20-6703

ORIGINAL

IN THE SUPREME COURT

OF THE UNITED STATES

ROBERTO ANTOINE DARDEN,

Petitioner,

V.

UNITED STATES OF AMERICA,

Respondent

ON PETITION FOR A WRIT OF CERTIORARI

TO THE UNITED STATES OF APPEALS

FOR THE FOURTH CIRCUIT.

PETITION FOR WRIT OF CERTIORARI

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Questions Presented

I. If the government refused to dispute the factual manifestations of the Petitioner's government breach claim because clause three of the plea contract holds it accountable for any imprecisions in the statement of facts may the Fourth Circuit affirm the Rule II court's conjecture that the Petitioner conceded that paragraph four remained intact where the record is silent as to such concession due to said court's ambiguous question?

II. Whether the Petitioner satisfied the prejudice prong under Hill v. Lockhart, 474 US 52 (1985)?

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STATUTES:

28 USC Sections 1254 (1) and 2102 (c).

28 USC Section 2255

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Statement of Jurisdiction

Pursuant to the United States Constitution at Article III, section 2, clause 2; 28 USC Sections 1254 (1) and 2101 (c), this Supreme Court has jurisdiction to entertain this petition for a Writ of Certiorari.

Statement of the Case

The Petitioner filed a petition for Habeas Corpus under 28 USC section 2255 on October 3, 2014. The district denied relief on February 8, 2018. The Fourth Circuit remanded, and the District Court denied the Petitioner's remaining grounds on April 26, 2019. The Fourth Circuit affirmed on January 30, 2020; a rehearing enbanc was denied on July 28, 2020.

Summary of Argument

Reasonable jurists would find that the assessment of Petitioner's government breach of clause three of the plea agreement is debatable or wrong. The proper assessment required the court to determine what the Petitioner reasonably understood clause three to mean and subsequently what paragraphs remained intact after paragraph three pf the statement of facts was deleted by all parties. The Petitioner's agreement in said clause was contingent on the government's specific performance to provide a statement of facts that proved his guilt beyond a reasonable doubt. Their burden was not met and their acquiesced supports Petitioner's position. The judgment should be reversed.

Reasonable jurists would find that the assessment of Petitioner's ineffective assistance claims is debatable or wrong. These claims were pled cumulatively, but the district court ruled on them individually to determine that prejudice had not been established. The judgment should be reversed.

Reasonable jurists would find that the assessment of Petitioner's Brady claim is debatable or wrong. Substantial documents showed that the government intended to suppress Petition's DVD before his December 2011 trial. Prejudice rested on a favorable outcome for the Petitioner on particular counts in the indictment where he had a fighting chance with the DVE then without it. The judgment should reversed.

Argument

The Fourth Circuit Improperly Denied the Petitioner a Certificate of Appealability Because Reasonable Jurists Would Find That the District Court's Assessment of the Constitutional Claims Is debatable or Wrong.

1. The Fourth Circuit improperly affirmed the denial of Petitioner's Government breach of clause three claim.

Here, the Court applied the wrong assessment to Petitioner's government breach Claim because it focused on the ambiguous question of the Rule 11 court regarding the existence of the "remaining paragraphs" in the statement of facts after three's deletion:

"The Court: Did you sign the statement of facts and initial each page?

The Defendant: Yes.

The Court: Are the facts contained therein
True and correct? And on my
orginial, paragraph three has been
deleted by all parties.

The Defendent: Yes.

The Court: So other than paragraph three, are the
remaining paragraph true and correct?
The Defendant: Yes. "Appx. Doc. No. 64 at 28; Dist.
Ct. Order at 9 (2018); Fourth Circuit
Dismissal (2020) ("independently
reviewed the record").

When in fact a proper assessment of such claim required the Court to determine what the Petitioner "reasonably understood" the remaining paragraphs to be. See e.g. United States v. Anderson, 970 F.2d at 607 (9th Cir. 1992) ("To determine whether a violation occurred, the district court should consider what Anderson reasonably understood when he plead guilty"); U. S. v. Herrera, 928 F. 2d at 771 – 72 (6th Cir. 1991) (same); U. S. v. Scott, 469 F.3d at 1338 (10th Cir. 2006) Spence v. Superintendent, 219 F.3d. at 169 (2d Cir. 1999);

U. S. v. Nelson, 837 F.2d at 1522 – 25 (11th Cir. 1988); U. S. v. Lara – Ruiz, 681 F.3d at 919 – 27 (8th Cir. 2012).

Clearly, if the Petitioner's argument, which was not disputed by the government, was That he interpreted his agreement in clause three of the plea agreement to be contingent on the government's specific performance to provide a statement of facts which includes the essential fact that constituted the unlawful agreement element of the conspiracy charged. See Appx., Doc. No. 124-1 at 34 – 40 and 145 at 7 – 8. And that, said clause was drafted to accord with the Sixth Amendment's "beyond a reasonable doubt" provision so that any deprivation of his Fifth Amendment Liberty interest would only be contributed to the government failure to satisfy its burden of proof via its statement of facts. See Appx. Doc. No. 54 at clause three; see also U. S. Const. Amend V and VI. Then, the Petitioner's contention that paragraphs three and four of the statement of facts are in conjunction because the "hotel" in paragraph three is the essential fact that paragraph four relies on to place him at said hotel "on that same day" to conspire to record the victim's illegal sex. Appx. Doc. No. 55. should've prompted the Appellate Court to conclude that after the government agreed to the deletion of paragraph three mentioned earlier, that essentially meant that the Petitioner 'flatly refused to admit that he conspired"

with Crudup at said hotel on that same day. Montgomery v. United States, 853 F.2d at 85 (2d Cir. 1988). And thus, the Petitioner "reasonably understood" the remaining paragraphs Mentioned earlier to be those paragraphs related to Count Nine not, those paragraphs related To the conspiracy count because the government failed to meed its burden of proof, supra. See United States v. Escamilla, 975 F. 2d at 571 (9th Cir. 1991) ("Courts called upon to interpret Plea agreement must determine what the parties to the plea bargain reasonably understood to be the terms of the agreement").

Therefore, the judgment should be reversed. Because reasonable jurists would find that the assessment of this breach claim is wrong.

2. The Fourth Circuit improperly affirmed the district court's denial of Petitioner's ineffective assistance – refusal to subpoena exculpatory DVD claim.

Here, the Court overlooked several points of fact that reasonable jurists would have concluded satisfied the prejudice prong in Hill v. Lockhart, 474 U. S. 52 (1985): One fact being that, the government's principal theory is based on the Petitioner's contract and DVD. See e.g. Appx. Doc. No. 32 at Count One, para. 2, 3 and 4 (explaining that the

Petitioner was indicted on the premise that on or about November 2012 he intended to record the victim's illegal sex, used the sex video to coerce her into prostitution, and required her to sign a contract); see also Doc. No. 113 (sentencing transcripts) at 43-44 ("Ms. McKeel: The defendant made the victim sign a contract ... We find contracts with the other women... of course we never found a contract with the victim... he was charged before we believed he could make this freshmeat freshman video that we believe the victim was going to be on, and that this would give widespread distribution").

The second fact being that, counsel's knowledge about the location of said DVD was confirmed by the government et al., despite his troubling statement. See e.g. Appx. Doc. No. 145-1 at 2-3 ("Darden claims that a video entitled freshmeat freshmen provides exculpatory evidence... while Darden was attempting to obtain this tape through some associates, he never informed Counsel of the person who was in possession of this alleged exculpatory evidence"); Doc. No. 145 at 21 ("Whatever over"); Doc. No. 124=1 at 13 ("5 DVD's acquired on November 18, 2011 From defense witness Feliza Villegas); Doc. No. 124-1 at 10 (" I obtained the Freshmeat Freshman DVD... In or about August 2011, I received a call from

Mr. Darden's attorney's office. The call was to facilitate a meeting... It was at this meeting that I mentioned that I had obtained the said DVD"); see also Appx. Government Exhibit One at 2 ("Also call my cousin Ice at 328-8968. Tell him the DVD can set me free. Mail the DVD to Feliza Villegas").

The third fact being that, said DVD is favorable to the defense it's properties data reveals that it was finalized in April 2020, released online in April 2010 and modified for the last time in July 2010. See e.g. Presentence Report at para. 85 (c) (DVD released online on "April 1, 2010"); see also Appx. Doc. No. 124-1 at 20-21 (Brittney Placide" signed last contract on "July 19, 2010"). Thus, this fact casts a reasonable doubt on the government's principal theory mentioned earlier because it reveals that the Petitioner lacked the "specific intent" no conspired to record Jane Doe's illegal sex in violation of Count One. See United States v. Siros, 87 F.3d 34, 42 (2d Cir. 1996); See also A[[x. Doc. No. 32 at Count Three (" The Grand Jury Further Charges That: The Ways, Manner and Means to Accomplish The Conspiracy of Count One of This Superseding Indictment

Are re-alleged and incorporated by reference as though set forth herein"). For example, Count Three and One are predicated on Petitioner's contract, and said DVD and contract are indivisible:

> First, reasonable jurists would have weighed said DVD against the government's principal theory that their victim "signed a contract" because clause three of said contract stipulates that she would have been featured on said DVD. See Appx. Doc. No. 32 at Count One, para – 4; Doc. No. 124-1 at 20, clause three ("he/she agrees to have All video rendered into DVD format").
>
> Second reasonable jurists would have weighed said DVD against said theory that a "Intro video" includes actual sexual relations. Appx. Doc. No. 32 at Count One, para. 2; Doc. No. 124-1 at 20, clause 2 (" to perform an Intro video after signing this contract, to perform erotically on camera with props,...and to dance erotically").

Third, reasonable jurists would have weighed said DVD against theory that the Petitioner coerced the victim into prostitution with he sex video because the culprit "Crudup confessed that he never gave the Petitioner said video despite said contract's ownership clause. Appx. Doc. No. 32 at Count One, para. 3 PSR at para. 118 ("Crudup" confesses) Appx. Doc. No. 124-1 at 20, clause three (" he/she agrees that all video and photos are owned by Hot Head Ent., and Liquid Playhouse"); see also Petitioner Business Licenses and Doc. No. 30 at para. 6-7 ("Crudup constructively/exclusively owned victim's sex vidoes).

Fourth, reasonable jurists would have weighed said DVD against Said theory being furthered by the Petitioner providing "Jane Doe" a "cellular phone" to ply her trade because said contract stipulates that escorts are provided their own personal operator to handle customers. Appx. Doc. No. 32 at Count One, para. 9; Doc. No. 124-1 at 21, clause 21 ("to provide a personal

operator for the escort"); see also PSR at 78 (b) ("Eleven contract" signers can attest to being provided an "operator"). Which is why reasonable jurists can conclude that said DVD "likely would have changed the outcome of trial." Hill v. Lockhart, 474 US at 559 (1985). But, also the government could've only attempted to defeat said DVD with false – fabricated and inconsistent evidence, as reasonable jurists would further conclude. See e.g. PSR at para. 23, 27, 48, 87, and 119 (government witnesses falsify DVD's recording months); para. 42 and 138 ("Jane Doe" tails to identify the camera used to record her sex because "Crudup" corrects her); para. 112 ("Jane Doe" confesses to "Siyah" that "the men" recorded her not the Petitioner); para. 110 (t) (vi) (vii) (viii) (the government desperately attempts to place Petitioner at Jane Doe's sex video by fabricating a sex video); para. 50 (a) (b) and 113 ("Sarah Pleasants, Meshon Makins and Siyah" all had a proven pecuniary interest in Jane Doe's prostitution ads); para. 78 (b) ("Eleven contracts" discovered but none of them bore the names of the persons mentioned earlier). Thus, it would have been reasonable for the Petitioner to opt for triak, but for

counsel's refusal to subpoena said DVD. Appx. Doc. No. 124-1 at 77-78, para. 13 (1) (2) (3) (a) (b) (c); see also Goodman v. Bertrand, 467 F.3d 1022 (7th Cir. 2005).

Therefore, the judgment should be reversed. Because reasonable jurists would find that the assessment of this ineffective assistance claim is debatable or wrong.

3. The Fourth circuit improperly affirmed the district court's denial of Petitioner's compulsory process violation and Brady claim.

Here, the Fourth Circuit erroneously affirmed the district court's opinion that the Petitioner's didn't prove a "nondisclosure" of said DVD nor did he prove.

Footnote: The DVD, supra, also exposes that fact that Crudup, supra, and Jane Doe's sex video was personal, because Intro videos, supra, are not shot in "hotels" nor is alcohola' consumption allowed. Appx. Doc. 124-1 at 16, clause 9 (" All monies paid for escorting will be 30%...Hotel... will be deducted from the escort pay at the end of the night") and clause 6 ("To not partake in any illegal activities, including alcohol consumption...before or during any shoot"). Thus, Jane Doe's narrative starts and ends at Crudup's Hampton, VA residence and the Petitioner would've testified to such having been shown their video in December 2010. See PSR at para. 38, 39, 40 and

41; Appx. Doc. No. 30 at para. three ("On or about November 19,2010 Crudup supplied Jane Doe with alcohol"); Doc. No. 124-1 at 27-28 (Crudup purchased alcohol on "November 20, 2010"); PSR at para. 138 (Crudup "believes" he showed the "video footage" to "Darden.

"prejudice." Appx. Dist. CT. Order at 11-12 (2018). This is wrong, because several facts proved a nondisclosure: (1) During the sentencing hearing the government misled the court when it refurbished their meeting with Feliza Villegas as being cordial and how she willingly gave them "letters" despite the DVD being their sole objective, thus an act tantamount to a suppression. Appx. October 12, 2012 Tr. At 18-19; see also Doc. No. 124-1 at 13 ("5 DVDs" and "16 letters" taken). (2) Feliza Villegas told a different story, she was inveigled by government officials into a meeting in which she was criminally coerced with obstruction of justice charges to force her to hand over said DVD two weeks before Petitioner's trial. Appx. Doc. No. 124-1 at 10-11 and 13 ("He made several calls to orchestrate his cousin Providing me with an original and four copies of Freshmeat Freshman. Roberto emphasized that this was to only be provided to his attorney to help in his defense and I agreed.... On or about November 18, 2011 I received a call from FBI agent Liza Ludovico, asking that I attend a meeting with the prosecutions office and herself...to go over questions that I was going to be asked in the trial.... In the meeting.... Liza also brought up several conversations I had made on Mr. Darden's behalf to obtain the DVD.... The meeting seems to be more accusations of myself than questions that were going to be asked in court.... They began to go over all conversations that Mr. Darden and myself made to anyone in reference to

obtaining the DVD. The meeting was a short scare at most 30 minutes. Filled with ample threats and charges coming my way.... At the end of the meeting Liza said that I needed to provide the DVD. I agreed because I did not want to be charged with obstruction of justice or any of the other offenses. I was being threaten with"). (3) Counsel patented said suppression or nondisclosure by stating that he did not know the "location" of said DVD. Appx. Doc. No. 145-1 at 2-3. So, the government did not "turnover" it. Appx. Doc. No. 145 at 21.

Furthermore, the courts misapprehended the Petitioner's showing of prejudice by analyzing it subjectively, because he pled that the aforementioned suppression induced him to plead guilty due to said DVD being favorable in the sense that it would have "impeached a witness whose credibility" was "out-come determinative." See e.g. Ferrara v. United States, 456 F.3d at 294 (1st Cir. 2006); Appx. Doc. No. 124-1 at 142 (7) (c) (d); see also Issue 2 of this Brief (explicating prejudicea). The government's Case was predicated on said DVD, so objectively it was more than reasonable for him to opt for trial, but for the prosecutor's proven compulsory process violation and subsequent suppression. See Appox. Doc. No. October 12, 2012 Tr. At 43-44 (government reveals its principal

theory); see also U. S. Const. amend. VI and Art. I, section 8 of the Constitution of Virginia (explaining compulsory process right).

Therefore, the judgment should be reversed. Because reasonable jurists would find that the Assessment of this claim is debatable or wrong.

4. The Fourth Circuit improperly affirmed the district court's denial of Petitioner's Ineffective assistance – erroneous advice claim.

Here, reasonable jurists would find that the courts overlooked points of fact and applied the wrong standard to Petitioner's ineffective assistance – hearsay claim. Because counsel's incompetent advice was at issue, and prejudice rested on the fact that he the Petitioner was induced by said advice after appraising the government's case and discovering that his coconspirators hearsay declarations corroborated 90%.

Footnote: Essentially the government is misrepresenting said DVD as being child porn when in fact it is protected speech i.e. adult porn, so there case depends on said misrepresentation because they used Petitioner's contract instead, but said DVD and contract are indivisible. See e.g. Miller v. Pate, 586 US at 6 (1967).

if the victim's testimony, so had counsel investigated the admissibility of said hearsay he would have properly advised Petitioner that such hearsay was inadmissible under Krulewitch v. United States, 336 US 440 (1949) and its predecessors, because past facts were made several months after the conspiracy ended, and thus the Petitioner would have reasonably decided to go to trial where a motion in limine to exclude such hearsay from said trial "likely would have change the outcome of trial" by weakening the government's case. Hill v. Lockhart, 474 U.S. at 59 (1985); see also Appx. Doc. No. 124-1 at 98-100; Brady v. United States, 397 U.S. at 736 ("often a decision to plead guilty is heavily influenced by the defendant's appraisal of the prosecution's case against him").

Furthermore, the central fact overlooked by the courts was the Petitioner's "expressed preference" to consult counsel about conspiracy law. See Lee, 137 S. CT. at 1967 (when considering a defendant's post hoc assertions, courts should "look to contemperaneous evidence to substantiate a defendant's expressed preferences"); see also Appx. July 24, 2012 Tr. At 7-8. ("The Court: why you want to withdraw your plea of guilty? The Defendant: I had no idea of conspiracy law. I had no evidence of conspiracy law. I had been asking Mr. Groene for quite sometime for information regarding

conspiracy law"). During the 2255 proceedings counsel admitted that during said consultation he misadvised Petitioner that "any discussions and conversations that those individuals had with Darden or in furtherence of the conspiracy would have been admissible" even though the Conspiracy ended several months earlier. See Appx. Doc. No. 145-1 at 5. So, the courts overlooked the Petitioner's case i.e., co-conspirators hearsay declarations were admissible, which means Petitioner's interest in plea bargaining was rooted in misinformation gleaned from counsel's Faulty advice mentioned earlier, thus, the courts applied an incomplete analytical framework to Petitioner's prejudice arguments. See e.g. Rodriguez – Penton v. United States, 905 F.3d 481 (6th Cir. 2018). In other words, Petitioner's plea decision was unintelligent.

Therefore, the judgment should be reversed.

5. The Fourth Circuit improperly affirmed the district court's denial of Petitioner's ineffective assistance – failure to file a motion to suppress claims.

Reasonable jurists would find that the Petitioner

established "prejudice" regarding counsel's refusal to file a motion to suppress letters searched and seized on November 18, 2011. See Dist. CT. Order at 9-10 (2018). First, the Petitioner had standing to challenge the search and seizure of said letters because the government first searched and seized his DVD making those letters the fruit of the poisonous tree. See e.g. Appx. Doc. No. 124-1 at 10-11. Felize Villegas explains that she "obtained Petitioner's "DVD" for his counsel to subpoena as instructed, and government officials criminally coerced her to hand over said DVD, and "while filling out details on what was obtained from my residence she (Special Agent Liza Ludovicoa) also noticed my coffee table to be full of letters from Mr. Darden. She also said that I had to provide those as well into evidence and of course I obliged because of the corner I was backed into"); see also Wong Sun, 371 U.S. at 485 (explaining the "fruit of the poisonous tree doctrine"). Second, prejudice rests on the fact that said letters are incriminating where they created a hybrid crime scene of Count Three thus compelling the Petitioner to testify against himself in violation of his Fifth Amendment right. See Appx. Doc. No. 124-1 at 87-89, para. 11 (a) (b) (c) (d); see also Mahrt v. Beard, 849 F.3d 1164 (9th Cir. 2006). So, it was reasonable to opt for trial without said letters as explained in the issues presented in

this brief. Hill v. Lockhart, 474 U.S. 52 (1985).

Furthermore, reasonable jurists would find that the Petitioner had standing law enforcement's January 19, 2011 search and seizure, and that he proved prejudice. See Dist. CT. Order (2019). Standings rests on the fact that Petitioner's plastic bin was locked, and the fact that on January 27, 2011 his roommate Jindia May (hereinafter "Ms. May"), told him that she admonished law Enforcement that she had no authority to consent to said search, so no "apparent authority" Existed. See. e.g. Appx. Photos of plastic bin; PSR at para. 87 (Ms. May and Petitioner met on "January 27, 2011"); see also United States v. Waller, 426 F. 3d 838 (6th Cir. 2005) (explaining "third party consent" law and apparent authority). Also, standing rests on the fact that the Search warrant waiver form is tainted, where, after an hour of persuasion, officers inveigled Ms. May to believe that by them placing Petitioner's name on said form she could legally consent. See Appx. January 19, 2011 waiver form. In other words, said form required Petitioner's signature to validate said search because Ms. May cannot waive his Fourth Amendment right as said form suggests. See e.g. Plumhoff, 572 U.S. at 778 ("Our cases make it clear that Fourth Amendment are personal rights"). But,

during the 2255 proceeding counsel told the court and the Petitioner for the first time that on January 19, 2011" Ms. May et al., "contacted" law enforcement Chesapeake, VA and she "gave permission to law enforcement to enter her apartment, search it, and handed to them the documents and other property that Darden had left behind in her apartment." Appx. Doc. No. 145-1 at 3-4. After, several FOIA requests were denied under VA. Code Section 2.2. – 3703 (c), the Petitioner just simply asked the Chesapeake, VA police dep't are there any records related to Ms. May et. Al., placing a 911 call on January 19, 2011 and they responded that, essentially, counsel's story was completely made up. See Appx. Chesapeake, VA police dep't response (2020).

Prejudice, reset on the fact that Ms. May's crucial statements were used to substantiate the government's affidavit to obtain actual warrants which made those warrants tainted by the initial illegality or search mentioned earlier because her statements were the fruit of the poisonous tree. Appx. Doc. No. 124-1 at 65-67, para. 33 (a) (b) (e). Also, Petitioner's effects i.e., contracts, cell phones bearing the names of Johns, flyers etc., corroborated Jane Doe's testimony regarding sex trafficking, but would have been excluded from trial, but for counsel's refusal to file a motion to suppress. Id. at para. 33 (a) (c) (d). Thus,

it was reasonable for the Petitioner to opt for trial because a suppression "would have change the outcome of trial." Hill v. Lockhart, 474 U.S. at 58 (1985); see also Grumble v. Burt, 591 Fed. Appx. 488 (15th Cir. 2015).

Therefore, the judgment should be reversed. As reasonable jurists would conclude.

6. The Fourth Circuit improperly affirmed the district court's denial of Petitioner's Conflict of interests claim.

Here, several material points of fact related to an actual conflict of interests were overlooked: (1). The Petitioner did not waive his right to conflict – free representation, so counsel's previous Supervisory role over the presiding judge and AUSA Lisa Rae McKeel, who is also his neighbor, During his counsel's tenure at the U. S. Attorney's Office for the Eastern District of Virginia, created the appearance of an actual conflict. See Appx. July 24, 2012 Tr. At 11-12 ("Mr. Groene: Then approximately 20 years as federal prosecutor in the Eastern District of Virginia. The Court: Okay. Mr. Groene: I recall serving with Your Honor for some of that time as well. The Court: All

right. Thank you Mr. Groene."). (3). While the Petitioner prepared for trial counsel insisted that he plead guilty; the Petitioner believed his insistence was improperly motivated by the personal interests that he developed during his tenure with the persons mentioned earlier. Thus, an actual conflict of interest existed. Cuyler v. Sullivan, 446 US at 356 n. 3.

Furthermore, several points of fact related to an adverse impact on counsel's performance was overlooked: (1). Counsel refuse to file motions to suppress. Appx. Doc. No. 124-1 at 134 7 (a) (2). Counsel refuse to subpoena Petitioner exculpatory DVD. Id. At 7 (b). Counsel provided erroneous Advice about the admissibility of Petitioner's co-conspirators hearsay declarations. Id. At 7 (c). After the plea deal, counsel continued to work against the Petitioner by suggesting that he Withdraw particular objections to receive a lighter sentence. Appx. October 12,2012 Tr. At 6-9 (on the day of sentencing counsel makes his withdrawal proposal). Where, counsel's ex-subordinate the presiding judge later stated that the withdrawn objections, affected the Petitioner's sentencing exposure. See Id. At 15 (court leaves all withdrawn objections intact for purposes of sentencing); see also Doc. No. 124-1 at 135 (g).

Therefore, the judgment should be reversed.

Conclusion

Reasonable jurists would find that the courts assessment of the constitutional claims is debatable or wrong.

Relief Sought

WHEREFORE, Petitioner does as that this Honorable Court GRANT RELIEF to wit:

1. Hold a hearing on the merits of thus Writ of Certiorari

   and grant judgment on all issues to;

2. Reverse, the Fourth Circuit's judgment and order it to issue the write of habeas corpus as to Petitioner's government breach claim; order the Court to direct the district court to re-assess Petitioner's prejudice arguments under the cumulative – error doctrine; order the Court to direct the lower court to issue the writ as to his Brady claim.

3. Grant such further Orders, and/or Recommendations as the Court deems necessary and appropriate.