

December 23, 2021

Mr. Scott S. Harris, Clerk of the Supreme Court  
Supreme Court of the United States  
1 First Street  
Washington DC, 20543

Re: Rand v. United States  
USCA4 No. 20-6393

**MOTION REQUESTING THE CLERK OF THE COURT TO FILE MY  
WRIT OF CERTIORARI OUT-OF-TIME**

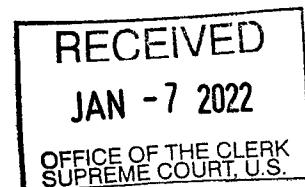
Dear Clerk Harris:

I am writing you to request that you file the enclosed writ of certiorari postmarked and received December 13, 2021, by the High Court. I mistakenly interpreted the Monday July 19, 2021 order extending the 150-day COVID deadline to apply to the Mandate date instead of the Order Date. Using the Order Date, my deadline to file was December 4, 2021, while 150 days after the Mandate date fell on December 13, 2021. The mistake is entirely mine and I take responsibility for the error.

While the pandemic certainly played a major role in extending the time necessary for me to properly draft my Petition, I am not going to use external factors as a reason for missing the Court's deadline under Rule 13.3.

It would be a tragedy and irony of Shakespearean proportions if I were unable to proceed with my filing.

I assert in my writ of certiorari, beyond raising novel legal issues of considerable importance to our country and to the legal community in general (and the Western District of North Carolina US Attorney's Office has not denied or addressed these assertions to date), that the Prosecution committed (and continues to commit) several acts of misconduct including:



- Inarguably failing to provide Brady/Giglio material from their own files claiming attorney client privilege attached to presentations voluntarily made by former Company's counsel to both the DOJ and SEC
- Failing to Review the files of the jointly investigating Agency, the SEC, for Brady/Giglio material my attorneys and myself know exists and specifically requested
- Misrepresenting to the Court (and my attorneys) compliance with Brady and Giglio obligations
- Failing to appropriately notify the Court of my attorneys' blatant conflict of interest and then misleading the Court to avoid the Court's recognition of such conflict
- Failing to appropriately notify the Court of the US Attorneys' Office blatant conflict of interest (the US Attorney shared the requested Brady material as a private lawyer before being appointed US Attorney). As US Attorney, her entire thesis of the case changed as other company executives she insisted were not complicit when she was my Company's attorney became non-testifying unindicted co-conspirators
- Eliciting false testimony as to the accounting rules at issue (Napue violations)
- Making false representations during a reverse proffer as a material inducement to have me proffer/cooperate
- Failing to provide Jencks material

I filed FOIA requests in July 2021 seeking the Brady material from both the EOUSA and the SEC and to date, the EOUSA has not responded and the SEC recently, last week, informed me it will take four years to provide me the interview notes and presentations shared with the SEC and USAO by the Company's Audit Committee Counsel, who later became the US Attorney. I filed FOIA requests for the Jencks material years ago and the EOUSA sidestepped the request.

I close my writ by citing as a reason the High Court should review my case that the conduct of the US Attorney's Office should "shock the conscience" of the Court as it has each attorney I have shared my story with.

The issues presented in my case are of paramount importance to the legal community as well. More than three quarters of attorneys practicing white collar defense law based on my research sample are former prosecutors. I aver I was denied effective assistance of counsel because my trial and appellate attorneys' partner (who remained anonymous to the Court) was alleged by my attorneys to have committed

misconduct – yet the District Court illogically ruled my attorneys and I didn't suffer from divergent interests because their argument was unsuccessful.

Please file my enclosed writ out of time. I pray that you are sympathetic to my situation and understand how my error occurred. I enclosed a copy of my originally submitted writ of certiorari which as I discussed on the phone with Michael Duggan, I need to reformat and resubmit.

I have provided the Solicitor General with a Certificate of Service as required.

Respectfully,

Michael Rand  
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Unit 3104  
Aventura, Fl 33180