

NO. \_\_\_\_\_

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IN THE SUPREME COURT OF THE UNITED STATES

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CHRISTOPHER JOHN BADSEY,

Petitioner,

v.

UNITED STATES OF AMERICA

Respondent.

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**PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE NINTH CIRCUIT**

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**KENNETH M. MILLER**

26944 Camino de Estrella, Suite B  
Capistrano Beach, California 92624

Ken@KMMillerLaw.com

Telephone: (949) 388-3440

Counsel of Record for Petitioner Christopher John Badsey

## **QUESTION PRESENTED**

Did the district court violate 28 U.S.C. § 455(a) and Petitioner’s right to due process, by not recusing itself *sua sponte* for sentencing, where the district court was the direct victim of Petitioner’s obstructive conduct prior to sentencing?

## **PARTIES TO THE PROCEEDINGS**

Petitioner (appellant in the court of appeals): Christopher John Badsey.

Respondent (appellee in the court of appeals): The United States of America.

## **LIST OF PROCEEDINGS**

Petitioner was indicted in the Central District of California in *United States v. Christopher John Badsey*, Case No. 21-CR-00124-JLS, and charged with four (4) counts of wire fraud, and two (2) counts of money laundering under 18 U.S.C § 1957. He pled guilty to counts 1-4 and was sentenced to 87 months incarceration.

Petitioner appealed to the United States Court of Appeal for the Ninth Circuit, Case No. 23-765. Judgment was affirmed on October 9, 2025 (Dkt. 35.1), and Petitioner’s rehearing petition was denied on January 29, 2026. Dkt. 37.1. *See* Appx. at 6-7.

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Petitioner, Christopher John Badsey, respectfully asks that a writ of certiorari issue to review the judgment and decision of the United States Court of Appeals for the Ninth Circuit in Case No. 24-5365.

## OPINION BELOW

The October 9, 2025, Memorandum decision of the Ninth Circuit Court of Appeals, affirming Petitioner’s sentence, is attached to the Appendix.

## JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1). The matter seeks redress from the Ninth Circuit Court of Appeals’ October 9, 2025, Memorandum Decision. (Appendix at 2). Petitioner’s petition for reconsideration was denied on January 29, 2026 (Appendix at 6).

## CONSTITUTIONAL PROVISION AND STATUTE INVOLVED

This case involves determining whether recusal was mandatory under 28 U.S.C. § 455(a), which provides that “[a]ny justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.” Because judicial bias undermines the fact finder’s accurate fact finding, this case also involves Petitioner’s Fifth Amendment right to due process of law, which provides that “[n]o person shall be . . . deprived of life, liberty, or property, without due process of law.”

## STATEMENT OF THE CASE

Petitioner pled guilty to fraud, with the anticipation that he would be sentenced to 37 months or less, the low end of the applicable guideline range. But prior to sentencing, probation discovered that he was attempting to defraud the district court by submitting forged sentencing letters. It was also discovered that he had submitted false bail documents. He was immediately remanded, the plea agreement was declared breached, and he was subsequently sentenced to 87 months in custody.

The fraudulent sentencing letters were addressed directly to the district court, so the district court judge was the direct victim of Petitioner’s obstruction. “[A] judge should not preside over a criminal case in which he or she is the victim.” *United States v. Swallers*, 897 F.3d 875, 877 (7<sup>th</sup> Cir. 2018) (citing *In re Nettles*, 394 F.3d 1001, 1003 (7<sup>th</sup> Cir. 2005)). Because the district court was the direct victim of Petitioner’s obstruction, it was obligated to recuse itself under 28 U.S.C. § 455(a).

In the context of varying upward from the U.S. Sentencing Guidelines, the district court explained:

[T]he obstruction of justice [that] occur[ed] in the context of sentencing, making false and fraudulent misrepresentations *directly to the Court* to get a better sentence to make [him]self look better, that’s the kind of obstruction of justice that I don’t think is captured in the two-level increase. GAB at 12 (quoting ER-31) (emphasis added).

The statute criminalizing the obstruction of the administration of justice, 18 U.S.C. § 1503, was intended to protect judges. *See United States v. Lemore*, 474 F.3d 37, 41 (1<sup>st</sup> Cir. 2007) (§ 1503 intended to protect “court officers” among others). *See also United States v. Beale*, 620 F.3d 856, 865 (8<sup>th</sup> Cir. 2010) (§ 1503 intended to protect “court officers,” among others). *See also* Sands, et. al., *Modern Federal Jury Instr.* at § 46-4 (“The statute protects not just judges. . . .”). False sentencing letters to a judge can be charged as obstruction of justice, in violation of § 1503(a). *United States v. Barber*, 881 F.2d 345, 351-52 (7<sup>th</sup> Cir. 1989). The “victim” is “[t]he person who is the subject of a crime . . . .” *Statsky, Legal Thesaurus/Dictionary*, at 789 (West 1985). In this case, the district court judge was obviously the victim of Mr. Badsey’s obstruction and was obliged to recuse itself.

## REASONS FOR GRANTING THE PETITION

This Court should exercise its supervisory powers for at least three reasons. First, there is a circuit split as to whether § 455(a) imposes a burden on defendant to move for recusal where the district court's "impartiality might reasonably be questioned." *Compare United States v. Holland*, 519 F.3d 909, 911 (9th Cir. 2008) (plain error generally applies where recusal was not raised in the district court), *with Fowler v. Butts*, 829 F.3d 788, 794 (7<sup>th</sup> Cir. 2016) (review failure to recuse de novo where not raised in district court because § 455(a) is an "exception to the norm . . . that litigants must take the initiative in litigation"; § 455(a) places the onus for recusal directly on the district court).

Second, whether recusal is required in the unique circumstances of this case (i.e., obstructive conduct directed at sentencing judge before sentencing), and the standard of appellate review where the issue was not raised in the district court, are both important questions of federal law that this Court has not, but should resolve.

Third, by not mandating recusal where a defendant's obstructive conduct victimizes the district court, the Ninth Circuit sanctioned a serious departure from § 455(a)'s requirement of mandatory recusal where the district court's impartiality might reasonably be questioned.

CONCLUSION

For the foregoing reasons, Petitioner requests that the Court grant the petition for writ of certiorari.

Dated: March 31, 2026

Respectfully submitted,

*s/Kenneth M. Miller*  
Kenneth M. Miller  
Counsel for Petitioner