

No. 19-7254  
in re:

WA Supreme Ct. #97564-7 & WA CoA #53515-7-II & WA Superior Ct. #13-1-01035-6

IN THE

SUPREME COURT OF THE UNITED STATES

**ORIGINAL**

JOHN GARRETT SMITH — PETITIONER  
(Your Name)

FILED  
DEC 23 2019

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

vs.  
State of Washington — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Washington State Supreme Court  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

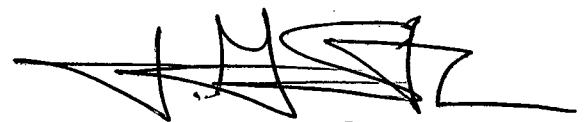
PETITION FOR WRIT OF CERTIORARI

John Garrett Smith  
(Your Name) #351176

191 Constantine Way  
(Address)

Aberdeen, WA 98520  
(City, State, Zip Code)

541.547.5189  
(Phone Number)

  
12.22.19

### QUESTION(S) PRESENTED

(1) Is it lawfully permissible for a State to knowingly breach three (3) core prongs of Amendment V of the U.S. Constitution (12.15.1791) by indicting and convicting a U.S. Citizen under:

- (a) sheer absence of a Grand Jury (along with the sheer absence of ANY ratified indictment document pertaining to the charge for which that Citizen remains imprisoned in ultra-vires action),
- (b) admitted Double Jeopardy (reference trail of lower court proceedings attached herein), and
- (c) deprivation of Liberty and Property "without Due Process of Law", as manifest by State's initial theft of Citizen's Identity and Properties (personal, corporate and Intellectual), followed by State's theft of Citizen's Liberty in the complete and utter absence of any judicially-ratified charging instrument as redundantly required under Due Process of Law?

~~HS~~

## 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:

## RELATED CASES

in re: WA Supreme Court # 97564-7,  
WA Court of Appeals # 53515-7-II, and  
WA Superior Court (of Clark County)  
# 13-1-01035-6.

*[Handwritten signature]*

## TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	3
STATEMENT OF THE CASE .....	4
REASONS FOR GRANTING THE WRIT .....	5
CONCLUSION.....	6

## INDEX TO APPENDICES

APPENDIX A /	Original (GR7.8) Motion for Relief by Petitioner	(4.11.19)
APPENDIX B /	Clark County <u>ORDER</u> of Transfer to CoA	(4.23.19)
APPENDIX C /	Motion for P.R.P. & Notice of Clark County's Fraud	(4.26.19)
APPENDIX D /	CoA's Receipt as P.R.P.	(6.3.19)
APPENDIX E /	Clark County Response to PRP including concession of Dbl. Jeopardy	(7.29.19)
APPENDIX F /	Reply Brief by Petitioner, including Address of Invalid JPS for Redundant Denial of Due Process	(8.5.19)
APPENDIX G /	CoA Transfer to WA Supreme Court <u>ORDER</u> & Receipt	(8.21.19)
APPENDIX H /	WA Supreme Court Receipt of Transfer and Motion to "Correct Significant Error" w/ To Void JPS for Absence of Ratified Prob. Cause (No Due Process)	(8.29.19)
APPENDIX I /	WA Supreme Court Date Set	(10.21.19)
APPENDIX J /	WA Supreme Court <u>ORDER</u>	(12.4.19)

(#) = lower court Orders)

JPS

# TABLE OF AUTHORITIES CITED

## CASES

## PAGE NUMBER

- 'Blockburger v. US', 284 US 299, 304, 76 L. Ed 306, 52 S. Ct. 180 (1932) ~~Appendix~~ ~~Table~~ A
- 'US v. Langelle', 776 F.2d 1078, 1081 (2d Cir. 1985) Appendix A
- 'State v. Reed', 100 Wn App. 776, 998 P.2d 897, 2000 Wash. App. LEXIS 749 (Wa. Ct. App. 2000) Appendix A
- 'State v. Wade', 133 Wn App. 855, 869-70, 138 P.3d 168 (2006) Appendix C
- 'Tosco', 236 F.3d 495, 499 (9th Cir. 2001) P. 5
- 'Autore v. Atlas', 66 F.3d 105, 6th Cir. (1995) P. 5

## STATUTES AND RULES

- US Constitution, Amendments. 4, 5 & 14, P. 3...
- FRCP 60(b)(4), 4.1(6)(A), 4(b)(1)(D),
- CR 12(b)(1),
- 42 CJS 8
- CrR 3.2.1(a)(1)(b), (f)(1)(2), 2.2(a), (f); 7.8(b)(5)
- RCW 4.24.350, 4.32.170, 9.98.020, 9.94A.585(5), 10.73.090(1), 10.73.100(5)

## OTHER

HS

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 \_\_\_\_\_ 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

- ☐ 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 4 to the petition and is

- ☒ reported at No. 97564-7, 12.4.19 in WA Supreme Court; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the WA Court of Appeals court appears at Appendix 9a to the petition and is

- ☒ reported at No. 53515-7-II, 8.21.19; 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 \_\_\_\_\_.

☐ 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 12.4.19.  
A copy of that decision appears at Appendix 3.

☐ 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). JAS

JAS

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The 5<sup>th</sup> Amendment specifically and incontrovertibly prohibits ultra-vires actions by States, such as convictions executed in the absence of valid indictment instruments that are only attainable by means of judicial ratification (manifest as mandatory "court determination" in the form of judicial SIGNATURE, criminal proceeding carried out without a Grand Jury, or where a defendant is subject to Double Jeopardy for the same alleged act. Here, the State of Washington is in direct breach of all three (3) of these 5<sup>th</sup> Amendment pillars, in addition to the following statutes that bolster them:

FRCP 60(b)(4), 4.1(6)(A), 4(b)(1)(D)

CR 12(b)(1)

42 CJS § 8

CR 3.2.1 (a)(b), (f)(1)(2), 2.2(a), (f); 7.8(b)(5)

RCW 4.24.350, 4.32.170, 9.98.020, 9.94A.585(5), 10.73.090(1), 10.73.100(5)

Due Process Protections in the 4<sup>th</sup> & 14<sup>th</sup> Amendments remain grossly violated.



### STATEMENT OF THE CASE

In June of 2013, State arrested Petitioner on the charge of assault. In ~~December~~ December of 2013, State alleged Petitioner had committed attempted murder, yet utterly failed to ever (let alone timely) ratify this "amended" indictment. By various Code, Statute & Case Law provided herein and to all State courts ad nauseum, State's ultra-vires, sans-jurisdiction, arbitrary restraint of Petitioner for a thoroughly unsatisfied cause violates the immovable 5th Amendment Due Process guarantee, along with the breaches of the 4th & 14th Amendment prohibitions on denial of Justice and equality under Law.

Therefore, effective 12.11.13 (the date upon which State commenced its illegal, arbitrary restraint from an arraignment where the presiding judge purposefully refused to sign a bogus, police-fabricated hoax statement for scienter of fraud), through the false/fraudulent conviction of Petitioner in December of 2014, carrying on to this day, State is repetitively violating the Laws described in page 3.

Regarding the absence of jurisdiction for want of valid probable cause, State has refused to Respond. Regarding absence of Grand Jury, Washington State is operating contrary to core tenets of the United States. Regarding Double Jeopardy, State has averred, yet clings to its ultra-vires restraint of Smith.

- 4 -

## REASONS FOR GRANTING THE PETITION

- "State must prove jurisdiction in order to survive motion", 'Tosco', 236 F.3d 495, 499 (9th Cir 2001). The 4th, 5th & 14th Amendments ~~plus~~ the plethora of statutes cited make NO allowance for ultra-vires adjudication executed in defiance of Due Process assurances.

"Not only is it the non-discretionary requirement to immediately grant relief upon this notice of breach of Due Process, but it is per se Abuse of Discretion for Court to deny movant's motion to vacate judgment under FRCP (60)(b)(4)", 'Antoine v. Atlas', 66 F.3d 105 (6th Cir., 1995).

- State has averred its violation of Double Jeopardy prohibition. Per law cited in Appendix A's initial argument and the 5th Amendment, State is NOT granted the luxury of breaching Double Jeopardy, admitting it, and then merely picking its preferred conviction without consequence.

Statutory and case law demand a fair Re-Trial founded on Just Due Process (e.g. only ratified probable cause) under the 4th, 5th & 14th Amendments. The gross and admitted violation of the Merger Doctrine by trial Court unduly and unlawfully

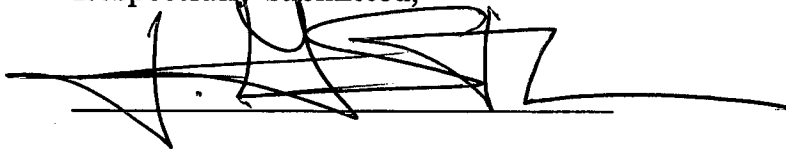
prejudiced the Petitioner.

Total Re-trial is the only sound, complete and lawful remedy, and ANY inference that Smith's claim or right is anything less only compounds that prejudice.

#### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature, possibly reading "J. Smith", written over a horizontal line.

Date: 12.22.19  
1st Day of Chaukah