

No. 25-

IN THE
SUPREME COURT OF THE UNITED STATES

ALIREZA BAKHTIARI,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for a Writ of Certiorari
To the United States Court of Appeals
For the Eighth Circuit

APPENDIX

ALIREZA BAKHTIARI
775 SEVEN HILLS LANE
SAINT CHARLES, MISSOURI 63304

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UNITED STATES DISTRICT COURT EASTERN
DISTRICT OF MISSOURI EASTERN DIVISION

ALIREZA BAKHTIARI,
Petitioner,

4:24-CV-01132-MTS

HON. MATTHEW T. SCHELP
US DIST. JUDGE PRESIDING

vs.

UNITED STATES OF AMERICA,
Respondent.

MEMORANDUM AND ORDER

Before the Court is Petitioner Alireza Bakhtiari's Petition for Writ of Error *Coram Nobis*. After a complete review of the Petition, the United States of America's Response, and Petitioner's Reply thereto, the Court will deny the Petition. Not only has Bakhtiari waived his right to seek *coram nobis* relief, but such relief is neither necessary nor appropriate here. *See Carlisle v. United States*, 517 U.S. 416, 429 (1996) (remarking that "it is difficult to conceive of a situation in a federal criminal case today where [a writ of *coram nobis*] would be necessary or appropriate").

I. Background

On August 6, 2012, Petitioner Alireza Bakhtiari pleaded guilty in this Court to a single violation of 18 U.S.C. § 1512(c)(2), which prohibits obstructing, influencing, or impeding any official proceeding or attempting to do so. *See United States v. Bakhtiari*, 4:12-cr-00097, ECF No. 87 (E.D. Mo.) (minute entry). The Court later sentenced Bakhtiari to fifty-one months' imprisonment and three years of supervised release. *Id.* at ECF No. 132. A unanimous panel of the U.S. Court of Appeals for

the Eighth Circuit affirmed Bakhtiari's sentence on direct appeal. *United States v. Bakhtiari*, 714 F.3d 1057, 1063 (8th Cir. 2013) (per curiam).

Bakhtiari then sought post-conviction relief under 28 U.S.C. § 2255, which this Court denied while also declining to provide Bakhtiari a certificate of appealability. *Bakhtiari v. United States*, 4:13-cv-01344-ERW, 2014 WL 1213241 (E.D. Mo. Mar. 24, 2014); *see also* 28 U.S.C. § 2253(c). Bakhtiari sought a certificate of appealability from the Eighth Circuit, which a panel of that court unanimously denied. *Bakhtiari v. United States*, No. 14-1695, Entry I.D. 4176063 (8th Cir. July 16, 2014). Bakhtiari then sought rehearing en banc of that denial, and, over no noted dissent, the Eighth Circuit denied his request. *Id.* at Entry I.D. 4193596 (8th Cir. Sept. 5, 2014). In most criminal cases, that would have been the end of the matter. *Cf.* 28 U.S.C. § 2255(h) (placing strict limits on second or successive habeas petitions); *Jones v. Hendrix*, 599 U.S. 465, 477–78 (2023) (explaining that a second or successive collateral attack on a federal sentence is not authorized unless one of two conditions in § 2255(h) is satisfied). But Bakhtiari was undeterred. He next sought a writ of habeas corpus pursuant to 28 U.S.C. § 2241 in the United States District Court for the Western District of Pennsylvania, the District in which he had been incarcerated. That court dismissed his petition, *Bakhtiari v. Rectenwald*, 1:16-cv-00116-BR-SPB, 2018 WL 833157, at *3 (W.D. Pa. Feb. 13, 2018), and a unanimous panel of the United States Court of Appeals for the Third Circuit affirmed that dismissal, *Bakhtiari v. Warden McKean FCI*, 738 F. App'x 739, 741 (3d Cir. 2018) (per curiam).

Now, in his latest salvo against his conviction, Bakhtiari seeks a writ of error *coram nobis*. The

facts here are not in dispute because Bakhtiari admitted to them in open court and by signing his guilty plea agreement. *See United States v. Bakhtiari*, 4:12-cr-00097, ECF No. 88 (E.D. Mo. Aug. 7, 2012) (hereinafter “Guilty Plea Agreement”). At this point, the underlying facts are well-trodden ground for the federal courts, and this Court will waste no time writing yet another summation of Bakhtiari’s sordid actions. Therefore, the Court uses the Eighth Circuit’s summation of the facts:

From 2009 to 2012, B.H., a St. Louis lawyer, defended the same corporate client in three pro se lawsuits brought by Bakhtiari. The first two lawsuits settled. In the third suit, for defamation, B.H. came to suspect that Bakhtiari had forged the allegedly defamatory emails “sent” by B.H.’s client on its letterhead. According to B.H., Bakhtiari sent the emails, which accused Bakhtiari of sex trafficking, in an attempt to manufacture facts which would give rise to a defamation suit. B.H. filed a motion to inspect computer equipment Bakhtiari possessed. The district court granted the motion and ordered Bakhtiari to make his computer equipment available within fourteen days. Bakhtiari did not comply. B.H. then filed a motion for sanctions and contempt against Bakhtiari, informing the court of Bakhtiari’s non-compliance.

The next day, B.H. received an email at his work address. The sender was an account opened in his son’s and daughter-in-law’s names. The email, titled, “Eric and Jamie sitting in a tree,” called B.H. offensive terms and included six attached photographs: three of B.H.’s house, two of B.H.’s son and daughter-in-law, in which a rifle cross-hairs had been imposed upon their faces, and one of a young girl who the file name referred to as, but in fact was not, B.H.’s daughter. B.H. was upset. He took the email as an implied threat against his family. He referred the email to the U.S. Attorney’s office, and an investigation began.

Three days later, G.F., B.H.'s law partner, went to Bakhtiari's house to inspect the equipment described in the court order. A computer consultant and court reporter joined them. While they were at the house, Bakhtiari drew G.F. into a bedroom, at which time he pulled out a hunting rifle with an affixed scope from under his bed. He opened the bolt action of the rifle, ejected a bullet from the chamber, and asked G.F. if he wanted it.

G.F. declined and left the room. G.F., who was aware of the email sent to B.H., took the display of the rifle as a message that Bakhtiari had sent the email and was willing to carry out his implied threat.

Authorities continued to investigate. They executed a federal search warrant on Bakhtiari's workplace computer, where they discovered photographs of B.H.'s son and daughter-in-law, with and without the cross-hairs. They also discovered the threatening email had been sent from a server at a hotel in rural Missouri. Bakhtiari's personal cellular phone had "hit" on cell towers near the hotel around the time the email was sent.

A grand jury indicted Bakhtiari for sending a threatening communication in interstate commerce in violation of 18 U.S.C. § 875(c)...On May 29, 2012, Bakhtiari [submitted] a "Motion To Dismiss Indictment On The Basis Of Governmental Misconduct." The motion alleged the federal agents who arrested Bakhtiari subjected him and his then-girlfriend to "torture" and "sexual abuse," including shackling them naked to furniture inside Bakhtiari's home. Bakhtiari brought this motion only after he was unable to reach a plea agreement with the government. Several photographs taken during the execution of the search warrant and arrest showed Bakhtiari and his then-girlfriend clothed and seated comfortably.

Government counsel notified Bakhtiari's hybrid counsel

that Bakhtiari could be subject to additional charges for perjury, false statements, and obstruction of justice for his false allegations against federal agents. Bakhtiari then pleaded guilty to obstruction of justice in violation of 18 U.S.C. § 1512(c)(2). He swore he had forged the “defamatory” documents in the civil lawsuit B.H. defended, he had caused the threatening email to be sent to B.H., and he had fabricated the “torture” allegations against federal officials. In exchange, the government dropped the threatening communication in interstate commerce charge and declined to bring additional charges. The stipulation of facts in the plea agreement, which included these admissions, was read into the record at the plea colloquy. *Bakhtiari*, 714 F.3d at 1059–60.

None of these facts to which Bakhtiari admitted have changed. But last year, the Supreme Court announced its opinion in *Fischer v. United States*, 603 U.S. 480 (2024), where it held that to prove a violation of § 1512(c)(2), the Government must establish that the defendant impaired the availability or integrity for use in an official proceeding of records, documents, objects, or other things used in the proceeding, or attempted to do so. Here, the Government concedes that, after *Fischer*, Bakhtiari’s threatening email to B.H. could no longer support a conviction under § 1512(c)(2). Doc. [12] at 12. Bakhtiari contends that *coram nobis* relief is therefore warranted and his conviction should be wiped away. Though it acknowledges *Fischer*’s impact, the Government opposes Bakhtiari’s request on multiple grounds.

Discussion

“The writ of error *coram nobis* is an ancient common law remedy that modern federal courts are authorized to issue under the All Writs Act, 28 U.S.C. § 1651(a).” *Baranski v. United States*, 880

F.3d 951, 954 (8th Cir. 2018). *Coram nobis*, like habeas corpus, is a collateral attack on a criminal judgment. See *United States v. Little*, 608 F.2d 296, 299 (8th Cir. 1979); *United States v. Wilkozek*, 822 F.3d 364, 367 (7th Cir. 2016). But unlike habeas relief, *coram nobis* relief is available when, like here, the petitioner is no longer in custody for the applicable conviction. *United States v. Camacho-Bordes*, 94 F.3d 1168, 1173 n.6 (8th Cir. 1996).

Coram nobis is an “extraordinary remedy” that should be allowed “only under circumstances compelling such action to achieve justice.” *Baranski*, 880 F.3d at 954 (quoting *United States v. Morgan*, 346 U.S. 502, 511 (1954)); accord *Camacho-Bordes*, 94 F.3d at 1173 (“a petitioner must show a compelling basis before *coram nobis* relief will be granted”). Courts have recognized that a petitioner must make a showing of at least three things to demonstrate an eligibility for relief. A petitioner must “explain his failure to seek relief earlier through other means,” “must show that he continues to suffer a significant collateral consequence from the judgment being challenged and that issuance of the writ will eliminate this consequence,” and “must demonstrate that the judgment resulted from a fundamental error.” *Murray v. United States*, 704 F.3d 23, 29 (1st Cir. 2013); accord *United States v. Delhorno*, 915 F.3d 449, 453 (7th Cir. 2019); *Fleming v. United States*, 146 F.3d 88, 90 (2d Cir. 1998) (per curiam). See also *United States v. Sutherland*, 103 F.4th 200, 210 (4th Cir. 2024), *cert. denied*, No. 24-544, 2025 WL 76485 (U.S. Jan. 13, 2025) (requiring same three showings plus a showing that “a more usual remedy is not available”); *United States v. Chan*, 732 F. App’x 501, 502 (9th Cir. 2018) (mem.) (similar).

Successfully addressing those three prongs, though, does not establish an entitlement or right to *coram nobis* relief. “In other words, passing the tripartite test is a necessary, but not a sufficient, condition for the issuance of the writ.” *United States v. George*, 676 F.3d 249, 251 (1st Cir. 2012) (Selya, J., for the Court). Rather, federal courts have “discretion to withhold the remedy where the interests of justice so dictate.” *Id.* at 251; *accord United States v. Rankin*, 1 F. Supp. 2d 445, 453 (E.D. Pa. 1998), *aff’d*, 185 F.3d 863 (3d Cir. 1999); *United States v. Hansen*, 906 F. Supp. 688, 692 (D.D.C. 1995); *cf. Embrey v. United States*, 240 F. App’x 791, 795 (10th Cir. 2007) (Gorsuch, J., for the Court) (“When reviewing on appeal the district court’s denial of a petition for writ of *coram nobis*, we review . . . for abuse of discretion the district court’s decision to deny the writ.”); *Baranski*, 880 F.3d at 954 (concluding “district court did not abuse its discretion in concluding that no ‘fundamental’ error warranted issuing an extraordinary writ of error *coram nobis*”).

But before even turning to those eligibility factors, or a consideration of whether granting the writ is in the interest of justice, Bakhtiari faces an initial obstacle; his guilty plea waived his ability to seek post-conviction relief. *See* Guilty Plea Agreement at 8 (waiving “all rights to contest the conviction or sentence in any post-conviction proceeding”). It is settled law in this circuit that such a waiver is generally enforceable. *See United States v. His Law*, 85 F.3d 379, 379 (8th Cir. 1996) (per curiam); *see also DeRoo v. United States*, 223 F.3d 919, 923 (8th Cir. 2000) (explaining that there is “no question in this circuit that a knowing and voluntary waiver of direct appeal rights is generally enforceable,” and that as a “general rule,” there is

“no reason to distinguish the enforceability of a waiver of direct appeal rights from a waiver of collateral attack rights in the plea agreement context”). Like many things in the law, though, “waivers are not absolute.” *DeRoo*, 223 F.3d at 923. Even when a defendant knowingly and voluntarily waives a right to appeal or collaterally attack a sentence, the Eighth Circuit will “refuse to enforce an otherwise valid waiver if to do so would result in a miscarriage of justice.” *United States v. Andis*, 333 F.3d 886, 891 (8th Cir. 2003) (en banc); accord *United States v. Adams*, 814 F.3d 178, 182 (4th Cir. 2016)¹. Federal courts have held that a proper showing of “actual innocence” constitutes a miscarriage of justice in the context of waiver. See *Adams*, 814 F.3d at 182; see also *United States v. Gil-Quezada*, 445 F.3d 33, 37 (1st Cir. 2006) (“The miscarriage of justice exception requires a strong showing of innocence, unfairness, or the like.”). The Court therefore will examine whether Bakhtiari is actually innocent to determine whether it will otherwise valid waiver.

In this context, the phrase *actual innocence* refers to “factual innocence, not mere legal insufficiency.” *Bousley v. United States*, 523 U.S. 614, 623 (1998); see also *Anderson v. United States*, 25 F.3d 704, 707 (8th Cir. 1994) (distinguishing between

¹ *But see Rudolph v. United States*, 92 F.4th 1038, 1048–49 (11th Cir. 2024) (declining to recognize a miscarriage-of-justice exception to appeal waivers); *United States v. Ford*, 688 F. App’x 309 (5th Cir. 2017) (per curiam) (noting the Court of Appeals for the Fifth Circuit has enforce his “not adopted [a miscarriage of justice] exception to the enforcement of appeal waivers and ha[s] ruled that claims waived in an enforceable appeal waiver need not be considered”).

“legal innocence” and “actual” or “factual” innocence); *Innocence*, *Black’s Law Dictionary* (12th ed. 2024) (defining “actual innocence” as the “absence of facts that are prerequisites for the sentence given to a defendant”). Even if retroactively applying *Fischer* makes Bakhtiari actually innocent of the precise § 1512(c)(2) violation to which he pleaded guilty, Bakhtiari has not demonstrated his actual innocence because of the criminal conduct to which he admitted. The Supreme Court has explained that “where the Government has forgone more serious charges in the course of plea bargaining,” like here, a “petitioner’s showing of actual innocence must also extend to those charges.” *Bousley*, 523 U.S. at 623. Bakhtiari cannot make that showing.

Besides the conduct that underpinned his § 1512(c)(2) conviction—causing the threatening email to be sent to B.H.—Bakhtiari also “swore he had forged the ‘defamatory’ documents in the civil lawsuit B.H. defended.” *See Bakhtiari*, 714 F.3d at 1060. This submission of forged documents in his federal civil action could support a conviction under § 1512(c)(2), even post-*Fischer*. The Government also forwent prosecution for numerous other charges that it could have brought against Bakhtiari for the conduct that he, in open court, swore he committed. *See Bakhtiari*, 714 F.3d at 1060 (noting that, in exchange for Bakhtiari’s guilty plea, “the government dropped the threatening communication in interstate commerce charge and declined to bring additional charges”). For example, Bakhtiari admitted that he “caus[ed] an anonymous email to be sent threatening to kill” individuals. *See Guilty Plea Agreement* at 1–2. Section 875 of Title 18 criminalizes the transmission of a communication in interstate commerce containing any threat to injure the person of another. And while Bakhtiari makes much of the

fact that he admitted only to *causing* the email to be sent—not *sending* the email—that argument gets him nowhere. Section 2 of Title 18 “provides that one who causes any act to be done may be punished as a principal.” *United States v. Hall*, 979 F.2d 320, 323 (3d Cir. 1992) (citing 18 U.S.C. § 2(b)) (joined by Lay, J.); *accord Cleaver v. United States*, 238 F.2d 766, 770 (10th Cir. 1956) (noting “one who causes an act to be done, aids, abets, induces or procures its commission is properly prosecuted as a principal” (citing 18 U.S.C. § 2)).

Bakhtiari also swore that he fabricated the torture allegations he made against federal officials in a motion, with accompanying affidavits, that he attempted to file with the Court in his underlying criminal case. *See Bakhtiari*, 714 F.3d at 1060; *see also* Guilty Plea Agreement at 5 (“The defendant admits that the factual allegations in this motion and accompanying affidavits were false, and that he made [them] for the sole purpose of trying to retaliate against federal officers and corruptly influence the proceedings in his criminal case.”). Federal law prohibits perjury and related false statements. *See* 18 U.S.C. §§ 1621, 1623; *see also id.* § 1349 (providing that an attempt to commit an offense subjects an individual to the same penalties as those prescribed for the offense). In sum, Bakhtiari simply cannot show actual innocence. Thus, the Court’s “conclusion that the collateral-attack waiver bars [this Petition] would not cause a miscarriage of justice” even if actual innocence constitutes one. *See King v. United States*, 41 F.4th 1363, 1372 (11th Cir. 2022) (Anderson, J., concurring) (finding miscarriage-of-justice exception would not apply even if the court adopted such an exception because petitioner failed to show actual innocence); *see also United States v. Winberg*, 786 F.

App'x 753, 758–59 (10th Cir. 2019) (declining to reach issue of whether actual innocence satisfied “miscarriage of justice” exception because innocence claim lacked merit). The Court enforces the waiver and therefore will deny Bakhtiari’s Petition for this reason.

To be sure, other reasons exist to deny this Petition. Consequently, even if the Court could disregard his waiver, Bakhtiari would not get far; he has failed to show at least one of the prongs required to establish his eligibility for *coram nobis* relief. Bakhtiari has not shown any “present” or “continuing adverse consequences” from his conviction sufficient to justify this extraordinary remedy. *See Stewart v. United States*, 446 F.2d 42, 43–44 (8th Cir. 1971) (per curiam); *accord Hager v. United States*, 993 F.2d 4, 5 (1st Cir. 1993) (Breyer, C.J., for the Court) (requiring “a showing that the petitioner continues to suffer significant collateral consequences from the judgment”). Bakhtiari states that “immigration authorities voided his permanent residence status and replaced it with . . . protection per United States’ obligations under The Nation’s Convention Against Torture.” Doc. [1] at 6. Besides offering no support whatsoever for his contention that immigration officials revoked his permanent residence status because of the conviction at issue,² Bakhtiari has not shown this change amounts to a continuing adverse consequence even if the change were based on the conviction at issue.² *See Kandel*

² A single criminal conviction does not necessarily trigger removal. *See* 8 U.S.C. § 1227(a)(2); *see also, e.g., Bobadilla v. Holder*, 679 F.3d 1052, 1052–53 (8th Cir. 2012). Therefore, Bakhtiari’s unadorned and unsupported representation to the Court is unpersuasive—especially considering his history of deceitfulness to this Court.

v. United States, 964 F.2d 794, 797 (8th Cir. 1992) (per curiam) (“[T]he movant must articulate the . . . compelling circumstances for relief in the application for *coram nobis*.”)

Bakhtiari has not, in any way, shown that he faces “deportation consequences” or the “risk of removal” because of this conviction. See *Gonzalez v. United States*, 981 F.3d 845, 852 (11th Cir. 2020). In fact, his very own words demonstrate that he still enjoys immigration “protection” against removal. Doc. [1] at 6; cf. 8 C.F.R. §§ 1208.16(c), 1208.17(a) (providing for the withholding and deferral of removal for otherwise removable aliens under the Convention Against Torture).³ Thus, Bakhtiari has not shown that he suffers significant collateral consequences from his conviction. See Brian M. Hoffstadt, *Common-Law Writs and Federal Common Lawmaking on Collateral Review*, 96 Nw. U. L. Rev. 1413, 1491 (2002) (explaining “*coram nobis* should be available only for those persons facing imminent concrete harm as a result of their infirm conviction”). He therefore has not shown eligibility for *coram nobis* relief. See *United States v. De Castro*, 49 F.4th 836, 842 (3d Cir. 2022) (“A petitioner may seek a writ of error *coram nobis* to challenge his federal conviction when he . . . still faces consequences from

³ It is ironic that the United States’ participation in the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is what keeps Bakhtiari from being removed from the Country considering that he falsely accused federal agents of subjecting him and his wife to hours of “torture” and “sexual abuse.” Guilty Plea Agreement at 5. Not only did he later admit to the falsity of these accusations, *id.*, multiple photographs blatantly contradicted the accusations, *Bakhtiari*, 714 F.3d at 1060.

his conviction.”)

Bakhtiari also faces a more fundamental problem, the interests of justice counsel against granting him *coram nobis* relief. See *George*, 676 F.3d at 251. The Court finds it remarkably ironic that Bakhtiari seeks to impress upon this Court’s sense of due justice after his having worked so diligently in the past to frustrate its dispensation in other cases. He petitions for an extraordinary remedy, one rooted in the concept of justice, from the very Court whose scales of justice he once thumbed. Bakhtiari has wholly failed to convince the Court that, after all his admitted unjust conduct, wiping away his conviction is required to achieve justice. See *Kandiel*, 964 F.2d at 797 (denying relief where petitioner “failed to show that *coram nobis* relief is required to achieve justice”); see also *United States v. Mandanici*, 205 F.3d 519, 532 (2d Cir. 2000) (Kearse, J., concurring) (concurring in majority’s conclusions that district court properly denied *coram nobis* relief but writing separately to add that such relief also would have been “inappropriate” given that it was not “necessary to ‘achieve justice’”). The Court therefore would exercise its discretion to withhold the remedy here even if Bakhtiari had not waived his collateral-attack rights and had otherwise demonstrated his eligibility for *coram nobis* relief.

Accordingly,

IT IS HEREBY ORDERED that Petitioner Alireza Bakhtiari’s Petition for Writ of Error *Coram Nobis* is **DENIED**.

IT IS FURTHER ORDERED that the Clerk of Court is respectfully directed to file a copy of this

Memorandum and Order in Bakhtiari's underlying criminal case, *United States v. Bakhtiari*, 4:12-cr-00097-MTS.⁴

A separate Judgment will be entered herewith.⁵

Dated this 25th day of March 2025.

MATTHEW T. SCHELP
UNITED STATES DISTRICT JUDGE

⁴ See *Baranski*, 880 F.3d at 954 (“As applied in criminal cases, *coram nobis* ‘is a step in the criminal case and not, like habeas corpus . . . the beginning of a separate civil proceeding.’” (quoting *Morgan*, 346 U.S. at 511)); see also *United States v. Wilkozek*, 822 F.3d 364, 368 (7th Cir. 2016) (explaining that a district court’s “power to hear a petition for the writ [of *coram nobis*] derives from the statute conferring subject-matter jurisdiction in the original criminal case”).

⁵ See *United States v. Hassebrock*, 21 F.4th 494, 496 (7th Cir. 2021) (per curiam) (holding Rule 58 of the Federal Rules of Civil Procedure applies to *coram nobis* petitions); cf. *Jeffries v. United States*, 721 F.3d 1008, 1012 (8th Cir. 2013) (concluding “Rule 58(a) applies in appeals from § 2255 proceedings”).

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 25-1784

Alireza Bakhtiari
Petitioner – Appellant

v.

United States of America
Respondent – Appellee

Appeal from U.S. District Court for the Eastern
District of Missouri - St. Louis
(4:24-cv-01132-MTS)

JUDGMENT

Before SMITH, GRUENDER, and STRAS, Circuit
Judges.

This court has reviewed the original file of the
United States District Court. It is ordered by the
court that the judgment of the district court is
affirmed. See Eighth Circuit Rule 47A(a). The
amended motion for a briefing schedule is denied as
moot.

May 22, 2025 .

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.
/s/ Susan E. Bindler

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Date Filed: 05/22/2025, Entry ID: 5519278

**UNITED STATES DISTRICT COURT EASTERN
DISTRICT OF MISSOURI EASTERN DIVISION**

UNITED STATES OF AMERICA,

4:12-CR-0097-ERW

HON. E. R. WEBBER

vs.

US DIST. JUDGE PRESIDING

ALIREZA BAKHTIARI,

GUILTY PLEA AGREEMENT

Come now the parties and hereby agree, as follows:

1. PARTIES:

The parties are the defendant Alireza Bakhtiari, a.k.a. "Al Bakt," represented by defense counsel Andrea Smith, and the United States of America (hereinafter "United States" or "Government"), represented by the Office of the United States Attorney for the Eastern District of Missouri. This agreement does not, and is not intended to, bind any governmental office or agency other than the United States Attorney for the Eastern District of Missouri. The Court is neither a party to nor bound by this agreement.

2. GUILTY PLEA:

Pursuant to Rule 11(c)(1)(A), Federal Rules of Criminal Procedure, in exchange for the defendant's voluntary plea of guilty to Count Two of the charge, the government agrees to

move for the dismissal as to the defendant of Count One at the time of sentencing. Moreover, the United States agrees that no further federal prosecution will be brought in this District relative to the defendant's causing an anonymous email to be sent threatening to kill the son and daughter-in-law of a St. Louis attorney on or around January 15, 2012, of which the Government is aware at this time. In addition, in exchange for the defendant's admission under oath that his defamation lawsuits in Eastern District of Missouri case numbers 4:10 CV 1856 SNLJ and 4:11 CV 971 SNLJ were based on false allegations, the Government agrees that the defendant will not be criminally charged with fraud or obstruction of justice on the basis of those actions.

Furthermore, in exchange for the defendant's admission under oath that his allegations of outrageous government misconduct made on May 29, 2012, were false, the Government agrees that the defendant will not be criminally charged with perjury, false statements, and/or obstruction of justice on the basis of those allegations. In addition, the parties agree that the U.S. Sentencing Guidelines Total Offense Level analysis agreed to by the parties is the result of negotiation and led, in part, to the guilty plea. The parties further agree that because either party may request a sentence above or below the U.S. Sentencing Guidelines range (combination of Total Offense Level and Criminal History Category) ultimately determined by the Court pursuant to any chapter of the Guidelines, Title 18, United States Code, Section 3553, or any other provision or rule of law not addressed herein, provided that such request is made in writing at least 10 days in advance of sentencing.

3. ELEMENTS:

As to Count Two, the defendant admits to knowingly violating Title 18, United States Code, Section 1512(c)(2), and admits there is a factual basis for the plea and further fully understands that the elements of the crime are:

- 1) there was an official proceeding taking place;
- 2) the defendant engaged in conduct which constituted a substantial step toward the commission of the crime of obstruction of an official proceeding;
- 3) the defendant did so corruptly, that is, with an improper purpose and to engage in conduct knowingly and dishonestly with the specific intent to subvert, impede, or obstruct the official proceeding; and
- 4) the natural and probable effect of the defendant's conduct would be the interference with the due administration of justice.

4. FACTS:

The parties agree that the facts in this case are as follows and that the government would prove these facts beyond a reasonable doubt if the case were to go to trial. These facts may be considered as relevant conduct pursuant to Section IB 1.3:

On January 11, 2012, the defendant, Alireza Bakhtiari, a.k.a. Al Bakt, was a pro se plaintiff who was prosecuting a civil lawsuit pending before a federal judge in the United States District Court for the Eastern District of Missouri. This lawsuit was an "official proceeding." The defendant's opponent in the civil litigation was represented by a St. Louis

attorney, B.H.

B.H. was seeking to enforce discovery orders that might have led to disclosures that would have been damaging to Bakhtiari. On January 11, 2012, while in the Eastern District of Missouri, the defendant intentionally accessed the website of a wedding photographer located in the State of Florida. From the wedding photographer's website, the defendant downloaded photographs from the recent wedding of the son and daughter-in-law of B.H. Two of the wedding photographs were then doctored and altered to impose rifle cross-hair graphics on the faces of B.H.'s son and daughter-in-law. On January 15, 2012, the defendant caused an anonymous email to be sent to B.H. In an attempt to render the email untraceable, the email was sent through a wireless internet router located at a motel off a highway in rural Missouri, using an anonymous web-based email account which was created using the names of B.H.'s son and daughter-in-law. The email referred to B.H. in obscene and abusive terms. Attached to the anonymous email were three pictures of B.H.'s home, using the name of B.H.'s wife in the filenames; a picture of a young girl whom the defendant believed to be B.H.'s daughter; and the two pictures from the wedding of B.H.'s son, with rifle cross-hair graphics superimposed over the faces of B.H.'s son and daughter-in-law. The defendant caused this email to be sent in an attempt to retaliate against and intimidate B.H. for his actions in the civil lawsuit, which included a motion for sanctions against the defendant filed shortly before the email was sent. On January 18, 2012, the defendant knowingly displayed a loaded rifle with a scope to one of B.H.'s colleagues, and repeatedly referring to the rifle's "cross hair" in ominous terms. The defendant took these actions with an improper purpose and to

engage in conduct knowingly and dishonestly with the specific intent to subvert, impede, or obstruct the official proceeding. The defendant intended the natural and probable consequence of these actions, i.e. that the attorney defending against his pro se lawsuit would be frightened, intimidated, and chilled in his advocacy against the defendant, and potentially deterred from discovering evidence that the defendant had forged the documents on which the lawsuit was based — thus interfering with the due administration of justice.

Prior to these events, the defendant had filed two pro se defamation lawsuits against B.H.'s client in the U.S. District Court for the Eastern District of Missouri. In these lawsuits, the defendant claimed that B.H.'s client wrote "maliciously defamatory letters" against him to local news agencies, accusing the defendant of being involved in interstate sex trafficking. The case numbers of these two pro se lawsuits were 4:10 CV 1856 SNLJ and No. 4:11 CV 971 SNLJ.

The defendant knew that the "maliciously defamatory letters" on which these lawsuits were based were not authored by the defendants in his civil case, and that the factual claims he made in these lawsuits were false.

On May 29, 2012, the defendant attempted to file a motion in the instant criminal case, entitled "Defendant's Motion To Dismiss Indictment Based On Government Misconduct." A copy of this motion, with memorandum and supporting affidavits, was emailed to the undersigned attorney for the United States. In this motion and accompanying memorandum and affidavits, the defendant alleged that federal agents had engaged in "outrageous

government misconduct" by subjecting himself and his wife to hours of "torture" and "sexual abuse" during the execution of a search warrant at his house on March 21, 2012. Among other things, he alleged that the federal agents handcuffed him and his wife to furniture while they were both fully nude, and engaged in abusive behavior toward them. These allegations were false. The defendant admits that the factual allegations in this motion and accompanying affidavits were false, and that he made these allegations for the sole purpose of trying to retaliate against federal officers and corruptly influence the proceedings in his criminal case.

5. STATUTORY PENALTIES:

The defendant fully understands that the maximum possible penalty provided by law for the crime to which the defendant is pleading guilty is imprisonment of not more than 20 years, a fine of not more than \$250,000, or both such imprisonment and fine. The Court may also impose a period of supervised release of not more than 3 years.

6. U.S. SENTENCING GUIDELINES: 2011 MANUAL:

The defendant understands that this offense is affected by the U.S. Sentencing Guidelines and the actual sentencing range is determined by both the Total Offense Level and the Criminal History Category. The parties agree that the following are the applicable U.S. Sentencing Guidelines Total Offense Level provisions.

a. Chapter 2 Offense Conduct:

(1) Base Offense Level: The parties agree that the

base offense level is 14, as provided in § 2J1.2(a).

(2) Specific Offense Characteristics:

The Government contends that the following Specific Offense Characteristics apply: 8 levels should be added pursuant to § 2J1.2(b)(1)(B), because the offense involved threatening to cause physical injury to a person, in order to obstruct the administration of justice; and 2 levels should be added pursuant to § 2J 1.2(b)(3)(C), because the offense was extensive in scope, planning, or preparation. The defendant does not concede that these enhancements apply, and the parties agree to leave the matter open for dispute at sentencing.

b. Chapter 3 Adjustments:

(1) Acceptance of Responsibility: The parties recommend that three levels should be deducted pursuant to Section 3E1.1 (a) and (b), because the defendant has clearly demonstrated acceptance of responsibility and timely notified the government of the defendant's intention to plead guilty. The parties agree that the defendant's eligibility for this deduction is based upon information presently known. If subsequent to the taking of the guilty plea the government receives new evidence of statements or conduct by the defendant which it believes are inconsistent with defendant's eligibility for this deduction, the government may present said evidence to the court, and argue that the defendant should not receive all or part of the deduction pursuant to Section 3E1.1, without violating the plea agreement.

(2) Other Adjustments: The parties agree that the following additional adjustments apply: None.

c. Other Adjustment(s)/Disputed Adjustments:
None.

d. Estimated Total Offense Level: The Government estimates that the Total Offense Level is 21.

e. Criminal History: The determination of the defendant's Criminal History Category shall be left to the Court. Either party may challenge, before and at sentencing, the finding of the Presentence Report as to the defendant's criminal history and the applicable category. The defendant's criminal history is known to the defendant and is substantially available in the Pretrial Services Report.

f. Effect of Parties' U.S. Sentencing Guidelines Analysis: The parties agree that the Court is not bound by the Guidelines analysis agreed to herein. The parties may not have foreseen all applicable Guidelines. The Court may, in its discretion, apply or not apply any Guideline despite the agreement herein and the parties shall not be permitted to withdraw from the plea agreement.

7. WAIVER OF APPEAL AND POST-CONVICTION RIGHTS:

a. Appeal: The defendant has been fully apprised by defense counsel of the defendant's rights concerning appeal and fully understands the right to appeal the sentence under Title 18, United States Code, Section 3742.

(1) Non-Sentencing Issues: The parties waive all rights to appeal all non-jurisdictional, non-sentencing issues, including, but not limited to, any

issues relating to pretrial motions, discovery and the guilty plea.

(2) Sentencing Issues: The defendant retains the right to appeal issues left open for dispute at sentencing.

b. Habeas Corpus: The defendant agrees to waive all rights to contest the conviction or sentence in any post-conviction proceeding, including one pursuant to Title 28, United States Code, Section 2255, except for claims of prosecutorial misconduct or ineffective assistance of counsel.

c. Right to Records: The defendant waives all rights, whether asserted directly or by a representative, to request from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including any records that may be sought under the Freedom of Information Act, Title 5, United States Code, Section 522, or the Privacy Act, Title 5, United States Code, Section 552(a).

8. OTHER:

a. Disclosures Required by the United States Probation Office: The defendant agrees to truthfully complete and sign forms as required by the United States Probation Office prior to sentencing and consents to the release of these forms and any supporting documentation by the United States Probation Office to the government.

b. Civil or Administrative Actions not Barred; Effect on Other Governmental Agencies:

Nothing contained herein limits the rights and

authority of the United States to take any civil, tax, immigration/deportation or administrative action against the defendant.

c. Supervised Release: Pursuant to any supervised release term, the Court will impose standard conditions upon the defendant and may impose special conditions related to the crime defendant committed. These special conditions may include restrictions or monitoring on the usage of computers and internet, at the discretion of the probation officer. These conditions will be restrictions on the defendant to which the defendant will be required to adhere. Violation of the conditions of supervised release resulting in revocation may require the defendant to serve a term of imprisonment equal to the length of the term of supervised release, but not greater than the term set forth in Title 18, United States Code, Section 3583(e)(3), without credit for the time served after release. The defendant understands that parole has been abolished.

d. Mandatory Special Assessment: Pursuant to Title 18, United States Code, Section 3013, the Court is required to impose a mandatory special assessment of \$100 per count for a total of \$ 100, which the defendant agrees to pay at the time of sentencing. Money paid by the defendant toward any restitution or fine imposed by the Court shall be first used to pay any unpaid mandatory special assessment.

e. Possibility of Detention: The defendant may be subject to immediate detention pursuant to the provisions of Title 18, United States Code, Section 3143.

f. Fines, Restitution and Costs of Incarceration and Supervision: The Court may impose a fine, restitution (in addition to any penalty authorized by law), costs of incarceration and costs of supervision. The defendant does not concede that he is required to pay restitution, and the parties agree that the defendant may dispute the issue of restitution at sentencing.

g. Forfeiture: The defendant agrees to forfeit all of the defendant's interest in all items seized by law enforcement officials during the course of their investigation. The defendant admits that all United States currency, weapons, property, computer equipment, and other assets seized by law enforcement officials during their investigation constitute the proceeds of the defendant's illegal activity, were commingled with illegal proceeds or were used to facilitate the illegal activity. The defendant agrees to execute any documents and take all steps needed to transfer title or ownership of said items to the government and to rebut the claims of nominees and/or alleged third party owners. The defendant further agrees that said items may be disposed of by law enforcement officials in any manner.

9. ACKNOWLEDGMENT AND WAIVER OF THE DEFENDANT'S RIGHTS:

In pleading guilty, the defendant acknowledges, fully understands and hereby waives his rights, including but not limited to: the right to plead not guilty to the charges; the right to be tried by a jury in a public and speedy trial; the right to file pretrial motions, including motions to suppress or exclude evidence; the right at such trial to a presumption of innocence; the right to require the government to

prove the elements of the offenses against the defendant beyond a reasonable doubt; the right not to testify; the right not to present any evidence; the right to be protected from compelled self-incrimination; the right at trial to confront and cross-examine adverse witnesses; the right to testify and present evidence and the right to compel the attendance of witnesses. The defendant further understands that by this guilty plea, the defendant expressly waives all the rights set forth in this paragraph. The defendant fully understands that the defendant has the right to be represented by counsel, and if necessary, to have the Court appoint counsel at trial and at every other stage of the proceeding. The defendant's counsel has explained these rights and the consequences of the waiver of these rights. The defendant fully understands that, as a result of the guilty plea, no trial will, in fact, occur and that the only action remaining to be taken in this case is the imposition of the sentence. The defendant is fully satisfied with the representation received from defense counsel.

The defendant has reviewed the government's evidence and discussed the government's case and all possible defenses and defense witnesses with defense counsel. Defense counsel has completely and satisfactorily explored all areas which the defendant has requested relative to the government's case and any defenses. Because the defendant is not a U.S. citizen, the guilty plea could impact defendant's immigration status or result in deportation. In particular, if any crime to which defendant is pleading guilty is an "aggravated felony" as defined by Title 8, United States Code, Section 1101 (a)(43), removal or deportation is presumed mandatory. Defense counsel has advised the defendant of the possible immigration consequences, including

deportation, resulting from the plea.

10. VOLUNTARY NATURE OF THE GUILTY PLEA AND PLEA AGREEMENT:

This document constitutes the entire agreement between the defendant and the government, and no other promises or inducements have been made, directly or indirectly, by any agent of the government, including any Department of Justice attorney, concerning any plea to be entered in this case. In addition, the defendant states that no person has, directly or indirectly, threatened or coerced the defendant to do or refrain from doing anything in connection with any aspect of this case, including entering a plea of guilty.

The defendant acknowledges having voluntarily entered into both the plea agreement and the guilty plea. The defendant further acknowledges that this guilty plea is made of the defendant's own free will and that the defendant is, in fact, guilty.

11. CONSEQUENCES OF POST-PLEA MISCONDUCT:

After pleading guilty and before sentencing, if defendant commits any crime, other than minor traffic offenses, violates any condition of release that results in revocation, violates any term of this guilty plea agreement, intentionally provides misleading, incomplete or untruthful information to the U.S. Probation Office or fails to appear for sentencing, the United States, at its option, may be released from its obligations under this agreement. The Government may also, in its discretion, proceed with this agreement and may advocate for any sentencing position supported by the facts, including but not

limited to obstruction of justice and denial of acceptance of responsibility.

12. NO RIGHT TO WITHDRAW GUILTY PLEA:

Pursuant to Rule 11 (c) and (d), Federal Rules of Criminal Procedure, the defendant understands that there will be no right to withdraw the plea entered under this agreement, except where the Court rejects those portions of the plea agreement which deal with charges the government agrees to dismiss or not to bring.

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