No. 20-5137

IN THE

SUPREME OUURT OF THE UNITED STATES

ANTOINE DEWAYNE MYLES, Petitioner,

V.

UNITED STATES OF AMERICA, Respondent,

PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

ANTOINE DEWAYNE MYLES
23728-056
UNITED STATES PENITENTIARY
McCreary
P.O. BOX 3000
PINE KNOT, KY 42635

QUESTIONS PRESENTED

1. Whether the district court violated the defendants Due Process right to a fair in an impartial tribunal where the district court presentenced defendant to life before trial began
2. Wether the district court violated the defendants Due Process to a fair trial in an impartial tribunal where the district court acted as a second Attorney for the Government throughout the trial proceedings
3. Whether the district court violated the defendants constitutional right to represent himself, Pro Se, at trial
4. Whether the district court erred in denying Suppression of the first State Pen Register
5. Whether the district court erred in denying Suppression of the Title III Wire Intercepted Communications (wire-taps)

Table of Contents

Table Of Authorities

CASES

STATUTES

RULES

Petition for Right of Certiorari

Antoine Dewayne Myles respectfully petitions for writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit in this case.

Citations to opinions Below

The opinion of the United States District Court for the Eastern District of North Carolina. (J.A., C). The opinion of the United States Court of Appeals for the Fourth Circuit, United States of America V. Antoine Dewayne Myles, Record No 18-4442 (4th Cir. March 11, 2020) is unreported. (J.A., D).

Jurisdiction

The Jurisdiction of this court is invoked under 28 u.s.c. 1254. The judgment of the United States Court of Appeals for the Fourth Circuit was entered on March 11, 2020.

Constitutional and Statutory Provisions Involved

Amendment IV. Protection from Unreasonable Search and Seizure. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

Amendment V. Provisions concerning prosecution and due process of law. No person shall be held to answer for capital, or otherwise infamous crime, unless on a presentment or indictment of the Grand Jury, expect in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offense to

be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of the law' nor shall private property be taken for public use without just compensation.

Amendment VI. Rights of accused in criminal prosecutions. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district where in the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and case of the accusation; to be confronted with the witness against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Amendment XIV. Citizenship rights not to be abridged.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state where in they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the Unites States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Statement of the Case

Procedural History

Antoine Dewayne Myles ("defendant") was arrested on June 5, 2015, after an Indictment was filed on May 27, 2015, by the United States Attorney in the Eastern District of North Carolina. The indictment was issued against nineteen (19) Co-defendants. There were superseding indictments filed against defendant and the second superseding indictment was filed on February 7, 2018 and charged only defendant in count one with conspiracy, and possession with the intent to distribute

five (5) kilograms or more of cocaine and two hundred and eighty (280) grams or more of cocaine base in violation of 21 U.S.C 846, 21 U.S.C. 841 (b) (I) (A), 21 U.S.C 841 (a) (I). Defendant was charged in count two with possession with the intent to distribute a quantity of cocaine on October 6, 2014, in violation of 21 U.S.C. 841(a)(I), and in count three with possession with intent to distribute a quantity of cocaine base on June 5, 2015, in violation of 21 U.S.C. 841 (a)(I). Count four charged defendants with conspiracy to commit money laundering by concealment in violation of 18 U.S.C. 1956 (h) and 1956 (a)(I). Count five defendants was charged with laundering in violation of 18 U.S.C. 1957.

Defendant was given notice in the second superseding indictment of the government's intent to enhance any conviction of the indictment after one (1) prior felony drug conviction as defined by 21 U.S.C 841 (b) and 851. The indictment also included a forfeiture notice.

There were ten (10) assistant U.S. Attorneys listed on the docket by the time this case went to trial. The matter was first before the senior U.S. District Judge James C. Fox, and at Fox's retirement, was then transferred to Senior U.S. District Judge Terrence W. Boyle.

There were three (3) defense lawyers who appeared for the defendant Attorney John Kenting Wiles filed a motion to suppress the state pen register and related instruments and the motion to suppress the title III wire intercepted communication. Those motions were denied, without hearing, by orders of Senior U.S. District Judge James C. Fox,

Defendant went to his arraignment and trial on March 5, 2018, for two (2) days and was convicted of all counts in the second superseding indictment on March 7, 2016. On April 2, 2018, Rosemary Godwin, the trial lawyer for the defendant, moved to withdraw and the district court allow withdrawal during a hearing on May 30, 2018. On June 20, 208, defendant at his sentencing

represented himself and the district court sentenced the defendant to life imprisonment on count one conspiracy; 360 months concurrent on count two and three each; 240 months concurrent for the money laundering by concealment; and 120 months concurrent on the money laundering count. The Preliminary order of forfeiture on June 12, 2018, was ordered. Defendant filed on notice of appeal on June 25, 2018.

On June 28, 2018, Attorney Cindy H. Popkin-Bradley was appointed counsel to represent defendant. (J.A. 28# 1141).

Factual Background

This cocaine powder, cocaine base ("crack"), and money laundering operation began in the early 2000's and continue on until defendant was arrested on June 5, 2015. (J.A. 7). Initially, nineteen (19) individuals were indicted on May 27, 2015, which included brother, father, and wife of defendant. (J.A. 5# 1). John Keating Willes Attorney at law, filed a notice of appearance on the defendant's behalf on June 9, 2015. (J. A. 7#118). On June 15, 2015, defendant was ordered detained pending trail. (J.A. 8# 198).

Attorney John Keating Wiles, on February 22, 2016, filed a motion to suppress evidence from state Pen Registers and related Instruments with exhibits and a motion to suppress title III wire intercepted communications (wiretaps) with exhibits (J.A. 12#393 a #394, 30-47 with exhs., 215-221 with exhs)

Attorney Wiles contended that the facts given in the affidavit to obtain the first state Pen Register were conclusory and lacked probable cause. (J.A. 33-38). Moreover, that the facts given in the affidavit were state regarding controlled buys from October 7, 2003, to January 5, 2012, and not

any of the controlled buys were from the defendant because he was incarcerated in Federal Prison from early July 2003 until 2011. (J.A. 36, 655).

The government responded to defendants' motions to suppress both the state pen register and Title III wire -taps as well as other motions. (J.A. 13 # 417, 567-615). The Assistant U.S. Attorney for the government, Jennifer Wells, argued that the State Pen Register and Title III wiretaps were supported by probable cause and that even if they weren't the good faith exception applied. (J.A. 578-615).

Senior U.S. District Court Judge James C. Fox on April 26, 2016 without having a hearing denied in separate orders both defendants motions to suppress evidence from state pen register, and related instruments, and motion to suppress Title III wire intercepted communication (wire-taps), (J.A. 14# 449, #450, 616-636, 637-654).

Judge Fox wrote a treatise in his order denying the motion to suppress state pen registers on cell phone technology and the law as it applied to the state pen register in this matter. Judge Fox disagreed with defendant that the facts to obtain the first application of July 17, 2013 was conclusory. The district court stated that defendant was the user of the target cell phone and was involved in a DTO under investigation. Illinois V. Gates, 462 U.S. 213, 231, 236 (1983). Nothing more was needed in the district court's opinion because the information sought would undercover evidence of wrongdoing. (J.A. 652).

Judge Fox in his order denying the motion to suppress Title III wire intercepted communication (wiretaps) also disagreed about defendant's argument regarding probable cause and staleness and stated that the age of information does not alone determine staleness. The district court stated under law that it's also relevant to look at the reliability of the sources of the information, the nature of

the illegal activity, and the duration of the activity and nature the evidence being sought. The district Court stated that when there a continuing course of conduct the passage of time becomes less significant. (J.A. 632-634). Judge Fox found that there was no creditable evidence that Judge Dever was knowingly misled or wholly abandoned his judicial role. (J.A. 635).

Defendant wrote a letter which was docked as a motion on May 12, 2016 asking the district court to appoint new counsel (J.A. 14# 479).

On May 31, 2016 defendant filed a prose motion to reconsider the district court denial of the above motion to suppress Title III wire intercepted communications (wiretap) and motion to suppress state pen register and related instruments. (J.A. 15# 505, 655-659). In that letter again defendant stated that the 2000, 2001, 2003 information was far too stale and that he was incarcerated from early July 2003 until 2011. So, it was nothing that he did to warrant his cell phone being tapped. (J.A. 656). Further defendant stated that judges don't see their bias and almost always side with prosecutors and that this matter fraught with Brady violation and prosecution misconduct. (J.A. 655-658).

On June 3, 2016 by order James C. Fox denied defendants, motion to reconsider the state pen register, Title III wire taps. (J. A. 15 # 512, 660-661). Judge Fox ruled that defendants' arguments were not[1] and a rehash of the arguments already considered and rejected. (J.A. 661).

In Wilmington on June 6, 2016 the district court heard oral arguments from all parties regarding counsel. Attorney John Keating Wiles made an oral motion to withdraw and the district court allowed such motion and ordered new counsel appointed. (J.A. 15# 518). Nardine Mary Gourgus, filed her CJA appointed notice of appearance on June 8, 2016 (J.A. #519).

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[1] New

Some months pass as the co-defendants sorted out their positions as to filing motions, pleading, and going to trial. Then January 25, 2017 the case was reassigned by a text order from Senior U.S. District Judge James C. Fox to senior U.S. District Judge Terrence W. Boyle. (J.A. 17# 688).

On April 17, 2017 Attorney Nardine Mary Guirgus filed a motion to withdraw from representing defendant. (J.A. 20#790). The next day April 18, 2017 the motion was granted by Senior U.S. district Judge Terrence W Boyle (J.A. 20# 791), and on April 22, 2017 Attorney Rosemary Godwin filed her notice of appearance as CJA appointed counsel. (J.A. 20# 795).

A second superseding indictment was filed singularly against the defendant of February 7, 2018. (J.A. 22# 977, 662-668). Count one charge defendant with conspiracy and possession with the intent to distribute five (5) Kilograms or more of cocaine and two hundred eighty (280) grams or more of cocaine base in violation of 21 U.S.C. 846, 21 U.S.C 841 (b)(I)(A), 21 U.S.C. 841 (a)(I). Defendant was also charged in Count two with possession with intent to distribute a quantity of cocaine.

On October 6, 2014, in violation of 21 U.S.C. 841 (a)(I), and in count three with possession with intent to distribute a quantity of cocaine base on June 5, 2015, in violation of 21 U.S.C. 841 (a)(I). Count five charged defendants with money laundering in violation of 18 U.S.C 157 and 1957 (b)(I).

By notice of hearing defendant (Antoine Myles) was set for arraignment and Jury trial on March 5, 2018 (J.A. 22# 986). Therefore, on February 26, 2018, attorney Rosemary Godwin filed proposed Voir Dire. (J.A. 22#993).

Attorney Godwin also filed a motion in limine to prohibit introduction of title III wire intercepted communications (wiretaps). (J.A. 22# 995, 673-686). Attorney Godwin recited defendants'

contentions again for lack of probable cause, staleness, overreaching Judge Dever, and prosecutorial misconduct.

The government, now represented by Assistant U.S. Attorney Lawrence J. Cameron, filed a response to defendants[2] in limine to prohibit introduction of title III wire intercepted communication (wiretaps) describing the motion as repetitious intercepted communication (wiretaps) describing the motion as repetitious and requesting denial. (J.A. 23 #999, 687-690).

U S District Court Judge Terrence W, Boyle without a hearing denied the motion in limine as to defendant on March 1, 2018, stating it was more properly a motion for reconsideration and there is no new arguments or evidence. (J.A. 23# 1006, 691-692).

On March 5, 2018 defendant proceded to his arraignment. (J.A.23# 1010). Before the actual arraignment began Attorney Rosemary Godwin by saying "I know this is very unusual but if we could approach the bench on a matter that needs to be heard." (J.A. 1134). The transcripts then stated in parenthesis that the bench conference was inaudible due to malfunction of court reporter equipment. (J.A. 1134). It is important to note here when the court reporters equipment malfunction that in defendants motion for judgment of acquittal (J.A. 27# 1110, pg. 1178-79) and at defendants sentencing on June 20, 2018 (J.A. 27# 1120, pg. 1112), defendant stated that he asked to represent himself at the beginning of trial and was denied. Defendant stated that the jury was excused, and the lawyer approached the bench for the conference which defendant overheard. Defendant stated that attorney Godwin informed the district court that defendant "wants to represent himself" and which the district court stated that he was not going to allow that. (J.A. 27# 1110, 1120). Defendant stated that he did not intend to "hold up the proceedings" and was ready. Defendant that he wanted to represent himself so that he could cross-exam the witnesses because he knew that his attorney wouldn't do it. It is important here to note that what defendants recollects

[2] motion

and stated to the district court in his motion for judgment of Acquittal (J.A. 27# 1110) and at his sentencing (J.A. 27# 1120) is consistent with what would have been recorded during that inaudible bench conference as stated above.

The district court had the jury leave the court room and asked the government, "Mr. Cameron if you know what the maximum sentence is, I can give if he gets convicted of everything?" The government stated, "life in prison." (J.A. 1134). The district ~~The~~reiterates "life in prison" and asked Ms. Godwin what did you want to tell me? I let the jury go out at you request. (J.A. 1134). She Thanks the district court and judge Boyle asked "how old is you client" to which she replied forty-two (42). The district court then repeated defendant age of forty-two (42) and stated "okay." So, he's looking at spending the rest of his natural life in federal prison" (J.A. 1134). Ms. Godwin agrees by stating "correct." The district court then asked if defendant had been locked up for four (4) or five (5) years to which attorney Godwin replied "Three, I believe." (J.A. 1135).

U, S, District Court Judge Terrence W. Boyle stated, "Three years, well that's probably going to happen. So, what do you want to know between now and that?" (J.A. 1135).

Attorney Godwin next told the district court that defendant has "very strong opinions about how[3] case should be handled" and the two of them "have not always agreed on that." Judge Boyle then inquired as to whether Attorney Godwin was defendants first lawyer to which she replied that she was number three (3) (J.A. 1135). The district court and defense lawyer then went through each previous lawyer and the district court inquired as to whether defendant had "discharged" both of those two (2) previous lawyers. (J.A. 1135). Ms. Godwin stated, that defendant discharged Attorney John Keating Wiles, but that Nardine Mary Guirguis had moved to withdraw. Attorney Godwin then brought attention to defendants' "numerous" letters to the district court (J.A. 24# 1012, 693-698). The district court replied, "I don't pay attention to his letters. I don't read them. I

3 The

put them in the file and give them to the clerk. H is in no position, represented by a lawyer, to be accessing a federal judge." (J.A. 1135).

Attorney Godwin then brought to attention to defendants' position that the state pen register and title III (wiretap) were "illegally obtained and about prosecutorial misconduct." Godwin was trying to make sure that Judge Boyle knew that Attorney Wiles had filed a motion to suppress on the state pen register and title III (wiretap). Moreover, that Senior U.S. District Judge James C. Fox had denied them both without a hearing. Attorney Godwin stated that she had file a motion to suppress at defendant's request which has been denied and that the defendant wanted a rehearing on these issues. (J.A. 1136). Defendants motion in limine to prohibit introduction of title III (wire taps) (J.A. 22# 995, 673). The district responded by saying "well, he has no legal training. These are completely specious arguments." (J.A. 1136). Godwin then informed the district court that she was putting these issues on record for the defendant. Attorney Godwin stated to the district court and[4] the appellate record that the defendant objected to the wiretaps. The defendant's position was that the government knew the officers in their applications for the court ordered wire taps did not make the judged aware that defendant was in prison from early July 2003 until 2011. That omitting this information was intentional and misleading to make probable cause for the order for wire taps. Godwin stated that the defendant is "strongly attached to this position" that the judges was intentionally misled in the affidavits supporting the applications for wire taps and would not have found probable cause had the judges known that the defendant was in prison from early July 2003 until 2011. (J.A. 1136-1137).

Attorney Godwin stated that this position of the defendant is supported by the fact that the government kept going back and superseding the indictment and finally the second superseding Indictment closed the window of the conspiracy to 2012 through the time of indictment. Finally,

[4] For

with respect to the second superseding indictment, attorney Godwin asked Judge Boyle to dismiss such to which Judge Boyle stated, "denied". (J.A. 1137).

Ms. Godwin then informs the district court that she and the defendant disagrees as to the witnesses to testify for the defense. Defendant obviously has a list of witnesses to which attorney Godwin has revised researched and disagreed. Godwin then stated that defendant want to "insert himself into the trial." (J.A. 1138). Judge Boyle stated, "He can't do that." Ms. Godwin know that, but the defendant was denied this right already (J.A. 1134). Ms. Godwin went on to advise the court that if the defendant wants to remove her as counsel then this would be the time. Judge Boyle ask Ms. Godwin, "what are asking me?" The defendant then tried to speak, and judge Boyle told him "No Not You. You Be Quiet. "(J.A. 1138). Attorney Godwin stated that she's not asking presumably anything but rather putting defendants' issues on the appellate record. Judge Boyle stated to the defendant that his unhappiness with the past and what has happened in this case has no place in a trial. Further, that a trial is a "regimented process" and that the defendant just can't come in a federal court and "vent." (J.A. 1138-1139). Ms. Godwin stated that she understood but she must communicate with her client throughout the trial and is trying to maintain a working relationship. Judge Boyle then asked Ms. Godwin what specifically she wanted him to do too which she responded by saying nothing. Judge Boyle then stated, "if you are not asking me to do anything then we'll pick a jury." (J.A. 1139).

The District Court next recited Counts one (1) through five (5) of the second superseding indictment along with the maximum punishments and fines to which the defendant pleaded not guilty (J.A. 1139-1140).

Jury selection began, and madam clerk call eighteen (18) prospective jurors to the jury box. The jurors were seated for the twelve (12) and the alternate was selected. (J.A. 1170-1172).

Trial began right after Jury selection and went all day until evening recess.

An exparte letter was docketed the same day as arraignment and trial where the defendant stated that he still had issues that Attorney Godwin went over prior to actual arraignment. That letter to Judge Boyle dated, February 22, 2018. (J.A. 24# 1012, 693-698).

Day two (2) of the Jury trial on March 6, 2018 consisted of the government putting on evidence and finishing followed by the defendant testifying on direct examination in a narrative form. (J.A. 1028-1042).

The government then conducted cross-examination. (J.A. 1042-1067). The defense put on no more witnesses much to the defendant's disagreement although a witness list had been filed by the defense. (J.A. 23# 1009, 1069-1089). The parties gave their closing arguments and had a jury conference. The jury was charged and after being admonished were excused until the following day for deliberations. (J.A. 24# 1013, 1089-1100).

Day three (3) of the jury trial, on March 7, 2018, after deliberations, the jury convicted the defendant of all five (5) counts. The district court adjudged the defendant guilty and ordered a presentence report. (J.A. 24# 1014-1018, 1103-1104),

The defendant filed a ProSe notice of appeal on March 15, 2018. (J.A. 25# 1028).

The defendant next filed a PreSe motion to remove attorney Rosemary Godwin and obtain new counsel on March 21, 2018. (J.A. 25# 1061).

On April 2, 2018, Attorney Rosemary Godwin filed a motion to withdraw. (J.A. 25# 1068). The drath presentence report came out on April 24, 2018, and Rosemany Godwin filed objections to the presentence report on May 8, 2018. (J.A. 25# 1084, 1091).

May 30, 2018 a hearing was held on Attorney Godwin's motion to withdraw and the defendant's motion to remove Ms. Godwin and appoint new counsel, during that hearing according to the docket, the defendant requested to represent himself at sentencing to which was granted. (J.A. 26# 1100-1101).

On June 7, 2018, a pre se motion filed by the defendant for discovery and for reconsideration for motion for judgment of Acquittal was docketed. (J.A. 26# 1104).

An order of Preliminary Forfeiture was granted by the district court on June 12, 2018. (J.A. 26# 1106, 1106-1108).

Sentencing was held on June 20, 2018. The defendant represented himself and allocated. The defendant first asked the district court for a motion for Acquittal at which judge Boyle ignored the defendants requested to move along to allocution. (J.A. 1110). The defendant apologized "For the situation" however the defendant felt that the government needed to apologize as well for their "prosecutorial misconduct." The defendant pointed out that there were ten (10) prosecutors on the case. (J.A. 4-5, 1110-1111). The defendant stated that the case should have never gotten this far because the information in the wiretap applications as far as it relates to him were too old to establish probable cause in 2013-14 because he was "incarcerated" from "early July 2003 until 20111." The defendant stated that law enforcement didn't mention this period of incarceration and obtained the first state pen register without giving the judge all the information (J.A. 1111). More over, that the title III wiretap were "derived from the state pen." The defendant stated by the prosecutor knowing this it was "prosecutorial misconduct." (J.A. 1111). The defendant stated that the prosecutor let the co-defendants get on the stand and lie rather than stating what they stated to law enforcement "out of court" earlier in the case. The defendant stated that the prosecutor let

them lie committing perjury and did not say anything which was more "misconduct." (J.A. 1111-1112).

The defendant stated that he asked to represent himself at the beginning of his trial and was denied. The defendant also stated that the jury was excused, the lawyers approached the bench for a conference he overheard. The defendant stated that Attorney Godwin informed the district court that the defendant "wants to represent himself" in which you did not allow. (J.A. 1112). Defendant stated that he didn't intend "to hold up the proceedings" and was ready. Defendant stated that he wanted to represent himself so that he could cross-exam the witnesses because he knew that his attorney would not do it. Defendant stated, "she (Ms. Godwin) allowed them to get up there and say whatever they wanted to say for the purposes of helping the government, and it worked because they convicted me." (J.A. 1112). Then the defendant stated that "sure its enough to sustain a conviction when you have two prosecutors." Further, defendant stated that his attorney was acting as counsel for him but was an attorney for the prosecution and that the conviction was the result. Again, defendant stated that he was not able to "cross those witnesses on the stand). (J.A. 1112-1113).

Defendant then apologized to his family saying that he was not "perfect by a long shot." He stated that he would have pleaded guilty to what he did, but that the drug amounts were not right. The defendant indicated through his words that the U.S. Attorney realized the conspiracy period was to large as to defendant and the government dealt with that by filing a second superseding indictment shorting the period of the conspiracy from 2012 to the time of arrest on June 5, 2015. (J.A. 1113).

The defendant then stated that the district court didn't "say anything" and kept "shooting his arguments down." (J.A. 1113).

Defendant then stated that he wanted to argue the two (2) maintaining a dwelling enhancement because he was in prison when the "tralior was put there" and the Winnebago was put there when he was in jail, and he had nothing to do with either of them being moved. (J.A. 1114). Defendant then argued the two (2) point leadership role stating that he wasn't allowed to cross the witness that lied on the stand and that cause "prosecutorial misconduct." (J.A. 1114). The record will show that defendant misspoke, and this is a four (4) point enhancement for leadership. Finally, defendant stated that he didn't deserve the two (2) point enhancement for perjury because he didn't lie about the drugs being planted on October 6, 2014. Further, that his first lawyer had the video of that night which defendant would have used could he have represented himself,[5] is an "automatic reversal of the conviction" although defendant stated that he guesses he will "be denied that too." (J.A. 1114-1115).

Judge Boyle then stated the guideline range was a level 43 and the criminal history IV with a guideline range of life. (J.A. 1115).

The government agreed and ask to address the defendant's objections. (J.A. 1115). The government argued that the drug weight in the presentence report was properly calculated and supported by the trial evidence. (J.A. 1116). With respect to the maintaining a premises enhancement that multiple witnesses testified that defendant asserted control of the premises. With respect to the leadership enhancement the government argued that trial evidenced showed that the workers under defendants' control. (J.A. 1116). Finally, the government argued that the defendant deserved this obstruction of Justice enhancement because he perjured himself at trial by testimony of drugs being planted on him by police and trying to convince the jury of facts that were not true. (J.A. 1116-1117).

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[5] Defendant stated by not being allowed to represent himself

Judge Boyle then denied all of the defendants' objections and then recited the guideline range of level 43 and the criminal history IV and stated, "I'll sentence the defendant to the guideline of life in the custody of the United State Bureau of Prisons. (J.A. 1116-1117).

Judge Boyle sentenced the defendant to life imprisonment on the count one conspiracy, 360 months concurrent on count two and three each, 240 months concurrent or the money laundering by concealment, and 120 months concurrent on the money laundering count. (J.A. 27# 1126, 1117, 1120-1127). The forfeiture of his interest in the preliminary order of forfeiture on June 12, 2018 was ordered. (J.A. 26# 1106, 1106-1108). Defendant filed notice of appeal on June 25, 2018. (J.A. 27# 1128, 1128-1131).

Because the defendant is challenging in United States Supreme Court the evidence introduced at trial and the suppression issues because the wire taps were the evidence in the case and also because the defendant is also challenging the Jury's verdict itself in light of the district courts insertions in the defendant's trail.

Senior U.S. District judge Terrence W. Boyle abused discretion when the court presentenced the defendant to life in prison before the jury trial began, and during the defendants trial the district court acted as a second attorney for the government. U.S. District Court Judges are given much deference by the fourth circuit when it comes to control of court room proceedings. United States V. Harvey, 532F.3d 326 (4thcir. 2018) District court judges are imperfect even after being confirmed as Federal Judges and expressions of impatience, dissatisfaction, annoyance, and even anger, do not establish bias or partiality or violate due process. Liteky v. United States, 510 U.S. 540, 542, 555-56 (1994). Here though Judge Terrence Boyle presentenced the defendant before the arraignment when he asked the government.

What maximum sentence was for a conviction of everything? The government stated life in prison. Judge Boyle repeated life in prison. Judge Boyle then inquired from defense counsel how long has the defendant been detained on these charges and dependents age. Defense informed the district that defendant had been locked up for three years and he's forty-two. Judge Boyle stated "three years. Well that's probably going to happen. So, what do you want to know between now and that?" (J.A. 1135). Furthermore, in trail the district court inserted himself acting as a second attorney for the government by questioning the nine of the nineteen witnesses that the government called doing all of this in front of the jury in violation of code conduct for judge's cannon 3: Acting as a second lawyer. United States V. Castner, 50 F. 3D 1267,1272 (4th cir. 1995). To prevail, "a defendant must show a level of bias that made fair judgment impossible." Judge Boyle violated the basic requirement of due process of fair judgment in a fair tribunal. In re murchison, 34 U.S. 133, 136 (1955). Judge Boyle cannot insert the word "probably" and skirt around due process Unites States V. Dunlap, (No. 14-4957) (4th cir. August 9,2016). The United States Supreme Court cannot let these convictions and forfeiture stand.

The district court did not allow the defendant to represent himself which is a violation of his constitutional right. The fourth circuit of appeals reviews the district court denial of a defendant right self-representation de novo. United States V. Bush, 404 3'd 263,270 (4th cir. 2005). The fourth circuit of appeals review the district court findings of historical fact for clear error. United States V. Mackovich, 209 F. 3d 1227,1236 (10th cir. 2000).

The first case to establish a defendant's right to self-representation was Faretta V. California, 422 U.S. 806 (1975). Self-Representation does not require the district court to make an inquiry and is not reversable error. United States V. Singleton, 107 fed 1091 (1st cir. 1997). The ineffectiveness

of the wavier of counsel depends on the facts and circumstances of each case. Iowa V. Tovar, 541 U.S. 77, 91-93 (2004).

When the defendant tried to speak, Judge Boyle told him "No. Not you. You be quiet." (J.A. 1138). Defendant was merely trying to tell the district court that he wanted to represent himself. When the district court told him to "be quiet" the defendant argues that he did not keep talking because Judge Boyle had just told him that he was going to get life in prison. "so, what do you want to know between now and that?" (J.A. 1135).

After attorney Godwin told the district court that the defendant wanted to rep himself repeatedly and the district court wouldn't allow it, Ms. Godwin still proceeded to get all the defendant concerns on record. Godwin knew she filed a list of witnesses on the defendant's behalf and he wanted to call all of Them, and cross examine the government's witness because he knew that she won't ask all the questions that he desired.. Miss, Godwin kept on putting the defendant's issue on the appellate record. The defendant had made the concern previously in his letter of February 28,2018, to the District Court where he also enclosed a copy of his letter that sent to Rosemary Godwin on February 27, 2018. These letters were docketed on March 5,2018, the same day the trial started. (J.A. 693-698).

It was clear form that they record that judge Boyle should have let the defendant represent himself at Trail. The docket is replete with pro se Motions in letters from the defendant. A look at the docket regarding the defendant's detention hearing in the pre-trial service report indicated that the defendant has already been through the federal system (J.A. 8#158). The defendant is a defendant that begin papering the docket with his letters and Pro se Motions from the beginning. The defendant is a person Who exercise every right to which he is entitled.

The District Court stated that he didn't read the Defendants letter because the Defendant had no business accessing A federal[6] when he is represented by counsel. (J.A.1135). Judge Boyle had plenty of notice that the defendant wanted to Represent himself in had been doing so through his lawyers. When the lawyers failed to proceed according to the defendants wishes He moved to excuse them. As stated above, the District Court didn't allow the defendant to represent himself at trial because judge Boyle suggested That he wouldn't be able to control him and didn't care to even try.

When the District Court denied the suppression of the Wire-Taps without a hearing, finally the defendant is of the opinion that the first state pen register should have been suppressed. The defendant believes that the affidavit the officer prepared and signed was stale and did not contain probable cause to attain the first state pen register. Further, that without the first state pen register There would have been no successive pin register nor would there have been the title III Wiretaps. The defendant believes that the judge would have never issued the wiretaps have the judge been told in the officer's application that the defendant was incarcerated for a large part of the illegal conspiracy and that the other allegations directly against the defendant were stale. On first point. The defendant contended that the state court failed to comply with North Carolina Gen. Stat. 15A-262(a), because the orders did not state that there Was reasonable suspicion to believe[7] reasonable grounds to believe defended committed it, in that the resource would be of material aid in determining whether the defendant committed it. (J.A. 32-33). As to probable cause, the defendant contends that the officers sworn statements contained "one conclusory after another." (J.A. 33-34).

The second motions to suppress challenge the federal orders granting authorization to conduct title III wire Intercepted communication to and from defendant cell phone from July to

6. Judge

7. a Felony offense had been commited, and that there were

October 2014. (J.A. 215). The defendants motion contended that the facts offered in support of probable cause for title III Orders were lacking. (J.A.218). The defendant challenge facts to incidents in regard to 2000, 2001, And 2003 as being "far too old to support a finding of probable cause in 2014." The defendant also challenges the facts relating to discussion on calls in 2014 as a "nonevent" because the informants who made the calls were unable to get the defendant to commit a crime. (J.A.218-19). The law enforcement preceded by using court "Orders" rather than warrants. The state court orders did not meet the requirements for a warrant under the 4th amendment that was a precedent Holding in April 2016, as the Supreme Court would two years later hold the same thing: that the government "Must generally obtain a warrant supported by probable cause before acquiring" CSLI. Carpenter V. United States, 138 s.ct. 2206,2221 (2018). The defendant believes that the assistant U.S. attorney in this matter knew these facts and remain silent and therefore engaged in prosecutorial[8] Motion to suppress state pen register, and title III wire taps without having a hearing on the issues violates the defendant right to a fair trial.

Reasons for granting this writ of certiorari

I. Whether the District Court violated the defendant's right to a fair trial in an impartial tribunal where the District Court presentenced the defendant to life before trial.

II. Whether the District Court violate defendants righto a fair trial in a partial tribunal Where the District Court acted as a second attorney for the government throughout the trial proceedings.

The 4th Circuit Court of appeals review the District Court judicial Bias or misconduct under an abuse of discretion standard. United State V. Villarini, 238 F . 3d 530, 536 (4th cir. 2001). United States V. Seeright, 978 F 2d 842, 847 (4th cir. 1992). A new trial is required only if the

[8] misconduct. The district court in denying the defendant's

Resulting prejudice Is so great "That it denied any and all the appellants a fair, as distinguished from a perfect, trial." United States V. Parodi, 703 F. 2d 768, 776 (4th Cir. 1983) (internal quotations mark omitted).

Anyway, one looks at this case it is complicated. The government indicated 19 individuals of which many were family. (J.A. 5 # 1). Besides the number of Defendant There were numerous assistant U.S. Attorneys that worked on this case by the time it went to trial. Moreover, the defendant is an intelligent person in not a first offender. The defendant was determined to exercise his constitutional right. By the time the trial started he had written both U.S. District Court Judge James C. Fox, and District Court judge Terrence W. Boyle Numerous Ex parte letters and pro se Motions while represented by counsel. The Docket is peppered with the defendant's ex parte letters and pro se motions. Too Numerous to include, the defendant issue and concerns are brought forth in argue in this writ. This usually results from defendants who don't agree with their lawyer and want the District Court to intervene or get information on the appellate records. In fact, the only time the defendant could represent himself was at sentencing. Judge Boyle had already been through a trial with other codefendants. The defendant believes that the state pen register and title III Wiretaps were illegally obtained and should have been suppressed. Additionally, the defendant believes His Codefendants had charged their stories in were pleasing the government to get reduced sentences.

Before the arrangement began attorney, Rosemary Godwin asked to approach the bench about the issues of counsel in the issue that he defended wanted heard. The District Court had the jury leave out the courtroom and ask the government, "Mr. Cameron, if you know, what is the maximum sentence I can give if he gets convicted of everything?" The

government indicated "life in prison." (J.A. 1134). The District Court then reiterated "life in prison." and asked Ms. Godwin, "what did you want to tell me. I let the jury go out at your request." (J.A.1134). Ms. Godwin thanks the District Court in judge Boyle asked "How old is your client "To which Ms. Godwin replied forty-two. The District Court then repeated the defendant's age 42 in stated "Okay. So, he's looking at spending the rest of his natural life in federal prison. "(J.A.1134). Ms. Godwin Agrees by stating "correct." The District Court then asked if the defendant had Been locked up for four or five years to which attorney Godwin replied "three I believe ". (J.A. 1134).

U.S. District Court judge Terrence W. Boyle stated "three years. Well that's probably going to happen. So, what do you want to know between now and that?" (J.A. 1135).

The District Court has every right to run his courtroom as he sees fit. Judge Boyle state his opinion, ask questions, in advise the defender about his maximum sentence before the trial starts. United States V. Smith, 452 F. 3d 323, 330- 33 (4th Cir. 2006). What he can't do is pre-sentence the defendant nor act as a second attorney for the government in the defendant's trial.

First the defender argues here that Judge Boyle told him I'm going to give you a life sentence if you are convicted before even hearing any evidence from the witness stand in the matter. Boyle either inserted the word "probably "So that he could try to pass constitutional muster In a very busy appellate Court or he was referring to the probability that the jury would convict the defendant and then judge BoyleWould order life in prison.

It is not fair it is not justice. The law requires a fair trial in a fair tribunal. In re Murchison, 349 U.S. 133, 136 (1955). Judge Boyle cannot insert the word probably in skirt around due

process. United States v. Dunlap, (no. 14- 4956) (no. 14- 4957) (4th cir. August 9, 2016). Judge Boyle informed the defendant that if he's found guilty on all counts that he will be getting life in prison and then judge Boyle asked the defendant in his attorney "what would you like to know between now and that?" (J.A. 1135).

Next the defender argues the District Court insertions in his trial by judge Boyle acting as a second attorney for the government in violation of code of conduct for judges Cannon 3: Acting as a second lawyer denying the defendant to a fair trial in a fair tribunal. In re Murchison, 349 us 133,136 (1955). The district question nine of the 19 witnesses that the government called to the stand an in one instance told the prosecutor to lead one of the witnesses. The District Court was not impartial, but Un Fair and bias.

When the government called Michael dull to this stand (J.A. 748). The District Court stop the proceding asking what was he here for. Then went on to explain his point on how things worked through his own analogy of the way wire tapes worked all in front of the jury.

When the government call Larry Pearsall to the stand (J.A. 754-780). The District Court led the witness explaining the weight of drugs, how the witness sold drugs, what the spot was, how crack is cooked into a cookie from cocaine, bagging and cutting the drugs into units, inventory, etc... All in front of the jury. Also Christopher Johnson (J.A. 839).

When the government called Douglas register to the stand (J.A. 969-79). The District Court led the witness on how much drug cost, American currency, how many is wrapped in units of 1000, how the money is moved, what a key means, where people hide drugs, etc. ... All in front of the jury.

When the government called Richard Murphy to the stand (J.A. 901). The district told the prosecutor to lead the witness saying that his testimony was not critical. When Mr. Murphy was testifying about surveillance from the illegal wiretaps in doing so in front of the jury.

When the government called Kevin Dickinson to the stand (J.A. 921-926). When a recording was playing of a non- testifying co-defendant District Court stated that the testimony already from my an officer about that which he has eye- witnessed to it, Then describing who people were, how the government was off its theme saying that they got the dope and the arrest all in front of the jury.

When the government called Chapman Carroll to the stand (J.A. 962-968). The District Court led the witness explaining how you cook drugs in a microwave, how it comes out into crack, a steady stream of crackheads coming to buy the drugs, smoking it, getting ripped off, etc. All in front of the jury.

When the government called Nicole Lattanzio to the stand (J.A. 974-975). The district asked had she suspected cocaine or cocaine base in the evidence and proved it was, did the test prove it was a powder or crack, explaining the weight of the drugs all in front of their jury.

When the government called Randi Lebaloos to the stan (J. A. 1002-1003). The District Court led the witness on what small denominations of money was, to give him (the judge) A idea of the deposits, etc... All in front of the jury.

Considering the above findings, the district courts Judicial Bias made Fair judgment impossible when judge Boyle not only presentenced the defendant, but also acted as a second attorney for the government as well. The defendant did not receive a "fair trial in a fair tribunal," In re Murchison, 349 us 133,136(1955). In order to prevail of due process claim, a defendant must

show a level of bias that made for judgment impossible, Rowsey V. Lee, 327 F. 3d 335,341 (4th cir. 2003) (quoting Liteky V. United States, 510 u.s. 540,555 (1994). When a trial is alleged inappropriate comments during trial, this court will consider the whole of the record, looking to determine whether the judge is bias Somehow it affected the outlook or deliberations of the jurors. Rowsey, 327 F. 3d at 342. Thus, the court will consider, for example whether the comments were made fairly. See ID. The defendant has shown here the District Court bias in presentencing him along with judge Boyle acting as a second lawyer for the government, did affect the defendant's right to a fair trial. In this case Judge Boyle deny the defendants his due process right to a fair trial in a fair tribunal, Murchison, at 136.

What's even more convincing that judge Boyle had already presentence the Defendant was his short sentencing which he represented himself. (J.A. 1109- 1118). After the government spoke up (Because it appeared in District Court with skip the governments position) Comment briefly on the defendant's objections to enchantments to the presentence report, judge Boyle deny all the defendants' objections. Again, Judge Boyle recited the guideline range of level 43 in criminal history IV and stated, "I'll Sentence the defendant to the guideline of life in the custody of the United States Bureau of prisons." (J.A. 1117).

That was it. Entirely. The district court did not explain this sentence and term of supervised release it imposed in the case. The fourth Circuit has stressed that when a District Court offers an explanation it need not ritualistically nor "robotically tick through [18 u.s.c.] 3553 (a)'s Every subsection." United States V. Powell, 650 F. 3d 388, 395 (4th cir. 2011). It must however place on record an" Individual assessment" Based on the facts presented. Gall V. United States,128 S. ct. 586,591 (2007). "This Individualized assessment need not to be elaborated or lengthy, but it must provide rational tailored to the particular case at hand and

adequate to permit" "Meaningful appellate review." United States V. Carter, 564 F. 3d 325,330 (4th Cir. 2009) (quoting Gall V. United States, 552 u.s. 38,30(2007)). After the Defendant was pre-sentence by the District Court in his trial judge Boyle created judicial bias in misconduct by acting as a second lawyer in violation of the code of conduct for judges, cannon 3: United States V. Castner, 50F. 3d 1267,1272 (4th r. 1995. To prevail, "A defendant must show a level of bias that made fair judgment impossible. "Rowsey V. lee, 327 F. 3d 335,341 (4th Cir. 2003) (quoting Liteky V. United States, 510 u.s. 540,555 (1994)). In defendant not objecting to the District Court statements in the court below, his claim is reviewed only plain error. The United States Supreme Court should vacate, remand the Court of Appeals for further proceedings.

III. Whether the district courts violated the defendant's constitutional right to represent himself, pro se, at trial.

The 4th circuit of appeals review the district courts findings of historical fact for a clear error. United States V. Markovich, 209 F. 3d 1227,1236 (10th Cir. 2000).

On March 5th, 2018 the defendant proceded to his arrangement. (J.A. 23 #1010). When the defendant tried to speak, judge Boyle told him "no. Not you. You be quiet." (J.A. 1138). The defendant was merely trying to invoke his sixth amendment right, to represent himself in his jury trial. An inquiry into the issue of council should have been put on the record after the bench conference that was Inaudible. But certainly, when the defendant try to speak, judge Boyle should have made a council inquiry for the record. This was the last opportunity before the trial began. Rosemary Godwin even told the court such. She stated, "and if he's going to want to remove me as counsel in proceed on his own, this would be the time for him to make that decision." (J.A. 1138).

The defendant is entitled to self-representation under Faretta V. California, 422 u.s. 806 (1975). Self-representation does not require the District Court to make an inquiry an is not reversible error. United states V. Singleton, 107 F.3d 1091 (4th Cir. 1997). The effectiveness of the waiver of counsel depends on the facts and circumstances of each case. Iowa V. Tovar, 541 u.s. 77,91-93 (2004).

Judge Boyle had every reason to make an inquiry. The docket is replete with letters, pro SE motion, request for hearing or re hearings after denials. The defendant was on his third lawyer in had been complaining for the same issue since the beginning of the case. The defendant's position was giving in the motions to suppress filed by counsel, and in his letters to the District Court. The defendant's disagreements with each attorney from the inception Is well documented. The defendant was in all reality represented himself through a hybrid representation which is not allowed. Faretta, 422 u.s. at 835, singleton, 107 F. 3d at 1100-03.

It was clear at the arrangement that the District Court didn't want to deal with going through a formal counsel inquiry. The District Court responded by stating "Well, he has no legal training. These are completely suspicious arrangement." (J.A. 1138). Godwin stated that the defendant wanted to "Insert himself in the trial." (J.A. 1138). Judge Boyle stated, "He can't do that." Ms. Godwin went on to advise the court if the defendant wanted to remove her as counsel this would be the time. then the defended tried to speak, Judge Boyle then told him, "No. Not you. You be quiet." (J.A.1138). Judge Boyle's treated all of this as the defendant simply venting in his dissatisfaction with the case. Specifically, judge Boyle stated to the defendant that his unhappiness with the past and what has happened in this case has no place

in a trial. Further, that a trail is a "regimented process" and That the defendant just can't come in a federal court and "vent." (J.A. 1138-1139).

After Ms. Godwin's repeated attempts to the court that the defendant wanted to represent himself in his trial judge Boyle then asked Ms. Godwin What specifically she wanted him to do, to which she responds by saying nothing. Judge Boyle Stated that if you're not asking me to do anything then "We'll pick a jury." (J.A.1139).

Judge Boyle kept asking attorney Godwin at each attempt with her informing the court that the defendant wanted to represent himself "What she wanted the District Court to do. "The inquiry should have been directed at the defendant in what he wanted instead of the District Court telling him "No. Not you. You be quiet." (J.A. 1138). That's the same thing as being told shut up because I don't care what you have to say.

Ms. Godwin knew the court needed to conduct an inquiry into Counsel. She and the defendant did not agree on which witness to call a how to cross examine the government witness. The defendant knew that he would have to testify in a narrative form. Godwin didn't move to withdraw and delay the proceedings or leave the defendant hanging but she knew from experience that she needed to make the defendant issues heard or at least get them on record. Ms. Godwin kept pushing forward the defendant's issues in all but begged the District Court to make it inquiry into self-representation. Judge Boyle had denied the request from the bench conference and was now unwilling to address a formal inquiry into self-representation.

It is important to note here when the court reporter's equipment malfunction that the defendant in his motion for judgment of acquittal (J.A. 27#1110, pg. 1178-79) and at his sentencing on June 20, 2018. (J.A. 27 # 1120, pg. 1112), Stated that he asked to represent

himself at the beginning of his trial and was denied. Defendant stated that the jury was excuse, the lawyers approached the bench for a conference in which the defendant overheard. The defendant stated that attorney Godwin informed the District Court that the defendant wants to represent himself "In which you did not allow. (J.A. 27# 1110, 1120). The defendant states that he didn't intend "To hold up the proceedings" and was ready. The defendant stated that he wanted to represent himself so that he could cross examine the witness because he knew that his attorney wouldn't do it. It is important to note here that what the defendant recollects and stated to the District Court is consistent with what would have been recorded during that inaudible Beach conference as stated above.

More importantly, we must remember before the arrangement began that the defendant was probably going to get a life sentence. (J.A. 1135). It is fair to say there no defendant in their right mind is going to argue with a federal judge who tells him that he has already decided that he's going to give him a life sentence and " You be quiet." This colloquy Before formal arrangement on the charges indicated clear error. United States V. Mackovich, 209 F. 3d 1227, 1236 (10th Cir. 2000). The defendant was entitled to represent himself in his jury trial.

Judge Boyle Couldn't ignore that inquiry simply because it would have been difficult to have control over the defendant and maintain the dignity of the courtroom. The case is not like that of United States V. Bernard, 708 F. 3d 583, 588 (4th Cir. 2013). Where in that trial counsel bears substantial Responsibility for allowing the alleged error to pass without objection because Ms. Godwin Repeatedly stated that the defendant wanted to represent himself, how and why, but the District Court all but ignored it. First stating that he was not going to allow that as stated in the defense motion for judgment of acquittal (J.A. 27# 1110, pg. 1178-79) And also at the Defendant sentencing (J.A. 27 # 1120 pg. 1112). The

defendant's request was "clear and unequivocal." United States V. Frazier- EL, 204 F.3d 553,558-59 (4th Cir. 2000) Because counsel for the defendant stated his wishes to represent himself repeatedly and through the defendant letters to the court that the docket is replete with. Even though the record is incomplete due to a missing bench conference. Before the court can decide whether the defendant made that request. Reflecting again back to defendant's motion for judgment of acquittal (J.A. 27# 1110, pg. 1178) In his sentencing (J.A. 27 # 1120 pg. 1112), The defendant statements before the transcript where even printed leaving the question if the defendant is not being truthfully then how Would he have known what was said and when. Also this case is not like in Fields V. Murray 49 F. 3d 1024 (4th Cir. 1995) (en bank), That counsel Is in default position unless a defendant explicitly accerts His desire to proceed pro se. United states V. Ductan, 800 F. 3d 642, 650 (4th Cir. 2015) through the Defendant letters and in Court when he was told "No. Not you. You be quiet." Also, through his defense counsel. (J.A. 1138). The defendant went unheard or ignored in his request to represent himself. If the District Court had read one of the defendants letters the court would have known that the defendant was asking to Represent himself long before his jury trial. The defendant gave reasons to as his counsel being ineffective such as motions that were not filed on his behalf, not seeing his motions of discovery violating his due process and equal protection right, etc... The United States Supreme Court should vacate his judgment and remand to the Court of Appeals for further proceedings.

IV. Whether to District Court erred in denying suppression of the first state pen register

V. Whether the District Court erred in denying suppression of the title III wired interception Communication (wiretaps).

The 4th Circuit Court of appeals reviews the district court's Findings for clear error. United States V. Bernard, 757 F. 2d 1439, 1443 (4th Cir. 1985). An if there are no findings of clear error than the standard of review is only an abuse of discretion. United States V. Gravely, 840 F. 2d 1156, 1162 (4th Cir. 1988). Finally, when a motion to suppress has been denied, the fourth circuit views evidence presented in the light most favorable to the government. United States V. Watson, 703 F. 3d 684,689 (4th Cir. 2013).

Senior US District Court Judge James C. Fox, on April 26, 2016, without hearing denied in separate orders both the defendants motion to suppress state pen register and related instruments ,and evidence from the order, motion to suppress title III evidence from the order, motion to suppress title III wire intercepted communications (wire-taps). (J.A. 14 # 449 and # 450, 616-636, 637-654).

Judge Fox did not assign the motion to the Magistrate Judge and did not conduct a hearing on the motions. Judge Fox did write treatise in each order denying such motion to suppress the state pen register and title III intercepted Communication (wiretaps). This argument encompasses both motion because they are Interrelated although it is the defendant personal position that if the first state pen would have been denied then nothing could have followed. The Defendant maintains that all information in the affidavits were derived from the first affidavit in the first state pen register.

Attorney John Keating Wiles, On February 22, 2016, filed a motion to suppress evidence from state pen register and related instruments with exhibits in a motion to suppress title III wire intercepted communication (wire-taps) With exhibits.(J.A. 12 # 393 and # 394, 30-47 with exhs., 215-221 with exhs.).

Attorney Wiles Contended that the facts given in the affidavit to attain the first state pen register were conclusory and lack probable cause. (J.A. 33-38). Moreover, That the facts given in the affidavit were stale regarding control buys, search warrants from October 7, 2003 to January 5th, 2012, and not any of them were controlled buys from the defendant, because he was incarcerated in prison from early July 2003 until 2011. (J.A. 36, 656).

The government responded to the defendant's motion to suppress both state pen register and the title III wire intercepted communication (wiretaps) as well as other motions. (J.A. 13 # 417, 567-615). The assistant US attorney for the government Jennifer Wells, argued that the state pen register and title IIIWiretaps were supported by probable cause and if they wan't the good faith Exception applies. (J.A. 578-615).

Judge Fox wrote a Treatise In his order denying the motion to suppress state pen register on cell phone technology in the law as it applied to the state pen register in this matter. Judge Fox disagreed with the defendant that the Facts to attain the first state pen register application of July 17th, 2013, were conclusory. The District Court stated that the defendant was the "User of the target cell phone and was involved in a DTO under investigation." Illinois V. Gates, 462 U.S. 213,231,236 (1983). Nothing more was needed in the district court's Opinion because the information sought would "uncover Evidence of wrongdoing." (J.A. 652).

Judge Fox in his order denied the motion to suppress the title III wire Intercepted communication (wiretaps) Also disagreed about the defendant's argument regarding probable cause and staleness and stated that the age of the information does not alone determine staleness. The District Court stated under current law that it is also relevant to look at the reliability of the source of information, the nature of the illegal activity in the duration of the activity, any nature of the evidence being sought. The District Court stated that when there is a Continuing Course of

conduct the passage of time becomes less significant. (J.A. 632-634.) Judge Fox found that there was "No credible evidence that judge Denver was knowingly Misled or wholly abandoning his judicial role." (J.A.635).

On May 31, 2016 the defendant Filed a pro se motion to reconsider the district court's denial of the above motion to suppress state pen register and related instruments and motions to suppress title III wire Intercepted communication (wiretaps). (J.A.15#505)Further the defendant stated that judges don't see their bias in almost always side with the prosecutor in that this matter is fraught with Brady violations and prosecutorial misconduct. (J.A.655-658). When the affidavit "Describes a continuing course of illegal conduct, the passage of time between the last described act in the application for the warrant becomes less significant." (J.A. 632-33).

The defendant case is not like that of United States V. Brewer, 204 F. app'x 205, 208 (4th cir.2006), Because there was not a continued course of illegal conduct For these reasons, the defendant was not in agreement with anyone to do illegal acts while he was Incarcerated, nor had any knowledge of others illegal acts while he was incarcerated. When the defendant was arrested in 2003 there was no such "Crack shack" As described in the wiretap applications. (J.A. 48-114,115-214, 222-566). Also, the defendant was not systematically in agreement to deal drugs. (J.A. 633). In the defendant pro se motion to reconsider (J.A. 15# 505, 655-659), The defendant states that when he was arrested July 2003 the mobile known now as the "crack shack" Was located at 5615 double tree circle in that he had no knowledge that the mobile home was relocated to 8206 Godwin Falcon Rd until he was release from federal prison in 2008.The orders were not significant to establish probable cause in it clearly was errroneous For the District Court to conclude that probable cause had been established . The defect in the state court orders in Law

enforcement deceiving judge[s] The good faith exception does not apply for a violation of the North Carolina constitution.

On June 3rd, 2016, by order James C. Fox denied the defendants motion to reconsider the suppression of the state pen register and a title III wiretap. (J.A. # 512, 660-661). Judge Fox ruled that the defendant's arguments were not new in rehashed of the arguments already considered in rejected. (J.A 661).

Some months pass as codefendants Sorted out their position as to filing motions, pleading, in going to trial. Then January 25th, 2017, the case was reassigned by text order from senior US District Judge James C. Fox to senior US District judge Terrence W. Boyle. (J.A.17 # 688).

Attorney Godwin being the third defense lawyer and the case begin set for trial filed a motion in limine to prohibit introduction of title III wire intercepted Communications (wire taps). (J.A. 22# 995, 673-686). Ms. Godwin recited the defendant contentions again for lack of probable cause staleness, Overreaching judge Dever and prosecutorial misconduct.

The government now Represented by assistant US attorney Lawrence Cameron filed a response to the defendant's motion in limine to prohibit introduction of title III wire Intercepted communication (wire taps) Describing the motion as repetitions and requesting denial. (J. A. 23 # 999, 687-690).

US District Court judge Terrence W. Boyle without hearing denied the motion in limine as to the defendant on March 1, 2018,

stating that it was "more properly a motion for reconsideration and there is no new arguments or evidence. (J.A. 23# 1006, 691-692). United States V. Clark, (No. 18-2604.) (7th

Cir. August 15, 2019), The denial of his motion to suppress without an evidentiary hearing violated His rights and he was remanded back to district court.

On May 31 , 2016, the defendant filed a pro se motion to reconsider the district court's denial of the above motion to suppress state pen register in related instruments in title III Wire intercepted communications (wire taps). (J.A. # 505,655-659.) The defendant stated in his letter that the 2000, 2001, in 2003 information was far too stale to establish probable cause in 2013. In Molina ex el. Molina V. Cooper, 325 F. 3d 963 (7th Cir. 2003), Drug transaction two years prior were too stale. United States V. Button, 653 F. 2d 319 (8th Cir. 1981) A lapse of eight days were deemed too remotes to establish probable cause. Durham V. United States,403 F. 2.d 190 (9th Cir. 1968) Information four months old was too remotes to establish probable cause. On both June 24th, 2014, in July 1st, 2014, each time the defendant did not Commit a crime or to one. The defendant refusing to commit to a crime is not grounds for probable cause. United States V. Moron, (No. 18-1876) (1 Cir. November 22,2019). The District Court erred in denying his motion for reconsideration the defendant stated in his pro se motion that he was incarcerated From July 2003 and two 2011 so that it was nothing that he did to warrant his cell phone being tapped. (J.A. # 505, 655-659). The defendant also stated that judges don't see their bias in almost always side with prosecutors and that this matter is fraught with Brady violations in prosecutorial misconduct. (J.A. 655-659).

The defendant Third attorney also Filed a motion in Limine to prohibit introduction of title III wire Intercepted communication (wire taps) (J.A. 995, 673-686). US District Court judge BoyleWithout a hearing denied the motion in limine as to the defendant on March 1 , 2018, stating it was "More properly" a motion for reconsideration in that there were no new arguments or evidence. (J. A. 23 # 1006, 691-692). Carpenter V. United States, (no. 16-402) (6th Cir. July

22, 2018) The government did not obtain a warrant supported by probable cause in the defendant was remand back to the District Court. The fourth amendment protects not only property interest, but certain expectation of privacy as well. Katz V. United States, 389 U.S. 347, 351.

For facts in support of the orders, each order relied on an application consistent of a law enforcement officer sworn statement purporting To establish probable cause. For each order relied on in N.C. Gen. Stat. 15A-262 and 263, Fed. R. Crim. P. 41 (d), and 18 U.S.C. 2703 (d). The first application filed by deputy Roger Moore was July 17, 2013. The other three file dupty Moore date of orders on March 11th, 2014, May 14, 2014, July 18th, 2014. See Rakas V. Illinois, 439 u.s. 128, 143, 99 s. Ct. 421, 430,58L. ED.2d 387 (1978). ("Capacity To claim protection of 4th amendment depends... Upon whether a person who claims the protection of the amendment has a legitimate expectation of privacy in the invaded place"). The findings in the orders did not meet any other findings required by N.C. Gen stat. 15A -273 (a)(I)(3). The court did not find that there were a "reasonable grounds to suspect that the defendant committed the offense, ") It did not find that the "Results would be of material aid in determining whether the defendant committed the offense.

Therefore, the law did not authorize the court orders. Under North Carolina law, "reasonable grounds to believe" is and has been "synonymous with probable cause". See, e.g., in re Moore, —N.C App. —, —, 758 S.E.2d 33, 36 (2014) ("reasonable Ground requirement is synonymous with probable cause"). The sworn statement offered in support of the applications for state pen register orders failed to establish probable cause. Recitation of conclusory Statements does not support a Finding of probable cause. See e.g., United states V. Wilhelm, 80 F. 3d 116,119 (4th cir.1996) ("sufficient information must be presented to the magistrate to allow that official to determine probable cause; His action cannot be a mere ratification of bear conclusion of others").

On that same claim of surveillance , in the same application for applications for title III Wire Intercepted communications (Wire taps) obtained by task force officer Gary Owens on July 21st, 2014 , authority failed also. Law enforcement at avered that on July 25th, 27, 29, August 9, 22nd, October 11th, and November 1st 2012, and January 15 - 20, and July 9, 10, 16, 18, and the 24th of 2013, Law enforcement " Conducted surveillance, on Webb, and defendant DOT [i.e., Drug trafficking organization]" In an attempt to gain further information from the inter workings of the DTO," But they were not able to gain any pertinent information."

In some accetering That as a result of the investigative activities including " Control buys , surveillance, in multiple search warrants " It was" Known only (On July 17, 2013) that the[10] [was] Currently involved in the trafficking of crack cocaine," Omitted the material facts (a) Did not a single one of the control buys have been from the defendant, (b) That the only searches yielding contraband from premises under the defendant controlled and domain were 10 to 13 Years before applying for state pen register on July 17, 2013, and (c) That surveillance operation in 2012 in 2013 had not proceeded " any pertinent information" The defendant contends that those omissions are material because had the officer told the judicial official that none of the control buys have been conducted against the target of the state pen register, the seizure of contra banned from the target of the state pen register have been 10 or more years because the defendant had been incarcerated from early 2003 Until 2011 and surveillance had not yielded Any pertinent information, the applications would not have been granted. In short, the applicant just says so in does not give the judicial officer "a Substantial bias for Determining the existence of probable cause." Illinois V. Gates, at 239, 103 s.ct. at 2333, 76 L. Ed. 2 d 527. Suppression is appropriate only if the officers were dishonest or reckless in preparing their affidavit or could have hoarded in objectively responsible belief in that the existence of probable cause.

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[10] defendant

The state pen register obtained by deputy Moore, in the title III intercepted (wire taps) Obtained by task force officer Gary Owens. These officers both Deceived judges in their application for wiretaps by decit" By leaving out key information as to why the defendant was not a part of any of the control buys , surveillance, in multiple search warrants from October 7, 2003, until January 5th, 2012, that were listed in deputy Rogers moores' and task where officer Gary owen's application for the state pen register ,and title III Wire intercepted Communications (wire taps). These officers did not rely upon these orders in good faith because they deliberately left out key information that the defendant was incarcerated from July 2003 until 2011 in federal prison. The good faith exception to the exclusionary rule should not apply because the North Carolina Supreme Court strongly indicated that there is no good faith exception to the exclusionary rule for a violation of the North Carolina constitution. The state pen registers because of the officer's decit, should have filed in all evidence derived from it should have failed also. Consequently, If the first order is in firm, the second, the third, in the fourth orders, which are derivative of the first must also fall. In the defendants jury trial the government called several witness that all testified to the title III Wire intercepted communications (wire-taps), In none mention nothing about the state pen registere including deputy or Roger Moore who in fact apply for each and all the state pen orders, Officer Moore testified to the title III ignoring that the state pen register trap in trace orders were done first in that the title III were derived From the state pen register. Officer Michel Dull testified to how he set up the title III Voice box, the GSI wiretap facility without mention of the state pen register. George Floyd a legal analyst for Verizon Wireless also testified to the Order for subscriber (defendant) Information to let law enforcement get the data. Officer Charles Parker testified to the use of the title III Wire intercepted communication in the use of state surveillance with no mention of the state pen register that

came first. Officer Matthew Rayme Testify to the use of title III Through the use of surveillance with no Mention of the state pen register. Officer Richard Murphy also testified to the use of title III Through the use of surveillance without any mention of the state pen register. Officer Kevin Dickinson the case agent who also testified to the use of title III in how he listed to the calls with no mention of the state pen register in which the title III was derived from. The District Court committed a miscarriage of justice when it erred in deny the suppression of the state pen register and the title III wire intercepted communication (wire taps) By not having a suppression hearing.

Evidence from the state pen register and title III Wire intercepted communications (wire taps) Were used against the defendant at his trial. The defendant was convicted of all counts of his indictment and sentence to life in prison. The defendant believes that the district court erroneously Denied his motion to suppress , his pro se motion for reconsideration, and his pleas for help in many letters to the District Court. Defendant request that his judgment be vacated and remanded to the Court of Appeals for further proceedings.

Conclusion

The defendant believes the record in this case demonstrates that he was pre-sentence to life before the jury trial began. The defendant also believes that the record demonstrates that he did not have a fair or impartial Judge, and that he was denied his right to self-representation. Finally, the defendant believes that the first state pen register should have been suppress therefore negating any follow orders for state pen register, or the title III wire Intercepted communication (wiretaps). For the reasons set 4th above, the Petitioner respectfully pray this court grant his petition for writ of certiorari, in vacate and remand to the court of appeals for further proceedings.

Respectfully submitted this 14 day of July, 2020.

Antoine Dewayne Myles

Antoine Dewayne Myles

23728-056

United States Penitentiary McCreary

P.0. Box 3000

Pine Knot, Ky 42635

Hope Thurman
Notary Public
State at Large, Kentucky
My Commission Expires on 10/13/20

No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

Antoine Dewayne Myles — PETITIONER
(Your Name)

VS.

United States OF America — RESPONDENT(S)

PROOF OF SERVICE

I, Antoine Dewayne Myles, do swear or declare that on this date, July 14, 2020, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Jennifer P. May-Parker Office OF The U.S. Attorney 150 Fayetteville Street, Suite 800 Raleigh, N.C. 27601	Office of The Clerk Supreme Court of The United States Washington, D.C. 20534

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 14, 2020

Hope Thurman
Notary Public
State at Large, Kentucky
My Commission Expires on 10/13/22

Antoine Dewayne Myles
(Signature)