

No. 22-6017

IN THE  
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.  
FILED

SEP 22 2022

OFFICE OF THE CLERK

REGINALD EUGENE GRIMES - PETITIONER,

vs.

UNITED STATES OF AMERICA - RESPONDENT.

ON PETITION FOR WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

REGINALD EUGENE GRIMES  
USM #40127-004  
PENSACOLA FEDERAL PRISON CAMP  
P.O. BOX 3949  
PENSACOLA, FLORIDA 32516

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SUPREME COURT, U.S.

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QUESTION(S) PRESENTED

- (1) DID THE HONORABLE ELEVENTH CIRCUIT COURT OF APPEALS IN ATLANTA, GEORGIA COMMIT "**PLAIN AND OBVIOUS ERROR**" BY DENYING PETITIONER'S REQUEST FOR A CERTIFICATE OF APPEALABILITY ("COA") IN BEHALF OF "THE GOVERNMENT KNOWINGLY PRESENTING "FALSE STATEMENTS IN THE OPENING STATEMENT, AND ORCHESTRATING THE GOVERNMENT'S KEY WITNESS TO PRESENT PERJURED TESTIMONY AND CAPITALIZING ON THE PERJURED TESTIMONY DURING CLOSING ARGUMENTS TO OBTAIN THE GUILTY VERDICTS FOR DISTRICT COURT CASE NO. 9:15-CR-80003-DMM-5 ?
- (2) DID THE HONORABLE ELEVENTH CIRCUIT COURT OF APPEALS IN ATLANTA, GEORGIA COMMIT "**PLAIN AND OBVIOUS ERROR**" BY DENYING PETITIONER'S REQUEST FOR A CERTIFICATE OF APPEALABILITY ("COA") IN BEHALF OF THE HONORABLE UNITED STATES DISTRICT JUDGE **DONALD M. MIDDLEBROOKS** KNOWINGLY VIOLATING "FEDERAL RULES OF CRIMINAL PROCEDURE **RULE 32**" DURING AND AFTER PETITIONER'S SENTENCING HEARING ON OCTOBER 8TH, 2015 ?
- (3) DID THE HONORABLE ELEVENTH CIRCUIT COURT OF APPEALS IN ATLANTA, GEORGIA COMMIT "**PLAIN AND OBVIOUS ERROR**" BY DENYING PETITIONER'S REQUEST FOR A CERTIFICATE OF APPEALABILITY ("COA") IN BEHALF OF THE GOVERNMENT KNOWINGLY LYING ABOUT MATERIAL ELEMENTS OF FACTS TO THE HONORABLE DISTRICT JUDGE **DONALD M. MIDDLEBROOKS** DURING PETITIONER'S SENTENCING HEARING THAT WOULD HAVE AND STILL WILL HAVE CHANGED THE OUTCOME OF PETITIONER'S CONVICTIONS AND/OR SENTENCES, IN BEHALF OF DISTRICT COURT CASE NO. 9:15-CR-80003-DMM ?
- (4) DID THE HONORABLE ELEVENTH CIRCUIT COURT OF APPEALS IN ATLANTA, GEORGIA COMMIT "**PLAIN AND OBVIOUS ERROR**" BY DENYING PETITIONER'S REQUEST FOR A CERTIFICATE OF APPEALABILITY ("COA") IN BEHALF OF THE APPEALATE COUNSEL **DELIBERATELY REFUSING** TO RAISE PETITIONER'S **PRESERVED** FEDERAL RULES OF CRIMINAL PROCEDURE **RULE 32** VIOLATION ARGUMENTS DURING PETITIONER'S DIRECT APPEAL ?

## LIST OF PARTIES

A list of all parties to the proceedings in the Court whose judgment is the subject of this petition is as follows:

Anderson, Kevin, Esq., Counsel for Buckle;  
Benavidez, Cynthia, Co-defendant;  
Berman, Randall, Esq., Counsel for Richardson;  
Blye, Barlington, Co-defendant;  
Brannon, Hon. Dave Lee, Magistrate Judge;  
Buckle, Stpfone, Co-defendant;  
Casuso, Louis, Esq., Counsel for Benavidez and Escamilia, Jr.;  
Cooley, Edward, United States Federal Probation Officer;  
Dawkins, Jermaine, Co-defendant;  
Escamilia, Jr., Antonio, Co-defendant;  
Ferrer, Wifredo A., United States Attorney;  
Fleischman, Jack, Esq., Counsel for Dawkins;  
Freidman, Jonathan, Esq., Counsel for Walker;  
Garber, Hon. Barry, Magistrate Judge;  
Garland, Jeffrey, Esq., Counsel for Dawkins;  
Gelety, Michael, Esq., Counsel for Wise;  
Gershman, Robert, Esq., Stand-by Counsel for Grimes-Petitioner  
Greenberg, Benjamin G., United States Attorney;  
Greitzer, Howard, Esq., Counsel for Christopher Moore;  
Griffith, Brian, Delray Beach Florida's Police Officer;  
Grimes, Reginald Eugene, Petitioner;  
Hart, Jim, United States Federal Marshal;  
Hopkins, Hon. James M., Magistrate Judge;  
Hunter, Darrell K., Delray Beach Florida's Police Officer (**The HUSBAND during and at the Time of said Investigation and Arrest of Co-defendant Errica Hunter**);  
Hunter, Errica, Co-defendant;  
Johnson, Delrick, Co-defendant;  
Kasen, Jonathan, Esq., Counsel for Blye;  
Keating, Robert, Delray Beach Florida's Police Officer;  
Leon, Carlos, Palm Beach Gardens Florida's Police Officer;  
Lerman, Gregg, Esq., Counsel for Grimes-Petitioner;

Linehan, William, Federal Drug Enforcement Agent;  
Lucas, Mark, Delray Beach Florida's Police Officer;  
MacRae, Patrick, Esq., Counsel for Hunter;  
Mallonae, Brian, Esq., Counsel for Richardson;  
Matthewman, Hon. William, Magistrate Judge;  
McKinzie, Willie, Co-defendant;  
McMichael, Adam C., Assistant United States Attorney;  
Merlino, Richard, Esq., Counsel for Buckle;  
Messer, Jeffrey, Delray Beach Florida's Police Officer;  
Middlebrooks, Hon. Donald M., The District Judge;  
Miller, Diane, RMR, CRR, Official United States Court Reporter;  
Moore, Christopher, Co-defendant;  
Moore, Gary B., Co-defendant;  
Orshan, Ariana Fajardo, United States Attorney;  
Pacheco, Adan, Delray Beach Florida's Police Officer;  
Regan, Edward, Esq., Counsel for Grimes-Petitioner;  
Reid, Hon. Lisette M., Magistrate Judge;  
Ricardo, Leal, The Sprint Telecommunications Representative;  
Richardson, Reginald, Co-defendant;  
Rodriguez, Valentine, Esq., for Johnson;  
Rosenbaum, Richard, Esq., Appellate Counsel for Grimes-Petitioner;  
Rott, Richard, Riviera Beach Florida's Police Officer;  
Rubio, Lisa Tobin, Assistant United States Attorney;  
Sabri, Lida, Avis/Budget Renter Car Employee;  
Santucci, Michael E., Supervising United States Federal Probation Officer;  
Saracini, Matthew, Delray Beach Florida's Police Officer;  
Schlessinger, Stephen, Assistant United States Attorney;  
Smachetti, Emily M., Assistant United States Attorney;  
Smith, Michael G., Counsel for Gary Moore;  
Stickney, Robert, Esq., Counsel for McKinzie;  
Stipes, Pauline, RMR, CRR, Official United States Court Reporter;  
Suarez, Christine M., Delray Beach Florida's Police Officer;  
Wahid, Khurrum, Esq., Counsel for Wilson;  
Walker, Jermaine, Co-defendant;  
Weisberg, Frances, United States Federal Probation Officer;  
White, Charles, Esq., Counsel for Williams-Norris;  
Williams-Norris, Jerry, Co-defendant;  
Wilson, David, Co-defendant;  
Wise, Lakisha L., Co-defendant; and  
Wright, Kimberly, Federal Drug Enforcement Wiretap Agent.

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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 issues to review the judgment below:

OPINIONS BELOW

The opinion of the United States court of appeals appear at Appendix "A", "B", "D", "G", "H", "K" and "L" to the petition and is unpublished to Petitioner's Knowledge.

The opinion of the United States district court appears at Appendix "C", "E", "F", "I" and "J" to the petition and is unpublished to Petitioner's Knowledge.

## JURISDICTION

The date on which the United States Eleventh Circuit Court of Appeals decided Petitioner's case was May 6th, 2022. (See Appendix-'' K '').

A timely motion for reconsideration was denied by the United States Eleventh Circuit Court of Appeals on the following date: July 15th, 2022, and a copy of the order denying the motion for reconsideration appears at Appendix-'' L ''.

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

CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED

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STATEMENT OF THE CASE

On January 13, 2015, Petitioner (Reginald Eugene Grimes)<sup>1</sup>, and Eighteen (18) alleged co-defendant were indicted and charged with various counts of violating "21 U.S.C. §846 (Conspiracy) and 21 U.S.C. §§§841(a)(1), 841(b)(1)(A) and 841-(b)(1)(C)(Possession with intent to distribute heroin)." (CR ECF #3).<sup>2</sup>

On January 14, 2015, Petitioner was arrested by "Officer Richard Rott and Other State/Federal Law Enforcement Officers, in which at the time Petitioner got out of Petitioner's rented vehicle and lay stretched out on the pavement, with nothing in Petitioner's hands and Petitioner was posing no threat to any-one and in Petitioner's pants pocket were Petitioner's "Gucci Wallet" which contain Petitioner's Nine Hundred and Sixty-three Dollars (\$963.00), Driving Li-cense, and Other Important Information, in which was removed from Petitioner's possession, while the State/Federal Law Enforcement Officers (acting under color of federal authority), started hitting Petitioner in the Head and Face with a Heavy Object that was Black in Color and Shaped like a Firearm, and the State/Federal Authorities continued to Kick and Punch Petitioner in Petitioner's Back and Sides of Petitioner's Body, in which in the Glove Compartment of Peti-tioner's Rented Vehicle were Four (4) Cellphones that belong to Petitioner were Removed without Petitioner's Consent and/or a Search Warrant.<sup>3</sup>

On January 14, 2015, The Palm Beach County Sheriff's Department/Detention Center, 3228 Gun Club Road, West Palm Beach, Florida 33416, "Booking Intake" "REFUSE" to except Petitioner in their facility without the Drug Enforcement Agents (DEA) William Linehan and the Others taking Petitioner to "Wellington Regional Medical Center, 10101 Forest Hill Blvd., Wellington, Florida 33414" for Treatment based on Petitioner's Face, Head, Neck, Back and Sides Injuries.

On January 15, 2015, Petitioner invoked "Faretta v. California" during the "Initial Hearing." (CR ECF #'s 40 and 55).

(1) Haines v. Kerner, 30 L.Ed.2d 652 (1972), "Pro se litigants pleadings are to be construed liberally and held to less stringent standards than formal pleadings drafted by lawyers;..."

(2) All Citations for said Criminal Case No. 9:15-CR-80003-DMM are noted under "CR ECF"; and All Citations for said Civil Case No. 9:18-CV-80053-DMM are noted under "CV ECF"; and All Citations for Any Appeal for Criminal Case No. 9:15-CR-80003-DMM and/or Civil Case No. 9:18-CV-80053-DMM are noted either by the "Eleventh Circuit Court of Appeals "Citation Number" and/or "Docket Number."

(3) On January 29, 2015, which is Fifteen (15) Days after Petitioner's arrest, The Government Authorities Illegally Searched Petitioner's Cellphone ((786)623-1508) and made a "Outgoing Call" to Cellphone Number ((954)865-3770) without a Search Warrant. See Riley v. California, 189 L.Ed.2d 430 (2014).

On February 5, 2015, Petitioner's "Faretta Hearing" was held, in which Petitioner Testified Under Oath, that Petitioner's Conviction for Federal Criminal Case Number: 9:93-CR-8102-RYSKAMP/VITUNAC, was and is based on "PERJURY", "PLANTED FALSE EVIDENCE", "GOVERNMENT MISCONDUCT" and "LACK of JURISDICTION by THE DISTRICT COURT", in which Petitioner was "GRANTED Permission for Self Representation." (CR ECF #191).

On April 1, 2015, alleged co-defendants "Cynthia Benavidez and Antonio Escamilia, Jr. (whom both are Common Law Husband and Wife)" had a "Factual Proffer Debrief Meeting" Together with Their Defense Attorney Louis Casuso (Please note that Defense Attorney Louis Casuso ~~Represented Both~~**Alleged Co-defendant's** "Cynthia Benavidez" and "Antonio Escamilia, Jr."), (AUSA) Adam McMichael, (DEA) William Linehan, and Delray Beach Florida's Police Officers "Christine M. Suarez, Robert Keating, Mark Lucas, et. al.," in which Both Factual Proffer Statement(s) were Signed by "(AUSA) Adam McMichael", "Defense Attorney Louis Casuso" and "Cynthia Benavidez (See CR ECF 338)" and "Antonio Escamilia, Jr. (See CR ECF 341)" on April 1, 2015, **as a True Factual Statement, that Completely Contradict Each Other in Behalf of "Count 4 of the Indictment" Based on The Amount of Alleged Heroin (18 ounces (a Half of Kilogram) and/or 2 ounces) and Based on The Amount of Money (\$54,000.00 Dollars and/or \$5, 400.00 Dollars).**

On April 1, 2015, "(AUSA) Adam C. McMichael", and "Defense Counsel Louis Casuso for Alleged Co-defendants (Cynthia Benavidez and Antonio Escamilia, Jr.)" **BOTH (THE ATTORNEYS) CONCEALED THE FACTS OF TRUTH from The Honorable United States Magistrate Judge BARRY L. GARBER, at The CHANGE OF PLEA HEARING, by FAILING to Explain to The Court's that there are Two (2) Totally Different "FACTUAL PROFFER STATEMENTS" for One (1) Alleged Incident on September 18, 2014, for Count 4 of the Indictment, (See CR ECF #'s 335 and 339; Pages 15-16, Lines 1-14; and Compare CR ECF 338 and 341, Page 1, 2, 4, 5 and 6; and Compare CR ECF 748, Page 3, Paragraphs 3 and 4), in which is a complete violation of "In Re: Oath of Admission to the Florida Bar, 73 So.3d 149 (Fla. 2011), which states in part: "[I] will never seek to mislead the judge or jury by an artifice or false statement of fact or law ].]"**

On April 7, 2015, a "Superseding Information" and "Waiver of an Indictment" was filed for Alleged Co-defendant "Gary Bernard Moore, aka. Nino."(CR ECF #385).

On April 8, 2015, the "Waiver of an Indictment" and "Plea Agreement" was filed for Alleged Co-defendant "Gary Bernard Moore" and was Signed by "Gary Bernard Moore" and The Honorable District Court Judge **DONALD M. MIDDLEBROOKS**. (CR ECF #'s 387 and 389).

On April 8, 2015, Alleged Co-defendant "Gary Bernard Moore" had a "Change of Plea Hearing" in which "Gary Bernard Moore" Pled Guilty to the "Superseding Information." (CR ECF #'s 385, 386, 387, 388, 389, 390 and 391).<sup>4</sup>

On July 23, 2015, Alleged Co-defendant "Cynthia Benavidez" was sentenced to Twenty-four (24) Months of Imprisonment and Three (3) Years of Supervised Release for Count One of the Indictment, before Petitioner's "July 27, 2015, Jury Trial Begin." (CR ECF #'s 607 and 633).

On July 23, 2015, Alleged Co-defendant "Antonio Escamilia, Jr." was sentenced to Seventy-two (72) Months of Imprisonment and Five (5) Years of Supervised Release for Count One of the Indictment, before Petitioner's "July 27, 2015, Jury Trial Begin" (CR ECF #'s 609 and 634), in which means that "Antonio Escamilia, Jr.'s" FACTUAL BASIS Signed on April 1, 2015, was and is a TRUE LEGAL DOCUMENT. (See CR ECF #341, Pages 1, 2, 4, 5 and 6 of 6).

On July 27, 2015, Petitioner's Jury Trial Started and Ended on July 31, 2015, with a Guilty Verdicts for Count One and Eight of the Redacted Indictment for the Trial Jury that **ONLY** Showed Petitioner's Name for Count Eight, in which (AUSA) Adam C. McMichael and The Government's Key Witness Gary Bernard Moore, Orchestrated Petitioner's Jury Trial by Knowingly Submitting "Materially False Opening Statements, Perjured Trial Testimony and Materially False Closing Argument", in which was and is the Key Factor that the Trial Jury and The District Court used to Determine Petitioner's Fate of Incarceration, (See CR ECF #'s 750, Pages 106-107, Lines 24-16; CR ECF #750, Page 108, Lines 16-20; CR ECF #751, Pages 237-239, Lines 14-7; CR ECF #752, Page 55, Lines 9-25; CR ECF #753, Page 39, Lines 9-15; CR ECF #776, Page 13, Lines 10-12 and Lines 15-18; CR ECF 776, Page 45, Lines 2-10; and Compare CR ECF 748, Page 3, Paragraphs 3 and 4, to All of the Above.).<sup>5</sup>

**(4)** Petitioner would like the records to reflect that "The Government's Key Witness "Gary Bernard Moore" Pled Guilty to a "Superseding Information" and "Waived The Indictment" in which Petitioner was Tried and Found Guilty of The Indictment and Not an Information Sheet."

**(5)** Petitioner would like the records to reflect that Petitioner Attempted to obtain "**Discovery**" from the Government on many different occasions but was ~~RE~~ DENIED (See CR ECF #'s 179, 208, 225, 243, 252, 276, 277, 586, 630 and 667) and the Government NEVER supplied Petitioner "CR ECF #'s 338 and 341."

On September 3, 2015, The United States Federal Probation Officer (USPO) "Ms. Frances Weisberg" filed the Presentence Investigation Report (PSI), in behalf of Petitioner. (See CR ECF #711).

On October 2, 2015, The "USPO (Ms. Frances Weisberg)" Hand Delivered the "PSI" to Petitioner, in which was Delivered Six (6) Days Before Petitioner's October 8, 2015, Sentencing, in which was and is a violation of Federal Rules of Criminal Procedure Rule 32.

On October 5, 2015, Petitioner filed Petitioner's "Pro se Defendant's Objections to the Presentence Investigation Report" in which was filed Three (3) Days Before Petitioner's October 8, 2015, Sentencing. (See CR ECF #747).

On October 6, 2015, The "USPO (Ms. Frances Weisberg)" filed and Hand Delivered the "Second Addendum To The Presentence Report" that consist of Nine (9) Pages of "Resolved and Unresolved Issues of Material Facts", in which was and is a violation of Federal Rules of Criminal Procedure Rule 32. (CR ECF #748).

On October 6, 2015, (AUSA) Adam C. McMichael filed the Government's "Response to 747 Objections to Presentence Investigation Report", in which was filed Two (2) Days Before Petitioner's October 8, 2015, Sentencing. (CR ECF #754).

On October 8, 2015, The Honorable District Court Judge DONALD M. MIDDLEBROOKS "DID NOT" Review and Make a FACTUAL FINDING in behalf of the "DISPUTED ARGUMENTS OF FACTS." (See CR ECF #'s 711, 747, 748 and 754 and Compare CR ECF #790, Pages 8-9, Lines 17-8, and CR ECF #790, Pages 60-68, Lines 24-11). Also review "CR ECF #771" which is the "Pro se Notice of Appeal."

On October 8, 2015, The Honorable District Court Judge DONALD M. MIDDLEBROOKS Sentence Petitioner to 168 Months of Incarceration and 5 Years of Supervised Release for Counts One and Eight of the Trial Juries Verdicts on July 31, 2015. (See CR ECF #790, Page 86, Lines 20-23).

On October 13, 2015, Petitioner mailed/filed a "Motion to Correct the Presentence Investigation Report." (See CR ECF #781).

On October 13, 2015, Appellate Counsel Richard Rosenbaum filed a "Notice of Appeal." (CR ECF #777).

The Eleventh Circuit Court of Appeals assigned Petitioner Two (2) Appeal Case Numbers: 15-14533 and 15-14625.

On November 4, 2015, Petitioner had to file the "Pro se Motion to Consolidate Appeal Case Numbers: 15-14533 and 15-14625" in The Eleventh Circuit Court of Appeals because Appellate Counsel Richard Rosenbaum **REFUSE** to file said Motion. [See 7617387-1 on the Docket Sheet for the 11th Circuit Court of Appeals].

On December 15, 2015, The Eleventh Circuit Court of Appeals Clerk filed the following "ORDER: Motion to consolidate appeals filed by Appellant Reginald Eugene Grimes, Sr. is GRANTED by clerk. [See 7617389-2] in 15-14533. Attorney Rosenbaum, counsel for Appellant shall represent in consolidate appeal. [761-7387-2] in 15-14625 [15-14533, 15-14625]."

On April 5, 2016, Appellate Counsel Richard Rosenbaum filed "Appellant's/Petitioner's Brief" and on April 6, 2016, Appellate Counsel Ricahrd Rosenbaum filed "Appellant's/Petitioner's Appendix."

On April 18, 2016, The Clerk for The Eleventh Circuit Court of Appeals filed Petitioner's "Pro se Motion To Stay Pending Appeal, To Withdraw as Counsel, in behalf of 15-14533, 15-14625...[7758712-1]."

On May 3, 2016, The Clerk for The Eleventh Circuit Court of Appeals filed Appellate Counsel Richard Rosenbaum's RESPONSE to Motion to stay pending appeal [7758712-2], Motion to withdraw as counsel [7758712-3].

On May 23, 2016, The Clerk for The Eleventh Circuit Court of Appeals filed Petitioner's "MOTION to receive Permission to Exceed 10 Page Limit to "Reply to Attorney Richard L. Rosenbaum's Response filed by Appellant Reginald Eugene Grimes, Sr. in 15-14533, 15-14625. Opposition to Motion is Unknown [7791764-1] 15-14533, 15-14625]."

On October 14, 2016, The Clerk for The Eleventh Circuit Court of Appeals filed the following "ORDER: Motion to file excess words/pages filed by Appellant Reginald Eugene Grimes, Sr. is GRANTED [7791764-2]; Motion to discharge counsel filed by Appellant Reginald Eugene Grimes, Sr. is DENIED. [7758712-3]; Motion to stay pending appeal and or stay pending review and motion to withdraw appellant ['s] counsel." filed by Appellant Reginald Eugene Grimes is DENIED. [7758712-2] JEC [15-14533, 15-14625]." (See Appendix-"A").

On October 31, 2016, The Clerk for The Eleventh Circuit Court of Appeals filed the "Pro se Motion for Reconsideration of the October 14, 2016 Order filed by Appellant Reginald Eugene Grimes, Sr. [79531798-1][15-14533, 15-14625]

On December 21, 2016, The Clerk for The Eleventh Circuit Court of Appeals filed "Appellee's Brief by Appellee USA. (ECF: Stephen Schlessinger)."

On December 22, 2016, The Clerk for The Eleventh Circuit Court of Appeals filed the "Supplemental Appendix [1. VOLUME\$]filed by Appellee USA. (ECF: Stephen Schlessinger)."

On January 6, 2017, The Clerk for The Eleventh Circuit Court of Appeals filed the following "ORDER: Motion for reconsideration of single judge's order filed by Appellant Reginald Eugene Grimes, Sr. is DENIED. [7953136-2] in 15-14533 CRW and JEC [15-14533, 15-14625]."

On June 29, 2017, The Clerk for The Eleventh Circuit Court of Appeals filed the "Reply Brief filed by Appellant Reginald Eugene Grimes, Sr.. (ECF: Richard Rosenbaum)."

On August 25, 2017, The Honorable United States Eleventh Circuit Court of Appeals Judges TJOFLAT, MARCUS and FAY, placed an "UNPUBLISHED OPINION" that "PER CURIAM AFFIRMED" Appellant's Case ("UNITED STATES OF AMERICA v. REGINALD EUGENE GRIMES, SR., a.k.a. Bro Man, 705 Fed. Appx. 897; 2017 U.S. App. LEXIS 16245 (11th Cir.Fla. Aug. 25, 2017"). (See Appendix-"B").

On September 5, 2017, Petitioner mailed/filed Appellant's "Pro se Rehearing and/or Pro se Rehearing En banc Brief" to The United States Court of Appeals for The Eleventh Circuit, 56 Forsyth Street, NW., Atlanta, Ga. 30303, for Appeal Case Numbers: 15-14533, 15-14625.

On December 26, 2017, The Eleventh Circuit Court of Appeals issued a "MAN-DATE of USCA (certified copy). AFFIRM Judgment/Order of the district court with court's opinion as to Reginald Eugene Grimes re 777 Notice of Appeal - Final Judgment, 771 Notice of Appeal - Other Order; date issued: 12/26/2017; USCA Case Numbers: 15-14533, 15-14625."

On January 16, 2018, Petitioner filed in the District Court a "Pro se 28 - U.S.C. § 2255 Motion to Vacate, Set Aside or Correct Movant's (Reginald Eugene Grimes) Convictions and/or Sentences for District Court Case No: 15-80003-CR-DMM-5." (See District Court Case No. 9:18-CV-80053-DMM (District Court Case No. 9:15-CR-80003-DMM)). (See CV ECF #1 and #3).

On January 18, 2018, The Honorable Magistrate Judge PATRICK A. WHITE, placed an "ORDER REQUIRING MOVANT (APPELLANT) TO FILE SUCCINCT, AMENDED §2255 MOTION. (Amended Complaint due by 2/19/2018). Signed by Magistrate Judge Patrick A. White on 1/18/2018. (Attachments: # 1 2255 Complaint Form)." (CV ECF #8).

On February 5, 2018, The District Court's Clerk filed Petitioner's "AMENDED COMPLAINT against United States of America." (Attachments: #1 Memorandum). (CV ECF #9 and #9-1).

On February 7, 2018, The District Court Clerk filed the "ORDER TO SHOW CAUSE Show Cause Response due by 3/22/2018. Signed by Magistrate Judge PATRICK A. WHITE on 2/7/2018." (CV ECF #11).

On April 6, 2018, The District Court's Clerk filed the "RESPONSE TO ORDER TO SHOW CAUSE Re 11 Order To Show Cause by United States of America."(CV ECF #17 and #19).

On April 19, 2018, The District Court's Clerk filed Petitioner's "REPLY To 17 Response To Order To Show Cause."(CV ECF #20).

On May 28, 2019, Petitioner mailed/filed the "Pro se Motion For The Honorable District Court Judge DONALD M. MIDDLEBROOKS Make a Ruling on Defendant's "Pro se Motion To Correct The Presentence Investigation Report" 781 Motion to Amend/Correct by Reginald Eugene Grimes. Response due by 6/20/2019 & 6/21/2019" (CR ECF #913 and #915).

On August 19, 2019, The Honorable District Court Judge DONALD M. MIDDLEBROOKS, placed an "ORDER Denying 781 Motion To Correct The Presentence Investigation Report as to Reginald Eugene Grimes (5). Signed by Judge DONALD M. MIDDLEBROOKS on 8/19/2019." (CR ECF #919) and (CR ECF #922).

On August 26, 2019, Petitioner mailed/filed the "Pro se Notice of Appeal for the August 19, 2019, Denial of Defendant's Pro se Motion to Correct the Presentence Investigation Report, Re: CR ECF #919." (See CR ECF #925).

On December 9, 2019, The Honorable Magistrate Judge LISETTE REID, placed a "REPORT OF MAGISTRATE JUDGE" Denying Petitioner's 28 U.S.C. §2255..." (CV ECF #45).<sup>6</sup> (See Appendix-"C").

On January 3, 2020, The District Court's Clerk filed Petitioner's "Pro se OBJECTIONS To 45 Report and Recommendations..." (CV ECF #46).

(6) Petitioner would like the records to reflect that a complete review of "CV ECF #45" Deliberately Does Not Mention the following LEGAL DOCUMENTS: "CR ECF #748 (The Second Addendum To The Presentence Report)" nor "CR ECF 754 (The United States' Response To Defendant's Objections To Presentence Investigation Report (DE 747)" and Deliberately Does Not Mention "CV ECF #17 and #19 (The Government's Response To Petitioner's Motion To Vacate Sentence and Exhibits)" nor "CV ECF #20 (The Movant's "Reply" To The Government's April 6th, 2018 Response To Movant's "Motion To Vacate, Set Aside or Correct Movant's Convictions and Sentences)", in which said "ORDER of Denial (CV ECF #45) is a Complete Violation of Petitioner's 5th, 6th, 8th and 14th United States Constitutional Amend. Right.

On February 21, 2020, The Honorable Circuit Judges GRANT, LUCK and TJOFLAT, For The Eleventh Circuit Court of Appeals, placed a PER CURIAM AFFIRMED Decision in behalf of "UNITED STATES OF AMERICA vs. REGINALD EUGENE GRIMES, SR. a.k.a. Bro Man, 803 Fed. Appx. 349; 2020 U.S. App. LEXIS 5330 (11th Cir. Feb. 21, 20-20)." <sup>7</sup> (See Appendix-"D").

On March 5, 2020, The Honorable District Judge DONALD M. MIDDLEBROOKS, placed an "ORDER ADOPTING REPORT AND RECOMMENDATIONS..." (CV ECF #49). <sup>8</sup> (Appendix-"E").

On March 20, 2020, The District Court's Clerk filed the "Acknowledgment of Receipt of NOA from USCA Re 51 Notice of Appeal, filed by Reginald Eugene Grimes. Date Received by USCA: 3/17/2020. USCA Case Number: 20-11053-J..." (CV ECF #53).

On April 16, 2020, The District Court's Clerk filed Petitioner's "MOTION for Permission to Appeal in forma pauperis and Affidavit by Reginald Eugene Grimes ..." (CV ECF #58).

On May 5, 2020, The District Judge DONALD M. MIDDLEBROOKS, placed a "ORDER Granting 58 Motion For Leave To Appeal In Forma Pauperis..." (CV ECF #59). (See Appendix- "F").

On July 31, 2020, The District Court's Clerk filed The Eleventh Circuit Court of Appeals "ORDER of Dismissal of USCA, Petitioner's Motion for a Certificate of Appealability is DENIED (See Order for Details) as to 51 Notice of Appeal, filed by Reginald eugene Grimes, 54 Notice of Appeal, filed by Reginald Eugene Grimes..." (CV ECF #60). (See Appendix- "G").

On September 17, 2020, The Eleventh Circuit Court of Appeals, placed an "ORDER To Deny Petitioner's Motion for Reconsideration pursuant to 11th Cir. R. 27-2 and 22-1(c), of the 11th Circuit Court's July 31st, 2020, Order Denying Petitioner's Certificate of Appealability and Denying as Moot Leave To Proceed on Appeal In Forma Pauperis, in behalf of Appeal Case No. 20-11053-J." (Appendix- "H").

(7) Petitioner would like the records to reflect that the following shows that a "Federal Rules of Criminal Procedure Rule 32 Issue(s)" should have been filed in Petitioner's "Direct Appeal (Appeal Case Numbers: 15-14533-DD & 15-14625-DD)" and that Petitioner's 28 U.S.C. §2255 (Case No. 9:18-CV-80053-DMM (CV ECF #1, #9, #9-1 and #20)) was Still Pending on FEBRUARY 21, 2020.

(8) Petitioner would like the records to reflect that the following shows that The Honorable District Judge DONALD M. MIDDLEBROOKS, placed said "ORDER" on MARCH 5TH, 2020, and NOT on February 4th, 2020, which means that The District Court Judge DONALD M. MIDDLEBROOKS was BOUND By The Eleventh Circuit Court's Ruling on February 21, 2020, that states "A Fed. R. Crim. P. Rule 32 Issue(s) should have been raised during Petitioner's Direct Appeal. See 803 Fed. Appx. 349 (11th Cir. Feb. 21, 2020).

On November 22 and 23, 2021, The District Court's Clerk filed Petitioner's "Pro se Request That The District Court Judge DONALD M. MIDDLEBROOKS Make a Nunc Pro Tunc Order "Granting"" Movant's 28 U.S.C. §2255, In Behalf of The Honorable Eleventh Circuit Court's Ruling on February 21, 2020, In Behalf of Appeal Case No. 19-13362." (CV ECF #65 and #66).

On December 2, 2021, The District Judge DONALD M. MIDDLEBROOKS, placed an "Order Denying Movant's Request/Motion For Nunc Pro Tunc Order Granting Movant's 28 U.S.C. §225 Motion To Vacate." (CV ECF #67). (See Appendix-"I").

On January 14, 2022, The District Court's Clerk filed Petitioner's "Pro se Motion for Permission to Appeal In Forma Pauperis and Sworn Affidavit" ("IFP Motion"). (CV ECF #69 and #70).

On January 24, 2022, The District Judge DONALD M. MIDDLEBROOKS, placed an "Order Denying Petitioner's "Pro se Motion for Permission to Appeal In Forma Pauperis and Sworn Affidavit." (CV ECF #72). (See Appendix- "J").

On May 6, 2022, The Eleventh Circuit Court of Appeals placed an "ORDER To deny Petitioner's "Second Amended Motion for a Certificate of Appealability" and Petitioner's Amended Motion for In Forma Pauperis was and is Classified as MOOT for Appeal Case No. 22-10206-A. (See Appendix-"K").

On June 21, 2022, Petitioner filed/mailed, Petitioner's "Amended Pro se Motion To Reinstate Appeal Case Number: 22-10206-A, Pursuant To Federal Rules of Appellate Procedure Rule 27; 11th Circuit Rule 27-1(c)(10)" in The Eleventh Circuit Court of Appeals.

On July 15, 2022, The Eleventh Circuit Court of Appeals placed an "ORDER "GRANTING Petitioner's Pro se Motion For Leave To File an Out-of-Time Motion For Reconsideration"" and "DENYING "Petitioner's Pro se Motion For Reconsideration,"" for Appeal Case No. 22-10206-A. (See Appendix- "L").

REASONS FOR GRANTING THE PETITION

- (1) THE HONORABLE ELEVENTH CIRCUIT COURT OF APPEALS IN ATLANTA, GEORGIA COMMITTED "**PLAIN AND OBVIOUS ERROR**" BY DENYING PETITIONER'S REQUEST FOR A CERTIFICATE OF APPEALABILITY ("COA") IN BEHALF OF "THE GOVERNMENT KNOWINGLY PRESENTING "FALSE STATEMENTS IN THE OPENING STATEMENT, AND ORCHESTRATING THE GOVERNMENT'S KEY WITNESS TO PRESENT PERJURED TESTIMONY AND CAPITALIZING ON THE PERJURED TESTIMONY DURING CLOSING ARGUMENTS TO OBTAIN THE GUILTY VERDICTS FOR DISTRICT COURT CASE NO. 9:15-CR-80003-DMM-5"."

Petitioner<sup>9</sup>, would like the records to reflect that this "**PRO SE PETITION FOR WRIT OF CERTIORARI**" Requesting For a "**CERTIFICATE OF APPEALABILITY ("COA")**" is a FIRST IMPRESSION CASE that should be Reviewed with The EYE of JUSTICE in it's Entirety:

Petitioner would like the records to reflect that The Honorable Eleventh Circuit Court of Appeals Circuit Judge(s) in behalf of **Appeal Case Number: 2020 U.S. App. LEXIS 24298 (11th Cir. July 31, 2020)**(See Appendix-"G"); and **2020 U.S. App. LEXIS 30045 (11th Cir. September 17, 2020)**(See Appendix-"H"), in both are under **Appeal Case No. 20-11053-J**; and **Appeal Case No. 22-10206-A (11th Cir. May 6, 2022)** (See Appendix-"K"), and **July 15, 2022** (See Appendix-"L"), committed "**PLAIN AND OBVIOUS ERROR**" by NOT acknowledging the strength of the prior panel precedent rule in The Eleventh Circuit because the prior panel's holding is binding on all subsequent panels unless and until it is overruled or undermined to the point of abrogation by The United States Supreme Court or by The Eleventh Circuit Court sitting en banc, in which Petitioner would state the following FACTS of TRUTH, That Shows That a "**COA**" Should Be GRANTED:

Petitioner would like the records to reflect that on April 1, 2015, Alleged Co-defendant "**Cynthia Benavidez**" had a **Factual Basis/Proffer Debrief Meeting with her (Benavidez) Common Law Husband (Antonio Escamilia, Jr.)**, Defense Counsel Louis Casuso (Please note that Counsel Louis Casuso Represented Both "**Cynthia**

(9) Haines v. Kerner, 30 L.Ed.2d 652 (1972), "Pro se litigant pleadings are to be construed liberally and held to less stringent standards than formal pleadings drafted by lawyers; if Court can reasonably read pleadings to state valid claim on which litigant could prevail, it should do so despite failure to cite proper legal authority, confusion of legal theories, poor syntax and sentence construction, or litigants unfamiliarity with pleading requirements..."

"Benavidez" and "Antonio Escamilia, Jr."), (AUSA) Adam C. McMichael, (DEA) William Linehan, and Delray Beach Florida's Police Officers "Christine M. Suarez, Robert Keating, Mark Lucas, et al.,", in which said "Factual Basis/Proffer Statement" was signed by "(AUSA) Adam C. McMichael", "Attorney Louis Casuso" and "Cynthia Benavidez" on April 1, 2015, as a **True Factual Statement**. (CR ECF 338)(See Appendix-"**M**").

Petitioner would like the records to reflect that on April 1, 2015, Alleged Co-defendant "Antonio Escamilia, Jr." had a **Factual Basis/Proffer Debrief Meeting with his (Escamilia's) Common Law Wife (Cynthia Benavidez)**, Defense Counsel Louis Casuso (Please note that Counsel Louis Casuso **Represented Both** 'antonio Escamilia, Jr." and "Cynthia Benavidez"0, (AUSA) Adam C. McMichael, (DEA) William Linehan, and Delray Beach Florida's Police Officers "Christine M. Suarez, Robert Keating, Mark Lucas, et al.,", in which said "Factual Basis/Proffer Statement" was signed by "(AUSA) Adam C. McMichael", "Attorney Louis Casuso" and "Antonia Escamilia, Jr." on April 1, 2015, as a **True Factual Statement**. (CR ECF 341)(See Appendix-"**N**"). (Please note that "**Both Factual Basis/Proffer Statements**" are Based on ONE (1) Incident on SEPTEMBER 18th, 2014, but for Some Odd Reason "**THEY**" are Totally Different. (Compare CR ECF 338 and 341, Pages 1, 2, 4, 5 and 6).

Petitioner would like the records to reflect that on April 1, 2015, Alleged Co-defendant "Antonio Escamilia, Jr." **EXPLAIN** to (AUSA) Adam C. McMichael, (DEA) William Linehan, Delray Beach Florida's Police Officers Christine M. Suarez, Robert Keating, Mark Lucas, et al., and Defense Counsel Louis Casuso, in the presence of his (Escamilia's) Common Law Wife, the Alleged Co-defendant "Cynthia Benavidez", that:

"On September 18th, 2014, Cynthia Benavidez **ONLY** supplied Gary Bernard Moore with Two (2) Ounces of Heroin for a Total Dollar Amount of \$5,400.00 (**Five Thousand and Four Hundred Dollars**) and NOT Eighteen (18) Ounces of Heroin (Please note that "18 ounces" equal to the same as a "Half of a Kilogram") for \$54,000.00 (**Fifty-four Thousand Dollars**), in which (AUSA) Adam C. McMichael used his black ink pen to cross out 18 and put a 2 over the top of 18 and crossed out \$54,000 and put \$5,400 over top of \$54,000 and he ((AUSA) Adam C. McMichael) wrote 2 pair of half ounces and 2,700.00 over twenty-seven on Antonio Escamilia, Jr.'s April 1, 2015, "Factual Basis" (See Appendix-"**N** ") on Pages 2, 4, and 5 of 6, in which was signed on April 1, 2015 by (AUSA) Adam C. McMichael, (Defense Counsel) Louis Casuso and (Alleged Co-defendant) Antonio Escamilia, Jr., on Page 6 of 6. (See Appendix-"**N** ").

(Please note that Petitioner was NEVER Supplied by The Government Through Requested DISCOVERY Before Trial "CR ECF 338 nor 341" in which Petitioner Attempt to obtain "DISCOVERY" from The Government on Many Different Occasions but was DENIED. (See CR ECF 179, 208, 225, 243, 252, 276, 277, 423, 575, 586, 630 and 667)).

Petitioner would like the records to reflect that on April 1, 2015, (AUSA) Adam C. McMichael and Defense Counsel Louis Casuso for Both Defendants ("Cynthia Benavidez" and "Antonio Escamilia, Jr.") DELIBERATELY CONCEALED THE FACTS OF TRUTH from The Honorable United States Magistrate Judge BARRY L. GARBER, at The CHANGE of PLEA HEARING, by FAILING to Explain to The Court's that there are TWO (2) TOTALLY DIFFERENT FACTUAL BASIS/PROFFER STATEMENTS for ONE (1) Alleged Incident on SEPTEMBER 18, 2014, for COUNT 4 of The Indictment, (See CR ECF 335 and 339, Pages 15-16, Lines 1-14; and Compare CR ECF 338 and 341, Page 1, 2, 4, 5 and 6 of 6; and Compare CR ECF 748, Page 3, Paragraph 3 and 4 (See Appendix -" 0 "), in which is a Complete Violation of "The Oath of Admission to the Florida Bar" which "requiring attorneys to pledge fairness, integrity, and civility, not only in court, but in all written and oral communications."

Also See "In Re: Oath of Admission to The Florida Bar, [I] will never seek to mislead the judge or jury by an artifice or false statement of fact or law [.]"

Petitioner would like the records to reflect that on July 16, 2015, The United States Federal Probation Officer MS. FRANCES WEISBERG out of The West Palm Beach, Florida's Probation Office prepared Alleged Co-defendant's "Antonio Escamilia, Jr.'s" Presentence Investigation Report (PSI). (See CR ECF 550).

Petitioner would like the records to reflect that on July 16, 2015, a Completely Different United States Federal Probation Officer MR. EDWARD COOLEY out of The Fort Pierce, Florida's Probation Office prepared Alleged Co-defendant "Cynthia Benavidez" Presentence Investigation Report (PSI). (See CR ECF 560).

(Please note that Ms. Frances Weisberg of The United States Federal Probation Office out of West Palm Beach, Florida also prepared Alleged Co-defendants "Lakisha Larue Wise "PSI" on July 16, 2015 (See CR ECF 555)"; "Gary Bernard Moore's "PSI" on July 17, 2015 (See CR ECF 562)"; and "Stepfone Valdez Buckle's "PSI" on July 17, 2015 (See CR ECF 563)").

Petitioner would like the records to reflect that on July 23, 2015, Alleged "Cynthia Benavidez" was Sentenced to Twenty-four (24) Months of Imprisonment and Three (3) Years of Supervised Release for Count One of the Indictment, before Petitioner's "July 27, 2015, Jury Trial Begin." (See CR ECF 633).

Petitioner would like the records to reflect that on July 23, 2015, Alleged Co-defendant "Antonio Escamilia, Jr." was sentenced to Seventy-two (72) Months of Imprisonment and Five (5) Years of Supervised Release for Count One of the Indictment, before Petitioner's "July 27, 2015, Jury Trial Begin", (See CR ECF 634), in which means that "Antonio Escamilia, Jr.'s" FACTUAL BASIS/PROFFER STATEMENT Signed on April 1, 2015, was and is a TRUE LEGAL DOCUMENT. (See CR ECF 341, Pages 1, 2, 4, 5, and 6 of 6 (See Also "Appendix-" N ")).

Petitioner would like the records to reflect that on July 27, 2015, (AUSA) Adam C. McMichael, Knowingly and Deliberately LIED to The Honorable United States District Judge DONALD M. MIDDLEBROOKS, The Trial Jury and Petitioner with said FALSE STATEMENTS in his ((AUSA) Adam C. McMichael's) "OPENING STATEMENT" by stating:

"...You will hear that in September, Mr. Moore gets a supply of heroin and he sends half of it down to Ms. Wise and then half of it up to Ms. Hunter's house, and they discuss it and you will hear testimony of that being a half kilogram of heroin, the term they use is his half..." (See CR ECF 750, Page 108, Lines 16-20; and Compare CR ECF 341, Pages 1, 2, 4, 5, and 6 of 6; and Compare CR ECF 748, Page 3, Paragraph 3 and 4 (See Appendix- " O ")).

Petitioner would like the records to reflect that on July 28, 2015, (AUSA) Adam C. McMichael, Knowingly and Deliberately Allowed "PERJURED TRIAL TESTIMONY" by Encouraging "The Government's Key Witness/Head of the Indictment "Gary Bernard Moore"" to Commit PERJURY Under Oath, before The District Court, Trial Jury and Petitioner/Pro se Defendant, in behalf of his (Gary Bernard Moore's) Trial Testimony by stating:

"Q. Now, halfway through, you make a statement and it says, I get -- I get his half, right ?

A. Yes.

Q. But I get his half and split it in half, I took half one way and half the other way.

A. Yes.

Q. Is that what you said during the recorded call ?

A. Yes.

Q. What are you talking about ?

A. A half key.

Q. Half key of what ?

A. Heroin.

Q. Who did you get that from ?

A. Ms. Benavidez.

Q. What date did you get that from her ?

A. It had to be that day or the day before.

Q. If you look back up, it says -- look at the preceeding statement on page four of this particular call.

A. Last night, the night before.

Q. Do you recall meeting Ms. Benavidez in the evening time in about mid September ?

A. Yes.

Q. And do you recall getting heroin ?

A. Yes.

Q. How much did you pay for that half ?

A. \$54,000.

Q. \$54,000.

A. Yes.

Q. Is that the same amount of money that was actually seized from Ms. Benavidez later on in the investigation ?

A. Yes, it is.

Q. Did that \$54,000 that you are referencing in this call, where you had met her the night before, did you actually pay her money at that time ?

A. I gave her \$27,000.

Q. The \$54,000 that was later seized from Ms. Benavidez, was that for the same drugs or other drugs ?

A. Other drugs.

Q. Another half kilo of heroin; is that right ?

A. Yes.

Q. Did Mr. Grimes acknowledge that in any way ?

A. Yes.

Q. I mean, he is laughing, I believe.

A. Yeah, yeah..." (See CR ECF 751, Pages 237-239, Lines 14-7; and Compare CR ECF 341, Pages 1, 2, 4, 5 and 6 of 6 (See Appendix-"**N**"); and Compare CR ECF 748, Page 3, Paragraph 3 and 4). (See Appendix-"**O**").

Petitioner would like the records to reflect that on **July 29, 2015**, (AUSA) Adam C. McMichael, **Knowingly Allowed "The Government's Key Witness "Gary Bernard Moore"" to Continue to Commit Perjury Under Oath**, before The District Court, Trial Jury and Petitioner/Pro se Defendant, during Petitioner's **Cross-Examination** of "The Government's Key Witness "Gary Bernard Moore""", in which is based on said **"Perjured Testimony"**:

"Q. You kept going -- when you said his half and his half, when I took half this way, half that way, you didn't never keep marijuana at Errica Hunter's house ?

A. Yeah, I did.

Q. Did you ever keep marijuana and concaine at Lakisha Wise house ?

A. Yes.

Q. So when you say at his house and his house, you could have been talking about pounds of marijuana this way and pounds of marijuana that way; a kilo of cocaine this way, a kilo of cocaine that way, am I right or wrong ?

A. No, that's not a fact because I had just met Cynthia the day before and got what I had, and I broke it down and I took one one way and one the other, and that was the discussion we had.

Q. Was I with you ?

A. No, you were never with me, never for none of that..." (See CR ECF 752, Page 55, Lines 9-25; and Compare CR ECF 341, Pages 1, 2, 4, 5, and 6 of 6 (See Appendix-"**N**") and Compare CR ECF 748, Page 3, Paragraphs 3 and 4 (See Appendix-"**O**")).

Petitioner would like the records to reflect that on **July 30, 2015**, (AUSA) Adam C. McMichael had Government's Witness Sgt. Robert Keating to Testify that Alleged Co-defendant "Antonio Escamilia, Jr." was directing Alleged Co-defendant "Cynthia Benavidez" from jail. (See CR ECF 753, Page 39, Lines 9-15; and Compare CR ECF 338 and 341, Page 1 (See Appendixes-"**M**" & "**N**"); and Compare CR ECF

748, Page 3, Paragraphs 3 and 4 (See Appendix- "O").

Petitioner would like the records to reflect that on July 31, 2015, (AUSA) Adam C. McMichael, **Knowingly and Deliberately "CAPITALIZED" on the Perjured Testimony of "The Government's Key Witness/Head of the Indictment "Gary Bernard Moore"**", during **"CLOSING ARGUMENTS"** by stating the following to The Trial Jury:

"...The day before, Gary Moore met Cynthia and picked up a half kilogram of heroin and Moore and Grimes were having a conversation, joking about it...Alex Mon is the Defendant, because what he does is, he takes half of that heroin and sends half to Ms. Wise down south and puts the other half in the back room at the Hunter's house..." (CR ECF 776, Page 13, Lines 10-12 and Lines 15-18; and Compare CR ECF 341, Pages 1, 2, 4, 5 and 6 of 6 (See Appendix- "N"); and Compare CR ECF 748, Page 3, Paragraphs 3 and 4 (See Appendix- "O")); and (AUSA) Adam C. McMichael stated the following in the **"CLOSING ARGUMENTS"**:

"...When you look at the verdict form you'll have an opportunity to see two counts. The first count, guilty or not guilty.

When you check mark guilty or conspiring to distribute heroin, go down and there will be three other choices, and those are dependent upon statutory things, threshold amounts, one kilo or more, a hundred grams or more, and I think a technical amount. You have to make a decision about that. The decision is one kilo or more..." (See CR ECF 776, Page 45, Lines 2-10; and Compare CR ECF 341, Pages 1, 2 4, 5 and 6 of 6 (See Appendix- "N")); and Compare CR ECF 748, Page 3, Paragraphs 3 and 4 (See Appendix- "O")), in which said **"False Statements"** from (AUSA) Adam C. McMichael to The Trial Jury and **"Knowingly Perjured Testimony"** of The Government's Key Witness/Head of the Indictment "Gary Bernard Moore" and The **"False Closing Arguments"** by (AUSA) Adam C. McMichael, is What Cause the Trial Jury to return the Guilty Verdicts for Counts One and Eight of the **Redacted Indictment for The Trial Jury**, in which is a violation of Petitioner's Due Process Rights (5th and 14th United States Constitutional Amendment Rights), because The Honorable United States Supreme Court stated in **Giglio v. United States, 405 U.S. 150, 153, 92 S.Ct. 763, 765, 31 L.Ed.2d 104 (1972)** "as long ago as **Mooney v. Holohan, 294 U.S. 103, 112, 55 S.Ct. 340, 341, 79 L.-Ed. 791 (1935)** this court made clear that deliberate deception of a court and jurors by the presentation of known false evidence is incompatible with 'rudimentary demands of justice'. (See Appendix- "P"- A copy of the VERDICT).

Petitioner would like the records to reflect that This Honorable United States Supreme Court **should take in consideration that "Gary Bernard Moore"** was The Head of the Indictment which consist of Nineteen (19) Individuals and was The Government's Key Witness Against His Half Brother (Petitioner) (Reginald Eugene Grimes) and The Star Witness for The Government and He (Gary Bernard Moore) Testified in the Government's Case-in-Chief and as a Rebuttal Witness, in which The Government ((AUSA) Adam C. McMichawel) Relied Heavily on "Gary Bernard Moore" Testimony in his ((AUSA) Adam C. McMichael's) Summation to the Trial Jury, and Without The Government's Key Witness (Gary Bernard Moore), The Government Did Not Have a Case Against Petitioner (Reginald Eugene Grimes), in which is "MATERIALITY" and Petitioner's Conviction Must Be Overturned which Rest in Part Upon the Knowing Use of False Testimony If There is Any Reasonable Likelihood that the False Testimony Could Have Affected the Judgment of The Jury. See United States v. Agurs, 427 U.S. 97, 96 S.Ct. 2392, 49 L.Ed.2d 342 (1976).

Petitioner would like the records to reflect that a "CERTIFICATE OF APPEALABILITY ("COA")" should be "**GRANTED**" because Petitioner has established "**PLAIN AND OBVIOUS ERROR**" and said "**Error**" by The Honorable Eleventh Circuit Court of Appeals in Atlanta, Georgia, not to Grant Petitioner's "Requested "COA"" is Affecting Petitioner's "**Substantial Rights**" that is also Affecting the Fairness, Integrity and Public Reputation of the Judicial Proceedings that is a Complete Miscarriage of Justice and a violation of Petitioner's 5th, 8th, and 14th United States Constitutional Amendment Rights. See Kinsella v. United States, 361 U.S. 234, 80 S.Ct. 297, 4 L.Ed.2d 268, "Due process has to do with the denial of fundamental fairness, shocking to the universal sense of justice; it deals neither with power nor with jurisdiction, but with their exercise."

Petitioner would like the records to reflect that This Honorable United States Supreme Court should "**GRANT**" Petitioner's "**Writ of Certiorari**" and "**REMAND**" said Case Back to The Honorable Eleventh Circuit Court of Appeals, with Instructions to "**GRANT**" Petitioner's "**REQUESTED "COA""** and/or "**GRANT**" Petitioner ANY OTHER RELIEF DEEMS JUST, in which includes "**VACATING**" Petitioner's Convictions and/or Sentences by "**ORDERING THE LOWER COURT'S TO APPLY "FEDERAL RULES OF CIVIL PROCEDURE RULE 60(b)(3)(fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party) and/or Rule 60(b)(6)(any other reason that justifies relief).**

(2) THE HONORABLE ELEVENTH CIRCUIT COURT OF APPEALS IN ATLANTA, GEORGIA COMMITTED "**PLAIN AND OBVIOUS ERROR**" BY DENYING PETITIONER'S REQUEST FOR A CERTIFICATE OF APPEALABILITY ("COA") IN BEHALF OF THE HONORABLE UNITED STATES DISTRICT JUDGE **DONALD M. MIDDLEBROOKS** KNOWINGLY VIOLATING "FEDERAL RULES OF CRIMINAL PROCEDURE RULE 32" DURING AND AFTER PETITIONER'S SENTENCING HEARING ON OCTOBER 8TH, 2015.

Petitioner would like the records to reflect that this "**PRO SE PETITION FOR WRIT OF CERTIORARI**" Requesting For a "**CERTIFICATE OF APPEALABILITY ("COA")**" is a **FIRST IMPRESSION CASE** that should be Reviewed with The EYE of JUSTICE in it's Entirety:

Petitioner would like the records to reflect that on **April 1, 2009**, The Honorable Eleventh Circuit Court of Appeals Circuit Judges "**TJOFLAT, DUBINA and BLACK**" stated the following in part:

"...Furthermore, even if the district court did have jurisdiction, Greenwood is not entitled to relief under §2255 because he did not object to the alleged inaccuracies in his PSI at sentencing. See United States v. Peloso, 824 F.2d 914, 915 (11th Cir. 1987)("[W]here a defendant was given an opportunity to examine his PSI report, in order to bring a Rule 32 issue in a post-conviction proceeding, the defendant **must have objected to the presentencing report at trial. To raise it for the first time post-judgment is too late.**")..." See United States of America, v. Jeffrey GREENWOOD, a.k.a. Reginald Grimes, 322 Fed. Appx. 693; 2009 U.S. App. LEXIS 6996 (11th Cir. April 1, 2009). (See Appendix-"**Q**" ).

Petitioner would like the records to reflect that on **September 3, 2015**, The United States Southern District of Florida's Federal Probation Officer ("USPO") "**MS. FRANCES WEISBERG**" filed Petitioner's "Presentence Investigation Report ("PSI")", in The United States District Court For The Southern District of Florida. (See CR ECF #711).

Petitioner would like the records to reflect that on **October 2, 2015**, The United States Southern District of Florida's Federal Probation Officer ("USPO") "**MS. FRANCES WEISBERG**" **HAND DELIVERED** The "Presentence Investigation Report ("PSI")" To Petitioner for The First (1st) Time since the September 3, 2015, filing of said "PSI" in The District Court.

Petitioner would like the records to reflect that on **October 5, 2015**, Petitioner filed Petitioner's "**Pro se Defendant's Objections to the Presentence Investigation Report**" along with "**Exhibits**". (See CR ECF #747).

Petitioner would like the records to reflect that on October 6, 2015, The United States Southern District of Florida's Federal Probation Officer "MS. FRANCES WEISBERG" filed "THE SECOND ADDENDUM TO THE PRESENTENCE REPORT" which consist of Nine (9) Pages of "RESOLVED ISSUES of MATERIAL FACTS that are in Petitioner's FAVOR" and "EIGHT UNRESOLVED ISSUES of MATERIAL FACTS" in which Either Could Change Petitioner's Convictions To NOT GUILTY and/or Would Change Petitioner's Sentences from 168 Months of Imprisonment to at least 135 Months of Imprisonment, which is a Thirty-three (33) Month Differnce of Incarceration, in which said "Second Addendum To The Presentence Report" was signed by "MS. FRANCES WEISBERG" and THE "USPO" SUPERVISOR MR. MICHAEL E. SANTUCCI, in which was filed in The District Court "TWO (2) DAYS" Before Petitioner's October 8, 2015, Sentencing. (See CR ECF #748). (See Appendix-"O").

Petitioner would like the records to reflect that on October 6, 2015, (AUSA) Adam C. McMichael, filed "The Government's Response to 747 Objections to Presentence Investigation Report" in which was filed "TWO (2) DAYS" Before Petitioner's October 8, 2015, Sentencing. (See CR ECF #754).

Petitioner would like the records to reflect that on October 8, 2015, The United States District Court Judge DONALD M. MIDDLEBROOKS violated "Federal Rules of Criminal Procedure Rule 32" on October 8, 2015, in behalf of Petitioner's Sentencing Hearing, in which the following "UNITED STATES CONSTITUTIONAL (1ST, 5TH, 8TH and 14TH) AMENDMENTS of Petitioner were violated when The District Court Judge DONALD M. MIDDLEBROOKS stated the following:

**DEFENDANT GRIMES:** Before we go any farther, though, Your Honor, you know, I received the PSI October the 2nd. That's the day I received it, not 35 days, where it say I must receive it within 35 days. I received it October the 2nd. I replied back the weekend and I objected to the PSI, to a degree, and had it filed Monday, which was October the 5th.

Mr. McMichael put an objection together or a response to my objection on October the 6th. I never had a chance to reply back to his objections whatsoever in writing, so there's a lot of stuff that I want to do ore tenus, if it is possible.

**THE COURT:** Well, you can certainly do that, and I do want to make sure you had the time you need.

I'm -- I was advised that probation thad some difficulty, since you were incarcerated, getting the PSI to you. So if you are at a disadvantage in any fash-  
ion, I want to make sure you have enough time. I'll certainly hear any verbal

statements you have about Mr. McMichael's filing. (See CR ECF #790, Pages 8-9, Lines 17-8).<sup>10</sup>

Petitioner would like the records to reflect that during the EXACT SAME SENTENCING HEARING on OCTOBER 8, 2015, Petitioner was EXPLAINING to The Honorable District Judge DONALD M. MIDDLEBROOKS that The "USPO" MS. FRANCES WEISBERG and The Supervisor of The "USPO" MR. MICHAEL E. SANTUCCI, "AGREED" with Petitioner in "The Second Addendum To The Presentence Report (See CR ECF #748, Page 3, Paragraphs 3 and 4 (See Appendix- "O"))", which means that The Trial Jury Heard and Based Their Findings for The Alleged Weight of The Alleged Drugs (a Kilogram or More of Heroin) and The Alleged Amount of Money (\$54,000 Dollars) on False Opening Statements by (AUSA) Adam C. McMichael, Perjured Trial Testimony of The Government's Key Witness/Lead Defendant in said Case "Gary Bernard Moore" and False Closing Arguments by (AUSA) Adam C. McMichael, in which COULD Have Changed The Trial Jury Verdict To "NOT GUILTY" On ALL Counts and/or WOULD Have Changed Petitioner's "BASE OFFENSE LEVEL" for SENTENCING, but The District Court Judge DONALD M. MIDDLEBROOKS, "REFUSE" To Allow Petitioner and/or The "USPO" MS. FRANCES WEISBERG "To Make Any Records of factual Truth" for Petitioner's "Direct Appeal", in which The Honorable District Judge DONALD M. MIDDLEBROOKS stated the following to Petitioner on October 8, 2015:

**THE COURT:** Mr. Grimes, any witnesses you are calling ?

**DEFENDANT GRIMES:** Mr. Linehan, Detective Linehan -- I mean, DEA Linehan, but it is based on sentencing, so you already -- we will use this when we get to the point of the arguments of the objections.

**THE COURT:** Well, we have done the objections. Now we are moving -- if we have covered all of the objections, we are ready to move on to the variance issue and final sentence.

**DEFENDANT GRIMES:** No --

**THE COURT:** What objections do you want to cover ?

**DEFENDANT GRIMES:** We haven't covered all of the objections, Your Honor, because the presentence investigation report states --

(10) Petitioner would like the records to reflect that "FEDERAL RULES OF CRIMINAL PROCEDURE RULE 32(e)(2)- Minimum Required Notice and RULE 32(g)-Submitting the Report, was completely violated, in which is a violation of Petitioner's 5th, 8th and 14th United States Constitutional Amendment Rights.

THE COURT: In terms of the facts of the trial, I'm going to rely on the transcript of the trial and not the language in the PSI. (See CR ECF #790, Pages 60-61, Lines 18-9).

Petitioner would like the records to reflect that The Honorable United States District Judge DONALD M. MIDDLEBROOKS also stated the following **during the EXACT SAME SENTENCING HEARING on OCTOBER 8, 2015:**

THE COURT: I don't see how anything you just said affects the calculation of the guidelines, so I don't want to try to go through this PSI. As, I say, there has been a trial, there is a record of trial, there is a jury verdict, and that's what I'm using in terms of sentencing. So to try argue about all of these other defendants and their activities and what they did doesn't seem to me to advance the purpose of sentencing.

DEFENDANT GRIMES: No. Only thing I'm saying, I just want it to stop at December 2014, and I got one in paragraph --

THE COURT: But doesn't -- the indictment deals with the period if time with the conspiracy, correct ?

DEFENDANT GRIMES: But the indictment goes -- yes, but --

THE COURT: And then we had evidence at a trial in terms of your involvement, so I, at this moment, don't have any idea what the judgment and commitment orders for each of the other conspirators says, I don't see how that has any bearing on your sentencing.

DEFENDANT GRIMES: When I appeal, when I appeal --

THE COURT: Well, then have at it.. You are going to appeal, and you can argue this to the Eleventh Circuit.

DEFENDANT GRIMES: But if I don't make an objection to it now, on the record, then it will be waive and it will be fruitless.

THE COURT: I overrule your objection. I'm basing my sentencing decisions on the record of your trial.

DEFENDANT GRIMES: Okay. Well, what about paragraph 11, 12 and 14 ?

THE COURT: That's some discussion of Gary Moore, Wise, Benavidez and Escamilia.

DEFENDANT GRIMES: Yes.

THE COURT: I'm not relying on any of those paragraphs in trying to sentence you.

DEFENDANT GRIMES: Okay. But Mr. McMichael put an objection in and said it was false on my objections.

He put his objections in and said that on September the 18th -- Antonio Escamilia was the source of supply on September 18th. Mr. McMicaheal presented that it was 18 ounces and \$54,000.

If you look at Tony Escamilia factual basis, Mr. McMichael and like I said, Ms. Suarez and Mr. Linehan were all in there together. It was Antonio -- Tony Escamilia, Cynthia Benavidez, they all got -- both of them got the same lawyer.

When Cynthia Benavidez did her factual basis, it had 54,000 and 18 ounces. Tony Escamilia did his, Mr. McMichael took his ink pen, scratched over the 18 and put a 2 over it; scratched over the 54,000 and put 5,400 and so I'm asking that that be clarified because when I file my appeal, I need to show that the testimony that Gary Bernard Moore gave at the time was not true and correct. It was false information, and Mr. McMichael knew it.

So in the PSI -- the PSI agree with me. They went and looked at the factual proffer and she stated that this issue is resolved because on September 18th, it was only 2 ounces of heroin and \$5,400, not 18 ounces and \$54,000. But Mr. McMichael put an objection in it, and he said that this period is incorrect, so I need to clarify that issue right there, Your Honor, before we go any further.

THE COURT: Again, I think what makes the difference is the record of the trial, the jury verdict, and these paragraphs of the PSI that relate to other defendants don't affect your sentencing at all and aren't going to affect your appeal.

DEFENDANT GRIMES: The weight, the weight, the weight.

THE COURT: Weight of what?

DEFENDANT GRIMES: Weight of the drugs. The jury found me guilty, understand me, based on a kilo --

THE COURT: Whatever the PSI says isn't going to impact that.

DEFENDANT GRIMES: The jury found me guilty of a kilo or more of heroin, Your Honor. All I'm saying is this; If the jury found me guilty of a kilo or more of heroin, it was based on Gary Bernard Moore's testimony.

That's what they found me guilty of based on his testimony, so if it wasn't 18 ounces at that time, with his half and with his half, if it wasn't and it was just 2 ounces, then I got an argument that the jury, understand me, was misled based on the factual basis.

And Mr. McMichael knew this before he even started jury trial because these was done April the 1st. So when he got up here and stood up in front of this jury and told these people about on September 18th, 2014, Gary Bernard Moore went to Walgreen's and picked up 18 ounces for \$54,000, he knew that was false. And I'm saying that because he had the documentation in his hand. He had the actual factual proffer and he is the one who crossed it out with his ink pen and put 2 ounces over 18 and he crossed out 54,000 and put 5,400.

So I need this to be clarified so when I do appeal, I will be able to show that the jury was misled on the weight of the drugs off the top. So that mean his testimony won't be credible, also. I need this to be -- either you can grant it or deny it, but I need you to clarify one way or the other.

THE COURT: I don't think paragraphs in the PSI impact this one way or the other. If you want a ruling, I'll deny it because what I'm telling you is I'm relying on the transcript of the trial, the jury verdict and the argument at sentencing in terms of caculation of guidelines.

These paragraphs in the PSI as to what Gary Moore did, Benavidez did or any of that does not impact my decision at all in terms of sentencing.

DEFENDANT GRIMES: But it does go to weight, right ?

THE COURT: No. I'm relying on what happened at during the trial.

DEFENDANT GRIMES: Okay. But the trial jury heard Gary Moore say a half a kilo of heroin.

THE COURT: Well, the trial jury did what it did.

DEFENDANT GRIMES: Yes, sir.

THE COURT: I guess your argument to the court of appeals is there isn't sufficient evidence to convict you. If you want to make that, you can. You have a record, you have a transcript, but this PSI isn't going to help you one way or the other.

You can't say, Paragraph seven of my PSI shows the jury was wrong.

DEFENDANT GRIMES: But the probation officer agreed with me. The probation officer said it was not 18 ounces.

THE COURT: I don't think the court of appeals cares what the probation officer says. They care about what happen at your trial.

DEFENDANT GRIMES: Yes, sir.

THE COURT: And what the jury did.

DEFENDANT GRIMES: But the jury was mislead.

THE COURT: Okay. Well, then, you will be able to argue that.

DEFENDANT GRIMES: And that's DeMarco, United States versus DeMarco, 928 F.2d 1074.

THE COURT: Well, let's focus on any objections that affect your guidelines I think we covered all of them, haven't we ?

DEFENDANT GRIMES: Yes, sir. (CR ECF #790, Pages 63-68, Lines 6-13).<sup>11</sup>

(11) Petitioner would like the records to reflect that the Trial Transcripts that The Honorable District Judge DONALD M. MIDDLEBROOKS kept referring to are "ALTERED" and "MISSING CONTENTS OF THE COMPLETE TRIAL." (CR ECF #790, Pages 11-14, Lines 13-21).

Petitioner would like the records to reflect that The United States District Judge DONALD M. MIDDLEBROOKS Never ask (AUSA) Adam C. McMichael to Respond to Petitioner's Legitimate Arguments nor did The District Court Judge DONALD M. MIDDLEBROOKS Allow The United States Federal Probation Officer MS. FRANCES WEISBERG to Speak during Petitioner's October 8, 2015, Sentencing Hearing, in which is a complete violation of Petitioner's DUE PROCESS RIGHTS because said "Pro se Defendant's Objections to the Presentence Investigation Report (CR ECF #747)" and "The Second Addendum To The Presentence Report (CR ECF #748)(See Appendix-'' 0 '')" Completely Changes Petitioner's Case-in-Chief (United States of America v. Reginald Eugene Grimes, Case No. 9:15-CR-80003-MIDDLEBROOKS/BRANNON-5), in which if the Trial Jury Knew of the "FALSE STATEMENTS" by (AUSA) Adam C. McMichael during "Opening Argument" and the "PERJURED TESTIMONY" of Government Key Witness Gary Bernard Moore and the "FALSE STATEMENTS" by (AUSA) Adam C. McMichael during "Closing Arguments" COULD HAVE CHANGED The Trial Jury's Verdicts to "NOT GUILTY for BOTH Counts 1 and 8" of the Indictment (See CR ECF #776, Pages 61-65, Lines 1-25), in which The Trial Jury sent The District Court the ONLY "Question/Note From The Jury To The Court" which was "Can We Review Any Hospital Reports From The Day of Arrest" (See Appendix-'' R ''), in which CREDIBILITY of The Government Witnessess (The Law Enforcement Officers) was in Question. (See Reginald Eugene Grimes, Sr. vs. Officer Richard Rott, et al., District Court Case No. 9:15-CV-80972-RAR (See Eleventh Circuit Court of Appeals Case No. 20-10498 (Dated September 27, 2021))).

Petitioner would like the records to reflect that Petitioner's "Pro se Defendant's Objections to the Presentence Investigation Report (CR ECF #747)" and "The Second Addendum To The Presentence Report (CR ECF #748)(See Appendix-'' 0 '')" Completely Changes Petitioner's Case-in-Chief for "SENTENCING PURPOSE" because by The United States District Judge DONALD M. MIDDLEBROOKS following "Apprendi (Apprendi v. New Jersey, 147 L.Ed.2d 435 (2000))"; and "Alleyne (Alleyne v. United States, 186 L.Ed.2d 314 (2013))", which states "the drug type and drug quantity in § 841(b) are elements of the offense." See United States v. Curbelo, 726 F.3d 1260, 1267-69 (11th Cir. 2013), Because The Trial Jury Could Have Returned a Verdict of "Guilt for 100 grams or more of heroin" in which Would Have Placed Petitioner under Title 21 U.S.C. §841(b)(1)(B)(i), in which Would Have Been a MANDATORY MINIMUM SENTENCE of FIVE (5) YEARS, Instead of The Mandatory Minimum Sentence of TEN (10) YEARS, in which Petitioner's GUIDELINE SENTENCE Would Have Been a "BASE OFFENSE LEVEL for The Alleged Drugs, a LEVEL 24, with a Criminal History of II and a Sentencing Range of 57-71 Months, instead of The Base Offense Level of 30, with The Sentencing Range of 108-135 Months"; and/or

Because The Trial Jury Could Have Returned a Verdict of "Guilt of Less Than 100 grams of heroin" in which Would Have Placed Petitioner under Title 21 U.S.C. §841(b)(1)(C), in which Would Have Been "NO MANDATORY MINIMUM SENTENCE For Petitioner" and Petitioner Would Have Been Sentenced Under The Sentencing Range of "Zero (0) to Twenty (20) Year Sentencing Range, in which Petitioner's GUIDELINE SENTENCE Would Have Been a "BASE OFFENSE LEVEL for The Alleged Drugs, a LEVEL 22,

with a Criminal History of II and a Sentencing Range of 46-57 Months, instead of The Base Offense Level of 30, with The Sentencing Range of 108-135 Months of Imprisonment." See United States v. Sepulveda, 115 F.3d 882, 890 (11th Cir. 1997), which states in part: "When a defendant challenges one of the factual bases of his sentence, the Government has the burden of establishing the disputed fact by a preponderance of the evidence." <sup>12</sup>

See Also Rochin v. California, 96 L.Ed. 183 (1952), which states in part: "Substantive due process refers to certain actions that the government may not engage in, no matter how many procedural safeguards it employs."

Petitioner would like the records to reflect that This Honorable UNITED STATES SUPREME COURT JUSTICES stated in "PAUL L. GLOVER vs. UNITED STATES, 148 L.Ed.2d 604 (2001), the following in part: "Allegation that Federal District Court's erroneous sentencing determination unlawfully increased defendant's prison sentence held to establish prejudice for purposes of Sixth Amendment ineffective-counsel claim."

Also Petitioner would like the records to reflect that The Honorable Eleventh Circuit Court of Appeals Circuit Judges "GRANT, LUCK and TJOFLAT" placed an "ORDER" for Appeal Case No. 19-13362, that a Federal Rules Criminal Procedure Rule 32 Issue(s) Should Have Been Raised during Petitioner's "Direct Appeal for Case No.'s: 15-14533 and 15-14625." (See United States of America v. Reginald Eugene Grimes, Sr., 803 Fed. Appx. 349 (11th Cir. February 21, 2020)). (Appendix- " D ").

Petitioner would like the records to reflect that This Honorable United States Supreme Court should "GRANT" Petitioner's "Writ of Certiorari" and "REMAND" said Case Back to The Honorable Eleventh Circuit Court of Appeals, with Instructions to "GRANT" Petitioner's "REQUESTED "COA"" and/or "GRANT" Petitioner ANY OTHER RELIEF DEEMS JUST, in which includes "VACATING" Petitioner's Convictions and/or Sentences by "ORDERING THE LOWER COURT'S TO APPLY "FEDERAL RULES OF CIVIL PROCEDURE RULE 60(b)(6) (any other reason that justifies relief)."

(12) Petitioner would like the records to reflect that on OCTOBER 8, 2015, during Petitioner's Sentencing Hearing, Petitioner Realized that The United States District Court Judge DONALD M. MIDDLEBROOKS was NOT Going To Allow Petitioner To Present ANY FACTS or CASE LAWS To Support Petitioner's Arguments and that Petitioner would have to Present said Arguments to The Honorable Eleventh Circuit Court of Appeals in Petitioner's "Direct Appeal for Appeal Case No.'s: 15-14533 and 15-14625."

(3) THE HONORABLE ELEVENTH CIRCUIT COURT OF APPEALS IN ATLANTA, GEORGIA COMMITTED "PLAIN AND OBVIOUS ERROR" BY DENYING PETITIONER'S REQUEST FOR A CERTIFICATE OF APPEALABILITY ("COA") IN BEHALF OF THE GOVERNMENT KNOWINGLY LYING ABOUT MATERIAL ELEMENTS OF FACTS TO THE HONORABLE DISTRICT JUDGE DONALD M. MIDDLEBROOKS DURING PETITIONER'S SENTENCING HEARING THAT WOULD HAVE AND STILL WILL HAVE CHANGED THE OUTCOME OF PETITIONER'S CONVICTIONS AND/OR SENTENCES, IN BEHALF OF DISTRICT COURT CASE NO. 9:15-CR-80003-DMM.

Petitioner would like the records to reflect that this "PRO SE PETITION FOR WRIT CERTIORARI" Requesting For a "CERTIFICATE OF APPEALABILITY ("COA")" is a FIRST IMPRESSION CASE that should be Reviewed with The EYE of JUSTICE in it's Entirety:

Petitioner would like the records to reflect that "All Lawyers/Attorneys fall under The American Bar Association ("ABA") and Each Lawyer/Attorney Takes an "Oath of Admission for The State or States that said Lawyer/Attorney desires to Practice Law in", in which (AUSA) ADAM C. McMICHAEL'S "Florida Bar No. 772321", in which mens that He ((AUSA) Adam C. McMichael) Took an OATH to be of High Moral and Ethical and Trustworthy Standards" in which DID NOT TAKE PLACE in behalf of District Court Case No. 9:15-CR-80003-MIDDLEBROOKS/BRANNON, in which Petitioner will state the following:

"On OCTOBER 8, 2015, during Petitioner's "Sentencing Hearing" (AUSA) Adam C. McMichael stated the following:

MR. McMICHAEL: Your Honor, based upon my previous argument about his history, the evidence in this case, and quite frankly, the Defendant's lack of any remorse, any accountability. Everyone here in the courtroom, whether it be the United States, whether it be the other Defendants, are all either, in his argument, all perjuring themselves, all conspiring against him; it is everyone's fault but his own.

Quite frankly, I have been sitting here listening to it for the last 20 minutes or so, and it is absurd. And he made arguments now that the Government and myself, particularly, has changed things on people's documents and misled the jury, and it is all because he is not taking any responsibility for his actions whatsoever.

I mean, he is sitting here. There is a distinction between representing yourself and then lying and obstructing justice; and quite frankly, I believe he has attempted to obstruct justice.

He is a smart individual. He has been through the criminal justice system for so long that he understands criminal procedure probably better than most lawyers coming out of law school, probably almost all of them because he has been through that process, and he is using those tools to his advantage.

He did a pretty good job during trial..." (See CR ECF #790, Pages 69-70, Lines 10-8; and Compare CR ECF #338 and 341, Pages 1, 2, 4, 5, 6 of 6 (See Appendixes- " M " & " N "); and Compare CR ECF #748, Page 3, Paragraphs 3 and 4 (See Appendix- " O " Page 3, Para. 3 & 4)).

Petitioner would like the records to reflect that "If The Trial Jury would have known that (AUSA) Adam C. McMichael was LYING during "Opening Statements" and that The Government's Key Witness /The Leader/Head of The Indictment "GARY BERNARD MOORE" was Committing PERJURED TESTIMONY and that (AUSA) Adam C. McMichael was LYING during "Closing Arguments", Could Have Changed The "Guilty Verdicts for Counts 1 and 8" To "NOT GUILTY" and/or Would Have Changed The "Guilty Verdict for Count 1 (a Kilogram or more of Heroin)" in which Would Have Changed Petitioner's "BASE OFFENSE LEVEL" and "SENTENCING RANGE", but because of the Clear and Convincing Evidence of "Fraud Upon The Court" by (AUSA) ADAM C. McMICHAEL (Florida Bar No. 772321), which embraces only that species of fraud which does or attempts to, defile the court itself or is a fraud that's perpetrated by (AUSA) ADAM C. McMICHAEL of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication, that prevented The Honorable United States District Judge DONALD M. MIDDLEBROOKS from Fully and Fairly Understanding the True Facts of said Case (United States of America v. Gary Bernard Moore, et al., Case No. 9:15-CR-80003-MIDDLEBROOKS/BRANNON-ALL). See "In Re: Oath of Admission to the Florida Bar, 73 So.3d 149 (Fla. 2011), states: "[I] will never seek to mislead the judge or jury by an artifice or false statement of fact or law [.]"

Petitioner would like the records to reflect that This Honorable United States Supreme Court should "GRANT" Petitioner's "Writ of Certiorari" and "REMAND" said Case Back to The Honorable Eleventh Circuit Court of Appeals, with Instructions to "GRANT" Petitioner's "REQUESTED "COA"" and/or "GRANT" Petitioner ANY OTHER RELIEF DEEMS JUST, in which includes "VACATING" Petitioner's Convictions and/or Sentences by "ORDERING THE LOWER COURT'S TO APPLY "FEDERAL RULES OF CIVIL PROCEDURE RULE 60(b)(3)(fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party) and/or Rule 60(b)(6)(any other reason that justifies relief)).<sup>13</sup>

(13) Petitioner would like to Express to This Honorable United States Supreme Court that (AUSA) Adam C. McMichael Have Committed So Many Unethical Acts in behalf of said case (United States of America v. Gary Bernard Moore, et al., Case No. 9:15-CR-80003-MIDDLEBROOKS/BRANNON), in which said Indictment is based on a Wire Tap Investigation. Please note that said Cellular Telephone Number (786-623-1508) belongs to Petitioner and Do Not Have Either Government Witnesses (Gary Bernard Moore nor Lakisha Larue Wise's) Cellular Phone Numbers (561-702-6960) nor (786-518-9704) in Petitioner's Call Log and on January 14, 2015, Petitioner was arrested in behalf of District Court Case No. 9:15-CR-80003-DMM, in which Petitioner's Cellular Phone (786-623-1508) was Seized and on January 29, 2015, The Government Authorities Made a "OUTGOING CALL" to Cell Phone Number (954-865-3770) Without a Search Warrant and/or Petitioner's Consent. See Riley v. California, 189 L.ED. 2d 430 (2014).

(4) THE HONORABLE ELEVENTH CIRCUIT COURT OF APPEALS IN ATLANTA, GEORGIA COMMITTED "PLAIN AND OBVIOUS ERROR" BY DENYING PETITIONER'S REQUEST FOR A CERTIFICATE OF APPEALABILITY ("COA") IN BEHALF OF THE APPELLATE COUNSEL DELIBERATELY REFUSING TO RAISE PETITIONER'S PRESERVED FEDERAL RULES OF CRIMINAL PROCEDURE RULE 32 VIOLATION ARGUMENTS DURING PETITIONER'S DIRECT APPEAL.

Petitioner would like the records to reflect that Appellate Counsel (Richard L. Rosenbaum) Deliberately Refused To Raise Petitioner's PRESERVED October 8, 2015, "Pro se Objections To The Presentence Investigation Report" in behalf of the "RESOLVED and UNRESOLVED ISSUES of MATERIAL FACTS" and "The Complete Violation of "Federal Rules of Criminal Procedure RULE 32"" (See "CR ECF's #711, #747, #748, and #754"; and Compare "CR ECF #790, Pages 8-9, Lines 17-8" and "CR ECF #790, Pages 60-68, Lines 18-11"), in Petitioner's "Appeal Brief", in The Honorable Eleventh Circuit Court of Appeals for Appeal Case No.'s: 15-14533 and 15-14625, in which was and is a Complete Violation of Petitioner's 5th, 6th and 14th United States Constitutional Amendment Rights.

Petitioner would like the records to reflect that once Petitioner received a copy of Appellate Counsel's (Richard L. Rosenbaum's) "COMPLETE ERRONEOUS APPELLATE'S BRIEF" in APRIL of 2016, Petitioner Immediately Filed a "Pro se Motion To Stay Pending Appeal and or Stay Pending Review and Pro se Motion To Withdraw Appellant's Counsel (Richard L. Rosenbaum), in Order to Protect Petitioner's 1st, 5th, 6th and 14th United States Constitutional Amendment Rights", in which was Denied on OCTOBER 14, 2016. (See Appendix- " A ").

Petitioner would like the records to reflect that on MAY 9, 2017, Petitioner Emailed (Please note that said "Email" is located in "CV ECF #20, Exhibit-#3, in behalf of District Court Case No. 9:18-CV-80053-DMM (District Court Case No. 9:15-CR-80003-DMM)" that came from The Federal Bureau of Prisons Institutional Computer (See Appendix- " S ")), in which Petitioner Supplied and Requested, that The Honorable Eleventh Circuit Court of Appeals "OPINION" in "United States v. Stein, 846 F.3d 1135 (11th Cir. January 18, 2017)" be used in Petitioner's behalf, because Petitioner expressed that "The Second Addendum to the Presentence Investigation Report, Page 3, Paragraphs 3 and 4 (See "CR ECF #748 (See Appendix- " O "")), shows that the Government ((AUSA) Adam C. McMichael) and the Government's Key Witness (Gary Bernard Moore) BOTH LIED during Petitioner's Jury Trial about "KEY MATERIAL FACTS" on July 27, 2015 (See "CR ECF #750, Page 108, Lines 16-20"), July 28, 2015 (See "CR ECF #751, Pages 237-239, Lines 14-7"), July 29, 2015, (See "CR ECF #752, Page 55, Lines 9-25"), and on July 31, 2015 (See "CR ECF #776, Page 13, Lines 10-12" and Lines 15-18" and "CR ECF #776, Page 45, Lines 2-10) and Compare "CR ECF #341, Pages 1, 2, 4, 5 and 6 of 6"), in which is a Complete Violation of "DeMARCO v. United States, 928 F.2d 1074 (11th Cir. April 17, 1991)."

Petitioner would also like the records to reflect that Petitioner Expressed to Appellate Counsel (Richard L. Rosenbaum) that a Completel Review of Petitioner's "Pro se Objections To The Presentence Investigation Report" and "The Second Addendum to the Presentence Investigation Report" and "The October 8, 2015, Sentencing Transcripts of Petitioner" in behalf of the "RESOLVED and UNRESOLVED ISSUES OF MATERIAL FACTS" shows a Complete Violation of Petitioner's 5th, 8th, and 14th United States Constitutional Amendment Rights and a Complete Violation of Federal Rules of Criminal Procedure RULE 32 (See "CR ECF #711, #747, #748, and #754"; and Compare "CR ECF #790, Pages 8-9, Lines 17-8"; and "CR ECF #790, Pages 60-68, Lines 18-11), but Appellate Counsel (Richard L. Rosenbaum) DELIBERATELY CONCEALED THE FACTS OF TRUTH FROM THE EYES OF THE HONORABLE ELEVENTH CIRCUIT COURT OF APPEALS, in which consist of the following: "APPENDIX-"0":

- A. (CR ECF #747, Page 3 of 18 and 4 of 18, in which Petitioner "Objected" to Page 6, Paragraph #4 of CR ECF 711, which consist of the alleged "Drug Trafficking Organization", in which CR ECF #748, Page 2, states said Issue is Unresolved.);
- B. (CR ECF #747, Page 5 of 18, in which Petitioner "Objected" to Page 8, Paragraphs #11, #12, and #14 of CR ECF #711, which consist of the False Opening Statement by (AUSA) Adam C. McMichael, The Perjured Testimony of Government Key Witness Gary Bernard Moore, and The False Closing Arguments by (AUSA) Adam C. McMichael, in which CR ECF #748, Page 3, Paragraphs 3 and 4, AGREE with Petitioner, but The District Court REFUSED To Allow The Federal Probation Officer (Ms. Frances Weisberg) or The Government ((AUSA) Adam C. McMichael) To Speak on said Issues of Facts);
- C. (CR ECF #747, Page 6 of 18 and 7 of 18, in which Petitioner "Objected" to Page 12, Paragraphs #26, #27 and #28 of CR ECF #711, in which is "Incorrect" but on Page 3 and 4 of CR ECF #748, states that said Issue is "Resolved" which consist of "Gary Bernard Moore's "FACTUAL BASIS" that Completely Contradict his (Moore's) Trial Testimony");
- D. (CR ECF #747, Page 7 of 18, in which Petitioner "Objected" to Page 15, Paragraph #48 of CR ECF 711, in which is "Incorrect", but on Page 4 of CR ECF #748, states that said Issue is "Resolved" which consist of Unknown Drug Quantities);
- E. (CR ECF #747, Page 7 of 18, in which Petitioner "Objected" to Page 22, Paragraphs #89, #90 and #91 of CR ECF #711, in which consist of "Trial Testimony" of "Alleged Co-defendant's Step-fone Valdez Buckle's December 16, 2014, Invalid Probable Cause Affidvait Arrest Report, that was NEVER Signed By The Alleged Arresting Officer on All Five (5) Pages of said "Arrest Report" but was NOTARIZED By a NOTARY on The First THREE (3) PAGES, in which CR ECF #748, Page 4, states said Issue is "Unresolved");

- E. (CR ECF #747, Page 8 of 18, in which Petitioner "Objected" to Paragraph #95 and #96, in which is based on "False Statements" but on Page 5 of CR ECF #748, states that said Issue(s) are "Resolved");
- G. (CR ECF #747, Page 8 of 18, in which Petitioner "Objected" to Paragraph #108 of CR ECF 711, in which consist of "Drug Type" and "Drug Quantity", in which CR ECF #748, Page 5, states said Issue is "Unresolved".);
- H. (CR ECF #747, Page 9 of 18, in which Petitioner "Objected" to Page 29, Paragraph #114, in which is "Incorrect", but on Page 5 and 6 of CR ECF #748, states that said Issue is "Resolved" which consist of "Drug Type" and "Drug Quantity");
- I. (CR ECF #747, Page 9 of 18, 10 of 18 and 11 of 18, in which Petitioner "Objected" to Page 30, Paragraph #119, in which consist of the "Incorrect Base Offense Level" and the "Contradiction between the "Federal Rules of Criminal Procedure Statute (21 U.S.C. §§ 841(a)(1) and 841-(b)(1)" and The United States Federal Sentencing Guidelines Manual:Law Book"" in which CR ECF #748, Page 6, states that said Issue is "Unresolved");
- J. (CR ECF #747, Page 12 of 18, in which Petitioner "Objected" to Page 30, Paragraph #119, of CR ECF #711, in which consist of "Drug Quantity", in which CR ECF #748, Page 6 and 7, states said Issue is "Unresolved");
- K. (CR ECF #747, Page 13 of 18, in which Petitioner "Objected" to Page 30, Paragraph #120, of CR ECF #711, in which is based on "False Statements" but The District Court Excepted Alleged Co-defendant's Gary Bernard Moore's "PERJURED TRIAL TESTIMONY" (See CR ECF #790. Pages 44-45, Lines 14-25));
- L. (CR ECF #747, Pages 13 of 18, 14 of 18, 15 of 18, 16 of 18 and 17 of 18, in which Petitioner "Objected" to Page 41, Paragraph #148, of CR ECF #711, that's based on "PERJURY TRIAL TESTIMONY", "PLANTED FALSE EVIDENCE BY THE ARRESTING POLICE OFFICERS" and "GOVERNMENT MISCONDUCT (Petitioner was "Tried" in Federal Court and Found Guilty by a Jury of Twelve (12) Members but (AUSA) HAL GOLDSMITH, NEVER Submitted said Case (District Court Case No. 9:93-CR-8102-RYSKAMP) To a VALID GRAND JURY on JANUARY 11, 1994, To Start Petitioner's Jury Trial on JANUARY 12, 1994, To Received The "GUILTY VERDICT" on JANUARY 13, 1994), in which CR ECF #748, Page 8, states that said Issue is "UNRESOLVED" in which deals with "Sworn Affidavits by The Arresting Police Officers" and "Other Important Legal Documents" that shows Petitioner Speaks The Truth).

Petitioner would like the records to reflect that This Honorable UNITED STATES SUPREME COURT JUSTICES stated in "PAUL L. GLOVER vs. UNITED STATES, 148 L.Ed.2d 604 (2001), the following in part: "Allegation that Federal District Court's erroneous sentencing determination unlawfully increased defendant's prison sentence held to establish prejudice for purpose of Sixth Amendment ineffective-counsel claim."

Petitioner would like the records to reflect that Appellate Counsel (Richard L. Rosenbaum) Deliberately Concealed The FACTS of TRUTH stated Above, in which on FEBRUARY 21, 2020, The Honorable Eleventh Circuit Court of Appeals Circuit Judges "GRANT, LUCK and TJOFLAT" placed an "ORDER" for Appeal Case No. 19-13362 (See United States v. Reginald Eugene Grimes, Sr., a.k.a. Bro Man, 803 Fed. Appx. 349 (11th Cir. Feb. 21, 2020)(See Appendix-" D ")), which states in part on Pages 4 of 6, 5 of 6 and 6 of 6, the following:

"...Rather, the correct procedure is to raise the Rule 32 violation on direct appeal, which Grimes did not do. See United States v. Peloso, 824 F.2d 914, 915 (11th Cir. 1987)..."

"...But Grimes has already filed a §2255 motion in the District Court raising among other things, the very Rule 32 violation that he alleges here..."

"...Rather, we leave Grimes to litigate his Rule 32 claim in the appropriate forum: before the District Court in his §2255 petition..."

"...Of course, Grimes argues in this appeal that he did not raise the Rule 32 violation on direct appeal only because his attorney "[d]eliberately [r]efus[e]d" to do so. Thus, Grimes argues that his appellate counsel rendered ineffective assistance in connection with his direct appeal...Grimes has also raised the ineffectiveness of his counsel in his §2255 motion now pending before the District Court. Because a §2255 motion is the appropriate mechanism by which to bring the claims Grimes has raised, he may litigate those claims in the District Court on that motion..."

Petitioner would like the records to reflect that "Appellate Counsel's (Richard L. Rosenbaum's) performance "fell below an objective standard of reasonableness"" and "Appellate Counsel's (Richard L. Rosenbaum's) deficient performance "prejudiced the Petitioner, resulting in an unreliable or fundamentally unfair outcome in the proceedings." See "Strickland v. Washington, 80 L.Ed.2d 674 (1984)."

Petitioner would like the records to reflect that This Honorable United States Supreme Court should "GRANT" Petitioner's "Writ of Certiorari" and "REMAND" said Case back to The Honorable Eleventh Circuit Court of Appeals, with Instructions to "GRANT" Petitioner's "REQUESTED "COA"" and/or "GRANT" Petitioner ANY OTHER RELIEF DEEMS JUST, in whch includes "VACATING" Petitioner's Convictions and/or Sentences by "ORDERING THE LOWER COURT'S TO APPLY "FEDERAL RULES OF CIVIL PROCEDURE RULE 60(b)(6)(any other reason that justifies relief)."

#### CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted.

  
\_\_\_\_\_  
Reginald Eugene Grimes

Date: September 22, 2022