Case No.: 24-5581

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

IN RE JOE NATHAN PYATT JR. II,
PETITIONER.

On Application To The Honorable Clarence Thomas, Associate Justice of the United States Supreme Court and Circuit Justice for the Eleventh Circuit Court of Appeals.

PETITION FOR AN

EXTRAORDINARY WRIT OF HABEAS CORPUS

I. QUESTIONS PRESENTED

Mr. Pyatt will be presenting two pure questions of law in this petition with respect to the indictment on its face. The questions presented are as follows:

1. Whether the term "members" as stated in the language of the indictment is sufficient to allege the essential element of a natural and specific "person" as mandated by the statute of 18 USC 2261A(2)(A) and;

2. Can the Federal Bureau of Investigations ("FBI") acting as a sovereign government be a "person" that is cognizable within the purview and meaning of person in accordance with the Violence Against Women ACT ("VAWA"), 18 USC 2261A(2)(A).

II. PARTIES TO THE PROCEEDING

The parties to the proceeding are as follows:

The Petitioner, Joe Nathan Pyatt Jr. ("Mr. Pyatt") is the Defendant in the United States District Court for the Southern District of Florida and the Appellant in the Eleventh Circuit Court of Appeals.

The Respondents. Monica Castro is the District Attorney and counsel on record for the United States District Court for the Southern District of Florida and Daniel Matzkin is the Chief Appellate Attorney and counsel on record for the Eleventh Circuit Court of Appeals.

III. RELATED PROCEEDINGS BELOW

1. UNITED STATES v. JOE NATHAN PYATT JR., Case No.: 22-cr-20138 (S.D. FL. 2022)

   Criminal case is awaiting pending resolution of appeal taken to the Eleventh Circuit Court of Appeals.

2. UNITED STATES v. JOE NATHAN PYATT JR., Appeal No: 23-11626 (11th Cir. 2023)

   Appeal docketed on May 15th, 2023 and is still pending resolution in the Eleventh Circuit Court of Appeals.

3. IN RE. JOE NATHAN PYATT JR., Case No.: 24-12071 (11th Cir. 2024)

   Petition is still pending resolution in the Eleventh Circuit Court of Appeals.

TABLE OF CONTENTS

V. TABLE OF AUTHORITIES

1. Arroyo v. United States, 359 U.S. 419, 424, 79 S. Ct. 864, 3 L. Ed. 2d 915 (1959)

2. Barefoot v. Estelle , 463 U.S. 880, 887, 103 S. Ct. 3383, 77 L. Ed. 2d 1090 (1983)

3. Bell v. United States, 349 U.S. 81, 83, 75 S. Ct. 620, 99 L. Ed. 905 (1955).

4. Bifulco v. United States, 447 U.S. 381, 387, 100 S. Ct. 2247, 65 L. Ed. 2d 205 (1980)

5. Blitz v. United States, 152 U.S. 308, 14 S. Ct. 924, 38 L. Ed. 725 (1894)

6. Bousley v. United States, 523 U.S. 614, 620, 118 S. Ct. 1604, 140 L. Ed. 2d 828 (1998)

7. Callaman v. United States, 364 U.S. 587, 596, 81 S. Ct. 321, 5 L. Ed. 2d 312 (1961)

8. Carafas v. LaVallee, 391 U.S. 234, 239-240, 88 S. Ct. 1556, 20 L. Ed. 2d 554 (1968)

9. Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 58, 103 S. Ct. 400, 74 L. Ed. 2d 225 (1982)

10. Dugan v. Rank, 372 U.S. 609, 83 S. Ct. 999, 10 L. Ed. 2d 15 (1963)

11. Ex Parte Abernathy, 320 U.S. 219, 220, 64 S. Ct. 13, 88 L. Ed. 3 (1943)

12. Ex Parte Bollman, 4 Cranch 77-78, 2 L. Ed. 554 (1807)

13. Ex Parte Clarke, 100 U.S. 399, 403, 25 L. Ed. 715 (1880)

14. Ex Parte McCardle, 6 Wall 325, 73 U.S. 318, 18 L. Ed. 816 (1868)

15. Ex Parte Royall, 117 U.S. 241, 247, 6 S. Ct. 734, 29 L. Ed. 868 (1886)

16. Ex Parte Siebold, 100 U.S. 371, 374, 25 L. Ed. 717 (1880)

17. Ex Parte Tom Tong, 108 U.S. 556, 559, 25 S. Ct. 871, 27 L. Ed. 826 (1883)

18. Fay v. Noia, 372 U.S. 391, 407, 83 S. Ct. 822, 9 L. Ed. 2d 837 (1963)

19. Hamling v. United States, 418 U.S. 87, 117, 94 S. Ct. 2887, 41 L. Ed. 2d 590 (1974)

20. Huddleston v. United States, 415 U.S. 814, 831, 94 S. Ct. 1262, 39 L. Ed. 2d 782 (1974)

21. Larson v. Domestic & Foreign Commerce Corp., 337 U.S. 682, 688, 69 S. Ct. 1457, 93 L. Ed. 1628 (1949)

22. Mackey v. United States, 401 U.S. 667, 683, 91 S. Ct. 1160, 28 L. Ed. 2d 404 (1971)

23. Nardone v. United States, 302 U.S. 379, 383, 82 L. Ed. 314 (1937)

24. Nowakoski v. Maroney, 386, U.S. 542, 543, 87 S. Ct. 1197, 18 L. Ed. 2d 282 (1967)

25. Parker v. Ellis, 362 U.S. 574, 583-585, 80 S. Ct. 909, 4 L. Ed. 2d 963 (1960)

26. Peyton v. Rowe, 391 U.S. 54, 67, 88 S. Ct. 1549, 20 L. Ed. 2d 426 (1968).

27. Preiser v. Rodriguez, 411 U.S. 475, 484, 93 S. Ct. 1827, 36 L. Ed. 2d 439 (1973)

28. Re Chapman, 156 U.S. 211, 217, 15 Sup. Ct. Rep. 331, 39 L. Ed. 401 (1895)

29. United States v. Bass, 404 U.S. 336, 347, 92 S. Ct. 515, 30 L. Ed. 2d 488 (1971)

30. United States v. Conlan, 786 F. 3d 380, 387 (5th Cir. 2015)

31. United States v. Cooper Corp., 312 U.S. 600, 605, 61 S. Ct. 742, 85 L. Ed. 1071 (1941)

32. United States v. Cruikshank, 92 U.S. 542, 558, 23 L. Ed. 588 (1876)

33. United States v. Fox, 94 U.S. 315, 321, 24 L. Ed. 192 (1877)

34. United States v. Hess, 124 U.S. 483, 486, 8 S. Ct. 571, 31 L. Ed. 516 (1888)

35. United States v. Shrader, 675 F. 3d 300, 313 (4th Cir. 2012)

36. United States v. United Mine Workers, 330 U.S. 258, 272, 67 S. Ct. 677, 91 L. Ed. 884 (1947)

37. Will v. Michigan Dep't of State Police, 491 U.S. 58, 69, 109 S. Ct. 2304, 105 L. Ed. 2d 45 (1989)

VI. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. 18 USC 2261A(2)(A), Cyber Harassment

2. Fedeal Rule of Criminal Procedure, Rule 12(b)(3)(B)(v)

VII. Jurisdiction

This Court's authority to issue out the Writ of Habeas Corpus is premised upon 28 USC 2241 which states in its relevant part that "[W]rits of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdiction." See 28 USC 2241(a). See also 28 USC 1651(a) (Providing that "[T]he Supreme Court. . .may issue all writs necessary or appropriate in aid of their respective jurisdiction").

Jurisdiction can also be derived from the legislative history in which the Supreme Court has stated that this Court "[s]hall have the power to issue writs of. . .habeas corpus, and all other writs not specially provided by statute, which may be necessary for the exercise of their respective jurisdiction, and agreeable to the principles and usages of law. . .and either of the justices of the Supreme Court, as well as the judges of the district courts, shall have power to grant writs of habeas corpus, for the purpose of an inquiry into the cause of commitment. Provided, that writs of habeas corpus shall in no case extend to prisoners. . .unless where they are in custody under or by color of the authority of the United States." Ex Parte Bollman, 4 Cranch 77-78, 2 L. Ed. 554 (1807). Development of the Writ of Habeas Corpus has reaffirmed that the Supreme Court, as well as the inferior courts, have the "[p]ower to grant writs of habeas corpus in all cases where any person may be restrained of liberty in violation of the Constitution, or of any treaty or law of the United States." Ex Parte McCardle, 6 wall 325, 73 U.S. 318, 18 L. Ed. 816 (1868).

The Supreme Court elaborated through the 19th century "[T]hat this court is authorized to exercise appellate jurisdiction by habeas corpus directly is a position sustained by abundant authority. It has general power to issue the writ, subject to the constitutional limitations of its jurisdiction, which are, that it can only exercise original jurisdiction in cases affecting ambassadors, public ministers and consuls, and cases in which a state is a party; but has appellate jurisdiction in all other cases of federal cognizance. . .Having this general power to issue the writ, the court may issue it in the exercise of original jurisdiction where it has original jurisdiction; and may issue it in the exercise of appellate jurisdiction where it has such jurisdiction, which is in all cases not prohibited by law." Ex Parte Siebold, 100 U.S. 371, 374, 25 L. Ed. 717 (1880). See also Ex Parte Royall, 117 U.S. 241, 247, 6 S. Ct. 734, 29 L. Ed. 868 (1886) (Holding that "[T]he several courts of the United States and the several justices and judges thereof, within their respective jurisdictions, in addition to the authority then conferred by law, shall have the power to grant writs of habeas corpus where any person may be restrained of his or her liberty in violation of the Constitution, or any treaty or law of the United States. Whether therefore, the appellant is a prisoner in jail, within the meaning" of an Act of Congress "or is restrained of his liberty by an officer of the law executing the process of a court. . .in either case, it being alleged under oath that he is held in custody in violation of the Constitution, the. . .court has. . .jurisdiction on habeas corpus to inquire into the cause for which he is restrained of his liberty, and to dispose of him as law and justice require.") (internal quotation marks omitted); Ex Parte Abernathy, 320 U.S. 219, 220, 64 S. Ct. 13, 88 L. Ed. 3 (1943) (Holding that a petitioner may "invoke the exercise of the jurisdiction conferred on this Court" by statute "to issue writs of habeas corpus in aid of its appellate jurisdiction" and that the "jurisdiction is discretionary") (internal citations omitted).

The Petitioner brings forth this application to a single Justice whose authority to issue the Writ is premised upon original jurisdiction. The Supreme Court has elaborated that "[A] justice of this court can exercise the power of issuing the writ of habeas corpus in any part of the United States where he happens to be." Ex Parte Clarke, 100 U.S. 399, 403, 25 L. Ed. 715 (1880). While concluding that "[T]he habeas jurisdiction of the other federal courts and judges, including the individual Justices of the Supreme Court, has generally been deemed original." Fay v. Noia, 372 U.S. 391, 407, 83 S. Ct. 822, 9 L. Ed. 2d 837 (1963).

VIII. Statement of the Case

A. Procedural History and Background

The Petitioner, Joe Nathan Pyatt Jr. ("Mr. Pyatt"), was arrested on March 25th, 2022 for two counts of threatening communications in violation of 18 USC 875(c) and one count of cyber harassment in violation of 18 USC 2261A(2)(A). On October 17th, 2022, the District Court issued an order pursuant to 18 USC 4241(d)(1) to transfer Mr. Pyatt into the custody of the Attorney General for no longer than four months. See United States v. Joe Nathan Pyatt Jr., Case No.: 22-cr-20138 (11th Cir. 2022), ECF 44. Mr. Pyatt, without the assistance of counsel, filed an appeal to the district court's commitment order to the Eleventh Circuit Court of Appeals and the appeal was docketed on May 15th, 2023. See United States v. Joe Nathan Pyatt Jr., Appeal No.: 23-11626 (11th Cir. 2023), ECF 1. While waiting for a resolution to the appeal, two essential developments occurred which gave rise to Mr. Pyatt's detention becoming illegal. First, the court order issued on October 17th, 2022,

authorizing the Attorney General to hold Mr. Pyatt in custody expired on September 18th, 2023, which would require his immediate discharge from the institution where he is being held and to be returned to Miami, Florida.

Second, the total time of Mr. Pyatt's detention exceeded a sentence for counts I and II of the indictment, as recommended by USSG 2A6.1 of the sentencing guidelines for 18 USC 875(c). The third count of the indictment, Cyber Harassment, is governed by USSG 2A6.2 which has a recommended guideline range of 27-33 months, as-applied to Mr. Pyatt's criminal history and category.

Mr. Pyatt has now been detained for 28 months as of July 25th, 2024, mandating an urgency to address the status of his custody. However, Mr. Pyatt attempted to have the Eleventh Circuit Court of Appeals remand jurisdiction back to the United States District Court for the Southern District of Florida to address matters with respect to custody. See In Re. Joe Nathan Pyatt Jr., Case No.: 24-12071 (11th Cir. 2024), ECF 1. Mr. Pyatt's petition is still pending resolution in the Eleventh Circuit which has prompted Mr. Pyatt to commence these habeas proceedings for purposes of addressing custody in violation of the Constitution and laws of the United States.

IX. Argument, Reasons for Granting the Writ

B. Defective Indictment, Sufficiency

Mr. Pyatt has been detained and has served a prison sentence without a trial and is still being held prior to trial without even beginning the process of proper litigation to defend against the charges of an indictment brought forth by the district attorney. Mr. Pyatt now excises the power of the most potent weapon available in the judicial arsenal to address unlawful detention, the Writ of Habeas Corpus Ad Subjiciendum. The Supreme Court has stated "[W]e do well to bear in mind the extraordinary prestige of the Great Writ, habeas corpus ad subjiciendum. . .It is a writ antecedent to statute, and throwing its root deep into the genius of our common law. . .affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." Noia, 372 U.S. at 400. The Writ is proper as "[I]ts function has been to provide a prompt and efficacious remedy for whatever society deems to be intolerable restraints. Its root principle is that in a civilized society, government must always be accountable to the judiciary for a man's imprisonment: if the imprisonment cannot be shown to conform with the fundamental requirements of law, the individual is entitled to his immediate release." Noia, 372 U.S. at 402.

Mr. Pyatt has attempted to have the original district court address the defect in the indictment to no avail and is left with no other alternative, but to commence these habeas proceedings. This approach is consistent with the Supreme Court's notion when stating that "[I]t is clear, not only from the language of 2241. . .but also from the common-law history of the writ, that the essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody." Preiser v. Rodriguez, 411 U.S. 475, 484, 93 S. Ct. 1827, 36 L. Ed. 2d 439 (1973). While also explaining that "[W]hether the petitioner had been placed in physical confinement by executive direction alone, or by order of a court. . .habeas corpus was the proper means of challenging that confinement and seeking release." Rodriguez, 411 U.S. at 484. Mr. Pyatt is challenging count III of the indictment for purposes of release prior to trial with respect to Fed. R. Crm. P. 12 (b)(3)(B)(v). The Supreme Court has assured that habeas is the proper vehicle under Mr. Pyatt's circumstances when the Court stated that "[T]hus, whether the petitioner's challenge to his custody is that. . .[he] has been imprisoned prior to trial on account of a defective indictment against him. . .[or] that he is unlawfully confined in the wrong institution. . .in each case his grievance is that he is being unlawfully subjected to physical restraint, and in each case habeas corpus has been accepted as the specific instrument to obtain release from such confinement." Rodriguez, 411 U.S. at 486 (emphasis added).

Given that Mr. Pyatt has established that habeas corpus is the proper remedy to attack the indictment at this stage of his detention, he now moves to address the indictment as defective. Mr. Pyatt challenges that the indictment fails to state an offense pursuant to Fed. R. Crm. P. 12 (b)(3)(B)(v). The Supreme Court has explained that "[I]n criminal cases, prosecuted under the laws of the United States, the accused has the constitutional right to be informed of the nature and cause of the accusation. . .this was construed to mean that the indictment must set forth the offense with clearness and all necessary certainty, to apprise the accused of the crime with which he stands charged and. . .that every ingredient of which the offense is composed must be accurately and clearly alleged. It is an elementary principle of criminal pleading, that where the definition of an offense, whether it be at common law or by statute, includes generic terms, it is not sufficient that the indictment shall charge the offense in the same generic terms as in the definition; but it must state the species; it must descend to particulars." United States v. Cruikshank, 92 U.S. 542, 558, 23 L. Ed. 588 (1876) (internal citation and quotation marks omitted). See also Hamling v. United States, 418 U.S. 87, 117, 94 S. Ct. 2887, 41 L. Ed. 2d 590 (1974) (holding that an indictment is sufficient if it "contains the elements of the offense charged" and that "those words of themselves fully, directly, and expressly, without any uncertainty or ambiguity, set forth all the elements necessary to constitute the offence intended to be punished")

Mr. Pyatt argues that the district attorney did not allege an essential element to state an offense with respect to 18 USC 2261A (2)(A). Specifically, the statute requires that a specific person be named, or at a bear minimum, some insinuation to a natural person, whether it be by initials or some other anonymous label. The language of the statute is as follows;

"Whoever - (2) with the intent - (A) to. . .injure, harass, or intimidate. . .a person in another state. . .uses the mail, any interactive computer service, or any facility of interstate or foreign commerce engages in a course of conduct that. . .places a person in reasonable fear of the death of, or serious bodily injury to, any person described." See Amendment Notes, 18 USC 2261A(2)(A).

The plain language of the statute is unambiguous as to the requirement that a natural person is the meaning of "person" within the definiton of person in 18 USC 2261A(2)(A). Given that all elements must be alleged in the indictment, there must be some specific person named in the language of the indictment. To support this argument, the Court of Appeals explained that "[T]he analysis begins by identifying the statutes "unit of prosecution," relying in the first instance on the statutory language. . .If the unit of prosecution is uncertain, "ambiguity should be resolved in favor of lenity." United States v. Conlan, 786 F. 3d 380, 387 (5th Cir. 2015) (citing Bell v. United States, 349 U.S. 81, 83, 75 S. Ct. 620, 99 L. Ed. 905 (1955)). See also Callaman v. United States, 364 U.S. 587, 596, 81 S. Ct. 321, 5 L. Ed. 2d 312 (1961) (Holding that in certain cases "the applicable statutory provisions were found to be unclear as to the appropriate unit of prosecution; accordingly, the rule of lenity was utilized, in favorem libertatis, to resolve the ambiguity.")

The circuit courts have made it clear that "[T]he plain language of 2261A(2) unambiguously contemplate[s] that the unit of prosecution is the targeted individual, requiring that the defendant act with intent towards a particular person, that his actions produce the requisite effect in that person and defining punishment in [2261A(2)(A)] in terms of the effect on the victim." Conlan, 786 F. 3d at 387 (internal citation and quotation marks omitted). See also 18 USC 2266(7)(A)(ii)(I) (Referring to the use of "person" to mean a natural and specific person by defining the term "spouse or intimate partner" to be a person who is "the target of the stalking"). Given that the unit of prosecution is the targeted "person" or "victim", then this essential element of the statute must be in the language of the indictment. However, the language of count III of Mr. Pyatt's indictment reads as follows;

"From on or about June 27, 2020, through on or about March 24, 2022, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the Defendant, JOE NATHAN PYATT, JR., did, with the intent to harass and intimidate, use any interactive computer service and electronic communication service ad communication system of interstate commerce, and any other facility of interstate and foreign commerce to engage in a course of conduct that placed members of the Federal Bureau of Investigations in reasonable fear of death and serious bodily injury." See Appendix I.

The district attorney assumes that the term "members" of the Federal Bureau of Investigation ("FBI") is sufficient to state an offense with respect to a specific person as required by 18 USC 2261A(2)(A). This, of course, is not sufficient because it does not allow Mr. Pyatt to prepare a defense for trial nor "plead an acquittal or conviction". Hamling, 418 U.S. at 117. The Supreme Court has clarified that "[U]ndoubtedly the language of the statute may be used in the general description of an offence, but it must be accompanied with such a statement of the facts and circumstances as will inform the accused of the specific offence, coming under the general description, with which he is charged." id. Applying this pleading standard to Mr. Pyatt's indictment, the language falls short of informing Mr. Pyatt with whom he intended to harass as required by the statute. Mr. Pyatt has no idea if the indictment is alleging a specific person with whom he has ever spoken with nor if this person is in another state.

Mr. Pyatt is required to bring forth a legally cognizable defense for trial and is required to prove that he did not intend to harass a person "in another state". The essential element of "in another state" was added to the language of the statute after its amendment in 2013. See Amendment Notes, 18 USC 2261A(2)(A). Mr. Pyatt notes that the district attorney seems to have copied and pasted the language of the statute prior to its amendment and thus, incorrectly used the old language of 18 USC 2261A(2)(A) on Mr. Pyatt's indictment. Nonetheless, the new language that was added to the statute would require Mr. Pyatt to prove beyond a reasonable doubt that he did not target a person "in another state". The language of the indictment must reflect this information so that he may counter at trial as to whether he knew this "person" who resides in another state as well as prepare any other fact, material to a defense.

The Court of Appeals has clarified that in order to obtain a conviction at trial "[N]ot only must a defendant possess the requisite intent towards a specific victim, but the statute also requires that his intimidating conduct actually induce fear in that person." United States v. Shrader, 675 F. 3d 300, 313 (4th Cir. 2012). While similarly emphasizing that "[N]ot just any person will suffice;

it must be a person in another state." Shrader, 675 F. 3d at 313 (emphasis added).

This information is important because Mr. Pyatt will be required to subpoena documents from whatever state the person alleged to be the "victim" on the indictment resides in order to prepare a proper defense for trial. Without this information on the indictment, Mr. Pyatt does not know if the victim is in New York, California, Colorado, or any other state. The opportunity for surprise could be limitless which would render the trial unfair and prejudice Mr. Pyatt because he was never able to reasonably prepare and rebuttal any evidence in anticipation for whatever conduct he is alleged to be engaged in. These concepts are elementary to pleading practices as the Supreme Court has explained that "[T]he object of the indictment is. . .to furnish the accused with such a description of the charge against him as will enable him to make his defense." Cruikshank, 92 U.S. at 558. While further concluding that "[T]he accused has, therefore, the right to have a specification of the charge against him in this respect, in order that he may decide whether he should present his defense by motion to quash, demurrer or plea; and the court, that it may determine whether the facts will sustain the indictment." Cruikshank, 92 U.S. at 559.

These concepts are particularly important in this case as Mr. Pyatt does not know exactly what to prepare against with respect to the allegations presented in the indictment at trial. Mr. Pyatt does not know if he is preparing against a specific and natural person who felt harassed and afraid when seeing the communication in question or if he is preparing a defense against the Federal Bureau of Investigation as an agency who feared serious bodily injury or death. Both scenarios dictate a completely different defense for trial and as such, mandate that the indictment comport with the requirements brought by the Supreme Court in order to provide Mr. Pyatt an opportunity to rebuttal any and all allegations about conduct alleged to have violated 18 USC 2261A(2)(A). The term "members" is ambiguous as to whether this should be interpreted as some natural and specific person within the FBI responding individually in fear within their personal capacity, which would require a specific defense, or if the term "members" is referring to the general employees of the agency responding in their official capacity as a representation of the FBI as a whole, which would require a separate defense. If the latter is alleged in that Mr. Pyatt intended to harass the Federal Bureau of Investigations then the FBI, as a sovereign, cannot be a "person" within the meaning of person in the statute, because any employee acting in their official capacity is a representation of the FBI as the sovereign, which requires a defense not cognizable by the statute of 18 USC 2261A(2)(A) (emphasis added). The Supreme Court has stated with respect to the indictment that "[I]t should not be left in doubt, or to mere inference, from the words of the indictment, whether the offense charged was one within Federal cognizance." Blitz v. United States, 152 U.S. 308, 14 S. Ct. 924, 38 L. Ed. 725 (1894).

Given the ambiguity of the term "members" in the language of the indictment, the rule of lenity should apply to constrict and interpret the term "person" to mandate a natural and specific person be named in the language of any indictment pursuant to 18 USC 2261A(2)(A). Construction of the term "person" within 18 USC 2261A(2)(A) is limited to mean a natural person in the context to which it is used and is not to extend to corporations, companies, or any other entity legally recognized as a "person". See 1 USC 1 (The Dictionary Act stating that "[I]n determining the meaning of any Act of Congress, unless the context indicates otherwise. . .the words 'person'. . .include corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals"). The term "members" as stated in the indictment could be interpreted to mean general employees of the FBI, as the sovereign, which falls outside the scope of the statute with respect to the meaning of "person" and thus, is insufficient to allow Mr. Pyatt to prepare a cognizable defense for trial. Strict interpretation of the statute should mandate that the term "members" is insufficient to allege the essential element of a natural person in the language of the indictment in accordance with 18 USC 2261A(2)(A). See e.g. United States v. Hess, 124 U.S. 483, 486, 8 S. Ct. 571, 31 L. Ed. 516 (1888) (Holding that "[T]he general and. . .universal rule on this subject is, that all the material facts and circumstances embraced in the definition of the offense must be stated, or the indictment will be defective. No essential element of the crime can be omitted without destroying the whole pleading. The omission cannot be supplied by intendment, or implication, and the charge must be made directly, and not inferentially or by way of recital")

Applying this construction to the instant case, the Supreme Court has guided this interpretation of the statute and indictment when stating "[W]here there is ambiguity in a criminal statute, doubts are resolved in favor of the defendant." United States v. Bass, 404 U.S. 336, 347, 92 S. Ct. 515, 30 L. Ed. 2d 488 (1971). While further emphasizing that "[T]his policy of lenity means that the Court will not interpret a federal criminal statute so as to increase the penalty that it places on an individual when such an interpretation can be no more than a guess as to what Congress intended. . .Where Congress has manifested its intention, we may not manufacture ambiguity in order to defeat that intent." Bifulco v. United States, 447 U.S. 381, 387, 100 S. Ct. 2247, 65 L. Ed. 2d 205 (1980). See also Huddleston v. United States, 415 U.S. 814, 831, 94 S. Ct. 1262, 39 L. Ed. 2d 782 (1974) (Holding with respect to the Rule of Lenity that "[T]his rule of narrow construction is rooted in the concern of the law for individual rights, and in the belief that fair warning should be accorded as to what conduct is criminal and punishable by deprivation of liberty or property").

Thus, the term "members" in the language of the indictment is insufficient to meet the definition "person" as stictly construed by statute and so it fails to state an offense pursuant to Fed. R. Crm. P. 12(b)(3)(B)(v). The indictment is therefore, defective, requiring his immediate release.

C. Federal Bureau of Investigations Cannot Be A "Person" Within The Purview of 18 USC 2261A(2)(A)

Mr. Pyatt now brings forth another argument to address the indictment as defective. The indictment, with respect to Count III, alleges that Mr. Pyatt "with the intent to harass and intimidate, use any interactive computer service and electronic communication service and electronic communication system of interstate commerce" to place members of the FBI in fear. Within the language of the indictment on its face, the district attorney erroneously presumes that the FBI acting as a sovereign government can be a "person" cognizable under 18 USC 2261A(2)(A).

The communications Mr. Pyatt sent to the FBI were via email communications and the social media platform X, formerly known as Twitter, Inc. ("X"). Both of these communications were sent to a general account for the FBI. The tweets that are alleged to violate the statute were directed to an X account for the FBI whose handle is "@FBIMiamiFl". See Appendix I. This X account is not designated to any specific person and is therefore the account of the sovereign. Similarly, the arrest affidavit specifically states that the email communications that were sent to the FBI was to an email account named "Miami@Fbi.gov". See Appendix II. This account also, is not designated to any specific person within the FBI and as such, is the email account belonging to the sovereign (emphasis added).

Given that the sovereign is the subject of the prosecution, the unit of prosecution as-applied to this case, it holds that the sovereign is the "person" to whom the district attorney is alleging Mr. Pyatt intended to harass. However, the sovereign cannot be a "person" within the meaning of person in 18 USC 2261A(2)(A). Therefore, the conduct alleged Mr. Pyatt exhibited in violation of 18 USC 2261A(2)(A) is not within the scope of the statute, rendering the indictment void and defective. The Supreme Court has explained that "[D]ecisions of this Court holding that a substantive federal criminal statute does not reach certain conduct, like decisions placing conduct beyond the power of the criminal law-making authority to proscribe. . .necessarily carry a significant risk that a defendant stands convicted of an act that the law does not make criminal. . .For under our federal system it is only Congress, and not the courts, which can make conduct criminal." Bousley v. United States, 523 U.S. 614, 620, 118 S. Ct. 1604, 140 L. Ed. 2d 828 (1998) (internal citation and quotation marks omitted).

It has been established that the unit of prosecution for 18 USC 2261A(2)(A) is the natural and specific person targeted as a result of the course of conduct alleged by a defendant, but in this case, the "person" alleged is the sovereign federal government. This is not conduct that the statute intended to reach when Congress drafted the Violence Against Women Act ("VAWA") and made the unit of prosecution a specific natural person. Not even corporations, companies, or any other legally identifiable person is covered by this statute. See 1 USC 1. The Supreme Court has explained that "[S]ince, in common usage, the term "person" does not include the sovereign, statutes employing the phrase are ordinarily construed to exclude it. . .But there is no hard and fast rule of exclusion. The purpose, the subject matter, the context, the legislative history, and the executive interpretation of the statute are aids to construction which may indicate an intent, by the use of the term, to bring state or nation within the scope of the law." United States v. Cooper Corp., 312 U.S. 600, 605, 61 S. Ct. 742, 85 L. Ed. 1071 (1941). See also United States v. United Mine Workers, 330 U.S. 258, 272, 67 S. Ct. 677, 91 L. Ed. 884 (1947) (Holding that "[T]here is an old and well-known rule that statutes which in general terms divest pre-existing rights or privileges will not be applied to the sovereign without express words to that effect."); Nardone v. United States, 302 U.S. 379, 383, 82 L. Ed. 314 (1937) (Stating that "the general words of a statute do not include the government or affect its rights unless the construction be clear and indisputable upon the text of the act."); United States v. Fox, 94 U.S. 315, 321, 24 L. Ed. 192 (1877) (Ruling that the statute in question with respect to the definition of "person" extended to apply to "natural persons, and also to artificial persons. . .deriving their existence and powers from legislation-but cannot be so extended as to include within its meaning the Federal Government. It would require an express definition to that effect").

The indictment, on its face, alleges that Mr. Pyatt directed communications toward the sovereign government whom cannot be the subject of prosecution under this statute. The Supreme Court provided clarity on this issue when they opined on legislation with respect to whether an official of the State or the State itself was a "person" within the meaning of a statute when the Court ruled that "[W]e find nothing substantial in the legislative history that leads us to believe that Congress intended that the word "person" in 1983 included States of the Union. And surely nothing in the debates rises to the clearly legislative intent necessary to permit that construction." Will v. Michigan Dep't of State Police, 491 U.S. 58, 69, 109 S. Ct. 2304, 105 L. Ed. 2d 45 (1989).

Similarly, when analysis incorporates identifying the sovereign as the subject of any proceeding, the Supreme Court has stated that "[T]he general rule is that a suit is against the sovereign if. . .[it would] interfere with the public administration. . .or if the effect of the judgement would be to restrain the Government from acting, or compel it to act." Dugan v. Rank, 372 U.S. 609, 83 S. Ct. 999, 10 L. Ed: 2d 15 (1963) (internal citation and quotation marks omitted). See also Larson v. Domestic & Foreign Commerce Corp., 337 U.S. 682, 688, 69 S. Ct. 1457, 93 L. Ed 1628 (1949) (Holding that "[F]or the sovereign can act only through agents and, when an agent's actions are restrained, the sovereign itself may, through him, be restrained").

Indeed, this construction can be directly applied to the instant case in that the merits of the communications in question alleged in the indictment are directed to the sovereign as a "person" because the alleged communications are directed to a general account for the FBI and not a specific person (emphasis added). Accordingly, any employee of the FBI who is to respond using a general email is acting in their official capacity, which in turn is exercising the authority of the federal government as the sovereign. The Supreme Court clearly explained by analogy that "[O]bviously, state officials literally are persons. But a suit against a state official in his or her official capacity is not a suit against the official but rather is a suit against the official's office. . .[and] is no different from a suit against the State itself. . .We hold that neither a State nor its officials acting in their official capacities are "persons" under [the statute] 1983." Michigan Dep't of State Police, 491 U.S. at 71 (emphasis added) (internal citation and quotation marks omitted).

Therefore, since Mr. Pyatt was communicating to a general email and social media account for the FBI, it follows that he is communicating to the Miami office for the FBI, which in turn means he is communicating to the Federal Bureau of Investigations as a whole with respect to the "person" who received the communication, that "person" being the sovereign federal government, who is not a "person" within the meaning of person in 18 USC 2261A(2)(A). The statute does not prescribe to punish and reach conduct aimed at any "person" who is not a natural person (emphasis added).

Given that 18 USC 2261A(2)(A) does not reach the sovereign as a "person" then this is fatal error and the indictment is defective as it is attempting to punish conduct outside the purview of what Congress intended the statute to punish. The district attorney has attempted to punish conduct which is not covered by 18 USC 2261A(2)(A) and should be refrained from constructing and defining what Mr. Pyatt's punishment should be with respect to conduct not proscribed by statute. The Supreme Court has stated that it is "[W]e [who] construe a criminal statute [and]. . .It is the Legislature, not the Court, which is to define a crime, and ordain its punishment." Arroyo v. United States, 359 U.S. 419, 424, 79 S. Ct. 864, 3 L. Ed. 2d 915 (1959) (internal citation and quotation marks omitted). Similarly, the Supreme Court has previously established with respect to habeas proceedings that "[I]f the commitment be against law, as being made by one who had no jurisdiction of the cause, or for a matter for which by law no man ought to be punished, the court are to discharge." Ex Parte Siebold, 100 U.S. at 376 (internal quotation marks omitted). See also Ex Parte Royall, 117 U.S. at 248 (holding that "[I]t is clear that if the local statute under which [a defendant] was indicted be repugnant to the constitution, the prosecution against him has nothing upon to rest, and the entire proceeding against him is a nullity")

If the indictment is therefore defective on its face, then there was no basis in law nor jurisdiction to indict and detain Mr. Pyatt pursuant to count III. The end result is that Mr. Pyatt is being detained pursuant to a defective indictment and so "[H]e is in custody in violation of the Constitution. . .[and] laws. . .of the United States", the remedy of which being his immediate discharge. See 28 USC 2241(c)(3). The Supreme Court has stated that "[T]he course of decisions of this Court. . .makes plain that restraints contrary to our fundamental law, the Constitution, may be challenged on federal habeas corpus." Noia , 372 U.S. at 409. While further stating that "[The writ] is not now and never has been a static, narrow, formalistic remedy; its scope has grown to achieve its grand purpose-the protection of individuals against erosion of their right to be free from wrongful restraints upon their liberty. . .But the statute does not deny the federal courts power to fashion appropriate relief other than immediate release. Since 1874, the habeas corpus statute has directed the courts to determine the facts and dispose of the case summarily, as law and justice require." Peyton v. Rowe, 391 U.S. 54, 67, 88 S. Ct. 1549, 20 L. Ed 2d 426 (1968) (internal citation and quotation marks omitted). See also Ex Parte Tom Tong, 108 U.S. 556, 559, 25 S. Ct. 871, 27 L. Ed. 826 (1883) (Providing clarity to habeas corpus relief in stating that "[T]he prosecution against him is a criminal prosecution, but the writ of habeas corpus which he has ordained is not a proceeding in that prosecution. On the contrary, it is a new suit brought by him to enforce a civil right. . .against those who are holding him in custody, under the criminal process. If he fails to establish his right to his liberty, he may be detained for trial for the offense; but, if he succeeds, he must be discharged from custody. The proceeding is one, instituted by himself for his liberty, not by the government to punish him for his crime. . .[but] to get released from custody under a criminal prosecution")

Thus, since the FBI cannot be a "person" within reach of 18 USC 2261A(2)(A) then the indictment is invalid on its face because it fails to state the essential element of a cognizable person as recognized and mandated by statute. The relief Mr. Pyatt seeks is that of release from custody and any other appropriate action by this Court, which may include to "dispose of the case summarily, as law and justice require". Rowe, 391 U.S. at 67.

X. Reasons For Not Making Application to the District Court

The Rules of the Supreme Court, Rule 20(4)(a), states that;

"[A] petition seeking a writ of habeas corpus shall comply with the requirements of 28 USC 2241 and 2242, and in particular with the provision in the last paragraph of 2242, which requires a statement of the 'reasons for not making application to the district court of the district in which the applicant is held. . .To justify the granting of a writ of habeas corpus, the petitioner must show that exceptional circumstances warrant the exercise of the Court's discretionary powers, and adequate relief cannot be obtained in any other form or from any other court." See S. Ct. R. 20(4)(a).

Mr. Pyatt has attempted to have the original district court address the matters of release. However, since Mr. Pyatt divested the district court of jurisdiction when he filed an appeal to the commitment order that was issued on October 17th, 2022, the Eleventh Circuit Court of Appeals exercises jurisdiction over the Custody of Mr. Pyatt pursuant to 18 USC 4241(d)(1), and as a consequence, also exercises jurisdiction over this aspect of the case in accordance with 18 USC 3141. See 18 USC 4241(e) (The statutory scheme of the statute mandating that "[U]pon discharge, the defendant is subject to the provisions of chapters 207 and 227 [18 USCS 3141 et. seq.]"). The Supreme Court has stated that "[T]he filing of a notice of appeal is an event of jurisdictional significance-it confers jurisdiction on the court of appeals and divest the district court of its control over those aspects of the case involved in the appeal." Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 58, 103 S. Ct. 400, 74 L. Ed 2d 225 (1982). The Eleventh Circuit maintains jurisdiction over the aspects of the case concerning release on direct appeal with respect to 18 USC 4241(d)(1) and 18 USC 3141, which has prompted Mr. Pyatt to have the Eleventh Circuit Court of Appeals rule on a motion for an indicative ruling for a limited remand for purposes of revesting the district court with jurisdiction so that the Court may address a motion for release while the appeal was still pending. However, Mr. Pyatt needed to commence a collateral proceeding to achieve this goal. See In re. Pyatt, Case No.: 24-12071, ECF 1.

The matters respecting Mr. Pyatt's custody on interlocutory appeal is still pending resolution. Thus, a habeas district court is without authority to divest jurisdiction of a Court of Appeals to rule on matters pending on direct appeal (emphasis added). This argument is supported by the Supreme Court when they opined that "[W]hen the process of direct review-which, if a federal question is involved, includes the right to petition this Court for a writ. . .comes to an end, a presumption of finality and legality attaches to the conviction and sentence. The role of federal habeas proceedings, while important in assuring that constitutional rights are observed, is secondary and limited." Barefoot v. Estelle, 463 U.S. 880, 887, 103 S. Ct. 3383, 77 L. Ed. 2d 1090 (1983).

This Court brought clarity to this issue when stating "[W]hile the entire theoretical underpinnings of judicial review and constitutional supremacy dictate that federal courts having jurisdiction on direct review adjudicate every issue of law, including federal constitutional issues, fairly implicated by the trial process below and properly presented on appeal, federal courts have never had a similar obligation on habeas corpus. Habeas corpus always has been a collateral remedy, providing an avenue for upsetting judgements that have become otherwise final. It is not designed as a substitute for direct review." Mackey v. United States, 401 U.S. 667, 683, 91 S. Ct. 1160, 28 L. Ed. 2d 404 (1971). Similarly, the habeas district court in the instant case would be subject to the holdings in Nowakowski v. Maroney in which the Supreme Court held a circuit court must resolve an appeal properly brought before it on direct appeal and "proceed to a disposition of the appeal in accord with its ordinary procedure." Nowakowski v. Maroney, 386 U.S. 542, 543, 87 S. Ct. 1197, 18 L. Ed. 2d 282 (1967) (Emphasis added).

A habeas district court may be unwilling to exert jurisdiction or hear a case on matters currently pending before a higher court. This would mean that, in the instant case, the Eleventh Circuit Court of Appeals must rule on the matters presently before it before a lower habeas court would be willing to exercise jurisdiction over the same issues on collateral attack. This argument is supported by the Court in Royall in which the Supreme Court held that "[T]he injunction to hear the case summarily, and thereupon 'to dispose of the party as law and justice require,' does not deprive the court of discretion as to the time and mode in which it will exert the powers conferred upon it. That discretion should be exercised in the light of the relations existing, under our system of government, between the judicial tribunals of the Union. . .and in recognition of the fact. . .those relations be not disturbed by unnecessary conflict between courts equally bound to guard and protect rights secured by the Constitution." Ex Parte Royall, 117 U.S. at 251 (emphasis added).

An application for a writ of habeas corpus was made originally to the Court of Appeals to account for the jurisdictional obstacles and conflicts concerning custody and authority to release Mr. Pyatt with respect to habeas jurisdiction in the district court simultaneously existing with a higher court exercising jurisdiction pursuant to a pending interlocutory appeal. The Petition, nonetheless, was still transferred to the district court for a determination in which the district court denied the application and reasoned that "[A] trial judge cannot grant a writ of habeas corpus before trial if a criminal defendant has the opportunity to challenge the legality of his prosecution in his criminal prosecution." In re. Joe Nathan Pyatt Jr., Case No.: 24-cv-22096 (S. D. Fla. 2024), ECF 4 at 3. Although this reasoning is sound upon the principle in which it is derived, it is nonetheless erroneous when applied to the circumstances of the instant case (emphasis added).

Mr. Pyatt clearly has attempted to litigate the issues respecting custody presented in the writ of habeas corpus through the vehicle of the original criminal proceedings on interlocutory appeal. See Pyatt, 23-11626, ECF 58. Subsequent to this effort, is Mr. Pyatt's attempt to remand custody to the district court pursuant to 11th Cir. R. 12.1-1 in conjunction with Fed. R. Crm. P. 37 (c). See In Re. Pyatt, 24-12071, ECF 1 (emphasis added). The only reason Mr. Pyatt is forced to address custody in habeas proceedings is because he cannot do so by any other alternative nor vehicle which would provide an avenue for such relief.

Mr Pyatt seeks to emphasize that he does not desire to litigate the matters concerning custody in a habeas proceeding for the sake of avoiding the original criminal proceeding, rather, Mr. Pyatt has no other option but to commence these habeas proceedings as a necessity to redress custody pertaining to the aforementioned developments and to proceed towards trial (emphasis added). The Supreme Court has clearly stated that "[T]hus, whether the petitioner's challenge to his custody is that. . .[he] has been imprisoned prior to trial on account of a defective indictment against him. . .[or] that he is unlawfully confined in the wrong institution. . .in each case his grievance is that he is being unlawfully subjected to physical restraint, and in each case habeas corpus has been accepted as the specific instrument to obtain release from such confinement." Rodriguez, 411 U.S. at 486 (emphasis added).

As such, habeas corpus is the proper tool to challenge Mr. Pyatt's custody, given the odious nature of the circumstances surrounding this case, whose premise is based upon a defective indictment, giving rise to the custody becoming unlawful. Indeed, the Supreme Court has stated that "[I]t was decided that this court would not issue a writ of habeas corpus, even if it had the power, in cases where it might as well be done in the proper circuit court, if there were no special circumstances in the case making direct action or intervention by this court necessary or expedient." Re Chapman, 156 U.S. 211, 217, 15 Sup. Ct. Rep. 331, 39 L. Ed. 401 (1895).

Moreover, Mr. Pyatt argues that he should not be forced to appeal the habeas district court's order denying the petition only to cause further delay in the commencement of these habeas proceedings. Furthermore, Mr. Pyatt argues that even if a habeas district court took into account these substantive arguments and commenced the habeas proceedings the authority to release Mr. Pyatt would be hindered by the current pending appeal in the higher court exercising jurisdiction over Mr. Pyatt's custody.

Thus, application to a single justice is appropriate in this case to overcome any jurisdictional obstacles with respect to the element of custody in the current appeal that is pending resolution in the Eleventh Circuit while simultaneously harvesting the fruits of the authority of the Supreme Court to release Mr. Pyatt unhindered by any other judicial tribunal to the contrary.

It is of the utmost importance that observance of exceptional circumstances are warranted in this case because Mr. Pyatt has been severely prejudiced by the delay in his original criminal proceedings, and on appeal, subsequently rising to the level where he served a prison sentence without being tried nor convicted of an offense nor was he given an opportunity to defend against the allegations in the indictment. Mr. Pyatt has been waiting for the Court of Appeals to render a decision with respect to beginning briefing for over twelve months. A briefing schedule has not yet been implemented and the delay in the appeal has caused him to sit in prison for what will now be 30 months on September 25th, 2024. Even after the appeal is resolved and a trial date set for the case, Mr. Pyatt anticipates that he would need a minimum of 5 to 12 months to litigate dispositive matters before any trial could commence because no pretrial motions have been addressed to date.

This delay in being able to commence proper litigation in preparation for trial, is intolerable, and provides this court with justification to establish "extraordinary circumstances" requiring the issuing of the writ and inquiring into the legality of his detention. The prejudice in delay in the instant case is akin to that of Parker v. Ellis, where the Supreme Court explained that "[H]abeas corpus, with an ancestry reaching back to Roman law, has been over the centuries a means of obtaining justice and maintaining the rule of law when other procedures have been unavailable or ineffective. . .The general problem we confront in the case at bar, then, is. . .an intolerable delay in affording justice and the absence of any other remedy. . .Instead of the arbitrariness of judges, [the defendant] has had to contend with the time-consuming nature of our system of appellate review and collateral attack." Parker v. Ellis, 362 U.S. 574, 583-585, 80 S. Ct. 909, 4 L. Ed 2d 963 (1960) (dissenting opinion).

The Supreme Court further explaining with respect to delay that "[T]he rule established by the general concurrence of the American and English courts is, that where the delay in rendering a judgment or a decree arises from an act of the court, that is, where the delay has been caused either for its convenience, or by the multiplicity or press of business, either the intricacy of the questions involved, or of any other cause not attributable to the lashes of the parties. . .it is the duty of the court to see that the parties shall not suffer by the delay. . .it is the fault of the courts, not [the Defendant's] fault, that final adjudication in this case was delayed until after he had served his sentence. Justice demands that he be given the relief he deserves." Ellis, 362 U.S. at 599 (internal citation and quotation marks omitted).

A subsequent decision of the Supreme Court after the ruling in Parker further illustrated how delay is in no means excusable neglect by any party to the proceeding when the Court ruled that "[P]etitioner is entitled to consideration of his application for relief on the merits. He is suffering, and will continue to suffer, serious disabilities because of the law's complexities and not because of his fault, if his claim that he has been illegally convicted is meritorious. . .This case illustrates the validity of The Chief Justice's criticism that the doctrine of Parker simply aggravates the hardships that may result from the intolerable delay[s] in affording justice. . .[The Petitioner's] path has been long-partly because of the inevitable delays in our court processes and partly because of the requirement that he exhaust state remedies. He should not be thwarted now and require to bear the consequences of assertedly unlawful conviction simply because the path has been so long that he has served his sentence." Carafas v. LaValle, 391 U.S. 234, 239-240, 88 S. Ct. 1556, 20 L. Ed. 2d 554 (1968).

Mr. Pyatt seeks to have this Court address his custody without any further delay and render a decision on matters pertaining to custody in violation of the Constitution and laws of the United States whose cause for unlawful confinement is premised upon a defective indictment (emphasis added). Justification for the issuance of the writ in this case is emphasized by Justice Harlan in an opinion providing clarity on habeas practice when he explained that "[N]ew, 'substantive due process' rules, that is, those that place, as a matter of constitutional interpretation, certain kinds of primary, private conduct beyond the power of the criminal law- making authority to proscribe, must, in my view, be placed on a different footing. As I noted above, the writ has historically been available for attacking convictions on such grounds. This, I believe, is because it represents the clearest instance where finality interest should yield. . .Moreover, issuance of the writ on substantive due process grounds entails none of the adverse collateral consequences of retrial. . .Thus, the obvious interest in freeing individuals from punishment for conduct that is constitutionally protected seems to me sufficiently substantial to justify applying current notions of substantive due process to petitions for habeas corpus." Mackey, 401 U.S at 692 (emphasis added).

Mr. Pyatt is now in custody within the USSG guideline range for count III of the indictment and is still attempting to litigate dispositive matters prior to trial. Thus, any "finality interest" that exist for allowing the appeal that is currently pending in the Eleventh Circuit Court of Appeals to resolve must yield to the interest of Mr. Pyatt's "substantive due process" claims presented in this Petition. id.

XI. Conclusion

WHEREFORE, Mr. Pyatt request that this Court rule that the term "members" is insufficient to state a specific and natural person as mandated by 18 USC 2261A(2)(A) and that the indictment fails, as a matter of law, to state an offense pursuant to Fed. Crm. P. 12 (b)(3)(B)(v). Mr. Pyatt also request that this Court rule that the Federal Bureau of Investigations, acting as the sovereign federal government, cannot be a "person" within the meaning of person as mandated by 18 USC 2261A(2)(A). Furthermore, Mr. Pyatt request that this Court order his immediate discharge from his current facility and be transferred back to Miami, Fl. upon which he is to be immediately released, on his own recognizance, from the custody of the Bureau of Prisons prior to trial.

Respectfully Submitted,

Joe Pyatt

Joe Nathan Pyatt Jr. 02748-506
FMC Butner
P.O. Box 1600
Butner, NC 27509