

EXHIBIT "B".

12f. **Ground SEVEN:**

ILLEGAL USE OF VOID (OUT OF STATE) ALLEGED CONVICTION TO SUBJECT PETITIONER TO UNCONSTITUTIONAL PUNISHMENT AND MISAPPLICATION OF ALLEGED STATUTE, IN VIOLATION OF AMENDMENT V OF THE U.S. CONSTITUTION & 18 USC §§1001 & 1349.

a. **Supporting facts:**

After being DISCHARGED from the alleged Class-C Felony (5-year) conviction, Petitioner involved himself in Legal Research and discovered that NONE of the alleged GOVERNORS or LT. GOVERNOR'S of STATE OF HAWAII (1959 to 1989) EVER SUBSCRIBED to the required Oath of Office. In Hawaii the COUNTY PROSECUTOR(s) obtain their authority from the ATTORNEY GENERAL, and since there was NO VALID Governor or Lt. Governor to Appoint the Attorney General, the alleged conviction is VOID for lack of Subject Matter & Personum Jurisdiction. Petitioner stated this "fact" to the Court, but was denied & ignored (over Petitioner's strenuous Objections), and the "Attorney" who "handled" the Appeal refused to include the issue(s) Petitioner established and preserved on the Record. (See Proof of NO Oath(s) of Office by Hawaii's Archivist attached hereto as Exhibit "11"). Petitioner forced MR. JOHN WAIHEE to sign his Oath of Office in 1989, to validly enter the Office of Governor!

Petitioner testified to these facts and was not challenged by the Prosecutor. Petitioner's Appellate Attorney, Mr. Handy Horiye, refused to address the issue on Appeal even after being shown the documents (attached as Exhibit "11"). The Court ignored the Fact(s) and illegally sentenced Petitioner pursuant to the alleged [CPC §667] 3-Strikes Law in violation of 28 USC §§ 1738 & 1739. The documents are self-authenticating as they are not only from an alleged STATE AGENCY (Hawaii Archives), but were filed as Evidence in a Court case. The Court not only denied Due Process, but utilized a void JUDGMENT in so doing. Petitioner has been punished far more than any law allows, and demands to be released immediately.

Presumption: "If a Public Record is not where it is required to be, it is presumed not to exist." (F.R.Ev. §803(10) (A) & (B); CA Evid. §1234 & 1530.10.).

Continued on Page 11a

b. **Supporting cases, rules, or other authorities.**

HAWAII CONSTITUTION, Article 16, §4; Hawaii Archivist's Certification (Exhibit "11"); 28 USC §§1738 & 1739; Fed. Rules of Evid; (FREv) §§803(6), 803(10) (A)&(B), 902, 1003,1005; FRCvP Rule 44(b) - Lack of Records, "A written statement that a diligent search of designated records revealed NO RECORD or entry of a specific tenor is admissible as evidence that the records contain no such record or entry..." (See: People v. Love, 310 Ill. 558, 142 N.E. 204(1923);

Continued on Page 11a

a. Supporting Facts: (continued from prev. page):

In this vein, the Court's manifestation of extreme prejudice against Petitioner (Pro Se) is revisited, however, this time Petitioner is requiring Judicial Notice of the FACT(s) as presented by Petitioner's Exhibit "11", the cited F.R.Ev.'s, F.R.Cv.P. Rule 44(b), Fed. Statutes and cases cited, CA Evid. §§1284, 1521, 1523, 1530(a)(1)&(2) & (b).

This Court has no Authority to "pick & choose" what Laws, Rules, & Regulations it wants to follow, and is required to act according to the evidence presented. And, as stated earlier, "No right of action can come from Fraud." Petitioner has proven he has a Right to the Writ and this Court has no valid/lawful option but to vacate the VOID JUDGMENT and release Petitioner immediately. *Fiat Justitia, Ruat Caelum* - "Let Justice be done, though the Heavens may fall." The seven alleged Justices failed miserably at "doing Justice."

b. Supporting cases, rules, or other authorities (continued from prev. page):

CA Evid. Rule §1284, 1530(a)(1)(2) & (b);

44 USC §2116 also applies to STATE ARCHIVES, Childs, *supra* at 1336 [Hn. 16];

U.S. v. HOOK, 195 F.3d 299; 29A Am. Jur. 2d (1994) Evid. §1376, et seq.;

US of A v. CHILDS, 5 F.3d 1328, 1334-1336, (9th Cir. 1993) (& cases cited therein);

Air Land Forwarders, Inc. v. U.S., 172 F.3d 1335, 1342 (1999);

U.S. v. Ray, 930 F.2d 1368, 1370 (1990);

People v. Atkins, 258 C.R. 113, 117, 210 C.A.3d 47, 54.

Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc. That you have used to exhaust your state remedies on Ground(s) ONE through SEVEN:

Petitioner filed a Petition for a Writ in the Nature of Habeas Corpus (S-216294) of which this Instant Petition is an "Appeal." Petitioner also filed a Complaint to the COMMISSION ON JUDICIAL PERFORMANCE and a NOTICE OF VOID ORDER (copy attached), as well as an INDICTMENT in Federal Court. (See Ground EIGHT, infra.)