

AUG 03 2022

OFFICE OF THE CLERK

No. 22-5590

IN THE  
SUPREME COURT OF THE UNITED STATES

ROBERT NATHAN HENSLEY — PETITIONER  
(Your Name)

vs.

UNITED STATES of AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

EIGHTH CIRCUIT COURT OF APPEALS  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Robert HENSLEY #31650-009  
(Your Name)  
FCI - HAZELTON  
P.O. BOX 5000  
(Address)

BRACKETON Mills, WV 26525  
(City, State, Zip Code)

N/A  
(Phone Number)

ORIGINAL

## QUESTION(S) PRESENTED

Is it INEFFECTIVE ASSISTENCE OF COUNSEL  
WHERE:

- 1 a) 6 PHONE EXTRACTIONS, ALL DIFFERENT AND FALSIFIED, THEREBY PROVING "TAMPERED EVIDENCE" WERE NOT ALLOWED AT TRIAL DUE TO THE JUDGE "CHOOSING" ONE. THIS WAS "AGREED TO" BY DEFENSE COUNCIL WITHOUT DEFENDENT'S APPROVAL OR KNOWLEDGE.
- 2 b) THE JUDGE RULED THAT THE DEFENSE COULD NOT BRING UP THE "LEAD AGENT", ALEXANDER, CRIMINAL BEHAVIOR SINCE THAT FBI AGENT HAD NOT PLEADED GUILTY. BUT, PRIOR TO TRIAL, ALEXANDER DID PLEAD GUILTY TO FRAUDULENTLY ALTERING GOVERNMENT DOCUMENTS. DEFENSE ATTORNEY NEVER FOLLOWED UP.
- 3 c) <sup>a)</sup> DOES "KNOWINGLY" IN THE SEXUAL OFFENSE STATUTES AT ISSUE HERE, 18 U.S.C. AT 2422(b); 2251 (a); 2252 (a)(4)(B), HAVE THE SAME DEFINITION FOR SCIENTER'S MENS REA AS IN THE SUPREME COURT'S RULINGS IN REHAIF V U.S. AND U.S. V. RUAN? <sup>b)</sup> MUST THIS BE IN THE JURY INSTRUCTIONS?

## 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

APPEALING:

U.S. COURT OF APPEALS EIGHTH CIRCUIT No. 22-1092

## TABLE OF CONTENTS

OPINIONS BELOW .....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	3
STATEMENT OF THE CASE .....	4
REASONS FOR GRANTING THE WRIT .....	5
CONCLUSION.....	6

## INDEX TO APPENDICES

APPENDIX A	opinion of COURT OF APPEALS, <del>en banc and REHEARING</del>
APPENDIX B	opinion of U.S. District Court
APPENDIX C	
APPENDIX D	
APPENDIX E	
APPENDIX F	

## TABLE OF AUTHORITIES CITED

### CASES

### PAGE NUMBER

REHAIF v U.S. 139 S. Ct 2191, 204 L.Ed. 2d 594 (2019)	3-4
U.S. v RUAN 966 F.3d 1101, 2021 U.S. LEXIS 5511	3-4

### STATUTES AND RULES

18 U.S.C. AT 2422 (b)	3
18 U.S.C. AT 2251 (a)	3
18 U.S.C AT 2252 (a)(4)(B)	3
FIFTH AMENDMENT	3
SIXTH AMENDMENT	3

### 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 A to the petition and is

☒ reported at LEXIS 16669; 16-22-1592; 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 to the petition and is

☒ reported at LEXIS 247610; 4:17-cr-00310 SWb; 4:24-cr-01160-SWW; 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 JUNE 15, 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: JUNE 15, 2022, and a copy of the order denying rehearing appears at Appendix A.

☐ 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**

The SIXTH AMENDMENT TO THE CONSTITUTION  
the FIFTH AMENDMENT TO THE CONSTITUTION

18 U.S.C. at 2422 (b)

18 U.S.C. at 2251 (a)

18 U.S.C. at <sup>2252</sup>(a)(4)(B)



## STATEMENT OF THE CASE

SIX cell phone extractions were provided, in discovery, by the FBI. Each was different. ALEXANDER, the agent at issue, had the phone for 5 months before turning it over to an agent Whitlock. The "10/16/17" missing 3 text messages from Agent Alexander to the defendant (Hensley). The next download, extracted by Agent Alexander, shows 3 texts added from Hensley to Alexander (he added the wrong side).

5 months later, Agent Witlock made 4 extractions - each was a different result, because of the tampering done by Alexander. This was noted at pretrial but not allowed at trial. Alexander pleads guilty, prior to trial, to altering government documents (after the plea bargain).

Both in REHAFF, and RUAN... the Supreme Court has steadfastly maintained that "knowingly" must be proven to convict if the statute says "knowingly." Defendant was tried without this due process!

## REASONS FOR GRANTING THE PETITION

INEFFECTIVE ASSISTANCE OF COUNSEL CONTINUES TO BE AN ISSUE WHERE MULTIPLE CIRCUITS HAVE CONFLICTING VIEWS. HERE, THE DISTRICT COURT AND THE EIGHTH CIRCUIT APPERATE COURT ALLOWED TAMPERED EVIDENCE AND A BAD AGENT TO CONVICT AN INNOCENT MAN.

THE SEXUAL OFFENSE STATUTES ALL HAVE "KNOWINGLY." WITH THE SUPREME COURT RULINGS, IN REHAIF AND RUAN THE MENS REA OF THE SCIENTER IS AT ISSUE. MANY INNOCENT MEN ARE IN PRISON, AND NEED RELIEF THROUGH THE SUPREME COURT. THE CIRCUIT COURTS ARE NOT FOLLOWING THE "RULE OF LAW." CLARIFICATION IS NEEDED.

### CONCLUSION

The petition for a writ of certiorari should be granted. *petitioner ASKS A LAWYER*  
*then be ASSIGNED.*

Respectfully submitted,

*Mr. Hendry*

Date: *3 Aug 22*