

No.

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IN THE  
SUPREME COURT OF THE UNITED STATES

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FARRELL HAYCRAFT,  
PETITIONER

VS.

RICHARD BOWN,  
RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI TO

Indiana Supreme Court  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Farrell Haycraft, #105690  
Wabash Valley Correctional Facility  
P.O. Box 1111  
Carlisle, Indiana 47838

Appellant, *Pro Se*

## **QUESTION(S) PRESENTED**

- I. Did the Trial Court Err when it order the jurors to redeliberate after it reach a verdict of guilty and not guilty on all counts?

## **PARTIES TO THE PROCEEDINGS**

Petitioner, *pro se*:

Farrell Haycraft# 105690, petitioner,  
Wabash Valley Correctional Facility  
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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 **state courts**:

The opinion of the highest state court to review the merits appears at Appendix C 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☒ is unpublished.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 Indiana 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☒ is unpublished.

**1.  
JURISDICTION**

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 10/15/2018. A copy of that decision appears at Appendix C.

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

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

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

The Fifth Amendment of the United States Constituion provides:

“No person shall be...subject for the same offence...to be twice put in jeopardy of life or limb.



## STATEMENT OF THE CASE

On August 25, 2000, the State charged Farrell Haycraft (“Haycraft”) with multiple counts of child molesting<sup>1</sup>. In January, 2001, Haycraft was tried by jury by his peers on all 8 counts. On January 19, 2001, after deliberations, the jury returned a final verdict of: guilty, and not guilty on all counts. Defense counsel filed a timely objection, and requested the Court to enter the not guilty verdicts in Haycraft’s favor. In the alternative, Counsel moved for a mistrial. The trial court, ultimately, refused the not guilty verdicts out of hand and returned the jury for further deliberations. As a result, the jury returned guilty verdicts for all counts. Subsequently, Haycraft was sentenced to an aggregate term of 190 years in prison. Haycraft pursued a timely direct appeal. Haycraft’s sentence was reduced to 150 years. In 2011, Haycraft filed for Post-Conviction Relief which was unsuccessful. On September 28, 2017, Haycraft requested permission to file a belated motion to correct errors. In that motion, Haycraft argued that his fundamental rights to Due Process was violated and protection against Double Jeopardy. On November 28, 2017, the trial court summarily denied Haycraft’s request, without an evidentiary hearing. Haycraft filed notice of appeal on January 2, 2018. The State filed a Verified Motion to Dismiss Appeal, arguing that: Haycraft’s appeal should be dismissed because Defendant’s motion for a belated motion to correct error is simply an attempt by Defendant to obtain a second direct appeal of his conviction. Furthermore, arguing that an “eligible defendant” under Indiana Post-Conviction Rule 2 is one who, but for his failure to timely do so, would have had the right to challenge on

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<sup>1</sup> The State charged Haycraft with four (4) counts of child molesting, as Class A Felonies, I.C. Code 35-42-4-3 (2000); one (1) count of child molesting, as a Class C Felony, I.C. 35-42-4-3 (2000); two (2) counts of obscenity before minors, as Class D Felonies, I.C. 35-49-3-3 (2000); and one (1) count of contributing to the delinquency of a minor, as a Class A Misdemeanor, I.C. 35-46-1-8 (2000), a total of eight (8) counts.

direct appeal his conviction or sentence. And requested that the Indiana Court of Appeals to dismiss the Defendant's appeal with prejudice. The Indiana Court of Appeals GRANTED the State's request on Aug. 14, 2018. Haycraft filed for transfer to the Indiana Supreme Court, which was denied as well.

### **REASONS FOR GRANTING THE WRIT**

#### **THE TRIAL COURT HAS REFUSED TO HOLD A EVIDENTIARY HEARING ON HAYCRAFT'S FIFTH AMENDMENT RIGHTS TO BE FREE FROM BRINNG PLACE IN JEOPORDY TWICE**

After a four day jury trial, in Petitioner's case, the 12 jurors returned simultaneous verdicts, of "guilty" and "not guilty," properly signed and dated in dated in accordance with the court's instructions. Haycraft's counsel requested that the trial court enter the not guilty verdicts in Haycraft's favor. The State argued otherwise, arguing that the verdicts were in the same way defective, though failed to articulate its reasonings. Ultimately, the trial court refused the not guilty verdicts and held that it would advise the jury, in open court, to reread all instructions and send the same instructions, and new clean verdict forms for each counts.

This Court has held, however, that inconsistent jury verdicts nonetheless create a double jeopardy bar to subsequent retrial. "It is equally possible that the jury, convinced of guilt, properly reached its conclusion on the compound offense, and then through mistake, compromise, or lenity, arrived at an inconsistent conclusion on the lesser offense. But in such situations the Government has no recourse if it wishes to correct the jury's error; the Government is precluded from appealing or otherwise upsetting such an acquittal by the Constitution's Double Jeopardy Clause." *United States v. Powell*, 469 U.S. 57, 65, 83 L. Ed. 2d 461, 105 S. Ct. 471 (1984) (citations omitted).

"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 v. United States*, 355 U.S. 184, 188, 2 L. Ed. 2d 199, 78 S. Ct. 221, 77 Ohio Law Abs. 202 (1957) (citation and internal quotation marks omitted).

This is true "even though an acquittal may appear to be erroneous." *Id.* That a jury's verdict of acquittal bars a subsequent retrial on those same offenses is "perhaps the most fundamental rule in the history of double jeopardy jurisprudence." *United States v. Martin Linen*, 430 U.S. 564, 571 (1977). "This rule is assumed to be fundamental because it is the most 'absolute' [and] operates without exception." *Peter Westen, The Three Faces of Double Jeopardy: Reflections on Government Appeals of Criminal Sentences*, 78 Mich. L. Rev. 1001, 1004 (1979).

This Court has recognized that even "egregiously erroneous" jury verdicts are entitled to double jeopardy effect; a clear acknowledgment that juries sometimes get it wrong: i.e., resolve the factual elements in a way that the reviewing court would not have. See also *Westen*, 78 Mich. L. Rev. at 1011 ("An erroneous acquittal, by definition, is a verdict which is tainted to a material degree by some defect in the fact-finding process . . . an erroneous jury acquittal says nothing about . . . what an error-free process would have revealed.").

This principle has been consistently reaffirmed by this Court. See, e.g., *Burks v. United State*, 437 U.S. 1, 16 (1978) ("We necessarily afford absolute finality to a jury's verdict of acquittal--no matter how erroneous its decision. . . ."); *Green*, 355 U.S. at 188 ("It is one of the elemental principles of our criminal law that the Government cannot secure a new trial by means of an appeal even though an acquittal may appear to be erroneous."); *Sanabria v. United States*, 437 U.S. 54, 68-69, 57 L. Ed. 2d 43, 98 S. Ct. 2170 (1978) ("We believe the ruling below is properly to be characterized as an erroneous evidentiary ruling, which led to an acquittal for insufficient evidence. That judgment of acquittal, however erroneous, bars further prosecution on any aspect of the count . . . .").

This is true even when, as here, the jury's acquittal was supposedly based on an error of law. See *Arizona v. Rumsey*, 467 U.S. 203, 211, 81 L. Ed. 2d 164, 104 S. Ct. 2305 (1984) ("Reliance on an error of law, how-ever, does not change the double jeopardy effects of a judgment that amounts to an acquittal on the merits . . . . Thus, this Court's cases hold that an acquittal on the merits bars retrial even if based on legal error.").

'The fact that the 'acquittal may result from erroneous evidentiary rulings or erroneous interpretations of governing legal principles' . . . affects the accuracy of that determination but it

does not alter its essential character.' " *Smalis v. Pennsylvania*, 476 U.S. 140, 144, n.7 (1986) (citations omitted).

Haycraft avers that trial court should have entered judgment for not guilty verdicts as Haycraft's presumption of innocence alone was sufficient for acquittal. This "fundamental" and "absolute" rule applies here to the jury's "Not Guilty" verdicts on all eight (8) counts. And should be barred for a retrial, base on Haycraft's Fifth Amendment rights, to be free from jeopardy.

### **CONCLUSION**

Petitioner, Farrell Haycraft, has been deprived of basic fundamental rights guaranteed by the Fifth and Fourteenth Amendments of the United States Constitution and seeks relief in this Court to restore those rights. Based on the arguments and authorities presented herein, Petitioner's PRAYS this Court will issue a Writ of Certiorari and reverse the judgment of the Harrison Superior Court, and the Court of Appeals of Indiana.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Farrell Haycraft", written over a horizontal line.

Date: January 8, 2019.