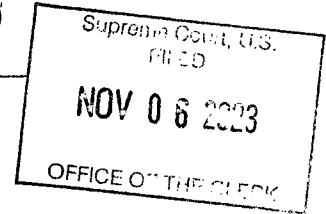


DOCKET NUMBER: 23-5485

ORIGINAL

SUPREME COURT OF UNITED STATES  
(MAJORITY QUORUM REQUIRED)



PAUL MICHAEL POUPART

VS.

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

ON PETITION FOR WRIT OF REHEARING TO THE WRIT OF CERTIORARI  
REQUEST TO THE UNITED STATES SUPREME COURT  
OF THE UNITED STATES, DOCKET MASTER: 23-5485

"PETITION FOR WRIT OF REHEARING"

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## PURPOSE OF PETITION

The U.S. Supreme Court is the highest tribunal in the Nation for all cases and controversies arising under the Constitution or laws of the United States. As the final arbiter of the law, the Court is charged with ensuring the American people the promise of equal justice under the law and, thereby, also functions as guarandian and interpreter of the Constitution.

Expecially in this case, where there is an extreme malfunction in the Louisiana Criminal Justice System. Here, we have a State statute under the Louisiana Habitual Offender Bill, *La. — R.S. 15:529.1*, which is an enhancement penalty of [any] and [all] charges, or felonies, according to this statute, which was *repealed* back in 1956, and put back on the books without a saving clause. In this case a statute repealed without a saving clause, is no law of the Legislature body, nor the State and technically illegal, because its non-existent.

The purpose of this Petition is to address the waiver of concern and the intervening circumstances surrounding the substantial laws of this State compared to the Constitution of the United States — where initial petition was denied.

\* \* \* \*

## FACTS ON WHICH PETITION IS BASED

### – DIRECT FORMULAR FACTS –

Today, Petitioner, Paul M. Poupart, hereby refereed to as "Poupart", will argue the reason why this United States Supreme Court should GRANT 'a rehearing under Rule 44', in this case, and to reconsider whether this argument will establish whether: (1) Whether the State of Louisiana and its legislative and justices branch created and/or imposed a *repealed* statute that has not been legally re-enacted by the legislature and fails to possess a saving clause, and whether this conduct violated Poupart's Fifth and Fourteenth Amendment's of *due process* rights under the Constitution. Then whether this conduct should be considered as "*fraud upon the court*" subjecting Poupart to cruel and unusual punishment, and has Louisiana Court's engaged in corrupt conduct by corrupting Poupart's liberty ?

### THE MAIN QUESTION WAS:

Louisiana's Revised Statute 15:529.1, is unconstitutional and/or non existent. It is a *repealed* statute with no saving clause since 1956, under Senate Bill 225, Act 312, and was not re-enacted or amended according to the Historical Notes – making this Habitual Offender Law under the Constitution of the United States unconstitutional and/or non-existent.

### POUPART'S ARGUMENT WAS

Poupart's 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.<sup>0</sup>

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<sup>0</sup> 22 C.J.S. § 29 – Repealed Statutes: 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*. As a general rule, the repeal of an existing statute under which a proceeding is pending puts an end to the proceeding, unless it is saved by a proper saving clause in the *repealing* statute, or a general saving clause. See *U.S. v. Bradley*, 93 S. Ct. 1151, 410 U.S. 605, 35 L. Ed. 2d 528 1973) at least in the absence of an inadvertent *repeal*. See *People v. Alexander*, 6 Dist. 224 Cal. 290, 178 C.A. 1250.

On April 29, 2011, Poupart was sentenced under the Habitual Offender Law to a term of 20 years for 'Public Intimidation'.<sup>1</sup> In 1942, prior to the Court's adjudication and sentence, and prior to the *repeal* of *LSA-R.S. 15:529.1*, such statute underwent changes by the Louisiana Legislature in its *title* of bill stated:

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

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

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

By virtue of Legislative Acts No. 312 of 1956, *LSA-R.S. 15:529.1*. It was expressly repealed, see (Joint Appendix II, Exhibit "B") The Louisiana Constitution vests legislative power exclusively in the branch, and determination and definition of acts which are punishable as crimes are properly functions of the legislature. Moreover, legislative power to create and define offenses against the State can be delegated, see *State v. Domangue*, 649 So.2d at 1038; citing *State v. Gaster*, 45 La. Ann. 636, 12 So.2d 739, 740.

However, in *State v. Gaster*, *Supra*, this Court stated:

All crimes in Louisiana are statutory there can be no crime which is not defined and denounced by statute. The determination and definition of facts which are punishable as crimes are purely legislative functions, which cannot be delegated to, or exercised by the Judiciary.

This was done so there would be no misunderstanding. However, no saving clause was/is provided to retain any former law, nor was this statute amended and re-enacted. (See Joint Appendix II, Exhibit "A", Louisiana's Act. 312 of 1956 (Senate Bill 225)).

Where creating an offense is *repealed* without a saving clause, it puts an end to the prosecution even after judgment in an inferior Court, and judgment must be reversed if no affirmed 'before *repeal*.' A repealed law cannot be re-enacted merely by reference thereto.

Therefore, the State of Louisiana has committed usurpation of the Constitution authority vested exclusively in the Legislature to create offenses and prescribed punishment, and has clearly exceeded its authority (and/or Jurisdiction) under *LSA-R.S. 24:253*, by altering the seance, meaning, and effect of Act. 312 of 1956, thereby violating Article I, § 1, § 2, § 3, of the

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<sup>1</sup> *LSA-R.S. 14:122*, only carries a maximum of 5 years, (a non-violent crime) Poupart had a six person jury.

Louisiana Constitution,<sup>2</sup> incorporated by Poupart's Fifth and Fourteenth Amendments of *due process* rights under the U.S. Constitution.

## ARGUMENT

As a direct result of Act. 312 of 1956, *repealing* LSA-R.S. 15:529.1, Poupart's sentence enhancement is, was, and always has been illegal, unconstitutional, invalid, null, void, and non-existent. Furthermore, Poupart's sentence is in violation of the Eight Amendment, which prohibits cruel and usual punishment. This conduct also constitutes '*fraud upon the court*' and the State of Louisiana engaged in corrupt conduct by corrupting Poupart's liberty?<sup>3</sup>

## LEGAL ARGUMENT IN SUPPORT

In *State v. Gros*, 18 So.2d 507, 205 La. 935 (La. 4/17/1944), the accused, Petitioner, *Mr. Gros* requested and Petitioned the District, Appellate, and then the Supreme Court for an annulment of the determination sentence and his discharge from imprisonment, because prior to his conviction the law was *repealed* and contained no specific saving clause, and the new law, by reason of absence therefrom of a saving clause and as it could not be given *ex post facto* effect,<sup>4</sup> constituted a Legislative pardon.

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2 La. Const. Art. I § 1 – Origin and Purpose of Government. (states) All government, of right, originates with the people, is founded on their will alone, and is instituted to protect the rights if the individual and for the good of the whole. Its only legitimate ends are to secure justice for all, preserve peace, protect the rights, and the promote the happiness and general welfare of the people. The rights enumerated in this Article are inalienable by the state and shall be preserved inviolate by the state.

La. Const. Art. I § 2 – Due Process of Law. (states) No person shall be deprived of life, liberty, or property, except by due process of law

La. Const. Art. I § 3 – Rights to Individual Dignity. (states) No person shall be denied the equal protection of the laws. No person shall discriminate against a person because of belief's, affiliation. No law shall arbitrary, capriciously, or unreasonably discriminate against a person because of political ideas or affiliations.

3 In the Joint Appendix II, Exhibit's "A-E", were investigated and certified by the Louisiana Department of Justice, under the watch of Attorney General **Jeffery Landry**. The Joint Appendix I, and II, will be re-attached to this rehearing.

4 *Ex post facto law* – The U.S. Constitution specifically forbids adopting of *ex post facto* law, which are laws that operate retroactively to: 1). Make an act criminal that was not criminal at the time it was preformed (like the state did in 2019 in Poupart's Intimidation statute); 2). aggravate a crime or increase the punishment for a crime to make it more serious than when the criminal act was performed; 3). Change the rules of evidence to the detriment of criminal defendants as a class to make the rules more stringent for the defendant than when the criminal act was performed; 4). Change the rules of criminal

Petitioner, Mr Gros back then argued that such a statute which had no specific saving clause declared:

*"All laws or part's of laws contrary to, or in conflict with this act are hereby repealed". Id.*

Also, it was opined that *repeal* of a law without a saving clause in new Act constitutes a Legislature pardon and the accused can not be prosecuted either under the old law, which is had been *repealed*, or the new law, which is *ex post facto* as to crime already committed, and must be "released". And it is in violation of the Constitution provision relating to the enactment of *ex post facto laws*.<sup>5</sup>

*In re Medley*, 134 U.S. 169, 10 S. Ct. 384, 33 L. Ed. 835 (1880) The court released the prisoner because, ". . . it is apparent that while the statute under which is now held in custody is an *ex post facto* law in regards to his offense, it *repeals* the former law, under which he might otherwise have been punished . . ." Here certainly is a repudiation of the void *ab initio* and in *toto* theory with a vengeance.

It is held that an unconstitutional statute is absolutely void and to be considered as though it had never been enacted or passed by the legislature, and it is also the view of a number of other Courts. For example: In *Chicago, Indianapolis & Louisville R.y. v. Hackett*, 227 U.S. 559, S. Ct. 57 L.Ed 966 (1912) this United States Supreme Court has said:

"That act was therefore as inoperative as if it had never been passed, for an unconstitutional act is not a law, and can neither confer a right or immunity nor operate to supersede any existing valid law"

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procedure to deprive criminal defendants of a substantive right that a defendant would have at the time the criminal act was preformed.

<sup>5</sup> Powers Forbidden to Congress – Section 9 (3)(states) No bill attainder or *ex post facto* law shall be passed. A bill of attainder in an act passed by legislature to punish a person without trial. An *ex post fact* law is one that provides punishment for an act that was not illegal when the act was committed. See Powers forbidden by the State Section 10 § 1.



The current corrupt Louisiana legal system has in in effect sown its own seeds of destruction by arbitrarily forming codes and revised statutes. All complaints or indictments today site laws from these codes or revised statute books which contain (no enacting clauses). 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 laws exist, and has no subject matter jurisdiction to try or hear the accused.

Now, [no] where in the Habitual Offender statute it states the following:

'Be it enacted by the Legislature of Louisiana', and/or (amended and re-enacted) and that the *repeal* of any statute shall have the effect of releasing or extinguishing any penalty, forfeiture, or liability, civil or criminal, incurred under such statute unless the *repealing* act shall expressly so provide, and such statute shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture, or liability.'

Louisiana Supreme Court has stated in may of cases before, as a general rule the law in effect at the time of the commission of the offense is determination of the penalty which the conviction accused must suffer.<sup>6</sup> However, A *repeal* of the habitual offender statute and re-enacted without a saving clause by the Louisiana Legislature which technically does not exist

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<sup>6</sup> However, not only Poupart's habitual offender bill fall's under this prong but, Poupart's 2011 conviction of Public Intimidation was held unconstitutional overbroad in 2018 in Seals v. McBee, 898 F.3d 587 (5th Cir. 2018) and while Poupart was going threw the State Courts to challenge it, the Louisiana Legislative amended and reenacted the statute under House Bill 307, Act. 311, August 1, 2019, see Joint Appendix II, Exhibit "R" 43-45. This writ was blocked by the Fifth Circuit Court of Appeals because of the cops uncle was a chief judge, which had Poupart time barred to the La. Supreme Court, then to the Feds, which he would of got relief under the Suprmacy Clause.

in their current state as a valid law, is unconstitutional. If so, where is the Legislative enacting authority of law for it ?

Now, this conduct mentioned in the above argument violated Poupart's Fifth and Fourteenth Amendments due process rights under the Constitution.

\* \* \* \*

### THE U.S. SUPREME COURT HAS THE POWER TO INTERVENE

The U.S. Supreme Court has the final authority to interpreting, and explaining the meaning of the Constitution. It can set aside any law – Federal, State, or Local – that conflicts with a part of the Constitution. This Court has the power of judicial review – that is, it can declare a law unconstitutional.

However, under the Supremacy Clause of the National Government states in part: that, shall be the supreme law of the land and the judges in every state shall be bound thereby, anything in the constitution or law of any state to the contrary notwithstanding.

This section, known as the Supremacy Clause, has been called the *linchpin* of the Constitution – that is, the part that keeps the entire structure from falling apart. It means simply that when *state law conflicts with national laws*, the national laws are superior. The amendments protect individuals from various unjust acts of an over – jalous [State] government, (as expressed in this instant case). It also means that, to be valid, a national law must follow the Constitution, but the Fifth and Fourteenth Amendments declares that no *state* can deprive any person of "life, *liberty*, or property without *due process* of law," expressed on e of the most important rules of the Constitution.

The Fourteenth Amendment has restrictions on the power of the States, especially dealing with personal liberty, in the ends of justice. These amendments also forbids the State to deny equal protection rights to any person. However, Louisiana has no check and balances in place and/or integrity units looking over the Court's, <sup>7</sup> basically, there out of control and are corrupt, Poupart has diligently been trying to report it with no results, and its up to this U.S. Supreme Court to intervene, in the interest of justice.

On of the purposes of the Federal Constitution was to protect the State from extreme malfunction, abuse of power, and miscarriages of injustice, the Constitution was intended to protect the [P]eople of the United States against arbitrary action by their own government, and the Supremacy Clause should activate this in the interest of justice.

Am *repealed* statute without a saving clause on a non-existent law, it is a fundamental right, and its in conflict of the Constitution, maybe in the State of Louisiana its legal, but an out of control [bias] State Court system is subject to the U.S. Constitution under 28 U.S.C. § 1257(A), especially when a statute that has 1/2 of the Prison Polulation on this non-existing statute. [ <sup>1</sup> ]

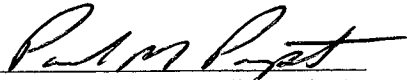
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<sup>7</sup> Poupart's case is high profile and political, it involves a police officer, who's entire Police Department investigated their own case for a police cover up; this made Local and National New's, and involved the internet, which made laws in Louisiana in violation of the First Amendment. (See Joint Appendix II, Exhibit's "F, G, L, M"). Their own department investigated, fabricated a police report, when they had probable cause, reversed the chronological order of events to make it fit (within) the intimidation element's, when at trial it was proven (outside) the element of intimidation and showed the charge was time barred. They, fabricated the release dates from August 26, 2009 to August 31, 2009, when Poupart was out of Jail an entire week before bring the Public Intimidation charge, and only on September 1, 2009, 'when the pictures showed up on the internet' is when the state retaliated and came with the out-of-time charge.

PRAYER FOR RELIEF


WHEREFORE, I, Paul M. Poupart, now pray that this Honorable Court GRANT me all general and equitable relief in this cause.

November 2, 2023  
Date:

  
Paul M. Poupart # 357073  
Elayn Hunt Correctional Cent.  
6925 Highway 74, Golf 3A-31  
St. Gaberial, LA 70776

VERIFICATION


I, Paul M. Poupart, verify that the statement are true and correct to the best of my information and belief, and I put myself on the United States of America for the same.

  
Paul M. Poupart # 357073

CERTIFICATION OF UNREPRESENTED PARTY

I, Paul M. Poupart, now submit this Certificate under USSC-Rule 44, and I certify that the foregoing 'Petition For Rehearing' is restricted to the grounds specified in USSC-Rule-44(2). I, Paul M. Poupart, also certify that this "Petition For Rehearing" in presented in good faith and for unjust delay. I, Paul M. Poupart, certify these statements to this Supreme Court today.

November 2, 2023  
Date

  
Paul M. Poupart # 357073