

No. 20-8183

IN THE
SUPREME COURT OF THE UNITED STATES

Themba B. Sanganza

(Your Name)

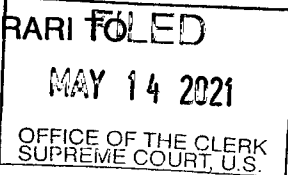
— PETITIONER

vs.

U.S. Attorney General et al.,

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI



3rd Circuit Court of Appeals

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Themba Bernard Sanganza

(Your Name)

Allenwood FCI Medium

P.O. Box 2000

(Address)

White Deer, PA 17887

(City, State, Zip Code)

(Phone Number)

04/21/2021

QUESTION(S) PRESENTED

1. Does the Constitution takes precedence before an other form of legislation?
2. Are the branches of the Government of the United States of America - Legislative, Executive, and Judicial - statutorily and morally obligated to operate within the sphere of action explicitly articulated by the Constitution?
3. Who has been bestowed jurisprudence to interpret the Constitution?
4. Are the individual States of the Union sovereign states within it's territorial limits?
5. Were does the administration of justice take place within the United States of America?
6. For what purpose do the federal courts choose not to operate within the guidelines of Article III of the Constitution?
7. Why are federal courts circumventing the vision of the framers of the Constitution?
8. Can this court place itself as nearly as possible in condition of men who framed the Constitution?

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

Amin v. Attorney General et al., No. 1:19-CV-0348 District of Columbia
Judgment entered (Transferred)

Lopez Pena v. Attorney General et al., No. 1:20-CV-01889 District of Columbia
Judgment Entered (Pending)

Cromitie v. Attorney General et al., No. 1:20-CV-00991 Middle District of
Pennsylvania Judgment entered February 09, 2021

Jordan v. Attorney General et al., No. 1:20-CV-00749 Middle District of Columbia
Judgment Entered April 09, 2021

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
[Labove v. Lalley, 809 F. 2d 220 (3rd Cir. 1987)].	22
[Higgs v. Attorney General, 655 F. 3d 333, 339 (3rd Cir. 2011)]	22
[Ashcroft v. Iqbal (2009)]	23
[Cotton, 535 US at 630]	23
[Engle v. Isaac, 456 US 107, 135, 71 L. Ed. 2d 783 S. Ct. 1558 (1982)].	23
[Arbaugh v. Y&H Corp., 126 S. Ct. 1255, 1240, 160 L. Ed. 2d 437 (1996)]	23
[Turner v. Safley, 482 US 78, 78, 96 L. Ed. 2d 64, 107 S. Ct. 21254 (1987)].	23
[Ruhrgas AG v. Marathon Oil Co., 526 US 574, 583 119 S. Ct. 1563, 143 L. Ed. 2d 760 (1999)]	23
[Shutte v. Armco Steel Corp., 431 F. 2d 22, 25 (3rd Cir. 1970)].	23
[Monsanto Company v. Geerston Seed Farms, 561 US 139, 130 S. Ct. 2743, 177 L. Ed. 2d 461, (2010)]	App. D
[United States v. Wheeler, 886 F. 3d 415, 434, 2016 (4th Cir.)]	App. D
[Zannino v. Arnold, 531 F. 2d 687, 692, n.5, 1876, US (3rd Cir. 1976),	App. D
[Bellomo v. United States, 297 F. 2d 494, 2003 (E.D. NY)]	App. D

[Vermont Agency of Natural Resources v. United States, ex rel. Stevens, 529 US 765,

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120 S. Ct., 1858 146 L. Ed. 2d 836 (2000)]

[Wolff v. Cash 4 Titles, 351 F. 3D 1358, 24504 (11th Cir. 2003)]

App-D

[Clinton v. City of New York, 524 US 417, 118 S. Ct. 2091, 141 L. Ed. 2d 393-394 (1998)].

App-D

[Kingdomware Technologies Inc. v. United States, 136 S. Ct. 1969, 195 L. Ed. 2d 334, 3921 (2016)]

App-D

[Haines v. Kerner, 404 US 519, 30 L. Ed. 2d]

App-E

[Rumsfeld v. Padilla, 542 US 426, 447, 124 S. Ct. 2711, 159 L. Ed. 2d 513 (2004)]

App-E

[Braden v. 30th Judicial Circuit Court of Ky, 4101 US 484 495, 93 S. Ct. 1123, 35 L. Ed. 2d

App-E

[Mandarino v. Ashcroft, 318 F. Supp. 2d 12, (D. Ct. 2003)]

App-E

[So v. Reno, 251 F. Supp. 2d 1112, (E.D. NY 2003)]

App-E

[Scott v. Carew, 196 US 100, 49 L. Ed. 403 (1905)]

App-G

[Adams v. United States, 319 US 312, 63 S. Ct. 1122, 87 L. Ed. 1421 (1943)]

App-H

[Ex parte Bain, 121 US 1, 7 S. Ct. 781, 30 L. Ed. 849 (1887)]

App-I

[Albrecht v. United States, 272 US 1, 547 S. Ct. 250, 71 L. Ed. 505 (1927)]

App-I

[Giordenello v. United States, 357 US 480, 2 L. Ed. 2d 1503, S. Ct. 1254]

App-I

[Gernstein v. Pugh, 420 US 103 (1975)]

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[Hale v. Henkell, 201 US 42 (1906)]

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[United States v. Williams, 504 US 36 (1992)]

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[Midland Asphalt Corp. v. United States, 489 US 794, 103 L. Ed. 2d 879 109 S. Ct., 1494 (1989)]

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[Adams v. United States, 319 US 312, 63 S. Ct. 1122, 87 L. Ed. 1421 (1943)].

App-J

[Douglas Oil Co. of California v. Petrol Stops Northwest, 441, US 211, 60 L. Ed.

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2d 156, 44 S. Ct. 1667 (1979)]

[Marbury v. Madison, 5 US (1 Cranch) 1 37, 2 L. Ed. 60 (1803)].

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

December 21, 2020

☒ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

May 13, 2020

☒ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was December 21, 2020.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment 4 Unreasonable searches and seizures.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment 5 Criminal actions—Provisions concerning—Due process of law and just compensation clauses.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment 8 Bail—Punishment.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment 10 Powers reserved to states or people.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Amendment 13

Sec. 1. [Slavery prohibited.] Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Amendment 14

Sec. 1. [Citizens of the United States.] All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Sec. 1. Legislative powers vested in Congress.

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;

Cl 18. All necessary and proper laws.

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

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.

No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows:

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Cl 1. Subjects of jurisdiction.

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

Cl 2. Jurisdiction of Supreme Court.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

Cl 2. Supreme Law.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Cl 3. Oath of Office.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

§ 2241. Power to grant writ

(a) Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions. The order of a circuit judge shall be entered in the records of the district court of the district wherein the restraint complained of is had.

(b) The Supreme Court, any justice thereof, and any circuit judge may decline to entertain an application for a writ of habeas corpus and may transfer the application for hearing and determination to the district court having jurisdiction to entertain it.

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

(1) He is in custody under or by color of the authority of the United States or is committed for trial before some court thereof; or

(2) He is in custody for an act done or omitted in pursuance of an Act of Congress, or an order, process, judgment or decree of a court or judge of the United States; or

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

(4) He, being 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 effect of which depend upon the law of nations; or

(5) It is necessary to bring him into court to testify or for trial.

(d) Where an application for a writ of habeas corpus is made by a person in custody under the judgment and sentence of a State court of a State which contains two or more Federal judicial districts, the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the State court was held which convicted and sentenced him and each of such district courts shall have concurrent jurisdiction to entertain the application. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

(e) (1) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained by the United States who has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.

(2) Except as provided in paragraphs (2) and (3) of section 1005(e) of the Detainee Treatment Act of 2005 (10 U.S.C. 801 note), no court, justice, or judge shall have jurisdiction to hear or consider any other action against the United States or its agents relating to any aspect of the detention, transfer, treatment, trial, or conditions of confinement of an alien who is or was detained by the United States and has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.

§ 509. Functions of the Attorney General

All functions of other officers of the Department of Justice and all functions of agencies and employees of the Department of Justice are vested in the Attorney General except the functions—

(1) vested by subchapter II of chapter 5 of title 5 [5 USCS §§ 551 et seq.] in administrative law judges employed by the Department of Justice;

(2) of the Federal Prison Industries, Inc.; and

(3) of the Board of Directors and officers of the Federal Prison Industries, Inc.

§ 503. Attorney General

The President shall appoint, by and with the advice and consent of the Senate, an Attorney General of the United States. The Attorney General is the head of the Department of Justice.

§ 2071. Rule-making power generally

(a) The Supreme Court and all courts established by Act of Congress may from time to time prescribe rules for the conduct of their business. Such rules shall be consistent with Acts of Congress and rules of practice and procedure prescribed under section 2072 of this title [28 USCS § 2072].

(b) Any rule prescribed by a court, other than the Supreme Court, under subsection (a) shall be prescribed only after giving appropriate public notice and an opportunity for comment. Such rule shall take effect upon the date specified by the prescribing court and shall have such effect on pending proceedings as the prescribing court may order.

§ 455. Disqualification of justice, judge, or magistrate [magistrate judge]

(a) Any justice, judge, or magistrate [magistrate judge] of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(2) Where in private practice he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;

(3) Where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;

(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

§ 501. Executive department

The Department of Justice is an executive department of the United States at the seat of Government.

§ 301. General authorization to delegate functions; publication of delegations

The President of the United States is authorized to designate and empower the head of any department or agency in the executive branch, or any official thereof who is required to be appointed by and with the advice and consent of the Senate, to perform without approval, ratification, or other action by the President (1) any function which is vested in the President by law, or (2) any function which such officer is required or authorized by law to perform only with or subject to the approval, ratification, or other action of the President: *Provided*, That nothing contained herein shall relieve the President of his responsibility in office for the acts of any such head or other official designated by him to perform such functions. Such designation and authorization shall be in writing, shall be published in the Federal Register, shall be subject to such terms, conditions, and limitations as the President may deem advisable, and shall be revocable at any time by the President in whole or in part.

§ 3112. Federal jurisdiction

(a) Exclusive jurisdiction not required. It is not required that the Federal Government obtain exclusive jurisdiction in the United States over land or an interest in land it acquires.

(b) Acquisition and acceptance of jurisdiction. When the head of a department, agency, or independent establishment of the Government, or other authorized officer of the department, agency, or independent establishment, considers it desirable, that individual may accept or secure, from the State in which land or an interest in land that is under the immediate jurisdiction, custody, or control of the individual is situated, consent to, or cession of, any jurisdiction over the land or interest not previously obtained. The individual shall indicate acceptance of jurisdiction on behalf of the Government by filing a notice of acceptance with the Governor of the State or in another manner prescribed by the laws of the State where the land is situated.

§ 3231. District courts

The district courts of the United States shall have original jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States.

Nothing in this title shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof.

§ 2242. Application

Application for a writ of habeas corpus shall be in writing signed and verified by the person for whose relief it is intended or by someone acting in his behalf.

It shall allege the facts concerning the applicant's commitment or detention, the name of the person who has custody over him and by virtue of what claim or authority, if known.

It may be amended or supplemented as provided in the rules of procedure applicable to civil actions.

If addressed to the Supreme Court, a justice thereof or a circuit judge it shall state the reasons for not making application to the district court of the district in which the applicant is held.

§ 2243. Issuance of writ; return; hearing; decision

A court, justice or judge entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.

The writ, or order to show cause shall be directed to the person having custody of the person detained. It shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.

The person to whom the writ or order is directed shall make a return certifying the true cause of the detention.

When the writ or order is returned a day shall be set for hearing, not more than five days after the return unless for good cause additional time is allowed.

Unless the application for the writ and the return present only issues of law the person to whom the writ is directed shall be required to produce at the hearing the body of the person detained.

The applicant or the person detained may, under oath, deny any of the facts set forth in the return or allege any other material facts.

The return and all suggestions made against it may be amended, by leave of court, before or after being filed.

The court shall summarily hear and determine the facts, and dispose of the matter as law and justice require.

§ 2255. Federal custody; remedies on motion attacking sentence

(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.

(b) Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the United States attorney, grant a prompt hearing thereon, determine the issues and make findings of fact and conclusions of law with respect thereto. If the court finds that the judgment was rendered without jurisdiction, or that the sentence imposed was not authorized by law or otherwise open to collateral attack, or that there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner or resentence him or grant a new trial or correct the sentence as may appear appropriate.

(c) A court may entertain and determine such motion without requiring the production of the prisoner at the hearing.

(d) An appeal may be taken to the court of appeals from the order entered on the motion as from the final judgment on application for a writ of habeas corpus.

(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.

(f) A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

(1) the date on which the judgment of conviction becomes final;

(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

(g) Except as provided in section 408 of the Controlled Substances Act [21 USCS § 848], in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

(h) A second or successive motion must be certified as provided in section 2244 [28 USCS § 2244] by a panel of the appropriate court of appeals to contain—

(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.

§ 101. Executive departments

The Executive departments are:

The Department of State.

The Department of the Treasury.

The Department of Defense.

The Department of Justice.

The Department of the Interior.

The Department of Agriculture.

The Department of Commerce.

The Department of Labor.

The Department of Health and Human Services.

The Department of Housing and Urban Development.

The Department of Transportation.

The Department of Energy.

The Department of Education.

The Department of Veterans Affairs.

The Department of Homeland Security.

§ 110. Same; definitions

(e) The term "Federal area" means any lands or premises held or acquired by or for the use of the United States or any department, establishment, or agency of the United States; and any Federal area, or any part thereof, which is located within the exterior boundaries of any State, shall be deemed to be a Federal area located within such State.

§ 3581. Sentence of imprisonment

(a) In general. A defendant who has been found guilty of an offense may be sentenced to a term of imprisonment.

(b) Authorized terms. The authorized terms of imprisonment are—

- (1) for a Class A felony, the duration of the defendant's life or any period of time;
- (2) for a Class B felony, not more than twenty-five years;
- (3) for a Class C felony, not more than twelve years;
- (4) for a Class D felony, not more than six years;
- (5) for a Class E felony, not more than three years;
- (6) for a Class A misdemeanor, not more than one year;
- (7) for a Class B misdemeanor, not more than six months;
- (8) for a Class C misdemeanor, not more than thirty days; and
- (9) for an infraction, not more than five days.

§ 2248. Return or answer; conclusiveness

The allegations of a return to the writ of habeas corpus or of an answer to an order to show cause in a habeas corpus proceeding, if not traversed, shall be accepted as true except to the extent that the judge finds from the evidence that they are not true.

§ 1623. False declarations before grand jury or court

(e) Proof beyond a reasonable doubt under this section is sufficient for conviction. It shall not be necessary that such proof be made by any particular number of witnesses or by documentary or other type of evidence.

§ 3233. Transfer within district—(Rule)

See Federal Rules of Criminal Procedure

Arraignment, plea, trial, sentence in district of more than one division, Rule 19.

§ 303. Definitions

As used in this chapter [3 USCS §§ 301 et seq.], the term “function” embraces any duty, power, responsibility, authority, or discretion vested in the President or other officer concerned, and the terms “perform” and “performance” may be construed to mean “exercise”.

§ 2071. Concealment, removal, or mutilation generally

(b) Whoever, having the custody of any such record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, removes, mutilates, obliterates, falsifies, or destroys the same, shall be fined under this title or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States. As used in this subsection, the term “office” does not include the office held by any person as a retired officer of the Armed Forces of the United States.

STATEMENT OF THE CASE

The Constitution reads, "We the people, in order to form a more perfect union, seek to: establish justice, insure domestic tranquility, provide for the common defense, promote general welfare, secure the blessings of liberty for ourselves and posterity." The preamble of the United States Constitution is a unique Federal writing in that it has never been regarded as a source of any substantive power conferred to the government or any department thereof. It specifies that the purpose of the articles and amendments following it are only to serve the people.

Congress adopted, on the 21st of February, 1787, a resolution in favor of convening delegates from the state legislatures for an important matter. On the 25th of May, with seven states in convention, a Mr. George Washington of Virginia was elected the first president of that new nation. The first official matter proceeding under his administration was the consideration of a proposed "constitution" upon which the laws of the nation were to be based. In September of that year, the United States Constitution, one of the seminal documents in human history, was almost unanimously endorsed by the then present members of the Congressional convention of delegates. The delegates then transmitted it to Congress with a resolution detailing the operations and implementation of this new document.

Based in the great Western intellectual tradition, the Constitution represented hundreds of years of thought, with its' roots veined in the soil of the Renaissance. It was inspired by the later period aptly famed as the "Enlightenment." The explicit purpose of the Constitution, with its' focus on the inherent rights belonging to all those it governed, was to remove people from the darkness of oppression into the light of liberty and freedom. The early "Americans", as they became known, made courageous statements regarding the essential nature of God-given rights. Benjamin Franklin said, "Rebellion to tyranny is obedience to God." To them, the law was a system which implemented God's Design and uplifted society as a whole. There was no obedience to unjust law. Many of those "Founding Fathers" fought and gave their lives in order to free themselves from the shackles of subjugation. That Constitution which they produced was a mutually validated social contract designed to benefit, not a subjugator-subject dynamic, but a citizen and his representative. The union born from its' ratification became one the the most powerful empires known to man.

The United States of America is a nation of constitutional rights functioning in the form of civil liberties and the laws necessary to uphold them. The daily operations, legitimacy, and even very existence of this nation are based upon the constitution. The lives of its' citizens are intertwined with its' application. Every governmental or private action must be in accordance, first and foremost, with the entirety of the constitution and all of the civil liberties guaranteed therein.

The petitioner contends that the constitution has been egregiously betrayed. He contends that cultural groups in the United States are being systematically targeted for control and subjugation. The Department of Justice, in conjunction with many arms of the government, including the Federal Bureau of Prisons, has routinely conspired to strip vulnerable Americans of their rights. The plaintiff is one such person. I have lived in this nation, enchanted by its' promise of opportunity and liberty - due process and equality - rights and freedoms. I saw myself trodding in the giant footsteps of the forefathers who founded this nation. They had created the opportunity for all to manifest their full potential, so I naively expected the same. The reality I have encountered has been far, far more devious.

As evidenced with the act of congress as 28 U.S.C. section 2241 the petitioner instituted this civil rights action on January 6th, 2020 to redress deprivation of constitutional rights under the color of law. The trial judge Christopher C. Conner dismissed the petition on May 13th, 2020. The petition was then submitted to the third circuit Court of Appeals on May 14th, 2020. The panel of judges Porter, Ambro, and Schwartz also decided to dismiss the petition on December 20th, 2020.

The Supreme Court and Congress have recognized pro se due-process suits as deterrents against failures to obey strictures of Federal Statutes and the constitution. They target Federal officers and agencies whom overstep the bounds of the Congress' dictates, the constitution, its' amendments, and the powers vested in the separate branches of government. The presumption in civil actions is that all allegations, which are well-plead and clearly not frivolous, must be assumed as factual [Labove v. Lalley, 809 F. 2d 220 (3rd Cir. 1987)]. Therefore, the entirety of the facts outlined in this suit should be taken as such until proven inconceivable or implausible by the defendants.

Courts must interpret pro se motions liberally as per [Higgs v. Attorney General, 655 F. 3d 333, 339 (3rd Cir. 2011)]. This motion clearly contains "sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." [Ashcroft v. Iqbal (2009)] The movant contends that the defendant acted in clear absence of legal authority and power [United States Constitution Article III, 2 Ch. 2]. Congress has interpreted [Article III] as an operational guide for the branches of government.

The petitioner is currently held in the respondent's custody in violation of the United States Constitution and the laws of the United States [28 U.S.C. section 2241 (c)(3)]. He is currently housed in a facility controlled by the United States Department of Justice by and through the Federal Bureau of Prisons, subjected to the authority of the officers hired to work therein. He is also subject to unannounced transfer from facility to facility, without any notice, often as an attempt to discourage litigation. He is currently held by the defendants, with his ultimate detaining custodian being the current United States Attorney General, whose claim of authority to hold the petitioner is based on a "Judgment in a Criminal Case" also termed a "Judgment and Commitment Order."

The petitioner is currently being held unlawfully and unconstitutionally with a Bureau of Prisons despite his actual innocence. This petition seeks to redress deprivation under color of Federal law for rights secured by the United States Constitution. All courts established under Congress' aegis may issue writs and hear all motions necessary or appropriate in their respective jurisdictions.

All courts proceeding to hear [28 U.S.C. section 2241] motions have a solemn duty to vet the petitioner's allegations in such a motion for symptoms of constitutional infirmities. It is only where clear evidences demonstrate that the petitioner is not entitled to relief that a hearing on the claims may be denied. However, if the petitioner is capable of presenting documentary and legal basis to demonstrate that he may be entitled to relief, that his claims are not futile or groundless, then: he is also entitled to meaningful hearings to determine the preponderance of evidence [United States v. Strother (A5 Miss.) (1970)]. [Section 2241] is an extraordinary motion and the court's jurisdiction to grant relief under it is limited in scope. However, it is the appropriate vehicle to release a petitioner from illegal custody. The court is bound to accept at face value all well-plead allegations in such a motion, but must determine their reasonableness and likelihood of success on the merits.

The petitioner has been denied his fundamental constitutional rights and the passage of time does not preclude him from relief in retrieving them. [Section 2241] is available at common law without limitation of time. The petitioner has a right to be heard under [Federal Rule of Criminal Procedure 60(A)(3)]. Congress and the Supreme Court have established that such a petition must demonstrate that:

- a) it is based on compelling circumstances which require it in order to achieve true justice;
- b) the petitioner continues to suffer unconstitutional and illegal detention that would be remedied by granting the motion, and;
- c) there is a general presumption of irregularity in the attacked proceedings preceding the motion.

The petitioner invokes [United States Constitution Article III] as the court lacked all conceivable forms of jurisdiction over the petitioner and his criminal case. Such a motion is permitted as the petitioner is held under a judgment which violates the Constitution and the court lacked jurisdiction to enter said judgment. The arguments raised herein have no time-barrier as the jurisprudence of the Supreme Court has established that a courts' power to hear these sort of contentions "can never be forfeited or waived" [Cotton, 535 US at 630]. Federal habeas review is available when, were it not to be taken, a constitutional violation would result in he miscarriage of justice as per [Wainwright, 433 US at 91]. That includes unjust incarceration [Engle v. Isaac, 456 US 107, 135, 71 L. Ed. 2d 783 S. Ct. 1558 (1982)]. As the government has never overcome the presumption of the petitioner's actual innocence, this court has jurisdiction to hear these arguments [Carrier, 477 US at 495-496].

It has expressly held that arguments of jurisdiction can be raised even beyond the entry of judgment. The objection that the government lacked such jurisdiction "may be raised by a party or by a court on its initiative, at any stage in the litigation, even after trial and the entry of judgment," [Arbaugh v. Y&H Corp., 126 S. Ct. 1255, 1240, 160 L. Ed. 2d. 437 (1996)] No statute of limitations exists when there is legitimate penological interest [Turner v. Safley, 482 US 78, 78, 96 L. Ed. 2d 64, 107 S. Ct. 21254 (1987)]. Jurisdiction represents a question of judicial power and for a court to act outside of it is to act ultra vires [Ruhrgas AG v. Marathon Oil Co., 526 US 574, 583 119 S. Ct. 1563, 143 L. Ed. 2d 760 (1999)].

The defendants are the custodians of the petitioner, by and through the employees of the Department of Justice. This district court's jurisdiction is based upon [28 U.S.C. section 2241]. Primarily, he is held under the authority of the United States Attorney General. [28 U.S.C. section 509] states,

"All functions of other officers of the Department of Justice and all functions of agencies [including the Federal Bureau of Prisons] and employees of the Department of Justice are vested in the Attorney General..."

Though he is held under the authority of the United States Attorney General, whose office is in the District of Columbia, a court may assume jurisdiction of a [section 2241] filing if is a proper and convenient forum for it to do so. Under [28 U.S.C. section 1391(b)], venue can lie in more that one district. Venue is appropriate in this district because the substantial events giving rise to this writ, namely the petitioner's ongoing detention, occur here. A petitioner's forum of choice is to be afforded great weight and should be given "paramount consideration" [Shutte v. Armco Steel Corp., 431 F. 2d 22, 25 (3rd Cir. 1970)]. According the the [Federal Rules of Civil Procedure], such a writ may be brought in an judicial district in which: the defendants reside, a substantial part of the events occurred, or where the petitioner himself resides.

The petitioner's detention based upon a criminal "conviction" is underlied by six (6) presumptions:

- i) That the defendants, including the sitting United States Attorney General at the time that the criminal action was filed, had the appropriate authority, as delegated by the sitting United States President, to act in his capacity under the color of the Executive branch;
- ii) that the defendants had the required authority to enter the petitioner's residential State, under force of arms, and subject him, part of that State's sovereign body politic, to detention under Federal Criminal offense statute on record and that the defendants had the authority to enforce that Federal statute over the territory of the petitioner's residential state, under the color of the United States;

iii) that the defendants had the authority to detain the petitioner only because he was tried under due-process of law, being indicted by a grand jury of his peers;

iv) that the defendants had the authority to detain the petitioner knowing that his conviction was only based upon the supreme law of the land, not unofficial dicta;

v) that the defendants detained the petitioner without any significant conflict of interest on part of: the District court judge who issued the "Judgment and Commitment," the defense attorney(s), and the defendants themselves, and;

vi) that the petitioner's natural presumption of total innocence was overcome beyond reasonable doubt thereby making the stripping of his liberty by detention a legal recourse.

In order to understand how a person is legally detained, the Constitution must first be reviewed. How the United States Attorney General and his subordinates obtain legal authority to subject citizens, particularly the petitioner, to detention is a constitutional question. The petitioner postulates that the defendants manifested and exercised an illegitimate power in such a way [Article III] forbids.

REASONS FOR GRANTING THE PETITION

1. It is a maxim of law that all United States courts, and the officers acting based on their conclusions, are presumed to lack the authority to accept jurisdiction of any case. That presumption is only overridden when the plaintiff, in the relevant criminal case being the UNITED STATES of AMERICA, proves, beyond a reasonable doubt, that the defendants in an action are under the jurisdiction of the court. Otherwise, they have no authority to detain a free individual.

2. The plaintiff has been deprived of his constitutional and statutory rights since he was arrested. He was placed in Federal prison without being duly convicted - in total violation of [United States Constitution Thirteenth Amendment]. The movant was placed into custody of the defendant without the most basic proceedings of the courts. The procedures used to incarcerate him violated [28 USC section 2071(b)], [18 USC section 1623(e)], and [18 USC section 3621(c)]. He is held by the defendants in custody without lawful authority as the "Judgment of Conviction in a Criminal Case" used as a pretense to detain him is inherently void ab initio and a legal nullity.

3. The petitioner is entitled to relief upon the basis of six (6) claims:

a) The defendants did not have the required executive authority to detain the petitioner, as conferred by the United States Constitution to that department through the sitting President. The petitioner's detention was totally invalid.

b) The defendants did not have the requisite jurisdictional authority to enter the petitioner's residential State, under force of arms, to subject a member of that State's sovereign body politic, namely the petitioner, to detention based upon the application of the Federal criminal offense statute that he was convicted of. The defendants did not have the authority, under color of the United States, to enforce that Federal criminal offense statute over the territory of the petitioner's residential State, as it was unconsenting. The petitioner did not commit the offense within a Federal enclave, neither did the required residences of multiple court functionaries exist, at the time, within a Federal enclave.

c) The defendants did not have the authority to detain the petitioner because he was not tried under any semblance of due-process. The indictments used to detain the defendant were never legally drawn and presented to a proper court, under oath, by a grand-jury duly impaneled to issue the charges describing the offense against the law. He has not, till this day, received a true indictment. The grand-jury's independence and decision-making process were never constituted to perform their role in the criminal case. The movant was placed into the government's custody without any true-bill documentation. The movant asserts that the seminal documents of his criminal case simply do not exist or exist in a form inconsistent with the laws derived from the Constitution. Therefore, he is held unlawfully. The documents which do exist are essentially forged to illegally incarcerate him and are a direct result of vindictive prosecution.

d) The defendants did not have the authority to detain the petitioner as he knew that his "conviction" was not based upon the supreme law of the land but was based upon unofficial dicta. Those dicta carry no constitutional weight and are a parallel legal corpus used to illegally detain the plaintiff, thereby creating an unconstitutional circumstance of another law operating as supreme besides the Supreme Law as designated by the Constitution.

e) These violations occurred as the defendants were incentivized to incarcerate the plaintiff for as long as possible, due to their profit and gain as derived from his detention. The defendants did not have the authority to detain the petitioner because they were and continue to be financially incentivized to incarcerate him irrespective of legality - thereby creating an unconstitutional conflict of interest.

f) The forgoing mean that presumption of the petitioner's actual innocence was never overcome in order for jurisdiction to have been valid. The petitioner was "guilty until proven innocent."

4. Each subsequent claim represents a successive escalation of jurisdiction to detain the defendant. As is proven, there was absolutely no level of valid jurisdiction to detain him - though each level is predicated upon the previous level. Taken as a whole, they represent the total dissolution of the due-process required to detain him. Each claim is proven through its' corresponding section in "PART II" of this petition, with the exception of claim (f). Claim (f) is the culmination of all other claims and is discussed in "PART III." Additionally, each has an authenticated statement of jurisdictional and material facts subsumed therein. As the legal basis of each claim, self-authenticating documentary evidence is presented.

1. The sufficient grounds for relief arise due to a total lack of jurisdiction. The movant asserts an implied cause of action under the Constitution's separation-of-powers principle. The defendant lacked all authority to perform the functions otherwise authorized by law. The processes which the defendants disregarded were instituted by the architects of the Constitution so as to protect the masses from partial or vindictive prosecution by an official elite. Whatever detention orders issued total disregard of those laws are essential nullities. The plaintiff must be released without delay as detaining him is not in the pursuit of justice.

2. The petitioner respectfully requests that the court comply with the provisions of [28 USC section 2248] and accept the petitioner's uncontested statements of facts and evidence as true.

3. The petitioner requests that the court issue a Writ of Habeas Corpus, ordering the defendants to discharge and release the petitioner from custody immediately, without delay.

4. If the court should not do so, then it should issue an order directing the defendants to show cause as to why this writ should not be granted within three days of issuance of that order. Furthermore, the "Order to Show Cause" should direct the respondent to produce admissible evidence to prove, beyond reasonable doubt, that the defendants have the authority to continue to detain the plaintiff.

5. Should the defendants fail to timely respond, then the "Writ of Habeas Corpus" should see the relief granted at once.

6. If necessary to resolve any factual disputes, the plaintiff demands a jury trial on all triable issues.

7. Pursuant to [28 USC section 1657] the petitioner requests that the scheduling judge schedule this petitioner for expedited consideration as the petitioner's inherent constitutionally protected rights are being violated.

As herein fully appears, the Framers of the constitution employed words in their natural sense and where plain and clear in the usage.

In order to maintain a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote general welfare, secure the blessings of liberty for ourselves and posterity words of the constitution are to be taken in their obvious sense.

Across the political spectrum, from the branches of the government to each individual citizen, their lives and inherent responsibility to interpret the constitution as it existed at its inception.

Pursuant to the presumption of an order issued by the Justices on March 19, 2021, granting the Petitioner extension to file Writ of Certiorari and upon receiving the guide and rules of the United States Supreme Court on April 21, 2021. The Petitioner submits this Writ of Certiorari.

In the interest of justice the Justices must not evade the supreme laws of this land to correct the alleged constitutional and human rights violations arising out of abuse of authority, for to do so would be diametrically opposed to the tenets of the constitution.

#JUSTICE4ALL

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Themba B. Sanganza

Date: 5/14/2021