No. 23-1082

In The Supreme Court of the United States

ATTICUS SLITER-MATIAS,
Petitioner,

v.

THE UNITED STATES OF AMERICA,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD-CIRCUIT (No. 23-1850)

PETITION FOR REHEARING OF DENIAL OF PETITION FOR WRIT OF CERIORARI

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PETITION FOR REHEARING

Pursuant to Rule 44.2, Petitioner respectfully petitions for rehearing of the Court's order denying certiorari in this case.

GROUNDS FOR REHEARING

This petition will preserve the best vehicle for review of the important questions raised in Petitioner's writ of certiorari. Petitions for rehearing of an order denying certiorari are generally granted in two instances: if a Petitioner can demonstrate "intervening circumstances of a substantial or controlling effect;" or if a Petitioner raises "other substantial grounds not previously presented." The Petitioner will demonstrate he is within both categories.

The right to petition for rehearing of any order denying certiorari "is not to be deemed a formality as though such petitions will as a matter of course be denied ... Accordingly, on an appropriate showing that a substantial matter ... is to be presented, appropriate opportunity should be given for doing so." *Flynn v. United States,* 75 St. Ct. 285, 286 (1955) (Frankfurter, J., in chambers).

Of all the courts which the United States may under their general powers constitute, one only, the Supreme Court, possesses jurisdiction derived immediately from the Constitution, and judges construed as promoting great objectives: the liberty and happiness of the nation. U.S. Const. Art III § I, II.

I. REHEARING SHOULD BE GRANTED ON THE GROUNDS A PROCEDURAL LOOPHOLE IS UNCONSTITUTIONAL WHEN USED TO OBSTRUCT JUSTICE FOR THE INNOCENT

A. Procedural Barring of Evidence of The Most Reprehensible Manipulations Is Unconstitutional In Accord With The Practices of This Court.

The Petitioner has raised important questions to that objective; so gross were an array of Amendment violations, the clauses of the Constitution may properly be said to execute themselves.

Federal agents have used private technology infrastructures to electronically seize, censor, and now, populate data to fabricate criminal evidence against defendants prior to a warrant. In the instant case, the latter actions were easily traceable to a Postal Inspector, later revealed in activity logs withheld from pre-trial disclosures. This Court has taken cognizance of the former actions in *Murthy v. Missouri,* No. 23-411 (2023). This writ demonstrates how a district court obstructed the defense's access to discovery, with the exception of redacted files. The behavior continues without the strict enforcement of our laws and providing against their repeated violations. The court's attack on new evidence using procedural protocol has completed the circle of obstruction. No jury verdict can be finalized if due process has not been followed.

In May 2022, the withheld activity logs were submitted under § 2255, along with witnesses in a

censored "restitution file." This discovery when cross-referenced verifies the Petitioner's testimony, discrediting the government's case in its entirety. A defendant cannot possibly defend with what he is deprived of. The court, presented with this evidence, was not compelled to hear from these witnesses that would have established innocence. This Court has held that exculpatory evidence is in fact cognizable. *Schlup v. Delo*, 513 U.S. 298, 324 (1995) ("constitutional error at his trial deprived the jury of critical evidence that would have established his innocence.")

The district court brusquely wrote back, "(Defendant's 'challenges to the forfeiture and restitution orders are not cognizable under § 2255.')" (No. 23-1082, App. 23), citing numerous cases to that end, but never addressed new witnesses. **The Petitioner was not contesting a "forfeiture order," but an inalienable right that was denied to him prior to trial.**

The federal government had relied on a loophole for shutting down due process: redacted files passing as "discovery," becoming off-limits under restitution. When courts employ these loopholes to prolong, delay and defer their judicial responsibilities, the public will indeed suffer. Procedural rules were never written to be applied in a manner that would not serve the interest of justice. *United States v. Ohio Power Co.*, 353 U.S. 98, 99 (1957) (explaining "[w]e have consistently ruled that the interest in finality of litigation must yield where the interest of justice would make unfair the strict application of our rules").

John Adams said, "Our constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other." (John Adams, "Letter from John Adams to Massachusetts Militia." 11 October, 1798). There is no circumstance in which a federal judge should ever be able to stop evidence and witnesses from entering into a proceeding, and yet it's happening every day. To do so is to shred the Constitution. What makes this more horrible is that it **can't** be stopped.

B. Inferior Courts Engage In 'Strategic Lawfare' Knowing Procedural Blockages Have Little Chance Of Being Overturned.

To enforce justice, that is, at an absolute minimum, is to fight the arbitrariness of the strong against the weak. This Court's judicial power extends "to controversies to which the United States shall be a party." U.S. Const. Art III § I, II. Due to its inexhaustible resources, many controversies to which the United States shall be a party are very much one-sided in favor of the government. The federal government exerts a formidable pressure in its cases greater than any single individual can take on. It does not play fair. It wins in a financial war of attrition. Its pattern of duress is infamous. It pushes until it gets every advantage, however thin the ice.

Lower courts can strategize lawfare knowing procedural blocks have little chance of being overturned in the Supreme Court. This owes, in part, to the present crisis of a grievously impaired judicial system. The breadth of detail of the cases enumerated

in Article III § II, (2), whereas not providing for the adoption of any form or mode of practice, implied an adequate accommodative practice with access in the least burdensome manner at a time when only seventeen federal felonies existed, not today's hundreds of thousands. Prosecutors now play the odds behind their own machinations.

Owing to this crisis, the Constitution must in a great measure fail to attain many of its avowed and positive objects as a security of rights and a recognition of duties. Without Constitutional finality of litigation, thousands of cases live on in perpetuity as ulcerous open wounds in a nation that cannot heal.

C. Rehearing or Deferral Of This Petition Accords With The Practice Of This Court and The Court of Appeals.

Considering the pitiful reality, the Court has not hesitated to postpone reconsideration of orders denying certiorari where deferral advances the interests of justice and judicial efficiency. See *United States v. Ohio Power Co.*, 351 U.S. 980 (1956) ("continu[ing]" petition for rehearing until the following Term); See also *United States v. Ohio Power Co.*, 353 U.S. 98, 99 (1957) (explaining deferral of rehearing petition on ground that "[w]e have consistently ruled that the interest in finality of litigation must yield where the interest of justice would make unfair the strict application of our rules"); *Vail Mfg. Co. v. NLRB*, 68 S.Ct.32 (1947) (deferring consideration of petition for rehearing of order denying certiorari); cf. *Murray v. City of New York*, 308

U.S. 528, 60 S. Ct. 606, 310 U.S. 610, 311 U.S. 720 (1940) (deferring consideration of petition for certiorari for nine months on petitioner's motions).

The Petitioner has no other option but to petition this court for rehearing of his writ of certiorari. Emer de Vattel in *The Law of Nations*, read by the founders, states: "There are two methods of making justice flourish, —good laws, and the attention of the superiors to see them executed." (1797 Ed.Translated by Thomas Nugent. *OnlineLiberty Fund.org* 2008. p. 185). The judiciary determines the direction of a nation. Along with precedential jurisprudence, the Petitioner invokes the Biblical adjuration of the persistent widow toward a judge who neither feared God nor cared what people thought: "Grant me justice against my adversary." Luke 18:1-8. By virtue of these facts, the inferior court[s] represent the greatest substantial "intervening circumstance" or "controlling effect" in this case in their disregard for the moral and ethical law.

II. REHEARING THE PETITION WOULD PROVIDE THE COURT A VEHICLE TO UNITE THE COURTS ON CONSTITUTIONAL PRINCIPLES WHEN APPLYING THE BILL OF RIGHTS TO THE FEDERAL GOVERNMENT

A. The Third-Circuit Has Created A Constitutional Crisis Of Federal Trust. Federal Collusion With Private-Tech Is Antithetical To The Bill of Rights.

Any infringement of protections must always be injurious, if not ruinous to the parties against whom it

is instituted. In *McDonald,* Justice Thomas concurred that state infringement of the inalienable right to bear arms granted former black slaves as federal citizens led to a successful reign of terror against them historically. *McDonald v. Chicago*, No. 08-1521, 567 F. 3d 856 (2009). (Applicable to the States: "the right to keep and bear arms is guaranteed by the Fourteenth Amendment as a privilege of American citizenship"). Thomas continued, "In more recent years, this Court has 'abandoned the notion' that the guarantees in the Bill of Rights apply differently when incorporated against the States **than they do when applied to the Federal Government."** *McDonald v. Chicago,* No. 08-1521, 567 F. 3d 856, (2009).

A rehearing would provide a vehicle to unite the federal judiciary into holding the Federal Government to the Bill of Rights. We have at present federal agency overreach inside private technology companies. All the dreaded aspects of lack of privacy from government surveillance combined with lack of transparency rolled into one, foreboding a reign of terror on freedoms much worse than a hundred fifty years ago for freed slaves. The executive is now participating in it.

Private entities founded by U.S. district attorneys, such as "Pitt Cyber" (Institute for Cyber Law, Policy, and Security), exist for government to intertwine itself in private policy, creating tools and schemes for later execution in the Department of Justice. (Pitt Cyber, University of Pittsburgh, School of Law, https://www.cyber.pitt.edu/). The prosecutor that initiated this case was connected to this

organization. This collusion is already circumventing subpoenas to yield discovery and creating a privatized process. In the instant case, this circumvention resulted in illegal digital seizures and missing discovery.

This nefarious activity would have never been exposed until testimony from the government's own witness, Eric Dirkson, said the quiet part out loud in court, corroborated by activity logs that were kept a closely-guarded secret. (*Writ of Certiorari* Pt. II, a). **These private relationships cannot be regulated. They have to be terminated.** There shall be no secrets kept in this Court. Criminal investigations have Constitutional limitations for a reason. "While the efforts of courts and their officials to bring the guilty to punishment are praiseworthy, they are not to be aided by sacrificing the great fundamental rights secured by the Constitution." *Weeks v. United States*, 232 U.S. 383 (1914) (the seizure of items from Weeks' residence without a warrant directly violated his constitutional rights).

In *Murthy v. Missouri,* a civil case that was granted certiorari, a group of public officials is referenced throughout "requesting" social media companies to censor information. *Murthy v. Missouri* (originally *Missouri v. Biden,* No. 23-30445, 5th Cir (2023)). A multitude of online businesses were ruined as a result. *Sliter-Matias* escalates the interference several notches higher. It must be stopped. *Terry v. Adams*, 345 U.S. 461, 473 (1953). Justice Frankfurter warned, ("the infusion of conduct by officials, panoplied with State power, into any scheme to deny

protected rights;" "a government may not deliberately delegate a task to a private entity in order to circumvent constitutional protections or for reasons of convenience").

B. Technology Systems Exploited In The Courtroom For Calculated Equivocation Is Repugnant to The Constitution.

In general, "due process of law" means a legal proceeding under the direction of the court; to which prescribed law may be added. *Huber v. Reily*, 53 Penn 112 (Pa. 1866) (it means; a trial according to some settled course of judicial proceeding). Fundamentally, methods used in courtrooms are also integral to due process. The use of calculated equivocation in a courtroom procedure is repugnant to the Constitution as it makes it hard to get at the facts and leads to disastrous verdicts in error.

In furthering this purpose, the government brought in a "criminal investigator" from eBay's "Global Asset Protection," Stephen Huhnke, to pollute court testimony. Not presented in the Petitioner's writ was Huhnke's testimony that follows. Its unfoldment reveals the government flooding court testimony with nonsense. The government built its entire case on digital evidence found on a small USB electronic device. As there was no evidence found in a residence that the Petitioner had accessed or listed anything on eBay, the government had to convince a jury that data on the device came "from the defendant's computer." It does this despite forensic testimony and evidence.

Huhnke provided the government an additional witness early on to confuse the facts. This was **no small infraction.** On direct examination, **he testified that he created a Government Exhibit**, S-3. (Containing numerous references to the "defendant's computer," presented as an authentic claim (See W.D. Pa. 2:17-CR-34; Doc. 102; 123-124).

He later indicated that the information on S-3 was not of his own findings. (Doc. 102; 115, 17-19). Upon cross-examination, Huhnke clarified that the document was created relying on information provided to them by Inspector Weckerly;

Mr. Kaiser:	So when **you** put down defendant's computer on **how identified** there, is that information you got from Ms. Weckerly?
Stephen Huhnke:	**Yes.** That would be an Excel file that we believe was pulled from that computer.

(*See* Doc. 103; 9, 7-21).

Because Huhnke had been given false information by Inspector Weckerly, his apparent double-mindedness confused the jury, prompting members of the jury to ask the court;

The Court:	**Who has a list of what was pulled from the defendant's computers and can we see it?**

The Government:	Your Honor, that's going to come in from a later witness. **I don't think this witness would have the answer to that.**

(See Doc. 103; 18, 13-17).

It didn't take long for the government to debunk Huhnke's testimony. **He testified under oath to what the prosecutor admitted, he "[did not] have the answer to."**

The list never materialized. The government had no intention of producing what it knew did not exist. When court resumed after an extended Memorial Day holiday weekend, the question was forgotten.

In spite of Huhnke's testimony, the government pitched more speculation from its witnesses: the idea that activity could come from "any computer in the world;"

The Government:	Literally, any computer in the world, if you wanted to, Pablo Bejarano, log on to your eBay account, if you know your user name and password, you can go on to any computer, library, a friend's house, you can access your eBay account?
Pablo Bejarano:	Absolutely.

(See Doc. 104; 45-46).

The government doesn't resort to wild speculation unless it consciously doesn't have evidence. Its conflicting statements completely disregard the requirements under the law; the government completely changed its story mid-trial.

Inspector Weckerly admitted in her testimony that **nothing** was found regarding these acts either "pulled" from the defendant's computer nor from **any** electronic "apparatus" in the defendant's possession. (See Doc. 105; 50-58). Then, **where** did this evidence come from?

These calculated equivocations were designed to confuse a jury and convict the innocent, much as was the deceptive photographic evidence that Inspector Weckerly presented to introduce a small USB electronic device alleged to have come from the "defendant's computer." Postal Inspectors had affixed magnets to the side of a computer case, a case identified under § 2255 which had no USB ports on its sides. For a device on which the entire case rested, it was never physically identified as belonging to a defendant. The device was forensically reported to be clumsily modified the day of the search warrant's execution, when other devices were dated while in the custody of the U.S. Postal Inspection Service prior to forensic examination. To assume that the government had acted in good faith would be self-delusion. All these acts are **punishable by law.**

The accused is protected against all such forms of violations of the Bill of Rights, manifest and subtle circumventions, including equivocations, rules,

vagueness, trickery, and deceit. *Bates v. City of Little Rock,* 361 U.S. 512, 523 (1960) (First Amendment rights "are protected not only against heavy-handed frontal attack, but also from being stifled by more subtle governmental interference").

IN REVIEW

Mr. Sliter-Matias' case presented an extraordinary set of circumstances, leading to a discovery that should not be understated. This case has traceable actions performed by the federal government in criminal matters which has "substantial" and "controlling effect[s]" nationwide to the population at large.

This Court has held that Constitutionally the freedom, liberty and property of a United States citizen is no less important than freedom of speech. If *Murthy v. Missouri* can be granted certiorari, but *Sliter-Matias v. United States* cannot, then the Supreme Court is fractured on Constitutional principles that it had previously held for decades.

Mr. Sliter-Matias no longer meets the federal statute of which he was charged, yet his conviction is being held. What remains in evidence represents neither intent nor fulfills any criminal statute. However, the violation of guaranteed rights and criminal statute[s] committed within private settings on the federal side as a means to an end remains unresolved. This petition gives this Court an opportunity to repair this dysfunction.

This Court has now been granted the opportunity to answer by ruling that the end does not justify the means. If the law no longer requires a defendant to participate in a crime to be convicted, then it serves virtually no purpose. For the courts to continue to uphold and maintain that which is illegal, is reason enough to warrant review under certiorari in these extraordinary circumstances.

CONCLUSION

For the foregoing reasons and those stated in the petition for a writ of certiorari, the Court should grant rehearing of this petition. The Court may defer consideration of this petition for rehearing pending resolution of *Murthy v. Missouri*, at which point the petition for rehearing should be granted.

Respectfully submitted,

Atticus Sliter-Matias
PETITIONER, PRO SE
13781 Cedar Road, # 205
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RULE 44.2 CERTIFICATE

I hereby certify that this petition for rehearing is present in good faith and not for delay, and that it is restricted to the grounds specified in United States Supreme Court Rule 44.2.

Respectfully submitted,

s/ *Atticus Sliter-Matias*
Atticus Sliter-Matias
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SUPREME COURT OF THE UNITED STATES

No. 23-1082

----------X

ATTICUS SLITER-MATIAS,

Petitioner,

v.

UNITED STATES,

Respondent,

----------X

CERTIFICATE OF COMPLIANCE

As required by Supreme Court Rule 33.1(h), I certify that the document contains 2,976 words, excluding the parts of the document that are exempted by Supreme Court Rule 33.1(d).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 6th day of June, 2024.

Donna J. Moore

Donna J. Moore

Sworn to and subscribed before me
on this 6th day of June, 2024.

Mariana Braylovskiy

MARIANA BRAYLOVSKIY
Notary Public State of New York
No. 01BR6004935
Qualified in Richmond County
Commission Expires March 30, 2026

AFFIDAVIT OF SERVICE

SUPREME COURT OF THE UNITED STATES

No. 23-1082

----------X

ATTICUS SLITER-MATIAS,

Petitioner,

v.

UNITED STATES,

Respondent,

----------X

STATE OF NEW YORK)

COUNTY OF NEW YORK)

I, Donna J. Moore, being duly sworn according to law and being over the age of 18, upon my oath depose and say that:

I am retained by Petitioner, Atticus Sliter-Matias.

That on the 6th day of June, 2024, I served the within Petition for Rehearing in the above-captioned matter upon:

Elizabeth B. Prelogar
Solicitor General
United States Department of Justice
Room 5616
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
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SupremeCtBriefs@USDOJ.gov

Counsel for Respondent

by sending three copies of same, addressed to each individual respectively, through FedEx Overnight Mail. An electronic version was also served by email to each individual.

That on the same date as above, I sent to this Court forty copies of the within Petition for Rehearing through the Overnight Next Day Federal Express, postage prepaid.

All parties required to be served have been served.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 6th day of June, 2024.

Donna J. Moore

Donna J. Moore

Sworn to and subscribed before
me this 6th day of June, 2024.

Mariana Braylovskiy

MARIANA BRAYLOVSKIY
Notary Public State of New York
No. 01BR6004935
Qualified in Richmond County
Commission Expires March 30, 2026