No. 26-5439

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IN THE

SUPREME COURT OF THE UNITED STATES

PROVIDED TO
SANTA ROSA CI ON
JAN 2 7 2026
FOR MAILING BY

CHRISTOPHER TAKHVAR – PETITIONER

vs.

SECRETARY DEPARTMENT OF CORRECTIONS,
FLORIDA ATTORNEY GENERAL – RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

CHRISTOPHER TAKHVAR
SANTA ROSA C.I. ANNEX
5850 EAST MILTON ROAD
MILTON, FL. 32583

QUESTIONS PRESENTED

1) In a Habeas case are motions filed pursuant to Fed. R. Civ. P. Rule 60(d)(3) and Rule 60(B)(6) subject to time limitation or provision of Rule 60(c)(1), and would the denial of a Rule 60(d)(3) or Rule 60(b)(6) motion asserting a time limitation violate the decision of Herring v. United States and conflict with the 3rd Circuit Court's decision regarding time limitations for Rule 60(b)(6) and Rule 60(d)(3)?

2) Does the State violate the 5th and 14th Amendment Substantive Due Process clause, when it utilizes contested video evidence of prejudicial statements in custodial interrogation and publishes and monetizes a false narrative, edited version, while a citizen's right to Habeas Corpus Art. 1, Sect. 9 of the United States Constitution is pending federal review;

   and

   Would the denial of such a claim without the U.S. District Court addressing the merits or ordering the State to respond to the allegations violate the impartial, and compulsory process clause of the 6th Amendment, and the equal protection of the law and Due Process of the 5th and 14th Amendments of the United States Constitution?

LIST OF PARTIES

[X] All parties appear in the caption of the case on the cover page.

RELATED CASES

Christopher Takhvar v. Secretary Department of Corrections, et. al.	
U.S. Court of Appeals, Eleventh Circuit	25-10009-J
Judgment entered on	June 26, 2025
Christopher Takhvar v. Secretary Department of Corrections, et. al.	
U.S. District Court Middle District of Florida	5:21-cv-207
Judgment entered on	March 1, 2023
Christopher Takhvar v. Secretary Department of Corrections, et. al.	
Supreme Court of the United States	23-7470
Judgment entered on	October 7, 2024
Christopher Takhvar v. Secretary Department of Corrections, et. al.	
U.S. Court of Appeals, Eleventh Circuit	23-10990-B
Judgment entered on	February 13, 2024
Christopher Takhvar v. State of Florida	
Fifth Circuit Court Marion County Florida	2018-CF-003532
Judgment entered on	May 23, 2019
Christopher Takhvar v. State of Florida	
Fifth District Court of Appeal	5D19-1250
Judgment entered on	August 11, 2020
Christopher Takhvar v. State of Florida	
Fifth District Court of Appeal	5D20-2306
Judgment entered on	February 15, 2021
Christopher Takhvar v. State of Florida	
Florida Supreme Court	SC21-520
Judgment entered on	April 8, 2021
Christopher Takhvar v. State of Florida	
Supreme Court of the United States	20-8187
Judgment entered on	October 4, 2021

Christopher Takhvar v. State of Florida Fifth District Court of Appeal Judgment entered on	 5D19-1221 May 14, 2019
Christopher Takhvar v. State of Florida Florida Supreme Court Judgment entered on	 SC19-981 June 14, 2019
Christopher Takhvar v. State of Florida Fifth District Court of Appeal Judgment entered on	 5D21-34 March 23, 2021
Christopher Takhvar v. State of Florida Florida Supreme Court Judgment entered on	 21-729 May 18, 2021
Christopher Takhvar v. State of Florida Fifth District Court of Appeal Judgment entered on	 5D21-1244 October 5, 2021
Christopher Takhvar v. State of Florida Florida Supreme Court Judgment entered on	 SC21-1463 October 25, 2021
Christopher Takhvar v. State of Florida Fifth District Court of Appeal Judgment entered on	 5D22-2898 April 4, 2023
Christopher Takhvar v. State of Florida Florida Supreme Court Judgment entered on	 SC2023-0865 June 13, 2023
Christopher Takhvar v. State of Florida Fifth District Court of Appeal Judgment entered on	 5D22-923 August 16, 2022
Christopher Takhvar v. State of Florida Florida Supreme Court Judgment entered on	 SC25-737 July 9, 2025

RELATED CIVIL CASES

In Re: Christopher L. Takhvar	
Supreme Court of the United States	No: 23-7718
Judgment entered on	October 7, 2024

Christopher Takhvar v. Warner Bros. Discovery Inc. et. al.	
United States Supreme Court	23-6071
Petition for Certiorari Denied	January 22, 2024
Petition for Rehearing Denied	March 18, 2024

Christopher Takhvar v. Warner Bros. Discovery Inc. et. al.	
U.S. Court of Appeals Eleventh Circuit	23-12809
Petition for Certiorari Denied	September 28, 2023

Christopher Takhvar v. Warner Bros. Discovery Inc. et. al.	
U.S. District Court Middle District of Florida	5:22-cv-576
Judgment entered on	August 17, 2023

TABLE OF AUTHORITIES CITIED

CASES **Page Number**

STATUTES AND RULES

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below:

OPINIONS BELOW

☒ For cases from **federal courts:**

The opinion of the United States Court of Appeals appears in Appendix **A** to the petition and is unreported

The opinion of the United States District Court appears in Appendix **C** to the petition and is reported at 2024 U.S. Dist. LEXIS 226958

JURISDICTION

☒ For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was

June 26, 2025

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: **August 13, 2025**, and a copy of the order denying rehearing appears in Appendix **B**.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1st Amendment of the United States Constitution – "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

5th Amendment of the United States Constitution – "...nor be deprived of life, liberty, or property, without due process of law;..."

14th Amendment of the United States Constitution – "...nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

28 U.S.C. § 2254 – Writ of Habeas Corpus

28 U.S.C. § 2253(c)(2) – Certificate of Appealability

Fed. R. Civ. P. Rule 60(c)(1) – Timing and Effect of the Motion

Fed. R. Civ. P. Rule 60(d)(3) – Other Powers to Grant Relief

Fed. R. Civ. P. Rule 60(b)(6) – Grounds for Relief from a Final Judgment, Order, or Proceeding.

STATEMENT OF THE CASE

On August 15, 2018, the Petitioner was arrested by U.S. Marshalls in Jefferson Texas, for a Grand Theft Warrant issued by Marion County, Florida.

On August 21, 2018, the Petitioner was interrogated in a videotaped session by Aaron Levy in Marshall Texas.

The videotaped interrogation is the crux of issue presented under Fed. R. Civ. P. Rule 60(b)(6), as well as the crux of Claim 9 in the Petition for Writ of Habeas Corpus (Doc 1).

On September 4, 2018, the Petitioner was interrogated a second time in Marion County, Florida.

The Petitioner was charged with Grand Theft Auto and Second Degree Murder. The Petitioner proceeded to and lost at trial in April of 2019, this was after a Motion to Suppress Evidence was denied. The Motion to Suppress Evidence had grounds that the Petitioner's 6th Amendment right to counsel and 5th Amendment right against being a witness against oneself was denied in Custodial Interrogation, where in the Petitioner made several requests for counsel, (the first custodial interrogation) and an additional request for counsel was made before the start of the second custodial interrogation. (This request is evident in the transcripts of the Motion to Suppress Evidence Hearing held on April 9, 2019, and denied on April 12, 2019. After several postconviction motions and petitions[1] were denied, to include Direct Appeal. The Petitioner timely filed a Federal Habeas Corpus U.S.C.S. 28

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[1] A Petition for Ineffective Assistance of Appellate Counsel was responded to by Kellie Nielan and Kellie Nielan represented the State in all postconviction motions filed by the Petitioner.

§ 2254 Petition, filed on April 7, 2021. After some rhetoric and issues resolved to include transfer of the Habeas case from the Northern District of Florida to the Middle District of Florida, the State was Ordered to Respond to the petition on May 18, 2021.

On May 20, 2021 Kellie Nielan filed an appearance in the Habeas case representing the Respondents.

On August 16, 2021, the Response to the Order to Show Cause was filed by Kellie Nielan.

The response to the Order to Show Cause by the Respondents gives rise to the crux of the "fraud on the court" issue presented in the instant petition.

Page 1 of the Response involves a false statement regarding "prior judicial involvement" by the U.S. Magistrate Judge Phillip R. Lammens, in the Petitioner's State Court Proceedings.

In July of 2021, the Petitioner received legal mail from the FBI Records Division, regarding a records request for a Federal Warrant that was discussed in the Criminal Trial and withheld by the State in Discovery.

The Federal Warrant was signed and authorized by U.S. Magistrate Phillip R. Lammens. Phillip R. Lammens is the U.S. Magistrate who also issued the Order to Show Cause to the Respondents in 28 U.S.C. § 2254 petition.

On March 14, 2022, the Petitioner filed a Motion to Supplement the Record, entering two affidavits regarding the contested trial evidence, the false narrative broadcast.

On May 2, 2022, the Petitioner filed a "Motion to Strike" the Respondents Response due to a direct false statement to the U.S. District Court regarding prior Judicial Involvement, by an officer of the Federal Court.[2]

On July 25, 2022, the petitioner filed a Fourth Judicial Notice regarding unreliable witness testimony concerning fingerprint evidence in the criminal trial.

On August 3, 2022, the Petitioner filed a Motion to Recuse the Magistrate Judge, as the Magistrate Judge (Phillip R. Lammens) was the judge that also authorized the Federal Search Warrant that was withheld from the Petitioner by the State.

On October 31, 2022, the Magistrate denied the "Motion to Recuse the Magistrate Judge."

The search warrant the U.S. magistrate signed was discussed in trial as stated in the "Request for Certificate of Appealability."

Wherein the warrant was the subject of testimony which government witness's testimony touched the subject matter of at trial. Jencks v. United States, 353 U.S. 657, 77 S. Ct. 1007, 1 L. Ed. 2d 1103 (1957).

The search warrant is also the subject of Claim Eleven in the U.S.C.S. 28 § 2254 Petition – Brady Violation.

The Petitioner raised the subject in a Fla. R. Crim. P. Rule 3.850(b)(1) Newly Discovered Evidence Claim. (The claim was summarily denied).

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[2] A Petition for Ineffective Assistance of Appellate Counsel was responded to by Kellie Nielan and Kellie Nielan represented the State in all postconviction motions filed by the Petitioner.

(Doc. 21) On July 22, 2022, the Respondents [State] filed a Motion to Substitute Attorney.

(Doc. 27) On October 31, 2022, the U.S. District Court denied the Motion for Recusal; denied by U.S. Magistrate Judge Phillip R. Lammens (Exhibit I).

(Doc. 28) On November 17, 2022, the Petitioner filed a Motion for Reconsideration of the Denial of the Motion for Recusal of U.S. Magistrate Judge Phillip R. Lammens.

(Doc. 29) On March 1, 2023, the U.S. District Court denied all (13) Claims in the Habeas Petition to include the three additional grounds raised in a Motion to Supplement the Petition. The U.S. District Court also denied the Motion to Strike and the Motion for Reconsideration, and dismissed the case with prejudice (Exhibit J).

On March 24, 2023, the Petitioner filed a Notice of Appeal regarding the denial of all 13 claims in the Habeas Petition, Motion to Strike, and Motion for Reconsideration.

The Petitioner filed a Request for Certificate of Appealability in the U.S. District Court of Appeals, which was denied on February 22, 2024.

The denial of a Request for Certificate of Appealability fails to address the "Motion to Strike", which was a separate appealable issue and was Noticed in the "Notice of Appeal" and briefed in the "Request for Certificate of Appealability."

The U.S. Supreme Court denied a Petition for Writ of Certiorari, regarding the denial of the 28 U.S.C. § 2254 Petition.

Additionally the following facts give rise to the second issue.

On June 23, 2021, the State Agent Aaron Levy and defacto State actors unlawfully utilized contested trial court evidence custodial interrogation video and altered/edited video to create a false light, false narrative video version of the contested trial court evidence. Wherein the video of the custodial interrogation was the crux of Claim 9 in the Habeas Corpus Petition pending review in federal proceedings.

The release of the false light video was after the State Respondents were ordered to respond to the petition, which was ordered on May 18, 2023. (Doc. 10).

On January 10, 2022, the Petitioner filed a Third Judicial Notice (Doc. 17) regarding the interference with the Federal Habeas Corpus proceedings.

On March 14, 2022, the Petitioner filed a Motion to Supplement the Record, providing two affidavits regarding witness statements about viewing the false light false narrative video.

The Petitioner filed a Fed. R. Civ. P. Rule 60(d)(3) and Rule 60(b)(6) in the U.S. District Court attacking the integrity of the Habeas Corpus proceeding.

On December 16, 2024, the U.S. District Court Senior Judge, Roy B. Dalton Jr., denied the Petitioner's Motion for Relief from Judgment and Order (unopposed).

The Petitioner filed a timely Notice of Appeal and subsequent Request for Certificate of Appealability in the U.S. court of Appeals.

On June 26, 2025, the U.S. Court of Appeals denied the Request for Certificate of Appealability and asserts that the Petitioner is out of time to file a Fed. R. Civ. P. Rule 60(d)(3) and Rule 60(b)(6) pursuant to Fed. R. Civ. P. Rule 60(c)(1) and asserts that the requisite standard for the Rule 60(d)(3) motion would appear to be the same for Rule 60(b)(3) motions, also asserting a failure to reach the requisite threshold of "fraud" on an unopposed motion.

The Petitioner filed a Motion for Rehearing *En Banc* and after noticing that the Petitioner had forgotten to include the required "CIP" per Local Rule 26.1-1[3], the Petitioner filed a timely Amended Motion for Rehearing *En Banc.* The U.S. Court of Appeals denied the Rehearing on August 13, 2025 by Luck and Abudo.

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[3] It should be noted that the State of Florida has failed to comply with Local Rule 26.1-1 and has failed to notify the Court or the Petitioner of an amended "Certificate of Interested Persons." When Ashley Moody was replaced with James Uthmeier as Attorney General on February 17, 2025.

Resulting in interference in the Habeas proceeding and shocks the conscience of the Habeas Court. Establishing a substantive Due Process violation and a denial of constitutional right to Writ of Habeas Corpus Art 1, Sect. 9 U.S. Constitution.

Pursuant to Fed. R. Civ. P. Rule 60(b) a court may relieve a party from final judgment for several reasons; including fraud, a void judgment, or any other reasons that merit relief (Fed. R. Civ. P. Rule 60(b)(3), and (6)). Fed. R. Civ. P. Rule 60(d)(3) provides that this Rule does not limit a court's power to set aside a judgment for fraud on the court. Fed. R. Civ. P. Rule 60(b)(6) motions must demonstrate that circumstances are sufficiently extraordinary to warrant relief. Moreover in order to prevail, a Petitioner must do more than show that a granting of his/her motion might have been warranted. He/she must demonstrate a justification for relief so compelling that the District Court was required to grant relief. A motion for reconsideration cannot be used to re-litigate old matters, raise argument or present evidence that could have been raised prior to entry of judgment.

Fed. R. Civ. P. Rule 60(d)(3) allows the court to set aside judgment for fraud on the court. A request for Rule Fed. R. Civ. P. Rule 60(d)(3) relief is not subject to any time limitations generally speaking, only the most egregious misconduct such as bribery of a judge or members of a jury, or the fabrication of evidence by a party in which an attorney is implicated, will constitute "fraud on the court." It is necessary to show an unconsciousable plan or scheme, which is designed to improperly influence the court in its decision.

STANDARD OF REVIEW
FEDERAL RULES CIVIL PROCEDURE RULE 60(d)(3)

> We review the denial of a motion under Fed. R. Civ. P. Rule 60(b)(6) and 60(d)(3) for abuse of discretion. See Aldana v. Del Monte Fresh Produce N.A., Inc., 741 F.3d 1349, 1355 (11th Cir. 2014); and Booker v. Dugger, 825 F.2d 281, 285 (11th Cir. 1987). A litigant may bring an independent action for relief under Fed. R. Civ. P. Rule 60, formerly the "savings clause" of Fed. R. Civ. P. Rule 60(b), which allows a District Court to set aside a judgment for "fraud on the court" (Fed. R. Civ. P. Rule 60(d)(3)). To obtain this relief, the movant must establish fraud on the court by clear and convincing evidence of egregious misconduct. The movant must also establish that the adverse party obtained the verdict through fraud and employed an unconsciousable plan or scheme to improperly influence the decision of the court.

A prisoner may seek to "set aside a judgment for fraud on the court" (Fed. R. Civ. P. Rule 60(d)(3)). The Fed. R. Civ. P. Rule 60(d) motion must attack... some defect on the integrity of the federal Habeas proceeding." (Gonzalez v. Crosby, 545 U.S. 524, 532, 125 S. Ct. 2641, 162 L. Ed. 2d 480 (2005)).

In order to show fraud on the court, the movant must show "An unconsciousable plan or scheme which was designed to improperly influence the court in its decision." Rozier v. Ford Motor Co., 573 F.2d 1332, 1338 (5th Cir. 1978).

A different standard applies to the district court's underlying findings of fact including those related to equitable tolling. We review those findings for clear error. See Wilson v. Thompson, 638 F.2d 801, 803-04 (5th Cir. 1981); and Dodd v. United States, 365 F.3d 1273, 1277 (11th Cir. 2004). The U.S. District Court has applied the law in a unreasonable and incorrect manner, and made findings of facts that are clearly erroneous[4], constituting an abuse of discretion in its Order denying the Petitioner's Fed. R. Civ. P. Rule 60 Motion.

In the instant case the Fed. R. Civ. P. Rule 60 attacks the integrity of the Habeas Corpus proceedings and a single final appeal[5] was executed and documented in the record regarding the : Denial of Habeas Corpus (Doc. 29) and Motion to Strike (Doc. 20).

The Petitioner avers that the U.S. District Court erred in its discretion when it misconstrues the facts presented in the Petitioner's Rule 60 Motion, in Order to perpetrate a false label of Rule 59 Reconsideration. Wherein a Rule 59(e) must be filed no later than 28 days after entry of the judgment. The U.S. District Court utilizes the Rule 59 Reconsideration label to preclude the Petitioner's Fed. R. Civ. P. Rule 60 from proper review.

The Petitioner avers that the Judgment of the Habeas Corpus Petition was final for purposes of Fed. R. Civ. P. Rule 60(b)(6) and 60(d)(3). See Banister v. Davis, 590 U.S. 504, 140 S. Ct. 1698, 207 L. Ed. 2d 58.

Motions alleging "fraud on the court" under Fed. R. Civ. P. Rule 60(d)(1) and 60(d)(3) are not subject to the general one-year time limitation prescribed in Rule 60(c). See Herring v. United States, 424 F.3d 384-389 (3d Cir. 2005). While the U.S. District Courts Order (Doc. 38) identifies the "False Statement" by Attorney Kellie Nielan (Doc. 38 p. 3) "he previously moved to strike the Respondent's response for

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[4] Aycock v. R.J. Reynolds Tobacco Co., 769 F.3d 1063, 1068 (11th Cir. 2014).
[5] Notice of Appeal (Doc. 31).

containing the alleged false statement that no United States Magistrate Judge was involved in any of his state court proceedings."

The U.S. District Court asserts that relief is not warranted under Rule 60(b)(3) (Doc. 38 p. 3).

The Petitioner avers that the U.S. District Court fails in its analysis of the current claims in the Rule 60 motion and the findings of fact are erroneous and resulted in an abuse of discretion.

The U.S. District Court was required to apply the requisite standard in United States v. Throckmorton, 98 U.S. 61, 25 L. Ed. 93 (1878); and Hazel-Atlas Glass Co. v. Hartford Empire Co., 322 U.S. 238, 88 L. Ed. 1250 (1944) for claims of "Fraud on the Court" pursuant to Fed. R. Civ. P. Rule 60(d)(3).

Failure to apply the aforementioned case precedent[6] has resulted in application of law in an unreasonable and incorrect manner, and an abuse of discretion.

"Fraud on the Court" should embrace only that species of fraud which does or attempts to defile the court itself, or is a fraud perpetrated by "officers of the court" so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication. See Great Coastal Express, Inc. v. Int'l Bhd. of Teamsters, 675 F.2d 1349, (4th Cir. 1982).

[6] To determine whether Petitioner, established the facts and evidence necessary for "Fraud on the Court."

Fraud Inter-Parties, without more, should not be "fraud on the court," but redress should be left to a motion Fed. R. Civ. P. Rule 60(b)(3) or to an independent action in equity.

In the following U.S. Supreme Court case precedent regarding "Fraud on the Court" Justice Miller states: "Where the unsuccessful party has been prevented from exhibiting fully his case, by fraud or deception practiced on him by his opponents, as by keeping him away from the court, a false promise of a compromise, or where the Defendant never had knowledge of the suit, being kept in ignorance by the acts of the Plaintiff." United States v. Throckmorton, 98 U.S. 61, 25 L. Ed. 93 (1878). "Or that from any corrupt motive he had betrayed the interest of the government. The case would have come within the rule which authorizes relief."

The Petitioner avers that the instant case demonstrates issues similar to Hazel-Atlas Glass Co. v. Hartford Empire Co., 322 U.S. 238, 88 L. Ed. 1250 (1944). In Hazel-Atlas there was proof of a scheme, and of its complete success up to date was conclusive.

The deliberately planned and carefully executed scheme to defraud not only the patent, but the U.S. Court of Appeals itself.

Hartford's, fraud hidden for years, but now admitted, had its genesis in the plan to publish an article for the deliberate purpose of deceiving the patent office. The plan was executed and the article was put to fraudulent use in the patent office. Contrary to law.

Had the District Court learned of the fraud on the patent office at the original infringement trial, it would have been warranted in dismissing Hartford's case.

Since the judgments of 1932 therefore must be vacated the case now stands in the same position, as though Hartford's corruption had been exposed at the original trial.

As stated in the Motion for Relief from Judgment or Order (Doc. 37 p.7) "By exercising due diligence, the petitioner also filed several motions to, and which respectfully put the Middle District Court on the defensive... The petitioner filed the following after the "fraud on the court": Motion to Strike (Doc. 20), Motion to Recuse the Magistrate Judge (Doc. 24), Motion to supplement the Petition (Doc. 18), and Motion for Reconsideration (Doc. 28).

Ultimately the vexation of multiple additional filings could have been avoided... if the State had made a truthful response in the prior judicial section in its response to the 28 U.S.C.S. 2254 Petition and this Court's Order to Show Cause, but doing so would have led to inadvertent discovery of evidence (warrant) that the "Fraud on the Court" was attempting to continue to conceal.

The U.S. District Court (Middle District) is thrust into the middle of the scheme. Wherein the Petitioner requested a copy of the alleged warrant (Doc. 37 ex. H) and the U.S. District Court responded with a convoluted and arduous response (doc. 37 ex. I).

The request was dated September 2, 2020. This was before the filing of the Federal Habeas Corpus Petition (Doc. 1).

On April 7, 2021, the Petitioner originally filed his 28 U.S.C. § 2254 Petition for Habeas Corpus in the Northern District of Florida.

On April 9, 2021, the Northern District Court transferred the case to the Middle District of Florida.

Had the Petitioner been aware of the Prior Judicial Involvement regarding the Authorization of the Federal Warrant by Phillip R. Lammens. The Petitioner would have objected to the transfer of the case to the Middle District of Florida.

The U.S. District Court is required to follow the intrinsic/extrinsic fraud distinction in United States v. Throckmorton, 98 U.S. 61, 25 L. Ed. 93 (1878). UNDER this Doctrine "fraud" must be extrinsic to justify relief. That is fraud that actually prevented an issue from being joined or a party from making a valid claim or defense.

Thus "Fraud on the Court" is typically confined to the most egregious cases, such as bribery of a judge, or juror, or improper influence exerted on a court by an attorney in which the integrity of the court and its ability to function impartially is directly impinged. See Addington v. Farmers Elevator Mutual Insurance Co., 650 F.2d 663, 668 (5th Cir.) cert denied, 454 U.S. 1098, 102 S. Ct. 672, 70 L. Ed. 2d 640, (1981); and Lockwood v. Bowler, 46 F.R.D. 625, 630 (D.O.C. 1969).

In the instant case, the Petitioner's Rule 60 motion the Petitioner has averred and evidenced substantial facts supported by the record, and by exhibits attached to the Rule 60 motion (Doc. 37) that alleged Attorney involvement in the "Fraud on the Court," and also that the "Attorney" involved was an "officer of the federal court." Asst. Attorney General Kellie Nielan made an appearance to represent the Secretary Department of Correction, state of Florida, (Doc. 11) in the Federal Habeas Corpus case no. 5:21-cv-207-RBD-PAL.

Although Hazel-Atlas presents facts more akin to the elements of common law fraud, i.e. misrepresentation and reliance, than we had before us, it involves an additional element that is alleged here: the involvement of parties Attorneys. Indeed Hazel-Atlas might be read to suggest that once the determination is made that officers of the court have corruptly abused the judicial process. The court is not required to examine the effect of such conduct might have on the ultimate judgment, but rather the court may rely on such conduct alone to set aside the judgment.

The Petitioner has filed a Fed. R. Civ. P. Rule 60(d)(3) and 60(b)(6) to attack the integrity of the Federal Habeas Corpus proceedings.

The Record (Doc. 37) establishes that the Petitioner has articulated the requisite essential elements of the special species of "fraud" required to rise to the level of "Fraud on the Court."

Motion for Relief from Judgment or Order (Doc. 37 p.5) "Fraud on the Court" pursuant to Fed. R. Civ. P. Rule 60(d)(3).

The Asst Attorney General State of the State of Florida, Kellie Nielan has made a false statement to the U.S. District Court regarding Prior Judicial Involvement, resulting in "Fraud on the Court".

Kellie Nielan states: "Based upon the records, no United States District Court Judge or Magistrate Judge currently assigned to this case was involved in any of the petitioner's state court proceedings."

The false statement by Attorney Kellie Nielan in the response to this Court's Order to Show Cause to the Petition of Habeas Corpus was an overt act to continue with an unconsciousable plan or scheme to conceal the withholding of the Federal Warrant by the State before and during trial.

The integrity of the Federal Habeas Corpus proceedings is compromised by multiple factors due to the "Fraud on the Court."

Kellie Nielan was the Asst. Attorney General who represented the State of Florida in all of the Petitioner's state court postconviction proceedings.

The U.S. District Court has utilized various excerpts from the respondent's responses in the Petitioner's state court postconviction appellate proceedings in its Order issued March 1, 2023. Wherein the veracity of the statements relied on by the Court in prior postconviction filings by the State Asst. Attorney General Kellie Nielan cannot be relied on the basis of a Nexus exists with the excerpts and the "fraud on the Court." Thus establishing undue influence by the "Fraud on the Court." (Doc. 37 p.6).

The false statement by the Asst Attorney General Kellie Nielan was part of an unconsciousable plan or scheme which was designed to improperly influence the court's decision. See Rozier v. Ford Motor Co., 573 F.2d 1332, 1338 (5th Cir. 1978).

A prisoner may move to set aside a judgment for fraud on the court pursuant to Fed. R. Civ. P. Rule 60(d)(3). The Rule 60(d)(3) motion must attack... some defect in the integrity of the federal habeas proceedings." Gonzalez v. Crosby, 545 U.S. 524, 532, 125 S. Ct. 2641, 162 L. Ed. 2d 480 (2005).

The false statement regarding Prior Judicial Involvement by Kellie Nielan was a fabrication of evidence of Prior Judicial Involvement. (Fabrication: "To make up with an intent to deceive.").

The record indicates Kellie Nielan had prior knowledge of the Prior Judicial Involvement, due to the Federal Warrant that was withheld by the State. The Asst. Attorney General continued with a plan to deceive the court and the Petitioner regarding "Prior Judicial Involvement."

Kellie Nielan makes the following statement of fact in her response to the Petitioner's State Habeas Corpus IAAC pursuant to Fla. R. App. P. Rule 9.141(d) (Petition p.7).

> "A receipt from the U.S.P.S. dated June 6, 2018 for several packages being mailed from Belleview was recovered from a bag located in the front passengers seat of the van (T. 330-332). A search warrant was executed on the packages, which were all the same weight (T. 391-392). Only one box was opened (T. 392). It contained a case of rolling papers (T. 392).

The Federal Warrant was signed and authorized by the U.S. Magistrate Judge Phillip R. Lammens, case no.: 5:18-mj-1098-PRL. The U.S. magistrate Judge Phillip R. Lammens also issued the Order to Show Cause to the Respondents in the instant case; Federal Habeas Corpus Petition, case no: 5:21-cv-207-RBD-PRL.

Contrary to the words cited by the U.S. District Court "At its core" the Petitioner does not seek to re-litigate issues previously decided upon by the U.S. District Court in a Motion to Strike. The Petitioner avers that he litigates the subversion of the judicial process to include the **crux** in the Motion to Strike, "Attorney involvement," but also litigating the veracity of the excerpts provided by the U.S. District Court in its denial on March 1, 2023 (Doc. 29).

Wherein the excerpts were relied upon by the court in its finding of fact and conclusion of law, exposing the nexus between the fraud on the court in the adversarial process and its cumulative effect.

The "Fraud on the Court' in the instant case reflects some similar distinctions in Hartford's fraud. Like in Hartford, the fraud in the instant case was hidden for years. It wasn't until after the case was transferred to the Middle District of Florida and when the Court issued an Order to Show Cause to the Respondents (State), after that evidence of the fraud fully developed, when the Petitioner received a redacted copy of the Federal Warrant from the FBI Records Division. (Doc. 37, ex. E & F).

In the instant case:

The Asst. Attorney General Kellie Nielan was an officer of the Federal Court.

Asst. Attorney General Kellie Nielan represented the State of Florida in all of the Petitioner's State Postconviction Appellate proceedings.

The Asst. Attorney General Kellie Nielan made direct statements regarding the Federal Warrant that was withheld from the Petitioner before and during trial, in her response to Ineffective Assistance of Appellate Counsel (Doc. 37, ex. J, p.7)

This established prior knowledge of the Federal Warrant and Prior Judicial Involvement by the U.S. Magistrate Phillip R. Lammens.

By failing to disclose the Federal Warrant to the Petitioner and making false statements regarding Prior Judicial Involvement to the U.S. District Court, the Asst. Attorney General Kellie Nielan was continuing a premeditated plan or scheme to deny the Petitioner the lawful copy of the Federal Warrant.

The withholding of the Federal Warrant from the Petitioner is essentially the fraud on the court, which the false statement of Prior Judicial Involvement is an additional action to continue in the premeditated plan or scheme.

A letter by the State Attorney's Office / Postconviction (Doc. 37, ex. G) demonstrates that the State had **NO** intentions of informing the Petitioner of the existence of the Federal Warrant.

The U.S. District Court is thrust into the midst of the scheme, wherein the Petitioner requested a copy of the Federal Warrant (Doc. 37 ex. H) and the U.S. District Court responded with a convoluted and arduous response (Doc. 37, ex. I). This request was dated September 9, 2020. This was over six months before the Petitioner filed the 28 U.S.C. § 2254 Petition (Doc. 1) filed on April 7, 2021 and transferred on April 9, 2021. After which the U.S. Magistrate Phillip R. Lammens issued an Order to the Respondents to Show Cause on May 18, 2021.

The Petitioner received a redacted copy of the Federal Warrant (Doc. 37 ex. F) from the FBI Records Division after awaiting six months after initial response to the request (Doc. 37, ex. D & E) to the FBI Records Division.

The Order to Show Cause directs Respondents to (doc. 37, ex. A) "2. a. State whether the U.S. District Court Judge or the U.S. Magistrate Judge assigned to this case was involved in any of the Petitioner's state court proceedings...."

After the U.S. District Court Order to Show Cause to the Respondents, the Respondents filed a response with a direct false statement regarding Prior Judicial Involvement by Phillip R. Lammens. Wherein Phillip R. Lammens signed and authorized a Federal Warrant that the State withheld from the Petitioner before and during trial.

After the State's response, the Petitioner filed a Motion to Supplement the Petition (Doc. 18) raising three new grounds for relief in the 28 U.S.C. § 2254 Petition to include Ground 11 Brady violation. (The withholding of the Federal Warrant).

After the filing of the Motion to Supplement the petition the Petitioner filed a Motion to Strike the Respondent's Response (doc. 20) filed on May 2, 2022.

Immediately after the filing of the Motion to Strike, the Respondents (State) filed a Motion to Substitute Attorney, filed by Attorney General of Florida (Doc. 21) filed on July 22, 2022.

The U.S. District Court issued an Order[7] endorsing the granting of Doc. 21; Motion to Substitute Attorney, filed on July 25, 2022 (Doc. 23).

After which the Petitioner filed a Motion to Recuse the U.S. Magistrate Judge, Phillip R. Lammens, with grounds of prior knowledge of the case, and being a witness in Claim 11 Brady violation. (Doc. 24) Reasonable belief of bias.

The U.S. Magistrate Judge Phillip R. Lammens denied the Motion to Recuse the U.S. Magistrate. (Doc. 27).

The Petitioner then filed a Motion for Reconsideration raising grounds of misapprehending facts and conclusions of law.

The aforementioned facts support the narrative that the U.S. District Court of the Middle District has been thrust into an adversarial position due to the State's actions "fraud on the Court" and takes action against the Petitioner, when the U.S. District Court issued an Order denying all 13 claims in the Federal Habeas Corpus Petition. The Order which was signed by Senior U.S. District Court Judge Roy B. Dalton Jr. also denied the Motion to Strike, Motion for Reconsideration, and In Forma Pauperis, as well as denial of a Certificate of Appealability.

The Order issued on March 1, 2023 (Doc. 29) utilizes excerpts from the same Asst. Attorney General Kellie Nielan to render its conclusion of fact and law. Where in the veracity of the statements utilized by the U.S. District Court Judge Roy B. Dalton Jr. in the Order (Doc. 29) cannot be relied upon due to the Nexus between

[7] The U.S. Magistrate Judge Phillip R. Lammets granted the State's Motion to Substitute Attorney before the Petitioner had been allowed a reasonable time to object, and the U.S. Magistrate failed to take action on the Motion to Strike to and which Fed. R. Civ. P. Rule 55(a) establishes that the respondents failed to defend against the Motion to Strike.

the author of the wholesale excerpts by the U.S. District Court and the "Fraud on the Court," Demonstrating additional undue influence upon the U.S. District Court in it decision.

The "Fraud on the Court" in this case also demonstrates extraordinary circumstances that justify relief pursuant to Fed. R. Civ. P. Rule 60(b)(6).

STANDARD OF REVIEW
FEDERAL RULES CIVIL PROCEDURE RULE 60(b)(6)

> We review for an abuse of discretion the denial of a Rule 60(b)(6) motion. See Aldana v. Delmonte Fresh Produce N.A. Inc., 741 F.3d 1349, 1355 (11th Cir. 2014). "A District Court abuses its discretion if it applies incorrect legal standard, applies the law in an unreasonable or incorrect manner, follows improper procedures in making a determination, or makes findings of fact that are clearly erroneous." Aycock v. R.J. Reynolds Tobacco Co., 769 F.3d 1063, 1068 (11th Cir. 2014).

The Eleventh Circuit set forth the Standard of Review under Rule 60(b)(6); relief from Judgment under Rule 60(b)(6) is an 'extraordinary remedy." Booker v. Singletary, 90 F.3d 440, 442 (11th Cir. 1996) (citing Ritter v. Smith, 811 F.2d 1398, 1400 (11th Cir. 1987)). Consequently Rule 60(b)(6) requires showing of "extraordinary circumstances" justifying the "reopening of a final judgment". See Gonzalez v. Crosby, 545 U.S. 524, 535, 125 S. Ct. 2641, 162 L. Ed. 2d 480 (2005) (quoting Ackerman v. United States, 340 U.S. 193, 199, 71 S. Ct. 209, 95 L. Ed. 207 (1950)). "Even then, whether to grant the requested relief is... a matter for the court's sound discretion." Took v. Booker, 90 F.3d at 442); and Arthur v. Thomas, 739 F.3d 611, 628 (11th Cir. 2014). The party seeking relief has the burden of showing that absent such relief an "extreme" hardship will result." Griffin v. Swim Tech. Corp., 722 F.2d 677, 680 (11th Cir. 1984).

The "shock the conscience" standard typically is employed when determining whether governmental action violates Due Process rights under the 5th and 14th Amendments. In a Due Process challenge to executive action, the threshold question is whether the behavior of the governmental officer, is so egregious, so outrageous, that it may fairly be said to shock the contemporary conscience. The U.S. Supreme Court has said that "shock the conscience" standard is satisfied where the conduct was intended to injure in some way unjustifiable by any governmental interest, or in some circumstances if it resulted from deliberate indifference. See Rosales and Mireles v. United States, 585 U.S. 129, 138 S. Ct. 1897, 201 L. Ed. 2d 376 (2018).

The Supreme Court has acknowledged that the "the measure of what is conscience-shocking is no calibrated yard stick". Lewis 118 S. Ct. at 177. We know for certain, however that a showing of negligence is insufficient to make out a constitutional Due Process claim. See Lewis 523 U.S. 833, 118 S. Ct. 1708, 1718, 140 L. Ed. 2d 1043 (1998). And even intentional wrongs seldom violate the Due Process Clause. Acts "intended to injure in some way unjustifiable by any government interest are most likely to raise to the conscience shocking level." Id. But even conduct by a government actor that would amount to an intentional tort under the State law, will rise to the level of substantive Due Process violation only if it also "shocks the conscience". Dacosta v. Nwachukwa, 304 F.3d 1045, 1048 (11th Cir. 2002).

However, regard for the requirements of the Due Process Clause imposes upon the Court an exercise of judgment upon the whole course of the proceedings in Order to ascertain whether they offend those canons of decency and fairness which expresses the notions of justice of English speaking people even toward those charged with the most heinous offenses. See Rochin v. State of California, 342 U.S. 165, 96 L. Ed. 183, 72 S. Ct. 205, 25 ALR 2d 1396. "We look to the record evidence only to determine whether a reasonable jurist could debate whether the District Court abused its discretion in denying Mills Rule 60(b)(6) motion on the grounds that 'extraordinary circumstances' did not warrant relief, Mills has sufficiently alleged the denial of a constitutional right – the right to have impeachment evidence disclosed to him, and the right to ensure his trial is not infected with perjured testimony." Brady, 377 U.S. at 87; and Napue, 360 U.S. at 269. Mills also demonstrated that without relief there exists a "risk of injustice" and risk of undermining the public confidence in the judicial process. See Buck, 580 U.S. at 123. "This is especially true given that Mills has maintained his innocence." Mills v. Commissioner Alabama Department of Corrections, 102 F. 4th 1235, 2024 U.S. App. LEXIS 12734, 30 Fla. Weekly, Fed C. 1003.

Rule 10 of the Rules of the United States Supreme Court establish that Certiorari could be considered when the U.S. Court of Appeals has so far departed from the usual and accepted coarse of judicial proceedings, or has sanctioned such departure by a lower court, as to call for an exercise of this Court's supervisory power.

Also noting that Article III of the United States Constitution, Sect 2:

> "The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States,..."

The Petitioner avers that he has remained diligent and exhausted all available remedies, and continued to be denied Due Process by the Federal Courts, and denied equitable relief. Wherein Fed. R. Civ. P. Rule 60(d)(3) and Rule 60(b)(6) are equitable in nature.

The U.S. District Court has already published (LEXIS) the denial of petitioners Fed. R. Civ. P. Rule 60 motion and the dismissal of Petitioner's 42 U.S.C.S. § 1983 (LEXIS) civil rights complaint regarding the exact same subject. The published opinions are biased and evade, distort, convolute, and arbitrarily portray the claims raised. (See attached Exhibit L).

The U.S. District Court has misrepresented facts and litigates for the State (Respondents) and denies an unopposed Rule 60 motion.

The U.S. District Judge is the same U.S. District Judge who summarily denied the Petitioners 28 U.S.C. § 2254 Petition for Habeas Corpus with 13 Grounds raised.

The Petitioner avers that the second ground for relief in the Fed. R. Civ. P. Rule 60 motion was filed pursuant to Rule 60(b)(6).

Which the Petitioner has alleged and demonstrated in the record and thru exhibits, prosecutorial misconduct so egregious that it "shocks the conscience" of the Habeas Court.

To establish a substantive Due Process claim, a Plaintiff must prove the particular interest at issue is protected by the substantive Due Process Clause and the government's deprivation of the protected interest "Shocks the Conscience."

The Plaintiff's protected constitutional right to Writ of Habeas Corpus pursuant to Art. 1, Sect. 9 of the United States Constitution and pursuant to 28 U.S.C. § 2254, has been interfered by the State and their production and broadcast of the defamatory false light video.

"The Robin Tattoo"

Wherein the "The Robin Tattoo" video uses contested trial court evidence (custodial interrogation video) and the custodial interrogations are the subject of claim 9 in the 28 U.S.C. § 2254 Habeas Corpus Petition. The defacto State agents "ID channel" edited the original video footage of the custodial interrogation omitting scenes depicting two requests for counsel and several declarations of innocence. Which the edited version reflects a false narrative of a confession to "Murder." The false light defamatory video was published via streaming (mass market) broadcast during the federal review of the contested state court conviction in a 28 U.S.C. § 2254 Petition.

The U.S. District Court had ordered the State to show cause on May 18, 2021 to the 28 U.S.C. § 2254 Petition.

The false light video was originally broadcast on June 23, 2021, indicating a coordinated attack on the substantive Due Process rights of the Petitioner, by the State and defacto State actors. (Exhibit).

This ground for relief was completely evaded by the U.S. District Court, and the U.S. Court of Appeals also fails to address the claim for relief in its denial of a "Certificate of Appealability" and again fails to address in a timely filed Amended Motion for Reconsideration of the denial of a "Certificate of Appealability."

The issue of publishing contested Trial Court Evidence, while the Petitioner's Federal Review thru constitutionally protected right to Habeas Corpus was pending, violates all notions of fair play and justice, and equitable relief is warranted.

REASONS FOR GRANTING THE PETITION

As stated before, Rule 10(a) of the rules governing the United States Supreme Court established that Certiorari could be considered when the U.S. Court of Appeals has so far departed from the usual and accepted coarse of judicial proceedings, or has sanctioned such departure by a lower court as to call for an exercise of this Court's supervisory power. The Petitioner avers that the decision of the 11th Circuit Court conflicts with a decision of the 3rd Circuit (2005). Herring v. United States, 424 F.3d 384-389.

> "Motions alleging 'fraud on the court' under Fed. R. Civ. P. Rule 60(d)(1) and (d)(3) are not subject to the general one-year time limitation prescribed in Rule 60(c)." (See Herring v. United States).

The Supreme Court is the last available authority to address the malicious, arbitrary and capricious, egregious misconduct by "officers of the court" and the State of Florida(through defacto State actors) that has resulted in an attack on Due Process and the constitutional right to Writ of Habeas Corpus. The State of Florida has weaponized the media in their scheme to influence the U.S. District Court in its resolution of claims related to the invoking of the constitutional rights in custodial interrogations.

The U.S. District Court and U.S. Circuit Court have evaded review of an entire claim in their continued denial of the Rule 60 motion and "Certificate of Appealability."

The misguided conclusions of law and misspoken facts by the U.S. Courts should not go unchallenged. They only work to infect and corrupt the Due Process rights to future petitioners who might have an equally legitimate claim of "Fraud on the Court" in their Habeas Corpus challenge to an unlawful state court conviction.

Certiorari is necessary for the protection of the public, and the preservation of rights regarding criminal prosecution, and a states, arbitrary and capricious use of contested trial court evidence in such a way as to "Shock the Conscience" of the court. The Supreme Court should define the limits on free speech and freedom of the press, if that freedom impacts a citizen's right to Substantive Due Process, to include the ability to challenge an unlawful conviction in a Habeas Corpus Petition Art I, Sect. 9 U.S. Constitution and codified at 28 U.S.C. § 2254.

The framers of the U.S. Constitution could not have foreseen technology as it stands today and although diligence is usually practiced by the press, some information is prejudicial, and a citizen has the right to Compulsory Due Process which includes challenging facts and evidence alleged. The United States Supreme

Court must do everything in its power to compel the "Impartial" protection clause of the 6^{th} Amendment in a criminal prosecution.

The United States Supreme Court should also weigh in on the subject of unopposed motion in a 28 U.S.C. § 2254 Petition, a citizen has the 6^{th} Amendment right to "compulsory process" to include ordering the State to respond to allegation in a Fed. R. Civ. P. 60(d)(3) and 60(b)(6) when those allegations are government misconduct.

CONCLUSION

The Petition for Writ of Certiorari should be granted.

Respectfully Submitted,

Date: October 7th, 2025

No. ____________________

IN THE

SUPREME COURT OF THE UNITED STATES

CHRISTOPHER TAKHVAR – PETITIONER

vs.

SECRETARY DEPARTMENT OF CORRECTIONS,
FLORIDA ATTORNEY GENERAL – RESPONDENT(S)

PROOF OF SERVICE

I, Christopher Takhvar, do swear or declare that on this date, October 7th, 2025 as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for the delivery within 3 calendar days.

The names and addresses of those served are as follows:

Clerk of U.S. Supreme Court
One First Street N.E.
Washington, D.C. 20530-0001

Florida Attorney General
PL-01 The Capitol
Tallahassee, Fl. 32399-1050

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 7th, 2025.

(Signature)

CERTIFICATE OF COMPLIANCE

I Hereby Certify that this petition complies with the line spacing (double), type size (12, fn. 10), typeface (Century) requirements, and page limitations (40 pages) pursuant to Rules of the Supreme Court of the United States Rule 33.

Christopher Takhvar