

23-5586

No. \_\_\_\_\_

ORIGINAL

IN THE .

SUPREME COURT OF THE UNITED STATES

FILED

APR 05 2023

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

NESTOR LEON

— PETITIONER

(Your Name)

vs.

UNITED STATES AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

MIDDLE DISTRICT OF FLORIDA ORLANDO DIVISION

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

NESTOR LEON

(Your Name)

U.S.P. HAZETON P.O. BOX 2000

(Address)

BRUCETON MILLS WV 26525

(City, State, Zip Code)

NONE

(Phone Number)

RECEIVED

SEP - 7 2023

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

- DID THE ELEVENTH CIRCUIT CLERK ERR IN DISMISSING HIS (COA) AFTER THE PETITIONER PROVIDED ALL DOCUMENTS REQUESTED ?
  - DID THE ELEVENTH CIRCUIT CLERK ERR IN DISMISSING THE PETITIONER (COA) AFTER THE PETITIONER EXPLAINED HE HAD NO CONTROL OF THE DOCUMENTS REQUESTED ?
  - DID THE DISTRICT COURT ERR IN NOT HOLDING AN EVIDENTIARY HEARING AFTER IT GRANTED A SUBPEONA DUCES TECUM TO THE PETITIONER TO INVESTIGATE A BRADY VIOLATION ?
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## LIST OF PARTIES

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

## RELATED CASES

APPELLAT COURT (ELEVENTH CIRCUIT) - APPEAL # 22-13986-J  
NESTOR LEON VS, USA.

DISTRICT COURT §2255 NO.: 6:19-CV-01882-JA-DCI  
CRIMINAL CASE NO.: 6:14-CR-00238-JA-DCI-1

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CASES

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11<sup>th</sup> Cir. R. 26.1-1(a)(1)

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 \_\_\_\_\_; 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☒ is unpublished.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☐ is unpublished.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.

## JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was MARCH 14, 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: 4-1-23, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

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

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

☐ For cases from **state courts**:

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

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

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

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

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

THE CONSTITUTIONAL PROVISION VIOLATED WERE  
MY 1<sup>ST</sup> AMENDMENT RIGHT TO ACCESS OF THE  
COURT AND 5<sup>TH</sup> AMENDMENT RIGHT TO DUE  
PROCESS.

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## STATEMENT OF THE CASE

I Filed A (COA) IN THE ELEVENTH CIRCUIT AFTER THE MIDDLE DISTRICT OF FLORIDA (ORLANDO DIVISION) DENIED MY § 2255 AND FAILED TO GIVE ME A EVIDENTIARY HEARING I ARGUED IN MY (COA) THAT THE DISTRICT COURT SHOULD HAVE GRANTED ME AN EVIDENTIARY HEARING BECAUSE CONCLUSIVE EVIDENCE SHOWED THE NEED FOR FURTHER REVIEW, SPECIFICALLY, THE DISTRICT COURT GRANTED A SUPEONA DUCES TECUM TO RECOVER VIDEO FROM THE MCCOY F.I.C.U. AFTER THE INVESTIGATING DETECTIVE BRIAN SAVELLI DESTROYED VIDEO FOOTAGE. MOREOVER, I PROVIDED SIGNED AFFIDAVITS ASSERTING THE AFOREMENTIONED AND THAT TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO INVESTIGATE AND DESTROYING EVIDENCE IN MY CASE.

THE ELEVENTH CIRCUIT CLERK DID NOT ALLOW MY COA TO PROCEED BECAUSE THEY CLAIM THAT IN ONE I DID NOT PROVIDE 6 MONTH TRANSACTION OR CIP FILING, HOWEVER, I DID PROVIDE ALL THESE DOCUMENTS, YET THEY CONTINUE TO STATE THAT I DID NOT.


## REASONS FOR GRANTING THE PETITION

THE PETITION SHOULD BE GRANTED BECAUSE THE ELEVENTH CIRCUIT CLERK IS REFUSING ME ACCESS TO THE COURTS ORDER DOCUMENTS I PROVIDED AND IN THE ALTERNATIVE DOCUMENTS I CANNOT PROVIDE BECAUSE I DO NOT HAVE ACCESS OR CONTROL OVER.

**CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 4- 5-23