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To : Debbie Thompson, CustomerID: 11503200
Date : 6/23/2019 8:37:48 PM EST, Letter ID: 609124999
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Certiorari 1.

19-5519
NO: _____

ORIGINAL

Supreme Court, U.S.
FILED

JUL 19 2019

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IN THE
SUPREME COURT OF THE UNITED STATES

RUBIN RURIE WEEKS --PETITIONER

VS.

JASON LEWIS, Warden of SECC,
JIM HOOD, Mississippi Attorney General,
CIRCUIT COURT OF CAPE GIRARDEAU
COUNTY, MISSOURI, - RESPONDENTS.

ON PETITION FOR WRIT OF CERTIORARI TO
UNITED STATES COURT OF APPEALS FOR
THE EIGHTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

RUBIN RURIE WEEKS, Petitioner, pro se
300 EAST PEDRO SIMMONS DRIVE
SECC (4A-101) (DOC REG. NO. 184303)
CHARLESTON, MISSOURI 63834

DEBBIE M. WEEKS, petitioner's wife
P.O. BOX 3694
GULFPORT, MISSISSIPPI
wrongfulconvictedman@gmail.com

FILED
AUG - 8 2019

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SUPREME COURT, U.S.

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Certiorari

QUESTIONS PRESENTED

(1). Does Petitioner have the Fundamental Rights to be free from the Missouri State Court's void judgment that has him restrained of liberty ?

(2). Does Petitioner have fundamental Rights to be free from the Mississippi Department of Corrections' void detainer hold that has him restrained of liberty ?

(3). When States provide a remedy to challenge void judgments or void detainees without limitations on time to file or raise the error, even if the time to file has expired "is relief discretionary or is relief mandatory" like this Court ruled "that void judgments constitute no jurisdiction, they are simply void, and form no bar to recovery sought, even to reversal , in opposition to them, and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers" ?

(4). Does Petitioner have a fundamental Right to challenge the void judgment and void detainer under 28 U.S.C and 2241 and 2243 since the Great Writ operation has always been the function to challenge the State's jurisdiction to imprison a person ?

(5). Is the claim of the void judgment and void detainer having no legal force or binding effect and being null barred by 28 U.S.C. and 2244 ?

(6). Does the Petitioner have fundamental Rights to be free from the Mississippi Parole Board arbitrary action by waiting 22 years until June 8. 2015 to revoke the Mississippi June 7. 1991 parole for the August 22. 1988 (4) year sentence which had expired on April 22. 1991 and after petitioner was arrested in Mississippi on November 2. 1991 under the September 16. 1991 MSDOC warrant which under 47-7-27 Miss. Code Ann 1991 required the parole revocation hearing within 30 days ?

(7). Does Petitioner have a fundamental Right to not be subject to cruel and unusual punishment torture under a void State Court judgment commitment order ?

(8). Does Petitioner have fundamental Rights that would Bar the States from placing him in " sovereignty place" without the Due process of law 14th Amendment protection ?

(9). Can Congress (National Legislation Body) or (State Legislation Body) created statute or law - hold petitioner in prison under Void judgment and void detainer where he is dying in torture from lack of adequate medical treatments from spine and brain and leg injuries caused by a police brutal beating at the time of arrest just days after a spine surgery ?

(1)

I

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CERTIORARI

LIST OF PARTIES

ALL PARTIES 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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Certiorari 4.

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CERTIORARI.

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner Rubin Rurie Weeks, pro se litigant respectfully prays that a Writ of Certiorari issue to review the judgment below. Thereby, under the 28 U.S.C. and 1746 declaration Under "PENALTY OF PERJURY" Mr. Weeks declares that he is being restrained of his liberty under a Missouri State Court void judgment and Mississippi DOC void detainer. Where he is suffering cruel and unusual punishment of torture after being wrongfully convicted and deprived of due process of law. Thereof, Courts below acted arbitrary vindictively against petitioner. Even though State Courts and Federal Courts provide a remedy Rule for relief from void judgments. In which by this "Court's doctrine relief from a void judgment is not discretionary matters, but are mandatory relief matters".

OPINIONS BELOW

FEDERAL COURT CASES:

The opinion/judgment of the United States Court of Appeals for the Eighth Circuit appears at Appendix (A) to the petition and is reported at Rubin Rurie Weeks v. Jason Lewis, Warden of Southeast Correctional Center (MODOC) and Jim Hood, Mississippi Attorney General (MSDOC), Case No. 18-3358 (8th Cir. April 23. 2019).

The opinion/ judgment has been designated for publication but not yet reported.

The opinion/judgment of the United States District Court for the Eastern District of Missouri appears at Appendix (B) to the petition and reported at Rubin Rurie Weeks v. Jason Lewis, Warden and Jim Hood, Mississippi Attorney General, et all., Case No. 1:17-CV-225-ACL (Mo. E.D. October 15. 2018). DOC # 43.

Thereof, the District Court on May 7. 2019 issued its Memorandum and order DOC # 44 denying the petition to Alter or Amend the judgment or vacate the judgment under Rule 60 (b) (4). DOC # 43 and appears at Appendix (E).

The judgment/order has been designated for publication but not yet reported.

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Certiorari

BASIS OF JURISDICTION

Seeking United States Supreme Court review of state prisoner Rubin Rurie Weeks being restrained of his liberty under a void judgment and void detainer where he is suffering cruel and unusual punishment conditions of confinement while the State government claims that a void judgment and void detainer claim is barred from relief under 28 U.S.C and 2244 and can never be granted relief from void judgment in state court or federal court.

FEDERAL COURT CASES:

The date the United States Court of Appeals for the Eighth Circuit decided the 28 U.S.C and 2241 and 28 U.S.C 2243 Case was April 19. 2019.

The petition for rehearing En Banc and petition for rehearing by the panel was timely filed in this case.

The timely petition for rehearing En Banc and petition for rehearing by the panel was denied by the United States Court of Appeals for the Eighth Circuit on the following date May 23. 2019, and a copy of the Order denying rehearings appears at Appendix (C).

The United States Court of Appeals for the Eighth Circuit issued the mandate in this case on June 17. 2019 and appears at Appendix (D).

The jurisdiction of this Court is invoked under 28 U.S.C 1254 (1) and 28 U.S.C. and 2243 and 28 U.S.C. 2241 and under 28 U.S.C and 1257 (A).

(b)

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Certiorari 3

CONSTITUTIONAL AND PROVISIONS INVOLVED

U.S. Constitution Amendment 14th

U.S. Constitution Amendment 13th

U.S. Constitution Amendment 8th

U.S. Constitution Amendment 6th

U.S. Constitution Amendment 5th

28 U.S.C and 2244

28 U.S.C and 2243

28 U.S.C. and 2241

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Certiorari 1.

STATEMENT OF THE CASE

1. FACTUAL BACKGROUND OF THE MISSISSIPPI VOID DETAINER:

Rubin Rurie Weeks was arrested on April 23, 1988, for a Scott County, Mississippi Burglary charge of trucking company which was once owned by Mr. Weeks, but had been seized and taken by the IRS and sold. Petitioner was placed in custody at Forest, Mississippi Scott County Sheriff Department Jail. On August 22, 1988, the Scott County Circuit Court sentenced Mr. Weeks to (4) years. In which was Mr. Weeks first conviction that petitioner served under trustee/probation status in Scott County, Mississippi Sheriff's custody. See petitioner's Exhibit (309) Scott County Circuit Court Plea Transcript at page (3) filed in the District Court in the present case. Thereof, petitioner earned time credit under Mississippi law and was unconditionally released on June 7, 1990. See thus Court's ruling in Garlotte v. Fordice, 515 U.S. 39, 41-49 n.5 (1995) which cites to how Mississippi sentences are served.

In 1991, Mr. Weeks had underwent his 2d spine surgery. After having spine, and ankle and leg surgeries in October 1983-85. See hereto attached as petitioner's Appendix (H) medical records of Rubin R. Weeks and petitioner's Exhibit (N) Missouri Attorney General's admission of those injuries and surgeries in which was filed by the government's response to Mr. Weeks Supplement complaint in Weeks v. Precythe, No. 1:17-CV-22-AGF (E.D. Mo. January 27, 2017) United States district Court for the Eastern District of Missouri 1983 proceeding pending Jury trial in April 2020.

On September 16, 1991, the Mississippi Department of Corrections issued a parole violation warrant for the Scott County, Mississippi four (4) year sentence only. No other prior convictions were listed. Therefore, on November 2, 1991, the Mississippi DOC Officers arrested Mr. Weeks under the September 16, 1991, DOC warrant. See Petitioner's Appendix (O) MSDOC September 16, 1991 Parole Violation warrant. During this arrest, "the MSDOC officers brutally beat Mr. Weeks because he could not get on his hands and knees and lay face down on the ground when directed to do so by the officers." Mr. Weeks informed the officers that he court not physically do as they directed. The officers ignored petitioner's plea. As to such arbitrary actions, Mr. Weeks suffered brain and spine injuries which crippled him for life. See Petitioner's Appendix (K) Corizon Health Inc medical defendants Medical Expert Dr. Paul Adler's opinion that states " that Mr. Weeks initially injured himself in 1992 and had several surgeries to try and correct those significant injuries. Prior to his incarceration, he suffered additional injuries to his ankle and leg and spine and had several surgeries". See Petitioner's Appendix (G) the Missouri Attorney General's deposition of Mr. Weeks on December 17, 2017 in the 1983 proceeding Weeks v. Precythe, supora. See pages 7-12 and 13-21 "where Mr. Weeks states under oath to these factual claims."

On November 5, 1991, the Mississippi DOC Officials unconditionally released Mr. Weeks to the State of Missouri /Cape Girardeau County, Missouri Sheriff Department "before Mr. Weeks was charged with a crime in Missouri." See Weeks v. State, 140 S.W. 3d 39, 41-43 (Mo. banc 2004) Holds: "that Mr. Weeks was arrested in Mississippi on November 2, 1991 and three days later delivered to Missouri law authorities and in December 1991 Mr. Weeks was charged with the Missouri alleged crimes." Here the State of Mississippi government "deliberately deprived Mr. Weeks of due process of law" by denying him a parole revocation hearing as required by 47-7-27 Miss. Code Ann 1991 and Morrissey v. Brewer, 408 U.S. 471, 481-489 (1972). See Godsey v. Houston, 584 So. 2d 389, 392 (Miss. 1991). citing the authority of section 47-7-27 Miss. Code Ann 1991 which requires a parole revocation hearing within 30 days after arrest and the Authority of section 47-7-29 Miss. Code Ann 1991 which requires the Parole Board if parole is revoked "order the prisoner to serve the original sentence first." Here the MSDOC officials by arbitrarily actions "denied petitioner's 14th Amendment rights to avoid liability and cost of medical care for Mr. Weeks."

In the Weeks v. State, 139 So. 3d 727, 729 (Miss. Ct. App. 2013). The Mississippi Appeal Court that found "Mr. Weeks had been arrested in Mississippi under the September 16, 1991 MSDOC parole warrant on November 2, 1991, but later released to Missouri law Authorities." "The Court ruled that Mr. Weeks had provided no evidence that "his June 7, 1990 parole was revoked while he was still in Mississippi DOC custody before released to Missouri on November 5, 1991." The Court noted that the Mississippi DOC on March 22, 1994 "filed the Scott County, Mississippi parole detainer with Missouri DOC." Accordingly, the evidence submitted to the district court establishes

[REDACTED]

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that the Mississippi Sentence in question had expired by October 23, 1992.

In the 28 U.S.C. and 2241 Habeas Corpus proceeding in Weeks v. Mississippi, 689 F. App'x 297 (5th Cir. 2017). The Fifth Circuit directed Mr. Weeks to file the 28 U.S.C. and 2241 Petition where petitioner was incarcerated and challenge the Mississippi DOC void detainer there in the United States District Court for the Eastern District of Missouri. During the District Court for the Southern District of Mississippi in Weeks v. Mississippi, suora. The Mississippi Attorney General informed the district court "that Mississippi Parole Board officially revoked Mr. Weeks Mississippi June 7 1990 parole on June 8, 2015." See Petitioner's Appendix (Q) Mississippi Respondent's motion to supplement the motion to dismiss DOC # 15 in the Mississippi District Court.

Note: Cape Giradeau County Circuit Court on February 13, 1992 run the Missouri sentence concurrent with the Mississippi Parole time left.

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Certiorari 2.

--See Exhibit (303) the Cape Girardeau County Circuit Court "Plea Transcript" at page 30-31. In which was filed in the district Court in the present case.

2. FACTUAL BACKGROUND OF THE CAPE GIRARDEAU
COUNTY CIRCUIT COURT VOID JUDGMENT ENTERED
FEBRUARY 13. 1992 FOR LACK OF SUBJECT MATTER
JURISDICTION TO ENTER THE BOLLINGER COUNTY
CONVICTION AND IMPOSE THE SENTENCE THEREOF

"NO VALID INDICTMENT OR VALID INFORMATION"
TO PROSECUTE OR TRY THE RAPE CHARGE

The State of Missouri, on February 13. 1992, was precluded by the United States constitution to prosecute Rubin Weeks for the "Bollinger County rape charge" in the Cape Girardeau county Circuit Court "without a valid indictment or a valid information" being filed in the Circuit Court of Cape Girardeau County. This Court ruled in *Hurtado v. Cal.*, 110 U.S. 516, 538 (1884) Held: "States are not required to institute prosecution by "grand jury indictment" but States are required to make a presentment". The 5th Amendment provides that "No person shall be held to answer a capital crime or infamous crime, unless on a presentment or indictment. See *Turnage v. State*, 782 S.W. 2d 755, 760-61 (Mo. App. S.D. 1989), held: "without a valid information or indictment there is no jurisdiction to proceed to trial or sentence." Accordingly, under 544,250 RSMO 1991 Requires a "preliminary hearing to be held in the Magistrate County Court having jurisdiction over the crime, to find probably cause to believe the prisoner is guilty and bond the prisoner over to the Circuit Court." See *State ex rel Morton v. Anderson*, 804 S.W. 2d 25, 26-27 (Mo. banc 1991), holds: The prosecuting attorney lacks authority to file a felony information charging a crime without the Court Magistrate finding probably cause and bonds the defendant over to the Court having jurisdiction thereof, the mere filing a complaint does no confer jurisdiction upon the Court to adjudicate the offense." See Missouri Supreme Court Rule 23.02-08 Holds: "No information charging the commission of a felony shall be filed against any person unless the defendant shall first have been accorded the right to Preliminary hearing before the Court Magistrate in the County where the crime is alleged to have been committed."

The Missouri Attorney General's response to the present 28 U.S.C. and 2241 petition challenging the Void Judgment, "is contrary to the facts and law." See Appendix (L) Missouri Respondent's response: The (Missouri) Respondent argued "that Mr. Weeks had a merit adjudication of the prior 28 U.S.C and ,2254 habeas claims in *Weeks v. Bowrsox*, 119 F. 3d 1342 (8th Cir. 1997), Cert. denied 522 U.S. 1093 (1998). As such capricious argument, after the Government's arbitrary acts denied petitioner a fundamental fair consideration on the prior federal habeas proceeding by withholding exculpatory evidence. Here again the (Missouri) Respondent misleads the district court. See Appendix (6) the "District Court's Order and Memorandum entered on October 27. 1995 in *Weeks v. Bowrsox*, supora." In which shows the district court denied the habeas 2254 petition on procedural barred grounds without a merit review." As such, the District Court restored the jurisdiction that was loss in the State sentencing Court. In which was contrary to over a (100) years of this Court's principals Rulings "that a void judgment may be collaterally impeached and a void judgment is not time barred at attack".

"RUBIN WEEKS NEVER REQUESTED A CHANGE VENUE"

Under Missouri law 541.033 RSMO 1991 -2018, only the criminal defendant can request for a change of venue. If the Circuit Court (Sua Spone) transfers a case to another county venue, the Court acts outside the Court's authority and jurisdiction and violates the defendant's Six (6) Amendment rights. See *Helmquest v. Larkins*, 2014 Dist LEXIS 159560, Case No. 14-0684-CV-W-BCW-P (W.D. Mo. November 13. 2014), quoting *State ex Devlin v. Sutherland*, 196 S.W. 3d 593, 595 (Mo. App. E.D. 2006), "Missouri Courts ruling the same." " that only the defendant can request a change of venue, if a circuit court sua spone transfers a criminal case to another county venue, the court acts outside its authority and violates then defendant's U.S. constitutional rights and Missouri constitution rights article 1, section 18 (a)." Here the evidence establishes that Mr. Weeks never requested a change of venue to transfer the Bollinger County rape cause to Cape Girardeau County Circuit Court. See Petitioner's Exhibit (297) Cape Giratdeau County Circuit Court complete certified docket sheet Exhibit (298) Bollinger County Associate Court/ Circuit Court

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certified docket sheet and Exhibit (304) Cape Girardeau County Circuit Court Plea Transcript. Each exhibit filed in the District Court in present 2241 habeas case. See DOC # 1 petition, DOC # 2 memorandum and DOC # 19 motion to supplement petition in order to show complete exhaustion of the void judgment claim and cruel and unusual punishment conditions of confinement claim by the State of Missouri Appeal Court in Weeks v. Nixon, 544 S.W. 3d 261 (Mo. App. W.D. 2017) transfer to Missouri Supreme Court denied and to submit to the U.S. District Court the exhibits cited hereto. In which the district Court granted. See DOC # 19.

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Certiorari 3.

" FORMER CAPE GIRARDEAU COUNTY CIRCUIT "
COURT JUDGE NEGOTIATED GUILTY PLEA ON
FEBRUARY 13. 1992

As shown above, Rubin Rurie Weeks suffered a brutal beating by law enforcement officers on November 2. 1991 during the arrest. Accordingly, approximately (80) days later, the Cape Girardeau County Circuit Court former judge Stephen N. Limbaugh deprived petitioner due process of law. When the Judge by initiating and participating in the plea negotiations in order to place Mr. Weeks immediately into the Missouri Department of Corrections to avoid the Cape Girardeau County Commissioner, Gene Huckstep who was the County Jail Administrator having to pay for the \$250.000 cost for the surgeries petitioner needed after being severely beaten. See Petitioner's Appendix (1) affidavit of Trial attorney Gary L. Robbins, under oath statements certified before a Notary Public on December 12. 2003 States "On January 14. 1992, Judge Limbaugh asked me if there was "a deal" -- meaning a plea bargain. I explained to him that the plea offer was for two consecutive life sentences and that was unreasonable. I told him that the defendant did not need an attorney to get that and I would not be telling my client to plead guilty. The Judge agreed that it was no deal and told me he was going to call Huckstep. I knew that to be Gene Huckstep who was a County Commissioner and the Administrator of the Jail. On or about January 21. 1992, I received a letter from the Cape Girardeau County Prosecutor dated January 15. 1992 , telling me that he had received a call from Judge Limbaugh regarding the Rubin Weeks' case. According to the prosecutor, Judge Limbaugh told him that because of the health conditions of Mr. Weeks, the Judge would be willing to allow us to plea bargain ... in order to move Mr. Weeks out of the county Jail in the near future". Thereof, the Judge deprived petitioner of a trial by jury to present exculpatory evidence in his defense to be tried in Bollinger County where the prosecution alleged the rape crime occurred and to have a fundamental fair remedy to challenge the rape conviction. When the Judge acted in a manner that violated the 14th Amendment to the United States constitution. Thereof, the February 13. 1992 conviction and sentences judgment is void.

"JUDGMENT OF PRIOR AND PERSISTENT OFFENDER"
ENTERED ON FEBRUARY 13. 1992 IS VOUD

The Circuit Court of Cape Girardeau County, on February 13. 1992, "acted outside the Court's jurisdiction and statutory power under 558.019 RSMO 1991-2019" when the Court convicted and sentenced Rubin Weeks as a prior and persistent offender based upon the Mississippi alleged non violent crimes for uttering forgery entered in 1988. As such, under Missouri law section 558.019 it requires that the defendant have three (3) prior convictions commitments to the MODOC or another State's Correctional facility. Thereof, probation or work program trustee status does not count as a prior commitment to the "CORRECTIONAL FACILITY". See Ridinger v. Mo. Bd. of Probation and Parole, 189 S.W. 3d 658, 668 (Mo. App. S.W. 2006) " In calculating the minimum amount of time a defendant must serve of a correct sentence before being eligible for parole , only counts "previous" prison commitment under 558.019 RSMO."

3. ARGUMENT FOR CERTIORARI REVIEW

(1). Before the Courts below, Rubin Weeks has never been allowed the equal protection of the law or the protection of equal laws as this Court ruled in Yick Wo v. Hopkins, 118 U.S. 356, 367-374 (1886), "that no person shall be deprived of life or liberty by any State arbitrary action which the Fourteenth Amendment prohibits and equal protection of the law is a pledge of the protection if equal laws." See Hudson v. McMillian, 503 U.S. 1, 15-16 (1992), "Citing Yick Wo v. Hopkins, *supra* at 370."

(2). Under Missouri Supreme Court Rule 91.06 makes it the duty of every Circuit Court Judge, Appeal Court Judge and Supreme Court Judge "to issue the "Writ of Habeas Corpus" for any person, regardless whether the application for such a Writ is presented, where there is evidence from a Judicial proceeding before the Court that a person is illegally confined." See Weir v. State, 301 S.W.3d 136, 139 (Mo. App. W.D. 2010), "quoting the authority of Rule 91.06." See State ex rel. Laughlin v. Bowrsox, 318 S.W. 3d 695, 702-04 (Mo. Sup. Ct. 2010). quoting the authority of Rule 91.06 the Court said: "the State or the defendant can not confer subject matter jurisdiction upon a Court that does not have it and if a criminal judgment was entered by a Court without authority to do so, such a proceeding always should be found to be void," quoting Ex parte Kearney, 20 U.S. 38, 5 L.Ed. 391 (1822). Accordingly, the State of Mississippi Supreme Court had made the same ruling in Strickland v. Howell, 654 So. 2d 1387, 1388-89 (

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Miss. Sup. Ct. 1995), "quoting the authority of Miss. Code Ann 99-39-1 et seq." Accordingly, this Court ruled in Elliott v. Lessee of Peirsol, 26 U.S. 328, 340-41 (1826), "IF the Court acts without authority, its judgments and orders are regarded as nullifies. They are not voidable, but simply void, and form no (bar) to recovery sought, even to a reversal, in opposition to them. They constitute no jurisdiction , and all person concerned in executing such judgments or sentences, are considered, in law, as trespassers."

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Certiorari

(3). This Court ruled in *Tick Wo v. Hopkins*, 118 U.S. 356, 369-374 (1886), "The Fourteenth Amendment to the United States Constitution is not confined to the protection of Citizens only. It says: "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 law. The equal protection of the law is a pledge of the protection of equal laws. The right to file a Court Action stands as the most fundamental political right, because preservative of all rights are not loss for prisoners. Especially, when the State government acts outside (its) statutory power, the government's actions are purely arbitrary and acknowledge no restraint and purely outside the State Actors' discretion power". *Hudson v. McMillian*, 503 U.S. 1, 15-16 (1992) Citing *Tick Wo v. Hopkins*, *supra* at 370.

(4) The law has been well established that "When States provide a Rule for relief from void judgments or void detainees, the applicable relief is not discretionary matters, but are mandatory relief matters. This Court has ruled and made it equally clear that if a prisoner is being restrained of his liberty under a void judgment, his right to be relieved of that restraint is not barred by any limitation on time to file or raise the error, even if that time has expired. See *U.S. v. Ruiz*, 536 U.S. 622, 628 (2002), Held: "Court of Appeals could reach merits of case to determine jurisdiction regardless of whether claim ultimately found too authorize Appeal". See *Insurance Corp. of Ir., Ltd. v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 701-702 (1982) "Jurisdictional defects, by contrast, cannot be procedurally defaulted, As federal courts, we are courts of limited jurisdiction, deriving our power solely from Article III of the Constitution and from the legislative acts of Congress. We therefore cannot derive power to act from the actions of the parties before us. Consequently, the parties are incapable of conferring upon us a jurisdictional foundation we otherwise lack simply by waiver or procedural default". See *United States v. Griffin*, 303 U.S. 226, 229 (1938), Held: Since lack of jurisdiction of a federal court touching the subject matter of the litigation cannot be waived by the parties, we must upon this Appeal examine the contention". See *Kelly v. United States*, 29 F. 3d 1107, 1113 (7th Cir. 1994) "Relief from Jurisdictional defects always available and cannot be procedurally defaulted". *Harris v. United States*, 149 F. 3d 1304, 1308 (Fed. Cir. 1998) (the same), and *U.S. v. Cotton*, 535 U.S. 625, 630 (2002), "Subject matter jurisdiction claim preserved though not raised at trial." See *Menna v. N.Y.*, 423 U.S. 61, 63 n.2 (1975), "Plea of guilty to a charge does not waive a claim that--judged on its face--the charge is one which the state may not constitutionally prosecute". See *Pollock v. Williams*, 322 U.S. 4, 64 S.Ct. 792, 88 L. Ed 1095 (1944) Held: "guilty plea entered under a void judgment cannot be sustained". See *Weeks v. Bridgman*, 159 U.S. 541, 547-548, 16 S.Ct. 72, 40 L. Ed. 253 (1895), Held: "Judgment must be entered and confirmed which acted without authority in order to be void".

(5). Here in the present case, Mr. Weeks' void judgment claim when judged on its face, establishes that this Court in the habeas corpus proceeding of *Weeks v. Bowersox*, 119 F.3d 1342, 1355 (8th Cir. 1997), cert. denied., *Weeks v. Bowersox*, 522 U.S. 1093, 118 S.Ct. 887, 139 L. Ed. 2d 874 (1998) confirmed the lower Courts' void judgments. In which this Court ruled in *Fay v. Noia*, 372 U.S. 391, 423, 83, S. Ct. 822 (1963), that "if the petition discloses facts that amount to a loss of jurisdiction in the trial Courts, jurisdiction could not be restored by any Court decision above". It is of the historical essence of habeas corpus that it lies to test proceedings so fundamentally lawless that imprisonment pursuant to them is not merely erroneous but void".

(6). The larger principle here being, "Mr. Weeks is restrained of his liberty under the sentencing Court's void judgment created by the lack of subject matter jurisdiction to try the particular Bollinger County rape case, "to enter the conviction and impose the life sentence thereof and lacked authority to convict Mr. Weeks as a prior and persistent offender and impose enhanced punishment sentences thereof upon the kidnapping charge and rape charge".

As such lawless obtained by the State government's Arbitrary and capricious (Acts), the State law Actors argued and claimed before every Court "that Mr. Weeks was procedural barred from habeas corpus relief". The Courts below agreed with the States' void interest. See *Griswold v. Connecticut*, 381 U.S. 479, 504 (1965), "the State's compelling interest may not be obtained by arbitrary and capricious Acts". See *Screws v. United States*, 325 U.S. 91, 123-124 (1945) "It is equally valid to protect those rights plainly and directly secured by the Fourteenth Amendment, including the expressly guaranteed rights no to be deprived of life, liberty or property without due process of law.

(7). The State of Missouri by police torture beating and arbitrary acts, haled Mr. Weeks into the Cape Girardeau County Circuit Court, "upon a Bollinger County rape charge which the State was precluded by the U.S. Constitution

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from prosecuting petitioner thereof and the very initiation against Mr. Weeks---thus operated to deny petitioner due process of law in order to immediately place Mr. Weeks in MODOC Prison because petitioner needed medical treatments for the serious physical injuries Mr. Weeks sustained during the arrest on November 2, 1991. See Appendix (F) deposition of Mr. Weeks

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Certiorari

"RELIEF FROM VOID JUDGMENT NOT BARRED UNDER"
FEDERAL HABEAS CORPUS 28 U.S.C. 2241-2243

(8). In *Danforth v. Minnesota*, 552 U.S. 264, 274-275 (2008), this Court ruled that under the statute 28 U.S.C. and 2243 commands federal courts to dispose of habeas corpus petitions as law and justice required and gave authorization to adjust the scope of the Writ in accordance with equitable and prudential consideration. As such authorization, 28 U.S.C and 2241 (a)-(b) provides: The Supreme Court, a Justice thereof, a Circuit Judge, or district Judge shall entertain an application for Writ of Habeas Corpus in behalf of a person in custody pursuant to the judgement of a State Court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States". Accordingly, this Court ruled that States are independent sovereigns with plenary authority to make and enforce their own laws as long as they do not infringe on federal constitutional guarantees", citing *Danforth*, 552 U.S. at 280, and see *Praiser v. Rodriguez*, 411 U.S. 475, 487 (1973), habeas corpus relief proper when State had prisoner illegally confined by arbitrary actions", and see *Ex parte Ballman*, 8 U.S. 4, 75, 95 (1807) and *Cone v. Bell*, 556 U.S. 449, 472 (2009), "Federal courts can adjudicate federal constitutional claim on the merits when State courts have failed to adjudicate it".

UNITED STATES CONSTITUTION PROTECTION

(9). The 5th Amendment to United States Constitution holds: "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of grand jury, and nor shall any person be subject for the same offence to be twice put in jeopardy.

(10). The 6th Amendment to the U.S. Constitution holds: " The accused shall enjoy the right to a speedy and public trial , by impartial jury of the State and district wherein the crime shall have been committed.

(11). The 8th Amendment to U.S. Constitution prohibits any amount of torture or cruelty.

(12).. The 13th Amendment to the United States Constitution holds: "neither slavery or involuntary servitude, except as a punishment for crime whereof the person (shall) have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction".

(13). The 14th Amendment to the United States Constitution holds: "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 privilege 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 law and protection of equal laws".

(14). Therefore, Rubin Rurie Weeks was born in the State of Mississippi on July 12. 1960, petitioner resides was in Scott County, Forest, Mississippi and Gulfport, Mississippi all of his life, until Missouri State government law officers removed Mr. Weeks involuntary on November 5. 1991to the Cape Girardeau County Shireff Department Jail in Cape Girardeau, Missouri. Transpiring without extradition warrant being issued or signed by the Mississippi or Missouri Governors. Thereof, on February 13.,1992 in the Cape Girardeau County Circuit Court, the Judge negotiated plea of guilty which was induced under police brutal forced upon Mr. Weeks in the trial Court that lacked subject matter jurisdiction to accept the plea upon the Bollinger County felony rape charge thereof and lacked authority to impose enhanced punishment sentences upon Mr. Weeks for the Cape Giradeau County Kidnapping Charge which has been served in full without the enhancement punishment sentence from (15) years to (30) years. In which makes the Cape Girardeau County (30) sentence for kidnapping charge void. See *In re Green*, 39 F 2d 582, 583 (5th Cir. 1994) "unless defendant tried or convicted in District where crime occurred, Court lacks jurisdiction". See *Peiffer v. State*, 88 S.W. 439, 441 (Mo. banc 2002) "Guilty plea does not waive a subsequent claim of a double jeopardy violation if it can be determined from the face of record that the sentencing court had no power to enter the conviction or impose the sentence". See also *Fransaw v. Lynaugh*, 810 F. 2d 518, 523 (5th Cir. 1987), "citing cases supporting that double jeopardy attaches to a guilty plea upon acceptance of the plea".

(15).Therefore, Mr. Weeks being arrested in his home state of Mississippi on November 2. 1991, under the Scott

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County, Mississippi probation/parole violation warrant issued September 16, 1991, being officially placed in MSDOC custody thereof. The Mississippi DOC Administrative officials could not start the prison term time running again and then stop the (clock) by unconditionally releasing Mr. Weeks to Missouri. See Moore v. Daggett, 429 U.S. 78, 86-87 (1976), and Donn v. Baker, 828 F. 2d 487, 488-89 (8th Cir. 1987) " Parole violation warrant is executed when the Official takes the parolee and returns him to the custody of DOC facility and that is what triggers the DOC Commissioners constitutionally duty to provide the requires of due process of law". See U.S. ex rel McInery v. Shelly, 702 F. 2d 101, 102 (7th Cir. 1982), Held: "under 28 U.S.C and 2241 (d) a prisoner is not prevented from obtaining habeas corpus relief when transferred either voluntarily or involuntarily out of State".

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Certiorari

"THE STATE GOVERNMENT MADE CONTRARY ASSERTIONS"
IN THE COURTS BELOW THAT A VOID JUDGMENT OR VOID
DETAINER WOULD BE PROCEDURAL BARRED IN THE STATE
OR FEDERAL COURTS IF NOT TIMELY FILED OR RAISED THE
PLAIN ERROE IN THE STATE POST-CONVICTION MOTION OR
IN THE HABEAS CORPUS 28 U.S.C and 2241-2243-2254 PETITION

(16). Rubin Rurie Weeks has personally demanded that his Missouri Circuit Court void judgment claims and Mississippi DOC void detainer claim that has petitioner deprived of his liberty in violation of his due process of law protection rights under the 14th Amendment to United States Constitution be reviewed by every Court in which he has pleaded for nearly 27 years. No Missouri Court has allowed Mr. Weeks to argue the void judgments claim on the merits. See Appendix (1) Missouri Supreme Court summary denial of the habeas corpus petition (Rule 91) void judgment claims in Weeks v. Wallace, No. SC95661 May 24. 2016) without prejudice and Appendix (2) the trial court/circuit court of Mississippi county summary denial of the void judgments claim in Weeks v Wallace, No. 16MI-CV-00293 (October 31. 2016) and Appendix (3) the Missouri Court of Appeals, Southern District of Missouri summary denial of the void judgments claim in Weeks v Lewis, No. SD34849 (Mo. App. S.D. January 30. 2017). Here the Missouri State Attorney General law Actors, argued the void judgment claim were barred by statute of limitations pursuant to Mr. Weeks failure to timely file the post-coviction motion under Rule 24.035 or procedural defaulted or the court lacked jurisdiction. The State Respondents never denied the void judgment claims or argued a defense thereof. However, the State Respondents would have been without an argument and lacked interest thereof on the merits. See State ex rel. Green v. Moore, 131 S.W. 3d 803, 806 (Mo. banc 2004), Held: "Numerous other decisions of this Court, as well as decisions of the United States Supreme Court, similarly recognize that jurisdictional defects or defenses are not waived by entry of a guilty plea. citing United States v. Bruce, 488 U.S. 563, 569 (1989), and Hagan v. State, 836 S.W. 2d 459, 461 (Mo.banc 1992), and Kansas City v. Stricklin, 428 S.W. 2d 721, 724-25 (Mo. banc 1968), that jurisdiction of the subject matter ... in either a civil or criminal action may be raised at any stage of the proceedings, even after a plea of guilty, and for the first time in the appellate court, and whether the defendant is challenging the Court's subject matter jurisdiction or the Court's jurisdiction to assess punishment in excess of that provided by law".

(17). The Missouri Appeal Court in Weeks v. Nixon, 544 S.W. 3d 261 (Mo. App. W.D. 2017), "Recognized Mr. Weeks' void judgment claims and torture condition of confinement claims but circumvent the issue raised before the trial court, where Mr. Weeks petition for declaratory judgment and ask the trial court to declare his rights under Supreme Court habeas corpus Rule 91.06 to challenge the void judgment claims and under 42 U.S.C. and 1983 to be free from the cruel and unusual punishment torture condition of confinement claims." The Appeal Court in affirming the trial court summary denial stated: "We recognize that Mr. Weeks has unsuccessfully sought habeas corpus relief in the past, and may face procedural obstacles if he seeks such relief in the future. He cannot use a declaratory judgment action to avoid the procedural requirements for seeking habeas corpus relief". Id at n. 5. See Appendix (J) at page 7.

(18). Likewise, Mr. Weeks challenged the Mississippi DOC void parole detainer in Mississippi State Courts. In which was filed in Hinds County, Mississippi Circuit Court under Case No. 215-05-550CIV State habeas corpus action, filed against the head Mississippi DOC Official, Parole Board Official and Mississippi Attorney General. See Appendix (2)-(B) habeas corpus petition. The Circuit Court of Hinds County set on the petition for Approximately (10) years and thereby summary denied it. The Mississippi Appeal Court affirmed the summary denial in Weeks v. State, 139 So. 3d 727 (Ms. Appeal 2013). The Appeal Court recognized Mr. Weeks void detainer claim and 14th Amendment violation claim, but ignored the Court's duty to protect Mr. Weeks from the State's arbitrary actions thereof, placed the blame on Mr. Weeks and dismissed the Appeal for lack of jurisdiction. Even though Mr. Weeks file the petition in Hinds County, Mississippi in which was the right Venue because the Mississippi DOC and the Parole Board offices are in Hinds County, Jackson, Mississippi. See Appendix (2)-(C) Mandamus filed in Mississippi Supreme Court. In which this Court ruled in Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. at 488-89 "Petitioner must filed against the State Respondent who issued the detainer against the pre-trial detainee".

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"FEDERAL DISTRICT COURT VOID JUDGMENTS"
DISTRICT COURT ABUSE OF DISCRETION
PURSUANT TO KENNEFY V. MENDOZA--MARLINOZ,
372 U.S. 144 (1963)

(19). The petition filed in the district court under 28 U.S.C and 2241-2243 was upon a jurisdictional defect claims based upon the trial court void judgment and Mississippi DOC void parole detainer. In which both claims are clearly recognized under section 2241 petition. See Stow v. Murashige, 389 F. 3d 880, 887-88 (9th Cir. 2004), "Habeas petition treated under 28 U.S.C. and 2241, not under 28 U.S.C. and 2255, because petitioner not in custody under a valid state court judgment". See Thompson v. Choinski, 525 F. 3 d 205, 209 (2d Cir. 2008), 2241 claim proper because petitioner challenged conditions of confinement".

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Certiorari

(20). This Court ruled in *Kennedy v. Mendoza--Marlinoz*, 372 U.S. 144, 157, 83 S.Ct. 554, 9 L. Ed. 2d 644 (1963), "that the united States was estopped to deny even an erroneous prior determination of a statute when the judgment was void from the start". Id at 157. The Eighth Circuit established decision in *Stevens v. McClaughry*, 207 F. 18. 25-30 (8th Cir. 1913), citing to this Court's decisions upon state court and federal court rendered void judgments stated: "The Supreme Court In re Bridges, 4 Fed. Cas. 98, 105, No. 1862, the prisoner had been tried and convicted and sentenced for perjury by a state court without jurisdiction of the subject matter. He prayed a writ of habeas corpus and discharge. Mr. Justice Bradley said: "It is contended, however, that where a defendant has been regularly indicted, tried, and convicted in a "State Court", his only remedy is to carry the judgment to the court of last resort, and thence by "Writ of Error" to the Supreme Court of the United States, and that it is to late for "habeas corpus" to issue from a federal court in such a case. This might be so if the proceeding in the "State Court" were merely erroneous but where it is void for want of jurisdiction, habeas corpus will lie, and may be issued by any "Court" or "Judge" invested with supervisory jurisdiction in such a case". Id at 27.

(21).,Here in the present case, the States Respondents Lewis and Hood argument that the Missouri Federal District Court for the Eastern District of Missouri, "where Mr. Weeks is restrained of his liberty under the void judgment and void Mississippi detainer" lacked jurisdiction without the Eighth Circuit permission to file second petition, thereof, that the void judgment claim and void detainer claim are barred by 28 U.S.C and , 2344. The State's contends was an arbitrary act and contrary to this Court's decisions above. Therefore, the District Court's decision DOC # 33 at page (5) -(6) was clearly a abuse of discretion agreeing with the State contrary argument "that Mr. Weeks void judgment and void detainer claims (legality of the detention) had been determined by the prior application section 2254 in *Weeks v. Bowersox*, 113 F. 3d 1342 (8th Cir. 1997). However, *Weeks v. Bowersox*, supra, was dismissed by procedural defaulted barred without merits determination. Thereof, the district court ruled that Mr. Weeks void judgment and detainer claim could have been , decided in previous federal habeas action, however, this was contrary to this Courty's decisions that void judgment may be filed at any time, even if that time had expired in *Elliott v. Lessee of Perisol*, 26 U.S. 328, 440-41 (1828), " voud judgments constitute no jurisdiction, and form no bar to recovery sought".

(22) The district court ruled that void the judgment and detainer claims were barred by 22 U.S.C. and 2244 but stated the Eighth Circuit is silent on the issue, DOC # 33 at page (5). The Court failed to recognize that this Court had already made it well established that void judgments are not barred by any limitations. As such, the District Court's judgment is void because the Court deprived Mr. Weeks of due process and the fair opportunity to be heard on a void judgment claim well established could not be barred. Therefore, Mr. Weeks could not have challenged the Mississippi void parole detainer before June 22. 2015, because Mississippi Respondent did not issue the void detainer until (20) years after the Mississippi Parole Board revoked the June 7. 1990 parole on June 8. 2015. See Appendix (Q) Mississippi Respondent's supplement Motion filed in *Weeks v. Mississippi*, 689 Fed. App'x 297 (5th Cir. 2017) before the district court, Id at DOC # (15). After arresting Mr. Weeks on November 2. 1991 under Miss. DOC September 16. 1991 Scott County parole warrant. See Appendix (S) Miss. DOC warrant for Scott County August 22. 1988 (4) year sentence only. Miss. Code Ann 47-7-27 1990 required the due process hearing within 30 days. In which had the Miss. DOC officials provided it, Mr. Weeks would have been able to show the Scott County (4) year sentence was served in full and expired and that the Bolivar County November 23. 1988 (10) year sentence for uttering forgery and Coahoma County July 18. 1989 (4) year sentence for uttering forgery was not Mr. Weeks convictions. See Appendix (T) Mississippi Daily News shows that an Rubin Weeks was arrested in Mississippi on June 17. 2015 for the Bolivar County November 23. 1988 (10) year sentence. See Appendix (T) Mississippi DOC website page that shows Rubin Weeks arrest date June 17. 2015. Thereby, Mr. Rubin Rurie Weeks was on June 17. 2015 and is incarcerated in the Missouri DOC for the last 27 years since February 14. 1992. See Appendix (9) Missouri DOC face sheet February 14. 1992 entry date. Accordingly, the Cape Girardeau County Circuit Court Judge on February 13. 1992, run the Missouri life sentence concurrently with the Mississippi parole sentence time left. See Exhibit (304) Cape Girardeau County Circuit Court Plea transcript at page 30-31 "Missouri sentence run concurrently with the Mississippi parole sentence". See *Chitwood v. Dowd*, 889 F. 781 785-787 (8th Cir. 1989), Held: "that Chitwood had a legitimate expectation he would be deprived of his liberty as determined by the Missouri State Circuit Court Judge when the Court run his Missouri sentence concurrently with his Oklahoma State sentence under 558.026.3 RSMO 1991. In whish gives the Missouri State Judge Authority to run Missouri sentence concurrent with another State sentence". Likewise, Mr. Weeks had the same legitimate expectations that his Missouri sentence was run

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concurrently with his Mississippi parole sentence. Thereof, by the time Mississippi filed the Scott County parole violation detainer with the Missouri Department of Corrections on March 22, 1994, the procedural requirements to file a timely post conviction motion in Missouri or Mississippi had expired.

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Certiorari ~~10~~

(23). Therefore, the State of Mississippi having Mr. Weeks held in the illegal detention by arbitrary government actions in violation of due process, "under a void parole detainer from a alleged sentence that has been expired since April 22, 1991". Thereof, the State Respondent, arguing procedural default defense, after deliberately waiting until it was to late for Mr. Weeks to file under 28 U.S.C. and 2254 in a timely manner and have a fundamental fair opportunity to be heard. Still the Mississippi State government, "has no legal interest in the detention of Mr. Weeks under the void detainer because it is without legal force". See McCarthy v. Warden, 168 F. App'x 276, 277 (10th Cir.), Cert. denied, 545 U.S. 914, 126. S. Ct. 2949, 165 L. Ed. 2d 968 (2006), "the State who arrest the prisoner first, has primary jurisdiction over him, unless the State releases its jurisdiction to another State over the prisoner or dismissal of the charges or the State sentence has expired". Thereby, each non-violent crime sentences from 1988 had been expired by mandatory operating of law for (20) years prior to the Mississippi Parole Board arbitrary act on June 8. 2015 revoking the alleged June 7. 1990 parole. In which the Mississippi Respondent (DOC) told the United States District Court for the Southern District of Mississippi, in the 28 U.S.C and 2241 Habeas petition proceeding in Weeks v. Mississippi, 689 Fed. App'x 297 (5th Cir. 2017) No. 3:15-CV-283-CWR-FKB at DOC # (8) at page (3) states It appears the Mr. Weeks' probation has not been officially revoked. On the contrary, following his arrest on the Missouri charges, MSDOC filed a detainer in Missouri and offered to extradite Mr. Weeks to Mississippi for revolution proceedings. Here Mississippi Respondents circumvent and mislead the Court. The Respondent was right about Mr. Weeks being on probation in Mississippi, but Mr. Weeks was arrested by Mississippi DOC officers on November 2. 1991, and placed in the Mississippi DOC facility under the September 16. 1991 DOC probation warrant. See Weeks v. State, 140 S.W. 3d 39, 41-43 (Mo. banc 2004), held: "Weeks arrested in Mississippi on November 2. 1991". See Weeks v. State, 139 So. 3d 727 (Miss. Ct. App. 2013). "Weeks arrested in Mississippi under the MDOC warrant on November 2. 1991 and later extradited to Missouri". Thereby, Mr. Weeks did not seek to abort a the state proceeding or to disrupt the orderly functioning of the State judicial processes" as argued by Mississippi Respondent Jim Hood at DOC # (8) page (4). See Appendix (12) Mississippi Respondent Motion to Dismiss filed in Weeks v. Mississippi, supra. Affirmively, Mr. Weeks was only seeking to be from from cruel and unusual punishment under a Mississippi sentence that had been served in full and expired 20 years ago before he was unconditionally released to Missouri on November 5. 1991.

(24). The Missouri Respondents having obtained the Missouri conviction on February 13. 1992, by arbitrary government actions and police torture force under plea agreement that Mr. Weeks would be provided medical treatment for spine injuries that the State breached. As such, State government had Mr. Weeks convicted and sentenced in the Cape Girardeau County, Circuit Court which lacked subject matter jurisdiction to enter the conviction and impose the Judgment upon the Bollinger County rape charge and thereby lacked jurisdiction to inflict an enhanced punishment sentence as prior and persistent offender against Mr. Weeks. Thereof, as the law has been well established in State and Federal Courts "that void judgments cannot be brought back to life". See Larimer v. Robertson, 800 S.W. 2d 154, 155 (Mo. App. 1990). Therefore, "No State or Federal Court can restore the trial Court's lost of jurisdiction". See Fay v. Noia, 372 U.S. 391, 423 (1963). The only action that any State or Federal Court could have rendered was to vacate the void judgment, order Mr. Weeks discharged from the Missouri Respondent's custody under it and order Mr. Weeks discharged from the Mississippi void detainer hold thereof. As such, no Court had the authority to affirm the Missouri state void rape conviction or sentence or the Mississippi void detainer hold.

CONCLUSION

WHEREFORE, for all the state of Mississippi and Missouri government arbitrarily actions shown above and the facts that Mississippi and Missouri State Courts placed Rubin Rurie Weeks into a sovereignty place without an 14th Amendment right remedy to challenge it thereof and deliberately denied the medical treatment needed to correct the spine injuries sustained by police beating which Mr. Weeks is dying in torture pain from today. Therefore, the United States Supreme Court must grant Certiorari review, appoint counsel and allow this case heard, thereby, order petitioner discharged from the Sovereignty place he is held illegally.

RESPECTFULLY SUBMITTED THIS 8th DAY OF JULY 2019.

