No. 21- 6483

IN THE



# Supreme Court of the United States

October Term 2021

IN RE: Robert A. McNeil

*Petitioner,*

On Petition for a Writ of Certiorari
to the D.C. Circuit Court of Appeals
to REMOVE 21-5161 Pursuant to
Supreme Court Rule 11

## PETITION FOR A WRIT OF CERTIORARI

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October 30, 2021

## TWO QUESTIONS PRESENTED FOR REVIEW

**Question 1:**

Do courts of appeal nationwide exhibit a pattern and practice of refusing to adjudicate EVERY issue presented by the Class of disrespected, unrepresented litigants filing appeals arising from the underlying institutionalized IRS record falsification program, and from the open support thereof by involved U.S. district judges?

**Question 2:**

In the context of a passport revocation, did Judge Bates err by denying opportunity to challenge via 26 U.S.C. §7345 whether a.) an "assessment" had been prepared by IRS, and whether b.) the alleged "certification" from IRS to State Department of a seriously delinquent tax debt was accurate?

## PARTIES TO THE PROCEEDING

Robert A. McNeil

*Petitioner In Propria Persona*

The Internal Revenue Service
&
The United States Court of Appeals for the
District of Columbia Circuit

*Respondent*

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## JURISDICTION

Under Supreme Court Rule 10(a), when "a United States court of appeals has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such departure by a lower court", it would "call for an exercise of this Court's supervisory power". Hence, when a petition such as this relates extensive, explicit allegations of misconduct occurring in the Circuits below, the Supreme Court can invoke its supervisory jurisdiction.

**Question 1** concerns the pattern and practice of courts of appeal dismissing appeals filed by disfavored unrepresented litigants without addressing any issue raised. Hence, since a.) the shocking practice began in the D.C. Circuit Court of Appeals under the leadership of then-Chief Judge Merrick Garland with direct involvement of current-Chief Judge Srinivasan, and since b.) there is zero chance any issue Petitioner has raised in that Court in will be adjudicated (including currently pending D.C. Circuit appeal 21-5161), the apparent open assault on the Evarts/Judiciary Act by the judiciary is of such imperative public importance as to justify deviation from normal appellate practice requiring immediate determination in this Court, pursuant to Rule 11.

## STATEMENT OF THE CASE

As the penultimate goal, Petitioner seeks to terminate the pattern and practice of courts of appeal nationwide refusing to adjudicate in any manner, (let alone meaningfully), every issue raised on appeal by the Class of disrespected, unrepresented litigants complaining of the underlying IRS record falsification program, and of

the open support thereof by involved district court judges.[1]

For one recent example of that pattern and practice, in consolidated appeals in the United States Court of Appeals for the District of Columbia Circuit Court of Appeals, 20-5033 and 20-5034, *Ellis & McNeil v. Jackson, Cooper, Srinivasan, et al.*, the D.C. Circuit refused once again to adjudicate EVERY issue Petitioners Ellis and McNeil[2] raised. There are many other examples of that pattern; several are mentioned below.

The practice by courts of appeal nationwide is, furthermore, destroying access *to this Court* by victims of the institutionalized IRS record falsification scheme. Since the COAs resolve nothing, they viciously leave "nothing to appeal". Resolution of **Question 1.** is thus of obvious "imperative public importance" justifying "deviation from normal appellate practice".

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[1] Many others are bypassing the Circuit misconduct. For examples, please see (1.) the recently filed Petition of Mr. Greg. A. Darst, filed on September 20, 2021 [Docket #21-5785] originating from his filing of a *Coram Nobis* Motion in the Middle District of Florida, (13-cr-181 and 21-cv-1292), and arising through the Eleventh Circuit (21-12485), and see (2.) the newly filed Petition of Mr. Ebenezer Howe, originating in an ongoing forfeiture in the U.S. Dist. Court (2:19-cv-421) and arising through the Ninth Circuit, (21-35682), and see (3.) Petitioners' recently filed request for writ originating from D.C.D.C. (18-mc-00011) arising through the U.S. Circuit Court of Appeals for the D.C. Circuit, (21-5132).

[2] I am one of the Petitioners in that appeal to this Court. It has just been assigned case number 21-601.

Restated, the U.S. Circuit COA for the District of Columbia Circuit is "open for business" and accepts filing fees, issues briefing schedules, etc. But disrespected unrepresented litigants alleging in their Briefs on appeal explicit, non-conclusory, well-pled allegations of fraud involving officers of the Court at the district level, have no access to "adequate, effective, ***meaningful***" appellate relief.

Hence, this Court is the ONLY forum that can adjudicate the antinomian pattern and practice of courts of appeal nationwide, pursuant to S.C. Rules 10(a) and 11.

In Re: Question 2

Ultimately, Petitioner seeks return of his passport, and has challenged its revocation pursuant to 26 U.S.C. §7345. This is a two part issue: Did Judge Bates err by denying opportunity to adjudicate whether a.) IRS prepared any "assessment" concerning Petitioner, and whether b.) the cursory "certification" by IRS to State Department can justify revocation, due to the many obvious errors of IRS involving the "certification."

## Introduction

As sketched in **Backstory**, Pg. 5 below, IRS' institutionalized record falsification program is an ongoing assault on the due process rights of those Americans who have noted and rely on multiple public

statements by various IRS Commissioners that "The income tax is voluntary".[3]

Sadly, during litigation to enjoin the institutionalized falsification of federal (IRS) records, the due process rights of disrespected, unrepresented Class litigants have again been eviscerated, this time by involved U.S. district court judges.

To add insult, after the filing of numerous fully-paid appeals seeking meaningful appellate relief from the underlying IRS record falsification program and from the open support thereof by involved district judges, a conscience-shocking pattern and practice has now emerged:

> **No issue raised in ANY appeal by the litigants has been adjudicated.**

That is, beginning in 2015 under the leadership of Mr. Merrick Garland, then Chief Judge of the U.S. Circuit Court of Appeals for District of Columbia, courts of appeal started issuing denials of appellate relief in Class cases while refusing to adjudicate EVERY issue raised. The "orders" of denial appear to use the wrong standard of review, (clear error rather than *de novo*) were issued over the names of circuit judges who

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[3] Here are just two of many examples: "We don't want to lose voluntary compliance... We don't want to lose this gem of voluntary compliance." Fred Goldberg, IRS Commissioner, *Money* magazine, April, 1990. Goldberg confirmed the 1953 SWORN testimony of Dwight E. Avis, head of the Alcohol and Tobacco Tax Division of the Bureau of the Internal Revenue before the House Ways and Means Committee of the Eighty-Third Congress: "Let me point this out now: Your income tax is 100 percent voluntary tax, and your liquor tax is 100 percent enforced tax. Now, the situation is as different as night and day."

LIKELY had no involvement in the appeals, and gave litigants ZERO idea of the basis for denying relief.

Of course, judges such as Merrick Garland KNOW there is statistically a ZERO chance their unrepresented victims can access this Court to remedy such misconduct.

Appellants further contend that the pattern of issuing appellate orders, that adjudicate no issue raised on appeal, is a tacit admission the involved lawyers cannot refute their victims' arguments, so they resort to boldly defrauding their courts and unrepresented victims.

## Current Pending Litigation

Cases involving fraud on the Court, BY THE COURT, have never been adjudicated, hence this is a case of first impression and national significance. As noted above, confirming the existence of the pattern and practice Petitioner presents, and terminating it is effectively within the supervisory power of this Court via Supreme Court Rule 10(a).

## Backstory: IRS' Record Falsification Program

The following FIVE facts are incontrovertible and confirmed in multiple sworn Declarations Petitioner has filed in support of various cases, in my area of expertise as a career forensic accountant. The Declarations are incorporated fully by reference herein as support for this Petition.[4]

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[4] Please see the invariable record falsification of IRS records shown in the Declarations of Petitioner/Forensic Accountant Robert A. McNeil concerning three American victims of the IRS program, 1.) U.S.D.C. Idaho, *U.S. v. Howe* 19-421, Doc. 61-1, 2.) U.S.D.C. for the Eastern District of California, *U.S. v. Ford*, 17-

a. Multiple IRS Leaders/Commissioners have conceded that the income tax is "voluntary". [See Footnote 3 for two of many examples.]

b. IRS has repeatedly conceded that the core statute supposedly authorizing preparation of substitute tax returns, 26 U.S.C. §6020(b), does NOT apply to income tax.[5]

c. IRS' core software ("IMF") is built to precisely support those twin concessions in a. and b. above, i.e., IRS' published procedural manuals reveal that the IMF software will reject attempts to enter alleged "deficiency" amounts supposedly owed by a "non-filer" unless the IMF software for that given year has been previously falsified to reflect IRS' pretended receipt of a return from the targeted victim/"non-filer".[6]

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00187, Doc. 71, Exh. G, 3.) *U.S. v. Darst*, 13-cr-181 (Doc. 125-1) or 21-cv-1292, (Doc. 2-1). The systematic IRS record falsification program never varies, hence is institutionalized.

[5] The authority to perform substitutes for return is discussed in the Internal Revenue Manual §5.1.11.6.7, which shows that such authority is limited to matters involving "**employment, excise and partnership taxes**", and does not include the income tax. [Link here: http://www.irs.gov/irm/part5/irm_05-01-011r-cont01.html, scroll down to 5.1.11.6.7 "IRC 6020(b) Authority".] The Privacy Impact Assessment IRS issues concerning 6020(b) precisely confirms that limitation. [Link here: http://www.irs.gov/pub/irs-pia/auto_6020b-pia.pdf] In the Revenue Officer's Training Manual, (Unit 1, Page 23-2) the Commissioner concedes: "The IRM restricts the broad delegation shown in figure 23-2 (6020(b))... to employment, excise and partnership tax returns ***because of constitutional issues***". Emphasis added.

[6] See, for example, Petitioner's sworn Decl. in *U.S. v. Howe*, District of Idaho 2:19-cv-421-CWD, Doc. 61-1, presenting IRS'

d. To justify attacking Americans IRS labels "non-filers" via non-judicial liens/levies or via criminal prosecutions and civil litigation, IRS INVARIABLY and repeatedly falsifies its core, controlling annual digital records (known as the Individual Master File) concerning victims for each targeted year to falsely reflect

   1. IRS' receipt from "non-filers" of ***1040A*** returns supposedly filed for each year on claimed dates, and to falsely reflect

   2. The preparation by IRS of substitute tax returns ("assessments") for all targeted years on yet other claimed dates despite the fact no substitute income tax returns are ever signed/prepared by IRS concerning victims on any date, let alone those shown in IRS' falsified digital records concerning "non-filers", and paper "certifications"/"transcripts" derived therefrom.

The existence of the invariable sequence of actions committed to falsify the annual records of IRS' controlling software concerning those IRS labels "non-filers," [7] provides irrefutable evidence supporting the Commissioners' multiple public

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published manuals detailing precisely how IRS employees bypass the security protections written into IRS' all-controlling Individual Master File software.

[7] Petitioner filed a sworn Declaration in U.S. v. Howe, 2:19-cv-421 as Doc. 61-1 as proof of the falsification of IRS records concerning Mr. Howe is not an isolated incident. In every case involving targeted "non-filers", it is IRS' invariable, institutionalized mode of attack.

claims the income tax is voluntary,[8] since Congress could never impose a duty upon Americans requiring a Government agency to enforce by committing crime (falsifying federal records).[9]

Hence, as a necessary corollary to those facts, so-called "non-filers" owe nothing to the Treasury absent the unclean hands of government employees and officers.

## ARGUMENT

### Question 1.

**Do courts of appeal exhibit a pattern and practice of refusing to adjudicate EVERY issue presented by the Class of disrespected, unrepresented litigants filing appeals arising from the underlying institutionalized IRS record falsification program, and from the open support thereof by involved U.S. district judges?**

Notice Requested

Petitioner respectfully requests Justices of this Court judicially notice, pursuant to FRE 210, the following public record facts, all confirmed by resort to records easily accessible to the Justices.

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[8] It is not Plaintiffs who claim the income tax is voluntary. It is the top administrators of the Internal Revenue Service. [See Footnote 3 above, for two examples.]

[9] In *Olmstead v. United States*, 277 U.S. 438, in Justice Brandeis' incomparable dissent, he explained: "When these unlawful acts were committed, they were crimes only of the officers individually. The Government was innocent, in legal contemplation, for *no federal official is authorized to commit a crime on its behalf*".

A. Notice Orders Dismissing FOURTEEN Appeals without adjudicating ANY issue raised

Petitioner requests the Justices notice orders dismissing FOURTEEN consecutive fully paid appeals by victims of the underlying IRS record falsification program, and of the open support thereof by involved district judges. Notice is also requested of the fact that not one issue raised in any of the appeals was adjudicated. No one can tell from the orders even what issues were raised on appeal, thus deliberately depriving victims of "meaningful" access to appellate relief. These FOURTEEN orders are incorporated fully herein by reference:

- USCA, D.C. Circ. 15-5035 *Ellis v. Comm'r*
- USCA, D.C. Circ. 16-5233 *McNeil v. Comm'r*,
- USCA, D.C. Circ. 16-5308 *DePolo v. Ciraolo*
- USCA, D.C. Circ. 17-5054 *Crumpacker v. Ciraolo*,
- USCA, D.C. Circ. 17-5055 *McGarvin v. McMonagle*
- USCA, D.C. Circ. 17-5056 *Podgorny v. Ciraolo*,
- USCA, D.C. Circ. 17-5057 *DeOrio v. Ciraolo*
- USCA, D.C. Circ. 17-5058 *Dwaileebe v. Martineau*
- USCA, 9th Circuit 18-17217 *Ford v. USA*
- USCA, 8th Circuit 19-2985 *Kurz v. USA*
- USCA, 9th Circuit 21-35125 *Howe v. USA.*
- USCA, 9th Circuit 21-70662 *Howe v. The Hon. David C. Nye.*[10]
- USCA, D.C. Circuit 20-5033 & 5034, *Ellis & McNeil v. Jackson, et al.*

[10] It is impossible to discern from the "orders" what issues were raised in the appeals, since none were mentioned, let alone adjudicated.

B. Notice Proceedings in U.S. v. Ford, 17-00187

Petitioner requests the Justices notice that, during discovery in the forfeiture case *U.S. v. Ford*, 17-00187, unrepresented [11] Defendant Melba Ford secured from the IRS incontrovertible evidence proving that no assessment was prepared/signed by a duly authorized representative of the Secretary on any date concerning her and the year in question, (2003).

Instead, the IRS produced irrefutable evidence in discovery that IRS' Sun Microsystem computer automatically created every relevant document concerning her alleged liability, none of which were signed by a duly authorized delegate of the Secretary of the Treasury. [See Ford sworn Brief on Appeal, 18-17217, Dkt. Entry 17, pg. 24]

Moreover, the IRS provided evidence proving that no substitute income tax return was prepared on any date shown in the IRS' falsified digital and paper documents concerning Ms. Ford.

The Justices are also requested to notice that in *Ford*, The Hon. District Judge Dale Drozd entered into the record his finding that "a duly authorized delegate of the Secretary" "prepared an assessment" concerning Ford and 2003 on "Feb. 26th, 2007" (See Drozd holding, 17-00187, Doc. 70, Order Granting Summary Judgment, Pg. 5, line 9, et seq.), when no evidence supported his finding, [See Record, All], and despite overwhelming evidence provided by the IRS in discovery that controverted his "finding"/ fabrication.

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[11] Her motions for appointment of counsel were viciously denied, and without even pretended explanation by the Circuit.

C. Notice Proceedings in Ninth Circuit Appeal, *Ford v. U.S.*, 18-17217

As requested above, Petitioner also requests the Justices notice Ms. Ford's appeal to the Ninth Circuit, (18-17217), which was denied while ignoring EVERY issue she raised, i.e., the Panel ignored the extensive, incontrovertible evidence supplied by the IRS and presented by Ms. Ford proving the Service's Sun Microsystems computer auto-generated all documents supporting the Government's case.

D. Notice the outcome of recent Ninth Circuit appeals by Mr. Ebenezer Howe (21-35125 and 21-70662)

Petitioner requests the Justices notice that the Ninth Circuit denied two appeals filed by Mr. Howe, (listed above on Pg. 9), while offering incoherent, un-intelligible explanations, in what appear to be deliberate violations of his due process right to meaningful access to courts.

E. Notice the pattern and practice was initiated under the leadership of then-D.C.COA Chief Judge Merrick Garland.

The Justices are requested to notice that the first Class appeal dismissed without addressing ANY issue raised, occurred in 2015 in the United States Circuit Court of Appeals for the District of Columbia Circuit, which was at that time under the leadership of Mr. Merrick Garland, then Chief Judge.

Current-Chief Judge Srinivasan either himself wrote, or directed the Clerk to produce the denial of relief in 15-5035, *Ellis v. Commissioner*. Mr. Srinivasan is supposedly a tax expert. But he apparently used the

wrong standard of review, refused to adjudicate EVERY issue raised on appeal, and issued the "order" over the names of Circuit judges who likely had NOTHING to do with it.[12] Mr. Srinivasan appears to be deeply, personally involved in the pattern and practice of defrauding his Court and the Class of disrespected, unrepresented litigants victimized first by the IRS record falsification program, then by involved district judges.

F. Notice requested of "orders" dismissing D.C. COA cases 20-5033, 5034 without addressing any issue raised.

The Justices are requested to notice the reprehensible pattern of refusing to adjudicate EVERY issued raised on appeal occurred once again in the recent dismissal orders in consolidated D.C. COA causes 20-5033 and 20-5034, *Ellis & McNeil v. Jackson, Cooper, Srinivasan, et al.*

## Question 1 Summary

It cannot be denied; the public record evidence is irrefutable. In FOURTEEN consecutive appeals, courts of appeal nationwide have refused to adjudicate EVERY issue raised on appeal by the Class of disrespected, unrepresented litigants suffering from the underlying IRS record falsification

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[12] In denying appellate relief in 15-5035, Mr. Srinivasan claimed The Hon. Janice Rogers Brown was a panel member. Ms. Brown, an outstanding jurist and excellent author, excoriated IRS misconduct in other appeals, [See In Re: Long-Distance Telephone Service Federal Excise Tax Refund Litigation, USCA 12-5380(2014). It is VERY likely she had NOTHING to do with the "order" issued over her name, since it used the wrong standard of review. She retired shortly thereafter.

program, and from the open support thereof by involved district court judges.

Moreover, since that pattern does not occur in cases involving represented litigants, the practice demonstrates a vicious class-based animus and assault on the rights of unrepresented Americans.

**Question 2.**

**In the context of passport revocation, did Judge Bates err by denying opportunity to challenge via 26 U.S.C. §7345 whether a.) an "assessment" had been prepared by IRS, and whether b.) the alleged "certification" from IRS to State Department of a seriously delinquent tax debt was accurate?**

This is a two part question

A. Challenge to existence of an assessment

First, Petitioner contends that Judge Bates erred by denying him an opportunity to challenge via §7345 whether an "assessment" had been prepared by IRS.

§7345 states that Congress intended for courts to scrutinize only a narrow set of grounds on which a certification might be erroneous: a "seriously delinquent tax debt" of "$50,000" that has been "assessed" as "an unpaid, legally enforceable Federal tax liability of an individual."

"Taxes shown due on returns, deficiencies, delinquent taxes, penalties and interest," and additions to taxes

are recorded as "assessments"[13] as are substitute returns and summary records of assessment.

Although entry of the liability of the taxpayer in the office of the Secretary or his delegate is part of the "assessment" process, (per Internal Revenue Manual, §6203), Treasury Regulation §301.6203-1 further governs the process:

> "The District Director shall appoint one or more assessment officers and the assessment shall be made by an assessment officer signing the summary record of assessment.... The date of the assessment is the date the summary record is signed by an assessment officer."

As noted above, and as Petitioner has repeatedly confirmed by analysis of innumerable IRS documents concerning those IRS labels "non-filers", IRS falsifies its underlying controlling Individual Master File digital records concerning victims to create the appearance assessments exist and are signed, when no duly authorized assessment officer signs substitute income tax returns, summary records of assessment, additions to taxes, additions to tax, etc., concerning "non-filer"/victims. IRS paper certifications, account transcripts, etc. are then falsified to conceal the digital fraud in IRS' underlying records.

As noted, §7345 clearly authorizes challenges to determine whether "assessments" actually exist. However, Judge Bates apparently disagrees.

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[13] See Brafman v. United States, 384 F.2d 863 (5th Cir. 1967), footnote 4.

Although at first he correctly held

> *"...the limited scope of relief available under § 7345 indicates that Congress intended for courts to scrutinize only a narrow set of grounds on which a certification might be erroneous. Section 7345 defines "seriously delinquent tax debt" as "an unpaid, legally enforceable Federal tax liability of an individual" that has been "assessed," is "greater than $50,000" and is subject to a notice of lien or a levy. 26 U.S.C. § 7345(b)(1),*

then Judge Bates flies off track:

> *The provision's focus on these characteristics—nonpayment, enforceability, assessment, an amount over $50,000, and the appropriate lien or levy—suggests that they are the proper focus of the Court's determination under § 7345(e). McNeil has not raised arguments that go to any of these, but has instead argued that the IRS's procedures for calculating his underlying debt are unlawful."* [See 20-cv-329, Doc. 34, Mem. Op., Pg. 11, 1st Partial ¶, 6th line]

By thus mischaracterizing my case as a supposed effort to question IRS' calculations of an underlying debt, he has improperly blocked my drive to have a determination made whether an "assessment" exists that is signed by a duly authorized delegate of the Secretary on the date of the alleged assessment. Such inquiry is unquestionably authorized by §7345, *contra* Judge Bates.

B. Errors in IRS Certification etc.

Second, due to the multiple errors IRS committed involving Petitioner and the so-called "certification" of an alleged debt owed, I contend that Judge Bates

erred by blocking my effort to have him adjudicate the accuracy of said "certification" from IRS to the State Department.

Obviously, if the "certification" is questionable, so, too, is the revocation of Petitioner's passport. He presented two aberrations which fully justify judicial inspection in the process of certification.

Petitioner showed that the IRS sent a copy of the alleged "certification", as required by §7345, to an address he had never heard of, in a state in which he had never lived (Arizona). But that is not the only aberration.

Petitioner further showed that, weekly, the IRS emails to the State Department, via secure link, the "certification" of a list containing approximately 20,576 names of Americans with "seriously delinquent federal tax debt". Internal IRS emails, obtained via FOIA revealed an inspection of that list by the approving IRS Acting Deputy Commissioner, Small Business Self Employed lasting no more than 90 minutes. No human can certify the accuracy of a list concerning such an enormous number of lives and records, in 90 minutes.

Petitioner contends Judge Bates erred by refusing to allow a challenge to the accuracy of the IRS certification to the State Department.

## THREE Reasons for Granting Petition

**These three reasons justify granting this Petition:**

**1. The pattern and practice of involved COA judges violates the Evarts/Judiciary Acts and**

**the rights of litigants to meaningful access to courts.**

**2. The practice is producing utter chaos in district courts.**

**3. 26 U.S.C. §7345 authorizes challenges to "assessments", and the manifest "errors" of IRS justify challenges to certifications concerning revocation of passports.**

Petitioner addresses each reason in the order shown.

Reason 1. The pattern and practice of involved COA judges violates the Evarts/Judiciary Acts and the rights of litigants to meaningful access to courts.

The independence and impartiality of the judiciary is under open assault. In 1891, Congress enacted the Evarts Act, establishing courts of appeal to ensure litigants received justice, if they feel aggrieved by actions of district judges. Even today, the courts of appeal proclaim their existence ensures the independence and impartiality of the judiciary.[14] A stated goal of the creation of appellate courts was to make the judiciary self-policing. It has failed.

The pattern and practice of courts of appeal nationwide, as proven by review of the orders incorporated herein and cited above, matches the antinomian practice established in 2015 by the U.S. Court of Appeals for the D.C. Circuit under the aegis

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[14] See website of U.S. Courts, Courts of Appeal: https://www.uscourts.gov/educational-resources/educational-activities/us-courts-appeals-and-their-impact-your-life#:~:text=The%20appeals%20process%20

of Mr. Merrick Garland, with the direct involvement of now-Chief Judge "Sri" Srinivasan.[15]

Certain involved judges appointed to appellate benches are destroying the reason appellate courts exist.

Further, they are eviscerating the due process rights of the Class of unrepresented victims complaining of the underlying IRS record falsification program, and of the open support thereof by involved district judges. Importantly, such pattern and practice does NOT occur in cases involving represented litigants. Hence, the scheme by involved Circuit judges such as Mr. Merrick Garland and Mr. Padmanabhan Srinivasan is an invidious, class-based assault on the due process rights of unrepresented Americans who can't afford counsel at today's exorbitant rates.

Reason 2. Pattern and Practice of COAs is causing Unimaginable Chaos in District Courts.

The pattern and practice is empowering district judges to violate the due process rights of litigants in previously unthinkable manners. Because district judges know unrepresented litigants have no access to meaningful appellate relief, the judges are writing and speaking gibberish, [16] fabricating facts, [17] and

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[15] As noted above, Mr. Srinivasan denied appellate relief in 15-5035 by issuing an 'order' using the wrong standard of review, which addressed no issue raised on appeal, and which listed as signatories two Judges who likely had nothing to do with his 'order' (such as the talented Hon. Janice Rogers Brown, she of exquisite integrity and unexcelled writing skill!).

[16] Three examples suffice to prove the point. In a Ninth Circuit case, the Hon. Judge Brennan held: "Lastly, respondent argument that purported falsified his tax records is unavailing."

[See *U.S. v. Torrance*, 18-1631, Doc. 54, pg. 2, 2nd ¶, errors in orig.]

For a second example, during a hearing on October 8, 2020 in *U.S. v. Torrance* [Case 18-1631], a shocked, tongue-tied Magistrate (Peterson) blurted:

> "The issue you are – your points are about the answer to the question. Whether they are – the IRS is indeed correct that you owe money. Whether they are indeed correct whether they have – the specific amounts at issue, and I don't know if any of those are – are correct. You know, who knows? I don't know. That information certainly isn't before me. You are alleging a large conspiracy falsification issue." [See Hearing Transcript, Doc. 69, Pg. 22, Line 13, et seq.]

For a third example, please see Eighth Circuit case Kurz v. U.S., 19-310. In dismissing Mr. John Kurz' case wherein he alleged IRS' institutionalized falsification of records damaged him, the late Hon. District Judge Shaw fabricated: "Mr. Kurz's Rule 60 motion alleges that the government ... perpetrated a fraud upon the Court by reducing Mr. Kurz to a 'standard tax-defier'." [19-310, Doc. 61, Pg. 4, 2nd Full ¶, 1st sent.] Kurz filed no such gibberish. In income tax cases against unrepresented litigants district judges are becoming aware their victims have only physical access to appellate courts, but NOT to adequate, effective, MEANINGFUL appellate relief.

[17] Three examples prove the point. First, the Honorable Judges Jackson and Cooper fabricated a false version of relief sought by Class victims, to bring their cases within the prohibitions of the Anti-Injunction Act, in order to obstruct the jurisdiction of their courts over the underlying IRS record falsification program damaging their victims. [See Petition in 21-545 in this Court.]

Second, in the ongoing litigation concerning a Coram Nobis Motion filed by Mr. Gregory Darst in the Middle District of Florida, The Honorable Mary S. Scriven justified her "termination" of his motion and conversion of it into a §2255 petition by claiming as justification "internal administrative procedures of the Middle District of Florida". No such procedures exist. §2255 petitions can only be filed by those in custody, which ended for Mr. Darst in 2014. [See Pet. 21-5785 in this Court.]

Third, in an ongoing forfeiture case in the U.S. District Court for the District of Idaho, 19-421, *U.S. v. Howe*, The Hon.

violating every applicable precedent, *with assistance of involved Circuit judges.*[18]

Reason 3. 26 U.S.C. §7345 authorizes challenges to "assessments", and errors by IRS to "certifications" revoking passports.

As a final reason this Court should adjudicate this Petition, it is without doubt that those whose passports are revoked have authority to challenge, pursuant to §7345, the existence of "assessments", the existence of which is controlled by Internal Revenue Code and Treasury Regulation noted above. Moreoever, due to the obvious errors IRS made concerning the so-called "certification" of the list of those owing alleged tax debts, a victim of such slipshod work has every right to challenge in a judicial setting the correctness/justness of his passport revocation, as has Petitioner.

## Final Note

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Magistrate Candy Dale fabricated a 'finding', then entered it into the record, that the IRS supposedly prepared assessments concerning Mr. Howe on September 12, 2016, despite the fact that no such assessments appear in the record before her bench, (See Record, All). [Petition being numbered as this goes to print.] The lawlessness engendered by the pattern and practice of COAs nationwide is unimaginable.

[18] See for example, Mr. Howe's appeal [9th Cir., 21-35125] of The Hon. Judge David C. Nye's repeated, point-blank refusals of Howe's motions seeking to compel production, pursuant to FRCP Rule 12(b)(1) of the summary record of assessments supposedly prepared by IRS on September 12, 2016. In that appeal, the Ninth Circuit allowed Judge Nye to ignore and violate Ninth Circuit precedent authorizing Rule 12(b)(1) factual attacks on false complaint allegations per *Safe Air for Everyone v. Meyer*, 373 F. 3d 1035 - Court of Appeals, 9th Circuit 2004.

**By the open speaking of the truth we would commend ourselves to the consciences of lawyers with integrity. Let us make common cause to restore the separation of powers, the independence of the judiciary and the Rule of Law. It is long overdue.**

## Relief Requested

Petitioner requests the Court use its unquestioned power pursuant to SC Rule 10 and FRCP Rule 11 to:

1. Confirm the pattern and practice of courts of appeal nationwide refusing to adjudicate EVERY issue raised by the Class of disrespected, unrepresented litigants complaining of the IRS record falsification program, and the open support thereof by involved district judges; to

2. Confirm that the pattern began in 2015 in the United States Circuit Court of Appeals for the District of Columbia Circuit under the leadership of Merrick Garland with direct involvement of Padmanabhan Srinivasan; to

3. Terminate that pattern and practice nationwide, pursuant to the Court's unquestioned supervisory power described in SCR 10(a); to

4. Hold that Judge Bates erred by denying Petitioner the opportunity to challenge the existence of any alleged "assessment" made by a duly authorized delegate of the Secretary concerning Petitioner,

5. Hold that Judge Bates erred by blocking Petitioner's right to challenge the accuracy of the so-called "certification" concerning me, even though multiple errors related thereto were presented to him by Petitioner, and

6. Remand the case to Judge Bates for full adjudication as to the existence of any "assessment" and the accuracy of the so-called "certification" from IRS to State, pursuant to the rulings of this Court.

Finally, Petitioner requests the Court order any further relief it finds just and equitable, under these absolutely extraordinary circumstances.[19]

Respectfully submitted,

Robert A. McNeil
*In propria persona*
729 Grapevine Hwy #148
Hurst, Texas 76054
(713) 806-5199
ram1949@protonmail.com

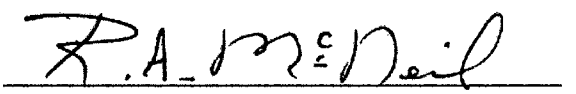
[19] Petitioner, unlearned in the law, doesn't pretend to know the correct procedure for presenting his case. He will amend his filings under the direction of the Court, as necessary.

## Verification/Declaration

Comes now Robert A. McNeil, declaring under penalty of perjury, pursuant to 28 U.S.C. §1746, that "All the facts stated in the foregoing **"PETITION FOR WRIT OF CERTIORARI....."** are absolutely true and correct to the very best of my knowledge and belief, that I have personal knowledge of almost every fact alleged, that they are material, admissible and that I am competent to testify thereto. Hence, every fact stated above, and every inference derived therefrom, is absolutely true and correct, and that I am presenting this Declaration under penalty of perjury."

So HELP ME GOD.

Executed on October 30, 2021



# APPENDIX