

22-5309

No.

FILED

MAY 26 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

SADDAM SAMAN — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

SADDAM SAMAN DAUD SAMAN Reg. No 28099-041
(Your Name)

Victorville Federal Correctional Institution #2
(Address) P.O. Box 3850

ADELANTO, CA 92301
(City, State, Zip Code)

N/A
(Phone Number)

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QUESTION(S) PRESENTED

1. Did The Lower Courts err by not Suppressing the evidence after The Minnesota Supreme Court ruling in State v. Leonard, 943 N.W. 2d 149 (Minn 2020)?
2. Did The government commit prosecutorial misconduct by: (A) allowing an unlicensed attorney to represent petitioner during pre-indictment; (B) not informing petitioner of his attorney's status; (C) and by not revealing to petitioner that the investigation revealed Sixty Six Jail Calls between petitioner's attorney and the uncharged co-conspirator who implicated petitioner?
3. Did Trial attorney Labor under a conflict of interest when his apprentice, and law partner became the government's witness while he was under investigation by the Board of Ethics for his prior representation to petitioner on the same case?
4. Did Trial attorney Labor under a conflict of interest when government's evidence at trial reveal that his other client was an uncharged co-conspirator, which led the attorney to prevent petitioner from testifying in his own defense?
5. Did prosecutor violate Brady v. Maryland, when she informed trial attorney of her source to the language in the indictment, but did not provide him with the second statement when the source recanted his statement regarding petitioner's involuntariness and the fact that he did not know petitioner?
6. Does Use Immunity via proffer letter provide the same protection under Kastigar, giving the fact that petitioner was deceived into a proffer session by his unlicensed attorney by calling it full immunity, and giving the fact that petitioner never signed or agreed to the terms of the proffer?
7. Did the Lower courts err by not granting an evidentiary hearing, and by not issuing a Certificate of Appealability?

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

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Franks v. Delaware, 438 U.S. 154, 164-65, 98 S.Ct. 2674, 57 L. Ed. 2d 667 (1978).

Hall v. United States, 371 F.3d 969, 973-75 (7th Cir. 2004)

Cayler v. Sullivan, 446 U.S. 335, 100 S.Ct. 1708, 64 L. Ed. 2d 333 (1980)

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United States v. Stewart, 2008 U.S. Dist. Lexis 84555 (D. Minn. 2008)
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STATUTES AND RULES

Local Rule 83.5(a)(2).

OTHER

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 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 January 29, 2022.

☐ 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: March 2, 2022, and a copy of the order denying rehearing appears at Appendix B.

☐ 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

1. The Fourth Amendment OF The United States Constitution.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause....

2. The Sixth Amendment of the United States Constitution.

In All criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, and to have the assistance of counsel for his defense

3. The Fifth Amendment of the United States Constitution.

No Person shall be held to answer for a capital, or other infamous crime.... nor shall be compelled in any criminal case to be a witness against himself.

STATEMENT OF THE CASE

On May 30, 2012, petitioner was arrested and charged by state Authority for bank fraud, and possession of counterfeit checks. Petitioner hired an attorney to represent him on the Criminal Proceedings. On August 15, 2012, Petitioner was arrested again after the Police Forced Hotel workers to provide a List of the guest registry. The Evidence from both incident were provided to Federal Authority, and both, the State and Federal Agents worked in tandem to further the Investigation. Petitioner's attorney was not admitted to practice Federal Law, Nor did he have the experience. After communicating with Federal and State prosecutor, he informed petitioner that he reached a deal with Federal and State prosecutor where petitioner would receive Full Immunity from Federal prosecution, and the State charges would be dismissed in exchange for cooperation with the investigators. Petitioner was not informed that his attorney was not licensed, and that he was accepting Federal cases because his partner Gary Wolf was admitted. Petitioner never signed a proffer or agreed to the terms of a proffer. Petitioner met and worked with the investigators for ten months where the probable cause was obtained to further the investigation against other Co-conspirators. The evidence, the search warrants were obtained based on petitioner's cooperation. The State case was put on hold for three years. Petitioner completed his mission, however, his relationship deteriorated with his lawyer and Federal agents because of all the false promises. In 2015 petitioner lodge an ethnic complaint against his lawyer and his unknown partners. In October of 2016, Petitioner and five other co-defendants were charged with conspiracy to commit bank fraud, and the court appointed Gary Wolf to represent petitioner. Wolf never revealed to petitioner or the court that he was the partner and the mentor to the previous attorney who is under investigation for the same case, and that he also represented one of the unchanged co-conspirators. On May 23, 2017, the former attorney became the government's witness, and petitioner's attorney cross-examined him without revealing the conflict of interest. The trial lower refused to move for Kostigay Hearing. On October 30, 2018, petitioner was found guilty by a federal jury. Petitioner was sentenced to 7 months. Petitioner appeal was denied. In February 2021, petitioner Filed 2255. The Court denied to grant relief, and the court of Appeal Affirmed.

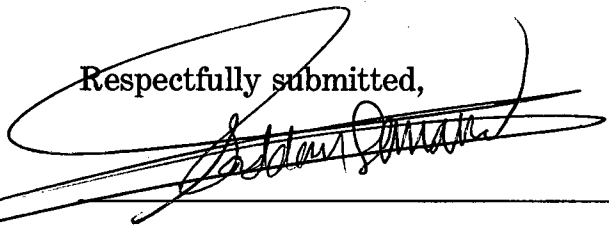
REASONS FOR GRANTING THE PETITION

1. Trial attorney admitted after trial that the conflict of interest had an adverse effect on his representation to petitioner. Simply by saying "I know that I spared him," referring to the government witness who was his partner, and who was under investigation by the Board of Ethics regarding the same case. However, there is a split circuit where the Court of Appeals for the Eighth Circuit refuses to extend conflict of interest beyond dual representation.
2. The Minnesota Supreme Court finding in *State v. Leonard*, 943 N.W.2d 149 (Minn 2020), was based on *Carpenter v. United States*, 138 S. Ct. 2206 (2018), where the U.S. Supreme Court ruled the People has privacy expectation in their location information even though it was revealed to phone company.
3. The government used Petitioner's proffer Statement, and evidence from his cooperation to convict him, and the court refused to give petitioner an evidentiary hearing, and ruled that proffer letter does not provide the same level of protection under Kastigar, even though during pre-trial, the prosecutor guaranteed to court that the proffer letter is enough to protect petitioner. The U.S. Supreme Court must grant a writ of certiorari because the District Court's decision was in conflict with other circuits, and its own prior decisions. See *United States v. Stewart*, Criminal No. 08-01 (DWF-SRN), Lexis 84555.
4. The government failed to inform petitioner of Sixty Six Jail Calls that they found between the uncharged co-conspirator who implicated petitioner, and the unlicensed attorney who represented petitioner and deceived him into cooperation.
5. The U.S. Supreme Court must grant a writ of certiorari, because the right to an attorney means the right to an attorney who is admitted to practice before the court where charges and trial will take place.
6. The District Court erred by denying petitioner a relief, because its own local rule did not allow any person to appear on behalf of others unless he is admitted to practice. See Local Rule 83.5(a)(2).
7. In an email between the prosecutor and petitioner's trial attorney, the prosecutor mentioned the name of the source to the language of paragraph 10(b) of the indictment, however, she left out the fact that the same person had recanted his statement regarding petitioner's involvement, and the prosecutor withheld the last statement from petitioner and his attorney, and the court refused to conduct an evidentiary hearing.
8. The conflict of interest was known or should have been known to the court and prosecutor, however, both failed to inform petitioner.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jonathan S. Marshall", is written over a horizontal line. The signature is stylized with a large loop at the beginning and a long, sweeping underline.

Date: 5-26-22