In the Supreme Court of the United States

February Term 2022

21-7677

Kyle Maurice Parks - Petitioner

Vs

United States Of America-- Respondent

On Petition for a Wait of Certionari

To the United States Court of Appeals for

the Eighth Circuit

Petition for Wait of Certionari

Kyle M Parks

P.O. Box 33

Terre Haute ,IN 47808

Question(s) Presented for Review

(1) Whether the district Court acted properly when it was denied 28 U.S.C. §2255 relief to the petitioner when evidence reveals law enforcement misconduct to wit : Fabrication of evidence, filing of false reports,, perjury at suppression and trial and concealment. Unites States V. Janis 428 U.S. 433, 446, 49 L. Ed. 2d. 1046, 96 S. CT 3021 (1976); Johnson at 78 f. 3d at 1261 Police Misconduct.

(2) Whether the district Court acted Properly when it denied

28 U.S.C. §2255 Relief to the petitioner law enforcement violated his fourth amendment to illigal search without a warrent and refuse to produce said warrent and probable cause affidavit. Illinois V. Gates, 462 U.S. 213, 213, 39, 76 L. Ed. 2d. 527, 103 S. CT. 2317 £1983•; See also Carlisle V. United States, 517 U.S. 416, 428 (1996) As recognied in Bank of Novia Scotia V. United States; 487 U.S. 250, 254-55 (1988). Ohio Office

(3) Whether the District Court acted properly when it denied 28 U.S.C §2255 Relief for the Violation Of Conforntation Clause at trial six different times by the Prosicutor. Pointer V. Texas, 380 U.S. 400. 65 s. CT. 1065, 13 1. Ed. 2d.923 (1965). Id at 315-316, 94 S. ct at 1110 (Quoting 5J Wigmore Evidence §1395. P. 123 (3rd Ed 1940). See also Crawford V. Washington, 541 U.S. 36, 158 L. Ed. 2d 177. 124 S. CT 1354 (2004)

(4) Whether the District Court acted properly when it denied the petitioner a evidentiary hearing in violation of due process and Fed. R. Civ. P : (c) in accordance with 4(b) and 8(b) of rules governing §2255 Proceeding. Petitioner must recieve a evidentiary hearing if the court accept the allegation as true. Delgato V. United States. 162 f. 3d 981, 983 (8th cir 1998) (Quoting Engelen V. United States. 68 F. 3d 238, 240 8th cir 1995)

(5) Can the government totally disregard a Supreme Court binding Rule in order to satisfy its own personal agenda by applying multiplicious indictment?

(6) Can a magistrate judge deny a defendant the opportunity to self-representation, without the due process of review to determine competency?

(7) Can the government submit, known erronous information to pre-sentencing investigator to increase sentence?

(8) Can a judge alter the text of a statute to create multiple offence(s), then hold that unanimity in not required on the judicially created statute?

United States District Judge John A. Ross, Eighth Circut
United States Magistrate Judge John M. Bodenhausen
Assistant United States Attorney Joshua M. Jones

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I Petitioner has affirmatively proved that his 2015 conviction of human trafficking 18 U.S.C. §1591(a) and 2421(a) was obtained with fabricated evidence, illigal search, Confrontation Clause Violation.

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In the Supreme Court of the United States

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On petition for a Writ of Certiorari
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Petition for Writ of Certiorari

The petitioner, Pro Se, through God, respectfully pray that a writ of certiorari or other positive render. Mr Parks petition for panel and en banc hearing was denied on January 15, 2022.

Opinion Below

The petitioner was convicted of nine (9) counts of Human Trafficking 18 U.S.C. 1591(a) and 18 U.S.C. 2421, by the deliberate and wonton misreprisentation of the states. Knowingly and with the sole purpose of dening Due Process.

Constitutional and Statutory Provisions Involved

28 U.S.C. §2255

(A) A Prisoner in custody under sentence of a court established by Act of Congress Claiming the right to be released upon the

grounds that the sentence was imposed in violation of the Constitution or laws of the United States or that the court was without jurisdiction to impose such a sentence, or that the sentence was in excess of the court which imposed the sentence to vacate, set aside or correct the sentence.

Statement of the Case

Documents in evidence, On December 2, 2015, female subject T.S. ran away from her assign group home in Columbus Ohio. On the same day she met the petitioner while she was in a beer and wine carryout buying a box of Black & Milds cigars. Later that day a trip the petitioner had planned for the week became a subject of conversation. The petitioner was employed as a vending machine locator. Other members of the traveling party consisted of female K.O. (Count 7 of the Indictment); female L.L. (Counts 3 and 4); T.M. (Counts 5 and 6) and R.W. (Counts 8 and 9) Respectively.

On Dec 3, 2015 T.S. mother became Concerned and called T.S. probation officer. T.S. was a high risk Human Trafficking victim of two other cases. T.S. probation officer reached out to the Columbus Police Dept, expressing her concerns. Ohio OFC Mark Young decided to proform a cell phone ping to locate T.S. The ping revealed that T.S. was in the area of St Charles Missouri.

Ofc Young then called St Charles Informing them of the situation and his discovery. Ofc Young penpointed T.S. to be close to a group of hotels of I-70 interstate. Ofc Young

requested St Charles canvas the parking lots of area hotels looking for any cars with ohio plates.

The Petitioners van was located.

St Charles police officer "Fruit" decided to check with the desk and see if any rooms were rented by "Parks". None were reported. However, two rooms were rented by two females using Ohio I.D. (Rm 232 & 235) Ofc Fruit and his partner decided to proform a Knock and Talk. The first room (232) was rented by female R.W. She and T.M. were the only occupants of the room. Ofc Fruit wrote in his report that R.W. and T.M. told him they were in St Louis to dance and that they were not prostitutes. They also included "parks" promised them jobs stripping.

Next Ofc Fruit went to room 235, this room female run-away T.S. was located alone with K.O. and L.L.

Ofc Fruit informed Ohio and his commander of his findings. It was 7:40PM. Sometime later based on reports in evidence Detective Matthew Black, Detective John Halliday and Sgt Adam Kavanaugh arrived at the hotel. (Red Roof Inn) Black states he arrived at 9:15. All three had experiance in Human Trafficking and were members of the F.B.I.'s Human Trafficking Task Force.

Ofc Fruit wrote in his report and official synopsis released by Detective Jaren Queen on 12-21-2005.

Detective Black ordered Ofc Fruit to take all females down to St Charles Police Dept for questioning. Allow them to gather their personal items including their cell phones. Sgt Kavaanugh then ordered Black to proform Photo Intell of both rooms (view photos).

After conducting photo intell, Det Black, halliday and Sgt Kavanaugh went to St Charles to begin live interviews with females K.O., L.L., T.M. and T.S.

Around 12 Midnight, all interviews were completed. Based on reports written by Det Black, approved for release by three other officers, Black left only to return to St Charled requested all females to release their respected cell phones, sign consent to search form allowing each cell phone to be reviewed for items of evidentiary value. KO LL TS agree. TM Stated she did not have a cell phone. All phones were collected along with consent forms and forwarded to the St Charles Police Property Unit. (See Report)

On Dec 4, 2015. The next day Parks enterd St Charles Police Dept/court house inquiring as to what court room would hear arrestee from the night before. Parks first interaction is with unswore desk Ofc David Knoble, Secondly Ofc Paul Yadlosky asked Parks to follow him outside the lobby (see Knoble and Yadlosky's reports) at which time Det Mike Slaughter attempted to interview Parks in a secondfloor room. Parks invoked his right to remain silent. For eight hours Parks was locked in the room without water, food or the ability to use the restroom. At 4:23 pm the

petitioner was informed he was under arrest./The evidence used to secure the states complaint were were the cell phones allege to have been founded in Parks van by Detective Matthew Black, Det Mike Slaughter, Sgt Adam Kavanaugh, and others. Later that day, A.U.S.A. Howard Marcus requested Ohio Attorney General Agent Ryan Schelderer to search parks Ohio office for evidence of Prostitution. The search was done so without the consent of a duly authorized warrent. The government and court has refused for over five years to produce for inspection and copys filed affadavit and warrent. At trial and suppress each in kind Sgt Kavanaugh, Det Black and Det Queen testified knowingly and with reckless disregard for the truth that cell phones were owned by Parks. Cell Phones that were the evidence to secure arrest and conviction. Detective Black with assistance of Sgt Kavanaugh and Detective Slaughter gather in concert knowingly formulate, design and couch well established misconduct of fabrication of evidence.

All done with the knowledge and blessing of A.U.S.A. Marcus and Winfield together with over 45 years of law prosecution. Who was forced to retire and termination respectfully due to the act of concealing the behavior of St Charles police. (See Enclosed)

The question before the court is, Can law enforcers also be law breakers? The Supreme Court has strongly condemned this kind of misconduct by police. The actions of the police violated (1) Substanitive Due Process, (2) The right to be free from baseless, wrongful and malice prosecution, (3) Equal protection of

law. The prime purpose if not the sole one is to deter future unlawful police conduct. United States V. Janis 428 U.S. 433, 446, 49 L. Ed 2d 1046, 96 S. CT 3021 (1976); Johnson at 78 F. 3d at 1261, Police Misconduct United States V. Moore, 965 F. 2d 843, 847 (8th cir 1992); United States V. Szczeaba 897, F. 3d. 929 (8th cir 2018). This case was tanted from the very start, and has continued actively functioning til this very day. See Gjerda, 110 F. 3d at 603, see also Dutton, 400 U.S. at 81; Williams, 87 F. 3d at 254. Substantive Due Process Violation Rochin V. California, 342 U.S. 165, 172-73, 72 S. CT. 205, 96 L. Ed 183 (1952): Act that would shock the conscience of the court.

The government is the universal teacher; it should not be the teacher of dirty tricks, Olmustead V. United States 277 U.S. 438, 485; 72 L. Ed. 944, 485, S. CT. 564 (1913). The government may not be permitted by its court to obtain criminal conviction by gross means. Otey V Marshall, Supra at 1156 (Quoting); City of Canton V. Harris, 489 U.S. 378, 368, 103 L. Ed. 2d. 412 109. S CT. 1197 (1989). Officers of St Charles again knew the planting of cell phones was wrong, illigal and unacceptable conduct, meant soley to harm, well establish. The question before you today is, can accuse recieve fair and just process in a criminal court, when law enforcement, prosecutors and assign counsel all conceal nefarious malfeasance? Here stands the violations. Delibrate misrepresentation, obstruction of justice,fraud upon the court, misprison of felony.Plyler V. Doe, 457 U.S. 202, 216, 72 L. Ed. 2d. 786, 102 S.C.T. [356 F. Supp 2d 98] 2582 (1982); City of Minneapolis V. Buschette, 307, minn 60. 240 N.W. 2d. 500, 502 (1976) (Citing

Yick Wo V. Hopkins 118 U.S. 356, 30 L. Ed. 220 6. S. CT. 1064 (1986) Binding Procedure. St Charles had one goal and one mens REA, that was to harm , by creating a criminal fabricated situation that would produce and cause clear forfeiture of petitioners freedom, liberty and god given right to pursue happiness. The essence of Due Process violation(s).

Confrontation Clause Violation(s)

District courts ruling that prosecutor did not violate confrontation clause in the course of trial. Scores of evidences was presented to the jury in violation of Confrontation. At the first calling to the stand the governments first witness female subject L.L. in the middle of direct the prosecutor displayed a photo of a unindicted, never interviewed by anyone female they called "Amber" expressing to the jury that the defendant had placed advertisment of "Amber" on the website Backpage.com. "Amber" never appeared at any hearing, no one, not the defence, law enforcement or the prosecutor had ever heard from "Amber" under any circumstance. Prosecutor violated Confrontation Clause by presentation of adsentee witness; Dorchy V. Jones 398 F. 3d 783 (6th cir 2005), Guiday V. Dretke 397 F. 3d 306 (5th cir 2005) Cert denied, 547 U.S. 1035(2006)

Second witness call to testify was female subject "TS". Durind TS direct the prosecutor again displayed a photo of a unknown female, no name added, asking TS if the photo shown was her. TS advised the court it was not her. The photo of unknown female was meant to influence the jury.

Third witness call to testify was female subject "TB". TB's testimony was soley based on the interactions of the defendant and un-interviewed, unknown, unindicted female "Donnell Owen". Other than questions concerning Owen, TB gave no testimony of herself engaging in any act of prostitution or criminal activity with the defendant. The defense had no opportunity to question Owen as to the correctness and truethfulness of TB's testimony of absent witness violates Confrontation Clause, because goverment had made no effort to secure witnesses presence at trial; Cook V. McKunz 323 F. 3d 825 (10 cir 2003)

In the testimony of F.B.I. agent Blake Downing the government played a voicemail recording of unknown female, Violated Confrontation Clause Fulcher V. Motley, 444 F. 3d 791 (6th cir 2006) During questioning told the jury he could not say whether recording was outgoing or incomming, the defense never was told the recording would be played or had an opportunity to review recording before trial. Trial court allowed evidence to be admitted that was not reviewed at supression, leaving the defendant with no opportunity to submit any proposed findings of his own. (491. F. 3d, 823) Brady V. Maryland, 373 U.S. 83, 83 S. CT 1194 10 L. Ed. 2d 215 (1963) Tardy evedence.

Evidence of KO and RW's hotel rooms, KO's past criminal and drug history and use. All with prior knowledge of KO and RW not being subpoena to testify (see witness list). KO and RW each rented their own room with their own money. All hotel exibits testimony, report etc, submitted by the prosecutor, never

was subject to supression, confirm violation. The report released by F.B.I. agent Nikkie Badolato revealed KO used her own cell phone and own email to place ads for herself and all the other females, yet both prosecutors narratives were that the petitioner's email was used. The government had the report for over one (1) year before the trial. Unfair Trial violates Due Process, California V.Trombetta, 467 U.S. 497, 485 104 S. CT 2528; 81 L. Ed 2d 413 (1984); Washington V. Texas 388 U.S. 14, 19, 87 S. CT 1920, 18 L. Ed 2d 1019 (1967). A prosecutor may fight with earnest and vigor indeed. He may throw hard blows, but he is not at liberty to throw false ones. Berger V. Unites States 295 U.S. 78, 84 (1935)

As the Supreme Court cases states prosecotorial misconduct is when a prosecutor oversteps the bounds of that propriety and fairness which should characterize the conduct of such an officer in the prosecuton of a criminal offence. The display at close of KO's police history and addition was patently false. The defendant only knew KO for Three days and RW for One. Hall V. Director of Corr, 343 F. 3d 976 (9th cir 2003); False and material evidence admitted at trial. Nothing other that photos of RW's room was presented to the court or jury to allow them to form a guilty or innocent verdict based on all elements of the charge offence.

If the prosecutor knowingly permits false information, reversal is assured. Donnelly V. Dechistoforo, 416 U.S. 637, 643, 40 L. Ed. 2d. 431 94. S. CT 1868 (1974); Trial So unfair as to make the resulting conviction a denial of Due Process

Copeland 232 F. 3d at 947; (citing Donnelly [358 F. Supp 2d 780] V. Dechistoforo (1974) Neither KO or RW testified at my proceedings in any case. Pointer V. Texas, 380, U.S. 400, S. CT. 1065, 13 L. Ed. 2d 923 (1965) The right to Confrontation is secure for a defendant in state as well as federal criminal proceedings means more that being allowed to confront the witness phisical Davis V. Alaska, 415 U.S. [308, 315, 94. S. CT [1105], 110 [39 L. Ed. 2d 347 (1974)

Take the testimony of agent Blake regarding unknown uninterviewed, unsubpoeoa "Holly" or unknown, uninterviewed unsubpoeoa, no name female, phone number 614-354-2513, (see enclosed exhibit). Indeed the main and essential purpose of Confrontation is to secure from the opponent the opportunity of cross examination. (The issue is fairness) Id at 315-316, 94 S. CT at 1110 (Quoting 5J Wigmore evidence §1395 P. 123 (3rd Ed 1940) There is no greater engine for the pursuit of truth then cross examnation.

The defense in its motion to the district court for acquital on counts seven and nine related to KO and RW respectively was denied. in the courts opinion a photo of both KO and RW standing in the lobby of the Red Roof Inn with the defendant established they were members of traveling party. Again the photo in question was never subject to suppression.

Rule 901 authenticating the authentication requirement of 901 soundly requires a party who introduced evidence,

to demonstrate a rational basis for that party's representation that the evidence is what it is purported to be; United States V. Neal 36 F. 3d. 1190, 1210 (1st cir 1994); United States V. Wadena 152 F. 3d. 831, 854 (8th cir 1998)

The district court cannot circumvent binding precedent concerning confrontation, that would thwart the will of the Supreme Court and its wisdom 4(b) and 8(b) of Rules Governing 2255 Proceeding. Petitioner request a evidentiary hearing if the court accept the allegation as true. Delgado V. United States 162 F. 3d. 981, 983 (8th cir 1998), (Quoting Engelen V. United States 68 F. 3d. 238, 240 (8th cir 1995).

Refusal to grant hearing refusal to apply established law, in effect, ignoring the evidence that you now review. (Quoting Duferro Int'l steel trading 333 F. 3d. at 389, Kate V. United States, 389 U.S. 347, 357, 88 S. CT 507, 19 L. Ed 2d 576 (1967)

The district court's denial to review the before cited issues even when the government agreed that the defendant proved prejudice related to multiplicity, cell phones actually belonged to KO LL and TS, and evidence of felony crimes by law enforcement, additionally illigal warrantless entry of Ohio office. Evidence Hearing if justified. Anderson V. City of Bessemer City 470 U.S. 564, 573, 105 S. CT. 1504, 84 L. Ed 2d 518 (1985). If evidence or the record do not affirmatively contradict the claim or not patently frivolous. Review is mandated. Wellors V.

V. Hall, 558 U.S. 220, 220, 225, 226 (2010)

Ohio Search

The issue of the Ohio search can be resolved by the government releasing affidavit and warrent. Six years the petitioner has tried to obtain the documents. Both, own counsel and prosecutor have lied (See Doc #33(4:15-cr-553) (under seal). Under Civ R. 26(a), 37(c)(,) No evidence may be used at a hearing, on a motion or at a trial without disclosure. Over ten exhibits including testimony violated the rule. U.S. V. Bagley, 473 U.S. 667 (1985), Stricker V. Greener 527 U.S. 263 (1999). Counsel for the defendant never even bothered to obtain warrent, first counsel even commited fraud upon the court to help the opposition conceal the warrentless search. (See Doc 33-35)

419 miles outside the indicting jurisdiction Pp 99, Malley V. Briggs, $75 U.S. 335, 340, 341, 89. L. Ed 2d, 271 106 S. CT 1092. On top of testimony the government expressed in numerous filings that search was legal. However, has yet to produce documentation in support and district court will not compel. U.S. V. Peterson, 867 F. 2d 1110, 1113 (8th cir 1998); U.S. V. Luloff, 15 F. 3d 763, 786 (8th cir 1994); See also United States V. Martin; 806 F. 2d 972, 976 Citing Illinois V. Gates, 402, U.S. 213, 238-39 76 L. Ed. 2d. 527, 103. S. CT 2317 (1983). The movant has through due dilligence requested confirmation of legality from Columbus Ohio Franklin County Clerk of Court and the United States District Court Clerk for the Sixth Circuit Southern District of Ohio, each in letters forwarded to the court under case number 18-8431 stated "No records of Affidavit or request for Warrant

can be located.

As required by Fed R. Civ. P. all warrents to be filed with the issuing clerk of the district court Sec V. Rajaratnam 622 F. 3d 159 (2nd cir 2010) Pursuant to Fed R. Civ. P. 15(a),

The district court in its denial To compel production has sidestepped the Rule. Which is an abuse of discretion Carlisle V. United States 517 U.S. 416, 428 (1996) As recognised in Bank of Nova Scotia V. United States; 487 U.S. 250 254-55 (1988) The prosecutor is in violation of Berger Hard Blows not false ones. When photos of Ohio office, and Ohio Agent. Fed. R. Civ. P. 26(B) clearly states the withholding of evidence at discloser, renders that evidence inadmissable. The absence of a Warrent allows the court to positively treat the search as a no warrent at all as Ultra Vires and Vold Ab initio. Fruits of the poisonus tree.

The united States Court of Appeals for the 8th cir has adopted the 2nd circuit of appeals restricted view of what constitutes manifest disregard; Manifest disregard of law is more than a simple error in law or a falure by the court to understand or apply it. It is more than an erroneous interpretation of the law. The court is fully aware of the governing legal principle the 4th amendment requirement for probable cause "Supported by Oath or Affermation". No warrents shall issue, but upon probable cause, supported by Oath or Affirmation, a complaint, that specities

key elements of a crime and a committing magistrate must issue a warrant based on the complaint. Ohio had no complaint against the petitioner on or about the date of December 4th, 2015. Moreover Ofc Mike Young of the Columbus Police Dept. testified at trial that based upon his investigation of "Parks" "One may not like what he do but Strip Clubs are not illigal in Columbus." If this is the swore testimony of one Ohio Ofc under oath, what Oath or Affirmation did Agent of the Ohio Attorney General office state to issuing judge. At trial no one asked the agent for copies of any warrent or affidavit. Was Franks V. Delaware violated? Or Leon V. U.S. The petitioner has a Constitutional Right to request and recieve all mandatory disclosure. "silence can only be equated with fraud when there is a legal or moral duty to speak." United States Y. Tweel, 550 F. 2d 297, 299-300. had that to say about silence. Other Supreme Court opinion(s) in exhibits.

Multiplicity

The fifth and final issue to the understanding of the petitioner is a winnow issue. On page 17-21 of the governments motion to deny relief (§2255). It states "Parks may have shown prejudice, but it is not the prosecutors job to bring it to the attention of the court, its his lawyer's" Under §2423 the offence is best regarded as a lesser included offence of 2421, because the proper unit of prosecution "The transportation of more than one person in one vehicle at the same time can justify only one count". A defendant cannot be charged with seperate charges for transportation of individuals even if one is an adult and one is a minor, Id Bell V. U.S. 349 U.S. 81 83, 75 S. CT. 620. 99 L. Ed. 905 (1955) See also Chiaradio Vs

U.S. If the defendant is ultimately convicted on more that one count, vacation of all but one of the convictions is required, See Ball V. U.S. 470 U.S. 856, 864 (1985)

Court Denial to Self-Representation

The Supreme Court established if the request is made in a timely manner the request must be granted. Farretta 422 U.S. at 835; See Marshall V. Taylor, 395 F. 3d 1058, 1061(9th cir 2005). The request was made ten months before Trial. No tactic to delay can be shown Fritz V. Spalding, 682 F. 2d, 782, 784 (9th cir 1982); See also Moore V. Calderon 108 3d 261, 264 (9th cir 1997); Savage v. Estelle 924. F. 2d. 1459, 1463 N. 7 1991.

District Court did not conduct any Form of a colloquy to establish ability, IQ or explain the danger and disadvantages of such a decision Faretta V. California, 422 U.S. 806. 45 L. Ed 2d 562, 955 S.CT.2525 (1975); The district court in its opinion of the defendant clearly acknowledge he had the full understanding of federal law. To make certain that a accused's professed waiver of counslor is understandingly and wisely made, a trial judge must undertake a penetrating and comprehensive examination of all the circumstances under which such a plea is tendered. Id see also North Carolina V. Alfora 400 U.S. 25, 31, 27 L. Ed. 2d 162, 91 S. CT 160 (1970); Violation of Sixth Amendment. View seal docket #33, (Open court hearing) Docket #29-32 (Letter sent to court)

The attorney for the government and the pre-sentence investigator submitted a erronous P.S.I. causing the defendant to be enhanced in violation of due process. Sentencing ineffectiveness. Strickland V. Washington, 466 U.S. 668, 695 L. Ed. 2d 674 (1984) In this case eleven additional years were added to the sentence. Any time greater than (6) six months is plain error. Glover V. United States, 531 U.S. 198, 203,121 S. CT 696. 148 L.Ed. 2d 604 (2001); Lafler Vs Cooper, 132 S. CT 1376, 182 L. Ed. 2d 398 (2012); Gonzales V. United States, 722 F. 3d. 118, 130 (2nd cir 2013); United States V. Reed, 719 F. 3d. 369, 375 (5th cir 3013)

Falsity or error(s) in pre-sentence report constitute deficient performance under Strickland V. United States,, 851 F. 2d 140. 145 (6th cir 1988); See also Burley V. United States 483 Fed Appx. 10 (6th cir 2010); Id at 559, McPhearson V. United States 675 F. Ed. 553, 563 (6th cir 2012); Id at 563., United States . Rone, 743 F. 2d 1169. 1173 n 3 (7th cir 1984); Auman V. united states 67 F. 3d 157, 162 (8th cir 1995); King V. United States 595 F. 3d 844, 853 (8th cir 2010). An allege violation of the requirements that a presentence report contain correct and true determination of subject's action(s); Compare United States V. Gattas, 862. F. 2d 1432 (10th cir 1988) and Poor Thurder V. United States 810 F. 2d. 817,823 (8th cir 1987) Habeas available. Misinformation by the government to exceed confinement is inconsistent with the rudimentary demands of Fair procedure. That will result in a complete miscarriage of justice. Bowen V. Johnson, 306. U.S. 19. 27. 83 L. Ed 455. 59 S. CT 442, 4287 L. Ed. 2d 417. 82. S. CT. 468 (1962). Errors P.S.I. present "Exceptional circumstances where

the need for remedy afforded by the rule of habeas corpus is apparent; Id. The reason is that the pre sentence report has a substantial effect on the treatment of a prisoner by the BOP and U.S. Parol Commision. See Gattas, 862 F. 2d at 1433, Poor Thunder, 810 F. 2d at 824.

1 fact: The petitioner was enhanced two(2) points for the act of using (marpar53@gmail.com) his email to secure all advertisment on backpage.com.

2 Fact: The petitioner was enhanced two (2) points for using a computer or other internet device to facilitate Human Trafficking.

3 Fact: The petitioner was enhanced two (2) for corrupt inferance age different more that 30 years.

4 Fact: The petitioner was enhanced two (2) points for obstruction of justice, tampering with a witness.

5 Fact: the petitioner was enhanced two (2) points for perjury, in association of testimony without a grand jury indictment.

6 Fact: all evidence gather after trial totally refute government's narrative as to fact 1 - 5.

Concern fact 1 - 4 report release by Nikk, Balotlos reveals true email used. Fact 5..The petitioner in entitled under the compulsory witness Due Process clause VI amendment to gather witnesses for his own behalf. Washington V. Texas 388 U.S. 14. 19 (1967). This right is so fundimental and essential to a fair trial that it is incorporated in the due process clause of the 14th amendment §37; Witness §4. Based on the statement KO and RW gave to St Charles police on the night of Dec 3, 2015 concerning the defendant, had they repeated

the narrative resonable doubt would have been established. Secondly neither KO or RW was listed on the government list of witnesses which is highly required under Fed Rules. Ten points enhancement was erronous.

Testimony of petitioner of timeline concern how long he knew female KO. It should be noted that prosecutor Marcus revealed to the court that the petitioner only knew KO for one week. Yet a closing argument told the jury the petitioner was in a relationship with KO during and while she was doing drugs and getting arrested for prostitution months and years prior to meeting "Parks".

QUESTION:

CAN A JUDGE ALTER THE TEXT OF A STATUTE TO CREATE MULTIPLE OFFENSE(S) THEN HOLD THAT UNANIMITY IS NOT REQUIRED ON THE JUDICIALLY-CREATED STATUTE?

" ... in or affecting interstate or foreign commerce, ..." element to the end of title 18 U.S.C. § 1591 (a)(2) so as to make "... benefit[ting] finantially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1) " an offense when Congress indicated, in the plain text of the statute that§ 1591 (a)(1) as stated by the phrase " ... which has engaged in an act described in violation of paragraph (1), there can be NO conviction under Title 18 U.S.C. § 1591 (a)(2).

II.

It is undisputable that petit jurors are pulled from a population with no formal skill, training or experience in the Science of Law. They take into the Deliberation Room those lessons gleaned from those who they believe are so skilled, trained or experienced. At the acme of this group of legal professionals sits the Judge - a person whose instruction(s) on what is or is not the law of the case and carries considerable weight in the mind of most jurors there to perform their civic duty to deliberate upon the guilt or innocence of the Accused.

A resonably prudent juror would no doubt be bound by the conclusions of law given by the judge.

In the Case At Bar, The Record will reflect that the Honorable Court, did knowingly and deliberately alter the criminal

statute, Title 18 U.S.C § 1591 (a)(1), by moving its first element, "... in statutes third elementso as to make § 1591 (a)(2) a free-standing criminal offense, so that a defendant can be convicted under § 1591 (a)(2) even without a conviction under § 1591 (a)(1).

In order to better illustrate this unconstitutional act of judicial magic, The Petitioner would show:

A.

The Jury Instructions given by the Court reads as follows:

> First either that the defendant knowingly transported or recruted or enticed or harbored or provided or obtained or maintained a person by any means or that the defendant benefitted financially or by receiving anything of value for participation in a venture which recruited, enticed, harbored, transported, provided, obtained or maintained by any means a person.
>
> Second that the defendant commited such an act knowing, or in reckless disregard of the fact that means of force, threats of force, fraud, coercion or any combination of such means would be used to cause the person to engage in a commercial sex act.
>
> Third that the defendant's conduct was in or affecting interstate or foreign commerce.

B.

Now compare what the judge says is the proper placement of the elements of the offence of conviction with what was ratified by the United States Congress in the Constitutional exercize of the Legislative

Authority of the United States:

> (1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, harbors, transports, provides,obtains, advertises, maintains, patronizes, or solicits by any means a person; or
>
> (2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1).

It is clear from the above that the Court's judicial statute, produced after the defense had rested, is materially distinct from the statute as written by Congress.

The first element of the judicial statute is that petitioner "... knowingly transported or recruited or enticed or harbored or provided or obtained or maintained a person...." where Congress's first element is that the petitioner must have "in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruit[ed], entice[d], harbor[ed] transport[ed], provide[d], obtain[ed], advertise[d], maintain[ed], patronize[d], or solicit[ed] by any means a person ..."

Then, the Court, ardently pursuing its judicial statute, places the first element in the third position, thereby altering the text of the statute, in order to make benefitting financially or by reciving anything of value from participation in a venture which has engaged in an act described in violation of paragraph (1).

C.

The Courts exercize of the United States Judicial Authority under Article III. As the Supreme Court unambiguously stated:

> A court cannot alter the balance struck by the statute, not even in rare cases.

- Czyzewski, et al., v. Jevis, 2017 U.S. LEXIS 2024, 197 L.Ed. 2d 398, 137 S.Ct. 923 (2017)

By the Court altering text of Title 18 U.S.C. § 1591(a)(1) to make its first element its third, the Court allowed petitioner to be convicted of § 1591 (a)(2) without him - or any of his co-defendants - ever having been convicted of § 1591(a)(1).

As the Court Appeals for the 8th Circuit has clearly stated:

> A court cannot alter the text of a statute to satisfy the policy preferences of one party to the detriment of the other.

- Riccardi v. Ameriquest, 164 Fed. Appx 221, 224 (3d cir. 2204); Barnhart v. Signal, 534 U.S. 438, 122 S.CT. 941, 151 L.Ed.2d 908 (2002)

It is hornbook law that the alteration of text of a statute by a Court once ratified in the constitutional manner by Congress runs afoul of constitutional norms and defies the traditional concepts of ordered Liberty that mark our progress as a maturing society.

> When the plain and ordinary language of the statute is clear, the court may not add to or alter the words employed to affect a purpose which does not appear on the face of the statute .... This Court [cannot] do what the legislative branch of the Government failed to do or elected not to do. This, of course, is not within our province.

- Hanover Bank v. Comm'r of Internal Revenue, 369 U.S. 672, 678-88 8 L.Ed 2d 187, 82 S.Ct. 1080, 1962-1 C.B. 321 (1962)

State or foreign commerce.... " That which move created two (2) distinct offences out of one (1) Congress intended. Without movement of this element, § 1591 would only contain one (1) criminal offense - and

that is § 1591(a)(1).

Creating two statutes out of one makes both criminal offenses require unanimity on the Congressionally-created statute and unanimity on the Judicially-created criminal offense.

The Court's judicial legislation of Title 18 U.S.C. § 1591 (a)(1) created the necessity for unanimity, as movement of the "... in or affecting interstate or foreign coommerce, ..." element, now moved to the end of § 1591 (a)(2), made (a)(1) and (a)(2) criminal offenses, and, as such, require unanimity, before petitioners Liberty may be taken at the hand of the government. The Fifth Amendment's Due Process of Law clause is intended to stand as a barrier against conviction on criminal offenses (such as § 1591 (a)(2)) - judicially-created or not - absent a unanimous verdict of a properly enpaneled Jury. Petitioner now seeks the vacatur of this court of conviction and his IMMEDIATE RELEASE from custody on this count.

Additionally the element of interststе commerce was never proven at trial. Evidence in support of this consists of both rooms were rented by Female Subjects KO and RW. Cell phones and email used to secure all ads on backpage.com was ownership of KO. See Attached Reports. Nor did the defendant recieve any funds or anything of value. See PSI Pg 7 and Docket # 186-191, Court ordered Return of funds to the defendant.

Conclusion

The Honorable Courts mandate is the protection of the innocent against erronous conviction; Dretke v. Haley, 541 U.S. 386, 398-99 (2004); Habeas Corpus is and has for centuries been a "bullwark against conviction(s) that violate fundamental fairness; Bousley v. U.S. 523 U.S. 614, 620 (1998): The quintessential miscarriage of justice is the execution of a person who is entirely innocent. Schlup v. Delo, 513 U.S. 298, 324-25 (1995). This court has the power to correct error of constitutional magnitude and importance. For the district court to write in its § 2255 order that evidence was planted, yet the issue of cell phone(s) ownership was not an element of the charge offence, Due Process was not violated. At trial and in numerous court filings the government made it appear that the petitioner used his cell phone and email to promote prostitution, only to years later in submission of § 2255 rebuttal state "three of the cell phones actually belong to KO LL TS. The very cell phones located in petitioners van for the government to reveal true ownership of criminal tools and release F.B.I. report on the day of trial whos email was really used and that Det. Black testimony at trial differ from reports release by him and other officers supports this "writ of error" U.S. v. Finley 175 F. 3d. 647 (8th cir 1999) Nguyen, 250 F.3d at 646

As the defendant established in clear and convincing documents in evidence ownership on cell phone equates to maintain and provide element of charge offence. He/she who owned the phones had to maintain the account he/she who provided the email to secure all ads was the provider. Two of the elements of charge offence that the jury was not aware of.

The petitioner assert cumulative error doctrine at trial, allowed as a standard claim(s) assertion. Parle v. Runnels 505 F.3d 922, 927 (9th cir 2007); Chambers v. Mississippi; 410 U.S. [284] at 298 [1973] two or more individually harmless errors has the potential to prejudice a defendant to the same extent as a single reversible error 5th and 8th amendment.

Any one of the six issues would support to motivate a evidentiary hearing. The joint combination leaves the government with not a inch of legal rational to deny this request.

As the district court has acknowledge, the showing of planted, fabricated evidence brings the issue of 404(B) in to a state of Void. Had the attorney's for either party shared with the court's St Charles behavior, all van and 404(B) evidence would have been deeded fruits of the poisonous tree. U.S. v. Easton 260 F.3d 1232, 1239 (10th cir 2001)

Against the Weight of the Evidence

Contrary to the evidence, a finding is "against the manifest weight of the evidence. For judgment to be concidered such, it must appear that conclusions opposite to those reached by the trier of fact are clearly evident. If a verdict is against the weight of the evidence, a new trial may be granted under Fed.R.Civ P. 59(a)

When pray the petitioner do so with hopes that the court correct this miscarrage of justice, Vacate requested.

Submitted Pro Se - Kyle M Parks