

SEP 01 2021

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No. _____
21-6032

IN THE
SUPREME COURT OF THE UNITED STATES

Hurt, Jr.: Charles - Francis — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Fifth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Hurt, Jr.: Charles - Francis, #89763-379

(Your Name)

FORT WORTH FEDERAL MEDICAL CENTER ("FMC")

P.O. Box 15330

(Address)

FORT WORTH Texas 76119 USA

(City, State, Zip Code)

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(Phone Number)

(Durable Power of Attorney)
Louise M. Hues (mother)

ORIGINAL

QUESTION PRESENTED:

Whether the United States district court can prosecute a defendant outside the limited jurisdiction provided to a territorial court in direct contravention of 356 bales of cotton (1825); *The SARAH*, 5 LEd 644 8WHEAT 391; *Forsythe v. The United States*, 9 HOWARD 571, 13 LEd 262, and the 1922 *Balzac v. Porto Rico*, 298 U.S. 298, 312; and in direct conflict with the definition presented as "District Court of the United States" by this Court in *Mookini v. United States*, 303 U.S. 201, (1938) and Confirmed in *Nguyen v. United States*, 539 U.S. 69 in the Historical Sense Quoting *Mookini*; and within the Advisory noted of Rule 54 of Federal Rules of Criminal Procedure and Rule 1 of the Federal Rules of Civil Procedure.

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

USDC SDTX LAREDO DIV.

5:15-mj-00781.
5:15-CR-662 et. seq.
L-15-662
L-19-0169
Civil Action No. 5:19-CV-169

United States Court of Appeals
for the FIFTH CIRCUIT

17-40467
19-40022
19-40516
20-40672
21-40171

USDC NDMS OXFORD DIV.

15-1008
3:19CV49-MPM-JMV

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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

☐ 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☒ is unpublished.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

☐ 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 July 15, 2021.

☐ 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: August 25, 2021, and a copy of the order denying rehearing appears at Appendix A.

☐ 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

ARTICLE I Section 8, 9-10 and 17-18 clauses Supply the Constitutional Provisions provided to the Territorial "Limited Jurisdiction" courts created by Congressional Legislation as Inferior Tribunals.

Article III, Sections 1 and 2. Provide the Constitutional Creation of a Judicial Court allowed to provide criminal convictions for only Certain Crimes.

Congressional Intent for the needful rules and regulations are supplied only to the territorial courts. ARTICLE IV Section 3

Fourth Amendment states "No warrants shall issue, but upon probable cause..." "Warrant Clause" protects the Citizens from unlawful seizure and arrest without issuance of such warrant.

Fifth Amendment states "No person shall be held ...deprived of life, liberty, or property, without Due Process of LAW." "Due Process Clause"

Sixth Amendment States the accused "shall enjoy the right...to be informed of the NATURE and CAUSE of the accusations; to be confronted with witnesses against him; have a compulsory process for obtaining witnesses in his favor..."

"Right to be informed CLAUSE"

TITLE 18 United States Code Service ("USCS") §7 "Special Maritime and territorial jurisdiction of the United States."

TITLE USCS §3231 Providing VENUE not JURISDICTION to the "District Courts of the United States" for Criminal Proceedings. ***NOTE*** See APPENDIX A

"Writ of Error for Want of Jurisdiction"

Federal Rules of Criminal Procedure: Rule 1(a)(5)(B) Excluded proceedings

RULE 54 renamed to Rule 1 :Advisory notes "MOOKINI"

Rule 11 Voided by Due process of procedure by Rule 1(a)(5)(B) as null and void.

Federal Rules of Civil Procedure Rule 1 Advisory notes "MOOKINI"

Federal Rules of Appellate Procedure Rule 21 to "All Writs Act"

Federal Rules of the Supreme Court Rule 10 and 20 as to the "All Writs Act"

SEE ADDITIONAL PROVISIONS INVOLVED within the Writ and Appendix A-E

STATEMENT OF THE CASE ;

- BACKGROUND STATEMENT:

On May 5, 2015 Petitioner received an Email of a Solicitation of a Crime of Violence upon a Minor and requested to film it.; in which petitioner never agreed to.

On May 20, 2015 2 days prior to purchase of travel; Petitioner informed the Solicitor that Petitioner was aware that the Solicitor was some form of Authority; and that after almost two weeks of ongoing repeated solicitations with no agreement; that the Petitioner would purchase travel to come to laredo to address the Solicitor in person and that petitioner had a 1st Amendment right to do so. [The Right to petition the government to redress the grievances] * Providing actual innocence as to intent.*

On June 5, 2015 Agent Jeffery Williams placed a search warrant in the Northern District of Mississippi, for the property located at 5437 Savannah Parkway, Southaven Mississippi for all electronics and anything sexual in nature. The Warrant provided to the residents of the location was not filled out or signed as required during the execution of the warrant. The Warrant failed to provide the statute of jurisdiction under the Federal Rules of Criminal Procedure, and the Fourth Amendment.

On June 5, 2015 After the Search Warrant was issued in the Northern District of Mississippi by Magistrate Jane Virden, Petitioner was arrested without warrant at the outside of Laredo Airport, and Petitioner and his Property were seized by Agent Williams being told that Petitioner was being detained for questioning. [CASE # 15-15-CR-002 USDC SDTX Laredo Division] *

To date no issuance of the Fourth Amendment Arrest Warrant has been issued, executed, or returned, according to the Record of the Court.

After a coerced plea agreement and denied reversal of such plea the Petitioner was sentenced to 120 Months imprisonment and 120 Months of Supervised release.

Petitioner required Roberto Balli the appointed counsel to appeal, though he appealed, he also made motion for a *Ander's v. California* Brief only to be denied by the Court of Appeals. Additionally Counsel failed to address the issues made by the Petitioner and was required to show cause as to the deadline violation as to a timely Appellate brief to be filed. Appeals No. 17-40467 (CA52018)

Petitioner actively with due diligence and after the discovery that petitioner was never provided by the Plaintiff or United States district court, the Standing and Statutory Jurisdiction required by the Plaintiff in a "District Court of the United States", and filed for the dismissal for the want of jurisdiction of the court. Petitioner was denied by the United States district court, for the court to provide such requirement and the face of the record was void of such required Nature and Cause and Jurisdiction to render a conviction or judgment as Valid.

Petitioner timely filed a Title 28 U.S.C.S. §2255 Motion to Vacate [Habeas Corpus] December 16, 2019 [Docket #167 Sealed]

On May 21, 2020 Assistant United States Attorney ("AUSA"), filed the Government's response to Petitioner's §2255 [Docket #200] as 19 grounds re-grouped; and not the grounds provided by the petitioner.

On June 15, 2020 Petitioner filed response to the governments response #200 as not the grounds petitioner filed before the court [Docket 201-202]

On September 27, 2020 Judge Keith P. Ellison filed Opinion and Order as to Petitioner's §2255 as denied, and dismissing with prejudice; and denial of Certificate of Appealability, based on the Government's 19 grounds re-grouped from AUSA Andrew C. Sand and not Petitioners Original 12 Grounds provided by Petitioner. [Docket #208 case CIVIL ACTION NO. 5:19-CV-169]

On October 6, 2020 a timely Appeal and Petition for Certificate of

Appealability, was filed with the Fifth Circuit Court of Appeals [Docket #211] No. 20-40672.

On February 11, 2021 Petitioner forwarded a handwritten "WRIT OF ERROR for WANT OF JURISDICTION" to his Durable Power or Attorney [Due to the COVID QUARITINE] and was received on March 2, 2021 and forwarded the same day to the United States Circuit Court of Appeals: Certified Mail Receipt # 7020 0090 0001 1358 5964 and received by the Court or Appeals March 15, 2021; in which the Court of Appeals placed into the Dacket as No. 21-40171.

The 3 page notice as to the Filing of what the Court Clerk construed as a Writ of Mandamus, was returned with a "ACCEPTANCE BY SILENCE" Doctrine counterclaim which stated. "You must comply within 30 Days of the date letter. If you fail to comply we will dismiss your petition for writ of mandamus without further notice."

In addition to this Failure to Comply Notice another deadline of April 14, 2021, created an expressed contractual deadline and Acceptance by Silence Doctrine that was accepted by the United States Circuit Court of Appeals for the Fifth Circuit; by LYLE W. GAYCE, CLERK: by way of Donna L. Mendez, Deputy Clerk. as an additional counterclaim.

On April 1, 2021 Petitioner complied with the Court Acceptance by Silence doctrine and replied timely. Re-qualifying the original disposition of the Court within ten (10) days of receipt of the Writ of Error, and if the Court fails to provide disposition that the Acceptance by Silence Doctrine, that the Court will agree with Petitioner and GRANT the Writ of Error for Want of Jurisdiction, for the Petitioner and Provide all remedy requested.

Within this response timely was the typed and notarized return of required documents - Total of 28 pages including additional attachments [Not including prior handwritten Writ copy sent as additional Exhibit].

This Certificate of Service was sent directly to the Clerks Office Certified Mail Receipt #7020 3160 0001 1639 0715. and received April 6, 2021. [see attached Letter of Receipt from the Court of Appeals dated April 15, 2021]

BOTH the WRIT OF ERROR's Sent Feb. 11/Mar. 2, 2021 and the April 1, 2021 on the Remedy Requested: FIFTH states:

"Provide disposition of review within (10) Ten days of receipt of this Writ; If no order is provided within the (10) day period, Court provided Rule for the Petitioner under "ACCEPTANCE BY SILENCE" DOCTRINE; as GRANTED with immediate relief."

NOTE: August 25, 2021 "Writ of Error for Want of Jurisdiction" was denied.
The Court of Appeals has failed to comply to this Doctrine. Though Acceptance by Silence is recognized with validity from all states within the Fifth Circuit as well as the Court of Appeals for the Fifth Circuit.

Accordingly since the Court of Appeals, placing a filing fee into conditions of Petitioner's Writ of Error for Want of Jurisdiction; they in turn created a contractual obligation for Honest Services Rendered.

In the filing of such Petitioner was required to comply with additional financial and procedural rules; that if not complied with in the time frame given, the court would dismiss the action for want of Prosecution.

Placing the burden of the Lower Court's failure to comply upon the supreme in the ruling of the "Writ of Error for Want of Jurisdiction" of the United States district court. as well the issue of Acceptance by Silence Doctrine that the Court of Appeals agreed upon by providing a counterclaim for honest service to be provided to the Petitioner.

Now the Petitioner Comes before the Supreme Court In re CHARLES FRANCIS HURT for the Writ of Error for Want of Jurisdiction of the lower court; not being provided criminal jurisdiction outside the Limited Jurisdiction the

Article 1 Section 8 Territorial Court has availed to it; not within the Constitution's Article III Section 2 District Court of the United States as required, to provide the protections of the Constitution of the United States for Criminal prosecutions to be forwarded.

REASONS FOR GRANTING PETITIONER WRIT OF ERROR FOR WANT OF JURISDICTION:

When this Court is looking at the conflict between the lower inferior tribunal territorial United States district court and the United States court of appeals as not only allowing such overstep of jurisdictional trespass by a territorial Article I Section 8 court representing themselves as a Article III Section 2 Judicial Court for criminal prosecution use by the Plaintiff - United States of America to bring criminal action against citizens of the States outside the territorial jurisdiction of the United States; we have to also look at the lower courts contravention of the Constitution and Congress's Statutorial enactments that are used as the fundamental structure of the Federal Government's territorial jurisdiction. [Shown in Article I Section 8 Territorial Legislative jurisdiction.] Each statute has been clear and concise meaning in the wording and congress has done so to be within the confine of the Constitution. Though lower court's and specifically the united States district court's use of the statute to empower the courts jurisdictional authority without the correct use of the statute or interpretation or the Stare Decisis precedence of this Supreme Court.

With the United States district court misuse of the meaning of the statutes and the lack of statutorial authority to grant the territorial lower court the standing of jurisdiction of the Plaintiff, United States of America; the United States district court is allowing a legislative territorial tribunal to take

criminal action against States citizens outside the "Special Maritime and territorial jurisdiction of the United States."

This Court has stated: "When the validity of an act of the Congress is drawn in question, and even if a serious doubt of constitutionality is raised, it is a CARDINAL PRINCIPLE THAT THIS Court will first ascertain whether the Constitution of the statute is fairly possible by which the question may be avoided."

Within the same context..."The Court will not pass upon a constitutional question although properly presented by the record if there is also present some other ground upon which the case may be disposed of. The Rule has found most varied application. Thus if a case can be decided on either of two grounds, one involving a constitutional question, the other a question of statutory construction of general law, the Court will decide on the latter." [Ashwander v. Tennessee Valley Authority, 297 US 288, 80 LED688; Justice Brandeis Dissent]

The grave importance to the fabric of the Nations welfare as to the resolution to this conflicting contravention between the United States district court and Court of Appeals ruling and opinions verses the intent and statutorial wording of Congress and the Stare Decisis and precedence made by this Supreme Court are in direct Contention and Ripe for Clarity.

This clarity will affect many underlying issues included.

ARTICLE I SECTION 8 CL. 17-18

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and states, and the acceptance of Congress, become the seat of government of the United States, and to exercise like authority over all places purchased by the consent of legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful

buildings;--and

To make all laws which shall be necessary and proper for carrying into the 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.

In doing the foregoing the Congress in Cl 9 was given the legislative power to constitute tribunals inferior to the Supreme Court... and Cl. 10 To define and ~~punish~~ piracy and felonies committed on the high seas, and offenses against the Law of Nations:

These Legislative Powers are still vested as Legislative Territorial Limited Jurisdiction, and are Not ARTICLE III Section 2 Judicial Courts created by the Constitution of the United States. AKA "District Courts of the United States".

AS SHOWN IN: American and Ocean Ins. Co's v. 356 Bales of Cotton (1825) The Supreme Court in relation to the Judiciary Act of 1789 and Congressional Legislative territorial courts. Though the Supreme Court made it clear: "These courts, then, are not Constitutional Courts, in which the Judicial power conferred by the Constitution on the general Government, can be deposited. They are incapable of receiving it. They are legislative courts, created in virtue of the general right of sovereignty which exist in the Government, or in virtue of the at clause [Article IV, Cl.2] which enables congress to make needful rules and regulations respecting the territory belonging to the United States."

The Court in Forsythe v. The United States, 9 Howard 571, 13 LEd 262 (1845) the Court made it clear that: "the territorial jurisdiction of these territorial courts cease on the erection of the territory into a state, and, consequently proceeding before the court in which the indictment was found were Coram non judice and void."... also to show as "Whether congress possess the

power to confer afterwards upon the United States district court to arraign and try the prisoner on indictment, that they need not inquiry, as the Act of 1847 does not confess any such authority."

The SARAH, 5 LEd 644, 8 Wheat 391 had shown that "In the trial of all cases of Seizure, on land, the Court sits as a court of common law, In cases of seizure made on waters navigable... the court sits as a court of Admiralty. In all cases at common law the trial must be by jury. In cases of Admiralty and Maritime jurisdiction, it has been settled.. that the trial is to be by the Court." ... "Although the two jurisdictions are vested in the same tribunal, they are as distinct from each other as it they were vested in different tribunals, and can no more be blended that a court of chancery with a court of common law... The Court for the Louisiana district, was sitting as a court in admiralty; and when it was shown that the seizure was made on land, its jurisdiction ceased..."

"It is the Obligation of a federal law enforcement officer to obey the Federal Rules of Criminal Procedure concerning searches and Seizures." [REA v. United States, 330 US 214, 100 LED233]

This is also showing in the 1922 Balzac v. Porto Rico, 298 U.S 298, 312; that: "The United States district court is NOT a true United States Court established under ARTICLE III of the Consitution to administer the judicial power of the United States therein conveyed. It is created...under ARTICLE IV, Section 3...[in] making all needful rules and regulation respecting the territory belonging to the United States. The resemblance of its jurisdiction to that of a true United States courts...does not change its character as A MERE TERRITORIAL COURT."

Though it was the 1938 Supreme Court ruling that made it clear in Mookini v. United States, 303 U.S. 201, 82 LED748, Stating: "It had been settled long

prior to the legislation empowering this Court with the prescribed rules for Criminal Appeals that such a grant of power DID NOT make a territorial court a "district court of the United States"... Territorial courts are legislative courts and not 'District Courts of the United States' in the Constitutional sense... the Rules accordingly limited to proceedings, in criminal cases in District Courts of the United States and in the Supreme Court of the District of Columbia and all subsequent proceedings in such cases in the United States Circuit Court of Appeals of the District of Columbia, and the Supreme Court of the United States."

"The term 'District Courts of the United States' as used in the rules, without additional expressing a wider connotation has a significance. It describes the Constitutional courts created under Article 3 of the Constitution, Courts of the territories are legislative courts, properly speaking and are NOT District Courts of the United States. We have often held that vesting in the District of the United States DOES NOT make it a 'District Court of the United States in it's Historic Sense, but the omission of provision for the application of the Rules to the Territorial Courts mention in the Authorizing Act clearly shown the Limitation that was intended." Mookini Supra.

On June 25, 1948, the United States Changed and codified Title 18 and 28 to provide statutorial provisions to enact certain actions and rules. This codification was to provide clarity and congressional intent as to the language used so that the courts would have clear understanding to Congress's intent.

"Every word appears to have been weigh with the utmost deliberation, and it's force and effect to have been fully understood." Williams v. United States, 298 U.S. 553, 77LED1372 (1933)

In 2003; Mookini was historically used in Nguyen v. United States, 539 US 69, 123 S. Ct. 2131 156 Led2D 64"...Historically, the term 'United States district court' in Title 28 has ordinarily excluded Article IV Territorial

Courts, even when their jurisdiction is similar to that of an Article III United States District Court." E.g. *Mookini v. United States* 303 US 201, 205 82 L ed, 58 SCT 543.

Nguyen also states: "Outside of §292(a), Title 28 contains several particular instructive provision, the term 'district court' as used through Title 28 is defined to mean a 'court of the United States' that is 'constituted by Chapter 5 of this Title' §451. Chapter 5 of Title 28 in turns creates a 'United States District Court' for each judicial district. §132(a) ('There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district'). And 'district judge'[s] are established as the members of these courts."

"Moreover we do not read the designation statute without respect to the 'Historic Significance' of the term 'United States District Court' used in Title 28. *Mookini v. United States*, supra..[w]ithout an addition expressing a wider cannotation the term ordinarily excludes ARTICLE IV territorial Courts, even where their jurisdiction is similar to that of a United States District Court under Article III. I bid see *Summers v. United States*, 231 US 92, 101-102, 58 L Ed137, 34 SCTY 38(1913)([T]he Courts of the Territories may have such jurisdiction in cases arising under the Constitution and laws of the United States as is vested in the circuit and district courts, but this does not make them circuit or district courts of the United States."; *Stephans v. Cherokee Nation* 174 US 445, 476-477, 43 LEd 1041 19Sct. 722 (1899)("It must be admitted that the words 'United States district court' were not actually used...)

Lower Court contravention and conflict observation as to Petitioners direct issue provided by the Government and with agreement by judge Ellison in his agreement with the Government response to Petitioner Habeas Corpus Motion.

First AUSA Andrew C. Sand stated the court had jurisdiction provided by

Title 18 U.S.C. §3231; and

Second that in conflict with the General Provisions of Title 18 U.S.C. §7 "Special Maritime and territorial jurisdiction of the United States" as the defined jurisdiction the United States has Jurisdiction over... Andrew C. Sand stated that the Petitioner was never in the "Special Maritime and territorial jurisdiction of the United States"

This creates an issue of questions to be asked. First is How can you have committed a criminal act in a jurisdiction that is not the United States Territory per statute and Supreme Court Stare Decisis precedent as well as Constitutionally defined by Congressional intent? Second is simply the action of impossibility as to if you were not in the Special Maritime and Territorial Jurisdiction of the United States, was crime ever committed?

QUESTION OF LOWER COURT CONTRAVENTION:

So the question of the contravention of the lower court and the Court of appeals observe or conflict with the Stare Decisis of this Supreme Court precedence; is this: Does the lower inferior courts agree with or conflict with the Supreme Court and Congressional intent?

In the process of Discovery Petitioner found in the Fifth Circuit a direct conflict as to the Rules and the Meaning interpreted.

TEXAS v. UNITED STATES

2016 US Dist. LEXIS 79546, May 19 2016 (CA5 2016)

Opinion By: Andrew S. Hanen:

An exchange between two characters from a recent poplar film exemplifies what this case is, and has been about:

FBI AGENT HOFFMAN: Don't go Boy Scout on me. We don't have a rulebook here.

ATTORNEY JAMES DONOVAN: You're Agent Hoffman, Yeah?

FBI AGENT HOFFMAN: Yeah.

ATTORNEY JAMES DONOVAN: German extraction?

FBI AGENT HOFFMAN: Yeah so?

ATTORNEY JAMES DONOVAN: My name's Donovan, Irish both sides. Mother and Father. I'm Irish you're German, but what makes us both Americans? Just one thing...the rulebook.

We call it the Constitution and we agree to the Rules and that's what makes us Americans. It's all that makes us Americans, so don't tell me there's no Rulebook...[Bridge of spies (Dreamworks 2015)(Emphasis Added)]

This Rulebook as described is that the Federal Rules and Regulations that provides the Supreme Court and the Lower Courts Due Process.

Question for review of contravention and conflict: Does the Court of Appeals and the United States district courts that are Legislative territorial courts adhere to the RULEBOOK?

In the Fifth Circuit from where Petitioner case of conviction originates; In 2007 the Court of Appeals affirmed a conviction in Webb v. United States, 220 Fed. Appx. 293(CA5 2007). The Court opinion stated: "Webb's Jurisdictional arguments are frivolous. United States district courts have jurisdiction over federal offenses, See 18 U.S.C. 3231; The United States District Court for the Northern District of Texas is a district court of the United States, See 28 U.S.C. §§124, 132; and Texas is plainly a state of the United States within the territorial jurisdiction of the United States. See United States v. 1,087.27 Acres of Land, 446 F2d 1030,1039 (5th Cir. 1971). Webb's contentions based on 18 U.S.C. §§7 and 23 [13] are without merit."

The opinion of the court based this on a non-precedent case from 1971, which shown that on June 23, 1845 Republic of Texas became a State of the United States and no longer a territory of the United States...and additionally, the land in question was used for a military fort till 1947. This is obviously a

territory based on 18 U.S.C. §7 "Special Maritime and Territorial jurisdiction of the United States", and on Jan. 19, 1959, the land was officially transferred to "Civil Account" from "Military Account". [See ARTICLE I. Section 8, Cl. 17-18]

Additionally the Fifth Circuit Court of Appeals is not alone in this defiant Contravention against the Supreme Court and the Congressional intent as well as the Constitution of the United States. Below are examples of each circuit usurpation of Judicial Power claiming authority over criminal cases by means of the 18 U.S.C. §3231 misrepresentation to provide the United States district court as a District Court of the United States as required by congressional intent, and after 2003 Confirmation of the Historical Sense of Mookini Supra, in Nguyen Supra.

CIRCUIT COURT OF APPEALS EXAMPLE CASES:

United States v. Martinez-Benitez, 914 F. 3d 1 (CA1 2019)
United States v. Caraher 973 F. 3d 57 (CA2 2020)
United States v. Estrada, Lexis 38584 (CA3 2020)
United States v. Smith 962 F. 3d 755 (CA4 2020)
United States v. Moore 954 F. 3d 1322 (CA5 2020)
United States v. Black, Lexis 19262 (CA6 2020)
United States v. Wehrle, Lexis 1171 (CA7 2021)
United States v. Herrod 825 Fed. Appx. 406 (CA8 2020)
United States v. Felix, Lexis 1183 (CA9 2021)
United States v. Rainey, 794 Fed. Appx. 728 (CA10 2019)
United States v. McLellen, 958 F. 3d 1110 (CA11 2020)
United States v. Mason, 951 F. 3d 567 (CA12 2020)

It has been clearly obvious that the Lower courts and the Supreme Court and Congress are in contravention, with the lower courts actions contrary to law are of national importance of the Statutory Interpretational question be given solid clarification. This question before this Court is Ripe for granting this petition.

CRIMINAL V. CIVIL RULES OF PROCEDURE

As seen in CHARLES FRANCIS HURT, JR. v. UNITED STATES OF AMERICA, Case 3:19CV49 Lexis 95767, June 7 2019. When Agent Williams brought before ~~Magistrate~~ Virden a search warrant under Title 19, in the Northern District of Mississippi on June 5, 2015 as a Civil Forfeiture under CAFRA against the property in a concurrent jurisdiction and failed to provide the petitioner with the proper execution and return of the Warrant showing the case as civil, not criminal, the warrant becomes void.

The warrant was never provided to the latter concurrent jurisdiction by Agent Williams, nor was the information of the execution and return of such warrant provided on the latter Docket of Record, to show the action brought against the Petitioner was a Civil forfeiture penalty for violating a federal statute.

The latter court also failed to inform the Petitioner June 8, 2015 as to the exact Nature and Cause of the charges brought against him.

"He is not only entitled to be informed of the charges against him, but to know that it is a charge and not a suit." [Gompers v. Bucks Stove & R. Co. 221 US 418, 55LED747] See also United States v. Cruikshank 92 US 542, 559, 23 LEd 588, 593, presented within United States v. Barnett, 330 F. 2d 369 (CA5 1963)

Without Jurisdiction or the Plaintiff providing the Nature of the "Quasi-Criminal" (Civil) suit brought against the Petitioner and "Because forfeiture proceedings under the customs laws are in rem...In sum '[b]y creating such distinctly civil procedures for forfeiture under [§§881 and 981] Congress has 'indicate[d] clearly that it intended a civil, not criminal sanction.'" United States v. Ussery, 518 US 267 116 SCT 2135 135 LED2D549 Seen in United States v. 89 Firearms, 465 US 354, 79 LEd 2d 361, 104 Sct 1099 Quoting Helvering v. Mitchell, 303 US 391, 402 82 L. Ed 917, 58Sct 630 (1938)

As shown in United States v. Ward, 448 US 242, 100SCT2636 65 LED2D 742. "2.

It is a matter of Statutory construction to determine whether a particular statutorily defined penalty is civil or criminal purpose of the applicability of Federal Constitutional Provisions that are implicated only in the Criminal Context, and in such regard it is first asked whether legislature, indicated wither expressly of intention to establish a civil penalty, it is asked whether the statutory scheme is so punitive either in purpose or effect as to negate that intention; with respect to the latter inquiry, only the clearest proof suffice to establish the unconstitutionality of a statute on the ground that it imposes a criminal penalty with regard to appropriate Constitutional Protections and restrictions." Which CAFRA provides no Constitutional Protections as it is an Administraive Proceeding.

"The Courts authority to declare a statute partially unconstitutional has been well established since Marbury v. Madison, 5 U.S. 137, 1 Cranch 137, 2L. Ed. 60(1803), When the Court severed an unconstitutional provision from the Judiciary Act of 1789." Nat'l Fed'n of Indep. Bus. v. Sebelius, 567 U.S. 519 June 28 2012. in dissenting.

Since the Original Warrant was based on Customs Laws under Title 19 USC §1607 for civil forfeiture as shown in HURT v. United States, Supra and nothing was stated on the Warrant for 18 U.S.C. §2422(b) or §2423(b) which under Chapter 117 §2428 Forfeitures, the statute clearly states that the forfeiture proceeding for §2421 et. seq. is a Civil Forfeiture Penalty.

Rule 54 of Federal Rules of Criminal Procedure later renamed Rule 1 under (a)(5)(B) Excluded Proceedings shows (B) Civil Forfeiture Penalty for violating a Federal Statute.

This creates a conflict in the Criminal Presentation being misrepresented by the Plaintiff as a criminal case and not a factual "QUASI-CRIMINAL" (CIVIL) suit against the Petitioner. And even if the Plaintiff was correct - which they

are not - as to have the United States district court have exclusive jurisdiction: then the Rules of Criminal procedure would exclude the forwarding of the criminal case as Excluded.

According to the Rules Enabling Act, Title 28 U.S.C. §2072 et. seq. [2072(a)] and the Constitutional provisions as to the Needful Rules and Regulations clause, The rule is clear and precise as to 1(a)(5)(B). As a matter of advisory notes concerning the Issue Rule 54 of Criminal Procedure and Rule 1 of Civil provides the Mookinin Court provision.

So statutory conflict between the lower courts own allowance of the forwarding of such suit before the United States district court without Plaintiff having Standing or Jurisdiction, the Court has explained in Home Depot U.S.A., Inc. v. Jackson 1329 S. Ct. 1743, May 28, 2019..."We have often explained that '[f]ederal courts are courts of limited jurisdiction.' [Kokkonen v. Guardian Life Ins. Co. of America 514 US 375, 377, 114S. Ct. 1673 128 L. Ed. 2d. 381(1991)] Article III, §2, of the Constitution delineates '[t]he character of the controversies over which federal judicial authority may extend.' [Insurance Corp. of Ireland v. Compagnie des bauxite de Guinee 465 US 694, 701, 102 S. Ct. 2099, 72 LEd2d, 492 (1982)] and lower Federal-Court Jurisdiction 'Is further limited to those subjects encompassed within the Statutorial Grant of Jurisdiction." [Ibid Corp v. Allapattah Services, Inc. 545 US 546, 552, 125 S.Ct. 2611 162 L.ED.2d 502(2005)]

Further Kokkonen Supra goes on to state..."Federal Courts are courts of limited jurisdiction and possess only the power authorized by the Federal Constitution and Federal Statute...The Jurisdiction of Federal Courts is not expanded by Judicial Decree."

EXPANDED QUESTION:

So why does the lower courts insist to apply such disregard and disrepect to the Constitution, Congressional Intent and this Court's Stare Decisis?

STANDING vs. MANUFACTURED DIVERSITY:

Since Rule 1(a)(5)(B) excluded and forwarding of a criminal proceeding against the Petitioner by the Plaintiff, the Court has allowed the Plaintiff, without standing or Jurisdiction prosecute a criminal case against the Due Process of the Petitioner.

In fact the Court without standing of the Plaintiff nor the TITLE 28 U.S.C. Chapter 85 District Court Jurisdiction; Statutes §§1330 through 1369 being present on the Face of the Record to show the Nature, Cause, or Jurisdiction statutorial required, the Plaintiff was without Standing and in want of Jurisdiction.

This Action by the Plaintiff to forward a suit before the Court without the Face of the Record to show the Nature, Cause, or Jurisdiction whos that the case was infact forwarded with a manufacture diversity; and since the Petitioner was brought before the United States district court by the Plaintiff in restraints and against his will under duress, the action was coercive in action and he was made to join a suit in violation of 28 U.S.C. §1359.

Many of statute, rules, and regulations were disregarded by both the Plaintiff and the United States district court, as well as supported by the Petitioner's Court appointed Counsel'[s] as to assist in the forwarding of such fraudulent misrepresentation before the court and this Petitioner; would explain the need for the Plaintiff to have the Petitioner's Counsel assist in the Matter of a Implied-in-Law contract for unjust enrichment against the Petitioner as a defendant, By the use of Rule 11 of Federal Rules of Criminal Procedure as a cover, to provide a contract of suit before the court that has no jurisdictional authority. The extreme need to obtain this Implied-in-Law contract signature is primarily use to hide the fact that without Jurisdictional Authority of a criminal case and the "Quasi-Criminal" (Civil) suit holds no Constitutional

Rights as required.

"Where civil procedure is proscribed for the enforcement of remedial sanctions, the accepted rules and Constitutional Guaranties governing the trial of criminal prosecution do not apply." *Helvering v. Mitchell*, supra.

If the Plaintiff was to be discovered during this process to obtain an agreement signature at any cost, that if discovered during this fraudulent misrepresentation to obtain a Implied-in-Law contract for unjust enrichment; if caught the Plaintiff would be libel.

This would explain why the Plaintiff and Public Defenders Office at any cost, including and through threats or actions against Petitioner would be needed to cover the fraud being placed against the petitioner as a defendant in a civil suit under the MASK of a criminal case.

REMAINING ISSUES IN SUPPORT OF THIS WRIT:

On page 37 and 38 of the Governments response to Petitioners §2255 and Judge Ellison's Opinion on page 15 both agree with the Petitioner that he was never in the 18 U.S.C. §7 "Special Maritime and territorial jurisdiction of the United States." [See Government Response Docket number #200 and the September 22, 2020 Order Docket #208 from 5:15-CR-662.]

Chevron USA, Inc. v. Natural Res. Def. Counsel 467 US 837, 104 SCT2778 81 LED2D 694, The Court has clearly stated "The United States Supreme Court reviews judgments, not opinion." and "The Judiciary is the final authority on issues of statutory construction and must reject administrative construct's which are contrary to clear congressional intent."

The outcome of this case has been more effected by the original question asked to the Court, but it also requires to the Court to review the underlying issues [Ingredients] used to place a citizen into a Implied-in-Law contract at any cost... including using a VOID PLEA AGREEMENT since Rule 11 has been

Excluded. ... "Only a voluntary and intelligent guilty plea is constitutionally valid." [Brady v. United States, 397 US 83, 748 F.2d 1254 (1st Cir. 1983), 90 S.Ct. 1463]. ... a plea is not intelligent unless a defendant first receives real notice of the

Nature of the charge against him." [Smith v. O'Grady, 312 US 329, 134 S.Ct. 85 (1942), 61 S.Ct. 572].

"A proceeding for forfeiture of property used in violating a criminal law is ... in character." [One Plymouth Sedan v. Pennsylvania, 380 US 693, 14 LED2D 170; 85 S.Ct. 1246]. ... whether a particular statutory defined penalty is Civil or Criminal is a matter of statutory construction." [One Lot Emerald Cut Stones v. United States, 408 US 232].

But if the Court has failed to have the Plaintiff provide standing nor Subject-Matter Jurisdiction then none of the underlying issues matter. Not the Charges. Not the fact it is a Civil Forfeiture for violating a federal statute, not that Rule 11 Plea Agreement is null and void without the Authority of Federal Rules of Criminal Procedure; or the fact that 18 USC §3231 only provides the court VENUE and not JURISDICTION; but the case presented before the Court

was presented to a Territorial Court created as a Article I. court by Congress and Legislation and not by the Constitution.

When Judge Ellison relied on United States v. Cotton, 535 US 625, 630-31(2002) within his Order on Page 22 of the September 22, 2020 Denial of Petitioners Motion to Vacate, 28 USC §2255; he failed to address that this Court

stated: "Concept of Subject-Matter Jurisdiction, because it involves the court's power to hear a case can never be forfeited or waived, Consequently defects in Subject Matter Jurisdiction requires correction regardless of whether the error was raised in district court." [Louisville & Nashville R.R. Co. v. Motley, 211 US 149, 53 LED 126, 29 S.Ct. 42(1908)].

Per Rule 20.1 [As Response to the Court]

The lower Fifth Circuit courts have ruled on the United States district court misuse of 18 USC § 3231 as providing jurisdiction to the plaintiff, as required to provide standing for the plaintiff.

At No Point During so Forwards "Quasi-Criminal" Proceeding by the Plaintiff the United States of America, attorney-in-fact, [United States Attorneys Office] was any jurisdiction, or standing provided to the court or to the defendant to subject the defendant to a native and cause as required by the Sixth Amendment. As well no Title 28 Chapter 85 "District Court jurisdiction" Statutes §§ 1330 to 1369 were provided as the subject-matter of the jurisdiction. Both the United States district court (as a territorial court) and the United States Court of Appeals for the Fifth Circuit has REFUSED to respond proper when this constitutional requirement is challenged and the plaintiff's standing is without jurisdiction.

Since the inception of the case 5:15-cr-462 USDC SDTX on June 8, 2015 has there been any jurisdiction provided to invoke the Standing Clause or Arising under Clause.

The relevance of the issues before the lower court's were never of value for consideration without the Plaintiff securing the Standing required; the Jurisdiction required, and the lack of Subject-matter & Jurisdiction in order to constitutionally proceed with any action before the lower court.

If the Court allows the action to proceed without being provided by the Plaintiff of the standing, Jurisdiction, and Subject-matter & the Jurisdiction, then the lower court as unconstitutional IS NOTHING more than a Kangaroo Court.

No Action, Conviction, Judgment, Sentence or opinion of Order can hold, against the Defendant without the Jurisdiction.

The lower courts refused to acknowledge this want of Jurisdiction; (Both the United States District court [As Article I sec 8 Court] and the United States Court of Appeals for the Fifth Circuit) had required that in order to provide proper constitutional, congressional, and this Court's Stare Decisis to this Petrover. This has provided the "CRUX" of this Petrover's "want of Error for Want of Jurisdiction" that must be Granted.

Per Rule 20.4

The Supreme court requires that the Petitioner state the reasons for not making application to the district court of the district in which Petitioner is held.

Petitioner has more than on one occasion challenged the United States district court as to the Plaintiff's Standing; want of jurisdiction and Lack of Subject-Matter jurisdiction and introduced the Title 28 USC § 2255 TO VACATE The Sentence and Judgment of Conviction and discharge the prisoner from the unconstitutional Imprisonment. [see 5:15-cr-462; Appeals No. # 19-40516 and other (iff) related cases]

The United States district court dismissed with prejudice the Government Re-Grouped 19 Grounds that AUSA Andrew C. Soud Presented as response to the court; while ignoring Petitioner's 12 grounds originally introduced; then devised Certificate of Appealability ("COA") as shown in the Background Statement. ("COA"), and notice of Appeal was made timely yet the United States Court of Appeals for the Fifth Circuit since November 2020 has refused to acknowledge and respond.

Petitioner Placed a Writ of Error for Want of

Jurisdiction and again the Appellate court has ignored responding to a Denial of Mandamus, nor to recognize the writ of Error for want of jurisdiction.

Both Courts have ignored the Petitioner's challenge to Jurisdiction, Standing & the Plaintiff and lack of Subject-Matter (Title 28 USC, Chapter 85, "District Court Jurisdiction" Sections §§ 1330 to 1369 Required on the Record, [Face of the Record] yet VOID from this case).

A CASE before any court cannot forward to want of Jurisdiction, As well as to want of STANDING or Lack of Subject-Matter Jurisdiction. And the lower Court's refusal to adhere to the Rulebook and provide Due Process has rendered the case brought before the United States District Court June 8, 2015 as NULL AND VOID.

At no point during the forwarding of such invalid action can any Judgment stand. And though no Rule 4(a) Arrest Warrant was ever issued and though no Counsel was appointed till Rule 5 was waived... and so on. The case brought before the court was without jurisdiction to do so, and AUSA Sand even agreed that Petitioner was never in the "Special Maritime and Territorial

Jurisdiction of the United States". Thusly Habeas Corpus must be provided for the discharge of the prisoner for the "Writ of Error for Want of Jurisdiction" that the lower court was without; [as a territorial court], and Plaintiff failed to provide properly.

Per Rule 20.3

As per the Appended Copy of the Judgment or Order in respect to the United States District Court Appendix A provided this issue.

Rule 20 as requested by the Supreme Court to specify the type of relief sought.

As seen in VII Remedy Requested in lower court No. 21-40171 Appendix A.

[AS SEEN ON PAGE 29 "RULE OF FOUR"]

1. Be provided neutral and detached FINDERS to review the case for the "Writ of Error for want of Jurisdiction", show violated 28 USC §1359 by the Plaintiff in the attempt to create Federal Jurisdiction by Colorable Assignment, known as manufactured Diversity.

2. TO Grant Petitioner the "Writ of Error for want of Jurisdiction";

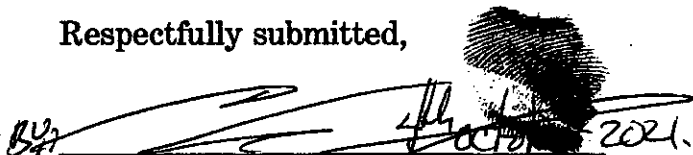
3. Reverse and vacate the judgment of Conviction and Sentence, Quash the indictment as NULL AND VOID and discharge the prisoner, Habeas Corpus, Writ Pro.

4. Provide Constitutional Redress for petitioner's deprived Constitutional Civil Rights.

CONCLUSION

The petition for a writ of certiorari should be granted.


Respectfully submitted,


Hurt, Jr. Charles Frantz, Pro. Sec.
Executive of U.S.

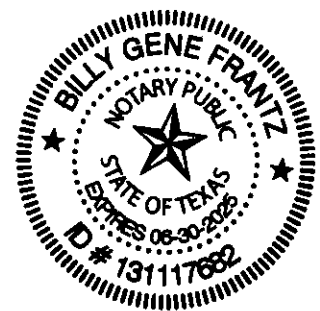
Date: 4th October 2021

DeJure County OF TARRANT
DeJure STATE OF TEXAS

Billy Gene Frantz
NOTARY NAME


NOTARY SIGNATURE

06-30-2025
Expiration DATE



SEAL

Appendix A