Attachment 3

9th **Judicial District** **Garfield County District Court 109** **Eighth Street Suite 104** **Glenwood Springs, Colorado 81601** Shawnee Ryan **vs** People of the State of Colorado	
District Attorney Jeff Cheney 109 Eighth Street Third Floor Glenwood Springs, Colorado 81601 Pro Se: **Shawnee Ryan 159496** DRDC-Infirmary-3 P.O. Box 392004 10900 Smith Road Denver, Colorado 80239	Case No: Garfield 2010 CR 177
APPELLATE PETITION UNDER RULE 35 (REVISED)	

(NOTE: This petition was filed as handwritten on May 30, 2018 with statement to Judge Lynch that as soon as Ryan had legal access, she would type, for clarity sake. Ryan does so now, verbatim, and also makes one correction to Header (above).)

Shawnee Ryan (Ryan), 1Pro Se, comes now with attack of conviction. Although this court is familiar with all information below, Ryan follows the court's template and provides answers again:

- **Date of conviction:** 8/20/2012
- **Conviction result:** Jury Trial
- **Represented by attorney:** Yes.
  - **Attorney #1: Stephen McCrnhan, P.D.** Full representation until state reassign out of district.
  - **Attorney #2: James Conway, P. D.** Full representation until State Defender Douglas Wilson asked for Conway resignation (or) retirement (or) be terminated from employment; based on Ryan's formal complaint, filed to this court (and) Wilson, December 14, 2011. Conway chose 'early retirement' on aprx. January 23, 2012.
  - **Attorney #3: Kathy Goudy, ADC.** Full representation until Ryan requested formal tennination on September 6, 2012, at district level on grounds of irretrievable break in communication, trust, for Ryan, in Goudy's competency. Court granted. Goudy

then went on, at direct appeal, under formally filed protest, by Ryan to COA, and inserted herself, again, into Ryan's case, as ADC appellate counsel. Ryan, physically incapacitated at the time, allowed Goudy to continue on appeal, based on Goudy's verbal claims to Ryan that Goudy's performance would represent Ryan's needs and concerns.

- **Attorney #4: Esteban Martinez, ADC appellate.** Representation of Ryan's attack on prosecutorial misconduct and entirety of case lacking sovereign jurisdiction, filed as: "Motion for Prosecution Sanctions" filed January 22, 2015 and appealed on aprx. September 8, 2015. Martinez also appointed to appellate representation of Ryan's 35b petition, which this court had denied without hearing. Martinez, when faced with this court not obeying COA order for all/full records designation; chose to represent only the 35b claiming he did not have an obligation to Ryan, to enforce record designation; despite Judge Loeb's clear order of full record designation and the court's uncertainty of whether they had jurisdiction to even hear. Again, physically incapacitated, indigent and incarcerated; Ryan continued forward with Martinez based on his representations of his ability to achiev 35b success on appeal.

- **Yes, direct appeal was heard.**
  - Case# 12CA2533
  - Colorado Court of Appeals
  - Remanded with instructions
  - Filed November 2012.

- **The following relief petitions have been filed:**
  - 35a on January 29, 2018, outcome assumed as denied. Ryan has not received copies of orders.
  - 35b filed aprx. August 6, 2015. Denied without hearing.

6. ***Claim raised** in 35a was that the State issued and acted on an illegal arrest warrant. Sovereign jurisdiction was held on Ryan and seven charged victims, by Federal Bankruptcy Court. With former district attorney Martin Beeson following no federal bankruptcy rules of procedure; as he was obligated to do as an adversary and in order to bifurcate Ryan and the seven; who were a mix of creditors and uncollected assets (accounts receivable for work and services completed and either kept or benefitted from). Bankruptcies, both corporate (7) and personal (13) went on, at federal level to acceptance, approval and discharge by federal court. Beeson, never once, and most significantly at time of warrant; approached federal court in any way and had no jurisdiction.

- **Claims raised** in **35(b)** were multiple. I) Ryan's excellent inmate record, stellar appearances and obey of court of all court orders spanning five years. 2) Ryan's fatal diseases, contracted while incarcerated and post-sentencing with cost to State, at that time, of aprx 2 million dollars. 3) Ryan requested concurrent rather than consecutive sentencing. 4) Ryan included the fact that her Motion for Prosecution Sanctions,

which held issues of jurisdiction; was under appeal and that both court and prosecution did not and could not, in their denials of that motion, which also held suborning and withholding of discovery; deny guilt. All prosecution could deny from was a continued claim of prowess in gathering hearsay within hearsay (see Jury Instructions Hearing of June 19th through June 25th 2012) (and) the Courts statement that Ryan had no open or active matters to file sanctions from. Ryan raised the Sanctions issue within 35b as extenuating circumstances with request for court to err on side of prudence.

- **Ryan appealed denial of 35b.**

- **Ryan, can only assume 35a** is denied as court has not provided her copies of orders. Ryan, as 35a illegal warrant as based on jurisdiction, has no tolling limitations, and can, at any time, move to any higher court on appeal. Ryan preserves that right.

7. Ryan is not requesting counsel at this time and preserves her right to do so at a later date.

CLAIMS

(Ryan, in bringing forward claims below, moves the court to interpret and order whatever relief available, under: **Gray v Internal.Affairs Bureau S.D.N.Y. Nov 17, 2003,** *292 F.Supp 2d 475 "Pleading of Pro Se representation must be read liberally and should be interpreted to raise strongest arguments they suggest.")*

CLAIM ONE: Sovereign Jurisdiction

A) The issue of sovereign jurisdiction being held, (not only on Ryan but all seven charged victims) by federal jurisdiction rather than state jurisdiction is clearly stated to record in Ryan's Motion for Prosecution Sanctions, Ryan's 35a petition and Attorney Regulation Counsel's Amy Devan's filings of December 14, 2011. Each filing, to date, refused to be heard by this Court. Details not necessary to be presented now as this filing is not yet ripe.

B) What is necessary to state is that any issue of jurisdiction is a fundamental error, so causing a break in structure, there was no possible way, within all aspects of this particular case, for Ryan to receive an impartial and fair trial. This court could only take Ryan to trial, based on court discretion, by allowing not only hearsay, but hearsay within hearsay within hearsay. *"The court has no discretion to avoid the law"* **Cozart v State** *897 N E. 2d 478, 483 (Ind 2008)*

C. In the matter of this issue, this court had a mandatory responsibility, based on Ryan's filing of December 14, 2011 to which she presented Amy Devan's (Attorney Regulation Counsel) decision that the issue Ryan raised against Martin Beeson, James Conway and Anthony Durrett, of jurisdiction and Ryan's bankruptcies; were "matters of law for the court of jurisdiction" to decide; under **CRS 18-1-201, Part 2, Place of Trial.** **Applied:** *"Issue of sovereign jurisdiction a legal question for the trial court. Where determination of jurisdiction*

depends upon the resolution of disputed facts, the issue MUST BE submitted to the jury with an appropriate instruction, regardless of whether raised by defendant." **People v Cullen,** *695 P.2d 750 (Colo. App 1984).* And, **CRS 18-1-301 (2) (b) II:** *"There is a legal defect in the proceedings that would make any judgment entered upon a verdict reversible as a matter of law."*

Summary (initial summary) of Claim One: This court has avoided, since December 14, 2011 and multiple times since; to hear the issue of who held jurisdictional control over Ryan and the seven charged victims. Which also, effectively, barred confrontation, in any way, of the seven and their full and true relationship to Ryan contractually, financially and personally. The State did not hold (nor) hold to present day, any legal jurisdiction to be able to double and triple dip the monies of the seven's claims, as all were, and remain, under the bankruptcies jurisdiction begun March 2010. Further, by this court's disregard of **mandatory** law under CRS 18-1-201 part 2, Place ofTrial (applied in Cullen) by **not** presenting jury instruction of disputed facts of jurisdiction and Ryan's bankruptcies; Ryan's being denied a fair trial, from equal ground as prosecution; was denied.

Ryan is entitled to overturn of verdict under CRS 18-1-301 (2) (b) II.

CLAIM TWO: Multiplicity

A) The matter of Ryan being arrested, pursued with the full power of the State, yet no balance of law enforcement power investigating both/all sides; and then tried with multiple (7) alleged victims; was preserved numerous times to record by public defender Stephen Mccrohan and ADC Kathy Goudy and Ryan, exparte.

B) On direct appeal, the appellate court clearly stated in their ruling that Goudy "only" contended a "protest" against the "timing of the merger" and that "the jury should have been".."presented only two counts of theft, not seven". Going on to clearly state that even their assumption that this was a misapplication of the statute (on trial court's end), " we nonetheless conclude that any error was harmless because the court merged Ryan's convictions and she was not subjected to more than one punishment for the same crime." State AG presented a very similar case; "Rhea" which also held at state levels. However, since Ryan's direct appeal, Rhea has moved up through federal levels where the state reasoning has not held. Primarily on the basis that "punishment" is not limited to the language of "only" "one sentence" and can occur in many ways, including inability to discern in a jury's mind the proclivity that defendant is "a bad person" for having "so many" charges tried. The 'jeopardy" is the question, not multiplicity of mergers. As of date of this filing, Rhea winds through federal levels on numerous matters and final conclusions pend.

C) Ryan raises now, all of record (both trial and appellate) the claim of prejudice and jeopardy. This court is aware, as the years of incarceration have passed, of prosecution's alleged 404b and alleged res gestae individuals who have kept up their campaign to keep Ryan incarcerated and unable to move forward in her life. Yet, this court has again avoided, hearing Ryan's proof, which does include law enforcement proof. "Punishment" can be in many forms. Including, continued prosecution long after trial,

conviction and sentencing. The theme of demonizing and branding Ryan with mass histrionics and media forms has continued to be alleged 404b's and charged victims, instead of meeting their hundreds of thousands of dollars in financial obligations to now Ryan's estate under federal jurisdiction. The path they have taken, of continued punishment, at their own hands, is clear and unequivocal fact that solidly lends credibility to federal levels of Rhea in that to try many, as a mass, does jeopardize the right to fairness and impartiality.

Summary (initial of Claim Two: The question of double jeopardy is error that is both fundamental and an abuse of discretion that prejudiced Ryan at trial and led to cruel and unusual punishment in the sentence she was given (and) the interference with the court's sentence alleged hearsay "witnesses" have executed outside of the court's eyes in the years since and is cruel and tortuous to Ryan. See **Bakery State** *948 N.E. 2d 1169, 1178-1179 (Ind Appl 2011) reh denied* (and) **"Mathews v State,** *849 N.E. 2 d 578, 587 (Ind 2006)*. Ryan has, in fact, suffered multiple punishments and verdict should overturn. Ryan further points to the secondary issue of jurisdiction, preserved to record by Goudy, on the Ace Hardwood/Syzneri charge. Travis County, Texas was in mid-prosecution of Ryan and Colorado did nothing to extract or extradite before charging same in Colorado. Ryan was already under double jeopardy on the charge when this court triple downed under multiplicity.

CLAIM THREE: **New Witnesses**

A) Ryan is bringing forward, should this go to new trial, (3) witnesses who attended trial as observers and who are directly tied to key prosecution 'hearsay" and "res gestae" alleged witnesses. Names withheld until granted.

- Jane Doe #1: A long-standing, with access and supervisory powers employee of one of the most influential alleged 404b witnesses. Who will testify to witnessing, over a period literally spanning years, including trial, conviction and sentencing; of (15) of prosecutions alleged 404b "investigators" and their emails and discussions colluding and crafting attacks on Ryan personally, her business's operating ability (resulting in uncollected accounts receivables from same) and their crafting of internet and media attacks. Further attest to the machination of same of Ryan's eldest daughter. Will testify to the personal shock at the (her words) "depth of uncontained happiness and celebrations" every time Ryan, during the span from 2009 through 2012, "suffered" pain or loss. Including the suicide death of Ryan's son in Fall 2010. She will name names and her vivid recall of content she first-hand witnessed. Jane Doe's testimony gives yet another confirmation that prosecution knew all along they had no case of crime without hearsay, falsification, embellishment and collusion.
- John Doe #1: Male, who worked in close proximity to Ryan alleged res gestae individual Staci Jongsma. Will testify to a public encounter with Jongsma (then a CDOC employee after termination by Ryan from Ryan's corporation). Will testify in specific detail, in a very public place, of Jongsma's "lust" (his word) and her loudly vocalizing how she and "others" were "gathering everyone and taking her (Ryan) down".

- John Doe #2: Male, prominent local businessman, who (repeatedly) was *solicited* to join this gang. Will testify that he participated in one brief phone call exchange and felt "so sickened" (his words) by the personal malice, and that none of it pertained to the reality he knew and saw; so he chose to disengage only to be continually "pumped" (his word) to re-engage. Rising to the level of anger, he gathered and retained details.

CLAIM FOUR: The Rao charge

Ryan, under new evidence Claim five, will bring forward facts regarding Rao claim that were not heard previously and that are exculpatory in showing Rao as having committed perjury and collusion. For purposes of whether or not it was Ryan who cashed the Rao check, received the monies and spent/benefitted from the full amount of those monies: The payment, from Rao, for fully rendered (and) accepted (and) kept services of design measuring, schematics and locating furniture, windows, window coverings, lighting and decor; was placed into the Alpine Bank checking account of Ryan's daughter and corporate Vice President's Brynn Hyatt, who at the time, was engaged to Matt Hays. The corporation was closing down and as shown at trial; Ryan and Hyatt had no alternatives but to use personal account of Hyatt, to finalize business needs. Matt Hays, clearly forced and intimidated Brynn Hyatt, to give the Rao funds to him, as both were financially suffering, same as Ryan was, as the corporation collapsed. ***Let Ryan be heard with crystal clarity now:*** In no way, did Brynn Hyatt, remove or utilize the Rao charged monies. She was clearly forced and intimidated to *not* return the monies to finalize corporate needs. Ryan, at the time, had years of history with this boy, over his using of her daughter for a place to live without paying rent; a means of setting himself up in the tattoo business and overall treatment of her daughter. As Ryan had no control over the account; she could not stop Matt Hays. At trial, her daughter Brynn's distress and obvious coaching during testimony, with Matt Hays in courtroom were obvious to Ryan. Brynn's repeat, by rote, of same words over and over again were obvious. Goudy's bringing forward of the description of a well-known interrogation tactic, used by prosecution, on Brynn in 2010 and 2011; where threats of "being in trouble", "imprisoned", was also a factor, in Ryan stopping Goudy, mid-cross as Goudy began to delve into just how much Brynn was paid as the business closed down. The only way, (or, would appear to be), to "he said, she said" between Ryan and Matt Hays now, is to hostile confront at new trial. Not so. The evidence of the Rao monies and who "took" them, are already on file as financial exhibits. Brought in by prosecution and their assumption that the records were derogatory to Ryan. In actuality, Matt Hays did go on, with the Rao monies, and open a new, ***joint*** account with Ryan's daughter at Alpine Bank and those records; Ryan will compel under compulsory processes at new trial.

Summary of Claim Four: Shawnee Ryan, was charged, tried and convicted;

serving now 6 years of punishment on the *merged* claim/charge ofNalini and Gutti Rao, when, in fact, Shawnee Ryan had nothing to do with the theft of the Rao monies. That theft was committed by Matt Hays. Brynn, has now had 6 years to do the right thing (and) was forewarned earlier this year, that exposure, if need be, would be coming forward in this filing. This matter is clear error. Ryan is not guilty (or) responsible to the Raos'. "No way the jury could have reached the conclusion it did." **Hampton v State 961 N.E. 2d 480 (Ind 2012).**

CLAIM FIVE: **Failure by Court and Defense Counsel to bring forward McCrohan's Subpoena duces Tecum (and) Conway's sworn affidavit attached to Motion for Special Prosecutor** ·

Both of these events are fundamental errors and breaks in structure.

Attorney #1, Stephen McCrohan, filed a Subpoena ducesTecum immediately upon entry on or about October 4, 2010, which obviously went in depth on 'how' prosecution obtained the testimony of their employee; Cindi Duffy. Prosecution refused to honor the subpoena and claimed as not yet ripe and a "shotgun" approach. The court, placed the subpoena duces tecum into abeyance on October 21, 2010 (transcript pg 12 and pg 13 through line 14). The subpoena, though reminded by James Conway as "still out there" during other pre-trial hearings; was never honored by prosecution nor did the court force the discovery by ever taking the subpoena out of abeyance. At trial, former State Investigator Beth Bascom slipped, in testimony (transcript of8-9-12 pg 269 lines 19-23; pgs 298-299 through line 25 with emphasis on lines 13-19 on pg 299); and revealed that prosecution had "made" Cindi Duffy go into a room with them until she was persuaded to testify and "admit". Cindi Duffy, however, was not a testimony at trial and prosecution went to significant lengths to keep her in the background. If Ryan and McCrohan's subpoena had not been machinated into abeyance; this suborning of Cindi Duffy would have been revealed and able to be used in defense moves for special prosecutor. In addition to the fact that prosecutor suborning of a witness should have been presented to the jury.

However, when ADC Goudy preserved Bascom's confession to record and requested reopen of special prosecutor; this court denied. Citing unwillingness to "stop trial now".

At time of filing for Special Prosecutor, Conway attached his sworn affidavit citing his belief that Martin Beeson had a personal and special interest involvement. On direct appeal, COA cited that proof that a district attorney "... stands to receive some personal benefit or suffer from some detriment from the outcome of the prosecution that is unrelated to his duty to enforce the law." COA then went on to specifically point out, Goudy's entire presentation was based on Cindi Duffy not testifying. And therefore, they were limited to review. On stand, and under examination by Andrea Bryan, Bryan referred to email between Bascom and Ryan. Bryan was attempting to show Ryan as "uncooperative" with being questioned during the in-house investigation by prosecutors. Ryan, in reality, had hired a local attorney, Greg Greer, to speak with Bascom and upon his advice, Ryan declined further interviews without his presence. Which, obviously, since never called or asked again; prosecution

declined. The timing, was late Fall of 2009. As Bascom had stated to Ryan that her

investigation was completed; (Ryan was not charged until over 6 months later, and then, only upon Anthony Durrett, through John Virgili, pointing out to Beeson that Ryan had "left off' seven individuals on her personal bankruptcy petition and that, in itself, was "criminal") Ryan was attempting to pick up the ashes of her and her family's life/lives and upon advice of a business friend; approached then gubernatorial candidate Scott Mcinnis for advice on what to do with all Beeson had not dealt with in the reveals of Marianne Virgili's alleged fraud against Ryan, her children and her corporation. Beeson, at the time, was in a tight race on 3rd congressional district against Scott Tipton. Ryan's contact was to Mclnnis campaign manager Gary Roahrig and Roahrig to Mcinnis. Lou Vallario also in the mix of the communication, which occurred on or about December 23, 2009. Mclnnis's counsel was for Ryan to take the entire thing to State AG for investigation. Less than 32 hours later; Beeson announced his dropping out of the race against Tipton citing (Westward Blog, Denver Post, Grand Junction Daily Sentinel) that he had some major cases in his district that needed him and his attention. The only major cases and investigations on Beeson's desk were Lofgren, Bebb-Jones and Ryan. At trial, Bryan claimed the email between Bascom and Ryan was in exhibits. And clearly stated: "..you also put something else in that email, didn't you?" To which Ryan replied strongly: "Yes, I did." What Ryan "put in email' to Bascom; was reference to Mcinnis referring Ryan to State Ag. Conway's sworn affidavit of his belief of Beeson's personal involvement is based on the public defender's investigation of Ryan's exchange with Mclnnis and Beeson's resulting malice toward Ryan. Which Conway never brought forward and which Ryan included in her formal complaint to State Defender Wilson in latter 2011 and then filed, along with Amy Devan's findings, on December 14, 2011. Again, Conway's employment on Jan. 23, 2012, was given option of termination (or) 'early retirement'. Conway, took early retirement.

CLAIM SIX: Prosecution fail to investigate

Ryan claimed, through district levels, and sought prosecution redress under law, that 404b "investigator" and alleged witness Marianne Virgili, had allegedly committed financial crimes against Ryan, her daughter Brynn, her corporation and then allegedly attempted to cover up those crimes through all the avenues Virgili chose; including alleged witness tampering, direct and indirect coercion of Ryan's children, charged victims and numerous alleged witnesses. ***All*** efforts, by Ryan or her counsels, to bring forward supporting evidence of Ryan's claims; were repeatedly quashed by the trial court. At trial, Ryan brought forward defense witness, Anita Bishop. However, due to court's refusal of confrontation evidence; Ryan could not question Bishop on Bishop's involvement with State AG regardingVirgili and the public claims of corruption which had surrounded Virgili for over a decade and

included Ryan and her family as victims. In 2011, Bishop filed a formal private citizen complaint to State AG, requesting investigation into Virgili for fraud , embezzlement from public funds, credit and power abuses against numerous victims and named also; Ryan and her family. State AG responded to Bishop, in formal written format, with a copy to Beeson. Referring, under Home Rule law, back to Beeson for investigation and potential prosecution of Virgili. Not only did Beeson disregard State AG; he knew, as far back as that point in 2011, that his investigation was duty bound to investigate ***all*** evidence. Including exculpatory to Ryan.

Undeniably, when Bishop was on stand, Bryan was fully aware of who Bishop was, or she should have been made aware by Beeson. The evidence of State AG's referral back to Beeson had also never been disclosed to defense in discovery. As such, Goudy refused to bring up at trial, despite the fact that Ryan had requested and then pressured Goudy to obtain from Beeson for months prior. Prosecution, at trial, in final moments, brought Marianne Virgili to stand as an alleged 404b witness. Asking, sugar-coated questions of her. On cross, Virgili confessed to collusion with others to "investigate" Ryan in order to "help" "society", at large. Confessed to soliciting Ryan's ex-husband Jim Ryan and Ryan's children. Confessed to "disbursing" "internet biogs" and "Rip-Off Reports". Confessed to credit card kiting in Ryan's store utilizing credit cards taken out in her name on Glenwood Springs Chamber Resort Association (and) Tourism Board credit ability (albeit she nonsensically attempted in testimony, to backtrack her credit statements by somehow blaming 'Ryan' for "using" these same cards, which never were in Ryan's possession). Blatantly obvious confusion, for an obviously inept trial attorney in Kathy Goudy; just left the cache of Virgili testimony to sit.

Summary **of Claim Six:** Ryan is statute and constitutionally allowed the rights to full investigation of all evidence and facts. In this claim, while prosecution most certainly would not have been prepared for Marianne Virgili on stand; Martin Beeson had an absolute duty and obligation to uphold the referral of investigation by the highest law enforcement the state has; which is State AG. A referral received by Beeson in the early days of pre-trial. Lack of investigation is :fundamental error disabling Ryan a fair and impartial trial. "Has absolutely no discretion to avoid the
law." Cozall v State 897 N.E. 2d 478, 483 (Ind 2008). Beeson, knowingly ignored his obligations.

CLAIM SEVEN: **Ability to confront denied**
On direct appeal, COA, due to Goudy only bringing forward her claim that the failure to bring forward Detective John Hassel, of City of Glenwood Springs Police Dept., as proof Ryan was unable to confront charged victims, 404b and res gestae individuals; stated: "We decline to address....because she does not adequately present the issue for appellate review. We decline to review it." COAalso stated that they acknowledged the court had "minimized potential for prejudice by issuing a limiting instruction to the jury prohibiting it to consider the evidence for an improper purpose." Ryan asks: How, exactly, can a juror "consider" evidence they have never heard due to the court's simultaneous refusals and denials to allow confrontation? Which has absolutely ***nothing*** to do with the ***allowance*** of hearsay? Two entirely different entities. In fact, Rule 404b, all hearsay rules, backed up by

Extensive case law and constitutionality; demand hearsay, including the hearsay of res gestae; to be given extensive scrutiny. Ryan brings forward following "new" evidence, as it was "spoken", under oath. It was not "heard" due to zero questions of impeachment. All below, falls within perjury, clear error and false/knowingly false testimony:

- **Debra Streit:** testified as to Ryan's alleged theft of alleged monies Ryan owed Streit as a former employee. Further went on, claiming financial loss for Ryan allegedly using Streit's cell phone. Further went on denying public writings claiming Ryan a "sociopath". Further went

on, denying any part in gathering a spreadsheet of civil case data in Ryan's name from this court's clerk in Garfield Combined Court's office. Further went on claiming Ryan had refused to resolve Streit's alleged attempts to resolve. Reality, is that Debra Streit was 1099 hired, on a trial basis, at a time that Ryan was searching for an ***interior designer.*** Streit is an ***interior decorator,*** by the admission of her own resume. Two very different talents and education levels; with a decorator under the standard of a designer. It became obvious, near immediately after hiring Streit on contract trial; that she was not a fit. Ryan then allowed Streit to work from home under certain performance requirements which Streit did not meet. On termination of Streit; Streit attempted the claims of cell phone "not returned" and an extraordinary excess of hours "worked". In civil court, Judge Paul Metzger clearly did not believe Streit's cell phone claims after seeing Ryan's Verizon evidence. Streit, very clearly, in written resolution with a court arbitrator; admitted Ryan had no wrongdoing of any kind either phone or monetary obligation. Then and only then, did Ryan agree to settle. This Streit claim was fully settled, was not criminal and was discharged in bankruptcy. Proof, is as easy to reveal, as picking up the civil court file and revealing the arbitrated agreement (and) reviewing Ryan's bankruptcies which were not allowed entry into pretrial and trial. Streit was impeached by the mental health worker she allegedly spoke to claiming that the worker had ..diagnosed" Ryan as a "sociopath". The chaos of this trial, throughout, with all of its fragmented prosecution unconfronted; prevented Ryan from tying Streit to the impeachment. The court clerk, who ***did*** give Streit; who openly admitted ***at civil proceedings*** (also on record at county court level) that she was assisted; with investigative help in 'gathering all' civil and family files available; was filed upon, by Ryan, a formal complaint to head clerk Dawn Capwell. A record of which, is on file. Streit's perjury, her lying to prosecution, court and jury that "crime" had been committed against her when she knew full well that a civil court, under her oath, held no wrongdoing; renders Streit as a false charge and able to overturn.

c **Michael and** Cindi **Duffy:** All previous Duffy statements and reveals in this filing, also stand here. In civil file, Ryan filed formally, her attempt to pay ¾ of monies owed Duffy as a refund. Less the restock fee of 25%. Judge Metzger accepted Ryan's notice to the court that she attempted by cashier's check to refund Duffy and Duffy refused. The attempt, is formally on file, along with Duffy's refusal. Clearly showing that Ryan's intent was to pay, not deprive. At trial (though, to Ryan's knowledge, Duffy unaware of the court's (Metzger) acceptance of formal filing); the Duffy charge of alleged "criminal" activity reduces to 25% of amount charged. As this civil matter was also resolved/discharge in bankruptcy with Duffy's (both) admittances in "bringing down" Ryan; and end result being bankruptcy; the Duffy charge is a false charge. As **Ryan paid** the 25% restock fee and never received it back' the Duffy's were also listed as uncollected assets in Ryan's discharged corporate bankruptcy.

c. **Forsman:** On stand, both Forsmans confessed to collusion with "others" in efforts to "bring down" (Joe Forsman) Ryan. On stand, both Forsmans confessed to having received Pay Pal return of funds Gust under $1,000) which Ryan had told them she had credited back (refunded) to them. Prosecution charged Ryan, with that amount included, when Forsmans actually had the Pay Pal funds in their possession. On stand, Joe Forsman, admitted to having "picked up" the decorative tile of his order, and did so, from lfyan. Prosecution charged the entire tile order,

against Ryan, as "theft". The decorative tile was, in fact, the most expensive portion of the order and by Forsman's admission, not "stolen", at all. Admitting to "picking up" that portion of the order, clearly shows that Ryan did place the order, paid for the order. The fact of a portion of the order being backordered; is believable. As Ryan went through pretrial, and trial, one of the difficulties of the court not allowing bankruptcy evidence in, is that Ryan, had been micro-detail investigated by Trustees; due to the large debtor amount of uncollected assets (accounts receivable which Ryan had been unable to collect). Forsman was discharged in bankruptcy as "no criminal activity, no fraud, filed in good intent". Facts, which the Forsmans did not dispute to Trustees (or) declare as adversaries. Nor did prosecution. In fact, theis court, under Ryan's Motion for Prosecution Sanctions; holds evidence on record; of the Forsmans 'triple dip' into Rayn's finances, by applying for Chapter 13 payments ***after*** having Ryan "taken down" by arrest. In other words: kept Pay Pal, kept the tile, took 13 payments, have taken restitution payments for 6 years. Also on stand, Joe Forsman admitted to picking up decorative tile when Ryan was moving her store. Ryan, when backordered tile came in, was moving again, and tile was in storage. A storage later confiscated by Beth Bascom's order to Garfield Sheriff and Smokey Torres. Joe Forsman admitted, on stand, that his pressure upon Ryan was premature of his project actually needing the tile. Ryan, was justified, in stating to Forsman that it was there, he could wait a few days and she would retrieve. At the time, Ryan had no knowledge of Forsman's multiple dips into collecting from her. Detective John Hassell was enabled by the court, to avoid Ryan's subpoena. One, of the exculpatory facts that Hassell holds as knowledge; is that he retrieved, without warrant and without difficulty, from Ryan; the entirety of Christopher Thomson's lighting inventory from Ryan's store. In that inventory, at trial, Susan Livermore testified that 100% of inventory was retrieved. Within that inventory, were Joe and Beverly Forsman's sconces. Which were, ***in the same technique*** of ***natural rusting*** Thomson uses; in latter stage of rusting. Joe Forsman complained, on stand, as to being "double charged" by Thomson and went into quite dramatic verbalization, denigrating and mocking of Ryan's holding the sconces for rusting, with his project not being anywhere near ready for install. Joe Forsman, through Bryan, elaborated on his belief that Ryan "was a bad person" and "deserved what she got". *Any* extra charging, "at a discount", by Thomson Lighting (River, Inc.) to the Forsmans, after Thomson had returned to them all inventory, is not a "theft" committed by Ryan. River, Inc. is an uncollected asset, for monies they owe Ryan, on Ryan's bankruptcies.

Summary of Forsman: I) Prosecution, by relying on hearsay and guessing at dollar amounts to charge; missed deducting pay pal, decor tile and lighting from Forsman. As to backordered tile in storage, which went into Bascom and Garfield Sheriff's hands; Forsman's claim and charge of "theft" against Ryan calculates in value down to $0.00. 2) As to the problem of Forsman and the other six charged victims, records and investigations from Ryan's side: ***being in federal trustees hands, in a civil bankruptcy. which Forsman and the other six raised no protests to trustees over;*** Ryan states again: State did not hold, nor does hold to present day, sovereign jurisdiction over Ryan and the seven charged victims. **Cullen, holds.** Jurisdiction and place of adversarial debate is held at federal level.

- **Ace Hardwood/Mark Syzneri:** 1) Motion for prosecution sanctions holds depth of details on the jurisdiction and impeachment issues of the Ace Hardwood/Mark Syzneri charge. Ryan refers court back to Sanction Request #1. 2) Jurisdiction and active prosecution, remained held by Travis County Texas until 2015. When, after exposure by

Ryan's sanctions motion, prosecution was prompted to close Travis County. Prosecution, did nothing, however, in their self-serving response to sanctions motion, to notify the court of Ryan's accuracy over jurisdiction. The issue of jurisdiction and Ryan in double jeopardy over the Ace charge, was preserved to record at trial, by Goudy, yet Goudy, utterly failed, on appeal, to raise the issue and thus, COA could not review. 2) Prosecution, went into the same attempt to demonize Ryan, with their alleged 404b witness; Gerry Hazelbaker. The issues of impeachment ability, for Ryan, with Hazelbaker; are numerous. Yet, court denied Ryan ability to confront. Relevant now are the two jurisdiction issues that arise in the Ace charge. The first, is that Travis County, Texas; held jurisdiction over Ryan prior to warrant, at arrest, all through pre-trial, through tri,al through conviction, through "merger of punishment", at sentencing and through three years of incarceration. This court; did not. 3) The invoice for wood delivery and the elaborate declarations by Bryan and Hazelbaker at trial were nothing more than Ryan had "piggy-backed" a delivery of a small amount of replacement mesquite flooring (a different size, thickness, width) for Hazelbaker's project in ***Garfield County*** onto a delivery for a project in ***Eagle County.*** The check in question, on the Ace charge, was for the Lewis Lane, Eagle County project and had absolutely nothing to do with Hazelbaker, who, was actually, by his own admissions, under Ryan's mechanic liens on his Garfield County project(s).

Summary of Ace/Syzneri: 1) Interstate jurisdiction is a fundamental error and break in structure. 2) County jurisdiction is a clear error albeit a seemingly slight and possibly reversible; it becomes fundamental due to the (per COA) misapplication of statute in not bifurcating all charges into separate trials. Syzneri claimed over $20,000 additional dollars in "fees and costs" that this court allowed; at 12% interest into restitution. Which (per COA) constitutes “punishment" and penalizes Ryan beyond simple conviction and punishment once only. As :fundamental and clear; the charge should overturn. **Cullen, again holds.**

- **Cogswell:** 1) On stand, Cogswell admitted to being refunded on his credit card, but "did not understand" "how that worked". Prosecution, still charged Ryan despite Cogswell not being owed any monies by Ryan. 2) Cogswell further admitted on stand, as to not having "actually run through" his bank; the check he then received and claimed as "NSF". And, that a friend, "later" did "NSF stamp" the alleged NSF check. Prosecution charged Ryan for an alleged NSF check. 3) Prosecution again, under 404b and put Architectural Door Hardware's owner (one of them) on the stand. Who made elaborate and false claim to being the "only" Rocky Mt. Hardware Ryan "could purchase from". Rocky Mt. Hardware, at slightly above cost, was and remains, available to anyone to purchase in hundreds of outlets nationwide. Ryan's outlet was located in Georgia. 4) This 404b, on Cogswell, was unable to be confronted.

Summary of Cogswell: Clear error exists as Cogswell's charge includes, by his own confession, monies in his possession, not "stolen", by Ryan. Ryan's restitution includes the error with Cogswell collecting for the past 6 years. Cogswell also falls under Ryan's bankruptcies jurisdiction as a creditor due to Ryan's bankruptcy attorney, Pete Rachesky's protection of Ryan by placing Cogswell's lack of candor over refund into bankruptcy petition.

- **Russell:** 1) Gary Russell admitted on stand to owing Ryan 20% commission on all sales. Further

admitted to debt to Ryan for sales of goods she had made. Further admitted, to a $3,200 sale price of the metal art piece as being what the purchaser had told him. Russell boosted, on stand, that he had"beat"Ryan in civil court and "won judgment" against Ryan. Russell went on to complain that Ryan had placed him into "her bankruptcy". Which, according to Russell is "why" he participated "with others" in "taking (Ryan) her down".
2) The dispute, between Ryan and Russell, was only over the *balance* calculation, after Ryan deducted, from $3,200 sale; her 20% commission and Russell's debt. Which, Russell took to civil court and was granted, by default as Ryan appeared in Glenwood Springs, not Rifle. Ryan was cited for contempt by not appearing, which was dismissed on Ryan's explanation and proof of appearance in Glenwood Springs. Russell, bodily removed, by deputies and judge, in Rifle, for verbal assault and obvious physical anger.

Summary of Russell: Again, prosecution charged, not only out of jurisdiction, but also a resolved in civil proceedings claim. Russell has collected, for 6 years, monies he could not win at same value in civil court (and) resolved at civil court level. Nor, did Russell raise ***any*** protest as an adversary at federal level, as he knew, that as both a creditor ***and*** an uncollected asset, he owed monies to Trustees. For 6 years now, Russell has double dipped, by collecting restitution on funds discharged at federal jurisdiction level. Russell is fundamental and clear error.

" 404 b testimonies of Barth, Grubisha, Wentzel, Wayne, Ostberg: All, committed multiple counts of perjury. which Ryan was unable to confront due to court's denial of reverse 404b; allowance of clear evidence and bankruptcies. Perjury constitutes clear error and, in this case; as prosecution admitted to record that they knew all along they had no case of crime unless granted 404b and alleged res gestae; also constitutes fundamental error and break in structure.

- **Staci Jongsma:** Jongsma was brought forward as an alleged res gestae testimony. At the time, prosecution did not inform court or defense; that Jongsma was an employee of CDOC; which, would have disqualified Jongsma from ability to testify. 2) On stand, Jongsma, under oath, based the entirety of her alleged expertise on her claim of being Ryan's "Chief Financial Officer" when, in fact, Jongsma was Ryan's "Chief Operations Officer" whose duties included shop-keeping, clerical, receptionist duties. At no time, was Jongsma *ever* in contact or handling of any financial matters of Ryan's corporation; other than a daily walk to the bank to make deposit drops. 3) Jongsma, on stand, claimed she "had quit" Ryan after one of Jongsma's paychecks had bounced. But, the check then did clear and Jongsma paid. In fact, Staci Jongsma, was on probation, with the understanding that if she could not improve performance; termination would occur on a set date. Jongsma, did not show for work on the deadline as she knew, Ryan had hired her daughter Brynn as full-time and that Ryan had already verbally prepared Jongsma for termination forthcoming. Fortunately, Ryan fortuitously ***wrote*** the extensive terms of Jongsma's employee performance and probation terms (and) gave Jongsma a copy of those expectations and terms. Which included, terms of release of Jongsma's final paycheck. Jongsma, in her anger (and unknowing to Ryan at the time, participation with others in "taking Ryan down") near immediately filed a claim of Ryan "not paying her" with small claims court (and) with Division of Labor and Employment. Ryan, quickly and without incident, resolved Labor division. And, let Jongsma sit, until Judge Metzger's court date after seeing Jongsma's false statements in her claim. At trial, Ryan, after Metzger's review and on his order, allowed Ryan to preserve facts and place the probation

documents into court record. Which, completely absolve Ryan from Jongsma's fabrications, reveal her true employment status with Ryan and further contain ***Jongsma's*** confession to record of the document's validity and truthfulness. As Ryan achieved what was needed and intended to pay Jongsma all along; Jongsma received payment at conclusion of hearing. 2) Ryan, is in litigation with CDOC (et al) at federal level. Among the issues is special needs parole release. For over (2) years, this court's 404b individuals have flooded parole board in the ongoing (apparently) effort to "take Ryan down". Ryan, has irrefutable proof, that Jongsma, by however the means she gathered the information, appears to be acting as this group's "investigator"with access to PCDCIS tracked inmate data not publically available. Ryan, should-this petition go forward by court choice of new trial rather than dismissal; is bringing forward that evidence. As is she bringing it forward also in other litigation against CDOC.

Claim Eight: Judicial bias

1) Your Honor, to record, in the criminal case of Robin McMillan, brought forward her clear view point, obviously personal and obviously biased, that McMillan was being handled and "show" (“shown") how we handle cases like Shawnee Ryan here". Which, McMillan, on appeal, was COA granted as judicial bias and a break in structure. 2) Until now, Ryan has/had not risen far enough in appeals process, to get to record placement, the sum total result of ***how*** ***many times*** Your Honor, under power of discretion, went clearly against the logic and effect of the facts and circumstances continually placed before her and spanning years **(Turner v** State, 953 N.E. 2d 1039, 1045 (Ind 2011). Therefore, Ryan, including through various counsels, has been unable to concisely list an argument for abuse of discretion. 3) Your Honor's path has overlooked mandatory law, impermissible hearsay (Rule 802 internet, hearsay within hearsay, etc) collusion even when admitted by charged victims, perjury, a prosecutor knowingly ignoring obligations who defense is/was not even allowed to confront. Cumulative prejudicial 'evidence' that was not "evidence" at all, but was, rather, already civil resolved and also; hearsay. 4) Your Honor, in Ryan's view, even when faced with Ryan's mortality and CDOC (et al) hardship; has refused, at every tum, even ***hearing*** any evidence brought forward (and/or) obviously ***able*** to be brought forward.

Summary of Claim Eight: Ryan believes, with no prejudice to Your Honor (or) this Court's authority; that District Court Judge Denise Lynch, is biased and compromised in this case. To the extreme that she will never allow facts and evidence to come forward; that clearly ***back up*** prosecution's confession at Jury Instructions Hearing that they knew all along that they "had no case of crime", "must acquit" ***unless*** "allowed"; hearsay. Your Honor's bias is both fundamental and clear error. It is also, personal and has no place within a court of integrity.

8. Grounds for this petition are as follows:

*) (b): 1,3,4,5. All, stated factually within petitions as claims one through eight.

9. This petition is filed within tolling. 3 year tolling ends on June I, 2018.

Shawnee R.yan pleads this court to overturn conviction, based on law and constitutionality as shown.

Ryan further pleads, as Ryan has been incarcerated in **this case for six years; that overturn and dismissal is granted with prejudice.**

Ryan also pleads for all relief available.

Respectfully submitted this 30th day of May, 2018.

Shawnee K. Ryan

Certificate of Mailing: Placed postage · e/date official stamp of CDOC in the legal mail system on May 30, 20 8. Shawnee K. Ryan Clerk of Court, 109 Eighth Street, STE 1 4i!A",Jl""-llwood Springs, CO 81601.