

No. _____

Supreme Court, U.S.
FILED

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IN THE
SUPREME COURT OF THE UNITED STATES

Arthur Jay Hirsch — PETITIONER
(Your Name)

vs.

STATE OF TENNESSEE — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Tennessee Court of Criminal Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Arthur Jay Hirsch
(Your Name)

1029 W. Gaines Street
(Address)

Lawrenceburg, TN 38464
(City, State, Zip Code)

310-948-1668
(Phone Number)

QUESTION(S) PRESENTED

QUESTION 1

RE. QUESTIONING CONSTITUTIONALITY OF TENNESSEE CRIMINAL STATUTE AS VOID FOR VAGUENESS AND IN CONFLICT WITH FEDERAL COURT DECISIONS

QUESTION: Whether or not indictment count two charging weapon statute, Tenn. Code Ann. § 39-17-1307(a)(1),¹ is void for vagueness, a violation of 14th Amendment due process, unconstitutional, and in conflict with federal court decisions and law? Said statute has no statutory definition of the key word “*carry/carries*,” nor for the phrase “*with the intent to go armed*” at Tenn. Code Ann. § 39-17-1301 – Parts Definition, and the element of “*intent*” involves a culpable mental state or attitude [(*mens rea*)TCA § 39-11-301. Requirement of culpable mental state] which is beyond the knowledge and understanding of the everyday common man. Federal court decisions state that criminal statutes must have precise and clearly defined terms so that they can be understood by the accused. Tennessee’s abovementioned criminal penalty statute lacks definitions, is ambiguous, indefinite, and vague, and is in conflict with the federal statute clarity requirement.

● TCA 39-17-1307(a)(1)

“A person commits an offense who carries, with the intent to go armed, a firearm or a club.”

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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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 _____ 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 _____ 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**:

July 17, 2017 - Court of Criminal Appeals -

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is Sept. 28, 2017

- ☒ reported at M2016-00321-CEA-R3-CD; 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 _____.

☐ 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 1/18/18 ^{Supreme Court Denial}.
A copy of that decision appears at Appendix C.

☐ 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

CONSTITUTION

U.S. Constitution, Amendment II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

● U.S. Constitution, Amendment V

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 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 just compensation.

● U.S. Constitution, Amendment IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

● U.S. Constitution, Amendment IVX

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

● Tennessee Constitution, 1796 – Declaration of Rights

Article 10th

Sect. 4th The Declaration of Rights hereto annexed is declared to be a part of the Constitution of this State and Shall never be violated on any pretence whatever. And to Guard against transgressions of the high Powers which we have delegated, we declare that everything in the Bill of Rights contained and every other right not hereby delegated is excepted out of the General Powers of Government and shall for ever [i.e. forever] remain inviolate.

● Tennessee Constitution, Art. 1, § 26. Weapons; right to bear arms

That the citizens of this State have a right to keep and to bear arms for their common defense; but the Legislature shall have power, by law, to regulate the wearing of arms with a view to prevent crime.

STATUTES

● **Tenn. Code Ann. § 39-17-1307(a)(1)**

“A person commits an offense who carries, with the intent to go armed, a firearm or a club.”

● **Tenn. Code. Ann. § 39-11-301– Requirement of culpable mental state.**

(a)(1) A person commits an offense who acts intentionally, knowingly, recklessly or with criminal negligence, as the definition of the offense requires, with respect to each element of the offense.

(b) A culpable mental state is required within this title unless the definition of an offense plainly dispenses with a mental element.

(c) If the definition of an offense within this title does not plainly dispense with a mental element, intent, knowledge or recklessness suffices to establish the culpable mental state. [Acts 1989, ch. 591, § 1; 1990, ch. 1030, §§ 6, 7.]

● **(2014) Tennessee Code Ann. § 39-17-1301 - Part definitions.**

Title 39 - Criminal Offenses

Chapter 17 - Offenses Against Public Health, Safety and Welfare

Part 13 - Weapons

As used in this part, unless the context otherwise requires:

(1) "Adjudication as a mental defective or adjudicated as a mental defective" means:

(A) A determination by a court in this state that a person, as a result of marked subnormal intelligence, mental illness, incompetency, condition or disease:

(i) Is a danger to such person or to others; or

(ii) Lacks the ability to contract or manage such person's own affairs due to mental defect;

(B) A finding of insanity by a court in a criminal proceeding; or

(C) A finding that a person is incompetent to stand trial or is found not guilty by reason of insanity pursuant to Article 50a and 76b of the Uniform Code of Military Justice, codified in 10 U.S.C. §§ 850a and 876b respectively;

(2) "Club" means any instrument that is specially designed, made or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument;

(3) "Crime of violence" includes any degree of murder, voluntary manslaughter, aggravated rape, rape, especially aggravated robbery, aggravated robbery, burglary, aggravated assault or aggravated kidnapping;

(4) (A) "Explosive weapon" means any explosive, incendiary or poisonous gas:

(i) Bomb

(ii) Grenade;

(iii) Rocket;

(iv) Mine; or

(v) Shell, missile or projectile that is designed, made or adapted for the purpose of inflicting serious bodily injury, death or substantial property damage;

(B) "Explosive weapon" also means:

(i) Any breakable container which contains a flammable liquid with a flashpoint of one hundred fifty degrees Fahrenheit (150 degrees F) or less and has a wick or similar device capable of being ignited, other than a device which is commercially manufactured primarily for purposes of illumination; or

(ii) Any sealed device containing dry ice or other chemically reactive substances for the purposes of causing an explosion by a chemical reaction;

(5) "Firearm silencer" means any device designed, made or adapted to muffle the report of a firearm;

(6) "Hoax device" means any device that reasonably appears to be or is purported to be an explosive or incendiary device and is intended to cause alarm or reaction of any type by an official of a public safety agency or a volunteer agency organized to deal with emergencies;

(7) "Immediate vicinity" refers to the area within the person's immediate control within which the person has ready access to the ammunition;

(8) "Judicial commitment to a mental institution" means a judicially ordered involuntary admission to a private or state hospital or treatment resource in proceedings conducted pursuant to title 33, chapter 6 or 7;

(9) "Knife" means any bladed hand instrument that is capable of inflicting serious bodily injury or death by cutting or stabbing a person with the instrument;

(10) "Knuckles" means any instrument that consists of finger rings or guards made of a hard substance and that is designed, made or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles;

(11) "Machine gun" means any firearm that is capable of shooting more than two (2) shots automatically, without manual reloading, by a single function of the trigger;

(12) "Mental institution" means a mental health facility, mental hospital, sanitarium, psychiatric facility and any other facility that provides diagnoses by a licensed professional of an intellectual disability or mental illness, including, but not limited to, a psychiatric ward in a general hospital;

(13) "Restricted firearm ammunition" means any cartridge containing a bullet coated with a plastic substance with other than a lead or lead alloy core or a jacketed bullet with other than a lead or lead alloy core or a cartridge of which the bullet itself is wholly composed of a metal or metal alloy other than lead. "Restricted firearm ammunition" does not include shotgun shells or solid plastic bullets;

(14) "Rifle" means any firearm designed, made or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed metallic cartridge to fire a projectile through a rifled bore by a single function of the trigger;

(15) "Short barrel" means a barrel length of less than sixteen inches (16") for a rifle and eighteen inches (18") for a shotgun, or an overall firearm length of less than twenty-six inches (26");

(16) "Shotgun" means any firearm designed, made or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed shotgun shell to fire through a smooth-bore barrel either a number of ball shot or a single projectile by a single function of the trigger;

(17) "Switchblade knife" means any knife that has a blade which opens automatically by:

(A) Hand pressure applied to a button or other device in the handle; or

(B) Operation of gravity or inertia; and

(18) "Unloaded" means the rifle, shotgun or handgun does not have ammunition in the chamber, cylinder, clip or magazine, and no clip or magazine is in the immediate vicinity of the weapon.

STATEMENT OF THE CASE

1. Petitioner was subjected to an investigative police transportation stop in the Lawrenceburg, Tennessee Kroger's grocery store parking lot at approximately 1:00 p.m. on December 10, 2013 with respect to a non-Tennessee native American license tag on his pickup truck.

2. Said investigative encounter turned custodial and resulted in petitioner's warrantless arrest and him being jailed for having a loaded .22 cal. pistol inside a closed cooler on the front passenger seat of his pick up truck without a permit.

3. The petitioner was presumed to be engaged in a commercial for-profit activity transporting people or goods by motor vehicle on the public highway and subject to the permissive privilege statutes under Tennessee Motor Vehicle Code ("TMVC"), and the weapons statute at Tenn. Code Ann. ("TCA") § 39-17-1307(a)(1). He was charged and convicted at trial on December 22, 2015, in Lawrence County, Tennessee circuit court on count one of driving while his Virginia license was suspended; on count two of carrying a firearm with the intent to go armed (petitioner did not have a firearm on his person); on count three of violating the motor vehicle registration requirement; and on count four of violating the financial responsibility law. (**APPENDIX B** – trial court judgment)

4. Petitioner was not afforded a fair trial due to the trial court denying him of a number of his substantial constitutionally secured rights which prevented him from putting on his prepared defense, and for being charged with a vague weapons penalty statute.

5. With respect to Question 1, petitioner contends that the aforementioned count two charging statute, i.e., Tenn. Code Ann. ("TCA") § 39-17-1307(a)(1), is void for vagueness, a violation of 14th Amendment due process,¹ unconstitutional, and in conflict with federal court decisions and law.

7.

1

● "If any question of fact or liability is **conclusively presumed** against the accused **it is not due process of law**." *Ziegler v. R.R. Co.*, 58 Ala. 594; *Wilburn v. McCally*, 63 Ala. 436. (Emphasis added)

● Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, **or acted in a manner inconsistent with due process**, Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A., U.S.C.A. Const. Amend. 5 - *Klugh v. U.S.*, 620 F.Supp. 892 (D.S.C. 1985) (Emphasis added)

- TCA 39-17-1307(a)(1)

“A person commits an offense who carries, with the intent to go armed, a firearm or a club.”

6. There is no statutory definition at TCA 39-17-1301 – Parts Definitions, for the word “*carries/carry*” or for the phrase “*with the intent to go armed*.”

7. The Tennessee Court of Criminal Appeals (“CCA”) admitted in its opinion that the term “*carry/carries*” is not defined in the Tennessee Code. It is important to note that the CCA failed to mention that neither is the phrase “*with the intent to go armed*” defined, yet the Court deemed the statute constitutional based on the ordinary person’s understanding principle.

- “Although the term “carries” is not defined in the Code, it is capable of ready understanding by a person of ordinary intelligence. Consequently, Code section 39-17-1307 is not unconstitutionally vague.” (APPENDIX A – appeals court judgment)

8. The CCA presumed that everyone of ordinary intelligence knows the meaning of the term “carries,” but failed to state exactly in plain language what that common man understanding was, leaving the statute still uncertain.

9. Petitioner considers himself to be in the class of “a person of ordinary intelligence.” His understanding of the word “carry” means only to wear or bear on one’s person (not toted about), which is in agreement with Tennessee Constitution, Art. 1, §26 , “the wearing of arms.”

- Tennessee Constitution, Declaration of Rights
Article 1§ 26. Weapons; right to bear arms

“That the citizens of this State have a right to keep and to bear arms for their common defense; but the Legislature shall have power, by law, to regulate the wearing of arms with a view to prevent crime.” (Emphasis added)

10. In the absence of statutory definition of terms we turn to a law dictionary for help. The word “*carries/carry*” is a verb, and is defined in Black’s Law Dictionary, 6th Edition, p. 214 as “To have or bear upon or about one’s person, as a watch or weapon.” This definition comports with the Art. 1, §26 constitutional phrase “the wearing of arms” referenced above. The common man with ordinary intelligence most likely discerns the meaning of the word “*carries/carrying*,” and the similar constitutional term,

“wearing,” to be the holstering or bearing of a weapon on one’s person. However, “carries/carry” has been broadened beyond the Art. 1, § 26 constitutional plain meaning of “the wearing of arms” to include the toting and transporting of firearms and clubs in vehicle compartments, boxes, saddlebags, etc.² apart and away from one’s person, thus creating a constitutionally imprecise standard of conduct. Without a statutory definition with reasonable specificity toward the conduct to be prohibited, and because of the judicially broadened meaning of the term, it is unclear and uncertain what “carries/carry” means. A reasonable man’s understanding of the extra-constitutional meaning of “carries/carry” cannot be conclusively presumed – like the CCA did in the above opinion quote – and an ordinary person is left to guess and speculate what it means to his possible peril.

11. This Court’s decisions are in disagreement with Tennessee CCA’s presumptive position taken in the instant opinion regarding specificity of criminal statute terms, and has held that a statute must clearly and precisely delineate its reach in words of common understanding.

- *United States v. Gradwell*, 243 U. S. 476, 485 (1917) “[T]hat before a man can be punished as a criminal under the federal law his case must be “plainly and unmistakably” within the provisions of some statute.” (*United States v. Lacher*, 134 U.S. 624, 628)

- *Dunn v. United States*, 442 U.S. 100, 112, 113 (1979) “This practice reflects not merely a convenient maxim of statutory construction. Rather, it is rooted in fundamental principles of due process which mandate that no individual be forced to speculate, at peril of indictment, whether his conduct is prohibited. *Grayned v. City of Rockford*, 408 U. S. 104, 108 (1972); *United States v. Harriss*, 347 U. S. 612, 617 (1954); *Lanzetta v. New Jersey*, 306 U. S. 451, 453 (1939); *McBoyle v. United States*, 283 U. S. 25, 27 (1931). Thus, to ensure that a legislature speaks with special clarity when marking the boundaries of criminal conduct, courts must decline to impose punishment for actions that are not “plainly and unmistakably” proscribed. (see *Cameron v. Johnson*, 390 U.S. 611, 616) (Emphasis added)

12. Without a statutory definition of “carry/carries” the aforesaid charging statute is ambiguous. It has two possible meanings, to wit, (1) the constitutional “wearing of firearms” (Art. 1, § 26) on one’s

person (common understanding), and (2) the extra-constitutional meaning which includes toting and transporting a weapon by various means unattached from one's person.

13. It is of special note that it was not said by the CCA that a common man understanding exists for the undefined phrase "*with the intent to go armed*," because it involves a culpable, criminal mental state and/or attitude (*mens rea* required at TCA 39-11-301) which is beyond a reasonable man's ready knowledge and understanding.³ The prohibited conduct of "*with the intent to go armed*" is unclear, is vague, i.e., the criminal act of the "*intent to go arm*" which was meant to be avoided is not found in the statute or statute definitions. The requisite *mens rea* statute is found at

- TCA 39-11-301 Requirement of culpable mental state – (b) A culpable mental state is required within this title unless the definition of an offense plainly dispenses with a mental element.

14. The CCA determined that petitioner had a criminal/culpable state of mind by him merely admitting to taking his pistol along with him for self defense. The CCA unlawfully criminalized petitioner for exercising his fundamental, naturally inherent, unalienable right to self defense/self preservation and the right to bear arms, which can never be abridged or infringed. Because there was no main statute of record to refer to, and no statutory definition of the prohibited criminal act stemming from the "intent," the CCA made up its own standard of what constituted "intent" and proceeded to criminalized petitioner exercising his constitutionally secured rights under the 14th Amendment, 2nd Amendment, and 9th Amendment.

- "The defendant acknowledged that he carried the weapon for the purpose of defending himself. Under these circumstances, the evidence was sufficient to support the defendant's conviction of carrying a firearm with the intent to go armed." (APPENDIX A)
- "The claim and exercise of a constitutional right cannot be converted into a crime."
Miller v. United States, 230 F.2d 486, 490 (5th Cir. 1956)

10.

Black's Law Dictionary, 6th Ed., p. 810. **Intent.** Design, resolve, or determination with which person acts. *Witters v. United States*, 70 U.S.App.D.C. 316, 106 F.2d 837, 840. A state of mind in which a person seeks to accomplish a given result through a course of action. . . . **A mental attitude which can seldom be proved by direct evidence, but must ordinarily be proved by circumstances from which it may be inferred.** *State v. Gantt*, 26 N.C.App. 554, 217 S.E.2d 3, 5. (Emphasis added)

- “Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.” *Miranda v. Arizona*, 384 U.S. 436, 491 (1966)

15. Nowhere in the indictment, trial transcript or CCA opinion is a main statute cited to which the penalty provisions attach showing that petitioner had a legal duty of any kind. Duty is not found in said penalty statute. Petitioner was denied the right to be tried by every element of the statute.

16. Without the requisite definition of the offense by the state, the petitioner is left to guess and speculate as to what “*intent to go armed*” means in the aforesaid charging statute and was unable to put on a meaningful defense. What crime is to be prohibited or prevented? Does the statute “intent” abrogate Appellant’s unalienable right to self preservation / self defense? Does “intent” mean to do a criminal act and inflict personal injury or damage property? How does one “go” – by what means? Is motion or locomotion necessary to be an offense? What constitutes *mens rea* – guilty mind? What is considered a culpable mind? Etc.

17. With multiple possible meanings for “*carries/carry*” and “*with the intent to go armed*” the petitioner contends that the statute is ambiguous and vague. The petitioner, who considers himself to be an average citizen/common man, was denied due process fair notice of what precisely constituted the alleged crime, and what conduct was to be avoided, i.e., it fails to give adequate guidance to those who would be law-abiding, to advise defendants (petitioner) of the nature of the offense with which they are charged, or to guide courts in trying those who are accused.

- *Connally v. General Construction Co.*, 269 U.S. 385, 391 “That the terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties, is a well-recognized requirement, consonant alike with ordinary notions of fair play and the settled rules of law. And a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law.” *International Harvester Co. v. Kentucky*, 234 U.S. 216, 221; *Collins v. Kentucky*, 234 U.S. 634, 638.

- *Williams v. United States*, 341 U.S. 97, 100 decided April 23, 1951. “Criminal statutes must have an ascertainable standard of guilt or they fall for vagueness.” See *United States v. Cohen Grocery Co.*, 255 U. S. 81, 87-88.

- *Winters v. New York*, 333 U.S. 507, 515 (1948). “The standards of certainty in statutes punishing for offenses is higher than in those depending primarily upon civil sanction for enforcement. The crime “must be defined with appropriate definiteness.” *Cantwell v. Connecticut*, 310 U.S. 296; *Pierce v. United States*, 314 U.S. 306, 311. “There must be ascertainable standards of guilt. Men of common intelligence cannot be required to guess at the meaning of the enactment.”

- *Screws v. United States*, 325 U.S. 91, 103-104 (1945) “The constitutional requirement that a criminal statute be definite serves a high function. It gives a person acting with reference to the statute fair warning that his conduct is within its prohibition.”

- Also, see *Cameron v. Johnson*, 390 U.S. 611, 616; *Bankshot Billards, Inc. v. City of Ocala*, 2010 U.S. Dist. LEXIS 12559 (M.D. Fla. Feb. 12, 2010)

18. It is well established that all statutes must be constitutional in nature, thereby safeguarding the constitutionally secured rights of the people.

- “Individual rights protection is the only legitimate reason for government to exist . . . the duty of this court, as of every judicial tribunal, is limited to determining rights of persons or of property. .” *Tyler v. Judges of Court of Registration*, 179 U.S. 405, 409 (1900)

- “WE hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness—That to secure these Rights, Governments are instituted among Men, deriving their just powers from the consent of the governed. . .”
The Declaration of Independence in Congress, July 4, 1776

PETITIONER’S APPLICATION FOR CERTIORARI DENIED

19. Petitioner’s application for certiorari to appeal from the Court of Criminal Appeal’s final judgment to the Tennessee Supreme Court was denied for review on January 18, 2018. (APPENDIX C – Tenn. Supreme Court review denied)

CONFLICT WITH FEDERAL DECISIONS

20. Federal high court decisions state that criminal statute terms must be clear and precise so that the ordinary person with average intelligence will know what criminal act to avoid, and so the courts will know how to judge cases properly.

21. On the contrary, the Tennessee Court of Criminal Appeals decision ignored the federal standard

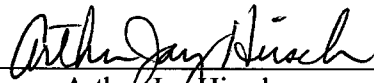
of penalty statute clarity in reviewing the constitutional sufficiency of TCA 39-17-1307(a)(1), i.e., it used the common man understanding principle without explaining what that was, and declared said statute constitutional, though it remained ambiguous with multiple possible meanings. Petitioner, exercising his naturally inherent, unalienable right to self defense/ self protection, was deemed to show criminal “intent to go armed,” contrary to the state’s *mens rea* requirement, and contrary to this Court’s ruling in the *Miller* and *Miranda* cases referenced above, which protected constitutionally secured rights from harmful statutes and rules.

REQUEST

Petitioner requests this Court upon appeal to enter an order finding TCA 39-17-1307(a)(1) to be void for vagueness and unconstitutional, and to vacate judgment.

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief per 28 USC § 1746.

Date: April 17, 2018



Arthur Jay Hirsch
1029 W. Gaines St.
Lawrenceburg, TN 38464
310-948-1668

REASONS FOR GRANTING THE PETITION

ERRONEOUS DECISION RE. STATUTE VAGUENESS

The errors of the Tennessee Court of Criminal Appeals ("CCA") decision, mentioned in STATEMENT OF THE CASE, need to be addressed and corrected so that justice can be served. Petitioner's fundamental, constitutionally secured, naturally inherent, unalienable right to life, liberty, and private property ownership have been subverted, including his secondary rights of due process, equal protection, self defense, and privacy. The aforementioned penalty statute in issue is not clearly within the provisions of a main statute, no legal duty is prescribed, there are no definitions for the terms of the offense, and multiple meanings exist making it ambiguous and vague. The CCA was left to make up its own interpretation, and disposed of the matter by using a faulty, unexplained "common man understanding" argument, and ignored *mens rea*, criminalizing petitioner's exercise of his unalienable right to self defense. It is highly probable that many other appellants' rights have been or will be abrogated by the CCA and other courts of appeal throughout America if this Court does not correct rights-destroying practices, and declare vague criminal statutes unconstitutional.

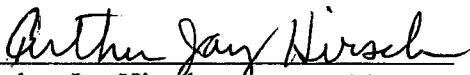
NATIONAL IMPORTANCE

This Court should grant certiorari pertaining to the aforementioned criminal statute which petitioner contends is vague, is a violation of 14th Amendment due process, and is unconstitutional, because the issue and principles involved affect all law abiding individuals everywhere. Gun laws bear on the most fundamental constitutionally secured right of self defense/self preservation of all Americans, and penalty statutes must absolutely be clearly defined, so that individuals' unalienable rights are safeguarded. By this Court ruling that TCA 39-17-1307(a)(1) is void for vagueness and unconstitutional, a firm warning will be sent to all state courts of appeal, like the CCA, that they must decline to impose punishment for actions that are vague, i.e., that are not "plainly and unmistakably" proscribed.

CONCLUSION

For reasons stated herein the petition for a writ of certiorari should be granted.

Respectfully submitted,


Arthur Jay Hirsch, *pro se* petitioner

Date: April 17, 20218