a "substantial factor," in the many particular injuries inflicted by third parties such as other inmates, guards, or parole officers; rather, these damages directly resulted from and were a reasonably probable consequence of the incarceration. *See Butts v. United States*, 822 A.2d 407, 417 (D.C. 2003) (causation-in-fact exists when defendant's conduct "'has such an effect in producing the harm as to lead reasonable [persons] to regard it as a cause ....'") (citation omitted). Had plaintiff not been wrongly imprisoned, he would never have been in a position to experience these particular injuries. *See Odom, supra* note 15, No. 13-3239 at 29 (incarceration was proximate cause of assaults and sexual assaults by other inmates in prison). In the present case, the District called no witnesses and introduced no documents even suggesting otherwise, and plaintiff has certainly established by a preponderance of the evidence that Mr. Tribble's unjust incarceration caused the many harms he experienced.

Furthermore, the Act contains no requirement that Mr. Tribble show that the specific conduct of third persons was foreseeable to the District of Columbia. Such a requirement is only applied in tort cases where the scope of a defendant's duty is in question.[27] The District of Columbia Court of Appeals has not imposed a foreseeability requirement in strict liability cases such as this one. *See Wetzel v. Capital City Real Estate, LLC*, 73 A.3d 1000, 1006 (D.C. 2013); *Word v. Potomac Elec. Power Co.*, 742 A.2d 452, 459 (D.C. 1999) (District of Columbia follows

[27] Foreseeability is a test that generally applies "[w]hen a plaintiff seeks to hold the defendant liable for injuries caused by the intervening criminal act of a third party," *Wilkins v. District of Columbia*, 879 F. Supp. 2d 35, 39 (D.D.C. 2012), because it is necessary to show "the criminal act was so foreseeable that a duty arises to guard against it." *Bruno v. W. Union Fin. Servs., Inc.*, 973 A.2d 713, 719 (D.C. 2009) (per curiam); *Bd. of Trs. of Univ. of District of Columbia v. DiSalvo*, 974 A.2d 868, 870–71 (D.C. 2009). But in a standard fault-based tort case against the District arising out of injuries to prisoners, this is not even the test. "'[P]rison authorities have 'a duty to exercise reasonable care under the circumstances in the protection and safekeeping of prisoners.'" *Daskalea v. District of Columbia*, 343 U.S. App. D.C. 261, 272–73, 227 F.3d 433, 444–45 (2000) (quoting *Toy v. District of Columbia*, 549 A.2d 1, 6 (D.C. 1988)). The question in those cases is thus simply whether the District was negligent in carrying out its duty to protect prisoners. *Id.* Because this is not a fault-based statute, and the District's liability for Mr. Tribble's harms has already been established, none of these questions are relevant.

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the Restatement (Second) of Torts § 402A, which does not require that a manufacturer of an unreasonably dangerous product foresee that use of the product would cause injury); *Odom, supra* note 15, No. 13-3239 at 29.

Even if the court were to apply the tort law principle of foreseeability in this case, however, there is nothing unforeseeable or remote about any of the damages Mr. Tribble experienced while incarcerated. It is hardly unforeseeable that an individual experience or witness violence at the hands of other inmates or guards while in prison.

3. Mr. Tribble's Unjust Imprisonment Caused His Intravenous Substance Abuse and Caused Him to Develop Severe Physical and Mental Illness.

The uncontroverted evidence at trial established that Mr. Tribble's unjust imprisonment proximately caused his heroin use and his subsequent contraction of HIV and Hepatitis C, along with severe depression and cognitive impairments. Mr. Tribble provided compelling and credible testimony to this effect, corroborated in all respects by plaintiff's highly qualified expert witnesses. First, Dr. Shugarman testified that "[m]y opinion, with reasonable medical certainty, is that his opioid use disorder, otherwise known as his heroin dependence or addiction, was, in fact, caused by his wrongful conviction and incarceration." Tr. 623. Dr. Altice concurred with Dr. Shugarman's opinion, finding that Mr. Tribble has a severe substance use disorder, which he did not develop until incarcerated. Tr. 227.

The District presented no evidence on this issue and, instead, makes two arguments in support of its claim that unjust imprisonment did not proximately cause plaintiff's drug abuse or his physical or mental illness.[28] First, the District contends that plaintiff chose to inject heroin,

[28] If by arguing that that Mr. Tribble "chose" to use heroin, the District is obliquely raising the contention that Mr. Tribble should not recover damages because of his contributory negligence or assumption of risk, those arguments have no merit in a strict liability case like the present in which no evidence exists that Mr. Tribble was aware of the specific risks and dangers arising from heroin use when he began to use heroin in 1980 and became addicted. *See E. Penn Mfg. Co. v. Pineda,* 578 A.2d 1113, 1118–19 (D.C. 1990) ("Contributory negligence is not a defense to a strict

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that it was a "voluntary" decision, and that, as with so many other inmates, plaintiff could have refrained from drug use. In addition, the District claims that Mr. Tribble might have become a heroin user even if he had never been incarcerated.

This court of course recognizes the innate appeal of the philosophical argument that individuals possess "free will"—the ability to make independent choices in their lives, either reasonable or unreasonable—and that people must, to a large extent, live with the consequences of the choices they make. A serious question exists, however, about one's ability, in general, to make truly free choices in a prison setting. Further, turning to the specific circumstances faced by Mr. Tribble, as the court must, plaintiff was arrested for a murder he did not commit at age seventeen, convicted at age nineteen, and entered prison, as Dr. Altice explained, the "prototypical" person one would expect to start using heroin in prison: young; devastated; vulnerable; and forced to endure in a setting where heroin was readily available. Tr. 228.

Indeed, plaintiff introduced substantial, compelling, and uncontested evidence that he lacked the capacity to make "free" choices with respect to his drug use. Put another way, any free will that plaintiff might have possessed was overborne by the unique circumstances surrounding his unjust imprisonment. At the very least, Mr. Tribble established by a preponderance of the evidence that his unjust imprisonment substantially caused him to turn to the use of heroin and that drug abuse caused the illness that has ravaged him both physically and emotionally.

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liability claim."); *Warner Fruehauf Trailer Co. v. Boston*, 654 A.2d 1272, 1275 (D.C. 1995) (although doctrine of assumption of risk may apply to strict liability claims, to preclude recovery of damages a "defendant must show that the plaintiff knew of the specific [risk] and was aware of the danger arising from it, but nevertheless voluntarily and unreasonably proceeded to [act and accept the risk]."). Even if these defenses were applicable, however, "[w]here the judicially-developed defenses of contributory negligence and assumption of risk conflict with the purposes of the statutes and regulations, such defenses should not bar recovery." *Martin v. George Hyman Const. Co.*, 395 A.2d 63, 69 (D.C. 1978). Application of those defenses here would contradict the legislature's plain intent that victims of unjust incarceration be compensated for all of the particular "tragic consequences" of their incarceration.

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Mr. Tribble and his expert witnesses testified about the unique circumstances that led plaintiff to substance abuse, including his youth, his hopelessness, and his concern for his own safety while imprisoned. In fact, Mr. Tribble met nearly all of the risk factors for using heroin in prison. Tr. 219, 628. Dr. Shugarman testified that plaintiff's youth at incarceration put him at particular risk for heroin use, given that he did not have the capacity to make the same decisions that an adult with a fully-formed brain would make. Tr. 629. After his unjust conviction and incarceration, plaintiff became "hopeless" and "experienced significant depressive symptoms." Tr. 627.

Within six months of his imprisonment at Lorton, plaintiff was introduced to heroin and began to use the drug intravenously, as Dr. Shugarman testified, "to cope with those depressive symptoms, and also to cope with anxiety and worry about, is he going to be safe, is he ever going to be exonerated." Tr. 627. Heroin allowed Mr. Tribble to "relieve worries and to escape, and to block things out to do the time." Tr. 628. Dr. Altice described heroin as "the perfect escape drug" for someone wrongfully convicted.

In addition, Dr. Shugarman opined that the specific properties of heroin and the euphoric relief it provides made it likely that someone experiencing the kind of depression, anxiety, and hypervigilence that Mr. Tribble experienced in prison, would seek relief in the drug. Tr. 629. Dr. Altice also explained that heroin is an "especially seductive" drug in prison, and was particularly effective in addressing Mr. Tribble's sense of despair, his anger, and his insomnia after incarceration. Tr. 222–23. As Mr. Tribble himself explained his first use of heroin, "I was nineteen, and I couldn't see no way I could sit and do twenty years in prison." Tr. 473. Plaintiff wanted to feel differently than he did, Tr. 476, and heroin allowed him to feel some relaxation in a place which required him to otherwise be constantly vigilant. Tr. 484.

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Finally, no credible evidence supports the District's claim that Mr. Tribble was somehow predisposed to use heroin, and the court finds entirely speculative the argument that plaintiff would have become a heroin addict absent his unjust imprisonment. As Dr. Shugarman summarized: "This was an individual who was not predisposed to using heroin, he didn't have access to it, he didn't have any desire to use the substance, all of this changed radically when he found himself facing a thirty-year sentence away from his family in an environment where it was readily available, where he was depressed and anxious." Tr. 628.

Dr. Altice testified that absent incarceration, Mr. Tribble had a "very low" risk of developing an opioid disorder. Tr. 268. Both Dr. Altice and Dr. Shugarman explained that Mr. Tribble's first-time use of heroin in prison is not at all unusual: approximately twenty-five percent of heroin users are introduced to the drug in prison. The District correctly points out that plaintiff had tried PCP once and testified that he could not say, with absolute certainty, that he would not have tried snorting heroin. As Mr. Tribble and Dr. Shugarman explained, however, prior to his incarceration, Mr. Tribble had no substance abuse history; he did not know people and did not associate with people who used heroin; he had a serious fear of needles; he had no prior mental health problems that might suggest a predisposition to opioid dependence; and he was a well-adjusted young man with a strong group of friends and close relationship with his family.[29]

In addition to the fact that any claim that Mr. Tribble would have used heroin absent incarceration is entirely speculative, plaintiff does not carry the burden to negate the possibility that he might have tried heroin outside prison. The proximate causation standard does not require this. *Providence Hosp., Inc. v. Willis*, 103 A.3d 533, 535 (D.C. 2014) (per curiam)

[29] At trial, Mr. Tribble testified credibly that "I don't believe I would have [snorted heroin]," and that he had no reason to think he would have used heroin in any form if it were not for prison. Tr. 487.

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(finding that it would unfairly increase plaintiff's burden of proof to require that he establish both that his leg was amputated due to nurse's negligence in not following doctor's orders regarding care *and* to negate possibility that he may have had his leg amputated even if nurse had properly followed doctor's orders). As the Court of Appeals stated in *Willis*, the "burden to show that [an act] 'more likely than anything else' contributed to his injury" does not also "demand[]that [the plaintiff] rule out the 'anything else.'" *See id.* at 536 n.3.

Mr. Tribble has also clearly established that intravenous use of heroin in prison, and not some other factor, caused him to contract Hepatitis C, between 1980 and 1982, and HIV, most likely between 1985 and 1989. *See* Tr. 200–07, 227–28, 250. The District never seriously contested these facts, other than to question plaintiff about conjugal visits with his ex-wife and his girlfriend and to suggest that plaintiff could have contracted his illness through these sexual relations. The District offered no expert testimony, or any evidence at all for that matter, in this area, and its theory was entirely undercut by the credible and persuasive testimony of Mr. Tribble, Dr. Shugarman, and Dr. Altice.

Ultimately, however, the District's arguments miss the point that Mr. Tribble does not need to prove that his addiction, HIV, Hepatitis C, and depression were, with certainty, caused by his unjust incarceration and no other cause. Instead, he simply must show that it is more likely than not that his unjust imprisonment played a substantial role, or was a substantial factor, in his use of heroin, such that his heroin use and addiction are the direct result or reasonably probable consequence of his incarceration. The uncontroverted evidence and expert testimony clearly showed that it was. In light of the totality of the evidence, no real dispute exists about causation, and plaintiff has certainly proven by a preponderance of the evidence that Mr. Tribble's unjust incarceration had "such an effect in producing the harm as to lead reasonable

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[persons] to regard it as a cause"[30] of his addiction to intravenous drugs and his "triple diagnosis" (the three "axes" being depression, substance abuse disorder, and the chronic medical condition).

Finally, although the District spent much time at trial exploring through its questioning Mr. Tribble's addictive behavior and poor choices since his release from prison (*i.e.*, relapsing, failing to aggressively seek treatment, and using his money to buy drugs instead of necessities), the court agrees with the plaintiff that the District's approach ignores any medically sound concept of addiction and merely serves to highlight the severity of his addiction. Dr. Altice described the notion that Mr. Tribble continued to use heroin because he had not "made a commitment" to quit as a "thirty-year-old" way of thinking. Tr. 285. According to Dr. Altice, the District's argument fails to take into account the severity of plaintiff's addiction to heroin or the reality of physiological and neurological damage caused by drug abuse and resulting HIV and Hepatitis C. As Dr. Altice explained, Mr. Tribble takes heroin to feel "normal." Tr. 283. He also stated that "[a]ddiction is a chronic relapsing condition. Mr. Tribble's case is not that different compared to other people with his levels of addiction .... It's not necessarily free will. His brain is damaged." Tr. 281. Mr. Tribble's advanced HIV also contributes to his addiction and neurocognitive deficits, which, in turn, impacts his executive functioning and severe depression. Tr. 194–97, 616–18.

Dr. Altice testified that the drug treatment system is both inadequate and extremely difficult to navigate, especially for those like plaintiff who are triply diagnosed. Tr. 231–33, 243–47. Nonetheless, Mr. Tribble has repeatedly sought help and repeatedly failed because the detox-based programs to which he was sent were inappropriate for his particular circumstances.[31] Only recently, after he was finally prescribed an adequate and appropriate dose of Suboxone

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[30] *Butts, supra*, 822 A.2d at 417.

[31] Some doctors even refused to refill HIV prescriptions while he was using heroin. Tr. 231–33, 243.

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through the help of Dr. Altice, has plaintiff been able to feel "better every day," without cravings for heroin.[32] Tr. 529.

Given this backdrop, no basis whatsoever exists to exclude plaintiff's damages related to Mr. Tribble's development of a substance use disorder, HIV, Hepatitis C, and depression. The court finds that Mr. Tribble is a heroin addict because he was unjustly imprisoned and that plaintiff's struggles since his release all flow from his incarceration.

DAMAGES

The DCUIA expressly imposes no ceiling on damages and, rather, contemplates a case-by-case analysis of actual damages incurred that were proximately caused by the unjust imprisonment. Given the injustice, deprivation of liberty, degradation, suffering, and physical and emotional damage caused to Mr. Tribble by his unjust imprisonment, no amount of money could truly make him whole. The Council acknowledged this when it explained the purpose of the Act as follows: "[W]hile a monetary award cannot restore the time spent wrongfully imprisoned or erase the horror of such a confinement, it is the purpose of this bill to compensate, in accordance with the traditional legal methods of assessing damages, persons who have been unjustly imprisoned." Report on Bill 3-251 at 9. Nonetheless, the Act tasks this court with the responsibility of evaluating the evidence, including that of extreme and ongoing suffering, hardship, and emotional and physical injury endured by the plaintiff in this case, and fashioning an award of damages sufficient to make the plaintiff whole.

Without question, Mr. Tribble has experienced great emotional pain and suffering and mental anguish, and endured emotional and physical injuries, all caused by his unjust imprisonment. Where, as here, the evidence is undisputed, the court must award reasonable

[32] Dr. Altice testified that a handful of doctors in the United States have the necessary clearances to prescribe Suboxone and described at length how he had to trade favors to get Mr. Tribble into a treatment program that offered a prospect of success. Tr. 233–34.

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damages in compensation related to plaintiff's past, present, and future pain and suffering, including emotional distress and emotional and physical injury. *See Hogan v. Washington Nursing Facility Ltd. P'ship*, 919 A.2d 1131, 1133–35 (D.C. 2007); Standardized Civil Jury Instructions for the District of Columbia § 13.01, ¶¶ 3–4 (relating to damages for "emotional distress that the plaintiff has suffered in the past … [and] may suffer in the future"); Standardized Civil Jury Instructions for the District of Columbia § 13.01, ¶¶ 1–4 (relating to damages for "physical injuries," past and future "physical pain," and the "the effects that any physical injuries have on the overall physical and mental well-being of the plaintiff."). Indeed, damages for emotional pain and suffering and for emotional and physical injuries apply to each of the time periods analyzed below: the period of plaintiff's imprisonment; the parole period; and the time period from expiration of parole into the future. For each of these categories of damages, and for those relating to medical expenses and lost wages which also follow, this court has employed traditional legal methods of assessing damages which were proximately caused by plaintiff's unjust imprisonment.

Damages Relating to the Period of Plaintiff's Imprisonment

Mr. Tribble spent twenty-six years and five months wrongly imprisoned.[33] In a false imprisonment case, "the single fact of imprisonment, the deprivation of one's right to move about, is compensable," and compensation for this loss should be "proportional to the harm actually suffered" in terms of "the length of confinement." *Phillips v. District of Columbia*, 458 A.2d 722, 725–26 (D.C. 1983); *see also Speed v. United States*, 562 A.2d 124, 128 (D.C. 1989) (citing *Phillips* for the proposition that "loss of liberty [is a] per se basis for compensatory damages" in a false imprisonment case). In other words, it is entirely appropriate to compensate

[33] This represents the twenty-three years, six months, and twenty-eight days between the January 21, 1980 guilty verdict and his release from prison onto parole, on August 18, 2003, plus the total of two years, ten months, and twelve days spent imprisoned on parole violations .

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plaintiff at a higher rate when defendant is imprisoned for a longer period of time.[34]

Compensation for the mere fact of imprisonment at a level proportional to the length of incarceration is distinct from compensation for mental anguish or emotional distress caused by the confinement. *Phillips, supra*, 458 A.2d at 725–26. Beyond the profound effect of the loss of liberty, the consequences and conditions of imprisonment also underlie the court's determination of compensatory damages, including the following: the loss of privacy or any personal space; loss of family relationships; loss of ability to pursue recreation, work, or enjoyment of life; exposure to violence, danger, and noise; insomnia; periods of particularly severe restrictions on liberty, such as that caused by restraints or in solitary confinement; and the frequent transfers between prisons. Not only did the court hear compelling testimony from Mr. Tribble about these deprivations; it heard the clear and unchallenged testimony of Dr. Shugarman describing the harms and losses that imprisonment caused Mr. Tribble. None of this testimony was impeached or undercut by the District.

The pain and suffering endured by Mr. Tribble included that which would be experienced by any prisoner, such as loneliness, hopelessness, boredom, frustration, anxiety, constant fear of violence, and pain from witnessing violence suffered by others, including violence in prison riots and sexual assaults. Mr. Tribble suffered more acutely, however, because his incarceration commenced at the young age of seventeen years old. This left him in despair and less able to process and cope with the constant stresses of the prison environment than an older prisoner might have been. Mr. Tribble also suffered emotional pain arising out of the loss of his relationships with his family, including the loss of the opportunity to parent his son or his step-daughter while incarcerated and the inability to have a full relationship with the rest of his

[34] This analysis is identical whether measured daily, as Judge Kravitz did in *Odom, supra* note 15, or annually, as this court does.

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family, including his parents and sister, who all passed away during his incarceration. In addition, he suffered profoundly from the period of over three and one-half years in total that he was forced to serve in solitary confinement.

Furthermore, as Dr. Shugarman explained, Mr. Tribble's pain and suffering in prison was exacerbated by the fact that he was actually innocent. Mr. Tribble could not accept his fate or adjust to being in prison. Throughout his imprisonment, plaintiff remained fearful, angry, and frustrated. As a consequence of his unjust imprisonment, Mr. Tribble also fell into a state of depression and despair. He dwelled on the fear that he would not be released from prison before his death and thought about his innocence constantly, uncertain when, or if, the "nightmare" of his unjust imprisonment would actually ever end.[35]

Despite having no prior significant history of drug use, Mr. Tribble sought to cope with his suffering and despair through the intravenous use of heroin. This resulted in plaintiff developing a severe substance use disorder and contracting HIV and Hepatitis C, all of which exacerbated his depression. Mr. Tribble also suffered physical pain and injury from assaults by other inmates and guards, including being tasered, tear-gassed, and held for days in four-point restraints. By the time he was released on parole, twenty-five years after his arrest, plaintiff was a broken man, suffering from a triple diagnosis of severe depression, substance abuse, and chronic disease, all of which was caused by his unjust imprisonment. This suffering continued during the two years, ten months, and twelve days he spent imprisoned on the parole violations that followed his release.[36]

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[35] Importantly, as Dr. Shugarman testified, plaintiff's account of the conditions of his confinement might actually understate the real levels of pain and suffering he endured because the diseases he contracted as a result of his unjust imprisonment actually limit his ability to recall and describe his prison experiences.

[36] The District separately argues that post-release re-incarcerations resulting from Mr. Tribble's parole violations should not be compensated. The District made the same argument, unsuccessfully, in *Odom*. There, the record showed that Mr. Odom was re-incarcerated after his release for a parole violation, No. 13-3239 at 11, but Judge Kravitz expressly did not carve out this period of time from Mr. Odom's post-release injury award. *Id.* (adding to

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Considering all of these factors and others stated herein, the court awards Mr. Tribble damages in the amount of $400,000/year for the twenty-six years, five months, and ten days of his imprisonment, for a total of $10,575,343.[37]

Damages Relating to Plaintiff's Parole

The uncontroverted evidence presented at trial made clear that Mr. Tribble's damages did not end the moment he was released from prison onto parole. Plaintiff experienced ongoing and extreme emotional pain and suffering, severe depression, drug abuse, and chronic disease. He also suffered symptoms which were at least as devastating as PTSD. He continued to harbor significant anger and resentment relating to his incarceration, and increasing hopelessness, frustration, discouragement, and despair, given his inability to establish the life for which he had hoped.

In addition, Mr. Tribble continued to experience significant infringements on his liberty, in the form of constant parole supervision and restrictions on his ability to travel. He struggled to find and keep work while on parole, in part because it appears that his parole officers sabotaged two jobs Mr. Tribble enjoyed and at which he was successful: as an aide to individuals with developmental disabilities; and as a groundskeeper at Walter Reed Hospital. As a result of

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the term of imprisonment a stipulated period accounting for additional time served as a result of the parole violation). Instead, Judge Kravitz relied on the notion of proximate causation—whether the unjust incarceration played "a substantial part" or was "a substantial factor" in bringing about the injury suffered. *Id.* at 26. This court agrees. The same analysis applies to this court's rejection of the District's argument that these parole violations were actually the plaintiff's own fault. Indeed, all were technical violations, related to his inability to overcome the severe substance use disorder he acquired while incarcerated. Without question, Mr. Tribble's unjust conviction and incarceration were a substantial factor in bringing about his re-imprisonment since, absent the wrongful conviction and incarceration, Mr. Tribble would not have been on parole in the first place.

[37] This court is certainly aware of the fact that Judge Kravitz entered an award of $1,000 per day of incarceration in *Odom, supra* note 15, No. 13-3239 at 56 (where plaintiff spent nearly twenty-two years and seven months in prison), that over thirty years ago, Judge Urbina entered an award for combined damages of $325,000 in *Brown, supra* note 16, No. 81-11595 at 30 (where plaintiff spent approximately three and one-half years in prison), and that judges and juries around the country have reached decisions in cases involving unjust imprisonment with damage awards ranging from far less to far more. Of course, this court is not bound by those decisions, and the facts of each case are unique. The court's award in this case is based on what this court has determined, exercising its discretion, to be an appropriate amount of damages to compensate Mr. Tribble for the particular harms he suffered during his time in prison and for the periods of time that followed.

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his inability to provide for himself, plaintiff became homeless for periods of time, living in his car or relying on the assistance of friends, such as Mr. Calloway.

Finally, both Dr. Shugarman and Dr. Altice testified that Mr. Tribble struggled with the substance abuse disorder he developed in prison.[38] In addition, plaintiff's health continued to deteriorate. Significantly, Mr. Tribble's "triple diagnosis" of HIV, Hepatitis C, his substance abuse disorder, and the interruptions in required treatment caused him during this period by his parole status and intermittent re-incarceration, affected his ability to properly comply with and adhere to the numerous medical appointments and rigorous treatment regimen required for any person living with HIV and Hepatitis C. In combination, these factors devastated plaintiff's physical and emotional health. None of this compelling evidence was challenged in any way by the District, other than through the argument that despite the requirement that the court apply traditional methods of calculating damages, plaintiff is entitled to no damages for any period of time after his release from prison.

Considering all of these factors and others stated herein, the court awards Mr. Tribble damages in the amount of $100,000/year for the five years, ten months, and sixteen days that plaintiff spent under parole supervision, for a total of $586,570.[39]

Damages Post-Parole, Including Future Damages

This court also awards compensation to Mr. Tribble for the period of seven years and twenty-four days, which represents the time from his release on parole, May 16, 2012, to June 9, 2019, the date four years after trial when, according to Dr. Altice's unchallenged testimony, it is

[38] Although plaintiff sought to quit and went through several treatment programs, all of those programs (even the one Methadone program he attended) were detox-focused and, thus, according to the experts, not effective. Dr. Altice explained that at no time while on parole, or earlier in prison, was Mr. Tribble ever provided adequate, evidence-based treatment that was appropriate for the severity of his addiction. Proper treatment only came much later through the Suboxone regimen.

[39] The time during parole in which Mr. Tribble was incarcerated on parole violations (a total of two years, ten months, and twelve days) has already been applied to the period of imprisonment and cannot be double-counted.

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more likely than not that plaintiff will have died from the diseases contracted as a result of his unjust imprisonment. Part of this period has already occurred, while a portion relates to future damages. As a general rule, a plaintiff may recover damages based on future consequences that are causally related to an underlying wrong so long as those consequences are reasonably certain to occur. *Croley v. Republican Nat'l Comm.*, 759 A.2d 682, 689–90 (D.C. 2000). Once a plaintiff shows that future damages are reasonably certain to occur, he "need only provide 'some reasonable basis on which to estimate damages.'" *Hill, supra*, 356 U.S. App. D.C. at 146, 328 F.3d at 684.

In the present case, it is undisputed that Mr. Tribble has continued to suffer severely since his release from parole and that this status will not change, and will likely worsen, as he approaches an untimely death. The court heard evidence from Mr. Tribble, his son Santae Tribble, Jr., his friends George Mozee and Willie Calloway, and Dr. Shugarman about his severe depression, his efforts to isolate himself from others, even loved ones, his difficulties finding and keeping employment, and his overall loss of enjoyment of life. In fact, plaintiff's testimony alone bore this out. Mr. Tribble is a shell of a man, devastated emotionally and physically.[40] In addition, and of special significance to the calculation of damages relating to this time period, Mr. Tribble lives with the awareness that his life expectancy has been substantially shortened as a result of the physical damage caused by his unjust imprisonment.

In determining an amount of damages for this last time period, the court finds that Mr. Tribble's suffering has continued since his release from parole at approximately the same level as during parole, if not worse. To be certain, the constant parole supervision, threats of re-incarceration, and restrictions on his ability to travel no longer exist, but plaintiff is dying and

[40] Dr. Shugarman testified that, among the three wrongfully convicted individuals he has evaluated, including Mr. Odom, Mr. Tribble's "current residual adverse psychological effects from the incarceration are worse." Tr. 654.

has to endure the realization that he will probably not live past the year 2019, all of which is the result of his unjust imprisonment.[41]

Considering all of these factors and others contained herein, the court awards Mr. Tribble damages in the amount $100,000/year for the time period from his release from parole until June 9, 2019, a period of seven years and twenty-four days, for a total of $706,569.

Medical Expenses

Mr. Tribble has presented a reasonable basis, in the form of detailed testimony from Dr. Altice, for an award of damages with respect to the extensive medical treatment and care that will be required in order to adequately treat all of the medical conditions caused by Mr. Tribble's unjust imprisonment. This testimony relating to medical treatment was virtually unchallenged by the District. A plaintiff is entitled to recover medical expenses incurred or that may be incurred in the future. *See* Standardized Civil Jury Instructions for the District of Columbia § 13.01, ¶¶ 8–9. As outlined by plaintiff, these medical expenses include the following:

- Treatment for HIV: $22,000 to $24,000 per year. Tr. 262.
- Case management and counseling services: $2,666 to $4,500 per year (annual salary of $40,000 to $45,000 divided by case load of ten or fifteen patients, not counting fringe benefits). Tr. 263.
- Weekly therapy with licensed clinical social worker or psychiatrist: $100 to 250 per week, or $5,200 to $13,000 per year. Tr. 263.
- Addiction treatment: three to six months of inpatient treatment at $12,000 to $15,000 per month, for a total of $36,000 to $90,000, Tr. 237, 266, followed by outpatient addiction treatment services at $30,000 to $40,000 per year. Tr. 262; 266.
- Hepatitis C: one-time cost for medication of $80,000. Tr. 257; and
- Liver transplant: one-time cost of $350,000. Tr. 266.

[41] For purposes of an assessment of damages, the court uses the June 9, 2019 date used by the plaintiff, and will not award damages beyond that date. The actuarial tables show that a fifty-four-year-old African-American man like Mr. Tribble should live a remaining 23.4 years, for a total life expectancy of 77.4 years. *See* Pl. Ex. 49 at 23.

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Projecting these costs for the span of Mr. Tribble's likely life expectancy post-trial of four years leads to the following result:

- Treatment for HIV: $88,000 to $96,000 ($22,000 to $24,000 per year);
- Case management and counseling services: $10,664 to $18,000 ($2,666 to $4,500 per year);
- Weekly therapy with licensed clinical social worker or psychiatrist: $20,800 to $52,000 ($5,200 to $13,000 per year);
- Addiction treatment: $148,500 (3 month inpatient ($36k) plus 3.75 years at $30k per month) to $230,000 (6 month inpatient ($90k), 3.5 years at $40k/month);
- Hepatitis C: one-time cost for medication of $80,000. Tr. 257; and
- Liver transplant: one-time cost of $350,000. Tr. 266.

With the exception of a liver transplant, the likelihood of which the court determines to be speculative, the court finds that a reasonable basis exists for each of these expenses and awards damages to cover the costs at the mid-range of each as follows: treatment for HIV ($92,000); case management and counseling services ($14,432); weekly therapy ($36,400); and addiction treatment ($189,250). In addition, the court awards the one-time cost of medication for Hepatitis C treatment in the amount of $80,000. In total, the court awards $412,082 in medical expenses.[42]

Lost Wages

Mr. Tribble has proven that he is entitled to lost wages for the period of his incarceration and after his release from prison, all of which resulted from his unjust imprisonment. Generally, a plaintiff may recover damages for lost wages and future earnings caused by the defendant's conduct. *See* Standardized Civil Jury Instructions for the District of Columbia, § 13.01, ¶¶ 10–11 (damages may be awarded for "any loss of earnings incurred by the plaintiff" or "any loss of earnings or earning capacity that the plaintiff may incur in the future"); Standardized Civil Jury

[42] Whether or not insurance may pay for some of these costs is irrelevant. *See, e.g.*, *Hardi v. Mezzanotte*, 818 A.2d 974, 984 (D.C. 2003) (medical costs incurred or written off by insurer are collateral source and cannot reduce damages award). In any event, Dr. Altice testified that the levels of services needed by Mr. Tribble are, in many instances, not the kinds of services covered by insurance. *See* Tr. 260; 233.

Instructions for the District of Columbia, § 13.05 (setting forth factors trier of fact may consider in determining award for lost earnings). Importantly, the plaintiff is permitted to estimate his economic losses "'on his prospective earnings for the balance of his life expectancy at the time of his injury *undiminished by any shortening of that expectancy as a result of the injury*." *Moattar v. Foxhall Surgical Assocs.*, 694 A.2d 435, 438 (D.C. 1997) (quoting *Sea-Land Servs., Inc. v. Gaudet*, 414 U.S. 573, 594 (1973)) (emphasis in original).

The District argues unpersuasively that any finding that Mr. Tribble would have worked absent his incarceration would be speculative and, therefore, lost wages should not be awarded. To be certain, plaintiff cannot base his request on a demonstrated history of steady employment; after all, plaintiff was arrested and incarcerated at age seventeen and remained imprisoned until he was in his forties. Therefore, determining an amount of lost wages in this case is hardly akin to tracking the work and salary of someone who had been steadily employed and, then, extrapolating from there.

The court concludes, however, that plaintiff has presented sufficient evidence to establish a reasonable basis for damages related to lost wages. Importantly and understandably, "[t]he courts quite reasonably have been very liberal in permitting the jury to award damages where the uncertainty as to their extent arises from the nature of the wrong itself, for which the defendant, and not the plaintiff, is responsible." Keeton et al., *supra*, § 52, at 350; *see Vossoughi, supra*, 963 A.2d at 1175–77 (upholding sufficiency of jury verdict as to value of lost, unique scientific instruments that was based on plaintiff's "rough approximations" of lost property's value); *Hawthorne, supra*, 756 A.2d at 401 (plaintiff should have been permitted to present evidence of lost wages during period of alleged temporary disability caused by defendant's negligence). This

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general rule is based on the principle that "[a] party may not profit from his own wrong." *Hawthorne*, 756 A.2d at 401.

This court finds that unjust imprisonment deprived plaintiff of the ability to more fully establish his entitlement to lost wages, as Mr. Tribble's detention began only four months after his seventeenth birthday. Plaintiff spent the prime of his life in prison and was not released until middle age, by which time he was no longer healthy in body or mind. As such, Mr. Tribble had no meaningful opportunity to obtain marketable job skills or to join the work force at a time when he would be most desirable to potential employers. Consequently, the court will fashion an award for lost wages, keeping in mind that "[r]ough justice in the ascertainment of damages is often the most that can be achieved ...." *Vossoughi, supra*, 963 A.2d at 1177.

The court bases its conclusion that plaintiff has proven by a preponderance of the evidence his entitlement to lost wages, in part, on an assessment of the fact that plaintiff grew up with strong, employed role models, on his limited work history as a teenager, and on his efforts to work after his release on parole. In fact, Mr. Tribble grew up in a family where hard work was expected and valued. His father worked in a factory and his mother as a nurse's aide. Plaintiff's brother joined the military, as did his best friend, George Mozee. Unlike many young people, plaintiff himself worked as a teenager, including doing landscaping and odd jobs for Mr. Calloway, who was himself a mentor and role model for plaintiff. Calloway described Mr. Tribble as motivated, conscientious, inquisitive, and willing to learn and follow instructions—a young person who maintained a strong work ethic and sense of pride in workmanship. Plaintiff dreamed of joining the military himself, and while the court cannot conclude that he would have accomplished this goal, the court does not consider it speculative that a person possessing plaintiff's character, attributes, and work history would join the workforce.

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Indeed, plaintiff worked after his release from parole despite suffering at the time from the ravages of heroin addiction and physical and mental illness caused by his unjust imprisonment. Specifically, he was employed as a groundskeeper at Walter Reed Hospital, at a facility for people with developmental disabilities, in a meat packing plant, and on a construction site. Importantly, the court observed plaintiff as he testified, and determines from both plaintiff's words and from his demeanor in speaking about his work, that employment brought plaintiff a sense of pride and satisfaction. Mr. Tribble enjoyed his work and found it meaningful. It is certainly more likely than not that plaintiff would have worked had he not been unjustly imprisoned.

Upon a finding that Mr. Tribble has proven that he is entitled to lost wages, the court turns to what amount of lost earnings, if any, has been proven. In making this decision, the court has carefully considered the testimony of the two economists who testified at the trial: Dr. Richard Lurito for the plaintiff; and Dr.Thomas Grogan for the District.[43] Using United States Census Bureau data, Dr. Lurito calculated the earnings for three categories of African-American males—those with less than a high school education, those with a high school education (or GED), and minimum wage workers—for three period of time: the years of plaintiff's imprisonment; the period from August 18, 2003, to October 1, 2015; and the period from October 1, 2015, to when Mr. Tribble would reach age sixty-five, on April 6, 2026.

Based on the testimony of Dr. Grogan, the District takes the position that no matter what wage earner category is considered, Mr. Tribble should recover no amount of lost wages because his consumption expenses would have outweighed his earnings. The court rejects this analysis because, as Dr. Lurito opined, a proper assessment of the lost wages in this case must focus on plaintiff's lost opportunity to consume goods and services. As Dr. Lurito persuasively testified,

[43] This was the only area at trial in which the District presented evidence.

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"We are interested in restoring Mr. Tribble to the same economic position he would have been in had he not been unjustly imprisoned. To do that, we must restore his lost opportunity to consume." As the doctor further explained, when an individual is removed from a position as a consumer, it is not appropriate to deduct items as if the individual in fact consumed them. Thus, where Mr. Tribble was unjustly imprisoned, it would be inappropriate to reduce his recovery by the amount of consumption expenses that he never actually incurred or enjoyed.

Without outlining Dr. Lurito's entire methodology, the court finds it to be sound. In fact, other than its argument about consumption costs and that vacation time and potential periods of unemployment should be taken into account, the District does not appear to contest Dr. Lurito's analysis. In sum, Dr. Lurito calculated that his after-tax earnings losses over these three time periods amounted to a range of $706,678 to $1,599,601, depending on which category of wage earner is considered.

The court next turns to the final issue: the category of wage earner into which Mr. Tribble falls. Despite plaintiff's clear desire to obtain his GED and the fact that he took some GED classes while imprisoned, the court finds speculative the argument that Mr. Tribble would have obtained his High School Diploma or GED. Mr. Tribble dropped out of school in eighth grade and had certain learning disabilities. Indeed, while plaintiff might very well have obtained his GED, the court concludes that he has not carried his burden to show that this result was more likely than not.

Importantly, however, plaintiff's background, motivation, character, and work history, albeit limited, place him in the "less than high school education", rather than the "minimum wage" category. By all accounts, Mr. Tribble was a capable young man with had a strong work

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ethic and dreams of employment in the military[44] before he was incarcerated. Furthermore, plaintiff worked at above minimum wage at each of his jobs while on parole: four months in construction earning between $9 and $11.50 per hour; four or five months in a factory earning $8.75 per hour; four or five months at Walter Reed Hospital earning $17 per hour; and as a caregiver for individuals with developmental disabilities earning approximately $10 per hour. *See* Pl. Ex. 48 at 5. Indeed, in terms of wage category, even the District's economist agreed with Dr. Lurito that the average earnings of African-American men with less than a high school education would be the "appropriate place to look." Tr. 816.

Dr. Lurito's lost earnings calculations provide a basis for a lost wage award between $706,678 and $1,599,601. *See* Lurito Report at 6 (Table D). Using the average earnings for less than high school figures, with the inflation adjustment for current purchasing power, corresponds to a total loss of earnings of $955,963, and the court awards damages in this amount.[45]

CONCLUSION

The court's sole responsibility in this matter was to determine an amount of damages that will make Mr. Tribble whole, and for all the reasons stated herein, the court enters judgment in the amount of $13,234,527.

It is **SO ORDERED** this **26th** day of **February, 2016**.

The Honorable John M. Mott
Associate Judge
(Signed in Chambers)

[44] The court understands that this military employment would likely not have occurred without a GED.

[45] This figure is obtained by adding the lost earnings figures in each time period associated with the less-than high school/inflation category: $513,652 (Period 1, Table A) plus $272,407 (Period 2, Table B) plus $268,105 (Period 3, Table C), minus Mr. Tribble's actual earnings given imprisonment adjusted for inflation, $98,201 (Table 10). *See generally* Pl. Ex. 48. This figure works out to an average earning over Mr. Tribble's entire working life (18 to 65) of $20,339 per year.

OPINION APPENDIX B—Continued

State, and who is not of the nationality of the country of transit, shall, subject to the provisions of the second paragraph of this Article, be permitted, independently of any judicial formalities, when requested through diplomatic channels and accompanied by the presentation in original or in authenticated copy of the document by which the State of refuge has granted the extradition. In the United States of America, the authority of the Secretary of State of the United States of America shall be first obtained.

The permission provided for in this Article may nevertheless be refused if the criminal act which has given rise to the extradition does not constitute a crime or offense enumerated in Article II of the present Treaty, or when grave reasons of public order are opposed to the transit.

Article XX

Subject to the rights of third parties, which shall be duly respected:

[970]1. All articles, valuables, or documents which relate to the crime or offense and, at the time of the arrest, have been found in the possession of the person sought or otherwise found in the requested State shall be surrendered, with him, to the requesting State.

2. The articles and valuables which may be found in the possession of third parties and which likewise are related to the crime or offense shall also be seized, but may be surrendered only after the rights with regard thereto asserted by such third parties have been determined.

Article XXI

A person extradited by virtue of the present Treaty may not be tried or punished by the requesting State for any crime or offense committed prior to the request for his extradition, other than that which gave rise to the request, nor may he be re-extradited by the requesting State to a third country which claims him, unless the surrendering State also agrees or unless the person extradited, having been set at liberty within the requesting State, remains voluntarily in the requesting State for more than 30 days from the

OPINION APPENDIX B—Continued

date on which he was released. Upon such release, he shall be informed of the consequences to which his stay in the territory of the requesting State would subject him.

Article XXII

The present Treaty shall be ratified and the ramifications thereof shall be exchanged at Washington, as soon as possible.

The present Treaty shall enter into force one month after the date of exchange of ratification. It may be terminated at any time by either Contracting State giving notice of termination to the other Contracting State, and the termination shall be effective six months after the date of such notice.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Treaty and have affixed hereunto their seals.

DONE in duplicate, in the English and Portuguese languages, both equally authentic, at Rio de Janeiro, this thirteenth day of January, one thousand nine hundred sixty-one.

[SEAL] JOHN M. CABOT

[SEAL] HORACIO LAFER

ADDITIONAL PROTOCOL TO THE TREATY OF EXTRADITION OF JANUARY 13, 1961, BETWEEN THE UNITED STATES of America and the United States of Brazil

The United States of America and the United States of Brazil,

Having concluded at Rio de Janiero, on January 13, 1961, a Treaty of Extradition for the purpose of making more effective the cooperation between the two countries in the repression of crime,

And desiring to make clear that their respective nationals will be subject to extradition only if the constitutional and legal provisions in force in their territories permit it,

[971]Have resolved to sign an Additional Protocol to the aforementioned Treaty of Extradition and, to this end, have appointed the following Plenipotentiaries:

The president of the United States of America: His Excellency Lincoln Gordon, Ambassador Extraordinary and Plenipotentiary to Brazil, and

EXHIBIT - O.

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