23-7271 ORIGINAL

IN THE UNITED STATES SUPREME COURT: Court Address: 1 First Street, N.E. Washington, DC 20543	FILED FEB 21 2024 OFFICE OF THE CLERK SUPREME COURT, U.S.
LOWER COURT: Colorado Supreme Court ACTION NUMBER: 2023SA306 LOWER COURT: Colorado Court of Appeals ACTION NUMBER: 2023CA1070 LOWER DISTRICT COURT: Denver District Court ACTION NUMBER: 2005CR3972	**Δ COURT USE ONLY Δ**
IN RE: ARTHUR JAMES LOMAX PETITIONER, v THE PEOPLE OF THE STATE OF COLORADO/PROSECUTION ~~COLORADO SUPREME COURT~~ ~~STATE OF COLORADO~~ RESPONDENT	**CIVIL ACTION NUMBER:**
ATTORNEY/ PRO se Arthur J. Lomax #134416 Bent County Correctional Fac. 11560 County Road, FF-75 Las Animas, CO 81054	

PETITION FOR WRIT OF CERTIORARI

COMES NOW, Mr. Lomax, petitioner-appellant herein pro se petition this honorable Court, pursuant to 28 U.S. Code Subsect. 1257 and/or 28 U.S. Code Subsect. 1254, and Supreme Court Rule 10. To review, consider, and grant his petition.

QUESTION(S) PRESENTED

When a states "Bill of Rights", calls for the prosecution of felonies *only by indictment whether prosecution by any other method conforms with the states constitutional "uniformity of laws clause", and the protections of the 14th Amendment of the U.S. Constitution?

Whether a Government Officers "discretion" can abolish the substantial constitutional safeguard of a grand jury indictment, to one portion of citizens charge with felonies, but leave it in effect to another portion of citizens who are charged with felonies?

An indictment confers competent subject-matter jurisdiction on the district court. An indictment is also the culmination of the probable cause screening process of the Grand Jury and that procedure functions as a "constitutionally adequate" substitute for a preliminary hearing whther a petitioner can be deprived of an indictment and a preliminary hearing and be awarded a fair trial. (Note: Defendant made no waiver of these protections).

Whether the substantial- due process safeguards to the accused provided by the requirement that such an offense be prosecuted by indictment can be eradicated on the theory that noncompliance is a mere technical departure from the rules? (Note: See, Hagner vs. United States, 285 U.S. 427, also see, Williams vs. United States, 341 U.S. 97) [**997]

When a Grand Jury Indictment is incorporated in a States Bill of Rights, and when a State Habeas applicant makes a Prima Facie showing that he was prosecuted for a felony, without an indictment. Whether a state judge can dismiss the Habeas as having no merit? (Note: This arbitrary action violates the due process protections of the National and State Constitution).

When the sentencing courts mittimus is absolutely void for want of jurisdiction, whether a 2254 Habeas applicant can be required to exhaust remedies before his writ is issued? Whether state statues can be applied in a manner that creates ex post facto laws, by altering the necessary criminal rules of procedure (e.g. indictment for a felony) and by requiring that, different or less testimony is needed the law requires at time of the offense to convict the offender?

When a State Bill of Rights guarantees an indictment for a felony, and when it was the common law practice to add any facts or elements that increase punishment in an indictment.

Whether a prosecutor can charge a defendant of an aggravated crime when the defendant was not proceeded against by an indictment. (Note: See, Appendix vs. New Jersey, 530 U.S. 466 (2000); also see, Criminal Procedure Section 82 at 51-52).

When a indictment and a preliminary hearing **shields the accused from unwarranted charges.** Whether defendant's retained lawyer and/or public defender(C.R.S.21-1-101(1)) can be said to have protected defendant's 6th amendment right to

effective assistance of counsel, when defendant's retained lawyer or public defender did not protect defendant's constitutional rights to a preliminary hearing and indictment before proceedings and trial.

When a conviction is not merely erroneous, but is illegal and absolutely void, because the pretrial and trial court(s) did not have subject matter jurisdiction the felony charge(s)and/or the parties,and when defendant's retained lawyer/or public defender was clearly ineffective, seeing the defendant was convicted in a court that did not have subject matter jurisdiction over the felony charge(s) and/or the partie(s), whether such conviction can be the legal cause of imprisonment?

Whether the statutory enactment 16-5-101 can override the fundamental constitutional requirement of article 2, section 8, of the Colorado Constitution, that requires indictments for felonies? Whether statutory enactments that are in contrast to the National and State Constitutions can be upheld as valid?

If the provisions of the State Constitution, that until otherwise provided by law, no person shall, for a felony, be proceeded against criminally otherwise than by indictment, and if the power conferred upon to provide otherwise. The question arises how must this power be exercised?

Statute (16-5-204) article 2, section 24: allow citizens to petition the Government for redress for Grievances. Petitioner's arrest was without his miranda rights. Considering these facts, petitioner's retained lawyer/or public defender should have brought petitioner's case before the Grand Jury to investigate the acts of County Officials. (Note: No preliminary hearing was held to contest such actions). When a Court properly has cognizance of cause, a mere error of law must be reviewed by appeal or writ of error.

Is it true,by mandate should all laws of this State have enacting clause and/or titles in and publication of each state law, pursuant to Colo. Const. Art. V, Sect. 18, and Legislative Construction of Statutes C.R.S. 2-4-213?

Petitioner's point of law did not have to be met at every stage of criminal proceedings, because it goes beyond a mere error in point of law. The proceedings were not merely erroneous, but entirely null and void because the trial and/or sentencing Court were without subject matter jurisdiction over the cause/ or party.

Petitioner is subject to wrongful and/or illegal imprisonment, and is held in violation of several amendments of the National and State Constitutions; petitioner cannot enforce his civil rights in the trial/or sentencing court. Petitioner prays that this Court will grant his writ and order the lower court to discharge him from the Department of Corrections,and dismiss all related charge(s)in this case.

+Conclusion

The petitioner for a writ of habeas should be granted and the petitioner ask that his record of conviction be expunged.

Arthur J. Lomax

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STATEMENT OF ISSUES

(1) Indictment and/or Complaint and Information of felony charge(s); (2) The nature of personal jurisdiction and subject matter jurisdiction; (3) By "mandate" all laws must have an enacting clause; (4) Laws must be published and recorded with enacting clauses; (5) The alleged laws and/or statutes referenced to in the Colorado Revised Statute books Title 18 and/or in the complaint and information contain no Titles; (6) Colorado Revised Statutes are of unknown authority; and (7) Established Rules of Constitutional Construction.

STATEMENT OF THE CASE

The accused and/or petitioner is alleging in his false arrest and wrongful imprisonment: (1) an unlawful detention and deprivation of liberty against his will; (2) an unreasonable detention which is not warranted by the circumstances; and (3) an intentional detention. And alleging for his false imprisonment: (1) the unlawful detention of his person; (2) against his will; (3) Without legal authority or color of authority; and (4) which is unreasonable and unwarranted under the circumstances. See, Bonett v. Cook, 2021 U.S. Dist. LEXIS 212336.

SUMMARY OF THE ARGUMENTS

Originally, Mr. Lomax was arrested on or about June of 2005, for 18-3-402, C.R.S., a class 3 felony but later became a class 4 felony and were charged by way of a complaint and information. A jury trial found him guilty of 18-3-402 and also of the lesser included 18-3-404 (1)(a). The accused and/or petitioner was sentenced on 12/12/2006 to the CDOC for a term of 6 years to LIFE and plus 10 years to LIFE mandatory parole. He believes the trial court for want or lack of subject matter and personal jurisdiction, had no power or authority to try, pass judgment, or sentence him to the CDOC. Because the alleged laws and/or statutes used against him from the C.R.S. books 2005, 2006, and 2007 contain no enacting clauses and/or titles. As Constitutionally required by the Colorado Constitution Art. V, Sect. 18, and Legislative Construction of Statute 2-4-213, form of enacting clause. This Constitutional provision which prescribes an enacting clause for all

laws is not directory, but is mandatory. Therefore, Mr. Lomax's was prosecuted under false pretense or pretext by the prosecutor by an unlawful trial. There was no presentment of indictment of a Grand Jury for his allege infamous crime,see, U.S. Const. Amend V and Colo. Const. Art.II,Sect.8. And the district court did not have lawful jurisdiction over the subject matter and party, because there was no existing cause or offense that could have been charged against the accused. See, U.S. Const. Amends.XVI and XIV.

ARGUMENTS

ARGUMENTS AND POINTS OF AUTHORITY IN SUPPORT OF REQUEST FOR RELIEF PURSUANT TO C.A.R. 21

MEMORANDUM OF LAW

THE NATURE OF SUBJECT MATTER JURISDICTION

Mr. Lomax, petitioner-appellant herein pro se, petition this honorable Court, pursuant to C.A.R. 21, to issue a rule to show cause and to grant appropriate relief in response to the matter presented below.

The petitioner in this case is not an attorney or skilled in the practice of law and pursuant to People v. Bergerud, respectfully request that this honorable Court, Liberally Construe this petition and apply any applicable law, irrespective of whether the pro se litigant has mentioned it by name. People v. Bergerud, 223 P.3d 686 at,697 (2010).

The petitioner states and establish that he has no other speeder and adequate remedies available (See, C.A.R. 21(a)(1); also Davidson,79 P.3d at, 1228).

The jurisdiction of the court over the subject matter has been said to be essential, necessary, indispensable, and elementary or prerequisite to the exercise of the judicial power. The term jurisdiction is notoriously malleable and is used in a variety of contexts (e.g. personal jurisdiction) that have nothing whatever to do with the court's subject matter jurisdiction. See, Hubi, 164 F.3d at 380-81. In very general terms, "jurisdiction" means

something akin to "authority over". Black's Law Dictionary 855 (7th ed. 1999). United States v. Gonzalez, 311 F.3d 440, 443, 2002 U.S. App. LEXIS 23937, *7-8 (1st Cir. P.R. November 22, 2002). "[A] court's inherent authority does not allow it to act where it would otherwise lack jurisdiction". In re Mckinney,158 N.C. App. at 443, 581 S.E. 2d at 795. "A court cannot undertake to adjuicate a controversy on its own motion...before a court may act there must be some appropriate application invoking the judicial power of the court with respect to the matter in question". Id. at 444, 581 S.E. 2d at 795 (emphasis omitted) (citation omitted). For this reason, a defense based upon lack of subject matter jurisdiction "cannot be waived and may be asserted at any time. Accordingly, the appellants may raise the issue of jurisdiction over the matter for the first time on appeal although they initially failed to raise the issue before the trial court". In re Green, 67 N.C. App. 501,504, 313 S.E. 2d 193, 195 (1984) (citations omitted), see also In re Z.T.B., 170 N.C. App. 564, 613 S.E. 2d 298, 300 (2005) (holding that when defects in a petition raise a question of the trial court's subject matter jurisdiction over the action, the issue may properly be raised for the first time on appeal).

A court cannot proceed with a trial or make a judgement without such jurisdiction existing. Therefore, Mr. Lomax's trial was unfair and unjust, and without legal jurisdiction, and a violation of his due process rights, and also was deprived the equal protection of the laws. See, U.S. Const. Amends. V, VI, and XIV. It is elementary that jurisdiction of the court over the subject matter of the action is most critical aspect of the court's authority to act without it, the court lacks any power to proceed forward. Therefore, defense based upon this lack cannot be waived and may be asserted at any time. Matter of Green, 313 S.E. 2d 193 (N.C. App. 1984). "The law provides that once state and federal jurisdiction has been challenged, it must be proven", 100 S.Ct. 250 (1980). "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. "Jurisdiction,

once challenged, cannot be assumed and must be decided", Main v. Thiboutot, 100 S.Ct. 250. The burden shifts to the court to prove jurisdiction", Rosemond v. Lambert, 469 F. 2d 416.

Subject matter jurisdiction "cannot" be conferred by waiver or consent, and may be raised at any time, Rodrigues v. State, 411 So. 2d 1129 (Fla. App. 1983). The subject matter jurisdiction of a criminal case is related to the cause of action in general, and more specifically to the alleged crime or offense which creates the action. The subject matter of a criminal offense is the crime itself. Subject matter in it's broadest sense means the cause, the object, or the thing in dispute, Stillwell v. Markham, 10 P. 2d 15 135 Kan. 206 (1932). The Fifth Amend. provides that "[n]o person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand Jury. The Grand Jury determines if there is probable cause to believe that a crime has been committed and protects citizens against unfounded prosecutions. See, U.S. v. Sells Eng'g Inc.,463 U.S. 418, 423 (1983); See also U.S. v. Cotton,535 U.S. 625, 634 (2002) (5th Amend. grand jury right serves a vital function... as a check on prosecutorial power"); See, e.g.,In re U.S., 441 F.3d 44, 58 (1st Cir. 2006) (grand juries investigate criminal allegations and protect citizens against prosecutorial misconduct). Mr. Lomax, didn't waive his indictment and/or grand jury investigation due process rights, or his preliminary hearing right which he was deprived of as well, therefore, his,U.S. Const. Amends. V, VI, XIII, and XIV was violated. The trial court didn't have lawful jurisdiction over the subject matter and the party.

An indictment in a criminal case is the only means by which a court obtains subject matter jurisdiction, and is "the jurisdiction instrument upon which the accused stands trial", State v. Chatmon, 671 P.2d 531, 538 (Kan. 1983). The indictment is the foundation of the jurisdiction of the court. Thus, if these charging instruments are invalid, there is a lack of subject matter jurisdiction. Without a formal and sufficient indictment a court does not acquire subject matter jurisdiction and thus an accused may not be punished for a crime. Honomichi v. State, 333

N.W. 2d 797, 798 (S.D. 1983).

A formal accusation is essential for every trial of a crime. Without it the court acquires no jurisdiction to proceed, even with the consent of the parties, and where the indictment or information is "valid" the court is without jurisdiction. Ex parte Carlson, 186 N.W. 722, 725, 176 Wis. 538 (1922). Without a valid indictment any judgment or sentence rendered is, void ab initio. Ralph v. Police Court of El Cerrito, 190 P.2d 632, 84 Cal. App. 2d 257 (1984); Sauls v. Sauls, 40 Colo. App. 275 (1977). The validity of a judgment depends upon the court's jurisdiction over the person and the subject matter involved. A judgment rendered without jurisdiction is "void". McLeod v. Provident Mutual Life Insurance Co., 186 Colo. 234, 526 P.2d 1318; In re the Marriage of Zubia, 38 Colo. App. 471, 558 P.2d 1003; In Klancher v. Anderson, 113 Colo. 478, 158 P.2d 923, the Supreme Court distinguished jurisdiction from the exercise of jurisdiction:

"The authority to decide a cause at all, and not the decision rendered therein, is what makes up jurisdiction; and when there is jurisdiction of the person and subject matter, the decision of all other questions arising in the case is but an exercise of that jurisdiction... "[J]urisdiction is the power to hear and determine...[and] the power to decide necessarily carries with it the power to decide wrongly as well as rightly..."

Jurisdiction to try and punish for a crime cannot be acquired by mere assertion of it, or invoke 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" Sec. 167, p. 202.

The charging instrument must not only be in the particular mode or form prescribed by the constitution and statutes to be valid but it also must contain reference to valid laws. Without valid laws, the charging instrument is insufficient and no subject matter jurisdiction exist for the matter to be tried. Where an information charges no crime, the court lacks jurisdiction to try the accused. People v. Hardiman, 347 N.W. 2d 460,462, 132 Mich. App. 382 (1984). Whether or not the complaint charges an offense

is a jurisdiction matter. Ex parte Carlson, 186 N.W. 722, 725, 176 Wis. 538 (1922). An invalid law charged against one in a criminal matter also negates subject matter jurisdiction by the sheer fact that it fails to create a cause of action. "Subject matter is the thing in controversy". Holmes v. Mason, 115 N.W. 770, 80 Neb. 454.

Further, citing Black's Law Dictionary:

"Without a valid law, there is no issue or controversy for a court to decide upon. Thus, where a law does not exist or does not constitutionally exist, or where the law is invalid, void or unconstitutional, there is no subject matter jurisdiction to try one for an offense alleged under the law".

If a criminal statute is unconstitutional, the court lacks subject matter jurisdiction and cannot proceed to try the case. 22 C.J.S. "Criminal Law", Sec. 157 P.189, People v. Katrink, 185 Cal. Rptr. 869, 136 Cal. App. 3d 145 (1982). Where the offense charged does not exist, the trial court lacks jurisdiction, State v. Christensen, 329 N.W. 2d 382, 383, 110 Wis. 2d 538 (1983).

Not all statutes create a criminal offense. Thus, where a man charged with a statute which does not create a criminal offense, such person was never legally charged with any crime or lawfully convicted because the trial court did not have jurisdiction of the subject. State ex rel. Hansen v. Rigg, 258 Minn. 338, 104 N. W. 2d 553 (1960). The alleged statutes Mr. Lomax was charged with and convicted of (C.R.S. #18-3-402(1)(a); C.R.S. #18-3-402(1)(e); and C.R.S. #18-3-404(1)(e), did not create a criminal offense, he was never legally charged with any crime or lawfully convicted, because the statutes did not have any enacting clauses and titles therefore, the trial court did not have subject matter jurisdiction over the subject and party. There must be a valid law in order for subject matter to exist.

In a case where a man convicted of violating certain section of laws, and he later claimed that the law were unconstitutional which deprived the county court of jurisdiction to try him for those offenses. The laws and/or statutes Mr. Lomax was convicted

of were unconstitutional which deprived the county court of jurisdiction to try him for those offenses. The Supreme Court of Oregon held:

"If these section are unconstitutional, the law is void and an offense created by them is not a crime and a conviction under them cannot be legal cause for imprisonment, for no court can acquire jurisdiction to try a person for acts which are made criminal only by an unconstitutional law". Kelly v. Meyers, 263 Pac.,903, 905 (Ore. 1928).

Without a valid law there can be no crime charged under that law, and where there is no crime there is no controversy or cause of action, and without a cause of action there can be no subject matter jurisdiction. To try a person of violating said law. The court then has no power or right to hear and decide a particular case involving such invalid or nonexistent laws. These authorities and others make it clear that if there are no valid laws charged against a person, there is nothing that can be deemed a crime, and without a crime there is no subject matter jurisdiction. Further, invalid or unlawful laws make the complaint fatally defective and insufficient, and without a valid indictment there is a lack of subject matter jurisdiction.

The accused/petitioner asserts that the alleged laws charged against him are not valid, or do not constitutionally exist as they do not conform to certain constitutional prerequisites, and thus are no laws at all which prevents subject matter jurisdiction to trial court. The accused/petitioner has come to realize after intense and serious legal research, with the assistance of a prison paralegal that these alleged laws/statutes used in the complaint and information against him, are located in and derived from a collection of "Copyrighted Books" entitled "Colorado Revised Statutes". Upon researching these copyrighted statutes in this publication, they do not adhere to several Constitutional provisions of the Colorado Constitution. According to Article IV of the Colorado Constitution (1876), that all lawmaking authority for the State is vested in the General Assembly of Colorado. This article also prescribes certain forms, modes,

and procedures that "must" be followed in order for a valid law t to exist under the Constitution. It is fundamental that nothing can be a law that is not enacted by the General Assembly prescibed in the Colorado's Constitution, and which fails to conform to constitutional, forms, prerequisites, and prohibitions. These are grounds for challenging the subject matter jurisdiction of the criminal court, since the validity of the law on the complaint goes to the jurisdiction of the court. The following explains in authoritative detail, and why the alleged laws cited in the complaint against the accused/petitioner are not constitutional valid laws.

MR. LOMAX'S RIGHTS WAS VIOLATED HIS U.S. CONSTITUTION; AMENDMENTS V, VI, AND XIV. THE STATE DID DEPRIVED HIM OF LIFE AND LIBERTY, WITHOUT DUE PROCESS OF LAW; AND DENIED THE EQUAL PROTECTION OF THE LAWS.

BY MANDATE, "ALL LAWS" MUST HAVE AN ENACTING CLAUSE

One of the forms that all laws are required to follow by the Colorado Constitution (1876) which contains an enacting style or clause. This provision is stated as follows: Colorado Const. Art. V, Sect. 18. The style of all laws of this state shall be: **"BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF COLORADO."** (Effective date August 1, 1876).

Each of the alleged statutes/laws the accused/petitioner was unlawfully convicted of #18-3-402(1)(a),C.R.S.; #18-3-402,(1)(e) C.R.S.; and #18-3-404(1)(e),C.R.S. None of these statutes/laws cited in the complaint/information against him, as found in the "Colorado Revised Statute books of 2005, 2006, and 2007 contain any form of "Enacting Clauses". As Constitutionally required by the Colorado Constitution Art. V, Sect. 18. And Legislative Construction of Statutes 2-4-213, form of enacting clause. The Constitution provision which prescribes an enacting clause for all laws is not directory, but is mandatory. This provision is to be strictly adhered to as asserted by the Supreme Court of Minnesota:

"Upon both principle and authority, we hold that Art. 4, Sect.

13, of the Constitution, by the Legislature of the State of Minnesota, is mandatory and that a statute without any enacting clause is void. See, Sjoberg v. Security Savings & Loan Assn., 73 Minn. 203, 212 (1898). Also see, Collier & Cleveland Lithographing Co. v. Henderson, 18 Colo. 259, 32 P.417 (1893).

The United States Court of Appeals for the Tenth Circuit stated as follows:

> ...While it is true that the Colorado's Constitution requires inclusion of an enacting clause in and publication of each state law... See, Stevens v. Colorado, 18 Fed. App. 779, 780 (10th Cir. Colo. September 17,2001).

MR. LOMAX'S RIGHTS WAS VIOLATED HIS U.S. CONSTITUTION; AMENDMENTS V, VI, AND XIV. THE STATE DID DEPRIVED HIM OF LIFE AND LIBERTY, WITHOUT DUE PROCESS OF LAW; AND DENIED THE EQUAL PROTECTION OF THE LAWS.

THE PURPOSE FOR 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 see what problems or evils were intended to avoid by including such a provision in our State Constitution.

The purpose of thus prescribing an enacting clause is the style of the act, and to establish it, and to give it permanence, uniformity, and certainty; to identify the act of legislation as of the General Assembly; to afford evidence of it's legislative statutory nature; and to secure unifomity of identification, and thus prevent inadvertence, possibly mistake and fraud. State v. Patterson, 4 S.E. 350, 352, 98 N.C. 660 (1887); 82 223 Ga. 367 (1967). The object of the style of a bill or enacting clause is to show the authority by which the bill is enacted into law. Also, to show the act comes from a place pointed out by the constitution as the source of legislation by the General Assembly. Ferrill v. Keel, 151 S.W. 269, 272, Ark. 380 (1912).

To fulfill the purpose of identifying the lawmaking authority of the law, it has been repeatedly declared by the courts of this land that an **enacting clause** is to appear on the face of every law which the people are to follow and obey. The almost unbroken custom of centuries has been to preface laws with a statement in some form declaring the enacting authority. The purpose of an enacting clause of statute is to identify it as an act of legislation by expressing on it's face the authority behind the act, 73 Am. Jur. 2d "Statutes" Sec. 93 p. 319, 320; Preckel v. Byrne, 243 N.W. 823, 826, 62 N.D. 365 (1932).

For an enacting clause to appear on the face of a law, it must be recorded or published with the law so that the **public** can readily identify the authority for that particular law which they are expected to follow. The alleged statutes/laws used in the complaint and information against the accused/petitioner had no enacting clauses, as required by the Colorado Constitution, Art. V, Sect. 18, and the legislative construction of statutes as prescribed in Colorado Revised Statutes 2-4-213. Both, clearly state the laws of this State shall be as follows: **"BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF COLORADO"**. They cannot be identified as laws of the legislation of the state of Colorado or enacted by the General Assembly of Colorado pursuant to it's Constitutional **Mandate** under Art. V, Sect. 18, of the Constitution of Colorado (1876) and C.R.S. 2-4-213, since a law mainly identified as a **true** Constitutional law by way of it's enacting clause.

The Supreme Court of Georgia asserted:

"That a statute must have an enacting clause, even though their state constitution had no provision for the measure. The court stated that an enacting clause establishes a law or statute as being a **true** and **authentic** law of the state. The enacting clause is that portion of a **statute** which gives it"**jurisdiction identity** and **constitutional authenticity**."

The failure of a law to display on it's face an enacting clause deprives it of essential legality, and tenders a statute which **omits** such clause as **"a nullity and no force of law."** Joiner v. State, supra. The statutes cited in the complaint and informa-

tion have "no jurisdiction identity and are "not authentic laws under the Constitution of Colorado". See, U.S. Amends.V, No person shall...,nor be deprived of life,or liberty,without due process of law; U.S. Amends. VI,which district shall have been previously ascertained by law; and U.S. Amend. XIV,and subject to the jurisdiction thereof(Mr. Lomax was not subject to the court's jurisdiction),therefore, he was deprived of his life and freedom, without due process of law.See also Const. of the State of Colo. Art.II, Sect.25.

The Court of Appeals of Kentuky held that:

"ThetConstitutional provision requiring an enacting clause is a basic concept which has a direct affect upon the validity of the law".

The court, in dealing with a law had contained no enacting clause stated:

"The alleged act or law in question is **unnamed** it shows no sign of authority; it carries with it no **evidence** that the General Assembly or any other lawmaking power is responsible or answerable for an enacting clause, the makers of the Constitution intended that the General Assembly should make it's impress or seal, as it where, upon each enactment for the sake of identity, and to assume and show responsibility.

While the "Constitution" makes this a necessity, it did not ~~or~~ originate it. The custom is in use practically everywhere, and is as old as parliamentary government, as old as king's decrees, and even they borrowed it. The decrees of Cyrus, King of Persia, they were not the first to be prefaced with a Statement of Authority, The law was delivered to the great prophet Moses in the name (or Authority) of the Great I Am, and the Prologue to the Great Commandments is no less majestic and impelling. But, whether these edicts and commands be promugated by the Supreme Ruler or petty kings, or by the sovereign people themselves, they have always begun with some form as an evidence of power and authority. Commonwealth v. Illinois Cent. R. Co., 170 S.W. 171,172,175, 160 Ky. 745 (1914).

The alleged statutes/laws the state used against the accused/petitioner are **unnamed**. They show no sign of authority on their "face" as recorded in the Colorado Revised Statutes Title 18 Books. They carry with them **no evidence** that the General Assembly of Colorado, pursuant to Art. V, Sect. 18 of the Constitution of the State of Colorado (1876), and legislative construction of statutes 2-4-213, form of enacting clause, the laws referenced to in the complaint/information have no "**official evidence**" that the ey are from an authority which I am subject to or required to obey.

When the question of the objects intended to be secured by the enacting clause provision was before the Supreme Court of Minnesota, the Court held that:

"Such a clause was necessary to show the people who are too obey the law, the authority for their obedience. It was revealed that historically, this was a main use for an enacting clause, and thus it's use is a fundamental concept of law, and the Court stated:

"All written laws, in all times and in all countries, whether in the form of decrees issued by absolute monarch, or statutes enaenacted by king and Council, or by a representative body, have as a rule, expressed upon their **faces** the authority by which they were promulgated or enacted. The almost unbroken custom of centuries has been to preface laws with a statement in some form declaring the enacting authority.If such an enacting clauseuse is a mere matter of form, a relic of antiquity, serving no useful purpose, why should the Constitutions of many of our states require that **all laws must have an enacting clause**, and prescribe it's **forms**? If an enacting clause is useful and impo portant, if it is desirable that laws shall bear upon their face the authority by which they are enacted so that the peopl ple who are to obey them need not search legislative and other records to ascertain the authority, that it is not beneath the dignity of the framers of the Constitution, or unworthy of such an instrument, to prescribe a uniform style for such an enacting clause.

The words of the Constitution that the style of all laws of

this State shall be, "Be it enacted by the Legislature of the State of Minnessota, imply that all laws must be so expressed or declared to the **end** that they may express upon their face the authority by which they were enacted, and if they did not so declare, they are not laws of the state. Sjoberg v. Security Saving & Loan Assn. Minn, 203, 212-214 (1898). This case was initiated when it was discovered that the law relating to building saving and loan associations, had no enacting clause as it was printed in the statute book,"Laws 1897, p. 250. The court made it clear that a law existing in that manner is **void**. Sjoberg, supra, at p. 214.

The purported laws in the complaint which the accused/petitioner is said to have violated are referenced to various laws/or statutes found printed in the "**Colorado Revised Statute** books. I have looked up the alleged laws/or statutes that was charged against me and found no **enacting clause** for any of these alleged laws/or statutes. A **citizen** is not expected or required to search through other records or books for the enacting authority. If such enacting authority is not **"on the face"** of the laws which are referenced in the complaint, then they are not laws of this state and thus are laws to which I am subject. Such they are not laws of this state, the above named court has no subject matter jurisdiction, as there can be no **crime** which can exist from failing to follow laws which **do not constitutionally exist**. In speaking on the necessity and purpose that each law be prefaced with a an enacting clause, the Supreme Court of Tennessee quoted the first portion of Sjoberg case cited above, and stated:

"The purpose of provisions of this character is that **all statutes** may bear their **faces** a declaration of sovereign authority, by which they are enacted and declared to be the law, and to promote and preserve uniformity in legislation. Such clauses also import a command of obedience and clothe command respect and aid in the enforcement of laws". State v. Barrow, 104 S.W. 526-29, 119 Tenn. (1907).

Petitioner contends that the use of an enacting clause does not merely serve as a "Flag" under which bills run their course

through the legislative machinery. See, Vaugn Ragsdale Co. v. State Bd. of Eq.,,96 P.2d 420-24 (Ont. 1939). The enacting clause of a law goes to its substance, and is not merely procedural. Morgan v. Murry,328 P.2d 644-54 (Mont. 1958). (Any purported statutes which has no enacting clause on its face is not legally binding and obigatory upon the people), as it is not constitutionally a law at all. See, U.S. Const. Amends V, VI,IX,XIII,and XIV.

The Supreme Court of Michigan, inciting numerous authorities, said:

"That an enacting clause was a requisite to a valid law since the enacting provision was mandatory.

The alleged laws/statutes in the Colorado Revised Statutes do not show on their **"face"** the authority by which they are adopted and promulgated. There is nothing on their **"face"** which declares they should be law, or that they are of the proper legislative authority in the state. These and other authorities all hold that the enacting clause of a law is to be **"on its face"** of the law does not and cannot mean that the enacting clause can be buried away in some other volume,or some other book or records.

FACE - The surface of any thing, especially the front, upper, or outer part of 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 intrinsic facts or evidence. Black's Law Dictionary,5th Ed. p. 530.

The enacting clause **must** be intrinsic to the law, not extrinsic to it. That is, it cannot be hidden away in the session laws or other records or books. Thus, the enacting clause is regarded as part of the law and has to appear directly with the law, **"on its face"**, so that one charge with said law knows the authority by which it **exist**.

MR. LOMAX'S RIGHTS WAS VIOLATED HIS U.S. CONSTITUTION; AMENDMENTS V, VI, XIII, AND XIV. THE STATE DID DEPRIVED HIM OF LIFE AND LIBERTY, WITHOUT DUE PROCESS OF LAW; AND DENIED THE EQUAL

PROTECTION OF THE LAWS.

LAWS MUST BE PUBLISHED AND RECORDED WITH ENACTING CLAUSES

U.S. Const. Amend. V,...of the State and district wherein the crime shall have been committed, which district shall have been preiously ascertained by law. U.S. Const. Amend. XIII,...except as a punishment for a crime whereof the party shall have been duly convicted(the accused was not duly convicted of any lawful crime); U.S. Const. Amend.IX,The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people. U.S. Const. XIV,...and subject to the jurisdiction thereof..No State shall make or enforce any law which shall abridge the privileges..of citizens of the United States;

Nor shall any State deprive any person of life,or liberty, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Since it has been repeated held that an enacting clause **must** appear **"on its 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 requirment and not just bills without the Legislature. But on published laws, as well. If the Constitution said **"all bills"** have enacting clause, it probably could be said that their use in publishing 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. It is obvious, then, that the enacting clause **must** be readily visible **"on it's face"** of a statute in common mode in which it is published so that **citizens** do not have to search through the legislative, or other records and books to see the kind of clauses used, or if any exist at all. Thus, a law in a statute book **without** an enacting clause is not a valid publication of law.

In regards to the validity of law that was found in their **"statute books"** with a defective enacting clause, the Supreme

Court of Nevada held:

"Our Constitution expressly provided that the enacting clause of "**every law**" shall be: The People of the State of Nevada, represented in senate and assembly, do **enact** as follows: This language is suscetible of but one interpretation. There is no doubtful meaning as to the intention. It is, in our judgment, an imperative **mandate of the people**, in their sovereign capacity, to the legislature, required that "**all laws**" to be binding upon, shall **their face**, express the authority by which they were enacted and since this **act** comes to us **without** such authority appearing "**on its face**" it is not a law. State of Nevada v. Rogers, 10 Nev. 120, 261 (1875); approved in Caine v. Robbons, 131 P.2d 516-18,61 Nev. 416 (1942); Kefauver v. Spurling, 290 S.W. 14-15 (Tenn. 1926).

The petitioner asserts the manner in which the law came to the Court was by way it was found in the statute book, cited by the Court as Statute 1875, session 66, and that is how they judge the **validity of the law**. Since they saw that the **act**, as it was **printed in the statute book**, which had an insufficient enacting clause on its face, it was deemed to be "**not a law**". It is only by inspecting the publicly printed in the statute book which had an insufficient enacting clause **on its face**, it was deemed to be "**not a law**". It is only by inspecting the publicly printed statute book that the **people** can determine the source of authority and constitutional authenticity of the law they are expected to follow. It should be **noted** that laws in the above cases were held to be "**void**" for having no "**enacting clause**" despite the fact that they were published in an official statute book of the state, and were next to other "laws which had the power enacting clauses.

The preceding examples and declarations on the use and purpose of enacting clauses show beyond that nothing can be called or regarded as a law of this state which is published without an enacting clause on its face. "**Nothing**" can exist as a State of Colorado Constitutional law except in the manner prescribed by the State of Colorado Constitution. Therefore, the provision under Colorado law is that "**all laws must bear on their face a spe-**

cific enacting style, that it be enacted by the General Assembly of the State of Colorado. Colo. Const. Art. V, Sect. 18 and Colorado Revised Statute Subsection, 2-4-213, forms of enacting clause." All laws must be published with this clause in order to be "valid laws," and since the statutes in the Colorado Revised Statutes are not so published, they are not laws of the State.

MR. LOMAX'S RIGHTS WAS VIOLATED HIS U.S. CONSTITUTION; AMENDMENTS V, VI, XIII, XIV. THE STATE DID DEPRIVED HIM OF LIFE AND LIBERTY, WITHOUT DUE PROCESS OF LAW; AND DENIED THE EQUAL PROTECTION OF THE LAWS.

THE LAWS REFERENCED TO IN THE COMPLAINT CONTAIN NO TITLES

The alleged statutes/laws that Mr. Lomax was charged under and convicted of contain no titles. See, U.S. Const. Amends.,nor cruel and unusual punishments inflicted; U.S. Amend. XIV, deprived of his life and liberty, without due process of law. The laws listed in the complaint in question, as cited from the Colorado Revised Statutes, contain no titles. All laws are to have titles indicating the subject matter of the law, as required by the Constitution of the State of Colorado:

> Art. V, Sect. 21: No Bill except general appropriate bills shall be passed containing more than one subject which shall be clearly expressly in it title, but if subject shall be embraced in any act which shall not be expressed in the title, such act shall be "void" on as to so much thereof as shall not be so expressed.

Also see, Art. IV, Sect. 20, of the Oregon Const.,provides in part:

> Every Act shall embrace, but one subject and matters properly connected therewith which subject shall be expressed in the title, but if any subject shall be embraced in the act which shall not be expressed in the title. Such act shall be void only as to so much thereof, as shall not be expressed in the title. See, Melntire v. Forbes, 322 Ore. 426.

Nevertheless, as asserted above, by the provision, a title is

required to be on all laws. The title is another one of the forms of law required by the constitution. This type of constitutional provision "makes the title an essential part of every law," thus, the title is as much a part of the **act** as the body itself. See, Leininger v. Alger, 26 N.W. 2d 348-51, 316 Mich. 644 (1947). Therefore, the title to a legislative act is apart thereto and **must** clearly express the subject of legislation. State v. Burlington & M. RR. Co., 60 Neb. 741, 84 N.W. (1900). Nearly **all** legal authorities have held that the title is part of the act, especially when a constitutional provision for a title exist. See, 37 A.L.R. annotated pp. 984-89. 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 subject is "**mandatory**" and is to be followed in **all laws**, as stated by the Supreme Court of Minnesota:

> "We point out that our constitutional debates indicated that the constitutional requirements relating to enactment of statutes were intended to remedial and mandatory; remedial, as guarding against recognized **evils** arising from loose and **dangerous** methods of conducting legislation; and mandatory, as requiring compliance by the legislature without discretion on its part to protect the "**public**" interest against such recognized **evils**, and that the validity of statute should depend on compliance with such requirement. Bull v. King, 286 N.W. 311, (Minn. 1939).

The constitutional provisions for a title have been held in many other states to be mandatory in the highest sense. State v. Beckman, 185 S.W. 2d 810,816 (Mo. 1945); Leininger v. Alger, 26 N.W. 2d 348, 316 Mich. 644; 82 C.J.S. "Statutes" subsection, 64 of p. 102. The provision for a title in the constitution renders a title indispensable. 73 Am. Jur. Statutes, subsect., 99 p. 325. Citing, People v. Monroe, 349 III. 182 N.E. 439. Since such provisions 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. V, Sect. 21, of the Constitution of the State of Colorado (1876). In speaking of the constitutional provision requiring one

subject to embraced in the title of each law, the Supreme Court of Tennessee stated:

"That requirement of the organic law is mandatory and unless obeyed in every instance. The legislation attempted is invalid and of no effect whatsoever". State v. Yardley,32 S.W. 481,482, 95 Tenn. 548 (1895).

Petitioner asserts to further determine the validity of citing laws in a **complaint** which have no **titles**, we must look at the purpose for this constitutional provision and the **evils** and **problems** which it was intended to prevent or defeat. One of the aims and purposes for a title or caption to an act is to convey to the **people** who are to obey it the legislative intent behind the law. See,U.S. Amend.VI,which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; U.S. Amend. No State shall make or enforce any law which shall abridge the privileges..of citizens of the United States; nor shall any State deprive any person of life or liberty without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. The statutes/laws without the title did deprived the petitioner of his due process of law and the equal protection of the laws.

The constitution has made the title the conclusive index to the legislative intent as to what shall have operation. Megins v. City of Duluth, 106 N.W. 89-97, Minn,23 (1906); Hyman v. State, 9 S.W. 372-73, 87 Tenn 109 (1888).

In ruling as to the precise meaning of the language employed in the statute, noting, as we have said before, is more pertinent towards **ascertain** the true intention of legislative mind in the passage of the **enactment** than the legislature's own interpretation of the scope and purpose contained in the caption. Wimberly v. Georgia, S. & F.F, Com. 63 S.E. 29, 5 Ga. App. 263 (1908).

Under a constitutional provision requiring the subject of the legislation to be expressed in the title, that portion of an **act** is often the very **window** through which the legislative intent may be seen. See, State v. Clinton County, 76 N.W. 986, 166 Ind.

162 (1906). Without the title the intent of the legislature is concealed and cloaked from public view. See,U.S. Amend.VI, and to be informed of the nature and cause of the accusation; and the Const. of the State of Colo., Art.II, Sect. 16,Prosecutions-rights of defendant: In criminal prosecutions the accused shall.. to demand the nature and cause of the accusation. Yet a specific purpose or function of a title to a law is to "protect the people against convert legislation." Brown v. Clower, 166 S.E. 2d 363-65, 225 Ga. 165 (1969). A title will reveal or give notice to the public of the general character of the legislation. However, the nature and intent of the law in the Colorado Revised Statutes have been concealed and made uncertain by its nonuse of titles. The true natureof the "subject matter" of the law therein is not made clear without titles. Thus, another purpose of the title is to apprise (or to give notice to: INFORM) the people of the nature of legislation, thereby, preventing fraud or deception in regard to the laws they are to follow. The United State Supreme Court in determining the purpose of such a provision in state constitutien ons said:

> "The purpose of the Constitutional provision is to prevent the inclusion of incongruous and unrelated matter in the same measure and to guard against inadvertence, stealth, and fraud in legislation. Courts strictly enforce such provision 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".

The complete omission of a title is about as substantial and plain a violation of this constitution provision as can exist. The statutes/laws cited in the complaint and information against the accused/petitioner is of that nature. They have no titles at at all and thus, are not laws under the Colorado State Constitution.

The object of the title is to give a general statement of the subject matter, and such a general statement will sufficient to include all provisions of the act having a reasonable connection with the subject matter mentioned. The object or purpose of the

clause in the constitution is to prevent the perpetration of fraud upon the members of the legislation or citizens of the state in the **enactment of laws**. Ex parte Crane, 151 Pac. 1006, 1010, 1011, 27 Idaho 671 (1915).

The Supreme Court of North Dakota, in speaking on its Constitutional provision requiring **titles on laws**, stated that:

> This provision is intended to prevent all surprises or misapprehensions on the part of the **public**. State v. McEnroe,283 N.W. 57 (N.D. 1983).

The Supreme Court of Minnesota, in speaking on Art. 4, Subsect 27, which is the same as Art. 5 of subsect. 21, of the Colorado State Constitution said:

> This section of the constitution is designed to prevent **deception** as to the **nature** or **subject** of legislative enactments.

State v. Rigg, 109 N.W. 2d 314, 260 Minn, (1961); Leroy v. Special Ind. Sch. Dist., 172 N.W. 2d 764, Minn. (1969).

Petitioner argues that the purposes of the constitutional provision requiring a one subject title and the mischief which it was designed to prevent are **defeated** by the lack of such title on the **face** of the law. In which a **citizen** is charged with violating. Upon looking at the laws charged in the complaint and information from the Colorado Revised Statutes? I am left asking "what is the subject and nature of the laws used in the complaint against me". What interests or rights are these laws intended to affect? Since the particular objects of the provision requiring a one-subject title are **defeated** by publication of laws which are "completely absent of a title", the use of such a publication to charge **citizens** with violating such laws is **fraudulent** and **obnoxious** to the constitution.

This provision prevent surreptitious, inconsiderate, misapprehend legislation, carelessly, inadvertently, or unintentionally enacted through stealth and fraud, and similar abuses, that the **subject** or **object** of the law is required to be stated in the **title**.

Judge Cooley says, that the **object** of requiring a **title** is to

"fairly apprise the people, through such publication of legislative proceedings as is usually made, of the subjects of legislation that are being considered". Cooley, Const. Lim.,p.144. The state constitution requires "**one subject titles**".The particular ends to be accomplished by requiring the **title of a law** are not fulfilled in the statutes referred to in the Colorado Revised Statutes. Thus, the laws charged in the complaint and information against me are not **valid laws**.

MR. LOMAX'S RIGHTS WAS VIOLATED HIS U.S. CONSTITUTION; AMENDMENTS V, VI, VIII, AND XIV. THE STATE DID DEPRIVED HIM OF LIFE AND LIBERTY, WITHOUT DUE PROCESS OF LAW; AND DENIED THE EQUAL PROTECTION OF THE LAWS.

COLORADO REVISED STATUTES ARE OF UNKNOWN AUTHORITY

Mr. Lomax's alleged charge(s) was written on a complaint and information, and not on a presentment or indictment of a Grand Jury (for a capitol, or otherwise infamous crime),being then deprived of his due process of law, and his life and liberty. The district shall have been previously **ascertained by law**, and the prosecuting attorney failed to indict the accused of his alleged felony offense and to inform him of the nature and cause of the accusation. Therefore, he has recieved a punishment for a crime whereof he had not been duly convicted of, and was not subject to the criminal court's jurisdiction.See, U.S. Const. Amends. V, VI, VIII, and XIV.

Therefore, the **omission** of the enacting clause from the Colorado Revised Statutes render the statutes **unconstitutional**. See, Colo. Const. Art. V.,§ 18.

The so call statutes in the Colo. Revised Statutes are not only absent enacting clause, but are surrounded by other issues and facts which make their **authority unknown** or **questionable**.The title page of the Colorado Revised Statutes states that the statutes therein were,compiled, edited, and published by the reviser of the Statutes of Colorado. It does not say that they are the official laws of the General Assembly of Colorado.

The official laws of this state have always been listed in the **Session Laws** of the State of Colorado. The official laws of this state always been listed in the Session Laws of the State of Colorado passed during the Fourth Session of the State Legislature. The Colorado Statutes states that: "Colorado Revised Statutes **must not** be cited, enumerated, or otherwise treated as a Session Law". M.S.3C. 07, Subd.1.

The Session Law was published by the Secretary of the State, who historically and constitutionally is in possession of the **enrolled bills** of the legislature which **become state law.** The Constitution of Colorado, Art. IV, Sect. 11 (1876) requires that **every bill** which passed both the Senate and House, and is signed by the Governor, is to be deposited "in the office of the Secretary of State for preservation". Thus, in this state, as in nearly all other states, **all official laws**, **records**, and **documents** are universally recognized by their being issued or published by the Secretary of State.

According to the Constitution, **enacting** and **changing** laws for a state, falls upon the legislative branch of government, and that branch **"cannot"** delegate the power to any other. The Code of Commissioners or Revising Committee may be composed of lawyers, judges, and private persons. It thus has been noted that "revisers have no legislative authority, and powerless to lessen or expand the letter or meaning of the law." State v. Maurer, 164 S. W. 551, 552, 255 Mo. 152 (1944). Therefore, the work of these committees "cannot" be regarded as **law** pursuant to the Constitution. The law they produce is another **manner** of law coming from a **source** other than the Constitution authorized source. The comprehensive revisions or codifications are like a **private law** approved by the legislature. The mass of laws written by revisers and codifiers **"is not the law"** of the legislature, even when approved by it. They were not **enacted** in the mode intended by the term of the Constitution. Also, since we have no **legal-relationship** to the commission or committee that drafted the code or revised statutes, it would seem the laws they have no authority over us. This is made clear by the face that these comprehensive codes and revisions have no sign or authority which **all law** is required to have.

When we look at the specific-subject codes, or the ancient code of the past, such as the Code of Justinian, the Roman Twelve Tablets, or the Napoleonic Civil Code, we find in their contents or in there **faces the** authority by which promulgated. The specific-suject codes had what is called an **"enacting clause"** which is an official declaration of authority and authenticity. The modern day codes have no such declaration of authority on their faces or contents.

The Colo. Revised Statutes are published by the Reviser of Statutes, and are also **copyrighted** by his/her office. The **Session Laws** were "never" copyrighted as they are true public documents. In face, "no true public document of this state or the United States" has been or can be under a copyright. Public documents ar are in the **public domain.** A copy right infers a **private right** over the contents of a book, suggesting that the laws in the Colorado Revised Statutes is derived from a **private source**, and thus are **"not"** true public laws. The Reviser of the Statutes, in the preface of his/her statute book, called Colorado Revised Statutes, point out the difference in the various types of arrengements of laws, and states the following:

In order to understand and use statutory law, it is necessary to know the meaning of the terms used and the inclusiveness and authority of the laws found in the various arrangements. The terms laws, acts, statutes, revisions, compilations, and codes are often used indiscriminately, but in the following discussion each has a specific meaning. Colorado Revised Statutes,Vol.I,p.X.

The **Reviser** then proceeds to point out the difference that exist between the **Session Laws** and that of a compilation, revision, or code. The Colorado Revised Statutes are apparently a revision, which was **first** published in **1945** (p.ix). The Colorado Statutes appear to be nothing more that a reference book, like Dunnell Colorado Digest or West's Colorado Statutes Annotated, which are also **copyrighted**. The contents of such reference books **"cannot"** be used as law in charging **citizens** with crimes on a presentment or indictment or complaints and informations.

The **Reviser** does not say that the statutes in his/her book are the **official laws** of the State of Colorado. He indicates that these statutes are only **"in theory"** laws of the State (p.xii).

There are thus many confusing and ambiguous statements made by th the Reviser as to the **nature** and **authority** of the statutes in the Colorado Revised Statutes. It is not all made **certain** that they are **laws** pursuant to Art. V, Sect. 18 of the Constitution of the State of Colorado, as noted:

Uncertain things are held for nothing. Maxim of Law; the law requires, not **conjecture**, but **certainty**. Coffin v. Ogden,85 U.S. 120,124; and where the law is **uncertain**, there is **no law**. Bouvier's Law Dictionary, Vol. 2 "Maxims," 1880 edition.

The purported statutes in the Colorado Revised Statutes do not make it clear by what **authority** they exist. The statutes therein have **no enacting authority on their face**. In fact, there is not a **hint** that the General Assembly of Colorado had anything at all to do with these **so-called statute books**. Thus, the statutes used against the accused/petitioner are just **idle words** which carry no **authority of any kind on their face**.

MR. LOMAX'S RIGHTS WAS VIOLATED HIS U.S. CONSTITUTION; AMENDMENTS V, VI, VIII, IX, AND XIV. THE STATE DID DEPRIVED HIM OF LIFE AND LIBERTY, WITHOUT DUE PROCESS OF LAW; AND DENIED THE EQUAL PROTECTION OF THE LAWS.

ESTABLISHED RULES OF CONSTITUTIONAL CONSTRUCTION

Mr. Lomax, were not subject to the criminal court jurisdiction See, U.S. Const. Amends.V, VI, VIII, IX, and XIV. He was deprived of his life and liberty, without due process of law, and denied the equal protection of the laws. And has been subjected to and forced into cruel and unusual punishment of infliction. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. Mr. Lomax has been in **involuntary servitude**, without being **duly convicted** of any lawful crime, for nearly **20 long years**.

The issue of subject matter jurisdiction for this case thus squarely rests upon certain provision of the Constitution of C

Colorado (1876); To wit:

Colo. Constitution Art. V, Sect. 18. Enacting Clause. The style of this state shall be: **"Be it enacted by the General Assembly of the State of Colorado"**. (Effective August 1, 1876). Annotation, Section § 17-22 of this Article **mandatory**. Watrous v. Golden Chamber of Commerce, 121 Colo. 521, 218 P.2d 498 (1950).

Legislative Construction of Statutes § 2-4-213 "Form of Enacting Clause." All acts of the General Assembly of the State of Colorado shall be designated, **known** and **acknowledge** in each such **act** of said state as follows: Be it enacted by the General Assembly of the State of Colorado". Legislative Construction of Statutes, § 2-5-213. Effect of enactment of Colorado Revised Statutes, 1973. "Legislative Construction not based on **editorial matters**.

Legislative Construction of Statutes, § 2-4-211. Liberal Construction: A statute should be construed to accomplish the **purpose** for which it was **enacted**. First Bank of N. Longmont v. Banking Bd,, 648 P.2d 684 (Colo. App. 1982). The alleged Statutes that the accused was prosecuted on have "**no enacting clause**" or **purpose** for which it was **enacted.**

Colorado Constitution Art. v, Sect. 19, when laws take effect-introduction of **bills**. " An **act** of the General Assembly **shall** take affect on the date stated in the act or, if no date is stated in the act then on its passage, a **bill** may be introduced at any time during the **session** unless limited by action of the **General Assembly**. No bill shall be introduced by **title** only. There is no affective **date** of the Colorado Revised Statutesaused against the accused, further in **violation** of the Colorado Constitution. Also, "**no bill**" shall be introduced by title only as listed above. There is no documented link between **any bill** and the **Colorado Revised Statutes Title 18**, that the accused was prosecuted under.

Legislative Construction of Statutes, 2-5-118. Official Statutes publications by other person or Agencies, when permitted: and person, or agency, or political subdivision who wishes to publish, reprint, or disstribute all or substantial part of the **statutes** shall also demonstrate to the satisfaction of the comm-

ittee that the **statues** will be **accurately** reproduced. NOTE: They are not accurately reproduced because they have been reproduced **without the mandated enacting clause**. That 2-5-188 in part, says, "the purpose of this section is to **ensure** that the official **statutes** are made available to the courts, state and local government agencies, and other users; that copies of all or substantial part of Colorado Revised Statutes. When published, reprinted, or distributed to interested **citizens**, accurately state the **law** in effect when those **copies** are prepared, and that unofficial publication, reprinted, or distributions of the **statutes** are not **mistaken** for the official publications, reprinted, or distributions of the statutes are not **mistaken** for the official statutes produced and **enacted** in accordance with this article. NOTE:

The Colorado Revised Statutes "do not" accurately state the law, because without the mandated **enacting clause**, they are not any laws at all".

Const. of Colo., Art. XVIII, Sect. 8, Publication of laws, states:

"The General Assembly shall **provide** for the publication of the laws passed at each session thereof".

The **publication** and **distribution** of the Colorado Revised Statutes used against the accused are from a company [not even headquartered in the State of Colorado] called **Lexis Nexus**. Further, they are **copyrighted** by the committee of legal services for the State of Colorado. Neither of the two are the General Assembly of Colorado. Also, "no law" can be copyrighted. A law is in the **public domain**, and **copyrighted material** is in the **private domain**. Further, not the court or prosecutor provided the documentation that either one had the copyright book owner's permission to use their copyrighted material to **falsely imprison** the accused.

Constitution of Colorado Art. V, Sect. 17; No law passed but by **bill-amendments**. No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its **original purpose**... Sections 17-22 of this article of the Constitution set forth "**mandatory provisions**" with the legislative department **must** strictly comply in the **enactment**

of bills. Watrous v. Golden Chamber of Commerce,121 Colo. 521,218 P.2d 498 (1950). When Lexis Nexus published and distributed Colorado Revised Statutes without the **mandatory enacting clause** they altered the alleged Colorado law rendering it **void**. The same for the Committee on Legal Services for the State of Colorado. Except that by their **copyrighting** of the alleged laws, they are "**not laws**" at all, and have no more legal force upon the accused than a copyrighted Harry Potter novel.

In a long venerable line of cases, the Supreme Court has held that **without** proper jurisdiction, a court "cannot" proceed at all all, but can only note the jurisdiction defect and dismiss the cause. See, United States v. Augenblick,393 U.S. 348; Philbrook v. Glodgett, 421 U.S. 707,721; and Clandler v. Judicial of Tenth Circuit,389 U.S. 74,86-88, distinguished for a court pronounce upon a law's meaning or constitutionality when it has no jurisdiction to do so is by its very definition, an **ultra vires act**. "Ultra vires, an act performed **without** any authority to act on **subject**". Huslund v. City of Seattle,86 Wash. 2d 607, 547 P.2d 1221, 1230.

These provisions are not in the lease ambiguous or susceptible to any other interpretation than their plain and apparent meaning. The Supreme Court of Montana, in construing such provision said:

That they were "so plainly and clearly expressed and so entirely free from ambiguity", that "there is nothing for the court to construe". Yaughn & Ragsdale Co. v. State Bd. of Equity,96 P. 2d 420,423,424.

The Supreme Court of Minnesota stated **how** these provisions are to be construed, when it was considering the meaning of another provision under the legislative department. Art.4,Subsection 9:

In treating of constitutional provisions, we believe it is the general rule among courts to regard them as **mandatory**, and not leave it to the will or pleasure of a legislature to obey or disregard them. Where the language of the constitution is plain, we are not permit to indulge in **speculation** concerning its meaning, nor whether it is the embodiment of great wisdom.

The rule with reference to constitutional construction is

also well stated by Johnson, J. in the case of Newell v. People, 7 N.Y. 9, 97 as follows:

"If the words embody a definite meaning which involves no absurdity and no contradiction between parts of the same writing, then that meaning apparent upon the **face** of the instrument is the one which we are at liberty to say was intended to be conveyed. In such a case there is **no** room for construction. That which the **words** declare is the meaning of the instrument, and neither courts nor legislatures have the right to **add** or **take away** from the meaning. It **must** be very **plain**, nay, **absolutely certain** that the people did not intend that the language they have employed in its natural signification imports, before a court will feel itself at liberty to **depart** from the plain reading of a constitutional provision". State ex.rel. v. Sutton,147, 150, 65 N.W. 262 (1995); affirmed, State v. Holm, 62 N.W. 2d 52,55,56 (Minn. 1954); Butler Taconite v. Roemer, 282 N.W. 2d 867, 870, 871 (Minn. 1979).

It is **certain** that the plain and apparent language of these constitution provisions are not followed in the publication known as the Colorado Revised Statutes, as being law, that use can **neve er** be regarded as 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 clause** 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 complilation of statutes is made. Such an absurdity will gain the support and 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 that the **Session Law** publication. The use of such speculation or desired exceptions can "**never**" be allowed under the Constitution as it is more practical and convenient that the Session law publication. The use of such speculation or desire exceptions can "**never**" be used in construing such plain and unambiguous provision.

The general rule of law is, when a statute or constitution is is plain and unambiguous, the court is not permitted to indulge

in speculation concerning its meaning, nor whether it is the embodiment of great wisdom. A constitution is intended to be framed in brief and precise language. It is not within the providence of the court to read an exception into the constitution which the framers thereof did not see fit to **enact** therein. Baskin v. State 232 Pac. 388, 389, 107 Okla. 272 (1925).

There is, of course, no need for construction or interpretation of these provisions as they have been adjudicated upon, especially those dealing with the use of an **enacting clause**. The Supreme Court of Colorado has made it clear that Art. V, Sect. 18 of the State Constitution is "**mandatory**", and a statute without any **enacting clause is void**.

Being that the statutes used against the accused/petitioner are without enacting clauses and titles, they are void, which means there is no offense, no valid complaint, and thus no subject matter jurisdiction.

The provision requiring anenacting clause and one-subject titles were adhered to with the publication known as the Session Laws and General laws for the State of Colorado. Because certain people in government thought that they could devise a more convenient way of doing things without regard for provisions of the State Constitution, they devised the contrivance known as the Colorado Statutes, and then held it out to the **public as being law**. This is of course fraud, subversion, and a great deception upon the people of the State of Colorado which is now revealed and exposed. See, U.S. Amend. IX: The ennumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people. See, U.S. Amend. XIII: ...,except as a punishment for crime whereof the party shall have been duly convicted. Mr. Lomax was convicted under false pretense (a false show/or pretext), and by fraud, subversion, and a great deception. Under counterfeit statutes/laws of this StaState.See also, U.S. Amend. XIV: No State shall make or enforce any law which abridge the privileges..of **citizens** of the U.S.; nor shall any State deprive **any person** of life of liberty, without due process of law; nor deny to **any person** within its jursidiction the equal protection of the **laws**.

There is no justification for deviating from or violating a **written constitution**. The Colorado Revised Statutes "**cannot**" be used as law, like the Session Laws **once used**, solely because the circumstances have changed and we now have **more laws** to deal with. "It **cannot** be said that the use and need of revised statutes **without** titles and enacting clauses must be justified due to **expedience**".

Mr. Lomax, the accused/petitioner,pro se, petitioning this honorable Court pursuant to Rule 10, to vacate, set aside, or dismiss this cause for want/lack of subject matter and personal jurisdiction. And completely expunge his criminal record of all related charges, and immediately release him from the custody of the executive director of prisons. The petitioner is not validly confine and thus entitled to immediate release and that the petitioner has suffered a serious infringement of a fundamental constitutional right resulting in a significant loss of liberty.

Conclusion

Based upon the above pleading and petition, the petitioner prays that this Court will grant the appropriate relief in response to this matter.

For the following reasons:

1. A court lacking jurisdiction cannot render judgment but must dismiss the cause at any stage of the proceedings in which it become apparent that jurisdiction is lacking.United States v. Siviglia,686 Fed. 2d 832,835 (1981),case cited.
2. Nothing can be regarded as a law in this State which fails to conform to the constitutional prerequisites which call for an enacting clause and title.
3. There is nothing in the complaint and information which can constitutionally be regarded as laws, and thus there is nothing in them which the accused is answerable for or which can be charged against him.
4. Since there are no valid or constitutional laws charged against the accused, there are no crimes that exist, consequently there is no subject matter jurisdiction, which he can be tried in the above named court, and pursuant to C.R.S. § 18-1-410, Post-Conviction Remedy.

Done this 16th day of February, 2024.

Arthur J. Lomax

REASONS FOR GRANTING THE PETITION

How the petition for relief pursuant to C.A.R. 21 will help in the lower courts and the courts appellate jurisdiction (Statements 1-3)

1. This is a question of National and Local importance under the Colorado Bill of Rights, the state criminal and/or trial court did not have subject matter jurisdiction or the authority to proceed against the accused/or petitioner (for a felony offense) without an indictment(See, U.S. Amend. V. and Colo. Const. Art. II, Sect. 8), so therefore, the habeas corpus was a right that could not be denied. The state court had no authority to dismiss petitioner's habeas (See, Colo. Const. Art. II, Sect. 21), or be required to exhaust state remedies before the writ is issued. Others in the same situation (from any place local and national, subject to their jurisdiction) will benefit from granting the petition because adjudication of the merits will make it clear to the less informed public, that a state can't use technical rules of construtions (e.g. state remedies & state statutes) to defeat the objectives of the National & State Constitution.

2. On the Local and National level, the granting of the petition will clarify that no state can abolish a portion of the State Bill of Rights (e.g. the Grand Jury Institution) to a portion of the people charge with felonies, while leaving the same safe-guard in full effect to another portion of the citizens charged with felonies (See, U.S. Amend. XIV, the equal protection of the laws). There has not been any Colorado Constitutional amendment enacted that has abolished the indictment requirement from the State Bill of Rights, neither has there been an amendment ratified by the people that authorize crimes that warrant a infamous punishment to be prosecuted by any other means than by indictment. Petitioner's case can aid the lower courts and the courts appellate jurisdiction to show that states must abolish the Grand Jury Institution by constitutional amendment, and not by state statutes-jurisdicial interpretation, or through the under-utilization of the Grand Jury Institution by the prosecutor, that abolishes the institution only to a portion of the state citizens, while leaving the same safeguard (with wide statutory protections) in effect to another portion charged with felonies.

3. In re Lowrie, 8 Colo. 499, 9 & 489, is Colorado Supreme Court binding authority that makes it clear that all felonies are to be prosecuted by indictment. The principles In re Lowrie & Stare Decisis are being ignored by the local government. If the petition is granted recent case law can be made that will clear any **confusion, unsettled issues,** or that which has already been **adjudicated** on (Seeing that Lowrie is a old case from 1885), and aid the courts appellate jurisdiction, because fair adjudication will show that the Grand Jury Institution can't be regarded as a mere rubber stamp on prosecutions, or bypassed as if it is a mere rule of practice that has no effect on essential rights. If the petition is granted recent case law can be made to show government officials and the people (on a local and national level) that no state official can ignore the principle of Stare Decisis, and the

restraints of amendment 14, sections 1 & 3, and article 6, sections 2 & 3, of the U.S. Constitution.

What Exceptional Circumstances warrant the Exercise of the Court's Discretionary Powers (statements 4-9)

4. In the case at bar, there are exceptional circumstances because the lower court did not have subject matter jurisdiction over the cause and party for his alleged felony charge(s), nor was he indicted for such felony charges as the State Bill of Rights requires. The proceedings against him were erroneous, void, and illegal, so the petitioner is being held in violation of the state and national constitutions, because the lower court did not have plenary jurisdiction over both the cause and his person.

5. Accusations of presumption of guilt generally do not imply an actual legal presumption of guilt, but rather denounce some failures ensuing that suspects are treated well and offered good defense conditions. See, 21-1-101 (1), and U.S. Const. Amend. VI. Exceptional circumstances exist because petitioner's trial was unfair and unconstitional because he was not subject to the jurisdiction of the trial court, and seeing he was denied his indictment process and a Grand Jury Investigation, for his alleged felony offense. Petitioner made no waiver of his indictment or his grand jury investigation , or his preliminary hearing that was intelligently made on record. The petitioner was prosecuted under false pretense and by counterfeit laws and statutes.

6. Due process requires an opportunity to be heard at a meaningful time and in a meaningful manner; due process must be afforded before deprivation of life, liberty, or property. Nat. Counsel of Resistance to Iran v. Dep't of State, 251 F.3d 192 (D.C. Cir. 2001). Petitioner is being held in involuntary servitude without duly being convicted. Why adequate relief cannot be obtained in this state court?

7. Ex parte Bain, Ex parte Wilson, Ex parte Moreland, and Ex parte Mackin, are the U.S. Supreme Court binding authority(from other circuits) that require indictment for infamous crimes, Colorado Supreme Court precedent, in Re Lowrie, follows the listed precedents. For a Colorado state judge (to suspend/or deny petitioner's state habeas), each application for habeas corpus must be disposed of by sound discretion, and any conditions or delays to application, other than by statute'may not be imposed.' To impose any other conditions than stated in subsect. 13-45-101 et. seq., C.R.S. would be unauthorized practice of law acting outside the fundamental guidelines stated by the constitutions and general assembly, legislature. Therefore, to impose conditions on issuance of writ, such as 'appeal process or Rule 35, or exhausting any other available remedies before enacting the habeas corpus is pro tanto a suspension of the writ. Stilley v. Tinsley, 153 Colo. 66, 385 P.2d 677 (1966).

8. Under the habeas act of February 5, 1867 petotioner applies

to the U.S. Supreme Court, because the trial court did not have jurisdiction over the party and the felony charge(s), habeas corpus is the proper remedy, and other forms of relief shall not be used to suspend the writ of habeas. See, In the case of Boumediene v. Bush (U.S. Sup. Ct. 2008), the Supreme Court declared this policy invalid and ruled that terrorism suspects had the right to file writs of habeas corpus in federal court to challenge the lawfulness of their detention. This ruling potentially affected the rights of some 270 people arrested for suspected terrorist activities, some of whom had been imprisoned as long as six years without a court hearing to review their imprisonment.

9. In clear violation of Article 2, Sect. 6, of the Colorado Constitution, petitioner is being denied the equality of justice, and the right to have justice administered without denial, because he can't enforce his civil rights in the trial and/or sentening court. In violation of Article 2, Section 3, of the Colorado Constitution, petitioner is being denied his inalienable rights. Relief can't be obtained because technical rules of construction are being used to deny the clear objectives of the constitution. (See, Art. 2, Sect. 8, of the Colorado Constitution).

The reason(s) for making application to the appellate court.

10. (1) The petitioner made application for a state writ of habeas corpus in the District Court of Denver, CO it was denied the first time (2021), and again in (2023) the court did abandoned and gave no respond to his petition for writ within 90 days, pursuant to 13-5-135 and 13-5-136. (2) The matter at issue concern something that goes beyond the trial record. (3) The petitioner is seeking a speedy remedy afforded for every injury to person, or character; and right and justice should be administered without denial or delay. (4) The matter is urgent, because the petitioner has been in involuntary servitude for nearly 20 years, without being duly convicted and being punished for no crime(s) or for a crime that did not exist. (5) The accused believes he was wronged by the actions of the trial judge. (6) The accused/or petitioner has already lodged an unsuccessful direct appeal. He understand, in some cases, he may file multiple writs, but have the right to appeal only once.

11. Hurtado vs. California, 110 U.S. led. 232 (1884), Davis vs. Burke, 179 U.S. 399, Maxwell vs. Dow, 176 U.S. 581, and Bollin vs. Nebraska, 176 U.S. 83, are cases from different appellate jurisdictions that have made it clear that prosecutions for felonies are not in violation of the 14th Amendment of the U.S. Constitution, when the constitution of the State authorizes prosecutions for felonies on information.Colorado's Constitution authorizes felony prosecutions only by indictment, but the accused and/or petitioner was charged for his felony on complaint and informaton, so that action is in conflict with the listed precedents, and the States Bill of Rights. How the decisions of the lower court may be erroneous, the national importance of the case to others similarly situated. (See, statement 12)

12. This is an issue of National Importance, because sometimes

when the citizen's rights are reinforced through a victory in court, they are disparagingly referred to as legal technicalities. The fact that forcing our Government to follow the prescribed procedures to an accused and/or incarcerated person, and prohibiting our Government from cheating to lock citizens away, was a hard fought victory long-ago when our Country was founded which sould not be diminished from public ridicule or neglect. Petitioner's conviction was erroneous, void, and illegal, because was denied a subtantive right and his procedural due process. Fair litigation on this issue will help others in similar situations because it will enforce fundamental law.

The Denial of Petitioner's First Amendment Right to Petition the Government is a Constitutional Error.

13. The Colorado Constitution (Article 2, Section 24) buttresses the attitude of openness toward the Grand Jury and this is also embodied in Statute 16-5-204 and Colo. Const. Art. 2, Sect. 24, allows citizen to petition the Government for redress for Grievances. Mr. Lomax was denied and deprived this right in the lower court in regard to his petition for state writ of habeas corpus.

When a court properly has cognizance of a case, a mere error of law **must** be reviewed by appeal or writ of error. Petitioner's point of law did not have to be met at every stage of criminal proceedings, because it goes beyond a mere error in point of law. The proceedings were not merely erroneous, but entirely **Null** and **Void** because the lower court was without jurisdiction over the subject matter and party.

Mr. Lomax, petitioner-appellant herein, petitions this Court, pursuant to C.A.R. 21, to issue a rule to show cause and to grant appropriate relief in response to the matters presented.

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