

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

John Garrett Smith,
Petitioner

v.

State of Washington,
Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO:

Supreme Court of Washington

PETITION FOR WRIT OF CERTIORARI

John Garrett Smith, PE

pro se attorney

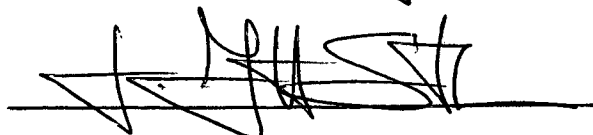
DOC #351176

Stafford Creek Corrections Center

191 Constantine Way

Aberdeen, WA 98520

28 February 2018



QUESTIONS PRESENTED

and

SIMPLE, PRIMA FACIE GRAVITY OF NATIONAL IMPORT

QUESTION	COGENCY
(1) Can a State intentionally fail to ratify charging documents because of its scienter of fraud, yet proceed sans-jurisdictional authority to falsely judge and sentence, anyway, despite the void ab initio status of the legally nullified case (per Federal Rule 4.1(6)(A) and FRCP 60(b)(4))?	ultra vires State hostility against US citizen of another State
(2) When no state agencies of ANY kind have established any authority over a US citizen from another State under a lawfully void judgment and sentence, can he still be denied Equality Under Law (amend. XIV) and forced into "cruel & unusual" incarceration and denial of right to liberty (amend. VIII)?	criminal raping of a life
(3) Can police steal a private, corporate cellular phone protected by 18 USC §1030 - CFAA - for its function in interstate and international commerce, invade it to extort Intellectual Property, money, and Identity from its owner and his companies from a different State,	wanton sabotage of a smart phone

QUESTION	COGENCY
and then abuse it to frame its owner for a manufactured crime that ostensibly occurred <u>after</u> the time of the iPhone's theft (and is disproved unanimously by 100% of all authentic evidence), all 6 weeks before even a falsified warrant for the iPhone is fraudulently obtained?	
(4) Can uncertified and perjuring police digitally manufacture an acoustic recording on a CD, portend that it is a voice-mail on a pre-stolen iPhone, and conspire with colluding prosecutors, judges and lawyers to use the forensically-proven "Frankenstein" fake "recording" to wantonly judge and sentence the iPhone's owner for a "crime" that 100% of all real evidence proves was PHYSICALLY IMPOSSIBLE?	wanton abuse of a smart phone
(5) Is it lawful for the State to conceal thousands of data records containing exculpatory evidence and proofs of its own criminal activities, in obvious 'Brady' violations that are still being uncovered over 4 years later, in a county where law enforcement's unabashed RICO-policy is to "hoke up cases to get convictions" (Spencer v. Krause, USCA, 9th Cir., No. 14-35689, 5-18-17)?	shocking and obvious criminal police actions

QUESTION	COGENCY
(6) Is it lawful under 42 USC §12101 for State authorities to carry out and perpetuate cruel and unusual (amend VIII), ultra vires actions in an Hate Crime Against Autism, when the iPhone and business owner is a High-Functioning Autistic (benevolent Asperger's) who uses the "advantage" for the development and deployment of real solutions involving clean Energy, Water, Air and Food to help people of the world solve real challenges?	ultra vires raping of a good life and good works
• <u>LIST OF PARTIES :</u>	All Parties Appear on The Cover Page

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APPENDIX A - All Legally Valid Court Records ... v

1) TABLE OF CITED AUTHORITIES

1. I. STATUTES & RULES

- Paramount Foundations:

US Constitution, amendments IV, VIII, and XIV
WA Constitution, Article I § 3, § 22

- re: absence of jurisdiction/authority:

FRCP 60(b)(3)(4)(6), 4.1(6)(A)

Rule 4(b)(1)(D)

CR 12(b)(1)(6), 60(d)(1)(3)

42 CJS § 8 (1991)

WA: RCW 10.73.100(5), CrRLJ 3.2.1, CrR 3.2

- re: criminal actions:

18 USC § 4 - Misprision of Felony

18 USC § 1030 - Computer Fraud & Abuse Act (CFAA)

18 USC §§ 1961-1965 - Racketeering Influenced & Corrupt Organizations

18 USC § 242 - UnConstitutional Malfeasance

42 USC § 12101 - Americans with Disabilities Act (cf. W.H.O.)

- re: averral/non-responsive denial

Rule 10.5(b)(1)

CR 8(b)(d)

CAROA 41(3)

LR 7-1(e)(1)

Rule 56(c)(1)

1. II. Cases

- Allstate v. Khan, 75 Wn.App. 317 (1994)
- Antonio v. Atlas, 66 F.3d @ 105, 6th Cir. (1995)
- Beck v. Ohio, 379 US 89, S.Ct. 223 (1964)
- Connecticut v. Leach, 7 Conn. Rep. 452 (1829)
- Hagen v. Lavine, 415 US 528, 39 L.Ed. 2d @ 577, 94 S.Ct. @ 1372, NY (3.28.1974)
- Long v. Shorebank, 182 F.3d @ 548, 7th Cir. (1999)
- RICE, 113 S.Ct. 421, 506 US 958 (1992)
- Spencer v. Krause, US Court of Appeals, 9th Cir., No. 14-35689 (5.18.2017)
- St. v. Brennan, 76 Wn.App 347, 884 P.2d 1343 (1994, D1)
- St. v. Corrado, 78 Wn.App. 612, 898 P.2d 860 (1995, D2)
- Trucking Associations v. City of Los Angeles, 559 F.3d 1046, 1052 (9th Cir., 2009)
- US v. Rogers, 23 F.658, W.D., Ark. (1999)
- US v. Throckmorton, 98 US 61, 25 L.Ed 93 (1878)
- VTA v. AIRCO, 597 F.2d 220, 224 (10/79)
- Winter v. Natural Resources Defense Council, 555 US 7, 21 (2008)
- Young v. Clark, 149 Wn.2d 130, 65 P.3d (2003)
- Brady v. Maryland, 373 US 83, 87 (1963)

2) OPINIONS BELOW

Petitioner respectfully prays that an injunctive writ of certiorari issue to review and dismiss the legally non-existent judgment below:

The Opinion of the highest State court to adjudicate without lawful jurisdictional authority, and therefore whose opinion is legally a nullity, was nevertheless printed on 22 November 2017, by the Supreme Court of Washington, who subsequently abrogated ministerial duties regarding absence of mandatory jurisdiction on 5 December 2017.

3) Court Jurisdiction

The date on which the highest state court decided via Judgment without lawful jurisdictional authority, and therefore its Order is a legal nullity, was nevertheless 12 December 2017.

Therefore, this petition for writ of certiorari submitted within 90 days after judgment entry (albeit unlawful) is timely in accordance with Supreme Court Rule 13.

State of Washington Courts have completely breached Constitutional pillars of non-discretionary jurisdiction, mandating the intervention of this Court to settle this important, far-reaching matter with prudent haste.

The jurisdiction of this Supreme Court of The United States is invoked under 28 USC §1257(a) to rightfully adjudicate this horrific case which is of imperative public importance per Rule 10(c).

(4) CONSTITUTIONAL & STATUTORY PROVISIONS INVOLVED

4.I. Ultra Vires, Jurisdictionless, sans-authority actions:

- United States Constitution, amendments -

IV: "the right of people to be secure in their persons, houses, papers and effects, against unreasonable searches & seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by Oath or affirmation"

VIII: "cruel & unusual punishments" shall not be "inflicted"

XIV: "...nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person ... equal protection of the laws"

- Federal Rule 4.1(6)(A) -

"judicial certification by signature is required within 48 hours of allegation"

- CR 60(b) -

jurisdictionless case reverts to "status quo ante"; Grounds for Relief from Judgment, Order or Proceeding: (3) fraud, (4) void judgment, (6) "other"; e.g. crimes, like 18 USC §1030, actually committed to get conviction of a crime NOT actually committed;

- VTA v. Airco (1979)

"When underlying judgment is void, relief is NOT a discretionary matter: it is MANDATORY."

4. II. Fraudulent Theft

- 18 USC § 1030 - Computer Fraud & Abuse Act (CFAA):
 - (a) Whoever (5)(c) intentionally accesses a protected computer without authorization, and as a result of such conduct, causes damage and loss... shall be punished as provided in subsection (c) [felony];
 - (e)(1) the term "computer" means an electronic, magnetic, optical, electromechanical, or other high-speed data processing device performing logical, arithmetic, or storage functions;
 - (2) the term "protected" computer means a computer - (B) which is used in, or affecting, interstate or foreign commerce or communication;
- 18 USC § 4 - Misprision of Felony:

"Whoever, having knowledge of the actual commission of a felony cognizable by a Court of the United States, conceals and does not, as soon as possible, make known the same to some judge or other person in civil or military authority in the U.S., shall be fined or imprisoned..."

4. III. Racketeering Influenced & Corrupt Organizations

- 18 USC § 1961 - § 1965: § 1961(1) "economic espionage and theft of trade secrets; interference with commerce, robbery, extortion";
 - : § 1965(b)(5) "pattern of at least 2 acts"; e.g. as here, where, among myriad crimes, hiding over 50 counts of obvious perjury just in the rigged "trial" alone

5) STATEMENT OF THE CASE

The following Chart provides the most salient details of the illegal, ultra vires proceedings under which Petitioner was unlawfully arrested, incarcerated, tried, judged and sentenced to 12 years in prison for 2nd Attempted Murder, a preposterous crime that not only was "manufactured" in advance by police using Petitioner's pre-stolen iPhone, but also that is incontrovertibly proven by 100% of ALL legitimate professional evidence (M.D. reports and testimony; DNA, MRI, CatScan, B.A.C./hemoglobin laboratory tests; police affidavits, electronic surveillance logs, expert digital acoustic forensic analysis, etc, et.al.) to have been PHYSICALLY IMPOSSIBLE.

CHART THE R.I.C.O. COURSE: "Case Fixing @ A Glance"

Economic, Ecological, Social & Legal Terrorism in Vancouver, Washington, USA

THE SCAM OF THE NASCENT CENTURY.

ONE 6.2.13 10pm	<u>WARRANTLESS THEFT/SEIZURE OF "PROTECTED" iPHONE:</u> PRIOR to time of spurious DV. incident, 18 USC §1030 crimes start when police steal device to commence sabotage of international clean energy, water, air and food technologies and commerce
TWO 6.2.13 11pm	<u>STAGED, PRE-PLANNED DOMESTIC VIOLENCE SCAM:</u> With the "Frame On", Smith, sober and asleep, is attacked by a drunk (0.2 BAC) woman, later discovered to be fraudulently posing as his wife. Smith calls family for help, then searches house for iPHONE before fleeing mayhem.
THREE 6.3.13 2am	<u>WARRANTLESS ARREST OF SMITH WHILE HIS I.P. IS STOLEN VIA iPHONE:</u> Despite unanimous Medical and police reports proving PHYSICAL IMPOSSIBILITY of "attack", fables commence to cover for "pre-crime" theft of iPHONE and ongoing purge of IP, ID, assets, contracts, properties, etc.
FOUR June-July 2013	<u>CRIMINALLY-FLAGRANT INVASION OF iPHONE + iCLOUD + MacBook Pro CONTINUES:</u> Further violative of 18 USC §1030 + §1962, warrantless and comprehensive heist of Smith's ID, IP and corporate entities, plus forging of Powers of Attorney enable total pilfering of all of his physical, intellectual & personal assets
FIVE 12.10.13	<u>UNGRANTED PROBABLE CAUSE DUE TO SCIENTER FRAUD:</u> Charge of Attempted Murder is NEVER ratified because it is based solely on a knowingly fake audio CD manufactured by perjuring police, then alleged to be a threatening voice mail left inadvertently on pre-stolen iPHONE.
SIX DECEMBER 2014	<u>ULTRA VIRES, JURISDICTIONLESS, ILLEGAL, VOID TRIAL + CONVICTION:</u> In a 1-1/2 day fixed no-jury trial coerced under duress in an HATE CRIME AGAINST AUTISM, pre-biased judge acknowledges over 50 counts of prosecutorial "perjury worthy of impeachment", so he "strikes them from record".
SEVEN 2015 - 2017	<u>UNLAWFUL PROCEEDINGS IN VOID AB INITIO SCAM CASE:</u> Prolonged RICO-state court appeals wrongfully limited to fixation on red-herring diversion - focus on Privacy Act minutiae - BUT THE "FRANKENSTEINED" recording IS NOT REAL! RICO Nightmare goes on.
EIGHT 1.16.18	<u>STILL MORE FAKE "EVIDENCE" PAWNED BY CITY - TO A FEDERAL JUDGE!</u> Res ipsa loquitur: entire asinine case is mockery of US Law. Res judicata: DISMISSAL is the ONLY legal action for Nullity. It's past time to STOP the ultra vires, fraudulent, malicious rape of life.

FACT, EVIDENCE, PROOF, TRUTH, LAW & ORDER VS. RICO TERROR

6) REASONS FOR GRANTING WRIT

6.a) Paramount Antecedents:

The simplicity of the Paramount antecedents in section 4.I of this Petition is matched only by the grave dangers resulting from their abrogation.

Ultimately, and most poignant for this venue, legally, Questions No. 1 & 2 are sufficient to justify justice in the form of non-discretionary dismissal of the entire case under, a void ab initio nullity, immediately. This is the ONLY legally tenable Court action pursuant to the Authorities Cited, including just the most salient quotations articulated below regarding the Constitutionally Paramount Antecedent which MUST come before ANY subsequent court action: establishment of jurisdiction - legal authority.

- Why non-discretionary, immediate Dismissal with Prejudice and release of Petitioner are the ONLY legally valid court actions under U.S. Law:
- "The question of jurisdiction can be raised at ANY stage of a criminal proceeding and it is never presumed, but must be proved." - *US v. Rogers* (1999)
- "Once challenged, it is then presumed that the Court has NO jurisdiction over party or subject matter, and ANY act after such challenge without proof backed by evidence that the court does, in fact, have lawful jurisdiction, would be

a violation of Due Process & Equal Protection of Law,
AND render ANY judgment obtained as Null & Void
without force or effect." - *Hagen v. Lavine* (1974).

- "Probable Cause may NOT be established simply by showing that the officer who made the challenged arrest or search believed he/she had grounds for his/her actions - otherwise, the protection of the 4th Amendment would evaporate" - *Beck v. Ohio* (1984)
- "Absent a valid charging instrument, the court acquires NO JURISDICTION WHATEVER, and, if it assumes jurisdiction, a trial and conviction are a NULLITY." (42 CJS 68, 1991)
- "A void judgment MUST be vacated whenever the lack of jurisdiction comes to light." - *St. v. Corrado* (1995)
- "Judgment rendered by a court lacking jurisdiction is VOID AB INITIO and is, LEGALLY, NO Judgment At All." *St. v. Brennan* (1994)
- "Res judicata applies: a default judgment entered without proper jurisdiction is VOID, and the court MUST, NOW, fulfill its NON-discretionary duty to vacate a Void judgment." - *Allstate v. Khan* (1994)
- "A void process is NO process. A person confined ... by virtue of a void warrant is confined illegally. The prosecutor, the judge, the police who executed the "pretended warrant" and the jail who holds him under it are ALL liable for false imprisonment. This is the undoubted common law." - *Connecticut v. Leach* (1829)
- "A void judgment, which includes judgment entered by a court which lacks jurisdiction ... or an order procured by fraud" [BOTH APPLY HERE] "can be attacked at ANY time, in ANY court." - *Long v. Shorebank* (1999)
- "Not only is it the NON-discretionary requirement to IMMEDIATELY grant relief upon notice of judgment rendered sans-jurisdiction, and such breach of Due Process, but it is also per se abuse of discretion for a court to deny movant's motion to vacate judgment under FRCP 60(b)(4)." - *Antone v. Atlas* (1995)

- "When a court lacks subject-matter jurisdiction in a case, DISMISSAL is the ONLY permissible action that a court may take." - *Young v. Clark* (2003)
- "Fraud Vitiates Everything." - *US v. Throckmorton* (1878)

RES IPSA LOQUITUR:

This entire asinine case is a mockery of US Law.

RES JUDICATA:

Dismissal is the ONLY legal action for the void nullity.

The remaining cogent Questions (Nos. 3, 4, 5, 6) are provided, however, because they have legal ramifications. But the resolution to those consequences of real crimes is already, as appropriate, the subject of separate litigation.

Each one is, nevertheless, of special interest and import to the Nation because, together with Nos. 1 & 2, they represent the treacherous results manifest when State officials, from police to prosecutors to judges, and from Superior to Supreme Courts to the Attorney General's and the Governor's offices, collude in RICO concert to systematically disregard paramount, antecedent Law (in cascading, systemic 18 USC §4 misprisions) in order to viciously rape a life for wrongful gain, and to do so under the obvious and shockingly illegal ruse of invalid jurisdiction falsely procured by fraud.

6.b) Qualification for Injunction

In order to affirm this case's qualification for preliminary, emergency injunction, immediately by the Supreme Court of the United States, Petitioner hereby provides cause by virtue of meeting all 4 prongs of 'Winter v. N.R.D.C.' (2008) as quoted by "Trucking Assoc. v. City of L.A." (2009):

- (i) "injunction is in the public's interest":
The danger and threat of police who, by policy and as proven by uncontested averral and by irrefutable forensic fact, steals a private, protected iPhone BEFORE framing its owner for a crime that never actually happened, is enormous;
- (ii) "balance of equities tip in Petitioner's favor":
when the Defendant has to commit additional evidence fraud directly to yet another court (on 1.16.18 in US District Court of Oregon in tort case No. 3:17-cv-01485-HZ), it is shocking and obvious that State officials are pathetic liars motivated to stop at nothing, and for no law, to cover its crimes and avoid scrutiny by truth;
- (iii) "Petitioner is certain to prevail on merits":
first, jurisdiction was not, and never has been, lawfully established by ANY court ANYWHERE in the State of Washington: CASE CLOSED. Nevertheless, evidence is overwhelming from myriad professional sources that the Defendant pre-stole the iPhone and framed its innocent owner for a made-up "crime" proven to have been Physically Impossible (based on professional MRI, GtScan, DNA, hemoglobin/BAC lab reports and 100% of all expert, professional M.D. testimony, much of it in exculpatory records concealed by hundreds of 'Brady' violations, and still being

revealed regularly over 4 years later).

The State is relentlessly committing these crimes in order to extort the Petitioner, and the US Treasury / Public Trust both by (a) sabotage of prosperity-based commerce and its associated tax revenues, AND (b) fraudulent conviction and incarceration to "make money" through direct fraud upon, and theft from, the Nation. These "True & Correct" facts are legally averred by unanimous no contest in numerous state courts at every level (Superior, Appellate, Supreme), per in re: RICE (1992) and the applicable non-response/denial statutes listed in section 1A1.

(iv) "Petitioner is suffering irreparable harm":

while illegally incarcerated (amend. VIII), the high-functioning Autistic Petitioner whose gift has empowered him to discover key scientific and technological strategies for helping society solve primal Energy, Water, Air and Food challenges, continues to endure traumatic effects of heinous betrayal by his own country in Hate Crimes Against Autism, including the virulent, ultra vires rape of his life, violative of World Health Organization Standards of Human Decency and 42 USC §12101 codes.

Petitioner's case rests on fact in proof and on what germane, seminal US Law says.

6.c) SYNOPSIS

Perhaps Appendix A, itself, best describes this case: it contains nothing because it is, BY LAW, nothing.

The Appendix contains all of the legally valid Court records, because there are none.

Because no entity in the State of Washington, including all of its courts and officials, established Constitutionally-mandatory subject-matter jurisdiction that can ONLY be established via judicially-ratified charging instruments within 48 hours (let alone 48+ months, and counting) of allegation, the case, BY LAW, does NOT EXIST — it is a VOID per FRCP 4.1(6)(A), etc. et. al., and copious case precedent expressed herein.

Therefore, there are no legally valid court records for a case itself that is not legally valid.

(Nevertheless, for reference, the null records are registered under the following, void ab initio, unlawful, illegitimate State Case Nos.:

* Clark County No. 13-1-01035-6

* Court of Appeals No. 47205-8-II

* Supreme Court No. 93923-3

Additional exculpatory and hidden records are also available at the public outrage website:

"www.GarrettsVoice.com").

* Because the case under has no legal standing whatsoever, Petitioner is not amenable to any of these wanton, ultra vires proceedings. Furthermore, it has been, and remains, entirely illegal to drag Petitioner through these exhaustive Stalking Horse pleadings while his life is raped and his liberty stolen.

Because it is a nullity, a void ab initio, ultra vires action in its entirety, from its inception, due to fraud, and absence of jurisdiction feigned to be falsely obtained by fraud, there are no relevant or legally valid court records of any kind, and therefore, there are no "procedures" or "protocols" to precede non-discretionary, immediate Dismissal. The Paramount Antecedents can give no berth to the wanton.

This aligns with the foremost questions Nos. 1 & 2 to which the only legal answer is "No", of course, and upon which the ONLY legal action is immediate dismissal of the sham case that is the epitome of RICO terror.

Myriad motions, petitions and notices of these legal facts have been provided over 4+ years while the State obdurately persists in denial while raping the Petitioner's life and work. These cries for justice have been wholly and professionally supported by hundreds of evidences, most uncovered in police and medical files as 'Brady' violations that continue to be discovered regularly. Yet all of them (over 100 filings between 12/14 and 12/17) have been systematically ignored by the RICO. Never, not even once, has the State actually answered, rebutted or countered even a single incontrovertible alert.

By Law, this means they are averred by State's

non-response and are rendered "True & Correct" per Rule 10.5(b)(1), CR 8(b)(d), CAROA 41(3), LR 7-1(e)(1) and among other case precedents, in re: RICE (1992). Rule 56(c)(1) affirms that if there is "no genuine dispute as to any material fact" with "supporting positions", then undisputed claims receive tacit averral.

Of course, truth, proof and veracity ought to be the venerable benchmarks, as well. As foreign as these forgotten ideals are today in the RICO-State of Washington, the United States Constitution still insists upon giving them credence.

7) CONCLUSION

Because the entire State of Washington's judiciary refuses to abide by Paramount Constitutional bulwarks upon which America's Laws are founded, this Court's emergency injunction is of enormous National importance.

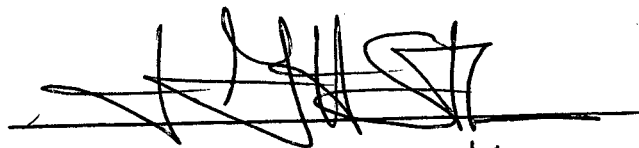
Unless the Supreme Court of The United States intervenes to uphold simple and germane laws, the rogue State of Washington will continue to take free reign of terror even on US citizens of

other States, to do whatever it wants to extort from, and rape the lives of productive members of American society.

This Petition for a writ of certiorari represents a prima facie argument for immediate dismissal of a Void Ab Initio, fraudulent case. By Law, it is the non-discretionary duty of this Court to immediately stop ultra vires domestic RICO terror against a US Citizen and his interstate/international companies.

Petitioner prays for the Supreme Court of The United States to hold higher the banner of our Nation's Laws.

Respectfully Submitted under penalty of perjury in the United States of America on this 28th Day of February, 2018.


John Garrett Smith, P.E.

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