

ORIGINAL

Supreme Court, U.S.
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No. 21-5746

IN THE
SUPREME COURT OF THE UNITED STATES

CONGHAU HUU TO
PETITIONER

CASE No.: 94-CR-293-T-17

V.

UNITED STATES OF AMERICA
RESPONDENT

ON PETITION FOR AN ORIGINAL WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS

CONGHAU HUU TO
#18722-018

FCC/USP I

P.O. BOX 1033

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CONSTITUTION AND STATUTES

1) FIFTH AMENDMENT OF THE CONSTITUTION

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3) 18 U.S.C.S. 1962 (c)

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5) FLORIDA STATUTES 777.04(3), 782.04(1)(a)(2)(d),
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7) 18 U.S.C.S. 1951 (a), 18 U.S.C.S. 1951 (b)(1)

8) 18 U.S.C.S. 924 (c) 1, 18 U.S.C.S. 924 (c)(3)(A)

TABLE OF AUTHORITIES

- 1) FELKER V. TURPIN, 116 S. Ct. 2333; 135 LEd2d 827; 518 U.S. 651 (6/28/1996).
- 2) ROSEMOND V. UNITED STATES, 134 S. Ct. 1240; 188 LEd2d 248; 2014 U.S. LEXIS 1787; 82 USLW 4178; 24 FLA. L. WEEKLY FED. (3/5/2014).
- 3) UNITED STATES V. LANIER, 778 FED. APPX. 672; 2019 U.S. APP. LEXIS 18495; 109 FED. R. EVID. SERV. (CALLAGHAN) 869 (6/20/2019).
- 4) STEINER V. UNITED STATES, 940 F3d 1282; 2019 U.S. APP. LEXIS 30762; 28 FLA. L. WEEKLY FED. C. 493 (10/16/2019).
- 5) MONTGOMERY V. LOUISIANA, 136 S. Ct. 718; 193 LEd2d 599; 2016 U.S. LEXIS 862 (1/25/2016).
- 6) MARKET CO. V. HOFFMAN, 101 US 112, 115; 25 LEd2d 782. (1879).
- 7) DUNCAN V. WALKER, 121 S. Ct. 2120; 150 LEd2d 251; 533 U.S. 167.
- 8) TEAGUE, SUPRA AT 292, 319; 109 S. Ct. 1060; 103 LEd2d 334.
- 9) PENRY, SUPRA, AT 330; 109 S. Ct. 2934; 106 LEd2d 256.
- 10) UNITED STATES V. REY CHEA, 2019 U.S. DISTRICT 177651, CASE NO. 98-CR-20005-1 CW, 98-CR-40003-2 CW.

INTRODUCTION

PETITIONER, CONGAU HUU TO, IN PRO-SE, HUMBL Y AND RESPECTFULL Y MOVES THIS HONORABLE SUPREME COURT OF THE UNITED STATES OF AMERICA TO PASS JUDGMENTS

ACCORDINGLY TO LAWS, AND TO ISSUE AN ORDER RELEASING HIM FROM UNLAWFUL DETENTION RESULTED FROM THE VIOLATIONS OF HIS CONSTITUTIONAL RIGHTS. TO ORDER THE APPROPRIATE COURT TO RESENTENCE HIM WITHIN THE LAWS, AND TO DISMISS ALL ILLEGAL CHARGES, CONVICTIONS, AND SENTENCES AGAINST HIM.

4) PETITIONER HAS NO OTHER AVENUE TO, LAWFULL Y AND EFFECTIVELY APPEAL THE VIOLATIONS OF HIS CONSTITUTIONAL RIGHTS BY THE FEDERAL GOVERNMENT AND THE MIDDLE DISTRICT COURT OF FLORIDA, TAMPA DIVISION, SENTENCING HIM TO PRISON UNDER WRONGFUL CONVICTIONS AND ILLEGAL SENTENCES.

1) PETITIONER'S FIFTH AMENDMENT RIGHT WAS VIOLATED WHEN THE DISTRICT COURT SENTENCED HIM TO LIFE IN PRISON FOR "MURDER", A CRIME NOT CHARGED IN THE INDICTMENT.

2) THE DISTRICT COURT DID NOT HAVE JURISDICTION TO IMPOSE A LIFE SENTENCE UPON PETITIONER FOR "MURDER".

3) THE DISTRICT COURT IMPOSED PETITIONER TO A SENTENCE IN EXCESS OF THE MAXIMUM AUTHORIZED BY LAW.

4) PETITIONER'S SIXTH AMENDMENT RIGHT WAS VIOLATED

WHEN HE WAS NOT INFORMED OF THE TRUE NATURE AND CAUSE OF THE CHARGES AGAINST HIM. RESULTED IN THE DISTRICT COURT SENTENCING HIM TO THE WRONG OFFENSE AND IN EXCESS OF

THE MAXIMUM AUTHORIZED BY LAW.

- 5) THE DISTRICT COURT OF THE MIDDLE DISTRICT OF FLORIDA CONVICTED AND SENTENCED PETITIONER FOR CONDUCTS HE ENGAGED IN THAT DID NOT REACH THE ESSENTIAL ELEMENTS OF THE CHARGED OFFENSE AS THEY RELATE TO FACT AND LAW.
- B) THE ELEVENTH CIRCUIT COURT OF APPEALS REPEATEDLY MAKING MISSTATEMENTS OF FACTS AND LAWS AGAINST PETITIONER. THIS ABUSE OF POWER IS UNDULY PREJUDICIAL TO PETITIONER, DENYING HIM OF DUE PROCESS, VIOLATING HIS SIXTH AMENDMENT RIGHT. A CRUEL AND UNUSUAL PUNISHMENT.
- 1)(B) THE ELEVENTH CIRCUIT COURT OF APPEALS SUMMARILY AFFIRMED ALL OF PETITIONER'S CONVICTIONS AND SENTENCES, WITH MISSTATEMENTS OF FACTS, AND WITHOUT ANY AUTHORITY OF LAW OR PRECEDENCE ON JUNE 28, 1998.
- 2)(B) THE THREE-JUDGE PANEL DECIDED AND DENIED PETITIONER'S "APPLICATION FOR LEAVE TO FILE A SECOND/SUCCESSIVE MOTION IN THE DISTRICT COURT" MADE THE SAME KIND OF MISSTATEMENTS OF FACTS AND LAWS IN BOTH "APPLICATIONS" No. 20-12854-C, AND No. 20-14658-D.
- 3)(B) APPLICATIONS No. 20-12854-C, AND No. 20-14658-D INVOLVED THE SAME SUBJECT OF PREDICATE ACT 2(b) OF COUNT ONE. APPLICATION No. 20-12854-C WAS RAISED UNDER 2255(4)(1). APPLICATION No. 20-14658-D WAS RAISED UNDER 2255(4)(2).
- 4)(B) BOTH APPLICATIONS No. 20-12854-C, AND No. 20-14858-D WERE DECIDED AND DENIED BASED ON MISSTATEMENTS OF FACTS,

AND ERRONEOUSLY APPLICATION OF LAWS. AN ABUSE OF
AUTHORITY BY THE ELEVENTH CIRCUIT COURT OF APPEALS.
RELYING ON PROVISION 28 U.S.C. 2244 (b)(3)(E) TO DEPRIVE
PETITIONER'S SIXTH AMENDMENT'S RIGHT TO ACCESS
THE COURT.

5)(B) CIRCUIT JUDGE BRANCH WAS ON BOTH THE PANELS
DECIDING PETITIONER'S "APPLICATIONS" AND THE PANEL
REVERSING LANIER'S CARTACLING CONVICTION IN UNITED
STATES V LANIER, 778 FED. APPX. 672; 2019 U.S. APP.
LEXIS 18495; 109 FED. R. EVID. SERV. (CALLAGHAN)
869 (6/20/2019).

THE DISTRICT COURT AND THE ELEVENTH CIRCUIT COURT OF
APPEALS FAILED TO INHERE TO THE INTEGRITY AND IMPARTIALITY
PRINCIPALS OF THE JUDICIAL PROCESS PROTECTED AND GUARANTEED
BY THE CONSTITUTION OF THIS GREAT NATION.

JURISDICTION

THE AEDPA OF 1996'S TITLE I PROVISION §106(b)(3)(E) (TO BE CODIFIED AS 28 U.S.C.S. 2244(b)(3)(E)) REMOVES THE SUPREME COURT'S AUTHORITY TO ENTERTAIN AN APPEAL OR A PETITION FOR A WRIT OF CERTIORARI TO REVIEW A FEDERAL COURT OF APPEALS' DECISION EXERCISING ITS "GATEKEEPING" FUNCTION OVER A DISTRICT COURT'S CONSIDERATION OF A SECOND/SUCCESSIVE HABEAS CORPUS APPLICATION. ARTICLE I, SECTION 9, CLAUSE 2 OF THE CONSTITUTION DOES NOT PRECLUDE THE SUPREME COURT TO ENTERTAIN A PETITION FOR AN ORIGINAL WRIT OF HABEAS CORPUS. (FELKER V TORPIN, 518 U.S. 651; 135 L.ED 2d 827; 166 S. Ct. 2333) (1996).

28 U.S.C.S. 2244(b)

28 U.S.C.S. 2255(h)

ON DECEMBER 10, 2020, PETITIONER FILED, IN PROSE, AN "APPLICATION FOR LEAVE TO FILE A SECOND/SUCCESSIVE 2255 MOTION IN THE DISTRICT COURT" IN THE ELEVENTH CIRCUIT COURT OF APPEALS UNDER 28 U.S.C. 2255(h)(2). ROSEMOND V. UNITED STATES, 134 S. Ct. 1240; 188 LEd 2d 248 (3/5/2014) ROSEMOND NARROWED THE SCOPE OF INTENT AND "ADVANCE KNOWLEDGE" ELEMENTS OF THE STATUTE. PETITIONER'S CLAIM OF ROSEMOND BASED ON THE FACTS THAT EVENTHOUGH THERE WERE SOME TESTIMONIES OF HIS INVOLVEMENTS IN THE PLANNING OF THE ROBBERY OF MR. KHANH QUOC LE, THERE WAS NOT ANY EVIDENCE IMPLICATING HIM IN THE MURDER OF MR. LE. PETITIONER DID NOT HAVE ANY KNOWLEDGE THAT THE MURDER WOULD OCCUR.

PETITIONER RELIED HIS CLAIM ON UNITED STATES V. LANIER, 778 FED. APPX. 672; 2019 U.S. APP. LEXIS 18495; 109 FED. R. EVID. SERV. (CALLAGHAN) 869, DECIDED ON 6/20/2019 BY THE ELEVENTH CIRCUIT COURT OF APPEALS. IN LANIER, HE DID NOT HAVE ANY ADVANCE KNOWLEDGE THAT HIS COHORT, TURNER, WOULD DECIDE TO STEAL THE VICTIM'S VEHICLE DURING THE ROBBERY TO BE CONVICTED OF CARTACKING. AS IN PETITIONER'S CASE, PETITIONER DID NOT HAVE ANY KNOWLEDGE THAT TAM MINH LE WOULD DECIDE TO SHOOT AND KILL MR. KHANH QUOC LE DURING THE ATTEMPTED ROBBERY. PETITIONER WAS ACROSS THE STREET, INSIDE THE SAIGON PALACE RESTAURANT AT THAT TIME.

ROSEMOND ALSO REDEFINED THE "SHARED RESPONSIBILITY" IN AIDING AND ABETTING A CRIME. THE DISTRICT COURT APPLIED THE PINKERTON LIABILITY THEORY IN SENTENCING PETITIONER TO LIFE IN PRISON FOR COUNTS ONE AND TWO, CONCURRENTLY WITH COUNTS 3, 4, 5, 6, AND CONSECUTIVE 45 YEARS FOR COUNTS 7, 8, AND 9.

PREDICATE ACT 2(b) CITED FLORIDA STATUTES 777.04 (3), 782.04(1)(g)(2)(d), 777.011 ALLEGING "MURDER". THE TEXTS OF THESE STATUTES ARE NOT ACCESSIBLE FROM THE FEDERAL PRISON'S LAW LIBRARY. THE TRIAL JUDGE AND ATTORNEYS INFORMED PETITIONER THAT PREDICATE ACT 2(b) CHARGED "MURDER".

NOT UNTIL 5/31/2019 THAT PETITIONER REALIZED PREDICATE ACT 2(b) DID NOT CHARGE "MURDER". PREDICATE ACT 2(b) ACTUALLY CHARGED "CONSPIRACY TO COMMIT ROBBERY". THE SAME OFFENSE CHARGED AS PREDICATE ACT 2(g) AND COUNT FOUR. THE TEXTS OF THESE FLORIDA STATUTES WERE OBTAINED FROM AN INDEPENDENT SOURCE.

THE INDICTMENT DID NOT CHARGE "MURDER". TAM MINH LE. PLED GUILTY AND WAS SENTENCED TO 20 YEARS FOR SECOND-DEGREE MURDER BY FLORIDA STATE COURT ON 2/22/1995 FOR KILLING MR. KHANH QUOC LE.

PETITIONER FILED AN "APPLICATION" UNDER 2255(1)(1) ON 7/20/2020 CLAIMING THE FACTS THAT THE EVIDENCE OF FLORIDA STATUTES CITED IN PREDICATE ACT 2(b) DID NOT CHARGE "MURDER," AS FALSELY ALLEGED IN THE INDICTMENT BY THE GOVERNMENT. THE ELEVENTH CIRCUIT COURT OF APPEALS DENIED

PETITIONER'S "APPLICATION FOR LEAVE TO FILE A SECOND / SUCCESSIVE 2255 MOTION IN THE DISTRICT COURT" STATING THAT THE EVIDENCE OF THE TEXTS OF FLORIDA STATUTES PROVIDED "DO NOT IN ANY WAY SHOW TO'S ACTUAL, FACTUAL INNOCENCE OF HIS RACKETEERING CONVICTIONS OR THE RACKETEERING ACTS ALLEGED THEREIN". THE DENIAL OF PETITIONER'S "APPLICATIONS" WAS AN ABUSE OF AUTHORITY, TAKING ADVANTAGE OF PROVISION 2244 (b)(3)(E) AND A VIOLATION OF PETITIONER'S SIXTH AMENDMENT RIGHT, THE RIGHT TO ACCESS THE COURT, BY THE ELEVENTH CIRCUIT COURT OF APPEALS - ANY CONVICTION OR SENTENCE IS VOID DUE TO THE FACT THAT A CRIME WAS NOT CHARGED. THE ELEVENTH CIRCUIT COURT OF APPEALS' MISSTATEMENTS OF ".... RACKETEERING ACT 2(b), THE MURDER WHICH HIS CODEFENDANT CONFESSED AND THAT TO "HELPED ORCHESTRATE" WAS NOT SUPPORTED BY THE RECORDS AND VIOLATED PETITIONER'S CONSTITUTIONAL RIGHTS. (PLEASE SEE "APPLICATION" AND DENIAL No. 20-12854-C, EXHIBIT #3).

THE INDICTMENT DID NOT CHARGE MURDER. TAM MINH LE PLED GUILTY IN FLORIDA STATE COURT. A DIFFERENT JURISDICTION FROM THE FEDERAL COURT. TAM MINH LE DID NOT TESTIFY. NO OTHER WITNESS TESTIFY ABOUT A MURDER IN THE FEDERAL TRIAL.

IN THE DENIAL OF PETITIONER'S "APPLICATION" No. 20-14658-D THE ELEVENTH CIRCUIT COURT OF APPEALS STATED "..... TO WAS NOT CONVICTED OF AIDING AND ABETTING IN COUNT ONE OR IN ANY OTHER COUNT....." COULD NOT BE ANY MORE FURTHER FROM THE TRUTH - PREDICATE ACT 2(a) OF COUNT ONE, COUNTS 4, 5, AND 6 CHARGED 18 U.S.C. 1951(a) 1, AND

18 U.S.C. 2, COUNTS 7, 8, 9 CHARGED 18 U.S.C. 924(C) 1,
18 U.S.C. 2. (PLEASE SEE "APPLICATION" AND DENIAL NO.
20-14658-D, EXHIBIT #4, AND INDICTMENT).

PREDICATE ACT 2(b) CITED FLORIDA STATUTES CHARGED
THE SAME OFFENSE CHARGED IN PREDICATE ACT 2(g) OF
COUNT ONE, AND COUNT FOUR. THE GREATEST SEVERITY ACTIVITY
OF PREDICATE ACTS OF COUNT ONE, RICO, WAS HOBBS ACT ROBBER
18 U.S.C. 1951(g) 1, 18 U.S.C. 2.

THE MISAPPLICATION OF LAWS BY THE ELEVENTH CIRCUIT COURT
OF APPEALS, DELIBERATELY, IN THE DENIAL OF "APPLICATION" NO.
20-14658-D WAS COMPLETELY DIVERSE TO THE RULE IN
ROSEMOND, AND TO ITS OWN PRECEDENCE, UNITED STATES V.
LANIER. THIS FLOUTING OF THE LAWS AND THE CONSTITUTION
BY THE ELEVENTH CIRCUIT COURT OF APPEALS WAS THE ABUSE
OF POWER ON THE FACT THAT THE DECISION IN PROVISION
2244(b)(3)(E) IS NOT SUBJECT TO AN APPEAL OR A WRIT OF
CERTIORARI. A MISCARRIAGE OF JUSTICE.

SUPREME COURT'S RULE 20.4 (c)
"EXTRAORDINARY CIRCUMSTANCES"

1) THE DISTRICT COURT OF MIDDLE DISTRICT OF FLORIDA,
TAMPA DIVISION AIDED AND ABETTED THE PROSECUTION TO VIOLATE
FEDERAL LAW, AND VIOLATE PETITIONER'S FIFTH AND SIXTH
AMENDMENT RIGHTS AT TRIAL;

A) JUDGE THOMAS WISEMAN, JR. WAS AWARE THAT THE

PROSECUTION VIOLATED THE ASSIMILATIVE CRIMES ACT,

18 U.S.C. 13, BY USING FLORIDA STATE STATUTES TO

PROSECUTE IN FEDERAL COURT - FEDERAL STATUTE FOR

"MURDER IN THE COMMISSION OF A ROBBERY" IS 18 U.S.C.

1111 (g).

B) JUDGE WISEMAN, JR. KNEW OR SHOULD HAVE KNOWN THAT

FLORIDA STATUTES CHARGED AS PREDICATE ACT 2(b) DID.

NOT CHARGE MURDER AS THE FEDERAL GOVERNMENT FALSELY

ALLEGED, BUT ACTUALLY CHARGED "CONSPIRACY TO COMMIT

ROBBERY", THE SAME OFFENSE CHARGED AS PREDICATE ACT

2(g), AND COUNT FOUR, HOBBS ACT ROBBERY, 18 U.S.C.

1951(g) 1, 18 U.S.C. 2. THE GREATEST SEVERITY AGGRAVATING

ACT OF COUNT ONE, RICO, OF THE INDICTMENT. THE

STATUTORY MAXIMUM FOR HOBBS ACT ROBBERY IS 20 YEARS.

C) JUDGE WISEMAN, JR. MADE RULINGS AND GAVE JURY

INSTRUCTION THAT ARE ERRONEOUSLY AND UNBOLDY

PREDUDICIAL TO PETITIONER AND ADVERSE TO FACTS AND

LAWS DURING TRIAL. (PLEASE SEE TRIAL TRANSCRIPT

VOLUMES # 5, 6, 13, AND 14).

D) JUDGE WISEMAN, JR. ALTERED THE JURY'S VERDICT TO

TAYLOR - FIT HIS AGENDA TO VIOLATE PETITIONER'S FIFTH AND SIXTH AMENDMENT RIGHTS AT SENTENCING. (PLEASE SEE TRIAL TRANSCRIPT VOLUME #14).

B) JUDGE WISEMAN, JR. DELIBERATELY VIOLATED PETITIONER FIFTH AND SIXTH AMENDMENT RIGHTS.

2) THE ELEVENTH CIRCUIT COURT OF APPEALS DID NOT REVIEW TRIAL RECORDS IN DECIDING AND AFFIRMING ALL OF PETITIONER'S CONVICTIONS AND SENTENCES ON DIRECT APPEALS, AND BASED ITS DECISIONS ON FACTS THAT ARE NOT SUPPORTED BY THE RECORDS - FACTS AROUND A MURDER THAT WAS NOT CHARGED IN THE INDICTMENT.

3) THE ELEVENTH CIRCUIT COURT OF APPEALS REPEATEDLY MAKING MISSTATEMENTS OF FACTS ABOUT A MURDER THAT WAS NOT CHARGED, AND BASED ITS DECISIONS IN DENYING PETITIONER'S "APPLICATIONS FOR LEAVE TO FILE A SECOND / SUCCESSIVE 2255 MOTION" ON FACTS AND LAWS THAT WERE NOT IN THE RECORDS. MISAPPLYING THE LAWS IN CONTRARY OF THE SUPREME COURT'S DECISION IN ROSEMOND, AND IN ADVERSE OF ITS OWN PRECEDENCE, UNITED STATES V. LONIER, 778 FED. APPX. 672; 2019 U.S. APP. LEXIS 18495; 109 FED. R. EVID. SERV. (CALLAGHAN) 869 (6/20/2019).

A CONVICTION OR SENTENCE IMPOSED IN VIOLATION OF A SUBSTANTIVE RULE IS NOT JUST ERRONEOUS BUT CONTRARY TO LAW AND, AS A RESULT, VOID. IT FOLLOWS, AS A GENERAL

PRINCIPAL, THAT A COURT HAS NO AUTHORITY TO LEAVE IN PLACE
A CONVICTION OR SENTENCE THAT VIOLATES A SUBSTANTIVE RULE,
REGARDLESS OF WHETHER THE CONVICTION OR SENTENCE BECAME
FINAL BEFORE THE RULE WAS ANNOUNCED. (MONTGOMERY V.
LOUISIANA, 136 S. Ct. 718; 193 L.Ed 2d 599 (1/25/2016)).

ISSUES PRESENTED

ISSUE ONE

1) THE DISTRICT COURT OF MIDDLE DISTRICT OF FLORIDA, TAMPA DIVISION VIOLATED PETITIONER'S FIFTH AMENDMENT BY CONVICTED, AND SENTENCED HIM TO LIFE IN PRISON FOR A CRIME NOT CHARGED, "MURDER", IN THE INDICTMENT;

A) PREDICATE ACT 2(b) WAS APPLIED AS THE GREATEST SEVERITY ACTIVITY RACKETEERING ACT OF COUNT ONE, RICO, UNDER PINKERTON LIABILITY THEORY. PREDICATE ACT 2(b) ALLEGED "MURDER", CITED FLORIDA STATUTES 777.04(3), 782.04(1)(g)(2)(d), 777.011. THE TEXTS OF THESE STATUTES ARE NOT ACCESSIBLE THROUGH THE FEDERAL PRISON'S LAW LIBRARY, AND WERE OBTAINED FROM AN INDEPENDENT SOURCE ON 5/31/2019. THESE STATUTES ACTUALLY CHARGED "CONSPIRACY TO COMMIT ROBBERY". (PLEASE SEE EXHIBIT #1).

g) 777.04(3). A PERSON WHO AGREES, CONSPIRES, COMBINES, OR CONFEDERATES WITH ANOTHER PERSON OR PERSONS TO COMMIT ANY OFFENSE COMMITS THE OFFENSE OF CRIMINAL CONSPIRACY, RANKED FOR PURPOSES OF SENTENCING AS PROVIDED IN SUBSECTION(4).

b) 782.04(1)(g)(2)(d). ^①MURDER. ^②THE UNLAWFUL KILLING OF A HUMAN BEING ^③WHEN COMMITTED BY A PERSON ENGAGED IN THE PERPETRATION OF, OR IN THE ATTEMPT TO PERPETRATE, ANY ^④ROBBERY.

c) 777.011.. PRINCIPAL IN THE FIRST DEGREE (FELONY).

b) PREDICATE ACT 2 (b) CHARGED THE SAME OFFENSE AS PREDICATE ACT 2 (a) AND COUNT FOUR, HOBBS ACT ROBBERY, 18 U.S.C. 1951 (a) 1, 18 U.S.C. 2. THE GREATEST SEVERITY ACTIVITY RACKETEERING ACT OF COUNT ONE. THE STATUTORY IS 20 YEARS, MAXIMUM.

2) ROSEMOND V UNITED STATES, 134 S. CT. 1240; 188 L. ED 2d 248 (3/5/2014) IS A NEW SUBSTANTIVE RULE INCLUDE "DECISION THAT NARROW THE SCOPE OF A CRIMINAL STATUTE BY INTERPRETING ITS TERMS" AND CONSTITUTIONAL DETERMINATIONS THAT PLACE PARTICULAR CONDUCT OF PERSONS COVERED BY THE STATUTE BEYOND THE {GOVERNMENT}'S POWER TO PUNISH.

a) SUBSTANTIVE RULES, THEN SET FORTH CATEGORICAL CONDITIONAL GUARANTEES THAT PLACE CERTAIN CRIMINAL LAWS AND PUNISHMENTS ALTOGETHER BEYOND THE STATE'S POWER TO IMPOSE. IT FOLLOWS THAT WHEN A STATE ENFORCES A PROSCRIPTION OR PENALTY BARRED BY THE CONSTITUTION, THE RESULTING CONVICTION OR SENTENCE IS, BY DEFINITION, UNLAWFUL. (TEAGUE, SUPRA, AT 292, 319; 109 S. CT. 1060 L. ED 2d 334, AND PENRY, SUPRA, AT 330; 109 S. CT. 2934; 106 L. ED 2d 256). A CONVICTION OR SENTENCE IMPOSED IN VIOLATION OF A SUBSTANTIVE RULE IS NOT JUST ERRONEOUS BUT

CONTRARY TO LAW AND, AS A RESULT, VOID. IT FOLLOWS, AS A GENERAL PRINCIPAL, THAT A COURT HAS NO AUTHORITY TO LEAVE IN PLACE A CONVICTION OR SENTENCE THAT VIOLATES A SUBSTANTIVE RULE, REGARDLESS OF WHETHER THE CONVICTION OR SENTENCE BECAME FINAL BEFORE THE RULE WAS ANNOUNCED. (MONTGOMERY V. LOUISIANA, 136 S. Ct. 718; 193 LEd 2d 599 (1/25/2016)).

B) UNDER PINKERTON, A DEFENDANT IS LIABLE ONLY WHERE THE SUBSTANTIVE CRIME WAS A REASONABLY FORESEEABLE CONSEQUENCE OF THE CONSPIRACY ALLEGED IN THE INDICTMENT.

C) MURDER WAS NOT A SUBSTANTIVE CRIME CHARGED IN THE INDICTMENT. (PLEASE SEE INDICTMENT).

ISSUE TWO

LACK OF JURISDICTION

1) THE DISTRICT COURT OF MIDDLE DISTRICT OF FLORIDA, TAMPA DIVISION DID NOT HAVE JURISDICTION TO SENTENCE PETITIONER TO LIFE IN PRISON FOR "MURDER", FLORIDA STATUTES 777.04(3), 782.04(1)(a)(2)(d), 777.011.

A) FLORIDA STATUTES 777.04(3), 782.04(1)(a)(2)(d), 777.011 CITED AS PREDICATE ACT 2(b) OF COUNT ONE,

RICO, IN THE FEDERAL INDICTMENT.

B) THE DISTRICT COURT APPLIED THE PINKERTON LIABILITY THEORY TO PREDICATE ACT 2(b), AS THE GREATEST SEVERITY ACTIVITY RACKETEERING ACT, ALLEGED "MURDER", AS THE MAXIMUM SENTENCE FOR COUNT ONE.

C) FLORIDA STATUTES 777.04(3), 782.04(1)(c)(2)(d), 777.011 CITED IN PREDICATE ACT 2(b) DID NOT CHARGE "MURDER". THEY CHARGED "CONSPIRACY TO COMMIT ROBBERY". THE TEXTS OF THESE STATUTES CANNOT BE ACCESSED THROUGH THE FEDERAL PRISON'S LAW LIBRARY. THEY WERE OBTAINED FROM AN INDEPENDENT SOURCE ON 5/31/2019. (EXHIBIT #1).

D) PREDICATE ACT 2(b) ALLEGED THE MURDER OF MR. KHANH QUOC LE ON 4/23/1994 - TAM MINH LE PLED GUILTY AND WAS SENTENCED TO 20 YEARS FOR SECOND-DEGREE MURDER BY THE FLORIDA STATE COURT ON 2/22/1995.. (EXHIBIT #2).

2) STATUTE 18 U.S.C. 1111(G) IS FEDERAL PENALTY FOR MURDER. THE FEDERAL GOVERNMENT VIOLATED THE "ASSIMILATIVE CRIMES ACT", 18 U.S.C. 13, BY CHARGING FLORIDA STATUTES 777.04(3), 782.04(1)(c)(2)(d), 777.011 AS PREDICATE ACT 2(b) OF COUNT ONE, RICO, TO PROSECUTE IN FEDERAL COURT.

A) UNDER 18 U.S.C. 13, GOVERNMENT CAN RESORT TO STATE LAW ONLY IF NO ACT OF CONGRESS MAKE DEFENDANT'S CONDUCT PUNISHABLE, AND CONVERSELY IS BARRED FROM RESORTING TO STATE LAW WHEN PRECISE CONDUCT HAS BEEN MADE PENAL BY FEDERAL LAW. (UNITED STATES V. BIG CROW (1975, CA 8 SD) 523 F.2d 955, CERT. DEN. (1976) 424 U.S. 920. 47 L. Ed 327. 90 S. Ct. 1126 AND (SUPERCEDED BY STATUTE ON OTHER GROUNDS AS STATED IN UNITED STATES V. JOHNSON (1980, CA 9 IDAHO) 637 F.2d 1224. 6 FED. RULES EVID. 1264).

ISSUE THREE

STATUTORY MAXIMUM EXCESSIVE

1) THE DISTRICT COURT OF MIDDLE DISTRICT OF FLORIDA, TAMPA DIVISION IMPOSED PRISONER TO A SENTENCE IN EXCESS OF THE MAXIMUM AUTHORIZED BY LAW.

A) THE BASE OFFENSE LEVEL OF RICO IS 19. PREDICATE ACT 2 (b) OF COUNT ONE, RICO, OF THE INDICTMENT CITED WITH FLORIDA STATUTES 777.04 (3), 782.04 (1)(g)(2)(d), 777.011, CHARGED THE SAME OFFENSE CHARGED IN PREDICATE ACT 2 (g) AND COUNT FOUR, ROBBS ACT ROBBERY, 18 U.S.C. 1951 (g) 1, 18 U.S.C. 2. THE GREATEST SEVERITY OF PREDICATE ACTS OF COUNT ONE.

B) THE STATUTORY MAXIMUM SENTENCE FOR HOBBS ACT ROBBERY, 18 U.S.C. 1951 (b) 1, AND AIDING AND ABETTING, 18 U.S.C. 2 IS TWENTY YEARS.

ISSUE FOUR

1) PETITIONER'S SIXTH AMENDMENT RIGHT WAS VIOLATED WHEN HE WAS NOT INFORMED OF THE TRUE NATURE AND CAUSE OF THE CHARGES AGAINST HIM. RESULTED IN THE DISTRICT COURT CONVICTED AND SENTENCED HIM TO THE WRONG OFFENSE AND IN EXCESS OF THE MAXIMUM AUTHORIZED BY LAW.

A) HONORABLE THOMAS WISEMAN, JR., VISITING JUDGE FROM THE SIXTH CIRCUIT, PRESIDED OVER PETITIONER'S TRIAL, WAS AWARE THAT THE FLORIDA STATUTES 777.04(3), 782.04(1)(a)(2)(d), 777.011, CITED IN PREDICATE ACT 2(b) OF COUNT ONE, RICO, DID NOT CHARGE "MURDER" AS FALSELY ALLEGED BY THE FEDERAL GOVERNMENT IN THE INDICTMENT.

B) JUDGE WISEMAN, JR. KNEW THAT PREDICATE ACT 2(b) CHARGED THE SAME OFFENSE CHARGED IN PREDICATE ACT 2(a) AND COUNT FOUR, HOBBS ACT ROBBERY, 18 U.S.C. 1951(a)1, AND 18 U.S.C. 2.

C) JUDGE WISEMAN, JR. KNEW THAT THE TEXTS OF FLORIDA

STATUTES CHARGED IN PREDICATE ACT 2(b) WOULD NOT BE ACCESSIBLE FROM THE FEDERAL PRISON'S LAW LIBRARY.

D) JUDGE WISEMAN, JR. KNEW THAT THE FLORIDA STATUTES CHARGED IN PREDICATE ACT 2(b) IS A VIOLATION OF 18 U.S.C. 13, ASSIMILATIVE CRIMES ACT.

E) JUDGE WISEMAN, JR. IMPROPERLY AND FALSELY INSTRUCTED THE JURY THAT PREDICATE ACT 2(b) CHARGED 'MURDER'. (PLEASE SEE TRIAL TRANSCRIPT VOLUME #13).

F) JUDGE WISEMAN, JR. KNEW PREDICATE ACT 2(b) CHARGED "ROBBERY" IN THE JURY'S VERDICT FORM.

G) THE JURY CONVICTED "ROBBERY" AS CHARGED IN PREDICATE ACT 2(b).

H) JUDGE WISEMAN, JR., WITH FULL KNOWLEDGE OF THE FEDERAL GOVERNMENT'S BREAKING FEDERAL LAW, 18 U.S.C. 13, AND THE VIOLATIONS OF PETITIONER'S CONSTITUTIONAL RIGHTS, SENTENCED PETITIONER TO LIFE IN PRISON FOR "MURDER", AN OFFENSE NOT CHARGED IN THE INDICTMENT.

I) THIS ISSUE WAS RAISED IN DIRECT APPEAL. (INITIAL APPEAL BRIEF, ISSUE #5).

J) THE ELEVENTH CIRCUIT COURT OF APPEALS SUMMARILY

AFFIRMED ALL OF PETITIONER'S CONVICTIONS AND SENTENCES.
(UNITED STATES V. CONGHAY HUU TO, A.K.A. TIGO, et al.,
144 F3d 737 (6/23/1998)).

ISSUE FIVE
LEGALLY "ACTUAL INNOCENCE"

1) PETITIONER IS ACTUALLY INNOCENCE, STATUTORILY, OF COUNTS 7, 8, AND 9, "USING A FIREARM IN A COMMISSION OF A CRIME OF VIOLENCE", 18 U.S.C. 924 (c)1, AND 18 U.S.C. 2;

A) THE DISTRICT COURT SENTENCED PETITIONER TO 45 YEARS CONSECUTIVELY WITH THE LIFE SENTENCE, FOR COUNTS 7, 8, AND 9.

B) COUNTS 7, 8, AND 9 CONVICTIONS AND SENTENCES WERE THE RESULTS OF THE CONVICTIONS OF COUNTS 4, 5, AND 6, HOBBS ACT ROBBERY, 18 U.S.C. 1951 (a)1, AND 18 U.S.C. 2.

C) CONGRESS ENACTED THE 18 U.S.C. 924 (c)(3), "CRIME OF VIOLENCE" AS ;

a) HAS AN ELEMENT THE USE, ATTEMPTED USE OF "PHYSICAL FORCE" AGAINST THE PERSON OR PROPERTY OF ANOTHER;
OR

b) (THE SUPREME COURT RULED THE "RESIDUAL CLAUSE" UNCONSTITUTIONAL).

D) 18 U.S.C. 1951(b)(1), HOBBS ACT ROBBERY;

THE TERM "ROBBERY" MEANS THE UNLAWFUL TAKING OR OBTAINING OF PERSONAL PROPERTY FROM THE PERSON IN THE PRESENT OF ANOTHER, AGAINST HIS WILL, BY MEANS OF ACTUAL OR THREATENED FORCE, OR VIOLENCE, OR FEAR OF INJURY, IMMEDIATE OR FUTURE, TO HIS PERSON OR PROPERTY, OR PROPERTY IN HIS CUSTODY OR POSSESSION, OR THE PERSON OR PROPERTY OF A RELATIVE OR MEMBER OF HIS FAMILY OR OF ANYONE IN HIS COMPANY AT THE TIME OF THE TAKING OR OBTAINING."

E) HOBBS ACT ROBBERY, 18 U.S.C. 1951(b)(1) CAN BE COMMITTED AGAINST A PERSON OR PROPERTY WITHOUT ANY PHYSICAL CONTACT, "PHYSICAL FORCE", WHICH IS REQUIRED IN THE ELEMENT CLAUSE OF 18 U.S.C. 924(c)(3).

F) THE CONDUCT PETITIONER ENGAGED IN, HOBBS ACT ROBBERY, 18 U.S.C. 1951(b)(1), DID NOT REACH THE ESSENTIAL ELEMENTS OF THE CHARGED OFFENSES AS THEY RELATE TO FACT AND LAW OF 18 U.S.C. 924(c)(3) (UNITED STATES V. REY CHEA, 2019 DIST. LEXIS 177651, CASE NO. 98. CR-20005-1 CW, 98-CR-40003-2 CW (10/2/2019).

a) RATZLAF V. UNITED STATES, 510 U.S. 135, 140-41 (1994)

("JUDGES SHOULD HESITATE..... TO TREAT STATUTORY TERMS (AS SURPLUSAGE) IN ANY SETTING, AND RESISTANCE SHOULD BE HEIGHTENED WHEN THE WORDS DESCRIBE AN ELEMENT OF A CRIMINAL OFFENSE"); DUNCAN V. WALKER, 533 U.S.

167, 174 (2001) ("IT IS OUR DUTY TO GIVE EFFECT, IF POSSIBLE TO EVERY CLAUSE, AND WORD OF A STATUTE.") (CITATION AND INTERNAL QUOTATION MARKS OMITTED).

b) MARKET CO. V. HOFFMAN, 101 U.S. 112, 115; 25 LEd. 782 (1879) ("AS EARLY AS IN BACON'S ABRIDGEMENT, SECT. 2, IT WAS SAID THAT 'A STATUTE OUGHT, UPON THE WHOLE, TO BE CONSTRUED THAT, IF IT CAN BE PREVENTED, NO CLAUSE, SENTENCE, OR WORD SHALL BE SUPERFLUOUS, VOID OR INSIGNIFICANT'").

c) LEOCAL V. ASHCROFT, 543 U.S. 1, 9 (2004) ("WHEN INTERPRETING A STATUTE, WE MUST, GIVE WORDS THEIR 'ORDINARY OR NATURAL' MEANING." (CITATION OMITTED)).

G) THE ELEVENTH CIRCUIT COURT OF APPEALS OR ANY OTHER COURT CANNOT IGNORE OR GIVE DIFFERENT MEANING TO ANY PART OF THE STATUTE.

STATEMENT OF CASE

ON DECEMBER 21, 1994, A NINE-COUNT INDICTMENT WAS RETURNED IN THE MIDDLE DISTRICT OF FLORIDA CHARGING MR. TO, AND TEN CODEFENDANTS WITH SEVERAL OFFENSES;

COUNT ONE: R.I.C.O, TITLE 18 U.S.C. 1962 (c)

PREDICATE ACTS;

- 1)(g) CONSPIRACY TO COMMIT HOBBS ACT ROBBERY
18 U.S.C. 1951
- 1)(b) CONSPIRACY TO COMMIT ROBBERY
F.S. 777.04(3), AND 812.135
- 2)(g) ATTEMPTED HOBBS ACT ROBBERY
18 U.S.C. 1951(g)1, AND 2
- 2)(b) MURDER
F.S. 777.04(3), 782.04(1)(g)(2)(d), AND 777.011
- 3) AND 4) WERE DISMISSED AT TRIAL.
- 5) HOBBS ACT ROBBERY
18 U.S.C. 1951(g)1, and 2
- 6) HOBBS ACT ROBBERY
18 U.S.C. 1951(g)1, and 2
- 7)(g) ATTEMPTED MURDER
18 U.S.C. 1512(g)(1)(c), AND 2
- 7)(b) ATTEMPTED MURDER
F.S. 782.04(1)(g), AND 777.011

COUNT TWO: CONSPIRACY TO COMMIT R.I.C.O, 18 U.S.C. 1962(d)

COUNT THREE: CONSPIRACY TO COMMIT HOBBS ACT ROBBERY
18 U.S.C. 1951(g)

COUNT FOUR: ATTEMPTED HOBBS ACT ROBBERY, 18 U.S.C.
1951(g), AND 2.

COUNT FIVE: HOBBS ACT ROBBERY, 18 U.S.C. 1951(g), AND 2

COUNT SIX: HOBBS ACT ROBBERY, 18 U.S.C. 1951(g), AND 2

COUNTS SEVEN, EIGHT, AND NINE, 18 U.S.C. 924(c), AND 2

PROCEDURAL FACTS

- 1) ON FEBRUARY 6, 1996, TRIAL COMMENCED AGAINST PETTIONER AND REMAINING CODEFENDANTS. FOLLOWING THE CONCLUSION OF THE UNITED STATES' CASE, UNTIL THE END OF FEBRUARY, 1996.
- 2) ON MARCH 1, 1996, THE JURY FOUND PETTIONER GUILTY OF ALL NINE COUNTS, AND RACKETEERING ACTS 1(b), 2(b), 5 AND 6.
- 3) ON JULY 16, 1996, THE DISTRICT COURT SENTENCED PETTIONER TO LIFE PLUS FORTY-FIVE YEARS CONSECUTIVELY.

- 4) ON JULY 23, 1998, THE ELEVENTH CIRCUIT COURT OF APPEALS SUMMARILY AFFIRMED ALL OF PETTIONER'S CONVICTIONS AND SENTENCES WITHOUT ANY LAW, AUTHORITIES, OR CASE PRECEDENCE (UNITED STATES V. TO, et al., 144 F.3d 737) (1998).

- 5) ON JUNE 25, 1999, PETTIONER FILED HIS ORIGINAL 2255 MOTION IN THE DISTRICT COURT. HIS CLAIM WAS ONE OF THE FOUR COOPERATED GOVERNMENT'S WITNESSES, NGUYEN TO DOAN, ADMITTED WHILE TESTIFYING IN ANOTHER CRIMINAL CASE IN ATLANTA, GEORGIA THAT HE HAD LIED UNDER OATH TESTIFYING AGAINST PETTIONER IN HIS CASE IN TAMPA, FLORIDA. THE CASE AGENTS AND PROSECUTION WERE AWARE THAT HE HAD LIED. THE MOTION WAS DENIED BY THE SENTENCING JUDGE, JUDGE THOMAS WISEMAN, JR.

6) IN 2006, THE LAW FIRM OF JAMES FELDMAN OF ARDMORE, PENNSYLVANIA FILED AN "APPLICATION FOR LEAVE TO FILE A SECOND / SUCCESSIVE 2255 MOTION IN THE DISTRICT COURT" ON BEHALF OF PETITIONER UNDER 2255 (4)(1). ANOTHER COOPERATED GOVERNMENT'S WITNESS, THANH XUAN NGUYEN, WROTE AND SIGNED AN AFFIDAVIT ADMITTED THAT HE HAD ALSO LIED UNDER OATH IN THE CASE, UNDER THE COERCIONS OF THE CASE AGENTS. THE ELEVENTH CIRCUIT COURT OF APPEALS ALSO DENIED THIS "APPLICATION".

7) IN 2016, PETITIONER FILED, IN PRO-SE, AN APPLICATION UNDER JOHNSON AND WAS GRANTED PERMISSION. THE DISTRICT COURT DENIED THE MOTION, AND C. O. A. WAS DENIED BY THE ELEVENTH CIRCUIT COURT OF APPEALS.

8) ON MARCH 25, 2020, PETITIONER FILED ANOTHER "APPLICATION" UNDER THE DAVIS ISSUE. THE "APPLICATION" WAS DENIED. (NO. 20-11415-C).

9) ON 7/20/2020, PETITIONER FILED ANOTHER "APPLICATION" UNDER 2255(4)(1). "NEWLY DISCOVERED" FACTS THAT PETITIONER WAS NOT CHARGED FOR "MURDER" AS FALSELY ALLEGED BY THE PROSECUTION. THE SAME "MURDER" THE DISTRICT COURT CONVICTED AND SENTENCED PETITIONER TO LIFE. THIS "APPLICATION" WAS DENIED. (NO. 20-12854-C).

10) ON DECEMBER 10, 2020, PETITIONER FILED AN "APPLICATION" UNDER ROSEMOND AND WAS DENIED. (NO. 20-14658-D).

REASONS TO GRANT WRIT

1) THE FIFTH AMENDMENT OF THE CONSTITUTION STATED; "NO PERSON SHALL BE HELD TO ANSWER FOR A CAPITAL, OR OTHERWISE INFAMOUS CRIME, UNLESS ON A PRESENTMENT OR INDICTMENT OF A GRAND JURY,....".

A) SEE UNITED STATES V. MADDEN, 733 F.3d 1314, 1318 (11th CIR. 2013) (HOLDING THAT A DEFENDANT CAN ONLY BE TRIED AND CONVICTED OF CRIMES CHARGED IN THE INDICTMENT). AS A RESULT, THE EXISTENCE OF A CONSPIRACY TO COMMIT ROBBERY CANNOT SUSTAIN PETITIONER'S CONVICTION OR SENTENCE FOR "MURDER" UNDER THE PINKERTON THEORY OF LIABILITY.

2) UNDER 18 U.S.C. 13, GOVERNMENT CAN RESORT TO STATE LAW ONLY IF NO ACT OF CONGRESS MAKES DEFENDANT'S CONDUCT PUNISHABLE, AND CONVERSELY IS BARRED FROM RESORTING TO STATE LAW WHEN PRECISE CONDUCT HAS BEEN MADE PENAL BY FEDERAL LAW.

A) UNITED STATES V. BIG CROW (1975 CA 8 SD) 503 F.2d 955, CERT. DEN. (1976) 424 U.S. 920; 47 L.Ed. 327; 96 S.Ct. 1126 AND (SUPERCEDED BY STATUTE ON OTHER GROUNDS AS STATED IN UNITED STATES V. JOHNSON (1980, CA 9 IDAHO) 637 F.2d 1224; 6 FED. RULES EVID. 1264).

B) STATUTE 18 U.S.C. 1111 (a) IS PENALTY FOR MURDER.

3) THE BASE OFFENSE LEVEL OF RICO IS 19. THE GREATEST SEVERITY ACTIVITY OF PREDICATE ACTS IS TO APPLIED FOR THE MAXIMUM SENTENCE.

A) PREDICATE ACT 2 (b) CITED FLORIDA STATUTES, CHARGES TO THE SAME OFFENSES CHARGED IN PREDICATE ACT 2 (g) AND COUNT FOUR, HOBBS ACT ROBBERY, 18 U.S.C. 1951 (g) 1, 18 U.S.C. 2.

B) HOBBS ACT ROBBERY IS THE GREATEST SEVERITY ACTIVITY OF PREDICATE ACTS OF COUNT ONE, NOT "MURDER".

C) THE STATUTORY MAXIMUM SENTENCE FOR HOBBS ACT ROBBERY, 18 U.S.C. 1951 (b) 1 IS TWENTY YEARS.

4) THE SIXTH AMENDMENT OF THE CONSTITUTION STATED: "IN ALL CRIMINAL PROSECUTIONS, THE ACCUSED SHALL ENJOY THE RIGHT TO A SPEEDY AND PUBLIC TRIAL, BY AN IMPARTIAL JURY OF THE STATE AND DISTRICT WHEREIN THE CRIME SHALL HAVE BEEN COMMITTED, WHICH DISTRICT SHALL HAVE BEEN PREVIOUSLY ASCERTAIN BY LAW, AND TO BE INFORMED OF THE NATURE AND CAUSE OF THE ACCUSATION; TO BE CONFRONTED WITH THE WITNESSES AGAINST HIM; TO HAVE COMPULSORY PROCESS FOR OBTAINING WITNESSES IN HIS FAVOR, AND TO HAVE THE ASSISTANCE OF COUNSEL FOR HIS DEFENSE."

A) THE FEDERAL GOVERNMENT DELIBERATELY CITED FLORIDA STATUTES 777.04(3), 782.04(1)(g)(2)(d), AND 777.011 AS PREDICATE ACT 2(b) OF COUNT ONE OF THE INDICTMENT, FULLY AWARE THAT IT IS A VIOLATION OF "ASSIMILATIVE CRIMES ACT", 18 U.S.C. 13. FALSELY ALLEGING "MURDER" WITH FULL KNOWLEDGE THAT THE FLORIDA STATUTES CITED IN PREDICATE ACT 2(b) CHARGED "CONSPIRACY TO COMMIT ROBBERY". WITH PRIOR KNOWLEDGE THAT THE TEXTS OF STATES STATUTES CANNOT BE ACCESSED FROM THE FEDERAL PRISON'S ELECTRONIC LAW LIBRARY. DEPRIVED PETITIONER THE RIGHT TO UNDERSTAND THE CHARGES AGAINST HIM. AND COMMITTED "FRAUD-UPON-THE-COURT", MISLEADING THE JURY.

B) THE DISTRICT COURT OF MIDDLE DISTRICT OF FLORIDA, TAMPA DIVISION, PRESIDED OVER BY VISITING JUDGE, HONORABLE THOMAS WISEMAN, JR. FROM THE SIXTH CIRCUIT, AIDED AND ABETTED THE FEDERAL GOVERNMENT TO VIOLATE A FEDERAL LAW, 18 U.S.C. 13. TO VIOLATE PETITIONER'S SIXTH AMENDMENT RIGHT. AND TO COMMIT FRAUD.

C) JUDGE THOMAS WISEMAN, JR. ALTERED THE JURY'S VERDICT TO CONVICT AND SENTENCE PETITIONER TO LIFE IN PRISON FOR A CRIME HE WAS NOT CHARGED WITH BY THE GRAND JURY IN THE INDICTMENT.

5) THE DISTRICT COURT OF MIDDLE DISTRICT OF FLORIDA CONVICTED

b) HOBBS ACT ROBBERY CAN BE COMMITTED WITHOUT ANY "PHYSICAL CONTACT" AGAINST A PERSON OR PROPERTY.

a) THE ELEMENT REQUIRED IN 18 U.S.C. 924(c)(3) IS "PHYSICAL FORCE".

AND SENTENCED PETITIONER FOR CONDUCT THAT DID NOT REACH THE ESSENTIAL ELEMENTS OF THE CHARGED OFFENSES AS THEY RELATE TO FACT AND LAW OF 18 U.S.C. 924(c)(3). UNITED STATES V. REY GUEA, 2019 DIST. LEXIS 177651. RATZLAFF V. UNITED STATES, 510 U.S. 135, 140-41 (1994) (JUDGES SHOULD HESITATE... TO TREAT STATUTORY TERMS (AS SURPLUSAGE) IN ANY SETTING, AND RESISTANCE SHOULD BE HEIGHTENED WHEN THE WORDS DESCRIBE AN ELEMENT OF A CRIMINAL OFFENSE". DUNCAN V. WALKER, 533 U.S. 167, 174 (2001) ("IT IS OUR DUTY TO GIVE EFFECT IF POSSIBLE, TO EVERY CLAUSE, AND WORDS OF A STATUTE." (CITATION AND INTERNAL QUOTATION MARKS OMITTED). MARKET CO. V. HOFFMAN, 101 U.S. 112, 115, 25 LED 782 (1879). ("AS EARLY AS IN BACON'S ABRIDGEMENT, SECT. 2, IT WAS SAID THAT 'A STATUTE OUGHT, UPON THE WHOLE, TO BE CONSTRUED THAT, IF IT CAN BE PREVENTED, NO CLAUSE, SENTENCE, OR WORD SHALL BE SUPERFLUOUS, VOID OR SIGNIFICANT'"). LEONAL V. ASHCROFT, 543 U.S. 1, 9 (2004) ("WHEN INTERPRETING A STATUTE, WE MUST, GIVE WORDS THEIR 'ORDINARY AND NATURAL' MEANING." (CITATION OMITTED))

CONCLUSION

PETITIONER, IN PRO SE, IS NOT TRAINED IN THE LAWS, COULD ONLY PRESENT ALL THE ACCURATE AND TRUE FACTS, SUPPORTED BY THE RECORDS, THE LAWS, AND THE CONSTITUTION.

AFTER REVIEWING ALL THE FACTS AND LAWS, AND THE CONSTITUTION VIOLATIONS IN THE CASE, PETITIONER PRAYS THAT THIS HONORABLE SUPREME COURT OF THE UNITED STATES WILL ISSUE A WRIT ORDERING THE APPROPRIATE COURT TO DISMISS ALL THE ILLEGAL CONVICTIONS AND SENTENCES THAT ARE AGAINST THE LAWS AND IN VIOLATION OF THE CONSTITUTION OF THE UNITED STATES AND TO RESENTENCE PETITIONER ACCORDINGLY TO LAWS.

PETITIONER HAS BEEN INCARCERATED SINCE DECEMBER OF 1994. ALMOST SEVEN (7) YEARS IN EXCESS OF THE TWENTY (20) YEARS THE 18 U.S.C 1951 (G) STATUTORY MAXIMUM AUTHORIZED. THE GREATEST SEVERITY ACT APPLIED TO COUNT ONE, RICO.

THIS COURT MAY ORDER THE SENTENCING COURT TO DISMISS ALL THE ILLEGAL CONVICTIONS AND SENTENCES WHICH ARE AGAINST THE LAWS AND THE CONSTITUTION, AND TO ORDER THE FEDERAL BUREAU OF PRISON TO RELEASE PETITIONER ON TIME-SERVED. THE ONLY AND MOST APPROPRIATE REMEDY TO CORRECT THE MISCARRIAGE OF JUSTICE AGAINST PETITIONER.

RESPECTFULLY SUBMITTED,

Conglan To

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