

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
BALTIMORE DIVISION

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AT BALTIMORE
CLERK, U.S. DISTRICT COURT
DISTRICT OF MARYLAND
DEPUTY

AHMED M. SARY,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Civil Case No.: _____ (To Be Assigned)

Criminal Case Number: 1:23-cr-00344-RDB-1

Honorable Judge Richard D. Bennett

MOTION TO VACATE, SET ASIDE, OR CORRECT SENTENCE PURSUANT TO
28 U.S.C. § 2255

NOW COMES Petitioner, **AHMED M. SARY**, by and through undersigned counsel or pro se if applicable, and respectfully moves this Honorable Court to vacate, set aside, or correct the sentence imposed on June 25, 2024, pursuant to 28 U.S.C. § 2255. In support, Petitioner states as follows:

I. INTRODUCTION

Petitioner was convicted by guilty plea to one count of conspiracy to commit wire fraud in violation of 18 U.S.C. §§ 1343, 1349. On June 25, 2024, he was sentenced to 84 months of imprisonment, followed by three years of supervised release, and ordered to

pay \$17,901,279.87 in restitution. Petitioner did not file a direct appeal. He now challenges the validity of his conviction and sentence on constitutional and statutory grounds.

II. JURISDICTION AND TIMELINESS

This motion is filed under the authority of 28 U.S.C. § 2255(a), which permits a federal prisoner to seek relief on the grounds that "the sentence was imposed in violation of the Constitution or laws of the United States." This motion is timely filed within the one-year limitations period under § 2255(f), as judgment was entered on June 25, 2024.

III. GROUNDS FOR RELIEF

Ground One: Ineffective Assistance of Counsel During Plea and Stipulation Process

Petitioner was denied effective assistance of counsel in violation of the Sixth Amendment. Counsel failed to explain the implications of the factual stipulation and plea agreement, particularly the binding effect of stipulating to an aggregate \$17.9 million loss under U.S.S.G. § 2B1.1(b)(1)(J). No forensic audit or independent investigation was conducted to determine the actual attributable loss.

Under *Hill v. Lockhart*, 474 U.S. 52 (1985), a defendant is entitled to relief if counsel's errors caused the plea to be unknowing or involuntary. Counsel failed to advise Petitioner that the plea would result in automatic guideline enhancements that nearly doubled his base offense level.

Ground Two: Ineffective Assistance at Sentencing

Defense counsel provided constitutionally deficient representation at sentencing by failing to file a mitigation memorandum, present character evidence, or rebut inflammatory allegations in the government's sentencing memorandum. Counsel did not argue for a downward variance despite the Petitioner's Criminal History Category I and eligibility for the U.S.S.G. § 4C1.1 reduction for zero-point offenders.

As held in *Glover v. United States*, 531 U.S. 198 (2001), any additional term of imprisonment resulting from counsel's failure to properly argue sentencing is prejudicial under *Strickland v. Washington*, 466 U.S. 668 (1984).

Ground Three: Due Process Violation from Unchallenged Sentencing Record

Petitioner's Fifth Amendment right to due process was violated when the court relied heavily on unchallenged factual allegations from the government. These allegations included claims that Petitioner personally profited from every loan and orchestrated the entire scheme without independent findings or evidentiary support. The Court accepted the Government's account without adversarial testing, in violation of *United States v. Tucker*, 404 U.S. 443 (1972).

Ground Four: Illegal Restitution Order and Ineffective Assistance for Failing to Object

The restitution order of \$17,901,279.87 was imposed without proper apportionment under 18 U.S.C. § 3664(h). Although multiple co-defendants were sentenced in related cases and ordered to repay portions of the same losses, Petitioner was held jointly and severally liable for the entire amount.

Under *Hughey v. United States*, 495 U.S. 411 (1990), restitution must be limited to losses directly caused by the conduct underlying the offense of conviction. The Fourth Circuit's decision in *United States v. Steele*, 897 F.3d 606 (4th Cir. 2018), reinforces that district courts must explain their reasoning when imposing joint-and-several liability without individualized findings.

Defense counsel failed to object or request a restitution hearing. This failure constitutes ineffective assistance under *Strickland*, *supra*.

Ground Five: General Constitutional Violations (Preserved Grounds)

Petitioner additionally asserts the following constitutional violations:

1. Denial of due process and equal protection under the Fifth Amendment;
2. Ineffective assistance of counsel under the Sixth Amendment;
3. Violation of Eighth Amendment rights through disproportionate and excessive punishment;

4. Violation of the First Step Act and Sentencing Reform Act through improper denial of time credits or rehabilitation adjustments;
5. Cumulative error doctrine: when considered together, the above errors rendered the proceeding fundamentally unfair. See *United States v. Martinez-Melgar*, 591 F.3d 733 (4th Cir. 2010).

These are included to preserve issues for appeal or future amendment.

IV. REQUEST FOR RELIEF

PETITIONER respectfully requests that the Court:

1. Vacate his conviction and/or sentence;
2. Order a resentencing hearing with appropriate restitution apportionment;
3. Alternatively, grant an evidentiary hearing on the issues raised;
4. Permit expansion of the record under Rule 7 of the Rules Governing § 2255 Proceedings;
5. Grant any other relief the Court deems just and proper.

Case No.: 1:23-cr-00344-RDB-1

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Ahmed M. Sary', is written over a horizontal line.

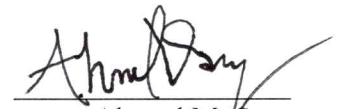
Ahmed M. Sary
Petitioner, Pro-Se
Federal Register Number 98545-509
FCI Schuylkill
P.O. Box 759
Minersville, PA 17954

VERIFICATION

Pursuant to 28 U.S. C. 1746, I declare and verify, under the penalty of perjury under the laws of the United States of America, that I have read the foregoing and that it is true and correct to the best of my ability, knowledge & belief.

Dated this 10th day of June 2025.

Signed, _____

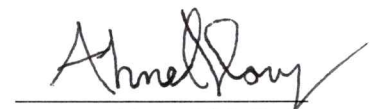

Ahmed M. Sary

CERTIFICATE OF SERVICE

I, hereby certify that I have caused to be served to the U.S. District Clerk (Baltimore), a copy of the foregoing document via U.S. pre-paid & first class postage through the United States Postal Service by depositing said mail in the prison mailbox on the below listed date and that all interested parties will hereby receive notice as they are not exempt from e-filing.

Dated this 10th day of June 2025.

Signed, _____


Ahmed M. Sary