

19-5685 ORIGINAL
No. _____

Supreme Court, U.S.
JUL 18 2019
OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Larry Brandon Moore — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Fourth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Larry Brandon Moore
(Your Name)

FCI Elkhorn
PO Box 10

(Address)

Lisbon, OH 44432
(City, State, Zip Code)

NA
(Phone Number)

QUESTION(S) PRESENTED

- I. Does Article I of the U.S. Constitution confer on Congress such authority as to have enacted 62 Stat 683 et seq into positive law thereby enacting, specifically, Title 18 of United States Code - a third-party codification of prior laws which never purported to be nor was intended to be law?
- II. Does Article I § 1 of the U.S. Constitution proscribe both Congress as a whole and the individual members thereof, from delegating to others, be they lawyers, advisors, interns, independent citizens, government appointees, publishing companies, business or industries, elected officials not part of Congress, or any combination, organization, team or groups thereof the drafting of bills which can become laws? Which is, in turn, to ask: is the drafting of bills, intended to become law, not an integral and indispensable constituent part of Congress' law making power?

If the answer to Question 2 is found to be no, then the question of the limit of Congress' law making authority becomes suddenly ambiguous. In the case of such an event, Petitioner asks that this Court additionally answer the following Supplemental Question to both relieve this ambiguity and ensure that the limits of Congress' power are well defined and established for the nation and the people thereof as a whole.

SUPPLEMENTAL QUESTION(S)

- I. What, if any, are the limits of Congress' and its individual constituent members delegatory authority regarding their law making power and what forms and methods, if any, should and must be required and/or practiced and/or followed by the recipients of such delegation and what, if any, conventions should and must the resultant bill(s) created by such delegation conform to?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** 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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TABLE OF AUTHORITIES CITED

CASES

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OTHER

IN THE
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

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court ~~appears at Appendix _____ to the petition and is~~ ^{is unavailable}

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 04-22-19.

No petition for rehearing was timely filed in my case.

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

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

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

For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- I. U.S. Constitution: Article I, §1; Article III, §1
- II. The Act "June 25, 1948; c. 645, 62 Stat. 638-84, 741"
- III. The Act "July 30, 1947; 61 Stat. 636, 638"
- IV. The Act "July 08, 1932, c. 463-64, 649"

STATEMENT OF THE CASE

Facts

- I. This case originated in the U.S. District Court for the Western District of North Carolina on a criminal action brought under 18 U.S.C. § 876. A pretrial motion to dismiss and supporting memorandum [Doc. No's 12 & 12.1] was filed on 9/11/2017 challenging Congress' authority to have, in June 25, 1948, enacted 62 Stat. 683 thereby causing to be enacted 'into positive law' Title 18 of U.S.C.. This motion/memorandum sets forth an argument which necessarily precipitates questions 1 and 2 in this petition.
- II. The District Court denied said motion on 9/14/17 [Doc. No. 14] relying solely on U.S. Civil Service Comm'n V National Ass'n of Letter Carriers, AFLCLO, 413 U.S. 548, 550 n. 1 (1973) and the incongruous statement "the defendant has submitted no authority showing that 18 U.S.C. § 876 is unenforceable."
- III. On 9/28/17, Petitioner entered a conditional plea before Magistrate Judge Keesler. As part of the Plea Agreement [Doc. No. 16], filed 9/25/17, the government permitted Petitioner the right to appeal 'the adverse decision [of Doc. No. 12]"
- IV. On 7/09/18, following sentencing, Petitioner filed a Pro-Se Motion to Reconsider, [Doc. No. 33], challenging the particulars of Doc. No. 14. This motion was denied without prejudice on 7/12/18 [Doc. No. 40] for procedural reasons. The arguments therein raised against Doc. No. 14 were re-alleged in the Appellate Brief as part of Petitioner's appeal [18-4480, Doc. No. 30, In Support §§ 3-5]. The government did not challenge the claims raised therein.

V. The Court of Appeal's final judgment [18-4480, Doc. No. 53], however:

- (1) Disregarded Petitioners challenge that U.S. Civil Service Comm'n V Nat'l Ass'n of Letter Carriers, AFLCLO did not address at any point Petitioners original claims, (re)citing it, without comment, as controlling,
- (2) Asserted a new case, U.S. V Collins, 510 F.3d 697 (7th Cir. 2007) as additional controlling precedence, and
- (3) Affirmed the District Court's findings.

STATEMENT OF THE CASE

Arguments

- I. In the litigation of this case, two instances of case law and on unsupported, ambiguous proposition have been set forth in challenge to Petitioners position. These are as follows:
 - A. The proposition that "[Petitioner] has submitted no authority showing that 18 U.S.C. § 876 is unenforceable." (see Trial Doc. No. 14)
 - B. U.S. Civil Serv. Comm'n V Nat'l Ass'n of Letter Carriers AFL-CLO, 413 U.S. 548, 550 n.1 (1973)
 - C. U.S. V Collins, 510 F.3d 697, 698 (7th Cir. 2007)
- II. Of these, the first two have been refuted without meaningful contest in Petitioners filings in the lower Courts. (see Trial Court Doc. No. 33 & 18-4480 Doc. No. 30, In Support §§ 3-5)
- III. Petitioner re-alleges his contentions/objections to (1) & (2). Those being:
 - A. That U.S. Civil Service Comm'n V Nat'l Ass'n of Letter Carriers AFL-CLO does not, at any point, address the question(s) of law that Petitioner grieves; and
 - B. That it is Petitioners understanding that a Court of Law is bound to sustain Petitioners contentions, without any such unreasonable requirements (As in I.A.) when the governments counsel failed to provide any argument based in law to refute Petitioners claim(s). Petitioner wishes to further impress the point that such an expectation (I.A.) as applied by the Trial Court is ridiculous in the extreme; the mere suggestion that a Petitioner must present authority concluding a matter of law in his favor when that matter by all appearances is (and has been repeatedly averred by Petitioner to be) a novel question of law, can be called nothing save a deliberate affront to justice and an avoidance of his

arguments merits. No man can be reasonably expected to produce authority on a matter which no Court has ever directly addressed. It is significant that all authority which Petitioner has presented in regards to this claim, is disparate and assembled from the substantial, diverse and expansive body of U.S. Law and must be considered as a whole to fully and clearly establish his contentions.

IV. In regard to U.S. V Collins:

- A. The 7th Circuit decision concerning the issue at contest in this case shows itself, on thorough examination, to be strikingly brief (see Appendix A); a coarse treatment at best, stating little more than the quotation put forth in the 4th Circuit judgment in this case [18-4480, Doc. No. 53]
- B. In Collins, the part of the opinion concerned relies on the prior case U.S. V States, 242 Fed. Appx. 362 (7th Cir. 2007). This opinion is even more brusque: "This case is unbelievably frivolous. We Affirm."
- C. Petitioner, as an indigent inmate, without any support, has only the limited access to legal filings that are provided as a service under the B.O.P.'s Electronic Law Library policy (1315.07).
 - 1. Petitioner does not have access to the briefs filed in either Collins or States and has no reasonable means to acquire said filings. As such, Petitioner can only address the opinion of the 7th Circuit without any knowledge of exactly what claim(s) was raised or the argument(s) that was heard in support.
- D. With (IV-C) in mind, both Collins and States are devoid of any conclusions of law regarding the present issue. They elucidate nothing. They say nothing. How can such opinions, lacking any substance or apparent consideration of the issue at hand be validly recognized as any form or precedent or even law for that matter? These opinions, in regard to this issue, are meaningless, unexamined rhetoric. They do not control, in any way, in this matter.

STATEMENT OF THE CASE

In Further Support

I. In addition to Stephan v U.S., 319 U.S. 423, 83 S.Ct. 1135 (1943) cited in Docket Numbers 12 and 12.1 from the Trial Court, the Act (July 9, 1947, ch 338, §1, 61 Stat 636; 638) further supports (as a part of U.S.C. itself) the Prima Facie nature of U.S.C. and the distinction between U.S.C. and "the Law of the U.S."

A. 61 Stat 636, 1 U.S.C. § 112 (Statutes at Large; contents; admissibility as evidence):

The archivist of the United States shall cause to be compiled, edited, indexed and published, the United States Statutes at Large, which shall contain all laws and current resolutions enacted during each regular session of Congress... The United States Statutes at Large shall be legal evidence of laws, concurrent resolutions, treaties, international agreements and other treaties, proclamations by the President and prepared or ratified amendments to the Constitution of the United States therein contained, in all courts of the United States, the several states and the territories and insular possessions of the United States. (July 30, 1947)

B. 61 Stat 638, 1 U.S.C. § 204 (Codes and Supplements as evidence of Law of the U.S.):

The matter set forth in the edition of the Code of Laws of the United States concurrent at any time shall, together with the then current supplement, if any, establish prima facie evidence of the laws of the United States, general and permanent in their nature, in force on the day proceeding the commencement of the session following the last session the legislation of which is included: Provided, however, that whenever titles of such Code shall have been enacted into positive law the text thereof shall be legal evidence of the laws therein contained, in all courts of the United States, the several States, and the Territories and insular possessions of the United States. (July 30, 1947)

II. U.S.C. has undergone many alterations over the more than 70 years since its supposed enactment 'into positive law' yet these telling clauses about its actual nature still remain a part of it to this day: that is that U.S.C. is not "legal evidence" of law itself although its text must contain the "Legal Evidence" of law.

III. There is a grave and definite difference as there always has been between the Laws that Congress is empowered to enact and the codification U.S.C..

IV. In all likelihood, it is probable that Congress did, in fact, wish to enact U.S.C. into positive law, perhaps for the sake of convenience and organization. Such would appear, from all evidence, to be the case. A thorough investigation of the House & Senate reports to establish this contention lies outside of Petitioners means, as he is, as has been stated, and indigent inmate reliant entirely on the law resources provided by the BOP. (See Arguments V (supra)). Such documents fall well outside the scope of the legal resources provided by BOP policy (see Appendix B).

V. If this supposition is correct, it is clear that no one then (in 1947) or since challenged this as either an unlawful delegation by Congress of their law making authority nor on the grounds that on indictment based on U.S.C./prima facie evidence of law cannot satisfy the Sixth Amendments informed clause nor, necessarily, confer criminal jurisdiction to any court.

VI. Petitioner wishes to state, in the intent of thoroughness, that upon information and belief, there existed a time earlier in the countries history when U.S.C. was not admissible for any reason in federal courts.

VII. Further, this Court, to Petitioners knowledge and belief, made no reference to U.S.C. in any opinion prior to Ohio Oil v Conway, 73 Led 972, 279 U.S. 813 (1929).

VIII. As one final article of support that was discovered by Petitioner following the litigation of his appeal, Petitioner quotes the following:

Congress cannot delegate legislative power conferred by the Constitution to the extent of authorizing others to formulate policies... Weightman v U.S., 142 F.2d 188 (1944, CA1 NH); Avant v Bowles, Em App, 139 F.2d 702; see also Nic Kinley v U.S., 249 U.S. 397, 39 S.Ct. 324, 6 L Ed 688 (1919).

REASONS FOR GRANTING THE PETITION

- I. The challenge raised in this case is one of national importance due to the fact that U.S.C. is, and has been for some time, universally accepted as the Laws of Congress - the Laws of the US. Should this be, correctly, determined to be a construct without force of law, decades of both civil and criminal rulings would, necessarily have to be reevaluated. All of America would benefit from the widespread revelation and the deep rooted implication it would precipitate.
- II. All evidence Petitioner has access to and all of the feeble, insubstantial content that government attorneys have put forward in opposition to Petitioners assertion(s) can only compel Petitioner to re-allege that this issue is a novel question of law that has never been meaningfully addressed by a Court of Law.
- III. This issue directly addresses the Constitutional bounds which the framers of the Constitution intended to be placed on Legislature. It requests that this Court exercise its Constitutional authority to affirm and firmly enforce the definite limits of Congressional delegatory power and to admonish Congress for usurping power never accorded it by the Constitution. Further, it is a plea to the judicial power of the U.S. to end the overreach and circumvention of the Constitutionally protected rights of the American people, whether deliberate or otherwise, by way of legislative practices which lie outside of Constitutional intent; that is to strictly and permanently cease Congress' heretofore practice of delegating its law making powers - in any and all forms - to any persons not duly elected to its body proper.

IV. This is the only Court capable of lawfully adjudicating this claim and insuring the relief Petition seeks. As an interesting consequence of Article III provisions, all lesser Courts of this land are creatures of Congressional Legislative Acts. Due to the very issue that Petitioner grieves, the Circuits and District Courts of the U.S. have, in modern times, become creatures, therefore, of U.S.C. They exist by and through the supposed enactment of U.S.C. into positive law and they derive what authority they exercise from U.S.C.'s provisions. We, thus, have the curious and problematic situation that were such a Court to sustain Petitioners contention, it would necessarily and consequently invalidate its own authority and thereby nullify its own ruling as a matter of law. It is therefore not lawfully possible for any court, other than the Constitutionally founded Supreme Court, to adjudge this matter of law.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Larry Brandon Moore

Date: 7-18-19