

**In The  
Supreme Court of the United States**

ORIGINAL

Kenneth A. Pruitt,

*Petitioner,*

v.

Supreme Court, U.S.  
FILED

OCT 12 2021

OFFICE OF THE CLERK

Joseph Robinette Biden Jr., acting alone, or in concert, in a purported official capacity; John Forbes Kerry, acting alone or in concert, in a purported official capacity; United States (U.S.) Department of Treasury, acting alone, or in concert; U.S. Environmental Protection Agency, acting alone, or in concert; U.S. National Institute of Environmental Health Sciences; acting alone, or in concert; Michael Regan, head of EPA; Richard Woychik, head of NEIHS, and Janet Yellen, head of USDT; Heads of USDT, EPA, and NIEHS unnamed for 2021 and later due election transition, said heads named individually in his/her official capacity and when not acting in his/her official capacity but acting ultra vires, acting either alone or with unknown and unnamed other persons improperly causing violations of U.S. domestic law referenced within 2006 U.S. entry to 2003-31-OCT MERIDA UNITED NATIONS CONVENTION AGAINST CORRUPTION (UNCAC) and/or violate UNCAC,

*Respondents.*

On Petition for a Writ of Certiorari to review denial  
by Court of Appeals for the Fifth Circuit  
of a colorable constitutional claim

**PETITION FOR WRIT OF CERTIORARI**

Kenneth A. Pruitt, pro se  
Trailer Village RV Park  
16580 N. US Hwy 59  
Garrison, Texas 75946  
(936) 714-3811  
kap8063@yahoo.com

## QUESTION(S) PRESENTED

As used herein, "Respondent Ultra Vires Actor" (RUVA) means any Respondent, either individual or agency, not acting within authorized scope of official capacity of governmental authority but acting ultra vires, acting either alone or with unknown and unnamed other persons improperly causing violations of U.S. domestic law referenced within 2006 U.S. entry to 2003-31-OCT MERIDA UNITED NATIONS CONVENTION AGAINST CORRUPTION (UNCAC) and/or violate UNCAC.

As used herein, Paris Climate Accord (PCA) means "Paris Climate Accord" and is also called "Paris Climate Agreement", "Paris Agreement", "Paris Accord", or "Accord du Paris" in references cited in for Petitioner's Complaint (ROA 1).

**Question One: Can Counsel for Respondent U.S. Government defend or assist RUVA for ultra vires acts outside scope of government authority, when RUVA has not filed any denial of corrupt acts alleged by this case?**

Petitioner's Complaint (ROA 1) and many other papers complain that RUVA's own published statements of plans to act, and actions, prove misuse of influence, fraud and bribery and thus are corrupt or violate UNCAC standards.

Petitioner placed, on April 12, before the District Court outcome determinative questions of law regarding RUVA and their PCA statements. Petitioner requested decision or certification to the

Fifth Circuit Court of Appeals of said questions of law.

Counsel for Respondent Government filed motions for extension, stay and dismissals.

RUVA has failed, either pro se or by non-government counsel, to file any denial of corrupt acts alleged by this case.

Petitioner asks this Supreme Court to decide if Counsel for Respondent U.S. Government can defend or assist RUVA for ultra vires acts outside scope of government authority, especially in this case, where RUVA has not filed any denial of corrupt acts alleged by this case and said counsel risks conflict or breach of duty.

**Question Two: Can RUVA fail or refuse to enter denial of corrupt acts outside scope of government authority or fail to answer or file other responsive pleading, either pro se or by non-government counsel, and not be in default?**

Petitioner asks this Supreme Court to decide if RUVA are in default. Why should RUVA be excused from basic default many months after failure to file any denials or any other responsive pleading before lapse of FRCP 12 shortened twenty-one (21) day period for reply by non-government persons and after multiple motions by Petitioner for declaratory and default judgment?

**Question Three: Given 28 USC 636(b)(1)(A) has express delegation limit on District Court's delegation to a Magistrate Judge:**

**"except for injunctive relief..."**

**does 28 USC 636(b)(1)(A) limit scope of assignment of administrative authority to Magistrate Judge in a manner to prevent delays of injunctive relief, causing de facto denial thereof?**

Petitioner complained to CA5 that delays by Magistrate Judge's extension and stay caused de facto denial of timely injunctive relief even though 636(b)(1)(B) allows creation by Magistrate Judge of proposed findings of fact and recommendations.

Petitioner asks this Supreme Court to decide if CA5 made error of law by not granting Petitioner relief when District Court Judge made error of law, in case where injunctive relief is essential for protection.

Petitioner complained to CA5 about delegation by District Court of broad case administration to Magistrate Judge in manner which allowed Magistrate Judge to withhold injunctive relief by extension and stay.

**Question Four: Does 636(b)(1)(B) allow District Court Judge to accept Magistrate Judge's proposed findings of fact and recommendations and then deny Petitioner's injunctive relief when neither District Court Judge nor Magistrate answered outcome determinative questions of law presented by Petitioner that set boundary between**

**authorized acts versus ultra vires acts of RUVA?**

Questions of law presented by Petitioner for protection of his property interests were specific to RUVA's violation of Constitution Article II Section 2 - lack of advice, consent and two-thirds Senate approval required for treaty formation or change - and thus were outcome determinative in context of Paris Climate Accord (PCA) related ultra vires acts.

Petitioner complained to CA5 that District Court Judge made error of law by denying Petitioner injunctive relief to restrain RUVA actions outside scope of authority without answering Petitioner-submitted outcome determinative questions of law that set boundary between authorized acts versus ultra vires acts of RUVA.

Petitioner asks this Supreme Court to decide if CA5 made error of law by denying Petitioner injunctive relief to restrain RUVA actions outside scope of authority without answering Petitioner-submitted outcome determinative questions of law that set boundary between authorized acts versus ultra vires acts of RUVA.

Petitioner asks this Supreme Court to now decide those PCA related questions of law presented by Petitioner.

**Question Five: Can Clerk(s) unilaterally deny access to Justices of this Supreme Court for judicial decision as to whether this Court has**

**original jurisdiction pursuant to Constitution  
Article III, Section 2:**

**“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.”?**

Petition submits that neither Respondent Kerry, nor Biden, nor any other RUVA, can deny their own Exhibit 5 statements posted on White House and Department of State websites or RUVA video releases.

Petitioner asks this Supreme Court to decide if denial by Clerk(s) for access to justice from this Court is error of law in this case:

(i) because this case is specific to and affects Respondent Kerry in his role as Special Envoy for Climate which is clearly within Article III, Section 2:

**“all cases affecting ambassadors, other  
public ministers and consuls>**

(ii) neither Respondent Kerry, nor Biden, nor any other RUVA have entered denials or objections, not even appearance, either pro-se or by non-government counsel,

**Question Six: Can Clerk(s) of Fifth Circuit (CA5) and Clerk(s) of this Supreme Court unilaterally deny access to judges for judicial decision of serious constitutional questions?**

Clerk(s) of this Supreme Court have previously returned to Petitioner his check for filing fee and each Petition for Writ of Certiorari filings prior to this one, Each filing complained of 'de facto decision' by delay and harm caused by delay. Prior to this Petition, Petition could not attach Rule 14 paper decision yet only point to loss of rights and harms by de facto decision(s) by delay.

Petitioner asks this Supreme Court to decide if said Clerks' unilateral denial of access to Judges/Justices, without senior Court review, overrules longstanding CA5 principles of *U.S. v. Woods* 295 F 2nd 772 (CA5 1961) that **28 USC 1291 does not require final order before appeal in all cases**, to wit:

"The denial of the restraining order is thus equivalent to the dismissal of the [claim] of the complaint on the ground that it does not state a claim upon which the requested injunctive relief can be granted. To then call this **de facto dismissal a nonappealable interlocutory order is to preclude review altogether.** As a practical matter, then, **it is clear that the denial of the restraining order is a final disposition** [of claimed right]"

**"On the basis of these cases, we [Fifth Circuit] feel that the Supreme Court has approved a practical construction of section 1291 and that an order, otherwise nonappealable, determining substantial rights of the parties which will be irreparably lost if review is delayed until final judgment may be**

**appealed immediately under section 1291."**

**"We [Fifth Circuit], therefore, determine the denial of the temporary restraining order to be a final decision, appealable under 28 USCA 1291."**

Petitioner contend rights to protection are lost if review(s) are delayed unreasonably causing 'de facto decision in favor other party' by preventing relief.

Petitioner thus asks this Supreme Court to decide if said Clerks' unilateral multiple denials of access to justice in this case are also inconsistent with Ninth Circuit principles of *Religious Tech. Ctr. v. Scott*, 869 F.2d 1306, 1308 (9th Cir. 1989) finding as appealable an Order denying a TRO after a non-evidentiary adversary hearing because:

"The futility of any further hearing was... patent." Petitioner thus asks this Supreme Court to decide if there is a split of 'de facto' principles in the Circuits, such as *Woods supra* and *Religious Tech. Ctr. supra* and address how 'de facto' decisions denying protection are avoided.

**Question Seven: Does unreasonable delay 'deny any judicial forum for a colorable constitutional claim' present a serious constitutional question'?**

After Supreme Court Clerks' return of papers with refusal to file for lack of jurisdiction, Petitioner at May 14 attempted to file again and asserted to



Clerks of this Court that Supreme Court jurisdiction was proper for four (4) reasons:

(1) original jurisdiction via Article III, Section 2,

(2) 28 USC 28 USC §2101(e) certiorari is proper anytime before judgment

“(e) An **application to the Supreme Court** for a writ of **certiorari** to review a case **before judgment has been rendered in the court of appeals may be made at any time before judgment**”.

(3) Congress’ “access prohibition statutes/rules” are unconstitutional (for example, 28 USC §1254 and 1257 and Rule 14 applied by Clerks to deny access) if applied to bar citizen access to the Supreme Court when lower courts fail to *timely* hear urgent, *emergency* matters and rights are damaged or lost (as happened in this case) and

(4) refusal to consider a Petition is itself a violation by the Supreme Court, its staff and associated government Respondents,

(i) of USA domestic law referenced within 2006 USA entry to UNCAC and

(ii) of UNCAC, because refusal is hard evidence that USA does not have adequate laws providing adequate access to justice complying with UNCAC.

The above (4) is complex. Courts below failed to address. Government Respondent U.S. represented

to the World in 2006 that U.S. has adequate laws providing adequate access to justice complying with UNCAC.

Petitioner asks this Supreme Court to decide:

(a) if Government Counsel motions for extension, stay and dismissal - in they were manner made - enabled RUVA to continue ultra vires acts which are corrupt?

(b) if Clerks' unilateral denial of access to Judges/Justices to seek quick protection before corrupt acts occur also enabled RUVA to continue ultra vires acts which are corrupt?

(c) if Courts' refusal to answer Petitioner-submitted outcome determinative questions of law that set boundary between authorized acts versus ultra vires acts of RUVA in regard to PCA also enabled RUVA to continue ultra vires acts which are corrupt?

(d) do any of (a) or (b) or (c) prove that U.S. does not now have in 2021 adequate laws preventing corruption that comply with UNCAC as U.S. did at 2006 UNCAC entry?

A particularly egregious example is CA5 Clerk refusing to take action, without conference, on Petitioner's September 20 and 27 motion for clarification and supplement regarding CA5's dismissal of case based on motion by counsel for Respondent Government.

Petitioner stated in motion for reinstatement that conference of all is impossible or impractical since

(i) Petitioner can only confer with Counsel for Respondent Government who cannot represent RUVA acting ultra vires, plus

(ii) RUVA acting ultra vires, after six plus months, has never appeared pro se or by non-government counsel or filed denial of corrupt acts or other responsive pleading.

Petitioner asks this Supreme Court to decide:

(a) if the Courts and Government Counsel must remain independent of ultra vires actors found within Executive Branch for U.S. to keep a UNCAC compliant legal system?

(b) if Government Counsel must owe its solemn duty and respect of privilege to Respondent Government of the people, as its client, not individual ultra vires actors found within Executive Branch?

Petitioner petitions this Supreme Court to decide, before RUVA putative representations of commitments at October 31 start of UN Glasgow climate conference of partes, if this Supreme Court will grant urgent injunctive relief to protect against RUVA false representations regarding purported U.S. commitments related to PCA for

(w) binding U.S. emissions reduction,

(x) payments by U.S. to developing countries,

(y) taxation of U.S. activities and products, and

(z) U.S. taking, value destruction, or waste of Federal property and private property such as Petitioner's mineral interest without due process and compensation,

all until further action by this Supreme Court regarding RUVA compliance with Article II, Section 2 treaty advice, consent and two-thirds approval by U.S. Senate.

**Question Eight: Confirm that, in view Petitioner's Complaint and this Petition, that this Court is not rendering an 'advisory opinion' but instead, this Court is answering questions of law to set injunctive relief boundary between permitted scope of Respondents' conduct and ultra vires conduct which is prohibited? Those questions are:**

Question 1: Is Paris Climate Agreement (PCA) a binding, enforceable treaty under USA Constitution?

First sublevel Question(s) of law for the Court depending on answer to Question 1:

(1.a.) If PCA is a treaty binding USA to reduce emissions, then how can Respondent Biden unilaterally "return the United States to the Paris Agreement" [public statement, White House Press release] without advice, consent and 2/3's vote of approval of the USA Senate as required USA Constitution?

(1.b.) If PCA is a treaty binding USA to reduce emissions, then how can Respondent Biden (and other Respondents) [public statement, White House Press release] unilaterally change a USA treaty “2030 emissions target as its new Nationally Determined Contribution under the Paris Agreement “ without advice, consent and 2/3’s vote of approval of the USA Senate as required USA Constitution?

(1.c.) If PCA is not a treaty binding USA to reduce emissions and Respondents fail to tell the World that PCA is not binding on USA, do Respondents commit misuse of influence or fraud by purporting USA [public statement, White House Press release] “ also will contribute”, versus may try or may seek Legislative approval to commit?

Question 2: Does PCA unconditionally bind all other countries/signatories to PCA to comply with emissions reductions of their IDNC (Individually Determined National Commitments) attachments to PCA or do INDCs contain conditions to/exceptions for performance? thus being “sometimes binding, sometimes not?”

Question 3: Does PCA provide Executive Branch Respondents with Constitutional valid authority to unilaterally cause abandonment or waste of private or State owned fossil fuel assets (not Federally owned assets) without due process and compensation?

Question 4: If PCA and INDC are not binding on USA or developing countries, nor enforceable as a treaty, but instead are terminable or capable of

revision by later administrations, do Executive Branch Respondent person(s) mislead public when asserting that PCA will commit USA or developing countries to reducing emissions?

(i) by representing to the public that signing PCA is a "return the United States to the Paris Agreement", when such is not a treaty commitment on emissions reductions?

(ii) in spending or transferring monies related to PCA activities without express Congressional approval?

(iii) is activity 4.(i) or 4.(ii) an egregious act of fraud, bribery or misuse of influence when signor or key climate advisor to signor also voted for 1997 S. Res. 98 prohibiting USA entry (then or now thereafter) to class of agreement within which PCA would fall if binding (i.e. mandate USA entities or persons to limit or reduce greenhouse gas emissions while developing countries do not or cause serious harm to USA economy) without Senate approval?

## TABLE OF CONTENTS

Question(s) Presented.....	i
Table of Contents .....	xiv
Table of Authorities .....	xvi
Introduction.....	1
Opinions Below .....	2
Jurisdiction.....	2
Constitutional and Statutory Provisions .....	19
Statement of the Case.....	24
Reasons for Granting this Petition.....	29
Conclusion .....	34
APPENDIX:	
Exhibit 1: June 15, CA5 three-judge panel order denying Petitioner's emergency motion. ....	A1
Exhibit 2: September 13, CA5 three-judge panel order which granted motion to dismiss for lack of jurisdiction filed by Respondent Government's counsel and denied Petitioner's motion for a restraining order. ....	A2
Exhibit 3: 1997 Senate Resolution 98 (with 'yea' votes by Biden and by Kerry) .....	A3

Exhibit 4: Principles of Ethical Conduct for Government Officers and Employee.....	A9
Exhibit 5: Adjudicative Facts for which Petitioner requests Rule 201(c)(2) Judicial Notice.....	A12
Exhibit 6: (Draft) ORDER FOR INJUNCTIVE RELIEF .....	A19



## TABLE OF AUTHORITIES

### ***Constitutional Provisions***

Article I, Section 7  
 Article II, Section 2  
 Article III, Section 2  
 First Amendment  
 Fifth Amendment  
 Fourteenth Amendment

### **Treaties and International Arrangements**

1992 United Nations Framework Convention on  
     Climate Change (UNFCCC)  
 2003-31-OCT MERIDA UN CONVENTION  
     AGAINST CORRUPTION (UNCAC)  
 Paris Climate Accord, including ~ 195  
     (Intended) Nationally Determined  
     Contributions (PCA)

### **Statutes/Rules (including those cited in Complaint)**

5 U.S.C. 556  
 5 U.S.C. 557  
 5 U.S.C. § 702  
 5 U.S.C. § 706(2)(A)-(D)  
 8 U.S.C. § 1346  
 28 U.S.C. § 636(b)(1)(A) and (B)  
 28 U.S.C. § 1254(1)  
 28 U.S.C. § 1291  
 28 U.S.C. § 1331  
 28 U.S.C. § 1361  
 28 U.S.C. § 1391(b)(2), (e)(1)(B) (e)(2)(C)  
 28 U.S.C. § 1402(b)  
 28 U.S.C. § 1651 (a) (b)  
 28 U.S.C. § 2201, 2202  
 41 U.S.C. § 7101

Federal Rules of Civil Procedure 12, 25, 57  
Federal Rule of Appellant Procedure 5, 27

**Cases** (including those cited in Complaint)

*California Democratic Party v. Jones*,  
530 U.S. 567 (2000)  
*Canadian Transp. Co. v. United States*,  
663 F. 2d 1081 (CADC 1980)  
*Elrod v. Burns*,  
427 U.S. 347 (1976)  
*Foster & Elam v. Neilson*,  
27 US (2 Pet.) 253 (1829)  
*Mannington Mills, Inc. v. Congoleum Corp.*,  
595 F. 2d 1287 (CA3 1979)  
*Medellin v Texas*  
552 U.S. 491 (2008)  
*Religious Tech. Ctr. v. Scott*  
869 F.2d 1306, 1308 (9th Cir. 1989)  
*United States v. Emuegbunam*,  
268 F. 3d 377 (CA6 2001)  
*United States v. Jimenez-Nava*,  
243 F. 3d 192 (CA5 2001)  
*United States v. Li*,  
206 F. 3d 56 (CA1 2000)  
*United States v. Woods*  
295 F 2nd 772 (CA5 1961)  
*Webster v Doe*  
486 U.S. 592, 603 (1988)  
*Youngstown Sheet & Tube Co. v. Sawyer*,  
343 U. S. 579 (1952)

**US Senate Records**

Senate Resolution (S. Res. 98). Exhibit 3  
[https://www.congress.gov/bill/105th-  
congress/senate-resolution/98](https://www.congress.gov/bill/105th-congress/senate-resolution/98)

**Government Publications**

Exhibit 4

*Principles of Ethical Conduct for  
Government Officers and Employees.*

**Judicial notice of adjudicative fact**

Rule 201, Federal Rule of Evidence at 201 (a)  
governs judicial notice of an adjudicative fact and (b)  
fact that can be accurately and readily determined  
from sources whose accuracy cannot reasonably be  
questioned.

Rule 201(c)(2) requires that the Court “must take  
judicial notice if a party requests it and the court is  
supplied with the necessary information”.

**PETITION FOR WRIT OF CERTIORARI AND  
JURISDICTION FOR THIS PETITION**

Petitioner Kenneth A. Pruitt, pro se, respectfully petitions for writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit (CA5) in this case. For brevity, all dates herein are 2021 unless otherwise noted.

At June 15, a three-judge CA5 panel order denied Petitioner's emergency motion.

At September 13, a three-judge CA5 panel order granted motion to dismiss for lack of jurisdiction filed by Respondent Government's counsel (as for one "Appellee's" motion singular possessive) and also denied Petitioner's motion for a restraining order.

The orders of CA5 are attached as Exhibit 1 and 2.

This Court's jurisdiction rests in part on 28 U.S.C 1254(1). Other jurisdiction foundations are below.

Petitioner filed timely motions with CA5 for clarification (September 20 and 27) and reinstatement (October 4). Clerk CA5 gave September 29 notice that no action will be taken on motions for clarification without conference. Petitioner responded conference with ultra vires actors not filing answers or appearances should not be required.

Electronic record system (PACER) shows case below (CA5 No. 21-40310) as 'terminated'.

Kenneth A. Pruitt pro se respectfully petitions for a writ of certiorari for review of decision of United States Court of Appeals for the Fifth Circuit (CA5).

### **OPINIONS BELOW**

At June 15 (Exhibit 1), CA5 denied Petitioner's motion for emergency order.

At September 13 (Exhibit 2), CA5  
(a) granted motion to dismiss for lack of jurisdiction filed by Respondent Government's counsel ("Appellee's" singular possessive) and  
(b) denied Petitioner's motion for a restraining order.

In Motions for Clarification and Supplement and for Reinstatement, Petitioner contended that 'Respondent Government' is not same as 'Respondent(s) ultra vires' who act outside scope of governmental authority. CA5 Clerk gave notice that no action would be taken without FRCP 27 conference. Petitioner contended conference is not possible since RUVA have not filed answers or entered other appearance.

Petitioner's Case below (CA5 No. 21-40310) is shown as 'terminated' in PACER system.

### **JURISDICTION**

#### **A. Jurisdiction for this Petition for Writ of Certiorari**

**1) This Court's original jurisdiction rests on Article III Section 2:**

**“all cases affecting ambassadors, other public ministers and consuls”**

Petitioner asks this Court find specific portion of this case affects Respondent Kerry in his role as Special Envoy for Climate which is clearly within Article III, Section 2 scope. Petitioner's CA5 Brief also stated.

**2) This Court's jurisdiction can alternatively rest on 28 U.S.C. § 1254(1). It provides:**

“Cases in the courts of appeals may be reviewed by the Supreme Court... 1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree”.

Petitioner's Complaint and CA5 Brief also stated.

**3) This Court's jurisdiction alternatively rests on 28 U.S.C. § 1651 (a) or (b) “all writs” original jurisdiction. They provide, as stated in Petitioner's January Complaint:**

(a) [t]he Supreme Court and all courts established by Act of Congress **may issue all writs necessary** or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law, which would **include quo warranto**, and

(b) [a]n alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction. [See also Petitioner's Complaint and CA5 Appeal Brief, page 20, para 16 and 20.]

Petitioner asks this Court find that the law of the Fifth Circuit is as stated in *U.S. v Woods supra*. In *Woods supra*, District Court delay caused de facto decision against injunctive relief resulting in harm without protection, loss of rights and damages.

At time of *Woods supra*, Government's position taken was that:

"In the alternative, if the order is not appealable, the Government insists that this Court has jurisdiction of [its] petition for injunction under the all-writs statute, 28 USCA 1651."

Petitioner asks this Court find that now, when 'Plaintiff/Defendant' roles are reversed, it is unjust for Respondent Government to argue strict, and unfair, procedures enable dismissal of Respondent Government, and RUVA as well, even though Counsel for Respondent Government cannot represent RUVA and RUVA have not answered.

**4) This Court's jurisdiction rests on firm foundation right to First Amendment petition the government for redress of grievances,** especially for taking or damaging of Petitioner's property interest without due process or compensation.

Denial of any judicial forum by courts below for colorable constitutional claims presents a serious constitutional question, *Webster v Doe supra*.

U.S. citizens are entitled to clear foundation turf of Constitutional protection, not hazy mist of political short-cuts.

U.S. greatness is based on check-balance where elected Senators must render advice, consent and two-thirds vote of approval to climate treaties and causing fundamental shifts in U.S. economic structures and taking of, or damaging values of, private property as well as waste of Federal property.

Petitioner asks Supreme Court to **look at the iceberg, not deck chair arrangement** procedures.

**Petitioner asserts the Ship of State is pirated by RUVA toward climate-economic iceberg.**

**Ultra vires pirating will result in serious harm to the U.S. economy, and unfair, associated taking or value damaging** of Petitioner's (and others') property interest without due process or compensation and without equal protection.

Taking(s) and value damaging(s) are not required of developing countries by PCA. See Exhibit 3.

Court Clerks and Counsel for Respondent Government push back, and delay, away from true answers to Petitioner's questions of law about PCA.

Answers to those point to basics of what is pirating and what is not.

**Improper push back that denies path to truth is akin to ship officer telling passenger**  
**Petitioner:**

**"don't point to iceberg and don't complain of iceberg risk now;**



**all deck chairs must first be arranged  
per strict procedures of the Titanic,  
come back when desk chairs are  
arranged."**

**It is dangerous to disregard merits of  
substance of Petitioner's Complaint by  
applying deck chair arrangement procedures  
important for typical commercial disputes  
between two fighting commercial parties.**

**In this case, one key party - Respondent  
Government (and its counsel) - should seek the  
truth of boundaries and prevent corrupt acts,  
not push away from finding the truth.**

**Substantive over form is critical for Peoples'  
petitions to the government for a redress of  
grievances.**

**Substance over form is most critical for matters of  
climate impact on life and death, or great risk  
to USA economy, or massive risk of waste or  
looting of National Treasury and private assets**

Petitioner's Complaint sets out substantial  
constitutional questions about RUVA's misuse of  
influence, fraud and bribery and alleges they cause  
both

(a) non-binding commitments for climate  
concerns, when instead binding commitments ensure  
fairness and protection and

(b) diversions from, and shortfalls in, proper  
local U.S. pollution reduction actions, harming  
Petitioner and others.

Item (b) is akin to airline guidance that, in an emergency, a passenger must first put on their own oxygen mask before assisting others. It is harsh, and seemingly contrary to desire to help others, but one must help themselves first to later be able to help others.

The First Amendment, standing alone, must provide access to this Supreme Court to address peoples' petitions to the government for a redress of grievances to address colorable constitutional claims.

**5) This Court's jurisdiction alternatively rests on need to correct error of law and judicial procedure regarding 28 USC 636(b)(1)(B) 'findings of fact and recommendations'.**

In April 12 Motion for Declaratory Judgment and Notice of Appeal, Plaintiff-Appellant set out questions of law for decision by the District Court below or certification to the Appeals Court to decide.

Neither Magistrate Judge nor the District Court decided those questions [which are same Questions 1-4 of Question Eight to this Supreme Court].

Without deciding those questions, their 28 USC 636(b)(1)(B) 'findings of fact and recommendations' are meaningless.

That is, neither Magistrate Judge nor the District Court determined the boundary between permissible conduct and ultra vires conduct, nor applied law to facts.

Judicial notice has been requested of facts of Respondents' own words, their own public statements in press releases which Respondents RUVA or Government Respondent have never

denied. Instead, they only sought procedural escape.

RUVA acting ultra vires, outside scope of their government authority, are in default.

Petitioner's questions of law must be decided now by this Supreme Court to ascertain scope of restraint of RUVA acting ultra vires, outside scope of their government authority.

**6) This Court's jurisdiction alternatively rests on need to correct error of law and judicial procedure regarding 28 USC 636(b)(1)(A) and (B) 'findings of fact and recommendations'.**

USC 636(b)(1)(A) excludes 'motion for injunctive relief' from delegation to a magistrate judge, to wit:

(A) a judge may designate a magistrate judge to hear and determine any pre-trial matter pending before the court, **except** a motion of injunctive relief...

28 USC 636(b)(1)(B) enables a judge to  
"designate a magistrate judge to conduct hearings, including evidentiary hearings, and submit to a judge of the court proposed findings of fact and recommendations for the disposition" even for motions excepted by 28 USC 636(b)(1)(A).

However, neither 28 USC 636(b)(1)(A) or (B) give the judge authority to refer to magistrate judge all pre-trial management in a manner which caused extensions of time or stays ('de facto decisions by delays') that are outcome determinative for

injunction relief and have effect of denying protection for interim harm that can occur and did occurred.

In District Court below, District Judge [Clark] issued "Order [dated September 17] Adopting Report and Recommendation of United States Magistrate Judge [Hawthorn]" and denying Petitioner's "Motion for Temporary Restraining Order and Injunctive or Declaratory Relief". [Record below 50].

Said District Court Order recites:

"On January 19, 2021, the court referred this case to the Honorable Zack Hawthorn United States Magistrate Judge for pre-trial management.

Said District Court Order proves error of law issues which Petitioner requested CA5 to address in motions for clarification and restatement. This Supreme Court must now address.

The Magistrate Judge issued extensions of time and stay for Government Respondent.

28 USC 636(b)(1)(A) clearly excludes and denies administrative authority that impacts injunctive relief even though 636(b)(1)(B) allows creation by magistrate judge of proposed findings of fact and recommendations.

It is clear 636(b)(1)(A) and (B) do not give magistrate judge authority to delay injunctive relief by extensions and stay, especially in view of multiple pleas for protection by injunctive relief

**7) Jurisdiction of this Court rests alternatively on 28 U.S. Code § 1361 action to compel an officer of the United States to perform his duty.** This Court has jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to Petitioner.

Petitioner asks this Supreme Court (consistent with request in Complaint to Courts below based on equal protection) for quo warranto or rule nisi action to resolve a dispute over whether Biden has the legal right to remain in and hold the public office of President based on his fraudulent, knowing misrepresentations of fact about putative PCA, thus corrupt, and promises to voters to re-enter the PCA, knowing PCA both (i) violated Senate Res. 98 for which Biden and Kerry voted 'yea' for in 1997 and (ii) is non-binding, non-enforceable and non-enduring, thus committing misuse of influence to promise voters a re-entry to PCA in exchange for a vote, then sign PCA on day of Inauguration knowing it could not be binding for many reasons.

#### **B. Jurisdiction over Subject Matter of this Petition**

For sake of brevity,

(a) Petitioner incorporates by reference ROA1, Petitioner's Complaint which details Jurisdiction of courts below and this Court, as well as Venue and Standing and

(b) Petitioner highlights the following:

1. Petitioner's case provides this Supreme Court with jurisdiction to determine for PCA that which is hard to believe:

"It is hard to believe that the United States would enter into treaties that are sometimes enforceable and sometimes not. Such a treaty would be the equivalent of writing a blank check to the judiciary. Senators could never be quite sure what the treaties on which they were voting meant. Only a judge could say for sure and only at some future date.

"To read a treaty so that it sometimes has the effect of domestic law and sometimes does not is tantamount to vesting with the judiciary the power not only to interpret but also to create the law."

Above quotes are of Chief Justice Roberts' in *Medellin v. Texas* 552 U.S. 491 (2008) at 510, 511.

2. Petitioner does not ask the Court to decide if climate change is (i) real or not, or (ii) human caused or not, even though life of Petitioner (and many others) depend(s) upon the climate.

3. Petitioner's case provides this Court jurisdiction to find that PCA is "sometimes enforceable" (creating unfair, disproportionate financial obligations on Petitioner (and other USA taxpayers) and "sometimes not" (not binding on signatory countries to comply with climate actions). This Court can find PCA is void of governing law provisions against which one can clearly test compliance and void of clauses that impose penalties for failure to comply.

4. Petitioner's case provides this Court with jurisdiction to determine if the Constitution forbids the Executive Branch from signing PCA or renewal or replacement while Biden, Kerry and other RUVA know:

(a) PCA is not self-executing even though Biden represents to American people that signing is "moving toward a clean-energy future", and

(b) Senate Resolution (S. Res. 98) exists and forbids binding entry into PCA. (See Exhibit 3) as Biden and Biden's lead climate designee (John Kerry) voted for S. Res. 98 in 1997 when both were Senators, and

(c) "the President's power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker." *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U. S. 579, 587 (1952) cited in *Medellin v. Texas* 552 U.S. 491 (2008) at 528.

5. Petitioner's case provides this Court with jurisdiction to determine if signing by Biden of PCA was improper because Biden, as President, does not make law to bind domestic persons or foreign persons to move toward a clean-energy future.

6. Respondents Biden and Kerry are well aware (because both voted 'yea' for below cited 'S. Res 98') that, during 1997, the Kyoto Protocol:

(a) was proposed via 1992 United Nations Framework Convention on Climate Change (UNFCCC). and that protocol suggested "developed countries" have greater responsibility to act and greater financial burden than "developing countries", and

(b) was rejected in 1997 by US Senate resolution 'S. Res 98' by Yea-Nay Vote. 95-0. (12) Senate imposed conditions, 'then and thereafter', on USA becoming a *signatory* to any international agreement on greenhouse gas emissions under UNFCCC:

"... United States should not be a signatory to any protocol to, or other agreement regarding, [1992 (UNFCCC)] at negotiations in Kyoto in December 1997 or thereafter which would: (1) mandate new commitments to limit or reduce greenhouse gas emissions for the Annex 1 Parties, unless the protocol or other agreement also mandates new specific scheduled commitments to limit or reduce greenhouse gas emissions for Developing Country Parties within the same compliance period; or (2) result in serious harm to the U.S. economy"

7. Petitioner's case provides this Court with jurisdiction to determine that:

(a) S. Res 98 time period of 1997 'then and thereafter' applies to 2021,

(b) PCA is a protocol to, or other agreement regarding, 1992 UNFCCC,  
whether treaty or not, and whether binding or not,

(c) PCA should not be signed because PCA provisions contravene S. Res 98

(1) mandate new commitments for USA to limit or reduce greenhouse gas emissions for USA as one of the Annex 1 Parties, but the protocol or



other agreement does not also mandate new specific scheduled commitments to limit or reduce greenhouse gas emissions for Developing Country Parties within the same compliance period; or

(2) result in serious harm to the U.S. economy.

(d) representations to Petitioner (and other American people) that signing PCA is “moving toward a clean-energy future” is misuse of influence because PCA is not binding.

(e) PCA is not self-executing being sometimes enforceable and sometimes not, and subject to cancellation by 2024 or later President-elect, and

(f) In regard to (e) and PCA, Petitioner asks this Court to consider whether

“(t)here is a presumption against finding treaties self-executing having domestic force in USA courts without further legislation. *Medellin v Texas* 552 U.S. 491 (2008), and

even if an international treaty may constitute an international commitment, it is not binding domestic law unless Congress has enacted statutes implementing it or unless the treaty itself is “self-executing.

8. Petitioner’s case provides this U.S. Supreme Court jurisdiction to confirm that the Supreme Court, not the Executive Branch, has final word on whether Executive Branch can enter in a material climate related arrangement with foreign nations which purports to be binding on emissions without

"Advice and Consent of the Senate" and "two thirds of the Senators present concur", as required by Constitution Article II, Section 2.

9. Petitioner's case provides this U.S. Supreme Court jurisdiction to confirm that Executive Branch authority to act, as with the exercise of any governmental power, "must stem either from an act of Congress or from the Constitution itself." *Youngstown supra* at 585 (1952).

10. In *Medellin supra*, Chief Justice Roberts writes these thoughts:

"But the responsibility for transforming an international obligation arising from a non-self-executing treaty into domestic law falls to Congress, not the Executive. *Foster*, 2 Pet., at 315.

The requirement that Congress, rather than the President, implement a non-self-executing treaty derives from the text of the Constitution, which divides the treaty-making power between the President and the Senate.

The Constitution vests the President with the authority to "make" a treaty. Art. II, §2. If the treaty is to be self-executing in this respect, the Senate must consent to the treaty by the requisite two-thirds vote, *ibid.*, consistent with all other constitutional restraints.

"As already noted, the terms of a non-self-executing treaty can become domestic law only in the same way as any other law—through passage of legislation by both

Houses of Congress, combined with either the President's signature or a congressional override of a Presidential veto. See Art. I, §7.

11. Petitioner's case provides this U.S. Supreme Court jurisdiction to confirm that Government Respondents owe Petitioner duty of compliance with *Principles of Ethical Conduct for Government Officers and Employees*. See Exhibit 4.

That duty owed to Petitioner by Government Respondents includes disclosure by officers and employees of waste, fraud, abuse, and corruption as appropriate.

Failure to disclose corruption or prevent waste of Federal Property is an unethical, ultra vires act.

12. Petitioner's case provides this U.S. Supreme Court jurisdiction to issue both  
(a) writs of mandamus, and  
(b) [a]n alternative writ or rule nisi to Biden, Kerry and other Respondents.

28 U.S. Code § 1651 so provides that  
“(a) [t]he Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law and (b) [a]n alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction.

Petitioner's complaint is not a “political question” but a question of law of “corruption” under 2003-31-

OCT MERIDA UNITED NATIONS CONVENTION  
AGAINST CORRUPTION (UNCAC).

Petitioner's case provides this Court  
jurisdiction for either or both

(i) quo warranto action based on equal  
protection to resolve this dispute about ultra vires  
actions by deciding whether Biden has the legal  
right to remain in and hold the public office of  
President, and/or

(ii) writ or rule nisi order to show cause how  
Biden show pre-election statements about PCA are  
not untrue, instead truthful and not misleading.

(iii) If statements are found true, then this  
Court can determine Biden did not comply with  
rules of ethical conduct expected after election while  
knowing that delivery of PCA promises would be  
subject to those ethical rules.

This (iii) means that if one lies, on matters of  
life and death, to get votes to get elected, and then  
gets elected, they have to show cause why they are  
to stay in office if people can die.

In climate matters alleged by Biden and  
Kerry in their press releases (and by 'climate  
experts') to be matters of life or death so as to cause  
disruption of Worlds' economies to pursue solutions,  
this Supreme Court is asked by Petitioner to  
demand Respondent Biden to show cause why he  
should be President when Biden exchanged false  
promises about PCA for votes.

Petitioner does not ask the Court to count votes or decide if Defendant Biden was duly elected as President or not.

However, as set forth in Petitioner's Complaint (ROA 1), Petitioner seeks writ of mandamus in *quo warranto* or *writ/rule nisi* as 'show cause order' related to false pretense and omission and misuse of influence about PCA that threaten lives.

Buying votes by promising to pay cash as value is prohibited, then buying votes by promising entry or re-entry to PCA as value must be prohibited. Also, such must be abhorred when traded to create false expectations about PCA being binding.

13. Petitioner seeks equal protection as a citizen, taxpayer, voter and mineral interest owner which is equal to non-citizens, non-taxpayers, non-voters and non-owners of mineral interests.

Petitioner does not ask this Court to find equal protection requires identical treatment of all persons in all situations.

Petitioner asks this Court to find that, if non-USA citizen, non-taxpayer, non-owner of mineral interest is not be subjected to same financial PCA-climate driven risk of de facto expropriation of mineral assets without compensation, taking of rights by carbon taxation and other burdens under same situation, then Petitioner should not have to suffer those de facto punishments.

14. Petitioner's case thus presents this Court with jurisdiction of genuine issues of undue influence related to PCA and energy availability for national security, economy, environment and/or public safety.

Petitioner's case provides this Court jurisdiction to distinguish between false representations which are

(a) 'kissing the baby' (e.g. this is mere political question, not one upon which life or death depend)

versus

(c) 'killing the baby', i.e. 'risk loss of life' by 'hollow promises' (e.g. a substantive, egregious lie or omission of material fact, statements made upon which life or death depend.)

15. For other subject matter support of Jurisdiction this Supreme Court, as well as Venue and Standing, reference is made to Complaint and Motions in record below.

### **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

Petitioner's petition seeks protection by restraint of RUVA actors and Government Respondent that assists them.

1. Petitioner challenges
  - (i) ultra vires acts of rogue RUVA actors,
  - (ii) Respondent Government enablement of RUVA actors,

- (iii) Counsel for Respondent Government caused delays, oppositions and dismissals that continue acts of rogue RUVA actors, and
- (iv) Courts' delays and failures in restraining RUVA.

2. Petitioner has complained of violations by RUVA and Respondent Government of:

(i) Constitution Article II, Section 2

by false pretenses of

- (x) "enduring" PCA as if PCA was/is binding, long-term, enforceable treaty commitments to emissions reductions by U.S. and reciprocal from other countries
- (y) RUVA unilateral changes to U.S. PCA, via change to U.S. INDC (Intended Nationally Determined Contributions)
- (z) no need for Senate advice, consent, 2/3's approval for treaty formation and changes

(ii) Constitution Article III, Section 2 denial or obfuscation that this Supreme Court has original jurisdiction:

"In all Cases affecting Ambassadors, other public Ministers and Consuls..."

Such includes this case against RUVA Kerry and all Ambassadors, other public Ministers and Consuls to whom RUVA Kerry makes false representations regarding U.S. emissions reduction without authority and thus misuses influence and bribes for reduced emissions of others.

(iii) 1997 Senate Res 98 against bad Kyoto Protocol arrangements harmful to U.S.

Public statements by RUVA prove RUVA deploy PCA and U.S. INDC in violation of said 1997 Senate Resolution 98 (passed 97-0 with 1997 "yea" votes of Biden and Kerry) cited in Petitioner's CA5 Brief at pages 60-63, which prohibits Appellee Government from being

"signatory to any protocol to, or other agreement regarding, the United Nations Framework Convention on Climate Change of 1992, at negotiations in Kyoto in December 1997, or thereafter, which would--

(A) mandate new commitments to limit or reduce greenhouse gas emissions for the Annex I Parties, unless the protocol or other agreement also mandates new specific scheduled commitments to limit or reduce greenhouse gas emissions for Developing Country Parties within the same compliance period, or

(B) would result in serious harm to the economy of the United States;

(iv) *Principles of Ethical Conduct for Government Officers and Employees* waste of Respondent Government assets and misuse of funds.

Public statements by RUVA prove RUVA seek to deploy PCA and seek to unilaterally change U.S. INDC in violation of said Principles of Ethical Conduct in particular cited in Appellant's CA Brief at pages 63-64, whether elected or appointed or hired with employee status, in particular #6, #9 and #11:



6. Employees shall **make no unauthorized commitments or promises of any kind purporting to bind the Government.**

9. Employees shall **protect and conserve Federal property** and shall not use it for other than authorized activities.

11. Employees shall **disclose waste, fraud, abuse, and corruption to appropriate authorities.**

(v) Amendment 1 right to file grievance for redress,

- Right to petition government for redress of grievances against RUVA unethical waste of Federal mineral interest property and purporting to bind Government to divert Treasury funds to developing countries without climate treaty authorization to spell out respective obligations

(vi) Amendment 5 taking value of Petitioner's mineral property without due process and compensation, and

- RUVA by Executive Branch orders are taking Petitioner's private mineral interest property without due process and without just compensation and

(vii) Amendment 14 denial of equal protection

Respondent Government denies Petitioner protection of his mineral interests from attacks by

RUVA and third party climate activists, non-mineral interest owners acting in concert with RUVA.

3. Among other relevant matter, focus of this Appeal is thus on above cited:

(a) Constitution

Article II, Section 2  
Article III, Section 2  
First Amendment  
Fifth Amendment  
Fourteenth Amendment

(b) Key Statutes

28 U.S.C. § 636 error of law by delegation  
to Magistrate Judge delaying injunction  
28 U.S.C. § 1254(1) Appellant jurisdiction  
28 U.S.C. § 1257 Appellant jurisdiction  
28 U.S.C. §1651 all writs

(c) US Senate Records

1997 Senate Resolution S. Res. 98 (See  
Exhibit 3)  
[https://www.congress.gov/bill/105th-  
congress/senate-resolution/98](https://www.congress.gov/bill/105th-congress/senate-resolution/98)

(d) Respondent Government

Publications (See Exhibit 4)  
*Principles of Ethical Conduct for  
Government Officers and Employees.*  
[https://ethics.od.nih.gov/principles-  
ethical-conduct-government-officers-  
and-employees](https://ethics.od.nih.gov/principles-ethical-conduct-government-officers-and-employees)

(e) Judicial notice requested by Petitioner for adjudicative facts within UN, White House and State Department publications Respondents' own words.

## **STATEMENT OF THE CASE**

**1. Petitioner as grieving party seeks First Amendment redress from Government Respondent by this Court granting Exhibit 6 injunctive relief.**

Government Respondent is enabling corrupt conduct by ultra vires Respondent(s) actors (RUVA defined first above).

Petitioner asks this Supreme Court to find that each RUVA is not the "Government" when RUVA act outside scope of governmental authority and thus corruptly, and cannot be represented by Government counsel.

Petitioner asked same finding by the Courts below and received no relief, only received procedural dismissals. No denials, nor answers, nor appearance from RVA were received.

Dismissals were caused by counsel for Respondent Government, not pro-se or non-government counsel for RUVA.

Petitioner petitions for redress to be protected from RUVA who purport to act in official capacity but instead RUVA are clearly well outside authorized conduct.

RUVA's own words in public releases so prove,  
as cited to this Supreme Court and Courts below.

Instead of protecting Petitioner, Government  
Counsel and Courts below have delayed relief to  
enable continuing corrupt conduct by RUVA.

Government Counsel should pursue RUVA, not  
enable them.

Government Counsel, instead, urged procedural  
delays and dismissals of this case that points many  
fingers toward egregious, corrupt conduct by RUVA.

## **2. Petitioner seeks default judgment against RUV.**

RUVA (never):

- (i) never filed denial, answer or other  
responsive pleading,
- (ii) never entered an appearance pro se or by  
non-government counsel,
- (iii) never filed motion for extension of time,  
stay or dismissal,
- (iv) never asserted in writing that  
Government Attorney(s) defends their ultra  
vires plans and acts admitted by their own  
publications,
- (v) never denied or responded in any other  
way to Petitioner's Summons, Complaint, many  
Motions, Brief on Appeal to CA5 or any of dozens of  
papers which were served and/or mailed to each of  
them,

(vi) never denied their own words in various White House and Department of State releases cited to the Court(s) which prove acts, and intents to act, outside scope of proper governmental authority, and

(vii) never denied RUVA are in default for failing to timely file response to Summons and Complaint.

RUVA are in default. Petitioner asks this Court to grant Exhibit 6 as default judgment.

Petitioner is entitled to entry of default judgment.

Default, not dismissal, should apply to RUVA.

Government Counsel and Courts below should not look other directions to avoid seeing RUVA default

Strict technicalities written for civil disputes - non-governmental and private among individuals/companies - must be avoided when unfair to citizen making urgent First Amendment petition to Government for redress.

Pointing to irrelevant procedures (for example, to confer with defaulting, non-appearing RUVA) avoids standing in front of responsibility to know truth about boundary between permitted acts and ultra vires acts.

**3. Petitioner asks this Court to see the 'elephants-in-the-room' constitutional issues, such as wasting of, taking of, or destroying value of property without due process and compensation.**

Public history will remember well big climate-change push on U.S. economy and structure springing from PCA.

Trust is an issue.

Now stage is set for this Supreme Court to be lead actor.

'Act well your part, for there all honor lies',  
commends *Pope, his Essay*

**4. Petitioner asks if this Supreme Court will act in lead role to grant Exhibit 6 protection according to fairness inherent in equity for merits of substance, not form over substance.**

**Petitioner asks this Supreme Court to act in that lead role to grant Exhibit 6 before October 31 2021 (start of UN COP26 climate meeting in Glasgow) [see RUVA's own White House and Department of State releases].**

**Otherwise, from said RUVA's own words within above requested judicial notice of facts, it is obvious additional serious harm will be caused by additional unhinged, unrestrained ultra vires, bad acts of RUVA that will create serious harm to interests of Petitioner (and of others and to US economy).**

After October, more will follow. The more must stop until Article II Section 2 Senate advice, consent and two thirds approval is obtained to create layer of protection for Petitioner and others.

**Unless this Supreme Court restrains RUVA  
then Petitioner and others**

**- risk massive disproportionate financial harm** by burdens imposed on U.S. that are not shouldered proportionately by those within certain 'developing countries' whose mineral resource reserves exceed those of the USA

That is, there is no level economic playing field and equal economic protection cannot happen.

**- risk looting from USA Treasury 'in the name of climate need'**, which can quickly start with RUVA announced proposed unauthorized US\$ Billions passed to UN Green Climate Fund then increases with other unauthorized payments under guise of climate action equity

That is, there is lack of equal protection for Petitioner (and others in U.S.) with uneven RUVA grants to push U.S. Dollars to others in name of alleged climate equity, which create inequity not equity. That is not a political question, but Constitutional one for Senate Article II, Section 2 decision.

**- risk major exposures to suits from citizens or other countries** akin to French and Dutch plaintiffs prevailing for claims akin to "**non-respect of engagements**". For example, it is well known that a Paris court has found the French state guilty of failing to meet its commitments to curb greenhouse gas emissions.

- risk RUVA entry to, and acts pursuant to, **arrangements** such as the Paris Climate Accord, **considered as a treaty by UN agencies and other countries**, *but which instead are 'sometimes binding, sometime not'*

Chief Justice Roberts' in *Medellin v. Texas* 552 U.S. 491 (2008) at 510, 511 states the disbelief and challenge upon which this petition is based:

"It is hard to believe that the United States would enter into treaties that are sometimes enforceable and sometimes not. Such a treaty would be the equivalent of writing a blank check to the judiciary. Senators could never be quite sure what the treaties on which they were voting meant. Only a judge could say for sure and only at some future date. This uncertainty could hobble the United States' efforts to negotiate and sign international agreements."

"To read a treaty so that it sometimes has the effect of domestic law and sometimes does not is tantamount to vesting with the judiciary the power not only to interpret but also to create the law."

## **REASONS FOR GRANTING THIS PETITION**

Petitioner asks this Court to restrain RUVA to act within scope of authority, not corruptly.

Petitioner sets out above questions of law, not political questions.

Answers to questions of law in this case determine boundary between proper, authorized scope and ultra vires acts.



Answers to questions of law will have political consequences but that does not convert questions of law to politics.

Reasons to grant Exhibit 6 Order for injunctive relief [or to fashion other just relief which this Supreme Court has the power to do] are as follows:

**Reason #1: Restraint that I request provides me with financial protection and relief I seek.**

**But, it is not 'all about me' even though restraint protects me.**

As a Marine, I fought in Vietnam 'not for me' but to serve our country.

I marched to an objective, complex yes, but then within scope properly authorized, and later authorization properly changed.

RUVA unilateral Executive Orders and conduct based on those, do not serve a government of the people. They march away to their own objective, unstrained.

Unrestrained rogue RUVA make the government "a government of RUVA Executive Orders" not a government of the people, then they help themselves and their friends to the Treasury of the people.

Public confidence is lost but can be restored by this Supreme Court.

For admonishment of RUVA, this Court should restrain RUVA thinking that:  
"it is easier to ask for forgiveness than permission"

**Reason #2: Restore belief for me (and others) in ethics and honor in government and in the Courts that are to watch over all.**

**I confess, while writing this, that I have very, very low confidence that the Supreme Court will read these words and act upon my Petition.** Clerks "take no action on" multiple filings, but instead reject them for poor reasons, for example, requiring a conference with defaulted RUVA who never appeared after Summons or filed denial or otherwise responded in over six months.

**Now skeptical 2021 U.S. public listen for signs of a heartbeat of ethics to hope to believe honor is alive in government.**

Many fear responsible, ethical government is dead, and Courts cannot revive it.

This Supreme Court must signal to a very, very anxious public that this Court guarantees:

(1) timely resolutions of time-sensitive and serious petitions to Government for protection by seeking redress - like this one of Petitioner, less than perfect, for commercial cases, but perfect for Amendment I, V and IV purposes,

(2) First Amendment is not dead, and

(3) U.S. government can be peacefully restored as government of the people for the benefit of the people.

Show that U.S. government is not of a cast of rogue RUVA who pen unhinged Executive Orders in back rooms then nail them as mandates on the White House website, without public interface.

Show and reassure by grant of this Writ of Certiorari to Petitioner and grant of Exhibit 6 Order.

**Reason #3: This Court's review, with decision and grant of Exhibit 6 order requested by Petitioner are warranted.**

Repeated RUVA Executive Orders making unhinged mandates are problematic against my planning, investments, and risk taking and decisions for assets retention or disposal.

The claims at issue are non-frivolous and urgent.

I complain of unilateral mandates, without proper foundation, having effect of laws regarding climate, and those being made without required advice, consent and Senate votes of approvals for binding international relations.

Petitioner's questions of law are obviously not political questions and should not have been delayed, ignored or dismissed by Courts below but instead decided by them.

Proper resolution of questions presented here are matters of great Constitutional importance.

Absent admonishment and restraint of RUVA, only those within RUVA personal circles will know in advance what the next series of Executive Orders will be and when they will occur.

That gives chilling effect to decision making, and certainty of planning, for those outside of the circle of RUVA.

Petitioner asks this Court to reaffirm

“[t]he President’s power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker.” *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U. S. 579, 587 (1952)

Confirm please that the Constitution mandates conscientious deliberation by Congress as the law-making branch and guards against political misconduct by misuse of influence by Executive Branch when Executive Branch acts as law-maker.

The public can then be confident that, rather than denying a forum for colorable constitutional claims, the Courts will

(a) answer outcome determinative questions of law placed before them by seekers of First Amendment redress, and

(b) produce answers to questions of law in fact based manner by accurate judicial decisive decisions (not advisory views) as to what is ultra vires conduct and what is not, going forward toward life-determining, critical climate matters, and

(c) give RUVA admonishments that protect against unhinged, unrestrained, improper Executive Branch Executive Orders creating mandates for emissions reductions and economic clay shaping that are outside scope of Executive Branch authority.

This case presents a clean package for answering the controlling questions of law presented.

This Court should take this opportunity to restore public confidence throughout the Nation that the First Amendment enables persons to petition the government for redress of grievances, without being tripped or blocked by superfluous government-made procedures that delay or block timely access in First Amendment case.

### CONCLUSION

Before October 31, 2021 start of UN Glasgow climate conference start, this Petition should be granted and Exhibit 6 Order should be granted or this Court should fashion other just relief.

**If this Petition and Exhibit 6 Order are not granted, this below “history look-back” gives one possible prospective view from the future:**

- First Amendment rights become frozen. No one uses them.
- Government-made ‘procedural rules of the game’ put in place are strictly asserted by the government.
- Those “rules of the game” procedures enable only the outcome(s) the government desires.

- Those Government-made rules 'control the game'; persons seeking redress of grievances become disfavored in treatment by reason of their views. That creates frustration to stop complaints.
- Individuals who try to exercise core First Amendment right of asserting grievances against the government are penalized.
- Neither urgency nor emergency cannot be addressed. Speed is not possible. Putative 'rules of the game' enable district and appeals courts to control rejections.
- Predictable harmful events, for which protection is sought by plea for help, will happen without admonition and restraint of bad ultra vires actors.

That above future is what Petitioner alleges could be here today in the present if this Court does not act. To avoid that future, this Petition should be granted and Exhibit 6 Order should be granted.

This Petition is 100% controlled by Petitioner. Petitioner has not asked for nor received any third party funding in this case, only receiving pro bono "assisted pro se" work from his brother as set forth in February 24, 2021 Letter to (District) Court, copied to all Respondents. Brother confirmed to me that he has not asked for nor received any third party funding in this case.

In closing, by signing below Petitioner assures this Court that his Petition contains his concerns which raise serious Constitutional questions and are not frivolous.

This is Petitioner's serious prayer for protection by this Court.

Respectfully submitted,  
*/s/ Kenneth A. Pruitt*, pro se  
Trailer Village RV Park  
16580 N. US Hwy 59  
Garrison, Texas 75946  
(936) 714-3811  
kap8063@yahoo.com  
October 10, 2021