

No. 23-5930

IN THE
SUPREME COURT OF THE UNITED STATES

BRENT DOUGLAS COLE - PETITIONER

vs.

R. D. KEYS - RESPONDENT(S)

ON PETITION FOR LEAVE TO APPEAL AND EXTEND TIME,
TO: THE SUPREME COURT OF THE UNITED STATES FROM:
THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR REHEARING, CLARIFICATION, AND
DETERMINATION OF JURISDICTIONAL QUESTION

In propria persona Petitioner:

Brent D. Cole, Reg No. 71911-097 - H3 - 2
P.O. BOX 1002, FCI Thompson
Thompson, IL 61285

No. 23-5930

IN THE
SUPREME COURT OF THE UNITED STATES

BRENT DOUGLAS COLE — Petitioner,

vs.

R. D. KEYS — Respondent[s].

PETITION FOR REHEARING, CLARIFICATION, AND
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On 1/8/24, this Court entered an ORDER stating that "the motion of the petitioner for leave to proceed in forma pauperis is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8." The rule provides that this Court may deny leave to proceed in forma pauperis if satisfied that a petition for a writ of certiorari, jurisdictional statement, or petition for an extraordinary writ is "frivolous or malicious". Although this Court has claimed my petition is for a "writ of Certiorary", I assert it is not. Petition, p. 2 declares a U.S. Court of Appeals decided my case 6/28/23, and denied a timely petition for rehearing 8/18/23. The jurisdiction of this Court is sought under 26 Stat. 826, chap. 517, §§ 5-6, 3/3/1891:

1 "Sec. 5, That appeals or writs of error may be taken from the district
2 courts or from the existing circuit courts direct to the Supreme
3 Court in the following cases: In any case in which the juris-
4 diction is in issue; In such cases the question of jurisdiction
5 alone shall be certified to the Supreme Court from the court
6 below for decision." [Four more descriptions of cases are specified].

7 Sections 5 and 6 mandate certification and "review by appeal" or by
8 writ of error in the five descriptions in § 5. Certiorari is not one
9 of the options in the statute. I respectfully asked for "leave to
10 appeal and extend time", because Rule of Appellate Procedure (R.A.B.)
11 Rule 23 and S.Ct. Rule 36 were being violated, and were being
12 successful in hindering my preparation of legal pleadings. Only §§
13 5 and 6 above was invoked and direct appeal permitted;

14 "appeal by right. (1932) An appeal to a higher court from which
15 permission need not be first obtained." [Per the common law?]
16 "appeal as of right. (1847) An appeal over which an appellate court
17 must exercise review because it has no discretion to deny review."¹
18 Black's Law Dictionary, (Black's L.) 11th Ed., p. 121. See footnote 1.

19 This statute's categorical permission (may), being exercised, invokes
20 the Supreme Court's appellate Jurisdiction² under Art. III, § 2, cl. 2,
21 "both as to Law and Fact, with such Exceptions, and under such Regulations
22 as the Congress shall make." page 2 Please see footnote 2.

1 My invocation of this Court's jurisdiction cites only 26 Stat.
3 826 §§ 5 and 6 and 28 U.S.C. §§ 2106 and 2107, which are codified,
5 United States Code³, from "The Act Establishing The United
7 States Circuit Courts of Appeals, March 3, 1891", and is only
9 "prima facie statement of statute law", 26 Stat. 826.³
11 "certiorary petition. (1936) A petition seeking discretionary
12 review from an appellate court," Black's Law Dict., 11th Ed. p.1384.
14 "A proceeding by writ of certiorari (cause to be certified) is
16 a special proceeding by which a superior court requires some
18 inferior tribunal, board, or judicial officer to transmit the
20 record of its proceedings for review, for excess of jurisdic-
22 tion. It is similar to a writ of error, in that it is a pro-
23 ceeding in a higher court to superintend and review judicial
acts, but it only lies in cases not appealable by writ of
error or otherwise," Benjamin J. Shipman, Handbook of
Common-Law Pleading § 340 at 541 (Henry Winthrop Ballan-
tine ed. 3rd ed 1923); Black's Law Dict., 11th Ed (Black's L.), p. 284.
25 Under the common law, certiorari only lies in cases "not appealable
27 by writ of error or otherwise." Id., § 340 at 541. I invoked the
29 Judiciary Act of 1891, 26 Stat. 826, §§ 5 and 6, which made this an
31 appeal as of right, supra p. 2, L. 24-26, and certiorary does not lie.
33 This Court "cannot... avoid", "must decide it", if "brought before us." ¹

1 The Constitution, Art. IV, § 1 applies. In this instance the
3 nolle prosequi was directed and done at the behest of U.S. At-
5 torney Mc Loy, and the state had little or no volition in their own
7 proceedings. The nolle prosequi was an acquittal. Petition, Appx. C:
9 "State court's grant of demurrer to criminal defendant at close
11 of prosecution's case in chief during bench trial constituted
13 acquittal under double jeopardy clause, since on demurrer trial
14 court rules as a matter of law that prosecution's evidence is insuf-
16 ficient to establish defendant's actual guilt," Smalis v. Pennsylv-
18 ania, 476 U.S. 140, 144, 106 S.Ct. 1745, 90 L.Ed.2d 116 (1986).
20 The 5th Amendment's Double Jeopardy Clause barred the prosecution and juris-
22 diction. Respondent U.S. asserted "Dual Sovereignty Doctrine" in ECF 319,
24 "OPPOSITION" to partial summary judgment. I replied to #319 with #321:
26 APPENDIX 1, attached hereto, is ECF 321, filed 04/18/2022, U.S.D.C.
28 No, 2:14-cr-00269-WBS-DB, incorporated hereto by reference,
30 Appx. 1, pp. 6-7 especially, invoke Bartkus v. Illinois, 359 U.S. 121, and show
32 the fallacy of the Dual Sovereignty Doctrine: There is only one Sovereign.
No response was made to Appx. 1: "REPLY TO GOVERNMENT'S OPPOSITION
TO MOTION FOR PARTIAL SUMMARY JUDGMENT", and no court ruling.

1 "Where the judge, acting without the defendant's consent, aborts the
proceeding, the defendant has been deprived of his 'valued right to have
3 his trial completed by a particular tribunal.'" [Cites omitted] This dep-
rivation precludes retrial." United States v. Gouvo, 88 F.2d 135, 137,
5 1987 U.S. App. LEXIS 153331 (9th Cir.); Art. III, § 2, cl. 3, U.S. Const.

7 I was denied due process by denial of my right to trial in the vicinage and State.

9 Since the State's trial was an acquittal, *supra* p. 4 L. 7-14, collateral estoppel applies:

11 "Collateral estoppel" ... means simply that when an issue of ultimate fact
has once been determined by a valid and final judgment, that issue can-
13 not again be litigated between the same parties in any future lawsuit."
Ashe v. Swenson, 397 U.S. 436, 443, 25 L.Ed.2d 469, 90 S.Ct. 1189 (1969).

15 "[T]he state's exclusive criminal jurisdiction over the lands not ceded
that are within its territorial jurisdiction make its statutes applicable to
17 the alleged crime at issue," U.S. v. Sharpnack, 355 U.S. 286, 289, 2 L.Ed.2d
282 (1958), — "2. Where the United States acquires lands within a
19 State in any other way than by purchase with its consent, ... the legis-
lative power of the State ... will be as full and complete as over any
21 other places within its limits." Fort Leavenworth R.R. Co. v. Lowe, 114 U.S.
22 525, 539, 29 L.Ed. 264.

24 It cannot be pretended that the federal prosecution against me was brought
26 before the trial court lawfully, or that it was "instituted according to the
28 regular course of judicial procedure." It is ipso facto not a "case" per Art. III.

30 "[T]his Court clearly conditioned the power of a constitutional court to take
cognizance of any cause upon the existance of a suit instituted according
32 to the regular course of judicial procedure, Marbury v. Madison, 1 Cranch 137
33 (1803) ... " Glidden Co. v. Zdanok, 370 U.S. 530, 600, n.6, 8 L.Ed.2d 601 (1962).

FROM: [REDACTED]
TO: 71911097
SUBJECT: C. DISTRICT ATTORNEY FINDINGS
DATE: 05/08/2021 08:36:15 PM

OFFICERS EXONERATED WITHOUT A JUDICIAL INQUIRY,

AND WITHOUT CREDIBLE PROCEDURE:

Date: 6/14/2014 ID#: 12888
C. DISTRICT ATTORNEY FINDINGS
Page: 1

ACCUSED IS FRAMED AND SCAPEGOATED

3 The Nevada County District Attorney, Cliff Newell, cleared the involved officers in the Brent Cole
4 shooting incident of any criminal liability. Although District Attorney Cliff Newell did not produce a
5 written declaration of a release of criminal liability for Officer Brant Hardin and Ranger Tad Pultorak,
6 he provided a verbal statement and has filed criminal charges against Brent Douglas Cole.

7
8 On September 18, 2014, the United States District Court issued an arrest warrant for Suspect Cole,
9 charging him with assault on a federal officer, assault on a person assisting a federal officer, and
10 discharging a firearm during and in relation to a crime of violence. The charges filed by the Nevada
11 County District Attorney were vacated; however, the fact remains that Officer Brant Hardin, ID 13903,
12 was fully justified when he discharged his firearm in self-defense at Suspect Cole on June 14, 2014.

Prepared By: Sergeant Matt Whiting ID#: 12888 Date: 10/30/2014. CHP, VALLEY DIV. CRITICAL INCIDENT
Officer Hardin Report, #14-201-0003.pdf (Grass Valley Area Shooting) p.49 of 992.

23 BEHIND THE BLUE WALL OF SILENCE

25 The motive for the Executive Branch changing the venue to federal
27 court without authorization to make the demand that the court institute a
29 federal prosecution, without an indictment, to change the venue and defeat the
31 State court's prior exclusive jurisdiction, thereby effecting the Executive's
33 judicial decisions, made by the collusion of State and Federal Executive Dept,
35 Officials July 9, 2014 at N.G.S.O, was to exonerate the State and Federal Officers, and
37 circumvent the necessary process of the writ of habeas corpus ad prosequendum.
39 This eliminated the required hearing to determine the proper venue and juris-
41 isdiction. See Carbo v. United States, 364 U.S. 611, 614-618, 5 LEd 2d 329 (1961):
43 "[T]he writ ad prosequendum was necessary to remove a prisoner in order to
45 prosecute him in the proper jurisdiction wherein the offense was committed."
See Kline v. Burke Construction Co., 260 US 226, 229-230, 67 LEd 226 (1922).
47 It divested me of my entitlements under the prior Engagement, Northwest Ordinance, Art. 2 (1787),
48 see Ex Parte Kentucky v. Dennison, 24 How. 66, 104, 16 LEd 717 (1861); 18 USC § 3231.

1 THE RIGHT NOT TO BE SUBJECTED TO UNCONSTITUTIONAL ACTS OR 'LAW'

3 The People have a right not to be subject to unconstitutional acts, including
5 unconstitutional legislations purported to be 'law'. And this Court declared:

7 "The discrimination is made against him in order to deprive him of that
right, and, if permitted, will have the effect of denying to him all redress
9 for a deprivation of a right secured to him by the Constitution. To
take away all remedy for the enforcement of a right is to take away
11 the right itself. BUT that is not within the power of the State."
12 Poindexter v. Greenhow, 114 US 270, [295], 303, 29 LED 1851 (1885).

14 The courts of the United States, and of the several states, have adopted
16 practices that take away all remedy for the enforcement of a right,
18 which does indeed take away the rights themselves: Including this Court.

20 "The original idea of judicial review seems to have been conceived
primarily to preserve the integrity and uphold the independence of the
22 courts as against the other departments, and to preserve and protect cer-
tain personal and private rights, such as the right of trial by jury,
24 which were thought to be natural and inalienable," Charles Grove
Hains, Judicial Review of Legislation in the United States and the Doctrines
26 of vested Rights and of implied Limitations on Legislatures, 2 Tex. L. Rev.
27 257, 270 (1924); Black's Law 11th Ed., 'judicial review', p. 1013.

29 "The discretionary writ of certiorari has come to control access to
almost all branches of Supreme Court jurisdiction. Appeal jurisdiction
31 has been narrowly limited, and certification of questions from federal
appeals has fallen into almost complete desuetude. Certiorari con-
33 trol over the cases that come before the Court enables the Court to de-
fine its own institutional role." Charles Alan Wright et al., Federal Practice

and Procedure § 4004, at 22 (2d Ed 1996).

"The writ of certiorari is used today in the United States as a general vehicle of discretionary appeal. Historically however, the writ had a much narrower function. It lay only to inferior courts and only to demand that the record be 'certified' and sent to the Kings Bench to see if that inferior court had exceeded its power in particular cases. It was most frequently used to review criminal indictments and local administrative bodies created by statute." Daniel A. Coquillette, *The Anglo-American Legal Heritage* 248 (1999). *Black's Law Dict.* 11th Ed., p. 284.

26 Stat. 826, § 5 requires that "In any case in which the jurisdiction is in issue, in such cases the question of jurisdiction alone shall be certified to the Supreme Court...", which included *USCA 7th Cir. No. 22-3018*:

"PETITION FOR REHEARING AND CERTIFICATION OF FEDERAL QUESTION
Jurisdiction of USDC E. Dist-CA is in issue: Since 2014: I Request
question of jurisdiction alone be certified to the U.S. Supreme Ct.
2 Comp. 540 § 1291 (1913) & 26 Stat. 826, § 5 (1891) Provide That:

"That appeals or writs of error may be taken from the District
Courts or from existing circuit courts direct to the Supreme Court..."
"Petition For Rehearing... And Certification of Federal Question..." Dkt# 22, p. 2,

The 7th Cir. Court of Appeals violated the clear mandates of the statute and
violated R A P rule 23 by granting the motion to transfer me without
any need being shown for the transfer and without a successor custodian.
I was placed in transit without a designation. False information was pre-
sented to the Court, Dkt# 23 Motion, p. 2, "7)" falsely claims that my
housing classification was changed to medical and intent was to provide care.
I was then placed at FCI Thompson, which deprives prisoners of requisits,

On p. 5 of Dkt# 22, L: 1-23 I quoted Williams v. Florida and Capital Traction Co. to show the validity of the Northwest Ordinance Treaty's Entitlements to the benefits of writs of habeas corpus and proceedings according to the course of the common law, which was resolved unanimously by Congress Oct. 14, 1774. This Court's insistence that only the writ of certiorari is permissible deprives me of proceedings according to the course of the common law, and violates 26 Stat. 826, § 5. I filed for certiorari March 25, 2021, No. 20-7567, requesting this Court do a judicial review of the record and address the points raised in the "PETITION FOR WRIT OF ERROR" submitted 3/25/2020, APPENDIX 2, which I request be filed as a separate docket entry due to the volume, and incorporate hereto by reference; and proffer as an offer of proof that this Court has been refusing to allow writs of error, despite the statutes requiring that a writ of error be filed to challenge the constitutionality of legislative acts, treaties, etc.; Jurisdiction was claimed under 1 Stat. 73-93, ch. XX, § 25, Judiciary Act of 1789. P.3. Appendix 5 of Appx. 2 evinces the violation of §§ 2241(c)(5) ~ 2243 and the challenge to the constitutionality of the penal codes being removed from the court file. The misdemeanor complaint is Appx. 6, of Appx. 2; Pp. 1-4 evidence that no arraignment occurs, and the courts refuse to determine what the law is, putting the court's job on the jury to avoid constitutional challenge.

APPENDIX 3 is excerpts from case no, M14-000388, Superior Court Nevada County, June 5, 2014, Motion to Suppress, Nancy E. Carrillo, Ct. Rptr, CSR No. 5868, p. 6 evincing that "Deputy Rusty Greene" was my accuser, AKA Russell Greene, lead investigator in the shooting incident. P. 28, L. 24-26 THE COURT: "First of all, the answer was received as to the complaint, and that will be part of the court file". The answer was intended to be used in Federal court, but was removed and apparently destroyed. Nine days later, BLM ranger PULTORAK institutes an altercation by using the claim that the area and road are closed to the public, despite that there are no postings or signs or notice of closure as required by law. He finds my property, and begins to take it when I return to get it. I announce my approach and my intent to fetch my property. He directs me to come up to the ridge-top and into the clearing. When I get there he stops me in the roadway. He asks questions. I answer. EXHIBIT 1 is two photographs of the bullet strike mark in the roadway at my feet where I stood until shooting stopped. The photos are BATFS stamped COLE-00183 and COLE-00184 from the USAO's file. Coupled with my medical records this bullet strike proves that the two officer's trial testimony is not true. It is claimed that PULTORAK backed away 20 feet before the first shot occurred.

PULTORAK testified, that I was standing at the edge of the roadway just entering the clearing on the North-East side, and he was on the other side of the roadway about five feet from me, while we amiably conversed. He pulled handcuffs out and took a step toward me, then stopped and asked me if I was armed. I said, "yes, I am." That much is pretty accurate. It is conceded that PULTORAK suddenly backed away from from me, and that Hardin drew his gun and targeted me,

PULTORAK is 6 ft, 5 in. tall and I am 5 ft, 7 in. tall. When he pulled his gun, it was already above my hip. When he drew up on me and fired, and I pivoted back to move my heart away from the barrel. He shot me in the gut from an above my navel, gun pointed @ 45 degrees to the ground and the bullet travelled from my gut downward and out my leg.

THIS WAS NOT GOING TO HAPPEN UNLESS TAD PULTORAK WAS INDEED three (3) feet AWAY FIRING A LOADED PISTOL AT MY GUT FROM ABOVE MY NAVEL POINTED DOWNWARD FROM ABOVE. PULTORAK WAS GOING FOR A KILL SHOT CENTER MASS. I saw the barrel coming up and moved my heart away from barrel by pivoting on my right foot. He hit just below my navel downward through soft tissues and out of my perineum at the apex of my left leg. He was afraid and backed away. PULTORAK knew he had shot me and not killed me. Every-thing else is calumny.

The maxim of Montesquieu applies to D. A. Newell's fiat, that:

"There is no liberty if the power of judging be not separated from the legislative and executive powers," *Imr. Hamilton, Federalist #78* ... Nor was it less repugnant to their views of the security of personal rights, that any person should be condemned without a hearing, and punished by a law previously prescribing the nature and extent of that punishment," *Ex parte A H Garland, 4 Wall 333, 388, 18 L.ED 366. Justice Miller, dissenting.*

D. A. Newell "cleared the involved officers" of "any criminal liability" without any evidence, testimony, or due process, by issuing "a verbal statement", and having the Assistant D.A. Anna Ferguson write a hearsay only complaint, without even the pretense of an affidavit, and no attempt to arraign me, because the crucial common law process of arraignment has been reduced to a meaningless formality instead of weeding out the unsubstantiated allegations and wrongful prosecutions. I attempted to challenge the divestiture of Entitlement to proceedings according to the course of the common law in violation of the NW Ord., Art. 2 (1787), and 36 days later I was violently attacked and shot multiple times. See Appendix 2, Petition, pp. 1-2, Transcript, May 9.

FBI agent Andrew FORRISTEL, the sole "witness" that testified before the grand jury about the "crime", proffered the criminal complaint to the court, and the court accepted it in violation of 28 USC § 547(1), and acted upon it with only his hearsay affidavit to hold me to answer for an infamous crime.

Clarification And Determination Of Jurisdictional Question

This Court appears to accuse me of filing a frivolous or malicious petition and it is neither; nor does certiorari lie under the common law in this instance.

The failure to state its reasoning makes it hard to respond. It's not frivolous.

"When a requirement goes to subject-matter jurisdiction, Courts are obligated to consider sua sponte issues that the parties have disclaimed or have not presented," U. S. v. Cotton, 535 US 625, 630, 122 S Ct 1781, 152 L Ed 2d 860 (2002).

The statute under which jurisdiction was invoked mandates that a jurisdictional question be certified to this Court and that this Court decide it because it is under this Court's original Jurisdiction. See supra p. 3, L. 25-33 and footnotes 1-2.

This is not unimportant or without sound basis. The failure to enforce this removes all remedy for enforcement of the right not to be subject to unconstitutional legislations and practices. It is not within the power of the State, Supra p. 7 L. 7-

18. The court must make a legal finding as to its authority to take venue and jurisdiction, before the court moves to entertain the cause before it.

20 Am. Jur. 2d § 60, p. 377, © 2007. Instead the trial court circumvented the writ ad prosequendum to avoid holding the required hearing to decide it, and instituted prosecution unlawfully by allowing FBI Agent FORRISTEL to represent the United States without a bar license, or any standing, violating 28 USC § 547(c).

It cannot be pretended that this is a regular course of proceeding. It is not a "case" and the judicial power does not extend to it; No jurisdiction. See

Appx. 1: ALL, it has not been decided or denied and is not malicious, also Appx. 2: page 13

1 The word "malicious" means given to or arising from malice, meaning a
3 desire to cause pain, injury, or distress to another. Who and how are unknown to me.
5 I have asked the 7th Circuit Court of Appeals to certify the question: Was the
7 Calif. trial court without jurisdiction, which the statute required; and I have
9 asked this Court to decide the question: "Was the USDC Eastern Dist. of
11 Calif. without subject matter jurisdiction and/or Appellant divested
13 of his entitlements?" And, "Did the Panel Judges libel the appellant in
15 their ORDER on 6/28/23?" They claimed in the first sentence that
17 "Brent Cole is serving 355 months' imprisonment for shooting and
19 injuring a federal Bureau of Land Management ranger and an assisting state
21 officer." That is a non-existing charge, and "Assault" is what the
23 indictment charged. Who was being malicious? It can also mean "2: intent
25 to commit an unlawful act or cause harm without legal justification or excuse,"
27 I accused the panel of libel - publishing a representation without just cause
29 to expose me to public contempt. That was to illustrate their bias against
31 me, not from malice. But Rule 39.8 is not applicable, as I did not file
33 for an extraordinary writ, or a jurisdictional statement, and certiorari
35 does not lie in this instance. See p. 1, last 5 lines, pp. 2-3. This is a
37 direct Appeal arising under 26 Stat. 826, chap. 517, §§ 5-6, March 3, 1891, as of
39 right, and this Court "must exercise review because it has no discretion to deny
41 review¹." *Supra* p. 2 L. 24-26, and footnote 1; U.S. v. Will, 449 US 200, n19,
p. 14

SYNOPSIS

The U.S.C.A. 7th Circuit denied the Appellant due process by granting Dkt #14 Motion the next day without allowing him to oppose. Then sitting as Judge and Party. This denied me a fair appeal. I moved the court to declare the judgment void.

In the Petition For Rehearing, I asked for the question of jurisdiction to be certified. I prayed for release from illegal incarceration on habeas corpus, and answer to it. Rules of Appellate Procedure 23 was violated and Supreme Court Rule 36 was violated. False information was proffered to the Appeals Court, my designation was not made, my classification was not changed, and I was put into transit with no destination to prevent me from being able to properly prepare any legal pleading.

I hurriedly filed what I could Oct. 16, 2023, and was placed in transit 10/17. I ipso facto requested leave to file an appeal from the U.S.C.A. 7th Cir. and an extension of time be granted because of being transferred to a different prison unlawfully in the middle of litigation. I asked for "Leave to file a direct appeal from the USCA 7th Cir," and "an extension of time for 60 days after being moved to a medical facility". CONCLUSION:

I was not reclassified with a Medical or transferred to a Medical facility as the Court was told. I was placed in a facility noted for denying requisits for being able to access the Courts. I pray the Court reverse its Jan. 8, 2024 ORDER, ORDER I be transferred to a MEDICAL facility, and grant me extension of time. I hereby swear that the foregoing is true and accurate under penalty of perjury.

Respectfully submitted, Jan. 24, 2024 Brent D. Cole
Petitioner, Brent D. Cole

Page 15

FOOTNOTES

1. "Chief Justice Marshall [1...], wrote that a court "must take jurisdiction if it should. The judiciary cannot, as the legislature may, avoid a measure because it approaches the confines of the constitution. We cannot pass it by, because it is doubtful. ... [W]e must decide it, if it be brought before us. We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution. Questions may occur which we would gladly avoid; but we cannot avoid them." *Id.*, at 404, 5 L Ed 257 " United States v. Will, 449 US 200, 216, n.19, 66 L Ed 2d 392, 101 S Ct 471 (1980).
2. "In one description of cases, the jurisdiction of the court is founded entirely on the character of the parties;... In the other description of cases, the jurisdiction is founded entirely on the character of the case, and the parties are not contemplated by the constitution... [T]he constitution declares the jurisdiction... in all cases arising under the constitution or a law, to be appellate, [to be original.] ... This reasonable construction is rendered necessary by other considerations. ..." Cohens v. Virginia, 6 Wheat 264, 393-394, 5 L Ed 257 (1821).
3. "United States Code is not enacted as statute, nor can it be construed as such, it being only prima facie statement of statute law; statutes collected in it do not change their meaning nor acquire any new force by their inclusion; if construction is necessary, recourse must be had to original statutes." Murrell v. Western Union Tel. Co., 160 F.2d 787, 788, 1947 U.S. App. LEXIS 2683 (5th Cir.) [No. 11670]

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

January 8, 2024

Mr. Brent Douglas Cole
Prisoner ID Reg. No. 71911-097
FCI-Thompson
P.O. Box 1002
Thompson, IL 61285

Re: Brent Douglas Cole
v. R. D. Keyes, Warden
No. 23-5930

Dear Mr. Cole:

The Court today entered the following order in the above-entitled case:

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott S. Harris", written in a cursive style.

Scott S. Harris, Clerk

Certification Of Petitioner In Propria Persona

I, Brent D. Cole, petitioner, hereby certify that this PETITION FOR REHEARING IS presented in good faith and not for delay. It is restricted to other substantial grounds not previously presented, except that page 6 repeats the text that is in a motion's appendix, and elucidates on the motive for the Executive exercising judicial functions for ulterior reasons, and requests clarification and a question be answered.

Brent D. Cole

Executed on January 2, 2024

At Thompson, Illinois

**Additional material
from this filing is
available in the
Clerk's Office.**