No. _____

23-5105

IN THE

SUPREME COURT OF THE UNTIED STATES

Office of the Clerk

MARK STINSON, Reg # 29908-076 -

PETITIONER

VS.

UNITED STATES OF AMERICA -

RESPONDENTS

RECEIVED
MAR 25 2025
OFFICE OF THE CLERK
SUPREME COURT, U.S.

ON PETITION FOR A WRIT OF CERTIORARI TO THE

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Mark Stinson
Reg #29908-076
777 NW 155th Lane, 911
Miami, FL 33169-6180
Ph: (786) 299-7499
Email: mstinson1@bellsouth.net
Pro Se

QUESTIONS PRESENTED FOR REVIEW

I. Did the Sixth Circuit Court of Appeals err in its reading of Gonzalez, given that other Circuits read Gonzalez to allow Rule 60(b) motions to remedy a wide range of procedural defects in habeas proceedings, similar to the ones alleged by Petitioner here?

II. If a presiding judge's unfitness qualifies as the sort of "defect in the integrity of the federal habeas proceedings" that would support a Rule 60(b) motion under Gonzalez, may a reviewing court in determining that motion consider the reasonableness of that judge's prior disposition of the movant's claims for relief?

III. Did the Sixth Circuit Court of Appeals, which to date has never identified any debatable issue in any post-conviction appeal by this Petitioner, err in denying habeas proceedings concerning the district court's application of Gonzalez to Petitioner's Rule 60(b) motion?

LIST OF PARTIES

The Parties are the same as those listed in the caption.

TABLE OF CONTENTS

Page

INDEX OF APPENDICES:

TABLE OF AUTHORITIES

Cases **Page**

Page

Page

Page

STATUTORY AUTHORITY

Page

I. PETITION FOR WRIT OF CERTIORARI

Mark Stinson petitions the Court for a writ of certiorari to review the judgment of the United States Court of Appeals for the Sixth Circuit.

II. OPINIONS BELOW

The Order of the Court of Appeals for the Sixth Circuit denying Stinson's request for rehearing and suggestion of rehearing en banc specific to the Sixth Circuit panel's blanket denial of any reconsideration (Stinson v. USA., Order, Case No. 23-5105, Doc. 27-1, filed 01/09/2024), is unreported, and reproduced appendix A.

The Order of the three-judge panel of the Court of Appeals for the Sixth Circuit, (Stinson v. USA, Order, Case No. 23-5105, Doc. 24-1 filed 09/26/2023), which construed Stinson's 60(b) motion and issued a pro forma and blanket denial of COA is unreported, and reproduced in appendix A.

The Memorandum Opinion and Order of the district court denying Stinson's petition for reconsideration 60(b) motion denying without analysis is reported at Stinson v. USA, (W.D. Tenn. 2023) is unreported and reproduced in appendix B.

III. JURISDICTIONAL

On January 9, 2024, the Sixth Circuit Court of Appeals entered judgment. This petition is timely filed pursuant to Supreme Court Rule 13.1. This Court jurisdiction is appropriate under 28 U.S.C. § 1254(1).

IV CONSTITUTIONAL AND STATUTORY PROVISIONS

This case involves the relationship between 28 U.S.C. § 2255, the primary

avenue for collateral review of federal criminal judgments, and Fed. R. Civ. P. 60(b), which authorizes a district court to grant relief from a final judgment in a civil case on equitable grounds. It also implicates the Court of Appeals' application of 28 U.S.C. § 2253, which bars plenary appellate review in a habeas corpus proceeding unless a court issues a COA. The text of each of these provisions is contained in Appendix A.

The decision to grant a habeas petitioner's request for an evidentiary hearing is left to the sound discretion of the district court. "In deciding whether to grant an evidentiary hearing, a federal court must consider whether such a hearing could enable an applicant to prove the petitioner's factual allegations, which, if true, would entitle the applicant to federal habeas relief."

The Sixth Circuit noted that § 2255 petitioners are entitled to a prompt hearing" and that while a full-blown evidentiary hearing" is not always required, where there is a factual dispute, the habeas court must hold an evidentiary hearing to determine the truth of the petitioner's claims."

Stinson's motion pursuant to Federal Rule of Civil Procedure 60(b) does not constitute a "second or successive" § 2255 petition and is therefore not barred by the Anti-Terrorism and Effective Death Penalty Act of 1996. A Rule 60(b) motion that does assert an error in the underlying conviction and would constitute a federal basis for relief is not to be construed as a second or successive habeas petition. Stinson filed a motion seeking post-judgment relief pursuant to Rule 60(b) on the grounds that he was erroneously denied an evidentiary hearing.

Consistent with this directive and understanding, this Court has repeatedly issued decisions that have construed or applied provisions of AEDPA in ways that respect and safeguard the core nature and functions of the writ. And this has been particularly true in this Court's capital jurisprudence. In this now significant body of jurisprudence, a majority of the Court have time and again demonstrated its commitment to the principle that AEDPA should not be interpreted so as to deny a habeas corpus petitioner at least "one full bite" – i.e., at least one meaningful opportunity for post-conviction review in a district court, a court of appeals, and via certiorari, the Supreme Court. (Randy Hertz and James S. Leibman, Federal Habeas Corpus Practice and Procedure, Seventh Edition § 3.2 (Matthew Bender)) (applying "one full bite" metaphor in AEDPA context and citing cases.)

As justice Breyer observed, the decisions in Stewart v. Martinez-Villareal, 523 U.S. 637 (1998) and Slack v. McDaniel, 529 U.S. 473 (2000), reflect this Court's tendency to "assume that Congress did not want to deprive prisoners of federal habeas corpus review" and the Court's practice of "interpret[ing] statutory ambiguities accordingly." Duncan v. Walker, 533 U.S. 167, 192 (2001) (Breyer, J., dissenting) (citing Martinez-Villareal and Slack).

V. STATEMENT OF THE CASE

A. Introduction

This petition arises from an effort by a habeas corpus federal prisoner to reopen a post-conviction proceeding in his case after learning that the presiding judge may well have been impaired – physically, emotionally, and/or ethically – during those proceedings. On November 10, 2016, a federal grand jury in the Western District of Tennessee returned a thirteen-count indictment against Mark Stinson and Jayton Stinson, who were, at the time, husband and wife, charged with conspiracy to defraud the United States. (Criminal ("Cr.") ECF No. 3 (sealed).). On September 1, 2017, after Jayton Stinson had entered a guilty plea to Count 1, the grand jury returned a superseding indictment against Mark Stinson. (Cr. ECF No. 54 (sealed).). The superseding indictment charged Mark Stinson with two types of tax offenses, the first (Counts 1 through 11) arising from his operation of his wife's temporary staffing company and an individual income tax return filed by Mark Stinson's son. Petitioner's wife and co-conspirator Jayton Stinson pleaded guilty to one count of conspiracy to defraud the U.S. and was sentenced to 12 months in prison. She was made jointly and severally liable for the restitution, (R.107, Judgment, PageID 469-474).

The Petitioner was charged with thirteen counts relating to tax fraud: one count of conspiracy to defraud the U.S., five counts of failing to pay over employment taxes, five counts of filing false tax returns, one count of theft of government funds, and one count of aggravated identity theft, (R.55, Indictment,

PageID 115-126). The Petitioner was made jointly and severally liable for the restitution with the co-conspirator ($2,834,000.71). The Petitioner proceeded to trial and a jury found him guilty on all thirteen counts.

After the trial the petitioner charges were illegally superseded and sealed, and the imprisonment form was not signed. *See Appendix C*

B. Prior Proceedings leading up to Petitioner's Rule 60(b) Motion: After Petitioner was sentenced. The trial attorney Quinn did not appeal the trial but appealed the denied motion to separate the charges or in the alternative have a new trail. The Sixth Circuit affirmed that denial. The petitioner sought post-conviction relief, alleging ineffective assistance of counsel, conflict of interest, fraud, conspiracy, and witnesses tampering and other allegations and submitting extensive supporting evidence, including affidavits from experts. Ignoring that evidence, and after five years of unexplained inaction on the case, Judge Fowlkes, Jr. turned aside Petitioner's § 2255 motion without an evidentiary hearing.

The trial attorney Quinn was instructed to file an appeal by the Petitioner, and he refused to appeal the trial. The Petitioner wasn't summoned to the grand jury hearing and was under an illegal R.I.C.O. The prosecutors made too many picks for jurors and gave two closing remarks, and the defense made only one, the court allowed this to happen. The court violated the 6th Cir. R. P. 101(a), an email was given to the court, but it was Not entered into the trial exhibits, the court misread the jury instructions, the prosecution's witnesses lied under oath with bogus evidence, government committed a Brady violation, the indictment was bad, the

government, courts and attorneys committed fraud and conspiracy.

The Petitioner contends that his attorney during the trial was ineffective, and a conflict of interest arose. U.S. v. Del Muro, 87 F.3d 1078 (9th Cir. 1996).

The Petitioner contends:

"Petitioner Court Appointed Counsel was inexperienced in The Federal Tax case and didn't understand Income Tax Laws. He was unskilled in the trial he was in charge of United States v. Mark Stinson. He failed to use the subpoena power to bring witnesses or investigate the case in general." Fraud and misrepresentation, as was deliberately planned and carefully executed scheme and conspiracy participated in by attorneys and judges in federal proceedings to defraud the federal court with carefully constructed bogus evidence that not only was presented to that federal court, but which also affected the federal court's decision. Gonzalez v. sec'y for the Dep't of Corr., 366 F.3d 1253, 17 Fla. L. Weekly Fed. C 465 (11th Cir. 2004); Ferrara v. United States, 370 F. Supp.2d 351 (D. Mass. 2005).

Due Process Clause forbids a State from convicting a person for a crime beyond a reasonable doubt. Bunkley v. Florida, 538 U.S. 835, 155 L.Ed.2d 1046, 123 S.Ct. 2020 (2003). This was a malicious prosecution and continues to be. The government committed a Constitutional Error of admitting evidence that is totally without relevant. Nelson v. Brown, 673 F. Supp .2d 85 (2009).

The loss of First Amendment freedoms, for even minimal periods of time,

unquestionably constitutes irreparable injury. The loss of liberty is a severe form of irreparable injury. Ferrara v. United States, 370 F. Supp. 2d 351 (D. Mass. 2009); Barone v. United States, 610 F. Supp.2d 150 (D. Mass. 2009).

Petitioner, timely made the Court aware of the conflict of interest between himself and his attorney Quinn, and moved to fire the attorney but the court denied allowing the petitioner to fire the attorney and petitioner moved a second time to fire the attorney again the Court refused to allow petitioner to terminate the service of counsel and forced petitioner to continue to trial with the same attorney; Alberni v. McDaniel, 458 F.3d 860 (9th Cir. 2006). When counsel objected to potentially conflicted representation, the trial court has an opportunity to eliminate the possibility of an impact on counsel's performance through seeking a waiver from the defendant, appointing separate counsel, or taking adequate "steps to ascertain whether the risk [is] too remote to warrant separate counsel." Holloway, 435 U.S. at 484, 98 S.Ct. 1173. If the trial court fails to make such an inquiry into the potential conflict, *REVERSAL IS AUTOMATIC.* Atley v. Ault, 21 Supp.2d 949 (S.D. Iowa 1998). See *Appendix D* for expert email

When a defendant raises a seemingly substantial complaint before trial regarding the defense attorney's conflict of interest or divided loyalty, the Supreme Court has been absolutely clear that the court must make a thorough inquiry into the matter. Holloway v. Arkansas, 435 U.S. 475 98 S.Ct. 1173 (1978). That inquiry should be on record and MUST be of the kind to ease the defendant's dissatisfaction, distraught or concerns.

Smith, 923 F.2d at 1320. If trial court fails to make a sufficient inquiry, prejudice is presumed and "REVERSAL IS AUTOMATIC." Holloway, 435 U.S. at 488. Petitioners contend that his attorney actively represented conflicting interests, and an actual conflict of interest affected his attorney's performance. Cuyler v. Sullivan, Mannhait, 847 F.2d at 579, and U.S. v. Kliti, 156 F.3d 150 (2nd Cir. 1998).

C. Rule 60(b) Proceeding: After learning of evidence that Judge Fowlkes, Jr. may not have been fit to preside over the §2255 action, Petitioner returned to court in an effort to reopen the judgment.

Petitioner, contend that counsel's performance 1) Fell below an objective standard or reasonable competence and 2) That he was prejudiced by his counsel's deficient performance [....] petitioner show prejudice, that it was in fact reasonably probable that but for the misadvise and the incompetence of his trial counsel he wouldn't have been convicted. James v. Cain, 56 F.3d 662 (5th Cir. 1995). "The movant must demonstrate that "extraordinary circumstances" justify reopening a final judgment. Abdur'Rahman v. Bell, 439 F.3d 738, 741 (6th Cir. 2007)." Brown v. U.S., Case No. 5:00CV1650, 5:95CR0147, 7 (N.D. Ohio Nov. 20, 2008). The petitioner believes he has been denied counsel during a critical stage of his trial. Fusi v. O'Brien, 621 F.3d (1st Cir. 2010). "Bad lawyering, regardless of how bad" is insufficient. Scarp A, 38 F.3d at 13; Ellis v. United States, 313 F.3d 636, 643 (1st Cir. 2002); Strickland, 466 U.S. at 698, 104 S.Ct. at 2070 citing U.S. v. Chronic, 466 U.S. 648, 104 S.Ct. 2039 80 L.Ed.2d 657 (1984).

Petitioner requests that this Court take Judicial Notice to his Military Record and his Military Medical Records. Counsel failure to argue the fact that petitioner, served in The United States Army in Desert Storm where he suffered [P.T.S.D.] Post-Traumatic Stress

Disorder, and was awarded a National Defense Service Metal, Southwest Asia Service Metal with three Bronze Stars and an Overseas Service Ribbon.

The petitioner's counsel failed to argue and file a motion to the effect that he suffered P.T.S.D. and that he could not be charged with any form of conspiracy due to the symptoms and treatment he had undergone. It was a conflict of interest when counsel failed to argue PTSD defense on the conspiracy. [Competency Test]. Bouchillon v. Collins, 907 F.2d 589 (5th Cir. 1990). It is undisputed that Stinson suffers from PTSD. It is also clear from the Military Records and other reports that petitioner suffered from this disorder both at the time of his offense and at the time of his trial. The counsel knew and still failed and refused to seek testimony or to argue for an evidentiary hearing, that in all probability, Stinson suffers from PTSD. What is more to the point is whether this disorder rendered Stinson, unable to understand the proceedings against him or to assist in his own defense.

In this case the counsel's lack of investigation, after he had noticed of Petitioner's P.T.S.D. he did nothing to protect his mental status. This fell below reasonable professional standards. Thus, Stinson has met both prongs of the Strickland test and it is plain and clear that Stinson was denied effective assistance of counsel. Dusky v. United States, 362 U.S. 402, 4 L.Ed.2d 824, 80 S.Ct. 788 (1960); Becton v. Barnett, 920 F.2d 1190 (4th Cir. 1990).

Counsel should have petitioned the Court for an evidentiary hearing to determine if

the petitioner was competent to stand trial. That petitioner was being seen by a psychiatrist who diagnosed the petitioner with PTSD. Few lawyers possess even a rudimentary understanding of Psychiatry. They therefore are wholly unqualified to judge the competency of their clients and must seek professional medical diagnoses. A defendant has a right to counsel at every critical stage of a criminal prosecution. Estelle v. Smith, 451 U.S. 454. Barnett v. Hargett, 174 F.3d 1128 (10th Cir. 1999); Walker v. Atty General For The State of Okla., 167 F.3d 1339, 1345 (10th Cir. 1999).

The counsel fails to make an argument about petitioner competency, U.S. v. Arenburg, 605 F.3d 164 (2nd Cir. 2010). The district court erred by misapprehending its statutory obligation under title 18 U.S.C. § 424(a); Williams v. Calderon, 48 F.Supp.2d 979 (Central District of California 1998).

Petitioner [Stinson] claims his Constitutional Rights were violated because he was tried while incompetent. [And That] his Due Process Rights were violated when his trial attorney failed to request a competency hearing, and the trial court failed to sua sponte conduct a competency hearing.

The Court made it emphatically clear that a person proceeding against as a multiple offender has a Constitutional Right to the Assistance of Counsel. U.S. v. Garrett, 149 F.3d 1018 (9th Cir. 1998) [A]bused of its discretion by refusing to allow petitioner to fire his trial attorney who had a conflict of interest.

Additionally, the petitioner asserts that the attorney made little use, if any of the evidence garnered from the Government reports, which they didn't supply all the

evidence, tended to substantiate his innocence. The failure to develop a strategy of any consequence and absenting themselves from crucial portions of the trial constitute no representation at all. Given the totality of the circumstances, the ineffectiveness of trial counsel has been amply shown.

That co-conspirator Jayton Stinson entered into a plea agreement with the Government, she didn't admit to conspiracy. It must be noted that a Military person who suffers with PTSD is NOT responsible for any conspiracy after suffering from such disease during war time. Petitioner attorney failed to argue for a competency hearing knowing he had PTSD. It also must be noted that husband and wife cannot be convicted of conspiracy charges. Counsel failed to call The Veteran Administration Psychiatrist to testify at trial, where she recently diagnosed Stinson to be incompetent. Counsel failed to make a reasonable investigation into petitioner's Mental condition. Wood v. Zahradnick, 578 F.2d at 982. Becton v. Barnett, 920 F.2d 159 (3rd Cir. 1991).

Counsel failed to call witnesses to testify on petitioner's behalf. Counsel failed to object to the prosecutor's intimidation of witnesses. He failed to properly cross examine an important government witness. The Sixth Amendment to the United States guarantees to a criminally accused the "right to have the assistance of counsel for his defense." Strickland, 466 U.S. at 694. U.S. Const. amend VI; Strickland, 466 U.S. at. 685.

Quinn never retained a CPA, an accountant, a tax preparer, or a tax attorney, to

testify regarding the responsibility of Stinson in the sole proprietorship owned by his wife or the corporations that were later incorporated. In fact, Quinn said the sole proprietorship was co-ownership. There is no co-ownership in the tax code.

The IRS and the Government broadly define a "responsible person." The key element in determining responsible person status is whether a "person has the statutorily imposed duty to make the payment." (O'Connor v. United States, 956 F.2d 48 (4th Cir. 1992)). For the purposes of Sec. 6672 a failure to remit trust taxes is willful if it is voluntary, conscious, and intentional, as opposed to an accidental act.

The petitioner made payments to IRS for years and did not receive an offer in comprise. See generally 26 C.F.R. § 301.7122(a) and (g). *See Appendix E* People v. Treadway, (2010) 182 Cal. App.4th 562 106 Cal. Rptr.3d 99 (conviction Reversed because the prosecution interfered with the defendant's ability to call a witness by conditioning his co-defendant's pleas on a blanket restriction not to testify, including for the defense, since this was "Governmental Interference violation of a defendant's Compulsory-Process Right."); In re: Martin (1987) 744 F.2d 374, 391 ([a]defendant's right to present a defense, including, most importantly, the right to 'offer the testimony of witnesses and to compel their attendance, if necessary,' is at the very heart of our criminal justice system").

Prosecution misconduct of witnesses tampering. In the United States, the crime of witness tampering in federal cases is defined by statute at 18 U.S.C. § 1512, which defines it as "tampering with a witness, victim, or an informant." United States v. Serrano, 406 F.3d 1208, 1216 (10th Cir. 2005) (reviewing courts will examine the

extent to which "the government actor actively discourage[d] a witness from testifying through threats of prosecution, intimidation, or coercive badgering."); United States v. Smith, 997 F.2d 674, 680 (10th Cir.1993). (Prosecutors must not intimidate a witness who is willing to testify truthfully for the defense); United States v. Crawford, 707 F.2d 447 (10th Cir. 1983).

When Quinn stated he was calling Young to testify, Brooks, prosecutor, said you need to tell him he needs to be read his Miranda rights. Brooks Tran. 898-901 Dec. 7, 2017. In United States v. Straub, 538 F.3d 1147, 1156, 1162 (9th Cir. 2008) (finding prosecution's refusal to grant immunity to defense witness who could contradicted prosecution's immunized witness was GROUNDS FOR REVERSAL).

Scales were granted immunity, but Young was denied immunity, which is Grounds For Reversal and a serious miscarriage of justice in the government's favor.

Cory Young was going to testify that Stinson had nothing to do with the preparation of Scales income tax return. Quinn told Young his testimony was Not needed, so Young left the courthouse. *See Appendix E*

1. **How the Questions Presented were Raised and Decided Below**

   a. **The district court declared Petitioner's Rule 60(b) motion ipso facto not a successive application for post-conviction relief, because if granted it would require reexamining the merits of Petitioner's previously rejected claims.**

On January 26, 2023, Stinson timely moved to reconsider the judgment under Rule 60(b) to the district court for review.

Stinson moved the Sixth Circuit Court of Appeals to review on appeal the district court order denying Stinson's 60(b) motion for expeditated reconsideration and to stay all probation orders. On September 26, 2023, a three-judge panel for the Sixth Circuit Court of Appeals issued a pro forma, perfunctory and non-specific blanket denial of Stinson's requests. The entire analysis is as follows:

> We therefore DENY Stinson a COA, DENY him authorization to file a second or successive § 2255 motion, and DENY his other motions. The Sixth Circuit Judges stating that the district court did not grant a COA, and we conclude that no COA is warranted, also, because it would otherwise be untimely, we construe the motion for reconsideration as brought under Federal Rule of Civil Procedure 60(b)(6).

Stinson timely petitioned for rehearing and rehearing en banc of the court's order denying his application for reconsideration. On January 9, 2024, in one paragraph, non-reasoned Order, the en banc Sixth Circuit Court of Appeals denied the request. In its entirety, the Order reads:

Upon consideration of the petition for rehearing en banc filed by the appellant, it is ORDERED that the petition is denied as untimely.

Mark Stinson remains a convicted felon, having been given no issues to appeal to and without any articulated understanding as to why not. This petition for *certiorari* timely follows.

VI. REASONS FOR GRANTING THE WRIT

This Court's intervention is necessary to resolve a conflict among the Circuits regarding the circumstances under which, as Gonzalez contemplated, a procedural defect in the integrity of an initial federal post-conviction proceeding can warrant later, reopening the judgment in that action on equitable grounds under Fed. R. Civ. P. 60(b). Beyond the Sixth Circuit's substantive misreading of Gonzalez.

The Sixth Circuit' ruling conflicts with established precedent regarding Rule 60(b) motions in habeas corpus cases as articulated in Gonzalez v. Crosby, 545 U.S 524 (2005). In Gonzalez, the supreme Court held that a Rule 60(b) motion should not be treated as a successive habeas petition if it does not assert new claims but rather seeks relief based on procedural defects or errors in prior rulings.

A. Reading Gonzalez to foreclose the possibility of Rule 60(b) relief in this case creates a conflict between the Fifth and Ninth Circuits on one side, and five other Courts of Appeals on the other.

In Brown's case, his Rule 60(b) motion specifically challenged procedural aspects of how his previous claims were handled rather than introducing new substantive claims regarding his conviction or sentence. The Sixth Circuit's failure to recognize this distinction undermines fundamental principles of justice and due process. Furthermore, allowing such procedural challenges through Rule 60(b) is essential for maintaining integrity within federal habeas proceedings and ensuring that defendants have access to a fair judicial process.

In this habeas case, Stinson stands uniquely alone in the Sixth

Circuit as having been given no issues to appeal and provided no reasons why that is so. Without giving the severity of his sentence any consideration at all, the Sixth Circuit Court of Appeals' unreasoned *pro forma* ruling again conflicts with this Court's precedent.

Thus, it is imperative that this Court clarify whether there are any minimal requirements for the grant or denial of a 60(b) motion. Mr. Stinson is in the unique position of having been granted no issues to litigate in this habeas appeal, in spite of having asserted numerous viable constitutional claims to the district court. *See* Petitioner-Appellant's Motion for reconsideration, and at this point, he has no idea why not.

Stinson remains a convicted felon having been denied the right to appeal any issue, whether defaulted or denied on the merits, and without any habeas court ever having analyzed any single claim pursuant to AEDPA's statutory 60(b) procedures. To date, Mr. Stinson has been offered no understanding by any habeas court why he has not been allowed to appeal anything. If allowed to stand, the Sixth Circuit Court of Appeals decision will eviscerate the idea that a habeas petitioner is entitled to "one full bite" of the habeas apple. Rather, the Sixth Circuit's outlier ruling makes clear, contrary to its own precedent, there is no right to any habeas review at all in the federal court of appeals.

The perfunctory ruling by the Sixth Circuit Court of Appeals is unique and a new precedent for the proposition that AEDPA's 60(b) provisions have no minimal

requirements for a habeas court to follow.

This petition for certiorari asks this Court, consistent with its longstanding AEDPA jurisprudence, to reject the Sixth Circuit Court of Appeals' pro forma, unreasoned, denial of a 60(b) as a proper application of the appellate process in a habeas case. If allowed to stand as precedent, the Sixth Circuit Court of Appeals will effectively undercut federal habeas review in favor of paying mere lip service to AEDPA's statutory requirements contrary to this Court's clear precedent, contrary to most circuit precedent, and contrary to Sixth Circuit precedent. Likewise, the Tenth Circuit has ruled that a 60(b) motion, asserting that the district court denied a § 2255 motion without giving the petitioner an adequate opportunity to access record documents and amend his pleadings to properly present his claims, alleged a defect in the integrity of the proceedings rooted in procedural due process. United States v. Marizcales-Delgadillo, 243 Fed. App'x 435, 438 (10th Cir. 2007).

B. This Court's intervention is warranted because the court below continues to apply an unfairly steep standard in federal-prisoner habeas cases and does so (as here) in cases where the factual record is adequately developed.

Whether or not Petitioner would ultimately have prevailed on his challenge to the district court's dismissal of his Rule 60(b) motion, there can be no question that the motion was warranted. According to sworn testimony, at a point in Petitioner's case prior to the pendency of his § 2255 motion, Judge Fowlkes, Jr. unethical

judgment left him unable to perform his judicial duties and led him to commit grossly improper, if not criminal, misconduct. Other evidence shows that within two years he abruptly terminated Petitioner's § 2255 case in late 2021, Judge Fowlkes, Jr. behaved unethically in cases pending before him and was suspected of additional and more serious ethical breaches. The Government has never disputed these events, which temporally bookend Petitioner's § 2255 proceeding – his only opportunity for post-conviction review of his illegal conviction. At the end of the day, the Sixth Circuit's analysis merely paid "lip service" to Gonzalez's recognition that Rule 60(b) should operate to protect habeas applicants against procedural defects that rob a habeas proceeding of integrity. Cf. Tennard, 542 U.S. at 283-84.

(a) whether the petition states a valid claim of the denial of a constitutional right and (b) whether the district court was correct in its procedural ruling." But after stating the standard, the court abruptly and perfunctorily denied Stinson's application, stating "we therefore **DENY** Stinson a COA, **DENY** him authorization to file a second or successive § 2255 motion, and **DENY** his other motions." *Id.*

The court supplied no reasoning or analysis to inform Stinson why he had failed to meet this standard.

The Sixth Circuit Court of Appeals' failure to apply its own reasoned analysis to Stinson's 60(b) application infringed on his right to due process. As a threshold matter, it does not matter that Stinson has "no right," constitutional or otherwise, to a habeas appeal. *See,* 28 U.S.C. §2255. Relevant by analogy, in Evitts v. Lucey, 469 U.S. 387, 405 (1985), this Court held that constitutional principles of fundamental fairness apply even when "the Constitution does not require States to grant appeals of right to criminal defendants seeking to review alleged trial court errors."

Id. at 393 (quoting McKane v. Durston, 153 U.S. 684 (1894)). Due process rights apply because state legislatively- created appeals "an integral part of the system for finally adjudicating the guilt or innocence of a defendant." Id. (quoting Giffin v. Illinois, 351 U.S. 12, 18 (1956)).

Stinson's due process rights were violated by the Sixth Circuit Court of Appeals' phantom review of his 60(b) application, and the "function and significance" of the gatekeeping provisions in Fed. R.Civ.P.60(b) lead to that conclusion. *See,* Woodard, 523 U.S. at283-85. The focus falls on the important function and significance of federal habeas review and not on whether a habeas appeal is required by §2255. As a result, "[t]he writ of habeas corpus plays a vital role in protecting Constitutional rights." *Slack,* 529 U.S. at 483. Given the importance and historical role of the Great Writ, Boumediene v. Bush, 553 U.S. 723, 745 (2008), habeas review is "an integral part of the system for finally adjudicating the guilt or innocence of a defendant." *See Evitts,* 469 U.S. at 393 (citing Griffin, 351 U.S. at 18).

"The importance of the writ is that it protects those detained by providing a tool to call their jailer into account." Boumediene, 553 U.S. at 745. This Court [has] made clear that, unless Congress acts to suspend it, the Great Writ of habeas corpus allows the Judicial Branch to play a necessary role in maintaining this delicate balance of governance, serving

as an important judicial check on the Executive's discretion in the realm of detentions." Hamdi v. Rumsfeld, 542 U.S. 507, 536 (2004) (plurality opinion).

The Great Writ is "a vital instrument for the protection of individual liberty " *See* Boumediene, 553 U.S. at 743; *cf.* Burger v. Kemp, 483 U.S. 776, 785 (1987) ("Our duty to search for constitutional error with painstaking care is never more exacting than it is in a capital case."). This integral part of the criminal justice system was rendered meaningless, in violation of the Due Process Clause, when the Sixth Circuit Court of Appeals perfunctorily denied Mr. Stinson's 60(b) application. This effectively permits his constitutional rights without ever having any issue to appeal and without ever knowing why he was denied. The court notes the well-recognized principle that complaints drawn by pro se litigants are held to a less stringent standard than those drawn by legal counsel. Haines v. Kerner, 404 U.S. 519 92 S.Ct. 594, 30 L.Ed.2d 652 (1972); U.S. ex rel. Dattola v. Nat. Treasury Emp. Union, 86 F.R.D. 496 (W.D. Pa. 1980).

Movant asks the court, where appropriate, to apply the *"Rule of Lenity"* which requires all ambiguities to be settled in favor of petitioners. United States v. Rains, 615 F.3d 689 (5th Cir. 2010). This Petitioner urges the Court to adopt, approve and apply these standards to his pleading for it would be a miscarriage of justice to allow

this illegal action to stand. Hall v. Bellmon, 935 F.2d 1110 (10th Cir. 1991).

VII. DISQUALIFICATION OF DISTRCT COURT JUDGE John T. Fowlkes, Jr.

On 2/8/2023, (ECF 15), the court denied the motion to disqualify himself, No. 22-cv- 02694-SHM, appeals No. 22-6103 and others. The judge was served a copy of the complaint No.23-cv-24688-RKA (S.D. Fla.) on 2/05/2024 but he stated that he did not know about any lawsuits on his 03/25/2024, (ECF 175) motion denying recusal. Judge Fowlkes, Jr. has constantly prejudiced the petitioner with his untruthful statements, and actions.

Under 28 U.S.C. § 455, a judge "shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." A judge can be disqualified on the basis of prejudice or bias only if this prejudice or bias is personal or extrajudicial. "'Personal [or extrajudicial] bias is prejudice that emanates from some source other than participation in the proceedings or prior contact with related cases." In arguing for the recusal of a judge, a movant must also "'point to any specific facts [judge] obtained from presiding over [other cases] which would raise a question about his impartiality.'" Roberts v. Bailar, 625 F.2d 125, 129 (6th Cir. 1980); Liljeberg v. Health Servs. Acquisition Corp., 486 U.S. 847, 865 (1988).

We review the denial of a motion to recuse an abuse of discretion. Decker v. GE Healthcare Inc., 770 F.3d 378, 388 (6th Cir. 2014); Johnson v. Mitchell, 585 f.3d 923, 945 (6th Cir. 2009).

As explained by the Supreme Court,

The goal of section 445(a) is to avoid even the appearance of partiality. If it would appear to a reasonable person that a judge has knowledge of facts that would give him an interest in the litigation, then an appearance of partiality is created even though no actual partiality exists because the judge does not recall the facts, because the judge actually has no interest in the case or because the judge is pure in heart and incorruptible. Liljeberg, 488 U.S. at 860. That is, "[t]he judge does not have to be subjectively biased or prejudiced, so long as he appears to be so." Liteky v. United States, 510 U.S. 540, 553 n.2 (1994).

Even granting the instant pro se complaint the lenient interpretation to which it is due, Graham v. Henderson, 89 F.3d 75, 79 (2nd Cir. 1996) ("pleadings of a pro se plaintiff must be read liberally and should be interpreted 'to raise the strongest arguments that they suggest'") (quoting Burgos v. Hopkins, 14 F.3d 787, 790 (2nd Cir. 1994)); Gray v. Internal Affairs Bureau, 292 F. Supp.2d 475 (S.D.N.Y. 2003).

VIII. CONCLUSION AND PRAYER FOR RELIEF

The Circuits need guidance about now to apply this Court's holding in Gonzalez that Rule 60(b) should be available to habeas petitioners in circumstances where a defect in the integrity of the proceedings led to the denial of relief. At present, the Fifth, Sixth and Ninth Circuits are taking a significantly narrower view of what

constitutes an actionable "procedural defect" than five other Circuits, a conflict that deserves resolution by this Court. Absent this Court's intervention, the Sixth Circuit's misapplication of Gonzalez means that no court will review whether Judge Fowlkes's serious problem and ethical infirmities constituted such a defect and unfairly deprived Petitioner of his sole opportunity for post-conviction review of his sentence. And the Sixth Circuit's continued misapplication of this standard means that Petitioner and other federal defendants will never get an appropriate chance at appellate review of substantial legal and factual disputes in their post-conviction proceedings.

Therefore, for the foregoing reasons, Mr. Stinson, Sr. respectfully requests that this HONORABLE Court should **grant** this petition for writ of certiorari to review the decision of the Sixth Circuit and clarify important issues regarding the treatment of Rule 60(b) motions within federal habeas corpus jurisprudence or grant such other relief as justice requires and Disqualify District Court Judge John T. Fowlkes, Jr.

Respectfully submitted,

Mark T. Stinson, Sr.
Reg #29908-076
777 NW 155th Ln. 911
Miami, FL 33169-6180
Ph: (786) 299-7499
Email: mstinson1@bellsouth.net
March 20, 2025
Pro Se

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATION, TYPEFACE REQUIREMENTS, AND TYPE STYLE REQUIREMETS

As required by Supreme Court Rule 33.1(h), I certify that the petition for a writ of certiorari contains 5805 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 20, 2025.

Mark T. Stinson, Sr.
Pro se

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motion for Writ of Certiorari and Disqualification of District Judge was sent to the respondent via electronic mail this 20th day of March 2025, to the following:

Mary H. Morris Assistant United States Attorney
167 N. Main, Room 800
Memphis, TN 38103
(9091) 544-4231
Email: mary.morris@usdoj.gov

Mark T. Stinson, Sr.

NOT RECOMMENDED FOR PUBLICATION

No. 23-5105

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Sep 26, 2023
DEBORAH S. HUNT, Clerk

MARK T. STINSON, SR.,	)	
	)	
Petitioner-Appellant,	)	
	)	ON APPEAL FROM THE UNITED
v.	)	STATES DISTRICT COURT FOR
	)	THE WESTERN DISTRICT OF
UNITED STATES OF AMERICA,	)	TENNESSEE
	)	
Respondent-Appellee.	)	

ORDER

Before: BOGGS, BATCHELDER, and GIBBONS, Circuit Judges.

Mark T. Stinson, Sr., a pro se former federal prisoner on supervised release, appeals the district court's order denying his motion to reconsider its previous dismissal of his duplicative 28 U.S.C. § 2255 motion. Stinson also moves for a PACER fee exemption, for expedited judgment, and to stay all probation proceedings, including his obligation to make restitution payments.

In 2017, a jury found Stinson guilty of various tax fraud and theft offenses. The convictions related to Stinson's failure to truthfully account for and pay taxes from the staffing company he operated with his wife and his involvement in his son's filing of a false federal income tax return. The district court sentenced him to a total of 75 months of imprisonment and $2.8 million in restitution, and we affirmed. *United States v. Stinson*, 761 F. App'x 527 (6th Cir. 2019) (per curiam).

Stinson has since been a frequent litigant in this court and the district court. He filed his first § 2255 motion in 2018, and the district court denied it. We denied him a COA. *Stinson v. United States*, No. 21-5535, 2022 WL 1314397 (6th Cir. Feb. 8, 2022). Meanwhile, he filed multiple other motions under 28 U.S.C. §§ 2241 and 2255. One of those § 2255 motions is the

basis of this appeal. In 2021, the district court dismissed the motion as duplicative and ordered Stinson to direct his filings towards his original, pending § 2255 case. Approximately two years later, Stinson filed a "Motion for Expedited Reconsideration." He argued that district court improperly dismissed this duplicative case without conducting an evidentiary hearing, that he possesses new evidence that he owes less restitution to the IRS, and that the government committed fraud by filing a superseding indictment in his criminal case. He also attached an affidavit to his motion that lists over 80 claimed violations of his constitutional rights. The district court denied the motion for reconsideration.

Stinson now appeals that denial. He raises numerous claims and arguments, mostly attacking the validity of his convictions. For example, he claims that his charges were illegally superseded and sealed; his imprisonment form was not signed; trial counsel refused to file an appeal; he was not summoned to the grand jury hearing; witnesses lied; the government suppressed evidence; the government, judge, and defense counsel conspired together to convict him; trial counsel lacked experience trying tax-law cases; trial counsel refused to subpoena witnesses suggested by Stinson; trial counsel filed motions without Stinson's knowledge; the district court refused to grant his request to fire his attorney; he possessed a conflict of interests with his attorney; trial counsel failed to argue that he is a decorated military veteran who suffers from post-traumatic stress disorder; the government tampered with witnesses; the government committed fraud by presenting "bogus" evidence; the district court should have held an evidentiary hearing; and he has new evidence showing that he owes only $190,761 to the IRS. He also requests that Judge Fowlkes be disqualified from his case due to his many adverse rulings against him.

Stinson's appeal presents multiple facets, which we address in turn. Because his original § 2255 motion has been adjudicated to completion, to the extent that he intends to raise any new claims—or relitigate old ones—he must obtain authorization from this court. *See* 28 U.S.C. §§ 2244(b)(3)(C), 2255(h). But to the extent he argues that the district court improperly dismissed this case as duplicative without an evidentiary hearing and directed him to pursue his claims in his original, then-pending § 2255 proceeding, he at least arguably raises a purported defect in the

integrity of the district-court proceedings. *See Gonzalez v. Crosby*, 545 U.S. 524, 531-32 (2005). He therefore did not require prior authorization from this court to pursue that aspect of his reconsideration motion. He must nonetheless obtain a certificate of appealability (COA) to appeal the district court's denial. *See* 28 U.S.C. § 2253(c)(1). The district court did not grant a COA, and we conclude that no COA is warranted.

Because it would otherwise be untimely, we construe the motion for reconsideration as brought under Federal Rule of Civil Procedure 60(b)(6). To obtain a COA, Stinson must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2): *see Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003). Stinson appeals the denial of a Rule 60(b)(6) motion, so he must demonstrate that jurists of reason "could conclude that the District Court abused its discretion in declining to reopen the judgment." *Buck v. Davis*, 580 U.S. 100, 123 (2017). "[R]elief under Rule 60(b)(6) is available only in 'extraordinary circumstances.'" *Id.* (quoting *Gonzalez*, 545 U.S. at 535).

Reasonable jurists could not conclude that the district court abused its discretion by denying his motion. The district court reasonably concluded that Stinson's § 2255 proceedings should be confined to a single case, a case that Stinson litigated to completion. And the place for Stinson to request an evidentiary hearing was in that case. In any event, Stinson does not present extraordinary circumstances demonstrating that the district court's dismissal should be reversed two years later. And Stinson's complaints that Judge Fowlkes has issued adverse rulings to him in the past do not show judicial bias. *See Liteky v. United States*, 510 U.S. 540, 555-56 (1994).

Turning next to Stinson's attempt to raise both new and old claims, he generally may file only one motion under § 2255. *See* 28 U.S.C. § 2244(a). We may authorize the filing of a second or successive § 2255 motion, however, if Stinson makes a prima facie showing that his proposed claims contain (1) "newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense," or (2) "a new rule of constitutional

law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable." 28 U.S.C. § 2255(h); *see* 28 U.S.C. § 2244(b)(3)(C).

Stinson fails to make the necessary showing. He does not rely on any new rules of constitutional law. Instead, he appears to rely on purportedly new evidence. He attaches a letter from the IRS accepting his proposal to pay $190,761.45 for five tax periods in 2011 and 2012. This letter does not demonstrate Stinson's actual innocence, as it involves restitution payments for only a small portion of the decade-long tax-fraud scheme and does not relate to whether he committed the crimes. He also attaches several other documents, including a 2019 affidavit from Corey Young claiming that he would testify in Stinson's favor, but these documents and allegations are neither new nor sufficient to demonstrate that no reasonable factfinder would have found him guilty. Stinson also claims that the evidence against him was "bogus" and "fraudulent," but he presents no new evidence showing that was the case.

We therefore **DENY** Stinson a COA, **DENY** him authorization to file a second or successive § 2255 motion, and **DENY** his other motions.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

MARK STINSTON,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

Cv. No. 2:21-cv-02065-JTF-atc
Cr. No. 2:16-cr-20247-01-JTF

ORDER DENYING MOTION FOR EXPEDITED RECONSIDERATION (ECF No. 10)

The Court has dismissed this motion pursuant to 28 U.S.C. § 2255 filed by Movant, Mark Stinson, because, at the time, Stinson had another pending § 2255 motion. On January 26, 2023, Stinson filed a Motion for Expedited Reconsideration. (ECF No. 10.) This motion is identical to motions Stinson filed in his other § 2255 cases, all of which has have been denied. The pending motion is **DENIED**.

IT IS SO ORDERED, this 30th day of January, 2023.

s/John T. Fowlkes, Jr.
JOHN T. FOWLKES, JR.
United States District Judge

Appendix B

AO 245B (Rev. 09/17) Judgment in a Criminal Case
Sheet 1

UNITED STATES DISTRICT COURT

Western District of Tennessee

UNITED STATES OF AMERICA
v.
MARK STINSON

JUDGMENT IN A CRIMINAL CASE

Case Number: 2:16-CR-20247-001

USM Number: 29908-076

Arthur E. Quinn: Appointed - CJA
Defendant's Attorney

THE DEFENDANT:

☐ pleaded guilty to count(s)

☐ pleaded nolo contendere to count(s) which was accepted by the court.

☑ was found guilty on count(s) after a plea of not guilty. One thruThirteen (1,2,3,4,5,6,7,8,9,10,11,12,13) Superseding Indictmet December 8, 2017.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. § 371	Conspiracy to Defraud the United States	1/31/2015	1s
26 U.S.C. § 7202	Failure to Collect, Truthfully Account for, & Pay Payroll Tax	7/31/2011	2s
26 U.S.C. § 7202	Failure to Collect, Truthfully Account for, & Pay Payroll Tax	10/31/2011	3s

The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)

☐ Count(s) ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

3/1/2018
Date of Imposition of Judgment

s/John T. Fowlkes, Jr.
Signature of Judge

John T. Fowlkes, Jr., U.S. District Judge
Name and Title of Judge

3/1/2018
Date

GOVERNMENT EXHIBIT 1

APPENDIX- C

AO 245B (Rev. 09/17) Judgment in a Criminal Case
Sheet 1A

DEFENDANT: MARK STINSON
CASE NUMBER: 2:16-CR-20247-001

ADDITIONAL COUNTS OF CONVICTION

Title & Section	Nature of Offense	Offense Ended	Count
26 U.S.C. § 7202	Failure to Collect, Truthfully Account for, & Pay Payroll	1/31/2012	4s
26 U.S.C. § 7202	Failure to Collect, Truthfully Account for, & Pay Payroll	4/30/2012	5s
26 U.S.C. § 7202	Failure to Collect, Truthfully Account for, & Pay Payroll	1/31/2015	6s
26 U.S.C. § 7206(1)	False Statement on a Tax Document	11/17/2010	7s
26 U.S.C. § 7206(1)	False Statement on a Tax Document	11/17/2010	8s
26 U.S.C. § 7206(1)	False Statement on a Tax Document	11/17/2010	9s
26 U.S.C. § 7206(1)	False Statement on a Tax Document	11/17/2010	10s
26 U.S.C. § 7206(1)	False Statement on a Tax Document	11/17/2010	11s
18 U.S.C. § 641	Theft of Government Funds	2/21/2013	12s
18 U.S.C. § 1028A(a)(1)	Aggravated Identity Theft	2/21/2013	13s
18 U.S.C. § 2	Aggravated Identity Theft	2/21/2013	13s

DEFENDANT: MARK STINSON
CASE NUMBER: 2:16-CR-20247-001

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:

51 Months - counts 1-12 (counts 1-12 concurrent) (counts 1-12 consecutive to count 13)
24 Months - count 13

☑ The court makes the following recommendations to the Bureau of Prisons:

Serve sentence in or close to Memphis, TN.

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____.

☐ as notified by the United States Marshal.

☑ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____.

☑ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

_____
UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

AO 245B (Rev. 09/17) Judgment in a Criminal Case
Sheet 5 — Criminal Monetary Penalties

DEFENDANT: MARK STINSON
CASE NUMBER:

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	Assessment	JVTA Assessment*	Fine	Restitution
TOTALS	$ 1,300.00	$	$	$ 2,834,000.73

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

☑ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss**	Restitution Ordered	Priority or Percentage
Clerk of Court for the Western District of Tennessee 167 N. Main Room 242 Memphis, TN 38103 & forwarded to IRS Attn: Mail Stop 6261, Restitution 333 W. Pershing Ave. Kansas City, Missouri 64108 *defendant to pay restitution in regular monthly installments in the amount of 10% of his gross income.	$283,400.73	$2,834,000.07	Joint & several with co-defendant
TOTALS	$ 0.00	$ 0.00	

☑ Restitution amount ordered pursuant to plea agreement $ 2,834,000.73

☐ The defendant must pay interest on restitution and a fine of more than $2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☑ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☑ the interest requirement is waived for the ☐ fine ☑ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.
** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

Fw: Computer Search

Thomas Vastrick <vastrick@yahoo.com>
To: "Larry S. Miller" <millparrsol@gmail.com>

Tue, Jun 18, 2019 at 9:50 /

----- Forwarded Message -----
From: Thomas Vastrick <
To: <
Sent: Tuesday, June 18, 2019 09:48:49 AM EDT
Subject: Computer Search

Mr. Miller;

I found no record of any report or of any case record or documentation.

Tom

Appendix D

Fw: Mark Stinson - Returns

Thomas Vastrick <vastrick@yahoo.com>
To: "Larry S. Miller" <millparrsol@gmail.com> Tue, Jun 18, 2019 at 9:32 A

#4

---- Forwarded Message ----
From: Art Quinn <
To: <
Sent: Wednesday, October 25, 2017 03:31:59 PM EDT
Subject: FW: Mark Stinson - Returns

Mr Vastrick

Please see below email and I am forwarding to you its attachments.

As suggested I attempted to contact Ms Franks but without success

Can you look at the 2008 employment returns and first quarter 209 return and tell me whether Mr Stinson s signature was cut and pasted on the returns?

Thank you

Arthur E. Quinn

Suite 800

) 302-4868

Fax (901) 302-4870

email:

36

From: Brooks, Nathan P. (TAX) [mailto:
Sent: Monday, October 02, 2017 1:50 PM

AFFIDAVIT

STATE OF TENNESSEE)
)
County SHELBY) SS:

I, Corey Young, do hereby swear and affirm as follows:

1. I am a tax preparer.

2. I was willing to testify on behalf of Mark Stinson that he did not help me prepare Abdul Scales, his son's income tax return.

3. In my opinion Stinson's son nor Stinson were not trying to do anything illegal.

4. I was in the courthouse on the days of the trial prepared to testify.

APPENDIX E

5. Mr. Arthur Quinn Stinson's attorney told me he did not need me to testify, so I left the courthouse.

Corey Young Dated: 06/19/2019

Before me appeared Corey Young.

Sworn to and subscribed to before me

this 19 day of June 2019

Notary Public

Seal

My commission expires Oct 2, 2020

April 1, 2025

Mark Stinson
Reg # 29908-076
777 NW 155th Ln. Apt. 911
Miami, Florida 33169-6180
Ph: (786) 299-7499
Email: mstinson1@bellsouth.net

Supreme Court of the United States
Clerk of the Court
Attn: **Kyle R. Ratliff**
1 Frist St. NE
Washington, DC 20543

Re: **COVER LETTER, THIS PETITION FOR A WRIT OF CERTIORARI IS FOR A DENIED HABEAS CORPUS, 60(b) motion,** this is **NOT** a petition for second or successive § 2255 motion review. USCA6 No. 23-5105

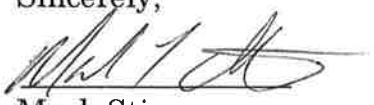
Dear Kyle R. Ratliff, Clerk

This petition is for the review of the District Court denial of a 60(b) motion. The denial was then sent to the Sixth Circuit for review. The Sixth Circuit stated on page 2 of their denial order and page 27 of the attached petition, paragraph 1 "The district court denied the motion for reconsideration." Paragraph 2 states "Stinson now appeals that denial."

It was clear that I was/am appealing the denial of the 60(b) motion and the Sixth Circuit confirms that I was on appeal for that denial, but in the conclusion the order entered by the Sixth Circuit Court states, "We therefore **DENY** Stinson a **COA, DENY** him authorization to file a second or successive § 2255 motion, and **DENY** his other motions."

I never asked for nor am I asking this Court for a second or successive § 2255 motion, the Sixth Circuit construed that denied 60(b) motion on their own accordance. The petitioner has demonstrated that "extraordinary circumstances" justify reopening a final judgment. Abdur'Rahman v. Bell, 439 F.3d 738, 741 (6th Cir. 2007)." Brown v. U.S., Case No. 5:00CV1650, 5:95CR0147, 7 (N.D. Ohio Nov. 20, 2008). Also, see Zavada v. United States, 355 U.S. 392 (1958); Murray v. Giarratano, 492 U.S. 1 (1989).

Sincerely,



Mark Stinson

RECEIVED
APR - 4 2025
OFFICE OF THE CLERK
SUPREME COURT, U.S.