No. _____

In The
Supreme Court of the United States

WALTER P. REED,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Fifth Circuit

PETITION FOR A WRIT OF CERTIORARI

RICHARD T. SIMMONS, JR.
HAILEY, MCNAMARA, HALL, LARMANN & PAPALE, L.L.P.
One Galleria Boulevard, Suite 1400
Metairie, Louisiana 70001
Telephone: (504) 836-6500
Fax: (504) 836-6565
E-mail: rts@hmhlp.com
Counsel for Petitioner, Walter P. Reed

April 22, 2019

QUESTIONS PRESENTED

1. Whether Petitioner was denied due process by the "lack of notice" of (1) the federal prosecutors' hindsight interpretation of the phrase "*unrelated to the campaign or the holding of public office*" contained in the State Campaign Finance statute and (2) an objective and consistent legal standard to adjudge his conduct.

2. Whether when federal mail or wire fraud charges concern conduct in an area heavily regulated by state law, evidence concerning the custom and practice under applicable state law may be excluded on the ground that the charges are federal.

3. Whether a twenty-year (1994-2014) criminal forfeiture under Title 28 U.S.C. §2461(c) and §981: (a) should be limited to the time period after the 2005 amendments to 28 U.S.C. §2461(c) (USA Patriot Act) because there was no statutory basis for a criminal forfeiture for the mail and wire fraud charged in the Indictment or alternatively (b) the forfeiture should be limited by the five-year statute of limitations applicable to the underlying wire and mail fraud counts.

PARTIES AND RULE 29.6 STATEMENT

Petitioner Walter P. Reed was the defendant in the district court and the appellee in the court of appeals.

Steven Reed was a co-defendant at the district court level and had separate counsel for his appeal to the Fifth Circuit Court of Appeals. His Petition for *En Banc* consideration was likewise denied on January 23, 2019. Counsel for Steven P. Reed will file his own United States Supreme Court Petition.

TABLE OF CONTENTS

TABLE OF CONTENTS – Continued

TABLE OF CONTENTS – Continued

TABLE OF CONTENTS – Continued

APPENDIX

TABLE OF AUTHORITIES

Page

CASES

TABLE OF AUTHORITIES – Continued

TABLE OF AUTHORITIES – Continued

TABLE OF AUTHORITIES – Continued

INTRODUCTION

This case presents questions of exceptional importance, because the Fifth Circuit decision conflicts with authoritative decisions of this Court, particularly the recent case of *United States v. McDonnell*, 136 S.Ct. 2355 (2016), and *Skilling v. United States*, 561 U.S. 358, 408 (2010), in that the Petitioner did not have "fair warning" that his conduct was prosecutable under federal law.

In this case, the Fifth Circuit departed from binding Supreme Court precedent and changed the law regarding federal prosecutors' use of the wire and mail fraud statutes on the basis of alleged violations of state campaign law, endorsing a major expansion of federal power to intrude into the state election process.

To honor the principles of federalism, the rules applicable to state campaign laws which governed District Attorney Reed's election efforts should be enforced by the state that issued them, not by federal prosecutors who violated the defendant's right to notice that he may be prosecuted for a federal offense. Further, if state law characterizes the federal fraud, the jury should consider how the state regards such conduct and evidence of the state's "custom and practice" should have been admissible.

If the Fifth Circuit opinion remains unchanged, this Court will have condoned a dangerous expansion of federal power, contrary to this Court's controlling decisions, creating an alarming departure from precedent that rewrites the mail and wire fraud statutes,

and allowing the Department of Justice now to set the bar for acceptable campaign expenditures for candidates for state office. A writ of certiorari should be granted.

OPINIONS BELOW

The panel opinion of the court of appeals (No. 17-30296) is reported at 908 F.3d 102 (5th Cir. 2018). (App. 1). The denial of Rehearing *En Banc* of the Fifth Circuit Court of Appeal (17-30296) is found at App. 77. The United States District Court – Eastern District of Louisiana opinion by Judge Eldon Fallon (No. 15-100) is reported at 2016 WL 6946983. (App. 46).

STATEMENT OF JURISDICTION

The court of appeals entered judgment on November 5, 2018. That court denied rehearing *en banc* on January 23, 2019. (App. 77). This Court has jurisdiction under 28 U.S.C. §1254(1).

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

The Due Process Clause provides "No person shall . . . be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. U.S. Const. amend. X.

La.R.S. 18:1505.2(l)(1) provides:

> . . . contributions received by a candidate or a political committee may be expended for any lawful purpose. . . . However, the use of campaign funds of a candidate . . . to reimburse a candidate for expenses *related to his political campaign or his holding of a public office* or party position shall not be considered personal use by the candidate.

La.R.S. 18:1505.2(l)(1) (*emphasis added*).

STATEMENT OF THE CASE

I. STATEMENT OF THE COURSE OF PROCEEDINGS AND DISPOSITION OF THE CASE

The grand jury in April 2015 indicted Petitioner Walter Reed and his son, Steven Reed, for conspiracy to defraud his campaign fund by improper expenditures "*unrelated to the campaign or the holding of public office*" (Counts 1-10) – an *ambiguous* phase in the state campaign law cited in the Indictment over a dozen times. Additionally, Reed was indicted on four years of IRS tax counts for understating income, primarily campaign funds allegedly converted to personal use (Counts 11-14). The third series of counts, related to the St. Tammany Hospital legal fees (Counts 15-19)

alleged that Reed diverted these fees, for District Attorney services, to his private law practice. The two defendants were convicted on 18 of the 19 counts of the Indictment.

A. While Post-Trial Motions Were Denied, the District Court Judge Eldon Fallon Conceded:

> "***A strong argument can be made, as Defendants have done****, for the proposition that allowing a federal prosecutor to pursue state officeholders on any campaign fund issue* ***will have a chilling effect on those who seek state elective office in the future****, and should not be permitted. . . .*
>
> ***Perhaps the appellate court, in the future, may conclude that the federal fraud statutes have no place in any campaign activity of state officeholders*** *as urged by Defendants. This is a result, however, that it is beyond the power and scope of a federal district court,* ***and is better determined by a more policy-based court such as the Fifth Circuit Court of Appeals or the Supreme Court****. . . ."* (*emphasis added*).
>
> Judge Fallon's Order and Reasons. ROA.2026-2027.

While Judge Fallon determined that interpretation of state law was not relevant to the trial of the federal fraud charges, he opined, in granting a downward departure, on the "unusual" nature of the case as a basis for review by higher courts:

> "*At the outset* ***I feel this case falls outside of the heartland of cases involving fraud and money laundering****. It's an* ***unusual*** *case, because of the facts of the case. It involves funds solicited by and donated to the defendant by his constituents for political purposes. . . .*
>
> *[T]he facts are* ***unusual*** *in this particular case . . . because of how there is some* ***interplay in voting activity or action****. . . .* ***I don't think I've seen a fraud case like this before.***

On April 8, 2017, Judge Fallon sentenced Walter Reed to four years of confinement, commenting:

> "*He's 70 years old now. He has no prior offenses. He is out of office. He spent his entire adult life in law enforcement. He was in the police department, an investigator for the Attorney General . . . Assistant U.S. Attorney here in this Court. . . . He served as District Attorney from 1985 through 2015.*" ROA.6910-6911.

B. Judge Fallon granted Bond Pending Appeal, citing McDonnell:

> ***There is a substantial question of law raised that may result in a reversal by either the Fifth Circuit or the Supreme Court.***

Order and Reasons, ROA.2365.

Walter Reed timely filed a Notice of Appeal. ROA.2624. The Fifth Circuit panel issued an opinion on November 5, 2018. *United States v. Reed*, 908 F.3d

102 (5th Cir. 2018). (App. 1). Rehearing *En Banc* was denied on January 23, 2019. (App. 77). This Court has jurisdiction to consider this case by writ of certiorari pursuant to 28 U.S.C. §1254(1).

II. STATEMENT OF THE FACTS INVOLVING THE CAMPAIGN CHARGES

In this case, federal prosecutors use the federal wire and mail fraud statutes to enforce a Louisiana statute which governs state campaign financing and prohibits expenditures that are "*unrelated to the campaign* ***or*** *the holding of public office*,"[1] an *ambiguous* phrase subject to many interpretations. The core issue in this case is that this phrase is not defined "'with sufficient definiteness that ordinary people can understand what conduct is prohibited' or 'in a manner that does not encourage arbitrary and discriminatory enforcement.'" This vagueness concern is identical to the one raised in *United States v. McDonnell*, 136 S.Ct. 2355, 2373 (2016), in defining "official act."

The State Board of Ethics has *condoned* the activities that the federal prosecutor redefined in hindsight as fraudulent. In fact, the Louisiana Board of Ethics did not bring any charges as to alleged campaign fund violations. The District Court granted a defense motion to strike certain paragraphs of the Indictment which clearly showed the intention to transform the case into an "honest services" prosecution (i.e., references to the Ethics Board) (R. Doc. 93, p. 4), but at the same time

[1] La.R.S. 18:1505.2 *et seq*.

granted the government's motion in limine as to the defense expert on State campaign law, Gray Sexton, former General Counsel for the Louisiana Ethics Board. (R. Doc. 159, p. 14).

Prosecutors, in an effort to make an "ethics case," nevertheless, brought the present General Counsel for the Board of Ethics (Ms. Allen) to outline the Louisiana Board of Ethics' regulatory scheme. The District Court even commented that this was "misleading" to the jury.[2] The defense proffered evidence of the propriety of certain campaign expenditures through Sexton. ROA.9359-9371. (*See* App. 79). The defense's rationale was that, if the government relies on state law to establish the federal fraud, the jury should consider how the State regards conduct of the kind charged. The District Court rejected the ultimate utilization of Sexton to display the ambiguities in Louisiana campaign finance law.

The facts surrounding three major aspects of the campaign charges are set forth below and demonstrate the danger of allowing federal prosecutors to redefine in hindsight, campaign law as a part of federal fraud prosecution. The campaign expenditures: (1) involved a $25,000 donation for a church gym; (2) involved an obvious "OPEN HOUSE" campaign event at Reed's

---

[2] Judge Fallon: "The thing that concerns me is that we're talking about general sections (of the campaign report) that prohibit payment to family members. . . . And then from there . . . it's how you've packaged the testimony that's *problematic*. . . . Because it's *misleading to the jury* . . . I thought that she (Allen) was going to just come in and identify reports." ROA.3290-3291 (*emphasis added*).

condo which the federal prosecutor still believes was a personal expense and, therefore, a federal crime; and (3) demonstrated the vagueness of the statute's second prong (i.e., *related to the holding of public office*) as defined by federal prosecutors.

a. Counts Relating to Obtaining Support of Local Church Leaders.

Walter Reed testified regarding the necessity of having the support of local church leaders, such as Rev. Cox, who controlled votes within the Parishes, in order to maintain political office. ROA.4787. It is reasonable that Reed would make a donation or pay for a revival to encourage Cox's continued support.

Count 8 alleged that a $25,000 donation to Cox's church was an improper campaign expenditure. There was no evidence that Rev. Cox diverted the funds which were utilized to build a gym. Prosecutors charged that the campaign contribution was related to a referral of a plaintiff's case to Reed's law practice. The issue as to Count 8, as with many other campaign expenditures,[3] was whether such expenditures under the State Campaign Law can have a "mixed or dual purpose" (i.e., one purpose "***related to the campaign or the holding of public office***, but also for some unrelated purposes").

[3] Counts 2 and 6 also involved church donations.

In making a downward departure, Judge Fallon opined:

> *The defendant also gave a sizable sum to a local minister who solicited funds for building a gym. . . . The jury concluded that the funds were in payment of referring a civil case to the defendant . . .* ***the fact remains that the gym was built and the defendant was given recognition for it, which may have resulted in the defendant receiving votes from the church members. Unusual facts*** *in this particular case. . . .* ROA.6907-6910 (*emphasis added*).

Pretrial, the prosecution sought to restrict the testimony and the defense expert report of Sexton, (ROA.9359-9371) which supported Reed's position with regard to (1) "mixed or dual purpose" for campaign expenditures "related to the campaign" (i.e., vote gathering purpose even if a second purpose might be involved – e.g., referral of a personal injury case) and (2) his understanding of the "custom and practice" of state campaign law. The Court denied a defense pretrial motion to present such custom and practice evidence. R. Doc. 159, p. 14.

With this type of expert testimony, the jury could have rejected the government's contention that the donation to the church was strictly for personal injury referrals. Reed was denied the "good faith" defense of "dual purpose."

b. The Open House Count – An obviously political event.

In Count 1 of the Indictment, the prosecution charged Reed with conspiracy to commit wire fraud for an Open House party – a "Patron Party" held at Reed's condo to honor campaign contributors, where no funds were raised. ROA.5293. Reed paid a total of $25,289 campaign funds, including $8,358 paid to Steven P. Reed's company, for production services which the prosecution did not dispute were actual and reasonable expenditures.

After meeting and formulating the Indictment in *Reed*, the prosecutors decided in hindsight that any state campaign event must have a fundraising component, or it cannot be a legitimate campaign expenditure and is, thus, a fraud on contributors. This "secret understanding" of the Louisiana Campaign Law was unknown to Reed and there was no "fair notice" of this interpretation of the law.

Judge Fallon post-trial rejected the naive and narrow view that an event with "no fundraising component" cannot be a political event, excluding the $25,289 item from the case:

> *It appears to be* ***squarely political*** *– the party was attended by Reed's . . . major supporters, judges, employees of the D.A.'s Office . . . , Reed's speech . . . is an act expected at a* ***political function, not a personal event****.* ROA.2294-2295 (*emphasis added*).

On appeal, federal prosecutors *still* maintained that the "Open House" was not a legitimate campaign function because by their definition there were none of the "*usual trappings of such a campaign event.*" *See* Gov't Fifth Circuit Brief. While the Fifth Circuit panel stressed that the Open House was only one of the overt acts, the fact remains that the prosecution still maintains that it has the prerogative to define whether this event was "*related to the campaign*" or "*the holding of public office*" based upon its standard as to the "usual trappings."

c. Campaign Expenses "Related to the Holding of Public Office."

Count 5[4] involves a $614.49 check from the Reed Campaign for flower expenses "*unrelated to the campaign* . . . to wit, floral arrangements to several individuals, . . . " including the Rodeo Girl (*emphasis added*). A portion of the amount ($119) was for a flower arrangement for Christine Curtis (Rodeo Girl), a campaign supporter who along[5] with Reed attended the Angola Penitentiary Rodeo – a state function which supports the rehabilitation of prisoners. Afterwards, he sent her flowers as a "thank you." Thereafter, she

[4] Counts 3 and 4 also relate to the holding of public office.

[5] A second flower arrangement was for the "Open House" and the Court later found it was for a legitimate campaign purpose. The third arrangement was for Reed's daughter, who participated in his campaign.

began selling tickets to campaign events – an example of a campaigning success. ROA.4672-4675.

District Attorneys were invited to attend the Rodeo to encourage support of the prison. ROA.5393-5394. This event was not related to the campaign (prisoners don't vote), but was "*related to the holding of public office*," the second prong of the statute.

The sending of a reasonably priced flower arrangement as a "thank you" is an expenditure that is sanctioned by a Board of Ethics' Advisory Opinion,[6] which states that "[m]any campaign workers are volunteers and candidates may provide gifts as a means to thank workers" and that the Board "views this type of expenditure as appropriate."[7]

Yet, federal prosecutors used this as a basis for a fraud conviction.

III. STATEMENT OF THE FACTS REGARDING THE FORFEITURE ISSUE

Independent of the campaign funds counts and the related IRS counts, a third series of counts of the Indictment (Counts 15-19) related to the St. Tammany Hospital Board (hereinafter "St. T. Hospital") and charged that Walter Reed diverted twenty (20) years of legal fees, allegedly for his District Attorney services, to his

---

[6] Like Attorney General opinions, advisory opinions of a board have been recognized as persuasive authority. *See La. Bd. of Ethics v. Holden*, 121 So.3d 113 (La. App. 1 Cir. 2013).

[7] *See* Board of Ethics' Opinion ROA.801.

private law practice.[8] The Indictment charged that these legal fees belonged to the D.A.'s office, and forfeiture was sought.

a. Criminal Forfeiture Not Authorized by Statute Prior to 2005.

Until 28 U.S.C. §2461(c) was amended by the USA PATRIOT Improvement and Authorization Act of 2005, Pub. L. No. 109-177, §410, 120 Stat. 192 (2006), criminal forfeiture was not authorized for mail or wire fraud except in certain limited circumstances. Despite defense efforts to limit the criminal forfeiture to a five-year statute of limitations or to ten (10) years based upon available evidence, the prosecution obtained a twenty (20) year forfeiture order.

b. Lack of Notice of Forfeiture.

The Superseding Indictment stated the total forfeiture amount which included both campaign fund and the St. T. Hospital Board legal fees (i.e., $280,000 paid by the Hospital), which are associated with the time frame of the mail fraud charges in Counts 15-19[9] of the Superseding Indictment.

---

[8] Prosecutors did not charge any instance of "kickbacks or bribes," and thus were unable to show that Walter Reed "sold his office" as a violation of "honest services" fraud.

[9] Notably, the Indictment charges the defendant with mail fraud involving only five (5) specifically delineated checks totaling $12,500.

In response to the Court's directive to provide the defense with the basis as to how the government arrived at the forfeiture amount, the U.S. Attorney in response stated:

* * *

> The amount (Reed) received from St. Tammany Hospital in violation of federal law in *the ten (10) years prior to the date of the Indictment*." (*Emphasis added*). Rec. Doc. 361-2 (Exh. A - Letter to Simmons) (Rec. Doc. 2) Motion for Bill of Particulars).

* * *

For "the ten years prior to the date of the Indictment" Reed received $280,000 in legal fees.

Yet, in its forfeiture effort, the prosecution obtained legal fees for twenty (20) years ($574,063).

c. Pre-Trial and Post-Trial Reed Filed a Motion to Limit Forfeiture as to the St. Tammany Legal Fees to Evidence Elicited at Trial.

The district court denied petitioner's Motions in Limine to limit the forfeiture notice to five (5) years before the date of the Indictment (April 24, 2010) (which would substantially reduce the amount of forfeiture for the Hospital aspect of the case to $120,000) or, alternatively, to ten (10) years. *See* Doc. No. 53-1.

The Fifth Circuit panel[10] upheld the district court's ruling, concluding there was:

> No clear factual error in the district court's finding that Reed had engaged in a continuing scheme of over 20 years and no legal error in its conclusion, and he could therefore be required to forfeit all the proceeds from that scheme under 18 U.S.C. §981 and 28 U.S.C. §2461(c). *Reed*, 908 F.3d at 125.

ARGUMENTS I, II, and III

Argument No. 1 (Ambiguity Issue)

The Petitioner was Denied Due Process by the Lack of Notice of (1) the Federal Prosecutors' Interpretation phrase "Unrelated to the Campaign or the Holding of Public Office" contained in the state campaign statute and (2) an Objective and Consistent Legal Standard to Adjudge his Conduct

Introduction

Federal prosecutors in Eastern District of Louisiana have a history of attempting to test the limits of

[10] The Fifth Circuit Panel Opinion cited *United States v. Wyly*, 193 F.3d 289, 303 (5th Cir. 1999), where forfeiture was upheld based upon a "criminal conspiracy" taking place over more than six years. In the instant case, Walter Reed acted alone in connection with the hospital counts and there are no conspiracy charges as to those counts. With regard to the campaign counts, a conspiracy was charged with conspiracy between Walter and Steven Reed.

federalism by overseeing state affairs and state office holders. In *Cleveland v. United States*, 531 U.S. 12, 19 (2000), this Court limited federal authorities' attempt to enforce Louisiana's video poker regulatory scheme. This Court, in *Skilling v. United States*, 561 U.S. 358 (2010), further limited the federal authorities from enforcing state law in alleged "bribery and kickback" prosecutions involving violation of "honest services" against state actors.

The *Reed* case is not the only recent case where the limits of federalism were tested by federal prosecutors in this Louisiana District. The case of *United States v. Peter Hoffman and Michael Arata*, 901 F.3d 523 (5th Cir. 2018), in the Eastern District is another example of federal prosecutors overreaching into *ambiguous* state regulatory schemes.[11]

The *Hoffman* defendants, on February 7, 2019, filed a Petition for Writ of Certiorari in this Court presented the following question:

> Whether a conviction for mail or wire fraud must be vacated where it is based on claims for benefits under an *ambiguous* regulatory scheme and the defendants acted consistently with an objective and reasonable

[11] The *Hoffman* defendants were convicted of mail and wire fraud in connection with their applications for Louisiana tax credits. In that case, District Judge Martin Feldman made undisputed findings that the State regulations about admissible tax credit submissions were "confusing," "not so clear" and had many "gray areas." *United States v. Hoffman*, 14-022 (E.D.L.A. 12/9/15), 2015 WL 8306094 at 4.

> interpretation of that scheme. (*Emphasis added*). *Hoffman v. United States*, No. 18-1049.

Thus, the *Hoffman* defendants argued that the Fifth Circuit failed to recognize that Louisiana's tax credits law was *ambiguous* and that defendants acted consistently with the reasonable construction of that law. In substance, the *Hoffman* defendants contended that they "should not be convicted because they violated some bureaucratic *secret understanding of the law.*" *See United States v. Farinella*, 558 F.3d 695, 699 (7th Cir. 2009) (*emphasis added*).

Similarly, *Reed* raises the same issue as to the Louisiana *ambiguous* campaign finance law as defined by federal prosecution after the fact.

a) Lack of Notice.

This prosecution violated due process under the Fifth Amendment because of a "lack of notice" in that there is no federal law which clearly proscribes the conduct with which Petitioner is charged and there is no federal law which sets out the parameters of appropriate campaign spending for state political candidates. The prosecution, without fair notice, charged Reed with campaign funds fraud based upon the vague phrase "*related to the campaign or the holding of public office.*"

This Court halted a similar overzealous prosecution in *McDonnell*, redefining "official act" in connection with bribery allegations. The *McDonnell* Court

unanimously overturned the conviction of Governor McDonnell based on the government's overly expansive interpretation of the phrase "official act" in the federal bribery statutes. The Court noted that "*we cannot construe a criminal statute on the assumption that the government will 'use it responsibly.'*" *McDonnell*, 136 S.Ct. at 2272-2273 (*emphasis added*) (citing *United States v. Stevens*, 559 U.S. 460, 480 (2010)).

This Court condemned prosecution under such a broad reading of the federal criminal statutes, holding that "under the standardless sweep of the government's reading, public officials could be subject to prosecution, *without fair notice*, for the most prosaic interactions." *McDonnell*, 136 S.Ct. at 2373 (*emphasis added*). *See United States v. Garber*, 607 F.2d 92 (5th Cir. 1979) (*en banc*) (lack of fair notice in tax prosecution). The *McDonnell* Court *unanimously* declined "to construe the statute in a manner that leaves its outer boundaries *ambiguous* and involves the Federal Government in setting *standards of 'good government for local and state officials*.'" *McDonnell*, 136 S.Ct. at 2373 (*emphasis added*). This Court was concerned with the broader legal implications of the Government's *interpretation* of "*conduct* which has *traditionally been regulated and enforced by the sovereign states.*" *Id.* at 2375 (*emphasis added*).

The *McDonnell* case dealt with the *ambiguities* in the phrase "official act"; in the instant case, the *ambiguity* lies in the critical language of the state law, "*related to the campaign* or the *holding of public office*." As to this latter concept ("related to the holding of

public office"), the jury did not have "a clue" about what this phrase means. The "holding of public office" is analogous to the concept of "official act" in *McDonnell*. It was never defined for the jury.

b) The decision below is incorrect in that there was no "fair notice" that donor's expectations, not the state statute, would be the standard to adjudge his conduct.

While the decision below quotes *McDonnell* as to "significant constitutional concerns," the risk of "a pall of potential prosecution over relationships between public officials and their constituents," and "challenges to the principles of federalism," *it disregards those concerns*.

The opinion erroneously cited "donor expectations," explaining that various witnesses thought that the campaign funds had to be used for advertisement and TV. There was, however, no fair notice that donor expectations were the measure of permissible use of campaign contributions. Moreover, the *ambiguous* and broader term of "*related to the holding of public office*" went unexplained to the jurors.

In *United States v. Curry*, 681 F.2d 406 (5th Cir. 1982), Judge Goldberg noted: "*Ordinarily, one* ***expects no more*** *in return for his money than that the candidate of his choice is elected*." (*Emphasis added*).

The opinion below concluded that federal fraud can be defined by "after the fact" testimony from

campaign contributors as to their expectations as to how campaign funds should be used. Under this Fifth Circuit standard, any public official who raises funds may face fraud allegations based on the testimony of alleged "victims" who provided campaign funds with limited expectation that the funds would be used for television ads, thus totally eliminating the statutory concept of "*related to the holding of public office*." Where is the "fair notice" to public officials as to what federal prosecutors define as federal fraud? The opinion even cited one donor who said, "if you ask for money for a campaign, it should be used that way, *regardless of state law*."[12]

If this is the standard by which state office holders are to be judged, any state official can be convicted on the basis of donor expectations which do not reflect the State Campaign Law. Ironically, while evidence of donors' expectations were admitted, the defense evidence of expert testimony and ethics opinions were excluded.

In this case, the federal government has intruded into the State election process, altering the sensitive federal-state relationship and transforming an alleged ethics violation into federal felonies. *See Gregory v. Ashcroft*, 501 U.S. 452 (1991) (State to determine the qualification for state officials under the Tenth Amendment).

While the Indictment cited misrepresentations to voters, the prosecution attempted to prove only that

---

[12] Panel Opinion, p. 31.

the statements on Reed's campaign finance reports were inaccurate. The prosecution did not introduce any evidence of misrepresentations made by Reed *to campaign donors* as an inducement. Thus, this prosecution grossly expanded the federal police power to include monitoring the accuracy of campaign reporting by state political candidates.

The panel opinion rejected Reed's contention that the case hinged on "interpretations of Louisiana Finance Laws prohibition on use of campaign fund for purposes *unrelated to the campaign or the holding of public office*." App. 9. Yet, the *ambiguous* Louisiana statute is quoted over a dozen times in the Indictment as the standard by which campaign activity is to be adjudged. The phrase "*related to the holding of public office*" suffers from the same *ambiguities* as the term "official act." The panel concluded that "the jury was not called upon to interpret technical . . . elements of the Louisiana Campaign Fund law." App. 11. In determining whether a federal fraud was committed, there must be some objective and consistent legal standard.

Petitioner was not given "fair notice" that[13] campaign violations might be considered a federal

---

[13] Citing Justice Holmes, the *Lanier* Court stated that " 'fair warning . . . [must be] in language that the common world will understand, of what the law intends to do if a certain line is passed. To make the warning fair, so far as possible the line should be clear.' 'The . . . principle is that no man shall be held criminally responsible for conduct which he could not reasonably understand to be proscribed.' " *Lanier*, 117 S.Ct. at 1224-25. (Internal citation omitted).

felony, contrary to *United States v. Lanier*, 520 U.S. 259, 266, 117 S.Ct. 1219, 1225 (1997). The Court has demonstrated concern about "fair notice" recently. *See*, *e.g.*, *Sessions v. Dimaya*, ___ U.S. ___ 138 S.Ct. 1204 (2018).

c) Compelling Reasons for Granting Writ.

When federal prosecutors investigate campaign funding violations – federal or state – they enter the sanctity of the election process at the heart of our democracy. Traditionally, minor violations of the federal or state campaign laws are handled by the regulatory or ethics bodies that oversee campaign financing with routine directives to place money back into the campaign fund and/or to pay fines for such minor violations. Reed was not allowed to introduce evidence of "custom and practice," wherein the Ethics Board routinely directed repayment to the campaign fund and/or fines (i.e., Gray Sexton Proffer), App. 79. Even the Federal Election Commissioner (FEC) routinely uses fines to address these situations (e.g., $170,000 fine for $40,000 in illegal and excess contributions to Senators Mary Landrieu (D-La) and David Vitter (R-La). FEC Conciliation Agreement MUR 6234 (8/20/2001) Re: Cenac Towing. *See also* www.cititzensforethics.org/press-release.

Reed was charged in Count 8 with a $614 improper expenditure for three arrangements of flowers:

April 4, 2012	Flowers	Open House	$272
April 20, 2012	Flowers	Lindsay Reed	$223
April 23, 2012	Flowers	Rodeo Girl	$119
		TOTAL	**$614**

As addressed above, the Rodeo Girl was a "thank you" for attending a state function. The second was sent to the "Open House" which District Court set aside, finding it was a "squarely political" event. The third bouquet of flowers was for Walter Reed's daughter who on prior occasions had sung at his political functions and was always a part of his family group at political functions. ROA.5987-5989. Yet, Reed was subject to a 20 year felony on Count 8 as was the case in Count 3 ($589.68 in expenditure for a 17-year-old's birthday party at a restaurant[14]) and Count 4 ($1,885 for a Thanksgiving Dinner attended by the DA employees). ROA.5314-5317.

While the government will cite cases involving egregious campaign fund violations, the District Judge, commented on the prosecution's allegations:

> *[T]he case is **unusual** in that there's no evidence that this defendant used the funds to purchase a lavish home, exotic trips, expensive vehicles, jewelry or other such things. The funds instead were used to purchase flowers for family members or to pay for lunches for*

[14] While 17-year-olds do not vote, their parents do and 17-year-olds become 18-year-olds as observed by a candidate who was in office for 30 years.

> *secure supporters . . . individuals who couldn't vote or who were not old enough to vote.* ***Unusual facts****, they warrant more scrutiny.* ROA.6909.

In the recent presidential election, the Donald Trump Campaign Fund raised $350,668,435, and disbursed $343,056,732.75, while the Hillary Clinton Campaign Fund raised $591,637,155, while disbursing $591,226,517. It is not difficult to envision that some ambitious federal prosecutor might find a $225 bouquet of flowers from the Hillary Clinton Fund to daughter Chelsea, from the Trump Fund to daughter Ivanka.

When federal prosecutors enter the field of *state* campaign financing, there are additional federalism concerns with the potential for targeting state officials. This case provides a vehicle for this Court to examine the sensitive balance between federal and state relations, particularly when it involves the sanctity of the election process for state public officials.[15]

---

[15] With the elimination of the "Open House" ($25,000) campaign expenditure, along with the questionable $25,000 donation to the church gym, the amounts of campaign expenditures become relatively small. Many of the meals and other expenditures were within petitioner's election district. The remaining two expenditures (America Concert and the video) could easily be the subject of "pay back" to the campaign and/or a fine. If the defense had been able to show "custom and practice" under state law, the jury would have understood that ordinarily such minor campaign violations are subject to directive to "pay back" the campaign those amounts, plus fines for apparent ethical violations of the campaign law.

Under the Fifth Circuit holding, many state officials are at the mercy of prosecutors who want to redefine, in hindsight, campaign expenditures according to their own view of how the Louisiana law should be read and target them based upon the *ambiguities* in state law. Therein lies the need for Supreme Court review.

d) The Pending Writ in the *Hoffman* Case.

Reed submits that both the *Hoffman* case and the *Reed* case will present this Supreme Court with significant issues with respect to the permissible scope of the government's reading of federal criminal statutes in general with respect to *fair notice*. The mere fact that there are two such overreaching prosecutions in the same district should give this Court pause to examine such conduct involving *ambiguities* in state law.

As pointed out in the *Hoffman* Petition, the First, Seventh, Eighth, Tenth and Eleventh Circuits have contrary rulings which will be argued as a basis for conflict in the circuits.[16] Significant federalism issues surround the prosecution's interpretation of the state law and its implication with regard to the balance of

[16] *See United States v. Farinella*, 558 F.3d 695 (7th Cir. 2009); *United States v. Whiteside*, 285 F.3d 1345 (11th Cir. 2002); *United States v. Prigmore*, 243 F.3d 1 (1st Cir. 2001); *United States v. Migliaccio*, 34 F.3d 1517 (10th Cir. 1994); *United States v. Anderson*, 579 F.2d 455 (8th Cir. 1978); *United States v. Silver*, 864 F.3d 102 (2d Cir. 2017); *United States v. Jefferson*, 2017 WL 4423258 (E.D. Va. 10/4/17) and *United States v. Edward*, 869 F.3d 490 (7th Cir. 2017).

power between the federal government and sovereign states under *McDonnell*. This has long been a concern in this Court. *Bond v. United States*, 572 U.S. 844, 859-60 (2014) (citing *United States v. Bass*, 404 U.S. 336, 350, (1971)); *Cleveland v. United States*, 531 U.S. 12, 19 (2000); and *Skilling v. United States*, 561 U.S. 358 (2010).

In support of the *Hoffman* Petition, an Amicus Curiae, citing "federalism and fundamental fairness concerns," was filed by law professors who study criminal laws, Brief of Professors as Amicus Curiae, p. 2 (March 13, 2019).

Review should be granted in both this case and the *Hoffman* case.

Argument No. 2 (Custom and Practice Issue)

Where Federal Mail Fraud Charges are Critically Dependent on Allegations that the Petitioner Violated State Law, it is error to rely on the federal nature of the charges to exclude defense expert testimony concerning custom and practice under the pertinent state law

In *United States v. Curry*, 681 F.2d 406, 416 (1982), the Fifth Circuit previously pointed to "good faith" as a defense to mail fraud charges stating "the most obvious evidence supporting a finding of a good faith is the *ambiguity* of Louisiana's Election Law." (*Emphasis added*). In interpreting wire and mail fraud in context of campaign laws, Judge Garwood's concurring opinion stated:

> "I recognize that state law is not determinative in these matters, but if we do rely on state law to characterize conduct as being violative of section 1341, then it seems to me appropriate to consider how the state regards such conduct." *United States v. Curry*, 681 F.2d 406, 421 (5th Cir. 1982).

The only way for the jury to have a meaningful understanding of the State campaign law in this case would have been consideration of evidence proffered by the defense[17] which provided such information through expert and other offers of proof as to interpretation of the State ethics laws and the "custom and practice" under that law. In *Curry*, Judge Garwood concluded, "*we are dealing here with* what is, essentially, a *matter of local concern* – compliance with local law regulations for campaign contribution reporting normally handled by local authorities" (*emphasis added*) citing *United States v. Bass*, 404 U.S. 336, 350 (1971), where this Court admonished against "broad construction" which "*would alter sensitive federal-state relationships or transform relatively minor state offenses into federal felonies*." *See also Bond v. United States*, 572 U.S. at 859-60, 134 S.Ct. 2077, 2090 (2014), wherein, citing *Bass*, the Court stated that basic federalism principles warranted "insist[ing]" on a clear indication that Congress meant to reach purely local crimes," before interpreting the statute to intrude on the police power of the States.

---

[17] ROA.9359-9371 (*See* Defense Proffer – App. 79).

e) The decision below is incorrect in that "custom and practice" should have been admissible.

In the instant case, the Fifth Circuit panel opinion essentially dodged the issue of whether the prosecution impermissibly stepped on federalism principles by finding that the court was only enforcing federal law and not state law, thus avoiding entirely the evidentiary problem that occurred at trial when Petitioner was denied the opportunity to present the testimony of his expert (Sexton) on Louisiana Campaign finance law. This evidence would have allowed the jury to consider that, while a campaign expenditure may have another purpose, it is proper if it nevertheless had a campaign purpose. Reed was denied the "dual purpose" defense in connection with the gym donation and other campaign matters, especially those related to church contributions. Sexton's testimony was indispensable to Walter Reed's theory of defense and there was no rational justification for its exclusion. *See United States v. Kuhart*, 788 F.3d at 421 (5th Cir. 2015). Effectively, Louisiana law "custom and practice"[18] were ignored in this case, and Reed was charged with, and ultimately convicted of, a federal crime, despite the fact that the sovereign state of Louisiana has spoken on the lawfulness of the conduct at issue.

The panel opinion decision deferred to the purportedly "rational justification" for excluding the

[18] Petitioner's pretrial motion seeking permission to introduce such "custom and practice" was denied. R. Doc. 159, p. 14.

defense evidence, citing the analysis in *Kuhart*, *supra*. There can be no rational justification for excluding such defense evidence if it is necessary for the jury's determination whether a federal fraud was committed. The decision failed to address this separate and distinct argument, that the defense proffer would have provided indispensable context for Reed's campaign expenditures and evidentiary support to bolster Reed's "*good faith*" belief that "dual purpose" expenditures were allowed.

While the Panel conceded "a candidate may present evidence of his understanding of the state campaign finance law to support an argument that he lacks *mens rea*," the jury never heard how the State and its Ethics Board interpreted such election laws.

The decision below maintains the federal government's supremacy over the sovereign right of the State of Louisiana to supervise state campaign elections and define state campaign laws. The danger in upholding this conviction is that federal prosecutors can target any state official for an alleged fraud based on state campaign violations, as subsequently defined by federal prosecutors.

"SPILLOVER" FROM CAMPAIGN COUNTS REQUIRE A NEW TRIAL ON ALL COUNTS ON REMAND

The prosecution of the campaign fund counts produced corresponding tax consequences because campaign items are classified as personal and taxable. With regard to the Hospital counts, Judge Fallon acknowledged, in granting bond, the viable nature of the defense,[19] and the potential "spillover effect":

> *This Court also finds it quite possible that, on appeal,* ***a higher court could find that the convictions in this case suffered from prejudicial*** *spillover when (Hospital Counts) were charged . . . along with the Campaign Counts.* ROA.2365.

Thus, writ should be granted and the entire case should be remanded.

[19] ROA.6967-6910.

Argument No. 3 (Forfeiture Issue)

A twenty-year (1994-2014) criminal forfeiture under Title 28 U.S.C. §2461(c) and §981: (a) should be limited to the time period after the 2005 amendments to 28 U.S.C. §2461(c) (USA Patriot Act) because there was no statutory basis for a criminal forfeiture for the mail and wire fraud charged in the Indictment or alternatively (b) the forfeiture should be limited by the five-year statute of limitations applicable to the underlying wire and mail fraud counts.

a. Reasons for Granting a Writ.

This Court has a history of limiting the Government's excessive use of both civil and criminal forfeiture. In *Austin v. United States*, 509 U.S. 602, 113 S.Ct. 2801 (1993), this Court held unanimously that *civil* forfeitures are subject to the Eighth Amendment's prohibition on excessive fines.[20] In *United States v. Bajakajian*,[21] 524 U.S. 321 (1998), this Court held that a punitive forfeiture will constitute a "fine" within the meaning of the Eighth Amendment's Excessive Fine Clause and, if the amount of the forfeiture is grossly

[20] In *Reed*, the prosecution admitted that it wanted Reed's punishment by the forfeiture "to have a sufficient deterrent effect on would be followers." *See* ROA.2550, Government's Response in Opposition to Defendant Walter P. Reed's Motion for Downward Departure and/or also Variance from the Sentencing Guidelines.

[21] The defendant was charged with failing to report he was transporting more than $10,000 out of the country, and the government sought forfeiture of $357,000 of monies in his possession.

disproportionate to the gravity of the offense, it is unconstitutional.

In *United States v. Capoccia*, 503 F.3d 103 (2d Cir. 2007), Justice Sotomayor (then Circuit Judge) limited the government's forfeiture efforts against the defendant, finding such funds derived from uncharged conduct and did not bear the requisite nexus to the violation for which he was convicted.

This Court has continued to "dial back" the excessive overreach of the government's punitive monetary sanctions in *Timbs v. Indiana*, ___ U.S. ___, 139 S.Ct. 682 (2019).

> "The Eighth Amendment's Excessive Fines Clause is an incorporated protection applicable to the States under the Fourteenth Amendment's Due Process Clause." *Timbs*, 139 S.Ct. at 686.

This Court should grant writs to continue to limit the government's excessive overreach under forfeiture laws.

b. Prior to USA Patriot Act (2005) there was no Statutory Basis for a Criminal Forfeiture for the Mail and Wire Fraud Charged in the Indictment.

The amendment, §2461(c), stated that:

> "[i]f a forfeiture of property is authorized in connection with a violation of an Act of Congress, and any person is charged . . . with such

> violation but no specific statutory provision is made for criminal forfeiture upon conviction, the Government may include the forfeiture in the indictment . . . and upon conviction, the court shall order the forfeiture of the property in accordance with the procedures set forth in [21 U.S.C. §853]." *U.S. v. Day*, 524 F.3d 1361, 1375 (D.C. Cir. 2008).

Some courts concluded that the prior version of section 2461 did not authorize criminal forfeiture for most mail and wire fraud offenses. E.g.:

> "**[W]e read §2461(c) as requiring criminal forfeiture only in those cases where Congress had not specifically considered whether, and to what extent, to authorize criminal forfeiture. In §982(a)(2)(A), Congress clearly considered the circumstances in which it intended to include criminal forfeiture among a convict's punishments for mail fraud, and it concluded that criminal forfeiture was only appropriate when the mail fraud affected a financial institution** (which Independence Blue Cross is not). It seems highly unlikely that, in passing the broad language of §2461(c), Congress intended to silently remove the limitations on criminal forfeiture in mail fraud cases that it had carefully inserted into §982(a)(2)(A)." *U.S. v. Croce*, 345 F. Supp. 2d 492, 496 n.9 (E.D. Pa. 2004) overruled, *U.S. v. Vampire Nation*, 451 F.3d 189 (3d Cir. 2006) (*emphasis added*).

Since criminal forfeiture is a criminal penalty, there should be no criminal forfeiture for the period before the USA PATRIOT Improvement and Authorization Act of 2005 took effect.

c. Reed's Defense to the Hospital Counts 15-19 – "The Hospital's CEO Requested his Service in his Personal Capacity."

During the trial, the only evidence of Hospital payments to Reed consisted of the checks from 2004-2014, all payable to Walter Reed, individually. At the conclusion of the trial, the parties agreed that the Court would decide the forfeiture issues based on the existing evidence in the trial record. There is no basis in the record for extending the forfeiture of amounts paid to Reed earlier than 2004.

In connection with the defense to the charges relative to the St. T. Hospital, Reed testified that he represented the Hospital in his personal capacity and there was merely a misunderstanding as to the capacity in which he was to represent the Board. There was an extensive amount of activity during the 1994-1996 time period supporting his position that he was hired in his personal capacity, and not in his official capacity.

In early 1994, Reed was approached by the then-chairman of the St. T. Hospital Board, Paul Cordes, who requested that Reed personally attend the Board meetings. Cordes advised that the Board would pay Reed directly for his legal services. Because Cordes

passed away in 2004 and notwithstanding the fact that two other participants in the conversation stood ready to testify regarding the conversation, the Court excluded, over defense objection, all evidence of this conversation. ROA.5455-5458.

The Cordes conversations precipitated Reed's belief that he represented the hospital board in his personal capacity and not as District Attorney. There was compelling evidence supporting this belief:

(1) After this conversation Reed dictated a memorandum to his office manager: "Effective May 1, 1994, I will be *personally* representing the St. Tammany Hospital." *See* ROA.9551 (*emphasis added*) (Rec. Excerpt 8). Reed then began attending personally over 150 Board meetings over a 20 year period.

(2) The Hospital checks were payable to "Walter Reed," individually, not to the DA's office.

(3) When Reed learned in 1996 that a formal resolution documenting his personal status capacity was never passed in 1994, he then wrote a letter to CEO Cordes asking that a resolution be passed.[22] Two attorneys drafted such a resolution, but a final

[22] "I am recommending that the Board vote to ratify my previous appointment at the next regular Board Meeting to be held Monday, October 21st. [1996]" (*emphasis added*). *See* ROA.9537 (Rec. Excerpt 9).

copy could not be located 20 years later. *See* ROA.9545, ROA.9670-9671.

(4) Reed disclosed this outside income from the Hospital on his Government Ethics forms, for *each and every year*.

(5) Reed paid income taxes on *all* his income from the Hospital.

In response to Reed's 1994-1996 evidence regarding Cordes, the prosecution introduced evidence of the more recent "end of year" Board Resolutions with regard to legal fees in *2008 through 2012*. In no event can that evidence support forfeiture of fees received from 1994-2004.

d. The Five-Year Statute of Limitations for the Underlying Mail Fraud Offenses.

The Original and Superseding Indictments charge only five discrete occasions (i.e., Counts 15-19 in years 2009-2014). The original Indictment was filed on April 23, 2015.[23] Reed was not convicted of mail fraud for any act allegedly occurring before April 23, 2010. The statute of limitations applicable to the mail fraud charges brought in Counts 15-19 is five (5) years, and if applied, the government should not obtain a forfeiture related to any legal fees prior to April 23, 2010.

While the District Judge denied the motion as to a five-year limitation both pretrial and during the

[23] *See* Rec. Doc. No. 1, Indictment.

forfeiture phase (Doc. No. 389, p. 23) he did comment on the "unusual" nature of the case, opining:

> *A related aspect of the defendant's conviction is that he received funds from the parish hospital for attending board meetings in his official capacity as district attorney, but deposited them in his personal account rather than having them deposited in the account for the district attorney's office. The defendant maintained that he was acting in his private capacity and this was directed by the chairman of the board. Unfortunately for him, I suppose, the* ***chairman of the board had died prior to the trial****; so he couldn't testify obviously.*
>
> *But the checks were made payable to the defendant. He reported the income and the practice continued for some ten years without anybody complaining, without anybody saying it's improper. . . .* ROA.6907-6910 (*emphasis added*).

e. Alternatively, the Five-Year Statute of Limitations Under 28 U.S.C. §2412 Should Apply (See *Kokesh v. SEC*, 137 S.Ct. 1635 (2017)).

In *Kokesh v. SEC*, 137 S.Ct. 1635 (2017), this Court applied Title 28 U.S.C. §2462's five-year statute of limitation to prevent the SEC disgorgement effect beyond five years. This Court noted that statutes of limitations "se[t] a fixed date when exposure to the specified Government enforcement efforts en[d]."

The Fifth Circuit Panel concluded that *Kokesh* was distinguishable because it concerned a *civil* forfeiture under 28 U.S.C. §2462, noting that the forfeiture in the *Reed* case was imposed under 18 U.S.C. §981 and 28 U.S.C. §2416(c) which allows for *criminal* forfeiture when civil and criminal forfeiture is authorized for an offense and the defendant is convicted. But there is no specific statutory provision which authorizes *criminal* forfeiture on fraud counts prior to 2005. The government sought forfeiture under 2461(c) based on the civil forfeiture authorized and under Section 981. Thus, the *Kokesh* rationale should apply.

Like the defendant in *Kokesh*, Reed argues that §2462's five-year statute of limitations should apply to the lower court's judgment. The *Kokesh* defendant's misappropriation took place over a 14-year period, yet his civil monetary penalty was limited by §2462. The disgorgement order, which originally covered the whole 14-year period, was found to be a penalty and thus now also falls under §2462's statute of limitations despite the defendant's fraud.

On its face, this forfeiture is governed by §2462, which applies to "the enforcement of any civil fine, penalty, or **forfeiture**, pecuniary or otherwise." 28 U.S.C. §2462. When examined in the light of *Kokesh*, this forfeiture is intended to have a deterrent effect[24] and thus also operates as a penalty because "[s]anctions imposed for the purpose of deterring infractions of public

[24] The district court ordered restitution of the D.A.'s Office in this same amount.

laws are inherently punitive." *Kokesh*, 137 S. Ct at 1643.

f. Purpose of Statute of Limitations.

The purpose of a statute of limitations is to limit exposure for criminal prosecution to a certain fixed period of time following the occurrence of those acts the legislature has decided to punish by criminal sanctions.

> Such a limitation is designed to protect individuals from having to defend themselves against charges when the basic facts may have become *obscured by the passage of time* and to minimize the danger of official punishment because of *acts in the far-distant past*. *Truissie v. United States*, 394 U.S. 112, 114 (1970) (*emphasis added*).

This Court has held that criminal statutes of limitation are to be liberally interpreted in favor of repose. *United States v. Habig*, 390 U.S. 222, 227 (1968). They:

> . . . promote justice by preventing surprises through the revival of claims that have been allowed to slumber until evidence has been lost, memories have faded, and *witnesses have disappeared. Railroad Telegraphers v. Railway Express Agency*, 321 U.S. 342, 348-349 (1944) (*emphasis added*).

In this case, petitioner's defense of the forfeiture allegations from 1994-2004 suffered from "facts becoming obscured by the passage of time," lost evidence

(e.g., 1996 resolution), faded memories and witnesses who have disappeared (e.g., CEO Cordes).

Review should be granted in order to assess limitations on the criminal forfeiture attributable to the lack of a statutory basis for criminal forfeiture prior to the enactment of the Patriot Act in 2005, or the five-year statute of limitations.

CONCLUSION

If Walter Reed's conviction is to be upheld, federal authorities will have a green light to prosecute any state officials for state campaign violations under the charade of prosecuting wire or mail fraud schemes to defraud.

What does the conviction of Walter Reed mean for political campaign spending in Louisiana? How are politicians to know what is and is not allowed under Louisiana's campaign disclosure law? Can a campaign expenditure have a dual purpose? Can candidates donate campaign funds to pay for flood relief – as "*related to the campaign* or *to the holding of public office*"? How about donations to churches? What if the candidate is a member of that church? The only answer now available to candidates is to call the U.S. Attorney's Office, as the U.S. Department of Justice now sets the bar for acceptable campaign expenditures for Louisiana political candidates.

Petitioner respectfully submits that a writ of certiorari should be granted on the issues presented.

RICHARD T. SIMMONS, JR.
HAILEY, MCNAMARA, HALL,
LARMANN & PAPALE, L.L.P.
One Galleria Boulevard,
Suite 1400
Metairie, Louisiana 70001
Telephone: (504) 836-6500
Fax: (504) 836-6565
E-mail: rts@hmhlp.com

Counsel for Petitioner,
Walter P. Reed