

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JUAN PABLO ARREOLA — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Juan Pablo Arreola

(Your Name)

(FCI) P.O. Box 3725

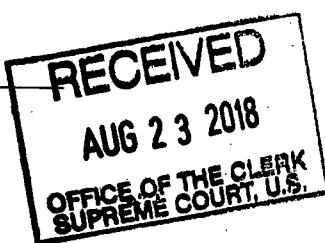
(Address)

Adelanto, California 92301

(City, State, Zip Code)

none

(Phone Number)



QUESTION(S) PRESENTED

1. Whether evidence of uncharged cocaine trafficking was admitted erroneously because it was not inextricably intertwined with the charges in the indictment and because the evidence of uncharged conduct was not necessary to understand the charged offense.
2. Whether the government's presentation of the evidence and the omission of a limiting instruction broadened the basis under which the defendant could have been convicted where the indictment was specific and narrowly drawn.
3. Whether the government violated the defendant's due process rights by improperly vouching for its cooperators credibility and by referring to facts not in evidence.

LIST OF PARTIES

[#] All parties appear in the caption of the case on the cover page.

[] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

PATRICK EDWARDS, AKA ERNEST WILLIAMS

AKA MICHEL JAQUES, , AKA FIFTY

JUAN PABLO ARREOLA

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE.....	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A On February 20th 2018 the second circuit court of appeals affirmed the judgement/conviction of the district court.

APPENDIX B Opinion, District Court Conviction

APPENDIX C Constructive Amendment, District Court, Prosecution

APPENDIX D

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<u>Ex Parte Bain</u> , 121 U.S. 10,7 S.Ct 781,786 ,30 L.Ed 849 (1887)	(1)
<u>Stirone</u> ,361 U.S. 217,80 S.Ct 273	(2)
<u>United States v.Modica</u> ,663 F.2d 1173,1179 (2d Cir.1981)	(3)
<u>United States v.Shareaf</u> ,190 F.3d 71,78 (2d Cir.1999)	(3)
<u>United States v.Carr</u> ,424 F.3d 213,227 (2Cir.2005)	(3)

STATUTES AND RULES

Fifth Amendment U.S. Const.

As to Rule 14 (1)(c) Does not exceed Five Pages, or 1,500 Words

OTHER

none

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was February 20th 2018.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fifth Amendment U.S. Const

STATEMENT OF THE CASE

On October 5, 2015 Juan Arreola was arrested and charged in a superseding indictment [15-CR-824(S1)] dated December 10, 2015, charging him with one count of conspiracy to distribute and possession with the intent to distribute ("Heroin"). In violation of 21 U.S.C. §§ 841(b)(1)(A) and 846 (Single Count).

Juan Arreola was tried before a grand jury beginning on July 18, 2016 and the government moved in limine to admit certain evidence of uncharged cocaine trafficking involving Juan Arreola, not pursuant to Fed. Rule Evid. 404(b), but as (Evidence) of the charged conspiracy..." arguing that the facts were inextricately intertwined, and necessary for background. The Court allowed the government to present evidence of uncharged cocaine sales as "direct" evidence of the crime without limiting instruction as whether the uncharged conduct is "inextricably intertwined."

Juan Arreola was convicted of the only charge against him after four days of trial and on November 17, 2016 was sentenced to (180) months imprisonment to be followed by three years supervised release. Appellant's sentencing guideline was determined based on both, cocaine and heroin whereas cocaine was not charged in the indictment or was presented to the grand jury.

REASONS FOR GRANTING THE PETITION

Appellant respectfully prays that a writ of habeas corpus will issue that declares unconstitutional, unlawful, erroneously interpreted and applied relevant laws, ignored relevant substantive constitutional and statutory rules and Supreme Court precedents in order to amend an indictment without being drawn up and resubmitted to a grand jury. see Ex Parte Bain, 121 U.S. 10,7 S.Ct 781,786,30 L.Ed 849 (1887). A review of the trial transcripts will reveal that appellant suffered serious injuries from the "governmental arbitrariness" that due process clause protects. pursuant to the holding of the Supreme Court's ruling. " In Bain when the court's recognizes a violation of " Procedural Due Process" it considered reversible error.

The phrase "procedural due process" refers to the aspects of the Due Process that apply to the procedural of arresting and trying persons who have been accused of crimes and any other government action that deprives an individual of life, liberty, or property. procedural due process limits the exercise of power by the state and federal governments by requiring that they follow certain procedurals in criminal and civil matters. If courts fail to recognize a violation of an individual's due process rights an adverse effect for many individual's are in "jeopardy" of a similar or same violation. appellant prays that this court [right] a [wrong] that may otherwise go uncorrected in the interest of justice. as well, to ensure public trust in the judicial system.

ARGUMENT

1. The government erroneously admitted uncharged evidence of cocaine trafficking where the facts was not "inextricately intertwined" with the charge in the indictment. The court error as the appellant was... charged with a single count of conspiracy to distribute ("Heroin"). The Supreme Court has recognized the damaging effect of modification to the charges issued by a grand jury In Ex Parte Bain, 121 U.S.10,7 S.Ct.781 786,30 L.Ed 849 (1887), the court declared:

If it lies within the province of a court to change the charging part of an indictment to suit its own notions of what it ought to have been, or what the grand jury would probably have made it if their attention had been called to suggested changes, The great importancce which the common law attaches to an indictment by a grand jury, as prerequisite to a prisoner's trial for a crime, and without which the Constitution says " No person shall be held to answer " may be frittered away until its vaule is almost destroyed. The government critical error violated appellant's due process right under the Fifth Amendment United States Constitution.

2. The government's presentation of evidence uncharged in the grand jury indictment, and the failure of the trial court to include limiting instruction deprived appellant of a fair trial, there is a real chance that appellant was convicted of a conspiracy to distribute..." cocaine rather than a conspiracy to distribute ("Heroin") " as charged in the indictment.

The evidence of the uncharged cocaine trafficking over took in both scope and seriousness that of the alleged heroin trafficking. As such, the indictment was constructively amended, violating the appellant's right under the Fifth Amendment of the Constitution. In Bain Id. as support for its ruling that the constitutional rights of an accused are violated when an indictment is constrictively amended, a modification at trial acts to "broaden" the charges contained in an indictment. Such a modification, contradicts the very purpose of Fifth Amendment grand jury requirement, that is, "to limit [" the accused "] jeopardy to offenses charged by a group of his fellow citizens acting independently of either prosecuting attorney or judge. In a similer case, The Supreme Court dealt with such a modification of the indictment. in that case, The indictment charged Stirone with the obstruction of the interstate importation of "Sand" from outside of pennsylvania to a concrete supplier within the state. the evidence . . . offered by the prosecution and the district court's instructions, However, permitted the jury to find that Stirone had interfered with the interstate exportation of "Steel" from a pennsylvania plant later to be constructed terms of the consideration of the facts materially different from those contained in the indictment to prove the interstate commerce component of the crime and charge to the jury that such facts, If found, could establish the interstate component of the crime, this amendment was so graet as to amount to pre se prejudicial error Stirone, 361 U.S. at 217, 80 S.Ct at 273.

3. The government committed plain error by improperly ... vouching" for the credibility of its cooperators". When plain error is committed the "reversal" of a conviction is required and award of a new trial where an obvious error in the trial proceedings affecting the fundamental right of the accused to a fair trial was not corrected by the trial court.

EXAMPLE: The government referred to facts not in evidence and linked its cooperators credibility with its own. the credibility of those witnesses was paramount as almost all the evidence in this case came through the cooperators. This caused prejudice to the appellant that could not be ameliorated.

It is well established that prosecutors may not "vouch" for their witnesses truthfulness. United States v. Modica, 663 F.2d 1173, 1179 (2d Cir. 1981). In other words, a prosecutor is prohibited from "expressing" his or her personal belief or opinion as to the truth or falsity of any testimony or evidence of the guilt of the defendant.

An improper remark by a prosecutor during trial will justify a claim of substantial prejudice, by so infecting the trial with unfairness as to make the resulting conviction a denial of due process. United States v. Shareaf, 190 F.3d 71, 78 (2d Cir. 1999); United States v. Carr, 424 F.3d 213, 227 (2d Cir. 2005). In the indictment returned by a grand jury. Such deprivation of such a basic right is far too more serious to be treated as nothing more than a harmless error.

The government tied its own credibility with that of the witnesses stating that its witnesses were telling the truth and that the government had signed off on their veracity indicating that the witness mere presence indicatedd truthness. it is legion that the jury is the ultimate arbiter of a witness's credibility-not the government. Certianly, The government is allowed fair rebuttal to attacks on credibility. However, these statementes went above and beyond permissible rebuttal to the defense's arguments.

By affirmatively stating that the government would not let witnesses testify if they were lying usurps the jury's province.

This is particularly significant because the bulk of the government's case through the very witnesses for whom the goverment improperly vouched.

Because the government's improper comments deprived the appellant of "due process" this court must reverse the appellant's conviction.

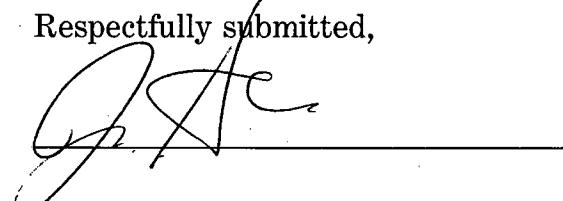
DUE PROCESS OF LAW

A fundamental, Constitutional guarantee that all legal proceedings will be fair and that one will be given notice of the proceedings and opportunity to be heard before the government acts to take away one's life, liberty, or property. Also, a Constitutional guarantt tha a law shall not be unreasonable, **Arbitrary, or Capricious.**

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



J. H.

Date: 8.8.2019