

No. 19-8148

IN THE
SUPREME COURT OF THE UNITED STATES

BRENT DOUGLAS COLE, PETITIONER,

v.

UNITED STATES OF AMERICA, RESPONDENT,

on petition for writ of certiorari to the
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

From Appeal No. 19-10019

PETITION FOR REHEARING

PETITIONER: BRENT D. COLE

Reg. No. 71911-097

P. O. BOX 1000 (FCI OXFORD)
OXFORD, WI 53952

Propria Persona,
A living breathing man.

PETITION FOR REHEARING

The Petitioner, hereinafter COLE, comes before this Court humbly and honestly and prays this Court will rehear the petition and reverse its decision to deny the Petition issued April 27, 2020, APPENDIX 1, attached. It was said:

"We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given." Ex parte Young, 209 U.S. 123, 143.

COLE asserted he is a public Minister and this Court has original Jurisdiction of this case under Art. III, § 2, cl. 2, which is necessarily exclusive jurisdiction given by the U. S. Constitution, citing Ames v Kansas, 111 U.S. 449, 464 (1884);

"It thus appears that the first Congress, ..., did not understand that the original jurisdiction vested in the Supreme Court was necessarily exclusive." That jurisdiction included all cases affecting ambassadors, other public Ministers and consuls, and those in which a State was a party."

There has been steadfast refusal by the lower courts to permit any discussion or examination of jurisdiction or constitutionality of laws.

There has been no attempt to affirmatively show jurisdiction, or consent given.

COLE's Oath and Affidavit of standing are Appendix 12 of the Certiorari petition.

The lower courts are lawfully unable to obtain jurisdiction over my person and:

"[N]o State can exercise direct jurisdiction and authority over persons or property without its territory." Shaffer v Heitner, 433 U.S. 186, 197, 53 L.Ed.2d 683, 975 Ct 2569 (1977); Daimler A.G. v Bauman, 571 U.S. 117, 2014 U.S. LEXIS 644.

The Federal district court exercised its jurisdiction without its territory unlawfully.

This Court's denial (Appx. 1), April 27, sanctions the lower court's failure to determine if it has jurisdiction and/or to enforce the rule of law. It ratifies failure to turn aside attempts to substitute the mere will of officials and official bodies for allowable official discretion and standing law as a rule of human conduct. It enables willfull and wanton violation of fundamental Constitutional rights by the courts, with impunity. It sanctions lawless violence and fraud on the court. See Jones v Securities and Exch. Com., 298 US 1, 23, 24, 80 LEd 1015 (1936). Constitutional command imposes a duty "to enforce the rule of law through an exercise of the judicial power."

Michigan v EPA, 192 LEd 2d 674 n1, 2015 U.S. LEXIS 4256.

"[W]here the judge, acting without the defendant's ^{<# pg. 80>} consent aborts the proceeding, the defendant has been deprived of his 'valued right to have his trial completed by a particular tribunal.'" United States v Scott, 437 US 82, 99, 57 LEd 2d 65 (1978).

"[W]here jurisdiction has attached to person or thing, it is - unless there is some provision to the contrary - exclusive in effect until it has wrought its function." Taylor v Taintor, 16 Wall 366, 370, 21 LEd 287, 290.

"Without jurisdiction the court cannot proceed at all in any cause. . . . [E]very federal appellate court has a special obligation to 'satisfy itself not only of its own jurisdiction, but also that of the lower courts in a cause under review,' even though the parties are prepared to concede it." Steel Co. v Citizens for Better Env., 523 US 83, 94-95, 140 LEd 2d 210 (1998).

State and Federal Executive Branch Officers conspired and made unlawful judicial decisions that were effected by the trial court, which were sanctioned above.

Proof of Petitioner's claims and assertions is attached as Appendices to the Petition For Writ Of Certiorari, abbreviated (Ap. #), evincing:

1. Executive Branches, State and Federal, conspired against rights 07/09/2014 agreed to a conspiracy (18 USC. § 241), and committed overt acts in furtherance (Ap. 6-7).
2. The Federal court effected judicial decisions of the conspiracy (Ap. 8), and
3. instituted prosecution without indictment or witness by hearsay complaint (Ap. 9).
4. State charges for the same act were nolle prosequi in absentia COLE 7 days later. See APPENDIX 2, attached, Warrant and M6 Minutes.
5. Criminal charges instituted Jan. 27, 2014 for exercise of Second Amendment right were dismissed May 25, 2018 in absentia COLE (see Ap. 10&11), at prosecutor's request.
6. COLE's Answer filed June 5, 2014 in M14-0388 was removed from the court's file by August 14, 2014, and apparently destroyed (Ap. 13), a felony per 18 USC § 1512(c).
7. War crimes under § 2441 were committed by Officers involved in the shooting (Ap. 14).
8. FBI Agent FORRISTEL proffered a perjured affidavit to the district court in violation of 18 USC. §§ 1001, and 1621 (Ap. 15) concealing five (5) witnesses and two police reports to deceive the court. (See Ap. 16). A new trial was denied. See APPENDIX 3, attached, Affidavit of FORRISTEL, LILLER's Report, File #2665-SC-5039057
9. State charges were instituted June 25, 2014 for the same act, first (Ap. 20).
10. Prosecution for the "crimes" of exercising Second Amend. right began 1/27/14 (Ap. 21).
11. FORRISTEL's Affidavit was proffered March 1, 2019 in the OPPOSITION, and used (Ap. 22).
12. CHP's separate investigation was and still is concealed, hiding the truth (Ap. 23).

THE ESSENCE OF JUDICIAL DUTY

The Petitioner, COLE, quotes or cites the Court instead of using only his words to affirm the veracity of what is said by the Court's authority.

"It is the duty of the Courts to enforce the rule of law..."
Louisville & N.R. Co. v. Garrett, 231 U.S. 298, 313, 58 L.E.D. 229 (1913).

"In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our government is the potent omnipresent teacher. For good or ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy.... Against that pernicious doctrine this Court should resolutely set its face." Olmstead v. United States, 277 U.S. 438, 485, 72 L.Ed. 944, 48 S.Ct. 564 (1928).

"The prior exclusive jurisdiction doctrine serves as "a mandatory jurisdictional limitation" rather than a discretionary abstention rule." Chapman v. Deutsche Bank Nat'l Trust Co., 651 F. 3d 1039, 1043-1044, 2011 U.S. App. LEXIS 12693 (9th Cir.) [Relying on Palmer v. Texas, 212 U.S. 118, 125 (1909).] See Marshall v. Marshall, 547 U.S. 293, 311, 164 L.Ed. 2d 480 (2006). See In the custody of the law, in custodia legis.

"[W]here the jurisdiction of the state has first attached, the federal court is precluded from exercising its jurisdiction over the same res to impair or defeat the state court's jurisdiction." Kline v. Burke Const. Co., 260 U.S. 226, 229, 67 L.E.D. 226 (1922).

"[T]he writ ad prosequendum was necessary to remove a prisoner in order to prosecute him in the proper jurisdiction where in the offense was committed.... [Blackstone] recognized the customary issuance of the writ ad prosequendum by a jurisdiction not the same as that where in the prisoner was confined." Carbo v. United States, 364 U.S. 611, 614-618, 5 L.Ed. 2d 329 (1961).

"It is emphatically the province and duty of the judicial department to say what the law is." Marbury v. Madison, 1 Cranch 137, 177 (1803).

CONCLUSION

California instituted charges Jan. 27, 2014 against COLE for exercise of Second Amendment rights, then refused to allow a Constitutional challenge to State penal codes. Cole filed his Answer June 5, 2014, invoking authority as a statutory Officer of the United States under §1961(10), The D.A. was ordered to respond. The pleading was removed from the court's file, and no attempt made to respond. A violent alteration was instigated nine (9) days later, wherein COLE was shot five (5) times.

Although testimony reveals that the involved officers were engaged in an amicable conversation with him, and said nothing of intent to arrest, they suddenly pulled handcuffs and a gun on COLE, but claim he attacked them first. State charges were instituted, bail was denied, and the travesty of justice began.

COLE was kidnapped by FBI Agent Forristel Sept. 24, 2014, and carried into a foreign jurisdiction without notice, citation, or due process of law. He was haled into the Federal court, denied locus standi and the right to be heard. Counsel was forced upon COLE and he was denied a fair trial and appeal. The trial court had no lawful jurisdiction, but entered a sentence of death by incarceration. This Court has exclusive jurisdiction. Will rule of law Reign?

Petitioner prays this Court will reverse its decision to deny his Petition. I hereby swear under penalty of perjury that the foregoing is true and correct.

Executed on May 14, 2020 Brent D. Cole, #71911-097

at Oxford Wisconsin P.O. BOX 1000, OXFORD, WI 53952

PETITION FOR REHEARING PAGE 5 OF 5 - COLE V U.S.

CERTIFICATION

The Petitioner is pro se and hereby certifies that this petition is presented in good faith, and is not for delay. The controlling effect of this Court's original Jurisdiction being applicable to this case makes it controlling because it is necessarily exclusive, Marbury v Madison, 1 Cranch 137, 174; and is in support of this Court's appellate jurisdiction, as there is no bar to bringing it before the Court's cognizance in that form; However, "it cannot be exercised in its appellate form, or both, where it is given to this Court by the Constitution.

Osborne et al, v The Bank of the United States, 9 Wheat 738, 820,

6 LBD 204 (182?).

Brent D. Cole

Brent D. Cole, Reg. No. 71911-097

Executed on May 15, 2020
at Oxford Wisconsin

P.O. BOX 1000

OXFORD, WI 53952

**Additional material
from this filing is
available in the
Clerk's Office.**