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No.

21-5904

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IN THE

SUPREME COURT OF THE UNITED STATES

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IN RE: MARK STINSON, REG #29908-076 -- PETITIONER

ON PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS TO

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS

MARK STINSON REG #29908-076

1629 WINCHESTER ROAD

MEMPHIS, TN 38116

901-542-1943

**QUESTION(S) PRESENTED**

1. Whether the Circuit Executive Staff of the United States Court of Appeals for the Sixth Circuit is in violation of 28 U.S.C. § 1361.

## **LIST OF PARTIES**

[ X] All parties appear in the caption of the case on the cover page.

## **RELATED CASES**

Mark Stinson v. DeWayne Hendrix, Warden, No. 19-8493

Mark Stinson v. United States of America, No. 21-7757

Mark Stinson v. Yates, Warden, No. 21-5383

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IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

For cases from federal courts:

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

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 is unpublished.

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

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 is unpublished.

For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

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 is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

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 is unpublished.

## JURISDICTION

### For cases from federal courts:

The date on which the United States Court of Appeals decided my case was March 6, 2002 Feb 8, 2002 No decision has been made

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A \_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

### For cases from state courts:

The date on which the highest state court decided my case was \_\_\_\_\_. A copy of that decision appears at Appendix \_\_\_\_\_.

A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A \_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Violation of the First, Fourth, Fifth, Sixth and Eighth Amendment Rights

Violation of Due Process

Violation of Fundamentally Unfairness

Fraud and Misrepresentation

Punishment Disproportionate to the offense

Cruel and Unusual Punishment

Loss of Liberty

Conspiracy

Malicious prosecution

False arrest

False imprisonment

## **PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS**

COMES NOW, the Petitioner, Mark Stinson, the undersigned in this action, MOVES This HONORABLE Court to issue an order to the Sixth Circuit Appeals Court for an Extraordinary Writ of Mandamus.

### **EXTRAORDINARY WRIT OF MANDAMUS**

Mandamus is extraordinary remedy which is available only when 3 elements are present; (1) clear right in plaintiff to relief sought; (2) plainly defined and peremptory duty on part of defendant to do act in question; and (3) no other available adequate remedy. Campbell v. Tennessee Valley Authority, 613 F. Supp. 611, 38 Empl. Prac. Dec. (CCH) ¶35765, 38 Fair Empl. Cas. (BNA) 779 (E.D.Tenn. 1985); NAACP v. Levi, 418 F. Supp. 1109 (D.D.C. 1976).

### **REASON FOR GRANTING THE EXTRORDINARY WRIT OF MANDAMUS**

Pursuant to 28 U.S.C. § 1361, action to compel an officer of the United States to perform his duty, which is a positive command and so plainly prescribed as to be free from doubt. The claim must be clear and certain and the duty of the officer ministerial. Smith v. Grimm, 534 F.2d 1346 (9<sup>th</sup> Cir. 1976), app. After remand, 555 F. 2d 234 (9<sup>th</sup> Cir. 1977); Tagupa v. East-West Center, Inc., 642 F.2d 1127 (9<sup>th</sup> Cir. 1980).

**Abuse of Discretion**, Appeals Court abuse its discretion when the court so arbitrary and unreasonable amount to a clear and prejudicial error of law when the court did not assign a panel to this matter. This matter was filed in Appeals Court in September 2021, and the Appeals Court has not assigned a panel as of this date. Several motion has been sent to the court within the last 8 months with only the Case Manager response and filing. The Sixth Circuit Court is in clear violation of 28 U.S.C. § 1361. Alkali Export Assn. v. U.S., 65 S.Ct. 1120, 325 U.S. 196, 89 L.Ed. 1554, and De Beers Consol. Mines v. U.S.

65 S.Ct. 1130, 325 U.S. 212, 89 L.Ed. 1566.

## **BACKGROUND AND PROCEDURAL HISTORY**

### **Criminal Case No. 2:16-cr-20247-01**

On November 10, 2016, a federal grand jury in the Western District of Tennessee returned a thirteen-count indictment against Mark Stinson and Jayton Stinson, who were, at the time, husband and wife, charged with conspiracy to defraud the United States. (Criminal ("Cr.") ECF No.3 (sealed).). On September 1, 2017, after Jayton Stinson had entered a guilty plea to count 1, the grand Jury returned a superseding indictment against Mark Stinson. (Cr. ECF No.54 (sealed).). The superseding indictment charged Mark Stinson with two types of tax offenses, the first (Counts 1 through 11) arising from his operation of a temporary staffing company with Jayton Stinson, and the second (Counts 12 and 13) arising from an individual income return filed by Mark Stinson's son.

Petitioner's wife and co-conspirator Jayton Stinson pleaded guilty to one count of conspiracy to defraud the U.S. and was sentenced to 12 months in prison. She was made jointly and severally liable for the restitution, (R.107, Judgment, PageID 469 – 474).

The petitioner was charged with thirteen-counts related to tax fraud; one count of conspiracy to defraud the U.S., five counts of failing to pay over employment taxes, five counts of filing false tax returns, one count of theft of government funds, and one count of aggravated identity theft, (R.55, Indictment, PageID 115 – 126).

Fraud and misrepresentation, as it was outlined in Hazel-Atlas decision, requires deliberately planned and carefully executed scheme and conspiracy participated in by attorneys and judge in federal proceeding to defraud federal court with carefully constructed bogus evidence that not only was presented to that

Federal court but which also affected federal court's decision. Gonzalez v. Sec'y for the Dep't of Corr., 366 F.3d 1253, 17 Fla. L. Weekly Fed. C. 465 (11<sup>th</sup> Cir. 2004); Ferrara v. United States, 384 F. Supp. 384 (D.Mass. 2005).

The Court recognized pleading are to be construed liberally and held to a less stringent standard than formal pleadings drafted by lawyer. Haines v. Kerner, 404 U.S. 519, 520 (1972); Hall v. Bellmon, 935, F.2d 1110 (10<sup>th</sup> Cir. 1991).

Movant asks the Court, where appropriate, to apply the "Rule of Lenity" which requires all ambiguities to be settled in favor of the petitioner, United States V. Rains, 615 F.3d 589 (5<sup>th</sup> Cir. 2010).

#### **CONCLUSION**

Therefore, for the foregoing reasons, the Court "**Shall**" Grant the Petition for Extraordinary Writ of Mandamus.

Respectfully submitted,



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May 16, 2022