

18-6596

No: USCA-4 18-6137(L), 18-6184

Re: 18-cr-16-MR-1

SUPREME COURT OF THE UNITED STATES

MATTHEW JAMES DURY — PETITIONER

UNITED STATES — RESPONDENT(S)

FILED

JUL 20 2018

OFFICE OF THE CLERK
SUPREME COURT U.S.

ON PETITION FOR A WRIT OF CERTIORARI TO
United States Court of Appeals, Fourth Circuit

PETITION FOR WRIT OF CERTIORARI

Matthew James Dury 18443-058

USP Lewisburg

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QUESTION(S) PRESENTED

Fraud by the Fourth Circuit and District Court. Petitioner did not challenge the Judgment or sentence in Documents, 99, 100, 111, the documents appealed over in cases 18-6137 & 18-6184. Document 91 was withdrawn by petitioner when the Identical Document 90 was denied by the District court. Petitioner was filing copies of previously mailed documents because the District Clerk of Court was refusing to notify petitioner when the court received a document, leaving petitioner to believe his document was never mailed by prison staff.

LIST OF PARTIES

Donald David Gast, United States District Attorney

Amy Elizabeth Ray, United States District Attorney

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TABLE OF AUTHORITIES CITED

CASES

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OTHER

Article 1§8 clause 3 gives power to Congress to: Regulate Commerce Between States, NOT between people. Petitioner in NOT a state yet. on January 24, 2018 District Judge Martin K. Reidinger ruled his sole authority stems from Article 1§8 clause 3, not from clause 17.

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

The opinion of the United States Court of Appeals appears at Appendix C to this petition and is unpublished.

The opinion of the United States District Court appears at Appendix F ~~and~~ for Document 99 and 100, and Appendix L for Document 111.

JURISDICTION

The date on which the United States Court of Appeals decided my case was May 25, 2018.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: July 3, 2018, and a copy of the Order denying rehearing appears at Appendix A.

The Jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Article 1 § 8 clause 3, 17, 18, Article 3 § 2, Article 6 § 2, 1st Amendment, 4th Amendment, 5th Amendment, 8th Amendment, 10th Amendment, 13th Amendment, 14th Amendment

STATEMENT OF THE CASE

In the summer and fall of 2017 I was attempting to file Challenges to the Jurisdiction of the District Court. The Clerk of Court refused to send Docket Sheets showing the documents was received and docketed. I also had at the time, evidence the prison was delaying or not mailing my legal mail. So I filed many duplicate motions in the hope one would get through. When Document 90 was denied, it was only a few days latter document 91, a duplicate of Document 90 was docketed by the clerk failed to send me a Docket sheet then of Document 91. In the same Certified Mail # 7015 0640 0003 3446 6797 (Appendix G) that was docketed on November 8, 2017, was a withdrawal of Document 91 and the Motions that was docketed as 99 and 100. The clerk failed to docket the withdrawal of Document 91. So on January 24, 2018 the District Judge used Document 91 to claim I was filing a second §2255 which was not true. (Appendix F) Latter the Fourth Circuit Affirms this Fraudulent ruling (Appendix C) even though the Brief I filed with the 4th Circuit clearly shows I was not challenging document 91, just the denial of Documents 99, and 100 that never challenge the Sentence or Judgment that is the sole pervue of a §2255. Furthermore, the Court Ordered the District Attorney to respond to Documents 99 and 100 by November 15, 2017 yet the United States District Attorney refused to obey said court order. That order is clearly marked on Appendix G under "Response Due By 11/15/2017." The US District Attorney is the Respondent Rule 11(a) only applies to §2255 motions. A §2255 Motion is only a Motion that challenges the Sentence or Judgment of the case. Not once in Document 99 or 100 did I challenge Sentence

Or Judgment so Rule 11(a) can not be a lawful mode to deny a Certificate of Appealability. Then The District Judge Admitts he had NO Territorial Jurisdiction under Article 138 clause 17 which limit where Federal Jurisdiction applies. He claims his authority comes from Article 138 clause 3 and 18 then latter denies my Motion Challenging the Interstate Commerce Act (Document 111) Appendix N & M. He claimed clause 18 gives him authority over clause 3 yet clause 17 is the limitation for all Congressional power listed in § 8. Article 3 § 2 limits Judicial Jurisdiction in this case to Admiralty or Maritime Jurisdiction, both of which are Commercial Jurisdiction of which I was never subject to. Clause 3 of § 8 is the Commerce between the States clause. I AM NOT A STATE! I am not in the Military (Admiralty) nor am a a sailor on the sea (Maritime) so I am not Lawfully subject to any Jurisdiction the District Court claims to hold. The Judge then claims I waived any objection to the interstate commerce by pleading guilty and agreeing to the terms of the plea agreement. First, at the plea signing I was not aware my case was under interstate commerce or what that meant. Only in January 24 2018 on (Appendix F) did I learn (Newly discovered Evidence) by the Judges Ruling that my case was interstate commerce. Second, the terms of my plea said if I filed an Appeal on any unauthorized subject not stipulated in the plea, the plea is then Void and I must stand trial. I have repeatedly violated said Plea Agreement and yet this Judge refuses to let me stand trial because he knows the indictment is unconstitutional. On Page 4, Appendix F, last ~~para~~ paragraph, the Judge admitts he has No Jurisdiction. Article 138 clause 17 is the only clause that gives Article 3 federal courts jurisdiction over laws passed

by Congress. To deny clause 17 is to deny authority ~~of~~ over clause 3. But even clause 3 limits jurisdiction to congress over "Commerce Between The States". I am not a state. I did not participate in "commerce" of any kind connected to this case. I did not "purchase" ~~and~~ any pornography of any kind. Commerce ends at the Bill of Sale. ~~There~~ I was a truck driver for 3.5 years and I know the legal difference between a "Bill of lading" and a "Bill of sale". Bill of lading is Commercial Maritime Jurisdiction and applies only to goods carried by a third party. The "Bill of sale" is the end of Commerce that transfers goods to private property. My Computers was my private property and was ~~not~~ ~~no~~ longer subject to Commerce after the Bill of Sale. Furthermore it is impossible to receive child pornography via the internet when the computer did not have access to the internet ~~at~~ while it was in my custody. The Plea was signed under coercion after months of torture at the County Jail that only stopped after I signed the plea. Then I was not allowed to contact the Attorney that was to file my sentencing Appeal nor was I allowed to file an Appeal when I was resentenced after the sentence was vacated in 2009.

REASONS FOR GRANTING THE PETITION

Neither USCA-4 18-6137(L) or USCA-4 18-6184 challenged the sentence or Judgment so Neither is a §2255 motion subject to Rule 11(a) denial of Appealability. Neither Documents 99, 100, or 111 was responded to by the Respondants US District Attorneys Gast or Ray, but by the Judge, who is not sposed to be a party to the ~~case~~ case yet he acts and rules like he is. A challenge to jurisdiction was never responded to by Gast or Ray even though the court ordered them

to respond by 11/15/2017 on Documents 99 and 100, and by 2/16/18 on Document 111. The Judge denied Document 111 on 2/14/2018 just two day prior to the deadline that Gast or Ray was ordered to respond by. The Judge is not the Respondent.
(Appendix M)

If this Supreme Court is a law abiding Constitution Court, it will grant this Writ of Certiorari and remand, at the least, my case to stand trial. Denial of this Writ will be used to show the Courts and the United States Government in it's entirety is illegal and it is Unconstitutional. I will tell the World how I was arrested without a Warrent on 11/94/2007, tortured in the county Jail prior to the plea agreement, tortured in the federal prisons and denied Human Rights, taught how to do the same to others and never be punished for it. Then show how I was not allowed to practice any religion in prison. That includes the fact, I have not been allowed to become a Catholic. If I wanted to be a terrorist Muslim, the prison chaplin will teach me all I need to learn, also with the help of the guards that put the scars on me.

CONCLUSION

This Court should not reward the Unconstitution Conduct of the Distric and Appellate Court by denying this Writ. ~~and this Court is sitting here~~
The law must be upheld and I MUST STAND TRIAL. The Judge must be removed before my trial or I wont get a fair trial

I, Matthew James Dury, pro se, swear the above is true.

Date: July 9, 2018

Respectfully Submitted By,
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