No. 19-8493

2:19-cv-00016-BSM

IN THE

SUPREME COURT OF THE UNITED STATES

OFFICE OF THE CLERK

MARK STINSON Reg #29908-076 — PETITIONER
(Your Name)

vs.

DEWAYNE HENDRIX, WARDEN — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES SUPREME COURT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MARK STINSON Reg# 29908-076
(Your Name)

P.O.Box 8000
(Address)

Forrest City, AR 72336
(City, State, Zip Code)

870-630-6000
(Phone Number)

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QUESTION(S) PRESENTED

1. Whether a Judge must inquire into the propriety of the issue.

2. Whether the mere possibility of a conflict of interest warrants the conclusion that the defendant was deprived of his right to counsel.

3. Whether their was a violation of the Sixth Amendment Right.

LIST OF PARTIES

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

[ ] 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:

TABLE OF AUTHORITIES CITED

CASES PAGE NUMBER

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[x] For cases from **federal courts:**

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[x] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[x] is unpublished.

[ ] For cases from **state courts:**

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

JURISDICTION

[x] For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was Jan. 10, 2020.

[x] No petition for rehearing was timely filed in my case.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[ ] For cases from **state courts:**

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Violation of Sixth Amendement Rights
West Key Code 641.3(4) Violation
Violation of Fundamental Element of Due Process
Constitutional Error
Bill of Rights Error
Violation of Competency Test
Violation of Evidentiary Hearing
Violation of Strickland Test
Ineffective Assistance of Counsel
District Court Erred(Misapprehending Statutory Obligations)
Constitional Rights Violation
Violation of Sua Sponte
Witnesses Intimidation
Violation of Assistance of Counsel
Violation of Fair Trial Process
Violation of Counsel Clause
Access to Exculpatory Testimony violation
Violation of Compulsory-Process Right
Prosecution Misconduct
Witness Tampering Violation
Violation of The Fact-Finding Process
Miscarriage of Justice Violation
Eluded Judicial Process Violation

STATEMENT OF THE CASE

Comes Now, Petitioner, Mark Stinson, the undersigned in this action, responds to Rehearing En Banc brief in pro-se. Petitioner beieve that he have some issue that can be called to the Honorable Court's attention, that may result in a favorable ruling in this court.

The Petitioner Mark Stinson and his wife Jayton Stinson was charged with conspiracy to defraud the United States. Petitioner's wife and co-conspirator Jayton Stinson pleaded guitly to conspiracy to defraud the U.S. and was sentenced to 12 months in prison. She was made jointly and severally liable for the restitution. (R.107, Judgment, PageID 469-474.)

The Petitioner was charged with thirteen counts related to tax fraud: eleven counts related to the failure of the business to pay over employment taxes, and two counts related to helping his son, file a false individual income tax return. The petitioner is currently incarcerated, in violation fo 18 U.S.C.§371, 26 U.S.C.§7202, 26 U.S.C.§7206, 18 U.S.C.§641, and 18 U.S.C.§ 1028A. (R.55, Indictment, PageID 115-126.)

It must be noted that a Military person who suffer with PTSD Post-Traumatic Stress Disorder, are not responsible for any conspiracy after sufferrint from the such diease during war time.

The proper venue for a §2241 petition is the judicial district where the prisoner's custodian is located, which will almost always be the district where he is confind. Rasul v. Bush, 542 U.S. 466, 478-79(2004); Roman v. Ashcroft, 340 F.3d 314, 318-20 (6th Cir. 2003); United States v. Griffith, No. 95-1748, 1996 WL 316504, at *2(6th Cir. 6-10-1996)(to the extent prisoner's filing is construed as § 2241 petition, "the Eastern District of Michigan is not the proper venue to file a §2241 motion for one incarcerated in Lompoc, Califonia"). Stinson is confined in the Eastern District of Arkansas and, therefore, he can only seek habeas relief under 28 U.S.C.§2241 in that district.

A jury found Mark Stinson guilty to conspiring with his wife to defraud the United States. The petitioner was then superseded after the trial ended, and the indictment was sealed.

Petitioner Stinson, contends that his attorney during his trial was ineffective and in doing so created atmosphere so seriously until a conflict of interest arose between the petitiner and his attorney. SEE U.S. v. Del muro, 87 F.3d 1078(9th Cir. 1996) Del Muro argues on appeal that the District Court created an conflict of interest by forcing trial counsel to prove his own ineffectiveness and hereby deprived Del Muro of his sixth Amendment Right to Effective Assistance of Counsel. We agree, Criminal defendants have a Constitutional Right to Counsel at a new trial hearing. SEE Menefield v. Borg, 881 F.2d 696, 699(9th Cir. 1989)to establish a Sixth Amendment Violation Del Muro must show "an actual conflict of interest adversely affected his lawyer's performance."

There was an actual, irreconcilable conflict between Del Muro and his trial counsel at the hearing on the motion for new trial. The interests of counsel were diametrically opposed to those of Del Muro. The trial's determination that an evidentiary hearing was warranted heightened the conflict. SEE West Key Code 641.3(4) Petitioner Stinson, asserting a conflict of interest claim must establis that an actual conflict of interest existed and that it adversely affected counsel's performance, petitioner contends:

> "Petitioner Court Appointed counsel was inexperienced in The Federal Tax case and did not understand income Tax Laws. He was unskilled in the trial he was incharged of United States of America v. Stinson He failed to use the subpoena power to bring witnesses into court and failed to interview witnesses or investigate the case in general."

Counsel Lack of Experience, in income tax laws and trials. SEE Kemp v. Leggett 635 F.2d 453(5th Cir.1981)[Defendant] Johnny B. Leggett, was convicted of murder and sentenced to Life imprionment. At The Evidentiary Hearing on the Federal Habeas Action

[Leggett's] retained counsel testified that this previous criminal trial experience had been to assist in the trial of one minor case and that Leggett's murder trial was his first unassisted criminal case. He admitted that he had Not interviewed the eye witness and had failed to call several charactor witnesses who were in court at appellant's [Leggett] request. Moreover, he did not investigate in order to prepare a proper defense not did he discuss possible defenses with his client. Rather, he adopted a defense not the most compatible with the facts. He further neglected to proffer a written charge on voluntary manslaughter and to introduce evidence to warrant such charge, instead submitting charges that he borrowed from another lawyer. [] By affidavit [counsel] admitted that he was not competent to handle a murder case. SEE Dillion v. Duckworth, 751 F.2d 895 (7th Cir.1984). The Affidavit Fulcher filed alleging his own incompetence a claim he reaffirmed in a second affidavit filed after the trial, renders Dillion's allegation of ineffective assistance highly ususual.[...] In the case before us, The Attorney himself believed that he was incompetend to try the case on grounds that amply Justified his request for delay. Nonetheless the trial Judge arbitrarily denied Fulcher's request and so abrogated Dillion's Right to Effective of Counsel. Right to present a defense. The Right to offer testimony of witnesses and to compel their attendance is Fundamental Element of Due Process. Washington v. St. of Texas, 388 U.S. 14.

Petitioner supplied his trial attorney with the names and address of several witnesses and asked him to issue subpoena for these witnesses but petitioner Mark Stinson, court appointed counsel refused to issue subpoena for these witnesses. (1) Mr. Melvin Travis who would have given credible evidence on the case. (2) Mr. Cory Young who would have given credible information that would have resulted in the jury rendering a different evrdict. (3) Mrs. Sheila Franks, who would have given testimony that would have been credible and believeable to the court and jury, however Mr. Quinn, the trial attorney failed to first interview these

witnesses, investigate the case and or to subpoena these witness. Due Process Clause forbids a State from convicting a person of a crime beyond a reasonable doubt. Bunkley v. Florida, 538 U.S. 835, 155 L.Ed 2d 1046, 123 S.CT. 2020(2003). The Government committeded a Constitutional Error to admnt evidence that is totally without relevance; Nelson v. Brown, 673 F.Supp. 2d 85(2009). The decisions establishing The Right to Counsel. Powell v. Alabama, 287 U.S. 45, 77 1.Ed 158, 53 S.CT. 55(1932); Mr. Justice Sutherland; The Right to beheard would be. In many cases, of little avail if it did nor comprehend the right to be heard by counsel. Even the intelligent and educated laymen has small and sometimes no skill in the science of law. If charged with a crime, he is incapable, generally, of determining for himself whether the indictment is good or bad. He is unfamiliar with the rule of evidence. Left without the aid of counsel, he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible.

He lacks both the skill and the knowledge adequately to prepare his defense, even though he have a perfect one. He requires the guiding hand of counsel at every step in the proceeding against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence. Bill of Rights as source of Right to Counsel. SEE Gideon v. Wainwright, 372 U.S. 339, 9 L.Ed 2d 799 83 S.CT. 192(1963). Betts v. Brady [316 U.S. 455, 62 S.CT. 1252 86 L.Ed. 1595.

Petitioner Stinson, timely made The Court aware of the conflict of Interest between himself and his Attorney Quinn, and moved to fire the attorney but the Court denied allowing petitioner to fire the attorney and petitioner moved a second time to fire the attorney again the court refused to allow petitioner to terminate the service of counsel and forced petitioner to continue to trial with the same attorney. SEE Alberni v. McDaniel, 458 F.3d 860(9th Cir.2006). When counsel abjects to potentially conflicted representation, the trial court has an

opportunity to eliminate the possibility of an impact on counsel's performance through seeking a waiver from the defendant, appointing separate counsel, or taking adequate "steps to ascertain whether the risk [is] too remote to warrant separate counsel." Holloway, 435 U.S. at 484, 98 S.CT. 1173 If the trial court fails to make such an inquiry into the potential conflict, reversal is automatic. SEE Atley v. Ault, 21 Supp. 2d 949 (S.D. Iowa 1998) When a defendant raises a seemingly substantial complaint before trial regarding the defense attorney's conflict of interest or divided loyalty, the Supreme Court has been absolutely clear that the court must make a thorough inquiry into Holloway v. Arkansas, 435 U.S. 475, 98 S.CT. 1173 (1978). That inquiry should be on the record and must be of the kind to ease the defendant's dissatisfaction, distruct or concern. Smith 923 F.2d at 1320. If the trial court fails to make a sufficient inquiry, prejudice is presumed and "Reversal is automatic" Holloway, 435 U.S. at 488.

Petitioner contends that his Attorney actively represented conflicting interests, and an actual conflict of interest affected his attorney's performance. Cuyler v. Sullivan, Mannhait, 847 F.2d at 579. And U.S. v. Kliti, 156 F.3d 150 (2nd Cir. 1998).

Petitioner Stinson, contend that counsel's performance 1) Fell below an objective standard or reasonable competence and 2) That he was prejudiced by his counsel's deficient performance[...] petitioner show prejudice, that it was in fact reasonably probable that but for the misadvice, and the incompetence of his trial counsel he would not have been convicted. SEE James v. Cain, 56 F.3d 662 (5th Cir. 1995) Petitioner believe he has been denied counsel during a critical stage of his trial. SEE Fusi v. O'Brien 621 F.3d 1(1st Cir. 2010). With respect to an incompetent attorney the Attorney's incompetence must rise to the level of a complete denial of counsel. "Bad lawyering, regardless of how bad" is insufficient. Scarp A, 38 F.3d at 13 Ellis v. U.S. 313 F.3d 636, 643(1st Cir. 2002) SEE Strickland, 466, U.S. at 698, 104 S.CT. at 2070 citing United States v. Cronic, 466 U.S. 648, 104 S.CT. 2039, 80 L.Ed. 2d 657 (1984).

Petitioner Stinson, request that this court take Judicial

Notice to his Military Record and his Military Medical Records. Counsel failure to argue the fact that petitioner Stinson, served in The United States Army where he suffered [PTSD] post Tramatic Stress Disorder.

Petitioner Stinson, counsel failed to argue and file Motion to the effect that he suffered PTSD and that he could not be charged with any form of comspiracy due to The Symptons and Treatment he have undergone. It was a conflict of interest when the counsel failed to argue PTSD defense on the conspiracy. [Competency Test]. SEE Bouchillon v. Collins 907 F.2d 589 [5th Cir. 1990]. It is undisputed that Stinson suffers from Post-Traumatic Stress Disorder. It is also clear from the Military Records other reports that petitioner Stinson, suffered from this disorder both at the time of his offense and at the time of his trial. The counsel knew and still failed and refused to seek testimony or to argue for an evidentiary hearing, that in all probability, Stinson suffer from PTSD. What is more to the point is whether this disorder rendered Stinson, unable to understand the proceedings against him or to assist in his own defense.

In this case counsel's lack of investigation after he had Notice of Stinson's PTSD he did nothing to protect his mental status. Fell below reasonable professional standards. Thus, Stinson has met both prongs of the strickland test and it is plain and clear that Stinson was denied effective assistance of counsel. SEE Dusky v. United States 362 U.S. 402, 4 L.Ed. 2d 824, 80 S.CT. 788(1960) Becton v. Barnett, 920 F.2d 1190(4th Cir. 1990) counsel should had petitioned the court for an evidentiary hearing to determine if Stinson, was competent to stand trial. That Stinson, was being seen by a Psychiatrist who had diagnosed Stinson with PTSD. Few lawyers possess even a rudimentary understanding Psychiatry. They therefore are wholly, unqualified to Judge the competency of their clients, and must seek professional medical diagnosed.

A defendant has a right to counsel at every critical stage

of a criminal prosecution. SEE Estelle v. Smith, 451 U.S. 454. SEE Barnett v. Hargett, 174 F.3d 1128 (10th Cir. 1999) Walker v. Atty General for the State of Okla. 167 F.3d 1339, 1345 (10th Cir 1999). The Counsel fail to make an arguement about Stinson competency SEE U.S. v. Arenburg, 605 F.3d 164 (2nd Cir.2010). The District Court erred by misapprehending it statutory obligations under title 18 U.S.C. §424(a). Williams v. Calderon, 48 F.Supp. 2d 979 (central District of California 1998).

Petitioner [Stinson] claims his Constitutional Rights were violated because he was trialed while incompetent. [And That] his Due Process Rights were violated when his trial Attorney failed to request a competency hearing and the trial court failed Sua Sponte conduct a competency hearing.

Petitioner is pursuing both a procedural and a substantive incompetency claim. A procedual claim asserts that the trial court failed to conduct a competency hearing on it's own initiative in violation of Pate v. Robinson, 383 U.S. 375, 86 S.CT. 836 (1966) because, at the time of trial, there was sufficient evidence of petitioner's incompetence to warrant a hearing. A Substantive incompetency claim asserts that petitioner's Due Process Rights were violated because he was tried while incompetent, regardless of whether The Court should have conducted a Pate hearing. SEE Reynolds v. Cochran, 365 U.S. 533, 5 L.ED 2d 754, 81 S.CT. 723(1961) In Chandler v. Fretag, [348 U.S.3] The Court made it emphatically clear that a person proceeded against as a multiple offender has a Constitutional Right to The Assistance of Counsel. SEE also U.S. v. Garrett 149 F.3d 1018 (9th Cir. 1998) [A]bused of it's discretion by refusing to allow petitioner Stinson, to fire his trial attorney who had a conflict of interest.

When Counsel was advised of the [PTSD] Post-Traumatic Stress Disorder which Stinson suffer from during his tour of duty in the United States Army. Petitioner Stinson asserts there was no investigation, no interviewing of witnessess, no preparation of defense, no discovery, no visiting of the so call crime scene, and no trial preparation. Additionally, Stinson asserts that the

attorney made little use, if any, of evidence garnered from the Government reports, tended to substantiate his innocence.

The District Court, although recognizing certain deficiencies, found no prejudice. Prejudice is not required where the ineffectiveness of counsel is "so pervasive that a particularized inquiry into prejudice would be "unquided speculation." Washington v. Strickland, 693 F.2d at 1259, n26. SEE also House v. Balkcom, 725 F.2d 608(11th Cir. 1984). The Strickland Court held that the haphazard nature of the [Attorney] Atkinses' defense. The failure to develop strategy of any consequence, and absenting themselves from crucial protions of the trial Constitutes no representation at all. Given the totality of the circumstances, ineffectiveness of trial counsel has been amply shown.

That co-defendant Jayton Stinson entered into a plea agreement with The Government, she did admit to one count of conspiracy. It must be noted that a Military person who suffer with PTSD Post-Traumatic Stress Disorder, are not responsible for any conspiracy after sufferring from the such diease during war time. petitioner Stinson Attorney failed to argue for a competency hearing knowing he had PTSD. Counsel failed to call The Veteran Administration Psychiatrist to testify at trial, where he recently diagnosed Stinson to be incompetent.

Counsel failed to make a reasonable investigation into petitioner's Mental condition. SEE Wood v. Zahradnick, 578 F.2d at 982. SEE Becton v. Barnett 920 F.2d 1190(4th Cir. 1990). Also SEE Hull v. Freeman, 932 F.2d 159 (3rd Cir. 1991). Counsel failed to call witnesses to testify on Stinson's behalf. Counsel failed to object to the prosecutor's intimidation of witnesses. He failed to properly cross examine an important government witness. The Sixth Amendment to the United States quarantees to a criminally accused the "right to have the assistance of counsel for his defense". Strickland, 466 U.S. at 694. U.S. Const. amend VI; Strickland, 466 U.S. at 685 ("The Constitution guarantees a fair trial through the Due Process Clauses, but it defines the basic elements of a fair trial largely through the several pro-

vision of the Sixth Amendment, including the Counsel Clause").

Although Arthur Quinn obtained funds to retain an expert handwriting expert, the expert was not paid nor did he rinder and opinion. Stinson stated that the signatures on the 941's forms were not signed by him. Thomas Vastrick, the expert, stated he never rendered an opinion in the case, and he had no other documents but the emails between Quinn and him. SEE "EXHIBIT A." Quinn told the Court that he lied about the handwriting expert.

Quinn affidavit is illogical with respect to the handwriting expert in that he states he told Stinson, Vastrick did not support their contention, but Stinson wanted to use his opinion anyway. Quinn statement that Stinson wanted to use Vastrick's opinion which is against him is ridicule. By the way an opinion Vastrick states he never made in his email to Counsel Larry Miller. Additionally, Quinn never retained a CPA, an accountant, a tax preparer or a tax attorney, to testify regarding the responsibility of Stinson in the sole proprietorship owned by his wife or the corporations that were later incorporated. In fact, Quinn said the sole proprietorship was a co-ownership. There is no co-ownership in the tax code. The statutory responsibility for 941 tax payment is different for the kind of companies, especially a sole proprietorship. Sec. 6672(a) provides that any person required to collect, truthfully account for, and pay over any tax imposed by the internal Revienue Code who willfully fails to do so, will, "in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax...not collected...and paid over".

The IRS and the government broadly define a "responsible person". The Key element in determining responsible person status is whether a "person has the statutorily imposed duty to make the tax payments." (O'Connor v. United States, 956 F.2d 48 (4th Cir.1992)). For the purpose of Sec. 6672 a failure to remit trust taxes is willful if it is voluntary, conscious, and intentional, as opposed to an accidental, act. Courts have held that willfullness is present if a taxpayer knew of the nonpayment or recklessly disretarded whether the payments were being made. This

This can be established by showing that the person responsible failed to assess and remedy the payroll tax deficiencies immediately upon learning of their existence. He directed the corporation to pay other creditors (thereby preferring other creditors over the IRS) or neglected his duty to use all current and future unencumbered funds available to the corporation to pay those back taxes. (Erwin, No.1:06cv59(M.D.N.C. 2/5/2013)).

A recent article states that prosecutors and judges may violate defendants right in several ways by denying them access to exculpatory testimony. SEE generally Laurie L. Levenson, prosecutors are increasingly being abmonished or penalized for trying to stop or influence such testimony, National Law Journal (April 5, 2010). Laurie L. Levenson is the David W. Burcham Chair of Ethical Advocacy at Loyola Law School, Los Angeles. She is the author of the Federal Criminal Rules Handbook(2010). SEE People v. Treadway (2010) 182 Cal. App. 4th 562. 106 Cal. Rptr. 3d 99 (conviction reversed because the prosecution interfered with the defendant's ability to call a witness by conditioning his co-defendant's pleas on a blanket restriction not to testify, including for the defense, since this was "govenmental interference violative of a defendant's Compulsory-Process Right".) In re Martin (1987) 744 p. 2d 374, 391, ([a]defendant's right to present a defense, including, most importantly, the right to 'offer the testimony of witnessess, and to compel their attendance, if necessary,' is at the very heart of our criminal justice system"). Prosecution misconduct of witness tampering. In the United States, the crime of witness tampering in federal cases is defined by statute at 18 U.S.C.§1512, which defines it as "tampering with a witness, victim, or an informant." The punishment for such an offense is up to 20 years if physical force was used, attempted, or threatened. Untied States v. Serrano, , 406 F.3d 1208, 1216 (10th Cir.2005)(reviewing courts will examine the extent to which "the government actor actively discourage[d] a witness from testifying through threats of prosecution, intimidation, or coercive badgering."); United States v. Smith, 997 F.2d 674, 680(10th Cir.1993). (Prosecutors must not intimidate

ship and his udnerstanding of the withholding tax trust fund process. Travis knew Stinson was ignorant about 941 tax matters at that point, at the point he spoke with him.

The Court ruled that if petitioner "alleges facts that, if true, would entitle him to relief, then the district court should order an evidentiary hearing and rule on the merits of his claim. Homes v. U.S. 876 F.2d 1545, 1552(11th Cir. 1989), U.S. v. Estrada 849 F.2d 1304(10th Cir.1988).

Trial ended on Dec. 8, 2017, and the Petitioner Stinson was supersede on Dec. 8, 2017, after the guilty verdict was given to the judge. SEE "EXHIBIT C" marked Government Exhibit 1.

"A pro se litigant's pleadings are to be construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers," HAINES v. KERNER, 404 U.S. 519, 520(1972). At least one appellate Court has defined this standard to mean; "We believe that this rule means that if the Court can reasonably read the pleading to state a valid claim on which, the plaintiff could prevail, it should do so despite the plainfiff's failure to cite proper legal authority, his confusion on various legal theories, his poor syntax and sentence construction, or his unfamiliarity with pleading requirements," HALL v. BELLMON, 935 F.2d 1110(10th Cir.1991).

Movant asks the Court, where appropriate, to apply the "Rule Of Lenity" which requires all ambiguities to be settled in favor of the petitioner, UNITED STATES v. RAINS, 615 F.3d 589 (5th Cir.2010). This Petitioner urges the Court to adopt, approve and apply these standards to his pleading for it would be a miscarriage of justice to allow this illegal conviction and sentence to stand.

REASONS FOR GRANTING THE PETITION

Trial Counsel Lack of Experience, in income tax laws and trials. Counsel's performance fell below an objective standard or reasonable competence and that the Petitioner was prejudiced by his counsel's deficient performance[...] petitioner show prejudice, that it was in fact reasonably probable that but for the misadvice, and the incompetence of his trial counsel he would not have been convicted. SEE James v. Cain, 56 F.3d 662(5th Cir. 1995) Petitioner believe he has been denied counsel during a critical stage of his trial. SEE Fusi v. O'Brien, 621 F.3d 1 (1st Cir.2010). "Bad Lawyering"

CONCLUSION

Due to all the facts stated, The Rehearing En Banc should be approved and or granted AND,

The petition for a writ of certiorari should be granted.

Respectfully submitted,

MARK STINSON Reg#29908-076

PRO SE PETITIONER

Date: July 30, 2020