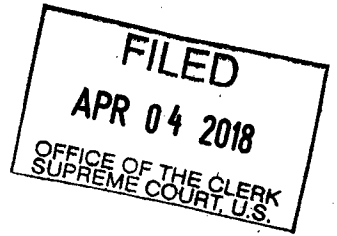


NO. 17-7760

In The Supreme Court Of  
The United States



Terrance Montreal Jenkins - petitioner

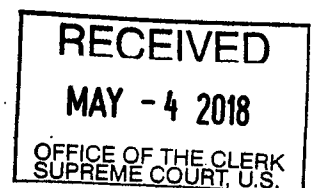
Vs

State Of Mississippi - respondent(s)  
<sup>Jim Hood</sup>

On Rehearing Of Writ Of Certiorari

Pursuant to <sup>44.2</sup> ~~#~~ Of the Supreme Court  
of the United States

Pro Se Self Style hand drawn



## Questions Presented

① Whether the trial court erred by allowing the prosecutor to Constructively Amend the defendant indictment through Jury Instruction 5 offered as S-3. Adding the alternative statutory element "by violence to the person".

\* Thus 5<sup>th</sup> amendment guarantee the right of a ~~criminal~~ criminal defendant to be tried for a capital or other infamous crime only on the presentment or indictment of grand jury.

## Table of Contents

Opinion — pg 1

Jurisdiction — pg 1

Constitutional and Statutory Provision Involved. — pg 2

Statement of case — pg 3

Reason for granting — pg 4, 5

Conclusion — 6

Certificate — 7

## Index to Appendices

Appendix B Order to deny Cert. in US Supreme Court

# Table of Authorities Cited

Cases: Towels vs State NO 2014 KA 0126 COA 2016

Vale vs State NO 2016 KA 00914 COA

united  
Wooley vs States NO 95 -CF- 1399

## Statutes And Rules

MS Code Ann. § 97-3-79 (1972)

Other: NONE

## Opinions

The opinion of the United States Supreme Court appears at App. B to the petition and is reported at [www.unitedstates-supreme-court.com](http://www.unitedstates-supreme-court.com) #17-7760

## Jurisdiction

The  date on which the United States Supreme Court decided my case was March 19, 2018

# Constitutional and Statutory Provision Involved

Constitutional 5<sup>th</sup> + 6<sup>th</sup> Adm.

Statutory Provision Involved [236.] Amendment of  
a indictment.

## Statement of Case

Terrance Montreal Jenkins was convicted of armed robbery in the Circuit Court of Leflore County following a jury trial conducted on Jan. 12-13, 2016, Over which honorable Richard A. Smith, Circuit Judge, presided. Jenkins was represented at trial by Honorable W.S. Stuckey, Jr Greenwood, MS State appointed attorney.

Jenkins was sentence to a term of twenty years in the custody of the MS dept of Correction, with 10 yrs to serve followed by 5 yrs of Post Release Supervision and 5 yrs unsupervised probation. Jenkins is presently incarcerated.

## Reason for Granting the petition

The issue is pointed out and direct and concise. The petition for writ of Certiorari should be granted showing here (236. Amendment of a Indictment) that the Amendment to the defendant Indictment is not allowed by court or the prosecutor.

Jury instruction 5 offered as 5-3 is at variance with the indictment and adds the Alternative Element of "by violence to the person."

Thus the 5<sup>th</sup> admand. guarantee the right of a criminal defendant to be ~~tried~~ tried for a capital or other infamous crime. Only on presentment or indictment of a grand jury.

If the indictment could be change by court or prosecutor then it's no longer the indictment return by the grand jury.

\* (236. Amendment of a Indictment) vs Constitutional and Statutory Provision Involved



The language in the indictment charging Jenkins with armed robbery stated that Jenkins:

Did unlawfully, willfully and feloniously take or attempt to take from the presence of Henry Hampton, Jr, against his will by putting him in fear of immediate injury by the exhibition of a deadly weapon, to wit a handgun in violation of Ms code Ann 97-3-79.

Jury Instruction 5 Stated: [By violence to the person] of Henry Hampton, Jr or by putting Henry Hampton, Jr in fear of immediate injury to his person by the exhibition of a deadly weapon, to wit a handgun.

Hampton repeatedly testified that Jenkins never pointed a weapon at him during the entire ordeal [I. 170-71].

He was ask "Did you see a gun pointed at you or anyway displayed against you when they were taking your money?" He answered NO [I. 185]

Jenkins defense was he never used a weapon as charged in the Indictment, the prosecutor lessen the burden of proof by adding the Alternative Element [By violence to the person]

### Conclusion

The petition for writ of certiorari, ~~XXXX~~ Should be granted.

Respectfully Submitted  
Matthew J. [Signature]

Date: March 26, 2018