No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

Jesse A. Brewer PETITIONER
(Your Name)

vs.

United States of America RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The Third Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jesse A. Brewer
(Your Name)
P.O. Box 19001
(Address)
Atwater, CA 95301
(City, State, Zip Code)

_____
(Phone Number)

**QUESTION(S) PRESENTED**

1) Whether Probable Cause existed, if the affidavit(s) did not show a nexus or link between the Crime and item or property to be searched?

2) Whether an owner of the item or property has legal standing to suppress information even if the possessor of the item or property - not named on the Bill agreement - lacks standing?

3) Whether liability and accountability stands with every defendant involved in a Criminal action or with one defendant in particular committing an overt act while two other defendants involved receive minimal sentencing punishment?

1) Whether Hobbs Act, 924(c) or the predicate offense of New York State Statute § 160.15 is not considered a Crime of Violence because of the Unconstitutional vagueness of Title 18 § 16 recently ruled on by this Court?

## 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:

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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 **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[✓] is unpublished. Also enclosed in Appendix A is Recall Mandate by Third Circuit Court of Appeals

The opinion of the United States district 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[ ] is unpublished.

[ ] 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 11-6-2018.

[✓] 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

The Fourth Amendment to the United States Constitution provides in relevant part:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.

The Fifth Amendment to the United States Constitution provides in part:

Precluding the government from taking away a person's life, liberty or property.

STATEMENT OF THE CASE

See Attached . . .

APPEARANCE OF COUNSEL ARGUING CASE, JESSE BREWER, PRO HAC VICE

1. AFFIDAVITS LACK OF PROBABLE CAUSE FOR WARRANTS ISSUED TO SEARCH CELLPHONE AND TO SEIZE ALL DATA INFORMATION IN ITS ENTIRETY

Appellant, Jesse A. Brewer, avers and asserts that at no time was there any nexus or link between the robbery committed and cellular phone 470-334-5777 (herein "5777"). See Exhibit (A). Other than the mere fact that the 5777 phone was in the possession of co-defendant Jamell Smallwood at the time of his arrest. The affidavit did not set forth any fact at all, much less probable cause, to indicate that the phone contained any evidence related to the robbery. Nor, the records do not suggest that the magistrate considered whether probable cause existed because he never rendered a judicial determination on that issue. Commonwealth v Chandler, 477 A.2d 851, 505 Pa. 113 (Pa. 1984).

The Fourth Amendment does not permit police to secure a search warrant for all data contained within, associated with, or generated by a cellphone based on the sole fact that it was found in the possession of an individual at the time of his arrest. In order for a valid search warrant to be issued, the affidavit of probable cause must set forth facts establishing a nexus between the crime

Under investigation and the property to be searched. The arrest of an individual does not automatically constitute a valid basis to secure a warrant for the search of all of the arrestee's "houses, papers and effects".

The required nexus must be set forth on the face of the affidavit of probable cause. United States v Jones, 994 F.2d 1051, 1054 3rd Cir. 1993). Here, the affidavit did not even attempt to show "the relation of criminal conduct to a particular location" to be searched, as required by United States v Burton, 288 F.3d 91, at 103 (3rd Cir. 2002). And since there are no averments at all which even attempted to show that required nexus, the warrants to search are invalid.

Pennsylvania law has for decades been the same as other cases cited in this Writ concerning the rule that a search warrant is defective where the affidavit fails to set forth a nexus between the property or items to be searched and the crime under investigation, giving rise to probable cause to believe that evidence of the crime will be found in the place or item to be searched.

Commonwealth v Butler, 448 Pa. 128, 131, 291 A.2d 89 (1972); Commonwealth v Jones, 988 A.2d 649, 658 (Pa. 2010). This standard is very well settled under both, State and Federal law.

Supreme Court Justice Rehnquist stated... "If the magistrate issues a warrant in such a case, his action is not just a reasonable mistake, but an unacceptable error indicating gross incompetence or neglect of duty. The officer(s) then cannot excuse his own default by pointing to the greater incompentence of the magistrate". Malley v Briggs, 475 U.S. 335, 345, 106 S.Ct 1092, 1098, 89 L.Ed. 2d 271 (1986)

The search warrant issued in this case was on the mere general possibility that evidence concerning the robbery might be found within the data of the phone or might have been generated by the phone..." at the time of seizure, the officer(s) must have probable cause to connect the item with criminal behavior". United States v Lefkowitz, 285 U.S. 452, 465, 52 S.Ct. 420, 423, 76 L.Ed 877 (1930)

Furthermore, at the time of the seizure of the phone, officers did not have a

warrant to do so. Only a body warrant was produced for the arrest of one Jamell Smallwood. See Exhibit (B). These same officers took the liberty to seize all of Smallwood's possessions at the time of his arrest on 7/12/2012 but did not produce an warrant to seize the 5777 phone until 7/20/2012 - exactly eight (8) days later. During this eight (8) day period, phone 5777 was never cataloged or inventoried with the rest of Smallwoods items that were seized. See Exhibit (C). Therefore, the phone itself was illegally seized and confiscated, incident to arrest, with no probable cause.

Rule 206 (6) of the Pennsylvania Rules of Criminal Procedure, Chapter 2, Part A, titled "Contents of Application for Search Warrant" plainly states that the affidavit (s) must.... "Set forth, specifically, the facts and circumstances which form the basis for the affidavit's conclusion that there is probable cause to believe that the items or property identified are evidence or the fruit of a crime, or are contraband or are expected to be otherwise unlawfully possessed or subject to seizure and that these items or property are expected to be located on the person or at the particular place described".

Commonwealth v Glass, 562 Pa. Sup. 187, 754 A.2d at 655 (2000)

Also, Rule 41(c) of the Federal Rules of Criminal Procedure, titled "Persons or Property Subject to Search or Seizure", states that a warrant may be issued for any of the following:

1) evidence of a crime

2) Contraband, fruits of crime or other items illegally possessed

3) Property designed for use, intended for use, or used in committing a crime; or

4) a person to be arrested or a person who is unlawfully restrained

Appellant states that it is not apparent, from the record (s), why detectives believed they needed to seize and search Cellphone 5777, incident to arrest, or the need for requesting the overly broad collection of data from the telephone company. The detectives never stated, documented or affirmed that the overly broad records collection was "Sought to be evidence of a crime itself". The

Standard for a Rule 41 warrant is probable cause to believe that the information sought was itself evidence of a crime and only then should it have been issued. United States District Court for the District of Columbia, 407 F.Supp.2d 134; 2006 U.S. Dist. LEXIS 312

Therefore, the warrant(s), under Rule 41, should be invalid if the supporting affidavits do not give factual support for the belief that the means of a ... "Cellular phone" had been used for the federal violations charged. United States v Brouillette, 478 F.2d 1171 (5th Cir. 1973).

The government apparently sought to seize the entirety of the 5777 phone, including all communications, regardless of whether they bear any relevance whatsoever to the investigation. "If this were not the intention, then in the specific 'items to be seized', the term "include" makes the Application Seizure list broader than the categories that are specifically listed". Matter of Black iPhone 4, 27 F.Supp.3d at 78 (D.D.C. 2014) Also, See Exhibit (D)

"Reality that over-seizing is an inherent

part of the electronic search process, requires the Courts to exercise greater vigilance in protecting against the danger that the process of identifying seizable electronic evidence could become a vehicle for the government to gain access to a larger pool of data that it has no probable cause to collect". Search of Apple iPhone, 31 F.Supp.3d 159, Matter of (D.D.C. 2014)

Therefore, the warrant was unconstitutionally overbroad. The scope of the warrant was not restricted to a search for evidence of a robbery but permitted a free-ranging search, which under Coolidge v New Hampshire, 403 U.S. 443, 467, 91 S.Ct 2022, 29 L.Ed.2d 564 (1971), is precisely the type of..." general exploratory rummaging in a person's belongings" that the Fourth Amendment prohibits.

Also, while the standards defining probable cause are not readily or even reduced to a neat set of legal rules, probable cause requires facts sufficient to warrant a belief by a person of reasonable caution..." that the specific item(s) being sought constitute evidence of a crime". Texas v Brown, 460 U.S. 730, 742, 103 S.Ct 1535, 75 L.Ed.2d 502 (1983).

Appellant avers that there was no "evidence of a Crime", nor "contraband" found on Cell-phone 5777 or cellphone #347-965-4252 (herein "4252")-This phone, alleged to have been used by appellant was also seized and searched. It's information was entirely derivative from and acquired by law enforcement with the initial Seizure and Search of the 5777 phone that was possessed by co-defendant Jamell Smallwood- and nothing related to any criminal activity was found. See Exhibit (E). These items seized, nevertheless, were still used and introduced against appellant at his trial. See Exhibit (F) T.T. pgs 126-138

There was nothing Criminal about the Cellsite location information (herein "CSLI") either, nor the text message Conversations. These highly prejudicial "items" seized illegally, should have been suppressed along with the phone(s) in their entirety, being that no criminal activity was found. ... "Cell phone tower records are not reliable indicators of actual location and are not evidence of criminal activity". United States v Ransfer, 743 F.3d 766 at 782 (C.A. 11 (Fla. 2014).

Actually, some judges have declined to issue warrants for CSLI on the grounds

that it fails to demonstrate probable cause to believe that the CSLI would result in evidence of a crime - the Rule 41 requirement but rather demonstrates something less than that, roughly akin to probable cause to believe that it would result in "evidence that would be relevant to the case". United States District Court for the District of Columbia, supra. "It is very well established that Courts may not look to facts outside the affidavit(s) in determining the existence of probable cause". Whiteley v Warden, 401 U.S. 560, 565 n.8, 91 S.Ct 1031, 1036 n.8, 28 L.Ed.2d 306 (1971).

Moreover, the Third Circuit Court filed in their opinion - in denying my Direct Appeal on September 18, 2017 (Recall) Mandated April 6, 2018) - that appellant had no legal standing to challenge the suppression of Cellphone S777. Appellant does not understand how, when he is the rightful and legal owner. See Exhibit (G). Jamell Swallwood only possessed the phone at the time of his arrest and who, by the way is my legitimate family member.

Now, the reasoning of the legal Standard issue in appellants denial is highly contradicting seing that not a month prior this same Court ruled the opposite in another Fourth Amendment

case, stating..."In the 3rd Circuit, a sole occupant of a rental vehicle has no Fourth Amendment expectation of privacy when that occupant is not named in the rental agreement and therefore has no legal standing to challenge search of vehicle"?? Byrd v United States Opinion issued August 17, 2017, No. 16-1371 (3rd Cir. 2017). So, if the possessor of the "item" or "effect" has no legal standing to challenge search, doesn't that mean the only person that can challenge the search is the rightful, legal owner?? I am baffled, perplexed and confused over this blatant contradiction.

If I let a family member stay in/at my house while vacationing, and law enforcement has a warrant for his/her arrest, can they seize my house without a warrant to do so - incident to arrest - for eight (8) days, before finding out and notifying the owner?

In any event, the police and detectives claim that Smallwood claimed ownership and control of the phone. Control yes, Ownership?? Obviously not. Doesn't the law require a police agency to establish legal authority for a person to give voluntary permission to search an item or property?? The evidence shows that law enforcement lied on their

Affidavits and that their claims are contrary to the facts. Smallwood was "very uncooperative" emphasizing that he doesn't "talk to the police" and gave them his cellphone number 347-585-3288 as documented in the police report. See Exhibit (H). Not my 5777 phone number. This proves that law enforcement illegally seized the 5777 phone and this gross and blatant contradiction should not be overlooked.

According to Rule 206 (6) of the Pennsylvania Rules of Criminal Procedure and Rule 41 of the Federal Rules of Criminal Procedure, there was no specificity to the facts and circumstances which form the basis for the Affidavits conclusion that there was probable cause to believe the items or propexty identified..." was evidence or the fruit of a crime or was contraband, or was otherwise unlawfully possessed or subject to seizure".

Suppression should have been granted on the basis that the warrants sought to seize data outside scope of investigation of the crime and failed to establish probable cause for the seizure of phone(s) in their entirety, since applications did not seek to seize only information specifically

pertaining to a robbery. See Exhibit (I)

Appellant states that the affidavits, police reports and related documents revealed at no time, that the phones were evidence, part of a crime, contained contraband or were instruments of a crime or other items illegally possessed", and that the material seized and used at trial is/was not contraband. Therefore, the affidavit(s) on which the search warrants were issued failed to meet the probable cause requirements.

That "Smallwood was in possession of an AT&T phone while being treated at the hospital" isn't enough to satisfy Rule 41 probable cause. The bare bones affidavit contains that one isolated reference to the phone in Smallwood's possession. This singular observation standing alone is too remote and speculative to justify a search of that phone. See Exhibit (A).

Appellant also states that he took normal precautions to maintain his privacy because the phone was password protected. United States v. Burnett, 773 F3d 122, 131 (3rd Cir. 2014) (quoting Rawlings v. Kentucky, 448 U.S. 98, 105 (1980))

Also, United States v Finley, 477 F.3d 250 (C.A.5 Tex. 2007). Therefore, I established a subjective expectation of privacy and Smallwood would have expected me to read the messages on my 5777 phone once it was returned to me.

And finally, there was also insufficient probable cause for the search and seizure of records and information related to cellphone 4052. It is the argument of this Writ/Brief, that the three (3) search warrants issued for the cell phone allegedly used by appellant were entirety derivative of information acquired by law enforcement authorities from the search and seizure of the Jamell Smallwood possessed phone, 5777, and its associated records.

In absence of an independent source of probable cause, evidence obtained as a result of an unlawful search is subject to suppression, since it is deemed tainted fruit of the poison tree. A search warrant based on such fruit of the poison tree is invalid. United States v Davis, Opinion issued July 7, 2010, No. 09-2864 (3rd Cir. 2010). Where a later search warrant is tainted by illegality in a prior search warrant, the independent source

doctrine requires that law enforcement authorities demonstrate that the facts set forth in the affidavit of probable cause for the second warrant were both sufficient for probable cause and were not acquired as a result of a search and seizure conducted pursuant to the earlier tainted warrant. United States v Perez, 280 F.3d 318, 338-341 (3rd Cir. 2002).

## B. REASONABLENESS OF SENTENCE

The reasonableness standard was announced by the United States Supreme Court in United States v Booker, 543 U.S. 220, 125 S.Ct 738 (2005), and has been held by the Third Circuit to be akin to an abuse of discretion standard, United States v Tomko, 498 F.3d 157 (3rd Cir. 2007), or a "deferential abuse of discretion standard". United States v Smith, 325 Fed. Appx. 77, 78 (3rd Cir. 2009). The District Courts interpretation of sentencing law is reviewed de novo. United States v Langford, 516 F.3d 1279, 1284 (3rd Cir. 1994).

The appellant was sentenced to LIFE

imprisonment and a consecutive 30 years. Co-defendant Jamell Smallwood, who pled guilty but did not cooperate with the government, received a Sentence of 17 years. Co-defendant Timothy Forbes who pled guilty and cooperated with the government recieved a sentence of 14 years. Not only was the sentence imposed on appellant unreasonable in itself, but it is also a gross and unwarranted disparity to the sentences imposed on the two co-defendants.

One of the factors required by Courts in determining an appropriate sentence is "the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct". 18 U.S.C. §3553(a)(6). In this case both co-defendants are career offenders along with appellant. It is an elementary principle of law that all three defendants were criminally liable for that conduct, and were so charged in Count 2 of the Superseding Indictment.

Even though the need to avoid unwarranted sentencing disparities is just one of the factors required to be considered by a sentencing Court, United States v Kluger, 722 F.3d 549, 568 (3rd Cir. 2013); United States v Jones, 326 Fed. Appx. 90, 92 (3rd Cir. 2009), where as in this case the difference in the sentences is so spectacular, the disparity entirely consumes other distinctions which might reasonably be made among the defendants. Here, the disparity did not become fully apparent until after Timothy Forbes was sentenced on March 23, 2016, following appellant's sentencing a month before on February 24, 2016. Jamell Smallwood had been sentenced on October 15, 2014. Without any departure or variance from the Guidelines (Career offender) range determined by the Pre-Sentence Report paragraphs 62-63) Exhibit (J), for appellant Brewer the sentence would have been 40 years. The defense, at sentencing, had suggested that a sentence of 20 years would be sufficient for the purpose of deterence, since the appellant was over 41 years of age and

Sentencing Commission Statistical Studies show that recidivism rates fall steeply after age 60.

The sentence of LIFE plus 20 years ultimately imposed by the District Court upon the appellant is so spectacular in itself, and so spectacularly in excess of the 14 and 17 year sentences imposed on the two co-defendants, both of whom were also career offenders and also guilty of joint criminal conduct, as to clearly violate the plain purpose of 18 U.S.C. § 3553 (a)(6). Beyond the enormous disparity, it is also impossible to discern how the sentence imposed upon appellant could have been "sufficient, but not greater than necessary" to comply with the purposes of 18 U.S.C. § 3553 (a)(2). United States v Smith, 325 Fed. Appx. 77 (3rd Cir. 2009).

The sentence imposed upon the appellant was excessive, unreasonable and unlawful.

## C. PETITIONER IS NOT A CAREER OFFENDER BASED ON RECENT RULING IN SESSIONS V DIMAYA

In light of Griffith v Kentucky, 479 U.S. 314 107 S.Ct 708 (1987), any law which came to light while on direct review may be heard. Also, pursuant to Rule 15.8 of this Courts' Rules.

Petitioner challenges the instant offense of Title 18 U.S.C. § 1951 (Hobbs Act), § 924(C) and also his "Career Offender" enhancement of his predicate offense-Attempted Robbery, under New York State Penal Law § 160.15 - that all of the aforementioned are no longer considered Serious Violent felonies or Crimes of Violence under Title 18 U.S.C. § 16, by the recent ruling in Sessions V Dimaya, in which the residual Clause was deemed unconstitutionally vague.

Petitioner claims that his 924(c) violation in relation to his Hobbs Act robbery conviction under § 1951 - Count 2 must be overturned because of the voiding of the residual Clause and the fact that Hobbs Act Robbery and New York State 'Attempted Robbery' can be accomplished without the use of 'violent physical force' or even physical force

If the Hobbs Act robbery or New York State robbery can be accomplished without the

use of physical force, then its elements are too broad to match up with the appropriate "Crime of violence" term in § 924 c) and Section 16 under the categorical approach as explained by the Supreme Court in Mathis, 136 S.Ct 2243, 195 L.Ed. 2d 604. This is so because the Crime of violence is an indivisible element of the 924(c) offense. No jury - certainly not petitioners - was ever asked to unanimously decide on whether ~~under~~ they concluded a 924(c) offense was warranted under the elements clause, regardless of whatever language was included in the Counts of the charging instrument.

Moreover, when applying the categorical approach a Court presumes "the conviction rested on the least serious acts that could satisfy the Statute and that the least serious act would be fear of injury to property".

Now, under the Hobbs Act's definition of robbery, the 'fear of injury' need not even be immediate but can be in the future and the property need not even belong to the immediate victim as the property can belong to someone else. This alone prevents Hobbs Act robbery from qualifying

is a Crime of violence under § 924(c)'s force clause because as just explained that clause requires violent (i.e, strong) physical force against a person or property. But property can quite obviously be injured without the use of violent force - or even any force at all.

As a means of compelling a victim to surrender valuable property against his will, a threat to deface a victim's Picasso painting with a magic marker pen, to black out lines in rare documents, or to flush drugs down the toilet, is likely to be as or more effective as a threat to punch the victim in the face. Each involves a clear "threat of injury" and thus each would satisfy the elements of Hobbs Act robbery, but only the threat to punch the victim in the face involves the use of violent physical force.

The Statute would not include these three 3) terms: "force" "violence", or "fear of injury" disjunctively as alternate means of violating the Statute if they all meant the same thing.

Also, the Due Process Clause precludes

the Government from taking away a Persons life, liberty or property under a Statute "so vague that it fails to give ordinary people fair notice of the conduct it punishes, or so standardless that it invites arbitrary enforcement". Sessions V Dimaya, S.Ct No. 15-1498 (decided Apr. 17, 2018)

Petitioner now argues that his 2001 conviction for Attempted Robbery is not an aggravated felony under the force Clause because the incorporated definition of a Crime of violence in Title 18 U.S.C. Section 16 is unconstitutionally vague, according to the recent ruling by the Supreme Court in Sessions V Dimaya, supra, which invalidated the residual clause of Section 16, which should further invalidate the same residual clause of U.S.S.G. 4B1.1 and Section 924(c), that consists of the same language.

Attempted Robbery categorically fails to constitute a Crime of violence under the force clause. Petitioner contends that a perpetrator could rob a victim without physical violent force by just snatching money out of a victims hands and though the perpetrator has a gun in his/her pocket

that was never produced he/she can still satisfy a conviction for Attempted Robbery or, even by putting a light threat to use physical force without showing or producing said gun or weapon.

And, because Hobbs Act robbery criminalizes conduct involving threats to property, it does not qualify as a Crime of Violence under U.S.S.G.'s force clause. Therefore, the 924 (c) conviction must be overturned and dismissed. See, Haynes v United States, 873 F.3d 954 (7th Cir. Oct. 17, 2017) and United States v O'Connor, 16-3300 (10th Cir.) (Oct. 30, 2017). Also, the New York State conviction for Attempted Robbery is NOT considered a "Crime of Violence" under the categorical approach. See, Mathis v United States, 136 S.Ct 2243, 2248-49, 195 L.Ed. 2d 604 (2016); also, Descamps v United States, 133 S.Ct 2276, 2281, 186 L.Ed. 2d 438

Wherefore, in light of the recent ruling by the Supreme Court in Sessions v Dimaya, which invalidated the residual clause-Petitioner's career enhancement and 924 (c) conviction must be voided and Petitioner shall be resentenced accordingly.

## D. CONCLUSION

For the reasons set forth above, it is requested that the conviction be reversed and/or the sentence vacated and the case remanded for a new trial and/or for resentencing.

DATED: June 20, 2018

Respectfully Submitted,

Jesse A. Brewer
Pro Hac Vice

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## REASONS FOR GRANTING THE PETITION

With respect to the Fourth Amendment my petition should be granted because there are similar case to mine where law enforcement violate ordinary American citizens rights. Also, to deter law enforcement from using loop holes and manipulating and/or misinterpreting the law to get a conviction, by any means.

Precedent should be set to preclude law enforcement from further abusing their powers. Americans will benefit from knowing that their whereabouts wont be recorded everyday all day.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jesse A Brewer

Date: June 20, 2018