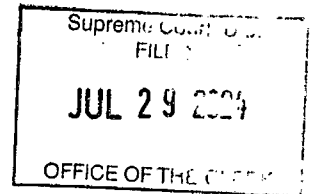


No. 24-5323

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



MUHDIN SALAD OMAR — PETITIONER
(Your Name)

vs.

JOHN C. GARDNER — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COURT OF APPEALS FOR THE FOURTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MUHDIN SALAD OMAR
(Your Name)

Fed. Corr. Complex / U.S. Penitentiary
(Address)
P.O. Box 1034 / Coleman 2

COLEMAN, FLORIDA 33521
(City, State, Zip Code)

NA
(Phone Number)

TABLE OF CONTENTS

OPINIONS BELOW	142
JURISDICTION.....	3
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	4
STATEMENT OF THE CASE	5
REASONS FOR GRANTING THE WRIT	6
CONCLUSION.....	7

INDEX TO APPENDICES

APPENDIX A @ *Page 1-7* - opinions below

APPENDIX B @ *Page - 2 - 1/2*

APPENDIX C @ *page*

APPENDIX D

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

BALLARD V. WALL, 413 F.3d 510 (5th Cir 2005) @ Page 6(i)
BIVENS V. SIX UNKNOWN NAMED DEFS, (403 U.S. 388) @ Page 6(i)
TOWER V. GLOVER, 467 U.S. 914 (1984) @ Page 6(i)

STATUTES AND RULES

Title 28 U.S.C. § 1331 ;
§ 1332 ;
§ 1343 ;
§ 1346 ;
§ 1367 ;
§ 1927 ;
§ 2201 ;

OTHER

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:

John N. C. GARDNER, Attorney @ Law,

RELATED CASES

- 1: OMAR V. U.S., ACTION NO. 23-6469 4TH CIR. CT. OF APPEALS
- 2: OMAR V. U.S., ACTION NO. 2:11-CV-34 U.S.D. CT D.E.D. Va.,
- 3: U.S. V. OMAR, ACTION NO. 2:22-CV-386 U.S.D. CT D.E.D. Va.,
- 4: OMAR V. GARDNER, NO. 2:23-CV-57 AWA-LRL U.S.D. CT. E.D. Va.
- 5: OMAR V. GARDNER, NO. 23-7300, U.S. CT. OF APPEALS 4TH CIR.

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 2-1-2 to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court appears at Appendix 1-1-2 to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at NA _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the NA _____ court appears at Appendix _____ to the petition and is

☐ reported at NA _____; 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 4 / 22 / 24.

☐ 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: 7 / 2 / 24, and a copy of the order denying rehearing appears at Appendix _____.

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

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

☐ For cases from **state courts**:

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

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

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 1: BLATANT DISREGARD / VIOLATION OF
THE 5TH AMENDMENT AGAINST DOUBLE JEOPARDY:
- 2: FLAGRANT DISREGARD / VIOLATION OF THE
6TH AMENDMENT TO DUE PROCESS:
- 3: CONTEMPTUOUS DISREGARD / VIOLATION OF
THE FIFTH AND SIXTH AMENDMENTS BY
PARTICIPATING IN A "STAR CHAMBERS"
LIKE SECRETIVE SETTING, DEFYING ALL
TENETS OF DUE PROCESS, BY EXCLUDING
APPELLANT THEREFROM, AND GREATLY
ENHANCING APPELLANT'S SENTENCE:
- 4: OUTRAGEOUS DISREGARD / VIOLATION
OF TITLE 28 U.S.C. §§ 1331 : 1343 :
1927, WHICH PERMIT A CIVIL SUIT
AGAINST A FEDERAL EMPLOYEE, OR
ONE ACTING AS SUCH, UNDER THE
STATE AUSPICES FOR GROSS MALPRACTICE:
- 5: SHAMELESS DISREGARD / VIOLATION OF
THE EIGHT AMENDMENT WHICH PROHIBITS
CRUEL AND UNUSUAL PUNISHMENT THAT
GREATLY INCREASES PUNITIVENESS:

QUESTION(S) PRESENTED

- 1: MAY A COURT APPOINTED ATTORNEY, IN A CRIMINAL CASE (MIS) REPRESENT A DEFENDANT IN A SECOND SENTENCING HEARING, (WHICH THIS PETITIONER WAS EXCLUDED FROM), WHEN NO NOTICE OF DIRECT APPEAL WAS FILED, SOME FOUR MONTHS AFTER OFFICIAL SENTENCING, AND THIS PETITIONER'S SENTENCE WAS ENHANCED DRAMATICALLY?
- 2: MAY A COURT APPOINTED ATTORNEY, IN A CRIMINAL CASE ACQUIESCE TO A DISTRICT COURT AND U. S. ATTORNEY BECKONINGS, AFTER THE CRIMINAL CASE WAS FINALIZED, AND AGREE TO AN INCREASED SENTENCE?
- 3: MAY A COURT APPOINTED ATTORNEY, IN A CRIMINAL CASE ESCAPE PERSONAL LIABILITY VIA HIS OVERT ACQUIESCENCE TO THE U.S. ATTORNEY'S, COLLUSION WITH COURT APPOINTED ATTORNEY, TO VIOLATE PETITIONER'S DOUBLE JEOPARDY RIGHTS GUARANTEED UNDER THE FIFTH AMENDMENT?
- 4: MAY A COURT APPOINTED COUNSEL BE HELD CIVILLY LIABLE FOR AGREEING TO AN ENHANCED SENTENCE THAT PETITIONER WAS NOT APPRISED OF SUCH ENHANCEMENT?

STATEMENT OF THE CASE

- 1: Petitioner Was charged With Piracy in Violation of 18 U.S.C. § 1651 & 52, in the U.S. District Court For the Eastern District of Virginia. And on October 3, 2011, Sentence of Life imprisonment was imposed by the Honorable MARK S. DAVIS, Judge;
- 2: Consequently, Without Notice of Appeal, NO DIRECT APPEAL Was Taken and on October 19, 2011, The case Was Finalized;
- 3: On February 23, 2012, over 4 months AFTER Finalization of The case against Petitioner, The Honorable R.B. SMITH, Judge, at behest of The U.S. Attorney, Conducted a Closed Door "STAR CHAMBERS" Like Second Sentencing hearing, Which Petitioner Was EXCLUDED From;
- 4: Petitioner Was Purportedly represented at the Second Hearing by APPELLEE, JOHN C. GARDNER, Attorney at Law, Who Was Summoned by the Court and U.S. Attorney, to misrepresent Petitioner illegitimately, because GARDNER'S official representation of Petitioner ended When This case Was Officially FINALIZED on October 19, 2011, Not on February 23, 2012;
- 5: Petitioner only Learned of the Second Sentencing Hearing Several Years Later, When he discovered in Prison, that APPELLEE GARDNER, acquiesced to the District Court and U.S. Attorney, by agreeing to Their demands of Petitioner being assessed \$08,000.⁰⁰ in restitution. Which This Petitioner NEVER agreed to at his Sentencing Hearing nor in PLEA NEGOTIATIONS;
- 6: Upon Learning of APPELLEE'S unauthorized, unsolicited misrepresentation of Petitioner, Petitioner Filed Civil Action against APPELLEE GARDNER, For \$08,000.⁰⁰, Which is the Sum GARDNER ACQUIESCED to at Petitioner's Second "SECRETIVE SENTENCING HEARING" on 2/23/2012;
- 7: The Suit against GARDNER Was/is pursued under 28 U.S.C. § 1331, § 1332, § 1343, § 1346, § 1367, § 1927 & 2201;

REASONS FOR GRANTING THE PETITION

- 1: The interest of Justice dictates, nor Mandates that All defendant's brought into The United States District Court, be afforded The ~~guaranteed~~ rights clearly outlined in The U.S. Constitution. But in case at hand, because This APPELLANT is A Foreign NATIONAL, From The Country of Somalia, Continent of AFRICA. The APPELLEE Defendant John C. GARDNER, usurped his initial appointment as defense Counsel, by acting as a Government employee, AFTER his defense Counsel Tenured appointment Long Since expired:
- 2: The assumption of acting in APPELLANTS behalf, on The Whim of The Government, makes APPELLEE LIABLE For Financial damages because GARDNER'S representation Ceased Several months prior When the case was Finalized Fifteen days AFTER The imposition of Sentence and No Direct APPEAL Nor Notice of Appeal was ever made:
- 3: The APPELLEE acted Wholly at the behest of The Government by acting under cover of LAW When actually Conspiring With officials to deprive This APPELLANT of Constitutional Rights; Hence APPELLEE IS LIABLE:

Continuation of "REASONS FOR GRANTING PETITION"

1. Pursuant to This Honorable Courts ruling in BIVENS v. SIX unnamed defendants, 403 U.S. 388 (1971), petitioner brought Suit against Appellee John C. GARDNER, attorney @ law, relying further upon TOWER v. GLOVER, 467 U.S. 914 (1984), which holds Quote: "Appointed Counsel may have acted under Cover of Law when he conspired with officials to deprive client (plaintiff therein), of Constitutional rights". This is a direct parallel case, since John C. GARDNER, no longer in any way had any authority to act as this Appellant's Counsel, over 4 months after Finalization of the Criminal case Sentencing of Appellant. Appellee assumed the mantle of (mis) representing this petitioner/Appellant, in what amounted to a "STAR CHAMBERS" Sham SECOND SENTENCING HEARING, which this Appellant was excluded from, and GARDNER, signed off on a substantial increase of punishment against Appellant:

2. The APPELLEE in this case directly parallels the particulars in BALLARD v. WALL, 413 F.3d 570 (5th Cir. 2005), Quote: "Attorney who conspired with Judge in attempts to collect money from plaintiff was subject to BIVENS ACTION".

3: Predicated upon This Honorable Courts decisions and that upheld Within the Fifth Circuit under BALLARD v. WALL, Supra, petitioner brought Forth in The U.S. District Court, Not only viable Legitimate Civil Action under 28 U.S.C. § 1331, § 1332, § 1343, § 1346, § 1367, § 1927, & § 2201, against Appellee For overtly Violating Appellants Constitutional rights under The 5th - 6th - 8th Amendments. For This Appellants additional punishment imposed after The Criminal Case Was Finalized, Violated The double Jeopardy Clause Maliciously:

4: The Long and Short of This case, is May a discharged, or Terminated Court appointed defense Counsel, mis-represent APPELLANT, Without any authorization Nor knowledge of APPELLANT, and acquiesce to government and Court Manipulations, Whereby Appellant is Significantly and illegally punished Far beyond his guilty plea agreements (4 months after) The case was officially Finalized?

5: This is the crux of Appellants petition. ing For Writ of (prayed For) CERTIORARI:

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

/s/ Omay
MUHAMMAD SALAD OMAR

Date: 7/30/24