No. 19-6104 ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

IN RE FREYA D. PEARSON,

PETITIONER.

On Petition for Writ of Certiorari

PETITION FOR WRIT OF CERTIORARI.

Freya D. Pearson, (Pro Se)
Aliceville Federal Prison
Aliceville, AL 35442

QUESTIONS PRESENTED

1) Can a conviction stand under 18 U.S.C. 1001 (2) without a "Materiality" determination, and should that Determination come from the District Court or from the Jury? And under this Statute, does a "false statement have to be made in order for a conviction to stand, or can the defendant be convicted on what the gov "would have wanted to know"?

2) Can a conviction stand if their is a "slight influence" on the Jurys verdict from government misconduct, and how do you measure how "slight" the influence was on the Jurys verdict?

3) Does a Wire Fraud "By Omission" charge under 18 U.S.C. 1343 require a Duty to Speak, and/or active Concealment, and does the Duty to Speak, and the acts of concealment, have to be alleged in the Indictment? Also, should a "Fraud by Omission" Jury instruction, be added for the Jury, instead of a Misrepresentation instruction?

4) Should a Defendant be notified when her Counsel files a Motion to withdraw, and did the Appellate Court violate the Defendants Due Process, and sixth amendment right to Counsel, by refusing her Counsel, even after Prosecutorial Misconduct, and a Attorney Divided Interest/Loyalty issue was presented to the Court? Also, was the Defendant entitled to a hearing, to determine whether or not the Attorneys Interest had been divided?

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

FREYA PEARSON, Petitioner

UNITED STATES OF AMERICA, Respondant

T A B L E O F C O N T E N T S

TABLE OF AUTHORITIES

PETITION FOR A WRIT OF CERTIORARI

Freya D. Pearson Petitions for a Writ Of Certiorari to review the Judgment of the United States Court of Appeals for the Eighth Circuit in this case.

OPINIONS BELOW

On May 6, 2019 the Court of Appeals affirmed the convictions of the District Court. Writ of Mandamus is currently pending in the Supreme Court of the United States is currently docketed for October 1, 2019.

JURISDICTION

Jurisdiction of this Court is invoked under 28 U.S.C. 1254 (1)

STATUTES AND CONSTITUTIONAL PROVISIONS INVOLVED

Fourteenth Amendment- Due Process

Sixth Amendment- Right to Effective Counsel

Eighth Amendment- Cruel &Unusual punishment

PARTIES TO THE PROCEEDINGS

The parities to the proceedings in the United State Court of Appeals for the Eighth Circuit were Petitioner, Freya D. Pearson, and Respondent, United States of America.

STATEMENT OF THE CASE

A. Introduction

I am not sure if I need to file a Writ Of Certiorari with my Writ of Mandamus currently pending in the Supreme Court. I am not represented by Counsel, and I am not sure of the correct procedures. I am not at all familiar with the procedures for writing or filing a Writ of Certiorari, and I hope this is done correctly. I did not want to miss any deadlines, but, I am not sure as to where the deadlines stand at this time. I need the help of Counsel.

Petitioner was Indicted on 10-28-2014 on a Nine Count Indictment. 18 U.S.C. 1343 Wire Fraud (Counts 1-3), 18 U.S.C. 1957 Money Laundering (Counts 4-7), 26 U.S.C. 7201 Tax Evasion (Count 8), 18 U.S.C. 1001(2) False Statements (Count 9).

Petitioner was convicted 10-26-2016 on all Counts and sentenced to 60 months. Her Direct Appeal was Fully Briefed July 19, 2017, and was partially adjudicated on May 6, 2019, "After" the filing of a Writ Of Mandamus in the Supreme Court of the United States. The "Writ of Mandamus" is Docketed for October 1, 2019 in the Supreme Court.

Petitioner was accused of Wire Fraud "By Omission", and accused of receiving a loan from a private person, Marva Wilson, and not telling her what I was going to do with the Proceeds. No misrepresentation allegation was made in the indictment. Petitioner was initially assigned Federal Defender Bill Raymond on 10-28-14, but after many months of Ineffective Assistance, I sent an Ex Parte letter to Judge Fenner requesting a New Attorney, and addressing Prosecutorial Misconduct. (Dkt# 30) A hearing was held May 23, 2016 and my attorney Bill Raymond was relieved. The Magistrate Judge refused to call him Ineffective, even though I had tapes to prove my allegations. The Court declined to review the tapes.

CJA Attorney John Justin Johnston was then assigned to the case. He requested the file from Bill Raymond and discovered that there was nothing in it, no investigative work had been done in the file. Attorney Johnston was much more involved than Bill Raymond, however, he had a Conflict of Interest that I was not initially aware of. I was told by him "After" my trial and conviction, that "he had to watch what he did to the Prosecutor, so as not to affect his future clients". Although I was disturbed at the admission, some issues that I was having about my case, began to make sense. I was concerned about some things not being addressed in my case, that I felt should have.

I have not been in trouble, and I was unfamiliar with the procedures, and the norms of Federal Court, so when things were happening, they were happening fast, I was stressed, was sick and had to have surgery, and I was trying to figure things out, so, I missed a few signs of danger in the Representation of my case. I spoke to Atty Johnston regarding the Prosecutorial Misconduct issues, and at the time he minimized the issues, stating that they were no big deal, and the Court would not do anything, and not to worry about them. But, then the Misconduct continued, and before I knew it, not only was the trial over, but, I was convicted for things that I did not do, and the conviction was based off of evidence that was false, and Perjured Testimony by the IRS Case Agent & Prosecutor in front of the Grand Jury.

My Faith in our Judicial system was misplaced and has been shaken to the core. I believed in our System of Justice, and win or lose, I thought that I would have a fair fight. It is impossible to win, and/or to have a Fair fight, when the Prosecutor and your Defense Attorney, consider themselves allies, and not adversaries. When the status of their relationship, is at odds with some of your strongest defenses, it is impossible to receive a Fair Judicial Process.

Prosecutor Kathleen D. Mahoney and IRS Case Agent Heather Brittain- Dahmer knowingly presented Perjured

Testimony, and False evidence to the Grand Jury to secure the Indictment. Which means that I have been incarcerated based off of an Indictment "Not Resting on Truth". The District Court was made aware of the situation in May 2016, and has decided to ignore the Prosecutorial Misconduct. The "Knowing use" of Perjured Testimony by the Prosecutor to obtain an indictment, and the continued deceit, to ultimately obtain a conviction, the deliberate lies to the Court, the suppression of Brady evidence all constituted a denial of Due Process. Because the Courts continually relied on the Prosecutors obligation to tell the truth, she obtained favorable Rulings, that were based off of her "false statements", Rulings that should have otherwise been denied. I have also been deprived of my Liberty without Due Process, by the Courts failure to provide any corrective Judicial Process, by which an indictment and conviction, so obtained, may be set aside.

"...Perjured Testimony is at war with Justice because it can cause a court to render a Judgment not resting on truth. Perjury undermines the function and province of the law and threatens the integrity of judgments that are the basis of the legal system. .....testimony under oath has the formality and gravity necessary to remind the witness that his or her statements will be the basis for official government action, action that often affects the rights and Liberties of others. Sworn testimony is quite distinct from lies not spoken under oath..." [Per Kennedy, J., Roberts, Ch. J., and Ginsburg, and Sotomayor, JJ.]

The Eighth Circuit is inconsistent with it's own prior Rulings. Its "Affirmation" in this case, conflicts with it's Ruling in United States v. Steffen (2012). There is also confusion regarding the "By Omission" standards being charged under 18 U.S.C. 1343, For example: My charge of Wire Fraud "by Omission" is rather unusual, there is usually some type of "Misrepresentation" that the Prosecutor is able to add, but, in my case, the Prosecutor was not able to. I have not found another case, that has gone to trial, in any Circuit under this charge, with having a "Duty to Speak" and "the acts of Concealment" in question. The issue of having a "Duty to Speak", "Active Concealment", and an "Amended Jury Instruction" is something that needs to be addressed by this Court.

The Circuits seem to be intertwining the "Misrepresentation" aspect with the "Fraud by Silence" aspect, under 18 U.S.C 1343 and they are not the same. So, what is happening, as in the Instant Case, you end up being charged in the Indictment with "Fraud by Omission", but a Jury Instruction that allows for Conviction if a "Misrepresentation" is found, although in the Indictment the "Only" Wire Fraud allegation is "Fraud by Silence". The Circuits need this issue addressed, especially in situations like mine, where we have Prosecutorial Overreaching, and a Prosecutor willing to twist a Statute, beyond what Congress intended, and to criminalize non-criminal behavior.

I am Also addressing the issue of whether or not any "influence", "slight" or otherwise on the Jurys Verdict is acceptable. If it is acceptable, how is it measured? In the instant case, the Eighth Circuit has stated that a "Slight" influence on the Jurys verdict is acceptable. My Appeal argued that the Testimony of the IRS Case Agents was inappropriate because they testified to my "state of mind", by telling the jury that my behavior was fraudulent, and that "fraud had occurred", however, those were the core issues for the Jury to decide, not the IRS Case Agents. But, the Appellate Courts Case quote, stated that a "slight" influence on the Jurys verdict was acceptable.

Next, my Attorney sent a Withdrawal request to the Court, and the Court did not notify me of the request, they just Granted it. I did request the Attorney to withdraw, but, I thought he would be replaced. I do not know what he stated in his request, and I did not have an opportunity to address the Court regarding the withdrawal. I sent in several request for New Counsel, and they all were denied. The Appellate Court allowed the Attorney to withdraw at a late stage in the process, and there were things left to do. I wanted Oral Arguments, and I wanted "All" of the issues included in my Appeal, but my Attorney refused to include any Prosecutorial Misconduct, and Grand Jury Issues. I should have had a hearing to address the issues that my Attorney and I were having, and the Appellate Court should have notified me, and given me that option. I sent my Attorney an email regarding him withdrawing, and gave him permission to share it with the Court, but the email had quite a bit of Ineffective issues in it, as well as Prosecutorial Misconduct issues, so I am not sure if he presented the email or not, or if he submitted part of it. They both should have been addressed.

REASON FOR GRANTING WRIT

1) Indictment Issues
2) Trial Issues
3) Ineffective Assistance of Counsel Issues
4) Prosecutorial Misconduct Issues

1) Defendant is charged in a nine-count indictment with Wire fraud (by Omission) in violation of 18 U.S.C 1343 (Counts One-Three), Money Laundering 18 U.S.C. 1957 (Counts Four-Seven), Tax Evasion 26 U.S.C. 7201(Count Eight), and False Statements 18 U.S.C. 1001 (Count Nine).

2) There is so much wrong in this case, that I am not quite sure how to put it all together, without being repetitive. So I have done the best that I can, in explaining issues clearly, some overlap with other issues. I need an Attorney, and I am lost without Counsel. Effective Counsel is much needed in a Judicial Process, the damage that can occur without an Effective Counsel is devastating, and Un-Constitutional. I am trying to explain a situation to the Supreme Court that 3 Licensed Attorneys Constructively created, purposely messed up, all while I am incarcerated, and lack the legal knowledge to properly explain the issues.

3) Ms. Wilson and the I had a loan agreement signed by "Both" parties, and operated within its terms for a year and a half. Ms. Wilson told Detective Kirtley of KCPD that she wanted to make some interest on her money so she signed the agreement. When Ms. Wilson testified on Direct examination, the Prosecutor asked her the following question:

Transcript Page 307
Line 23

. Prosecutor Question- Okay did you know anything about signing this agreement?
. Ms. Wilsons Answer- Agreement, no. I ain't made no agreement with this woman.

Then, further on in the questioning, the Prosecutor asked Ms. Wilson this question:

Transcript page 312
Line 13

. Prosecutor Question- If Freya Pearson had told you she was going to use your money to gamble and buy things for herself, would you have signed those papers?
. Ms. Wilsons Answer- No. No way

I don't know why the Prosecutor, would ask Ms. Wilson a question, that would clearly make her contradict her earlier answer, but she did. As you can see, Ms. Wilson did knowingly signed the agreement, although she may have had regrets

later. There was a valid loan agreement between Ms. Wilson and I, she has told the detective that she signed the papers, and has testified that she signed the agreement. "Statements of a partys Subjective intent that were not expressed or communicated at the time the contract was formed are not permissible evidence of intent. Subsequent regrets do not destroy the obligations of prior agreements". See Miller, 183 or App at 155-56 ("[T]he law does not protect parties who enter into unwise agreements that are otherwise enforceable".) Dalton v Robert Jahn Corp. From the question the Prosecutor asked, you can fairly assume that she knew that Ms. Wilson signed the agreement too, so why did she lie to the Grand Jury and Prosecute me for what she knew to be a civil matter.

4) My Indictment was insufficient and did not fairly inform me of the charges against me, and failed to otherwise state an offense. The indictment alleged that I executed a Scheme and Artifice to Defraud Ms. Marva Wilson of her money. The indictment alleges that "Whether the money was an investment or a business loan, Pearson materially omitted to disclose to Wilson that she would use the money to gamble and for her own personal expenses".

5) The existence of a material omission, and active concealment are crucial elements of a Prosecution under a "Fraud by Omission" charge under 18 U.S.C. 1343, because "Fraud By Omission" was alleged in the indictment, to be the means by which the alleged fraud was perpetrated. The indictment fails to allege any express misrepresentation by the Defendant, which would be required for a "Wire Fraud" charge under 18 U.S.C. 1343, and the indictment failed to allege any other scheme to defraud, other than "Fraud by Silence". Furthermore, absent a fiduciary, or independent duty to disclose, mere silence (non-disclosure) is insufficient to state a fraud claim under 18 U.S.C. 1343. Since the Government in the indictment is alleging a fraud claim under I8 U.S.C. 1343, by alleging a "material omission", then it was incumbent upon the government to disclose the overt acts it is alleging were used by the defendant to conceal the information from Ms. Wilson, and they were required to disclose in the indictment how the alleged omission was "material", but they "did not".

6) These facts were essential to state an offense under 18 U.S.C. 1343 and to inform the defendant of the charges she must defend against. "Where it depends so crucially upon such a specific identification of fact, our cases have uniformly held that an indictment must do more than simply repeat the language of the criminal statute". Russell v United States, 360 U.S. 749, 764 (1962).

7) The government has failed to identify any scheme or artifice to defraud by the defendant in the indictment. "We now cite United States v. Chacko, 169 F .3d 140, 148, (2d Cir 1999), and United States v Dupre, 117 F .3d 810, 818

(5th Cir 1997), for the proposition that "section 1344 bank fraud requires the distinguishing element of a scheme or artifice". The Eighth Circuit was specific in stating that, ("The bank fraud statute was modeled 3 after the mail and wire fraud statutes, and this court (See US V Steffen) has stated that the bank fraud statute should be given the same broad construction as those statutes". (United States v Rimell, 21 F 3d 281, 287 (8th Cir 1994)). Indeed the Eighth Circuit has held that "the case law interpreting [sections 1341 and 1343] should be used to interpret section 1344". United States v Solomonson, 908 F .2d 358, 364 (8th Clr 1990). Accordingly, the Eighth Circuits analysis of when an indictment sufficiently alleges a scheme to defraud for the purposes of any one mail, wire, or bank fraud statutes is applicable to all three statutes. Unites States v Steffen 687 F .3d (8th Cir 2012).

8) Because the Eighth Circuit Court of Appeals finds that a scheme to defraud under sections 1341, 1343, and 1344(1) does not require affirmative misrepresentations, it should have been examined whether the indictment alleged conduct by the defendant that constituted a scheme to defraud. However, the Counsel assigned to the defendant did not require this determination from the Court, and or the government. Where an indictment alleges a scheme to defraud under the wire fraud statute, it must specify facts " not merely in the general words of the statute, but with such reasonable particularity...as will...apprise [the defendant], with reasonable certainty, of the nature of the accusation...and as will enable the court to say that the facts stated are sufficient in law to support a conviction". (United States v Steffen 687 F .3d (8th Cir 2012)).

9) See Stewart v United States, 119 F .3d 89, 94 (8th Cir 1902) (holding that an indictment for mail fraud makes it "incumbent upon the pleader to describe the scheme or artifice to defraud which had been devised, with such certainty as would clearly inform the defendants of the nature of the evidence to prove the existence of the scheme to defraud, with which they would be confronted at the trial". I was confronted at trial with a different scheme to defraud than was in the Indictment. The Government tried to constructively amend the charges to include "misrepresentation" when "Fraud by Silence" was alleged in the indictment. The Government is trying to intertwine "Wire Fraud" from a misrepresentation with Wire Fraud by Omission, and they are not the same. The indictment specifically charged "Fraud by silence" as the scheme to defraud.

10) However, the Supreme Court has placed some limits on what constitutes a scheme to defraud under sections 1341, 1343, and 1344, by finding that these statutes must be interpreted with an eye toward the common-law understanding of fraud. See Neder v United States, 527 U.S. 1, 20-22 (1999).

Thus, fraudulent concealment without any misrepresentation or duty to disclose can constitute common-law fraud.

This does not mean, however, that the simple non-disclosure similarly constitutes a basis for fraud. Rather, the common law clearly distinguishes between concealment and non-disclosure. The former is characterized by deceptive acts or contrivances intended to hide information, mislead, avoid suspicion, or prevent further inquiry into a material matter. The latter is characterized by mere silence. Although silence as to a material fact (non-disclosure), without an independent disclosure duty, usually does not give rise to an action for fraud, suppression of the truth with the intent to deceive (concealment) does. Colton, 231 F .3d at 898-99.

11) McNeive, 536 F. 2d at 1251 (reversing a conviction under section 1341 because there was no evidence that the defendant "materially misrepresented any facts...or that he actively concealed his scheme"). The Fourth Circuit also observed that the common law and the Courts have historically drawn a distinction between "passive concealment, mere non-disclosure or silence, and active concealment, which involves the requisite intent to mislead by creating a false impression or representation".

12) The indictment fails to allege any acts to conceal. The indictment fails to allege any "deceptive acts or contrivances intended to hide information, mislead, avoid suspicion, or avert further inquiry into a material matter". The only person performing deceptive acts is the Prosecutor knowingly presenting perjured testimony in front of the Grand Jury, tampering with a juror, lying to the Court in the Severance request, falsifying evidence, refusing to turn over Brady when asked, and embezzling Government funds. The paper trail that the Prosecutor left is alarming, and very easy to see, if someone would just look.

13) The Government is seeking to help Ms. Wilson recover her losses as opposed to enforcing violations of Statutory Law. If the Government believed that there was a violation of Statutory or case law then why would they have knowingly Presented Perjured Testimony to the Grand Jury to Secure the Indictment. "As a distinguished colleague in the Ninth Circuit once observed, "Courts do not sit to compensate the luckless; this is not Sherwood Forest". Kern v Levolor Lorentzen, 899 F 2d 772, 798 (9th Cir 1990) (Kozinski, J., Dissenting) I must insist, as this Court has in the past, that "[n]ot all conduct that strikes a court as sharp dealing or unethical conduct is a 'scheme or artifice to defraud' " within the meaning of the federal mail fraud statute. Reynolds, 882 F .2d at 1252.

14) The Government has also referenced in the indictment Wilsons age as being 60 years old, therefore implying what? All, but 2 of our Supreme Court Justices are of age 60 or over. So, again, is the Prosecutor implying that being 60 somehow diminishes your ability to reason and make decisions? I am sure the Justices would disagree. The Government also referred to Ms. Wilson as being Unsophisticated, again implying what? Ms. Wilson has purchased 2 homes, a car,

now has a reversed mortgage, lives alone, pays her own bills, and handles her own financial business.

15) Words from the 7th Circuit seem best to address the Prosecutors statements regarding Ms. Wilsons age, and her being "Unsophisticated":

"It appears from the record before us that Verna Emery is a fully capable adult citizen, suffering from no physical or mental disabilities, such as blindness, deafness, or mental incapacity. I am therefore unable to see the relevance of her susceptibility to business practices which, although arguably manipulative and unethical, fully complied with the law". (Verna Emery, on behalf of herself and all others similarly situated, Plaintiff-appellant, v American General Finance, Incorporated, 71 F .3d 1343 (7th Cir 1995).

Tax Evasion 26 U.S.C. 7201 (Count 8), is also predicated on the government proving its allegation of fraud, but also comes with its own elements that need to be proven by the government:

A. The Government fails to allege in the Indictment an Affirmative act constituting Evasion, it only alleged in the indictment that I failed to file a Return, which is insufficient to sustain a felony conviction.

B. Defendant and Ms. Wilson had a loan agreement signed by both parties, and there are no taxes due on a loan. In one breathe the Government is calling it "Income" in order to charge taxes, and in the same breathe, treating it as a loan that has to be paid back. If it is Income then I do not owe the money, it cannot be both.

C. The Prosecutor was in possession of 3 emails sent to IRS Agent Heather Brittain, asking her if I had a Tax Deficiency, and she refused to answer the question, but instead charged me with Tax Evasion. I asked her 3 different times, and she refused to tell me 3 different times, so how am I "Willfully" evading taxes if the IRS refuses to disclose any liability to me, when I ask them about a tax deficiency?

D. The IRS has yet to prove a tax deficiency. There was nothing showing that I personally received the money, it showed that a fully Incorporated Entity received the funds. The Indictment stated that "Pearson had sole signature authority", and nothing else regarding the Corporation and I, which is insufficient to breach the Corporate Veil.

E. The Government is required to show ALL elements of the crime alleged in the indictment. The Elements of "7201" are willfulness, the existence of a tax deficiency, and an "Affirmative" act constituting evasion or attempted evasion of the tax. The Prosecution has failed to establish all 3 of the necessary elements, without the Appellate Court constructively amending its charges. The government alleged in the indictment that the affirmative act constituting an evasion or attempted evasion of the tax were set forth in 1-13 of the indictment. But when reading 1-13 of the indictment of the indictment there is no affirmative act constituting an evasion or attempted evasion of taxes, 1-13 have nothing to do with taxes or hiding money.

F. The government alleged in the indictment, that the violation of "7201" was from not filing a return, which is insufficient to sustain the charge. Although the willful failure to file a tax return is sufficient to sustain a misdemeanor

conviction, it is insufficient to sustain the Felony conviction absent some other willful, affirmative act constituting an attempt to evade the payment of tax. (United States v Masat, 896 F .2d 88, 98 (5th Cir 1990)). The willfulness involved in failing to file a tax return is not enough to support a felony conviction. Cf DeTar, 832 F .2d 1110, 1114 (9th Cir 1987) ("willfulness involved in failing to pay the tax when due, resources being available, is not enough"). The felony requires "proof of specific intent to defeat or evade the payment of tax". United States v Williams, 928 F .2d 145, 147 (5th Cir), cert denied (1991). Thus, "[w]illful but passive neglect of the statutory duty may constitute the lesser offense", but to elevate the crime to felony tax evasion, the government must prove "a willful positive attempt to evade tax..." Spies, 317 U.S. at 498-99, 63 S. Ct at 367-68.

FALSE STATEMENTS 18 U.S.C. 1001 (Count 9): The gov alleges that "the defendant did knowingly and willfully, make false, fraudulent material representations" . "1)that she had only $60 in the bank accounts, when in fact, on February 14, 2011 she had at least $3200, in bank accounts controlled by her; 2) that she lived in Kansas City, Missouri, when in fact she moved to the St. Louis metropolitan area; and 3) that she no other income, when in fact she received interest income from her Bank of America RAW savings account number 5535".

A. The Government claims that I only had $60 in bank accounts, but NEVER did produce any Bank statement to prove that I did not have $60 in the bank account. It turns out, that the government is referring to the application, that they say I filled out for HUD renewal. But, in that application, it states that I had $60, specifically in Bank of America. The government has accused me of making a false statement, but they never produced a Bank of America account statement, in order for anyone, to dispute whether or not, I actually had $60 in the account. The government is being allowed by the Appellate Court to charge me with lying about a specific amount, on a specific day, and then expand its charges into "what the government would have wanted to know", which goes beyond what they charged in the indictment.

B. The government accuses me of lying about receiving Interest payment from my Bank of America RAW account 5535. But, I do not have a Bank of America account 5535, that is a Corporate account. The Corporation and I are not one and the same, and the government has not argued in my indictment any different. Not only was there "NO" documentation presented proving that any interest payments were given to me, but, no documentation was presented for the RAW account 5535 showing the amount of "Any" interest payments that the Corporation received. Without the amounts of what the Government is alleging for interest, then there can be no "Materiality" determination. The government has failed again to prove its allegations, and in the indictment, the government does not tell me where, and to whom I am alleged to have made these false statements. It did not properly inform me of the charges against me, It failed to

state a claim.

C. The government accused me of stating that I lived in Kansas City Missouri, when in fact, I lived in St. Louis, Missouri. Cindy Neely, the Director of the Housing Authority had to concede, that the question of "Where do you live" was "NEVER" even asked, so how could I make a false statement to a question, that was never asked. Also, at the Kansas City address, the lease was in my name, no one else lived there, my furniture was in the house, my clothes were in the closet, the light bill was in my name, and I received mail at the home, so how can the Prosecutor support her allegation that the house was not mine. She referred to it as a "Vacation Home" to inflame the Jurys emotions, it worked. Vacation home or not, the home was mine, and my stuff was there. So, I do not understand how this is "not" my home, just because the Prosecutor says so.

D. Count 9 was in the investigative authority of the FBI, so why was the IRS testifying for an Agency that Congress has not authorized them to represent. This was not a joint investigation that was authorized, the IRS just took over, which goes beyond the scope of what Congress has authorized them to do. The initial FBI Agent that was handling the case, was fired, and my Attorney should have found out what was going on, and did it have anything to do with my case. Also, did the FBI submit a recommendation to indict, or did the IRS do it for them. The IRS has taken on the role, of an "Information Gathering Agency" for the Prosecution, something that Congress did not authorize them to be. The charges should be dismissed.

ANOTHER FALSE STATEMENT BY THE PROSECUTOR

The Indictment also incorrectly stated that "The agreement falsely stated that $60, had already been repaid by Pearson to Wilson, when in fact Wilson wired $60,000 into Pearson's account on June 3, 2010".

My Response- That could not have been an accurate statement, because although the gov alleges that $60,000 was deposited on June 3, 2010, they fail to mention that the loan agreement was actually signed on May 12, 2010, a full 3 1/2 weeks prior to the $60,000 deposit to the corporate account on June 3, 2010. The gov once again, is making up a conclusion, not based on facts. The money that the gov is referencing, to be falsely addressed by Ms. Wilson and I in the loan agreement, had nothing to do with a deposit 3.5 weeks later. The truth is, that the Prosecutor has "NO" clue why and when the $60,000 was repaid to Ms. Wilson, so she drew her own conclusion.

ADDITIONAL CLAIMS

Ms. Wilson has stated to KCPD that she signed the loan agreement to make some interest on her money, she has stated

in a few television interviews that it was a loan. The Prosecutor believed that it was a loan, if you look at her questions to Ms. Wilson. And since we are sure that Agent Brittain is willing to Perjure herself, we are not sure whether or not Ms. Wilson told her that it was a loan as well. If the government is going to argue that this was an investment, although Ms. Wilson is pretty clear that it was not, then we have to refer to the words of the 11th Circuit Court of Appeals, in referring to the accusations of the government in the Grand Jury Testimony: "Bankruptcy Court's finding that chapter 7 debtor, in obtaining funds from creditors, neither made false representations nor engaged in actual fraud, for non-discharge ability purposes, but that the parties instead understood and contemplated their arrangement to be in the nature of personal loans to debtor, not equity investments, that would be managed by him, was supported by the evidence that the debtor guaranteed full repayment of the principal provided to him by creditors, that debtor promised to pay them a rate of return equal to a fixed percentage of the principal, that creditors placed no restrictions on the use of the funds provided, and that creditors did not require debtor to furnish any statements or reports about the performance of their accounts as was normally required of investment managers". (Faidengold, 577 Fed.Appx. 963 (2014)). It is clear that this is the situation here, no matter how the government lies and twist the facts. The only thing the government does consistently, is refuse to accept Ms. Wilsons decision to give me a loan.

The IRS's involvement should have ceased before recommendation for Prosecution, but instead they took on a role not authorized by Congress, one of being an "information-gathering" agency for the Prosecution. Had they complied with the powers granted to them by Congress, then they would have ceased their involvement when they received the loan agreement and it was discovered that both parties acknowledged signing it. Therefore accepting the fact that this was a civil matter between two parties with available civil remedies through civil Court, not a tax matter. However, the IRS joined forces with Prosecutor Mahoney and proceeded to Perjure themselves, manipulate the Grand Jury, conspire together, violate their Oaths of Office, falsify evidence, etc. I also found out that this was IRS Agent Brittains FIRST case to ever go to trial.

Due process prohibits the states ("knowing use of false evidence", because such use violates "any concept of ordered liberty". Napue v Illinois, 360 U.S. 264, 269, 79 S. Ct. 1173, 3 L. Ed. 2d 1217 (1959)).

GRAND JURY-

It is well settled that a Grand Jury must be properly convened. In this case there is a "Defect in the Institution of the Prosecution", meaning that there was an "Illegal" organization of the Grand Jury by Prosecutor Kathleen D. Mahoney. In this case we have outrageous and intentional Prosecutorial Misconduct, the Knowing use of Perjured Testimony, False Evidence Presented, and the events asserted as the basis for Federal Jurisdiction were artificially created by the Prosecutor, in an attempt to circumvent the lawful requirements needed for probable cause to convene a Grand Jury and secure an indictment.

The Case Agent required a Handwriting Exemplar, although there was no dispute over the signatures. The Prosecutor and Case Agent purposely Presented Perjured Testimony to the Grand Jury, that bore directly on the core issue for them to decide, the issue of whether or not there was a loan agreement "signed" by Ms. Wilson and I. The Prosecutor took a further step and by telling the Grand Jury that, not only did I refuse to complete the Handwriting Exemplar, but they told the Grand Jury that I "Specifically refused to sign Ms. Wilsons name". Here was there Exchange in Front of the Grand Jury:

Prosecutor Mahoney- Did you attempt to have those signatures tested by handwriting samples?

IRS Agent Brittain- I did

Prosecutor Mahoney- And were there some problems with that?

IRS Agent Brittain- It was, it was inconclusive because without the original, the originals they can tell the ink and things like that, and Freya refused to, obviously, turn that over.

Prosecutor Mahoney- Did she also refuse to provide the full handwriting sample--

IRS Agent Brittain- Yes

Prosecutor Mahoney- --in signing Marva Wilson's name?

IRS Agent Brittain- Yes

Your Honor, please see Docket # 30 which is an Exhibit that is included, I "Fully" completed the Handwriting Exemplar, including the signing of Ms. Wilsons name, and the IRS Agents in Ca signed "Each" page as a witness. The Prosecutor knowingly Perjured themselves to the Grand Jury, these Court Officers. Once a defendant has made a sufficient showing that the Prosecutor "KNOWINGLY" Presented Perjured Testimony to the Grand Jury, the Indictment should

have been dismissed. ((See Napue v Illinois) Due Process Prohibits the states "knowing use of false evidence" because such use violates "any concept of ordered liberty".)

When it comes to "Materiality" in front of the Grand Jury, the Eighth Circuit has held, that (..."the government need not prove that a defendants false statement actually influenced or mislead a Grand Jury. Where a defendants statements bear directly on the core issue before the Grand Jury, her false statement "is material"".) US v Winters, 592 F Supp. 2d 1105 (2009). US v Armillo, 705 F 2d 939 (8th 1983) "The Eighth Circuit quickly found her testimony "material" because it "certainly tended to impede or hamper" the Grand Jurys investigation". It would strain credulity for the Eighth Circuit to find that when referring to a "Prosecutor and Case Agent", that the "Materiality" standards would be any different, than that of a defendant. The Indictment would not have been issued, but for the Perjured Testimony, because the Grand Jurys only question was whether or not the 2nd witness, actually "saw" the loan agreement.

"Judicial Precedent recognizes the Grand Jury's singular role in finding the probable cause necessary to initiate a prosecution for a serious crime. An indictment fair upon its face, and returned by a properly constituted Grand Jury conclusively determines the existence of probable cause to believe the defendant perpetrated the offense alleged." (Kaley v US 188 L. Ed 2d 46). It is incumbent upon the Prosecutor, to refrain from improper behavior in the Grand Jury process. Improper behavior by the Prosecutor changes the dynamics of what the Grand Jury's role is in the process, from finding probable cause, to just being a vessel for manipulation, whose decision is controlled by the Prosecutor. "And conclusively means, case in and case out, just that." (Kaley v US) When a Prosecutor knowingly presents false evidence and Perjured Testimony to the Grand Jury, then it is not the Grand Jury's conclusive decision to initiate the Prosecution. It is the Prosecutor who has taken over that role, by subverting the grand Jury's Independence, and manipulating the decision. "I note however that even a single misstep on the part of the Prosecutor may be so destructive of the right to a fair trial that reversal is mandated." (Johnson, 968 F. 2d at 771-772 [internal quotation marks and citation omitted]).

The Grand Jury in this case was not a "Properly constituted Grand Jury". The Grand Jury is supposed to be inviolable, and in this case, it was not. To ensure a favorable decision, Prosecutor Mahoney and IRS Agent Heather Brittain-Dahmer chose to conspire with each other and ultimately Present false evidence and Perjured Testimony to the Grand Jury, which adds an element of deceit, converting the issue from the adequacy of the indictments evidentiary basis, to fraudulent manipulation of the Grand Jury that subverts its independence.

The Supreme Court long ago presumed thatJuries have "confidence that [the Prosecutors obligations] will be faithfully observed". (Berger, 295 US at 88). Yet as made clear in this case, even though the Grand Jury questioned, whether or not the second witness actually had seen the loan agreement, they were confident that the Prosecutors obligations to refrain from improper methods, was being faithfully observed, and on that very issue of the loan agreement, they were not, they were lied to and manipulated. "Bank of Nova Scotia, 487 U.S. at 263. The Court said that the prejudicial inquiries must focus on whether any violation had an effect on the Grand Jurys decision to indict. If violations substantially influenced the decision to indict, or if there is grave doubt that the decision to indict was free from such substantial influence, the violations are not harmless". There has to be grave doubt in the Grand Jurys independence, and I can go so far as to say, that the Misconduct did indeed substantially influence the Grand Jurys decision, because the Grand Jurys only question was, whether or not the 2nd witness actually "Saw" the loan agreement, which is one of the core issues that the ProsecutorsPerjured testimony focused on. The Prosecutions deliberate deception of a Court and jurors by the presentation of known false evidence is incompatible with rudimentary demands of Justice.

The "Convictions" in this case should not make the Prosecutorial Misconduct in the Grand Jury harmless, because the conduct caused the federal Court not to have Jurisdiction. Also, the Prosecutorial Misconduct continued past the issuing of the indictment, into tampering with the only black juror, speaking to the juror privately, and apologizing to him for the death of his mother, causing him to Thank the Prosecution in appreciation, lying in the severance request, lying and refusing to turn over Brady when asked, constructively amending the indictment, lying about business transactions, and other trial misconduct, and then was "Aided" by the Defense Counsel, who stated (After trial) "that he had to watch what he did to the Prosecutor, so as to not affect his future cases". I had "No" Real adversary to the Prosecution, I had no help. The Cumulative effect of both of their behaviors was devastating to me.

I have a 4th Amendment Right to a prompt Judicial assessment of Probable Cause to support any detention and I did not have that. My indictment Rested on Perjured Testimony, and False Evidence by the Prosecutor, and my Defense Attorneys were useless, 1 refused to investigate if I did not take a Plea, & was scheduling "Change of Plea" hearings without my permission, and the 2nd one felt he had to allow the Prosecutor to do whatever she wanted to do to his client so that he could have a good relationship for his "Future Clients". I did not have a true adversary in this process, my Attorneys Loyalty was to his Career, not me. The Prosecutors conduct was criminal at best, and she has gotten away with it.

Prosecutor Mahoney did not turn over the Grand Jury Transcripts until March or April 2016, trial was May 2016. Both of my Attorneys said that they asked her a few times for them, and she said they had not been completed. When were they completed.

Prosecutor Mahoney did not have Ms. Wilson testify in front of the Grand Jury, although she was available. Ms. Wilsons testimony would have contradicted the Perjured Testimony from Agent Heather Brittain. Ms. Wilson would have also told them that the agreement had her signature on it.

"When defendant has alleged prosecutorial misconduct during Grand Jury proceedings, dismissal of indictment is proper only when defendant demonstrates flagrant misconduct and substantial prejudice". (United States v Wadlington, 233 F. 3d 1067 (8th Cir 2000)).

Appellate Court Ruling:

The 8th Circuit Appellate Court states in its Affirmation the following, I will address each issue in order:

1) "The non-profit organization had been minimally functioning before receiving funds from Wilson. Pearson put the funds to personal use."

My Response- The non-profit operating minimally is not of issue, because that fact does not violate any statutory or case law. The funds may have been put to personal use, but, they were also put to business use as well. Prosecutor Mahoney has been deceptive and lying throughout this entire process, she had quite a bit of evidence in discovery proving that business was done as well. She had the purchase agreement from a $170, 000 investment/rehab property. She had canceled checks from city Permits and fees, she had canceled checks from contractors working on the project in discovery.

We provided Prosecutor Mahoney with a copy of the $60,000 Cashiers check from the purchase of a commercial building, and she charged me with with Money Laundering for taking $60,000 out of the bank in cash, which she knew that I "DID NOT" do. The $60,000 cashiers check was made out to the Title Company, for the purchase of the commercial building, I received "NO" cash, but was convicted of Money Laundering for taking cash out.

2) "Despite a purported loan agreement, the money from Wilson was not a loan, but taxable income".

My Response- There was nothing in evidence to support that position. Ms. Wilson herself on a television interview stated that she did not want to invest, so she gave me a loan instead. I made $1200 monthly payments between the 1st and 5th of every month for 1.5 years as the agreement called for, and Ms. Wilson accepted the payments per the loan agreement. Wilson and I "BOTH" operated under the terms of the loan agreement for 1.5 years, so how can the Prosecutor and Appellate Court determine themselves that there was no agreement, when the 2 people on the agreement operated under its terms.

The Appellate Court and the Prosecutor seem to be trying to rescue Ms. Wilson, from what it considers a bad decision, and they are not at Liberty do do so, this is a civil matter. "Statements of a Party's subjective intent that were not expressed or communicated at the time the contract was formed are not permissible evidence of intent.

Subsequent regrets do not destroy the obligations of prior agreements" (See Miller, 183 or App at 155-56). "(The law does not protect parties who enter into unwise agreements that are otherwise enforceable.) Dalton v Robert John Corp". Ms. Wilson has stated on television interviews that this was a loan, and she wants to be paid back, she has not testified that I lied to her, she made a decision of her own free will, and the Prosecution had no basis in Law to intervene criminally.

3) "Wilson was not aware of how the funds were being used".

My Response- Mrs. Sartain of UMB Bank testified that she asked Ms. Wilson why she was wiring the money, and she said Ms. Wilson told her that "I have to help her get back on her feet". So how can the Appellate Court, and Prosecutor, take the position that Ms. Wilson was unaware of what was happening. If Ms. Wilson was helping me, and I was not hiding anything, but instead, she and I were gambling and shopping together, than how could she "Not" know. Ms. Wilson and I flew to Las Vegas together for 9 days, came back and went to several local casinos, went to dinner many times, and went shopping many times, of which Ms. Wilson herself testified to. So, the Appellate Courts statement lacks merit, and is not based off of the evidence. Your Honors, it seems as though the Court, and the Prosecutor are listening to everyone "except" MS. Wilson.

4) "Pearson did not pay taxes on the funds (which amount to $122,186), was aware of the duty to pay Federal income tax..." ALSO, "This Court Affirms the conviction for Tax evasion because the Government proved a tax deficiency, willfulness, and affirmative acts constituting evasion".

My Response- I was charged with Tax Evasion, and the "ONLY" accusation in the indictment was that I did not file a Tax Return. There was no affirmative acts constituting evasion mentioned "anywhere" in the indictment, the Gov states that my tax evasion is from "not filing a return". The Appellate Court is expanding what the Gov charged in the Indictment. The Gov charged for Not Filing a tax return and "nothing else", which is insufficient for a 7201 Tax Evasion charge. The money was not placed "beyond the reach of the IRS", because the money was in the same accounts that the wires were sent to, and the same savings account. The Appellate Court keeps trying to expand the Gov's charges.

I sent 3 emails to the IRS Case Agent when she 1st contacted me, asking her if the IRS felt that I had a Tax Liability, so that I could take care of it, and she declined to answer the emails. I don't know what else I should have done, if they refuse to answer my inquiry. I sent a follow up email asking for the documentation, and they refused to send any. Then in discovery, I see that they sent a deficiency notice, to an address from 2001, "NOT" the address in the emails,

"NOR" the address that was listed on my 2010 tax returns, "NOR" my home address that IRS CI Agent Heather Brittain had in her files and sent Agents to, all of which would have reached me. But, instead they sent it to a 10 year old address. I even gave Agent Brittain a fax number in the email, and she sent "Nothing" regarding a tax liability.

They did not follow the Law regarding a deficiency Notice, even though they "knew" the current address, but then I am Indicted and convicted of Tax Evasion. They have not established a Tax Deficiency legally, and I did not "Willfully" evade any taxes. Had they properly sent a deficiency notice, then I would have had the chance to address my disagreement with owing any taxes. I have a Right to receive a properly sent Deficiency Notice.

I do not agree there is a tax liability on a loan, however, I also had numerous tax write offs to offset any possible tax liability, because I had receipts, and documentation, (of which the Prosecutor had in discovery) proving that I did business with a lot of the funds, so I do not agree that I had a tax liability. The Prosecutor is persistently lying about "NO" business being done, but, she has the evidence proving that business was done.

5) "...and misrepresented the nature and scope of the money transfers to law enforcement and in bankruptcy proceedings."

My Response- This statement is not based off of any facts. The detectives notes should have been requested by my Atty, and you would have seen that I did not give him a conclusive anything, I told him that I would fax over the loan agreement and he said he would be looking for it, but I never did send it. So, he knew about the agreement, even though I did not send a copy, and I have never mentioned any other investors, there was no need to.

But, more importantly, none of the conversation with the detective, the parts I agree with or disagree with, was capable of influencing Ms. Wilson decision to loan me money, so, how could they be the basis of any "fraud claim". I could not have "misrepresented the nature and scope of the money transfers" in the bankruptcy proceedings, because as the Government so adamantly states, that "Nothing" was mentioned in the bankruptcy proceedings regarding the loan. So, how could I misrepresent the "nature and scope" of something that was "never" mentioned.

The Appellate Court is doing more than deciding whether the evidence presented should sustain a conviction, they are adding facts, that are not there, and allowing their affirmations, to be for things that the indictment "did not" charge, they are constructively amending the charges for the Government.

6) "...The evidence showed that Pearson had an intent to defraud, participated in a scheme to defraud, and wired funds in furtherance of that scheme".

My Response- The government charged me with Wire Fraud "By Omission", and presented "NO" evidence of a duty to speak, or active concealment in the indictment nor at trial. They struggle to argue "mere silence", because the Alleged Victim was with me during the spending. Once again, the Appellate Court is allowing he Government to expand its charges past what it charged. They charged Fraud "by Omission", and the Appellate Court is ignoring the fact, that I did not have a duty to speak, nor did the Government allege one in the indictment, nor has the government presented any active concealment from Ms. Wilson in the indictment. Ms. Wilson testified that we were together in Las Vegas for 9 days, that we gambled together when we returned from Las Vegas, that she sent 2 more Wires "AFTER" the Las Vegas trip, that we shopped together, and went to eat together regularly.

7) "this court affirms Pearsons conviction for false statements. Pearson received Section 8 housing benefits by misrepresenting to the Department of Housing and Urban Development (HUD) that she lived in Kansas City, Missouri when she actually lived in St. Louis, Missouri, that she had only $60 in her bank accounts, and that she had no other income".

My Response- The Eighth Circuit is expanding the charges "beyond" what was charged in the indictment. The Testimony of the Director of the Housing Authority (HUD) had to concede on the stand, that the question of "where do you live" was NEVER asked. The 8th Cir actually misquotes the actual charge in the indictment, the indictment was much more specific than the 8th cir is acknowledging.

The indictment actually says "1) that she had only $60 in bank accounts, when in fact, on Feb 14, 2011, she had at least $3200 in bank accounts controlled by her". :

A-The Prosecutor specifically chose the date of 2-14-11 and the 8th cir ignores that fact. The Prosecutor was required to prove the alleged amount for that day, and she did not. In the indictment she did not specify what accounts that are alleged to be controlled by me, and at trial she did not point to any for that particular date. So, how could the 8th Cir ignored the actual charge, and expand it. The HUD form that the Prosecutor turned out to be using at trial, as the form that I am alleged to have lied on, actually stated, that I said, that I had $60 in Bank Of America, not in bank accounts as the Prosecutor alleged in the indictment, of which, the Prosecutor produced NO bank statement from Bank of America for the date of 2-14-11, which is the date that they charged in the indictment, nor a Bank Of America statement period, to prove whether or not I made a false statement. The Prosecutor is once again, being allowed to lie in the indictment, about statements that were "NOT" said. The form specifically says $60 in Bank Of America, so why is the Appellate Court

allowing the charges to be expanded beyond what the Evidence and the Indictment says. The 8th Cir is allowing their "Affirmation" to be based off of an amendment of the charges.

B. "that she no other income, when in fact, she received interest income from her bank of America account RAW savings account number 5535".

My Response- Once again, the 8th Cir has "Affirmed" convictions for the Prosecutor and NOT ONE bank statement was produced showing the amount of interest alleged to have been paid to me, NOT ONE. What documents are they alleging that was shown to the Jury for this allegation, for the date of 2-14-11, or for "any" interest on "any" date. The 8th Cir is not requiring the Prosecutor to provide evidence in its case. This is a Miscarriage of Justice, to "Affirm" convictions, when no evidence was presented to support the Prosecutors claims. I am not arguing, that we are interpreting the evidence differently, Your Honor, they did NOT present "ANY" documentation for Count 9, for any one to discuss.

8) Then the 8th Circuit said "...and the statement was material"-

My Response- Your Honor, how can the 8th Circuit possibly know, whether or not the alleged statements were material, and how can a "Materiality" determination be made, when there was no amount of interest stated in the indictment, nor presented in Court, I still don't know what the amount is, and neither does the 8th circuit, so how can they determine whether or not it was material. Not only that, but the 8th Circuit does not get to make the "Materiality" determination, the District Court or the Jury should have done that, but they did not, and could not have, without the amounts being presented to them.

There was NO documentation presented in evidence, regarding what bank accounts were alleged to have been controlled by me, for the date of 2-14-11, and how much they are supposed to have had in them. The Prosecutors allegation in the indictment says at least $3200, but, they told the Grand Jury $32000, and they did not tell the Jury ANY amount for that day, OR what bank accounts they are talking about. They could be talking about ANY bank accounts that could be controlled by me. I can't assume which ones they are referring to, and neither can anyone else, they have to state it, and they have NOT. Nowhere presented in evidence is this information. So, how can the 8th Circuit confirm convictions without a "Materiality" determination having been made, and it is too late now for them to make one, the evidence was never presented for that to happen.

9) "Pearson contends that her representations were "literally true", as she had been directed in the housing subsidy forms to identify only assets belonging to her".

My Response- My representations have not been proven false, only allegations have been made, but evidence/ documentation was not presented in evidence to prove them false. The Court is supposed to require evidence /documentation to be presented, to back up the governments allegation, the governments word alone should not be enough to sustain any ones convictions, as it seems to be here.

10) "However funds from the non-profit linked accounts were essentially converted to personal use, and should have been disclosed."

My Response- I am not sure what the non-profit accounts are linked to, nothing presented in evidence talked about them being linked to anything. Whether or not the funds were converted to personal use is not of issue here, because the charge was 18 U.S.C. 1001 (a)(2), and that particular charge requires me to have made a false statement. If the government wanted to argue what "should have been disclosed", then they should have charged me as such, but they did not, they charged with me making a false statement, and they are stuck with that charge. The 8th Circuit is amending the charge, and affirming convictions beyond what I was charged with in the indictment, and they cannot.

11) "There is no error in the District Court's decision not to sever this count (count 9) from the others".

My Response- The problem with this statement, is that the Magistrate Judge who gave the recommendation, that the District Court accepted, stated specifically that my arguments were strong in my "Ex Parte" explanation, but because the Prosecutor alleged, that I stated that I "was a Successful businessperson", and the Magistrate Judge went further to say, and "it belies the Courts imagination, that the defendant wouldn't have said it", so, they were denying Severance.

So, in essence, the Severance Denial was based off of another "Lie", in the long line of Lies from the Prosecutor. The decision was based off of an "untruth" from an Officer of the Court, which prejudiced me, and caused me to not be able to testify in my own trial. "[W]e have not here a case where the misconduct of the prosecuting attorney was slight or confined to a single instance, but one where such misconduct was pronounced and persistent, with a probable cumulative effect upon the Jury which cannot be disregarded as inconsequential. (Berger, 295 U.S. at 89.4). This conduct also affected the decisions of the Courts, as well as the Grand Jury, and the Jury at trial. The Magistrate Judge was clear as to why she denied my severance request, and it was because of the Prosecutors allegation, that she knew to be false.

Yes, it should ordinarily be reviewed for an abuse of discretion, but there is nothing ordinary about the Prosecutors improper behavior in this Judicial Process, and in this instance, the continual Misconduct of the Prosecutor played a very big part here, and the Appellate Court should have considered that. But, to go even further, I am not sure that my Ineffective Attorney, Ms. Johnston, even addressed this issue in my appeal, which is why I kept begging the Court for a new Attorney, so that all of my claims can be properly heard.

12) "Upon careful review of the record, this court finds no reversible error in the districts courts admission of testimony from IRS agents about the nature and characterization of the money Pearson received from Wilson".

My Response- The Appellate Court is allowing the Prosecutor to have un-disclosed "Expert" testimony, disguised as laymen testimony. The agents clearly testified as to my state of mind by stating that the behavior was "Fraud", and that other things were "Fraudulent". The 8th Circuit has addressed this kind of behavior
so, I am confused as to why the 8th Circuit does not seem to be consistent with its own prior rulings.

There should be "NO" effect on a Jurys verdict, from improper behavior of Federal Agents representing the government, but, the cumulative affect of this improper testimony, combined with the other improper Prosecutorial Misconduct, was devastating to my Right to a Fair trial.

13) "This Court declines to consider Pearson's ineffective-assistance and prosecutorial-misconduct claims on direct appeal".

My Response- The 8th Circuit took 23.5 months to Rule on my Appeal, and that was only after I had filed a Writ Of Mandamus in the Supreme Court. The expedited Appeal process for the 8th Circuit is that Appeals are to be "Adjudicated" within 6 months, however, although the 8th Circuit allowed my Counsel to withdraw after 6 months, and NO other hearing or Motion was pending review, the 8th Circuit just held my Appeal without a ruling. So, in essence denying me the opportunity to be heard in a timely manner, and file a 2255 in a timely manner. For whatever reason 2255 take over a year to be heard in the District Court, and are sent to the same Judge that ignored the deficiencies in the first place, which will cause me to be deprived of my Liberty, and cause me to continue to Pay a debt to society that I do not owe, before, I can be heard, and that is Un-Constitutional.

Next, The Supreme Court has established that, for cases under direct review, "a conviction obtained by the knowing use of perjured testimony is fundamentally unfair, and must be set aside if there is any reasonable likelihood that the

false testimony could have affected the judgment of the jury". United States v Agurs, 427 U.S. 97, 103, 96 S, Ct. 2392, 49 L. Ed.2d 342 (1976). The Supreme Court has recognized that indictments can end up in a deprivation of a Defendants Liberty without Judicial Review, due to Grand Jury findings. So, it is imperative that the Grand Jury findings are indeed "resting on truth".

Constitutional requirements are grounded in the important governmental interest in preventing both, the actual corruption of judicial proceedings through Prosecutorial Misconduct, and the eroding of Public confidence in the Judicial Process through the appearance of corruption.

14) The DISSENT:

My Response- I concur in the Dissent with Judge Kelly, I am trying to argue the same points and I am not being heard. The 8th Circuit ruled in US v. Steffen in regards to a charge for "Fraud by omission", but they seem to contradict their U.S. V Steffen Ruling for my case, which has the same charge. What is clear is that the government charged me in the indictment with "Fraud by Omission", but the 8th Circuit in their ruling seems to have expanded the charge to include, a the "Misrepresentation aspect for a Wire Fraud charge.

It is not an Appellate Courts role to assess a defendants credibility and weigh, or re-weigh evidence, nor can the Appellate Court Affirm convictions for charges "Beyond" what the government has charged in the indictment, as they are attempting to do here. "An Appellate Courts Role is not to re-weigh the equities or reassess the facts, but, to make sure that the conclusions derived from those weighings and assessments are Judicially sound and supported by the record" (8th Circuit Appellate Court 2015).

15) All of my claims in my Appeal have not been Adjudicated. They accepted my 12-21-18 Filing to be adjudicated in my appeal, and did not adjudicate all of the claims in it, or the Appeal that my Atty filed 7-19-17. The Indictment Failed to State a Claim, and that was not addressed, the issue of acts of concealment that need to be alleged in the indictment, those issues and more have not been addressed, they have been ignored.

PROSECUTOR KATHLEEN D. MAHONEY

The Devastating Cumulative Effect and staggering amount of Prosecutorial Misconduct, the amount of Perjured Testimony and false evidence regarding the core issues presented to the Grand Jury, and Tampering with the ANY Juror before trial, has to undermine Confidence in both Verdicts. The Jury at trial did not require the Prosecutor to produce evidence to prove her accusations, they trusted her. Out of all of the figures that she quoted in the indictment, she was not required to produce one document, to back the allegations up:

1) Knowingly Presented Perjured Testimony and False Evidence before the Grand Jury. Prosecutor Mahoney and the Case Agent participated in a Scheme to Subvert the Independence of the Grand Jury. Prosecutor Mahoney told the Grand Jury that I refused to complete the Handwriting Exemplar, that IRS Agent Heather Brittain Dahmer demanded that I complete. After they lied to the Grand Jury, they went a step further and told them that I "specifically refused to sign Ms. Wilson's name", which was false, they were in possession of the agreement with the IRS Agents signatures verifying that I signed all of the pages. The Grand Jury had no idea that they were lied to, however they found the Perjured Testimony "Material", because the only question they asked the 2nd witness was, "did you actually SEE the loan agreement".

They proceeded to paint a picture to the Grand Jury that I forged the loan agreement. Agent Brittain was attempting to verify the signatures on a loan agreement between Ms. Wilson and I, although both of us had already agreed that the signatures on the agreement were ours. Demanding the Exemplar from both of us was strange, because Ms. Wilson had already spoken to Detective Kirtley of KCPD and told him that she signed the agreement.

2) Prosecutor Mahoney then proceeded asked Agent Brittain leading questions, of which Agent Brittain answered Falsely. They told the Grand Jury that Wires were sent to me "Freya Pearson" personally, which was not true. The Wires were all sent to a legally Incorporated Entity. They told the Grand Jury that I had $32,000 under my control on 2-14-11 (Count 9), but in the Indictment stated $3200, but never produced a bank Statement for that day, to determine which amount they were alleging. Which means that there was no way to make a "Materiality" determination as required.

3) Prosecutor Mahoney then signed the Indictment knowing that it Rested on Perjured Testimony, and was not Resting on Truth. She is bound by Oath to tell the truth, and she lied to the Grand Jury and the Court. She has gotten

away with it.

4) Prosecutor Illegally convened the grand Jury. She did not have the elements necessary to Convene a Grand Jury, so she made them up. The Grand Jury was not a Proper/Lawful Grand Jury, which means that I have been imprisoned illegally.

5) The Prosecution then spoke to the "Only" black juror in the Entire Jury pool after they were selected. They were shaking his hand and apologizing to him for the death of his mother. During Voir Dire the juror told us that his mother had been killed and I believe the person was caught and Prosecuted. So the Prosecution saw the opportunity to obtain an "ally" and to make the Jury see them as human, empathetic, and as people to be trusted. It worked, they did not require the Prosecutor to present any evidence pertaining to the actual charges in the Indictment.

6) The Defense team filed for "Severance" of Count 9 from Counts 1-8. So, Prosecutor Mahoney decided that she was not going to let that happen, and she completely made up a Statement that she felt would cause the Magistrate to keep the Counts joined, and it worked. The Prosecutor accused me of telling Ms. Wilson that I was a "Successful Businessperson" in her response to our request. The Magistrate Court believed her, and said, that "It belies the Courts imagination" that I would Not have made that statement. Well, I guess the Magistrate Court should have had a bigger imagination, because the testimony of Ms. Wilson when asked if I told her that, was "NO", that I did not say it. If Ms. Wilson testified that I never said that, then the Prosecutor had to "MAKE IT UP".

She once again LIED to the Court, and because the Courts have confidence, although misplaced, that the Prosecutors obligations to refrain from improper methods to obtain a conviction will be faithfully observed, (an obligation that plainly rest upon her), they trusted her false statement, and ruled against me, solely because of that trust, as they stated in the Ruling. Allowing these Counts to remained joined, Prejudiced me, and robbed me of my Right to Testify in my own trial. The Magistrate Judge stated that although I had strong arguments in my Ex Parte explanation of my severance request, because Prosecutor Mahoney said that I made that statement, then the Counts would remain joined. Once Again, to get the Ruling that she wanted, she manipulated the Court, the same as she did the Grand Jury, and it worked. She used that joined Count to bolster a welfare argument throughout my trial, even referring to the HUD home as my "Vacation" home, to inflame the jury's emotions. She sought to inflame the Jurys emotions, and then benefit from the bias.

7) Prosecutor Mahoney, then put Agent Brittain on the stand and allowed her to simply "Talk" about the case, without being asked questions. My Attorney objected, the Judge sustained, but then she kept doing it, and neither

my attorney nor the Judge stopped her. Nor was all of the evidence on the board that she had blown up been submitted as evidence. I pointed that out to my attorney, and he said, she wouldn't do that (he refused to check), he said, of course all of the evidence on that board was submitted. Again, all this faith and trust in a Prosecutor that is repeatedly lying, knowingly presented Perjured testimony to the Grand Jury, presented false evidence, refused to turn over Brady.

8) The Following Exchange occurred between Ms. Wilson and Prosecutor Mahoney:

Pg 312 Line 13- Prosecutor- If Freya Pearson had told you that she was going to use your money to gamble and buy things for herself, would you have signed those papers?

Ms. Wilson- No, No way

Clearly from the question Prosecutor Mahoney asked Ms. Wilson, two things are very clear, 1- Prosecutor Mahoney "Knew" that Ms. Wilson signed the loan agreement, and 2- Ms. Wilson freely signed the Loan agreement, she just had regrets. If the Prosecutor knew that Ms. Wilson signed the loan agreement, as is evident by her own questions, then why did she charge me criminally, for what she new to be civil, and why did she spend thousands of tax payers dollars, flying in a handwriting expert, to testify regarding signatures that were not in dispute.

9) On one hand the Prosecutor calls the money from the loan "Income" in order to charge taxes, then on the other hand she wants a forfeiture for the money to be paid back. Income does not have to be paid back, so how is this considered Income, but also has to be paid back, then it is not Income. I argue that it cannot be both in the same case.

10) Prosecutor Mahoney violated Brady too. She told the Magistrate Judge in an Evidentiary Hearing that she had Video Evidence from the bank. At that time, my Attorney was Federal Defender Bill Raymond, he was replaced by Attorney John Justin Johnston. I told Atty Johnston about the video, and he sent an email to the Prosecutor, and asked her to give it to us. She sent back an email and said she did not have one. Well, if she does not have one, then she lied to the Magistrate Judge, AGAIN (another LIE), or she is lying to my Attorney regarding Brady. We needed that evidence, because, Ms. Wilson testified that the lady from UMB bank, covered the Wire Transfer forms, so that she could not see what she was signing. Ms. Wilson was not being truthful, at trial she used a Kleenex box to demonstrate how the document was covered. That video would have gone to her credibility, and proved that she was there of he own free will. Violation of Brady v Maryland 373 U.S. 83, 10 L. Ed 2d 215, 83 S. Ct. 1194 (1963).

11) The Prosecutor showed Ms. Wilson my HUD documents, and she was in violation of the Privacy policy. She is not at Liberty to show people my HUD application, nor was she supposed to reveal to the news media that I received any Federal assistance. I was not charged with Welfare fraud, and that is the only way that she can release

some information, even then she cannot lawfully release all that she released. She released that my under aged daughter was receiving money, and she was not supposed to release such private information, especially on a minor.

12) The Prosecutors Exhibit Sheet showed proof that she knew that money was indeed spent on business, although she lied numerous times, and stated that "NO" money was.

Ex 38-

Purchase agreement for the Investment property in St. Louis that was being rehabbed, to be sold. This home was $170,000, and she also had a lot of the receipts from the City Permits, plumbers, electricians, framers, etc. proving that money was spent for business. But, she chose to lie to the Grand Jury, in the Indictment, and to the Jury at trial.

Ex 50- Photos of my current home (at the time) in California-

So, why didn't the "Deficiency Notice" go to that address so that I could have known of the Deficiency, as the law requires them to do. The IRS CI Agent did ALL of her investigating, so the photo came from her. I saw the IRS Agents in Ca taking the picture.

Defendants Exhibits

Ex 2 & 8- News Videos from KSHB-

This was given to the Prosecutor so she was aware, that Ms. Wilson was telling several different stories to the News media on tape, about giving me a loan.

Ex 10- 5910 Natural Bridge Cashiers Check- EX 12- Sales Contract- Ex 28- Architectural Drawings for rehab-

This was a Cashiers Check to purchase this commercial building. The Prosecutor was aware of the transaction, but instead, she charged me with Count 4, Taking $60,000 cash out of the bank, which she knew NEVER happened. The $60,000 Cashiers check, was made out to the Title Company for the purchase of the building. But, the Prosecutor still falsely states, that "NO" business was done. The Drawings required by the City for the Permit to rehab the place was included, and the Sales Contract.

Ex 30 & 31- Corporate Filings of Club Exclusive-

This was the Corporate Filings for the club being put at the 5910 address. She had copies of ALL Corporate filings, but she still lied and said "NO" business was done, even though she knew that was not true.

Ex 25- The Fully Completed Handwriting Exemplar-

The Handwriting Exemplar that was fully completed by me, was included.

13) Prosecutor Kathleen D. Mahoney is not someone that we want Prosecuting cases, she clearly cannot be trusted to uphold her obligations to refrain from improper methods to secure a conviction. No one is holding her accountable, this Prosecutor Prosecutes people for the same things that she has done in my case, and she should be Prosecuted too.

14) Prosecutor Mahoney is using the criminal system to gain a civil advantage for Ms. Wilson, by acting as her Debt Collector. Such defenses and behavior by the Prosecutor lead to a distrust of government, and violate the rights of citizens. The system has become a result-oriented process today, to heck with fairness and Justice. The Prosecutors have become no better than the citizens, that they say other citizens need to be protected from.

15) The United States Supreme Court said it best. "The United States Attorney is "the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal Prosecution is not that it shall win a case, but that Justice shall be done". Also, said of the United States Attorney: "..But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one". (See Berger)

16) "The exercise of federal government power to criminalize conduct and thereby coerce and to deprive persons, by government action, of their Liberty, reputation and property must be watched carefully in a country that values the liberties of its private citizens. Never can we allow federal Prosecutors to make up the law as they go along". USA v Davis F. Brown, Tore T DeBella, Richard A Reizen, Robert F. Ehrling, (11th Cir 1996) Nor can we allow Federal Prosecutors to abuse the power entrusted to them, violate the law, and violate their OATHS without severe consequences. A Lawful process, does not include un-lawful behavior.

17) Our system of government cannot allow the government to circumvent the ordinary role of the Grand Jury to establish probable Cause by allowing the Prosecutor to Knowingly Present Perjured Testimony, and fabricate evidence. The Prosecutor should be held responsible and accountable to make sure that its evidence is accurate and that they do not subvert the Independence of the Grand Jury by using deceitful behavior to manipulate them. Prosecutors are becoming more and more comfortable with deceitful practices used to bring about an unjust conviction, because their behavior is being explained away by the Courts as being harmless, and the bar to prove that it is not harmless, is set so high, that ordinary citizens, cannot reach it. "A denial of facts can undo Democracy" -(President Obama), and that it can.

18) Your Honors, When a Nation has begun to spend more money, depriving its citizens of their freedom, than it does defending it, then that is a Nation, becoming "Absent Liberty". Our Liberty is the most valuable thing that we have, and this Country use to agree with that concept. Then the Modern day Prosecutors showed up, and are showing out. We have adjusted for the modern day crimes, but, not the modern day Prosecutors. Accountability is needed, not understanding, they have a Valuable role in our system of Justice, and we should demand that they respect it, because many of them don't. When our system fails, people get hurt.

Magistrate Court

The Court was notified of the Prosecutors behavior well before trial and they did not do anything. They had the proof in Docket # 30, because I sent it to them. They should have intervened. A Prosecutor knowingly presenting perjured testimony to a Grand Jury should get the Courts attention. So, I must ask you, how high is this bar set, that a Court would ignore, a Federal Prosecutor, Knowingly presenting perjured testimony to a Grand Jury, to secure an indictment.

The Magistrate Court held what was supposed to be my Pre-Trial hearing, but turned into my hearing for New Counsel. The Judge told me "we receive these type of letters all the time, and we deny them ALL", when referencing the letter Dkt #30, that I sent to Judge Fenner, regarding the issues with my attorney, and Prosecutorial Misconduct. But, she said she had to grant this one.

Your Honor, I have an issue with any Court denying ALL letters concerning ineffective Counsel, and this type of systematic denial of competent Counsel, is what causes our System to operate Unfairly. This type of systematic behavior allows Prosecutors, to get away with exactly what my Prosecutor seems very comfortable doing, violating the Law and her OATH. Securing an indictment and conviction by any means necessary, because there is no competent counsel to intervene.

The Maladministration of Federal Defenders, and CJA Programs need to be addressed. Our Judges need to stop allowing Defense Attorneys to get away with improperly defending its Citizens, and using the excuse of being overworked, as an acceptable one. But, overworked or not, they are Constitutionally required to give Efficient, not Deficient, Representation. Hold them accountable when they give deficient representation, and they would do better, because they would have no choice.

Your Honors, my Judge had the nerve, to tell me, in my sentencing, that "THIS" was the "WORST" case, that she had seen, in her five years on the bench, because of all the moving parts, never mind that the "Prosecutor" is the one who moved all the parts.

I'm just curious, is it Worst than a Federal Prosecutor, knowingly presenting perjured testimony to the Grand Jury, tampering with a Juror, Lying to the Court in the Severance paperwork, Falsifying evidence, refusing to turn over Brady evidence when asked then lying about it, and embezzling government funds. Because, if Prosecutor Mahoney manufactured her probable cause, and presented perjured testimony to cover it up, then she most certainly embezzled the government

funds, to help facilitate her crimes. But, my defaulting on a loan, is the "worst" case she has ever seen. These are the Judges, entrusted to oversee our Judicial Process. Judge Philips is not a bad Judge, she just wears blinders where her co-workers are concerned, and Prosecutor Mahoney was one of her co-workers, and she, like other judges need to take the blinders off, and hold these Prosecutors accountable, so that our System of Justice, is just that, "JUST and FAIR". How can you be outraged, at the defendants, and "Not" the Prosecutors, when they exhibit the "EXACT" same behavior, and worse, and call yourself fair and impartial.

The "Severance Request Process" was obstructed by the Courts "Trust" in the Prosecutor. The Magistrate Judge said, "...while her receipt of Federal housing benefits and claimed homelessness belied her stories to Wilson and detectives that she was a successful businesswoman". The Court speaks as if what the Prosecutor said were "Facts", they were not. Then, Magistrate Judge Hays said, "Based on its reading of the indictment, the court finds that Ms. Wilson was led to believe by defendant Pearson that she was either investing with Pearson or loaning money to Pearson's nonprofit entity, either way expecting to receive a return on the investment and/or the loan". Again, the Court speaks as if the Prosecutor was being "Truthful". The Court then said, and I quote, "It Stretches the imagination to believe that Ms. Wilson would have invested with and/or loaned her money to Pearson unless she believed that Pearson was "successful..." .

The Court can't make Ms. Wilson feel, and do business, the way "IT" thinks, it should be done, or should have been done. Ms. Wilson did not have the same requirements, that the Court would have, in her same situation, and it is not right to punish me, for the way you think, she should have done business. She did not do it the way The Court would like, The Court is supposed to accept "Her" decisions, and not substitute theirs.

Your Honor, the Court seems to listen to everyone, "EXCEPT" Ms. Wilson, about what she did and what happened at the time the contract was signed. The Case Agent has testified in front of the Grand Jury that Ms. Wilson was "not" investing, so why does the Court keep calling it an investment?? Ms. Wilson AND Detective Kirtly (KCPD) BOTH Testified that, I NEVER told them that I was a "Successful businesswoman", so clearly the Prosecutor LIED. Ms. Wilson "NEVER" told anyone, that she was thinking that she was dealing with a nonprofit, so why does the Court say that? Its like they make up the story as they go along, and refuse to listen to the two people who made the contract, signed the agreement, and operated under its terms.

THE RULING ON SEVERANCE ("Not Resting On Truth")

The Court Finally said, "contrary to defendants argument, the Court finds that the government's assertion in it's response that defendant falsely represented to Ms. Wilson and law enforcement that she was a "successful businessperson" and that the receipt of benefits belies this representation is not contrary to the theory of fraud set forth in the indictment". A Ruling BASED off of the Prosecutors LIES, a Ruling "Not Resting on Truth". Misplaced TRUST, in the Prosecutor to "refrain from improper methods used to secure a conviction, an obligation that plainly rest upon her", but, my Due Process Rights have been violated, because there was no correction, when the Lies were discovered. My Liberty has been taken.

MARVA WILSON (alleged victim)

1) Ms. Wilson agreed to give me a loan and we came up a monthly payment that she was satisfied with, and we signed the agreement. We came up with $1200 per month, due between the 1st and 5th of every month. The Prosecutor made much of the fact that Ms. Wilson's John Hancock annuity, was set to pay her $2500 per month, so why would she agree to accept $1200 from me. Well, this is where my Attorney should have stepped in, because I could not. The reason that Ms. Wilson was willing to accept $1200, was because she was only receiving around $700 from John Hancock, because she kept taking extra lump sums out of the $30,000 allotted for the year, so they lowered the monthly payments, to compensate for the withdrawals. Ms. Wilson was happy to get an additional $500 from me. Ms. Wilson proceeded to ask me throughout the month for additional funds, to which she received, without the penalty that John Hancock was giving her. The documentation in evidence proved all of this.

2) Ms. Wilson stated to Detective Kirtley at KCPD that she wanted to make some interest on her money, so she signed the papers. I paid for 1.5 years, and in that time, I was paid up for 2.4 years of the contract. Because Ms. Wilson kept asking for more money, the additional amounts that I paid to her throughout the month, paid my payments up for 2.4 years. So when Law Enforcement became involved, I was not behind in my payments.

I went to the bank and tried to make the next months payment, but Ms. Wilson had blocked me from making the deposits at the bank. I called her, and she said she had blocked me making the deposits, so I asked her why, and she said someone was taking her money because her account was overdrawn every month. I explained to her that she was overdrawing her own account with the Shopping network, and the casino visits, and she got upset. I did not attempt to make anymore deposits at that time.

3) Ms. Wilson testified to the following- Transcript Page 309 line 23:

Prosecutor- Okay, did you know anything about signing the agreement?
Ms. Wilson- Agreement, no. I ain't made no agreement with this woman.

Next set of Questions- Transcript page 312 line 13:

Prosecutor- If Freya Pearson had told you that she was going to use your money to gamble, and buy things for herself. Would you have signed those papers?
Ms. Wilson- No. No way.

Clearly from this exchange, you can see that Ms. Wilson knew, and agreed to sign the papers, she may have had regrets later, but at the time of the loan agreement, she freely signed them.

4) Also, the Prosecutor tries to pretend as if Ms. Wilson wanted to give her children money, but she clearly testified that she did not want to share her winnings with her 2 children, from the following exchange:

> Prosecutor- So did you want to share your winnings with them? ("Them" being her 2 daughters)
> Ms. Wilson- No, I didn't.

ATTORNEY JOHN JUSTIN JOHNSTON-

My Defense Attorney Refused to address ANY Prosecutorial Misconduct, he stated that "he had to watch what he did to the Prosecutor, so as to not affect his future cases". The only person that he Fully defended was the Prosecutor.

1) Told me that he had to watch what he did to the Prosecutor so as to not affect his future cases.- When he told me this, it made a lot of his behavior make sense. We would discuss my case and come up with a strategy, and he would tell me that he would do something, and then when Court came, he did not do it. For example, I was adamant about addressing the Prosecutorial Misconduct, as well as the Knowing use of Perjured Testimony in front of the Grand Jury, and his response was, that it was not a big deal, and he would impeach the Case Agent on the stand. But when the Agent was on the stand, he refused to impeach her. When I asked him why he did not, he said that he did not need to. What good Defense Attorney has the chance to discredit the Case Agent, and refuses to do so, with clearly Perjured Testimony. He would down play "Everything" that Prosecutor Mahoney was doing, and/or he would say, "Kate" wouldn't do that. I felt like I had 2 adversaries, my Defense Attorney and the Prosecutor, because he defended her more than he defended me. I wish he had told his feelings "Before" trial instead of "AFTER". I was unable to ask for another Atty, because the Judge had already told me, that I had to get along with this one, as if their deficient Representation was my fault.

2) I wanted Oral Arguments, and did not have them, because I was scared that he would ruin them, by being passive to the Prosecutor. Oral Arguments could have helped my Appeal.

3) No Objection to any Magistrate Report- He should have objected to the Magistrates Report regarding the Severance argument, because I told him that I "Never" told anyone that I was a "successful businessperson" as the Prosecutor said. I asked him to make her prove who I am supposed to have made the statement to, and he refused. At Trial, Ms. Wilson sure enough, said that I "DID NOT" tell her that.

4) Did not request for the Indictment to be dismissed- He should have attempted to get the Indictment dismissed, but he

did not even try. It was missing a lot of things that should have been in there, like what acts to conceal am I alleged to have committed with a Fraud by Omission charge, or what duty to speak.

5) Did not address the Materiality in Count 9- "Materiality" is required for this Count, and he completely ignored the fact that the Prosecutor did not produce "ANY" documentation to support her charge in the Indictment, so there could not have been a "Materiality" determination as required. Nor did he require the Prosecutor to Present any bank statements in Order to prove her allegation. I was charged with making a false statement, but the Prosecutor never presented any documentation to prove that what I said was false. Also, he allowed the Prosecutor to leave a lot of things out of the Indictment that should have been in there, like, where am I supposed to have made these false statements, and to whom. The Prosecutors Indictment was seriously flawed, and he allowed her to get away with it.

6) Did not attempt to get the statement made to the IRS in Ca thrown out- I called the Treasury Inspector General, while I was there, the call was caught on tape, and I told them that I did not want to be there, but they said that I had to, I was not there voluntarily. After 5 hours of dealing with the Handwriting Exemplar, I was tired, and had already been told that I had to be there, I felt like I was under arrest.

7) Did not asked for the Severance request to be renewed- "After" Ms. Wilson testified that I never made the comments that the Prosecutor accused me of making, he should have asked the Judge to revisit the issue, because the Magistrate Judge, clearly stated that she was ruling against me because of the statement that the Prosecutor lied to them about.

8) Did not address the Gov 2nd reply to my severance request- The Gove sent in a 2nd reply to my Severance Request, they were not authorized to give a second reply without the Courts permission. They have procedures for a reason, and they don't seem to apply, to this Prosecutor.

9) Did not address the IRS failure to properly send a Deficiency notice- It is the Law, that a "Deficiency Notice" be sent to the last known address. My attorney should have asked for a hearing on the issue, because clearly they had my current address, they sent agents to my house, clearly they had a current PO Box, because it was in the emails that I sent the Agent Asking if I had a Deficiency. He let them get away with everything.

10) Did not object to the handwriting expert being flown in and testifying to an undisputed loan agreement- What is the purpose of a Handwriting Expert being flown in, and testifying about a loan agreement, when the signatures were not in in dispute. Ms. Wilson & I had already verified that the signature were ours.

11) He Told me that he chose the 2nd best Tax Expert-, I should not have to have the 2nd best, he should have at least asked the Court for the money, and if they denied him then that would have been different. But at least ask. With the amount of money that the Prosecutor wasted, I can't imagine that I would have had a problem with getting a few more dollars.

12) Did not address the Prosecutor releasing the amounts of my Tax Returns to the Jury in closing- I pointed out to him that that was a violation of the Tax law and he said she can do that, I told him not according to tax code IRC 6103(b) she can't. He just let it go. He did not know Tax Code and Laws.

13) Did not address the write offs that I would have been entitled to for the Tax Evasion Amount- I am entitled to write Off the Business transactions that we had clear documentation for. That would have made a difference to me, because it would have taken the amount from $537, 000 total to well below $500,000, and that would have put me in a lower sentencing category.

14) Allowed the Prosecution to get away with talking privately to the only Black Juror- The Prosecution is fully aware that they are not allowed to speak privately with Jurors, and yet, they did, and suffered NO consequences. My Attorney should have asked for the Jury pool to be redone, because there were NO other black jurors. I did not have a jury of my peers.

15) Allowed the Prosecutor to inflame the Jurys emotions- One example is when she told the Jury not to let me off on technicalities. Basically she was saying that even though she did not charge me properly, for them to convict me anyway. My Attorney sat silent.

16) He did not have a problem with the Jury taking only 1hr to convict me on a 9 count indictment- They could not have read the instructions in that time, which means that some inappropriate things may have been going on in the jury room. Allowed the Prosecutor to tell the Grand Jury that Wires were sent to me personally. She actually used my name in making the statement.

17) Did not address that the Corporation RAW and I are separate, no Corporate veil Breach- The Prosecutor did not allege a Corporate veil breach in the indictment, the only reference to me, and the Corporation was that I was the only signor, which is not illegal. She wrote her indictment and went to trial as if the wires were sent to me personally, and the transfers were sent to my personal accounts, when they were not. She is not allowed to connect me and a legal entity, without something further, and she failed to allege any Corporate impropriety in the indictment. She stated that I was the only signor, which is not unusual for a Corporation, and does not violate any Law.

18) He did not Address Money Laundering in any meaningful way- He should be aware of the Eight Circuits views on the underlying,predicate offenses. Meaning that the Eight Circuit feels that even if you are acquitted on the Predicate offense, the other charges can still stand.

19) Did not even address the Interstate Commerce connection - These charges require a Interstate commerce nexus, and he did not even argue the point. The Prosecutor made a big deal about all of the transactions being in St. Louis Missouri, and starting in Kansas Kansas City Missouri. But, both cities are in Missouri, so how could a reasonable jurist conclude, that I affected Interstate Commerce, there is nothing proving or addressing that State Lines were crossed, in order for there to be Federal Jurisdiction, nor was "anything" presented to the Jury for them to consider.

20) Refused to request the Transcripts from the Evidentiary hearing regarding the Brady violation. The Prosecutor lied about having Bank Video Surveillance in writing. She told the Magistrate Judge that she had it, and when we asked for it, she told us that she did not have it. She either lied to the Magistrate Judge or to us. Either way she lied.

21) Once it is shown that an actual conflict of interest adversely affected counsels performance, the inquiry into prejudice stops. The essence of the problem is the unacceptable, if often immeasurable, diminishment in counsel's efforts on his client's behalf. In my case there was a sufficient adverse effect on my counsel's performance that, under the Sixth amendment, I am entitled to have my convictions vacated, and to receive at least a new trial with un-conflicted counsel.

22) I have a Right to effective counsel, and "the sole purpose of the sixth amendment is to protect the right to a fair trial". (Ante, at 164, 182 L. Ed. 2d, at 407 (emphasis added)). My Rights were not protected, and they should have been.

FEDERAL DEFENDER BILL RAYMOND:

I believe Docket # 30 accurately addresses my issues and experiences with this Ineffective Attorney, and I would like to incorporate it is this Writ of Certiorari.

CINDY NEELY-WHITE (Director of the Housing Authority)'

Ms. Neely spent the majority of her time on the stand answering questions from the Prosecutor regarding what they would have wanted to know. She at some point had to concede that the question of "Where do you live" was never asked.

ANDREA SARTAIN (UMB bank employee)

Ms. Sartain did a Wire transfer at the bank for M. Wilson, and she testified that when she asked Ms. Wilson why she was sending the wire, she told her that she had to help me get back on my feet.

RELIEF SOUGHT

1) For ALL Convictions to be reversed

2) To be Immediately Released from Prison

3) Prosecutor Mahoney to be held Accountable, Just as as she says everyone else should be

4) CJA Attorney to be Held Accountable and held Inefficient

5) Federal Defender Bill Raymond to be held accountable and held Inefficient

6) Address and Correct the Maladministration of the CJA Program and Deficiency of the Federal Defenders Office

IF A NEW TRIAL IS ORDERED:

1)At least provide me with an Attorney that is not scared of the Prosecutor, so that I can fight my case FAIRLY

2) Order the Counts Severed, because the Denial was based on Lies from the Prosecutor

3) A new Judge to Preside over the case

4) A new Attorney to help me

I have been so confused over what deadlines that I need to meet, and whether or not I even need to file a Writ OF Certiorari since my Writ of Mandamus is pending and was pending when the Eighth Circuit issued there ruling. I need help with what to do, there is a lot to the Federal System, and it is confusing enough on its own, but when the Prosecutor, Defense Attorney, and the Court does not play fair or by their rules, then at that point, if you are just a regular person, you are really out of luck. I thought if something was pending before the Supreme Court that the Lower Court had to wait for them to rule. I am still not sure if that is correct, so I am sending this Writ of Certiorari just in case. It is written the best that I can in this Institution. This Institution is one of the worst places in BOP, and I have struggled just to put this much together.

CONCLUSION

There is a clear pattern of Prosecutorial Misconduct and Deficient Representation in this case, and my Due Process Rights have been severely violated. I was not afforded the Efficient Representation from my Federal Defender or CJA Attorney, that the Constitution says that I should have, which means, that I was without Counsel throughout the entire Judicial Process, which is un-Constitutional. The Prosecutor seems to have forgotten that she is an Officer of the Court,

and has basically said to heck with the Law, I am going to create a case and win. The Prosecutors behavior should have a "shock the conscience" effect, because her Misconduct was Blatant, Persistent, and criminal. She took a Civil case and presented Perjured Testimony to the Grand Jury to make it Criminal, and I seem to be the only person that has a problem with that. My convictions should be reversed, there was nothing Fair about this Judicial Process.

Prosecutor Mahoney left a paper trail that a 1st grader could follow, so clearly my Defense Attorney simply allowed her Misconduct to continue. As he stated, "he has to watch what he did to the Prosecutor, so as to not affect his future cases". When he told me that, I was not happy and I had something to say to him about it, then he said, "I am not going to address your "Mischaracterization" of what I said". Now, I quoted his "EXACT" words, I think what he realized was, when repeated back to him, that statement sounds just as horrible, as what it implies. That you will give diminished Representation, and allow the Prosecutors Misconduct to go unaddressed, so that you can maintain a good relationship with her. Your Honor, his Interest were clearly divided. His interest was his relationship with the Prosecutor, and the real regret is that he waited to tell me this information until "AFTER" my trial was over.

My CJA Atty Johnston was much better than my Federal Defender, but because he did better, does not mean that he was efficient, and it does not mean that he did what he was supposed to do. I was not familiar with the Federal Judicial Process, and I was relying on my Attorney to guide me. But, how can he guide me, when he is not strong enough to actually stand up against the Prosecutor. He told me that she the Prosecutor was not on the "varsity" team over there, and yet, he diminished my representation in order to appease her and maintain a good relationship for his future cases. In Essence, I was "sold" to the Prosecutor, so that he could get better deals for his paying clients. Why is this behavior OK with the Courts? It violates every notion of Justice, and they all should be held accountable.

The Representation by Federal Defender Bill Raymond was so non-existent, hat if 1 bank statement was ordered, or 1 witness was spoken to, then the New Attorney has done better. The question is, how does a Federal Defender manage to escape providing proper Representation this long. At the time, Bill Raymond said that he had not been to trial in over 5 YEARS. 5 YEARS!!!??? You cannot tell me, that in 400 cases NOT 1, was worthy of trial ?? He consistently holds back the defendants Representation and investigation until they Plea. I known this because I called a couple of his clients, and that it was they told me, but felt that it was nothing they could do. You ALL are now aware that he is doing this, but, I fear that the only thing that will be done is that he will be asked if he is doing this , and if he says no, then you will let it go.

However, we are in the United States, and our Liberty is supposed to be the most valued possession that we have.

A defense Attorney that has over 400 cases and has NOT been to trial on ONE, needs some serious investigating done into his actions, all of these people are not guilty, and the Governments cases are not strong enough, for them ALL to have to have taken a Plea. I was his client, and he REFUSES to investigate, if you won't PLEA.

I am a strong person, and the pressure was so strong, that I am grateful for some friends that told me to fight. This Attorney scheduled me a Change of Plea hearing, WITHOUT me telling him that I wanted to change my PLEA. HE DID NOT interview 1 Witness, but said he was ready for trial. He did NOT order 1 bank statement, NOTHING. But, the Magistrate Judge did not call him Ineffective, because I guess she did not want to tarnish his record. This has to stop!! Defendants deserve proper Representation, and until you hold these Defense Attorneys accountable, Defendants are not going to receive proper Representation. They are going to receive excuses, as to why the representation needs to be deficient.

Respectfully Submitted,

Freya D. Pearson, Pro Se

8-5-19
Date