

No. _____

IN THE
Supreme Court of the United States

RONALD ANTHONY BEASLEY, II,
Petitioner,

v.

UNITED STATES,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Whether Mr. Beasley was deprived of his fundamental constitutional rights under the Due Process Clause of the Fourteenth Amendment, the Compulsory Process, and the Confrontational Clauses of the Sixth Amendment of an opportunity to present a complete defense, when the Government refused to immunize a crucial witness that it had no intent to prosecute, thereby improperly depriving Mr. Beasley of the crucial testimony.

Whether the admission of irrelevant and prejudicial evidence of an uncharged count was so egregious as to render Mr. Beasley's trial fundamentally unfair.

PARTIES TO THE PROCEEDINGS

Petitioner is Ronald Anthony Beasley, II, and the Respondent is the United States.

RELATED PROCEEDINGS

United States Court of Appeals for the
Eleventh Circuit:

*United States of America v. Ronald Anthony
Beasley, II*, No. 24-10506 (December 2, 2025).

United States District Court (M.D. Fla.):

*United States of America v. Ronald Anthony
Beasley II*, D.C. Docket No. 6:22-cr-00024-CEM-EJR-1.

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PETITION FOR WRIT OF CERTIORARI

Petitioner, Ronald Anthony Beasley, II, respectfully petitions for a writ of certiorari to review the decision of the United States Court of Appeals for the Eleventh Circuit.

OPINION BELOW

The Opinion of the Court of Appeals (App. B) is reported at 160 F.4th 1199 (11th Cir. 2025). The district court's order (App. A) can be found at D.C. Docket No. 6:22-cr-00024-CEM-EJK-1 (unpublished).

JURISDICTION

The Court of Appeals entered its opinion affirming the district court's judgment on December 2, 2025. App. B. This Court has jurisdiction under 28 U.S.C. §1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Due Process Clause of the Fifth Amendment provides:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject to the same offence to be twice put in jeopardy of life or

limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law...

The Confrontation Clause of the Sixth Amendment provides:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Section 6002 of Title 18 provides:

Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding before or ancillary to –

- (1) a court or grand jury of the United States,
- (2) an agency of the United States, or
- (3) either House of Congress, a joint committee of the two Houses, or a committee or a subcommittee of either House, and the person presiding over the proceeding communicates to the witness an order issues under this title, the witness may not refuse to comply with the order on the basis of his

privilege against self-incrimination; but no testimony or other information compelled under the order (or any information directly derived from such testimony or other information) may be used against the witness in any criminal case, except a prosecution for the perjury, giving a false statement, or otherwise failing to comply with the order.

Section 6003 of Title 18 provides:

(a) In the case of an individual who has been or may be called to testify or provide other information at any proceeding before or ancillary to a court of the United States or a grand jury of the United States, the United States district court for the judicial district in which the proceeding is or may be held shall issue, in accordance with subsection (b) of this section, upon the request of the United States attorney for such district, an order requiring such individual to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in section 6002 of this title. (b) A United States attorney may, with the approval of the Attorney General, the Deputy Attorney General, the Associate Attorney General or any designated Assistant Attorney General or Deputy Attorney General, request an order under subsection [7] (a) of this section when in his judgment –

- (1) the testimony or other information from such individual may be necessary to the public interest; and
- (2) such individual has refused or is likely to refuse to provide other information on the basis of his privilege against self-incrimination.

Federal R. Evidence 404(b) provides:

(b) Other Crimes, Wrongs, or Acts. (1) *Prohibited Uses.* Evidence of any other crime, wrong, or act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.

STATEMENT OF THE CASE AND FACTS

A. Pretrial and Trial Proceedings.

A grand jury returned an Indictment against Ronald Anthony Beasley, II, on February 23, 2022, on one count of conspiracy to commit health care fraud in violation of 18 U.S.C. §1347 and three counts of health care fraud in violation of 18 U.S.C. §§1347 and 2, for his alleged conduct between August 2017 and February 2019.

The Indictment alleged that Mr. Beasley, as “pharmacist-in-charge,” of a Florida pharmacy defrauded Medicare by seeking “reimbursement for compound and other prescription medications... that NH Pharma did not have the inventory to fill.” Mr. Beasley pleaded not guilty. The pharmacy's owner, Nava Hajiabadi, pleaded guilty to conspiracy to

commit healthcare fraud and agreed to cooperate with the government.

Before trial, Mr. Beasley filed a Motion in Limine to exclude evidence that he stole cash from the pharmacy, an uncharged theft. Mr. Beasley argued that the evidence of the uncharged theft would besmirch his character and invite a propensity-based inference. He also argued that the evidence was inadmissible under Fed. Rules of Evidence 404(b) and 403. The district court denied Mr. Beasley's Motion in Limine finding that the evidence of the uncharged theft was admissible as intrinsic evidence.

In addition to permitting the prosecution to argue that Mr. Beasley had stolen money from the pharmacy, the prosecution was permitted to enter a written transcript of a video clip into evidence which allegedly depicted Mr. Beasley making cash transactions to patients for drugs at the pharmacy without using the cash register. However, Ms. Hajiabadi testified that Mr. Beasley was instructed to move the cash he received for purchases in the front of the pharmacy to the back of the pharmacy where he filled the prescriptions because it was her policy not to keep much cash in the front of the pharmacy because of where the pharmacy was located and because the pharmacy did not have an alarm system. Ms. Hajiabadi additionally explained that when Mr. Beasley was working alone at the pharmacy, there was no one manning the cash register and someone could just walk in and rob the pharmacy. As such, money was moved to the back of the pharmacy from the front of the pharmacy where the cash register was located.

Ms. Hajiabadi further testified that her mother prepared compound prescription drugs and billed

Medicare and private insurance carriers for the compound drugs. Ms. Hajiabadi was the key Government witness against Mr. Beasley. As part of her plea deal, Ms. Hajiabadi agreed to pay the Government \$1,129,011.18 which the Government found represented her proceeds from the offense. It is Mr. Beasley's understanding and belief that Ms. Hajiabadi never repaid the money to the Government.

Although Mr. Beasley's Indictment referenced both "known and unknown co-conspirators," the Government did not charge unnamed co-conspirators prior to Mr. Beasley's trial and the defense was left with having to guess who the Government would assert were the other alleged known but unnamed co-conspirators. Moreover, as Mr. Beasley's defense counsel explained during the pre-trial conference, the Government's refusal to offer Ms. Khatami, the pharmacy owner's mother, immunity for the role she played in the conspiracy which the trial judge, himself, recognized started years before Mr. Beasley started to work at the pharmacy, precluded Mr. Beasley from putting on a defense.

During the pre-trial conference, Mr. Beasley's defense counsel explained why questioning Ms. Khatami was essential to putting on a defense. Ms. Khatami's own attorney fully agreed and stated that there was a simple solution which was for the Government to ask the court to confer immunity on Ms. Khatami. The district court judge acknowledged that although he was permitted to have Ms. Khatami testify in an in-camera proceeding, "he was not inclined to do so." The district court judge acknowledged that Ms. Khatami's testimony in an in-camera proceeding could not be used against her in a criminal proceeding. He nevertheless refused to

conduct an in-camera proceeding. Ms. Khatami has never been charged with a crime. Nor is there any indication that the Government ever planned on charging her with a crime. The Record instead supports a conclusion that the pharmacy owner, Ms. Hajiabadi, agreed to enter a plea in the case in exchange for the Government's promise that the Government would not charge her mother (Ms. Khatami), the witness that Mr. Beasley's counsel wanted to question.

The defense filed a Motion for a Bill of Particulars and argued that the defense was entitled to know the identification of the other co-conspirators, especially since the Government qualified its disclosure of the pharmacy owner as an alleged co-conspirator and qualified its disclosure by stating that it was "subject to change" and "not intended to be exhaustive of all potential co-conspirators." Despite the fact that the Indictment against Mr. Beasley referenced both "known and unknown co-conspirators," no other co-conspirators were ever charged.

The defense also filed a Motion for the court to Set Parameters for Questioning Witness (Ms. Khatami, mother of the pharmacy owner), Asserting her Fifth Amendment Right Against Self-Incrimination. Mr. Beasley's Motion was considered during the final pre-trial conference to determine whether the fear expressed by the pharmacist's mother (Ms. Khatami) in invoking her Fifth Amendment right against self-incrimination was well-founded and to determine whether the Government improperly played a role in depriving Mr. Beasley access to Ms. Khatami. Although a transcript of the hearing was filed, the portion of the

transcript dealing with Ms. Khatami's Fifth Amendment rights was redacted. Mr. Beasley subsequently filed a Petition to Unseal and Unredact Proceedings since it was essential to his then pending appeal to have access to the testimony to discern why the Government neither prosecuted nor granted Ms. Khatami immunity. Mr. Beasley's Petition to Unseal remained pending review at the time that Mr. Beasley filed his Initial Brief in the Eleventh Circuit. The Eleventh Circuit subsequently granted Mr. Beasley's Petition and also granted Mr. Beasley's Agreed Motion to Correct or Amend his Initial Brief. The unsealed transcript revealed the Government's role in depriving Mr. Beasley of an opportunity to properly put on a defense where the district court judge, himself, noted that the conspiracy involving the pharmacy owner (Ms. Khatami) and her daughter (Ms. Hajiabadi) started years before Mr. Beasley started to work at the pharmacy.

At the time of his Indictment, Mr. Beasley was an officer in the United States Navy. He had a doctorate in pharmacy and had already applied to become an officer in the United States Navy when he took the job working as a pharmacist, a W-2 employee, at the pharmacy owned by pharmacist Nava Hajiabadi. Mr. Beasley had no idea that Ms. Hajiabadi was the subject of an ongoing FBI investigation for her alleged criminal conduct which allegedly started in 2013, the same year that her mother, Ms. Khatami, became a licensed pharmacy technician in Florida and started to work in her daughter's pharmacy.

As a pharmacy technician, Ms. Khatami prepared compound prescription drugs and billed Medicare and private insurance carriers for the

compound prescription drugs. Mr. Beasley started to work at the NH Pharmacy in August 2017 and continued working there until February 2019 while his application for a Navy Commission was pending. Mr. Beasley comes from a Navy family. His father is a retired Navy Captain; his mother is a retired investigator; and his sister is a member of the Judge Advocate General's Corp in the Navy. While working at the NH Pharmacy, Mr. Beasley had a side-business buying and selling "collectible" high end sneakers which cost in the \$300.00 range. At trial, Ms. Hajiabadi, the pharmacy owner, testified that she herself purchased a pair of sneakers from Mr. Beasley.

Mr. Beasley received notification to take the United States Uniformed Services Oath in July 2019. After taking the oath he began Officer Development School and in October of 2019, he started his first tour of duty at the Navy Medical Readiness and Training Command.

Ms. Hajiabadi, the pharmacy owner, hired a private investigator because she suspected an employee was stealing from the pharmacy. The investigator confronted Mr. Beasley about the owner's suspicions and because Mr. Beasley at that point, was well along in the application process to join the Navy and he did not want Ms. Hajiabadi's unfounded accusation to derail his life-long ambition to be in the United States Navy, Mr. Beasley gave the private investigator the money he made selling sneakers. When Mr. Beasley advised the pharmacy owner that was all the money he had, Ms. Hajiabadi told him that he had to withdraw more money from his bank account. Mr. Beasley told Ms. Hajiabadi that he did not have much in his bank account and subsequently

gave Ms. Hajiabadi two cashier's checks totaling less than \$50,000.00 which he withdrew from his 401k.

Special Agent Correa of the FBI testified that he never investigated whether the money Mr. Beasley gave Ms. Hajiabadi came from Mr. Beasley's 401k. Nor did he investigate Mr. Beasley's business selling collectible items including expensive shoes. The FBI agent acknowledged that there was only one bank account for the pharmacy and that Mr. Beasley had no access to that account. Ms. Hajiabadi had a joint account at that same bank with her mother which Mr. Beasley had no access to. Agent Correa identified Defendant's Exhibit 42 as being an e-mail exchange between Ms. Hajiabadi and her mother which the FBI downloaded from Ms. Hajiabadi's cell phone. The message was dated August 5, 2019, many months after Mr. Beasley stopped working at the pharmacy. The message from Ms. Hajiabadi's mother stated: "Maybe we can blame everything on him [Beasley] and have Humana go after him [Beasley]." Agent Correa explained that the subject matter of the e-mail exchange was the Humana audit at the pharmacy.

After the prosecution rested, the defense moved for a judgment of acquittal and argued that the Government failed to present sufficient evidence to show that Mr. Beasley had the intent to commit healthcare fraud generally as part of a conspiracy. The defense further argued that the Government failed to present sufficient evidence to show that Mr. Beasley did anything other than following the instructions given by his boss, the owner of the pharmacy, regarding not keeping cash in the front of the pharmacy and moving the cash paid for prescriptions to the back of the pharmacy where Mr. Beasley filled prescriptions. The jury subsequently

returned guilty verdicts as to each count of the Indictment.

During Mr. Beasley's sentencing, the district court judge specifically asked Mr. Beasley whether the pharmacy owner and her mother instructed him on how to conduct the cash business which the judge observed on the video recording that was played for the jury. Mr. Beasley responded that he was instructed to do just that to which the district court judge responded, "Okay, I needed to hear that."

The judge subsequently revealed his confusion as to why Mr. Beasley gave the pharmacy owner all of his money: "I don't know what happened, but I wonder if you were extorted for that money that you were forced to take out of your 401k by someone who was threatening to end your chances of getting into the Navy by - - I don't know what happened."

The district court judge also noted that Mr. Beasley had not profited from the alleged conspiracy and that he hadn't figured out whether the pharmacy owner and her mother hired Mr. Beasley to make him the fall guy or whether after Mr. Beasley started working in the pharmacy the pharmacy owner and her mother decided to make Mr. Beasley the fall guy. Nevertheless, the trial court subsequently denied Mr. Beasley's Motion for a New Trial.

B. Appellate Proceedings

On appeal, Mr. Beasley argued, among other things, that the district court erroneously admitted evidence that he stole cash from the pharmacy. The Eleventh Circuit rejected the argument and determined that the uncharged theft was intrinsic evidence, necessary to complete the story of the crime.

The Eleventh Circuit also rejected Mr. Beasley's argument that his constitutional right to present a complete defense was violated because of the prosecution's refusal to grant Ms. Khatami immunity. The court also rejected Mr. Beasley's argument that the district court erred by not conducting an in-camera questioning of Ms. Khatami, the pharmacy owner's mother, even though the court acknowledged that Ms. Khatami's testimony in an in-camera proceeding could not be used against her in a subsequent criminal proceeding.

ARGUMENT

REASONS FOR GRANTING THE PETITION

This Court should grant the Writ to resolve the conflict between the Government's refusal to immunize a crucial witness and Mr. Beasley's Due Process rights and whether the Government's refusal to immunize a crucial witness arose out of an unjustifiable Government objective, e.g., having no intention to prosecute the witness but wanting to deprive Mr. Beasley of the testimony.

Another reason that this Court should grant the Writ is to determine whether the district court's evidentiary rulings were so egregious that they denied Mr. Beasley fundamental fairness in prejudicing the jury against him.

I. MR. BEASLEY WAS DEPRIVED OF HIS FUNDAMENTAL CONSTITUTIONAL RIGHTS UNDER THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT, THE COMPULSORY PROCESS AND THE CONFRONTATIONAL CLAUSES OF THE SIXTH AMENDMENT OF AN OPPORTUNITY TO PRESENT A COMPLETE DEFENSE WHEN THE GOVERNMENT REFUSED TO IMMUNIZE A CRUCIAL WITNESS THAT IT HAD NO INTENT TO PROSECUTE.

Mr. Beasley was denied his constitutional right to properly present a complete defense when the Government refused to offer Ms. Khatami immunity and failed to charge her despite her involvement in the conspiracy with her daughter, the owner of the pharmacy. The district court judge, himself, noted Ms. Khatami's involvement and that the conspiracy started years before Mr. Beasley started to work in the pharmacy. The district court judge opined that the pharmacist (Ms. Hajiabadi) and her mother (Ms. Khatami) either hired Mr. Beasley to make him the fall guy or decided to make Mr. Beasley the fall guy after Mr. Beasley started to work at the pharmacy. Moreover, an e-mail exchange was identified by an FBI agent as being between Ms. Khatami and Ms. Hajiabadi. The e-mail stated, "Maybe we can blame everything on him [Mr. Beasley] and have Humana go after him." "Act like you didn't know any of it. And we can sue him for all the cash in this. Talk to your attorney and see what they say." The evidence in the case clearly established that Ms. Khatami played an integral role in her daughter's scheme to defraud

Medicare. She became a licensed pharmacy technician in 2013, the same year that her daughter's scheme to commit health care fraud began. She prepared the compounded prescription drugs which the pharmacy sold, and which were eligible for reimbursement by Medicare and private insurance carriers. Ms. Khatami was also responsible for the pharmacy's banking including making all of the cash deposits.

Nevertheless, the Government never charged Ms. Khatami. Nor did the Government offer her immunity which led to Ms. Khatami asserting her Fifth Amendment right against self-incrimination. Ms. Hajiabadi, herself, testified that she remembered receiving her mother's e-mail, suggesting that they blame everything on Mr. Beasley.

The district court judge acknowledged that although the court was permitted to have Ms. Khatami testify in an in-camera proceeding, he, nevertheless, determined that "he was not inclined to do so." The judge added that he disagreed with the opinion of Ms. Khatami's attorney that her testimony in an in-camera proceeding could be used against her in a future criminal prosecution. The district court judge further noted that the best place to review a witness's assertion of privilege was in an in-camera proceeding but the judge, nevertheless, determined that he would not require Ms. Khatami to testify in an in-camera hearing or during Mr. Beasley's trial.

There was no indication that the Government ever planned on charging Ms. Khatami with a crime. Years later, the Government has still not charged Ms. Khatami with a crime. Had the defense been able to question Ms. Khatami, the defense could have properly established the roles played by Ms. Khatami

and her daughter (the pharmacy owner, Ms. Hajiabadi), played in the conspiracy and that Mr. Beasley played no part in the conspiracy.

Mr. Beasley's defense counsel was further precluded from putting on a defense since Mr. Beasley was charged in an Indictment that referenced both "known and unknown co-conspirators," and the district court denied the defense's Motion for a Bill of Particulars. The defense was left with having to guess who the Government would assert were the other allegedly known but unnamed co-conspirators. Thus, from the very beginning of the case, the defense was left in the position of not being able to adequately prepare for trial or put on a defense.

Whether rooted directly in the Due Process Clause of the Fourteenth Amendment (*see, Chambers v. Mississippi*, 410 U.S. 284, 302 (1973)) or in the Compulsory Process or Confrontation Clauses of the Sixth Amendment (*see, Washington v. Texas*, 388 U.S. 14, 23 (1967)); *Davis v. Alaska*, 415 U.S. 308 (1974)), the constitution guarantees criminal defendants a meaningful opportunity to present a complete defense. (*See, California v. Trombetta*, 467 U.S. 479, 485 (1984); *Strickland v. Washington*, 466 U.S. 668, 684-685 (1985)) ("The constitution guarantees a fair trial through the Due Process Clause, but it defines the basic elements of a fair trial largely through the several provisions of the Sixth Amendment."). In the absence of any Government justification, the exclusion of Ms. Khatami's testimony deprived Mr. Beasley of the basic right to have the prosecutor's case encounter and "survive the crucible of meaningful adversarial testing." *United States v. Cronin*, 466 U.S. 684, 656 (1984). Under these principles, Mr. Beasley's constitutional rights were violated. The Government's

refusal to grant immunity served to completely distort the fact-finding process.

Mr. Beasley's prosecution demonstrates the unfairness of the Government's selective use of immunity to filter the jury's access to evidence. The Government's interest in withholding trial immunity did not present anything close to a substantial risk that immunity would frustrate the Government's ability to later prosecute Ms. Khatami since there is absolutely no evidence that the Government ever planned on prosecuting her. In fact, the Government merely refused to grant immunity. The Government never voiced concern that it would be foreclosed from later prosecuting her. Mr. Beasley's right, on the other hand, to present a defense in a case where his subsequent conviction resulted in imprisonment, the forfeiture of his pharmacist's license, and his inability to ever serve in the United States Navy (his life-long dream), resulted in the denial of his right to a fair trial. The Government acted in bad faith where it gained a crucial tactical advantage by abusing its immunity power. Public interest within the meaning of 18 U.S.C. §6003(b) would have been advanced had the Government granted immunity to Ms. Khatami since Ms. Khatami's testimony was relevant to ascertaining Mr. Beasley's lack of culpability.

Because the Government refused to offer Ms. Khatami immunity, Ms. Khatami asserted her Fifth Amendment right against self-incrimination, making her unavailable as a witness to be examined about the pivotal role she played in the operation of her daughter's pharmacy and the scheme to defraud Medicare. Mr. Beasley was, therefore, precluded from properly being able to put on a defense at trial since it was essential for the defense to be able to question

Ms. Khatami about the operation of the pharmacy and her role at the pharmacy. The defense was also denied the opportunity to question her about her specialized knowledge and responsibility for preparing compounded prescriptions and her duties to make cash deposits for the pharmacy's cash sales. Moreover, Mr. Beasley was precluded from asking Ms. Khatami about her e-mail stating that she and her daughter should blame everything on Mr. Beasley.

Mr. Beasley's prejudice was compounded by the fact that the district court judge refused to question Ms. Khatami in an in-camera proceeding because there was no way of discerning whether Ms. Khatami's fear of self-incrimination was well-founded. The defense was also prevented from being able to determine whether the Government played a role in depriving Mr. Beasley of access to Ms. Khatami, especially given her crucial part in her daughter's scheme to defraud Medicare. Nor was the defense able to question why Ms. Khatami was never charged and never offered immunity by the Government. Thus, Mr. Beasley was precluded from being able to properly present a defense at trial. The defense's inability to question Ms. Khatami denied the defense the opportunity of establishing the role played by Ms. Khatami and her daughter in their healthcare fraud. Moreover, it precluded the defense from showing that Mr. Beasley played no role in their conspiracy.

It was essential for the defense to be able to question Ms. Khatami, the unindicted co-conspirator, in order to show that Mr. Beasley was not a part of the conspiracy between Ms. Khatami and her daughter, Ms. Hajiabadi. Ms. Khatami made the

creams and compounds for people who had prescriptions. Both Ms. Khatami and her daughter, Ms. Hajiabadi's names were on the bank account for the pharmacy, where funds were wired from the sale of pharmaceuticals. Mr. Beasley's name was not on the bank account. Nor could Mr. Beasley make bank deposits, bank withdrawals, or write checks from the pharmacy's bank account since Ms. Khatami did all the banking for the pharmacy. No money was ever received from Medicare or an insurance carrier from the sale of pharmaceuticals from which Mr. Beasley received money.

It was also essential for the defense to be able to question Ms. Khatami about the e-mail that she sent her daughter, Ms. Hajiabadi, regarding letting Mr. Beasley take the blame for their conspiracy. Ms. Khatami not only conspired with her daughter to commit Medicare fraud during the time Mr. Beasley worked for the pharmacy, they conspired with one another as early as 2013, which was long before Mr. Beasley started to work at the pharmacy.

Ms. Khatami's testimony would not only have supported Mr. Beasley's defense, it would have impeached Ms. Hajiabadi's testimony. At the very least, the district court judge should have heard Ms. Khatami's proposed testimony in an in-camera proceeding. The district court judge acknowledged that her testimony in an in-camera proceeding could not be used against Ms. Khatami in a subsequent criminal prosecution. Criminal prosecutions must comport with prevailing notions of fundamental fairness. *California v. Trombetta*, 467 U.S. 479, 485 (1984). This includes a meaningful opportunity for criminal defendants to present a complete defense. *Id.* In this case, the district court failed to balance Ms.

Khatami's Fifth Amendment right with Mr. Beasley's Sixth Amendment right to put on a defense as it was required to do. As a result, Mr. Beasley's life was totally derailed as Ms. Khatami and her daughter, Ms. Hajiabadi, succeeded in their plan to blame everything on Mr. Beasley, who was merely working at the wrong place at the wrong time.

II. THE ADMISSION OF IRRELEVANT AND PREJUDICIAL EVIDENCE OF AN UNCHARGED THEFT WAS SO EGREGIOUS AS TO RENDER MR. BEASLEY'S TRIAL FUNDAMENTALLY UNFAIR.

Throughout Mr. Beasley's trial, the Government prominently featured evidence of an uncharged crime, namely that Mr. Beasley allegedly stole money from the pharmacy. The alleged uncharged theft however was not direct evidence of a charged offense, intrinsic evidence of a charged offense, or extrinsic evidence admissible under Federal R. of Evidence 404(b). Mr. Beasley was charged by Indictment with one count of conspiracy to commit healthcare fraud in violation of 18. U.S.C. §1347 and three counts of healthcare fraud in violation of 18 U.S.C. §§ 1347 and 2.

The Government's position throughout Mr. Beasley's trial was that the pharmacy never had sufficient products to fill all the prescriptions that the pharmacy billed to Medicare leading to the conclusion and argument that the pharmacy was billing phantom prescriptions. On appeal, Mr. Beasley argued that the admission of the alleged extrinsic uncharged crime violated Fed. R. Evid. 404(b), since the evidence was not relevant or probative of any

issue in the case. Nor did the evidence possess probative value that was not substantially outweighed by its undue prejudice. The admission of the uncharged crime prejudiced the jury against Mr. Beasley as the admission of the evidence had a substantial injurious affect and influenced the jury's verdict.

There was no legitimate link between the alleged uncharged offense and the conduct charged by the Government. The extrinsic evidence was both insubstantial and irrelevant to the Government's case against Mr. Beasley. In fact, the Government failed to prove by a preponderance of the evidence that the uncharged crime even occurred. As such, there was no basis to conclude that Mr. Beasley committed the uncharged extrinsic offense. The pharmacy owner specifically testified that Mr. Beasley sold collectible high-end sneakers on the side which sold for \$300.00 or more. This explained why Mr. Beasley had a bag of cash in his bedroom made up of twenties, fifties, and hundreds. While it is true that Mr. Beasley gave the private investigator cash and withdrew money from his 401k when he was accused of taking money from the pharmacy, he only did so because he did not want Ms. Hajiabadi's unfounded accusation to derail his dream of joining the United States Navy, especially since he was so far along in the application process.

The prosecution was improperly permitted to show the jury a video clip of Mr. Beasley allegedly taking money for a purchase and not putting the money in the cash register. However, Ms. Hajiabadi, herself, testified that the pharmacy did not have an alarm system and when Mr. Beasley was working alone in the back of the pharmacy anyone could "just walk in and rob the pharmacy," because "there was no

one manning the cash register when [Beasley] was alone working at the pharmacy.” Mr. Hajiabadi specifically instructed Mr. Beasley to move the cash from the purchases made in the front of the pharmacy to the back of the pharmacy where he filled the prescriptions. Ms. Hajiabadi, in fact, testified that she had a policy of keeping money in the back of the pharmacy and not in the cash register because of where the pharmacy was located and because the pharmacy did not have an alarm system. The video clip shown to the jurors showed Mr. Beasley taking the cash from a purchase and not putting it into the cash register as he was instructed to do by Ms. Hajiabadi. After customers left the pharmacy, Mr. Beasley, as he was instructed, moved the cash from the purchases to the back of the pharmacy where Mr. Beasley filled prescriptions. Thus, the Government failed to prove by a preponderance of the evidence that Mr. Beasley even committed a theft. Moreover, as earlier stated, admission of the alleged theft was not relevant or probative of any issue in the case. Nor did the evidence possess probative value that was not outweighed by its undue prejudice.

The Eleventh Circuit erroneously determined that admission of the uncharged theft was admissible as intrinsic evidence and erroneously cited its earlier decision in *United States v. Troya*, 733 F.3d 1125, 1131 (11th Cir. 2013) for the proposition that the uncharged theft was necessary to complete the story of the crime. The Eleventh Circuit determined that although Mr. Beasley argued at trial that he received none of the profits from the conspiracy and lacked a motive to participate in it, the evidence, according to the Court, that Mr. Beasley was allegedly skimming cash from the pharmacy “explains why Beasley would

have had a financial motive to participate in the conspiracy.” This finding however is contradictory to the district court judge’s own conclusion that Mr. Beasley did not profit from the conspiracy other than his salary which the Government claimed was subject to forfeiture.

The Eleventh Circuit’s findings that the uncharged theft constituted intrinsic evidence are not supported by the Record before this Court. In *United States v. Glasser*, 773 F.2d 1553, 1559 n. 4 (11th Cir. 1985), the Eleventh Circuit explained that intrinsic evidence is admissible if it is “(1) an uncharged offense which arose out of the same transaction or series of transactions as the charged offense, (2) necessary to complete the story of the crime, or (3) inextricably intertwined with the evidence regarding the charged offense.” In the case at hand, none of those elements were established. The alleged theft did not arise out of the same transaction as the charged offense, was not necessary to complete the story of the crime and was not inextricably intertwined with the evidence regarding the charged offense.

The different characters of a simple theft and a conspiracy to commit healthcare fraud strengthens the conclusion that the uncharged theft was not admissible as intrinsic evidence. In this case, admission of the uncharged theft created unfair prejudice, confused the issues and mislead the jury. In fact, admission of the uncharged theft seemingly misled the Eleventh Circuit Court of Appeals as well, where the very first question asked by the court during oral argument was “Isn’t it correct, counselor, that Mr. Beasley stole money from the pharmacy.” In this case, there was insufficient evidence that the alleged theft even occurred. Moreover, the probative

value of introducing the alleged theft into evidence was not substantially outweighed by the danger of unfair prejudice, and as such, the alleged theft should not have been admitted into evidence.

CONCLUSION

The Petition for Writ of Certiorari should be granted.

Respectfully Submitted by:

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