

ORIGINAL

22-6469

No. _____

FILED
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OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE SUPREME COURT OF THE UNITED STATES

In re: KENNETH CRAWFORD, JR.

PETITIONER

ON APPEAL FROM THE JUDGMENT OF THE UNITED
STATES COURT OF APPEALS FOR THE THIRD
CIRCUIT Nos. 18-3149 & 19-3970

PETITION FOR WRIT OF MANDAMUS IN
AID OF THE COURTS APPELLATE JURISDICTION

By: Kenneth-Paul-Jr. Crawford
Kenneth-Paul-Jr. of Crawford
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Federal Correctional Institution
33½ Pembroke Rd.
Danbury, CT 06811

QUESTIONS FOR REVIEW

1. Does the Constitution for the United States of America limit the federal government and define the powers of the legislature? Do the enumeration of specific powers presuppose something not enumerated?
2. Do the exceptions from a power mark its extent in the Constitution?
3. If Congress cannot give itself jurisdiction or an undelegated power to punish felonies anywhere it deems "necessary and proper" because jurisdiction "cannot be acquired tortuously by disseisin of the State," (Fort Leavenworth R.R. Co. v Lowe, 114 US 525, 538-539 (1885)), and Congress has legislated this way by limiting the geographical reach of the statutes charged in this case, does the Department of Justice and the District Court have the authority to recklessly disregard the will of Congress in the legislative acts charged?
4. If the Constitution is the law of the land and it limits Congress's authority to punish by delegating the power to punish in Article I, Sec. 8, cl. 6; Article I, Sec. 8, cl. 10; Article III, Sec. 3, cl. 2, and land ceded or purchased by the federal government with consent of the state's legislature and acceptance of Congress, does the federal government have a burden to prove that the undersigned was geographically located within the special maritime and territorial jurisdiction of the United States as a part of due process? If there is no evidence on the record that I was physically within the special maritime and territorial jurisdiction of the United States, how can a violation of the statutes charged have occurred?
5. Do the terms "within the District of New Jersey and elsewhere" prove beyond a reasonable doubt, and satisfy due process standards, that jurisdictional elements exist to violate the statutes charged in this case?
6. Is the entirety of the "District of New Jersey" within the "places and waters, continental or insular, subject to the jurisdiction of the United States" enunciated in 18 U.S.C., Part I, Chapter 1, Sec. 5 United States defined?

7. As a native inhabitant of the Union State, New Jersey, born on the land and soil of Hudson County by parents born on the land and soil of Hudson County New Jersey, am I guaranteed the protections of the first ten amendments of the Bill of Rights listed in the Constitution?

8. If the appellee, the US District Court, and the Circuit Court of Appeals in this case never acknowledge facts of territorial jurisdiction or a lack thereof, my argument regarding proof of territorial jurisdiction and application related to my domicile in Atlantic County, New Jersey, as related to the territorial enunciations in the statutes charged in this case, is not this Court my only remedy and hope? Doesn't this Court have authority to enforce the guarantees in the Bill of Rights when inferior courts do not?

LIST OF PROCEEDINGS

1. IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA
Plaintiff,

v.

Case No. 1:18-cr-00505-RBK

KENNETH CRAWFORD JR.
Defendant.

2. UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Nos. 18-3149 & 19-3970

UNITED STATES OF AMERICA

v.

KENNETH CRAWFORD JR., Appellant.

Judgment dated 13 July 2022, Order denying petition for rehearing and the court en banc dated 22 August 2022.

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CITATIONS OF OPINIONS AND ORDERS

- I. Judgment in a Criminal Case--by United States District Court, District of New Jersey--Case Number 1:18-cr-00505-RBK-1 (See attached)
- II. Non Precedential Opinion of United States Court of Appeals for the Third Circuit--Nos. 18-3149 & 19-3970 (See attached)
- III. Judgment of United States Court of Appeals for the Third Circuit--Nos. 18-3149 & 19-3970. *Note the District Court's judgment was entered on November 3, 2020. There was no judgment entered on November 4, 2020 to affirm. (See attached.)

JURISDICTIONAL STATEMENT

The date the judgment sought to be reviewed, was entered by the UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT, Nos. 18-3149 & 19-3970, on 13 July 2022. The date of the order denying rehearing was 22 August 2022.

The constitutional provision believed to confer jurisdiction on this Court to review, on extraordinary writ, the judgment in question is:

1. The Constitution of the United States of America Article III, Section 2, Clause 2. (1789)
2. Dodge v. Woolsey, 59 US 331, 15 L. Ed. 401 HOW. 331-380. (1856)
3. Ross v. Doe, 26 US 655, 7 L. Ed. 302 (1828)

"Supreme Court has jurisdiction of case which draws into question construction of act of Congress."

4. New Orleans v. De Armas, 34 US 224, 9 L. Ed. 109 (1835)

"Jurisdiction of Supreme Court extends to rights protected by Constitution, treaties, or laws of United States, from whatever source these rights may spring."

5. Rodgers v. Alabama, 192 US 226, 24 S. Ct. 257, 48 L. Ed. H17 (1904)

"Exercise of jurisdiction by Supreme Court to protect Constitutional rights cannot be declined when it is plain that fair result of decision is to deny rights."

6. Honeyman v. Hanan, 300 U.S. 14, 57 S. Ct. 350, 81 L. Ed. 476 (1937)

"Supreme Court, in exercise of its appellate jurisdiction, has not only power to correct errors in judgment under review but to make such disposition of case as justice requires."

7. Ableman v. Booth; United States v. Booth, 16 L. Ed. 169, 21 HOW 506 (1859)

"...and the local interests, local passions or prejudices, incited and fostered by individuals for sinister purposes, would lead to acts of aggression and injustice by one state upon the rights of another, which would ultimately terminate in violence and force, unless there was a common arbiter between them, armed with power enough to protect and guard the rights of all, by appropriate laws, to be carried into execution peacefully by its judicial tribunals..."

But the supremacy thus conferred on this government could

not peacefully be maintained, unless it was clothed in judicial power, equally paramount in authority to carry it into execution."

CONSTITUTIONAL PROVISIONS, AND STATUTES OF THE CASE

1. The Constitution for the United States of America:

Amendment V [1791]

"...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."

Amendment VI [1791]

"In all criminal prosecutions...to be informed of the nature and cause of the accusation..."

Amendment X [1791]

"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."

United States Code:

1. Title 18, Part I, Chapter 1, Sec. 5, United States defined:

"The term 'United States,' as used in this title in a territorial sense, includes all places and waters, continental or insular, subject to the jurisdiction of the United States, except the Canal Zone."

2. Title 18 U.S.C., Part I, Chapter 1 Sec. 7, Special Maritime and Territorial jurisdiction of the United States defined:

"The term 'special maritime and territorial jurisdiction of the United States', as used in this title, includes: (3) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building."

Title 18 U.S.C., Sec. 371, Chapter 19, Conspiracy to commit offense or to defraud the United States:

"If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both."

If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum provided for such misdemeanor.

4. Title 18 U.S.C. Sec. 287, Chapter 15, False, Fictitious or Fraudulent

Claims:

"Whoever makes or presents to any person or officer in the civil, military, or naval service of the United States, or to any department or agency thereof, any claim upon or against the United States, or any department or agency thereof, knowing such claim to be false, fictitious or fraudulent, shall be imprisoned not more than five years and shall be subject to a fine in the amount provided in this title."

5. Title 18 U.S.C., Sec. 2, Chapter 1, Principles:

"(a) Whoever commits an offense against the United States or aid, abets, counsels, commands, induces or procures its commission, is punishable as a principle.

(b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principle."

Title 26 U.S.C., Sec. 7212(a), Subchapter A, Attempts to Interfere with Administration of Internal Revenue Laws:

"(a) Corrupt or forcible interference. Whoever corruptly or by force or threats of force (including any threatening letter or communication) endeavors to intimidate or impede any officer or employee of the United States acting in an official capacity under this title, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or endeavors to obstruct or impede, the due administration of this title, shall, upon conviction thereof, be fined not more than \$5,000, or imprisoned not more than three years or both, except that if the offense is committed only by threats of force, the person convicted thereof shall be fined not more than \$3,000, or imprisoned not more than one year, or both. The term 'threats of force', as used in this subsection, means threats of bodily harm to the officer or employees of the United States or to a member of his family."

7. Title 26--Subtitle F--Chapter 79--Sec. 7701

(9) United States. The term "United States" when used in a geographical sense includes the States and the District of Columbia.

(10) State. The term "state" shall be construed to include the District of Columbia, where such construction is necessary to carry out the provisions of this title.

STATEMENT OF THE CASE

The defendant in this case was charged with statutes from the United States Code Service. Those statutes were passed by Congress and written in accordance with the Constitution to be applicable to lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of New Jersey in which same shall be, for the erection of a fort, magazine, arsenal, dockyard or other needful building.

An indictment alleging that the defendant violated said statutes was submitted to the United States District Court for the District of New Jersey, August 29, 2018, which states that the defendant "Kenneth Crawford Jr." was "in the District of New Jersey and elsewhere" when the violations of United States law occurred.

All of this took place after the appellee mailed a "target letter" that the named defendant was a subject of interest being investigated for violations of federal statutes. After receiving the "target letter" the undersigned sent a response requesting certain "proof of claims" which was never answered by the appellee. (See attached Document 14 pg. 21 in the district court docket)

On or about 31 August 2018 the IRS Criminal Investigations Division visited my domicile and under force of arms, with the support of the Galloway Township Police with a purported arrest warrant for the defendant, arrested me and transported me to the Cherry Hill, New Jersey Police Department to hold me until the district court was in session the following morning. At an arraignment I was advised of the charges for defendant by the court and asked to make a plea. I advised the court that I did not have enough information to make a plea and that I did not understand the charges due to the questions stated here for review. I remember asking how the alleged plaintiff had jurisdiction, especially after their motion in the United States Tax Court, and the resulting order. (See Document 14 ppg. 15-19)

Furthermore, my understanding is that US law for criminal felonies is limited by the Constitution and statutes. I was told by the court that "they have jurisdiction" and that was the extent of any evidentiary due process hearing to prove the elements of jurisdiction.

Naturally, I was still confused and requested the court read the indictment into the record. Once finished, I continued to express my lack of understanding of the jurisdictional elements and the court entered a plea of "not guilty" on the defendant's behalf.

After the collection of more of my private property, under threats, duress and coercion; DNA, fingerprints and my signature were all taken and I was released after thirteen hours. At once I authored the "Notice of Challenge of Jurisdiction/Motion to Dismiss for Lack of Jurisdiction, and on September 10, 2018 entered it into the court's docket after service on the appellee. (See attached Document 14) This was done purely under duress and necessity.

On or about November 12, 2019, I was rearrested and confined to pretrial detention and forced to go to trial in December 2019, still without any evidence proving legislative jurisdiction over the place of the alleged crime, my domicile in Atlantic County, New Jersey. At the culmination of the trial, the defendant was found guilty and I remained in pretrial detention for another year until the sentencing of the defendant on or about November 3, 2020 at which time I filed the notice of appeal.

On or about July 13, 2022, I received an opinion and judgment from the Third Circuit Court of Appeals affirming a judgment that was entered into the district court on November 4, 2020, however the judgment under appeal was entered November 3, 2020 so I do not know what the appeals court actually affirmed.

The appellate court seemed to also ignore the fact that my contention is there was never any evidence proving legislative jurisdiction, and alleged that my argument was only that the district court did not have subject-matter jurisdiction, which is the same claim the appellee presented in responding to the appellant's brief eleven months and three weeks after it was submitted. The appellee also claimed that at some point the defendant moved the district court to dismiss the indictment, however the Notice of Challenge of Jurisdiction/Motion to Dismiss the case states in plain English the argument. The reply brief (2) also much more clearly enunciates my jurisdictional argument. That too was not addressed by the circuit court.

The Third Circuit Court of Appeals had jurisdiction over "final decisions of the district courts." 28 U.S.C. Sec. 1291.

The reasons for my request for an extraordinary writ^v in aid of the Court's appellate jurisdiction are simple and valid. Due process requires the appellee to have proven each element of the statutes as related to the alleged criminal violation of US law. This would have ensured the appellee was within its constitutional authority.

The Constitution enumerates the spheres of jurisdiction/legal authority delegated to the United States and Congress has written the statutes charged

in this case in accordance with those limitations, clearly pronouncing that the criminal statutes charged in this case only apply within places subject to the exclusive or concurrent jurisdiction of the United States. (Also see Article I, Sec. 8, Cl. 17)

The appellee has "nothing approaching a police power." United States v. Lopez, 514 US 549, 584-585 (1995). It is well established that the Constitution withholds from Congress a plenary police power (United States v. Morrison, 529 US 598, 618 (2000)) and Congress has legislated accordingly because Congress cannot by legislation enlarge the Federal jurisdiction. (New Orleans v. United States, 35 US 662, 10 Pet. 662, 736-737, 9 Le. Ed. 573 (1836)).

Therefore, in order for the undersigned to be charged, tried and convicted and the district court to exercise jurisdiction over this criminal action, the offense must have occurred within: lands reserved or acquired for the use of the United States and under exclusive or concurrent jurisdiction thereof by consent of the legislature of the State. (United States v. Perez, at 111. LEGAL STANDARD, LEXIS 75086, No. Cr-06-0001-MAG(MEJ) (N.D. Ca. 2006)).

An imprisonment under final judgment in a criminal case cannot be unlawful unless that judgment be an absolute nullity and it is not a nullity if the court has general jurisdiction of the subject. (Fay v. Noia, 372 US 391, 450 (1963)).

A federal court only has general jurisdiction over the subject matter in cases involving felonies within Federal territories, ceded or reserved lands, unceded lands pursuant to the power to punish (Article III courts), and the high seas. In the case of United States v. Illinois Central R. Co., 154 US 225, 239-241 (1894) this Court opined that:

"congress cannot by legislation enlarge the Federal jurisdiction, nor can it be enlarged by the treaty-making power. Special provision is made in the Constitution for cession of jurisdiction from States over places where the federal government shall establish forts and other military works.

And it is only in these places, or in the territories of the United States, where it can exercise a general jurisdiction."

In the indictment of this case, the only reference to the locus of the violations charged states that "the defendant resided in Atlantic City and Galloway, New Jersey," and "factual allegations" throughout allege that "in the District of New Jersey and elsewhere" the alleged violations occurred. The statutes again, require the locus to be within places subject to the special maritime and territorial jurisdiction of the United States for a violation of the statute to occur. Obviously the entirety of the geographical lands in "Atlantic City" and "Galloway, New Jersey" are not subject to United States jurisdiction, and as well as the entirety of the "District of New Jersey." And the word "elsewhere" does not prove anything or allege a particular place to meet the jurisdictional requirement of the statutes charged.

Furthermore, in the case of United States v. White, 611 F. 2d. 531, 536 (CA5, 1980) the Court stated:

"[I]t is axiomatic that the prosecution must always prove territorial jurisdiction over a crime in order to sustain a conviction thereof and thus territorial jurisdiction and venue are 'essential elements' of any offense in the sense that the burden is on the prosecution to prove their existence."

The only way the district court and the appellate court could convict in this case would be presumption, as the appellee has not only offered no evidence to date proving territorial jurisdiction, but will not even acknowledge arguments related to it. Also, both district and appellate courts have avoided this issue at every step of the proceedings.

In the case of In re Winship, 397 US 358, 364, 25 L. Ed. 2d 368 90 S. Ct. 1068 (1970) this Court opined that:

"...the Due Process clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged."

And in the case of County Court of Ulster County, NY v. Allen, 442 US 140, 157-163, 60 L. Ed. 2d 777, 99 S. Ct. 2213 (1979) this Court opined that:

"A permissive inference does not relieve the State of its

burden of persuasion because it still requires the State to convince the jury that the suggested conclusion should be inferred based on the predicate facts proved." Id at 314. "Such an inference violates the Due Process Clause only if the suggested conclusion is not one that reason and common sense justify in light of proven facts before the jury."

"A party has standing to challenge the constitutionality of a statute only insofar as it has an adverse impact on his own rights; as a general rule, if there is no constitutional defect in the application of the statute to a litigant, he does not have standing...A criminal statutory presumption must be regarded as irrational or arbitrary, and hence unconstitutional for purposes of due process, unless it can be said with substantial assurance that the presumed fact is more likely than not to flow from the proved fact on which it is made to depend."

There is no evidence submitted in this case by the appellee that proves the undersigned was within any places applicable in the statutes to have violated US law. Even when I challenged this fact, I was quieted, overruled and not allowed to bring up this issue. This apparently violated Fifth Amendment Due Process and Sixth Amendment guarantees, and allowed the district court and the prosecution to ignore Congressional requisites of territorial jurisdiction and created an unconstitutional application of the statutes charged. I was never in the United States, thus I am factually innocent of criminally violating the statutes charged in this case. (See Bousley v. United States, 523 US 614, 623-624 (1998)).

This however does not mean that a non-felonious and misdemeanor application is not possible in accordance with the Constitution's delegated enumeration giving the federal government the power to regulate commerce or taxation, but Congress did not authorize this in the statutes charged in this case.

In the case of United States v. Cruikshank, 92 US 542, 557-559 the Court opined:

"An indictment or information in the language of the statute is sufficient except where the words of the statute do not contain all of the essential elements of the offense. The Sixth Amendment of the federal Constitution requires that in every criminal prosecution the accused shall be informed of the nature and cause of the accusation against him. This means that he shall be so fully and clearly informed of the charge against him as not only to enable him to prepare his defense [but also] not to be taken by surprise at trial."

Not only was I not informed of the territorial legislative intent of Congress in the statutes charged, but even when I brought it to the court's attention, my challenge was denied and the prosecution was effectively relieved of its burden of proving those elements. (See Marbury v. Madison, 1 Crunch (US) 137, 176-178, 2 L. Ed. 60 (1803))

As the result of these Constitutional violations and reckless disregard of my rights to be fully and clearly informed of the nature and cause of the charges, and to receive due process of law before my liberty and property are taken from me, I now petition this Honorable Court of last resort for an extraordinary writ in aid of its appellate jurisdiction to redress the constitutional violations that have robbed me of now three years and several months of my life and liberty, and tens of thousands of dollars, as well as critical time with my children and aging father.

"A court's adjudicative jurisdiction to convict a defendant of a federal crime cannot exist in the absence of Congress's legislative jurisdiction to criminalize the particular conduct of which the particular defendant is accused." United States v. Lipscomb, 299 F. 3d. 3030 (5th & 11th Cir. 2002)

I know my domicile in Atlantic City was not on a place subject to the special maritime and territorial jurisdiction of the United States as enunciated in the statutes charged, but it is not supposed to be up to me to prove this fact, as I was not the one seeking the power of the court in the criminal case. No, that was the duty and constitutional obligation of the officers of the United States federal government who took an oath to abide by the Constitution to the letter. They had an obligation to prove, not presume, all elements of the criminal statutes charged, the first being territorial/legislative jurisdiction, which has never happened.

To add insult to injury, the appellate court not only affirmed the unconstitutional final judgment, but only offered additional exclusive legislation in support, and added more confusion by affirming a judgment entered on a different date. The final judgment of this case was entered on November

3, 2020, but the appeals court affirmed a judgment entered on November 4, 2020. I have never seen that judgment and am not aware of its existence. And this is all after allowing the appellee to file its brief eleven months and three weeks after the appellant's initial brief, without any notice or order of extension.

ARGUMENT FOR ALLOWANCE OF WRIT OF MANDAMUS

A writ of mandamus will aid the Court in exercising its appellate jurisdiction to:

1. Correct errors in judgment under review.
2. To make disposition of case as justice requires.
3. To protect the undersigned's rights as enumerated in the Constitution by compelling lower court to overturn final judgment of district court and dismiss case for lack of territorial / legislative jurisdiction.

This Court has existing precedents that are binding to all courts concerning the supremacy of the Constitution and the construction of legislative acts of Congress. (Ross v. Doe, 26 US 655, (1828)).

The exceptional circumstances resulting from this case that warrant the exercise of the Courts discretionary powers are as follows:

1. As one of the people of New Jersey I am guaranteed due process of law (5th Amendment), and to be fully informed of the nature and cause of the charges (6th Amendment), before my liberty and property are taken from me by force. The officers involved in these proceedings who represent the United States took an oath to uphold the guarantees of the Constitution. It is an exceptional circumstance in this case for those officers to ignore the Constitution and violate that oath to take my property and impair my liberty.

2. I am being incarcerated during a corona virus pandemic. Not only am I subjected to an environment where it is impossible for me not to be exposed to the virus, I am 54 years old and at serious health risk, including possible death as a result.

Currently my dorm that houses around 70 men in rows of bunkbeds is on lockdown quarantine due to a corona virus outbreak. At least 7 people were removed for testing positive with more sure to be infected. Not only is my life possibly at risk, I also have no access to law library or a typewriter. This makes it almost impossible to properly prepare legal documents within the parameters required. When these factors are considered, there is no doubt that the current circumstances of the undersigned as the result of this case are extraordinary and warrant the exercise of the Court's discretionary powers.

The reason why adequate relief cannot be obtained in any other form or from any other court is that the district court submitted its final judgment based on strict presumption, and the Circuit Court of appeals, in a non precedential opinion, using

Using exclusive legislative acts, affirmed that judgment. To my knowledge I have exhausted all remedies available.

CONCLUSION

The undersigned New Jersey national wishes to access this Court's appellate jurisdiction for the reasons stated in this petition, and be granted a writ of mandamus to compel the lower court to adhere to the Constitution and overturn the final judgment of the district court, and immediately set me at liberty, and return my property, for reasons set forth in this petition.

Respectfully submitted,

By: Kenneth Paul Jr Crawford

Kenneth-Paul-Jr of Crawford

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CERTIFICATE OF COMPLIANCE

This petition for an extraordinary writ in aid of Court's appellate jurisdiction was created by the undersigned New Jersey national who is not a member of the bar. However, I have done my best to follow this Court's Rules preparing this document under my current exigency.

Please take Judicial Notice of the enunciated principles as stated in the case of Haines v. Kerner, 4040 US 519, wherein the Court has directed that those who are unschooled in law making pleadings shall have the Court look to the substance of the pleadings rather than the form. The undersigned submits this petition without waiver of any rights or defenses.

Dated: November 18, 2022

By: Kenneth Paul Jr Crawford

Kenneth-Paul-Jr of Crawford

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