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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

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”).

Petitioner will direct Roberta Hill (rbhill67@comcast.net) on the same day of this letter to email/contact Brian H. Fletcher, Esquire (SupremeCtBriefs@USDOJ.gov), Counsel for Respondent, and Petitioner will also mail a copy (*in a prepaid envelope mailed, though Petitioner has limited resources due to living off of his Supplemental Security Income disability*) of this letter to Brian H. Fletcher, Esquire. Petitioner is not aware of whether counsel for the Respondent opposes, supports, or has any other position as to this letter. Therefore, the Clerk can directly request a response from the Respondent’s counsel. Petitioner will direct Roberta Hill to mark the email with read receipt request to confirm instant receipt.

Petitioner does request that this letter be placed on the Supreme Court’s public docket in PDF Format for case no. 21-6036 and send a mailing acknowledging receipt of this letter. Thank You for your time and attention to this matter. God bless you.

DATED this 2nd day of November, 2021.

Respectfully submitted,


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Cc:

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