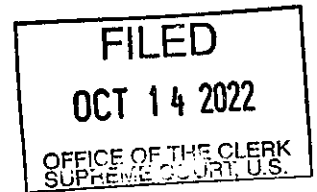


22-5841
No.

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Harry Sharod James-El PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Harry Sharod James-El #1211724
(Your Name)

P.O. Box 506
(Address)

Maurry, NC 28554
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- 1.) Did the UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT and The UNITED STATES DISTRICT COURT OF NORTH CAROLINA " EASTERN DISTRICT " abuse its discretion by not establishing Subject Matter Jurisdiction, once it was challenged by petitioner via motion?
- 2.) Does Congress have the Lawful authority to use the "Commerce Clause" of the Constitution to Collect a "Judicial Tax" in the form of a filing fee for the Judicial process?

LIST OF PARTIES

☒ All parties appear in the caption of the case on the cover page.

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

RELATED CASES

- James-El v. UNITED STATES OF AMERICA, No. 5:21-CT-3191-M, DISTRICT Court for the Eastern District of North Carolina. Judgement entered March 21, 2022
- James-El v. UNITED STATES OF AMERICA, U.S. Court of Appeals for the Fourth Circuit. Judgment entered September 29, 2022

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3-4 also Appendix C-H
STATEMENT OF THE CASE	5
REASONS FOR GRANTING THE WRIT	6-9
CONCLUSION.....	10

INDEX TO APPENDICES

- APPENDIX A - Decision of the united states court of Appeals
- APPENDIX B - Decision of the united States District Court
- APPENDIX C - Title 18 u.s.c.A 241-242 -> page # 9
- APPENDIX D - Title 28 u.s.c.A 1915 -> page # 7
- APPENDIX E - "Article III sec. 2" of The Constitution of The United States of America. page # 6, 7
- APPENDIX F - "Article 6 sec. 2-3" of The Constitution of The United States of America. Page # 7, 9
- Appendix G - "5th Amendment" of The Constitution of The United States of America. Page # 7, 9
- Appendix H - Federal Tort Claim Act. Page # 8

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

- Arbaugh v. Y&H Corp., 126 S.Ct. 1235 (2006) —————> Pg 6
- Carter v. Allstate Insurance Co., 743 F.Supp. 2d 103 (2010) —————> 6
- Crandall v. STATE OF NEVADA, 73 U.S. 35- (1867) —————> 8
- Kontrick v. Ryan, 540 U.S. 443, 452, 124, S.Ct. 906, 157 L.Ed. 2d 867 (2004) —> 6
- National Federation of Independent Business v. Sebelius, 132 S.Ct. 2566 (2012) —> 8
- Odom v. Penske Truck Leasing Co. LP., 893 F.3d 739- (10th Cir. 2018) —————> 6, 9
- Pollack v. Farmer's Loan Trust Co. et al., 15 S.Ct. 912 (1894) —————> 8
- Steel Co. v. Citizens For a Better Environment, 118 S.Ct. 1003 (1998) —————> 7
- Swanson v. Perez-Swanson, — A.3d. ————— Appellate Court of Connecticut (7/27/21) —> 6
- United States v. Cotton, 535 U.S. 625, 630, 122 S.Ct. 1781, 152 L.Ed. 2d 860 (2002) —> 6

(Please See attached Page) - Next Page

STATUTES AND RULES

- 49 Stat. 3097; Treaty Series 881 —————> 6
- 18 U.S.C.A 241 —————> 9
- 28 U.S.C.A 3002(15)(A) —————> Pg 6
- 28 U.S.C.A 1915 —————> 7
- 18 U.S.C.A 242 —————> 9
- Federal Tort Claim Act —————> 8

OTHER - The Constitution of The United States of America "All"

- Article 1 Sec. 8 clause 1 —————> 8
- Article 1 Sec. 8 clause 5 —————> 9
- Article 1 Sec. 8 clause 8 —————> 9
- Article III Sec. 2 —————> 6, 7
- Article 6 Sec 23 —————> 7
- ~~Article 6 Sec 23~~ —————> 7
- The 4th, 5th, 7th, 8th, —————> 6, 7, 9

TABLE OF AUTHORITIES CITED

<u>CASES</u>	<u>PAGE NUMBER</u>
• <u>United States v. Lopez</u> , 514 U.S. 549, 561, 115 S.Ct. 1624, 131 L.Ed.2d 560 (2002) —————→	8
• <u>In re. Sawyer</u> , 124 U.S. 200 (1888) —————→	7

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

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

OPINIONS BELOW

☒ For cases from **federal courts**:

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

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

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

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

☐ For cases from **state courts**:

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

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

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

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was September 29, 2022

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

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

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

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

☐ For cases from **state courts**:

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

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

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 49 Stat. 3097; Treaty Series 881 "Article 4"

States are Juridically equal, enjoy the same rights, and have equal Capacity in their exercise. The rights of each one do not depend upon the power which it possesses to assure its exercise, but upon the Simple Fact of its existence as a person under international Law.

- 28 U.S.C.A 3002 (15)(A)

UNITED STATES - means "Federal Corporation"

- Article 1 sec. 8 clause 1

The Congress Shall have Power To lay and Collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide For the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States.

- Article 1 sec. 8. clause 5

The Congress Shall have Power; To coin Money, regulate the Value thereof, and of Foreign coin, and fix the Standard of Weights and Measures;

- Article 1 sec. 8 clause 8

To constitute Tribunals inferior to the Supreme court

- The 4th Amendment

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.

- The 7th Amendment

In Suits at common Law, where the value in controversy shall exceed twenty dollars, the right of trial by Jury shall be preserved, and no fact tried by a Jury shall be otherwise reexamined in any Court of the United States, than according to the rules of the Common Law.

Constitutional and Statutory Provisions Involved
"8th Amendment" of The Constitution of The United States of America. - Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

STATEMENT OF THE CASE

On June 30th 2021 Petitioner Harry Shurod James-EI filed a civil action against the respondent UNITED STATES OF America, Challenging the Filing Fee of The "Prison Litigation Reform Act". On 03/21/2022 The District Court dismissed the civil complaint for failure to state a claim. Petitioner Filed a timely appeal which also got dismissed for failure to prosecute, on September 29, 2022. Petitioner seeks review by this court.

REASONS FOR GRANTING THE PETITION

Pursuant to Article III "In all cases affecting Ambassadors, other Public Ministers and Consuls, and those which a State shall be Party, the Supreme Court shall have original Jurisdiction." The Supreme Court has original Jurisdiction of this Case, because the "UNITED STATES"-28 U.S.C.A 3002(15)(A) is a party in this civil action. The Law Provides "objection that Federal Court lacks Subject Matter Jurisdiction, may be raised by any party or by Court on its own initiative, at any Stage in litigation, even after trial and entry of Judgement." → Arbaugh v. Y&H Corp.

126 S.Ct. 1235 — (2006). "Subject Matter Jurisdiction, because it involves a Courts power to hear a case, can never be forfeited or waived." → United States v. Cotton, 535, us 625, 630, 122 S.Ct. 1781, 152 L.Ed.2d 860 (2002). On August 17, 2022, Petitioner / Relator James-El, move a motion challenging the Subject Matter Jurisdiction of the Fourth Circuit Court of Appeals in the above civil action on appeal. The reason for challenging Subject Matter Jurisdiction is "only the Jurisdiction of the Supreme Court is derived directly from the Constitution. Every other Court Created by the government derives its' Jurisdiction wholly from the authority of Congress." → Carter v. Allstate Insurance Co., 743 F. Supp. 2d 103 (2010). "Congress alone defines the lower Federal Courts Subject Matter Jurisdiction." → Kontrick v. Ryan, 540 us 443, 452, 124 S.Ct. 906, 157 L.Ed.2d 867 (2004). "congress must of course adhere to constitutional limits in doing so." → Adom v. Penske Truck Leasing Co. LP., 893 F.3d 739 — (10th Cir. 2018). "A determination regarding a trial Courts Subject Matter Jurisdiction is a question of Law" → Swanson v. Perez-Swanson, — A.3d — Appellate court of Connecticut (July 27, 2021).

Pursuant to "Article 4 of 49 Stat. 3097; Treaty Series 881," congress placed all courts inferior to the Supreme Court under International Law / Jurisdiction. However, Article III of The Constitution only recognize Three (3) Jurisdiction's that a Lawful court can operate under (common law, Equity Law, and Admiralty / maritime Jurisdiction), along with the "7th Amendment also. The Fourth Circuit never produced the name of the (Please See)

Jurisdiction it is operating under, along with the District Court for the Eastern District of North Carolina. "Federal Court may not, via, doctrine of "hypothetical Jurisdiction," decide cause of action before resolving whether court has Article III Jurisdiction; doing so would carry courts beyond bounds of authorized Judicial action and thus offend fundamental principles of Separation of powers and would produce nothing more than "hypothetical judgment," which would come to same thing as advisory opinion, disapproved by Supreme Court from the beginning; abrogating." -> Steel Co. v. Citizens for a Better Environment, 118 S.Ct.

1003 (1998). Petitioner /Relator James-El, is being deprived of Substantial and Procedural Due Process, by respondent UNITED STATES, which is cruel and unusual punishment. "If a Judge does not comply with the Constitution, then his orders are void." -> In re Sawyer, 124 U.S. 200 (1888). This is in accord with Article 6 sec. 2 and 3 of The Constitution.

2nd Argument

Pursuant to 28 U.S.C.A 1915 (The Prison Litigation Reform Act "PLRA"), requires prisoners' to pay a filing fee or file an affidavit where, monthly payments are made out of the prisoners' account.

The filing fee requirement of the "PLRA" is a "Federal Judicial Tax" that is unconstitutional, and

an excessive fine, and an unreasonable Seizure on Petitioner / Relator James-EI account, which is merely an act of usurpation, which deserve to be treated as such. "The constitution gives congress the power to regulate commerce, not compel it. Ignoring that distinction would undermine the principle that the federal government is a government of limited and enumerated powers." → National Federation of Independent Business v. Sebelius, 132 S.Ct. 2566 (2012), also, Article I Sec. 8 Clause 1. The Supreme Court of The United States identified three (3), broad categories of activity that congress may regulate under its' commerce power, The judicial branch of government is not identified as one of them, see United States v. Lopez, 514 us 549, 561, 115, S.Ct. 1624 131 L.Ed.2d 626 (1995). Under the "Federal Tort Claim Act", federal courts apply STATE substantive law and federal procedural law. STATE courts are not allowed to charge a filing fee. "Every Citizen of the United States, from the most remote STATES or Territories, is entitled to free access not only to the principal departments established at Washington, but also, to its judicial tribunals and public offices in every STATE in the union." → Crandall v. STATE OF NEVADA, 73 us 35 (1867). "The Constitution forbids all unapportioned direct taxes." → Pollack v. Farmer's Loan Trust Co. et al., 15 S.Ct. 912 (1894). The filing fee is an "unapportioned

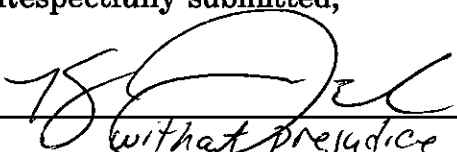
direct tax" that is unlawful. Pursuant to Article 1 Sec. 8 clause 8 "congress has the power to constitute Tribunals inferior to the Supreme Court," congress must adhere to constitutional limits." -> odum v. Penske Truck Leasing Co. L.P. 893 F.3d 739 (10th cir. 2018).

Pursuant to Article 1 sec. 8 clause 5, The Constitution Only recognize Gold or Silver coin a Tender in payment OF a Debt. Petitioner /Relator James-El, do not have the lawful Tender to Satisfy the Debt. To pay anything other than lawful Tender would be a major violation of the Law, pursuant to Article 6 sec 2 and 3 of The Constitution OF The United States of America. Petitioner /Relator James-El, is being unlawfully Taxed by respondent UNITED STATES. Congress exceed their enumerated powers in violation of 18 usca 241 and 242, Substantial and Procedural Due Process which is Cruel and unusual punishment. Petitioner /Relator James-El, must be reimbursed of all unlawful Seizure of all monies taken from his prison account.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



without prejudice

Date: 6 October 5th 2022