No. 19-5943

IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

IN RE NATHAN WAYNE SMITH

ORIGINAL PETITION FOR WRIT OF HABEAS CORPUS
28 U.S.C. § 2241(b); Supreme Court Rule 20.4

With Statement Pursuant To Rule 20.1 and .4
Supreme Court Rules

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QUESTIONS PRESENTED

1. Whether habeas corpus relief in this Court is warranted on the claims the federal criminal statutes charged in the district court below are unconstitutional, on the premise that the Constitution does not confer power upon Congress to enact the purported federal criminal statute for nationwide enforcement?

2. Whether habeas corpus relief in this Court is warranted on the claim that the district court below lack subject-matter jurisdiction over criminal cases, where the premise is that only within the territories, possessions of the United States, and within the District of Columbia does Congress enjoy a dual authority to confer such courts sitting within those exclusive jurisdictional areas with additional jurisdiction besides those enumerated in Article III, § 2, as to cases and controverises (interpreted to be civil in nature), as a State could confer upon its courts of justice (such as in criminal cases) that Congress cannot confer upon Article III courts outside those areas of exclusive jurisdiction the United States enjoys?

3. Whether this Court should exercise its review powers to declare a procedural habeas corpus statutory provision, namely the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), as being unconstitutional, where the premise is that the historical record from the Constitutional Convention reveals the purpose of placing the Suspension Clause within Section Nine of Article I, of the Constitution of the United States, was to place a restriction upon Congress from limiting access to the Great Writ except only when in Cases of Rebellion or Invasion the public Safety may require it, and is a "substantive rule" Congress is prohibited from violating by the enactment of the AEDPA with its gatekeeping provisions that acts as nothing less than an impediment to access of the Great Writ this Court has found should not denied, when custody is in violation of the Constitution?

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF HABEAS CORPUS

SUPREME COURT RULE 20 STATEMENT SHOWING COMPLIANCE

Petitioner submits that because this Petition for an extraordinary writ of habeas corpus, under 28 U.S.C. § 2241, et seq., this Court's observation of the availability of the writ from the Supreme Court in an original petition is analogous manner, when it wrote, in a death penalty case:

> "The substantial risk of putting an innocent man to death clearly provides an adequate justification for holding an evidentiary hearing. Simply put, the case is sufficient "exceptional" to warrant utilization of this Court's Rule 20.4(a), 28 U.S.C. § 2241(b), and our original habeas corpus jurisdiction."

In re Davis, 557 U.S. 952, 130 S.Ct. 1, 174 L.Ed.2d 614, 615 (2009)(Stevens, J., with whom Ginsburg, and Breyer, JJ., join, concurring)(citations omitted).

Also, because this case will demonstration that the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) is an unconstitutional Act of Congress that acts as an impediment to an litigant's ability to access the procedural vehicles to obtain habeas corpus relief, because Congress has ignored the restrictions the Framers placed on the subjects contained in Section Nine of Article I, of the Constitution, which includes therein the Suspension Clause, articulating the only circumstances Congress may legislate in regard to habeas corpus, and not enact additional restrictions or limitations to be met after a certain time period (one-year limitation) has passed, that includes when this Court announces a new rule of substantive constitutional law and makes such new rule retroactive, the plain terms in the Suspension Clause the Framers placed therein prohibits the enactment of the AEDPA, and requires this Court to say what the law is, with the Constitution being declared the paramount and supreme Law of

Land and the AEDPA being declared an unconstitutional Act of Congress, and requiring this Court to enforce the limits on Congress's authority to enact any legislation that transcends the limits and restrictions the Constitution has placed on the National Legislature, by striking down acts of Congress that has been shown to transgress those limits, or violated the restrictions placed on Congress under the Constitution. Cf., e.g., Nat'l Fed'n Indep. Bus. v. Sebelius, 132 S.Ct. 2566, 2579-2580 (2012)(citations omitted)(discussing this Court's resposibility to strike down unconstitutional Acts of Congress).

Thus, because only this Court can overrule any of its own prior constitutional rulings, this petition can not be presented to any other court, and the relief sought, in its entirety, which includes having to strike down a major act of Congress, such relief cannot be obtained in the district court of the district in which applicant is held, or in any other form, 28 U.S.C. § 2242(4), and such "exceptional circumstances warrant the exercise of the Court's discretionary powers" because "adequate relief cannot be obtained in any other form or from any other court." Sup.Ct.Rule 20.1 and 20.4.

OPINIONS BELOW

The opinion of the United States court of appeals, affirming Petitioner's conviction and sentence of the district court appears at APPENDIX A to the petition and is published at 771 F.3d 1060, as United States v. Nathan Wayne Smith, Appeal No. 14-1355, Filed November 12, 2014. A petition for rehearing en banc was denied on December 11, 2014, and appears at APPENDIX B to the petition, and is published as United States v. Nathan Wayne Smith, 2014 U.S. App. LEXIS 23349, No. 14-1355.

JURISDICTION

As this is an original petition for a writ of habeas corpus, to challenge an unconstitutional conviction, based on being charged under an alleged unconstitutional act of Congress, the jurisdiction of this Court is invoked pursuant

to 28 U.S.C. § 2241(a); and Supreme Court Rule 20.4.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment V to the Constitution of the United States provides:

> "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; not shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

Amendment VI to the Constitution of the United States provides:

> "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence."

Amendment VIII to the Constitution of the United States provides:

> "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

Amendment X to the Constitution of the United States provides:

> "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Section 2113 of Title 18 of the United States Code is set out in APPENDIX C.

Section 2241 of Title 28 of the United States Code is set out in APPENDIX D.

Section 2242 of Title 28 of the United States Code is set out in APPENDIX E.

Section 2243 of Title 28 of the United States Code is set out in APPENDIX F.

The Code of Iowa, 1954, Title 1, Chapter 1, relating to the conferring upon the United States jurisdiction over lands within the State of Iowa that have been ceded to the United States, relevant to this Petition, is set out in APPENDIX G.

STATEMENT OF THE CASE

Petitioner was charged with one count of bank robbery, in violation of 18 U.S.C. § 2113(a), by a grand jury, alleging the offense committed within the Southern District of Iowa on June 26, 2012. After a three-day trial, the jury found him guilty on October 18, 2013, and the district court sentenced him to a term of seventy-seven months imprisonment on January 28, 2014. He filed a timely notice of appeal, and the United States Court of Appeals for the Eighth Circuit Affirmed the conviction on November 12, 2014. APPENDIX A.

On September 23, 2015, Petitioner filed in the district court a collateral motion under 28 U.S.C. § 2255, raising two ineffective assistance of counsel claims: (1) counsel failed to move to suppress evidence obtained from a traffic stop; and (2) counsel failed to challenge the admissibility of a photo lineup. (4:15-cv-00336, ECF 16). On June 30, 2017, the motion was denied, and a certificate of appealability was simultaneously denied in that order. This Court denied certiorari on April 16, 2018 (No. 17-8047, 2018 U.S. LEXIS 2475).

On December 11, 2018, Petitioner filed a Motion for Leave to File a Second or Successive Collateral Motion Under 28 U.S.C. § 2255, now claiming that the statute of conviction, 18 U.S.C. § 2113, creates a crime for conduct the Constitution does not list as a matter for federal legislation, thus for enactment into a federal criminal proscription for nationwide application and enforcement by the Federal Government by Congress.

REASONS FOR GRANTING THE PETITION

A. Federal criminal statutes for conduct not enumerated in the Constitution are precluded enactment thereof for nationwide enforcement, and for the adjudication thereof in "inferior" federal courts that are alleged to not have the capacity to conferred with criminal subject-matter jurisdiction especially when operating within the territorial boundaries of a sovereign State.

This argument must start with what Chief Justice Roberts once stated:

> "Judging the constitutionality of an Act of Congress is "the gravest and most delicate duty that this Court is called to perform." ... Because the stakes are so high, our standard practice is to refrain from addressing constitutional questions except when necessary to rule on particular claims before us. ... This policy underlies both our willingness to construe ambiguous statutes to avoid constitutional problems and our practice "'never to formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied.'" ..."

Citizens United v. F.E.C., 558 U.S. 310, 373 (2010)(citations omitted)(Roberts, C.J., with whom Alito, J., joins, concurring).

Also for consideration is what Mr. Justice Thomas admonished:

> ""[I]n our tripartite system of government," it is the duty of this Court to "say 'what the law is.'" ... This duty is particularly compelling in cases that present an opportunity to decide the constitutionality or enforceability of federal statutes in a manner "insulated from the pressures of the moment," and in time to guide courts and the political branches in resolving difficult questions concerning the proper "exercise of governmental power.""

Noriega v. Pastrana, 130 S.Ct. 1002, 1002 (2010)(citations omitted)(Thomas, J., with whom Scalia, J., joins, dissenting from denial of certiorari).

This case presents just what the above establishes needs to be resolved, because it presents "constitutional questions" that are "particularly compelling," in order for the Court "to decide the constitutionality or enforceability of federal statutes" under the circumstances presented in this case, and for adjudication in the proper courts, that being not in an "inferior" federal court that will be demonstrated, based on this Court's relevant case law, cannot be conferred with criminal jurisdiction for offenses that expressly belong to the several States to enforce under their laws, and in their courts of justice.

When it came to the creation of the Federal Deposit Insurance Act, therefore the Federal Deposit Insurance Corporation (FDIC), "Congress' purpose in creating the FDIC was clear." FDIC v. Philadelphia Gear Corp., 476 U.S. 426, 432 (1986). As the legislative history of the Act was pointed out by the Court:

> "Congress passed the 1933 provision "[i]n order to provide against a repetition of the present painful experience in which a vast sum of assets and purchasing power is 'tied up.'" ... The focus of Congress was therefore upon ensuring that a deposit of "hard earnings" entrusted by individuals to a bank would not lead to a tangible loss in the event of a bank failure. As the chairman of the relevant Committee in the House of Representatives explained on the floor:
>
> "[T]he purpose of this legislation is to protect the people of the United States in the right to have banks in which their deposits will be safe. They have a right to expect of Congress the establishment and maintenance of a system of banks in the United States where citizens may place their hard earnings with reasonable expectation of being able to get them out again upon demand." ...
>
> .....
>
> "[The purpose of the bill is to ensure that] the community is saved from from the shock of a bank failure, and every citizen has been given an opportunity to withdraw his deposits. ...
>
> .....
>
> "The public ... demand of you and me that we provide a banking system worthy of this great Nation and banks in which citizens may place the fruits of their toil and know that a deposit slip in return for their hard earnings will be as safe as a Government bond." ...
>
> "... To prevent bank failure that resulted in the tangible loss of hard assets was therefore the focus of Congress' effort in creating deposit insurance."

Id., 476 U.S., at 432-433 (citations omitted).

Although the Government frequently argues that the FDIC creates federal criminal jurisdiction for the prosecution of individuals who rob such ensured financial institutional, the evidence that a "senior attorney at the FDIC" had informed a defendant that "FIDC insurance does not even cover losses due to robbery" is more than proof that robbery of an ensured bank cannot confer federal criminal jurisdiction, United States v. Watts, 256 F.3d 630, 632 (7th Cir. 2001) (quoting the "senior attorney at the FDIC"), even if Congress does have the power "[t]o coin Money, regulate the Value thereof, and of foreign Coin," under U.S. Const., Art. I, § 8, cl. 5, the Constitution did not confer upon the Federal Government any power to create any bank, either national or otherwise, just to coin

Money that will be used by individuals, when they obtain same from either banks or other institutions that use Money as an exchange of Legal Tender for purchasing items and commodities.

That the laws of Congress, whether criminal or civil, are only enforceable within areas the United States enjoys exclusive legislative jurisdiction has been settled, when this Court pointed out:

> "Generally speaking, within any state of this Union the preservation of the peace and the protection of person and property are the functions of the state government, and are no part of the primary duty, at least, of the nation. The laws of Congress in respect to those matters do not extend into the territorial limits of the states, but have force only in the District of Columbia, and other places that are within the exclusive jurisdiction of the national government."

Caha v. United States, 152 U.S. 211, 215 (1894).

Chief Justice Marshall, in declaring where the jurisdiction of a State extends, when a criminal case is concerned, even when the crime is the murder of a Marine committed by another Marine, on a United States Warship anchored in Boston Harbor, wrote:

> "[T]he jurisdiction of a state is co-extensive with its territory; co-extensive with its legislative power. ...
> "To bring an offense within the jurisdiction of the courts of the Union, it must have been committed in [an area] out of the jurisdiction of any state. It is not the offense committed, but the [place] in which it is committed, which must be out of the jurisdiction of the state. ...
> "Congress may pass all laws which are necessary and proper for giving the most complete effect to this power. Still, the general jurisdiction over the place, subject to this grant of power, adheres to the territory, as a portion of sovereignty not yet given away."

United States v. Bevans, 3 Wheat. 336, 386-387, 387-388, 389 (1818)(alterations added for clarity).

Since robbery is not a matter the Framers concerned themselves with, much less the robbery of any bank that is usually located within the boundaries of a State, they left that conduct out of the Constitution, preferring to leave such matters to the States to enforce, under the principle that the powers of the Federal Government were to be "few and defined," while the powers left to the

States were to "remain ... numerous and indefinite." The Federalist No. 45 (J. Madison); McCulloch v. Maryland, 4 Wheat. 316, 405 (1819), and was duly expounded upon when this Court reminded:

> "The Federal Government "is acknowledged by all to be one of enumerated powers." ... That is, rather then granting general authority to perform all the conceivable functions of government, the Constitution lists, or enumerates, the Federal Government's powers. ... The enumeration of powers is also a limitation of powers, because "[t]he enumeration presupposes something not enumerated." ... The Constitution's express conferral of some powers makes clear that it does not grant others. And the Federal Government "can exercise only the powers granted to it." ...
>
> "The Federal Government has expanded dramatically over the past two centuries, but it still must show that a constitutional grant of power authorizes each of its actions."

Nat'l Fed'n Indep. Bus. v. Sebelius, 132 S.Ct. 2566, 2577, 2578 (2012)(citations omitted).

An earlier Supreme Court case that demonstrated the principle that only those powers the Constitution enumerates may be exercised by the Congress, and pointing what the Court adheres to under such principles of constitutional limits, rejecting any attempt to enlarge the powers beyond those enumerated, the Court wrote:

> "The proposition, often advanced and as often discredited, that the power of the federal government inherently extends to purposes affecting the nation as a whole with which the states severally cannot deal or cannot adquately deal, and the related notion that Congress, entirely apart from those powers delegated by the Constitution, may enact laws to promote the general welfare, have never been accepted but always definitely rejected by this court. Mr. Justice Story, as early as 1816, laid down the cardinal rule, which has ever since been followed—that the general government "can claim no powers which are not granted to it by the Constitution, and the powers actually granted, must be such as are expressly given, or given by necessary implication." ... In the Framers Convention, the proposal to confer a general power akin to that just discussed was included in Mr. Randolph's resolutions, the sixth of which, among other things, declared that the National Legislature ought to enjoy the legislative rights vested in Congress by the Confederation, and "moreover to legislate in all cases to which the separate State are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual Legislation." The convention, however, declined to confer upon Congress power in such general terms; instead of which it carefully limited the powers which it thought wise to entrust to Congress by specifying them, thereby denying all others not granted expressly or by necessary implication. It made no grant of authority to Congress to legislate

substantially for the general welfare, ...; and no such authority exists, save as the general welfare may be promoted by the exercise of the powers which are granted."

Carter v. Carter Coal Co., 298 U.S. 238, 291-292 (1936)(citations omitted).

If Congress had not be given the power to legislate over the actual welfare of the "people" themselves, but only "To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States," U.S. Const., § 8, cl. 1, in general but not to individual persons, the question that must be asked is where does Congress get power to legislate over bank robbery, which is not one of the enumeration of matters or conduct entrusted to it by the Constitution?

"This is a vital question; for nothing is more certain than that [regulatory] aims, however great or well directed, can never serve in lieu of constitutional power.

"The ruling and firmly established principle is that the powers which the general government may exercise are only those specifically enumerated in the Constitution, and such implied powers as are necessary and proper to carry into effect the enumerated powers. Whether the end sought to be attained by an act of Congress is legitimate is wholly a matter of constitutional power and not at all of legislative discretion. Legislative congressional discretion begins with the choice of means and ends with the adoption of methods and details to carry the delegated powers into effect. The distinction between these two things—power and discretion—is not only very plain but very important. For while the powers are rigidly limited to the enumerations of the Constitution, the means which may be employed to carry the powers into effect are not restricted, save that they must be appropriate, plainly adapted to the end, and not prohibited by, but consistent with, the letter and spirit of the Constitution. ... Thus, it may be said that to a constitutional end many ways are open; but to an end not within the terms of the Constitution, all ways are closed."

Carter, id., 298 U.S., at 291 (citation omitted, alteration added for clarity).

In spite of the fact that the suggestion had been introduced for the proposition that there are some powers that are not conferred upon Congress may still be implied, the Carter Court, quoting an earlier case to rebut this unconstitutional attempt to so have some undelegated powers implied, admonished:

"Replying directly to the suggestion advanced by counsel in Kansas v. Colorado, 206 U.S. 46, 89, ..., to the effect that necessary powers national in their scope must be found vested in Congress, though not expressly granted or essentially implied, this court said:

""But the proposition that there are legislative powers affecting the Nation as a whole which belong to, although not expressed in the grant of powers, is in direct conflict with the doctrine that this is a government of enumerated powers. That this is such a government clearly appears from the Constitution, independently of the Amendments, for otherwise there would be an instrument granting certain specified things made operative to grant other and distinct things. This natural construction of the original body of the Constitution is made absolutely certain by the Tenth Amendment. This amendment, which was seemingly adopted with prescience of just such contention as the present, disclosed the widespread fear that the National Government might, under the pressure of a supposed general welfare, attempt to exercise powers which had not been granted. With equal determination the framers intended that no such assumption should ever find justification in the organic act, and that if in the future further powers seemed necessary they should be granted by the people in the manner they had provided for amending that act.""

Id., 298 U.S., at 293-94 (citations omitted).

Mr. Justice Sutherland, in his dissenting opinion, pointed out such principle of requiring an amendment of the Constitution in order to meet the expectations of the Government, when he wrote:

"The judicial function is that of interpretation; it does not include the power of amendment under the guise of interpretation. To miss the point of difference between the two is to miss all that the phrase "supreme law of the land" stands for and to convert what was intended as inescapable and enduring mandates into mere moral reflections.

"If the Constitution, intelligently and reasonably construed in the light of these principles, stands in the way of desirable legislation, the blame must rest upon that instrument, and not upon the court for enforcing it according to its terms. The remedy in that situation—and the only true remedy—is to amend the Constitution."

West Coast Hotel Co. v. Parrish, 300 U.S. 379, 404 (1937)(Sutherland, J., dissenting, Mr. Justice Van Devanter, Mr. Justice McReynolds, Mr. Justice Butler, join, think the judgment of the court below should be reversed).

Four years prior, again Mr. Justice Sutherland, in another dissenting opinion more concisely explained the constitutional principles presented here, when he wrote:

""The Constitution is a written instrument. As such its meaning does not alter. That which it meant when adopted it means now. ... Those things which are within its grants or power, as those grants were understood when made, are still within them, and those things not within them remain still excluded."

"The words of Judge Campbell, speaking for the Supreme Court of Michi-

gan in People ex rel. Twitchell v. Blodgett, ..., are peculiarly apposite. "But it may easily happen," he said, "that specific provisions may, in unforeseen emergencies, turn out to have been inexpedient. This does not make these provisions any less binding. Constitutions can not be changed by events alone. They remain binding as the acts of the people in their sovereign capacity, as the framers of Government, until they are amended or abrogated by the action prescribed by the authority which created them. It is not competent for any department of the Government to change a constitution, or declare it changed, simply because it appears ill adapted to a new state of things.

"... Restrictions have, it is true, been found more likely then grants to be unsuited to unforeseen circumstances. ... But, where evils arise from the application of such regulations, their force cannot be denied or evaded; and the remedy consists in repeal or amendment, and not in false constructions."

"The provisions of the federal Constitution, undoubtedly, are pliable in the sense that in appropriate cases they have the capacity of bringing within their grasp every new condition which falls within their meaning. But, their meaning is changeless; it is only their application which is extensible. ... Constitutional grants of power and restrictions upon the exercise of power are not flexible as the doctrines of the common law are flexible. These doctrines, upon the principles of the common law itself, modify or abrogate themselves whenever they are or whenever they become plainly unsuited to different or changed conditions. ... The distinction is clearly pointed out by Judge Cooley, 1 Constitutional Limitations, 8th ed. 124:

"A principal share of the benefits expected from written constitutions would be lost if the rules they established were so flexible as to bend to circumstances or be modified by public opinion. It is with special reference to the varying moods of public opinion, and with a view to putting the fundamentals of government beyond their control, that these instruments are framed; and there can be no such steady and imperceptible change in their rules as inheres in the principles of the common law. Those beneficient maxims of the common law which guard person and property have grown and expanded until they mean vastly more to us than they did to our ancestors, and are more minute, particular, and pervading in their protection; and we may confidently look forward in the future to still further modifications in the direction of improvement. Public sentiment and action effect such changes, and the courts recognize them; but a court or legislature which should allow a change in public sentiment to influence it in giving to a written constitution a construction not warranted by the intention of its founders, would be justly chargeable with reckless disregard of official oath and public duty; and if its course could become a precedent, these instruments would be of little avail. ... What a court is to do, therefore, is to declare the [supreme] law as written, leaving it to the people themselves to make such changes as new circumstances may require. The meaning of the constitution is fixed when it is adopted, and it is not different at any subsequent time when a court has occasion to pass upon it."

"The whole aim of construction, as applied to a provision of the Constitution, is to discover the meaning, to ascertain and give effect to the intent, of its framers and the people who adopted it."

Home Building & Loan Assoc. v. Blaisdell, 290 U.S. 398, 451-453 (1934)(citations omitted, alteration added for clarity)(Sutherland, J., dissenting).

In applying any provision of the Constitution, the Court has instructed:

> "To determine the extent of the grant of power, we must, therefore, place ourselves in the position of the men who framed and adopted the Constitution, and inquire what they must have understood to be the meaning and scope of those grants."

South Carolina v. United States, 199 U.S. 437, 450 (1905).

Since robbery, of any kind, was, and is, a common law crime, it has always been left to the States to enforce, not the National government, especially if not committed within a territory or enclave of the United States, wherein the United States may exercise exclusive jurisdiction over such an area that is not within the jurisdiction of any State. Compare Bevans and Caha, supra.

Once becoming a State, as the Court inferred:

> "Nothing remained in the United States, according to the terms in the agreement [of cession] but the public lands. And, if an express stipulation had been inserted in the agreement, granting the municipal right of sovereignty, and eminent domain to the United States, such stipulation would have been void and inoperative; because the United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain, within the limits of a State or elsewhere, except in cases in which it is expressly granted. ...
>
> "The provision of the Constitution above referred to shows that no such power can be exercised by the United States within a State. Such power is not only repugnant to the Constitution, but it is inconsistent with the spirit and intention of the deeds of cession."

Pollard v. Hagan, 3 How. 212, 223, 224 (1845)(alteration added for clarity).

Mr. Justice Thomas, in his dissenting opinion, in Taylor v. United States, 136 S.Ct. 2074, 2082-2083 (2016), correctly pointed out that the Constitution "expressly delegates to Congress authority over only four specific crimes," ibid., which was first expressed by Chief Justice Marshall, in McCulloch v. Maryland, 4 Wheat. 316, 416-417 (1819), and since has been repeated by this Court, for example:

> "Congress is expressly authorized "to provide for the punishment of counterfeiting the securities and current coin of the United States, and

to define and punish piracies and felonies committed on the high seas and offenses against the laws of nations." It is also empowered to declare the punishment of treason, and provision is made for impeachments. This is the extent of power to punish crime expressly conferred."

Knox v. Lee and Parker v. Davis, 79 U.S. 457, 535 (1871).

As to the enforcement of the criminal laws not enumerated in the Constitution, such as bank robbery, this Court made clear how Congress can exercise its "dual authority" when it comes to conferring jurisdiction in the federal courts within the District of Columbia, it was written:

"In dealing with the District, Congress possesses the powers which belong to it in respect of territory within a state, and also the powers of a state. ... "In other words," this court ... said, "it possesses a dual authority over the District not only with the jurisdiction and powers of federal courts in the several States but with such authority as a State may confer on her courts."

O'Donoghue v. United States, 289 U.S. 516, 545 (1933)(citations omitted).

Thus, those courts operating within the District of Columbia may be vested with, in addition to the "judicial Power" of a federal court, criminal jurisdiction as well, that Congress cannot confer upon those Article III "inferior" federal courts outside the District, as was made clear when it found:

"We think a reasonable and correct view of the subject would indicate that, in the creation and organization of the superior courts of the District of Columbia, Congress has availed of its dual constitutional right in the first place to establish courts of law and invest them, as it has, with power and jurisdiction over all cases and controversies which, under the authority of article 3, it has invested the district courts of the United States, and, in the second place, in the exercise of the power of a sovereign state, under the provisions of § 8 of article 1, has further imposed upon them jurisdiction and power which it cannot impose upon other like courts functioning outside the District. There is no inhibition in the Constitution against the exercise by Congress of this dual power, arising as it does out of an express grant in the one case (article 3) and an implied grant in the other (article 1, § 8), nor does its exercise in the one case exhaust its power and prevent its exercise in the other, and therefore we assume, when Congress created the two courts—the District Courts of the United States and the Supreme Court of the District of Columbia—and gave to each, within its own sphere, identical jurisdiction, that it drew its power from the same source, even though it was necessary it should have recourse to another provision of the Constitution in order to clothe the courts at the seat of government with other and additional authority not permissible under article 3."

Id., 289 U.S., at 547-548 (internal quotation marks and citation omitted).

In closing its opinion, and relying on prior holdings, the Court clearly reiterated:

> "The Keller Case we have already discussed. It simply holds that in virtue of its dual power over the District, Congress may vest non-judicial functions in the courts of the District. We find nothing in that decision which cannot be reconciled with what we have here said. In the case of Postum Cereal Co. the court follows the Keller Case in holding that administrative or legislative functions may be vested in the courts of the District, but adds that this may not be done with any federal court established under Art. 3 of the Constitution. Taken literally, this seems to negative the view that the superior courts of the District are established under Art. 3. But the observation, read in the light of what was said in the Keller Case in respect of the dual power of Congress in dealing with the courts of the District, should be confined to federal courts in the states as to which no such dual power exists; and thus confined, it is not in conflict with the view that Congress derives from the District clause distinct powers in respect of the constitutional courts of the District which Congress does not possess in respect of such courts outside the District."

Id., 289 U.S., at 550-551.

The bottom line, as is inferred by the previous cases cited herein, the district court in which Petitioner was prosecuted, convicted in, and sentenced to imprisonment had no constitutionally valid jurisdiction over him, and much less over the subject-matter for conduct not within the Constitution for federal powers reach, when committed within a sovereign State that has its own laws to enforce the conduct of bank robbery in its own courts of justice.

Further illustrating that, even when certain United States Code federal offenses are committed within areas of exclusive jurisdiction of Congress, such as an enclave or even a military camp of the United States Army, may not be enforced or prosecuted by a court of the United States, in the absence of following certain statutory procedural requirements to confer upon the United States jurisdiction over the conduct, and the persons charged with a federal crime, is the case of Adams v. United States, 319 U.S. 312 (1943). In that case, three soldiers from Camp Claiborne raped a civilian woman within Camp Claiborne on May

10, 1042, within the jurisdiction of the United States District Court for the Western District of Louisiana, and the defendants objected to the prosecution on the ground that the United States had no jurisdiction, since the Government had not accepted criminal jurisdiction over the camp as required by the Act of Congress for the acquisition of jurisdiction over conduct committed within the Army Camp. This Court observed:

> "The Act of October 9, 1940, 40 USCA § 255, 9A FCA title 40, § 455, passed prior to the acquisition of the land on which Camp Claiborne is located, provides that United States agencies and authorities may accept exclusive or partial jurisdiction over lands acquired by the United States by filing a notice with the Governor of the state on which the land is located or by taking other similar appropriate action. The Act provides further: "Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, it shall be conclusively presumed that no such jurisdiction has been accepted." The government had not given notice of acceptance of jurisdiction at the time of the alleged offense.
>
> "The questions certified [to this Court] are as follows:
>
> "1. Is the effect of the Act of Oct. 9, 1940, above quoted, to provide that, as to lands within a State thereafter acquired by the United States, no jurisdiction exists in the United States to enforce the criminal laws embraced in United States Code 18, Chapter 11, and especially § 457 relating to rape, by virtue of § 451, Third, as amended June 11, 1940, unless and until a consent to accept jurisdiction over such lands is filed in behalf of the United States as provided in said Act?
>
> "2. Had the District Court of the Western District of Louisiana jurisdiction, on the facts above set out, to try and sentence the appellants for the offense of rape committed within the bounds of Camp Claiborne on May 10, 1942?"

Id., 319 U.S., at 313 (alteration added for clarity).

After discussing the circumstances, and examining the law in relation to the requirements for acceptance of jurisdiction over the territory within the State of Louisiana, the Court announced:

> "Since the government had not accepted jurisdiction in the manner required by the Act, the federal court had no jurisdiction of this proceeding. In its view it is immaterial that Louisisana statutes authorized the government to take jurisdiction, since at the critical time the jurisdiction had not been taken.
>
> "Our answer to certified question No. 1 is Yes and to question No. 2 is No.
>
> "It is ordered."

Id., at 315 (citations omitted).

Just as with the State of Louisiana, in the Adams case, the State of Iowa similarly has relevant statutes, enacted pursuant to the Constitution of the State of Iowa, for ceding jurisdiction to the United States of land within the boundaries of the State, and the only places in which the United States may exercise jurisdiction to enforce laws of the United States is only within those parcels of lands the State has actually ceded to the Federal Government, with the consent of the Legislature of the State, and approved by the Governor of the State, as permitted under U.S.Const., Art. I, § 8, cl. 17, and consistent with the relevant statutes of the State of Iowa. See APPENDIX G, setting out the relevant and applicable laws of the State of Iowa regarding cession of lands to the United States by the State. After all, the federal courts take judicial notice of state laws and state constitutions as well. See, e.g., United States v. Schneider, 905 F.3d 1088, 1092 n. 1 (8th Cir. 2018)(notice of public records).

See also Kohrt v. Midamerican Energy Co., 364 F.3d 894 (8th Cir. 2003): "The Supreme Court of Iowa has stated that it looks to the Iowa Constitution and to Iowa statutes for both expressly stated and implied public policy." Id., at 899 (citation omitted).

In a case in this Court, expounding on the principles this case presents, that the Federal Government is precluded from exercising its laws within the boundaries of a State, and interpreting the provision that confers upon Congress "exclusive jurisdiction" only in enclaves the States have ceded over to the United States, and in which the State relinquishes jurisdiction over, the Court reiterated:

> "As heretofore stated, the constant declaration of this court from the beginning is that this government is one of enumerated powers. "The government, then, of the United States, can claim no powers which are not granted to it by the Constitution, and the powers actually granted must be such as are expressly given or given by necessary implication." ... "The government of the United States is one of delegated, limited, and enumerated powers." ...
>
> "Turning to the enumeration of the powers granted to Congress by the

8th section of the 1st article of the Constitution, it is enough to say that not one of them, by any implication, refers to the reclamation of arid lands. The last paragraph of the section which authorizes Congress to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof, is not the delegation of a new and independent power, but simply provision for making effective the powers theretofore mentioned. The construction of that paragraph was precisely stated by Chief Justice Marshall in these words ...: "We think the sound construction of the Constitution must allow to the national legislature that discretion, with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it, in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional,"—a statement which has become the settled rule of construction. From this and other declarations it is clear that the Constitution is not to be construed technically and narrowly, as an indictment, or even as a grant presumably against the interest of the grantor, and passing only that which is clearly included within its language, but as creating a system of government whose provisions are designed to make effective and operative all the governments powers granted. Yet, while so construed, it still is true that no independent and unmentioned powers passes to the national government or can rightfully be exercised by the Congress."

Kansas v. Colorado, 206 U.S. 46, 87-88 (1907)(citations omitted).

Therefore, it can fairly be said this argument focuses upon the Government's proof that venue was not correct, in charging a federal crime, for conduct not within the powers of Congress to legislate over, and for prosecution in an "inferior" federal court argued, and demonstrated, cannot be conferred with criminal jurisdiction when operating outside a federal enclave wherein Congress is authorized its dual powers to confer a district court with both Article III "judicial Power" over only actual cases and controversies expressly enumerated within the Article, as well as jurisdiction over criminal cases alleged to have occurred within such boundaries of a federal enclave.

In the Eighth Circuit, that Court has found:

"In a criminal case, the question of venue is not merely a legal technicality but a significant matter of public policy." ... "Proof of venue is an essential element of the Government's case," but "[u]nlike other elements of a crime ... venue need only be proved by a preponderance of the evidence."

United States v. Lopez, 880 F.3d 974, 982 (8th Cir. 2017)(internal quotation marks and citations omitted).

In this case, it would not matter whether venue of the district court was established by a preponderance of the evidence, or even beyond a reasonable doubt that the United States District Court, Southern District of Iowa, Council Bluffs was the court for which the offense would have had to be tried, since, first of all, the alleged act of the bank robbery was not alleged to have been committed within the limits of property of the United States, but within the boundaries of the sovereign State of Iowa, and it follows, as this Court made clear:

> "The government of the United States, as was well observed in the argument, is one of limited powers. It can exercise authority over no subjects except those which have been delegated to it. Congress cannot, by legislation, enlarge the federal jurisdiction, nor can it be enlarged under the treaty-making power. ...
>
> "Special provision is made in the Constitution for the cession of jurisdiction from the States over places where the federal government shall establish forts or other military works. And it is only in these places, or in the territories of the United States, where it can exercise a general jurisdiction. ...
>
> "[A State's] rights of sovereignty are the same, and by consequence no jurisdiction of the federal government, either for purpose of police or otherwise, can be exercised over this public ground, which is not common to the United States. It belongs to the local authority to enforce ....
>
> "All powers which properly appertain to sovereignty, which have not been delegated to the federal government, belong to the States and the people."

New Orleans v. United States, 10 Pet. 662, 736, 737 (1836)(citations omitted, alteration added for clarity).

See also, e.g., Van Brocklin v. Anderson, 117 U.S. 151 (1886):

> "The Articles of Confederation ceased to exist upon the adoption of the Federal Constitution; and the ordinance of 1787, like all Acts of Congress for the government of the Territories, had no force in any State after its admission into the Union under that Constitution. ...
>
> "Upon the admission of a State into the Union, the state doubtless acquires general jurisdiction, civil and criminal, for the preservation of public order and the protection of persons and property throughout its limits, except where it has ceded exclusive jurisdiction to the United States."

Id., 117 U.S., at 159, 167-168 (citations omitted).

In short, "jurisdiction, and sovereignty, are inseparable incidents, and remain so till the State makes some cession," because, "[a] cession of territory is essentially a cession of jurisdiction." Rhode Island v. Massachusetts, 12 Pet. 657, 733 (1838)(citations omitted).

The bottom line is that the Government's lack of jurisdiction over the area in which the purported federal offense of bank robbery was alleged to have occurred, within the sovereign territorial boundaries of the State of Iowa, was not within the district court's personal jurisdiction, and not within, therefore, the venue of the court below, and requires such declaration, in order to ensure that Petitioner's rights "that are embodied in the Federal Constitution" are protected, Harris v. Reed, 489 U.S. 255, 267 (1989)(Stevens, J., concurring), on the premise that this Court's "duty to protect the rights of the individual should hold sway over the interest in more effective law enforcement," Dalia v. United States, 441 U.S. 238, 263 (1979)(Stevens, J., with whom Brennan, and Marshall, JJ., join, dissenting), when it is shown, as it is here, that the Federal Government, being one of limited and enumerated powers, is constitutionally precluded in enforcing its criminal laws as they are, within the territorial boundaries of the sovereign States, all of which have their own laws that criminalize the conduct charged in this case, and for enforcement in their courts of justice.

B. An unconstitutional procedural Act of Congress the Framers restricted the Federal Government from legislating any additional limitations upon the Suspension Clause violates the substantive rules the Constitution places on Congress to both restrict enactment of any additional limitations on access to habeas corpus, as it restricts enacting criminal laws proscribing conduct not within the Federal Government's power to enforce and to punish thereunder.

Ever since this Court pointed out that substantive rules are the kind that place certain laws beyond a government's power to impose, as to criminal laws, Montgomery v. Louisiana, 136 S.Ct. 718, 729-730 (2016), it can be presumed the Constitution places express limits on other forms of legislation that the Framers

ensured would be considered being "[s]ubstantive rules" that "set forth categorical constitutional guarantess that place certain" provisions they drafted in a section of the Constitution that restricts Congress from altering the express reach of the subject-matter of the purpose for drafting such a provision in the particular section that leaves no doubt Congress cannot change the provision, unless the people themselves authorizes such changes to be made, in a properly passed constitutional amendment to, in this case, the Suspension Clause of the Constitution.

Taking an earlier case from this Court, it is easy to assume that the placement of certain subjects within certain sections of the Constitution, the Framers intended just such restrictions against altering the conditions they placed in the Suspension Clause, as can be inferred when this Court observed:

> "As Justice Marshall observed in his opinion for the Court in **Weaver v. Graham**, ..., the Ex Post Facto Clause not only assures that individuals have "fair warning" about the effect of criminal statutes, but also "restricts governmental power by restraining arbitrary and potentially vindictive legislation." ...
> "The Constitution's restrictions, of course, are of limited scope."

Landgraf v. USI Film Products, 571 U.S. 244, 266-267 (1994)(citation omitted).

Mr. Justice Story, in one of his Commentaries on the Constitution of the United States, in referring to the limited restrictions the Framers placed on suspending the writ of habeas corpus, observed:

> "We next come to the consideration of the prohibitions and limitations upon the powers of Congress, which are contained in the ninth section of the first article, passing by such, as have been already incidentally discussed. ...
> "The writ of **habeas corpus**, here spoken of, is a writ known to the common law, and used in all cases of confinement, or imprisonment of any party, in order to ascertain whether it is lawful or not. ... It is justly, therefore, esteemed the great bulwark of personal liberty, and is grantable, as a matter of right, to the party imprisoned. But as it had often, for frivolous reasons of state, been suspended or denied in the parent country, to the grievous oppression of the subject, it is made a matter of constitutional right in all cases, except when the public safety may, in cases of rebellion or invasion, required it. The exception is reasonable, since cases of great urgency may arise, in which the suspen-

sion may be indispensible for the preservation of the liberties of the country against traitors and rebels."

A Familiar Exposition Of The Constitution Of The United States, Joseph Story, LL.D., Chapter XXVI, §§ 221, and 224 (Harper & Brothers, Publ., 1859).

Relying on The Documentary History of the Ratification of the Constitution (DHRC), edited by Merrill Jensen, John P. Kaminski, et al, Professor Pauline Maier, in her book: Ratification: The People Debate the Constitution, 1787-1788 (Simon & Schuster, 2010), she wrote:

"The Constitution did not, like many state constitutiona, begin with a bill of rights, but Article I, Section 9, put some limits on the exercise of congressional power. Congress could not suspend habeas corpus except in cases of rebellion or invasion when the public safety required it; and it could not pass bills of attainder or ex post facto laws."

Ratification, supra, p. 32.

Researching the Pennsylvania debates, in which Robert Whitehill and John Smiley participated, she wrote of them:

"They pointed out that the Constitution did place some explicit limits on Congress's power: It could not suspend habeas corpus except in cases of rebellion or invasion, nor interfere with trial by jury in criminal cases. If, as [James] Wilson insisted, it was dangerous to enumerate some rights and not others, and the Constitution enumerated a few rights, then, logically, others also needed explicit protection. Without such protection, habeas corpus and trial by jury in criminal cases might "hereafter be construed to be the privileges reserved by the people.""

Id., p. 108, (relying on DHRC II: esp. 391-92 (Smiley), and 398 (Whitenill).

"By saying Congress could suspend habeas corpus only in cases of rebellion or invasion, the Constitution made it more secure. Invasions and rebellions were "facts of public notoriety," clear and indisputable. If there was no invasion or rebellion, habeas corpus could not be suspended."

Id., p. 189 (DHRC VI: Samuel Thompson, on habeas corpus, ppl 1353, 1359-60).

"Henry Lee's "persistent demands that the Constitution needed a bill of rights could not be dismissed so easily. Article I, Section 9, he observed, included "express restrictions" on Congress: It could not, for example, suspend habeas corpus "except when in Cases of Rebellion or Invasion the public Safety may require it," or pass bills of attainder and ex post facto laws."

Id., p. 284.

In Felker v. Turpin, 518 U.S. 651 (1996), this Court observed:

> "The writ of habeas corpus known to the Framers was quite different from that which exists today. As we explained previously, the first Congress made the writ of habeas corpus available only to prisoners under the authority of the United States, not under state authority. ...
>
> "It was not until 1867 that Congress made the writ generally available in "all cases where any person may be restrained of his or her liberty in violation of the constitution, or of any treaty or law of the United States." ... But we assume, for purposes of decision here, that the Suspension Clause of the Constitution refers to the writ as it exsits today, rather than as it existed in 1789."

Id., at 663, 663-664 (citations omitted).

When considering what the Court has instructed, for example, in South Carolina, supra, regarding placing "ouselves in the position of the mem who framed and adopted the Constitution, and inquire what they must have understood to be the meaning and scope of those grants" on Congress, as well as the limitations placed on it, there can be no question that they also provided for a manner of changing anything in the Constitution, by the people, "in whom under our system all political power and sovereignty primarily resides, and through whom such power and sovereignty primarily speaks[, and i]t is by that law, and not otherwise, that the legislative, executive, and judicial agencies which it created excercise such political authority as they have been permitted to possess." Carter, supra, 298 U.S., at 296. In this regard, the people have not spoken in any manner to permit the AEDPA to be enacted and place additional limitations or restrictions upon access to habeas corpus, under the conditions placed in 28 U.S.C. § 2255(f) et seq., and renders the AEDPA an unconstitutional act that must be struck down as such.

Although the issues presented may be considered of first impression, this Court's ability to review the claims first presented in an orginal petition for habeas corpus relief is not unfounded, as can be readily discerned when applying prior case opinions as a standard for consideration. For example, as to certiorari review considerations, this Court has found:

"In light of this fact and the standards governing the exercise of our discretionary power of review upon writ of certiorari, we have considered anew whether this case is one in which "there are special and important reasons" for granting the writ of certiorari, as required by Supreme Court Rule 19. ...

"A federal question raised by a petitioner may be "of substance" in the sense that, abstractly considered, it may present an intellectually interesting and solid problem. But this Court does not sit to satisfy a scholarly interest in such issues. Nor does it sit for the benefit of the particular litigants. ... "Special and important reasons" imply a reach to a problem beyond the academic or the episodic, for then there comes into play regard for this Court's duty to avoid decision of constitutional issues unless avoidance becomes evasion."

Rice v. Sioux City Cemetery, 349 U.S. 70, 73, 74 (1954)(citations omitted).

As Justice Thomas once observed, when it comes to addressing matters that could have an impact on hundreds, if not thousands, of similarly situated prisoners, especially, as this case presents, it would impact federal prisoners and defendants in the courts below, and the need to possibly overrule its prior constitutional decisions:

"It is time for this Court to do its part.

"This Court's duty to resolve this matter is particularly compelling, because we are the only court authorized to do so. ... And until we do so, countless [federal] criminal defendants will be denied the full protection afforded by the Fifth and Sixth Amendment, ... There is no good reason to allow such a state of affairs to persist."

Rangel-Reyes v. United States, 547 U.S. 1200, 165 L.Ed.2d 910, 912 (2006)(Thomas, J., dissenting from denial of certiorari)(alteration added for clarity, citation omitted).

When it comes to the Constitution as the Framers drafted it, and intended it to be construed and applied, those illustrious men who drafted the Constitution established the principle that must not "be lost sight of, that the government of the United States is one of limited and enumerated powers, and that a departure from the true import and sense of its powers is pro tanto to the establishment of a new Constitution. It is doing for the people what they have not chosen to do for themselves. It is usurping the functions of a legislator, and deserting those of an expounder of the law. Arguments drawn from impolicy

or inconvenience ought here to be of no weight." Myers v. United States, 272 U.S. 52, 182 (1926).

One District Court Judge said it nicely:

> "The judiciary owes considerable deference to the legislature's political policy where they are within the framework of the Constitution's grants and restrictions. When it fails to heed the limits on its own power, however, it must be checked, for there is no discretion in the legisture to suspend the Constitution at all, much less for its own aggrandizement. "Without that instrument, it is powerless as any other association of men," ...
>
> "Much of the opinions that exalt tolerance are given to chatter about 'coequal' branches and 'inconvenience' to the public interests. First, although the branches are three and equal, the Constitution is supreme. Second, the administrative inconvenience that would result from the invaldation of a major ... law, ... should concern the courts, but to those in power, the Constitution was meant to be a monumental inconvenience.
>
> "Courts are required occasionally to intrude into the working of the other branches, and they have been constitutionally obliged to impose the law on them from the beginning."

United States v. Hagen, 711 F.Supp. 879, 883 (S.D.Tex. 1989)(citation omitted).

The lessons this Court has been teaching from the start is very academic. It has instructed, since Marbury v. Madison, 1 Cranch 137 (1803), that the courts of the national government are entrusted with taking notice of acts of Congress that are alleged to not conform with the mandates in the Constitution, or that are not within the limits of the instrument, and has admonished:

> "Our deference in matters of policy cannot, however, become abdication in matters of law. "The powers of the legislature are defined and limited; and that those limits may not be mistaken, or forgotten, the constitution is written." ... Our respect for Congress's policy judgments thus can never extend so far as to disavow restraints on federal power that the Constitution carefully constructed. "The peculiar circumstances of the moment may render a measure more or less wise, but cannot render it more or less constitutional." ... And there can be no question that it is the responsibility of this Court to enforce the limits on federal power by striking down acts of Congress that transgress those limits."

Nat'l Fed'n, supra, 132 S.Ct., at 2579-2580 (citations omitted).

In this case, it has been demonstrated, using this Court's own case law, that the "laws of Congress" can only be enforced "only in the District of Columbia, and other places that are within the exclusive jurisdiction of the national government," Caha, supra; that only within the District of Columbia, and in the

Territories and possessions of the United States within the several States and out of the jurisdiction of said States can Congress exercise its dual power to confer both Article III jurisdiction, as well as jurisdiction that a State Legislature may confer upon its own courts of justice, such as criminal jurisdiction that Congress cannot confer upon Article III courts outside of those areas, O'Donoghue, supra, cf., Bevans, supra; and, therefore, "[i]n the absence of a properly passed constitutional amendment," U.S. Term Limits, Inc. v. Thornton, 514 U.S. 779, 838 (1995), by "the people themselves, in whom under our system all political power and sovereignty primarily resides," Carter, supra, 298 U.S., at 296, see also, e.g., Cohens v. Virginia, 6 Wheat. 264, 289 (1821)(discussing only the people can make changes on the provisions in the Constitution), and The Federalist No. 49 (J. Madison)(same), "would thus erode the structure envisioned by the Framers, a structure that was designed, in the words of the Preamble to our Constitution, to form a "more perfect Union."" U.S. Term Limits, ibid.

With all these demonstrated claims that the Government has, for scores of years, been enforcing its purported criminal laws within the territorial boundaries the Constitution, under the "equal footing" doctrine the Framers established therein, that is supposed to protect the States against federal encroachment upon their trritorial integrities, when the Government enforces its own laws within those sovereign States that have their own laws against the same criminal conduct the Constitution, by enumerating the powers of the Federal Government, does not confer upon Congress authority to legislate over the conduct charged, it is incumbent that this Court take such notice of these constitutional and jurisdiction violations committed by the Government, and strike down all the acts of Congress mentioned in this Petition that demonstrate are being used to deprive Petitioner of his liberty, by unlawful means. See, e.g., McIntyre Mach.,

Ltd. v. Nicastro, 131 S.ct. 2780, 2786-87 (2011)(discussing the Due Process Clause protects an individual's right to be deprived of his liberty "only by the exercise of lawful power," which infers constitutionally-valid power).

Because Petitioner has presented more than sufficient evidence of the illegality of his unconstitutional conviction, in a federal court shown not to be capable of being conferred with criminal jurisdiction, when sitting outside an enclave or area the United States enjoys exclusive jurisdiction to enforce its purported federal criminal laws; on charges that it is demonstrated Congress is not constitutionally authorized to enact in the absense of proper amendments to the Constitution increasing the powers of Congress to reach such conduct for nationwide enforcement, such as are already provided for in the enumeration of the only conducts the United States has nationwide jurisdiction over, listed in U.S.Const., Art. I, § 8, cls. 6 and 10, and Art. III, § 3, cl. 2, the following statements by this Court is not only relevant but apropos, as to what this Court's duty and responsibility is as to providing redress in just circumstances the resolution of this case will have on the entire Nation, when it wrote:

> "The complete independence of the courts of justice is peculiarly essential in a limited Constitution. By a limited Constitution I understand one which contains certain specific exceptions to the legislative authority; such, for instance, as that it shall pass no bills of attainder, no ex post facto laws, and the like. Limitations of this kind can be preserved in practice in no other way than through the medium of the courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing."
>
> "At a later period John Marshall, whose rich experience as a lawyer, legislator, and chief justice enabled him to speak as no one else could, tersely said (Debates Va. Conv., 1829-1831. pp. 616, 619):
>
> "Advert, sir, to the duties of a judge. He has to pass between the government and the man whom that government is prosecuting: between the most powerful individual in the community, and the poorest and most unpopular. It is of the last importance that, in the exercise of these duties, he should observe the utmost fairness. Need I press the necessity of this? Does not every man feel that his own personal security and the security of his property depends on that fairness? The Judicial Department comes home in its effects to every man's fireside: it passes on his property, his reputation, his life, his all. Is it not to the last degree

important that he should be rendered perfectly and completely independent, with nothing to influence or control him but God and his conscience? ... I have always thought, from my earliest youth till now, that the greatest scourge an angry Heaven ever inflicted upon an ungrateful and a sinning people was an ignorant, a corrupt or a dependent judiciary."

"More recently the need for this independence was illustrated by Mr. Wilson, now the President, in the following admirable statement:

"It is also necessary that there should be a judiciary endowed with substantial and independent powers, and secure against all corrupting or perverting influences; secure, also, against the arbitrary authority of the adminstrative heads of the government.

"Indeed, there is a sense in which it may be said that the whole efficacy and reality of constitutional government resides in its courts. Our definition of liberty is that it is the best practicable adjustment between the powers of the government and the privileges of the individual.

"Our courts are the balance wheel of our whole constitutional system; and ours is the only constitutional system so balanced and controlled. Other constitutional systems lack complete poise and certainty of operation because they lack the support and interpretation of authoritative, undisputable courts of law. It is clear beyond all need of exposition that for the definite maintenance of constitutional understandings it is indispensible, alike for the preservation of the liberty of the individual and for the preservation of the integrity of the powers of the government, that there should be some nonpolitical forum in which those understandings can be impartially debated and determined. That forum our courts supply. There the individual may assert his rights; there the government must accept definition of its authority. There the individual may challenge the legality of governmental action and have it adjudged by the test of fundamental principles, and that test the government must abide; there the government can check the top aggresive self-assertion of the individual and establish its power upon lines which all can comprehend and heed. The constitutional powers of the courts constitute the ultimate safeguard alike of individual privilege and of governmental prerogative. It is in this sense that our judiciary is the balance wheel of our entire system; it is meant to maintain that nice adjustment between individual rights and governmental powers which constitutes political liberty." Constitutional Government of the United States, pp. 17, 142."

Evans v. Gore, 253 U.S. 245, 250-252 (1920)(internal quotation marks and citation omitted (quoting Marshall, C.J.)).

The principle that, under our constitutional form of government, duly it was found: "it may be a defect in our political institution, it may be an inconvenience in the administration of justice, that the common law authority, relating to crima and punishments, has not been conferred upon the government of the United States, which is a government in other respects also of a limited jurisdiction," United States v. Worrall, 2 U.S. 384, 394, 1798 U.S.App. LEXIS 16, 1 L.ed. 426 (1798), and renders this conviction void and requiring reversal on remand,

merely because a criminal conviction rendered by a court of a sovereign, such as the United States, cannot be conferred with criminal jurisdiction when such a court sits outside the exclusive legislative jurisdiction of Congress it only has a dual authority within such exclusive jurisdiction to confer the federal courts with both Article III, § 2, jurisdiction, as well as jurisdiction such as a State could confer upon its own courts that outside the exclusive enclave areas Congress cannot confer upon Article III courts with jurisdiction over criminal cases at all, as the arguments in this Petition argues, with this Court's own case law being depended upon for just such proposition and constitutional principle.

And the only way Congress can confer upon Article III courts sitting outside exclusive jurisdictional areas with additional jurisdiction, such as criminal jurisdiction over federal crimes, is if the people themselves authorize the expansion of the "judicial Power" of the United States, in a properly passed constitutional amendment, and an amendment of the Constitution to allow for the enforcement of any federal criminal law, besides those expressly enumerated that may be enforced nationally, as Chief Justice Marshall declared in **McCulloch, supra,** and repeated in **Knox v. Lee, supra,** and reiterated by Justice Thomas, in **Taylor, v. United States, supra** (dissenting opinion by Justice Thomas), and establishes beyond question that the Founding Fathers chose to leave robbery of any kind, being a common law offense, to the States, even of bank robbery, and makes the application of 18 U.S.C. § 2113 in a purported bank robbery alleged to have been committed within a sovereign State the matter for enforcement by the State under its laws, and in their courts of justice, under the principles of federalism the Constitution established, and this Court announced in its recent cases in both Bond cases: **Bond v. United States ("Bond I")**, 131 S.Ct. 2355 (2011); and **Bond v. United States ("Bond II")**, 134 S.Ct. 2077 (2014), and need not be repeated here.

Suffice it to say that, just as was said in Davis, supra, this Court would exercise its discretionary jurisdictional powers to prevent the "substantial risk of putting an innocent man to death clearly provides an adequate justification for holding an evidentiary hearing" (a) in a court below, this Court should also consider exercising its discretionary jurisdictional powers in a case that presents "exceptional" reasons "to warrant utilization of this Court's Rule 20.4(a), 28 U.S.C. § 2241(b), and ... original habeas corpus jurisdiction," Davis, supra, on the demonstration that the federal conviction cannot stand, for the principles and matters of law the Constitution has established, that is suppose to keep both the States and the Federal governments within their own spheres of jurisdiction, and where the provisions of the AEDPA are shown to be unconstitutional, for the same constitutional principles that the Framers placed the Suspension Clause in Section Nine of Article I of the Constitution, that is suppose to be a restrictive barrier against Congress enacting any additional restrictions against the access to the Great Writ, other than making the Writ more readily accessible to petitioners, instead of placing a so-called "gatekeeping" provision that does exactly what the Framers did not intend for Congress to do—restrict the access to habeas corpus relief by any petitioner, and requires the striking down of the AEDPA upon such showing that has been made in this Petition.

CONCLUSION

The petition for writ of habeas corpus should be granted.

Dated: 8-30, 2019.

Respectfully submitted,

Nathan W. S

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