

No. 21-1008

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In The  
**Supreme Court of the United States**

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**ANDRES MENCIA,**

*Petitioner,*

v.

**UNITED STATES OF AMERICA,**

*Respondent.*

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**On Writ of Certiorari  
to the United States Court of Appeals for the  
Eleventh Circuit**

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**REPLY TO MEMORANDUM OF THE  
UNITED STATES**

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**PETITIONER, ANDRES MENCIA, M.D.'S  
OPPOSITION TO THE MEMORANDUM  
BY THE UNITED STATES**

The Government contends that the instant Petition for Writ of Certiorari is untimely. It is not. The petition was filed timely on November 6, 2021 and assigned case number 21-1008.

The timely filing was acknowledged by the clerk in a letter dated November 12, 2021 in which the clerk notified Petitioner to correct the deficiency of not having filed 40 copies of the petition as pre-COVID procedures mandated. Petitioner thereafter complied in a timely fashion of filing 40 copies of the petition.

The Government was sent an email to the effect that the petition is timely as the petition bears a 2021 case number which it would not bear if the Government's theory of January 12, 2022 were correct at which time the petition would bear a 2022 case number. It does not. Further, the online docket accurately reflects the timely filing of the instant petition on November 6, 2021.

As for the second issue raised by the Government, Petitioner does not object to this Court holding the determination in this petition pending his Court's decision in *Ruan v. United States* 21-410. The instant petition presents a very unique circumstance where the government's hired expert witness, Dr. Warfield, turned against the government after reviewing the medical records of Dr. Mencia, concluding that that there was no evidence of

criminal conduct on the part of Dr. Mencia. The government unhappy with the conclusion of its own expert, went out and hired another expert whose opinion it was happy with. This case demonstrates the quintessential proof that prosecutors are the ones deciding the standard of care in medical practice- a horrific state of affairs that medical practice has been reduced to in this country by a system that operates with zero accountability for prosecutors.

Respectfully submitted,

*Andres J Mencia*

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Dated: June 17, 2022