

No. USCA#22-2160

23-5353

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IN THE  
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.  
FILED  
JUL 07 2023  
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Chandra Modugumudi — PETITIONER  
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

7th Circuit Appellant Court  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Chandra Modugumudi #92251-083  
(Your Name)

FCI Waseca PO Box 1731  
(Address)

Waseca, MN 56093  
(City, State, Zip Code)

DA - inmate  
(Phone Number)

## QUESTION(S) PRESENTED

Relief under appeal, the jurisdiction is ready for appeal as she applied for appeal within 14 days of sentencing she was sentenced on 06-24-2022. It is concerning that this court has not granted an attorney for Ms. Modugumudi as she does not speak or write English and her native language is Telugu. She has many reasons for an appeal and believes the appeal should be granted and her indictment remanded completely. Relief under appeal "is reserved for extraordinary situation," *Previtt v. United States*, 83 F 3d, 812, 816 (7th Cir 1996), involving "errors of constitutional or jurisdictional magnitude, or where the error represents a fundamental defect which inherently results in a complete miscarriages' of justice." Modugumudi petitions and reasons for appeal are "neither a recapitulation or nor a substitute for a direct appeal." *McCleese v. United States*, 75 F. 3d 1174, 1177 (7th Cir 1996) *Coleman v. United States* 318 F 754, 760(7th Cir 2003). In addition, the vindictive prosecution, no counsel, language barrier, wrong interoperation's, lack of understanding, prejudice from FBI, prejudice from attorneys, prosecutorial misconduct, and judicial prosecution and perjured testimony along with constitutional violations.

Modugumudi 1 st amendment was violated she had no freedom of speech, or access to the courts to speak the truth and was forced into a horrendous plea deal. The 6th Constitutional amendment right was also violated with prohibits self incrimination, deprivation of life, liberty or property without due process of the law, also provides for trial. The last Constitutional amendment violate for Me. Modugumudi is her 6th amendment, provides adequate notice of accusation, assistance of counsel, provides process for obtaining witnesses and confronting adverse witnesses. *Ferrera v. United States*, 456 F. 3d 278(1st Cir 2006) (affirming district courts grant on section of appeal relief on grounds that government violated due process by failing to research and disclose information, where absent prosecutorial misconduct, movant would have not plead guilty.) Not only did Modugumudi not have proper translation to sign her plea deal but she also didn't have the benefit of full understanding of what she was signing, she was told one thing by her attorneys and the District Court sentenced her to Judgement and commitment of another thing. This is a direct violation of due process. She would have taken her case to trial to let the truth prevail, by incarcerating her and having her sign a plea deal without full understanding is a direct violation of the law, and reason to grant her appeal, however we will come across more reason, as this is not written by an attorney as the court will not provide one.

A pro se petitioner is held to a less exacting standard than an attorney in drafting petition. Ms. Modugumudi also doesn't even get that benefit because of her educational level and language barrier. By the court denying Ms. Modugumudi counsel she has had a lot more suffering and prejudice to present an appropriate appeal. *Gordon v. Leeke*, 574 F. 2d 1147(4th Cir 1978). Therefore, this court should liberally interpret Modugumudi's fact allegations and legal contentions for her appeal as generously as possible. Also with the lack of any interpretation on her appeal, and a high language barrier that could never be overcome with out the professional assistance of an interpreter and proper legal guidance, Modugumudi has the highest barrier to overcome.

Although a convicted defendant has a due process right to be sentenced on accurate information, to succeed on attacking a sentence that defendant must show that inaccurate information was before the court and that the court relied upon it. Modugumudi never had the proper interpreter, understanding or counsel in her case from the beginning. As a rule, where the court conflict's later from written and oral order; that means there is an inconsistency exists between an unambiguous sentence, Modugumudi has more than a conflict of oral and written at sentencing as she didn't even have the proper understanding and interpretations from her language to English and never the explanations from her attorney's or Judge on what the truth she was coerced to sign. During sentencing Modugumudi there is a discrepancy to the highest degree between what she was sentenced and committed to prison for and what her plea agreement stated. This alone, is enough for the appellate court to remand all the irreconcilable discrepancies exist, the appellate court should be confident and remand and simply correct the judgement but also a reason to grant Modugumudi appeal to time served. *United States v. Mayfield*, 771 F. 3d 417, 434-35(7th Cir 2014)(en banc). That other conduct in Modugumudi includes "repeated attempts at persuasion, fraudulent representation, threats, coercive tactics, harassment, promises of reward beyond that inherent in the customary execution of the crime, please based on need, sympathy, or friendship, or any other conduct by government agencies that creates a risk that a person would not be alone incarcerated but for government's efforts."

## 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:

Appeal in 7th Circuit Appellant Court case # 22-2160

Case# 1:18-cr-00262 Kishan Modugumudi  
Northern District of Illinois, Eastern Division

Judge Virginia M. Kendall

## RELATED CASES

## LIST OF PARTIES

1. Deekshitha Parvathi (Victim G)
2. Uma Dev Parvathi
3. Nikil Reddy Kankanala
4. Yamini Swami (Victim C)
5. Vanaja Anne (Victim H)
6. Prameela Kimudu (Victim I)
7. Mounika Kimudu
8. Ravi Achanta
9. Vasu Babu Addagada
10. Chetan Bandari, Diplomatic Security Services
11. Anil Bodireddy (ATA) (MSD Productions) Atlanta, GA.
12. Srikishna Boppana
13. Mark Bowers, Homeland Security Investigations
14. Carolyn Bayer-Broring, Homeland Security Investigations
15. Nickell Cheruku
16. Dr. Sharon Cooper
17. Pvankumar Darisi (Pavan Kumar Darisi)
18. Kevin Gerlock, Homeland Security Investigations.
19. Brian Ginn, Homeland Security Investigations
20. Babette Grout, Customs and Border Patrol
21. Chowdary Jampala
22. Anil Kaalla
23. Nikil Kankanala 511 west 3<sup>rd</sup> street, Apt 1, Maryville, MO, 64468.  
660-528-0210.
24. Mallika Kaur

## LIST OF PARTIES

- 33. Hari Parankusham
- 34. David Parmer, Customs and Border Patrol
- 35. Bhavin Patel
- 36. Karunakar Poreddy (Telangana Peoples Association of Dallas) (TPAD)
- 37. Murari Reddy
- 38. Kalyan Sangavaram
- 39. Luke Selby, Bureau of Prisons
- 40. Vasu Vallabhaneni
- 41. Mitesh Viradia
- 42. April Wooten, Department of State

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## OTHER

Constitutional Amendments: violated in my case:

- 1st Amendment - freedom of speech, access to courts
- 4th Amendment - prohibits unreasonable search & seizure
- 5th Amendment - "hearsay" grand jury indictments, self incrimination, Deprivation of life, liberty or property without due process of law
- 6th Amendment - provide adequate notice of accusation, provide proper assistance of counsel, provides process for obtaining witnesses & Confronting adverse witnesses or property.

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## STATUTES AND RULES

## OTHER

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

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

**OPINIONS BELOW**

For cases from **federal courts**:

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

reported at 22-2160; or,  
[ ] has been designated for publication but is not yet reported; or,  
 is unpublished.

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

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

[ ] For cases from **state courts**:

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

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

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

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

1.

## JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was May 15, 2023.

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

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: June 5, 2023, and a copy of the order denying rehearing appears at Appendix B.

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

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

[ ] For cases from **state courts**:

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

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

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

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

### CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Relief under appeal "is reserved for extraordinary situation," *Previtt v. United States*, 83 F.3d 812, 816 (7th Cir. 1996), involving "errors of constitutional or jurisdictional magnitude, or where the error represents a fundamental defect which inherently results in a complete miscarriage of justice." Modugumudi Petitions and reasons for appeal are "neither a recapitulation nor a substitute for a direct appeal." *McCleese v. United States*, 75 F.3d 1174, 1177 (7th Cir. 1996); *Coleman v. United States*, 318 F.754, 760 (7th Cir. 2003).

*Fernera v. United States*, 456 F.3d 278 (1st Cir. 2006) (affirming district court's grant of Section of appeal relief on grounds that government violated due process by failing to research and disclose information, where absent Prosecutorial Misconduct, Movant would have not plead guilty).

*United States v. Mayfield*, 771 F.3d 417, 434-35 (7th Cir. 2014) (en banc). That others' conduct in Modugumudi includes "repeated attempts at persuasion, fraudulent representation, threats, coercive tactics, harassment, promises of reward beyond that inherent in the customary execution of the crime, Please based on need, sympathy, or friendship, or any other conduct by government agencies that creates a risk that a person would not be alone incarcerated but for government's efforts."

*Gideon v. Wainwright*, 372 U.S. 335, 9 L. ed. 2d 799, 835 Ct 792 (1963). Following Chapman's lead the court has subsequently found that an attorney's conflict of interest that lasts for the entire trial, thus violating a defendant's Sixth Amendment rights, cannot be considered harmless error. See *Holloway v. Arkansas*, 435 U.S. 475, 55 L. ed. 2d 426, 98 (1978). On another front, the court has hinted that some government conduct in investigating a crime "is so outrageous that due process principles would absolutely bar the government from invoking judicial processes to obtain a conviction." *United States v. Russell*, 411 U.S. 423-32, 36 (1973)

*United States v. Villa*, 22-5437, (6th Cir. Jan 3, 2023), Defendant Cooperated with Prosecutors.

*Mynatt v. United States* case # 21-5932, 2022 LEXIS 224455 (6th Cir. 8-12-22) "challenges to the quality of an investigation or prosecution" and allegations that a government agent "fueled a prosecution with knowingly false information. (Quoting *Banks*, 540 U.S. at 696) In *Jefferson*, 730 F.

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#### CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Government by failing to disclose information violating *Brady v. Maryland*, 373 US 83, 835. Ct. 1194, 10L. Ed. 2d 215 (1963) and *Griglio v. United States*, 405 US 150, 92 S. Ct. 763, 31 L. Ed. 2d 104 (1972).

Suppression of evidence favorable to a defendant violates due process where the evidence is material, irrespective of the good faith or bad faith of the Government. *Brady*, 373 US at 87. The Government's obligation under *Brady* includes a duty to provide information that can be used to impeach the credibility of its witnesses. *Griglio*, 405 US at 154. To establish a *Brady* violation, a defendant must show *United States v. Brown*, 822 F.3d 966, 974 (7th Cir. 2016). ID #167, filed on 02-25-2020 Page #778 as proof the Government.

In addition to not following *Brady*, and violating Dennis with violating due process this government and courts also never followed Fed. R. Civ. P. 60(b)(6)

"The imperative of correcting a fundamentally unjust incarceration," *Satterfield v. Dist. Atty Phila.*, 872 F.3d 152, 162 (3d Cir. 2017) (quoting *Murray v. Carrier*, 477 US 478, 495, 106 S. Ct. 2639, 91 L. Ed. 2d 397 (1986)). The analysis required by Cox is thus both "flexible" and "multifactor." 757 F.3d at 122.

See *Curristis*, 511 US at 496; see also *Goldby v. United States*, 152 F. APP'X 431, 440 (6th Cir. 2005) (holding that a defendant could not collaterally attack his sentence he "claimed that he was constructively denied counsel.

*United States v. Nieves*, No 21-1901 (2nd Cir. 2023). In May 2019, *United States v. Nieves*, No 21-1901 (2nd Cir. 2023) Judgement was vacated.

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#### CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Government also violated Ms. Modugumudi 4th Amendment right. See *Franks v. Delaware*, 438 US 154, 156, 98 S. Ct. 2674, 57 L. Ed. 2d 667 (1978) (If "perjury or reckless disregard is established by the defendant by the preponderance of the evidence, and... the affidavit's remaining content is insufficient to establish probable cause, the search warrant must be voided and the fruits of the search excluded....")

Secure release due to racially selective Prosecution. see *Taylor v. Ways*, 999 F.3d 478, 490 (7th Cir. 2021) ("Any reasonable official.... would have known that intentional racial discrimination.... was unconstitutional.") No only was Ms. Modugumudi targeted for her race, but also her gender, and her economic class. *Wilson v. Phen*, 417 F.2d 1197 (7th Cir. 1969) (evidentiary hearing required to resolve whether attorney labored under conflict of interest where attorney published newspaper articles that frequently featured details of defendant's crime and attorney failed to present alibi defense or introduce exculpatory evidence.) *United States v. Bibefeld*, 957 F.2d 98 (3rd Cir. 1992) (remanding appeal case for evidentiary hearing on movant's claim that the government knowingly presented perjured testimony.

*Ferrera v. United States* 456 F.3d 278 (1st Cir 2006) (affirming district court grant appeal on grounds that government violated due process by failing to disclose exculpatory evidence of a critical witness's recantation, where, absent prosecutorial misconduct movant would not have plead guilty.

*United States v. Armstrong*, 517 US 456 (1996). see JM section 9-27-200  
*United States v. Rodriguez*, (No. 2115117) (9th Cir. Sept 23, 2022)  
*Strickland v. Washington*, 466 US 668 (1984)  
*Lee v. United States*, 137 S. Ct 1958 (2017)

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#### CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Armstrong, 525 U.S. 471, 490-91, 1195. Ct. 936, 142 L.Ed.2d 940 (1999).

See Franks v. Delaware, 438 U.S. 154, 156, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978)  
Samia v. United States (2255) vacated.

United States v. Villa, 22-5437, (6th Cir. Jan 3, 2023)

United States v. Howard, 774.2d 838 (7th Cir. 1985) "Quoting United States v. Swiatek, we review her claims for plain error, "the most egregious and prejudicial of errors." Howard, 774.2d @ 848.

Reliability to supports its probable accuracy." United States v. Fleck, 413 F.3d 883, 894 (8th Cir. 2005). Fed.R.Evid. 403 only requires suppression of evidence that results in unfair prejudice. Prejudice that damages an opponent for reasons other than its Evid. 403, which should never be used.

Brady, see Wilson, 426 F.3d @ 661

Moore, 368 F.3d @ 940. see also Ross, 712 F. @ 802 (explaining that due diligence does not "expect Herculean efforts on the part of a lay person who is convicted and

Hampton v. City of Chicago, 484 F.2d 602, 608 (7th Cir. 1973)

Davis, 793 F.3d @ 720.

The Fourth Amendment of the United States Constitution generally prohibits unreasonable searches and seizures.

Lopez court the seventh circuit recognizes a due process right to be free from vindictive prosecution.

"United States v. Jarrett, 407 F.3d 520, 525 (7th Cir. 2006) (quoting United States v. Falcon, 307 F.3d 1000, 1004 (7th Cir. 2003)). "A defendant may do this by showing that the decision to pursue an indictment was not based on the 'usual determinative factors' a responsible

prosecutor would consider before bringing charges.

United States v. Tapia, 761 F.2d 1488, 1491-92 (11th Cir. 1985)  
Fed.R.Evid. 404 (b)

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Franks

United States v. Frandy, 456 U.S. 152, 170, 102 S.Ct. 1584, 71 L.Ed.2d 816 (1982)

Bousley, 523 U.S. at 623.

United States v. Salcido-Contreras, 990 F.2d 51, 53 (2d Cir. 1993)

see Salerno v. Berbary, 389 F. Supp. 2d 480, 484 (WDNY 2005)

United States v. Juncal, 245 F.3d 166, 171 (2nd Cir. 2001)

To be clear, the use of deceit to obtain a plea deal and/or confession makes the confession involuntary since it was coerced. Frazer v. Cupp, 394 U.S. 731, 739 (1969); Sotelo v. Indiana State Prison, 850 F.2d 1244, 1251 (7th Cir. 1988). Courts distinguish trickery from threats and promises, with the last two deemed unacceptable. United States v. Kontny, 238 F.3d 815, 817 (7th Cir. 2001).

See also Hutto v. Ross, 429 U.S. 28, 30 (1976) (per curium) (holding that confessions "obtained by any direct or implied promises, however slight" may be involuntary). Similarly in Lymann.

United States v. Tingle, 658 F.2d 1332, 1336 (9th Cir. 1981)

Hogan, 378 U.S. 1, 7 (1984). "Tingle, 658 F.2d at 1336; see also Brown, 644 F.3d at 980.

See People v. Thomas, 22 N.Y.3d 629, 642-43, 8 N.E.3d 308 (Ct. App. N.Y. 2014)

("it is in any case self-evident that these were

See Marmolejo v. United States, 196 F.3d 377, 378 (2nd Cir. 1999)

Sanford, 841 U.S. at 580; United States v. Gomez-Perez, 215 F.3d 315, 319 (2nd Cir. 2000)

United States v. Brown, 801 F.2d 352, 355 (8th Cir. 1986)

United States v. Henry, 933 F.2d 553, 558 (7th Cir. 1991). See also Fed. R.Crim.P. 52(b); United States v. Smith, 869 F.2d 348, 356 (7th Cir. 1989)

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#### CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States v. Armstrong, 517 US 456, 1456, 464 (1996)

JM section 9-27-200, JM section 09-97-230, JM section 9-27-260.

14th Amendment, the constitution guarantees the right to a fair trial in Criminal Prosecutions, and fair during the grand Jury indictment.

Mooney v. Holohan, 294 US 103, 112, 55 S. Ct. 340, 79 L. Ed. 791 (1935); see also

Coleman v. City of Peoria, Illinois, 925 F.3d 336, 344 (7th Cir. 2019)

Coleman, 925 F.3d at 344; Whitlock v. Bruegmann, 682 F.3d 567 580 (7th Cir 2012)

United States v. Reed, 700 F.3d 519, 525 (7th Cir 2014) (quoting Harris v. Rivera, 456 US 339, 346-47, 102 S. Ct. 160, 70 L. Ed. 530 (1981)) Presumption, a party must present some evidence that the inadmissible statement influenced the district court's decision.

United States v. Farias-Contreras, No 21-30055 (9th Circuit vacated sentence after government breached plea agreement, remanded the case to a different district judge for resentencing).

United States v. Jones, 56 F.4th 455, 510 (7th Cir 2022). United States v. Barfield, No 22-1797 (7th Cir 2023)

United States v. Munoz-Fontanez, No 18-2236 (1st Cir 2023) (Appeal granted sentence vacated).

United States v. Carter, No 21-4689 (4th Cir 2023)

United States v. Singletary, 984 F.3d 341 (4th Cir 2021)

United States v. Ferguson, (No 21-3800) (6th Cir April 20, 2023) (Appeal granted reversed judgement).

Jackson v. Virginia, 443 US 307 (1979) and violated her Fifth Amendment Right.

## STATEMENT OF THE CASE

Modugumudi 1 st amendment was violated she had no freedom of speech, or access to the courts to speak the truth and was forced into a horrendous plea deal. The 6th Constitutional amendment right was also violated with prohibits self incrimination, deprivation of life, liberty or property without due process of the law, also provides fair trial. The last Constitutional amendment violate for Me. Modugumudi is her 6th amendment, provides adequate notice of accusation, assistance of counsel, provides process for obtaining witnesses and confronting adverse witnesses. Ferrera v. United States, 456 F. 3d 278(1st Cir 2006) (affirming district courts grant on section of appeal relief on grounds that government violated due process by failing to research and disclose information, where absent prosecutorial misconduct, movant would have not plead guilty.) Not only did Modugumudi not have proper translation to sign her plea deal but she also didn't have the benefit of full understanding of what she was signing, she was told one thing by her attorneys and the District Court sentenced her to Judgement and commitment another thing. This is a direct violation of due process. She would have taken her case to trial to let the truth prevail, by incarcerating her and having her sign a plea deal without full understanding is a direct violation of the law, and reason to grant her appeal, however we will come across more reason, as this is not written by an attorney as the court will not provide one.

A pro se petitioner is held to a less exacting standard than an attorney in drafting petition. Ms. Modugumudi also doesn't even get that benefit because of her educational level and language barrier. By the court denying Ms. Modugumudi counsel she has had a lot more suffering and prejudice to present an appropriate appeal. Gordon v. Leake, 574 F. 2d 1147(4th Cir 1978). Therefore, this court should liberally interpret Modugumudi's fact allegations and legal contentions for her appeal as generously as possible. Also with the lack of any interpretation on her appeal, and a high language barrier that could never be overcome with out the professional assistance of an interpreter and proper legal guidance, Modugumudi has the highest barrier to overcome.

Although a convicted defendant has a due process right to be sentenced on accurate information, to succeed on attacking a sentence that defendant must show that inaccurate information was before the court and that the court relied upon it. Modugumudi never had the proper interpreter, understanding or counsel in her case from the beginning. As a rule, where the court conflict's later from written and oral order; that means there is an inconsistency exists between an unambiguous sentence Modugumudi has more than a conflict of oral and written at sentencing as she didn't even have the proper understanding and interpretations from her language to English and never the explanations from her attorney's or Judge on what the truth she was coerced to sign. During sentencing Modugumudi there is a discrepancy to the highest degree between what she was sentenced and committed to prison for and what her plea agreement stated. This alone, is enough for the appellate court to remand all the irreconcilable discrepancies exist, the appellate court should be confident and remand and simply correct the judgement but also a reason to grant Modugumudi appeal to time served. United States v. Mayfield, 771 F. 3d 417, 434-35(7th Cir 2014)(en banc). That other conduct in Modugumudi includes "repeated attempts at persuasion, fraudulent representation, threats, coercive tactics, harassment, promises of reward beyond that inherent in the customary execution of the crime, please based on need, sympathy, or friendship, or any other conduct by government agencies that creates a risk that a person would not be alone incarcerated but for government's efforts."

Modugumudi argues she is entitled to remand her indictment because the Government failed to disclose information about alleged victims perjured statements and complaints against Ms. Modugumudi attorney, id Document # 166 Filed 2-24-20 Page ID #776-777. Supporting her conflict with her attorney's representing her, that they did not disclose discovery, not objecting to her PSI objections, and allowing the Honorable Judge Kendall to sentence and commit her to the wrong charge, changing her life forever. The Government by failing to disclose information violating Brady v. Maryland, 373 US 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963) and Giglio v. United States, 405US 150, 92 S. Ct. 763, 31L Ed 2d 104(1972). Suppression of evidence favorable to a defendant violates due process where the evidence is material, irrespective of the good faith or bad faith of the Government. Brady, 373 US at 87. The Government's obligation under Brady includes a duty to provide information that can be used to impeach the credibility of its witnesses. Giglio, 405US @ 154. To establish a Brady violation, a defendant must show that 1. the evidence was favorable; 2. the evidence was material at trial; and 3. the Government suppressed the evidence. United States v. Brown, 822 F. 3d 966, 974 (7th Cir 2016). ID # 167, filed on 02-25-2020 page # 778 as proof the Government precluded evidence of the alleged victim's sexual history for the reasons states in open court, the government used perjured testimony and the alleged victims received not only monetary money from the government but also Visas for there perjured testimony. This false evidence was used against Modugumudi to indict and sentence her, therefore for the Government violating Brady, her appeal should be granted and her indictment remanded.

## STATEMENT OF THE CASE

Gideon v. Wainwright, 372 US 335, 9 L. ed 2d 799, 83 S Ct 792 (1963) Chapman considered the introduction of coerced confession, see Payne v Arkansas, 356 US 560 2L ed 2d 975, 78 S Ct 844 (1958,) the denial of defendant's right to counsel, and the partiality of the trial judge, see Tumey v. Ohio, 273 US 510, 71, L. Ed 749, 47 S. Ct. 437 (1927), errors so grave as to never be harmless. See Chapman, 386 US @23 n. 8. Following Chapman's lead the Court has subsequently found that an attorney's conflict of interest that lasts for the entire trial, thus violating a defendant's Sixth Amendment rights, cannot be considered harmless error. See Holloway v. Arkansas, 435 US 475, 55 L ed 2d 426, 98 (1978). On another front, the Court has hinted that some government conduct in investigating a crime "is so outrageous that due process principles would absolutely bar the government from invoking judicial processes to obtain a conviction." United States v. Russell, 411 US 423, 431-32, 36 (1973). One example the Court, and courts subsequent to Russell, used was government conduct that violated Rochin v. California, 342 US 165, 96 Ed 183, 72 205 (1952). First for Modugumudi, the government violated Russel and used conduct that had no due process principles. On Document # 167 filed by the court on 02-25-2020; the due process was violated by Judge Virginia M. Kendall when she states, "To preclude evidence of the alleged victims' sexual history for the reasons stated in open court and to be provided in a forthcoming written order." The ALLEGED victim's were willing and working prostitutes' on there own accord, having a traveling visa granted by the United States, they came and traveled to different states, and profited by using there bodies as a business. Please see evidence 9K, (listings of travels by alleged victims). Due process was violated by not stating the real facts and the real sexual history of alleged victims, the alleged victims sexual history of prostitution in there own country India, happened prior to ever coming to the United States, they are educated and can both read and write and speak English fluently. They come from a upper class/ cast in Indian culture. They are celebrities with a large social media, Modugumudi also low class. Ms. Modugumudi as a women from her country means nothing has no voice, education, money and no rights.

United States v. Villa, 22-5437, (6th Cir Jan 3, 2023), defendant cooperated with prosecutors. Meanwhile, Villa was indicted in Kentucky, he was unaware of the charges those and he plead guilty to. The Kentucky prosecutor, Judd emailed Villa's attorney a would consider recommending a lighter sentence is he helped in other cases. Later, Villa spoke with FBI agent, and an investigator providing corporation. Villa moved to vacate his sentence 28 USC 2255, attaching an affidavit to help with the FBI. (Villa, case was remanded and granted his 2255). Here, Modugumudi moves to have her appeal granted and sentence remanded for cooperating with the government and giving them the only information that she knew, she is an uneducated women, not speaking English, and gave all the information she had in hopes of helping the US government and getting a reduced sentence. During her proffer interview, the FBI received all information provided, however the government took away all there promises, and gave Modugumudi indictment and a long sentence over guideline range. Moreover, the government did not fulfill the agreement for Ms. Modugumudi full cooperation. Please see evidence # 6-13, email)

Mynatt v. United States Case # 21-5932, 2022 LEXIS 224455 (6th Cir 8-12-22). The 6th Circuit reversed the case to proceed and sue. The 6th Circuit stated that there is a distinction between "challenges to the quality of an investigation or prosecution" and allegations that a government agent "fueled a prosecution with knowingly false information." The appeals court observed that Mynatt was challenging "the discretionary decision to prosecute but rather a federal investigator's decision to lie under oath." The Circuit held that perjury is not "the sort of legislative or administrative decision grounded in social, economic, and political policy that Congress sought to shield from second guessing." A government employee lying to indict someone or to move the government to indict and punish someone is not a discretionary function, the 6th said. "The proper framing of the conduct at issue is whether federal law, policies, or regulations dictated whether a government agent may present false or misleading information in testimonial or documentary form to a grand jury and to a prosecutor. Here, Modugumudi, was indicted and charged with perjured testimony from not only alleged statements, but also by government agents, along with prosecutor's. Modugumudi's appeal should be granted and her sentence remanded, not only was she sentenced wrongly and unjustly, by a wrong charge, but the government also used perjured information and testimony to get the indictment to begin with.

## STATEMENT OF THE CASE

Ms. Modugumudi's prosecutor's, government employees, such as Homeland security, FBI, and Government agents all had an obligation to disclose exculpatory information from publicly available court records within the prosecutor's actual or constructive possession. See *Wilson v. Beard*, 589 F. 3d 651 664 (3rd Cir 2009) ("The fact that a criminal record is a public document cannot absolve the prosecutor of her responsibility to provide that record to defense counsel."); *Hollman v. Wilson*, 158 F. 3d 177, 180 (3rd Cir 1998) ("Evidence of a government witness's prior criminal history is evidence which must be produced to the defense.") While a criminal defendant's diligence obligations under Brady and Dennis demand that the Government disclose information pertaining to the perjured testimony, the criminal background and the criminal activity before and continued after judgement. Here, Ms. Modugumudi didn't even have the opportunity to find out all the government cover ups, and not providing the obligated disclosure from publicly available through the court or media, since this Government Sealed her case, she has not had the opportunity to receive all the proper disclosures that the government is legally required to provide. The prosecutions witness's criminal history, government involvement and government employees at some level, a long with employed by Non for profit organizations was never disclosed and the Government was obligated to all this exculpatory information to disclose. Therefore, Ms. Modugumudi asks this court to grant her appeal and remand her sentence.

The Government also violated Ms. Modugumudi 4th Amendment right. See *Franks v. Delaware*, 438 US 154, 156, 98 S. Ct. 2674, 57 L. Ed. 2d 667(1978)(if "perjury or reckless disregard is established by the defendant by the preponderance of the evidence, and ...the affidavit's remaining content is insufficient to establish probable cause, the search warrant must be voided and the fruits of the search excluded..."). See also Part III-A-3-c, below, noting other affirmative criminal defenses provable by a preponderance of evidence. In other words, McCleskey clarified that, even under a preponderance standard, if "a legitimate and unchallenged explanation...is apparent from the record," it takes "exceptionally clear proof" to push across the fifty yard line. Id McCleskey does not require a heightened standard of proof here simply, Ms. Modugumudi is challenging the decisions made in the criminal justice system.

Ms. Modugumudi's arrest was a ruse, and she was forced to take an unfair plea deal which she did not fully understand or comprehend, at her sentencing hearing she even told the Judge that she was taking it for her children, so she wouldn't lose her children. However, being over sentenced and sentenced for a crime that she did not commit, with the Government forcefully having her sign a plea deal so that she wouldn't go to trial, because the Government could not prove without a reasonable doubt the crime that she was sentenced and committed to 21 years and 10 months of her life. She not only lost her children, husband, family, but her freedom, and the rest of her life. Ms. Modugumudi case was selective prosecution and with the media coverage and influence, government officials in the United States and in India benefitted greatly. Ms. Modugumudi, would be granted her appeal and secure release due to racially selective prosecution. See *Taylor v. Ways*, 999 F3d 478, 490(7th Cir 2021) ("Any reasonable official...would have known that intentional racial discrimination...was unconstitutional."). No only was Ms. Modugumudi targeted for her race, but also her gender, and her economic class. *Wilson v. Phend*, 417 F. 2d 1197(7th Cir 1969) (evidentiary hearing required to resolve whether attorney labored under conflict of interest where attorney published newspaper articles that frequently featured details of defendant's crime and attorney failed to present alibi defense or introduce exculpatory evidence.) *United States v. Biberfeld*, 957 F. 2d 98(3rd Cir 1992) (remanding appeal case for evidentiary hearing on movant's claim that the government knowingly presented perjured testimony).

Not only did the Government and the bench trial present perjured testimony but the alleged victims spoke to each other and lied during the bench hearing, they were not under oath, they also communicated and said they communicated together to perjured themselves and facts in the case during the bench trial. *Ferrera v. United States* 456 F. 3d 278 (1st Cir 2006) (affirming district court grant appeal on grounds that government violated due process by failing to disclose exculpatory evidence of a critical witness's recantation, where, absent prosecutorial misconduct movant would not have plead guilty). Ms. Modugumudi would have never plead guilty to her indictment if the government did not violate due process by failing to disclose exculpatory evidence of the witness's recantation, perjury, and coming together to lie on at the bench trial. Please grant Ms. Modugumudi appeal and remand her sentence.

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Modugumudi most important reason to grant her appeal and remand her sentence and indictments is that due process was violated in her indictment, plea hearing and sentence. Modugumudi is that her appellant counsel and former counsel refused and failed to present due process violation because of inaccurate information the government, Homeland security, and FBI, presented at bench trial, sentencing, and before plea deal. Due process requires fair trial, before a judge with no actual bias against the defendant or interest in the outcome of her particular case. Evidence of the presiding Judge's actual bias is sufficient to establish a due process violation. Due process is also denied when, objectively speaking, the probability of actual bias on the part of the Judge or decision maker is too high to be constitutionally tolerable. Impartiality is particularly important in the sentencing context because of the broad discretion that the judge afforded. That sweeping discretion invites the risk that a Judge's personal bias will influence or appear influence the sentence she imposes. Ms. Modugumudi has an astounding amount of bias against her in this whole case, due process was violated. First it was violated during the bench trial, when the government brought the witnesses after Ms. Modugumudi signed her plea deal while not having full understanding to what she was signing as she did not have the full translator and not fully understanding the law in English. She was not afforded proper translation and her attorney did not explain the information properly. Her attorneys during the bench trial never objected to the testimony that was given with perjury. Due process was again violated when the appellant court removed her counsel and refused to give her counsel for her appeal. Again due process was violated when her appellant court counsel stated to the court that she had a frivils appeal, when she has many grounds and this court should grant the appeal and remand her indictments.

In context of 18 USC 3582(c), under the third element of plain error review, a prisoners' substantial rights were affected but for the error, the outcome of the proceeding would have been different, 1. Clear error exists first when Ms. Modugumudi was not sentenced to the proper code, she was sentenced with minors there was never any minors IN addition to not being sentenced by the proper guidelines, secondly she never had the benefit of a attorney for appeal, 2. Seriously impugns the fairness, integrity and public reputation of the judicial process, lastly this is a huge due process violation when this court keeps sealing the record so that the truth can not come out protecting government corruption and the public has every right to know please unseal the case and record. Ms. Modugumudi is asking that the court unseal the records so that the public can know the case and the truth to the case. Also, she would like it unsealed to show the Indian Government and public the truth, the public in India has a right to know the truth.

A due diligence requirement like the on in an appeal demands highly fact and context specific inquiry, one that depends on the characteristics and reasonable expectations of someone in the petitioner's shoes. That is where DENNIS comes in. Dennis effected a material change in Circuit law with respect to the reasonable expectations of a Brady claimant: While it had previously been suggested that defendants had to search for exculpatory evidence themselves, Dennis made clear that a defendant can reasonably expect, and is entitled to presume, that the government fulfilled its Brady obligations because the prosecution's duty to disclose is absolute and in no way hinges on efforts by the defense. By altering the factual predicate and baseline expectations for Brady claims, Dennis correspondingly changed what an appeal's "due diligence" requirement demands of Brady claimants. Here, Modugumudi, the government not only violated her Brady rights but also Dennis, by not offering due diligence on her behalf for her appellant attorney. Not only was she not afforded an attorney, her attorney withdrew, and told the appellant court that her appeal was frivils, never showing the government using false evidence and perjured evidence to indict Ms. Modugumudi. Please see exhibit 12K. Ms. Modugumudi asks that this appellant grant her appeal and remand her indictment.

In addition to not following Brady, and violating Dennis with violating due process this government and courts also never followed Fed. R. Civ. P. 60(b)(6) procedure that allows a court to relieve a party or its legal representative from a final judgement, order, or proceeding for any reason that justifies relief. Ms. Modugumudi asks this court to grant her appeal and remand her indictment per Fed. R. Civ. P. 60(b)(6). Before Dennis, our Brady decisions were "inconsistent and could easily confuse," with some suggesting that the defendant himself has an "obligation to excercise due diligence" in collecting material exculpatory evidence and that his failure to do so would "excuse the government's non-disclosure of such evidence." Dennis, 834 F. 3dAT 291-98. In United States v. Starusko, 729 F. 2d 256 (3rd Cir 1984), for instance, we stated that the government bore no obligation under Brady "to furnish a defendant with information which the defendant already has or with any reasonable diligence could obtain himself." Id @ 262. And in Grant v. Lockett, 709F 3d 224 (3rd Cir 2013), we rejected a petitioner's Brady claim after determining that his counsel could therefore, the government had access to a potent argument in every Brady case: "that because defense counsel could or should have discovered the Brady evidence with due diligence, the prosecution was not required to disclose it." Dennis, 834 F. 3d @291: see id @ 291 n. 20. Here, Ms. Modugumudi did not have the Ms. of having an attorney that would provide her with proper advice please see evidence # 6-13 page 1 and 2 and also Document # 166 filed on 02-24-2020 Page is # 776, 777. Where there is a lot of evidence where Ms. Modugumudi attorneys never provided proper counsel, had her sign a plea deal under treat, and did not communicate with Ms. Modugumudi in her native language. In addition to not having counsel that will provide due diligence she also has no access to any bank information to discredit the governments perjured testimony and information given because the case is sealed, and as she is incarcerated with no help and can not provide herculean efforts. For these reasons Ms. Modugumudi asks this court to grant her appeal for the Brady, Dennis violations along with not having any due diligence on her behalf.

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That changed with Dennis. There, we confronted the question whether the government's duty to disclose could be excused where the evidence in question was assuredly available in public records. See id # 289-91. We answered that question in the negative, and in strong terms. There is no "affirmative due diligence duty of defense counsel as part of Brady" and "nonsupport for the notion that defendants must scavenge for hints of undisclosed Brady material." Id @ 290 (quoting Banks, 540 US at 695). Rather, "the duty to disclosure under Brady is absolute—it does not depend on defense counsel's actions." ID. Consequently, the defense "so entitled to presume that prosecutors have 'discharged their official duties'" by sharing all material exculpatory information in their possession, id. (quoting Banks, 540 US at 696), and the defense's diligence in seeking out exculpatory material on its own "plays no role in the Brady analysis," is at 291.

The courts en banc opinion in Dennis thus decisively rejected the line of cases embracing a due diligence obligation. Dennis embraced an "absolute" prosecutorial duty to disclose "not dependent on" the defense's efforts. 834F 3d at 290. And whereas we had previously suggested that a defendant bore an independent obligation to seek out Brady material, Dennis held that the defense may "rely on the prosecutor's duty to turn over exculpatory evidence," with any inquiry into the defense may "rely on the prosecutor's duty to turn over exculpatory evidence," with any inquiry into the defendant's ability to discover that evidence being "beside the point." Id at 291. Thus, while it had the effect of bringing our case law back in line with clearly established Supreme Court precedent, id Dennis reflected a significant change in our own jurisprudence, with important consequences for this appeal, and Dennis should be the reason that Ms. Modugumudi should grant her appeal and remand her sentence.

Other Court of Appeals are in agreement. In Jefferson, 730 F 3d 537, which involved the substantively identical due diligence requirement in appeal, the sixth circuit held that the petitioner was entitled to "rely on" government compliance and "assume that the prosecutors would not stoop" in violating Brady to secure a conviction. Here, the prosecutor has violated the obligation of disclosure and stoop low to violate Brady and Dennis in Ms. Modugumudi case. The prosecution has a constitutional obligation under Brady to provide material exculpatory and impeachment evidence...and the defendant is not required to request continuously Brady information in order to show due diligence"). Brian Ginn, directly violated Brady and Dennis, a member of Homeland security, he never disclosed that the alleged victims where willing prostitutes', also running under there manager, the manager would secure there visit and sometime these alleged victims traveled to Mexico, and other states with no one's knowledge but there manager's and on there own accord, on there B1-B2 visa. The alleged Victim- I traveled to Cancun, Mexico on her own accord to benefit her finance's for her "Agreement of services" she profited and was on her own accord. These violations is another reason to Grant Ms. Modugumudi appeal and remand her indictments.

"the imperative of correcting a fundamentally unjust incarceration," Satterfield v. Dist. Atty Phila., 872 F. 3d 152, 162 (3d Cir 2017)(quoting Murray v. Carrier, 477 US 478, 495, 106 S. Ct 2639, 91 L ED 2d 397(1986)). The analysis required by Cox is thus both "flexible" and "multifactor." 757 F. 3d at 122. Here, however, the District Court failed to conduct any analysis at all. Instead, they never looked into the 60(b) violations. Here, because the District Court not only failed to "consider the full measure of the properly presented facts and circumstances attendant to Ms. Modugumudi request," Cox, 757 F. 3d at 122, but also precluded development of the record concerning those facts and circumstances, not only is she pro se for her appeal, but she didn't even have the benefit of being educated enough to type and do her own pro se motion. With Ms. Colleen Ramais a Federal Public Defender, withdrawing counsel and telling the appellant court that Ms. Modugumudi had a frivolous appeal, she didn't even have proper representation. Please see Exhibit 12K(appeal court response, dated 01-27-2023 but received 2-6-2023), Exhibit 13K(motion for appointment of counsel); Exhibit 54K(Ms. Modugumudi sent to appellant court disagreeing with her attorney and with drew from case). Obviously, the conflict of interest is to high to be considered proper counsel. Here, Ms. Modugumudi, constitutional right was violated by the courts and rises to the level of a defect resulting from the failure to appoint proper counsel at all." See Curstis, 511US @496; see also Goldsby v. United States, 152 F. App'x 431, 440(6th Cir 2005)(holding that a defendant could not collaterally attack his sentence when he "claimed that he was constructively denied counsel.") Here, Ms. Modugumudi, not only was denied counsel but was forced counsel that never had her best interest in mind and an absolute bias against her.

In sum, this is not a situation where the petitioner failed to "properly present" any "facts or circumstances," id at 122, that could possible justify 60(b)(6) relief. But the district court abused its discretion by failing to apply the COX factors at all, and to the extent additional record should have been found and brought up in court. For example at the bench trial, the Honorable Judge Kendall had a private conference with Ms. Modugumudi attorney's and Mr. Parente AUSA prosecutor, to direct that there are no minors in the case. The Judge was perceived to be irritated that that was even brought up, as factual evidence there was never any minors and to travel to the United States under B1-B2 visa you have to be an adult. Ms. Modugumudi asks that her appeal be granted and her indictment remanded.

#### REASONS FOR GRANTING THE PETITION

- I am innocent of 18:1591 F Sex Trafficking of children OR by force, fraud or coercion count 17SS
- Brady violation
- Using hearsay & Perjured testimony to indictment
- No children in my case
- During bench hearing the Prostitutes A-I the INDIA female prostitutes B,C,G (sravani Yadav. Goriparthi (B), Yamini Bhaskar. Swamy (C), Deekshitha. Parvathi spoke to each other at there homes to speak and set the same story that (G) alone would have my indictment dropped.
- Elonis violation - Dennis violation
- At sentencing Judge virginia M Kendall on June 2u. 2022 said her reason to sentence me was because my husband Raped victim-I (Pramela. Kimudu Alkla (Alehina. Bhatiyya), why am I punished for something my husband did OR did not do w/ prostitutes hearsay & Perjured information.
- my grand Jury indictment did not have any real Evidence they used hearsay, Perjured information & No due Process in my case.
- I assisted the Government & Nothing came of it except psychological torture by US Government officials, Judge virginia M Kendall & criminal Justice system were violated in my case. I filed Judicial Misconduct on Judge virginia M Kendall & abuse of discretion of power. I had preJustice, bias, no due Process in my case. I was Forced to sign & on my signature. I stated I do not agree there are NOMINORS in my case.  
Ms. Keri A. Ambrosio & Mr. Steven Robert shanin lost her License to be an Attorney yet she was Paid off & coorrupted my case.  
Ms. colleen Mc Nichols Ramis (Attorney) withdrew from my case appeal & filed an Anders brief I did not agree too. The Appeal court never Considered my pro-se brief Appeal, I was silenced & never heard.

In 2015 August, I and my family came to the United States of America for a better life, to live the American dream, my children have a better education and opportunities. I come from a third world country and was very poor and low class in India, and paid rent, never owned any home or property. My husband was approached by Mohan Nannapaneni who worked for TANA non for profit, he is an American citizen and offered my husband a job opportunity in America to work for the TANA Non for profit organizations. The States division in India was between Telangana and Andrapradesh. All the currency was changing causing many more economic shambles and destruction not only for my family but many India citizens. Left with no hope, and in despair. At this time, India was divided with political turmoil, and we had financial ruin, begging for food for our children. Ms. Modugumudi was married at 18 years old and as a women in India has no voice, opinion, or class. Her husband and her family faced many threats in India, by politicians wanting us to leave the state Tollywood, we had no other options but to leave the United States, the industry in Tollywood, was a sexually explicit industry sending willing women to men, in our financial ruin along with all the threats we took Mohan Nannapaneni offer, and thought we would have a better life especially for our children, away from the threats and fear for our lives and wellbeing.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

M. Chuep

Date: July 4, 2023

I have learned that the political corruption in United States is very similar to India, and hope and have faith that this court will correct the wrongs and grant my appeal to remand my sentence. Once arriving in the United States of America, my husband and I were under more threats and forced to work for very powerful men in the non for profit organizations, at first, it went well, then about 3 months after the threats and concern for my families safety became very apparent. In July 2016, at an ATA event located at the Steven Convention Center in Rosemont, Illinois, my husband had a gun pointed at his head by Anil Boddireddy and Prem Reddy both non for profit members threatening to destroy and kill him, destroy him through social media, along with calling ICE to get our family deported. Once deported, they will continue the threats and our family will never be safe from these powerful, controlling men. I am still fearful for my and my husbands life, as this government keeps sealing the record and the bias and prejudice against us, is bigger than I can imagine. Prem Reddy and Anil Reddy, and JayaRam Komati, sexually, physically, and finically harrassed myself. They threaten our lives, our safety, and our livelihood, by taking our money that they pay us, and we would be left staving and homeless with two minor children in America, a country we have no family and don't speak the language. This Government has systematically allowed all this abuse to me, and my family, by faulting imprisoning me for a crime I did not commit. Please help me, and hear my story, and grant my appeal.

Ms. Modugumudi has lost everything, her children, her husband and her freedom, she is deserving to be heard. She also is deserving of compassion and empathy to the real circumstances. Please, Grant her appeal, so that she can once again be united with her family in India, and her children.