

SUPPLEMENTAL MEMORANDUM OF LAW
FOR WRIT OF HABEAS CORPUS
by
Charles E. Collins, III

It is the Petitioner's position that the Supreme Court lacked jurisdiction to sentence the petitioner to jail as he was deprived of his constitutional and statutory right to counsel at his arraignment on January 26, 1998; when the matter was referred to the County Court for Grand Jury action on February 3, 1998 and when the petitioner appeared before the Grand Jury on April 28, 1998.

As the petitioner was deprived of his constitutional and statutory right to counsel he acquired transactional immunity which barred any further prosecution of the petitioner.

"Transactional immunity was automatically conferred when the defendant testified before the Grand Jury without having an effective waiver and he thereafter could not be prosecuted for any transaction, matter of thing concerning which he gave evidence." (Chapman, pg 503, 504; see also, People v. Valano, 131 AD2d 615 [1987]; People v. Bartok, 209 AD2d 530 [1994]).

People v. Valcano, 131 AD2d 615, 516 NYS2d 507

The judgment of conviction must be reversed and the indictment dismissed, with prejudice, as the defendant's right to counsel at every stage of the criminal proceeding was violated.

The defendant's right to counsel had clearly attached at the time he appeared before the Grand Jury. * * * That right could not then be waived without his attorney being present. Absent effective waiver of the right to counsel, the defendant's waiver of immunity was not valid and he acquires transactional immunity which precludes further prosecution in this matter.

Dated: May 24, 2000

Respectfully submitted,


Charles E. Collins, III

Charles E. Collins, III
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RD #1, Box 48
Georgetown, New York 13072

Michael Novack - Clerk
Appellate Division - Third Department
Justice Building - Capitol Station
Albany, New York 12224

Re: Charles E. Collins, III
Writ of Habeas Corpus

Dear Mr Novack:

Please find enclosed the following:

1. Supplemental Memorandum of Law dated May 24, 2000.
2. Copy of Petition for Writ of Habeas Corpus dated April 24, 2000 which was previously filed with the Court in addition to the Petition for Writ of Habeas Corpus which was filed with the Court on April 18, 2000 on a Federal Writ of Habeas Corpus by mistake. The exhibitits on both Writs were the same except the correct Writ had the Order of committment attached.

Respectfully yours


Charles E. Collins, III

Dated May 24, 2000