

NO. 20-5400

IN THE SUPREME COURT OF THE UNITED STATES

GARY ALLEN KACHINA, PETITIONER

V.

UNITED STATES OF AMERICA, RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

SUPPLEMENTAL BRIEF FOR PETITIONER

GARY ALLEN KACHINA

18427-641

United States Penitentiary Tucson

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## QUESTION PRESENTED

Did A Miscarriage of Justice occur where The United States Court of Appeals For the Eighth Circuit Erroneously Applied The Incorrect standard of Review "plain Error" To petitioners Rehaif claims under sufficiency of the Evidence where petitioners Attorney Moved For Judgement of Acquittal under Fed. R. crim. p. 29 And The Assistant U.S. Attorney Dishonestly Told The Court of Appeals To Apply plain Error ?

Rehaif v. United States, 139 S.Ct. 2191 (2019)

Jackson v. Virginia, 443 U.S. 307 (1979)

## ADDITIONAL RELATED PROCEEDINGS

United States District Court (D.MN):

United States v. Kachina, No. 15-cr-68

United States Court of Appeals (8<sup>th</sup> Cir.):

United States v. Kachina, No. 18-2184

IN THE SUPREME COURT OF THE UNITED STATES

No. 20-5400

GARY ALLEN KACHINA, petitioner

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI  
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OPINIONS BELOW

The opinion of the court of Appeals is NOT published  
in The Federal Reporter but is reprinted at 810 F.App'x  
475 (8<sup>th</sup> cir, 2020).

JURISDICTION

The Judgment of the court of Appeals was Entered  
on April 16<sup>th</sup> 2020. The petition For a writ of certiorari

was Filed on June 11, 2020. The Jurisdiction of this Court is Invoked under 28 U.S.C. 1254

## STATEMENT

petitioner Has Now Become aware of a Issue That Was NOT previously Known at the time petitioner Filed the petition For a Writ OF certiorari Because petitioner did NOT Have a copy OF the trial transcripts in this case.

petitioner has Discovered That the Government in this case Was Dishonest To the court of appeals about the Standard OF Review To Applie To petitioners Relief claims For sufficiency OF the Evidence.

The Court of Appeals Erroneously Incorrectly  
Applied "plain Error" To petitioners Sufficiency of  
the Evidence claims. When The "Harmful Error"  
Standard Should have been Applied,  
petitioners Attorney Peter B. Wold Moved For a  
Judgement of Acquittal under F.R.C.P. 29 at the  
closing of the Governments case. See (Trial T. pg 285)  
Line 17-21. The District court Then Made its ruling  
on the Sufficiency of the Evidence (Trial T. pg 286)  
The Assistant U.S. Attorney Jeffrey S. Paulsen Knew  
this Because he Was present When this occurred.  
Mr. Paulsen Intentionally Lied To the Court of Appeals

So That petitioner Would Suffer a More  
Rigorous Standard of Review.

### DISCUSSION

Because The court of Appeals Erroneously  
Applied "plain Error" To petitioners Sufficiency  
of The Evidence claim That Was preserved at The  
District court by petitioner. (Trial T. 285)

Petitioner Ask This court To Review And Reverse

This case. petitioner is Not aware of Any prior

Cases or precedent Which adress a Question about

What To do When a Court of Appeals Applies The Wrong

Standard of Review To a properly preserved Issue.

petitioner prays This Court will exercise its power  
 To correct This Miscarriage of Justice petitioner is  
 Innocent of This crime. There was Insufficient Evidence  
 presented at petitioners Trial To prove The knowledge of  
 Status Mens rea Element. under Rehaif And This case  
 violates The standards set forth by Jackson v. Virginia, 443  
 U.S. 307 (1979). And A Miscarriage of Justice occurred by  
 The Court of Appeals Erroneously Applying The incorrect  
 Standard of Review, And by the Governments Dishonesty  
 Regarding This Issue.

#### CONCLUSION

The petition For a writ of certiorari should be granted  
 For The reasons set forth in this Brief And The case



Should be Remanded To The Eighth circuit Then Back  
To The District court. The Court of Appeals Incorrectly  
Applied "plain Error" To petitioners Rehabe Claim And  
under The correct "Harmful Error" Standard petitioners  
case would have Been Remanded. A Miscarriage of  
Justice occurred. petitioners prays This court Will  
Intervene For These Reasons.

Dated November 14, 2020

Gary Allen Kachina

18427-041

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