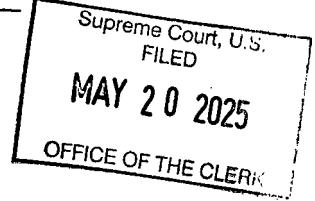


24-7523

NO. 25-

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



SEAN KERWIN BINDRANAUTH

PETITIONER,

VS.

UNITED STATES OF AMERICA

RESPONDENT,

ON PETITION FOR A WRIT OF CERTIORARI FROM THE
UNITED STATES COURT OF APPEALS FOR THE
ELEVENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

SEAN KERWIN BINDRANAUTH
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FEDERAL CORRECTIONAL INSTITUTION
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QUESTION PRESENTED

1. Whether the Eleventh Circuit Court of Appeals erred in denying Petitioner direct review where the district court erred when it instructed the jury on deliberate ignorance and fundamentally misstated the law.

PARTIES TO THE PROCEEDINGS

Petitioner is Sean Kerwin Bindranauth

Respondent is the United States of America

RULE 29.6 STATEMENT

Petitioner Sean Kerwin Bindranauth is an individual with no corporation affiliation, no parent corporation, and no publicly held corporation owning 10% or more of it's stock.

TABLE OF CONTENTS

QUESTIONS PRESENTED	i
PARTIES TO THE PROCEEDINGS	ii
RULE 29.6 STATEMENT	ii
TABLE OF CONTENTS	iii,iv,v
TABLE OF CITED AUTHORITY	vi
PETITION FOR WRIT OF CERTIORARI	1
OPINIONS BELOW	1
JURISDICTION	2
CONSTITUTIONAL PROVISIONS INVOLVED	2
INTRODUCTION	3,4,5,6
STATEMENT OF THE CASE	6,7,8
REASON FOR GRANTING THE PETITION	8
THE DISTRICT COURT ERRED WHEN IT GAVE DELIBERATE IGNORANCE INSTRUCTIONS, AND COMPOUNDED THE ERROR WHEN IT MISSTATED THE LAW IN A SUPPLEMENTAL INSTRUCTION	8,9,10
THE DISTRICT COURT ERRED WHEN IT FURTHER ELABORATED ON IT'S DELIBERATION IGNORANCE INSTRUCTIONS FUNDAMENTALLY MISTATING THE LAW	11,12,13,14,15,16
CONCLUSION	16
PROOF OF SERVICE	17

APPENDICES

TABLE OF CONTENTS

Appendix A: United States v. Bindranauth, Appeal No. 22-10944 [DE: 55-2] (11th Cir. 02/27/2025). Petition for Rehearing En Banc denied and Petition for Panel Rehearing denied.....	1a
Appendix B: United States v. Bindranauth, Appeal No. 22-10944 [DE: 49-1] (11th Cir. 10/08/2024). Eleventh Circuit Affirming Petitioner's conviction and sentence.....	3a
Appendix C: United States v. Bindranauth, Case No. 4:19-cr-10016-KMM [DE: 66] (09/17/2021) United States of America proposed Voir Dire Inquiry.....	32a
Appendix D: United States v. Bindranauth, Case No. 4:19-cr-10016-KMM [DE: 67] (09/17/2021) United States of America Proposed Jury Instructions.....	34a
Appendix E: United States v. Bindranauth, Case No. 4:19-cr-10016-KMM [DE: 70] (09/23/2021) United States of America Amended Proposed Jury Instructions.....	68a
Appendix F: United States v. Bindranauth, Case No. 4:19-cr-10016-KMM [DE: 86] (10/01/2021) United States District Court's Jury Instructions.....	103a

APPENDICES

TABLE OF CONTENTS

Appendix G: United States v. Bindranauth, Case No. 4:19-cr-10016-KMM [DE: 87] (10/10/2021) Notes From the Jury and Responses From The Court.....	128a
--	------

TABLE OF CITATIONS

CASES

Ballenbach v. United States, 326 U.S. 607 (1996)	13,16
Pope v. Illinois, 481 U.S. 497	16
United States v. Carter, 491 F.2d 625 (5th Cir. 1974)	13,14
United States v. Punche, 350 F.3d 1137 (11th Cir. 2003)	15
United States v. Rey, 641 F.2d 222 (5th Cir. 1981)	16
United States v. Rivera, 944 F.2d 1563 (11th Cir. 1991)	9,10,14,15
United States v. Southerland, 428 F.2d 1152 (5th Cir. 1970)	15
United States v. Stone, 9 F.3d 934 (11th Cir. 1993)	8,9,10

STATUTES

18 U.S.C. §1956(h)	7
18 U.S.C. §1956(a)(1)(B)(i)	7
18 U.S.C. §1960(a)	7

CONSTITUTIONAL PROVISIONS AND RULES

U.S. Const. Amend. V	2
U.S. Const. Amend. VI	2
Rule 29.6	ii

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully Petitions for a Writ of Certiorari to review the decision of the United States Court of Appeals for the Eleventh Circuit which denied Petitioner's Petition for Rehearing En Banc, Petition for Panel Rehearing, and Direct Review in Appeal No. 22-10944.

OPINIONS BELOW

The most recent decision of the United States Court of Appeals for the Eleventh Circuit is not reported ... the denial for Petition for Rehearing En Banc and Petition for Panel Rehearing [DE: 55-2] (11th Cir. 02/27/2025) and is reproduced at Petitioner's Appendix 1a. The Eleventh Circuit Court of Appeals denying Petitioner's Direct Review and confirming Conviction and sentence [DE: 49-1] (11th Cir. 10/08/2024). This decision from the Eleventh Circuit Court of Appeals is not reported and is reproduced at Petitioner's Appendix 3a.

JURISDICTION

The United States Court of Appeals for the Eleventh Circuit entered it's judgment denying Petitioner's Petition for Rehearing En Banc and Petition for Panel Rehearing [DE:55-2] (11th Cir. 02/27/2025) Appeal No. 22-10944. This Supreme Court of the United States has jurisdiction under 29 U.S.C. §1254(1)

CONSTITUTIONAL PROVISIONS INVOLVED

The Fifth Amendment of the United States Constitution Due Process Clause entitled all criminal defendant's the absolute right to a fair trial before a jury of his peers. The Sixth Amendment of the United States Constitution is violated when Erroneous Jury Instructions are given that effect a fair trial. Accurate jury instructions are pivotal for ensuring that jurors understand the law correctly and apply it appropriately to the facts of a case. When Jury instructions are erroneous and prejudice the outcome of the trial, it impinges upon an accused Sixth Amendment right.

INTRODUCTION

This case presents a question of law and issues that have significant importance in whether the Eleventh Circuit Court of Appeals erred in denying Petitioner's direct review where the district court erred when it instructed the jury on deliberate ignorance and fundamentally misstated the law.

The following language took place during Petitioner's trial between the jury and the district court:

Prior to closing arguments, the court also granted the governments request to include a deliberate ignorance jury instruction, over Petitioner's objection.

The jury commenced its deliberation on trial day 3, at approximately 12:43 PM. They then adjourned at 5:08PM that day and resumed deliberations on trial day 4 at 9:00AM. During these deliberations, the jury asked seven questions. Of particular note at approximately 1:43PM on trial day 4, the jury sought clarification of deliberate ignorance instructions: "Would like to [clarify on statement on [p.23] of Judges instructions - 'But I must emphasize that negligence, carelessness or foolishness isn't enough to prove the Defendant knew.' Can we have [elaboration] on how this applies to 'Deliberate avoidance of positive knowledge.''''

In response, the court decided it would "bring [the jury] out, and try to elaborate on the Government's theory of liability, that it was either actual knowledge or deliberate ignorance." The court then provided the jury with the following guidance, without first advising the parties of his intended addition to the instructions already given:

So the Government has proceeded on two theories of liability: One, that the defendant actually knew what he was doing and when he committed these crimes knowingly and willfully; or alternatively, it said if he didn't actually know, he took affirmative steps not to know what he should have known.

And so I use the example - and maybe it's not a good example about the drug courier who picks up a package under circumstances that might otherwise lead an otherwise - make a person believe that there might be something - contraband in the package, but he takes steps to avoid learning what's in the package.

And the law does not allow that person to escape liability when there was sufficient circumstances - circumstantial evidence that would lead to liability that there actually was drugs in the package. So you just can't say - you can't hide your eyes from what you would otherwise know would be contraband in the package.

So that's the example we use. But in applying it to the case,

the instructions I gave you was - I must emphasize negligence, careless, or foolishness isn't enough to prove the defendant knew about the possession of the controlled substance.

So if somebody was real stupid enough to, let's say Columbia, South America - they're an American, coming back to the United States, and somebody comes to them and says Will [sic] you please take this package off the plane for me and I will pay you \$1000; and you say, Sure, why not, you know.

And I'm deaf dumb, and blind, and I go ahead and do it, and I was stupid enough to do that and I get through Customs and they find out that there's drugs in the package, maybe that person is negligent, careless, or foolish, in which case, he didn't know something that some other person might know.

On the other hand, it would permit a fact-finder to say, you know, this wasn't careless or foolishness, he really didn't know what was in the package, because he was paid an exorbitant amount of money, was told to deliver it to some person when he got to Miami, whatever the circumstances are.

So the Government has gone on an alternative theory in this case, that if the defendant did not actually know that he was engaged in a fraudulent scheme when he was sending these monies back, that the only reason he didn't know was because he took -

he ignored whatever circumstantial evidence you may find that would suggest that he deliberately avoided trying to find out what the circumstances were in proceeding with sending that money.

So there has been some deliberation avoidance of positive knowledge, which is equivalent - which becomes the equivalent of knowledge, so you kind of have to look at all circumstances in the case and ask yourself, either, one, did he have actual knowledge that he was laundering the proceeds of a wire fraud, or alternatively, if he didn't actually know, was he taking affirmative steps or deliberate steps to avoid learning that these proceeds of an unlawful activity, namely, wire fraud.

The jury returned to it's deliberation at approximately 2:07PM before noting that they had reached a verdict at 5:13PM.

STATEMENT OF THE CASE

1. Petitioner is currently incarcerated at the Federal Correctional Institution in Miami, Florida.
2. On January 24, 2020, a federal grand jury sitting in the Southern District of Florida returned a ten-count superseding indictment against Petitioner, charging him with conspiracy to

commit money laundering, in violation of 18 U.S.C. §1956(h) (Count 1); money laundering, in violation of 18 U.S.C. §§1956(a)(1)(B)(i) and 2 (Counts 2-9); and engaging in the business of money remittance or transmitting without a license in violation of 18 U.S.C. §§1960(a) and 2 (Count 10).

3. On January 27, 2021, Petitioner proceeded to trial on the superseding indictment lodge against him before a jury of his peers.

4. The jury returned a verdict of finding the Petitioner not guilty of two substantive money laundering counts (Counts 2 and 3), and guilty of the remaining conspiracy to commit money laundering, in violation of 18 U.S.C. §1956(h) (Count 1); money laundering in violation of 18 U.S.C. §§1956(a)(1)(B)(i) and 2 (Counts 4 through 9); and operating an unlicensed money transmitting business in violation of 18 U.S.C. §1960 (Count 10).

5. On January 30, 2023, Petitioner was sentence by the United States District Court to a term of 180 month as to each Counts 1 and 4 through 9, and 60 months as to Count 10, all counts were to run concurrent with each other.

6. On February 16, 2023, Petitioner filed a timely notice of appeal with the Eleventh Circuit court of appeal.

7. On October 08, 2024, the Eleventh Circuit Court of Appeals affirmed Petitioner's conviction and sentence.

8. On February 27, 2025, the Eleventh Circuit Court of Appeals denied Petitioner's Petition for Rehearing En Banc and Petitioner's Petition for Panel Rehearing.

REASON FOR GRANTING THE PETITION

This Court should grant certiorari, review the proceedings below, reverse the judgment of the Eleventh Circuit Court of Appeals of Appeal Number: 22-10944, and remand it back to the Eleventh Circuit with instructions to vacate Petitioner's conviction and sentence and remand for a new trial. Petitioner's Fifth and Sixth Amendments were violated because of the erroneous jury instructions giving by the district court.

I. THE DISTRICT COURT ERRED WHEN IT GAVE DELIBERATE IGNORANCE INSTRUCTIONS, AND COMPOUNDED THE ERROR WHEN IT MISSTATED THE LAW IN A SUPPLEMENTAL INSTRUCTIONS

Autus reus non facit nisi mens sit rea. The act is not culpable unless the mind is guilty. Intent matters, and here the Petitioner did not act with a guilty mind. The Eleventh Circuit binding precedent stated that jury instructions present a question of law, and is reviewed de novo. **United States v. Stone**,

9 F.3d 934, 937 (11th Cir. 1993).

The district court included a deliberate ignorance instructions, finding that the "government had presented evidence that warranted the giving of the instructions. Doing so was erroneous, however, the record revealed that the Petitioner was anything but deliberate ignorance, he practically sought out information regarding what he was doing and whether he was committing a criminal act. As a matter of fact and record, the Petitioner corresponded with the financial facilities and voluntarily went to the federal bureau of investigations ensure that anything he was doing was not criminal in nature. It should also be specifically noted that the Petitioner's actions were before any investigation or criminal proceedings were initiated.

A deliberate ignorance instruction "should be giving in every case in which a defendant claims a lack of knowledge, but only in those comparatively rare cases where there are facts that point in the direction of deliberate ignorance." **United States v. Rivera**, 944 F.2d 1563, 1570 (11th Cir. 1991). That is such a instruction is warranted only when "facts support the inference that the defendant was aware of a high probability of the existence of the fact in question and purposely contrived to avoid learning all of the facts in order to have a defense in the event of a subsequent prosecution. **Id. at 1571**. It should not be giving "when the evidence only points to either actual knowledge

or no knowledge on the part of the defendant." **United States v. Stone**, 9 F.3d at 937. In other words, if there is no evidence in the record to support a deliberate ignorance instruction, then instructing the jury on this theory is erroneous.

The district court erred in instructing the jury on deliberate ignorance because the evidence presented at trial does not support any conscious avoidance on part of the Petitioner. As the record and the Petitioner's actions show exactly the opposite. The record is replete with examples of Petitioner's activity seeking information and assurance from Petitioner's girl friend in response to questions and concerns he would obtain from the banks as well as the federal bureau of investigations. Moreover, Petitioner point blank asked his girl friend if he "was doing money laundering", and on another occasion asked "whats going on" in response to a bank official telling him that he was committing wire fraud. Petitioner proactively solicited information regarding her business and how it worked.

There was absolutely no evidence in the record of an individual sticking his head in the sand, "purposely contriving to avoid learning all of the facts. **Rivera**, 944 F.3d 1571. Instead, the record is replete with instances of confusion and Petitioner seeking information. As a result, the giving of a deliberate ignorance instruction was erroneous and prejudice followed.

**II. THE DISTRICT COURT ERRED WHEN IT FURTHER ELABORATED ON
ITS DELIBERATION IGNORANCE INSTRUCTION
FUNDAMENTALLY MISSTATING THE LAW**

On day four on the trial at approximately 1:43PM, after the jury have already been deliberating for over nine hours without reaching a verdict ... the court received the following note from the jury: "Would like clarity that negligence, carelessness or foolishness isn't enough to prove the defendant knew." Can we have elaboration on how this applies to 'Deliberate avoidance of positive knowledge."

The court brought in the parties to discuss the note. Petitioner noted that the instructions given "[spoke] for themselves," the court decided to bring the jury to "elaborate" and "explain to them, and probably gave them a bad example. This is exactly wht the court preciously did, without first previewing its explanation to the parties. In attempting to "elaborate on the Government's theory of liability" regarding deliberate avoidance, the court provided the jury with the following [off the cut] elaboration regarding how its instruction on negligence, carelessness, or foolishness being insufficient interacted with the deliberate ignorance instructions:

("So if somebody was real stupid enough to, let's say Columbia, South America - they're an American, coming back to the United States, and somebody comes to them and says will

you please take this package off the plane for me and I will pay you \$1000; and you say, Sure, why not, you know.")

("And I'm deaf dumb, and blind, and I go ahead and do it, and I was stupid enough to do that and I get through Customs and they find out that there's drugs in the package, maybe that person is negligent, careless, or foolish, in which case, he didn't know something that some other person might know.")

The jury then returned to continue its deliberations from approximately 2:07PM to 2:57PM, when they sent another note to the court, and then again from 3:05PM until 5:13PM, when it indicated to the court that it had reached a verdict of "guilty" on all but two counts.

Problematically, the court's supplemental instructions specifically, its use of an illustration involving a "deaf, dumb, and blind individual fundamentally mislead the jury on the key contested elements of the offense of money laundering ... its required mental state.

In evaluating supplemental instructions to a jury, courts have emphasized that "the words, phrases of a judges response to a question raised by the jury after a period of deliberation cannot reasonably be considered as merely additional language in the basic charge" because, particularly in a criminal trial, the

judge's last words are apt to be the decisive words in reaching a decision by a jury. If it is a specific ruling on a vital issue and misleading, the error is not cured by a prior unexceptional and unilluminating abstract charge." **United States v. Carter**, 491 F.2d 625, 633 (5th Cir. 1974); (quoting **Bollenbach v. United States**, 326 U.S. 607, 612 (1946).

The court's supplemental instructions regarding a "deaf, dumb, and blind" person erroneously instructed the jury that a defendant would have to be physically incapacitated in order to even claim negligence, carelessness, or foolishness. The court's extreme example mislead the jury onto believing that unless a defendant literally could not hear, see or understanding his surroundings, he could never even claim negligence, carelessness, or foolishness that is the only way he could claim and not know something that other obviously know. At a minimum using such an extreme example mislead the jury and set an impossible high bar that is inconsistent with the law. This is not what deliberant ignorance says, nor how negligence, carelessness, and foolishness works in our court system.

The court's erroneous explanation of the law in response to the jury question also exacerbated the initial error of giving a deliberate ignorance instruction in the first place. The danger of giving a deliberate ignorance instruction when unwarranted by the record is "that juries will convict on a basis akin to a

standard of negligence: that the defendant should have known that the conduct was illegal. *Rivera*, 944 F.2d at 1570. Therefore, "the important safeguard of the law that a criminal defendant must be shown to have knowledge of culpable behavior, subjectively viewed, may be watered down in those cases in which a deliberate ignorance instruction is incongruous with the facts of the crime." *Id.* at 1570-71. Here, the error is giving the instruction expanding its application by incorrectly explaining its limits.

After the court legally infirm instructions were given, the jury returned a verdict that was no doubt driven by the court's erroneous supplemental instructions. "When after hours of deliberation a jury returns, not with a verdict, but with a request for clarification of a particular point of law, it must be recognized that the jury had been unable to reach a decision on the basis of all it has heard up until the time of the courts illustrations." *Carter*, 491 F.2d at 633. Therefore, under those circumstances a trial judge [must] be acutely sensitive to the probability that the jurors will listen to his additional instructions with particular interest and will rely more heavily on such instructions than on nay single portion of the original charge." *Id.* As a results courts "must exercise special care to see that inaccuracy or imbalance in supplemental instructions do not poison and otherwise healthy trial." *Id.*

No such "special care" was exercised in Petitioner's trial, and consequently, this Court cannot assure itself "that the trial judge did not inadvertently as lib the Petitioner's [guilty] status. *Id.* 634.

The Eleventh Circuit Court of Appeals has cautioned time and time again against the overuse of the deliberate ignorance instructions, noting the danger that juries will convict on the basis that the defendant should have known that the conduct was illegal, akin to a negligence standard. *Rivera*, 944 F.2d at 1570. District courts give deliberate ignorance instructions in [error] when there is relevant evidence of only actual knowledge rather than deliberate avoidance. *United States v. Steed*, 548 F.3d 961, 977 (11th Cir. 2008).

The instructions "is appropriate if it is shown that the defendant was aware of a high probability of the fact in question and that the defendant purposely contrived to avoid learning of all the facts in order to have a defense in the event of a subsequent prosecution." *United States v. Puche*, 350 F.3d 1137, 1149 (11th Cir. 2003).

The trial judge must be especially [alert] not to send the jury back to resume deliberations having recently heard supplemental instructions which are unbalanced. *United States v. Southerland*, 428 F.2d 1152, 1157 (5th Cir. 1970).

Where a jury seeks clarification after a period of deliberation, the court should be aware of probability jurors will place particular emphasis on the supplemental instructions and pay special care to avoid inaccuracy or imbalance ... where the jury expresses confusion or difficulty, trial courts have an [obligation] to "clear them away with concrete accuracy." **Bollenbach**, 326 U.S. at 613.

Erroneous jury instructions are harmless if a court, after a thorough examination of the record is able to conclude beyond a reasonable doubt that the jury verdict would have been the same absent the error. **Pope v. Illinois**, 481 U.S. 497, 501-02 (1987).

An error of this [Constitutional Magnitude] cannot be deemed [harmless]. **United States v. Rey**, 641 F.2d 222, 223 (5th Cir. 1981). Prejudice in this case is not just presumed but obvious.

CONCLUSION

Petitioner ask this Supreme Court of the United States to [grant] Certiorari, vacate Petitioner's conviction and sentence, remand back to the district court for a new trial because of the "arguably erroneous" jury instructions.

Respectfully Submitted,



Sean Kerwin Bindranaauth