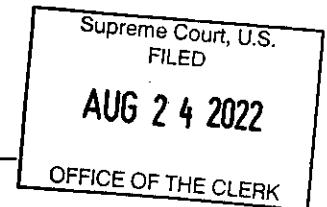


22-5554 ORIGINAL

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES



Ex Parte Melvin Bell, et. al - Petitioner

On Petition For A Writ of Habeas Corpus To

United States District Court for the Northern District  
of Illinois, Eastern Division

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Petition For Writ of Habeas Corpus Ad Subjiciendum

Mr. Melvin Bell #22485-075

F.C.I. Gilmer P.O. Box 6000/A3

Glenville, West Virginia 26351

Certified Paralegal

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## QUESTIONS TO BE PRESENTED

1. Whether or not Mr. Bell is restrained of his personal liberty by virtue of a judgment or order of a district court in which that district court had no jurisdiction to make that judgment or order?
2. Whether or not the district court below transcended its jurisdiction, and are the proceedings below entirely void from either want of jurisdiction or any other cause?
3. Is the party complaining illegally deprived of his liberty?
4. Whether or not the district court had federal criminal subject matter jurisdiction under the mail fraud statute to have ordered the deportation of Ms. Mónica Hernandez and Mr. Carlos Rayas?
5. Whether or not the Federal Government has treat Mr. Bell with fundamental fairness in regards to the case in which jurisdiction is being challenged?
6. Has the failure and want of jurisdiction clearly appeared on the face of the judgment order or record or both here?
7. Whether or not Mr. Bell has, by the United States, through one of its courts, been wrongfully deprived of his power of unrestrained locomotion and other rights without due process of law?
8. Whether or not the imprisonment of Mr. Bell by the district court was within the scope of its judicial power and in accordance with generally recognized methods of law?
9. Whether or not Mr. Bell has been imprisoned and restrained of his personal liberty contrary to the Fifth Article of the Amendment to the United States Constitution and other constitutional principles and laws?
10. When a cause of action is dismissed, after a jury was empaneled, in a criminal case, by the prosecution for want of jurisdiction over the subject matter, what is the effect of such action?

## QUESTIONS TO BE PRESENTED

11. Whether or not issue preclusion as direct estoppel, or some other law or legal principle, barred or estopped the re-litigation of the issue of the federal question of jurisdiction after the issue of federal subject matter jurisdiction had been fully and vigorously litigated and determined by a valid and final judgment at an earlier time and phase in the very same proceeding and process?
12. Whether the district court's order in Case: 1:13-CR-00949, DKT# 350, filed on 2/1/2017 was on both the merits and federal subject matter jurisdiction?
13. Whether the question of jurisdiction in Count 3 of that indictment was, and still is the same exact question of jurisdiction found in Counts 1, 2, and 4 of that very same indictment?
14. Did the indictment here plainly, concisely, and definitely inform Mr. Bell which essential element was the nature and cause of federal subject matter jurisdiction under the mail fraud statute so that he would know how to properly defend his life, liberty and happiness against the powers of the Government?
15. Does the dependency upon the use of the mail system jurisdictional element clearly and unambiguously appear in the construction of the mail fraud statute?
16. Whether or not the Federal Government has unlawfully interfered with Mr. Bell's right to personal liberty and other guaranteed protections and immunities?
17. Whether or not the want of jurisdiction on the face of the judgment and record grants Mr. Bell discharge from custody without delay and without any stipulations?

## **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:

Ms. Monica Hernandez

Mr. Carlos Rayas

## **RELATED CASES**

Department of Homeland Security v Hernandez, Event# SPM 1908 000 242, File No. 090 292 825, ICE# A 044 3433381

Bell v Merendino, 1:21-cv-03859, in the United States District Court for the Western District of Louisiana, Alexandria Division

Bell v United States, Case No. 20-2679, in the Seventh Circuit Court of Appeals

United States v Bell, et al., Case No. 13-cr-00949, in the United States District Court for the Northern District of Illinois, Eastern Division

1. No judgment has been entered.
2. Judgment entered on January 5, 2022.
3. Judgment entered on March 11, 2022.
4. Judgment entered on August 18, 2020.

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IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF HABEAS CORPUS AD SUBJICIENDUM

Petitioner respectfully prays that a writ of habeas corpus ad subjiciendum issue to examine into the correctness of the judgment below.

OPINIONS BELOW

The opinion of the United States court of appeals appear and is reported at:

Bell v United States, 28 F.4th 747; 2022 U.S. App. Lexis 6360

The opinion of the United States district court appears and is reported at:

United States v Bell, 2019 U.S. Dist. Lexis 14583

## JURISDICTION

The Supreme Court of the United States has jurisdiction of this suit under Article III; Section 2 of the Constitution of the United States of America, and it is now invoked.

Article III; Section 2 of the Constitution of the United States of America:

"In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with exceptions, and under such regulations as the Congress shall make."

The Act of February 5, 1867 [ 14 Stat. 385] conferred upon justices of the Supreme Court of the United States the power to issue a writ of habeas corpus in all cases where the prisoner claimed to be restrained of his or her liberty in violation of the Constitution, or treaties, or laws of the United States.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The essential principles of civil liberty declared in the Constitution of the United States and effectually secured by that instrument to Mr. Bell and the people against the power of the Federal Government.

The provisions here relate more particularly to the right of personal liberty are contained in the Fourth, Fifth, Sixth and Eighth Articles of the Amendments and in the Second Clause of the Ninth section of the Article of the Constitution, and are as follows:

### Article IV:

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

### Article V:

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

### Article VI:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witness against him; to have compulsory process for obtaining witness in his favor, and to have the Assistance of Counsel for his defense.

### Article VIII:

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

### Article I., Section 9, Clause 2:

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

### Amendment XIII., Section 1:

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

## HABEAS CORPUS AUTHORITY

1. "Blackstone wrote that habeas corpus was a means to 'remove the injury of unjust and illegal confinement.'"

Dep't of Homeland Sec. v Thuraissigiam, 140 S.Ct. 1959, 207 L. Ed 2d 442 (2020).

2. "The Supreme Court of the United States has an independent obligation to determine whether subject matter jurisdiction exists even in the absence of a challenge from any party."

Arbaugh v. Y & H, 546 U.S. 500, 513-14 (2006).

3. "Where jurisdiction is questioned, a party cannot be estopped or prevented from the object at any time or in any court, for it is an obligation which lies at the foundation of the whole cases."

Davis v Burke, 179 U.S. 399, 400 (1900).

4. "And if the want of power appears on the face of the record of his condemnation, whether in the indictment or elsewhere, the court which has authority to issue the writ is bound to release him."

Ex Parte Coy, 127 U.S. 731, 758 (1888).

5. "Challenge to a court's lack of subject matter jurisdiction may be made at any stage of the proceeding and the court should raise the question *sua sponte*."  
Mansfield, G & L.M.R. Co., v Swan, 111 U.S. 379, 382 (1884).

6. "The law invested you with the prerogative power of issuing a habeas corpus to review the proceeding by that writ, and to discharge petitioner from illegal imprisonment, if those proceedings are entirely void. If it appear by the return of the writ petitioner be wrongfully committed by a tribunal that had not jurisdiction over the cause or act of conduct or of a matter for which by law no man ought to be punished."

Ex Parte Parks, 93 U.S. 18, 21-22 (1876).

7. "Writ of habeas corpus may be used to obtain the discharge of one imprisoned under the order of a court of the United States which does not possess jurisdiction of the person or of the subject matter."

Ex Parte Terry, 128 U.S. 289, (HEADNOTES) (1888).

## HABEAS CORPUS AUTHORITY

8. "It is only where the proceeding below are entirely void, either for want of jurisdiction or other cause, that such relief will be given."  
Ex Parte Parks, 93 U.S. 18 (1876).

9. "Jurisdiction may be inquired into by habeas corpus, and the prisoner discharged if no jurisdiction appears, or if jurisdiction is negated by the record."  
David v Burke, 179 U.S. 399, 400 (1900).

10. "The statutory remedy may not be identical in all respects to the common-law writ of habeas corpus."  
Engle v Isaac, 456 U.S. 107, n.1 (1982).

11. " It is firmly established that if the court which renders a judgment has not jurisdiction to render it, either because the proceedings or the law under which they are taken are unconstitutional, or for any other reason, the judgment is void and may be questioned collaterally, and a defendant who is imprisoned under and by virtue of it may be discharged from custody on habeas corpus."  
Ex Parte Nielsen, 131 U.S. 176, 182 (1889).

12. "Where a judgment is unauthorized, and therefore void, the prisoner will be discharged on habeas corpus without a reversal of judgment."  
In Re Bonner, 151 U.S. 242 (1894).

REASON FOR NOT MAKING APPLICATION  
TO THE DISTRICT COURT OF THE DISTRICT  
WHICH THE APPLICANT IS HELD.

I did not make application to the district court of the district in which I'm held on the grounds of:

1. The jurisdiction possessed by the United States District Court in the Fourth District is strictly original, (Rooker v Fidelity Trust Co., 263 U.S. 413 (1923), thus, it was never authorized, by law, the power to grant common-law writ of habeas corpus to revise or correct a cause already instituted. (Ex Parte Bollman and Ex Parte Swartwout, 4 Cranch 75, 86 (1807)).
2. A habeas corpus ad subjiciendum is appellate in nature. (Ex. Parte Bollman, 4 Cranch at 100-01 (1807)).
3. There is no federal common law, (Erie R.R. Co. v Tompkins, 304 U.S. 64, 78 (1938), therefore lower federal district courts are disqualified and unauthorized from issuing common law writ of habeas corpus. "The phrase habeas corpus used alone (as in Supreme Court Rule 20(4)(a)), refers to the common law writ of habeas corpus ad subjiciendum." (United States v Powell, 428 U.S. 465, 475 (1976)).

EXCEPTIONAL CIRCUMSTANCES WARRANTING  
THE EXERCISE OF THE COURT'S DISCRETIONARY POWERS

I. ADEQUATE RELIEF CANNOT BE OBTAINED IN ANY OTHER FORM.

Because a §2255 is not a habeas corpus proceeding, but a motion in the nature of the ancient writ of coram non bis, it can only correct erroneous sentences without resorting to habeas corpus. Thus, Mr. Bell cannot obtain the proper relief from the execution of a void proceeding and judgment by motion.

Furthermore, there is no valid law that grants any court under original jurisdiction the power to revise or correct a cause already instituted, ~~etc.~~ except the Supreme Court of the United States of America. In addition, a §2241 statutory petition, under current legal standards, is an original jurisdiction action writ.

The object of the habeas corpus now applied for is to revise and correct the proceeding of the court below, under those orders the prisoner stands committed, so far as respects the legality of such confinement.

United States v Hayman, 342 U.S. 205, 216-18 (1952).

II. ADEQUATE RELIEF CANNOT BE OBTAINED IN ANY OTHER COURT.

The phrase "habeas corpus" when used alone, as in Supreme Court Rule (20)(4)(a), refers to the common-law writ of habeas corpus ad subjiciendum. (United States v Powell, 428 U.S. 465, 475 (1976); (Ex Parte Bollman and Ex Parte Swartwout, 4 Cranch 75, 95 (1807).

There is no federal common law, so lower federal courts are disqualified and unauthorized to issue common law writ of habeas corpus. (Erie R.R. Co. v Tompkins, 304 U.S. 64, 78 (1938).

Next, jurisdiction possessed by the lower federal district courts is strictly original. (Rooker v Fidelity Trust Co., 263 U.S. 413, 416 (1923). This means it only has the power to create or hear and determine new causes of action dealing with the restriction on a person's liberty.

EXCEPTIONAL CIRCUMSTANCES WARRANTING  
THE EXERCISE OF THE COURT'S DISCRETIONARY POWERS

Lastly, Court of Appeals are not authorized to issue original and independent writs of habeas corpus. (Whitney v Dick, 202 U.S. 132, 137 (1906). This Court held that where no proceeding of an appellate character is pending in a circuit court of appeals, the authority to issue auxiliary writs does not come into operation. The Circuit Court of Appeals cannot issue the writ of habeas corpus as an "independent and original proceeding challenging in toto the validity of a judgment rendered in another court." (Adams v United States, 317 U.S. 269, 273 (1943).

Thus, I have no other remedy at law.

## STATEMENT OF THE CASE

To the Supreme Court Justice(s) of the United States of America:

Petitioner, Mr. Melvin T. Bell, a citizen of the United States of America, of the Northern District of West Virginia, complaining, shows by the record and judgment that he has been, and still is being unjustly imprisoned under the color of authority of the United States by the United States and others in the Federal Bureau of Prison's Federal Correctional Institution "F.C.I. Gilmer," in the county of Gilmer, in Glenville, West Virginia, by virtue of a judgment showing negatively apparent on its face that subject matter jurisdiction does not exist. (A copy of which has been attached, see appendix B .)

Petitioner, avers to you, Honorable Supreme Court Justice, that to the best of his knowledge and belief, he has not been imprisoned by virtue of any valid process issued by any court of the United States, or any judge thereof, in a case where such courts or judges had exclusive jurisdiction under the laws of the United States, or had acquired such jurisdiction by the commencement of any suit in such courts, or by virtue of any final judgment or decree of any competent court of criminal jurisdiction, or by virtue of any valid process issued upon such judgment or decree.

Petitioner further states that the deprivation of liberty, detention, confinement and restraint against him are unconstitutional and without authority; and that the illegitimate imprisonment consists in this, to wit:

## STATEMENT OF THE CASE

On December 13, 2013, the United States District Court for the Northern District of Illinois, Eastern Division, (herein after "district court"), prosecution charged Mr. Bell and others by indictment with four counts of mail fraud, a violation of Title 18 U.S.C. §1341.

Under the mail fraud statute, the phrase and element "use of the mail" is an element that provides both the basis for federal subject matter jurisdiction and the cause of action.

2. The district court held a jury trial from January 25, 2017 to February 1, 2017 at the federal building in Chicago, Illinois.

At trial, the evidence and testimony proved that, according to the form of statute, the indictment was false and subject matter jurisdiction never existed in such a manner and form as required by law. (See Appendix B, D, F, & G.)

Whereas, the absence of subject matter jurisdiction appeared twice in the trial of Mr. Bell. The trial record authenticates this.

One instance occurred on February 1, 2017, during the trial, when the prosecution "could not prove" the combined subject matter jurisdiction and the use of the mail in Count 3, because, as the record and judgment has established, Mr. Bell's act of conduct complained of, fell outside the sweep and limits of the mail fraud statute. (See face of judgment order attached.)

## STATEMENT OF THE CASE

The second instance was when government witness Melanie Moreno testified in open court that most WNT clients drove to the WNT office and picked up their letter by hand, rather than getting it by mail, after they completed their deal in that office. (See Appendix F.)

Afterwards, at trial, when the prosecution seen that it never had a cause of action, the trial court took Count 3 away from the petit jury, dismissed it and then and there freed Mr. Bell from that alleged criminal charge in which was terminated.

The trial court never vacated its holding because the prosecution never appealed, cured, corrected, nor amended that radical jurisdictional defect after the discontinuance of it. Instead, the trial court, contrary to the law, allowed the prosecution to re-instate, then re-assert into litigation in that same court the very same identical question of subject matter jurisdiction put in controversy by the pleadings against Mr. Bell which thereby had previously failed to invoke federal subject matter jurisdiction under the law, and had been defeated by Mr. Bell in an earlier phase of that very same trial.

Soon thereafter, and without jurisdiction over the subject matter, on February 1, 2017, the district court allowed the jury to convict Mr. Bell on alleged mail fraud counts 1, 2, and 4.

## STATEMENT OF THE CASE

On August 20, 2021, according to the record, the district court, by and through a non-judicial proceeding, waived subject matter jurisdiction's mandatory prerequisite requirements and sentenced and imprisoned Mr. Bell without legal authority and due process of law to 150 months of "involuntary servitude."

A little while thereafter, and unaware that the district court had no jurisdiction of the subject matter, Mr. Bell submitted a notice of appeal to the Seventh Circuit Court of Appeals.

While that direct appeal was pending, Mr. Bell discovered, through due diligence, that the prosecution did not comply with the mandatory statutorial jurisdictional prerequisite necessary element, and because of this; the judgment order attached is showing on its face, affirmatively, negated subject matter jurisdiction and under the law, is void.

On November 2, 2021, Mr. Bell submitted a Title 28 U.S.C. §2241 application to the United States District Court for the Western District of Louisiana, Alexandria Division. (Bell v. Meredino, 1:21-cv-03859).

On January 5, 2022, relief was denied on the grounds of the committment could not be inquired into because, under original jurisdiction, Title 28 U.S.C. §2241 statute did not grant the district judge jurisdictional power to entertain a proceeding to revise or correct a judgment in a cause already instituted.

## STATEMENT OF THE CASE

On January 6, 2022, the Federal Bureau of Prisons transferred Mr. Bell to the Federal Transit Center in Oklahoma City, OK; where he remained there for two months until transferred to F.C.I. Gilmer in Glenville, WV.

On March 7, 2022, with jurisdiction over the subject matter negatively showing on the face of the judgment of conviction contract, the Seventh Circuit Court of Appeals affirmed the mail fraud conviction.

This new precedent holds that unmailed letters cause mail fraud. In addition, it also holds that, based upon the law, a district court can waive the U.S. Constitution Article III subject matter jurisdiction requirement, even when ... the absence of subject matter jurisdiction is shown on the face of the record and judgment order contract thereby proving that it does not exist. (See Appendix B).

This conflict with the district court and court of appeals on these important points of law involve the construction and interpretation of multiple U.S. Constitutional principles and statutes of great nationwide importance.

The district court and appellate court's holdings and opinions reflect confusion in the law -- confusion that, unless corrected, is bound to engender confusion among other courts as well as that, this questionable interpretation and application of the law, may and will be applied to future litigants.

## STATEMENT OF THE CASE

As it seems, the district court and Court of Appeals are divided on this issue of question of subject matter jurisdiction. Compare: United States v Bell, 2019 U.S. Dist. LEXIS 14583, No. 13 cr 949 (Jan. 30, 2019), with United States v Wood, 364 F.3d 704, 726 (CA6 2004); and United States v Greenleaf, 692 F.2d 182, 186 (CA1 1982). (See Appendix         D         and         G        ).

This suit presents an issue on which nationwide uniformity is important. This suit also presents a genuine constitutional issue(s) for determination regarding, but not limited to, a private citizen's personal liberty and other things to protect it from wrongful restraints by the Government.

This action allows you to clarify a few of the Court's own opinions that may be and seems like are being misinterpreted by the district court and Court of Appeals.

## REASONS FOR GRANTING THE PETITION

I. BECAUSE DISTRICT COURT AND PROSECUTION ACTED BEYOND THEIR LIMITED POWERS, THE WANT OF SUBJECT MATTER JURISDICTION BE IN SIGHT ON THE FACE OF MR. BELL'S JUDGMENT ORDER CONTRACT; THUS JUDGMENT IS VOID, AND MR. BELL SUFFERS FROM AN UNCONSTITUTIONAL IMPRISONMENT AND SHOULD BE DISCHARGED FROM THIS PROHIBITED BY LAW RESTRAINT WITHOUT DELAY.

### A. LEGAL STANDARD

Under the U.S. Constitution, laws and well settled principles of common law, "a judgment without jurisdiction is void."

Ex Parte McCordle, 7 Wall 506, 514 (1869).

"If jurisdiction does not appear upon the face of the proceedings, the presumption is the court had not jurisdiction and the cause was *coram non-judice*; in which case no valid judgment could be rendered."

Ex Parte Watkins, 3 Peters 193, 204.

"But if a court has acted without jurisdiction, the proceeding is void, and if this appears on the face of the record, the whole is a nullity."

Harris v Hardeman et al., 14 Howard 334, 342.

"Jurisdictional facts must be apparent on the face of the proceedings or the judgment is void."

Crowley v Christensen, 137 U.S. 86 (1890).

### B. VOID JUDGMENT

Here, the record confirms that the prosecution never properly acquired jurisdiction over the subject matter because Mr. Bell's act of conduct fell

## REASONS FOR GRANTING THE PETITION

undoubtedly outside the sweep and limited scope of the United States laws.

The record clearly established that Mr. Bell, at some stage of his fraudulent criminal proceeding, committed no offense in the manner and form prescribed by Congress and Article III of the Constitution of the United States. (Under Article III, §1 of the Federal Constitution only Congress may determine a lower federal court's subject matter jurisdiction.) *Kontrick v Ryan*, 540 U.S. 443, 445-46 (2004).

The record clearly shows that district court seen that government witness, Mr. Tapia, received his letter by hand, and not by mail, thereby granting prosecution's motion to dismiss, as a matter of law, because no jurisdiction over the subject matter existed. (Whenever it appears that the court lack jurisdiction of the subject matter, the court shall dismiss the action.) *Ruhrgas v Marathon Oil Co.*, 526 U.S. 574, 583 (1999).

That dismissal reflected the simple logic of, unmailed letter did not comply with statutory jurisdictional requirements to invoke a legitimate cause of action under the law.. Or would you not say that unmailed letters met the particular quality of mailed letters to constitute federal subject matter jurisdiction? ("...until a use of the mail occurs, no federal jurisdiction exists.") *United States v Wood*, 364 F.3d 704, 726 (CA6 2004).

Whereas here, the law combined both subject matter jurisdiction requirement and the merits, (This Court "recognized that there were two types of cases where the question of jurisdiction is dependent on the decision of the merits.") *Land v Dollar*, 330 U.S. 731, 735 n.4 (1947); into the phrase and statutory

## REASONS FOR GRANTING THE PETITION

element, "use of the mail."

Thus, when the prosecution stated that they "could not prove" a specific mailing because "Tapia never received it in the mail," (See Appendix D) that really meant, according to this Court's precedent, that they could not prove the only thing which would have given district court subject matter jurisdiction to have invoked federal jurisdiction under the law. ("The only thing which gives a federal court jurisdiction of such offense as here alleged is the use of the mails.") United States v Baker, et al., 50 F.2d 122, 123 (CA2 1931); ("It is the use of the mails for that purpose which vests a federal court with jurisdiction of the offense.") Rosenberg v United States, 120 F.2d 935, 937 (CA10 1941); ("The mailing of a letter in the execution or attempted execution of a fraudulent scheme is the gist of the offense . . . . it is this act and it alone, which confers jurisdiction upon the courts of the United States. . . .") Lemon, et al., v United States, 164 F. 953, 957-58 (CA8 1908); ("The mailing is a jurisdictional prerequisite which must be satisfied in order to invoke federal criminal prosecution.") United States v Boone, 628 F.3d 927, 935 (CA7 2010).

Whereas, according to the record and judgment order, district court and prosecution did not comply with statutory jurisdictional requirements required by the law.

Based upon the record, Mr. Bell, a good true, honest, just and faithful citizen, conducted himself within the law and defeated the facts upon which subject matter jurisdiction depended.

## REASONS FOR GRANTING THE PETITION

Now the face of the judgment order contract clearly established that there was a falsehood in the original charge in which district court did terminate in favor of Mr. Bell, and there was, and still is a want of jurisdiction over the subject matter appearing on the face of that judgment order thereby invalidating the unjust imprisonment of Mr. Bell. ("If there is a total want of jurisdiction the proceedings are void, and a mere nullity, and confer no right and afford no justification.") Harvey v Taylor, 2 Wall 328, 345 (1865).

Based upon this Court's precedent, ("A judgment entered by a court lacking subject matter jurisdiction is void because the proceeding in question was not a judicial proceeding because lawful judicial authority was not present and could therefore not yield a judgment.") Burnham v Superior Court of California, 495 U.S. 604, 609 (1990), the judgment of conviction and whole entire proceeding was rendered falsely and maliciously without subject matter jurisdiction to injure Mr. Bell and to bring him into disgrace and cause him to be imprisoned for a long space of time of nine (9) years, ongoing: whereas and thereby impoverished, oppressed, and wholly ruined. ("Absence of facts essential to give any power to a court makes the proceedings a nullity.") United States v Williams, 341 U.S. 58, 66 (1951). ("The writ of habeas corpus will lie only in case where the judgment under which the prisoner is detained is shown to be absolutely void for want of jurisdiction in the court that pronounced it, either because it was lost in the beginning, or because it was lost in the course of the proceedings.") Frank v Mangum, 237 U.S. 309, 327 (1915).

## REASONS FOR GRANTING THE PETITION

There should be no disagreement amongst anyone how the district court, with precision, found subject matter jurisdiction did not exist. Furthermore, you should not disregard these findings either when you examine into the correctness of the decision of the district court. ("When a court without jurisdiction convicts and sentences a defendant, the conviction and sentence are void from their inception and remain void long after a defendant has fully suffered their direct force.") Ex Parte Watkins, 3 Peters 193, 202-03.

Or do you deny that the use of the mails, and it alone, confers jurisdiction upon the courts of the United States under Title 18 U.S.C. §1341?

Or do you further deny that the want of jurisdiction appearing on the face of the record and judgment was caused by the ~~4-1~~ - no use of the mail?

Because the district court and prosecution took away Mr. Bell's life, liberty, and property without authority of law, which was, and still is contrary to the Constitution and laws of the United States, judgment, according the this Court and the law, is void in law by force of the Constitution and laws of the United States.

Mr. Bell has been, and still is being imprisoned in violation of the Constitution and laws of the United States and should be discharged from illegal custody by operation of the law without delay because under the law the first judgment should have been given on all counts of that indictment.

## REASONS FOR GRANTING THE PETITION

II. BECAUSE PROSECUTION AND DISTRICT COURT DID NOT CONFORM WITH THE FUNDAMENTAL REQUIREMENTS OF RES JUDICATA AND THE UNITED STATES CONSTITUTION AND LAWS; THE WANT OF JURISDICTION OVER THE SUBJECT MATTER HAS APPEARED ON THE FACE OF THE VOID JUDGMENT ORDER AND RECORD, THUS MAKING THE IMPRISONMENT OF MR. BELL AN ILLEGAL AND UNCONSTITUTIONAL IMPRISONMENT.

Petitioner incorporates by reference all of Part I of this petition.

### A. LEGAL STANDARD

"Issue preclusion encompasses the doctrine once known as 'collateral estoppel' and 'direct estoppel.'"

Taylor v Sturgell, 553 U.S. 880, 892, n.5 (2008).

"Collateral Estoppel is embodied in the Fifth Amendment of the Constitution of the United States."

Ashe v Swenson, 397 U.S. 436, 445 (1970).

"Res Judicata comprises two distinct doctrines. The first is issue preclusion, also known as collateral estoppel."

Brownback v King, 592 U.S. \_\_\_\_\_ (1970).

"Res Judicata applies to questions of jurisdiction as well as other issues."

American Surety Co. v Baldwin, 287 U.S. 156, 166 (1932).

"Res Judicata applies to criminal cases."

Sealfon v United States, 332 U.S. 575 (1948).

## REASONS FOR GRANTING THE PETITION

"Collateral estoppel [issue preclusion] simply forbids the Government from relitigating certain facts in order to establish the fact of the crime." *Ferenc v Dugger*, 867 F.2d 1301, 1303 (CA11 1989).

"Ordinarily, issue preclusion on the subject matter jurisdiction question takes the form of a direct estoppel against a second effort to assert the same basis of jurisdiction for the same claim."

*Hohu v Hatch*, 940 F. Supp. 2d 1161, n. 4 (CA9 2013).

"A dismissal for want of subject matter jurisdiction precludes only the relitigation of the grounds of that dismissal and this has collateral estoppel [issue preclusion] effect rather than the broader effect that nowadays goes by the name of claim preclusion."

*Okoro v Bohman*, 164 F.3d 1059, 1063 (CA7 1999).

"A dismissal on jurisdictional grounds is, however, conclusive as a 'direct estoppel' on the jurisdiction issues actually decided."

*Miller v Saxbe*, 396 F. Supp. 1260, 1261-62 (D.C. 1995).

"A trial in accordance with due process of law means that a trial must be had and conducted according to the forms prescribed by the law of the land."

*Lovato v New Mexico*, 242 U.S. 199 (1916).

"If the imprisonment cannot be shown to conform with the fundamental requirements of law, the individual is entitled to his immediate release."

*Fay v Noia*, 372 U.S. 391, 402 (1963).

## REASON FOR GRANTING THE PETITION

### B. RES JUDICATA

According to the form of the Constitution and Laws of the United States, district court and prosecution greatly trespassed against the guaranteed constitutional immunity secured to Mr. Bell when they committed the immediate wrong and trespass against Mr. Bell with force and arms.

Now, Mr. Bell, who is a private citizen and not a lawful federal prisoner, has been, and is hindered and prevented from exercising and carrying into effect his U.S. Constitutional immunities and protections in so benifical a manner as he, before the malicious and unjust arresting of his body had been doing and accustomed to doing, and would have continued to do if he had not been dishonestly deprived of the use, benefit and enjoyment of his secured U.S. Constitutional rights, immunities and protections which he would have otherwise used, benefited, and enjoyed, to have thereby acquired and kept possession of his personal liberty and freedom as a private citizen and man from the ruthless powers of the United States Federal Government.

The district court and prosecution, falsely and maliciously caused the prohibited by law detention of Mr. Bell. They, inadvertantly or purposely, disregarded U.S. Constitutional rights, immunities, protections and other things guaranteed and secured to Mr. Bell and all other good and worthy citizens of the United States when they did relitigate the precise issue of jurisdiction that had thereby been lawfully and sufficiently defeated by Mr. Bell.

## REASONS FOR GRANTING THE PETITION

According to the U.S. Constitution and Laws of the United States, the law estopped district court and prosecution from deservedly denying the existence of no subject matter jurisdiction once it was considered and adjudged in and by that very same district court that it had no jurisdiction over the subject matter. ("A judgment ordering dismissal, will . . . have preclusive effect as to matters actually adjudicated; it will for example, preclude relitigation of the precise issue of jurisdiction that led to the dismissal.") Boone v Kurtz, 617 F.2d 435, 436 (CA5 1980).

District court and prosecution also was, and still is estopped by law, from denying that the imprisonment of Mr. Bell, by the United States under the color of authority, is unconstitutional and contrary to the form of res judicata and other constitutional legal principles and Laws of the United States. ("The holding was a bar to the same cause of action.") United States v Parker, 120 U.S. 89, 95-97 (1887); ("Such demand or claim having passed into judgment cannot again be brought into litigation between parties in proceedings at law, upon any ground whatever.") Cromwell v Sac. County, 94 U.S. 351, 352-53 (1887).

District court did not terminate the whole case after the law obligated it to do so because the dismissal for the want of subject matter jurisdiction left the situation as if the case had never been filed. ("The notice of dismissal is self-effectuating and terminates the case in and of itself; no order or other action is required.") In Re Amerijet Int'l Inc., 785 F.3d 967, 973 (CA5 2015).

## REASONS FOR GRANTING THE PETITION

Then what right of procedure could possible stem from something that never existed? ("Such a dismissal leaves the parties as though no action had been brought.") *Concha v London*, 62 F.2d 1493, 1506 (CA10 1994); ("In this respect the criminal law is in unison with that which prevails in civil proceedings.") *United States v Oppenheimer*, 242 U.S. 85, 88 (1916).

District court and prosecution wrongfully and unjustly, re-opened and re-litigated the very same foreclosed question of jurisdiction to deprive Mr. Bell of his freedom from bodily restraint without due process of law. 17 Am. Jur., Dismissal and Discontinuance, Section 63; ("Freedom from bodily restraints has always been at the core of the liberty protected by the Due Process Clause from arbitrary government action.") *Foucha v Louisiana*, 504 U.S. 71, 80 (1992).

District court and prosecution, contriving and intending, wrongfully and unjustly intending to injure, prejudice and aggrieve Mr. Bell, with force, to deprive him of the service, benefit and advantages of the Constitution and Laws of the United States, which might and would otherwise have arisen to him from such service, benefit and advantage was, and still is deprived of his freedom and personal liberty secured to him and protected by the Constitution and Laws of the United States, in and by a radical procedurally deficient manner and process. ("When a federal court concludes that it lacks subject matter jurisdiction, the court must dismiss the complaint [indictment] in its entirety.") *Arbaugh v Y & H Corp.*, 546 U.S. 500, 514 (2006); ("Courts must not extend the concept of subject matter jurisdiction.") *Bell v Hood*, 327 U.S. 678, 681-82 (1945).

## REASONS FOR GRANTING THE PETITION

District court and prosecution were obligated by law not to have continued any further proceedings on the very same identical cause of action, between the same parties, in the same identical court, during the very same exact single trial, that was based on and included the same claim, disputed question and question of jurisdiction, which thereby was, then and there, vigorously and fully litigated, adjudged and dismissed on both the merits and subject matter jurisdiction, in Chicago, Illinois in 2017. ("Jurisdictional rulings made on motions are just as final for the purpose of res judicata, as any other court decision.") Baldwin v Iowa State Traveling Men's Association, 283 U.S. 522, 524 (1931); ("the rule applies to a certain decision denying jurisdiction as well as those sustaining it.") N.L.R.B. v Denver Bldg & Constructc. T. Concil, 341 U.S. 675 (1951).

The prohibited by law confinement to the damage and injury of Mr. Bell was, and still is meaningless and without legal force. ("Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is the power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause.") Ex Parte McCardle, 7 Wall 506, 514 (1869); ("Res judicata applies to questions of jurisdiction as well as to other issues.") Underwriters National Insurance Co. v North Carolina Life & Accident & Health Insurance Guaranty Association, 455 U.S. 691, 706 (1982); ("Dismissal for lack of subject matter jurisdiction precludes relitigation of issues determined in ruling on jurisdictional question.") Muniz Cortes v Intermedics, Inc., 229 F.3d 12, 14 (CA1 2000).

## REASONS FOR GRANTING THE PETITION

The record clearly shows that tendered evidence negated subject matter jurisdiction. In fact, prosecution admitted in their own words that they had no jurisdiction over the subject matter. (See Appendix B & D ).

According to the law, district court and prosecution held trial# 13-cr-949 without due process of law and without jurisdiction over the subject matter. ("Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime which he is charged.") In Re Winship, 397 U.S. 358, 364 (1970); ("If any tribunal finds absence of proof of jurisdiction over the person or subject matter, the case must be dismissed.") Louisville R.R. v Motley, 211 U.S. 149, 159 (1908).

Thus, district court and prosecution imprisoned Mr. Bell in violation of the Constitution and laws of the United States. ("Jurisdictional facts must be apparent on the face of the proceedings or the judgment is void.") Crowley v Christensen, 137 U.S. 86 (1890).

### III. BECAUSE DISTRICT COURT AND PROSECUTION TRAVELED OUTSIDE AND BEYOND ITS LIMITED FEDERAL JURISDICTION TO IMPRISON MR. BELL, HIS IMPRISONMENT IS UNCONSTITUTIONAL, BECAUSE THAT JUDGMENT IS VOID.

#### A. LEGAL STANDARD

"Subject matter jurisdiction is an Article III as well as a Statutory requirement."

Insurance Corp. v Compagne Des Bauxities, 456 U.S. 694, 702 (1982).

## REASONS FOR GRANTING THE PETITION

"The validity of a court order of a federal court depends upon the court's having jurisdiction over both the subject matter and parties."

Insurance Corp. v Compagne Des Bauxities, 456 U.S. 694, 701 (1982).

"Under Article III, §1 of the Federal Constitution only Congress may determine a lower federal court's subject matter jurisdiction."

Kontrick v Ryan, 540 U.S. 443, 445-46 (2004).

"Congress may enact only those criminal laws that are connected to one of its constitutionally enumerated powers."

Torres v Lynch, 578 U.S. 452, 457 (2016).

"Federal courts are of limited jurisdiction which means that they can only hear certain types of cases, cases that present a federal question (meaning cases involving the violation of a federal law or the U.S. Constitution) or cases between citizens of different states."

Woods v Legend Oak Health Care & Rehab, 2019 U.S. Dist LEXIS 89948 (W.D. Texas San Antonio 2019).

"Until a use of the mail occurs, no federal jurisdiction exists."

United States v Wood, 364 F.3d 704, 726 (CA6 2004).

"The only thing which gives a federal court jurisdiction of such offense as are here alleged is the use of the mails."

United States v Baker, 50 F.2d 122, 123 (CA2 1931).

## REASONS FOR GRANTING THE PETITION

### B. LIMITED JURISDICTION

The record has clearly shown and established, by the manner and form required by the Constitution and laws of the United States that, Prosecution "could not prove" subject matter jurisdiction here because Mr. Bell's act of conduct complained of, was never within the scope of limited federal jurisdiction.

District court and prosecution wrongfully exercised a power not given to them in violation of the Constitution and Laws of the United States to have seized the body of Mr. Bell to have imprisoned him without authority with force and arms.

The district court and prosecution refused, and continues to refuse to discharge Mr. Bell out of custody and properly close that case, which is already closed by law, after they ruled no proof of the corpus delicti appeared thereby positively negating subject matter jurisdiction from that cause of action.

In fact, federal jurisdiction under Title 18 U.S.C. §3231 never existed in fraudulent criminal case United States v Bell, 13-CR-00949. Prosecution possessed government exhibit Tapia 1, (the envelope with return to sender on the front of it), prior to going to Magistrate Judge Brown, and well knew then, and should have known then, that the conduct alleged by Mr. Bell was completely outside the limits of any federal court's jurisdiction.

District court and Prosecution had not the right, nor legal power to have transcended its limited jurisdiction by thereupon non-performance of the law. Their wrongful non-performance of the law in the act of performing their official duties, caused the unsanctioned imprisonment of Mr. Bell. ("A court does not have the power, by judicial fiat, to extend its jurisdiction over matters beyond

## REASONS FOR GRANTING THE PETITION

the scope of the authority granted to it by its creator.") *Stoll v Gottliebs*, 305 U.S. 165, 171 (1938).

The record sufficiently shows that district court and prosecution never properly established a legitimate cause of action within their limited power and thereby imprisoned and enslaved Mr. Bell without a lawful contract of record being made in fact.

The district court and prosecution committed the wrong herein complained of when they illegally put Mr. Bell into "involuntary servitude" without an act of conduct cognizable under the laws of the United States.

Some federal circuits require a "test of dependence" to affirm or disaffirm mail fraud jurisdiction prior to prosecuting a citizen for that allegation. ("The requisite statutory purpose exists if the alleged scheme's completion could be found to have been dependent in some way upon the information and documents passed through the mails.") *United States v Kent*, 608 F.2d 542, 546 (CA5 1979), cert. denied, 446 U.S. 936, 100 S. Ct. 2153 (1980); ("On the other hand, the Court has indicated that the success of the scheme must be dependent in some way on the mailings, either in obtaining the desired object or in avoiding or delaying detection of the scheme.") *United States v Greenleaf*, 692 F.2d 182, 186 (CA1 1982).

Some federal circuits do not require such test. Thus, the federal circuits are split on this "test of dependence," and you should decide once and for all whether or not this test of dependence is to be applied to all federal courts to stop infinite mischief by some of the federal courts and to remedy great delay

## REASONS FOR GRANTING THE PETITION

and hinderance of justice.

Because the district court and prosecution did unjustly expand the federal mail fraud jurisdiction to encompass unmailed letter, to the immediate injury and damage to Mr. Bell, you should grant habeas corpus relief on the ground of jurisdiction does not appear upon the face of the judgment and proceedings in the case jurisdiction is now being challenged. ("Jurisdictional fact must be apparent of the face of the proceeding or the judgment is void.") Crowley v Christensen, 137 U.S. 86 (1890); ("If there is a total want of jurisdiction the proceedings are void, and a mere nullity, and confer no right and afford no justification.") Harvey v Taylor, 2 Wall 328, 345 (1865); ("The act of a tribunal, upon a subject not within its jurisdiction is void.") Griffin v Frazier, 8 Cranch 9; ("It is only where the proceedings below are entirely void, either for want of jurisdiction or other cause, that such relief will be given.") Ex Parte Parks, 93 U.S. 18 (1876); ("A judgment entered without subject matter jurisdiction is void.") Hill v Baxter Healthcare Corp., 405 F.3d 572, 576 (CA7 2005); and ("Jurisdiction may be inquired into by habeas corpus, and the prisoner discharged if no jurisdiction appears, or if the jurisdiction is negatived by the record.") David v Burke, 179 U.S. 399, 400 (1900).

Therefore, according to the Constitution and Laws of the United States, the fraudulent criminal process and proceeding brought against Mr. Bell was, and is void in law by force of the Constitution and Laws of the United States thereby giving you the absolute power to grant habeas corpus relief herein applied for and discharge Mr. Bell from unauthorized custody and detention without delay.

## REASONS FOR GRANTING THE PETITION

Mr. Bell was, and still is lawfully possessed with certain U.S. Constitutional benefits, rights, immunities and protections which ought to have ran and flowed, and still ought to run and flow, in great plenty and abundance, onto this suit and matter for the supplying of authority and power to remove those wrongful restraints unjustly placed on Mr. Bell's personal life, liberty and pursuit of happiness.

These exceptional circumstances allows you, Supreme Court Justice, to exercise your jurisdiction and power to grant this petition on the ground of the face of the record and judgment sufficiently proved at length that the idea to further keep and maintain Mr. Bell imprisoned is untrue and the unlawful force keeping and maintaining this illegal act, must be arrested and withdrawn by operation of law.

United States ought not to be allowed any further maintainence of their illicit action established by expanding the mail fraud statute jurisdiction to encompass unmailed letters.

Lastly, you ought not overturn clearly established legal principles found in, but not limited too, *Stoll v Gottlies*, 305 U.S. 165 172 (1938); *United States v Moser*, 266 U.S. 236, 242 (1924); and *Cromwell v Sac County*, 94 U.S. 351, 352-53 (1877).

## CONCLUSION

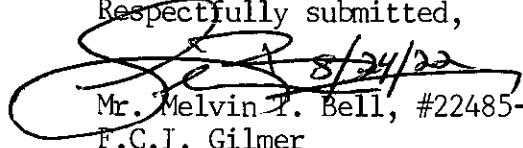
Petitioner, Mr. Melvin Bell, never committed an act cognizable under the laws of the United States to have authorized the imprisonment of his body and living spirit.

Mr. Bell is only in imprisoned because district court and prosecution, without authority of law, exceeded and expanded their limited federal jurisdiction so that they could use a fraudulent court process to enforce an illicit act of imprisonment upon and against Mr. Bell.

Because the imprisonment of Mr. Bell under the circumstances and conditions of this case in which jurisdiction is challenged, constituted an imprisonment without jurisdiction over the subject matter in violation of and beyond the scope of the Constitution and Laws of the United States, thus, all of the restraints placed on his life, liberty and happiness were subsequently found as a result of the original wrongful assertion of authority resulting in the involuntary and wrongfull imprisonment of Mr. Bell by the judgment and order of a federal court whose want of jurisdiction appears upon the face of the judgment order and proceeding.

Therefore, you should grant the petition for writ of habeas corpus and discharge Mr. Bell from illegal imprisonment without delay.

Respectfully submitted,

  
Mr. Melvin T. Bell, #22485-075  
F.C.J. Gilmer  
P.O. Box 6000/A3  
Glenville, WV 26351

VERIFICATION

I, Mr. Melvin T. Bell, the above-named petitioner named and mentioned in the petition is duly ready to verify under penalty of perjury the facts set forth in this herein affidavit and petition for writ of habeas corpus because they are true.

Executed on: August 24, 2022

  
Mr. Melvin T. Bell  
Certified Paralegal  
F.C.I. Gilmer  
P.O. Box 6000/A3  
Glenville, WV 26351

AFFIDAVIT OF TRUTH

Petitioner, Mr. Melvin T. Bell, affirms under the penalty of perjury under the laws of the United States of America the following to wit:

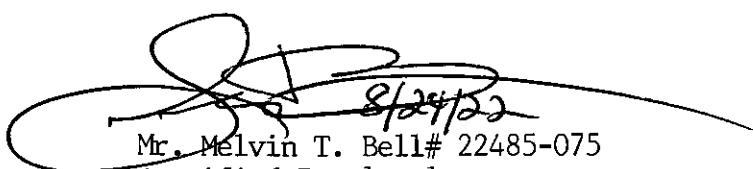
1. I am in custody by and under the color of authority of the United States.
2. The district court that rendered the judgment assailed had no jurisdiction of the subject matter.
3. I am restrained of my liberty in violation of the Constitution and Laws of the United States.
4. The district court that rendered the judgment assailed had no jurisdiction to render the particular judgment assailed.
5. I am suffering an involuntary and wrongful imprisonment.
6. I deny that I am assailing an error of irregularity in my judgment order.
7. I never committed the false statements complained of in the indictment. Count 3 proved that those statements charged in that indictment were false.
8. There was, and still is no legally sufficient basis for the continued unsanctioned imprisonment of Mr. Bell.
9. The judgment of conviction was entered after the prosecution had filed a proper notice of dismissal for want of subject matter jurisdiction.
10. District court and prosecution did not carry their burden of proof on an issue essential to the case and subject matter jurisdiction. They could not, and still can prevail on this issue.
11. Mr. Bell has been, and still is being punished for an act of conduct not known to the law.
12. United States Federal Government took away my liberty by false pretense.
13. District court and prosecution never showed where the jurisdiction over the subject matter was in case # 13-cr-00949.
14. The judgment order has stated on its face that the ground of jurisdiction on which the judgment of conviction was rendered for my cause of imprisonment was the very same jurisdictional ground dismissed in Count 3.
15. The jurisdictional issue dismissed in Count 3 was, and still is the very same jurisdictional issue upon which the judgment of conviction was rendered, and has been set out upon the face of my judgment as the ground of jurisdiction upon which the judgment has rested for its illegality.

## AFFIDAVIT OF TRUTH

16. District court and prosecution made untrue representations to have Mr. Bell unlawfully imprisoned. They deceived him with their false representations about jurisdiction over the subject matter and caused him to act upon it incorrectly.
17. The performance of imprisonment depended upon the existence of jurisdiction over the subject matter, and thus, till that condition precedent was performed or met, Mr. Bell is not liable to an action on the statute.
18. Mr. Bell has fulfilled his engagement, and committed no act described within the statute, and maintains this action for discharge upon the above stated facts.
19. Because jurisdiction over the subject matter never existed, no sufficient contract of record was ever made between the parties here.
20. The judgment assailed contradicts itself and cannot be disregarded by any justice or court.
21. These exceptional circumstances allows you, Supreme Court Justice, to exercise your jurisdiction and powers to grant the writ of habeas corpus.

I, Mr. Melvin T. Bell, do affirm that the foregoing is true, correct and accurate to my best belief and knowledge.

Executed on : August 24, 2022

  
Mr. Melvin T. Bell# 22485-075  
Certified Paralegal  
F.C.I. Gilmer  
P.O. Box 6000/A3  
Glenville, WV 26351

## APPENDIX