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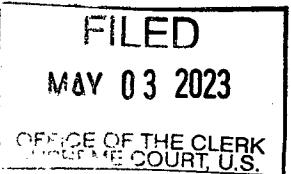
ORIGINAL

No: 22-20025

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IN THE  
SUPREME COURT OF THE UNITED STATES

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ANURAG DASS,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent,

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

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PETITION FOR WRIT OF CERTIORARI

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ANURAG DASS

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## **QUESTIONS PRESENTED**

Petitioner Anurag Dass prays that this Honorable body of Judges of the Supreme Court of these United States will acknowledge and consider her submission of this Petition and know that she has consistently maintained that she is innocent of all charges. Further, she has evidence to support her Plea.

Ms. Anurag Dass submits that she was denied her Sixth Amendment rights as per the U.S. Constitution. These rights include the opportunity to defend her position and her right to confront her accusers. She was forced, by threats and false statements by her Defense Attorney and his Assistant to, under duress, enter a Plea of Guilty and agree to waive her rights without benefit of a clear understanding of the consequences of those actions. *LaFer vs. Cooper*, 566 U.S. 156, (2012); *Gideon vs. Wainwright*, 372 U.S. 335, *Hill vs. Lockhart*, 474 U.S. 52. Trusting her attorney, she did as she was instructed. Her counsel's deficient advice deprived her of a trial and caused her to unwillingly accept a Guilty Plea. *Strickland vs. Washington*, 466 U.S. 688, (1984). There is "reasonability probability" that, but for counsel's errors, she would certainly not have pleaded guilty and would have insisted on going to trial *Hill v Lockhart*, 474 U.S. 52.

The court appointed Public Defender for Ms. Dass, but this public attorney requested to be removed from the case. Ms. Dass was denied another Public Defender to assist in her Appeals. Ms. Dass is financially unable to hire a private Attorney. The *Administrative Offices of the US Courts for Educational Purposes* holds that the Sixth Amendment's guarantee of counsel is a "fundamental

right essential to a fair trial and, as such, applies to the states through the *Due Process Clause of the Fourteenth Amendment*. Justice Black, in overturning *Betts v Brady*, 316 U.S. 455 (1942), stated that “reason and reflection require us to recognize that in our adversary system of criminal justice, any person hauled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided.” Further, that the “noble ideal” of “fair trials before impartial tribunals in which every defendant stands equal before the law cannot be realized if the poor man charged with a crime has to face his accusers without a lawyer to assist him.”

Question 1: Should both the Defense and Prosecution endeavor to seek truth, facts, proof and significance in their search for justice and share/reveal those finding in a Discovery without distortion or withholding?

Question 2: Whether the 5th Circuit erred in affirming the district court's decision that allowed to convict Petitioner of money laundering based on transactions not proven to be proceeds of unlawful activity?:

Question 3: Whether the Fifth Circuit erred in affirming the district court's decision to allow the admission of prejudicial evidence in violation of Federal Rule of Evidence 404(b)

## **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**

- Dass v USA, No 4-17-CR-649-2, United States District Court of Southern District. Judgment entered Jan 10, 2022.
- Dass v. USA, No 22-20025, United States Court of Appeals 5th Circuit . Judgment entered Feb. 03,2023
- Dass v.USA, No 23-20116 Appeal Pending with United States Court of Appeals 5th Circuit.

## TABLE OF CONTENTS

	Page
WRIT OF CERTIORARI.....	1
OPINIONS BELOW.....	2
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	3
STATEMENT OF THE CASE.....	4-21
REASONS FOR GRANTING THE WRIT.....	22-28
CONCLUSION.....	29

## INDEX TO APPENDICES

APPENDIX A: Dass v USA, No 4-17-CR-649-2,  
United States District Court of Southern District.  
Final Judgment entered on January 10, 2022.

APPENDIX B: Dass v. USA, No 22-20025, United  
States Court of Appeals 5th Circuit filed on  
February 03, 2023. Remand notice to the District  
court. This opinion is not designated for  
publication. see 5th CIR.R.47.5

APPENDIX C: Dass v. USA, No-22-20025 United  
States Court of Appeals 5th Circuit, Motion to  
withdraw as Counsel and to appoint new counsel  
on Remand filed on February 13, 2023

APPENDIX D: Dass v. USA, No 22-20025, United States Court of Appeals 5th circuit, Request for Re-Hearing was filed on February 15, 2023.

APPENDIX E: Dass v. USA, No-22-20025,United Court Appeals 5th Circuit, Request for appointing a Counsel to represent in appeals courts on February 17, 2023.

APPENDIX F: Dass v.USA, No 4-17-CR-649-2, United States District Court of Southern District. Corrected order of Forfeiture entered on March 12, 2023.

APPENDIX G: Dass v USA, No-22-20025 United States Court of Appeals 5th Circuit, Judge granted counsel to remove herself from the case and denied appoint of counsel in this appeal dated March 27, 2023

APPENDIX H: Dass v.USA, No 23-20116 Appeal Pending with United States Court of Appeals 5th Circuit. Briefing is due on May 16, 2023.

EXHIBIT ATTACHED

EXHIBIT 1: Two different Plea agreement. First copy signed by Dass on 08/13/2019

EXHIBIT 2: Second agreement was read in court which was not discussed by the defense counsel received 4 days after the court day.

EXHIBIT 3: Government Exhibit A Pertinent to the restitution fee & Dass Response to Coding error.

EXHIBIT 4: Letter from the Third party billing company showing discrepancies which was not mentioned by the Prosecution side in PSR Report.

EXHIBIT 5: Letter from Third party billing company Dass never had any access to the billing records.

EXHIBIT 6: Recorded call from OWCP/Billing processing company verifying that 97110 & 97530 are not Physical therapy codes as claimed by the Federal agents.

EXHIBIT 7: Witnessing statement proving Dr. Peccora has given permission to use signature stamp in his absence.

EXHIBIT 8: U.S. Department of Labor/FECA Medical fee guidelines clearly shows these are not Physical therapy codes. The government claimed CPT code 97110 & 97530 are physical therapy codes, which makes up the loss amount \$2,242.898. Which is False.

EXHIBIT 9: Letter from Department of Labor shows no one can refer patients to A&A except their Primary care Physician. Rules set by OWCP its not Medicare case.

EXHIBIT 10: Docket No- 09-1525 from Department of Labor showing Stephen Hunt was Solicitor who was representing A&A patients in Federal Courts.

EXHIBIT 11: Yearly Revenue log from A&A accounts showing Hunt did not received 15% of Monies OWCP Paid to A&A. He only received his fee for legal services for the patients.

EXHIBIT 12: Government discovery Exhibit showed another co-defendant in this same case was represented by Dass Defense lawyer.

EXHIBIT 13: Authorization letter from OWCP showing CPT code 97110 & 97530 are not Physical therapy codes.

EXHIBIT 14: Letter from AMA Guideline CPT coder clarifying these codes not only used by the Physical therapist.

EXHIBIT 15: Interview taken by federal agent where Ms. Gordon/Texas Board of Physical therapy Examiner told the agents these two codes 97110 & 97530 are not only used by the Physical therapist, they cross over to the other modalities.

EXHIBIT 16: Insurance checks were cashed by Dr. Peccora. Government claimed Dr. Peccora identity was stolen?

EXHIBIT 17: Copy of Patients daily notes where time is noted on each individual counseling sessions. Billing Error lies on Third party side which was not mentioned by Prosecuting side. Its Billing error not a Fraud.

EXHIBIT 18: Letter's from Psych Counselor explaining how they document their patients notes on daily basis. Dass had no part in creating any documents

EXHIBIT 19: Letter from third party Billing company/Nando Medical billing company admitting the Billing mistake. Dass had no role in creating any billing records.

EXHIBIT 20: Letter from A&A Business Account verifying No transfers were ever made from A&A Business account to Anurag Dass Personal account.

EXHIBIT 21: Letters to the Federal Judge explaining Dass's defense side which was never presented in court. Factual evidence was denied by the Government.

## TABLE OF AUTHORITIES

Cases:	Page
<i>Lalfer vs. Cooper, 566 U.S. 156, (2012)</i>	
<i>Gideon vs. Wainwright, 372 U.S. 335</i>	
<i>Hill vs. Lockhart, 474 U.S. 52.</i>	
<i>Strickland vs. Washington, 466 U.S. 688, (1984)</i>	
<i>Betts v Brady, 316 U.S. 455 (1942)</i>	
<i>Cases cited in Questions Presented Section.</i>	
<i>US v Cronic, 466 U.S. 648, 659, n. 26</i>	5
<i>Holloway Arkansas, 435 U.S. 475</i>	5
<i>US v Sprague, 135 F.3d 1301, 1998</i>	6
<i>Williams v Taylor 529 U.S. 362 (2000)</i>	7
<i>People v Roberts; 2018; New York ;</i>	15

*163-AD,3D, 450.*

<i>Taylor v Illinois, 484 U.S. 400 (1988)</i>	21
<i>Frye,566 U.S.,at 143</i>	22
<i>Puckett v United States, 556 U.S. 129,135,129, S.</i>	
<i>Ct.1423,1429,173 L.Ed.2d,266 (2009)</i>	27

**STATUTES:**

28 U.S.C. Code §1254.....	2
18 U.S.C. 18 §1956 (1) (2) (3) (4) (a) (b)	3
Federal rule 404 (b) .....	17
42 U.S.C. Section 3020a-7b.....	26

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PETITION FOR WRIT OF CERTIORARI

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Anurag Dass respectfully petitions for a writ of certiorari  
to review the judgment of the United States Court of  
Appeals for the Fifth Circuit in this case.

## **OPINIONS BELOW**

The Fifth Circuit Court of Appeals in New Orleans, Louisiana issued its opinion on February 3, 2023. This opinion is not designated for publication. See 5th CIR. R.47.5; Document 84-1. On February 15, 2023, Request for a Hearing was denied by 5th CIR. Court. On February 17, 2023 Request for a Re-Hearing at 5th CIR. was requested. On March 27, 2023 the 5th CIR. Court, granted for Court Appointed Counsel to withdraw from case but denied the motion for new Council to be appointed. On April 03, 2023 Request for Court appointed Counsel was denied by the Fifth Circuit court. On April 06, 2023 notice was sent by the 5 CIR. Court Pro -Se Briefing is due by May 16, 2023.

## **JURISDICTION**

The United States Court of Appeals for the fifth Circuit issues its decision on February 3, 2023. Petitioner filed a timely petition for re-hearing, Which is pending . This Court jurisdiction to review the judgment of the fifth circuit under 28 U.S.C. §1254 (1)

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

The Fifth Amendment to the United States Constitution provided that no person shall be deprived of life, liberty, without due process of law; guarantees the right to a grand jury, forbids "double jeopardy"; and protects against self-incrimination; also due process of law" and requires the government to compensate citizens when it takes private property for public use.

The Sixth Amendment provides that a person is entitled to a speedy trial; a public trial by an impartial jury ; the right to be informed regarding about the nature and accusations against you; to confront witnesses against you; to have compulsory process for obtain witnesses in your favor and to have the assistance of Counsel for the defense and to confront your accuser(s).

The United States code, U.S.C. 18, §1956 (1) (2) (3) (4) (a) (b) defines the crimes of money laundering and specifies the elements required to prove the offense.

## **STATEMENT OF THE CASE**

A&A Pain & Wellness filed Articles of Incorporation on or about December 11, 2008 with the principal place of business at 6600 Harwin Drive, Suite #100, Houston, Texas 77036. Petitioner Anurag Dass was Operating Manager at this facility, The idea to start a business that would answer the needs of primarily federal workers who had been injured on the job and were experiencing emotional as well as physical problems. Dr. David Suchowiecky, a physician and Psychiatrist who had previously developed a practice to address those needs, retired. A number of the patients pleaded with Ms. Dass to open another clinic to deal with their difficulties.

On March 9, 2016 – Initial investigation by Department of Labor/ US Postal Service were initiated.

On November 03, 2017 – Indictment of Anurag Dass at A&A Pain & Wellness center, and two other Co-defendants not affiliated with A&A Pain & Wellness Center.

On the day of Court to enter for initial appearances, Counsel was not present to represent his client, Ms. Dass. Dass, alone, without counsel, Plead Not Guilty to all charges. Counsel was dismissed.

On November 18, 2017 – Counsel hired for Defense of Ms. Dass. He held the case for 20 months, requested 9 continuances, no witness, no depositions, no investigation

into details of the business details of A&A, minimal gathering of facts. He failed to disclosure his representing one of the other co-defendants until much later in the same case. *Conflict of Interest- US v Cronic, 466 U.S. 648, 659, n. 26 and Holloway Arkansas, 435 U.S. 475.* He insisted Ms. Dass plead guilty due to lack of time to prepare for trial stating he could "fix it later". Ms Dass states "*I was afraid and unsure of what to do. Counsel's Assistant told me that I must enter a Guilty Plea. "You can't win this trial, your colleagues and friends are testifying against you. The Judge could give you the full 20 year prison term. You won't see your son until he graduates from college.... of course your Mother will be dead by then. Doctors are testifying against you. Sign the Guilty Plea or we will call Federal Marshalls to take you to wait for trial in jail.....it could be months.*" Ms. Dass called a friend, crying and reports being terrified.

Her Counsel asked for 9 requests for continuances, unknown to Ms. Dass. When he requested another, the Judge refused and set trial for 12 days later. Counsel had Ms. Dass sign a Plea Agreement that was completely different from the one prepared by the Prosecution (that was partially read in Court). Counselor insisted she say or do nothing other than what he had written on a small paper saying those were the "*magic words.*" Regardless of what the Judge asked of her she was to not comment and just agree. Ms. Dass asked about monies the Court might require her to pay. Counselor replied asking if she had any money. She answered "No". "*Then don't worry about it*", he said. When Ms. Dass received the Prosecution's Plea Agreement in the mail 4 days later, she fainted from

shock. (*Exhibit 1& Exhibit 2) US v Sprague, 135 F.3d 1301, 1998*

Ms. Dass was clinically depressed and fearful to think she had plead guilty to charges that she knew were false.

Counsel left his own Law practice and joined another firm.

On or about November, 2018, Ms. Dass asked a small team of trusted professionals to assist her in organizing and gathering data on all aspects for the Defense side of her case. These professionals were knowledgeable about the business and Rules and regulation of OWCP and medical guidelines by FECA. For 5 years they researched, investigated and verified every aspect of this case and did comparative studies on similar cases. In real -time collected testimonies, letters from experts willing to testify in court, data regarding financial aspects, coding, billing, patients reports and A&A history of aspects of the business, in depth with numerous details including the Department of Labor practices, rules and lawsuits. All pertinent data on the Dass case (or related to that case) was gathered and prepared for a presentation in a court of law. A copy of all appropriate evidence for the Defense was sent to the presiding District Judge, as per his invitation to do so prior to sentencing. It was submitted and logged-in properly in District Court. He stated in Court that it was on a shelf in his office for 2 months and he never looked at it. <sup>1</sup>

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<sup>1</sup> 1, Sentencing pg 5: line 18 - Judge acknowledgment of Defense information not seen.

The Federal Prosecutor refused to review the 7 Binders of Defense data or consider new information. Parts of reports from the prosecution side were vague with Important facts left out, as were with PSR Objections. Ms. Dass's own attorneys perused it but did not present it or refer to it in court.

In December, 2017- Dass hired Counsel with another Law Firm. Ms. Dass was advised not to take-back the plea, but stated they could help with sentencing details. The Case remained with them 6-8 months at which time they resigned without any investigation stating a "conflict of interest" in a sealed letter to the District Judge .

Every attorney Ms. Dass consulted advised against taking back the guilty plea.

In June, 2020- Dass hired another Counsel to assist with Presenting the defense side of this case. That counsel turned out to be friend of the previous Counsel and decided to stay moot on the matter of forcing Ms. Dass to enter a Guilty Plea. Counsel did present objections on the billing and coding aspects of the PSR. *Williams v Taylor* 529 U.S. 362 (2000)

Regarding the coding and billing, which was always outsourced to another company but is pertinent to the Restitution aspects of the case. (*Exhibit 3*) The second company contracted with A&A was Nando Medical Billing Services. The owner, Elva Gutierrez was not forthcoming about her business practices. She followed the procedures and instructions from DOL Workman's Comp and ACS (the billing Processing company for OWCP). When A&A challenged ACS regarding the use of Physical Therapy

Codes and the use of CPT codes for psychotherapy as being incorrect, they insisted those codes were what they used and were to be followed. Ms. Gutierrez did so even though she knew of the discrepancies. (*Exhibit 4*) Yet she told Federal Investigators that she “just did what Anna Dass told her to do”. Ms. Dass never had access to the billing records which is proven by the Third Party Billing owner's statement. (*Exhibit 5*) Ms. Gutierrez would not give permission to check on the validity of the billing and correctness of the coding on her business computer. Ms. Dass was held responsible for the errors in billing and coding by the government. In reality, *the billing codes were set by the Department of Labor and their billing department ACS. Not the A&A facility. Letters, Phone conversion from OWCP/ACS owning their mistakes are available in the collection of evidence and submitted in this petition. (Exhibit 6)*

The A&A psychiatrist, Orlando Peccora, MD, “mislead Federal Agents about his part in treating the patients and responsibilities at A&A. Written statements from an eye witness regarding Dr. Peccora's permission for Anurag to use a copy of his signature when he was unavailable was denied to Agents. *Proof of that practice is in the patient charts and included in this petition. (Exhibit 7)* Patients came forward to provide video statements on Ms. Dass and A&A's behalf.

They were offended at being called “victims”. Not one patient ever complained that services were incorrect or that treatments were billed but not received. All patients stated that they were treated exactly as their attending physician prescribed when that physician referred them

to A&A. Intake forms ask patients to name who referred them to A&A. The answers were always the name of their physician. No patient ever stated that a 'Recruiter' or Stephen Hunt referred them for treatment.

**The following is a clear, concise explanation of the flaws that occurred in this case of between Anurag Dass of A&A Pain & Wellness and the Government's Prosecution Case:**

***\*The Government prosecuted this case as if Medicare Guidelines applied.***

The facility, A&A Pain & Wellness Center did not take Medicare patients. OWCP Guidelines are Quite different from Medicare Guidelines. **OWCP Use FECA Guidelines & coding not Medicare Fee Guidelines.** The Government claimed CPT code 97110 and 97530 are Physical therapy codes, which makes up the A&A loss amount \$2,242.898. Which is False! U.S. Department of Labor, Office of Worker's Compensation and the Processing company says these two codes are Therapeutic exercises and therapeutic activities codes. (*Exhibit 8*)

***\*The Government claimed that all patients were referred to A&A from a "patient recruiter" as part of a Kickback scheme. <sup>2</sup>***

A&A operating under OWCP rules only accepted patients who were referred by a Medical Physician with a

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<sup>2</sup> 2. Definition of Healthcare Kickbacks: Anti Kickback Statute: 42 U.S. Code - Healthcare kickbacks are if a physician or medical provider uses any payment or compensation to encourage a patient to come to their office, or to encourage another medical provider to refer patients to their office or facility, that is a kickback.

completed CA20 Form, Medical records, Testing and Radiographic reports, medical necessity and prescription for a pain management program, etc. This fact has been verified by U.S. department of Labor . No agency, lawyer or recruiter can refer patients to A&A facility except their Treating Physician (*Exhibit 9*)

Below is OWCP Rules for Injured Federal Workers:

***INSTRUCTIONS FOR THE INJURED WORKER/ EMPLOYING AGENCY Compensation for wage loss must use FECA Guidelines. They are not to be paid unless medical evidence has been submitted supporting disability for work during the period claimed. For claims based on traumatic injury and reported on Form CA-1, the employee should detach Form CA-20 and complete items 1-3 on the front. The form should be promptly referred to the attending physician for early completion. If the claim is for occupational disease, filed on Form CA-2, a medical report as described in the instructions accompanying that form is required in most cases. The employee should bring these requirements to the physician's attention. It may be necessary for the physician to provide a narrative medical report in place of or in addition to Form CA-20 to adequately explain and support the relationship of the disability to the employment. For payment of a schedule award the claimant must have a permanent loss or loss of function of one of***

*the members of the body or organs enumerated in the regulations (20 C.F.R. 10.404). The attending physician must affirm that maximum medical improvement of the condition has been reached and should describe the functional loss and the resulting impairment in accordance with the American Association Guides to the Evaluation of Permanent Impairment.*

*\*Government alleged that the pain management treatment provided by A&A Pain & Wellness was a fraud and not medically necessary and patients were “victims” of that fraud. Is Government questioning the validity and competence of their own system?*

Unlike Medicare Guidelines, FECA Guidelines are used. Therefore, these patients are referred by their Primary treating physicians who determines medical necessity, psychological state, chronic pain needs (chronic pain is a tertiary level of care which goes through multiple pre-authorization reviews in order for a provider to accept OWCP patients). The OWCP physician speaks to the physician requesting treatment to discuss the treatment plan prior to being approved for any treatment. Questions regarding treatment can be reviewed by an OWCP physician at any time.

*\*Government Showed that Stephen Hunt was the Patient Recruiter who “referred” patients to A&A and received “Kickbacks”. The Government also alleged that since Mr.*

*Hunt was not an Attorney, he could not represent patients in OWCP Hearings, as was stated in documents stating that he did represent federal works in several OWCP cases, for a fee.*

Stephen Hunt is a Para-Legal, in the State of Texas and under the supervision of a Licensed Attorney and widely accepted by Department of Labor as Legal patient representative. (*Exhibit# 10*) Additionally, he previously was employed by the US Postal Service and served as Union Steward. It was widely known by postal employees that he was one of the few people in Houston who was familiar with USPS rules & regulations, forms, union practices, retirement, benefits and compensation and other federal employment issues. The government agents interviewed 5 patients who stated that they were referred to A&A by their physicians, but Mr. Hunt was their legal representative who helped them with complicated issues at work and about their being a federal employee with job related injuries and chronic pain.

*\*Government claimed that Mr. Hunt received 15% of monies OWCP paid to A&A as kickbacks for referring patients.*

That statement is false. Mr. Hunt never received 15% of OWCP monies from A&A (Dass). He only received his fee for legal services for patients who could not afford his services. (***Exhibit 11***) **Only patients who needed financial assistance for legal help requested it from A&A as evidence in The Discovery which showed that no patient, nor physicians, received**

**money or any preferential treatment from A&A Pain and Wellness Center.**

*\*Government Discovery Exhibit 1 Form clearly states that a Chiropractor, Parvin Azhdariani, DC was named as a co-defendant in this case. She gained Immunity from prosecution.*

Dr. Parvin Azhdariani owns a private practice and is not involved with A&A Facility in any way. The Defense Counsel, who represented Ms. Dass had also represented Dr. Azhdariani, but failed to disclose that fact until much later in the case. She admitted to paying 15% kickbacks. (Exhibit# 12)

*\*Government accused Ms. Dass of fraudulent claims to the DOL/OWCP for Physical Therapy Services performed by therapists who were not physical therapists and not authorized by their physician.*

Ms. Dass did not do the billing for A&A facility. It was outsourced to a third party, independent company, Nando Medical Billing Services. Claims were made according to instructions from OWCP/ACS using their standard codes for services. The outsourced billing was never mentioned in the PSR's or any other government documents. In the Discovery the Government clearly showed that no physical therapy services were delivered or claimed by the facility (A&A). Further, patients are referred after other treatments are performed for the injuries. OWCP will only pay for Physical Therapy for the

first 120 days post injury. ACS the processing company for OWCP clarified that the services billed by Nando Medical Billing Services for A&A services were never presented or billed as Physical Therapy Services, daily patient notes were attached to daily billing.

*\*Government claimed that CPT Codes 97110 and 97530 are Physical Therapy codes billed under A&A and they were not authorized to do physical therapy.*

The two CPT codes of 97110 and 97530 are not STRICTLY Physical Therapy Codes. They are for Therapeutic Rehab Services and are Physical Medicine codes used by Chiropractors, Massage Therapists and others. (AMA guidelines and FECA Medical guidelines). These facts were verified by the OWCP Approval letters, AMA ,CPT coders (*Exhibit #13 & #14*) These above stated facts about CPT Code 97110 and 97530 is been verified by the Interviews was taken by the federal agents. (*Exhibit 15*)

***NOTE: Because of the Government claim regarding Physical Therapy Codes, which are proven to be wrong. The calculation for Restitution is also incorrect and needs to be recalculated.***

*\*Government claimed that the A&A services were never authorized by the Medical Director, Dr. Orlando Peccora*

*nor had he seen A&A patients. He denied prescribing medications other than psychiatric medications.*

Patient notes differ from Dr. Peccora's statements. In Discovery, patients testified that they consulted with Dr. Peccora. Nurse Case Managers for USPS met with Dr. Peccora regarding patients with work related injuries and secondary emotional difficulties. He met routinely with the therapists, counselor and psychotherapists.

*\*Prosecution charged Anurag Dass with Identity Theft stating that she signed notes and other documents without Dr. Peccora's permission. Also, that he denied giving permission for billing under his license.*

Ms. Dass contends that she never "assumed Dr. Peccora's identity". *People v Roberts; 2018;New York ; 163-AD ,.3D, 450.*

An employee of A&A was an eye witness to Dr. Peccora giving Ms. Dass a copy of his signature to use when he unavailable. Patient notes verify that the copy was used on some documents and then the doctor signed in person when he returned to the clinic. (Witness Statement in Defense Data). He signed an agreement with A&A that as Medical Director he authorized billing. He cashed his checks which had the information on them. His title was written by the Insurance carriers. (*Exhibit 16*) Dr. Peccora was interviewed 6 times in a two-year period by

federal agents. There are multiple discrepancies in his statements with contradictions and falsehoods.

***AS WITH THE ERROR BY OWCP/ACS REGARDING 90837 CODES FOR PSYCHOTHERAPY. That mistake must be recalculated as well***

*\*Government charged that A&A overbilled Code 90837 Individual Psychotherapy.*

OWCP/ACS instructed Nando Medical Billing Services to bill 90837 in .15-minute increments. The code itself carries the correct billing time. It is 90837 Individual Psychotherapy for 45-60 minutes. The patient notes on each patient reflects the correct time spent with that patient and the daily patients notes were sent to OWCP/ACS with billing. (*Exhibit#17 & #18*)

THE ERROR IS ON THE PART OF OWCP/ACS AS EVIDENCED BY THEIR LETTER TO A&A FACILITY AND NANDO MEDICAL BILLING ADMITTING THE MISTAKE. (*Exhibit #19*)

*Government charged Ms. Dass with money laundering when she transferred monies from a personal account into a special education account for her 9 yr old son. There was a transaction for \$500K that government maintained was evidence of a bad act under Federal Rule 404(b).*

Dass was charged with Money laundering under 18 U.S.C. §1956 (a) (B) (i) and (ii) for allegedly transferring funds derived from unlawfully activity. The government presented evidence of Dass 's financial transactions and introduced evidence of prior bad acts under federal rule evidence 404(b) to establish a motive for the money transfer. According to the evidence presented by the Government side, There was one transaction for \$500 K from Wells Fargo account to another Wells Fargo account. Both Bank accounts were in Anurag Dass name. Dass had no financial authority to manage the A&A business account nor Any transfer were ever made from the A&A business account to Anurag's Dass personal account.

*(Exhibit #20)*

Petitioner appealed the decision to the fifth circuit, arguing that Dass was charged with Money laundering without proof of proceeds of unlawful activity, and that admission of prejudicial evidence violated Rule 404(b). The fifth circuit court's affirmed the district court's decision. Under Federal Law when an account is opened for a minor an adult must be "owner of the account".

Ms. Dass followed all the rules regulations, licensure scope of practice rules, daily collection of patient notes and charting according to guidelines and legalities. She was denied every aspect of a Defense by all parties and suffered ineffective counsel by her own attorneys.

The Kent Schaffer attorneys did state that had the case gone to trial with all of the evidence gathered by Ms.

Dass, they could have won the case in court and she would have been found Not Guilty.

The Defense information has never been presented by Defense Attorneys in any court nor before the presiding Judge, All rulings and decisions in this case were made entirely on the presumptions of the Prosecution.

Ms. Dass worked many years before A&A Pain & Wellness was created. She saved her money and when she was married and blessed with a son, she wanted to make sure he would have a good education. She legally, opened an account for him and was named on the account as his parent until he came of age. That \$500,000 was confiscated in this case to pay for monies that she does not owe due to miscalculations and errors in billing, by others. Bank records show that no monies were ever transferred from A&A Business account into Dass personal accounts.

While Ms. Dass served Prison time, sentenced to 2 years for crimes she did not commit she asked for an Appeal. Her Public Defender was offered all the Defense information, but she refused to read it and only submitted the Re-Arraignment and Sentencing Documents and stated there was no need for an Appeal. Those documents were entirely from the Prosecutions. No Defense was presented.

## CASE SUMMARY

Anurag Dass v U.S. Government: It is obvious in this Statement of the Case that it was investigated by Federal Agents who had no knowledge of the FECA rules and regulations as compared with Medicare Fraud Guidelines.. Had agents truly looked deeper into this particular business, its patients , the outcomes of treatment and the codes and billing guidelines, perhaps the truth would have emerged. The agents did their jobs, but the Prosecution failed to verify what had been inspected. Therefore, Indictments were issued on the basis of opinions and misconceptions not on facts. As evidenced by the Allegations in the PSR which clearly show that decisions to indict were made on information collected to support Guilt. Further, at no time during this case was a Defense presented. Hence, we have a legal dilemma that is one-sided. The complications and lack of a search for justice under the law are listed below:

1. Several Cases of Ineffective Counsel for the Defense.
2. District Court never read the objections to charges or any information from the Defense.
3. 5th Circuit Court - Public Defender for the Claimant submitted only the Re-arraignment and Sentencing at Appeal and stated there was no evidence to grant an Appeal -No Defense data.
4. 5th Circuit Court--sent a remand notice regarding the forfeiture of \$928,621.16 money judgment entered on Jan 10,2022.
5. According to the final Judgment entered by the District court the total Restitution fee amount was \$2,242.899 and there was no additional Judgment

added . This fact was verified with the Finance department of Southern District court.

6. The Restitution fee was added by the Prosecuting side for charging that the Physical therapy services to A&A patients was not provided. That charge is completely wrong. As proven in Defense data.
7. The e-mail sent by the Litigation department from United States Court stating since there was no imposed money judgment of \$928.621.16 on the defendant, the government is going to apply the 500K towards the Restitution fee imposed on Dass regardless of the count conviction. These actions appear to be wrongfully imposed causing Dass to pay for something that never happened, as described by the Prosecution side. Discovery witness testify differently and negate the Prosecution's distortion of the facts, which would have been realized had there been a Defense presented.
8. The Public Defender appointed by the District Court refused to include the appropriate Defense information in the Appeal *Anders Brief* the Defendant, Ms. Dass, sent all of that important information so that the Court would have a balance of factual data upon which to make a decision. But the Court refused to look at it since she was represented by an attorney. The same situation took place when the Motion for Pro Se and Re-Hearing for Pro-Se. The Public Defender had asked to be removed from the case and would only present the Prosecution's side.

#### WITH REGARD TO THE PRESENTING QUESTIONS

Question 1: While it is perfectly reasonable to expect both sides of a case, i.e. Prosecution and Defense to dedicate the time and knowledge in gathering all the information to ethically represent their client, very often that is not the situation.

Preconceived opinions interfere, distortions are developed in interpretation and the Rule of Law is stretched to various lengths.

Question 2: Discovery Rules are for the benefit , enlightenment, sharing and inspection of the facts that have been discovered on both sides - Defense and Prosecution. The Compulsory Clause of the Sixth Amendment may be violated if important information, which could seriously impact the outcome of a case is withheld or distorted. An example of this is *Taylor v Illinois, 484 U.S. 400 (1988)* .

## **REASONS FOR GRANTING THE PETITION**

There is a serious lack of attention to vital details of this case. It is of importance for courts to recognize that this case is an excellent example of how, in the practice of executing the Law, the process and outcomes can become terribly wrong in so many ways due to preconceived beliefs and misplaced values.

Investigations are initiated, assumptions made and findings reported, but the reality and truth are often overlooked, denied, hidden or ignored. People other than the Defendant often become collateral damage. It is interesting to note that about 90 percent of criminal convictions are the result of guilty pleas, *Frye, 566 U.S., at 143*. One might question as to what percentage of those pleas were voluntary.

In the Anurag Dass case, the prosecutions searched for evidence to support their side with lack of attention to the deeper evidence of truth. Federal Agents questioned people (fearful of being involved) who gave weak statements that were untrue or misleading. There was only a token amount of information collected on the defense side and that resulted in a Defense case that was never fully developed due to neglect and lack of knowledge even though valid proof was obviously

available. The attorneys and staff on both sides appeared to have decided early on that Ms. Dass was guilty "Looks like a typical Medicare Fraud case" was overheard by an assistant in one attorney's office. The Prosecution's investigation was seriously flawed. The Discovery contained findings that showed a lack of evidence with the charges charged. The Defense was "missing in action". Therefore, she was left with no bona fide defense strategy. Ms. Dass was not only denied her Sixth Amendment rights, but was verbally forced to plead guilty, unwillingly due to threats and false predictions of dire happenings regarding her and her family.<sup>3</sup>

**Concise examples regarding the charges and events to which Ms. Dass was forced to plead guilty are described below:**

1. Money Laundering. There is a transparent paper trail of bank records, interviews with banking managers, tracking of long-term personal accounts from years prior to A&A Facility. Documents from banks verifying that there was no evidence of business monies being transferred into her personal account (or hidden in another account under another identity) from A&A business Account. Her personal attorney counseled that "if all information is transparent, legal and discoverable, there is no problem". Laws regarding accounts for minor children require an adult, usually a parent, to manage the account. That person must be named as "owner of the account", however, the prosecution insisted Ms. Dass was "laundering money by referring to the account as hers and that the money

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<sup>3</sup> 3. A lawsuit is in progress against that defense attorney charging Ineffective Counsel.

was put in her son's (age 9) name supposedly for his education." That is an ideal example of "lack of acceptance to truth when an undisputable amount of factual evidence was denied" was denied by the government. *See "Attachments (Exhibit #21) including 2 letters to the presiding Judge.*

2. *Kickbacks* – Ms. Dass holds deep moral beliefs that we are called to help each other when we can by showing kind consideration and caring concern. Therefore, when A&A patients needed assistance with forms and reports of a legal nature to comply with US Postal regulations for injured worker, Stephen Hunt, as a Para-Legal and former Union Steward/ Postal employee was qualified and offered to help those individuals, for a fee. The patients of A&A who were in need of that help asked Ms. Dass for financial assistance to comply with the required information to the USPS. If they did not comply, their benefits and jobs were in jeopardy. ONLY patients needing "legal" services were aided by paying Mr. Hunt his fee for those services. As evidenced by the attached data- chart of tracking total patient's vs pts using Hunt's services. In this entire case Government failed to produce any evidence or proof if any patients, Physician's or any other facility receive any kickback for referring patients to A&A facility.

**Two instances contained in the Brief of Plaintiff Appellee by Jennifer B. Lowery, District Court US Attorney:**

1. The district court's understanding was that the defendant had not backed away from her plea of guilt or the facts outlined in that proffer and *her defense counsel confirmed that was correct. ROA.340.* In fact, Ms. Dass had repeatedly asked her attorneys about how to "take back her plea of guilty" because she had strong evidence and proof of her innocence. Every attorney advised against taking the plea back stating that the Judge would not like it, or agree, and could give her full 20 years sentence. Ms. Dass gathered a great deal of facts, evidence, proof, witnesses and experts willing to testify in court, confirmations etc. All information was sent to the Judge – reaffirming her innocence on all counts. The Judge brought the packet to court on the day of sentencing stating he never saw the information or read it. It was on a shelf in his office for 2 months. <sup>4</sup>
2. In the sentencing Brief, under Appellants Contentions, *pages 39, #13, App.B.r22, it was stated that "Dass offers no evidence or even an explanation, in support of her contention that the seized \$500,000 was not actually "involved in" the \$500,000 money laundering offense.*

**False!** Dass had submitted a detailed informational chart tracking the money and history of her accounts with the input and letters of facts from her Wells Fargo accounts submitted by the

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<sup>4</sup> 4. Sentencing pg 5: line 18 -Judge acknowledgment of Defense information not seen.

reasonable doubt: (1) that the defendant knowingly and willfully; (2) offered, solicited, paid or received: (3) remuneration, payment; (4) in return for referring the individual to a person/entity for items or services payable by federal healthcare programs.

As to money laundering, under 18 USC, Section 1957, the Government must establish (1) that the defendant knowingly engaged in a monetary transaction; (2) that the monetary transaction was of a value greater than \$10,000; (3) that the monetary transaction involved criminally derived property; (4) that the criminally derived property was from a from specified unlawful activity; (5) than the defendant knew the monetary transaction involved criminally derived property; and (6) that the monetary transaction took place within the United States.

In the case, Dass did not object to the constitutionality of statues 42 USC, Section 3020a-7b and 18 USC, Section1957, or the manner in which the statues applied to her in the district court. Therefore, this Court would review such a claim under the "plain error standard of review". Plain error arises where (1) there was an error; (2) the was clear and obvious and (3) the error affected the defendant's substantial rights." *Puckett v United States, 556 U.S. 129,135,129, S. Ct.1423, 1429,173 L.Ed.2d,266 (2009)*. If a defendant satisfies these three criteria, the panel may remedy the error...only if the error "seriously affect(s) the fairness, integrity or public reputation of judicial proceedings.

We humbly request that the U.S. Supreme Court grant a Petition for a Writ of Certiorari. The compelling reasons described in this case demonstrate a departure from assuring that the Sixth Amendment rights are observed. The course of events in the Dass case is of public importance because it shows how easily investigations can deviate from a normal scope of practices to situations that fail to consider the total aspects of evidence which excludes the importance of the rights of the individual.

Ms. Dass, utilizing many legal avenues, fought to be heard. From the time of her harrowing experience resulting in being forced to enter a Guilty Plea under duress to the present. She now prays that this esteemed Court will permit her Defense side to be presented. The District Court, the 5th Circuit Court were all influenced by a lack of information for the Defense. The District Court ruled that this case was not about Fraud. So there is no Judgment for Fraud. The Restitution Fee was added by the Prosecution based on billing fraud. That Restitution fee is in error based on incorrect evidence. The Fee is in error when the Defense places the facts of Money Laundering and Kickbacks before the Court.

## **CONCLUSION**

The petition for a Writ of Certiorari should be granted.

A handwritten signature in black ink, appearing to read "Anurag Dass".

Respectfully submitted,

Anurag Dass

April 30, 2023