IN THE

SUPREME COURT OF THE UNITED STATES

20-8158

LARRY E. STARKS JR.,

EX PARTE.

ON PETITION FOR A WRIT OF HABEAS CORPUS, AS A "ORIGINAL MATTER"

PURSUANT TO 28 U.S.C. § 2241 AND 2242.

REQUESTED TO BE REVIEWED BY JUSTICES: SOTOMAYER, KAGAN AND BREYER

SUSPENSION CLAUSE VIOLATIONS AND SEPARATION OF POWERS VIOLATIONS

THAT CONSTITUTE EXCEPTIONAL CIRCUMSTANCES THAT WARRANT THIS COURT'S

SUPERVISORY POWER FOR REVIEW.

ORIGINAL

FILED
MAY 14 2021
OFFICE OF THE CLERK
SUPREME COURT, U.S.

PETITION FOR AN EXTRAORDINARY WRIT

RULE 20 (4) (a)

LARRY E. STARKS JR # 17008-026

ASHLAND FEDERAL CORRECTIONAL INSTITUTION

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STATEMENT OF REASONS FOR NOT MAKING THIS APPLICATION TO THE DISTRICT OF THE DISTRICT IN WHICH THE APPLICANT IS HELD.

Petitioner asserts that he is prohibited from bringing Jurisdictional challenges in the District he is being held in, under 28 U.S.C § 2255(e); this Jurisdictional challenge restriction is so limited, that it effectively suspends the Writ on Jurisdictional claims.

Petitioner further asserts that the denial of review on Jurisdictional claims under 2255(e), is an unconstitutional suspension of the writ of habeas corpus.

> § 2255(a) A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the Court was **without Jurisdiction to impose such sentence,** or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to Collateral attack, may move the Court which imposed the sentence to vacate, set aside or correct the sentence.
>
> § 2255(e) An application for a writ of Habeas Corpus in behalf of a prisoner who is authorized to apply for relief by motion pursuant to this section, shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the Court which sentenced him, or that such Court has denied him relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his detention.

§ 2255(a) allows Jurisdictional challenges and § 2255(e) removed those Jurisdictional challenges!

The Suspension Clause provides that the Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in cases of Rebellion or Invasion the Public Safety may require it. Art. 1, § 9, cl. 2. The Supreme Court has held that, at a minimum, The Clause protects the Writ as it existed in 1789, When the Constitution was adopted. INS v. ST. Cyr, 533 U.S. 289, 301, 121 S. Ct. 2271, 150 L. Ed. 2d 347. Jurisdictional claims are protected by the Suspension Clause, because historically those where the only type of claims allowed through Habeas Corpus relief. Habeas Corpus relief to collateral attack a judgment of conviction was not heard of.

In Ex Parte Siebola, 100 U.S. 371, 28 L. Ed. 717 (1880), As a departure from this history, as the genesis of a Constitutional principle that, "A conviction obtained under an unconstitutional law warrants Habeas relief." **See Cotton, 535 U.S. at 863,** " Because the current concept of a Federal District Court's subject-matter jurisdiction involves the Court's power to hear a case, such jurisdiction can never be forfeited or waived. Consequently, defects in subject-matter Jurisdiction requires correction, regardless of whether the error was raised in the District Court."

REQUIRED ADEQUATE HABEAS CORPUS PROCEEDING

See Boumediene, 553 U.S. at Footnote 19, "The priviledge of Habeas Corpus entitles the prisoner to a meaningful oppurtunity to demonstrate that he is being held pursuant to the erroneous application or interpretation of relevant law. And the Habeas Court must have the power to order the conditional release of an individual unlawfully detained, though release need not be the exclusive remedy and is not the appropriate one in every case in which the Writ is granted. These are easily identified attributes of any Constitutionallly adequate Habeas Corpus proceeding. But, depending on the circumstances, **MORE MAY BE REQUIRED.**

See Boumediene, 553 U.S. at Footnote 21. "Habeas Corpus proceedings need not resemble a criminal trial, even when the detention is by Executive order. But the Writ must be effective. The Habeas Court must have sufficient authority to conduct a meaningful review of both the cause for detention and the Executives power to detain.

PROCESS-PROTECTION AGAINST SUSPENSION

See Boumediene, 553 U.S. at Footnote 23. "Habeas Corpus is a Collateral process that exist to cut through all forms and go to the very tissue of the structure. It comes in from the outside, not in subordination to the proceedings, and although every form may have been preserved opens the inquiry whether they have been more than an empty shell. Even when the procedures authorizing detention are structurally sound, the Suspension Clause, U.S. Const. Art. I, § 9, cl.2, remains applicable and the Writ relevant. This is so, as case law makes clear, even where the prisoner is detained after a criminal trial conducted in full accordance with the protections of the Bill of Right's.

See Boumediene, 553 U.S. at Footnote 26. "When the judicial power to issue Habeas Corpus properly invoked the Judicial Officer must have adequate authority to make a determination in light of the relevant law and facts and to formulate and issue appropriate orders for relief, including, if necessary, an order directing the prisoner's release.

ANALYSIS OF THE HABEAS CORPUS PROCEDURE IN THE DISTRICT WHERE PETITIONER'S BEING HELD

Under highly exceptional circumstances, A prisoner may challenge his sentence under 28 U.S.C. § 2241, instead of under 28 U.S.C. § 2255, if he is able to establish that his remedy under § 2255 is "inadequate or ineffective" to test the legality of his detention.

Truss v. Davis, 115 F. App'x 772, 773-74 (6th cir. 2004). A prisoner may invoke the savings clause of § 2255(e) by asserting a claim that he is "actually innocent" of an offense by showing that, after his conviction became final, the United States Supreme Court issued a retroactively-applicable decision re-interpreting the substantive terms of the criminal statute. Wooten v. Cauley, 677 F.3d 303, (307-08 (6th cir. 2012). A prisoner may raise a sentence-enhancement claim under § 2241 in very limited circumstances; Which the Court defined as:

A narrow subset of § 2241 petitions: (1) prisoners who were sentenced under the mandatory guidelines regime pre-United States v. Booker, 543 U.S. 220, (2005), (2) who are foreclosed from filing a successive petition under § 2255, and (3) when a subsequent, retroactive change in statutory interpretation by the Supreme Court reveals that a previous conviction is not a predicate offense for a Career Offender Enhancement. Hill v. Masters, 836 F.3d 591, 599-600 (6th cir. 2016). Additionally, "A Federal prisoner cannot bring a claim of actual innocence in a § 2241 petition through the savings clause without showing that he had no prior reasonable oppurtunity to bring his argument for relief." Wright, 939 F.3d at 705.

Petitioner asserts that under this current Habeas Corpus procedure he is prohibited from raising a Jurisdictional Claim, that is not suppose to be forfeited or waived, and can be raised at anytime; this is a clear Suspension Clause violation and must be corrected.

Petitioner seeks to have the Suspension Clause invoked to establish exceptional circumstances to have this Honorable Court exercise its discretionary Supervisory Power to Review this matter of serious Writ of Habeas Corpus Procedure violations and Separation of Power violations under the Fifth and Tenth Amendment. Petitioner was prohibited from raising the Jurisdictional Claim, that the District Court lacked Subject-matter Jurisdiction to impose sentence under 18 U.S.C. § 3553; because the sentence was imposed by an Act of the Sentencing Commission, that was not approved by Congress. Sentence can only be imposed by the Act of Congress.

QUESTION(S) PRESENTED

A. WHETHER THE SENTENCING COMMISSION EXCEEDED ITS SCOPE OF AUTHORITY, BY ADDING THE FOLLOWING OFFENSES: CONSPIRACY, AIDING AND ABETTING, AND ATTEMPT CHARGES; TO THE § 4B1.2(b) GUIDELINES OF WHAT CONSTITUTES A CONTROLLED SUBSTANCE OFFENSE FOR THE PURPOSE OF THE CAREER OFFENDER ENHANCEMENT, BY USING THE COMMENTARY OF 4B1.2(b); RATHER THAN, SEEKING AN AMENDMENT FROM CONGRESS... THEREBY MAKING THAT PORTION OF THE GUIDELINE UNLAWFUL AND A VIOLATION OF PETITIONER'S FIFTH AND TENTH AMENDMENT RIGHT'S.

B. WHETHER THE DISTRICT COURT LACKED SUBJECT-MATTER JURISDICTION TO IMPOSE A SENTENCE FOR THE CAREER OFFENDER ENHANCEMENT UNDER 18 U.S.C. § 3553; WHEN THE SENTENCE WAS IMPOSED BY AN ACT OF THE SENTENCING COMMISSION; THAT WAS NOT APPROVED BY CONGRESS. THEREBY MAKING PETITIONER'S SENTENCE UNLAWFUL AND A VIOLATION OF HIS FIFTH AND TENTH AMENDMENT RIGHT'S.

LIST OF PARTIES

[X] ALL PARTIES 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 PROCEEDINGS IN THE COURT WHOSE JUDGMENT IS THE SUBJECT OF THIS PETITION IS AS FOLLOWS:

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STATUTES AND RULES

OTHER

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner respectfully prays that a Writ of Habeas Corpus issue to review the judgment below.

OPINIONS BELOW

[X] For cases from Federal Courts:

The opinion of the United States Court of Appeals at Appendix___ to the Petition and is

[ ] reported at _____ or,

[ ] has been designated for publication but is not reported; or,

[ ] is unpublished

The opinion of the United States District Court appears at Appendix A-1 to the Petition and is

[X] reported at 09-30070-001; Central District of Illinois, Springfield, IL.

[ ] has been designated for publication but is not yet reported; or,

[ ] is unpublished

JURISDICTION

[X] Cases from Federal Courts:

The date on which the United States District Court for Central District of Illinois decided my case for Sentencing was on June 23rd, 2010.

The Jurisdiction of this Court is invoked under 28 U.S.C § 1254(1), 28 U.S.C § 1651 and 28 U.S.C § 2241 & 2242...

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

28 U.S.C § 2255(e)

28 U.S.C § 2241

18 U.S.C § 3553

CONSTITUTIONAL PROVISIONS INVOLVED

Fifth Amendment, United States Constitution

Tenth Amendment, United States Constitution

Suspension Clause (Art. I, § 9, cl. 2)

STATEMENT OF THE CASE

On July 23rd, 2010, Petitioner was sentenced to the Career Offender Enhancement, and he received 234 months to be served with the Bureau of Prisons. **See Appendix A-1 (Judgment and Committment).** The Sentencing Court invoked the Career Offender Enhancement on the basis that his instant offense for attempted manufacture of methamphetamine qualified as a Controlled Substance Offense under § 4B1.2(b). Which means:

> "An offense under Federal or State law, punishable by imprisonment for a term exceeding one year, that prohibits the manufacture, import, export, distribution, or dispensing of a Controlled Substance (or counterfeit substance) or the possession of a Controlled Substance (or counterfeit substance) with intent to manufacture, import, export, distribute, or dispense. The Sentencing Commission's Commentary to § 4B1.2(b) states that a Controlled Substance Offense "includes the offenses of aiding and abetting, conspiracy, and attempting to commit such offenses." In United States v. Havis, Appeal No: 17-5772, the decision from the United States Court of Appeal's for the Sixth Circuit, revealed to the Petitioner that his instant offense for attempted manufacture methamphetamine did not qualify as a Controlled Substance Offense; and was not suppose to be used to invoke his Career Offender Enhancement. Further, the decision revealed that the Sentencing Commission, as a non-delegated body, exceeded its scope of authority by modifying Congress's definition of what constitutes a Controlled Substance Offense. When they added the included offenses in the Commentary without the authorization from Congress. On June 15th, 2020, Petitioner filed a Writ of Mandamus to obtain relief for his unlawful sentence. On July 23rd, 2020, the Seventh Circuit Court of Appeal's denied the Writ. Unbeknown to the Petitioner, the Seventh Circuit had already ruled that § 4B1.2(b) Commentary added offense was an interpretation of the Guideline, not a modification. See United States v. Adams, 934 F.3d 720 (7th cir. 2019). On August 24th, 2020, Petitioner filed a Petition for a Writ of Certiorari appealling the denial of his Writ of Mandamus, No: 20-5622. On October 13th, 2020, the Supreme Court denied Petitioner's Petition for a Writ of Certiorari.

REASONS FOR GRANTING THE PETITION

This Honorable Court has the discretionary Supervisory Power to resolve whether or not the Sentencing Commission exceeded its scope of authority by adding the offense of Conspiracy, Aiding and Abetting, and Attempt, through the Commentary of the 4B1.2(b) Guideline. In determining what constitutes a Controlled Substance Offense for the purpose of the Career Offender Enhancement.

The following four Circuit's have made the determination that the Sentencing Commission's actions in this matter were lawful, and an interpretation of the guideline, not a modification of that guideline: United States v. Newcomb, 803 Fed. App'x 47 (8th cir. 2020); United States v. Adams, 934 F.3d 720 (7th cir. 2019); United States v. Milton, 805 Fed. App'x 280 (5th and 11th cir. 2020); United States v. Tabb, 949 F.3d 81 (2d cir. 2020).

The following four Circuit's have made the determination that the Sentencing Commission's actions in this matter were unlawful, and a modification of the guideline, not an interpretation of that guideline: United States v. Winstead, 890 F.3d 1082 (D.C cir. 2018); United States v. Havis, 927 F.3d 382 (6th cir. 2019); United States v. Crum, 934 F.3d 963 (9th cir. 2018); United States v. Lewis, 963 F.3d 16 (1st cir. 2020).

Secondly, if this Court makes the determination that, the Sentencing Commission exceeded its scope of authority by using the Commentary to add offense's, without seeking an amendment through Congress. Subsequently, the District Court clearly lacked subject-matter jurisdiction to impose the Career Offender Enhancement sentence under 18 U.S.C § 3553. The imposition of sentence statute is clear, a sentence can only be imposed through an Act of Congress, not through an act of Sentencing Commission, that's not done through an amendment and Congress's approval; this issue raises serious separation of powers violations, and has to be resolved through this Honorable Court's discretionary supervisory power.

Thirdly, the 28 U.S.C § 2255(e) savings clause's removal of Jurisdictional challenges to be raised under the 28 U.S.C § 2241 Habeas Corpus procedure, raises serious Suspension Clause violations that must be addressed through this Court's discretionary supervisory power...

ARGUMENT

A. WHETHER THE SENTENCING COMMISSION EXCEEDED ITS SCOPE OF AUTHORITY, BY ADDING THE FOLLOWING OFFENSES: CONSPIRACY, AIDING AND ABETTING, AND ATTEMPT OFFENSES; TO THE § 4B1.2(b), GUIDELINES OF WHAT CONSTITUTES A CONTROLLED SUBSTANCE OFFENSE FOR THE PURPOSE OF THE CAREER OFFENDER ENHANCEMENT, BY USING THE COMMENTARY OF 4B1.2(b); RATHER THAN, SEEKING AN AMENDMENT FROM CONGRESS... THEREBY MAKING THAT PORTION OF THE GUIDELINE UNLAWFUL AND A VIOLATION OF PETITIONER'S FIFTH AND TENTH AMENDMENT RIGHT'S.

Petitioner was sentenced to the Career Offender Enhancement on July 23rd, 2010, and he received 234 months to be served with the Bureau of Prisons. **See Appendix A-1 (Judgment and Commitment).** The Sentencing Court invoked the Career Offender Enhancement on the basis that his instant offense for attempted manufacture of methamphetamine qualified as a Controlled Substance Offense under § 4B1.2(b), Which means: "An offense under Federal or State law, punishable by imprisonment for a term exceeding one year, that prohibits the manufacture, import, export, distribution, or dispensing of a Controlled Substance (or counterfeit substance) or the possession of a Controlled Substance (or counterfeit substance) with intent to manufacture, import, export, distribute, or dispense. The Sentencing Commission's Commentary to § 4B1.2(b), states that a Controlled Substance Offense "includes the offense of aiding and abetting, conspiracy, and attempting to commit such offenses." In United States v. Havis, 927 F.3d 382 (6th cir. 2019); the decision revealed to the Petitioner that his instant offense, attempted manufacture of methamphetamines did not qualify as a Controlled Substance Offense, and was not suppose to be used to invoke his Career Offender Enhancement. Further, the decision revealed that the Sentencing Commission, as a non-delegated body, exceeded its scope of authority by modifying Congress's definition of what constitutes a Controlled Substance Offence. When they added the included offenses in the Commentary without the authorization from Congress; and should have implemented the offenses legally through statutorily prescribed channels.

Petitioner contends that there is simply no mechanism or textual hook in the Guideline that allows the Sentencing Commission or the District Court's to import offenses not, specifically, therein into § 4B1.2(b)'s definition of a "Controlled Substance Offense."

See Havis, 927 F.3d at 386-87 (concluding that "No term in § 4B1.2(b), that would bear the Construction" Application Note 1 purports to give it); Winstead, 890 F.3d at 1091,

(explaining that § 4B1.2(b)'s definition "clearly excludes inchoate offenses" like attempt and conspiracy).

Neither the Government nor any Circuit Court to address the question has identified any textual hook in the Guideline to anchor the addition of conspiracy, aiding and abetting, or attempt offenses. As the Supreme Court recently clarified, A Court's duty to interpret the law, requires it to "exhaust all the traditional tools of construction, "in all ways it would if it had no agency to fall back on" before it defers to an agency's "policy -laden choice" between two reasonable readings of a rule. **See Kisor, 139 S. Ct. at 2415.**

Petitioner contends that no competent District Judge, **under the Kisor standard,** would be able to "bring all his/her interpretive tools to bear" on the text of § 4B1.2(b), and still find that the added offense's are "Controlled Substance Offenses" as the Guideline defines them Id. at 2423. By relying on the Commentary to expand the list of crimes that trigger Career Offender status, raises troubling concerns for the need of Due Process intervention, checks and balances, and the rule of law.

The Sentencing Commission is an unelected body that exercises "quasi-legislative power' and (unlike most other agencies), is located within the Judicial Branch. Thus it can only promulgate binding Guidelines, which influences criminal sentences, because they must pass two checks: Congressional Review and Notice and Comment requirements of the Administartive Procedure Act." **See Havis, 927 F.3d 385 (Citing Mistretta, 488 U.S. at 394).** Unlike the Guideline's themselves, however, Commentary to the Guidelines never passes through the gauntlets of Congressional review or notice and comment." Id. at 386.

Thus, the same principles that require Court's to ensure that agencies do not amend unambiguous regulations in the guize of "interpretation" **("without ever paying the procedural cost"), Kisor, 139 S. Ct. at 2420, apply with equal force to the Sentencing Guideline and their Commentary. Id. If it were otherwise, the Sentencing Commission would be empowered to use its Commentary as a Trojan Horse for rulemaking. See Havis, 927 F.3d at 386-87.**

This it is surely not meant to do, especially when the consequences is the deprivation of an individual's liberty. **See Winstead, 890 F.3d at 1092 (" This is all the more troubling given that the Sentencing Commission wields the authority to dispense" significant, legally**

binding prescriptions governing application of Governmental power against private individuals ---indeed, application of the ultimate Governmental power, short of capital punishment." (quoting Mistretta, 488 U.S. at 413 (Scalia, J dissenting)).

The Sentencing Guidelines are no place for a short cut around the due process guaranteed to criminal defendants'. If it so desires, the Sentencing Commission should expand the definition of a "Controlled Substance Offense" to add additional offenses by amending the text of § 4B1.2(b) through the statutorily prescribed rulemaking process. See 28 U.S.C § 994(h),(p),(x).

SPLIT CIRCUIT'S WARRANT'S THIS HONORABLE COURT'S DISCRETIONARY SUPERVISORY POWER.

The following four Circuit's have made the legal determination, that the Sentencing Commission's actions in this matter were lawful, and an interpretation of the Guideline, not a modification of that Guideline: United States v. Newcomb, 803 Fed. App'x 47 (8th cir. 2020); United States v. Adams, 934 F.3d 720 (7th cir. 2019); United States v. Milton, 805 Fed. App'x 280 (5th and 11th cir. 2020); United States v. Tabb, 949 F.3d 81 (2d cir. 2020).

These last four following Circuit's have made the legal determination, that the Sentencing Commission's actions in this matter were unlawful, and a modification of the Guideline, not an interpretation of that Guideline: United States v. Winstead, 890 F.3d 1082 (D.C cir. 2018); United States v. Havis, 927 F.3d 382 (6th cir. 2019); United States v. Crum, 934 F.3d 963 (9th cir. 2018); United States v. Lewis, 963 F.3d 16 (1st cir. 2020). **Under Kisor, 139 S. Ct. 2400; " 5 U.S.C § 553(b)(c), mandates that an agency use notice-and-comment procedures before issuing legislative rules. Subsequently, interpretive rules are meant only to "advise the public" of how the agency understands, and is likely to apply, its binding statutes and legislative rules. Ibid. Kisor establishes that when a Court gives auer deferance to an interpretive rule. The result, is to make a rule that has never gone through notice and comment binding on the public. Or to put another way, the interpretive rule ends up having the "force and effect of law"(without ever paying the procedural cost.)**

Petitioner contends that the Commentary has **no legal force or effect of law;** the only way that the offenses added to the Commentary would have legal force or the effect of law, is if: (1) the offenses in the Commentary would also have to be in the Guideline Text of 4B1.2 (b), or (2) there would have to be a "Textual Hook" in the Guideline Text of 4B1.2(b), that allows added offenses in the Commentary that are not in the Textual Guideline... It really doesn't matter if the added offenses are an interpretation or a modification.

B. WHETHER THE DISTRICT COURT LACKED SUBJECT-MATTER JURISDICTION TO IMPOSE A SENTENCE FOR THE CAREER OFFENDER ENHANCEMENT UNDER 18 U.S.C. § 3553; WHEN THE SENTENCE WAS IMPOSED BY AN ACT OF THE SENTENCING COMMISSION, THAT WAS NOT APPROVED BY CONGRESS. THEREBY MAKING PETITIONER'S SENTENCE UNLAWFUL AND A VIOLATION OF HIS FIFTH AND TENTH AMENDMENT RIGHT'S.

Petitioner asserts that if this Honorable Court finds that the Sentencing Commission exceeded its scope of authority by adding additional criminal offenses to the 4B1.2(b) Guideline, through the Commentary, without Congress's approval through an amendment. Then its clear that the District Court lacked Subject-Matter Jurisdiction to impose Petitioner's Career Offender Enhanced sentence under 18 U.S.C § 3553, " Imposition of Sentence.".

The Commentary clearly has no legal force or an effect of law, unless the same offenses that are in the Commentary are in the Text of the Guideline... Petitioner's sentence was not imposed on offenses in the § 4B1.2(b) Text of the Guideline. Thus Congress establishes such Court's and defines their several jurisdictions, but whatsoever judicial power a Court possesses, by act of Congress, the Court derives from the Constitution in its grant of such power. The Jurisdiction of any inferior Court of the United States, thus defined by Congress, may vary, from time to time, by act of Congress, but every case arising in the Court must be shown, by the record of the Court, to be within its Jurisdiction.

"The reason for this important rule [and seeming restriction] conforms to the essential principle in all judicial proceedings: the principle of authority. No Court acts without authority and, as judicial examination has for its ultimate purpose the settlement of controversy in s legal manner, the jurisdiction of the Court is of primary importance. One of the purposes of the Union is to establish justice, and precision in the whole matter of exercise of judicial power is essential." Francis Newton Thorpe, The Essentials of American Constitutional Law § 101, at 118-19 (1917). **See Bowles v. Russell, 551 U.S. 205, 212, 127 S. Ct. 2360, 168 L. Ed. 2d 96 (2007)(Within Constitutional bounds, Congress decides what cases the Federal Court's have Jurisdiction to Consider").**

Additionally, Petitioner asserts that his Collateral waiver in his Plea Agreement, does not bar Jurisdictional Challenges, because subject-matter jurisdiction issues cannot be waived or forfeited by the parties of an agreement. Jurisdictional Challenges go to the root of the Court's power to adjudicate a proceeding; not the actual judgment rendered for Conviction or Sentence. Jurisdictional Challenges must be restored to the Habeas Corpus proceedings under § 2255(e) for filing a § 2241; because this is the only effective remedy for a criminal defendant to challenge the unlawfulness of his detention, in cases where he has waived collateral attacks, as a stipulation to his plea agreement, under the incompetent directive of his Court appointed Counsel. Constitutional claims are clearly barred by a Collateral waiver. There should always be a Judicial recource for Jurisdictional issues, particularly, when a criminal defendant's sentence is a subject of a Separation of Powers violation.

CONCLUSION

THE PETITION FOR WRIT OF HABEAS CORPUS RELIEF, SHOULD BE GRANTED...

RESPECTFULLY SUBMITTED,

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