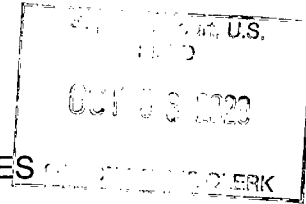


No. 20-6074

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Timothy Paige
(Your Name) (PRO SE) — PETITIONER

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

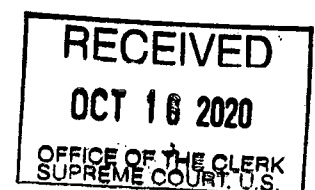
PETITION FOR WRIT OF CERTIORARI

Timothy Paige (REG NO: 19184-104)
(Your Name)

U.S. P. LEE, P.O. BOX 305
(Address)

JONESVILLE, VA, 24263
(City, State, Zip Code)

(Phone Number)



QUESTION(S) PRESENTED

1. WHEN CHARGED WITH VIOLATING 18. U.S.C § 922(g)(1) COUPLED WITH § 924(a)(2), DOES THE DISTRICT COURT RETAIN JURISDICTION TO CHARGE AN OFFENSE THAT ISN'T COGNIZABLE UNDER THE AUTHORITY OF THE UNITED STATES BY OMITTING AN REQUIRED ELEMENT?
2. WHEN CHARGED WITH VIOLATING 18. U.S.C § 922(g)(1) COUPLED WITH § 924(a)(2), IF YOU WEREN'T GIVEN "TRUE NOTICE" OF THE MENS REA IS THAT AN "FAIR AND JUST" REASON UNDER F.E.D. R CRIM. p.(11) (D)(2)(B) FOR GUILTY PLEA AGREEMENTS TO BE WITHDRAWN, DUE TO AN "CONSTITUTIONALLY INVALID" PLEA AGREEMENT?

LIST OF PARTIES AND RELATED CASES

RELATED CASES :

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SMITH V. O'GRADY

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507 U.S. 725, 732 (1993)

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STATUTES, CODES, and RULES

TITLE 18, UNITED STATES CODE, § 922(g)(1)

TITLE 18, UNITED STATES CODE, § 924(a)(2)

TITLE 18, UNITED STATES CODE, § 924(c)(1)(a)

TITLE 21, UNITED STATES CODE, § 841(a)(1)

TITLE 21, UNITED STATES CODE, § 841(B)(1)(C)

TITLE 21, UNITED STATES CODE, § 841(B)(1)(D)

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FED. R. CRIM. p. 11(C)

FED. CRIM. R. 32(d)

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 U.S. P. LEE, P.O. BOX 305; 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☐ is unpublished.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 N/A to the petition and is

- ☐ reported at _____; or,
☒ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the THE FIFTEENTH JUDICIAL CIRCUIT court appears at Appendix B to the petition and is

- ☐ reported at _____; or,
☒ has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 8/11/2020.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

UNITED STATES CONSTITUTION, ARTICLE I SECTION 8 CLAUSE 17
AUTHORITY OVER PLACES PURCHASED OR CEDED
TO EXERCISE EXCLUSIVE LEGISLATION IN ALL CASES
WHATSOEVER, OVER SUCH DISTRICT COURT (NOT EXCEEDING
TEN MILES SQUARE) AS MAY, BY CESSION OF PARTICULAR
STATES, AND THE ACCEPTANCE OF CONGRESS, BECOME
THE SEAT OF THE GOVERNMENT OF THE UNITED STATES,
AND TO EXERCISE LIKE AUTHORITY OVER ALL PLACES
PURCHASED BY THE CONSENT OF THE LEGISLATURE OF
THE STATE IN WHICH THE SAME SHALL BE, FOR THE
ERECTION OF FORTS, MAGAZINES, ARSENALS, DOCK YARDS,
AND OTHER NEEDFUL BUILDINGS.

UNITED STATES CONSTITUTION, ARTICLE III SECTION 2 CLAUSE 1
THE JUDICIAL POWER SHALL EXTEND TO ALL CASES, IN LAW
AND EQUITY, ARISING UNDER THIS CONSTITUTION, THE LAWS
OF THE UNITED STATES AND TREATIES MADE, OR WHICH
SHALL BE MADE UNDER THEIR AUTHORITY TO ALL
CASES AFFECTING AMBASSADORS, OTHER PUBLIC MINISTERS
AND CONSULS; TO ALL CASES OF ADMIRALTY AND
MARITIME JURISDICTION TO CONTROVERSIES TO WHICH THE
UNITED STATES SHALL BE A PARTY TO CONTROVERSIES
BETWEEN TWO OR MORE STATES [BETWEEN A STATE AND
CITIZENS OF ANOTHER STATE] BETWEEN CITIZENS OF
DIFFERENT STATES, BETWEEN CITIZENS OF THE SAME
STATE CLAIMING LAND UNDER GRANTS OF DIFFERENT
STATES, AND BETWEEN A STATE, OR THE CITIZEN THEREOF,
AND FOREIGN STATES, CITIZENS OR SUBJECT.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED (CONTINUING)

5TH AMENDMENT DUE PROCESS CLAUSE

6TH AMENDMENT EFFECTIVE ASSISTANCE OF COUNSEL

8TH AMENDMENT CRUEL AND UNUSUAL PUNISHMENT

STATUTORY

TITLE 18 UNITED STATES CODE 922(g)(1), 924(a)(2)

(1) A STATUS ELEMENT (HERE "BEING AN ALIEN ... ILLEGALLY OR UNLAWFULLY IN THE UNITED STATES") (2) A POSSESSION ELEMENT (TO "POSSESS") (3) A JURISDICTION ELEMENT ("IN OR AFFECTING COMMERCE") (4) A FIREARM ELEMENT (A "FIREARM OR AMMUNITION")

STATEMENT OF THE CASE

(a) FACTUAL AND PROCEDURAL BACKGROUND

ON AUGUST 23, 2018 PETITIONER (TIMOTHY PAIGE) WAS ISSUED A CRIMINAL COMPLAINT "HANDED OVER" FROM A NOBIS PROSSE CASE, IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT WHO COULDN'T PROVE ALL THE LEGALLY REQUIRED ELEMENTS OF THE CRIME ALLEGED AND IS INSUFFICIENT TO SUPPORT A CRIMINAL PROSECUTION, WHICH WAS DATED AUGUST 21, 2017. THE CRIMINAL COMPLAINT OFFENSES CONTAINED TITLE 21, UNITED STATES CODE, SECTIONS 841(A)(1), 841(B)(1)(D), TITLE 18, UNITED STATES CODE, SECTIONS 924(C)(1)(A) AND TITLE 18, UNITED STATES CODE, SECTIONS 922(g)(1).

PETITIONER WAS DETAINED WITHOUT INCIDENT SEPTEMBER 21, 2018, AFTER NOT ACCEPTING THE PLEA AGREEMENTS FROM OCTOBER 23, 2018, NOVEMBER 5, 2018, AND NOVEMBER 20, 2018.

PETITIONER WAS CHARGED IN A 12-COUNT INDICTMENT WITH VARIOUS DRUG AND FIREARM CHARGES. [DKT. 21]. AT ARRAIGNMENT, PETITIONER ENTER A PLEA NOT GUILTY, [DKT. 23].

APRIL 4TH, 2019 A CHANGE OF PLEA HEARING WAS HELD BY THE TRIAL COURT. [R: 1-93] PETITIONER EXPRESSED DOUBTS ABOUT CHANGING HIS PLEA AND ABOUT THE PROPOSED PLEA AGREEMENT OFFER FROM THE GOVERNMENT DUE TO THE MENS REA OF HIS INNOCENT ACT. [R: 67: 58-61] AT THAT POINT COUNSEL AT THE TIME ASKED THE COURT IF "WE CAN HAVE A MOMENT" TO "SHOCK THE CONSCIENCE" OF THE

PETITIONER DUE TO HIS POOR REPRESENTATION SKILLS WHICH AFFECTED THE PETITIONER DECISION² TO PLEAD GUILTY. [R:67:61, LINE 2] WHICH ENGAGED OFF THE RECORD.

² PETITIONER RELIANCE ON UNITED STATES V. DOMINGUEZ BENITEZ, 542 U.S. 74, 83 (2004) CITING STRICKLAND V. WASHINGTON, 466 U.S. 668, 694 (1984) (HOLDING TO ESTABLISH THAT A RULE 11 ERROR HAS AFFECTED SUBSTANTIAL RIGHTS, A DEFENDANT MUST "SHOW A REASONABLE PROBABILITY THAT, BUT FOR THE ERROR, HE WOULD NOT HAVE ENTERED THE PLEA... AND SATISFY THE JUDGEMENT OF THE REVIEWING COURT, INFORMED BY THE ENTIRE RECORD, THAT THE PROBABILITY OF A DIFFERENT RESULT IS SUFFICIENT TO UNDERMINE THE CONFIDENCE IN THE OUTCOME OF THE PROCEEDINGS." BUT "FOR COUNSEL'S ERRORS, HE WOULD NOT HAVE PLEADED GUILTY AND WOULD HAVE INSISTED ON GOING TO TRIAL". (QUOTING HILL V. LOCKHART 474 U.S. 52, 59 (1985), ALSO HE DID NOT "POSSESS AN UNDERSTANDING OF THE LAW IN RELATION TO THE FACTS," SO HIS GUILTY PLEA VIOLATED DUE PROCESS AND WAS VOID. MCCARTHY, 394 U.S. AT 466. (QUOTING SMITH V. O'GRADY, 312 U.S. 329, 334 (1941))

ON APRIL 4TH THE COURTS ACCEPTED THE PLEA AGREEMENT TO COUNT 10, 11, AND 12, "KNOWINGLY, INTELLIGENTLY AND VOLUNTARY."

APRIL 7TH, 2019 PETITIONER TRIED TO WITHDRAW THE WAIVER FROM THE PLEA AGREEMENT, BY PRO-SE MOTION. [DKT. 65]. AS THE PETITIONER REALIZED THE "ABUSIVE TACTICS" THE COUNSEL AT THE TIME COMMITTED BY MISLEADING HIM TO THINKING IT WAS THE SAME AGREEMENT FROM MARCH 20, 2019, WHEN THE LANGUAGE WAS CHANGED SECONDS BEFORE IT WAS ACCEPTED.

PETITIONER ASSERTED A PRO-SE MOTION OF INEFFECTIVE OF ASSISTANCE OF COUNSEL WHICH WAS ENTERED

JUNE 6, 2019 [DKT. 70]. Approximately six days later JUNE 12, 2019 COUNSEL AT THE TIME PUT IN A MOTION TO WITHDRAW AND WAS GRANTED ON JUNE 13, 2019. [DKT. 80], ON THE EXACT DATE JUNE 13, 2019 PETITIONER WAS APPOINTED NEW COUNSEL BY THE COURTS. PROCEEDING WITH COUNSEL PETITIONER TRIED TO WITHDRAW HIS PLEA ON JUNE 25, 2019.² [DKT. 85]

AT THIS TIME THE SUPREME COURT HAD DECIDED REHAIF FOUR DAYS PRIOR ON JUNE 21, 2019 HOLDING SECTIONS 924(a)(2) "KNOWINGLY" ELEMENT MUST APPLY TO THE DEFENDANTS "STATUS." NEW COUNSEL ASSERTED AN FRIVOLOUS ARGUMENT AND FAILED TO RAISE THE REHAIF CLAIM INTO DEMONSTRATING PETITIONER "CAN SHOW A FAIR AND JUST REASON" FOR REQUESTING THE WITHDRAWAL. FED. R. CRIM. P. 11(D)(2)(B). WHICH PETITIONER ASKED HIS ATTORNEY TO ASSERT. PETITIONER PLEA AGREEMENT WAS CONSTITUTIONALLY INVALID, BASED ON THE MISINTERPRETATION AND THE OMISSION OF § 924(a)(2) KNOWING ELEMENT [AT THAT POINT] PETITIONER PLEA COULD NOT HAVE BEEN KNOWINGLY AND VOLUNTARY LACKING THE "TRUE NOTICE" OF THE CRIME, WHERE HE COULD HAVE PLACED FORTH AN ADEQUATE DEFENSE TO CONTEND HE DIDN'T COMMIT THE CRIME, OR CHALLENGE HIS INDICTMENT TO DEMONSTRATE THE COURT LACKS JURISDICTION TO PROCEED TO CONVICT AND SENTENCE THIS PETITIONER FOR A CRIME NOT ENACTED AND DEFINED BY CONGRESS.¹

² PETITIONER'S RELIANCE ON THE SUBSTANTIVE CHANGE IN LAW PROVIDED BY REHAIF V. UNITED STATES, 139 S. CT. 2191, 2194 (2019). THIS COURT HELD THAT THE MENS REA OF KNOWLEDGE

UNDER SECTIONS 922(g)(1) coupled with 924(a)(2) APPLIES BOTH TO THE CONDUCT AND TO THE DEFENDANTS "STATUS". AT 2194. WHICH THE GOVERNMENT ADMITTED AND AND COULD NOT PROVE BEYOND A REASONABLE DOUBT, PETITIONER WOULD OF HAD A "FAIR AND JUST" CHANCE AT PROVING HIS INNOCENCE.

AT SENTENCING, SEPTEMBER 26, 2019 PETITIONER OBJECTED THAT HE DIDNT HAVE ADEQUATE NOTICE PROVIDED BY HIS SIXTH AMENDMENT RIGHT TO DEFEND AGAINST THESE ALLEGATIONS THATS VIOLATING HIS FIFTH AMENDMENT RIGHTS OF HIS LIBERTY IN CONJUNCTION. AT THE OUTSET OF THIS WRIT, PETITIONER POINTED OUT THAT HE TRIED TO WITHDRAW HIS PLEA ON JUNE 25, 2019 FOUR DAYS AFTER THE SUPREME COURT RULING IN REHAIF. THEREFORE, COUNSEL AT THE TIME HAD AMPLE OPPORTUNITY TO REVIEW AND GET ABREAST WITH REHAIF BEFORE HE SUBMITTED THE MOTION TO VACATE THE PLEA AND MEMORANDUM OF LAW, ON JULY 15, 2019. [DKT. 92]. SEE SENTENCING [EXHIBITS 1-8], EXHIBIT (4), PAGE (8) (APPENDIX B). THE PETITIONER GAVE NOTICE TO THE COURTS FOR THE RECORD AND HIS ATTORNEY, "HE WILL LIKE TO ARGUE AND PERSERVE UNITED STATES V. REHAIF ISSUE". SO THE COURTS CAN ACKNOWLEDGE THE SUBSTANTIAL CHANGE IN LAW. THE LOWER COURTS PROCEEDED AND SENTENCED PETITIONER TO 191 MONTHS. PETITIONER THEN REQUESTED TO APPEAL HIS CONVICTION.

THE NOTICE OF APPEAL, WAS TIMELY FILED ON OCTOBER 2, 2019. [DKT. 129]. FROM FINAL JUDGEMENT AND SENTENCING RENDERED BY THE DISTRICT COURT ON SEPTEMBER 30, 2019. [DKT. 128]. WHILE ON DIRECT APPEAL DEFENDANT REQUESTED COUNSEL TO SUBMIT THE REHAIF CLAIM THROUGH EMAIL AND NOTORIZED OUTGOING MAIL. APPELLATE COUNSEL FAILED TO ARGUE THIS PETITIONER PLEA AGREEMENT WAS "CONSTITUTIONALLY INVALID" UNDER REHAIF.

PETITIONER THEN SENT A 28(j) PRO-SE MOTION TO KEEP HIS REHAIF CLAIM FROM BEING PROCEDURALLY DEFAULTED, WHICH IS THE VEHICLE FOR SUCH CLAIMS TO BE ADDED OR RAISED FOR THE FIRST TIME AFTER THE BRIEFING HAD ALREADY BEEN COMPLETED. COUNSEL DIDN'T UTILIZE THIS APPROPRIATE STEP, HOWEVER, HAD COUNSEL TAKEN SUCH STEPS THIS CASE WOULD NOT BE AT IT'S PRESENT POSTURE. MORE IMPORTANTLY PETITIONER "COULD HAVE" PRESENTED HIS ARGUMENTS UNDER PLAIN ERROR REVIEW¹. SEE OLAND, 507 U.S. AT 732; WEAVER V. MASSACHUSETTS U.S. ___, 137 S.C.T. 1899, 1907(2017)

PETITIONER INITIALLY REQUESTED COUNSEL TO SUBMIT THE REHAIF CLAIM, BEFORE WRITING A 28(j) MOTION TO THE ELEVENTH CIRCUIT COURT OF APPEAL. SEE (APPENDIX).

THE ELEVENTH CIRCUIT COURT OF APPEAL DENIED PETITIONER DIRECT APPEAL WITHOUT RESPONDING TO HIS REHAIF CLAIM. THE ELEVENTH CIRCUIT COURT OF APPEAL LOOKED OVER THIS SUBSTANTIAL CHANGE IN LAW OF THE SUPREME COURT HOLDING INVOLVING

924(a)(2) application to 922(g)(1) conduct and status, which is applicable to this petitioner.

ON AUGUST 11, 2020 THE ELEVENTH CIRCUIT AFFIRMED THE LOWER COURTS DECISION. SEE (APPENDIX A)

PETITIONER REQUESTED COUNSEL TO APPEAL THEIR DECISION WHICH COUNSEL FAILED TO DO TIMELY.

¹ PETITIONER RELIANCES ON UNITED STATES V. OLAND, 507 U.S. 725, 732 (1993) SUCH ERROR SHOULD BE REVIEWED, A STAND ALONE REHAIF ERROR SATISFY PLAIN ERROR REVIEW BECAUSE SUCH ERROR IS STRUCTURAL, WHICH PER SE AFFECTS A DEFENDANT'S SUBSTANTIAL RIGHTS. WHICH SERIOUSLY AFFECTS THE FAIRNESS, INTEGRITY AND PUBLIC REPUTATION OF THE JUDICIAL PROCEEDINGS AND THEREFORE NEEDS AN CORRECTION FOR SUCH ERROR. ALSO PETITIONER RELIANCE ON WEAVER V. MASSACHUSETTS, 137 S. CT. 1899, 1907-08 (2017), THE COURT ERRORED .IN ACCEPTING PETITIONERS GUILTY PLEA IS STRUCTURAL BECAUSE IT INFRINGED UPON HIS AUTONOMY INTEREST IN "MAK[ING] HIS OWN CHOICES ABOUT THE PROPER WAY TO PROTECT HIS OWN LIBERTY. THE ERROR AFFECTED THE ULTIMATE OUTCOME OF THE PROCEEDINGS.

SUMMARY ARGUMENTS

PETITIONER CONTENDS THAT HIS CONVICTION FOR POSSESSING A FIREARM AS A FELON IN VIOLATION OF 18 U.S.C § 922(g)(1) AND § 924(a)(2), IS INFIRM BECAUSE THE COURTS BELOW DID NOT RECOGNIZE THAT KNOWLEDGE OF "STATUS" IS AN ELEMENT OF THAT OFFENSE. IN REHAIF V. UNITED STATES, 139 S. CT. 2191 (2019), THIS COURT HELD THAT THE MENS REA OF KNOWLEDGE UNDER SECTION 922(g)(1) AND 924(a)(2) APPLIES BOTH TO THE CONDUCT AND TO THE DEFENDANT'S "STATUS," AT 2194.⁽¹⁾

IN THIS SPECIFIC CASE, PETITIONER CONTENDS THAT THE GOVERNMENT'S OMISSION OF THE KNOWLEDGE OF STATUS § 924(a)(2) RENDERS HIS CONVICTION UNDER § 922(g)(1) FOR A NOW NON-CRIMINAL OFFENSE, THAT FURTHER SUPPORTS A FINDING THAT HE WAS NOT FORMALLY INDICTED OR CHARGED.⁽²⁾

AND HIS PLEA AGREEMENT WAS NOT KNOWINGLY, INTELLIGENTLY MADE WHICH MAKES IT INVOLUNTARY, DUE TO THE ERRONEOUS STATUTORY INTERPRETATION OF THE MENS REA PROVISION IN 924(a)(2) WHICH ALL COURTS OF APPEAL HELD IT DID NOT APPLY TO THE DEFENDANT'S STATUS.⁽²⁾

SEE PRIOR PRECEDENT UNITED STATES V. JACKSON, 120 F.3d 1226, 1229 (11th CIRCUIT. 1997).

ARGUMENTS

1. WHEN THE PETITIONER WAS CHARGED WITH VIOLATING 18. U.S.C § 922(g)(1) COUPLED WITH § 924(a)(2), THE DISTRICT COURT DIDN'T RETAIN JURISDICTION TO CHARGE AN OFFENSE THAT WASN'T ENACTED BY CONGRESS, BY OMITTING AN REQUIRED ELEMENT.

IN ESTABLISHING THE FEDERAL PROCEEDINGS THE INDICTMENT FAILED TO CHARGE AN OFFENSE, THAT DIVERT THE COURT JURISDICTION.

Paige CONTENDS HIS INDICTMENT AS BEING DEFECTIVE AND THE COURT LACK SUBJECT-MATTER TO CONVICT AND SENTENCE HIM FOR A CRIME IN WHICH LEGISLATURE DID NOT DEFINE, AS TOWARD THE 922(g)(1) CONVICTION WITH OMISSION OF 924(a)(2) KNOWLEDGE ELEMENT OF THE DEFENDANTS STATUS. (SEE *Id.* A 1350-51 (DISCUSSING UNITED STATES V. COTTON (2002),

BECAUSE THE MISINTERPRETATION OF 922(g)'s REQUIREMENT OF AN [ESSENTIAL ELEMENT] OF 924(a)(2) (KNOWINGLY PROHIBITED DEFENDANT STATUS) THE GRAND JURY DID NOT INDICT AND CHARGE PAIGE FOR THE CRIME IN WHICH HE STANDS CONVICTED. THEREFORE, HIS INDICTMENT FAILS TO CHARGE A FEDERAL CRIME.

Paige CONTENDS LEGISLATURE DEFINES CRIMES IN TERMS OF THE FACTS THAT ARE ESSENTIAL ELEMENTS, AND CONSTITUTIONAL GUARANTEES ATTACH TO THESE FACTS. IN FEDERAL PROSECUTION, "[NO] PERSON SHALL BE HELD TO ANSWER FOR A CAPITAL OR OTHERWISE

charge, which was error by the courts " that MR. paige did knowingly possess a FIREARM and THAT IT WAS IN AND AFFECTING INTERSTATE COMMERCE and THE HE DOES HAVE A PRIOR FELONY CONVICTION". THE COURT FOUND MR. paige WAS AWARE OF THE NATURE OF THE CHARGE and his plea was supported by a FACTUAL BASIS, EVEN AFTER THE DECISION OF REHAIF V. UNITED STATES, 139 S. CT. 2191 (2019) OVER RULING PRECEDENT, JACKSON, 120 F.3d 1226. construing " knowingly " NOT applying TO "STATUS," DEFENDANTS MOTION TO VACATE plea and MEMORANDUM OF LAW WAS DENIED ON AUGUST 30, 2019. [DKT.116]. THE DISTRICT COURT ABUSED ITS DISCRETION BY DENING HIS MOTION TO WITHDRAW HIS PLEA BASE ON THE SETTLED FEDERAL LAW.

CONTINUING ARGUMENT:

2. MR. paige's Guilty plea was CONSTITUTIONALLY INVOLUNTARY. (SEE UNITED STATES V. BROWN, 117 F.3d 471 (11th Cir 1997)).

"[T]he FIRST and MOST UNIVERSALLY RECOGNIZED REQUIREMENT OF DUE PROCESS [I]" SMITH V. O'GRADY, 312 U.S. 329, 334 (1941), is that a guilty plea is NOT VOLUNTARY WITHOUT " " " REAL NOTICE OF THE CHARGE... " " GADDY V. LINAHAN, 780 F.2d 935, 943 (11th Cir. 1986) (CITATION OMITTED.) " REAL NOTICE " MEANS THE DEFENDANT IS AWARE OF THE "ELEMENTS" OF THE CHARGE. MOREOVER, BECAUSE A GUILTY PLEA IS AN ADMISSION OF ALL THE ELEMENTS, SO IT CAN NOT BE TRULY PLEADED GUILTY. THE COURT HELD, IF PROVEN, HIS CLAIM WOULD MEAN HIS GUILTY PLEA WAS

"CONSTITUTIONALLY INVALID."

LIKEWISE, THE RECORD HERE SHOWS THAT NEITHER MR. PAIGE, NOR HIS COUNSEL, NOR THE COURT UNDERSTOOD THE REHAIF ELEMENT WHEN HE PLEADED GUILTY.⁽¹⁾ THE GOVERNMENT RECITED THREE ELEMENTS DURING HIS PLEA COLLOQUY, AND HE STIPULATED TO THE SAME. THE STATUS ELEMENT WAS "HE HAD BEEN CONVICTED OF A FELONY CRIME THAT'S PUNISHABLE BY A TERM OF IMPRISONMENT OF MORE THAN ONE YEAR." HIS STIPULATION TO THIS FACT MERELY SHOWS HE KNEW [BY THE TIME HE PLEADED GUILTY] THAT HE NOW QUALIFIED FOR THIS STATUS. REVIEWING HIS INDICTMENT WOULD NOT HAVE CLUED HIM IN. IN THE INDICTMENT, THE WORD "KNOWINGLY" MODIFIED "POSSESS" AND ITS OBJECT "A FIREARM" R1. IT DID NOT MODIFY THE PRECEDING, INDEPENDENT, "HAVING BEEN CONVICTED" CLAUSE. ITS CITATION TO THE STATUTE WOULD NOT HAVE WARNED HIM OF THE ELEMENT EITHER - AT BEST THAT LANGUAGE WAS INCONCLUSIVE, AS SHOWN BY THE BINDING PRECEDENT AT THE TIME CONSTRUING "KNOWINGLY" NOT TO APPLY TO STATUS. JACKSON, 120 F.3d 1226.

NOT ONLY DID THE PLEA COLLOQUY FAIL TO INFORM MR. PAIGE THAT HE WAS STIPULATING THAT HE KNEW HE HAD A PRIOR CONVICTION FOR AN OFFENSE PUNISHABLE BY OVER A YEAR [WHEN HE POSSESSED A FIREARM], BUT IT FAILED TO INFORM HIM THAT HE WAS STIPULATING TO KNOWING THAT HIS CONVICTION TRIGGERED A BAR ON HIS POSSESSING FIREARMS. REHAIF, 139 S.C.T. AT 2194, SUGGESTS HE MUST POSSESS [THIS] KNOWLEDGE.⁽²⁾ IT FRAMED THE ISSUE AS "WHETHER... THE GOVERNMENT MUST PROVE

THAT THE DEFENDANT KNOWS OF HIS STATUS [as a PERSON BARRED FROM POSSESSING A FIREARM." Id. WHEN THE GOVERNMENT RELIED ON "THE WELL-KNOWN MAXIM THAT 'IGNORANCE OF THE LAW' (OR A 'MISTAKE OF LAW') IS NO EXCUSE[,"] THE COURT RESPONDED THAT THIS "MAXIM DOES NOT NORMALLY APPLY WHERE A DEFENDANT 'HAS A MISTAKEN IMPRESSION CONCERNING [THE LEGAL EFFECT ON SOME COLLATERAL MATTER] AND THAT MISTAKE RESULTS IN HIS MISUNDERSTANDING THE FULL SIGNIFICANCE OF HIS CONDUCT,' THEREBY NEGATING AN ELEMENT OF THE OFFENSE." Id. at 2198 (citations omitted) (italics added).

HENCE, MR. PAIGE HAD TO KNOW THE "LEGAL EFFECT" OF HIS PRIOR CONVICTION TO UNDERSTAND THE "SIGNIFICANCE OF HIS CONDUCT" IN POSSESSING A FIREARM. Id. LACKING THIS UNDERSTANDING WOULD "NEGATE" AN ELEMENT OF HIS OFFENSE - THE REHAIF ELEMENT. HE DID NOT STIPULATE TO KNOWING THE COLLATERAL EFFECT OF HIS PRIOR CONVICTION - THAT HE WAS BARRED FROM POSSESSING FIREARMS.

FINALLY, EVEN IF HE HAD KNOWN, AS A FACTUAL MATTER, ABOUT HIS STATUS AND THE FIREARM PROHIBITION, THIS WOULD NOT MEAN HE UNDERSTOOD THAT THIS KNOWLEDGE WAS AN ELEMENT, SO HE COULD NOT VOLUNTARILY WAIVE HIS RIGHTS ASSOCIATED WITH PUTTING THE GOVERNMENT TO ITS BURDEN OF PROVING THE ELEMENT HE DID NOT "POSSESS AN UNDERSTANDING OF THE LAW IN RELATION TO THE FACTS[,"] SO HIS GUILTY PLEA VIOLATED DUE PROCESS AND WAS VOID. MCCARTHY, 394

U.S. AT 466.

b. CONSTITUTIONALLY INVOLUNTARY GUILTY PLEAS ARE [Per se] REVERSIBLE UNDER BOYKIN V.

ALABAMA, 395 U.S. 238 (1969), AND CONTEMPORARY STRUCTURAL ERROR DOCTRINE.

"because a plea of guilt 'is a conviction,' anything less than an 'affirmative showing' that it was made intelligently and voluntarily amounts to plain error." *Pardue v. Burton*, 26 F.3d 1093, 1096 (11th Cir. 1994) (quoting *Boykin v. Alabama*, 395 U.S. 238, 243 (1969)). In *Boykin*, 395 U.S. at 243, the court refused to presume the defendant's plea was knowingly and voluntarily based on a silent record, and reversed. Subsequent decisions have characterized a violation of *Boykin* as creating a "presumption of invalidity," *Park v. Raley*, 506 U.S. 20, 28 (1992), a presumption of prejudice," *United States v. Owens*, 15 F.3d 995, 1001 (11th Cir. 1994), or as showing that the guilty plea was "presumptively void." *United States v. Medlock*, 12 F.3d 185, 189 (11th Cir. 1994). Justice Alito recognized the categorical implication of the *Rehaif* holding, stating "those for whom direct review has not ended will likely be entitled to a new trial." 139 S. Ct. at 2213⁽³⁾ (Alito, J.; dissenting).

THUS, UNLIKE RUN-OF-THE-MILL VIOLATIONS OF FEDERAL RULE OF CRIMINAL PROCEDURE 11, NO SHOWING OF PREJUDICE IS REQUIRED. THE SUPREME COURT RECOGNIZED

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THIS IN UNITED STATES V. DOMINGUEZ BENITEZ, 542 U.S. 74 (2004), WHEN IT ARTICULATED THE SHOWING OF PREJUDICE NECESSARY UNDER PLAIN ERROR REVIEW OF A RULE 11 ERROR. IT FOUND THE DEFENDANT WOULD HAVE TO SHOW A REASONABLE PROBABILITY THAT BUT FOR THE ERROR HE WOULD NOT HAVE PLEADED GUILTY. ID. 83. IT FLAGGED A "POINT OF CONTRAST WITH THE CONSTITUTIONAL QUESTION OF WHETHER A DEFENDANT'S GUILTY PLEA WAS KNOWINGLY AND VOLUNTARY." ID. 84, N.10. COURTS REVIEWING A RULE 11 VIOLATION SHOULD "CONSIDER... ANY RECORD EVIDENCE TENDING TO SHOW THAT A MISUNDERSTANDING WAS INCONSEQUENTIAL TO A DEFENDANT'S DECISION, OR EVIDENCE INDICATING THE RELATIVE SIGNIFICANCE OF OTHER FACTS THAT MAY HAVE BORNE ON HIS CHOICE REGARDLESS OF ANY RULE 11 ERROR." ID. AT 84. BUT A CONVICTION BASED ON A CONSTITUTIONAL INVOLUNTARY GUILTY PLEA "MUST BE REVERSED[,]," DESPITE "OVERWHELMING EVIDENCE THAT THE DEFENDANT WOULD HAVE PLEADED GUILTY REGARDLESS." ID. AT 84, N.10; SEE ALSO UNITED STATES V. JONES, 266 F. APP'X 901, 902 (11TH CIR. FEB. 26, 2008) (RECOGNIZING THAT INVOLUNTARY GUILTY PLEAS, UNLIKE RULE 11 VIOLATIONS, ARE REVERSABLE NOT WITHSTANDING "OVERWHELMING EVIDENCE OF GUILT," OR PROBABILITY THAT THE DEFENDANT WOULD HAVE ENTERED GUILTY PLEA ABSENT ERROR).

THE BOYKIN PER SE RULE APPLIES TO GUILTY PLEAS ENTERED WITHOUT KNOWING THE ELEMENTS. IN HENDERSON V. MORGAN, 426 U.S. 637, 639 (1976), THE DEFENDANT DID NOT UNDERSTAND THAT "INTENT TO KILL"

WAS AN ELEMENT WHEN HE PLEADED GUILTY TO SECOND DEGREE MURDER. REJECTING THAT THIS WAS A "TECHNICALITY," THE COURT FOUND, EVEN IF "THE PROSECUTOR HAD OVERWHELMING EVIDENCE OF GUILT" NOTHING IN THE RECORD COULD "SUBSTITUTE FOR EITHER A FINDING AFTER TRIAL, OR A VOLUNTARY ADMISSION, THAT RESPONDENT HAD THE REQUISITE INTENT." *Id.* AT 644, 646. LIKEWISE, HERE, THE WEIGHT OF THE EVIDENCE IS IRRELEVANT. AN ADMISSION IN THE CONTEXT OF A GUILTY PLEA IS "MORE THAN A CONFESSION?" IT IS A STIPULATION THAT NO PROOF BY THE PROSECUTION NEED TO BE ADVANCED. *BOYKIN*, 395 U.S. AT 242-243, AND N.4. EVEN IF THERE WAS OVERWHELMING EVIDENCE OF THE REHAIF ELEMENT, MR. PAIGE DIDN'T VOLUNTARILY STIPULATE TO THIS ELEMENT, IN PLEADING GUILTY.

PUT ANOTHER WAY, THE ERROR IS STRUCTURAL. PREJUDICE IS IRRELEVANT, BECAUSE THE ERROR OFFENDS AN INTEREST INDEPENDANT OF THE NEED "TO PROTECT THE DEFENDANT FROM ERRONEOUS CONVICTIONS." *WEAVER V. MASSACHUSETTS*, U.S. , 137 S. CT. 1899, 1907 (2017). A NUMBER OF STRUCTURAL ERROR CASES PROTECT A DEFENDANTS RIGHTS TO MAKE CERTAIN DECISIONS AUTONOMOUSLY. IN *MCKASKIE V. WIGGINS*, 465 U.S. 168, 177, N.8 (1984), THE COURT FOUND THE RIGHT TO SELF REPRESENTATION WAS STRUCTURAL, EVEN THOUGH IT'S EXERCISE "USUALLY INCREASES THE LIKELIHOOD OF A TRIAL OUTCOME UNFAVORABLE" TO HIM. IT STRESSED "[T]HE RIGHT TO APPEAR PRO SE EXISTS TO AFFIRM THE DIGNITY AND AUTONOMY OF THE ACCUSED." *Id.* AT

176-77; SEE ALSO *WEAVER*, 137 S. CT. AT 1908 (NOTING "THE FUNDAMENTAL LEGAL PRINCIPLE THAT A DEFENDANT MUST BE ALLOWED TO MAKE HIS OWN CHOICES ABOUT THE WAY TO PROTECT HIS OWN LIBERTY."); *UNITED STATES V. GONZALEZ-LOPEZ*, 549 U.S. 140 (2006) (DENIAL OF COUNSEL OF CHOICE IS STRUCTURAL ERROR); *CF. MCCOY V. LOUISIANA*, U.S. _____, 138 S. CT. 1500, 1508 (2018) (DISCUSSING DECISIONS RESERVED FOR DEFENDANT). MR. PAIGE WAS NOT PERMITTED TO DECIDE WHETHER TO CONTEST THE RETRAIT ELEMENT, TO INVESTIGATE THE GOVERNMENT'S EVIDENCE OF IT, OR TO NEGOTIATE HIS STIPULATION TO IT. WITHOUT UNDERSTANDING THE ELEMENT, HE WAS NOT ABLE TO "MAKE HIS OWN CHOICES ABOUT THE PROPER WAY TO PROTECT HIS OWN LIBERTY." *WEAVER*, 137 S. CT. AT 1908.

MORE OVER, IT WILL "ALWAYS" BE "FUNDAMENTALLY UNFAIR," *Id.*, TO TELL A DEFENDANT THAT, BY HIS GUILTY PLEA, HE WAS STIPULATING TO ONE THING, ONLY FOR HIM TO FIND OUT LATER THAT HIS GUILTY PLEA REPRESENTED A STIPULATION TO SOMETHING ADDITIONAL. (1) THE IMPLICATIONS OF THIS ERROR ARE EVEN MORE PROBLEMATIC THAN THOSE ERRORS THAT THE *WEAVER* COURT CONSIDERED TO BE "ALWAYS... FUNDAMENTALLY UNFAIR": THE DENIAL OF THE ^{RIGHT TO} COUNSEL, AND THE GIVING OF AN ERRONEOUS REASONABLE DOUBT INSTRUCTION. *Id.* (CITING *GIDEON V. WAINWRIGHT*, 372 U.S. 335, 343-345 (1963) AND *SULLIVAN V. LOUISIANA*, 508 U.S. 275, 279 (1993)). AT LEAST DEFENDANTS WITHOUT COUNSEL, OR DEFENDANTS BURDEN BY A MISLEADING REASONABLE DOUBT INSTRUCTION, (21)

still Retain the BASIC decision OF WHETHER TO ADMIT OR CONTEST AN ESSENTIAL ELEMENT.

C. ALTERNATIVELY, MR. PAIGE'S INVOLUNTARY GUILTY plea caused PREJUDICE.

EVEN IF WE AVOID LABELLING INVOLUNTARY GUILTY PLEAS AS "STRUCTURAL" ERROR, THESE INVOLUNTARY GUILTY PLEAS CAUSED PERJUDICE. PERHAPS SOME INVOLUNTARY GUILTY PLEAS, SUCH AS GUILTY PLEAS ENTERED WITHOUT BEING INFORMED OF A PARTICULAR RIGHT WAIVED, WOULD NOT BE PREJUDICIAL. BUT THE ERROR HERE - A GUILTY PLEA WITHOUT KNOWLEDGE OF AN ESSENTIAL [MENS REA] ELEMENT THAT "SEPERATED] WRONGFUL FROM INNOCENT ACTS[,]" REHAFF, 139 S. CT. AT 2196, IS MORE PERVASIVE, IMPLICATING [EVERY] RIGHT WAIVED. DOMINGUEZ BENITEZ, 542 U.S. AT 848 N. 10, AT LEAST MADE CLEAR THAT WHATEVER SHOWING IS NECESSARY TO REVERSE INVOLUNTARY GUILTY PLEAS IS NOT THE SAME AS THE PREJUDICE INQUIRY RELEVANT TO RULE 11 VIOLATIONS. HENCE, THE ISSUE IS NOT WHETHER MR. PAIGE WOULD HAVE ENTERED A GUILTY PLEA NOTWITHSTANDING THE UNEXPLAINED ELEMENT, AND THE WEIGHT OF THE EVIDENCE AS TO THAT ELEMENT REMAINS IRRELEVANT. MR. PAIGE WAS PREJUDICE IN A DIFFERENT WAY. HE UNKNOWINGLY STIPULATED TO AN ELEMENT WITHOUT HAVING AN OPPORTUNITY TO INVESTIGATE THE GOVERNMENT'S EVIDENCE OF THAT ELEMENT, TO NEGOTIATE HIS AGREEMENT TO STIPULATE TO THE ELEMENT, OR TO PUT THE ELEMENT TO THE JURY. THE REASONS THE ERROR WAS PREJUDICIAL ARE ANALOGOUS TO THE REASONS HE ARGUES IT WAS STRUCTURAL. BUT THIS COURT NEED NOT HOLD THAT CONSTITUTIONALLY INVOLUNTARY

Guilty pleas are always Reversible to Find that the ERROR here prejudiced MR. paige's Rights to Defend his Intrests.

D. Failing to correct the ERROR would seriously affected the Fairness, Integrity, or Public Reputation of the Judicial Proceedings.

THIS COURT SHOULD EXERCISE IT'S Discretion to Reverse BECAUSE THE INVOLUNTARY Guilty plea HERE "seriously affect[s] the Fairness, integrity or public reputation of Judicial proceedings."⁽⁴⁾ UNITED STATES V. OLAND, 507 U.S. 725, 736 (1993). IT IS difficult to Imagine a practice that could more completely discredit the Criminal proceedings than to attribute to a Guilty plea a stipulation to an element of WHICH THE THE DEFENDANT WAS UNAWARE. ALTHOUGH THE REHAIF IS A NEW DEVELOPMENT, a "Judicial construction of a statute is an authoritative statement of what the statute meant before as well as after the decision of the case giving rise to that construction"⁽³⁾ RIVERS V. ROADWAY EXP. INC., 511 U.S. 298, 312-313 (1994). Attributing to the Guilty plea a stipulation that the defendant did NOT KNOWINGLY make might be perceived as a Bait-and-switch, WHICH IS UNIVERSALLY PERCEIVED AS UNFAIR. IT WOULD SEEM EVEN MORE UNFAIR WHEN NOT HAVING THE KNOWLEDGE OF WHAT MAKES A [MALA PROHIBITA] OFFENSE A CRIME
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" is almost as instinctive as the child's familiar exculpatory ' but I didn't mean to [.] ' " MORISSETTE V. UNITED STATES, 342, U.S. 246, 251 (1952).

IN THIS SPECIFIC CASE, THERE WAS AN MISCARRIAGE OF JUSTICE. SEE April 4th plea colloquy, [DKT. 59:10 LINE 9-12, THEN READ pg 12 LINE 4-16]. STATEMENTS BY THE "COURTS" AND THIS "DEFENDANT"; Pg 10: LINES 20-22

THE COURTS: " BUT WERE THERE any OTHER MOTIONS THAT you thought should have BEEN Filed IN THIS case THAT weren't Filed? anything you asked counsel TO DO. IN TERMS OF Filing any motions THAT HE didn't File FOR you"?

THE DEFENDANT:

STATED " FROM July 16, 2017 uh, um (HE) Failed to File a MOTION to dismiss THE INDICTMENT DUE TO FAILURE TO STATE AN OFFENSE "

THE COURTS: THE COURTS MISLEAD THE PETITIONER BY STATING, " FIRST OF ALL THERE IS NO -- IN FEDERAL COURT, THERE IS NO SUCH THING AS A MOTION TO DISMISS THE INDICTMENT FOR NOT STATING A CRIME. NOW, IN STATE COURT you CAN FILE THAT MOTION, BUT YOU'RE NOT IN THE STATE COURT. IN FEDERAL COURT THAT MOTION JUST DOESN'T

IF YOU WANT TO SAY THAT, WHAT THE GOVERNMENT CHARGED ME WITH ISN'T REALLY A CRIME WITH VERY LIMITED EXCEPTIONS THAT DON'T APPLY HERE, YOU HAVE TO GO TO TRIAL, AND YOU HAVE TO MAKE THAT ARGUMENT AFTER THE GOVERNMENT PUTS ON ITS EVIDENCE AT TRIAL.

SO YOU MAY HAVE HEARD SOME FOLKS OVER AT THE JAIL, OR YOU MAY HAVE DONE SOME READING ABOUT MOTIONS TO DISMISS THE INDICTMENT FOR NOT STATING A CRIME. THAT'S [NOT] IN FEDERAL COURT."

FINALLY, THE NOVELTY OF THE REHAIF ELEMENT DOES NOT MEAN THIS COURT SHOULD COUNTENANCE FAILING TO CORRECT THE ERROR. ROSALES-MIRELES V. UNITED STATES, — U.S. —, —, 138 S. CT. 1797, 1906 (2018), MADE CLEAR THAT ERRORS CAN BE SUFFICIENTLY DISREPUTABLE WITHOUT "SHOCKING THE CONSCIENCE." EVEN "INADVERTENT OR UNINTENTIONAL ERRORS" CAN TARNISH THE JUDICIAL PROCEEDINGS THAT TOLERATE THEM. ID. (NOTING IT "REPEATEDLY HAS REVERSED" THESE TYPE OF ERRORS UNDER PLAIN ERROR REVIEW). NOR MAY IT LIMIT REVERSAL TO "CIRCUMSTANCES IN WHICH A MISCARriage OF JUSTICE WOULD RESULT," THAT IS TO SAY, WHERE A DEFENDANT IS ACTUALLY INNOCENT." ID. (CITATION OMITTED). WE UNDERSTAND NOW-

BEFORE MR. PAIGES CONVICTION IS FINAL - WHAT THE LAW, PROPERLY CONSTRUED, HAS ALWAYS REQUIRED. (SEE) RIVERS V. ROADWAY EXPRESS INC, 511 U.S. 298, 312, 313 (1994). IF THE COUNSEL AND LOWER COURT'S DIDN'T COMMIT "ABDUCTION" TO THE PETITIONER HE WOULD HAVE PROCEEDED TO TRIAL AS THE RECORD PROVES.

AFFIRMING HIS CONVICTION AND GUILTY PLEA, THOUGH HE DID NOT HAVE THAT UNDERSTANDING WHEN HE PLEADED GUILTY, WOULD DEGRADE THE INTEGRITY OF THE CRIMINAL PROCESS. "THE DEFENDANT'S STATUS IS THE CRUCIAL ELEMENT SEPARATING INNOCENT FROM WRONGFUL CONDUCT." REHAFF, 139 S. CT. 2197, (QUOTING X-CITEMENT VIDEO, INC., 513 U.S. 64, 73 (1994)).

REASONS FOR GRANTING THE WRIT

THE PETITIONER DECLARES THAT THIS IS AN IMPORTANT QUESTION BECAUSE THE LOWER COURT'S INTERPRETATION OF THE STATUTE INFRINGES UPON THE FUNDAMENTAL PRINCIPLES OF FEDERALISM, AND IS IN DIAMETRICAL OPPOSITION TO THE FIFTH, EIGHTH AND SIXTH AMENDMENT, OF THE UNITED STATES CONSTITUTION. SEE *SANCHEZ-LLANES V. DREGON*, 548

U.S. 331, 334-35 (2006) ("WE GRANTED THE PETITION FOR CERTIORARI IN SIGNIFICANT PART BECAUSE OF THE IMPORTANCE OF QUESTIONS PRESENTED"); *RUMSFELD V. PADILLA*, 542 U.S. 426, 455 (2004) (CERTIORARI SHOULD BE GRANTED DUE TO THE "PROFOUND IMPORTANCE [OF QUESTIONS] TO THE NATION"); *ELK GROVE UNIFIED SCHOOL DIST. V. NEWDON*, 542 U.S. 1, 5 (2004) ("IN LIGHT OF THE OBVIOUS IMPORTANCE OF DECISION WE GRANTED CERTIORARI.")

² THIS HONORABLE COURT, ENFORCES THE FIFTH AMENDMENT GUARANTEES A CRIMINAL DEFENDANT DUE PROCESS IN THE COURSE OF CRIMINAL PROCEEDINGS THAT COULD DEPRIVE HIM OF LIFE, LIBERTY, OR PROPERTY. U.S. CONST., AMEND. V. ALTHOUGH TRIAL BY JURY IS GUARANTEED SPECIFICALLY BY THE SIXTH AMENDMENT, THE RIGHT IS OFTEN WAIVED THROUGH THE COURT'S ACCEPTANCE OF A GUILTY PLEA. A GUILTY PLEA IS BY FAR THE MOST COMMON CRIMINAL PROCEEDING, RENDERING IT "INDISPENSABLE IN THE OPERATION OF THE MODERN CRIMINAL JUSTICE SYSTEM." SEE *DOMINGUEZ BENITEZ*, 542 U.S. AT 75. INDEED, THE VAST MAJORITY OF FEDERAL CRIMINAL CASES ARE RESOLVED THROUGH GUILTY PLEAS. IN FISCAL YEAR 2018, NEARLY 90% OF FEDERAL CRIMINAL DEFENDANTS NATIONWIDE PLEADED GUILTY, WITHIN THE 11TH CIRCUIT EVEN GREATER 96.4 PERCENT.

ACCORDINGLY, THE INTEGRITY OF OUR JUDICIAL PROCESS DEMANDS THAT EACH DEFENDANT WHO PLEADS GUILTY RECEIVE THE PROCESS TO WHICH HE IS DUE. IT IS THE DUTY OF THE COURT TO ENSURE THAT EACH DEFENDANT WHO CHOOSES TO PLEAD GUILTY ENTERS A KNOWING AND VOLUNTARY PLEA.

THE IMPACT OF A GUILTY PLEA UPON A DEFENDANT'S FUNDAMENTAL RIGHTS CANNOT BE OVERSTATED

AN INDIVIDUAL'S CHOICE TO PLEAD GUILTY IS HIS ALONE TO MAKE - AFTER HE HAS BEEN FULLY INFORMED BY THE NATURE OF THE CHARGES AGAINST HIM AND THE CONSEQUENCES OF HIS PLEA. THE WAIVER OF FIFTH AND SIXTH AMENDMENT TRIAL RIGHTS BASED ON A CONSTITUTIONALLY INVALID PLEA UNDERMINES THE CREDIBILITY AND PUBLIC REPUTATION OF JUDICIAL PROCEEDINGS AND FAILS TO FOSTER CONFIDENCE THAT THEY WILL RESULT IN A "FAIR AND RELIABLE DETERMINATION OF GUILT" RATHER THAN A CONVICTION OBTAINED CONTRARY TO CONSTITUTIONAL PRINCIPLES. EVEN WHERE EVIDENCE IN THE RECORD MIGHT TEND TO PROVE A DEFENDANT'S GUILT, HIS RIGHT TO DUE PROCESS WHEN PLEADING GUILTY MUST REMAIN PARAMOUNT. WE RECOGNIZE THE STRUCTURAL INTEGRITY OF THE JUDICIAL PROCESS IS NOT ONLY AT STAKE BUT UNDERMINED WHEN WE PERMIT CONVICTIONS BASED ON CONSTITUTIONALLY INVALID GUILTY PLEAS TO STAND. THERE SHOULD BE NO INSTANCE WHERE SUCH A PLEA IS ACCEPTED FOR THE SAKE OF OBTAINING A CONVICTION, PARTICULARLY WHERE A DEFENDANT [WHO DID NOT] RECEIVE NOTICE OF THE TRUE NATURE OF AN OFFENSE MIGHT UNKNOWINGLY FORGO THE OPPORTUNITY TO RAISE AN AVAILABLE DEFENSE.

AS PLANO MAKES CLEAR, A REVIEWING COURT SHOULD EXERCISE ITS DISCRETION TO GRANT PLAIN ERROR REVIEW "IN THOSE CIRCUMSTANCES IN WHICH A MISCARriage OF JUSTICE WOULD OTHERWISE RESULT." 507 U.S. AT 736. BUT JUSTICE IS NOT ONLY A RESULT. IN CRIMINAL PROCEEDINGS WHERE LIFE AND LIBERTY ARE AT STAKE, IT IS CERTAINLY OUR INTENT THAT "JUSTICE" BE ACHIEVED IN THE RESULT, BUT IT IS OUR MANDATE THAT "JUSTICE" BE ACHIEVED IN THE PROCESS AFFORDED TO THE ACCUSED. TO ALLOW A DISTRICT COURT TO ACCEPT A GUILTY PLEA FROM A DEFENDANT WHO HAS NOT BEEN GIVEN NOTICE OF AN ELEMENT OF THE OFFENSE IN VIOLATION OF HIS FIFTH AMENDMENT DUE PROCESS RIGHTS "WOULD SURLEY CAST DOUBT UPON THE INTEGRITY OF OUR JUDICIAL PROCESS..." PETITIONER ASKS THIS HONORABLE COURT TO EXERCISE ITS DISCRETION TO NOTICE THE ERROR AND GRANT HIM AND ALS THE NATION RELIEF.

CONCLUSION

DUE TO, MAJORITY OF THE NATIONS INDICTMENT(S) BEENING VOID, AN MAJORITY OF THE PETITIONERS PLED AGREEMENT'S BEING "CONSTITUTIONALLY INVALID" FROM THE IMPACT OF REHAIF, 139 S.C.T. 2191, THE PETITION FOR A WRIT OF CERTIORARI SHOULD BE GRANTED.

Respectfully SUBMITTED
Timothy Daige #19184-104