

No. 24-6702

FILED

JAN 07 2025

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Washington, D.C. 20543

Vincent Adams Vassor — PETITIONER
(Your Name)

vs.

MR. Jacob C. Beach "et al." — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeal (Sixth Circuit)

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Vincent Adams Vassor USM#54668-509

(Your Name)

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QUESTION(S) PRESENTED

1. If a jury is instructed to convict upon the preponderance of evidence, and simultaneously instructed to convict upon reasonable doubt, are these instructions confusing and misleading to a jury?
2. Are false statements and false quotations permitted to be said in the presence of a jury?
3. Can witness testimony of crimes that have not occurred be answered after counsel objects to such testimony in the presence of a jury?
4. Without being advised in a "jury instruction conference," can altered jury instructions be spoken to a jury without notice?

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:

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RELATED CASES

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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 _____; 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[] is unpublished.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[] is unpublished.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[] is unpublished.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 Aug. 15, 2024.

☐ 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: Oct. 23, 2024, and a copy of the order denying rehearing appears at Appendix A.

☐ 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. § 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

1. 14th Amendment
2. 5th Amendment
3. 6th Amendment

1. Fed. R. Crim. (404(b))
2. Fed. R. Crim. (404(a)(1))
3. Fed. R. Crim. (116(a)(B))
4. Fed. R. Crim. (P. 51(d)(2))
5. Fed. R. Crim. (P. 51(d)(1))

STATEMENT OF THE CASE

The Statement of the case:

- #(1) In the lower courts, it was factual that the court did not give notice that (instruction #25) was going to be altered from its original (3.07 Conspiracy Venue) design. The alteration was unnecessary and confusing. This was unfair to the defendant and unfair to the jury. No jury should be instructed that they can obtain a Guilty Verdict upon the following: (1) On the preponderance of evidence (2) More likely than not (3) Beyond reasonable doubt simultaneously.
- #(2) With no attempts or threats on the witnesses life, the witness was allowed to testify under oath about how he can be hunted down because he had testified about two defendants. This left a negative impression on the jury. The testimony suggested that a conspiracy had existed and that gang affiliation was involved. He testified that he feared for his life. This was unfair to the jury and this was unfair to the defendant.
- #(3) False statements and misquoted statements were spoken to the jury that did not exist on any recordings or any camera footage. These false statements and misquoted statements painted a negative picture to the jury. The camera footage and the phone recordings can be compared to the closing arguments as material evidence.

Between Oct to Dec. 2020, Zane Sloan had been under investigation by Law enforcement in the Eastern District of Kentucky for numerous counts of drug trafficking. Sloan was arrested on Dec. 31st 2020 and agreed to cooperate with Law enforcement.

On Jan 1st 2021 Sloan had agreed to become a informant for Law enforcement.

Prior to Sloan becoming a informant, Sloan had made numerous drug transactions with numerous drug dealers. In Oct. 2020, Sloan contacted Antonio Cloyd in search of purchasing methamphetamine. In return, Cloyd introduced Sloan to Robert Solomon and James Charles.

On separate occasions, Sloan would purchase methamphetamine from Cloyd, and sometimes Sloan would purchase methamphetamine from Solomon, and sometimes Sloan would purchase methamphetamine from James Charles.

Prior to Jan. 2021, Sloan met Vincent Vassor through some other drug dealers, and Sloan claimed that Vassor appeared at his home unannounced. Vassor negotiated with Sloan to sell Sloan meth at a cheaper price. When Vassor was not available, Sloan would purchase —→ Pg. #2

methamphetamine from Cloyd for a higher price. However, Cloyd and Sloan never had a discussion about Vassor.

Once Sloan became a informant on Jan. 1st 2021 for law enforcement, Sloan orchestrated (4) four alleged controlled buys of methamphetamine during a six month investigation.

The first (1) alleged controlled buy Sloan orchestrated was with Antonio Cloyd on Jan. 7th 2021 for (1) one pound of methamphetamine. The (2nd) second alleged controlled buy Sloan orchestrated was with Antonio Cloyd on Jan 14th 2021 for (1) one pound of methamphetamine. The (3rd) Third alleged controlled buy Sloan orchestrated was with Vincent Vassor on Feb. 8th 2021 for (1) one pound of methamphetamine. The (4th) fourth buy Sloan orchestrated was allegedly with Charles for (3) three pounds of methamphetamine on June 8th 2021. All of the alleged controlled buys were recorded on camera footage.

In reference to the Feb. 8th 2021 buy with Vassor, law enforcement instructed the informant (Sloan) to contact

Vassor and arranged a controlled buy for (1) one pound of methamphetamine. Vassor and Sloan decided to meet at the mall to accomplish the transaction.

Simultaneously, law enforcement had Charles's home under surveillance. Law enforcement observed Vassor and Charles drive away south prior to the controlled buy with Sloan and Vassor. Supposedly within a hour, Vassor returns to Charles's home alone.

Later, Vassor leaves Charles's home alone and meets Sloan at the mall. Sloan and Vassor have a extensive conversation. Detective Harrison recalled Vassor say, "Don't nobody know what I'm doing," and "I keep people out of my business." Detective Harrison recalled Vassor say, "I won't tell nobody, but I've been looking for someone like you and you've been looking for someone like me." (A review of the camera footage is informative and recommended) (Exhibit # 46 and 47B).

This case resembles, United States v. Pearce 912 F.2d 159, 162 (6th Cir. 1990) "Mere

association with conspirators is not enough to establish participation in a conspiracy. In *United States v. Paige*, 470 F.3d 603, 608, (6th Cir. 2006) "We have long recognized that to prove a single conspiracy, the government must show that each alleged member agreed to participate in what he knew to be a collective venture directed to a common goal.

There was know search warrant issued by a judge on Feb. 8th 2021 to search Charles's home. The only drugs that can be accounted for in Charles's home on Feb. 8th 2021 is the (1) one pound that Vassor retrieved allegedly from his personal belongings in Charles's home.

On June 8th 2021, Sloan made (4) four monitored phone calls with law enforcement. Two (2) phone calls were made to Vassor, and two (2) phone calls were made to Charles. In the two phone conversation to Vassor from Sloan, Charles's name or drugs were never mentioned. In the two phone conversations to Charles from Sloan, Vassor's name was never mentioned. Law enforcement did not provide phone records as

proof that Vassor and Charles spoke on June 8th 2021.

On June 8th 2021 a search warrant

was issued by a state judge to search

Charles' home. During the monitored phone

calls and during the search of Charles

home, Vassor was in Los Angeles and had

not been seen in Kentucky since Feb. 8th

2021. Meanwhile law enforcement confiscated

drugs and firearms from the home.

Previously, to the search, Charles

had been arrested on June 8th 2021. A

grand jury returned a indictment against

Charles, Cloyd and Vassor on July 1st 2021.

Vassor was arrested and taken into

custody July 1st 2021 in Los Angeles.

Later Cloyd pled guilty, accepting a

plea agreement that specified he would

testify for the government at trial. On Jan.

6th 2022, a grand jury returned a supersed-

ing indictment against Charles and Vassor

containing seven counts: Conspiracy to

distribute 500 grams or more of a metham-

phetamine mixture or substance in violation

of 21 U.S.C. § 846 (count 1) Possession with

intent to distribute 500 grams or more

of a mixture or substance containing methamphetamine in violation of 841(a)(1) (count 2) against Charles only; Possession with intent to distribute 100 grams or more of a mixture or substance containing heroin in violation of § 841(a)(1) (count 3) against Charles only; Possession with the intent to distribute a mixture or substance with a detectable amount of cocaine in violation of 841(a)(1) (count 4) against Charles only; Possession with the intent to distribute 50 grams or more of a mixture or substance containing methamphetamine in violation of § 841(a)(1) (count 5) against Vassor only; Possession of a firearm in furtherance of a drug trafficking crime in violation of 18 U.S.C. 924(c)(1)(A) (count 6) against Charles only; and unlawful possession of a firearm under § 922(g)(1) (count 7) against Charles only;

TRIAL:

With respect for the court, the defendant replies to the appeals court's opinion about witness testimony.

Antonio Cloyd's testimony:

During the testimony of → Pg. # 7

Antonio Cloyd, the prosecutor asked, "What about from Vassor, did you get drugs from him?" Cloyd replied, "Never."

The prosecution asked, "Okay. What did you know Vassor to be involved in?"

Cloyd replied, "I really didn't know him to be involved in any of it, just a friend of his you know."

Sloan's testimony:

During trial Zane Sloan was asked, "Okay. And what, if any, was the connection between Vassor and Charles?" Sloan replied,

"I took it to be, you know, they was partners, the way I took it." the prosecutor asked, "And why did you take it that way?"

Sloan replied, "Well because Vassor was-- he would have to go back to Charles to get it. He didn't tell me that, but I know where he was going. you know kind of other people talk."

In the appeals courts opinion, the words, "I took it to be," was changed to

"He believed that Vassor and Charles were partners." However, "I took it to be," can

mean, "I assumed that they were partners." "I took it to be that they

were partners," can add up to mere speculation and assumption. The prosecutor asked Sloan, "Did you, Charles and Vassor ever meet together?" Sloan replied, "I don't think we did."

Zane Sloan had never witnessed the co-defendants together, nor; has he witnessed them say that they were partners.

DENIAL OF MOTION APPEALED:

The lower court was erroneous when the court denied counsel's motion for a mistrial under 404(b) evidence admitted. However this was a violation of 404(b) (404(a)(1)) and it was a violation of the 14th, 5th, and 6th Amendments of the constitution:

During trial Zane Sloan made the following statements to the jury:

Q: And had there been concern for your safety?

Counsel: Objection, your honor.

Court: I'll sustain in part, but you may reask.

Q: yes sir.

Q: Did you have any concern for your safety?

Sloan: yes.

Q: why

Sloan: It's just they're suppose to belong to some kind of club in California, and I figured I know how they operate. They found out I was telling on them, then they would call them, and they would come hunting for me. So I just wanted to be out of town for a while.

Counsel: your honor, may we approach?

Court: yes, you can come up.

Counsel: Judge, my first motion will be a motion for a mistrial. The witness just obviously introduced 404(b) evidence, without any notice to us. He testified that my Client was a member of some club in Los Angeles, which obviously creates and inference with this jury that he's — that their's gang affiliation.

The request for a mistrial was denied and the court allowed the prosecution to continue with that line of questioning.

This was a violation of 404(b) and 404(b)(1) Character Evidence. Prohibited Uses. "Evidence of a person's character or character trait is not admissible to prove that on a particular occasion the

Person acted in accordance with the character or trait. This violates the 14th Amendment, because the 14th Amendment guaranteed equal protection under the law and due-process under the law.

This violates the 5th and 6th Amendment, because the accused defendant should not be held to answer for a crime that supposedly exist. This is a unproven accusation that painted a negative image of the defendant to the jury. The United States constitution protects its citizens from such harmful trial proceedings. Furthermore the "California Club accusation," could have possibly suggested, "Conspiracy," to the jury.

The 6th Amendment allows the defendant to be informed of the nature and cause of the accusation; to be confronted with the witness against him; to have compulsory process for obtainin witnesses in his favor, and to have the Assitance to counsel in his defense. The defendant was never given proper notice to prepare a defense for the crimes the witness told to the jury.

Belonging to a gang or a club that will hunt someone down because they told Law enforcement about a crime is a negative image to paint in the minds of jurors. To scare a jury into a guilty verdict is unfair and harmful to our courts and harmful to our justice system.

misstatements:

False statements:

misquoted statements:

The defendant's 5th, 6th, and 14th Amendments were violated when false statements were applied in the trial proceedings, and false statements were applied in the appeal proceedings:

In the court's opinion, the court referred to a recording that was played to the jury of Vassor claiming to have obtained drugs from Charles.

(1) No evidence in this case has a recording of Vassor claiming to have obtained drugs from Charles.

(2) No recording was played to the jury of Vassor claiming he had obtained drugs from Charles.

(3) No evidence or recordings of Vassor claiming to have obtained drugs from Charles was never disclose to the defense, nor; were they disclose to counsel or dis- → → Pg. # 12

closed in the discovery of evidence.

(4) There was a en banc for a re-hearing filed on Vassor's behalf explaining that there is no evidence of Vassor claiming he obtained drugs from Charles on any recordings.

recorded Phone call: (exhibit #34 and #35)

Vassor received a phone call from Zane Sloan (Confidential Informant) while at his home in Los Angeles. Here's what was said during the conversation:

Sloan: What's happening?

Vassor: What's going on man?

Vassor: Yeah, my boy just got back.

Vassor: Yeah, we are all good man.

Vassor: You are probably gonna see me in two or three days man.

Vassor: Yeah my boy is back at the house.

Sloan: I tried calling him, but I didn't get no answer.

Sloan: He called me last night and told me to hit him up, and he might be sleep or something, I don't know.

Vassor: Okay I'm gonna hit him right now, and have him hit you.

Sloan: you still out there?

Vassor: I should be back in a week and it's all gravy.

Vassor: I got a gift for you.

Sloan: Good, I need them gifts.

Sloan: Bring me something nice, tall and blond.

Vassor: I got a nice gift for you man.

Sloan: Hit him up for me, and tell him to call me, and I'll head that way.

(Vassor returns a phone call to Sloan)

Vassor: He's with his son out in Frankfurt, he said he'll hit you around (4) four.

Sloan: Okay.

Vassor: He said he's their though, so we all good.

Sloan: Okay, I was just wondering, so he's with his kid, he's good?

Vassor: I think he's out there and he's going to drop him off at his appointment, and he's going to hit you around (4) four.

Sloan: I know he'll be tied up til around 4:30 or something. We'll tell him to hit me up, I'm ready when he is.

Vassor: Okay, we good

Sloan: So you working on my present?

Vassor: Man you gonna love this present, you going to laugh when you see it.

Sloan : send me a picture of it.

Vassor : I'm going to be there in a few days, I'll be there in a minute.

Sloan : Okay, you know where I live.

Vassor : Alright man, I got you.

(End of conversation)

Exhibit #34 and exhibit #35 are correctly quoted from the phone records. It's recommended that these phone records be reviewed.

The prosecutor (Mr. Bradbury) misquoted exhibit #34, exhibit #35 and exhibit #46 and 47B, during the closing argument to the jury.

During closing argument of the trial proceedings. The prosecutor requested that exhibit #34 be played for the jury. After exhibit #34 was played, the prosecutor misquoted exhibit #34 by saying, "you have Mr. Sloan saying, "I called Charles the night before and he has n't called back." Mr. Sloan never mentioned Charles name in exhibit #34 or #35.

The prosecutor does the same misstatement with Vassor for exhibit #34 and #35. The prosecutor tells the

jury, "you have a call from Vassor who says, "I'm out of town but my boy is in town. I'll be gone another week, but but he's going to take care of you. Charles is gonna take care of you." The prosecutor misquoted Vassor's statement in the phone records (exhibit #34 and #35)

On page #3-50 of the trial transcripts, the prosecutor continues to misquote Vassor to the jury by making misstatements about exhibit #34 and #35. The

prosecutor misquoted Vassor by saying, "Here Vassor says, "He has talked to Charles, Charles is over in Frankfort, he's with his son. He's going to call you back at 4:00." So Vassor clearly talked to Charles about distributing drugs to Sloan that day on June 8th 2021.

Those activities alone make them guilty of conspiring to distribute drugs."

Under *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. 2d 215 (1963) The due process clause requires the state to disclose to the defense favorable evidence that is material to guilt or punishment.

None of the following statements were disclosed to the defense:

(1) "Charles is going to take care of you."

(2) "You hear Vassor say, Charles is in Frankfort."

(3) "Vassor says, Charles will call the informant around 4:00."

(4) "Vassor says, he can't afford to have a falling out with Casper, that's how he makes his money."

(5) "Vassor obtained drugs from Charles."

Under Fed. R. Crim. P. 16(a)(B) the recordings of these statements Vassor made should have been disclosed to the defense. This is a violation of the 5th and 6th Amendments:

due process and equal protection under the Law. These false statements were harmful and helped sway the jury towards a guilty verdict.

Phone Recordings:

Furthermore, Detective Harrison testified that he confiscated Charles's phone, but did not check the phone logs to verify if Vassor had called Charles on June 8th 2021. When asked about the phone records, Det. Harrison claimed that he wasn't sure if there was documentation of phone records on Vassor and Charles speaking on the phone on June 8th 2021.

On June 8th 2021, Law enforcement arrested Charles and confiscated Charles's phone. While Charles's phone was in custody, the government provided phone records which proved that Charles's phone had connected with Sloan's phone on June 8th 2021 to the defense.

Law enforcement had Vassor's phone number since Feb. 8th 2021, and the government provided phone records which proved that Vassor's phone connected with Sloan's phone on Feb. 8th and June 8th 2021. Both set of phone records were given to the defense as evidence in the discovery.

However, the government failed to provide the defense with the phone records that proved that Vassor and Charles's phones made a connection on June 8th 2021. These phone records are important because the phone records can prove participation in a conspiracy. Under *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.2d 215 (1963) The due process clause requires the state to disclose to the defense favorable evidence that is material to guilt or punishment. This violates the defendants 5th and 6th amendments of due process and equal protection under the Law.

Jury Instructions:

pg. 18

The court held a "Instruction Conference Hearing," and did not give notice to the defense that the (3.07 Conspiracy Venue Instructions) were being modified from its original pattern, which violated the 14th Amendment's "due process clause."

In reply to the appeal court's opinion, the court was correct in reference to the defense not objecting to the modified (3.07 Conspiracy Venue Instructions). The Fed. R. Crim. P. 51(d)(2) states: "PLAIN ERROR:"

"A court may consider a Plain Error in the Instructions that has not been preserved as required by Rule 51(d)(1) if the error affect substantial rights."

On pg. #2-215 of the trial transcripts, the judge said, "At this time we'll have our Instruction Conference." The judge explained that there will be changes done to the following jury instructions: "Instruction #4, Instruction #28, Instruction #29, Instruction #30, Instruction #31, Instruction #34, and Instruction #24."

All of the changes that were made to the instructions were explained by the judge as, "Changed jury Instructions." However the judge failed to include, Instruction #25 which would've explained how the judge had changed the (3.07 Conspiracy Venue Instructions).

from its original pattern. The modified (3.07 Conspiracy Venue Instruction) did not become notice until the instructions were read to the jury.

Fed. R. Crim. P. 51(b)(1) said, "The court must inform the parties of its proposed instructions, and proposed actions on the request before instructing the jury," and before final jury arguments;" Rule 51(b)(2) reads, "The court must give the parties an opportunity to object on the record and out of the jury's hearing before the instructions and arguments are delivered;"

Once the modified (3.07 Conspiracy Venue instruction) had been delivered to the jury, the damage had occurred. Here are the instructions the court gave to the jury:

"Now, some of the events that you've heard about happened in other places.

There is no requirement that an entire conspiracy take place in the Eastern District of Kentucky. But for you to return a guilty verdict on any charge, the government must convince you that venue is proper in the Eastern District of Kentucky.

Unlike all the other elements that I've described, this is just a fact that the government only has to prove by a preponderance of the evidence.

For the conspiracy charge, which is count 1, this means that the government only has to convince you that it is more likely than not that either the agreement or one of the acts in furtherance of the conspiracy took place in the Eastern District of Kentucky.

For the counts charging distribution of a controlled substance, or possession of a controlled substance with the intent to distribute, that would be count 2 through 5, this means that the government only has to convince you that it is more likely than not that the controlled substance was possessed in the Eastern District of Kentucky.

And for each of the firearm charges, those are count 6 and 7, this means that the government only has to

convince you that it is more likely than not that the firearm was possessed in the Eastern District of Kentucky.

Remember all of the other elements that I have described must be proven beyond a reasonable doubt.

That concludes the part of my instructions explaining the elements of the crimes charged."

The six-Circuit pattern jury instruction on venue for conspiracies found in "chapter 3.00 Conspiracy pattern," is straight and forward. If quoted correctly, the pattern does not need to be modified to this (Count 1) conspiracy charge:

"Now some of the events that you have heard about happened in other places. There is no requirement that the entire conspiracy take place here in _____. But for you to return a guilty verdict on the conspiracy charge, the government must convince you that either the agreement or one of the (overacts) (act in furtherance

took place here in _____.

Unlike all the other elements I have described, this is just a fact that the government only has to prove by a preponderance of the evidence. This means the government only has to convince you that it is more likely than not that part of the conspiracy took place here.

Remember that all the other elements I have described must be proved beyond a reasonable doubt."

The (3.07 Venue for Conspiracy) pattern instruction makes sense for the purpose for which it was designed: for proving venue for conspiracy. A conspiracy can arise, evolve, and operate in different jurisdictions. Thus the need for this pattern instruction.

However, the lower court departed from that design by using this modified (3.07 pattern instruction) for the non-conspiracy counts as well. Doing so was unnecessary. It would have been impossible for the government to prove any type of drug or gun possession without proving that the

drugs or guns were in the Eastern District of Kentucky.

Vassor's (count 5) "Possession with the intent to distribute (50) fifty grams or more of a controlled substance charge," only needed the jury to find, "A preponderance of evidence," or "More Likely than not," that Vassor possessed drugs in the Eastern District of Kentucky, instead; of "Beyond reasonable doubt," as the law requires.

In the first paragraph of the correct (3.00 Conspiracy Venue instructions) the pattern says, "But for you to return a guilty verdict on the "conspiracy charge."

However, in the first paragraph of the modified (incorrect) (3.07 Conspiracy Venue instructions) the pattern says, "But for you to return a guilty verdict on "any charge," the government must convince you that venue is proper in the Eastern District of Kentucky.

Unlike all the other elements that I have described, "this" is just a fact that the government only has to prove by "a preponderance of the evidence."

The modification of the (3.00 Conspiracy venue instruction) is misleading, misguiding, and confusing.

In "Jackson v. Virginia," 443 US 307, 61 Ed 2d 560, 99 SCT 2781, reh (US) 62 L Ed 2d 126, 100s.

Appeal and Error §1603; Constitutional Law §840.3, 845 - harmless error - jury instructions - evidence - due process of law.

"20a, 20b. Failure to instruct a jury in a criminal case on the necessity of proof of guilt beyond a reasonable doubt can never be harmless error, so that a defendant whose guilt was proven by overwhelming evidence would be denied due process if the jury was instructed that he could be found guilty on mere preponderance of the evidence; A defendant against whom there was but one slender bit of evidence would likewise be denied due process upon conviction even though the jury was properly instructed on the prosecution's burden of proof beyond a reasonable doubt."

Plain Error:

The courts may reverse a judge -

ment only if the instructions, viewed as a whole, were confusing, misleading and prejudicial. *Id.* see also *United States v. Frei*, 995 F.3d 561, 565 (6th Cir. 2021) *Fisher*, 648 F.3d 447. (397 US 358, 25 L Ed 2d 368, 90 S Ct 1088 *Samuel Winship*)

The Conclusion:

"Although erroneous jury instructions are generally reviewed for abuse of discretion, we review their legal accuracy *de novo*." *United States v. You*, *supra*, 74 F.4th at 391 (citing *Hurt v. Com. Energy, inc.*, 973 F.3d 562, 571 (6th Cir. 2020)) Because counsel did not object to the instructions as read to the jury, the court reviews this assignment of error under Plain error. Plain error is defined as an egregious error, one that directly leads to a miscarriage of justice, *United States v. Frazier*, 936 F.3d 262, 266 (6th Cir. 1991) or error that is obvious, affects substantial rights, and seriously impairs the fairness or integrity of the judicial proceedings. *United States v. Modena*, 302 F.3d 626 (6th Cir. 2002) *United States v. Camejo*, 333 F.3d 669, 672 (6th Cir. 2003)

When viewing the jury instructions in its entirety, as a whole; there was a mixture → Pg.#26 →

of good apples and bad apples mixed inside a box of, "Jury Instructions."

The good apples represent finding, "Guilt beyond reasonable doubt." The bad apples represent finding guilt based on, "A preponderance of the evidence." The bad apples represent finding guilt based on, "More likely than not."

When the court pulled out these apples from the mixed box of apples and instructed the jury that they may find guilt upon the following evidence: (1) A preponderance of the evidence (2) More likely than not (3) Beyond reasonable doubt.

Those apples had become spoiled fruit of confusion and deception, because those apples were mixed in the box together. In this way, the jury had digested spoiled fruit. The bad apples contaminated the good apples and manifested through those jury Instructions.

Had the court gave notice that the "conspiracy Venue instructions," were going to be changed and had the court told the defense about what changes were going

to be made, or not have mentioned any of the other counts in the Conspiracy Venue instructions, there may have been different results from the trial proceedings.

If the court does not give notice of a change in jury instructions, this violates the defendant's "due process clause," under the 14th Amendment (See Appendix B) (the trial transcripts of "Instruction Conference.")

A defendant is entitled to a fair and impartial trial proceeding under the constitution of the law. The United States guaranteed that protection for its citizens.

With respect for the court, and with respect for the law, the defendant request that this criminal case be vacated, set aside, or remanded back to court for new trial proceedings.

Walter A. Vasser

REASONS FOR GRANTING THE PETITION

The reason for granting this petition will settle the following conflicting documents between the district court and the appeals court:

- (1) The appeals court claimed that during the "Instruction Conference," the defense was given notice that Instruction #25 would be altered. "The 3.07 Conspiracy Venue," instruction.

According to the district Courts trial transcripts, it was not documented that the defense was given notice that Instruction #25 had been altered prior to being read to the jury.

- (2) According to camera footage and recorded phone calls, there was misquoted and false statements used during closing arguments that do not coincide with the material evidence of the camera footage and recorded phone calls.
- (3) The court allowed harmful testimony of false club/gang affiliation, and allowed the witness to testify to his fear of being hunted down in the presence of the jury, which painted a negative impression of a conspiracy to the jury, without giving notice to the defense.

- (4) In the interest of justice, and respect for the Judicial system, the defendant is in hopes that this Petition will be granted and that this case will be set aside, vacated, or remanded back to court for a new trial.