

No. 20-5573
In The Supreme Court of The
United States

ORIGINAL

Supreme Court, U.S.
FILED

JUL 22 2020

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In Re, Abdul Mahhadie Underwood,
petitioner

- vs -

Doug Ducey, Executive Officer for The State of Arizona
David Shinn, Director of The Arizona Dept. of Corrections
Rehabilitations and Re-Entry; William Wingard,
Maricopa County Judge; The State of Arizona;
defendants/respondents

Application For Writ of Habeas Corpus
Hearing Requested
28 U.S.C. § 2242

Maricopa County Cause No. CR 2016-115949-001 DT;
CR 2016-105811-001 DT; and CR 2010-105811-001 DT
U.S. District Court In The District Court For Arizona
CV-19-05672-PHX-SPL-(ESW)

By DeMurre T. Gray #288125
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SUPREME COURT, U.S.

Statement in Support of This Venue

Pursuant to 28 U.S.C. § 2242. A statement explaining the reason why the application for The Writ for Habeas Corpus to issue, was not presented before The District Court in the District of Arizona (Being the District in which the petitioner is being held).

The following are the reasons in which the applicant is proceeding before this Court, without addressing the lower courts.

- 1) The ~~petitioner~~ (Abdul Mahaddie Underwood) is being held by a Foreign Territory Government, whose judiciary and public Acts, Record and judicial procedures can only be challenged by The United States Constitution, as interpreted by the Supreme Court of The United States.
- 2) The Territory of Arizona has been operating under the guise of State hood. However has still been pursuing the prosecution of such criminal actions; offenses and penalties by Territorial means of Government.
- 3) It is unknown if The District Court in The District For Arizona is one of The United States Courts. The District Court in The District of Arizona has shown to be partial in it's rulings with sustaining the convictions of Arizona. And that is fine. But to use these convictions as the nexus to validate the detention of the petitioner stand violative of the Due Process Requirement of the 13th Amend-

ment. And to require a petitioner to pursue an Avenue which would prove to be fruitless. Would cause even more harm and loss of life, liberty and society unreasonably. Which could be construed to violate The 14th Amendment's Fundamental Fairness Clause, and Due Process Clause.

This Court has created Judicial Legislature in *Adams v. United States ex rel. McLam*, supra, at 317 U.S. 274. Where the writ is to be entertained without consideration of the adequacy of relief by the appellate route or where an appeal would have afforded an adequate remedy.

Or in *Estep v. United States*, supra and *Smith v. United States*, supra, where the claims were brought to this court and decided after the time for their appeal had passed. The argument was that since the state law made the appeals seem futile, it would be unfair to any registrant to conclude them because of their failure to appeal. Which also would constitute a failure to exhaust.

In the cause here, we can't say that the conviction is a State Court's Conviction. Because should the jury, judge or indictment be that of a County's Municipality. It can't have the power of the Sovereignty of The State behind it. And thus stands Repugnant to this Court's definition of a State's public Acts, Records and judicial Proceedings. As mandated at the time Article 4 was created.

- 4) The District Court's jurisdiction only attaches when suits present a substantial claim under an act of Congress: *Blumenstock Brothers Advertising Agency v. Curtis Publishing Co.*, 252 U.S. 436, 252 U.S. 441. And these issues are of Constitutional Claims not of Congressional Acts.
- 5) The matter is from a proceeding in a County Court, which is believed to be a civil commitment and rehabilitation of a Narcotic Addict under chapter 175. Which statutes under 28 U.S.C. § 2901 to 2906 have been repealed, and which affords the petitioner no remedy for relief.
- 6) The post-conviction remedies by The District Court and The State fails to provide a fair and full adjudication of the federal contentions and Constitutional Contentions raised. Or provides no remedy at all. And this court has warned Arizona in several Habeas hearings and rulings of the deficiency of their post conviction remedies. See *Mooney v. Holohan*, supra, 115; *Moore v. Dempsey*, 261 U.S. 86; *Ex parte Davis*, 318 U.S. 412, and a federal court must entertain the petition or else the petitioner would be without remedy. See *Ex parte Hawk*, 321 U.S. 114 (1944).
- 7) When the petitioner presented his habeas petition to the District Court. The District Court permitted the Attorney General of The State of Arizona to assign a Deputy Attorney to defend the detention of the petitioner, unlawfully. Because the respondents having the petitioner in custody are not state officials, and the conviction is from a municipal Court officer, and originated on a court of

no record. Which Divested the State Supreme Court of Appellate Review Per Ariz. Const. Article 6 section 5.3 Holding that: The Supreme Court shall have appellate Jurisdiction in all actions and proceedings except civil and criminal actions originating in Courts not of record, unless the action involves the validity of a tax, impost, assessment, toll, Statute or municipal Ordinance.

This matter originated in a Court not of record. Attached is the information Presented by the deputy County Attorney, who has no oath of office in representing the State of Arizona, And without such oath of office, and seal of the Court. The attorney representing the document has fraudulently represented the State. And any Court deeming it to be a State document, has engaged in the same unlawful activity.

So when the petitioner presented his habeas petition before the District Court. And that Court permitted the State officer to represent the respondents, as though they represent the State interest. The District Court in The District For Arizona was in violation of This Courts Judicial legislated. Rule in it's ruling in *Ostborn v. Bank of The United States*, 22 U.S. 938 (1824), Holding that No person may appear as the attorney for the purpose of representing another in Court, and prosecuting or defending a suit in his name without the record reflecting such powers. The power to do so must indeed exist, and it's production cannot be considered as indispensable. In all cases

the authority must be produced, because there is, in the nature of things no prima facie evidence that one is in fact the attorney of another.

By allowing the Dept Attorney General to provide a limited reply, in reference to the petitioner's brief challenging his detention, and not the review of conviction. Only shows that The District Court in The District for Arizona was operating under a biasness favorable to the respondents. And to pursue down that path would be futile.

8) The petitioner even requested that The District Court grant the petitioner leave to amend his petition. And was denied leave to amend, when in fact, by Court rule leave should be granted liberally. And the District Court Denied the petitioner's request without an objection from the respondents.

In doing so, the court has operated as a party to the suit and has in its actions violated the 14th Amendment's Fundamental Fairness Clause and The Separation of powers. Just because the formalities requires that a party in the suit request leave to amend its petition. Doesn't mean a court can deny such leave, especially when none of the respondents have objected to being prejudiced by such action.

This shows the biasness of the District Court. And the petitioner should not be required to be denied a speedy means of review and adjudication, to effectuate

(F)

his Constitutional protection against being held in involuntary servitude without being duly convicted for a crime.

9) The District Courts attempt to place the burden of proof on the petitioner to prove that his detention is unlawful. Where in fact, the respondents bear the burden of proving that his detention is within the Mandates of the 13th Amendment.

When one is convicted by confession, and has waived the right to trial. That admission of guilt is a matter of a Federal Law. Requiring a federal review. And because the objection to Timeliness is a defense which brings into the Constitutionality of the Anti Death Penalty Elimination Act. The District Court can only follow the rules legislated by Congress. Because it's a court controlled and created by Congress.

But because this Court is a Court that is not controlled by Congress. And has the authority to rule that an Act of Congress is unconstitutional. And can hear the merits presented by exceptional circumstances.

The venue of this Court is the only venue in which the petitioner can be heard lawfully.

10) The District Court For The District of Arizona has permitted the Transfer of the petitioner in violation of Fed Rules of Appellate Proc. 23. And has not sanctioned the Respondents for those actions.

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Laws

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| 1) A.R.S. 13-801 pg. 9 | 8) 13-805 pg. 9 | 15) 14-2701 pg. 11 |
| 2) A.R.S. 13-1803 pg. 9 | 9) 13-702 pg. 9 | 16) 14-2701(k) pg. 11 |
| 3) A.R.S. 28-3304 pg. 9 | 10) 13-801 pg. 9 | 17) 16 A.R.S. Code of Crim Proc 17.4 |
| 4) A.R.S. 12-116.09, pg. 9 | 11) 13-3101 pg. 9 | 18) " " " 5.41, |
| 5) A.R.S. 12-249 pg. 9 | 12) 13-3102 pg. 9 | 19) Proposition 122 1, 14 |
| 6) A.R.S. 13-610, pg. 9 | 13) 13-3105 pg. 9 | 20) 18 U.S.C. 242 pg. 11 |
| 7) A.R.S. 13-805, pg. 9 | 14) 12-116.04 pg. 9 | 21) Treaty of 1848 pg. i, ii |

Constitutional Laws at hand

- | | |
|-------------------------------|--|
| 1) 4 th Amendment | 8) 10 th Amendment pg. i |
| 2) 6 th Amendment | 9) Kansas Nebraska Act 1854 pg. ii |
| 3) 13 th Amendment | 10) Act of Congress February 12 th 1793 |
| 4) 14 th Amendment | 11) Article IV pg. iii |
| 5) Article I section 9 pg. i | 12) Article II section 3 |
| 6) 10 th Amendment | 13) Article II Section 2 |
| 7) Article III pg. iv | 14) 8 th Amendment pg. 11 |

Ariz. Const.

- 1) Ariz. Const. Article II sect. 30 pg. 1, 2
- 2) " " " " Sect. 24 pg. 6
- 3) Ariz. Const. Article IV part 2 sect. 19: 7 pg.
- 4) Ariz. Const. Article 6 sect. 17 pg. 1
- 5) Ariz. Const. Article 6 sect. 14 pg. 2, 15
- 6) Ariz. Const. Article 6 sect. 1 pg. 2

Points of Authority

- 1) *Gerstein v. Pugh*, 420 U.S. 103, 113-14, 95 S.Ct. 854, 43 L.Ed.2d 54 (1975) pg. 1
- 2) 1 Wayne R. Lafave, & Austin W. Scott, *Substantive Law* § 2.7(6), at 163 (1984) pg. 2
- 3) *Peterson v. Jacobson*, 2 Ariz. App. 393, 595, 411 P.2d 31, 33 (1966) pg. 2
- 4) *Boyd v. Alabama*, 395 U.S. 238, 242-44 (1969) pg. 2.
- 5) *United States v. Mezzanatto*, 513 U.S. 196 (1995) pg. 8
- 6) *United States v. Broce*, 488 U.S. 563, 576 (1989) pg. 8
- 7) *Chambers v. Florida*, 309 U.S. 227, 60 S.Ct. 472, 84 L.Ed. 716 pg. 10
- 8) *Ashcroft v. Tennessee*, 322 U.S. 143, 154, 155, 64 S.Ct. 921, 926, 927, 88 L.Ed. 1192 pg. 10
- 9) *Snyder v. Massachusetts*, 291 U.S. 97, 105, 54 S.Ct. 330, 332, 78 L.Ed. 674, 90 A.L.R. 575 pg. 10
- 10) *Houston v. Moore*, 5 Wheat. 1, 18 U.S. 21-22 pg. 13
- 11) *Sturgis v. Crowninshield*, 4 Wheat. 122, 17 U.S. 193

Now comes the applicant, Abdul Mahaddie Underwood, by and through writ writer DeMorse T Gray, The Ministerial "Servant of Jehovah," who seeks that The Writ of Habeas Corpus be issued to the fore mentioned respondents/defendants. That have all conspired, to create an unlawful institution of slavery, and subject the applicant and countless others to be held in violation of the 13th Amendment's prohibition against such institutions.

The Honorable Judge William Wingard, being in violation of Article I Section 9 by such title, has conspired with the other named defendants/respondents and have maintained the operations of an unethical enterprise in violation of the 10th & 13th Amendments. As well as in violation of Treaties made, and The United State's Constitution as made applicable to The State of Arizona. Because the named defendants/respondents are Executive & Judicial officers who have sworn by oath, to uphold and protect the laws of the Constitution. It can only be presumed that the acts of these officers are knowingly and intelligently done, to create economy for their State at the cost of 10000's life, limb and liberty of The Citizens of The United States.

28 U.S.C. § 2241 expresses the Powers of The Courts to grant the writ of Habeas Corpus. The plaintiff/applicant declares under penalty of perjury that he is in custody in violation of the Constitution or laws or Treaties of the United States as required by 28 U.S.C. § 2241(c)(3); And that he is a citizen of a foreign State and domiciled therein is in custody for an act done or omitted under any alleged right, title, authority, privilege,

protection, or exemption claimed under the commission order or sanction of any foreign State, or under color thereof, the validity and effects thereof, which depend upon the law of nations.

17 The defendant stands incarcerated in the State of Arizona, which by Treaty of 1848, Annexed Arizona, Texas New Mexico and California to The United States as Territories of the Mexican American War. When becoming a Territory, those lands acquired from Mexico was prohibited from indulging in the unethical institution of slavery. This is important because prior to The Act of Congress on February 12th 1793, prisoners and slaves alike became defined as one institution. Thus both were prohibited from existing within these new Territories.

However, in 1854 The Kansas-Nebraska Act was passed permitting the people of Kansas and Nebraska to decide for themselves if slavery would exist within their borders. This fueled the idea of what was called Squatters Sovereignty, and Confederacy States having their own Sovereignty. The idea of which was supposed to be abolished right along with the Kansas-Nebraska act, and the institution of slavery except as punishment for crime whereof the party shall have been duly convicted.

During which, Arizona not being an official State, but a Territory. It was permitted to legislate laws pertaining to misdemeanor, but because crime and felony creates prisoners and prisons, Arizona was prohibited from having a State Created interest except that of which is legislated by The United States Congress. Therefor having powers of Municipalities, but not to create punishment for crimes.

In its quest for Statehood and Federal money, Arizona created its Constitution, that became adopted by all countries on Dec. 9, 1910. Because of the United States Constitution's strong enforcement of Article IV of the Formulation of Arizona's Constitution required an Enabling Act of Congress that received the president's signature on June 20, 1910. However because of provisions unacceptable by William Howard Taft, it went through a few ratifications before finally being accepted Dec. 12, 1911. Its Statehood was affirmed in 1912.

After all of that, in order to comply with the Treaties and Constitution of The United States, Arizona Passes Proposition 122 amending Article II Section 3, which permits the state to reject acts of Congress and federal authority it feels may be unconstitutional. And may restrict its personnel from use of its finances and resources that are consistent with the United States Constitution by passing a law bill or referendum to block such Constitutional Mandate. This alone is Treason in the face of Our Federalism. And immediate injunction is required by The United States Supreme Court, to effectuate its Sovereignty and Orders.

The powers vested with Congress as the legislative body of The United States carries with it the right to legislate exclusively within any place ceded by a state. And carries with it the right and mandate to make the power effectual and real. And even though full faith and credit shall be given to each State to the public Acts, Records, and judicial Proceedings of every other State. We cannot hold this to be true when a state openly states it's gonna ignore The United States Constitution and deprive American Citizens of

protection of The Constitution of The United States, by enacting a local rule of referendum in opposition to it. This is an act designed to Deprive Citizens of The United States of Their Rights under the color of Law. This is ~~in fact~~ ~~directly~~ against The Constitution as applicable to Arizona. And there for Habeas Corpus is requested to provide relief for the applicant.

This matter has been brought directly to The Supreme Court of The United States because ~~by~~ U.S. Constitution's Article #III section 2. The judicial Powers of the Supreme Court shall extend to all Cases, in Law and Equity, arising under the Constitution. And with Arizona not being bound by circuit court interpretation of The Constitution District or Circuit Court's ~~views~~ ~~are not true~~ ~~precedence~~ when Constitutional questions come into play. See *Renico v. Lett*, 559 U.S. —, —, 130 S.Ct. 1855, 1866, 176 L.Ed.2d 678 (2010) (Circuit Court precedent does not constitute "Clearly established Federal Law, as determined by The Supreme Court"); *State v. Montano*, 206 Ariz. 296, 297 n.1, 77 P.3d 1246, 1247 n.1 (2003) (holding that The Arizona Supreme Court is not bound by federal circuit court's interpretation of the federal Constitution).

I, DeMopore T Casey, The Ministerial Servant of Jehovah do set forth the following allegations in regards to Abdul Mahoddie Underwood's custody. And to the best of my knowledge do swear that all issues set forth in the following claims to be true. And in the interest of justice request Habeas Relief to put an end to The Applicant's restraint.

With no other means in which the Ministerial Servant can intercede for the applicant, because of The State's rules of the Courts. See State's Ariz. Sup. Ct. R. 42, E.R. 5.5 (b). And with

Arizona not being bound by Circuit Court's decision on Constitutional rights of fundamentals. Appeal to the United States Supreme Court is the only means to effectuate the due Trial Law.

Therefore Venue is ripe. And the Ministerial Servant of Jehovah Moves The Court to Issue the Writ of Habeas Corpus in the matters contained in this brief.

Counsel Presented

Claim # 1

The unlawful commitment to incarceration / detention of the applicant was in violation of The 14th Amendment's Due Process Clause. And the applicant was prosecuted without probable cause, Violating Ariz Const. Art. II Sect. 30

Claim # 2

The plaintiff's indictment was procured in violation of the Constitution. And was insufficient at law to establish both Subject Matter Jurisdiction and Persona Jurisdiction.

Claim # 3

The plea agreement Counsel was deficient. And was not acting as agent for the defendant as required by The Sixth Amendment.

Claim # 4

The plea was entered into unknowingly, involuntarily and without intelligent.

Claim # 5

The plea violates Contractual laws, as it relates to the requirements needed to make the agreement valid, in the State of Arizona.

Claim #6

Arizona is without authority to exercise its jurisdiction over the defendant / Applicant. Because Arizona is prohibited from having slaves.

Claim #7

The Sentence is unlawful, And requires an immediate vacating.

Claim #1

The unlawful commitment to incarceration / detention of the applicant was in violation of the 4th Amendment's Due Process Clause. And the applicant was prosecuted without probable cause, Violating Ariz. Const. Art. II section 30.

"According to the 4th Amendment no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized."

When a person is arrested without warrant, "a police man's on the scene assessment of probable cause provides legal justification for arresting a person suspected of crime, and for a brief period of detention to take administrative steps incident to arrest."

Gerstein v. Pugh, 420 U.S. 103, 113-14, 95 S.Ct. 854, 43 L.Ed. 2d 34 (1975). In order to hold a suspect beyond the brief period required for administrative steps, "The Fourth Amendment requires a judicial determination of probable cause." *Id.* at 114, 95 S.Ct.

With Arizona, a magistrate is permitted to perform the probable cause hearing, which violates due process of the 4th Amendment as well as violates the service of process. By Arizona's Constitution Article 6 Section 17 only by order of the Superior Court shall a Grand Jury be drawn or summoned. This is primarily because only the Superior Court can establish that a suit is or is not within its jurisdiction.

However, Arizona has evoked its rights under its Unconstitutional Act, Proposition 122. And in doing so has created 16A A.R.S. Rules of Crim. Proc., 5.4. This permits the determin-

of probable cause to be found by a magistrate of a lower court, who in turn bounds the matter over to Superior Court. This stands in violation of Ariz. Constitution Article 6 Section 14 which holds that only The Superior Court has jurisdiction of Criminal Cases amounting to felony.

With the Superior Court having original jurisdiction of felony cases, The magistrate's finding of probable was insufficient at law to convey that the applicant was in fact guilty of any wrong doing. The magistrate's jurisdiction does not extend to matters of felony. And because of that, the determination of if rather or not a felony crime had been committed is not within the court's purview. Violating due process of the Arizona's Constitution Article II section 30 was violated.

Magistrates are justice court judges. And by Ariz. Const. Art. IV Section 32 (C) The criminal jurisdiction of courts inferior to the Superior Court shall be limited to misdemeanor. Even justice courts are limited to misdemeanor. With no jurisdiction being established by The Ariz. Const. Article 6 Section 1. Justice courts and its magistrates are without power to hold a probable cause hearing on felony matters. An unreasonable application of clearly established Federal Law, as determined by The Supreme Court of The United States, under ^{the} 14th Amendment.

Claim #2

The plaintiff's indictment was procured in violation of the Constitution. And was insufficient at law to establish both Subject Matter Jurisdiction & Personal Jurisdiction.

When allegations of a crime are brought before The Superior Court. The Constitution gives us a clear and unambiguous

understanding of the mechanics involved to produce a prosecution. The County Attorney's office must petition The Superior Court, for it to draw and Summon a Grand Jury to investigate the allegations of unlawful activities presented to it. At this time The Superior Court Judge shall then make a determination of the level of the offense in which is presented, to assure that The Superior Court has inherent jurisdiction of the allegations as prescribed by Ariz. Const. Art. 6 section 14. And then must Enquire into the status of the accused, to ensure that both Subject Matter, and Personal jurisdiction is applicable to the effectuate its power. See 1 Wayne R. LaFare & Austin W. Scott, Substantive Criminal Law § 2.7 (b), at 163 (1986) "When the matter has been put into issue by the defendant, whether the the prosecuting government actually has criminal jurisdiction over the defendant's conduct of the defendant is a matter to be determined by the trier-of-fact. A court must have both Subject matter and personal jurisdiction to render a valid criminal judgment and sentence. *Peterson v Jacobson*, 2 Ariz. App. 593, 595, 411 P.2d 31, 33 (1966).

Allowing the magistrate of another court to establish probable cause and make determinations as to both Subject-matter and Personal Jurisdiction prejudiced the defendant of asserting the defense of Personal Jurisdiction. The defendant being An African American, and firm believer in the Government and Political Relations as being the only means to consolidate our human institutions and remedying their imperfections. Firmly Asserts, as denying the courts personal jurisdiction The Holy Bible, as Translated by King James Genesis 15:13 which holds "And he said unto Abram, Know of a surety, that they said shall be a stranger in a land that

is not theirs, and shall serve them; and they shall afflict them four hundred years.

The Court, being established by the declaration solemnly made by their forefathers, and outlined by the Holy Alliance. Must act as defined by the section outlined in Government and Political Relations which holds:

"They solemnly declare that the present act has no other object than to publish, in the face of the whole world, their fixed resolution, both in the administration of their respective States and in their political relations with every other Government, to take for their sole guide the precepts of that holy religion namely, the precepts of justice, Christianity, and peace, which far from being applicable only to private concerns must have an immediate influence on the counsils of princes and guide all their steps as being the only means of consolidating human institutions and remedying their imperfections."

Being guided by the precepts in the administration of The Respective States. The Superior Court "Cannot" declare that this is home to the applicant. Joel 3:6 speaks further on the subject of blacks in America it holds: "The children also of Judah and the children of Jerusalem have ye sold unto The Grecians, That ye may remove them far from their border.

"Behold, I will raise them out of the place whither ye have sold them, and will recompense upon your own head."

The Court is left with the charge to know that it must establish for us, as the children of Judah, a means to return to our Border, as ordered by Jehovah (YHWH). In

order to effectuate God's word. And this begins by coming to a conclusion that personal jurisdiction cannot be established in the matter set forth. And the record is ^{void} of the establishment of personal jurisdiction. Any finding of it now could not be used to justify the applicant's incarceration prior to now.

Claim #3

The Plea agreement Counsel was deficient, and was not acting as agent for the defendant as required by The Sixth Amendment.

It is required that we look at the Applicant's initial contact with The State of Arizona, as it relates to the following cause numbers that has the applicant within the custody of Arizona Dept of Corrections. On 4/26/2010 it is alleged that the Applicant entered into 2 plea agreements between himself and The prosecuting attorney representing "The State of Arizona." In both pleas, the State prosecutor separated the actions committed on one occasion into a cumulative sentence. This was done in violation of The Supreme Court's ruling of Double Jeopardy. And the prohibition against cumulative punishment. Both incidents took place from one encounter. Both the unlawful flight and the misconduct involving weapons (which by the Supreme Court's standard is over breadth).

By doing so, the state was able to place the applicant on probation. Which he violated by the allegations of the 2016 cases. That also aggravated the applicant's

Sentencing. See Sentencing transcripts August 18, 2017 pg 14:15-15:3.

However, with the sentence of the 2010 cause # ending in 105811, a look at the case history of this action would reveal that a notice of appearance was never filed. Nor was a Warrant of Attorney filed by the defendant as required. This is well established law, and the record must reflect such actions. Without it, it's void of the record, thus doesn't exist.

Well established that Ariz. Const. requires that in all criminal prosecutions, the accused have the right to appear and defend in person, and by counsel (See Ariz. Const. Art. II sect. 24). The U.S. Constitution's 6th Amendment holds that "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury in the State and District where 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 accusations; to be confronted with ^{the} witnesses against him; to have a compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense

This right to counsel, is just like any other right. It must be invoked. Properly invoked, because by Supreme Court legislated law, as well as Arizona Law, A warrant for attorney is required before one can appear in court and confess a judgment in favor of a specified party.

Because it is required that a defendant must request, in writing, his right to counsel. Thus providing the Warrant of Attorney as required. For it is provided that a warrant of

to confess judgment in any personal action, or "Cognovit actionem" given by any person, shall not be of any force, unless there is present some attorney of one of the Superior Court on behalf of such person; expressly named by him and attending at his request, to inform him of the nature and effects of such warrant or cognovit, before the same executed.

Citing Joshua Williams, Principles of Laws of Personal Property 125 (11th Ed. 1881).

Looking into the errors committed by counsel and the many others presented that will be included proceeding this claim. It can't be held that counsel was provided for the applicant. He may have been there, but he was not there in the sense of being the applicant's agent. The record doesn't reflect it, neither does the actions of counsel. With the failure of counsel to identify that the sentences could not be ran consecutively. And counsel's failure to object to the sentence of probation that lacked a definite amount of time, should the probation be violated. Thus making the plea agreement entered into unknowingly, involuntarily and without intelligence. The court could only rule that the defendant was denied effective assistance of counsel. He never even filed a Notice of Appearance. An unreasonable application of clearly established Federal law. As determined by SCOTUS

Claim # 4

The plea was entered into unknowingly, involuntarily and without intelligence. Thus making it void and of no legal effect.

With a guilty plea, a defendant necessarily relinquishes the rights to jury trial, to the assistance of counsel, to raise a defense, and to confront his or her accusers. See *Boykin v. Alabama*, 395 U.S. 238, 242-44 (1969). Most courts recognized, at least in theory, that while the vast majority of rights may be waived, there are some rights that are not waivable. See *United States v. Mezzanatto*, 513 U.S. 16, 204 (1995). Suggesting that while most protections in a criminal prosecution are presumptively waivable, there are some that are so integrated to the fact-finding process that they cannot be waived, such as appealability; or the right to conflict-free counsel.

For a plea to be legally acceptable, the defendant must possess "an understanding of the law in relation to the facts. But also, in relation to the rights he's surrendering in exchange for a more favorable outcome. But what's most important is that the plea be entered into voluntarily and intelligently. Because by entering a plea of guilty, the accused is admitting to the acts described in the indictment. *United States v. Bruce*, 488 U.S. 563, 570 (1989) ("By entering a plea of guilty, the accused is not simply stating that he did the discrete acts described in the indictment; he is admitting to a substantive crime.")

The charging document of the "substantive crime" becomes the plea agreement in all cases resulting in a conviction by plea. And because of this, the discrete acts admitted to by the accused is limited to whatever is within the plea agreement, which is not only a contract. But also serves as a totally new information, that must detail all the acts and elements, in which the government

and the defendant are in agreement with, that the defendant's admission of guilt would extend to. It also serves as an agreement between the defendant and the state as to the charges the allegations conduct and acts in which the government seeks to prosecute, in exchange for that admission of guilt.

In the information presented as the plea agreement for cause CR2016-157480-001. The defendant and the government allegedly agreed that the defendant would plead guilty to count 2: (as Amended) Unlawful use of means of transportation, A Class 5 non-dangerous felony, in violation of A.R.S. §§13-1801, 13-1803, 28-3304, 12-116.09, 12-269, 13-610, 13-805, 13-701, 13-702 and 13-801 committed on December 8, 2016.

And on Count 3: Misconduct involving weapons, a class 4 non-dangerous felony, in violation of A.R.S. 13-3101, 13-3102, 13-3105, 12-116.04, 12-116.09, 12-269, 13-601, 13-701, 13-702, and 13-801 committed on December 9, 2016.

With the amending of the allegations set forth in this charging indictment, the Deputy Attorney for The State and the defendant both agreed to modify the statute in which the two allegations fall under. In doing so have violated the separation of powers doctrine. Not to mention the fact that the act alone violates the knowingly, intelligent requirement of a plea colloquy.

With each A.R.S. Statute, comes an allegation of an act to which is said that the defendant has willfully violated. To just place them all under the substantive crime stands

repugnant to the 6th Amendment's Due Process Clause.

Nowhere in the settlement conference, change of plea hearing, or sentencing was the defendant made aware as to what acts these statutes require ~~the~~ defendant to have committed, prior to before he can be found to be in violation of these statutes.

There has been a long standing rule that the 14th amendment bars all American Courts, state or federal, from convicting people of crime on coerced confessions. *Chambers v. Florida*, 309 U.S. 227, 60 S.Ct. 472, 84 L.Ed. 716; *Ashcraft v. Tennessee*, 322 U.S. 143, 154, 155, 64 S.Ct. 921, 926, 927, 88 L.Ed. 1192. A confession is coerced when one is forced to think or act a certain way. And with course! and the government permitting the coercion of the defendant to believe that the compounding of these statutes, represent the single act of Unlawful Use of means of transportation. ~~in fact~~ Where in fact they represent an amalgam of issues, ~~in which~~ the defendant was required to know. The court, course 1 for the defendant and the Deputy Attorney stand in violation of the defendant's right's to be informed of the charges against him. See *Snyder v. Massachusetts*, 291 U.S. 97, 105, 54 S.Ct. 330, 332, 78 L.Ed. 674, 90 A.L.R. 575.

The same stands to be true for the plea agreements of *CR 2016 115949-001* and *CR 2010-105811-001*. All of which have been manipulated by the Deputy Attorney for Maricopa County. The defendant had no part in the creation, mediation or execution of such document. And there for was coerced into believing that it was completely lawful. And in violation of the knowingly & voluntarily standard required to

make the plea lawfully binding on the defendant, and the conviction and judgment Sustainable.

Because had the defendant known, he would've challenged the validity of the sentencing statutes as a whole. Knowing that the State is prohibited from creating local law punishing crimes and misdemeanors. And its categorical sentencing is unconstitutional, vague, and thus is unlawful, by The One True Law. Constituting violation of the Equal Protection Clause of the 14th Amendment. And the Cruel and unusual punishment Clause of the 8th Amendment. Not to mention the deprivation of rights under the Color of Law, in violation of 18 U.S.C. 242. Thus meeting also both requirements of 28 U.S.C. § 2254(d)(1) & (2)

Claim #5

The plea violates Contractual laws, as it relates to the requirements needed to make the agreement valid in the State of Arizona.

Arizona Law 14-2701 is the State's authority of governing instruments. It holds, "In the absence of a finding of a contrary intention, the rules constructed in this article control the construction of a governing instrument. The rules of construction in this article apply to a governing instrument of any type, except as the application of a particular section is limited by its terms to a specific type or types of provision of governing instrument."

Because ^{no} other governing law or rules exist to the validation process of a plea agreement. Arizona Law A.R.S. 14-2701 is the controlling authority by default. And according to such rules § 14-271(a) A proponent of a governing contract or

instrument has the burden of establishing prima facie proof of due execution in all cases. And should the proponent of the instrument not be capable of producing such proof. Then the governing instrument is void for lack of power. Making the contract, judgment, ~~and~~ ^{is} defective and unsustainable because the plea agreement is illusory.

The prosecutor, in offering the plea agreement, has full knowledge of the court rules as it relates to the acceptance and adherence to plea agreements. And pursuant to 16 A A.R.S. Rules of Crim. Proc. 17.4(d). Even after accepting a plea, the court is not bound by the sentencing provisions of the plea. Thus creating an admission of guilt based upon the precepts of an illusory contract. One of which the government cannot enforce.

The Supreme Court has been clear on illusory plea agreements. And by contractual standards, any contract in which the proponent of the contract does not have due exercise of the benefits offered in the contract is fraudulent and illegal.

Moreover, the ability to punish one for crime is not within the Superior Courts jurisdiction. Without knowing this, the defendant / applicant was coerced into the plea agreement.

In which is not even legally binding because the proponent of the plea agreement could not provide specific performance of the contract.

Because of this the defendant was tricked into an admission of guilt. And the process is not The Due Conviction, Required by the 13th Amendment, to warrant

incarceration. And there for Habeas is warranted to end the defendant's/Applicant's restraint. A violation of Both 28 U.S.C. 2254(d)(1);(2)

Claim #6

Arizona is without authority to exercise it's jurisdiction over the defendant/Applicant. Because Arizona is prohibited from having slaves.

Prior to the Act of Congress of 1793, on February 12th the institution of slavery and the institution of involuntary servitude for prisons became one and the same. The Act of Congress on February 12 of 1793 held within it's provisions, on the subject of fugitive slaves, as well as fugitives from justice. Which held where Congress held a constitutional power to regulate a particular subject, and they do actually regulate a particular subject, and they do actually regulate it in a given manner, and in a certain form it, cannot be that the State Legislature have a right to interfere. This doctrine was fully recognized in the case of *Houston v. Moore*, 5 Wheat. 1, 18 U.S. 21-22. And in *Sturgis v. Crowninshield*, 4 Wheat. 122, 17 U.S. 193.

With the mandates of the 13th Amendment, it can only be held that Congress must be the controlling authority in the duly conviction process of those who are punished in the form of slavery or involuntary servitude, for crime.

The right and the duty must be co extensive and uniform in remedy and operation throughout the whole Union. Which in turn would finally end the theory of popular sovereignty

in which the country has become accustomed to. Unknowingly making these small confederate agreements, in violation of the Constitution's Prohibitions on the States.

With Arizona enacting and promoting laws in accordance to Proposition 122. We can begin to have a discussion that Full Faith and Credit should not be given to the State's Judicial Process, Public Records Keeping and other acts of Government, Because to create a Bill or Proposition in which the State can withhold its personnel from acting in accordance with any Federal Program or With The Constitution. Because of this Arizona Automatically loses its ability to correct its error in law. And has shown that to seek redress within its judiciary and that of its district which is In The District Courts. But is For Arizona, would obviously be futile. And with the 9th Circuit not being able to effectuate its rulings on Arizona. Only leaves The Supreme Court to be the venue which the defendant has left before the judiciary no longer becomes an option.

Lets look at the plea agreement in the matter of CR 2016-115949-001. Here you have a time stamp made on June 10 2017. However it's scratched out by an unknown party and dated July 10. This is unacceptable and requires an immediate ruling that the plea agreement is void. And

the defendant must be released. This can't be an error, this can only be pure fraud, and the only remedy is by means of Habeas Corpus to The United States

Supreme Court. In violation of both 28 U.S.C. 2254(d)(1) & (2)

Claim # 7

The Sentence is unlawful. And requires an immediate vacating.

Arizona has a categorical sentencing scheme. Even though it's not permitted to by Article IV part 2 section 19:7. However, in any event a look at the sentencing of the defendant no category was mentioned as to define what category the defendant was to be placed in to equate the time in which he was sentenced to. By the judge not invoking this, the court was without jurisdiction to sentence the defendant.

The Superior Court's jurisdiction is set by Ariz. Const. Article 6 Section 14. And nowhere in there is there a jurisdictional rule permitting the court to determine the defendant's punishment, or to even accept or reject provisions of contractual agreements. By doing so, the judgment and sentence are void and requires immediate ~~dismissal~~ vacating of the two.

To Conclusion

Rest on the merits of the brief.

D. Grey

On Aug. 4, 2020 the petitioner submitted before this court, an application for Writ of Habeas Corpus to issue, in reference to 3 convictions in The Maricopa County Court operating under the guise of The State of Arizona Superior Court. On Aug. 11th 2020 this court's clerk permitted Jacob Levitan to act in his stead. And issue an order to the petitioner requiring the petitioner's petition to include the following information.

- 1) The petition must show how the writ will be in aid of this Court's appellate jurisdiction.
- 2) What exceptional circumstances warrant the exercise of the Court's discretionary powers.
- 3) Why adequate relief cannot be obtained in any other form or from any other court.

The following answers are submitted before this court as the petitioner's answers.

- 1) How this writ will be in aid of this Court's appellate jurisdiction.

Pursuant to Article 3, Section 2 of the Federal Constitution. The Federal Courts have jurisdiction in Cases arising under the Constitution, and laws of The United States, and treaties made under their authority, the Federal Court has jurisdiction of all cases described without any regard to condition or character of the parties.

In the current case at bar, the matters set forth in the petition. Are matters arising out of The Treaties of The United States, as made applicable to Arizona, through the Constitution. This vests this Court with exclusive jurisdiction on the subject matters presented.

2) What exceptional circumstances warrant the exercise of the Court's discretionary powers?

Because the petitioner is a citizen of the United States by birth, and enjoys the privileges and immunities of the Fourteenth Amendment's guarantee by this Court. This Court does not have discretionary powers. But must act to protect its Citizen from offensive State/Territory actions which stand repugnant to the grants, privileges and immunities of the 14th Amendment.

The Fourteenth Amendment does not create protected interests, but if one is found to exist by reason of some independent source, The Fourteenth Amendment protects it. *Palmer v Board of Education*, 603 F.2d 1271, 22 Empl. Prac. Dec. (CCH) 30693, 21 Fair Empl. Prac. Cas. (BNA) 1075, 1979 U.S. App. LEXIS 12513 (7th Cir. 1979) cert. denied, 444 U.S. 1026, 100 S.Ct. 689, 62 L.Ed. 2d 859, 22 Empl. Prac. Dec. (CCH) 30694, 21 Fair Empl. Prac. Cas. (BNA) 1139, 1980 U.S. LEXIS 417 (1980).

In this cause, the interest protected is the prohibition of involuntary servitude by the 13th Amendment. Except for where one is being punished for a crime where one has been duly convicted. Amongst an amalgam of other interests that the 14th Amendment protects.

The petitioner, a descendant of those slaves brought to The Americas during the slave trades beginning in 1612. In 1865 the Thirteenth Amendment to the Constitution of the United States was submitted to the legislatures of the several states by the Thirty-Eighth Congress, on February 1, 1865, and was declared, in a proclamation of the Secretary of State, dated December 18, 1865, to have been ratified by the legislatures of the following States: Alabama, Dec. 2, 1865; Arkansas, April 14, 1865; Connecticut, May 4, 1865; Georgia, Dec. 6, 1865; Maine, Feb. 3, 1865; Maryland, Feb. 3, 1865; Massachusetts, Feb. 7, 1865; Michigan, Feb. 2, 1865; Minnesota, Feb. 23, 1865; Missouri, Feb. 6, 1865; Nevada, Feb. 16, 1865; New Hampshire, July 1, 1865; New York, Feb. 3, 1865; North Carolina, Dec. 4, 1865; Ohio, Feb. 10, 1865; Pennsylvania, Feb. 3, 1865; Rhode Island, Feb. 2, 1865; South Carolina, Nov. 13, 1865; Tennessee, April 7, 1865; Vermont, March 9, 1865; Virginia, Feb. 9, 1865; and Wisconsin, Feb. 24, 1865. The ratification was completed to The Constitution on Dec. 6, 1865.

However, the amendment was ratified by California, Dec. 19, 1865; Delaware, Feb. 12, 1901; Florida, Dec. 28, 1865; Iowa, Jan. 15, 1866; Kentucky, March 18, 1976; New Jersey, Jan. 23, 1866; Oregon, Dec. 8, 1865; and Texas, February 18, 1870. Which means that only 30 of the currently registered 50 states uphold the Constitutional grants privileges and immunity of The Thirteenth Amendment. And with Arizona not being one of those states, that have subsequently ratified The Thirteenth Amendment means that this state may use its judiciary as a subterfuge to promote an institution of slavery.

under the guise of a lawful and bona fide claim of criminal conduct. Which in fact, has caused harm to the citizen or the public's health, safety and well fare. Action, in which the petitioner is bringing forth in this petition brief.

This isn't new, news before this Court or any one in the governmental field of lawmakers and enforcement. This is known, and has been gleaned over by all who have power or authority over man. By means of legislated laws, made to subjugate the masses. And keep this Anglo American systematic supremacy over those of color. Namely blacks latinos and Native Americans.

So this Court, and its members, employees and judicial officers. Need to answer this call in which we are humbly requesting relief. Or we may elect to exercise our Personal and God Given Right to remove and replace this entire form of Government, And the Acts, records and judicial processes. An act encouraged by The Declaration of Independence.

Declaration Pursuant to 28 U.S.C. §1746.

I Abdul Mahbuddin Underwood, declare under penalty of law that the contents in this petition be true in fact. And that a copy of this brief was mailed on this 19 day, in the month of Aug. 2020

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To the following parties listed below. By
means of Institutional Mail Room Services at
A.S.P.C. Tucson Winchester Unit.

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Respectfully Submitted
Abdul Makhaddie Underwood
= Abdul Underwood

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