

When our forefathers wrote the constitution, they provided that before you could be convicted of a crime, a grand jury had to charge you by indictment and a petit jury had to find you guilty. Charged by indictment in simple terms means that the Government must furnish the accused in writing the exact nature of the crime he is supposed to have committed. Obviously this is necessary for the accused to be able to prepare a defense against the charges. The more vague the indictment is the more disadvantage the accused has in defending against the indictment. The indictment provision of the Constitution is also to guard against the accused being charged with one thing, tried for another, and sentenced for something else. In other words it is supposed to keep the Government from changing up after a person has been indicted. In essence they are required to stick to the original indictment. If they want to change they are required to get another indictment, which can be easily done in the form of amending, and superseding. Somewhere along the line the Federal courts strayed away from these constitutional requirements and began a practice of after trial and sentencing, of considering evidence that was not decided by the jury and sentencing the defendant for things that the jury had not found him guilty of, this practice led to people being sentenced for things that were not on their indictment thus precluding the jury from doing their job of deciding innocence or guilt beyond a reasonable doubt. As you can imagine this violated the accused right to a jury trial. As this practice continued through the years the constitutional abuses became greater and greater. Until one day a man named Apprendi was fortunate enough to have his case reviewed by the Supreme Court. It seems that Mr. Apprendi was sentenced to time for committing a hate crime even though he had not been charged with a hate crime on his indictment. The Supreme court ruled that Mr. Apprendi's constitutional rights had been violated and the hate crime part of his sentence was vacated.

How this practice affected me and violated my constitutional rights is as follows. In short I would not be doing a life sentence with out the possibility of release if I had received a sentence for just what I was named on in my indictment and what the jury was allowed to deliberate on. Around the end of 1987 a new law came into effect, this new law was after all the counts I'm named on happened. This new law was much harsher than the one it replaced it provided for longer sentences and no parole. In my case after trial and at sentencing the Judge pondered that the new law applied to me.. On my June 7, 1991 sentencing transcripts pages 77 lines 23-24 the Judge says "I determined that the guidelines apply" as can easily be seen by examination of my indictment. I'm not named on or charged with anything after the new guidelines went into effect, which are the last 4 counts 11 through 14. Further more the Judge tells the jury in the jury instructions page 8 lines 1 - 4 "Please note the last 4 counts of the indictment, that's is counts 11 through 14, do not apply to defendant Dekle and are not matters for your consideration." That makes it further impossible for the jury to find me guilty of any new law counts because if they had got confused and thought in error that I had been charged with counts 11 through 14 the judge clarified it with his instruction by telling them that they are not matters for their consideration. Also he instructs the Jury on page 14 line 22-25 and page 15 lines 1 through 3 "Thus you should only consider the conspiracy to import marijuana with substantive importation of marijuana offense". At sentencing, the judge sentenced me under the harsher new law. Because I was not charged under the new law and because the judge told the jury to ignore the new law violations, my conspiracy conviction should be either invalid or I should have been sentenced under the old law. I have finished my 8 thirty year sentences and I'm now serving time on new law sentences which are constitutionally illegal. In other words I should be home already. As can be seen in the last pages of my PSR, my objections fell on deaf ears.

Some of you may still be wondering why the Government should not be able to give me a new law sentence, after all they did change the law. I will try to explain. We have a law called ex post facto and this is how I understand it to work. Say a road you travel has a speed limit of 55 mph and on Friday the 13th they change the speed limit to 35 mph and on Monday the 16th you get a speeding ticket in the mail for going 20 mph over the speed limit and the ticket says you were speeding on Thursday the 12th. Well when you go to court and if you are able to get the Judge to listen to your argument the Judge should throw out the ticket because the Policeman who wrote you the ticket violated the ex post facto clause in our law. Well in my case not only did I get sentenced for something I'm not named on or charged with they violated ex post facto by sentencing me to new law for old law violations.

So basically I got 8 thirty year sentences for the 8 old law counts that I'm named on and I got 2 life sentences because of the 4 new law counts that I'm not named on, the 2 life sentences are illegal sentences, I have already finished the 8 thirty year sentence.