

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

UNITED STATES v. JASON GANDY

District Case No. H-12-503

MOTION FOR RELIEF UNDER RULE 52(b)

I. Relief Requested

Jason Gandy (“G”) asks this Court for automatic reversal once the misconduct of Chief Judge Lee H. Rosenthal (“R”) — misconduct that R herself sealed from the record — is recognized as producing the kind of Structural Error described in *Arizona v. Fulminante* (Case Law #1, Exhibit D). That doctrine is the basis for the relief requested throughout this motion.

The full procedural history is set out in Exhibit E, “Reasons Law Professors Are Needed” (“RLPN”).

II. Key to Abbreviations and Exhibits

For clarity, this motion uses the following shorthand throughout:

- **G** — Jason Gandy
- **R** — Chief Judge Lee H. Rosenthal
- **RLPN** — Exhibit E, “Reasons Law Professors Are Needed”
- **T.V.** — Exhibit F, “Transfer of Venue/Circuit”
- **S.T.** — Exhibit G, “Speedy Trial Doc. #133” (filed in the 2255 proceeding)
- **KV** — Victim #1
- **JA** — the complainant in Count 7 / civil action No. H-18-LV-1761
- **CL #** — a case-law citation, numbered as compiled in Exhibit D

Other exhibits referenced in this motion include: Exhibit B (emails with attorney Seth Kretzer), Exhibit C (record of G’s requests regarding DE#98 since 6-24-19), Exhibit H (correspondence regarding Brandon Sample and his Vermont Bar referral), Exhibit I (records of G’s suicide watch, 3-12 to 3-31), Exhibit J (G’s motion for Grand Jury transcripts, DE#305, refiled 12-21-25), Exhibit K (correspondence from Flood and Cogdell), Exhibit L (Dallas Craig Hughes’s 2255 motion), Exhibit M (correspondence with Judges Ernest Gonzalez and Randy Crane regarding the transferred civil suit), Exhibit O (the Missouri Law Review excerpt discussed below), Exhibit P (email to attorney Alston regarding G’s tax boxes), Exhibit R (G’s response to the government’s response to DE#285), Exhibit S (trial transcript excerpts concerning KV), Exhibit T (Julie Gandy’s emails to the DOJ and to noll-law.com), Exhibit V (the October 1, 2025 memorandum by attorney Michael Levin), Exhibit W (a photograph from Ben Taub Hospital dated 7-20-18), Exhibit X (the January 2018 Houston Chronicle article by Gabrielle Banks), and Exhibit Y (DE#285 and DE#287, the motions R is alleged to have ignored or mischaracterized).

III. Procedural History

G's direct appeal, No. 18-20823, was filed by attorney Seth Kretzer without G's approval. G did not receive a copy of it until after his neck had been surgically repaired on 5-13-19; his email exchange with Kretzer documenting this is Exhibit B.

Exhibit F ("T.V.") explains the direct-appeal issue and why this Rule 52(b) motion should be transferred to a different circuit.

G's 2255 motion is explained in Exhibit G ("S.T."). Brandon Sample, who handled that proceeding, was later reported to the Vermont Bar and is alleged to have given G false legal advice, documented in Exhibit H.

IV. Gandy's Mental Health

G is not blaming any of his former attorneys; he was dealing with serious mental health issues throughout these appeals, and G contends that Judge Rosenthal was highly effective at disguising the record — sealing hearings and, G alleges, falsifying his docket sheet.

G believes that criminal-justice professionals, including judges, should be required to spend time housed in facilities such as FDC Houston and the Galveston County Jail under the same conditions — including how easily other inmates learn what a person is charged with — that defendants in cases like his experience. G notes that the suicide rate among people charged with these offenses is markedly higher than for other offenses because of how they are treated inside. Exhibit G ("Speedy Trial Doc. #133") describes how incarceration transformed a previously mentally healthy G into someone who repeatedly attempted suicide to escape solitary confinement and the hostility he encountered from judges, inmates, guards, and nearly everyone around him.

G has suffered from migraines triggered by bright fluorescent lighting since childhood, and vision problems that make it difficult for him to do his own legal work.

V. Governing Law

G asks the Court to resolve his case by applying:

1. **CL #56**, *United States v. Kim L. Powe*, 591 F.2d 833 (D.C. Cir. 1978).
2. *Missouri Law Review*, Vol. 85, Iss. 4 (2020), Art. 6, pp. 18/982–47/1011, Part III, "Identifying Structural Error: Holdings of the Supreme Court and Circuit Courts" (Exhibit O). G specifically asks whoever reviews this motion to read that law review, because it identifies textbook examples of Structural Error that G contends are mirrored in his own case — for example, DE#98, which was not unsealed until 4-21-25. G notes that Chief Judge Rosenthal, government counsel, and even his own attorneys have treated his case as though none of them were familiar with the Structural Error doctrine.

VI. The Issues, Simplified

1. The illegal interrogation and invocation of counsel. G called his attorney, who — like counsel in **CL #29**, *Mapp v. Ohio*, 367 U.S. 643 — came to his aid. G contends that Homeland Security and HPD officers knew that refusing to let his lawyer in and continuing the interrogation violated his Fifth and Sixth Amendment rights, and that they intended to use his statements to impeach him if he testified at trial. Dallas Craig Hughes’s 2255 motion (Exhibit L), Ground 1, relies on **CL #32**, *Mincey v. Arizona*, 437 U.S. 385, an authority G says he also gave to R in DE#285 and DE#287 (Exhibit Y). G argues that R’s decision to disregard that authority in favor of “alternate facts” shows she knew the interrogation was unlawful. G cites **CL #8**, *Cooper v. Dupnik* (9th Cir. 1992), for the proposition that police routinely engage in this tactic deliberately, and **CL #64**, *United States v. Scios* (D.C. Cir. 1978), footnote 65, for the proposition that continuing to question a suspect about a third party after he has invoked his right to counsel — here, questioning G about KV — is an extraordinary abuse used to manufacture a case that would not otherwise exist.

2. Four years of silence on the motions to suppress. G argues this relief is squarely supported by **CL #56**, *United States v. Powe*, 591 F.2d 833 (D.C. Cir., decided 11-15-78). G contends R has shown she understands this body of law, citing **CL #67**, *United States v. William Douglas Roberts*, 86 F. Supp. 2d 678 (S.D. Tex. 2000), in which R ruled promptly on two motions presenting the same legal question that favors G here. Yet G’s own suppression motions sat before R for four years before being ruled “moot” — on the condition that G not testify — which G characterizes as misconduct that structurally altered, and nearly ended, his life (Exhibit W, a photograph from Ben Taub Hospital dated 7-20-18). G further argues R followed the pattern of her colleague Judge Werlein in **CL #55**, *United States v. Zavala*, 541 F.3d 562 (5th Cir., 8-22-08), by holding G’s motions — docket entries 34 and 46, the latter sealed — until trial. *Powe* holds that “[a] fair hearing and a reliable determination on the voluntariness of a confession are constitutionally mandated where the trial court has indicated its awareness that the issue has been raised,” and that certain “alerting circumstances” (which G says are found in the sealed DE#46) impose a duty on the trial judge to act sua sponte.

VII. Request That the Court Actually Read Exhibit F and Consider Transfer

G asks whether the Court will, in fact, read Exhibit F, his Transfer of Venue/Circuit request (“T.V.”). If the Court, after fully reviewing it, declines to transfer this Rule 60(b)(6) motion, Rule 52(b) motion, and successive 2255 motion (with attachments) to another circuit, G asks that the Court explain why — given what he describes as Judge Rosenthal’s close ties within the Fifth Circuit, as reported in the January 2018 Houston Chronicle article by Gabrielle Banks (Exhibit X) and in G’s own research. G also points to **CL #38** as illustrative of how, in his experience, judges, the government, and the Fifth Circuit have responded when he has filed motions or judicial-misconduct complaints regarding Judge Rosenthal that he says have gone unanswered. G states that if he were the reviewing judge, he would want to eliminate any possibility of corruption in an appellate process he believes Judge Rosenthal to be closely connected to (CL #38), noting that liability can attach where a supervisor’s action or inaction contributed to a subordinate’s constitutional violation.

G draws a comparison to Virginia Giuffre, an Epstein victim he says he had hoped to meet and who recently died by suicide, whose persistent advocacy — like G's own writing on his case — he credits with contributing to passage of "The Epstein Files Transparency Act," which he hopes will lead to his receiving his Grand Jury transcripts (Exhibit J, refiled 12-21-25). G contends the Structural Error Doctrine should entitle him to that material.

G states he is prepared for an open suppression hearing addressing the harm he attributes to R's failure to act sua sponte after the government did not respond to his April and November 2013 motions to suppress for four years. G notes that R was capable of acting promptly: in DE#294, G is shown asking again about DE#98, and when the government did not respond for nearly four months, R ruled sua sponte in DE#302 on 3-31-25, stating that "[t]he Government has not responded to the motion." G asks why R did not apply the same approach to DE#34 and DE#46 after four years.

3. Newly discovered evidence. Exhibit V is an October 1, 2025 memorandum by licensed attorney Michael Levin, which G says demonstrates that R should have held a hearing to determine the full extent of the fruits of his statements — beyond what was illegally obtained from his home and shown, or described, to KV and KV's family.

4. Erosion of public confidence in the judicial process. G contends that R's conduct in his case has damaged public confidence in the judicial process, and states that law professors (including Martin Lee Camp of SMU) and crime-beat reporters (including Gabrielle Banks) have described Judge Rosenthal's conduct in his case, after reviewing the documents, as potentially criminal.

VIII. Constitutional Questions Presented

G poses the following questions, which he states have also been raised by law professors and journalists who have reviewed his case file:

A. How could R rule quickly on an identical suppression issue in 2000 (CL #67, *Roberts*) yet allow G's own suppression motions — DE#34 and DE#46 — to sit unresolved for four years starting in 2013?

B. Why is DE#46 marked as a "sealed event" on G's docket sheet?

C. *Powe* (CL #56) held that a district judge is obligated to hold a voluntariness hearing sua sponte where defense counsel fails to object and the circumstances suggest the confession was obtained through promises of leniency. G argues his case fits this pattern precisely: his statements were used to obtain two headless photographs, which were then shown to KV (Victim #1) and discussed with him immediately, on 7-20-12. G states that these photographs and the circumstances surrounding them were also discussed with other people, and that this is documented in recorded interrogation video that attorney Charles Flood and G reviewed together. G contends his illegally obtained statements were used to reshape KV's 7-20-12 interrogation, effectively creating a case that would not have existed without those statements, and that this is what led attorneys Flood and Cogdell to file DE#34 and DE#46. G argues a hearing on these issues is required.

D. On 12-5-16 (DE#89), G's attorney Dan Cogdell noted on the record, "Judge, as you may or not recall . . . there are motions that have yet to be ruled on" — nearly four years after DE#34 and DE#46 were filed. G contends this was his first court appearance after being found competent to stand trial (a finding G disputes), and that R nonetheless allowed more than four additional months to pass without a ruling from either the court or the government. G asks whether *Powe* supports the conclusion that this was reversible structural error caused by a biased judge.

E. G asks whether *United States v. Gonzalez-Lopez* (CL #50) supports automatic reversal where R allowed successive attorneys to withdraw after G declined to accept a plea, then sealed that portion of the proceeding and characterized it as a status hearing. G separately describes his lifelong migraines — triggered by bright fluorescent lighting and prolonged screen time, and connected to being legally blind in his right eye with limited near vision in his left — as relevant to why he had to rely on counsel whose advice, he argues, is shown to have been wrong once Levin's memorandum and R's statements in DE#98 are read together. G asks how many structural errors attributable to R can be identified in DE#98.

F. G points to an email from attorney Charles Flood (charles@floodandflood.com) to G on 9-12-14 at 10:43 a.m., stating that there was discussion of Judge Rosenthal transferring the case to a different district court — one Flood believed would be far less likely to give G's suppression motion proper consideration. G argues this shows R recognized DE#34 and DE#46 as motions that had to be addressed once G declined to plead guilty. G's contract reflects that Flood was paid \$30,000 for trial; G contends Flood fully understood the case and had reviewed the 7-20-12 interrogation footage and other interrogations of KV in which G alleges KV was shown illegally obtained photographs to coerce a particular account. G cites Flood's handwritten notes from 8-8-14 stating that G's number-one goal was to "win motion for suppression" — documents G says surfaced through a 12-6-21 hearing (DE#262) on Sample's 2255 motion, with exhibits at DE#263–65. G argues this shows he never wanted Cogdell and DeBorde to allow the motions to be deemed moot.

G also references an email Flood sent to G's mother on the day R allowed him to withdraw, 3-31-15 at 1:27 p.m., while G was on suicide watch, stating that if R denied the withdrawal request, Flood would continue "to fight zealously as if [he] had never made the request." G was on suicide watch from 3-12 to 3-31 (Exhibit I). G notes that R later cited, in DE#273 (order denying a different motion to withdraw), *Matter of Wynn*, 899 F.2d 644, 646 (5th Cir. 1989), for the proposition that an attorney may withdraw only upon a showing of good cause — and argues this shows R understood the standard, making her decision to let Flood withdraw inconsistent with it. G contends that had Flood remained on the case, he would have pursued the suppression hearing and prevailed, as his brother Chris Flood did in *Zavala* (CL #55).

G. Exhibit K, page 3, quotes R as stating, "[s]ince there was no suppression motion that had to be pursued . . . once the government said that it wasn't going to use that evidence, that took care of the need to pursue that motion" — a statement G says R repeated to him at page 8 of DE#98. G credits his mother, acting under power of attorney, and a fellow inmate who filed a judicial-misconduct complaint, with finally securing the unsealing and transcription of DE#98 on 4-21-25 — evidence G describes as newly discovered and

previously unseen by any higher court or appellate counsel. G points to his mental health and personality-related challenges as reasons this issue was not previously raised effectively, and cites correspondence with attorneys Kretzer, Sample, and Flood (Exhibits B, H, and K) as evidence he raised the importance of DE#98 from prison, along with DE#239 (district court) and DE#79 (Fifth Circuit, No. 18-20823). G asks whether this qualifies as structural constitutional error, noting the number of reversals based on a judge's advice to a defendant regarding a plea, and asks whether R's advice that there was "no need to pursue that motion" was, in his view, devastating to his case.

H. G argues R's advice in Section G, above, reflects a misunderstanding of the law, because in order for "that evidence" to be kept out at trial, G had to forgo testifying — otherwise it could be used for impeachment. He cites **CL #8**, *Cooper v. Dupnik* ("any competent judge would have excluded his statements for all purposes, including impeachment"), and **CL #32**, *Mincey v. Arizona* (statements not given voluntarily cannot be used to impeach a defendant). G points to DE#91 and DE#94 as showing his statements and their fruits would have been used against him at trial had he testified, and cites **CL #5**, *Cooke v. Orser*, for the proposition that a judge's assurance amounting to a due-process violation causing demonstrable prejudice warrants relief. G asks whether allowing his counsel of choice to withdraw (CL #50), then advising him that no hearing was needed on two meritorious suppression motions, followed by the use of the challenged statements and evidence for impeachment, warrants the same relief granted in *Orser*. He again points to Dallas Craig Hughes's 2255 motion, Ground 1 (Exhibit L), regarding *Mincey*, and to an email from Brandon Sample (brandon@brandonsample.com) to G on 2-3-21 at 12:20 p.m. asserting the Hughes appeal was incorrect (Exhibit H), asking the reviewing court to compare that email with the Hughes motion itself.

I. G asks how R could permit three attorneys to withdraw when the record — including the in camera hearing at DE#98, transcribed 4-21-25 — shows G stating on the record that he had paid them for trial, while R stated in the speedy-trial hearing transcript (DE#141, transcribed 5-6-24) that "the record seems to indicate that he fired them." G contends this statement was inaccurate and formed the basis for denying dismissal of Count 1 despite a six-year delay he attributes to R's handling of DE#34 and DE#46, citing *Powe* (CL #56) for the sua sponte obligation. G refers to the final page of DE#305 (Exhibit J) for further detail.

J. G states that in November 2025 he was finally able to review his Presentence Report (PSR) without undue time pressure, with the assistance of a case manager. He points to paragraph 12 on page six, which states that G waived his Miranda rights and chose to speak with a Homeland Security officer and an HPD officer — a characterization G disputes based on the 7-20-12 interrogation recordings and DE#34 and DE#46. G asks why his statements would have been sealed as "moot" if he had, in fact, waived his rights, and contends that fruits of his statements appear throughout the PSR, beginning with their effect on KV's account the same day.

K. G argues that *Powe*'s "constitutionally mandated" hearing requirement applies with particular force here because he contends fruits of his statements appear in his PSR, psychological records, bond transcripts, the Grand Jury transcripts he has been unable to obtain, R's own Rule 29 denial of October 5, 2018, and the trial itself — citing, for example,

ROA 1205 and ROA 947 from the second day of trial (further discussed at pages 8–9 of Exhibit G).

L. G cites *United States v. Angel Richiez* (11th Cir.) for the proposition that he was entitled to resentencing so that he could have at least the ten days provided by Rule 32(c) to review his PSR without time pressure from prison staff. G argues that being given less than one hour to review his PSR, combined with the other issues raised in this motion (detailed further in Exhibits G, E, and F), establishes a due-process violation under the Fifth and Fourteenth Amendments' guarantee of an unbiased judge.

M. Referencing pages 10–11 of Exhibit G, pages 4–5 of Exhibit E, and pages 1, 7, and 8 of Exhibit F, G contends that DE#285 (with the government's response at DE#286, three months later, and DE#288, nearly four months later) and DE#287 (response at DE#289) — collectively Exhibit Y — were disregarded, mischaracterized, or answered inaccurately, and that the docket sheet does not reflect the structural issues he raised. Those motions asked R to review the 7-20-12 interrogations alongside the case law G provided. G asks what recourse he has regarding what he describes as the Fifth Circuit's handling of five judicial-misconduct complaints he filed, plus one filed by a fellow inmate.

N. Referencing pages 3–7 of Exhibit E, G's motion at DE#292 (a request under the Court Reform Act, "CRM"), R's response at DE#293, and R's denial at DE#301 of both recusal and leave to proceed without the filing fee, G contends this reflects ongoing misconduct.

O. G states that, believing his district and the Fifth Circuit to be closely aligned (see page 1 of Exhibit F), he filed a civil suit regarding Judge Rosenthal in the Western District of Texas. He states that on 4-7-25, Judge Ernest Gonzalez responded that the case had been transferred to the Southern District of Texas as Case No. 4:25-CV-1613 (Exhibit M, page 1), and that as of 1-17-25 he had received no further response. He references a letter to Chief Judge Randy Crane dated 7-31-25 asking why the case had gone unacknowledged (Exhibit M, page 2), and asks whether this reflects the same pattern of unresponsiveness he alleges occurred with DE#34 and DE#46.

P. DE#178 (10-5-18) is R's order denying attorney Buckley's Rule 29 motion, entered during G's suicide watch from 9-21-18 to 1-4-19. G cites **CL #25** for the proposition that a defendant's absence can itself constitute structural error. DE#174 (8-21-18), Buckley's underlying Rule 29 motion — filed roughly a month before the suicide of Mark Adair — is a document G states he has never been shown. G notes that R's order, at page 3, addresses "G's third argument . . . that he did not know the images he transported to the UK were child pornography," but contends that page 63/ROA 1204 of the trial transcript (day 3, 7-23-18) shows Buckley telling the court, "[t]here[are] nudist images, I know that there is case law that has in some circumstances recognized images like that as child porn, but I don't believe that in this case the images rise to that level," to which R responded at page 66/ROA 1207, "I don't find that nudist photographs that could have been worse than they are sufficient to take from the jury . . ." G argues the sealed DE#46, at page 5, states that "[a]s the warrant affidavits state, inspection of G's computer at the airport by Gov't agents uncovered no images characteristic of child pornography" — a document G contends Buckley, hired only 40 days before trial (with Neyland hired as third chair primarily to

assist with investigator communication), never had time to review. G argues the correct defense theory should have been that the jury, unlike the government's own airport inspection, misapplied the *Dost* factors, and that R structurally undermined Count 3 by not ensuring this evidence was considered, particularly given that DE#46 was authored by G's counsel of choice and that R had five years to review page 5 of it.

G also points to other alleged fruits of the 7-20-12 interrogation: R's order referencing "devices" (plural) on Count 2, though G contends only one device was in evidence, and references to events in Asia on Count 3 that G says are not supported by the trial record. He characterizes these as "alternate facts" and cites **CL #34** and **CL #38** (*Nardone* and *Riley*) regarding the illegality of that method, and points to pages 8–9 of Exhibit G for further detail.

Q. G argues the pattern described in Section P — combined with Kretzer's direct appeal, filed without G's approval and described to G by Buckley as something "other lawyers do" — traces back to R's handling of the suppression issues. G contends Neyland and Buckley, hired 30 days before trial, did not have the same understanding of DE#46 that Flood had (see **CL #55**, *Zavala*, involving Flood's brother), and again cites R's reliance on *Matter of Wynn* in DE#273 (Section F) as evidence that allowing Flood to withdraw was inconsistent with R's own stated standard. While G acknowledges that Kretzer omitted issues G wanted raised on appeal (**CL #6**, *Clemmons*), he argues that had he retained his counsel of choice, he would never have needed Kretzer or Buckley. He cites **CL #21**, *Henderson*, for the proposition that suppression of statements is a "critical stage" that Kretzer and Buckley could not adequately address given that DE#46 was sealed, and argues this requires reversal under **CL #10** (*Davis*), **CL #50** (*Gonzalez-Lopez*), and **CL #25** (*Kentucky*), which hold that reversal is automatic where a defendant's absence constitutes a structural error permeating the trial's framework.

R. G contends that the Fifth Circuit's denial of Kretzer's direct appeal on 11-4-19 (No. 18-20823), authored by Judges Owen, Haynes, and Costa, mirrors and effectively adopts R's DE#178 (Section P). He alleges the panel's opinion, at pages 2, 3, and 6, stated that Victim #1 said G used his computer to "watch" child pornography, without citing supporting trial testimony, when — in G's account — the jury saw no such videos and government agents found no child pornography on the computer. G characterizes this as a misstatement amounting to an abuse of discretion under **CL #38** (*Ruiz*), and asks whether it was made to protect a colleague.

S. G points to Dallas Craig Hughes's 2255 motion as identifying a constructive amendment to Count 5: while G was out of the courtroom changing clothes, he contends the indictment's date range was altered from "November 1, 2005 – December 27, 2005" to "the year 2006." He cites **CL #9** (*Coppedge*), **CL #11** (*DeBinder*), **CL #60** (*United States v. Meyer*, on a judge functioning as a grand jury), **CL #57** (*United States v. Kojayan*, on failure to acknowledge error and inadequate supervision of the prosecutor), and **CL #42** (*Stirone*, holding that an indictment may not be broadened by amendment after it issues). G states he only recently discovered this issue in the trial transcripts and asks what relief remains available.

T. G states that the case law in Section S is only one reason he needs his Grand Jury transcripts. Additional reasons are set out in his response to the government's reply to DE#305, in Michael Levin's memorandum, and in his Grand Jury transcript request invoking the Epstein Files Transparency Act, sent 12-21-25 (certified mail no. 7022 2410 0001 7386 1888), received by the court 1-5-26 at 12:21 p.m., which poses thirteen questions. G asks how long the Court will allow this request to go unanswered.

U. G notes that DE#91 (1-24-17), the government's response regarding DE#34 (motion to suppress statements), lists AUSA Zack, though "Sherri" is shown as the filer; DE#94 (3-30-17), the government's response, is filed under "Leo, Kimberly Ann." G states DE#91 confirms the government would not introduce his statements unless he testified — at which point they could be used for impeachment — and DE#94 states the same regarding "evidence." G asks: (1) why these responses took four years; (2) why DE#91 references "re34" and names Zack when the underlying motion lists Zack and Martinez, while DE#94 is filed only as "RESPONSE" without a "re" reference and under Leo's name; (3) when an appellate court will act sua sponte given that coerced statements cannot be used for impeachment under **CL #32** (*Mincey*); (4) whether the Court will review **CL #8** (*Cooper*), which found a comparable interrogation's statements should have been excluded for all purposes including impeachment; (5) whether the government's roughly five years of possession of this evidence itself constitutes structural error; (6) whether, under **CL #10** (*Davis*), the admissibility of a confession's fruits — a mixed question of law and fact subject to plenary review — was ever actually reviewed by any judge in his case; (7) whether his case mirrors **CL #55** (*Zavala*, before Judge Werlein, pictured with R in the January 2018 Houston Chronicle article), where the Fifth Circuit found it inappropriate to let the government benefit from police misconduct by carrying a suppression motion until trial and then ruling it moot; (8) whether **CL #67** (*Waller*), **CL #25** (*Kentucky*), **CL #24** (*Jackson*), and **CL #32** (*Hopt*) establish that his absence from a required hearing was itself structural error requiring automatic reversal; and (9) why DE#94 addresses only the 7-26-12 search and omits the 8-16-12 search, in which Officer Johnson is alleged to have seized G's tax records, travel documents, and an additional laptop (per Government Report #9, case no. HO07QK12H00026, 10-26-12) — material G characterizes as *Brady* evidence bearing on Count 7, and which he says he asked his attorneys (Exhibit P, email to Alston) to help his mother recover so she could prepare his taxes. G notes Count 7 generated three separate jury questions (DE#163, 164, and 166) and asks whether the 8-16-12 search was omitted from DE#94 to obscure this.

V. G notes that Count 7 charges conduct from August 1, 2007 to November 3, 2007, yet the same complainant, JA, stated in civil action No. H-18-LV-1761 that he met G in 2008 at age 17 — a discrepancy discussed further at pages 9–10 of Exhibit G. G contends this and related inconsistencies, which he says he can substantiate with tax records, phone records, and receipts, reflect a broader pattern of prosecutorial encouragement of inaccurate testimony that he attributes in part to AUSA Zack, and states that fellow inmates at FDC Houston report a similar reputation. He asks whether a conviction-integrity unit or special prosecutor should investigate, citing **CL #10**, **#15**, **#18–24**, **#27**, **#51–53**, **CL #29** (*Mapp*), and **CL #26** (*Kyles v. Whitley*, addressing inconsistent witness accounts and an investigation limited by uncritical acceptance of a complainant's account).

W. G cites **CL #46**, *United States v. Brown* (9th Cir. 2017), for the proposition that it is structural error for a trial court to improperly restrict defense argument based on an erroneous belief that the record does not support it. He points to page 15 of the transcribed DE#141 (recorded 2024), in which R stated, in response to the prosecutor's objection to a line of argument concerning the #MeToo movement, that the subject "doesn't involve children . . . I think we can simply eliminate any reference." G argues this was directly relevant because he contends the complainants in Counts 5 and 7 were not truthful, that he had given attorney Buckley supporting material, and that R's ruling forced a change in trial strategy toward conceding state-level, but not federal, culpability — a shift G says contributed to his declining mental state, reflected in the photograph at Exhibit W (7-20-18).

X. G asks what remedy is available where, in his account, the trial judge and prosecutor discussed fruits of his illegally obtained statements in order to persuade the jury to convict, citing **CL #43**, *Travis Haney v. United States*, in which a conviction was reversed after the prosecutor emphasized the defendant's own recorded words. He points to page 8 of Exhibit G for further detail. G recounts that his statements — including a reference to a photograph he says was taken and deleted — led agents to search a laptop that had traveled to London and to question KV about photographs of himself; KV, in G's account, denied across the first four interrogations spanning nearly a year that any such photographs existed, and continued to deny that a subsequently shown headless photograph (also allegedly taken from G's home) depicted him, even inviting agents to search G's home and RV, which he says do not contain the bedding shown in the photograph. G cites Michael Levin's October 1, 2025 memorandum as explaining why he believes this conduct should have precluded KV from serving as a witness or victim (Exhibit R). G notes the prosecutor acknowledged at trial that KV had to be subpoenaed and did not want to testify (Exhibit S, page 1); G describes KV as a friend who was attempting to protect him, and notes that KV referred to "ICE" when discussing officials in London, which G attributes to fear that ICE would act against KV's mother, who he states was born in El Salvador, after alleged threats by ICE, Homeland Security, and the FBI to place KV's siblings in foster care.

G contends the circumstances closely track **CL #47** (*Ceccoloni*), **CL #64** (*Scios*), and **CL #63**, *United States v. Santos* (D.C. Cir. 1978) ("[t]he testimony challenged is so immediate that we can[not] find the attenuation necessary to hold the [evidence] admissible[; t]here is no indication that the connection between the crime and the witness would have been discovered [independently]"), as well as **CL #48** (*United States v. Charles Felix*), **CL #53** (*United States v. Jonathan Patrick Blevins*, on suppressing evidence discovered because officers exceeded the limits of their authority), **CL #45** (*United States v. Ghailani*, on lack of attenuation where the link is direct and close), **CL #65** (*Sorrondo*, on pressure applied to a witness), **CL #66** (*Ramirez*, on exploiting a witness's trust through deceit), **CL #61** (*Chatman*, on a second interview being derivative of the first), **CL #26** (*Kyles*, on inconsistent accounts), **CL #52**, *United States v. Jesus Sandoval* (holding testimony inadmissible under any exception to the fruits doctrine), and **CL #54**, *United States v. Jones* (11th Cir.) (plain error where a prosecutor urges conviction based on an exhibit never admitted into evidence). G argues together these show KV was not a genuine victim and that his case would not exist without the illegally obtained statements.

G also points to the prosecutor's statement on day 2 of trial (ROA 1206): "[w]hile we were unable to find these pictures within the devices we had access to for purposes of trial presentation[,] the fact is that they were taken . . . and focused on his naked genitalia." G contrasts this with DE#190 (day 2, page 94/ROA 930), in which KV states that G "deleted it," without ever testifying that he saw the photograph or what it depicted, and questions how the prosecutor could describe the focus of an image never admitted into evidence and never seen by the jury. G asks the appellate court to review all of KV's recorded interrogations, which he contends will show KV was pressured — through repeated exposure to illegally obtained material and fear for his family — into an account first offered at trial, citing **CL #17**, *Frimmel v. Homeland Security*, regarding the tactics he alleges were used.

Y. G asks why R stated in DE#302 that DE#98 was not filed under seal, when court reporter Katy Metzger emailed G's mother on Monday, 1-8-24 at 10:51 a.m. stating that release of the "sealed EX PARTE" transcript from the 4-27-17 hearing would require a court order. G points to his requests in DE#239 (district court) and DE#79 (Fifth Circuit, No. 18-20823) as showing he has sought the contents of DE#98 on the record since 6-24-19 (Exhibit C), and notes that Julie Gandy separately emailed the DOJ Criminal Division and noll-law.com (Exhibit T). G characterizes Exhibit O as illustrating a structural error involving denial of counsel of choice that he says parallels his own case, and states that DE#98 — finally disclosed on 4-21-25 through the efforts of his stepmother and a fellow inmate — reflects R advising G not to listen to that inmate.

IX. Conclusion and Prayer for Relief

For the reasons set out above, Jason Gandy respectfully asks this Court to: (1) grant relief under Rule 52(b) and hold that the errors identified in this motion are structural, requiring automatic reversal; (2) in the alternative, or in addition, grant the transfer of venue/circuit requested in Exhibit F; (3) direct release of the Grand Jury transcripts requested in Exhibit J; and (4) grant such other relief as the Court deems just.