

No. \_\_\_\_\_

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IN THE  
SUPREME COURT OF THE UNITED STATES  
OCTOBER TERM, 2022

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BRIAN WRIGHT, *Petitioner*,

v.

UNITED STATES OF AMERICA, *Respondent*.

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

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**PETITION FOR WRIT OF CERTIORARI**

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## **THE QUESTIONS PRESENTED**

1. Should Mr. Wright be allowed a return of his seized cash when Mr. Wright filed a motion under Fed. R. Crim. P. 41(g) to return the cash, and the government did not initiate a forfeiture or otherwise connect the cash to a prosecuted case?

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## I.

### PRAYER FOR RELIEF

Mr. Brian Wright petitions for a writ of certiorari to review the decision of United States Court of Appeals for the Ninth Circuit that affirmed the district court by finding that neither Mr. Wright nor the government had established a right to return tens of thousands of United States dollars seized by the government in 2014 and 2017. A petition for writ of certiorari should be granted when the seizure of the cash was an improper nonjudicial forfeiture, without court process. The seized cash was not involved or utilized in a criminal or civil case, and not utilized in a at any point following seizure of the same.

A petition for writ of certiorari should be granted when the seized cash did not fall under an equitable doctrine to allow the government to maintain the funds without process, including the equitable doctrine of “unclean hands.” The continued seizure of the cash violated Mr. Wright’s Eighth Amendment rights, and involved a greater deprivation that reasonably necessary under the case circumstances.

For the reasons stated herein, Brian Wright’s petition should be granted.

## II.

### OPINION BELOW

The United States Court of Appeals for the Ninth Circuit entered a decision that held: (1) Mr. Wright was presumptively entitled to a return of the cash seized as the person who last held the cash before it was seized, however (2) the district court properly found that this presumption was rebutted by the “considerable evidence demonstrating that the money was stolen.” *United States v. Wright*, 49 F.4th 1221 (9th Cir. 2022). *Appendix A*. The Ninth Circuit found that Mr. Wright’s motions under Rule 41 of the Federal Rules of Criminal Procedure were properly denied as to the return of the seized cash to Mr. Wright. *Appendix A*.

The Ninth Circuit also held that the government did not establish ownership over the money due to not invoking the statutory forfeiture scheme, and thus not perfecting title to the seized property. *Appendix A*. The Ninth Circuit offered no guidance on the future advisable steps as to the disposition of the seized cash, however rejected the government’s claim that it may dispose of the cash in any way it deemed permissible. *Appendix A*.

### **III.**

#### **BASIS FOR JURISDICTION**

On September 23, 2022, the United States Court of Appeals for the Ninth Circuit issued a decision that affirmed the decision of the district court in denying Mr. Wright's motions under Rule 41(g) of the Federal Rules of Criminal Procedure. *Appendix A*. This is the final judgment for which a writ of certiorari is sought. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

### **IV.**

#### **CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES, ORDINANCES AND REGULATIONS INVOLVED IN THE CASE**

Pursuant to Rule 41(g) of the Federal Rules of Criminal Procedure:

(g) MOTION TO RETURN PROPERTY. A person aggrieved by an unlawful search and seizure of property or by the deprivation of property may move for the property's return. The motion must be filed in the district where the property was seized. The court must receive evidence on any factual issue necessary to decide the motion. If it grants the motion, the court must return the property to the movant, but may impose reasonable conditions to protect access to the property and its use in later proceedings.

### **V.**

#### **STATEMENT OF THE CASE**

##### **A. Jurisdiction of the Courts of First Instance.**

The district court had jurisdiction under Rule 41(g) of the Federal Rules of Criminal Procedure. The Ninth Circuit Court of Appeals had jurisdiction pursuant to 28 U.S.C. § 1291.



**B. Facts Material to the Questions Presented.**

**A. \$25,513.00 in Cash Seized from Yellow Daisy Avenue Residence; First Rule 41(g) Motion for Return of Property.**

On July 21, 2016, the district court sentenced Mr. Wright to time served along with three years of supervised release pursuant to a guilty plea for a single counsel of Felon in Possession of a Firearm pursuant to 18 U.S.C. § 922(g)(1) and § 924(a)(2). After sentencing, Mr. Wright moved for a return of items of property seized during a search conducted at a residence on Yellow Daisy Avenue in Las Vegas, Nevada, including: (1) a watch, (2) a cell phone, and (3) \$23,513.00 in cash. The government filed a response, and a magistrate judge later held an evidentiary hearing as to the motion.

On February 9, 2017, the magistrate judge issued a report and recommendation as to Mr. Wright's motion. The magistrate judge found that Mr. Wright's testimony was "too vague and unsubstantiated to be credible" as to the ownership of the \$23,513.00 in cash. The magistrate judge found that Mr. Wright's testimony as to obtaining the cash from gambling or borrowing from friends lacked sufficient detail in order to be credible, and lacked corroborating evidence. The magistrate judge recommended that Mr. Wright's motion be granted in part, and denied in part, with the government to return the seized the watch and cell phone to Mr. Wright, but not the \$23,513.00 in cash. The report and recommendation was later adopted by the district court, with the watch and cell phone to be returned to Mr. Wright, and the \$23,513.00

not to be returned to Mr. Wright.

B. Appeal and Remand from the Ninth Circuit as to First Motion for Return of Property.

Mr. Wright appealed the denial of his motion for return of property to the United States Court of Appeals for the Ninth Circuit. Following briefing and oral argument, this Court vacated the decision of the district court, finding that the decision relieved the government of its burden of establishing that the property was “contraband or subject to forfeiture.” Mr. Wright was “presumed” to have a right to return of the property, and the government had the “burden of demonstrating that it ha[d] a legitimate reason to retain the property.” The Ninth Circuit found that because the magistrate judge concluded that Mr. Wright had not shown that he was the rightful owner of the money and not entitled to its return, this finding relieved the government of its burden of establishing that the cash was “contraband or subject to forfeiture.” The Ninth Circuit vacated the order denying Mr. Wright’s motion, and remanded for further proceedings.

At a hearing before the district court following remand, the parties agreed that the evidence presented at a prior evidentiary hearing could provide the factual basis for determining the issues. Both sides were also allowed to conduct supplemental briefing on certain additional issues, and new case law.

On August 26, 2019, the district court issued an order that denied Mr. Wright’s remanded issue as to return of property. *Appendix B.* The district court found that

Mr. Wright's position regarding ownership of the cash "flip-flopped" during the case," with Mr. Wright first denying that he was living at the residence where the property was seized, and then later asserting that he lived in the residence, and wanted the items seized returned to him. *Appendix B.*

The district court decided that Mr. Wright was the person "from whom the property [was] seized," and is "presumed to have a right to its return." The district court found, however, that the \$23,513.00 in cash was contraband, specifically proceeds of one or more robberies, because of: (1) the timing of the seizure and subsequent fencing of some of the goods, (2) the cash being hidden in the attic of the residence, (3) Mr. Wright not having lawful employment at the time the cash was found, and (4) Mr. Wright's testimony regarding winning the cash gambling or borrowing from friends was "sketchy at best and his explanations [were] not reasonable." *Appendix B.* Following entry of the district court's order denying the Rule 41(g) motion as to the \$23,513.00 in cash, Mr. Wright appealed the to the United States Court of Appeals for the Ninth Circuit.

C. \$40,000.00 in Cash Seized from West Arby Avenue Residence; Second Rule 41(g) Motion for Return of Property.

On February 10, 2017, Mr. Wright arrested at a residence on West Arby Avenue in Las Vegas, Nevada. A day earlier, a state court judge in Nevada signed a search warrant for the West Arby Avenue residence. The application and affidavit detailed that the basis of the search was suspicion that Mr. Wright was engaging in sex

trafficking.

On February 10, 2017, based upon Mr. Wright being under supervised release from his federal criminal case, United States Probation filed a petition for a warrant for the arrest of Mr. Wright. In relevant part, the petition alleged that Mr. Wright was engaging in sex trafficking, identified under Nevada law as “Pandering” pursuant to Nevada Revised Statutes (“NRS”) 201.300, and “Living from the Earning of Prostitution” pursuant to NRS 201.320. After arresting Mr. Wright, state and federal agents seized several items from the residence. This included \$40,000.00 in cash from the box spring of a mattress.

Mr. Wright’s supervised release violation case was adjudicated for a total of 21 months in custody. On May 3, 2019, Mr. Wright filed a motion under Rule 41(g) of the Federal Rules of Criminal Procedure for return of property related to the West Arby Avenue seizure. Mr. Wright alleged that he had the following items of property improperly seized:

- a. \$2,152.00 in cash from his front pants pocket;
- b. \$40,000.00 in cash from a mattress box spring in a bedroom;
- c. Rings from Mr. Wright’s fingers with an asserted value of \$30,000.00;
- d. One or more cell phones; and
- e. A silver ring found inside a kitchen drawer.

The parties briefed the issues in advance of an evidentiary hearing. The government argued at a status hearing on the motion that there was a “factual dispute” as to whether the government intended to offer the \$40,000.00 in seized cash in the trial of Matthew John Cannon in *United States v. Cannon*, United States District Court

(Nevada) Case No. 2:19-cr-00025-RFB-VCF. 2-ER-243. In its supplemental briefing and in-court arguments, the government argued that the \$40,000.00 was “likely” stolen from a Las Vegas casino, and that the cash was going to be introduced in a Mr. Cannon’s trial.

On November 20, 2020, the magistrate judge held an evidentiary hearing as to Mr. Wright’s West Arby Avenue Rule 41(g) motion. The parties submitted exhibits for the magistrate judge’s consideration. The government stipulated at the hearing that it had no basis to continue to withhold the \$2,152.00 in cash seized from Mr. Wright’s pants pocket.

Government witnesses testified during the hearing in part that: (1) a person could gamble at a casino without being part of the system, or generating a transaction report for his or her winnings, and (2) Mr. Wright had stated that the cash found at the residence was the result of a lawsuit settlement. Mr. Wright testified during the hearing in part that: (1) he obtained a financial settlement related to a car accident, (2) he had told a law enforcement agent that had seized the property that he had obtained a financial settlement from a car accident, (3) the items seized, including the \$40,000.00 in cash, were his and no one else to his knowledge would claim possession of the same, and (4) he was never prosecuted for sex trafficking, or any crime, related to the items taken from West Arby Avenue.

On December 18, 2020, the United States Magistrate Judge entered a report and recommendations along with an order that granted in part and denied in part Mr.

Wright's second motion for return of property. *Appendix B*. The \$2,152.00 taken from Mr. Wright's front pocket was recommended to be returned to Mr. Wright. The \$40,000.00 seized from the mattress box spring was recommended to not be returned. *Appendix B*. Finally, the magistrate recommended that as to the rings taken from Mr. Wright's fingers, that there be a finding that the government cannot return the same because "law enforcement did not seize the rings." *Appendix B*. Specific findings included:

- a. Mr. Wright is currently incarcerated and there are no pending charges against him.
- b. The government proved that the \$40,000.00 found in the mattress box spring was contraband because: (1) law enforcement seized the cash less than a month after an armed robbery at the Silverton Sportsbook, (2) the cash was wrapped in gold bands from the Silverton Sportsbook, (3) the Silverton casino had no record of Mr. Wright receiving large winnings, and (4) Mr. Wright's alleged co-conspirator pleaded guilty to conspiracy, had access to the subject residence, and later moved into the subject residence.
- c. The \$40,000.00 was proceeds of an illegal activity, and therefore Mr. Wright does not have a right to the property.

- d. The government overcame the presumption and proved by a preponderance of the evidence that the \$40,000.00 belonged to the Silverton Sportsbook and not Mr. Wright.
- e. The testimony by the government's agent was "credible" that the rings taken from Mr. Wright's fingers were left at the residence.

*Appendix B.* On January 22, 2021, the district court judge entered an order that agreed with the magistrate judge's recommendations. *Appendix B.* The district court judge ordered that the \$2,152.00 taken from Mr. Wright's front pants pocket and a certain cell phone be returned to Mr. Wright. *Appendix B.* The district court judge ordered that the government was not to return the seized \$40,000.00 cash to Mr. Wright. *Appendix B.* The district court judge's final portion of the order was that the government "cannot return the rings taken off Wright's fingers because law enforcement did not seize the rings." *Appendix B.* Mr. Wright later filed a notice of appeal of the ruling related to the West Arby Avenue seizure.

D. Sentencing in *United States v. Cannon*; \$40,000.00 in Seized Cash from West Arby Avenue not Attributed to Matthew John Cannon.

At the November 5, 2020 sentencing of Matthew John Cannon, Jr., the parties and district court discussed the subject \$40,000.00 in cash from the mattress box spring. A law enforcement agent assigned to the Cannon case testified at the sentencing hearing that after arresting Mr. Wright, law enforcement believed that the robberies of the Silverton Sportsbook would cease. The law enforcement agent testified

that robberies did continue to take place after the February of 2017 arrest of Mr. Wright, with another robbery taking place in March of 2017.

After hearing from the witnesses and the arguments of the parties, the district court found that although the government had established that Mr. Cannon was responsible for restitution related to a robbery that occurred in March of 2017, the government had not established that Mr. Cannon was involved in the January of 2017 Silverton Sportsbook robbery.

E. Mr. Wright's Appeal of his Rule 41(g) Motions for Return of Property.

Mr. Wright's appeals as to the motions under Rule 41(g) for return of property were consolidated before the United States Court of Appeals for the Ninth Circuit. Following briefing and oral argument, the Ninth Circuit issued an opinion that found that neither Mr. Wright nor the government established a right to the seized cash.

This petition follows.



## VI.

### REASONS SUPPORTING ALLOWANCE OF THE WRIT

This writ should be granted to allow this Court to correct the erroneous decision by the Ninth Circuit Court of Appeals that affirmed the decision of the federal district court in denying his appeal. The issues raised in this petition state a valid claim of the denial of a constitutional right when the: (1) seizure of the cash was an improper nonjudicial forfeiture, (2) seized cash was not involved or utilized in a criminal or civil case, (3) equitable doctrine of “unclean hands” is inapplicable in Mr. Wright’s case, (4) continued seizure of the cash violated Mr. Wright’s Eighth Amendment rights, and (5) seizure of the cash involved a greater deprivation than reasonably necessary under the case circumstances. It is thus respectfully requested that Brian Wright’s petition for writ of certiorari be granted.

#### **A. Mr. Wright’s Petition Should be Granted When the Seizure of the Cash was an Improper Nonjudicial Forfeiture.**

Mr. Wright’s petition should be granted when the government seized the cash from two residences in this case without forfeiture or any judicial process. While it is true that victims of crime should be compensated, said compensation should be through traditional judicial procedures rather than leaving it to the government for nonjudicial seizure to secure compensation without court process. *United States v. Palmer*, 565 F.2d 1063 (9th Cir. 1977).

Without a claim of ownership by judicial forfeiture or otherwise that was adverse to Mr. Wright, the petition should be granted. In Mr. Wright's case there was no cognizable claim of ownership or right to possession that was adverse to Mr. Wright. There was no claim by an insurer of the casino sportsbook, or the casino sportsbook itself, to the cash seized at the residences. There was otherwise no third-party claim of ownership to the seized cash, apart from Mr. Wright's motions for the return of the same.

Finally, without the government initiating a forfeiture or other court proceeding within the time period called for in the forfeiture statute of limitations, the cash seized should have been returned to Mr. Wright. Federal law has long recognized that the statutes of limitation that bars the rights of the government must receive strict construction. *See E.I. Du Pont De Nemours & Co. v. Davis*, 264 U.S. 456, 462, 44 S.Ct. 364, 366 (1924). A five-year statute of limitations applies to actions for penalties, fines, and forfeitures. *Gabelli v. SEC*, 568 U.S. 442, 133 S.Ct. 1216 (2013). Mr. Wright should be returned the seized cash when the statute of limitations for the government to file a civil asset forfeiture has expired. It is respectfully requested that Mr. Wright's petition be granted on this basis.

**B. Mr. Wright's Petition Should be Granted When the Seized Cash Was Not Found to be Involved in any Criminal Case, and is Presumed to be Returned to Mr. Wright.**

A criminal defendant is presumed to have the right to the return of his property once the property is no longer needed as evidence. *United States v. Mills*, 991 F.2d

609, 612 (9th Cir. 1993); *United States v. Palmer*, 565 F.2d 1063 (9th Cir. 1977). The seizure of property from someone, especially when that seized property is money, is prima facie evidence of that person's entitlement to the property. *United States v. Estep*, 760 F.2d 1060, 1064 (10th Cir. 1985); *see also United States v. Maez*, 915 F.2d 1466, 1468 (10th Cir. 1990). An adverse claimant may rebut this prima facie case by proving ownership either through: (1) positive identification, or (2) proving that the claimant in possession holds the money unlawfully. *Estep, id.* A Rule 41(e) motion may be denied if: (1) the defendant is not entitled to lawful possession of the seized property; (2) the property is contraband or subject to forfeiture; or (3) the government's need for the property as evidence continues. *United States v. Van Cauwenberghe*, 934 F.2d 1048, 1061 (9th Cir. 1991).

Here, Mr. Wright was not acquitted, or even charged, of a crime related to the seized cash from both residences and motions. Mr. Wright is entitled to the return of the seized cash when none of the exceptions to granting a Rule 41 motion apply to him. The cash was also ultimately not attributed to Matthew John Cannon in *United States v. Cannon*, United States District Court (Nevada) Case No. 2:19-cr-00025-RFB-VCF as the government had asserted earlier in Mr. Wright's case as a reason to retain the funds. Mr. Wright is entitled to lawful possession of the seized cash, the cash is not contraband or subject to forfeiture, and the government's need for the property as evidence did not continue.

As to the \$40,000.00 found in the mattress at the West Arby Avenue residence,

said cash was not tied to a sex trafficking charge as to Mr. Wright, and also ultimately not utilized at trial or found to be directly tied to the government's asserted case against Matthew John Cannon in *United States v. Cannon*, United States District Court (Nevada) Case No. 2:19-cr-00025-RFB-VCF. In the Matthew John Cannon case, the district court found that the government had not established that Mr. Cannon was involved in the Silverton Sportsbook robbery in January of 2017. Even if it could be argued that the \$40,000.00 in cash was going to be utilized at the trial of Matthew John Cannon, said potential use of the cash ended at the time that Matthew John Cannon was sentenced following a plea bargain. *See United States v. Kriesel*, 720 F.3d 1137, 1144-1147 (9th Cir. 2013) (continued retention of the defendant's blood sample was reasonable under the circumstances presented, including ensuring accurate matches to forensic evidence identified through DNA database searches).

A lack of a case or prosecution related to the seized cash should result in the return of the seized cash to Mr. Wright. Additionally, possession of the cash at the time of seizure was prima facie evidence of Mr. Wright's entitlement to the same. *United States v. Maez*, 915 F.2d at 1468. Compare Mr. Wright to the Fifth Circuit case of *United States v. Dean*, 100 F.3d 19, 20-21 (5th Cir. 1996) where the government rebutted the presumption of entitlement because: (1) the proceeds were found in the defendant's car bearing the bank's name, (2) an accomplice testified as to defendant's involvement in the crime, (3) a jury trial established defendant's guilt for two bank robberies, and (4) the defendant offered nothing to demonstrate that some or all of the

cash was something other than robbery proceeds.

Here, and unlike *Dean*, (1) Mr. Wright did not plead guilty to an offense involving the subject cash, (2) Mr. Wright did not have cash that bore the name of an entity, (3) no one testified as to Mr. Wright's involvement in a crime that involved the cash at issue, and (4) no jury trial established guilt against Mr. Wright. Instead, and unlike *Dean*, Mr. Wright offered testimony to demonstrate that the cash was obtained through lawful gambling activities, a lawsuit settlement, as well as borrowed funds from friends.

**C. Mr. Wright's Petition Should be Granted When the Equitable Doctrine of "Unclean Hands" Does Not Apply to Mr. Wright's Case.**

The equitable doctrine of "unclean hands" and related case rulings are inapplicable to Mr. Wright's case, and should not create an additional hurdle to the return of the seized cash to Mr. Wright. The doctrine of "unclean hands" is an equitable doctrine that allows a court to withhold equitable relief if "such relief would encourage or reward illegal activity." *United States v. Kaczynski*, 551 F.3d 1120, 1129 (9th Cir. 2009) (quoting *United States v. Felici*, 208 F.3d 667, 670-71 (8th Cir. 2000)). In *Kaczynski*, the defendant, also known as the "Unabomber," filed a motion for return of property seized at his Montana cabin, including: (1) papers, (2) books, (3) writings, (4) guns, (5) bomb-making materials, and (6) instructions on making bombs using store-bought items. *Kaczynski*, 551 F.3d at 1122.

There was no evidence to demonstrate that the seized cash in Mr. Wright's case

had been “utilized or intended to be utilized for illegal purposes.” The Ninth Circuit found in *Kaczynski* that, under the “unclean hands” doctrine, even if the items sought to be returned could somehow be construed as innocent in and of themselves, the motion could be denied if such items “had been utilized or intended to be utilized for illegal purposes.” *Id.*, at 1130. (citing *Felici*, 208 F.3d at 671). Similarly, in *United States v. Howell*, 425 F.3d 971 (11th Cir. 2005), the defendant filed a motion for return of property for cash that the government had used to set up a fake drug purchase transaction from defendant, and for three firearms seized. *Id.*, at 973. The Eleventh Circuit determined that the defendant had no possessory interest in the government’s cash used to set up the fake drug transaction, and that the return of three firearms seized would violate a federal statute to provide a convicted felon with a firearm. *Id.*, at 974. Concluding under the “unclean hands” doctrine, the defendant had “extremely ‘unclean hands,’” and that a person “engaged in this type of criminal conduct is hardly entitled to equitable relief.” *Id.*

Here, Mr. Wright’s claimed item is cash, which does not in and of itself encourage or reward illegal activity under the “unclean hands” doctrine. Under *Kaczynski*, there is not an indication that the cash “had been utilized or intended to be utilized for illegal purposes.” Under *Howell*, the cash at issue was not from a fake drug transaction or otherwise proof that Mr. Wright was “engaged in [the] type of criminal conduct” alleged in the original or the supervised release case resulting in the two cash seizures. Although it may be true that Mr. Wright was convicted of other crimes, the

standard should not be that when defendant is convicted of any crime, then all seized cash should be retained by the government because the defendant is generally of bad moral character and thus the cash must be related to illegal activity, without a tie-in through witness testimony, guilty plea, or trial. It is respectfully requested that Mr. Wright's petition be granted on this basis.

**D. Mr. Wright's Petition Should be Granted When Mr. Wright Demonstrated an Ownership Right in the Subject Cash, the Seizure of Which Violated the Excessive Fines Clause of the Eighth Amendment.**

Mr. Wright demonstrated an ownership right to the cash seized by testifying in two separate evidentiary hearings that the cash was obtained through lawful gambling activities, a lawsuit settlement, or borrowed from friends. The taking and retention of over \$63,000.00 in cash by the government in light of Mr. Wright's motions for return of property and related testimony was thus "excessive" and "grossly disproportionate" pursuant to the Eighth Amendment. Whether a fine is grossly disproportional to the underlying offense is based upon four factors: (1) the nature and extent of the underlying offense, (2) whether the underlying offense related to other illegal activities, (3) whether other penalties may be imposed for the offense, and (4) the extent of the harm caused by the offense. *United States v. \$100,348 in U.S. Currency*, 354 F.3d 1110, 1122 (9th Cir. 2004); *see also United States v. Bajakajian*, 524 U.S. 321, 327-28 (1998).

Here, and pursuant to the *Bajakajian* factors, there was not an underlying offense tied to the cash seized, or other penalties and related harm caused by an

offense not charged. Additionally, the offenses charged or investigated did not connect to the cash seized. The \$23,513.00 in cash from the Yellow Daisy Avenue residence was seized pursuant to a case that ultimately ended in a guilty plea for a single count of Felon in Possession of a Firearm pursuant to 18 U.S.C. § 922(g)(1) and § 924(a)(2), with no forfeiture allegation or other facts demonstrating a tie-in to the cash seized. The \$40,000.00 taken from the box spring of a mattress at the West Arby Avenue address was based upon suspicion that Mr. Wright was engaging in sex trafficking, identified under Nevada law as “Pandering” pursuant to NRS 201.300, and “Living from the Earning of Prostitution” pursuant to NRS 201.320. No charges were ever filed related to the search warrant for either or any of the sex trafficking crimes alleged. It is respectfully requested that Mr. Wright’s petition be granted on this basis.

**E. Mr. Wright’s Petition Should be Granted When the Existence of a Search Warrant for the West Arby Avenue Search Does Not Address the Type of Seizure that Took Place as to the Subject Cash.**

The presence or absence of a warrant does not absolve the government from the review of whether there was a “greater deprivation of liberty than is reasonably necessary.” 18 U.S.C. § 3583(d)(2). Here, pursuant to 18 U.S.C. § 3583(d)(2) as well as the under Mr. Wright’s effective supervised release conditions, the seizure of Mr. Wright’s property was improper and was a greater deprivation of liberty than was reasonably necessary. This is true under the prior arguments made, as well as ultimately the cash seized not being directly tied to any crime against Mr. Wright or a purported accomplice.



The greater concern is that allowing this type of cash seizure to occur is creating a rule by which the government can seize any amount of cash from a person on supervised release, and without any need to tie the cash in to any crime, and even when there is not a crime charged against the person by which the cash is seized from. The government was certainly given several months if not years by which to tie in the cash seized to a crime, and ultimately did not do so. It is respectfully requested that Mr. Wright's petition be granted on this basis.

## VII.

### CONCLUSION

For the foregoing reasons, Brian Wright respectfully asks this Court to grant this petition for writ of certiorari.

Dated: December 21, 2022.

Respectfully submitted,

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