

No. _____

In The
Supreme Court of the United States

Adelbert Harold Warner, II, Petitioner

vs.

James F. McLaughlin, Respondent

**ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT**

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1.) Are the relevant assertions made by the district court judge for his 28 USC § 1915A screening dismissal of Petitioner's civil suit against Respondent, a police officer, so obviously false that they (a) reveal a lack of fairness and integrity in the judicial proceedings; (b) resulted in a manifest injustice; and (c) undermine the public reputation, and public's perceptions of, and confidence in the judiciary?

— YES —

2.) Since the district court judge's obviously false assertions, made to explain his dismissing Petitioner's civil suit seriously affected the fairness and integrity of the 28 USC §1915A screening proceeding, resulted in a manifest injustice, and undermine the public reputation, and public's perceptions of, and confidence in the judiciary, was Petitioner's seeking correction under Federal Rule Civil Procedure 60(b) a valid use of that rule?

— YES —

3.) Was the district court judge incorrect when he opined that person of ordinary intelligence noticed, forensic expert verified alterations and fabrication errors contained within alleged e-mail and e-message recordings (the evidence at issue in the Petitioner's civil suit) do not support Petitioner's allegations that Respondent edited, altered, and/or fabricated said evidence to frame Petitioner and his co-plaintiffs for crimes they did not commit?

— YES —

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In The
Supreme Court of the United States
Petition for a Writ of Certiorari

Because the First Circuit Court of Appeals sanctioned, endorsed the U.S. District Court of New Hampshire's departures from reality, and the accepted and usual course of judicial proceedings so as to call -- indeed, scream -- for an exercise of this Court's supervisory power, Petitioner Adelbert Harold Warner, II respectfully prays -- indeed, begs -- that a writ of certiorari issue to review the judgments below.

OPINIONS BELOW

The opinion of the United States Court of Appeals, granting summary affirmance without consideration of Petitioner's Appellant's Brief, appears at Appendix A to this petition, and is published at 2017 U.S. App. LEXIS 27657 (1st Cir 2017).

The opinion of the United States District Court that was affirmed by the court of appeals appears at Appendix B to this petition, and is published as 2017 DNH 139; 2017 U.S. Dist LEXIS 110171 (Dist NH 2017).

The opinion of the district court that was at issue to bring on the two opinions above appears at Appendix C to this petition, and is published as 2016 DNH 154; 2016 U.S. Dist LEXIS 117353 (Dist NH 2016).

JURISDICTION

The date on which the United States court of appeals decided the case was Nov. 1, 2017. No petition for rehearing was timely filed, and an extension of time to file a petition for a writ of certiorari was granted on March 1, 2018 in Application No. 17A919 extending the time to and including March 31, 2018.

The jurisdiction of this Court is invoked under 28 USC §1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment to the Consitution of the United States:

"No person shall be...deprived of life, liberty, or property, without due process of law." -- Duplicated to the States in the Fourteenth Amendment.

18 USC §2511(2)(c): "It shall not be unlawful under this chapter [18 USC §§2510 et seq.] for a person... to intercept a wire, oral, or electronic communication where such person is a party to the communication, or one of the parties to the communication has given prior consent to such interception."

18 USC §2518(8)(a): "The contents of any wire, oral, or electronic communication intercepted by any means authorized by this chapter [18 USC §§2510 et seq.] shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire, oral, or elctronic communication under this subsection shall be done in such way as will protect the recording from editing or other alterations."

18 USC §2520(a): "Except as provided in section 2511(2)(a)(ii) [18 USC § 2511(2)(a)(ii)], any person whose wire, oral, or electronic communication is intercepted... in violation of this chapter [18 USC §§2510 et seq.] may in a civil action recover from the person... which engaged in that violation such relief as may be appropriate."

18 USC §2520(b): "In an action under this section, appropriate relief includes -- (1) such preliminary and other equitable relief as may be appropriate; (2) damages under subsection (c) and punitive damages in appropriate cases...."

18 USC §2520(e): " A civil action under this section may not be commenced later than two years after the date upon which the claimant first has a reasonable opportunity to discover the violation."

TITLE 28 JUDICIARY AND JUDICIAL PROCEDURE

§ 1915A. Screening

(a) **Screening.** The court shall review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.

(b) **Grounds for dismissal.** On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint--

- (1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or
- (2) seeks monetary relief from a defendant who is immune from such relief.

(c) **Definition.** As used in this section, the term "prisoner" means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.

28 USC §1739: "All nonjudicial records or books kept in any public office of any State of the United States, or copies thereof, shall be proved or admitted in any court or office in any other State by the attestation of the custodian of such records or books, and the seal of his office annexed, if there be a seal, together with a certificate of a judge of a court of record of the county, parish, or district in which such office may be kept...."

28 USC §1746: "Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same, such matter may, with like force and effect be supported, evidenced, established, or proved by the unsworn declaration,... in writing of such person which is subscribed by him, as true under penalty of perjury...."

STATEMENT OF THE CASE

This petition concerns the denial of a Fed R Civ P 60(b) motion filed to ask U.S. District Court Judge Joseph DiClerico, Jr. to correct obviously false assertions to dismiss a civil suit against a police officer; false assertions that reveal a lack of fairness and integrity in the judicial proceedings, caused a manifest injustice, and undermine the public reputation, and public's perceptions of, and confidence in the judiciary. And, consequently, the false assertions cause DiClerico to appear to be computer illiterate.

Judge DiClerico's obviously false assertions were made to dismiss, on preliminary review under 28 USC §1915A, a suit filed against Respondent, James F. McLaughlin, by Petitioner, an innocent man, and two other innocent men, Kenneth J. Rowe, and Kyle Olsen.

The suit was filed against McLaughlin under 18 USC §2520(a) to use (1) McLaughlin's violating the protective interception recording requirements in 18 USC §2518(8)(a) when he, as he claimed, intercepted and recorded electronic mails and electronic messaging conversations (chats) he alleged (a) he had with Warner, Rowe, and Olsen; and (b) incriminate Warner, Rowe and Olsen of criminal acts; and (2) the provable alterations and fabrication errors that appear in the e-mail and chat recordings, to obtain monetary damages, and equitable relief for McLaughlin's §2518(8)(a) violations, and the results of his fabricating incrimination to frame Warner, Rowe, and Olsen of crimes they did not commit; results such as each being deprived and denied due process of law, which included being unconstitutionally compelled by their criminal defense counselors

to confess, that is plead guilty, to what Respondent's fabricated evidence made it appear they did.

The suit under 18 USC §2520(a) was filed because Warner, Rowe, and Olsen did not receive even the slightest consideration of their allegations when they presented them in habeas corpus filings to the courts that presided over each of their criminal prosecutions and convictions.

The obvious false assertions Warner asked the district court judge to correct include, but are not limited to:

1.) The Plaintiffs (Warner, Rowe, and Olsen) failed to establish that McLaughlin violated 18 USC §2518(8)(a)'s protective interception recording requirements; and

2.) The Plaintiffs failed to show that fabrication or material alterations occurred.

The district court refused to correct those false assertions, and others, opining, in sum, Warner's Fed R Civ P 60(b) motion did not have a viable legal basis. The First Circuit court of appeals affirmed, saying exactly that.

Both, the district court, and the court of appeals were wrong.

REASONS FOR GRANTING THIS PETITION

I. THE FED R CIV P 60(b) MOTION HAD A VIABLE LEGAL BASIS

The district court was wrong when it opined, in sum, to dismiss Warner's Fed R Civ P 60(b) motion, that Warner failed to provide a good reason to support his request for correction, under 60(b), of

the court's false assertions made to dismiss Warner's, and his co-plaintiffs' law suit against Respondent.

When what follows this paragraph is considered with the obvious false assertions discussed herein below, it appears that both the district court judge, and the three judges of the court of appeals' panel have a partiality, and willingness to be dishonest that the dignity of the U.S. judiciary should not tolerate; a partiality and willingness to be dishonest that indicates those judges do not care about (1) developing, or reinforcing an already existing, negative public reputation for the judiciary; and (2) undermining the public's perception of, and confidence and trust in the judiciary.

Showing the district court that the assertions Warner challenged were false, Warner alleged the false assertions were clearly erroneous, manifestly unjust, and will have a substantial, negative affect on the public reputation, and public's perceptions of the judiciary, and that United States v Rivera-Martinez, 931 F2d 148, 151 (1st Cir 1991), and Christianson v Colt Industries, 486 US 800, 817 (1988) (each regarding the "law of the case" doctrine), supported Warner's use of Fed R Civ P 60(b) to move for correction of the false assertions because the assertions are "clearly erroneous and would work a manifest injustice" Rivera-Martinez, id.

The district court, choosing to narrowly construe and confine the motion to Fed R Civ P 60(b)(1), rather than following the requirements to liberally construe Warner's pro se 60(b) motion (see Estelle v Gamble, 429 US 97, 106 (1976); Haines v Kerner, 404 US 519, 520-521 (1972); Wilson v HSBC Motg. Services, 744 F3d 1, 7 (1st Cir 2014)(Courts are to construe pro se pleading liberally in

the light most favorable to pro se plaintiffs); and Dutil v Murphy, 550 F3d 154, 158 (1st Cir 2008)(Courts are required to liberally construe pro se pleadings, and endeavor to avoid dismissal for technical defects)), the district court held that correction of the court's "mistakes of fact" (false assertions), is not available under Fed R Civ P 60(b)(1) because 60(b)(1) does not, in the First Circuit, cover a court's mistakes of fact. (Appendix B, p5).

When Warner turned to the court of appeals, adding Buck v Davis, 197 LEd2d 1, 21 (2017), and Liljeberg v Health Service Corp., 486 US 847, 863-864 (1988), both stating that extraordinary circumstances supporting relief under Fed R Civ P 60(b)(6) include "the risk of injustice," and "the risk of undermining the public's confidence in the judicial process," the panel of the First Circuit affirmed the district court's decision, opining "[t]he 60(b) motion did not have a viable legal basis."

Incidentally, the false assertions the district court avoids correcting fit perfectly into the Second Circuit's use of Liljeberg, id., stated in United States v Amico, 486 F3d 764, 777 (2006), as: The three factors set by the Supreme Court supporting relief under Fed R Civ P 60(b) include: "the risk of injustice to the parties in the particualr case; the risk that the denial of relief will produce injustice in other cases; and the risk of undermining the public's confidence in the judicial process."

II. THE FALSE DECISIONS WILL CAUSE INJUSTICE IN OTHER CASES.

Besides resulting in injustice to Warner and his co-plaintiffs, the district court's false assertions, especially the one stating

"even if the copy and paste method were the only means by which the plaintiffs' communications were recorded, that would not necessarily violate §2518(8)(a)," affirmed (thereby, endorsed) by the First Circuit Court of Appeals, set precedent declaring: Even though intercepting and recording e-mails and chats by copying and pasting them into computer word processing documents, which converts them into an editable and alterable format, does actually violate 18 USC §2518(8)(a)'s protective interception recording requirements, the use of copy and paste to intercept and record e-mails and chats shall be treated as if it does not violate §2518(8)(a)'s protective recording requirements.

The precedent actually nullifies Congress' requirement that intercepted electronic communications be protectively recorded, and just like with other bad law, it will be taken advantage of by law enforcement and prosecutors throughout the United States, even if they know the precedent is wrong.

To elaborate, the precedent holds that the copy and paste method of intercepting and recording Internet communications does not violate §2518(8)(a) even though [1] the method permits exactly what §2518(8)(a) seeks to prevent, any editing or alteration of the contents of such electronic communications when they are intercepted and recorded for use as evidence; [2] people of ordinary intelligence know that copy and paste will always convert the intercepted communication into editable, alterable computer word processing documents, and, therefore, the method would violate §2518(8)(a)'s protective interception recording requirements; and [3] the precedent permits -- indeed, invites -- dishonest

police and other people to use word processing software to, like McLaughlin did, frame innocent people by fabricating what appear to be recorded Internet communications. Cf. United States v Jones, 181 LEd2d 911, 925-26 (2012), Justice Sotomayor, concurring, stating "I would also consider the appropriateness of entrusting to the Executive, in the absence of any oversight from a coordinate branch, a tool so amenable to misuse...."

The protective interception recording requirements set by Congress in 18 USC §2518(8)(a) for the interception of, inter alia, electronic communications, such as Internet communications, and made enforceable by the courts, was put in place because Congress was not willing to trust to law enforcement, without protective measures and oversight by the judiciary, a tool Congress knew was amenable to misuse, see United States v Ojeda Rios, 495 US 257, 263 (1990), noting "[t]he primary thrust of §2518(8)(a) is to ensure the reliability and integrity of evidence obtained by means of electronic surveillance," by ensuring "the Government has no opportunity to tamper with, alter, or edit the conversations that have been recorded."

The copy and paste method is far more amenable to misuse than the types of interception recording methods available in 1968 when §2518(8)(a) was put in place. The copy and paste method provides opportunities to tamper with, alter, and edit the conversation before it is turned into a recording with the use of the computer word processing software's "save" feature, and it provides opportunities to tamper with, edit, and alter the conversation after it has been recorded, and because e-mails

and chats are textual in nature, the edits and alterations are far easier to do, then not be noticed.

The advantages of following reality, and holding that the copy and paste method violates §2518(8)(a)'s protective recording requirements include the fact that protectively recorded e-mails and chats would be self-authenticated, fully reliable recordings, reducing how they can be challenged for suppression. See, e.g., United States v Vayner, 769 F3d 125 (2nd Cir 2014) (evidence suppressed for failure to authenticate), in which the defendant's brief noted that some federal courts have reasoned that the "heightened possibility for manipulation of electronically stored information, especially that found on the Internet, calls for greater scrutiny of foundational evidentiary requirements such as authentication."

And also of great importance, correcting the district court's false assertions will prevent injustice in other cases [1] with the reversal of the district court's dismissal of the suit transforming the litigation against Respondent, which reveals Respondent's alteration and fabrication errors, into an opportunity for Respondent to learn to be more careful when he fabricates evidence; and [2] by stopping Respondent Detective McLaughlin's fabricating evidence to frame more people of crimes they did not commit, like he did to Warner, Rowe, and Olsen.

Clearly, this Court should exercise its supervisory authority to prevent the spread of the bad law created by the district court's false assertions made to dismiss the suit against Respondent; made, it seems, to protect a corrupt police officer.

III. THE FIRST CIRCUIT COURT OF APPEALS SANCTIONED THE DISTRICT COURT'S DEPARTURE FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS.

The district court's departures from the expected, accepted, and usual course of judicial proceedings which were sanctioned, that is, endorsed by the court of appeals are, in short"

1.) The district court making several provable, obvious false assertions to dismiss, using its 28 USC §1915A screening power, a law suit filed against a police officer; and

2.) The district court refusing to acknowledge and correct the obvious false assertions, despite very good reasons why the assertions should have been corrected, such as

[1] the assertions are obviously false; [2] they work a manifest injustice; [3] they are obvious to people of ordinary intelligence; and [4] appear to be lies (untrue statements made with the intent to deceive") rather than errors ("an ignorant or unintentional deviation from accuracy or truth), thus undermining the public reputation, and public's perceptions of, and confidence in the judiciary. The false assertions, incidentally, provide an appearance that the U.S. judiciary is corrupt, cannot be trusted, has no respect for the law, and is fully willing to protect the fabrication of evidence, and other outrageous government conduct.

A. THE DISTRICT COURT'S OBVIOUSLY FALSE ASSERTIONS.

The reality is that a decision, opinion, order, or judgment issued by a judge is, simply, his/her explanation why he/she decided the way he/she did. And, as was said in Caperton v

A.T. Massey Coal, 556 US 868, 891 (2009), "there is a presumption of honesty and integrity in those serving as adjudicators. All judges take an oath to uphold the Constitution and apply the law impartially, and we trust that they will live up to that promise." See also Code of Conduct for United States Judges, Canon 2(A)("A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary)(Commentary: "An appearance of impropriety occurs when reasonable minds, with knowledge of all the relevant circumstances disclosed by a reasonable inquiry, would conclude that the judge's honesty, integrity, impartiality, temperament, or fitness to serve as a judge is impaired.").

When a judge makes false assertions to dismiss a civil suit, as district court judge DiClerico did, he departs from the expected and accepted course of judicial proceedings, described above, and he erodes public confidence in the judiciary. And when the judges of the court of appeals affirm (endorse), with false assertions, the district court's false assertions, as circuit judges Howard, Torruella, and Barron did, they have also departed from the expected and accepted course of judicial proceedings, and will further erode the public's confidence, As well, they create an appearance the judiciary is dishonest and partial.

The only way to overcome such perceptions would be for a higher court to show honesty, impartiality, and integrity by [1] admitting the lower courts issued false assertions; and [2] exercise its supervisory powers, correcting the obviously

false assertions, rather than ordering courts that have shown they cannot be trusted to correct the assertions; false assertions such as the following false assertions made by the district court to explain its decision to dismiss the complaint:

1. **THE DISTRICT COURT MADE A FALSE ASSERTION** when it opined that Warner, and his co-plaintiffs (Mr. Rowe, and Mr. Olsen) failed to establish that Respondent, Detective McLaughlin, violated 18 USC §2518(8)(a)'s protective interception recording requirements when McLaughlin recorded alleged Yahoo! e-mails, and Yahoo! chats he claimed were communications with Warner, Rowe, and Olsen which incriminate them of child pornography crimes. (Appendix C, pages 10-11).

A reading of the complaint (Case No. 16-cv-34-JD (D. NH 2016) Document No. 1), proves the assertion is obviously false because the complaint contains the facts --

--- The only recordings produced by McLaughlin of his alleged communications with Warner, Rowe, and Olsen were all computer word processing documents;

--- McLaughlin disclosed, at the trial of United States v Ismay, Case No. 08-cr-39-AG (CD Cali 2008), he intercepts and records his Yahoo! communications with his suspects by recording them as "text files" (another term for computer word processor document);

--- Since the most common, and easiest way to record an e-mail or chat as a text file is to use the copy and paste computer word processing tool to copy the text within the e-mail's or chat's window into a computer word processor document, that was most

likely how McLaughlin recorded his communications as text files - < there are other methods Respondent could have used to record his communications as text files >;

--- Because recording an e-mail or chat as a text file, regardless of the method used to do so, converts the communication into an editable, alterable computer word processing document, Respondent's recording his alleged e-mails and chats as text files resulted in each interception becoming editable and alterable.

(NOTE: Converting intercepted communications into computer word processing documents also permitted McLaughlin to do what Warner, Rowe, and Olsen say he did, viz., type text into a blank computer word processing document to fabricate what appear to be intercepted e-mails, and chats, then save them as the same type of text file as the communications he intercepted; and Warner, Rowe, and Olsen know, based on their review of the evidence, McLaughlin did more fabricating than intercepting.)

--- Because the text file recordings were editable and alterable, and because the copy and paste method, which is just an easier way to manually transcribe a communication to a computer word processing document, [1] interposes an agent, and permits editing/alteration during the process of intercepting and recording the e-mail or chat; [2] creates editable/alterable recordings, the Plaintiffs alleged that Respondent violated §2518(8)(a)'s protective recording requirements, and, therefore, the electronic communications Respondent claimed he intercepted while communicating with Warner, Rowe, and Olsen were intercepted in violation of 18 USC §§2510 et seq., and under 18 USC §2520(a) and (b), Warner, Rowe, and Olsen could recover, from Respondent, monetary damages, and equitable relief appropriate for the circumstances in the suit.

Any person of ordinary intelligence given the facts above would conclude that Warner, Rowe, and Olsen did clearly establish that Respondent, James McLaughlin, did violate, multiple times, the protective recording requirements in §2518(8)(a), which, because McLaughlin is a police officer charged with presumptive knowledge of laws, McLaughlin has a duty to follow when conducting his comprehensive, planned Internet communication interceptions, rather than choosing to intercept and record his e-mails and chats as editable, alterable computer word processing documents.

Therefore, a person of ordinary intelligence would conclude that the district court's assertion is false; there was a lack of fairness and integrity in the judicial proceeding; and a lack of the computer literacy necessary for the district court to conduct an accurate, reliable 28 USC §1915A screening.

2. THE DISTRICT COURT MADE A FALSE ASSERTION when judge DiClerico said "even if the copy and paste method were the only means by which the plaintiffs' communications were recorded, that would not necessarily violate §2518(8)(a)." (Appendix C, p 9).

WOW!!! Does Judge DiClerico think he can alter reality? Or does he not care about his and the judiciary's reputation?

Warner has pondered for weeks, and cannot think of a scenario in which a party to an e-mail or chat intercepts and records his communication with the copy and paste method, and the method would not violate 18 USC §2518(8)(a)'s protective recording requirements.

Here is the breakdown that shows the assertion is false:

First, 18 USC §2518(8)(a)'s protective recording requirements are, as relevant:

"The contents of any electronic communication intercepted by any means authorized by 18 USC §§2510 et seq. shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any electronic communication under this subsection shall be done in such way as will protect the recording from editing or other alterations."

Next, as the district court agrees (Appendix C, p 7, fn 1), 18 USC 2511(2)(c), which states, as relevant, "it shall not be unlawful under 18 USC §§ 2510 et seq. for a person acting under color of law to intercept an electronic communication, where such person is a party to the communication," is the means that authorized McLaughlin to intercept any e-mails and chats between him and his suspects. And that authorization is contained in "18 USC §§2510 et seq.," a.k.a. Chapter 119 of Title 18 of the United States Code, 18 USC §2510 through §2522.

Third, the copy and paste method will always record the contents of an intercepted e-mail or chat to a device comparable to a tape, or wire, meeting the requirement in the first sentence of §2518(8)(a)'s protective recording requirements. In fact, any method that intercepts and records an e-mail or chat will, by default, always record it to a device comparable to a tape or wire.

Finally, the use of the copy and paste method will, as people of ordinary intelligence know, always convert every e-mail and chat intercepted and recorded with that method into a fully editable, alterable computer word processing document while its con-

tents are recorded to a tape, wire, or other comparable device, and therefore, the method will always violate §2518(8)(a)'s requirements that the recording under the subsection -- meaning onto a tape, wire, or other comparable device -- shall be done in such way as will protect the contents of the intercepted communication from editing or other alterations.

Warner has, himself, used the copy and paste method to copy the contents of, inter alia, e-mails and chats to word processing documents; using copy and paste because it converted the contents to a format that permitted him to edit and alter them to suit his needs. Warner's use of copy and paste did violate §2518(8)(a), but the violation never became an issue because Warner never sought to use his recordings against anybody, giving standing for a challenge -- while the copy and paste method will always technically violate §2518(8)(a)' protective recording requirements, not every violation will result in a suit under 18 USC §2520(a), because §2518(8)(a) is not a blanket prohibition, it is simply an evidentiary protection.

3. THE DISTRICT COURT FALSELY ASSERTED that Warner, Rowe, and Olsen "apparently accept the accuracy and validity of other recordings made by McLaughlin and do not contend that those violated §2518(8)(a). Therefore, because the plaintiffs alleged McLaughlin saved their communications through other means that did not violate §2518(8)(a), they have not alleged facts to show that McLaughlin violated the [Electronic Communications Privacy Act]." (Appendix C, p 9).

Warner, Rowe, and Olsen, and people who have been following the litigation were disgusted, and angered when they read the lie... the... the bullshit in the second sentence of DiClerico's assertion.

A reading of page 10 of Appendix C shows that DiClerico came up with his false assertion by construing the Plaintiffs' "provid[ing] copies of screen captures and print-outs" (recording variations. McLaughlin produced), "and contrast[ing] those to McLaughlin's pasted copies in the affidavits," against the Plaintiffs. Because it took imagination to construe the usage of recording variations the Plaintiffs never called accurate or valid into the fictitious assertion of accuracy and validity, it is clear that the district court intentionally construed said usage against Warner, Rowe, and Olsen.

The reality is:

First, the Plaintiffs never accepted any of the text file recordings as accurate or valid-- in fact, the Plaintiffs **know** they are **ALL** inaccurate; that most of the text files are fabricated recordings of fabricated e-mails and chats, and the rest of the text files are altered with fabricated incrimination.

Second, what the court construes against the Plaintiffs, to invent its fictitious claim of accuracy, is the Plaintiffs' providing copies of two screen captures and one print-out, and contrasting those to the corresponding recordings McLaughlin pasted into his affidavits. What that means is that the court invented a fictitious claim of accuracy by imaginatively construing, against the Plaintiffs, rather than in a light favorable to the

pro se Plaintiffs, their use of 3 recordings to show definite alterations made in 3 situations out of more than 25 individual text file recordings they presented with the complaint against Respondent -- each of McLaughlin's "Supporting Affidavits" contains a compilation of many separate text file recordings.

Third, the two screen captures provide only excerpts of the conversation recordings they correspond to in McLaughlin's "Supporting Affidavits" (one recording in Ismay's case, and one in Olsen's case), as such, the screen captures are NOT accurate representations of the full conversations alleged in McLaughlin's affidavits, but, the screen captures do accurately reveal the alterations made between the conversation recordings in the affidavits, and the screen captures, which are, incidentally, accurate, valid non-text file recordings of the few lines of the chats they are excerpts of. And the one print-out, which corresponds to a group of e-mails in McLaughlin's affidavit for Olsen's case, contains things revealing that it is far from accurate and valid. Warner asks the Court to review Appendix E, providing excerpts of the pages of the complaint, and the corresponding exhibits concerning the 3 comparison situations the district court used to invent its fictitious assertion of accuracy.

And fourth, because the accuracy of a recording would not overcome it having been intercepted and recorded in violation of 18 USC §2518(8)(a), the accuracy of the two screen captures cannot overcome any of Respondent's more than 25 individual violations of §2518(8)(a) in the situations presented by Plaintiffs that do NOT

involve the two screen captures -- because each e-mail and chat is its own separate, distinct communication event, they are intercepted separately, thus each interception that does not comply with §2518(8)(a)'s protective interception requirements is its own violation, and the Plaintiffs did not present with their complaint all of McLaughlin's §2518(8)(a) violations in their cases. Rather, they only presented those that show alterations and fabrication errors that they believed would justify tolling or disregard of the 18 USC §2520(e) statute of limitation, if it were an issue.

4. THE DISTRICT COURT FALSELY ASSERTED, MULTIPLE TIMES, in multiple ways, that the Plaintiffs' allegations are that "McLaughlin violated §2518(8)(a) by using computer word processing software to copy their communications to affidavits." (Appendix C, pp 3-4, p 7, pp 8-9, and again on p 9).

The false assertions are clearly meant to mislead the reader of the district court's order, they, however, cannot mislead Warner, Rowe, Olsen, and the people who have been following the litigation, because they know the truth.

Warner alleges that the false assertions are also meant to make Warner, Rowe, and Olsen appear stupid, a violation of Canon 3(A)(3) of the Code of Conduct for United States Judges ("A judge should be patient, dignified, respectful, and courteous to litigants...."). The false assertions are also another example of the court intentionally construing the pro se Plaintiffs' pleadings against them; twisting things to invent assertions for dis-

missing the complaint against someone who, it appears, might be DiClerico's friend.

The truth is: Warner, Rowe, and Olsen alleged, knowing it was already true, that McLaughlin's initial interception and recording of e-mails and chats he claimed were communications with the Plaintiffs violated 18 USC §2518(8)(a)'s protective interception recording requirements (the use of "interception and recording" encompasses both the interception of actual e-mails and chats, as well as McLaughlin's typing text into a word processing document to fabricate what appears an e-mail or chat).

Then the Plaintiffs used McLaughlin's "Supporting Affidavit" titled documents, which he claimed contained copies or duplicates of his initial recordings, to reveal alteration and fabrication of evidence that would justify, in the interests of justice, tolling or disregarding the 18 USC §2520(e) statute of limitation if the statute of limitation is an issue.

Because the alteration and fabrication of evidence is a Constitutional Due Process violation that can easily result in the conviction of one who is actually innocent (see, e.g. Garnett v Undercover Officer C0039, 838 F3d 265, 274-280 (2nd Cir 2016); Limone v Condon, 372 F3d 39, 45-48 (1st Cir 2004)(both holding fabrication of evidence violates due process)(Limone, id., fabricated evidence used to convict 3 innocent men)), the Plaintiffs used the alterations and fabrication errors in the recordings in McLaughlin's affidavits (which are not actually "affidavits" ¹) to allege McLaughlin's recordings were fabricated, to

¹ An "affidavit" is "a voluntary declaration of facts written down and sworn to by the declarant before an officer authorized to administer oaths." The "Supporting Affidavits" McLaughlin provided for his accusations against Warner,

ask for tolling, citing Holland v Florida, 177 LE2d 130 (2010), and to invoke the "actual innocence" and "miscarriage of justice" exception in McQuiggin v Perkins, 185 Led2d 1019 (2013), as a gateway through the 18 USC §2520(e) statute of limitation, if it were to be an issue.

In response, the district court, and the panel of the court of appeals, both made the false assertion that Holland v Florida provides no support to toll the §2520(e) limitation period because §2520 is not an habeas corpus action. The assertion is false because the Holland v Florida opinion applies regular civil suit tolling law to come to the decision.

Then the district court used the same habeas corpus reason to hold that the actual innocence and miscarriage of justice exceptions cannot be applied to the 2520(e) limitation period.

Warner contends, however, that, in this particular case, because of the particular violations of 18 USC §2518(8)(a); the alteration and fabrication errors found in McLaughlin's affidavits; and with the fact that Warner's, Rowe's, and Olsen's cases combined reveal that McLaughlin has a pattern of activity of altering and fabricating evidence, the interests of justice demand [1] tolling the limitation period, or construing the facts and the Plaintiffs' circumstances in a manner favorable to declaring the suit timely (Holland v Florida, id., at 143 holds there is a "presumption in favor of equitable tolling."); and

Rowe, and Olsen are not sworn to. They are not even signed by McLaughlin, and do not comply with 28 USC §1746, "Unsworn declaration under penalty of perjury." Nor do those non-judicial New Hampshire police records, sent by McLaughlin to other States' law enforcement agencies, comply with 28 USC §1739's attestation and certification requirements. It is clear, McLaughlin has no respect for federal law.

or [2] that the miscarriage of justice exception should be applied to disregard [a] the 18 USC §2520(e) statute of limitation period, and [b] the "favorable termination" requirement of Heck v Humphrey, 512 US 477 (1994), that the district court, rather than the Respondent, invoked for a reason to dismiss the civil suit against the Respondent.

5. **THE DISTRICT COURT MADE A FALSE ASSERTION** when it claimed that the Plaintiffs failed to show that fabrication or material alterations occurred. (Appendix X, p 10).

That false assertion contains an outright lie, and when it is considered with [1] what the court said thereafter; and [2] a forensic expert's opinions, it becomes clear that Judge DiClerico is partial; that he is favoring Respondent James McLaughlin over Warner, Rowe, and Olsen.

Before discussing what DiClerico said after making his false assertion, Warner will summarize for this Court what he and his co-plaintiffs presented to the district court.

The Plaintiffs, presuming the district court judges know that copy and paste duplicates exactly how an e-mail or chat appears on the computer screen, and, basically, photocopies the e-mail or chat to a computer word processing document, converting the copy into an editable/alterable format, presented evidence showing --

<1> between two screen captures, and the recordings they are excerpts of (one from Ismay's case, and one from Olsen's) the screen names do not match, and the dates contained in the date/time stamps of each screen capture (a printed snapshot of the chat win-

dow as the conversation is occurring) are missing from the recording version McLaughlin provided in his "Supporting Affidavits," alleged to be duplicates of his initial interceptions, but which the screen captures reveal are NOT duplicates of the chat conversations. If what McLaughlin produced in his affidavits were duplicates of his initial interceptions of the chats, which would have created duplicates of what is shown in the chat windows, the screen names in the affidavit versions of the recordings would match, identically, those in the screen captures, and the date/time stamp would have carried over, identically, to the affidavits. Thus, the screen captures prove that the recording versions in McLaughlin's affidavits are altered versions of the chats the screen captures are accurate NON-text-file-recorded excerpts of.

That raises the question: when did McLaughlin make the alterations? Because of what copy and paste, and other text file recording methods permit, were they made [1] immediately after he pasted the contents of the chats to computer word processing documents, or [2] after he recorded the chats as editable, alterable computer word processing documents, or [3] as he was pasting them into his affidavits? Forensic Expert Kevin Peden provides that answer for us, and it will be presented below -- ok, Warner will not keep you in suspense, Peden says "during the recording session," meaning after McLaughlin pasted the contents into computer word processing documents, but before clicking the word processing software's "save" function, recording the word processing documents as "text files,"

<2> chat recordings in McLaughlin's affidavits from Warner's and Olsen's cases, which have no corresponding screen captures, show the exact same name changes and date deletions proven by the "screen capture to affidavit version" comparisons discussed above, revealing the chat recordings from the affidavits from Warner's and Olsen's cases are not duplicates of chats McLaughlin claimed, with his affidavits, he had with Warner and Olsen. And, Forensic Expert Peden reviewed one of the chats from Warner's case, concluding, like with the affidavit recordings discussed above, that the alterations were made by McLaughlin during his recording session -- this will be addressed more below.

<3> between a printed text file recording, (obtained from the City of Keene, NH's records of McLaughlin's case file for Olsen's case) of four alleged e-mails in Olsen's case, and their counterparts in McLaughlin's affidavit, there are several discrepancies revealing deletions, additions, and alterations of data, as well as failures by McLaughlin to follow Yahoo's formats. (See, again, Appendix E).

<4> alleged e-mails in McLaughlin's affidavit for Rowe's case, when compared to actual Yahoo! e-mails, reveal that McLaughlin's data and formats do not match Yahoo's data and formats -- if those alleged e-mails were duplicates or copies of actual e-mails intercepted and recorded by McLaughlin, his data and formats would match Yahoo's formats and data, exactly, and, thus, would not be missing data Yahoo! provides; would not contain data Yahoo!

does not provide; would not fail to match how Yahoo! presents its data, and what is provided; and McLaughlin would not have made the mistake of transposing data he manually added with data Yahoo! provides in its e-mails -- Rowe knows that all of the e-mails in McLaughlin's affidavit are fabricated, and when Rowe wrote to the City of Keene, NH, and its police department to obtain a copy of McLaughlin's case file on Rowe, Rowe was informed that there are no records of any investigation of Rowe by McLaughlin, like evidence with the complaint shows there was for Olsen, as such it appears that the alleged e-mails, which clearly were fabricated, were produced by McLaughlin when he produced his computer-word-processor-document affidavit, sent to a law enforcement agent in Kentucky, but not copied for his employer's records.

<5> alleged e-mails in McLaughlin's affidavit for Warner's case, when compared to actual Yahoo! e-mails, reveal many of the same data and format errors found in the e-mails from Rowe's case, and errors that do not exist in the e-mails from Rowe's case. AND, like Rowe, Warner discovered when he wrote to the City of Keene, NH, there are no records of an investigation of Warner by McLaughlin, like there was for Olsen, thus, it appears that, like in Rowe's case, ~~ALL~~ the alleged e-mails in McLaughlin's affidavit, which clearly were fabricated, were produced by McLaughlin, along with the chats discussed above (in <2>), when McLaughlin produced his computer-word-processor-document affidavit, which he sent to a law enforcement officer in Michigan,

but not copied and preserved in his employer's records.

--Now for what DiClerico said after his false assertion.

Concerning only what is discussed in <1> and <3>, Judge DiClerico acknowledged the alterations when he stated:

"[The Plaintiffs] offer their own analysis of the copy-and-paste document, faulting McLaughlin for minor changes between the screen capture and printed version of the communications,... and the affidavits." (Appendix C, p 10).

Then DiClerico attempts to diminish the acknowledged alterations by stating "[t]he small changes do not show any material fabrications or alterations, contrary to the plaintiffs' conclusory accusations." Then following that, possibly addressing the remainder of what is discussed above in <2>, <4>, & <5>, DiClerico says "the plaintiffs analysis focuses on minutiae, and the probative value of their challenge, compared to an analysis by an expert, lacks persuasive power."

When DiClerico's opinions about the alterations and fabrication errors is compared to the facts and a forensic expert's opinions (discussed below), it becomes clear that DiClerico has a partiality that definitely favors McLaughlin over Warner, Rowe, and Olsen. (Additional examples of alterations and fabrication errors are provided in Appendix F.)

The Facts and a Forensic Expert's Opinions That Reveal DiClerico is Wrong, and Partial

First, let's start with the facts that [1] "material" means, in the context of DiClerico's opinion, "highly important; significant"; [2] "material/highly important/significant" in the con-

text of 18 USC §2518(8)(a)'s protective interception recording requirements, means ANY edit or alteration that can be made, or was made to any of the contents of the recording of intercepted communications; [3] the "contents" of a recording of an e-mail or chat are its text/data, which includes, inter alia, the screen names, date/time stamps, data headers, and e-mail addresses, as well as the communications statements; and [4] if a change could be, or was made to some of the contents of an e-mail or chat, then changes could be made to any of the rest of the communication's recordings -- to computer word processing software, data like screen names, date/time stamps, data headers, e-mail addresses, and the communication statements are ALL just text/data, and the software cannot distinguish significance, protecting some text from alteration and/or deletion, or prevent the addition of text/data, all while-permitting the rest of the text to be altered, edited, or deleted.

Those facts firmly establish [1] the falseness of DiClerico's opinion that the changes and errors highlighted above, and others presented in the complaint, are small, and fail to show material alterations and fabrications occurred; and [2] DiClerico's partiality, unfairness, and refusal to accept as true, rather than conclusory, the facts that the alterations and fabrication errors, which he acknowledged do exist, are significant, despite the fact that it is so obvious. It appears DiClerico refused to follow the law of his own court that "the court must take as true all well-pleaded facts in the plaintiff's complaint, scrutinize them in the light most hospitable to the plaintiff's theory, and

draw all reasonable inferences in the plaintiff's favor." Hajdusek v United States, 2017 US Dist LEXIS 153895 (D NH 2017).

Now let's look at Appendix D, a copy of the report issued by Forensic Expert Kevin Peden for his review of just a few of the recordings McLaughlin produced for Warner's Rowe's, and Ismay's cases; a report that, among other things, [1] confirms the Plaintiffs' analysis of the changes and errors; [2] confirms McLaughlin did use copy and paste to intercept and record his alleged e-mails and chats; [3] faults, like the Plaintiffs did, McLaughlin for the changes and errors in his recordings; and [4] confirms the alterations and fabrication errors reveal McLaughlin's e-mail and chat recordings are not accurate.

Judge DiClerico's response to Peden proving DiClerico's assertions are false confirms his partiality, favoring McLaughlin and himself over Warner, Rowe, and Olsen, as DiClerico says that the report, "at best, provides lukewarm support for Warner's claim" the court made false assertions. (Appendix B, p 6).

When DiClerico belittled Peden's report, he acted as if he is more of a computer and forensic expert than Computer/Forensic Expert Kevin Peden is, and he basically disregarded Fed R Evid 401, and 702.

First, on page 6 of Appendix D, in his conclusion, Peden reports that "based on the documents [he] reviewed in these cases, it appears that chats between Det. McLaughlin and the defendants in this case [meaning the Plaintiffs], were manually created through copying and pasting data into a word processor," which, since "data" includes text, confirms the Plaintiffs' assertions

that McLaughlin did use copy and paste to intercept and record his alleged e-mails/chats; that McLaughlin's recordings are, in fact, editable, alterable computer word processor documents.

Second, on pp 4-5 of App. D, Peden reports that chats from Warner's case, and a chat from Ismay's case (the exact one discussed above, p 19, and pp 23-24) all contain name changes and date deletions, and that those alterations in each instance were made "during the recording session," meaning after McLaughlin copied the text/data from the chat windows to computer word processing documents, but before he finalized the recording session by clicking the word processing program's "save" function, creating a "text file" that could be opened, altered, and re-saved.

Third, on pp 5-6 of App. D, Peden reports inconsistencies in the formatting of McLaughlin's e-mails for Rowe's case, and there is "data [that] does not correspond correctly to the line it is recorded on." (See Appendix D, Exhibit 1 for an enlarged copy of the e-mails Peden discussed thereafter). Peden says the transposing of data he addresses "shows that the data is being manually entered by the author," in other words, McLaughlin typed text/data into his computer word processing document, fabricating evidence, specifically, manually adding Internet Protocol addresses to tie the fabricated e-mails to Rowe.

And, finally, Peden concludes, on p 6:

"Without actual chat logs created through the chatting program, it is very difficult to determine the level of inaccuracy of the provided chats throughout the reports. Yahoo! does provide a reliable encoded chat logging system which is routinely collected and presented in court for these types of cases. This is the method of evidence collection which should have been implemented. If Det.

McLaughlin had utilized this method of preservation, all the evidence for this case would have been reliable."

While Peden's conclusion, and report, clearly declares that the recordings he reviewed are inaccurate and unreliable, and suggests that the remainder of McLaughlin's recordings should be presumed to be just as inaccurate and unreliable, Judge DiClerico, after he acknowledged Peden's assertion that "the process used to create the documents made them unreliable" (Appendix B, p 6), interpreted Peden's conclusion against the Plaintiffs, twisting it, altering it, and changing one word ("inaccuracy" in the first sentence to "accuracy"), to state: "Peden further states, however, that without the actual logs of the communications, 'it is very hard to determine the level of accuracy of the provided chats'" (Appendix B, p 6), which attempts to mislead the reader to believe Peden contended McLaughlin's recordings were accurate even though they were recorded using a method that would normally make them unreliable.

Warner, Rowe, Olsen, and the people following their litigation are disgusted by DiClerico's flagrant, flagitious twisting of Mr. Peden's report; his taking a report that supports the Plaintiffs' assertions that material alterations and fabrication errors were made by McLaughlin, and transforming it into something that supports DiClerico's desires to rule against Warner, Rowe, and Olsen.

SECTION III CONCLUSION

The foregoing, pages 11 through the present page, clearly show that [1] the 28 USC §1915A screening proceedings in which Warner's

and his co-plaintiffs' complaint was dismissed; [2] the Fed R Civ P 60(b) proceedings; and [3] the court of appeals' proceedings endorsing both of those district court proceedings all (1) lack fairness and integrity; (2) resulted in manifest injustices; and (3) have eroded, and will continue to erode -- until corrected -- the public reputation, and the public's perception of, and confidence and trust in the U.S. judiciary.

Wherefore, it is clear that a writ of certiorari should be issued to review the actions of the lower courts; actions that are calling for an exercise of this Court's supervisory power; correction of the false assertions; and, as justice so clearly demands, reinstating the civil suit against McLaughlin, and, in the interests of (1) justice, and (2) conserving judicial resources, awarding Warner, Rowe, and Olsen the equitable relief they seek (vacating their convictions, and suppression of McLaughlin's recordings), and monetary damages..

IV. GRANTING THIS PETITION WILL CONSERVE JUDICIAL RESOURCES.

Granting this petition, correcting the district court's false assertions, and reinstating the civil suit against Respondent will serve the interests of justice, and conserve judicial resources, because it will permit Warner, and his co-plaintiffs in the suit, to obtain (1) the equitable relief they so clearly deserve and are entitled to, but were denied by their sentencing courts; and (2) monetary compensation from McLaughlin that is appropriate for what he did to the Plaintiffs. Rather than forcing the Plaintiffs to jump through additional hoops with more lit-

gation in other courts to obtain such relief and compensation, which will use addition judicial resources; be unfair and unjust to the Plaintiffs; and delay their obtaining the relief and compensation that, since they were never guilty of what McLaughlin's evidence made it appear they did, they will not stop fighting for.

Before proceeding with his argument, Warner

[1] wants to quote something he recently read:

"The way we behave toward our fellow man depends on who we think he is, and who we think we are. If we believe man is a purposeful creation of a loving God, we take a different view of him than if we believe he is an animal."

and

[2] wants to introduce the three innocent men who brought the civil suit against Respondent; three innocent men whose lives have been toyed with as if they are stupid, irrelevant, disposable animals, rather than the productive human beings that they were, and can still be.

Please meet:

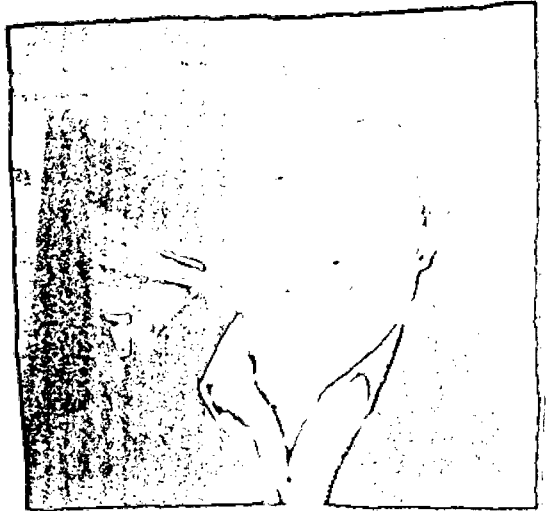
Kenneth Rowe, a very caring and beloved husband, father, and grandfather, as well as an extraordinary friend.

Before his arrest, Rowe was a business owner, operating a successful, profitable dental laboratory, employing others, and providing contribution to society.



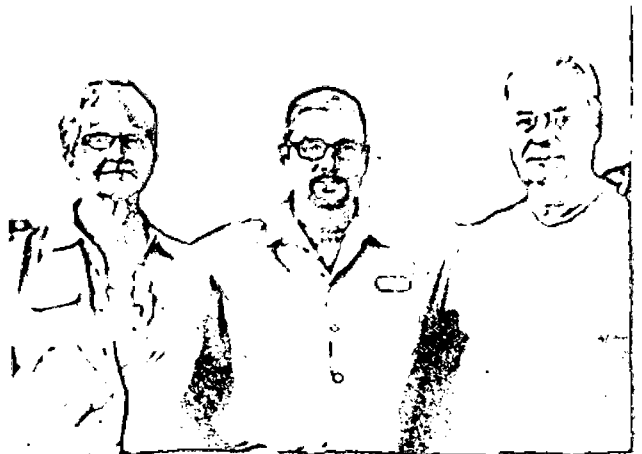
Kyle Olsen, beloved son of two wonderful people, and a very caring, and generous person.

Olsen contributed to his community, and was, at the time of his arrest, working to obtain medical training to contribute further to his community.



And, Adelbert H. Warner, II, called "Del" (center), the dearly missed son of Harold and Kathleen (also pictured). Del was also tremendously missed by his Grandfather, Adelbert H Warner (below), who wanted to be able to see Del again before passing away on November 13, 2017, but was denied that wish because of the games taht have been played with his grandson's life and freedom.

Prior to his arrest, Warner was an over-the-road truck driver, earning a decent living, and paying taxes, contributing to both society, and the Government.



All three of the men above have been deprived, and/or denied their "due process" rights several times, in several ways, beginning with McLaughlin's fabrication of e-mail and chat evidence to frame them for crimes they did not commit -- evidence that instigated criminal procedures against them; was the basis for their indictments; and is the basis of their convictions and very lengthy prison sentences. See Garnett v Undercover Officer C0039, 838 F3d 265, 278 (noting the Second Circuit, "along with the Eighth, Ninth, and Tenth Circuits, have all found denials of due process when charges rest on fabricated evidence....").

In Ricciuti v N.Y.C. Transit Authority, 124 F3d 123, at 130 (2nd Cir 1997), the Second Circuit addressed a situation like the one Warner and his co-plaintiffs got stuck in, and said: "[A] police officer's fabrication and forwarding to prosecutors of known false evidence works an unacceptable corruption of the truth-seeking function of the trial process."

A resonable inquiry into the criminal proceedings against each of the Plaintiffs would disclose McLaughlin's evidence corrupted the truth-seeking process in each case, probably resulting in biases, prejudices, and animosities that infected all of the pre-trial, trial level, and post trial proceedings in each case. Cf. Friedman v Rehal. 618 F3d 142, 158 (2nd Cir 2010):

"Emotions like fear, outrage, anger and disgust, in situations like these, are entirely human. The question is what the legal system can do to correct for the excesses to which they lead. The crux of the moral panic dynamic is that the legal system, in such cases, does not correct for them. It gets swept up in them instead." (citation omitted).

A resonable inquiry would reveal that Warner, Rowe, and Olsen

were denied, actually outright deprived due process --

[1] when McLaughlin's fabricated evidence was used by law enforcement officers to unconstitutionally compel each of them to be a witness against himself -- Warner was outright coerced during a custodial interrogation into (1) waiving his invoked rights to counsel, and (2) providing a false confession.

[2] with the denial of their rights to a fair trial, Strickland v Washington, 466 US 668, 684-685 (1984), which included the denial of the assistance of counsel for their defense when each of their defense counselors failed to challenge the fabricated evidence, completely failing "to subject the prosecution's case to [any] adversarial testing," United States v Cronic, 466 US 648, 659 (1984), instead, their counselors, each, it seems, refusing to accept (1) their clients were innocent, and (2) McLaughlin's evidence was not authentic or genuine, gave the fabricated evidence full credibility, and assisted the Government with the prosecution, and obtaining guilty pleas.

[3] When each of the innocent men introduced above was coerced by his own defense counselor into falsely pleading guilty, and unknowingly waiving their rights to challenge McLaughlin's fabricated evidence.

Following the foregoing, Warner, Rowe, and Olsen each submitted post-conviction (habeas corpus) applications to their sentencing courts for relief from the fabricated evidence, being denied due process, and the relief, when their sentencing courts, each, denied them full and fair hearings in a fair tribunal, which "is a basic requirement of due process." Caperton v A.T. Massey

Coal, 556 US 868, 876.

That Warner, Rowe, and Olsen were denied such due process in their post-conviction proceedings is a fact, rather than a mere accusation, for example --

[1] in Rowe's case, the district court, despite recognizing that Rowe "reserved his right to file a §2255 claim," United States v Rowe, 2014 US Dist LEXIS 53057 (ED KY 2014), denied his post-conviction challenge to McLaughlin's evidence only because, according to the court, Rowe waived his rights "to collaterally attack his guilty plea and conviction." That assertion is false because Rowe reserved his rights to file a §2255 claim, in other words, to collaterally attack his conviction and/or guilty plea. Rowe appealed to the Sixth Circuit court of appeals, which, of course, affirmed the district court's refusal to honor Rowe's reserving, in his plea agreement, his rights to raise a collateral attack on his conviction.

[2] in Warner's case, the district court addressed Warner's 28 USC §2255 motion with a combination of procedural bars and false assertions, most of which say, basically, Warner's claim is procedurally barred or defaulted because he failed to show he was denied effective assistance of counsel since he failed to prove, e.g., (1) he was coerced into waiving his Miranda Rights invoked during a custodial interrogation; (2) he was coerced by police into confessing; and (3) he was coerced by his defense counselor into pleading guilty -- the court never addressed Warner's allegations that McLaughlin violated 18 USC §2518(8)(a) and fabricated the evidence that was exploited by (1) the police

along with other coercive tactics, to coerce Warner into falsely confessing; and (2) Warner's defense counselor, along with other coercive means, to coerce Warner to falsely plead guilty.

An example of Warner's sentencing court's false assertions is the court deciding, basically, that police did not compel Warner, in violation of the Fifth Amendment, to be a witness against himself, because, according to the police report, the police gave Warner the Miranda Warnings, and never employed coercive means, or otherwise attempted to compel Warner to be a witness against himself. That is false, and absurd, because working to compel Warner to be a witness against himself is exactly what the police did when they spent six and a half hours working to overbear Warner's will; working to get Warner to stop denying, and admit to their accusations derived solely from McLaughlin's fabricated evidence.

[3] the judge in Olsen's case has been, for years, just sitting on Olsen's post-conviction motion.

It has become very clear to Warner, Rowe, Olsen, and their family and friends that there seems to be an abundance of unfairness, and bias in the US judiciary. They all speculate that US judges are trained to be biased and prejudicial against people who have been convicted of crimes, especially those convicted of sexual offenses. And that that bias and prejudice is to override fairness when dealing with convicted people's filings, even when evidence shows they are probably innocent.

If this Court does not grant this petition, it will confirm

that.

PETITION CONCLUSION

If this Court cares about the public reputation, and public's perceptions of, and confidence and trust in the judiciary, it must grant this petition, and, at the very least, correct the district court's false assertions, permitting, if this Court will not reinstate the civil suit against Respondent, Warner, and his co-plaintiffs in the suit, to go back to other courts for relief, and "favorable terminations," so they can sue McLaughlin to recover monetary damages for, inter alia, what he did to their lives, freedoms, and reputations.

Failure to grant this petition will further erode the public reputation, and public's perceptions of, and confidence and trust in the judiciary, because it will mean that this Court does not care if the lower courts lie to dismiss their cases, and such will be construed by Warner, Rowe, Olsen, and their family and friends, as well as other members of the public, the People of the United States (the judiciary's employers) to be [1] an endorsement of the lower courts' dishonesty, unfairness, and lack of integrity; and [2] a disregard of principles like those expressed in Napue v Illinois, 360 US 264, 269-270 (1959), which, applied to this petition's context, would be: A lie is a lie, no matter what its subject, and even when a judge tells it, and if it is in any way relevant to a judicial proceeding, the Court has the responsibility and duty to correct what it knows to be, or is evidently false, and issue the truth.

The dignity of the US judiciary, and the Government of the United States cannot tolerate its judges issuing lies to decide their cases, like was so clearly done to dismiss the Plaintiffs' suit against police detective James F. McLaughlin who fabricated evidence to frame them for crimes they did not commit.

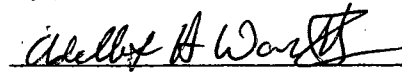
McLaughlin's conduct in Warner's, Rowe's, Olsen's, and Ismay's cases amounts to fraud upon the United States, and four States thereof; it is considered outrageous government conduct; it must be stopped, and, to serve the interests of justice, fairness, and due process, McLaughlin must be held accountable for his conduct, and his ruining the lives of four innocent men who are counting on this Court to help them.

CERTIFICATION

Adelbert H. Warner, II, the undersigned hereby certifies under penalty of perjury that the foregoing petition is true and correct, and that he submitted this petition on March 30, 2018 by depositing it in the FCI Seagoville internal mail system, postage prepaid. 28 USC §1746.

Executed and submitted on March 30, 2018,

by,



Adelbert H. Warner, II, pro se
Inmate No. 13604-040

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