

No.21-6038

In The
Supreme Court Of The United States

In Re: BRIAN DAVID HILL,
Petitioner,

On Petition for a Writ of Mandamus or Prohibition to
the United States District Court for the Middle
District of North Carolina and the United States
Court of Appeals for the Fourth Circuit

**EMERGENCY MOTION FOR LEAVE OF COURT TO
REQUEST A RESPONSE FROM RESPONDENT(S)**

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Friend of justice for all
Dated: November 6, 2021



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I. Emergency Motion for Leave of Court to Request a Response from Respondent(s)

Brian David Hill (“Petitioner”), a criminal defendant and civil case 2255 Petitioner respectfully files this MOTION petitioning and requesting that the Justices of this court request or compel a proper response from Respondent: United States of America, and to its Attorney for Respondent (Counsel of Record), Elizabeth B. Prelogar, Esquire. Elizabeth B. Prelogar, Esquire is the U.S. Solicitor General after succession to office from Acting Solicitor General Brian H. Fletcher, Esquire. This motion is filed pursuant to Rule 21, Motions to the Court.

There will also be a small Appendix of just one attempted filing of a Rule 15.5 Letter with the Clerk of the U.S. Supreme Court to use as reference. This is an Emergency Motion as the day which the Justices will review over Petitioner’s petition for Writ of Mandamus and/or Prohibition fast approaches on Friday, November 12, 2021.

This motion shall be in compliance with Rule 33.2. The motion is requesting for:

1. For Leave of Court concerning the Petition for Writ of Mandamus and/or Prohibition;

2. That the decision is not yet ripe for disposition without a response from the Government as well as the Judges and then a reply from Petitioner;

3. That the Court should delay distribution of the Petition for Writ of Mandamus and/or Prohibition in the above-captioned case to the Justices;

4. And request or order a response from the Attorney of Respondent for the Party: United States of America; as well as a response from Respondent(s): (#1) the Hon. Thomas David Schroeder, (#2) the Hon. Magistrate Joe L. Webster, (#3) the Hon. William Lindsey Osteen Junior.

The request is made in Petitioner's response to the U.S. Solicitor General's office filing a Waiver of right to respond "unless the Court requests a response" as stated in the waiver letter dated October 25, 2021. Petitioner has compelling reasons why the Government should in fact file an opposition brief or response, so that if the Petitioner catches the Government in any falsehoods or wrongful legal arguments, then Petitioner can file a reply asserting why Petition for Writ of Mandamus and/or Prohibition should be granted in the above-captioned case. That the ends of justice must be met. The Petitioner in the above-captioned case respectfully requests that the Court request or order responses from the U.S. Solicitor General the Counsel of Record for Respondent(s),

Hon. Thomas David Schroeder, the Hon. Magistrate Joe L. Webster, and the Hon. William Lindsey Osteen Junior. Those four Respondents are listed in the original Petition and the original Affidavit of Service.

II. Facts which warrant Leave of Court

1. The United States Solicitor General who now is Elizabeth B. Prelogar, Esquire had filed on record that they are the counsel of record, which represents the Respondent: United States of America in the case for the Petition for Writ of Mandamus and/or Prohibition, the instant case. They were essentially filing the formalized automated yet formal waiver letter (the “standard waiver letter”) with many Certiorari petitions and Mandamus petitions to make it appear that Petitioner’s petitions are insignificant; which makes it appear that the Petition should be denied as per the usual procedure with a majority of Certiorari and Mandamus petitions due to the scarce judicial resources. This Petition is not something that should be denied without a response or answers, as there is too much is at stake here. No other recourse.
2. The Petitioner in the above-captioned case respectfully requests that the Court request or order responses from the Attorney for Respondent(s): the U.S. Solicitor General, as well as the Hon. Thomas David Schroeder, the Hon. Magistrate Joe L. Webster, and the Hon. William Lindsey Osteen Junior. Those four Respondents are listed in the original Petition and the originally filed Affidavit of Service.

3. The United States of America is attempting to get away with defrauding the U.S. District Court which then the defrauding reaches the U.S. Court of Appeals for the Fourth Circuit. The prejudice is so bad by this fraud that remedy cannot be obtained in the U.S. Court of Appeals anymore. Petitioner did, in fact, raise the issues of FRAUD on the Court prior to the disposition of the § 2255 Motion and civil case. It was outlined in both the Petition for Writ of Mandamus and/or Prohibition and in the Appeal Briefings in the appealed case regarding that matter. The fraud was not contested in the U.S. District Court; and the United States of America waived their right to respond to each uncontested motion and did not dispute Petitioner's contentions as a matter of law under Middle District of North Carolina Local Rule 7.3(f) and under Middle District of North Carolina Local Rule 7.3(k).
4. The U.S. District Court and U.S. Court of Appeals are choosing not to follow the U.S. Supreme Court case laws anymore when they disagree with particular case laws. This is dangerous and reverts our country from a Constitutional Republic into a Dictatorship from the Bench and a Dictator who just decides not follow the Supreme Court. Lower Courts can just decide not follow what the Supreme Court ruled a year ago, a decade ago, and a century ago. Even if the particular case law was not overruled by a later Supreme Court decision. Is that right? Can they really just decide to do this? Is this Constitutional for statutory inferior Courts to overrule the Supreme Court anytime they want?

5. Since the United States Solicitor General had filed on record that they are the counsel of record which represents all of the Respondents in the Petition for Writs of Mandamus and/or Prohibition, the instant case; they are waiving the right to respond which reaches as far as the Hon. Thomas David Schroeder, the Hon. Magistrate Joe L. Webster, and the Hon. William Lindsey Osteen Junior.
6. It isn't right for the Solicitor General to just file a 1-page waiver of right to respond and it applies to all Respondents including Federal Judges at issue in the Mandamus petition. The Solicitor General did this little dirty trick so that the petition will just fail and the Judges are never held accountable and miscarriages of justice are permanent forever. That isn't right when the purpose of the Mandamus Petition is holding the Inferior Courts accountable to make sure that they follow the laws including the directives of this Supreme Court. Not just that but making sure that all judgments are lawful judgments which do not act in excess of jurisdiction. Once jurisdiction is formally challenged, it must be proven. That is the law under Constitutional and inherit powers of Courts to make sure to act only under Constitutional confines. As it was in the Mandamus petition of the above-captioned case, then it is up to the U.S. District Court and U.S. Court of Appeals to prove that they had the jurisdiction to enter such judgments at issue in the Mandamus Petition before this Supreme Court. If they cannot prove that they had lawful jurisdiction, subject-matter jurisdiction,

territorial jurisdiction, then those judgments are null and void. Lawful jurisdiction is referring to both Constitutional and Legal jurisdiction. All laws and legal actions have to follow the Constitution. All Courts and judicial actions have to follow the Constitution. All judgments of any Court inside the United States must afford Due Process of Law legal protections as outlined in both the Fifth Amendment and Fourteenth Amendment of the United States Constitution. The Due Process Clause. When a judgment or decree entered by a Court was created without affording Due Process of Law to a particular party in a criminal and/or civil case; then the Judicial Officer is acting in excess of jurisdiction. Acting in excess of jurisdiction meaning acting with such authority outside of the bounds of the Constitution and of the Law. Acting outside of the usage and principles of law. Jurisdiction limits the authority of any Judicial Officer to protect the rights of the people. Deprivation of Due Process can mean various things such as uncontested motions proving fraud but those motions being denied depriving the Movant's due process when the Government did not contest the facts and legal arguments of a particular motion. Lack of due process can be proof of a Judge ignoring evidence, ignoring witnesses, refusing to allow a party to call forth eligible expert witnesses, and ignoring the laws in a particular civil and/or criminal case. Lack of due process can include judges being blackmailed, bribed, or threatened by a party or an outside party to make a particular ruling in a judicial decision. Lack of due process meaning not

going in front of a fair and impartial judge which is a jurist and a trier of fact. When a rule specifically says by not responding to a pending motion within a select number of days which is a deadline, that it is uncontested and undisputed. Waiver of the right to respond when the rule says such. When an uncontested motion or when multiple uncontested motions are simply denied and treated as though it means nothing, due process had also been deprived as the specific rule or law is not being applied correctly if at all. Like when a rule says you win if they don't respond and the District Court says you lose when they don't respond, then due process was not afforded by the Court and thus is acting in excess of jurisdiction.

7. As of the date of this motion, Petition had been scheduled for distribution to the Conference on the date of November 12, 2021. The Court needs to request a response from the U.S. Solicitor General and the three Federal Judges listed in the original petition as Respondents because (#1) They have totally ignored the U.S. Supreme Court laws of the land in regard to jury trials for the supervised release violators under *United States v. Haymond*, 588 U.S. ____ (2019); (#2) They have totally ignored the U.S. Supreme Court laws of the land in regard to *Chambers v. Nasco, Inc.*, 501 U.S. 32 (1991); (#3) They have totally ignored the U.S. Supreme Court laws of the land in regard to *McQuiggin v. Perkins*, 569 U.S. 383 (2013) where the ground of the Actual Innocence exception to the one year statute of limitations under

the Anti-Terrorism and Effective Death Penalty Act (AEDPA) had survived the passage of the AEDPA law.

8. The Petitioner does not think it is the right thing to do and is the wrong thing to do that they will never have to respond to the Mandamus Petition. These issues need to be resolved as to why they were and are acting above the Supreme Court and that those three Respondents do not have to follow the Supreme Court at all. It is wrong for an inferior Court to buck the decisions of the Supreme Court. The Supreme Court must be respected, and part of those respectful decrees is making sure that all Judges follow the past directives of the Supreme Court to prevent a conflict within the Circuits. When inferior Courts start making decisions contrary to already-resolved issues in this Supreme Court, then this creates new conflicts and opens up old wounds in the Circuits when those conflicts were already supposed to be resolved by the Supreme Court's rulings. It creates a disconnect from SCOTUS.
9. There is no purpose for the U.S. Supreme Court to exist if lower Courts do not have to follow any of the Supreme Court decisions. It is not right that the Hon. Thomas David Schroeder, the Hon. Magistrate Joe L. Webster, and the Hon. William Lindsey Osteen Junior can just decide not to follow a controlling case law, an authoritative ruling coming directly from this Supreme Court.
10. It is the sole authority and right of the U.S. Supreme Court to intervene when an inferior Court refuses to follow multiple or many

Supreme Court rulings. Those rulings are meant to resolve the conflicts between the Circuits. The Supreme Court cannot correct the conflicts between the Circuit Courts when new conflicts arise out of old conflicts which were already resolved by this Supreme Court. It's backwards.

11. Petitioner is not wasting this Court's time at all. Petitioner wants Judge Schroeder and the other Respondents to respond to the Petition and to give explanations as to why they are selectively enforcing the Local Rule 7.3 on Petitioner but not on the U.S. Attorney Office, and as to why they ignore Supreme Court case laws as all outlined in the original Petition filed with this Court. Petitioner worked on the trio of Petitions for weeks. Petitioner had went through over \$100 of his SSI money working on the Petitions, printer ink, paper, staples, and mailings. Petitioner did a lot of hard work and isn't just going to let the Respondents get away with deprivations of due process of law. Petitioner isn't going to let Judge Schroeder get away with everything without at least asking for a response from him. Petitioner is clearly innocent, had proven his innocence and fraud on the court. Petitioner demonstrated all of that in his Petition for Writs of Mandamus and/or Prohibition. Petitioner isn't going to let all of that hard work and effort be for nothing.

12. The Petition for Writ of Mandamus and/or Prohibition is too important for it to simply be denied after the U.S. Solicitor General files their standard waiver response letter like they do in so many other petitions

before this Court and then those petitions are usually denied due to the Government's standard waiver letter. They cannot simply waive being held accountable for fraud that they perpetuated upon the Judicial Machinery. The judges who are supposed to follow the Supreme Court cannot waive being required to follow the highest law of the land. The judges cannot simply waive that they don't have to correct frauds in their records. They cannot waive having to follow SCOTUS case laws.

13. See Joint Appendix 1, read the attempted Rule 15.5 Letter mailed to the Office of the Clerk of the U.S. Supreme Court attempting to request response from the Solicitor General and/or the three Judges who are Respondents. That letter had not been docketed, so Petitioner assumes that it may not be accepted for filing due to the fact that Petitioner likely has to file a Rule 21 Motion instead of a formal Rule 15.5 letter. Petitioner does not know the status of that letter once it's received, but feels it is more appropriate and in compliance with the Rules of this Court by filing this Motion for Leave of Court. The Justices and the Clerk should review over that JA 1 letter to the Clerk to ascertain how important this Mandamus and/or Prohibition case is to Petitioner that it should not simply be denied. No pro se motion asking for any applicable relief is being accepted or granted in the U.S. District Court, even if well-grounded in law, and even if uncontested under Local Rule 7.3. Petitioner is being barred from proving his Actual Innocence. Petitioner is not being given his Constitutional right to jury trials for

Supervised Release Violation charges which carry over 6 months of imprisonment. Maybe one motion asking for new legal counsel or another motion for staying at a hotel to self-report to prison was granted, but Petitioner's uncontested pro se motions were not ordinarily granted at all, no matter what was argued and no matter what case laws were used. No matter what evidence and witnesses was used or offered. Petitioner is being denied of access to the All Writs Act. Petitioner is being told or treated by these Courts that there is no inherit or implied powers in criminal cases but only the usage of the 2255 Motion and the statute of limitations governs it all, ignoring the frauds on the court if filed untimely, and ignoring Actual Innocence if filed untimely. These Courts are no longer following Supreme Court cases when they are inconvenient to the Government lawyers. That isn't right. The Constitution is not supposed to constrain the people and their liberty. The Constitution is supposed to hold the Government in check, no matter the political party affiliation. The Constitution is supposed to limit Government power and exercise of authority, not limit the power and exercise of We The People.

14. Therefore, Petitioner requests that the Clerk or majority of Justices of this Supreme Court or whoever number of total Justices is necessary to request that the Respondents: (#1) the Hon. Thomas David Schroeder, (#2) the Hon. Magistrate Joe L. Webster, (#3) the Solicitor General, and (#4) the Hon. William Lindsey Osteen Junior file an

opposition brief or response to the Mandamus Petition and case number referenced the above captioned case.

X. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Clerk or majority of Justices in this Court grant this Motion for Leave of Court and compel or request a response from the Hon. William Lindsey Osteen Junior; the Hon. Thomas David Schroeder; the Hon. Magistrate Joe L. Webster; and as well as the U.S. Solicitor General as counsel of record for Respondent(s). For the foregoing reasons, Petitioner respectfully requests that the majority of Justices in this Court grant this Motion and delay the distribution of the Petition for Writ of Mandamus and/or Prohibition until the Government aka the United States of America, the Respondent in this case file a proper response or opposition brief.

II

DATED this 6th day of November, 2021.

Respectfully submitted,


Signed

Brian D. Hill

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Pro Se

Ally of QANON and General Flynn
Former USWGO Alternative News Reporter

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JOINT APPENDIX

JA = Joint Appendix in Motion

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Ally of QAnon – Justice – God – Jesus – No Corruption

OFFICE OF USWGO

October 28, 2021

Hon. Scott S. Harris, Clerk
Supreme Court of the
United States
1 First Street N.E.
Washington, DC 20543

Re: *In Re Brian David Hill, Petitioner, No. 21-6038*

Dear Mr. Harris,

In Response to the U.S. Solicitor General's office filing a Waiver of right to respond unless the Court requests a response as stated in the waiver letter dated October 25, 2021, the Petitioner in the above-captioned case respectfully requests that the Court request or order responses from the Hon. Thomas David Schroeder, the Hon. Magistrate Joe L. Webster, and the Hon. William Lindsey Osteen Junior. Those three Respondents are listed in the original Petition and the Affidavit of Service.

Since the acting United States Solicitor General Brian H. Fletcher had filed on record that they are the counsel of record which represents all of the Respondents in the Petition for Writs of Mandamus and/or Prohibition, the instant case; they are waiving the right to respond which reaches as far as the Hon. Thomas David Schroeder, the Hon. Magistrate Joe L. Webster, and the Hon. William Lindsey Osteen Junior.

As of the date of this Letter, the Petition is not yet scheduled for distribution to the Conference. The Court needs to request a response from the three Federal Judges listed in the original petition as Respondents because (#1) They have totally ignored the U.S. Supreme Court laws of the land in regard to jury trials for the supervised release violators under United States v. Haymond, 588 U.S. ___ (2019); (#2) They have totally ignored the U.S. Supreme

Court laws of the land in regard to *Chambers v. Nasco, Inc.*, 501 U.S. 32 (1991); (#3) They have totally ignored the U.S. Supreme Court laws of the land in regard to *McQuiggin v. Perkins*, 569 U.S. 383 (2013) where the ground of the Actual Innocence exception to the one year statute of limitations under the Anti-Terrorism and Effective Death Penalty Act (AEDPA) had survived the passage of the AEDPA law.

Petitioner does not like that they will never have to respond to the Mandamus Petition as to why they were and are acting above the Supreme Court and that those three Respondents do not have to follow the Supreme Court at all. It is wrong for an inferior Court to buck the decisions of the Supreme Court. The Supreme Court must be respected, and part of those respectful decrees is making sure that all Judges follow the past directives of the Supreme Court to prevent a conflict within the Circuits. When inferior Courts start making decisions contrary to already-resolved issues in this Supreme Court, then this creates new conflicts in the Circuits when those conflicts were already supposed to be resolved by the Supreme Court's rulings.

There is no purpose for the U.S. Supreme Court to exist if lower Courts do not have to follow any of the Supreme Court decisions. It is not right that the Hon. Thomas David Schroeder, the Hon. Magistrate Joe L. Webster, and the Hon. William Lindsey Osteen Junior can just decide not to follow a controlling case law, an authoritative ruling coming directly from this Supreme Court.

Petitioner is not wasting this Court's time at all. Petitioner wants Judge Schroeder and the other Respondents to respond to the Petition and to give explanations as to why they are selectively enforcing the Local Rule 7.3 on Petitioner but not the U.S. Attorney Office, and as to why they ignore Supreme Court case laws as all outlined in the original Petition filed with this Court. Petitioner worked on the trio of Petitions for weeks. Petitioner had went through over \$100 of his SSI money working on the Petitions, printer ink, paper, staples, mailings. Petitioner did a lot of hard work and isn't just going to let the Respondents get away with deprivations of due process of law. Petitioner isn't going to let Judge Schroeder get away with everything without at least asking for a response from him. Petitioner is clearly innocent, had proven his innocence and fraud on the court. Petitioner demonstrated all of that in his Petition for Mandamus and/or Prohibition. Petitioner isn't going to let all of that hard work and effort be for nothing.

Therefore, Petitioner requests that Clerk of this Supreme Court request the Respondents: (#1) the Hon. Thomas David Schroeder, (#2) the Hon. Magistrate Joe L. Webster, and (#3) the Hon. William Lindsey Osteen Junior file an opposition brief or response to the

