No.______________

IN THE SUPREME COURT OF THE UNITED STATES

JARROD SANFORD,
PETITIONER,

V.

UNITED STATES OF AMERICA,
RESPONDANT.

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

PETITION FOR A WRIT OF CERTIORARI

APPENDIX
United States v. Jarrod Sanford, ____ F. 3d _____ (6th Cir. 2026)
(opinion affirming district court judgment)

United States v. Jarrod Sanford, No. 2:24-cr-20021 (W.D. Tennessee, October 31, 2024)

Manuel B. Russ
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Nashville, Tennessee 37203
(615) 329-1919

QUESTIONS PRESENTED

I. THE DISTRICT COURT ERRED IN PERMITTING THE GOVERNMENT TO USE PRIOR ACTS OF INAPPROPRIATE SEXUAL CONDUCT AS WELL AS ALLEGATIONS OF UNCHARGED CONDUCT BY MR. SANFORD DURING ITS CASE IN CHIEF IN CONTRAVENTION OF F.R.E. 403

TABLE OF AUTHORITIES

STATUTES

OTHER AUTHORITIES

APPENDICES

I. LIST OF PARTIES AND OPINIONS BELOW

Mr. Jarod Sanford is the Petitioner in this matter and the United States of America is the Respondent. The reported opinion of the Court of Appeals for the Sixth Circuit is attached to this petition as the Appendix.

II. JURISDICTION

The judgment of the Court of Appeals for the Sixth Circuit was entered on January 7th, 2026. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1), the petitioner having asserted below and asserting in this petition the deprivation of rights secured by the United States Constitution.

III. STATUTORY PROVISIONS INVOLVED

This matter involves violations of the United States Code, specifically, 18 U.S.C. §§ 18 U.S. 2251(a)&(e), 18 U.S. § 2252A(a)(5)(B), and 18 U.S. § 2260A.

IV. STATEMENT OF THE CASE

A. Procedural Background

The matter was briefed for the Sixth Circuit Court of Appeals and, after considering the matter on the briefs, the Court issued an Opinion, which has been appended to this Petition below, dated January 7th, 2026, denying all relief. Mr. Sanford now makes this timely application.

B. Statement of Facts at Trial

i. HALEY HOWELL

Ms. Howell testified that she was a federal probation officer for the Western District of Tennessee and, as part of her caseload, Mr. Jarrod Sanford had been supervised by her since 2023 after being convicted of transporting an individual to engage in prostitution which also required that he inform Probation that he had a device that used the internet. (R.120, Trial Transcript Vol. II, PageID#1298-1304) Mr. Sanford had registered a particular cell phone with Probation, a Samsung Android with serial number SM-S918U, which Ms. Howell identified for the jury. (R.120, Trial Transcript Vol. II, PageID#1307&1316) Though Mr. Sanford was prohibited from living with minors, he was permitted to live with Anna[1]. (R.120, Trial Transcript Vol. II, PageID#1321)

ii. ANNA

Anna stated she was thirteen at the time she testified and identified Mr. Sanford as her father. (R.120, Trial Transcript Vol. II, PageID#1333&1335-1336) Anna alleged that when she was approximately eleven, while residing together, Mr. Sanford "raped"[2] her on one occasion. (R.120, Trial Transcript Vol. II, PageID#1339-1340) Later, when she was approximately twelve years old, in a different residence, she alleged Mr. Sanford engaged in penile-vaginal, penile-anal and penile-oral penetration with Anna on multiple occasions. (R.120, Trial Transcript Vol. II, PageID#1341-1342) In January of 2023, Anna disclosed this alleged abuse to a friend leading to an investigation by the police and she then went to live with her mother. (R.120, Trial Transcript Vol. II, PageID#1343-1344) When her mother returned to rehabilitation, Anna went back to Mr. Sanford's residence and the alleged

[1] The record and Mr. Sanford's brief use only the alias assigned to all minor witnesses throughout the trial.
[2] When asked what Mr. Sanford did that constituted rape, Anna said he "didn't really touch me – he touched me inappropriately", but did not elaborate further. (R.120, Trial Transcript Vol. II, PageID#1339:7-8)

the a sexual abuse continued "every other day" until she disclosed to a different friend, Bella, who then reported this and the investigation was renewed. (R.120, Trial Transcript Vol. II, PageID#1345-1347)

When the police arrived at their residence to investigate this allegation, Mr. Sanford told Anna to hide a "silver phone" he had that his "probation officer did not know about". (R.120, Trial Transcript Vol. II, PageID#1347-1348) Though she did hide it, she later informed the police of where it was and disclosed the continued alleged sexual abuse in detail to law enforcement. (R.120, Trial Transcript Vol. II, PageID#1349-1351) Anna believed the phone might contain pictures or videos of the alleged abuse because she believed Mr. Sanford had taken photos of her during part of the alleged abuse on a previous occasion. (R.120, Trial Transcript Vol. II, PageID#1351-1352)

Anna was shown two pictures and she identified both herself and Mr. Sanford in the pictures wherein she was performing oral sex on him[3]. (R.120, Trial Transcript Vol. II, PageID#1372-1374) Anna then identified various particulars of the clothing and hair style in the pictures that she believed affirmed she and Mr. Sanford were in the pictures based on other prior photos entered by the Government. (R.120, Trial Transcript Vol. II, PageID#1374-1376)

iii. KEYOTTA SANFORD

Special Agent Sanford was an agent with the Federal Bureau of Investigation (FBI) in the crimes against children division and a digital forensics expert and, in Mr.

[3] Exhibits 9&10.

Sanford's case, she examined three devices looking for child sexual abuse material (CSAM) by performing a digital extraction of the devices using the Cellbrite program to review the data on the seized devices. (R.120, Trial Transcript Vol. II, PageID#1424-1434)

One of the recovered phones, entered as Exhibit #3[4] at trial, was analyzed by Agent Sanford and she produced a report related to that analysis noting evidence the device had been linked to an IP address associated with Mr. Sanford's residence and it had used the email address jarrod81sanford@gmail.com[5] as well as pictures containing Mr. Sanford. (R.120, Trial Transcript Vol. II, PageID#1435-1441) Agent Sanford sent a search warrant to Google for records relating to this device[6] and Google supplied records associated with the address jarrodsanford81@gmail.com as well as the name and date of birth of Mr. Sanford. (R.120, Trial Transcript Vol. II, PageID#1441-1444) Agent Sanford also performed an extraction and produced a report for a second seized device, Exhibit #4[7]. (R.120, Trial Transcript Vol. II, PageID#1444-1447) The Government's attorney clarified and Agent Sanford confirmed that the Google subscriber information and the email address jarrodsanford81@gmail.com, previously entered as Exhibit #11, were associated with the second phone and subpoenas had been sent to Google for both phones. (R.120, Trial Transcript Vol. II, PageID#1451-1455) For the Dewalt phone, Agent Sanford

[4] Identified previously as the "Dewalt" phone. (R.120, Trial Transcript Vol. II, PageID#1316)
[5] Also referenced as jarrodsanford81@gmail.com in other parts of the record.
[6] Exhibit #11
[7] Described as the "silver AT&T phone". (R.120, Trial Transcript Vol. II, PageID#1316) Later testimony confirmed this was the phone provided to law enforcement by Anna. (R.117, Trial Transcript Vol. III, PageID#718)

also sent a subpoena to Google for records relating to this device[8] and Google supplied records associated with the address jarrod81sanford@gmail.com which was also linked to Mr. Sanford. (R.120, Trial Transcript Vol. II, PageID#1456-1458) She subpoenaed TikTok for information relating to the accounts located on the silver phone and was supplied with records that indicated the user name for the account was jarrodsanford1 which was changed to Driver26925 and there were further indications linking the TikTok account to Mr. Sanford's residence and one of his email accounts. (R.120, Trial Transcript Vol. II, PageID#1458-1463)

The information supplied by Tik Tok that was associated with the silver phone produced four different conversations[9] between user Driver26925 and other users that, through the successive conversations, demonstrated the user was "Jarrod" from West Tennessee and he was a truck driver. (R.120, Trial Transcript Vol. II, PageID#1476-1482) Agent Sanford also informed the jury about short message service[10] (SMS) information located on the silver phone where the user of the phone arranged a visit with a prostitute. (R.120, Trial Transcript Vol. II, PageID#1483-1487) An additional portion of the extraction on this device produced a list of internet searches associated with the phone[11]. (R.120, Trial Transcript Vol. II, PageID#1487-1491) Agent Sanford also performed an extraction from the phone that was recovered from Mr. Sanford's vehicle.[12] (R.117, Trial Transcript Vol. III, PageID#715) She

[8] Exhibit #12
[9] Exhibits #17-20
[10] Agent Sanford explained that these are traditional text messaging on a cell phone.
[11] Exhibit #21
[12] Exhibit #5, the black phone with "Blu" written on the back. (R.120, Trial Transcript Vol. II, PageID#1317)

further discussed the silver phone and sexually explicit videos accessed and search terms used on the phone, some that specifically referenced sexual relations between a stepdaughter and stepfather. (R.117, Trial Transcript Vol. III, PageID#718-719) Agent Sanford further located CSAM on the phone and she confirmed her belief that the sexually explicit photos were of Anna. (R.117, Trial Transcript Vol. III, PageID#720-723) She explained that the photos had been brightened in order to see more clearly, but the picture was not altered. (R.117, Trial Transcript Vol. III, PageID#727-729) These images appeared to have last been modified on October 30th, 2023, and the phone contained seven images of CSAM of which Exhibits #9 and #10 were two. (R.117, Trial Transcript Vol. III, PageID#730-732)

Agent Sanford agreed that only the silver phone had explicit pictures of Anna. (R.117, Trial Transcript Vol. III, PageID#749-750) These were thumbnail images in the cached space of the phone meaning they were essentially in the phone's memory, but it was difficult to ascertain the date these were created. (R.117, Trial Transcript Vol. III, PageID#750-751)

V. STANDARD OF REVIEW

Review of the district court's decision to either admit, or exclude, certain items of evidence is under an abuse-of-discretion standard. See *United States v. Hunt*, 521 F.3d 636, 642 (6th Cir. 2008) (citing *United States v. Ganier*, 468 F.3d 920, 925 (6th Cir. 2006)). However, "[i]n reviewing a [district] court's evidentiary determinations, this [C]ourt reviews *de novo* the court's conclusions of law ... and reviews for clear error the court's factual determinations that underpin its legal conclusions." *United*

States v. McDaniel, 398 F.3d 540, 544 (6th Cir. 2005) (quoting *United States v. Reed*, 167 F.3d 984, 987 (6th Cir. 1999)) When reviewing a district court's Rule 403 analysis, this Court grants "very broad" discretion to the district court in making its determinations. *United States v. Newsom*, 452 F.3d 593, 603 (6th Cir. 2006) (citing *United States v. Vance*, 871 F.2d 572, 576 (6th Cir. 1989)). When applying this standard in review, "this court takes a maximal view of the probative effect of the evidence and a minimal view of its unfairly prejudicial effect, and will hold that the district court erred only if the latter outweighs the former." *United States v. Sassanelli*, 118 F.3d 495, 498 (6th Cir. 1997) (citing *United States v. Sanders*, 95 F.3d 449, 453 (6th Cir. 1996)).

VI. SUMMARY OF ARGUMENT

The district court erred when it admitted evidence, and the Circuit court erred when it affirmed the decision, pursuant to F.R.E. 413 and 414 regarding Mr. Sanford's uncharged and unproven conduct towards Anna on instances other than the offensive conduct comprising Counts One, Two and Three for multiple reasons. First, the district court erred when it determined that the challenged evidence was intrinsic to the charged conduct. Secondly, the district court further erred when it admitted the evidence pursuant to F.R.E. 414 and 413 by its erroneous analysis under F.R.E. 403. This evidence was not intrinsic to the charged offenses. Further, it was clearly substantially more prejudicial towards Mr. Sanford than it was probative of the veracity of Anna or the accuracy of the any of the other evidence produced by the Government at trial. Few things could be more prejudicial to a defendant charged with filming a rape than additional allegations of rape from the same alleged victim being admitted at the trial of the matter and for these reasons, the district court abused its discretion. This Court should grant review to better outline how lower courts should conduct a F.R.E. 403 analysis in light of the unique aspects of F.R.E. 413 and 414 that make them inherently and intentionally prejudicial to a defendant.

VII. ARGUMENT

I. THE DISTRICT COURT ERRED IN ADMITTING EVIDENCE IN CONTRAVENTION OF F.R.E. 403

Mr. Sanford had prior convictions for other sexually related offenses as well as uncharged conduct that Anna alleged over a lengthy period of time leading up to and after the incident wherein the video recording was allegedly created[13]. The Government filed notice seeking admission of these other acts pursuant to both F.R.E. 413 and F.R.E. 414. The district court ultimately determined this evidence was intrinsic to the charged offenses which served as the basis for admission rather than Rule 413 or 414. The admission of these acts in the Government's case in chief was improperly admitted as intrinsic to the charged offenses and was contrary to the restrictions provided for in F.R.E. 403, Mr. Sanford's only protection against the unfair use of this largely uncharged conduct.

F.R.E. 403 provides:

> The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing

[13] The Government was never able to say definitely what the date of creation was but it was undisputed that it happened no later than October 30th, 2023, several weeks prior to the disclosure that led to Mr. Sanford's arrest on November 19th, 2023.

the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.

In a Rule 403 analysis, the district court is granted "very broad" discretion in making its determinations. *Newsom*, 452 F.3d at 603; (citing *Vance*, 871 F.2d at 576). The reviewing court, "takes a maximal view of the probative effect of the evidence and a minimal view of its unfairly prejudicial effect, and will hold that the district court erred only if the latter outweighs the former." *Sassanelli*, 118 F.3d at 498; (citing *Sanders*, 95 F.3d at 453.) When determining admissibility pursuant to F.R.E. 403, a court must "look at the evidence in a light most favorable to its proponent, maximizing its probative value and minimizing its prejudicial effect." *United States v. Zipkin*, 729 F.2d 384, 389 (6th Cir. 1984). "[T]erm 'unfair prejudice' as to a criminal defendant, speaks to the capacity of some concededly relevant evidence to lure the factfinder into declaring guilt on a ground different from proof specific to the offense charged." *United States v. Old Chief*, 519 U.S. 172, 180, 117 S.Ct. 644 (1997

Federal Rule of Evidence 413 provides: Similar Crimes in Sexual-Assault Cases

(a) Permitted Uses. In a criminal case in which a defendant is accused of a sexual assault, the court may admit evidence that the defendant committed any other sexual assault. The evidence may be considered on any matter to which it is relevant.

(b) Disclosure to the Defendant. If the prosecutor intends to offer this evidence, the prosecutor must disclose it to the defendant, including witnesses' statements or a summary of the expected testimony. The prosecutor must do so at least 15 days before trial or at a later time that the court allows for good cause.

(c) Effect on Other Rules. This rule does not limit the admission or consideration of evidence under any other rule.

(d) Definition of "Sexual Assault." In this rule and Rule 415 , "sexual assault" means a crime under federal law or under state law (as "state" is defined in 18 U.S.C. § 513) involving:

(1) any conduct prohibited by 18 U.S.C. chapter 109A;

(2) contact, without consent, between any part of the defendant's body - or an object - and another person's genitals or anus;

(3) contact, without consent, between the defendant's genitals or anus and any part of another person's body;

(4) deriving sexual pleasure or gratification from inflicting death, bodily injury, or physical pain on another person; or

(5) an attempt or conspiracy to engage in conduct described in subparagraphs (1)-(4).

F.R.E. 413 requires that three threshold factors be met before evidence may be admitted: (1) the defendant must be accused of a crime involving sexual assault, (2) the evidence proffered must relate to the defendant's commission of another offense involving sexual assault, and (3) the evidence must be relevant. F.R.E. 413; *United States v. LaVictor*, 848 F.3d 428, 449 (6th Cir. 2017). "[E]vidence 'otherwise admissible under Rule 413 is still subject to Rule 403 balancing" and a "court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence." *United States v. Mandoka*, 869 F.3d 448, 453 (6th Cir. 2017); see also *United States v. Morris*, 494 Fed.Appx. 574, 584 (6th Cir. 2012); *United States v. Seymour*, 468 F.3d 378, 386 (6th Cir. 2006) Notwithstanding Congress's intent, "Rule 413 evidence can be inherently prejudicial" and allowing other acts evidence which describes "violent and sexual conduct ..... may have a strong propensity to evoke a visceral reaction from a lay jury." *Lavictor,* 848 F. 3d at 450.

F.R.E 414(a) provides: "In a criminal case in which a defendant is accused of child molestation, the court may admit evidence that the defendant committed any other child molestation. The evidence may be considered on any matter to which it is relevant." F.R.E. Rule 414's reference to the term "child molestation" broadly includes, among other conduct, the receipt and possession of child pornography. "Child molestation" is defined by Rule 414(d)(2)(B) to mean any crime under federal or state law involving "any conduct prohibited by 18 U.S.C. chapter 110," including 18 U.S.C. § 2252(a)(2); see also *Seymour*, 468 F.3d at 385. Thus, Rule 414 "create[d] an exception to the general ban on propensity evidence contained in Rule 404(b)." *United States v. Underwood*, 859 F.3d 386, 393 (6th Cir. 2017) (quoting *Seymour*, 468 F.3d at 384-85). Evidence admissible under Rule 414 is still excludable where "its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence." F.R.E. 403; see *United States v. Cox*, 871 F.3d 479, 486 (6th Cir. 2017).

Referring to F.R.E 414, "courts may consider the closeness in time between the acts, the similarity between the act in question and the prior act, and the necessity of the evidence to the government's case, including whether there were less invasive means of obtaining the information." *United States v. Libbey-Tipton*, 948 F.3d 694, 701 (6th Cir. 2020); citing *Underwood*, 859 F.3d at 393. Further, "the need for the evidence does not make the evidence more likely to prove that which it is offered to prove. Probative value and need for the evidence are separate considerations." *United*

States v. Stout, 509 F.3d 796, 800 (6th Cir. 2007) "[A] propensity to sexually abuse a child does not directly translate to a propensity to possess and receive child pornography." *United States v. Hough*, 385 F.App'x 535 (6th Cir. 2010); see also *United States v. Hutchinson*, 448 F. App'x 599, 604-606 (6th Cir. 2012) (Hutchinson only possessed images he had received online, a lesser offense of his conviction for receiving under another count of the indictment and the charging document does not differentiate the conduct for the counts)

Given the inherent prejudice of the presumed propensity effect created by evidence of similar conduct by the defendant, the district court's analysis of the F.R.E. 403 protection should be robust in these circumstances. Instead, the district court's analysis, as well as that of the Sixth Circuit, was nonexistent since, by reaching the conclusion that the conduct was intrinsic to the charged offenses, it abused its discretion in never performing a F.R.E. 403 analysis of whether the evidence was substantially more prejudicial than probative.

A. Intrinsic Evidence

Even before assessing the Government's request to be permitted to introduce these other acts through either F.R.E. 413 or 414, the district court reached the erroneous conclusion that the acts relating to Anna's alleged abuse before and after the conviction conduct was intrinsic to the charged offenses and admitted the acts on this basis. The district court, when permitting the Government to elicit other alleged acts of sexual assault by Mr. Sanford against Anna in 2022 and 2023, stated it believed these acts were "intrinsic to the story" declaring "that story just makes sense to show how it might have come to pass that there's child pornography depicting her and him" which led the district court to rule it was "inclined to let the Government prove their case, meaning tell the story of how something like this might have happened". (R. 63, Pretrial Motion Hearing, PageID#295:4 & R. 52, Pretrial Motion Hearing, PageID#188:23-25&200:1-3) The district court erroneously merged the concepts of intrinsic evidence and *res gestae*, which are distinct and admit evidence for different reasons. This was error on the part of the district court and it was non-harmless and Mr. Sanford is entitled to relief on this basis as well. Further, this threshold error erroneously relieved the district court of the necessity of making a Rule 403 determination about the evidence which would have been required under F.R.E 413 or 414, compounding the error and making review of the district court's decision beyond the narrow issue admissibility because of its intrinsic nature precarious.

If the other acts evidence is deemed "intrinsic" to the charged offenses, other evidentiary rules will not apply as long as these other acts "are part of a single criminal episode." *United States v. Adams*, 722 F.3d 788, 822 (6th Cir. 2013) *United States v. Barnes*, 49 F.3d 1144, 1149 (6th Cir. 1995) "Intrinsic acts are those that are ... a part of the criminal activity[,] as opposed to extrinsic acts, which are those that occurred at different times under different circumstances from the offense charged." *United States v. Churn*, 800 F.3d 768, 779 (6th Cir. 2015) (quoting *United States v. Stafford*, 198 F.3d 248, 1999 WL 1111519, at *4 (6th Cir. 2012)).

There is a similar yet distinct doctrine that also provides an exception to other evidentiary rules for *res gestae*, or background, evidence. See *Adams*, 722 F.3d at 810; (citing *United States v. Clay*, 667 F.3d 689, 697 (6th Cir. 2012)). Evidence comprising *res gestae* "consists of those other acts that are inextricably intertwined with the charged offense." *United States v. Hardy*, 228 F.3d 745, 748 (6th Cir. 2000). "Typically, such evidence is a prelude to the charged offense, is directly probative of the charged offense, arises from the same events as the charged offense, forms an integral part of a witness's testimony, or completes the story of the charged offense." *Id.*

Though the district court stated clearly that it believed these other acts to be intrinsic evidence, they did not form the basis for the charged offenses and this was clear error constituting an abuse of discretion on the district court's part. Mr. Sanford would likewise maintain that the acts were not *res gestae* for the charged offenses either, but the district court's purported basis for admissibility of these acts was improper. Prior panels of the Sixth Circuit have made clear that "[i]ntrinsic acts are those that are ... a part of the criminal activity" which forms the basis for the charged offenses and the acts described by Anna other than the charged offenses do not fit this definition. *Churn*, 800 F.3d. at 779. This cannot serve as a proper basis for admissibility and Mr. Sanford is entitled to relief on this basis as well. Based on this determination, the district court then went on to abuse its discretion by failing to make a Rule 403 determination regarding the probative value of the evidence compared to its obvious and serious prejudicial effect.

B. Use of F.R.E. 413 and 414 Evidence and F.R.E. 403 Analysis of Other Acts Evidence

Notwithstanding the above argument, Mr. Sanford has addressed the F.R.E. 414 and 413 issues in turn. The Government filed a notice that it intended to use prior convictions as well as uncharged conduct that was alleged by Anna pursuant to both F.R.E. 413 and 414 as propensity evidence at Mr. Sanford's trial. Mr. Sanford acknowledges that the allegations of other sexual conduct[14] by Anna as well as the prior conviction that he had for other sexually related conduct are the type of conduct that qualifies under F.R.E. 413 and 414 for potential admission. However, even had the district court reviewed these acts and conducted a proper F.R.E. 403 analysis, it would have been an abuse of discretion by the district to admit them because it is clear that the probative value of these acts to the Government is substantially outweighed by the extreme prejudice they engender for Mr. Sanford.

However, since the district court deemed these acts to be intrinsic to the charged offenses, it never analyzed the prejudicial effect versus the probative value of the alleged acts of abuse by Mr. Sanford in addition to the charged conduct. Any reasonable analysis of the other acts through the lens of F.R.E. 403 would necessarily reach the conclusion that the prejudice engendered by the admission of these acts substantially outweighed any probative value of these unproven and uncharged alleged acts of sexual abuse would have provided the Government towards proving Mr. Sanford committed the charged offenses. It was an abuse of discretion to fail to

[14] Again, Mr. Sanford denies any sexual assault of Anna and only forwards this argument to respond to the erroneous rulings of the district court.

conduct this analysis even though this was the basis of the Government's pretrial motions addressing this issue.

i. Probative Value

The Government, discussing the reason it should be permitted to elicit the testimony about other alleged sexual assaults against Anna, argued:

> We have to prove who raped her in this picture of her being raped. And we can show under 413 or 414, that Jarrod Sanford had a propensity to rape this child. So it's more likely than not that he's the one who committed this rape in his house, and we have proof that this happened in his house on his sofa.

(R. 52, Pretrial Motion Hearing, PageID#182:11-16) This is an illogical and disingenuous argument from the Government because the source of both the charged and uncharged conduct, which purportedly supports Mr. Sanford's propensity to sexually assault Anna, is the same source, Anna. If the jury believed Anna's testimony that she was the party on the video being made to perform oral sex on the other party, who she alleged was Mr. Sanford, then no supporting testimony about his alleged propensity to sexually assault her was necessary, there was already sufficient evidence for conviction. If, on the other hand, the jury did not believe Anna when she claimed to be on the video and that Mr. Sanford was the other person, alleged incidents of other sexual assaults would not make them believe her more. However, the Government, through circular reasoning, argued the district court should allow this testimony to demonstrate Mr. Sanford's propensity by asserting if Anna claimed the abuse happened more than once it was then more likely to be true of the occasion of the offensive conduct charged in the indictment. In this light, there is very little probative value in permitting evidence of other alleged sexual assaults by Mr. Sanford because Anna is merely corroborating herself solely through her own statements and without any other source. The testimony about the alleged additional assaults fail to be more probative and/or true because Anna alleged they happened frequently undermining the purported basis for which they were proffered and failing under the F.R.E. 403 standard.

ii. Prejudicial Effect

There is little that could be more prejudicial to a defendant being tried for rape than allegations of rape by the same alleged victim and the prejudicial effect to Mr. Sanford was incredibly substantial. The Government, relying on prior, similar cases exploring this same issue, argued that the similarity of the prior conduct to the charged offenses, being no more lurid or sensational, somehow insulated the other acts from being unfairly prejudicial. *United States v. Mandoka*, 869 F.3d 448, 453 (6th Cir. 2017). This misses the entire import of the F.R.E. 403 protections for the defendant. The cumulative effect of the jury hearing about other allegations against the defendant has a highly prejudicial effect whether those exact allegations are more lurid, grotesque, or salacious than the allegations that comprise the offensive conduct. Regardless of the detail, or lack thereof, additional allegations of rape by Mr. Sanford towards Anna creates extreme unfair prejudice for the exact reasons that F.R.E. 403 is designed to protect against, namely that the jury will not convict based on evidence of the offensive conduct but rather on the basis of other conduct. While F.R.E. 413 and 414 acknowledge and condone use of propensity evidence in these circumstances, F.R.E. 403 is still a bulwark against the jury convicting simply based on other, uncharged conduct and the prejudicial effect in this instance could not be greater. Any reasonable analysis of the other acts evidence in light of the F.R.E. 403 protections would reach this conclusion and bar their admissibility in Mr. Sanford's trial.

CONCLUSION

For the aforementioned reasons, Mr. Sanford prays that this Honorable Court will grant his request for a writ of certiorari in order to review the question presented relating to the improper application of F.R.E. 413 and 414. It is necessary to provide guidance on this issue to other lower courts and warrants review by this Court.

Respectfully submitted,

/s/ Manuel B. Russ
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CERTIFICATE OF SERVICE

I certify that the foregoing petition motion to proceed *in forma pauperis* has been served via first-class mail upon counsel for the Respondent Ms. Lynn Crum and Ms. Lauren Delery, United States Attorney's Office for the Western District of Tennessee at Memphis, 167 N. Main Street, Suite 800, Memphis, TN 38103; and Mr. Dean John Sauer, Solicitor General of the United States, Room 5614, Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530-0001, this 29th day of May, 2026.

/s/ Manuel B. Russ
Manuel B. Russ