

23-6460 No. ORIGINIAL

IN THE  
SUPREME COURT OF THE UNITED STATES

FILED  
DEC 29 2023

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

Richard C. Duerson — PETITIONER  
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Sixth Circuit Court of Appeals  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Richard C. Duerson  
(Your Name)

P.O. BOX 4000  
(Address)

Manchester, Kentucky 40962  
(City, State, Zip Code)

n/a  
(Phone Number)

## QUESTION(S) PRESENTED

1. Given that Rule 33 of the Federal Criminal Rules of Procedure allows a court discretion to grant a new trial if the interest of justice require, can a court reject a new trial motion based on newly discovered evidence under Rule 33(b) despite proving a manifest injustice under Rule(a)? Can the 33(a) criteria override the 33(b) new evidence criteria?
2. Does the denial of a new trial under Rule 33 on the ground that a defendant had prior knowledge of the evidence, without consideration of the defendant's actual ability to access or present the exculpatory evidence during the original trial, violate the Due Process Clause of the Fifth Amendment?
3. Whether the failure of the trial defense counsel to obtain a clear and intelligible audio recording for the purpose of exculpation, coupled with subsequent new evidence establishing factual innocence, constitute a violation of the Sixth Amendment's guarantee of effective assistance of counsel and therefore necessitate a new trial, notwithstanding the lower court's contention that the evidence was available at the time of trial?
4. Whether the mere presence of pills shaped as a "superman" shield, discovered in separate residences, without any evidence of an agreement or the means to manufacture them, is sufficient to invoke conspiracy charges, by asserting that the pills are like a "fingerprint" that ties the residences together. Also, Whether the "fingerprint" theory, in the absence of any evidence or an agreement linking an individual to a conspiracy violates the Due Process Clause of the Fifth and Fourteenth Amendments to the United States Constitution?

5. Whether or not the Supreme Court should exercise it's supervisory power to grant a writ of certiorari to correct a clear, blatant, and facial error made by a lower court that has resulted in a substantial miscarriage of justice, especially where the affected party is a pro se litigant who is inherently disadvantaged in the legal process?

## **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:

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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 \_\_\_\_\_ N/A; 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 B to the petition and is

reported at \_\_\_\_\_ N/A; 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 9-29-2023.

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: 12-12-2023, and a copy of the order denying rehearing appears at Appendix C.

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**

### **FIFTH AMENDMENT of the UNITED STATES CONSTITUTION**

No person shall be deprived of life, liberty or property  
without DUE PROCESS

## STATEMENT OF THE CASE

1. Mr. Duerson (the petitioner), was convicted for Conspiracy under 21 U.S.C. 846 in 2019.
2. Mr. Duerson challenged the sufficiency of the evidence on Direct Appeal. He was denied in 2021.
3. There was a discrepancy as to what was said on a recording.
4. The recording was the governments "concrete evidence" of a conspiracy.
5. The discrepancy was whether "safe" was said, or "vase".
6. The Sixth Circuit Court of Appeals asserted that "The Jury listened to the tape of Duerson and Mcfarland's telephone conversation and was in the best position to determine whether they discussed a 'safe' or whether, as Duerson contends, they discussed a 'vase', The Jury obviously concluded that they discussed a safe, and as stated above, the officers found a safe in McFarland's closet that contained much of the contraband that was in her apartment. The Jury was entitled to find that this safe was the same safe that McFarland and Duerson had discussed." The Sixth Circuit Court of Appeals also found that "superman"-shield shaped pills discovered in both residences, served as a "fingerprint" tying both residences together, supporting the Conspiracy charge. See Appendix E Pgs. 1-3.
7. On Direct Appeal, the Sixth Circuit Court of Appeals was not presented with evidence that no one in the Court room could hear this particular recording.
8. The petitioner was finally able to prove that his conviction for conspiracy was erroneous, by obtaining transcripts of the recorded

phone call from four (4) different professionals from four (4) different companies in four (4) different states.

9. None of the four (4) professionals concluded that the word "safe" was said. They unanimously asserted that "vase" was the word spoken. Appendix E, pgs. 4-13.

10. On or about 9/22/2022, the petitioner filed a Motion for a New Trial under Rule 33, based on the New evidence that he was able to diligently obtain. Appendix E, pgs. 14-17.

11. On 10/05/2022, Mr. Duerson's motion was denied. Appendix B

12. On or about 10/18/2022, the petitioner filed a motion for reconsideration thoroughly explaining why and how he was prevented from obtaining the transcripts prior to trial. Appendix E pgs. 18-22

13. On 11/04/2022, the motion for reconsideration was denied.

Appendix D

14. On or about 11/16/2022, Mr. Duerson filed a Notice of Appeal.

15. By 3/23/2023, the petitioner submitted his appellant's brief.

Appendix E, pgs. 23-46

16. On 9/29/2023, the Sixth Circuit Court of Appeals denied the petitioner. Appendix A, pgs. 1-5

17. On or about 11/07/2023, Mr. Duerson filed a motion for rehearing / rehearing en banc. He specifically pointed out how their ruling was in conflict with their Direct Appeal ruling 2 years prior, in which 2 of the same judges sat on the panel. Appendix E, pgs. 47-59

18. The petitioner was denied on 12/12/2023. Appendix C.

19. Now the petitioner respectfully requests that the Supreme Court of the United States intervene because he is innocent of 21 U.S.C. 846, Conspiracy.

## REASONS FOR GRANTING THE PETITION

1. During the initial trial, the government alleged that Mr. Duerson had conspired with his co-defendant Ms. Mcfarland, claiming that Mr. Duerson had directed her to examine a safe within his apartment. Based on this claim, the jury was led to infer connection from the discovery of a safe in Ms. Mcfarland's apartment directly to Mr. Duerson. The very foundation of this assertion rested on the interpretation of a jailhouse recording, which was presented as incriminating evidence that Mr. Duerson had spoken about a "safe."

However, it is crucial to highlight that the recording in question was of subpar quality, yielding an unclear and barely audible dialogue. As reflected throughout the filings, the recording did not provide a clear-cut articulation of the word "safe." This substantial ambiguity in the evidence presented calls into question the basis of the jury's verdict.

The Sixth Circuit Court of Appeals supported the initial finding on the premise that the jury, having heard the recording was best positioned to discern whether the words "safe" or "vase" had been spoken. Their affirmation was pinned on the belief that it was self-evident the jury concluded "safe" was the word used. Such statement inadvertently underscored the significance of this single word in sealing Mr. Duerson's conviction. The appellate judges seem to imply that had the jury reached a different conclusion on this critical point, Mr. Duerson might not have been found guilty. The fact that the ambiguity of the recorded word played a decisive role in the outcome cannot be overlooked.

In the pursuit of justice and to ensure that the verdict rests on incontrovertible facts rather than an audio ambiguity, Mr. Duerson has secured independant transcription assessments from four distinguished professionals in different states. Each expert has produced a transcript of the recording, and their analyses uniformly conclude that the word articulately spoken was "vase," not "safe."

These transcriptions serve as compelling new evidence that should have prompted a rehearing of the case. They provide irrefutable proof contradicting the basis of Mr. Duerson's conviction and thus establishing his factual innocence.

The question at hand addresses a fundamental aspect of the criminal justice system: ensuring that the conviction of the accused is predicated upon the most complete and accurate set of facts available, and that any subsequent revelations that may alter the perception of the accused's guilt or innocence are adequately considered. As your Honors are well aware, Rule 33 of the Federal Rules of Criminal Procedure provides the mechanism for such consideration, allowing for a new trial on the basis of both the interest of justice and newly discovered evidence.

The question thus posed asks whether a court can reject a motion for a new trial based on newly discovered evidence under Rule 33(b) even if it demonstrates a manifest injustice under Rule 33(a), and whether the manifest injustice standard can override the newly discovered evidence threshold.

After the conclusion of the original trial, new transcripts were discovered providing important information that was not

present at the time of the original trial. This newly discovered evidence is critical and significant, demonstrating a manifest injustice in the verdict of the original trial.

Understanding that Rule 33(b) considers "new evidence" as relevant only when it could not have been discovered sooner using due diligence, it is my contention that these transcripts, which surfaced post-trial, feasibly meet this condition. Furthermore when viewed in light of Rule 33(a), stating that a court may grant a new trial if the interests of justice demand, I believe these new evidentiary transcripts warrant such reconsideration given the degree of Manifest Injustice they expose.

#### **-Importance Beyond the Individual Case**

The interpretation of Rule 33 has implications that extend far beyond any single case and goes to the heart of the integrity of the judicial process. If courts lack the discretion to grant a new trial in the face of manifest injustice simply because the evidence does not meet the stringent criteria for 'newly discovered evidence', the Rule could fail to serve as an adequate safeguard against wrongful convictions. Ensuring that Rule 33 is applied in a manner that fulfills its purpose is essential not just for the individuals directly involved, but for public confidence in the criminal justice system.

#### **-Relevant Case Law and Circuit Splits**

As to current jurisprudence, courts have devised tests for newly discovered evidence under Rule 33(b) that require showing the evidence was discovered after the trial, that the defendant

was diligent in discovering the evidence, that the evidence is not merely impeaching or cumulative, that it is material, and that it would likely lead to an acquittal in a new trial.

The standard for "interest of justice" is more amorphous and has naturally led to interpretive disagreements and divergent applications among the circuits.

A manifest injustice typically suggests an error in the trial so substantial that it infringes on the defendant's right to a fair trial. One could persuasively argue that if a manifest injustice is demonstrated, it inherently satisfies the "interest of justice" criterion for a new trial. The tension, however, lies in balancing against other considerations, such as finality of judgement, judicial efficiency, and the prevention of frivolous claims post-conviction...

These tensions have sometimes resulted in Circuit splits. For instance, the Second Circuit has interpreted Rule 33 to require a showing that the new evidence would probably lead to an acquittal whereas the Third Circuit applies a less stringent possibility standard. Furthermore, some circuits have established the primacy of 'interest of justice' as potentially trumping the newly discovered evidence rule, whereas others have stuck to a stricter interpretation that closely adheres to the historical foundations and procedural requirements of claiming newly discovered evidence.

We are seeking your highest discretionary power to review our case as our situation parallels with the historical precedent set by *Brady v. Maryland*, 373 U.S. 83 (1963). In this defining case, the Supreme Court held that "suppression by the prosecution

of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment." Akin to the Brady case, our new evidence could have possibly altered the judgement if it had been presented during trial.

Moreover, our petition speaks directly to the benchmark set by the Supreme Court in United States v. Agurs, 427 U.S. 97(1976). This case, like ours, had a focus on post-trial "newly discovered evidence" leading to a different evaluation, rendering the need for a new trial under the interest of justice clause.

Given the latitude of interpretations and applications across circuits, clarity from this Court could significantly contribute to a more uniform application of justice. The issue at bar-- with its implications for the essence of a fair retrial and a just outcome--intersects with the constitutional underpinnings of the justice system, including due process and the right to a fair trial under the Sixth Amendment. Therefore, consistent with this Court's precedents and in the pursuit of justice, it is argued that Rule 33(a) should in principle allow for an override of Rule 33(b) in the case of manifest injustice. This would uphold not only the spirit of the law but also reinforce the public's faith in the judiciary as a redresser of errors, whether procedural or substantive, and a guardian against wrongful convictions.

2. Throughout the proceedings, Mr. Duerson has consistently explained how and why he was unavoidably prevented from obtaining the new evidence prior to trial. (See Appendix E). Also, Mr.

\* (23-5973)

Duerson submitted a petition to the Supreme Court (USAP6 23-5219), in which he asserted that the Cronic analysis should have been invoked instead of Strickland because, despite his attorney being granted an additional 30 days to meet with him, she did not meet with Mr. Duerson until the day prior to the trial, and only briefly. It was impossible for Mr. Duerson to obtain the transcripts under these circumstances.

**-Question Presented**

"Does the denial of a new trial under Rule 33 on the ground that a defendant had prior knowledge of the evidence, without consideration of the defendant's actual ability to access or present that exculpatory evidence during the original trial, violate the Due Process Clause of the Fifth Amendment?"

**-Reasons for Granting a Writ of Certiorari:**

**A. Importance to the National Legal System:** The interpretation and application of Rule 33 are of paramount importance to the integrity of the criminal justice system. This case presents a significant opportunity for the court to address the limits of the defendant's burden and clarify how the courts should balance a defendant's knowledge of evidence against the practical ability to obtain and present said evidence.

**B. Clarification of Legal Standards:** There is a need for the Court to provide clear guidance on what constitutes "newly discovered evidence" under Rule 33. The petitioner's case exemplifies the ambiguity surrounding defendants who know of the existence of evidence but are not able to present it at trial due to insurmountable obstacles.

**C. Protection of Constitutional Rights:** The Fifth Amendment guarantees that no person shall be "deprived of life, liberty, or property without due process of law." Ensuring defendants have a fair opportunity to present exculpatory evidence is fundamental to due process, and the Court's intervention is required to enforce this constitutional protection.

**D. Preservation of Justice and Fair Trial:** Granting certiorari will address whether the pursuit of justice is being compromised when courts deny new trials based on defendant's theoretical, rather than actual, access to exculpatory evidence. This case presents a compelling scenario where the petitioner's ability to secure a fair trial was astensibly obstructed.

**E. Addressing Disparities in the Legal Process:**

The case raises concerns about equal access to justice, as not all defendants have the means to uncover and retrieve crucial evidence. The Court's review is essential to ensure that the criminal justice system remains just and equitable for all individuals, regardless of their resources.

**-Relevant Case Law Includes:**

United States v. Agurs, 427 U.S. 97 (1976), which addressed the standard of undisclosed evidence and the due process requirements for a fair trial.

Brady v. Maryland, 373 U.S. 83 (1963), which established the principle that suppression by the prosecution of evidence favorable to an accused who has requested it violates due process where the evidence is material either to guilt or punishment.

Kyles v. Whitley, 514 U.S. 419 (1995), which expanded the Brady doctrine by holding that the materiality of evidence is considered collectively, not item by item.

The petitioner argues that the denial of a new trial based on previously known evidence, under circumstances where the defendant was unable to obtain or present the evidence, undermines the defendant's due process rights and creates a legal precedent that could be detrimental to the fairness of trials and the administration of justice as a whole.

It is essential for the United States Supreme Court to seize the opportunity to establish clear legal standards in this domain to protect the fundamental rights of all citizens guaranteed under the United States Constitution.

3. Petitioner Richard Duerson, hereby respectfully requests that the Supreme Court grant a Writ of Certiorari to review the decision of the Sixth Circuit Court of Appeals, which has denied Petitioner a new trial under Federal Rule of Criminal Procedure Rule 33. This denial perpetuates a miscarriage of justice due to the introduction of newly discovered evidence that unequivocally establishes Petitioner's factual innocence.

**-Question Presented:**

Does the failure of trial defense counsel to obtain a clear and intelligible audio recording for the purpose of exculpation, coupled with subsequent new evidence establishing factual innocence constitute a violation of the Sixth Amendment's guarantee of effective assistance of counsel and therefore necessitate a new trial, notwithstanding the lower courts' contention that the evidence was available at the time of trial?

**-Reasons for Granting the Writ:**

**A. Preservation of the Integrity of the Judicial Process:**

The integrity of the judicial process is undermined when a conviction is based on a misunderstanding of material evidence. In this case, the jury's decision was influenced by the misrepresentation of a critical piece of evidence--inaccurately interpreting the word "vase" as "safe". As established in *United States v. Agurs*, 427 U.S. 97 (1976) and *United States v. Bagley*, 473 U.S. 667 (1985). the introduction of evidence that would likely have changed the jury's verdict had it been presented at trial warrants a new trial in the interest of justice.

**B. Sixth Amendment's Right to Effective Assistance of Counsel:**

The failure of the trial defense counsel to properly investigate and present exculpatory evidence violates the Petitioner's Sixth Amendment right to effective assistance of counsel, as set forth in *Strickland v. Washington*, 466 U.S. 668 (1984). The trial counsel's dereliction of duty in not reviewing the recording with the Petitioner or adequately challenging its clarity at trial directly affected the outcome of the case, a standard set

by Kimmelman v. Morrison, 477 U.S. 365 (1986) for proving ineffective assistance.

**C. Respecting the Finality of Convictions with Regards to Actual Innocence:**

This Court has a long standing tradition of ensuring that convictions are final and that the habeas corpus proceedings do not unduly overturn settled cases. However, as the Court held in Schlup v. Delo, 513 U.S. 298 (1995), when new evidence emerges that suggests a constitutional violation might have led to the conviction of an innocent person, the interest in finality must be balanced against the individual's right to be free from unlawful punishment.

**D. Need for Uniformity and Consistency in Federal Criminal Procedure:**

The question presented implicates a split among lower courts regarding the interpretation and application of Rule 33. Specifically, the courts are divided on whether new evidence that was theoretically available but not actually accessible at the time of trial should be considered 'newly discovered evidence' within the meaning of the rule. As such, the Supreme Court's guidance is needed to ensure uniformity and consistency in the application of the rule and to prevent the denial of justice in future cases.

The Petitioner implores the Court to consider the constitutional implications of this case and the profound impact of the newly discovered evidence on the Petitioner's right to a fair trial. The Petitioner asserts that the denial of a new trial, under these circumstances, represents a miscarriage of justice that can only

be rectified by the intervention of this court. Therefore, the Petitioner respectfully requests that a Writ of Certiorari be granted.

**4. Compelling Question of Constitutional and National Importance**

The case at hand raises a compelling question of constitutional and national importance, which is, whether the "fingerprint" theory, in the absence of concrete evidence linking an individual to a conspiracy, violates the Due Process Clause of the Fifth Amendment.

Furthermore, the question of whether an individual can be convicted of conspiracy solely based on the presence of similar contraband without direct evidence of participation in the conspiracy, is of national significance, as it impacts the rights of individuals in conspiracy cases throughout the country.

**B. Summary of Case and Arguments:**

In the petitioners case, the district court and the Sixth Circuit Court of Appeals concluded that the presence of identical pills in the shape of a superman shield in both, the Petitioner's and the co-defendant's apartment served as a "fingerprint" tying both residences together. However, this conclusion unjustly prejudiced the petitioner and resulted in an erroneous conviction of conspiracy. We respectfully submit that the legal reasoning, as applied by both court's is inconsistent with established case law and constitutional principles.

C.

### Relevance of Case Law

To illustrate the erroneous application of law, it is crucial to consider relevant precedents. In the landmark case of *Ybarra v. Illinois*, 444 U.S. 85 (1979), the Supreme Court emphasized that mere proximity to contraband does not establish probable cause or guilt. Similarly, *United States v. Miller*, 688 F. 3d 322 (6th Cir 2012), held that the mere presence of a defendant at a location where incriminating items were discovered does not establish guilt absent additional evidence beyond mere association. In *United States v. Shabani*, 513 U.S. 10 (1994), The Supreme Court held that the government must prove an individual's specific intent to enter an agreement to commit an unlawful act in order to establish a conspiracy. Furthermore, the Court affirmed that a defendant cannot be held liable for conspiracy based solely on their unexplained presence at the scene or mere association with those involved in criminal activity. This underlines the importance of substantial and direct evidence connecting the defendant to the alleged conspiracy.

In a similar vein, the Court of Appeals for the Sixth Circuit, in the case of *United States v. Pearce*, 912 F.2d 159 (6th cir1990), emphasized the importance of proving a defendant's involvement in a conspiracy. The court held that "mere presence at the scene of a crime, even when coupled with knowledge of the crime or mere association with those involved in the criminal enterprise, is not enough to establish that an individual was a participant in the conspiracy." Therefore, it is essential to distinguish between mere association and active participation when determining conspiracy

charges.

Applying the principles derived from these cases to the use of methamphetamine pills shaped like a superman shield as a "fingerprint" to link residences and establish a conspiracy, it is arguable that relying solely on this visual similarity is an insufficient basis for such conclusions. While the mention of this similar characteristic may contribute to the overall evidentiary picture, it should only be treated as circumstantial evidence and not as a conclusive "fingerprint" directly connecting the two residences or implying a conspiracy.

**D. Request for a Writ of Certiorari**

In light of the significant constitutional and national importance of this matter, we respectfully request that the Supreme Court grant the Writ of Certiorari to review this case and provide necessary guidance on the admissibility of evidence in conspiracy convictions and shed some light on the potential pitfalls of relying solely on the shape of methamphetamine pills as a supporting factor in establishing a conspiracy and linking residences. By doing so, the Supreme Court would uphold the principles of Due Process and ensure uniformity in conspiracy cases nationwide.

**5. Question Presented**

Whether or not, the Supreme Court should exercise it's Supervisory power to grant a writ of certiorari to correct a clear, blatant, and facial error made by a lower court that has resulted

in a substantial miscarriage of justice, especially where the affected party is a pro se litigant who is inherently disadvantaged in the legal process?

#### Reasons for Granting the Writ

The Supreme Court has recognized the principle that justice must satisfy the appearance of justice," Levine v. United States, 362 U.S. 610, 616 (1960), thereby underscoring the imperative for the highest court to intervene when lower courts commit errors that substantially affect the fairness and integrity of judicial proceedings.

In this case, also No. 23-5973, Mr. Duerson, the petitioner, a pro se defendant, has presented a prima facie case demonstrating a manifest injustice due to a clear and blatant error on the face of the proceedings, which has direct implications on the validity of the conviction and the administration of justice at large. Such oversight has resulted in a disproportionate impact on a pro se litigant who, by virtue of representing oneself, faces significant procedural and substantive disadvantages, as highlighted in Penson v. Ohio, 488 U.S. 75 (1988), where the Court recognized the right to counsel as indispensable due to the complexities of legal representation.

Moreover, in Haines v. Kerner, 404 U.S. 519, 520 (1972), this Court underscored that pro se pleadings are to be held "to less stringent standards than formal pleadings drafted by lawyers." Yet, despite these protections, the error in question has led to a gross miscarriage of justice, suggesting a departure from these principles laid down to ensure fairness and justice for self-

represented litigants.

Therefore, in the interest of preserving the sanctity of the judicial system and upholding the rule of law, particularly as it pertains to the fair treatment of the unrepresented, this Court should Grant Certiorari. Such an intervention is also in keeping with the Court's responsibility to ensure uniformity and consistency in legal principles as reinforced by Sup. Ct. Rule 10, which speaks to the Court's role in exercising it's discretionary power to review cases of significant federal or constitutional questions that have been inadequately addressed below.

We implore the Court to affirm its commitment to the principle that **All** litigants, regardless of their legal representation status, are entitled to have errors of such magnitude reviewed and rectified, thereby fortifying the constitutional promise of equal protection under the law.

#### CONCLUSION

In Conclusion, the Writ of Certiorari should be granted because an inexcusable miscarriage of justice has occurred based on the misrepresentation of crucial evidence which has directly led to my erroneous conviction under 21 U.S.C. 846. This petition is underpinned by new and irrefutable evidence emerging from transcripts, which conclusively clarifies that I am factually innocent of the charges that have been levied against me.

During the course of the trial, the pivotal evidence supposedly indicative of conspiracy was grounded in what has now been evidenced as a misrepresented phone conversation. The prosecution's case

rested heavily on the erroneous claim that there was a discussion of a safe, which was falsely presented as an element of criminal conspiracy. However, the recently procured transcripts irrefutably confirm the word spoken was "vase", not "safe", a fact that fundamentally negates the government's allegation of a linkage between myself and the purported conspiracy.

While similarities between substances found in separate residences were used as an ancillary tether of my association with a conspiracy, such parallels hold little to no probative value when the core evidentiary claim of the phone call is proven to be falsely advanced. The analogy of the pills serving as a "fingerprint" is tenuous at best and cannot, without the misrepresented call, suffice as the requisite proof to uphold a conspiracy charge as defined under 21 U.S.C. 846.

It is my deep conviction that, in light of the new evidence, my ongoing incarceration represents not only a profound error in the execution of justice but also a glaring testament to the perils of judicial oversight if left uncorrected. The court's reliance on inexact and now-disproven testimony has led to a situation where the pillars of justice have been profoundly compromised.

Granting a Writ of Certiorari, esteemed justices, would therefore represent not only an acknowledgement of this error but would stand as a necessary corrective--a move essential to uphold the integrity of the judicial process and the Constitution that guides and protects us all. Anything less would constitute a perpetuation of an injustice that has already cost me greatly, destroying the foundational precept that a person is innocent until proven guilty,

by means of transparent and incontrovertible evidence.

I place my trust in the wisdom and the commitment to justice of this honorable court. With the utmost respect and urgency, I implore you to grant my petition for a Writ of Certiorari, remand my case, and permit a detailed reconsideration in light of the demonstratable proof of my innocence.

Thank you for your consideration of this grave matter. I remain at the court's disposal for any additional information or clarification that may be required.

Respectfully Submitted,

Richard Duerson  
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Date: 12-28-23