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11 UNITED STATES DISTRICT COURT  
12 DISTRICT OF NEVADA

13 UNITED STATE OF AMERICA,  
14 Plaintiff,  
15 vs.  
16 ERIC PARKER,  
17 Defendant.

Case No.: 2:16-CR-00046-GMN-PA;

PETITION FOR WRIT OF ERROR OF  
CORAM NOBIS BASED ON THE  
GOVERNMENT’S PURPOSEFUL  
WITHHOLDING, SUPPRESSION/NON-  
DISCLOSURE AND DESTRUCTION OF  
EXCUPLATORY BRADY EVIDENCE

18 **I. STATEMENT OF THE CASE**

19 On March 2, 2016, Defendant, ERIC PARKER was indicted, and an arrest warrant was issued  
20 for his arrest. He was charged with 18 U.S.C. § 371 - Conspiracy to Commit an Offense against  
21 the United States (Count 1); 18 U.S.C. § 372 - Conspiracy to Impede and Injure Federal Officer  
22 (Count 2); 18 U.S.C. § 111(a)(1) and (b) and §2 - Assault on a Federal Officer (Count 5); 18  
23 U.S.C. § 115(a)(1)(B) and §2 - Threatening a Federal Law Enforcement Officer (Count 8); 18  
24 U.S.C. § 924(c) and §2 - Use and Carry of a Firearm in Relation to a Crime of Violence (Counts  
25 3, 6, 9 and 15); 18 U.S.C. § 1503 and §2 - Obstruction of the Due Administration of Justice  
26 (Count 12); 18 U.S.C. § 1951 and §2 - Interference with Interstate Commerce by Extortion  
27 (Count 14); and 18 U.S.C. §1952 and §2 - Interstate Travel in Aid of Extortion (Count 16).

28 On March 16, 2016, while in custody, Mr. Parker appeared before Magistrate Judge Cam

1 Ferenbach with defense attorney Richard Tanasi who appeared for attorney of record Jess  
2 Marchese. Mr. Tanasi requested that the initial appearance and arraignment be continued for Mr.  
3 Marchese to appear with his client. The court granted the defense request. On March 24, 2016,  
4 Mr. Parker appeared before Magistrate Judge Ferenback with his attorney, and he pleaded not  
5 guilty to all the charges.  
6

7 On April 22, 2016, the court held a discovery hearing regarding the defenses' opposition  
8 to complex case designation. The court granted the government's request to designate as a  
9 complex case and the Defendants were separated into three groups identified as Tier 1, Tier 2,  
10 and Tier 3 Defendants.  
11

12 After hearing arguments and setting discovery deadlines, the court issued a case  
13 management order and set the case for a jury trial to commence on February 6, 2017. Mr. Parker  
14 was ordered to remain in custody until then. After conducting the trial for several months, the  
15 jury came back deadlocked as to the charges against Mr. Parker. On April 24, 2017, Judge Gloria  
16 Navarro declared a mistrial and rescheduled a jury trial to commence on June 26, 2017. A  
17 calendar call was held on May 25, 2017, at which time the court rescheduled the trial to begin on  
18 July 10, 2017. After the retrial was concluded, Mr. Parker was found not guilty as to Counts 1,  
19 2, 12, 14, 15 and 16. The jury was deadlocked as to Counts 5, 6, 8, and 9 as to Mr. Parker.  
20 Shortly thereafter, Mr. Parker was released on bond having been in custody for over a year.  
21

22 The court scheduled a third trial to commence on October 10, 2017, but was later  
23 continued to October 30, 2017. Mr. Parker, through the advice of his attorney, Mr. Jess Marchese,  
24 accepted a plea deal from the U.S. government. On October 22, 2017, Judge Navarro received  
25 the plea agreement and accepted his guilty plea to one count of violating 18 U.S.C. §1509 and  
26 §2 - Obstruction of Court Order and Aiding and Abetting, a misdemeanor. On August 9, 2018,  
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1 Mr. Parker was sentenced to Time Served (not to exceed 12 months) and supervised release for  
2 one (1) year.

## 3 **II. MEMORANDUM OF POINTS & AUTHORITIES**

4  
5 At the time of his signing of the guilty plea agreement, Mr. Parker was not aware of the  
6 information that would come to light about the egregiousness of the Government's conduct in  
7 using fabricated evidence against the Bundy defendants in presenting its case before this court.  
8 In addition, it would be shown that the Government withheld and suppressed vital *Brady*  
9 materials and evidence in connection with the arrest, detention and prosecution of Mr. Eric Parker  
10 and the other defendants in the Bundy cases. All of these assertions against the Government  
11 were articulated when Judge Gloria Navarro made findings with respect to the Government's  
12 conduct in prosecuting the case, resulting in her dismissing all of the charges against Cliven  
13 Bundy and the remaining Tier 1 defendants.  
14

15 When Judge Navarro issued her ruling, Mr. Parker had already signed his guilty plea  
16 agreement and the Judge had accepted his plea and had completed a thorough canvass of him  
17 when accepting his plea. After entering his plea, Mr. Parker returned home to Idaho to await  
18 sentencing in his case. He was later sentenced on August 9, 2018, to the terms set forth above.  
19

## 20 **III. PARKER QUALIFIES FOR WRIT OF CORAM NOBIS**

21 The writ of error coram nobis is a "judicially created extra-statutory proceeding"  
22 available for challenging federal criminal convictions under the federal All Writs Act, 28 U.S.C.  
23 §1651. *Yasui v. United States* (9<sup>th</sup> Cir. 1985) 772 F.2d 1496, 1498. Federal courts have authority  
24 to issue a writ of error coram nobis under the All Writs Act, 28 U.S.C. §1651(a). The writ of  
25 error coram nobis is an extraordinary remedy of last resort available only in compelling  
26 circumstances where necessary to achieve justice. A court's jurisdiction over coram nobis  
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1 petitions is limited to the review of errors “of the most fundamental character.”... In addition,  
2 courts may consider coram nobis petitions only where no other remedy is available, and the  
3 petitioner presents sound reasons for failing to seek relief earlier. *United States vs. Mills* (11<sup>th</sup>  
4 Cir. 2000) 221 F.3d 1201, 1203-04. Specifically, the writ of coram nobis provides a remedy for  
5 those suffering from the lingering collateral consequences of an unconstitutional or unlawful  
6 conviction based on errors of fact and egregious legal errors. *Estate of McKinney By and 23*  
7 *Through McKinney v United States* (9<sup>th</sup> Cir. 1995) 71 F.3d 779, 781.

9 A writ of error coram nobis is a remedy available to vacate a conviction when the  
10 petitioner has served his sentence and is no longer in custody, as is required for post-conviction  
11 relief under 28 U.S.C. § 2255. As the Supreme Court explained in *United States v Morgan* (1954)  
12 346 U.S. 502 [74 S.Ct. 247, 98 L.Ed. 248] coram nobis relief is available after sentence has been  
13 served because “the results of the conviction may persist. Subsequent convictions may carry  
14 heavier penalties, civil rights may be affected.” *Id.* at 512-13. “Continuation of litigation, after  
15 final judgment and after exhaustion or waiver of any statutory right of review should be allowed  
16 through the extraordinary remedy of coram nobis only under circumstances compelling such  
17 action to achieve justice.” *Id.* at 511.

18 In order to determine whether Parker is entitled to relief, the court must determine  
19 whether the error comprised by a district court’s acceptance of his plea was of such a  
20 “fundamental character” as to have “rendered the proceeding itself irregular and invalid.”  
21 *Morgan* 346 U.S. at 509 n.15. Because the writ of coram nobis is extraordinary and hence  
22 disfavored, the writ of coram nobis is available only where the following conditions are met: “(1)  
23 a more usual remedy is not available; (2) valid reasons exist for not attacking the conviction  
24 earlier; (3) adverse consequences exist from the conviction sufficient to satisfy the case or  
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1 controversy requirement of Article III; and (4) the error is of the most fundamental character.”  
2 *Hirabayashi v United States* (9<sup>th</sup> Cir. 1987) 828 F.2d 591, 604.

3 Mr. Parker satisfies all the requirements for a writ of coram nobis to issue. There is no  
4 other remedy available for Mr. Parker to challenge his conviction from 2018. He is not in custody  
5 and has long served his sentence, therefore satisfying another requirement for a writ of coram  
6 nobis to issue.

7  
8 Mr. Parker has valid reasons for not attacking the conviction earlier and is only barred  
9 from coram nobis eligibility if he fails to show that he had valid reasons for delaying his attack.  
10 *United States v Kwok Chee Kwan* (9<sup>th</sup> Cir. 2005) 407 F.3d 1005,1012. “Because a petition for  
11 writ of error coram nobis is a collateral attack on a criminal conviction, the time for filing a  
12 petition is not subject to a specific statute of limitations. In lieu of a specific statute of limitation,  
13 courts have required coram nobis petitioners to provide valid or sound reason explaining why  
14 they did not attack their sentences or convictions earlier.” *Telink, Inc. v United States* (9<sup>th</sup> Cir.  
15 1994) 24 F.3d 42, 45.

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17  
18 Mr. Parker’s Petition is timely. After entering his guilty plea in October 2017, he returned  
19 to Idaho to await his sentencing hearing that didn’t occur until the next year. During that time,  
20 he was not made aware of the information that was coming out in the case pending in this court.  
21 (See Exhibit A - Declaration of Eric Parker). Subsequently, the case against the Tier 1  
22 Defendants was dismissed by this court. With the new evidence of government misconduct and  
23 *Brady* violations coming to light, the prosecution voluntarily moved to have the case against the  
24 Tier 2 Defendants dismissed which was granted by the court. Mr. Parker later learned about the  
25 dismissals but did not learn the specific reasons for the court’s rulings. When he appeared before  
26 this court at the sentencing hearing, he was not informed by his attorney or the court regarding  
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1 the reasons for the dismissal of the cases against the co-defendants. By the time he was made  
2 aware of the new evidence coming forward regarding the Government's handling of the case, Mr.  
3 Parker was sentenced in his case in late 2018. However, to this date, the Government has not  
4 disclosed all the materials and evidence that would have resulted in a different outcome had Mr.  
5 Parker gone to trial.  
6

7 In late October to early November 2017, during the Government's prosecution of the Tier  
8 1 Defendants, a Whistleblower Complaint authored by Bureau of Land Management ("BLM")  
9 Special Agent and Lead Investigator Larry Wooten ("Wooten I") surfaced – one acknowledging  
10 multiple violations of the Bundy Defendants' civil and constitutional rights by law enforcement  
11 officers in connection with the United States' arrest, detention, and prosecution of the Bundy  
12 Defendants, including Mr. Parker. This along with other disclosures and revelations of the  
13 Government's conduct in prosecuting the Bundy Defendants, lead to Judge Navarro dismissing  
14 all the charges against the Tier 1 Defendants with prejudice. To this date, the only Defendants  
15 who have been convicted from this case are the Tier 3 Defendants, who unfortunately, had their  
16 trials commenced prior to the trials involving Tier 1 and Tier 2 Defendants, whom the  
17 Government had determined were the more culpable when it had moved the court for an order  
18 separating the designated Defendants.  
19

20  
21 It has been recently learned that there Mr. Larry Wooten had prepared a follow-up  
22 memorandum that he had authored in which he further detailed among other things: multiple  
23 civil and constitutional law violations against the Bundy Defendants; the United States  
24 intentional withholding/non-disclosure of exculpatory *Brady* information (e.g., surveillance-  
25 camera evidence, FBI "302" investigative reports regarding snipers, Tactical Operations Center  
26 or "TOC" log records and threat assessments); flagrant misconduct by the Government agents,  
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1 including, without limitation, the prosecutors assigned to the case (**See Exhibit B** - Declaration  
2 of Warren Markowitz, Esq.). Mr. Parker just recently learned of this new memorandum from  
3 Mr. Wooten and believes that the evidence it may present would render his judgement of criminal  
4 conviction an error of the most fundamental character.  
5

6 The law does not require a coram nobis petitioner to challenge his conviction at the  
7 earliest opportunity, it only requires the petitioner to have sound reasons for not doing so. *United*  
8 *States v. Kwok Chee Kwan* (9<sup>th</sup> Cir. 2005) 407 F.3d, 1005, 1014.  
9

10 The Federal Bureau of Investigation had designated him a “domestic terrorist” and with  
11 this conviction, he has lost his second amendment right to purchase a firearm. With the loss of  
12 his second amendment rights, he is barred from seeking employment with law enforcement, or  
13 any other type of position that would require a background check. Having been convicted,  
14 knowing that many of the original Bundy Defendants, including the Bundy family, had all the  
15 charges dismissed against them as result of the evidence of the Government’s egregious conduct,  
16 has caused irreparable harm to his reputation and his mental health. These adverse consequences  
17 from his conviction are sufficient to satisfy the case or controversy requirement of Article III.  
18

19 It cannot be disputed that being convicted in this case and being labeled by the Federal  
20 Bureau of Investigation as a “domestic terrorist” is sufficient to satisfy Article III’s case or  
21 controversy requirement, the third prong of the coram nobis analysis. *Parks vs. California* (9<sup>th</sup>  
22 Cir. 2000) 202 F.3d 1146, 1148.  
23

24 “Article III standing requires the following: (1) a threatened or actual distinct palpable  
25 injury to the Plaintiff; (2) a fairly traceable causal connection between the injury and the  
26 defendant’s challenged conduct; and (3) a substantial likelihood that the requested relief will  
27 redress or prevent the injury,” *Estate of McKinney* 71 F.3d at 782 n.4.  
28

1 As argued herein and set forth in Mr. Parker's declaration, this conviction has had lasting  
2 consequences in his personal life, his ability to exercise his 2<sup>nd</sup> Amendment right to purchase a  
3 gun, and his ability to seek certain employment. He now seeks to have that conviction vacated  
4 through this Petition. Should the conviction be vacated by this Petition, Mr. Parker can have his  
5 2<sup>nd</sup> Amendment rights restored to him and the designation by the Federal Bureau of Investigation  
6 be withdrawn so that his ability to work will not be limited by said designation.  
7

8 Mr. Parker also meets the fourth prong of the coram nobis analysis by establishing that  
9 he would never have been convicted of any of the original counts if the evidence of the  
10 government's egregiousness conduct and *Brady* violations had been provided to his defense. The  
11 result of his case would have been the same as that of the Tier 1 and Tier 2 Defendants who had  
12 all of the charges dismissed prior to going to trial. Had Mr. Parker been aware of the evidence  
13 coming out against the prosecutors, he would have discussed options for case resolution with Mr.  
14 Marchese, his attorney. Mr. Marchese would have been able to file the appropriate motions for  
15 dismissal with said evidence or reached a resolution with the prosecutors to have the case  
16 dismissed as they did with the Tier 1 and Tier h Defendants.  
17

18 It is Mr. Parker's position that the evidence that has been made known from the Wooten  
19 II Memo after he entered his guilty plea before this court rises to the level of rendering the  
20 judgement an error of the most fundamental character. In her ruling, Judge Navarro made  
21 findings that the conduct of the United States showed a reckless disregard for its Constitutional  
22 obligations in prosecuting the Bundy case. She also found that there existed flagrant  
23 prosecutorial and outrageous conduct that amounted to a due process violation.  
24

25 As part of the evidence that the United States failed to provide to the Bundy defendants,  
26 it was revealed that the Government's 2014 Cattle Impoundment Operation was unauthorized  
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1 and unlawful in that it failed to comply with 43 CFR 4150, in providing written notice of intent  
2 to impound via certified mail. In Mr. Parker's trial, witnesses misled the jury in testifying that  
3 the notice given was proper and complied with 43 CFR 4150. After two jury trials wherein, he  
4 was found not guilty for the majority of the original charges and the jury deadlocked on the  
5 remaining, Mr. Parker agreed to resolve the criminal case against him by pleading to obstruction  
6 of a court order, that order being the 2014 Cattle Impoundment Operation, not knowing that said  
7 order was unauthorized and unlawful.  
8

9 If Mr. Paker had been made aware of the evidence of the United States' flagrant and  
10 outrageous conduct in not disclosing vital *Brady* evidence prior to his entering a guilty plea, he  
11 would have chosen not to do so. Also, the fact the United States violated 43 CFR 4150 by not  
12 providing proper notice of intent to impound Mr. Bundy's cattle, thus rendering the 2014 Cattle  
13 Impoundment Operation unauthorized and unlawful, there would have been no basis for him to  
14 agree to plea the charge of Obstruction of a Court Order under 18 U.S.C. §1509, when the federal  
15 agents that he may have interacted with on April 12, 2014 were not acting under a valid court  
16 order.  
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**CONCLUSION**

1  
2 For the foregoing reasons, Mr. Parker has established that at the time of his entering a  
3 guilty plea in this case, there existed substantial evidence that would render his conviction a  
4 fundamental error. As such, Mr. Parker has satisfied all four requirements for coram nobis relief.  
5  
6 Mr. Parker requests this court to grant his petition for Writ of Error Coram Nobis and vacate his  
7 conviction.

8  
9 RESPECTFULLY SUBMITTED this 26<sup>th</sup> day of March, 2024.

**LAW OFFICE OF KEVIN R. HANSEN**

10  
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**CERTIFICATE OF SERVICE**

Pursuant to FRCP 5(b), I hereby certify that I am an employee of THE LAW OFFICES OF KEVIN R. HANSEN, and on the 26<sup>th</sup> day of March, 2024, the foregoing **PETITION FOR WRIT OF ERROR OF CORAM NOBIS** was served via CM/ECF and/or depositing a true and correct copy into the United States Mail, postage prepaid, addressed to:

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