

21-7524  
IN THE  
SUPREME COURT OF THE UNITED STATES

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No. \_\_\_\_\_

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FILED  
MAR 22 2022  
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SUPREME COURT U.S.

**MATTHEW L. STASZAK,**

*Petitioner,*

v.

**ORIGINAL**

**JOHN P. YATES, *Warden,***

*Respondent.*

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**On Petition for Writ of Certiorari to the  
United States Court of Appeals  
For the Eighth Circuit**

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**PETITION FOR WRIT OF CERTIORARI**

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**Matthew L. Staszak, *pro se,***

**Reg. No. 24227-171**

**Federal Correctional Complex (Low)**

**P.O. Box 9000-Low**

**Forrest City, Arkansas 72336-9000**

**QUESTIONS PRESENTED FOR REVIEW**

**I. SHOULD THIS COURT GRANT THE WRIT WHERE PETITIONER'S DUE PROCESS RIGHT WAS FORECLOSED ON WHEN ON APPEAL FROM THE LOWER COURT'S DENIAL OF HIS RIGHT TO A MEANINGFUL REVIEW OF THE MERITS OF HIS 28 U.S.C. SECTION 2241 ACTUAL INNOCENCE CLAIMS, WHERE THE EIGHTH CIRCUIT INVOKED ITS LOCAL RULE 47A(a), SUMMARY DISPOSITION, WITHOUT BRIEFING?**

**II. SHOULD THIS COURT GRANT THE WRIT WHERE THE EIGHTH CIRCUIT DENIED PETITIONER'S 28 U.S.C. SECTION 2243 RIGHT TO A HEARING UNDER LOCAL RULE 47A(a), AND WHERE IT IS THE ONLY CIRCUIT WITH SUCH A RULE?**

**III. SHOULD THE COURT GRANT THE WRIT TO RESOLVE THE CIRCUIT SPLIT ON THE ISSUE OF ACTUAL INNOCENCE IN A 2241 HABEAS PETITION BETWEEN THE EIGHTH, TENTH, AND ELEVENTH CIRCUITS ON ONE HAND AND THE OTHER REMAINING CIRCUITS?**

## **INTERESTED PARTIES**

The parties appear in the caption case citing on the cover page of this petition.  
Respondent John P. Yates, Warden is an interested party.

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## **STATEMENT OF THE CASE**

Matthew L. Staszak, ("Staszak"), *pro se*, respectfully petitions the Supreme Court of the United States for a Writ of Certiorari to review Staszak v. Yates, Case No. 2:21-cv-00047-JTR, (E.D. Ark.) & Case No. 21-3742, (8th Cir.), of the Judgment from the United States District Court for the Eastern District of Arkansas, and the Judgment from the United States court of Appeals for the Eighth Circuit resulting in a denial, without prejudice, without holding an evidentiary hearing by United States Magistrate Judge J. Thomas Ray under the statutes of 28 U.S.C. Sections 2241 & 2243; and that the appellate court affirmed the lower court's judgment, without a briefing schedule, using its local rule 47A(a) surrounding Staszak's actual innocence claims with newly discovered evidence, and multiple supporting affidavits.

**OPINION BELOW**

These are thoroughly provided in Staszak's Appendices and Table of Authorities.

**STATEMENT OF JURISDICTION**

Jurisdiction of this court is invoked under 28 U.S.C. Section 1254(1) and part III of the rules of the Supreme Court of the United States.

**STATUTES INVOLVED**

This petition revolves around the lower court's review of Staszak's petition with newly discovered evidence surrounding his previous criminal case. *See United States v. Staszak*, 4:12-cr-40064-JPG, (S.D. Ill). This newly discovered evidence was mailed by Daniel Staszak to Staszak located at the Federal Correctional Complex in Forrest City, Arkansas, consisting of receipts of the purchase of a cellular device, a Motorola model Droid X2, (SJUG6250), on October 29, 2011. As a result of the newly discovered evidence, it exposes that Staszak was falsely accused, falsely charged, and wrongfully convicted of the Count 1 offense of the Second Superseding Indictment *See App'x (A-10 & A-11), Newly Discovered Evidence, Second Superseding Indictment, & Stipulation of Facts.*

#### **A. Course Of The Proceedings And Disposition:**

On June 20, 2012, a grand jury returned an indictment against Staszak. Staszak pled not guilty to the charges. Staszak was released on bond, and the grand jury returned a superseding indictment adding an additional charge. The grand jury reconvened and a Second Superseding Indictment was brought adding an additional charge of failure to appear. On June 3, 2013, Staszak was arraigned on the Second Superseding Indictment. On August 5, 2013, during Rule 11 Plea Colloquy proceedings, while under duress. Staszak pled guilty to 18 U.S.C. Section 2251(a) and (e), two counts of 18 U.S.C. Section 2423(b), and one count of 18 U.S.C. Section 3146(a)(1) for a total of four counts. On February 5, 2014, Staszak was sentenced by the Honorable J. Phil Gilbert, ("Judge Gilbert"). Staszak was sentenced to serve 180-months on Counts 1, 2, and 3, concurrently, and 60-months on Count 4 consecutive to the sentence for Counts 1, 2, and 3, for a total of 240-months imprisonment. Judge Gilbert sentenced Staszak 60-months below the agreement by the parties of 300-months. Staszak did not direct appeal. Judgment was finalized by the District Court on February 20, 2014.

On January 8, 2015, Staszak timely filed a Section 2255 motion to Vacate, Set Aside, or Correct Sentence raising 12 Grounds. On May 27, 2015, Staszak was permitted to supplement his 2255 with Ground 13. On January 20, 2017, Staszak was

allowed to supplement his 2255 with his tendered Ground 14. On January 17, 2017, Staszak filed a Writ of Mandamus against Respondent Judge Gilbert, Case No. 17-1108, (7th Cir.). On January 25, 2017, the Writ of Mandamus was denied by the Seventh Circuit. On November 21, 2017, the District Court ordered an Evidentiary Hearing on Staszak's 2255. On the following dates: March 22-23; April 16, 19, and 25, 2018, the District Court conducted Evidentiary Proceedings on the 2255 motion. On July 18, 2019, Staszak filed a second Writ of Mandamus against Respondent Judge Gilbert, Case No. 19-2367, (7th Cir.). On July 24, 2019, Staszak's Petition for Writ of Mandamus was denied by the Seventh Circuit. On August 5, 2019, Staszak filed a Petition for Rehearing on his Writ of Mandamus. On September 9, 2019, Staszak's Petition for Rehearing was denied by the Seventh Circuit. On September 17, 2019, Staszak filed a Writ of Mandamus, (with additional materials) to the Supreme Court of the United States, Case No. 19-6121, against Respondent Judge Gilbert. The Supreme Court ordered show cause against the Respondent. On October 15, 2019, the Solicitor General waived a response. On November 12, 2019, the Supreme Court denied Staszak's Petition for Writ of Mandamus. Staszak filed a Petition for Rehearing on his Writ of Mandamus on December 10, 2019. On January 27, 2020, Staszak's Petition for Rehearing was denied by the Supreme Court. On February 5, 2020, Daniel and Norena Staszak, Staszak's parents mailed correspondences to Associate Justice Kavanaugh and additional officials. On February 21, 2020, Judge Gilbert denied Staszak's 2255 in its entirety and further

declined to issue a Certificate of Appealability ("COA"). On March 6, 2020, Staszak's appointed counsel docketed a request for issuance of a COA pursuant to 28 U.S.C. Section 2253(c), and a petition for appointment of appellate counsel. On March 12, 2020, Staszak's counsel, a Terry M. Green, ("Green"), further filed a Docketing Statement. On March 25, 2020, Green further filed Transcript Information Sheets. On November 5, 2020, the Seventh Circuit denied Staszak's request for a COA and appointment of counsel. On November 19, 2020, Staszak filed *pro se*, (due to Green's health, office closures, and COVTD-19 restrictions) a petition for rehearing and rehearing en banc. On December 3, 2020, the Seventh Circuit denied Staszak's *pro se* petition for rehearing and rehearing en banc. On February 10, 2021, Staszak filed a Writ of Certiorari to the Supreme Court, Case No 20-7292. Certiorari was denied on March 29, 2021.

In March 2021, Staszak's father located newly discovered evidence surrounding Staszak's' previous criminal case that exculpates him. On May 7, 2021, Staszak filed a Section 2241 Writ of Habeas Corpus surrounding his actual innocence. On November 18, 2021, Staszak filed a Writ of Mandamus to compel a ruling on his 2241 by Magistrate Judge J. Thomas Ray. On November 23, 2021, Staszak's 2241 was denied, without prejudice, by Judge Ray. On February 8, 2022, the Eighth Circuit affirmed the lower court's judgment.

**B. Statement Of The Facts Surrounding Criminal Case:**

In the summer of 2010, Petitioner Staszak was residing in rural eastern North Carolina where he was assigned at II Marine Expeditionary Force while stationed Camp Lejeune, North Carolina. Staszak while only in his twenties built a new home, participated in religious activities, civic organizations, and was furthering his education by attending numerous classes, seminars, and training exercises. Staszak served in Operation Iraqi Freedom in 2003, twice in Operation Enduring Freedom in 2003-2004 and 2007-2008, and Operation Unified Response in 2010 as result from the Haitian earthquake. Summarily, Staszak is a decorated combat veteran. In 2010, Staszak was in contact with a new friend, a Dennis Presley, ("Presley"), whom was a law-enforcement officer located in southern Illinois. During Staszak's contact with Presley, Staszak was connected to one of Presley's girlfriends. This girlfriend was an Amy Gayer, ("K.G.'s mother"). Staszak was also Facebook friends with a Bridgette Gayer, and minor K.G., ("K.G."), both whom were the teenage daughters of K.G.'s mother.

In January 2011, plans were established between Staszak, K.G.'s mother, and K.G. to meet. K.G.'s mother and K.G. traveled from their residence located in Tybee Island, Georgia, in order to meet with Staszak in Columbia, South Carolina. During this time, Staszak was not aware of K.G.'s actual age, where K.G. and K.G.'s mother claimed K.G.

was "19." K.G.'s characteristics were; 5' 5 in height; around 115-120 pounds; well-developed; and appeared between 18-20 years of age. During the Facebook interactions between Staszak and K.G., she never displayed her actual birthday or age within her Facebook profile.

From around February 2011 to April 2012, Staszak and K.G. formed a relationship. K.G.'s mother knew of the relationship. On or about March 10, 2011, Staszak traveled home to southern Illinois on military leave to spend time with his father and family members as his father's birthday was on March 22, 2011. Staszak would often travel from his place of duty station to his hometown to visit his family for various reasons and circumstances. Staszak is charged in (Count 2) with 18 U.S.C. Section 2423(b). Staszak and K.G. did not have sex on or around March 22, 2011. During the early evening of March 22, 2011, while at the Comfort Suites Hotel in Marion, Illinois, K.G. distraughtly complained to Staszak of being diagnosed with a venereal disease, claiming she contracted the disease from a Kyle Ferguson ("Ferguson"). Evidence clearly indicates that Staszak did not have sex with K.G. on March 22, 2011, as Staszak never contracted the disease from K.G., that she contracted from Ferguson. Staszak's blood test results from his United States Navy medical records prove this fact.

On or about May 29, 2011, Staszak traveled from North Carolina to Williamson

County, Illinois, and is charged in (Count 3) with 18 U.S.C. Section 2423(b) where on May 29, 2011, K.G. had revealed to Staszak that she was not 19. May 29, 2011, was K.G.'s 16th birthday. Prior to K.G.'s birthday Staszak had sent K.G. a mobile phone because she stated to Staszak that she could not afford a phone while having to use her mother's phone. On May 29, 2011, K.G. further confessed to Staszak that she liked "*older guys*" and further described to Staszak of intricate details pertaining to her private life. Staszak was in shock and floored by these revelations. On the afternoon of May 29, 2011, Staszak had obtained a room at the Drury Hotel in Marion, Illinois. That evening, serious talks between K.G. and Staszak began about marriage. Staszak pondered the situation where K.G. agreed that she "*definitely*" wanted to get married further stating she would discuss it with her mother. K.G.'s mother refused the marriage and further threatened K.G. with Staszak's arrest. K.G.'s mother sought this opportunity in order to extort from Staszak of cash, clothes, cosmetics, food, gasoline, and other items. Staszak on (3) three occasions dropped envelopes of cash of that contained 1000.00 dollars in cash to K.G.'s mother. Staszak's instructions by K.G.'s mother were to place the envelopes of cash under the passenger side floor mat of her unlocked Ford Escape. Staszak paid a total 3000.00 dollars in cash and further provided approximately 2000.00 dollars in various items to K.G.'s mother totaling around 5000.00 dollars. To date, K.G.'s mother has not been charged or prosecuted.

In the summer 2011, K.G. had moved away from her mother's house. Staszak was charged with (Count 1) that is, 18 U.S.C. Section 2251(a) and (e) that sometime between **"On or around June or July of 2011"**, Staszak "used" K.G. to take "*part*" in a sexually explicit conduct for the "*purpose*" of producing a visual depiction with Staszak's Verizon cellular telephone, that was a Motorola Droid X2, serial number *SJUG6250*. Staszak is further alleged that he and K.G. "watched" a video. The Government officially claimed; (only after Staszak filed his Section 2255 motion), that a video was "deleted." The Government further claims that Staszak deleted a video, but provides no forensic evidence that a video exists or existed from Staszak's phone, or that the Government possesses forensic evidence that a video was created or actually deleted by Staszak because he is actually and factually innocent, where he was falsely accused, falsely charged, and wrongfully convicted and where it was a literal impossibility that this offense occurred as stipulated.

## **REASONS FOR GRANTING THE WRIT**

I. THE SUPREME COURT SHOULD GRANT THE WRIT WHERE PETITIONER'S DUE PROCESS RIGHT WAS FORECLOSED ON WHEN ON APPEAL FROM THE LOWER COURT'S DENIAL OF HIS RIGHT TO A MEANINGFUL REVIEW OF THE MERITS OF HIS U.S.C. SECTION 2241 ACTUAL INNOCENCE CLAIMS, WHERE THE EIGHTH CIRCUIT INVOKED ITS LOCAL RULE 47A(a), SUMMARY DISPOSITION, WITHOUT BRIEFING.

Petitioner Matthew L. Staszak, ("Staszak"), is an actually and factually innocent man of Counts 1, 2, & 3 of the Second Superseding Indictment. Crim. No. 4:12-cr-40064-JPG, (S.D. Ill). The substantial showing of Constitutional infringements and violations Staszak has suffered are numerous all resulting in First, Forth, Fifth, Sixth, and Eighth Amendment violations. Staszak was falsely accused and later falsely charged with crimes that resulted into a fraudulent Second Superseding Indictment, a fraudulent Plea Agreement, a fraudulent Stipulation of Facts, and a fraudulent Pre-Sentencing Report. Staszak is serving an illegally *executed* prison sentence resulting from a Fundamental and Manifest Miscarriage of Justice. The proofs of this are provided throughout Staszak's previous 2241.

In this case, the lower court placed an insurmountable burden on Staszak by denying him review of the merits surrounding his 2241 habeas case by claiming it lacks jurisdiction. Rawls v. United States, 236 F. Supp. 821 (8th Cir.)(1964); United States v. Hayman, 342 US 205 (1952): Rawls, ("It is indeed difficult to comprehend how one could say [the lower court] that a petitioner's [Staszak's] remedy by Section 2255 can be said to be either 'adequate or effective to test the legality of the petitioner's detention' in this case, the obvious reason that it cannot be reasonably anticipated that either the sentencing court or the Fifth Circuit Court of Appeals is going to change its already expressed view." United States v. Hayman, teaches that 'in a case where the Section 2255 procedure is shown to be 'inadequate or ineffective', the Section provides that the habeas corpus remedy shall remain open...' ... Hayman makes clear that if Section 2255 procedure is 'inadequate or ineffective' a failure to exercise habeas corpus jurisdiction "would present constitutional questions that are obvious."). Hayman, ("Under the Act of Congress of 1867 (14 STAT 385), now incorporated in 2241 et seq., United States District Courts have jurisdiction to determine whether a prisoner has been deprived of liberty...") (Section 2255 of the revised Judicial Code, permitting a federal prisoner to attack his sentence by motion in the sentencing court, is not intended to impinge upon his right to attack his conviction collaterally by habeas corpus [2241].) (at 220: "This is not a habeas corpus proceeding.") (Section 2255 [second or successive] is designed as a substitute for, not a prerequisite to habeas corpus; and its standard of adequacy of

effectiveness must be construed accordingly.)(Nowhere in the history of [ ]2255 do we find any purpose to impinge upon prisoner's rights of collateral attack upon their convictions.)(*emp. added*).

This was a classic catch-22 denial by the lower court where the Eighth Circuit decided to affirm the lower court's judgment, without a briefing schedule, on its merits surrounding Staszak's actual innocence. See A-10 & A-11, Newly Discovered Evidence & Second Superseding Indictment. The authentic receipts clearly provide, show, and prove that Staszak did not purchase or possess the phone as falsely charged and stipulated by the Government within the Second Superseding Indictment until OCTOBER 29, 2011. It was a literal impossibility that Staszak committed the offense surrounding Count 1 in June or July 2011 as stipulated.. The *execution* of Staszak's sentence and conviction is fraudulent. English v. United States, 998 F.2d 609, 611 (8th Cir. 1993)(when new evidence discovered after trial, 'late discovery not attributable to lack of diligence on part of petitioner'). No matter when Staszak's father located the receipts, the evidence was found and presented by Staszak immediately in total compliance set forth in the English precedent set forth. Instead the Eighth Circuit used local rule 47A(a) that unequivocally denied Staszak a right to meaningful review of his actual innocence case that was previously presented to the lower court providing clear and convincing evidence surrounding his Second Superseding Indictment. This is clearly

a violation of Staszak's Fifth Amendment right to Due Process. An Eighth Circuit Local Rule should not proceed the United States Constitution, or a statute under 28 U.S.C. 2243 that is clearly set forth to afford Staszak his right to due process, in order to have his actual innocence case properly briefed and heard on its merits. Staszak clearly met the threshold "gateway" of the Actual Innocence Standard set forth by this Court in McQuiggin v. Perkins, 133 S. Ct.1924 (2013) ("This rule, fundamental miscarriage of justice exception, is grounded in the equitable discretion of habeas courts to see that federal constitutional errors do not result in the incarceration of innocent persons."). The Eighth Circuit failed further to apply its hold in Flanders v. Graves, 299 F.3d 974 (8th Cir. 2002)(A Petitioner who can show actual innocence can get his constitutional claims considered on the merits...).

Staszak is actually and factually innocent of Count 2 of the Second Superseding Indictment, where the false allegations contained in Count 2 never occurred between Staszak and minor ("K.G."); and that the Government lacked subject-matter jurisdiction to prosecute Staszak for Count 2. Staszak's former attorney, Melissa A. Day, ("Day"), rendered ineffective assistance when she advised Staszak to execute a fraudulent Plea Agreement and Stipulation of Facts when she was clearly advised by Staszak numerous times that the allegations never occurred and that he was innocent of the Count 2 pretended offense. Staszak's United States Navy Medical Records, provides clear and

convincing evidence indicating negative test results for a sexually transmitted disease, ("STD"), months after March 22, 2011, indicating that Staszak never contracted an STD from K.G. as he was falsely accused. Staszak did not have "illicit sexual conduct" with K.G. on March 22, 2011, at the Comfort Inn and Suites, in Marion, Illinois, as falsely accused by K.G. and later falsely charged by the Government in Count 2. Day failed to investigate and study the law pertaining to 18 U.S.C. Section 2423 (b) and (f), and Day failed to investigate the jurisdictional nexus surrounding Count 2.

Count 3 does not constitute a federal offense, where the Government lacked subject-matter jurisdiction to prosecute Staszak as Count 3 stipulates. The definitions of "illicit sexual conduct" state: (1) as a sexual act (*as defined in Title 18, U.S.C. Section 2246*) with a person under 18 years of age that would be in violation of Chapter 109A [18 U.S.C Sections 2241 et seq.]. Thus, "illicit sexual conduct" must be: (1) a sexual act with a person under 18; and, (2) the sexual act must be in violation of Chapter 109A. None of the Chapter 109A factors applied to Staszak of the alleged sexual act as falsely accused of on May 29, 2011, as charged and stipulated in Count 3. The law is clear, "*sexual intercourse*", unless accompanied by form of: abuse, force, threats, drugging, or incapacitation does not constitute a federal offense for "illicit sexual conduct" under Section 2423(f), unless the minor involved is under 16 years of age. On May 29, 2011, K.G. was factually 16-years of age. There was no violation of Section 2423(b) because

there was no violation of Chapter 109A.

The Eighth Circuit is the only circuit that exercises this Local Rule 47A(a) out of all circuits in the United States. This specific rule is literally foreclosing Constitutional Due Process for litigants, such as Staszak, on meritorious actual innocence claims on habeas corpus. At a miminum, the decision of the Eighth Circuit should be reversed and remanded for further proceedings in Staszak's cause.

II. THE SUPREME COURT SHOULD GRANT THE WRIT WHERE THE EIGHTH CIRCUIT DENIED PETITIONER'S 28 U.S.C. SECTION 2243 RIGHT TO A HEARING UNDER LOCAL RULE 47A(a), AND WHERE IT IS THE ONLY CIRCUIT WITH SUCH A RULE.

This Court's review is necessary to ensure that petitioners receive the opportunity to obtain and present the facts to support their post-conviction claims under writ of habeas corpus. Section 2243 sets forth a uniform standard governing the grant of an evidentiary hearing. Courts throughout this nation have recognized the importance of the full and fair evidentiary hearing required by the statute, where it has found the denial of a hearing worthy of reversal. Staszak clearly had factual information pertaining to numerous criminal actors committed against K.G., but the Government did not want

anything to do with Staszak's detailed information because it would have exposed the fraud and misconduct committed and further of the individuals actually accountable, liable, and responsible of state and federal crimes. See Sanders v. United States, 373 U.S. 1, at 19-20 (1964)(holding petitioner and title to s habeas petition to obtain "full and fair" hearing); see also Harris v. Nelson, 394 U.S. 286, 292 (1969)(“there is no higher duty of a court, under our constitutional system, than the careful processing and adjudication of petitions for writs of habeas corpus”); Fontaine v. United States, 411 U.S. 213, 214-15 (1973); Machibroda v. United States, 368 U.S. 487, 494-96 (1962); Blackledge v. Allison, 431 U.S. 63, 72-75 (1977)(affirming appellate ruling that denial of section 2255 hearing was reversible error).

The decision to grant a hearing under habeas corpus does not depend on whether the papers submitted detail of the petitioner's allegations, but on whether the petitioner has raised claims that, if established at a hearing, would entitle him to relief. Staszak's 2241 post-conviction claims are not *vague*, *conclusory*, or *palpably* incredible. The Magistrate Judge strayed far from this touchstone standard. Contrary to the Eighth Circuit's conclusion by affirming the case, by using Local Rule 47A(a), there was no deficiency in Staszak's 2241 motion that could justify a denial of a evidentiary hearing. The Magistrate Judge simply ignored the *actual innocence standard* surrounding Staszak's evidence and his assertions as set forth in McQuiggin.

III. THE SUPREME COURT SHOULD GRANT THE WRIT TO RESOLVE THE CIRCUIT SPLIT ON THE ISSUE OF ACTUAL INNOCENCE IN A 2241 HABEAS PETITION BETWEEN THE EIGHTH, TENTH, AND ELEVENTH CIRCUITS ON ONE HAND AND THE REMAINING CIRCUITS.

Section 2241 of Title 28, of the United States Code prohibits a district court from denying the motion without conducting an evidentiary hearing where a petitioner has alleged facts in support of a non-frivolous claim and those facts are not conclusively contradicted by the files and the records of the case. The split of authority undermines the Supreme Court precedent and threatens to deny the constitutional rights of prisoners and petitioners who can establish a violation only through an evidentiary hearing. Staszak was denied that right even after his presentation of newly discovered evidence thoroughly showing and proving that he is actually innocent. Instead of Magistrate Judge Ray granting an evidentiary hearing the Court simply denied Staszak's case, (only after Staszak had filed a Writ of Mandamus to compel a ruling). Thus, no evidentiary hearing was conducted on his claim of actual innocence. Such hastily undue deference for denying Staszak's statutory right ignores the strong presumption in favor of granting an evidentiary hearing required by the plain language of Sections 2241 and 2243. The burden on Staszak in a 2241 case for establishing an entitlement to an evidentiary hearing is light. *See Payne v. United States*, 78 F.3d 343, 347 (8th Cir. 1996)

(“petitioner is entitled to an evidentiary hearing ‘when the facts alleged, if true, would entitle him to relief’); *Adams v. Armontrout*, 897 F.2d 332, 333 (8th Cir. 1990)(referring to 2254 petition); *see e.g. Evans v. United States*, 200 F.3d 549, 551 (8th Cir. 2000) (finding that an evidentiary hearing is required when Petitioners allegations, if accepted as true, would entitle him to relief). The Court to ensure uniformity, the standard must be clarified by this circuit split issue as the question presents. The Eighth Circuit relies on *Abdullah v. Hedrick*, 392 F.3d 957, 960 (8th Cir. 2004). *But see, e.g., Triestman v. United States*, 124 F.3d 361, 377, 380 (2d Cir. 1997); *Cordaro v. United States*, 933 F.3d 232, 240 (3d Cir. 2019); *United States v. Wheeler*, 886 F.3d 415, 422, 426-27 (4th Cir. 2018); *Reyes-Requena v. United States*, 243 F.3d 893, 904(5th Cir. 2001); *Witham v. United States*, 355 F.3d 501, 505 (6th Cir. 2004); *Light v. Carraway*, 761 F.3d 809, 812-14 (7th Cir. 2014); *Allen v. Ives*, 950 F.3d 1184, 1188-92 (9th Cir. 2020); *In re Smith*, 285 F.3d 6, 8 (D.C. Cir. 2002).

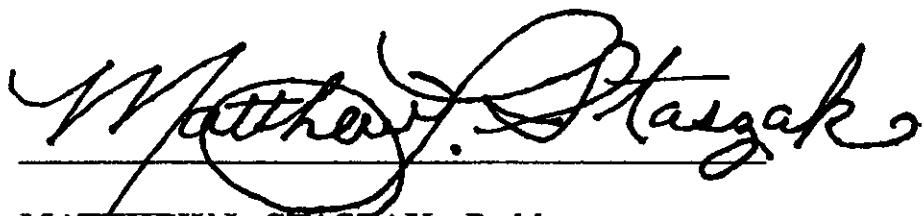
This case provides an ideal vehicle for reviewing for an evidentiary hearing by 2241 petitioners surrounding actual innocence claims. Staszak was not allowed to prove his claims of actual innocence, prosecutorial misconduct, fraud on the court, and ineffective assistance of counsel without a proper hearing. This Court’s review is necessary to ensure that petitioners receive an actual fair opportunity to obtain and present facts to support their post-conviction claims.

## CONCLUSION

**WHEREFORE**, this petition for a Writ of Certiorari should be granted.

Executed on: March 22nd, 2022.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Matthew L. Staszak". The signature is fluid and cursive, with "Matthew" on the first line and "L. Staszak" on the second line.

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