

DEC 26 2022

OFFICE OF THE CLERK

No. 22-7094

IN THE  
SUPREME COURT OF THE UNITED STATES

Michael Lee Gordon — PETITIONER  
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The Sixth Circuit Court of Appeals  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Michael Lee Gordon  
(Your Name)  
#6789635  
Iowa State Penitentiary  
PO Box 316  
(Address)

Fort Madison, Iowa 52627  
(City, State, Zip Code)

NA  
(Phone Number)

**ORIGINAL**

**QUESTION(S) PRESENTED**

I.) Whether or not the district court's denial to Recuse himself was in error?

## LIST OF PARTIES

☒ All parties appear in the caption of the case on the cover page.

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

## RELATED CASES

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0.

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix B to the petition and is

- ☐ reported at NA; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the United States district court appears at Appendix A to the petition and is

- ☐ reported at NA; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

## JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was ~~September 30, 2022~~ June 15, 2022

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 9-30-2022, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A\_\_\_\_\_.

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

☐ For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A\_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

**CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**



## STATEMENT OF THE CASE

In the instant case the judge, AUSA, and court appointed defense counsel did conspire, scheme, plot and plan to have an "agreement and an understanding" to admit "illegal and unlawful" Testimony from an F.B.I. Agent of "double hearsay" testimony that should not have been admitted at trial and was the "only" evidence admitted in counts 7, 8, 9, 10, 11, 12, 13, and 14 of the superseding indictment.

The judge took an "active roll" in prosecuting Petitioner by 1.) suggesting "Have Agent Horan read it" and 2.) "I was suggesting he could read both of them"; the judge 3.) cut off court appointed counsel several times during trial; the judge 4.) made disapproving comments about Petitioner; 5.) "Yes, we know why you don't have him" and 6.) "Maybe it makes sense in light of the letters that he was receiving from Mr. Gordon"; the judge even 7.) denied court appointed defense counsel the opportunity to cross-examine Agent Horan with impeachment material stating 8.) "No, no it is coming in. You will be able to use it in final arguments." Furthermore, 9.) The Sixth Circuit Court of Appeals in Appellant's direct appeal (US v. Gordon, 238 F.3d 425 (2000)) determined that this judge's actions were "unusual" in denying the Petitioner's peremptory challenge during voir dire wherein the Sixth Circuit concluded: 10.) "The court then made additional findings on the race-neutral explanation offered by Gordon for the challenge and found purposeful discrimination in the exercise of the strike" 11.) "Although the district court's subsequent affirmance of the challenge (see Tr. at 1001-08) based on findings "not advanced" by the government in support of its challenge is "unusual" we find the decision of the district court in sustaining the challenge to Gordon's use of a peremptory challenge to juror Washington was not clearly erroneous." (Emphasis Added).

### REASONS FOR GRANTING THE PETITION

Petitioner maintains that the district court "clearly" shows a bias. On the record, the judge, the Assistant United States Attorney and court appointed defense counsel during a side bar engaged in a conversation and did "specifically" admit that they had an "agreement" and an "understanding" to allow an F.B.I. Agent to testify to double hearsay. The judge made disapproving comments on several occasions about Petitioner and the Sixth Circuit Court of Appeals in its order affirming the district court's denial stated: "Gordon cites no comments or other evidence suggesting that the district judge had a personal or extrajudicial bias against him." Plus, the judge denied court appointed defense counsel the opportunity to cross-examine F.B.I. Agent Kevin Horan directing him to raise his issues in closing arguments only.

I respectfully request this Honorable Court to please grant this petition because the events that took place is a "complete miscarriage of justice". The district court judge, the Assistant United States Attorney and court appointed defense counsel admitted "on the record" that they had an "agreement" and an "understanding" to admit "illegal" and "unlawful" testimony from an F.B.I. agent that was "double hearsay"; whereby Petitioner's co-defendant made alleged statements to a Thomas Gill, F.B.I. agent, who completed a form 302 that a Kevin Horan, F.B.I. agent, read aloud at trial.

**\*Note:** This form 302 testimony was the only testimony admitted at trial in counts 7, 8, 9, 10, 11, 12, 13 and 14 of the indictment accounting for over 100-years of Petitioner's 137.7 year sentence.

### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,  
Michael Lee Gordon  
#6789635  
Iowa State Penitentiary  
PO Box 316  
Fort Madison, Iowa 52627  
Date: 12-26-2022

### Certificate of Service

Petitioner hereby states that a copy of the same was sent to opposing counsel on 2-8-2023 and is true and correct to the best of my ability under the penalties of perjury, and notarized pursuant to 28 USC 1746. Respectfully, Michael Lee Gordon  
#6789635

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