No. 18-8929

In The

SUPREME COURT OF THE UNITED STATES

In re Lavont Flanders Jr,

Petitioner

Petition for Writ of Mandamus To The

United States Court of Appeals

For The Eleventh Circuit

PETITION FOR WRIT OF MANDAMUS

LAVONT FLANDERS JR., Pro Se

United States Penitentiary Tucson

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CONSTITUTIONAL PROVISIONS

U.S. Const. Amend. IV

U.S. Const. Amend. VI

STATUTES

18 U.S.C. §1591

18 U.S.C. §1594

18 U.S.C. §2251

18 U.S.C. §2252

18 U.S.C. §3231

18 U.S.C. §3742

28 U.S.C. §1254

28 U.S.C. §1254(1)

28 U.S.C. §1291

28 U.S.C. §1651(a)

RULES

Fed. R. App. P. 4(a)(1)

Fed. R. App. P. 4(c)

I

QUESTION PRESENTED

Petitioner was convicted and sentenced to 13 Consecutive Life imprisonment after a jury trial. During the pretrial stage of the initial appearance, Petitioner was indicted and arrested on a sealed indictment on August 17, 2011. Upon being arrested, Petitioner was processed by the FBI, the United States Marshals Service, and the Miramar Police Department. During processing which included being fingerprinted and photographed, Petitioner asked the arresting agents and officers why he was being arrested. They all responded and said for multiple sex crimes against minors.

Petitioner was then transported to Miami-FDC were he asked again what the charges were against him. The FBI agent Regino E. Chavez advised him for multiple sex crimes against including child pornography, the sex trafficking of children, and the enticement of minors. Petitioner was then escorted to the United States Marshals holding cell to be interviewed by Pretrial Services Officer Maria Monge. She advised the same charges as The FBI, and the United States Marshals Service who were part of the arrest team.

Petitioner was then taken before Magistrate Judge Ted E. Bandstra for his initial appearance. Judge Bandstra

announced that this is a sealed case, and he was going to now unseal the indictment. Petitioner had no counsel present, but the AUSA was present, the Pretrial Services Officer was present, the Arresting FBI Agents were present, the arresting United States Marshals Service Agents were present, and the arresting Miramar Police Detectives were present at the initial appearance. After Judge Bandstra unsealed the indictment, and began to read the indictment, he read the counts to the unsealed indictment as the sexual exploitation of minors, and the sex trafficking of children before being interrupted by AUSA Roy K Altman. The AUSA advised the Judge that their were no allegations of minors. The Judge and the AUSA exchanged documents while counsel was not present, and the Judge read one drug count pertaining to Petitioner and his co-defendant. The purported indictment contained 22 counts, and it contained a forfeiture count as well.

Petitioner filed a appeal to the Eleventh Circuit in which his convictions were affirmed. Petitioner then filed a 28 U.S.C.S. 2255 in the District Court raising Cronic error during a critical stage because the indictment was amended while no counsel was present, the District Court failed to fully apprise Petitioner of the nature and cause of the accusations against him, and the stage was a trial like confrontation.

The District Court denied his 2255 and a Certificate of Appealability. Petitioner then Petitioned the Eleventh Circuit Court of Appeals in October 5, 2018 for a (COA). During the time his (COA) was pending before the Court of Appeals. The Petitioner filed and Amended COA, and a Motion to

Expand the COA on November 14, 2018. Petitioner used the mail box rule. "Under the mailbox rule, a pro se prisoner's court flings is deemed filed on the date it is delivered to prison authorities for mailing". See Flanders v. United States 2017 U.S Dist. LEXIS 199852, n.1 (S.D.Fl 2017) (citing Williams v. McNeal, 557 F.3d 1287, 1290 n.2 (11th Cir. 2009). Petitioner filed his Amended COA, and his Motion to Expand the COA on November 14, 2018. On January 16, 2019 the original COA was denied by the Court, Petitioner was instructed he had 21 days to file for a reconsideration in which he did.

Prior to the denial of the Motion for Reconsideration, Petitioner received received both motions back from the United States Postal Service advising him that they discovered the "Contents Loose at their facility", the Loose Contents were his Amended COA, and the Motion to Extend the COA. The U.S. Postal Service first mailed both motions to the Federal Prison Headquarters in Phoenix Arizona, who then mailed the Loose Contents back to me at the United States Penitentiary in Tucson, Arizona. The United States Postal Service submitted a large clear mail packet with their official insignia, and a with the Message stamped in bold letters advising Petitioner that the mail was found loose at the U.S. Postal Facility.

On February 21, 2019 Petitioner received both motions back, and he immediately mailed them back to the Court of Appeals. However on February 28, 2019 the Court of Appeals denied his motion for reconsideration. Petitioner's Amended COA, and his Motion to Expand the Amended COA was returned by the Court unfiled, advising him that he only gets one review of his COA. Petitioner had timely filed his Amended COA, and

his Motion to Expand his Amended COA under the mail box rule title 28 U.S.C.S. § 1746 under Houston v. Lack, 487 U.S. 266 (1988).

Petitioner's Motions was considered timely filed, and he should be subject to having both motions heard by the Court of Appeals for the Eleventh Circuit. Petitioner had no control over this incident, it took place while the both motions were in route to the Eleventh Circuit Court of Appeals. Petitioner should not be prejudiced because of an error out of his control.

Should a writ of mandamus issue directing the Respondents, Honorable Judge Charles Wilson, and Honorable Judge Jill Pryor to allow a proper review of both amended motions, because they both were timely filed per the mail box rule?

LIST OF PARTIES AND CORPORATE DISCLOSURE

The parties in the Eleventh Circuit proceedings are Lavont Flanders Jr, as petitioner, and the United States of America as respondent.

For purposes of this mandamus, the Respondents are the judges of the United States Court of Appeals for the Eleventh Circuit, sitting as a panel: Hon. Charles Wilson and Jill a Pryor.

TABLE OF AUTHORITIES

CASES

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PETITION FOR A WRIT OF MANDAMUS AND STATEMENT WHY RELIEF IS UNAVAILABLE IN ANY OTHER COURT

Petitioner, Lavont Flanders Jr, petitions for a writ of mandamus directing Respondents, the judges of the United States Court of Appeals for the Eleventh Circuit, sitting as a panel-Hon. Charles Wilson, and Jill A. Pryor- to vacate their prior ruling on the Original Certificate of Appealability, and to accept and rule on the timely filed Amended Certificate of Appealability, and the Motion to Expand the COA filed by petitioner on November 14, 2018.

In accordance with Supreme Court Rule 20.3(a), Petitioner states that the relief sought is not available in any other court because only this Court has jurisdiction to issue a writ of mandamus directed to a United States Court of Appeals.

OPINIONS BELOW

The Judgment of the Original Denial of the COA and the Judgement from the Denial of Reconsideration of the COA is set fourth in the Appendix.

JURISDICTION

The Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1651(a), which describes the jurisdiction of this Court to issue extraordinary writs as necessary or appropriate to aid its appellate jurisdiction. The United States Court of Appeals for the Eleventh Circuit has jurisdiction over the appeal below pursuant to 28 U.S.C. §1291 and 18 U.S.C §3742, because it is an appeal of a federal criminal conviction and sentence of a United States District Court. The United States District Court had jurisdiction in this case pursuant to 18 U.S.C. §3231 because Petitioner was charged with an offense against the laws of the United States.

STATUTES INVOLVED

Title 28 U.S.C. §1651 Provides:

Writs

(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

Title 28 U.S.C. §1254 provides:

Courts of appeals; certiorari; certified questions

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1)By writ of certiorari granted upon the petition of

any party to any civil action or criminal case, before or after rendition of judgement or decree;

(2)By certification at any time by a court of appeals of any question of law in any civil case or criminal case as to which instructions are desired, and upon such certification the Supreme Court may give binding instructions or require the entire record to be sent up for decision of the entire matter in controversy.

STATEMENT OF THE CASE

Lavont Flanders Jr was arrested in 2006 on state charges of sexual assault on a incapacitated person, please see Addendum 10. As the case progressed, evidence surfaced that Lavont Flanders Jr hadn't had sex with any of the female actresses on the set of a adult pornography film, and Mr. Flanders did not provide any drugs to any of the female actresses, there were no drugs or alcohol provided to any of the female actresses. The female actresses were not prostitutes, they were all actresses. The female actresses were filmed consenting agreeing to participate in the adult performance with another adult film star, Mr. Callum. All of the female actresses also willing agreed on film that they had not drank and alcohol prior to filming the adult movie, and that no one on the set of the film had given them any alcohol, or anything to eat or drink prior to filming, or during the filming of the adult movie. All of the female actresses completed a adult model release under 18 U.S.C. 2257 prior to filming the adult movie as well.

Some of the female actresses alleged that they were

under the influence of drugs during the time they filmed the adult movie when the parent's of one of the actresses found their video while in a adult store shopping. DNA and video evidence proved that the women all denied being on any drugs,and they all denied that anyone at the movie set had given them any drugs, alcohol, or anything to eat prior to filming, or while filming the adult movie. The state charges were dismissed, and Mr. Flanders was cleared of the sexual assault allegations in August of 2011.

Mr, Flanders then filed a state lawsuit claiming false arrest. Two weeks later Mr. Flanders was indicted by the federal grand jury on federal sex crimes that involved minors, 18 U.S.C. 2251, 18 U.S.C. 2252, 18 U.S.C. 1591, 18 U.S.C. 2422, 18 U.S.C. 1594, and a forfeiture count. Mr. Flanders was arrested on August 17, 2011 on an sealed indictment. Document (3), which is attached as Addendum 15 is not the indictment from the federal grand jury, it's a product of the unlawful amendment that took place during Mr. Flanders uncounseled initial appearance, a critical stage of the proceedings. Just a plain reading of the fraudulent document shows the reader with 100% accuracy that this is not the indictment unsealed, and read into the record during the initial appearance on August 17, 2011 by Judge Ted E. Bandstra.

Mr. Flanders was taken before Magistrate Judge Ted E. Bandstra after he was processed by the FBI, the United States Marshals Service, FDC-Miami, and pretrial services. All of this occurred before Mr. Flanders was taken before Magistrate Judge Ted E. Bandstra. It's important to know, all officers advised Mr. Flanders that he was in federal custody for

various sex crimes against minors. In other words, the sealed indictment had not been unsealed in open court yet, because Mr. Flanders hadn't appeared before the District Court to have the indictment unsealed and read yet.

When he was taken before the Honorable Ted E. Bandstra at 1:30PM. The Court advised him that the indictment was sealed, and the following exchange was transcribed from the initial appearance. The Clerk: United States of America versus Lavont Flanders, Jr and Emerson Callum, case number 11-20557-Criminal-Moore, and this is a sealed matter.

Mr. Altman: Good afternoon, Your Honor. Roy Altman on behalf of the United States States.

The Court: Mr. Altman. We will unseal the indictment at this time, and I will ask each of these defendants to state their name. Mr. Flanders, would you step to the microphone and state your name.

The Defendant Flanders: Lavont Flanders.

The Court: And, Mr. Callum, would you do the same.

The Defendant Callum: Emerson Callum.

The Court: Mr. Flanders, you are charged in a, both of you are charged in an indictment which names you both as defendants, and it is the only defendants in this case. The charges are summarized as sexual exploitation of a minor and sex trafficking of children by force, fraud or coercion.

Mr. Altman: Your Honor, as a correction, there is no allegation that there were any minors involved.

The Court: All right. Then it will be sexual exploitation, sex trafficking by force, fraud or coercion. The indictment that I have before me charges that these offenses

occurred beginning at least as early as May of 2006 and continuing through on or about July 18th of 2007. That's Count I in this county and in Broward County. That is the conspiracy charge.

There are further charges in this indictment. Count II from on or about May 2006 through May 17th of 2006 that you together did recruit, entice, harbor transport, provide and obtain a person identified by initials knowing that fraud would be used to cause such person to engage in a commercial sex act. There is a Count III which charges you both with the distribution of a controlled substance; that being Alprazolam. Do you know how to say that"

Mr. Altman: Alprazolam.

The Court: Alprazolam, commonly referred as to Xanax, and further counts, relating similar counts in this indictment. You each have the right to remain silent in court. Anything that you say can and might be used against you at a later time. You each have the right to have attorneys present with you in court. Do we have attorneys? No. We don't have attorneys.

After this, Mr. Flanders requested bond.

Defendant Flanders: Why can't I be out on bond?

The Court: Because the government is requesting pretrial detention. Is it on the basis of risk of flight or danger to the community, or both?

Mr. Altman: Both, Your Honor.

The Court: There are two bases or two grounds that the government cause to request that a defendant be held in pretrial detention, and they are requesting, or the government

is requesting on both grounds, a risk of flight and danger to the community. That's the answer to your question, but do you understand the hearing will be on Monday?

During this uncounseled hearing, the AUSA and the District Court Amended the indictment from crimes against minors, to crimes against adults while no counsel for the defendants were present. The District Court failed to fully inform Mr. Flanders of the nature and cause if the accusations against him, the court technically only read three counts from the indictment, and two of those counts the AUSA advised there were no allegations to. Mr. Flanders asked for bond, had counsel been present, s/he would have advocated for Mr. Flanders pretrial release, and advocated against the AUSA for pretrial detention. This initial appearance was in fact a critical stage of the proceedings because the proceedings held significant consequences for the accused. Please see United States v. Conic, 466 U.S. 648, S. Ct. 2039 (1984), United States v. Roy, 855 F.3d. 1133, 1144 (11th Cir. 2017), Bell v. Cone, 535 U.S. 685, 695-96, 122 S. Ct. 1834, 1851, 152 L.Ed. 2d 914 (2002), and Ash v. United States, 413 US 300, 37 L. Ed. 2d 619, 93 S.Ct. 2568 (1973). See also Rothgery v. Gillespie County, 544 U.S. 191, 211-212 128 S. Ct. 2578 171 L. Ed. 2d 366 (2008). The official transcript of the initial appearance, and the reading of the counts of the indictment does not match the document (3). Again, Document (3) is a product of the amendment to the indictment during the initial appearance when counsel was completely denied. The Court and the AUSA took advantage of the defendants, and amended the indictment while counsel was completely denied. This was a critical stage of

the proceedings. This Court should also examine document (7) as well, the initial appearance didn't began until 1:30PM, that was 32 minutes before Mr. Flanders was interviewed by pretrial services officer Maria Monge. She however, along with member's of the FBI, the United States Marshals Service, and the Miramar Police advised Mr. Flanders that the charges in the indictment contained multiple crimes against minors, please see attached pretrial services report.

The District Court denied Mr. Flanders Cronic claim on the merits citing: "The Court is not persuaded by the argument in Petitioner's Objection (and conclusorily echoed in Petitioner's unauthorized Reply (ECF No. 38)) that these hearings were critical because they lead to the "loss of additional rights." Petitioner makes no meritorious argument that these hearings were a "critical stage" under the framework set out in United States v. Cronic, 466 U.S. 648, 104 S. Ct. 2039, 80 L. Ed. 2d 657 (1984) and further expounded in United States v. Roy, 855 F.3d 1133, 1144 (11th Cir. 2017). The District Court did not issue a COA. The Supreme Court should know, that it is a common practice in the Southern District of Florida to bring criminal defendant's before a judge after he or she is indicted without counsel, or the assistance of the Federal Public Defenders Office present to protect the right of the criminal defendant.

Petitioner then petitioned the Court of Appeals for a COA. Petitioner filed the original COA in October of 2018 in which he sent in two copies, he then amended the COA on November 6, and 14th, of 2018 in which he sent in another two copies to ensure the Court of Appeals received his filings.

Petitioner utilized the mailbox rule under Houston v. Lack, 487 US 266, 101 L. Ed. 2d 254, 108 S. Ct. 3279 (1988), and Williams v. McNeil, 557 F.3d 1287, 1290 n.2 (11th Cir. 2009). " Under Rule 4(a)(1), pro se prisoner's notices of appeal are "filed at the moment of delivery to prison authorities for forwarding", and "Under the prison mailbox rule, a pro se prisoner's court filing is deemed filed on the date it is delivered to prison authorities for mailing. Fed. R. App. P 4(c)".

Mr. Flanders delivered his legal mail to prison authorities on November 14, 2018. The Amended COA, and the Motion to Expand the Amended COA was deemed filed on that date. Petitioner has let it be known that he has had trouble with the prison mail by advising the District Court that this particular prison has a major problem with delivering mail, and that they deny inmates access to the Courts, please attached docket sheet from the District Court at ECF No. 32.

It matters not that the prison mail system may have contributed to why the mail came out at the United States Postal Service in Phoenix Arizona while en-route to the Eleventh Circuit Court of Appeals, the prison mailbox rule protects pro se defendant from such instances. Mr. Flanders delivered the legal mail to prison authorities on November 14, 2018, so the mail was deemed filed in the Court of Appeals. The Pro se prisoner was entitled to receive the benefit of Rule 4(c)(1) because he used the prison mail system designed for legal mail when he filed his Amended COA, and his Motion to Expand the COA on November 14, 2018. "If an institution has a system designed for legal mail, an inmate confined must use

that system to receive the benefit of this rule 4(c)(1)".

The pro se defendant should not be prejudiced because the legal mail came out of the package at the Postal Service in Phoenix Arizona. the pro se prisoner is protected under Houston v. Lack, 487 US 266, 101 L. Ed. 2d 245, 108 S. Ct. 2379 (1988), "Under Rule 4(a)(1), pro se prisoner's notices of appeal are "filed" at the moment of delivery to prison authorities for forwarding." I'm pleading with the United States Supreme Court to direct the Eleventh Circuit Court of Appeals to accept my pro se filings, and vacate their prior ruling, and rule of the timely filed motions.

Mr. Flanders exercised due diligence with contacting the Eleventh Circuit Court of Appeals by resubmitting the amended motions as soon as they arrived back to the United States Penitentiary In Tucson Arizona, where he is imprisoned. The mail came in a large envelope, with the message, "FOUND LOOSE IN THE MAIL AT PHOENIX, AZ 85026". This is direct proof that the mail was in transit to the Court of Appeals for the Eleventh Circuit. The pro se defendant should be protected under the mailbox rule, and he is pleading with this court to uphold it's own precedent, and direct the Eleventh Circuit to rule on his timely filed motions.

Mr. Flanders has also submitted for this court's attention, proof that he has been having problems with his legal filings being delivered to the court's, as well as receiving legal filings from the court, please see the attached at Addendum's 6, 7, and 8. The pro se prisoner has also attempted to get action on the mail problems at this particular prison by contacting numerous other federal law

enforcement agencies to alert them to this ongoing problem here at this facility. Please see attached Certified Mail Receipts at (8). I've written to Internal Affairs, William Schwartz the Postmaster for Tucson Arizona, I've written to the FBI Inspection Division, I've written to the Postal Police in Phoenix Arizona, I've written to the Inspector General in Washington D.C, and I've written to the Regional and Central Offices for the FBOP trying to alert them to this ongoing problem. The pro se defendant was diligent in his efforts to avoid this from happening to him, and he alerted the Court as to what happened. Again, it's not the pro se prisoner's problem or fault once he has delivered the legal mail to prison authorities. Prisoner's require the mailbox rule for this very purpose. Mr. Flanders is asking this Court to direct the Eleventh Circuit Court of Appeals to vacate their prior ruling, and to rule on his timely filed amended motions under the mailbox rule.

In Washington v. United States, 243 F.3d 1299, 1301 (11th Cir. 2001), the Eleventh Circuit held that "Under the mailbox rule, the burden is on prison authorities to prove the date a prisoner delivered his documents to be mailed". Mr. Flanders filed those documents on November 14, 2018, and he should not be prejudiced because his legal filings came out of the mail during processing at the United States Postal Service. This Court has the power to direct the Eleventh Circuit to vacate their prior judgement on the original COA, and to rule on the timely filed amended COA, and the motion to expand the amended COA.

On February 21, 2019, Mr. Flanders received the

amended motions back in the mail, he then mailed them out again immediately to the Court of Appeals, the pro se defendant should be protected under the mailbox rule, and he should not be prejudiced. Mr. Flanders has provided the mail list from February 21, 2019 for this Court's ready reference. Please see attached at Addendum 9. The Court of Appeals returned the filings back unfiled, please see attached at Addendum 1.

Mr. Flanders has also provided proof other than the timely filed motions citing the mailbox rule. Mr. Flanders has provided the calendar that belongs to his roommate to prove that he mailed the motions out on November 14, 2018. Mr. Flanders has also provided his commissary receipt from November 13, 2018 proving that he purchased the stamps to send the legal mail out on November 14, 2018, please see attached at Addendum 4, and 5.

Mr. Flanders has provided for this Court's review a copy of the large U.S. Postage Package that his timely filed motions were returned in by the United States Postal Service. This Court should know, that the Postal Service first sent his legal package to the Headquarters building for the Federal Bureau of Prisons located at, 230 N. 1ST Street Ave, Suite 405, in Phoenix, Arizona. They then figured out who I was because my name and regulation number is on both motions, so they sent the legal packet to Tucson USP. Please see attached at Addendum 3. The envelope is to large to put on the copy machine we have at this prison, so only parts of the large plastic bag can be seen, the envelope was attached to the middle of the large plastic envelope.

If it wasn't for the prison mailbox rule, pro se inmates would never be able to submit a timely filed document in any court. Pro se defendant's would always be obstructed by prison authorities. Pro se inmate depend on the Supreme Court to keep and enforce the mailbox rule under there precedent, because as you can see even the appeals court sometimes evade justice be barring timely filed documents.

The motions are for a very important question that maybe coming to this Court. The questions are extremely important, and they have to do with, "Can a initial appearance be a critical stage within the framework of Cronic".

REASONS FOR GRANTING THE WRIT

The mailbox rule is something that all prisoner's from around the United States depend on. This Court must uphold their precedent, and let the Court of Appeals know that the mailbox rule is still there for pro se defendants. The prerequisites for a writ of mandamus have been met in this case. Supreme Court Rule 20.1 requires that to obtain a writ of mandamus, a petitioner must demonstrate that (1) the write "will be in aid of the Court's appellant jurisdiction." (2) "exceptional circumstances warrant the exercise of the Court's discretionary powers," and (3) adequate relief cannot otherwise be obtained.

A WRIT OF MANDAMUS WILL AID THIS COURT'S JURISDICTION BECAUSE THE ELEVENTH CIRCUITS FAILURE TO ACKNOWLEDGE THE MAILBOX RULE DEPRIVES THE SUPREME COURT OF IT'S PROPER

APPELLANT JURISDICTION BECAUSE THE REAL CLAIM NEVER MAKES IT TO THE SUPREME COURT.

The Supreme Court's appellant jurisdiction includes timely review by certiorari of decisions of the federal Courts of Appeals, including the Eleventh Circuit Court of Appeals. See 28 U.S.C. § 1254(1).

A writ of mandamus is the appropriate tool to protect the Court's appellate jurisdiction. Marbury v. Madison, 5 U.S. (1 Cranch) 137, 175 (1803)("[t]o enable this court then to issue a mandamus, it must be shown to be an exercise of appellant jurisdiction, or to be necessary to enable [the Court] to exercise appellant jurisdiction"). Since Marbury, "[r]epeated decisions of this court have established the rule that this court has the power to issue a mandamus, in the exercise of its appellant jurisdiction, and that the writ will lie in a proper case to direct a subordinate Federal court. Flanders, as well as the entire pro se prison population needs this Court to exercise it's appellant jurisdiction to direct the Eleventh Circuit Court of Appeals to follow the mailbox rule, and this Court's precedent, as well as the Eleventh Circuit's own precedent in Williams v. McNeil, 557 F.3d 1287, 1290 n.2 (11th Cir. 2009) and in Washington v. United States, 253 F.3d 1299, 1301 (11th Cir. 2001).

The Eleventh Circuit Court of Appeals is a subordinate Court to the Supreme Court, this Court has the power, and the pro se defendant is pleading with this Court to exercise that power, and issue a mandamus. The All Writs Act codifies the Court's authority to issue all writs necessary or appropriate

in aid of its jurisdiction. 28 U.S.C. §1651(a).

In this particular case, "exceptional circumstances warrant the exercise of the Court's discretionary powers, the pro se defendant timely filed his amended motions to prison authorities on November 14, 2018. The pro se prisoner has a documented history with the prison mailroom authorities delaying his timely legal filings and denying the inmate access to the Courts. The pro se prisoner has contacted outside federal agencies trying to alert them as to the prisons ongoing interference with inmate legal filings. The pro se timely legal filings came out of the sealed package during processing at the Phoenix Postal Service while in transit to the Eleventh Circuit Court of Appeals, and the Court of Appeals would not accept the pro se legal filings as timely because they ruled on his original COA (7) days after the Postal Service returned his amended motions back to the pro se prisoner as "FOUND LOOSE IN THE MAIL AT PHOENIX, AZ 85026". We know this is true because the pro se inmate is imprisoned in a maximum security prison in Tucson, Arizona. No other Court has the power to deal with this "exceptional circumstance, and there is no other adequate relief that can be obtained.

This Amended COA, and the Motion to Expand the COA deals with a question of structural error during an uncounseled initial appearance. The sealed indictment returned by a federal grand jury was amended after it was unsealed by the Court while two defendants stood in open court without counsel. The Petitioner's Sixth Amendment Right to be fully apprised to the nature and cause of the accusations was also

violated, along with numerous other violations concerning errors in his pretrial services report, and the Petitioner required aid in coping with legal problems, and he required counsel in meeting his adversary the public prosecutor who advocated for the detention of the uncounseled pro se defendant. Had counsel been present, s/he would have advocated against the public prosecutors request for detention pending trial, and counsel would have objected to the other constitutional violations. The question of structural error under the Sixth Amendment while counsel is completely denied during a initial appearance on a sealed indictment is one of great importance, which will certainly generate a petition for writ of certiorari by the pro se petitioner. A writ of mandamus should issue in this case, or the Supreme Court should take this case and settle it themselves, this Court has that power.

NO OTHER ADEQUATE RELIEF IS AVAILABLE TO PETITIONER

Finally, Supreme Court Rule 20.1 requires that a writ of mandamus shall issue only when there is no other adequate relief available to the petitioner. There is simply no other Court that can direct the Eleventh Circuit Court of Appeals to vacate their prior judgement, and to accept the timely filed amended motions for a proper ruling other than this Court. The Pro se petitioner is pleading with the United States Supreme Court to issue a writ of mandamus.

CONCLUSION

Petitioner respectfully requests that this Court issue a writ of mandamus directing the Respondents to vacate their prior judgment, and to render a proper decision on his timely filed amended motions.

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March 27, 2019