

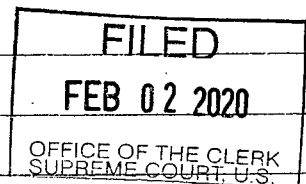
In The
Supreme Court of the United States

19-8626 ORIGINAL
Case No. _____

In Re: Thomas Reid DeCarlo

Petitioner, pro-se

Petition for a Writ of Habeas Corpus
authorized by 28 USC § 1651(c) and § 2241(c)(3)



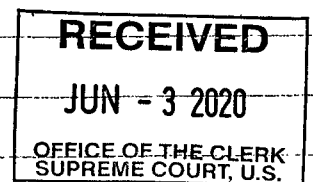
Petitioner

Thomas Reid DeCarlo, 18885-076

United States Penitentiary Marion

P.O. Box 1000

Marion, IL 62959



Questions Presented

1) Do Citizens who have been injured by an Act of Congress that has been enacted in Violation of the Commands of the Constitution have a Right to be a Checks and Balances to check and restrain government?

2) When a case or controversy comes within the judicial competence, the Constitution does not permit judges to look the other way, shouldn't you call foul when constitutional lines are crossed?

3) Does the Constitution of the United States define and limit Congress and its Members powers and authority?

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Article VI

"This Constitution shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby: The Senators and Representatives shall be bound by Oath or Affirmation, to support this Constitution."

Statutory Provisions Involved

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Whoever crosses a state line with intent

28 USC § 1651(a)

Authority to issue all writs necessary or appropriate to aid of [its] respective jurisdictions and agreeable to the usage and principle of Law.

28 USC § 1746

Unsworn declaration under penalty of perjury

28 USC § 2241(c)(3)

(c) The writ of habeas corpus shall not extend to a prisoner unless -

(3) He is in custody in violation of the Constitution or laws or treaties of the United States.

28 USC § 2244(a)(3)(D)

(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the Motion.

In The
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Case No. _____

In Re: Thomas Reid DeCarlo

Petitioner, pro-se

Petition for a Writ of Habeas Corpus
authorized by 28 USC § 1651(a) and § 2241(c)(3)

Jurisdiction Statement

This Honorable Supreme Court and/or any Justice therefore, is vested with the authority to Grant writs, under 28 USC § 1651(a) to "issue all writs necessary or appropriate in the aid of [its] respective jurisdictions and agreeable to the usage and principles of law", and 28 USC § 2241(c)(3) (c) The writ of habeas corpus shall not extend to a prisoner unless -
(3) He is in custody in violation of the Constitution or laws or treaties of the United States.

Special Notification

Under this Honorable Courts Rule 29, 4(a) or (b).

Statement of the Case

This case originated from a criminal case 2:03-cr-20093-JDB in which I was convicted by Jury when they were convinced that I violated statute 18 USC § 2241(c).

I have been fighting this case since 2003 and in 2015 I found out that Congress Broke the law when enacting 18 USC § 2241 and in 2016 I found out that the 6th cir COA was Breaking the law by violating 28 USC § 2241(3)(A)(D), so how can I get the courts to help me make Congress obey the Constitution and Laws when the courts themselves are Breaking the law.

The Pending 6th cir COA is Case No. 19-6477, Rule 11 should apply as well.

Reason why this Petition should be Granted

This Petition should be granted because when a case or controversy comes within the judicial competence, the Constitution does not permit judges to look the other way; you must call foul when the Constitutional lines are crossed because you are faithful guardians of the Constitution of the United States and should protect and defend it and since the courts are ignoring their duty that is why I am petitioning this Supreme Court of the United States because Congress or its Members should not be allowed to break the law.

Summary of the Arguments

1) No Citizens who have been injured by an Act of Congress that has been enacted in violation of the Commands of the Constitution have a right to be a checks and balances to check and restrain government?

In Bond v. United States, 564 U.S. 1315 (2001), 2355, 180 L.Ed.2d 269, (2011) This case presents the question whether a person indicted for violating a federal statute has standing to challenge its validity on grounds that by enacting it, Congress exceeded its powers under the Constitution. In the precedents of this court, the claims of individuals -- not of government departments -- have been the principal source of judicial decisions concerning separation of power and checks and balances.

A cardinal principle of separation of power was vindicated at the insistence of an individual. If the constitutional structure of our Government that protects individual liberty is compromised, individuals who suffer otherwise justiciable injury may object. The unconstitutional action can cause concomitant injury to person in individual cases. The separation of powers and checks and balances are two fundamental principles underlying the Constitution.

They work together to prevent a tyrannous concentration of power in any one branch to check and restrain government, and ultimately, to protect the rights and liberties of Citizens.

1) When a case or controversy comes within the judicial competence, the Constitution does not permit judges to look the other way, shouldn't you call foul when constitutional lines are crossed?

Why do judges swear to discharge their duties agreeably to the Constitution of the United States, if all they are doing is ignoring cases involving Constitutional Challenges as in my case, its worse than mocking, to preserve or take this oath becomes a crime, Marbury v Madison at L (March 1807) and as I have tried to show the lower courts and this court the Quorum Clause of the Constitution has been violated by congress

The Constitution of the United States Article VI states, "This Constitution ... shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby."

The Constitution of the United States Article III, § 2 cl. 1 states, "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution;"

Courts § 49-95 - political question - constitutionality; When a case or controversy comes within the judicial competence the Constitution does not permit judges to look the other way, as has been done in my case for years.

Courts § 95 - invalidation of unconstitutional statutes; The principle that the courts will strike down a law when Congress has passed it in violation of a command of the Federal Constitution applies regardless of whether the Constitutional provision in question expressly describes the effects that follow if violation.

I have shown the lower courts as well as this Court how the Speakers of the House of Representatives have Broken the Law, Violated their Oath of Office, and Abused their limited power and authority and so far all courts have Ignored this Fact.

There also is a Conflict between the 6th Cir and 9th Cir on what "Newly Discovered" means, the 6th Cir has stated in my Petitions 15-5798, 16-5545 and 19-5684 that "This motion does not satisfy these criteria. DeLoach relies on nothing that he could not have discovered before his trial", however, in US v Euler, 250 F.3d 244, 250 (CA-4, 2001) that court states "This inquiry requires the federal courts to assess how reasonable jurors would react to the overall, newly supplemented record," Id at 613. The new evidence must also be "Newly discovered", which the courts define as "evidence discovered since the trial."

3) Does the Constitution of the United States define and limit Congress and its Members power and authority?

According to this Court in Marbury v Madison at [1 Cranch 176] last paragraph which states;
"The powers of the legislature are defined and limited; and that those limits may not be mistaken, or forgotten, the constitution is written. To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may, at any time, be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished, if those limits do not confine the persons on whom they are imposed."

Marbury v Madison, 1 Cranch 137 2 LEd 60 (1803) From [1 Cranch 176-180] really explains what I have been trying to explain to the courts, but they still Ignore their Constitutional Duty,

In Murray v Carrier, 477 US 478, 485, 106 S.Ct. 2639, 91 LEd2d 397 (1986) this Court stated;
"The Supreme Court has, however, recognized a Miscarriage-of-Justice exception to the general bar. Carrier, 477 US at 495. The Court explains that "where a constitutional violation has probably resulted in the conviction of one who is actually innocent, a federal habeas corpus court may grant the writ even in the absence of a showing of cause for the procedural default."

Under the Constitution of the United States Article I, § 5, cls 1 it states; "a Majority of each [House] shall constitute a Quorum to do Business."

A Majority in the House of Representatives is 218 Members and a Majority in the Senate is 51 Members when there are no vacancies.

Under the Constitution of the United States Article I, § 5, cls 2 states; Each House may determine the Rules of its Proceedings."

However, the Supreme Court stated in United States v Ballin at [144 US 5] that; "The Constitution empowers each house to determine its rules of proceedings. It may not by its rules ignore constitutional restraints or violate fundamental rights... But within these limitations all matters of method are open to the determination of the House."

Conclusion

The words used in the Constitution are to be taken in their natural and obvious sense (Martin v. Hunter, 1 Wheat, 304, 326, 4 L. ed. 97, 102), and are to be given the meaning they have in common use unless there are very strong reasons to the contrary.

The Constitution of the United States Article I, § 5, cl. 1 states; "a Majority of each [House] shall constitute a Quorum to do Business."

In other words, when a majority are present the House is in a position to do business, a Majority in the House is 218 Members present and a Majority in the Senate is 51 Members present, when there are no vacancies.

The Precedents in the House in the Hinds' Precedents on pages 87 & 2939, 90 & 2950-51, 91 & 2952-54, 94 & 2962-63 discuss what the House cannot do in the absence of a Quorum, page 322 & 3458 clearly establishes that the Speaker may not sign an enrolled bill in the absence of a Quorum, and page 345 & 3492 states what must be done Before Congress adjourns. App 1-6

The Constitution of the United States Article I, § 5, cl. 2 states; "Each House may determine the Rules of its Proceedings."

However, the Supreme Court stated in United States v. Ballin, at [144 us 5] that; "The Constitution empowers each house to determine its rules of proceedings. It may not by its rules ignore constitutional restraints or violate fundamental rights... But within those limitations all matters of method are open to the determination of the House."

All of the Hinds' Precedents of 1907 establishes as well as Article I, § 5, cl. 1 of the Constitution is that No business may continue when No Quorum is present, this includes the Signing of bills by the Speaker of the House, however, on January 5, 1981 in the 97th Congress, then Speaker Thomas P. O'Neill, Jr. gave himself and future Speakers Unlimited powers and authorities that the Constitution Forbids

Today, both houses usually Assumes a quorum is present even if it is not and even transacts much of its business, and even passes bills, when only a few Members are present, This is Breaking the Law. App 7+8

The Constitution is written and according to the Constitution of the United States Article VI it states; "This Constitution... shall be the Supreme Law of the Land."

Each Member of Congress swore an Oath of Office which states; "I, AB solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign or domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God," they have violated that Oath.

The Constitution of the United States Article VI states that; "The Senators and Representatives... shall be bound by Oath or Affirmation, to support this Constitution," and to the contrary all of the information that I have provided with the Enclosed Documents clearly shows how our legislators have broken the Law by Ignoring the Constitutional Restraints and giving themselves Unlimited power and authority that the Constitution Forbids, violating their Oath of Office.

In Marbury v. Madison, at 1767 the Supreme Court has stated that; The powers of the legislature are defined and limited; and that those limits may not be mistaken, or forgotten, the Constitution is written. To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may, at any time, be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished, if those limits do not confine the person on whom they are imposed.

So, as shown by the Constitution of the United States and the Enclosed Documents I have established that the Speakers of the House starting with Thomas P. O'Neill, Jr. have broken the Law by giving themselves Unlimited power that the Constitution Forbids, violating their Oath of Office, and Abusing their Limited Powers.

This cannot be overlooked. the Constitutional Lines are being crossed and our guardians of the Constitution of the United States are crossing that line, which is Destructive Behavior showing that our legislature is trying if not succeeding to Abolish our Constitution, this cannot be allowed to continue. No One is Above the Law, not even Congress or any of its Members.

In short a law "beyond the power of Congress," for any reason, is "no law at all." Nigro v. US, 276 US 332, 341 (1928).

I have shown the court over and over again in past Petitions, 15-5798, 16-5545, and 19-5684 that the Speaker of the House, Broke the Law, our Constitution, Violated their Oaths of Office and Abused their limited powers and the courts have simply Ignored these Facts.

The court has itself Broken the Law, Violated its Oath of Office, and Abused its power by ignoring the Supreme Law our Constitution of the United States, so as I see it the court is as guilty as Congress in trying to abolish it by its Blatant Disregard of the Constitution's command and Constitutional restraints and the court has a Duty to review my complaint instead of Ignoring it and by stating the standard lies "This motion does not satisfy these criteria. DeCarlo relies on nothing that he could not have discovered before his trial," so, as stated on page 2 "The new evidence must also be "newly discovered," which the courts define as "evidence discovered since the trial,"

Now if this court is saying that that definition by that court is incorrect then we have a conflict between courts and therefore this case must go to this Supreme Court for a determination as to what "Newly Discovered Evidence" means and it would be up to the court to get guidance from this Supreme Court on this Conflict.

In Beynoldsville CastNet Co V Hyde, at [514 US 760] the Supreme Court states; "In fact what a court does with regards to an unconstitutional law is simply to ignore it. (*pg. 831) It decides the case "disregarding the [unconstitutional] law," Marbury V. Madison, 1 Cranch 137, 178, 2 L ed 60 (1803) (emphasis added), because a law repugnant to the Constitution "is void, and is as no law," Ex parte Siebold, 100 US 371, 376, 25 L ed 717 (1880).

In Bond V. United States the Supreme Court states that; "An offence created by [an unconstitutional law]," the Court has held, "is not a crime." Ex parte Siebold, 100 US 371, 376 (1880). "A conviction under [such a law] is not merely erroneous, but is illegal and void, and cannot be a legal cause of imprisonment."

I have presented Evidence in my Petition Case No. 19-5684 that clearly established that the Speakers of the House, Broke the Law, Violated their Oaths of Office, and Abused their limited powers, but the court denied the Petition ignoring their Constitutional Duties.

I have also shown how the court has Broken the Law, Violated its Oath of Office, and Abused its powers.

I can only hope that with this current Petition the court will see how it is helping Congress abolish our Constitution of the United States and I hope this court will help me save our Supreme Law of the Land and will allow me to resubmit Petition 19-5684 or petition this Supreme Court to address the Conflict established here, but the court won't.

This Supreme Court has told us in no uncertain terms that a prosecutor's duty is to do justice, not merely to obtain a conviction. see *Berger v. United States*, 295 US 78, 88 (1935) ("The United States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done.")

In the *Federalist No. 33* Hamilton noted that any act that was not in keeping with the Constitution would be a usurpation of American rights.

Hamilton states "it will not follow... that acts of the larger society which are not pursuant to its constitutional powers, but which are invasion of the residuary authorities of the smaller societies [States], will become the supreme law of the land, these will be merely acts of usurpation, and will deserve to be treated as such."

Therefore, any act that is not made according to the regulation and stipulation agreed upon in the Constitution cannot be said to be valid.

Hamilton stated in the *Federalist No. 33* that all acts of the federal government must be in accord with the Constitution. If any portion of the federal government acts beyond its delegated authority its acts are Unconstitutional.

At one time acts of Congress were held up to the Constitution to ascertain if Congress had a right to legislate on that subject, however, today, any act that they think of is deemed to be within the purview of congress and this is the court's fault for ignoring the facts that Congress is Breaking the law, Violating their Oath of Office and Abusing their Limited power, however,

when the courts are doing the exact same thing as Congress we no longer have 3 branches of government because Congress and the courts become one in the same both more than willing to try and Abolish the Constitution of the United States this is very Destructive Behavior and if this court believes that the Constitution of the United States is the Supreme Law of the Land, then this court will do its Duty, and Grant this Petition and help me put a Stop to Congress Breaching the Law by giving themselves Unlimited powers that the Constitution Forbids, Violating their Oath of Office, and Abusing their Limited powers.

Thomas Jefferson once said; "We in America do not have government by the majority - we have government by the majority who participate." All tyranny needs to gain a foothold is for people of good conscience to remain silent."

Dante once said; "The darkest places in hell are reserved for those who maintain their neutrality in times of moral crisis."

The government is a government of laws, not of men. No one is above the law, no officer of the government can use authority unless and except as the Constitution permits, the separation of power and checks and balances are two fundamental principles underlying the Constitution, they work together to prevent a Tyrannous concentration of power in any one branch to check and restrain government, and ultimately, to protect the rights and liberties of citizens.

The courts have a Duty to conduct such a review of constitutionality of congressional enactment and to Ignore this fact would demonstrate a profound lack of respect of the courts Pledge to uphold the Entire Constitution, not just those provisions that protect its institutional prerogatives, and to survive the courts scrutiny, the "law" must comply with all relevant constitutional limits and if the "law" does not comply with all relevant constitutional limits the courts must review it.

I hope this court will uphold the law, its Oath of Office and review this Petition and grant it, however, the courts have ignore their Duty.

Relief Sought

I am asking this Honorable Court to Grant the Reversal of my conviction because of this Breaching of the Law by Thomas P. O'Neill, Jr because as Hamilton states, "If any portion of the federal government acts beyond its delegated authority its acts are Unconstitutional," and Release me from Prison.

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Thomas Reid DeCarlo — PETITIONER
(Your Name)

VS.

_____ — RESPONDENT(S)

PROOF OF SERVICE

I, Thomas Reid DeCarlo, do swear or declare that on this date, March 10th, 2020, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Solicitor General of the United States
950 Pennsylvania Ave., N.W., Room 5616
Washington, D.C. 20530

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 10th, 2020

Thomas Reid DeCarlo
(Signature)