

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

THE UNITED STATES OF AMERICA,

MOTION TO CORRECT RECORD
PURSUANT TO FRAP 10(e)

V.

Case No.: 15-CR-6055-EAW

ROBERT LEE SWINTON JR

I, Robert L. Swinton Jr., defendant, hereby moves this Honorable Court for Correction of The Record, pursuant to FRAP 10(e)(1). Swinton is directly referring to trial records, which are directly material to arguments presented to The U.S. Second Circuit Court of Appeals. Swinton is requesting that this difference in the record be corrected, pursuant to FRAP 10(e)(2)(B).

Swinton declares, under penalty of perjury, that Danielle Bowen was asked, "Do you know a man named Melvin Frazier?" in trial. Bowen was also asked, "Do you know a man named 'Roc'?" in trial as well. She answered both questions "No". These questions are not reflected in the trial transcripts. Moynahan was also shown a copy of the Federal complaint of Melvin Frazier in trial, after she answered the questions. The next documents that were shown to him in trial were the police reports, where Bowen denied giving a statement to the NYS Troopers.

In the transcripts, there are multiple jumbled 'misprints' that are capitolized lettering that makes no sense

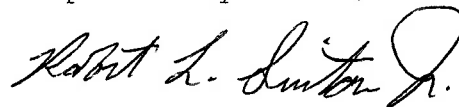
of the conversation being had. The context of the conversations in trial were also changed in the transcripts as well. Swinton does not recall some of the conversations as transcribed.

The places of these "misprints" that changed the context of the testimony are as follows: Trial transcript ("TR.") pages 249 - 251 of Bowen's testimony. TR. page 361 (McDonald); TR. pages 382, 396, 403, 425, 426, 427, 428, 429 (Bernabei). These are vital areas in which these 'misprints' are incorporated into the trial transcripts. I am requesting that the transcripts be held unreliable or the record supplemented with the questions asked by Swinton, previously mentioned.

In sum, the defendant requests relief from these errors that will deprive him of a fair presentation to The Second Circuit Court of Appeals.

Date: *January 23, 2019*

Respectfully Yours,



Robert L. Swinton Jr. #22008-055
F.C.I. Loretto
P.O. Box 1000
Loretto, PA 15940

CERTIFICATE OF SERVICE.

I, Robert L. Swinton Jr., have provided service of this motion to The Western District Clerk of Court, The Second Circuit Clerk of Court and The AUSDA Office, Tiffany H. Lee, on the above signed date via U.S. Mail.

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NEW YORK

RE: U.S. v. Swinton, 15-CR-6055-EAW
Second Circuit No.: 18-101cr

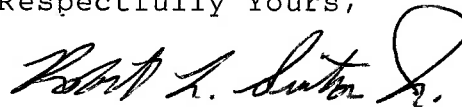
Att: Clerk of Court

Dear Clerk,

Please file this motion in the above case so that it is pending. This motion directly affects the appeal in this case. Thank you.

Date: January 23, 2019

Respectfully Yours,

A handwritten signature in black ink that reads "Robert L. Swinton Jr." with a stylized flourish at the end.

Robert L. Swinton Jr. #22008-055
F.C.I. Loretto
P.O. Box 1000
Loretto, PA 15940