

NO: _____.

IN THE SUPREME COURT OF THE UNITED STATES

YASIR QAHTAN SAUD
-PETITIONER-

vs.

UNITED STATES OF AMERICA
-RESPONDENT-

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

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

- 1). Whether the govertment's use of fraudulent evidence, Including a falsified cybertip report originating from an improper jurisdiction over 200 miles away with no supporting IP/MAC logs,device matches, or Facebook records,Violates due process under the fifth amendment and warrants reversal of conviction.
- 2). Whether prosecutorial coercion,Including threats against a defendant conveyed through his wife and the use of aggressive,Vindictive language to force a plea while dismissing legitimate defense arguments,renders a guilty plea involuntary and violates due process.
- 3). Whether ineffective assistance of counsel,Including the failure to challenge fabricated evidence,Jurisdictional discrepancies,prose cutorial misconduct, and the failure to raise a public authority defense despite extensive documentation of the defendants confidential informant status,requires reversal under the sixth amendment.
- 4). Whether a search warrant lacking particularity,obtained through questionable means from an improper jurisdiction, and resulting in an overbroad seizure of 38 electronic devices with an inventory notation of "NOTHING FOUND",violates the fourth amendment's particularity and probable cause requirements.
- 5). Whether a conviction based on a video file(KBIS3146.MOV)that petitioner maintains is a personal family recording of his sons circumcision ceremony a protected cultural and religious practice eather than contraband material,constitutes an actual innocence claim that warrants review under the due process clause.
- 6). Whether the government's failure to prove essential elements of distribution and transportation charges,Including the specific accounts or sofware used,The identity or recipients, and interstate transmission route,While relying on technically impossible theories of Facebook messenger distribution,Renders the conviction constitutionally defective.
- 7). Whether the cumulative effect of prosecutorial misconduct,Jurisdictional irregularities,Ineffective assistance of counsel,Fourth amendment violations, and the presentation of fraudulent evidence constitutes a fundamental miscarriage of justice warranting relief.
- 8). Whether the govertment's exploitation of confidencial informant relationship to conduct a warrantless custodial interrogration under the false pretext of a "job opportunity",While simultaneously executing a search warrant,violates the fifth amendment's due process clause and constitutes outrageous govertment conduct.
- 9). Whether prosecutors may threaten enhanced charges,including a 15 year mandatory minimum,based on constitutionally protected family videos documenting religious ceremonies,violating the eight amendment prohibition agagainst cruel and unusual punishment and the first amendment's protection of religious exercise.

- 10). Whether the exploitation of the immigration process as an interrogation pretext, Coupled with the failure to provide adequate translation services to a defendant with limited english proficiency and coercive detention lasting eight hours without counsel, constitutes outrageous govertment conduct violating due process.
- 11). Whether the FBI's deliberate misuse of an outgoing confidential informant relationship to circumvent constitutional protections creates a circuit split requiring this court's resolution regarding the boundaries of permissible law enforcement conduct.
- 12). Whether prosecutorial vindictiveness, evidenced by threatening enhanced charges for exercising trial rights, making prejudicial character attacks, and using aggressive language to coerce pleas, undermines the integrity of the judicial process and violates due process.

PARTIES TO THE PROCEEDING

THE PARTIES TO THE PROCEEDING ARE NAMED IN THE CAPTION. NO OTHER PARTIES WERE INVOLVED IN THE PROCEEDINGS BELOW.

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OPINIONS BELOW

The opinion of the united states court of appeals for the fourth circuit denying a certificate of appealability is unreported and was issued on december 23,2024.The mandate of the fourth circuit was issued on march 11,2025.The opinion of the united states district court for the eastern district of virginia dismissing petitioner's rule 60(b) motion.

JURISDICTION

The judgement of the united states court of appeals for the fourth circuit was entered on december 23,2024.And a timely petition for rehearing was denied on march 3,2025.This court has jurisdiction under 28 U.S.C. §1254(1).Because this petition was not filed within 90 days of the rehearing denial,Petitioner submits it together with a motion for leave to file out of time under supreme court rule 13.5.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The first amendment to the united states constitution provides in relevant part:"congress shall make no law respecting an establishment of religion,Or prohibiting the free exercise thereof.." The fourth amendment to the united states constitution provides: "the right of the people to be secure in their persons,house,papers, and effects, against unreasonable search and seizure,shall not be violated no warrants shall issue, but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized".The fifth amendment to the united states constitution provides in relevant part: "no person shall... be deprived of life,Liberty,or property,without due process of law". The sixth amendment to the united states constitution provides in relevant part:"in all criminal prosecutions, the accused shall

Enjoy the right...to have the assistance of counsel for his defence". The eighth amendment to the united states constitution provides: "excessive bail shall not be required,nor excessive fines imposed,nor cruel and unusual punishments inflicted".

28 U.S.C. §1915 provides in relevant part: "Any court of the united states may authorize the commencement,prosecution or defense of any suit,action or proceeding,civil or criminal,or appeal therein,with out prepayment of fees or security such person possesses that the person is unable to pay such fees or give security therefor".

Federal rule of criminal procedure 12.3 provides in relevant part: "If a defendant intends to assert a defense of actual or believed exercise of public authority on behalf of a law enforcement agency or federal intelligence agency at the thime of the alleged offense ,The defendant must so notify an attorney for the govertment in writing and must file a copy of the notice with the clerk within the time provided dor filing a pretrial motion,Or at any later time the court sets".

Federal rule of criminal procedure 41(e)(2)(B) provides in relevant part:"A warrant under rule 41(e)(2)(A) may authorize the seizure of electronic storage media or the seizure or copying of electronically stored information.Unless otherwise consistent with the warrant".

Supreme court rule 39 provides in relevant part:"A party seeking to proceed in forma pauperis shall file a motion for leave to do so ,Together with the partys's notarized affidavit or declaration(in compliance with 28 U.S.C. §1746)in the form prescribed by the federal rule of appellate procedure,form 4".

STATEMENT OF THE CASE

BACKGROUND AND DISTINGUISHED SERVICE HISTORY

Petitioner YASIR QAHTAN SAUD is an iraq war veteran who served with distintion alongside united states forces in iraq as an interpreter and intelligence asset.His service record includes multiple commendations and recommendations from various branches of the united states military for his courageous and invaluable contributions to american military operations.Petitioner's background encompasses extensive service as a police officer with the intelligence unit in iraq,Where he also worked for the central intelligence agency as a confidential informant,tracking online terrorist activities and reporting critical intelligence to american intelligence departments.

Prtitioner's work in iraq was instrumental in saving many american service members lives by identifying and reporting terrorist threats and activities before they could be carried out against united states personnel.His intelligence gathering and reporting directly contributed to the succes of numerous military operations and the protection of american forces operating in hostile terretory.This distin guished service record demostrates petitioners unwavering commit ment to american interest and his willingness to risk his own life to protect american military personnel.

After completing his service in iraq,Petitioner immigrated to the united states through the special immigrant visa program.A federal program specifically designed for foreing nationals who assisted united states forces and faced persecution in their home contries as a result of their cooperation with american military and intelligence operations.

This program recognizes the valuable contributions and sacrifices made by individuals like petitioner who risked everything to support United States missions abroad.

CONTINUED SERVICE AS CONFIDENTIAL INFORMANT IN THE UNITED STATES

Upon arriving in the United States, Petitioner continued his dedicated service to American interests by working as a confidential informant for both the Federal Bureau of Investigation and the Newport News Police Department in Virginia. In this capacity, he infiltrated social media groups to identify terrorist activities, Human trafficking, and other criminal conduct that posed threats to national security and public safety. This dangerous and sensitive work required petitioner to monitor suspicious content online and report his findings to his law enforcement contacts on a regular basis.

Petitioner maintains extensive photographic evidence of his close working relationship with FBI personnel and Newport News Police officers, including photographs of law enforcement officials having dinner at his residence with his children present. These photographs demonstrate the level of trust and cooperation that existed between petitioner and law enforcement agencies, reflecting the valuable nature of his contributions to ongoing investigations and national security efforts.

Petitioner regularly reported suspicious activities discovered on social media platforms, with detailed documentation of these reports stored on his personal phone and laptop, the same devices that were later seized by the FBI during the search of his residence. This history of cooperation with law enforcement is absolutely central to understanding the context of this case and provides a compelling explanation for why petitioner might have had access to material

That later formed the basis of the charges against him. His work as a confidential informant necessarily involved monitoring and reporting on illegal content, which could explain the presence of such materials on his devices in a law enforcement context rather than a personal gratification.

RELIGIOUS CONVERSION AND POTENTIAL DISCRIMINATION

shortly before the events leading to his arrest, Petitioner announced his intention to convert to Judaism, a deeply personal decision that he believes may have contributed to him being targeted for investigation. The timing of this religious conversion announcement and the subsequent aggressive investigation and prosecution raises serious concerns about potential religious discrimination influencing law enforcement decisions. This timing is particularly troubling given the numerous constitutional violations that occurred throughout the proceedings and the government's apparent willingness to overlook petitioners extensive history of cooperation with American law enforcement.

The potential for religious discrimination is particularly troubling in this case because it involves a person who served American interest abroad and immigrated to the United States through a program designed to protect those who assisted United States forces. The government's decision to target such an individual based on religious beliefs would represent a serious betrayal of American values and constitutional principles.

THE SEARCH AND SEIZURE OPERATION

On March 10, 2021, Petitioner received a telephone call from his FBI contact, identified as "Agent Carl," inviting him to the FBI building in Newport News, Virginia for what was described as a "Job opportunity".

This investigation was entirely consistent with previous interactions petitioner had experienced with the FBI regarding his confidential informant work, And he had no reason to suspect that his meeting was anything other than a continuation of his cooperative relationship with law enforcement. The use of the term "job opportunity" was particularly deceptive because it suggested legitimate employment prospects related to his intelligence work.

While petitioner attended this meeting in good faith, believing he was continuing his service to American law enforcement, FBI agents simultaneously executed a search warrant at his residence. This coordinated deception demonstrates the government's willingness to exploit petitioners trust and his history of cooperation to gain an investigative advantage, raising serious questions about the ethics and constitutionality of such tactics.

The search warrant executed at petitioners residence was fundamentally defective and violated multiple constitutional requirements. The warrant lacked the particularity required by the fourth amendment, failing to specifically identify the items to be seized in relation to any alleged crime. Instead of providing the detailed description of evidence sought that the constitution requires, The warrant contained only general language that would authorize a search expedition through petitioner's personal belongings.

Critically, the warrant was obtained from the Norfolk division on the eastern district of Virginia, Despite petitioner residing in Newport News a different division within the same district. This jurisdictional discrepancy raises serious questions about forum shopping and the proper authority to issue the warrant. The government's decision to seek the warrant from Norfolk rather than the appropriate Newport News division suggest an attempt to find a more favorable magistrate or to

avoid scrutiny that might have occurred in the proper jurisdiction. The warrant was allegedly obtained by telephone or other electric means, which raises additional questions about its validity and whether it contained the detailed specifications required for a lawful search, particularly of electronic devices.

Telephone warrants, while permitted in certain circumstances, require the same constitutional protections as traditional warrants, including probable cause and particularity. The fact that this warrant was obtained by telephone suggests that law enforcement may have been in a hurry to obtain authorization without providing the detailed information necessary to establish probable cause.

Most significantly, the warrant appears to have lacked specific authorization for the search and seizure of electronic devices. Under federal rule of criminal procedure 41 and this court's precedents, searches of electronic devices typically require specific authorization due to the heightened privacy interests involved and the amount of personal information contained on such devices. Electronic devices contain the digital equivalent of entire filing cabinets of personal information, requiring special care to ensure that searches are limited to evidence of specific crimes under investigation.

The inventory list from the search reveals that FBI agents seized approximately 38 devices, including not only petitioners electronic but also devices belonging to his wife and children. This wholesale seizure of family electronics went far beyond any reasonable scope of investigation and violated the fourth amendment's particularly requirements.

There was no probable cause to believe that petitioners wife and children had committed any crimes, yet their personal devices were seized and searched.

Most tellingly, the inventory document contains the phrase "NOTHING FOUND" written in the large block letters, indicating that the initial search conducted by the agents did not yield any evidence of contraband. This notation is particularly significant because it demonstrates that the agents found no evidence of criminal activity during their initial examination of the seized materials. The question that becomes :if nothing was found during the initial search, How did evidence later appear on these devices.

Furthermore, the inventory failed to document serial numbers of other identifying information for the seized devices, making it impossible to verify that the devices later used as evidence were the same ones seized from petitioner's residence. This fundamental chain of custody failure creates serious questions about the integrity of any evidence later claimed to have been found on these devices. Without proper documentation, There is no way to ensure that evidence was not planted or that devices were not tampered with during the months they were in government custody. The seized devices were held for approximately three months without any charges being filed against petitioner.

During this extended period, Petitioner was not arrested and no arrest warrant was issued, further demonstrating that law enforcement did not have probable cause to believe that petitioner had committed any crime. If there had been sufficient evidence to justify the seizure, charges should have been filed promptly rather than holding the devices for months while searching for evidence.

When the FBI finally contacted petitioner to retrieve his belongings, He was misled about the purpose of the meeting. He was informed upon arrival that he would be going to court in Norfolk rather than simply collecting his property as he had been led to believe. This deception continued the pattern of exploiting petitioner's trust and cooperation to gain investigative advantages.

EXPLOITATION OF LANGUAGE BARRIERS AND DENIAL OF CONSTITUTIONAL RIGHTS.

At no point during the interrogation process was petitioner properly read his miranda rights,despite the custodial nature of the interrogation and his obvious status as a suspect.Although he was made to sign documents,He later learned that the govertment claimed these included a miranda waiver.However, the evidence demonstrates that the document petitioner signed was actually a standard FBI confidential informant contact form(FD-962a),Not a miranda waiver.This misrepresentation constitutes fraud upon the court and demonstrates the govertment's willingness to fabricate evidence to support its prosecuition.Given petitioners limited english proficiency,He did not understand the nature of the documents he was asked to sign and was not provided with adequate translation services as required by federal regulations.The govertments exploitation of petitioner's language barrier to obtain what it later claimed was a valid miranda waiver violates fundamental principles of due process and demonstrate a pattern of taking advantage of valnerable individuals.

THE CHARGES AND INDICTMENT

On July 6,2021,Petitioner was indicted in the eastern district of virginia on four counts related to receipt,Possession, and distribution of child pornography under 18 U.S.C §2252A.The indictment reveals several critical problems that undermine the govertments case and demonstrate the flawed nature of the prosecution.

The primary evidence against petitioner was a video filed entitled "KBIS3146.MOV", which petitioner maintains was a personal family recording of his son Elias circumcision ceremony and subsequent

Healing process a common cultural and religious practice in his community and not contraband material as alleged by the government. This video was recorded in 2016 as part of documenting an important religious milestone in his son's life and was transferred to petitioner's laptop for storage in 2017, long before any investigation began. The indictment notably failed to mention that the video depicted petitioner's own son, a critical fact that fundamentally alters the nature of the alleged offense and would have prevented the charges from being filed if properly disclosed. This omission appears to be deliberate, as the government knew or should have known the true nature of the video but chose to characterize it as contraband to support their prosecution.

The indictment also inappropriately included irrelevant private information unrelated to the charged offenses, such as communication with woman on facebook and private videos with woman other than petitioner's wife. This inclusion of irrelevant personal information appears designed to prejudice potential jurors and create an unfavorable impression of petitioner rather than to prove the elements of the charged offenses.

TIMELINE DISCREPANCIES AND EVIDENCE.

Critical analysis of the government's statement of facts reveals fundamental inconsistencies that demonstrate the fabricated nature of the evidence. The statement of facts asserts that the FBI began investigating petitioner in December 2020 based on cybertips reports received in August 2020, claiming confirmed distribution of child pornography. However this timeline directly contradicts the indictment, which contains no distribution count for August 2020.

The only distribution charge in the indictment (count 3) alleges an act on July 24, 2019—over a full year before the alleged cybertip report were received. This temporal gap is logically impossible; If Facebook submitted cybertips in August 2020 based on contemporaneous monitoring, they could not pertain to an act that allegedly occurred in July 2019. This suggests either a deliberate misrepresentation of the dates and nature of the alleged conduct or a selective use of evidence to support the indictment.

Moreover, the evidence demonstrate that the cybertip was falsified, originating in Bedford county, over 200 miles away from petitioner's residence with no IP/MAC logs, device match, or Facebook records proving transmission to petitioner. This geographic impossibility, combined with the complete absence of supporting technical evidence directly contradicts the government's claims and constitutes material misrepresentation.

THE COERCED GUILTY PLEA.

Under these circumstances of prosecutorial misconduct, fabricated evidence, and constitutional violations, petitioner subsequently entered a guilty plea. However, this plea was the result of prosecutorial coercion and threats, rendering it involuntary and constitutionally defective. The government's conduct throughout the plea negotiations violated fundamental principles of due process and undermines the validity of the conviction.

The prosecutors email communications reveal a pattern of aggressive and threatening behavior designed to coerce plea rather than seek justice. The prosecutor dismissed legitimate defense arguments, used intimidating language and threatened enhanced charges for exercising constitutional rights. Most egregiously, the prosecutor allegedly

Threatened petitioners wife with nonexistent evidence to pressure him into accepting a plea agreement.

This petition seeks relief from the judgement based on the fundamental defects in the proceedings, newly discovered evidence of prosecutorial misconduct, and constitutional violations that demand this court's intervention to ensure that justice is served and the integrity of the judicial process is maintained.

REASONS FOR GRANTING THE PETITION.

A.) FRAUDULENT EVIDENCE AND DUE PROCESS VIOLATIONS.

The government's case against petitioner is fundamentally predicated on fraudulent evidence and deliberate misrepresentations that deprived him of a fair trial, violating his fifth amendment due process rights in the most egregious manner possible. The systematic use of fabricated evidence by law enforcement agencies represents one of the most serious violations of constitutional rights that can occur in the criminal justice system, striking at the very heart of the adversarial process and the search for truth that underlines our judicial system.

The evidence demonstrates that the cybertip report, which formed the foundation of the government's investigation and prosecution, was falsified in multiple respects. The report allegedly originated in Bedford County, Virginia, which is located 200 miles away from petitioner's residence in Newport News. This geographic impossibility alone should have raised immediate red flags about the authenticity and reliability of the report. The National Center for Missing and Exploited Children's standard protocols dictate that cybertip reports are forwarded to law enforcement agencies with jurisdiction over IP address location from which the alleged illegal activity originated.

The referral to bedford county sheriffs office therefore contradicts established protocols and demonstrates that either the IP address imformation was fabricated or the proper handling procedures were deliberately ignored. More critically, The cybertip report lacks any of the technical evidence that would normally accompany a legitimate report of this nature. There are no IP/MAC logs to verify the source of the alleged transmission, No device match to connect the activity to petitioners equipment, and no facebook records proving that any transmissions actually occurred to or from petitioners account. This complete absence of supporting technical evidence is unprecedented in legitimate cybertip reports and strongly suggests that the entire report was fabricated to provide a pretext for the investigation.

The governments statement of facts compounds this fraud by asserting that the FBI began investigating petitioner in December 2020 based on cybertip reports received in August 2020, claiming confirmed distribution of child pornography. However, This assertion direclly contradicts the indictment, Which contains no distribution count for August 2020. The only distribution charge(count 3)alleges an act on July 24, 2019--Over a full year before the alleged cybertip reports were received. This temporal impossibility demonstrate that the government has either fabricated the timeline of events or is selectively using evidence to support charges that cannot be substantiated by actual facts.

The fabrication extends to the alleged confession obtained from petitioner during his interrogation. The evidence demonstrate that HSI agents showed petitioner what they described as "common bomb videos" used to shot down facebook accounts, Not actual child exploitation material, To coerce confession.

These videos are standard tool used by law enforcement to test and disable social media accounts that may be used for illegal purposes, and they are not actual contraband material. The use of such videos to coerce a confession constitutes a fabricated confession obtained through deceptive means that violate fundamental principles of due process. The government's reliance on this coerced and fabricated confession, coupled with the misrepresentation of the nature of the videos shown to petitioner, constitutes fraud upon the court as established in *Hazel-Atlas glass co. v. Hartford Empire Co.*, 322 U.S. 238 (1944). In that landmark case, this court held that fraud upon the court undermines the integrity of the judicial process and requires relief even years after judgement has become final. The fraud in this case is even more egregious because it involves the deliberate fabrication of evidence by government agents acting under color of law. The prosecution's failure to disclose the contradictions in the cyber tip report and evidence pointing to alternate suspects constitutes a Brady violation that "corrupted the truth-seeking process" as described in *UNITED STATES v. BAGLEY*, 473 U.S. 667 (1985). The government has constitutional obligation to disclose all material evidence that is favorable to the defense, including evidence that undermines the prosecution's case or points to alternative suspects. The failure to disclose the fabricated nature of the cybertip and the existence of evidence pointing to other potential sources of the alleged illegal activity violates this fundamental obligation and requires reversal of the conviction.

This court should grant certiorari to address this egregious misconduct and to reaffirm the fundamental principle that convictions cannot be based on fraudulent evidence. The integrity of the criminal justice system depends on the government's adherence to constitutional

Principles and truthful presentation of evidence. When these principles are violated as systematically as they were in this case, judicial intervention is not only appropriate but essential to maintain public confidence in the fairness and reliability of our courts.

B.) PROSECUTORIAL COERCION AND INVOLUNTARY PLEA.

The prosecutors conduct throughout this case represents one of the most egregious examples of prosecutorial misconduct and coercion in recent memory, Violating petitioners due process rights in multiple ways and rendering his guilt plea involuntary and constitutionally defective. The systematic pattern of threats, intimidation, and vindictive behavior demonstrate by the prosecution goes far beyond the bounds of zealous advocacy and crosses the line into conduct that shocks the conscience and undermines the integrity of the judicial process.

The evidence shows that prosecutors threatened petitioner with personal materials unrelated to the charges, implying they would use them at trial to damage his reputation and marriage. These threats were passed through petitioners wife to increase pressure. The prosecutor also warned that if petitioner went to trial, He would seek the harshest sentence and suggested the judge would punish him for "wasting the courts time" such coercion rendered the plea involuntary and violated due process, as established in *Bordenkircher v. Hayes*, 434 U.S. 357(1978).

The prosecutors email communications, Which are documented in the record reveal an aggressive and threatening tone that prioritized winning over justice. The prosecutor dismissed legitimate defense arguments with contempt, Stated that the government was "done with capitulating", and expressed being "more than happy to try this case". This language demonstrates an adversarial attitude that went beyond zealous advocacy

And crossed into vindictive behavior designed to punish petitioner for exercising his constitutional rights.

Most troubling is the prosecutors detailed character assassination of petitioner in the email, Listing numerous negative points about his personal life that were irrelevant to the charges but designed to prejudice the court and the defense counsel against him. The prosecutor described petitioner as someone who "constantly changes his stories" "make all kind of fraudulent accounts","meets females who arent his wife through facebook groups",and engaged in other conduct that, even if true, was completely irrelevant to the charges but calculated to create a negative impression.

This type of character assassination violates the principle established in Berger v. United States, 295 U.S. 78(1935), That prosecutors must act as minister of justice rather than advocates for conviction at any cost. The prosecutors conduct in this case demonstrates a complete abandonment of this principle and a willingness to use any means necessary to secure a conviction, Regardless of the fairness or constitutionality of those means. The threats against family members, especially those involving fabricated evidence, are inherently coercive and render a plea involuntary under Brady v. United States, 397 U.S. 742(1970). The emotional distress and fear created by such threats can overwhelm a defendants ability to make rational decisions about their case. In this case, The threats against petitioners wife were particularly coercive because they involved nonexistent evidence that could not be challenged or disproven, creating a situation where petitioner had no way to protect his family except by accepting the governments plea offer.

The supreme court has consistently held that a guilty plea must be a voluntary and intelligent choice among the alternative courses of

Actions open to the defendants, as established in North Carolina v. Alford, 400 U.S. 25 (1970). For a plea to be voluntary, it must be entered without coercion, and the defendant must understand the nature of the charge and the consequences of the plea. When prosecutors threaten family members with fabricated evidence, they create a coercive atmosphere that makes it impossible for a defendant to make a truly voluntary decision. This court should grant certiorari to address this egregious prosecutorial misconduct and reaffirm the fundamental principles of the due process in plea negotiations. The integrity of the criminal justice system depends on prosecutors acting within constitutional bonds, and the conduct demonstrates in this case represents a serious departure from those standards that requires this court's immediate interventions.

C.) INEFFECTIVE ASSISTANCE OF COUNSEL.

Petitioner was systematically denied his sixth amendment right to effective assistance of counsel, as defense counsel's performance fell far below any objective standard of reasonableness and directly prejudiced the defense in ways that warrant reversal under Strickland v. Washington, 466 U.S. 688 (1984). The deficiencies in counsel's representation were so numerous and fundamental that they resulted in a complete denial of the right to counsel guaranteed by the sixth amendment undermining the adversarial process and the reliability of the conviction.

Under the two-pronged test established in Strickland, a defendant must demonstrate both that counsel's performance was deficient and that the deficient performance prejudiced the defense. Both prongs of this test are clearly and overwhelmingly satisfied in this case, as counsel's failures were systematic, fundamental, and directly affected the outcome of the

Proceedings in ways that no competent attorney would have allowed. Defence counsels most glaring failure was the complete absence of any challenge to the fabricated cybertip evidence that formed the foundation of the governments case. Any reasonable competent attorney would have immediately recognize the significance of a cybertip report originating from bedford county when the defendant recided in Newport News over 200 miles away. this geographic impossibility should have prompted immediate investigation and vigorous challenge to the evidence.

The complete absense of IP/MAC logs,device matchesand facebook records proving transmission to petitioner should have recognized as a fundamental evidentiary deficiency that undermined the entire prosecution. A competent attorney would have retained technical experts to anylize the alleged evidence and would have filed motions to suppress evidence obtained through the fraudulent cybertip report. The failure to conduct even basic investigation into these obvious discrepancies demonstrate performance that falls far below the standard expected of competent counsel. Perhaps the most inexcusable failure eas counsels complete failure to raise a public authority defense,despite overwhelming evi-
dence of petitioners extensive history as a confidencial informant for both the FBI and Newport News police department. This failure is parti-
cularly egregious because the public authority defense directly explains petitioners access to the materials that formed the basis of the charge and provides a complete defense to the allegations. Petitioners confi-
dential informant work involved monitoring and reporting suspicious online activity,which provides a legitimate law enforcement explanation for his access to the materials in question. This work was conducted under the direction and supervision of federal and local law enforcement agencies,And it provides complete jurisdiction for any materials tha
may have been found on petitioners devices. The failure to rise this defense is inexplicable given the extensive documentation of petitioners

CI relationship, Including photographs of FBI agents and police officers at his residence and detailed records of his reports to law enforcement. Federal rule of criminal procedure 12.3 requires notice of a public authority defense, and counsels failure to investigate and assert this defense, Especially given the clear evidence of petitioners CI status, constitutes deficient performance that directly prejudiced the defense. A competent attorney would have asserted the public authority defense as a complete bar to prosecution.

counsel also failed to adequately challenge the systematic prosecutorial misconduct that permeated this case. The prosecutors threatening and coercive behavior, Including threats against petitioners wife and the use of aggressive language designed to intimidate rather than seek justice, should have been met with vigorous challenges and motions for sanctions. Instead, counsel allowed the prosecution to engage in misconduct without meaningful opposition. Counsels most fundamental failure was allowing petitioner to enter a coerced plea under circumstances that rendered it involuntary and constitutionally defective. The evidence demonstrates that the plea was obtained through prosecutorial threats against petitioners wife and other coercive tactics that made it impossible for petitioner to make a voluntary decision about his case.

The cumulative effect of these failures by counsel deprived petitioner of a fair trial and undermines confidence in the outcome of the proceedings. Each of these deficiencies alone would constitute ineffective assistance, But together they demonstrate a complete breakdown in the adversarial system that requires reversal of the conviction.

This court should grant certiorari to address these serious sixth amendment violations and ensure that defendants receive the effective assistance of counsel guaranteed by the constitution. the right to counsel is fundamental to the adversarial system, and the failure

Demonstrates in this case show the need for this courts guidance on the standards expected of defense counsel in complex cases involving government misconduct.

D.) FOURTH AMENDMENT VIOLATIONS AND UNLAWFUL SEARCH AND SEIZURE.

The search warrant executed at petitioners recidence on march 10,2021 Violated virtually every protection afforted by the fourth amendment, Creating a cascade of constitutional violations the require suppression of all evidence obtained as a result of the lawful search and seizure. These violations are so systematic and egregious that they demostrate a complete disregard for constitutional protections and the rule of law. The fourth amendment requires that warrants be supported by probable cause and that they "particularly describ[e] the place to be searched, And the persons or things to be seized". The warrant in this case failed to meet these basic constitutional requirements in multiple respects, And it was obtained through improper means that further undermine its validity. The search warrant fundamentally lacked the particularity required by the fourth amendment, Failing to specifically identify items to be seized in relation to any alleged crime. Instead of decribing specific items related to a particular offence, The warrant contained only general language that would authorize a fishing expedition through petitioners personal belongings. This type of general warrant is exactly what the fourth amendment was designed to prevent, as it gives law enforcemnet essentially unlimited authority to search for anything they might find interesting. The warrant was obtained from the norfolk division of the eastern district of virginia, Despite petitioner residing in Newport News a different division within the same district. The jurisdictional discrepancy raises serious questions about forum shopping and the proper

Authority to issue the warrant. The governments decision to seek the warrant from norfolk rather than the appropriate Newport News division suggests an attempt to find a more favorable magistrate or to avoid scrutiny that might have occurred in the proper jurisdiction.

Most critically, The warrant appears to have lacked specific authorization for the search and seizure of electronic devices. Under federal rule of criminal procedure 41 and this courts precedents, Searches of electronic devices typically require specific authorization due to the heightened privacy interest involved and the vast amount of personal information contained on such devices. The inventory list reveals that FBI agents seized approximetely 38 devices, Including not only petitioners electronic but also devices belonging to his wife and children. This wholesale seizure of family electronics went far beyond any reasonable scope of investigation and violated the fourth amendment particularly requirement. There was no probable cause to believe that petitioners wife and children had committed any crimes, yet their personal devices were seized and searched. Most significantly, The inventory document contains the phrase "NOTHING FOUND" written in large block letters, Indicating that the initial search conducted by the agents did not yield any evidence of contraband. this notation raises serious questions about how evidence was later claimed to have been discovered on the devices. If nothing was found during the initial search, How did evidence later appear?

furthermore, The inventory failed to document serial numbers or other identifying information for the seized devices, making it impossible to verify that the devices later used as evidence were the same ones seized from petitioners recidence. This fundamental chain of custody failure creates serious questions about the integrity of any evidence later claimed to have found on these devices.

These systematic fourth amendment violations require suppression of all evidence obtained as a result of the unlawful search and seizure under the exclusionary rule established in *MAPP v. OHIO*, 367 U.S. 643 (1961). The wholesale seizure of electronic devices without proper authorization violates this courts precedents regarding electronic devices searches, as recognized in *United States v. Ganias*, 755 F.3d 125 (2d cir. 2014). This court should grant certiorari to address these clear fourth amendment violations and provide guidance on the proper procedures for obtaining and executing search warrants for electronic devices. The digital age has created new challenges for fourth amendment jurisprudence, and this case presents important issues that require this courts attention to ensure that constitutional protections keep pace with technological development.

E.) ACTUAL INNOCENCE CLAIM AND MISCHARACTERIZATION OF EVIDENCE.

The primary evidence against petitioner was a video file entitled "KBIS3146.MOV", which represents a fundamental mischaracterization of innocent family content that strikes at the heart of this prosecution and demonstrates the government's willingness to criminalize protected cultural and religious practices. Petitioner maintains, and the evidence supports, that this was a personal family recording of his son Elia's circumcision ceremony and subsequent healing process a sacred cultural and religious practice that is not only legal but constitutionally protected and not contraband materials as alleged by the government. This video was recorded in 2016 as part of documenting an important religious and cultural milestone in his son's life and was transferred to petitioner's laptop for storage in 2017, long before any investigation began. The circumcision ceremony is a sacred religious practice in many cultures and communities around the world, including Jewish, Islamic, and

Other religious traditions. the documentation of such ceremonies for family records is not only entirely normal and legal but is often considered a religious obligation to preserve important family and religious history.

The indictments deliberate omission of the fact that the video depicted petitioners own son represents one of the most egregious prosecutorial misconduct tactics imaginable. This omission fundamentally alters the nature of the alleged offense and would have prevented the charges from being filed if the true nature of the video had been properly disclosed. The government knew or should have known the true nature of the video but chose to characterize it as contraband to support their prosecution, demonstrating a willingness to criminalize protected religious conduct to secure a conviction.

This factual mischaracterization, If proven, constitutes newly discovered evidence of actual innocence that undermines the conviction under the standards established in *McQUIGGIN v. PERKINS*, 569 U.S. 383(2013).

New evidence proving innocence can overcome procedural bars and warrant relief even in cases where other procedural requirements might not be met. The mischaracterization of family religious ceremonies as criminal conduct represents exactly the type of fundamental error that the actual innocence exception is designed to address.

A conviction based on the criminalization of innocent, Culturally significant family videos documenting religious ceremonies constitutes a fundamental miscarriage of justice that strikes at the heart of the criminal justice system. This court has recognized that a credible claim of actual innocence may warrant Habeas relief under *SCHLUP v. DELO*, 513 U.S. 298(1995), And the mischaracterization of family religious ceremonies as criminal conduct represents exactly the type of fundamental error that requires judicial intervention.

The government's reliance on this mischaracterization video, coupled with other evidentiary and procedural flaws detailed throughout this petition undermines the reliability of the conviction and demonstrates that no reasonable juror would convict if they understood the true context of the video as a family religious ceremony. The cultural and religious significance of circumcision ceremonies cannot be overstated in many communities, and the criminalization of the documentation of such ceremonies represents a serious intrusion into religious freedom and cultural practices protected by the first amendment.

This court should grant certiorari to review this compelling actual innocence claims and to ensure that cultural and religious practices are not criminalized through prosecutorial overreach and mischaracterization of evidence. The integrity of the criminal justice system depends on ensuring that prosecutions are based on actual criminal conduct, not on the mischaracterization of protected religious and cultural practices.

F.) FAILURE TO PROVE ESSENTIAL ELEMENTS OF CHARGES.

The government's case against petitioner is fundamentally defective because it relies on barebone allegations without proving essential elements of the distribution and transportation charges, rendering the conviction constitutionally defective under basic due process principles. This failure to prove essential elements violates due process under JACKSON v. VIRGINIA, 443 U.S. 307 (1979), and requires reversal of the conviction. The government distribution charge under count 3 fails to meet the basic evidentiary requirements for a valid conviction because it lacks proof of virtually every essential element of the offense. The government failed to prove what account of software was allegedly used for the distribution, who received the files,

Whether any distribution was intentional versus passive peer-to-peer catching,Or which device allegedly distributed the files.

The distribution between intentional distribution and passive file sharing is crucial in case involving peer-to-peer network,Where files may be automatically shared without the users knowledge or intent,as recognized in UNITED STATES v. SHAFFER,472 F.3d 1219(10th cir.2007).

The governments failure to prove intentional distribution means that the conviction could be based on nothing more than the automatic functioning of life sharing software,Which is insufficient to support a criminal conviction requiring proof of knowing and intentional conduct.Furthermore,The government failed to identify the specific recipients of any alleged distribution,making it impossible to verify that any distribution actually occurred.Without evidence of actual recipients,The distribution charge is based on speculations rather than proof beyond a reasonable doubt.This failure violates the fundamental principle that criminal convictions must be based on proof of actual criminal conduct,Not on theoretical possibilities or automated computer processes.

The governments theory of distribution through facebook messenger is particularly problematic because it is technically impossible given facebook's automated content scanning and enforcement systems.Meta (FACEBOOK) employs sophisticated automated detection systems that immediately flag and report suspect illegal content,Making the alleged distribution through messenger technocally impossible.

Any actual illegal material would have been detected and reported immediately upon upload, and the account would have been automatically disabled.

The transportation charge under Count 4 fails the basic jurisdictional

Requirements for federal prosecution because the government provided no evidence of interstate transmission routes, serve locations, IP logs, dates and times of alleged transfers, or recipients in other states. This failure to prove the interstate commerce element violates the commerce clause requirements established in UNITED STATES v. LEWIS, 544 F.3d 2008(1st cir. 2009), and renders the charge a constructive amendment of the indictment under STIRONE v. UNITED STATES, 361 U.S. 212(1960). Federal jurisdiction over these offenses depends entirely on proof that the materials crossed state lines, but the government provided no evidence to establish this essential element. Without proof of interstate transmission, the federal courts lack jurisdiction over alleged offenses. And conviction must be reserved. The government cannot simply assume interstate transmission based on the use of the internet; It must provide actual evidence that the specific materials in question crossed state lines. This court should grant certiorari to review these evidentiary deficiencies and ensure that convictions are based on proof of all essential elements beyond a reasonable doubt. The integrity of the criminal justice system depends on requiring the government to prove its case with actual evidence rather than speculation and technically impossible theories.

G.) EXPLOITATION OF CONFIDENTIAL INFORMANT RELATIONSHIP:

The government's exploitation of petitioners pre-existing confidential informant relationship to conduct a warrantless custodial interrogation represents one of the most egregious examples of outrageous government conduct in recent memory, violating his fifth amendment due process rights in a manner that shocks the conscience and undermines the integrity of the criminal justice system. This systematic exploitation of trust and cooperation demonstrate a couple disregard

For constitutional protections and the principles that govern law enforcement conduct. Petitioner was deliberately deceived and lured to the FBI building under the false pretext of a "job opportunity" related to his confidential informant work, which was entirely consistent with his previous interactions with law enforcement regarding his intelligence activities. The deceptive tactic was specifically designed to circumvent constitutional protections by exploiting the trust that had been built through years of cooperation with law enforcement agencies. The use of such deception to avoid providing Miranda warnings and to conduct a custodial interrogation without counsel present represents a calculated violation of constitutional rights. The exploitation of the confidential informant relationship is particularly troubling because it demonstrates a complete betrayal of the trust and cooperation that petitioner had maintained with law enforcement for years. Petitioner had risked his life in Iraq to assist United States forces and had continued to assist law enforcement after immigrating to the United States through the special immigrant visa program. The government's decision to exploit this relationship for investigative purposes represents a betrayal of trust that undermines the entire confidential informant system and violates basic principles of fairness and due process.

The use of deception to circumvent constitutional protections constitutes outrageous government conduct under *UNITED STATES v. RUSSELL*, 411 U.S. 423 (1973). When law enforcement agencies exploit existing relationships of trust and cooperation to violate constitutional rights, they cross the line from legitimate law enforcement into misconduct. In this case, it goes far beyond the permissible bounds of law enforcement tactics and enters the realm of conscience-shocking behavior that violates fundamental principles of due process.

The FBI's deliberate misuse of an ongoing informant relationship creates a circuit split that requires this court resolution. Some circuits have recognized that exploiting a confidential informant relationship to gain an unfair advantage in an investigation can constitute outrageous government conduct, while others have been more hesitant to find such violations. This case presents a clear example of such misuse, where the FBI leveraged petitioners trust and cooperation to lure him into an interrogation while simultaneously executing a search warrant at his residence. This court should grant certiorari to clarify the boundaries of permissible government conduct in dealing with confidential informants and to protect against the exploitation of such relationship. The integrity of the confidential informant system depends on maintaining trust in between law enforcement and informants, and the conduct in this case undermines that trust in ways that require judicial correction and clear guidance for future cases.

H.) THREAT OF ENHANCED CHARGES AND CONSTITUTIONAL VIOLATIONS.

The prosecutors threat to seek enhanced charges, including a 15-year mandatory minimum sentence for what is essentially the documentation of a religious ceremony represents the type of grossly disproportionate punishment that the eighth amendment was designed to prevent, as established in SOLEM v. HELM, 463 U.S. 277 (1983). When prosecutors threaten such severe sentences based on innocent conduct that is protected by the constitution, they create a coercive atmosphere that makes it impossible for defendants to make rational decisions about their cases.

The use of enhanced charges based on protected religious conduct also raises serious first amendment concerns, as it essentially criminalizes the documentation of religious ceremonies. The government cannot use the threat of enhanced punishment to discourage the exercise of constitutional rights, whether those rights involve religious exercise or the decision to proceed to trial. The prosecutor's threat to seek production charges based on the circumcision video demonstrate a willingness to criminalize protected religious conduct to gain leverage in plea negotiations.

This court should grant certiorari to address this abuse of prosecutorial power and ensure that prosecutors do not use the threat of constitutional enhancements to secure convictions. The integrity of the plea bargaining system depends on prosecutors acting within constitutional bonds, and the conduct in this case represents a serious departure from those standards that require judicial correction.

I.) EXPLOITATION OF IMMIGRATION PROCESS AND OUTRAGEOUS GOVERNMENT CONDUCT.

The government's exploitation of the immigration process as a pretext for interrogation represents another example of outrageous government conduct that violates due process and demonstrates a pattern of constitutional violations designed to circumvent legal protections.

This exploitation of vulnerable immigrants represents a serious abuse of government power that requires this court's intervention to protect the rights of all individuals, regardless of their immigration status. Homeland security agents used petitioners citizenship application as an unconstitutional trap designed to elicit incriminating statements. This exploitation of the immigration process violates the principles established in *INS v. ST.CYR*, 533 U.S. 289 (2001), which protects the

Integrity of immigration proceedings and prevent their use for improper law enforcement purposes.

The failure to provide adequate translation services during these proceedings violated petitioners due process rights under 8 C.F.R. §1003.25 and demonstrated the governments willingness to exploit language barriers to gain and advantage in the investigation. the coercive nature of petitioners detention, lasting approximately eight hours without counsel, Further compounded these violations and created an atmosphere of intimidation designed to break down his resistance.

This conduct constitutes conscience-shocking behavior that is prohibited under county of SACRAMENTO v. LEWIS, 523 U.S. 833(1998).

When government conduct is so outrageous that it shocks the conscience dismissal of the indictment may be warranted under ROCHIN v. California 392 U.S. 165(1952). The systematic exploitation of petitioners immigration status, Language barriers, and trust in government institutions represents exactly the type of conduct that requires judicial intervention. This court should grant certiorari to address this pattern of misconduct and protect vulnerable individuals from exploitation by law enforcement. The integrity of the immigration system and the protection of those who have served american interests abroad depend on preventing such abuses of government power.

J.) PROSECUTORIAL VINDICTIVENESS AND ABUSE OF POWER.

The prosecutions conduct throughout this case demonstrates a clear pattern of vindictive behavior that violates due process and undermines the integrity of the judicial process. The prosecutors email communications reveal unconstitutional animus and a willingness to abuse prosecutorial power to punish petitioner for exercising his constitutional rights, Including the right to challenge the governments evidence and

The right to proceed to trial. The prosecutors threatening language, stating that the government is "more than happy to try this case" and listing numerous negative points about petitioner that are irrelevant to the charges, Constitutes prosecutorial vindictiveness that violates due process under BLACKLEDGE v. PERRY, 417 U.S. 21(1971). Such conduct, aimed at punishing a defendant for asserting constitutional rights, Undermines the integrity of the judicial process and requires judicial intervention.

This court should grant certiorari to address this prosecutorial misconduct and ensure that defendants are not penalized for exercising their constitutional rights. The right to trial and the right to challenge evidence are fundamental to the adversarial system, and prosecutors cannot be permitted to retaliate against defendants who choose to exercise these rights.

K.) RELIGIOUS DISCRIMINATION AND FIRST AMENDMENT VIOLATIONS.

Petitioner's announcement of his intention to convert to judaism shortly before his arrest raises serious concerns about potential religious discrimination infuencing the decision to target and prosecute him. The timing of the investigation and prosecution, coming so soon after petitioners announced intentions to convert, Suggests that religious buas may have played a role in the governments decition to pursue charges against someone who had previously been a trusted confidential informant.

Religious discrimination in the criminal justice system violates the first amendments protection of religious exercise and the equal protection of religious exercise and the equal protection clause of the fourteenth amendment. If the government targeted petitioner because

Of his religious beliefs of intended conversion, such discrimination would constitute a grave violation of his constitutional rights that warrants review by this court.

This court should grant certiorari to review these allegations of religious discrimination and ensure that the criminal justice system is not used as a tool for religious persecution. The first amendment's protection of religious exercise is fundamental to American democracy, and any evidence of religious discrimination in criminal prosecutions requires immediate judicial attention.

L.) CUMULATIVE EFFECT OF ERRORS AND FUNDAMENTAL MISCARRIAGE OF JUSTICE.

The cumulative effect of the multiple errors and constitutional violations throughout this case, even if some might be deemed harmless individually, cumulatively violate due process under *KYLES v. WHITLEY*, 514 U.S. 419 (1995), and demonstrate a fundamental miscarriage of justice that demands this court's intervention. The sheer volume and systematic nature of the constitutional violations in this case demonstrate a complete breakdown in the protection that are supposed to safeguard defendants in criminal proceedings.

The systematic violations include fraudulent evidence, Prosecutorial misconduct and coercion, Ineffective assistance of counsel, Fourth amendment violations, Exploitation of confidential information relationship, Abuse of the immigration process, religious discrimination, and the mischaracterization of protected religious conduct as criminal activity. While individual errors might be deemed harmless in isolation, Their combined effect deprives a defendant of a

Fair trial under TAYLOR v. KENTUCKY, 436 U.S. 478(1978).

This case represents exactly the type of systematic misconduct and constitutional violations that require this courts intervention to ensure that the criminal justice system operates within constitutional bounds and that defendants receive the fair trial guaranteed by the constitution. The pattern of violations in this case is so extensive and systematic that it demonstrate a complete disregard for constitutional protections that cannot be tolerated in a system based on the rule of law.

M.)CIRCUIT SPLIT ON CONFIDENTIAL INFORMANT EXPLOITATION.

The FBIS deliberate misuse of petitioners on going confidential informant relationship to circumvent constitutional protections creates a circuit split that requires this court reasolution. Different circuits have taken varying approaches to the question of when the exploitation of a confidential informant relationship crosses the line into outrageous government conduct that violates due process.

Some circuits have recognized the exploitation a confidential informant relationship to gain a unfair advantage in an investigation can constitute outrageous government conduct requiring dismissal of charges, While others have been more reluctant to find such violations. This case presents a clear example of such exploitation that requires this courts guidance to establish uniform standards for law enforcement conduct.

N.)NEWLY DISCOVERED EVIDENCE.

The evidence of prosecutorial misconduct, Fabricated Cybertip report and the mischaracterization of family religious videos as contraband constitutes newly discovered evidence that could not have been obtained earlier through due diligence and that would likely result in an acquittal if presented to a jury. this evidence is material to the case and demonstrates that the conviction was obtained through fraud and misconduct that requires relief.

The Newly discovered evidence includes documentation of the falsified cybertip report, evidence of the fabricated confession obtained through deceptive means, (proof of prosecutorial threats against petitioner, conveyed through his wife. and evidence that primary video evidence is actually a protected family religious ceremony rather than contraband material. This evidence was not available during the original proceedings and could not have been discovered through reasonable diligence.

-This court should grant certiorari to allow for a full review of this new evidence and its impact on the fairness and reliability of petitioners conviction. The integrity of the criminal justice system depends on ensuring that convictions are not based on fabricated evidence and prosecutorial misconduct, and the newly discovered evidence in this case demonstrate exactly the type of fundamental unfairness that requires judicial intervention.

CONCLUSION.

For the foregoing reasons, Petitioner respectfully requests that a Writ of certiorari issue to review the judgement of the united states court of appeals for the fourth circuit. The numerous constitutional violations systematic prosecutorial misconduct, and fundamental errors in this case warrant this courts immediate attention to ensure that justice is served and the integrity of the judicial process is maintained.

This case presents important questions of constitutional law that have broad implications for the criminal justice system, Including the use of fraudulent evidence by law enforcement, Prosecutorial misconduct and coercion in plea negotiations, the exploitation of confidential informant relationship to circumvent constitutional protections, fourth amendment protections for electronic devices, and the protection of religious and cultural practices from prosecutorial overreach.

The systematic violations of constitutional rights demonstrates in this case require this courts guidance to ensure that such misconduct does not occur in future cases and that the constitutional protections guaranteed to all defendants are respected and enforced. the integrity of the criminal justice system depends on adherence to constitutional principles and the violations in this case demonstrate the urgent need for this courts intervention.

The case also presents compelling claims of actual innocence based on the mischaracterization of protected family religious ceremonies, as criminal conduct newly discovered evidence of prosecutorial misconduct and fabricated evidence, and the systematic exploitation of a vulnerable immigrant who has served american interest abroad.

These claims warrant this courts review to ensure that the criminal justice system operates fairly and within the constitutional bonds.

RESPECTFULLY SUBMITED THIS DAY: 8/4/2025

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