

ORIGINAL

No. _____

24-6558

IN THE

FILED

FEB 04 2025

OFFICE OF THE CLERK
SUPREME COURT, U.S.

SUPREME COURT OF THE UNITED STATES

MAURICIO GONZALEZ — PETITIONER

(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Eleventh Circuit Court of Appeals

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MAURICIO GONZALEZ

(Your Name)

FCI Oakdale II PO BOX 5011

(Address)

Oakdale La 71463

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. Whether the Eleventh Circuit erred in refusing to consider newly discovered evidence, including the Government's post-trial misinterpretation of Florida Statute § 794.05 and 18 U.S.C. § 2423(a), despite precedent in *United States v. Scrushy*, 721 F.3d 1288 (11th Cir. 2013), requiring consideration of such evidence when it could produce a different outcome.
2. Whether the Eleventh Circuit misapplied the "use of a minor" element under 18 U.S.C. § 2252(a)(2)(A) and 18 U.S.C. § 25, conflicting with *United States v. X-Citement Video, Inc.*, 513 U.S. 64 (1994), which requires that the minor be actively employed, persuaded, or coerced into the production of illicit material.
3. Whether the Eleventh Circuit erred in denying Petitioner's request for judicial notice of Florida Statute § 794.05's 1996 amendment, which limited its applicability to individuals over 24 years old, despite the court's duty under *Bryant v. Avado Brands, Inc.*, 187 F.3d 1271 (11th Cir. 1999), to take judicial notice of adjudicative facts beyond reasonable dispute.
4. Whether the Eleventh Circuit improperly invoked the "law of the case" doctrine to preclude reconsideration of issues that were not fully litigated in prior proceedings, conflicting with *Arizona v. California*, 460 U.S. 605 (1983), and *United States v. Palmer*, 16 U.S. 610 (1818), which require that courts adhere to clear statutory language when interpreting criminal liability.
5. Whether the Government's actions in pressuring a witness, as documented in the sworn affidavit of Alexus Smith, violated due process and led to a fundamentally unfair trial, necessitating a new trial under the principles established in *Napue v. Illinois*, 360 U.S. 264 (1959), and *United States v. Bagley*, 473 U.S. 667 (1985).
6. Whether the coercive pressure applied by the Government, which led the key witness to attempt suicide due to threats of prosecution, deportation, and psychological manipulation, irreparably tainted her testimony, violating Petitioner's right to a fair trial.

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:

RELATED CASES

D.C. Docket

No. 9:21-cr-80087-DMM-1

United States 11th Cir. Court of Appeals

No. 24-12214

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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 B 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 _____ 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 _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

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

reported at _____; 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 9/30/2024.

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: 11/26/2024, and a copy of the order denying rehearing appears at Appendix C.

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

United States Constitution

- U.S. Const. amend. V – Due Process Clause (Violation due to coercion of key witness or use of unreliable testimony).
- +U.S. Const. amend. VI – Right to a Fair Trial (Violation due to government misconduct or misrepresentation of statutory elements).

United States Code (Federal Statutes)

- 18 U.S.C. § 2423(a) – Transportation of minors with intent to engage in criminal sexual activity.
- 18 U.S.C. § 2252(a)(2)(A) – Receipt and distribution of child pornography.
- 18 U.S.C. § 25 – Use of minors in crimes of violence (Definition of "use" requiring active participation, persuasion, or coercion).
- 28 U.S.C. § 1254(1) – Supreme Court jurisdiction over cases from Courts of Appeals.

Federal Rules of Evidence

- Fed. R. Evid. 201(d) – Judicial Notice (Permits judicial notice at any stage of the proceeding).

Florida Statutes

- Fla. Stat. § 794.05 – Unlawful sexual activity with minors (1996 amendment limiting its application to individuals over 24 years old).

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Arizona v. California, 460 U.S. 605 (1983).....	6
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United States v. Scrushy, 721 F.3d 1288 (11th Cir. 2013).....	5

STATUTES AND RULES

18 U.S.C. § 2423(a) (Transportation of minors)
18 U.S.C. § 2252(a)(2)(A) (Receipt of child pornography)
18 U.S.C. § 25 (Use of minors in crimes of violence)
Florida Statute § 794.05 (Unlawful sexual activity with minors)

OTHER

STATEMENT OF THE CASE

1. Background and Trial Proceedings

Petitioner was convicted under 18 U.S.C. § 2423(a) and 18 U.S.C. § 2252(a)(2)(A) based on the Government's assertion that Florida Statute § 794.05 served as a valid predicate offense. The Government also presented an expansive interpretation of "use of a minor" under § 2252(a)(2)(A), arguing that mere depiction of a minor constituted "use".

2. Newly Discovered Evidence of Government Misinterpretation

During Petitioner's direct appeal, the Government introduced an ungrammatical and unnatural reading of both statutes, which had not been presented at trial. This newly discovered evidence—specifically the Government's response in USCA11 Case: 21-13950—revealed that the Government misinterpreted Florida Statute § 794.05, which was amended in 1996 to apply only to individuals over 24 years old.

The Supreme Court has long held that broad statutory terms such as "any person" must be interpreted in accordance with clear legislative intent. In *United States v. Palmer*, 16 U.S. 610 (1818), the Court established that the phrase "any person" should be applied as written unless an explicit limitation exists. The Florida legislature amended § 794.05 in 1996, explicitly restricting its application to individuals over the age of 24. The Government's misreading of the statute directly contradicts *Palmer*, as well as *Taylor v. United States*, 495 U.S. 575 (1990), which requires proper state law interpretation in federal cases.

3. Witness Coercion, Psychological Manipulation, and Suicide Attempt

Alexus Smith, the primary government witness, has provided a sworn affidavit detailing how government agents pressured, manipulated, and coerced her into providing testimony that did not reflect her true experiences. She describes:

- She loved the petitioner, never felt victimized, and did not wish to testify against him in a criminal manner.
- Government agents threatened her with criminal charges and deportation unless she cooperated.
- They misled her into believing the case was about a murder-for-hire plot, increasing her fear and compliance.
- Under extreme pressure, she attempted suicide, after which she was placed under a Baker Act hold, where the Government continued pressuring her to testify falsely.

The Government's coercion irreparably tainted her testimony and violated *Napue v. Illinois*, 360 U.S. 264 (1959), and *United States v. Bagley*, 473 U.S. 667 (1985), which prohibit the use of coerced or misleading testimony.

REASONS FOR GRANTING THE PETITION

I. The Government's Psychological Pressure and Witness Suicide Attempt Render the Trial Fundamentally Unfair

Under *Napue v. Illinois*, coerced testimony violates due process. The Government's intimidation of Smith—including threats of prosecution, deportation, and psychological manipulation—was so extreme that she attempted suicide.

The Government did not just manipulate facts—it manipulated emotions, forcing Smith to testify against her will and present a false narrative. This level of coercion demands intervention by this Court.

II. The Eleventh Circuit's Refusal to Consider Newly Discovered Evidence Conflicts with Precedent

Under *United States v. Scrushy*, 721 F.3d 1288 (11th Cir. 2013), newly discovered evidence must be considered if it could affect the trial outcome. The Government's post-trial misinterpretation of Florida Statute § 794.05 meets all Rule 33(b)(1) criteria, as it directly impacts whether a valid predicate offense existed.

III. The Government's Expansive Definition of "Use of a Minor" Conflicts with Supreme Court Precedent

The Government improperly broadened the definition of "use" under 18 U.S.C. § 2252(a)(2)(A), conflicting with *United States v. X-Citement Video, Inc.*, 513 U.S. 64 (1994), which requires active participation or coercion.

IV. The Law of the Case Doctrine Was Misapplied in Conflict with Supreme Court Precedent

The Eleventh Circuit improperly relied on law of the case to reject Petitioner's statutory interpretation argument. *Arizona v. California*, 460 U.S. 605 (1983), and *United States v. Palmer*, 16 U.S. 610 (1818), establish that courts must apply statutory terms as written. Florida Statute § 794.05's amendment in 1996 explicitly contradicts the Government's claim that it applies to "any person." The Eleventh Circuit failed to properly analyze this amendment.

V. Elements negated by Alexus Affidavit

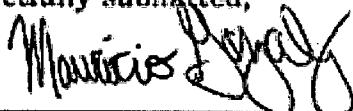
The Government argued that Mauricio Gonzalez "used" a minor and received an illicit video under 18 U.S.C. § 2252(a)(2)(A). However, newly available evidence contradicts the prosecution's assertions. In a sworn affidavit, the alleged victim, Alexus Smith, confirms that she was never "used" in the manner required by law, nor did she feel coerced, persuaded, or pressured into any conduct with Gonzalez. Further she explicitly states that the video allegedly received by Gonzalez was never successfully transmitted, meaning he never actually "received" any prohibited material. Lastly, she affirms that no unlawful sexual activity occurred after arriving to Miami, directly refuting the Government's narrative.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: February 02, 2025