No. 25-5638

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

OKECHUWKU 'DESMOND' AMADI – PETITIONER

vs

PAMELA BONDI, ATTORNEY GENERAL, ET AL., - RESPONDENT(S)

ON PETITION FOR WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA

PETITION FOR WRIT OF CERTIORARI

OKECHUKWU 'DESMOND' AMADI
1572 GATEWAY ROAD
CALEXICO, CALIFORNIA 92231

QUESTION(S) PRESENTED

1. Whether the district court erred in denying Petitioner Okechukwu Amadi's motion to compel the Department of Justice ("DOJ") to investigate allegations of prosecutorial misconduct, thereby violating his due process rights under the Fourth, Fifth, Sixth and Fourteenth Amendments of the United States Constitution?
2. Whether the DOJ has a non-discretionary duty to investigate allegations of prosecutorial misconduct, and whether the district court's ruling improperly insulated the DOJ from judicial review?
3. Whether judicial oversight is necessary to ensure the DOJ respects constitutional rights, including the right to due process and equal protection under the law?
4. Whether the district court's ruling constitutes an abuse of discretion, given the uncontested allegations of prosecutorial misconduct and the lack of justification for the DOJ's failure to investigate?
5. Whether exceptional circumstances, including the severity of the alleged prosecutorial misconduct, the potential for widespread injustice, and the recent indictment of the prosecutor on felony charges, warrant extraordinary court intervention via a writ of mandamus to compel the Department of Justice (DOJ) to conduct a thorough investigation?

LIST OF PARTIES

[X] All parties appear in the caption of the case on the cover page

[ ] All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

United States of America vs Okechukwu Amadi, Docket number 8:17-cr-447-JSM-AEP-1, Middle District of Florida, Tampa Division.

United States of America vs Okechukwu Amadi, Docket number 19-11562, United States Court of Appeals for the Eleventh Circuit.

United States of America vs Okechukwu Amadi, Docket number 24-12710-JJ (second issued Appeal number), United States Court of Appeals for the Eleventh Circuit. Petition for rehearing pending.

Okechukwu Amadi vs. United States of America, Docket number 24-CV-3508 (OEM)(LB) , Eastern District of New York. Final order pending.

Okechukwu Amadi v. Warden Dickerson, Docket number 4:25-CV-00172-CDL-AGH, United States District Court for the Middle District of Georgia, Columbus division. Final Order pending.

Okechukwu Amadi v. Warden Heckard, Docket number 5:24-HC-2060-BO, United States District Court for the Eastern District of North Carolina Western Division. Final order entered June 5th 2025.

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TABLE OF AUTHORITIES CITED

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Raines v. Byrd,521 U.S.811,819,117S.CT.2312,138 L. Ed. 2d. 849

Lujan v. Defenders of Wildlife, 504 U.S.555,560,112 S. Ct.2130,119 L. Ed.2d 351 (1992)

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Edmond v. United States, 520 U.S 651,117 S. Ct. 1573,137 L. Ed.2d 917 (1997)

Buckley vs Valeo, 424 U.S.1, 77, 96 S. Ct.612 46L.Ed.2d 659 (1976)

Morrison v. Olson, 487 U.S 654,108 S. Ct.2597, 101 L. Ed.2d 569 (1988)

Ryder v. United States,515 U.S.177,182,115 S. Ct .2031,132L.Ed.2d 136(1995)

United States v. Theodore F. Stevens, Crim. No.1:08-cr-00231-EGS (D.D.C.2009)

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Marbury v. Madison, 1 cranch 137,177,2L. Ed 60

Baker v. Carr,369 U. S 186,211,7 LED 2d 663,82 S. CT 691

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Dellums v. Smith,573 F.Supp.1489,1983 U. S Dist.LEXIS 11995 (N.d.Cal.1983)

Clark 543 U.S 371,125 S. Ct.716,160 L. Ed.2d 734 (2005)

Guerrero-Lasprilla v. Barr,589 U.S.221,140 S.Ct.1062,206 L.Ed.2d 271(2020)

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Washington Legal Foundation v. United States Sentencing Commission, Et Al.,89 F.3d 897;319 U.S. App. D.C. 256;1996 U.S. App.LEXIS 18796; 24 Media l.Rep.2417

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Dugan v. Rank,372 U.S.609,621-22,10 L.Ed.2d 15,83 S.Ct.999(1963)

Ctr.for Biological Diversity v. Zinke, 260 F.Supp.3d 11,20 (D.D.C 2017)

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[ ] For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix ..... to the petition and is

[X] reported at Appendix A ; or,

[ ] has been designated for publication but is not yet reported; or,

[ ] is unpublished.

The opinion of the United States district court appears at Appendix.....to the petition and is

[X] reported at Appendix B

[ ] has been designated for publication but is not yet reported; or,

[ ] is unpublished.

JURISDICTION

[ ] For cases from federal courts:

The date on which the United States Court of Appeals decided my case was June 4, 2025

[X] no petition for rehearing was timely filed in my case.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date : ....., and a copy of the order denying rehearing appears at Appendix..... .

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

FOURTH AMENDMENT OF THE UNITED STATES CONSTITUTION

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized"

FIFTH AMENDMENT OF THE UNITED STATES CONSTITUTION

"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 for the same offense 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; nor shall private property be taken for public use, without just compensation.

SIXTH AMENDMENT OF THE UNITED STATES CONSTITUTION

"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 defense."

FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

STATUTES AND RULES

U.S Const., Art II, § I, cl.1; § 3

1252 (g)

Federal Tort Claims Act (28 U.S.C.S 2680(a))

Appointment Clause

Excepting Clause

Article III

Fed. R. evid.501

28 C.F.R § 600.1

28 C.F.R § 600.2

28 C.F.R § 600.3

28 C.F.R. § 600.6

28 C.F.R. § 600.7

28 C.F.R. § 600.7 (b)

28 C.F.R. § 600.9

28 U.S.C.S § 535

5 U.S.C.S § 706

5 U.S.C.S § 706(1)

5 U.S.C.S § 706(2)

U.S. Code U.S.C 311a

28 U.S.C.S § 591

28 U.S.C.S § 594(a)

28 U.S.C.S §592(b)(1)

8 U.S.C 1252 § (a)(2)(B)(1)

8 U.S.C 1252 § (a)(2)(D)

STATEMENT OF THE CASE

On September 27, 2017, Petitioner was indicted on one Count of Conspiracy to commit money Laundering, 18 USC § 1956(h) and two substantive counts of money Laundering under 18 USC § (a)(1)(b)(i). Petitioner alleges that during the prosecution, his constitutional rights were violated in several ways. The indictment against me fails to establish probable cause, as required by the Fourth Amendment. I will point the reader to a motion filed in a related case (United States Court of Appeals for the Eleventh Circuit, Docket number 19-11561, United States of America vs Okechukwu Amadi, Case number 24-12710-JJ, filed on 05-09-2025, doc entry number 24). Also please refer to (Exhibit B attached to the motion for reconsideration, titled brief or arguments in Support of Petitioner's Appeal filed in the United States District Court for the District of Columbia for this instant case, Okechukwu Amadi vs Pamela Bondi, Docket number 1:24-cv-02362-UNA, filed on 12/18/2024). These briefs will provide the reader with the necessary context to fully understand the profound flaws in the indictment against me, which was built on a foundation of lack of probable cause. This fundamental defect triggered a devastating domino effect, leading to a cascade of prosecutorial misconduct. However, for the purposes of this brief and the complaint filed, Petitioner highlights these three constitutional violations enunciated in his complaint to the Department of Justice which fundamentally affected the structure and the integrity of the criminal proceeding namely:

- the violation of his right to a speedy trial, as guaranteed by the Sixth Amendment to the United States Constitution.
- Jury misconduct, which compromised the integrity of the trial in violation of the Fifth and Sixth Amendment.
- the violation of his Fourteenth Amendment right to a fair and impartial jury composition. See Appendix E, Complaint filed with Department of Justice, Re: Request for an investigation into United States v. Okechukwu D. Amadi, criminal case number :8:17-CR-447-JSM-AEP.

On March 12,2024, Petitioner filed a complaint to the Department of Justice requesting an investigation into multiple complaints in relation to his criminal proceedings, Case number 8:17-cr-447-JSM-AEP, originating out of the Middle District of Florida. (See Appendix E)

The Department of Justice sent a response dated April 8, 2024 (See Appendix D)

Petitioner filed an appeal on April 17,2024, to the Office of Information Policy, U.S Department of Justice, 6th Floor,441" G" Street N.W., Washington, D.C. 20530-0001. An appeal number was assigned. The result was a response dated May 2,2024, signed by the Supervisory administrative Specialist acknowledging receiving Petitioner's Administrative Appeal dated April 30,2024 (See Appendix C)

On August 2, 2024, Petitioner filed a motion in the United States District Court for the District of Columbia Circuit seeking that the court order the DOJ to 'initiate' the launch of an independent investigation into Petitioner's complaint Or ; in the alternative for the court to appoint an independent investigator to launch an investigation into Petitioner's complaint. (See Okechukwu Desmond Amadi v. Pamela Bondi Case number 1:24-cv-02362, assigned date 08/5/2024, Description: Pro Se Gen. Civ. (F-DECK))

The district court denied the motion on November 22, 2024. (See Memorandum Opinion and Order dismissing Pro se case without prejudice, Appendix B). Petitioner then filed a motion for reconsideration and a Notice to Appeal the final judgment on 12/01/2024. On 12/16/2024 the motion for reconsideration was denied. (See Case number 1:24-cv-02362-UNA, Docket number 6, Motion for Reconsideration re 5 Order Dismissing Pro se Case, by Okechukwu Amadi, so the Appeal proceeded in the United States Court of Appeals in the District of Columbia Circuit.

The Court of Appeals affirmed the district court's November 22,2024 order. (See Appendix A, Judgment filed for Document #2118974 in United States Court of Appeals for the District of Columbia Circuit, Case number 24-5284).

Petitioner now appeals to the United States Supreme Court seeking a writ of Certiorari.

REASONS FOR GRANTING THE PETITION

1. **Petitioner is currently facing Immigration removal proceedings based on a wrongful conviction from the underlying criminal conviction, the subject of this action. A favorable ruling in this case will vindicate the rights of Petitioner and will go a long way to set a precedent for other similarly situated individuals who are wrongfully convicted. The district Court abdicated its duty under Article III when it failed to assume subject matter jurisdiction to review the questions of law and facts, including the interpretation and application of the constitutional and statutory provisions pertinent to the final determination made by the Attorney general.**

Article III vests federal courts with the power to decide "cases" and "controversies". Petitioner has demonstrated that he has suffered a concrete and particularized injury that is legally cognizable caused as a result of a criminal prosecution initiated by the Department of Justice. This Court has stressed that the alleged injury must also "be legally and judicially cognizable". Raines v. Byrd, 521 U.S.811,819,117 S. Ct.2312, 138 L. Ed.2d 849. This requires that the dispute is "traditionally thought to be capable of resolution through the judicial process". Petitioner asserts that government officials involved in his criminal prosecution violated his constitutional rights. At all times in the record of this case the facts of this case were not in dispute. Specifically, Petitioner asserts that his Sixth Amendment right to a speedy trial, Sixth Amendment right to a fair and impartial trial and his 14th Amendment right to a Jury pool that comprised a fair representation of the city in which the trial was held were violated. (See original Complaint filed with the Department of Justice Appendix E). Petitioner is a lawful permanent resident of the United States of America and as a result of the conviction from the underlying criminal charge is currently facing removal proceedings. Petitioner continues to suffer the collateral effects of the conviction. Petitioner is currently detained pursuant to a Notice to appear issued by the Department of Homeland Security that charges Petitioner with being removable. The government has labeled the underlying crime a "crime of moral turpitude" and therefore on this basis, Petitioner has been classified as an "arriving alien" subjecting him to "mandatory" detention in the custody of the DHS (Department of Homeland Security). Petitioner has filed a 2241 (Habeas) motion contesting this classification. (See Okechukwu Amadi vs Warden Dickerson Case number 4:25-CV-172-CDL-AGH filed in the Middle District of Georgia, Columbus Division). Petitioner, therefore, has

established a "traceable link" between his actual injuries, ongoing injuries and the government's action. This Court has held that to establish standing, a plaintiff must show an injury-in-fact caused by the defendant and redressable by a court order. See Lujuan,504 U.S., at 560-561,112 S. Ct.2130,119 L. Ed.2d 351. Lastly, this Court has held that typically a person has standing to contest the policies of the prosecuting authority when he himself has been prosecuted or is threatened with prosecution. See the leading precedent is Linda R.S.V. Richard D.,410 U.S.614,93 S. Ct.1146,35 L. Ed.2d 536 (1973). Petitioner therefore has met the three-part test that this court has long applied to determine whether a plaintiff has standing to sue. The right of a person to an investigation is therefore established when the person has demonstrated that he has standing to sue as a result of his prosecution which resulted in cognizable injury caused as a result of the coercive force of the government exerted pursuant to such a prosecution. The troubling ruling of the Court of Appeals in deference to the Attorney general's discretion, raises serious concerns about the role of the Judiciary in the functioning of the Criminal Justice System. The irony should not be missed on this court, when a complaint was filed with the Department of Justice regarding a conflict of interest which resulted in a probable cause finding that Judge Jones, the Chief of the bankruptcy Court in Houston, Texas was involved in an intimate relationship with Texas Attorney, Elizabeth Freeman, who charged with allegedly shepherding multi-billion dollar cases into Jones' courtroom, the Civil Rights Division of the Justice Department launched an investigation and took action filing a series of motions challenging roughly $13 million dollars in fees that were billed in bankruptcy cases presided over by District Court Judge R. Jones. (See Article in the Wall Street Journal, Friday, June 21, 2024, titled "Judge's girlfriend profited in his federal Court" written by Alexander Gladstone, Andrew Seurria, and Akiko Matsuda). On the other hand, when presented with uncontested facts of a confirmed inappropriate relationship between a Jury fore lady and a testifying FBI agent, the Court of Appeals ruled in deference to the Department of Justice's discretion not to investigate the allegations. It is not a coincidence that Congress deemed it necessary to vest in the courts of law pursuant to the appointment clause the authority to appoint an 'inferior' officer otherwise known as a special prosecutor. See ".... Congress may, consistent with the appointments clause, authorize inter branch appointments, in which an officer of one branch is appointed by officers of another branch; (2) the Act's Independent Counsel provisions do not violate Article III of the Constitution..." (opinion by Rehnquist, Ch. J, Morrison vs Olson 487 U.S 654,101 L.Ed 2d 569,108 SCT 2597).

The District Court abused its discretion by failing to sit in equity to consider clearly established set of facts and applying them to the appropriate legal standard. The

rulings by the District Court that was subsequently affirmed by the Court of Appeals effectively confers out sized authority to the Executive branch and damages the constitutional system of separation of powers by improperly inflating the power of the Executive branch while cutting back the power and the authority of the Judiciary. A favorable ruling in Petitioner's favor would have had far reaching implications for the vindication of Petitioner's rights as well as the rights of others similarly situated while restoring the confidence in the system of check-and-balances.

2. **This case calls on this Court to clearly define the boundaries of Executive authority under Article II. It also presents a unique opportunity for this Court to provide further guidance on the applicability of Judicial review as a counterbalance to the concept of "absolute discretion". While this brief will begin the process of a legal and intellectual discussion about the scope of the "discretionary function exception", this case highlights the real-life implications of this type of power when it is left unchecked (See Article online, Former U.S Prosecutor who helped indict Jan 6th defendants about to stand trial for violent attack by Kerry Picket, The Washington Times, Monday April 1,2024).**

The Executive branch has the exclusive authority to decide whether to prosecute a case. The Executive branch makes and prosecutes offenses on behalf of the United States of America. So, it is well settled that the decisions about the enforcement of the Nation's criminal laws lie within the special province of the Executive. Under Article II, the Executive branch possesses authority to decide "how to prioritize and how aggressively to pursue legal actions against defendants who violate the law. "Transunion LLC, 594 U.S., at ___, 141 S. Ct .2190,210 L. Ed.2d 568. "Therefore, lawsuits alleging that the Executive branch has made an insufficient number of arrests or brought an insufficient number of prosecutions run up against the Executive's Article II authority to enforce the federal law, and therefore hardly prevail." See United States vs. Texas 599 U.S.670:143 S. Ct .1964; 216 L. Ed. 2D 624; 2023 U.S. LEXIS 2639; 29 Fla. L. Weekly fed. S 1046. Article II of the Constitution assigns the "executive power" to the President and provides that the President 'shall take care that the laws be faithfully executed." U.S. Const., Art II, § 1, cl.1; § 3. This "take care" responsibility of the President is carried out on his behalf by the Attorney general. The Attorney General is appointed by the president and then confirmed by the Senate and thereafter is vested with the discretionary authority under Article II to initiate individual arrests and prosecutions against those who

violate the criminal laws. See Section 1252(g) applies only to three discrete actions that the Attorney General may take, specifically, the "decision or action to commence proceedings, adjudicate cases, or execute removal orders." Reno v. American-Arab Anti-Discrimination Comm., 525 U.S 471,482, 119 S. Ct. 936,142 L. Ed. 2d 940 (1999) (emphasis in original). The Attorney general advises the president and part of the purpose of the 'discretionary function exception' is to protect such 'frank discussions' to promote the free exchange of ideas that affect public policy. These deliberations made based upon considerations of such subjective factors such as social, economic and political are forward looking and therefore, inherently prospective, and are made at a strategic level of planning. Important to note here, there is a distinction between the Attorney general's role as the advisor or Counselor of the president where their private and deliberative interactions are inherently 'confidential' and the Attorney General's adjudicatory role, where the Attorney general reviews a case to ensure 'compliance'. This adjudicatory role requires that the Attorney general, upon being presented with a complaint, engages in a thorough review of the factual allegations presented and then pursuant to the APA (Administrative Procedure Act), is required to provide a 'reasoned explanation' upon rendering a final determination. While these frank discussions carried out in the public's interest at the strategic level are subjectively prospective and forward looking, the adjudicative review is carried out in a more objectively retrospective analytical framework. In other words, the review involves objectively looking back to the actions and events established and memorialized, on-the-record, before the Attorney general makes a final determination. This analysis entails corroborating the factual allegations in an objectively 'fair' manner with the records of the trial proceeding. The Attorney general's "take care" duty therefore goes beyond its prosecutorial mandate and extends into the Attorney general's duty to ensure that the laws are "faithfully executed". This responsibility includes ensuring that the acts of governmental officials comply with the law and that the due process rights of an accused are protected. This Court, on numerous occasions, has underscored the Article II problems raised by Judicial review of the Executive's Branch's arrest and prosecution policies. This Court has held that Courts generally lack meaningful standards for assessing the propriety of enforcement choices in this area noting that the Executive Branch must prioritize its enforcement efforts. See Wayte v. United States, 470 U.S. 598, 607-608,105 S. Ct.1524,84 L. Ed.2d 547, {599 U.S.680} (1985). The Supreme Court explained further that it is because the Executive branch (1) invariably lacks the resources to arrest and prosecute every violator of every law and (ii) must constantly react and adjust to the ever-shifting public-safety and public -welfare needs of the American people. The Executive Branch does not possess the resources necessary to arrest every violator of the law due to the inevitable resource

constraints and regularly changing public-safety and public-welfare needs. As a result of this fact, the Executive branch therefore must balance many factors when devising arrest and prosecution policies which in turn leaves courts without meaningful standards for assessing those policies. The Supreme Court has held the long-standing position that Federal courts are therefore generally not the proper forum for resolving claims that the Executive Branch should make more arrests or bring more prosecutions. See Linda R.S.,410 U.S., at 619,93 S. Ct.1146,35 L. Ed.2d 536.

However, when a charging decision is made, followed by an arrest, detention and the subsequent initiation of legal process that eventually leads to an unlawful conviction, as is relevant here, the paradigm drastically shifts. The government has made the determination, upon initiation of charges, to indict and exert coercive force by detaining the person. By hauling a defendant to trial, the government has implicitly and explicitly made a commitment to abide by the rules of prosecution in accordance with the laws of the United States consistent with its 'take care duty'. Every defendant subject to criminal charges therefore should have a reasonable expectation that government officials will abide by the rules of the road once the government has decided to embark on the journey to prosecute. The government thus has a law enforcement mandate that should be guided by ethical and constitutional principles which dictates its constitutional duty to ensure the even-handed and fair administration of justice in furtherance of its public interest goals. When the Government has exercised coercive power over an individual without probable cause, in other words when officials of the government operate outside the scope of the authority granted to them under article II, the government officials know they can be held liable same as a private person would be held liable under similar circumstances. The Attorney general therefore has a 'mandatory duty' under the law to ensure that government officials comply with the relevant federal statutory laws, laws of federal criminal procedures, statutes as well as the policies of the Department of Justice (DOJ). These prescribed courses of action dictate the mandatory actions to be taken by officers of the Department of Justice which have been put in place to ensure the fair administration of Justice. The Attorney General, therefore, has a 'duty to investigate' upon a clear demonstration of the violations of a defendant's constitutional rights which renders the Attorney General's exercise of discretion in this case impermissible. The Supreme Court has held that certain impermissible exercises of prosecutorial discretion are reviewable. "The 'retaliatory use' of prosecutorial power is no longer tolerated." Thigpen v. Roberts, 468 U.S 27,30,82 L. Ed.2d.23,104 S. Ct.2916(1984). Also, in another case the Supreme Court in rejecting on the merits a claim of improper prosecutorial conduct laid to rest any notion that

prosecutorial discretion is unreviewable no matter what the basis is upon which it is exercised. See Bordenkircher v. Hayes,434 U.S.357,54 L. Ed.2d 604,98 S. Ct.663 (1978). That Court stated "There is no doubt that the breadth of discretion that our country's legal system vests in prosecuting Attorneys carries with it the potential for both individual and institutional abuse. And broad though that discretion may be, there are undoubtedly constitutional limits upon its exercise." id.,at 365,54 L. Ed 2d 604,98 S. Ct 663. Therefore, if a petitioner makes a sufficient threshold showing, as Petitioner has demonstrated here, that discretion has been exercised for unexplained or impermissible reasons, Judicial review should be available. See also Wayte v. United States, ante, at 608,84 L. Ed.2d.547,105 S. Ct 1524,53 USLW 4319.This case therefore presents an opportunity for this court to conclusively define the contours of "prosecutorial discretion" and provide further guidance on the impermissible exercise of "absolute discretion" which should be subject to "Judicial review". Congress understood the breadth and scope of discretion vested in the Executive branch and the potential for its abuse and hence put in place a systematic mechanism to check these excesses. Starting for instance with, Congress' intent when enacting the Federal Tort Claims Act (28. U.S.C.S 2680(a)), which sought to mark the boundary between Congress's willingness to impose tort liability upon the United States for acts of government officials outside the scope of their authority and Congress' desire to protect certain governmental activities from exposure to suit by private individuals. ".....the exception protects only governmental actions and decisions based on considerations of public policy". United States v. Gaubert 499 U.S.315,323,111 S. Ct.1267,113 L. Ed. Those government activities requiring protection from suits are actions and decisions that involve an element of judgment or choice that are based on public policy considerations, as discussed earlier, those actions and decisions that occur at a strategic or planning level. These decisions essentially determine the appropriate manner in which to regulate the affairs of the Department of Justice and would typically fall under the 'discretionary function exception'. On the other hand, those actions where the Agency is charged with acting in accordance with specific mandatory directives; requiring government officials to follow a specifically prescribed course of action, would typically fall outside the discretionary authority of the Attorney general. These actions typically occur during the day to day or at the operational level of the DOJ's daily business of prosecuting violators of the law. This is so because there are statutes, rules, and laws that mandate a specific course of action for the government officials to follow, failing which the government can be held liable in a tort action in the same manner and to the same extent as a private individual under like circumstances. Hence, these actions would not fall within the discretionary function exception and therefore should not preclude Judicial review.

3. **This case presents an opportunity for this Court to explain the function of the Appointment Clause as a mechanism crafted by Congress to ensure accountability and transparency. The Appointment clause ensures the independence of a special prosecutor by maintaining a separation between the special prosecutor and the executive branch. One of the ways this is accomplished is by imposing a "good cause" restriction on the power of the Attorney general, which effectively deprives the Attorney general of her "removal power" unless upon a showing of "good cause". The Court of appeal's ruling which affirmed the District Court's decision invalidates the application of an important provision of Federal law, the Appointment clause and conflicts with a decision from a District Judge in the same circuit, D.C Judge Emmet Sullivan who boldly invoked the Appointment clause upon a finding of government officials engaging in misconduct during a trial. Petitioner asserts that due to this conflict within the District Court of Columbia which raises serious concerns about the violation of equal protection principles, this case is ripe for adjudication requiring the granting of certiorari.**

The Appointment clause puts into place a mechanism to implement the check-and-balances function. "The appointment clause is the mechanism through which the separation of powers doctrine is implemented." See U.S Const. Art. II., § 2, cl.2. Appointment clause is "more than a matter of 'etiquette or protocol', it is among the significant structural safeguards of the constitutional scheme "Edmond 520 U.S. At 659 (quoting Buckley,424 U.S. At 124) (emphasis added: see Buckley, 424 U. S at 132 (referring to the Appointments Clause as setting forth "well-established constitutional restrictions stemming from the separation of power"). The framers of the Constitution in enacting the "appointment clause", envisaged a tri-partrite system of checks and balances which confers on all three branches of government a mandate. This system ensures that all three branches participate in the process of ensuring accountability. "The Appointment clause reflects a carefully crafted system, rooted in the separation of powers by which the Courts, the Executive and Legislative branches jointly participate in appointments, exerting limitations upon each other, ensuring "public accountability", and "curbing Executive abuses". Edmond, 520 U.S. At 659. The Appointment clause protects democratic accountability by limiting "the distribution of the appointment power to "ensure that those who wielded it were accountable to political force and the will of the people". Ryder v. United States, 515 U.S.177,182,115 S. Ct.2031,132 L. Ed.2d 136 (1995). The appointment clause represents the essence of the checks and balance in the tri-partrite system. The

appointment clause also provides the "exclusive means" for appointing "officers of the United States." Article II, § 2, Cl.2. It then goes on to direct that "Congress may by law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments". The importance of these three repositories cannot be overemphasized. Indeed, Congress prior to enacting the Appointment Clause sensed a potential "constitutional impasse" as a result of a conflict of interest inherent in an Attorney general investigating government officials and came up with a solution by making available the option of vesting in the Court the power to appoint an independent special prosecutor. See "....Congress may, consistent with the appointments clause, authorize interbranch appointments, in which an officer of one branch is appointed by officers of another branch; (2) the Act's Independent Counsel provisions do not violate Article III of the Constitution, under which executive or administrative duties of a nonjudicial nature may not be imposed on Article III judges, since (a) the appointments clause constitutes a source of authority independent of Article III for judicial appointment of Independent Counsels, (b) neither the Special Division's power under the Act to terminate the office of an independent Counsel constitutes an impermissible judicial intrusion upon the authority of the executive".(Opinion by Rehnquist, Ch. J., Morrison vs Olson, 487 US 654,101 L Ed 2d 569,108 SCT 2597 (1988). In enacting the Appointment clause, Congress envisaged a scenario where the Department of Justice head, the Attorney General, 'may' not be so inclined to investigate such sensitive investigations involving government officials due to a conflict of interest, hence Congress decided to vest power in the Courts to appoint an independent special prosecutor. See the Excepting Clause providing that "the Appointment Clause requires that any congressional decision to vest inferior-officer appointment power must be made by 'Law'" providing that ".....Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments". In other words, Congress provides an option for the Attorney general to appoint a special prosecutor to investigate a case; an option for the President to appoint him and then an option for the Courts to appoint a special prosecutor to investigate such a sensitive case where government officials are alleged to have violated the law. The District Court abdicated its duty under Article III when it failed to ensure that the DOJ explained its reasoning for its refusal to act. When confronted with the assertion of privilege, Courts are instructed by Fed. R.evid. 501, to interpret the common law privileges in the light of 'reason and experience'. Pursuant to Fed. R. evid 501, the district court must determine "whether the asserted privilege has any history of being applied under the circumstances, and if not, whether applying such a privilege would serve

some important public interest". The government failed to point to any public policy interest that is advanced by refusing to investigate petitioner's complaint.

The district court therefore has the jurisdictional authority to order an independent investigation into Petitioner's complaints. When the Attorney general fails to fulfill her responsibility to "take care that the laws be faithfully executed", the Attorney general's "take care" mandate, the Appointment clause demands that the Court in adherence to the instructions under Fed. R. evid .501, has an obligation to step in and fill that role by making a decision "in light of reason and experience". In fact, in the District of Columbia, this scenario played out in a remarkably spectacular fashion. Judge Emmet Sullivan, upon a finding that the Department of Justice failed to investigate clear violations of a defendant's right, ordered the launch of an independent investigation by appointing a special prosecutor. He stated explicitly after issuing the order " .... the events and allegations in this case are too serious and too numerous to be left to an internal investigation that has no outside accountability. This Court has an independent obligation to ensure that any misconduct is fully investigated and addressed in an appropriate public forum." See United States v. Theodore F. Stevens, Crim. No. 1:08-cr-00231-EGS (D.D.C. 2009). In contrast, the ruling of the Court of Appeals in this instant case states that "the Attorney General 'may' investigate government officials for alleged violations of criminal law and therefore does not establish a clear duty to act." Congress understood the importance of these "high-level investigations" and the resultant bias associated with such an investigation, hence the need for the appointment of an independent investigator in the person of a special prosecutor in order to insulate the Department of Justice from the appearance of bias or conflict of interest. See ".... declare the grounds for appointing a Special Counsel from "outside the United States Government," id. §§ 600.1, 600.3 (referencing "a conflict of interest for the Department or other extraordinary circumstances). Also see 600.7 (b) ensuring that the Special counsel be selected from outside the Department, and then "authorize the Special Counsel to wield, "within the scope of his or her jurisdiction, the full power and independent authority to exercise all investigative and prosecutorial functions of any United States Attorney," id § 600.6, and without being "subject to the day-to-day supervision of any official of the Department," id. § 600.7(b). See also " give the Special Counsel discretion to "determine whether and to what extent to inform or consult with the Attorney General or others within the Department about the conduct of his or her duties and responsibilities, " id. § 600.6. This signals clearly, Congress' intent to ensure the independence of the special prosecutor. The role of Congress in ensuring the independence of the Special Counsel is further underscored by the language which authorizes the Attorney General, on a permissive basis, and after

"review', to determine that a particular action of the Special Counsel should not be pursued because it is "so inappropriate or unwarranted under established department practices", id. § 600.7(b)- except that if the Attorney General makes that determination, he must notify Congress of his decision to countermand the Special Counsel, id. § 600.9. Also See ".....(1) the provision of the Act restricting the Attorney General's power to remove an Independent Counsel to only those instances in which the Attorney General can show good cause (28 USCS § 596(a)(1) does not, taken by itself, impermissibly interfere with the President's exercise of his constitutionally appointed functions....". (Scalia, J.'s opinion in Morrison vs Olson 487 US 654, 101 L Ed 2d 569,108 SCT 2597 (1988). Also see " As the Court states : "Admittedly the Act delegates to appellant (the) 'full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Department of Justice.'" Ibid., quoting 28 USC § 594(a) (1982 ed, Supp V) (28 USCS § 594(a)), referencing Justice Scalia's dissent in Morrison vs Olson 487 US 654, 101 L. Ed 2d 569, 108 SCT 2597, historically further highlights Congress' intent for the independence of the Special prosecutor. While Congress understood the need for independence it also recognized the indispensable role of the Attorney general as the ultimate custodian of the files and records of such an investigation. The role of the Attorney General as the head of the department of Justice and therefore, the custodian of the trial records, underscores the lack of an alternative remedy for petitioner considering that for such an investigation of government officials, the Attorney general's ministerial role as the custodian of records is inevitable and critically important to any investigative scenario whether she does the investigation herself; whether she, as a way to insulate herself from the appearance of bias, appoints a special prosecutor; whether the Court appoints a special prosecutor or whether she delegates her authority to another agency such as the Office of Inspector General for the Department of Justice to do the investigation. This 'indispensable role' of the Attorney general in either scenario makes the "take care" role within the context of a 'preliminary investigation' mandatory under the law. Congress envisaged a two-step process- a preliminary process where the Attorney general makes a final determination accompanied by a "reasoned explanation" and then a more extensive subsequent investigation 'ideally' conducted by an independent body such as a special prosecutor which would corroborate the established facts. During the preliminary phase, the Attorney General is supposed to make a specific finding as to whether there exist reasonable grounds to move to the next step of the investigation. See Justice Scalia's Opinion in Morrison v Olson, "as a general matter, the Act before us here requires the Attorney General to apply for the appointment of an independent counsel within 90 days after receiving a request to do so, unless he determines within that period that 'there is no reasonable grounds to believe that further investigation

or prosecution is warranted'". 28 USC § 592(b)(1) [28 USCS § 592(b)(1)]. He continued "As a practical matter, it would be surprising if the Attorney general had any choice (assuming this statute is constitutional) but to seek appointment of an independent counsel to pursue against the principal object of the congressional request, Mr. Olson". Congress fully appreciating the fact that the Attorney general may be conflicted based on the inherent biases, and potential conflict of interest associated with possibly investigating a DOJ official, decided to make available the provision in the statute which provides that Courts are vested with the authority under the "exception clause" to appoint an independent investigator for such a scenario. This case therefore provides an opportunity for this court to provide further guidance on the proper application of the Appointment clause vis-a-vis the authority of the Courts to appoint an independent investigator such as a Special prosecutor in the event, as is the case here, where the Attorney general has exercised 'unqualified' discretion.

4. **This case presents a unique opportunity for this Court to give further guidance on the application of statutory construction to the 'ambiguous' language in 28 U.S.C.S 535 and offer more guidance on the statutory construction of this statute within the broader context of its statutory history. The Court should have applied the canon of constitutional avoidance to interpret 28 U.S.C.S 535 as providing a statutory right therefore entitling Petitioner to an investigation. In exploring Congressional intent, Petitioner will reference provisions from the now-expired Ethics in Government Act of 1978 to provide further historical context in discerning Congressional intent. This section of the brief further explains the 'intentional' interplay between 28 U.S.C.S 535 and the Appointment Clause as part of Congress' intent to ensure accountability. The goal of these two Statutes should be viewed collectively as fulfilling an "accountability function". In this section, Petitioner highlights a case cited in the Memorandum opinion and order of the district court (See Appendix B), Powell v. katzenbach, 359 F.2d 234,234 (D.C Cir. 1965) and conflicting rulings in different circuits regarding whether mandamus will lie to control the exercise of prosecutorial discretion. The conflict in the rulings presents an opportunity for this court to grant this writ of certiorari and resolve this very pertinent issue.**

The District Court abused its discretion when it failed to prompt the DOJ to provide a "reasoned explanation" as to why it failed to investigate the uncontested constitutional violations in the Complaint. The Department of Justice was required to provide a 'reasonable explanation' for asserting privilege. An explanation would have uncovered what factors the Department of Justice considered; whether the Department of Justice thoroughly considered the specific aspects of constitutional violations alleged in the complaint; whether DOJ followed its longstanding policy of following proper protocols and procedures for this sort of complaint and if not to provide the reasons for not doing so. Simply put, to the extent there was a review, it would fall within the category traditionally described by Courts as being "arbitrary and capricious". The crux of Petitioner's complaint is that the decision-making process was opaque and therefore unlawful hence should be set aside. Section 706 of the APA authorizes two forms of judicial review, both of which are implicated here. See 5 U.S.C.S § 706 governing the scope of review of agency action. Holding that "a federal Court shall hold unlawful and set aside agency action that is unlawful. 5 U.S.C.S § 706(2). The Attorney general's acts amount to a 'refusal to act' and therefore was illegal and unlawful. Also, Section 706 (1) authorizes the courts to "compel agency action unlawfully withheld or unreasonably delayed." 5 U.S.C. § 706(1). "The § 706(1) provision ' provides relief for a failure to act." Ctr. For Biological Diversity v. Zinke ,260 F. Supp.3d 11, 20 (D.D.C.2017) (quoting Norton vs. Utah Wilderness All., 542 U.S.55, 62,124 S. Ct. 2373,159 L. Ed .2d 137 (2004)).

Section 28 U.S.C. § 535 establishes a framework for ensuring that government officials, including prosecutors, are held accountable for their actions. To discern Congressional intent, we draw inferences from the historical purpose of the statute to enable a more informed analysis of the statute. We start by examining the preceding statute to 28 U.S.C.S § 535 and its legislative history to shed light on the intent of Congress. A cursory read of the history does not disclose that Congress intended for the statute to be committed exclusively to the Department of Justice's "absolute discretion". We start by analyzing the current statute, 28 U.S.C. § 535, in reference to the preceding statute, U.S Code U.S.C § 311a. In the current statute, the word "may' was substituted for "shall have authority". The "shall" in the preceding statute spells out a mandatory and urgent command to the Attorney General that necessitates a subsequent action expected to be taken by the Attorney General. One can reasonably deduce that Congress' intent was a requirement mandating the Attorney General to review and ensure that the challenged actions comply

with the practices and policies of the Department of Justice. Under the preceding statute, 5 U.S.C § 311a, reading the mandatory language, "shall be expeditiously reported to the Attorney general", in conjunction with "shall have authority", requires that the employees report to the Attorney general and mandates that the Attorney General thereafter investigates. However, Congress decided to reorganize for "clarity and continuity". See Us code 5 U.S.C § 311a- "This section is reorganized for clarity and continuity". In subsection (a), the word "may" is substituted for "shall have the authority". The word "is" is substituted for "may have been or may hereafter be". The use of the word "may" in both cases suggests and "clarifies" that the Attorney General's authority to exercise discretion to investigate is a matter of choice conferred upon the Attorney general. This therefore ensures the "clarity function" and the longstanding consensus that the discretion of the Attorney general to investigate is preserved in the statute. Congress, therefore, in the interest of clarity maintained the long-standing consensus that the Attorney General has discretionary authority, the current statute's 'clarity function'. However, Congressional intent does not indicate that the exercise of Prosecutorial discretion by the Attorney general automatically eviscerates the requirement for a 'preliminary investigation' which is mandatory pursuant to the statute. In other words, the absence of the phrase "shall have authority" does not attenuate the mandatory directive by Congress which requires a preliminary investigation. Quite to the contrary, despite the changes made to the current provision, Congress preserved certain language in the preceding statute when it could have done away with them, its 'continuity function'. For instance, Congress preserved the delegated authority of 'other agencies' to investigate- see the language following the word 'unless'- see 28 U.S.C.§ 535 (b)(1) and (2) referencing Congressional intent if "the responsibility to perform an investigation with respect thereto is specifically assigned otherwise by another provision of law" or "to any department or agency of the government the Attorney general directs otherwise with respect to a specified class of information, allegation, or complaint". Therefore, the statute provides other options for an investigation aside from an investigation directly conducted by the Attorney general casting into doubt the assertion that the decision to investigate is exclusively committed to the Department of Justice's absolute discretion. See 28 U.S.C.S § 535 (b)(1) provides the option that "the responsibility to perform an investigation with respect thereto is specifically assigned otherwise by another provision of law", could easily be construed to suggest that Courts could order an investigation by appointing a Special prosecutor by way of the Appointment Clause, highlighting the 'intentional

interplay between 28 U.S.C.S 535 and the Appointment clause as envisaged by Congress. This is significant as it highlights the 'accountability function' of the statute and its interaction with the appointment clause. Also see 28 U.S.C.S § 535 (b)(2) which provides that "the responsibility to perform an investigation.....assigned.....as to any department or agency of the Government....." provides yet another option for the Attorney General to delegate her authority to the Office of Professional Responsibility, Inspector General of the FBI or to the Department of Justice Inspector General. Read comprehensively, the statute preserves the option for the Attorney general to exercise her discretionary authority, but it also requires the Attorney general to undertake a preliminary investigation upon receipt of a "specified class of information, allegation, or complaint". See 28 U.S.C.S § 535 (b)(2); Also referencing 28 U.S.C.S § 591 " (Purposes of Ethics in Government Act (28 U.S.C.S § 591 et seq) are 1) to deny AG power to refuse to make preliminary investigation upon receipt of reasonably specified information from credible sources of violation of federal criminal law by members of same branch of government he serves....". As part of this preliminary investigative process, the Attorney general is required to "qualify" the investigation based on the allegations set forth in the complaint and the degree to which a specific need for an investigation has been demonstrated. The last part of the sentence "with respect to a specified class of information, allegation, or complaint suggests Congressional intent that the decision to investigate be "qualified" within the context of the specified allegations in the complaint. See U.S.C 535 (b)(2). In other words, the Attorney general was supposed to engage in a rigorous analysis of the challenged conduct and then provide a reasonable explanation for her refusal to act because she failed to do so it renders her final determination illegal. The fact that the District Court nor the Court of Appeals for that matter failed to prompt such an explanation is even more concerning. The statute does not in any way deprive the Attorney general of her discretion to refuse if she so desires, but it does require to the extent there are such investigations involving government officials, to "qualify" her preliminary determinations based on the established facts in the allegations following which she, the Attorney general, can directly investigate or chose any of the other investigatory options provided in the statute. See case cited in the ruling by the United States Court of Appeals for this instant case ".. mandamus will not lie to control exercise of prosecutorial discretion". Powell v. Katzenbach, 359 f.2d 234, 123 U.S. App. D.C.250, 1965 U.S App. LEXIS 3799 (D. C. Cir. 1965)..... 28 USCS § 535 did not limit federal investigatory power to offenses by federal employees, as such interpretation was based on misreading of plain

language of Statute, section 535 used permissive word 'may' : this provision is not mandatory. United States v. Webb, 220 Fed. Appx. 293,2007 U. S. App LEXIS 4573 (5th. Cir.2007). But see "Testimony of senior presidential advisor is compelled pursuant to motion of Office of Independent Counsel, despite assertion of governmental Attorney-Client privilege, where 28 U.S.C.S § 535(b) requires all executive branch employees, including White House Attorneys, to report any criminal activity provides support for conclusion that Governmental Attorney-client privilege should be qualified in context of Federal Grand Jury investigation of Official's alleged Federal Grand Jury investigation of Official's alleged misconduct. See re Grand Jury Proceedings, 5F.supp. 2D 21,1998 U.S Dist. LEXIS 7736 (D.D.C.1998). Also see -Referencing the now-defunct ethics in Government Act (28 U.S.C.S § 591 et seq.) to assist us in determining congressional intent -"Assuming arguendo that preliminary investigation would normally be viewed as exercise of prosecutorial discretion despite its limited scope and purpose. Congress clearly intended departure from normal rule of executive discretion in Ethics in Government Act (28 U.S.C.S § 591 et seq.) by making preliminary investigation 'mandatory'; thus, mandamus is proper remedy to compel Attorney general to conduct preliminary investigation where statutory prerequisites have been satisfied. Dellums v. Smith, 573 F.Supp. 1489,1983 U.S Dist. LEXIS 11995 (N.d.Cal.1983), rev'd 797 f.2d 817, 1986 U.S app. LEXIS 28840 (9th cir 1986). Also see "Review of Refusal- Ethics in government Act (28 U.S.C.S § 591) contemplates that Attorney general refusal to investigate specific information of criminal conduct by high federal officials covered by Act may be reviewed by District Court on application of persons supplying such information.....District Court has jurisdiction to enforce those procedures." Nathan v. Attorney general of United States, 557 F. supp. 1186, 1983 U.S. Dist. LEXIS 19031(D.D.C.1983). Also see "where sole issue raised by mandamus action is whether report is sufficient to trigger preliminary investigation plaintiffs contend is required by Ethics in Government Act (28 U.S.C.S § 591 et seq.), adjudication is not precluded by political question doctrine". Dellums v. Smith, 573 F.Supp.1489,1983 U.S.Dist. LEXIS 11995(N.D. Cal. 1983), rev'd, 797 f.2d 817,1986 U.S. App.LEXIS 28840 (9th Cir.1986). Also see ".....the President's generalized assertion of privilege must yield to the demonstrated, specific need for evidence in a pending criminal trial and the fundamental demands of due process in the fair administration of criminal justice". See Richard M. Nixon vs United States, 418 U S 683, 41 LED 2d 1039,94 S C T 3090 (Nos 73-1766 and 73-1834. Also see "neither the doctrine of separation of powers nor the

generalized need for confidentiality of high-level communications without more, can sustain an absolute, unqualified presidential privilege of immunity from judicial process 'under all circumstances' ". Marbury v. Madsion, 1 cranch 137, 177,2 L. Ed 60; Baker v Carr, 369 US 186,211,7 L Ed 2d 663, 82 S Ct 691.

The Attorney General's final determination at the preliminary stage effectively becomes a "constitutional question" and a "question of facts", in other words a "mixed question of law". When there exists a "mixed question of law", Courts are called upon to engage in a rigorous and extensive exercise in Judicial review to discern Congressional intent. To the extent there still remains some doubt about Congressional intent in regards to the statute in question, we must then proceed by assuming at the very least that the statute in question, U.S.C.S § 535 is ambiguous. Therefore, in discerning Congressional intent with regards to an ambiguous statute, we look at how Congress has dealt with an analogous statute when faced with a potential constitutional crisis or "question of law impasse" if you will. Examining the standard under which an analogous legal test dealing with discretionary authority was decided by the Supreme Court. 8 U.S.C § 1252(a)(2)(B)(i) provides that "no court shall have jurisdiction to review.....any judgment regarding the granting" of certain forms of discretionary relief. "The major objective of IIRIRA was to protect the Executive's discretion" from undue interference by the Courts; "that can fairly be said to be the theme of the Legislation." Reno v. American-Arab Anti-discrimination Comm.,525 U.S. 471,486,119 S. Ct.936, 142 L. Ed. 2d 940 (1999) (AAADC). "After IIRIRA's enactment, the Supreme Court flagged a "substantial constitutional question" that would arise if federal habeas courts were stripped of jurisdiction to review 'pure question(s) of law' ". INS v. St. Cyr ,533 U.S.289,300, 121 S. Ct.2271,150 L. Ed.2d 347 (2001). Congress then responded by enacting an amendment clarifying that § 1252(a)(2)(B) did not "preclude review of constitutional claims or questions of law." § 1252(a)(2)(D). In Guerrero-Lasprilla v. Barr, 589 U.S.221, 140 S. Ct.1062, 206 L. Ed.2d 271 (2020), this Court addressed the meaning of this amendment. Interpreting U.S.C.S 535 by adopting the ruling of the Court of Appeal solely on the basis of the word "may" will raise serious constitutional issues. Simply put, the Supreme Court has in similar circumstances, as we have here, utilized the canons of constitutional avoidance as a tool of statutory construction. The Supreme Court has counseled on the serious constitutional problems that may arise when a proposed construction of a statute might implicate constitutional rights.

The Court has endorsed the idea of construing these statutes not to violate constitutional principles by invoking the "doctrine of constitutional avoidance" in order to give an ambiguous provision a meaning that will "avoid constitutional peril". See "The statute's use of 'may', suggests discretion, but not necessarily unlimited discretion. In that respect, the word 'may' is ambiguous. In light of that perceived ambiguity and the 'serious constitutional threat' believed to be posed by indefinite detention of aliens who had been admitted to the country, the United States Supreme Court has interpreted the statute to permit only detention that is related to the statute's basic purpose of effectuating an alien's removal". See Clark v. 543 U.S 371,125 S.Ct.716,160 L.Ed.2d 743 (2005). This Court has on numerous occasions relied heavily on the doctrine of constitutional avoidance, under which Courts are "obligated to construe the statute to avoid serious constitutional problems, if such a saving construction is 'fairly possible'". The Supreme Court has instructed that, "where one possible application of a statute raises constitutional concerns, the statute as a whole should be construed through the prism of constitutional avoidance." id. At 1141 (citing Clark, 543 U.S. At 380). The Court of Appeals therefore should have construed U.S.C.S S § 535 to permit constitutional avoidance by allowing for an investigation especially in a case, as here, where Petitioner has demonstrated "uncontested" constitutional violations and where adopting the Appeal Courts ruling will "raise a multitude of constitutional problems". To avoid the constitutional concerns raised by the prospect of an "unqualified" assertion of privilege in the face of demonstrably "uncontested" constitutional violations, an investigation must be afforded to Petitioner as a matter of right. By affirming the District Court's ruling, the Court of Appeal rendered obsolete this Court's theory of Constitutional avoidance. The Court of Appeals ruling explicitly denounced Loper. The ruling in part states "... And the Supreme Court's decision in Loper Bright enterprises v. Raimondo, 603 U.S 369 (2024), is not relevant to this case." This Court in Loper emphasized that "Courts need not, and under the APA may not, defer to an agency interpretation of the law simply because a statute is ambiguous." The Court went further by affirming that it is "Emphatically the province and the duty of the judicial department to say what the law is..... ' (citing) Marbury v. Madison, 5 US 137 (1803). Also see "...And when the best reading of a statute is that it delegates discretionary authority to an agency, the role of the reviewing Court under the APA is, as always, to independently interpret the statute and effectuate the will of Congress subject to constitutional limits. "The Court fulfills that role by recognizing constitutional delegations, fixing the boundaries of the delegated authority, and ensuring the

agency has engaged in 'reasoned decision making' within those boundaries. By doing so, a court upholds the traditional conception of the judicial function that the APA adopts." Michigan v. EPA, 576 U.S. 743, 750, 135 S. Ct. 2699, 192 L. Ed .2d 674 (quoting Allen Mack Sales & Service, Inc. v. NLRB, 522 U.S. 359, 374, 118 S. Ct 818, 139 L. Ed.2d 797).

The ruling of the Court of Appeal states in part that "28 U.S.C. § 535 states only that the Attorney General "may" investigate government officials for alleged violations of criminal law and therefore does not establish a clear duty to act." The ruling unfortunately represents an impermissible construction of the statute and is flatly inconsistent with the intent of Congress. The Court's ruling that the Attorney general 'may', is tantamount to asserting that the determination incorporates considerable "policy judgment" or a choice for the Attorney General. However, to the contrary 28 U.S.C.S § 535 (b) 'requires' all executive branch employees to report any criminal misconduct by other employees to the Attorney General. In other words, the law mandates that they report any violations of law by fellow government officers. See re Grand jury proceedings, 5f.supp.2d 21,1998 U.S Dis. LEXIS 7736 (D.D.C.1998) " 28 U.S.C.S § 535(b) requires all executive branch employees, including White House Attorneys, to report any criminal misconduct by other employees to the Attorney General, because, inter alia, court finds that § 535(b)'s duty to report criminal activity provides support for conclusion that governmental attorney-client privilege should be 'qualified' in context of federal grand jury investigation of official's alleged misconduct. The idea that executive branch employees are "required" to report misconduct and then the Attorney General refuses to act not only defies logic, but it also stands contrary to the intent of Congress. Congress surely did not envisage a scenario where governmental officials would so blatantly violate the constitution and no action is taken on the part of the Attorney general. Allowing this would effectively put the government officials above the law, and implicitly render those very rules that mandate a certain course of action for them to take, totally inconsequential. U.S.C.S 535 is a statute that imposes a mandatory duty on the Attorney general requiring the Attorney general to conduct a preliminary investigation upon receipt of specific information that demonstrates a legally cognizable injury sufficient to establish 'standing' in the Judicial sense of American Jurisprudence. The proposition that the Attorney general has absolute discretion whether to investigate, particularly in cases involving clear violations of uncontested constitutional rights, is fundamentally at odds with the spirit and intent of 28 U.S.C. 535. Congress enacted the statute to safeguard constitutional rights and to promote accountability within the Department of Justice,

the statute reflects Congress's intent to ensure that allegations of misconduct by federal law enforcement officers and prosecutors are thoroughly investigated.

5. **The public has a First Amendment right to know how their government functions especially, where constitutional rights have been violated. This case highlights the importance of the openness of governmental processes to the public. There is a significant public interest that lies in granting this brief as it fosters accountability and transparency within the Criminal Justice System. A review of this case, followed by the issuance of a writ of mandamus and a subsequent investigation will serve the purpose of deterrence and prevent such misconduct from re-occurring again in the future, hence this case falls under an exception for issues of "great public import" that are "capable of repetition". The granting of this brief will also go a long way to maintain the public image and the integrity of the Criminal Justice system.**

An investigation into the alleged violations will serve the public interest goal of opening governmental processes to the public. The idea of the public's right of access to judicial records dovetails neatly with the need for an investigation that fosters transparency and helps to ensure that the due process rights of defendants are protected. Every person hauled to trial to face charges should have a reasonable expectation that the government will ensure that their rights to a fair trial will be protected and that every Judicial criminal proceeding complies with the law. The public therefore has a vested interest in the memorialization of such a proceeding. A court proceeding unlike the processes for discretionary decision-making by the executive is in its entirety and by its very nature a matter of 'legal significance'. All the documents filed with the Court, including the transcripts of the proceedings, exhibits are maintained as the official "record" of what transpired in such a proceeding. These are public records subject to the 'common law right of access'. Therefore, there is an overarching need to constantly weigh the public's need in knowing how their government functions against a presumption in favor of 'absolute discretion'. Another way of determining whether the actions of the government officials are subject to an investigation is to determine whether their actions are memorialized. If they are memorialized the public has a right of access to the records, it would logically follow that the Attorney general then has a duty to review whether their actions complied with the law. Therefore, the fact that an Attorney General is called upon through an investigation to review certain aspects of a trial, to perform her 'ministerial' duty of determining whether the actions of the government officials comply with the relevant statutes becomes a record-keeping requirement and therefore would not fall within the 'discretionary function exception'. To put the

actions of the government official "on the record" is designed to memorialize official acts prompting the heightened need for transparency following the filing of a complaint alleging the violation of constitutional rights. On the other hand, where an Attorney General merely consults or considers certain information or makes certain calculations in the process of developing a policy or rule, it does not require that the agency memorialize its decision-making process by keeping the materials upon which it relied, 'on the record', as part of its rule making or adjudication. The investigation demanded by petitioner should be viewed as an investigation of the specific aspects of the trial alleged in the complaint that resulted in the constitutional violations that occurred during his criminal proceeding. This investigation requested will entail a review of the memorialized files from Petitioner's trial, because the memorialization of the actions of the Government officials, falls squarely within the doctrine of the 'public's right of access' and therefore a need for transparency exists through an investigation. This investigation will ultimately serve the purpose of protecting the public's interest in keeping a watchful eye on the workings of public agencies like the Department of Justice. The Attorney General therefore has a mere 'ministerial duty' to carry out such an investigation and therefore the assertion of discretion by the Attorney general is not permissible. There is a significant correlation between the public's right of access attached to the public records produced as a result of the non-discretionary actions of government officials during a criminal proceeding and a subsequent investigation of those same actions that flow from a complaint filed by a defendant alleging violations of his constitutional rights. The public has a First Amendment right to know how their government functions and therefore the public interest served by disclosure and an openness of governmental processes achieved as a result of such an investigation into alleged constitutional violations defeats the Attorney general's exercise of discretionary authority. Viewing petitioners request for an investigation purely from a public interest perspective, the public's First Amendment right to know how their government functions through an investigation weighs heavily against any public policy choice the Attorney general 'may' have, tipping the scale in favor of an investigation. See Preminger v. Principi, 422 f.3d 815,826 (9th circuit. 2005) ("Generally, public interest concerns are implicated when a constitutional right has been violated, because all citizens have a stake in upholding the constitution.") The public is also served by ensuring that the government does not expend its resources to detain individuals unnecessarily and without adequate process. See Lopez v. heckler, 713 F. 2 1432, 1437 (9th Cir.1983) ("Society's interest lies on the side of affording fair procedures to all persons, even though the expenditure of government funds is required." What is at stake is the likelihood that an accused, hauled to trial in the Middle district of Florida faces the possibility of being subjected to a tainted

criminal proceeding where government officials can employ the cooperation of the defendant's Attorney to violate the defendant's speedy trial rights, manipulate the Jury system by stacking the Jury with an impartial juror and then exclude all the African Americans from the Jury pool. Courts have held that whether an action bars the exercise of discretionary authority, turns on whether the end goal of the action in question enhances the core purpose of governmental openness; whether there is a goal achieved by allowing the general public's right of access, to know governmental processes and how their government function. The United States Court of Appeals for the District of Columbia Circuit defined a public record as "a government document created and kept for the purpose of memorializing or recording an official action, decision, statement, or other matter of legal significance broadly conceived". See Washington legal foundation v United States Sentencing Commission, Et Al. ,89 f.3d 897;319 U.S. App. D.C.256; 1996 U.S. App. LEXIS 18796; 24 Media L. Rep.2417. The presumption being that the action in question is one which the government official has broadly considered, and therefore they fully understand the implications of their action. So, a trial definitely falls within the category of such an official action, where the government attorneys and the FBI agents and their accomplices understood the legal significance of their actions as well as the constitutional implications of depriving an accused of their liberty interest. These officers understood that their actions are the 'delegated authority' that is derived directly from the Executive branch and therefore might be made the object of specific relief. In other words, when an officer is acting outside the scope of his authority, his actions are those of the government and could be the subject of liability. See "Where the officer's powers are limited by statute his actions beyond those limitations are considered individual and not those of a sovereign action." Larson, 337 U.S at 689. Therefore, the discretionary function exception does not apply in such a scenario. Also see "Washington legal Foundation II's application of Larson to ultra vires act is also consistent with other Courts of appeals that have held that sovereign immunity does not prevent an injunction against a State Officer who abridges a common law duty without statutory authorization". See Salt River Project Agric. Improvement & Power Dist. v. lee,672 f.3d 1176,1182 (9th Cir 2012). There is a mandatory course of action for the officer to follow prescribed by the law. "Where the officer's powers are limited by statute, his actions beyond those limitations are considered individual and not sovereign actions. The officer is not doing the business which the sovereign has empowered him to do, or he is doing it in a way which the sovereign has forbidden. His actions are ultra vires his authority and therefore may be made the object of specific relief." Larson, 337 U.S.at 689; see also Dugan v. Rank,372 U.S.609, 621-22,10 L.Ed.2d 15,83 S.Ct.999 (1963).

6. **This case provides an opportunity for this Court to provide further guidance on the application of the "extraordinary circumstance" legal standard within the context of issuing a writ of mandamus. The extraordinary nature of this case is highlighted by the violation of my speedy trial rights, the manipulation of the Jury system which involved the systematic exclusion of African Americans from the Jury pool and the stacking of the jury with a Fore lady who was friends with a testifying FBI agent who also was involved in the investigation of Petitioner's case.**

The consequences of this flawed indictment were severe. My Attorney, Tim Bower Rodriguez, and the now-indicted Prosecutor, Patrick Scruggs, attempted to coerce me into accepting a factually inaccurate plea deal. When I refused, my attorney filed a motion for continuance, requesting to push the trial date out to over 8 months while I was detained in violation of my speedy trial rights. The government's actions, in collusion with my Attorney, resulted in an unjustified delay that prejudiced me running afoul of the Speedy Trial Act of 1974 (18 U.S.C. 3161). An investigation into the circumstances leading to the violations of my speedy trial rights will reveal that it stemmed from the lack of probable cause. The extraordinary nature of this case is further underscored by the systematic manipulation of the Jury system specifically that resulted in the Jury fore lady who not only became a juror but 'managed' to become the Jury fore lady and the intentional exclusion of African Americans from the Jury pool. The Supreme Court has on many occasions reiterated the need to not only protect the sanctity of the Jury deliberative process from extraneous influences but has stressed the importance of the need for Jurors to engage in a frank, uninterrupted discussion, free of governmental intervention.

The Jury deliberations is a fundamental aspect of a trial. In fact, it is the foundation of the entire Criminal Justice system. Therefore, the manipulation of the Jury system in Petitioner's trial is an attack on the Criminal Justice system, which undermines the integrity of the entire criminal proceeding. The importance of this case goes beyond this case and will have significant implications for other similarly situated defendants. The Supreme Court has recognized the importance of a representative Jury pool in ensuring a fair trial. In Duren v. Missouri, 439 U.S. 357 (1979), the Court held that a defendant has a constitutional right to a Jury that is representative of the community in which the trial is being held. The government's failure to ensure a fair and representative Jury pool contravenes 28 U.S.C § 1867, which mandates that Jurors are selected from a fair cross-section of the community. "The Sixth Amendment guarantees the right to be tried by a Jury of one's peers. U. S. Const. amend. VI. Encompassed in this is the right to a Jury pool drawn from a fair cross-section of the community." (Taylor v. Louisiana, 419 U.S.522, 530, 95 S. Ct. 692,42

L. ed.2d 690 (1975) and the right to a Jury selected in a race neutral manner. See Baston v. kentucky, 476 U.S 79, 84-88, 106 S. Ct. 1712, 90 L. Ed. 2D 69 (1980). Courts have held that the jury selection process must be designed to ensure randomness and representativeness, and any deviation from this standard warrants scrutiny. As Justice Thurgood Marshall put it so eloquently "When any large and identifiable segment of the community is excluded from jury service, the effect is to remove from the Jury room qualities of human nature and varieties of human experience, the range of which is unknown and perhaps unknowable. It is not necessary to assume that the excluded group will consistently vote as a class in order to conclude, as we do, that its exclusion deprives the Jury of a perspective on human events that may have unsuspected importance in any case that may be presented. (Justice Thurgood, Peters v. Kiff). The Supreme Court has held that "where jury commissioners disqualify citizens on the grounds of race, they fail to perform their Constitutional duty 'not to pursue a course of conduct in the administration of their office which operates to discriminate in the selection of jurors on racial grounds." (See: Dean Rene Peters, Petitioner v. C. P. Kiff, Warden, 407 U. S 493 (1972). The Court goes further to state ".... denying potential Negro jurors the equal opportunity to participate in the administration of justice..... the officials are subject to criminal penalties under 18 U.S.C.S §243" . Courts have held that grand and petit juries from which Negroes have been systematically excluded are illegally constituted. In fact, the Supreme Court has held that it is a crime under 18 U.S.C § 243 for "..... a public official to exclude anyone from a grand or petit jury on the basis of race...." (See Vasquez v. Hillery, 106 S. Ct .617 (1986). The exclusion of African Americans from the jury pool violates 18 U.S.C § 243, which prohibits the exclusion of individuals from jury service on account of their race or color. This violation undermines the integrity of the judicial process. The Department of Justice's refusal to investigate the manipulation of the Jury pool constitutes an extraordinary circumstance that requires this Court to grant a mandamus for an investigation and subsequent remedial action. Pursuant to the Jury Selection and Service Act of 1968 (28 U.S.C. § 1861-1878), the Courts have a statutory obligation to ensure that jurors are randomly selected from a fair cross-section of the community, free from discrimination and bias. The Act requires each judicial district to devise a plan for randomly selecting jurors who are representative of the community. An investigation will reveal the absence of any African American jurors in the entire jury pool, despite African Americans in Tampa Florida as a distinct group comprising 40 % of the local population. This disparity warrants a comprehensive investigation into the Jury selection process and necessitates corrective action to ensure the integrity and fairness of future proceedings in the Middle district of Florida. The exclusion of African Americans from the Jury pool deprives the Jury deliberative process of the

diversity of perspectives which would serve the purpose of broadening and enhancing the 'frank discussions' which this Court historically has sought to encourage.

At its core, the "extraordinary circumstances' doctrine is one that raises a constitutional question, in other words a 'question of law'. Analogous to such an inquiry is the doctrine of 'equitable tolling', where the Supreme Court guidance establishes that upon a showing of extraordinary circumstances, equitable tolling is warranted. A person seeking equitable tolling must demonstrate facts which constitute extraordinary circumstances, for instance, to warrant an excuse for a late filing of an appeal, in order to justify equitable tolling. In other words, it becomes a fact-intensive inquiry followed by a determination which a court must undertake. The Court applies the established facts on the record to the legal standard for "equitable tolling". The person must prove that some "extraordinary circumstance stood in his way" that prevented him from filing a timely appeal. Lawrence v. Florida, 549 U.S 327,336,127 S. Ct.1079,166 L. Ed.2d 924 (2007) (quoting Pace v. DiGuglielmo, 544 U.S.408,418,125 S .Ct.1807,161 L. Ed.2d 669 (2005)).The question becomes what is the standard for "extraordinary circumstances" within the context of issuing a writ of mandamus and whether Petitioner has met that bar to warrant the granting the writ. This consideration of this brief provides an opportunity for this Court to expand its guidance on the doctrine of 'extraordinary circumstance' within the context of issuing a writ of mandamus.

This Court in Remmer vs United States, 347 US 227,98 L. Ed 65, 74 S CT 450 proposed what is now known as a "Remmer hearing", an orderly procedure requiring a hearing to determine the facts and circumstances surrounding an unauthorized Jury contact. This hearing is conducted so that there would be a definite record of the details of the incident that caused the alleged extraneous influence on a jury. This is carried out to determine whether the outside contact was prejudicial to the defendant. In Petitioner's case, a hearing was held wherein the Jury fore lady confessed under oath to not being "impartial" and there was no doubt that prejudice was established. The record of this case will reveal that the Jury fore lady had multiple opportunities to excuse herself from the jury but chose instead to stay on. An investigation will reveal precisely what her motivations were and whether she was in fact working by herself or in collaboration with others. The inclusion of the biased Jury fore lady clearly worked to ensure that a verdict of guilty was rendered for the benefit of her friend, the F.B.I agent. More concerning and troubling was the fact that the contradictory rendition of the events between the FBI agent and the Jury Fore lady during the jury misconduct hearing raised more questions than it answered at the hearing. At issue in the jury misconduct hearing was an incident that occurred at a

Middle school discovery for the kids of both the FBI agent and the Jury fore lady. While we do not know for certain what transpired during this incident, what we do know is that besides the contradictory testimony offered by these two individuals this Court has in addressing these sort of extraneous FBI-jury effects in Remmer stated " the sending of an F.B.I agent in the midst of a trial to investigate a juror as to conduct is bound to impress the juror and is very apt to do so unduly". The Court went further "A juror must feel free to exercise his functions without the F.B.I, or anyone else looking over his shoulder. The integrity of jury proceedings must not be jeopardized by unauthorized invasions...." . This case presents a more pressing need for this Court to provide further guidance, considering the extraordinary manipulation of the "Jury system", on the contours of an investigation required to deter such action from happening again. A thorough investigation will reveal how the Jury fore lady was able to get on the Jury.

CONCLUSION

This appeal arises from the Appeal court's denial of Appellant's motion to compel the Department of Justice to investigate allegations of prosecutorial misconduct in his trial. The ruling has left Petitioner to suffer the devastating consequence of a tainted prosecution, including the loss of liberty and property, damage to reputation, and the denial of his constitutional right to a fair trial. Specifically, the harm suffered by Petitioner includes being incarcerated for over 7 years, resulting in significant loss of income, emotional stress, and lack of familial connections. This case presents a critical test of the Judiciary's role in ensuring that the executive branch respects the constitutional rights of all individuals, regardless of their background or circumstances. This case also raises important questions about the separation of powers, the role of the judiciary in enforcing constitutional rights, and the limits of executive authority- all of which are essential to a fair and just society.

This brief at its core is a challenge of the legality of the final determination made by the Attorney General. It is about the right of a petitioner to 'due process'; a right to a "meaningful opportunity" for a review of the procedures used in determining whether petitioner was entitled to an investigation. It is a request as to whether an actual 'preliminary investigation' was conducted and if so whether the review procedures utilized by the Attorney general was adequate and whether it indeed complied with the procedures, practices and policies put in place by the Department of Justice for such an investigation. The Attorney general has a non-discretionary,

ministerial role to conduct a 'preliminary investigation' after which based upon her determination a subsequent more exhaustive and extensive investigation is carried out. The lack of an alternative remedy for Petitioner is manifest in the non-discretionary role and ministerial role, that mandates that the Attorney general, given her role as the custodian of the files and records of a case, plays an integral part during a preliminary investigation as well as in a subsequent investigation under any of the optional scenarios discussed in this brief. The complaint filed was requesting a review of whether specific aspects of the trial outlined in the complaint, complied with the relevant laws as opposed to seeking a decision solely for the purpose of initiating an investigation specifically, as the Court of Appeal's ruling construed it, solely to prosecute government officials who were involved in Petitioner's criminal prosecution. In other words, there might exist a world in which a preliminary investigation is carried out and a finding is made that petitioner's rights were violated even though the Attorney general might subsequently choose to exercise her prosecutorial discretion to prosecute those government officials involved in misconduct or not to do so. Therefore, the requirement for a preliminary investigation and the Attorney general's prosecutorial mandate can be mutually exclusive. In framing the issues in this case, Petitioner makes a distinction between a 'request for compliance' and a 'request to prosecute'. From a business standpoint, assuming that the business of the Department of Justice is to 'produce' or secure convictions, Petitioner's complaint should be construed as a 'request to review' whether the actions of the Department of Justice officials in the course of seeking a conviction complied with the safeguards put in place by the DOJ policies, rules and the law to ensure Department of Justice's end goal of securing "valid convictions" that can withstand legal scrutiny and challenges. It can be interpreted to mean that the Department of Justice allowed its employees to conduct a trial without complying with Federal rules of procedures, bill of rights and failed to act in accordance with a specific mandatory directive in which case the Attorney general's exercise of discretion is impermissible. In other words, the Attorney general is allowed to assert her discretionary authority when federal officials violate the command of federal statutes or regulations. It is not a radical idea that one reasonably expects that his constitutional rights will be protected during his trial. At a minimum, this case calls into serious question the proposition, clearly suggested by the ruling of the district court and the Court of appeals, that government officials who violate a defendant's rights are beyond the reach of the law. Allowing this ruling to stand will have far reaching implications for the integrity of the Criminal Justice system. It sends a clear message that says, "the executive branch is above the law". A presumably undesirable outcome that stems from this is that Government officials can violate every defendant's right during trial and there would be no need for an

investigation into their actions, hence no incentive for them to adhere to any rules. Fundamental considerations of fairness and the rule of law demand that a person should be judged, in a prompt trial that ensures his speedy trial rights, by a Jury of his peers which consists of a fair representation of the community in which the trial is being held, in a proceeding that conforms to traditional standards of fairness encompassed in due process of the law.

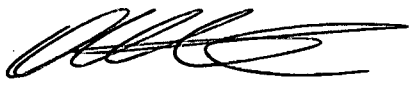
The question squarely before this Court is the legality of the final determination made by the Attorney general and whether the fact that it lacks the requisite 'qualification' is a permissible exercise of discretion. This analysis at its core is a mixed question of facts and law. This decision is not the sort of decision that requires an Attorney general to consider political, or social factors or to make the type of subjective considerations traditionally made during the strategic sessions of a planning phase. It is an objective decision, an inquiry into whether the factual basis of Petitioner's complaint highlighted in the various aspects of the trial "a pure question of facts", violated Petitioner's constitutional rights, a "pure question of law". Petitioner having demonstrated uncontested violations of his due process rights, the burden shifts to the government to justify its refusal to investigate. The Attorney General instead used the discretionary function exception as a shield to prevent an investigation and in doing so abdicated her responsibility under the APA (Administrative Protection act). The Judges' ruling in the district court was a clear abdication of the Judge's responsibility under Article III when the Judge failed to prompt the Attorney general to articulate a 'reasoned explanation' for her refusal to act. In other words, the Attorney general was required to "qualify" the final determination. The government failed to point to any public policy interest that is advanced by not investigating the alleged violations. In an address delivered by Attorney General Jackson at the Second Annual Conference of United States Attorneys, April 1, 1940, the Attorney general eloquently stated " If the prosecutor is obliged to choose his case, it follows that he can chose his defendants. Therein is the most dangerous power of the prosecutor: that he will pick people that he thinks he should get, rather than cases that need to be prosecuted. With the law books filled with a great assortment of crimes, a prosecutor stands a fair chance of finding at least a technical violation of some act on the part of almost anyone. In such a case, it is not a question of discovering the commission of a crime and then looking for the man who has committed it, it is a question of picking the man and then searching the law books, or putting investigators to work, to pin some offense on him. It is in this realm-in which the prosecutor picks some person whom he dislikes or desires to embarrass or selects some group of unpopular persons and then looks for an offense, that the greatest danger of abuse of prosecuting power lies. It is here that law

enforcement becomes personal, and the real crime becomes that of being unpopular with the predominant or governing group, being attached to the wrong political views, or being personally obnoxious to or in the way of the prosecutor himself".

This Court's consideration of the instant brief is urgent and necessary to address the profound injustices and government misconduct that pervade my case. The investigation I am requesting is an examination of systematic misconduct aimed at uncovering and addressing systemic wrongdoing, ensuring accountability and transparency. Petitioner is confident that this Court will grant this brief to begin the process of the vindication of Petitioner's rights. Petitioner continues to have a personal stake in the outcome of this case. The granting of the writ of certiorari followed by the issuance a writ of mandamus will lead to an investigation that will start the process of extinguishing the effects of the litany of constitutional violations which I have endured for over 7 years. This Court's consideration of the instant brief for a writ of certiorari is urgent and necessary to address the profound injustices and government misconduct that pervade my case. I urge this Court to consider the merits of my brief.

Respectfully submitted,

Okechukwu "Desmond" Amadi.

Signature: 

Date: 9/1/2025