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No. \_\_\_\_\_

ORIGINAL

Supreme Court, U.S.  
FILED

NOV - 4 2025

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Leihinahina Sullivan — PETITIONER  
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Ninth Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Leihinahina Sullivan  
(Your Name)

Victorville Camp FCI Med, I, PO Box 5300  
(Address)

Adelanto, CA 92301  
(City, State, Zip Code)

N/A  
(Phone Number)

### QUESTION(S) PRESENTED

- (1) Whether Petitioner was induced to take a plea agreement when Judge J. Michael Seabright "THE COURT: -- we go through all this, all those other counts are dismissed. They're gone. Okay." the only reason took a plea is because Petitioner believed she would get a lesser sentence to 4 counts based on Judge J. Michael Seabright's statements which Petitioner relied on to taking a plea deal. See Laffer v. Cooper, 566 U.S. 156, 132 S.Ct. 1376, 182 L. Ed. 2d 398 (2012) explaining "the sole advantage a defendant would have received under the plea is a lesser sentence." (emphasis added)?
- (2) Whether on August 10, 2021, Judge J. Michael Seabright made his own order in an attempt to cure a substantial right violation that Petitioner did not agree to proceed with a change of plea by video for United States v. Sullivan, CR No. 21-00096-JMS-KJM (ECF No. 6) on July 20, 2021 written on August 10, 2021, ECF No. 15, which was done 12 days after Petitioner filed her "Motion to Withdraw My Plea As A Violation of My United States Constitutional Rights Amendment One, Fourth, Sixth, Fourteenth; Breach of Contract; Prosecutorial Misconduct, Fed. R. Crim. P. Rule 11" (ECF No. 9, July 9, 2021) Petitioner should have been allowed to withdraw her plea?
- (3) Whether Petitioner have shown prejudice from the use of the video and teleconference during Petitioner's change of plea, as Petitioner would not have proceeded with her guilty plea if she waited to appear in person if the district court made more of detailed findings for the need of teleconference (see United States v. Dominguez Benitez, 542 U.S. 74, 85, 124 S.Ct. 2333, 159 L. Ed. 2d 157 (2004) "The point... is to enquire whether the [error]... would have made the difference required by the standard of reasonable probability...") and her plea should have been allowed to withdraw?
- (4) Whether Petitioner should have been able to withdraw her plea when she claimed her innocence to identity theft as she was approved to open up a corporate credit card for the non-profit corporation by Chairman Levon Onai who died two months after approving corporate account so there was no credit card fraud or identity theft and Petitioner should have been allowed to withdraw her plea?
- (5) Whether statute of limitations is a jurisdictional requirement that cannot be waived by a plea agreement as the alleged crime took place on March 31, 2012 and was charged 9 years later, the statute of limitations is a jurisdictional requirement that cannot be waived, and conviction should be overturned (John R. Sand & Gravel Co. v. United States, 552 U.S. 130, 133-34, 128 S.Ct. 760, 169 L. Ed. 2d 591 (2008))?

(6) Whether there was prosecutorial misconduct when Assistant United States Attorney ("AUSA") argued against the 3-level reduction, which in a plea agreement with AUSA would be given to me for acceptance of responsibility?

## LIST OF PARTIES

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

## RELATED CASES

CR No. 21-00096 United States District Court, District of Hawai'i

Civil Case No. 25-00060 - JMS-KJM, United States District Court, District of Hawai'i

United States Court of Appeals for the Ninth Circuit Appeal No. 25-3490

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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 C to the petition and is

☐ reported at \_\_\_\_\_; or,

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

☐ is unpublished.

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

☐ reported at \_\_\_\_\_; or,

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

☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,

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

☐ is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,

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

☐ is unpublished.

## JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was September 16, 2025.

☐ 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: September 16, 2025, and a copy of the order denying rehearing appears at Appendix A.

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

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

☐ For cases from **state courts**:

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

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

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

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



## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitutional Amendments One, Fourth, Sixth, Fourteenth

Fed. R. Crim P. Rule 11

18 U.S.C. § 1028 A(a)(1)

## STATEMENT OF THE CASE

It is axiomatic that prose filings should be liberally construed. See Erickson v. Pardus, 551 U.S. 89, 94 (2007). "In practice, this liberal construction allows courts to recognize claims despite various formal deficiencies, such as incorrect labels or lack of cited legal authority." Wall v. Rashick, 42 F. 4th 214, 218 (4th Cir. 2022).

### I. Relative Facts

During change of hearing I had told Judge J. Michael Seabright (July 23, 2022) that I had permission from Levon Onai, Chairperson of Mobile Native Hawaiian Health ("MNHH") to open up the Corporate Credit Card for MNHH a non-profit prior to his death on March 3, 2012. Judge J. Michael Seabright ("Judge Seabright") stated that it is different when you get permission prior to someone's death and that it is different after his death to use his permission (Levon Onai). Judge Seabright stated this during the hearing of July 23, 2022.

The transcript shows that I agreed to a plea agreement induced by Judge Seabright specific commentary. ECF No. 1264 Page 10# 13326 (Exhibit 3).

"THE COURT: -- we go through all this, all those other counts are dismissed. They're gone. Okay." Id. Page 10# 13326.

The only reason I took a plea is because I believed I would get a lesser sentence to 4 counts based on Judge Seabright's statements which I relied on to taking a plea deal, instead I got sentenced to all 35 counts. See Lafler v. Cooper, 566 U.S. 156, 1325 S.Ct. 1376, 182 L. Ed. 2d 398 (2012) explaining "the sole advantage a defendant would have received under the plea is a lesser sentence." (emphasis added)

On August 10, 2021 (ECF No. 15), Judge Seabright made his own order in an attempt to cure a substantial right violation that I did not agree to proceed with a change of plea by video for United States v. Sullivan, CR No. 21-00096-JMS-KJM (ECF No. 6) on July 20, 2021 written on August 10, 2021, ECF No. 15, which was done 12 days after I filed my "Motion to Withdraw My Plea As A Violation of My United States Constitutional Rights Amendment One, Fourth, Sixth, Fourteenth; Breach of Contract; Prosecutorial Misconduct; Fed.R. Crim. P. Rule 11." (ECF No. 9, July 9, 2021) I should have been allowed to withdraw my plea.

I have shown prejudice from the use of the video and teleconference during my change of plea, as I would not have proceeded with my guilty plea if I waited to appear in person if the district court made more of a

detailed findings for the need of teleconference (See United States v. Dominguez Benitez, 542 U.S. 74, 85, 124 S.Ct. 2333, 159 L. Ed. 2d 157 (2004)) "The point... is to enquire whether the [error]... would have made the difference required by the standard of reasonable probability..." as on July 29, 2021 (ECF No. 9) I filed the Motion to Withdraw My Plea, which this Motion to Withdraw My Plea was filed before Judge Seabright's order on August 10, 2021, which occurred 12 days after I filed My Motion to Withdraw My Plea, Government never argued against this in their briefing so it is defaulted in my favor.

I am also claiming my Innocence as Levon Ohai was chair of MNHH and two months before his death he approved opening up a credit card, I did open a card after his death. So there was no identity theft (18 U.S.C. § 1028A(1)(a)), I am claiming actual Innocence. See Bousley v. United States, 523 U.S. 614, 623-24, 118 S.Ct. 1604, 140 L. Ed. 2d (1998) (citing Sawyer v. Whitley, 505 U.S. 333, 339, 112 S.Ct. 2514, 120 L. Ed. 2d (1992); See also McKay v. United States, 657 F.3d 1190, 1197-98 (11th Cir. 2011)). So there was no credit card fraud or identity theft as Levon Ohai, Chairman of MNHH gave his permission to open up a corporate credit card for MNHH.

Statute of Limitations ("SOL") is a jurisdictional requirement that cannot be waived by a plea agreement, as it has to do with my due process rights under the Fifth Amendment to the United States Constitution. The alleged crime took place on March 3rd, 2012 and I was indicted and took a plea in 2021, 9 years later, 4 years after the statute of limitations. SOL is a jurisdictional requirement that cannot be waived, "[C]ompliance with statute of limitations is jurisdictional," the plaintiff bears the burden of proof. (John R. Sand & Gravel Co. v. United States, 552 U.S. 130, 133-34, 128 S.Ct. 750, 169 L. Ed. 2d 591 (2008)).

## II. Jurisdictional Defect As I Had Permission From Levon Ohai, Chairman of MNHH To Open Up A Credit Card (Corporate) for MNHH

Jurisdictional defect can be asserted at any stage of a criminal defendant's criminal proceedings. The insufficiency of my charge was a jurisdictional defect that could not be waived at trial, by a guilty plea, or on appeal. (See United States v. Meacham, 626 F.2d 503 (5th & 11th Cir. 1980) Jurisdictional defect can be asserted at any stage of a criminal defendant's criminal proceeding).

In my case there were no illegal charges for the predicate charge of wire fraud as it was agreed by Chairman Levon Ohai to open up a corporate credit card for MNHH, as I had permission by Chairman Levon Ohai to open up the credit card (See Transcript of July 23, 2022), as there is a jurisdictional defect as I had permission by Levon Ohai to open up the

corporate credit card and Judge Seabright knew this but stated that it is different when you get permission prior to someone's death and it is different after his death to use his permission (Levon Ohai). Judge Seabright asked if I understand that, that is when I said now I do, I did not know. According to MNHH board minutes Levon Ohai, Chairperson did approve the opening of MNHH Corporate Credit Card for American Express and Hawaiian Miles Corporate Credit Card.

III. Dublin v. United States, 2023 U.S. LEXIS 2420 (June 8, 2023) Supports Me That There Was No Wire Fraud As There Was No Credit Card Fraud As Chairman Levon Ohai Gave His Permission to Open Up Corporate Credit Cards For MNHH That He Was Chairman Of

I was convicted of wire fraud after I charged MNHH Corporate Business charges to credit cards of MNHH, a non-profit I helped to manage. The question is whether I committed wire fraud when I had permission to open up said credit cards with the permission of Levon Ohai who was the chairman of MNHH, the answer is "no." § 1028A(a)(1) applies when a defendant "knowingly transfers, possesses, or uses without lawful authority, a means of identification of another person," "during and relation to" any predicate offenses. (Emphasis added). This is not the case here as stated above.

IV. Statute of Limitations Is A Jurisdictional Requirement That Cannot Be Waived By A Plea Therefore The § 1028A(a)(1) Charge Should Be Dismissed

I was charged and pled out to § 1028A(a)(1) more than 5 years (more than 9 years) after the offense date, March 3<sup>rd</sup>, 2012, I pled out and was charged by information on July 23, 2022. This is more than 5 years between the charge and date of offense, more than 9 years to be exact, therefore, I am claiming a jurisdictional defect and ask that my conviction be overturned (vacated). Defects in subject matter jurisdiction i.e., a "courts power to hear a case" are never forfeited or waived, and they "require correction regardless of whether the error was raised in district court." United States v. Cotton, 535 U.S. 623, 630 (2002). The statute of limitations is jurisdictional requirement that cannot be waived by a plea. See John R. Sand & Gravel Co. v. United States, 457 F.3d 1345, 1355 (Fed. Cir. 2006). A jurisdictional defect is one that strips the court of its power to act and makes its judgment void." McCoy v. United States, 266 F.3d 1245, 1249 (11th Cir. 2001) (cleaned up).

My guilty plea does not bar reversal of my conviction. See United States v. Macklin, 523 F.2d 1936 (2d Cir. 1975); Launius v. United States, 575 F.3d 770 (9th Cir. 1978) I am asking that my 2 year sentence be vacated.

my conviction as Plaintiff failed to bring a charge that occurred in 2012 within 5 years (brought 2022) statute of limitations, therefore, this Court had no jurisdiction to hear this case as out-of-time.

Date of offense March 3<sup>rd</sup>, 2021

Date of charge 2022

IV. Prosecutorial Misconduct When Assistant United States Attorney ("AUSA") Argued Against the 3-Level Reduction, Which In The Plea Agreement Would Be Given to Me for Acceptance of Responsibility

Transcript ECF No. 1251 for June 22, 2021 Page 10 #13017, Government stated I would get 3 levels downward adjustment in support of Dkt. #1 case 1:25-00060-JMS-KJM. District Court failed to make findings on Obstruction of Justice and Loss of acceptance of responsibility which I was given an enhanced sentence.

"Ms. PERLMUTTER: Paragraph 10 concerns sentencing stipulations that were entered into in this case. 10(a) outlines acceptance of responsibility which would be a downward adjustment of two levels. That would be a downward adjustment of two levels. That would be appropriate given defendant's entry of the guilty plea at this stage of the litigation, and that the United States Attorney's office also agrees that it would move for a 1-level reduction in sentencing pursuant to the terms outlined in the plea agreement." Id.

Ms. Perlmutter argued against the 3-level reduction, which the Court agreed and denied me (breach of plea agreement). I should have been able to withdraw their plea "after the Court accepts the plea, but before it imposes sentence if... the defendant can show a fair and just reason for requesting the withdrawal." (quoting Fed. R. Crim. P. 11(d)(2)(B)).

VI. I Relied on Judge Seabright, Standby Counsel Richard Hoke, and AUSA Perlmutter's Representations That I Plead Out to 4 Counts and the Rest Would Be Dismissed Which Is Not What Happened as All 61 Counts Are Being Used To Sentence Me

On October 27-28, 2022, all of the counts to be dismissed was brought into evidentiary hearing to sentence me to all of the counts found in the Fourth Superseding Indictment. I relied on Judge Seabright, Standby Counsel Richard Hoke, and Assistant United States Attorney Rebecca Ann Perlmutter's representations that all of the Counts that I did not plead out to will be dismissed, they would be gone, which was not true I was sentenced to all counts. (Dkt. 1264).

"THE COURT: Yes, I mean I think that's right. So right now there would be 61 counts against you, but of course all those other counts will be dismissed at sentencing. So, you end up with just four just like you would have under the prenois plea agreement.

THE DEFENDANT: So can you take out one count from the superseding indictment? I'm sorry.

MR. HOKE: They will be dismissed.

THE DEFENDANT: Oh, okay. Sorry, sorry, Your Honor.

THE COURT: All those other counts ---

THE DEFENDANT: Okay. I ---

THE COURT: -- we go through with this, all those other counts get dismissed. They're gone. Okay?" Dkt. 1264 Page 10 13326.

This supports I believed Judge Seabright that my other charges would be gone, but it wasn't.

I should therefore be granted certificate of appealability to withdraw my plea.

## REASONS FOR GRANTING THE PETITION

I was induced to take a plea agreement when Judge Seabright stated "THE COURT: -- we go through all this, all those other counts are dismissed. They're gone. Okay," the only reason I took a plea is because I believed I would get a lesser sentence to 4 counts versus being sentenced to all 60 counts, which I was sentenced to all counts not just 4 based on what Judge Seabright told me that only 4 counts would remain which I relied on to taking a plea deal. See Laffer v. Cooper, 566 U.S. 156, 1325 S. Ct. 1376, 182 L. Ed. 2d 398 (2012) explaining "the sole advantage a defendant would have received under the plea is a lesser sentence." (emphasis added).

On August 10, 2021, Judge Seabright made his own order in an attempt to cure a substantial right violation that I did not agree to proceed with a change of plea by video for United States v. Sullivan, CR No. 21-00096-JMS-KJM (ECF No. 6) on July 20, 2021 written on August 10, 2021, ECF No. 15, which was done 12 days after I filed my "Motion to Withdraw My Plea As A Violation of My United States Constitutional Rights One, Fourth, Sixth, Fourteenth, Breach of Contract, Prosecutorial Misconduct, Fed. R. Crim. P. Rule 11" (ECF No. 9, July 9, 2021) I should have been allowed to withdraw my plea.

I have shown prejudice from the use of the video and teleconference during my change of plea, as I would not have proceeded with my guilty plea if I waited to appear in person if the district court made more of detailed findings for the need of teleconference (see United States v. Dominguez Benitez, 542 U.S. 74, 85, 124 S. Ct. 2333, 159 L. Ed. 2d 157 (2004) "The point... is to enquire whether the [error]... would have made the difference required by the standard of reasonable probability..." ) and I should have been allowed to withdraw my plea.

I should have been able to withdraw my plea when I claimed my innocence to identity theft as I was approved by Chairman Levon Ohai who died 2 months later after approving the corporate account so there was no credit card fraud or identity theft and I should have been allowed to withdraw my plea.

Statute of limitations is a jurisdictional requirement that cannot be waived by a plea agreement as the alleged crime took place on March 3<sup>rd</sup>, 2012 and charged by information 9 years later, the statute of

limitations is a jurisdictional requirement that cannot be waived, and my conviction should be overturned (John R. Sand & Gravel Co. v. United States, 552 U.S. 130, 133-34, 128 S.Ct. 750, 169 L.Ed. 2d 591 (2008)).

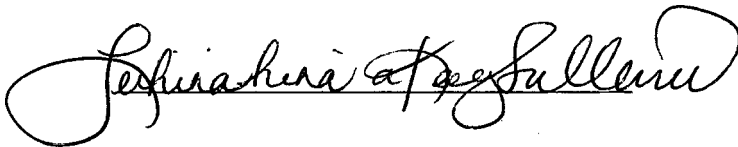
There was prosecutorial misconduct when AUSA argued against the 3-level reduction, which in a plea agreement with AUSA would be given to me for acceptance of responsibility.



### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Joshua A. Fuller", written over a horizontal line.

Date: October 6, 2025