

No. 21A427

IN THE
SUPREME COURT OF THE UNITED STATES

Rashawn A. Taylor — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States 4th Circuit Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

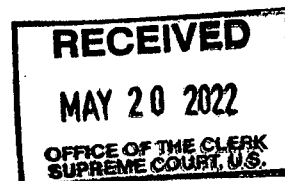
PETITION FOR WRIT OF CERTIORARI

Rashawn Antonio Taylor
(Your Name)

P.O. Box 3900
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Adelanto, California 92301
(City, State, Zip Code)

(Phone Number)



QUESTIONS PRESENTED

- 1.) Can a Jury find the Defendant guilty of RICO Conspiracy without being instructed of the first essential element The Existence of an Enterprise while using future tense language (May, or May Not, Would or Would Be) as 3 out of The 5 elements of The RICO offense.
- 2.) Whether The Court of Appeals Errored By Making its Affirmed Decision By Relying on An Unspecified Statute that's Chargeable Under State Law and Punishable By Imprisonment for More than 1 Year Under 18 U.S.C. 1961 (1).
- 3.) Did The District Court Commit Error when The Court Sentenced Taylor To More Than 20 Years of RICO Conspiracy.
- 4.) Did The District Court Commit Error By Denying To Set Aside the Verdict when the Jury Relies on An Invalid Crime of Violence.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Salinas v. United States 52, 62, 118 S.Ct. 469

United States v. Davis 139 S.Ct. 2319

Apprendi v. New Jersey 2000

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United States v. Phea, 755 F.3d 255, 266 (5th cir 2014)	8
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STATUTES AND RULES

18 U.S.C. 1962 (D)
 18 U.S.C. 1961 (1)
 18 U.S.C. 1959 (a) (1)
 18 U.S.C. 924 (c) AND (j)
 18 U.S.C. 922 (b) (1)
 18 U.S.C. 841 (a) (1) AND (b) (1) (C)

OTHER

United States v. Davis, 139 S.Ct. 2319 (2019)	Page 9
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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ 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 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 August 18th 2021.

☐ 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 2-17-22 (date) on 5-13-22 (date) in Application No. 21 A 427.

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).

(Statement Of The Case)

On March 6, 2019, The Grand Jury In The Eastern District of Virginia Returned A Thirteen-Count Indictment Against Taylor And A Co-Defendant, Timothy Sawyer-Haze. The Indictment Charged Taylor In Count One 18 U.S.C. 1962 (d) Count Two 18 U.S.C. 1959 (a) (1), Count Three 924 (c) (1) AND 924 (j), Count Four, 18 U.S.C. 1951 (a) AND 2, Count Five 18 U.S.C. 922 (g) (1), AND Count Six 841 (a) (1) (b) (1) (C). The Government filed A Notice Not Seek The Death Penalty On July 12, 2019. On January 23, 2020 The Government Dismissed The Indictment Against Taylor, But Later Returned A Superseding Indictment Changing The Same Offenses In The Original Indictment. On February 11, 2020 Taylor Was Tried Before A Jury On The Six Counts. On February 18, 2020 The District Court "Acquitted" The Defendant On Count four "Attempted Hobbs Act Robbery". On February 20, 2020 The Jury found Taylor "Not guilty" On Count Two "Murder In Aid of Racketeering". On July 23, 2020 The District Court Denied Taylor's Rule 29 Motion On Count One 1962 (d) AND Count Three 924 (j). Taylor Then Timely Appealed AND The Court of Appeals for the Fourth Circuit Affirmed.

REASONS FOR GRANTING THE PETITION

REASON FOR RELIEF)

DID THE DISTRICT COURT COMMIT ERROR BY SENTENCING TAYLOR TO MORE THAN 20 YEARS ON RICO CONSPIRACY

TAYLOR, was sentenced to 35 years on RICO CONSPIRACY 18 U.S.C. 846 (d) which violated Apprendi v. New Jersey and its progeny because the government failed to prove a racketeering predicate act that carries a life sentence. The government failed to prove beyond a reasonable doubt at trial that he committed VICAR murder 18 U.S.C. 1159 (a) (1) in which the jury found him not guilty. This offense was the only predicate that carries a potential penalty of life imprisonment IN TAYLOR'S case. APPENDI states any other fact that increases the penalty for a crime beyond the statutory maximum must be submitted to the jury and proved beyond a reasonable doubt. Under RICO and pursuant to Apprendi to increase the defendant's maximum of 20 years to life the government must plead and prove that the defendant committed at least one predicate act of racketeering that carries a life sentence. TAYLOR was found not guilty of the predicate act that carries a life sentence. Accordingly where a jury fails to find that a RICO defendant had committed any predicate act with a potential penalty of life imprisonment the defendant's maximum exposure is 20 years imprisonment. see; Nguyen, 255 F.3d at 1343-44.

for the reasons above Taylor's sentence should be vacated and remanded as a matter of law because he was found not guilty to any predicate act that carries more than 20 years of imprisonment.

REASONS FOR RELIEF)

The Petitioner Rashaun Taylor litigates to the court it was plain error when the district court failed to instruct the jury on every element of the offense while using future tense language. see; (Appendix A page 1). The existence of an enterprise is an essential element the government must prove beyond a reasonable doubt. The fourth circuit stated to convict a defendant of RICO Conspiracy the government was required to prove an enterprise existed. see; United States v. Taylor, 942 F.3d 205, 213 (2019). citing Salinas v. United States 522 U.S. 52, 62, 118 S.Ct. 469 (1997). At the charge conference both parties agreed to instruction No. 51 (Document 102) page id#643. see; (Appendix A page 3). This instruction correctly stated the first element OF the offense. When a jury instruction omits or significantly misstates an essential element of an offense, the error may be severe enough to meet the plain error standard. see; United States v. Brown, 553 F.3d 768, 785 (5th Cir 2008). The failure to require proof of each element of conviction affects substantial rights. see; United States v. Gaudin, 515 U.S. 506, 511, 115 S.Ct. 2310 (1995). In this instruction the court used future tense language in 3 key elements of the offense using (MAY OR MAY NOT, WOULD OR WOULD BE) see; (APPENDIX A page 1 and 2) which would relieve the Government's burden to prove each element of the crime beyond a reasonable doubt. A jury instruction must correctly state the law as well as clearly instruct the jurors and be factually supportable. see; United States v. Phea, 755 F.3d 255, 266 (5th Cir 2014). Additionally within this instruction that was given the COURT failed to use the Fourth circuit formulation to convict the defendant on RICO conspiracy. The COURT instructed the jury on the TENTH CIRCUIT FORMULATION using the first two elements in United States v. Harris in which the HARRIS COURT states the existence of an enterprise is not an element of the conspiracy offense. The first and second element in Harris are different elements that are required in the Fourth Circuit Formulation. see; (Appendix A page 4 and 5). The fifth and sixth Amendment states its a criminal defendant right to demand that a jury find him guilty of all elements of the crime with which he is charged. A failure to instruct on an element of a crime satisfies the plain error analysis. see; United States v. Olano and also see; United States v. Aramony, 88 F.3d 1369, 1387 (4th Cir 1996).

Taylor further argues the three judge panel affirmed decision was error by relying on an unspecified narcotic that is chargeable under state law and punishable by imprisonment for more than 1 year under 18 U.S.C. 1961 (1). The adduced evidence that the government presented was EXHIBIT 300f. referencing the word "PACK" means pool money and buy whatever drugs of choice to sell. see; (APPENDIX B page 2) This circumstantial evidence was based off a confidential informant testimony at trial. The government failed to prove or present any evidence of what narcotic and that the "UNSPECIFIED NARCOTICS" was punishable by more than 1 year of imprisonment. Controlled substances have (six VI) different schedules in which only two are felonies and punishable by more than 1 year of imprisonment. see; (APPENDIX C). A schedule 3, 4, 5, and 6 controlled substances are all misdemeanors that are not punishable by more than 1 year of imprisonment. The panel also relied on an Attempted Robbery that the defendant was acquitted of on a rule 29 motion at trial. see; JA -1363 (DOCUMENT 127). The government failed to prove that the alleged act was on the behalf of the enterprise. see; JA -1171 -1172... As a matter of law there is no fact finder that the defendant agreed to a pattern of racketeering activity. Taylor proffers in this matter the court should remand the decision back to the appeals court based on the foregoing facts above...

DID THE DISTRICT COURT COMMIT ERROR BY DECIDING TO SET ASIDE THE VERDICT WHEN THE JURY RELIED ITS GUILTY VERDICT ON A INVALID CRIME OF VIOLENCE.

Taylor WAS FOUND guilty of 18 U.S.C. 924 (c) (1) AND (3) IN RELATION TO A CRIME OF VIOLENCE. IN THE INDICTMENT THE OFFENSE ALLEGED THAT (COUNT ONE) RICO CONSPIRACY 1962 (D) AND (COUNT TWO) MURDER IN AID OF RACKETEERING ACTIVITY ARE CRIMES OF VIOLENCE. THE JURY WAS ASKED IN THE SPECIAL VERDICT FORM TO CHOOSE WHICH CRIME OR CRIMES OF VIOLENCE DID Taylor COMMIT, "RICO CONSPIRACY" OR "VICAR MURDER". ON COUNT THREE 924 (c) AND (3) THE JURY CHECK (NOT PROVED) FOR VICAR MURDER WHICH IS A VALID PREDICATE CRIME OF VIOLENCE, AND CHECK (PROVED) FOR RICO CONSPIRACY WHICH IS AN INVALID CRIME OF VIOLENCE. SEE; APPENDIX D.

JA-1353. IN THE LIGHT OF THE SUPREME COURT DECISION IN UNITED STATES V. DAVIS, 139 S. Ct 2319-2336 (2019) RICO CONSPIRACY IS UNCONSTITUTIONALLY VAGUE ON 924 (c) OFFENSES. ALMOST EVERY CIRCUIT CONCEDES THAT RICO CONSPIRACY IS NOT A CRIME OF VIOLENCE. SEE; UNITED STATES V. ANTONIO SIMMONS, MAY 28TH 2021 (4TH CIRCUIT). SEE; UNITED STATES V. GREEN, 981 F.3d 945, 951-52 (11TH CIRCUIT). SEE; UNITED STATES V. JONES, 935 F.3d 266, 271 (5TH CIRCUIT). SEE; UNITED STATES V. CAPERS, 20 F.4TH 105, 120 (2^D CIRCUIT). ADDITIONALLY Taylor WAS FOUND "NOT GUILTY" OF (COUNT TWO) VICAR MURDER. IT WAS PLAIN ERROR TO CONVICT OR PERMIT THE JURY TO CONVICT Taylor OF 924 (c) AND (3) BASED ON RICO CONSPIRACY AS A CRIME OF VIOLENCE. SEE; APPENDIX D

CONCLUSION

BASED ON THE FOREGOING FACTS PRESENTED TO THIS HONORABLE COURT
TAYLOR PROFFERS,

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Rashawn A. Taylor *Rub-fuk* 2/29

Date: 4/29/22