

No. 21 - 5383

2:21-cv-00025-BSM

IN THE

SUPREME COURT OF THE UNITED STATES

CLERK

MARK STINSON 29908-076 Reg — PETITIONER

(Your Name)

vs.

JOHN P. YATES Warden — RESPONDENT(S)

**ORIGINAL**

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

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

PETITION FOR WRIT OF CERTIORARI

FILED

JUL 27 2021

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

MARK STINSON Reg# 29908-076

(Your Name)

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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 there was a violation of the Sixth Amendment Right.

## **LIST OF PARTIES**

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:

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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**

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A 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 is unpublished.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 United States district court appears at Appendix B to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.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 is unpublished.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 is unpublished.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

For cases from federal courts:

The date on which the United States Court of Appeals decided my case was JULY 20, 2021

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: JULY 20, 2021, and a copy of the order denying rehearing appears at Appendix A.

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 Amendment Rights  
West Key Code 641.3(4)  
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)  
Constitutional Rights Violation  
Violation of Sua Sponte  
Witnesses Intimidation  
Violation of Assistance of Counsel  
Fair Trial Violation  
Violation of Counsel Clause  
Denying Access to Exculpatory Testimony  
Violation of Compulsory-Process Right  
Prosecution Misconduct  
Witness Tampering  
Violation of the Fact-Finding Process  
Miscarriage of Justice  
Eluded Judicial Process

## STATEMENT OF THE CASE

Comes Now, Petitioner, Mark Stinson, the undersigned in this action, believe's 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, pro se.

The Petitioner Mark Stinson and his wife Jayton Stinson was chadged with conspiracy to defraud the United States. Petitioner wife and co-conspirator Jayton Stinson pleaded guilty to conspiracy to defraud the U.S. and was sentenced to 12 months in prison. She was made jointly and severally liable for the resstition.

(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 relatedd to helping his son file a fales individual income tax redurn. The petitioner is currently incarcerated, in violation of 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.)

The Petitioner proceeded to trial and a jury found him guilty on all thriteen counts. After trial the petitioner's charges were illegally superseded and sealed. The trial attorney Quinn was instructed to file an appeal, but he did not. SEE EXHIBIT C marked Government Exhibit 1. It must be noted that husband and wife can't conspire, it must also be noted that a Military person who suffer with P.T.S.D. (Post-Traumatic Stress Disorder), are not responsible for any conspiracy after sufferring from such diease during war time. A §2255 was filed On Nov. 20, 2018, with the district court Western Tenn, and is still pending. 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). 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.

Petitioner Stinson, contedds that his attorney during his trial was ineffective and a conflict of interest arose. SEE U.S. v. DEL MURDO, 87 F. 3d 1078 (9th Cir. 1996). The petitioner's Sixth Amendment Right were violated, his West Key Code 641.3(4) was violated, violation of the Fundamental Element of Due Process Constitutional Error, Bill of Rights Error, violation of Competency Test, violation of Evidentiary Hearing, Misapprehending Statutory Obligations by District Court, violation of Sua Sponte power, witnesses Intimidation, Witnesses tampering, violation of Fair Trial, Denying Access to Exculpatory Testimony, violation of Compulsory-Process Right, Prosecution Misconduct and Miscarriage of Justice, violation of the Fact-Finding Process, Eluded Judicial Process, Failure to use subpoena power, Government witnesses gave fales testimony under oath, with false documents, fraud, conspiracy, Constitutional Error admitting evidence that was totally without relevance, a bad indictment was issued, the Court failed to investigate the conflict of interest between the petitioner to firer the attorney twice, HOLLOWAY 435 U.S. at 484, 98 S.CT. 1173. If the trial court fails to make an inquiry into the potential conflict, reversal is automatic. SEE ATLFY V. AULT 21 Supp. 2d 949 (S.D. Iowa 1998). 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).

If the trial court fails to make a sufficient inquiry, prejudice is presumed and "Reversal is automatic". HOLLOWAY, 435 U.S. at 488.

Petitioner believe he has been denied counsel during a critical Stage of his trial. Bad lawyering. SEE STRICKLAND, 466, U.S. at 698, 104 S.CT. at 2070, citing U.S. v. CRONIC. 466 U.S. 648, S.CT. 2039, 80 L.Ed. 2d 657(1984). Counsel failure to argue the fact that petitioner Stinson served in The United States Army where he suffer [P.T.S.D.], Petitioner is pursuing both a

procedural and a substantive incompetency claim. WASHINGTON v. STRICKLAND, 693, F.2d at 1259, n26. The petitioner stated that he did not sign the 941's, although the trial attorney was paid to retain an expert, the expert was never paid, nor did he render an opinion. Thomas Vastrick, the handwriting expert, stated he never rendered on the case, and he had no other documents but the emails between Quinn and him. SEE "EXHIBIT A". Arthur Quinn the trial attorney told the Court that he lied about the handwriting expert answer. Vastrick states he never made a statement 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. Quinn said the sole proprietorship was a co-ownership. There is no co-ownership in the tax code. SEE Sec. 6672(a). O'CONNOR v. U.S. 956 F.2d 48 (4th Cir. 1992). (ERWIN, No.1:06cv59 M.D.N.C. 2-5-2013). 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; re MARTIN (1987) 744 F.2d 374, 391,. Statute at 18 U.S.C. §1512. (Prosecutors must not intimidate a witness who is willing to testify truthfully for the defense). When Quinn stated he was calling Corey Young to testify, Brooks, prosecutor, said you need to tell him he needs to be read his miranda rights. Brooks Tran. 898-901, Dec. 7, 2017. In U.S. v. STRAUB, 538, F.3d

1147, 1156, 1162(9th Cir. 2008) (finding prosecution's refusal to grant immunity to defense witness who could have contradicted prosecution's immunized witness was ground for Reversal). WILLIAMS V. WOODFORD, 384 F.3d 567, 600(9th Cir. 2004). The offense is classified as a Class D Felony. SEE "EXHIBIT B". Quinn did not subpoena Melvin Travis, an accountant who worked directly and exclusively with Stinson and knew Stinson well. Travis had first hand knowledge of Stinson's comprehension of the 941 tax problem for Stinson's wife sole proprietorship and his understanding of the withholding tax trust fund process. Travis knew Stinson was ignorant about 941 tax matters at that point when he spoke with him. The petitioner sent in payments for years to the IRS for to obtain an offer in compromise, but never received one from IRS, An Offer In Compromise is a procedure by while a taxpayer indebted to the IRS makes a written proposal for the settlement of the outstanding tax liability for less than the full amount owed. SEE generally 26 C.F.R. §301.7122(a). The IRS will generally not levy against the property or rights to property of the taxpayer while an offer in compromise is pending. 26 C.F.R. §301.7122(g).

"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 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 plaintiff'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 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 action 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 Fusilli v. O'Brien, 621 F.3d 1 (1st Cir. 2010). "Bad Lawyering"

## **CONCLUSION**

The judgment from The Eighth Circuit Appeals Court should be reversed.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

  
MARK STINSON Reg #29908-076

Date: JULY 26, 2021