

22-6507

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SUPREME COURT, U.S.

IN THE  
SUPREME COURT OF THE UNITED STATES

IN RE: MICHAEL KENNY CARTER

On Petition for Writ of Habeas Corpus

PETITION OF WRIT OF HABEAS CORPUS

Submitted by and for:

Michael Kenny Carter  
Michael Kenny Carter  
Reg. No. 32308-171  
FCI Fort Dix  
P.O. Box 2000  
Joint Base MDL, NJ 08640

## QUESTIONS PRESENTED

- 1) Is the A.E.D.P.A. second or successive provision unconstitutionally suspension of the writ of habeas corpus, as applied to incarcerated individuals who are innocent and can prove it, but procedural obstacles, like the second or successive bar is a barrier for relief?
- 2) Can federal courts allow an innocent American to remain in prison because of a procedural barrier like A.E.D.P.A. second or successive provision?
- 3) Did Congress exceed their authority by implementing the A.E.D.P.A.?
- 4) Is the A.E.D.P.A. unconstitutional as applied to Carter?

## LIST OF PARTIES

- District Judge Michelle Childs
- District Judge Joseph Anderson
- A.U.S.A James Hunter May
- U.S.A. J.D. Rowell
- A.U.S.A. Benjamin Garner
- Federal Public Defender Allen Burnside
- PRIVATE ATTORNEY ELISABETH BEST

Disclosure of corporate affiliations and financial interests pursuant to Supreme Court Rule 29.6, Michael Kenny Carter, makes the following disclosure: 1) Mr. Carter is not a subsidiary or affiliate of a publicly owned corporation; and 2) There is no publicly owned corporation, not a party to the case, that has a financial interest in the outcome of this case.

## RELATED CASES

- Michael Carter, No. 3:17-cr-003510-JPA, U.S. District Court for Columbia, S.C. Judgment entered on 9/23/22, Second-In-Time 2255
- Michael Carter, NO(N/A) U.S. Court of Appeals for the Fourth Circuit. Judgment entered on 9/21/22, 2252(H)
- Michael Carter, No. 3:17-cr-003510-JPA, U.S. District Court for Columbia, S.C. Judgment entered on 03/07/18
- Michael Carter, No. 3:17-cr-003510-JPA, U.S. District Court for Columbia, S.C. Judgment entered on 01/06/20

By: Michael Kenny Carter  
#32308171

F.C.I. Fort Dix  
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## PETITION FOR A WRIT OF HABEAS CORPUS

Mr. Carter respectfully petitions the Supreme Court to issue a writ of habeas corpus, because his case represents exceptional circumstances that justify this Court's issuance, to end Carter's illegal and unjustified conviction.

### JURISDICTIONAL STATEMENT

The Supreme Court of the United States has original and appellate jurisdiction under Article III of the Constitution of the United States. See also 28 U.S.C. §1251 and U.S. Const., Amdt. 11. A petition for an extraordinary writ in aid of the court's appellate jurisdiction as provided by Rule 20. *Felker v. Tupin*.

### CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

28 U.S.C. §1651 which states: A) the Supreme Court and all courts established by act of Congress may issue all writs necessary or appropriate in aid of these respective jurisdictions and agreeable to the usage and principles of law. B) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction.

§1251 original jurisdiction: A) The Supreme Court shall have original and exclusive jurisdiction of all controversies between two or more states.

## STATEMENT OF THE CASE

On March 7, 2018, at Carter's sentencing hearing, the court, plea counsel, along with Carter was ignorant to the Nature of Offense, due to a lot of misinformation by plea counsel and the court's failure to correct that misinformation. Thus, Carter remained ignorant.

On October 4, 2018, Carter filed his initial 28 U.S.C. §2255, with claims of ineffective assistance of counsel, actual innocence, which was misconstrued into failing to withdraw a guilty plea, and ineffective appellate counsel, which also was poorly presented but eventually denied. Carter appealed to the Fourth Circuit, which also denied him. Carter subsequently filed a Rule 60(b), which also was denied.

On or about January 2022, while walking around the prison yard, several inmates informed Carter what the law really meant to his case and situation. They showed Carter the required intent and elements and the factors that the charging information's role played in his case, that how plea counsel and the sentencing court, along with Carter himself, was ignorant to the Nature of Offense and how he was actually innocent and factually innocent.

On or about February 22, 2022, armed with this new knowledge, Carter filed a 2255 under the fundamental miscarriage of justice exception with claims regarding actual innocence, invalid guilty plea, and I.A.C. the government was ordered to respond. In the government's response, they conceded that "the

'facts' Carter relies on was known to him at the time of his first 2255, therefore this motion is considered second or successive."

After receiving the government's response, Carter filed a 2255(h) in the Fourth Circuit Appeals Court on August 8, 2022 regarding the following: same claims of actual innocence, invalid guilty plea and I.A.C., which was denied on September 22, 2022, because even though Carter was unaware of those claims, the claims were located in the record and existed to the A.E.D.P.A. kicks in, and the successive bar - bars relief, so Carter interpreted.

On September 23, 2022, the District Court also denied Carter's second in time 2255 on grounds that: 1) they can't review a higher court's decision; and 2) the second or successive bars review.

Armed with disappointment, Carter now moves in this Honorable Court to review the lower court's second or successive decision (gate keeping) under all writs act and under the original writ of habeas corpus to inquire into the cause of restraint, under Supreme Court's Rule 20, original jurisdiction and appellate jurisdiction. *Felker v. Turpin*.

#### REASONS TO GRANT WRIT

Carter believes that his case being decided by this Court will resolve a national problem that will affect many cases. The last time this Court had a discussion regarding whether the



A.E.D.P.A. - second or successive provision was unconstitutional and if Congress had exceeded its jurisdiction was in 1996, *Felker v. Turpin*. This Court stated that if the question ever came before them again, in an exceptional case, the Court would resolve it. The question is now before the Court in Carter's case.

The next major question is can United States federal courts allow innocent Americans to remain incarcerated because of procedural barriers and obstacles like the second or successive provisions, like failing to raise claims in an initial 28 U.S.C. §2255. This Honorable Court once stated it would be unconstitutional to put an innocent man to death! Carter truly believes it would be unconstitutional to allow Carter to remain incarcerated because he was unaware of the nature of offense and facts of his situation due to I.A.C. and the sentencing court.

As Carter has explained in his petition, his actual innocence, invalid guilty plea and I.A.C. shows conclusively upon the record, and it demonstrates that the subject matter jurisdiction was never properly conferred on the convicting court, and this is why the Carter case presents exceptional circumstances that justifies this Court's discretion of issuance of the writ. (Rule 20).

#### CONCLUSION

By Carter being charged by way of information, with participating in a joint venture of aiding and abetting in

violation of 18 U.S.C. §2422(b), has elements of specific intent to bring about the crime's completion or facilitation of the crime at any given time of the venture or conspiracy or episode. Once Carter stated to the court, that he honestly did not know the girls' ages, but once he learned he lured the girls to be captured by their parents and local authorities, demonstrates his actual innocence, and that necessary elements cannot be satisfied. Once the AUSA and FBI did not object, but eventually conceded that Carter truly lacked knowledge of their ages and turned the girls into their parent, demonstrates his actual innocence. When the AUSA had to give the sentencing court an erroneous alternate theory of Carter's alleged conduct to satisfy the elements of charged offense also demonstrated Carter's actual innocence and the erroneous alleged theory that "Carter should have learned the girls ages sooner by taking in the surrounding circumstances," and the court's agreement demonstrates the subject matter jurisdiction was never properly conferred on the convicting court. The record demonstrates Carter never intended or knowingly intended to violate any federal sex trafficking statute, certainly not 18 U.S.C. §2422(b). The sentencing transcripts reveal Carter was confused by the whole proceeding and not realizing the nature of offense or the rights he was giving up or waiving. Also, plea counsel repeatedly proffered the incorrect elements to the charged offense, and discarded an available defense for Carter because of plea counsel's ignorance to the charged offense. No one corrected counsel or remedy, his

ineffectiveness. The sentencing court was also ignorant to the nature of Carter's offense. Carter never admitted to all the necessary elements and intent that was needed to satisfy the court's acceptance of the guilty plea. Facts were never admitted by Carter to satisfy the critical necessary elements and intent of the guilty plea. Carter is truly innocent, and there is no evidence against him other than inconsistent, uncorroberated, false statements from the alleged victims, who had a motive to lie because Carter learned their true age and lured them into being captured by their parents and police. Those girls did whatever they did on their own and certainly not in the presence of Carter. Carter was deceived into a guilty plea by deceit and ignorance.

With the above explained, Carter's guilty plea is constitutionally invalid. He's actually innocent. There's serious structural errors in his case and subject matter jurisdiction was never properly conferred on the convicting court. Carter's guilty plea should be vacated and this Honorable Court should issue the writ to end Carter's illegal restraints, and determine if A.E.D.P.A.'s second or successive provision is a suspension of the writ of habeas corpus, and to determine can the A.E.D.P.A. keep an innocent man in prison.

Mr Carter Moves this Supreme Court of THE UNITED STATES to grant the Writ of Habeas Corpus, and resolve the A.E.D.P.A Second or successive provision.

Submitted on 01-04-23

Michael Kenny Carter  
REG # 32308171  
F.C.1 Fort Dix  
P.O. Box 2000  
Joint Base MDL, NJ 08640

UNITED STATES DISTRICT COURT  
for the

Michael Kenny Carter  
Petitioner

v.

Case No. \_\_\_\_\_  
(Supplied by Clerk of Court)

Warden Stevie M Knight  
Respondent  
(name of warden or authorized person having custody of petitioner)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Michael Kenny Carter
- (b) Other names you have used: Blaze
2. Place of confinement:
  - (a) Name of institution: Fort Dix, Building 5702, 3rd Fl
  - (b) Address: F.C.I., Box 2000  
Joint base MdL, NJ 08640
  - (c) Your identification number: 3:17-cr-00351-JFA
3. Are you currently being held on orders by:  
☒ Federal authorities    ☐ State authorities    ☐ Other - explain: \_\_\_\_\_
4. Are you currently:  
☐ A pretrial detainee (waiting for trial on criminal charges)  
☒ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime  
If you are currently serving a sentence, provide:
  - (a) Name and location of court that sentenced you: Matthew perry, 901 Richland St  
Columbia, S.C 29201
  - (b) Docket number of criminal case: 3:17-cr-00351-JFA
  - (c) Date of sentencing: March 07 2018☐ Being held on an immigration charge  
☐ Other (explain): \_\_\_\_\_

Decision or Action You Are Challenging

5. What are you challenging in this petition:  
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

CARTER, MICHAEL 32308171

- ☐ Pretrial detention  
☐ Immigration detention  
☐ Detainer  
☒ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)  
☐ Disciplinary proceedings  
☐ Other (explain): To INquire into the cause of restraint, illegal conviction and lack of Subject Matter Jurisdiction

6. Provide more information about the decision or action you are challenging:

- (a) Name and location of the agency or court: Matthew perry, 901 Richland st Columbia, SC 29201  
(b) Docket number, case number, or opinion number: 3:17-cr-00351-JFA  
(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):  
CONViction and Subject Matter Jurisdiction

(d) Date of the decision or action: 03-07-18

### Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

N/A

(b) If you answered "No," explain why you did not appeal: N/A

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☒ No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

N/A

(b) If you answered "No," explain why you did not file a second appeal: \_\_\_\_\_

N/A

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☒ Yes

☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

N/A

(b) If you answered "No," explain why you did not file a third appeal: \_\_\_\_\_

N/A

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☒ Yes

☐ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☒ Yes

☐ No

CARTER, MICHAEL 32308171

If "Yes," provide:

- (1) Name of court: Matthew perry , CONVICTING Court  
 (2) Case number: 3:17-cr-00351 JFA  
 (3) Date of filing: OCT 04 2018  
 (4) Result: Denied  
 (5) Date of result: 01-06-20  
 (6) Issues raised: I.A.C, I.A.A.C and Actual innocence which was misconstrued into Failing to Withdraw guilty plea

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☒ Yes☐ No

If "Yes," provide:

- (1) Name of court: Fourth Circuit Court of APPEALS  
 (2) Case number: N/A  
 (3) Date of filing: 08-23-22  
 (4) Result: Denied  
 (5) Date of result: 09-22-22  
 (6) Issues raised: I.A.C, Invalid guilty plea, and Actual innocence

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: I Filed a second in time 2255 to the Convicting Court and was procedurally denied by the A.E.D.P.A second or successive provision, despite the Gov. implicitly conceding the I'm Actually innocent. The Convicting Court states basically they are jurisdictionally and successively A.E.D.P.A Barred from reviewing my 2255 because the claims were, or existed at the time of my first 2255, despite me being unaware of those claims.

## 11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☐ Yes☒ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: \_\_\_\_\_  
 (b) Date of the removal or reinstatement order: \_\_\_\_\_  
 (c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes☒ No

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If "Yes," provide:

- (1) Date of filing: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Result: \_\_\_\_\_
- (4) Date of result: \_\_\_\_\_
- (5) Issues raised: \_\_\_\_\_

N/A

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes

☒ No

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_
- (2) Date of filing: \_\_\_\_\_
- (3) Case number: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_

N/A

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes

☒ No

If "Yes," provide:

- (a) Kind of petition, motion, or application: \_\_\_\_\_
- (b) Name of the authority, agency, or court: \_\_\_\_\_

- (c) Date of filing: \_\_\_\_\_
- (d) Docket number, case number, or opinion number: \_\_\_\_\_
- (e) Result: \_\_\_\_\_
- (f) Date of result: \_\_\_\_\_
- (g) Issues raised: \_\_\_\_\_

N/A

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**Grounds for Your Challenge in This Petition**

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

**GROUND ONE:** Subject Matter Jurisdiction (Lacking): I was charged by way of information with participating in a joint venture/underground activity. IN violation of 18 USC 2422 B. (AKA Aiding and Abetting which requires specific intent or facilitation of crime, none of the elements were met or satisfied.

(a) Supporting facts (Be brief. Do not cite cases or law.):

Carter explained to the sentencing court, that he did not know the alleged victims ages, but lured them into being captured by their parents and police. The A.U.S.A eventually, conceded although he gave an alternate theory of Carters alleged conduct that he thought could satisfy the intent and elements. the court erroneously agreed and accepted the plea based on Carter not taking in the surrounding circumstances

(b) Did you present Ground One in all appeals that were available to you? to learn the girls ages.

☐ Yes

☒ No

**GROUND TWO:** I.A.C-Misinformation of critical elements and failing to mount an available defense.

(a) Supporting facts (Be brief. Do not cite cases or law.):

I explained to the sentencing court, that i did not know the girls ages, but as soon as I learned, I lured them into being captured by their parents and police. Plea Counsel erroneously stated to the sentencing court more than once, that Carters knowledge of the girls ages is no defense and not apart of the charging statute, this erroneous advice was told to me and the court numerous times.

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☒ No

**GROUND THREE:** Invalid guilty plea: the sentencing transcripts reveal I was confused the whole proceeding, that plea counsel didn't know the necessary elements and necessary intent that's required in my case and charging document. the sentencing court was also ignorant to the nature of my charging offense, the court believed

(a) Supporting facts (Be brief. Do not cite cases or law.):

it could satisfy the necessary elements and intent, by stating "i should have gleaned from the situation that the girls were young when accepting the guilty plea. me being charged with aiding and abetting requires specific intent. once I told court I did not know the alleged victims age and lured them into being captured by their parents shows a lack of intent and a lack of facilitation of the crime.

(b) Did you present Ground Three in all appeals that were available to you?

☒ Yes

☒ No

**CARTER, MICHAEL 32308171**

**GROUND FOUR:** Actually innocent: I was charged by way of information with participating in a joint venture or aiding or abetting in violation of 18 USC 2422. I told the sentencing court, that I did not know those girls ages but as soon as I learned I lured them into being captured by their parents.

(a) Supporting facts (Be brief. Do not cite cases or law.):

The A.U.S.A implicitly conceded and stated I should have been aware of the surrounding circumstances, the court agreed and found me guilty for not gleaning from the situation that the girls were young. From the above mentioned, it shows the necessary elements and intent was never satisfied and I never intended to violate, or violated, or participated in any violation of A Federal crime knowingly or unknowingly, and the record reflect the same! (sentencing transcripts)

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☒ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: being cause of plea counsel and convicting court, I was totally unaware of the factual basis to my claims, after being kept ignorant by plea counsel and the convicting court of critical elements of the nature of offense.

#### Request for Relief

15. State exactly what you want the court to do: issue the writ of habeas corpus and end my illegal confinement and immediate release me, every day is irreparable harm I'm relieving. Thank you

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**Declaration Under Penalty Of Perjury**

If you are incarcerated, on what date did you place this petition in the prison mail system:

01-03-23

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 01-03-23

Michael Kenny Carter  
*Signature of Petitioner*

\_\_\_\_\_  
*Signature of Attorney or other authorized person, if any*

CARTER, MICHAEL 32308171

CASE #:  
DISTRICT CASE #:

SUPPORTING MEMORANDUM  
28 U.S.C. § 2241 PETITION

- 1) Carter was charged by way of information with participating in a joint venture/aiding and abetting in violation of 18 U.S.C. §2422B.
- 2) Carter explained to plea counsel Allen Burnside, that he was innocent, and was only merely around the alleged victims. Carter explained to him that he only came to meet the girls because they were at a birthday party thrown for him that night. Less than an hour later, Carter learned of their ages and contacted their parents, and lured the girls into being caught by their parents, who also had the police with them, which is the reason false allegations were levelled against Carter.
- 3) Plea counsel stated to Carter that his knowledge of their age is no defense and not a part of the charging statute, and the court or federal law does not care that he contacted their parents and turned them in.
- 4) Rule 11 hearing: factual basis, "Carter facilitated the travel of 2 minors from Augusta, GA to Columbia, S.C. for the purposes of prostitution.
- 5) At sentencing, Carter immediately stated to the court that he

did not know those girls' ages and as soon as he learned, he turned them into their parents.

- 6) The court then asked Carter if he still engaged in any sex acts after learning the girls' ages.
- 7) The court then impermissibly asked Carter a series of questions, in a set of different contexts to elicit the answer they wanted to hear. Basically the court asked the same questions in different forms to elicit a different answer, or the answer they wanted.
- 8) Plea counsel, being extremely ineffective, proffered to the court multiple times that Carter's knowledge of the girls' ages is no defense and not part of the charging statute.
- 9) No one corrected plea counsel's erroneous proffer.
- 10) Carter was extremely confused throughout the whole proceeding.
- 11) The A.U.S.A. eventually concluded regarding Carter truly not knowing the alleged victims' ages and luring them to be caught by their parents once he did learn their true ages.
- 12) The A.U.S.A. then gave the court an alternate theory of Carter's alleged conduct that could possibly satisfy the necessary elements to properly convict Carter.
- 13) The A.U.S.A. proffered to the court that the surrounding circumstances could justify Carter's alleged conduct, because he should have been aware. The court eventually agreed with this erroneous interpretation and found Carter guilty and stated Carter should have been aware or gleaned from the

situation that the girls were young.

- 14) Everything about this case was wrong, the court, plea counsel, and that Carter was ignorant to the nature of the offense Carter was accused of committing. The necessary intent and necessary elements were never properly satisfied and couldn't be. Subject matter jurisdiction was never properly conferred on the convicting court.
- 15) There was no meeting of the minds regarding Carter's plea agreement. Plea counsel made an innocent man take a guilty plea, because plea counsel was ignorant to the nature of Carter's charging offense. Plea counsel failed to notice exactly what the charging information accused Carter of committing, which was participating in a joint venture or aiding and abetting 18 U.S.C. §2422B violation. If plea counsel doesn't know the nature of Carter's offense than neither can Carter. When plea counsel was proffering the wrong critical elements to the sentencing court, plea counsel should have been corrected and the elements and necessary intent should have been explained to Carter, which never happened. Carter was found guilty in ignorance.
- 16) Carter filed a Notice of Appeal and placed on the form that he no longer wanted plea counsel representing him. The next day, plea counsel showed up at the jail fussing, that why did Carter file an appeal and that Carter needed to sign an appeal withdrawal form immediately. Plea counsel had Carter sign an appeal withdrawal form with Carter's name and plea

counsel's name, Allen Burnside, on the document.

- 17) The Fourth Circuit appointed Elizabeth Best to represent Carter. During the meeting with Ms. Best, Ms. Best explained to Carter that she was representing him and Allen Burnside was no longer his attorney, and should not have had Carter sign any document. Carter felt the betrayal and fraudulent ways of plea counsel. Carter and Ms. Best agreed for Carter to move forward with his ~~APPEAL~~.
- 18) Ms. Best, unbeknownst to Carter, took the appeal withdrawal form, which had Carter's name and plea counsel Allen Burnside's name in it, and submitted it to the Fourth Circuit Appeals Court and that is how Carter lost out on his appeal. If Carter truly agreed with Ms. Best about withdrawing his appeal, Ms. Best would have gotten a new appeal withdrawal form with her name and Carter's name.
- 19) In Carter's first 2255, he was unaware of the facts of his case that he's now learned, but even though poorly presented, placed all possible claims, even ineffective appellate counsel in his 2255.
- 20) Carter was ignorant to the facts of his case because of plea counsel, but was diligently pursuing his rights. In February 2022, Carter learned the truth.
- 21) Carter is truly innocent. There was completely no evidence against him, but inconsistent, uncorroborated, false statements from the alleged victims who had a motive to lie because Carter did the right thing by luring them to be

apprehended by their parents, who had local authorities with them.

- 22) At the beginning of this case, Carter went down to the police station because he had nothing to hide. His cell phone was searched by their technicians and given back because his phone was cleared for any wrong doing.
- 23) At the Rule 11 hearing and sentencing hearing, the Government repeatedly accused Carter of bringing or sending someone to pick up the girls and bring them across state lines for prostitution. The sentencing transcripts will reveal that plea counsel proffering to the court that Carter never sent anyone to get those girls. One of the alleged victims already knew those girls and that's how they came over.
- 24) At sentencing, the court asked the A.U.S.A. who was the associate working with Carter (allegedly), and the A.U.S.A. lied and stated they did not have a Quantum of Evidence at this point to go forward with charges. The court and victim's mother would have been appalled to know this alleged associate is victim #3, D'nisha Salters, AKA "Nene", who is the real culprit, but the A.U.S.A. is portraying her as a victim in order to convict Carter.
- 25) Carter brought these claims to his sentencing court and Fourth Circuit Appeals court under his 2255H, which was both denied, and along with the A.U.S.A.'s response, Carter's claim/facts existed when he filed his first 2255, and is therefore second or successive. The Government wants to



shield its wrong doing behind the A.E.D.P.A. procedural bar. To allow this would truly be a suspension of the writ of habeas corpus.

#### CONCLUSION

Carter has no other avenue to seek remedy and this is his only option. If Carter could have raised his claims sooner, there is no question he would have. Carter prays this Court helps him. He was deceived into that guilty plea, I.A.C. and never had an opportunity to a fair trial. Carter turned down the first 2 guilty pleas, on May 2, 2017, May 5, 2017, and May 7, 2017. He wrote the District Court expressing his innocence, which is on file. After the Rule 11 hearing on May 30, 2017, Carter again wrote the Court expressing his innocence and notifying the Court he was pressured into pleading guilty, which is also on file, dated June 16 or 19, 2017. All was ignored, just like Carter's concern at sentencing, along with his complaints in his first 2255.

#### PRAYER FOR RELIEF

Carter prays this Court reverse his conviction and grant immediate release.

I, Michael Kenny Carter, swears under penalty of perjury the above mention is true and correct.

Dated: January 4, 2023

Michael Kenny Carter  
Michael Kenny Carter  
Reg. No. 32308-171

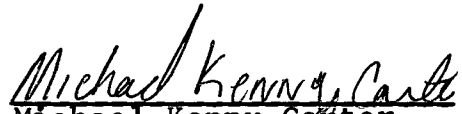
(Reasons for not making application to district court of the district in which applicant is held).

- 1) I can't file to the district court because of the A.E.D.P.A. bars review...(second or successive).
- 2) 28 U.S.C. §2241 to the District Court is jurisdictional and has a portal surrounding it, and elements has to be met, like proving §2255 is inadequate or ineffective, which standard cannot be met in my case or situation.
- 3) I cannot meet the saving clause and would be futile for me to try and apply.

With the above mentioned, is why I, Michael Kenny Carter cannot apply to the District Court and would like for this Honorable Court to entertain this Action, so I may finally receive justice.

I, Michael Kenny Carter, swears under penalty of perjury the above mention is true and correct.

Dated: January 4, 2023

  
Michael Kenny Carter  
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FCI Fort Dix  
P.O. Box 2000  
Joint Base MDL, NJ 08640