

18-8614

No. \_\_\_\_\_

Supreme Court, U.S.  
FILED

JUN 21 2018

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Washington, D.C. 20543-0001

Leonard Dwayne Hill — PETITIONER *Pro se*  
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Appendix A CoA U.S. District Court "On Petition for a writ of  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE) *Certiorari*

PETITION FOR WRIT OF CERTIORARI

Leonard Dwayne Hill  
(Your Name)

U.S.P. Beaumont P.O. Box 26030  
(Address)

Beaumont, TX, 77720-6030  
(City, State, Zip Code)

409-727-6188  
(Phone Number)

**ORIGINAL**

QUESTION(S) PRESENTED

23 Year Long "Circuit Split" is making 92xg(1) unconstitutional to (my case.)

The 23 Live Rounds of Ammunition Was Manufactured An Assembled In The (Same state) were defendant was Arrested At.

The Supreme court set up the "minimal nexus test" to find defendants who violated the Interstate commerce element of the offence... If you Look to (my case), the "minimal nexus test" is "not proven" see Scarborough V. United States 431 U.S. 563, 575 (1977)

"Circuit split"

8<sup>th</sup> Circuit is still Holding to the facts in Mosby. 60 F.3d 454 (8<sup>th</sup> Cir 1995) But "NO A.T.F Specialist OR Ammunition specialist" Never testified to the facts In Mosby based on Interstate Commerce. 2nd Circuit Also 5<sup>th</sup> Circuit distinguished the Mosby case, to it's facts. With the 6<sup>th</sup> Circuit Agreeing with the 5<sup>th</sup> Circuit Chambers case.

If I WAS In Any other "Circuit Court" with this case, would their even be federal Jurisdiction over my case.

## 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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## STATUTES AND RULES

Bus. cf 922(g)(1)  
 18 U.S. cf 921(17)(A)

## OTHER

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 Lexis 9079 NO. 17-3508 April 11, 2018; 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 A to the petition and is

☒ reported at Mosby 608,724,54 1995 Lexis 16904 July 13, 1995; 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 ~~April 11, 2013~~, April 29, 2016 March 8, 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: April 11, 2013, and a copy of the order denying rehearing appears at Appendix A.

☐ 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

18 U.S.C § 922(g)(1) is Unconstitutional to my case.

Interstate commerce was not proven in my case.

The "minimal nexus test" the Supreme Court set up was not proven in "my case".

In The 8<sup>th</sup> circuit 921(17)(A) definition of Ammunition has no meaning to the Statute.



## STATEMENT OF THE CASE

I, Leonard Dwayne Hill was Indicted by the United States district of Minnesota for violating 922(g)(1). Possession of Ammunition. In my Indictment it says: That is: 23 Live Rounds of Federal Brand 9 Millimeter Luger Ammunition. At trial I was found guilty of something different than what the "grand Jury" Indicted me on.

The government went so far to prove the Interstate Commerce Element of the offence, they broke my Ammunition down to its parts and determined that the "gun powder" inside the Live rounds was made in Florida, But the full rounds "itself" was manufactured and assembled in Minnesota. The (Same state) where the defendant was arrested at. Also the remaining parts was manufactured and assembled in Minnesota.

The government should have never broke the Live rounds down to its parts because they could not prove interstate commerce with the "full rounds itself." Instead they make 922(g)(1) unconstitutional to me, because what the grand Jury Indicted me on never cross "Any" state lines. 23 Live rounds of Federal Brand 9 millimeter Luger Ammunition. Never affected interstate commerce. It was manufactured and assembled in the (Same state) where I was arrested at, in Minnesota.

The 8th circuit do not respect the "minimal nexus test" the Supreme Court set up in *Scarborough v. United States* 431 U.S. 563, 575 (1977). Instead they use the *United States v. Mosby* 60 F.3d 454 (8th Cir 1995) case for their "minimal nexus test" to Interstate commerce. The 5th and 2nd circuit has distinguished this Mosby case. Also myself I have found out that no A.T.F. specialist or Ammunition specialist ever testified to the facts in "Mosby." like other cases dealing with firearms and ammunition manufacture data base.

### REASONS FOR GRANTING THE PETITION

It has been over 20 years since the 2nd circuit Had Direct conflict with the 8th circuit In United States v. Travisano 724 F.3d 341 (2d Cir 1983) In The mosby case. In Travisano it Holds that a Shotgun manufactured An Asssembled In The (Same state) were A defendant was Arrested at. Did Not Affect Interstate Commerce. even tho parts of the Shotgun Broken down was made from some were else. Interstate commerce was not Proven In Travisano. The 2nd circuit have distinguished the 8th circuit Case In mosby 60 F.3d 454 (8th Cir 1995) mosby Held that Ammunition Asssembled from components, All of which had traveled In Interstate commerce, was "In Commerce" for purposes of 18 U.S.C § 922(c), even though the Ammunition itself had been Asssembled Intrastate. The 5th circuit of Appeals has Also distinguished this mosby case to its facts In United States v. Chambers 408 F.3d 241 (5th Cir 2005) this Chambers case is Identical to my case, An In Chambers his conviction was overturned. 5th circuit Also Distinguished Mosby to the facts In the mosby opinion to suggest that the Indictment was other then wholly general, or that it ever Alleged any Particular facts respecting the "In or Affecting Commerce" element of the offence, or that it ever alleged Anything respecting Completed rounds. Mosby Is hence Inapposite as it addresses the situation spoken to In the Italicized portion of the following passage from Stirone v. U.S.: When one must rest on that charge and not Another, even though it be Assumed that under an Indictment drawn In general terms a conviction must rest upon a Showing that Commerce of one kind or Another had been burdened.

\* Very Important Distinguished case that needs to be Addressed \*  
The District Court was Always Confessed about the "mosby case"

because it was the first possession of Ammunition case dealing with Interstate commerce. The District Court granted the defendant's motion for Judgment of Acquittal based on a narrow Interpretation of § 921(a)(17)(A)'s definition of Ammunition. In Mosby the government states that All 4 components was manufactured Some were else but was Assembled In Minnesota. In Mosby were is the Physical Evidence to SAY Mosby Ammunition was even Assembled in Minnesota? If you Look to "Any" Possession of firearms or Ammunition Case that deals with Interstate commerce. There's always a "A.T.f" Agent or Ammunition or firearm Specialist. That will testify about the manufacture Location. In Mosby There is "No testimony" from "No A.T.f Agent or Ammunition Specialist" like my Case an other's so were did the Physical Evidence come from In the facts of Mosby? Was Mosby Ammunition found in a box of Ammunition that had a stamp on their saying "made in Minnesota"? because If that is so, If they take 2 Rounds for examination Like the Ammunition Specialist did in my Case they will determine that Mosby Ammunition was not made in Minnesota, because the government SAY In Mosby that (All 4 components is made Somewhere out-of-state) an If the Specialist Look to the Cartridge casing An type. In the Stamp for the Manufacture, the results will be that (Mosby Ammunition is not Assembled or manufactured in Minnesota Because (All 4 component's is made from Some were else.)  
(No A.T.f Specialist or Ammunition Specialist Never testified In his case.)

To Sum up my full Argument I would use a passage out of Unitedstate v. Walker, 734 F.3d 451 (6<sup>th</sup> circuit 2013) Even though the Government stated In Walker that the government made 2 mistakes In Chamber that compelled reversal.

but It was in "good faith" to reversal of Chambers Indictment.  
first, The Indictment "made) no mention of Cartridge Cases, primers, bullets  
or powder" and "Alleged) one, and only one, factual Basis" for <sup>and</sup> Interstate  
nexus finding: The completed rounds of Ammunition. Chambers, 408 F.3d  
at 241. second the government "presented no Evidence" at trial that the  
rounds had traveled in Interstate commerce, focusing Instead on  
the connection of Certain Component's of the rounds to Interstate  
Commerce. <sup>id.</sup> The Combined effect of these two ERRORS was  
that "The government... proved an Essential Element of the... offence... on  
The basis of a set of facts different from the Particular facts  
Alleged in the Indictment in respect to the Element, which  
Led the fifth Circuit to conclude that the government constructively  
Amended the Indictment.

With Them facts If you Look to these 2 ~~New~~ cases  
An Apply their Arsement with mine you can see How this  
23 year Long circuit split makes 922(s)(1) unconstitutional to "my case  
only." because Interstate Commerce was (never proven) See United States v.  
GARCIA Lexis 13943 NO 17-10890 may 24, 2018 Also, United States v. Bishop  
Lexis 10760 NO. 17-5319 April 24, 2018 update cases

I wish that the Supreme Court Grant's my Writ of Certiorari, An ~~fix~~ this 20 year long Circuit split that Holding my Conviction to the 8<sup>th</sup> circuit. If the Supreme Court see That the minimal nextest was not given In my case I Hope to get relief that I'm needed for this wrongfully conviction.

I wish the Supreme court will overturn my conviction based on your Law of the Land. Thanks you

#### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Gerard Hill

Date: Set, 10<sup>th</sup>, 2018