

MAY 23 2022

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No. 21-8008

IN THE
SUPREME COURT OF THE UNITED STATES

In Re James-Martin: Graham - PETITIONER

vs.

WARDEN, F.C.I. COLEMAN - LOW,
JUDGE, LISA GODBY WOOD,
AUSA, MARCELA C. MATEO,
AUSA, GREGORY E. GILLULY Jr,
JUDGE, BENJAMIN W. CHEESBRO. - RESPONDENT(S)

ON APPEAL FOR A WRIT OF HABEAS CORPUS TO THE U.S. COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

PETITION FOR WRIT OF HABEAS CORPUS
(Pursuant to 28 U.S.C. § 2241)

James-Martin: Graham, Petitioner
By Special Visitation, not general
Proceeding Pro Se
F.C.I. Coleman - LOW
P.O. Box 1031 Unit C-1
Coleman, Florida 33521-1031

ORIGINAL

QUESTION(S) PRESENTED

ONE: Did the complaint/information or indictment fail to charge an offense against the laws of the United States, because no jurisdiction has been ceded or accepted over the place where Mr. Graham's alleged criminal activity is alleged to have occurred?

TWO: Was the trial Court without subject-matter jurisdiction under 18 U.S.C. § 3231?

THREE: Did the criminal statute that Mr. Graham allegedly violated exceed the power of Congress as applied to defendant/petitioner's Due Process Rights secured by the Fifth Amendment, encroach on the sovereignty and jurisdiction of the Union state of Georgia violate the Tenth Amendment and the fundamental principles of Federalism?

The full text of these three grounds for challenge in the petition are contained within Petitioner's Petition for Writ of Habeas Corpus § 2241. See **Appendix A, Exhibit "A"**, In Re Case No. 5:21-CV-00369-WFJ-PRL, and are incorporated herein by reference at pages 4 - 24, at paragraphs 15 - 65, They are presented under Supreme Court Rule 29.6.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page. Their addresses are as follows:

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RELATED CASES

- * James-Martin: *Graham v. WARDEN, F.C.I. COLEMAN* - LOW No. 5:21-CV-00369, U.S. District Court for the Middle Disrtict of Florida - Ocala Division **UNPUBLISHED**, dated July 11, 2021. Denial Judgment entered Oct 20, 2021.
- * James-Martin: *Graham v. WARDEN, F.C.I. COLEMAN* - LOW No. 21-13842-E, U.S. Court of Appeals for the Eleventh Circuit **UNPUBLISHED**, dated November 10, 2021. Denial judgment entered February 18, 2022.

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APPENDIX B	Exhibit "B" Denial Judgment entered on October 20, 2021.
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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF HABEAS CORPUS UNDER § 2241

Petitioner respectfully prays that a Writ of Habeas Corpus under 28 U.S.C. § 2241 issue to review the judgment below.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Eleventh Circuit appears at Appendix D - Exhibit "D" to the opinion and is unpublished.

The opinion of the United States District Court Middle District of Florida - Ocala Division appears at Appendix B - Exhibit "B" to the opinion and is unpublished.

JURISDICTION

The date on which the United States Court of Appeals for the Eleventh Circuit denied my appeal was February 18, 2022.

This Petition will aid the Court's appellate jurisdiction by showing in detail how Petitioners Constitutional rights were violated, and the exceptional circumstances which warrant the Court's discretionary power.

Petitioner HAS filed and made application by way of a Section 2241 Petition for a Writ of Habeas Corpus in the United States District Court for the Middle District of Florida - Ocala Division because that is the district where the petitioner is being held and unlawfully detained.

Petitioner has exhausted his administrative remedies with respect to his Section 2241 Petition in both the U.S. District Court and the U.S. Court of Appeals. Even if the petitioner had not done so, "The Eleventh Circuit has held that a Section 2241 petitioner's failure to exhaust administrative remedies [i]s [n]ot a jurisdictional defect". *Cassinelli v. Flornoy*, 2016 U.S. App. LEXIS 128949, at *3, (Judge, R. Stan Baker, S.D. Ga., Brunswick Division (11th Cir. 2016); see also *Santiago-Lugo v. Warden*, 785 F.3d. 467, 474 (11th Cir. 2015); *Flemming v. Warden FCI Talahassee*, 631 F.App'x. 840, 842 (11th Cir 2015).

This Honorable Article III Court has jurisdiction over this action where that certain Constitution ordained, established, and implemented on March 04, 1789, Independence Hall, Philadelphia, Pennsylvania (the "Constitution") creates the Federal judicial power in Article III, § 1, and defines the maximum extent of that power in Article III, § 2(1). This Honorable Court would also have jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Article I, § 8, cl. 3

"To regulate Commerce with foreign Nations, and among the several States, and with Indian tribes"

Article I, § 8, cl. 9.

"To constitute Tribunals inferior to the Supreme Court"

Article I, § 8, cl. 17.

"To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by ~~cession~~ of particular State, and the ~~Acceptance~~ of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the Errection of Forts, Magazines, Arsenals, dock-Yarde, and other needful Buildings."

Article III, § 2, cl. 3.

"In all cases affecting Ambassadors, other public Ministers and Counsuls and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all other Cases before mentioned, the supreme Court shall have appellate jurisdiction, both as to Law and Fact, whth such Exceptions, and under such Regulations as the Congress shall make."

Article III, § 3, cl. 2.

"The judicial Power shall extend to all Cases, in Law and Equity, arising under the Constitution ... ---to Controversies between two or more States; ---between a State and Citizens of another State ..."

Article IV, § 2, cl. 2.

"The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic violence."

Amendment Five.

"No person shall be held to answer for a capital, or otherwise infamous crime, ... nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, ~~without~~ due process of law ..."

Amendment Ten.

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

Amendment Fourteen.

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

CODES AND STATUTES

18 U.S.C. § 5

18 U.S.C. § 7

18 U.S.C. § 13

18 U.S.C. § 3231

40 U.S.C. § 3112 (former 40 U.S.C. § 255)

STATEMENT OF THE CASE

This claim arises from the fact that the trial Court in its Criminal Action, 2:17-CR-00002, under Color of Office, tried and convicted Petitioner without having, first, obtained subject-matter jurisdiction over the case thereby violating Petitioner's Right to due process of law under Color of Law. The trial Court's criminal action is void. See F.R.Civ.P. Rule 12(b)(1) as well as 60(b)(4). Petitioner challenges the execution of the proceedings.

Mr. Graham has standing to bring this action, see **Associated Ind of N.Y. v. Ickes**, 134 F.2d. 694, 702 (1943). The seminal case of standing is **Lujan v. Defenders of Wildlife**, 504 U.S. 555 (1992). According to the Supreme Court, it is established that burden of proof to establish elements of standing involve three elements that Petitioner Graham will prove:

1) Mr. Graham has in fact suffered "an "injury in fact" [The illegal taking of his liberty, and detriment, due to the trial Court's lack of subject-matter jurisdiction] ---an invasion of allegedly protected interest which is:
(a) 'concrete and particularized'." see Id at 560; **Warth v. Seldin**, 422 U.S. 490, 508 (1975); **Sierra Club v. Morton**, 405 U.S. 727, 740-41, n.16 (1972); and
(b) "actual or imminent, not 'conjectural or hypothetical',"" **Witmore v. Arkansas**, 495 U.S. 144, 155 (1990)(quoting **Los Angeles v. Lyons**, 461 U.S. 95, 102 (1983);

2) There is a causal connection between the injury and conduct COMPLAINED OF [The trial Court was without jurisdiction thereby caused injury by violating Graham's Constitutional rights by ordering his detainment, loss of liberty and restraint, without due process of law] ---the injury [is]

"Fairly ... trace[able] to the challenged action of the [Respondnet(s)], and not ... th[e] result [of] the independent action of some third party, not before the Court." **Simon v. Eastern Kentucky Welfare Rights Org**, 426 U.S. 26, 41-42 (1976), and

3) Is highly ""likely" as opposed to merely "speculative," that the injury will be redressed by a favorable decision." Id at 38, 43.

Judge, Lisa Godby Wood, entered a judgment in a manner inconsistent with Mr. Graham's due process of law, a violation of Mr. Graham's Fifth, Tenth, and Fourteenth Amendment Rights. See F.R.Civ.P. Rule 60(b)(4) which provides "[o]n motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding [if] ... the final judgement is void[.]" In general, "a judgment is void under Rule 60(b)(4) if the court that rendered it lacked jurisdiction of the subject matter or of the parties, or if it acted in a manner inconsistent with due process of law." **Burke v. Smith**, 252 F.3d. 1260, 1263 (11th Cir. 2001)(citations omitted); **Williams v. New Orleans Pub Svc**, 728 F.2d. 730, 735 (5th Cir. 1984). Rule 60(b)(4) motions leave no margin for consideration. **Carter Fenner**, 136 F.3d. 1000 (5th Cir. 98), Also, "A defendant can move to dismiss a complaint under F.R.Civ.P. Rule 12(b) (1) for lack of subject-matter jurisdiction by either facial or factual attack." **Stalley ex rel U.S. v. Orlando Regn'l Healthcare**, 524 F.3d 1229, 1232 (11th Cir. 2008). On a facial attack, a plaintiff is afforded safeguards similar to those provided in opposing a Rule 12(b)(6) motion ---the Court must consider the allegations of the complaint to be true." **Lawrence v. Dunbar**, 919 f.2d. 1525, 1528-29 (11th Cir. 1990)(per curiam). See also McElmurray v. Consolidated Govt of August-Richmond, 501 F.3d. 1244, 1251 (11th Cir. 2007); **Pielage v. McConnell**, 516 F.3d. 1282, 1284 (11th Cir. 2008).

Petitioner IS NOT challenging the validity of a federal judgment of conviction or sentence which are generally raised in a 28 U.S.C. §§ 2255, or 2254 proceeding.

Petitioner IS challenging the FACT that the United States District Court for the Southern District of Georgia, Brunswick Division, had no subject-matter jurisdiction over the case, therefore causing the petitioner's unlawful detainment and restraint.

The belief put forward by the U.S. Federal Government ("United States"), regarding U.S.D.C. Case 2:17-CR-0002, is that under the commerce clause Article I. §8, cl. 3., that they can "punish" felonious crimes. The contention, which "almost" everyone believes, is that if a person transports, or causes to be transported, anything across State lines, is "interstate-commerce", then that activity can be regulated through imposition of felonious crime statutes. This is simply not true.

Petitioner will show, in this case, how this was accomplished through the manipulation of the law, and will show how Congress has written the "law" to allow this un-constitutional end to be achieved through obfuscation, how ignorance of the fact of law is being used against petitioner to achieve this.

By Mr. Graham reserving his inalienable rights, he is engaging the Government's fiduciary duty to act in accordance to the Constitutional protections against Government's interference with Mr. Graham's private rights or life. Petitioner hereby challenges the [e]xecution of the trial proceedings.

On or about January 23, 2017, Petitioner Graham, who is a "national" of the United States of America", and citizen of the Union state of Georgia, was illegally seized of his liberty taken/kidnapped from his private abode without probable cause or warrant, in violation of petitioner's Fourth Amendment Rights to be secure in his home, which is located at: c/o 106 George

Lane, in the city of Brunswick, Zip Code Code exempt See U.S.P.S Domestic Mail Manual DMM 602 1.3 e.2. Petitioner Graham was living on private property other than Federal territory which was "private" and never ceded to the Federal Government. The "United States of America" is a collection of states (THE 50 UNION states) united under the Constitution for the United States of America that excludes the statutory Federal Government ("United States").

On or about 2017, Mr. Graham was arrested for allegedly violating 1 Count of 18 U.S.C. §2252A(A)(5)(b)(Indictment Count 3). A bench trial was subsequently held where petitioner a lay-person unschooled in law, not knowing of the Constitutional issues presented herein, was unaware of the fact that the trial Court did not have subject-matter jurisdiction. *Ignorantia excusat, non juris sed facti.* "Ignorance of fact may excuse, but not ignorance of the law" (Bouvier's, p.2136), and Ignorance of the law consists of the want of knowledg of those laws which it is our duty to understand, and which every man is presumed to know." Id at 1488. Petitioner unknowingly pled guilty, not kknowing that the trial Court never had jurisdiction over the case. Therefore, this petition follows under 28 U.S.C. §2241.

For the following reasons shown below, Petitioner Graham is [f]actually innocent of committing a felonious Federal crime and unlikely the "United States district court" had jurisdiction. The Supreme Court explained:

"In a criminal case we have said that a person convicted in a court without jurisdiction over the place of the crime could be released from restraint by habeas corpus." **United States v. Williams**, 341 U.S. 58, 66-67 (citing **Bowen v. Johnson**, 306 U.S. 19, 27 (1939)).

On July 12, 2021, Petitioner filed a § 2241 Petition for a Writ of Habeas Corpus, denied on Oct 20, 2021. See Exhibit "A-B". There being no evidence presented by the trial court of Graham's private abode being located in a "United States" (Federal Government) Federal territorial geographical area in which the "United States District Court for the Southern District of Georgia

Brunswick Division", (herein "trial Court"), a court of general jurisdiction was authorized by the Constitution to hear and decide cases, showed partiality toward the Respondent(s)/Prosecution (Federal Government) and bias against Mr. Graham by:

- 1) Failing to provide any legal "bona-fide" evidence that Mr. Graham's alleged crime was committed on "United States" (Federal Government) territory (land) as evidence that would purport the District Court the right to hear and decide the action, which purported right the Court could call "jurisdiction" to justify: (a) denying said Petition under 28 U.S.C. §2241, (b) exercising jurisdiction in a geographical area fixed by the Constitution exclusively for courts of "special jurisdiction", and (c) entering the Judgment and Order;
- 2) Failing to provide, produce, or enter into evidence any "bona-fide" evidence, as "proof" that Mr. Graham resides in or on "United States" (Federal Government) territory (land) geographic area in which the trial Court is authorized by the Constitution to exercise "general jurisdiction";
- 3) Denigrating Petitioner and accusing him of acting in "bad-faith" for acts amounting to nothing more than exercise of Graham's legal rights, by claiming that Graham's petition is frivolous and or without merit; and
- 4) Entering Judgment without regard for Mr. Graham's issues left unresolved in his July 12, 2021, § 2241 petition for a Writ of Habeas Corpus.

SUMMARY OF THE ARGUMENTS AND INTRODUCTION

Although Petitioner is not an eloquent writer, and unschooled in law, he can read and understand when the wool is being pulled over his eyes. The cases cited herein are spot on. It is not based on any sovereign citizens propaganda, the Uniform Commercial Code, nor any alleged invalidity of the

Title 18 U.S.C. Rather it will show the reader the law as it is written.

A) The "United States" (Federal Government) can no more prosecute felonies as necessary and proper under the guise of regulating interstate commerce than they can prosecute felonies that occur on their own lands as necessary and proper without a ceding and acceptance of jurisdiction (unless that land is purchased by the consent of the particular state). If they could, jurisdiction would not need to be ceded and accepted, as provided for under Article I, §8, cl. 17, U.S. Constitution.

B) The "United States" cannot punish felonious crimes as necessary and proper where the power to "punish" is not delegated in the Constitution, because it is enumerated in four other provisions (which enumeration proves it is delegated), and the Tenth Amendment states that undeligated powers are reserved to the People [Prosperity "Petitioner"]. As the Supreme Court has stated again and again, "Enumeration presupposes something not enumerated".

C) The United States District Court's do not have jurisdiction over the place of the crime just because it is alleged to have occurred within their respective judicial Districts. This is proven by Title 40 U.S.C. §3112(c) [Federal Jurisdiction], which states: "Presumption. It is conclusively presumed that jurisdiction has not been accepted until the Government accepts jurisdiction over land as provided in this section." Id.

D) Without cession of jurisdiction, or the delegated (enumerated) power to "punish", the Federal Courts do not have subject-matter jurisdiction, i.e., no "Offense against the laws of the United States" has been made out. Id Title 18 U.S.C. §3231.

E) Almost all federal crimes codified under Title 18, Title 21, and Title

26, including "interstate commerce" and R.I.C.O. crimes, are written to occur on lands where the 50 Union States have ceded territorial jurisdiction (exclusive legislation) to the Federal Government. The crimes written to occur outside of these areas, for example, counterfeiting and felonies committed on the high seas, must be supported by a constitutional foundation such as the power to punish.

The above cited acts and omissions reveal that (1) the trial Court, not the "United States", prosecuted their criminal action, (2) the trial Court committed fraud upon the court, (3) Graham did not have a fair proceeding, and (4) the Judgment were entered in a manner inconsistent with due process of law; to wit: - - - - -

"One of the very objects of law is the impartiality of its judges in fact and appearance ... The relevant consideration under §455(a) is the appearance of partiality ... not where it originated or how it was disclosed ... *Liteky v. U.S.*, 510 U.S. 540, 558 (1994),

A fair trial in a fair tribunal is a basic requirement of due process. Fairness of course requires an absence of actual bias in the trial cases ... [T]o perform its high function in the best way "justice must satisfy the appearance of justice." *Offutt v. U.S.*, 348 U.S. 11, 14, *In re Murchinson*, 349 U.S. 133, 136 (1955).

Fraud on the court encompasses "only the most egregious misconduct, such as bribery of a judge or member of the jury, or fabrication of evidence by a party ..." [Or knowingly knowing of withheld evidence] *Patterson v. Lew*, 265 Fed. Appx. 767, 768 (11th Cir. 2008)(unreported)(quoting *Rozier v. Ford Motor Co.*, 573 F.2d. 1332, 1338 (5th Cir. 1978)). "'Fraud on the Court' ... embrace[s] only that species of fraud which does or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial tasks of adjudicating cases that are presented for adjudication." *Zakrzewski v. McDonough*, 490 F.3d. 1264, 1267 (11th Cir. 2007)(quoting *Travelers Indem Co., v. Gore*, 761 F.2d. 1549, 1551 (11th Cir. 1985)). Also, fraud on the court (other than fraud as to jurisdiction) is fraud which is directed to the judicial machinery itself and not the fraud between the parties or fraudulent documents, false statements or perjury ... it is thus fraud where the court or a member is corrupted or influence is attempted or where the judge has not performed his [her] judicial function ---thus where impartial functions of the court have been directly corrupted." *Bulloch v. U.S.*, 763 F.2d. 1115, 1121 (10th Cir. 1985).

"The right to a tribunal free from bias or prejudice is based, not on section 144, but on the Due Process Clause..." **U.S. v. Sciuto**, 531 F.2d. 842, 845 (7th Cir. 1976).

The Court is authorized and required to vacate judgments and orders entered in a manner inconsistent with due process of law; to wit:

"A judgment is void if the court that rendered it ... acted in a manner inconsistent with due process. **Margolet v. Johns**, 660 F.2d. 291 (7th Cir. 1981) cert. denied, 455 U.S. 909 (1982); **In re Four Seasons Securities Laws Litigation**, 502 F.3d 834 (10th Cir. 1974), cert. denied, 419 U.S. 1034 (1975). Mere error does not render the judgment void unless the error is of Constitutional dimension. **Simer v. Rios**, 661 F.2d. 655 (7th Cir. 1981), cert. denied, sub nom **Simer v. U.S.**, 465 U.S. 917 (1982). **Klugh v. U.S.**, 620 F.Supp. 892 (1985).

We believe that a judgment, whether in a civil or criminal case, reached without due process of law is without jurisdiction and void ... because the United States is forbidden by the fundamental law to take either life, liberty, or property without due process of law, and its courts are included in this prohibition ... **Bass v. Hoagland**, 172 F.2d, 205 (5th Cir.), cert denied, 338 U.S. 816 (1949).

[I]f a "judgment is void, it is a per se abuse of discretion for a court to deny movant's motion to vacate the judgment" **United States v. Indoor Cultivation Equipment**, 55 F.3d. 1311, 1317 (7th Cir. 1995). A judgment "is void only if the court that rendered it lacked jurisdiction of the subject-matter, or of the parties, or it acted in a manner inconsistent with due process of law." **Williams v. New Orleans Pub Svc**, 727 F.2d. 730, 735 (5th Cir. 1984).

"[D]enying a motion to vacate a void judgment is a per se abuse of discretion." **Burrell v. Henderson**, et al, 434 F.3d. 826, 831 (6th Cir. 2006). "[C]onclusory allegations, unwarranted deductions of fact or legal conclusions masquerading as facts will not prevent dismissal." **Oxford Asset Mgmt., LTD, v. Jaharis**, 297 F.3d. 1182, 1188 (11th Cir. 2002).

REASONS FOR GRANTING THE WRIT

Petitioner submits this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 which will aid the Court's appellate jurisdiction pursuant to Rule 20 by showing how the trial court violated Mr. Graham's due process rights from the onset making the judgment void for lack of subject-matter jurisdiction. Petitioner, DID IN FACT exhaust his remedies in the District Court

as well as the U.S. Court of Appeals (See Appendix), The Disrtict Court completely failed to answer the Petition, calling it frivolous, and the U.S Court of Appeals denied the Appeal on the grounds that the Petitioner was required to pay the required filing fees, when in fact the Eleventh Circuit has ruled numerous times that the filing fee was not required when appealing a 28 U.S.C. § 2241 Habeas Corpus Petition, therefore there wae no need for the filing fee requirement or the need to proceed In Forma Pauperis.

HOW IT WAS DONE
HOW MR. GRAHAM'S DUE PROCESS RIGHTS WERE VIOLATED
BY THE U.S. DISTRICT TRIAL COURT

Congress has established a total of 13 Circuits and numerous districts throughout each of the Union States. As will be shown, statutes codified in Title 28 U.S.C., create a United States Court of Appeals and a "United States district court", in each Circuit and judicial district. Of major significance is the fact the judicial districts throughout the Union States are not the same as the judicial District of Columbia or the judicial district of Puerto Rico, because Congress does not have exclusive jurisdiction over all the land within the 50 Union States like they do over the District of Columbia and Puerto Rico. The District of Columbia was ceded by Maryland and Virginia to Congress under the Constitution and Puerto Rico is a territory not admitted as a Union State.

It can only be speculated that Congress created these judicial districts in order to more easily identify places (land) where federal crime is committed. This also enabled Congress to establish limits on the geographical boundaries applicable to each "United States district court" in civil actions and criminal cases wholly within these judicial districts. In other words, the "United States district" being places within a judicial district under their exclusive or concurrent jurisdiction (territorial jurisdiction). However, only

Article III "district courts of the United States" are authorized under the Constitution to extend the judicial power of the United States to civil controversies and criminal cases occurring within any judicial district where jurisdiction has not been obtained through consent to purchase or cession.

23. It is apparent that if the establishment of these jurisdictional districts only helped to further the ruse * that Congress has nationwide jurisdiction to punish felonies under the commerce clause when they do not. There is nothing stopping a Union State from criminalizing the transportation of drugs in or out of its territory. Instead, the Union States have criminalized drug possession and sales. We do not need the Federal (Central) Government to police the entire country, under the guise of regulating interstate commerce, because criminals are capable of committing a felonious crime in one Union State and then escaping into another Union State. The Framers never delegated such power to the Federal Government. Instead, the Constitution provided it:

A person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the Crime. Article IV, §2, cl. 2, U.S. Constitution.

In order to pull off the fraud that Congress can punish felonies under the guise of regulation interstate commerce, the United States Attorneys Marcela C. Mateo, and Gregory E. Gilluly Jr., indict as if the entire judicial districts in each of the Union States inclusive of the Union State of Georgia were actually under the exclusive or concurrent jurisdiction of the Federal Government. They are not because they do not own all the land within each of the judicial districts, they also do not own the private land on which Mr. Graham's alleged crime is to have taken place. The United States Attorneys (Federal Government) also insist that there is an implied power to "punish" under the commerce clause and Ruse. A wily subterfuge. Syn See TRICK. Webster's 9th New Collegiate Dictionary (1991), p.1032.

can be utilized as necessary and proper to the execution of not only that power but all of their powers. That is not merely subterfuge but, rather, malicious fraud.

KEY CONSTITUTIONAL & LOGICAL PROOF

The following clearly and logically illustrate undisputed constitutional proof beyond any reasonable doubt that alleged felonies like Mr. Graham's cannot be punished as necessary and proper pursuant to any enumerated power where the power to "punish" is not delegated (enumerated). With the following Mr. Graham will show the relationship between the "Necessary and Proper Clause" and the "Property Clause" that Chief Justice Marshall was referring to in **McCullough v. Maryland**, 4 wheat 316 (1819). Because the Constitution does not authorize Congress to "punish", as necessary and proper, murders (or other felonies) that occur on federal land without cession of jurisdiction. Mr. Graham can see the lack of authority to punish felonies, as necessary and proper, pursuant to other enumerated powers (such as the Commerce Clause, ect.), that occur on or over land (Places) absent cession of jurisdiction to the "United States" (Federal Government) by the particular Union State.

To reiterate, if the Necessary and Proper Clause, or the power to regulate, allow Congress to provide for the punishment of felonies by implication (because Mr. Graham can see that the power to punish is not enumerated there, which proves it is not delegated), then it would not be essential for the Union States to cede legislative (**territorial**) jurisdiction over land owned by the "United States" (Federal Government), or consent to its purchase, under **Article I, §8, cl. 17**, since under the Property Clause Congress is authorized to "make all needful Rules and Regulations respecting the Territory or other Property" belonging to them. The erroneous construction of the Constitution presently being construed by the courts pursuant to the Commerce Clause power to regulate,

would also mean that under the Property Clause Congress could feloniously punish as necessary and proper anycrime they wished without the need for concurrent or exclusive legislation (territorial) jurisdiction to be ceded. It would also not be necessary for COngress to specify that the crimeof murder must occur "within the special maritime and territorial jurisdiction of the United States." See 18 U.S.C. §§1111, 1112, murder and manslaughter, respectively. Two excellent cases supporting this proposition of law are **U.S. v. Tully**, 140 F. 899 (9th Cir. 1905) [Circuit Court, D. Montana]; and **United States v. Watkins**, 22 F.2d. 437 (USDC Ca, S.D. Oct. 18 1927). In **Tully**, a man who committed murder on federal land was released because the court found that the Federal Government had not obtained jurisdiction over the **parcel** of land where the homicide was committed. The right to punish the felonious crime, therefore, resided with the state.

In **Watkins**, a man who had committed murder on federal land was convicted the court finding that jurisdiction over the parcel of land where the homicide was committed had been obtained by the Federal Government. The right to punish the felonious crime, therefore, resided in the "United States" (Federal Government),

See also **Adams v. U.S.**, 319 U.S. 312 (1943), unless and until notice and acceptance of jurisdiction has been given, Federal courts are without jurisdiction to punish under criminal laws of the United States an act committed on lands acquired by the United States, as provided by 40 U.S.C. §3112 (former 40 U.S.C. §255).

"Subject- matter jurisdiction because it involves a court's power to hear a case, can never be forefitted or waived.: **U.S. v. Cotton**, 535 U.S. 625, 630 (2002). Moreover, court's have an independent [o]bligation to first determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party. **Ruhrgas AG v. Marathon Oil**, 526 U.S. 574, 583 (1999). Nowhere

within the entire trial Court's records in the criminal action, did the Court (1) "Notice" Mr. Graham that it had subject-matter jurisdiction, or, (2) that "Acceptance" of the subject-matter jurisdiction had been given. "A defendant can move to dismiss for lack of subject-matter jurisdiction by either facial or by factual attack". **Stalley ex rel, U.S. v. Orlando Regn'l Healthcare**, 524 F.3d 1229, 1232 (11th Cir. 2008). "Objections to subject-matter jurisdiction may be raised at any time." **Henderson v. Shinseki**, 562 U.S. 428, 434 (2011). Further, "[D]efects in subject-matter jurisdiction require correction regardless of whether the error was raised in district court." Id Cotton, supra.

It cannot be stressed enough that ALL of Title 18 U.S.C. is written to occur within special maritime and territorial jurisdiction of the United States (Federal Government), unless a statute clearly conveys that it is meant to apply extra-territorially (which must be supported by a constitutional foundation, such as the power to "punish"). This is why the "United States" is defined in a "territorial sense" at 18 U.S.C. §5, as places subject to their jurisdiction (which places are defined at (18 U.S.C. §7). this statutory definition created by Congress of the "United States" is explained further in this petition.

Moreover, the "United States" (Federal Government) cannot even adopt laws of the Union States under Title 18 U.S.C. §13, with respect to crimes committed in places, although they may be owned by the "United States" (Federal Government) that are not subject to its exclusive or concurrent jurisdiction. Obviously, if the "United States" (Federal Government) already had concurrent jurisdiction over the several 50 Union States, it would be impossible for any ONE OF the several Union States to cede concurrent jurisdiction to the Federal Government ("United States"). As revealed by Title 18 U.S.C. §13, "areas within Federal Jurisdiction" are provided in section 7 [18 U.S.C. §7].

Like the Union States, the Federal Government can punish felonies that

occur within their own lands but only those lands which are under their exclusive or concurrent jurisdiction. These places are where the Federal Government has territorial jurisdiction (general jurisdiction). See New Orleans v. U.S. , 35 U.S. 622, 736-37 (1836). When a felony or misdemeanor "interstate commerce" offense is committed wholly within one or more of those specific places, it is punished the same as a Union States would punish intrastate commerce crimes (commerce crimes wholly within the State). When someone commits a felony or misdemeanor offense in those ceded places and completes that felony or misdemeanor offense in another like place, Congress defines it as "interstate commerce" which can be prosecuted in either of the judicial districts ("United States district") in which such activity occurred. It is apparent that the sole purpose of creating felonious "interstate commerce" crimes was to decieve us into believing that their commerce clause power allowed them to do so. This is how these tyrants usurp the sovereignty and jurisdiction of the Union States through ignorance of the law. It is by exercising an undeligated power to "pubish" under the deligated power to "regulate" commerce among the Union States (interstate commerce). Under the U.S. Constitution:

"The trial of all Crimes, except in Cases of impeachment, shall be by jury, and such Trial shall be held in the State where the said Crimes have been committed; but when not committed within any State, the trial shall be at such Place or Places as the Congress may by law have directed". Article III, §2, cl. 3, U.S. Constitution.

Remember what places the Supreme Court said is not considered part of the State?

"Of course, we exclude ... places within the exterior limits of a state ... over which exclusive jurisdiction has been ceded to the United States, because they are regarded not as part of a state, but because excepced out of it. Southern Surety Co v. Oklahoma, 241 U.S. 582, 586 (1915).

The U.S. Supreme Court in 1922 admitted the district courts are established pursuant to Article III of the Constitution.

"The United States district court is not a true United States court, established under Article III of the Constitution to administer the judicial power of the United States therein conveyed. It is created by virtue of the sovereign Congressional faculty, granted under Article IV, §3, of that instrument, of making all needful rules and regulations respecting the territory belonging to the United States [Federal Government]. The resemblance of its jurisdiction to that of the United States courts [Article III Constitutional courts] ... does not change its character as a mere territorial court." *Balzac v. Puerto Rico*, 258 U.S. 298, 312 (1922)(emphasis added). It is locality that is determinative of the application of the Constitution in such matters of jurisdictional procedure." *Id* at 309.

Mr. Graham has shown in this petition Congress can provide for the nationwide punishment of felonious crimes where the power to "punish" has been delegated by enumeration in the Constitution. Also shown is that because the power to "punish" is delegated, by enumeration in other provisions of the Constitution, it presupposes that where the power to "punish" is not delegated by enumeration, it is not delegated. However, only Article III courts have jurisdiction of the subject-matter over offenses that occur within land (places) where concurrent or exclusive jurisdiction has not been relinquished through purchase by consent or cession, and acceptance. Legislative courts only have subject-matter jurisdiction over offenses that occur on land under the exclusive or concurrent jurisdiction of the United States (Federal Government).

By the trial Court, "United States" (Federal Government) proceeding under the fraudulent assumption that a federal crime had allegedly been committed by Mr. Graham on their federal land under the exclusive or concurrent jurisdiction of the Federal Government (for all intents and purposes a "United States district"), the U.S. Attorneys Marcela C. Mateo and Gregory E. Gilluly Jr., working in concert with the Judges, Lisa Godby Wood, and Benjamin W. Cheesbro of the United States district courts" continuously conspired together to fundamentally alter Mr. Graham's constitutional republican form of government (which is treason). They did so in order to prosecute Mr. Graham in violation of the Constitution

for federal crimes which Mr. Graham is not guilty of committing and/or which the trial Court had no subject-matter jurisdiction to adjudicate. Without jurisdiction over the place of the crime (or the delegation of the punishing power), no felonious federal crime has been committed by Mr. Graham. The prosecution (Federal Government) deprived Mr. Graham of his inherent inalienable rights secured to him under the Constitution with absolute impunity while at the same time perjuring their sworn oaths to uphold it. See Exhibits if available. There is no excuse for this because, "Trial judges are presumed to know the law and apply it in making their decisions." **Walton v. Arizona**, 497 U.S. 639, 653 (1990).

For example, the following case demonstrates the tyranny we all face today through a twisting of the law beyond its constitutional limitations:

"Obrient Webb, appearing, pro se, appeals his conviction to possess with intent to distribute cocaine, in violation of 21 U.S.C. §§ 841(a)(1) and 846. Webb first contends that the district court lacked jurisdiction ...; that Texas is not a State of the United States ...; that he was not arrested within the territorial jurisdiction of the United States; and that his Fourth and Fifth Amendment Rights were violated by the purported lack of jurisdiction." The Court responds: "Webb's jurisdictional arguments are frivolous ... Texas is plainly a state of the United States within the territorial jurisdiction of the United States, see **U.S. v. 1,078.27 Acres of Land**, 446 F.2d. 1031, 1039 (5th Cir. 1971). Webb's contentions based on 18 U.S.C. §7 are without merit. **U.S. v. Webb**, 220 Fed. Appx. 293 (5th Cir. 2007)(per curium, i.e., "by the court")(non precedential).

Clearly Webb's contention that Texas is not a "State of the United States" is absolutely correct. If Texas were a "state of the United States within the territorial jurisdiction of the United States" it would be impossible for Texas to cede any concurrent or exclusive jurisdiction to the Federal Government (United States) under Article I, §8, cl. 17, U.S. Constitution, as defined in Title 18 U.S.C. §7(3), in order for lands to be within the territorial jurisdiction of the "United States" (Federal government). As shown, the judge twisted the law thereby arbitrarily and capriciously denying Webb's inalienable Fifth Amendment due process right secured under the Constitution his sworn duty is to

uphold.

Mr. Graham shouldn't have to know the law "*Ignorantia excusat, non juris sed facti*. Ignorance of fact may excuse, but not ignorance of the law." (Bouvier's 8th Ed, p. 2136), "Ignorance of the law consists of the want of knowledge of those laws which it is our duty to understand, and which every man is presumed to know." Id at 1448. That job belongs to the judges and attorneys. Because the majority of the populace is ignorant of the facts of the law, just as Mr. Graham was, Federal Judge Wood, and U.S. Attorneys Mateo, and Gilluly jr. utilized Graham's ignorance of the facts of law to deny his rights and provide themselves and others careers. They were keenly aware that Mr. Graham did not know or understand what the facts of the law really is, and that his understanding of those facts of the law based on what he believed or preceived it to be. Based on their "awareness" of Mr Graham's factual ignorance of the law they treated him as if he is stupid enough to believe whatever they say is true, not what really is true. Mr. Graham reviewed the case relied on by the Webb court and saw that Texas was admitted into the Union on December 29, 1846, likewise was the Union State of Georgia on January 2, 1788, and after ceding certain property to the "United States" (Federal Government) for the public defense, retained "all vacant and unappropriated lands lying within their limits." Remember, the joining of the Territories of Texas and Georgia to the Union ousts the "United States" (Federal Government) of general jurisdiction both civil and criminal, except where it cedes concurrent or legislative (territorial) jurisdiction to them.

[It should never] be lost sight of, that the government of the United States is one of limited and enumerated powers, and that a departure from the true import and sense of its powers is protanto the establishment of a new Constitution. It is doing for the people what they have not chosen to do ~~for~~ themselves. It is usurping the functions of a legislator, and deserting those of an expounder of the law. Arguments drawn from impolicy or inconven-

ience ought here to be of no weight. The only sound principle is to declare, ita lex scripta est ["so the law is written"], to follow and obey. *Myers v. U.S.*, 272 U.S. 52, 182-83 (1926).

Next, the United States Court of Appeals, see Exhibit "C-D" working as a link in the chain conspiracy, simply denied Mr. Graham's appeal like they do to almost all of the appeals and applications for relief that come before them. Further, the Supreme Court of the United States, now bottle-necked with approximately 6000 petitions for a writ of certiorari review per year, summarily deny the vast majority of those petitions. They, admittedly, grant oral argument in only 1% (about 60) of those 6000 petitions. How is propriety's right to petition for redress of grievances upheld if we cannot obtain meaningful review of those grievances?

The Supreme Court has consistently stated that if the lower courts did not have jurisdiction then they do not have jurisdiction to reach the merits of the issues we present for certiorari and can only decide that the lower court erred in hearing the case, see Steele Co. v. Citizens, 523 U.S. 83, 89-101 (1998). They have also explained that:

"Before considering the questions raised by the petition for certiorari, the jurisdiction of the federal court ... must be determined." *Treinies v. Sunshine Mining Co.*, 308 U.S. 66, 70 (1940).

CONCLUSION

"Courts, in our system, elaborate principles of law in the course of resolving disputes. The power and the prerogative of the court to perform this function rest, in the end, upon the respect accorded to its judgments. The citizen's respect for judgments depends in turn upon the issuing court's absolute probity. Judicial integrity is, in consequence, a state interest of the highest order." *Republican Party of Minnesota v. White*, 536 U.S. 765 (2002).

42. In Closing, the statutory authority for the trial Court to enter judgments, orders, and decrees in favor of the "United States" (Federal

Government) arising from a civil or criminal proceeding regarding a Public Debt, is clear, what is not clear, however, is the Constitutional authority that gives the trial Court the capacity to take jurisdiction and enter judgments, orders, and decrees in favor of the "United States" (Federal Government) arising from a civil or criminal proceeding regarding a Public Debt, in Glynn County which is situate within the Union State of Georgia, ---because a criminal action or law-suit authorized by the statutes of Congress is not, in and of itself, sufficient to vest jurisdiction on the trial Court; to wit:

"So, we conclude, as we did in the prior case, although these suits may sometimes so present questions arising under the Constitution or laws of the United States that the Federal courts will have jurisdiction, yet the mere fact that the suit is an adverse suit authorized by the statutes of Congress is not in and of itself sufficient to vest jurisdiction in the Federal courts." *Shoshone Mining v. Rutter*, 177 U.S. 505, 513 (1900).

Statutory authority for the Federal trial Court, to enter judgments, orders, and decrees in favor of the "United States" (Federal Government) arising from a civil or criminal proceeding regarding a Debt to the Public, if the capacity to take jurisdiction is not given by the Constitution: to wit:

"It remains rudimentary law that "[a]s regards all courts of the United States inferior to this tribunal, two things are necessary to create jurisdiction, whether original or appellate, the Constitution must have given to the [trial] Court the capacity to take it, and an act of Congress must have supplied it ... To the extent that such action is not taken, the power [l]ies [d]ormant." *The Mayor v. Cooper*, 6 Wallace 247, 252 (1868) (emphasis added); accord *Christianson v. Colt Industries*, 486 U.S. 800, 818 (1988); *Firestone Tire v. Risjord*, 449 U.S. 368, 379-80 (1981); *Kline v. Burke*, 260 U.S. 266 (1922); *Case of the Sewing Machine Companies*, 18 Wall 533, 557-58, 586-87 (1874); *Sheldon v. Still*, 8 How 441, 449 (1850); *Cary v. Curtis*, 3 How 236, 245 (1845); *McIntire v. Wood*, 7 Cranch 504, 506 (1813). [underline emphasis added]. *Finley v. U.S.*, 490 U.S. 545, 547-48 (1989).

JURISDICTION IS TERRITORIAL

The geographic area in which a particular court has authority is a defined territory with fixed boundaries; to wit:

"---Territorial jurisdiction. Jurisdiction considered as limited to cases arising or persons residing within a defined territory, as a county, a judicial district, ect. The authority of any court is limited by the boundaries thus fixed ..." Black's Law Dictionary 2nd Ed, p.673

The Constitution authorizes Congress to exercise limited legislative power throughout the Union and exclusive legislative power in "Territory or other Property belonging to the United States" (Constitution, Article IV, §3,

cl. 2; to wit:

"It is clear that Congress, a legislative body, exercise two species of legislative power: the one, limited as to its objects, but extending all over the Union: the other, an absolute, exclusive legislative power over the District of Columbia..." *Cohens v. Virginia*, 19 U.S. 264, 434 (1821).

The species jurisdiction that a Federal trial court is authorized to exercise, i.e., either special or general, is determined by (1) the particular geographic area (judicial district) in which the court is located, and (2) the species of legislative power the Constitution authorizes Congress to exercise in that particular area; to wit:

"Only the jurisdiction of the Supreme Court is derived from the Constitution. Every other court created by the general government derives its jurisdiction wholly from the authority of Congress. That body may give, withhold or restrict such jurisdiction in its discretion, provided it be not extended beyond the boundaries fixed by the Constitution." *Turner v. Bank of NA*, 4 Dal 8, 10; *U.S. v. Hudson & Goodwin*, 7 Cranch 32; *Sheldon Still*, 8 How 441, 448; *Stevenson v. Fain*, 195 U.S. 165 ... *Kline v. Burke Const*, 260 U.S. 226, 234 (1922).

Federal trial courts of special jurisdiction are under the exclusive control of the judicial branch of the national government and are limited to controversies of the character delineated in Article III, §2, cl. 1 arising in geographic area occupied by one of the several commonwealths united by and under the authority of the Constitution and admitted into the Union.

Federal trial courts of general jurisdiction ---such as the trial Court--- are under the exclusive control of the legislative branch of the national government (Congress) and have authority "to hear nearly all categories of federal cases, including both civil and criminal matters" see

<http://www.uscourts.gov/FederalCourts/UnderstandingtheFederalCourts/DistrictCourts.aspx>, arising in "Territory or other Property belonging to the United States" (Constitution, Article IV, §3, cl. 2).

**DENIAL OF CONSTITUTIONAL RIGHT TO A FEDERAL TRIAL COURT
OF SPECIAL JURISDICTION**

Whereas: It is indisputable that the trial Court is a Federal trial court of general jurisdiction; and

Whereas: It is indisputable that Mr. Graham is a resident of the geographic area occupied by that certain commonwealth united by and under authority of the Constitution and admitted into the Union January 2, 1788, i.e., Georgia; and

Whereas: It is indisputable that Mr. Graham has no physical presence or residence in fact in "Territory other than Property (land) belonging to the United States (Federal Government)"; and

Whereas: It is indisputable that Mr. Graham, a occupant of the Union State of Georgia, has a Constitutional Right to have had a controversy between Mr. Graham and the United States heard and decided in a Federal trial Court of special jurisdiction,

Wherefore: It is indisputable that Mr. Graham has been denied the Right to a Federal trial Court of special jurisdiction, an aspect of denial of due process of law of constitutional dimension.

RELIEF SOUGHT

In light of the hereinabove-cited evidence and defects in the trial Courts Criminal Action 2:17-CR-00002-LGW-BWC, the Trial Court not having subject-matter jurisdiction over the case and the Government Respondent(s) having violated Mr. Graham's rights to due process of law, that this manifest

injustice, the "defect", be corrected, the Petitioner prays that:

A) This Honorable Court, because the Trial Court did not have subject-matter jurisdiction over his case, issue a Writ of Habeas Corpus commanding F.C.I. Colaman LOW's Warden, Kathy Lane to produce the body of the petitioner before this Court at a time and place to be specified in that Writ, on the grounds that petitioner is unlawfully detained and restrained of his liberty;

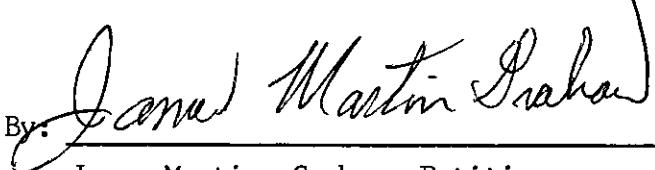
B) This Honorable Court conduct a hearing and inquiry into the cause of the petitioner's detention;

C) Following the hearing, Petitioner Graham be immediately ordered discharged from detention and restraint, and (1) render the judgment **void** and sealed, or preferably expunged, (2) vacate the trial Court's Judgment of Sentence, (3) restore Mr. Graham's Private Rights, and afford Mr. Graham such other relief as the Court deems proper.

Declared true, correct, with my firsthand knowledge pursuant 28 U.S.C. 1746(1)
Executed this 54th day of May, 2022.

Respectfully submitted,

By:



James-Martin: Graham, Petitioner
Reg. No. 21927-021
By Special Visitation, not general
Proceeding Pro Se
All Rights Are Reserved
F.C.I. Coleman - LOW
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Special and Pri