

# No. 24-6394

IN THE SUPREME COURT OF THE UNITED STATES

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**MEHDI MOSLEM & SAAED MOSLEM,**

Petitioners,

v.

**UNITED STATES OF AMERICA,**

Respondent.

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**EMERGENCY MOTION FOR RECONSIDERATION**

**OF DENIAL OF WRIT OF MANDAMUS**

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On Petition for Writ of Mandamus to the  
United States Court of Appeals  
for the Second Circuit

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Date: June 3<sup>rd</sup> , 2025

## INTRODUCTION

Petitioners respectfully move this Court to reconsider its May 5, 2025, denial of their petition for a writ of mandamus. This request is grounded in incontrovertible evidence of “fraud on the court” through a materially false indictment and the perpetuation of a legally impossible conspiracy theory. The denial of relief in this context violates statutory law, the U.S. Constitution, and the Supreme Court’s own ethical canons, and would constitute a manifest injustice.

### 1. MANDAMUS LEGAL STANDARD AND APPLICATION

A writ of mandamus is warranted where:

- i. Petitioners have a clear and indisputable right to relief;
- ii. There is a clear duty of the lower court to act;

No other adequate remedy exists (Cheney v. U.S. Dist. Court for D.C., 542 U.S. 367, 380-81 (2004); Bank of Nova Scotia v. United States, 487 U.S. 250, 254-56 (1988)).

### 2. UNDISPUTED FACTS AND LEGAL IMPOSSIBILITY

The indictment alleges Petitioners conspired “together with” Stephen Strauhs for the entire charged period. ( EXHIBIT A – April 6<sup>th</sup>, 2021 Indictment )

Strauhs became a government informant in October 2012; as a matter of law, an informant cannot be a co-conspirator during the period of cooperation (United States v. DeSimone, 119 F.3d 217, 223 (2d Cir. 1997)). ( EXHIBIT B – Strauhs Cooperation Agreement )

The government and Judge Seibel concealed this fact from both grand and trial juries, resulting in a conviction based on a legally impossible theory.

### 3. STATUTORY AND CONSTITUTIONAL VIOLATIONS

#### A. Statutory Violations

- i. 28 U.S.C. § 1651 (All Writs Act): The Supreme Court is empowered to issue writs to protect its jurisdiction where the right and duty to act are clear. Denial of relief here violates this statutory mandate.
- ii. 18 U.S.C. § 1001: Knowingly allowing a conviction to stand on a false record or concealing material facts is a federal crime.
- iii. 18 U.S.C. § 4 (Misprision of Felony): Concealing known judicial or prosecutorial fraud is itself a felony.
- iv. 18 U.S.C. § 1346 (Honest Services Fraud): Depriving the public of honest judicial services by concealing fraud is criminal.

#### B. Constitutional Violations

- i. Fifth and Sixth Amendments: The right to due process and a fair trial is violated when a conviction is based on a legally impossible theory and the jury is misled (*Francis v. Franklin*, 471 U.S. 307, 322 (1985); *Boyd v. California*, 494 U.S. 370, 378 (1990)).
- ii. Fourteenth Amendment: Equal protection is denied when pro se litigants are systematically disadvantaged and meritorious arguments are disregarded.

#### **4. FRAUD ON THE COURT AND CASE LAW**

- i. *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 245 (1944): “Fraud on the court” that corrupts the judicial process requires vacatur of the judgment.
- ii. *United States v. Basurto*, 497 F.2d 781, 786 (9<sup>th</sup> Cir. 1974): Failure to dismiss an indictment obtained by fraud is reversible error.
- iii. *Dunn v. United States*, 442 U.S. 100, 106 (1979): Courts cannot rewrite indictments to save defective charges.
- iv. *Stirone v. United States*, 361 U.S. 212, 217 (1960): Later grand jury awareness cannot retroactively cure defects in the original indictment.
- v. *Bailey v. Glover*, 88 U.S. 342 (1874): Fraudulent concealment tolls limitations and demands equitable relief.
- vi. *McDonough v. Smith*, 139 S. Ct. 2149 (2019): Convictions based on fabricated or fraudulent evidence must be overturned.

#### **5. VIOLATIONS OF SUPREME COURT CODE OF CONDUCT**

- i. Canon 1: Judges must uphold the integrity and independence of the judiciary. Overlooking clear fraud undermines both.
- ii. Canon 2: Judges must avoid impropriety and the appearance of impropriety. Failing to act on undisputed fraud is the essence of impropriety.

iii. Canon 3: Judges must perform duties fairly, impartially, and diligently. Ignoring clear legal error and denying relief is a dereliction of this duty.

iv. Canon 4: Judges must minimize conflicts with judicial obligations.

v. Canon 5: Judges must refrain from inappropriate political activity.

## 6. MANIFEST INJUSTICE AND PUBLIC TRUST

i. Denying reconsideration in the face of these errors would result in a “manifest injustice, clearly apparent or obvious on its face” (25 CFR § 581.6).

ii. The judiciary’s legitimacy depends on correcting injustice and preventing the perpetuation of known fraud.

iii. The Supreme Court’s refusal to grant mandamus in the face of undisputed, ministerial facts signals that “systemic misconduct can go unchecked, eroding public confidence in the judiciary’s ability to act as a neutral arbiter of justice”.

## CONCLUSION

The record demonstrates that the lower courts and the Supreme Court have perpetuated a manifest injustice by allowing a conviction and continued imprisonment based on a fundamentally fraudulent indictment, legally impossible conspiracy theories, and instructions that misled and deprived the jury of the truth. These errors violate not only the U.S. Constitution and federal law, but also the Supreme Court’s own ethical canons and the fundamental moral duties of the judiciary.

Petitioners respectfully request:

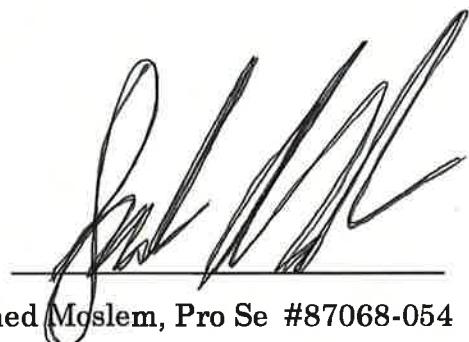
- 1) Emergency reconsideration of the denial of the writ of mandamus;
- 2) Immediate relief, including vacatur of the conviction or remand for further proceedings consistent with law.

Pursuant to 28 U.S.C § 1746, I Mehdi Moslem, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Pursuant to 28 U.S.C § 1746, I Saaed Moslem, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



Mehdi Moslem, Pro Se  
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Date: June 3<sup>rd</sup>, 2025



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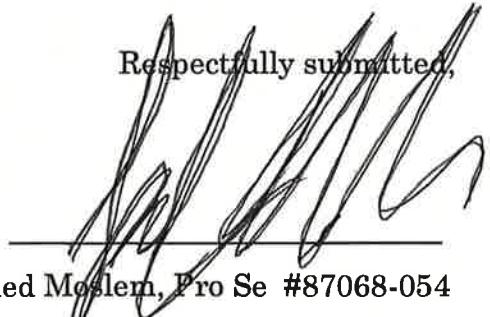
CERTIFICATE OF GOOD FAITH

Pursuant to Supreme Court Rule 44, Petitioners certify that this petition for rehearing is presented in good faith, not for delay, and is limited to substantial grounds not previously presented and intervening circumstances of substantial or controlling effect.



Mehdi Moslem, Pro Se  
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Respectfully submitted,



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