

No. 23-5644

IN THE SUPREME COURT OF THE UNITED STATES

ROBERT TIMOTHY BLAKE , PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A REHEARING OF AN
ORDER DENYING A
PETITION FOR A WRIT OF CERTIORARI

ROBERT TIMOTHY BLAKE
46959380
FCI BASTROP
P.O. BOX 1010
BASTROP, TEXAS 78602
Pro Se Petitioner.

CERTIFICATE OF COUNSEL

I, Robert Timothy Blake, as a Pro-Se Petitioner
Certify that this Request for a Rehearing For A Writ
Of Certiorari with The Supreme Court of The United States,
is Presented in Good Faith, and Not for delay.

I present Grounds that are critical to my Petition,
and will provide evidence, that has not received any
previous consideration from this Court, of Controlling effect.

Accordingly, I present my Petition according to,
Supreme Court Of the United States Rule 44(2). I am
Not represented by an Attorney at this time.

Please Notice Substantial Grounds and Objective Evidence Enclosed.

Case No. 23-5644.

Respectfully Submitted,



Robert Timothy Blake.
46959380
Pro-Se.

Dated: November 16, 2023.

LIST OF PARTIES

All Parties appear in the caption of the case on
the cover page.

TABLE OF CONTENTS

	Page.
OPINION BELOW.....	v.
JURISDICTION.....	v.
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.....	iiii.
STATEMENT OF THE CASE.....	iiii.
INTRODUCTION.....	1.
ISSUES PRESENTED.....	2.
CERTIFICATE OF COUNSEL.....	i.
CONCLUSION.....	15.
SIGNATURE PAGE.....	16.

INDEX TO APPENDICES

APPENDIX A	Supreme Court Notice of Denial 10/30/2023.
A-2	Supreme Court Notice of Filing 9/25/2023. No. 23-5644.
APPENDIX B	Search Warrant Probable Cause Affidavit, Doc. No. 3(Case:5:14-mj-01155-JWP*SEALED*. 12/02/14.
APPENDIX C	Criminal Complaint, Doc. No. 5, 1/6/2015.
APPENDIX D	Court Order, Unseal Search Warrant 7/7/2020. Petitioner's Motion No. 123.
APPENDIX E	Public Community Sex Offender Reference, NYS Department of Corrections and Community Supervision. Offender id 46702. <u>Louis W. Darling</u> . 9/23/2019. (NOT AVAILABLE IN THE RECORD).
APPENDIX F	Southwest Airline Confirmation NO.QZC47Q. 04/14/10. For Petitioners Daughters Travel. Provided By <u>Betty Blake</u> (Perry). (NOT IN RECORD).
APPENDIX G	Family Court Document, Rhode Island, No.:K09-0541. 06/18/2010... (NOT AVAILABLE IN THE RECORD).

TABLE OF AUTHORITIES CITED

CASES	PAGE
Hill V. Lockhart, 474 U.S. 52,58 (1985).....	12.
Strickland V. Washington 466 U.S. 668 at 695-96, (1984).....	12.

STATUTES AND RULES

18 U.S.C. § 2256 , Wherein,"Child Pornography is Defined".	
18 U.S.C. § 2256(2)(A), Wherein, <u>"Sexually Explicit is Defined.</u>	
<u>"2256"</u> Above.....	Pg.3.
& Agent's Probable Cause Affidavit(Appendix B)....	Pg.12-13.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. The Sixth Amendment to the United States Constitution provides, in pertinent part:

" In all criminal prosecutions, the accused shall enjoy the right... to have the Assistance of Counsel for his defence.
2. The Fifth Amendment to the United States Constitution provides, " No Person shall... be deprived of life, liberty, or property, without due process of law. "
3. The Fourteenth Amendment to the United States Constitution, Section One, Provides, " Citizens of the United States and of the state wherein they reside, No State... shall deprive any Person of life, liberty, or property, without due process of law. "

Additional

4. The Fourth Amendment to The United States Constitution Provides That: " The Right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon Probable Cause, supported by oath or affirmation, and particularly describing the place to be Searched, and the Persons or things to be seized."

STATEMENT OF THE CASE

Appears in detail within the Orginal Petition to request a Writ of Certiorari, for No.23-5644. Filed on September 17, 2023. Please Consider Orginal Petition upon Review for a Rehearing., And on it's Merit's.

OPINION BELOW

1. The Supreme Court of The United States, Denied The Petition for a Writ of Certiorari on October 30, 2023. The Petition for a Writ of Certiorari was Not denied on it's Merit's.

Notice of Denial is attched to this petition as,

Appendix A.

2. All other Opinion's regarding this petition are listed within the Orginal petition for a Writ of Certiorari, that was filed with this court on September 17, 2023 , as No. 23-5644.

Notice of Filing is attached to this petition as,

Appendix A-2.

JURISDICTION

The Opinion and Judgement of the Court of Appeals were entered on March 30, 2023.

A timely Petition for a rehearing was denied by the, United States Court of Appeals 5th Cir. on May 23, 2023.

A timely Petition for a Writ of Certiorari was Filed by The Supreme Court Of The United States on September 17, 2023.

1. The Jurisdiction of this Court is invoked under,

28 U.S.C § 1254(1).

2. A Petition for a Rehearing is requested Persuant to, Supreme Court Rule , Rule 44. Rehearing. RULE 44(2).

INTRODUCTION

I humbly request the Honorable Court to please consider my request for a rehearing, and review my Petition for a Writ of certiorari on it's Merits.

I appeal to this Court to please consider-to "exercise it's Supervisory Powers," and review the lower Court's Opinion and understanding, where the Petitioner's Motion 2255 is denied upon a Credibility Determination by the District Court, and will Only be affirmed upon - By the same Credibility Determination, when under review by the 5th Circuit Court of Appeals.

I intend to present an understanding of my Attorney's Advice Prior to a Plea Agreement, and MY only understanding up to the decision to accept a Plea, and the reasons why I accepted my Attorney's Only Advice to accept a Plea.

I will present Clear and direct evidence within this petition for a rehearing, that will demonstrate various Critical issues that will Question my Attorney's Assistance and Advice. I will also present evidence, (OTHER/New...) , that will Call into Question the Governments Alligations, and the Reports of a Crime, and the quality of the Facts that my Attorney and the Court's will rely upon.

I Pray that this Court will find my reason and position Honest and reliable. That the District Court's Credibility Determination is seriously flawed at a Constitutional Level. I ask for an opportunity to withdraw my Guilty Plea. Respectfully,

Was Trial Counsel's Conduct and Assistance within the range of Reasonable Professional Assistance as Guaranteed by the Sixth Amendment ? Was Petitioner's Plea properly and fully Educated, based upon the Evidence and the Attorney's Advice ?

1. Concerning the FBI Agent's Affidavit to establish

probable cause for a Search Warrant.

a. During Blake's interaction with Attorney Cavazos, his trial/Plea attorney. Defendant Blake (petitioner) was never provided with ANY information contained within the FBI Agent's Affidavit, that is "In Support of a Search Warrant." (Case: 5:14-mj-01155-JWP*SEALED*, Doc. 3 12/02/14).

(Appendix B.) (the Only E-mail evidence in this Case).

b. Petitioner will only discover any information provided by the FBI Agents Search Warrant Affidavit, not until after his sentencing. Petitioner obtained the Search Warrant Documents after a Court order on 7/07/2020.

(Appendix D.) Upon inspection of the Affidavit, Petitioner did notice several issues, that are extremely critical to his defence. Petitioner discovered errors and very clear evidence that was critical, in violation of a Fourth Amendment Violation, and should of alerted the Attorney to Errors, mis-statements purposfully made by the FBI

** Agent, and e-mail/image evidence, that must be called into question concerning, Intent to commit a Crime, where the evidence in question is Actually Illegal Images, or NOT, and Most important, was the petitioner guilty of the Alleged " Distribution "? All of which Attorney Cavazos did not inform, report, or question, Prior to any Advice that the Petitioner Plea Guilty. The Attorney Failed to Notice.

The Attorney Failed to Challenge the Officers Affidavit.

c. Petitioner here, will ask this Court to please Notice the issues with the FBI agent's Affidavit, and consider where Attorney Cavazos makes no effort to test any of the errors in the Affidavit, or discover the true nature of the Government's evidence related to "Distribution of Child Pornography ". Even after petitioner insisted that he has not distributed. The Evidence was Never Tested.

Alleged Distributed Images.

1. Within the Affidavit,(Appendix B), on page's 17-20 there are several E-mail listed. The Only E-mail that can be considered for "Distribution" , are the outgoing/sent messages by the identified E-mail account of: Tommyhartford... , which are in Paragraph 20, b. ,c. ,e. ,h. ,j. ,k. ,l. ,m. AND paragraph 22, a. ,b. ,c. * Tommyhartford4624 @ gmail.com , is the suspect E-mail account for the Petitioner.

a. First, The alleged outgoing images for the above E-mails are not identified as Child Pornography, as defined by statute 18 U.S.C. § 2256 , and as outlined in the Agent's Affidavit on Page: 12-13, Item j. Please notice where the "outgoing" E-mail from Tommyhartford..., will not have any discussion for Child Pornography, Nor will there be any discussion about Children and Sexual activity. The information in the Affidavit is not sufficiently presented to establish "distribution", or illegal outgoing materials being purged by the suspect at Roan Lodge, San Antonio Texas. Attorney Cavazos did not Notice the above issues. **The Court did Not Notice.**

A Nexus To Establish Probable Cause.

1. There are Very Significant issues and errors within the FBI Agent's Affidavit's, that will call into question the Accuracy, and Honesty of the investigation of the Residence at XXX Roan Lodge, San Antonio, TX, and the Petitioner. That there is evidence of a Clear Violation of a Constitutional Right related to the fourth Amendment. That the Agent was Not Clear in his application for a Search Warrant, The Criminal Complaint(Arrest Warrant), the Agent's Testimony, and an inevitable infectious impact upon the Grand Jury Proceedings. **From Misleadings.** Attorney Cavazo's did not Notice. **The Court did not notice.**

a. The Criminal Complaint (document No. 5, 01/06/2015), **(Appendix C).** , Will Highlight and explain the Details of the FBI investigation of this case.

1.) In the Criminal Complaint, Paragraph's 2,3, and 4. Please notice is shows: in paragraph 3, the FBI will explain that there are 13 E-mails, were sent-and-Received Between Tommyhartford4624...., and bied1965... , That Bied1965... , is an individual residing in Pennsylvania.

2.) Next, the FBI will show in Paragraph 4 :

" Through subponeas served on Google and Time Warner Cable, the FBI was able to determine the IP address used to Send and Receive the Child exploitation material WAS being utilized by an individual located at XXXX Roan Ldg, San Antonio, TX 78251. " (emphasis added).

(document No.5, Criminal Complaint)(Appendix C).

Paragraph 4 above is information directly from the investigation as outlined in the Probable Cause Affidavit Doc.No3 under "Details of the investigation, connected to Pennsylvania. .

" DETAILS OF THE INVESTIGATION " ,(Page 16, Paragraph 17, 18, 19 and 20.) The Information about an individual in **Pennsylvania** will only occur in this section of the Affidavit. (Doc.No.3).

The ONLY verified NCMEC Cybertip Report of 1957049, will only be connected to the Account and Activity reported of the individual in **Pennsylvania**..., NOT; Tommyhartford4624 Gmail.com....

The FBI Agent will report in the Affidavit (Doc No.3), 13 individual E-mails exchanged between the Two individuals:

" Analysis performed on Swartzfager's e-mail account, bied1965@gmail.com, revealed thirteen emails sent between bied1965@gmail.com and tommyhartford4624 - @gmail.com. The e-mails are described below: "

(Doc. No.3 , Paragraph 20., Page 17.)(emphasis added).

The 13 (thirteen) listed E-mails in the Affidavit will be dated from: June 11, 2013 , On Thru to: July 1, 2013.

This is very important, because the Petitioner was NOT living in Texas during the reported dates. Petitioner did NOT have any internet accounts in Texas during the reported dates.

(See Document No.103, Ground 8 , numbered page 26, & 27).

(Doc. No. 103, Attachment "Residency").

Petitioner has clearly provided to his Motion 2255, where the Reported E-mail dates for the thirteen (13) e-mails connected to **Pennsylvania**, were NOT " Sent and Received" in or near, XXXX Roan Ldg, San Antonio, TX.

3.)The FBI Agent's Report is False. *** ,Concerning **Pennsylvania**, It is Not Possible for the FBI to: " ...determine the IP address used to send and receive the Child Exploitation material WAS being utilized by an individual located at XXXX Roan Ldg, San Antonio, TX 78251. ".

(Doc. No. 5, Pg.3, Paragraph 4.)(emphasis added).

* *Blake was Not Living in Texas,Or had Internet Before 9/15/2013.

4.) The same FBI Agent, Lead Agent, Rex Miller, is the same Agent that Composed the Probable cause Affidavit, Criminal Complaint Affidavit, Executed the Search Warrant, and has Testified in Court accordingly. This same Agent will have knowledge of the Misrepresentations in the documents he created and presented to the Court and Government. Agent Miller must of had knowledge that the 13 (thirteen) E-mails listed as part of the Pennsylvania investigation, had NO possible connection to San Antonio TX, or Petitioners Internet Account. Attorney Cavazos did NOT notice.

5.) Next, The Probable Cause Affidavit (Doc.No.3) will Show:

" On 11/07/2013, FBI obtained a search Warrant for the contents of Swartzfager's e-mail account: bied1965@gmail.com. "

(Doc.No.3, pg.17, Paragraph 19).(emphasis added).

a. The Affidavit (Doc.3) will NOT state anywhere, that a "Search Warrant", was ever secured for the E-mail account for: Tommyhartford4624@gmail.com., Therefore, The FBI has NO evidence to conclude where the Agents are able to enter into the suspects E-Mail account, Unless it is Accessed WITHOUT a Warrant before December 4, 2014.

* It is indicated in the record that the FBI was seeking Access to Petitioner's E-mail account,:

"During the Suppression Hearing, FBI Special Agent Rex Miller testified that he talked to Blake about E-mails, and asked Blake for Consent to Assume his e-mail... on 12/4/14. "...(Dkt.70, 41: 19-24)

(see Petitioners Orginal Petition in 23-5644, Pg.14).

* It is Evidence that the FBI did not have a Warrant for any of Blakes E-Mail account's prior to 12/04/2014.

b. According to the Probable Cause Affidavit (Doc.No.3) it will show the only indication that the FBI requested any information From Google for the Target E-mail of "Tommyhartford4624..." The Affidavit Shows:

" Subpoena Information "

23. On February 25, 2014, Google was requested to provide subscriber information on the following e-mail address tommyhartford..."

(see Doc.No.3, Pg. 20, paragraph 23.).(emphasis added)

And the Affidavit will list details related to the Internet Service Provider, where the FBI intends to connect the E-Mail with the IP Address, and Create a Nexus of Probable Cause. The Affidavit will Show:

" On March 28, 2014, Time Warner Cable via e-mail provided the following information:

Target Details:68.206.100.58

Subscriber Name: Debbie Blake

Subscriber Address:9803 Roan Lodge, San Antonio, TX 78251.

Activate Date: 09/15/2013 . "

(See Doc No.3 Pg. 21, paragraph 26.)(emphasis added).

Above is Clear Evidence that the FBI could not determine Location the E-Mails sent and Received on June 11, 2013 , On Thru to:

July 1, 2013 , The Agent's statement is not True, and Not by Accident. Roan Lodge did Not have Internet until 09/15/2013.

c. The FBI will access the E-Mail Account without a Warrant.

- 1.) The Probable Cause Affidavit will detail how the E-mail account for bied1965 @ gmail.com was accessed with a "Search Warrant ".(Doc.No.3 ,Pg.17, Paragraph 19).
- 2.) Then the Affidavit will Show E-Mail Evidence discovered by it's investigation of Bied1965 @ gmail.com. , And Only then Reveal a Tommyhartford4624@gmail.com.

The Probable Cause Affidavit will Show:

" a. On June 11, 2013 at 8:36 PM
tommyhartford4624@gmail.com received an
e-mail from Silke-XXL at-online.de with
the subject, "NUDE KIDS" and in the details
section stated, " Nude Kids Boy-Girls Fotos? "

(Doc.No.3, Pg.17, Paragraph 20, Item a.)

3.) The Detail above will Reveal where the FBI will have to Access the Secured , and Password Protected E-Mail Account. Where the FBI will Access the Private E-Mail Account Without a Warrant.

The Only way that the FBI can determine what the E-mail
** of tommyhartford4624@gmail.com "Received" , at ANY time,
is by entering the Password Protected Private section
of the E-mail account. (with a warrant).

4.) "The Evidence noted above is from the FBI Agents own admission, and shows that On or by 11/07/2013, and before the Search Warrant Application and Affidavit, that the Agent Swears before the Magistrate Judge, on December 2, 2014. The FBI searched the target E-mail of Tommyhartford4624@gmail.com without a search Warrant.

5.) I also ask this Court to Please Notice where the same listed E-mails are From a different e-mail Address than what the FBI will identify in Paragraph 20 of the Affidavit (Doc.No3.). The FBI will list: Silke-XXL at-online.de " for No explained reason.(Doc.No.3,pg 17,Paragraph 20,Item a,b,c).

6.) The Errors listed above are not noticed by Attorney Cavazos, or Noticed by the Court. The Petitioner was Not informed, Questioned, or Advised. The FBI entered the secure area of the E-mail and
** Violated an area with " Legitimate Privacy interest ".

ADDITIONAL ITEMS TO NOTICE IN AFFIDAVIT OF PROBABLE CAUSE

1. Please Notice where there are other items that are meaningful to the defendants case, and may contradict the Agents Report that composes the Factual Basis in the Plea Document, and impact the Attorney's understanding of the case and it's evidence. **Petitioner refused the Factual Basis.**

a. Within the listed E-mails, there is no mention of Minors and sexually explicit acts or Child Pornography, The mention of Nudity is not evidence of illegal intentions.

b. The Distributed Images by Tommyhartford4624..., will not be described in any detail, and are not qualified as any verified Child Pornography, by any database including the NCEMC. Only Outgoing messages are Distribution.

c. Several E-mails composed by Tommyhartford4624..., will (please state; "NO PORN please", "some beach pictures", "youth not h.c." Notice) (not hard core), "send any nudes", "Tanks" * imsg.ru. (a Russian web site with millitary pictures).

None of the Above items in C. are listed within the PSR e-mails. The Court was provided with incomplete information. Attorney Cavazos did not notice, or explain any of these details with Blake at any time. (Doc. No. 3, Pg. 17-20).

d. Louis W. Darling , is outlined within the Probable cause affidavit, as a Person that tommyhartford4624... sent "Child Pornography out to, (Distributed) (Doc. No. 3, Pg 19-20.).

The Search Warrant Affidavit shows:

" 21. On January 28, 2014, an investigation was opened by the FBI Buffalo Division regarding Louis W. Darling. Darling utilized e-mail address yuc1be4me @ yahoo.com, to email videos and images of child pornography over the Yahoo! system. A search warrant for the account yuc1be4me @ yahoo.com was issued to Yahoo! "

(Doc. No. 3 , Pg. 19, paragraph 21.) (please notice paragraph 22.)

1. The Agent's Affidavit will NOT explain where Louis W Darling, will send and Receive any Child Pornography with Tommyhartford4624 @ gmail.com.
2. The E-mails listed on January 28, 2014 -thru- September 23, 2013 in the Affidavit, are the only E-mails sent out (distributed) to Louis W Darling. Nothing was Listed as being received by Tommyhartford4624...

** 3. There is NO exchange of any illegal images suggested by the FBI agent on these dates, 1/28/2014- 9/23/2014. Nothing is presented by the FBI that can establish where a crime, or where, any Criminal activity

* EVER took place at XXXX Roan Ldg. San Antonio, TX 78251. That the Blakes were living at this address, and had an internet Account at that address before August , 2013.

4. Most Importantly, Please Consider New Evidence, that the Petitioner has Discovered on his own, Post Conviction.

a. Louis W Darling will have a Public Community Sex Offender refrence with "NYS Department of Corrections and Community Supervision." No.Offender id 46702 ".

The Information Posted Shows: (No Child Pornography).

"Current Conviction

Date of Crime Feb.11, 2013 Date Convicted July 7, 2014.

Computer Used None Reported.

Pornography Involved None Reported. "

(See attached Detail Sheet for Louis W Darling)(Appendix E).

b. The Above will show where the FBI Agent's information is NOT accurate concerning Louis W Darling in the

* ** No NEXUS is established to Show, That any Criminal Activity was Underway or had Previously Taken Place AT :9803 Roan Ldg., TX.

"Probable Cause Affidavit". The Agent provided **unclear**, Misleading information to the Magistrate Judge during the request for a "Search Warrant". This is Not an oversite, or Clerical error. This was an act of the Police Officer, who did Know he was providing vague and misleading Information to the Court to secure a search warrant. The presented Probable Cause by the FBI agent should Not survive a proper Evaluation. A Fourth Amendment Violation has Occured.(**by Police Act**).

Attorney Cavazos failed to Notice.(Advised Blake on this Evidence.)

2. Attorney Cavazos did not explain any Verified Distribution Evidence any time Prior to a change of Plea.Only Repeats Government's Alligation.

The Attorney DID only rely on the Government's own alligation's, and the Agent's Reports, without testing any of it. The Only Testimony from Attorney Cavazos will show where he will simply "Repeat" the Government's Reports as presented Above. * There is No indication on the Record that show where Attorney Cavazos tested and investigated any more than just a "compiled listing of images. Only Images with NO regard to location, Disposition, or relationship to any E-mail, or Viewing, or Distribution. The Attorney's Affidavit(Doc.No.96-1.Pg2-3), will only State that he had images provided to him by the FBI. The Attorney will NOT report on E-mails, E-mail Images, Or any Computer/ Internet Data or evidence. (E-mail images not Verified).

***a. The Attorney's Only testimony will Show:**

"ATTORNEY " A. I don't know that he did-- that he
CAVAZOS: used those words, but we discussed it, and
 I was very clear with him that there was
 evidence in the possession of the government from his computers
 that specifically had an email address that was associated with
 his computer, that he had admitted to in his statements to the

*(No Mention of Child Pornography)

agents that was his and that he utilized, and unfortunately for Mr. Blake that address was sending materials to others and receiving materials from others. " ".

(Hearing Transcript. Doc.No.185,Pg.152, 17-24.)emphasis added).

The Attorney's Statement is the Bulk of his advice to the Petitioner regarding the Plea Agreement. This conversation between Blake and his Attorney is the First and Last time the Attorney offered any Advice or reasoning related to any Evidence related to Images, or Distribution, Or the Agent's Reports. This Conversation took Place 1/05/2016, an Entire year After Blake's Arrest. Petitioner informed his Attorney of the information that was not correct, and refused to Plea. Attorney Cavazos informed that he will Dispute the "Distribution". Blake , understood this , and then agreed. AT SENTENCING , The Attorney did Not Dispute or Challenge the Distribution.

Supporting Law

As Promised.

When a Prisoner challenges his Plea based on ineffective assistance of Counsel, the "Prejudice" requirement " focuses on whether counsel's constitutionally ineffective performance affected the outcome of the PLEA Process."

Hill V. Lockhart, 474 U.S.52,58(1985).

To satisfy this requirement, the defendant " must show that there is a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would of insisted on going to trial." Id. Reviewing courts must consider the totality of the evidence before the finder of fact in assessing whether the result wouls likely have been different absent the alleged errors of Counsel.Strickland V. Washington 466 U.S.668 at 695-96,(1984).

Under "Strickland" , a Prisoner must demonstrate Counsel's performance was deficient and the deficient performance Prejudiced his Defence. Id. at 687.

ISSUES FOR THIS COURT TO CONSIDER IN REVIEW

1. The District Court will Write:

"Even So, Blake CONFESSED to the agents that he knowingly and intentionally distributed, received and possessed child Pornography.(ECF 59 at 6). "

(Doc. No. 118, Pg 13). (emphasis added).

The Petitioner did not Confess at any time to Agents. There is No recording of the interview, There is No signature on any Confession. The Courts Understanding is Prejudicial to the Defendant. Blake was never asked to tender a confession.

(No Miranda at interview).

2. The District Court will write:

" Blake was charged with distributing child pornography on September 22, 2013.(ECF No.15) "

(Doc.No.118, Pg20).

Please notice that September 22, 2013 is an E-mail connected to Louis W Darling. There is No Child Pornograpy associated with this E-mail. The Attorney did Not explain, review, or Notice this E-mail with the Petitioner at any time, including up to and after the change of Plea. Also this E-mail is NOT included in the PSR with any identified evidence for the Court to Rely Upon. The Court's Understanding here is Predjudicial to the Defendant in this case. **The Attorney Failed to Notice.**

3. A very critical factor will exist in this case, that did not receive the proper scrutiny from the Government. With all Due Respect I will honestly present a NoN- Friviolus overview Concerning an extremely impactful and Prejudice Element of this Case. The Alligations of Betty Perry, T.Gearing, and Jessica Blake (Petitioners Daughter). In Reality, the Government allowed it's Attorney and Police to become A element of an Angry ex-wife. The AUSA was not careful with the use of Betty Perry's information. **The Court Failed to Notice. The AusA should be Sanctioned.**

I informed my Attorney that on 12/03/2014, when I was Downloading the ZIP files, the Files Just said Movies, **and No more.**

**** I never opened the files. I also informed that at work, it appeared that other Internet Users at the Coffe Shop WIFI, there was a User called "FBI TRUCK". I told my Attorney that the FBI must of sent the files, and Betty Perry had something to do with it. **This She had Threatend Me recently.****

My Attorney told me to Forget that, there is nothing he can do about it. **(The Files were taken By the FBI on 12/04/2014).****

c. I Bring this to this Court's Attention for very good reason.

1. The Government presented My Daughter as A Victim of Abuse.

This is a Devastating alligation For Her and Myself. The Government wants to continue calling my daughter a victim, even after the Court dismissed the alligation.

2. **Nobody** will question the motivation of Betty Perry to use Jessica, and the Government to get her way, and to avoid the legal Challenges I was Bringing in 2013-2014.

3. **Please Notice**, there has never been any allegations of abuse by me, for anyone, ever. especially my Daughters. There is Evidence that Betty Perry was sending my Daughters alone, to Visit me at My Mothers House for a week. To arrive at the Airport on June 23,2010. Two round trip tickets were Purchased for "Southwest Airlines " on 04/14/2010, confirmation Number QZC47Q. **(See E-Mail Confirmation from Betty Blake).** **(Appendix F).** **(This is Presented Evidence).**

Then, Unfortuantally, On June 18,2010, a Court Order was Filed, that Caused Betty Blake(Perry) to lose \$3,364.00 of her money.

(Appendix G). The Children did not make their trip, and I have not spoken with them since then. They vanished to Texas.

****(The Large Downloaded Folders were Password Protected/NO ACCESS).**

a. This issue is impactful to this Case, because Large amounts of Misleading and False information was provided to the PSR, and at Sentencing. The Court was led to believe that Blake was Fleeing from a Criminal investigation in Rhode Island, That he abused his Daughter, and his wife was Divorcing due to Porn and Drug Habbits. (All are FALSE !). This is Important to Notice, Because, Before Betty Perry lost \$3,364.00 , she was Sending the Children to Spend a week with their Father in another State. Appendix F.)

b. Also as important, After Blake was denied access to his Children, They Vanished, and located in Texas, where Blake Filed a Court Suit Accordingly, They Vanished to North Carolina. Blake will now file a custody Suit Next. This happens to be the same time E-mails arrive with images of Children in them. Then the FBI arrives, and will secure Alligations from Betty Perry in a Very Short Order of time there after. During this time Blake has had NO contact with his Daughters since before June 18, 2010. The abuse alligations were Lies, and weapons.

c. The Evidence I present is: If Betty Perry was afraid of Mr. Blake, and for the Children, and Could Provide the AUSA with Her Information, Not Vetted, or confirmed. (Hearsay). Why was she Sending the Children to spend a week alone with their Father.? This is After he Left (Fled), Rhode Island.

It was Not Reasonable for Mr. Blake to Plea Guilty with the Advice provided by Attorney Cavasos, without understanding the evidence, details, or issues, or real guidelines.

Please Grant A Writ Of Certiorari.

Robert Timothy Blake
11/16/2023
Respectfully Submitted

Robert Timothy Blake

SIGNATURE PAGE

I Do swear or Declare that on this Date, November 16, 2023,
The Contents of the above Statement of Fact was prepared
by the Pro-Se Petitioner, and all statements are True and
Correct to the best of his knowledge and Understanding.
I Declare under the Penalty of perjury that the foregoing
is true and correct.

Prayer,

The Petitioner requests the Issue Of A Writ Of Certiorari,
and a remedy as the Court Decides to be Just in this Case.

Respectfully Submitted,

Robert Timothy Blake,
Pro-Se.

Robert Timothy Blake 11/16/2023.

Federal Correctional Institution
Robert Timothy Blake
46959380
FCI Bastrop
P.O. BOX 1010
Bastrop, TX 78602

Signature Page.

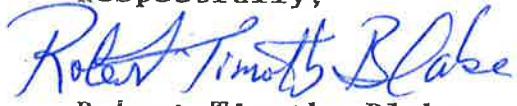
CERTIFICATE
OF DOCUMENT MAILING

I Robert Timothy Blake, Do Swear under the Penalty of
Perjury, That a Request to the Supreme Court of the
United States , for a Rehearing Concerning No. 23-5644,,
was Placed into the Prison Mail Box on, November 16, 2023.
The Document's were mailed by USPS, Certified Mail
No. 7018309000041052206, And First Class Postage has been
Prepaid by the Petitioner.

The Document's were mailed to: The Clerk of the Court, at
SUPREME COURT OF THE UNITED STATES
1 First Street, N.E.
Washington, DC 20543

I swear that the Above is True and Correct at the best of
My Knowledge.

Respectfully,



Robert Timothy Blake
Pro-Se

11/16/2023

Federal Correctional Institution
Robert Timothy Blake
46959380
FCI Bastrop
P.O. BOX 1010
Bastrop, Texas 78602



No. 23-5644

Request for a Rehearing

IN THE

SUPREME COURT OF THE UNITED STATES

ROBERT TIMOTHY BLAKE — PETITIONER
(Your Name)

VS.

UNITED STATES OF AMERICA — RESPONDENT(S)

PROOF OF SERVICE

I, ROBERT TIMOTHY BLAKE, do swear or declare that on this date, November 16, 2023, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Solicitor General of the United States

Room 5616 Department of Justice

950 Pennsylvania Avenue, N.W. Washington, DC 20530-0001

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

Executed on November 16, 2023

Robert Timothy Blake
(Signature)

**Additional material
from this filing is
available in the
Clerk's Office.**