IN THE SUPREME COURT OF THE UNITED STATES

NO. ___________

OCTOBER TERM, 2017

JASON WILD,

Petitioner,

- v -

UNITED STATES OF AMERICA,

Respondent.

Pursuant to Title 18, United States Code, § 3006A(d)(6) and Rule 39 of this Court, Petitioner, Jason Wild, asks leave to file the attached Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit without pre-payment of fees or costs and to proceed *in forma pauperis*.

Petitioner is represented by counsel appointed pursuant to the Criminal Justice Act of 1964, Title 18, United States Code, § 3006A(d)(6). Mr. Wild was determined to be indigent in the district court after sentencing and has had appointed counsel while his case was pending before the Ninth Circuit.

Respectfully submitted,

Dated: March 9, 2018

S/Jami L. Ferrara
Jami L. Ferrara, Esq.
Counsel for Mr. Wild
964 Fifth Avenue, Suite 335
San Diego, CA 92101
(619) 239-4344

IN THE SUPREME COURT OF THE UNITED STATES

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PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Jami L. Ferrara, Esq.
Counsel for Mr. Wild
964 Fifth Avenue, Suite 335
San Diego, CA 92101
(619) 239-4344

QUESTION PRESENTED FOR REVIEW

Should this Court resolve the conflict with the Ninth Circuit in its interpretation of Supreme Court law as it was applied to Mr. Wild's challenge to the removal of a prospective juror?

Should this Court resolve the conflict with the Ninth Circuit in its interpretation of Supreme Court law as it was applied to Mr. Wild's motion for judgment of acquittal under Fed. R. Crim. P. 29?

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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2017

JASON WILD,

Petitioner,

- v -

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Petitioner, Jason Wild, respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Ninth Circuit entered on December 13, 2017.

OPINION BELOW

The Ninth Circuit, in an unpublished Memorandum, affirmed Mr. Wild's conviction for conspiracy to commit wire fraud, 18 U.S.C. § 1349. *See* Appendix A (*United States v. Jason Wild*, 17-50066 United States Court of Appeals for the Ninth Circuit).

JURISDICTION

On December 13, 2017, the Ninth Circuit affirmed Mr. Wild's conviction. The Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS

The Due Process Clause of the 5th Amendment provides:

> No 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 offense 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 just compensation.

The Sixth Amendment:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

STATEMENT OF THE CASE

On October 29, 2015, the Government filed a three count indictment with a forfeiture allegation against Michael Strom and Jason Wild. CR:1; 2ER:246-253. Mr. Wild was charged in count one only, conspiracy to commit wire fraud, in violation of 18 U.S.C. § 1349. Mr. Strom pled guilty to all counts in the indictment on October 28, 2016. CR:55; 2ER:261. Mr. Wild elected to proceed to trial.

At trial, the Government alleged that Mr. Strom and Mr. Wild, both reservists in the USMC, and who at separate times were called to active duty, conspired to submit false claims for travel payments using fabricated rental agreements for each others' homes. CR:1; 2ER:246-249. The Government alleged that Mr. Wild, with Mr. Strom's consent, submitted false claims for renting Mr. Strom's Laguna Niguel, California home from September 16, 2006 to July 1, 2007 and again from April 30, 2008 and May 11, 2008, totaling $57,913.00. *Id.* Next, the Government alleged that from

October 20, 2008 to October 19, 2010, Mr. Strom, with Mr. Wild's consent, submitted false claims for renting Mr. Wild's Oceanside, California home totaling $147,715.00. CR:60; 2ER:233-234.

Mr. Wild rested without calling any witnesses. TT:485. The jury returned a guilty verdict on November 21, 2016. CR:75; 2ER:228.

On February 21, 2017, the district court sentenced Mr. Wild to nine months in custody, plus a punitive placement of six months in a Residential Reentry Center, as a condition of three years of supervised release. CR:105, 2ER:17-21. In addition, the district court ordered Mr. Wild to pay $205,628.00 in restitution to the USMC, jointly and severally with co-defendant Michael Strom. CR:105; 2ER:21.

NINTH CIRCUIT'S REJECTION OF WILD'S ARGUMENTS

The 9th Circuit disposed of Wild's appeal as follows:

> Wild waived any arguments he might have had against the prospective juror's removal for cause. *See United States v. Perez*, 116 F.3d 840, 845 (9th Cir. 1997). When considering whether to remove the prospective juror because of his admitted difficulty with English, the district court asked defense counsel for his thoughts. Defense counsel not only stated that he had no objection to the removal, but also that he had no *Batson* [*v. Kentucky,* 476 U.S. 79 (1986)] objections. We thus find that Wild's jury-selection claims were waived. *See United States v. Olano*, 507 U.S. 725, 733 (1993).
>
> The district court properly denied Wild's motion for acquittal under Federal Rule of Criminal Procedure 29 because the government produced sufficient evidence for a rational juror to find that (1) that there was a single, continuous conspiracy to defraud the Department of Defense between 2006 and 2010, and (2) that Wild participated throughout the conspiracy. *See United States v. Montgomery,* 384 F.3d 1050, 1062 (9th Cir. 2004); *see also United States v. Alarcon-Simi*, 300 F.3d 1172, 1176 (9th Cir. 2002) ("In ruling on a Rule 29 motion, 'the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.'" (quoting *United States v. Bahena-Cardenas*, 70 F.3d 1071, 1072-73 (9th Cir. 1995) (emphasis in original))).

Appendix A at 2.

REASONS TO GRANT THE WRIT

A. The Improper Removal of a Prospective Juror Violated Mr. Wild's Sixth Amendment Right to an Impartial Jury.

Mr. Wild's Sixth Amendment right to an impartial jury was violated when a prospective juror was removed after the juror stated that English was his second language and he was not sure he would understand everything. JST:102; 3ER:369. The district court took the time to question the juror, Mr. Nguyen, about his ability to speak and understand English, eliciting that he had been in the United States for about twenty years, that he was an electrical engineer who both obtained his education in English and presently worked in English. JST:105-107; 3ER:372-374. At the end of the questioning, Mr. Nguyen appeared to no longer have any concerns about his comprehension and agreed that, if he was a juror, he would be comfortable raising his hand and asking for clarification or for something to be repeated. JST:107; 3ER:374. The Government and the district court completely disregarded Mr. Nguyen's promise that he would ask a question if he had one and assumed, without reason, that he did not understand the proceedings and was, therefore, unqualified as a juror. This was an abuse of discretion and a violation of the Sixth Amendment.

Furthermore, if the Government's objection to Mr. Nguyen is construed as a peremptory challenge, his removal as a prospective juror violated *Batson v. Kentucky,* 476 U.S. 79 (1986). The United States Supreme Court established a three-part test in *Batson,* 476 U.S. at 96-98, to determine if a prosecutor acted with discriminatory intent in exercising a peremptory challenge. A prima facie case of discrimination is established when the defendant can show that 1) the prospective juror is a member of a "cognizable racial group," 2) the prosecutor used a peremptory strike to remove the juror, and 3) the totality of the circumstances raises an inference that the strike was motivated by race. *Boyd v. Newland*, 467 F.3d 1139, 1143 (9th Cir. 2006), *citing Batson*, 476 U.S. at 96.

When a defendant in a criminal trial challenges the Government's use of peremptory strikes against racial minorities, a trial court must follow the analysis set forth in *Batson* and its progeny. First, when a criminal defendant challenges the Government's use of peremptory strikes, the defendant must make a prima facie showing that the challenge was based on an impermissible basis, such as race. *Batson*, 476 U.S. at 96; *Green v. LaMarque*, 532 F.3d 1028, 1029 (9th Cir. 2008). This is a burden of production, not a burden of persuasion. *Johnson v. California*, 545 U.S. 162, 170-71 (2005). Second, if the trial court finds the defendant has made a prima facie case of discrimination, the burden then shifts to the prosecution to offer a race-neutral reason for the challenge that relates to the case. *Id.* at 168.[1] Finally, if the prosecutor offers a race-neutral explanation, the trial court must then decide whether the defendant has proved the prosecutor's motive for the strike was purposeful racial discrimination. *Id.*

In *Strauder v. West Virginia*, 100 U.S. 303, 309 (1880), the Supreme Court stated, "It is well known that prejudices often exist against particular classes in the community, which sway the judgment of the jurors, and which, therefore, operate in some cases to deny to persons of those classes the full enjoyment of that protection which others enjoy." In *Miller-El v. Dretke*, Justice Souter added that not only are defendants harmed when racial discrimination during jury selection compromises the right of trial by impartial jury, "but racial minorities are harmed more generally for prosecutors drawing racial lines in picking jurors, establish 'state-sponsored group stereotypes rooted in, and reflective of, historical prejudice." 545 U.S. 231, 237-238 (2005), *citing J.E.B. v. Alabama ex rel T.B.,* 511 U.S. 127, 128 (1994).

---

[1] Where the Government puts forward a race-neutral reason at step two, the court evaluates "all relevant circumstances." *Miller-El*, 545 U.S. at 240.

Despite Mr. Nguyen's promise to "raise his hand" if he had any questions, the Government challenged him based on his language skills. JST:127-128; 3ER:394-395. The district court's response was troubling and raises its own question of discriminatory intent in the *granting* of the challenge:

> He kind of frosted my chops, frankly. Electrical engineer, twenty years in the United States, educated here and working here. And even after I told him he could raise his hand if he didn't understand, he never did. But I think because this is a criminal case and the issues at stake are so important to the parties, I will let him go. Frankly, I don't want to take the chance. I don't believe it, but I don't want to test it on Mr. Wild's dime or the Government's. So 28, I will excuse.

JST:128; 3ER:395. The district court's statement seems to indicate that it was irritated with the fact that Mr. Nguyen did not speak and understand English very well after having lived in the United States for a long time. And the statement by the district court that Mr. Nguyen could have indicated that he did not understand something but didn't assumes that after Mr. Nguyen's questioning, he did not comprehend the rest of the proceedings, when it is as possible that he didn't raise his hand because he did, in fact, understand what was happening. Either way, the Government's stated reason for striking Mr. Nguyen, a Vietnamese man and a member of a racially cognizable group under *Batson* was not supported by the facts elicited in voir dire and the district court appeared to have its own racial bias against the prospective juror. This violated Mr. Wild's Sixth Amendment Right to a trial by an impartial jury.

B. The Denial of the Motion for Judgment of Acquittal under Fed. R. Crim. P. 29 Violated Mr. Wild's Right to Due Process Under the Fifth Amendment.

This Court has described a motion for judgment of acquittal as an "important safeguard to the defendant," because "it tests the sufficiency of the evidence against him, and avoids the risk that a jury may capriciously find him guilty though there is no legally sufficient evidence of his guilt."

United States v. Tisor, 96 F.3d 370, 379 (9th Cir. 1996), *citing* 2 Charles Alan Wright, Federal Practice and Procedure, Criminal 2d § 461, pp. 637-38 (West 1982). This Court, in *Jackson v. Virginia*, 443 U.S. 307, 317, n.10 (1979), explained Rule 29 as:

> The practice in the federal courts of entertaining properly preserved challenges to evidentiary sufficiency, *see* Fed. R. Crim. P. 29, serves only to highlight the traditional understanding in our system that the application of the beyond-a-reasonable doubt standard to the evidence is not irretrievably committed to jury discretion. To be sure, the factfinder in a criminal case has traditionally been permitted to enter an unassailable but unreasonable jury verdict of "not guilty." This is the logical corollary of the rule that there can be no appeal from a judgment of acquittal, even if the evidence of guilt is overwhelming. The power of a factfinder to err upon the side of mercy, however, as never been thought to include a power to enter an unreasonable verdict of guilty. *(Citations omitted)*. Any such premise is wholly belied by the settled practice of testing evidentiary sufficiency through a motion for judgment of acquittal and a post-verdict appeal from the denial of such motion. *See generally* 4 L. Orfield, Criminal Procedure Under the Federal Rules §§ 29:1-29:29 (1967 and Supp. 1978).

In Mr. Wild's case, trial counsel began his argument under Rule 29 by stressing that the Government must prove that the alleged conspiracy spanned the entire time that was charged in the indictment:

> The sum and substance of the testimony that we have here in the last couple of days paints a picture of an alleged series of conduct occurring from the early 2006-'7 time frame up to and through and including 2010, roughly November, based upon the charge that we have in front of us.
>
> Clearly, the instructions need to be made in this case that the conspiracy is one that is ongoing and continuing, and not something that just occurred in 2007 and ended and restarted, but something that was ongoing and clearly wrapping up late 2010.

TT:491; 1ER:2. Trial counsel went on to argue that "there isn't a shred of evidence that my client knew that Michael Strom was claiming his property as the rental." TT:492; 1ER:3.

Essentially, trial counsel argued, under Rule 29, that the Government had not provided sufficient evidence to support the single conspiracy alleged in the indictment, but, rather, had offered evidence of one conspiracy that involved Mr. Wild and Mr. Strom, from 2006 to 2007, plus two weeks in May 2008, with the fraudulent claims submitted by Mr. Wild for the rental of Mr. Strom's home, and a second, unrelated conspiracy that involved Mr. Strom and Mr. Skinner, from October 2008 through October 2010 with the fraudulent claims submitted by Mr. Strom for Mr. Wild's home, with Mr. Skinner as the landlord.

The proper analysis, therefore, is to first determine if there was a single overall conspiracy and then, if the defendant was a member of that single conspiracy. *United States v. Bibbero,* 749 F.2d 581, 587-588 (9th Cir. 1984). To establish the existence of a single conspiracy, "the government must prove that an overall agreement existed among the conspirators." *Id.* at 587. The evidence must show that each of the defendants was involved. *Id.*, *citing United States v. Clevenger,* 733 F.2d 1356, 1358 (9th Cir. 1984); *United States v. Beecroft*, 608 F.2d 753, 757 (9th Cir. 1979). This Court considers the following factors to distinguish single from multiple conspiracies: 1) the nature of the scheme; 2) the identity of the participants; 3) the quality, frequency, and duration of each conspirator's transactions; and 4) the commonality of time and goals. *Bibbero*, 749 F.2d at 587, *citing United States v. Tille*, 729 F.2d 615 (9th Cir. 1984).

The nature of the scheme, admittedly, was similar for the first conspiracy between Mr. Wild and Mr. Strom and the second conspiracy between Mr. Strom and Mr. Skinner. The Government argued that Mr. Wild submitted travel claims to the USMC in 2006 and 2007, plus the two week period in 2008, claiming that he had rented Mr. Strom's home in Laguna Niguel when called up from the Reserves to active duty. CR:60; 2ER:232-233. The Government argued that Mr. Wild, in fact, lived within the local commuting area of Camp Pendleton, and was not entitled to claim these travel benefits and that he did so with the consent and agreement of Mr. Strom. *Id.*

The Government then argued that Mr. Strom did the same thing from October 2008 to October 2010, but used Mr. Skinner as the landlord for Mr. Wild's home in Oceanside. CR:60; 2ER:233-234. The Government argued that Mr. Strom did not live in Mr. Wild's home during those two years, but, in fact, lived in his own home in Laguna Niguel, which was within the local commuting area of Camp Pendleton, making him ineligible for travel benefits. *Id.*

The identity of the participants in the two conspiracies were, however, different. In the second, Mr. Skinner substituted in for Mr. Wild. While Mr. Skinner was a friend of Mr. Wild's, the Government was unable to produce evidence of actual communication with Mr. Wild at this time about the falsified leases that were submitted in conjunction with Mr. Strom's travel claims. TT:359. There were no emails or other correspondence among the parties that showed that Mr. Wild had any awareness of what Mr. Skinner and Mr. Strom were doing. TT:482. Not a single Government witness could testify that Mr. Wild had any knowledge of Mr. Skinner and Mr. Strom's actions.

The quality, frequency and duration of each conspirator's actions varied sufficiently to establish two separate conspiracies. The first conspiracy, involving Mr. Wild and Mr. Strom, was from September 2006 to July 2007, plus two weeks in May 2008, approximately 10 ½ months, and resulted in claims totaling approximately $57,000.00. CR:60; 2ER:232-233. The second conspiracy, involving Mr. Strom and Mr. Skinner, was much longer and almost three times as lucrative – from October 2008 to October 2010, Mr. Strom submitted, and was paid, travel claims for almost $150,000.00. CR:60; 2ER:233-234. Likewise, the commonality of time and goals differed enough between the two conspiracy periods to render them separate conspiracies. The conspiracies were separated by a significant period of time in 2008. The goal may have been similar, personal enrichment, but that is not enough to make two conspiracies into one.

Had the Government charged Mr. Wild and Mr. Strom with conspiring to commit wire fraud only between 2006 and 2007 and for the two week period in 2008, there would be no argument here. However, the Government went forward with the allegation that, despite the absence of proof of Mr. Wild's participation, the actions of Mr. Strom and Mr. Skinner from 2008 to 2010 were not only a continuation of the earlier scheme but also involved Mr. Wild. In doing so, the Government prejudicially varied from the indictment and Mr. Wild was entitled to a judgment of acquittal. The failure to grant Mr. Wild's motion under Rule 29 violated Mr. Wild's right to due process under the Fifth Amendment.

CONCLUSION

Mr. Wild asks this Court to grant the Petition for a Writ of Certiorari.

Respectfully submitted,

Dated: March 9, 2018

S/Jami L. Ferrara
JAMI L. FERRARA
Attorney for Mr. Wild

APPENDIX A

9TH CIRCUIT'S OPINION

NOT FOR PUBLICATION

FILED

DEC 13 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. JASON WILD, Defendant-Appellant.	No. 17-50066 D.C. No. 3:15-cr-02771-AJB-2 MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Anthony J. Battaglia, District Judge, Presiding

Submitted November 13, 2017**
Pasadena, California

Before: NGUYEN and HURWITZ, Circuit Judges, and EATON,*** Judge.

Jason Wild, a former United States Marine Corps reservist, appeals his jury conviction for conspiracy to commit wire fraud in violation of 18 U.S.C. § 1349.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

*** Richard K. Eaton, Judge of the United States Court of International Trade, sitting by designation.

We have jurisdiction under 28 U.S.C. § 1291 and affirm.

1. Wild waived any arguments he might have had against the prospective juror's removal for cause. *See United States v. Perez*, 116 F.3d 840, 845 (9th Cir. 1997). When considering whether to remove the prospective juror because of his admitted difficulty with English, the district court asked defense counsel for his thoughts. Defense counsel not only stated that he had no objection to the removal, but also that he had no *Batson*[1] objections. We thus find that Wild's jury-selection claims were waived. *See United States v. Olano*, 507 U.S. 725, 733 (1993).

2. The district court properly denied Wild's motion for acquittal under Federal Rule of Criminal Procedure 29 because the government produced sufficient evidence for a rational juror to find that (1) that there was a single, continuous conspiracy to defraud the Department of Defense between 2006 and 2010, and (2) that Wild participated throughout the conspiracy. *See United States v. Montgomery*, 384 F.3d 1050, 1062 (9th Cir. 2004); *see also United States v. Alarcon-Simi*, 300 F.3d 1172, 1176 (9th Cir. 2002) ("In ruling on a Rule 29 motion, 'the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.'" (quoting *United States v. Bahena-Cardenas*, 70 F.3d 1071, 1072–73 (9th Cir. 1995) (emphasis in original))).

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[1] *Batson v. Kentucky*, 476 U.S. 79 (1986).

AFFIRMED.

APPENDIX B

JUDGMENT AND COMMITMENT

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

FILED
17 FEB 22 PM 3:13
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES OF AMERICA
V.
JASON WILD (02)

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

Case Number: 15CR2771-AJB-02

Kevin McDermott
Defendant's Attorney

REGISTRATION NO. 52501298

☐ -

THE DEFENDANT:

☐ pleaded guilty to count(s)

☒ was found guilty on count(s) One
after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offense(s):

Title & Section	**Nature of Offense**	**Count Number(s)**
8 USC 1349	Wire Fraud Conspiracy	1

The defendant is sentenced as provided in pages 2 through 5 of this judgment.
The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)

☐ Count(s) is dismissed on the motion of the United States.

☒ Assessment : $100.00

–

☒ Fine waived ☒ Forfeiture pursuant to order filed 2/21/2017 , included herein.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

February 21, 2017
Date of Imposition of Sentence

HON. ANTHONY J. BATTAGLIA
UNITED STATES DISTRICT JUDGE

DEFENDANT: JASON WILD (02)
CASE NUMBER: 15CR2771-AJB-02

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of:
NINE (9) MONTHS

☐ Sentence imposed pursuant to Title 8 USC Section 1326(b).
☒ The court makes the following recommendations to the Bureau of Prisons:
The court recommends custody be served in the South Central Region, San Antonio or Three Rivers.

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:
- ☐ at ________________ A.M. on ________________________________
- ☐ as notified by the United States Marshal.

☒ **The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:**
- ☒ **on or before 04/03/17 @ 11:00 a.m.**
- ☐ as notified by the United States Marshal.
- ☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on ________________________ to ____________________________

at ________________________ , with a certified copy of this judgment.

____
UNITED STATES MARSHAL

By ______________________________________
DEPUTY UNITED STATES MARSHAL

DEFENDANT: JASON WILD (02)
CASE NUMBER: 15CR2771-AJB-02

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of:
THREE (3) YEARS

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons unless removed from the United States.

The defendant shall not commit another federal, state or local crime.

For offenses committed on or after September 13, 1994:

The defendant shall not illegally possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the court. Testing requirements will not exceed submission of more than 4 drug tests per month during the term of supervision, unless otherwise ordered by court.

☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (*Check, if applicable.*)

☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.

☒ The defendant shall cooperate in the collection of a DNA sample from the defendant, pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000, pursuant to 18 USC section 3583(a)(7) and 3583(d).

☐ The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. (*Check if applicable.*)

☐ The defendant shall participate in an approved program for domestic violence. (*Check if applicable.*)

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court. The defendant shall also comply with any special conditions imposed.

STANDARD CONDITIONS OF SUPERVISION

1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4) the defendant shall support his or her dependents and meet other family responsibilities;
5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

SPECIAL CONDITIONS OF SUPERVISION

1. **Reside in a Residential Reentry Center (RRC) as directed by the probation officer for a period of 180 days. (Punitive).**

2. Submit your person, property, residence, office or vehicle to a search, conducted by a United States Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.

3. Provide complete disclosure of personal and business financial records to the probation officer as requested.

4. Notify the Collections Unit, United States Attorney's Office, of any interest in property obtained, directly or indirectly, including any interest obtained under any other name, or entity, including a trust, partnership or corporation until the fine or restitution is paid in full.

5. Notify the Collections Unit, United States Attorney's Office, before transferring any interest in property owned, directly or indirectly, including any interest held or owned under any other name, or entity, including a trust, partnership or corporation.

6. Be prohibited from opening checking accounts or incurring new credit charges or opening additional lines of credit without approval of the probation officer.

RESTITUTION

The defendant shall pay restitution in the amount of $205,628.00 unto the United States of America.

Pay restitution in the amount of $205,628, jointly and severally with the codefendant, to the U.S. Marine Corps through the Clerk, U. S. District Court.

Defense Finance and Accounting Service
Department 3300
8899 E. 56th Street
Indianapolis, IN 46249

Payment of restitution shall be forthwith. During any period of incarceration the defendant shall pay restitution through the Inmate Financial Responsibility Program at the rate of 50% of the defendant's income, or $25.00 per quarter, whichever is greater. The defendant shall pay the restitution during his supervised release at the rate of $100 per month.

These payment schedules do not foreclose the United States from exercising all legal actions, remedies, and process available to it to collect the restitution judgment.

Until restitution has been paid, the defendant shall notify the Clerk of the Court and the United States Attorney's Office of any change in the defendant's mailing or residence address, no later than thirty (30) days after the change occurs.

CERTIFICATE OF COMPLIANCE

Mr. Wild's Petition for Writ of Certiorari was prepared using Wordperfect X7. That program counts 4021 words in the document.

Dated: March 9, 2018

S/Jami L. Ferrara
JAMI L. FERRARA
Signature of Filing Party

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2016

NO. _____________

JASON WILD,

Petitioner,

- v -

UNITED STATES OF AMERICA,

Respondent.

PROOF OF SERVICE

I, the undersigned, declare that:

1. I am over eighteen years of age; am a resident of the County of San Diego, State of California; am not a party in the within action; and my business address is 964 Fifth Avenue, Suite 335, San Diego, California, 92101.

2. I submitted the instant petition for certiorari and motion to proceed in forma pauperis electronically through the Court's electronic filing system pursuant to Supreme Court Rule 29(7).

3. I mailed an original and 10 copies of the instant petition for certiorari to

Scott S. Harris, Clerk
United States Supreme Court
One First Street, N.E.
Washington, D.C. 20543

4. I served the above brief to the Solicitor General:

Noel Francisco, Solicitor General of the United States
Office of the Solicitor General
950 Pennsylvania Ave., NW
Washington, D.C. 20530-0001

5. I provided an additional copy to Jason Wild.

6. The above were delivered and deposited in the U.S. mails, first class postage prepaid, at San Diego, California, on March 9, 2018.

I the foregoing is true and correct. Executed on March 9, 2018, in San Diego, CA 92101

S/Jami L. Ferrara

JAMI L. FERRARA