

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

TOBY JONES _____ — PETITIONER
(Your Name)

vs.

THE UNITED STATES OF AMERICA
_____ — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS, SEVENTH CIRCUIT

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

PETITION FOR WRIT OF CERTIORARI

Toby Jones

(Your Name) #21031-424

U.S.P. Big Sandy P.O. Box 2068

(Address)

Inez, KY. 41224

(City, State, Zip Code)

(None) Incarcerated

(Phone Number)

QUESTION(S) PRESENTED

1. Should The court decide to Address The Circuit court split concerning The Legal Fiction of constructive possession for The purpose of A Consecutive Title 18 U.S.C. § 924(c) enhancement?
2. Did The Seventh circuit court error when it failed to Address Petitioners Issue presented on sufficiency of The evidence when The district court's findings were NOT based on credible determinations?
3. Did The Seventh Circuit error in finding petitioner guilty exchanging drugs for guns under Title 18 U.S.C. § 924(c) when The government presented conflicting Theory's AT Trial?

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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OTHER

None

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 2017 U.S. LEXIS 18204; 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☐ is unpublished.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 B 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☒ is unpublished.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☐ is unpublished.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 September 20th 2017.

☒ 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 _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1), 28 U.S.C. § 1251(a) AS well AS 28 U.S.C. 1651(a)

☐ 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

A. CONSTITUTIONAL

The Fifth Amendment provides THAT:

[N]o person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without "due process of law", nor shall private property be taken for public use, without compensation.

B. STATUTORY PROVISIONS:

28 USCS § 1251, et seq.

(a) The Supreme Court shall have original and exclusive jurisdiction of all controversies between

Two or more States.

28 USCS § 1651, et seq.

(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

STATEMENT OF THE CASE

The Undercover Investigation

In late 2013, the Bureau of Alcohol, Tobacco and Firearms ("ATF") and its Agent Christopher Labno were informed by Confidential Informant Jamie Ringswald ("CI") about crack cocaine sales on Chicago's west side. Doc. 413 at 76:9-13, 77:19-24. The CI named Toby, Kelsey Jones, (Toby's brother and co-Defendant), and co-Defendant Wesley Fields. Doc. 413 at 82:14-22.

Since 2004, the ATF has paid the CI \$180,000 for information about drug deals. Doc. 413 at 78:9-25. The CI's work was interrupted by stints in prison for various drug-related crimes. *Id.* Job benefits for the CI included free housing, specifically an apartment at 464 North Austin, where the CI supplemented his ATF payouts with drug sales. *Id.* at 79:40-7. Nor did the CI let his agreement with the ATF to abstain from using heroin during the investigation deter his inveterate use. Doc. 415 at 460:22-461:2; 462:6-10.

In December 2013, the CI introduced Toby and Kelsey Jones to a drug purchaser (undercover Agent Labno). Doc. 413 at 80:8-9. Agent Labno posed as a crack cocaine reseller with access to stolen guns. *Id.* at 76:5-8. Through the winter, the CI and Agent Labno participated in recorded phone calls and in-person meetings with Toby, Kelsey Jones, and Fields. *Id.* at 82-88. Meanwhile, the CI bought drugs from Fields during unrecorded contact without Agent Labno's knowledge. Doc. 419 at 31:7-23. However, the CI told

Agent Labno that he was not contacting Fields outside of their monitored interactions. *Id.* at 34:16-25.

On January 15, 2014, a video depicts Toby telling Agent Labno he wants “30 poppers and 30 clips,” asking Agent Labno about gun prices, looking at Agent Labno’s photo of a firearm, and advising Agent Labno to not discuss guns on the phone. Doc. 420 at 1725-26, ~~Appendix (B)(iii)~~ at A 58-59. A few weeks later, Fields visits Toby’s apartment to pick up drugs to sell. Doc. 414 at 296:17-297:1. Fields thinks he sees a .40-caliber gun at the apartment. *Id.* at 297:15-22.

In a February 4, 2014 video, Agent Labno and Toby discuss a Beretta and a Glock. ~~Appendix (B)(iii)~~ Toby asks Labno how much for the “Glock with the extended clip right now,” and Labno replies \$450. Gvt. Ex. 2/4/2014 – UC Video at 4. Labno also tells Toby he would take “six jabs.” *Id.*; Doc. 420 at 1726:21-23, ~~Appendix (B)(iii)~~ One jab equals 10 to 12 rocks of cocaine. Doc. 413 at 102:2-3. Toby indicates he wants the Glock and the Beretta. Doc. 420 at 1727:2-5, ~~Appendix (B)(iii)~~

A few weeks later, Agent Labno, Fields, and Toby examine gun photos on Agent Labno’s phone. Doc. 420 at 1727:9-14, ~~Appendix (B)(iii)~~. Agent Labno asks Toby if he was “still good for them, like six [jabs] on each?” to which Toby agrees. Doc. 420 at 1727:21-25, ~~Appendix (B)(iii)~~. Agent Labno informs Toby he has a “30 popper” and a “retta.” Doc. 420 at 1728:1-3, ~~Appendix (B)(iii)~~. He also

tells Toby he has more guns because Fields “was talking at” Agent Labno, to which Toby responds, “I got you.” Doc. 420 at 1728:3-6, ~~App. at 1728:3-6~~.

A week later, Agent Labno tells Toby that “he has the two he was looking for, the 30 popper and the other one.” Doc. 420 at 1728:11-14, ~~App. at 1728:11-14~~. Toby says he wants the 30. Doc. 420 at 1728:15-16, ~~App. at 1728:15-16~~. They agree on the price of six jabs, but Toby does not have the drugs. Doc. 420 at 1728:16-22, ~~App. at 1728:16-22~~. Meanwhile, Fields has multiple conversations with the CI about buying guns for cash. Doc. 418 at 1514:3-11. Fields and the CI speak again on March 25, 2016. *Id.* Fields plans on buying guns for himself with cash. *Id.* at 1514:12-19. Toby never tells Fields to purchase a gun with drugs. *Id.* at 1523:20-22.

On March 25, 2016, the CI tells Fields he wants drugs from Toby for the gun exchange. Doc. 418 at 1525:24-1526:13. Fields meets Toby at Kelsey Jones’ apartment at 653 North Austin where Toby gives Fields \$430 in cash and six jabs of cocaine. *Id.* at 1526:19-1527:11. Toby did not instruct Fields which currency (cash or drugs) to buy which gun. *Id.* at 1527:16-22. He tells Fields that he wants the “30 popper” (the Glock) (Doc. 420 at 1729:4-10, ~~App. at 1729:4-10~~), and to get himself a gun. Doc. 418 at 1527:13-15. Toby also asks him to meet the CI and Agent Labno, as Toby would not attend. Doc. 420 at 1728:24-1729:3, ~~App. at 1728:24-1729:3~~.

The Guns-for-Drugs-and-Cash Transaction

On March 26, 2014, the CI and Toby text. Doc. 420 at 1729:11-24, ~~App.~~ at ~~1732~~. The CI texts Toby that he is bringing the “30” and “all of” the guns. *Id.*; Doc. 415 at 508:1-11. Toby says he will not be there. Doc. 415 at 508:11-24. The CI tells Toby to send Fields. Doc. 415 at 508:15-24. Fields drives with co-Defendant Parashun Roscoe to meet the CI and Agent Labno. Doc. 418 at 1536:17-23. Fields and Roscoe examine guns. *Id.* at 1537:4-7. Fields plans to return with more money to buy more guns. Doc. 418 at 1539:23-25.

Fields exchanges the six jabs and \$430 with Agent Labno for a Glock and Beretta. Doc. 420 at 1731. Fields did not know what the jabs were for and what the money was for. Doc. 420 at 1733:9-15. Fields said it did not matter to Toby. Doc. 418 at 1540:16-25. Fields’ plan was to buy the guns with cash. Doc. 418 at 1514:3-17. Agent Labno arrests Fields. Doc. 414 at 265:23-266:1. Fields’ bond is later revoked for drug use. *Id.* at 268:7-15.

After the transaction, Toby texts the CI about where his “little shorties” were. Doc. 420 at 1735:5-11, ~~App. at 1738~~. The CI lies and asks Toby “who’s coming to hit me,” even though Fields was already arrested. Doc. 420 at 1735:14-18, ~~App. at 1740~~. Toby tells the CI that he would get paid. Doc. 420 at 1736:1-3, ~~App. at 1740~~.

Fields Equivocates

Fields sold crack cocaine to the CI every week from December 2013 to March 2014. Doc. 418 at 1494:24-1495:10. After his arrest, Fields told agents that he received the 6 jabs of cocaine from "Zane." Doc. 418 at 1530:9-14. At his later proffer, he equivocated about the source of the drugs and money. *Id.* at 1531. He also lied to the district court while on pretrial release. *Id.* at 1547:23-1548:16. The district court acknowledged Fields' credibility was in tatters:

The Court is certainly aware that Mr. Wesley Fields has not been credible and has not been credible with the Court; and, I am certainly considering his testimony with caution and great care. I know he has a deal with the government. He is cooperating as part of that deal, in hopes of getting a lower sentence. And trust me -- he lied directly to me, which is why he is in custody. So, I am well aware that I need to, and I am considering his testimony with caution and great care.

Doc. 420 at 1731:20-1732:3, ~~App. at 420:4-63~~.

Kensha Barlow is Shot

Kensha Barlow lived in the same building as the CI. Doc. 417 at 1103:13-21. Barlow sold drugs out of this building. *Id.* at 1114:20-22. He sold drugs to the CI countless times. *Id.* at 1119:20-24. Barlow's rap sheet includes drug and gun convictions. *Id.* at 1103:1-12.

On the night of March 26, 2014, Barlow is home smoking marijuana and drinking. Doc. 420 at 1740:6-7, ~~App. at 420:79~~. He is high. Doc. 420 at 1740:12-

13, ~~App. at A-53~~. Around midnight, there is a knock at his door. Doc. 420 at 1740:14-16, ~~App. at A-53~~. An unknown voice says "it's me" and "you know who it is." Doc. 417 at 1106:9-13, 23-1107:1. Barlow looks through the peephole but it is covered. Doc. 420 at 1740:16-17, ~~App. at A-53~~. He looks again for a few seconds and sees two men. Doc. 420 at 1740:17-18, ~~App. at A-53~~; Doc. 417 at 1107:9. Barlow recognizes neither. Doc. 417 at 1107:24-1108:1.

Barlow then hears kicking at the door and yelling. Doc. 417 at 1108:2-9. He looks through the peephole again and sees the man with the black hat reach into his pants. *Id.* at 1108:10-13, 1109:3-5. Barlow steps back from the peephole. *Id.* at 1109:5-13. Three bullets come through the door and one hits Barlow's leg. *Id.* at 1109:16-19. The bullets are .40-caliber. *Id.* at 1220:12-15.

Barlow Fails to Make an Identification

Officer Taylor of the Oak Park Police Department visits Barlow at the hospital the next day. Doc. 417 at 1198:14-16. Barlow describes his shooter as a dark-skinned, stocky, clean-shaven black male. *Id.* at 1199:4-6. Officer Taylor visits Barlow the next day and Barlow similarly describes his shooter but adds that he is lighter-skinned. *Id.* at 1199:7-14. A few weeks later, Barlow meets Officer Taylor at the Oak Park police station. Doc. 229, ~~App. at A-50~~. Barlow is shown two color photo lineups, one with Kelsey's photo and one with Toby's photo ("First Photo Lineup"). *Id.*

The First Photo Lineup consists of six black males, one with dark skin and five with lighter skin. ~~App. at 419~~. Toby has a beard and is light skinned. Doc. 412 at 17:1-2. Five of the men have at least some facial hair. ~~App. at 419~~. Barlow previously described his shooter as clean-shaven and dark-skinned. *Id.* Officer Taylor places Toby's photo in the lineup because ATF agents said Toby was a suspect. Doc. 417 at 1187:8-18.

Barlow pauses for "no more than a second" at Toby's photo, but says he does not recognize anyone in the First Photo Lineup. ~~App. at 419~~; Doc. 417 at 1201:24-1202:2. Officer Taylor has Barlow look at the First Photo Lineup a second time and Barlow identifies no one. ~~App. at 419~~. Officer Taylor does not memorialize this meeting in his report. ~~App. at 419~~; Doc. 417 at 1197:14-18.

Barlow Makes an Identification After His Arrest

On June 2, 2014, Barlow sells ten grams of crack cocaine to Agent Labno and is arrested. Doc. 417 at 1119:4-13; 1223:10-14. Agent Labno advises Barlow that cooperation in his shooting will benefit his drug case. *Id.* at 1228:10-12. Barlow then says the shooter is a bearded, light-skinned black male with a stocky build, while the second person wore a gray hoodie and was darker-skinned, shorter, and skinnier than the shooter. ~~App. at 419~~; Doc. 417 at 1225:10-19.

After interrogating Barlow, Agent Labno retrieves six individual color arrest photos—larger photos from the First Photo Lineup. ~~App. at 419~~.

Lacking a color copier to copy the First Photo Lineup, Agent Labno prints out larger arrest photos in color from a database. *Id.* at 8; Doc. 419 at 40:10-11, 50-9-10. Agent Labno does not show Barlow the First Photo Lineup because he wants to make his lineup “better” by using larger photos. ~~App. at 43; Doc. 419 at 40:4-11.~~ He is also concerned the First Photo Lineup would be marked. Doc. 419 at 42:9-25. Agent Labno admitted it was a “really strange situation...[I was] kind of unsure how to proceed.” *Id.* at 43:2-11.

Agent Labno displays the photos like playing cards when he enters the room. ~~App. at 43; Doc. 417 at 1230:2-17.~~ Seeing Toby’s photo on top, Barlow identifies him as the shooter: “that’s his gay ass right there.” ~~App. at 43.~~ Agent Labno then sets the photos on the table in the same order as the First Photo Lineup and asks Barlow if he sees his shooter, saying that “there might be someone in there and there might not be someone in here.” *Id.* Barlow selects Toby’s photo. *Id.* At trial, Agent Labno admits he should have done a better job and not made the photos initially visible to Barlow. *Id.*

Agent Labno then shows Barlow a black and white version of the First Photo Lineup. Doc. 417 at 1231:2-8. Barlow circles Toby’s photo. *Id.* at 1231:11-14. Agent Labno omits this identification in his report. ~~App. at 43, A 14.~~ Agent Labno only produced the color photo of Toby used with Barlow after his arrest—the other five photos were lost. Doc. 419 at 45:15-23.

Barlow's Identification Equivocation

In June, Barlow meets another ATF agent at his proffer and says he is only 40% sure he identified the correct photo, and uncertain he could identify his shooter. Doc. 420 at 1742:5-7, ~~App. at 475~~. During his grand jury testimony, Barlow flips again and identifies Toby. Doc. 420 at 1742:7-12, ~~App. at 475~~. Barlow hopes his testimony will lower his drug sentence. Doc. 417 at 1129:21-1130:4.

Barlow's Trial Identification

Barlow testified at trial that while high, in the few seconds he peered through the peephole, he recognized the black hatted man as Toby. Doc. 417 at 1113:2-10. He did not see the face of the man with the gray hoodie. *Id.* at 1113:13-18. No DNA was found on the door or peephole. Doc. 418 at 1371:3-13.

The CI Is Shot

On April 2, 2014, the CI and his brother, Mark Ringswald, are shot while sitting in the CI's car outside his apartment. The CI picks Kelsey Jones from a photo lineup as the shooter. Doc. 416 at 773:14-16. Mark's wife is in the car and she identifies co-Defendant Mario Whitfield as the driver of the red minivan carrying Kelsey Jones. *Id.* at 922:3-16. Kelsey Jones is arrested a few days later. Doc. 415 at 755:22-756:6. Toby is never identified or placed at the scene.

Agent Labno arrests Toby a few weeks later. Doc. 416 at 802:21-803:24. The ATF finds no guns in the three locations Toby frequents. Doc. 419 at 67:15-69:4.

The Third Superseding Indictment

A grand jury returns a 15-count third superseding indictment against Toby and co-Defendants Kelsey Jones and Whitfield. Doc. 216. Toby pleads guilty to Counts One through Seven and not guilty to Counts Eight through Twelve. Doc. 379, ~~Appeals~~.

Fields pleads guilty to Counts 1 and 9 and alters his previous testimony to blame Toby at trial, in exchange for 25% off the low end of his Sentencing Guideline range. Doc. 381; Doc. 414 at 267:4-14. Fields is sentenced to 117 months' imprisonment. Doc. 381. Fields does not appeal.

Kelsey Jones has a jury trial on Counts 1, 7, 10, 13, and 14. He blames Toby for the drug conspiracy and the two shootings. Doc. 418 at 1422:21-1424:12, 1438:25-1440:19. He is found guilty on all counts and sentenced to 420 months in prison. Doc. 437. Kelsey Jones appeals. *United States v. Kelsey Jones*, No. 16-3975.

Whitfield is found guilty after a bench trial (conducted with Toby) on Count 15, accessory after the fact. Doc. 216. He blames Toby for enlisting his help. Doc. 419 at 17:11-22. His prison sentence is 84 months. Doc. 399. An *Anders* brief has been filed. *United States v. Whitfield*, No. 16-2676.

Pre-Trial Motion

Toby moved to suppress Barlow's eyewitness identification. Doc. 170. The district court denied the motion. ~~App. at 1~~ 1. The district court found the Oak Park police did not have a description of Toby and that Barlow's description of the shooter was dark skinned and clean shaven. ~~App. at 423~~ 423. "Given that the law enforcement officers did not have an accurate description of the shooter until after the Oak Park Police officers designed the photo lineup, Defendant cannot successfully claim that they created the lineup based on the description." *Id.*

The Bench Trial

The bench trial of Toby and Whitfield was held after Kelsey Jones' jury trial. The court examined Barlow's apartment where the shooting occurred. Doc. 419 at 1561-1562. The court looked through the peephole and found faces outside were discernable. *Id.* at 1562:7-8. The court found Toby guilty on Counts 8, 9, 10, 11, and 12. Doc. 317. For Count 9, the court found Toby knowingly possessed a firearm in furtherance of the March 26, 2014 drug transaction. Doc. 420 at 1733:16-22, ~~App. at 420~~ 420. The court alternatively found Toby aided Fields' knowing possession of a gun in furtherance of a crime. *Id.* at 1734:1-4, ~~App. at 423~~ 423. The court also found Counts 10, 11, and 12 pertained to Toby's involvement in the Barlow shooting. *Id.* at 1739:20-22, ~~App. at 423~~ 423.

Toby Filed A motion for Judgment of Acquittal on insufficient evidence AND ALTERNATIVELY, A motion for New Trial. Docs. 323, 332. The district court denied The motion

The Sentence

The district court sentenced toby to A mandatory minimum of 10 years' imprisonment on counts 1 Through 8, 10, And 11; A mandatory minimum of 5 years' imprisonment on Count 9; And A mandatory minimum of 25 years' imprisonment on Count 12, to be served consecutively, for A TOTAL of 40 years imprisonment. Doc. 384; 421 AT 58: 10-18

Toby Appealed his sentence to The Seventh Circuit Court of Appeals Raising Three Issues, namely, (1) WAS The evidence sufficient to convict toby of constructive possession of A firearm in furtherance of A drug trafficking crime?; (2) WAS The identification process unduly suggestive after victim could not identify his shooter, after twice viewing A photo Line up?; (3) WAS The evidence sufficient to convict toby of The shooting by An unreliable witness And scant evidence presented At trial?

On September 20, 2017 The Seventh Circuit Court of Appeals Affirmed The conviction in A published opinion which petitioner now files A timely writ of Certiorari to The Supreme Court for relief.

REASONS FOR GRANTING THE PETITION

A. While The Seventh Circuit has recognized that exchanging drugs for a firearm constitutes an offense under 18 U.S.C. § 924(c), The Supreme Court has not resolved this issue. See *United States v. Dickerson*, 705 F.3d 683, 688-89 (7th Cir. 2013)

At the present time the circuit's are almost evenly split on this issue which the Supreme Court should grant this writ under Supreme Court Rule 10(a) and (c) due to this conflict to settle the issue.

This petitioner respectfully states that a drug dealer who exchanges drugs for guns when the government is a seller of the said guns has not committed a criminal offense because the transaction has not "furthered" the illicit drug market. See *United States v. Doody*, 600 F.3d 752, 755 (7th Cir. 2010)

The District Court in giving its opinion on this concedes that: "In ruling that defendants violate § 924(c) when they receive firearms in exchange for drugs, the Seventh Circuit has not carved out scenarios in which the firearm dealer is an undercover government agent." Appendix (B) pg 6

petitioner respectfully states that besides entrapment at best a defendant who exchanges drugs for firearms with a covert government agent has "attempted" to possess a firearm in furtherance of a drug trafficking crime. This is due to the fact that in a government sting setting the defendant does not actually possess the firearm.

Because § 984(c) does not provide for Attempt Liability,
There is no Criminal Liability.

B. The Seventh Circuit in stating the following in its opinion failed to properly adjudicate the issue of insufficient evidence to support petitioner's involvement in the Barlow shooting.

"Toby also argues that there was insufficient evidence to support his conviction based on his involvement in the Barlow shooting. He contends that the evidence of the shooting stems from unreliable testimony. We decline his invitation to second-guess the trier of fact's credibility determinations." See Appendix (A) at pg. 9.

Petitioner states that Appellate Counsel supported this issue with facts that called into question the district court's determinations and that in not adjudicating this issue violates due process of law and the Fifth Amendment of the Constitution. At the minimum this court should vacate the Seventh Circuit's decision and remand the case so that the issue can be addressed.

C. Lastly petitioner states that the Seventh Circuit erred when found that since the government in its jury instructions before trial ~~gave~~ ^{gave} notice of two conflicting theories of liability, namely constructive possession and aiding and abetting that the defense was not prejudice.

Petitioner respectfully states that in any case the government should not be able to switch its theory of prosecution

in the course of a trial proceedings when it believes that one of the theories is better than the other.

If this were to be allowed even if proposed jury instructions on the conflicting theories were given to defense before the trial how does defense counsel defend the switched positions?

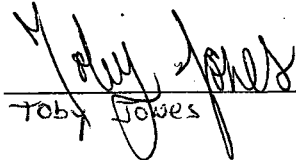
This makes a mockery of due process of law and calls into question the fairness and integrity of the proceedings of the court into question.

In closing this pro-se petitioner respectfully would like to point out that this was done to the best of his ability while on extended lock-down but prays that the court in its authority and discretion dispense justice on the matters presented.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Toby Jones

Date: December 18th 2017

Under: Houston v. Lack, 487 U.S. 266 (1988)
"Mail Box Rule"