

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

William A White — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

the Fourth Circuit Court of Appeals

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

PETITION FOR WRIT OF CERTIORARI

William A White #13888-084

(Your Name)

USP-Marion
PO Box 1000

(Address)

Marion, IL 62959

(City, State, Zip Code)

n/a

(Phone Number)

RECEIVED

MAR 27 2018

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

Did the Fourth Circuit sanction a departure from the accepted, and, usual, course of judicial proceedings when it refused to grant Certificate of Appealability for an order entered by the United States District Court for the Western District of Virginia dismissing a motion pursuant to 28 USC §2255 that the Court had not read, in a case whose record the Court had not reviewed, which:

- 1) falsified the record by claiming that the charged emails in the instant 18 USC §875 threats case were found in authenticated search warrant results when they were not?
- 2) falsified the record by misrepresenting a recusal issue claimed in the petition involving the trial judge's role as a witness against me in another proceeding?
- 3) falsified the record by asserting without basis that I did not have the right "type" of dissociation associated with Post Traumatic Stress Disorder to justify consideration of the claimed ineffective assistance of counsel for failure to investigate mental health issues?
- 4) arbitrarily, and, incorrectly, declared true, and, correct, statements, supported by some evidence, and, well pled, regarding an FBI disruption operation which targeted me, to be "palpably incredible", and, "patently frivolous, and, false?"

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	3
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	4
STATEMENT OF THE CASE	5
REASONS FOR GRANTING THE WRIT	12
CONCLUSION.....	31

INDEX TO APPENDICES

APPENDIX A:	White v United States 2018 US App LEXIS 1436 (4th Cir 2018)
APPENDIX B:	White v United States 2017 US Dist LEXIS 83694 (WD Va 2018)
APPENDIX C:	United States v White 810 F 3d 212 (4th Cir 2018)
APPENDIX D:	United States v White 2016 US Dist LEXIS 82896 (WD Va 2016)
APPENDIX E:	White v United States 2017 US Dist LEXIS 109049 (WD Va 2017)
APPENDIX F:	White v Berger 2017 US App LEXIS 17854 (11th Cir 2017)
APPENDIX G:	28 USC §2255, Fed.R.2255.P. 4, Fed.R.2255.P. 6
APPENDIX H:	relevant non-record documents

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:

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 A to the petition and is

☒ reported at "2018 US App LEXIS 1436"; 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 B to the petition and is

☒ reported at 2017 US Dist LEXIS 83694; 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.

TABLE OF AUTHORITIES CITED

Cases	Pages
* <u>Blackledge v Allison</u> 431 US 63 (1977).....	26-27
* <u>Hamilton v Comey</u> 2016 US Dist LEXIS 33918 (WD NC 2016).....	28
* <u>In Re: White (United States v Henry)</u> ED Va 07-cv-342.....	26
* <u>Johnson v Dep't of Justice</u> 2017 US Dist LEXIS 141012..... (D SC 2017)	28
* <u>Rockefeller v Carter</u> 2016 US Dist LEXIS 20478 (SD WV 2016).....	29
* <u>Strickland v Washington</u> 466 US 668 (1984).....	26
* <u>Wallace v United States</u> 2017 US Dist LEXIS 24753 (WD NC.... 2017)	28
* <u>United States v Turner</u> ED NY 09-cr-650.....	6
* <u>United States v White</u> WD Va 08-cr-054.....	9
* <u>United States v White</u> ND Ill 08-cr-851.....	26
* <u>United States v White</u> docket MD Fl 13-cr-304.....	10, 16-18
* <u>United States v White</u> docket WD Va 13-cr-013.....	passim
* <u>White v Berger</u> 2017 US App L:EXIS 17854 (11th Cir 2017)....	5
* <u>White v Dep't of Justice</u> docket SD Ill 16-cv-948... 6-7, 19, 25, 27-29	
* <u>White v Eslinger</u> docket MD Fl 14-cv-936.....	5, 7, 19, 22
* <u>White v Inch</u> docket SD Ill 17-cv-1059.....	24
* <u>White v United States</u> 2017 US Dist LEXIS 83094 (WD Va 2017).....	15
* <u>White v United States</u> 2018 US App LEXIS 1435 (4th Cir 2018).....	11
* <u>White v United States</u> docket SD Ill 17-cv-683.....	5-6
Statutes And Rules	
* 28 USC §2255.....	5
* Fed.R.2255.P. 4.....	5, 12
* Fed.R.2255.P. 6.....	12

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was January 22, 2018.

☒ 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: _____, and a copy of the order denying rehearing appears at Appendix _____.

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

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

☐ For cases from **state courts**:

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

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

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Full texts of statutes, and, rules, are in Appendix G.

* 28 USC §2255

* Fed.R. 2255.P. 4

* Fed.R.2255.P. 6

STATEMENT OF THE CASE

- 1) This is a case seeking summary reversal of the Fourth Circuit's sanctioning of the US District Court for the Western District of Virginia's departure from the accepted, and, usual, course of judicial proceedings, as the District Court dismissed my 28 USC §2255 motion without reading it, or, reviewing the record, as required by Fed.R.2255.P.4, and, both fabricated claims that I didn't plea, and, "facts" that are not only not on the record, but, are actively contradicted by the record, to do so. The extremity of the District Court's departure calls for this Court's intervention.
- 2) ~~The District Court has jurisdiction over the original proceeding pursuant to 28 USC §2255.~~
- 3) The §2255 motion was prepared under the influence of a severe brain injury, tends to ramble, and, contains some inadmissible, conclusory, statements; these statements are not the subject of this petition, and, such things are the result of requiring pro se prisoners to prepare §2255 motions in very limited periods of time. for the injury, White v United State SD Ill 17-cv-683 (tort claim for injury); White v Eslinger MD Fl 14-cv-936 (§1983 suit for injury); White v Berger 2017 US App 7854 (11th Cir 2017).
- 4) Between 2005, and, 2006, I was involved in the National Socialist Movement ("NSM") Doc 300 p 80. Afterwards, until 2008, I was involved in other National Socialist groups. As a result, I was targeted by an FBI disruption operation against white nationalist "extremists". Doc 300 p 65-99. Much of the documentation

proving the

existence of this operation was not available at the time of pleading, and, is only slowly being forced out in White v Department of Justice SD Ill 16-cv-948, and, other proceedings.

- 5) In 2008, a federal informant named Harold Charles Turner falsely accused me of plotting to assassinate then Presidential nominee Barack Obama with a truck bomb at the Poff Federal Building in Roanoke, Virginia, on October 17, 2008. Doc 300 p 113-114; United States v Turner ED NY 09-cr-650; Appendix H(a).

As a result of this false allegation, I was arrested by the FBI, and, subsequently tortured until December 29, 2008, including by housing in sub-zero temperatures, housing in rooms infested with insects, or, flooded with human feces, and, housing in restricted environmental stimuli ("RES") conditions. Doc 300 p 114-116; Appendix H(b), (c); detailed in White v United States SD Ill 17-cv-683.

- 6) In September 2010, I was returned to RES conditions, and, developed a serious, RES-related brain injury that left me catatonic, and, unresponsive from February 17, 2011, to March 9, 2011; the BOP subsequently destroyed prison records to cover up both this incident, and, the events of para 5, supra. Doc 300 p 117-118; described White v Dep't of Justice SD Ill 16-cv-948 Doc 85 para 3-12; Appendix H (d), (e), (f).

- 7) At the time of the filing of the instant §2255 motion, I had been diagnosed with Post-Traumatic Stress Disorder as a result of having been tortured. Doc 300 Exh E(a). At the time that I filed the motion, I did not know that the cause of the PTSD was a physical brain injury; I had only the false explanation

given to me by the Bureau of Prisons that my symptoms were the result of bad allergy medication. Doc 300 p 116. This ignorance of the cause of my injury led me to plea that I believed that I had been medically experimented on because I believed (correctly) that something was physically wrong with my brain. Doc 300 p 113.

- 8) When I was released from prison April 20, 2011, I was suffering serious psychiatric symptoms that I can now identify as confusional psychosis, and, delirium, as well as PTSD symptoms. Doc 300 p 118-120. This condition continued throughout the period in which these crimes occurred, through trial, and, into the time when I was again tortured, White v Eslinger MD Fl 14-cv-936. I did not begin to significantly recover until January 1, 2017, after the close of pleadings, and, continue to have symptoms, leading the United States District Court for the Southern District of Illinois to find me incompetent to proceed in civil litigation, and, to appoint counsel, in White v United States SD Ill 17-cv-683.
- 9) As part of the disruption operation of para 4, supra, the FBI orchestrated the commission of violent acts, including violent acts intended to obstruct justice, and, murder. Doc 300 p 73-98; White v Dep't of Justice Doc 71-1 para 1. Gwendolyn Toynton, referred to in Doc 300 as "Unnamed Witness #1", told me in November 2013, after trial in this matter, that James Porrazzo, a federal informant referred to in the pleadings as "Perpetrator #1" confessed to her on May 27, 2012, while the instant crimes charged in the underlying criminal case were ongoing, that he had stolen my identity, and, was using it to commit crimes. Doc 300 p 71, Exh B(a) para 6, 9, 15-16. The pseudonyms were disclosed

to the District Court in Doc 283-2/3.

- 10) I have never been abusive physically, or, verbally, to my estranged wife, Meghan White. Doc 216 p 61. While I was in prison, Meghan White embezzled \$300,000 from a business I owned, and, when I tried to remove her from control of the business, she destroyed \$2.3 million in property; in our divorce proceedings, I accepted alimony payments to total \$78,000 as compensation in a non-extortionate agreement. Doc 187 p 93 ("Q: It wasn't extortion, or, anything like that, correct? A: The agreement itself? Q; Right. A: I wouldn't say that the agreement itself was extortion.")
- 11) On May 6, 2012, I fled the United States for Mexico in the company of Sabrina Gnos. Doc 182 p 123; Doc 170 p 4-5. Unbeknownst to me, Gnos has a long history, including criminal history, of filing false police reports, and, offering false cooperation. Doc 182 p 153-155("Q: ... You were found guilty of obstructing justice, I heard, right? A: Yeah."); Doc 300 p 137-138, Exh D(a).
- 12) I gave Gnos access to my email, dhyphen@yahoo.com, which was used to commit the crimes charged in the underlying criminal matter, as well as access to a Facebook account. Doc 182 p 167-174 (Gnos both admits, and, denies, access); Doc 170 p 14, 20. The government's theory of the case was that this was not true, and, no one had access to the accounts but me. Doc 235 p 7-8 ("And, one of the issues that comes up is, 'Well, you know, he didn't send it. Sabrina was on the, you know, computer the whole time' ... I submit to you that is nonsense.")

- 13) After I left Nogales, Mexico, on May 7, 2012, Sabrina Gnos returned to the United States. Doc 182 p 125-126. Gnos was involved subsequently in picking up money, and, sending it to me. Doc 182 p 118-119. Gnos felt that she was not being paid enough to do this. Doc 182 p 161 ("He was not paying me for anything.") So, Gnos turned me in to the FBI for violating the terms of my supervised release May 21, 2012. Doc 182 p 134. She subsequently told the Roanoke City Police that she did this over money. Doc 300 Exh D(c). In so doing, Gnos was able to steal \$1000, and, attempted to steal a car that I had allowed her to use. Doc 182 p 157-164; Doc 300 Exh D(d).
- 14) The threats made to Meghan White started the day after Sabrina Gnos went to the FBI, and, accused me of threatening my wife. Doc 181 p 40. This means that Gnos reported the crime a day before it actually happened. Doc 300 p 135. The four threats demanding the same \$500 continued to June 7, 2012. Doc 181 p 56-57.
- 15) I was arrested June 8, 2012, in Playa del Carmen, Mexico, for violating supervised release, and, was subsequently sentenced to 10 months imprisonment in United States v White WD Va 08-cr-054.
- 16) On February 8, 2013, I learned of the threats which Gnos sent to Meghan White using my identity when I was indicted in this matter on four counts of transmitting extortionate threats in violation of 18 USC §875(b). Doc 1. Trial was October 30, 2013, to November 1, 2013. Doc 149-163. I was convicted November 1, 2013, of three counts of transmitting threats in violation of 18 USC §875(b), and, one count of transmitting threats in viol-

ation of 18 USC §875(c). Doc 163.

- 17) Unbeknownst to me at the time of trial, an email account, ns1f_helterskelter@hotmail.com, had been used to transmit threats to the trial judge, James C Turk, during the same period that threats were sent to Meghan White. United States v White MD Fl 13-cr-304 Doc 117 p 112-113. This was disclosed by the United States after trial in this matter; prior to trial in this matter, the government obtained a waiver of recusal from me without discussing the email threats, only telling me about a book which Gnos admitted she had mailed to Judge Turk on May 9, 2012. Doc 231. Judge Turk died shortly after sentencing in this matter, and, his unavailable witness testimony as to the book receipt was given by his secretary, Shirley Simpson. United States v White MD Fl 13-cr-304 Doc 117 p 127-130. My sentence in United States v White MD Fl 13-cr-304 was enhanced because of the email threat to Judge Turk. United States v White MD Fl 13-cr-304 Doc 123 p 70-71 ("He was not charged with threatening the district judge who handled that case, Judge Turk, who is now deceased. But, evidence was presented at trial of those threats because they were -- the evidence was relevant to this case.")
- 18) I was sentenced in the criminal case underlying this matter May 1, 2014, to 92 months imprisonment. Doc 195.
- 19) From September 2015 to February 6, 2016, I was examined by Dr Eric Ostrov of Chicago, Illinois, who diagnosed me with PTSD with an onset in September 2010. Doc 300 Exh E(a). The cause of the PTSD is physical brain damage caused by torture, this physical cause being discovered after the close of pleadings

in this §2255 case. Doc 300 Exh E(a), Doc 306.

- 20) I first attempted to file the instant §2255 motion on April 1, 2016. Doc 241. Because of my injury, and, the steady flow of documents I was receiving, I filed a number of extraneous documents until the instant Amended §2255 motion was docketed October 3, 2016. Doc 300. The government moved to dismiss, but, did not respond, or, move for summary judgment, on January 23, 2017. Doc 326. I replied by moving for summary judgment on February 10, 2017. The §2255 motion was dismissed May 31, 2017. Doc 341. Certificate of appealability was denied. Doc 341. A motion for reconsideration pursuant to Fed.R.Civ.P. 59(e) was subsequently filed, misconstrued as a second, or, successive, filing, and, dismissed. Appendix E; corrected to 59(e) Appendix A.
- 21) Two new trial motions were also filed, and, denied, in this case. Doc 239/309; Doc 273/340. A numerically second §2255 was filed in the underlying criminal case raising the government's fraudulent concealment of materially false search warrants in March 2018.
- 22) Notice of Appeal to the Fourth Circuit for denial of the certificate of appealability was filed, and, the appeal was briefed in the Fourth Circuit July 19, 2017. 4th Cir App No 17-6932. The appeal was denied January 22, 2018. White v United States 2018 US App LEXIS 1435 (4th Cir 2018). I now move this Court to grant certiorari, and, summary reversal, on four questions arising from the District Court's failure to read the §2255 motion, and, its falsification both of the claims of that motion, and, the record, in its adjudication of the motion, a departure from the accepted, and, usual, course of judicial proceedings.

REASONS FOR GRANTING THE PETITION

Standards -----

- 23) Fed.R.2255.P. 4(b) states, in pertinent part, that, "The judge who receives the [28 USC §2255] motion must promptly examine it." This examination includes "the motion, any attached exhibits, and, the record of prior proceedings." This petition argues that the adjudication of a 28 USC §2255 motion by a federal judge without that judge having examined it, or, the record of the prior proceedings, and/or, the judge falsifying the same, is a departure from the accepted, and, usual, course of judicial proceedings.
- 24) Fed.R.2255.P. 6(a) states, in pertinent part, that, "A judge may, for good cause, authorize a party to conduct discovery under the Federal Rules of Criminal Procedure, or, Civil Procedure, or, in accordance with the practices, and, principles, of law." This petition argues that the dismissal of a 28 USC §2255 petition for "lack of proof", leading to the conclusory assertion that certain claims are "palpably incredible", when the petition was well pled, discovery was requested, and, discovery was denied, is a departure from the accepted, and, usual, course of judicial proceedings.

Question #1: The District Court's False Claims That The Charged
Emails Were Returned In The Search Warrants

- 25) This case was about four emails allegedly sent to Meghan White demanding the same \$500 which the government blamed me for. Gov't Exh 1-10, 1-11, 1-12, 1-13, 1-15; Doc 182 p 36-56. The emails were not returned by any search warrant. Doc 183 p 328 ("Q:

Were there any search warrants on Meghan's computer, or, her Yahoo account? A: No.") They were particularly not found in any search warrant served on my dhyphen@yahoo.com account. Doc 182 p 30 ("Q: How about in the sent folder? Were there any emails from that folder? A: No. Either they were all deleted, or, the account was setup not to keep sent emails.")

26) The charged emails were admitted through the testimony of Meghan White. Doc 182 p 36-56. Not only the contents, but, also the email headers, were admitted through Meghan White's testimony. see, eg, Doc 182 p 36-37 ("Q: Is it a fair, and, accurate, copy of the e-mails you received? A: It is ... Q: ... Were you asked to provide the full header of the email? A: I was.") Meghan White obtained the email headers from the Yahoo website. Doc 182 p 37. ("Through Yahoo mail, you have the option of clicking on 'view fullheaders', and, it will show you IP addresses, and, originating information as to where the e-mail address came from.") Meghan White had no personal knowledge of the authenticity of the email headers, and, Meghan White testified that the content of the emails did not authenticate them as mine. Doc 182 p 85-86. ("Q:... When you first got the emails, did you feel that it didn't sound like Bill? He never -- you never received an email from him like that, right? A: It was out of the ordinary for me to receive something violent, and, angry, to that degree ...") I have also never been abusive to Meghan White, and, she has never seen me engage in violence. Doc 182 p 61.

27) Defense counsel stated at trial that he did not understand the email header issue. Doc 182 p 86 ("[The email's] got a lot of headers. I don't know what all that stuff means ...")

28) As Meghan White had no personal knowledge that the email headers

were true, and, correct, they were not admissible pursuant to Fed.R.Evid. 602. As the charged emails were not among the records returned in the search of the dhyphen@yahoo.com account, the email headers were not admissible as authenticated business records pursuant to Fed.R.Evid. 803(6). Despite this, the government introduced an extensive analysis of the email headers through the summary lay opinion testimony of FBI Special Agent David Church, using such testimony to falsely establish "my" identity as the sender of the emails. Doc 182 p 288-292. Specifically, the government argued that, as the world's most popular anonymization software, TOR, was used to send the emails, and, I was also one of the millions of people who used TOR, this established my identity. Doc 243, p 233-254, 289-291.

- 29) In my 28 USC §2255 motion, I pled as Grounds For Relief ("GFR") 4(b) ineffective assistance of counsel for "failing to object to the government's failure to authenticate any of the email headers allegedly received by Meghan White, or, in the alternative, to object to them as hearsay." Doc 300 p 3, 53-54. ("The government never obtained business records from Meghan White's internet provider for her whitesbeauty88@yahoo.com account ... And, these emails were not found in the dhyphen@yahoo.com ... Because Meghan White could not have had personal knowledge of the truth of the IP addresses in the email headers ... Meghan White could not authenticate those IP addresses ... [T]hose IP addresses, ... and, the summary analysis of them provided by SA Church, were inadmissible. However, ... Beers made no objection ... Beers clearly erred, and, denied me my substantial rights, by not raising this issue at trial.")

30) Despite the records, and, the pleadings, of para 25-29, supra, the District Court addressed this question by falsifying both the record, and, the pleading of the §2255 motion:

"The Facebook, and, Yahoo!, email records admitted at trial were obtained pursuant to a search warrant, and, the government submitted a notice regarding their authenticity as records of regularly conducted business activity pursuant to Rule 902(11) of the Federal Rules of Evidence ...White is not arguing that the records from Facebook, and, Yahoo, were provided in error, or, come from some other email address, or, Facebook account."

Doc 341; White v United States 2017 US Dist LEXIS 83094 (WD Va 2017).

31) To make the findings of para 30, supra, the District Court had to be unfamiliar both with the record, and, the 28 USC §2255 motion; the alternative is to believe that the District Court was familiar with the record, and, the motion, and, deliberately, and, corruptly, falsified them. The District Court's failure to examine the motion, and, the record, before adjudicating them, represented an extreme departure from Fed.R.2255.p. 4(b), and, thus, from the "accepted, and, usual, course of judicial proceedings." Further, the Fourth Circuit's failure to reverse on this issue by granting a Certificate of Appealability, and, remanding for a proper consideration of the actual issue raised, sanctioned this serious departure. The question before the Court is whether it is going to allow District Court judges to adjudicate pro se prisoner §2255 proceedings without reading them, and, to falsify the record to justify denying justice to actually innocent pro se §2255 prisoners. Falsification of the record when a pro se prisoner is involved is a common problem in many district courts, and, this Court needs to step in to condemn

the practice. A summary reversal, and, remand to the Fourth Circuit with instructions to grant Certificate of Appealability, and, remand to the District Court with instructions to consider the issue raised after actually reviewing the record, is appropriate.

Question #2: The District Court's False Claims That The Trial Judge
Was Not A Witness Against Me In Another Proceeding

- 32) On May 10, 2012, the government's main witness, Sabrina Gnos, mailed a copy of my book, Centuries of Revolution, to trial Judge James C Turk, claiming falsely that I had told her to, and, she did not know what it was. United States v White MD Fl 13-cr-304 Doc 118 p 19-21 ("Q: Did you mail these items? A: I did mail them.")
- 33) Shortly after Gnos mailed her book, a vulgar, threatening, email was sent to Judge Turk from an ns1f_helterskelter@hotmail.com account, and, my sentence in United States v White MD Fl 13-cr-304 would be enhanced for this email, which I was falsely accused of sending. United States v White MD Fl 13-cr-304 Doc 123 p 70-71. The existence of this email was not disclosed before trial in this matter.
- 34) On September 26, 2013, a hearing was held on the issue of the Court's possible recusal. Doc 231. The only "potential threat" that I had notice of at this time was the book that was sent to Judge Turk; the email was never mentioned, and, I agreed to waive recusal knowing only of the book, not the email. Doc 231.
- 35) On that same date, the United States knew that Judge Turk was to be a witness against me in United States v White MD Fl 13-cr-304, and, that he was to testify against me regarding this email; this testimony did not happen because Judge Turk died. United States v White MD Fl 13-cr-304 Doc 123 p 70-71 ("He was not charged with threaten-

ing the district judge who handled that case, Judge Turk, who is now deceased. But, evidence was presented at trial of those threats because they were -- the evidence was relevant to this case.") Judge Turk's executive judicial assistant, Shirley Simpson testified in Judge Turk's place. United States v White MD Fl Doc 117 p 143-145.

36) In the §2255 motion, I pled as GFR 7(a),(b), and, (h):

"(a) lack of jurisdiction pursuant to 28 USC §455(a),(b)(1), (2), (4), and, (e), in that Turk was a witness against me in MD Fl 13-cr-304, this was not disclosed, and, the government specifically misled me into believing that James Turk would not be a witness against me in order to obtain a waiver;
"(b) prosecutorial misconduct related to GFR 7(a), above; ...
"(h) ineffective assistance of counsel for not objecting to, or, otherwise raising, each ground above, both at trial, and, on appeal."

Doc 300 p 5, 100-103, 110. ("I do not believe that I was aware of the email threats to Judge Turk at this time. Both I, and, Beers, were thinking in terms of the packages that were mailed to Turk by Gnos.")

37) To avoid addressing the issue, the District Court just made things up:

"Next, White argues that he is entitled to relief because Judge Turk should have been recused from presiding over his trial as Judge Turk has presided over White's previous trial in the United States District Court for the Western District of Virginia, in which a jury found White guilty of witness tampering, and, making interstate threats with intent to injure."

Doc 341.

All of the above is false, including the statement that I was convicted of making threats with intent to injure.

- 38) Not happy with the above falsehood, the District Court then added several others. First, the District Court claimed, falsely, that I had been convicted of "attempt[ing] to intimidate minority tenants from filing racial discrimination complaints against him", when, in reality, I was convicted of criticizing a group of women who had appeared on television discussing a lawsuit that they had filed against a landlord who had nothing to do with me. Doc 341 n.1. The District Court also falsely stated that "Judge Turk was not a witness in the Virginia case. He was also not likely to be a 'material witness' in the Florida case. ... Judge Turk never testified in the Florida case." This is despite the fact that Turk was scheduled to testify in United States v White MD Fl 13-cr-304 until his death removed him from the government's witness list.
- 39) As with question #1, supra, the District Court here fabricated both the claim it addressed, and, the contents of the record, without any regard for what the §2255 motion actually said, or, what the record actually was. In so doing, it again violated Fed.R.2255.P. 4(b), which requires the Court to "review" the motion, and, the record, and, thus, departed from the "accepted, and, usual course of judicial proceedings." Again, the question before this Court is one of whether, or, not, it is going to allow a lawless, factless, justice system, or, whether it is going to require all District Judges to act in an ethical manner. By not reversing this departure from accepted, and, usual, practices, the Fourth Circuit sanctioned it, and, summary reversal with instructions to grant Certificate of Appealability, and, remand for a proper consideration

of the issues raised is appropriate.

Question #3: The District Court's Falsification of the Record To
Avoid Considering My Mental Health

40) I was tortured by the United States in 2008, 2010-2011, and, 2014, as described para 3-8, supra. As a result of being tortured, I suffered serious physical brain damage, and, developed a severe psychiatric illness, Post Traumatic Stress Disorder. Doc 300 Exh E(a). This illness was first diagnosed February 6, 2016, developed no later than September 2010, and, the diagnosis led to the discovery of its physical cause in October 2016, after the §2255 motion in this case had been pled. Doc 300 Exh E(a).

41) At sentencing in this matter, my trial counsel, Paul Beers, told the Court:

"Bill White has got issues. I think he is mentally ill. He has delusional issues."

Doc 214 p 21

That was it; the entire presentation of the issue of my mental health by counsel. No psychiatric examination was conducted, no evidence was presented, and, what Beers said was wrong -- I'm not delusional, as Dr Ostrov noted. Doc 300 Exh E(a). I was tortured, as the evidence that has come out in White v Eslinger MD FL 14-cv-936 Doc 159 Exh C (sleep, food, and, water deprivation logs maintained by County Sheriff), and, in White v Dep't of Justice SD Ill 16-cv-946 Appendix H(c)-(f) (documents showing that I was held in cell flooded with feces; documents showing behavior consistent with brain injury; documentation that BOP destroyed records showing exposure to sub-zero temperature, infliction of brain damage), show. Had Beers hired, say, Dr Ostrov, he would

have discovered that my accounts of torture, and, related injury, were not "delusions", but, very real things that happened at federal law enforcement's direction.

- 42) In adjudicating the first Motion for New Trial filed in this case, the District Court ruled that my Post-Traumatic Stress Disorder diagnosis was not "new evidence" because I, meaning my counsel, did not show "due diligence in obtaining this information." Doc 273 p 14. Also, at that time, Dr Ostrov's report did not contain a date of onset, something that was corrected in the version of the report provided with the §2255 pleading, Doc 300 Exh E(a); Doc 273 p 14-15. This ruling made counsel's lack of diligence law of the case.
- 43) My §2255 motion raised the issue of my serious psychiatric illness, unknown at time of sentencing, as this:
"Ineffective assistance of counsel in failing to investigate, and, to present evidence, that I am suffering from severe Post-Traumatic Stress with dissociative episodes as a result of having been repeatedly subjected to torture by the United States."
Doc 300 p 6,113-123.
- 44) To avoid ruling on the issue that I presented, the District Court made these findings:
- a) "Because White has never admitted to writing the emails, he cannot successfully claim that his mental state during the time the emails were written, and, sent, were relevant.";
 - b) "Although White argues that he 'has no memory of committing the crimes' ,... he presented no evidence that this type of dissociation occurred.";
 - c) "His counsel ... objected ... arguing that 'Bill White be-

lieves from the bottom of his heart that he didn't send these emails in question.'" "

Doc 341.

- 45) The first finding was that I would not have been able to present alternative theories of the defense at trial, which is departure from the accepted, and, usual, course of judicial proceedings. The second ruling shifted onto me a burden of proof, that I had some particular "type" of dissociation (the medical report stating that I suffer dissociation), without there being any indication on the record that different "types" of dissociation exist (and, I do not believe that they do; the Court just made up different "types" to avoid answering the petition). The third ruling found that my attorney's personal opinion, unsupported by evidence, constituted effective assistance of counsel.
- 46) As all of the acts of para 45, supra, constitute extreme deviation from the accepted, and, usual, course of judicial proceedings, and, the Fourth Circuit's refusal to grant certificate of appealability sanctioned this, remand with instructions to grant certificate of appealability, and, to hold further proceedings to determine the extent, severity, and, impact on the proceedings of the psychiatric effects of the injuries which the United States inflicted upon me under torture, is proper. In the alternative, this Court is going to allow a lawless ruling, based on "facts" about "types" of dissociation which the District Court fabricated out of thin air, stand.
- 47) The Court should also consider the rule that has been de facto created by the failure of the Fourth Circuit to regulate this kind of misbehavior by the District Court. I have more resources than

the average prisoner. Because I forced out records through FOIA that showed that I was, in fact, tortured in 2014 (White v Eslinger MD FL 14-cv-936 Doc 159 Exh C), I was able to get the Eleventh Circuit to reverse a dismissal in MD FL 14-cv-936 of my claims, and, the Southern District of Illinois to reverse a similar dismissal of my tort claims. As a result of this, I am going to, after 7 years, finally get a proper medical examination, likely sometime this summer. And, when that happens, I will be back in the District Court in this matter showing the District Judge to be the liar that he is. But, most prisoners could not do this; most, in fact, in Bureau of Prisons custody cannot even get a proper psychiatric exam. In my case, the Bureau of Prisons actively fabricated psychiatric records to try to avoid liability for what they did, and, actively destroyed records to cover it up, Appendix H(c)-(f). I fought them for over four years to try to get those records out. And, nothing has made the BOP psychiatrists angrier than the fact that I manage to get an independent doctor to evaluate me -- all of them ask repeatedly "how did you get to a doctor?" Allowing a judge to do what happened in this case with my psychiatric illness grounds for relief creates an essentially impossible barrier for any prisoner whose defense counsel fails to conduct a psychiatric exam to challenge that action as ineffective assistance. This issue needs summary reversal.

Question #4: The District Court's Finding That It Is "Palpably Incredible" That Our Intelligence Agencies Commit Crimes
Against Their Own People

48) In the \$2255 motion, I pled the following:

"On May 27th, 2012, Perpetrator #1 also contacted Unnamed Witness #1, and, caused her to believe that he suspected she knew of something underhanded that he had done involving me. I have not been able to get a [sworn] clarification on what, but, when she brought this to my attention, she did so because she stated that she believed that Perpetrator #1 had stolen my identity to commit crimes."

Doc 300 p 71.

- 49) The identities of Unnamed Witness #1, and, Perpetrator #1, were given in Doc 283-2/3. Unnamed Witness #1 is Gwendolyn Toynton; Perpetrator #1 is James Porrazzo.
- 50) James Porrazzo is a federal informant. Doc 300 Exh M(a). Toynton has averred that Porrazzo, and, another officialy disclosed federal informant, Joshua Sutter, threatened her. Doc 300 Exh B(a) para 14. A reasonable inference is that these threats were made to prevent her from testifying, or, otherwise communicating, Porrazzo's confession to the crimes of which I am convicted. Doc 300 p 99.
- 51) When this issue was raised in the first Motion for New Trial, Doc 239, the Court ruled that:
- "The Court will not accept an unsigned, unsworn, and, unsubstantiated, document as having any evidentiary force ... The court will not accept as evidence White's assertion that Unnamed Witness #1 orally informed him that she believed that Perpetrator #1 had stolen White's identity. The court does not believe that such evidence is material because nothing in Unnamed Witness #1's statement concerns the specific offenses in this case, but, that Perpetrator #1 had admitted to stealing White's identity generally.
- "...The Court believes that Unnamed Witness #1's testimony as

to what Perpetrator #1 told her would likely be inadmissible under the Federal Rules of Evidence."

- 52) After the ruling of para 51, supra, a sworn declaration was obtained from Toynton. Doc 300 Exh B(a).
- 53) I am being held in a Communications Management Unit ("CMU") where my mail to the investigator which I hired to interview Toynton, and, obtain a more detailed statement, was held two months outgoing, and, two months incoming, making me effectively unable to further investigate my case. see, eg White v Inch SD Ill 17-cv-1059. My only hope of getting a more specific statement from her about Porrazzo's confession was through discovery, which I repeatedly requested. Doc 275, 284, 285, 286, 288, 301, 333. As the opposing party estopped me from obtaining a more specific statement from Toynton, it was error for the Court to comment on lack of certain specifics without discovery.
- 54) As Porrazzo is a federal informant, his statements to Toynton were a party admission by the United States admissible pursuant to Fed.R.Evid. 801(2), 804(b)(3). As Toynton was threatened to prevent her testimony, her statements to me about Porrazzo's confession are admissible under the unavailable witness rule, Fed.R.Evid. 804(b)(6). The Court's ruling that my sworn statements about Toynton's statements were not "evidence", at least for purposes of discovery, and, for taking Toynton's deposition, was error; the Court didn't want to listen to what I was saying, so it made up a reason with no legal basis not to.
- 55) After the Court's ruling of para 51, supra, I went out, and, assembled corroborating circumstances for Porrazzo's confession. What I discovered is that Porrazzo was part of an FBI Intelligence

Division program, led personally by Director Robert Mueller, that had created a network of phony "extremist" groups, and, used them to target both domestic political dissidents, often seriously mentally ill people, and, foreign nations like Russia. I detailed what I knew in October 2016 in a somewhat rambling, often off topic, but, also, in the key areas, specific with who, what, when, where, and, how, sworn from personal knowledge, or, based upon court documents, and/or, public source hearsay material, discussion in Doc 300 p 69-98. Since that time, substantially more information, including confirmation of the existence of records relating to such a classified foreign counter-intelligence program, has come out in White v Dep't of Justice SD Ill 16-cv-946. All of this material, however, was introduced to provide "corroborating circumstances" for Porrazzo's confession; the confession itself was the key piece of evidence.

56) The United States moved to dismiss the §2255 motion pursuant to Fed.R.Civ.P. 12(b)(6). Doc 326. The United States did not move for summary judgment, or, respond. Doc 326. The United States addressed all of Porrazzo's confession, and, the evidence of the disruption operation, in a single sentence as "fantastic". Doc 326. It particularly took objection to the allegation that it was involved in the murder of a Sacramento, California man named David Lynch, though evidence has since come out that Lynch was murdered by a member of what is now the Golden State Skinheads, a group whose records the FBI originally tried to deny existed pursuant to the classified foreign counter-intelligence exclusion. White v Dep't of Justice SD Ill 16-cv-946.

57) In its opinion, the Court made the following ruling:
"[H]is claims that the Federal Bureau of Investigation ("FBI")

targeted him, framed him because of beliefs, and, prevented witnesses from testifying in his defense are 'palpably incredible' Blackledge v Allison 431 US 63 (1977). He provides no proof, other than his personal observations, and, assessments, of various internet sites, letters he claims were sent to people by the government, but, in his name, and, statements by unnamed witnesses. Because these claims are 'patently frivolous, or, false,' counsel was not remiss for failing to investigate them. id; Strickland 460 US at 687."

58) Even at the time that it issued its ruling, the Court knew that the statements of para 57, supra, were false. Unnamed Witness #1 had been disclosed as Gwendolyn Toynton; personal observations from personal knowledge are admissible pursuant to Fed.R.Evid. 602 whether the Court likes the person making them, or, not; and, Toynton has sworn to being threatened by Porrazzo, and, Sutter, both publically known, and, in Sutter's case, officially disclosed, federal informants. Exh B(a) para 14. So, as with the other rulings contested here, the Court knew that it was making false statements when it put pen to paper (or, electrons to screen).

59) As this \$2255 proceeding was ongoing, I was able to obtain transcripts of two threatening phone calls made by a federal informant, Michael Burks (officially disclosed in United States v White ND Ill 08-cr-851), to various persons, one of which the United States threatened to charge me with in In Re: White (United States v Henry) ED Va 07-cv-342. In In Re: White, these transcripts were originally deleted from the court record, and, later recovered by me from another source; they show that the facts pled Doc 300 p 70 are true, and, that the modus

operandi of the FBI in using my identity to commit threat crimes, and, then, charge me criminally with those threats, really was happening, and, is not "palpably incredible" for me to claim. These transcripts were provided to the Court prior to its ruling. Doc 334-336.

- 60) After the close of pleadings in this matter, the FBI disclosed that it created the National Socialist Movement ("NSM") in 1975, affirming the allegations of Doc 300 p 80. Appendix H(g). This shows that it was not "palpably incredible" to believe that the FBI is operating a network of phony ("notional" in FBI parlance) "white supremacist extremist" groups.
- 61) After the court's ruling in matter, in July/August 2017, the Orange County, Florida, Sheriff's Department released documents relating to FBI-JTTF Task Force Officers ("TFOs") Kelly Boaz, and, Robert Killian, two of the case agents which targeted me with informants, including a memorandum written by FBI SSA Andrew Lenzer that described their activities against white nationalist groups as a "disruption operation." Doc 300 p 65; Appendix H(h). These documents also generally affirm Doc 300 p 87-89, and, parts of p 74, and, 91. So, again, the allegations of an FBI disruption operation which targeted me are not only not "palpably incredible", they are true, and, supported by official records.
- 62) In October 2017, the FBI released to the House Intelligence Committee documents which I, in August 2016, and, January 2017, had identified in White v Dep't of Justice SD Ill 16-cv-946 as belonging to the FBI counter-intelligence operation. Appendix H(i). Specifically, the FBI released documents relating to "Blue Lives Matter", a Facebook group created by the Internet Research Agency

which sponsored a July 10, 2016, Dallas, Texas, rally that the FBI targeted with phony "extremist" groups, including the aforementioned NSM, WhiteLivesMatter, and, the Traditionalist Workers Party. Appendix H(i).

63) On February 2, 2018, the FBI unilaterally changed its FOIA position in White v Dep't of Justice SD Ill 16-cv-946 on the subjects of the Traditionalist Workers Party, the League of the South, the Vinlander Social Club, and, the Golden State Skinheads, from a prior invocation of the foreign classified counter-intelligence exclusion to admitting the existence of over 100,000 pages of main file records. Appendix H(j). The Vinlanders appear at Doc 300 p 84; the Golden State Skinheads carried out the Lynch murder of Doc 300 p 91-92 because Lynch was in touch with Alexander Dugin, a Russian GRU agent, and, trying to set up paramilitary training camps. Again, not only was what I was saying not "palpably incredible", it was true, and, could have been proven with discovery.

64) I have reviewed hundreds of cases where people have made "palpably incredible", and, "patently frivolous, or, false" claims about being targeted by intelligence agencies; I am the only one I can find in any legal database who was actually able to give a list of subjects related to such an operation a year before the existence of such an operation was officially disclosed by the FBI, as it has been in part here. see, eg, Wallace v United States 2017 US Dist LEXIS 24753 (WD NC 2017) (intelligence community interfering in health care, no future confirmation); Johnson v Dep't of Justice 2017 US Dist LEXIS 14102 (D SC 2017) (DOJ plotted assassination, not later confirmed); Hamilton v Comey 2016 US Dist LEXIS 33918 (WD NC 2016) (FBI plotted assas-

sination, no official confirmation); Rockefeller v Carter 2016 US Dist LEXIS 33918 (SD WV 2016) (CIA plotted assassination, not later confirmed); et al. Further, I am the only one, according to the latest DOJ pleading in White v Dep't of Justice SD Ill 16-cv-948, to have a team of eight Assistant US Attorneys, and, DOJ staff attorneys, as well as "substantial DOJ resources", fighting to prevent me from obtaining documents on these subjects at all costs. The District Court may not like what I'm saying, and, may not like me taking apart the FBI's at least 42 year long, billion dollar, investment in "white supremacist extremists", but, it cannot honestly say that my claims are "palpably incredible", or, "patently frivolous, and, false."

- 65) At the time of pleading, I had only newspaper articles, a book written by one informant in the operation, a radio interview given by another, some court records, and, my personal knowledge, to support my allegations, which were largely well-pled, and, non-conclusory. This should have been enough to advance this issue to discovery. And, this is what the case that the District Court cited, Blackledge v Allison 431 US 63 (1977), says. In Blackledge, a state prisoner alleged in habeas that his defense counsel had made a deal with the prosecution for a sentence of no more than 10 years in prison, there was a witness to the deal, and, part of the deal was that the prisoner had to deny its existence on the record. After the prisoner received 17-21 years in violation of the deal, the Court found that, where allegations were not "vague, or, conclusory", and, the government was known to engage in the conduct alleged, and, particularly given that there was no contrary evidence, further habeas proceedings were required to be held. Blackledge.

66) I didn't make up this guy Porrazzo's confession, and, I didn't make up the government's disruption operation. If I had wanted to make something up, I would have made up something that used confirmation bias to affirm the Court's prejudices, and, had a simple motive, instead of something that directly contradicts the Court's inherent bias towards federal law enforcement, and, is ridiculously complicated, and, requires a near encyclopedic knowledge of white nationalist groups, and, personages, to understand. I pled enough specific facts that I should have received discovery; instead, the Court just refused to listen because it did not want to hear what I had pled, even though all of the facts that are coming out since pleadings have closed, and, the Court ruled, are showing that what I said is true. By failing to grant me discovery to prove that Porrazzo did confess to Toynton, and, to prove whatever level of corroborating circumstances would please the Court, the Court departed from the accepted, and, usual, course of judicial proceedings, a departure that was sanctioned by the Fourth Circuit. Reversal and, remand, with instructions to issue a Certificate of Appealability, and, remand to the District Court with instructions to conduct further proceedings, is appropriate.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



William A White

Date: 3/21/2018