

20-5518

ORIGINAL

In The Supreme Court of The United States
For The Southern District of Ohio
Sixth Circuit

Supreme Court, U.S.
FILED

AUG 13 2020

OFFICE OF THE CLERK

No. 5847

Pg. 1 of 28

Lewis James Vance,

Petitioner,

v/s.

S.C. U.S.

Case No.

Timothy F. Buchanan, Warden,
Noble Correctional Inst.,
Respondent.

Writ of Certiorari
Capital Case

On Petition For A Writ of Certiorari To
United States Court of Appeals

Petition For Writ of Certiorari

Lewis James Vance
Noble Correctional Inst.,
15708 McConnelville Road
Caldwell, Ohio 43724

N/A

Phone Number

Questions of Law Presented:

June 11, 2020

Certiorari of Petitioner, Lewis James Vance
"Capital Case"

No. 5828

Pg. 2 of 28

[1.] Petitioner filed a Pro Se motion for New Trial at his sentencing 12/6/2016, since trial defense counsel, "[Must]" present a defense based on defendants request, (Counsel knew that motion did contain most, if not all of defendants "Merits" of his defense). Trial court refused to accept it or hold a hearing because it was filed, Pro Se. Was it unconstitutional for trial court to allow counsels deficient and misrepresentation when it knew there were seriously prejudicial affects in counsels defense and questions in, equal protection rights after defendant requested the appointment of new counsel on many different occasions for his adversatively strained client relationship to defendant, Was trial courts and trial counsels actions Unconstitutional as described?

[2.] Because Appellate counsel argued the ineffective assistance of counsel under a different argument heading and or assignment of error, does it still constitute a Meritorily filed assignment of error for ineffective assistance of counsel and over-come the appellate court decision of Res Judicata and does that constitute a Unconstitutional decision to rule res judicata violating petitioners Constitutional rights?

Restat 2d § 25 Exemplifications of General Rule Concerning Splitting.
[3.] Did the trial court violate defendants constitutional rights to a "fair-trial" when it refused to give requested jury instructions on, "Self-Defense" and Military Explosive C4 and violate petitioners due process rights when he requested a new counsel and jury at defendants Remmer Hearing? Retroactive Law, "Self-Defense" - R.C. 2901.05 (D)(2).

[4.] Did Trial court violate defendants constitutional rights when it refused to take action of, Federal Constitutional Law of a, "Compulsory Process" for Securing and Obtaining witnesses for trial in favor of the accused, when the

witnesses were already, "Subpoenaed" for trial and served, Oct. 17th, 2016? Confrontation Clause, U.S.C.S. § 2341, Prejudicial Error, 88 R L R 4th, 388?

No. 5829

Pg. 3 of 28

[5.] Was defendants trial court in Constitutional Error and violate defendants constitutional rights when it failed to contact the, FBI and disclose the facts that the deceased was in possession of, [175 to 200 pounds] of Military C4 Explosives, fundamentally provided a miscarriage of Justice against the Manifest Weight of the evidence, When and through (911 cellphone call) petitioner took overwhelmingly precautionary efforts through this Emergency Help Hotline to secure the safety of himself and the public from his use of the (Military C4) as a "Adversary", Trial Court refused to give requested jury instructions for the Military Explosive C4, Did trial court Unconstitutionally provide an "Unfair trial" process and Sentence, petitioner without having the "Jurisdiction" to do Constitutionally? Military Explosive C4, 18 U.S.C.S. § 841(c), Violent Crime, Jury Instructions, 421.11, First Step Act, 18 U.S.C.S. § 3553(f)(1)(c)(2)(3)(4)(5), Self-Defense, R.C. 2901.05(B)(2) instructions in OJD CR 421.24, Retroactive Law.

[6.] Did the Supreme Court of Ohio Constitutionally Error when refusing jurisdiction of petitioner's post-conviction and his Re-Sentencing assignments of error of ineffective assistance of Counsel in their review of his postconviction and Resentencing appeals? Can petitioner overcome the time bar in his 26(B) because he was filing numerous appeals at that time and his funding was very limited and Pro Se knowledge to?

[7.] Because the district court stated petitioner had ineffective assistance of Counsel at his Re-Sentencing, can he relitigate his assignments of errors and grounds for his appeals on his counsels failures? (Petitioner's case has many jurisdictional errors).

No. 5830

Pg. 4 of 28

8. Can petitioner expand the records in his 4th appellate court, Supreme Court of Ohio, and in the United States District Court with his Sentencing and Re-Sentencing trial transcripts, [if] he can obtain them from the courts or counsels after they were stolen from him by one of the "Assailants" in his case, Will, Fed. R. 7 expand the records in each courts to re-review his grounds?

9. Is petitioner entitled to the appointment of counsel under "equal protection rights" because his sentence is under a sentence of death and is a Capital offense? Did each court violate petitioner's constitutional rights when they refused him the needed counsel at a "Critical Time" in his defense process and procedures? (Petitioner's Case is a Capital Case under a death sentence).

10. Petitioner filed in State Courts for "Additional DNA Testing" and 911 cellphone records and requested the Appointment of Counsel in a capital case when he filed these applications, is he entitled to new counsel to file these applications?

11. Does signed notarized "Confessions" and "Statements" from actual, "Assailant-Perpetrators" about uninvestigated events by law enforcement and trial court, but was used as questions to State witnesses in petitioner's defense at trial prove improper investigation from both law enforcement and counsel constitute constitutional rights violations, a unfair trial because of the lack of and deficient investigation and presentation of trial defense? Do these confessions and statements New Evidence?

12. If the Respondent "[Fails]" to make a "finalized due date" to present a Return of Writ by any amount of time that exceeds that finalized date, constitute a Constitutional rights violation? (If petitioner would have missed that due date his case would have been over, such as his 26 (B)).

13. Is it Constitutional error to not provide a defendant or petitioner a copy of his/her trial transcript when requested for arguments and appeals, when our bedrock

No. 5831

Pg. 5 of 28

foundational Constitutional law within many cases grants us these rights for further arguments in our defense and was petitioner's Constitutional rights violated when he was continuously requested his trial transcripts for a proper Constitutional appellate right in his appeals?

[14.] Is it a constitutional rights violation to rule on defendant, petitioner's arguments, assignments of errors or grounds as "Res Judicata" when appellate counsel and petitioner argued in his, Direct Appeal and Post-Conviction ineffective assistance of trial counsel, although in his direct appeal counsel did argue it under her, Assignment of Error I, Motion For a New Trial and deficient counsel in pages (10-11), in her issues presented for review (A)-(B) of Appellants Merit Brief filed in the 4th district of Ohio and again within petitioner's, Reply Brief in pages (1-2) Argument, Assignment of Error I, issues presented for review, Case No. 16C.R.11, Is this a Constitutional rights violation to rule Vance's grounds as "Res Judicata" when counsel's ineffective assistance was a ground for review?

[15.] Why is it that Medical documents can be used as Newly Discovered Evidence and not (Confessions or Statements), as stated in petitioner's answer, Request of Medical Examination and Physical Medical Records, in respondents opposition to that motion, (Doc. #: 30 filed 8/23/2019, Pg. Id. #: 2025) in petitioner's Return of writ, Doc. #: 27, it states with the exception of Vance's ineffective-trial-counsel-in-Re-Sentencing claim that, "[Non-defaulted]" and in that Order that followed, (Doc. #: 34 filed 9/9/2019, Pg. Id. #: 2043 and 2044) it states that physical Medical documentation can be used to establish a "Gateway" claim of "Actual Innocence" to excuse procedural default, and stated, (In any event, Petitioner is "Free" to obtain his own medical records in this regard if he intends to present them for such purpose. The U.S.C.R. and previous courts would not except, (Confessions and Statements) as Newly Discovered Evidence, What these courts is telling

No. 5832

Pg. 6 of 28

me is that these Evidentiary Facts proving someone else planned the attack, within trial transcripts to, that they participated in it, was in the Home attacking and now, New Evidence of the perpetrator that [Shot] "the deceased", that this Newly Discovered Evidence is what these courts is saying does not weigh in petitioners favor when these "Assailant-Attackers" are signing [Confessions and Statements] about their part of the crime, when trial court insisted that petitioner, Lewis James Vance was the only person in that Home, this New Evidence proved otherwise, Is this considered as New Evidence to open the "Gateway" of "Actual Innocences", (Confessions and Statements) just as well as petitioners Physical Medical Record and documentation would be?

[6.] Did trial defense counsel and Appellate counsel have Certification for "Capital Case" defended to provide defendant-petitioner a Federally Constitutional fair trial with equal protection rights? (Pursuant to, Appt. Coun. R. 5.02, Oh. Appt. Coun. R. 3.02, Certification Requirement for Trial Lead counsel, (Appellate Counsel) Oh. Appt. Coun. R. 3.04 Certification Requirement for Appellate Counsel, (Defense-of-Capital-Case training), Oh. Appt. Coun. R. 4.01, (Appeal-of-Capital-Case training), Oh. Appt. Coun. R. 4.03, (ORC Ann. 2929.04, Criteria for imposing death or imprisonment for a Capital offense). [Unjust Conviction and Imprisonment Act, 28 U.S.C. §§ 1495 and 2513].

Lewis James Vance
Lewis James Vance, Pro Se

List of Parties

Counsel For Petitioner, Pro Se

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

Table of Contents :

June 15th 2020

"Capital Case"

No. 5841	Opinions Below -----	19-21	Page Nos.
Pg. 8 of 28	Jurisdiction -----	21	
	(A Motion for Emergency Federal Review is filed) 30 Pages.		
	Constitutional and Statutory Provisions Involved -----	9-15	
	Statement of The Case -----	7	
	Reasons for Granting the writ -----	16	
	Conclusion -----	17	
	Proof of Service -----	18	
	Index to Appendices		
63 Pgs.	Appendix A, Habeas Corpus Appeal, Case No. 19-4252		
8 Pgs.	Appendix B, Reconsideration Response, Case No. 2:19-CV-00687		
25 Pgs	Appendix C, Post Conviction Appeal, Case No. 17CA9		
39 Pgs	Appendix D, Direct Appeal, Case No. 16CA11		
	Resentencing Appeal, Case No. 18CA2		
12 Pgs	Appendix E, Case No. 19CA3, Case No. 17AP-119 Reconsideration		
	Entry and Filing Bar		
20 Pgs	Appendix F, DNR Testing, Cellphone Records and		
	Motions, Orders or Responses		
6 Pgs	Appendix G, Newly Discovered Evidence Motion, Mot		
	Order and other (Jurisdiction, Pg. 21 of 28)		
3 Pgs	Appendix H, Confession Statements		
	New Evidence Documents		

Table of Authorities Cited:
"Capital Case"

June 19th 2020

No. 5833

Pg. 9 of 28

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No. 5834

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pg. 10 of 28

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No. 5835

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Pg. 11 of 28

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No. 5836

Pg. 12 of 28

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No. 5837

Pg. 13 of 28

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- No. 5838
- Page 14 of 28
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No. 5839

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202. Stokes v. People, 53 N.Y. 164 (1873)

Pg. 15 of 28

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☒ reported at Vance V. Buchanan, 2020 U.S. App. Sepis 17419; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is Vance V. Warden, Noble Cark. Inst., 2019 U.S. Dist. Sepis

☐ reported at Vance V. Warden, Noble Cark. Inst., 2019 U.S. Dist. 193791; or,
☐ has been designated for publication but is not yet reported; or, Sepis 206934
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix C to the petition and is Post-Conviction

☒ reported at State V. Vance, 2018-Ohio-4479; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Supreme Court of Ohio court appears at Appendix D to the petition and is Direct Appeal Resentencing
☒ reported at State V. Vance, 2018-Ohio-1313; or, State V. Vance, 2018-Ohio-5344
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished. There is additional pro se appellate court case numbers on an additional page herein.
 1.

Additional Opinions Below:

June 20th, 2020

76.5849

① Disqualification of Judge, Denied 12/4/2017
In re Disqualification, Case No. 17-AP-119

Pg. 19 of 28

② Final Appealable Order, Case No. 19CA3, June 10th, 2019

③ State v. Vance, 2019 Ohio Lexis 450, Case No. 2018-1722

④ State v. Vance, 2019 Ohio Lexis 231, Case No. 2018-1678

⑤ State v. Vance, 2019 Ohio Lexis 664, Case No. 2019-0080

⑥ State v. Vance, 2018 Ohio Lexis 1671, Case No. 2018-0607

² State v. Vance, 2019 Ohio Lexis 596

³ State v. Vance, 2018 Ohio Lexis 2283

⁴ State v. Vance, 2018 Ohio Lexis 1773

⁵ State v. Vance, 2019 Ohio Lexis 805

⑦ U.S.C.A. Case No. 20-3009

Corrected Order, January 17th, 2020

⑧ DNA Application and Cellphone Records

⑨ Filing Back order

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was June 2nd, 2020.

A Motion For Rehearing was filed on, June 23rd, 2020, with a new

☐ No petition for rehearing was timely filed in my case. *Evidence motion. Mailed from this institution on 6/23/2020*

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: January 30th, 2020, and a copy of the order denying rehearing appears at Appendix B.

☐ 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 6/12/2019.
A copy of that decision appears at Appendix B. 1/30/2020 *Appendix B, → 2019 Ohio Sup Ct 1187*

☒ A timely petition for rehearing was thereafter denied on the following date: January 30th, 2020, and a copy of the order denying rehearing appears at Appendix B.

Appendix F, Case No. 17-KP-119, January 3rd, 2018
☐ 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: July 12th, 2020
"Capital Case" : Constitutional Provisions:

Nb. 5871 1. First Amendment

Pg. 22 of 28 2. Fourth Amendment

3. Fifth Amendment

4. Sixth Amendment

5. Eighth Amendment

6. Fourteenth Amendment

Statutory Provisions:

1. Restat 2d § 25, Exemplifications of General rule, Res Judicata

2. Self-Defense, Retroactive Law, R.C. 2901.05 (B)(2), Rule 15(B)(5)

3. Confrontation Clause, U.S.G.S. § 2341, Prejudicial Error, 88 RLA^{4th} 388

4. Jury Instructions, 421.11, Self-Defense, House Bill 228

5. First Step Act, 18 U.S.C.S. § 3553 (f)(1)(C)(2)(3)(4)(5), Self-Defense R.C. 2901.05 (B)(2) instructions in OJI CR 421.24

6. Ineffective Counsel, Rule 26(B)

7. Apppt. Coun. R. 5.02, Oh. Apppt. Coun. R. 3.02, Oh. Apppt. Coun. 3.04, Oh. Apppt. Coun. R. 4.01, Oh. Apppt. Coun. 4.03, O.R.C. Ann. 2929.04, and 28 U.S.C.S. §§ 1495 and 2513.

8. Military Explosive C4, Violent Crime, 18 U.S.C.S. § 841 (c)

9. Actual-Innocence Gateway, Confessions and Statements, plus Appendix B, page 8 Magistrate's Order, Aug 22nd, 2018

Statement Of The Case:

June 16th, 2020

No. 5844

Pg. 7 of 28

Petitioner's procedural case history begins with an indictment filed, June 23rd, 2014, Trial case No. 13CA0118 or 14CA0118 as it was recorded under both, (Review Trial Transcript). He was arrested for a Community Control violation, November 29th, 2013, Case No. 12CA0145. A bond was set at 1.5 million dollars, arraigned, August 4th, 2014. His trial was set for October 17th-20th, 2016, not Oct-20th. Petitioner was Acquitted of (5) Counts against him, October 28th, 2016, for (inconsistencies in statements and trial testimonies). His Sentencing hearing was held December 6th, 2016. A motion for New Trial was filed, Pro Se, 12/6/16 in Acquittal on, 11/7/16 and a Dismissal also pro se. This Direct Appeal was filed, 12/20/16, Case No. 16CA11, petitioner's case was Reversed and Remanded for, Re-Sentencing, May 31st, 2018, Case No. 18CA2. Petitioner filed several pro se appeals in his defense. Case No. Direct Appeal, S. Ct. 2018-0607, a waiver of Memorandum in response was filed by the State counsel, S. Ct. 18-1722, App. Case No. 18CA2, S. Ct. 19-0080, App. Case No. 17CA9, S. Ct. 18-1678 on November 30th, 2017 a, Disqualification of trial judge was filed, Case No. 17AP119, Filing Bar appeal, 19CA003 (Dismissed, 6/10/19, Case No. 2:19-CV-00687 was filed, March 18th, 2019, petitioner received more than order after this on different case numbers, one was case No. 20-3009, January 6th, 2020 and his Originating case that was held in Abeyance, Case No. 19-4252 and not allowed for appeal date ending, June 2nd, 2020 and this Certiorari has followed. Due to the (Covid-19) Pandemic petitioner has to hand write this Writ. He has to present this court with the most updated Evidence documentation in his possession, "Confessions and Statements". He has the Gun-Man and other Perpetrator's signing these Confessions and Statements, placing him and them on the scene, November 29th, 2013. Petitioner files with his Certiorari an Emergency motion for, Lack of Jurisdiction within the Trial Court.

Louis James Vance
Louis James Vance, Pro Se
Petitioner

Reasons For Granting The Petition:

June 16th, 2020

Writ of Certiorari

76.5845

Pg. 16 of 28

Petitioner states as shown in his (16) Questions presented this case has several, Constitutional Errors and is an act of procedural injustice from previous State and Federal Court systems. He requested a "Self-Defense" defense to counsel, was refused that and was provided incorrect jury instructions for trial. His, Direct Appeal assignment of error I and Reply Brief both argued ineffective assistance of trial counsel, he was refused the argument and ruled on as "Res Judicata", an incorrect ruling. Petitioner has in every past procedural case filings presented "New Evidence" for his "Actual Innocence" Gate-way to be open, with substantial evidence weight, and now as presented to this court, the final actions as these "Attacker-Assailants" tried to take the life of both, petitioner, Lewis James Vance and the deceased on, November 29th, 2013. This new evidence weight proves petitioners innocents. The, State of Ohio as of, March 28th, 2019 revised, R.C. 2901.05(B)(2) and made it retroactive law, that now the prosecution has the burden of proof in "Self-Defense" in this state. Petitioner's jury was (tainted), full of injustice. Within the past several years and many appeals petitioner Vance has only been judged through the eyes of prejudicial judgments passed down from an, Un-Constitutional Trial Court through injustice. Petitioner, Lewis James Vance deserves a right to, Equal Protection, Fair Trial, Due Process and rights to have his case appeals heard without, Un-Constitutional Errors.

Lewis James Vance
Lewis James Vance, Pro Se

Counsel For Petitioner, Pro Se

Conclusion:

June 21st, 2020

No. 5846

Pg. 17 of 28

Petitioner has filed a motion for emergency case Jurisdictional transfer containing (30 Pages) and an exhibit of rough draft letters to his trial counsel and about him. Petitioner's case has very serious Constitutional Rights Errors and issues. In the interest of Justice a New Trial and Remand with orders is a [Must]. Petitioner has tried to defend himself pro se, even though by federal law in a "capital case" of an unclassified felony for aggravated murder he is entitled to the assistance of counsel. Appellate counsel did argue his trial counsel's ineffectiveness at trial. This case involves "Self-Defense" issues and has "retroactive law" involved in these rules. Petitioner ask can he please get a constitutionally fair review of his case merits and fair trial in the interest of justice.

Lewis James Vance
Lewis J. Vance, Pro Se

Counsel For Petitioner, Pro Se.

In The Supreme Court of The United States
For The Southern District of Ohio
Sixth Circuit

Page No.

1 of 30

No. 5811

2, Exhibit

Pages.

Exhibit, 1

Lewis James Vance,
Petitioner,

VS.

Warden,

Noble Correctional Inst.,
Respondent.

Case No.

Judge:

Capital Case:

Jurisdictional Error,
Case Transfer

Emergency Motion To Compel Federal Review,
Case Transfer, Lack of Jurisdiction

Now Comes Petitioner, Lewis James Vance, the movant and mover for, Jurisdictional Case Transfer, Compelling Federal review in the, Sixth Circuit, United States Supreme Court, Based on facts of trial courts failure to introduce Exculpatory Evidence, Misrepresentation of Counsel and facts, Presentation of false, insufficient evidence to the Grand Jury, and Prosecutors behaviors of Misconduct and Error.

Reasons For Jurisdictional Case Transfer, Grounds (1) through (4):

① There was failure to introduce exculpatory evidence, such as, (175-200 pounds) of [C4] Military Explosives, (911) Cellphone records, Additional (DNA) from "Assailants", and facts that the deceased was, [Shot], not stabbed as the recorded cause of death. Also failure to introduce factual evidence that the vehicle, a Nissan pickup truck was, "Wired to Blowups", through use of the Military Explosives from the deceased

② There was not competent evidence presented to the Grand Jury upon which the indictment was based; all purported Testimony given in respect of some truth, there to was, "False", and opinion evidence as to proof of the ultimate facts

Page No.
2 of 30
No. 5500

and not competent affirmative evidentiary facts to sustain the indictment. Evidentiary facts was withheld from the Grand Jury, there was Evidence Tampering, and was Hearsay. The statements, video statements, and trial testimonies were all inconsistent to each other, mostly lies.

③ The, Misrepresentation of facts, Attorney's failure to defend with equal protection rights, failure to investigate evidentiary facts, Use of Gamingship, failure to present claim of "Self-Defense", ineffective assistance of counsel, Stating, "William J. Mooney, is not going to defend defendant, Nor does he have a defense prepared for him", and failure to provide a defense to continue into the Appellate court proceedings, or present the "New Evidence" defendant presented him with before trial. As well as appellate counsel, "Angela W. Miller" failure to present the New evidence or defend appellant Constitutionally.

④ Prosecutor's "gamingship" with Law Enforcement, Trial Court, and Counsel for the "Entrapment" and Wrongful Conviction through failure to present Exculpatory Evidence, presentation of False and insufficient evidentiary allegations to the Grand Jury, Falsified material evidence, Allowing inconsistent statements and trial testimonies in trial, There was some truth, but mostly lies.

⑤ All participated mentioned in the above reasons of why this United States District Court [shall] in the interest of justice, accept this request compelling jurisdictional case transfer, has threatened the defendant, his family, Physically and Mentally abused, used biasness and prejudicial judgments in their duties and or the Constitutional Rights of Lewis James Vance. These actions are a Fundamental Manifest Miscarriage of Justice Against the Manifest Weight of Evidence.

Memorandum In Support

Page No.
3 of 30
No. 5501

Petitioner, Lewis Samer Vance the movant in this request as presented states this, trial court, prosecutions presentation of the case and evidence, petitioners counsels, and the Law Enforcement of Jackson County, (Sheriff Office and those of whom was said to assist in the case.) have all tampered with and presented false evidence against the accused as stated in each of the, "four reasons" presented herein. This failure to present "competent evidence" to the Grand Jury and Jury for petitioner to have a "fair trial" as to his "Constitutional Rights" provides, has without a doubt "prejudiced" petitioner, Lewis S. Vance through the acts of "Entrapment and Harassment" to wrongfully and Un-Constitutionally try and convict him through the presentation of "False and Insufficient" evidence at trial. Petitioner citing, *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), provides that, "suppression or withholding" of evidence favorable to an accused violates "Due Process", from the prosecution where the evidence is material to guilt or punishment irrespective of good faith or bad faith of the prosecution. *Id.* 373 U.S. at 87, the purpose behind the rule is to avoid an "unfair trial". Additionally it has been long established that the, "deliberate deception of a court and jury by the presentation of known false evidence is incompatible with the rudimentary demands of justice." *Sigler v. United States*, 405 U.S. 150, 153, 92 S. Ct. 763, 31 L. Ed. 2d 104 (1972). The Supreme Court has held this rule is applicable to both [Exculpatory and Impeachment Evidence]. *United States v. Bagley*, 473 U.S. 667, 676, 105 S. Ct. 3375, 87 L. Ed. 2d 481 (1985). The Supreme Court has further held that a Constitutional Rights violation occurs if the evidence the government has failed to disclose bears on a witness, [Credibility]

Page No.

4 of 30

No. 5591

and or might be helpful to the defendant during cross-examination, *Id.* at 678; *Sigler*, 405 U.S. at 154-155; *Berger v. United States*, 295 U.S. 78, 89, 55 S. Ct. 629, 79 L. Ed. 1314 (1935), (finding that when a defendant is convicted on [weak] evidence and the prosecuting attorney's [misconduct] is pronounced and persistent, the probable cumulative effect of that [misconduct] on the trial, "cannot be disregarded as inconsequential"). *Bagley*, 473 U.S. at 675 n.61 quoting *Berger v. United States*, 295 U.S. 78, 88, 79 L. Ed. 1314, 55 S. Ct. 629 (1935); Moreover, we have not here a case where the misconduct of the prosecuting attorney was slight or confined to a single instance but, one where such misconduct was pronounced persistent, with a probable cumulative effect upon the jury which cannot be disregarded as inconsequential. "A New Trial [must] be awarded." See also *Brady*, 373 U.S. at 87-88. In addition, *United States v. Wallack*, 935 F.2d 445, 456 (2nd Cir. 1991), the state violates a criminal defendant's rights to [due process] of law when it allows "false evidence" to go [uncorrected] when it appears. Quoting *Massiah v. United States*, 377 U.S. 201 (1964), "(Impeachment evidence is material)", by contrast, the government has a constitutional obligation, grounded in "due process", to disclose exculpatory evidence to a defendant who goes to trial. As it is established in the, *Senck's Act* 18 U.S.C. § 3500 (1976), petitioner is entitled to all such materials as described within the *Senck's Act*, "[E]ven in cases as such the court acknowledged wrongdoing and New Trial proceedings were set [citing, *Mesakosh v. United States*, 352 U.S. 1, 9 (1956), (Quote, C4-Explosive Materials), Briefly mentioned in the trial testimony of, Todd Fortner, Exhibit #2 Habeas Corpus petition, Doc. 26-2, Pg. 20-22, *Id.* #. 1577-1593, Trial Tr. 499-515).

Page No.
5 of 30
No. 5592

as stated in petitioner's grounds for reasons #1 there are several evidentiary issues of evidence that was not provided for a defense or presented to the jury for a "Constitutionally Fair Trial," to occur in petitioner, Vance case. There is, (911 cellphone records and recordings) from the month of November 2013. The last (two weeks) of this month, petitioner, Lewis S. Vance was in contact with (911 and government officials) whom was giving petitioner instructions through cellphone messages, as a communication process about the "[C4-Explosive Materials]" and the deceased, Patrick L. Morgan and the vehicle he owned. This evidence material, the documentation of it, petitioner was refused by trial court and any court that followed. Petitioner also requested (additional (DNA) testing) for the mixture of "abrilants" DNA. This request were also refused for this testing. Petitioners have a "Post-Conviction Due Process Right," grounded in, *Brady v. Maryland*, 373 U.S. 83, 1194, 10 L. Ed. 2d 215 (1963), to access evidence that could "undermine faith" in the jury verdict. *Godschalk v. Montgomery County Dist. Attorney's Office*, 177 F. Supp. 2d 366, 370 (E.D. Pa. 2001). [This evidence being a part of petitioner's, "Due Process Constitutional Rights" under *Brady*]. "This evidence is applicable," "the discovery after trial [s] of information which had been known to the prosecution but unknown to the defense," (Quoting *United States v. Agurs*, 427 U.S. 97, 103, 96 S. Ct. 2392, 49 L. Ed. 2d 342 (1976)). "The desire to avoid "Wrongful-Convictions" by providing access to evidence in the prosecution's possession, apply in the Post-conviction context." In *Agurs*, the court held where the evidence is "obviously of such substantial value to the defense" prosecutors have a "Constitutional Duty" to turn it over, even in the absence of a request,

Page No.
6 of 30
No. 5593

427 U.S. at 110 and in *Kyles v. Whitley*, 514 U.S. 419, 115 S. Ct. 1555, 131 L. Ed. 2d 490 (1995), established that "the disclosure obligations included information held by police but unknown to prosecutors," petitioner citing, *Senko v. United States*, 353 U.S. 657, 1 L. Ed. 2d 1103, 77 S. Ct. 1007 (1957); [*Senko Act* 18 U.S.C. § 3500 (1976). This, "Non-disclosure of evidence, the presentation of False Evidence, and the Tampering of evidence by the Law Enforcement officers involved has caused this Fundamental Manifest Miscarriage of Justice Against The Manifest Weight of The Evidence.

In ground #2 of the reasons herein, petitioner states that the evidence presented to the Grand Jury was "not competent" evidence, As argued and presented above. All testimony given was false and opinion as to the proof of the ultimate facts and the Grand Jury could not sustain the indictment constitutionally without the competent affirmative evidentiary facts. Citing, *Strickland v. Washington*, 466 U.S. 664, 104 S. Ct. 2052 (1984), [Failure to address "constitutional error" or issues is acts of, "[Prejudice]", when the court has the ability to do so]. Petitioner, Lewis James Vance was "Acquitted" of (5) counts against him, "resulting in [insufficient evidence]", from inconsistencies in statements and trial testimonies. This false testimony falls within the, "Brady disclosure doctrine." *Brady v. Maryland*, 373 U.S. 83 (1963). As argued in petitioners Federal Habeas Petition, "the testimonies of all presented "witnesses in connection" to the crime was false and perjured." *Brady v. Maryland*, 373 U.S. 83 (1963) and *Biglia v. United States*, 405 U.S. 150, 153-54, 92 S. Ct. 763, 31 L. Ed. 2d 104 (1972), "in favor of the defendant false, (Perjured) testimony could have affected the decisions of the jury." "The Supreme Court has long recognized that, "Due Process" is denied where the, [the] State has contrived a

Page No.
7 of 30
No. 5595

conviction through the pretense of a trial which in truth is but as a means of depriving a dependant of liberty through a deliberate deception of court and jury by the presentation of testimony known to be "perjured". Napue v. Illinois, 360 U.S. 264, 269, 79 S. Ct. 1173, 3 L. Ed. 2d 1217 (1959). "If a conviction is obtained through the knowing use of a perjured testimony, it 'Must be set aside' if there is any reasonable likelihood that the false testimony could have affected the judgment of the jury." United States v. Wong, 78 F. 3d 73, 79 (2nd Cir. 1996). The dignity of the United States, "I will not permit" the conviction of any person on "tainted" testimony. An "Acquittal" is a showing of "insufficient evidence" resulting in a wrongful conviction. As presented in, Ground # 3 of petitioner's Federal Habeas Corpus petition, Traverse. Petitioner, Vance continues as to date, discover "New Evidence" as presented in, (Exhibit # 4 Pg. 1 through 81) of his Habeas Traverse and additional evidence presented herein proving his "Actual Innocence". This "New Evidence" has been presented from petitioner's sentencing on 12/6/2016 and throughout state courts and into his Federal Habeas Corpus proceedings hereto. Citing Lewis v. Quarterman, 541 F. 3d 280, 284-85 (5th Cir. 2008), Evidence is material if it fundamentally alters, [not merely supplements], the claim presented in state court, 541 F. 3d at 284-85. Thus, "if new evidence is determined to be exhausted, (because it merely supplements the claim first presented in state court), it may be considered by the Federal Court." Petitioner has received "confessions" and signed notarized statements of "Third parties involvement" and their participation in the crime committed on November 29th, 2013 against the deceased and Petitioner, Lewis James Vance.

In ground #3 of the reasons for review presented herein, as argued is the, "Misrepresentation of facts," and failures from counsel's investigation insufficiently providing a defense and not constitutionally providing equal protection of petitioners, "Sixth Amendment Rights" in his defense. Citing, *Hughes v. United States* 258 F. 3d 453, [Remanded Ordering New Trial], "Whether petitioner was satisfied with defense or appellate counsel is not at issue. The [Fundamental] question is rather whether, "petitioner's conviction should be [vacated]" due to ineffectiveness of his trial, appellate or any [previously appointed counsel], "for denial of, "[equal protection rights]"; *Strickland v. Washington*, 466 U.S. 669 (1984), Failure to file and properly raise a issue or constitutional claim or preserve it for appeal constitutes, "ineffective assistance of counsel." The deficient performance was the failure to raise the arguments at trial and at sentencing, the [prejudice] was the court's failure to address the issues in trial and on direct appeal. *Detrick v. Ryan*, 740 F. 3d 1237 (2013), "[Refusal to raise or argue, [trial counsel's] deficient performance and ineffective assistance of counsel or other counsel's state provided for hearings]." Prejudice was performed by the courts that had the ability to address the constitutional errors and issues in trial, on direct appeal or on a Remand, and appellate counsel's deficient performance was for failing to raise the arguments. *United States v. Cronis*, 466 U.S. 648, 104 S. Ct. 2039, 80 L. Ed. 2d 657 (1984), In *Cronis*, The United States Supreme Court held that where counsel's conduct is [egregiously prejudicial], any showing that there is a reasonable probability that the outcome would have been different is required, and prejudice and ineffective assistance are presumed, *Cronis*, 466 U.S. at 658-62. The Due Process

Page No.
9 of 30
No. 5625

"protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime within which he or she is charged." In re Winship, 397 U.S. 358, 364, 90 S. Ct. 1068, 25 L. Ed. 2d 368 (1970), Consequently, where a state prisoner alleges the evidence in support of his or her conviction cannot be fairly characterized as sufficient, to have led a rational trier of fact to find guilt beyond a reasonable doubt, such as petitioner states his constitutional claim, citing, Jackson v. Virginia, 443 U.S. 307, 321, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979), which, when proven entitles him or her to federal habeas relief." R
"[Fundamental Manifest Miscarriage of Justice Against The Weight of Evidence]", has without a doubt been preformed in petitioner Vance's case. The "¹⁹Hamingship" used in his case from the trial court, prosecution and Law Enforcement that used, "Entrapment" for this "Wrongful Conviction" was further allowed to proceed through an "Un-Constitutional Trial". That in all reality was a trial in a court that "did not have the jurisdiction" to hold a constitutional trial to convict in the first place because of the issues discribed in, Ground (1) of the reasons under review herein. Petitioner Citing, People v. Bergerud, 203 P. 3d 579, (Reversed, Remanded ordering a New Trial), (Self-defense). In Bergerud, it states, "(Ordinarily, a dependant who is competent to stand trial has the 'rights' to determine the nature of his or her defense, and correspondingly, what plea to enter.)", (No matter how overwhelming the evidence a criminal dependant is entitled to an innocence defense), [Self-Defense]. There the self-defense claim dependant wanted counsel to raise was a defense of, [complete innocence] (dependants "theory of innocence was predicated on self-defense"), (Under self-defense provisions, "Conduct which

Page No.
10 of 30
No. 5626

would otherwise constitute an offense is justifiable and not criminal." while it is an affirmative defense, requiring a defendant to "present some credible evidence on that issue," this means just a "[scintilla of evidence]"; some evidence viewed most favorably to the defendant that could support a jury finding in his or her favor. Once properly raised, the prosecution bears the burden of disproving self-defense beyond a reasonable doubt. Similarly, in, *State v. Knapp*, 134 N.H. 346, 592 A.2d 1142 (N.H. 1991), the New Hampshire Supreme Court reversed a murder conviction where counsel argued Knapp was guilty of second degree rather than first degree premeditated murder, the court held this argument impermissibly overrode the wishes of a defendant who had "refused to plead guilty to the very jury finding urged by his counsel," "testified.... he was innocent.... of both first and second degree murder," and "urged counsel to argue his, 'total innocence'." Counsel undermined his client's disavowal of guilt. Petitioner's requests and defense of, "[Self-Defense and Total-Innocence]" was not considered or presented for trial defense from his trial counsel, nor did he constitutionally investigate or pursue mitigating evidence, allowing the State to use "false evidence" in the conviction of petitioner, Lewis James Vance. This deficient, misrepresentation of facts and evidence from attorney, [William J. Mooney] as trial counsel is a deliberate deception of a judge and jury, ineffective assistance of trial counsel and is inconsistent with the rudimentary demands of justice. Petitioner Vance counsel's failure to investigate for mitigating evidence was "unreasonable trial strategy" because it made it unlikely that effective evidence would be uncovered. In addition, the state violates a criminal defendant's rights to "due process" of law when it allows "false evidence" to go uncorrected

Page No.
11 of 30
No. 5627

when it appears. There are several issues and errors where trial counsel failed to constitutionally defend and or represent petitioner Vance. In Ground (4) of the reasons to grant this request for jurisdictional transfer petitioner presents prosecutor's presentation of "false and insufficient evidence", inconsistent statements and trial testimonies at trial, falsified material evidence to the, Grand Jury and Court, the "Brimmingship and Entrapment" used to contrive, the "Wrongful Conviction" of, Petitioner, Lewis J. Vance. First is the false and insufficient evidence from the prosecutor's presentation, Patrick L. Morgan was shot by, two different shooters and not stabbed to death as the cause was said to be. One of the two things has occurred in collection and chain-of-custody or the preservation of evidence and evidence items. As argued in, Ground (3) of petitioner-appellant's habeas corpus traverse. (1) The Jackson County Law Enforcement officers [did not] present the shooting of the deceased for evidence and or all evidence collected to the prosecution for presentation to the Grand Jury and for trial procedures for a Constitutionally "Fair Trial." and or, (2) The prosecution itself just refused to present the evidence materials for this process of a "Fair Trial" to occur. Petitioner-Appellant citing, Brady v. Maryland, 373 U.S. 83 (1963); Bigler v. United States, 405 U.S. 150 (1972); Berger v. United States, 295 U.S. 78 (1935); Mooney v. Holahan, 294 U.S. 103 (1935); In re Application of Mooney, 10 Cal. 2d 1 (1937); People v. Mooney, 176 Cal. 105 (1917); Plessey v. Ferguson, 163 U.S. 537 (1896); Sones v. Kentucky, 97 F. 2d 335 (1938); Raley v. Ohio, 360 U.S. 423 (1959); Haley v. Ohio, 332 U.S. 596 (1948); Weatherford v. Bursey, 429 U.S. 545 (1977); United States v. Amaral, 488 F. 2d 1148 (1973) Leading Case; Arizona v. Youngblood, 488 U.S. 51 (1988); United States v. Sanchez, 176 F. 3d 1214 (1999); United States v. Christopher, 833 F. 2d 1296 (1987); United States v. Bagley, 473 U.S. 667 (1985);

Page No.
12 of 30
No. 5807

and in Sykes v. Anderson, 625 F.3d 294 (2010), stating, in Moldovan v. City of Warren, a panel of this circuit recently rejected such an argument and held that FR23 "the due process guarantees recognized in Brady" also impose an analogous or derivative obligation on the police, and that a violation of that obligation can result in civil liability. Moldovan v. City of Warren, 578 F.3d 351 (2009), quoting Banks v. Dretke, 540 U.S. 668 (2004), ("When police or prosecutors conceal significant [exculpatory or impeaching] material in the State's possession, it is ordinarily incumbent on the State to set the record straight," (emphasis added)). On the contrary, although the prosecutor is the state's "official representative.... in the prosecution of the case," we have recognized that the police "also play[an] active role in the prosecution." William v. Williams, 516 F.2d 1344 (1975), Vacated in part, 424 U.S. 961, 968, Ct. 1453, 47 L.Ed2d 729, aff'd on remand, 540 F.2d 220 (6th Cir. 1976) see also Walker v. Lockhart, 763 F.2d 942 (1985), ("Police are treated as an arm of the prosecution for Brady purposes."). Because the prosecutor's office generally lacks its own investigative machinery, prosecutors often are entirely dependent on the police to turn over the fruits of their investigation. As a result of this interdependence, the police play[an] a different, but no less significant role in the state's "Search for the truth in criminal trials." Strickler, 527 U.S. at 281, Citing Brady v. Maryland, 373 U.S. 83 (1963) stating that the suppression by prosecutors of evidence favorable to an accused violates "due process" rights, see United States v. Bagley, 473 U.S. 667 (1985) (explaining that the "purpose" of the Brady rule is "to ensure that a miscarriage of justice does not occur"), demands that "Brady's" protections also extend to actions of other law enforcement officers such as investigating officers." Petitioner citing Lewis v. Lambert, 388 F.3d 1052 (2004) quoting Williams, 529 U.S. at 395, (finding deficient performance where Counsel "failed to conduct an investigation that would

Page No.
13 of 30
No. 5810

have uncovered extensive records graphically describing Williams' "nightmarish childhood"). Applying *Strickland*, we have repeatedly found that counsel's failure to investigate potential witnesses can constitute deficient performance. In *Washington v. Smith*, 219 F.3d 620 (2000), for example, we found that the Wisconsin trial court had unreasonably applied "*Strickland*" in finding that counsel was not deficient when he investigated only one of [1063] the 14 witnesses identified by the defendant and made only half-hearted efforts to locate that witness, *id.* at 630-31. Emphasizing that "a failure to investigate can^{not} 27] Certainly constitute ineffective assistance," we stated that "telling a client, who is in custody awaiting trial, to produce his own witnesses... falls painfully short of conducting a reasonable investigation," *id.* at 631. "Had [the Wisconsin Court] properly applied *Strickland*, it would have concluded that [Counsel's] failure to subpoena a hard-to-find witness until the eleventh hour and his failure to try to ascertain what 'exculpatory' evidence 'new' witnesses might have were flagrant examples of ineffective assistance." *Id.* at 631-32. This rule of law also applied to petitioner Vance's postconviction and petition to vacate or set aside judgment of conviction concerning requested witnesses in Vance's case, and the subpoenaed trial witness, "Jeremy Poe" that the trial court and counsel refused to secure as a trial witness for trial, petitioner citing *Strickland v. Washington*, 466 U.S. 668 (1984). Trial counsel also refused to subpoena or investigate the evidence they held and was provided to him from defendant Vance, those witnesses were, Christina White, Shane Poe, and Nathan Bradden, petitioner has exculpatory evidence on all, there was also witnesses ^{such} ~~such~~ as Jeremy Ulyatt, Ashley Ross, and Frank Mapes that petitioner, Vance was refused his equal protection Constitutional Rights. This was arguments within petitioners filed, 6/30/2017 motions

Fig. No. 14 of 30
No. 5812

Page No.
15 of 30
No. 5813

served his, "Jeremy Poe" "Subpoena" on, October 17th, 2016, the day of petitioner's trial and was unavailable for trial testimony or refused to be present to provide his trial testimonial Statement as a "Direct Witness". In the trial testimony of, Phillip S. Lemaster, he stated that he was contacted by Jeremy Poe and involved in the Planning of the Attack of Defendant, Lewis S. Vance and the deceased Patrick Morgan and that he did proceed with those plans when they all gathered as a group in one location, for the planning, left that location and committed Aggravated Criminal Trespassing with intent to Kill another, some did expect payment and some paying them to complete the attack at any cost to human life as they did when they entered the property and dwelling or structure in this intent. Their trial testimonies providing proof of the planning and intent with payment. The assurance of the appearance and trial witness, Jeremy Poe's testimony is a Federal Constitutional Right grounded within law, the accused was charged with overall, aggravated murder. Whether or not the State trial court, the "Prosecution", defense attorney, or law enforcement chooses to provide Unconstitutionally, Defendant, Lewis S. Vance a fair trial or not, the Federal Constitution provides him with federal rights to confront all "witnesses" of his choosing or the State's of whom are against him. Petitioner citing, *Alford v. United States*, 282 U.S. 687 (1931) citing *People v. Becker*, 210 N.Y. 274 (1914); *Monroe v. Collins*, 17 Ohio St. 665 (1867); *Harris v. State*, 103 Ohio St. 1 (1921); *Sunderland v. United States*, 19 F. 2d 202 (1927); *Berger v. United States*, 295 U.S. 98 (1935); *In re Mooney*, 10 Cal. 2d 1 (1937); *Jones v. Kentucky*, 97 F. 2d 335 (1938); *Ray v. Kansas*, 317 U.S. 213 (1942); *Malley v. Ohio*, 332 U.S. 596 (1948); *London v. United States*, 344 U.S. 414 (1953); *United States v. United States Dist. Court*, 209 F. 2d 577 (1954); *Durling v. Mayo*, 351 U.S. 277 (1956); *Roviano v. United States*, 353 U.S. 53 (1957); *Seneca v. United*

Pg. No.
16 of 30
No. 5814

States, 353 U.S. 657 (1957); Tench's Act, 18 U.S.C. § 3500 (b);
Allen v. State, 10 Ohio St. 287 (1859); Raley v. Ohio, 360 U.S. 423
(1959); Ashe v. United States, 288 F.2d 725 (1961); In re Ambler,
60 Cal.2d 554 (1963); Douglas v. California, 372 U.S. 353 (1963);
Townsend v. Sain, 372 U.S. 293 (1963); Drapet v. Washington,
372 U.S. 487 (1963); Pointer v. Texas, 380 U.S. 400 (1965); Dennis
v. United States, 384 U.S. 855 (1966); Miranda v. Arizona, 384
U.S. 436 (1966); Brookhart v. Janis, 384 U.S. 1 (1966);
United States v. Wade, 388 U.S. 218 (1967); United States
v. Keogh, 391 F.2d 138 (1968); Brill v. North Carolina, 404
U.S. 226 (1971); United States v. Agard, 427 U.S. 97 (1976);
Doyle v. Ohio, 426 U.S. 610 (1976); In re Taylor, 567 F.2d
1183 (1977); United States v. Tolliver, 569 F.2d 724 (1978);
Holloway v. McElroy, 474 F.Supp. 1363 (1979); Ohio v.
Roberts, 448 U.S. 56 (1980); Engle v. Isaac, 456 U.S. 107 (1982);
United States v. Jackson, 726 F.2d 1466 (1984); Strickland v.
Washington, 466 U.S. 668 (1984); Del. v. Van Arsdall, 475
U.S. 673 (1986); United States v. Bagley, 473 U.S. 667 (1985);
State v. Jackson, 22 Ohio St. 3d 281 (1986); United States v.
Owens, 484 U.S. 554 (1988); Smart v. Leeke, 856 F.2d 609 (1988);
White v. Ill., 502 U.S. 346 (1992); Kyles v. Whitley, 514 U.S.
419 (1995); Bousley v. United States, 523 U.S. 614 (1998);
United States v. Delgado - Enrriquez, 188 F.3d 592 (1999);
Lilly v. Va., 527 U.S. 116 (1999); DePetris v. Kugler - Bell,
239 F.3d 1057 (2001); Sahamiller v. Stewart, 340 F.3d 877
(2003); Davis v. Lambert, 388 F.3d 1052 (2004); Crawford v.
Washington, 541 U.S. 36 (2004); D'Amrosio v. Bagley, 2006
U.S. Dist. Lexis 12794 (2006); Davis v. Washington, 547 U.S. 813
(2006); In re Grand Jury Subpoena, (04-124-03 and 04-124-
05), 454 F.3d 511 (2006); United States v. Woody, 250 Fed.
Appx. 867 (2007); United States v. Serinigan, 492 F.3d
1050 (2007); Siles v. California, 554 U.S. 353 (2008); In re
McDonald, 514 F.3d 539 (2008); Brinson v. Walker, 547
F.3d 387 (2008); Rutkal v. Mitchell, 559 F.3d 456 (2009);

Moore v. Mitchell, 708 F.3d 760 (2013); United States v. Tavera, 719 F.3d 705 (2013); Liskovic v. Moldas, 724 F.3d 894 (2013); Rosemond v. United States, 572 U.S. 65 (2014); Rapelje v. Blackston, 136 S.Ct. 388 (2015); Weavry v. Cain, 136 S.Ct. 1002 (2016); Selective Ins. Co. v. A.L.L. Ins. Co., 706 Fed. Appx. 260 (2017); United States v. Forbes, 790 F.3d 403 (2015); Issa v. Bradshaw, 904 F.3d 446 (2018); United States v. Aquart, 912 F.3d 1120 (2018); Floyd v. Vannoy, 887 F.3d 214 (2018); Fernandez v. Capra, 916 F.3d 215 (2019); United States v. Arrington, 941 F.3d 24 (2019); United States v. Chinnici, 2019 U.S. Dist. Lexis 218289 (2019); Clark v. Nagy, 934 F.3d 483 (2019); United States v. Lewis, 398 F.Supp.3d 945 (2019); United States v. Lewis, 2020 U.S. Dist. Lexis 4388 (2020); Knight v. Davis, 2020 U.S. App. Lexis 10854 (2020); Reiner v. Woods, 2020 U.S. App. Lexis 10838 (2020); Rhoads v. Ohio State Penitentiary, 2020 U.S. Dist. Lexis 17261 (2020); United States v. Johnson, 2020 CCA Lexis 118 (2020); United States v. Paulus, 952 F.3d 717 (2020); Thomas v. Maas, 2020 U.S. Dist. Lexis 49144 (2020); United States v. Lewis, 65 M.J. 85 (2007); As stated herein and in previously filed motions, petitioner Vance has established his "Self-Defense" against the deceased and many other "Assault-Attacks". Petitioner now has [Many Statements] with (25) different witnesses as of today. Proving the presents, participation, and the attack against, Petitioner, Lewis James Vance and the deceased Patrick L. Morgan on "November 29th 2013". There is many "Statements and Confessions", Tuttle v. People, 33 Colo. 243 (1905); Stating, A statement, to have been voluntarily made, must proceed from the spontaneous suggestion of the party's own mind, free from the influence of any extraneous, disturbing cause." - State v. Clifford, supra. From this definition it seems to us clear that the statements of the dependants before the coroner's [253] jury cannot be regarded as voluntary, when all the surrounding

Pg. No.

17 of 30

No. 5815

Pg. No.
18 of 30
No. 5816

circumstances are considered. True, they were not under arrest; they did not claim the privilege of "[refusing]" to testify because their statements might tend to incriminate them, or because of the facts that they were suspected of being guilty of the homicide; but in all probability, why? To have made such claims would have tended to "increase suspicion" against them, instead of allaying it, [¶ 1039] and in the state of the temper of the community where the homicide had occurred, would almost certainly have resulted in their immediate arrest. They were thus placed in a position where they must necessarily have realized that they were obliged to answer every question propounded to them, or suffer [¶ 15] the serious consequences which would almost certainly have followed, State v. Clifford, 86 Iowa 550 (1892), Reversed, Insufficiency of Evidence. The truth here is that the trial court after the "Subpoena" for [Jeremy Poe] was served to him on, October 17th, 2016, "they" trial court, prosecution, and the defense counsel for petitioner Vance all refused to comply with the Federal Constitutional Rights of, Lewis James Vance and failed in providing him a "fair Constitutional trial" in his defense, petitioner citing, United States v. Baker, 553 F.2d 1013 (1977), refusal to grant defendants a continuance during which the government could secure the attendance of the witnesses was not harmless and "[deprived defendants of their right to a fair trial]" under the Sixth Amendment. Petitioner, Lewis James Vance, [Must] be awarded a New Trial to insure his Federal Constitutional Rights have been met, the trial testimony of "Jeremy Poe", a [Direct witness] was a necessity for trial. Petitioner's case must be reversed and remanded with orders and instructions. This is where the Jurisdictional Error issue begins, (Jury Error). Petitioner, Lewis J. Vance, has been deprived of his Constitutional Rights to a fair trial because of several Constitutional rights violations at his

Page No.
19 of 30
No. 5817

Trial and additional hearings such as his (Remmer Hearing) citing Remmer v. United States, 347 U.S. 227 (1954) In the trial deliberations the complete jury was exposed to [Outside - Case - Information - and Evidence] and evidence information about defendant, and witnesses. Defendant Vance requested, (New Trial Counsel) at his (Remmer Hearing) and was again refused that "Federal Constitutional Right". It is a new hearing ineffectiveness was again an issue and factor of the hearing. In this hearing the prosecution was threatening to both, (defendant and jurors) when the issue of the deceased being "shot" was brought to light, defense counsel also became threatening at this point in trial. A juror was removed from trial deliberations, (Juror #9, Miss Waugh) she is the juror that released the outside information to all jurors. Trial Court let all jury member remain for deliberation, after defendant Vance requested a New Jury because of the taint now within it. An Alternate, (#1, Miss Cardwell) was related to a witness, the "Eyewitness" for the State, Ryan Fultz, (Juror #2, Miss Teach) her and her mother had a personal connection to the prosecutor, (Justin Forett), and (Juror #6, Miss Browning) said she knew the family of Lewis James Vance from her past, Prosecution refused to remove (jurors #2-6- and the Alternate #1). There were cellphones in the jury box and deliberations and communication with individuals sitting in on the trial. There were several jury members that read (newspaper articles) or watched, (television programings) about the defendant. A letter was passed to the judge from deliberations. There was a juror that requested to be removed from jury duties, (Daina Morris) she said there was going to be a (Wrongful Conviction) and she did not want to take part in it, as she passed through the courtroom from deliberations. Defendant, Lewis James Vance requested a "Self-Defense" trial defense and was refused this constitutional right. Trial Court

Pg. No.
20 of 30
No. 5818

did not give (Self-Defense) instructions to the jury. Also trial court did not provide jury instructions on "Military Explosive (C4)", [175-200 pounds], missing from Evidence. The deceased was shot not stabbed as accused defendant was charged. Petitioner citing, United States v. Cornell, 25 F. Cas. 650 (1820); Logan v. United States, 144 U.S. 263 (1892); Turney v. Ohio, 273 U.S. 510 (1927); Witherspoon v. Ill., 391 U.S. 510 (1968); Doins v. McKeen, 605 F.2d 947 (1979); Sykes v. Anderson, 625 F.3d 294 (2010); United States v. Arrington, 941 F.3d 24 (2019); Knight v. Davis, 2020 U.S. App. Lexis 10854 (2020); United States v. Paulus, 952 F.3d 717 (2020); United States v. Craig, 953 F.3d 898 (2020); In re Grand Jury Subpoena's, (2006), (04-124-03 and 04-124-05) 454 F.3d 511 (2006); Flowers v. Mississippi, 139 S.Ct. 2228 (2019); United States v. Robertson, 948 F.3d 912 (2020); Ramos v. Louisiana, 206 L.Ed.2d 583 (2020); United States v. Lewis, 65 M.J. 85, 89 (C.A.A.F. 2007); Jury Instructions, (421.21), "Self-Defense" against danger of Death or Great bodily harm - Use of Deadly Force, (421.23) in Residence, R.C. 2901.05 (Effective 3/28/19 [Rev. 4/13/19], (421.19), 2 421 OJD CR 421.21, CR 421.21, (R.C. 2901.05 (B) (2)), Instructions in, OJD CR 421.24 [Retroactively Applicable], (Affirmative Defense as Self-Defense), CR 425.03, 2 425 OJD CR 425.03, "Shifted the Burden of Proof onto the State of Ohio for 'Self-defense' to the 'Prosecution' at trial and is 'Retroactive Law' if Self-defense was an element of his/her trial process and within Trial Transcriptional Evidence. In all do respect, the trial court and prosecution [Must] hold a New Trial because of the requested jury instructions on 'Self-defense', citing Strickland v. Washington, 466 U.S. 1668 (1984), Counsel's Deficient Performance, United States v. Jackson, 726 F.2d 1466 (1984); Lewis v. United, 146 U.S. 370 (1892); Plattox v. United States, 146 U.S. 140 (1892); People v. Wolf, 183 N.Y. 464 (1906); Sunderland v. United States, 19 F.2d 202 (1927); Sroogian v. American Press Co., 297 U.S. 233 (1936); Wheaton v. United States, 133 F.2d 522 (1943); Turnsend v. Sam, 372 U.S. 293 (1963); Holloway v. McHenry,

474 F. Supp. 1363 (1979); Dandstrom v. Montana, 442 U.S. 510 (1979); Engle v. Isaac, 456 U.S. 107 (1982); Thomas v. Leeke, 725 F.2d 246 (1984); Caldwell v. Mississippi, 472 U.S. 320 (1985); Barton v. Kentucky, 476 U.S. 79 (1986); Smart v. Leeke, 856 F.2d 609 (1988); United States v. Marengi, 893 F. Supp. 85 (1995); Schlup v. Delo, 513 U.S. 298 (1995); Zuern v. Tate, 101 F. Supp. 2d 948 (2000); Samison v. Collins, 100 F. Supp. 2d 647 (2000); McNeil v. Middleton, 344 F.3d 988 (2003); Taylor v. Mitchell, 296 F. Supp. 2d 784 (2003); Pulinario v. Board, 291 F. Supp. 2d 154 (2003); Holland v. Jackson, 542 U.S. 649 (2004); Williams v. Bagley, 380 F.3d 932 (2004); Williams v. Harland, 2005 U.S. Dist. Lexis 13228 (2005); D'Ambrosio v. Bagley, 2006 U.S. Dist. Lexis 12794 (2006); Campbell v. Bradshaw, 2008 U.S. Dist. Lexis 17716 (2008); Sowell v. Anderson, 663 F.3d 783 (2011); Truehill v. Florida, 138 S. Ct. 3 (2017); United States v. Therrien, 847 F.3d 9 (2017); Bonnell v. Mitchell, 301 F. Supp. 2d 698 (2004); Reynolds v. Florida, 139 S. Ct. 27 (2018); United States v. Jepperson, 911 F.3d 1290 (2018); Mitchell v. Wetzol, 2019 U.S. Dist. Lexis 184809 (2019); Jepperson v. United States, 140 S. Ct. 861 (2020); Montgomery v. Secy, Dep't of Corr., 2020 U.S. Dist. Lexis 62949 (2020); Nieves v. Secy, Dep't of Corr., 2020 U.S. App. Lexis 13166 (2020); Yatsko v. Bazioli, 2020 U.S. Dist. Lexis 76923 (2020); Ellis v. Biter, 2020 U.S. Dist. Lexis 55183 (2020); Medina v. Davis, 2020 U.S. Dist. Lexis 71132 (2020); Nelson v. Davis, 952 F.3d 651 (2020); Williams v. Ford, 2020 U.S. Dist. Lexis 59276 (2020). As stated above the trial court also did not give jury instructions on, "(Military Explosives C.4)", previously stated in prior arguments and appeals as, "(Explosive Materials)", no jury instructions also on, "(Explosive Device)" or "Unlawful possession of Explosives". There is trial transcripts of the possible (intent) that the deceased, Patrick Morgan planned to use the explosives and Explosive device in his possession, his, (Blue Nissan truck) wired to blow up.

Pg. No.
21 of 30
No. 5819

Pg. No.

22 of 30

No. 5820

As mentioned in the questioning in the trial testimony of agent, (Todd Fortner) within trial transcript evidence. This material, Military Explosive and Explosive Device as evidence would constitute a lack of Jurisdiction for trial court to sentence the defendant, Lewis James Vance. There was a (175-200 pounds and the Blue Nissan Truck was wired to blow up). This constitutes, [Jurisdictional Error], petitioner citing, *Ex parte Milligan*, 71 U.S. 2 (1866) an (Unlawful Imprisonment), Released from custody, Jurisdictional error, (Alien and Sedition Acts of 1798), President Abraham Lincoln suspension of the writ of habeas corpus during Civil war without Constitutional authority overruled; *Lincoln v. Claflin*, 74 U.S. 132 (1868), a writ of Error; In *Milligan* it states, Mr. A.D. Walker, speaking for General Jackson, made a minority report, in which he put the whole question upon the ground of justification. He said: "That General Jackson and those united with him in the defense of New Orleans, fully behind this emergency, to exist, is beyond all doubt & controversy. If then this was the state of the case, it was the duty of General Jackson to have made the arrest; and the act was not merely excusable but justifiable. It was demanded by Great and overruling necessity.... This great law of necessity - of defense of self, of Home, and of Country - never was designed to be abrogated by any statute, or by any constitution." (As petitioner died November 29th, 2013). This was the law which justified the arrest and detention of the prisoners, and however the act may now be assailed, it has long since received the cordial approbation of the American people. That General Jackson never desired to elevate the military above the civil authority is proved by his conduct during the trial, and after this fine, (Self-Defense is a necessity, stating petitioner, Lewis James Vance). For a trial court to unjustly provide the jury without the required jury instructions on (Self-Defense - Military

Explosive C4 - or Explosive Device) is an Unconstitutional act and violated petitioner, Lewis James Vance Constitutional rights. Citing, In re Application of Mooney, 10 Cal. 2d (1937); United States V. United States Dist. Court, 209 F. 2d 575 (1954); Cole V. Young, 817 F. 2d 412 (1987); Herkington V. Edwards, 1999 U.S. App. 1220 (1999); United States V. Mandis, 600 F. 3d 693 (2010); United States V. Archibald, 685 F. 3d 553 (2012); United States V. Therrien, 847 F. 3d 9 (2017); United States V. Godinez, 955 F. 3d 651 (2020); [1 A Criminal Defense Techniques § 24.02, Prior Recorded testimony]; Grossweiler V. State, 113 Ohio St. 46 (1925); United States V. Morningstar, 456 F. 2d 278 (1972); United States V. Ohio, 614 F. 2d 101 (1979); (Federal Jurisdiction); United States V. Lockwood, 789 F. 3d 773 (7th Cir. 2015); White V. Maxwell, 174 Ohio St. 186 (1963), Jury Instructions on (intent); OAC Ann. 2901.05, Burden and degree of proof; Presumption concerning Reasonable Doubt, (Explosives), [Aggravated Murder] R.C. 2903.01 [Rev. 2/9/19] 2 503 OJL CR 503.01 - 2 509 OJL CR 509.28, Illegal assembly or possession of chemicals or substances for manufacture of a Chemical weapon, Biological Weapon, Radiological or Nuclear Weapon or Explosive Device, R.C. 2909.28, offenses committed on or after 9/10/12, [Rev. 8/5/15]; Jones V. Kentucky, 97 F. 2d 335 (1938); 1 Criminal Defense Techniques § 2.03, (Constitutional Principles); 1 Criminal Defense Techniques Appendix 1 B App. 06 (Brady Motion); 1 Criminal Defense Techniques § 10.09, (Brady Material); Brady V. Maryland, 373 U.S. 83 (1963); (Explosive Military C4), 1 Criminal Investigation Handbook P 17.03; An accused has a constitutional right to (Self-Defense) against an, "Adversary," [The deceased] One that opposes or acts against law enforcement, (Possessing with intent) and public safety's mission, a credible adversary threat, [Petitioner established through and with the help of 911 Cellphone calls] acts or can act with "intent" plus capability, a Complex threat level [2] Credible threat, 1 Criminal Investigation Handbook P 32.06 [2] (a)(b), Counterterrorism

Pg. No.

23 of 30

No. 5820

Pg. No.
24 of 30
No. 5821

Planning; 1 Criminal Investigation Handbook P 32.08 [2] Public Law Requirements, (§17), Post-Emergency Termination procedures, OSHA § 1910.120(g)(6); 1 Criminal Investigation Handbook P 32.10, (18 USC § 2339A), USA Patriot Act of 2001, October 26th, 2001 (OSHA) Responders duties and Responsibilities, (9/11 call made); 1 Criminal Investigation Handbook P 32.05, Role of the Department of Homeland Security, (Homeland Security Act, of 2002, H.R. 5005; 1 Criminal Investigation Handbook P 32.04 [2], and against things or events uncaused or unaware of or the discovery of items of such a military grade of explosives as (C4) and the unknown dangers of such as the "Polveraries" in such cases, like, O.R.C. Ann. 2917.31, (Inducing Panic), 18 USC § 921 (a)(4)(A), Definitions, [Pardon], (Physical Force), 18 USC § 921 (a)(33)(A)(i), [Immunity] 3523 O.S. CR. 523.17, (R.C. 2923.17(D), (2)), Unlawful possession of dangerous ordnance; Illegally Manufacturing or processing Explosives, (offenses committed on and after 7/1/96 [Rev. 1-22-11]; O.R.C. Ann. 2923.11 - Definitions, (M), (K)(2)(3)(4), (M); O.R.C. Ann. 3743.80, Exemptions from provisions; (Knives - "deadly weapon" R.C. 2923.11(A) and Gun, R.C. 2923.11(A), (B)(1)(2), (C)(1), (K)(4); 1 Criminal Investigation Handbook P 32.03, Terrorist threat and Ideology, 18 USC § 2331(3), (5)(A), (B)(i)(iii), (C), Definitions. The Constitutional Rights for Americans to defend themselves in "Self-Defense" and others in the process of preventing such acts, "[Must]" be grounded within our Constitution to live safe and free," [Patrick Morgan possessed this, Military Explosive (C4) with intent in committing unlawful acts and or sell, "His Blue Nissan truck was wired with it at its gas tank", his [intent] was recorded within the "(9/11 calls)" from petitioner Vance for the [month of November]. These unapplied jury instructions Must have been given to the jury members on the request of Defendant, Lewis S. Vance, of self-defense, Military Explosive (C4) and along the lines of protecting the public. There is also what's called, (R.T.S.) - (Rape Trauma Syndrome), Petitioner, Lewis James Vance was

pg. No.
23 of 30
No. 582

a victim of Rape in this attack, (several times in these attacks) Evidence that was not even considered by the, trial court, prosecution, defense counsel, or investigators in petitioner's trial defence or trial, (Prejudice and Discrimination) counsels and law enforcements failure to investigate, prosecution's failure to provide a fair trial, all has, Unconstitutionally and Maliciously prosecuted petitioner Vance through Entrapment and trial courts, [Vexatious Judge J. Christopher S. Regan, causing and allowing the, Fundamental Manifest Miscarriage of Justice Against the Manifest Weight of the Evidence, (Injustice), (Wrongful Conviction). The investigation from the Jackson County, Ohio, law enforcement and the, (BCD) investigators and counsels, Unconstitutionally through Entrapment, False Reports and Deficient Performances in failing to abide by Federal Laws and Rule such as, U.S. Department of State, Rewards for Justice Program and (FBI), | Criminal Investigation Handbook P 32.09 [2], (5) (a), (9) (a); | Criminal Investigation Handbook P 32.07 [2], [3], [4], [5]; | Criminal Investigation Handbook P 14.05, [5], Transfer and Trace Evidence; | Criminal Investigation Handbook P 32.02, Nature and Scope of Terrorism; | Criminal Investigation Handbook P 32.01, Law Enforcements Response to Terrorism; | Organized Crime Control Act of 1970, 70 C.I.S. P. 91452, 2509 O.S. C.R. 509.27, (R.C. 2909.27, [Rev. 5/4/2013]; Armed Career Criminal Act, 18 U.S.C. § 924 (e) (2), (D) (i); New Trial, Federal R. Crim. P. 33; Lewis J. Vance made (numerous) cellphone calls to (911) for Emergency Assistance and Help immediately when he found the, "Truck Bomb, Explosive Device" and for the next month, (November) in this process of, "Listening to (Government officials) and (911 operators) and State Law Enforcement personnel", Petitioner Vance filed in every State and Federal Courts for Orders to obtain his Cellphone Records and 911 Call Records, Through rules

Pg. No.
26 of 30
No. 5823

statutes such as, "(Chapter 22, 22:27, post-conviction remedies),
Alternative to an evidentiary hearing, [First] expand the record
and then reassess whether a hearing is required in view of the
(additional materials). The Cellphone Records-Physical Medical-
Records and Confessions and Statements will prove beyond a
shadow of doubt that calls were made, that petitioner was
seriously injured and that people were there and petitioner
acted in [Self-Defense]; These calls were made to all
emergency personnel to prevent the death of Patrick Morgan
and through Newly Discovered Evidence, (Evid. R. 407, Cell-
phone Records), [if] were provided, showing Subsequent
Remedial Measures, (when after an injury or harm
allegedly caused by an event, Measures are taken in which
[if] taken previously would have made the injury or
harm less likely to occur, [Precautionary Measures were
taken], (911 Cellphone Records) will prove that calls were
made to all Emergency personnel previously, (before the
death of the deceased), for the (Month of November),
and they are connected to the events accused is alleged
to have caused. "Precautionary Measures" were taken to stop
any wrongful acts and or the death of Patrick J. Morgan
from occurring on November 29th 2013. Within the days before
petitioner's (Vance) arrest, him and the deceased were taken
into custody by the Jackson County Sheriff Office, [I of
all places, the (Quick Stop) gas station in Wellston, Ohio
45692, just (2 1/2) blocks from the scene, and they were
both released "within minutes," [After] Jackson County
Sheriff had come into contact with the, [Military C4
Explosives] and "Ordered to go back to the address of 1254
South New York Ave., Wellston, Ohio 45692." Within the days
after this petitioner, Lewis James Vance and the deceased,
Patrick Morgan did engage in mutual combat with each
other and (other attackers) and (assailants) inside the
Home, that "aided and abetted" each other "participating"

Page No.
27 of 30
No. 5824

in acts and actions of, "[Crimes of Violence]", Aggravated Burglary, O.R.C. 2911.12 (A)(1)(2)(3), (B), (1974 Committee Comment to 7151) Risk of serious physical harm, Armed career criminal act, 18 U.S.C. § 924 (e)(2)(B)(ii), 1 R Criminal Defense Techniques § 24.02, Prior Recorded Testimony, [i] in the case declarant becomes an (Unavailable witness), Federal Rules of Evidence 804 (b)(1) and relating crimes of violence such as, "Criminal Trespassing, 18 U.S.C. § 16 (b), Petitioner, citing The First Step Act, 18 U.S.C. § 3553, (F)(1)(C)(2)(3)(4)(5) for Relief", Computing Criminal History, 18 U.S.C. App. § 4 R 1.2 (U.S.S. § 4 R 1.2 (c), Fed. R. Evid. 803 (1) and Prohibited Act A, 21 U.S.C. § 841; A person has a Constitutional right to, "(Jury Instructions, 421.21 against his/her attackers and/or [Adversary], as to "Self-Defense", Defense of Another, and or the Public, Retroactive Law, Self-defense against danger or Death or Great bodily Harm-- Use of Deadly Force, 421.23 in Residence, R.C. 2901.05, (Effective 3/28/19, [Rev. 4/13/19], 421.19, 2 421 OJS CR 421.21, CR 421.21, R.C. 2901.05 (B)(2) instructions in OJS - CR 421.24, Retroactively Applicable, Affirmative Defense, CR 425.03 - 2 425 OJS CR 425.03, Physical Force, 18 U.S.C. § 921 (a)(33)(A)(ii), Patrick Morgan did possess a, (Gun and Knife) threatening Petitioner, Lewis James Vance life, Physically Attacking him (First), Gun, R.C. 2923.11 (A), (B)(1)(2), (C)(1), (K)(4) and Knife, R.C. 2923.11 (A). These "Assault-Attackers" the same, with other weapons used. (1 Criminal Defense Techniques § 10.04 (Brady Motion), citing Brady v. Maryland, 373 U.S. 83 (1963, "Possession of Explosive (C4), 2 509 OJS CR 509.26, [Rev. 5/4/13].) Patrick Morgan did possess with intent, [175-200 pounds] of Military Explosive (C4). Petitioner, Lewis James Vance citing, Senech v. United States, 353 U.S. 657 (1957) and the, Senech Act, 18 U.S.C. § 3500 (b); (USCS Sec. 2254 case (Rule 7, Expanding the Record); Prejudicial Error, 88 RLR 4th 388; New Evidence, Federal Custody, Remedies on motion attacking sentence, 28 U.S.C. §§ 2255 (h), New Evidence of 28 U.S.C. § 2255,

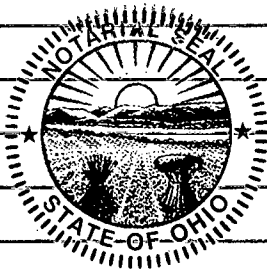
Page No.
28 of 30
No. 5825

Compassionate Release; Rule 11, Criminal Appeals Rules of 1933, 292, U.S. 661 18 USC Formerly, Following § 688, J. cf. Fed. R. Civ. P. Rule 59(a) Permits new evidence into the District Court, (ORC Ann. 2923.17); Crime of Violence, (2) Sulperts Elements, § 924 (c) (3) (A) and Residual, § 924 (c) (3) (B); Explosive Material, 18 USC § 841 (c) Violent Crime. Overall, Jury Instructions on "Self-Defense" is Constitutionally Required by Federal Law when requested, (See Trial Transcript, Case No. 14 CR 0118): Retroactive Laws Apply, as a foundational bedrock in Due Process and the defense of ones self, "[Self-Defense]", see Page 22, Ex parte Milligan, 71 U.S. 2 (1866) and Lincoln v. Clapham, 74 U.S. 132 (1868), Another on our Public, Retroactively and Soundly in our United States Constitution, Petitioner, Lewis James Vance has these Constitutional Laws to Protect himself. This case [Must] be Reversed, Remanded for further proceedings consistent with this courts Order, of a New Trial and or Re-Sentencing to comport with all required ends of justice to be met justly. This failure to give the required jury instructions properly and the several other erroneous evidentiary rulings violated the Constitutional rights of Defendant - Petitioner, Lewis James Vance, citing, Martin v. Elden, 32 Ohio St. 282 (1877), Cross-Examination; Obery v. England, 215 Fed. App. 621 (2006); People v. Esposito, 224 N.Y. 370 (1918); Berger v. United States, 295 U.S. 78 (1935) Himrod Furnace Co. v. Cleveland & M.R. Co., 22 Ohio St. 451 (1872); Harrington v. Lincoln, 68 Mass. 133 (1854); Grant v. Thompson, 4 Conn. 203 (1822); State v. Isaac, La. Ann. 359 (1848); Waller v. Graves, 20 Conn. 305 (1850); Hedge v. Clapp, 22 Conn. 262 (1853); Shaffner v. Commonwealth, 72 Pa. 60 (1872); People v. Molineux, 168 N.Y. 264 (1901); Jackson v. Lewis, 17 S.R. 475; Dutchess of Kingston Case, 11 Har. 242; Lee v. State, 26 Ark. 260 (1870); Alford v. United States, 282 U.S. 687 (1931); People v. Faber, 194 N.Y. 256 (1910); People v. Sheldon, 156 N.Y. 268 (1898); Phylloxera v. Shea,

75 Ga. 466 (1885); *Stokes v. People*, 53 N.Y. 164 (1873);
Page v. State, 3 Ohio St. 229 (1854); *State v. Saunders*,
14 Ore. 300 (1886); *Dick v. State*, 3 Ohio St. 89 (1853); *Bearley*
29 of 30 *v. United States*, 491 F. 2d 687 (1974); *Lucery v. Seabold*, 643
No. 5827 F. 2d 547 (1981); *Kavanaugh v. Lucery*, 1984 U.S. Lexis 1937 (1984);
Zwitts v. Lucery, 469 U.S. 387 (1985); *United States v.*
Soundingsides, 820 F. 2d 1232 (1987); *Baker v. Horn*, 383
F. Supp. 2d 720 (2005); *United States v. Johnson*, 2020
CCA Lexis 118 (2020); *Chambers v. Armontrout*, 907 F. 2d
825 (1990); *Pierce v. Admr. N. S. State Prison*, 2020 U.S.
App. Lexis 11027 (2020), Ineffective Assistance of Counsel;
Even *Al i* (must) say, that when it comes to Federal Rights
errors on Constitutional violations such as, Jurisdictional
Error, Self-Defense, Unavailable Witnesses, Prosecutorial
Misconduct, and Jury Instructions that incorrect or not
given, there *Must* be a Remand, Ordering a New Trial.
Petitioner, Lewis James Vance case (Must) be found as
Unconstitutional for the constitutional rights violations
that has occurred.

Certificate of Service

I hereby certify that the foregoing, Motion for Jurisdictional
Case Transfer has been sent by Certified Mail to the office of
the, Supreme Court Of The United States, Clerk of Courts at
Washington, D.C. 20543, on this 18th day of June,
2020



DIANE MOZENA
NOTARY PUBLIC - OHIO
MY COMMISSION EXPIRES 04-04-2024

Diane Mozena
6/18/2020

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