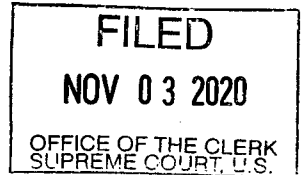


20-7418

No. 19-3544

ORIGINAL

clerk of Court



IN THE

SUPREME COURT OF THE UNITED STATES

Washington D.C. 20543

JAVON Joshua Jennings — PETITIONER  
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For the Eighth Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Joshua Javon Jennings  
(Your Name)

406 North High Street  
(Address)

Amamosa Iowa 52205  
(City, State, Zip Code)

\_\_\_\_\_  
(Phone Number)

**QUESTION(S) PRESENTED**

- (1) Does an informant who did not inform  
assailant that he was a government witness  
Can the assailant still get charged with  
Tampering with a Government Witness?

## LIST OF PARTIES

- [ ] All parties appear in the caption of the case on the cover page.
- [ ] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

## RELATED CASES

*United States v McDermott, 64 F3d 1448  
(10<sup>th</sup> Cir 1995)*

## TABLE OF CONTENTS

|                                                        |   |
|--------------------------------------------------------|---|
| OPINIONS BELOW .....                                   | 1 |
| JURISDICTION.....                                      |   |
| CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED ..... |   |
| STATEMENT OF THE CASE .....                            |   |
| REASONS FOR GRANTING THE WRIT .....                    |   |
| CONCLUSION.....                                        |   |

## INDEX TO APPENDICES

APPENDIX A *Judgment*

APPENDIX B

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

## **TABLE OF AUTHORITIES CITED**

**CASES**

**PAGE NUMBER**

**STATUTES AND RULES**

**OTHER**

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 1:19-CR-00018-RGE-1; 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☐ is unpublished.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 \_\_\_\_\_ to the petition and is

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☐ is unpublished.

☐ For cases from **state courts**:

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

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

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

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

## JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was July 23, 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 January 22, 2021 (date) on January 22, 2021 (date) in Application No. 19 A 3544.  
October 19, 2020

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

☐ For cases from **state courts**:

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

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

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

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

**CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

18 U.S.C § 1512 (b)(1),(2)

18 U.S.C § 1813 (b)(1),(3)



## STATEMENT OF THE CASE

MR Jaron Jennings was in the Pottawattamie County when he got in a fight with the Government Witness who at this time did not know he was acting under the shield of a Government Informant See Trial Transcript page 16 & 20-23.

During the fight MR Jennings allegedly made a statement of (this what happens to a snitch) Still there was no evidence learned that this statement was true, so on April 17, 2017 he was subpoenaed to show up on grand jury to testify, yet, the GM testifies he wasn't aware of the hearing at the time of fight and thus alone would make Jennings action nothing more than speculation.

James W. Haley  
Federal Public Defender  
Case No. 19-3544

Filed Anders brief on February 22, 2020

18 USC § 323) Jurisdiction of the Court is  
28 USC § 7291 Jurisdiction of this Court is

Statement of Case Facts

• Lawyer filed no pretrial motions (DCD 28)  
The duplicity rule applies that defendant cannot be held

liable against the same act. page (3) one count of attempting  
with a witness 18 USC § 1512(c)(1), (2), and 2 and two counts  
of retaliating against a witness, in violation 18 USC §§ 1513(c) (1) (2)  
and 2 (DCD 2) Government dismissed third count (sent 7/10/46)

Double counting the charges.

State Attorney admits Mr. Tawon did not know

what exactly the GM was testifying to or what Government

exactly was being apposed see Plea on 5-23-2019 page 17

line 17-25.

We can all assume it was a state witness testify for leniency

The Defendant had no ties involving him.

pg 18 L25 19 L1-4, 7-8

Defendant did not hear the conversation and therefore, didn't know <sup>what</sup> ~~who~~ the GM was actually testifying to, ~~but~~ thereby, the Defendant did not know firsthand what the conversation was about only that GM was a snitch in so many words. pg 20 L 24-25 pg 21 L 1-5.

So it could have been a false alarm, yet the results that GM was assaulted and furtherance acts was pursued of criminal charges by an Federal violation of impeding an witness cooperation.

The Tampering with witness and Retaliation against a witness is based on the <sup>same</sup> intrinsic acts of the same violation happening at the same ~~time~~ <sup>not</sup> geographical location, and time.

3 16

Issue One: The both crimes Count 1 Tampering with a witness, and Count 2 <sup>Retaliating</sup> Retaliating against a witness.

Even though, the defendant pled guilty to both crimes violation 18 USC §§ 1512 (b)(1), (2) and (2), Second Count 18 USC §§ 1513 (b)(1), (2) and (2) (DCD 2).

Counsel failed to investigate possible defense of duplicity or multiplicity Acts violating to Single Subject Transaction Rule. One Act, One Crime, One Sentence. Counsel had the duty to challenge the Structural Error and failure to do so violate the Ineffective Assistance Counsel. *Moore v US* 432 F.2d 730 (3rd Cir 1970) *Atty* to investigate & prepare for trial. *US v Goodwin*, 457 US 368 162 S.Ct 2485 (1982) (pleas and double jeopardy on charges from the same incident on misdemeanor and felony issues with vindictive prosecution

⑨ The Defendant would have had to be the party who knew 100% percent that GM was testifying for an certain party and know the full latitude of the cause before having objectives to violate an Government witness violation.

We can concur by just the few evidence, of who told Defendant GM was a snitch and was going to testify, that the Bank Robbery had absolutely no effect on his criminal charge, so how did the Defendant breach an Government treaty between both The Federal Government and GM prior to the assault. ~~This would have to be~~ There would have to be a direct knowledge that GM was a Government Informant not based solely on speculation of second hand knowledge.

No testimony proves the intent which needs to be align to the act of premeditation to think of or plan ahead where the knowledge has to be based on direct information involving defendant.

⑤

Being Zanying with a witness is already counting within retaliation against a witness the upward departure creates and double jeopardy violation. *US V Harris 20 F.3d 1000 (8th Cir 1995)* (On upward departure of the charges) Counsel failed to raise that the defendant agreed to an illegal plea bargain of double jeopardy creating a sentencing issue of resentencing without Court ~~Count~~ the lesser of the two. Nor can the sentence remain valid despite the erroneous application of the sentence that charges at least one level reduction in sentence. *State V Bruegger, 773 N.W.2d 862 (Iowa 2009)* (Unconstitutional sentence is illegal and can be corrected at any time).

~~Issue Two:~~

Counsel failure to present mitigating reasons shows by the record of Activity Sheet he filed absolutely nothing relying on the State Version of the facts and Appeal lawyer filed an Andres brief when the construction of charges

6

has always been the cornerstone of the law, yet neither MR Whalen nor ~~MR~~ Hansen investigated the Double Jeopardy Rule of both Counts 1 and 2 ~~be~~ applied by Same Test Rule

Blockburger v US 284 US 299 52 S. Ct 180 (1931)

Same ~~test~~ <sup>elements</sup> test for the lesser included / indictment & same test with lesser included as same elements.

See definition of Joint criminal conduct, they both involve the same crime, same place, same time doing the exact same act is considered <sup>by</sup> identical test Rule Same crime.

And dropping Count 3 which is the replica of Count 2 was only a bluff strategy to get a conviction was

See in Jeffers v US <sup>432 US 137, 97 S. Ct 2207 (1977)</sup> ~~442 US 205, 712 F.2d 1273 (1973) (1973)~~

(Double jeopardy & trying the greater offense after the lesser included dismissed) well known as A psychological

ploy, illegal tactics. Virtual identical to State v Anderson

865 N.W.2d 340, 343 (Iowa 1997) When one offense is included in another of which A person is convicted.

See also *State v. Valia* 724 N.W.2d 44 (Zona 2006) when charges are actually based on the same conduct only one punishment is available; See *Johnson v. Zerbst* 304 US 458, 58 S.Ct 1079 82 LED 1461 (1938) (Waiver Fundamental Rights cannot be done where Constitutional Structural Law and misapplication of Law is present).

The Determination in whether the waiver was intelligent or particular facts & circumstances, doubts must be resolved in favor of protecting the Constitution Claim. *Michigan v. Jackson*, 475 US 625 106 S.Ct 1404 (1986)

Client must have an informed knowledge of all charges and failure to be informed dismises notion of willful participation. <sup>*State v. Copenhagen*</sup> ~~*Gray v. Alabama*~~, 844 N.W.2d 442 (Zona 2014)

Double Jeopardy, merger, sentence with punishments of multiple acts as one offense, failure to preserve error may be so egregious it denies defendant assistance of Counsel. See also

*Whalen v. US* 445 US 684, 100 S.Ct 1432 (1980) C cannot have 2 punishments arising from the same act or 2 punishment for the same act with blockburger with lenity issues.



; *Bousley v US* 523 US 614, 118 S.Ct 1604, 140 L.Ed.2d 828 (1998) (Pleas does not qualify as intelligent unless a criminal defendant first receives real notice of the true nature of the charge against him, the first and most universal recognized ~~recognized~~ <sup>requirement</sup> of due process can never be intelligent if person does not know or is not advised as to what specific procedure(s) it is being applied to?) (quoting *Mackey v US* 410 US 562 (1977) an injustice is not mitigating by the ~~the~~ passing of time; *Boykin v Alabama* 395 US 238, 89 S.Ct 1709 (1969) and *US v Cronit* 466 US 655 104 S.Ct 2039 (1984); *US v Jordan* 509 F.3d 191 (4th Cir 2007) Issue Two;

The Statements learned by MR Jennings was unclear; speculative or can be conjecture in a different manner. Defendant did not hear the phone conversation, was not an primary participant into the Robbery nor had any gain from beating Gm. All we know someone lied to MR Jennings any by his agitation he went inside Gm cell and beat him does not support the language in the

(10)

Government Material witness cooperation statute that needless to say is without sound evidence that MR Jennings knew that Gm was being paid lenity and nor did the state disclose what the leniency was to support any measure of payment was agreed upon.

See Horton v Mayle, 408 F3d 570 (9th Cir 2004)

C Prosecutor failed to disclose deal with Key witness)

All we know is the Gm was allegedly supposed to have had a conversation with his family about testifying. pg 20 L 24-25 and pg 21 L 1-5. How <sup>do</sup> we know that ~~that~~ MR Jennings knew exactly why ~~he~~ Gm was going to the grand jury and it would affect him personally is why he beaten Gm or had any direct hear

This is pure speculation, conjecture that MR Jennings knew first hand the whole scope before hitting

Gm repeatedly sending him to the hospital. Sure its

very serious in nature of the crime we must not

exaggerate that prior to the first initial blows thrown

MR Jennings without a shadow of doubt knew GM was a paid Federal Informant. No Evidence supports this Latham story concoction by the US Prosecutor. Nor can add inference that MR Jennings read, heard or seen GM talking to any Federal Agents about testifying or hearing a comrade with his own ears. To raise an fair inference of guilt and do not create speculation, suspicion, or conjecture See State v Webb 648 Nw2d 7276 (Zow 2002) Quoting

this Quoting that State v Hamilton, 309 Nw2d 479 (Zow 1981)

This is pure speculation that MR Jennings knew GM was throwing in with the police at the time he assaulted GM and to draw an inference that he played an part into intimidating an Government witness prior to that is unsupported by the record and no charges can be formally accepted without evidence that meet the Criminal Statute alleged and agreed to. See US ~~v~~ <sup>Mc Dermott</sup> ~~Mc Dermott~~ 64 F3d 1448 (10th cir 1995) (Evidence that the defendant threatened a witness should not have been admitted because it was not clear the defendant knew the person was a witness.)

Inmate call each other snitches everyday and nothing to Serious escalates to this much violence, did the two have words and a false statement lead to be true later became an protective custody witness nightmare. We would have to rely on two distinctive factors (How did MR Jennings know GM was a informant and what did he receive for his cooperation), was never fully brought to Hearing.

These leaves us to speculate whether the MR Jennings know who or what the GM testifying to or who sent MR Jennings after the GM benefit from the assault since MR Jennings had no logical reason to go after the GM solely cause he was a snitch testifying against a bank robber. The record leaves nothing but us to speculate what it's nothing logical to place defendant in the actual position of knowing what stirred him to assault the GM and to add inference would be highly prejudicial against the defendant.

## Conclusion

MR Jennings was charged 2 times for an isolated incident that both raised Double Jeopardy Standards and the Structural Error invalidates the plea agreement because it would remove Count 2 and demand at least one level reduction creating an illegal Sentence.

Secondly, MR Jennings did not know prior to assaulting the Gm that he personal heard seen, or read anything ~~saying~~ the Gm to being an Government Informant yet relied on any inmates statement that he heard a conversation leading to the assault. MR Jennings never heard nothing and Lawyer Plaintiff Sudman informs the Court MR Jennings was not present during the conversation by record. The Conviction regardless an erroneous guilty plea, becomes moot. No citizen shall agree to a crime that lacks Statutory violation, nor can the State and US District

Judge accept an plea without evidence that supports the guilt.

Counsel's failure to investigate, file motions lead Defendant to believe he was guilty such violation of an Guarantee Right to Representation creates an miscarriage of justice.

Defendant seeks Removal of charged as <sup>anything</sup> ~~anything~~ else this court deems true and just.

### REASONS FOR GRANTING THE PETITION

The Petition should be granted because there was no way MR Jennings could know that the Government Informant was actually working for An Agency at the time of the fight. No records states the GM had been notified of his present to show up at a hearing nor would this procedure be televised so there was no way MR Jennings should be penalized for an criminal interference he had No real Knowledge of the CI immunity.

**CONCLUSION**

*Petitioner seeks to have The Tampering with  
a Government Witness Dismissed*

The petition for a writ of certiorari should be granted.

Respectfully submitted,

*Laura Lanning*

Date: *February 2/15*