No 23-7251

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

IN RE RAYNADA JONES - PETITIONER

ORIGINAL PETITION FOR WRIT OF HABEAS CORPUS

UNITED STATES SIXTH CIRCUIT COURT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF HABEAS CORPUS

Raynada Jones #321198
Muskegon Correctional Facility
2400 S Sheridan Drive
Muskegon, Michigan 49442

STATEMENT OF QUESTIONS PRESENTED

I.

WHETHER PETITIONER IS IN CUSTODY IN VIOLATION OF THE CONSTITUTION OR LAWS OR TREATIES OF THE UNITED STATES WHERE, THE INGHAM COUNTY CIRCUIT COURT WAS WITHOUT JURISDICTION OF FELONY MURDER CHARGE, BECAUSE THE INFORMATION FELONY SHEET ALLEGED AN UNCONSTITUTIONAL NONEXISTING OPEN MURDER CHARGE. MICH CONST. 1963 ART 1, § 20; 6TH AND 14TH AMENDMENT?

II.

WHETHER PETITIONER IS IN CUSTODY IN VIOLATION OF THE CONSTITUTION OR LAWS OF THE UNITED STATES, WHERE THE MAGISTRATE FAILURE TO PROPERLY HOLD A PROBABLE CAUSE CONFERENCE, OR TO FILE A PROPER, TRUE, LEGAL MAGISTRATE'S RETURN AFTER THE BIND-OVER DEPRIVED THE CIRCUIT COURT OF SUBJECT/MATTER JURISDICTION IS A RADICAL DEFECT?

LIST OF PARTIES

[X] 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 proceedings in the court whose judgment is the subject of this petition is as follows:

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COURT RULES AND STATUTES

CONSTITUTIONS

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR ORIGINAL WRIT OF HABEAS CORPUS

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

OPINIONS BELOW

[X] For cases from **Federal Courts**:

The opinion of the United States Court of Appeals appears at Appendix A to the petition and is

[X] reported at 23-1968; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpulished

The opinion of the United States district 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[ ] is unpublished.

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

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

[X] reported at 165528; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the Michigan Court of Appeals appears at Appendix D to the petition and is

[X] reported at 364179; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

JURISDICTION

[X] For cases from **Federal courts:**

The date on which the United States Court of Appeals decided my case was February 22, 2024.

[ ] No petition for rehearing was timely filed in my case.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: March 1, 2024, and a copy of the order denying rehearing appears at Appendix B.

[ ] 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).

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

The date on which the highest state court decided my case was August 22, 2023.

A copy of that decision appears at Appendix C

[ ] 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 habeas corpus was granted to and including _____ (date) on _____ (date) in Appendix No. ___ A ___.

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

CONSTITUTION AND STATUTORY PROVISIONS INVOLVED

SIXTH AMENDMENT

The Sixth Amendment of the United States Constitution includes such rights as the right to speedy and public trial by an impartial jury, right to be informed of the nature of the accusation, the right to confront witnesses, the right to assistance of counsel and compulsory process.

FOURTEENTH AMENDMENT

The Fourteenth Amendment of the Constitution of the United States, ratified in 1868, creates or at least recognizes for the first time a citizenship of the United States, as distinct from that of the states; forbids the making or enforcement by any state of any law abridging the privileges and immunities of citizens of the United States; and secures all "persons" against any state action which results in either deprivation of life, liberty, or property without due process of law, or, in denial of the equal protection of he laws.

STATEMENT OF THE CASE

On May 17, 2010, a Complaint was filed in the Ingham County (Michigan) Circuit Court against Mr. Jones in connection with the 2010 death of a woman named Megan Lynn Collins. The Complaint included charges of "open murder" under Mich. Comp. Laws 750.316, and home invasion MCL 750.110a(2). Id. On September 06, 2011, after a jury trial, Mr. Jones was convicted of Felony Murder under MCL 750.316 and Home Invasion MCL 750.110a(2). On October 12, 2011, Mr. Jones was sentenced to a term of life for felony murder, and 117 months for home invasion imprisonment.

On November 4, 2011, Mr. Jones, through counsel, filed an appeal with the Michigan Court of Appeals. That application was denied November 20, 2012 in People v. Jones, No. 30700.

On December 19, 2012, Mr. Jones timely filed an appeal with the Michigan Supreme Court. On April 1, 2013, the Michigan Supreme Court denied Mr. Jones application for leave to appeal in People v. Jones, No. 146416.

On June 23, 2014, Mr. Jones filed for a Writ of Habeas Corpus with the United States Court, Western District of Michigan, Southern Division. The case was originally captioned Jones v. Dewayne Burton, the Warden of MTU Correctional Facility at the time Mr. Jones requested relief. On December 2, 2016, the United States District Court denied relief in Case No. 1:14-cv-00673.

NEW BRADY EVIDENCE OBTAINED SHORTLY AFTER NOVEMBER 13, 2017

April 27, 2018 Mr. Jones filed Motion for Relief from Judgment included evidence of constitutionally defective (1) sworn, yet unrecorded, oral testimony that, in addition to: (2) affidavit on authorization of complaint and arrest warrant transcript, which the record was finally forwarded to Petitioner after seven long years of requesting copy of documents, by District Court

Clerk, November 13, 2017, included Judgment of Commitment Exhibit A, Bind Over Exhibit B, Complaint Exhibit C, Return Exhibit D and Un-transcribed Transcript Exhibit E removing the Petitioner's case from the Trial Court's subject-matter jurisdiction for the constitutional jurisdictional defects.

The Trial Court denied relief on August 27, 2019.

February 26, 2020, Petitioner through counsel filed application for leave to appeal in People v. Jones, case No. 352877. The COA entered it's opinion and order May 26, 2020.

July 17, 2020, Mr. Jones filed application for leave to appeal in Michigan Supreme Court in People v. Jones, case No. 161637. The MSC denied leave to appeal on February 2, 2021.

March 25, 2021, Mr. Jones filed a second or successive petition with the Sixth Circuit Court of Appeals in case No. 21-1295. The Sixth Circuit denied application for second or successive petition September 24, 2021.

January 6, 2022, Mr. Jones filed a Petition for Writ of Habeas Corpus with new evidence the State withheld Brady material in Case No. 22-000131-AH, raising the following assignment(s) of error as follows:

I.

PETITIONER IS IN CUSTODY IN VIOLATION OF THE CONSTITUTION OR LAWS OR TREATIES OF THE UNITED STATES WHERE, THE INGHAM COUNTY CIRCUIT COURT WAS WITHOUT JURISDICTION OF FELONY MURDER CHARGE, BECAUSE THE INFORMATION FELONY SHEET ALLEGED AN UNCONSTITUTIONAL NONEXISTING OPEN MURDER CHARGE. MICH. CONST. 1963 ART 1, § 20; 6TH AND 14TH AMENDMENT.

II.

PETITIONER IS IN CUSTODY IN VIOLATION OF THE CONSTITUTION OR LAWS OF THE UNITED STATES, WHERE THE MAGISTRATE FAILURE TO PROPERLY HOLD A PROBABLE CAUSE CONFERENCE, OR TO FILE A PROPER, TRUE, LEGAL MAGISTRATE'S RETURN AFTER THE BIND-OVER DEPRIVED THE CIRCUIT COURT OF SUBJECT/MATTER JURISDICTION IS A RADICAL DEFECT.

January 12, 2022, trial court denied Writ of Habeas Corpus. Mr. Jones

moved for reconsideration, which was denied August 9, 2022.

August 23, 2022, Mr. Jones filed a Writ of Habeas Corpus upon discovery of Brady violation in case No. 22-4302-AH. On October 6, 2022, the trial court denied habeas relief.

December 6, 2022, Mr. Jones filed a petition for Writ of Habeas Corpus with Brady violation in the Michigan Court of Appeals in case No. 364179. On February 24, 2023 the Michigan Court of Appeals denied Habeas Relief.

April 3, 2023, Mr. Jones filed a petition for Writ of Habeas Corpus with Brady violation and its progeny with Michigan Supreme Court. On August 22, 2023, the MSC denied Writ of Habeas Corpus in case No. 165528.

Armed with new Brady evidence of the cause or pretense of imprisonment, according to the best knowledge and belief of Petitioner is attached copy of said Order of Commitment or Mittimus Order was entered by a court lacking subject-matter jurisdiction where the Magistrate failure to properly hold a Probable Cause Conference, or to file a proper, true, legal Magistrate's return after the Bind-Over. (Exhibit A).

The imprisonment is unlawful, in that the circuit court was without subject-matter jurisdiction as required by law more fully appearing below said attached copy of the "Open Murder Bind Over" entered on the 13th day of May 2010, by the Ingham Circuit Court, Lansing, Michigan. (Exhibit B). The Prosecutor charged in a felony complaint sheets alleged: COUNT 1: HOMICIDE -OPEN MURDER - STATUTORY SHORT FORM did murder Megan Lynn Collins; contrary to MCL 750.316. [750.316-c] FELONY: Life; DNA to be taken upon arrest. (Exhibit C). It is obvious the Magistrate failure to issue a "proper return" to the trial court in the instant case. (Exhibit D).

October 31, 2023, with this new Brady material evidence Mr. Jones filed a Second or Successive Petition for Writ of Habeas Corpus with the United States

Court of Appeals for the Sixth Circuit in case No. 23-1968. The Sixth Circuit Court of Appeals denied relief on February 22, 2024. Correctly finding that his claims rely on new facts that the State had illegally "suppressed" until November 2017. Unreasonably finding "but that was six years before Jones filed this motion, and he filed his first motion for authorization more than three years after allegedly learning of these facts, so they are not new." Appendix A p. 2. (Emphasis added)

The Sixth Circuit Court of Appeals forwarded Mr. Jones petition for rehearing en banc back without filing in on March 1, 2024 In re Jones, Case No. 23-1968. Attached as Appendix B.

In Felker v. Turpin, the Supreme Court recognized that AEDPA prevented the Court from reviewing a Court of Appeals order denying leave to file a second or successive petition. Id., at 658-59; 116 S.Ct at 2337. Felker held, however, that the Supreme Court was not deprived of appellate jurisdiction because AEDPA did not remove the Court's authority to entertain an original petition for habeas corpus. Id., at 660; 116 S.Ct at 2338. The Supreme Court then held that AEDPA did not violate the Suppression Clause of the Constitution--which provides that "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the Public Safety may require it," U.S. Const. art I, § 9, cl. 2.

Exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court.

Wherefore, Mr. Jones now brings this instant Petition for Original Writ of Habeas Corpus in the hopes of curing the following Constitutional violations.

REASON FOR GRANTING THE WRIT

Pursuant to Supreme Court Rule Number 10, Petitioner states the Sixth Circuit Court of Appeals has decided an important federal question in a way that conflicts with relevant decisions of this Court, and sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power.

The Sixth Circuit failure apply equitable tolling to Mr. Jones post-conviction or collateral pleadings from April 27, 2018 in the trial court through October 31, 2023 when Mr. Jones filed for a Second or Successive Petition for Writ of Habeas Corpus contrary to § 2244(D)(2) which states: "The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection." (Emphasis added). See e.g., Carey v. Saffold, 536 U.S. 214, 219-220; 122 S.Ct 2134; 153 L.Ed.2d 260 (2002), (holding that the "pending" period includes the time between a lower state court's decision and petitioner's filing of a notice of appeal to a higher state court).

The Sixth Circuit unreasonably claim but that was six years before Jones filed this motion, and he filed his first motion for authorization more than three years after allegedly learning of these facts, so they are not new. Appendix A p. 2.

Mr. Jones filed his Motion for Relief from Judgment with the trial Court on April 27, 2018 within 6 months of obtaining the Brady material to exhaust his State remedies.

For purpose of properly filed application for state relief tolling limitations for federal habeas corpus while pending, term "properly filed"

fixes the date that starts the tolling of the (AEDPA) statute of limitations, and the term "pending" marks the end point, when the state court ultimately decides the petitioner's case' until the application has achieved final resolution through the state's post-conviction procedures, by definition it remains pending. 28 U.S.C.A. § 2244(d)(2); Artuz v. Bennett, 531 U.S. 4, 8; 121 S.Ct 361; 148 L.Ed.2d 213 (2000).

28 U.S.C. § 2403(b) may apply and shall be served on the Attorney General of that State. In such a proceeding from any court of the United States, as defined by 28 U.S.C. § 451, the initial document shall state whether that court, pursuant to 28 U.S.C. 2403(b), certified to the State Attorney General the fact that the constitutionality of a statute of that State was drawn into question.

Pursuant to 28 U.S.C. § 2403(b), I do not believe that court certified to the State Attorney General the fact that the constitutionality of a statute of that State was drawn into question.

The specific reference to the questions presented was first raised appears in the trial court. The trial court examined the petition for a writ of habeas corpus of Plaintiff Raynada Jones, which he has styled as a "Complaint," and finds that it is without merit. The petition is therefore denied and this action is dismissed. IT IS ORDERED. This order resolves all pending claims and closes the case on October 6, 2022. e.g. (Appendix E).

For these reasons, this Court should remand this action to the United States District Court, Western District of Michigan, Southern Division with instructions to grant Mr. Jones Writ of Habeas Corpus.

I.

PETITIONER IS IN CUSTODY IN VIOLATION OF THE CONSTITUTION OR LAWS OF THE UNITED STATES, THE INGHAM COUNTY CIRCUIT COURT WAS WITHOUT JURISDICTION OF FELONY MURDER OFFENSE, WHERE THE FELONY CHARGING SHEET ALLEGED A NONEXISTENT UNCONSTITUTIONAL OPEN MURDER TITLE. MICH. CONST. 1963 ART 1, § 20; 6TH AND 14TH AMENDMENT.

Under the federal constitution, "a criminal statute must give fair warning of the conduct that it makes a crime." Bouie v. City of Columbia, 378 U.S. 347, 350 (1964).

The purpose of the Due Process Clause's fair notice requirement is to enable an ordinary citizen to conform his or her conduct to the law, because "[N]o one may be required at peril of life, liberty or property to speculate as to the meaning of penal statutes." City of Chicago v. Morales, 527 U.S. 41, 58 (1999).

In the instant case, the Court must determine the legality of the restraints under which the Petitioner is being held. People v. Warden, State Prison Southern Michigan, 153 Mich. App. 557, 565 (1986). A Circuit Court Judge has the authority to issue a writ of habeas corpus if the Petitioner can show that "the convicting court was without jurisdiction to try the defendant for the crime in question." People v. Price, 23 Mich. App. 663, 669 (1970). A "radical defect in jurisdiction," for habeas corpus purposes, contemplates an act or omission by state authorities that clearly contravenes an express legal requirement in existence at the time of the act or omission. People v. Price, above. Id., at 669-670.

In 1967, the Supreme Court of Georgia said that, "the constitution of 46 states specify the form of the enacting clause. Only the constitutions of Delaware, Georgia, Pennsylvania and Virginia, as well as the Constitution of the United States are split on the point." See e.g., Joiner v. State, 155

S.E.2d 8, 10; 223 Ga. 367 (1967).

In the instant case, the Prosecutor charged felony:

COUNT 1: HOMICIDE - OPEN MURDER - STATUTORY SHORT FORM did murder Megan Lynn Collins; contrary to MCL 750.316. [750.316-c] FELONY: LIFE; DNA to be taken upon arrest.

COUNT 2: HOME INVASION - 1st DEGREE did break and enter a dwelling at 2410 West Willow, Apartment A207, and, while entering, present in, or existing did commit an assault, and while entering, present in, or existing the dwelling, was armed with a butcher knife, a dangerous weapon, and while entering, present in, or exiting, Megan Lynn was lawfully present therein; contrary to MCL 750.110a(2). [750.1102A] Felony: 20 Years and/or $5,000,00.

[Exhibit C].

In People v. Johnson, 427 Mich 98 (1986), the court held: "open murder bindover places a defendant on notice that he may be required to defend against first-or second-degree murder and does not offend due process or equal protection" under MCL § 767.71.

An "open murder" charge also permits the finder of fact to consider both first-degree murder, which requires proof of premeditation and deliberation, and second-degree murder, which does not require such proof. MICH. COMP. LAWS ANN. § 750.318 (West 1991).

In the instant case, Petitioner was convicted of Felony Murder under MCL 750.316; MCL 750.316-c.

Petitioner contends that felony Open Murder alleged that Petitioner committed a nonexistent crime is unconstitutional and void for vagueness.

The purpose of the title-object clause, Const 1963, Art 4, § 24, which states, "No law shall embrace more than one object, which shall be expressed in its title," is to provide fair notice to legislators and the public of a statute's content. Court must construe an act's title reasonably, not in a narrow and technical sense. People v. Trupiano, 97 Mich. App. 416 (1980).

The documents citing the charge and statutory citation MCL 750.316, 750.316-c is flawed and inadequate. The complaint and information are missing the essential fact, the charge of predicate felony stated in the language. The predicate felony is a necessary requirement for First-Degree Felony Murder, without it the charge itself cease to exist. This court cannot acquire jurisdiction of an inadequate charge due to inadequate charging documents. People v. Curtis, 389 Mich 698, 707 (1973): This court has consistently held that the circuit court acquires jurisdiction of a case upon the making of a proper return from the magistrate before whom the defendant has been examined or waived examination.

The title-object clause embodies two separate concepts, each of which is a prerequisite to statutory validity: (1) that the law shall not embrace more than one subject; and (2) that the object which the law embraces shall be expressed in its title. People v. Trupiano, supra, citing Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123 (1976).

When an information is filed, it must specify the particular charges and fix the scope of the prosecution. People v. Lightstone, 330 Mich 672, 679 (1951). The sufficiency of the information does not depend upon the proof. It either is or is not, upon it's face, a good information. People v. Webb, 127 Mich 29, 32 (1901).

Jurisdiction in this matter is a courts power to declare law, but when it cease to exist. The court acting without jurisdiction or judicial power is acting ultra vires. This court cannot proceed in any matter deriving from the inadequate charge. People v. Burd, 13 Mich. App. 307, 315 (1968): Where a specific intent is required by law to complete a crime, no description of that crime can be complete without it.

The Supreme Court has indicated that "[t]he void-for vagueness doctrine

requires that a penal statute define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement." Kolender v. Lawson, 451 U.S. 352, 357 (1983). "[I]t is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined." Grayned v. City of Rockford, 408 U.S. 104, 108 (1972).

Jurisdiction to try and punish for a crime cannot be acquired by the mere assertion of it, or invoked otherwise than in the mode prescribed by law, and if it is not so acquired or invoked any judgment is a nullity. 22 C.J.S., "Criminal Law," § 167, p. 202.

The charging instrument must not only be in the particular mode or form prescribed by the constitution and statute to be valid, but it also must contain reference to valid laws. Without a valid law, the charging instrument is insufficient and no subject matter jurisdiction exists for the matter to be tried.

When an information charges no crime, the court lacks jurisdiction to try the accused. People v. Hardiman, 347 N.W.2d 460, 642; 132 Mich. App. 382 (1984).

Thus, where a law does not exist or does not constitutinally exist, or where the law is invalid, void or unconstitutional, there is no subject matter jurisdiction to try one for an offense alleged under such a law.

If a criminal stature is unconstitutional, the court lacks subject-matter jurisdiction and cannot proceed to try the case. 22 C.J.S. "Criminal Law," § 157, p. 189; citing People v. Katrinak, 185 Cal.Rptr. 869; 135 Cal.App.3d 145 (1982).

In the instant case, the complaints in question allege that the Accused has committed crimes by the violation of certain laws which are listed in said

complaints, to wit:

> Homicide - Open Murder Short Form did murder Megan Lynn Collins; contrary to MCL 750.316; 750.316-c; DNA to be taken upon arrest.

I have been informed that these laws or statutes used in the complaints against myself are located in and derived from a collection of books entitled "Michigan Compiled Law" (MCL) Statutes. Upon looking up these laws in this publication, I realize that they do not adhere to several constitutional provisions of the Michigan Constitution.

By Article 4 of the Constitution of Michigan (1963), all lawmaking authority for the State is vested in the Legislature of Michigan. The Article also prescribe certain forms, modes and procedures that must be followed in order for a valid law to exist under the Constitution. It is fundamental that nothing can be a law that is not enacted by the Legislature prescribed in the Constitution, and which fails to conform to constitutional forms, prerequisites or prohibitions. These are the grounds for challenging the subject matter jurisdiction of the court, since the validity of a law on a complaint or information goes to the jurisdiction of a court. The following explains in authoritative detail why the laws cited in the complaint against the Accused are not constitutionally valid laws.

I. By Constitutional Mandate, all Laws Must Have An Enacting Clause.

One of the forms that all laws are required to follow by the Constitution of Michigan (1963), is that they contain an enacting style or clause. This provision is stated as follows:

> Article IV, Sec. 23. The style of all the laws shall be: The People of the State of Michigan enact.

None of the laws cited in the complaint against the Accused, as found in the "Michigan Compiled Laws" (MCL) Statutes, contain any enacting clauses. See People v. Trupiano, 97 Mich 416 (1980); People v. McKinnon, 362 N.W.2d, 809, 812 (Mich. App.) 1985.

II. What is the Purpose of the Constitutional Provision for an Enacting Clause?

To determine the validity of using laws without an enacting clause against citizens, we need to determine the purpose and function of an enacting clause; and also to see what problems or evils were intended to be avoided by including such a provision in our State Constitution. One object of the constitutional; mandate for an enacting clause is to show that the law is one enacted by the Legislative body which has been given the lawmaking authority under the Constitution.

> The purpose of this prescribing an enacting clause-- "the style of the acts" --is to establish it; to give it permanence, uniformity, and certainty; to identify the act of legislation as of the general assembly; to afford evidence of its legislative statutory nature; and to secure uniformity of identification, and thus prevent inadvertence, possibly mistake and fraud. State v. Petterson, 4 S.E. 350, 352; 98 N.C. 660 (1887); C.J.S. "Statutes," § 65, p. 104.

The almost unbroken custom for centuries has been to preface laws with a statement in some form declaring the enacting authority. The purpose of the enacting clause of the statute is to identify it as an act of legislation by expressing on its face the authority behind the at. 73 Am. Jur.2d, "Statutes," § 93, p. 319, 320.

Surely, the Michigan Legislature enacted a "open murder" statute in 1855, concerning the preliminary examination first provided four years later, but not in Michigan Complied Laws Statutes. See People v. Johnson, 427 Mich 98; 398

N.W.2d 219 (1986). See also, People v. McKinnon, 362 N.W.2d 809, 812 (Mich. App.) 1985.

The failure of a law to display on its face an enacting clause deprives it of essential legality, and renders a statute which omits such clause as 'a nullity and of no force of law." Joiner v. State, 155 S.E.2d 8, 10 (Ga. 1967). The (MCL) statute cited in the instant complaint have no jurisdictional identity and are not authentic laws under the Constitution of Michigan.

The laws used against the Accused are unnamed. They show no sign of authority on their face as recorded in the "Michigan Statutes." They carry with them no evidence that the Legislature of Michigan, pursuant to Article IV of the Constitution of Michigan (1963), is responsible for these laws. Without an enacting clause the laws referenced to in the complaint have no official evidence that they are from an authority which I am subject to or required to obey.

The purpose of laws in the complaint, which the Accused is said to have violated, are reference to various (Open Murder) laws, not found or printed in the "Michigan Compiled Law" book. I have looked up the laws charged against me in this book and have not found them nor any enacting clause for any of these laws. A citizen is not expected or required to search through other records of books for the enacting authority. If such enacting authority is not "on the face" of the laws which are referenced in the complaint, "they are not laws of this state," and thus are not laws to which I am subject. Since they are not of this State, and above-named Court was without subject matter jurisdiction, as there can be no crime which can exist from failing to follow laws which do not constitutionally exist.

Face. The surface of anything, especially the front, upper, or other part or surface. That which particularly offers itself to the view of a spectator.

That which is shown by the language employed, without any explanation, modification, or addition from extrinsic facts or evidence. Black's Law Dictionary, 5th ed., p. 530.

III. Laws Must be Published and Recorded with Enacting Clauses.

Since it has been repeatedly held that an enacting clause must appear on the "face" of a law, such a requirement affects the printing and publishing of laws. The fact that the constitution requires "all laws" to have an enacting clause makes it a requirement and not just bills within the legislature, but on published as well. If the constitution said "all bills" shall have an enacting clause, it probably could be said that their use in publication would not be required. But the historical usage and application of an enacting clause has been for them to be printed and published along with the body of the law, thus appearing "on the face" of the law.

Nearly all legal authorities have held that the title is part of the act, especially when a constitutional provision for a title exists. 37 A.L.R. Annotated, pp. 948, 949. What then can be said of a law in which an essential part of it is missing, except that it is not a law under the State Constitution.

This provision of the State Constitution, providing that every law is to have a title expressing one object, is mandatory and is to be followed in all laws, as stated by the Constitutional provisions for a title have been in many other states to be mandatory in the highest sense. Leininger v. Alger, 26 N.W.2d 384; 316 Mich. 644; 82 C.J.S. "Statutes," § 64, p. 102. The provision for a title in the constitution "renders a title indispensable" 73 Am. Jur.2d "Statutes," § 99, p. 325, citing People v. Monroe, 349 Ill. 270; 182 N.E. 439. Since such provision regarding a title are mandatory and indispensable, the

existence of a title is necessary to the validity of the act. If a title does not exist, then it is not a law pursuant to Art.
IV, Sec. 24 of the Constitution of Michigan (1963).

A title will reveal or give notice to the public of the general character of the legislation. However, the nature and intent of the "laws" in the "Michigan Compiled Law Statutes" have been concealed and made uncertain by its nonuse of 'open murder' titles. The nature of the subject matter of the laws therein is not made clear without titles. Thus another purpose of the title is to appraise the people of the nature of legislation, thereby preventing fraud or deception in regard to the laws they are to follow. The U.S. Supreme Court, in determining the purpose of a provision in state constitution said:

> The purpose of the constitutional provision is to prevent the inclusion of incongruous and unrelated matters in the same measure and to guard against inadvertence, stealth and fraud in legislation. *** Courts strictly enforce such provisions in cases that fall within the reasons on which they rest, *** and hold that, in order to warrant the setting aside of enactments for failure to comply with the rule, the violation must be substantial and plain. Posados v. Warner, B. & Co., 279 U.S. 340, 344 (1928); also Internet. Shoe Co. v. Shartel, 279 U.S. 429, 434 (1928).

The complete omission of a "open murder" title is about as substantial and plain a violation of this constitutional provision as can exist. The laws cited in the complaint against the Accused are of that nature. They have no titles at all, and thus are not laws under our Constitution.

If a "open murder" title does not exist, then it is not a law pursuant to Art IV, Sec. 24 of the Constitution of Michigan (1963). In speaking of the constitutional provision requiring one subject to be embraced in the title of each law, the purpose of the constitutional provision requiring one-subject title, and the mischiefs which it was designed to prevent, are defeated by the lack of such a title on the face of the law which a citizen is charged with

violating. Upon looking at the laws charge in the complaint from the the "Michigan Compiled Laws Statutes," I am left asking, what is the subject and nature of the laws used in the complaints against me? What interests or rights are these laws intended to affect? Since the particular object of the provision requiring a one-subject title are defeated by the publication of laws (open murder) which are completely absent of a title, the use of such a publication to indict or charge citizens with violating such laws is fraudulent and obnoxious to the Constitution. See 73 Am. Jur.2d, "Statutes," § 100, p. 325, case cited.

IV. The Michigan Statutes are of an Unknown and Uncertain Authority.

The so called "Criminal Law Statutes" in the Michigan Compiled Law Books" are not only absent "open murder" enacting clauses, but are surrounded by other issues and facts which makes their authority unknown or uncertain or questionable.

The "Session Laws" were also published by the Secretary of the State, who historically and constitutionally is in possession of the enrolled bills of the Legislature which became State law. The Constitution of Michigan, Art, IV Sec. 25 Revision and amendment of laws; title references, publications of entire sections. Requires No law shall be revised, altered or amended by reference to its title only. The section of sections of the act altered or amended shall be-enacted and published at length.

The "Michigan Compiled Laws Statues" are published by the Revisor of Statutes, and are also copyrighted by West's & Westlaw are registered in the U.S. Patent and Trademark Office. The "Session Laws" were never copyrighted as they are true public documents. In fact no true public document of this state or any state or of the United States has been or can be under a copyright.

Public documents are in the public domain. A copyright infers a private right over the contents of a book, suggesting that the laws in the "Michigan Compiled Law Statutes" are derived from a private source, and thus are not true public laws.

The law requires, not conjecture, but certainty. Coffin v. Ogden, 85 U.S. 120, 124 (1874). Where the law is uncertain, there is no law. Bouvier's Law Dictionary, vol. 2, "Maxims," 1880 eddition.

The purported statutes in the "Michigan Compiled Laws Books" do not make it clear by what authority "open murder" exist. The statutes therein have no enacting authority on their face.

V. Establishing Rule of Constitutional Construction.

The issue of subject matter jurisdiction for this case thus squarely rests upon certain provisions of the Constitution of Michigan (1963), to wit:

> Article IV, Sec. 23. The style of the law shall be: The People of the State of Michigan anact.
>
> Article IV, Sec. 24. No law shall embrace more than one subject, which shall be expressed in its title. No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title.

These provisions are not in the least ambiguous or susceptible to any other interpretation than their plain and apparent meaning.

It is certain that the plain and apparent language of these Constitutional provisions are not followed in the publication known as the "Michigan Compiled Law Statutes" which contain no "open murder titles and no enacting clauses, and thus it is not and cannot be used as the law of this State under our Constitution. No language could be plainer or clearer than that used in Art. 4, § 23 and § 24 of our Constitution. There is no room for construction! The

contents of these provisions were written in ordinary language, making their meaning evident.

No matter how much the courts of this State have relied upon and used the publication entitled "Michigan Compiled Laws Statutes" as being law, that use can never be regarded as an exception to the Constitution. To support this publication as law, it must be said that it is "absolutely certain" that the framers of the Constitution did not intend for titles and enacting clauses to be printed and published with all laws, but that they did intend for them to be all stripped away and concealed from public view when a compilation of statutes is made. Such as absurdity will gain the support or respect of no one. Nor can it be speculated that a revised statute publication which dispenses with all titles and enacting clauses must be allowed under the Constitution as it is more practical and convenient than the "Session Laws" publication. See e.g., People v. McKinnon, 362 N.W.2d 809, 812 (Mich. App. 1985); 21 Corpus Juris Secundum "Courts," § 18, p. 25.

The problem with vague law or statute is that it "impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application." Grayned, 408 U.S. at 108-109.

According to People v. Johnson, "open murder bindover places a defendant on notice that he may be required to defend against either first-or second-degree murder and does not offend due process or equal protection." 427 Mich 98 (1986). (Emphasis added)

Pursuant to Constitution of 1963, Art, IV § 24, Since there are no Open Murder Statute: No law shall embrace more than one subject, which shall be expressed in its title. No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its

total content and not alone by its title.

It is a fundamental due process right that a defendant know the nature and cause of the accusation being made against him. People v. Ora Jones, 395 Mich 379 (1995). The right is guaranteed under the United States and Michigan Constitution, as well as by statute. U.S. Const, Ams VI, XIV; Const. 1963, Art 1 § 20; MCL 767.45.

Anytime an information is filed outside the scope of the prosecution's executive authority to bring charges, it is invalid, and the courts authority to act on such information is prohibited by Article 6, Section 13 of the Michigan Constitution of 1963.

Thus, open murder Statutes pursuant to MCL 750.316; MCL 750.316-c and MCL 767.71 simply does not exist leaving the court without subject matter jurisdiction over the "Open Murder" alleged, no law shall embrace more than one object, which shall be expressed in its "open murder" title listed in (MCL) Statutes. See People v. Trupiano, 97 Mich. App. 416 (1980).

A jurisdictional defect is one which "reach[es] beyond the factual determination of a defendant's guilt and implicate[s] the very authority of the state to bring a defendant to trial. People v. Johnson, 396 Mich 434, 442 (1976)(quoting People v. White, 411 Mich 366 (1981)(Moody J. concurring in part and dissenting in part). Such defenses may be raised at any time. People v. Price, 126 Mich. App. 647 (1983); See also, People v. New, 427 Mich 482 (1986)(jurisdictional defects not waived by guilty plea). Hence, a defendant may always challenge whether the state had a right to bring the prosecution in the first place. Harmless error do not apply to a jurisdictional defect, because the jurisdictional defect goes at the heart of legislative intent MCL 767.45.

Petitioner has demonstrated there are no valid Statutory laws defining the

elements of (Open Murder MCL 750.316; MCL 750.316-c; MCL 767.71), nor are there any enacting clauses or titles, to allow a defendant an opportunity to prepare a defense contrary to the VI and XIV Amendment to the United States Constitution; Mich. Const. 1963, Art 1, § 20. Without valid statutory laws there is no subject matter jurisdiction and any judgment of conviction rendered is void. There can be no valid judgment, either right or wrong, without this type of jurisdiction.

To assume jurisdiction in this case would result in TREASON. Chief Justice John Marshall once stated:

> We [judges] have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution. Cohens v. Virginia, 6 Wheat. (19 U.S.) 264, 404 (1921).

The judges of this State took an oath to uphold and support the Constitution of Michigan, and the blatant disregard of that obligation and allegiance can only result in an act of treason.

If this court departs from the clear meaning of the Constitution, it will be regarded as a blatant act of TYRANNY. Any exercise of power which is done without the support of law or beyond what the law allows is tyranny.

> It has been said, with much truth, "Where the law ends, tyranny begins." Merritt v. Welsh, 104 U.S. 694, 702 (1881).

The law, the Constitution, does not allow laws to exist without titles or enacting clauses. To go beyond that and allow the "Michigan Compiled Law Statutes" to exist as "law" is nothing but tyranny. Tyranny and despotism exist where the will and pleasure of those in government is followed rather than established law. It has been repeatedly said and affirmed as a most basic principle of our government that, "this is a government of laws and not

of men; and that there is no arbitrary power located in any individual or body of individuals." Cotting v. kansas City Stock Yards Co., 183 U.S. 79, 84 (1901).

The Constitution requires that all laws have enacting clauses and titles. If theses clear and unambiguous provisions of the State Constitution can be disregarded, then we no longer have a constitution in this State, and we no longer live under a government of laws but a government of men, i.e., a system that is governed by the arbitrary will of those in office. The creation of the "Michigan Compiled Law Statutes" is a typical example of the arbitrary acts of government which have become all too prevalent in this country. Its use as law is a nullity under our Constitution.

The due process clause bars courts from applying a novel construction of a criminal statute to conduct that neither the statute nor any prior judicial decisions has fairly disclosed to be within its scope. See e.g., Richardson v. Whitmer, 2022 U.S. Dist. LEXIS 188503!; 2022 WL 8945089.

II.

PETITIONER IS IN CUSTODY IN VIOLATION OF THE CONSTITUTION OR LAWS OF THE UNITED STATES, WHERE THE MAGISTRATE FAILURE TO PROPERLY HOLD A PROBABLE CAUSE CONFERENCE, OR TO FILE A PROPER, TRUE, LEGAL MAGISTRATE'S RETURN AFTER THE BIND-OVER DEPRIVED THE CIRCUIT COURT OF SUBJECT/MATTER JURISDICTION IS A RADICAL DEFECT.

The court has a right to determine whether an inmate is being deprived of a "State Created Right" or "Liberty Interest" granted him by a rule, statute, or regulation promulgated by the government. Meachum v. Fano, 427 U.S. 215; 49 L.Ed.2d 451; 69 S.Ct 2532 (1976).

In the instant case, the Circuit Court was without subject-matter or personal-matter jurisdiction in the above case because it failure to hold a probable cause conference as the Petitioner was entitled to based on Michigan Complied Law 766.4 Public Act 1927 requiring that every defendant in a criminal case who is arraigned on a warrant/summons is entitled to have a right to a probable cause conference within 7 days of the arraignment on the warrant/summons in accordance with said criminal defendant's 6th Amendment right to speedy trial proceedings, fair trial proceedings, and the 14th Amendment right to due process of law prior to having the criminal defendants liberty removed and stripped of his freedom.

The Circuit Court never obtained subject-matter or personal-matter jurisdiction over the trial of the criminal defendant where the district court Magistrate Judge failed to file a proper/legal/required/true/legitimate Magistrate's Return "After The Bind-Over" and without a Magistrate's return after the bind-over being filed, the Circuit Court lacks any subject-matter jurisdiction or authority and are not vested with personal or subject-matter jurisdiction for any case, trial, plea, sentence or otherwise. (Exhibit D).

The Circuit Court never obtained subject-matter or personal-matter

that are in fact radical defects in the proceedings which nullify and void out the Circuit Court having any subject-matter jurisdiction, the failure to provide any documentation showing that the Petitioner formally waived personal-matter jurisdiction, and the failure to provide any record of the Petitioner having any probable cause conference on any conviction that took place prior to January 1, 2015, and failure of the State to comply with Public Act 766.4 of 1927's requirement to hold a probable cause conference within 7 days of the date of arraignment on the warrant/complaint and as such, the petitioners 14th Amendment Rights to due process were violated because his freedom was taken without Due Process of Law contrary to the State and Federal Constitution.

CONCLUSION

The petition for writ of habeas corpus should be granted.

Respectfully submitted,

/s/ _____

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Date: April 5, 2024