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IN THE  
SUPREME COURT OF THE UNITED STATES

FILED  
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SUPREME COURT U.S.  
**ORIGINAL**

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Robert Lee Shields

Petitioner

v.

United States of America

Respondent

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On Petition For A Writ OF Certiorari

THE UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

Robert Lee Shields  
Reg. No.: 21043-032  
FCI Edgefield  
P.O. Box 725  
Edgefield, SC, 29824

## QUESTIONS PRESENTED

(1) Does the Constitutional right to due process of law require some evidence that a drug that resulted in death was chemically identical to the drug a Defendant introduced into the distribution chain.

### LIST OF PARTIES

All parties do not appear in the caption of the Case on the cover page. The following parties were part of the proceedings in the Court whose Judgment is the subject of this Petition.

Jennifer Ham  
Wesley Ham

### RELATED CASES

The Criminal prosecution of Wesly and Jennifer Ham.

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## APPENDI

- A.) Appeals Court Decision
- B.) Letter Granting Extension

TABLE OF AUTHORITIES

Alleyne v. United States,  
570 U.S. 99 (2013)

Apprendi v. NJ,  
530 U.S. 466 (2000)

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.

OPINION BELOW

The opinion of the United States Court of Appeals appears at Appendix A to the Petition and is reported at 2023 U.S. App. LEXIS 11104, 2031 Fed. App. 0214N (6th Cir. 2023) (unpublished opinion).

The opinion of the United States District Court is unpublished.

## JURISDICTION

The United States Court of Appeals decided the case on May 4, 2023.  
An extension of time was granted to April 15, 2024 (See Appendix B).

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Constitutional right to due process of law provided in the Fifth Amendment to the U.S. Constitution.

21 U.S.C. § 841(b)(1)(C).



## STATEMENT OF THE CASE

Mr. Robert Shields, the "Petitioner," was indicted, along with Wesley Hamm, [and] his wife Jennifer Hamm, with conspiracy to distribute carfentanil, fentanyl, and heroin, in violation of 21 U.S.C. §§ 841(a)(1) and 846. At relevant part, the indictment also charged Shields and Hamm with separate counts of distributing carfentanil, "the use of which resulted in the overdose death of an individual referred to as L.K.W.. Mr. Shields was sentenced to 480 months based on the enhancement incorporated into 21 U.S.C. § 841(b)(1)(C) of resulting in death. This enhanced sentence was based solely on circumstantial evidence without any actual comparison of the substance Shields introduced into the distribution chain and the actual substance ultimately reaching the individual that resulted in the overdose. In other words, there was no evidence [that] established the substance was not altered or mixed with another substance prior to being provided the individual that overdosed. Shields Petitions this Court to grant review and determine if the due process clause would place a burden on the government to provide some chemical evidence that the chemical introduced into the distribution chain was the same chemical that ultimately caused the death beyond the circumstantial evidence provided in this case.

## REASONS FOR GRANTING THE PETITION

### PRELIMINARY STATEMENT

The United States Court of Appeals for the Sixth Circuit has decided an important question of federal law that has not been, but should be, settled by this Court.

As this country continues to battle drug addiction through attempts to curtail illegal distribution. furthermore, that addiction has increased in death resulting. This case presents a important question. That is what is the burden of proof for the government to establish accountability for a death resulting. For instance, an individual higher up on the food chain, so to speak, can enter a substance into the distribution chain. However, as it exchanges hands down the chain, the substance is increased in volume by adding other chemicals. The question here is whether the government should be subject to a burden of, in the least, introducing some evidence to demonstrate that the chemical was ultimately cause the death was not significantly altered. The Constitutional question is straight forward. Of course illegal drug distribution is a serious crime, however, this court has firmly established that any fact that increases the statutory range of a crime be presented to a jury and proven beyond a reasonable doubt. See Apprendi v. N.J., 530 U.S. 466 (2000); Alleyne v. United States, 570 U.S. 99 (2013). The substantial question here is grounded in the Fifth Amendments due process clause i.e., is it fundamentally unfair to hold a Defendant accountable for a death resulting from a chemical introduced into a


drug distribution network without a prima facie showing of chemical evidence that [that] chemical was substantially the same chemical that ultimately caused the death.

This Court is needed to establish the Constitutional burden on the Government to apply the enhanced penalties of resulting in death incorporated into 21 U.S.C. § 841(b)(1)(C). This case provides an excellent set of facts for this Court to set the standard for that enhancement.

#### CONCLUSION

For the above reasons the Court should grant the Petition.

Respectfully Submitted on: 3/22/2024

  
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