

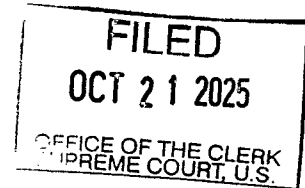
IN THE SUPREME COURT OF THE UNITED STATES

25-6128

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IN RE JOSEPH CAMMARATA,

Petitioner.



On Petition for an Extraordinary Writ of Mandamus

to the United States Court of Appeals

for the Third Circuit

PETITION FOR WRIT OF MANDAMUS

October Term, 2025

Respectfully submitted,

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(Petitioner, pro se)

QUESTIONS PRESENTED

1. Whether a United States Court of Appeals violates the Due Process Clause and the All Writs Act, 28 U.S.C. § 1651(a), by refusing for over eight months to rule on an unopposed petition for a writ of mandamus—a petition whose foundational allegations of constitutional violations, judicial conflicts, and a lack of subject-matter jurisdiction have never been denied by any respondent—thereby nullifying the right to appellate review and compelling this Court's extraordinary intervention to cure a total breakdown of judicial process.

2. Whether the Third Circuit's deliberate refusal to apply or even acknowledge controlling Supreme Court precedent—*Sprint v. APCC Services*, 554 U.S. 269 (2008)—which establishes that the underlying conduct is not a crime, constitutes judicial bias and misconduct so severe as to warrant this Court's supervisory mandamus to vacate a conviction void for lack of subject-matter jurisdiction.

3. Whether a federal court's persistent enforcement of criminal convictions and civil restraints after the legal basis for its jurisdiction has been conclusively negated by binding law violates the Fifth Amendment's guarantee of due process and requires immediate corrective action by this Court.

4. Whether this Court will uphold its duty to apply the law and correct a fundamental miscarriage of justice—by ordering the release of an individual whose continued imprisonment rests on proceedings irreparably tainted by documented, unrefuted structural violations, including the denial of due process, undisclosed conflicts, failure to apply controlling law, and judicial misconduct that, if acknowledged, necessarily implicates the integrity of the lower courts.

PARTIES TO THE PROCEEDINGS

Petitioner: Joseph Cammarata.

Respondents: United States of America; United States Court of Appeals for the Third Circuit.

Related Proceedings:

- United States v. Cammarata, No. 21-cr-427 (E.D. Pa.)
- SEC v. Cammarata, No. 21-cv-4845 (E.D. Pa.)
- United States v. Cammarata, No. 22-cr-639 (D.N.J.)
- United States v. Cammarata, No. 23-2110 (3d Cir.)
- SEC v. Cammarata, No. 24-1381 (3d Cir.)
- United States v. Cammarata, No. 24-1983 (3d Cir.)
- In re Cammarata, No. 25-1188 (3d Cir.)

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Statutes and Rules:

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Pennsylvania Assignment of Claims Act of 1939, 69 P.S. §§ 521–523

I. INTRODUCTION

Petitioner Joseph A. Cammarata respectfully submits this Emergency Petition for a Writ of Mandamus to address a complete collapse of justice within the United States Court of Appeals for the Third Circuit and its subordinate district courts. For four years, across three coordinated prosecutions, these courts have systematically denied Petitioner the most basic guarantees of due process. Convictions and judgments now stand that were obtained through ex parte hearings, falsified service, altered transcripts, concealed evidence, and conflicts of interest that no impartial system could tolerate. The violations were presented to the courts below repeatedly. Their refusal to act has transformed error into misconduct and misconduct into a constitutional breakdown that only this Court can remedy.

The pattern is documented in the records of three coordinated proceedings and defined by the Third Circuit's refusal to intervene. What began as isolated violations has evolved into a systemic failure of adjudication that now threatens the integrity of Article III itself.

The foundational violations are unmistakable and undisputed. In the Eastern District of Pennsylvania, the Government obtained an ex parte temporary-restraining order and asset freeze on November 4, 2021 (ECF 4, 21-cv-4845) without any finding of irreparable harm and without notice to Petitioner. The district judge then held the show-cause hearing for that order on November 9, 2021, at 9:00 a.m.—the exact time Petitioner was appearing at his criminal bail hearing in Miami. This act—conducting simultaneous hearings in two cities against a defendant who could not attend—set a pattern of secret proceedings and denied any meaningful opportunity to be heard.

The Department of Justice built its criminal indictment on a false legal premise, known to be contrary to controlling law. *Sprint v. APCC Services*, 554 U.S. 269 (2008), and Pennsylvania's Assignment of Claims Act, 69 P.S. §§ 521–523, establish that the assigned claims at issue are lawful. Yet the grand jury never heard this law, the trial court never applied it, and the Third Circuit has refused to cite it. The result was a conviction for conduct that is not a crime.

In the SEC enforcement action, the same judge enforced the expired restraining order for years, extended it without hearings, and later granted summary judgment on a theory never served. When Petitioner moved for recusal because the judge's spouse actively practiced in the same securities-litigation field, the judge denied the motion and—on that very day—entered final judgment for the SEC. The official transcripts of two hearings were altered to remove the judge's remark, "I consider this a crime against the courts." Such manipulation strikes at the foundation of judicial integrity.

The New Jersey tax prosecution repeated this pattern. Its indictment relied entirely on the unproven "fraud" allegations from Pennsylvania. The same prosecutors suppressed all exculpatory evidence, and the district court ignored the certification mandated by the Due Process Protections Act, violating Federal Rule of Criminal Procedure 5(f). Post-trial motions demonstrating these violations were denied orally by a judge who retired amid signs of incapacity, without findings or written explanation.

Rather than correct these violations, the Third Circuit has compounded them through a policy of inaction. It issued a one-word denial of a jurisdictional motion in 23-2110, has let a fully briefed appeal in 24-1381 languish for over eighteen months without ever compelling the government to respond, and has left Petitioner's unopposed emergency mandamus (25-1188) pending for more than eight months without ruling. The court's Executive Office employed the spouse of the SEC prosecutor whose conduct was under review, yet no disclosure or recusal occurred. Inaction has replaced adjudication.

This Petition therefore presents a question of exceptional constitutional importance: whether the judiciary may shield itself from review by refusing to decide. The Third Circuit's sustained non-action has extinguished due process, nullified the right to appeal, and left an innocent man imprisoned under void orders. Under 28 U.S.C. § 1651(a), this Court's intervention is not discretionary; it is required to restore lawful jurisdiction and public confidence in the federal courts.

The following Statement of Facts sets out the verified events, dates, and docket entries that establish this record of misconduct and provide the evidentiary foundation for the writ now sought.

II. DISTRICT COURT CONSTITUTIONAL VIOLATIONS

A. Criminal Fraud Case – E.D. Pa. No. 21-cr-427

October 28, 2021 – Defective Indictment and Grand-Jury Misconduct

On October 28, 2021, the Government presented materially false and misleading testimony to the grand jury. Paragraph 11 of the indictment alleged that investors could recover in securities-class-action settlements only if they personally traded the security and sustained a trading loss. That assertion was legally false: under *Sprint v. APCC Services, Inc.*, 554 U.S. 269 (2008), and Pennsylvania's established law of assignments, settlement claims may be freely assigned and enforced by an assignee. The grand jury was never informed of these controlling authorities, creating a charge where, as a matter of law, no crime could exist. The resulting indictment was constitutionally defective under *United States v. Williams*, 504 U.S. 36 (1992),

because the prosecutors failed to present exculpatory law essential to the grand jury's determination of probable cause. (See ECF 1–3.)

November 3, 2021 – Unsealing, Arrest, and Coordinated Civil Action

The indictment was unsealed on November 3, 2021. That same morning, an arrest warrant was issued and executed at Miami International Airport, where Petitioner was taken into custody and detained at FDC Miami for roughly two weeks pending transfer. On that same date, the Securities and Exchange Commission filed its companion civil complaint in *SEC v. Cammarata*, No. 21-cv-4845 (E.D. Pa.) (ECF 1), seeking an ex parte temporary-restraining order and asset freeze of all Petitioner's assets. Simultaneously, the FBI executed a search warrant at Petitioner's New Jersey office, seizing all corporate records, servers, and electronic devices—except Petitioner's personal computers, which were left in the sole custody of a cooperating government witness. No inventory or chain-of-custody documentation was created, a departure from standard FBI evidence protocols that the Government later conceded at trial. This omission constituted a clear violation of Federal Rule of Criminal Procedure 16 and the disclosure obligations established in *Brady v. Maryland*, 373 U.S. 83 (1963), raising serious questions about the integrity of the seized materials and trial exhibits—yet the courts took no corrective action.

These coordinated events were orchestrated to ensure that Petitioner was incarcerated, without counsel, and physically unable to appear or contest the SEC's filings. Same-day hearings were scheduled on both the criminal and civil dockets—*United States v. Cammarata*, No. 21-cr-427 (S.D. Fla.), ECF 17 (Bail Hr'g Nov. 9, 2021), and *SEC v. Cammarata*, No. 21-cv-4845 (E.D. Pa.), ECF 4 and 46 (TRO Hr'g Nov. 9, 2021)—without notice, guaranteeing that the restraining order would issue uncontested and extended where the Petitioner would be denied any meaningful opportunity to be heard. Both proceedings were overseen by Judge Chad F. Kenney, the same district judge responsible for the civil and related criminal matters in Pennsylvania, underscoring the appearance of bias and coordinated control. None of the procedural safeguards required by Rule 65(b) or *Granny Goose Foods v. Brotherhood of Teamsters*, 415 U.S. 423 (1974), were observed, and no corrective action has ever been taken by any court—including the Third Circuit—despite clear, documented constitutional violations that remain unaddressed.

Judicial Conflict and Bias

Both the criminal and civil matters were assigned to Judge Chad F. Kenney, whose spouse actively practices as a Pennsylvania class-action attorney in the same field implicated by the indictment. The conflict was never disclosed or cured, in violation of 28 U.S.C. §§ 144 and 455. Judge Kenney's concurrent control of both proceedings—each reinforcing the other—created an appearance and reality of structural bias inconsistent with the Due Process Clause.

Suppression of Exculpatory Evidence and Rule 5(f) Non-Compliance

Throughout pre-trial proceedings, the Government withheld Brady and Giglio material, including exculpatory controlling Supreme Court precedent and corresponding Pennsylvania law, while the district court—presided over by Judge Chad F. Kenney—again failed to issue the certification required by the Due Process Protections Act of 2020 (Fed. R. Crim. P. 5(f); Pub. L. No. 116-182, 134 Stat. 894). No hearing was held to confirm compliance, and the docket contains no Rule 5(f) order ever entered. By disregarding this statutory duty, the court violated Rule 5(f) outright and deprived Petitioner of his constitutional rights to disclosure, to counsel of choice, and to a fair trial.

Constitutional Consequence

The events from October 28 through November 24th 2021 mark the inception of the constitutional collapse described in this Petition: a grand-jury presentation built on false law, an arrest and asset freeze coordinated to ensure Petitioner's absence from his own hearings, the seizure of exculpatory materials without chain of custody, and judicial bias that infected every subsequent ruling. From these acts flowed each later deprivation addressed in the sections that follow.

B. SEC Civil Case – E.D. Pa. No. 21-cv-4845

The Securities and Exchange Commission's enforcement action in the Eastern District of Pennsylvania was conceived and executed in coordination with the Department of Justice's criminal prosecution and became the vehicle through which the Government ensured that Petitioner would be stripped of counsel, assets, and any realistic ability to defend himself. The record demonstrates that the case lacked subject-matter jurisdiction, was built on an ex parte temporary-restraining order ("TRO") issued in defiance of Rule 65 and due-process requirements, and was perpetuated through bias, transcript manipulation, undisclosed conflicts of interest—including marital and professional relationships between prosecutors and court personnel—and the continued enforcement of an expired order, in clear violation of the standards set forth in *United States v. Antar*, 53 F.3d 568 (3d Cir. 1995), which held that even the appearance of judicial bias or partiality undermines the integrity of the entire proceeding.

1. Jurisdictional Defects and SEC Admissions

From the outset Petitioner challenged the Commission's authority and the district court's jurisdiction, explaining that the complaint failed to state a cognizable claim for relief. In ECF 142 the SEC effectively conceded as much - acknowledging that its original theory was

untenable and revising it wholesale—yet the court never ruled on Petitioner's jurisdictional arguments. The case therefore proceeded without Article III jurisdiction.

2. Ex Parte TRO Granted Without Findings of Irreparable (or "Irrevocable") Harm

Contemporaneously, on November 3, 2021, the Commission filed a 900-page ex parte TRO application (ECF 2-3) that omitted any allegation or finding of any possible irreparable injury—the indispensable prerequisite to injunctive relief under Fed. R. Civ. P. 65(b) and this Court's precedent. See *Granny Goose Foods v. Brotherhood of Teamsters*, 415 U.S. 423 (1974) (TROs may issue only for the time "absolutely necessary to preserve the status quo"); *Winter v. Natural Resources Defense Council*, 555 U.S. 7 (2008) (a preliminary injunction requires a "clear showing" of likely irreparable harm). Within twenty-four hours, Judge Chad F. Kenney signed the order (ECF 4) verbatim as proposed by the SEC—including the same typographical and pagination errors—without hearing, record evidence, or even the word "irreparable" appearing anywhere in the submission. By granting sweeping injunctive relief without the showing of irreparable harm that Winter and Rule 65 demand, the court issued an order void ab initio that deprived Petitioner of property and counsel without due process of law.

3. Simultaneous Hearings and Fabricated Service

The record demonstrates that the SEC secured and maintained its TRO through a pattern of misrepresentation:

- November 4, 2021: The court issued an ex parte TRO (ECF 4, 21-cv-4845) without a finding of irreparable harm and scheduled a hearing for November 9.
- November 8, 2021: The SEC filed a USM-285 form (ECF 10) falsely attesting that Petitioner was personally served in the US Marshals cell block at 10:50 a.m. on this date.
- The Fabrication: The form itself shows a handwritten date that appears to be altered from a '9' to an '8'.
- The Reality: Petitioner was detained in Miami. He was in fact probably served in the Marshals' cellblock on November 9 at 10:50 a.m.—after his criminal bail hearing and, critically, after the simultaneous TRO hearing in Philadelphia had already ended. This purported service also violated the court's explicit order in ECF 4, set in bold font, requiring the parties to meet and confer at least 24 hours before the hearing.

This fabricated service ensured Petitioner could not contest the asset freeze, transforming the TRO from a temporary emergency measure into a prolonged, uncontested deprivation of property and counsel.

4. Unlawful Extension and Continuing Enforcement

Judge Kenney's November 10, 2021 orders (ECF 16 and 17) unlawfully extended the ex parte TRO. The court conceded it found good cause only for the defendants who appeared at the November 9 hearing, yet it extended the TRO against Petitioner—who received no notice and could not attend—without any finding of good cause specific to him.

This extension also violated Federal Rule of Civil Procedure 65(b)(2) in both duration and procedure. The rule mandates that an ex parte TRO "expires at the time after entry, not to exceed 14 days, that the court sets." The court set the extension through December 14, 2021—quadruple the 14-day maximum permitted by the rule and without the consent or subsequent hearing required to justify a longer injunction.

Therefore, as a matter of law, the TRO expired irrevocably at 11:59 p.m. on November 24, 2021. No lawful order supported its continued existence beyond that moment. Neither the SEC nor the district court has ever disputed this legal fact. Yet, for nearly four years, they have enforced this void order. The freeze has unlawfully deprived Petitioner of the resources necessary to retain counsel of choice, causing irreparable and continuing constitutional injury in violation of *Luis v. United States*, 578 U.S. 5 (2016).

5. Judicial Bias and Record Suppression

A pattern of suppressing and altering the record to conceal judicial bias and constitutional violations is documented in these proceedings. The pattern began with the alteration of official transcripts. During the November 9, 2021 hearing, one of Judge Kenney's first on-the-record comments was, "I consider this a crime against the courts!" This statement of clear prejudice was concealed in the SEC matter when the court replaced the original transcript (ECF 41) with an "AMENDED TRANSCRIPT" (ECF 46) that redacted the remark as "inaudible."

The manipulation repeated in the criminal case. At his June 6, 2023 sentencing, Petitioner referenced the judge's continued bias and his original "crime against the courts" comment. The official transcript (ECF 310, 21-cr-427) was altered to remove Petitioner's entire statement, beginning with "I realize the first statement you made," rendering the passage nonsensical. The court's response confirms it understood Petitioner was making a substantive critique of bias, all of which was deleted.

This pattern of sanitizing the record expanded to the outright suppression of external criticism. On April 6, 2023, the law firm Ballard Spahr submitted a detailed petition to Judge Kenney seeking criminal defense fees. The petition functioned as a formal pleading that explicitly outlined the SEC's failure to state a claim, the constitutional violations, and the deprivation of rights used to secure the conviction. Judge Kenney intentionally failed to docket this letter, suppressing independent, professional corroboration of the misconduct from the official record. A copy of this suppressed letter is attached as Appendix F to this Petition. It is also filed as an exhibit in the Third Circuit appeal, SEC v. Cammarata, No. 24-1381 (ECF 22).

The alteration of two separate official transcripts, combined with the intentional suppression of the Ballard Spahr letter, demonstrates a concerted and corrupt effort to sanitize the record of bias and misconduct, ensuring appellate courts would review a falsified procedural history.

6. Summary-Judgment Phase and Continuing Deprivations

Petitioner moved for summary judgment in December 2022 (ECF 183) detailing the jurisdictional and due-process violations arising from the SEC's wholesale change of its entire securities-fraud theory. The court never ruled. Instead, on June 6, 2023, at Petitioner's criminal-fraud sentencing, the only sentencing enhancement Judge Kenney denied was the Government's request for a securities-fraud enhancement, explicitly stating that it was "a matter better litigated in the SEC case." The next day, June 7, 2023, the SEC filed its own 900-page summary-judgment motion (ECF 260)—never served on Petitioner while he remained detained. The court ignored the lack of service and granted the motion (ECF 320), issuing a memorandum opinion (ECF 319) that cited no authority and satisfied none of the elements of collateral estoppel. This error was compounded in the court's subsequent denial (ECF 372 in 21-cv-4845) of Petitioner's motion to correct this clear error under Rule 60(b). The district court's order, an ipse dixit devoid of legal reasoning, failed to refute, let alone even address, Petitioner's argument that the SEC failed to satisfy any of collateral estoppel's required prongs—particularly the fundamental requirements that the claim precluded be identical and must have been actually litigated. The court ignored the logical impossibility that a wire fraud conviction, by itself, could satisfy all the distinct elements of a securities fraud claim. The invalid judgment thus rests on a clearly erroneous application of collateral-estoppel principles and a procedurally defective foundation. Petitioner's unanswered motion remains pending, and these errors are among the central issues on appeal in Third Circuit No. 24-1381.

The profound procedural and constitutional defects documented here—the unserved motion, the lack of a ruling on Petitioner's dispositive motion, and the entry of judgment on a fraudulent foundation—explain why the SEC has offered no response to the appeal for nearly eighteen months. This silence speaks not only to the indefensibility of the clear error of collateral estoppel

(ECF 372) but equally to the court's biased refusal to recuse (ECF 348). The government and the appellate court have no lawful or ethical basis to defend the misconduct below.

7. Ongoing Constitutional Injury

All of these facts—the lack of jurisdiction, absence of notice, forged service, expired TRO, transcript manipulation, conflicts, and bias—are documented in the docket and undisputed by the Government or the SEC. Despite repeated motions and requests for hearings, the court continues to enforce the unlawful freeze, depriving Petitioner of property, counsel, and due process. The SEC case thus stands as both the instrument and the symbol of the wider constitutional breakdown now before this Court. The Third Circuit has compounded these violations by allowing the SEC to ignore the appeal in No. 24-1381 for nearly a year and a half, and by taking no action on Petitioner's unopposed emergency mandamus in No. 25-1188. Both matters remain unanswered, leaving an extraordinary record of misconduct and constitutional violations entirely unaddressed and never denied.

C. Tax Criminal Case – D.N.J. No. 22-cr-639

The final strand of the Government's coordinated prosecutions was the tax-evasion case filed in the District of New Jersey on September 22, 2022. Like the preceding matters, it arose from the same alleged conduct and was prosecuted by the same team of attorneys who had already obtained the unconstitutional asset freeze and defective indictment in the Eastern District of Pennsylvania. The tax case was not an independent proceeding; it was the continuation of the same scheme to secure convictions through procedural manipulation, deprivation of counsel, and suppression of exculpatory material.

1. Indictment Predicated on an Unproven "Fraud" Theory

The September 22, 2022 indictment was returned weeks before the criminal-fraud trial in the Eastern District of Pennsylvania even began, and yet, it relied entirely on those still-pending allegation as its factual predicate. As reflected in the grand-jury transcript (Trenton Division, Sept. 22, 2022, pp. 12–14), prosecutors repeatedly described the unproven "fraud" allegations from the Pennsylvania case as established fact, using the term fraud throughout their presentation despite no conviction and no adjudicated loss. This transcript—filed as Exhibit E to the Appendix—reveals pervasive misconduct: the Government misrepresented unresolved allegations as proven crimes, misled the grand jury, and premised the new charges on a record that was neither final nor lawful. By alleging that income from those unresolved proceedings constituted taxable proceeds, the Government anchored the tax indictment on conduct that had not yet been adjudicated and that, as a matter of law, arose from a defective and unconstitutional prosecution. These actions violated the presumption of innocence, due process, and the Fifth

Amendment's grand-jury clause, rendering the indictment—and the conviction it produced—fatally flawed from inception (see ECF 1, 22-cr-639; Grand Jury Transcript, Trenton Div., Sept. 22, 2022, Exhibit E to Appendix).

2. Violation of Rule 5(f) and the Due Process Protections Act

The record conclusively establishes that both district courts violated Rule 5(f) and the Due Process Protections Act of 2020. The docket itself contains no entry, minute order, or transcript reference showing that either judge ever issued the mandatory certification required at arraignment or at any point during the proceedings. That omission was not inadvertent; it reflects a complete disregard of Congress's command that every federal court remind prosecutors of their disclosure obligations under *Brady v. Maryland*, 373 U.S. 83 (1963), and *Giglio v. United States*, 405 U.S. 150 (1972). By failing to issue the order or to police compliance, the courts deprived Petitioner of the procedural safeguard specifically enacted to prevent prosecutorial suppression of exculpatory evidence. This was the second federal court to commit the same violation: Judge Chad F. Kenney in the Pennsylvania fraud case likewise ignored Rule 5(f) and never advised the Government of its obligations not only to disclose exculpatory material but to actively seek it out—including controlling precedent on which Petitioner's defense relied. The repetition of this omission across multiple related prosecutions demonstrates a systemic disregard for due-process protections, not an isolated oversight.

3. Suppression and Destruction of Exculpatory Evidence and Improper Ex Parte Communications

The prosecution engaged in egregious and intentional Brady violations, withholding—and in several instances deleting—exculpatory evidence that proved Petitioner's innocence. Among the suppressed materials were the IRS 1042-S forms, settlement letters, and detailed business-expense records demonstrating that the securities-class-action settlement payments at issue were not taxable. Notably, the only allegation of any “tax evasion” concerned those settlement payments. Petitioner repeatedly requested his business records in every pre-trial motion and hearing; those records documented more than \$19 million in qualified business expenses that would have eliminated any alleged tax liability—an essential element of the offense. The Government not only refused to produce these materials but deleted every corresponding business account from the discovery index used in the tax trial, even though those accounts had appeared in the index for the earlier Pennsylvania fraud case. In ECF 30, the district court expressly ordered production of the business-expense documentation, yet the Government ignored the order and continued to conceal or destroy the evidence. The same prosecutorial team that managed the Pennsylvania cases controlled the evidence here, ensuring that the suppression carried over intact.

Petitioner resided in New Jersey, and venue for the tax case was therefore proper. The Government nevertheless sought to have him waive that venue and consolidate the tax charges into the Pennsylvania fraud case—an effort he refused. Having insisted on his right to a trial in New Jersey, Petitioner faced the same prosecutors who had already engaged in wholesale suppression of the necessary and exculpatory Supreme Court precedent that directly undermined the case presented at trial. The docket also contains several sealed or restricted filings, the nature of which remains undisclosed to the defense. In addition, multiple *ex parte* communications occurred between the presiding judges in the Pennsylvania and New Jersey criminal cases, further blurring the line between the proceedings and compromising the independence of both courts. These deliberate acts of concealment and coordination constitute structural violations of due process and demonstrate an intentional effort to obstruct justice.

4. Trial and Verdict

Trial commenced on October 30, 2023, before Judge Peter G. Sheridan in Trenton, New Jersey, and continued for approximately two weeks. On November 15, 2023, the jury returned guilty verdicts on five counts of tax evasion. The record reflects repeated objections to missing discovery, undisclosed exhibits, and prosecutorial statements that contradicted prior filings in the Pennsylvania cases. The court overruled each objection without explanation and made no findings of fact or law concerning the Rule 5(f) violation or the withheld materials. Sentencing was originally scheduled for April 3, 2024, but was continued several times and ultimately held on May 13, 2024.

5. Constructive Amendments, Variances, and Evidentiary Violations

The trial departed so drastically from the indictment that it violated the Fifth and Sixth Amendments' guarantees that a defendant be tried only on charges returned by the grand jury. The September 22, 2022 indictment alleged willful tax evasion under 26 U.S.C. § 7201, asserting that Petitioner concealed "fraud-proceeds income" derived from the Pennsylvania cases. Yet at trial the Government abandoned that theory, reframing the case as a general "failure-to-report income" prosecution. This shift expanded the charges to new tax years, new accounts, and new categories of alleged income never presented to the grand jury or disclosed in discovery. The jury instructions then permitted conviction on this broadened theory—an unmistakable constructive amendment under *Stirone v. United States*, 361 U.S. 212 (1960); *Russell v. United States*, 369 U.S. 749 (1962); and *Cole v. Arkansas*, 333 U.S. 196 (1948).

The variance between the indictment and the proof was compounded by evidentiary errors. The Government's case rested on spreadsheets and compilations created by someone other than IRS Agent Mazur. Mazur admitted he did not create those spreadsheets and merely took over from the individual who had prepared them; he reviewed them but could not sponsor them as his own

work. No qualified Rule 1006 summary witness or custodian established a proper foundation. The Government relied on hearsay compilations without authenticating the underlying records or producing them to the defense, while simultaneously withholding exculpatory business-expense and 1042-S/settlement documentation in violation of *Brady v. Maryland*, 373 U.S. 83 (1963). The court overruled defense objections and delivered instructions that effectively omitted the required "tax due and owing" element, allowing conviction on uncharged and unproven theories.

These cumulative departures transformed the case presented to the jury into an entirely different offense from that charged by the grand jury. As detailed in Petitioner's post-trial motions (ECF 155 and ECF 164), the prosecution's proof and the court's instructions "so modified essential elements of the offense charged that there is a substantial likelihood the defendant may have been convicted of an offense other than that charged." *United States v. Miller*, 471 U.S. 130, 138 (1985). The issue is now fully briefed and pending before the United States Court of Appeals for the Third Circuit in Case No. 24-1983, where Petitioner has shown that the constructive amendment and Brady violations render the conviction constitutionally void.

6. Post-Trial Motions and Continuing Defects

Petitioner filed motions for judgment of acquittal and for a new trial under Rules 29 and 33 on January 29, 2023 (ECF 134), supported by sworn exhibits demonstrating discovery suppression and evidentiary inconsistency. Those motions remain unaddressed on the merits. A further motion for reconsideration was filed in May 2024 (ECF 155), again citing Brady violations and the absence of Rule 5(f) compliance. The court denied relief without analysis, perpetuating the same due-process failure that infected every prior proceeding.

The circumstances surrounding the ruling amplify the constitutional defect. Judge Peter G. Sheridan, who presided over the tax trial, had reportedly been suffering from Parkinson's disease and announced his retirement shortly after trial, retiring immediately after sentencing. The sentencing hearing—ultimately held on May 13, 2024, after no fewer than five continuances—revealed that the court had not meaningfully reviewed the post-trial filings. Nearly an hour into the hearing, Petitioner advised the court that it had never ruled on his motions for acquittal. Judge Sheridan argued that he did, after a moment of confusion, orally denied all pending motions without findings or support, plainly without having read the pleadings, and immediately proceeded to impose sentence. The docket contains no written opinion or explanation. His impaired capacity and imminent retirement, coupled with his perfunctory oral denial of complex constitutional motions, deprived Petitioner of meaningful judicial review and violated the fundamental requirement of a neutral and competent adjudicator under the Due Process Clause. The record thus reflects not a considered judgment, but a procedural formality executed by a judge who had neither examined nor resolved the issues presented.

7. Constitutional Consequence

The tax prosecution replicated and compounded the structural violations already present in the Pennsylvania matters: a defective indictment, absence of due-process certification, suppression and destruction of exculpatory material, constructive amendment of the charges, and judicial indifference to constitutional safeguards. It stands as the culmination of a multi-district pattern of coordinated misconduct that converted the protections of the Due Process Protections Act into an empty formality and produced yet another judgment void of lawful foundation.

III. THIRD CIRCUIT MISCONDUCT AND INSTITUTIONAL COMPLICITY

The pattern of constitutional violations and prosecutorial misconduct described in Section II did not end in the district courts. It metastasized within the United States Court of Appeals for the Third Circuit itself, where systemic inaction, undisclosed conflicts of interest, and docket irregularities have converted that tribunal from a reviewing body into an instrument of concealment. The record of four consolidated appellate matters—23-2110, 24-1381, 24-1983, and 25-1188—demonstrates an extraordinary breakdown of judicial process requiring this Court's supervisory intervention.

A. Refusal to Exercise Jurisdiction

For more than eighteen months, the Third Circuit has refused to rule on any of Petitioner's jurisdictional or constitutional motions. Such prolonged inaction is not discretion—it is abdication. *Will v. United States*, 389 U.S. 90 (1967), holds that mandamus properly issues "to compel [a] court to exercise its authority when it is its duty to do so." The Third Circuit's persistent failure to adjudicate undisputed constitutional issues constitutes an ongoing denial of due process and an institutional breakdown demanding this Court's intervention.

B. Conflicts of Interest and Institutional Bias

The record reveals not mere oversight but a sustained pattern of concealing judicial conflicts. In the underlying proceedings, Judge Chad F. Kenney presided over both the criminal and civil actions despite his wife's active practice in the same Fed. R. Civ. P. 23 class-action field implicated by the indictment and SEC enforcement case. Her firm's work overlapped with several matters in which Petitioner's companies and government witnesses were directly intertwined. This direct conflict was never disclosed as required by 28 U.S.C. § 455. When it was formally raised in a motion for recusal (ECF 345, 21-cv-4845), the court issued a conclusory, one-sentence denial (ECF 348) without any supporting memorandum, factual

findings, or legal analysis. This order failed to address, let alone refute, the substantive merits of the conflict allegation. Judge Kenney's refusal to engage with the motion's merits is a core appellate issue in No. 24-1381. The appearance of bias was further manifested in the November 9, 2021 hearing, where Judge Kenney's on-the-record statement, "I consider this a crime against the courts," was later removed from the official transcript (ECF 46, 21-cv-4845) and replaced with "inaudible." That same hearing also reflects harsh and prejudicial remarks directed at Petitioner's ex-wife—conduct inconsistent with judicial neutrality and further evidence of actual bias and impropriety.

Petitioner formally filed a judicial-misconduct complaint against Judge Kenney documenting this bias and detailing misconduct by both John Donnelly, lead SEC prosecutor, and the judge himself. That complaint was transmitted to the Executive Office of the Third Circuit, where Jeanne Donnelly—John Donnelly's spouse—was then employed. The result was a summary denial devoid of findings or explanation; none of the allegations were addressed. Thus, the very office responsible for reviewing the misconduct was staffed by the spouse of one of the subjects of the complaint—a textbook violation of due-process neutrality and conflict.

Rather than correct that conflict, the Third Circuit compounded it. When Petitioner moved to transfer the appeals to the Second Circuit—where no such internal entanglements existed—the request (ECF 12, 25-1188) was ignored. When he sought permission to transmit the record directly to the Supreme Court for supervisory review (ECF 15, 25-1188), the Circuit likewise ignored the filing without any explanation or order. Instead of acting as a neutral appellate body, it continues to operate as an institutional shield, impaired by conflicts of interest.

As *Offutt v. United States*, 348 U.S. 11 (1954), explains, a judiciary "tainted by personal embroilment" cannot lawfully adjudicate. Here the inverse has occurred: the tribunal charged with reviewing bias has become the custodian of it. By failing to disclose or recuse, by routing misconduct complaints through conflicted personnel, and by refusing to transfer or docket matters that expose its own wrongdoing, the Third Circuit has demonstrated institutional bias and self-protection inconsistent with Article III's guarantee of a neutral tribunal.

C. Docket Manipulation and Concealment

As documented in ECF 87 of Case No. 23-2110 and corroborated by the appellate dockets in 24-1381, 24-1983, and 25-1188, the Third Circuit's administrative actions show not mere neglect, but a pattern of concealment designed to obstruct review and preserve internal conflicts from exposure. The appellate dockets reveal selective adjudication and irregular record-keeping that, taken together, have operated to suppress timely adjudication of Petitioner's rights. In some instances, the Court issued same-day denials of motions adverse to its own interests, while allowing dispositive filings—those that would have required acknowledgment of jurisdictional

defects, conflicts of interest, or expired orders—to languish without decision. This deliberate asymmetry is the functional equivalent of falsification: a manipulation of the docket itself to conceal constitutional error.

1. Selective Rulings and Administrative Irregularities

The Third Circuit's handling of Petitioner's four related appeals reflects a sustained pattern of selective adjudication and administrative avoidance. Matters that would expose jurisdictional defects, expired orders, undisclosed conflicts, Rule 5(f) non-compliance, or Brady violations were left unruled or summarily denied, while the government received repeated extensions and stays. The result has been to delay, deflect, and prevent merits review across the docket—converting silence into substance and insulating constitutional error from correction. What follows are case-specific examples drawn from the four pending matters before the Circuit.

Case No. 23-2110 – Criminal Appeal (21-cr-427, E.D. Pa.)

The Third Circuit's initial opinion (ECF 59) fundamentally misstated the factual record and disregarded controlling law, creating the appearance of a valid conviction where none could exist. The panel recast documented business assignments as fraudulent transactions, ignoring record evidence that the assignments were lawful, contractual transfers. In his Petition for Rehearing (ECF 63) and subsequent filings, Petitioner detailed these errors, explaining that the panel "misstates the underlying transactions and disregards the controlling precedents that define assignments as lawful transfers, not criminal acts."

Despite this submission, the Court, upon granting rehearing, issued a new opinion (ECF 77) that again refused to acknowledge or apply the controlling authorities—*Sprint v. APCC Services*, 554 U.S. 269 (2008), and the Pennsylvania Assignment of Claims Act, 69 P.S. §§ 521–523—which collectively eliminate every element of the alleged "fraud." Those authorities were presented repeatedly at trial, in post-trial motions, and again on appeal, yet the courts at every level have refused to address them. The continuing omission is not mere oversight but an intentional cover-up to shield judicial and prosecutorial error, producing an undeniable miscarriage of justice. By failing to confront these precedents, the panel sustained a conviction that was legally impossible and void for lack of subject-matter jurisdiction.

Equally unaddressed was the District Court's violation of the Due Process Protections Act of 2020 and Fed. R. Crim. P. 5(f). The record contains no certification reminding prosecutors of their disclosure obligations under Brady and Giglio—the core safeguard Congress created to prevent exactly the kind of suppression and misrepresentation that occurred here. By refusing to acknowledge this violation, the Third Circuit nullified the protection that Rule 5(f) was enacted

to guarantee, allowing the very constitutional harm it was designed to prevent. This continuing disregard for both fact and law demonstrates deliberate avoidance rather than judicial review.

In addition to the panel's refusal to address the controlling authorities, the Circuit summarily denied or ignored every corrective filing that followed. Petitioner's Amended Petition for Rehearing (ECF 69) was docketed but the Clerk's Order (ECF 70) stated no action would be taken on it as it was an untimely pro se filing while represented by counsel. His subsequent pro se motions for extension and for new counsel (ECF 79, 80) were largely denied, with the court choosing to construe ECF 69 as his petition (ECF 81). The en banc court then denied the petition for rehearing (ECF 83). When Petitioner filed a post-mandate motion to dismiss the indictment (ECF 85), it was denied (ECF 86). His subsequent petition for rehearing en banc, treated as a motion for reconsideration (ECF 87), was denied (ECF 88). This pattern of denial and procedural obstruction underscores the systemic avoidance of review that has marked these proceedings from inception.

Case No. 24-1381 – Civil Appeal (21-cv-4845, E.D. Pa.)

This appeal has been deliberately suppressed for eighteen months. The Third Circuit has never compelled the Securities and Exchange Commission to respond to the appeal, which challenges the district court's refusal to recuse despite a clear conflict of interest and its entry of judgment without jurisdiction. The government's failure to even attempt to rebut these egregious claims is a tacit admission of their validity. By granting the SEC repeated extensions and denying every request to lift the resulting stay, the Circuit has insulated its own personnel and the district court's misconduct from appellate review. This deliberate inaction—and the selective granting of relief only to the government—forms one of the primary bases for the petition for writ of mandamus now before this Court.

Appellant's opening pro se brief (ECF 22) initially drew no order for the SEC to respond. Key dispositive motions—including the Motion to Request Filing of Supplemental Counseled Brief (ECF 36), treated alongside the SEC's Motion to Modify the Briefing Schedule (ECF 37)—were left pending for months until a comprehensive order was issued. When Appellant demonstrated that the SEC asset-freeze order had expired and was unlawful under Rule 65 and *Luis v. United States*, 578 U.S. 5 (2016) (ECF 68), the Court issued a summary denial without analysis. The Court has never ruled on the Motion for Judicial Notice (ECF 72), which was referred to the merits panel. It denied without explanation the Emergency Motion to Lift Stay and for Change of Venue (ECF 76), and the en banc court entered a one-sentence denial of the Motion to Disqualify the Entire Third Circuit for bias and conflicts (ECF 80). Appellant's Motion for Clarification (ECF 87) and subsequent filings, including the Objection and Motion to Expedite (ECF 88) and Declaration (ECF 89), have received no disposition.

This sustained pattern—swift administrative relief for the government, silence or perfunctory denials for the Appellant—reflects selective adjudication and docket manipulation, leaving critical constitutional and jurisdictional defects unaddressed since June 2024.

Case No. 24-1983 – Criminal Appeal (22-cr-639, D.N.J.)

This appeal has been defined by prolonged delay, selective extensions for the government, and deliberate timing that deprived Petitioner of counsel and the ability to defend his own case. The Third Circuit repeatedly extended briefing for the government (Mar. 31, 2025; May 5, 2025) while enforcing compliance orders against Petitioner (Dec. 9, 24 & 13, 2024; Mar. 17–18, 2025), leaving core constitutional issues unaddressed.

On August 4, 2025, Petitioner moved to discharge his attorney and requested appointment of new counsel (ECF 63), detailing a complete and catastrophic breakdown in communication, counsel's refusal to advance Petitioner's arguments, and his ineffective and incompetent representation. Two days later, on August 6, 2025, counsel filed his own motion to withdraw (ECF 64), confirming the irreparable breakdown. Despite this clear record of an attorney-client relationship in total collapse, the Court took no action for weeks, forcing Petitioner to file his reply brief pro se (ECF 65) to preserve his right to be heard. Only after the reply was filed did the Court issue its order (ECF 66), denying the appointment of counsel and refusing to recognize the pro se filing, thereby compelling Petitioner to remain represented by counsel he explicitly and justifiably rejects. This calculated sequence demonstrates intentional docket manipulation designed to frustrate Petitioner's access to counsel and to obstruct appellate review of the undeniable prosecutorial misconduct, Brady violations, and courts' failures detailed in the reply.

This constitutional violation has now created an imminent emergency. The Third Circuit has scheduled oral argument for December 2, 2025 —just days away. Petitioner has had no contact with his purported counsel for months and has no knowledge of whether counsel even plans to appear, let alone provide competent representation. The court's refusal to appoint new counsel or grant a continuance forces Petitioner toward a catastrophic hearing where he will be represented by an attorney he has deemed ineffective, violating his Sixth Amendment rights in real time. This petition must be granted on an emergency basis to prevent this manifest injustice. Should relief be granted, the oral argument would necessarily be vacated, eliminating the immediate need for a continuance and the appointment of substitute counsel in the court below.

The Third Circuit's conduct constitutes a knowing violation of Petitioner's right to counsel and due process, underscoring the systemic avoidance that now necessitates immediate Supreme Court intervention.

Case No. 25-1188 – Unopposed Emergency Mandamus

The Emergency Petition for a Writ of Mandamus from the Third Circuit (Case No. 25-1188), stands as the ultimate proof of institutional avoidance and the central basis for this Petition. The docket record confirms the emergency mandamus petition was perfected and ripe for adjudication on February 7-10, 2025, after Petitioner promptly cured all administrative deficiencies by paying the filing fee (ECF 4) and submitting the signed petition, motion to expedite, and certificate of service (ECF 5, 6, 7). The government respondents entered appearances (ECF 9, 10) but, tellingly, never filed a substantive response—a tacit admission of the petition's grave and undisputed allegations.

This petition sought immediate relief from the Third Circuit's continuing refusal to apply controlling Supreme Court authority, to enforce Rule 5(f), and to address the overlapping constitutional violations spanning three federal proceedings. It documented systemic misconduct—including denial of due process, ex parte judicial communications, undisclosed conflicts of interest, and the enforcement of expired and void orders—arguing these cumulative errors produced an undeniable miscarriage of justice.

Petitioner diligently litigated the matter, yet the Third Circuit's response has been a wall of silence. The Court has never assigned a merits panel, never ordered a government response, and never ruled on any substantive filing, including a critical Motion to Transfer to the conflict-free Second Circuit (ECF 12), a formal Notice that the petition was unopposed (ECF 13), an Addendum to the Petition (ECF 11), a Motion to Provide Newly Discovered Evidence (ECF 14), or a Motion for Clarification (ECF 16). The court's only actions have been clerical. This eight-month void, in the face of an unopposed petition alleging a systemic constitutional breakdown within the Circuit itself, is not mere delay; it is a deliberate policy of non-adjudication and an abdication of judicial duty that has extinguished all other remedies.

Taken together, 23-2110, 24-1381, 24-1983, and 25-1188 reveal not isolated oversights but an institutional strategy of non-adjudication: one-word denials where reasons are required, prolonged inaction where rulings are inevitable, and outright refusal even to transfer to a conflict-free court. The government has never denied the core allegations—controlling Supreme Court law ignored, Rule 5(f) and Brady violations, expired injunctive orders still enforced, judicial conflicts and impairments, and lack of subject-matter jurisdiction—leaving an unopposed constitutional record to languish while an innocent man remains imprisoned. That is not judicial restraint; it is avoidance as policy. Only this Court's intervention can end the manipulation, restore lawful process, and correct the ongoing miscarriage of justice.

IV. GROUNDS FOR RELIEF

The extraordinary circumstances detailed in this Petition establish clear and indisputable grounds for this Court's intervention through the writ of mandamus. The Third Circuit's sustained refusal to adjudicate pending matters, coupled with its institutional conflicts and systematic avoidance of controlling law, has created a constitutional crisis that only this Court can resolve.

A. Clear and Indisputable Right to Relief

Petitioner possesses a clear and indisputable right to have his appeals decided within a reasonable time. The eight-month delay in ruling on the unopposed mandamus petition (25-1188), the eighteen-month delay in the SEC appeal (24-1381), and the persistent refusal to address controlling Supreme Court precedent constitute more than mere delay—they represent a complete abdication of judicial duty. This Court has consistently held that "justice delayed is justice denied," and the Third Circuit's systematic non-adjudication violates fundamental due process rights guaranteed by the Fifth Amendment.

B. Lack of Alternative Remedies

Petitioner has exhausted all available remedies within the Third Circuit. The unopposed nature of the mandamus petition, the government's failure to respond to substantive allegations, and the Circuit's refusal to transfer cases to a conflict-free forum demonstrate that no adequate alternative remedies exist. The Third Circuit has effectively insulated its misconduct from review through strategic inaction and procedural manipulation, leaving this Court as the only possible source of relief.

C. Systematic Judicial Abdication

The pattern of one-word denials, unexplained delays, and refusal to address controlling precedent demonstrates systematic judicial abdication rather than mere case management. When a circuit court refuses for months—and in some cases years—to rule on properly presented constitutional claims while continuing to enforce void judgments, it ceases to function as a court of justice and becomes an instrument of oppression.

D. Institutional Conflicts Requiring Supervisory Intervention

The documented conflicts of interest—particularly the employment of SEC prosecutor John Donnelly's spouse within the Third Circuit's Executive Office—create structural bias that ordinary appellate review cannot cure. These conflicts infect the entire adjudicative process and require this Court's supervisory intervention to preserve the integrity of the federal judiciary.

V. PRAYER FOR RELIEF

For all the reasons set forth above, Petitioner respectfully prays that this Honorable Court, pursuant to its authority under Article III of the United States Constitution and the All Writs Act, 28 U.S.C. § 1651(a), issue the following relief:

1. Issue a Writ of Mandamus directing the United States Court of Appeals for the Third Circuit to:

a. Adjudicate forthwith all pending motions and petitions in *United States v. Cammarata*, Nos. 23-2110, 24-1381, 24-1983, and *In re Cammarata*, No. 25-1188.

b. Apply the controlling law of *Sprint v. APCC Services*, 554 U.S. 269 (2008), and Pennsylvania's Assignment of Claims Act of 1939, 69 P.S. §§ 521–523, and vacate the convictions in No. 21-cr-427 and No. 22-cr-639, which were obtained without subject-matter jurisdiction.

c. Vacate all judgments and dissolve all injunctive orders in *SEC v. Cammarata*, No. 21-cv-4845, including the asset freeze, as these were entered in violation of due process and without lawful jurisdiction.

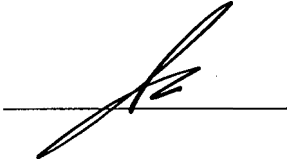
d. Enter such other orders as are necessary to restore Petitioner's liberty, property, and constitutional rights.

1. Order Petitioner's immediate release from custody pending the final determination of the underlying appeals and the restoration of lawful process, on the ground that his continued confinement under convictions and proceedings that are void constitutes irreparable injury and a manifest miscarriage of justice. *Ex parte Perkins*, 18 U.S. (5 Wheat.) 343 (1820); *Mooney v. Holohan*, 294 U.S. 103 (1935).

2. Direct an independent investigation into the administrative and judicial conduct within the Third Circuit that gave rise to this Petition, and, if this Court deems necessary, appoint a Special Master to investigate potential conflicts of interest, docket manipulation, and the deliberate suppression of controlling law.

3. Grant such other and further relief as this Court deems just, equitable, and necessary to preserve the integrity of the judicial process and the fundamental guarantees of due process and impartial justice.

Respectfully submitted,

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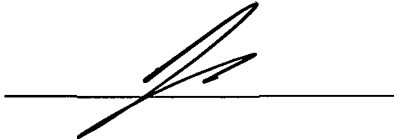
Joseph Cammarata
Reg.No. 02555-506
Federal Prison Camp Montgomery
1001 Willow Street
Montgomery,AL 36112
(Petitioner,pro se)

Dated: November 6th, 2025

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 33.2 of the Rules of the Supreme Court of the United States, I certify that this Petition for a Writ of Mandamus has been prepared in accordance with the Court's requirements for in forma pauperis filings. The petition is printed in 12-point Times New Roman type, double-spaced, with one-inch margins on 8½ × 11-inch paper, and the text portion does not exceed 40 pages, excluding the appendices and certificates.

Executed on the 6th day of November 2025.

A handwritten signature in black ink, appearing to read 'Joseph Cammarata', is written over a horizontal line.

Joseph Cammarata
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1001 Willow Street
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(Petitioner, pro se)