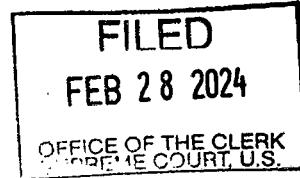


23-7036

ORIGINAL

No. \_\_\_\_\_



IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

BRENT J. DAIGLE — PETITIONER  
(Your Name)

vs.

WARDEN, STEVE KALLIS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Seventh Circuit [?]  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Brent Joseph Daigle Brent Joseph Daigle  
(Your Name)

4700 Bureau Rd  
(Address)

Terre Haute, Indiana 47002  
(City, State, Zip Code)

(812) 244-4400  
(Phone Number)

## QUESTION(S) PRESENTED

1. .... Can a United States District Judge deny the right of a private citizen to invoke the aid of the courts of the United States if held in unlawful imprisonment by an administrative agency?
2. .... Did a United States District Judge provide argument for an Administrative Agent not founded upon some matter which justifies the exercise of federal authority?
3. .... Did the panel of the Seventh Circuit err by deciding the merit of an appeal not properly before the court, denying inquiry into the cause of restraint under a void JUDGMENT?
4. .... When lack of discretion exist, can a private citizen be prohibited from bringing a civil action or appealing a civil judgment, denying access to the court?
5. .... Can an order / judgment containing no signature by any clerk or Judge be considered executed?
6. .... Can a panel (?) of the District Court deny a plaintiff's factual allegations, deny safe guards, and fail to make judicial notice if a party request it, if no disputed material fact exist?

## **LIST OF PARTIES**

- All parties appear in the caption of the case on the cover page.
- All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

[ ] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix "A" to the petition and is

[ ] reported at \_\_\_\_\_; or,  
[ ] has been designated for publication but is not yet reported; or,  
[x] is unpublished.

The opinion of the United States district court appears at Appendix "B" to the petition and is

[x] reported at 2023 U.S. Dist. LEXIS 2348; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

[ ] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

[ ] reported at \_\_\_\_\_; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

[ ] reported at \_\_\_\_\_; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

## JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was [%] November 13, 2023.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: [%] January 2 or 4, 2024, and a copy of the order denying rehearing appears at Appendix 'C'.

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. — A —.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_. A copy of that decision appears at Appendix \_\_\_\_\_.

A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. — A —.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

### Article 1. Bill of Rights

#### Section 1. Freedom of Association, Assembly, Expression, and Petition:

Freedom of association, assembly, press, speech, and other forms of expression, and petition for redress of grievances shall not be abridged.

#### Section 2. Freedom of Religion:

The State shall establish no religion nor interfere with the free exercise thereof. No person shall be denied any right or privilege because of religious belief or the exercise thereof.

#### Section 4. Privacy:

The right of the individual to decide whether to procreate or to bear a child is inviolable, as is the right to noncommercial private, consensual, sexual behavior of adults. Those who exercise or advocate these rights have, in addition, the right to be free from all forms of discrimination.

Political surveillance is contrary to democratic principles. Therefore, unless relevant for prosecution of past, present, or imminent crime, information on any person's exercise of freedom of religion, expression, association, assembly, or petition for redress of grievances, shall not be collected surreptitiously under color of law.

Individual privacy with respect to personal bank accounts, health, academic, employment, communications, and similar records, the disclosure of which would constitute an invasion of the privacy of the individual concerned, is a right, the protection of which shall be provided by law. However, the name, salary, and place of employment of each employee of the State and of any of its agencies or local government units is a matter of public record and shall be available to the public.

#### Section 18. Slavery and Involuntary Servitude:

Slavery and involuntary servitude are prohibited.

## section 1q. Civil Suits

The right to a jury trial in a civil suit shall remain inviolate. The House of Delegates shall assure access to courts for those litigants unable to pay. Court cost shall not be required of any litigant unable to pay.

## 28 USC § 453 Oaths of justices and judges:

Each justice or judge of the United States shall take the following oath or affirmation before performing the duties of his office:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will administer justice without respect to person, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties in cumbent upon me as \_\_\_\_\_ under the Constitution and laws of the United States. So help me God."

## 28 USC § 454 Practice of law by justices and judges:

Any justice or judge appointed under the authority of United States who engages in the practice of law is guilty of a high misdemeanor.

## 28 USC 1691 Seal and teste of process:

All writs and process issuing from a court of the United States shall be under seal of the court and signed by the clerk thereof.

Word "process" meant order of court, although it could be issued by clerk. *Leas & McVitty v. Merriman*, 132 F.510 (C.C.D. Va. 1904); *In re Simon*, 297 F. 942, 2 A.M. B.R. (n.s.) 514 (2nd Cir. 1924).

## 15 USC § 1 Trust, etc., in restraint of trade illegal; penalty

Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding \$100,000,000 if a corporation, or, if any person, \$1,000,000, or by imprisonment not exceeding 10 years, or by

both said punishment, in the discretion of the court.

### 18 USC § 2340 Torture:

(1) "torture" means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person with his custody or physical control;

(2) "severe mental pain or suffering" means the prolonged mental harm caused by or resulting from-

- (A) the intentional infliction or threatened infliction of severe physical pain or suffering;
- (B) the administration or application, or threatened administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;
- (C) the threat of imminent death; or
- (D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedure calculated to disrupt profoundly the senses or personality; and

(3) "United States" means the several States of the United States, the District of Columbia, and the common wealths, territories, and possessions of the United States.

### Informa Pauperis § 1954 (b) (1)

Not withstanding subsection (a), if a prisoner brings a civil action or files an appeal informa pauperis, the prisoner shall be required to pay the full amount of filing fee. The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of-

- (A) the average monthly deposits to the prisoner's account; or
- (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

(2) After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoners' account to the clerk of the court each time the amount in the account exceeds \$10.00

until the filing fees are paid.

(4) In no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.

### Rule 201 Judicial Notice of Adjudicative Fact :

(a) Scope. This rule governs judicial notice of an adjudicative fact only, not legislative fact. (b) Kinds of fact that may be Judicially Noticed. The court may judicially notice a fact that is not subject to reasonable dispute because it :

(1) is generally known within the trial court's territorial jurisdiction ; or

(2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

#### (c) Taking Notice. The Court

(1) may take judicial notice on its own ; or

(2) must take judicial notice if a party request it and the court is supplied with the necessary information.

(d) Timing. The court may take judicial notice at any stage of the proceeding.

(e) Opportunity to be Heard. On timely request, a party is entitled to be heard on the propriety of taking judicial notice before notifying a party, the party, on request, is still entitled to be heard.

(f) Instructing the Jury. In civil case, the court must instruct the jury to accept the notice fact as conclusive. In a criminal case, the court must instruct the jury that it may or may not accept the noticed fact as conclusive.

## STATEMENT OF THE CASE

On or about November 23, 2022 private citizen Brent Joseph Daigle filed a request for a **CEASE AND DESIST ORDER / INJUNCTION**, No. 2:22-cv-00538. In accordance with the Judicial determination made in a Rule 60(b)(4) Judgment VOID; Daigle's primary claims- were not poorly particularized because of his ignorance of law - and was based on facts outlined in memorandum of law, and Affidavit of Truth i.e., detailed Docket No. 3:16-cr-00013-PDW; Doc. No. 166 - Doc. No. 192 and Appeal 8th Cir. CA[22-1551]; [22-3058] and Administrative Notice BP 8-9.

On or about November 28, 2022 a Magistrate Judge's Notice of Availability to Exercise Jurisdiction issued; Referred to: Magistrate Judge Mark J. Dinsmore. No. 2:22-cv-00538.

On or about December 2, 2022 in conflict with 28 USC 1 § 454. Judge James Patrick Hanlon, practice law from the bench, he introduced his own argument, thus taking on the role of the Counsel for Administrative Agent Warden, Steve Kallis, Defendant; and enters FINAL JUDGMENT in favor of Respondent Administrative agent, against Plaintiff, i.e., the real party in interest Brent Joseph Daigle petitioner, denying ACCESS TO THE COURT.

Judge James Patrick Hanlon, erroneously set aside claims, construed two (2) Affidavits, addressed what he wanted to i.e., 28 USC § 2241 in a reckless disregard for the TRUTH i.e., **CEASE AND DESIST ORDER / INJUNCTION**, for confinement under void judgment, Denying Brent Joseph Daigle the right to invoke the aid of the court of the United States aiding in the continuous restraint of trust, trade, commerce 15 USC § 1, Torture 18 USC §§ 2340, the denial of Individual privacy with respect to personal bank accounts, health, academic, employment, communication, and similar records Article I Bill of Rights; Sec. 4, subjecting the real party in interest, the American people to slavery and Involuntary Servitude Sec. 18. Article I Bill of Right, denying right to travel, freedom of speech and religion Sec. 2 Article I Bill of Rights.

On or about December 16, 2022 private citizen Brent Joseph Daigle filed a NOTICE OF APPEAL; cause No. 2:22-cv-00538-JPH-MJD IN THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT; Expressed by NOTICE OF ACCEPTANCE OF CONSTRUCTIVE TRUST App. No. 22-3233 to work equity or frustrate fraud.

On or about February 1, 2023 while awaiting informa pauperis App. No. 22-3233, IT IS ORDERED[?] violation of 28 USC 1601 Seal and teste of process; that Petitioner-Appellant Brent Daigle file a POSITION STATEMENT addressing whether this appeal should be held pending the Supreme Court's decision in Jones v. Hendrix, No. 21-857 (U.S.)

In reaching the court's conclusion concerning the petitioner's equitable affirmative defense, the court has sought to reach an outcome on misrepresentations and fraud as the argument in Jones v. Hendrix, No. 21-857 (U.S.) overwhelmingly do not apply, but the judicial determination made in a Rule 60(b)(4) judgment void, so to reach an outcome based on a realistic interpretation of the fact present, this appeal cannot be held pending the Supreme Court's decision in Jones v. Hendrix, as a matter of law and fact. NOT addressed by the Court App No. 22-3233.

On or about April 24, 2023 No. 22-3233 In re Brent Joseph Daigle filed a WRIT OF RIGHT. Freedom to travel throughout the United States has long been recognized as a basic right under the Constitution, and it is clear that the freedom to travel includes the freedom to enter and abide in any state in the Union, since the right to travel was a constitutionally protected right, any classification which serves to penalize the exercise of that right, unless shown to be necessary to promote a compelling governmental interest, is unconstitutional. The right to travel is an unconditional personal right, a right whose exercise may not be conditioned.

On or about May 19, 2023 access to appellant's "WRIT OF RIGHT" App. No. 22-3233 filed on April 28, 2023 will be restricted to the parties and court personnel. [sealed]

On or about July 19, 2023 While awaiting informa pauperis, App. No. 22-3233, IT IS ORDERED[?] violation of 28 USC 1601 Seal and teste of process; that Petitioner-Appellant file a Second POSITION STATEMENT addressing whether this appeal should be held pending

the Supreme Court's decision in Jones v. Hendrix, No. 21-857 (U.S.) NOT addressed by the court. The court cannot show cause how any authority in violation of Trust 22-3233 ordering a position statement addressing an inability to satisfy a claim that the court is overwhelmingly aware does not apply is the proper use of Judicial Authority.

On or about August 1, 2023 Brent Joseph Daigle, respectfully submitted a RESPONSE TO SECOND POSITION STATEMENT: VIOLATION OF TRUST WILLFUL DEPRIVATION BY FRAUD. NOT addressed by the court.

On or about September 29, 2023 Brent Joseph Daigle filed (1) EMERGENCY INJUNCTIVE RELIEF: RIPE FOR JUDGMENT; (2) Writ of Right: ORDERING CORRECTIONS TO FRAUDULENT RECORD; (3) NOTICE regarding CONSTRUCTIVE FRAUD regarding INTENTIONAL FRAUD; Affidavit of Brent Joseph Daigle TRUTH. 22-3233

On or about November 13, 2023 in an order that contains NO signature by any clerk or judge, and appears to be unexecuted in violation of 28 USC 1601 Seal and teste of process. The court must recognize the possibility that this record is incomplete, given the incomplete conclusion of this [order], there is no way to know what the date of transaction was, or by whom the transaction was concluded, or when the unexecuted proposed order was received.

On or about November 17, 2023 in an attempt to safe guard [constructive Trust] 22-3233, avoid any loss of procedural safeguards, and to avoid construed abuse of judicial authority, in conjunction with this consideration to unexecuted proposed order, a Judicial Notice of Adjudicative Fact Rule 201, and objection to proposed order was filed.

On or about November 27, 2023 a NOTICE OF CONSIDERATION: OBJECTION TO PROPOSED ORDER, a Judicial Notice Rule 201, and OBJECTION TO PROPOSED ORDER was filed without court action.

There is NO DISCRETION TO IGNOR LACK OF JURISDICTION and hold an AMERICAN citizen without authority to do so in acts of Torture violating 1gusc § 2340, and restraint of trust, trade, commerce 1g usc § 1, with no right to travel, or exercise freedom of speach and religion, denying Privacy i.e., Bill of Rights in Slavery and Involuntary Servitude.

On December 1, 2023 IT IS ORDERED [?] violation of 2g usc 16q1 Seal and teste of process; that petitioner file a single petition for rehearing that complies with Rule 40 of the Federal Rules of Appellate Procedure on or before December 2g, 2023

Rule 40, does not apply as a matter of law, The court cannot reconsider an unexecuted order, the court must recognize the possibility that the record is incomplete, or fraud, and in fact can be construde as CONSPIRACY, scheme or artifice to defraud.

On or about December 6, 2023 Brent Joseph Daigle filed a RECONSIDERATION IN FORMA PAUPERIS FOR PANEL REHEARING [Rule 40] and Judicial Notice of Adjudicative Fact Rule 201

The court used threats, duress, coercion, force and fear to get Brent Joseph Daigle to accept something for the benefit of Administrative Agency and the United States creating an argument, to disadvantage Daigle in asserting and establishing a claimed right or defense. Liberal construction, does not allow the court to ignor a recognized legal claim, and deny to preform a mandatory duty, to review cause of restraint under a void judgment.

On are about January 2, 2024 or January 4, 2024 [?] in violation of 2g usc 16q1 Seal and teste of process. On consideration of the petition for rehearing, all (?????) voted to deny rehearing. Fraud destroys the validity of everything into which it enters. The wanton violation of standards of conduct and constitutionally secured rights by government "public officials" 1g u.s.c.s. § 21q(c) amounts to criminal conspiracy amoung administrative and judicial officers who has committed numerous frauds upon the courts.

## REASONS FOR GRANTING THE PETITION

As a matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity that affects public confidence as possible conspiracy to deprive, without due process and the various constitutional injury and knowledge and neglect to prevent United States Constitutional wrongs and/or wrongs to the Constitution of the states.

I. Can a United States District Judge deny the right of a private citizen to invoke the aid of the courts of the United States if held in unlawful imprisonment by an administrative agency?

A. .... The United States District Judge James Patrick Hanlon on behalf of Administrative Agent Warden, Steve Kallis, willfully falsify, conceals or covers up by trick, scheme or device of material fact, to injure, oppress the free exercise and enjoyment of rights and privileges secured by the constitution and laws of the United States.

On August 13, 2021 as expressly authorized to argue, to the sentencing judge, that the court has been "without jurisdiction" Brent Joseph Daigle raised a direct challenge to jurisdiction. No. 3:16-cr-00013-PDW; 28 USC § 2255 (a)

In many cases, one party argues that the court does not have jurisdiction, and the other party argues that the court does have jurisdiction. The court may - indeed must - decide which party is correct, and the court must explain the reason for its conclusion. It is in fact what a judge is required to do. Once challenged, jurisdiction cannot be assumed, it must be proved to exist.

"Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief, the Court shall cause notice thereof to be served upon the United States attorney, grant a PROMPT HEARING thereon, determine the issues and make finding of fact and conclusions of law with respect thereto. If the Court finds that the judgment was rendered without jurisdiction, or that sentence imposed was not authorized by law of

otherwise open to collateral attack, or that there has been such a denial or infringement of the Constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the Court shall vacate and set the judgment aside and shall discharge the prisoner or resentence him or grant a new trial or correct the sentence as may appear appropriate." 28 U.S.C. § 2255(b)

The statute is full of mandatory language, that requires, the Court to perform its duties under some very specific circumstances. Amplifying the mandatory language the law is also well settled in this matter:

"A court cannot confer jurisdiction where none existed and cannot make a void proceeding valid. It is clear and well established law that a void order can be challenged in any court." OLD WAYNE MUT L. ASSOC. v. McDONOUGH, 204 U.S. 8, 27 S.Ct. 236 (1907); "Fundamental defense of power to hear, i.e., lack of jurisdiction, is one which can never be waived and must be considered by court whenever and however raised. RCFC, Rule 12 (b) (1), (b)(3), 28 U.S.C.A.;" "The law is well-settled that a void order or judgment is void even before reversal." VALLEY V. NORTHERN FIRE + MARINE INS. CO., 254 U.S. 348, 41 S.Ct. (1920); "Once jurisdiction is challenged, the court cannot proceed when it clearly appears that the court lacks jurisdiction, the court has no authority to reach merits, but rather should dismiss the action." Melo v. U.S. 505 F.2d 1026; "The burden shifts to the court to prove jurisdiction" Rosemond v. Lambert, 469 F.2d 416; "Court must prove on the record, all jurisdictional facts related to jurisdiction asserted" Latana v. Hopper, 102 F.2d 188; Chicago v. New York, 37 F.Supp. 150; "The law provides that once state and Federal jurisdiction has been challenged, it must be proven." 100 S.Ct 2502 (1980); "Jurisdiction can be challenged at any time" Basso v. Utah Power + Light Co. 495 F.2d 906, 910; Federal courts are courts of limited jurisdiction. see, e.g., Godfrey v. Pulitzer Publg Co., 161 F.3d 1137, 1141 (8th Cir. 1998); Generally, the federal district courts may only exercise jurisdiction over cases in which diversity of citizenship exists and the requisite amount in the controversy is involved and those cases constitutional or statutory law. see, e.g., Sw. Bell Tel. Co. v. Connect Commc'ns Corp. 225 F.3d 942, 945 (8th Cir. 2000);

"The requirement { 2018 U.S. Dist. LEXIS 41 } that jurisdiction be established as a threshold matter, 'spring [s] from the nature and limits of the judicial power of the United States' and is 'inflexible and without exception' "Steel Co. v. Citizens for a Better Env't, 523 U.S. 83, 118 S.Ct. 1003, 104 L.Ed.2d 210 (1998) (quoting Mansfield C. & L. M.R. Co. v. Swan, 111 U.S. 382, 4 S.Ct. 510, 28 L.Ed. 462 (1884)) (alteration in original)). If it appears that jurisdiction is lacking, the court will raise the issue *sua sponte*. Dieser v. Continental Cas. Co., 440 F.3d 920 (8th Cir. 2006); "The Act of March 3, 1875, c. 137, § 5, 18 Stat. 472, Judicial Code, Section 37, 28 U.S.C.A § 80, places upon the trial court the duty of enforcing the statutory limitations upon its jurisdiction, and authorizes the court to inquire into the jurisdictional facts and to dismiss or remand the case if lack of jurisdiction appears. McNutt v. General Motors Acceptance Corp., 298 U.S. 178, 56, S.Ct. 780, 785, 80 L.Ed.1135. ; "One who invokes the jurisdiction of the court must not only allege the jurisdictional facts, but he has the burden of showing that he is properly in court". Becker v. Angel, 165 F.2d 140 (1947); Gladstone Realtors v. Village of Bellwood, 441 U.S. 91, 99, 60 L.Ed.2d 66, 99 S.Ct. 1601 (1979) Article 3 requires that the party who invokes the courts authority to show that HE PERSONALY has suffered some actual or threatened injury as a result of the putatively illegal conduct of the defendant (454 U.S. 473) The requirement that a party seeking review must allege facts showing that HE HIMSELF adversely affected... The exercise of judicial power, which can so profoundly affect the lives, liberty and property of those to whom it extends, is therefore restricted to litigants who can show "injury-in-fact" resulting from the action which they seek to have the court adjudicate. To invoke federal jurisdiction, a plaintiff must show a personal stake in the outcome of the action. This requirement insures that the federal judiciary confines itself to its constitutionally limited role of adjudicating ACTUAL CONCRETE DISPUTES, the resolution of which have direct consequences on the parties involved. Such a dispute must be extant at "all stages of review", not merely at the time of a complaint is filed. A case becomes moot at any point during the proceeding is no longer a case or controversy for purpose of U.S. Constitution Article 3 and is outside the jurisdiction of the federal courts.; Neol v. Elliot, No. 12-3116-SAC, 2012 U.S. Dist. LEXIS 80804, 2012 WL 2120761, at \*1 (D.Kan. June 12, 2012) ("As a private citizen, plaintiff simply has no authority to prosecute criminal charges") (citing Andrews

v. Heaton, 483 F.3d 1070, 1076 (10th Cir. 2007) and Mamer v. Collie Club of America, Inc., 229 F.3d 1164, \*2 (Table) [published in full-text format at 2000 U.S. App. LEXIS 19092 (10th Cir. 2000) ("private citizens cannot prosecute criminal actions")]; A private citizen lacks a legally protected interest in the prosecution of another person. 476 U.S. at 64-65. see also Linda R.S. v. Richard D., 410 U.S. 614, 619, 35 L.Ed.2d 536, 93 S.Ct. 1146 (1973); "We agree First, the burden of establishing jurisdiction rests upon the party seeking to invoke it and cannot be placed upon adversary who challenges it. Carson v. Dunham, 121 U.S. 421, at page 425 7 S.Ct. 1030, at page 1031, 30 L.Ed. 992; Gold-Washing + Water Co. v. Keyes, 96 U.S. 199, at page 202, 24 L.Ed. 656; Crehore v. Ohio + Mississippi Railway Co., 131 U.S. 240, at page 244, 9 S.Ct. 692, at page 693, 33 L.Ed. 144;... [cites omitted].; "Judge Yankwich, in some Jurisdictional Pitfalls in Diversity Cases, 2 F.R.D. 388, states at page 394: ""I desire to emphasize the fact, which is overlooked by many, that the mere fact that a matter arises under the laws of the United States or even involves the question of constitutionality under the Federal Constitution, is, in itself, insufficient to give jurisdiction to the federal courts. Jurisdiction does not exist unless, at the same time, the plaintiff can show affirmatively that he is injured in the jurisdictional amount." Gaitor v. Peninsular + Occidental Steamship Co., 287 F.2d 252 (1961); "The jurisdiction of offenses which are cognizable at common law resided in the state Court alone, even though the general government may be the party aggrieved by the misdeed complained of." United States v. Hutchinson, D.C. Pa. Cas. No. 15, 432 (1848); "[w]hen the grant or denial turns on the validity of the judgment, discretion has no place for operation. If the judgment is void it must be set aside..." Fisher, 565 So.2d at 87, In a long and venerable line of cases, the Supreme Court has held that, without proper jurisdiction, a court cannot proceed at all, but can only note the jurisdictional defect and dismiss the suit. see. e.g., Capron v. Van Noorden, 2 Cranch 126; Arizonans for Official English v. Arizona 520 U.S. —, —, Bell v. Hood. *supra*; National Railroad Passenger Corp. v. National Ass. of Railroad Passengers, 414 U.S. 453, n.13; Norton v. Mathews, 427 U.S. 524, 531; Secretary of Navy v. Avrech, (per curiam); United States v. Augenblick, 398 U.S. 74, 86-88, distinguished. For a court to pronounce upon law's meaning or constitutionality when it has no jurisdiction to do so is by very

definition, an ultra vires act Pp. 8-17.

Brent Joseph Daigle's motion to vacate, set aside, or correct sentence under 28 USC § 2255 was denied. Daigle, No. 3:16-cr-00013-PDW-1

On or about March 24, 2022 Brent Joseph Daigle filed Motion for Issuance of Certificate of Appealability informing a lack of Jurisdiction. There is NO discretion to ignore lack of jurisdiction, any denial, which involves the idea of choice, constitutes an 'abuse' of discretion and demonstrates a perversity of will, and defiance of good judgment, or bias

Brent Joseph Daigle's appeal of 28 USC § 2255 was dismissed. see. Daigle v. United States, No. 22-1551 (8th Cir. 2022)

Brent Joseph Daigle's motion in the Eighth Cir. CA seeking a certificate of appealability, so that he may appeal the district court's denial of his § 2255 motion. The panel however, determined that Mr. Daigle's Jurisdictional claims did not warrant the mandatory action it required. Thus, the panel concluded that Mr. Daigle should be denied a certificate of appealability because the appeal was obviously meritless.

The panel impermissibly side stepped the COA inquiry in this matter by denying relief because the subsequent appeal would be meritless. The panels assessment of the merits is patently wrong. The panel could not possibly resolve the merits of a jurisdictional claim solely on a motion seeking a certificate of appealability.

Lack of jurisdiction cannot be waived, Glidden v. Zdanok, 370 U.S. 530, 535-37 (1962), may be asserted at anytime, and will be considered on appeal regardless whether the issue was raised in the trial court, United States v. Nukida, 8 F.3d 665, 668-69 (9th Cir. 1993). ; Jurisdictional Claims are an exception to the rule that a guilty plea waives all claims of constitutional violations, United States v. Caperell, 938 F.2d 975, 977 (9th Cir. 1991); United States v. Roberson, 698 F.2d 703, 704 .n.1 (5th Cir. 1983), as the issue of whether the government had the power to bring the charge still remains, State v. Cortez, 973 F.2d 764, 766-67 (9th Cir. 1992) (same)

Judge James Patrick Hanlon concealed, covered up by trick, scheme or device this material fact, simply to deny the right to invoke the aid of the court, questions about the government's integrity and public confidence in light of facts appearing to be conspiracy to deprive without due process, solely as a means to hold an American in unlawful imprisonment by an Administrative agency is overwhelmingly apparent.

**2. Did a United States District Judge provide argument for an Administrative Agent not founded upon some matter which justifies the exercise of federal authority?**

A..... The United States District Judge sought a writ of habeas corpus pursuant to 28 U.S.C. § 2241, to exercise judicial authority to provide argument for Administrative Agent Warden, Steve Kallis. It is the substance of the claim that controls. The court must "accept" as true all of the allegations in light most favorable to the plaintiff, a *prima facie* case is established if the plaintiff presents enough evidence to withstand a motion for directed verdict. Brent Joseph Daigle filed a detailed Docket as the substance of the claim to **CEASE AND DESIST / INJUNCTION** the unlawful confinement in restraint of trust, trade, commerce, the denial of individual privacy with respect to personal bank accounts, health, academic, employment, communication, and similar records, subjecting American people to slavery and involuntary servitude, with no right to travel, or freedom of speech and/or religion an act of torture.

Judge James Patrick Hanlon concealed, covered up by trick, scheme or device this material fact :

On or about August 2, 2022 Brent Joseph Daigle filed a Motion Rule 60 (b)(4) Judgment VOID 8th Cir. District Court Eastern. The Government has not demonstrated that the court has jurisdiction over any case as no one has argued or provided a single fact nor can a single Jurisdictional fact be found on any record in any court within the United States. Rule 60 (b)(4) motions leave no margin for consideration of the discretion as the judgments themselves are by definition either legal nullities or not, relief is not

a discretionary matter, it is mandatory.

The law is full of mandatory language, that requires, the Court to perform its duties under some very specific circumstances also well settled in this matter:

However the trial court has no discretion when relief is sought pursuant to Rule 60 (b) (4) on the ground that the judgment is void. Whether a judgment is void is a question of law (though like all legal questions it may depend on the court's resolution of fact), and if a judgment is void, it must be vacated. Moreover, the 60(b)(4) places no time limit on an attack upon a void judgment, nor can such a judgment acquire validity because of laches on the part of him who applies for relief from it. Threatt v. Winston, 907 A.2d D.C. Cir. 9-21-06; Where Rule 60(b)(4) is properly invoked on the basis that the underlying judgment is void, "relief is not a discretionary matter; it is mandatory." Orner v. Shalala, 30 F.3d 1307, 1310 (10th Cir. 1994) (quoting V.T.A., Inc v. Airco, Inc. 597 F.2d 220, 224 n. 8 (10th Cir. 1979); "Rule 60(b)(4) motions leave no margin for consideration of the district court's discretion as the judgment themselves {2022 U.S. App. LEXIS 6} are by definition either legal nullities or not" Brumfield v. La State Bd. of Educ., 806 F.3d 289, 296 (5th Cir. 2015) (quoting Carter v. Fenner, 136 F.3d 1000, 1005 (5th Cir. 1998);

Brent Joseph Daigle filed NOTICES, AFFIDAVITS, MOTIONS TO COMPEL, MANDAMUS, etc. etc... All parties failed to prove jurisdiction existed. I Brent Joseph Daigle am being held captive, made a prisoner owned and controlled at U.S.P. Terre Haute, with NO JURISDICTION, JUDGMENT VOID.

An appellate court reviews de novo the denial of a motion to set aside a judgment for voidness under Fed. R. Civ. P. 60(b)(4), it's observed that jurisdictional notice failings, define void judgments that qualify for relief under Rule 60(b)(4)

Supreme Court of the United States 1795 stated:

"In as much as every government is an artificial person, an abstraction, and a creature of the mind only, a government can interface only with other artificial persons. The imaginary, having neither actuality nor substance, is foreclosed from creating and attaining parity

with the tangible. The legal manifestation of this is that no government, as well as any law, agency, aspect, court, etc. can concern itself with anything other than corporate, artificial persons and the contracts between them". S.C.R. 1795, Penhallow v. Doane's Administrators (3 U.S. 54; 1 L.Ed. 57; 3 Dall. 54).

On are about October 19, 2022 Brent Joseph Daigle filed a complaint with Circuit Executive Millie Adams, Judicial Council of the Eighth Circuit (Appeal 22-1551) Judgment Void Correspondence.

On are about October 26, 2022 a Judgment Void Notice of Docket Activity (22-3058) No action taken.

"Either a judgment is valid or it is void, and the court must act accordingly once the issue is resolved" In re Marriage of Hampshire, 261 Kan. 854, 862, 934 P.2d 58 (1997);

The record is clear Brent Joseph Daigle did not seek to file a 28 USC § 2241 United States District Judge sought the writ, and provided argument for Administrative Agent, and then passed judgment upon his own argument, concealing, and covering up by trick, scheme or device the material fact, Brent Joseph Daigle is being held captive, made a prisoner an act of slavery and involuntary servitude, and questions about the government's intergrity that affects public confidence.

"[A]n error of law is a abuse of discretion per se". United States v. Peter, 310 F.3d 709, 711 (11th Cir. 2002). An error of law, and thusly an abuse of discretion, occurs when a judge in the exercise of discretion violates the constitution, Marbury v. Madison, 5 U.S. 137, 146-150 (1803) (Ch. J. Marshall), while a judge, who "swear[s] to discharge his duties agreeably to the constitution" and violates "this oath", commits "a crime". *Id.*, at 150. see. also In re Sawyer, 124 U.S. 200 (1888) (when a judge does not fully comply with the Constitution he engaged in act of "treason"); Cooper v. Aaron, 358 U.S. 1 (1958) (same)

3. Did the panel of the Seventh Circuit err by deciding the merit of an appeal not properly before the court, denying inquiry into the cause of restraint under a void judgment?

A..... The Seventh Circuit was overwhelmingly aware that the judgment against Brent Joseph Daigle is void, and that he did not challenge any judgments by any court. But DID challenge the legal compacity of the Administrative Agent Warden, Steve Kallis, to subject a private citizen to slavery and involuntary servitude, denying constitutional rights i.e. the Bill of Rights and rights protected by the laws of the United States and or the constitution and laws of the state.

Liberal construction, does not allow the court to ignor a recognized legal claim. The Seventh Circuit Court of Appeals was overwhelmingly aware for over 11 months that Brent Joseph Daigle the plaintiff is being held captive, made a prisoner owned and controlled in Slavery and involuntary Servitude with NO JURISDICTION. The court rewrites law from the bench in disregard for the entire record ignoring the recognized legal claim that is clearly the substance of the matter at hand.

Fraud destroys the validity of everything into which it enters. It affects even the most solemn judgment and decrees, Ira Nudd v. George Burrows, 91 U.S. 426 at 440 (1875); The Court must "accept as true all of the allegations in the complaint and all reasonable inferences that can be drawn therefrom, and view them in a light most favorable to the plaintiff." Morse v. Lower Merion Sch. Dist., 132 F.3d 902, 906 (3d Cir. 1997)

The legal meaning of "due process of law", secured by the Fifth Amendment, has not been changed in the context of the prosecution of a "person" accused of an "infamous crime". See, Ex parte Wilson, 114 U.S. 417, 429-430 (1886); Green v. United States, 356 U.S. 152, 2 L. Ed 2d 672, Anno. at 1690, §§ 2 and 3 et seq., (1958) (collecting cases in all circuits); see also, Ex parte Milligan, 4 Wall. 2, 115 (1866) (declaring executive detention without due process of the "common law" illegal); Boddie v. Connecticut, 401 U.S. 371, 377-78 (1971) ("persons forced to settle their claims of right and duty

through judicial process must be given a meaningful opportunity to be heard.")

The Seventh Cir. Court of Appeals did not satisfy its requirement, the court should have given an opportunity to be heard before dismissing the claim, as no announcement of finding of fact and / or conclusions of law was announced. Because all facts and conclusion of law support the fact government officials now attempt to prevent or obstruct the administration of justice.

Any breach in public good faith should be unacceptable, but to violate the constitution, the Bill of Rights, Civil Rights, in the name of "protecting" society, is to make the government itself lawless and subverts those values upon which our ultimate freedom and liberty depend. The public is hard pressed to find that any proceeding was conducted in a fair and impartial manner. There is good reason why public confidence in the integrity of the judiciary should be questioned.

4. When lack of discretion exist, can a private citizen be prohibited from bringing a civil action or appealing a civil judgment, denying access to the court?

A..... In jurisdictional laws the plain language is crystal clear and unambiguous. Too many court cases to enumerated including all Circuits. The United States Supreme Court states clearly that no discretion what so ever except the court's resolution of issues of fact. In fact, all of the cases which deal with Jurisdiction, without exception, clearly state that no choice but the fulfillment of duty and the fact, a judge has no role in these matters but to make the determination of fact.

As the choice to ignore the mandatory duty, the United States by its own admission through its agents operates without authority and all parties have disregarded any oath of office and the laws of the United States. NO American can be made prisoner absent jurisdiction, and *prima facie* evidence of a fact is such evidence as, in judgments of law, and is sufficient to establish the fact; if not rebutted.

The acquiescence of the court to perform a mandatory action, to prove jurisdiction, implies an affirmation of a substantial fact the United States does not have jurisdiction, and any denial that was not proof of jurisdiction, the denial is pregnant with the Affirmation the United States does not have jurisdiction as the judgment against Brent Joseph Daigle is void.

Brent Joseph Daigle was denied from bringing a civil appeal for the reason that he has no assets and no means by which to pay the initial partial filing fee, because if the court denied him for any other reason it would be fraud, and in fact conspiracy carried out by all parties involved.

5. Can an order / judgment containing no signature by any judge or clerk be considered executed?

A. .... The wanton violation of standards of conduct and constitutionally secured rights i.e., Bill of Rights makes the government itself lawless and the American people slaves and merely an instruments in an ongoing hoax, and the fundamental notions of fairness and our central faith in the democratic norms are directly adverse to the administration of justice and only a reward to government misconduct and deceit.

If orders / judgments would be allowed to proceed without the Seal and teste process fraud would surely ensue. Not a single order by the 7th Cir. CA can be found in compliance with:

28 USC 1601 Seal and teste of process: All writs and process issuing from a court of the United States shall be under seal of the court and signed by the clerk thereof. Word "process" meant order of court, although it could be issuing by clerk. Leas + McVitty v. Merriman, 132 F. 510 (C.C.D. Va. 1904); In re Simon, 297 F. 942, 2 A.M.B.R. (n.s.) 514 (2nd Cir. 1924)

There are NO orders from the 7th Cir. CA. Daigle is being denied access to the court!

6. Can a panel of the District Circuits deny a plaintiffs factual allegations, deny safe guards, and fail to make judicial notice if a party request it, if no disputed material fact exist?

A....., if the court can construe, whats filed, what evidence is admissible or inadmissible issue orders / judgments in violation of 28 USC 1691 Seal and teste of process, and prevent the whole truth or any truth from being considered, then the court can manipulate and control both the law and evidence, the issue of fact is virtually irrelevant, the government itself lawless and the American people slaves.

"Courts of Appeals may not assume the truth of allegations in a pleading which are contradicted by affidavit" "where affidavits are directly conflicting on material points, it is not possible for the district judge to "weigh" the affidavits in order to resolve disputed issues; Data Disc. Inc., v. Systems Tech. Assocs. Inc., 557 F.2d 1280 (9th Cir. 1977); "Indeed, no more than (affidavits) is necessary to make the *prima facie case*." United States v. Kis, 658 F.2nd, 526, 536 (7th Cir. 1981); Cert Denied, 50 U.S. L.W. 2169; S.Ct. March 22, 1982. ; "Where there are no depositions, admissions, or affidavits the court has no facts to rely on for a summary determination". Trinsey v. Pagliaro, D.C. Pa. 1964, 229 F. Supp. 647.

Provided this Supreme Court will find upon investigation NO pleading contradicted by affidavit or any other material showing, in fact affidavits were construed because of this fact. ;

..., it is well established that the Court may take judicial notice of "undisputed matters of public record, including documents on file in federal or state court". Harris v. County of Orange, 682 F.3d 1126, 1132 (9th Cir. 2012) (internal citation omitted)

On or about November 27, 2023 No. 22-3233 JUDICIAL NOTICE OF ADJUDICATIVE FACT filed without court action

Violating Rule 201 Judicial Notice of Adjudicative Fact

The 7th Circuit Court of Appeals. willful, repeated and flagrant violations of all forms of due process, evident by the violation of 28 USC 1601 Seal and teste of process, and willingness to avoid taking Judicial Notice of the facts provided in violation of Rule 201.

Administrative Agent Warden, Steve Kallis, lacks all authority to confine Brent Joseph Daigle. I have never been charged or Convicted with an offense against the laws of the United States! I am secured from any personal liability, for the performance of obligations or payment of debts of the Debtor Organization! I cannot be held personally liable for the Debtor Organization.

Every person whose liberty is restrained, under any pretense whatever, may prosecute a writ of habeas corpus to inquire into the cause of the restraint, and shall be delivered from the restraint if the restraint is illegal. As expressly authorized to do in a 28 USC § 2255 Brent Joseph Daigle inquired into the cause of the restraint of his liberty.

Kocher v. Dow Chem. Co., 132 F.3d 1225, 1230-31 (8th Cir. 1997) (as long as there is an "arguable basis" for subject matter jurisdiction, a judgment is not void);

The United States District Court North Dakota Eastern District found NO arguable basis and provided not one single Jurisdictional fact. The Government has not demonstrated that the court has Jurisdiction over any case as no one has argued or provided a single fact nor can a single Jurisdictional fact be found on any record in any court within the United States. The Court found NO arguable basis.

On or about March 24, 2022 in a motion for issuance of Certificate of Appealability informing a lack of Jurisdiction which will be considered on appeal regardless any action in the trial court, as its even an exception to the rule that a guilty plea waives the claim of.

The 8th Cir. Court of Appeals found No arguable basis and provided not one single Jurisdictional fact nor requested a single Jurisdictional fact be provided.

On or about August 2, 2022 Brent Joseph Daigle filed a Motion Rule 60(b)(4)  
Judgment VOID.

If a court can deny a plaintiff's factual allegations, and judicial notice if requested the concept of ordered liberty is sacrificed, obviously respect for the rule of law must start with those who are responsible for pronouncing the law. To fail to acknowledge hundreds of cases provided by Brent Joseph Daigle of settled law and mandatory actions is an area of great public concern.

NO American should be held captive especially in AMERICA in slavery and involuntary servitude, with no individual privacy, to health, academic, employment, communications, with no freedom of speech or religion, with no access to courts, denying trust, trade, and travel, in overwhelming state of torture.

"[F]reedom to travel throughout the United States has long been recognized as a basic right under the Constitution". United States v. Guest, 383 U.S. 745, 758, 16 L.Ed.2d 239, 249, 86 S.Ct. 1170 (1966). ; "And it is clear that the freedom to travel includes the "freedom to enter and abide in any State in the Union,...." "....we conclude that since the right to travel was a constitutionally protected right," any classification which serves to penalize the exercise of that right, unless shown to be necessary to promote a compelling governmental interest, is unconstitutional". ; "The right to travel is an "unconditional personal right", a right whose exercise may not be conditioned. Shapiro v. Thompson, 394 U.S., at 643, 89 S.Ct., at 1331 (Stewart, J., concurring) (emphasis added) .... [cites omitted]. Dunn v. Blumstein, 405 U.S. 330; 92 S.Ct. 995; 31 L.Ed.2d 274 (1972)

The U.S. Supreme Court has held : "It is as much the duty of the Government to render prompt justice against itself in favor of citizens, as it is to administer the same between private individuals" Glidden, *supra*, at 689 [Emphasis added].

As a matter of widespread and exceptional media interest, there is NO DISCRETION to ignore lack of jurisdiction and hold American citizens in slavery and involuntary servitude, there exist possible questions about the government's integrity that affects public confidence as possible conspiracy to deprive, without due process and the various constitutional injury and knowledge and neglect to prevent.

The issues is of importance beyond any particular facts and parties involved, as the courts have shown a direct rebellion with established law, and the rule of our Supreme Court.

Brent Joseph Daigle should have remained in the state of North Dakota, I committed no offense against the laws of the United States, Judgment VOID.

#### CONCLUSION

I pray this court hear my petition, and remand to the proper jurisdiction, as Brent Joseph Daigle is being held unlawfully, in slavery and involuntary servitude.

The petition for a writ of certiorari should be granted.

Respectfully submitted,  
WITHOUT RECOURSE / WITHOUT PREJUDICE

By: Brent Joseph Daigle

Date: February 26, 2024