NO. 15-5885

In The Supreme Court of The United States

KENNETH KENNEDY SHANNON
petitioner,

V.

UNITED STATES OF AMERICA
Respondent,

ON PETITION FOR REHEARING EN BANC Writ OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

PETITION FOR REHEARING EN BANC Writ OF CERTIORARI

KENNETH KENNEDY SHANNON
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QUESTION(S) PRESENTED

(1). Did trial court err in denying the Petitioner's motion for verdict of Acquittal and New trial.

(2) Whether Government Presented enough substantial evidence that supported verdict as to (count1) for a quantity of heroin in excess of 1 Kilogram.

(3) Did Government establish multiple Conspiracies at trial and not a single conspiracy as charged in the indictment.

(4) Did Government err by indicting (count 2) March 26, 2010 sale charged in 2014 Conspiracy indictment.

(5) Did Government violated Petitioner "Brady Rights", by introducing evidence of video (exhibit 56) during trial that was not in discovery. An should testimonies by NCPD officers charity steinbrunner and Jason Sandridge be impeach for testify about this evidence.

(6) Did trial court err in denying the Petitioners motion suppress evidence seized at 201 compton ct., vance, S.C.

(7) Did court err in denying motion suppress results of Title III Wiretaps.

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STATEMENT OF THE FACTS

In 2013, law enforcement began an investigation into alleged heroin distribution in the Charleston, South Carolina area. Soon thereafter, law enforcement identified Edward Maurice Singleton (a/k/a "Apple") as a primary target of their investigation. (JA. 400). Singleton along with several other co-defendants were indicted by a Federal Grand Jury on November 12, 2013, and charges, inter alia, with conspiracy to possess with intent to distribute heroin under 21 U.S.C. 841.

On April 9, 2014, Petitioner (Kenneth Shannon) was indicted for possession with intent to distribute one hundred (100) grams or more of heroin.
On August 12, 2014, Petitioner with several others was indicted with superseding indictment conspiracy with intent to distribute one hundred (100) grams or more of heroin.
On August 27, 2014, the within Motion is granted to dismissed without prejudice April 9, 2014 indictment.
On September 10, 2014, the Federal Grand Jury returned a 49-count, second superseding indictment charging Singleton and DiRetta Williams, amongst others. Petitioner was charged with seven (7) counts:
Count 1: Conspiracy to possess with intent to distribute heroin in excess of 1 Kilogram;

Count 2: Possession with intent to distribute heroin on March 26, 2010;
Count 20: Possession with intent to distribute heroin in excess of hundred (100) grams or more on February 28, 2014;
Counts 32, 39, 40 and 47: Use of a communication facility to facilitate a felony under the Controlled Substance Act on November 11, 2013, February 11, 2014, February 13, 2014 and March 2, 2014. (JA. 29-39)

This matter was tried before a jury beginning July 27, 2016 to July 29, 2016. The Jury returned a verdict of guilty on all counts then pending pursuant to the indictment against the Petitioner. (JA. 1051-1053) With respect to count 1, Jury found Petitioner responsible for in excess of 1 Kilogram of heroin. An on count 20, Jury found Petitioner responsible for over hundred (100) grams of heroin. (JA. 1051-1053)

On August 12, 2016, the Petitioner filed a timely Motion for Judgment Acquittal and New trial. The Court denied the Petitioner's Motion for verdict of Acquittal and New Trial. The Petitioner was sentenced on July 28, 2017, in the following particulars: Count 1- Life Imprisonment; Count 2 and 20 - one hundred eighty-eight (188) months and ninety-six (96) months on counts 32, 39, 40 & 47, all sentences to run concurrently. (JA. 971-1055). The Petitioner was also ordered to complete supervised release for a total of ten (10) years on all counts,

Which counts were to run concurrently. (JA 1048, 1049). The Final Judgement was entered in this case August 1, 2017. (JA 1051-1055) The Petitioner filed a notice of appeal on August 2, 2017. (JA 1056). On June 6, 2018, the Fourth Circuit Federal Court of Appeals affirmed the convictions of the Petitioner in an unpublished opinion.

REASONS FOR GRANTING THE PETITION

The Petitioner respectfully submits that this Honorable Court should grant his petition and review the opinion of the Fourth Circuit Federal court of Appeals for clear errors. Due to the fact that the Petitioner was sentenced to life imprisonment upon his conviction at trial. A life sentence is second only to the death penalty in gravity of punishment in the United States. The Petitioner has raised in his Petition compelling issues regarding violation of his "Fourth Amendment rights." In addition, Petitioner has raised issues with the sufficiency of evidence presented at trial by the Government. An "Brady rights" which was violated under Fourteen Amendment.

(1.) Did the trial court err in denying the Petitioner's motion for verdict of Acquittal and New trial.

In reviewing whether the evidence was sufficient to convict defendant, "the relevant question is whether, after viewing the evidence in the light most favorable to the Prosecution any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. See Jackson v. Virginia, 443 U.S. 307, 319, 99 S.Ct. 2789, 61 L.Ed. 2d 560 (1979). See U.S. v. Murphy, 35 F. 3d 143 (4th Cir. 1994).

(2.) Whether Government Presented enough substantial evidence that supported verdict as to count 1 for a quantity of heroin in excess of 1 Kilogram.

The Government Presented insufficient evidence to jury that Petitioner distributed 1 Kilogram or more of heroin during conspiracy. See U.S. v. Giunta, 925 F. 2d 758 (4th Cir. 1990). The Government case was essentially based on conversations, which led to nothing in the end. Thus, the evidence could only have led to a finding of guilt by an unacceptable process of raw speculation rather than by a reasoned process of inferring guilt beyond a reasonable doubt. The only evidence that government presented to jury was singleton testimony. Which was contradict by government witness co-conspirator DiRetta Williams. (JA 606, 635, 636). Government did not presented any surveillance or drug transactions with Petitioner and Singleton together from their investigation to jury that would

have corrobrated Singleton testimony. Singleton was indicted for hundred (100) grams of heroin. (JA599). NO matter how generously trial court indulges the available reasonable inferences in favor of the Govern-ment, adding the post-dilution weight of heroin from all known and reasonably inferable transactions - Whether completed, attempted, or merely agreed upon by any of Singleton or petitioner co-conspirators to reach a sum of one (1) Kilogram, if not a mathematical impossibility; would require reasoning so attenuated as to provide insufficient support for the Jury's verdict on the one (1) Kilogram verdict. See U.S. V. Hickman, 626 F. 3d 756, 764 (4th Cir. 2010).

(3.) Did Government establish multiple conspiracies at trial and not a single conspiracy as charged in the indictment.

Upon request a Judge should instruct a Jury on single versus multiple conspiracies if there is evidentiary basis to support it. See U.S. V. Dorta, 783 F.2d 1179 (4th Cir. 1986); U.S. V. Hoyte, 51 F.3d 1239 (4th Cir. 1995). During the trial Petitioner counsel requested Judge for a charge of multiple conspiracy because of witness testimonies. Judge fail to instruct Jury. (JA691). See U.S. V. Kennedy, 32 F.3d 876 (4th Cir. 1994); U.S. V. Hines, 717 F.2d 1481 (4th Cir. 1983); U.S. V. Roberts, 262 F.3d 286 (4th Cir. 2000); Brady - VS - Corbin, 495 US 508 (1990).

(4.) Did Government err by indictin count 2 March 26,

2010 sale charged in 2014 conspiracy indictment. Government created confusion for the jury with (count 2). Imputed drug quanities for actions outside of date and scope of conspiracy charged in (count 1). The joinder of these offenses was unduly Prejudicial.

(5). Did Government violated Petitioner "Brady Rights", by introducing evidence of video (exhibit 56) during trial that was not in discovery. An should testimonies by NCPD officers Charity Steinbrunner and Jason Sandridge be impeach for testify about this evidence.

Video (exhibit 56) was not in discovery. Defense Counsel filed motion to exclude evidence of search warrant. Its stated in motion that there was no video, transcript or Dea-6 brief. (JA 51-80)

NCPD officers Prejudice Petitioner by testify about allege crime that wasn't charged in the indictment. See Brady-vs-Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed. 2d 215 (1963).

(6) Did court err in denying the Petitioner's motion suppress evidence seized at 201 compton ct.

The U.S. District court granted Petitioner's motion to exclude evidence obtained from the search warrant excuted at 201 compton ct. Counsel for the Petitioner asked that the court grant Petitioner a hearing in accordance with Fourth Amendment the Petitioner has the right to have search warrant authenticated

and Probable cause for warrant fully established, prior to adjudicating the nexus between the residence and the illegal drug activity. Neither the U.S. District court or the Fourth Circuit of Appeals effectively reviewed the record for clear errors. Officers enter home without search warrant was a clear violation Fed. R. Crim. Procedures 41(d). See Collins v. Virginia, NO. 16-1027, (4th Cir. 2018); U.S. v. Mowatt, 513 F.3d 395 (4th Cir. 2007); U.S. v. Ganti, 194 F.3d 987, 1001 (9th Cir. 1991).

(7). Did District Court err in denying motion Suppress results of Title III Wiretaps. False statement in warrant application and Petitioner name was not identify as individual that engaged in criminal activity an neither one of the application. Government uses of Stale information for second wiretap. See U.S. v. Donovan, 429 U.S. 413, 428, 97 S.Ct. 658, 50 L.Ed. 652 (1977).

CONCLUSION

Wherefore, the Petitioner, Kenneth Kennedy Shannon, respectfully prays that this Honorable Court will grant his Petition for rehearing en banc for Writ of Certiorari.

Respectfully Submitted,
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November 21, 2018