

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS  
CIVIL COURT DEPARTMENT

In Regards to the Application of  
Patrick C. Lynn to file a Verified Petition  
for Writ of Mandamus.

Administrative Order 02-3

MEMORANDUM DECISION

Mr. Lynn has submitted to the Clerk of the District Court of Johnson County, Kansas, an application to file a Writ of Mandamus. His documents were received on March 28, 2002. Under the provisions of the Permanent Injunction entered in State of Kansas, ex rel. Attorney General Karla J. Stovall v. Patrick C. Lynn, Case Number 97-CV-6900, Mr. Lynn has submitted the appropriate documents for submission of this application.

The Chief Judge for the Tenth Judicial District, Judge Patrick D. McAnany, is on vacation and he has designated Judge Larry McClain to act for him during his absence. The injunction designates the Chief Judge or his designee to review the applications for filing legal actions.

The Petition for Mandamus names Tom Bartee and Sandy McCurdy as respondents. Sandy McCurdy is the Clerk of the District Court for the Tenth Judicial District. Tom Bartee is Mr. Lynn's court appointed counsel in Case Number 96-CR-1654/Appellate Number 01-86942-A presently pending in the Appellate Court. Mr. Lynn alleges he is being denied effective assistance of counsel and the relief he seeks is an Order directing Mr. Bartee and Ms. McCurdy to add certain exhibits to the record on appeal in 96-CR-1654.

A mandamus is an extraordinary action and is provided for under Article 8 of the

CLERK OF DISTRICT COURT  
JOHNSON COUNTY, KS.  
2002 APR -3 AM 8:12

Kansas Code of Civil Procedure. The following sections are relevant to Mr. Lynn's application:

Section 60-801. **Nature of Mandamus** Mandamus is a proceeding to compel some inferior court, tribunal, board or some corporation or person to perform a specific duty, which duty results from the office, trust or official station of the party to whom the order is directed, or from operation of law.

60-802. **Procedure for Relief** . . . the judgment in mandamus shall specify with particularity the act or acts which the defendant is compelled to perform or enjoined from performing.

Under the provisions of the injunction in Paragraph 5, the case is submitted for determination of whether the petition or pleading is lacking in merit, is duplicative or is frivolous. The Court will either permit the filing of the petition or pleading or issue an order denying the petition or pleading.

In Paragraph 7 of Mr. Lynn's Mandamus Petition, he alleges "Petitioner motioned the Appellate Courts and was summarily denied in arbitrary fashion without due consideration of the merits. (See Exhibits A). This paragraph was in reference to Mr. Lynn's request for Barte and McCurdy to make additions to the record on appeal. Attached to the petition by Mr. Lynn is an order from the Court of Appeals of the State of Kansas in Case Number 01-86942-A, which reflects the following:

YOU ARE HEREBY NOTIFIED OF THE FOLLOWING ACTION  
TAKEN BY THE COURT: MOTION FOR ADDITIONS TO THE  
RECORD BY PATRICK LYNN. DENIED.

DATE: 02/20/2002.

There was a subsequent order issued by the Court of Appeals on 02-20-2002 directing the following:

YOU ARE HEREBY NOTIFIED OF THE FOLLOWING ACTION  
TAKEN BY THE COURT:

STATE OF KANSAS - DISTRICT COURT - 2000-05-18 01:11

MOTION COMPELLING DISTRICT COURT CLERK TO MAKE  
ADDITIONS TO THE RECORD BY PATRICK LYNN. DENIED.

DATE: 02/20/2002

In a further order on the 20<sup>th</sup> of February, 2002, the Court of Appeals issued the following order:

YOU ARE HEREBY NOTIFIED OF THE  
FOLLOWING ACTION TAKEN BY THE COURT:

MOTION TO SUPPLEMENT PRO SE MOTION  
FOR ORDER TO ADD TO RECORD BY PATRICK LYNN.  
DENIED.

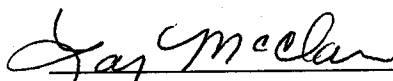
DATE: 02/20/2002

From the Petition for Mandamus and the attachments, specifically those referred to above, it is clear this mandamus action seeks relief which Mr. Lynn has already requested and been denied in the Court of Appeals. This action for mandamus is therefore duplicative with the prior orders of the Court of Appeals for the State of Kansas and, if allowed to go forward, would inappropriately place the District Court in a position of reversing the Court of Appeals. As to the issues regarding additions to the record of appeal on Mr. Lynn's Case Number 96-CR-1654, this Court finds that under the provisions of the injunction in Paragraph 5 the mandamus is duplicative and is, therefore, frivolous.

In his petition for mandamus, Mr. Lynn also makes numerous complaints against his court appointed attorney, Mr. Bartee. Mr. Lynn apparently seeks orders directing Bartee's conduct in representing Mr. Lynn in the appeal of his criminal case. Mr. Lynn is attempting to request the Court to direct and order how his court appointed lawyer represents Mr. Lynn. This clearly is an inappropriate use for a mandamus action.

The Court determines it would be inappropriate for the District Court to become involved in directing counsel for a criminal defendant's appeal. The Appellate Courts have jurisdiction over the lawyers practicing in their courts.

Based upon the above and foregoing reasoning, IT IS THE ORDER OF THE COURT that Mr. Lynn's application to file and prosecute this mandamus action is denied. The Clerk of the Court is directed to file this order, along with the submission. (Original filed with the Clerk of the District Court and no copies provided.) The Clerk shall designate this as a Miscellaneous Administrative Order. In the event Mr. Lynn files a notice of appeal, the notice of appeal is to be added to these documents and assigned a Chapter 60 Case Number. The Clerk of the Court is further ORDERED AND DIRECTED that no additional or supplemental documents may be added to the record of this case as the review of the application is limited in scope to those documents submitted by Mr. Lynn.

  
\_\_\_\_\_  
Larry McClain  
Acting Chief Judge

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing Memorandum Decision was placed in the U.S. Mail, postage prepaid, addressed to:

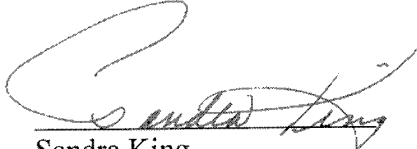
Sandy McCurdy, Clerk of the District Court  
Johnson County Courthouse  
Olathe, Kansas 66061

Thomas W. Bartee, Attorney at Law  
Northeast Kansas Conflict Office  
700 S.W. Jackson - Suite 1001  
Topeka, Kansas 66603-3731  
Attorney for Defendant

Judge Patrick McAnany, Chief Judge  
Division 14  
Johnson County Courthouse  
Olathe, Kansas 66061

Patrick C. Lynn  
64377, LCF, P.O. Box 2  
Lansing, Kansas 66043  
Petitioner, Pro Se

on the date of the filing of this document.

  
Sandra King  
Administrative Assistant

7  
5

12/11/15

Patrick C. Lynn  
64377, EDCF, PO Box 311  
El Dorado, KS 67042

In The District Court of Johnson County, Kansas

~~02 CV 0186~~

Patrick C. Lynn,  
Petitioner

v.

Tom Bartee, and Sandy  
McCurdy - District Court Clerk,  
Respondents

Case No. 02-C-

Div 12

Application To File Attached  
Verified Petition For Writ  
Of Mandamus

Patrick C. Lynn, pro se, moves to file and prosecute the enclosed  
Verified Petition for Writ of Mandamus and shows:

- 1) This application is pursuant to the attached injunction and  
all requirements are attached herewith.

3-12-02

Date

Patrick C. Lynn

Patrick C. Lynn, Pro Se  
64377, EDCF, PO Box 311  
El Dorado, KS, 67042

CLERK OF DISTRICT COURT  
JOHNSON COUNTY, KS.

2002 MAR 28 AM 8:24

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## Injunction Term # 3, B. Requirement

Past and Present State Litigation As of 10-1-01:

### A. Johnson Co. District Court:

- 1.) State v. Lynn, #96-CR-1654 / 1<sup>st</sup> Direct Appeal, Case #97-78565-A, and 2<sup>nd</sup> Direct Appeal pending as Case #01-86942-A.
- 2.) Lynn v. State, #97-C-480 / Habeas petition denied.
- 3.) Lynn v. Anderson, #97-C-3549: dismissed and denied appeal simply because pleadings legibly handwritten.
- 4.) Lynn v. Byrne, #97-C-4388 / same as 3. above.
- 5.) Lynn v. Dubowski, #97-C-4389 / same as 3. above.
- 6.) Lynn v. Lt. Simpson, #97-C-4391 / same as 3. above; and tried in Federal Judge Livingston's Court during 8-14-00 thru 8-16-00, and lost after re-filing in federal court.
- 7.) Lynn v. Chance, #97-C-4697 / same as 3. above.
- 8.) Lynn v. Werth, #97-C-4791 / same as 3. above.
- 9.) Lynn v. Anderson, #97-C-4992 / same as 3. above.
- 10.) State v. Lynn, #97-C-6900 / Filing Restrictions Injunction and App. Ct. Case #97-80028-A. Upheld.
- 11.) Lynn v. Anderson, #97-C-13892 and dismissed, App. Ct. Case #98-80546-A denied.
- 12.) Lynn v. Hendricks, Admin. Order #7, 1998, Dismissed.
- 13.) Lynn v. Werth, #99-C-3317 and dismissed, App. Ct. Case #99-82972-A, denied.
- 14.) Lynn v. State, #98-C-15276 and dismissed, App. Ct. Case #99-83737-A, denied.
- 15.) Lynn v. Major Johnston, et al., #00-CV-7508 ("1501" Habeas), dismissed and pending motion to docket appeal out of time.

### B. Leavenworth Co. District Court:

- 16.) Lynn v. Barkley, #98-05HC-052 / dismissed for failure to exhaust Admin. remedies.

### C. Shawnee Co. District Court:

- 17.) Lynn v. Barkley, #98-CV-1413 / dismissed - lack of venue.

- D. Kansas Court of Appeals Cases in addition to Section A. above:
- 18.) Mandamus Petitions against Johnson Co. Admin. Judge McClain;  
#97-78919-S; #97-79618-S; #97-79707-S; #97-79927-S;  
#97-80301-S; All denied.
  - 23.) Mandamus For Recusal of All Jo. Co. Judges; #99-82553-S;
  - 24.) Quo warranto Petition, #98-82465-S.
  - 25.) Mandamus filed for Recusal of Crim. Case Judge for Re-sentencing, Case #00-86391-S.
  - 26.) Resentencing / 2nd Direct Appeal, #00-86942-A

E. Reno Co. District Court:

- 27.) TRO obtained against HCF warden, Case # Unknown, App. Ct.  
Case No. Unknown.
- 28.) Habeas ("1501") case against HCF Warden, Case # Unknown and  
App. Ct. Case Unknown.

F. Butler Co. District Court:

- 29.) Lynn v. Nelson, #00-C-21 / dismissed, App. Ct. Case abandoned.
- 30.) Lynn v. ~~Martin~~, #00-C-318 / vol. dismissed
- 31.) Lynn v. Martin, #01-C-208 / re-filing of #30; dismissed 10-11-01
- 32.) and now being appealed to KS App. Ct., Case # 02-88412A.

G. Johnson Co. District Court:

- 33.) Lynn v. State ex rel. Stevill, #97-C-6900 / WSA 60-910(b) petition  
dated/served 10-9-01. Now pending as US App. Ct. Case #01-88253-A.

H. Butler Co. District Court:

- 34.) Lynn v. Denchfield, et al., #01-C-465 / Civil Rights Suit mailed  
on 10-23-01;
- 35.) Lynn v. ED CF Warden Nelson, #01-C-~~464~~ / Habeas "1501" action,  
mailed on 10-24-01. Now pending as KS App. Ct. Case #02-88445-A.
- 36.) Lynn v. Prison Guard Sgt. Quilic, et al., Case #02-C-67

State of Kansas  
County of Butler ss.

Affidavit Requirement For #4.  
at Pg. 4 of the Injunction

I, Patrick C. Lynn, of lawful age and duly sworn upon my oath, herewith declare under penalty of perjury that the following is true and correct:

~~02CV01864 D.D. + 2~~

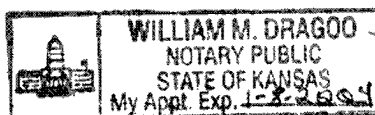
- 1) I am the Petitioner seeking a writ of Mandamus in Lynn v. Tom Barteel and Sandy McCurdy - District Court Clerk.
- 2) I bring this action in good faith and verily believe I am entitled to relief I seek as a matter of well established law, cited in my Petition.
- 3) I have previously requested the Johnson Co. District Court Clerk's Office to add the missing ROA documents and been ignored; and I have insisted Mr. Barteel add the missing ROA documents and been ignored; I have noted to both Mr. Barteel and the District Court Clerk McCurdy that documents requested added to the ROA by Mr. Barteel have not been added and have been ignored; and I have petitioned the KS App. Ct. for Order Compelling Additions to the ROA and was then arbitrarily denied. See Exhibits attached to Petition. Clearly, the merits of my constitutional and statutory right entitlements have not been addressed on the merits.
- 4) I acknowledge my responsibilities to comply with all applicable State court rules in all phases at district court level and on any appeal.
- 5) Further I sayeth naught at this time.

Sworn and subscribed to

before me, William M. Drago  
Notary Public of KS

on this 10<sup>th</sup> day of March, 2002.

Patrick C. Lynn  
Patrick C. Lynn  
64327, EDCR, PO Box 311  
El Dorado, KS, 67042



CLERK OF DISTRICT COURT  
JOHNSON COUNTY, KANSAS

2002 MAR 26 AM 8:24

State of Kansas  
County of Butler ss.

Affidavit of Poverty And Request  
To Proceed In Forma Pauperis  
02 EV 01864

I, Patrick C. Lynn, of lawful age and duly sworn upon my oath, herewith declare the following is true and correct:

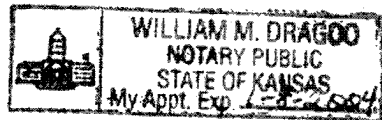
- 1.) I have no ~~assets~~ assets, funds, nor any property to convert to pay the filing fees and costs for this case. I am indigent.
- 2.) I readily agree to any Order debiting the filing fees and costs to my prison acct. as I have zero income.
- 3.) My certified prison acct. statement is attached along with a monthly bank statement reflecting current legal postage debts, fees, and fines.
- 4.) Further I sayeth naught.

*Patrick C. Lynn*  
s/ Patrick C. Lynn  
Patrick C. Lynn, Affiant  
64377, EDCF, PO Box 311  
El Dorado, KS 67042

Sworn and subscribed to

before me, *William M. Drago*  
Notary Public of Kansas

on this 10<sup>th</sup> day of March, 2002.



CLERK OF DISTRICT COURT  
JOSHUA COOPER  
2002 MAR 26 AM 8:24

3/01/2002

10:36:41

KANSAS DEPARTMENT OF CORRECTIONS  
Inmate Bank Statement  
and Post Encumbrances  
2/01/2002 thru 2/28/2002

PM - ER002EB

PAGE: 2

Institution - EDDC Cell - DBI 100

KDC # Name  
0064377 A LANN, PATRICK, C

Transaction		Balance		Money Over	
Date	Code/Description	Amount	Savings	Fees	Disc. Rest. Civ. Suit
2/01	BEGINNING BALANCE				
				PT/WR Postage 1410.25	
				Fees 28.00	
				Fines 865.00	

Legal postage debit

90 pounds sand  
type fines

Rec'd  
9-14-01

R. Vol. 1  
P. 103-107

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS  
DIVISION 3

Exhibit B

STATE OF KANSAS, )  
Plaintiff, )  
 )  
vs. )  
 )  
PATRICK CHRISTOPHER LYNN, )  
Defendant. )  
\_\_\_\_\_ )

Case No. 96CR1654

REQUEST FOR ADDITIONS TO THE RECORD

COMES NOW the Defendant, Patrick Christopher Lynn, by and through counsel, and, pursuant to Supreme Court Rule 3.2(c), hereby requests that the Clerk of the District Court add to the record the following:

1. letter from the Defendant to Hon. William A. Cleaver requesting appointment of new counsel, dated June 24, 1996;
2. Defendant's motion to relieve public defender office and motion to appoint John Gerstle, dated June 27, 1996;
3. Defendant's motion for emergency hearing and sanctions, filed October 18, 1996;
4. Defendant's pro se motion for appointment of separate legal counsel and motion for new trial, filed November 20, 1996;
5. Defendant's pro se motion for new trial, memorandum of law and fact in support of pro se motion for new trial due to violation of Sixth Amendment, affidavit, and

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- index of exhibits, filed December 30, 1996;
6. Defendant's two motions, noted as "motion for orders" in the appearance docket, filed January 7, 1996;
  7. Defendant's motion to include in record evidence of prosecutorial misconduct, filed January 7, 1997;
  8. habeas corpus petition in Patrick C. Lynn v. State, Johnson County Case No. 97C480, filed January 16, 1997;
  9. two letters from Renee Anderson to the Hon. William A. Cleaver, dated December 4, 1996 and January 6, 1997;
  10. Defendant's two motions, each noted as "not see file" in the appearance docket filed, May 22, 2000;
  11. Defendant's motion for order for production of documents and things, filed May 22, 2000;
  12. Defendant's motion for appointment of counsel, filed May 31, 2000;
  13. Defendant's motion for change of judge and request for hearing, filed June 22, 2000;
  14. Defendant's suggestion and request for the appointment of Reno County Attorney and request for video tele-hearing, filed July 21, 2000;
  15. Defendant's addition to the record, filed July 21, 2000;
  16. Defendant's pro se advance arguments in support of necessity of presenting legal causes, filed December 26, 2000;
  17. Defendant's pro se motion to disqualify all 10<sup>th</sup> Judicial District judges and motion for referral to departmental justice, filed December 26, 2000;

18. Defendant's pro se motion for exhaustion purposes requesting court to acknowledge all pro se motions, filed December 26, 2000;
19. Defendant's pro se motion for evidentiary hearing on issue of conflict, filed December 26, 2000.
20. Defendant's motion for declaratory judgments, filed December 26, 2000.
21. Defendant's motion to bar imposition of departure sentence and memorandum in support, filed December 27, 2000
22. Defendant's motion to disqualify the office of the District Attorney and request for hearing, filed January 2, 2001;
23. Defendant's objection and motion for hearing, filed January 2, 2001;
24. Defendant's motion to disqualify judges, filed January 2, 2001;
25. Defendant's pleading noted as "evidence-assistance free counsel" in the appearance docket, filed January 3, 2001;
26. Defendant's pro se motion for order for evidence, filed January 3, 2001;
27. Defendant's pro se motion for stay of proceedings, filed January 3, 2001;
28. Defendant's motion for immediate hearing, filed January 3, 2001;
29. Defendant's additional pro se proffer of evidence in support of allocution and legal causes to vacate judgment/order new trial and reopen law of the case doctrine, filed January 10, 2001;
30. Defendant's third motion for recusal of judges, filed January 18, 2001;
31. Defendant's advance proffer of additional documents, filed February 12, 2001;
32. Defendant's motion for court to enforce Supreme Court Rule 207 and

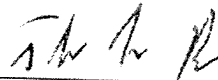
report the evidence of criminal collusion, filed February 21, 2001;

33. Defendant's amended motion to dismiss, or in the alternative, verified petition for habeas corpus with request for evidentiary hearing, filed February 23, 2001; and

34. Defendant's Exhibits A through BB, offered but not admitted at the hearing on the Defendant's amended motion to dismiss, or in the alternative, verified petition for habeas corpus, held before Hon. William A. Cleaver on March 1, 2001.

IDENTITY  
PRECISELY  
WHAT

Respectfully submitted:



---

Thomas W. Bartee #15133  
Northeast Kansas Conflict Office  
700 S.W. Jackson, Suite 1001  
Topeka, Kansas 66603-3731  
(785) 296-4402  
Fax: (785) 296-4413  
Attorney for the Defendant

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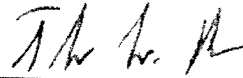
**Certificate of Service**

I, Thomas W. Bartee, hereby certify that on August 23, 2001, I delivered a copy of the foregoing document by U.S. Mail, postage prepaid, to:

Paul Morrison  
District Attorney  
Courthouse  
100 N. Kansas Ave.  
Olathe, KS 66061

Clerk of the District Court of Johnson County  
Courthouse  
100 N. Kansas Ave.  
Olathe, KS 66061

Marcia E. Myers, C.S.R.  
Courthouse  
100 N. Kansas Ave.  
Olathe, KS 66061



---

Thomas W. Bartee

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ALMADATE 2004 08 23 10:11

6-11-01

Exhibit C

Dear Toni Berry,

I recently recieved a copy of a 4-26-01 cover letter and Table of Contents for the ROA in case #96-CR-1654 that you sent to my atty. Tom Barte, and I noted two documents listed thereon which neither of us has ever seen, and I request you send us both such at your earliest opportunity, being: from Vol. 1, a "Miscellaneous Order/12-3-98" listed at Pg. 83; and the "Memorandum and Order/3-27-01" listed at Pg. 96. We also noted a number of missing documents which must be added per S.Ct. Rule 3.02 (c), being:

- 1.) My 6-24-96 letter to Judge Cleaver (see attached);
- 2.) My 6-27-96 motion for new counsel (see attached);
- 3.) My 10-11-96 motion for emergency hearing and sanctions (see attached);
- 4.) My pro se motion for new counsel etc. filed 11-20-96;
- 5.) My pro se motion for new trial w/affidavit and exhibit proffers filed on 12-30-96;
- 6.) My pro se pleadings filed on or about 1-4-97, and 1-7-97;
- 7.) My pro se habeas petition served on 1-10-97 and filed as case #97-C-480 (see attached);
- 8.) Two letters made ex parte to Judge Cleaver from Renee Anderson, dated 12-4-96 and 1-6-97 (see attached);
- 9.) All my pro se pleadings and exhibit proffers filed since May 2000;
- 10.) All motions and exhibit proffers filed by Mr. Barte since his July 2000 appointment.

11.) From the Court of Appeals record in #97-78565-A, please add my pro se motion to dismiss appellate atty. Gorup and strike his brief, filed on 1-28-99.

If you have any questions, please call Mr. Barteer without delay at 785-296-4411 for his confirmation hereto.

Lastly, there was a very brief hearing on or about 11-29-00, please add the transcript of that as well.

If you have any objections, please advise me accordingly so I can confer with Mr. Barteer to remedy such without delay. Also, send me an updated Table of Contents for my records.

I shall look forward to your responses.

Sincerely,

Patrick C. Lynch

cc:

Tom Barteer

file

Tom Bartee & Clerk McCurdy, 2-25-02  
Re Case # 96-CR-1654/App.Ct. #01-86942-A

I call your attention to the B-23-01 Request for Additions to the Record by Bartee, I note item #8 is nowhere to be found in the Table of Contents/ROA. Why is this not added? See item #8 at Vol. 1, Pg. 104.

Would this by chance be the item designated as Vol. 1, Pp. 182-195? Please advise.

Also, is item #1 at Vol. 1, Pg. 103, the item designated at Vol. 1, Pg. 654?

Also, item #2 at Vol. 1, Pg. 103, where is this at in the ROA? Mr. Bartee should send a copy of this pleading because it was in fact served all parties and is omitted from the Dist. Ct.'s Docket Events Filing Stmt. I sent Toni Berry a copy on 6-11-01.

Also, item #9 at Vol. 1, Pg. 104 is nowhere to be found in the ROA Table of Contents, where is this or why has it been omitted? Also, item #32 at Vol. 1, Pp. 105-106, is not listed in the Table of Contents/ROA either.

Has there been some secret "gracious agreement" between you two to forego including these requested items into the Table of Contents / ROA?

And likewise why the 5-20-96 file stamped hand-delivered Discovery Request, as well as Exhibits #A thru #L filed w/ Vol. 1, Pp. 221-242 pleading, not being in the Table of Contents / ROA?

I'd sure like to know what's going on and if no secret agreements exist, then what steps will you two take to remedy these omissions before it's too late?

Advise me accordingly.

Patrick C. Lynn

file

2 of 2

Exhibit

C = 4-29-98 letter to trial court reporter Debra Norman, with Nurse Horton "bench side bar" (R. Vol. V, Pp. 452-453, 478-479);

D = Olathe Daily News 11-16/17-96 Andy Hoffman article quoting the D.A.'s exact words from closing arguments; and the illegally edited closing argument transcript version by Court Reporter Marcia Meyers (R. Vol. X, Pg. 131);

E = Renee Anderson's 6-26-96 letter to me; Anderson's trial testimony perjury re: "fear" and would never testify to anything untrue crap (R. Vol. IX, Pg. 197); Byrne's trial closing argument re Anderson testifying "with all guns blazing" etc. (R. Vol. X, Pp. 123-126); Anderson trial testimony perjury re: arrival to K.C. on 3-10-96 and Anderson car suit Answer admission I wreck her car in Lenexa on 3-7-96; Anderson trial testimony perjury re: no credit cards and Jail property receipt re: Visa credit card, and Visa card receipts used with Anderson; My list of Renee's out of pocket losses incurred prior to trial; 2-28-97 reply letter from Lenexa Branch Manager of Capital Federal Bank and showing I made \$670. in loan repayments in 2 weeks time prior to arrest; 12-4-96 letter to Renee Anderson; 12-30-96 letter to Renee Anderson; 2-22-97 letter to Anderson's Car Insurance Agent Dave Thompson; 3-19-97 letter to Mosca's Palle Rilinger; 7-11-97 letter to Renee Anderson; 7-17-97 letter to Anderson's parents; 2-28-97 letters to Anderson's parents; Elizabeth Allen's voir dire comments, R. Vol. IV, Pp. 54-60; Renee Anderson's trial perjury (Pp. 172-175) and 5-17-96 KC Star article of arrest etc.;

Transcripts notes re: Carol Werth's perjurous "descriptions"; Werth's transcript testimony perjury and proof of Atty. Byrne corruptly holding back (R. Vol. V, Pp. 218, 277-278, 282, 303-304, 434; Officer Wilson), Pp. 207-208, 278, 255 with 5-15-96 KC Star weather forecast and "moonlight/seeing in dark" B.S. transcript quotes, 452-453, 467-468, 478-479; R. Vol. XI, Pp. 38, 59; R. Vol. XI, Pp. 2-8, 37) Letter to Carol Werth dated 1-11-97; Sentencing comments, R. Vol. XII, Pp. 4-6; 2-19-97 letters to Police Officers Anderson and Peterson; Voir Dire Becky Davis comments, R. Vol. IV, Pg. 68, and Nurse Horton comments, R. Vol. V, Pg. 466; "Credibility Contest" notes; Jury Instruction Chambers Comments; Werth's "penis used to..." and Werth's "kissing vs. sucking my tongue crap"

sent  
Bz  
here

Exhibit

- F = (1): 4-8-98 reply letter from Overland Park Police Chief Douglass;
- (2): 3-11-98 letter to Chief Douglass;
- (3): 12-30-96 " " " " ;
- (4): 1-20-97 " " " " ;
- (5): 1-31-97 reply letter from Chief Douglass;
- (6): 10-26-98 letter to chief Douglass;
- (7): 12-1-98 " " " " ;
- (8): 2-25-97 letter to KBI Dep. Director Knowles;
- (9): 4-21-97 " " " " " " ;
- (10) 4-23-97 reply letter from KBI Dep. Director Knowles;
- (11) 5-1-97 " " " " " " " " ;
- (12) 5-6-97 letter to " " " " " " ;
- (13) 5-22-97 " " " " " " " " ;
- (14) 10-23-98 letter to Johnson Co. Crime Lab Director Branum, w/DNA articles;
- (15) 11-14-96 trial transcript excerpt of Johnson Co. Crime Lab D Expert Fahrnow testimony;
- (16) 11-11-98 Sheriff's Dept. reply letter for Crime Lab Director Branu.
- (17) 9-22-98 letter to Kansas Gov. Graves;
- (18) 10-27-98 KDOC Atty.'s letter replying for Gov. Graves;
- (19) 12-30-96 letter to Sheriff Allenbrand;
- (20) 12-30-96 letter to D.A. Morrison.
- G = (1) 9-2-97 letter to Admin. Judge McClain re: Renee Anderson HPV suit;
- (2) 9-2-97 letter to Admin. Judge McClain re: Seize/Seal Evidence;
- (3) 9-22-97 Prison medical request form re: HPV treatment;
- (4) 10-7-97 KDOC/LCF legal counsel Cowger reply re: access to prison medical records HPV treatments for litigation filing.
- H = 4-21-97 K.C. Star Hendricks article with quotes from D.A. Morrison and appointed counsel Byrne;
- I = Legal Malpractice Grounds / 6<sup>th</sup> Amendment Violation Claims against appointed counsels, filed in Case # 99-C-3317/App. Ct. # 99-82972-A.
- J = Unauthorized "Agreements" made between D.A. Morrison and appointed counsel's in State v. Yardley, Case # 96-CR-2216 and State v. Maynard, Case # 96-CR-1963;
- K = Resek search warrant documents in State v. Yardley, Case # 96-CR-2216, showing warrant obtained on 6-21-96 at 4:09 AM, with Resek police report stating same search warrant was served on 6-21-96 at 0330 hours;
- L = Renee Anderson's 12-2-96 ex parte communications letter with trial Judge, turned over to appointed counsel Byrne on 12-12-96, and concealed from defendant until 1-11-97.

dated 2-4-02

Patrick C. Lynn -  
64377, ED CF, PO Box 311  
El Dorado, KS 67042

Exhibit #3

## In The Court Of Appeals Of The State Of Kansas

State of Kansas,  
Plaintiff-Appellee

v.  
Patrick C. Lynn,  
Defendant-Appellant

App. Ct. Case No. 01-86942-A  
Johnson Co. Case No. 96-CR-1654

Appellant's Pro Se Supplemental  
Motion For Order Compelling The  
District Court Clerk To Add  
Requested Exhibits To ROA

Pursuant to S.Ct. Rule 5.01, the Pro Se Appellant, Patrick C. Lynn, respectfully submits his supplemental motion for an Order compelling the Johnson Co. District Court Clerk's Ofc. to add the repeatedly requested 5-22-00 proffer filed exhibits to the ROA without any more delay. Appellant further shows:

- 1.) On 2-1-02, he recieved an unsigned and undated memo from the Johnson Co. District Court Clerk's Ofc. — Exhibit #1 hereto — which falsely claims that the exhibits requested by the pro se Appellant have already been added. Appellant asserts that he must be the only one who speaks and understands english language. Appellant has repeatedly asked that exhibits #A thru #L that were attached to and filed with his prose pleading proffer on 5-22-00 be added to the ROA. See pro se pleading noted as ROA, Vol. 1, pp. 221-242. The district court clerk absurdly confuses the 5-22-00 filed exhibits as being the same exhibits offered by Mr. Barter on 3-1-01, which are ROA, Vol. #XIX thru Vol. #XXII. Clearly, these ARE NOT THE SAME EXHIBITS!!!!
- 2.) Appellant is justifiably exasperated and livid.
- 3.) The District Court Clerk's Ofc. must not be able to read or even understand legible english language requests and it is incumbent upon this Court to intercede so that Appellant can perfect his rights to Appellate review.

4.) That in the Brief of Appellant filed by appointed appellate counsel, a great deal of space is devoted to counsel's "Amended Motion To Dismiss, Or, In the Alternative, Verified Petition For Writ of Habeas Corpus..." — which is designated as ROA, Vol. 1, Pp. 593-653. At the footnote, bottom of Pg. 639 there to, there is a plain reference to Exhibit #F(3) of the exhibits filed with the pro se proffer pleadings filed on 5-22-00. This is yet another reason why these exhibits must be now added to the ROA — they are missing from the ROA, the same as the USA 22-3212 Discovery Request filed on 5-20-96 is missing from the ROA.

5.) On 1-31-02, Appellant served the Court and parties his pro se motion to this Court for Order compelling the district court clerk to add the exhibits referenced in the attached "Exhibits Index" / Exhibit A. There cannot possibly be any more confusion on anyone's mind that such 5-22-00 exhibit proffers are not the same as the 3-1-01 exhibits designated as Vol. XIX thru Vol. XXII.

6.) Appellant will be pursuing a pro se Supplemental Brief relying in significant part upon those 5-22-00 filed exhibits. A full and fair appellate review cannot be had without such, or without proof that a formal USA 22-3212 discovery request was filed as well.

Wherefore, Appellant vigorously prays this Court to Order the lower Court's Clerk's Ofc. to add to the ROA without any delay, those exhibits submitted as #A thru #L with his 5-22-00 pro se proffer pleading (Vol. 1, Pp. 221-242) and the 5-20-96 filed formal discovery request.

2-4-02  
Date

Respectfully Submitted,  
S/ Patrick C. Lynn  
Patrick C. Lynn, Pro Se  
64377, EDEF, PO Box 311  
E1 Dorado, KS, 67042

## Certificate of Service

I, Patrick C. Lynn, hereby certify delivering the below stated motion to EDCF officials to mail to the below named parties by US Mail, postage prepaid and debited to my prison legal postage account, on this 4th day of Feb., 2002:  
Document in Case # 01-86942-A:

\* Appellant's Pro Se Supplemental Motion For Order Compelling District Court Clerk's Off. To Add Exhibits To ROA (with Exhibit #1 / unsigned & undated Dist. Ct. Clerk memo idioey)

### Parties:

Original plus 3 copies to:  
App. Ct. Clerk's Off., 301 SW Tenth, Topeka, KS, 66662;  
1 copy to:  
Johnson Co. Dist. Ct. Clerk, 100 N. Kansas Ave., Olathe, KS, 66061;  
Tom Bartee, 700 SW Jackson, Ste. 1001, Topeka, KS, 66603;  
Steven Obermeier, Jo. Co. D. A. Off., 100 N. Kansas, Olathe, KS, 66061.

s/ Patrick C. Lynn  
Patrick C. Lynn  
64377 EDCF, PO Box 311  
El Dorado, KS, 67042

Patrick Lynn  
64377 EDCF PO Box 311  
El Dorado, KS 67042

Rec'd  
2-1-02

Mr. Lynn,

wrong!  
are not.

I am unable to fulfill your request (attached), your exhibits are already added. I spoke to the court of appeals concerning your request they told me there was no need to move all the exhibits to another volume. I also spoke to your attorney Mr. Bartee and explained it to him also. I am including a table of contents so you will see where they are. The only one I cannot add is Exhibit A, a pair of a woman's underwear. Clothing items, Money, Weapons & Narcotics are considered contraband. You may check with the court of appeals if you wish.

you betcha.

not the same  
exhibits as #A thro #L  
filed with 5-22-00 proffer.  
see Index of Exhibits filed  
there with \_\_\_\_\_ which  
you'd know had you simply  
paid attention to what I was  
saying.

Note

Also missing from  
ROA is my pro se  
motion to relieve Public  
Defender's ofc.

→ (See R. Vol. 1, Pp. 221-242)

Exhibitsent  
Barber

A = Copy of proposed 6-24-96 Federal § 1983 lawsuit against appointed Public Defender's Ofc. persons, sent to Judge Cleaver with letter on or about 6-29-96; 12-4-96 "rough" duplicate of letter issues sent to Judge Cleaver; 12-5-96 letter to Judge Cleaver; 1-6-97 Judicial Complaint against Judge Cleaver - served him too; 1-13-97 letter to Judge Cleaver; "1507" Petition form re-served on 1-10-97 and related attachments; 11-16-96 Jail Deputy Voder incident report; 11-16-96 Jail Lt. Graves incident report re Judge Cleaver phone call; 11-21-96 Order; 11-21-96 letter to Judge Cleaver; 11-22-96 Order; 12-13-96 Jail Lt. Simpson memo re: advising Judge Cleaver I spit on his nameplate in hallway on 12-12-96; 1-23-97 WDOC Atty. Appel letter to Judge Cleaver;  
— Letters were also sent to Judge Cleaver on 9-18-96 and 10-9-96 —

B = 6-18-96 response letter from Public Defender Investigator Chance re: ~~his~~ ~~total~~ ignorance about importance of business card and "9:30pm" State witness Corrier trial testimony re: time of 9:30pm/heard Carol Werth come home (R. Vol. V, Pp. 337-341); My 6-20-96 reply letter to Investigator Chance; My Business card with Deanna Darr info, finally returned on 2-28-97; My 3-21-97 letter to Deanna Darr; Carol Werth's trial perjury re: Bally's aerobic's class time and time returned home (R. Vol. Pp. 232-235);

Atty. Byrne's 12-3-96 letter responding to my 11-20-96 pro se motion, and 11-27-96 letter; 12-5-96 postmarked letter envelope addressed to Byrne and returned on 12-18-96;

Atty. Gerstle's 12-26-96 letter responding to my 12-23-96 letter; and his 1-13-97 letter to Disciplinary Administrator's Ofc.;

3-8-99 Atty. Gorup letter to Byrne; Byrne's 3-8-99 reply letter to Gorup; Gorup's motions filed with District Court to preserve evidence held by Byrne and law enforcement officials;

3-2-98 letter to Byrne for corruptly concealed Carol Werth "██████" claim medical report notes; 3-5-98 letter request to Shawnee Mission Medical Center Records Dept. with copy of Humphrey case; 3-12-98 Reply letter;

— Similar Request letters for copy of Werth's corruptly concealed "██████" claim medical report notes, were made on 3-30-98 to Judge Cleaver, Michaela Sinkhorn/Byron Cerrillo, and D. A. Morrison —;  
5-8-00 letter to Byrne with Notarized Verification Authorizing immediate release of all files and evidence to A. J. Jones;

Exhibit

C = 4-29-98 letter to trial court reporter Debra Norman, with Nurse Horton "bench side bar" (R.Vol. V, Pp. 452-453, 478-479);

D = Olathe Daily News 11-16/17-96 Andy Hoffman article quoting the D.A.'s exact words from closing arguments; and the illegally edited closing argument transcript version by Court Reporter Marcia Meyers (R.Vol. X, Pg. 131);

E = Renee Anderson's 6-26-96 letter to me; Anderson's trial testimony perjury re: "fear" and would never testify to anything untrue crap (R.Vol. IX, Pg. 197); Byrne's trial closing argument re Anderson testifying "with all guns blazing" etc. (R.Vol. X, Pp. 123-126); Anderson trial testimony perjury re: arrival to K.C. on 3-10-96 and Anderson car suit Answer admission I wreck her car in Lenexa on 3-7-96; Anderson trial testimony perjury re: no credit cards and Jail property receipt re: Visa credit card, and Visa card receipts used with/for Anderson; My list of Renee's out of pocket losses incurred prior to trial; 2-28-97 reply letter from Lenexa Branch Manager of Capital Federal Bank and showing I made \$670. in loan repayments in 2 weeks time prior to arrest; 12-4-96 letter to Renee Anderson; 12-30-96 letter to Renee Anderson; 2-22-97 letter to Anderson's Car Insurance Agent Dave Thompson; 3-19-97 letter to Mosca's Palle Rilinger; 7-11-97 letter to Renee Anderson; 7-17-97 letter to Anderson's parents; 2-28-97 letters to Anderson's parents; Elizabeth Allen's voir dire comments, R.Vol. IV, Pp. 54-60; Renee Anderson's trial perjury (Pp. 172-175) and 5-17-96 KC Star article of arrest etc.;

Transcripts notes re: Carol Werth's perjurous "descriptions"; Werth's transcript testimony perjury and proof of Atty. Byrne corruptly holding back (R.Vol. V, Pp. 218, 277-278, 282, 303-304, 434; Officer Wilson), Pp. 207-208, 278, 255 with 5-15-96 KC Star weather forecast and "moonlight/seeing in dark" B.S. transcript quotes, 452-453, 467-468, 478-479; R.Vol. XI, Pp. 38, 59; R.Vol. XI, Pp. 2-8, 37) Letter to Carol Werth dated 1-11-97; Sentencing comments, R.Vol. XII, Pp. 4-6; 2-19-97 letters to Police Officers Anderson and Peterson; Voir Dire Becky Davis comments, R.Vol. IV, Pg. 68, and Nurse Horton comments, R.Vol. V, Pg. 466; "Credibility Contest" notes; Jury Instruction Chambers Comments; Werth's ~~notes~~ Werth's "~~using us such my lawyer~~"

sent  
B21  
here

## Exhibit

- F = (1): 4-8-98 reply letter from Overland Park Police Chief Douglass;  
(2): 3-11-98 letter to Chief Douglass;  
(3): 12-30-96 " " " " ;  
(4): 1-20-97 " " " " ;  
(5): 1-31-97 reply letter from Chief Douglass;  
(6): 10-26-98 letter to chief Douglass;  
(7): 12-1-98 " " " " ;  
(8): 2-25-97 letter to KBI Dep. Director Knowles;  
(9): 4-21-97 " " " " " " ;  
(10) 4-23-97 reply letter from KBI Dep. Director Knowles;  
(11) 5-1-97 " " " " " " " " ;  
(12) 5-6-97 letter to " " " " " " ;  
(13) 5-22-97 " " " " " " " " ;  
(14) 10-23-98 letter to Johnson Co. Crime Lab Director Branum, w/DNA articles;  
(15) 11-14-96 trial transcript excerpt of Johnson Co. Crime Lab D  
Expert Fahrnow testimony;  
(16) 11-11-98 sheriff's Dept. reply letter for Crime Lab Director Branu.  
(17) 9-22-98 letter to Kansas Gov. Graves;  
(18) 10-27-98 KDOC Atty.'s letter replying for Gov. Graves;  
(19) 12-30-96 letter to Sheriff Allenbrand;  
(20) 12-30-96 letter to D.A. Morrison
- G = (1) 9-2-97 letter to Admin. Judge McClain re: Renee Anderson HPV suit;  
(2) 9-2-97 letter to Admin. Judge McClain re: Seize/Seal Evidence;  
(3) 9-22-97 Prison medical request form re: HPV treatment;  
(4) 10-7-97 KDOC/LCF legal counsel Cowger reply re: access to prison  
medical records HPV treatments for litigation filing.
- H = 4-21-97 K.C. Star Hendricks article with quotes from D.A. Morrison  
and appointed counsel Byrne;
- I = Legal Malpractice Grounds / 6<sup>th</sup> Amendment Violation Claims against  
appointed counsels, filed in Case #99-C-3317/App.Ct. #99-82972-A.
- J = Unauthorized "Agreements" made between D.A. Morrison and appointed  
counsel's in State v. Yardley, Case #96-CR-2216 and State v. Maynard,  
Case #96-CR-1963;
- K = Pesek search warrant documents in state v. Yardley, Case #96-CR-2216  
showing warrant obtained on 6-21-96 at 4:09 AM, with Pesek police  
report stating same search warrant was served on 6-21-96 at 0330 hours;
- L = Renee Anderson's 12-2-96 ex parte communications letter with trial Judge  
turned over to appointed counsel Byrne on 12-12-96, and concealed from  
defendant until 1-11-97.

Patrick C. Lynn  
64377, EDCF, PO Box 311  
El Dorado, KS 67042

dated 2-4-02

Exhibit #4

In The Court of Appeals of The State of Kansas

State of Kansas,  
Plaintiff-Appellee

v.  
Patrick C. Lynn,  
Defendant-Appellant

App. Ct. Case No. 01-86942-A  
Johnson Co. Case No. 96-CR-1654.

Appellant's Pro Se Motion For  
Order Compelling District Court  
Clerk For Addition To The Record

Comes Now Patrick C. Lynn, pro se, respectfully motioning the Court for an order under S. Ct. Rule 5.01, to compel the District Court Clerk to add to the record, the attached discovery request filed in the district court on 5-20-96, simultaneously with "Defendants Assertion of His Fifth, Sixth, And Fourteenth Amendment Rights" which is listed as Vol. 1, Pp. 108-109.

Apparently this essential document was inadvertently left out of prior requests to add document filings to the ROA.

Appellant asserts that he has requested both appointed appellate counsel and the district court clerk's ofc. to correct this oversight and add such to the ROA. However, it is alleged and believed that only an order from this Court will rectify this omission.

2-4-02

Date

Respectfully Submitted,

s/ Patrick C. Lynn

Patrick G. Lynn, Pro Se  
64377, EDCF, PO Box 311  
El Dorado, KS 67042

## Certificate of Service

I, Patrick C. Lynn, hereby certify delivering the below stated motion to EDCF officials to mail to the below named parties by US Mail, postage prepaid and debited to my prison legal postage account, on this 4<sup>th</sup> day of Feb., 2002:  
Document in Case #01-86942-A:

"Appellant's Pro Se Motion For Order Compelling District Court Clerk For Addition To The Record"  
(with 5-20-96 File stamped Discovery Request).

### Parties:

Original plus 3 copies to:  
Clerk's Ofc., KS App. Ct., 301 SW Tenth, Topeka, KS, 66612;  
1 copy to:  
Jo. Co. Dist. Ct. Clerk's Ofc. - Appellate Dept. 100 N. Kansas Ave., Olathe, KS, 66061;  
Tom Bartee, 700 SW Tenth, Topeka, KS, 66603;  
Steve Obermeier, Jo. Co. D.A. Ofc., 100 N. Kansas Ave., Olathe, KS, 66061.

s/ Patrick C. Lynn  
Patrick C. Lynn  
64377, EDCF, PO Box 311  
El Dorado, KS, 67042

TENTH JUDICIAL DISTRICT PUBLIC DEFENDER

127 South Kansas Avenue  
Olathe, Kansas 66061-4434  
Tel. (913) 829-8755 \*\* Fax (913) 829-1397

R. No. I  
Pg. 158

96 MAY 21 AM 9:36

RECEIVED  
MAY 21 1996

M. Cerrillo  
Defender  
Michael J. Bartz  
Deputy District Defender

TO: Johnson County District Attorney's Office  
Paul Morrison, Assistant District Attorney

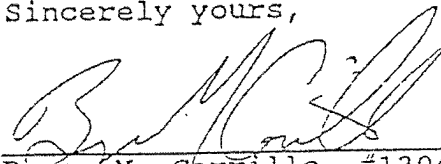
FROM: Johnson County Public Defender's Office  
Byron M. Cerrillo, Regional Defender

RE: State of Kansas v. Patrick Lynn, 96CR1654

This letter is sent pursuant to K.S.A. 22-3212 and the agreement between your office and this office regarding discovery and inspection "to permit the defendant" to inspect and copy all discoverable material in the above-entitled case. Further, this letter should be considered a demand for all exculpatory material or information of which the State becomes aware in this case, as well as all criminal history of the defendant.

We ask that such material be provided within ten (10) days of receipt of this request, and on a continuing basis as material becomes available.

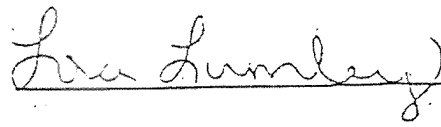
Sincerely yours,



Byron M. Cerrillo, #12048  
Regional Defender  
127 S. Kansas  
Olathe, Kansas 66061  
(913) 829-8755

BMC:lll

Hand delivered to the Office of the Johnson County District Attorney on May 20, 1996.



CLERK OF DISTRICT COURT  
JOHNSON COUNTY, KS.

96 MAY 20 PH 3:07

Handwritten initials and number: JJ 61296

SCANDATE 1996-05-19 12:13

Exhibit #5

I N T H E C O U R T O F A P P E A L S  
O F T H E S T A T E O F K A N S A S

Rec'd  
2-22-02

PATRICK C LYNN #64377  
EDCF  
PO BOX 311  
EL DORADO KS 67042

PRO SE

CASE NO. 01-86942-A

STATE OF KANSAS,                    APPELLEE,  
V  
PATRICK CHRISTOPHER LYNN,        APPELLANT.

YOU ARE HEREBY NOTIFIED OF THE FOLLOWING ACTION TAKEN BY THE COURT:

MOTION FOR ADDITIONS TO THE RECORD BY PATRICK LYNN.  
DENIED.

DATE: 02/20/2002.

CAROL G. GREEN  
CLERK

\*\*\*

Re: Exhib. #1

005441E 2003-02-19 12:14

Exhibit #6

I N T H E C O U R T O F A P P E A L S  
O F T H E S T A T E O F K A N S A S

PATRICK C LYNN #64377  
EDCF  
PO BOX 311  
EL DORADO KS 67042

PRO SE

Rec'd 2-22-02

CASE NO. 01-86942-A

STATE OF KANSAS,                                APPELLEE,  
V  
PATRICK CHRISTOPHER LYNN,                APPELLANT.

YOU ARE HEREBY NOTIFIED OF THE FOLLOWING ACTION TAKEN BY THE COURT:

MOTION COMPELLING DISTRICT COURT CLERK TO MAKE ADDITIONS TO  
THE RECORD BY PATRICK LYNN.  
DENIED.

DATE: 02/20/2002.

CAROL G. GREEN  
CLERK

\*\*\*

Re: Exhib. #2

SPRINGFIELD 2002/02/20 12:14





Johnson County, Kansas by District Attorney Paul Morrison. Following a jury trial and his conviction on November 15, 1996, Defendant has been incarcerated at the Lansing Correctional Facility in Lansing, Kansas.

2. Carla J. Stovall is the duly elected Attorney General of the State of Kansas and she brings this action pursuant to her statutory and common law authority.

3. Since his conviction, but before the Defendant has had his conviction reversed on appeal or otherwise exhausted his right to appeal from his criminal conviction, Defendant has undertaken a pattern and practice of retaliation and retribution against several persons including state officials involved in his detention, the investigation, prosecution, and trial of his state criminal case.

4. Defendant's retaliation and retribution includes the commencement of numerous civil actions in the district court of Johnson County, Kansas, including Case Nos. 97C480, 97C3549, 97C4388, 97C4389, 97C4391, 97C4697, 97C4741, 97C4992 and in the Kansas Supreme Court, Case No. 97-78919-S.

5. Among others, Defendant has named as defendants in one or more of his civil filings, the district court judge who presided at his criminal trial, the prosecuting attorneys, his court-appointed lawyers and staff, the wife of one juror who served in the venire, and a victim of the crimes for which he was convicted.

6. Substantial and limited resources of the State have already been, and will be used in the future to consider, resolve and defend Defendant Lynn's ill-intended civil actions.

According to the Restatement (Second) of Torts, §682, a person engages in an abuse of process when a person "uses a legal process, whether criminal or civil, against another primarily to accomplish a purpose for which it is not designed." Kansas courts have cited to this treatise

with approval. See, *Hokanson v. Lichtor*, 5 Kan.App.2d 802, 626 P.2d 214 (Kan.App. 1981).

The Defendant's statements at oral argument confirm that his purpose(s) in filing civil actions in the district courts of this State were for purpose(s) for which civil actions are not designed. Defendant takes particular aim at the District Attorney of Johnson County, Kansas.

In addition, Defendant's answer filed in this case acknowledges that the State will suffer irreparable injury unless an injunction is issued and the threatened injury to the State outweighs whatever damage any injunction may cause him. See, *Defendant's Answer*, pp. 7, 8.

The court concludes that the totality of the circumstances surrounding the Defendant's civil filings, including the admissions made by the Defendant at the hearing on Plaintiff's verified petition, supports a finding that the Defendant has commenced civil actions for wrongful purpose(s) and that he has abused the civil process of the State of Kansas.

The Defendant has been provided timely notice of the proposed restrictions and an opportunity to be heard regarding the restrictions.

Because the court finds that the State has satisfied its burden for the entry of a permanent injunction, and that all other prerequisites to the entry of a permanent injunction are satisfied, the court enters the following reasonable filing restrictions:

1. Before filing any petition or other pleading with any district court in the State of Kansas, Patrick C. Lynn must file an application with the clerk of the district court, requesting leave to file a petition or other pleading (with the exception of a notice of appeal).
2. A copy of this court's Journal Entry and Permanent Injunction (hereafter, "filing restrictions") must be attached as the first two pages of the typed application which the Defendant proposes to be filed.
3. In addition to a copy of the filing restrictions, Defendant must include in the

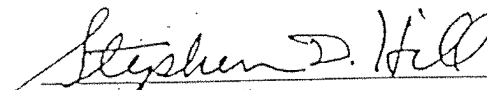
application the following information:

- A. A copy of the proposed petition or other pleading.
  - B. A current and accurate list of all lawsuits or other matters currently pending or filed previously with this court or any other district or appellate court in Kansas involving the same claims or parties, including the name, number and citation, if applicable, of each case, and the current status or disposition of the case in this or any other court; and,
  - C. A list notifying the court of all outstanding injunctions or orders limiting the Defendant Lynn's access to any federal or state court, including the name, number and citation, if applicable, of all such orders or injunctions; and,
  - D. A notarized statement, in accordance with K.S.A. 60-2001(b), regarding the status of Defendant's prison account together with a complete list of all other assets, if any.
4. File a notarized affidavit certifying that (1) the claims are not claims that have been previously asserted and/or do not involve issues currently and/or previously litigated and resolved; (2) the claims are not frivolous or made in bad faith; and (3) acknowledging responsibility to comply with all applicable state rules of civil procedure and appellate procedure, as well as the rules of the district court and of the Kansas Supreme Court.
5. Deliver the above documents to the clerk of the court, who shall forward them to the administrative judge of the judicial district, or the judge's designee, for determination whether the petition or pleading is lacking in merit, is duplicative, or is frivolous. The court will either permit the filing of the petition or pleading or issue an order denying the petition or pleading.
6. Failure to follow these procedures may result in the rejection of any future case

Defendant attempts to file in the courts of this State.


7. Copies of this Journal Entry and Permanent Injunction shall be served upon the administrative judges and clerks of the district courts of the First, Third, Tenth, 13<sup>th</sup> and 17<sup>th</sup> Judicial District in Kansas, and, the Clerk of the Appellate Court, Topeka.

IT IS SO ORDERED.

  
STEPHEN D. HILL  
District Judge, assigned.

Submitted by:

Carla J. Stovall  
Attorney General



Kevin D. Case, No. 14570  
Assistant Attorney General  
301 S.W. Tenth Avenue  
Topeka, Kansas 66612-1597  
913/296-2215

CERTIFICATE OF CLERK OF THE DISTRICT COURT. The above is a true and correct copy of the original instrument filed on this 19<sup>th</sup> day of November 1997, and recorded in this Court, Tenth Judicial District, Johnson County, Kansas.  
Dated this 16<sup>th</sup> Day of October 1997  
\_\_\_\_\_  
Chief Clerk of the District Court.  
\_\_\_\_\_  
Deputy.

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS

STATE OF KANSAS, EX REL  
ATTORNEY GENERAL CARLA STOVALL,

Plaintiff,

vs.

Case No. 97C6900

PATRICK C. LYNN,

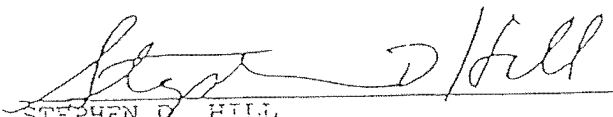
Defendant.

ORDER MODIFYING INJUNCTION AND DENYING MOTION FOR NEW TRIAL

Now on this 10<sup>th</sup> day of July, 1997, this Court having received a motion from the defendant where he explains in detail why it is impractical and almost impossible for him to type his motions and filings, the Court hereby modifies its prior order and will permit the defendant to file his papers using pen and ink as long as they are legibly written.

The Court has also received the defendant's motion for new trial and relief from judgment and hereby denies the same. All of these arguments made by Mr. Lynn in his motion for new trial were made by him at the time of the trial of this matter. That motion is hereby denied.

LET THIS ORDER ISSUE.

  
STEPHEN D. HILL  
DISTRICT JUDGE ASSIGNED

CERTIFICATE OF MAILING

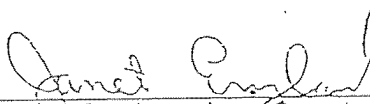
I hereby certify that a copy of the foregoing Order was deposited in the United State mail, postage prepaid on the 10<sup>th</sup> day of July, 1997, addressed to:

Clerk of District Court  
Johnson County District Court  
100 N. Kansas Avenue  
Olathe, Ks. 66051

Kevin Case  
Attorney General Office  
301 S. W. 10th Avenue  
Topeka, Ks. 66612

Patrick C. Lynn  
64377, LCF, P.O. Box 2  
Lansing, Ks. 66043

Hon. Larry McClain  
Administrative Judge  
Johnson County Courthouse  
100 N. Kansas Avenue  
Olathe, Ks. 66051

  
\_\_\_\_\_  
Clerk of District Court.  
Miami County, Kansas

Patrick C. Lynn  
64377, EDCF, PO Box 311  
El Dorado, KS, 67042

dated 1-21-02  
~~Patrick C. Lynn~~  
Exhibit #1

In The District Court of Johnson County, Kansas  
Division 3

State of Kansas,  
Plaintiff

v.  
Patrick C. Lynn,  
Defendant

Case No. 96-CR-1654

App. Ct. Case No. 01-86942-A

Defendant's Pro Se Request For  
Additions To The Record  
On Appeal

Comes Now the Defendant, Patrick C. Lynn, pro se, moving pursuant to Supreme Court Rule 3.2(c), hereby formally requests that the Clerk of the District Court add to the record the following:

- 1.) Defendant's Pro Se Exhibits marked as Exhibits #A thru #L that were attached to his "Defendant's Verified Advance Preliminary Proffer of Facts, Evidence, Proposed Witnesses And Legal Causes In Support of Exercising His Statutory Allocation Rights" filed on 5-22-00. (See present ROA, Vol. I, Pp. 221-242).
- 2.) Defendant requests that these Exhibits #A thru #L be marked and contained in a separate ROA Volume designated Volume XXIII.

1-21-02

Date

Respectfully Submitted,

Patrick C. Lynn  
Patrick C. Lynn, Pro Se  
64377, EDCF, PO Box 311  
El Dorado, KS, 67042

## Certificate of Service

I, Patrick C. Lynn, hereby certify delivering the below stated motion to EDCF officials to mail to the below named parties by US Mail, postage prepaid and debited to my prison legal postage account on this 21<sup>st</sup> day of Jan., 2002:  
Document in Case #96-CR-165A/App. Ct. Case #01-86942-A:

"Defendant's Pro Se Request For Additions To The Record on Appeal"

Parties:  
Clerk's Ofc, Johnson Co, 100 N. Kansas Ave, Olathe, KS, 66061;  
Steven O. Bermeier, D.A. Ofc, 100 N. Kansas Ave, Olathe, KS, 66061;  
Tom Bartee, Appt'd Atty, 700 S.W. Jackson, Ste. 1001, Topeka, KS, 66603;  
Jason Oldham, App. Ct. Clerk's Ofc, 301 SW Tenth, Topeka, KS, 66612.

s/ Patrick C. Lynn  
Patrick C. Lynn  
64377, EDCF, PO Box 311  
El Dorado, KS, 67042

Patrick C. Lynn  
64377 EDCF, PO Box 311  
El Dorado, KS, 67042

~~to be placed in the District Court~~  
~~to be placed in the District Court~~  
~~to be placed in the District Court~~

### In The Court Of Appeals Of The State Of Kansas

State of Kansas,  
Plaintiff-Appellee

v.

Patrick C. Lynn,  
Defendant-Appellant

App. Ct. Case No. 01-86942-A  
Johnson Co. Case No. 96-CR-1654  
Appellant's Pro Se Motion For  
Order Compelling District Court  
Clerk For Additions To Record

Comes Now Patrick C. Lynn, pro se, respectfully moving under S.Ct. Rule 5.01, and motioning this Court for an Order compelling the Johnson Co. District Court Clerk to make additions to the record on appeal as requested by him — see Exhibit A herein. Appellant further shows:

- 1.) He has asked assigned counsel Mr. Bartee to pursue these additions to no avail, hence this motion to the App. Ct. now.
- 2.) He intends to submit a motion to this Court for an Order to Compel Mr. Bartee to withdraw his brief per S.Ct. Rule 5.03(d) and correct the omissions left out via an Amended Brief, which will include the Brady violation issue requiring reversal and retrial barred; amongst other preserved issues, which if properly briefed, will be ripe for federal habeas action or petition for Certiorari to U.S. Supreme Court, if necessary.
- 3.) That the exhibits referenced in the pro se request for additions to the record are crucial to any Amended Brief and/or any pro se Supplemental Brief, and critical to the ROA for future federal or U.S. Supreme Court petitions, including review to this Court.
- 4.) Wherefore, Patrick C. Lynn humbly requests this Court Order the Johnson Co. District Court Clerk to add the requested exhibits to the ROA as sought and without delay.

1-31-02  
Date

Respectfully Submitted,  
s/ Patrick C. Lynn  
Patrick C. Lynn, Pro Se

## Certificate of Service

I, Patrick C. Lynn, hereby certify delivering the below stated motion to EDCF officials to mail to the below named parties by US Mail, postage prepaid and debited to my prison legal postage account, on this 31<sup>st</sup> day of Jan., 2002:  
Document in Case # 01-86942-A / Johnson Co. Case # 96-CR-1654

" Appellant's Pro Se Motion For Order Compelling District Court Clerk For Additions To Record "  
(with Exhibit A)

### Parties:

Original plus 3 copies to:

App. Ct. Clerk's Ofc., 301 SW Tenth, Topeka, KS, 66612;

1 copy to:  
Tom Bartee, 700 SW Jackson, Ste. 1001, Topeka, KS, 66603;

USA/9 Stovall, 120 SW Tenth, 2nd Floor, " " 66612;

Steven Obermeier, DA Ofc., 100 N. Kansas, Olathe, KS, 66061.

Joi Co. Clerk, 100 N. Kansas, Olathe, KS, ~~66061~~.

s/ Patrick C. Lynn

Patrick C. Lynn  
64377 EDCF, PO Box 311  
E1 Dorado, KS, 67042

Patrick C. Lynn  
64377, EDCF, PO Box 311  
El Dorado, KS, 67042

Dated 1-21-02  
filed 1-28-02

Exhibit A

In The District Court Of Johnson County, Kansas  
Division 3

State of Kansas,  
Plaintiff

v.

Patrick C. Lynn,  
Defendant

Case No. 96-CR-1654

App. Ct. Case No. 01-86942-A

Defendant's Pro Se Request For  
Additions To The Record  
On Appeal

Comes Now the Defendant, Patrick C. Lynn, pro se, moving pursuant to Supreme Court Rule 3.2(c), hereby formally requests that the clerk of the District Court add to the record the following:

- 1.) Defendant's Pro Se Exhibits marked as Exhibits #A thru #L that were attached to his "Defendant's Verified Advance Preliminary Proffer of Facts, Evidence, Proposed Witnesses And Legal Causes In Support of Exercising His Statutory Allocation Rights" filed on 5-22-00. (See present ROA, Vol. I, pp. 221-242).
- 2.) Defendant requests that these Exhibits #A thru #L be marked and contained in a separate ROA Volume designated Volume XXIII.

1-21-02

Date

Respectfully Submitted,

Patrick C. Lynn

Patrick C. Lynn, Pro Se  
64377, EDCF, PO Box 311  
El Dorado, KS, 67042

## Certificate of Service

I, Patrick C. Lynn, hereby certify delivering the below stated motion to EDCF officials to mail to the below named parties by US Mail, postage prepaid and debited to my prison legal postage account on this 21<sup>st</sup> day of Jan., 2007:  
Document in Case #96-CR-1654/App. Ct. Case #01-86942-A:

"Defendant's Pro Se Request For Additions To The Record On Appeal"

Parties:  
Clerk's Ofc., Johnson Co, 100 N. Kansas Ave., Olathe, KS, 66061;  
Steven Obermeier, D. A. Ofc., 100 N. Kansas Ave., Olathe, KS, 66061;  
Tom Barte, App't'd Atty., 700 S.W. Jackson, Ste. 1001, Topeka, KS, 66603;  
Jason Oldham, App. Ct. Clerk's Ofc., 301 SW Tenth, Topeka, KS, 66612.

s/ Patrick C. Lynn  
Patrick C. Lynn  
64377, EDCF, PO Box 311  
El Dorado, KS, 67042

Exhibit

Scott  
Barber

A = Copy of proposed 6-24-96 Federal § 1983 lawsuit against appointed Public Defender's Ofc. persons, sent to Judge Cleaver with letter on or about 6-29-96; 12-4-96 "rough" duplicate of letter issues sent to Judge Cleaver; 12-5-96 letter to Judge Cleaver; 1-6-97 Judicial Complaint against Judge Cleaver - served him too; 1-13-97 letter to Judge Cleaver; "1507" Petition form re-served on 1-10-97 and related attachments; 11-16-96 Jail Deputy Yoder incident report; 11-16-96 Jail Lt. Graves incident report re Judge Cleaver phone call; 11-21-96 Order; 11-21-96 letter to Judge Cleaver; 11-22-96 Order; 12-13-96 Jail Lt. Simpson memo re: advising Judge Cleaver I spit on his nameplate in hallway on 12-12-96; 1-23-97 WDOC Atty. Appel letter to Judge Cleaver;  
— Letters were also sent to Judge Cleaver on 9-18-96 and 10-9-96 —

B = 6-18-96 response letter from Public Defender Investigator Chance re: his ~~total~~ ignorance about importance of business card and 11:30pm State witness Corner trial testimony re: time of 9:30pm/heard Carol Werth come home (R. Vol. V, Pp. 337-341); My 6-20-96 reply letter to Investigator Chance; My Business card with Deanna Darr info, finally returned on 2-28-97; My 3-21-97 letter to Deanna Darr; Carol Werth's trial perjury re: Bally's aerobic's class time and time returned home (R. Vol. Pp. 232-235);

Atty. Byrne's 12-3-96 letter responding to my 11-20-96 pro se motion, and 11-27-96 letter; 12-5-96 postmarked letter envelope addressed to Byrne and returned on 12-18-96;

Atty. Gerstle's 12-26-96 letter responding to my 12-23-96 letter; and his 1-13-97 letter to Disciplinary Administrator's Ofc.;

3-8-99 Atty. Gorup letter to Byrne; Byrne's 3-8-99 reply letter to Gorup; Gorup's motions filed with District Court to preserve evidence held by Byrne and law enforcement officials;

3-2-98 letter to Byrne for corruptly concealed Carol Werth "virgin" claim medical report notes; 3-5-98 letter request to Shawnee Mission Medical Center Records Dept. with copy of Humphrey case; 3-12-98 Reply letter;

— Similar Request letters for copy of Werth's corruptly concealed "virgin" claim medical report notes, were made on 3-30-98 to Judge Cleaver, Michaela Sinkhorn/Byron Cerrullo, and D.A. Morrison —;

5-8-00 letter to Byrne with Notarized Verification Authorizing immediate release of all files and evidence to A.J. Jones;

Patrick C. Lynn  
64377, EDCF, PO Box 311  
El Dorado, KS, 67042

In The District Court Of Johnson County, Kansas

Patrick C. Lynn,  
Petitioner

v.

Tom Barlee, and Sandy  
McCurdy - District Court Clerk,  
Respondents

~~02 CV 01864~~

Case No. 02-C-

Div 12

Verified Petition For Writ  
Of Mandamus

Comes Now Patrick C. Lynn, pro se, petitioning for a writ of Mandamus pursuant to KSA 60-801 et seq. and moves the court to issue a Peremptory Order forthwith pursuant to KSA 60-802(b), and shows:

I. Parties:

- 1) He is a State prisoner arising from the unlawful convictions and illegal resentencing issued in Johnson Co. Case # 96-CR-1654, which is currently pending appeal in US App. Ct. Case # 01-86942-A. And he is incarcerated for the time being at EDCF, PO Box 311, El Dorado, KS, 67042;
- 2) Respondent Tom Barlee is the Court appointed counsel at present in Case # 96-CR-1654/#01-86942-A above, for Petitioner, and service is had at 200 SW Jackson, Ste. 1001, Topeka, KS, 66605.
- 3) Respondent Sandy McCurdy is the Johnson Co. District Court Clerk, and service is had at 100 N. Kansas Ave., Clatsco, KS, 66061.

1 of 5

CLERK OF DISTRICT COURT  
JOHNSON COUNTY, KS.  
2002 MAR 26 AM 8:24

### III. Jurisdiction :

4.) The Court has jurisdiction under USA EO-ECI et seq.

### III. Statement of Facts :

- 5.) Petitioner is presently pursuing a second direct appeal of the criminal case noted in #1. above; Tom Bartee is presently Appellate Counsel of record.
- 6.) Petitioner has repeatedly insisted his appellate counsel to add crucial documents to the ROA, yet counsel contemptuously ignored these requests over several months. Petitioner was compelled to thus act on his own to include these documents into the ROA, see Exhibits A entirely.
- 7.) Petitioner motioned the Appellate Courts and was summarily denied in arbitrary fashion without due consideration of the merits. See Exhibits A entirely.
- 8.) Tom Bartee formally requested the Johnson Co. District Court Clerk's Ofc. to make additions to the Record on 8-23-01 / See Exhibit B herewith, which mirrored Petitioner's requests to deputy clerk Toni Berry months earlier / See Exhibit C herewith; and to date, many of the documents Mr. Bartee himself asked be added to the ROA have still not been added / see Exhibit D herewith, and both Respondents are deliberately indifferent.
- 9.) That Tom Bartee had repeatedly agreed to argue as issues on appeal, the exact same issues and supporting facts/evidence raised in the "Motion to Dismiss... Petition For writ of Habeas Corpus..." filed in the district court on 2-22-01 and summarily denied on 3-1-01. And failed to do so and instead filed a sloppy and inaccurate Brief of Appellant reflecting his cowardice and intent to diminish Petitioner's issues on appeal.
- 10.) Petitioner filed a 40 pg. prose motion to compel Bartee to file an amended Brief, and Brady violations Remand motion, and was again summarily denied by the App. Ct. on 2-28-02.

- 11) That Barteo stated to Petitioner in a letter dated 2-6-02 that he was "drafting a motion for remand and a petition for DNA testing", but still has not filed anything nor seems likely to do so.
- 12) That Barteo's cowardice in failing to separately argue the issue of Prosecutorial Misconduct/Collusion issue, as well as Judicial Misconduct/Pecuniary Interest and the Conspiracy issues denies Petitioner a meaningful appeal. The omissions are aptly noted in the 40 pg. pro se App. Ct. filing, citing retaliation is barred...
- 13) Petitioner has a constitutional right to effective assistance of counsel on direct appeal — including the current second direct appeal. See Romero v. Tansy, 46 F.3d 1027 (10<sup>th</sup> Cir. 1995); Evitts v. Lucey, 105 S.Ct. 830 (1985) (Defendant's right to effective asst. of counsel applies on direct appeal). And Barteo is not providing effective asst.
- 14) Petitioner has a clearly defined statutory right to add to the ROA under KS S.Ct. Rules 3.01 and 3.02(c); and a 14<sup>th</sup> Amendment due process right to have an accurate and complete ROA to support all appeal issues and facts. Accord McBride Elec. Inc. v. Pott's Tuff, Inc., 9 Kan. App. 2d 548, Syl. 1 (1984);

"Appellate Procedure - Record on Appeal - Duty of Appellant.  
Under Kansas law, it is the appellant who is charged with the duty of compiling a record adequate to support his contentions of error. Furthermore, error at the trial court level is never presumed, but must be made to affirmatively appear.

Thus, it is incumbent upon the appellant to include in the record on appeal any matter upon which he intends to base a claim of error."

- 15) That Barteo has advised he will file a motion to withdraw as counsel and return all files and property of Petitioner that he presently retains. Petitioner is agreeable to Barteo's removal but prison officials will destroy such property because such is in excess of allowable limits Petitioner can possess. And an order or agreement is necessary to bind Barteo to retain until new counsel can be had and/or arrangements made to safely transfer such irreplaceable property.

- 16.) That because of Barte's sloppy and inaccurate Brief of Appellant filed in the Appellate Court and the Appellate Court's arbitrary refusal to compel Barte to file an Amended Brief as sought by Petitioner, Petitioner verily believes his appeal is futile and doomed to defeat on all issues other than the inevitable remand again for a third resentencing based on Apprendi and Gould rulings declaring departure sentencing unconstitutional as applicable in Petitioner's case.
- 17.) That based upon the facts above, Petitioner is both instructing Barte to notify the Appellate Court that oral arguments are waived and notifying the Appellate Court that he waives same so as to expedite the Appellate Court's expected arbitrary ruling denying relief based on Barte's sloppy and inaccurate Brief — so that Petitioner can forthwith pursue federal habeas remedies, or Petition for Writ of Certiorari to U.S. Sup. Ct.
- 18.) Petitioner asserts that if the requested documents he's insisted upon being added to the ROA, are not added forthwith and an Amended Brief of Appellant not filed, that he will be compelled to litigate a legal malpractice claim against Barte.
- 19.) Petitioner alleges and believes Barte's failures to include the issues and facts noted in his 40pg. prose Appellate Court filing; the failures to add the requested documents to the ROA and the failures to compel the district court clerk to add those documents Barte requested added to the ROA; and the failures to file the promised remand and DNA testing motions, are intentional acts to doom Petitioner's appeal and cause the foreseeable appellate relief failure. Accord State Farm Ins. Co. v. Gerrity, 25 Kan. App.2d 643 syl. 3 and 4 (1998) (holding that an intentional act(s) to injure can be inferred from the nature of the act(s) and the foreseeability of harm flowing naturally from that act(s)).
- 20.) That Barte has, in sum and substance, failed to protect Petitioner's rights to a meaningful appeal on meritorious issues and with an accurate and complete ROA, contrary to his legal duties and responsibilities.

IV. Relief Requested:

21.) Petitioner is entitled to a Peremptory Order - writ of Mandamus which:

(a) directs the Respondent McCurdy to forthwith add to the ROA, those documents specified in Exhibits A being:

- (i) the 5-20-76 file stamped discovery request hand delivered to the Court and district attorney's office; and
- (ii) the Exhibits marked as Exhibit #A thru #L filed as attachments to his 5-22-00 filed pro se offering (see ROA Vol. 1, pp. 221-242).

(b) directs the Respondent McCurdy to forthwith add to the ROA, those documents specified as missing from Barte's request to add to the ROA - see Exhibits B and D herewith.

(c) directs the Respondent Barte to forthwith file an Amended Brief of Appellant to include issues and facts presented in Petitioner's 40 pp. pro se pleading to the KS App. Ct. dated 2-11-02 and summarily denied on 2/28/02.

(d) directs the Respondent Barte to forthwith file the motions for remand with Nyman affidavits (see Nyman v. Aiken, 827 F.2d 1405, at 1416 (4th Cir. 1987) promised repeatedly and the DNA retesting motion, re: App. Ct. #01-86942-A).

(e) directs the Respondent Barte to safely retain all of the Petitioner's legal files and property in his possession until new counsel is appointed.

(f) Any other relief deemed just, proper, and equitable.

3-12-02

Date

Respectfully Submitted,

s/ Patrick C. Lynn

Patrick C. Lynn, Pro Se  
64377, EDCF, PO Box 311  
El Dorado, KS 67042



Patrick C. Lynn  
64377, EDCF, PO Box 311  
El Dorado, KS, 67042

2-25-02  
Filed 2-28-02  
Denied 3- -02

Exhibit A

In The Supreme Court of The State of Kansas

State of Kansas,  
Plaintiff-Appellee

v.

Patrick C. Lynn,  
Defendant-Appellant

App. Ct. Case No. 01-86942-A  
Johnson Co. Case No. 96-CR-1654  
Appellant's Pro Se Motion For Supreme  
Court Review, And For Order To Compel  
Additions To The Appellate Record

The pro se Appellant Patrick C. Lynn, pursuant to S.Ct. Rules 3.01, 3.02(c), and 5.01, respectfully requests S.Ct. review and he humbly requests this Court to issue an Order to Compel the additions to the appellate record he is entitled to for any meaningful appellate review and future federal petitions; and shows:

- 1.) Appellant's case captioned above is a criminal case appeal which is proceeding for the second time on direct appeal; and he is represented by appointed counsel Tom Bartee of Topeka; and Mr. Bartee filed the Brief of Appellant on 1-23-02.
- 2.) That since December 2001, Appellant has repeatedly requested Mr. Bartee and the Johnson Co. District Court Clerk's Office to add crucial documents previously filed in the District Court to the record on appeal in this appeal — to no avail. In fact, Mr. Bartee has failed to respond to any inquiry much less explain why he has failed to have these crucial documents added.
- 3.) Appellant therefore acted on his own to protect the ROA, and submitted his pro se motions in these regards, see Exhibits #1 thru #4 herewith.

4.) on 2-20-02, an unknown Judge of the Appellate Court below summarily denied the pro se motions. See Exhibits #5 thru #7 herewith. Appellant respectfully asserts that such denials are arbitrary and an abuse of discretion. Consider for example, a key issue on appeal raised by Mr. Barte, argues whether the District Court Judge erred in refusing to permit Appellant his statutory rights to present claims of error before resentencing. See Issue #2 of Appellant's Brief. Consider also that:

(a) Appellant asserts that in addition to the arguments and authorities cited by Mr. Barte, this issue fails to present that prior to resentencing, Appellant himself made a vast proffer to the Court in compliance with this Court's ruling issued in State v. Borders, 879 P.2d 620, 621-n.5, n.7, n.10-12 (Kan.1994). See also State v. Bafford, 879 P.2d 613, n.2 (Kan.1994).

(b) It is the documentary evidence proffered by Appellant to the Court prior to resentencing that Appellant adamantly asserts is crucial to any meaningful appellate review or any further federal action he may seek. The ROA shows that his actual pleading is listed in the ROA as R.Vol. 1, Pp. 221-242 but the crucial proffered documentary evidence are egregiously omitted. See the "Index of Exhibits" contained in Exhibit #2 herewith.

(c) Appellant asserts that Mr. Barte has overlooked adding to the ROA, the formal discovery request under KSA 22-3212 that was hand-delivered to the prosecutor and filed with the Court on 5-20-96. This discovery request is attached to Exhibit #4 herewith; and was simultaneously served/filed with a pleading captioned as "Defendant's Assertion of His 5<sup>th</sup>, 6<sup>th</sup>, And 14<sup>th</sup> Amendment Rights" that is contained in the ROA and designated as R.Vol. 1, 108-109. The omitted discovery request is crucial to Issues #3 thru #5 of Mr. Barte's Brief of Appellant; and is more so in-

fact crucial to Appellant's recently submitted pleading to the Appellate Court dated 2-11-02, entitled: "Appellant's Pro Se Motion To Compel His Appellate Counsel To File Amended Brief And Brady Violations Remand Hearing Motion, With Supporting Facts And Authorities Why; And/Or For Appellate Review Hereon"; which is a 40 pg. pleading supported by concrete documentary exhibit evidence. Numerous deliberate Brady violations occurred in the original trial level proceedings that only came to light some 2 yrs. after arrest/trial. Mr. Barteo does not argue the Brady violations as such on appeal and Appellant's pro se 2-11-02 pleading does. Appellant alleges and believes that Mr. Barteo's failures to raise separately, the Brady violation issue and to properly preserve the ROA constitutes ineffective asst. of counsel on this second direct appeal.

- (d) Appellant respectfully asserts that that as a matter of law, the Kansas Appellate and Supreme Court must examine the merits of Appellant's pro se claims in these matters, including his pro se 2-11-02 pleading and exhibits noted above. Accord U.S. v. Johnson, 995 F. Supp. 1259, n. 6 (D. Kan. 1998).
- (e) The additions Appellant requests to be added to the ROA are not extraordinary. Appellant asserts that the District Court Clerk's failures/refusals to properly add these documents to the ROA violates the Clerk's duties and obligations under KSA 20-3102, and under S.Ct. Rules 3.01(a) and 3.02(c).
- (f) Appellant asserts that a petition for Writ of Certiorari may well be in store in this round of second direct appeal, and it will require a complete and accurate ROA for the U.S. Supreme Court to closely examine. See S.Ct. Rule 3.09. Note also U.S. v. Bullock, 71 F.3d 171 (5<sup>th</sup> Cir. 1995) ("Appellant abandons all issues not raised in his appeal brief").
- (g) In this second direct appeal, the issue of ineffective asst. of trial counsel is in a radically different and persuasive-

posture and contained within Exhibit #I of the 5-22-00 proffered exhibits Appellant is entitled to have added to the ROA, is over 200 precisely detailed supporting facts for the 6<sup>th</sup> Amendment ineffective assistance of trial counsel issue which must be examined in this current appeal.

Wherefore, Appellant respectfully requests this Court to issue an order to Compel the Johnson Co. District Court Clerk to add to the ROA the requested documents noted herein. See S.Ct. Rule 3.01(b).

2-25-02  
Date

Respectfully Submitted,

s/ Patrick C. Lynn

Patrick C. Lynn, Pro Se  
64377, EDCF, PO Box 311  
El Dorado, KS, 67042

### Certificate of Service

I, Patrick C. Lynn, hereby certify delivering the foregoing motion with Exhibits #1 thru #7, to EDCF officials to mail by first class US Mail, postage prepaid and debited to my legal postage account, to the below named parties on this 25<sup>th</sup> day of February, 2002.

Original plus 8 copies to:

S.Ct. Clerk's Ofc., 301 SW Tenth, Topeka, KS, 66612;

1 copy to:

Tom Bartee, 700 SW Jackson, Ste. 1001, Topeka, KS, 66603;

KS A/g Ofc., 120 SW Tenth, 2<sup>nd</sup> Floor, Topeka, KS, 66612;

Jo. Co. D.A. Ofc., 100 N. Kansas Ave., Olathe, KS, 66061.

s/ Patrick C. Lynn

Patrick C. Lynn  
64377, EDCF, PO Box 311  
El Dorado, KS, 67042

Patrick C. Lynn  
64377, EDCF, PO Box 311  
El Dorado, KS 67042

02-3

In The District Court Of Johnson County, Kansas

02CV02660

Patrick C. Lynn,  
Petitioner

Case No. 02-CV-  
(Re Admin. Order #02-3) Div 14

v.  
Tom Barteo, and  
Sandy McCurdy -  
District Court Clerk,  
Respondents

Notice of Appeal and Motion  
For Orders With Affidavit  
In Support

Patrick C. Lynn herewith gives notice of appeal from acting judge Larry McClain's Memorandum Decision file stamped 4-3-02; and moves for the following Orders:

- 1.) He remains indigent and another certified prison acct. statement is attached to his affidavit herewith.
- 2.) That because of his indigency, the Court must issue a file stamped certified Order per S.Ct. Rules 2.04 waiving appeal docket fees so he can effectuate his rights to appellate review under USA 60-2102(a)(2).
- 3.) That S.Ct. Rule 2.04 requires a file stamped certified copy of the 4-3-02 Memorandum Decision and he therefore submits the file stamped copy sent him for the clerk's certification and requests an order to ensure timely compliance.

4-16-02  
Date

s/ Patrick C. Lynn

Patrick C. Lynn, Prose  
64377, EDCF, PO Box 311  
El Dorado, KS 67042

CLERK OF DISTRICT COURT  
JOHNSON COUNTY, KS.

2002 APR 25 AM 10:29

Orig Filed 4-25-02 in

Case 02CV2660 Div 14

1 of 4

COMPUTE 2002-05-13 12:14

Certificate of Service

I, Patrick C. Lynn, hereby certify\* delivering the below stated motion to EDCF officials to mail to the below named parties by US Mail, postage prepaid and debited to my prison legal postage account, on this 16<sup>th</sup> day of April, 2002:  
Document in Case # 02-CV- (Admin. Order #02-3).

Notice of Appeal and Motion For Orders  
with Affidavit In Support

Parties:

Clerk's Ofc., 100 N. Kansas Ave., Olathe, KS, 66061; (and McCurdy)  
Bartee — 700 SW Jackson, Ste. 1001, Topeka, KS, 66603

\* Declared in Compliance with  
28 USC §1746.

s/ Patrick C. Lynn  
Patrick C. Lynn  
64377, EDCF, PO Box 311  
El Dorado, KS, 67042

State of Kansas  
County of Butler ss.

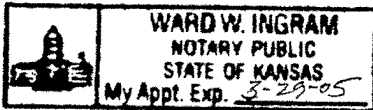
Affidavit

I, Patrick C. Lynn, of lawful age and duly sworn upon my oath, declare under penalty of perjury the following is true and correct:

- 1.) I am the petitioner-appellant in Johnson Co. (case captioned as Lynn v. Barbee, et al.,
- 2.) I swear that my claims are just and accurately set forth in my petition, and I further swear that by reason of my poverty, I am unable to pay the appeal docket fee.
- 3.) I am attaching my certified prison acct. statement herewith.
- 4.) Further I sayeth naught.

Patrick C. Lynn  
Patrick C. Lynn  
64377, EDCF, PO Box 311  
El Dorado, KS 67042

Sworn and subscribed to  
before me, W. W. Ingram  
Notary Public of KS  
on this 14<sup>th</sup> day of April, 2002



4/15/02

10:15:31

Kansas Department of Corrections  
Inmate Account Statement

Prog - EKR0050

Page 1

Inmate: 0064377 LYNN, PATRICK, C

	Total Deposits	Average Balance*
October:	.00	.01
November:	.00	.01
December:	.00	.01
January:	.00	.01
February:	.00	.01
March:	.00	.01
Total all Months:	----- .00	----- .06

*pg. 1 of 2*

Average for Preceding Months:\*\* .00

Current Available Balance as of 4/15/02: .00

\*NOTE: The average balance is calculated from the account data for the inmate location at the time interest is posted to his/her account.

\*\*NOTE: Average balance for preceding months is calculated from only months for which interest has been posted.

This is to certify that this statement represents a true summary of deposits and average daily balances for the period shown. The current balance of available funds is as reflected in the above statement.

Certify Correct: \_\_\_\_\_  
 El Dorado Correctional Fac. - Central  
 P.O. Box 311  
 El Dorado KS 67042-0000

*Bethel J. Roach* \_\_\_\_\_  
 Signature of Authorized \_\_\_\_\_  
 Date 4-15-02

Accountant \_\_\_\_\_  
 Position

10:15:15

KANSAS DEPARTMENT OF CORRECTIONS  
Inmate Bank Statement  
4/01/2002 thru 4/15/2002  
and Past Transactions

HM - H00025D

PAGE: 1

Inmate: 0064377 A LYNN, BARRICK, C

Physical Location: D81100  
Transaction

Date Code	Description	Amount	Cash	Savings	ELAR Postage	Fees	Money Order
4/01	BEGINNING BALANCE		.01		1552.67	32.00	
							Fines 865.00
							Disc. Post. Civ. Suit



Pg. 2 of 2

Rec'd  
4-11-02

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS  
CIVIL COURT DEPARTMENT

In Regards to the Application of  
Patrick C. Lynn to file a Verified Petition  
for Writ of Mandamus.

Administrative Order 02-3

MEMORANDUM DECISION

Mr. Lynn has submitted to the Clerk of the District Court of Johnson County, Kansas, an application to file a Writ of Mandamus. His documents were received on March 28, 2002. Under the provisions of the Permanent Injunction entered in State of Kansas, ex rel. Attorney General Karla J. Stovall v. Patrick C. Lynn, Case Number 97-CV-6900, Mr. Lynn has submitted the appropriate documents for submission of this application.

The Chief Judge for the Tenth Judicial District, Judge Patrick D. McAnany, is on vacation and he has designated Judge Larry McClain to act for him during his absence. The injunction designates the Chief Judge or his designee to review the applications for filing legal actions.

The Petition for Mandamus names Tom Bartee and Sandy McCurdy as respondents. Sandy McCurdy is the Clerk of the District Court for the Tenth Judicial District. Tom Bartee is Mr. Lynn's court appointed counsel in Case Number 96-CR-1654/Appellate Number 01-86942-A presently pending in the Appellate Court. Mr. Lynn alleges he is being denied effective assistance of counsel and the relief he seeks is an Order directing Mr. Bartee and Ms. McCurdy to add certain exhibits to the record on appeal in 96-CR-1654.

A mandamus is an extraordinary action and is provided for under Article 8 of the

CLERK OF DISTRICT COURT  
JOHNSON COUNTY, KS.

2002 APR -3 AM 8: 13

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Kansas Code of Civil Procedure. The following sections are relevant to Mr. Lynn's application:

Section 60-801. **Nature of Mandamus** Mandamus is a proceeding to compel some inferior court, tribunal, board or some corporation or person to perform a specific duty, which duty results from the office, trust or official station of the party to whom the order is directed, or from operation of law.

60-802. **Procedure for Relief** . . . the judgment in mandamus shall specify with particularity the act or acts which the defendant is compelled to perform or enjoined from performing.

Under the provisions of the injunction in Paragraph 5, the case is submitted for determination of whether the petition or pleading is lacking in merit, is duplicative or is frivolous. The Court will either permit the filing of the petition or pleading or issue an order denying the petition or pleading.

In Paragraph 7 of Mr. Lynn's Mandamus Petition, he alleges "Petitioner motioned the Appellate Courts and was summarily denied in arbitrary fashion without due consideration of the merits. (See Exhibits A). This paragraph was in reference to Mr. Lynn's request for Bartee and McCurdy to make additions to the record on appeal. Attached to the petition by Mr. Lynn is an order from the Court of Appeals of the State of Kansas in Case Number 01-86942-A, which reflects the following:

YOU ARE HEREBY NOTIFIED OF THE FOLLOWING ACTION  
TAKEN BY THE COURT: MOTION FOR ADDITIONS TO THE  
RECORD BY PATRICK LYNN. DENIED.

DATE: 02/20/2002.

There was a subsequent order issued by the Court of Appeals on 02-20-2002 directing the following:

YOU ARE HEREBY NOTIFIED OF THE FOLLOWING ACTION  
TAKEN BY THE COURT:

MOTION COMPELLING DISTRICT COURT CLERK TO MAKE  
ADDITIONS TO THE RECORD BY PATRICK LYNN. DENIED.

DATE: 02/20/2002

In a further order on the 20<sup>th</sup> of February, 2002, the Court of Appeals issued the following order:

YOU ARE HEREBY NOTIFIED OF THE  
FOLLOWING ACTION TAKEN BY THE COURT:

MOTION TO SUPPLEMENT PRO SE MOTION  
FOR ORDER TO ADD TO RECORD BY PATRICK LYNN.  
DENIED.

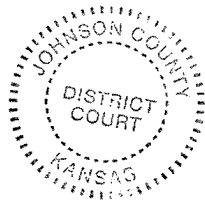
DATE: 02/20/2002

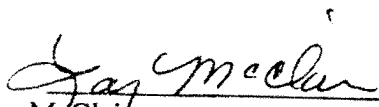
From the Petition for Mandamus and the attachments, specifically those referred to above, it is clear this mandamus action seeks relief which Mr. Lynn has already requested and been denied in the Court of Appeals. This action for mandamus is therefore duplicative with the prior orders of the Court of Appeals for the State of Kansas and, if allowed to go forward, would inappropriately place the District Court in a position of reversing the Court of Appeals. As to the issues regarding additions to the record of appeal on Mr. Lynn's Case Number 96-CR-1654, this Court finds that under the provisions of the injunction in Paragraph 5 the mandamus is duplicative and is, therefore, frivolous.

In his petition for mandamus, Mr. Lynn also makes numerous complaints against his court appointed attorney, Mr. Bartee. Mr. Lynn apparently seeks orders directing Bartee's conduct in representing Mr. Lynn in the appeal of his criminal case. Mr. Lynn is attempting to request the Court to direct and order how his court appointed lawyer represents Mr. Lynn. This clearly is an inappropriate use for a mandamus action.

The Court determines it would be inappropriate for the District Court to become involved in directing counsel for a criminal defendant's appeal. The Appellate Courts have jurisdiction over the lawyers practicing in their courts.

Based upon the above and foregoing reasoning, IT IS THE ORDER OF THE COURT that Mr. Lynn's application to file and prosecute this mandamus action is denied. The Clerk of the Court is directed to file this order, along with the submission. (Original filed with the Clerk of the District Court and no copies provided.) The Clerk shall designate this as a Miscellaneous Administrative Order. In the event Mr. Lynn files a notice of appeal, the notice of appeal is to be added to these documents and assigned a Chapter 60 Case Number. The Clerk of the Court is further ORDERED AND DIRECTED that no additional or supplemental documents may be added to the record of this case as the review of the application is limited in scope to those documents submitted by Mr. Lynn.



  
Larry McClain  
Acting Chief Judge

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing Memorandum Decision was placed in the U.S. Mail, postage prepaid, addressed to:

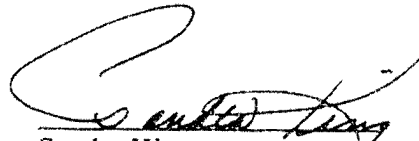
Sandy McCurdy, Clerk of the District Court  
Johnson County Courthouse  
Olathe, Kansas 66041

Thomas W. Barte, Attorney at Law  
Northeast Kansas Conflict Office  
700 S.W. Jackson - Suite 1001  
Topeka, Kansas 66603-3731  
Attorney for Defendant

Judge Patrick McAnany, Chief Judge  
Division 14  
Johnson County Courthouse  
Olathe, Kansas 66061

Patrick C. Lynn  
64377, LCF, P.O. Box 2  
Lansing, Kansas 66043  
Petitioner, Pro Se

on the date of the filing of this document.

  
Sandra King  
Administrative Assistant

Tom Barber's Clerk McJurdy, 2-25-02  
Re Case # 96-CR-1654/App.# 01-86942-A

I call your attention to the B-23-01  
Request for Additions to the Record by  
Barber, I note item #8 is nowhere to  
be found in the Table of Contents/RCA.  
Why is this not added? See item #8 at  
Vol. 1, Pg. 104.

would this by chance be the item designated  
as Vol. 1, Pg. 182-195? Please advise.

Also, is item #1 at Vol. 1, Pg. 183, the item  
designated at Vol. 1, Pg. 654?

Also, item #2 at Vol. 1, Pg. 103, where is  
this at in the RCA? Mr. Barber should send  
a copy of this pleading because it was in  
fact served all parties and is omitted  
from the Dist. Ct.'s Docket Events Filing  
statement, I sent Tom Berry a copy on 6-11-01.

Also, item #9 at Vol. 1, Pg. 104 is nowhere  
to be found in the RCA Table of Contents,  
where is this or why has it been omitted?  
Also, item #32 at Vol. 1, Pg. 105-106, is not  
listed in the Table of Contents/RCA either.