

19-5753

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES



Trayone Bell — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Eleventh Circuit Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Trayone Bell
(Your Name)

FCI Coleman Medium P.O. Box 1032
(Address)

Coleman, FL 33521
(City, State, Zip Code)

321-917-4854
(Phone Number)

QUESTIONS PRESENTED

- 1) To satisfy the "knowingly" and with "intent in 18 U.S.C. § 1029(A)(3), Do Courts have to prove precise "mens rea" as set forth in Rehaif v. United States 588 U.S.--(2019) and Flores-Figueroa v. United States 556 U.S. 646 650, 129 S.Ct. 1886 173 LED.2d 853.
- 2) Do jury instructions have to be sufficient and list charged and uncharged conduct or does either party have a right to choose without interruptions.

MEMORANDUM

Comes now, Petitioner Trayone Lefferio Bell, who files this motion pro-se prays this Court construes this liberally. Haines v. Kerner 404 U.S. 519 (1972). Petitioner prays the Court grant certiorari, vacate the judgment of the District Court and remand for new trial.

Question (1)

To satisfy the "knowingly" and with "intent" in 18 U.S.C. § 1029(A)(B), do Courts have to prove precise "mens rea" as set forth in Rehaif v. United States 588 U.S.--(2019) and Flores Figueroa v. United States 556 U.S. 646, 650 129 S.Ct. 1886 173 L.Ed. 2d. 853?

Petitioner was charged with 18 U.S.C. § 1029(A)(3), the statute reads as follows 18 U.S.C. § 1029(A)(3):

Whoever

(3) "knowingly" and with "intent" to defraud possesses fifteen or more devices which are counterfeit or unauthorized access devices.

"The words "knowingly" and "intent" appears more than 2,577 times in statutes written by Congress to prove "mens rea" is difficult because Courts have to take into consideration the defendant's actual mindstate. The United States Constitution requires proof beyond a reasonable doubt of every element necessary to constitute the crime." See Federal Habeas Corpus Practice and Procedure 9.1 N. 27 quoting Hall v. Haws 861 F.3d

977 (9th Cir. 2019) ("standard state jury instruction that 'allowed' the jury to infer guilt of murder from evidence that defendants were in possession of recently stolen property plus slight collaborating evidence 'violated' due process' because 'presumed fact does not follow from the facts established.'") The word "knowingly" means having or reflecting knowledge. See Webster's Collegiate Dictionary 2001. The knowingly nor the "intent" of the 18 U.S.C. § 1029(A)(3) statute was not met when Petitioner was given erroneous jury instructions. Petitioner requests a remand based on the fact the question[s] presented and the constitutional violations that occurred are similar to the issue in Rehaif v. United States 588 U.S.--(2019).

In Rehaif, Justice Breyer wrote:

"In determining Congress, 'intent' we start from a longstanding presumption, traceable to the common law, that congress 'intends' to require a defendant to possess a culpable mental state regarding 'each of the statutory elements that criminalize otherwise innocent conduct.'" Rehaif quoting United States v. X-Citement Video Inc. 513 U.S. 64, 72, 115 S.Ct. 464, 170 L.Ed 2d 372 (1994). See also Morissette v. United States 342 U.S. 246, 256-258, 72 S.Ct. 240, 96 L.Ed. 288 (1952).

Wherefore Petitioner prays that this Court grant certiorari vacate the judgment of the lower courts and remand in light of Rehaif v. United States 588 U.S.--(2019).

Question (2)

Do jury instructions have to be sufficient and list charged and uncharged conduct or does either party have a right to choose without interruptions?

Petitioner exercised his right to go to trial. Whereas the evidence that was brought to trial was very scant and insufficient. The jury instructions were inadequate and did not state the specific facts about Petitioner's "intent" nor if Petitioner "knowingly" committed the crime alleged. Petitioner did not fulfill the "actus reus" however the jury was given an erroneous instruction. At trial, the Government stated "that even though we have no finger prints nor proof of Mr. Bell's involvement in the crime, he is in fact guilty." Those statements tainted the jury and, violated Petitioner's due process rights. See Musacchio v. United States 136 S.Ct. 709 (2015). See also Jenkins v. Hutton 137 S.Ct. 1769 "on the merits, the Court concluded that the trial court violated Hutton's constitutional rights, by giving an erroneous jury instruction. The Court recently clarified this error in Rehaif v. United States 588 U.S.--(2019). Petitioner prays this Court grant, vacate, and remand in light of Rehaif v. United States 588 U.S.--(2019).

Statement Per § 1746(1)

Under penalty of perjury laws of the United States of America, I declare that the following is true and correct.

Having been granted an extension, I again request another extension under this Court's rules. Being a layman of the law, misunderstandings of the Court's rules, lockdowns, and staffing issues here at Coleman Medium, I believed that eventually and within the time limits a proper request for this extension had been made and was awaiting the Court's response with a new deadline to file. Instead, I was informed after a significant delay, by having family call the Court, that I was overdue. Hence, this statement and the enclosed request for Writ of Certiorari.

Sworn to this Date

Trayone Bell #15907-104
Trayone Bell
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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:

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,
[X] 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,
[X] 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 _____.

[] 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 _____.

[x] 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).

TABLE OF CITED AUTHORITIES

<u>Haines v. Kerner</u> 404 U.S. 519 (1972)	Page vi
<u>Hall v. Haws</u> 861 F.3d 977	Page vi
<u>Flores-Figueroa v. United States</u> 556 U.S. 646	Page v, vi
<u>Jenkins v. Hutton</u> 137 S.Ct. 1769 (2015)	Page viii
<u>Morrissette v. United States</u> 342 U.S. 246 (1952) .	Page vii
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<u>United States v. X-Citement Video</u> 513 U.S. 64	Page vii

STATUTORY RULES

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18 U.S.C. §1029(A)(3)	Page v,vi,vii,4
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OTHER

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U.S. Constitution

Fifth Amendment

STATEMENT OF THE CASE

A jury found Trayone Bell guilty of six federal crimes involving identity theft and tax fraud. After the case proceeded to trial an investigation by law enforcement revealed that Bell had submitted false tax returns in other people's names and collected their refunds. He used their stolen social security numbers and other identifying information to fill out the returns and requested that the government issue the refunds as debit cards.

He was charged with one count of Knowing Possession of 15 or more counterfeit and unauthorized access devices with intent to defraud, in violation of 18 U.S.C. § 1029(a)(3), (c)(1)(A)(i); one count of Knowing Transfer, Possession, and Use of another person's identification, in violation of 18 U.S.C. § 1028A(a)(1); two counts of Knowing and Willfull Embezzlement, Theft, Purloin, and Conversion of another person's tax refund, in violation of 18 U.S.C. §§ 641 and 642 and two counts of Knowing Transfer, Possession, and Use of another person's social security number to steal public money in violation of 18 U.S.C. § 1028A(a)(1) and (2).

REASONS FOR GRANTING CERTIORARI

Millions of Federal crimes are committed on a daily basis, how many people are convicted for those crimes are based on "knowingly" and "intent" a majority of statutes enacted by congress are based on the above two words. Petitioner in one of the questions presented, ask the Court to clarify the interpretation of "knowingly" and "intent" in 18 U.S.C. § 1029(a)(3). Petitioner's jury instructions were not sufficient as to the conduct charged nor the elements of the actual alleged crime, inter-alia the evidence seized was illegally obtained. The questions presented are a common issue amongst lower courts. Millions of people commit crimes out of innocence, however due to someone or a particular group's social status determines the level of severity the punishment the individual or individuals may face. Petitioner prays this court grant certiorari and resolve the issue of what constitutes the actual definition of "knowingly" and "intent" set out in 18 U.S.C. § 1029(A)(3). Petitioner like thousands of minorities similarly situated case started from a traffic stop in 2012. Petitioner prays that this Court grant this ceriorari and resolve the issue of "knowingly" and "intent" set forth in the above.

CONCLUSION

Petitioner prays that the writ of certiorari is granted.

Respectfully Submitted,

Trayone Bell #15907-104

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