

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Johnston, Andrew James — PETITIONER
(Your Name)

United States ^{vs.} — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Court of Appeals of the United States, Seventh Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Johnston, Andrew James
(Your Name)

77 West Van Buren Street
(Address)

Chicago, Illinois 60605
(City, State, Zip Code)

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(Phone Number)

QUESTION(S) PRESENTED

1. Under the void for vagueness doctrine where a criminal statute does not give fair notice of the conduct it punishes illuminated by *Johnson v. United States*, 135 S. Ct. 2551, 2557 (2015), is 18 U.S.C. § 2113(a)'s dragnet element "or by intimidation," unconstitutional?
2. Can a new uniform rule be established by this Honorable Court to protect the people and due process of Law by breeding: *Bank of Nova Scotia v. United States*, 487 U.S. 250, 263 n. 14-18 (1988) with *United States v. Glover*, 755 F.3d 811, 820 (7th Cir. 2014)-prohibiting federal agents and prosecutors from selectively presenting evidence to grand juries and/or materially omitting evidence before grand juries for the sole purpose of indictment acquisition?
3. When the government is ordered by the district court to produce and disclose police SUV communications which amount to the information at the fingertips and ear drums of the arresting officer at the time of an illegal arrest for use in a pretrial motion and the government defaults on the order to rely on materially altered audio from a surrounding suburb to falsify the information at the officer's disposal in violation of 18 U.S.C. § 1512(c) to deprive and continue deprivation of a natural person's liberty and the natural person calls the government on the default/withholding only to have the pretrial motion denied in negation of the discovery order, was a timely petition for writ of mandamus to the Seventh Circuit properly construed as a response to a show cause order and dismissed for "lack of jurisdiction" with threats of monetary sanctions?

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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TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

United States v. Thornton,	539 F.3d 741 (7th Cir. 2008)
Johnson v. United States,	135 S. Ct. 2551 (2015)
United States v. Waystaff,	865 F.2d 626 (7th Cir. 1988)
In re: D. W.,	2014 IL App (1st) 141140-U

STATUTES AND RULES

18 U.S.C. § 2113(a)
18 U.S.C. § 1512(c)
18 U.S.C. § 1951(b)(1)

OTHER

Illinois State Law Crime of "Intimidation"
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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 C 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 A 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 February 7, 2018.

☒ 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).

☐ 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. The Fifth Amendment to the Constitution of the United States of America's Due Process Clause.
2. 18 U.S.C. § 2113 (a)'s "or by intimidation" element.
3. 18 U.S.C. § 1512 (c).
4. *Napue v. Illinois*, 360 U.S. 264, 269 (1959).
5. Equitable Principle of the "waters of justice".

STATEMENT OF THE CASE

Unfortunately, the content of this petition and the case below are bonafide apples from a venomous tree stemming from an illegal warrantless arrest made because the arresting officer was "looking for something green" and petitioner was driving a green Buick in the area on his way home from work. See Appendix D.

Nonetheless, because the charge was brought for allegedly "attempting to take" federal reserve notes "by intimidation" in violation of 18 U.S.C. § 2113(a), petitioner observes standing to bring this petition against the catch-all element "by intimidation" which does not provide fair notice of the conduct it punishes.

United States v. Thornton, 539 F.3d 741 (7th Cir. 2008) identified an active split amongst the circuits regarding the "by intimidation" element. Courts have created their own factual interpretations of what constitutes satisfaction of "by intimidation" beyond a reasonable doubt, and those interpretations vary nationwide which is wholly inconsistent with uniform application of the law. Although the Court in Thornton, supra, F.2d 626 (4th Cir. 1988), where the Fourth Circuit declined to adopt the Tenth Circuit's approach, and finding the holding to be the contrary - that "fear" must be reasonable fear of bodily harm based on the acts of the defendant, Wagstaff, supra, Id. at 629, petitioner's contention here is that the "by intimidation" element is a drag net synonymous with a "residual clause" that is being enforced arbitrarily by being applied to factual circumstances which do not come close to "reasonable fear of bodily harm" for the purpose of seeking an enhanced sentence or exaggerated performance before petit juries to acquire conviction.

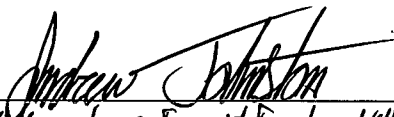
REASONS FOR GRANTING THE PETITION

"The Fifth Amendment provides that "[n]o person shall... be deprived of life, liberty, or property, without due process of law." Our cases establish that the Government violates this guarantee by taking away someone's life, liberty, or property under a criminal law so vague that it fails to give ordinary people fair notice of the conduct it punishes, or so standardless that it invites arbitrary enforcement. *Kolender v. Lawson*, 461 U.S. 352, 357-358 (1983). The prohibition of vagueness in criminal statutes "is a well-recognized requirement, consonant alike with ordinary notions of fair play and the settled rules of law," and a statute that flouts it "violates the first essential of due process." *Conally v. General Constr. Co.*, 269 U.S. 385, 391 (1926). These principles apply not only to statutes defining elements of crimes, but also to statutes fixing sentences. *United States v. Batchelder*, 442 U.S. 114, 123 (1979). *Johnson v. United States*, 135 S. Ct. 2551, 2556-2557 (2015). It should follow then, one should not have to look to: *Thornton; Wagstaff*, 18 U.S.C. § 1951(b)(1) (federal definition of "robbery"); Illinois State Law "intimidation" statute; nor *In re: D.W.*, 2014 IL App (1st) 141140-U (citing *People v. Patton*, 76 Ill. 2d 45, 48, 389 N.E. 2d 1174, 1175 27 Ill. Dec. 766 (1979)) to figure out what conduct § 2113(a) charges and punishes within the sole element of "by intimidation." Petitioner's case could have been charged under § 2113(b), if petitioner was actually the culprit.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Johnston, Andrew James, Exempt From Levy Without Recourse

Date: March 30, 2018