DATE FILED: November 4, 2020

COLORADO SUPREME COURT
2 E. 14th Ave.
Denver, CO 80203

Certiorari to the Court of Appeals
Case Number 2019CA1360
El Paso County District Court
Case Number 2019CV103

JAMES WOO,
Petitioner,

v.

EL PASO COUNTY SHERIFF'S OFFICE
FOURTH JUDICIAL DISTRICT ATTORNEY'S OFFICE,
Respondents.

FILED IN THE
SUPREME COURT

NOV 04 2020

OF THE STATE OF COLORADO
Cheryl L. Stevens, Clerk

▲COURT USE ONLY▲

Attorney or Party Without Attorney (Name and Address):
Appearing Pro Se,
James Woo, DOC #179463
Arkansas Valley Correctional Facility
12750 Hwy 96 at Lane 13
Ordway, CO 81034
No telephone, no fax, no email

Case No:

Div. _____ CTRM _____

PETITION FOR WRIT OF CERTIORARI

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUTES

RULES

CONSTITUTIONAL AMENDMENTS

Petitioner James Woo ("Woo") respectfully requests this Court to grant a Writ of Certiorari to the Colorado Court of Appeals ("COA") to review its decision pursuant to C.A.R. 49. As grounds in support, Woo states as follows:

Pro se pleadings are held to less stringent standards than formal pleadings drafted by lawyers. Haines v. Kerner, 404 U.S. 519 (1972). Pro Se allegations will be broadly construed to ensure the movant is not denied review of important constitutional issues simply for his inability to articulate his concerns within the legal lexicon. People v. Bergerud, 223 P.3d 686, 696-97 (Colo. 2010).

ISSUES PRESENTED FOR REVIEW

I. Whether the COA erred in holding that the CGIA does not violate Woo's Constitutional right against deprivation of property without due process in barring his replevin claim, even if the criminal court lacks jurisdiction to address a post-sentence motion for return of property.

II. Whether the COA erred in holding that the district court properly dismissed Woo's Complaint with prejudice based on C.R.C.P. 12(b)(1) for lack of subject matter jurisdiction.

OPINION BELOW

The COA published its Opinion for appeal 2019CA1360 in Woo v. El Paso Cty. Sheriff's Office, 2020 COA 134. The Department of Correction denied Woo's photocopy request for the Opinion due to insufficient funds. Appendix A. In light of §13-17.5-103(3), C.R.S. 2019, Woo requests latitude from this Court for his inability to provide a copy of the Opinion due to his indigence.

JURISDICTION

The COA issued its Opinion in Woo, supra, on September 10, 2020. On October 1, 2020, it

denied Woo's September 21, 2020 Petition for Rehearing. Thus, this Petition is timely pursuant to C.A.R. 52(b)(1).

This Court's certiorari jurisdiction is invoked pursuant to Colo. Const. Art. VI, § 2(2); § 13-4-108, C.R.S. 2019; and C.A.R. 49.

REFERENCE TO PENDING CASES WITH THE SAME LEGAL ISSUES

Woo is unaware of any case currently pending before this Court with an issue that is the same or similar to the issues raised in this Petition, pursuant to C.A.R. 53(a)(6).

STATEMENT OF THE CASE

On April 18, 2019, Woo filed the underlying Verified Complaint in Replevin against Respondents El Paso County Sheriff's Office and Fourth Judicial District Attorney's Office. (CF, pp 1-6) He sought the release of 51 property items that law enforcement seized from him during his arrest on April 22, 2016 and subsequently from his home on suspicion of first degree murder. (CF, pp 1-2, ¶¶ 4, 6; pp 3-6) Woo was convicted and sentenced on February 6, 2018. (CF, p 1, ¶ 4; p 33, ¶ 1) Though some of these items were used as evidence at trial, Woo alleged that the detention of most items was wrongful because they lacked any evidentiary value to the criminal case. (CF, p 2, ¶ 6)

The Respondents moved to dismiss pursuant to C.R.C.P. 12(b)(1) for lack of subject matter jurisdiction under the CGIA (§ 24-10-101, C.R.S. 2019, et seq.). (CF, pp 20-27) They asserted that Woo failed to file a timely notice of claim pursuant to § 24-10-109, C.R.S. 2019 and that § 24-10-106, C.R.S. 2019 barred Woo's claim since a replevin in detinet action could lie in tort. (CF, pp 22-26)

Woo filed an opposition ("Opposition") in response. (CF, pp 43-55) He asserted that he did file a timely notice, Some properties were seized illegally and were thus not part of a replevin in detinet action that could lie in tort, and that barring his claim violated his due process right. (CF, pp 46-48, ¶¶ 7-12; pp 48-49, ¶ 13; pp 52-53, ¶¶ 20-23)

Without holding a hearing to resolve factual disputes, the district court granted Respondents' motion to dismiss with prejudice based on Woo's alleged failure to file notice. (CF, pp 64-65) It opined that the return of property should be resolved in the criminal court since the prosecution may need the property in case Woo's conviction is overturned. Id. However, it did not address whether C.R.S. §24-10-106 barred Woo's claim because it could lie in tort. Id.

Woo appealed the judgment to the COA. (CF, pp 70-73) He challenged (1) the district court's failure to resolve factual disputes regarding the notice requirement; (2) the dismissal with prejudice for lack of subject matter jurisdiction; and (3) the CGIA's constitutionality as applied to the deprivation of property seized by law enforcement without due process of law. (CF, p 71)

The COA affirmed, finding that (1) the CGIA barred Woo's claim because it could lie in tort; (2) the CGIA did not violate Woo's due process right; and (3) the district court properly dismissed the Complaint with prejudice. Woo at ¶¶1, 7. Since the COA affirmed based on different ground that the district court never considered, it did not address Woo's first issue on appeal. Id. at fn. 2.

REASONS FOR GRANTING THE WRIT

This Court should grant certiorari review for Woo's case under C.A.R. 49(b) because the COA decided a question of substance in a way probably not in accord with applicable decisions of this Court, and C.A.R. 49(c) because a division of the COA has rendered a decision in conflict with the decision of another division of said court.

I. The COA erred in holding that the CGIA does not violate Woo's Constitutional right against deprivation of property without due process in barring his replevin claim, even if the criminal court lacks jurisdiction to address a post-sentence motion for return of property.

A. Additional Facts

The COA holds that the CGIA does not violate Woo's due process rights even if the

criminal court lacks jurisdiction to hear a post-sentence motion for return of property, because he could have sought his property there before he was sentenced. Woo at ¶ 24. In support, it indicates: "Indeed, his defense counsel's motion for release of certain items to Woo in the criminal case shows that his counsel knew of this procedure". Woo at ¶¶ 24, 3, 19.

In his Opening Brief ("OB"), Reply Brief ("RB"), and Opposition, Woo disproved Respondents' false allegation that his defense counsel moved for the release of his seized properties. (See RB, pp 7-10; OB, pp 17-19; CF, pp 44-45, ¶¶ 2-4) Woo's defense counsel's motion was not for the release of any seized property, but for permission to release discovery hard drives in his possession that were part of defense's case files to Woo's family. (See CF, p 34, ¶ 4; RB, Appendix D)

After filing his replevin appeal, Woo moved the criminal court for the release of some properties that were not used at trial and had no relevance to that case on September 18, 2019. The prosecution responded that the court lacked jurisdiction to address the motion on February 4, 2020. Accordingly, on February 6, 2020 the criminal court declined to address Woo's motion, indicating the prosecution "will not release any property at this time nor in foreseeable future due to any post-conviction relief that may be sought". Appendix B. Although this occurred after the dismissal of Woo's replevin claim and is therefore not in the record, these filings are in the ESystem under case number 2016CR2069 and are relevant in light of the COA's conclusion that Woo had a postseizure remedy in the criminal court. Woo at ¶ 1. The COA dismissed Woo's appeal of the ruling due to the purported lack of a final order in appeal 2020CA564.

B. Law and Analysis

The as-applied constitutionality of a statute is reviewed de novo. People v. Perez-Hernandez, 2013 COA 160, ¶ 10. Statutes are presumed constitutional, and the challenger bears

the burden to prove unconstitutionality beyond a reasonable doubt. TABOR Found. v. Reg'l Transp. Dist., 2018 CO 29, ¶ 15; but cf. United Air Lines, Inc. v. City and County of Denver, 973 P.2d 647, 655-59 (Colo. App. 1998)(Briggs, J. specially concurring)(disagreeing and opining that the court's ultimate conclusion in resolving a constitutional challenge does not result from the proof presented, but from the persuasiveness of legal argument). Woo preserved his constitutional challenge of the CGIA as applied to his claim in his Opposition. (CF, pp 51-54, ¶¶ 18-29)

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law". U.S. Const. Amend. XIV, § 1. See also Colo. Const. Art. II, § 25. A state cannot deny a right or impose a liability which is contrary to the federal concept of due process of law. People ex rel Juhan v. District Court for County of Jefferson, 439 P.2d 741, 745 (Colo. 1968)

The COA holds that the CGIA bars Woo's replevin action pursuant to § 24-10-108, C.R.S. 2019 because this Court has held that replevin in detinet, where property is lawfully obtained but wrongfully detained, is an action that lies or could lie in tort. Woo at ¶¶ 10-14; cf. City & Cty. of Denver v. Desert Truck Sales, Inc., 837 P.2d 759, 763 (Colo. 1992). Moreover, the COA holds that the CGIA does not violate Woo's due process rights in barring his claim because he had a post-seizure remedy in his criminal case. Woo at ¶¶ 19-21.

The COA addresses Woo's argument that this Court's due process conclusion in Desert Truck does not apply to his case because the plaintiff there had a statutorily mandated post-seizure hearing for vehicle recovery pursuant to § 42-5-110(3), 17 C.R.S. (1991 Supp), whereas there is no legal authority mandating that a criminal court address a post-sentence motion for return of property. Woo at ¶¶ 18, 22; CF, p 50, ¶ 14b.

More importantly, the COA acknowledges that its divisions "have divided over whether a

criminal court retains jurisdiction to hear a post-sentence motion for return of property. See People v. Chavez, 2018 COA 139, ¶¶ 9-14 (discussing the split and answering in the negative)." Woo at ¶ 23. It compares People v. Wiedemer, 692 P.2d 327, 329 (Colo. App. 1984) (holding that the imposition of a sentence ends a criminal court's jurisdiction to hear a motion not authorized by Crim. P. 35), with People v. Hargrave, 179 P.3d 226, 230 (Colo. App. 2007) (holding that a criminal court has post-sentence jurisdiction to address return of property). Woo at ¶ 23. See also People v. Galves, 955 P.2d 582, 583 (Colo. App. 1997) (affirming district court's conclusion that its jurisdiction did not extend to the issue of return of property and that defendant could seek return of his property by filing a civil action). The COA indicates that this Court "has not resolved this debate." Woo at ¶ 23.

Since the CGIA bars civil remedy, if a criminal court determines it has no jurisdiction to address a criminal defendant's post-sentence motion for return of property, followed by the appellate courts affirming in accordance with Chavez and Wiedemer or dismissing the appeal, the defendant is indeed deprived of property without due process.

The COA navigates around this by opining that even if the criminal court now lacks jurisdiction to consider any motion for return of property, barring Woo's replevin action does not violate his due process rights because he had a post-seizure remedy in the criminal court before he was sentenced. Woo at ¶ 24. This is an erroneous conclusion because Woo could not possibly have recovered properties that were used as evidence at trial before he was sentenced, or even during his appeal of the conviction.

The COA's conclusion is further flawed by its reliance on a clearly erroneous factual finding that Woo's defense counsel moved for the release of certain properties in the criminal court. Id. Woo's defense counsel never moved for the release of seized properties, but only for permission to release discovery hard drives already in counsel's possession. (CF, P 34, ¶ 4; RB, Appendix D) Thus, he did

not show awareness of any procedure as the COA alleges. Woo at ¶ 24.

The COA provides six cases holding or implying that a criminal defendant may file a motion for return of property in the criminal court. See Woo at ¶ 19. All six cases involve strictly post-sentence motions. This is consistent with the premise that the return of property is generally only possible post-sentence in criminal cases due to prosecutorial need for such property. The implication of the COA's conclusion in Woo at ¶ 24 is that these authorities can now be overturned based on its holding that due process is satisfied merely by a criminal defendant's purported ability to recover seized properties before sentencing. Id.

Woo's defense attorneys did not know until the last day of trial the full extent to which items would be admitted as evidence, and advised Woo that the release of any property before the conclusion of the criminal case would not be an option. (CF, pp 47-48, ¶ 10) Woo was then sentenced immediately after his conviction the next morning on February 6, 2018. (CF, p 1, ¶ 4; p 33, ¶ 1) Thus, Woo could not have recovered even properties that were not used at trial before sentencing. Crim. P. 41(e) is unavailable post-sentence and Woo did not discover any property illegally seized outside the scope of warrant until his criminal appellate record review. (CF, pp 46-47, ¶ 7)

The COA's holding that the CGIA bars Woo's claim is not in accord with the due process clauses of U.S. Const. Amend XIV and Colo. Const. Art. II, § 25, in light of its holding in Chavez at ¶¶ 9-14, Wiedemer at 329, and Galves at 583. It is not in accord with this Court's holding in Juhan, supra, at 745, as the CGIA denies Woo of a right that is contrary to the federal concept of due process. It is in conflict with the COA's own holding that it "is fundamental to the integrity of the criminal justice system that seized property against which the government has no claim must be returned to its lawful owner." People v. Buggs, 631 P.2d 1200, 1201 (Colo. App. 1981) It is in conflict with the COA's authorities suggesting that a criminal

defendant has civil recourse when the criminal court lacks jurisdiction to address post-sentence motions for return of property. See Chavez at fn. 5 (opining that Chavez is not necessarily remediless since the district court may entertain a civil action); People v. Rautenkranz, 641 P.2d 317, 318 (Colo. App. 1982) (civil action may be proper remedy for seeking return of property); Hargrave at 232 (Marquez, J. dissenting) (the trial court does not have jurisdiction to address the return of seized property if the motion for return is filed after sentence is imposed, but the defendant is not left without a remedy because the option of filing a civil suit is available).

Recognizing this, the COA indicates that while the CGIA bars Woo's replevin action, it expresses no opinion on the CGIA's applicability to other civil actions pertaining to property seized by a public entity, as suggested in Chavez at fn. 5. Woo at fn. 4. However, any civil action for the actual return of seized property, rather than on an equitable relief theory, is effectively the same as a replevin action and is thus barred by the CGIA.

The result of the above conflicting opinions, whereby Woo points the way to the criminal court since the CGIA bars civil remedy and Chavez points the way to civil remedy since the criminal court lacks jurisdiction, is that no criminal defendant in Colorado is guaranteed due process with respect to the return of seized property.

The COA indicates that the state's action for deprivation of property is not complete until it refuses to provide a postdeprivation remedy. Woo at ¶ 17. Though it occurred after the filing of Woo's replevin appeal, the criminal court did in fact decline to address Woo's motion for return of property on February 6, 2020. Appendix B. This is not in accord with the COA's holding in Rautenkranz at 318 that the court should hold an evidentiary hearing for such motion, at which the prosecution must prove that a connection exists between Woo's properties and criminal activity. Woo at ¶ 20. The dismissal of Woo's appeal 2020CA564 is not in

accord with the COA's holding in Buggs at 1201 that the aggrieved party may appeal the district court's ruling. Woo at ¶ 21. Thus, Woo has been deprived of due process and currently has no remedy for the return of properties that largely have no connection with his criminal case other than that they were in his luggage during his arrest or were seized from his home to acquire information, only to be determined to lack any evidentiary value.

Woo contends that his constitutional right to due process is satisfied only if either the CGIA does not bar his replevin claim, or if this Court resolves the split in the COA's authorities as to criminal courts' post-sentence jurisdiction by holding that a criminal court is required to address a criminal defendant's post-sentence motion for return of property in a timely manner. Otherwise, the CGIA violates Woo's due process rights in barring his replevin claim, and the dismissal of his Complaint should be reversed accordingly.

II. The COA erred in holding that the district court properly dismissed Woo's Complaint with prejudice based on C.R.C.P. 12(b)(1) for lack of subject matter jurisdiction.

A. Additional Facts

The district court dismissed Woo's Complaint based on lack of subject matter jurisdiction pursuant to C.R.C.P. 12(b)(1). (CF, p 64; pp 20-26)

The COA indicates: "Woo did not allege that the initial seizure of the property was wrongful; rather, he alleged that the defendants' continued detention of it had become wrongful." Woo at ¶ 12. Thus, it indicates Woo pleaded an action in replevin in detinet, which this Court has held to be barred by the CGIA because it is an action that lies or could lie in tort. Woo at ¶¶ 12-14.

In his Opposition, Woo asserted his belief that some of his properties were not

"within the scope of the related search warrants, and were thus wrongfully seized." (CF, pp 48-49, ¶ 13; RB, p 21, ¶ 1) He subsequently confirmed this by reviewing the search warrants (e.g. nothing in the warrants for his home can be interpreted to include the numerous medications seized there). (CF, p 6)

B. Law and Analysis

Governmental immunity raises a jurisdictional issue. Springer v. City & Cty. of Denver, 13 P.3d 794, 798 (Colo. 2000). When the jurisdictional issue involves a factual dispute, a reviewing court employs the clearly erroneous standard of review in considering findings of fact. Id. If the alleged facts are undisputed or the issue is purely one of law, the the appellate court reviews the jurisdictional matter de novo. Id.

The COA's conclusion that the CGIA bars Woo's claim is based on the assumption that all of Woo's properties were legally seized. Woo at ¶ 12. However, since the COA overlooked Woo's assertion that some of his properties were illegally seized, its conclusion does not follow. (CF, pp 48-49, ¶ 13; RB, p 21, ¶ 1) Woo's claim as to any property seized illegally is not a replevin in detinet action, does not necessarily lie in tort, and thus may not be barred by the CGIA. Woo's claim should therefore not have been dismissed with prejudice. Woo did not argue the illegal seizure in his appeal because the district court did not dismiss based on § 24-10-108, C.R.S., 2019 as the COA deemed proper, but only considered the CGIA's notice requirement pursuant to § 24-10-109, C.R.S., 2019. (CF, p 64)

Woo's argument thus follows that a dismissal for lack of subject matter jurisdiction is not an adjudication on the merits of any claim asserted in the action, and thus cannot be utilized as a bar to any subsequent proceedings. Market Engineering Corp. v. Monogram Software, Inc., 805 P.2d 1185, 1185-86 (Colo. App. 1991).

The COA's conclusion that the district court properly dismissed Woo's claim with prejudice is in conflict with its holding that dismissal with prejudice on a C.R.C.P. 12(b)(1) motion to dismiss is improper. Id. at 1186. See also C.R.C.P 41(b)(1); Grant Bros. Ranch, LLC v. Antero Res. Piceance Corp., 2016 COA 178, ¶ 35 (a dismissal pursuant to C.R.C.P. 12(b)(1) is necessarily without prejudice). Courts in Colorado have adhered to these authorities. See Carnation Bldg. Servs. v. City & County of Denver, 2011 U.S. Dist. LEXIS 149981 at 32-33 (D. Colo. Dec 29, 2011)(dismissing claims barred by the CGIA without prejudice); Schreiner v. City of Louisville, 2015 U.S. Dist. LEXIS 171156 at 23-26, 30 (D. Colo. Dec 4, 2015)(all state law claims that lie in tort and are barred by the CGIA dismissed without prejudice for lack of subject matter jurisdiction); Janny v. Palmer, 2020 U.S. Dist. LEXIS 94025 at 25-26 (D. Colo. May 29, 2020) (same).

Woo should be allowed to re-file his complaint for the return of properties seized illegally under U.S. Const. Amend IV; Colo. Const. Art. II, § 7 to cure the jurisdictional defect. If dismissal is warranted, the case should be remanded with instruction that the dismissal be without prejudice.

The issue as to whether the CGIA violates criminal defendants' Constitutional rights against deprivation of property seized by law enforcement without due process of law is an important issue faced by courts throughout Colorado. This is especially true in light of the COA's holdings that criminal courts lack jurisdiction to address post-sentence motions for return of property. The issue with regard to whether district courts may properly dismiss with prejudice all civil claims for property seized by law enforcement for lack of subject matter jurisdiction is likewise substantial.

This Court should grant certiorari review to provide guidance to courts addressing these issues, correct the COA's erroneous decisions, and ensure criminal defendants are

justly protected against wrongful deprivation of property without due process of law.

CONCLUSION

Petitioner James Woo respectfully requests that this Court grant this Petition for Writ of Certiorari.

Respectfully submitted this 28th day of October, 2020.

James Woo, DOC # 179463
Petitioner, Pro Se
Arkansas Valley Correctional Facility
12750 Hwy 96 at lane 13
Ordway, CO 81034

CERTIFICATE OF SERVICE

I certify that on this 28th day of October, 2020, a true and correct copy of the foregoing PETITION FOR WRIT OF CERTIORARI was placed in the U.S. mail, properly addressed, postage prepaid, to the following:

Mary Ritchie, Assistant County Attorney
Office of the County Attorney of El Paso County
200 S. Cascade Ave.
Colorado Springs, CO 80903

James Woo, DOC # 179463
Petitioner, Pro Se

Print Minute Orders 3/27/20 2:47 PM
Status: RSTD MROG CLSD District Court, El Paso County
Case #: 2016 CR 002069 Div/Room: 17 Type: Homicide
The People of the State of Colorado vs. WOO, JAMES TAKCHUAN

FILE DATE EVENT/FILING/PROCEEDING
2/06/2020 Minute Order (print)
JUDGE: JPD CLERK: REPORTER:
DUBOIS/LAW/FTR/DA FITCH MTNS HRG 2/6/20 1005 AM DIV 17 S380 DPWC BEDNARSKI; RE: MTN TO W/D, CNSL RQSTS MTN TO W/D BE GRANTED AS OF TODAY; DEFT AGREES; DEFT RQST ALL DISCOVERY INCLUDING 6TB HRD DRIVE BE PROVIDED TO DEFT; CNSL BEDNARSKI CAN TURN OVER ALL DISCOVERY IN HIS POSSN EXCEPT THE 6TB HRD DRIVE WHICH IS SUBJECT TO A PROTECTIVE ORDR; CNSL DOES NOT HAVE ALL OF THE DISCOVERY AS SOME OF IT IS IN THE POSSN OF PREVIOUS CNSL BAEZ; CNSL TO PROVIDE IN ELECTRONIC FORM WHAT HE CAN PROVIDE; CNSL TO ALSO CHECK TO SEE IF HE HAS ANY DISCOVERY THAT WAS PREVIOUSLY PRINTED PROVIDED TO DEFT DIRECTLY; CNSL TO PROVIDE W/I 30 DAYS & PROVIDE LIST TO CT AS TO WHAT HAS BEEN SENT TO DEFT; ELECTRONIC DISKS TO BE SENT TO SISTERS ADDRESS; CT ALLOWS CNSL TO W/D TODAY HOWEVER, CNSL TO COMPLY WITH TODAY'S CT ORDRS; DEFT TO CONTD TO OBTAIN ANY ADDT'L DISCOVERY FROM CNSL BAEZ THAT CNSL BEDNARSKI DOES NOT HAVE; CT NOTES THAT AFTER 60 DAYS, DEFT IS TO PROVIDE CT W/ UPDATE AS TO ISSUES W/ OBTAINING DOCS, ETC FROM CNSL BAEZ; DEFT TO ALSO CONFER W/ APPELLATE CNSL TO SEE IF EVERYTHING MISSING CAN BE OBTAINED FROM APPEALATE CNSL; AFTER 60 DAYS, CT MAY POSSIBLY ORDR DA TO RE-PROVIDE ALL DISCOVERY TO DEFT AGAIN (EXCLUSIVE OF ANYTHING NOTED IN PROTECTIVE ORDR); AGAIN, DEFT WLD NEED TO SPECIFY WHAT ITEMS ARE WANTED FROM THE HARD DRIVE & WHY THEY ARE BEING RQSTD; UNTIL THAT IS RCVD, PROTECTIVE ORDR WILL STAND; DEFT RQSTS A LIST OF ALL FILES ON THE HARD DRIVE TO BE ABLE TO SPECIFY WHICH FILES HE IS RQSTING FROM THE HARD DRIVE; DA TO CHECK W/ DA TECH TO SEE IF PROVIDING AN INDEX OF FILES IS A POSSIBILITY & PROVIDE UPDATE/RESPONSE TO DEFT W/I 30 DAYS; RE: DEFT'S ISSUE RE: PROTECTIVE ORDR & CNSL BEDNARSKI, CT NOTES THAT THAT IS PART OF THE APPELLATE PROCESS & CT CANNOT ENTERTAIN THAT ISSUE; RE: OTHER PROPERTY BEING RQSTD BY DEFT, THIS CASE IS STILL UNDER AN APPEAL & DA WILL NOT RELEASE ANY PROPERTY AT THIS TIME NOR IN FORESEEABLE FUTURE DUE TO ANY POST-CONVICTION RELIEF THAT MAY BE SOUGHT; RE: MTN FOR APPT OF CNSL, CT DOES NOT HAVE AUTHORITY TO APPT CNSL FOR WHAT DEFT IS RQSTING & DENIES RQST FOR APPT OF CNSL; CT ORDRS THAT ALL PLEADINGS FLD BY DA BE SENT DIRECTLY TO THE DEFT AT DOC AS WELL AS ANY CNSL OF RECORD; DEFT MAY BE RETURNED BACK TO DOC; DEFT GRANTED PERMISSION TO APPEAR BY PHONE FOR FUTURE HRGS; CASE RECLOSED /LAW

APPENDIX B

AVCF	10-28-2020
FACILITY	DATE RCV'D

S. Romero	1404O	SC
STAFF LAST NAME	ID#	INT

179463	James Woo	JW
DOC#	OFFENDER NAME	INT