

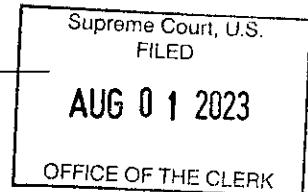
DOCKET NUMBER: **23-5485**

**SUPREME COURT OF THE UNITED STATES**

(Term: October 2022-2023)

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**PAUL MICHAEL POUPART**



**VERSUS**

**STATE OF LOUISIANA, ET AL.  
C/O: JEFFERY LANDRY, ATTORNEY GENERAL**

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**ON PETITION FOR WRIT OF CERTIORI TO  
THE LOUISIANA SUPREME COURT, CASE NO. 2023-KH-00278**

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**"PETITION FOR WRIT OF CERTIORARI"**

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FILED BY:  
LOUISIANA DEPARTMENT OF PUBLIC SAFETY & CORRECTIONS  
ELAYN HUNT CORRECTIONAL CENTER  
INMATE, PAUL M. POUPART # 357073 (*Pro se*)  
6925 HWY 74, POST OFFICE BOX 174  
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## QUESTION PRESENTED FOR REVIEW

Whether LSA-R.S. 15:529.1, is unconstitutional to the rule of law. Whether the State of Louisiana and its legislative and judicial branch created and/or imposed a repealed statute that has not been legally re-enacted and fails to possess a saving clause. Whether this conduct by the State of Louisiana would violate the Petitioner's Fifth and Fourteenth Amendment due process rights under the Constitution. Whether this conduct should be considered as 'fraud upon the Court' subjecting the Petitioner to cruel and unusual punishment against the Eighth Amendment to the Constitution.

## PARTIES TO THE PROCEEDINGS

The Petitioner is Paul Michael Poupart, the inmate, and the Inmate/Petitioner in the Court below. The respondent is the Attorney General of the State of Louisiana, Honorable Jeffery Landry, who is the representing party for the State of Louisiana in the Courts below.

24<sup>th</sup> Judicial District Court  
Parish of Jefferson  
State of Louisiana  
Case No. 094796  
Section: "B"

Court of Appeal, Fifth Circuit  
State of Louisiana  
Case No. 22-464

Louisiana Supreme Court  
State of Louisiana  
Case No. 2023-00278

## CORPORATE DISCLOSURE STATEMENT

I Paul Michael Poupart, do not own any parent corporation in the United States of America, nor do I own 10%, of any corporation or publicly held company in the foreign jurisdiction.

  
Paul Michael Poupart

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State v. Poupart, 88 So.3d 1122 (La. App. 5 Cir. 2012)

State v. Poupart, 98 So.3d 867 (La. 2012)

### With: (*Motion to Correct and Motion to quash*)

State, ex rel., Poupart v. State, No. 09-4796 (6/20/2022)

State, ex rel., Poupart v. State, No. 22-464 (9/26/2022)

State, ex rel., Poupart v. State, No. 23-278 (6/07/2023)

### From: ( *ex post facto and 'fraud upon the court' claims* )

State, ex rel., Poupart v. State, No. 09-4796

State, ex rel., Poupart v. State, No. 2020-360

State, ex rel., Poupart v. State, No. 2021-210

Poupart v. State of Louisiana, et al., U.S. Supreme Court, No. 21-62, rehearing denied, 142 S.Ct. 876 (Mem), 211 L.Ed.2d 578 (1/18/22)

## BASIS FOR JURISDICTION

On June 7, 2023, the Louisiana Supreme Court denied the Petitioner's 'Motion to Correct an Illegal Sentence' and 'Motion to Quash', affirming the decision by this State's Fifth Circuit, Court of Appeal made on December 20, 2022; and also affirming the decision of the 24<sup>th</sup> Judicial District Court, Parish of Jefferson, to deny relief on July 21, 2022. Petitioner did not seek any rehearing in the Louisiana Supreme Court due to the 'one word' denial.

This statutory provision believed to confer this Court's Jurisdiction is the First Amendment to the Constitution which guarantees a privilege to petition the government for redress, and Title 28 U.S.C. § 1257 (a), which states:

*Final judgments or decrees rendered by the highest court of the State in which a decision could be had, may be reviewed by the Supreme Court by Writ of Certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statute of, or any commission held or authority exercised under, the United States.*

May this statement serve as ground for jurisdiction in this One Supreme Court.



## CONSTITUTION PROVISION INVOLVED

The Constitutional provision involved are as followed:

Senate Bill 225, Act. 312 of 1956

LSA – R.S. 15:529.1

LSA – R.S. 14:122

La. Criminal Code and Procedure Art. 930.3

La. Criminal Code and Procedure Art. 881

La. Criminal Code and Procedure Art. 882

United States Constitution

U.S. Constitution, First Amendment

U.S. Constitution, Fifth Amendment

U.S. Constitution, Sixth Amendment

U.S. Constitution, Eight Amendment

U.S. Constitution, Fourteenth Amendment

These provisions are somewhat lengthy and their citation is provided in compliance with  
U.S. Supreme Court Rule, 14 (1)(F).

May it please the Bench.

## STATEMEN OF THE CASE

On August 14, 2009, Petitioner was billed for a criminal violation of state statute *LSA -- R.S. 14:122*, 'Public Intimidation'. Petitioner was tried by a six-person juror on January 12, 2011. This jury found Petitioner guilty of 'Public intimidation'.<sup>1</sup>

On February 12, 2011, Petitioner was sentenced to the maximum punishment of 5 years. On April 29, 2011, Petitioner was adjudicated as being a fourth-felony offender consistent with the State of Louisiana's Habitual Offender Law, *LSA-R.S. 15:529.1*, as it illegally stood in 2011, and re-sentenced to 20 years at hard labor.

Petitioner then sought appellate remedies which were all denied. Petitioner also sought Post-Conviction Relief, challenging his conviction and sentence raising federal laws, which was also denied. Petitioner then, again sought a timely § 2254, Habeas Corpus Petition in the federal forums which were denied at all levels.

While seeking Habeas Relief, the State statute Petitioner was found guilty of was held '*facially unconstitutional*' and '*overbroad*' by the U.S. Court of Appeal for the Fifth Circuit. *Seals v. McBee*, 898 F.3d 587 (5<sup>th</sup> Cir. 2018).<sup>2</sup> Petitioner then filed a timely Application for

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1 Louisiana's Public intimidation law, found at La. R.S. 14:122, was held 'unconstitutional overbroad' concerning verbal threats by the U.S. Fifth Circuit on August 3, 2018 in *Seals v. McBee*, 898 F.3d 587 (5<sup>th</sup> Cir. 2018) see Joint Appendix II, Exhibit "L" Pg's. 32-33 & Ex. "W" Pg's. 52-53. However, Louisiana's newly reenacted Public intimidation statute is still unconstitutional because it violates a clearly established protected right to a trial under *United States v. Goodwin*, 457 U.S. 368 (1982); *North Carolina v. Pearce*, 395 U.S. 711 (1969); *Blackledge v. Perry*, 417 U.S. 21 (1974); *Bordenkicker v. Haynes*, 434 U.S. 357 (1978); and *Hardwick v. Doolittle*, 558 F.2d 292 (1977).. which will be challenged soon. See Joint Appendix II, Ex. "W" Pg's 52-53.

2 So on 8/7/18 Poupart filed a 1983 in the U.S. Middle District of Louisiana, Case No. 19-cv-328-BAJ-EWD, challenging the duration of Poupart's confinement under *Seals v. McBee*. *Supra*, but it was denied release based on the court's precedent of *Heck v. Humphrey*, 512 U.S. 477 (1994) on 10/11/19, appealed to the U.S. Fifth Circuit, Case # 19-31017, and denied on 6/5/20; filed a Writ of Certiorari, Case # ~~20-103~~ and denied 7/23/20: arguing *Heck* did not seek any injunction relief, nor did *Heck* seek release from custody, and *Heck* was not seeking relief from a State statute that was invalidated by the U.S. Fifth Circuit. Poupart was trying to get the Court to make an exception to *Heck* for people stuck in Prison when a (state) statute is ruled unconstitutional in order to get out. The Court's know Louisiana's 10-2 and 11-1 was in the pipe line around the corner. See Joint Appendix II, Ex. "W" Pg's. 52-53.

Post-Conviction Relief in the State trial court to establish that *LSA – R.S. 14:122*, is retroactive under *LSA–C.Cr.P., Article 930.8(A)(2)*, and should be applied to his judgment.<sup>3</sup>

However, why challenging the Louisiana Legislature reenacted the La.– R.S. 14:122, Public intimidation statute under House Bill 307, Act. 311 August 1, 2019.<sup>4</sup>

After that denial, Petitioner, with diligence, found that the State courts committed ‘*fraud upon the court*’ and imposed an ‘*ex post fact law*’ against him. Petitioner exhausted theses federal questions within the one year of the retroactive application in the State Courts and on direct collateral review – which was subsequently denied by the United States Supreme Court on October 5, 2021, rehearing denied on January 8, 2022.

Thereafter, Petitioner discovered, through a paralegal who worked with the Louisiana Department of Justice, that the repealed State statute of LSA–R.S.15:529.1, contained no saving clause or re-enacting clause in its past legislation. Petitioner then filed a ‘Motion to Correct an Illegal Sentence’ and ‘Motion to quash’ in all of the State Courts. These Motions were ignored and denied by all of the Court(s). (See, Joint Appendix Exhibit II )

Today, this application to this federal forum stems from the timely filed; Motion to ‘Correct an Illegal Sentence’ in the State Courts under the procedures above on the repealed Statute of LSA–R.S.15:529.1, being unconstitutional, without a saving clause. This federal question was timely raised for this Court’s jurisdiction. (See, Joint Appendix Exhibits I, II.)

May this brief and its arguments now please the Supreme Justices of this Court of Law.

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3 While pursuing this the Louisiana Fifth Circuit Court of Appeal blocked its ruling to Petitioner’s Attorney and the Court did not serve Poupart at all on the unconstitutional statute claim under *Seals v. McBee, Supra* forcing Poupart to be time barred for applications to the Louisiana Supreme Court *State ex rel., Poupart v. State*, 19-255 (La. App. 5 Cir. 7/8/19) (unpublished writ disposition), writ denied 19-1679, (La. 11/19/19, 282 So.3d 1071). (This was done intentionally because no-statute existed when making this ruling and publishing it in the news paper, this constitutes *fraud upon the court* and the State Court’s applying an *ex post facto* law). See Joint Appendix II, Exhibit.“L” at Pg’s 32-33 & Ex.“M”.

4 See Joint Appendix II, Exhibit “R” Pg’s 43-45... However, its still unconstitutional and violates a protected right.

## DIRECT ARGUMENT

Today, Petitioner, Paul M. Poupart, hereinafter referred to as "Poupart", will argue the reason why this United States Supreme Court should grant 'Certiorari' in this case, and to consider whether theses arguments will establish whether: (1) Whether the State of Louisiana and its legislative and judicial branch created and/or imposed a repealed statute that has not been legally re-enacted by the legislature and fails to possess a saving clause; (2) Whether this conduct would violate Poupart's *Fifth* and *Fourteenth Amendment* due process rights under the Constitution; (3) Whether this conduct should be considered as '*fraud upon the court*' subjecting Poupart to cruel and unusual punishment, and; (4) Has Louisiana engaged in corrupt conduct?

### THE MAIN QUESTION IS:

Louisiana's Revised Statute 15:529.1, is unconstitutional. It is a repealed statute with no saving clause since 1956, under *Senate Bill 225, Act 312*, and was not reenacted or amended according to the *Historical Notes* – making this Habitual Offender Law under the *Constitution of the United States* unconstitutional, illegal, invalid, and void, and did the State of Louisiana lack subject-matter jurisdiction in this matter.

### ARGUMENTS:

Poupart is in custody of the Louisiana Department of Public Safety and Corrections at the Elayn Hunt Correctional Center (E.H.C.C.), under the custodial care of Warden, Donnie Borderlon. Poupart believes he is in custody in violation of the *Constitution of the United States* where the State of Louisiana's Habitual Offender Law of *LSA-R.S.15:529.1*, is contrary to the law in that said statute had been repealed prior to the hearing on July 13, 1956.

On April 29, 2011, Poupart was sentence under the State of Louisiana's Offender Law, *LSA-R.S.15:529.1*, to a term of (20) years for 'Public Intimidation'. In 1942, prior to the Court's adjudication and sentencing, and prior to the repeal of *LSA-R.S.15:529.1*, such statute underwent changes by the Louisiana Legislature it its title of the bill stated:

*"Specifically, in relation to second and subsequent offenses convicted of felony violations their sentence and re-sentence prescribing the penalties and specifically, repealing LSA-R.S.15:529.1, and all laws on parts of laws in conflict herewith."*

Also, a repealing clause was provided in § 5 of the *Act 312*, of 1956 (*Senate Bill 225*), that further states:

*"LSA-R.S.15:529.1, and all laws or parts of laws in conflict herein are hereby repealed."*

This was done so that there would be no misunderstanding. However, no saving clause was/is provided to retain of the former law, nor was the statute amended and/or re-enacted. See Joint Appendix II, Exhibit "A" *Louisiana Act 312 of 1956 (Senate Bill 225)*.<sup>5</sup>

Poupart challenges the constitutionality of *LSA-R.S.15:529.1*, as being applied by the State of Louisiana to enhance his sentence for 'Public Intimidation' as a Habitual Offender – which resulted in the State of Louisiana utilizing the provision of this statute illegally although it had been repealed years prior in 1956, to accomplish this enhancement.

As this intelligent Bench is aware, when a statute is repealed without a saving clause the statute loses its former power as law, and any information based on such a repealed statute is ineffective and a sentence thereon unauthorized. See *State v. Bienvenue*, Pgs. 199-200, 22

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<sup>5</sup> See 22 *Corpus Juris Secundum* § 29 Repeal of a Statute – If a penal statute is repealed without a saving clause, there can be no prosecution or punishment for a violation of it before the repeal. See Repeal of Criminal Statutes C.J.S. Statutes § 303.

So.2d 196, 207 La. 859 (1945). However, Louisiana has set a law that states: 'a sentence must rest upon a valid statute'. See *LSA – R.S. C.Cr.P. Article 872*.

Here, in support of Poupart's claim, he attaches Exhibits in support of his argument. (See *Joint Appendix II, All the lower Court's Exhibits*) He requests that theses exhibits be made part of the record in support of this application. The Exhibits consist of the 'HISTORICAL AND STATUTORY NOTES' which shows all amendments made to the Habitual Offender statute from 1956, until 2023. At no time has *LSA–R.S.15:529.1*, be re-enacted and/or amended between theses dates.<sup>6</sup>

As a direct result of *Act 312, of 1956*, repealing *LSA–R.S.15:529.1*, Poupart's sentencing enhancement is, was, and always has been illegal, unconstitutional, invalid, null, and void. As a further result, Poupart's sentence is in violation of the *Eight Amendment*, which prohibits cruel and unusual punishment.

## RETROACTIVE APPLICATION

To argue the retroactive application of the illegal statute of *LSA–R.S.15:529.1*, to Poupart's multiple offender enhancement proceeding, he relies on *State ex rel. Parks v. Skinner, Judge*, 148 La. 143, 86 So.716 (1920), in which the Louisiana Supreme Court opined that:

*'....an unconstitutional statute is null and void, has no legal existence whatsoever, and is no statute....has no legal existence...which in reality is unknown to the laws of this state.'*

<sup>6</sup> On the current up-to-date Prison West Law under the Historical and Statutory Notes under *LSA–R.S. 15:529.1*, it now states: *Acts 1956, No. 312, § 5*, repealed a prior *R.S. 15:529.1*, and §§ 1 to 4 (enacted parallel provision which were set out under the same section number.) This is in contrary to Poupart's statute before he started challenging it, see *Joint Appendix II, Exhibits*. It must be noted, the words underlined above were only added when inmate(s) started challenging the statute in a Declaratory Judgment, which is still pending civilly. See *Joint Appendix II, Ex."X"*

The current corrupt legal system of Louisiana has in effect swon its own seeds of destruction by arbitrarily forming codes and revised statutes. However, all complaints or indictments today site laws from these codes or revised statute books which contain no enacting clause. Laws which lack an enacting clause are not laws of the Legislative body to which we are constitutionally subject. Thus if a complaint or information charges one with a violation of a law which has no enacting clause, then no valid law is. . . If it sites no valid enhancement charge, then no valid law is legal. *C.J.S.*

Hence, if the part of the statute has no legal existence, it follows in reality is unknown to the laws of the State of Louisiana. Considering Poupart's sentence under LSA-R.S.15:529.1, is substantive in nature, rather than procedural. "[S]uch rules apply retroactively because they necessarily carry a significant risk that Poupart stands adjudicated by a law that cannot enforce a punishment that the repealed law cannot impose upon him." See *Schiro v. Summerlin*, 542 U.S. 348, 352, 124 S. Ct. 2519, 2522-23, 159 L. Ed.2d 442 (2004).

#### **PERTICULARIZATION OF LSA-R.S. 15:529.1:**

Each of these provisions were repealed and there is existence is unconstitutional and against the rule of law.<sup>7</sup>

#### **ARGUMENT:**

Louisiana's habitual offender statute under *LSA-R.S.15:529.1*, is no longer authorized by law. Poupart discovered that the law was repealed without a saving clause and/or re-enacting clause which puts an end to the statute and jurisdiction of the State of Louisiana to enforce this law. To rule otherwise would leave Poupart behind bars for an enhancement of his (15) extra years sentence, a (non-violent that carries 5 years) that the State of Louisiana used that is based upon is invalid, void, unconstitutional, and/or nonexistent.

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<sup>7</sup> However, Louisiana currently has 1/3 of the Louisiana Prison Population on this illegal statute of *LSA-R.S.15:529.1*, according to Louisiana State Representative Debbie Villion, a Republican from Kenner, this was in the New Orleans Advocate on May 18, 2022, she's trying to pass a House Bill 544 for Habitual Offenders to serve 65% of their time before parole eligible, instead of doing 1/4 of their time, but the Governor keeps veto it because, he knows it's not a valid statute to amend. See Joint Appendix II, Ex. "X" at Pg. 54. Furthermore, Poupart has been going up for parole twice a year with all of his conditionals, and keeps getting denied because of his charge being high profile, political in nature and which the Board keeps denying him for the following reasons.

Victim Opposition (The Police); Opposition from Court system (With the Police); D.A.'s Office strongly opposed, (with the Police); Law Enforcement opposes, (The Police); Victim (The Police), (See Joint Appendix II, Exhibit "Y" at Pg's 55-56) All who investigated their own case for a Police cover-up.

## SUBJECT MATTER JURISDICTION

### DID THE STATE LACK SUBJECT MATTER JURISDICTION

There are many of cases where a person was convicted and put into prison, then upon discovery of a lack of subject matter jurisdiction, submitted a Habeas Corpus Petition based upon the jurisdictional defect, and was released.<sup>8</sup> However, jurisdiction subject matter may be taken at [any] time.<sup>9</sup>

Subject mater jurisdiction involves more than having the right offense for the right Court. Even if the court has jurisdiction over the type, class, or grade of crime committed, it will still lack subject matter jurisdiction if the law which the crime is based upon is invalid, void, unconstitutional, or nonexistent. Poupart believes that LSA-R.S.15:529.1, is not constitutional and therefore, the State of Louisiana lacked subject matter jurisdiction to enhance his sentence of (5) years to (20).

Jurisdiction over the subject matter of 'any' action is essential to power of the court to act and is conferred only by a constitution or by a valid statute.<sup>10</sup> The Court must be authorized to sentence and have a valid law that creates such sentence. Thus the subject matter jurisdiction is always a part of the sentence. If a law is invalid, there is no punishment – if there is a repeal, there is no subject matter jurisdiction. For instance, [if] a criminal statute is unconstitutional, the Court lacks subject matter and cannot proceed to try the case and or decide on it.<sup>11</sup>

8 Poupart made a similar argument in his Pro se Vindictive claim in his 4<sup>th</sup> Post-Conviction Relief, of how the charges of Public Intimidation were time barred and expired (Prescription) and were not brought upon a trial, violating his protected right to a trial under the First Amendment. The Public intimidation charge were brought 3 weeks after the first battery trial, only when the Pictures hit the internet and the World News.

9 See U.S. – Harrigony v. Gilchrist, 121 Wis. 127, 99 N.W. 909, out the C.J.S.

10 Brown v. State, 37 N.Ed.2d 73, 77 (Ind. 1941).

11 Corpus Juris Secundum "Criminal Law" § 157, p. 189; citing People v. Krinak, 185 Cal. Rptr. 869, 136 Cal. App. 3D 145 (1982)



In a case where a man was convicted of violating certain sections of some laws, he later claimed that the law were unconstitutional, which deprived the county of jurisdiction to try him for those offenses. The Supreme Court of Oregon held:

*'If these sections are unconstitutional, the law is void and offense created by them is not a crime and a conviction under them cannot be legal cause of imprisonment, for no court can acquire jurisdiction to try a person for acts which are made criminal only by an unconstitutional law.'*

In Wisconsin, a case involving a charge for violating a law which had actually been repealed. There was a motion hearing on the issue of whether the Court had subject matter jurisdiction, and the Supreme Court held:

*Where the offense charged does not exist, the trial Court lacks jurisdiction.*<sup>12</sup>

Poupart believes that the State of Louisiana lacked jurisdiction to enhance his sentence because the statute that *could* enhance his sentence had been repealed by the Legislature. Poupart believes that the statute was not valid and has not been valid since 1956. See Act 312, of 1956 (Senate Bill 225) Joint Appendix II, Exhibit(s) "A-F" at Pg's. 1-22.

Continuing on, in a case in Minnesota, a man was charged with the *offense* of 'being an habitual offender,' but the statute did not make this a crime it only (increased) the punishment for a crime. The State Supreme Court said: the man could not be convicted of a crime because the statute used did not state an offense, which meant the 'Court was without subject matter jurisdiction'.<sup>13</sup>

An invalid, unconstitutional, or non-existent statute also affects the validity of the 'charging document,' would it not also affect the sentence imposed ? If theses documents are

<sup>12</sup> *State v. Christensen*, 329 N.W.2d 382, 383, 110 Wis. 2d 538 (1983).

<sup>13</sup> *State ex rel. Hansen v. Rigg*, 104, N.W.2d 553, 258 Minn. 388 (1960).

void or fatally defected, there is no subject matter jurisdiction since they are the basis of the Court's jurisdiction. See this, Poupart believes that the habitual offender sentence provisions were fatally defected by the State's legislative branch in this case. Why ? Because Act 312, Section(s) of 1956, states:

*LSA-R.S. 15:529.1, and all laws or parts of laws in conflict herewith are hereby repealed.*

At the time of this Act, the State of Louisiana did not include any saving clause upon this repeal of the statute, nor did the Louisiana Legislature provide a re-enactment clause under the codification of this statute.

When a criminal defendant is indicted under a non-yet-effective statute,  
the charging document is void.<sup>14</sup>

The indictment or complaint can be invalid if it is not constructed in the particular mode or form prescribed by constitution or statute, see (42 C.J.S., "Indictments and Informations," § 1, p. 833). But it also can be defective and void when it charges a violation of a law, and that law is void, unconstitutional, or non-existent. If the charging document is void, the subject matter jurisdiction of a court does not exist.

The allegations in the indictment or information determines the jurisdiction of the Court.<sup>15</sup> Where an information charges no crime the Court lacks jurisdiction to try the accused, and a Motion to Quash the information or charge is always timely.<sup>16</sup>

<sup>14</sup> *State v. Dungan*, 718 P.2d 1010, 149 Ariz. 357 (1985).

<sup>15</sup> *Ex parte Waldock*, 286 Pac. 756, 766 (Okla. 1930).

<sup>16</sup> *People v. Hardiman*, 347 N.W.2d 460, 462, 132 Mich. App. 382 (1984); 22 Corpus Juris Secundum, "Criminal Law," § 157, p.188; citing *People v. McCarty*, 455 N.E.2d 298, 94 Ill. 2d 28.

\* \* \* \* \*

## HAS LOUISIANA ENGAGED IN CORRUPT CONDUCT ?

Poupart believes so. . .

There are no valid laws charged against Poupart because they do not have enacting clauses or titles. Without valid laws there is no subject matter jurisdiction and any decision rendered is void. There can be no valid judgment, either right or wrong, without this type of jurisdiction.

[N]o authority need to be cited for the proposition that, when a court lacks jurisdiction, any judgment rendered by it is void and unenforceable, \* \* \* and without any force or effect whatever.

Where judicial tribunals have no jurisdiction of subject matter, the proceedings are void.<sup>17</sup>

Where subject matter jurisdiction does not exist, any bad, wrong or corrupt decision is void, but if the jurisdiction exists, a wrong or erroneous decision is only voidable by appeal. When jurisdiction is lacking, the Court can do nothing except dismiss the cause of action. Any other court proceeding is usurpation.<sup>18</sup> Where the Court is without jurisdiction it has no authority to render any judgment other than one of dismissal.<sup>19</sup>

However, A judge or Court may be in a legal sense immune from any claims that it is guilty of 'corruption' because of its improper exercise of jurisdiction. However, it has no such protection where it lacks jurisdiction and the issue has been raised and asserted before judgment. Thus when the lack of jurisdiction has been shown, a judgment rendered is not only

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17 21 Corpus Juris Secundum, "Courts," § 18 p. 25; *People v. McKinnon*, 362 N.W.2d 809, 812 (Mic. App. 1985).

18 Usurpation – To take possession of without legal claim, to seize and hold by force or without right.

19 *Garcia v. Dial*, 596 S.W.2d 524, 528 (Tex. Cr. App. 1980).

void, but it also usurpation and tyranny ! There is no right to commit usurpation and tyranny, and such acts can be disobeyed or resisted.

A maxim of law states:

*A judge who exceeds his office or jurisdiction is not to be obeyed. He who exercises judicial authority beyond his proper limits can not be obeyed with safety or impunity.<sup>20</sup>*

Would this Supreme Court now believe that the State of Louisiana has corrupted my liberty ?

\* \* \* \* \*

**Would this conduct of the State of Louisiana be considered  
as ‘*fraud upon the court*’ ?**

The Louisiana Legislature re-enacted LSA-R.S. 15:529.1, outside of United States v. Stevens, 559 U.S. 460 (2010); where again this Court held that: “*Courts may construe statutes to avoid constitutional doubts, but they may not rewrite a law to conform it to constitutional requirements.*”

Not only did Louisiana re-write LSA-R.S. 15:529.1, its state judiciary applied its newly enacted provision without a saving clause, they amended it under the same provision number as if it was never repealed. Poupart went threw the Louisiana 24<sup>th</sup> Judicial District Court, the Fifth Circuit Court of Appeals, and the Louisiana Supreme Court, and they all failed to entertain and or respond to his constitutional challenge.

Poupart is before this Bench to recognize that ‘*fraud upon the court*’ is a scheme to interfere with the judicial machinery performing tasks of partial adjudication. This *fraud* consists of conduct so egregious that it undermines the integrity of the judicial process.

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<sup>20</sup> See Maxims of Law, edited by C. Weisman, 63z, 66m.

The United States Court of Appeals for the Tenth Circuit held that '*fraud upon the court*' is *fraud* which is directed to the judicial machinery itself, and not *fraud* between the parties.

This Federal judiciary also described 'fraud' as:

"Whenever any officer of the Court commits fraud during a proceeding in the Court, he or she is engaged in fraud upon the court." See Bullock v. United States, 763 F.3d 1115 (1985).

Some other standards of '*fraud*' were:

People v. Illinois v. Sterling, 357 Ill. 354 (1934),  
( ' . . . fraud vitiates every transaction into it applies  
to judgments as well as to contracts and other transactions. . . . ' )

Moore v. Sievers, 366 Ill. 316 (1929)  
( ' . . . fraud vitiates every transaction into which it enters. . . . ' )

In re, Village of Willowbrook, 27 Ill. App. 2d 393 (1962),  
( ' . . . it is axiomatic that fraud vitiates everything. . . . ' )

Bearing in mind these facts of Poupart's and the fact that the State of Louisiana and its officers participated in collusion in the following act(s) that caused Poupart today to seek this Supreme Bench's interpretation of his federal '*rights and privileges*' protected by the federal constitution *res nova*:

- A. The State trial Court applied a non-existent provision to aid in its judicial ruling;
- B. The State Appellate Court applied a non-existent provision to aid in its judicial ruling, and/or failed to correct the trial Court.
- C. The State Supreme Court failed to correct its officers conduct in all the lower Court's.

D. The State Legislature illegally amended, without re-enacting LSA-R.S. 15:529.1, without a saving clause committing usurpation or tyranny for using an in-valid law.

E. All the State Court's acted in conspiracy in collusion with each other to ignore Poupart's writ, which he believes they had no jurisdiction to act on except to dismiss the claim.<sup>21</sup>

Seeing these acts, the repeal, re-enactment, or amendment of a penal statute does not extinguish or alter the liability for penalty of the former statute, unless the legislature so intends. La. R.S. 24:171; *State v. Kent*, 262 La. 695, 264 So.2d 611 (1972); *State v. Cryer*, 262 La. 575; 263 So.2d 895 (1972); *State v. Bowie*, 221 La. 41, 58 So.2d 415 (1952).

(Here, of course the legislature by express savings clause provided for retroactivity of the previous penalty.) By similar legislative provision and jurisprudence pronouncement, this is the general rule in other modern American jurisdiction. *Bradley v. United States*, 410 U.S. 605, 93 S. Ct. 1151, 35 L. Ed.2d 528 (1973), 22 C.J.S. 'Criminal Law' § 26; 24 C.J.S. 'Criminal Law' § 1982, although the rule may have been different at common law. See *Bell v. Maryland*, 378 U.S. 226, 84 S. Ct. 1814, 12 L. Ed.2d (1964), and *United States v. Tynen*, 78 U.S. 88, 11 Wall. 88, 20 L.Ed. 153 (1871), see *Comment*, 121 U. Pa. L. Rev. 120 (1972). (quoting *State v. Paciera*, 290 So.2d 681 (La. 1974). This fact was not accomplished by the state's legislature.

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21 However, this ant Poupart's first time establishing in the Louisiana Court's of how the State of Louisiana was being corrupt and was applying an *ex post facto* law when the Legislature fixed the defect of his Public intimidation statute in 2019 to his 2011 conviction, which was found facially unconstitutional, this is establishing Louisiana has a history and a pattern or practices under 42 U.S.C. § 12601, of this type of behavior. See Joint Appendix II, Exhibit 'G' at Pg. 23; Ex. 'H' at Pg. 24-25; Ex. 'L' at Pgs. 32-33; Ex. 'M' at Pg. 34; Ex. 'R' at Pgs. 43-45.

Poupart is asking should this Court to 'release' him by the standards in Ex Parte Siebold, 100 U.S. 371, 25 L. Ed. 717 (1880);<sup>22</sup> a very important precedent still active today and prospective to Poupart's case and conviction. The States of Indiana, Texas, Minnesota, Kansas, Nebraska, and Kentucky have supported this standard that 'freedom is deserved' to one convicted of an an unconstitutional statute; as this Supreme Court held. May these arguments consider that Poupart is subject to cruel and unusual punishment, a *cel jour*.

Theses question presented to this Bench is of detrimental important. First we have constitutional rights violated by Public Officers, Legislative branches, and Courts; and secondly, Poupart is being illegally confined by an enhancement by a State law that is unconstitutional of being void and non-existent. Poupart humbly request that this Bench determine, with legal reasoning, the *La. R.S. 15:529.1*, is illegal and unconstitutional ?

Today, Poupart request that this One Supreme Court grant 'Certiorari' to this extraordinary matter and after review ORDER A WRIT OF RELEASE for him and return him to his family, respectively.

May it so be by the Supreme Minds of theses Lands.

The End.

Respectfully Submitted,



Paul M. Poupart # 357073

Elayn Hunt Correctional

P.O. Box 174

St. Gabriel, LA 70776-0174

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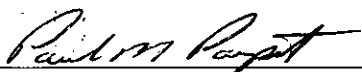
22 In *Siebold*, the Petitioner attacked the judgment on the ground that they had been convicted under an unconstitutional statute in a Motion to Correct an Illegal Sentence.. The Court explained that if: "this position is well taken, it affects the foundation of the whole proceedings. *Id*, at 376. A conviction under an unconstitutional law:

"Is not merely erroneous, but illegal and void, and cannot be a legal cause of imprisonment. It is true, if no writ of error lies, the judgment may be final. In \*\*731 the sense that there may be no means of reversing it. But... if the laws are unconstitutional and void, the Circuit Court acquired no jurisdiction of the causes." *Id*, at 376-377

**PRAYER FOR RELIEF**

WHEREFORE, I, Paul M. Poupart, now humbly pray that this One United States Supreme Court grant me the equitable relief that is conferred on me by the Constitution, by granting the great Writ of Certiorari in this instant case and reversing the enhancement under LSA-R.S. 15:529.1, for him and release him to his family and friends. May it so be in the interest of justice. Carrie v. State, 127 Ind. 204, 11 L.R.A. 370 (1890)

Respectfully Submitted,



Inmate, Paul M. Poupart

D.O.C. # 357073

Elayn Hunt Correctional Center

Saint Gabriel, Louisiana 70776

(225) 642-3306

August 1, 2023  
Date