

DOCKET NO. 23-7404

BEFORE THE UNITED STATES SUPREME COURT

WILLIAM MAXWELL

Petitioner/Appellant/Defendant,

VS.

UNITED STATES OF AMERICA

Respondent/Appellee/Plaintiff.

On Petition for Certiorari to the United States
Court of Appeals for the Third Circuit

On Appeal from the United States District Court for the District of
New Jersey, Camden Vicinage, Honorable Robert Kugler, presiding.

SUPPLEMENTAL BRIEF TO
PETITION FOR CERTIORARI

Respectfully submitted,

William Maxwell

Reg. No. 71944-279

FCI Beaumont Low

Post Office Box 26020

Beaumont, Texas 77720

Pro se'



TO THE HONORABLE SUPREME COURT:

COMES NOW, William Maxwell ("Maxwell"), petitioner herein, and files this Supplemental Brief, noting the United States' admission of the factual underpinnings of Maxwell's structural error argument, and for just cause would show unto the Court as follows:

1) Maxwell; his brother, John Maxwell; Nick Scarfo; and Salvatore Pelullo were convicted after trial in this matter. The trial was eight (8) months long.

2) Maxwell asserted in his Opening Brief that, as a result of this "Monster Trial," which was objected to by the defendants (multiple times) throughout, structural error occurred. The Federal Rules of Evidence were abrogated. In this case, two hundred seventy-six (276) material exhibits that were never offered for admission into evidence, never admitted into evidence, were nevertheless given to the jury by the United States, considered by the Trial Court in its denials of Rule 29 and Rule 33 motions, and were considered by the Appellate Court in its affirmance of the case. Maxwell argued that giving two hundred seventy-six (276) material exhibits to the jury that were never offered for admission by the Government (thereby triggering the defense duty to object), nor admitted by the Trial Court into evidence, was a break down of the adversarial process and constituted the type of error this Court has called structural.

3) Scarfo, who is now proceeding in the Trial Court on a \$2255 case, ~~raised~~ raised the inadmitted exhibit issue. In its Response, found at Cause No. 1:23-cv-22432-RBK, Doc. No. 7, Page 101 the United States confesses:

"...To be sure, the cases discussed above did not involve anywhere near the number of unadmitted exhibits at issue here. Nor does the Government dispute that, had the unadmitted exhibits been excluded from evidence, the overall strength of the Government's case against [the defendants] would have been eroded."

4) The Government has confessed that the two hundred seventy-six (276) exhibits were material; that they were not offered for admission into evidence; that they were not admitted into evidence, ever, and that they affected the outcome of the case.

5) The Government took other positions in the Brief in regards to Scarfo that are not material to Maxwell's assertions in his Opening Brief.

6) The Government confesses that it has known about this structural (Maxwell alleges that it is structural) error since at least 2019. The exhibits (276) that were highlighted for the Court in Maxwell's Appendix show a District Court filing in 2019. Despite this knowledge of structural error, the Government did not alert the Appellate Court that two hundred seventy-six (276) exhibits that it included in the joint appendix were not properly before the Appellate Court.

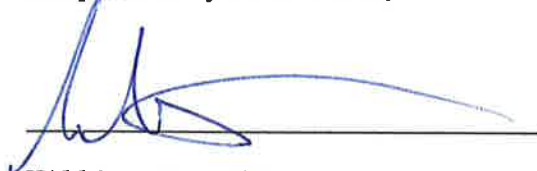
7) The Government makes other arguments that are perhaps better raised by the Government.

8) The filing did not become available to Maxwell until today, May 23, 2024. Maxwell files this Supplement to clarify that there is no dispute that:

- (1) two hundred seventy-six (276) material exhibits were never offered into evidence by the United States;
- (2) two hundred seventy-six (276) material exhibits were never admitted into evidence by the Court;
- (3) two hundred seventy-six (276) material exhibits that were never offered into evidence or admitted into evidence were prejudicial to Maxwell (defendants);
- (4) two hundred seventy-six (276) material exhibits that were not offered into evidence nor admitted into evidence were nevertheless given to the jury and considered by the Trial Court and Appellate Court (and reasonable inferences therefrom) in reaching its decisions (Rule 29, Rule 33, Direct Appeal, Jury Deliberations) in this case.

9) Maxwell urges that, under these undisputed facts, structural error occurred. Alternatively, full briefing may be appropriate under GVR to the Court below.

Respectfully submitted,



William Maxwell

Reg. No. 71944-279

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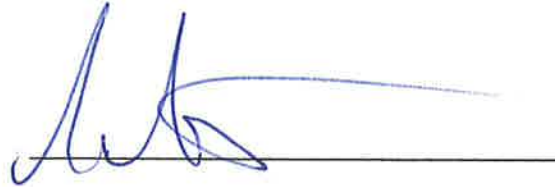
Beaumont, TX 77720

VERIFICATION

I hereby verify that the material factual statements contained herein are true and correct to the best of my knowledge and belief. I make this verification under 28 U.S.C. §1746 and penalties of perjury.

5/23/2024

Date

A handwritten signature in blue ink, appearing to be 'W. Maxwell', written over a horizontal line.

William Maxwell