IN THE SUPREME COURT FOR THE UNITED STATES

No._____

JASON KOKINDA, PETITIONER

-=VERSUS=-

ROBERT GILMORE, SCI-GREENE Superintendent, JOSH SHAPIRO, the Attorney General of the State of Pennsylvania, and JAMES B. MARTIN, the District Attorney of the County of Lehigh, RESPONDENTS,

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR WRIT OF CERTIORARI

/s/ Jason Kokinda #308

Jason Kokinda, AR
38 N. Main St., #1028
Waterbury, VT 05676
802-391-0921

QUESTION PRESENTED

1. If the Commonwealth suppressed all of the evidence that the Defendant **Knew** with certainty that their agents were **Adults**, (In what was framed as a "To Catch A Predator, Sting") how could there be any question that the Courts are corrupt beyond comprehension, when they feel comfortable making nonsense excuses to protect fellow officials from severe damages for outrageous conduct (even fixing the most critical legal processes to fall on birthdays of Jason Kokinda and his Family for Masonic Occult power, *inter alia,* as death threats)?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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FEDERAL CASES:

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[X] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

[ ] For cases from **state courts**: N/A

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the N/A court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

JURISDICTION

[X] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was November 9, 2017.

[ ] No petition for rehearing was timely filed in my case.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: January 11, 2018, and a copy of the order denying rehearing appears at Appendix D.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___ _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[ ] For cases from **state courts**: N/A

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___ _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fifth Amendment, due process clause provides in its entirety that "No person shall be ... nor deprived of life, liberty, or property without due process of law," U.S. Const. Amendment 5.

Sixth Amendment, due process, right to counsel provides in its entirety that "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense." U.S. Const. Amendment 6.

Fourteenth Amendment, due process and equal protection clauses provide in their entirety that "nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws." U.S. Const. Amendment 14.

18 Pa.C.S . A. § 6318, Unlawful Contact with Minor:
(a) Offense defined . --
"A person commits an offense if he is intentionally in contact with a minor, or a law enforcement officer acting in the performance of his duties who has assumed the identity of a minor, for the purposes of engaging in an activity prohibited under any of the following, and either the person initiating the contact or the person being contacted is within this Commonwealth:"
(Followed by a list of Chapter 31 sexual offenses against actual persons, of open lewdness, prostitution, obscene materials, and sexual abuse and sexual exploitation of children.)(emphasis added)

STATEMENT OF THE CASE

Statement of Proceedings:

1. On August 15, 2007, Jason Kokinda was arrested and charged with 4 Counts of 18 Pa.C.S.A. § 6318, Unlawful Communication with Law Enforcement (assuming the identity of a Minor,) and 1 Count of 18 Pa.C.S.A. § 7512, Criminal Use of Communication Facility.

2. On November 9, 2009, a jury was selected for trial. On November 10, 2009, the prosecution presented its case of *materially misrepresented* evidence in a vacuum, On November 12, 2009, counsel abandoned the Defendant, Jason Kokinda, and forced him to enter an unlawful open plea of "guilty but mentally ill" to all five counts, without any factual basis for plea established.

3. On February 17, 2010, Jason Kokinda was sentenced to a total term of three(3) to seven(7) years incarceration; and ten(10) years of registration under Megan's Law. Trial counsel never filed a notice of appeal, and thus no direct appeal was ever taken.

4. On February 13, 2011, Jason Kokinda filed a petition for post-conviction relief (hereinafter PCRA). After denying the Defendant his case-file and trial transcripts, the PCRA Court denied the petition on September 6th, 2012, with no reason given.

5. Jason Kokinda timely filed a "Notice of Appeal," September 25, 2012. On October 24 , 2012, Kokinda timely filed a requested Pa.R.A.P. 1925(b) Statement of Matters Complained of on Appeal, which the Judge used to unlawfully waive all issues by inapplicable vagueness waiver.

6. On December 13th, 2013, the Superior Court affirmed the September 6th, 2012, denial of PCRA Relief, by simply concluding that the February 20th, 2013, opinion was the explanation.

7. On March 1, 2013, Jason Kokinda timely filed for habeas corpus relief in the U.S. Dist. Ct. for the Eastern Dist. of Penn. after being obstructed review in state courts.

8. On May 24, 2017, Judge Jan E. DuBois denied the habeas petition by limiting claims to those fabricated by the Lehigh Judge. On May 30, 2017, the Motion for Reconsideration was denied.

9. Jason Kokinda timely filed an Application for Certificate of Appealability in the U.S. Court of Appeals for the Third Circuit that was denied on November 9, 2017. On January 11, 2018, the Petition for Rehearing was further denied.

Statement of Facts

1. The "To Catch A Predator" TV series publicized the outrageous consequences for having cybersex with minors online, and/or attempting to meet them.
2. By the time that Pennsylvania amended its statutes to allow for these types of stings in 2006, no one in the country was dumb enough to message an anonymous minor online (knowing that cops were flooding chatrooms and pretending to be minors).
3. Out of desperation, the agents of the Pennsylvania Office of the Attorney General, began to unlawfully apply their stings in chatrooms where it is **lawful** to use rhetorical ages for satirical "young girl/older man" cybersex role-play games (because they are noncommercial. And because age-verification was deemed impractical by this Court in CDA ruling).[1]

[1] ***See*** *Reno v. ACLU*, 521 U.S. 844, 117 S.Ct. 2329 (U.S. (Pa.)1997), *Ashcroft v. ACLU*, 535 U.S. 564, 122 S.Ct. 1700 (U.S. 2002) (online communication regulations limited to commercial speech. Age-verification systems deemed impractical in noncommercial chatrooms.)

4. The agents knew it was such a chatroom, because there were hundreds of sexually explicit messages to their "young girl" characters every time they entered these chatrooms.[2]
5. The excuse of agents is an **evasive** answer "that they did not see the **disclaimer**," without addressing the substance of whether the chatroom was in fact role-play in nature.[3]
6. Jason Kokinda has **proven** that the agents unlawfully set up their sting on an age-oriented role-play cybersex chatroom (in final resolution of **core dispute** in case).[4]
7. He has therefore **proven** that the Commonwealth agents are **liars**, and that they *materially misrepresented* all of their chats to ***maliciously prosecute*** him.

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[2] *See* U.S. Dist. E.D. Penn., No. 5:13-cv-2202, *Kokinda v. Gilmore, et al.,* (ECF 42-16) PCRA Petition, Exhibit-G, Pg. 2, The Register article of independent reporters experience on same #younggirlsex channel as agents initiated sting in the case *sub judic*e. (Admits that participants must have thought characters were adults role-playing 2nd to last¶).
[3] *Id. at* (ECF 42-2) Notes of Testimony from November 10, 2010 Trial (hereinafter NTT) Pg. 75 L 1-15
[4] *Id. at* **Exhibit-Cote** of Motion to Supplement the Record (ECF 159) and Pg. 23 of (ECF 52) § 2254 Traverse (citing Amendment to Pg. 36 n.202 footnote, of § 2254 Memorandum(ECF 18) citing (ECF 42-15, 42-16, 75)).

8. All of the "young girl characters" in these channels would be **presumed to be adults** from the role-play context.
9. The State and Federal Courts attempt to affirm the conviction and claim evasion, by quoting trial counsel's excuse for failing to stop the malicious prosecution through sophistry and pure claim evasion.

10. The problem is that the Commonwealth suppressed all of the evidence proving that Jason **absolutely knew** it was an **adult** (from voice of woman calling him, contextual ip address info, and phone trace to a landline in Harrisburg [that proved the character was lying about having a cellphone in Allentown]), and had no interest whatsoever in their minor decoys at the scene.[5]
    (a) Trial counsel failed to obtain medical records that prove *more likely than not* that Jason had no sex drive, or sexual feeling, and that it would be unreasonable to theorize he would commit statutory rape based on role-play games.[6]

[5] *Id. at* (ECF 52) Pgs. 26-27
[6] *Id. at* (ECF 169), Motion for Reconsideration, *With Exhibits Proving Asexuality and Moral Innocence*

11. Even at time of plea, Jason Kokinda **never recanted** his after-arrest statement that "he **knew** the characters were adults role-playing pursuant to the long-established and published theme of the chatroom, *inter alia*."[7]

12. The only reason he was forced to enter defective trial waiver, solely falls on his attorney's failure to obtain the evidence in support of disputed "role-play context," and his attorneys idiotic belief that the stings are valid even if initiated in role-play games.[8]

13. Trial counsel utterly failed to make *any meaningful adversarial testing* of the case, and instead helped the Commonwealth frame Jason with **nonevidence** (of *rhetorical* **age** role-play games,) as if literal hard evidence of *criminal predisposition*.[9]

14. Jason Kokinda's claims for relief were perfectly presented at every stage of post-conviction process. The Courts simply **evaded** them

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[7] *Id. at* (ECF 42-1 to 42-7, Exhibit-A) NTT generally, Notes of Testimony, Guilty Plea (hereinafter NTGP) Pgs. 17-19 (ECF 42-8, Exhibit-B)

[8] *Commonwealth v. Flanagan*, 578 Pa . 587, 595, 601, 602, 607, 854 A. 2d 489 (Pa . 2004)(trial court's failure to obtain a factual basis for the plea and its incorrect statement of law applied to facts admitted in case, rendered plea unknowing.)

[9] *See* 5:13-cv-2202, *Kokinda v. Gilmore, et al.*, U.S. Dist. E.D. Penn. NTT Pg. 37 L 7-9 (ECF 42-1, Exhibit-A).

with bogus waivers and acting like idiots to protect their Commonwealth co-worker colleagues from the lawsuits and debt collections for their tragic civil rights violations.[10]

[10] *Id. at* , (ECF 1, 52) § 2254 Memorandum and Traverse, *generally*.

REASONS FOR GRANTING THE PETITION

The Commonwealth suppressed all evidence that Jason KNEW that their agents were ADULTS!

(In rebuttal, the Courts talk in circles: "The evidence proving the Defendant's **absolute innocence** is irrelevant, because we say the Defendant is **guilty**!)

A. Resolution of only material dispute

1. The only material dispute in this entire case of monumental significance is whether the agents initiated their sting in what was long-established as a *rhetorical* **age** role-play chatroom.[1]

(a) The various **independent** filings provided to the U.S Dist. Ct. below **harmonize** and thereby prove by the *preponderance of evidence* standard, that the #0!!!!!!!!!younggirlsex chatroom was *more likely than not* a fantasy role-play cybersex chatroom with rhetorical "young girl/older men" theme.[2]

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[1] *See Soo Choi v. Chul Lee,* 312 Fed. Appx. 551, 2009 U.S. App. LEXIS (Feb. 20, 2009) (explaining that such figurative speech cannot reasonably be interpreted as stating actual facts about an individual or individual's age in the instant case by analogy).

[2] *See* U.S. Dist. E.D. Penn., No. 5:13-cv-2202, *Kokinda v. Gilmore, et al.,* **Exhibit-Cote** of Motion to Supplement the Record (ECF 159) and Pg. 23 of (ECF 52) § 2254 Traverse (citing Amendment to Pg. 36 n.202

(b) The word of agents "that they did not see the disclaimer" is evasive and insufficient to conclude otherwise.[3]

(c) This means that the Commonwealth *materially misrepresented* all of the chats and so-called evidence, and committed <u>*Brady*</u> violations and perjury to cover it up.[4]

2. <u>*Brady*</u> violations of this nature could never be waived, since they undermine the existence of a *prima facie* case and very jurisdiction to prosecute (by proving the entire case against a defendant is a lie of fabrications and perjury).

(a) Under the established published laws, the Commonwealth had no evidence, no *prima facie* case, and no jurisdiction.

> "The continuation of the prosecution is dependent upon the Commonwealth's ability to establish a *prima facie* case against the accused. The finding of a prima facie case is the prerequisite for requiring the accused to stand trial for the charges leveled against him. *Liciaga v, Lehigh CO. CCP*, 566 A.2d 246, 523 Pa. 258, 264(1989)

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footnote, of § 2254 Memorandum (ECF 18) citing (ECF 42-15, 42-16, 75)).

[3] *See Id. at* Pg. 23 of (ECF 52) § 2254 Traverse

[4] *See Commonwealth v. Burke*, 566 Pa. 402, 781 A.2d 1136 (2001) (elements to establish Brady violation: (1) the evidence was favorable to the accused, either because it was exculpatory or because it impeached; (2) the evidence was suppressed by the prosecution, either willfully or inadvertently; and (3) the defendant was prejudiced as a result.

> "A *prima facie* case exists when the Commonwealth produces evidence of each of the material elements of the crime charged and establishes sufficient probable cause to warrant the belief that the accused committed the offense. *Commonwealth v. Huggins*, 575 Pa. 395, 402, 836 A.2d 862, 866, (Pa. 2003)
>
> "An objection to lack of subject-matter jurisdiction can never be waived; it may be raised at any stage in the proceedings by the parties or by a court on its own motion." *Commonwealth v. Little*, 455 Pa. 163, 314 A.2d 270, 272 (Pa. 1974)

B. Evasion of Claims by All Courts

1. The Courts have **wholly evaded** addressing any of the violations.
   (a) Because **all of the claims** are ultimately based upon the myriads of violations in *materially misrepresenting* the role-play chats as literal, and suppressing all evidence that Jason **knew** the agents were **adults**.
2. The Courts are relentlessly attempting to confuse the issues and wholly evade addressing the lack of jurisdiction. There is not one word in any opinion addressing the question of **extreme evidence manipulation** to cover up lack of jurisdiction.
   (a) The 4-27-17 R&R gives lip-service to *Brady* violations while failing to discuss their accumulative effect, that they

suppressed the evidence which demonstrated that Jason **knew** the agents were **adults** and that it was a role-play game.[5]

3. The Habeas Court even goes on to say that the **Medical records** of Jason's expressed lack of sexual desire and sensation are not evidence of *asexuality*.[6]

   (a) The Habeas Court further goes on to inexplicably allege that even if Jason was *asexual*, that he was still predisposed to carry out statutory rape.

4. This is a case of **national importance**. Affirmance of this tyranny allows officials to frame anyone by perpetually evading their actual claims.

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[5] In *Kyles v. Whitley*, 514 U.S. 419, 421, 115 S. Ct. 1555, 1560, 131 L.Ed.2d 490 (1995) (the U.S. Supreme Court held that the State's obligation under Brady v. Maryland to disclose evidence favorable to the defense, turns on the cumulative effect of all such evidence suppressed by the government.)

[6] *See* 5:13-cv-2202, *Kokinda v. Gilmore, et al.*, U.S. Dist. E.D. Penn. (ECF 169), Motion for Reconsideration, *With Exhibits Proving Asexuality and Moral Innocence*

(a) These officials are obviously the scum of the earth! They have no conscience whatsoever and will chop the head off a baby for a paycheck.

C. Actual Innocence Issue

1. Habeas Corpus jurisprudence is convoluted with waivers. Because this is an issue of **actual factual innocence** requiring ***de novo*** review, there is no need to tediously examine the records of this case to find the claims presented herein are undefeatable.[7]
2. The *Richter* presumption could never apply in this case. Because the attached opinions by the Courts fail to address the merits of issues, and fail to thus meet state opinion writing standards.[8]

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[7] *Jaramillo v. Stewart* (2003, CA9 Ariz) 340 F.3d 877, 2003 CDOS 7505, 2003 Daily Journal DAR 9407, request den (2006, DC Ariz) 2006 US Dist LEXIS 7298 (Under Schlup actual innocence gateway exception, inmate, who has procedurally defaulted claim, must present evidence to establish sufficient doubt about his guilt to justify conclusion that his execution would be miscarriage of justice unless his conviction was product of fair trial; standard of proof required to establish claim of innocence requires inmate to demonstrate that constitutional violation has probably resulted in conviction of one who is actually innocent, and that probaility is met if it is more likely than not that no reasonable juror would have convicted him in light of new evidence.)

[8] The Courts in the very least have omitted a critical dimension in an attempt to affirm at all costs. *Campbell v. Bradshaw*, 674 F.3d 578, 596 (6th Cir. 2012) (**de novo** review required, when State's framing or analysis omitted dimensions of federal claim rather than proper

See *Johnson v. Williams*, U.S., 133 S. Ct. 1088, 185 L.Ed.2d 105 (Feb. 20, 2013) (Extension of Richter presumption to cases where some claims were addressed: "[w]hen a federal claim has been presented to a state court and the state court has denied relief, it may be presumed that the state court adjudicated the claim on the merits in the absence of any indication or state-law procedural principles to the contrary.") (emphasis added).

See *Miller v. Stovall*, 608 F.3d 913, 921-22 (6th Cir. 2010) ("no state court ever decided the key issue upon which this case turns: whether the suicide note is testimonial [for purposes of Confrontational Clause doctrines]. Given this procedural posture AEDPA deference to the state courts is inappropriate because there is simply no analysis or conclusion on the central legal question on which to defer… [I]t would disserve comity should we be required to label the state court's decision an unreasonable application of law it never had occasion to apply.")

See also *Commonwealth v. Montalvo*, 114 A.3d 401, 2015 Pa. LEXIS 894 (2015) at II. Analysis: ("Of critical relevance to the present appeal, this Court repeatedly has explained that, in order to enable appellate review, PCRA courts are required to provide a "legally robust discussion, complete with clear findings of fact where required." Commonwealth v. Dennis, 597 Pa. 159, 950 A.2d 945, 957 (Pa. 2008) ("A generic statement that the record proves PCRA claims collectively non-meritorious tells us too little to support review."); see also Commonwealth v. Weiss, 604 Pa. 573, 986 A.2d 808, 816 n.4 (Pa. 2009) ("a fact-finding court should support its determinations with sufficient explanations of the facts and law, including specific citations to the record for all

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adjudication on the actual merits.); Townsend v. Sain, 372 U.S. 293, 312-13 (1963); Bundy v. Wainwright, 808 F.2d at 1416, 1418 (no deference to State, because state court proceedings were not "full and fair.")); "If a claim has not been adjudicated on the merits, a federal court will apply ***de novo*** review to pure legal questions and to mixed questions of law and fact." *Simmons v. Beard*, 590 F.3d 223, 231 (3d Cir. 2009) (emphasis added).

evidence on which it relies, and to the legal authority on which it relies, to facilitate appellate review"); Commonwealth v. Daniels, 600 Pa. 1, 963 A.2d 409, 435 (Pa. 2009) (holding that, where PCRA court failed to explain the basis for its conclusion that claims were meritless, we could not conduct meaningful appellate review)."

D. Constructive Denial of Counsel

1. When we look at what trial counsel should have done, and what he did, there is no means of finding *meaningful adversarial testing* or *effective assistance of counsel*. The Courts find counsel effective in a vacuum![9]

"[T]he adversarial process protected by the Sixth Amendment requires that the accused have 'counsel acting in the role of an advocate.' Anders v. California, 386 U.S. 738, 743 [87 S. Ct. 1396, 18 L.Ed.2d 493] (1967). The right to the effective assistance of counsel is thus the right of the accused to require the prosecution's case to survive the crucible of meaningful adversarial testing. When a true adversarial criminal trial has been conducted ... the kind of testing envisioned by the Sixth Amendment has occurred. But if the process loses its character as a confrontation between adversaries, the constitutional guarantee is violated." United States v. Cronic, 466 U.S. 648, 656-657, 104 S. Ct. 2039, 80 L.Ed.2d 657 (1984)(footnotes omitted)."

(a) Common sense dictates that counsel should have obtained medical records in support of **asexuality**.

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[9] *See Commonwealth v. Bryant*, 579 Pa. 119, 855 A.2d 726 (Pa. 2004) (claims of ineffective assistance of counsel cannot be sustained in a vacuum).

(b) Counsel should have had the role-play conjecture chats thrown out as *materially mispresented* **nonevidence**, and the case thrown out thereafter.

(c) Counsel should have demanded all of the suppressed evidence that further proved that Jason **knew** the agents were **adults**, and had no desire to commit any crime even when presented with decoys.

(1) Instead, trial counsel further discredited the provable role-play circumstances by **baselessly alleging** that Jason was *legally insane* and imagined it was such a chatroom (based upon brief drug-induced psychosis as a teenager and ongoing OCD anxiety disorder symptoms).

(2) For years, Jason was making hundreds of dollars an hour with mark up on wholesale parts and labor, and successfully started his own German Car Repair shop from scratch with no BBB complaints. The insanity defense was a total lie![10]

[10] *See Kokinda v. Penn. Dep't. of Corr.*, U.S. Dist. W.D. Penn., Case No. 2:16-cv-5, Exhibit 2C, of (ECF 72).

(i) The insanity defense was not a defense at all! It wasn't a confrontation between adversaries. It was a **collusion** to evade the fatal lack of *prima facie* case by further stigmatizing and discrediting Jason to make him look dangerous and stupid!

(ii) Only if analyzed in a vacuum, was there *meaningful adversarial testing*. When we see what the *affirmative defense* was used to cover up, the controversy on mental state was <u>not defensive</u> at all.

E. Certificate of Appealability

1. This is a simple case of **wrongful conviction**, where the issuance of a ***Certificate of Appealability*** is the first step in solving it, after a decade of relentless obstructions and denials by corrupt courts.
2. The record of this petition will forever stain the image of the judicial system, and will not be burned like Jason's condo.
3. Because the injustice in this case is obvious on the face of the record, the judgments of the Courts hold no *collateral estoppel* value, from the inherent lack of "full and fair" proceedings.

(a) With the Courts in conspiracy with the Commonwealth officials to obstruct justice in this case, the record validates the use of pre-judicial commercial debt collections in place of these corrupt judicial pretences.

4. Because the claims were **wholly evaded** (by regarding role-play chats as equal to literal chats, and suppressing all evidence that Jason **knew** it was an **adult,** and reframing the issues to make pretences of discussion) there is no question of whether **reasonable jurists** would disagree with an adjudication that was never addressed on the merits.

   (a) If the Commonwealth thought they could even fool a jury into believing they had *any* hope of conviction, they would not have lied and manipulated all of the evidence "to make it look like Jason without question believed their characters were real minors."

(b) The take away here is that fantasy role-play chats are not evidence, unless it can be demonstrated that they become plans to carry out logical crimes against a third party.[11]

(1) Here, the issue is like the old sophism "If a Rooster lays an egg on the top of the roof, which side does it roll down?"

(i) There are many ways to guess! Just as we can interpolate highly-subjective interpretations of fantasy role-play chats to presume whatever we want.

(ii) The problem is that Roosters don't lay eggs. And even if a **real 12-year old** misleads a defendant to believe that it is a role-play game, the defendant is not culpable.

(iii) Why would the agents be entitled to prosecute?

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[11] *See United States v. Valle*, 1:12 C.r. 847, (ECF 347), U.S. Dist. Ct. S.D. N.Y. (June 30, 2014) (Fantasy chats can be used as evidence when the Defendants conspire to commit crimes against Third Parties, and it can be proven that the fantasy elements are criminal plans by substantial steps to carry them out.)

(iv) It cannot become a crime to meet the same actor you and millions of others just had legal cybersex with, in role-play game.

(v) Sending explicit sexual photos of oneself and attempting to meet other participants is generally what happens in all adult-to-adult cybersex. It cannot become the *gravamen* of a crime here.

5. The Courts are just acting stupid and busy, so that they do not become criminally liable for conspiring with Commonwealth officials to make this case go away.

(a) They are busy enough to write detailed opinions of every element and claim that they make up out of thin air, and extremely crafty in minimizing and evading everything that defeats the Commonwealth.

(b) The culpability of the RICO judges is clear! Only an idiot would believe that they did anything other than conspire with the Pennsylvania Office of Attorney General to fabricate crafty opinions that evade the fatal well-pled defects in this case.

F. The Courts Talk in Circles

1. THE COURTS: "All of the suppressed evidence proving that Jason **Knew** the agents were **Adults** is irrelevant, because the so-called evidence presented [in a vacuum] indicates that Jason <u>believed</u> they were minors."[12]
2. THE COURTS: "Because the <u>*Brady*</u> violations were waived by the plea, counsel's failure to correct <u>*Brady*</u> violations inducing a plea are irrelevant."[13]
3. THE COURTS: "The Ineffective Assistance and Denial of Counsel claims are irrelevant, because counsel vigorously defended his client [in a vacuum]."[14]

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[12] *See* Appendix-G, Pgs. 7-8 of 1925(a) Opinion, February 20, 2013, Lehigh Co. CCP, trial counsel's excuse for not obtaining the evidence that Jason **Knew** the agents were **Adults** is that the misrepresented chatlogs seem to indicate that Jason <u>believed</u> the agents were <u>minors</u>.

[13] *See* Appendix-C, 4-25-17 R&R (ECF 150), Pg.36, The Court cites the wrong standard, because Jason did in fact go to trial. The Commonwealth was required to provide <u>*Brady*</u> evidence before a trial. The Court tries to pull a fast one in applying the standard for Discovery obligations without trial. She also cuts off the fact it is a sub-claim of Ineffective Assistance of Counsel and separately a sub-claim of Lack of Subject Matter Jurisdiction.

[14] *Id.* at Pg. 27

4. THE COURTS: "No reasonable judge would disagree with the lower court, because we say we are reasonable judges and we don't disagree."[15]
5. From day one the officials and trial counsel have maintained their nonsense criminal theory in a vacuum, disallowing any *meaningful adversarial testing* in discussion.
6. All of the Commonwealth's arguments altogether add up to a pile of stinking shit! That it is okay if Jason evidently **Knew** that the agents were **Adults**, as long as they can use sophistry to evade the Truth and dictate that he is guilty in a vacuum.

[15] Appendix-A, Third Circuit Order/Opinion.

CONCLUSION

The petition for a *writ of certiorari* should be granted forthwith, with a publicly accountable transparent Federal Investigation.

The only true lover of humanity,

Jason Krokindavetz-308

Date: March 13, 2018