

COVER OF PETITION

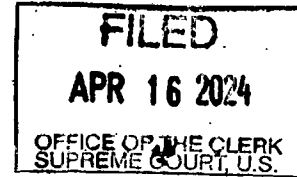
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23-7480

DATE: 04/09/2024 02:31:29 PM

CASE NO. 20-4478

ORIGINAL



IN THE SUPREME COURT OF THE UNITED STATES

SANJAY KUMAR MD

Petitioner

V.

USA

Respondent

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

Petition being filed Pro Se by the petitioner

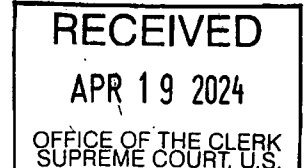
Name: Sanjay Kumar MD Pro Se

Address/Phone No.: Incarcerated @ present @ LSCI Butner planned to be moved shortly

For communication & correspondence please use friend's addresses & phone numbers who have Power of Attorney

Atty. Brian Z. Taylor
White & Allen Law Firm PA
PO Drawer U
New Bern, NC 28563
Phone: 252 638 5792 /252 670 2356 (cell)

Mr. Norman Parmley
5301 Rossi Road
New Bern, NC 28562
Phone: 252 671 1567 (Cell)



QUESTIONS PRESENTED

(1-2)

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CASE NO 20-4478

QUESTIONS PRESENTED

BRIEF INTRODUCTORY STATEMENT

Petitioner requested the District Court Judge L W Flanagan, multiple times, on RECORD [IN THE YEAR 2019], for full expanded instructions to the jury on the WILLFULNESS ELEMENT of the TAX charges & was denied. Petitioner wanted the Judge to instruct the jury to see his "subjective intent" apropos the "WILLFULNESS ELEMENT" as seen through his eyes & keeping in view his state of mind as he was in a life altering, disrupting & threatening situation for 4 years pre arrest.

[From 2013 to 2016] [THESE INSTRUCTIONS WOULD HAVE BEEN SIMILAR TO THE "RUAN" CASE INSTRUCTIONS- THE RUAN

ERROR, ON THE WILLFULNESS ELEMENT OF THE 841 CHARGE, THAT THE SCOTUS RULED WERE ERRONEOUS, WITH ALL

THE JUSTICES VOTING AGAINST THE GOVERNMENT BY A 9-0 MAJORITY VOTE]

Additionally the Judge, acting at behest of the US attorneys, threatened the defense Counsel & prevented the petitioner from presenting to the Jury, any evidence of Outrageous Government Misconduct THAT HE HAD BEEN SYSTEMATICALLY SUBJECTED TO, thus negating/nullifying his tax defense.

QUESTION ONE

WHETHER JURY INSTRUCTIONS BY THE DISTRICT COURT, ON ONE OF THE ESSENTIAL ELEMENTS OF THE TAX CONVICTION,

I.E., WILLFULNESS, BE IMPROPER, IF THEY DISREGARD THE CRIMINAL DEFENDANT'S "SUBJECTIVE VIEWS" & "INTENT" AS TO

THAT ELEMENT ?

QUESTION TWO

QUESTIONS PRESENTED (2-2)

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TRULINCS 62988056 - KUMAR, SANJAY - Unit: BUF-V-A

DOES A "SUBJECTIVE" GOOD FAITH BELIEF THAT ONE IS NOT VIOLATING THE LAW OR A GOOD FAITH MISUNDERSTANDING

OF THE LAW NEGATE WILLFULNESS [MUCH LIKE THE "RUAN" CASE]

QUESTION THREE

WOULD THE APPELLATE COURT'S MISINTERPRETATION OF THE SCOTUS GRANT OF CERTIORARI IN A SIMILAR PRECEDENT

CASE [THE "CHEEK" CASE] WHERE THE DEFENDANT'S TAX CONVICTIONS WERE VACATED, WHEN NOT PROPERLY APPLIED TO

THE PETITIONER'S CASE, BE NOT CONSIDERED, AN ERROR ?

QUESTION FOUR

IS THE CRIMINAL DEFENDANT'S STATE OF MIND, AS SEEN THROUGH HIS EYES, KEEPING IN VIEW THE TOTALITY OF THE

CIRCUMSTANCES THAT HE MIGHT HAVE BEEN GOING THROUGH, AT THAT PARTICULAR TIME, DURING THE COMMISSION OF

THE ALLEGED CRIME, BE OF ANY LEGAL IMPORT, APPROPRIATE THE "WILLFULNESS ELEMENT" OF THE CHARGES ?

QUESTION FIVE

WHETHER SUCH AS ERROR AS MENTIONED IN QUESTION ONE, WHEN RESULTING IN CONVICTION [AS IT DID IN THE

PETITIONER'S CASE] NOT BE GROUNDS FOR THE SCOTUS TO GRANT A WRIT OF CERTIORARI ?

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TAKEN OUT OF
THE PACKET @
THE DIRECTIONS
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Petitioner's Appellate informal brief filed in the Court 2021, properly raises the tax defense & cites the CHEEK case on pages 63 & 64 [69 Pages]

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Appellate informal brief addendum, raises all the issues of Outrageous Govt. Misconduct. Judicial Misconduct, Ineffective assistance of counsel, Tax issues as well as insufficiency of evidence [Pages 17]

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Informal reply brief filed in the Appellate Court by the petitioner in 2023, breaks down the US attorneys prevarications with hard irrefutable evidence to the contrary, exposing blatant witness & evidence tampering & establishing his innocence [51 Pages]

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Pages 11 & 12 of the Informal reply brief that specifically address the tax convictions & elaborate on his defense to those [2 Pages]

APPENDIX J

Petitioner's Private Investigator's report, that refutes the lies of the Govt. /US attorney that there was no prearrest surveillance, cell phone hack, office land line tap & GPS tracking on his vehicles

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Petitioner's 2013 Email to Shannon Thomas indicating his mental state due to police harassment [2 Pages]

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9/5/23 Petitioner's letter to the Appellate Court showing blatant evidence tampering by the US Attorneys

Write up [5 Pages]

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APPENDIX M

Index of the Petitioner's November 2023 submission to the Appellate Court. This hard evidence was sent as 3000 + pages.

The Appellant Court refuses to scan & docket this evidence of his innocence/ due diligence as well as outrageous Govt misconduct & malfeasance. [19 Pages]

APPENDIX N

Petitioner's 11/14/23 mailer to the Appellate Court requesting the Appellate Court to admit & docket his evidence of innocence as well as PSR refutations. Sent to Court on a USB drive that had been previously admitted to the District Court [4 Pages]

APPENDIX O

Petitioner's 2/14/24 mailer to the Appellate Court refuting the lies of the US attorneys regarding Urine Drug Screens & further evidence of Govt. witness tampering [2 Pages]

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Appellant's 11/10/23 mailer to the Appellate Court urging the Court to issue a Judgement of Acquittal based on overwhelming Insufficiency of Evidence [10 Pages]

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Case where SCOTUS granted Cert. because ruling of the lower Court appeared to be in conflict with the SCOTUS precedent

Army & Air Force Exchange Service V. Sheehan, 456 US 728,733 (1982)

Case where SCOTUS granted Cert. & vacated the District Court's tax convictions & The Seventh Circuit Appellate Court's affirmation, based on erroneous jury instructions on WILLFULNESS

111 SCT 604. 112 LED2D 617, 498 US 192 CHEEK V UNITED STATES

OPINION OF THE CIRCUIT COURT

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

No. 20-4478

SANJAY KUMAR

Defendant/Appellant

V.

USA

Plaintiff/Appellee

SUBMITTED FEBRUARY 27, 2024

DECIDED MARCH 15, 2024

CIRCUIT COURT JUDGES

WILKINSON, WYNN & THACKER

JUDGEMENT: DRUG & MONEY LAUNDERING CONVICTIONS VACATED & TAX CONFICTIONS AFFIRMED BY
UNPUBLISHED PER

CURIAM OPINION [SEE ENCLOSED]

ON (5/7/24) THE APPELLATE COURT DENIED
PETITIONER'S REHEARING/REHEARING EN BANC PETITION

JURISDICTION

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CASE NO 20-4478

JURISDICTION

SANJAY KUMAR V. USA

CASE NO: 20-4478

UNITED STATES COURT OF APPEAL FOR THE FOURTH CIRCUIT

JUDGEMENT ENTERED MARCH 15,2024

APPELLATE COURT JUDGES
WILKINSON

WYNN

THACKER

STATUTORY PROVISIONS INVOLVED

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STATUTORY PROVISIONS INVOLVED

Does a GOOD FAITH SUBJECTIVE BELIEF that one is not violating the LAW or a GOOD FAITH SUBJECTIVE MISUNDERSTANDING OF THE LAW negate the WILLFULNESS element of the TAX charges necessary to obtain a conviction?

STATEMENT OF THE CASE

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TEXT OF PETITION

Petitioner, Dr. Sanjay Kumar, a renowned physician, was born to physician parents & was groomed to be a caring physician since his childhood. He was almost 50 years old, had his own medical practice for almost a decade where he helped many, having obtained his American Citizenship based on physicians with exceptional ability credited with NOVEL research & publications to help humanity. He is God fearing & practices Buddhism by faith. He did not have any past criminal record or criminal thinking, is innocent & has been wrongfully persecuted, prosecuted, convicted & sentenced in the District Court. Now the Appellate Court has vacated his "drug" & "money laundering" convictions but his tax convictions still stand. Tax charges are inextricably linked to the "drug" charges

Life altering/threatening circumstances, explained below, have lead to the tax charges & petitioner's intent & motive was never to defraud the US Govt or the IRS of monies owed. He paid more than his share of taxes over the years, kept METICULOUS accounting records having paid almost 300K+ in Federal taxes a year.

Overzealous/Corrupt law enforcement, motivated by petitioners lavish life style [20 thousand square foot luxury custom build log home on a 70 acre pristine wooden lot, expensive & flashy Gold & diamond jewelry including his personal collection of Gold Rolex watches, cash & one of a kind, 300K+ custom Monster truck & other high end vehicles] utilizing the drug asset seizure forfeiture Statutes, preemptively DEEMED HIM GUILTY FROM THE VERY GET GO THUS. VIOLATING THE BASIC TENET

OF JUSTICE, HELD SACROSANCT, I.E., INNOCENT UNTIL PROVEN GUILTY & orchestrated a "PARALLEL SHAM INVESTIGATION" [AKA WITCH HUNT], POST FACTUM, to give it an air of pseudo legitimacy.

THEY TERRORIZED, STALKED, ASSAULTED, THREATENED, BULLIED the petitioner for 4 years prearrest. [From 2013 till 2016]

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Perusal of the discovery notes reveal that this "STATE SPONSERED TERRORISM" was being choreographed by the US attorneys [DOJ] in concert with DEA/IRS, SBI & local law enforcement. Their covetness/greed was not only READILY apparent when, immediately post arrest, they looted 150 K worth of personal jewelry & valuables from petitioner's person, 250 K in office/medical equipment from his office, a million dollar plus property ["anything & everything of value", mentions the second search/seizure warrant issued after the initial raid/break in] & seized his bank accounts, retirement accounts, vehicles as well as liquidated his prized Monster truck, PRE TRIAL, WITHOUT ANY DUE PROCESS, THE ARRESTING

AGENCIES SPLITTING THE PROCEEDS 25% INDIVIDUALLY [All of this evidence was sent to The Appellate Court NOT ONLY on a

USB drive [See attached motion in APPENDIX] but also in paper format as a hard copy. The Appellate Court REFUSES to SCAN

& DOCKET this evidence of Government Malfeasance as well as the Petitioner's innocence- See Appellate Court Motion included in APPENDIX plus that same motion has been renewed in the REHEARING/REHEARING EN BANC PETITION TO THE CKT. CT.]

In fact even after the Jury Verdict of no forfeiture, the US Atty.'s REFUSE TO RETURN THE PETITIONER'S LOOTED PROPERTY

& continue to file motions to encumber & seize petitioners vehicles, home, land, firearms & any & all property. THEIR CRIMINALITY, UNRIVALED IN THE HISTORY OF MANKIND, is such that even after conclusion of the criminal proceedings they refuse to return the petitioner's computers/tablets/I Pads & electronics that were brand new & had no other software on them than to view his HOME cameras, informing the care takers of his home as of relatively recently, "We are still watching you" [For more details on their thievery see petitioner's informal brief, the addendum, the reply brief- all enclosed in the APPENDIX as well as have the Appellate Court Clerk certify & send the SCOTUS the COPY OF USB DRIVE SENT THEM AS WELL AS THE 3000 + PAGE EVIDENCE THAT THE APPELLATE COURT REFUSES TO SCAN & DOCKET]

At the time of the raid in 2016, more than a 100+ LE officers from multiple agencies showed up to partake in the LOOT O RAMA PICNIC [discovery pictures reveal their tactical pant pockets bulging, after they had disabled the 50 home cameras prior to their rampage [arresting officers sharing the spoils of the loot]

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In fact they were so egged on by greed that they acted above & outside the law & in 2013, & without any Judicial oversight put the petitioner in a "virtual prison" with 10 plus LE thugs stalking him to keep a constant visual on him at all times 24x7

[See the TRIAL SYNOPSIS THAT IS ENCLOSED IN THE APPENDIX where DEA agent Hammet admits that petitioner was followed home every night at 2 A.M. to his house to "make sure that he had not changed his address!!"] [All the finalized trial transcripts are on record with the Ckt. Ct. & The SCOTUS needs to get them]

The reason for this siege was two fold, firstly to make sure that the petitioner's liquid assets were secured SO THAT THEY COULD BE LOOTED AT THE TIME OF HIS ARREST & not be passed on to a third party unbeknownst & thence they be deprived & secondly to profile, target, entrap, leverage, coerce & coach his existing patients on order to make them render false testimony against the petitioner to indict & prosecute him. They are so blinded by greed that they have no qualms in acting above the law.

Their criminal actions also point to the petitioner's race, national origin & ethnicity as being a factor in targeting him as the LE reprobates who terrorized him pre arrest called him a "Muslim Terrorist". There is a SELECTIVE & VINDICTIVE element to this prosecution too [SEE INFORMAL REPLY BRIEF ENCL. IN APPENDIX]

THE START OF THE "INVESTIGATION"

Initially what they were doing might have been covert [the CNET narcotics team focusing on prescription drugs & asset seizure forfeiture, being formed in 2012- See Appellate evidence] but it became OVERTLY blatant & in your face "thuggery" after the Amber Garris incident in February 2013. She was an Ex patient who was legitimately in pain due to spinal kyphoscoliosis. When questions were raised about her misuse of pain medicine the petitioner immediately called in a

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family meeting with her parents & brother to delve into the matter & inquire further & there after discharged her. Her parents hid her addiction history from the petitioner & the fact that she had a "drug relation" with her mother. She was seen a total of four times. After the dismissal from his practice she was involved in a MVA that resulted in the death of her 6 year old daughter. Depositions & testimony revealed that the drugs in her system, at the time of the MVA were obtained from the street & THE MEDICAL BOARD ALSO DETERMINED THAT AFTER AN INVESTIGATION. [See the USB Drive for all this evidence as well as the 3000+pages sent to the Appellate court that they refuse to scan & docket WHICH HAS THE MEDICAL BOARDS CONCLUSION OF THIS INCIDENT WITH NO ACTION RECOMMENDED AGAINST THE PRACTITIONER.]

A Civil lawsuit for millions, against the petitioner, awarded 10 K to the estranged husband of Garris because of the tragic situation. The whole community was upset at the tragedy & wanted someone to blame.

Amber's mother called the LE [Law enforcement] as well as the DEA & blamed the petitioner for the accident. She left a detailed chilling message for the petitioner, that is on file with the Appellate Court, telling him that his life was over & all LE agencies were going to be descending on him to punish him [Which they did]

Soon afterwards the petitioner noticed that he was being stalked by marked LE units day & night. Over months when he questioned them & informed them that he would start filming them ,they changed their tactics to unmarked units & poisoned his neighbors against him in order to keep constant tabs on him. Neighbors thus emboldened, threatened him & put laminated 18"X 18" "WANTED" posters of the petitioner WITH HIS FACE on the street that he lived on.[EVIDENCE SENT TO THE APPELLATE CT. IN 3000+ PAGES]

Petitioner was accosted by LE cronies where ever he went. At his office they would masquerade as patients in pain wanting him to write 5 different pain meds for 1000\$ cash & when kicked out would show him handcuffs calling him using derogatory Muslim names informing him that it was just a matter of time that he would never see daylight again as he would be locked up & that there was no point in working as they were going to take it all. Those that accosted him to the bank would sing a song & tell him that he can run but he can't hide.

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People stalked the petitioner on his remote isolated property, crawling on his roof & shooting guns in the middle of the night terrorizing him while others cut the common attic fire wall from the adjoining office & would sit on the rafters above his drop ceiling at his office & watch as he examined his patients. [SEE SYNOPSIS OF THE SENTENCING HEARING ON FILE WITH

THE APPELLATE COURT]

LE [law enforcement] blatantly installed hidden cameras on his property as well as his office & on the street hiding them in transformer boxes, his home & office were bugged, GPS trackers installed on his vehicles, cell phone hacked as well as office land line tapped & all his mail opened. ALL OF THIS, PLUS THE WARRANTLESS STALKING, WAS DONE FOR FOUR YEARS PRE ARREST WITHOUT ANY JUDICIAL ORDER & JUST AT THE BEHEST OF THE US ATTORNEYS & THE DEA/IRS with ALL

HIS CIVIL/GOD GIVEN RIGHTS BEING INFRINGED UPON [See investigator Michael Guadagno's reports Enclosed in APPENDIX

as well as Rodney Knowle's, his PI'S reports in the 3000 + pages sent to the Appellate Court][See Petitioners Informal reply brief too in APPENDIX]

Petitioner's efforts to thwart the LE terror unleashed on him [to protect his privacy/dignity & sanity] & his patients [to protect the sanctity of the doctor patient relationship & to stop them from being harassed] lead to increased escalating ANIMUS/RETRIBUTION from the powers that be where they just wanted to annihilate him. Judge Flanagan [Dist. Ct. Judge ACTING AS A DEFACTO PROSECUTOR] informed him at sentencing that there was war in New Bern [One man's peacefully struggle for his rights against the might of the US Executive & Judicial branches is now defined as WAR?] LE minions were constantly parked around the Petitioner's office accosting his patients & enticing them with controlled buys offering them hundreds of dollars in cash. They even opened a sham "knife sharpening" office adjoining his medical practice with the "trainees" of this office harassing the petitioners patients at will when ever the medical office was open. Undercover police officers coordinated all this with the auspices of the US ATTORNEYS.

Alan Pyrtle a patient was waylaid by LE as he was leaving the petitioners office & when informed that petitioner was a good doctor who did his due diligence with physical examination, regular Urine Drug Screens & pill counts & decreased his

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pain meds from 3 to 1 & kicked out patients who did not comply, was informed that TRUTH DID NOT MATTER & THAT THEY PLANNED ON MAKING AN EXAMPLE OF THIS MUSLIM TERRORIST. THEY WANTED ALAN TO REPEAT A FALSE COACHED

NARRATIVE OF WHAT A BAD DOCTOR THE PETITIONER WAS, TO THE JURY, IN ORDER TO SECURE A FAKE CONVICTION. WHEN

HE REFUSED TO COMPLY THEY TOLD HIM TO FORGET ABOUT THE CONVERSATION OR THEY WOULD TARGET HIM & STILL

HARASSED HIM WITH MULTIPLE CALLS. THIS IS THE GLOBAL TERROR THAT AWAITS IN THE NEW POLICE STATE USA WHERE

CITIZENS TREMBLE AT THE NAME OF THE GOVT SERVANTS.[See Alan Pyrtle's testimony in the trial synopsis & also his transcribed interview pre trial that was forwarded to the Appellate Court]

Every single patient was harassed & the entrapped ones were threatened with charges like conspiracy & obstruction of justice, to force them to lie on the stand & give false statements

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TEXT OF PETITION CONTINUED- THE INVESTIGATION

Another patient Crystal Scott was threatened & perjury was demanded against the petitioner in a similar vein by AUSA's Adam Hulbig, Scott Lemmon & Chief case agent Willie Wilcutt of the NBPd. [See the informal brief, reply brief as well as other submissions to the Ckt. Ct. that are enclosed in the APPENDIX]

The Dist Ct Judge, rather than declaring a mistrial threatened & neutered the defense counsel & buried the evidence of witness tampering/ obstruction of justice & suborning perjury from the jurors.

This was the prime reason for the "investigation" to last 4 years because they had no evidence of the petitioner's guilt & had to manufacture evidence by entrapping, leveraging & coaching patients.

The US Atty's also indulged in blatant evidence tampering where not only they did the "Brady" violation, they destroyed exculpatory evidence & portrayed a false narrative to the jury regarding the petitioner's due diligence as a physician & presented tampered notes as proof [after selectively deleting the exculpatory evidence- See the refutations to the Govt's sentencing memo that is on record with the Appellate Court plus also APPENDIX submissions]

In fact the Appellate Court should have issued a Judgement of Acquittal based on evidence sent to the Court in the 3000 page submission AS THIS IS A CLEAR CUT CASE OF INSUFFICIENCY OF EVIDENCE

The drug charges are inextricably linked to the tax charges, as one would not have happened but for the other. The crucial

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link that ties them together is OUTRAGEOUS GOVT. MISCONDUCT [OGC] [See the point elaborated in the Rehearing petition to the Appellate Court]

Just as one was RIGHTFULLY vacated so should the other.

In fact the Judge & the US Atty.'s, anticipating acquittal, blocked all this [OGC] from the jury whilst clamoring that none of this actually transpired. In fact they continued to deny all this until the Guadango's report appeared which now directly contradicts what they stated in the Govt. informal brief [See evidence on record with the Appellate Court]

EFFECT OF THE PRETRIAL STALKING/HARASSMENT ON THE PETITIONER'S PSYCHE

The statements & actions of LE made it abundantly clear to the petitioner that his life was over & that everything that he had worked all his life for, his life, liberty, property, freedom, name, reputation, business, livelihood WAS GOING TO BE SNATCHED AWAY FROM HIM. He was in essence a dead man walking

When he filed a police report detailing the terror & fear of life that he was experiencing, with armed men stalking him on his property, the Sheriff laughed & informed him that if he does not want to get shot he better stay indoors.

The absolute feeling of helplessness & hopelessness is indescribable when you realize that your life is ending & that there is nothing you can do to alleviate or mitigate it & that no one is there to help you.

Top criminal defense attorneys refused to believe him & said they would be able to help but only when he was arrested. The PI put in his report [See Rodney Knowle's reports on record with the Appellate Ct. stating that actors consistent with law enforcements tactics are watching him & stalking him 24X7, refusing to point out that local law enforcement where his relatives worked & where he was friends with the Sheriff, were involved. He informed the petitioner that he cannot do that

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because he gets all his business from them & does not want to be run out of town]

Petitioner started suffering from severe depression, anxiety, insomnia & lack of appetite. He started having out of body experiences & thought that he was living in an alternate reality as it was too painful to comprehend. [See the 2018 psychology report from Dr. Graney at the FCI 1 medium that diagnosed him as suffering from Adjustment disorder secondary to environmental stress [the police terror] causing severe depression & anxiety] He was in fact psychologically & emotionally paralyzed & crippled. He did not know when the armed men surrounding his home were going to kick the doors in & shoot him. THE SITUATION WAS UNTENABLE EITHER ENDING IN HIS DEATH OR ARREST. THIS WAS A LIFE WORSE THAN DEATH &

NO HUMAN BEING SHOULD HAVE TO GO THROUGH THIS TERROR FOR 4 YEARS, THE UNCERTAINTY OF IT ALL. Lesser men

would have committed suicide.

The pain was too much to bear & handle & the petitioner "cocooned himself" as a defense mechanism, withdrawing inwards & cutting of all social ties with his family & friends [Even with his own mother & dying father who was diagnosed with terminal metastatic Prostate cancer] [See Shannon Thomas Email of 2013 in APPENDIX]

Besides the emotional crisis/mental exhaustion & breakdown there was anger & resentment too as to how LE can act like this in America, which is touted as a Country that follows the rule of the law & is the shining beacon of liberty & an example to the rest of the world

Yes, when they told the Appellant that they were going to take everything & he should not work & shut everything down THE FUTILITY OF KEEPPING HIS BOOKS & DETAILED ACCOUNTING OF HIS PRACTICE, SEEMED ABSURD & THE PETITIONER FULLY

BELIEVED THAT WHEN THE GOVT ACTS ABOVE THE LAW THEY CANNOT PROSECUTE & HIS CIVIL DISOBEDIENCE TO THE

GOVT. CRIMINAL ACTIONS WAS BARRED FROM PROSECUTION & GAVE HIM IMMUNITY

[See the Rehearing petition for details on this too- APPENDIX]

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THE JUDICIAL PROCEEDINGS

THE QUESTIONS PRESENTED TO THE SCOTUS WERE RAISED IN BOTH THE DISTRICT COURT PROCEEDINGS AS WELL AS IN

THE APPELLATE COURT & THE RECORD REFLECTS THAT.

IN THE DISTRICT COURT

- In the 7/19/19 trial proceedings The petitioner directed trial counsel Deborah Newton to inform the Judge inform the JURY of the full definition of WILLFULNESS element of the tax conviction to include his subjective intent & thinking as seen through his eyes as to what was in his mind. Judge Flanagan was actually aware of the SCOTUS PRECEDENT "CHEEK" case WHERE THE CONVICTIONS WERE OVERTURNED FOR THE VERY SAME REASON & even mentioned it on record.

- Throughout the trial proceedings the petitioner requested the Judge on record that by her order blocking the Outrageous Govt Misconduct from the jurors, she was neutralizing the TAX defense of the petitioner

One such allocution can be seen on 7/30/19

In fact the Judge threatened the Defense Counsel on record in the 5/30/19 hearing [See DE synopsis] & censured her to refrain from any mention of Govt. misconduct. This interfered with the atty/client relationship of the petitioner & the counsel, to save her carcass, started sabotaging her own case.

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Both Flanagan as well as Counsel, on record, call the petitioner "mental" & imagining the Govt. Misconduct. [See sentencing hearing synopsis as well as DE synopsis & the sentencing memo that Newton generated, on file with the Appellate Court where she calls her own client mental in one third of the memo pages.

NEWTON WENT AS FAR AS INFORMING THE JURY THAT HER CLIENT WAS UNHINGED & IMAGINING EVERYTHING
[SEE HER

OPENING AS WELL AS CLOSING STATEMENTS]

DE Synopsis also indicates that Newton, Flanagan as well as US attorneys had sealed meetings without the petitioner where they plan to nullify the Tax defense/any mention of OGC, by choreographing what kind of questions Newton would pose the petitioner on direct exam. Flanagan on record refused to let the petitioner inform the jury about any of this, informing him that he could not do a narrative & could just answer the questions of the counsel. When petitioner wanted to inform the jury the Judge started talking over him & made the jury leave [SEE TRIAL SYNOPSIS]

The Govt denying any misconduct simultaneously filed motions in limine [See DE synopsis] to block any evidence & testimony of Outrageous Govt Misconduct [OGC] as well as any evidence of jury nullification. In addition stating that the four year police "investigation" could not be tried or exposed to the jurors. Judge Flanagan readily RUBBER STAMPED this motion

-On 8/5/19 Flanagan gives the jurors final instructions as to the WILLFULNESS element of the TAX charges & DEFINES it only as a voluntary act & a failure of a known legal obligation. SHE REFUSED TO ADD THE SUBJECTIVE INTENT & BELIEF INSTRUCTIONS BECAUSE SHE KNEW THAT THE JURY WOULD NOT CONVICT IF THEY WERE INCLUDED

- Petitioner's Pro Se submissions as well as petitions to the Dist. Ct., alluding to the fact that OGC was the reason for the tax charges & hence his defense & by blocking them from the jury had lead to the wrongful TAX conviction, were all sealed from the public. However the Appellate Court has them on record

ALL OF THE FINALIZED TRIAL TRANSCRIPTS AS WELL AS THE SENTENCING HEARING MINUTES & THE DE EXHIBITS ARE IN

STATEMENT OF THE CASE (12-13)

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THE RECORD AT THE APPELLATE COURT AS WELL AS THE DISTRICT COURT. THE CLERK OF THE SCOTUS NEEDS TO ISSUE AN

ORDER TO THE APPELLATE CLERK TO RECORD THESE [THE 3000+ PAGE EVIDENCE OF OUTRAGEOUS GOVT. MISCONDUCT &

MALFEASANCE HAS NOT BEEN RECORDED, SCANNED & DOCKETED] CERTIFY THEM & SEND THEM OVER TO THE SCOTUS .

THE SCOTUS NEEDS TO DO A RECORD REVIEW

ADDITIONALLY THE PETITIONER HAS DOCKETED WITH THE APPELLATE COURT HIS SYNOPSIS OF THE TRIAL, SENTENCING,

DE EXHIBITS AS WELL AS REFUTATIONS OF THE SPURIOUS SENTENCING MEMO OF THE DIST. CT JUDGE AS WELL AS THE

GOVT.'S SHAM SENTENCING MEMO. THE PSR REFUTATIONS ARE ON FILE WITH THE APPELLATE COURT ON A USB DRIVE &

THE SCOTUS NEEDS TO GET A COPY OF THAT. THE SYNOPSIS & REFUTATION ACCURATELY REFLECT WHAT TRANSPIRED

IN THE APPELLATE COURT LEVEL

The same questions that have been raised in the Certiorari to the SCOTUS were once again raised at the Appellate Court level.

THE INFORMAL BRIEF

PAGES 63 & 64 - Mention the OGC & state the PTSD that petitioner suffered because of that & his right to protest. It cites the SCOTUS PRECEDENT the "CHEEK" case as well as the ERRONEOUS JURY INSTRUCTIONS GIVEN BY FLANAGAN. It mentions petitioner's subjective belief however unreasonable it may have been, stating that a good faith

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misunderstanding of the law or a good faith belief that one is not violating the law negates WILLFULNESS stating further that even a unreasonable belief in the lawfulness of one's conduct IS SUFFICIENT TO REQUIRE AN ACQUITTAL

THE ADDENDUM TO THE INFORMAL BRIEF

The 17 page addendum mentions OGC/Tax defense as well as insufficiency of evidence. It also outlines Judicial Misconduct & ineffective assistance of counsel See pages 10 & 11 for the tax defense.

THE INFORMAL REPLY BRIEF

The petitioner's informal reply brief once again elaborates on the same very issues that are pointed out to the SCOTUS Pages 11 & 12 of the brief [SEPERATELY COPIED IN THE APPENDIX] detail the Tax convictions defense.

A] Petitioner's willfulness negated as he did have subjective good faith belief that he was not violating the law as per the "CHEEK" case which is again cited

B] Structural error occurring when his legit defense pointing to OGC was shot down

C] Petitioner had a legit AFFIRMATIVE DEFENSE of mental anguish/duress as well as emotional disturbance secondary to Govt's unlawful actions

D] There was ineffective assistance of counsel for the tax defense

E] Testimony as well as evidence of outrageous Govt misconduct was blocked from the jurors leading to the Tax convictions

REASONS FOR GRANTING WRIT (1-4)

11] 1 OF 4

REASON FOR GRANT OF CERTIORARI PETITION

REASON ONE- LOWER COURT DECISION CONFLICTS WITH SCOTUS PRECEDENT

The Judgement of the Court of Appeals for the Fourth Circuit, secondary to misinterpretation & misapplication of the SCOTUS precedent in the "CHEEK" case, apropos the petitioner's case, CONFLICTS WITH THE SCOTUS DECISION.

The SCOTUS vacated the the tax convictions of CHEEK after he had been convicted @ the District Court & the decision affirmed in the Seventh Circuit Court of Appeals. The reason for SCOTUS did that because subjective intent jury instructions as to the beliefs of CHEEK were not properly given to the jury by the District Court with regards to the WILLFULNESS element of the tax charges.

Similarly in the petitioner's case the District Court withheld subjective intent & belief instructions in the WILLFULNESS element of the TAX charges, despite request from the petitioner & that resulted in the wrongful tax convictions.

CONFLICT BETWEEN THE PRECEDENT DECISION OF THE SCOTUS & ERRONEOUS RULINGS BY THE LOWER COURT IS THE

STRONGEST REASON FOR A GRANT OF CERT.

Although Grant of Cert. is a matter of Judicial discretion & not of right, here the Court of Appeals has rendered a decision that conflicts with the precedent set by the SCOTUS. The Appellate Court decided an important issue of Federal law that

REASONS FOR GRANTING WRIT (2-4)

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needs to be settled by the SCOTUS

The conflict is DIRECT as well as APPARENT. The Court of Appeals refuses to follow & disagrees with the SCOTUS precedent & has failed to apply it properly to the petitioner's case despite the CHEEK case being cited by the petitioner both at the District as well as the Appellate courts.

The authority case where the ruling is in conflict with the Precedent case is the ARMY & AIR FORCE EXCHANGE SERVICES V.

SHEEHAN & IT HAS BEEN FULLY CITED IN THE TABLE OF AUTHORITIES

REASON TWO- LOWER COURT DECISION IS CLEARLY ERRONEOUS

The decision of the Court of Appeals for the Fourth Circuit is ERRONEOUS.

The Judgement of the Circuit Court affirmed the tax convictions of the petitioner despite the petitioner adequately explaining that the jury instructions on the WILLFULNESS element of the TAX charges was DEFICIENT at the District Court level. The petitioner correctly cited the SCOTUS precedent where SCOTUS had vacated the Tax convictions in a similar precedent case [THE APPELLATE COURT HAS VACATED THE PETITIONER'S DRUG & MONEY LAUNDERING CONVICTIONS BUT

AFFIRMED THE TAX CONVICTIONS- THE PETITIONER HAS FILED A TIMELY REHEARING/REHEARING EN BANC PETITION WITH

THE CIRCUIT COURT]

The authoritative voice of the SCOTUS needs to correct this error by the lower Courts because the decision departs from the SCOTUS precedent & is clearly erroneous

REASONS FOR GRANTING WRIT (3-4)

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REASON THREE- THE QUESTIONS PRESENTED ARE IMPORTANT

[a] The questions presented are vital & very important [see questions presented to SCOTUS] & decide proper interpretation/application of the Federal law when it comes to proving all the elements of a crime in order to convict a criminally charged defendant.

The question of intent/belief/subjective state of mind is CENTRAL & PIVOTAL in deciding WILLFULNESS as the SCOTUS Ruled in the CHEEK case.

The SCOTUS also did a similar ruling as to WILLFULNESS in the drug related 841 statute, ruling that subjective good faith belief & intention negates WILLFULNESS [THE RUAN DECISION]

This guidance by the SCOTUS to the lower Courts is essential because it determines whether an INNOCENT man gets his life back or spends decades in prison.

[b]The petitioner's case is also unique because numerous constitutional issues are involved

The behavior of the Executive branch personnel [police & prosecutors] was clearly overboard & above the law

NUMEROUS FIFTH AMENDMENT DUE PROCESS VIOLATIONS OCCURED

REASONS FOR GRANTING WRIT (4-4)

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11] 4-4.

- How petitioner was put in a virtual prison for 4 years before his arrest so that a "manufactured case" could be brought against him . During this time his CIVIL RIGHTS WERE BLATANTLY TRAMPLED UPON

- How the Govt. first entrapped his patients & then leveraged them to commit perjury in order to indict & convict the petitioner [See Alan Pyrtle & Crystal Scott interviews conducted by defense counsel pretrial in the 3000 + page evidence that the Ckt. Ct. refuses to scan & docket]

NUMEROUS SIXTH AMENDMENT VIOLATIONS OCCURED

- Petitioners right to a fair jury trial were impinged upon when the Judge threatened & neutered his defense counsel

- As a result of this there was ineffective assistance of counsel

- The Judge's rulings prevented the OGC from being exposed & the petitioner greatly

- Similar rulings prevented the petitioner from showing evidence of his due diligence/innocence as a physician that directly refuted the prosecutors fake narrative & this again prejudiced him to the jury. THIS IS A CLEAR CUT CASE OF INSUFFICIENCY OF EVIDENCE

- Additionally his right to confront the witnesses against him was impinged when the Judge stopped him from impeaching the sham Govt "expert" [See sentencing hearing transcript]

CONCLUSION

(1-2)

12] 1-2

CONCLUSION

The petitioner PRAYS & ENTREATS THE SCOTUS & THE JUSTICES, INCLUDING THE CHIEF JUSTICE for a grant of Writ of Certiorari to the Fourth Circuit Court of Appeals.

The case is straightforward & the error is plainly visible, so additionally a SUMMARY JUDGEMENT/DISPOSITION based on the

merits of the case should be granted REVERSING THE APPELLATE JUDGEMENT & VACATING THE TAX CONVICTIONS IN LIGHT

OF THE SCOTUS PRECEDENT. Briefing & oral arguments will not necessarily be more convincing or aid in this process & will be a waste of time/energy & money.

The authoritative Voice of the SCOTUS needs to be heard loud & clearly by the lower Courts & IT IS VITAL THAT THE SCOTUS

GIVES CREDENCE TO THE QUESTIONS THE PETITIONER POSES AS IT CLEARLY DEMONSTRATES THE LOWER COURTS DECISION

IS ERRONEOUS IN THE EYES OF THE SCOTUS & DEPARTS FROM PRECEDENT.

Additionally the SCOTUS needs to command the Appellate Court to record/file all the evidence [the 3000+ pages sent that were never scanned/docketed or filed], certify it & send it over to the SCOTUS for review. So a records review by the SCOTUS is essential as there is complete miscarriage of justice as well as insufficiency of evidence along with outrageous

CONCLUSION

(2-2)

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Govt. Misconduct.