22-7860

No. _____

ORIGINAL

FILED
JUN 15 2023
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

MARIJAN CVJETICANIN — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MARIJAN CVJETICANIN
(Your Name)

65-84 AUSTIN STREET, #5U
(Address)

REGO PARK, NEW YORK 11374
(City, State, Zip Code)

917-318-1123
(Phone Number)

QUESTIONS PRESENTED:

1) **Did the Third Circuit violate the Constitution's Due Process Clause and this Court's established precedents regarding fundamental miscarriage of justice exception when affirming the District Court's decision to deny actual innocence claim without evidentiary hearing and arguing claim and issue preclusion due to the previous Rule 33 new trial motion litigation?**

2) **Did the Third Circuit violate the Constitution's Due Process Clause and this Court's established precedents when blatantly disregarding lack of federal jurisdiction regarding some (Broadridge) counts of indictment?**

3) **Did the Third Circuit violate the Constitution's Due Process Clause and this Court's established precedents when allowing prosecutors to engage in outrageous scheme to secretly remove exculpatory evidence from the U.S. courtroom in Trenton, New Jersey to prevent and influence jury deliberations?**

LIST OF PARTIES

[X] 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

NONE.

TABLE OF CONTENTS

INDEX TO APPENDICES

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

[X] 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 _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

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

[X] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.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

[X] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was DECEMBER 29, 2022.

[ ] No petition for rehearing was timely filed in my case.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: MARCH 29, 2023, and a copy of the order denying rehearing appears at Appendix A.

[ ] 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).

TABLE OF AUTHORITIES CITED

CASES:

PAGE NUMBER:

STATUTES AND RULES:

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution, 5th Amendment:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, **without due process of law**; nor shall private property be taken for public use, without just compensation.

(Due process of law highlighted)

STATEMENT OF THE CASE:

I. Factual Background

As for the first question presented (actual innocence), in his Section 2255 Motion, the Petitioner emphatically stated that he was both factually and legally innocent of the charges mounted against him in the second superseding indictment (or any other previous indictment).

Based on a sample of the Government's "cherry picked" 9 out of 212 invoices admitted into trial evidence, the Petitioner was charged with 9 counts of mail fraud, in violation of 18 U.S.C. Section 1341. All charges and invoices derive from the identical set of facts (immigration advertising billing of ADP and Broadridge). No other charges were filed, and no other persons were charged.

Federal mail fraud crime has three elements and "to find a defendant committed mail fraud, the government has to prove that (1) he knowingly devised a scheme to defraud ...(2) he acted with intent to defraud; and (3)...used mails or caused mails to be used. 18 U.S.C. Section 1341." *U.S. v. Miller, 695 Fed. Appx. 666 (3d Cir. 2017).*

While the jurisdictional mailing element for some the indictment's counts is discussed separately below, the Petitioner vehemently claimed that he neither devised a scheme to defraud, nor created or possessed a specific intent to defraud anyone, let alone ADP and Broadridge, whose corporate accounts he loyally served for over fifteen

years while employed as either a paralegal or an attorney at the law firm of Wildes & Weinberg in New York. [1]

In support of his 2255 Motion claims, the Petitioner both offered and presented considerable exculpatory evidence which completely debunks the indictment's allegations and proves the Petitioner's actual (factual) innocence.

The evidence included was:

(a) the Petitioner's full, fair and ethical disclosure to his employer Wildes & Weinberg regarding the advertising agency;

(b) the Petitioner's request for ad agency change and the historical timing of the change;

(c) Proof of the existing credit card payments for various immigration advertisements;

(d) Proof that both newspaper (and online) advertisements existed;

(e) Proof of corporate client's regular audits, refunds and systemic long term corporate contractual relationship and the impossibility of committing the crime charged;

(f) Team work coordination, third party supervision and verification (alibi and defense of physical impossibility), and numerous other exculpatory evidence items.

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[1] The Petitioner actually claimed that the charges mounted against him were either completely fabricated, insinuated or unreasonably exaggerated by his former employer Wildes & Weinberg, whose management paranoically assumed that the Petitioner was attempting to steal their valuable corporate clients - ADP and Broadridge (see Jencks Act Reports No. 3 & 11). However, while the former employer's motive for contacting the authorities and filing meritless complaints against the Petitioner is irrelevant for the Petitioner's actual innocence claim, it is highly relevant for the Court in assessing former employer's trial perjuries and prevarications (filed among other Motion 2255 claims).

Despite such overwhelming evidence of the Petitioner's actual innocence, U.S. District Court for New Jersey, as affirmed by the Third Circuit, brushed all of these aside and declined to review such evidence and declined to hold een evidentiary hearing. District Court basically argued that no hearing was necessary as the Petitioner was allegedly just trying to relitigate previously raised claims (in a previous, completely unrelated, Rule 33 new trial motion, filed 4 years earlier, ECF No. 29, p. 5), and/or that some of the arguments were also previously raised on direct appeal (arguments, not evidence), ECF No. 29, p. 6.

As for the second, jurisdictional question, after the completion of the last Broadridge (corporate witness) testimony, it became obvious that the Government failed to prove the mailing element of the mail fraud charge for all Broadridge counts of indictment (counts:1,4,6 and 7). The first Broadridge witness (Florence Monaco) testified that "she has no idea how Broadridge received those invoices." 06/23/2015, Tr. at 27:3-4, and the last Broadridge witness, Patricia Sacristan, Broadridge Immigration Program Manager, stated that she had no personal knowledge of it. 06/25/2015, Tr. at 27:3-4.[2]

Last but not the least, as for the third question presented - prosecutors removing the (exculpatory) evidence from the federal courthouse in Trenton, New Jersey, the Government devised and, so far, successfully executed a scheme to

[2] Ms. Sacristan also testified that she received scanned invoices through the Broadridge online system (called "Markview"). "So everything is an on-line system and so I basically print the invoice (from the online system) and then I approve it on-line." 06/25/2015 Tr. 34:7-10. Moreover, just a cursory review of the Petitioner's Broadridge invoices, as obtained from the Government's discovery, shows that invoices were scanned and printed from the Broadridge computer system called "Markview" and not mailed. "Markview" system sign can be found at the left top of the printed page, see Appendix at 2, alo Appendix at 8 - proof of messenger envelopes and not mailing between the Petitioner and Broadridge.

secretly remove exculpatory evidence from the federal courthouse with no sanctions or consequences.

Strictly based on the case record (transcripts of 06/25/2015 and 06/29/2015, the last two days of the trial), it is undeniable that the Government secretly removed evidence items from the Trenton federal courthouse. One of the prosecuting AUSAs even admitted it on record.

The Petitioner's case was prosecuted by two federal prosecutors, AUSA Carletta and AUSA Navarro, who played the following "good cop-bad cop" game. First Mr. Carletta played the role of a "good cop" and informed District Court and the defense that "maybe before they deliberate…(the jury, comment added) should be made aware to them, that they (newspapers) are **all here in the courtroom**" 06/25/2015 Tr. at 114:22-25 (bold added). Following Mr. Carletta's suggestion, the jury was made aware that "all" the evidence was present in the courtroom for their perusal, if necessary[3]. As evidence was located in the boxes just next to the jury box, there was no need for any suspicion. Not, at least, until the jury actually requested to see two pieces of evidence (newspaper ads for indictment counts 1 and 5). Only then, the second prosecutor, AUSA Navarro, playing the role of a "bad cop", informed the Court and the defense that the evidence items were unavailable for jury's deliberation as they **were removed** from the courtroom and "we are getting from the U.S. Attorney's Office. I think it was inadvertently **taken back there…**"(?!?) 06/26/2015 Tr. at 90:11-12, bold added (it was

[3] Apparently the jury deliberation room was too small to place all the evidence boxes in that room, which based on the subsequent inspection and observation of the Petitioner's family member (who physically inspected the jury room), simply wasn't true and might have been just yet another step in the prosecutorial dirty game. Even if the jury deliberation room was too small for all the trial evidence, it is unclear as to why the relevant evidence for just 9 counts of indictment (meaning simple copies of 18 newspaper pages) wasn't placed in the jury room, or was that also a part of the carefully planned Government's scheme.

later discovered that not one, evidence for two counts were missing). Once again, needless to say, both items were heavily exculpatory as they contained the Petitioner's newspaper advertisements (disproving the existence of any scheme to defraud in this matter), but, only and only, due to the Government's misconduct, the jury was physically prevented from exercising its constitutional rule of reviewing and considering the evidence. Previous discussions whether the evidence was exculpatory or not, and whether the jury was a bit impatient or not, are wholly irrelevant.[4] It is, however, relevant that such Government's action represented a flagrant violation of the Citizen Protection Act, 28 U.S.C. Section 530B (Ethical Standards for Attorneys For the Government). It is even more relevant that such Government's action blatantly violated U.S. District Court Rules - most notably **Rule 79.1 of the Local Area Rules of the Court** called "**Custody of Original Papers, Records and Exhibits"**, which, just to remind both the Government attorneys and the Honorable Court, states the following: "(a) No original papers or records shall be taken from the Clerk's office **or the courtroom** (except in the custody of the Clerk) without an order from a Judge" (bold added). As no such order existed, the Rule was clearly violated. It is an error and a big one! The fact that the evidence taken from the courtroom was both exculpatory and relevant (admitted) makes the error even worse - "structural" and highly prejudicial. Even if, somehow, not considered structural by the Court, the Petitioner stands ready, for the purposes of evidentiary hearing, to prove the relevance of the removed advertisements to the whole case (otherwise the jury would not have asked for them and the Government would not

[4] The only relevant point learned from the jury's request was that it clearly disregarded the Government's theory of the Petitioner's guilt just based on the alleged lack of the Computer World Magazine advertisements. But to no avail to the Petitioner - as the jury was deliberately deprived of the evidence crucial for its deliberations.

have previously removed them)[5]. Moreover, it also wasn't noted before that the Government removed exactly the evidence requested by the jury and exactly the evidence containing the Petitioner's advertisements (newspaper ads for counts 1 and 5 of the indictment, clearly exculpatory), and not other evidence such as Computer World Magazines with no Petitioner's advertisements (potentially inculpatory evidence), all of which speaks loudly for itself. The Petitioner alleges, and is ready to prove it at the evidentiary hearing, that the whole event was prepared and well staged and neither inadvertent nor accidental, and that the Government knowingly entered into such an outrageous scheme.[6]

II . Procedural History

This action stems from the filing of the Petitioner's Motion to Vacate under 18 U.S.C. Section 2255.

On January 31, 2022, the Honorable Judge of the U.S, District Court for the District of New Jersey denied the Petitioner's Section 2255 Motion and Motion for Certificate of Appealability.

On February 13, 2022 the Petitioner filed a Motion for Reconsideration under FRCP 59(e), ECF No. 30, 02/15/2022. Pursuant to the provisions of Rule 11(b) of the Rules Governing Section 2255 Proceedings, the Petitioner also filed a Notice of Appeal with

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[5] There's another important aspect of it, please see Motion 2255 claim No.30, calling for Remmer hearing.
[6] Based on the currently available and very limited information, the Petitioner also believes that the defense counsel's lie to the Court regarding her alleged review and inspection of the courtroom evidence was also not accidental, but the lie was so heavily prejudicial to the Petitioner, that it is actually irrelevant whether accidental or not. See claims No. 64 (cumulative effect) and No. 65. (counsel's possible collusion with one of the so called victims in the case)

The District Court and the Third Circuit completely disregarded both the U.S. Constitution and the centuries of prior legal practice in the United States mandating that as "Congress cannot punish felonies generally" *Torres v. Lynch, 194 L Ed 2d 737 (2016),* "all the proceedings of a court beyond its jurisdiction are void." *Wise v. Withers, 2 L Ed 457 3 Cranch 331 (1803).* But it looks like such decisions no longer hold.

Moreover, "the courts of the United States are all of limited jurisdiction, and their proceedings are erroneous if the jurisdiction be not shown upon them." *Ex Parte Watkins, 7 L Ed 650 (1829)*, a principle more recently affirmed by the Supreme Court in *Rubin v. Islamic Republic of Iran, 200 L Ed 2d 58 (2018).*

Most importantly, while it is undeniably true that the Petitioner's former defense attorney could have and should have brought that issue to the attention of the (district) court, it does not matter. The Petitioner's Defense counsel Lorraine Gauli-Ruffo should have brought a potential jurisdictional defect to the Court's attention. She could have done it in the form of a Motion to Dismiss (Fed. R. Crim. P. 12(b)(2)), or Motion for Mistrial, or any other motion form, but either ignorant of law, or "asleep at the switch", defense counsel failed to do so. Defense counsel should have appraised the Court that "the document (e.g. invoice) could have been sent without having been mailed...when the Government charges a defendant with mail fraud, it must at **a minimum** clearly and explicitly prove that the mailing occurred." *U.S. v. Hart, 693 F.2d 286 (3d Cir. 1982).* (Section 2255 Motion contained an Appendix *which at number* 8 had an envelope clearly sent by the messenger and not mailed, bold and comment added).

However, ineffective assistance of counsel is irrelevant for jurisdictional challenge purposes and in no way precludes later jurisdictional challenges, particularly

on collateral attack such as Section 2255. Over a hundred years ago this Honorable Court reminded us that **even if** "neither party has questioned that jurisdiction, but it is the duty of this court to see to it that the jurisdiction ...is not extended." *Louisville & Nashville Railroad Co. v. Motley, 53 L Ed 126 (1908)*, and again the Supreme Court recently in *Foster v. Chatman*: "the ...court has **an independent obligation** to determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party", *195 L Ed 2d 1 (2016),* bold added. But to no avail. It almost appears that the court has jurisdiction as it is in the business of punishing its former attorney, no other reason is necessary, jurisdiction or not.

As Broadridge counts represented 4 out of 9 counts of indictment, the Petitioner was heavily prejudiced by such a failure and the counts also had severe spillover effect to other counts of indictment. This, in addition to a jurisdictional defect, violated the Petitioner's 6th Amendment rights to effective assistance of counsel, and therefore Broadridge counts of indictment should be dismissed, necessitating the Petitioner's resentencing, new restitution and forfeiture orders.

Therefore, the Petitioner presented a clear showing of a violation of the Constitutional right necessary for the issuance of the Certificate of Appealability and this Honorable Court should issue a Certiorari in this matter.

REASONS FOR GRANTING THE PETITION

I. REVIEW IS NECESSARY TO COMPEL COMPLIANCE WITH THE U.S. CONSTITUTION AND THIS COURT'S MANDATE REGARDING THE FUNDAMENTAL MISCARRIAGE OF JUSTICE EXCEPTION (ACTUAL INNOCENCE EXCEPTION)

The Petitioner's actual innocence claim is very simple: "had the jury heard all the conflicting testimony, it was more likely than not that no reasonable juror viewing the record as whole would have lacked reasonable doubt." *House v. Bell, 165 L Ed 2d 1 (2006).*

In this respect, the Petitioner's conviction violates *In Re Winship* constitutional standard, *25 L Ed 2d 368 (1970),* and, therefore, his factual innocence claim is <u>not</u> a "stand alone" factual innocence claim. Actually, as elaborated below, the Petitioner's conviction violated numerous other constitutional grounds and standards, particularly the Constitution's Fifth (Due Process Clause) and Sixth (Ineffective Assistance of Counsel Clause) Amendments.

The Petitioner's actual innocence claim includes "what is also constitutionally required in this context: an opportunity for the detainee to present **relevant exculpatory evidence** that was **not** made part of the record in the earlier proceedings...and even after a criminal trial conducted in full accordance with the protections of the Bill of

Rights." *Boumediene v. Bush, 171 L Ed 2d 41 (2008)* (not that any such trial was conducted in the Petitioner's case, see below jurisdictional and due process issues), emphasis added. In this respect it is irrelevant whether the evidence provided with 2255 Motion was new, newly discovered, or even existed prior to the trial but was somehow not presented. As per this Court's prior decisions, an opportunity for the detainee to present relevant exculpatory evidence must exist.

This Honorable Court has also concluded that "in an extraordinary case, where a federal constitutional violation has probably resulted in the conviction of one who is actually innocent, a federal court may grant a Writ of Habeas corpus..." *Murray v. Carrier, 91 L Ed 2d 397 (1986).* "In this regard, actual innocence means factual innocence." *Bousley v. U.S., 140 L Ed 2d 828 (1998).* "It simply means the person did not commit the crime." *U.S. v. Richard, 5 F. 3d 1369 (10th Cir. 1993).*

Moreover, unlike the action taken by the District Court judge and affirmed by the Third Circuit, "in weighing the evidence, the court's function is not to make an independent factual determination about what likely occurred, but rather to assess the likely impact of the evidence on reasonable jurors; the actual innocence standard does **not** require absolute certainty about the petitioner's guilt or innocence." *Reeves v. Fayette SCI, 897 F. 3d 154 (3d Cir. 2018).* Not only that the actual standard does not require absolute certainty, but as stated by this Honorable Court, "where the scales of justice are **delicately poised** between guilt and innocence, error which under some circumstances would not be ground for reversal cannot be brushed aside as immaterial." *Glasser v. U.S., 86 L Ed 680 (1942),* bold added.

Last but not the least, under the *Schlup v. Delo* standard, as decided by this Honorable Court, "the fundamental miscarriage of justice exception" overcomes all procedural bars, including any previous litigation or new evidence presentations to the District Court (which was not entirely accurate, but once again is completely irrelevant for actual innocence claim), *513 U.S. 298 (1995).*

Therefore, the Petitioner presented a clear showing of a violation of the Constitutional right necessary for the issuance of the Certificate of Appealability, and both District Court judge's musings about the Petitioner's alleged re-litigation and the Third Circuit's affirmance of such faulty opinion are completely misplaced. This Honorable Court should exercise its supervisory powers in order to bring lower court's decisions in compliance with this Court's well established precedents.

II. REVIEW IS NECESSARY TO COMPEL COMPLIANCE WITH THE U.S. CONSTITUTION AND FEDERAL COURT JURISDICTION

Not only that the Government failed to prove that the mailing of invoices for Broadridge matters was "for the purpose of executing" a scheme to defraud, *Maze v. U.S., 414 U.S. 395 (1974),* it failed to prove that the mailing existed at all. But District Court judge proceeded without jurisdiction for Broadridge counts of indictment and the Third Circuit chose to disregard it as they are the court of general jurisdiction, just to punish the Petitioner who used to be a member of the Bar of that Court.

III. REVIEW IS NECESSARY TO COMPEL COMPLIANCE WITH THE U.S. CONSTITUTION"S DUE PROCESS CLAUSE AND THIS COURT'S DECISIONS REGARDING THE CRIMINAL DEFENDANT'S PROCEDURAL DUE PROCESS RIGHTS

This Honorable Court reminded us time and again that "in a criminal trial on the merits, defendants are entitled to a **strict observance** of all the rules designed to bring about a fair verdict" *Costello v. U.S., 100 L Ed 397 (1956)*, bold added. This certainly includes the observance of basic federal court rules, a copy of which is enclosed in the Appendix.

Moreover, "when specific guarantees of the Bill of Rights are involved, the U.S. Supreme Court takes special care to assure that prosecutorial misconduct in no way impermissibly infringes them." *Donnelly v. Christophoro, 40 L Ed 2d 431 (1974)*. "There is no right more sacred than the right to a fair trial. There is no wrong more grievous than its negation..." *Stone v. U.S., 113 F. 2d 70 (6th Cir. 1940)*. These are "those fundamental principles of liberty and justice which lie at the base of all civil and political institutions." *Powell v. Alabama, 287 U.S. 415 (1932)*. Moreover, "a single misstep on the part of the prosecutor may be so destructive of the right to a fair trial, reversal is mandated." *U.S. v. Miller, 621 F. 3d 723 (8th Cir. 2010)*. Since the right to a fair trial and a fair jury trial, is one of the fundamental rights "implicit in the concept of ordered liberty", *Palko v. Connecticut, 302 U.S. 319 (1937)*, a basic fairness to the Petitioner requires conviction and sentence to be vacated on this ground alone.

on collateral attack such as Section 2255. Over a hundred years ago this Honorable Court reminded us that **even if** "neither party has questioned that jurisdiction, but it is the duty of this court to see to it that the jurisdiction ...is not extended." *Louisville & Nashville Railroad Co. v. Motley, 53 L Ed 126 (1908)*, and again the Supreme Court recently in *Foster v. Chatman*: "the ...court has **an independent obligation** to determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party", *195 L Ed 2d 1 (2016)*, bold added. But to no avail. It almost appears that the court has jurisdiction as it is in the business of punishing its former attorney, no other reason is necessary, jurisdiction or not.

As Broadridge counts represented 4 out of 9 counts of indictment, the Petitioner was heavily prejudiced by such a failure and the counts also had severe spillover effect to other counts of indictment. This, in addition to a jurisdictional defect, violated the Petitioner's 6th Amendment rights to effective assistance of counsel, and therefore Broadridge counts of indictment should be dismissed, necessitating the Petitioner's resentencing, new restitution and forfeiture orders.

Therefore, the Petitioner presented a clear showing of a violation of the Constitutional right necessary for the issuance of the Certificate of Appealability and this Honorable Court should issue a Certiorari in this matter.

This Honorable Court simply cannot and should not allow American prosecutors to rule federal courtrooms unsanctioned, to the point that they can freely remove federal court evidence (inculpatory or exculpatory, irrelevant), in order to prevent or influence jury deliberations, or take any other nefarious actions just in order to "win" their cases.

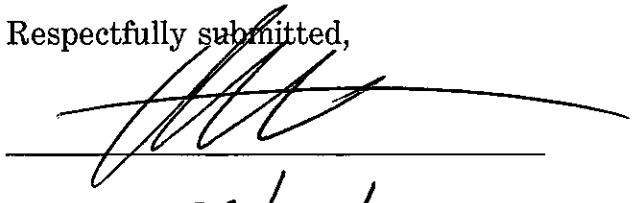
If this Court allows this item to stand it will not only repudiate and destroy all the historical efforts of the previous Anglo-Saxon legal system's honest strivings to achieve fairness and true justice, it will change the nature of the American Judicial System permanently. It will change it into something else: Soviet Russia, Nazi Germany, or just a naked "woke" led dictatorship run by various ethnic groups, gangs and lobbies influencing and controlling various parts of the U.S. Government.

Therefore, the Petitioner presented a clear showing of a violation of the Constitutional right necessary for the issuance of the Certificate of Appealability and this Honorable Court should issue a Certiorari in this matter and think twice before deciding not to take this matter. Thank you.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 06/20/2023