

No.21-6036

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

Brian David Hill  
*Pro Se*  
Ally of QANON, and General Flynn  
*Former USWGO Alternative News Reporter*  
310 FOREST STREET, APARTMENT 2  
MARTINSVILLE, VIRGINIA 24112  
Tel.: (276) 790-3505  
E-Mail: c/o Roberta Hill at  
[rbhill67@comcast.net](mailto:rbhill67@comcast.net)



*Friend of justice  
for all*

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Dated: November 6, 2021



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USWGO.COM

**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 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 Certiorari fast approaches on Friday, November 12, 2021.

This motion shall be in compliance with Rule 33.2 and is 15 pages or less, and shall include an Affidavit of Service and Certificate of Compliance.

The motion is requesting for:

1. For Leave of Court concerning the Petition for Writ of Certiorari;

2. That the decision is not yet ripe for disposition without a response from the Government and a reply from Petitioner;
3. That the Court should delay distribution of the Petition for Writ of Certiorari 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.

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 (Petitioner plans on filing a reply to any opposition brief) again asserting why Certiorari should be granted in the above-captioned case. That the ends of justice must be met.

## **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 Certiorari, 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 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 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 Certiorari 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).

3. The Petition for Writ of Certiorari 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.

4. 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 and ask for a delay. That letter had not been docketed, so Petitioner assumes that it is not being accepted for filing due to the fact that Petitioner likely has to file a Rule 21 Motion instead of a formal letter. If it was accepted for filing, Petitioner does not know the status of that letter, 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 Certiorari 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. 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 was used or offered.

5. The Fourth Circuit is attempting to erase the Actual Innocence Exception to the statute of limitations of the § 2255 motions due to the unconstitutional issues of the Anti-Terrorism and Effective Death Penalty Act (“AEDPA”). In other words, this Certiorari petition is all Petitioner has left. If it is denied, Petitioner has no way of any remedy or relief. The Hon. Thomas David Schroeder refuses to leave the case and allow another Judge to be assigned to the case when his behavior is prejudicial, biased, and in sheer violation of 28 U.S.C. § 455. Also brought out at issue on Appeal. So Petitioner has no other recourse for Certiorari relief, Petitioner has no other acceptable legal means of relief other than a Presidential Pardon where the Corrupt U.S. Department of Justice and its Corrupt Pardon Attorney refuses to accept Petitioner’s repeated requests for a full unconditional pardon. A pardon needed and requested to undo the miscarriages of justices caused by the U.S. District court against an innocent man.

6. The United States of America and its Corrupt U.S. Attorney Office want Petitioner to never be acquitted for the rest of his life even though he never raped anybody, he never molested anybody, and he never murdered anybody. He never victimized anybody. Petitioner is a virgin and yet sits on the Sex Offender Registry meant for rapists and child molesters. Petitioner is a virgin and yet the fraudsters at the U.S. Probation Office of Greensboro and the U.S. Attorney for the Middle District of North

Carolina asserts the fraud that Petitioner was a danger to his community which is absolute garbage, absolute hogwash. The Government knows that Petitioner never raped, never molested. Even when he had an Autistic meltdown as caused by his Autism Spectrum Disorder which is a normal behavior in Autistic patients, the Probation Officer was never harmed at all, only her pride was harmed. So she lied about Petitioner on the stand, Kristy L. Burton is a perjurer. That is why Petitioner's requested relief of Hazel Atlas and Chambers v. NASCO, fraud on the Court motions were never contested. Because she did perjure herself in favor of the U.S. Attorney Office. Even a Federal Bureau of Investigation ("FBI") Duty Agent Jerry Pickford at the Greensboro, NC FBI Office thought that brief portions of Petitioner's filed evidence as outlined in his uncontested motions, was credible enough to compel Petitioner to come down to the FBI office in 2018, and make a statement, which would have initiated the perjury investigation and possibly criminal charge against Kristy L. Burton, but a higher up in the FBI office refused to let Agent Jerry Pickford conduct the investigation into the wanton perjury of Kristy L. Burton of the U.S. Probation Office, in Danville, Virginia. The FBI was complicit in the fraud on the Court. So Petitioner is a victim of fraud after fraud. It is obvious that this Motion should be granted and that the Solicitor General respond to all claims made in the Certiorari Petition.

7. The copies of the Petition were scheduled for distribution to the Conference set for the date of Friday, November 12, 2021. Petitioner again requests under Rule 15.5 and Rule 21 for Leave of Court and that the distribution to the Conference be delayed until the United States responds to the Certiorari Petition, since they agreed to do so “if requested” by this Court from their waiver letter. It is clear that the Petition is not yet ripe for consideration by the Justices until the issues of fraud by the United States of America are responded to. The U.S. District Court refuses to compel response and denies the uncontested Motions repeatedly. Only this Court can fix this miserable situation since the U.S. Court of Appeals will not overturn the wrongful decisions in the lower inferior Court in this appealed case.
8. Petitioner wishes the Government to file an opposition brief or proper response instead of the standard waiver letter which is exactly the same as some automated formal letter mailed by the staffers of the members of the U.S. Congress who do not wish to respond personally to constituents. Yes, The same automated formal letter when they don't actually write a personalized response but simply some template created type formal letter by staffers mailed to many constituents but does not actually have any personalized response. It is exactly that, a standard formal letter by the Government acting as though this case is insignificant to be denied without an opinion as with many Certiorari petitions. Petitioner is NOT stupid. Petitioner is aware that the Government is trying to throw the Petition for this case under the bus like so many others, like nobody matters to the Corrupt U.S. Attorney Offices.

9. The U.S. District Court had inappropriately deprived and blocked Petitioner from proving his factual innocence. They would not appoint an attorney to represent Petitioner at all in his 2255 case. This Certiorari petition is Petitioner's only remedy left in regards to his Constitutional rights under Habeas Corpus and no remedy is left if the Petition is not granted. Petitioner was deprived of forensic experts. Petitioner was not allowed to prove his innocence. Petitioner was not allowed any evidentiary hearings. Petitioner was not allowed to have an independent computer forensic expert analyze the computer seized by Law Enforcement in regards to Petitioner's criminal charge. Petitioner was blocked from having any expert witnesses conduct forensic examinations and testify. Petitioner was blocked from having any independent mental health and medical experts to conduct forensic evaluations and testify, despite his uncontested motion asking for an independent mental health evaluation in regards to his false confession. Petitioner was blocked; Petitioner was not allowed a lawyer to help prove his Factual Innocence. Unless the petition is granted as it had stated, Petitioner will not be allowed to prove his Actual Innocence for the rest of his life. That is not right and violates his Constitutional rights. This keeps an innocent man, a virgin, on the Sex Offender Registry, possibly for most of his life to the rest of his life if the state law changes regarding the time-period of mandatory registration with no allowed grandfather clause to protect him.
10. Petitioner had filed under Document #169 in the 2255 case, uncontested claims that Respondent had defrauded the entire Court. All the way from the false guilty

plea coerced by ineffective counsel and to the Government's fraud on the Court throughout the prosecution phases including the Supervised Release Violations. This was all brought up on appeal, but none of it mattered. The Appeals Court completely erased this Supreme Court's holding under *McQuiggin v. Perkins*, 569 U.S. 383 (2013). The Court of Appeals in the Fourth Circuit completely erased and overwritten this Supreme Court's holding by using newer case law a year later such as *Whiteside v. United States*, 775 F.3d 180, 182-83 (4th Cir. 2014) (en banc). *Whiteside v. United States* conflicts with this Court's past rulings. They completely overwritten the Actual Innocence exception to the Anti-Terrorism and Effective Death Penalty Act ("AEDPA") under this Court's holding in 2013 under *McQuiggin v. Perkins*. How can a lower Court just decide to overwrite/override the Supreme Court and make decisions that are completely contrary to this Court's holdings under the Law?

11. Government had defrauded the Court. Remember what was in pages 13 through 17 as marked on the bottom of the Petition for Writ of Certiorari. The Government did not contested the fraud allegations that U.S. Probation Officer Kristy L. Burton had lied under oath in a Supervised Release Violation hearing. The Government did not contest the fraud allegations that they forced Petitioner to falsely plead guilty or face 20 years in prison with ineffective counsel to cover up their fraudulent prosecution. The Document #169 claim in the Certiorari petition citing that: "*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.”* So according to the Government’s own evidence paperwork claiming that for 11 months and 8 days supposed illegal files were downloading to Petitioner’s computer when not in Petitioner’s custody on the record. The Certiorari petition and the record all support this claim. They had 21 days to respond to a motion under Local Rule 7.3 of the Court. They never disputed Petitioner’s contentions of fraud. Petitioner is entitled to relief no matter what the Respondent argues in its reasoning and defense. Even after Petitioner falsely plead guilty due to coercion from the ineffective counsel all documented in the record of the 2255 case, the Pre-Sentence Report acknowledged Petitioner had no victims. The report admitting that the so-called supposed child pornography was of an unknown series, which contradicts the claim of the police detective Robert Bridge of Reidsville, NC of files being downloaded from eMule, which were known to him. So the Government should be compelled or requested to respond to all of the fraud which had been perpetuated upon the U.S. District Court by the party: United States of America, and that fraud carried on to the United States Court of Appeals for the Fourth Circuit.

12. Respondent defrauded the Court. They know that they did. That is why the Respondent did not contest the Petitioner’s five motions under “Documents #169, #199, #206, #217, and #222” (page 17 of Certiorari Petition). It is because they

had the discovery evidence; it came directly from the Government, and directly from the U.S. Attorney Office aka the Government. Their own evidence said it was downloading for 11 months and 8 days when in Law Enforcement custody. That is admission to evidence planting and tampering. That is obstruction of justice, manufacturing evidence. Then their own discovery evidence having no affidavit and no affidavit of any forensic specialist. Did not even comply with North Carolina forensic standards or rules. All of that was documented in the 2255 case, and what was cited from the record of what was argued in the Certiorari petition.

13. Therefore, it is in this Court's best interest as well as in the best interest of justice to compel a request to respond from the Counsel of Respondent. The Government should respond to Petitioner's petition for Writ of Certiorari.

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 Respondent: United States of America to file an opposition brief or response to the Certiorari Petition. Not just some standard waiver letter. The Government cannot get away with its fraud and depriving a criminal defendant of being permitted to completely prove his Actual Innocence. Petitioner should not be blocked from proving factual innocence as outlined in *McQuiggin v. Perkins*, 569 U.S. 383 (2013).

15. Therefore, Petitioner requests from the counsel of the Respondent: Elizabeth B. Prelogar, Esquire, who is the Solicitor General that they respond to the

uncontested fraud arguments and Actual Innocence claims in the Petition for the Writ of Certiorari. So that the Petitioner can file his reply brief and prove to this Court that the record supports granting the Writ of Certiorari. That the interest of justice supports granting the Writ of Certiorari. That this Court's best interest is preserving their holding under *McQuiggin v. Perkins*, 569 U.S. 383 (2013); and overwrite or overrule the contradictory case law of *Whiteside v. United States*, 775 F.3d 180, 182-83 (4th Cir. 2014) (en banc). It is best that this Court preserve its original holdings concerning the Actual Innocence exception to the four commencement dates for the Federal Writ of Habeas Corpus due to the Anti-Terrorism and Effective Death Penalty Act ("AEDPA").

There can be no resolution favorable to justice and law unless this Supreme Court intervenes.

It is clear that this Motion for Leave of Court should be granted to request that this Supreme Court issue a request for opposition brief or response; or compel the Government to respond to Petitioner's petition with an opposition brief or response brief.

### III. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the majority of Justices in this Court grant this Motion for Leave of Court and compel or request a response from the U.S. Solicitor General as counsel of record for Respondent.

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 Certiorari 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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Brian David Hill

Pro Se Petitioner

Ally of QANON and General Flynn

Former USWGO Alternative News Reporter

310 FOREST STREET, APARTMENT 2

MARTINSVILLE, VIRGINIA 24112

Tel.: (276) 790-3505

E-Mail: c/o Roberta Hill at [rbhill67@comcast.net](mailto:rbhill67@comcast.net)

[JusticeForUSWGO.wordpress.com](http://JusticeForUSWGO.wordpress.com)



# JOINT APPENDIX

JA = Joint Appendix in Motion

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

OFFICE OF USWGO,  
Brian D. Hill

November 2, 2021

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

**Re: *Brian David Hill, Petitioner,  
v. United States, No. 21-6036***

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 delay distribution of the Petition for Writ of Certiorari in the above-captioned case to the Justices; and request or order a response from the Attorney for Respondent for the Party: United States of America.

The acting United States Solicitor General Brian H. Fletcher, 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 Certiorari, the instant case. They are 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 to make it appear that the Petition should be denied as per the usual procedure with a majority of Certiorari petitions.

The copies of the Petition were scheduled for distribution to the Conference set for the date of Friday, November 12, 2021. Petitioner again requests two things from the Clerk's Office of the Court, under

Rule 15.5. First of all: Petitioner would like the distribution to the Conference delayed until the United States responds to the Certiorari Petition, since they agreed to do so if requested by this Court from their waiver letter. If the Petitioner has to file a Motion for Leave of Court to request that this Supreme Court request or compel the Government to respond to Petitioner's petition with an opposition brief; then Petitioner needs an additional 14 or 21 days to file such a motion. That is if required by the Rules of this Court. Second of all: Petitioner wishes the Government to file an opposition brief or proper response instead of the standard waiver letter which is exactly the same as some automated formal letter mailed by the staffers of the members of the U.S. Congress who do not wish to respond personally to constituents. Yes, The same automated formal letter when they don't actually write a personalized response but simply some template created type formal letter by staffers mailed to many constituents but does not actually have any personalized response. It is exactly that, a standard formal letter by the Government acting as though this case is insignificant to be denied without an opinion as with many Certiorari petitions. Petitioner is NOT stupid. Petitioner is aware that the Government is trying to throw the Petition for this case under the bus like so many others, like nobody matters to the Corrupt U.S. Attorney Offices.

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 (Petitioner plans on filing a reply to any opposition brief) again asserting why Certiorari should be granted in the above-captioned case.

First reason, the U.S. District Court had inappropriately deprived and blocked Petitioner from proving his factual innocence. They would not appoint an attorney to represent Petitioner at all in his 2255 case. This Certiorari petition is Petitioner's only remedy left in regards to his Constitutional rights under Habeas Corpus and no remedy is left if the Petition is not granted. Petitioner was deprived of forensic experts. Petitioner was not allowed to prove his innocence. Petitioner was not allowed any evidentiary hearings. Petitioner was not allowed to have an independent computer forensic expert analyze the computer seized by Law Enforcement in regards to Petitioner's criminal charge. Petitioner was blocked from having any expert witnesses conduct forensic examinations and testify. Petitioner was blocked from having any independent mental health and medical experts to conduct forensic evaluations and testify, despite his uncontested motion asking for an independent mental health evaluation in regards to his false confession. Petitioner was blocked; Petitioner was not allowed a lawyer to help prove his Factual Innocence. Unless the petition is granted as it had stated, Petitioner will not be allowed to prove his Actual Innocence

for the rest of his life. That is not right and violates his Constitutional rights. This keeps an innocent man, a virgin, on the Sex Offender Registry, possibly for most of his life to the rest of his life if the state law changes regarding the time-period of mandatory registration with no allowed grandfather clause to protect him.

Second reason: Petitioner had filed under Document #169 in the 2255 case, uncontested claims that Respondent had defrauded the entire Court. All the way from the false guilty plea coerced by ineffective counsel and to the Government's fraud on the Court throughout the prosecution phases including the Supervised Release Violations. This was all brought up on appeal, but none of it mattered. The Appeals Court completely erased this Supreme Court's holding under *McQuiggin v. Perkins*, 569 U.S. 383 (2013). The Court of Appeals in the Fourth Circuit completely erased and overwritten this Supreme Court's holding by using newer case law a year later such as *Whiteside v. United States*, 775 F.3d 180, 182-83 (4th Cir. 2014) (en banc). *Whiteside v. United States* conflicts with this Court's past rulings. They completely overwritten the Actual Innocence exception to the Anti-Terrorism and Effective Death Penalty Act ("AEDPA") under this Court's holding in 2013 under *McQuiggin v. Perkins*. How can a lower Court just decide to overwrite the Supreme Court and make decisions that are completely contrary to this Court's holdings under the Law?

Third reason: Government had defrauded the Court. Remember what was in pages 13 through 17 as marked on the bottom of the Petition for Writ of Certiorari. The Government did not contested the fraud allegations that U.S. Probation Officer Kristy L. Burton had lied under oath in a Supervised Release Violation hearing. The Government did not contest the fraud allegations that they forced Petitioner to falsely plead guilty or face 20 years in prison with ineffective counsel to cover up their fraudulent prosecution. The Document #169 claim in the Certiorari petition citing that: "*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.*" So according to the Government's own evidence paperwork claiming that for 11 months and 8 days supposed illegal files were downloading to Petitioner's computer when not in Petitioner's custody on the record. The Certiorari petition and the record all support this claim. They had 21 days to respond to a motion under Local Rule 7.3 of the Court. They never disputed Petitioner's contentions of fraud. Petitioner is entitled to relief no matter what the Respondent argues in its reasoning and defense. Even after Petitioner falsely plead guilty due to coercion

from the ineffective counsel all documented in the record of the 2255 case, the Pre-Sentence Report acknowledged Petitioner had no victims. The report admitting that the so-called supposed child pornography was of an unknown series, which contradicts the claim of the police detective Robert Bridge of Reidsville, NC of files being downloaded from eMule, which were known to him. So the Government should be compelled or requested to respond to all of the fraud which had been perpetuated upon the U.S. District Court by the party: United States of America, and that fraud carried on to the United States Court of Appeals for the Fourth Circuit.

Respondent defrauded the Court. They know that they did. That is why the Respondent did not contest the Petitioner's motions under "Documents #169, #199, #206, #217, and #222" (page 17 of Certiorari Petition). It is because they had the discovery evidence; it came directly from the Government, and directly from the U.S. Attorney Office aka the Government. Their own evidence said it was downloading for 11 months and 8 days when in Law Enforcement custody. That is admission to evidence planting and tampering. That is obstruction of justice, manufacturing evidence. Then their own discovery evidence having no affidavit and no affidavit of any forensic specialist. Did not even comply with North Carolina forensic standards or rules. All of that was documented in the 2255 case, and what was cited from the record of what was argued in the Certiorari petition.

Therefore, it is in this Court's best interest as well as in the best interest of justice to compel a request to respond from the Counsel of Respondent. The Government should respond to Petitioner's petition for Writ of Certiorari.

Therefore, Petitioner requests that Clerk of this Supreme Court request the Respondent: United States of America to file an opposition brief or response to the Certiorari Petition. Not just some standard waiver letter. The Government cannot get away with its fraud and depriving a criminal defendant of being permitted to completely prove his Actual Innocence. Petitioner should not be blocked from proving factual innocence as outlined in *McQuiggin v. Perkins*, 569 U.S. 383 (2013).

Therefore, Petitioner requests from the counsel of the Respondent: Brian H. Fletcher, Esquire, which is the acting Solicitor General that they respond to the uncontested fraud arguments and Actual Innocence claims in the Petition for the Writ of Certiorari. So that the Petitioner can file his reply brief and prove to this Court that the record supports granting the Writ of Certiorari. That the interest of justice supports granting the Writ of Certiorari. That this Court's best interest is preserving their holding under *McQuiggin v. Perkins*, 569 U.S. 383 (2013); and overwrite or overrule the



Tracking number: 7019-1120-0002-2387-1583

Cc:

Brian H. Fletcher, Esquire (Counsel of Record) Acting Solicitor General  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001  
Email: [SupremeCtBriefs@USDOJ.gov](mailto:SupremeCtBriefs@USDOJ.gov)