IN THE UNITED STATES SUPREME COURT

EDWARD ZINNER,
Petitioner,

v

UNITED STATES OF AMERICA,
Respondent.

Case No. ~~**21-5179**~~ 21-5719 cw

PETITION FOR REHEARING ON PETITION FOR WRIT OF CERTIORARI

TABLE OF CONTENTS

TABLE OF AUTHORITIES

SUPREME COURT AUTHORITIES

OTHER CIRCUIT PRECEDENTS

RULES & STATUTES

JURISDICTIONAL STATEMENT

Petition for rehearing of denial of petition for certiorari is authorized by Rules of Supreme Court, subject to requirements of predecessor to Rule 44 on rehearings. Flynn v United States, 75 S. Ct. 285, 99 L. Ed. 1298 (1955).

IN THE UNITED STATES SUPREME COURT

EDWARD ZINNER
Petitioner

v

UNITED STATES OF AMERICA,
Respondent

Case No. ~~21-5179~~ 21-5719 ew

PETITION FOR REHEARING ON WRIT OF CERTIORARI

Edward Zinner, Petitioner, pro se, for the reasons set forth below, respectfully seeks Rehearing on his Petition for writ of certiorari. The Petition was filed in response to the SUMMARY DENIAL of a Petition seeking a writ of error coram nobis. The coram nobis Petition alleged, and the evidence attached thereto provided, clear, unequivocal proof that a deliberate deprivation of Constitutional rights was executed by officers of the federal court in habeas proceedings, the purpose of which was to cover up a parallel fraud on the criminal court where Petitioner was intentionally and unlawfully deprived of a conflict free lawyer in a criminal trial, denied Equal Protection of the Laws and denied Due Process of Law in all of the post-conviction proceedings that followed the fraud on the criminal court. The underlying case involves corruption of the federal district court not just by its officers, but the judge who was complicit in permitting Assistant United States Attorneys acting in concert with known conflicted defense counsel, to jointly execute a fraud upon the habeas Court as that term is defined at law by this Supreme Court in Gonzalez v Crosby, 545 U.S. 524, 528, 125 S. Ct. 2641, 162 L. Ed. 2d 480 (2005). Also see Herring v United States, 424 F.3d 384, 386-87 (3rd Cir. 2005)(stating that, to establish fraud on the court, a litigant must show by "clear and convincing evidence," that there was "(a) an intentional fraud; (2) by an officer of the court;

(3) which [was] directed at the court itself; and (4) in fact deceive[d] the court"). All of those criteria are met and proved in the pleadings before this Court. But still, the lower Courts have hidden behind the AEDPA to avoid addressing the evidence and what it proves in relation to the law and Constitutional deprivations. According to Circuit precedents and this Court's holdings in Gonzalez, the post-conviction pleadings should have been reviewed on the merits in the first instance as the Tenth Circuit has held, e.g., post this Court's Ruling in Gonzalez, the Court conducted a full comprehensive analysis of Gonzalez in Spitznas v Boone, 464 F.3d 1213 (10th Cir. 2006) and held the following:

> "Spitznas....was the first opinion of this court interpreting Gonzalez and endeavored to provide comprehensive guidance on how to distinguish between a proper Rule 60(b) motion and a second-or-successive habeas petition. In doing so, it stated that a Rule 60(b) motion in a habeas proceeding is a "'true'" 60(b) motion if it "challenges a defect in the integrity of the federal habeas proceeding, provided that such a challenge does not itself lead inextricably to a merits-based attack on the disposition of a prior habeas petition. [Gonzalez, 545 U.S. at 532]." Id. at 1215-16 (emphasis added). The words lead inextricably should not be read to expansively. They certainly should not be read to say that a motion is an improper Rule 60(b) motion if success on the motion would ultimately lead to a claim for relief under § 2255. What else could be the purpose of a Rule 60(b) motion? The movant is always seeking in the end to obtain § 2255 relief. The movant in a true Rule 60 motion is simply asserting that he did not get a fair shot in the original § 2255 proceeding because its integrity was marred by a flaw that must be repaired in further proceedings. The proviso {2012 U.S. App. LEXIS 13}in Spitznas can best be understood by looking at its citation to Gonzalez. The citation is referring to the Supreme Court's statement that a true Rule 60(b) motion does not "attack" the federal court's previous resolution of a claim on the merits, since alleging that the court erred in denying habeas relief on the merits is effectively indistinguishable from alleging that the movant is, under the substantive provisions of the statutes, entitled to habeas relief." Gonzalez, 545 U.S. at 532 (footnote and emphasis omitted). Thus, the proviso means only that a Rule 60(b) motion is actually a second-or-successive petition if the success of the motion depends on a determination that the court had incorrectly ruled on the merits in the habeas proceeding.

The instant case is a result of fraud on the first habeas courts as set forth in numerous pleadings. When new evidence was discovered in 1999, proving unequivocally, that fraud was

committed on the first habeas courts, a second Rule 60(b) motion was filed in 1999 with the new evidence attached alleging fraud on the first habeas courts (§ 2255 & Rule 60(b) courts). The success of that pleading did not depend on a merits-based attack on any prior rulings, its success required nothing more than the court to fairly review the new evidence and the existing record, then follow the law and the Constitution based on the facts proved by the evidence. The Court ignored the evidence as did the government, thus the fraud on the court claim was NEVER answered OR adjudicated. Instead, the district court simply ignored and buried the evidence in the court's files for decades thereby permitting the government to escape answering for its existence or explaining why this key evidence was concealed from the criminal and habeas courts. The evidence proves a criminal scheme was executed by prosecutors and defense counsel that deceived the prior habeas courts resulting in the deprivation of Constitutional rights as stated. It is incumbent upon this Honorable Court to review this matter because it resulted in an unconscionable miscarriage of justice with decades of ongoing negative consequences. With respect to prosecutorial deceit via concealing evidence, the Spitznas Court held:

> "The claim raised in the § 2255 proceedings is that the prosecution violated its Brady/Giglio {681 F.3d 1206} duties at trial. In contrast, the claim in the Rule 60(b) motion is that the prosecutor committed fraud in the § 2255 proceedings that prevented defendants from obtaining discovery to establish their § 2255 claims. If we assume the truth of defendant's allegations, as we must at this juncture, then Defendants have stated a proper Rule 60(b) Motion." Id.

In this case, Petitioner has clearly stated a true Rule 60 claim in every post-conviction pleading no matter the title. The Government colluded with defense counsel to conceal conflicts of interest from the trial court and the § 2255 and Rule 60(b) courts by hiding key evidence that all counsel was obligated to produce to the Court. Instead, the key evidence was concealed first from the trial court, then the § 2255 court as pled foreclosing Petitioner from being able to prove his fraud claims which constitutes fraud on the court as defined at law by this Court. The

fraud on the trial court was covered up by fraud on the § 2255 and Rule 60 Courts, thus Petitioner never had a fair chance at habeas relief to begin with. The coram nobis motion is an extension of the original criminal case, nonetheless, even if considered in a habeas context, Petitioner meets the standard for review set by this Court and multiple Circuits that requires a district court to review fraud on the Court claims in the FIRST INSTANCE. The Tenth Circuit also Ruled in In re Pickard, 661 F.3d 1201, 1215-16 (10th Cir. 2012) that "the Government does not get a free pass to deceive a habeas court just because it similarly deceived the trial court." The Government deceived the trial court into permitting conflicted lawyers to represent Petitioner and a co-defendant in a criminal trial by (1) concealing key evidence that proved actual conflicts of interest; (2) causing the court approve a motion permitting a prosecutor to act as supervising attorney for the pro hoc vici representation of a criminal co-defendant by Petitioner's former conflicted counsel while permitting the co-defendant's former counsel to represent Petitioner absent inquiry into the conflict issues as required by law and the 6th Amendment; (3), knowing that the guilty pleas required each client to testify against one another while represented by each former counsel; and (4) continuing to conceal key evidence of the conflicts while suborning perjury in habeas proceedings all of which clearly constitutes fraud on the Court as that term is defined at law. See Herring supra., and Gonzalez supra; also see Hazel Atlas Glass Co. v Hartford Empire Co., 322 U.S. 238, 244, 88 L. Ed. 1250, 64 S. Ct. 997 (1944)(Equitable relief against fraudulent judgments is not of statutory creation, but is a judicially created remedy fashioned to relieve hardships...) The judgments issued by the district court in every post-conviction proceeding are the product of, and a result of fraud on the court. The district court's opinions are VOID of any consideration in the first instance of the fraud on the court claims which the court has refused to adjudicate. The lower court's regurgitation of

prior opinions that were the result of the fraud complained of are VOID of any opinion or even a review of the facts as pled or the evidence in relation to those facts. In fact, there is no claim before the court that depends on a determination on the merits of any prior ruling. The lower courts simply REFUSED to acknowledge the law or the Constitution in relation to this Petitioner's civil rights in the context of what the well pled facts as alleged in the pleadings combined with what the concealed evidence in connection with the testimony of record proves, i.e., fraud on the court! Further, that the key evidence was concealed from the court in the first place constitutes fraud on the court as described in Spitznas supra..

One would expect this from a banana republic, not the United States of America. There is no question that the law requires attorney conflicts to be disclosed to defendants and the federal court at all phases of any prosecution including post-conviction habeas matters. It is abundantly clear that attorney conflicts existed, were known to exist pre-indictment, and were concealed by all counsel during all proceedings including evidentiary hearings held on the first true Rule 60(b) motion in Nov./Dec. 1997 and thereafter. It is clear that all counsel suborned perjury of one another as set forth in the Petition for writ of certiorari, thereby, deceiving the habeas courts as shown, proved by the record and the concealed evidence. It is therefore inconceivable that ANY court would not DEMAND answers for these obstruction of justice acts, cover ups, felony deprivations of civil rights. Obviously, any possible success on adjudication of this pleading does NOT in any way, depend on a determination that the district court incorrectly ruled on any issue before it. The fraud on the court claims stand on their own as does the concealed evidence that proves the conflicts to in fact exist. According to Judge Padova, the Third Circuit has not made a definitive ruling as to whether or not a Hazel-Atlas claim of fraud on the court waives the AEDPA's gate keeping requirements. (See Padova Op. @

Appendice D, Pet. for Cert.). In other words, can a district court reach the merits of a fraud on the court claim under Hazel-Atlas absent regard to the AEDPA. The Tenth Circuit decided this issue in Spitznas and enforced that decision in In re Pickard, 681 F.3d 1213 (10th Cir. 2006) predicated upon this Court's holdings in Gonzalez. This precedent should be upheld here. In affirming the lower court's rulings, this Court has rendered meaningless its own holdings in Imbler v Pachtman, 424 U.S. 409, 421, 96 S. Ct. 984, 47 L. Ed. 2d 128 (1976) where this Court Ruled: "...a prosecutor will fare no better for his willful acts of depriving a citizen of Constitutional rights." Id. AUSA Ashenfelter and Pamela Foa, both of whom were counsel of record responding to 2019 motion, intentionally violated 18 U.S.C. § 1512(b)(3) and § 1512(c)(2) by inter alia failing to advise a judge of the United States in these proceedings of Pamela Foa and Seth Weber's felony deprivation of Petitioner's Constitutional rights, instead, continuing an obstruction of justice cover up. The Fourth Circuit has held:

> Section 1512(b)(3) prohibits "knowingly...corruptly persuad[ing] another person, or attempt[ing] to do so...with intent to...hinder, delay, or prevent the communication to a law enforcement officer or judge...of the United States of information relating to the commission or possible commission of a federal offense." As the Supreme Court has explained, by using the terms "knowingly" and "corruptly" together, that provision "limit[s] criminality to persuaders conscious of their wrongdoing." See Arthur Anderson, LLP, 544 U.S. at 706. cf United States v Farrell, 821 F.3d 116 (4th Cir. 2019).

Pamela Foa KNEW at all times relevant that she influenced the false testimony of Albert Mezzaroba as shown in these pleadings.

> Section 1512 (c)(2) makes it unlawful to "corruptly...obstruct[], influence[], or impede[] any official proceeding, or attempt[] to do so." To act "corruptly" means to act wrongly. citing Arthur Anderson supra., cf Farrell supra.; See also United States v Elind, 997 F.3d 166, 173 (same).

It is clearly proved by a preponderance of the evidence in these pleadings that Pamela Foa, "corruptly" influenced Petitioner's former counsel, Sidney Freidler and Albert Mezzaroba, to

participate in the criminal schemes exposed on this record. Freidler participated by failing to disclose Foa's faxed ("package") to his client, FORMER CLIENT/PETITIONER, OR THE COURT, and persuaded Mezzaroba to assist him in the extraction of Waldron's guilty plea knowing that both were acting on behalf of the government against the legal interests of their clients and former clients. In denying certiorari, this Court has Ruled against itself and affirmed that (1) prosecutors may suborn perjury in habeas proceedings to cover up fraud on a criminal court; (2) that prosecutors may deprive citizens of the most fundamental of Constitutional rights, i.e., the rights to due process and a conflict free lawyer in a criminal trial; and (3) then hide behind the AEDPA to prevent a fraud on the habeas court claim from being adjudicated on its merits. This is unconstitutional.

The Court of appeals recently published its opinion denying relief. (Citation below) Once again, not only are the substantive issues presented not addressed by the Court, but the factual predicate set forth in the Petition is misrepresented by the Court. It cannot be more clearly stated here that the substantive issues were and still are grounded upon an intentional fraud on the court being executed by prosecutors and defense counsel. The factual predicates are concealing of key evidence and suborning perjury during habeas proceedings thereby deceiving the habeas courts and depriving Petitioner of due process. Fraud on the court is defined at law and the facts submitted constitute fraud on the court as a matter of law; and the "concealed" evidence discovered in 1999 proves every allegation of fraud on the court as alleged. As well, the government's own evidence proves its deception of the criminal and habeas courts. The Third Circuit now misrepresents the coram nobis petition to state that there was an attorney conflict with respect to the guilty plea. (See Op. @ United States of America v Edward Zinner, 2021 U.S. App. LEXIS 12450, No. 20-2961, April 22, 2021)(Submitted on the government's

motion for summary affirmance...) Considering the facts before this Honorable Supreme Court, this "Ruling" is preposterous on its face and its plain text should shock the conscience of this Court. Clearly, fraud on the court has been proved by preponderance of the evidence as follows:

1. Defense counsel labored under two actual conflicts of interest and the government knew it PRE-INDICTMENT! The conflicts were unwaivable due to (1) both defense counsel were paid with funds the government deemed proceeds of a RICO offense and if either, Petitioner OR the co-defendant were convicted, counsel's fees were forfeitable to the government; (2) Both defense lawyers had represented Petitioner AND the co-defendant in this case and related civil matters over a period of years and thus could not represent Petitioner OR the co-defendant as pointed out in the government's CONCEALED motion to disqualify defense counsel for "unwaivable conflicts of interest;" and (3) the conflicts were NEVER disclosed to the Court or anyone nor was the concealed disqualification/plea agreement "package" disclosed at the Rule 11 hearing. This constitutes fraud on the court!

2. ALL COUNSEL were required as a matter of law to disclose the conflicts to the Court and certainly their clients, but NO COUNSEL disclosed the conflicts OR the government's motion to disqualify counsel for unwaivable conflicts of interest as required by law and the 6th Amendment. Instead, guilty pleas were extracted and accepted by the Court when everyone but the DEFENDANTS knew of unwaivable conflicts that prohibited either lawyer from representing Petitioner OR the co-defendant. This was an intentional deprivation of Petitioner and the co-defendant's Constitutional right to a conflict free lawyer in the criminal trial. A felony fraud on the court committed by the Court's officers!

3. The government AND defense counsel, covered up their fraud on the criminal court lying to the district court in habeas proceedings as set forth in habeas pleadings, suborning perjury of one another, concealing KEY EVIDENCE, (the disqualification/plea agreement "package") while falsely claiming that there were no conflicts and that Petitioner "just made it all up because he doesn't like his sentence." This was a denial of due process in the habeas proceedings and a denial of equal protection of the laws. Another felony fraud on the court by the Court's officers!

4. The government was clearly seeking forfeiture of the attorney's fees pre-indictment proved by their own affidavit upon which Judge Padova issued a pre-indictment restraining order freezing all assets of Petitioner and the co-defendant which according to the government, were subject to forfeiture under 18 U.S.C. § 1963 upon conviction of either client. The government ceased pursuit of $210,000 paid to counsel upon counsel extracting guilty

pleas from their clients both of whom were screaming innocence and could not discern why defense counsel was refusing to provide any defense, rather, insisting on guilty pleas. Considering the above, this demonstrates collusion with prosecutors as there was ample evidence to destroy the phony factual basis for the RICO violation. These failures of counsel were not mistakes; they were a well-orchestrated deprivation of civil rights.

5. The government, knew that counsel could not represent either defendant, yet attached a plea agreement to their motion to disqualify counsel which clearly proves their intent, i.e., to get the plea agreements signed and delivered prior to the Rule 11 hearing only 4 days away and that is what happened! The government then BURIED the disqualification/plea agreement "package" and hid the conflicts from the Court which constitutes fraud on the COURT as that term is defined at law. The government proceeded to conceal the "package" from the § 2255 court which is fraud on the habeas court; the government lied to the first Rule 60(b) court denying that any conflicts existed and defense counsel inter alia suborned that perjury; the government, when the "package was discovered in 1999, did not acknowledge OR answer the fraud allegations in its response to the 2nd Rule 60(b) motion OR the motion for new trial NOR did the COURT when denying relief; In 2019, the government and the district court engaged in a well-orchestrated scheme where NEITHER would address the "package" when responding or Ruling on a third Rule 60(d)(3) motion. Thus, the government NOR the district court have EVER addressed the substantive issues raised in ANY post-conviction pleading and steadfastly ignored the evidence which proves the FRAUD on the court allegations. The "package" demonstrates prima facie the intentional deprivation of Petitioner and the co-defendant's Constitutionally protected rights as stated in direct violation of 18 U.S.C. §§ 241, 242.

6. The Court of Appeals simply affirmed the district court's rulings which ARE VOID of any response to the substantive issues raised because the government AND the district court have hidden behind the AEDPA to avoid addressing the issues which are AGAIN set out clearly in this pleading.

Having once again, clearly set forth the facts, clearly articulating the substantive allegations at issue as well as submitting the government's "concealed package" that NO COURT has ever addressed in the context of (1) fraud on the habeas courts as alleged; (2) the deprivation of Petitioner's 6th Amendment right to a conflict free lawyer in a criminal trial; (3) that Petitioner had no shot at habeas relief due to fraud on habeas and Rule 60 courts including but not limiting to the continued conspiracy between all counsel to conceal the truth regarding

the attorney conflicts of interest raised during § 2255 and Rule 60(b) evidentiary hearings; and (4) that the conspiracy has continued unabated for over 20 years.

In denying certiorari, this Court has created an enormous enticement for federal prosecutors to violate 18 U.S.C. §§ 241, 242; to further ignore this Court's holdings in Imbler v Pachtman supra.; to freely obliterate the Constitution and deny any person's 6th Amendment right to a conflict free lawyer in a criminal trial; and to corrupt the courts, suborning perjury with impunity because there is in fact, no available remedy at law or equity for any citizen who becomes a target of a morally bankrupt federal attorney or IRS agent, as they now can point to this case, and KNOW, that they will NEVER face judicial scrutiny for their intentional criminal acts even when depriving a citizen of civil rights. This is simply unconscionable and wrong legally, ethically, and morally. It is therefore incumbent upon this Honorable Court to enforce the laws including its own holdings in Gonzalez and Imbler supra., as well as every other authority cited in the Petition for writ of certiorari including the Constitution. It is further a prerequisite that every justice appointed to the federal bench is sworn-to-and-MUST, protect and defend the Constitution. How can the intentional deprivation of Constitutional rights be AFFIRMED by ANY legitimate Court. And, how can any fact finder and ultimate authority legally refuse to protect, defend OR UPHOLD the Constitution and/or the Rule of Law handed down by this Supreme Court? If that is not a matter of public concern, even more so than the patent issue this Court addressed in Hazel-Atlas, supra., then what is? With respect to private parties and national concern, this Court's holding in Hazel-Atlas supra is applicable here:

> "This matter does not concern only private matters. There are issues of great moment to the public in a patent suit. Mercoid Corp. v Mid-Continent Invest. Co. decided January 3, 1944 [320 US 661, ante, 376, 64 S. Ct. 268]; Morton Salt Co. v G. S. Suppiger Co. 314 US 488, 86 L ed 363, 62 S. Ct. 402. Furthermore, tampering with the administration of justice in a manner indisputably shown here involves far more than injury to a single litigant. It is a

> wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot complacently be tolerated consistently with the good order of society. Surely it cannot be said that preservation of integrity of the judicial process must always wait upon the diligence of litigants. The public welfare demands that the agencies of public justice be not so impotent that they must always be mute and helpless victims of deception and fraud." Id.

This writer cannot find more appropriate words to state what this Court has already stated. If the federal courts and its litigants MUST succumb to criminal fraud by its officers, then there can be no justice for anyone, and this Court is the Supreme authority that has the power to ensure that this type of fraud NOT GO UNMITIGATED and certainly not unpunished or undeterred. Absent this Court's intervention, Petitioner and others will suffer indefinitely from fraud upon federal courts while the integrity of the entire judicial process will continue to be abused and bastardized into a weapon available to any corrupt public servant seeking to destroy the lives of the innocent for selfish gain, AS HERE! This is NOT America, nor does it define justice! It defines tyranny and outright corruption of the system itself. Petitioner implores this Court to act and Grant Certiorari to protect and preserve the Constitution, the integrity of the judicial system and the federal institutions upon which the public relies to find justice.

So, what is the state of law with respect to what to do about the fraud? This Court addressed this in Hazel-Atlas supra as follows:

> "From the beginning there has existed alongside the term rule a rule of equity to the effect that under certain circumstances, one of which is after-discovered fraud, relief will <*pg.1255> be granted against judgments regardless of the term of their entry. Marine Ins. Co. v Hodgson, 7 Cranch (US) 332, 3 L ed 362; Marshall v Holmes, 141 US 589, 35 L ed 870, 12 S. Ct. 62. This equity rule, which was firmly established in English practice long before the foundation of our Republic, the courts have developed and fashioned to fulfill a universally recognized need for correcting injustices which, in certain instances, are deemed sufficiently gross to demand a departure from the rigid adherence to the term rule. Out of deference to the deep-rooted policy in favor of the repose of judgments entered during past terms, courts of equity have been cautious in exercising their power over such judgments. United States v Throckmorton, 98 US 61, 25 L ed 93. But where the occasion has demanded, where enforcement of the judgment is "manifestly

unconscionable, "Pickford v Talbott, 225 US 651, 56 L ed 1240, 1246, 32 S. Ct. 687, they have wielded the power without hesitation. Id.

The following simple questions and the answers to those questions which are present on this record, should end the need for further inquiry and cause this Court to evoke its supervisory power recognized above and resolve this matter in the interests of justice:

1. Is a criminal defendant entitled to a conflict free lawyer as a matter of Constitutional right? The answer is an unequivocal YES. Per the 6th Amendment to the Constitution.

2. Were attorney client conflicts known to exist between Petitioner and both, his counsel and former counsel that prohibited either counsel from representing Petitioner OR co-defendant Mark Waldron in the criminal matter? The answer is an unequivocal YES. Both counsel represented both defendants jointly then each switched sides and represented each client with adverse interests concealing the conflicts from their clients, former clients, and the district court.

3. Did the government know of any conflicts? The answer is an unequivocal YES, the government admittedly discovered the conflicts during two hearings held before Judge Padova and as a result, prosecutors sent to defense counsel, a motion to disqualify counsel for unwaivable conflicts of interest along with a plea agreement for the co-defendant that the government's motion makes clear counsel could not represent. Further, both counsel had the same conflicts for the same reasons as stated herein, thus the government knew at all times relevant that neither lawyer could represent neither client, proven by the Disqualification Motion and Memorandum of Law attached to it sent to counsel as a "package."

4. Were the conflicts disclosed to the defendants OR the district court as required by law and the 6th Amendment? The answer is an unequivocal NO. The conflicts and the government's disqualification/plea agreement "package" were concealed from the defendants AND the district court until discovered to exist in 1999 post conclusion of the case. This is proved by the record which is void of any discussion in open court regarding attorney conflicts as required by law and the 6th Amendment. Further, the package was filed with a second Rule 60 in 1999, ignored by the government and the court.

4. Did prosecutors and defense counsel execute a fraud on the district court as that term is defined at law? The answer is an unequivocal YES. As shown clearly above, there was no disclosure of any conflicts of interest to the district court as required per Rule 44(c) Fed. Rules Crim. Proc., nor was there any

inquiry by the district court into the conflicts as required by law and the Constitution. There was no disclosure when responding to the § 2255 or Rule 60 courts. There was, however, false denials that any conflicts existed and perjury claiming Petitioner "just made it all up."

6. Was the Court potentially aware of any conflicts? The answer is an unequivocal YES. The court knew of the conflicts because it issued a pre-indictment restraining order freezing all assets of Petitioner and co-defendant Waldron based in part, upon prosecutors alleging that funds were stolen from the named RICO enterprise in the forthcoming indictment to pay for the defense of Petitioner and co-defendant Waldron and that a restraining order was necessary to "preserve" all assets for forfeiture upon conviction or EITHER, Petitioner OR co-defendant Waldron.

7. Were the defendants required to testify against each other pursuant to their plea agreements? The answer is an unequivocal YES; AND, Waldron testified against Petitioner at his sentencing while represented by Petitioner's former counsel in the same case while Waldron's former counsel protected Waldron while pretending to represent Petitioner, refusing to defend him and taking actions contrary to Petitioner's legal and financial interests.

8. Did the government and/or defense counsel suborn perjury of one another during post-conviction true Rule 60(b) proceedings? The answer is an unequivocal YES. As stated, and proved by testimony of record, all counsel denied that conflict of interest existed and suborned perjury of one another as to that issue while concealing the clear and unequivocal proof that they all knew of the conflicts and that the conflicts were unwaivable, thereby deceiving the Court all of which constitutes a fraud on the court as that term is defined at law.

This record contains irrefutable proof that every one of the above questions can only be answered as shown above. The evidence is attached to the Petition for writ of certiorari and the testimony of record demonstrates every relevant fact posed in the questions to which there can be no other answer absent one that is untrue. It is therefore clear that the judgments at issue were the product of a horrific fraud on the court and as a matter of law, the judgment cannot stand. But only justices can enforce the law, thus Petitioner respectfully asks each justice to do justice in this matter which is long overdue; and, to bring to justice those responsible for this atrocity.

In Conclusion, Petitioner first borrows from this Court's holding in Hazel-Atlas. The Court iterated that "...had the corruption been disclosed at the trial...the court undoubtedly would have been warranted in...dismissal of the cause of action..." Id. In this case, had the government OR defense counsel disclosed the attorney conflicts known to exist pre-indictment, to the district court in open court with the defendants present, the court undoubtedly would have disqualified both counsel for the same reasons and Petitioner would have gone to trial with conflict free counsel. Had the government OR the defense lawyers acted lawfully and within Constitutional limitations as they MUST, then there would have been disclosure not only of the conflicts, but the government's Disqualification/Plea Agreement "package" in open court upon which, the court would undoubtedly have ended the Rule 11 hearing and demanded answers from all counsel as to what was really transpiring and certainly would have advised the defendants of their Constitutional right to conflict free counsel and that such a "package" cannot exist at law. Of course, none of that happened, but had the government OR defense counsel, admitted to the § 2255 or Rule 60 courts that the allegations of attorney conflicts were in fact true and not suborned perjury of one another to cover up their fraud on the criminal court and disclosed the concealed evidence that proves the conflicts, the court would undoubtedly have acted to protect Petitioner's due process rights finding all counsel in contempt of Court and declaring a mistrial thereby shutting down the prosecutor's criminal scheme. Of course, that did not happen, otherwise the atrocities that followed now before this Court would not exist. Last but not least, The Tenth Circuit describes the issue of prosecutors concealing evidence post trial that would have had significant effect on the § 2255 proceedings as follows which too applies here:

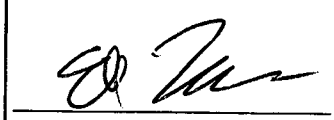
> "In Douglas v Workman, 560 F.3d 1156, 1192 (10th Cir. 2009), we addressed "the prosecutor's conduct in this case in taking affirmative action, after [the

> defendant's] trial, to conceal the tacit agreement the prosecutor had made in exchange for Smith's testimony that prevented [the defendant] from discovering the Brady claim in time to assert that claim originally in his first habeas petition." Expressing a proposition {2012 U.S. App. LEXIS 16}similar to that animating our present decision, we wrote: "[T]o treat [the defendant's] Brady claim as a second or successive request for habeas relief, subject to the almost insurmountable obstacles erected by 28 U.S.C. § 2244(b)(2)(B), would be to allow the government to profit from its own egregious conduct." Id. at 1192-93. cf In re Pickard, 661 F.3d 1201, 1215-16 (10th Cir. 2012).

Here, the government concealed the tacit agreement its prosecutors made with both defense counsel from the court thereby profiting for more than two decades from their own criminal conduct.

For all the reasons in the foregoing Petition and those before the Court in relevant pleadings, Petitioner prays that this Honorable Court REVERSE its ORDER of October 18, 2021, and GRANT a writ of certiorari.

Respectfully submitted,



Edward Zinner, pro se
Reg# 48591-066
FPC Loretto
PO BOX 1000
Cresson, PA 16630