

21-6037  
No.21-\_\_\_\_\_

Supreme Court, U.S.  
FILED  
OCT 08 2021  
OFFICE OF THE CLERK

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In The  
Supreme Court Of The United States

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BRIAN DAVID HILL,  
Petitioner,

v.

UNITED STATES OF AMERICA,  
Respondent,

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On Petition for a Writ of Certiorari to the  
United States Court of Appeals for the  
Fourth Circuit

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**PETITION FOR A WRIT OF CERTIORARI**

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Dated: October 12, 2021



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**ORIGINAL**

## **I. Questions Presented**

Where the U.S. Court of Appeals did not properly apply its supervisory powers to ensure that the law was being applied properly or at all to the Middle District of North Carolina where Local Rule 7.3 MOTION PRACTICE under paragraphs (f) and (k) says under the Law that all uncontested motions are normally granted without further notice?

Where the U.S. District Court improperly and unlawfully denied the undisputed, uncontested Hazel Atlas Motions asking the U.S. District Court to vacate all fraudulent begotten judgments by supporting evidence and supporting claims, which the officer of the Court's favorable judgments was grounded on fraud, all judgments favorable to the United States of America were grounded on fraud, coercion, and deceit?

Where the U.S. Court of Appeals affirmed the Judgment on denying all § 2255 civil case Motions which were Hazel Atlas Motions requesting vacatur of all fraudulent begotten judgments?

Where the U.S. District Court had erred on making contradictory claims that all pending 2255 civil case

Motions were not filed in the right form and were construed as 2255 motions even though they filed directly in the 2255 case which were Hazel Atlas motions requesting vacatur of all fraudulent begotten judgments?

Where case law precedent in this very Court and the lower Courts all held that no statute or law can prevent an inherit or implied power of a Hazel Atlas Motion from requesting relief from a Court to deter frauds being perpetuated on the Court by any sworn Officer of the Court?

Where the "due process of law" clause of the U.S. Constitution, Amendment V, is being deprived and ignored by the U.S. District Court in the Middle district of North Carolina and the supervisory Court known as the U.S. Court of Appeals by denying uncontested Hazel Atlas motions?

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Petition seeking review of Judgment

U.S. Court of Appeals for the Fourth Circuit; case no. # 20-7737, Petition for Rehearing denied: August 17, 2021, Appeal dismissed on April 27, 2021.

#### **IV. Petition for Writ Of Certiorari**

Brian David Hill ("Petitioner"), a criminal defendant and civil case 2255 Petitioner currently serving a sentence of supervised release by and through the United States Probation Office for the Western District of Virginia by the original order of the Middle District of North Carolina. Brian David Hill ("Petitioner") respectfully petitions this court for a writ of certiorari to review the judgment of the U.S. Court of Appeals ("Appeals Court") (JA 3). The judgment (JA 5) wrongfully affirming the judgment of the United States District Court ("Trial Court") denying the uncontested 2255 civil case Motions asking to vacate all fraudulent begotten judgments (JA 6). Those uncontested Motions were Hazel Atlas Motions asking to vacate fraudulent begotten judgments and were uncontested/undisputed by the Respondent: United States of America. It was asking for relief to deter the multiple prima facie frauds and punish the offending officer(s) of the Court. However, instead the Trial Court had failed or refused to conduct its ministerial duties in regards to the valid uncontested and undisputed evidence backed motions subject to relief as a matter of law as set by the Trial Court, which

challenges the lawful jurisdiction of the judgment(s) before his Court.

The U.S. Court of Appeals for the Fourth Circuit ("Appeals Court") under case no. #20-7737, is the originating case where the timely filed appeal, was originally filed and the very case, which is being appealed to the United States Supreme Court to undo a miscarriage of justice. A miscarriage of justice by refusing to accept multiple uncontested, undisputed motions with undisputed prime facie facts of consistent frauds, which were, perpetuated upon the Trial Court by the corrupt United States Attorney, an officer of the Court. Committing the offenses of multiple frauds upon any Court is usually subject to vacatur, loss of jurisdiction by an excess of jurisdiction, and sanctions against the offending Officer of the Court. As a matter of law, it should have been granted. The Appeals Court failed and refused to hold that the Trial Court by its own prescribed Local Rules should have sanctioned the offending officer(s) who defrauded the Court on multiple occasions and got away with it. Petitioner is suffering under fraudulent sentences and is being held hostage to multiple unlawful judgements, which were conjured by multiple frauds perpetuated by officer of the Court: Anand



Prakash Ramaswamy. AUSA Ramaswamy who had permitted usage of perjury, destruction of evidence, lies, and deceit in his prosecution of the criminal case against Petitioner. This AUSA has corrupted and broken the Judicial Machinery, destroyed the integrity of the Middle District of North Carolina and the Fourth Circuit of the Appeals Court, a very horrible crime against the Constitution, a high traitor of his Office. It may very well have been considered high crimes and misdemeanors by this Government officer. This Assistant United States Attorney had never even disputed the contentions of fraud claims by Petitioner because it was being uncontested by the accused Officer of the Court. Not contested in Documents #169, #199, #206, #222, #217. Fraud, lies, and deceit by the originating criminal prosecutor of this very case from the very beginning of it all. He waived his right to respond to those Factual Motions and its claims by not responding at all, as if he thinks this is all some kind of a joke he can laugh at. It is not a joke. He is ruining innocent lives here by his corrupt actions because he never got in trouble for any of it. AUSA thinks he is above the law.

#### **V. Opinions Below**

The decision by the U.S. Court of Appeals affirming the judgment of the Trial Court (JA 5) is reported in an

unpublished opinion as UNITED STATES OF AMERICA v. BRIAN DAVID HILL, case No. 20-7737 (April 27, 2021) by the panel of Chief Judge Gregory, Circuit Judge Agee, and Senior Circuit Judge Traxler (JA 3). Mr. Hill filed a petition for rehearing dated May 10, 2021. The U.S. Court of Appeals denied Mr. Hill's petition for rehearing or rehearing en banc on August 17, 2021 (JA 9).

Citation: That order was unpublished and stated that "Brian David Hill appeals the district court's order denying multiple pro se motions seeking sanctions against the Government, to vacate his criminal judgment and revocation judgment, and to grant his 28 U.S.C. § 2255 motion. We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *United States v. Hill*, No. 1:13-cr-00435-TDS-1 (M.D.N.C. Nov. 17, 2020). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process."

And opinion denying the petition for rehearing said: "The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc."

## **VI. Jurisdiction**

Mr. Hill's petition for hearing to the U.S. Court of Appeals was denied on August 17, 2021 (JA 9). Mr. Hill invokes this Court's jurisdiction under 28 U.S.C. § 1254(1), having timely filed this petition for a writ of certiorari within sixty or ninety days of the United States Court of Appeal's final judgment under 28 U.S.C. § 2101.

## VII. Constitutional Provisions Involved

United States Constitution, Amendment V:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be put twice in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

## VIII. Statement of the Case

Over 20 years ago, this Court held in both Hazel-Atlas Glass Co. v Hartford-Empire Co., 322 U.S. 238 (1944); Chambers v. Nasco, Inc., 501 U.S. 32 (1991) that all Constitutional Courts of Law have the inherit and/or implied powers to manage their own affairs and correct fraud or deceptive information within its own records. That a party may move for sanctions against a prevailing party if the losing party can either prove fraud by overwhelming evidence or that the fraud allegations with evidence were uncontested/undisputed when given a 21-day or 30-day time period to have the right to contest the factual fraud claims, or both. Chambers v. Nasco, Inc., 501 U.S. 32 (1991) held that "*Chambers had (1) attempted to deprive the court of jurisdiction*

*by acts of fraud, nearly all of which were performed outside the confines of the court, (2) filed false and frivolous pleadings"* (citation omitted, reformatted). U.S. Supreme Court also held that *"Of particular relevance here, the inherent power also allows a federal court to vacate its own judgment upon proof that a fraud has been perpetrated upon the court. See Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U. S. 238 (1944); Universal Oil Products Co. v. Root Refining Co., 328 U. S. 575, 328 U. S. 580 (1946). This "historic power of equity to set aside fraudulently begotten judgments," Hazel-Atlas, 322 U.S. at 322 U. S. 245, is necessary to the integrity of the courts, for "tampering with the administration of justice in [this] manner . . . involves far more than an injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public."* Referring to a Plaintiff aka Prosecutor who had prosecuted a fraudulent case against a Defendant, and that relief may be afforded to a Defendant when that person can prove that the Court was defrauded one or multiple times by the prevailing party which would be the Prosecutor. They are not the prevailing party when they had defrauded the Court. They illegitimately won their case. The proof is already in the record of the Trial Court, the four uncontested motions

alleging fraud by the prosecutor, officer of the Court: Anand Prakash Ramswamy. Each of those uncontested motions attacked the credibility, questioned the truthfulness of the lies by the officer of the court, attacked the validity, and/or attacked the legality of those fraudulent begotten judgments entered which was favorable to the Respondent: United States of America, to Officer of the court: Anand Prakash Ramaswamy. That held Petitioner hostage to unlawful sentences and decrees imposed. Those motions were filed in a 2255 case proving fraud because of those claims and evidence exhibits being uncontested after being given an opportunity to respond to each and every one of those fraud claims in each of those denied motions. 2255 cases are civil and criminal, subject to both rules. The clerk enforced Local Rule 7.3 on Petitioner in the exact 2255 case. The Court demanding that he must respond within 21-days (citing Local Rule 7.3, paragraphs (f) and (k)) to the Respondent's Motion to dismiss Petitioner's 2255 case or the Trial Court would rule against Petitioner for waiving his right to respond to the contentions and claims made in the Respondent's Motion entered on January 10, 2018. See case no. 1:13-cr-435-1, Document #141 MOTION to Dismiss Motion to Vacate, Set Aside, or Correct

Sentence by USA as to BRIAN DAVID HILL. Response to Motion due by 2/5/2018 (RAMASWAMY, ANAND). Petitioner was compelled to answer or lose the 2255 case. Petitioner responded timely in opposition, see Document #143, and Roseboro letter under Document #142. Whenever Petitioner filed four uncontested Hazel Atlas Motions in the 2255 case, the Respondent had 21-days to respond to each of them and the Local Rule prescribes as a matter of law that the Respondent has 30-days if a Motion is asking for Summary Judgment. That is the law, which is the lawfully prescribed Rule of the Court.

This case presents very important questions of exceptional circumstances as to whether the Appeals Court of the United States should have affirmed the wrongful judgment of the Trial Court denying all Hazel Atlas motions which were uncontested, undisputed on the record of the U.S. District Court. Yet the Respondent files one Motion to attempt to throw out Petitioner's 2255 case and Petitioner only had 21-days to respond to Respondent's claims or Petitioner would lose the case by not responding. This is not equal protection under the laws. The Respondent(s) aka the Government lawyers are not exempted from following the Rules of the Court, the laws of the land. The Government has no authority

to override having to follow the Rules of a Court. The Government and the Court enforces compliance with those same rules on a criminal defendant and civil 2255 Petitioner but acts as though they do not have to follow the very same Rules as officers of the Court. The Rules apply to everybody, all lawyers are officers of the court who practice before a Court unless such an exemption was added into the Rules or in statute allowing the Government lawyers to be exempt from all or specific Court Rules.

Here are the facts for the Justices to consider:

1. The Uncontested, Undisputed Motions by Mr. Hill

On October 4, 2019, Brian Hill filed under Document #169 a Hazel Atlas "MOTION for Hearing and for Appointment for Counsel filed by BRIAN DAVID HILL. Responses due by 2/20/2019. (Attachments: # (1) Envelope - Front and Back) (Garland, Leah)" filed by BRIAN DAVID HILL. Response to Motion due by 2/20/2019. (Entered: 1/30/2019)". That motion was uncontested by the United States Attorney and no response was ever filed by February 20, 2019 or any future date. 21-day response deadline.

On October 4, 2019, Brian Hill filed under Document #199 a Hazel Atlas "MOTION entitled "Motion for Sanctions

and to Vacate Judgment in Plaintiff's/Respondent's Favor" "Motion and Brief/Memorandum of Law in Support of Requesting the Honorable Court in this case Vacate Fraudulent Begotten Judgment or Judgments" filed by BRIAN DAVID HILL. Response to Motion due by 10/25/2019. (Attachments: # 1 Supplement 1, # 2 Supplement 2, # 3 Exhibit 1, # 4 Exhibit 2, # 5 Envelope - Front and Back) (Civil Case number: 17CV1036) (Garland, Leah) (Entered: 10/04/2019)". That motion was uncontested by the United States Attorney and no response was ever filed by October 25, 2019 or any future date. 21-day response deadline.

On October 16, 2019, Brian Hill filed under Dkt. #206 a Hazel Atlas "MOTION entitled "Petitioner's Second Motion for Sanctions and to Vacate Judgment that was in Plaintiff's/Respondent's Favor; Motion and Brief/Memorandum of Law in support of Requesting the Honorable Court in this case Vacate Fraudulent begotten Judgment or Judgments" filed by BRIAN DAVID HILL. Response to Motion due by 11/5/2019. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Supplement 1, # 4 Supplement 2, # 5 Supplement 3, # 6 Supplement 4, # 7 Envelope - Front and Back) (Garland, Leah) (Entered: 10/16/2019)". That motion was uncontested by



the United States Attorney and no response was ever filed by November 5, 2019 or any future date. 21-day response deadline.

On November 8, 2019, Brian Hill filed under Dkt. #217 a "MOTION entitled "Request that the U.S. District Court Vacate Fraudulent Begotten Judgment, Vacate the Frauds upon the Court against Brian David Hill", filed by BRIAN DAVID HILL re: 199 Motion. Response to Motion due by 12/2/2019 (Attachments: # 1 Envelope - Front and Back) (Garland, Leah) Modified on 11/12/2019 to correctly link document. (Garland, Leah) (Entered: 11/08/2019)". That motion was uncontested by the United States Attorney and no response was ever filed by December 2, 2019 or any future date. 21-day response deadline.

On November 21, 2019, Brian Hill filed under Dkt. #222 a "MOTION entitled "Petitioner's third Motion for Sanctions, Motion for Default Judgment in 2255 case and to Vacate Judgment that was in Plaintiff/Respondent's favor" filed by BRIAN DAVID HILL. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Supplement 1, # 12 Envelope - Front and Back) (Garland, Leah) (Entered: 11/21/2019)". That motion was uncontested by the United States Attorney on the U.S. District Court record as no

response was ever filed addressing the allegations on the record of the U.S. District Court. Even if the Local Rules construe that it be treated as a Motion for Summary Judgment, the Respondent would have had 30-days to respond to that Motion after it was served upon them but never was responded to. There were other motions with fraud claims, which were never contested, but the Supreme Court will have the ability to review over those as well upon granting Certiorari. The Supreme Court can make a determination on the merits that the Trial court's record is riddled with fraud and jurisdictional defects/errors upon its judicial machinery. That it is enough to contaminate the entire case as fraudulent, out of bounds, outside of jurisdiction, Constitutional deprivations, Deprivations of Due Process of Law in excess of jurisdiction. Even going as far as prejudices of the Trial Court as a result of the Respondent's repeated pattern of fraud as outlined in Documents #169, #199, #206, #217, and #222, maybe even more Documents.

**2. The Request to the Honorable Judge of the Trial Court to grant the four uncontested Motions which were filed in the civil 2255 case, unlawfully denied against Local Rule 7.3 of the Middle District of North Carolina**

On November 4, 2020, Petitioner had filed his Document #264 MOTION entitled "Motion to Grant Four Pending uncontested

Motions" filed by BRIAN DAVID HILL. Response to Motion due by 11/25/2020. Petitioner had also filed a "DECLARATION of BRIAN HILL to [264] Motion for Miscellaneous Relief, filed by BRIAN DAVID HILL", under Document #265. That also contained a 21-day deadline even after the § 2255 case was dismissed in December of 2019, after the pending uncontested motions were all filed prior to dismissal of that § 2255 case.

Local Rule 7.3(k) said and I quote that: "The failure to file a brief or response within the time specified in this rule shall constitute a waiver of the right thereafter to file such brief or response, except upon a showing of excusable neglect. A motion unaccompanied by a required brief may, in the discretion of the Court, be summarily denied. A response unaccompanied by a required brief may, in the discretion of the Court, be disregarded and the pending motion may be considered and decided as an uncontested motion. If a respondent fails to file a response within the time required by this rule, the motion will be considered and decided as an uncontested motion, and ordinarily will be granted without further notice." (Citation reformatted).

Four uncontested motions asked to vacate the fraudulent begotten judgments of:

(#1) Document #53 on the date of Nov 12, 2014 "JUDGMENT as to BRIAN DAVID HILL (1), Count(s) 1, Ten (10) months and twenty (20) days imprisonment, but not less than time served; ten (10) years supervised release; \$100.00 special assessment.";

(#2) Document #122 on the date of Jul 24, 2015 "ORDER Supervised Release Violation Hearing signed by JUDGE THOMAS D. SCHROEDER

on 7/23/2015. Defendant's supervised release is not revoked and the Defendant is to remain on supervised release..." (Citation omitted); (#3) Document #200 on the date of Oct 7, 2019 "JUDGMENT ON REVOCATION OF PROBATION/SUPERVISED RELEASE. The Defendant's supervised release is revoked. Nine (9) months imprisonment. Nine (9) years supervised release is re-imposed under the same terms and conditions as previously imposed..." (Citation omitted); and (#4) to be granted Default/Summary Judgment in the § 2255 case on the grounds of relief such as Actual Innocence and fraud on the Court as both grounds are not procedurally time barred. The Document #222 uncontested Motion asking for Default Judgment in Petitioner's favor is for "MOTION to Vacate, Set Aside or Correct Sentence (pursuant to 28 U.S.C. 2255) by BRIAN DAVID HILL." And filed on November 14, 2017, Document #125.

This created a jurisdictional crisis/defect where Mr. Hill had been held hostage to multiple Fraudulent Begotten Judgments despite the multiple uncontested motions before it challenging the jurisdiction of that Court. Despite Petitioner challenging the fraud(s) upon the court by the U.S. Attorney Office when the frauds concern the deceit, lies and false information or misleading evidence or facts. This concerns the very revocation of Supervised Release, which

concerns the first Supervised Release Violation judgment, and concerning the final criminal conviction. When a judgment is grounded upon fraud or a repeated pattern of fraud, normally a judgment would be considered null and void. Null and void orders of a Court does not have the jurisdiction to have ever ordered such unenforceable demands or edicts. It has factual undisputed contentions of fraud(s) upon the court which all of them were uncontested on the record before that Court. This Court had made rulings that a U.S. District Court has always had an inherit power or implied power to deal with any judgments which were wrongfully obtained by use of fraud upon the court by an officer of the court. Usually, such judgments should be vacated on its face if the core foundation for such judgment was grounded on fraud and fiat. Judgments grounded on fraud are not sound judgments but are judgments of fiat. Fiat orders, edicts.

See this Court's decision under Chambers v. Nasco, Inc., 501 U.S. 32 (1991) (citation partially omitted) ("...Id. Chambers, 501 U.S. 32, 33 (1991) ((a) Federal courts have the inherent power to manage their own proceedings and to control the conduct of those who appear before them. In invoking the inherent power to punish conduct which abuses the judicial process, a court must exercise discretion in fashioning an appropriate sanction, which may range

from dismissal of a lawsuit to an assessment of attorney's fees.") Id. Chambers, 501 U.S. 32, 44 (1991) ("Of particular relevance here, **the inherent power also allows a federal court to vacate its own judgment upon proof that a fraud has been perpetrated upon the court.** See Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238 (1944); Universal Oil Products Co. v. Root Refining Co., 328 U.S. 575, 580 (1946). This "historic power of equity to set aside fraudulently begotten judgments," Hazel-Atlas, 322 U.S., at 245, is **necessary to the integrity of the courts, for "tampering with the administration of justice in [this] manner . . . involves far more than an injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public."** Id., at 246. Moreover, **a court has the power to conduct an independent investigation in order to determine whether it has been the victim of fraud.** Universal Oil, supra, at 580.")

Under the Local Federal Rules of Civil Procedure for the Middle District of North Carolina, cited in the Motion to Grant All Four Uncontested Motions, which said that:

LR 7.3 MOTION PRACTICE (k) "Failure to File and Serve Motion Papers. **The failure to file a brief or response within the time specified in this rule shall constitute a waiver of the right thereafter to file such brief or response, except upon a showing of excusable neglect.** A motion unaccompanied by a required brief may, in the discretion of the Court, be summarily denied. A response unaccompanied by a required brief may, in the discretion of the Court, be disregarded and the pending motion may be considered

and decided as an uncontested motion. **If a respondent fails to file a response within the time required by this rule, the motion will be considered and decided as an uncontested motion, and ordinarily will be granted** without further notice.”

LR 7.3 MOTION PRACTICE (f) “Response to Motion and Brief. The respondent, if opposing a motion, **shall file a response, including brief, within 21 days after service of the motion (30 days if the motion is for summary judgment; see LR 56.1(d)) (14 days if the motion relates to discovery; see LR 26.2 and LR 37.1).** If supporting documents are not then available, the respondent may move for an extension of time in accordance with section (g) of this rule. For good cause appearing therefor, a respondent may be required to file any response and supporting documents, including brief, within such shorter period of time as the Court may specify.

Those motions were properly filed and properly presented before the Trial Court, and the final Motion to Grand those Four Uncontested Motions had cited that exact local rule which applies under Civil Procedure. The pending motions were actually filed within the 2255 case, and that was why the Clerk had added a response deadline date such as for example: “Response to Motion due by 11/5/2019.” The Clerk enforced that same rule on Petitioner in their Roseboro Letter under Document #142.

Under Document #142 partial citation and reformatted of the Roseboro Letter:

CITATION: Roseboro Letter, Re: Case: 17CV1036/13CR435; HILL v. USA **“Ordinarily, uncontested motions are granted. Therefore, your failure to respond or, if appropriate, to file counter affidavits or evidence in rebuttal within the allowed time may cause the court to conclude that the respondent’s contentions are undisputed. As a result, the court may dismiss your suit or render judgment against you.** Therefore, unless you file a response in opposition to the respondent’s motion, it is likely

your case will be dismissed or summary judgment will be granted in favor of the respondent. Any response or counter affidavits or other responsive material to a Motion to Dismiss **must be filed within 21 days from the date of service of the respondent's motion** upon you."

When multiple pending motions contains evidence and allegations of fraud upon the court against the officer of the court, which is Anand Prakash Ramaswamy who represents Respondent: United States of America who had prosecuted the entire case are uncontested on the record, then jurisdiction had already buckled. The motion(s) should have been summarily granted without further notice, so that Petitioner is given the relief as a matter of law. This protects the integrity of the Trial Court and protects the judicial machinery from such egregious abuses, deception, and disinformation from an officer of the Court.

On November 17, 2020, an order had been filed under document #268 (JA 6). Stating in part that (#1) "Mr. Hill's Motion for Sanctions and to Vacate Judgment in Plaintiff's/Respondent's Favor (Doc. 199) is DENIED as meritless as filed..."; (#2) "Mr. Hill's Second Motion for Sanctions and to Vacate Judgment that was in Plaintiff's/Respondent's Favor (Doc. 206) is DENIED as meritless as filed..."; (#3) "...as is the Request that the U.S. District Court Vacate Fraudulent Begotten Judgment, Vacate the Frauds upon the Court against Brian David Hill (Doc. 217), which is DENIED as meritless as



filed...”, and (#4) “...Mr. Hill’s Third Motion for Sanctions, Motion for Default Judgment in 2255 case and to Vacate Judgment that was in Plaintiff/Respondent’s Favor (Doc. 222) is DENIED as both MOOT in light of the denial of the prior § 2255 motion and as being frivolous.” That sounded erroneous what the Trial Court had ruled, each denied motion had separate evidence and claims of fraud. They could not all be meritless, as if that was ever true then Respondent would have responded within 21 days bringing up that very fact but they did not because they have nothing to successfully dispute. There are no facts of those motions being meritless, the Trial Court’s error in law. Erred in facts, erred on record.

On November 20, 2020, Mr. Hill had filed a timely “NOTICE OF APPEAL without payment of fees by BRIAN DAVID HILL re [268] Order.”

On April 27, 2021, the U.S. Court of Appeals had affirmed the order/judgment of the Trial Court with its docket entry entitled “JUDGMENT ORDER filed. Decision: Affirmed. Originating case number: 1:13-cr-00435-TDS-1. Entered on Docket Date: 04/27/2021. [1000940953] Copies to all parties and the district court/agency. Mailed to: Brian Hill. [20-7737] JSN [Entered: 04/27/2021 09:38 AM]”. JA 3.

On August 17, 2021, the U.S. Court of Appeals had denied the petition for rehearing with its docket entry entitled "COURT ORDER filed denying Motion for rehearing and rehearing en banc [8]. Copies to all parties. Mailed to: Brian Hill. [1001005324] [20-7737] JSN [Entered: 08/17/2021 02:22 PM]". See JA 9.

*II II II*

IX. REASONS FOR GRANTING THE WRIT

- A. To protect the integrity of the Trial Court and Appeals Court, as well as protecting the Judicial Machinery from fraud and abuse.

In both Hazel-Atlas Glass Co. v Hartford-Empire Co., 322 U.S. 238 (1944); Chambers v. Nasco, Inc., 501 U.S. 32 (1991), this Court adopted the widespread principle of Constitutional and Legal authority of Federal Courts having the inherit or implied powers, the powers of equity. That inherit or implied powers may also have been vested in the All Writs Act, 28 U.S.C. § 1651. A simple law and easy to understand. Federal Courts have the power and duty to make sure that Federal Courts are always honest, have integrity, and are trustworthy. To make sure that the information inside of court records is accurate, and maintain its own credibility to set an example for all other Courthouses in the United States of America. As well as be a

shining light to all of those who attend Law Schools. Courts are supposed to be a shining light of honesty, sound evidence, and law to We The People. Courts of honesty and Law. Ethics, and Law.

When an officer of the Court, especially the Government lawyer/attorney, decided to defraud the court by:

(#1) usage of fake or reasonably questionable evidence on its face;

(#2) by usage of perjury or subornation of perjury which is false testimony and which is impeachable on its face when proven;

(#3) making false statement(s) against another party to the case/litigation;

and (#4) by destroying evidence materials whether physical or digital or by paper;

Then it breaks down confidence in the Judicial System. It breaks down any credibility the Court has had prior to such defrauding. It makes the legal process as worthless as the paper it is printed on. Nobody can believe whatever is said in Court documents because of such fraud and deceit not being sanctioned, and it is not being tackled with reasonability. Then common sense no longer exists in the judicial process,

evidence is worthless because evidence is not to be believed when filed in a Court. The Courts fall apart and can no longer function properly if at all, when there is no justice, there is no peace. It invites anarchy; it invites disrespect for the law as well as disrespect for the judges, its enforcers, and other judicial officers of the Courts. It invites the potential for the law of war, where justice cannot be obtained by usage of peaceful means and neither of reasonable arguments. Thus degrades society slowly into the law of war, the end of diplomacy. After such degradation, then it may bring by the angry citizens the Revolutions and Civil Wars created and painted under the banner of bringing back vigilance and justice when justice had died. Militias having to defend themselves to the death in order to retain what is left of the Second Amendment, Freedom of speech becomes a myth and Freedom of Press becomes scarce. Activism becomes illegal. Dissent is punished. That is why Courts have to have integrity, to be honest, and to ensure the proper authority and enforcement measures are taken place to prevent such degradation of the lawful peaceful judicial process. It is part of diplomacy. It degrades the lawful administration of justice when deceit, false evidence, and perjury is permitted by an officer of the Court. It taints the

record and makes none of its records believable; it all becomes worthless as having no merit or actual cause. No merit or cause to be honest.

If the judicial officer of the U.S. District Court cannot acknowledge or accept when fraud had been proven against a fraudulent begotten judgment, then it becomes a dereliction of duty. The same rules they had enforced on Petitioner in his 2255 case are not being enforced against the counsel of the Government aka the Respondent: United States of America. It makes the law virtually unenforceable or selectively enforced in violation of the Equal Protection Clause or Fifth Amendment under the U.S. Constitution. Even though the Equal Protection Clause itself theoretically applies only to state and local governments, this Supreme Court held in Bolling v. Sharpe, 347 U.S. 497 (1954), that the Due Process Clause of the Fifth Amendment nonetheless imposes various **equal protection requirements on the federal government via reverse incorporation**. All laws must be enforced and be equally enforced, that is why we even have laws. If an officer fails or refuses to fulfil his duty, then he has become essentially a useless official. Thus wasting the resources, time, and legitimacy of his respective office. When a rule of each

respective Court establishes that when a motion is not responded to by a certain time period deadline aka a statute of limitations or rule of limitations, that party of a case had waived their right to respond to that motion and had waived their right to challenge the facts presented in that motion. Without a response in opposition thereto, there is nothing challenging the validity of the claims said in a particular motion when not disputed by the parties affected by that filed motion. The U.S. Court of Appeals had failed to hold the Trial Court to their own prescribed rules, which were legally passed through their rule making committee, so their judgment affirming the U.S. District Court's ("Trial Court") decision to denial all uncontested motions further escalated the dereliction of duty of an inferior court Judge and allowed an excess of jurisdiction. Due Process had been deprived by the Trial Court and by Respondent. That happened as the fraud is to be forever enshrined as if it were valid legal information. However, when any legal researcher reads the records of that Court, they will see the fraud, lies, and deficiencies. Any legal researcher will feel that the Trial Court's record is not credible, not reliable, and is filled with invalid or erroneous arguments and opinions.

**This is a large problem. This discredits the Trial Court for all.**

The decision by the U.S. Court of Appeals is plainly incorrect and contradictory to the Local Rule 7.3 paragraphs (f) and (k); as well as the U.S. Supreme Court's legal precedent on the power of Courts to deter fraud. It is their duty to deter fraud upon its record, whenever it is proven.

The present case is a textbook example of multiple inferior Courts not fulfilling its duties of its respective office to prevent fraud by deterring fraud, and by punishing the offending officer of the court by any lawful jurisdictional means. A Court needs to act upon any proven fraud upon its record, evidence fraud, perjury fraud, any kind of fraud proven by uncontested motions that the Clerk accepts for filing, and motions that follow the rules. If a motion or case does not follow the rules, then it is having no jurisdictional value and can simply be dismissed. If a motion has any jurisdictional value and is uncontested, it can be granted upon factual and legal grounds on the merits. It does not make any sense for an uncontested motion to be denied after the other party had an opportunity to respond (and a right to ask for an extension of time) but simply refuses to respond. Thus waiving the right to respond to the claims and arguments in a motion, it becomes uncontested and this is simply an excess of

jurisdiction for that motion to be denied. This is a dangerous measure, which may show that the specific inferior Court is broken and has lack of due process of law, lack of jurisdiction. They are not lawfully discharging their duties, they are making unlawful edicts/orders, which have no valid weight, and should have no authority to act thereunder.

The U.S. Court of Appeals' erroneous decision circumvents this premise of protecting a Federal Court from fraud, effectively permitting U.S. District Courts the right to ignore its own prescribed rules and ignore the laws of the land, ignore evidence, and deny uncontested factual motions at their leisure. Moreover, that is regardless of whether the motion was well grounded in law or not, regardless of whether it holds merit or not. This is acting in excess of jurisdiction by acting in deprivation of the due process clause of the Fifth Amendment.

Under the facts then presented, the U.S. Court of Appeals did not exercise its supervisory authority to compel order and remand as to the duties of the judge of an inferior court to make the right lawful decision on granting uncontested motions as prescribed by its Local Rule 7.3, paragraphs (f) and (k).



- B. To keep in uniformity with the past opinions of this Supreme challenging the Court's jurisdiction, documenting fraud on the Court by an officer of the Court. As well as ensuring that the Courts will do their duty and protect their Judicial machinery and integrity from being threatened or endangered by an officer of the court defrauding the Court once or repeatedly without ever facing the consequences.

This Court has the ability to use its authority to grant the Petition for Writ of Certiorari, then order and remand to keep the uniformity with the multiple authoritative case law decisions, which came from this very Court. When the bad decisions made in both the Trial Court and Appeals Court totally ignored the uncontested fraud motions, they have allowed FACTUAL FRAUD to be perpetuated upon their Courts. They have neglected to deal with the frauds. The U.S. District Court ("Trial Court") and U.S. Court of Appeals ("Appeals Court") had both failed to correct the frauds upon their record. It is factual fraud as multiple motions, which had evidence and cited the prosecution's evidence all had documented the lies of the prosecutor, the evidence showing that Brian David Hill was factually innocent and the prosecutor never disputed the claims made in four Motions for Sanctions. Then there is also DOCUMENT #169, MOTION for Hearing and for Appointment for Counsel filed by BRIAN DAVID HILL. Responses due by 2/20/2019. (Attachments: # (1) Envelope - Front and



Back) (Garland, Leah). That was never responded to either. As somebody who had read the State Bureau of Investigation forensic report and saw the download dates, as to being 112 months after the computer was seized by law enforcement. That itself is evidence tampering, evidence planting, and breaks the strict forensic standards in computer forensics investigations. It is all a fraudulent prosecution. It is all entirely a fraud on the court and the Trial Court's duty was to throw out the entire case, dismiss the entire criminal action and grant those four uncontested motions as a matter of law. They did not. How depressing.

Citation: Document #169 said ""...a **false confession caused by my Autism** because of the way I was interrogated. The SBI, that is the **State Bureau of Investigation and through their Case file (forensic report)** reported **files/images/videos of interest but there was NO affidavit verifying/confirming whether each such file could have been actual child pornography.** In addition to that, the SBI case file said **that 454 files had been downloaded with the eMule program between July 20, 2012, and July 28, 2013, while my computer was seized on August 28, 2012.** The criminal **Judgment of guilty on November 12, 2014 was a fraudulent judgment** based upon **fraud on the Court.**"

It is on the record on appeal that the fraud has been proven. The fact that Document #169 made explosive claims against the discovery materials of the Federal Prosecution and they did not respond to it by the date of February 20, 2019, adds more



credibility to Petitioner's claims that he had proven fraud on the court, multiple times; the entire criminal prosecution was grounded on fraud. The Court had no jurisdiction to deny those uncontested motions; they were **supposed to be granted as a matter of law**. Criminal Case should have been dismissed through the inherent powers. The § 2255 Motion should have been granted on Actual Innocence and Fraud as legitimate grounds as asked in the Document #222 Motion for Default Judgment.

Case laws: "Once jurisdiction is challenged, the court cannot proceed when it clearly appears that the court lacks jurisdiction, the court has no authority to reach merits, but, rather, should dismiss the action." *Melo v. US*, 505 F.2d 1026 (8th Cir. 1974). "The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings." *Hagans v. Lavine*, 415 U. S. 533 (1974). "Once challenged, jurisdiction cannot be assumed, it must be proved to exist." *Stuck v. Medical Examiners*, 94 Cal. 2d 751, 211 P.2d 389 (Cal. Ct. App. 1949). "The burden shifts to the court to prove jurisdiction." *Rosemound Sand Gravel Co. v. Lambert Sand*, 469 F.2d 416 (5th Cir. 1972). "The law provides that once State and Federal Jurisdiction has been challenged, it must be proven." *Main v. Thiboutot*, 100 S. Ct. 2502 (1980). "A court cannot confer



jurisdiction where none existed and cannot make a void proceeding valid. It is clear and well established law that **a void order can be challenged in any court**". OLD WAYNE MUT. L. ASSOC. v. McDONOUGH, 204 U. S. 8, 27 S. Ct. 236 (1907).

This case presents this Court with an opportunity to clarify that the Appeals Court had inapproachably denied the Petition for Rehearing or Rehearing En Banc, and wrongfully affirmed the unlawful (in violation of jurisdiction issues) judgment of the Trial Court. That they are the inferior Courts and they had refused to protect their own integrity and judicial machinery by allowing factual fraud upon its record. Those Courts are allowing lies and misinformation upon its record, or even refused to have grant uncontested motions of a factual prima facie nature when those very uncontested motions defaulted the credibility of the U.S. Attorney's entire prosecution as FRAUDULENT. Thus, it had brought forth a challenge to its jurisdiction to have ever entered such an order. They are all null and void judgments. Absent intervention by this Court, the U.S. Court of Appeals and the U.S. District Court will work to undermine the duty of their respective offices by denying any factual uncontested motions by any party or even by any attorney. Then it undoes carefully crafted procedural safeguards, Due Process of Law under the Fifth and





Fourteenth Amendments of the United States Constitution, and unifying case law. Unifying case law across the country that this Court and other Courts of this great country have spent for the past hundred or more of years developing the opinions regarding the inherit or implied powers of every Courthouse in the United States, and its ability to undo fraudulent begotten judgments. It will create a nationwide disconnect from the factual matter, facts will no longer matter as lies contaminate the Federal Court records, deception permitted in the records of the Federal Courts. That will contradict case law precedent across this country. It will show all Courts of Appeals and District Courts that they do not have to follow the law and that the requirement for valid legal jurisdiction does not matter anymore. It will allow Courts to ignore the factual evidence of uncontested motions with proven claims that they want at their discretion when past case law ruled that judges are in excess of jurisdiction by not fulfilling their ministerial duties to act upon any proof or undisputed claims of defrauding the Court and contaminating the Judicial Machinery.

Granting all uncontested motions when legally and factually supported is appropriate in the matters of a judicial officer. That is a Judge or officer's duty to faithfully discharge his or her duties as required by law. A judge is in excess of

jurisdiction by denying uncontested motions as a matter of law.  
Excess of jurisdiction is null and void.

When jurisdiction is challenged in the Multiple Uncontested Motions after not being responded to within the deadline period set forth by Local Rule 7.3(k); granting those motions instead of denying them would be appropriate. That is since the U.S. District Court should have proven that it had jurisdiction to have entered its order or orders once factual allegations and factual evidence is filed with the Court proving fraud upon the court by an attorney, an officer of the court to protect the Judicial Machinery.

#### **X. CONCLUSION**

For the foregoing reasons, Petitioner Mr. Hill respectfully requests that this Court issue a writ of certiorari to review the judgment of the U.S. Court of Appeals wrongfully affirming the U.S. District Court order/judgment denying the uncontested Hazel Atlas Motions. Petitioner requests that this Supreme Court enter an Order and Remand for further proceedings.

*II*

DATED this 12th day of October, 2021.

Respectfully submitted,

Brian D. Hill  
*Signed*

**Brian D. Hill**

Brian David Hill

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**U.S.W.G.O.**