No.: 23-6152

In The
Supreme Court of The United States

In re: Michael Alonzo Rufus, an "individual" and "non-obligor person" as defined the Dictionary Act or derivative of the aforementioned form - PETITIONER

On Petition For A Writ of Prohibition and/and Mandamus to The Fourth Circuit Court of Appeals and/or United States District Court For The District of South Carolina Columbia Division

Petition For A Writ of Prohibition and/or Mandamus

Michael Alonzo Rufus [99284-071]
Federal Correctional Complex Petersburg
P.O. Box 1000
Petersburg, VA 23804

Question(s) Presented

1. Is Petitioner entitled to immediate relief including mandamus and/or prohibition from this Court in relieving Petitioner from being unconstitutionally restrained of his liberty by proceedings suffering from a want of jurisdiction originally and continuously; and for which his pleas to the jurisdiction of the courts have been fraudulently and erroneously denied and/or unanswered by the lower courts.

2. Does the proceedings of a district and appellate court both exercising statutorily limited and special jurisdiction suffer a want of jurisdiction by failing to affirmatively aver on the face of said proceedings the species or particular character of an accused charged under statutes that employ the terms and genuses "person" or "whoever" as provided the Dictionary Act.

Relief Sought

Petitioner prays for a writ of prohibition and/or mandamus be issued either dismissing Case no.: 3:02CR00550 or directing the lower courts to dismiss said Case for suffering from a want of jurisdiction.

CORPORATE DISCLOSURE STATEMENT AND CERTIFICATE OF INTERESTED PERSONS

All officers of the federal courts employed and paid under the Dual Employment and Dual Pay provisions of 5 USC §§ 5532 and 5533 as employees of the executive branch;

United States of America in it's corporate character or other representative of the unincorporated association of persons - society created under the executive branch's agency Social Security Administration.

These persons have an interest in the outcome of this case or appeal.

List of Parties

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding(s) of this court whose judgment, proceedings, etc is the subject of this petition is as follows:

1. United States District Court For The District of South Carolina Columbia Division
2. Fourth Circuit Court of Appeals of The United States

Related Cases

1. U.S. District Court Case no.: 3:02CR00550
2. US Court of Appeals For The Fourth Circuit no.: 22-4161

Unavailability of Relief In Other Courts

Any and all attempts of relief in the federal courts have been and are being conducted under a custom and practices that these courts are exercising "general jurisdiction."

Petitioner's instant action involves his seeking relief from his being deprived of liberty by proceedings and judgments of federal courts exercising statutorily limited and special jurisdiction. See Celotex Corp. v Edwards, 514 US 300, 307 "The jurisdiction ... of [] federal courts is grounded in, and limited by statute.; See also Cohens v Virginia, 6 Wheat 264 428 "Congress cannot punish felonies generally." Cf 18 USC § 3231. These courts, being inferior courts in the technical sense, are portraying the position that they have satisfied the jurisdictional requisites by using charging provisions that employ the generic and vague term, and genus, "person" and "whoever." "The Dictionary Act... treat[s] the word 'individual' as a subset of the term 'person.' By making this distinction with regards to these two words, they are not synonymous." United States v Hilton, 701 F.3d 959, 967 (4th Cir 2012).; See also Aziz v Alcolac, 658 F.3d 388, 392 (4th Cir, 2011) "Congress has directed courts-when interpreting a federal statute to give a broader reach to the noun 'person' to include both corporations and individuals."

Under these sciences of laws Petitioner's complaint(s) provide how Social Security Administration, 42 USC § 901, is an instrumentality of commerce for which Congress has long been able to regulate under special laws. See Pittman v Home Owners'

Loan Corp, 308 US 21, 32-33 "Congress has not only the power to create a corporation to facilitate the performance of governmental functions, but has the power to protect the functions thus validly authorized. A power to create implies a power to preserve." They also provide how, legally presumed, not lawfully proven, members of or accuseds deemed liable to said unincorporated society can be a species-class of the "person(S)" or "whoever(S)" subjected to criminal proceedings and similarly natured causes that are prosecuted in specialized tribunes. See Northern Pipeline Co v Marathon Pipeline Co, 458 US 50, 83 "[W]hen Congress creates a statutory right, it clearly has the discretion, in defining that right, to create presumptions, or assign burdens of proof, or prescribe remedies; it may also provide that persons seeking to vindicate that right must do so before particularized tribunals created to perform the specialized tasks related to that right." And that these proceedings involve the accuseds in their corporate, not personal, characters. See Louisville, Cincinnati & Charleston R.R. Co v Letson, 2 Howard 497, 552 "Jurisdiction in one sense, in cases of corporations, exists in virtue of the character of members, and must be maintained in the courts of the United States... by the fact that the subject of controversy between them has arisen upon a contract to which the former are parties, in their corporate and not their personal character."

Each attempted post conviction proceeding i.e. coram nobis, direct appeal, or 28 USC §§ 2241 or 2255, Petitioner has pursued have been prosecuted under the legal position they are courts of "general jurisdiction." These courts have created a custom that permit them to continue the unconstitutional practices and jurisdictional deficiencies in violation of clearly established law. "Federal courts are courts of limited jurisdiction. [] It is to be presumed that a cause lies outside this limited jurisdiction, [] and the burden of establishing the contrary rests upon the party asserting jurisdiction." Kokkonen v Guardian Life Ins. Co, 511 US 375, 376; See also Delaware v Van Arsdall, 475 US 673, 692 "[E]very federal court is 'without jurisdiction unless the contrary appears affirmatively from the record,'" and King Bridge Co. v Otoe County, 120 US 225, 226 "[T]he presumption... is that the court below was without jurisdiction unless the contrary appears affirmatively from the record."[1]

Petitioner requests that this Court take judicial notice of the face of his criminal case no.: 3:02CR00550, EVERY post conviction relief attempt in the district court(S) Case no(S).: 6:06-2403 (2006), 6:10-309 (2010), 6:11-3276 (2011), and 6:11-746; and 4th Circuit Court of Appeals no(S).: 03-4840 (2004), 08-7038 (2008), 12-6294 (2012), 13-6006 (2013), 15-7418 (2016), 16-6181 (2016), 20-7025 (2021), 20-7469 (2021), and 22-4161 (2023). See Borg v McDougall, 454 US 364, 367 "Records of the [lower] court... we may take judicial notice." Upon review of the face of these proceedings this Court will find that none of them identify the jurisdictional requisite if Petitioner's character in said proceedings was that of Michael Alonzo Rufus, an individual or Michael Alonzo Rufus, corporate character SS#XXX-XX-XXXX as required the jurisdictional circumstances subject of the action. Cf Appeal no.: 23-1195 captioned "In re Michael Alonzo Rufus, an individual and non-other person..."

The rules of evidence for the aforementioned proceedings as and of courts of "special and limited jurisdiction" is that they "are erected on such principles that their judgments, taken alone, are entirely disregarded, and the proceedings must show their jurisdiction." Kempe's Lessee v Kennedy et al, 5 Cranch 173, 185; See also Turner v Bank of North America, 4 Dall 8, 11 "[T]he fair presumption is [] that a court is without its jurisdiction till the contrary appears. This renders it necessary, in as much as the proceedings of no court can be deemed valid further than its jurisdiction appears, or can be presumed, to set forth upon the record of a [] court, the facts or circumstances, which give jurisdiction, either expressly, or in such manner as to render them certain by legal intendment." See Appeal no.: 23-1195

Petitioner submits the abovementioned in proving to this Court that the lower courts are employing unconstitutional customs that include the legal position that the district court in Case no.: 3:02CR00550 was the equivalent of a court of "general jurisdiction" under the provisions of 18 USC § 3231. Petitioner requests that the Court take judicial notice that on 21 October 2021 the district court adjudicated, in relevant part, "that Defendant had filed a motion for discovery that again challenged the jurisdiction of the court. The court determined that Defendant's claims were meritless because: subject matter jurisdiction in every federal criminal prosecution is derived from 18 USC § 3231..." pg 4 Entry 238; on 21 December 2021 transcript "This Court has explained to Mr Rufus on prior occasions 18, Title 18, United States Code Section 3231 establishes this Court's jurisdiction..." pg 6; and then the Fourth Circuit Court of Appeals in Appeal no.: 22-4161 "As the district court explained to Rufus, it had jurisdiction over his case under 18 USC § 3231." pg 4

The customs, acting under the legal position that these courts are of general jurisdiction resulting from the provisions of 18 USC § 3231, practices destroy Petitioner's guarantees as an individual and to those rules and terms which have been establish for inferior courts in provisions under 28 USC §§ 2241 and 2255 also.

This custom and it's maintenance of Petitioner's restraint of liberty under the jurisdictional deficiencies is continued in post conviction proceedings that employ the unconstitutionally generic and vague term "prisoner" in their provisions. The term "prisoner" employed in the provisions of 28 USC §§ 2241 and 2255, being a derivative of the terms and genus "person" and "whoever" used within the charging statutes subject of this case, must be construed with reference to the science of laws applicable to said terms. Under these circumstances the federal courts that Petitioner has, will, or can attempt to seek relief under 28 USC §§ 2241, 2255, or otherwise Petitioner is fraudulently and unconstitutionally being legally presumed the character previously assumed and acted upon in Case no.: 3:02CR00550. Cf Kempe's Lessee v Kennedy et al, 5 Cranch 173, 185 "...courts of [] special and limited jurisdiction [] are erected on such principles that their judgments, taken alone, are entirely disregarded, and the proceedings must show jurisdiction." [2]

It is under these circumstances that Petitioner complains he has no other available avenue to seek relief consistent with the mandates of the Due Process Clause.

See Kennard v Louisiana, 92 US 480 "The due course of legal proceedings, according to those rules and forms which have been established for the protection of private rights, is due process of law."

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Jurisdictional Statement

This Court has jurisdiction to issue the requested writ under 28 USC § 1651(a), Supreme Court Rule 20, and the Due Process Clause of the United States Constitution.

STATEMENT OF CASE

On 08/20/02 Petitioner was indicted in the United States District Court for The District of South Carolina Columbia Division Case no: 3:02CR00550 for, purportedly, violating 21 USC §§ 846, 841(a)(1), and 18 USC §§ 922(g)(1), 924(c). Appx B

The indictment in satisfying the jurisdictional requisites of the court of statutory limited and special jurisdiction, merely averred, in relevant part "... the defendants, MICHAEL ALONZA RUFUS and ELAM YISREAL, did conspire ... to possess with intent to distribute and to distribute 500 grams or more of cocaine ... in violation of Title 21, United States Code, Section 841(a)(1);
All in violation of Title 21, United States Code, Section 846. [Count 1]

... MICHAEL ALONZA RUFUS, knowingly and intentionally did possess with intent to distribute 500 grams or more of cocaine ...
In violation of Title 21, United States Code, Section 841(a)(1). [Count 2]

... MICHAEL ALONZA RUFUS, having been convicted of a crime punishable by imprisonment for a term exceeding one year, knowingly did possess, in and affecting commerce, a firearm which had been shipped and transported in interstate commerce;
In violation of Title 18, United States Code, Sections 922(g)(1) and 924(a). [Count 3]

... MICHAEL ALONZA RUFUS, knowingly did use and carry a firearm during and in relation to, and did possess the firearm in furtherance of a drug trafficking crime ...
In violation of Title 18, United States Code, Section 924(c)(1). [Count 4]. See Exhibit 1

On 25 April, 2003, without being informed of the special and limited nature of the United States and it's federal courts jurisdiction of crimes by any of Petitioner's attorneys, Petitioner pleaded guilty to conspiracy to possess with the intent to distribute 500 grams or more of cocaine (Count 1) and possession of a firearm in furtherance of a drug trafficking (Count 4). On 17 October, 2003, Petitioner was sentenced to a period of 37 months as to Count 1 and 60 months as to Count 4, the latter mentioned to run consecutively, to be followed by a term of 8 years supervised release. Petitioner was release to supervised release on 08 July, 2010. Appx C

On 02 April, 2012, the United States Probation Office is alleged to have requested for the issuance of a warrant. Upon review of the "Petition for Warrant or Summons for Offender Under Supervision," See Exhibit 2, it will show that it was affirmed under the unsworn declaration provisions of federal law not the requirements of the Fourth Amendment. On 04 April, 2012 Judge Seymour signed the warrant request.

On 20 October, 2021 Petitioner caused his "Plea To Oust Jurisdiction of the Court Procured by Fraud" to be filed in the District Court. In challenging the courts jurisdiction Petitioner complained, in relevant part "Applicable to this filing Accused is now learned that the terms and phrases "person" and/or whoever as used the statutes for which he was charged with ... must be construed uniquely when determining personal liabilities. Particularly in doing such, which Accused was not informed by representing counsels, the law holds, in relevant part, "In determining the meaning of any Act of Congress, unless the context indicates otherwise — ... the words 'person' and 'whoever' include corporations, companies, associations, firms, partnerships societies, and joint stock companies, as well as individuals,' 1 USC § 1 and 'As used in this chapter - The term 'person' and the term 'whoever' include any individual, corporation, company, association, firm, partnership, society, or joint stock company." 18 USC § 921 (a)(1). See pg 2 of Exhibit 3 [Appx D]

Petitioner arguing that "Most of [the officers of the court responsible for his prosecution, conviction, and maintenance of the aforementioned] are members of the State Bar of SC." and thereby had a confidential or fiduciary relationship in the proceedings to act in good faith. See pg 4. [Appx D]

Petitioner complained that "Said officers of the Court i.e. representing counsels, prosecuting attorney, probation officer(s), presiding judge(s) but not limited to either conducted the actual acts or permitted the acts, of this Suit to be initiated, prosecuted and being prosecuted without there being affirmative or distinct averment of what class of 'person' Accused was being prosecuted under the statutory provisions of 1 USC § 1 id, 18 USC § 921 (a)(1)... These acts and omissions are the equivalent of constructive fraud.'... Hooks v Cox, 314 S.C. 512, 515 (Ct App 1993)... Pitts v Jackson Nat. Life Ins Co. 352 SC 319, 330-331." See pg 4 [Appx D]

Petitioner complained "These statutory requisites i.e. 1 USC § 1, 18 USC § 921 (a)(1)... are ultimately provisions that limit and confer jurisdiction under classes of cases for which general jurisdiction is ordained the district courts under 18 USC § 3231. 'The decisions of [the Supreme Court] require that the averments of jurisdiction shall be positive, that the declaration shall state expressly the fact on which jurisdiction depends. It is not sufficient that jurisdiction may be inferred argumentatively from its averments. Brown v Keene, 8 Pet 112. The right to the jurisdiction must rest on clear, plain, and simple averments on which a single and simple issue can be joined.' Mickens v Amos Webb et al, 136 US 25, 32; See also Cole v Blankenship, 30 F.2d 211, 216 (4th Cir 1929)....

This Court's acquisition and exercise of jurisdiction, being procured under these frauds, must be adjudicated coram non judice and void." See pg 5 [Appx D]

Though the trial court never addressed the aforementioned complaints in it's 21 October, 2021 Order, Exhibit 4 Entry # 238, in response to similarly natured jurisdictional complaints of Petitioner the court held, in relevant part, "Defendant argues the court has fraudulently failed to adjudicate his claims pursuant to authorities supporting his contention that the court must exercise jurisdiction 'uniformly,' not universally, under a dual system of classification of citizens of the United States.' ECF No.: 210, 1. In a related filing, Defendant again challenges the jurisdiction of the court over:

matters arising and prosecuted against individuals legally presumed and recognized as and retaining their civil status-capacity as originally described citizens of the United States and characterized under the 'private rights doctrine,' verses this Court's, as a court of United States, obligation to adjudicating matters arising and prosecuted against the same individuals, being citizens of the United States in a political sense, but whom are legally presumed and recognized as having waived or renounced their originally ascribed civil status capacity aforementioned due to social contracting with and becoming a member of Congress' agency under the executive branch, Social Security Administration (42 USC § 901), and thereby birth into a civil status and national unincorporated association of persons that [federal courts] are unable to prosecute under the public rights doctrine as recognized Northern Pipeline Construction Co v Marathon Pipeline Co, 458 US 50, 83" pgs 6-7 [Appx E]

The trial court's ultimate denial of Petitioner's jurisdictional challenges and proceeding in the matter was under its determination "The court has not addressed any purported authorities relied upon by Defendant because, upon review, his arguments are baseless and invalid." pg 8 [Appx E]

Petitioner's continued attempts to challenge the jurisdiction of the court during his revocation proceedings were destroyed by officers of the court that acted under a custom of jurisdiction existing preliminarily contrary to law. During a 9/20/2021 hearing after informing the court that Petitioner wished to proceed pro se and to challenge the jurisdiction of the court Magistrate Judge Gossett, acting under the custom, refused to allow Petitioner to challenge the jurisdiction of the court until Petitioner permitted her to do a pro se colloquy. [Appx A] ECF 219

Petitioner refused to allow Magistrate Gossett to administer the pro se colloquy prior to his jurisdictional challenges because such conduct would be an admittance that jurisdiction existed. Magistrate Gossett terminated the proceedings and assigned AFPD Allen Burnside as the defendant's appointed counsel. See Docket Entry 219 [Appx A]

On 10/07/2021 Petitioner's 10/01/2021 Motion for Withdrawal of appointed counsel was docketed [Entry no.: 225] and set down for hearing before Magistrate Judge Shiva V Hodges hearing date 10/12/2021. The order specifically threatened "The defendant is advised that if he refuses to recognize the jurisdiction of the court and refuses to participate in the court colloquy, his pro se motion will be denied." See Docket Entry 225 [Appx A]

During the 10/12/2021 hearing Magistrate Hodges acknowledged that she had received Petitioner's pro se motion for withdrawal of appointed counsel, which complained of the need to resolve the jurisdictional deficiencies, but acting under the custom, determined that the court needed to address the merits of preliminary and detention hearing rights first. In attempting to get Petitioner to voluntarily act in accordance with the practices of the custom necessary to create the appearance that the jurisdiction defects did not exist Magistrate Hodges began conducting requisites on the merits of a detention hearing. pgs 2-3 12 Dec, 2021 Transcript [Appx G]

When Petitioner responded "You're not going to get a yes or no because I'm challenging your authority to act..." pg 4 in response to Magistrate Hodges attempts to induce him into the jurisdiction of the court Magistrate Hodges, acting under the custom and the proceedings suffering a want of jurisdiction, directed Petitioner "You can sit down. We'll move forward with the detention hearing and the preliminary hearing. The motion to represent himself pro se is denied because of his refusal to recognize the jurisdiction of the court." pg 4 See also Docket Entry 227[Appx 6]

On 20 December, 2021 the district court in explaining and determining it's exercise of jurisdiction in response to Petitioner's complaints, stated, in relevant part "...This court has explained to Mr Rufus on prior occasions 18, Title 18 United States Code Sections 3231 establishes this Court's jurisdiction, so then the court denies Mr Rufus' Motion...

In addition, Mr Rufus has filed... Plea to oust jurisdiction of the court procured by fraud, ECF number 237...

To the extent that these filings require court action, they are denied." pgs 6-7 [Appx 7]

On 03 January, 2022 Petitioner caused his "Amended Request for Reconsideration & Disqualification," Entry no.: 267, wherein he challenged and requested the court to reconsider it's position that the provisions of 18 USC§3231 conclusively resolves the question of the district and other federal court's exercise of jurisdiction over felonies.

Petitioner complained, in relevant part "Contrary to the 'conclusiveness' of this position precedent has long established 'It is clear, that Congress cannot punish felonies generally,' Cohens v Virginia, 19 US 264, 428 (1821); See also United States v Fox, 95 US 670, 672 (1878) 'A criminal act committed wholly within a State cannot be made an offense against the United States, unless it have some relation to the execution of a power of Congress, or to some matter within the jurisdiction of the United States.'

[I]n order for there to be an affirmative showing of jurisdiction in this matter it required the Government to explain the jurisdictional particulars of the original charging statutes. See Torres v Lynch, 136 S. Ct. 1619, 1624 (2016)...

As plenty Accused's Jurisdictional Plea, upon review of the statutes he was originally charged there is no conclusive jurisdictional language 'spelling out the warrant for Congress to legislate.'...

The term 'person' although plain and ordinarily meaning 'a human being'... often has a broader meaning in law to include a corporation, a partnership, an estate, or other legal entity... Recognized by law as having rights and duties,' citations and punctuation omitted." Aziz v Alcolac, 658 F.3d 388, 393. Cf 'In our view, then, when Congress uses the noun 'individual' rather than the broader term 'person'-it should ordinarily be construed to mean a human being or natural person.' Id...

See Lewis' Sutherland Statutory Construction, 2d Ed, §§195,196 "The State [United States in this matter] contains a great variety of subjects of legislation, each requiring provisions peculiar to itself. Generic subjects may be divided and subdivided into as many classes as required this peculiar legislation. * * * A statute relating to persons or things as a class is a general law; one relating to a particular person or things of a class is special.' See also Wheeler v Philadelphia, 77 Pa St. 338, 349 'The genus homo is a ~~[illegible]~~ subject within the meaning of the constitution." pgs 1-3

Without recognizing or ~~[illegible]~~ Petitioner's pleadings in relations to the jurisdictional nature of the terms "person" or "whoever" in the charging statutory provisions in the case the district court denied Petitioner's request for reconsideration. See pgs 3-5 of Entry no.: 272 [Appx I]

On 08 April, 2022 the Fourth Circuit Court of Appeals permitted Petitioner to proceed pro se by relieving appointed counsel. On 28 April, 2022 Petitioner cause his informal brief to be filed in the Court of Appeals under Appeal no.: 22-4161.

Within Petitioner's "Issue 2" he complained "The district court's exercise of jurisdiction in the revocation proceedings was in violation of law, equity, and Appellant's guarantees of due process." See pgs 5-6.

In support of the abovementioned ground Petitioner complained "(b) The district court's acquisition and exercise of jurisdiction during the revocation proceedings was a contrivance of its having fraudulently and unconstitutionally done such under the generic term "person" in the statutory provisions of 18 USC §§ 922(g)(1), 924(c)(1), and 21 USC §§ 841(a)(1) and 846 without affirmatively having or requiring the government, or other involved officers of the court permitting..., to aver the particular class of person See Dictionary Act, for which the district court was to be and in fact exercising jurisdiction, ie. 'subject matter,'...
[T]he mediators and other officers of the district court proceeded as if there is a presumption in favor of jurisdiction in this case. 'Federal courts are courts of limited subject matter jurisdiction, and as such there is no presumption that the court has jurisdiction.' Lehigh Mining & Manufacturing Co. v Kelly, 160 US 327, 327 (1895)...
Under the governing authority on this subject the government was and is required to affirmatively aver and/or place upon the face of the records whether it was "proceeding against Appellant in his private capacity as an individual" or the illegal-unconstitutional, existing capacity as an "other person and non-individual," ie. artificial entity found definition of person...
In evaluating and construing the generic term 'person' derived from the charging statutes applicable this case... the description is too vague to give the court jurisdiction...
In applying these circumstances of the generic term 'person' to remedial measures of vagueness the law favors Appellant in this issue. 'The vice of vagueness in criminal statutes is the treachery that they conceal what persons are included... See also U.S. v Cruikshank, 92 US 542, 558 "It is an elementary principle of criminal pleading, that where the definition of an offense, whether it be at common law or by statute, includes generic terms, it is not sufficient that the indictment shall charge the offense in the same generic terms as in the definition; but it must state the species, it must descend to particulars." See pgs 7-9

Without regards to Petitioner's abovementioned jurisdictional complaints on 10 October, 2023 the Fourth Circuit Court of Appeals issued an order affirming the district court's exercise of jurisdiction and orders of commitment. The order states, in relevant part "Michael Alonzo Rules appeals the district court's orders denying his pro se motions, revoking his supervised release, and imposing a sentence within his policy statement...
We review de novo whether the district court had jurisdiction to rule upon alleged

violations of supervised release. ... We review an alleged denial of due process de novo. ...

We first consider Rufus' arguments that the district court lacked jurisdiction in his case and find them without merit. As a general rule a district court 'is without jurisdiction to revoke a supervise release term or sanction violations once the term has expired.' ... Furthermore, as the district court explained to Rufus, it had jurisdiction over his case under 18 USC § 3231." See pgs 2, 3, and 4 [Appx J]

Petitioner brings this action under these circumstances.

Arguments & Citations of Authorities

The principle under which the power to issue the extraordinary writ of prohibition may be exerted was thus stated in Re Huguley Mfg. Co. 184 US 301, 46 L. ed 551, 22 Sup. Ct. Rep 455:

"It is firmly established that where it appears that a court whose action is sought to be prohibited has clearly no jurisdiction of the case originally, a party who has objected to the jurisdiction at the outset and has no other remedy, is entitled to a writ of prohibition as a matter of right." See also In re Chicago, Rock Island, & P. R. Co. 255 US 273, 275 "There is a well-settled rule by which this court is guided upon applications for a writ of prohibition to prevent a lower court from wrongfully assuming jurisdiction of a party, of a cause, or of some collateral matter arising therein. If the lower court is clearly without jurisdiction, the writ will ordinarily be granted to one who, at the outset objected to the jurisdiction, has preserved his rights by appropriate procedure, and has no other remedy."

Consistently precedent holds, in relevant part, "Section 688 of the Revised Statutes enacts that the Supreme Court shall have power to issue... writs of mandamus in cases warranted by principles and usages of law, to any court appointed under the authority of the United States, or to persons holding office under the authority of the United States. ... In what cases such a writ is warranted by the principles and usages of law it is not always easy to determine. Its use has been very much extended in modern times, and now it may be said to be an established remedy to oblige inferior courts and magistrates to do that justice which they are in duty and by virtue of their office bound to do. It does not lie to control judicial discretion, except when that discretion has been abused; but it is a remedy when the case is outside the jurisdiction of the court or officer to which or to whom the writ is addressed. One of its peculiar and more common uses is to restrain inferior courts and to keep them within their lawful bounds." Ex Parte, Commonwealth of Virginia 100 US 313, 323-324; See also 28 USC § 1651

Writ of Prohibition and/or Mandamus is warranted against the lower courts exercise of jurisdiction due to the following:

In response to Petitioner's complaints against the lower courts exercise of jurisdiction under the changing statutory provisions use of the generic and vague terms "person" and "whoever" both lower courts have concluded ultimately that that grants of original jurisdiction to the district courts under 18 USC § 3231 resolves the question. See pgs 5-6 of ECF no: 183, pgs 4-5 of ECF 238, pgs 6-7 of 20 Dec, 2023 Revocation hearing transcript, and pgs 3-5 of ECF no. 272 in Case no 3:02CR00550; and pgs 2-4 of 4th Circuit Court of Appeal no.: 22-4161

Contrary to the lower courts determination it has been long established that "Congress cannot punish felonies generally." Cohens v Virginia, 6 Wheat 264, 428. Consistent with this precedent the Constitution expressly delegates to Congress authority over only four specific crimes: counterfeiting securities and coin of the United States, Art. I, § 8, cl. 6; piracies and felonies committed on high seas, Art. I, § 8, cl. 10; offenses against the law of nations, ibid.; and treason, Art. III, § 3, cl. 2. "The Constitution, in short, 'withhold[s] from Congress a plenary police power,'" United States v Lopez, 514 US 549, 566; See Art. I, § 8; Amdt 10. See also The Federalist no.: 42 (Madison) "The provision of the federal article on the subject of piracies and felonies extend no further than to the establishment of courts for the trial of these offenses." and no: 43 "As treason may be committed against the United States, the authority of the United States ought to be enabled to punish it ... by inserting a constitutional definition of the crime, fixing proof necessary for convicting of it, and restraining the Congress..."

Further in reading the provisions of 18 USC § 3231 as required by law it establishes that the phrase "original jurisdiction" merely grants the district courts power to entertain causes identified in the first instance exclusively of other federal courts. See Black's Law Dictionary 5th Ed. "Original jurisdiction. Jurisdiction in the first instance. Jurisdiction to take cognizance of a cause at its inception.... Distinguished from appellate jurisdiction." See also Cheng Fan Kwok v INS 392 US 206, 212 Jurisdictional statutes are to be construed 'with precision and fidelity to the terms by which Congress has expressed it wishes.'"

In stating the abovementioned limitations upon the district court's exercise of jurisdiction under the circumstances of this case Petitioner is of the position that if any constitutional authority exists for Congress to create regulations for the charges subject of this suit such circumstances require the proceedings of this case (Case no.: 3:02CR00550) to be governed by the principles cited Galpin v Page 85 US 350 and similar related cases.

In Galpin v Page this Court held, in relevant part "However high the authority to whom a special statutory power is delegated... 'we must take care that in the exercise of it the facts giving jurisdiction plainly appear, and that the terms of the statute are complied with.'...

'A court of general jurisdiction... may have special or summary powers wholly derived from statutes, not exercised according to the course of the common law, and which do not belong to it as a court of general jurisdiction. In such cases, its decisions must be regarded and treated like those of courts of limited and special jurisdiction. The jurisdiction in such cases, both as to the subject-matter of the judgment and as to the persons to be affected by it must appear by the record; and everything will be presumed to be without the jurisdiction which does not distinctly appear to be within it." Consistently in relation these class of proceedings this Court has held "A circuit court... is of limited jurisdiction; and has cognizance, not of cases generally, but only of a few specially circumstanced, amounting to a small proportion of the cases, which an unlimited jurisdiction would embrace. And the fair presumption is... that a cause is without its jurisdiction till the contrary appears. This renders it necessary, in as much as the proceedings of no court can be deemed valid further than its jurisdiction appears, or can be presumed, to set forth upon the record of a circuit court the facts or circumstances, which give jurisdiction, either expressly or, in such manner as to render them certain by legal intendment." Turner v Bank of North America, 4 Dall 8, 11

The proceedings of Case no.: 3:02CR00550, being of a court exercising special and limited statutory jurisdiction, suffer a want of jurisdiction because they fail to distinctly or expressly state the specific or particular class of "person" or "whoever" the courts jurisdiction was based.

This Court is requested to take judicial notice that within the indictment used Case no.: 3:02CR00550, See ECF no.: 11, holds, in relevant part, "Count 1. The grand jury charges: ... the defendant[ ] MICHAEL ALONZA RUFUS... in violation of Title 21, United States Code Section 841(a)(1); All in violation of Title 21, United States Code Section 846.; Count 2. The grand jury... charges: ... the defendant MICHAEL ALONZA RUFUS, ... in violation of Title 21, United States Code Section 841(a)(1); Count 3. The grand jury... charges... the defendant MICHAEL ALONZA RUFUS, ... in violation of Title 18, United States Code, Section 922(g)(1) and 924(a); and Count 4 The grand jury... charges... the defendant MICHAEL ALONZA RUFUS, ... for which he may be prosecuted in a court of the United States; in violation of Title 18, United States Code, Section 924(c)(1)

Each of the statutory charging provisions use the unconstitutionally generic and vague term, and generics, "person" and "whoever" as follows:

18 USC § 922(g)(1) "It shall be unlawful for any 'person'—";

18 USC § 924(a)(1) "...'whoever'—";

21 USC § 841(a)(1) "...it shall be unlawful for any 'person'..."; and,

21 USC § 846 "Any person..."

None of the aforementioned "crimes" are subjects that the Constitution has delegated Congress general authority to legislate.

The terms "person" and "whoever" has been defined by the Dictionary Act as "In determining the meaning of any Act of Congress, unless the context indicates otherwise — the words 'person' and 'whoever' include corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals." 1 USC § 1

Petitioner's position that the terms "person" and "whoever" used in the charging provisions of this case are generic and thereby employed in an unconstitutionally generic and vague manner is supported by Common and American law.

In his Commentaries on the laws of England Sir William Blackstone states "Persons ...are divided by law into either natural persons, or artificial. Natural persons are such as the God of nature formed us; artificial are such as created and devised by human laws, for the purposes of society and government, which are called corporations or body politics." See pg 119 Bk 1

In Louisville, Cincinnati & Charleston R.R. Co v Letson, 2 How. 497, 552 this Court held "A corporation aggregate is an artificial body of men, composed of divers constituent members ad instar corporis humani, the ligaments of which body politic, or artificial body, are the franchises and the liberties thereof which bind and unite all its members together; and which the whole frame and essence of the corporation consists. (Bacon Abr. Cor. A.)."

The Fourth Circuit, from which this case is derived, holds, in relevant part, "Congress has directed courts - when interpreting a federal statute to give a broader reading the noun person to include both corporations and individuals." See Aziz v Alcolac, 658 F.3d 388, 392 (4th Cir 2011); See also United States v Hilton, 701 F.3d 959, 967 (4th Cir 2012) "The Dictionary Act... treat[s] the word individual as a subset of the term person." By making this distinction with regards to these two words, they are not synonymous."

These authorities, but not limited to, are the foundation of Petitioner's complaints that the "person" or "whoever" provisions must be construed with reference to the sciences of laws created and applicable to Social Security Administration. The agency would ultimately be an unincorporated association -society for which is an instrumentality of commerce and regulated as such by Congress.

The enabling statute for Social Security Administration is 42 USC § 901. The statute holds, in relevant part "(a) There is hereby established an independent agency in the executive branch of the Government a Social Security Administration... (b) It shall be the duty of the administration to administer the old-age survivors, and disability insurance program and supplemental security program..."

This Court describes the agency as "Because the social security system is nationwide the governmental interest is apparent. The social security system in the United States serves the public interest by providing a comprehensive insurance system with a variety of benefits available to all participants. The social security system is by far the largest domestic governmental program in the United States." United States v Lee, 455 US 252, 258-259

This description is the equivalent of attributes of a "corporate aggregate" considered an instrumentality of Congress as adjudicated Pittman v Home Owner's Loan Corp., 308 US 21, 33 (1939) "Congress has not only the power to create a corporation to facilitate the performance of governmental functions, but has the power to protect the operations thus validly authorized. 'A power to create implies a power to preserve.'"

Under these sciences of laws MICHAEL ALONZA RUFUS SS no: XXX-XX-XXXX would be a species or particular class of subjects found within the terms "person" or "whoever" subject of the action, This Court has long recognized that the Federal courts have jurisdiction of these juristic persons.

In Louisville, Cincinnati & Charleston, R.R. Co. v Letson this Court stated "Jurisdiction in one sense, in cases of corporations, exist by virtue of the character of their members, and must be maintained in the courts of the United States... by the fact that the subject of controversy between them has arisen upon a contract to which the former are parties, in their corporate and not their personal character." Id at 2 How 552.

Of a similar nature and applicable to the science of laws applicable to Congress's specialized society i.e. SSA and birthed entity MICHAEL ALONZA RUFUS SS no: XXX-XX-XXXX this Court has stated "When Congress creates a statutory right it clearly has the discretion, in defining that right, to create presumptions, or assign burdens of proof, or prescribe remedies; it may also provide that persons seeking to vindicate that right must do so before a particularized tribunal created to perform the specialized tasks related to that right." Northern Pipeline Co., Id

The generic and vague terms "person" and "whoever" have the nature of subject matter jurisdictional requisites which required Congress "to spell out the warrant to legislate, i.e. Michael Alonzo Rufus an individual and conditions his actions affected commerce or MICHAEL ALONZA RUFUS, in his corporate character [SS no.: XXX-XX-XXXX] which is an instrumentality of commerce. See Grace v Am. Cent. Ins. Co., 109 US 278, 283-284 "A the jurisdiction of the... Court is limited, in the sense that no other jurisdiction than that conferred by the laws of the United States [in the present state of this Country], that presumptions is that a cause is without its jurisdiction unless the contrary affirmatively appears. ... 'Where jurisdiction depends upon [status or character] of the parties... or the facts which in legal intendment constitute it, it should appear affirmatively and with equal distinctness in other parts of the record.'"

Though this Court has not addressed the precise questions posed by this action it has issued authority on "jurisdictional elements" of federal crime applicable to the Resolution of this action.

In Torres v Lynch, 136 S. Ct. 1619, 1624 this Court stated, in relevant part, "In our federal system, Congress cannot punish felonies generally, 'Cohens v Virginia, 6 Wheat 264, 428 (1821); it may enact only those criminal laws that are connected to one of its constitutionally enumerated powers, such as the authority to regulate interstate commerce. As a result,... federal offenses include in addition to substantive elements, a jurisdictional one... The substantive element primarily define... the behaviour that the statute calls a violation of federal law,... or, as the Model Penal Code puts the point, they relate to the 'harm or evil' the law seeks to prevent. §1.13 (10). The jurisdictional element, by contrast ties the substantive offense... to one of Congress's constitutional powers..., thus spelling out the warrant for Congress to legislate.

Under these circumstances, Congress's failing to spell out the warrant to legislate under the generic and vague terms "person" and "whoever" used in the charging provisions of this case, See ECT no.:11, has permitted policemen, prosecutors, attorneys, judges, and the lower courts to arbitrarily and discriminatively to proceedings and judgments of inferior courts in the technical sense in violation of due process of law. See Grayned v City of Rockford, 408 US 104, 108-109 "Vague laws offend several important values... If arbitrary and discriminatory enforcement is to be prevent, laws must provide explicit standards to those who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with attendant dangers of arbitrary and discriminatory application..." See also United States v Cardiff, 344 US 174, 176 "The vice of vagueness in criminal statutes is the treachery they conceal... in determining what persons are included."

This actions proceedings suffer from a want of jurisdiction and are jurisdictionally defective because they violate the requisites of the Sixth Amendment under the terms "person" or "whoever."

In United States v Cruikshank, 92 US 542, 557-558 the Court held, in relevant part, "Every ingredient of which an offense is composed must be accurately and clearly alleged. It is elementary principle of criminal pleadings, that where the definition of an offense, whether it be at common law or by statute, "includes generic terms, it is not sufficient that the indictment shall charge the offense in the same generic terms as in the definition; but it must state the species; it must descend to particulars."

In evaluating the lower courts' acquisition and exercise of jurisdiction under the unconstitutionally vague and generic terms "person" and "whoever," both being genuses, used in the charging provisions of the indictment as complained herein these proceedings suffer from a want of jurisdiction that grants this Court the authority and duty to remedy. "There is a well settled rule by which this Court is guided upon applications for writ of prohibition to prevent a lower court from wrongfully assuming jurisdiction of a party, of a cause, or of some collateral matter arising therein. If the lower court is clearly without jurisdiction, the writ will ordinarily be granted to one who, at the outset, objected to the jurisdiction, has preserved his rights by appropriate procedure, and has no other remedy." In Re Chicago, Rock Island, & P.R. Co., 255 US 273, 275; See also Los Angeles Brush MFG Corp v James 272 US 701, 705 "[The writ of mandamus] has been very much extended in modern times, and now it may be said to be an established remedy to oblige inferior courts and magistrates to do that justice which they are in duty, and by virtue of their office, bound to do. It does not lie to control judicial discretion, except when that discretion has been abused, but it is a remedy when the case is outside of the exercise of this discretion, and outside the jurisdiction of the court or officer to which or to whom the writ is addressed.""

Conclusion

For reasons set forth above, the Petitioner submits that the Court should decide the questions presented for review and issue a writ of prohibition and/or mandamus dismissing the proceedings and judgments of Case no.: 3:02CR00550 due to the jurisdictional defects and circumstances herein pleaded.

I declare under the penalty of perjury that the foregoing is true and correct.

Submitted Under Necessity but as of Right.

Michael Alonzo Rufus, In Propria Persona
[99284-071]

Federal Correctional Complex Petersburg
P.O. Box 1000
Petersburg, VA 23804

Note 1. Petitioner's individual guarantees of due process of law under these established practices and rules of evidence has been, is being, and will be continuously destroyed in the post conviction proceedings of 28 USC §§ 2241 and 2255 because these proceedings are using the unconstitutional practices of pleading special matters found Fed. R. Civ. P. Rule 9. By employing the practices ordained by Rule 9 these courts are imposing and conducting their proceedings based upon mere presumptions of Petitioner, as well as all other petitioners under the same circumstances, character and civil status to be that of what was fraudulently and unconstitutionally used in the original trial court proceedings. These practices of pleadings, being jurisdictional in nature, are violative of the precedent cited for courts of limited jurisdiction and thus due process of the law.

Note 2. As Petitioner completed this petition he was subjected to another instance of the frauds and unconstitutionalities, being jurisdictional deficiencies, subject of this suit. In Case no.: 6:23CV01690-DCC-KFM in the U.S. District Court of South Carolina Petitioner's challenges to the constitutionality of Fed. R. Civ. P. Rule 9 as being violative of the Due Process Clause under the authorities herein pleaded went unanswered or denied without a factual findings and conclusions of law.