24-6512

IN THE SUPREME COURT
FOR THE UNITED STATES

IN RE JOHN DAVID STAHLMAN
Petitioner - Defendant

PETITION FOR EXTRAORDINARY WRIT
Persuant to Supreme Court Rule 20
Habeas Corpus

John Stahlman
Petitioner - Defendant
Pro Se

John Stahlman #68280-018
Unit A-2
Federal Correctional Complex - Low
P.O. Box 1031
Coleman, FL 33521

QUESTIONS PRESENTED

1) DID THE COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT, WHEN ISSUING ITS OPINION IN UNITED STATES v. HITE, 769 F.3d 1154 (D.C. Cir. 2014) CREATE A CONFLICT WITH THE OPINION ISSUED BY THE COURT OF APPEALS FOR THE ELEVENTH CIRCUIT IN UNITED STATES v. MURRELL, 368 F.3d 1283 (11th Cir. 2004) ?

2) DOES THES CONFLICT ADDRESSED ABOVE CREATED A SCENARIO WHERE A DEFENDANT MAY BE FOUND GUILTY OF A VIOLATION OF A FEDERAL STATUTE IN THE ELEVENTH CIRCUIT WITHOUT PROOF OR PLEADING OF AN ELEMENT REQUIRED IN THE DISTRICT OF COLUMBIA CIRCUIT FOR A VIOLATION OF THE SAME STATUTE?

3) DID THE COURT OF APPEALS FOR THE ELEVENTH CIRCUIT, WHEN ISSUEING THE OPINION IN UNITED STATES v. LEE, 603 F.3d 904 (11th Cir. 2010) CREATE AN INNER CIRCUIT CONFLICT, SUSEPTABLE TO THE SAME HAZARD AS SUGGESTED IN QUESTION 2 ABOVE?

4) ARE THE CONFLICTS ASSERTED ABOVE "REAL AND EMBARASSING;" WARRANTING THE EXERCISE OF THIS COURT'S DISCRETION TO GRANT AN EXTRAORDINARY WRIT TO RESOLVE SUCH CONFLICT(S)?

CORPORATE DISCLOSURE STATEMENT

Petitioner submits this Corporate Disclosure Statement pursuant to Supreme Court Rule 29.6.

I, Petitioner, John Stahlman, certify that:

(a) I am not a corporation under any State or Federal law.

(b) I am not a publicly held corporation or other publicly held entity.

(c) No publicly held corporation owns 10 percent or more of Petitioner's stock

LIST OF PROCEEDINGS

United States of America v. John David Stahlman -- Crimial Jury Trial
United States District Court for the Middle District of Florida, Orlando Div.
Docket No.: 6:17-cr-45-ORL-DCI-1
Date of Judgment: September 14, 2017

United States v. Stahlman -- Direct Appeal
United Statas Court of Appeals for the Eleventh Circuit
Docket Nos.: 17-14387-HH; 18-12866-HH
Date of Judgment: August 19, 2019

Stahlman v United States -- Petition for Certiorari
United States Supreme Court
Docket No.: 19-6315
Date of Judgment: Certiorari denied on November 18, 2019

Stahlman v. United States -- Application under 28 U.S.C. § 2255
United States Distric Court for the Middle Distrcit of Flroida, Orlando Div.
Docket No: 6:20-cv-1887-CEM-DCI
Date of Judgment:

In re Stahlman -- Petition for Writ of Habeas Corpus
United States Supreme Court
Docket No.: 22-5917
Date of Judgment: Petition denied on November 21, 2022

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Direct Appeal (Conviction Affirmed)

United States v. Stahlman, No. 17-14387-HH
18-12866-HH
United States v. Stahlman, 934 F.3d 1199 (11th Cir. 2019)

Writ of Certiorari (Denied)

Stahlman v. United States, No. 19-6315

Stahlman v. United States, 205 L. Ed. 2d 347, 2019 US LEXIS 7005

2255 (Denied on all grounds, COA denied)

Stahlman v. United States - 6:20-cv-1886-CEM-DCI

Writ of Certiorari (Denied)

Stahlman v. United States, No. 22-5917

Stahlman v. United States, 214 L. Ed. 2d 268, 2022 US LEXIS 5160

BASIS FOR JURISDICTION IN THIS COURT

Pursuant to Supreme Court Rule 20, authorized under 28 U.S.C. § 1651(a), this Court has jurisdiction over this case on a "discretionary" basis.

The date of judgemnt of the case to be reviewed is September 14, 2017. Since the time alloted to file a Petitioner for Certiorari has already elapsed; in fact, Petitioner filed a Cert and such was deneid,; he is asking this Court to exercise its discretionary powers under Rule 20 and grant and Extraordinary Writ, authorized by 28 U.S.C. § 1651(a).

HABEAS CORPUS APPLICATION

Petitioner, John Stahlman, hereby submits this Application to the Supreme Court for Habeas Corpus relief, specified below, pursuant to Supreme Court Rule 20.

As required by Rule 20(4)(a):

Petitioner is serving a 292 month sentence for a conviction, after a jury trial, under U.S.C.§2422(b). He is serving his sentence at FCI Coleman Low, in Coleman, Florida. The authority the federal government relies upon to hold him lies in Article 3 of the U.S. Constitution, the "Commerce Clause", as his crime utilized a "facility or means of interstate or foreign commerce".

Petitioner did not submit this application to the district court of the district in which he is held; here, the Middle District of Florida; because a) Petitioner has already exhausted his remedies with the lower courts; to include direct appeal and habeas corpus under 28 U.S.C. §2255; and b) that due to a circuit precedent, the Eleventh Circuit Court of Appeals, and all other district courts within the circuit, are bound by United States v Murrell, 368 F.3d 1283 (11th Cir. 2004), a finding in conflict with both United States v Laureys. 653 F.3d 27 (D.C.Cir. 2011) and United States v Hite 796 F.3d 1154 (D.C. Cir. 2014).

Application to the lower courts has shown fruitless and only this Court has the power and authority to resolve the conflict and assure Petitioner's rights are protected.

CONSTITUTIONAL AND STATUTOY PROVISIONS INVOLVED

AMENDMENT 5 TO THE CONSTITUTION OF THE UNITED STATES

"Crminal actions-Provisions converning-Due process of law and just conpensation

No person shall be held to answer for a capital, or otherwise imfamous crime, unless on a presentment of indictment of Grant Jury except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense twice put in jeopardy of life or limb; nor shall be compelled in any criminal defense to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

Title 18, United States Code Service, Chapter 117, Section 2422, subsection b

"whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special meritime and territorial jurisdiction of the United States knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to engage in prositution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title and imprisoned not less than 10 years or for life."

STATEMENT OF THE CASE

Culpability of a crime should be based upon standard law not geography. A defendant facing federal charges in one district of the United States should be held to the same standard of guilt than in any other district of the United States. To leave culpability open to judicial interpratation could allow a defendant in one district to be found guilty of an offense without proof or pleading of an element required in another district. Such variation would be a violation of a defendant's right to due process of law. If such a variation exists among the districts; or their parent circuits; this Court should step in to ensure a defendant's fair and equal treatment regardless of which district's jurisdiction inwhich they are charged; as is one of the duties vested; and unique; to the Supreme Court. "It is very important that we be consistent in not granting the writ of certiorai **except** ... in cases where there is a real and embarassing conflict of opinion and authority between the circuit courts of appeal." Layne & Bowler Corp. v. Western Well Works, 67 L. Ed. 712, 714, 216 U.S. 387, 393 (1923).(Emphasis Added).

Petitioner asserts one such conflict exists and also asserts that his criminal case, and subsequent conviction, hightlights the conflift in stark contrast. Petitioner respectfully requets this Court exercise its discretion and grant a writ of certioari to resolve the conflict among the circuits.

Facts of the Case at Bar

Petitioner was the subject of a reverse sting operation conducted by the Federal Bureau of Investigation which resulted in him being charged with, and convicted of, a violation of 18 U.S.C. § 2422(b). Section 2422(b) reads, in Sum, anyone who persuades, induces, entices, and/or coerces a minor to engage in an illegal sexual act; or attempts to do so; shall be punished under this statute. As evidence against Petitioner, the government presented emails and text messages that were exchanged between Petitioner and the purported father of a minor; later characterized as "Agent Hyre." Petitioner never communicated

with the minor nor did he ever ask that any of his communications be forwarded to the minor. Also, with the exception of a photo and the date of the proposed meeting, there was never any assertion made by the purported father that any of the communications were being transmitted to the minor.

As such, Petitioner had no direct or indirect communication with the alleged minor. He spoke only with the "third party" who acted absent the minor who could arrange for a sexual encounter with the minor.

To be sure, during closing arguments, the government made the following assertions. Note that where the government uses terms such as "a little girl," "the child," "the little child," and "the eleven-year-old child;" Petitioner will substitute the term "minor" for clarity.

> "..[Defendant carried out his **plan** to meet the father of [a minor] so that he could have sex with a [minor]." See Crim. D. E. 11 at 41. "..Defendant drove to the Gander Mountain parking lot to have sex with the [minor]. Id. at 41-42. "...all the communications that express the defendant's ready willingness to persuade Agent Hyre as the father of [a minor] into sexual contact." Id. at 43-44. "He suggested that they meet. He continually suggested a meeting." Id. at 44. "He's trying to meet with a father who he knows controls the [minor] so that he can have sex." Id. "More planning and his eventual traveling to Gander Mountain. Moreover, the defendant attempted to persuade Agent Hyre by concocting a clear scenario where [the minor] would be sexually exploited but slowly eased into the sexaul act." Id. at 44-45. "That's what [the defendant is] planning to do. That's the timeline of events. That's how he wants this to go down." Id. at 45. "This is not a person who is not trying to get a meeting going. This is someone who really wants to lay out the plan." Id. "This was a step-by-step process to make the [minor] feel comfortable in order to persuade her to engage in ... These are words and actions that are obvious evidence of [defendant's] intent to persuade and entice, but that's not all." Id. at 46. "He knew that Agent Hyre controlled the [minor]." Id. "[The Defendant] knows who can facilitate a meeting, and he tried to build a raport with the father and he tried to arrange those meetings through the father..." Id. at 46-47. "Why is [the defendant] letting Agent Hyre know that ...becasue he's trying to induce and entice a [minor]..." Id. at 47. "Again, he's building that raport." Id. "He kept letting Agent Hyre know that he..." Id. at 49-50. "He demonstrated his intent not just by showing up to have sex with [a minor]..." Id. at 50. "He said that [the minor] was very cute and sexy, would love to meet her" Id. at 51. And lastly, "[the defendant] stated he wanted to take a shower to break the ice.... He requested a picture of the [minor]... And he agreed to the father's rules. He suggested three encounters... He drove all the way to the Gander Mountain parkinglot to meet [a minor] for sex." Id. at 55-56.

As is clear, Petitioner made repeated plans with the purported father to meet a minor and discussed, in graphic detail, what sexual acts he planned or

wished to engage in with the minor after they met. Petitoiner built a rapport with the father who Petitoner knew had control of the minor. And Petitioner traveled to meet with the father who would, then, take him to the minor.

These facts, in and of themselves, are undisputed.

Court of Appeals for the Eleventh Circuit

Based upon a precedentail case in the Court of Appeals for the Eleventh Circuit, Petitioner'sconduct fits squarely within the conduct proscribed under 18 U.S.C. § 2422(b).

> "As a matter of first impression in the federal circuit courts, we must determine whether a defendant who arranges to have sex with a minor through communications with an adult intermediary... violates § 2422(b). ...By negotiating with the purported father of a minor, Murrell attempted to stimulate or cause the minor to engage in sexual activity with him."

United States v. Murrell, 368 F.3d 1283, 1286-87 (11th Cir. 2004).

Furthermore, several cases in the Eleventh Circuit have followed Murrell's lead. "There, the defendant made inital contact with the purported minor, readily proceeded to attempt to arrange a sexual encouter with her..." United States v. Allen, 859 Fed. Appx. 892 (11th Cir. 2021) at 894. "Count 1 charged him with attempted child enticement in violation of 18 U.S.C. § 2422(b), based on his efforts to arrange a sexual encounter..." United States v. Roy, 855 F.3d 1133, 1135 (11th Cir. 2017). "... as applied to a case involving a defendant speaking to an undercover agent posing as the parent of a fictitious child, when the defendant attempts to arrange sexual abuse through the coversation." United States v. Shumaker, 479 Fed. Appx. 878, 885 (11th Cir. 2012).

However, a careful read of Murrell and how the panel reached its determination reveals much. The panel apears to controdict itself; albeit subtly.

"Murrell contends that the minor's inducement may not be effected indirectly via the intermediary..." Murrell, 368 F.3d at 1287. Later, "Moreover, we note that the effiacy of § 2422(b) would be evicerated if a defendant could circumvent the statute simply by employing an intermediary to carry out his intended objective." Id. Petitoner agrees. Utilizing a third

party to persuade, indicue, entice, and/or coerce one one's behalf does not remove culpability. However, this finding still assumes "someone" is directly engaging in persuasion, inducement, enticement and/or coercion of the minor. The minor is still the subject of the defendant's persuasion, indicuement, enticement, and/or coersion; be it indirectly.

Then, in Murrell, the panel seems to veer "off target."

"By negotiating with the purported father of a minor, Murrell attempted to stimulate or cause the minor to engage in sexual activity with him." Id.

Here, the langauge of "negotiating with the purported father" becomes ambiguous. And the Eleventh Circuit's other admission, "...wheather a defendant who arranges to have sex with a minor..;"Id. at 1286; opens the floodgates to further ambiguity. The subject of the statute's conduct is the minor. And as most circuits have found, the ultimate subject is the minor's decision to agree to engage in the proposed activity. "We have interpreted the requirement[; for a conviction under § 2422(b);] as broadly requiring an intent to achieve a mental state -- a minor's assent..." United States v. Perez-Rodgiguez, 13 F.4th 1 (1st Cir. 2021). "Section 2422(b) criminalizes an intentional atttempt to achieve a mental state -- a minor's assent..." United States v. Mahannah, 193 F. Supp. 3d 151, 153 (N. Dist. of New York, 2016). See also United States v. Davis, 985 F.3d 298,307 (3rd Cir. 2020); United States v. Harris, 991 F,3d 552, 559 (4th Cir. 2021); United States v. Howard, 766 F.3d 414, 421 (5th Cir. 2014); United States v. Roman, 795 F.3d 511, 517 (6th Cir. 2015); United States v. Berg, 640 F.3d 239, 252 (7th Cir. 2011); and United States v. Holley, 819 Fed. Appx. 745, 747 (11th Cir. 2020).

The terms "arrange" and "negotiate," as they relate to a third party, may leave out the minor's will altogether. A defendant can "arrange" sex with a minor without them or the third party engaging in persuasive, inducive, enticing, and/or coervice behavior.[1] The same can be said of "negotiating."

[1]Such conduct would more-closely match the conduct procribed in 18 U.S.C. §§ 2242(3) or 2243(a).

In fact, Petitioner asserts his case highlights this exact scenario. Not only did Petitioner not have any direct or indirect communications with the minor, her will; or decision whether or not to engage; was never influenced by the arrangements being made or the negotiation occurring. Further, the minor was presented to Petitioner was a willing; if not eager; participant, needing no persuasion, inducement, enticement or coersion.[2] And while Petitioner and the purported father discuessed, among themselves, several acts and elements that would appease the minor, the conversation, admitted by the prosecutor, was to appease the father; not the minor. In fact, with the except of two emails, it could have been understood that the minor was wholly unaware of the conversation occurring until such time as a meeting was scheduled.

Thus, the question, when using terms such as 'arrange' and 'negotiate,' is, "Was the defendant, while engaging in these negotiations; or making these arrangements; attempting to presuade, induce, entice and/or coerce the minor to engage in the arranged or planned activities?" And, more importantly, if the minor has no part in the arranging or negotiations; not even as a third party via an intermediary relaying as a go-between; has the minor's will; or her decision whether or not to engage in said activity; been influenced by said planning?

Petitioner asserts the minor's decision whether or not to agree to engage in the planned activity; or her will; played no part in the conduct for which Petitioner was found guilty and, thus, no jury should have been able to find him guilty of a violation of Section 2422(b).

It appears the Court of Appeals for the DC Circuit agrees.

Court of Appeals for the DC Circuit

In United States v. Hite, 769 F.3d 1154, 1166 (D.C. Cir. 2014), the Court of Appeals for the DC Circuit reviewed a conviction for a violation of 18 U.S.C. § 2422(b) where the jury was instructed that, "the goverment must only prove that

[2] This is not to assert that a minor has the ability to 'consent' to sexual activity. They cannot. However, they can assent to sexual activity; which is the requisite intent proscribed under 18 U.S.C. § 2422(b).

the defendant believed that he was communicating with someone who could arrange for the child to engage in unlawful sexual activity." Hite, 768 F.3d at 1166 (emphasis in original). "The instruction further stated that the government must prove only that the defendant... intended to persuade an adult to cause a minor to engage in unlawful sexual activity." Id. (emphasis in original.)

There, the jury was given similar instructions as those given in the case at bar. Jury Instruction 11 states, in pertinent part; "The defendant can be found guilty of this crime only if all of the following facts are proven beyond a reasonable doubt: (1) the Defendant knowingly persuaded, induced, or enticed an individual to engage in sexual activity." See Crim. D.E. 66 at 13. "As used in this instruction, "induce" means to stimulate [illegible] the occurrance of or to cause." Id. at 14 (emphasis added.) During the jury charge, the judge read this instruction, virbatim; Crim. D.E. 118 at 52-53; but added, "You must follow the law as I explain it, even if you do not agree with the law, and you must follow my instructions as a whole. You must not single out or disregard any of the Court's instructions on the law." Id. Applying the plain instructions, Petitioner's jury could have found him guilty if they found he "caused a minor to engage in illegal sexual activity."

The DC Court in Hite found, "... although much of the instruction was correct, the additional language that the 'goverment must only prove that the defendant believed that he was communicating with someone who could arrange for the child to engage in unlawful sexual activity' was erroneous." Hite, at 1167. The panel also asserted; which could easily be applied to the case at bar, "Following the flawed instruction, the jury could have convicted the defendant without necessarily finding that he intended to transform or overcome the will of [the minor], so long was they found that he sought to arrange for sexual activity with [the minor]." Hite, 769 F.3d at 1167.

This assertion stems from the panel's earlier finding that "the preeminenet characteristic of the conduct prohibited under § 2422(b) is transforming or

overcoming the minor's will, whether through inducement, persuasion, enticement, or cercion. Although the word 'cause' is contained within some of the definitions of "induce," cause encompasses more conduct; simply "to cause" sexual activity with a mionr does not necessarily require any effort to transform or overcome the will of the minor. Similarlry, rather than focusing on transforming or overcoming the will of another person, 'arrange' means to 'put (thihgs) in a neat, attrative, or required order" or to "organize or make plans (for a future event.)." Id.

"In light of the substantial influence that the erroneous instructions could have had on the jury, we vacate Hite's conviction and remand for a new trial." Id.

This finding, and result, highlights, with exquisite clarity, how "arrange'" and even the term 'cause,' can lead to ambiguity when determining culpability under Section 2422(b). And where the Eleventh Circuit determined that "induce" means "to cause," the DC Circuit asserts, clearly, that "cause encompasses more conduct." The terms "arrange" and "cause" have no place when determining a defendant's guilt or innocence under Section 2422(b).

Had Petitioner's appeal, or even his trial, occurred in the DC circuit, the Court of Appeals for the DC circuirt would have ruled that, "In light of the substantial influence that the erroneous instructions could have had on the jury, we vacate [Stahlman's] conviction and remand for a new trial." Hite at 1167.

Whether a Real and Embarassing Conflict Exists

There is no question whether or not a real conflict exists. In fact, several courts in these two circuits have addressed the conflict directly.

"Gorychi points out that some other circuits have defined "induce" more narrowly that this Court, see, e.g., United States v. Hite, 769 F.3d 1154, 1161, 1166-67[](D.C. Cir 2014) and asks that we reconsider Murrell. But as a panel, we must apply Murrell's holding, regardless of whether we agree with it." United States v. Gorychi, 2022 U.S. App. LEXIS 30701 at 8. See also United States v.

Cramer, 789 Fed. Appx. 153 (11th Cir. 2019) where the defendant "asks us to endorse the United States Court of Appeals for the District of Columbia Circuit's interpretation of § 2422(b) that communications with an adult intermediary to persuade, induce, entice, or coerce a minor are punishable only if the defendant's interaction with the intermediary is aimed at transforming or overcoming the minor's will in favor of engaging in illegal sexual activity..... But this court has already rejected that interpretation of § 2422(b)." Here, the Eleventh Circuit quotes both Hite, supra, and Murrell, supra. The Cramer panel concludes with, "Thereofore, our binding precedent forecloses a reading of the statute that would make interactions with an adult intermediary punishable only if such interactions were aimed at transforming or overcoming the minor's will in favor of sexual activity." Cramer, 789 Fed. Appx. at 156.

"Movant argues that instead of providing the definition set forth in Murrell, the trial court should instead have instructed the jury that "induce" means "to tansform or overcome the will of the minor," which requires more affirmative effort... Hite is not governing law in this circuit, however... Thus, it is not controlling here." Roy v. United States, 2021 U.S. Dist. LEXIS 399643 (S.D. of Florida).

Next, the D.C. Circuit goes so far as to assert, "[Murrell's] precedent is on weak footing," and that a subsequent panel alluded to the previous panel's "misreading of the statute."

> "Had the jury been correctly instructed, it could not have reasonably found Laureys guilty under § 2422(b). Even if Laureys intended at some point in the future to entice the fictitious child herself, there is no evidence Laureys intended ... to do so... And there is no evidence Laureys attempted to entice the fictitious girl through his online communication with [the purported father]... Section 2422(b) is unambiguously directed at persuasion of a minor... The court cites out-of-circuit precedent in an effort to prove any error in the district court's instruction was not plain. I am not persuaded. Only one circuit has ever hald § 2422(b) criminalizes the attempt to persuade an adult to cause a child to engage in sexual conduct...[citing Murrell] ... The Murrell panel mistakenly assumed § 2422(b) panalizes any attempt to solicit sex with a minor... A subsequent penal of the same court hinted Murrell's analysis was based on a misreading of the statute. See United States v. Lee, 603 F.3d 904, 916 (11th Cir. 2010).

> Returning to the statute's plain meaning, the Lee panel held that "the government must prove that the defendant intended to cause assent on the part of the minor." Id. at 914. Without explicitly overturning Murrell, Lee chartiably construed "[t]he holding in Murrell" to be "that a reasonable jury could have found that Murrell attempted to 'induce; a minor to engage in sexual activity with him because he 'attempted to stimulate or cause the minor to engage in sexual activity with him... The other courts have affirmed convictions under § 2422(b) based on a defendant's communication with an adult have followed the reasoning of Lee, not Murrell. That is, they have required proof the defendant attempted to cause assent on the part of a minor, not the adult intermediary. In each of these cases, the defendant's communication with an adult was either a vehicle through which the defendant attempted to obtain the child's assent, or a substantial step toward persuasive communications with the child herself."

United States v. Laureys, 653 F.3d 27, 39-40 (D.C. Cir. 2011)

Unfortunately for defendants such a Petitioner, and Cramer, supra, Murrell was not overturned by Lee, as the Lee panel was not sitting "en banc." Therefore, "arrange" was a part of the language used by the government to discribe his felonious activity and 'cause' was part of his jury instructions. Both Petitoner's case and Cramer occurred long after the Lee panel's decision. Which means, not only are defendants held to different standards of law in the DC and Eleventh circuits, they are held to different standards within the Eleventh Circuit itself.

Again, there is no question wether or not a real conflict exists.

As to "embarassing," Petitioner isn't aware of a standard here. However, to have courts of law asserting that each other's findings are "on weak footing;" Laureys, 653 F.3d at 32; or to have a defendant assert his conduct doesn't violate a certain statute in another district to be told "that holding is not controlling here;" Roy, 2021 U.S. Dist LEXIS at 38; has to be embarassing when the law 'should' be unambiguous and to have so many different interpretations could assert that legislators were complacent in writing the statute. Again, Pettioner isn't aware of the standard of "embarassing," but this bickering between the highest form of Law seems to fit that description.

CONCLUSION

Petitioner asserts he has shown, herein, that there exists a real and embarassing conflict among the courts of appeals and that this Court has the means to clarify this conflict, via a grant of certioari. As a Justice once asserted, "The statute at issue defines a federal crime, and it should be applied uniformly throught the United States. Yet, because of conflicting interpretations, defendants in some [districts] may be punished for violations wihtout proof of pleading of an element required in another judicial circuit. Criminal culpability for a violation of federal statutes should turn on uniform law, not geography." Wilkes v. United States, 469 U.S. 964, 83 L. Ed. 2d 299, 300 (1984). The fact that this language is part of a "discenting opinion" does not discredit its merits.

Certioari should grant "in cases where there is a real and embarassing conflict of opinion and authority between the circut courts of appeal." Layne & Bowler Corp. v. Western Well Works, 67 L. Ed. 712, 714, 261 U.S. 387, 393 (1932).

Petitioner respectfully requests this Court grant judicial review,

BASIS FOR JURISDICTION IN THE COURT OF FIRST INSTANCE

Defendant was charged with "using a facility and means of interstate commerce". Thus, the federal government asserted its jurisdiction over his non-commercial act; of attempting to induce [cause] a minor to engage in an illegal sex act; by asserting such power was granted by Article 1, Section 8, Clause 3 of the United States Constitutuion, which reads, "[The Congress shall have the Power] To Regualte Commerce with foreign nations, and among the several states....". Defendant's non-commercial act constitutes "commerce among the several states," and the Congres has the power to police such activity.

REASON RELIED ON FOR ALLOWANCE OF THE WRIT

Petitoner belives this Writ should grant, pursuant to Supreme Court Rule 20, as authorized by 28 U.S.C. § 1651(a), as Petitioner believes "that the writ will be in aid of the Court's appellate jursidcition, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be ontaned in any other form or from any other court," and Petitioner believes such a writ is allowed pursuant to Rule 20 and 28 U.S.C. § 1651(a).

RELIEF SOUGHT

Petitioner, subjected to a jury instruction that does not comport to the standard of law in other circuits across the United States; perpetuated in nearly every other 18 U.S.C. § 2422(b) conviction in the Eleventh Circuit by the circuit precedent set out in United States v. Murrell, 368 F.3d 1283 (11th Cir. 2004); requests this Court resolve the circuit split between the D.C. Circuit and the Eleventh Circuit by asserting the reasoning in the Murrell panel was flawwed and its interpretation of what conduct is proscribed under the statute; in the form of the verbs "persaude, induce, entice, and corerce," is inaccurate, encompases more conduct, and leaves 18 U.S.C. §§ 2242(3), and 2243(a) superfluous. Petitioner requests this Court order the Eleventh Circuit to adopt the interpretation of the D.C. Circuit, as suciently expressed in United States v. Hite, 769 F.3d 1154 (D.C. Cir. 2014): "...the preeminent characteristic of the conduct prohibited under § 2422(b) is transforming or overcoming the minor's will, whether through inducement, persausion, enticement, or coercion." Hite, 769 F.3d at 1167. The Hite panel, addressing the Murrell panel's interpretation that 'induce' means 'to cause,' asserted, "Although the word 'cause' is contained within some of the definitions of "induce," cause encompases more conduct...". Id.

Petitioner reqeusts this Court order the Eleventh Circuit to overturn Murrell, adopt the Hite interpretation of what conduct violates § 2422(b), and reverse every and all convictions where the flawwed jury instruction was issed and all plea agreements where the defendant was informed of the jury instruction. Only such a remedy would ensure all defendants in different circuits are held to the same legal standard and are only convicted where their conduct is compared to this same legal bar.

SUPREME COURT RULE 20.1 SHOWING

This Writ is in Aid of the Supreme Court's Apellate Jurisdiction

"In the exercise of appellate jurisdiction we have power not only to correct errors in the judgment under review but to make such disposition of the case as justice requires." Honeyman v. Hanan, 81 L. Ed. 476, 483, 200 U.S. 14, 25 (1937). "As we have repeatedly reaffirmed in cases such as Kerr v. United States Distrcit Court, 426 US 394, 402, 48 L.Ed. 2d 725...(1976), and Bankers Life & Cas. Co. v. Holand, 346 US 379, 382, 98 L. Ed. 106... (1953), the "traditional use of the writ in aid of appellate jurisdiction both at common law and in the federal courts has been to confine an inferior court to a lawful exercise of its prescried jursidiction or to compel it to exercise its authority when it is its duty to do so." Roche v. Evaporated Milk Assn., 319 US 21, 26, 87 L. Ed. 1185n 63 S. Ct. 938 (1934).

Therefore, here, this petition for an extraordinary writ will be in aid of this Court's appellate jursidiction as it provides the Court an opportunity to "make such a disposition of the case[s] as justice requires" and "it is its duty to do so." See Honeyman, supra, and Roche, supra, respectively.

Excenptional Circumstances Warrant Exercise of this Court's Discretionary Powers

As is clear, a split between the circuits has occurred as to what conduct is proscribed under a federal statute. The original opinion is United States v. Murrell, 368 F.3d 1283 (11th Cir. 2004) and was directly conflicted by United States v. Laureys, 653 F.3d 27 (D.C. Cir. 2011). As several cases in these circuits have addrssed the split in more recent years and continue to uphold the conflict; see United States v. Lee, 603 F.3d 904 (11th Cir. 2010) and United States v. Hite, 769 F.3d 1154 (D.C. Cir. 2014); refusing to hold an en banc panel, exceptional circumstances warrant this Court exercising

its discretion and resolving the conclift as the circuits appear reluctant.

Why adequate relief cannot be obtained in any other form or from any other court

As can be seeen in Petitioner's List of Proceedings; and such cases as Lee, supra, and United States v. Cramer, 789 Fed. Appx. 829 (11th Cir. 2019); the circuits are reluctant to even review their own interpretation of 18 U.S.C. § 2422(b). They simply assert their "standing precedent" and move on, disimissing other circuits' interpretataions as "non-binding."

Therefore, Petitioner, and any other defendant charged under 18 U.S.C. §2422(b), cannot be judged fairly in the United States Federal Courts as (1) the standard of guilt differs drastically from distrcit to district and among the circuits and (2) no circuit has shown a wilingness to review its previous interpretataion en banc to correct the injustice, leaving defendants with no alternative but to seek this Court's intervention and exercise of its discretion.

APPENDIX

Pursuant to Supreme Court Rule 14(i)(i), Petitioner is required to provide an appendix containing "the opinions, orders , findings of fact, and conclusions of law... entered in conjuction with the judgement sought to be reviewed.". As an incarcerated inmate, and as a pro se litigant, Petitioner has not the resources nor the funds to provide this Court with such. As such, he respectfully requests this Court forgive these absences. In lieu of such, Petitioner will privde this Court with the case citataions of each case he belives would be present here.

United States v. Cramer, 789 Fed. Appx. 829 (11th Cir. 2019)
-18 U.S.C. § 2422(b) conviction where Defendant was denied use of the DC' Circuit's interpretataion of the conduct proscribed in the statute.

United States v. Hite, 769 F.3d 1154 (D.C. Cir. 2014)
-18 U.S.C. § 2422(b) conviction where the D.C. Circuit interpreted what conduct is proscrbed under the statute.

United States Laureys, 653 F,3d 27 (D.C. Cir. 2011)
-18 U.S.C. § 2422(b) where the court admonishes the 11th Circuit's interpretation of what conduct is proscribed under the statute.

United States v. Murrell, 368 F.3d 1283 (11th Cir. 2004)
-18 U.S.C. § 2422(b) conviction where the 11th Circuit interprets what the terms in the statue mean, thereby what conduct is proscribed under the statute.

United States v. Lee, 603 F.3d 904 (11th Cir. 2010)
-18 U.S.C. § 2422(b) conviction where the 11th Circuit re-difines what conduct is proscribed under the statue; not an en bank panel.

United States v. Stahlman, 934 F.3d 1199 (11th Cir. 2019)
-18 U.S.C. § 2422(b) conviction where the term "cause" is used to convict him where he took no action to "persaude, induce, and/or entice the fictitious minor to engage in an illegal sex act..