

and that of the state of Minnesota, and you will conduct yourself as an attorney and counselor at law in an upright and courteous manner, to the best of your learning and ability, with all good fidelity as well to the court as to the client, and that *you will use no falsehood or deceit*, nor delay any person's cause for lucre or malice. So help you God. The state has clearly violated this oath in every aspect of appellant's trial, and appellate process. Furthermore Minnesota Rules of Professional Conduct Rule 8.4 Misconduct states, "It is professional misconduct for a lawyer to:" a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another; b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation; d) engage in conduct that is prejudicial to the administration of justice; these are but a few of the Rules of Conduct which the state has violated in this case. To continue to deny that the state has committed no negligent acts regarding this case is preposterous; appellant has more than adequately shown that the state has violated every one of the fore mentioned Rules of Professional Conduct on multiple occasions throughout this case

Minnesota's Legislators placed safeguards within the Statue 590 that are being ignored or unrecognized, 590.01 subdivision 2 Remedy states this remedy takes the place of any other common law, statutory or other remedy which may have been available for challenging the validity of a conviction, sentence, or other disposition and must be used in place of them UNLESS IT IS INADEQUATE OR INEFFECTIVE TO TEST THE LEGALITY OF THE CONVICTION, SENTENCE, OR OTHER DISPOSITION. This sentence was placed into the statue for a reason yet the courts continue to deny blatant and obvious violations under the catch all cloak of the Knaffla – rule, this case clearly falls squarely within the exception provided by the legislation when the statue was revised.

The United States Supreme Court has applied the miscarriage of justice exception to overcome various procedural defaults. These include "successive" petitions asserting previously rejected claims, "abusive" petitions asserting in a second petition claims that could have been raised in the first petition, failure to observe state procedural rules, including filing deadlines.

These decisions were set forth to seek balance in the societal interests in finality, comity, and conservation of scarce judicial resources with the individual interest of justice that arises in extraordinary cases. *McQuiggin vs. Perkins*, 185 L.Ed. 1019(2013). The fundamental miscarriage of justice exception is grounded in the equitable discretion of habeas courts to see that Federal Constitutional errors do not result in the incarceration of innocent prisoners.