No. 19-6946

IN THE

SUPREME COURT OF THE UNITED STATES

INRE: MICHAEL CURTIS REYNOLDS PETITIONER
(Your Name)

ORIGINAL

vs.

WARDEN WERLICH, 28 U.S.C. §2241 RESPONDENT(S)

ON PETITION FOR A WRIT OF §1651 or §2241

FILED
OCT 25 2019
OFFICE OF THE CLERK
SUPREME COURT, U.S.

SEVENTH DISTRICT COURT OF ILLINOIS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF ~~CERTIORARI~~ 28 USC §1651 or §2241

MICHAEL CURTIS REYNOLDS, REG. #10671-023
(Your Name)

FEDERAL CORRETIONA INSTITUTE GREENVILLE
(Address)

PO BOX 5000
Greenville, Illinois 62246
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1) DOES Dimaya, 138 S.Ct. 1204 (2018), when the Petitioner was on Direct appeal of his 18 U.S.C. §16(b) Unconstitutional and void argument under Vivas-Ceja, 808 F.3d 719 (7th Cir. 2015) and Baptiste, 841 F.3d 601 (3rd Cir. 2016), require all Counts 1-6, not merely Count 4. to be reviewed, and this Constitutional error must be corrected. and quickly. as. applied ab initio, Petitioner would be released since 2005 ?

REMAND IS THUS THE PROPER REMEDY HEREIN.

2) DOES Davis, 2019 US App LEXIS 1284, when Petitioner on Direct Appeal at the time, arguing Cardena, 842 F.3d 954 (7th Cir. 2016), which both state that 18 U.S.C. §924 (C)(3)(B) is Uncinstitutional and void. apply, should 18 U.S.C. §16(b) Under Dimaya, to charges of 26 U.S.C. §5845, require Remand from Appeal for his Counts 5 & 6 ?

REMAND IS THUS THE PROPER REMEDY HEREIN.

3) DOES Rehaif, 139 S.Ct. 2191 (2019) require remand, as the Direct Appeal of a lack of the essential element of 'knowledge' under 26 U.S.C. §5861. coupled with new evidence of Petitioner's ACTUAL INNOCENCE, that the Informant held ACTUAL POSSESSION of the Count 5 & 6 handgrenades after Petitioner left the United States, and had PLANTED THEM AS EVIDENCE WITH FBI ASSISTANCE AND APPROVAL, require remand with Instructions for hearing, as soon as Court may schedule it ?

REMAND WITH INSTRUCTIONS FOR A FULL HEARING IS THE PROPER REMEDY HEREIN.

4) DOES Hull, 456 F.3d 133 (3rd Cir. 2006), which states that 'mere possession of a pipe bomb is not a crime of violence', [26 U.S.C. §5845], apply to Counts 5 & 6 for this Petitioner. as they determined Hull prior to conviction of Petitioner, also using 18 U.S.C. §16(b), which is Unconstitutional and void per Baptiste and Dimaya now ?

REMAND WITH INSTRUCTION FOR APPLICATION OF HULL IS THE PROPER REMEDY HEREIN.

5) DOES the fact that either under Dimaya, Baptiste and Vivas-Ceja, or Dimaya alone, or Dimaya in combination with Davis and Cardena, which would render all Counts 1-6 Unconastitutional and void, thus Petitioner has been, applying the ab initio holding, illegally detained since 2005, require immediate remand with instruction to release ?

REMAND WITH INSTRUCTIONS IS THUS THE PROPER REMEDY HEREIN.

6) DOES F.R.Civ.P. Rule §36 require both district and appeal courts to conclude all litigation upon Admission of Petitioner's ACTUAL INNOCENCE and FBI PLANTING AND THE FABRICATION OF THE EVIDENCE, and is that conclusive holding enhanced when a deemed unopposed STIPULATION OF ACTUAL INNOCENCE OF PETITIONER is also on Court Record ??

7) ARE F.R.Civ.P. Rule §36 Admissions not binding, but merely discretionary evidence to district and appeal courts ?

REMAND WITH INSTRUCTIONS ON RULE §36 IS THUS PROPER REMEDY HEREIN.

LIST OF PARTIES

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

[X] 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:

AUSA Stephen Cerrutti, 228 Walnut Street, Harrisburg, PA 17108 is a party.
AUSA Peter J. Smith, 228 Walnut Street, Harrisburg, PA 17108 is a party.
FBI Agent Joseph Noone, 235 North Washingotn Avenue, Scranton, PA 18501 is a party.
FBI Agent Larry Whitehead, 235 No. Washington Ave., Scranton, PA 18501 is a party.

TABLES OF AUTHORITIES CITED

STATUTES AND RULES

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF §1651 or §2241

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

OPINIONS BELOW

[X] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ 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,
[ ] 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

[X] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was **the issue before us**.

[ ] 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

18 U.S.C. §16(b) is Unconstitutional and void for vagueness, ab initio, since arrest of Petitioner in 2005, under Dimaya, Baptiste and Vivas-Ceja.

18 U.S.C. §924(c)(3)(B), if required, is Unconstitutional and void for vagueness, ab Initio, under Davis and Cardena, since arrest of Petitioner in 2005.

26 U.S.C. §5845 is not a crime of violence, when merely possessed, under Hull, prior to conviction of Petitioner in 2007, thus Counts 5 & 6 were illegal since 2006, when Hull was ruled.

AB INITIO holds that Petitioner's "crimes" are void since arrest, thus Petitioner's IMMEDIATE RELASE MUST BE EXPEDITED, ILLEGALLY DETAINED FOR THIRTEEN YEARS TO DATE.

If an Appellate Court will not obey Federal law, and holds a party innocent ab initio, by Supreme Court Unconnstitutional law rulings, remand with Instructions by Supreme Court is not merely necessary, but is a duty of this Court to uphold.

18 U.S.C. §2339A

18 U.S.C. §2339B

18 U.S.C. §373

18 U.S.C. §844(i)

26 U.S.C. §5845

49 U.S.C. §60123

Arson Statute, §2K1.4

STATEMENT OF THE CASE

This case does not need to go into the original arrest, indictment or conviction. Instead, this statement relates to why a Remand with Instructions is neccessary by this Court. In 2006, the Third Circuit, from which this case originated, held that **Hull**, 456 F.3d 133 (3rd Cir. 2006) decided prior to this Petitioner's conviction in 2007, and determined that "mere possession of a pipe bomb does not constitute '**use**' per **Leocal**, using 18 U.S..C §16(b) because '**use**' means '**active employment**' and possession is not active, but passive in nature, so that a pipe bomb offense for possession under 26 U.S.C. §5845 and 18 U.S.C. §842(p)(2) does not constitute a '**crime of violence**' under §16(b)."

The lower Courts refuse to apply this precedent law to Petitioner's 2007 conviction of mere **constructive possession** of two handgrenades, one from 9000 miles away, one from 2500 miles away, under 18 U.S.C. §842(p)(2) or 26 U.S.C. §5845.

In 2015, the Seventh Circuit held that in **Vivas-Ceja**, and in 2016 the Third Circuit also held in **Baptiste**, that 18 U.S.C. §16(b) was Unconstitutional and void for vagueness under **Johnson**. Petitioner filed Motion in 2016, which went to Appeal in 2016, and remained in abeyance pending **Dimaya**, which was not ruled in agreement to **Vivas-Ceja** and **Baptiste** until 2018. In that time, Petitioner uncovered new evidence of proof of **ACTUAL INNOCENCE**, withheld exculpatory material evidence in **File #10-cv-3813**, US Attorney's Office, 228 Walnut Street, Harrisburg, PA 17108 of FBI cooperation with their Informant, Kevin Reardon, who had altered and **PLANTED AS EVIDENCE, THE COUNT 5 & 6 HANDGRENADES ON OR ABOUT APRIL 20th, 2005, PRIOR TO THE APRIL 23, 2005 SEARCH BY PENNSYLVANIA STATE POLICE**. Evidence obtained, also withheld **Brady** material, in Sept. 2018 confirmed that Kevin had been retaining the Count 6 handgrenade possession, since April 23rd, 2005 until its' "discovery" by the FBI on Dec. 5, 2005 in Storgae Unit #315. Kevin was found to have been in both 'crime scenes' since April 15, 2005, **EIGHT DAYS PRIOR TO SEARCH**, and in the case of Storage Unit #315, **EIGHT MONTHS PRIOR TO THAT SEARCH, TAINTING BOTH SCENES**.

Due to Kevin's taint, in that newly discovered Sept. 2018 evidence, was a statement by the Pennsylvania District Attorney that **NO PROBABLE CAUSE EXISTS TO ISSUE ANY WARRANTS, SEARCH OR ARREST OF PETITIONER**. Petitioner had left the United States in March, 2005, and did not return until Nov. 10, 2005. Kevin was in and out of all locations that entire time period, moving, removing, adding and subtracting property between 346 Scott Street, Storage Unit #315, and his own Binghmaton, NY home. This was never told the Magistrate, and more FBI lies covered up the lack of probable cause, Kevin's tampering and planting the hand-grenades, and is all contained within **File #10-cv-3813**, and the evidence in EXHIBITS in this Brief.

STATEMENT OF THE CASE

More proof is in the enclosed EXHIBITS of both the Computer search, done on 12/12/2005, NINE DAYS PRIOR TO THE APPLICATION FOR THE SEARCH WARRANT ON 12/21/2005, and the FBI Grand Jury testimony of Joseph Noone, wherein he told them the emails, Nov. 10-16th, 2005 were TRACED electronically and verified separately to 346 Scott Street, KEVIN REARDONS LOCATION, NOT THE PETITIONER'S LOCATION.

The Petitioner also argued, due to new evdience, the ACTUAL INNOCENCE in this case, which the Court refuses to acknowledge, and hold the conviction of this Petitioner --

> "who threatened the Standard Oil Company, Perth Amboy, NJ, [Tankport], which has not existed, is a vacant lot since 1983, [See: Pittston, 905 F.Supp. 1279, 1288-1291 (3rd Dist. 1995), using a DESKTOP COMPUTER with no Monitor, to send and receive emails from a location Kevin Reardon was at, and not one email was found on that DESKTOP COMPUTER harddrive."

Because the Jury never heard about the email TRACED and electronically verified to KEVIN REARDON'S LOCATION, not this Petitioner's location, and through the withholding of the EXHIBIT enclosed of the Bombdog Report, and the File #10-cv-3813, no jury would have ever convicted this Petitioner. The lower Courts still refuse to Compel production of the contents of File #10-cv-3813, take the MANDATORY JUDICIAL NOTICE, under F.R.Evid. §201 (c)(2) or hold the ENTITLED HEARING under §201(e).

The Seventh Circuit, in the last fourteen months, has not so much as ordered the response to the Original Brief, in a matter filed as ACTUAL INNOCENCE under 28 U.S.C. §2241, which is to be heard, even with the additional time under Rule §81(a), within 40 days. This has been on direct appeal during both Dimaya, and Davis, and there even was an argument made as to the 'knowledge' essential element that Rehaif was held to by your Court, thus all three are retroactive to this Petitioner, and none have been remanded. The Seventh Circuit also refuses to obey or enforce F.R.Civ.P. §36 Admissions of Facts, or enforce Stipulations made by respondents. The Local Rules as to Responses are not even being taken seriously. As this is an ACTUAL INNOCENCE matter, and the Dimaya and Davis holdings render ALL COUNTS 1-6 as Unconstitutional and void ab initio , this Court should REMAND WITH INSTRUCTIONS TO OBEY §36 and enforce the STIPULATIONS MADE BY THE RESPONDENTS, AND HEARD WITHIN 40 days.

REASONS FOR GRANTING THE PETITION

1) Dimaya, and Davis have been ruled that 18 U.S.C. §16(b) and §924(c)(3)(B) are both Unconstitutional and void for vagueness, void ab initio, thus Petitioner has been, and remains illegally detained since 2005, absent relief herein. Petitioner's entire charges fall under 18 U.S.C. §16(b), §924(c)(3)(B), or some combination of the two, dependant upon views of 26 U.S.C. §5845 application. Petitioner thus, between Dimaya and Davis, has no legal offenses remaining to detain him.

2) Rehaif, might apply, should Dimaya and Davis not apply, which is remote, as there is TESTIMONY ON RECORD OF LACK OF KNOWLEDGE.

3) Is Rule §36 binding, conclusive and district court cannot disregard those Admissions of Facts or are they entirely discretionary to district and appeal courts. If the Rule §36 has any meaning at all, this Court must Instruct the lower Courts to uphold it.

4) District Court claimed a lack of argument, when disregarding half the Original Brief, of ACTUAL INNOCENCE to overcome 'procedural default', and moved to dismiss, when given an ACTUAL INNOCENCE CLAIM they ignored. Instruction to argue the complete Brief which included ACTUAL INNOCENCE is required by this Court.

5) Instruction from this higher Court, to apply Dimaya, Davis and Rehaif, along with thier own Circuit precedents, must be applied TO ALL COUNTS 1-6, NOT THE ONES "CHOSEN" by the lower Courts.

REASONS WHY THIS COURT SHOULD CONSIDER TO DO A MOTION
EITHER UNDER 28 U.S.C. §2241 or §1651
AND WHY THE CASE WAS NOT FILED IN THE DISTRICT COURT

First of all let the caselaws speak for themselves:

Dimaya, (2018); "ALL CHARGES UNDER 18 U.S.C. §16(b) ARE RULED AS UNCONSTITUTIONAL AND VOID."

Davis, (2019);"ALL CHARGES UNDER 18 U.S.C. §924(c)(3)(B) ARE RULED AS UNCONSTITUTIONAL AND VOID."

Rehaif, (2019); "ABSENT A FINDING OR ADMISSION OF KNOWLEDGE, CONVICTION MAY NOT BE MADE WHEN IT IS AN ESSENTIAL ELEMENT OF THE CRIME."

Vivas-Ceja, 808 F,3d 719 (7th Cir. 2015); "ALL CHARGES UNDER 18 U.S.C. §16(b) ARE RULED AS UNCONSTITUTIONAL AND VOID."

Baptiste, 841 F.3d 610 (3rd Cir. 2016); "ALL CHARGES UNDER 18 U.S.C. §16(b) ARE RULED AS UNCONSTITUTIONAL AND VOID."

Cardena, 842 F.3d 959 (7th Cir. 2016); "ALL CHARGES UNDER 18 U.S.C. §924(c)(3)(B) ARE RULED AS UNCONSTITUTIONAL AND VOID."

James B. Beam, 501 US 529, 534 (1991); "A statute found UNCONSTITUTIONAL IS -- UNCONSTITUTIONAL AB INITIO...

THE Court observed that while it had 'declared statutes to be **void from the inception when - they were contrary to the Constitution at the time of the enactment.**"

Therefore, under Baptiste, Vivas-Ceja, and Dimaya, all 18 U.S.C. §16(b) 'crimes of violence', were **nullified as Unconstitutional and void ab initio**, which is a not-made by any discretionary function of the Court, as Petitioner's entire Counts 1-6 are under 18 U.S.C. §16(b), not a discretionary choice of one or none. They could, perhaps fall under 18 U.S.C. §924(c)(3)(B), in which case then Cardena, and Davis ruled them as **void from thier inception ab initio, also being found as Unconstitutional.** However:

"A void Judgment is a legal nullity and a Court considering a Motion to vacate --- HAS NO DISCRETION IN DETERMINING WHETHER IT SHOULD BE SET ASIDE."

In the case of the Seventh District Court, the Judge did not even read the arguments for Dimaya, Vivas-Ceja and Cardena, that were given, but ended on the opening **Mathis** claim that **Mathis** pertains to any elements challenge, [See: **Mathis**, [3]], not merely to ACCA and burglary offenses, as Judge Herndon applied and refused it. Then it went on Appeal, under a 28 U.S.C. §2241, as Petitioner does in fact reside in that Jurisdiction, **but has sat on Direct Appeal for the last sixteen months**. That is the driving force behind the

need to approach this Court for **Remand with Instructions**, as both the District and now, the Appeals Court, ignore (1) that this is an **ACTUAL INNOCENCE CLAIM**, and are using 28 U.S.C. §2254 guidelines for timing, [in simpler terms, no timing at all applies, refusing Motions to comply with the Briefing only extension of time to 28 U.S.C. §2243, added to by Rule §81(a), **which only extended this to forty (40) days maximum, and only applied to granting sufficient time for Response, not delay of the entire matter beyond the forty (40) days before REQUIRED RELEASE HEARING IS DUE**. Petitioner has sought to file Motions to EXPEDITE, and Motions to Show Cause why that Court does not Remand an Unconstitutional conviction and sentence, per **Dimaya, Baptiste, Vivas-Cela, and Cardena**. That means they even are defying thier own Circuit precedent laws, as well as Supreme Court laws, in addition to the complaint within that Appeal that District Court refuses to enforce or recognize Rule §36 Admissions of Facts and Stipulations made by the Respondents as being binding upon the Court's rulings.

Petitioner committed no crimes in 2005, in fact **FILE #10-cv-3813,** a **Brady** exculpatory withheld material evidence document, by the US Attorney's Office, 228 Walnut Street, Harrisburg, PA 17108, which bpth Courts refuse to Compel Production of, states this case as a Fraud Upon the Court matter, and the known **ACTUAL INNOCENCE of this PETITIONER**, since prior to the arrest in 2005. It states the known assistance of the FBI agents herein, Joseph Noone and Larry Whitehead, to the use of Informant **Kevin Reardon to PLANT AND FABRICATE THE EVIDENCE IN CASE #05-cr-0493**. In recently recovered evidence, September, 2018, the "Bombdog" Report of the April 23rd, 2005 Pennsylvania State search of 346 Scott Street, Wilkes-Barre, proved that Informant Kevin Reardon retained the handgrenade found in Count 6 of the conviction, since April 23rd, 2005, and it was inert at the time,until it 'was found in Storage Unit #315 on December, 2005', which **FILE #10-cv-3813** states that Kevin did place that handgrenade, Count 6 in that Storage Unit to entrap this Petitioner. part of the reason for the **Remand with Instructions** is to enforce Rule §36 Admissions of Facts made by the Respondents, enforce the Stipulations made by Respondents, and to Compel Production of the unredacted contents of **FILE #10-cv-3813**, and a hearing with witnesses, as owed Petitioner under F.R.Evid. §201(c)(2) and (e), and also ignored by Court.

As for the witness tampering alleged to have been committed by the trial judge, there is simply nothing in the record to support the claim other than a handwritten document apparently sent to Judge Kosik entitled "Rule 36 admissions of fact." That document indicated that "ANY UNRETURNED ADMISSION OF FACTS SHEET WILL BE DEEMED AS COMPLETELY TRUE, NO EXCEPTIONS WHATSOEVER!" See Reynolds § 2255 Motion, p. 26. The document included a statement, "You personally did contact witness Joyce Reynolds and warn her not to testify." It was followed by a statement, "You were fully aware of a Franks violation Joyce Reynolds would testify to."[14] Apparently the request went unanswered, and apparently Joyce Reynolds' testimony would have related to Agent Whitehead's affidavit of probable cause.

Reynolds claims that there was "known perjury before Grand Jury" and that his attorney "admitted knowledge of perjury in presence of prosecution team, did nothing. Prosecution superceded using same known perjured documents.....Admitted by all under Rule 36 and 56 in Hazel-Atlas Motion." See Reynolds § 2255 Motion, p. 6.

Moreover, the government has never admitted "under Rule 36 and 56 in Hazel-Atlas Motion" any of Reynolds' claims. Reynolds is under the mistaken belief that the Government is under some obligation to answer allegations which, if not answered, are admitted. That simply is not the case.

Reading the previous page, it becomes obvious why actions in the District Court need someone, YOUR COURT, to **Remand with Instructions**, since the Appeals Court of both Circuits refuse to enforce Rule §36 Admissions of Facts.

In the first paragraph, it was asked if the presiding Judge, Kosik, had in fact tampered with a defense eyewitness, Joyce reynolds, threatening an eighty (80) year old woman, with a half a foot removed due to diabetese, near blind with Glaucoma, to imprisonment if she attempted to appear to testify at Trial.

NOTE: It states - "Apparently the request went unanswered."

"Apparently Joyce Reynolds' testimony would apparently have related to Agent Whitehead's Affidavit of Probable Cause."

NOTE: It states - "Moreover the government has never admitted 'under Rule 36 and 56 in Hazel-Atlas Motion' any of Reynolds' claims."

"Reynolds is under the mistaken belief that the Government is under obligation to answer allegations which if not answered, are admitted. That simply is not the case."

RULE 36 Requests for Admissions

"**A matter is admitted**, unless, within thirty (30) days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its' attorney."

ONE - The evidence states - "Apparently the request went unanswered", therefore they accepted it as a proper request and equally determined they would not answer it ---

Because they knew the Courts would not enforce it, just as they knew the Courts would not order FILE #10-cv-3813 to be produced, since they both admit acts of Fraud Upon the Court, as was within CASE #18-cv-1093, and Judge Conaboy ORDERED it to be addressed , and Judge Caputo refused to do so.

On the following page is the Grand Jury Testimony of FBI Agent Joseph Noone, who did testify that --- "The IP address..was TRACED back to 346 Scott Street, Wilkes-Barre, Pennsylvania," but the Petitioner was found to be at "400 Kidder Street". That RED CARPET INN hasno internet access, and Petitioner's DESKTOP COMPUTER had no monitor, thus it was known as PHYSICALLY IMPOSSIBLE for this Petitioner to have sent or received those emails.

In addition, looking at the evidence within this Brief, it was known that Informant Kevin Reardon kept the Count 6 handgrenade's ACTUAL POSSESSION, inert on April 23rd, 2005, until found "LIVE" in Storgae Unit #315 on December 5th, 2005.

It was also known that Pennsylvania refused to issue search and arrest warrants since Kevin Reardon had tainted both searches, being in them since April 15th, 2005, thus eight days prior to the April 23rd, 2005 search of 346 Scott Street and EIGHT MONTHS PRIOR TO THE DECEMBER 5TH, 2005 STORAGE UNIT #315 SEARCH. All this is within the withheld contents of FILE #10-cv-3813, and within the Admissions here in EXHIBITS in this Brief, which were never denied, objected to, or as was shown, were received and ignored, thus ADMITTED AS TRUE.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 12/09/2005

On December 7, 2005, Special Agent (SA) Larry J. Whitehead, Federal Bureau of Investigation (FBI), and Trooper Thomas Bachman, Pennsylvania State Police (PSP), returned to the RED CARPET INN located at 400 Kidder Street, Wilkes Barre, Pennsylvania, telephone number 570-823-2171, to re-interview the motel manager, RAY VEGA, regarding MICHAEL C. REYNOLDS.

Investigators asked VEGA if he was certain he recognized the photograph of REYNOLDS as the individual who stayed at the motel and again VEGA stated he was certain. Investigators asked VEGA to manually search the motel handwritten records for any record of REYNOLDS by his name or his alias of MICHAEL C. YETY. VEGA provided the November 2005 handwritten "Check In Sheets" to investigators to search for either name. SA Whitehead searched the records and located REYNOLDS' name written on the November 10, 2005 "Check In Sheet". The record revealed that REYNOLDS checked in on November 10, 2005, paid cash for the room in the amount of $194.25, and was assigned room 173. The record additionally revealed that REYNOLDS checked out from the motel on November 17, 2005.

VEGA provided copies of the "Check In Sheets" from November 10, 2006 through November 16, 2005 which will be maintained in an FD-340.

At approximately 7:00 p.m., SA Whitehead telephonically contacted VEGA to determine if the motel owner, KIRAN PATEL, would agree to consent to a forensic search of the non-functioning computer. VEGA stated he contacted PATEL after investigators left and PATEL agreed to provide the infected computer to investigators in an attempt to extract the corrupted information from the computer.

ADMINISTRATIVE NOTE

SA Joseph F. Noone, FBI, recovered a receipt for the RED CARPET INN from REYNOLDS at the time of REYNOLDS arrest in Pocatello, Idaho. The receipt was in the name of MIKE REYNOLDS, guest #3599, 400 Kidder Street, Wilkes Barre, Pennsylvania. The receipt showed that REYNOLDS checked in on 11/10/2005 and checked out on 11/17/2005, stayed in room 173. The receipt also provided the following ID: 4/6/58; 480553074.

Investigation on 12/06/2005 at Wilkes Barre, Pennsylvania

File # 315T-PH-100128-CRIM Date dictated

by SA Larry J. Whitehead:ljw

JOSEPH NOONE: Called as a witness, being first duly sworn according to law, was examined and testified as follows:

BY MR. GURGANUS:

Q. All right. Please introduce yourself to the Grand Jurors.

A. Joseph F. Noone, Special Agent with the FBI in Scranton, Pennsylvania here.

Q. I want to direct your attention to an investigation that you were involved in of Michael Curtis Reynolds. Can you tell the Grand Jurors how it is that you became involved in that investigation?

A. First of all, I work terrorism matters out of the Scranton office, terrorism investigations. But on November 18th, 2005 our office received a telephone call from Montana FBI office advising us that there was an individual communicating via Internet to a possible, what he believed to be a possible terrorist group. They searched the IP address and it was traced back to 346 Scott Street, Wilkes-Barre, Pennsylvania. That is why they were forwarding information to us. At this time we didn't know where the subject was, but the IP address was traced back to that address.

Q. When you say the "IP address", what do you mean by

Certainly, as the new evidence of the enclosed "Bombdog" Report states, that coupled with the Officer Kupetz April 23rd, 2005 statement, that --

"Kevin Reardon stated to me that he had found a handgrenade that fell out of a duffle bag,"

but a Report that shows that handgrenade, when also reading the Report and testimony of Sgt. Cody Bergen, both of which confirm that Kevin Reardon did not surrender this Count 6 handgrenade to authorities, would have changed any jury verdict for guilt,seeing as there was submitted at Trial, proof that Kevin Reardon had accessed the Storage Unit #315 some ten times on record, all unauthorized accesses, betwen April and December, 2005, and that Affiant Larry Whithead, at Trial, was shown to have lied in the Affidavit of Probable Cause as to being informed Petitioner never 'changed the lock' on that Storage Unit #315, as testified to in paragraphs #35 and #37 of the AFFIDAVIT, thus the Affiant knew that he, himself lied in that Affidavit, and that his Informant, Kevin Reardon had also lied in paragraphs #35 and #37.

Of course, Affiant Whitehead also knew that Kevin Reardon had lied in paragraph #36, and that Joyce Reynolds would have testified to that fact, had Judge Kosik not threatened her and tampered with that witness prior to Trial.

In fact, Affiant Whitehead went further, as we proved, in openly forging false charges in the PSI in 1995, proven by direct communications from the Court, the FBI in Washington even confirming that no such arrest ever took place.

The Court asks that I show why a Motion under 28 U.S.C. §2241 was not applied for in the District Court, the fact is that one was done, to no avail, and even when Remanded by the Third Circuit Court of Appeals under a second or successive 28 U.S.C. §2255, and an Order from Judge Conaboy to hear on ACTUAL INNOCENCE AND FRAUD UPON THE COURT, that Order went ignored. As is found in the EXHIBITS herein there does exist major Fraud in this case, and the lower Courts have covered up for the acts of the illegalities of the FBI in this matter, witholding the contents, the Brady exculpatory material evidence in FILE #10-cv-3813 which, forced to rely on the only discovery tool left him, Rule §36 Admissions of Facts, and Petitioner has shown, that without direction in Instructions from this Court, the lower Courts are not enforcing it, making all discovery basically worthless.

REMEDY SOUGHT

(1) Remand under Dimaya, Davis, and Rehaif applied to ALL COUNTS 1-6, not merely Count 4.

(2) Instructions to Compel Production, unredacted and complete, of the contents of that FILE #10-cv-3813, and a full Hearing with witnesses.

(3) Instructions to the lower District and Appeals Court to enforce Rule §36 Admissions of Facts as conclusive and binding on all parties and the Courts.

(4) Since, in essence and fact, this is an ACTUAL INNOCENCE CLAIM, an Order that this be completed, with the hearing, in an expedited fashion, less than thirty (30) days.

Certainly, as the new evidence of the enclosed "Bombdog" Report states, that coupled with the Officer Kupetz April 23rd, 2005 statement, that --

"Kevin Reardon stated to me that he had found a handgrenade that fell out of a duffle bag,"

but a Report that shows that handgrenade, when also reading the Report and testimony of Sgt. Cody Bergen, both of which confirm that Kevin Reardon did not surrender this Count 6 handgrenade to authorities, would have changed any jury verdict for guilt,seeing as there was submitted at Trial, proof that Kevin Reardon had accessed the Storage Unit #315 some ten times on record, all unauthorized accesses, betwen April and December, 2005, and that Affiant Larry Whithead, at Trial, was shown to have lied in the Affidavit of Probable Cause as to being informed Petitioner never 'changed the lock' on that Storage Unit #315, as testified to in paragraphs #35 and #37 of the AFFIDAVIT, thus the Affiant knew that he, himself lied in that Affidavit, and that his Informant, Kevin Reardon had also lied in paragraphs #35 and #37.

Of course, Affiant Whitehead also knew that Kevin Reardon had lied in paragraph #36, and that Joyce Reynolds would have testified to that fact, had Judge Kosik not threatened her and tampered with that witness prior to Trial.

In fact, Affiant Whitehead went further, as we proved, in openly forging false charges in the PSI in 1995, proven by direct communications from the Court, the FBI in Washington even confirming that no such arrest ever took place.

The Court asks that I show why a Motion under 28 U.S.C. §2241 was not applied for in the District Court, the fact is that one was done, to no avail, and even when Remanded by the Third Circuit Court of Appeals under a second or successive 28 U.S.C. §2255, and an Order from Judge Conaboy to hear on ACTUAL INNOCENCE AND FRAUD UPON THE COURT, that Order went ignored. As is found in the EXHIBITS herein there does exist major Fraud in this case, and the lower Courts have covered up for the acts of the illegalities of the FBI in this matter, witholding the contents, the Brady exculpatory material evidence in FILE #10-cv-3813 which, forced to rely on the only discovery tool left him, Rule §36 Admissions of Facts, and Petitioner has shown, that without direction in Instructions from this Court, the lower Courts are not enforcing it, making all discovery basically worthless.

REMEDY SOUGHT

(1) Remand under Dimaya, Davis, and Rehaif applied to ALL COUNTS 1-6, not merely Count 4.

(2) Instructions to Compel Production, unredacted and complete, of the contents of that FILE #10-cv-3813, and a full Hearing with witnesses.

(3) Instructions to the lower District and Appeals Court to enforce Rule §36 Admissions of Facts as conclusive and binding on all parties and the Courts.

(4) Since, in essence and fact, this is an ACTUAL INNOCENCE CLAIM, an Order that this be completed, with the hearing, in an expedited fashion, less than thirty (30) days.

WHAT THIS COURT SHOULD FOCUS ON :

On the following page, the FBI 302 statement of Peter Sacharewska states that:

"...the hand grenade was 'dead', which SACHAREWSKA understood to mean the hand grenade would not explode."

In the Direct Appeal, the Respondent stated;

"(Tr. 557-58.) Not surprisingly, there being no testimony regarding the quantity of powder in the grenade or whether that quantity was sufficient to cause the grenade to explode, the jury acquitted Defendant on Count 5."

During the Grand Jury Indictment, Sgt. Cody Bergen states;

[in reference to being asked about the amount of gunpowder in the hand grenade..]

"A. No. There wasn't enough there to cause ---."

Sgt. Cody Bergen was attempting to inform the Grand Jury that the amount of gunpowder was insufficient to cause the hand grenade to explode, thus it was not functional, or illegal, but Prosecutor John Gurganus cut him off with another question and would not let him finish the statement, which would have resulted in no Indictment.

On the second page, FBI Agent Joseph Noone states that;

"The device was then safely detonated by Fort Indiantown Gap Bomb Squad."

On the third page, SGT. Cody Bergen's US Army report, which the FBI got, according to the Fax stamp on the top left corner of that page, on Dec. 05, 2005, 12:00 [noon], thus FBI Agent Joseph Noone had this information prior to his Dec. 20th, 2005 Grand Jury testimony, "The grenade at that time posed no hazard and was put in a scrap pile." It was never 'detonated' but was **disposed of, not having sufficient powder to function.**

On the fourth page, it states, from Sgt. Cody Bergen;

"Q. You just discarded it ? A. Yes, Sir."

But, on page 5, we have Officer Kupetz statement that Kevin Reardon informed him, on April 23rd, 2005, during the Pennsylvania search and disposal of the Count 5 hand grenade, that;

"REYNOLDS' brother-in-law, [Kevin Reardon], was cleaning out REYNOLDS' residence when a grenade fell out of a duffle bag along with other possessions belonging to REYNOLDS'".

A pity that they were possessions belonging to REYNOLDS, just Not the Petitioner, but to DANIEL REYNOLDS who also had lived there, and this handgrenade became the Count 6 device, never surrendered on April 23, 2005, as it was not "LIVE" nor illegal at that time, but Kevin Reardon altered it afterwards and PLANTED IT AS EVIDENCE IN STORAGE UNIT #315, prior to the FBI search on Dec. 5th, 2005. File #10-cv-3813 states this as fact.

SO WHY IS IT THAT THIS HAS NEVER BEEN HEARD OR HELD AN EVIDENTIARY HEARING ON IT ???

On page 6, we have the VENUE argument, that defendant's DESKTOP COMPUTER was used to send and receive emails while in Pennsylvania...but that computer had no monitor to have thus PHYSICALLY BEEN POSSIBLE TO DO THAT "CRIME".....so why hasn't this been heard either ???

AND THEN THERE IS DIMAYA, DAVIS AND REHAIF...NOT BEING HEARD EITHER, YET UNCONSTITUTIONAL.