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UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT
21400 UNITED STATES COURTHOUSE
601 MARKET STREET
PHILADELPHIA, PA 19106-1790

Website: www.ca3.uscourts.gov

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January 31, 2025

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RE: In re: Joseph Cammarata
Case Number: 25-1188
District Court Case Number: 2:21-cr-00427
District Court Case Number: 2:21-cv-04845
District Court Case Number: 3:22-cr-00639-001

PACER account holders are required to promptly inform the PACER Service Center of any contact information changes. In order to not delay providing notice to

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Effective December 15, 2008, the Court implemented the Electronic Case Files System. Accordingly, attorneys are required to file all documents electronically. See 3d Cir. L.A.R. 113 (2008) and the Court's CM/ECF website at www.ca3.uscourts.gov/cmecf-case-managementelectronic-case-files.

To All Parties:

Enclosed is the case opening information regarding the above-captioned petition filed by **Joseph Cammarata**, docketed at **No. 25-1188**. Any inquiries should be directed to your Case Manager in writing or by calling the Clerk's Office at 215-597-2995. This Court's rules, forms and case information are available on our website at <http://www.ca3.uscourts.gov>. The petition was received on **January 31, 2025**.

The docketing fee has not been paid. A check or money order should be made payable to Clerk, U.S. Court of Appeals as follows:

\$600.00 Court of Appeals docket fee

The docketing fee may also be paid by credit card through Pay.gov by active members of the Third Circuit Bar or pro se litigants who are registered for electronic filing through PACER. Click pay.gov or access the Court's website for instructions.

If you cannot afford to pay the docketing fee, you must file an original and three copies of a Motion for Leave to Proceed In Forma Pauperis, together with an affidavit of poverty (form attached) and a certificate of service.

The docketing fee or Motion for Leave to Proceed In Forma Pauperis is due **within 14 days of the date of this letter**.

If you fail to pay the docketing fee or file a Motion for Leave to Proceed In Forma Pauperis on or before the deadline, the Petition will be DISMISSED without further notice. 3rd Cir. LAR Misc. 107.1.

The petition will not be submitted to the Court until the filing fee or motion to proceed in

forma pauperis is received. See Fed. R. App. P. 21(a)(3).

Counsel for Respondent(s) must file:

1. Application for Admission (if applicable); and
2. Appearance Form.

These forms must be filed **within 14 days of the date of this letter.**

Very truly yours,
Patricia S. Dodszeit, Clerk

By: s/Alicia
Case Manager
267-299-4948

In re: JOSEPH CAMMARATA,
Petitioner

IN THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

EMERGENCY PETITION FOR A WRIT OF MANDAMUS

Related case Nos. 21-cr-427-CFK (ED. Pa.), 21-cv-4845-CFK (ED. Pa.), 22-cr-639-PGS (D.N.J.), 23-2110 (3d Cir.), 24-1381 (3d Cir.), 24-1983 (3d Cir.)

I. INTRODUCTION

Petitioner Joseph Cammarata respectfully petitions this Honorable Court for an emergency writ of mandamus to redress pervasive and systematic violations of constitutional rights and judicial ethics across three interrelated federal cases. Petitioner has been made aware of grand jury subpoenas, for a hearing on February 20th, 2025, being sent to his family and friends, in what appears to be another cowardly act of securing a third baseless and vindictive indictment against the petitioner. It is hopeful that this Court can intervene prior to, a purely retaliatory act, for demonstrating the issues of “DOJ corruption” and misconduct at such a sensitive time for “crooked prosecuting attorneys”. This petition will prove that the petitioner's ability to receive a fair trial was undermined by pervasive due process violations, the appearance of judicial bias, and the government's misuse of legal mechanisms to secure improper convictions and asset forfeitures through three related cases.

These proceedings include:

a. United States v Cammarata, 21-cr-427-CFK (E.D. Pa.), a criminal prosecution for wire fraud based on demonstrably false allegations.

b. Securities and Exchange Commission v. Cammarata 21-cv-4845-CFK (E.D. Pa.), a civil enforcement lacking subject matter jurisdiction, that resulted, inter alia, the unconstitutional freezing of assets without due process.

c. United States v. Cammarata, 22-cr-639-PGS (D.N.J.), predicated on unproven allegations from the fraud indictment and prosecutorial misconduct.

These interconnected proceedings were overseen by the same presiding judge in the fraud and SEC cases, who conducted simultaneous hearings that deprived petitioner of his due process rights and created the appearance of bias. The collective cases were marred by:

- Fabricated evidence and defective indictments based on false "essential facts" and unproven allegations.

- Prosecutorial misconduct, including Brady violations, tampering with discovery, and material misrepresentations to the court, and grand jury.

- The SEC's enforcement action, in particular, was used to engage in violations of the Fifth, Sixth, Seventh and Eighth Amendment rights, including the denial of counsel and excessive, unconstitutional asset freezes, and right to a jury trial. The always unlawful and expired TRO improperly deprived the petitioner's right to effective counsel in all three proceedings by freezing his assets without justification or compliance with procedural safeguards.

Traditional appellate remedies cannot address the cumulative impact of these violations, as they span multiple cases, involve overlapping due process issues, and reflect a systematic failure

of the justice system. This court's intervention is necessary to correct these ongoing injustices, as ordinary appeals confined to the record of each case cannot adequately address the pervasive constitutional failures that occurred across the multiple proceedings. The extraordinary and cumulative nature of these violations requires mandamus relief.

II. JURISDICTION AND STANDARD OF REVIEW

This court has jurisdiction to issue a writ of mandamus pursuant to the All-Writs Act, 28 U.S.C. 1651(a). The writ is warranted where; (1) No adequate remedy exists through traditional legal channels (*Kerr v. U.S. Dist. Ct.*, 426 U.S. 394, 403 (1976)); The petitioner's right to relief is clear and indisputable (*Cheney v. U.S. Dist. Ct.*, 542 U.S. 367, 380-81 (2004)); and that issuance of the writ is appropriate under the circumstances (*In re Kensington Int'l Ltd.*, 353 F.3d 211, 219 (3rd Cir 2003)).

The petition shall demonstrate to this Court that "the writ is necessary to prevent judicial usurpation of power or injustice" (*Ex-parte Fahey*, 332 U.S. 258, 259-60 (1947)).

Appellate courts exercise de novo review over the specific legal issues underlying the claims in this petition, including, but not limited to:

a. Due process claims under the Fifth and Fourteenth Amendment have been raised and are still unchallenged, refuted or acknowledged by the district court. "We review due process claims de novo" (*United States v. Barnhart*, 980 F.2d 219, 222 (3d Cir 2004)).

b. The Third Circuit reviews "pre-indictment procedures used by the district court for abuse of discretion". See *in re Grand Jury Subpoena*, 223 F.3d 213, 219 (3d Cir. 2000).

c. This Court has held, "we review the district court's findings of fact for clear error, its legal conclusions de novo, and its ultimate [grant] of a preliminary injunction for abuse of discretion", *Del. State Sportsmen's Ass'n v. Dep't of Safety & Homeland Sec.*, 108 F.4th 194, 198 (3d Cir. 2024).

d. Also from this Court, "we review de novo on award of summary judgment, applying the same test that the district court should have applied and viewing the facts in the light most favorable to the nonmoving party." *Schneyder v. Smith*, 653 F.3d 313, 318 (3d Cir. 2011).

In order to perform the appropriate appellate review, in the interest of justice and judicial efficiency, petitioner provides the following relevant filings for the Court's consideration of this petition.

1) From the Third Circuit Court of Appeals:

-Case #24-1381, please review ECF# 22. This is the opening brief of petitioner appealing the district court's refusal to recuse order, ECF# 347 of 21-cv-4845-CFK. There is also a recently filed "counseled brief" supplementing the recusal appeal brief. This recently filed "counseled" supplemental brief was approved by this Court to replace the petitioner's pro se supplement. The counseled supplement brief is appealing the district court's denial order (ECF# 372 of 21-cv-4845-CFK) to dismiss for lack of subject matter jurisdiction (pursuant to Fed. R. Civ. P. 12(h)) and the improper granting of summary judgment to the SEC based on collateral estoppel (pursuant to Fed. R. Civ. P. 60 (b)).

-Case #23-2110 is the direct appeal of the fraud proceeding which has been argued before this Court on September 19th, 2024.

2) From the court in the Eastern District of Pennsylvania, Case #21-cv-4845-CFK:

-ECF #142, The petitioner's pro se motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) for lack of valid "in connection to a securities transaction" element.

-ECF #183, The petitioner's pro se motion for summary judgment based on the failure of the district court to have subject matter jurisdiction after the SEC's response to ECF #142 changed their entire theory of prosecution rendering the new argument impossible to have met the required "in connection" argument and Fed. R. Civ. P. 9(b) enhanced pleading standards.

3) From the court in the District of New Jersey (Trenton), Case #22-cr-639-PGS:

-ECF #155, The petitioner's pro se motion for reconsideration of his post-trial motions for acquittal and/or a new trial due to the egregious prosecutorial misconduct, denial of any criminal defense fees, Brady violations, a fatally defective indictment, ex-parte communications between the two district court judges, and a number of other constitutional amendment violations.

III. QUESTIONS PRESENTED

A. Did the government's reliance on fabricated and materially misrepresented "essential facts required" to secure indictments violate petitioner's Fifth Amendment due process rights?

B. Did judicial bias, including transcript deletions, structural errors, ex-parte communications, simultaneous hearings, and denial of Sixth Amendment funds compromise the integrity of the proceedings and deprive the petitioner of his constitutional right to a fair trial?

C. Did the SEC's parallel enforcement action, in front of the same judge, which froze all the petitioner's assets without due process, a valuation, or showing of irreparable harm violate constitutional and procedural protections, prejudice his ability to mount an adequate defense in the subsequent criminal trials, in violation of the Sixth Amendment?

D. Did prosecutorial misconduct, including Brady violations and constructive amendments to the indictments undermine the integrity of the petitioner's trials?

E. Were restitution and sentencing enhancements imposed in the absence of any identifiable victim or actual loss, in violation of federal sentencing guidelines and Third Circuit precedents? (United States v. Banks, 55 F.4d 246 (3d Cir. 2022))

IV. PROCEDURAL HISTORY AND BACKGROUND

A. Petitioner's Professional Background

The petitioner is a distinguished entrepreneur and financial technology innovator whose work transformed securities trading. Over three decades he developed trading systems that were responsible for billions of trades, annually, and collectively sold for over \$2 billion. Petitioner's own business, SpeedRoute, was responsible for 2% of daily U.S. exchange volumes and he personally owned millions of trades a day. Unbeknownst to the U.S. government, petitioner

legally assigned these billions of trades, over seven years, to his foreign life insurance policy for the sole purpose of filing securities class action settlement claims, as the proper beneficial owner.

One of petitioner's business ventures included AlphaPlus, a firm specializing in filing securities class action settlement claims. AlphaPlus revolutionized the filing of securities class action settlement claims, leveraging cutting-edge technology to process billions of transactions. AlphaPlus filed all the petitioner's claims on behalf of his assignees who were the legal beneficial owner and were fully disclosed as such on the claim forms. These operations were lawful, transparent, and widely used in the industry, as affirmed by the government's own witnesses and the U.S. Supreme Court in *Spring Communications L.P. v. APCC Services Inc.*, 554 U.S. 269, 128 S. Ct. 2531, 171 L. Ed. 2d 424 (2008).

B. Initiation of Criminal and Civil Actions

On November 3rd, 2021, Mr. Cammarata was arrested at Miami International Airport and was detained at FDC Miami. The DOJ charged him with wire fraud (21-cr-427-CFK), alleging he filed fraudulent settlement claims through "sham entities". On the same day, the SEC filed a civil enforcement action (21-cv-4845-CFK) and ex-parte TRO to freeze all petitioner's assets based on purported securities violations. The SEC's TRO also violated procedural safeguards, as petitioner was not properly noticed or provided an opportunity to contest the freeze.

C. Subsequent Indictment and Trial

On September 15th, 2022, less than 5 weeks before the fraud trial began, the government secured an additional indictment for tax evasion (22-cr-639-PGS), predicated on income allegedly derived from the fraud. The tax indictment relied on material misrepresentations to the grand jury and omitted critical exculpatory evidence, further compounding the due process violations.

D. Criminal Convictions

1) Fraud Prosecution (21-cr-427-CFK): The fraud indictment was predicated on fabricated "essential facts" that were thoroughly disproven at trial. The government's reliance on these falsehoods violated the petitioner's Fifth Amendment rights.

2) Tax Evasion Prosecution (22-cr-639-PGS): The tax indictment included the same false "essential facts" and more troubling was the required basis of income allegedly derived from fraud, relied on the unproven allegations presented to the grand jury as established facts.

V. FACTUAL BASIS REVEALING SYSTEMATIC FAILURES AND CONSTITUTIONAL VIOLATIONS

A. Simultaneous Hearings and Appearance of Bias

The fraud case and the SEC enforcement action were presided over the same judge who conducted simultaneous hearings in Philadelphia and Miami on November 9th, 2021 at 9am.

B. Simultaneous Hearings Deprived the Petitioner of Due Process

The SEC's TRO hearing in Philadelphia occurred concurrently with the petitioner's bail hearing in Miami where he was detained, without proper notice, and rendering it impossible for the petitioner to be present for that critical TRO hearing that froze every penny of his lifelong earned assets. The improper TRO, which froze over \$78 million in assets was granted based on false ex-parte representations. The petitioner was not properly noticed of the hearing, violating Fed. R. Civ. P. 65(b)(1). The SEC did not even mail any notice to Miami until November 8th, 2021, via USPS regular mail; and falsely claimed, in a USM-285, that petitioner was "personally served in the U.S. Marshal's cellblock" on November 8th at 10:50am, when in fact petitioner was at no time in the U.S. Marshal's cellblock on November 8th, 2021. He was indeed personally served the notice in the U.S. Marshal's cellblock, but on November 9th at 10:50am, after the TRO hearing was over, further affirming undeniable misconduct.

C. Failure to Remedy Procedural Deficiencies:

The district court failed to ever hold a proper hearing, despite petitioner's numerous requests and motions, to address his objections to the TRO and his opportunity to contest the overreaching asset freeze. Despite the unrefuted denial of due process, the TRO indeed expired on November 24, 2021, yet the court again extended the freeze without due process, consent, justification, or any compliance with procedural requirement.

D. Appearance of Bias:

By presiding over simultaneous hearings, and depriving petitioner of constitutional protections, the judge created the perception of prejudgment and partiality. The judge's refusal to address critical motions, including the motion for summary judgment (ECF #183) and the many motions for a hearing to terminate the TRO, further reinforced the appearance of bias.

E. Fabricated indictments and Constructive Amendments

Both the fraud and tax indictments were predicated on the fabricated "two essential facts required for a claimant to be eligible for a settlement reward". The indictments falsely asserted that settlement claims were required to be filed by the claimant that traded the subject security themselves. The second "essential fact" falsely stated that settlement claims require proof of trading losses. The government also relied upon the additional false representation that the petitioner's entities were "sham companies". All of these claims were disproven at trial, where government witnesses confirmed the legality and common practice of the petitioner's actions and assignment of trade rights for filing claims of settlement rewards.

During the fraud trial, when the government first learned of assignment by the petition (on the last day of trial), they then conceded its legality and that petitioner did in fact assign the trades to his legal foreign entities. Rather than dismiss the indictment, the government constructively amended its charges on the last day of trial, to then alleging theft of client trades, an unsupported and uncharged theory not presented to the grand jury. This also violated petitioner's Fifth Amendment rights (*Stirone v. United States*, 361 U.S. 212, 218-19 (1960)).

The tax indictment shared the same fatal defects but was further flawed by its improper representation to the grand jury that they relied on the unproven fraud allegations as fact, to secure the indictment, prior to the fraud trial, any fact finding, or conviction, completely undermining the petitioner's presumption of innocence.

F. Prosecutorial Misconduct

The DOJ engaged in pervasive misconduct in the fraud case, which included discovery tampering and suppression of almost all of the critical trial evidence that was produced by the cooperating codefendant, with a 5K1 agreement to convict petitioner. This already dubious evidence was without any chain of custody and was proven to have been tampered with. The government left every one of the petitioner's computers in the New Jersey office with the same cooperating witness, for two weeks after seizing every other asset and the petitioner was in jail in Miami. The government claimed to have "overlooked" all the petitioner's computers and devices in different rooms where they took all the other company devices. These lack of constitutional procedures for all the critical evidence produced by a cooperating co-defendant, with unfettered access and no chain of custody, undermined its reliability.

The same DOJ prosecutors' misconduct was more egregious in the tax case. The government withheld all the exculpatory evidence, which they admittedly had obtained for the fraud discovery. Petitioner, in his post-trial motions of 22-cr-639-PGS and ECF# 155, clearly demonstrated the willful suppression of not only the most critical exculpatory evidence, but any and all of the exculpatory evidence. Notably, the petitioner had asked for his qualified business expense in every pre-trial hearing and motion and the district court ordered it by March 2023,

ECF #35, in which the government claimed to have complied, but in fact did not. Petitioner's business expenses of over \$18 million, far exceeded the government's claim of \$16 million of unreported income, and the petitioner knew that there was never a tax due and owing and therefore could there have been a valid conviction of tax evasion. This was further validated by the failure to also provide any of these business expenses to the IRS witness responsible for calculating the tax due and owing. The IRS witness testified that he was not provided with ANY business expenses at all, and if there were qualified business expenses, they would have to offset any alleged income and there would be no tax due and owing, a required element for tax evasion. Indeed, the government knew of the over \$18 million of business expenses, because they presented them earlier in the fraud trial as a motive due to a "high burn rate". In addition to suppressing this completely exculpatory evidence from petitioner, IRS witness, and the jury, the DOJ actually deleted these file descriptions from the fraud "Discovery Index" when they provided the "Tax Discovery Index" files for the tax case. Notably the "Discovery Index" the government provided for the tax case had removed every single business account and credit card account that was on the fraud discovery index.

The petitioner had also requested of the government, in writing, certain settlement check attachments and IRS 1042-S forms which petitioner had previously seen in the office and the government denied their existence in writing. Therefore, when the petitioner introduced a sample of this withheld and denied exculpatory evidence at trial, the government alleged they were not authentic and threatened sanctions to petitioner's stand-by counsel, until petitioner indicated the government's own bates stamps. These approximately fifty-three IRS 1042-S forms confirmed that the settlement income, despite not being taxable, was actually reported and paid to the IRS.

The government conceded to that fact, and the judge still did not charge Brady violations over petitioner's repeated motions.

G. Judicial Bias and Structural Errors

Transcript Modifications: The presiding judge in the fraud and SEC cases deleted sections of transcripts containing biased comments including, "I consider this a crime against the courts!". These and related references of bias and misconduct were deleted from the transcripts of the November 9th, 2021, SEC TRO hearing and the June 6th, 2023, criminal sentencing hearing, violating petitioner's First Amendment rights.

Consistent Denial of Counsel: The unconstitutional asset freeze and the subsequent denial of Sixth Amendment funds by the court, who then forced petitioner to proceed pro se to draft and submit his own post-trial motions and make the critical arguments of loss, restitution and forfeiture in the fraud sentencing hearing, was a structural error and an abuse of discretion. The tax trial judge who was initially sensitive to petitioner's Sixth Amendment rights, stated that the fraud and SEC judge responsible for the asset freeze had to release the required criminal defense fees.

Ex-Parte Communications: The tax judge and the fraud judge engaged in improper, ex-parte communications purportedly related to obtaining Sixth Amendment fees. However, immediately following these admitted ex-parte communications the tax judge's demeanor immediately changed to antagonistic towards petitioner further compromising impartiality by both judges after the improper ex-parte communications.

H. SEC Misconduct and Asset Freeze

The SEC's enforcement action failed to state a claim and deprived the district court of subject matter jurisdiction. Notwithstanding that fact, the SEC proceedings violated procedural safeguards and constitutional protections. The ex-parte TRO was obtained through material misrepresentations and without meeting the requirements of Rule 65, including demonstrating irreparable harm and providing adequate notice with an opportunity to be heard in a meaningful way and at a meaningful time. The SEC failed to provide any valuation of assets, tainted analysis, or evidence of future harm, rendering the asset freeze unconstitutional and was irrefutably expired November 24th, 2021.

Impact of Petitioner's Defense: The asset freeze deprived the petitioner of resources to retain counsel, violating his Sixth Amendment rights. The district court's initial 10-month delay, and then constant refusal to release the untainted assets compounded the prejudice, leaving the petitioner unable to mount any adequate defense in any of the three federal proceedings against him.

I. Failure to Rule on Critical Motions

The presiding judge failed to rule on several key motions in the SEC case. The petitioner's pro se motion for summary judgment, filed on December 12th, 2022 (ECF #183), was ignored. On June 7th, 2023, the very day after petitioner's fraud sentencing hearing, where the district court denied the requested securities fraud enhancement, the SEC filed a summary judgment motion. The SEC's over 900-page summary judgment motion was never provided to petitioner and incredibly relied upon collateral estoppel based on the securities fraud claim that the district

judge denied the day before. Remarkably, the district court improperly granted the SEC's summary judgment motion on a clearly erroneous determination of law regarding collateral estoppel and subject matter jurisdiction. The district court did not challenge or address petitioner's arguments and could provide no justification or any support of law (see court's orders, ECF# 319 and 372 of 21-cv-4845-CFK). This woefully improper abuse of discretion was compounded by the court's failure to address petitioner's summary judgment motion, many jurisdictional and due process arguments, or provide an appealable denial order. The petitioner's many motions still challenging the validity of the asset freeze and the government's failure to provide notice or due process were never addressed by the district court further obstructing the record and any meaningful appellate review.

VI. LEGAL ARGUMENT

The petitioner has presented an immutable record of raising these constitutional violations, misconduct, and prejudicial deprivation of rights for three years. The arguments are not only undeniable, but curiously never challenged or addressed by the government or district court, which is a case of first impressions for this Circuit Court.

In the prophetic words of Alexander Hamilton, he declared that courts have "no influence over either the sword or the purse". The Federalist Number 78 (Alexander Hamilton). They have "neither FORCE nor WILL but merely judgment". *Id.* The arguments made by the petitioner exhibit a district court who engaged in barefaced actions under the color of law to exert unlawful influence over both the 'sword' and the 'purse', against petitioner. The judge declared his intent, from the language of his improper TRO grant (ECF #4) and his unsupported and self-serving

opinions in his grant of summary judgment to the SEC (ECF #319) that he had executed his FORCE and WILL against petitioner's liberty (sword), property (purse), and constitutional rights. The petitioner has endured troubling complicity from the federal justice system for three years, in spite of judicial and government "misconduct that shocks the conscience". He has demonstrated and was reprimanded at the tax trial for declaring that the "DOJ has weaponized the justice system" to fabricate crimes to unlawfully take petitioner's life, liberty, and pursuit of happiness and over \$100 million for political acclaim, self-promotion, financial gain, and press releases.

A. Due Process Violations Require Dismissal

The reliance on fabricated evidence and unproven allegations of fraud, presented as facts violated the petitioner's Fifth Amendment rights. Then because the government's dependencies on the theory of prosecution presented to the grand jury were fatally flawed in both indictments, they were forced to constructively amend both indictments, mid-trial. The fraud case exhibited the government's lack of understanding of the securities class action settlement business and the catastrophic "two essential facts required" made a valid conviction impossible. Once the government realized that the "two essential facts" were completely fallacious and the petitioner's assignment of trades and filing as the beneficial owner was lawful, there was insufficient evidence to convict. In the tax case with the same debased prosecutors, fabricated facts and other material misrepresentations to the grand jury, there were also Brady violations, and another mid-trial constructive amendment to the indictment. The constructive amendment to the indictments further undermined the integrity of the already perilous proceedings (Stirone, 360 U.S. at 218-19).

B. Judicial Bias Mandates Recusal

The petitioner has presented overwhelming evidence contained on the record exposing at least the "appearance of bias". The arguments contained in petitioner's motions and briefs as provided for this court's reference, also demonstrate structural errors, a lack of subject matter jurisdiction, and clearly erroneous determination of law that prejudiced the petitioner in all the proceedings. "An error 'affects substantial rights' when it is prejudicial, that is, when it 'affected the outcome of the District Court proceedings.'" (United States v. Olano, 507 U.S. 725, 734, 113 S. Ct. 1770, 123 L. Ed. 2d 508 (1993)).

Setting aside those issues, 28 U.S.C. 455(a), states that "recusal is required when a judge's impartiality might reasonably be questioned". The presiding judge's actions, including penchant comments, transcript deletions, simultaneous hearings, and ex-parte communications with the judge of a related case, demonstrated a lack of impartiality that demands intervention (In re. Kensington Int'l Ltd., 353 F.3d at 219).

C. Actions from the SEC Proceedings Violated Procedural and Constitutional Protections

The SEC violated the petitioner's due process by securing an ex-parte TRO through material misrepresentations and failing to meet the strict requirements of Fed. R. Civ. P. 65(b) and the U.S. Supreme Court precedent prohibiting prejudgment seizures absent equitable claims (Grupo Mexicano de Desarrollo S.A. v. Alliance Bond Fund, Inc., 527 U.S. 308 (1999)). The TRO lacking subject matter jurisdiction, due process, and constitutional protections, froze over \$78

million in assets without a valuation, tainted analysis or evidence of future harm, further depriving the petitioner of resources necessary for his defense.

D. Sentencing Enhancements Were Improper

The district court's imposition of a 22-point loss enhancement at sentencing of the fraud conviction, without any identified victim or showing of "actual loss" violated the U.S. Sentencing Guidelines and Third Circuit precedent (*Banks*, 55 F.4th at 252).

VII. RELIEF REQUESTED

The petitioner respectfully requests that this Court:

- Dismiss the indictments in 21-cr-427-CFK and 22-cr-639-PGS.
- Vacate the SEC judgment in 21-cv-4845-CFK.
- Order the immediate release of all frozen funds and all additional funds and property seized by the government.
- Impose appropriate sanctions on the responsible DOJ and SEC attorneys.
- Compel a special prosecutor to investigate the conduct of the DOJ and SEC attorneys.
- Grant any additional relief deemed just and proper.

IX. CONCLUSION

The petitioner has been incarcerated for 3 years and had everything taken from him, in what the new U.S. President confirms as perverse corruption and the weaponization of federal justice system by the DOJ. While the district court and the government were made aware of the misconduct and constitutional violation of rights, they have refused to address or refute the arguments or facts, which has whitewashed the record and denied petitioner of appealable orders, which has again willfully obstructed appellate review by this Court.

This honorable Court now cannot unsee or disclaim the incontrovertible due process deprivations, structural errors of law, bias, and constitutional violations that have persisted across all three proceedings against petitioner. If this attack of due process and civil liberties is not remedied now, every wealthy citizen that is engaged in businesses the government cannot understand could face similar abuse. This case before this panel illustrates the dangers of unchecked prosecutorial power and systematic denial of rights within our legal system.

The cumulative constitutional violations in these proceedings represent a fundamental miscarriage of justice that mandates this Court's intervention. The extraordinary nature of indisputable violations and misconduct justifies the issuance of a writ of mandamus to protect the integrity of the judicial process and restore public confidence in the rule of law and rights.

Respectfully submitted,

/s/ Joseph Cammarata

Joseph Cammarata

Pro Se Petitioner

January 27th, 2025

Joseph Cammarata

Reg# 02555-506

Fairton Federal Correctional Institution - Camp

PO BOX 420

Fairton, NJ 08320