No. 22-1152

In The Supreme Court of the United States

NAJAM AZMAT,
A/K/A DR. AZMAT,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Writ of Certiorari to the
United States Court of Appeals
for the Eleventh Circuit

PETITION FOR REHEARING

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Statement of the case

Dr. Azmat is begging the Honorable Supreme Court to reconsider the Supreme Court's Denial of Dr. Azmat's Writ of Certiorari on 10.03.2023.

Dr. Azmat is actually down on his knees and begging because Dr. Azmat is actually innocent of what he was charged with. Both, the original as well as the superseding indictment were in their entirety fraudulently obtained by presenting to the Grand Jury (GJ) witness that Dr. Azmat never saw or prescribed to (fabricated witness); fabricated evidence; altering multiple DEA-6 Reports and the presenting such false evidence to the GJ; presenting fabricated and false evidence using about a half a dozen prisoners before the GJ instead of the 50 patients that were interviewed by the DEA Agents; prosecutors meeting with the GJ NINE (9) separate occasions of which there is no transcribed record (including where in the middle of a testimony the prosecutor asks the witness to step out so he could "address" the GJ!!).

This fraudulently obtained indictment, a clean-cut case where *"fruit from the poisonous tree"*, related to the famous SC case **Silverthorne Lumber Co. v. United States as stated in Nardone v. United States**, was fed to the trial jury in violation of Dr. Azmat's IV & V Amendment Constitutional rights.

As if this was not enough, the Dist. Judge in his very first opening sentence gave a very binding instruction to the trial jury related to the indictment that: ***"you must consider it as evidence of a defendant's guilt"***. The jury was given no curative

instruction either at the time or at any time such that it sealed Dr. Azmat's right to a fair trial.

Dr. Azmat presented the evidence related to the criminal conduct/misconduct of prosecutors in obtaining a fraudulent indictment in a 50 page Motion for Summary Judgment to dismiss the indictments and asked to be provided with a Certificate of Innocence (**Doc. 441,444**), and went further by providing proof of each and every claim by submitting copies of Grand Jury transcript, DEA-6 reports and other discovery documents that were provided by Govt. (**Doc.447**). In other words, there was nothing speculative about ANY claim made by Dr. Azmat to prove his innocence that spread across the entire indictment with dozens of examples involving all the witnesses that were paraded before the Grand Jury.

Upon reviewing the evidence, any jurist of reason would absolutely have no doubt or reason to question such an elaborate and verifiably documented proof of Dr. Azmat's actual innocence. Yet, the Dist. as well as the Circuit Court paid no heed and totally ignored it without a word or comment on any issue.

The Dist. Court simply dismissed it as a *"second amended complaint"* (Doc. 455) and the Circuit Court never entertained the appeal.

The Disconnect

There was an obvious disconnect between what Dr. Azmat was presenting and the reasoning used by the Circuit Court to dismiss Dr. Azmat's claims without addressing ANY issue.

Sadly, lost in this legal wrangling was Dr. Azmat's actual innocence claim that the Circuit Court was required to address and even make accommodation for any shortcoming on the part of the pro se petitioner that did not happen. The claims were made by Dr. Azmat based upon the Dist. as well as Circuit Court's own precedent that neither court followed!!

The disconnect was based upon the following evidence:

1. Dr. Azmat filed an Amended §2255 within the Dist. Court's granted extension that the Dist. Court ruled as time-barred pursuant to Rule 15(a) and de novo construed it as a Motion to Amend. There were two issues related to this: Firstly, the amended complaint was not time-barred in exactly the same way that the Dist. Court had ruled in **Lee v. United States, CIVIL ACTION No. 2:16-cv-93, at *1 (S.D. Ga. Jan. 6, 2017)**; Secondly, there was not a valid reason to construe the amended complaint that Dr. Azmat filed as a 'matter of course' within the court granted extension as a Motion to Amend and then dismissing it in direct contradiction to **Coventry First, LLC v. McCarty, 605 F. 3d 865.870 (11th Cir. 2010)**.
2. The Circuit Court also did not entertain the amended complaint in direct contradiction to its own precedent in **Patel v. Diplomat 1419VA Hotels, LLC, 605 Fed. Appx. 965, 965-966, 2015 U.S. App. LEXIS 9225, *3-5, 2015 WL 3482932,** where the Circuit Court specifically allowed an amended complaint in far more liberal way than Dr. Azmat's amended complaint.

Also, in **Grant Sunny Iriele v. Richard Carroll Griffin, et al, No. 21-12570 (11th Cir. 2023)** in exactly the same time-line as Dr. Azmat's case, the Circuit Court allowed an amended complaint 'as a matter of course'.

3. The Circuit Court in denying the Appeal stated:

> *"Here, even when construed liberally, Azmat's arguments in his brief do not discuss the sole issue on appeal concerning the district court's determination that Azmat's Rule 60(b) motion is a successive § 2255 motion. Rather, Azmat raises several claims that are not within the scope of this appeal."*

This directly contradicts what Dr. Azmat stated at the very top of the Rule 60 Motion:

> "Comes Now, Dr. Najam Azmat (Dr. Azmat), pro se Petitioner with a RULE 60 MOTION. This Motion is pursuant to Rule 60(b)(1); 60(b)(2); 60(b)(3); 60(b)(4); 60(d)(1); 60(d)(3) and specifically presented to show and prove that the final judgment by this Court was not only fraudulently obtained by the Govt., but was a mistake by the Court; contrary to the law; moreover, also clearly biased when the Court not only repeatedly failed to follow its own precedent, but also advocated for the Govt. with a *de novo* (and erroneous) argument, in order to preserve its own interest. As such, the final judgment

should be rightfully voided to serve justice that Dr. Azmat truly deserves.

Dr. Azmat's Rule 60 Motion is appropriate because, what Dr. Azmat presents below is specific evidence ***"to attack a defect in the integrity of the [] 2255 proceedings and escape the treatment as an impermissibly successive []2255 motion"***. See **Gonzalez, 545 U.S. at 532 & nna.4-5.** Also applicable is what the Court further stated ***"[t]he Rule 60(b) motion must allege a fraud on the court, or allege a procedural error that prevented the court from reaching the merits of the []2255 motion."*** Also, **Williams, 510 F. 3d at 1295**, as quoted in **Bryant v. United States, 776 Fed. Appx 592 (11th Cir. 2019).** In **Gonzalez Id.**, the Supreme Court went so far as stating that ***"we erred in holding that the petitioner did not qualify to seek Rule 60(b) relief when his motion challenged only the district's court's statue-of-limitations ruling, which prevented disposition on the merits of his []2255claim"***. **545 U.S. at 535-36, 538**, as quoted in **Bryant Id**. The Supreme Court in **Gonzalez Id.** held that challenging a ***"defect in the integrity of the federal habeas proceedings" is properly brought under Rule 60(b).***

Dr. Azmat's Motion satisfies the requirements and restrictions of Rule 60. Presented below are examples of defect in the integrity of Dr. Azmat's [] 2255 proceedings. As such, the Dist. Court has jurisdiction over this matter.

A review of the entire **Rule 60 Motion** that Dr. Azmat submitted shows that whereas Dr. Azmat remained within the confines of the Rule 60 Motion requirements and ensured that it was NOT a successive §2255, the contradictory ruling by Circuit Court was definitely unwarranted. Dr. Azmat, again and again made the argument and provided evidence that the Rule 60 Motion was NOT a successive §2255 by addressing issues and providing evidence related to 60(b)(1),(2),(3),(4) as well as 60(d)(1) & (3) that were NOT included in the §2255, original or amended.

***Who is the criminal*?**

Dr. Azmat has presented incontrovertible evidence to prove that it was Govt. (two named prosecutors) who engaged in multiple criminal acts to obtain Dr. Azmat's indictment in its entirety and Dr. Azmat had to go to jail to pay for the crimes committed by the prosecutors while the Dist. and Circuit Court found excuses such that the issue has never been addressed.

This was especially unfortunate that the court lost sight of the fact that at stake was the liberty of a truly innocent petitioner who presented actual proof of his innocence that is verifiably based upon Grand Jury transcript; copies of which were also submitted by the petitioner and should not have been subjected to any procedural impediment. (**Doc. 441; 444; 447**)

The Supreme Court should surely make the Circuit/Dist. courts make amends to exonerate an innocent person (Dr. Azmat). Such injustice should not have been allowed to even reach the Supreme Court.

60(d) issues not addressed

Dr. Azmat submitted a **RULE 60 MOTION**, as opposed to just a 60(b) Motion because the presented issues were related **60(b)(1)(2)(3)(4)** as well as **60(d)(1) & 60(d)(3)**, and not just a 60(b) motion that both, the Dist. and Circuit Court continue to refer to in their rulings while totally ignoring the **60(d)** part of the **Rule 60 Motion** that was presented as **60(d)(1)** from **pages 16-44,** using the following as the precedent where the court stated:

> **"United States v. Olano, 507 U.S. 725, 734, 113 S.Ct. 1770, 123 L.Ed.2d 508 (1993)** *(1) a judgment which ought not, in equity and good conscience, to be enforced;*
> *(2) a good defense to the alleged cause of action on which the judgment is founded; (3) fraud . . . which prevented the [movant] . . . from obtaining the benefit of his [position]; (4) the absence of fault or negligence on the part of [movant]; and (5) the absence of any adequate remedy at law.... For an error to affect substantial rights, it generally "must have been prejudicial: It must have affected the outcome of the district court proceedings.*

60(d)(3) issue was presented in pages 53-71 of the Rule 60 Motion and is extremely revealing,

but has never been addressed by any court, much less even mentioned by either the Dist. or the Circuit Court.

The **60(d)** issue was also presented in the Appellate Brief as ISSUE IV and was still unaddressed by the Circuit Court as if it was never filed. The **60(d)** issue did not require a COA, and as such, the Circuit Court was obligated to address it, but never did and totally ignored it.

SUMMARY

Had either the Dist. Court or the Circuit Court addressed the **actual innocence and 60(d) issues** based upon the evidence that was presented because there was no COA required for either issue, there would have been no need to waste the Supreme Court's time on this issue. However, if a COA was needed, there was no justification to deny it. Since it did not happen, the Supreme Court is certainly not going to allow this injustice to slip through the cracks of our justice system that ensures that the accused gets at least a hearing and their day in court is not denied. It is ironic that murderers and others caught red-handed while committing crimes are never denied their day in court while no court has so much as looked into Dr. Azmat's claim of actual innocence where the actual criminals with incontrovertible proof of their crimes were the prosecutors. This is the last hope for Dr. Azmat, an actual innocent person who has been denied justice thus far.

CONCLUSION

Dr. Azmat, once again begs the Honorable Supreme Court to please... please...please verify Dr. Azmat's claim of **actual innocence and 60(d) claims** from referenced documents and grant the Writ to ultimately enable an innocent petitioner to be exonerated. Dr. Azmat has full faith that Supreme Court will ensure that an innocent person is not denied his day in court on a claim of actual innocence that is verifiable by court records.

/s/ Najam Azmat

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NOTE: All references to records are from 4:13-cr-028-WTM, SD Georgia

RULE 44 CERTIFICATE OF GOOD FAITH

As a pro se petitioner, Dr. Azmat certifies that the petition for rehearing is presented in good faith and based upon true facts that are verifiable by court records; not meant to waste the Honorable Supreme Court's valuable time/resources, and in accordance with applicable rules.

/s/ Najam Azmat

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APPENDIX

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The Honorable:
Merrick Garland
U.S. Attorney General
Department of Justice
Washington DC

May 06, 2021

Dear Sir,

It is with a heavy heart that I am compelled to write to you. At the same time, in consideration of the fact that you are an honorable person, I am confident that you would very much appreciate my bringing to your personal attention what follows.
This communication is expressly meant to seek your intervention where you will see from the attached documents that my indictment was fraudulently obtained by using criminal conduct and other egregious misconduct. This criminal conduct was carried out by AUSA Karl Knoche, AUSA Greg Gilluly, DEA Agent Douglas Kahn and DEA Special Investigator Charles Sikes. I am specifically naming the involved individuals because I have obtained actual proof of criminal conduct. Once you verify these allegations from the documents that I have referenced below, you will be convinced that I am not making any false or exaggerated accusations. As a result, I remain illegally incarcerated for over 90 months.

This is not the first time that I am communicating with the DOJ. I have previously brought all this to the attention of the then US Attorney Bobby Christine; filed a formal complaint with OPR; wrote to the IG-DOJ, Mr. Horowitz and wrote twice to your predecessor, AG William Barr. Regrettably, none has displayed the courage, moral

or ethical and professional obligation and responsibility to stand up for the sake of truth and justice. The silence of each and every office of the DOJ speaks for the total lack of accountability at the DOJ. These communications are attached or your review.

Without indulging into many details, my involvement with the DOJ started as a result of a FCA complaint that was filed against me. This actually turned out to be a false claim by the DOJ. The FCA case was withdrawn by the DOJ after I signed a multi-page release of liability for the DOJ. The FCA case was based upon incomplete medical records and false reports by the experts retained by the DOJ. Moreover, the AUSA Arthur DiDio, from the DOJ in Washington, DC actually was parked at the expert's door by visiting with the expert for a dozen or more times. Also, in order to assure victory in the FCA case, an attempt was made to preemptively exclude me from Govt. health care plans through the HHS. I went up to the OIG-HHS in Washington DC and gave a presentation to the IG, Deputy IG and two senior lawyers amongst others in the room. I never heard anything about exclusion from the HHS after that. Leading up to all this, the DOJ through the federal agents started following me by threatening my places of employment with false narratives that I was going to be excluded from Medicare to get me relieved of my employment at the hospital in Baxley Georgia; falsely told the employer of a diet clinic that I was going to be indicted when it was a civil matter and similarly got my letter of employment revoked at a VA Hospital. These undertakings were meant to coax me into settling with the DOJ. The DOJ knew I

was not guilty; otherwise there would have been no need to resort to such pressure tactics. All this speaks loud and clear of my innocence.

Govt. failed to exclude me from Govt. healthcare plans, which is otherwise an easy administrative decision. And then, on top of this, DOJ also failed in a FCA claim against me when I stood up myself without a lawyer and forced the DOJ to withdraw the case. The DOJ would never have withdrawn the case if there was even a sliver of hope to win. This speaks for a witch hunt because I was falsely accused. It also proves that I am an honest and honorable person whose life was ruined by the DOJ, especially when considering the fact that DOJ/Federal Agents followed me to prevent and expel me from any employment I was pursuing. Where is the justification for such preemptive and baseless actions and harassment? Following this, in order to avenge these defeats and nurse their bruised ego, the DOJ could not even find truthful evidence and testimony to achieve an honest indictment related to my 19 days work at a pain clinic, as you will see what follows.

My indictment was related to my 19 days work at a pain clinic in Savannah Georgia. This was a newly opened clinic and I was the first physician. Since I had no criminal intent, I kept my practice strictly within the standard of care. For example, I bought my own malpractice insurance; reduced everybody's narcotic medication up to 66% or more; never prescribed the so called 'drug cocktail'; did not prescribe to those that failed urine drug screen and on and on, and my letter to AG Barr provides some detail. This was a surprise for the management who had other intentions and there is sworn testimony

that they started looking for my replacement on the very first day. There is testimony by the clinic manager where I told them that "my license was on the line" and that "he wasn't going to do what they wanted him to do". I was fired after 19 days. This was the right decision by the clinic who did not want an honest practitioner to ruin their plans. I was a "disaster" for the clinic, according to sworn testimony by clinic employees. Yet, I was charged with conspiracy! Even a non lawyer, like me cannot be fooled by this. I even called the local Counter Narcotic Taskforce Special Agent Ron Tyran seeking guidance because, in my own words, "I want to do the right thing", as was recorded by the agent, which is on record. Instead of guidance, I received an indictment.

It is quite obvious from what has been stated so far, the DOJ wanted to avenge its HHS and FCA defeats by indicting me. Since they did not have culpable evidence, the result was a fraudulent indictment that was based upon fabricated evidence; witness that I never saw as a patient; falsified documents; false testimony etc. etc.. In order to assure an indictment that the prosecutors knew was fraudulent, they met with the grand jury in the absence of the witnesses and off the record on NINE (9) separate occasions that I have actually exposed, in violation of GJ Rule 6(e)(1). It is of note that NOT A SINGLE EXAMPLE OF WHAT I HAVE PRESENTED HAS EVER BEEN DENIED OR CONTESTED BY THE DOJ. All this evidence speaks loud and clear of my innocence. Please verify it yourself from CR: 413-28, Doc. 441,447. As if all this was not enough, may I direct your attention to the false and misleading submissions by AUSA

James Stuchell that I have exposed, line by line and page by page in Doc. 508. To evoke your attention to the fraudulent indictment, let me very briefly share one of many outrageous examples that are presented in no less than a 50 page Motion for Summary Judgment (Doc. 441) and around 100 pages of copies from the record that verify and substantiate each and every accusation (Doc. 447).

Brian Loomis, a patient stated he saw me in Savannah on May 12 which was then was changed in a subsequent DEA-6 to seeing me in Atlanta in June, even though I was not in Savannah in May or in Atlanta in June. This patient was never seen by me and Karl Knoche had the records to show that my name was nowhere to be found on any of Loomis' records. Loomis photo identified me by saying he saw me in Atlanta, which was untruthful and could not identify the doctor that actually saw him in Savannah. Loomis identified LaFrancois as the "owner" of the clinic when Loomis had not ever seen him because LaFrancois was no longer in Savannah and had moved to Florida. At the same time, Loomis could not identify Afthinos who would have been the one to check his blood pressure and perform a urine drug screen on him. As if this was not enough, the grand jury was told that Loomis travelled to the clinic with Brian Smith by falsifying the DEA-6 report which stated: "A review of EHC patient records...show that (Brian) Smith was at EHC on May12, 2011", whereas Brian Smith's record shows he was seen at EHC on May 23,2011. Moreover, Brian Loomis came from Kentucky while Brian Smith came from Brunswick Georgia, which is south of Savannah, so they could not have travelled together. This one example shows there was

fabrication of evidence, falsification of records and untruthful testimony. This was a planned undertaking because the DEA-6 report of February 20, 2012 (USA0-000510) shows AUSA Karl Knoche as one of the investigators. This was a criminal act that was deliberately carried out because Knoche was personally involved in interviewing Loomis for the DEA-6 report, preparing Loomis for the grand jury testimony and then facilitating the testimony (suborned perjury) before the grand jury. This was a criminal act of conspiracy, tampering with evidence and obstruction of justice, which has no immunity for prosecutors and federal agents, who had already lost their total and qualified immunity, as the evidence shows. This is just one example from a 50-page document.

I would be remiss if I did not present an example from the superseding indictment. A superseding indictment was obtained because a false count from the original indictment was dropped. Gerald Smith, who was facing dozens of years of incarceration on drug related charges, was given a 12-18 month halfway house confinement in return for falsely testifying before the grand jury that I post-dated his prescriptions. This testimony flies in the face of a note on the very front of the patient chart asking the patient to come at the later date. Moreover, the patient sign-in sheets confirm that the patient came at a later date when he was seen, examined and prescribed. The prescriptions were NOT post dated. This was a totally fabricated testimony, which this patient even admitted under oath. The prosecutors sought this witness in jail and knowingly gave him a free 'get out of jail' card in return for testimony they had themselves fabricated

and suborned before the grand jury. The superseding indictment was just as fraudulently obtained as the original indictment. This is exactly in line with the earlier modus operandi of these prosecutors where all except probably one or two male witnesses that they produced before the grand jury were picked up from jails. This is significant because DEA Investigator Charles Sikes testified that they interviewed around 80 of my patients. It shows that out of 80 interviewed patients, the prosecutors could not find 8 or 10 that were not incarcerated and could offer truthful testimony against me. The only conclusion is that the prosecutors just did not have incriminating evidence to indict me so they resorted to criminal conduct with the help of criminals from jail to fabricate the evidence and falsify DEA-6 reports. This is no different than what is used by dictatorial regimes or socialist society where there is no regard for or consideration of rights of citizens. Regrettably, even upon exposure the DOJ has displayed no honor to respect the rights of a fraudulently accused and convicted person and hold the involved individuals to account for their conduct, which makes us no different than seen in the lesser developed countries, that we laugh at. We are better than that.

These grand jury examples speak for the moral, ethical and professional turpitude of the involved individuals that rightfully should be of a deep concern to the DOJ because it literally plundered the sanctity of solemn judicial proceedings where honesty and integrity is paramount and expected. These involved prosecutors had absolutely no such consideration. This leads to the obvious question: how many other grand juries have been

similarly corrupted by these prosecutors and how many other prosecutors have engaged in similar conduct? Who is to believe that this was the first or only time that these prosecutors engaged in such conduct or these are the only prosecutors in the DOJ who have abused the grand jury system. Such conduct erodes the confidence in the grand jury system when such blatant abuse is carried on without a fear of any repercussions. And, when it is exposed and reported, the entire DOJ refuses to lift a finger, while condoning such criminal behavior by vigorously fighting in courts to get the case procedurally dismissed in order to exonerate the involved individuals who are then emboldened to practice such art with renewed vigor and without fear of repercussions upon getting caught. The public needs to know and hear about this fearless and unabated abuse of the grand jury system by the prosecutors, and now is a good time.

The attached documents as well as what I have referenced above show that nobody in the DOJ, top to bottom is interested in holding those that committed the crimes to account for their acts that continues to incarcerate an innocent person for over 90 months. The unstated excuse that the case is still in courts is simply unacceptable. The DOJ has a responsibility to uphold the rights of the accused. This is exactly what the Solicitor General did in the famous **Mesarosh, 352 U.S. 1 (1956)**, because it was the duty of DOJ to inform the court once the crimes were exposed by honorably withdrawing the fraudulently obtained indictment. Also, I showed where the involved AUSA's and DEA agents had lost their absolute as well as qualified immunity on top of the fact that there is no immunity for criminal

acts, to begin with. None of this mattered to the entire DOJ, top to bottom and their silence, in fact condones criminal conduct.

Meanwhile, not only my life but my family's life has been destroyed. My children are afraid to say who and where their dad is and continue to endure needless shame for the conduct of their dad who is actually innocent. This has fractured and scarred the family. Need I say more?

Sir, I am taking the liberty to once again bring the issue to the DOJ since the new administration is conveying the message of bringing back decency and the rule of law. Your intervention to hold your subordinate DOJ officials that I have mentioned, accountable for their criminal and other egregious conduct would be in line with such a pledge. Otherwise, the issue of prosecutorial misconduct, if brought out in the open would add more fuel to the present outrage of police brutality that is being protested in the streets. The issue of prosecutorial misconduct is expected to far far exceed the protests of police brutality. The public does not need reminding that police brutality and prosecutorial misconduct go hand in hand and one cannot be reformed without the other because they are a part of the same justice system that is broken and needs to be fixed. This system simply cannot be fixed as long as there is no accountability at the DOJ, as is glaringly evident from my case.

The issue of prosecutorial misconduct has been running unabated owing to a total lack of accountability which emboldens the prosecutors who are living in an air of invincibility. I believe Greg Gilluly even got promoted to deputy head of the criminal division even though I have exposed his

criminal conduct in my case. This sends a clear message to the prosecutors to cheat, lie, fabricate evidence and reward witnesses involved in other crimes with a free 'get out of jail' card in return for false testimony that is conceived and facilitated by the prosecutors themselves, because such conduct is not only acceptable, but also rewarded by the DOJ. All this is abundantly clear in my case alone. I have presented not only irrefutable but incontrovertible proof of each and every such allegation to each and every office of the DOJ....from the US Attorney in Savannah Georgia; to the OPR; to the IG.DOJ; to the AG DOJ. None has shown any interest to investigate, much less even respond. My communications are attached to this letter. The notion or consideration that the courts will take care of it since the case is still in the court system is a bogus excuse which is invalidated by the fact the DOJ should not be wasting the court's time and resources with a case that originated by fabricating and fraudulently obtaining an indictment, in the first place. Also, since the DOJ's criminal and other egregious misconduct has been exposed, the DOJ is absolutely duty bound to withdraw such an indictment instead of hiding behind some procedural impediment that the court may use to bail out the DOJ and cover up its crime. It should be the other way around for an honorable resolution in a society that respects the rule of law and prides itself as the leader of the free world in protecting the rights of its citizens. Is this what is justice in the eyes of the Department of Justice? Even if the courts dismiss my complaint on procedural basis, it does not exonerate those DOJ officials that committed the crimes. In fact, it gets a bigger life and far greater

exposure in the public domain for the DOJ's role to go to extreme lengths in order to cover up its criminal acts.

So, no matter how we look at it, the issue is getting bigger by the day and only because the DOJ has and continues to shield obvious criminal acts. It is noticed that you have ordered an investigation into the Police Departments of Minneapolis and Louisville. I hope you recognize that an investigation of your own house, the DOJ is long due and my case provides the perfect reason and example to do so, immediately. My letter to ex AG Barr, dated April 2, 2019 lists some of the nefarious tactics used by the DOJ.

I am once again reaching out to the Office of the Attorney General because, Judge Garland you were not there at the time when all this happened. However, since you are now being made aware, you have an obligation, and this letter provides you with the opportunity to make amends for the mistakes of the past and to do the right thing, so that justice may be rightfully served. You will also have to understand that I have needlessly suffered and this injustice needs to end immediately otherwise a public disclosure of a total lack of accountability for deliberate prosecutorial misconduct will be made, perhaps very shortly after you receive this communication. Such a disclosure is meant to see who else has similarly been a victim of prosecutorial misconduct, Federal and State. I fully expect that such an invitation would generate a vigorous and enthusiastic response, not to mention the expected outrage by the public that is already out and protesting in the streets. I suspect this issue disproportionately affects the minorities, this victim included. Any attempts to silence me will fail

because I may not be the one to initially speak out. I say no more.

I hope you realize that what I have presented is borne out of desperation. While I have previously contemplated to go public, I have resisted the urge to do so, bearing the hope and expectation of a peaceful resolution. This is not likely to be the case this time. After all, there are only so many times that one can stake ones hope on expectations.

Respectfully, I ask and expect nothing short of an immediate withdrawal of my fraudulently obtained indictment and initiation of a criminal investigation of all the involved DOJ officials that include ex US Attorney Bobby Christine, AUSAs Karl Knoche, Greg Gilluly, James Stuchell as well as DEA Agent Douglas Kahn and DEA Investigator Charles Sikes, as well as others that participated in the cover up with their silence, which amounted to condoning the criminal conduct.

Respectfully,

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NOTE:

If you are somebody other than the Attorney General reviewing this communication, please ensure that this is immediately passed on to the Attorney General, as you may have noticed the nature and the time-sensitivity that requires the Attorney General's personal and timely attention.

via email

The Honorable:
Merrick Garland
U.S. Attorney General
Department of Justice
Washington DC

October 24, 2021

Reference Number: SB301668762

Dear Attorney General,

It appears that my previous communication to you that was dated May 6, 2021, never crossed your eyes. I so state because the response that I received from the Criminal Division after a four month delay, dated September 10, 2021, could possibly not have been sent under your direction, since it only serves to bring more shame to the DOJ and further proves what I have been stating and exposing: that oversight and accountability at the DOJ is a sham and only serves to condone the prosecutorial misconduct where even a report of criminal conduct, presented with ultimate proof, fails to evoke the interest of the DOJ to investigate the matter.

The response that I received is disgraceful and very revealing, for the following reasons:

i) The response is unsigned and appears to be a generic form forwarded by a mail room clerk because it clearly shows that the person did not even read my complaint, perhaps hired from a recent southern border crossing who could not read simple English because it does not even correspond to what I wrote to you, Mr. Attorney General.

ii) Your response is asking me to file a complaint with the OPR and IG-DOJ.
The person who generated the response, it appears did not even review my complaint because my complaints to the OPR and IG-DOJ were not only referenced TWICE in the letter that I wrote to you, Mr. Attorney General, but were also attached to the letter so you would not have to sift through records to find the complaints. What a shame!

iii) A non-lawyer pro se submitted a detailed report of prosecutorial misconduct that included multiple criminal acts and other egregious misconduct along with incontrovertible proof from the Grand Jury transcript, DEA-6 reports and other records that authenticates each and every allegation to prove that witness and evidence was fabricated, records were altered, untruthful testimony was rehearsed with the witnesses and presented to the grand jury using no less than SIX (6) witnesses picked up from jails along with no less than NINE (9) separate episodes of GJ Rule 6(e)(1) violations and also provided proof of loss of total and qualified immunity of the involved two AUSA's, and two DEA Agents, yet the CRIMINAL DIVISION of the DEPARTMENT of JUSTICE of the UNITED STATES of AMERICA is asking the pro se if he believes a crime has been committed, he should report the matter to the FBI to investigate, who will then refer the matter back to the DOJ. Such foolishness only serves to expose the DOJ's nefarious attempt to mislead me into a maze of bureaucratic black hole so I may lose my way and the complaint never sees the light of day while protecting those that committed crimes.

Mr. Attorney General, please pause and think about it for a moment: DOES IT MAKE SENCE FOR THE CRIMINAL DIVISION OF THE DEPARTMENT OF JUSTICE TO ASK A NOVICE PRO SE TO DECIDE WHETHER A CRIME HAS BEEN COMMITTED WHEN THE PRO SE HAS ALREADY PROVIDED THE DOJ WITH PROOF OF MULTIPLE CRIMES BY SEVERAL DOJ OFFICIALS IN MULTIPLE COMMUNICATIONS/COMPLAINTS?

Let me 'help' the Criminal Division by breaking my complaint in the two parts that were stated but conveniently ignored by the DOJ.

1) ***The investigation has already taken place; DOJ only needs to verify the evidence***

FIRSTLY, upon reviewing the records that I submitted, it clearly reveals that the complaint needs no further investigation because I have presented a fully investigated case. **All that the DOJ has to do is verify each and every allegation that I made with the actual records of the case that I also submitted, for ease of verification. There is no need to involve the FBI, unless the intent is to send the case into a black hole in order to protect their own, and that too, deliberately at the cost of injustice to a pro se**. Did the DOJ involve the FBI to investigate whether I had committed a crime before indicting me?

2) ***The DOJ has an obligation to withdraw the fraudulently obtained indictment***

SECONDLY, the decision to withdraw the fraudulently obtained indictment has to be made by the AG-DOJ and it does not require the involvement of the FBI. This decision is based upon a moral, ethical and professional obligation once the fraud is exposed. Of course, the DOJ should not have engaged in a fraudulent scheme to start with, but once exposed, finding and making excuses to prolong my incarceration amounts not only aiding and abetting, but knowingly protecting the perpetrators of their ill conceived acts. Mr. Attorney General, where is the justification for this? I have presented the Supreme Court precedent to this effect that the DOJ is obligated to follow **Mesarosh, 352 U.S. 1 (1956)**, but the irony is that it still did not register with the DOJ. More recently, a similar case involved the famous **Senator Ted Stevens**, where the Attorney General withdrew the fraudulently obtained indictment upon exposure of the misconduct. Why is my case being treated any different?

Mr. Garland, if my complaint is without merit, why has the Criminal Division of the DOJ not made such argument in court for the past four years to get it dismissed? The dilemma for the DOJ is that I have provided more than enough evidence to prevent the Criminal Division to make such an argument in court. The fact that it is being driven down a bureaucratic maze shows that the Criminal Division wants to kick the can down the road because nobody at the DOJ wants to look into the merits of criminal and other misconduct that involves their own.

To make it easier for whoever reviews this correspondence to keep from wondering what RESPONSE I received from the Attorney General, I am pasting the entire letter so whoever reviews this can clearly see what the hue and cry is all about. It is hilarious when the Response starts by stating that criminal complaints are taken very seriously and then proceeds to punt it back to the pro se. It was not taken seriously because it took four (4) months to respond! It is obvious that criminal complaints involving others are taken seriously but not those that involve the DOJ officials.

U.S. Department of Justice
Criminal Division

Washington, DC 20530-0001

September 10, 2021

Najam Azmat
1961 River Forest Dr.
Marietta, GA 30068-1520

Dear Dr., Azmat:

This is in response to your letter to the Attorney General Merrick Garland dated May 6, 2021. We assure you that the Department of Justice takes allegations of criminal conduct very seriously. We regret the delay in responding to your letter.

You may wish to submit your information to the Department of Justice's Office of Professional Responsibility (OPR) for review. OPR is an

independent office within the Department of Justice which was established to review allegations of misconduct on the part of Department personnel.

You may also wish to forward your complaint to the Department of Justice Office of Inspector General (OIG), which is responsible for conducting investigations regarding the operations of the Department of Justice. In the event that the OIG finds evidence of any criminal wrongdoing, it will bring that information to the attention of an appropriate prosecuting office.

If you believe this matter may constitute criminal activity, please contact the Federal Bureau of Investigation (FBI), the investigative arm of the Department of Justice. The FBI will determine whether a federal investigation may be warranted. If appropriate, the FBI will refer the matter to a United States Attorney for a final determination regarding legal action.

We hope this information is helpful.

Sincerely,

Correspondence Management Staff
Office of Administration
Reference Number: SB301668762

For further correspondence please email criminal.division@usdoj.gov. Should you wish to speak to a representative please call (202) 353-4641 and provide the reference number.

Mr. Attorney General, make no mistake about it, my complaint is a WHISTLEBLOWER COMPLAINT THAT EXPOSES A MAJOR SCANDAL OF PROSECUTORIAL MISCONDUCT AND ABUSE OF GRAND JURY PROCEEDINGS. My case leads the evidence of a system wide problem within the DOJ that involves the prosecutorial misconduct before the Grand Jury, where there is no oversight and also covers other wide ranging aspects and issues as briefly stated in my letter to Attorney General Barr on 4.2.2019. I should be afforded all the protection afforded to a whistleblower under the law.

Mr. Attorney General, when you review the time-line of what my communications have been with the DOJ, any fair-minded person will conclude that there is absolutely no accountability at the DOJ and all that the DOJ has done is use tactics to avoid addressing the issues at each and every office of the DOJ that I communicated with for the past four (4) years. Nobody has cared that at stake is the illegal incarceration of an otherwise innocent person and how unfairly I have been dealt with while protecting their own. Here is the time-line so you may, once again see what I am complaining of:

10.10.2017; (Doc. 411)

Amended Complaint filed with allegation of fraudulent indictment.

07.30.2018; 08.30.2018; 10.26.2018 (Doc. 441, 444, 447)

Motion for Summary Judgment filed with presented proof of criminal conduct and other egregious misconduct before Grand Jury.

01.19.2018; 02.22.2018; 07.30.2018; 01.21.2019

Letters to US Attorney reporting corruption/misconduct by his subordinates.

10.20. 2018

Letter to Corey Amundson, head of OPR with attached formal OPR Complaint, detailing fraudulent indictment and criminal conduct of US Asst. Attorneys and
DEA Agents.

11.06.2018; 02.11.2019

Letters/Complaint to Michael Horowitz, IG.DOJ of fraudulent indictment and criminal conduct of US Asst. Attorneys and DEA Agents.

03.14.2019; 04.02.2019

Letters to Attorney General William Barr with complaint of criminal conduct and other egregious misconduct by DOJ officials.

05.06.2021

Letter to Attorney General Merrick Garland with complaint of criminal conduct and other egregious misconduct by DOJ officials.

As you can see that for FOUR (4) long years I have made knocked on every door of the DOJ, without receiving any meaningful response or even a denial of my accusations. At the same time, all that the DOJ has been doing in countless court filings is desperately trying to get the accusations dismissed on procedural basis. Not once has the DOJ stated that the accusations were without merit and asked the court to dismiss them. What this amounts to is a concerted effort to suppress the truth and get it procedurally dismissed in order to cover-up the criminal conduct and other egregious misconduct by the DOJ at the expense of incarceration of an innocent person. Where is the justification for this?

When all the above communications with the DOJ that involved the US Attorney, OPR, IG-DOJ and two Attorney Generals are reviewed, it becomes glaringly apparent that when it comes to holding their own responsible for their acts, the wheels of justice go flat and get buried in the frozen tundra. While I have been repeatedly bringing it to their attention, nobody at the entire Department of Justice from the very top (Attorney General) to the bottom and sideways has dared lift a finger to look into the matter. This is reflective of a system-wide issue and not just the conduct of a few rogue prosecutors that had ambitions of personal advancement of their careers that the entire DOJ is protecting.

Once an accountability is initiated, it is fully expected that other examples will emerge that may not only involve these but other prosecutors in not only the Southern District of Georgia but across the

country. It is also perceivable that these prosecutors may be holding the DOJ hostage for these stated reasons. Meanwhile, it is business as usual at the DOJ, as if nothing happened, where these prosecutors continue to make court appearances and one even got promoted to deputy head of the Criminal Division! Such reward sends a message that the DOJ not only condones but rewards prosecutors that ensure victory even in the face of exposed misconduct; even if it is criminal. When the AG-DOJ, OPR and IG-DOJ are all made aware and do not react it only serves to embolden the prosecutors with ambitions of career advancements to fearlessly engage in any misconduct because there is no accountability even after getting caught.

The arrogance of the US Attorney Bobby Christine can be gauged from my offer to provide information where the DOJ could stand to collect millions. This was conveyed in my letter dated January 21, 2019. A reference to this offer was then conveyed to IG-DOJ Michael Horowitz in my letter dated February 14, 2019, to which I received no response from either. The offer is still valid.

Once again, very briefly let me remind you, once again how the superseding indictment was fraudulently obtained. A patient was picked up from a county jail where he was facing dozens of years of incarceration for drug related charges to testify before the Grand Jury that I post-dated his prescriptions. This was not true because the patient was sent away and asked to come back four days later when it was time to be prescribed since he was less than 30 days from his previous prescription

from another doctor. A note on the front of the chart clearly stated that he can come back four days later. The clinic sign-in sheets show that the patient signed-in on two different days in his own handwriting. The prescriptions were not post-dated. ***The patient, under oath acknowledged that the prescriptions were not post-dated.*** There is more: the patient did not seek the prosecutors. It was the other way around. The DOJ 'found' him; fabricated the 'story' and facilitated its presentation to the Grand Jury in return for a free 'get out of jail' reward instead of the dozens of years of incarceration. This was a criminal act and was not an isolated example, rather a modus operandi where some half a dozen male witnesses were picked up from various jails to provide untruthful testimony before the Grand Jury. This is even more significant when the DEA Investigator, under oath testified that they interviewed 50 of my patients and the DOJ still had to seek prisoners to provide false testimony to obtain an indictment.

The DOJ needs to come to grips with the reality that the misconduct has been fully exposed and such a fraudulently obtained indictment needs to be withdrawn. This is just one example from a 50 page document (Doc.441) where I have exposed over two dozen such examples. Where is the justice in the Department of Justice, I ask?

I am providing the DOJ with yet another opportunity to make amends for its ill conceived response. Acting naïve or oblivious only furthers the prejudice I suffer from an indictment that I neither earned nor deserved. I hope Mr. Attorney General

that this letter makes its way to your desk to enable you to do the right thing by immediately withdrawing the ill-conceived indictment in light of all the evidence that I have presented to authenticate each and every claim and not waste judicial time and resources by knowingly advocating for injustice to get my claims procedurally dismissed in order to cover-up and protect the prosecutors that committed crimes and other egregious misconduct. As you can see that I have answered the famous age old Watergate question of who knew what and when by creating a record of communication with everyone that matters and there is no denying on anybody's part because this issue will survive all DOJ's attempts to suppress it. Once again, keep in mind, this is a Whistle-blower complaint and the next stop may be the US Congress; House and Senate.

Respectfully,

/s/ ***Najam Azmat***

Najam Azmat, MD
2548 Pharr Avenue
Dacula, GA 30019
(470) 546-0593
azmatmd@hotmail.com

NOTE: Whoever reviews this communication, please ensure that the Attorney General receives it due to its sensitive nature and serious consequences.

No. 22-1152

NAJAM AZMAT,
A/K/A DR. AZMAT,
Petitioner,

V.

UNITED STATES OF AMERICA,
Respondents.

AFFIDAVIT

On this 26th day of October, 2023, I, Anthony G. Lantagne, hereby certify that this Petition for Rehearing was sent this same day via Federal Express Overnight Delivery to the Supreme Court of the United States. I further certify that I have served by First Class mail this same date the required copies to the parties listed below:

Elizabeth Prelogar
Solicitor General
Counsel of Record
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
SupremeCtBriefs@USDOJ.gov

I declare under penalty of perjury that the foregoing is true and correct.
Executed on this 26th day of October, 2023.

Anthony G. Lantagne
Lantagne Legal Printing, Inc.
801 E. Main Street, Suite 100
Richmond, Virginia 23219
(804) 644-0477

COMMONWEALTH OF VIRGINIA)
CITY OF RICHMOND) to-wit:

Anthony G. Lantagne appeared before me this 26th day of October, 2023, and attested that the foregoing affidavit is true and exact to the best of his knowledge and belief.

KEIONA DEANDRA REDD
NOTARY PUBLIC
REG # 7830761
MY COMMISSION EXPIRES
3/31/2027
COMMONWEALTH OF VIRGINIA

Keiona Redd

No. 22-1152

NAJAM AZMAT,
A/K/A DR. AZMAT,
Petitioner,

V.

UNITED STATES OF AMERICA,
Respondents.

CERTIFICATE OF COMPLIANCE WITH THE WORD LIMITATIONS

I, Anthony G. Lantagne, hereby certify that the above referenced Petition for Rehearing, as indicated by the word count feature of MS Word and including footnotes but excluding those parts enumerated for exclusion under the rules, contains 1,955 words.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 26th day of October, 2023.

Anthony G. Lantagne
Lantagne Legal Printing, Inc.
801 E. Main Street, Suite 100
Richmond, Virginia 23219
(804) 644-0477

COMMONWEALTH OF VIRGINIA)
CITY OF RICHMOND) to-wit:

Richard Markell appeared before me this 26th day of October, 2023, and attested that the foregoing certificate is true and exact to the best of his knowledge and belief.

Keiona Redd

KEIONA DEANDRA REDD
NOTARY PUBLIC
REG # 7830761
MY COMMISSION EXPIRES
3/31/2027
COMMONWEALTH OF VIRGINIA