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IN THE NINTH CIRCUIT COURT OF APPEAL

20-70994

ANTHONY T. WILLIAMS
Petitioner,

v.

UNITED STATES OF AMERICA
Respondent.

CASE NO.
Lower Court No. 17-00101 LEK

EMERGENCY EXPEDITED WRIT FOR THE COURT TO EXERCISE ITS SUPERVISORY POWER

I. THE DEFENDANT HAS BEEN UNLAWFULLY PLACED IN DOUBLE JEOPARDY

The double jeopardy clause of the Fifth Amendment, made applicable to the states through the Fourteenth Amendment, provides that no person shall "be subject for the same offence to be twice put in jeopardy of life of limb" U.S. Const. Amend. V. "It has long been settled under the Fifth Amendment that a verdict of acquittal is final, ending a defendant's jeopardy, and even when not followed by any judgment, is a bar to a subsequent prosecution for the same offence." Green, 355 U.S. at 188, 78 S. Ct. 221. An acquittal on a greater offense generally bars a second prosecution for any lesser included offenses. See Brown, 432, U.S. at 169, 97 S. Ct. 2221("The Double Jeopardy Clause is not such a fragile guarantee that prosecutors can avoid its limitations by the simple expedient of DIVIDING A SINGLE CRIME into a SERIES OF TEMPORAL or SPATIAL UNITS.") (emphasis added): see also Price v. Georgia, 398 U.S. 323, 329, 90 S. Ct. 1757, 26 L. Ed 2d 300 (1970)

The instant case is one that the government alleged that the undersigned's mortgage documents and UCC filings are fraudulent and that the undersigned used the mail and wire in furtherance of this alleged scheme even though there was no scheme to defraud. The undersigned was taken to trial in Florida for the same

lawful business conduct of fighting illegal foreclosures by filing valid mortgage documents and UCC's to protect the homeowners from imminent foreclosure. In that trial the prosecution alleged that the mortgage documents and the UCC's were fraudulent and that the undersigned had no lawful authority to have them filed even though the documents were previously approved by governmental agencies for filing. The Hawaii Federal Prosecutors "KNEW" of the defendant's illegal prosecution and unlawful conviction in Florida, for the SAME business conduct and transactions and they STILL filed federal charges, alleging the SAME CONDUCT was fraudulent, and instead of filing Unlawful Filing of Documents and Grand Theft of a house charges, the Hawaii Federal Prosecutors filed charges for mail and wire fraud based on the SAME CONDUCT that the undersigned was tried and unlawfully convicted of in Florida. The Hawaii Federal Prosecutors DIVIDED a single crime into a SERIES OF TEMPORAL or SPATIAL UNITS and charged the defendant with mail and wire fraud based on the SAME CONDUCT that the defendant was tried and unlawfully convicted of in Florida. The U.S. Supreme Court ruled on this issue when it stated, "This court many times has held that Double Jeopardy Clause protects against three distinct abuses: a second prosecution for the same offense after acquittal; a second prosecution for the SAME OFFENSE AFTER CONVICTION; and multiple punishments for the SAME OFFENSE." North Carolina v. Pearce, 395 US 711, 717, 23 L Ed 2d 656,

89 S. Ct 2072 (1969). In the context Double Jeopardy principles protects against government over reaching and that proposition is extremely important because the states and federal government have an enormous array of civil administrative sanctions at their disposal that are capable of being used to punish persons repeatedly for the same offense, violating the bedrock double jeopardy principle of finality. "The underlying idea, one that is deeply ingrained in at least the Anglo-American system of jurisprudence, is that the state with all of its resources and power should not be allowed to make repeated attempts to convict an individual for an alleged offense, thereby subjecting him to embarrassment, expense and ordeal and compelling him to live in a continuing state of anxiety and insecurity." Green v. United States, 355 U.S. 184, 187, 2 L Ed 2d 199, 78 S. Ct. 221 (1957).

The State of Florida has procured an unlawful conviction for the same actions outlined in the indictment and the State of Hawaii issued an unlawful civil sanction for the same business actions and now the Hawaii Federal Prosecutors has filed charges and procured an unlawful conviction by an all white and all Asian jury for the THIRD TIME for the same lawful business actions. This clearly violates the double jeopardy principle which the U.S. Supreme Court ruled again, the double jeopardy clause it noted: "prohibits merely punishing twice, or attempting a second time to punish criminally, for the same offense." Helvering v. Mitchell, 303 U.S. 391, 399, 82 L Ed 917, 58 S. Ct. 630.

The double jeopardy clause protects against multiple prosecutions for the same offense, but the introduction of relevant evidence of particular misconduct in a case, is not the same thing as prosecution for that conduct. United States v. Felix, 503 U.S. 378, 387 (1992). Here the government has punished the undersigned a THIRD TIME for a lawful business the undersigned has conducted for 17 years and have also been unlawfully convicted in Florida for and thus, this clearly violates the double jeopardy clause and is grounds for dismissal of the superseding indictment.

The government on January 22, 2020 filed the Government's Trial Brief under document No. 791 under section III. PRIOR CONVICTION AND COURT ORDERS, the government unwittingly admitted on page 5 of that brief, that the undersigned "had already been tried and convicted of the SAME CONDUCT," thus proving by their own assertion, that the undersigned had been subjected to "double jeopardy." While the undersigned was going through the Florida case, the government placed a hold on the undersigned and after the defendant was unlawfully convicted, the government filed a writ to transfer the undersigned from the custody of the Florida State Prison and was transferred to Hawaii to face charges, stemming from the SAME ACTIONS and from the evidence seized from the Miami FBI office, which actually DECLINED PROSECUTION, because they found no evidence of a federal crime. (See Exhibit 1). In its brief, the government

states on page 5 that, "The facts underlying these convictions are DIRECT PROOF of the existence of the CHARGED SCHEME, that is, they arise from the SAME SCHEME to defraud homeowners through the sale of a bogus mortgage rescue service. In Florida, Williams was convicted of marketing a service whereby he, as an attorney, could perform the magical act of making mortgages disappear... the Florida conviction involves the SAME SCHEME TO DEFRAUD with Florida victims."

The government has clearly placed the defendant and the undersigned in "double jeopardy," by indicting the defendant on the filing of documents and his business practices, which he was previously tried and unlawfully convicted of in the State of Florida. (Those convictions have apparently been overturned). The Hawaii Federal Prosecutors KNEW that the defendant had been convicted for conducting the SAME BUSINESS using the SAME DOCUMENTS and process in Florida and was constantly in contact with the Florida State Attorney and the FBI in Florida. In order to try to circumvent the double jeopardy clause of the Fifth Amendment, the Hawaii Federal Prosecutors filed different charges than the ones filed in Florida, and used the SAME DOCUMENTS and business process, to procure an indictment. The defendant has been tried and unlawfully convicted for the filing of the mortgage documents, UCC filings and the MEI program that the Hawaii Federal Prosecutors has indicted the defendant on, which arose out of the

SAME transactions and business, using the SAME BANK ACCOUNTS that was used in Florida.

In 2016 the undersigned was indicted by the State of Florida for operating the SAME BUSINESS and was unlawfully tried and convicted in 2017. The State of Florida alleged that the undersigned made false statements (the same charges the Hawaii Federal Prosecutors were alleging in its indictment), and filed fraudulent mortgages and UCC documents (the same that the government is alleging in its indictment), to obtain property or money from homeowner (the same thing that the government is alleging in its' indictment). The government's indictment alleged the EXACT SAME THING based on the SAME CONDUCT and TRANSACTIONS that transpired DURING THE SAME TIME. These are clearly in violation of the "double jeopardy principle," as the Ninth Circuit has previously ruled, "Dismissal of an indictment pursuant to the courts supervisory power may be appropriate where the indictment charges an offense nearly IDENTICAL to one previously tried. Guido v. United States, 597 F. 2d 194 (9th Cir. 1979) (per curiam)." In Guido, the defendant had entered a "plea of guilty" to an indictment brought in the Eastern District of California charging them with "conspiracy to import marijuana." A year later, a federal grand jury in Arizona returned an indictment against the defendants charging them, inter alia, with conspiracy to possess marijuana with intent to distribute. Prior to filing of the second indictment,

the Arizona prosecutor had learned of the California prosecution and its underlying facts. The defendant sought dismissal of the Arizona indictment on "double jeopardy" and due process grounds, claiming that it charged the same offense as the California indictment. The District Court denied the motion to dismiss and the defendants were subsequently tried and convicted. On appeal, the defendant renewed their constitutional challenges to the indictment. The Ninth Circuit declined to reach those claims, however, REVERSING THE CONVICTIONS UNDER IT'S SUPERVISORY POWER instead. The court compared the two conspiracies and concluded that they involved the SAME OBJECTIVES, the SAME KEY PARTICIPANTS (defendants), the SAME METHOD OF OPERATION and the SAME PERIOD OF TIME. Although the conspiracies were separately punishable. See United States v. Burkett, 612 F. 2d 449, 452 (9th Cir. 1979)(discussing Guido), cert. denied, 447 U.S. 905, 100 S. Ct. 2985, 64 L. Ed 2d 853 (1980), the court nevertheless, viewed the SECOND PROSECUTION as INHERENTLY UNFAIR. Despite a difference in participants between the two conspiracies, the court found the offenses practically INDISTINGUISHABLE since they shared the SAME PURPOSE, that of importing and distributing marijuana. See Id. The Arizona Prosecutor's knowledge of the California indictment, should have put him on notice that he was charging defendants with virtually the SAME OFFENSE. Nevertheless, they brought the indictment. The

court INVOKED ITS SUPERVISORY POWER TO CORRECT SUCH AN 'UNJUST RESULT'. Guido provides strong support for dismissing the indictment in this case. Even if the conspiracy offense charged in the two indictments are "separately punishable," they are virtually "identical" in terms of proof. The only distinction between the two conspiracies charged, is the difference in the supplier to Hughes, a factor which the Guido court did not consider as significant. More importantly, both consequences, "conspiracies" involve the SAME PURPOSE, to defraud Hughes, a factor which the court did find significant in Guido. Furthermore, as in Guido, the prosecutor KNEW about the two conspiracies, when the decision was made to seek separate prosecutions. Thus, Guido's holding that "two separate conspiracies" are "identical," except for a minor difference in participants, must be tried together, applies with full force here. The Prosecution under the second indictment, would result in unnecessary harassment of the defendants and THE COURT MUST NOT PERMIT SUCH AN INJUSTICE. As to the substantive counts, Guido also compels dismissal. The new mail fraud counts are virtually identical to the new conspiracy count; indeed, every mailing alleged under section 1341, is also "alleged," as an overt act of the conspiracy. The same facts underlie both the substantive counts and the conspiracy, and therefore, Guido would require joinder of those offenses. Since the new conspiracy count should have been joined in the first indictment, it follows that the new substantive

counts, should also have been joined. Alternatively, the separate trials on mailings connected by the SAME SCHEME TO DEFRAUD would be GROSSLY UNJUST. United States v. Allen, 539 F. Supp. 296 (9th Cir. 1982). "Given that the offenses charged in the second indictment are nearly identical to those previously tried, the court concludes that "further prosecution of defendants would be oppressive." The government's failure to act with due regard for the integrity of the administration of justice, United States v. Basurto, 497 F. 2d 781, 793 (Hufstedler, J., concurring), makes this an appropriate case for exercising the courts supervisory power and accordingly, the indictment MUST BE DISMISSED. Allen supra. (emphasis added).

The government on its OWN ADMISSION, admitted that "they charged the defendant for the SAME CONDUCT he was unlawfully convicted of, in Florida," Thus, proving by their own statements, "they knew," that by bringing these charges for the SAME CONDUCT, would be "oppressive" and subjected the undersigned to "double jeopardy." The Hawaii Federal Prosecutors, acted with undue regard, for the integrity of the administration of justice.

II. DEFENDANT WAS DENIED EQUAL PROTECTION RIGHTS UNDER THE FOURTEENTH AMENDMENT TO HAVE MEMBERS OF HIS RACE ON THE JURY POOL AND JURY

In the voir dire process, the undersigned noticed that there were no African-Americans, Hispanics, Hawaiians, Filipinos, Samoans, Fijians, Chinese, Koreans, Portuguese or other "local races" on the juror panel to choose from. Hawaii is a "melting pot" of multi-races from all over the World. The undersigned brought this to the attention of the court and objected to this due process violation, citing the U.S. Supreme Court case Batson v. Kentucky, 476 U.S. 79,, 106 S. Ct. 1712, 90 L. Ed. 2d 69 (1986). The court completely ignored the undersigned's objection and proceeded with the voir dire and the empaneling of the jurors. What was quite disturbing was, the majority of the jurors were either Asians (specifically of Japanese descent) or Caucasian. The reason the defendant noticed this as especially significant, was because the judge in this instant case, is an Asian (Japanese descent), the Hawaii Federal Prosecutors and the FBI Agent are of Japanese and Caucasian descent respectively, and the undersigned is African-American. The optics is quite clear that the "chosen jurors" were not a jury of the undersigned's peers and was, in fact, empaneled because the prosecution "KNEW" that by empaneling an all-white and mostly Japanese descent jurors, that regardless of

what the defendant's evidence that was presented to the jury, it was obviously impartial and would have a certain bias against the undersigned due to his race.

In 1875, to help enforce the Fourteenth Amendment, Congress and the President Ulysses S. Grant, signed the Civil Rights Act of 1875. Ch. 114, 18 Stat. 335. Among other things, that law made it a criminal offense for state officials to exclude individuals from jury service on account of their race. 18 USC 243. The Act provides: "No citizen possessing all other qualifications which are or may be prescribed by law shall be disqualified for service as grand or petit juror in any court of the United States, or of any State on account of race, color, or previous condition of servitude." As the Court later explained in Brown v. Board of Education, 347 U.S. 483, 74 S. Ct. 686, 98 L. Ed. 873 (1954), the Court's decisions in the Slaughter-House Cases and Strauder interpreted the Fourteenth Amendment "as proscribing all state-imposed discriminations against the Negro race including jury service." Brown, 347 U.S., at 490

In the decades after Strauder, the Court reiterated that States may not discriminate on the basis of race, in jury selection. See, e.g., Neal v. Delaware, 103 U.S. 370, 397, 26 L. Ed. 567 (1881); Carter v. Texas, 177 U.S. 442, 447, 20 S. Ct. 687, 44 L. Ed. 839 (1900); Norris v. Alabama, 294 U.S. 587, 597-599, 55 S. Ct.579, 79 L. Ed. 1074 (1935); Hale v. Kentucky, 303 U.S. 613, 616, 58 S. Ct. 753, 82 L. Ed. 1050 (1938)(per curiam); Pierre v. Louisiana, 306 U.S. 354, 362, 59 S.

Ct. 536, 83 L. Ed. 757 (1939); Smith v. Texas, 311 U.S. 128, 130-131, 61 S. Ct. 164, 85 L. Ed. 84 (1940); Avery v. Georgia, 345 U.S. 559, 562, 73 S. Ct. 891, 97 L. Ed 1244 (1953); Hernandez v. Texas, 347 U.S. 475, 477-478,, 482, 74 S. Ct. 667, 98 L. Ed. 866 (1954); Coleman v. Alabama, 377 U.S. 129, 133, 84 S. Ct. 1152, 12 L. Ed. 2d 190 (1964).

However, critical problems persisted. Even though laws barring blacks from serving on juries were unconstitutional after Strauder, many jurisdictions employed various discriminatory tools to prevent black persons from being called for jury service. And when those tactics failed, or were invalidated, prosecutors could still exercise peremptory strikes in individual cases, to remove most or all black prospective jurors. In the aftermath of Strauder, the exclusion of black jurors became more covert and less overt-often accomplished through peremptory challenges in individual courtrooms, rather than by blanket operation of law. But as the Supreme Court later noted, the results were the same for black jurors and black defendants, as well as for the black community's confidence in the fairness of the American criminal justice system. See Batson, 476 U.S., at 98-99,, 106 S. Ct. 1712, 90 L. Ed. 2d 69.

Eighty-five years after Strauder, the Court decided Swain v. Alabama, 380 U.S. 202, 85 S. Ct. 824, 13 L. Ed 2d 759 (1965). The defendant Swain was black. Swain was convicted of a capital offense in Talladega County, Alabama, and sentenced to

death. Swain presented evidence that NO BLACK JURORS had served on a jury in Talladega County in more than a decade. See id., at 226, 85 S. Ct. 824, 13 L. Ed. 2d 759. And in Swain's case, the prosecutor struck all six qualified black prospective jurors, ensuring that Swain was tried before an all-white jury. Swain invoked Strauder to argue that the prosecutor in his case had impermissibly discriminated on the basis of race, by using peremptory challenges to strike six black prospective jurors. See 380 U.S., at 203, 210, 85 S. Ct. 824, 13 L. Ed. 2d 759. The Court ruled however, that Swain had not established unconstitutional discrimination. In other words, a prosecutor could permissibly strike a prospective juror for any reason, including the assumption or belief that a black prospective juror, because of race, would be favorable to a black defendant or unfavorable to the State. See id., at 220-221, 85 S. Ct. 824, 13 L. Ed. 2d 759.

Twenty-one years later, in its 1986 decision in Batson, the Court revisited several critical aspects of Swain, and in essence, overruled them, (because they were racist and discriminatory in the first place). In so doing, the Batson Court emphasized that "the central concern" of the Fourteenth Amendment "was to put an end to GOVERNMENTAL DISCRIMINATION ON ACCOUNT OF RACE." 476 U.S., at 85, 106 S. Ct. 1712, 90 L. Ed. 2d 69. The Supreme Court stated that the principle announced in Strauder v. West Virginia, 100 US 303, 25 L Ed. 664, that a State denies a black defendant equal protection when it puts him on trial

before a jury from which members of his race have been purposefully excluded, was reaffirmed. The Equal Protection Clause guarantees the defendant that the State will not exclude members of his race from the jury venire, on account of race, or on the false assumption that members of his race as a group, are not qualified to serve as jurors. By denying a person's participation in jury service on account of his race, the State also unconstitutionally discriminated against the excluded juror. Moreover, selection procedures that purposefully excluded black persons from jury selection, undermine public confidence in the fairness of our justice system. The same equal protection principles as are applied to determine whether there is discrimination in selecting the venire, also govern the State's use of peremptory challenges to strike individual jurors from the petit jury.

In the instant case, the undersigned was not at all, afforded an opportunity to have ANY African-American, Hispanics, Hawaiians, Filipinos, Samoans or other "local races" on his jury, because there were NONE on the jury to choose from. Batson states that in order to establish a prima facie case of purposeful discrimination in the selection of the jury venire, criminal defendants initially must show they are members of a racial group that is capable of being singled out for differential treatment; in combination with that evidence, defendants may then make a prima facie case by proving that in the particular jurisdiction in question, members of their race have not been summoned for jury service over an extended

period of time; a prima facie case may also be found on proof that members of the defendant's race were substantially underrepresented on the venire from the defendant's jury was drawn, and that the venire was selected under a practice providing the opportunity for discrimination. The court in Batson stated that a consistent pattern of official racial discrimination, is not a necessary predicate to a violation of the equal protection clause of the Fourteenth Amendment; a single invidiously discriminatory governmental act, is not immunized by the absence of such discrimination in the making of other comparable decisions.

What need to be revealed is the reason WHY the FBI in Miami initially investigated the undersigned in 2015 for the SAME FEDERAL OFFENSES, and after searching and seizing all of the undersigned's computers, phones and files, they DECLINED PROSECUTION. Then instead of returning the undersigned's properties, the Miami FBI sent all of the undersigned's properties to the FBI in Honolulu office, to have the undersigned charged for the SAME OFFENSES using the confiscated items from Miami. The reason is very simple. First, the FBI Miami declined prosecution because they found NO EVIDENCE of a federal crime that was committed by the undersigned. Second, "they knew" that if they did file charges against the undersigned in Miami, the jury pool would consist of African-Americans and Hispanics and they KNEW that there was no way that they could

have empaneled an all-white and all-Asian jurors in that district, and the chances of a conviction was slim to NONE.

However, The Florida Federal Prosecutors "KNEW" that by allowing the Honolulu Federal Prosecutors to file the charges, that they could "guarantee," that there would be NO AFRICAN-AMERICANS or HISPANICS on the jury pool, because of the minimal amount of African Americans and Hispanics that reside in Hawaii. Therefore, The Hawaii Federal Prosecutors, could empanel a jury that was the same Asian (Japanese descent) Judge Leslie E. Kobayashi is of a Japanese descent, The Hawaii Federal Prosecutors and FBI agent are Japanese and Caucasian descent respectively, thus ensuring that they would get a conviction, regardless of all the factual evidence presented by undersigned of his innocence. After seeing that there were NO AFRICAN-AMERICANS, Hispanics, Hawaiians, or other "local races," in the jury pool, the undersigned brought this to the attention of Judge Leslie Kobayashi (hereinafter "Kobayashi") and the undersigned objected, based on the ruling in Batson. Kobayashi's stated reasoning was: "there are not a lot of African-Americans and Hispanics in Hawaii" and that was why there were no African-American, Hispanics, Hawaiians, Samoans or other "local races," that were on the jury pool to choose from. She then stated that the "undersigned's Batson objection was noted," she ignored the undersigned's objections, she then

proceeded on with the venire questioning. Kobayashi has not made any effort to place a resolution to the perceived biased against the undersigned.

The jury pool was to reflect the community in which the defendant is to be tried. The community in Hawaii is not devoid of ANY AFRICAN AMERICANS, HISPANICS, HAWAIIANS, SAMOANS OR OTHER LOCAL RACES. Yet, not ONE of the above-mentioned races were summoned for jury duty, to afford the undersigned's EQUAL PROTECTION UNDER THE LAW, and to not have members of his race EXCLUDED from the jury selection process.

III. A JUROR SHOULD HAVE BEEN REMOVED WHEN THIS PARTICULAR JUROR EXPRESSED AT THE JURY SELECTION PROCESS, THAT SHE HAD A CERTAIN BIAS AGAINST THE UNDERSIGNED AND HAD ALREADY MADE UP HER MIND BEFORE THE TRIAL THAT SHE IS AGAINST ANY EVIDENCE FROM THE DEFENSE

An Asian (of Japanese descent) female juror, notified the U.S. Marshals that "she had a certain bias against the undersigned because she "remembered her daughter showing her a brochure of the undersigned's company and her daughter had contemplated on doing an internship at the undersigned's office in New York".

The juror had already "made up her mind that the undersigned was guilty" without hearing or seeing all of the evidence and without the defense even having a chance to present its case.

Judge Leslie E. Kobayashi (hereinafter "Kobayashi") had the jury brought in to question this juror, based on what was told to the court by the Marshal. Kobayashi asked the juror: "could you be impartial at this point," and the juror got very emotional and started crying because she stated that "she wanted to tell her daughter not to have anything to do with the undersigned's company." Kobayashi informed the juror that: "you cannot speak to your daughter about the case," further, Kobayashi told the juror: "could you wait until all the evidence was presented and then make your decision based on the evidence?" The juror stated that "she didn't know if she could, because she already felt like the undersigned was guilty." After continuing to question this juror, Kobayashi still convinced the juror and asked her: "could you try to be impartial?" then, Kobayashi told the juror that "you would still remain on the jury."

After the juror was sent back to the jury room, the undersigned moved to have this juror removed because she clearly stated that "she is biased against the undersigned and could not be impartial," regardless of what she said to Kobayashi that "she would try." The emotion that was invoked from this juror by realizing "she had seen a brochure of the undersigned that was shown to her by her

daughter" could have been enough for the court to realize that this juror's "impartiality has been compromised" that "she could no longer be a fair and impartial juror." Kobayashi and the Hawaii Federal Prosecutors disagreed with the undersigned and stated that "they felt the juror could still be fair" even after seeing the emotional breakdown of this juror. The court erroneously agreed and allowed the juror to remain on the jury. The undersigned argued and objected because clearly, this juror's "impartiality" was already "tainted" because of her "emotional connection" to her daughter and her "false belief" that her daughter would somehow, might be involved, if she accepted a job with the undersigned's company.

In extraordinary case, courts may presume "juror bias" on the circumstances. The United States Court of Appeals for the Ninth Circuit, has indicated four instructive fact situations where "juror's bias" might be implied: 1) where the juror is apprised of such prejudicial information about the defendant, that the court deems it highly unlikely that one can exercise independent judgment even if the juror states, he will; 2) the existence of certain relationships between the juror and the defendant; 3) where a juror or his close relatives have been personally involved in a situation involving a similar fact pattern; and 4) where it is revealed that the juror is an actual employee of the prosecution agency, that the juror is a close relative of one of the participants in the trial, or that the juror was a witness

or somehow involved in the underlying transaction. In United States of America v. Kechedzian, 902 F. 3d 1023; 2018 U.S. App. LEXIS 25031, the Ninth Circuit stated that the Sixth Amendment," guarantees criminal defendants a verdict by an impartial jury," and the bias or prejudice of even "a single juror" is enough to "violate the guarantee." Accordingly, the presence of a" biased juror," cannot be harmless; the error requires a new trial without a showing of actual prejudice. And any doubts regarding bias, must be resolved against the juror. One important mechanism for ensuring impartiality is voir dire, which enables the parties to probe potential jurors for prejudice. After voir dire, counsel may challenge a prospective juror for cause, and a partial or biased juror should be removed, if there is a showing of either implied or actual bias.

"Actual bias" is the more common ground for excusing jurors for cause. Also referred to as "bias in fact." "Actual bias" is the existence of a state of mind that leads to an inference that the person will not act with entire impartiality. "Actual bias" can be revealed through a juror's express answers during the voir dire, but it can also be revealed by circumstantial evidence during questioning.

The situation with this particular juror, fits within the purview of the Ninth Circuit's instructive fact situation No. 1 and No. 2. The juror in question was "emotionally charged" because of her "biased perceptions." This juror was in tears and initially stated that she "already felt that the undersigned was guilty" at the

voir dire selection process. The court should have removed this juror at the undersigned's objection, because this juror clearly "verbalized her admittance" based upon her "biased perception" against the undersigned, undoubtedly, "tainted" the minds of the other jurors, because of her sentiments alone, it was enough to change the other juror's mind, as all the jurors saw how "emotionally distraught" she was. Judge Kobayashi's decision to still include this juror, mandated that she should have been removed from the jury.

SUMMARY

The petitioner has been subjected to Double Jeopardy in violation of the Fifth Amendment by the government filing charges that the petitioner had previously been tried and unlawfully convicted of, in Florida and sanctioned civilly for the same conduct in Hawaii. As outlined in Helvering, Supra and Green, Supra, the Double Jeopardy principle, protects against prosecution after acquittal, after conviction and multiple punishments, for the same offense. The petitioner has been subjected to, being repeatedly punished, for the same actions, which violated the bedrock, "double jeopardy principle of finality."

Equal justice under law, requires a criminal trial, free of racial discrimination in the jury selection process. Enforcing that constitutional principle, Batson ended the

widespread practice in which prosecutors could (and often would), routinely strike, all black prospective jurors in cases involving black defendants. By taking steps to eradicate racial discrimination from the jury selection process, Batson sought to protect the rights of defendants and jurors, and to enhance public confidence in the fairness of the criminal justice system. Batson immediately revolutionized the jury selection process that takes place every day in federal and state criminal courtrooms throughout the United States. Flowers v. Mississippi, 588 US___, 139 S. Ct.___,204 L. Ed. 2d 638, 2019 US LEXIS 4196 (2019)

In the decades since Batson, the U.S. Supreme Court cases have rigorously enforced and reinforced these decisions to guard against any backsliding. See Foster, 578 U.S. ___, 136 S. Ct. 1737, 195 L. Ed. 2d 1; Snyder v. Louisiana, 552 U.S. 472, 128 S. Ct. 1203, 170 L. Ed. 2d 175 (2008); Miller-El v. Dretke, 545 U.S. 231, 125 S. Ct. 2317, 162 L. Ed. 2d 196 (2005)(Miller-El II). Moreover, the Court has extended Batson in certain ways. A defendant of any race may raise a Batson claim, and a defendant may raise a Batson claim, even if the defendant and the excluded juror are of different races. See Hernandez, 347 U.S., at 477-478, 74 S.Ct. 667, 98 L. Ed. 866; Powers, 499 U.S., at 406, 111 S. Ct. 1364, 113 L.Ed. 2d 411. Moreover, Batson now applies to gender discrimination, to a criminal defendant's peremptory strikes, and to civil cases. See J.E.B. v. Alabama ex rel. T.B., 511 U.S. 127, 129, 114 S. Ct. 1419, 128 L. Ed. 2d 89(1994); Georgia v.

McCollum, 505 U.S. 42, 59, 112 S. Ct. 2348, 120 L. Ed. 2d 33 (1992); Edmonson v. Leesville Concrete Co., 500 U.S. 614, 616, 111 S. Ct. 2077, 114 L. Ed. 2d 660 (1991).

A state's purposeful or deliberate denial to blacks on account of race of participation as jurors in the administration of justice, violates the equal protection clause of the Fourteenth Amendment. Total or seriously disproportionate exclusion of blacks from jury venires, is itself such an unequal application of the law, as to show intentional discrimination.

In this instant case, the petitioner did not have ANY AFRICAN AMERICANS to choose from the jury pool and thus, his rights were violated, to equal protection, under the law. There are African-Americans living in Hawaii, yet there was not a SINGLE AFRICAN AMERICAN summoned to have the opportunity to sit as a juror, in the petitioner's case.

The petitioner's rights was also violated by the court, by not removing the juror who initially expressed and verbally admitted to Judge Kobayashi that "she could not be impartial" and that "she had already concluded that "the petitioner was guilty" BEFORE hearing all of the evidence and BEFORE the petitioner was able to present his defense. The court had an obligation to have this juror removed, yet, the court declined to do so. This juror clearly was "biased and emotionally

involved" and could not overcome her biased perceptions. This juror should have been removed from the jury. This violated the petitioner's rights to have a fair and impartial jury empaneled to hear the case.

CONCLUSION

When the right to an impartial jury has been violated, no inquiry as to the sufficiency of the evidence to show guilt is indulged and a conviction by a jury so selected MUST BE SET ASIDE. People v. Mitcham, 1 Cal. 4th 1027, 5 Cal. Rptr. 2d 230, 824 P. 2d 1277, 1992 Cal. LEXIS 1269 (1992).

The undersigned has clearly been subjected to Double Jeopardy and the Constitutional Law and the U.S. Supreme Court cited, herein, are very specific, that this bedrock principle, cannot be violated and any violation must be corrected, and the accused case MUST BE DISMISSED, without prejudiced.

RELIEF

Petitioner requests that this court expedite its ruling and exercise its supervisory power and reverse the unlawful conviction of the petitioner and order his immediate release without undue delay.

Executed this 3rd day of April, 2020.

Righteously Submitted,

Anthony T. Williams
Private Attorney General
Counsel to the Poor (Psalms 14:6)
Common Law Counsel (28 USC 1654, First Judiciary Act of 1789, § 35)

"For I know how many are your offenses and how great your sins. You oppress the righteous and take bribes and you deprive the poor of justice in the courts."

Amos 5:12

EXHIBIT "1"

TRANSCRIPT TESTIMONY OF AGENT JOSEPH LAVELLE

The following is the transcript of the testimony of FBI Agent Joseph Lavelle who admitted that the undersigned was never charged with impersonation of a police officer by the State or FBI and admitted that there is no crime for a citizen to have their own handcuffs, badge or ID.

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1 Q Okay. Did the Broward County Sheriff's office

2 charge me with impersonation of a police officer?

3 A No, sir.

4 Q Did the FBI charge me with impersonation of a police

5 officer

6 A No, sir.

7 Q Did Broward County Sheriff's office charge me with

8 carrying a fake ID?

9 A No, sir.

10 Q Did the FBI charge me with carrying a fake ID?

11 A No, sir

12 Q Did Broward County charge me with carrying

13 handcuffs?

14 A No, sir.

15 Q Did the FBI charge me with carrying fake handcuffs

16 or handcuffs?

17 A No, sir.

18 Q Is it a crime for a citizen to have their own

19 handcuffs?

20 A No.

21 Q Is it a crime for a citizen to go through TSA when

22 it's been approved by TSA to fly on an airplane with those

23 handcuffs?

24 A It is not.

25 Q Is it a crime if it's been cleared through TSA to

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1 actually wear a sovereign peace officer badge on a plane?

2 A I don't believe so.

3 Q And did you call the Davidson Sheriff County Office

4 in Nashville to ask why they were the one to tell me how to get

5 a -- obtain a sovereign peace officer badge?

6 A I don't recall.

7 Q Did you call the law enforcement agency that

8 actually created the sovereign peace officer badge for me?

9 A Not to my recollection.

10 Q Do you know how long I've had this sovereign peace

11 officer badge?

12 A No, sir.

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2 Q So did the FBI charge me with unlicensed mortgage

3 broker?

4 A In the Southern District, no, sir.

5 Q In any district in Florida?

6 A Not to my recollection, sir.

7 Q And in your investigation, you--what would the

8 specific federal charges that you wer investigating me for

9 that you felt you had probable cause that my business was
10 committing in Florida?
11 A The specific charges would have been mail, wire, and
12 mortgage fraud for the Southern District. Excuse me.
13 Q So mail, wire, and mortgage fraud.
14 A Yes, sir.
15 Q And did you all ever charge me with mail, wire, and
16 mortgage fraud in Florida?
17 A No, sir.
18 Q Did you all receive any statements from any clients
19 that was written to your office stating that I committed fraud
20 against them, that I scammed them or defrauded them?
21 A No, sir.
22 Q And in your investigation, you found out that I got
23 offices in multiple states, correct?
24 A Yes, sir.
25 Q And do you know what those states were?

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1 A As specifically off the top of my head, Hawaii,
2 here, and California, and perhaps Tennessee.
3 Q What about Texas?
4 A Yes, sir, Texas.
5 Q Were you one of the agents that searched my mom's
6 home, took her computer, took the files out of her home office?
7 A I was present, yes, sir.
8 Q Okay, so you know I had a office in Texas. Now, in
9 your investigation in your collaboration with the Texas FBI

10 office, how many clients in Texas filed charges against me, my
11 company, or my mother for fraud"
12 A I don't recall, sir.
13 Q You don't recall or you don't recall there's any?
14 A I don't recall that there's any.
15 Q In California, were you in contact with the FBI
16 agent or office there?
17 A Yes, sir, for specifically for the Ventura mortgage
18 event.
19 Q Okay. So of all my clients in California that I
20 have, how many clients in California filed any charges against
21 me or made a complaint against me or my company for mortgage
22 fraud or scamming them or anything like that?
23 MR. SORENSON: Your Honor, I'm going to object
24 because he keeps saying how many people filed charges and I
25 think that assumes some kind of legal conclusion. And it

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1 infers that people filed charges. We just object to the form
2 of the question.
3 THE COURT: All right. Overruled.
4 Okay. If you understand the question, you can answer it.
5 THE WITNESS: Okay. No-- no victims in California,
6 to my knowledge and recollection.
7 Q (BY THE DEFENDANT:) Okay. And so you know that
8 upon your investigation, I also have an office in Tennessee,
9 correct?
10 A Yes, sir.

11 Q And you know I been -- you know how long I been in
12 Tennesssee? Do you know about the time frame I was in Tennessee
13 before I came to the other states?
14 A Yes, sir, I was aware of that.
15 Q Okay. So you know I was in Tennessee around 2009--
16 since 2009?
17 A Perhaps, yes, sir.
18 Q Okay. And so you're aware that the FBI office in
19 Nashville also did the same thing that you all did in Florida
20 and had my mortgage company and my common law office under
21 investigation, federal investigation? You're aware of that
22 too, correct?
23 A Yes, sir, I was.
24 Q Okay. And are you aware that one of your agents --
25 fellow agents named Joe Craig was calling around my clients and

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1 telling them that I'm a crook, I'm a fraud, I'm not a real
2 minister? Are you aware that he was doing that?
3 A No, sir.
4 Q Did you see the YouTube video that I posted of this
5 confrontation with the FBI office, confronting about them
6 defaming my character and slandering my name, saying I'm a
7 crook, saying my mortgage company is fraudulent? Did you get
8 to view that video that's on YouTube?
9 A I don't recall viewing that video, sir.
10 Q In your communication with the Nashville office, did
11 they tell you that they ever filed any charges since 2009

12 against me, my company, or any of my employees for mortgage
13 fraud, mail fraud, wire fraud, bank fraud, or money laundering?
14 A They did not file charges.
15 Q Okay. So in your investigation, the only state
16 that's ever filed any charges, federal charges against me, is
17 the state of Hawaii; is that correct?
18 A Yes, sir.
19 Q Okay. And are you aware of the federal lawsuit that
20 I had previously filed against you and Agent Crawley?
21 A A federal lawsuit?
22 Q Yes, in 2014 and 2016.
23 A Well, we didn't know each other, I believe, in 2014,
24 but I was not aware that you had a federal lawsuit against me.
25. So you was never served at your office that federal

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1 lawsuit?
2 A No, sir
3 Q And in Florida, who told you that I was committing
4 these -- or possibly committing these federal crimes? Like,
5 did you get an anonymous tip? or did a client come by and say,
6 Hey, this guy's doing this?
7 A No, sir. As I said before, it was just basically we
8 viewed your website and Common Law Office of America and your
9 status as a private attorney general, Mortgage Enterprise
10 Investments; it seemed pretty clear to us what was going on
11 from viewing the websites that were attributed to you.
12 Q So you can tell from a website whether somebody's

13 committing a crime or not?

14 A No, you can't. It's a part of an investigation,

15 it's a piece of evidence.

16 THE DEFENDANT: Can I get the government exhibit of

17 my badge and handcuffs? I don't know what number that was.

18 THE COURT: The photograph?

19 THE DEFENDANT: Yeah, the photograph.

20 THE COURT: I believe that's 604.

21 THE DEFENDANT: That's 604. Now, he's going to have

22 to actually get the actual ID so he can look at 'cause it don't

23 have a picture on the back side of it on here. But I want him

24 to look at the back side of the ---

25 THE COURT: Is taht still up with you?

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1 THE DEFENDANT: The ID.

2 THE COURT: Yeah. So is that the badge or the ID?

3 THE DEFENDANT: The ID.

4 THE COURT: The ID. So that's 505. Do you want him

5 to look at that?

6 THE DEFENDANT: Yes.

7 THE COURT: Okay.

8 Q (BY THE DEFENDANT:) On the back of the ID, what

9 does it say at the top? What's written at the top?

10 A "U.S. Congress codified the private attorney general

11 principal into law with the enactment of the Civil Rights

12 Attorney's Fees Award Act of 1976, 42 U.S.C. , 1988."

13 Q And what else is written on there?

14 "Senate report No. 94-9011."

15 Q Does anywhere on there say FBI number on there? Do

16 you see where it says, Do not detain --

17 A "Do not detain. Do not arrest. FBI number."

18 Q Okay. And can you identify if that's the real FBI

19 number that you all have for me?

20 A I cannot.

21 Q You cannot verify it?

22 A I don't have your FBI number memorized, sir.

23 Q You all don't have it --

24 A Memorized, no, sir.

25 Q So if I went to the FBI office and I handed you that

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9 Q Okay. So when did -- where did the mortgage fraud

10 come in?

11 Q Well, there was a -- what we call a parallel

12 investigation for mortgage fraud activities that was run of the

13 Miami division's mortgage fraud squad, and my squad tried to

14 focus on if there was any threats of basically force or

15 violence of yourself.

16 Q So you assessed that I was violent?

17 A No, sir.

18 Q So at the conclusion of your investigation, your

19 office declined prosecution, correct?

20 A Not my office. The U.S. Attorney's Office, sir.

21 Q Well, the U.S. Attorney's Office in Florida declined

22 prosecution?

23 A Yes, sir.

24 Q Your office also declined -- can I show him this

25 Miami office report?

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3 Q Special Agent Lavelle, you testified on direct exam

4 with respect to the idea or concept of other states filing

5 charges. Do you remember that?

6 A Yes, sir.

7 Q I think the question might have been something like,

8 so Hawaii's the only state that's ever filed charges. Do you

9 remember that question?

10 A Federal charges, yes, sir.

11 Q Okay, Well, you didn't say federal charges at the

12 time.

13 A I believe the question was federal charges.

14 Q Okay. Were there charges filed in any other state?

15 A Yes, sir.

16 Q What charges were filed in another state?

17 A In the state of Florida --

18 DEFENDANT: Objection. Beyond the scope.

19 THE COURT: All right. Overruled. You asked him

20 about charges filed in other areas, so opened the door.

21 All right. So the question -- you can finish your answer.

22 Q (BY MR. SORENSON:) Do you have personal knowledge

23 of other charges being filed?

24 A Yes, sir.

25 Q And did you, in fact, testify at a trial where other

charges were litigated?
A Yes, sir.
Q And who were those charges filed against?
A Anthony Troy Williams
Q And do you recall what those charges were?
A They were grand theft and filing false documents and I believe identity theft.
Q Are you familiar with the circumstances under which the grand theft charges were brought?
A Yes, sir.
Q Were they related to mortgage fraud?
A Yes, sir.
Q Were they related to his -- his mortgage fraud -- or mortgage reduction plan as you've described it?
A Yes, sir.
Q And was it this plan to reduce mortgages by one-half?
A Yes, sir.
Q And -- and -- but in Florida, the state of Florida -- was it Broward County?
A Yes, sir.
Q He was charged with grand theft based on that; is that correct:
A Yes, sir.
THE DEFENDANT: Objection.

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Q (BY MR. SORENSON:) Did the victims --
THE COURT: Wait. I'm sorry. So your objection is?
THE DEFENDANT: Improper impeachment by Rule 609.
THE COURT: All right. So you opened the door with regard to charges being brought on the mortgage-related. So I'm going to overrule on that basis.
Q (BY MR. SORENSON:) Mr. Williams also asked you a lot of questions about people complaining about him; is that correct?
A Yes, he did, sir.
Q And were there homeowners involved with respect to those grand theft charges?
A There were.
Q And did they have complaints?
A They testified about Mr. Williams's activities in mortgage.
THE DEFENDANT: Objection. Hearsay.
THE COURT: All right. Overruled.
Okay. Next.
Q (BY MR. SORENSON:) And did they testify that he had offered them this same scheme to --
THE DEFENDANT: Objection. That's leading and hearsay.
THE COURT: Okay. Sustained.
Q (BY MR. SORENSON:) What did they testify about?

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A They testified about Mr. Williams acting as a private attorney general and being able to reduce their --

THE DEFENDANT: Objection. Again, hearsay and that's not what they testified.

THE COURT: Okay, well, you didn't object to the question. He already began his answer, so next question.

Agent Joseph Lavelle's Testimony (continued) Part II

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7 Q (BY MR. SORENSON:) Is -- can he finish the answer,
8 Your Honor?
9 THE COURT: NO, 'cause it is hearsay. So ask him
10 another question. But his answer to that point will stand.
11 Q (BY MR. SORENSON:) Okay. So -- and you testified
12 in this trial yourself; is that correct?
13 A I did, sir.
14 Q And are you familiar with what happened in that
15 trial.
16 A I am.
17 Q and what happened?
18 A Mr. Williams was found guilty.
19 Q Was Mr. Williams seated here in courtroom -- the
20 courtroom today convicted of grand theft there?
21 A Yes, he was.
22 Q All right. And was he also charged any time in
23 Florida with the unauthorized practice of law?
24 A He was.
25 Q And do you know what that was related to?

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1. A It was related to him --- his activities of
2 pretending to be a board certified -- a Florida bar certified
3 attorney.
4 Q Okay. And was it in the context of representing

people?
A Yes, sir.
Q And was that in court proceedings?
A It was.
Q What types of court proceedings? Do you know?
A Foreclosure proceedings.
Q Do you know how many counts he was convicted of with the unauthorized practice of law?
A I don't recall.
THE DEFENDANT: Improper 609.
THE COURT: All right. Overruled.
Q (BY MR. SORENSON:) Are you familiar with whether he was convicted?
A Sir, there were actually several trials for Mr. Williams. One trial I believe resulted -- it was a hung jury and then there was a second trial. So I don't have all those charges.
Q All right. If you don't know for sure, don't testify to it, okay?
A All right.
Q But was he charged with the unauthorized practice of

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law?
A He was, yes, sir.
Q And was he convicted of grand theft in Florida?
A He was.
Q Was that in Broward County, Florida?

A It was.
Q And was that related to a mortgage reduction --
A It was, yes, sir.
Q -- operation.
A Yes, sir.
MR. SORENSON: Thank you, Your Honor. That's all I have.

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THE COURT: What is it, Mr. Williams?
THE DEFENDANT: Do I have to wait till he leave or --
THE COURT: Yes, that's a good idea.
All right. The record will reflect that Agent Lavelle's no longer in the courtroom.
Mr. Williams.
THE DEFENDANT: Yeah. I asked him about federal charges. I didn't aske him about state charges. Since he brought up those state charges, I have the trial transcript for the whole trial 'cause he just lied on the stand and said that it was for mortgage reduction and that's not what the trial was about.
THE COURT: Well, you can -- you can try to impeach him if he gave a statement under oath in the transcript. If it's just -- he didn't testify at it, then you can't confront him with other people's testimony.
THE DEFENDANT: But, no, he -- what he stated, he stated that the trial was about mortgage fraud and that was not

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the trial -- what the trial about.

THE COURT: Okay. And you can ask him about that and confront him with that, like, with it. I'm not going to put the entire trial transcript in evidence because the majority of that's going to be irrelevant, but you can show him and ask him to review a part of it or whatever and, you know, Does that refresh your recollection? It had nothing to do with mortgage reduction or what have you.

THE DEFENDANT: Well, see, he wouldn't have been Sitting in the rest of the trial, you know. He only sat in his portion. So he don't know what was testified, and so he's making a comment that what was testified to by the -- and there was no victim. There was no homeowner that made a complaint. That was not what the charge was.

THE COURT: Okay. So you can ask him what he understands the charge was. He's testified what he testified about and if you believe that he's mistaken or lying or what have you, you can point out to him, for instance, isn't it true it was about identification theft? -- or whatever. I'm not sure what the case was about. I just used that as an example. And if he says -- and not mortgage refinancing, or what have you , and see what his answer is. If he agrees with you, then we move on. If he doesn't agree with you, then you may want to show him something and have him take a look at it, ask him if that refreshes his recollection that, in fact, the trial

p. 56

was about something else.
Okay. But I'm not going to let the whole trial transcript in evidence because it's not relevant to the issues in this case. It's going to introduce a lot of other stuff that may confuse the jurors.
THE DEFENDANT: I mean, that -- what he said would confuse them already what he said because now they're thinking that that's what I was charged with and that's not. And then he said identity theft. I never been charged or even -- to do with identity theft. I never been charged or even --
THE COURT: I don't know. So you can cross-examine him on that. So I will let you do that, okay.
And then I believe we'll be finished after Mr. Williams has an opportunity to question.
But with regard to your -- I don't know if you're raising an issue about the trial transcript. I'm not going to receive it into evidence for the reasons I've stated.
Are there any other issues that you want to bring up before we recess for the day?

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Q Yes. Mr. Lavelle -- Agent Lavelle, do you remember making a statement that I had been convicted of identity theft?
A No, sir. I believe I said that you were accused. whether or not you were found guilty, uhm, there were several trials in Broward County, so I believe you were charged with

identity theft. I don't -- I don't recall whether or not you were found guilty.

Q Okay. 'cause yesterday you had said I was found guilty; that's why I questioned you about it.

A Okay.

Q But I was not. So I don't have to ask you other questions.

After your investigations, other thatn these federal charges in Hawaii, have any of your agencies in any other state filed any federal charges against me for my conduct or my business conduct?

A No, sir.

Q And did the FBI investigate, charge, or arrest any of my white employees in the state of New York?

A State of New York, no, sir.

Q Did they investigate, charge, or arrest any of my agent (asian) employees in New York?

A No, sir.

MR. SORENSON: Your Honor, I'm going to object as this being beyond the scope. We were not talking about other

p. 61

employees of his. I think it was narrowed now to just him and ---

THE COURT: All right. Overruled. Go ahead.

Q (BY THE DEFENDANT:) Did the FBI investigate charge, or arrest any of my white employees in Arkansas?

A No, sir.

Q Did they investigate, charge, or arrest any of my agent (asian) employees in Arkansas?

A No, sir.

Q Did they investigate, arrest, or charge any of my Caucasian or Asian employees in California?

A No, sir.

Q Did they investigate, charge, or arrest any of my Asian or Caucasian employees in Illinois?

A No.

Q Did they investigate, charge, or arrest any of my employees in the State of Florida?

A Well, the term "employee," there was Mr. William Hatchett. Whether or not he was an employee of MEI --

Q He's not Caucasian.

A Oh, Caucasian. So, yes, sir, correct.

Q All right. So did you all investigate, charge, or arrest any of my Caucasian employees in Florida?

A Investigate, yes sir.

Q And who was that?

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A But charge, no.

Q And who was that?

A Ms. Donna Hickenbottom.

Q Again, you investigated her, but you never charged her?

A Yes, sir.

Q And did you investigate, charge, or arrest any of my

Caucasian or Asian employees in North Carolina?

A No, sir.

Q Okay. Did the FBI file any charges against me for bank fraud?

A Did we investigae you for bank fraud or --

Q Right.

A --- or charge you with bank fraud? I'm sorry.

Q Charge me for bank fraud.

A We did not charge you with bank fraud.

Q Did you file charges against me for mortgage fraud?

A in the Southern District?

Q Yes

A No, sir.

Q Okay.

A Of Florida.

Q And did you file charges against me for unlicensed mortgage broker?

A Federally or state in South Florida?

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Q In the federal?

A Federal, no. No, sir.

Q Okay. And I had questioned you yesterday about why you all had designated me as a possible terrorist in your system; do you remember that?

A Yes, sir.

THE DEFENDANT: Okay. I have a criminal history from the FBI. It's Exhibit 2114, and it's on -- start at

page 7.

MR. SORENSON: Your Honor?

THE COURT: Yes.

MR. SORENSON: We have looked at 2114. It does not have a criminal history in it and certainly not an FBI Criminal history. There is a DMV record in here I see.

THE COURT: Can I have a copy of it?

MR. SORENSON: IT's 2114.

THE DEFENDANT: Yes, page 7

THE COURT: Do you have a copy for the court? You're supposed to have a copy for the court, the law clerk, the witness.

MR. ISAACSON: We have two sets of binders.

THE DEFENDANT: Yes, its Defense Exhibit 2114.

MR. ISAACSON: It's over there, judge. I can bring you --

THE COURT: Yeah, but where's the court copy? Do

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you not want the witness to have one?

MR. ISAACSON, Yes, Your Honor. We have two sets of binders. Can I give you those?

THE COURT: Where's the court's copy? That's all I'm asking. It's in here?

THE COURTROOM MANAGER: Is this part of the exhibits that were already in the binders?

MR. ISAACSON: Yes, yes.

THE DEFENDANT: Yes.

10 THE COURTROOM MANAGER: Thank you.

11 THE COURT: So this is not a new exhibit that --

12 THE DEFENDANT: No, it's not a new exhibit.

13 THE COURT: All right. So Mr. Sorenson, are you

14 referring to page 7 or the entire document?

15 MR. SORENSON: Well, there's a -- there's a lot of

16 stuff in here.

17 THE COURT: Correct

18 THE DEFENDANT: I'm only going to question him on

19 page --- off of page 7,8,9 and 10.

20 MR. SORENSON: Okay.

21 THE COURT: Where's the page numbering for that?

22 THE DEFENDANT: It should be at the bottom. It says

23 2114 dash an it has 000007.

24 THE COURT: Okay. I'm not--

25 THE DEFENDANT: Bates number 029020

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17 THE COURT: 7,8, and 9. You're going to question

18 him about 9 and 10?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Okay. And so plaintiffs, I'm sorry, you

21 have an objection to this or --

22 MR. SORENSON: Well, I -- your Honor, I think it's

23 an incomplete record. It does appear to be related to

24 Mr. Williams. He's purported to call this his criminal

25 history, which it is not. It may be part of an NCIC record,

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but we're not sure. It's certainly not complete.
I guess if he needs the witness to have his recollection
refreshed by something, this could be used for that, but it's
certainly not something he can subsequently talk about from
here as to the content of it.
THE COURT: All right. So if you can lay a
foundation that this witness is familiar with this or somehow
created it or relied on it, then you can ask him questions
about it.
THE DEFENDANT: Okay.
THE COURT: All right?
Q (BY THE DEFENDANT:) You have the document in front
of you, Agent Lavelle?
A I do.
Q And do you recognized that that's like a criminal
NCIC check for, you know, individuals when they run it?
A It does appear to be so, yes, sir.
Q Okay. And where it says --
THE COURT: Before you go into the content, he has
to say that he used it, that he's familiar with this, that he
knows who it's related to.
THE DEFENDANT: Okay.
Q (BY THE DEFENDANT:) Can you just go over and see
who it's related to?
THE COURT: Well, first of all, Agent Lavelle, are

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you familiar with this format of this document?

THE WITNESS: I am, yes, judge.

THE COURT: Okay. And that's the type of document or information that you use in your duties as a FBI agent, correct?

THE WITNESS: Yes, judge.

THE COURT: Okay. And so by looking at this document, can you see if it refers to any individual?

THE WITNESS: Yes, I do.