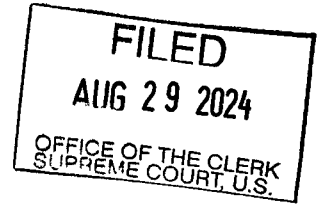


24-5657

No. _____

ORIGINAL



IN THE

SUPREME COURT OF THE UNITED STATES

In Re: CHARLES KAFEITI - PETITIONER

ON PETITION FOR A WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS

Charles Kafeiti

(Your Name)

ERC LaTuna POBox 8000

(Address)

Anthony, NM 88021

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- 1) Can lower courts, delay and deny access to Habeas Corpus, and maintain Constitutional adherence's to such relief?
- 2) Can a Person break the law, when he hires professional attorney's to manage his legal concerns within his business? Thus no intent.
- 3) Can a District court, start a "case" against a person, without an affidavit supported complaint being filed, warranting the persons arrest?
- 4) Does the Postal Inspector, hold Police power over the USPS routes and have arresting and court procedural power?
- 5) How is a civil matter, resolved, latter deemed criminal without any evidence?
- 6) Can the DOJ activate a civil process, without any evidence of legal harm, to the USPS or the US.
- 7) Is a Grand Jury designed, for the purposes of protecting a citizens rights under the Constitution?
- 8) Can the search of property, be initiated without the record evidence of any search warrant, supported by affidavit of criminal conduct?
- 9) How is placing a 60 year old male in jail, who is 'an alleged' first time offender and suffers from coronary heart disease, vertigo and a back condition, Justified?
- 10) If victims were the concern of the United States, why is there NO restitution in my case?
- 11) Is being kept on 4 years of pre-trial, indication of criminal process? And is the lack of any indictment, evidence of being illegally detained without any 'pretrial' indictment concerns?
- 12) Can an attorney, lacking in Art. II, sec. II, el. II, "Appointments Clause" adherence, be allowed to present a legal argument for the United States Executive?
- 13) How can the sentencing Judge fail to respond to any and ALL motions presented to her court for over 7 months while I rot in Prison?

LIST OF PARTIES

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

RELATED CASES

- 1) 5th Circuit Court of Appeals 24-50242.
- 2) W.D. of Texas, El Paso Division, EP-cv-463-KC
- 3) E.D. of New York, original case # 20-cr-00578(JMA)-1

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF HABEAS CORPUS

Petitioner respectfully prays that a writ of habeas corpus issue.

OPTIONS BELOW

☒ For cases of **federal courts**:

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

- ☐ reported at N/A: or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

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

- ☐ reported at N/A: or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐

NOTE: No lower court has taken dispositive motions towards my requested relief.

JURISDICTION



For cases from **federal courts**:



No petition for rehearing was timely filed in my case.



The jurisdiction of this court is invoked under 28 U.S.C. section 2241, 2242, 2243.



CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitutional Provisions at Contest:

- 1) Article III Sec. 2, cl. 1.
- 2) Article II
- 3) 4th, 5th, 6th, 8th, 10th and 14th Amendments.

Statutes at Contest:

- 1) 18 USCS 3041, 3231, 3041, 3044, 3046, 3047, 1349
- 2) 28 USCS 519, 528, 530(B), 530(C)(b)(4), 533 (1), and 547(1).
- 3) 28 USCS 2241, 2242, 2243, et seq.
- 4) 28 USCS 2255 (e)

STATEMENT OF THE CASE & RULE 20.4(A) STATEMENT

Extensive review has revealed Constitutional, Statutory, and Procedural violations which prove all Investigation and Prosecution efforts pointed to a non-justiciable plea before an illegal Court forum that produced a Void Judgment. Petitioner is being detained and imprisoned in violation of the Constitution and Laws of the United States.

The Government lacked necessary “Standing” to seek a criminal charge for a civil matter outside of federal jurisdiction. Undeterred, Prosecutors proceeded to abrogate Constitutional Protections, violate Statutory Laws, evade Federal Rules of Criminal Procedure, manufacture invalid Theories of Law and criminalize an innocent man, tortiously interfering with his Business. See Professional Real Estate Investors, Inc. V. Columbia Pictures Ind. Inc., 508 US 49, 113 S.Ct, 1920 (1993), also termed “Sham Lawsuit” or “Sham Action” (Blacks Law, Page 25, 10th Edition).

Lacking in requisite standing to Sue, the United States Executive Branch Officer(s) dominated and bullied their way past all limiting Legislation, Authorities and Offices – both Executive and Judicial – “collapsing the Separation of Powers”. Functioning under the Color of Article II Authority the Executives pushed the Court to proceed ‘Ultra Vires’, in violation of Art. III principles.

28 USC section 2241(c)(1) and (c)(3) speak directly to this circumstance:

“[Petitioner] is in custody under the color of authority of the United States and in violation of the Constitution and Law of the United States”.

A court of competent Jurisdiction is: “A court that has the Power and Authority to do a particular act” (Blacks Law, 10th Edition). Lacking such Power, any Court is therefore incompetent.

18 USC Section 3041 allows judicial Power to extend for the purpose of bringing a Defendant before a Court of competent Jurisdiction only for “An offense against the United States,” and be held to answer for allegedly criminally intended, Legal harms against the United States Constitutionally cognizable rights, as protected under federal Law.

Since F.R.Crim.P Rule 3 – ‘The Complaint’ initiates any criminal process when the Plaintiff seeks to arrest the defendant upon “probable Cause” (4th Amendment), and then to Trial Test their “Cause” of action and the “Probability” of criminal intent. Such rules shall be followed. Procedural due process falls away otherwise.

Without properly accessing Article III Powers, any Federal Judicial Officer becomes: “A self appointed Tribunal – in which the principles of Law and Justice are disregarded, perverted, or parodied.” (Definition #2)

This Definition above defines a “Kangaroo Court”. {See Blacks Law, Page 314, 10th Edition.}

Accordingly, Petitioner respectfully requests this Honorable Court grant Petitioner the Writ of Habeas Corpus.

RULE 20.4 (a) STATEMENT

Pursuant to Rule 20.4(a):

“A petition seeking a Writ of Habeas Corpus shall comply with the requirements of 28 USC Section 2241 and 2242, and in particular with the provision in the last paragraph of Section 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 the adequate relief cannot be obtained in any other form or from any other court.*”

NOTICE: This rule of law goes against Miranda V. Arizona, 384 US 436 (1966):

“Where rights secured by the constitution are involved, there can be no rule making or legislation which would abrogate them.”

Article VI’s Supremacy Clause mandates that ANY Court SHALL issue the Writ of Habeas Corpus granted in Article I, Section IX, Clause II.

Petitioner has in fact, made application for Habeas Corpus relief to the Fifth Circuit where Petitioner is currently being held. (See: 24- 50242 and District Case No. EP-23- CV-463-KC, United States District Court, in the Western District of Texas, Judge Kathleen Cardone). Judge Cardone applied the same standard of law as outlined in Rule 20.4(a) statements above. The lower Court refused to issue a ‘Show Cause’ order and summarily avoids the application without a Hearing. Instead, the Court erred in the Law by speaking to 28 USC Section 2255 as a possibility of resolving the illegal detention. The 5th Cir. Has a “NON-FINAL” decision before it, lacking in review jurisdiction.

In conflict with this Constitutional Right is the District Courts abuse of discretion over a non-discretionary Writ of Habeas Corpus. The Court exceeded its discretion by implying that the Constitutional privilege of the Writ of Habeas Corpus is not – after all – a privilege. The District Court, instead, relied on Section 2255(e) as a procedural (yet unconstitutional) side-step. Effectively

abrogating access to a Constitutional privilege (i.e. - habeas Corpus). As noted, this matter has been appealed to the Fifth Circuit Court of Appeals, wherein Petitioners Right to expedient relief is now further delayed and legally unavailable. This Court must take appropriate action, to remedy this illegal detention.

A 28 USCS 2255 Motion, is an inadequate and ineffective remedy because it only reaches to “errors in a Sentence” (“in the nature of the ancient Writ of Error Coram Nobis”. See Advisory Committee Notes to 28 USC Section 2255). This does not claw-back to the Constitutional, Statutory, and Procedural violations which allowed an illegal investigation and prosecution. By pressing an Article III Judge – who lacked competent Jurisdiction – the court became ‘Ultra Vires’ and thus issue a Void Judgment.

Finally, Section 2255 is a discretionary Motion continuing a Criminal Case. This does not provide directives authorizing the District Court to reach back to an invalid conviction. In fact no mention of Conviction invalidity relief is ever spoken of by the Congressional legislation. How does one vacate a VOID judgment? One cannot, for all authority is absent.

In opposition, Section 2241 mandates release of a Prisoner when facts alleged show he is in custody in violation of the Constitution or the Laws of the United States. Accordingly, any 28 USCS 2241 authority is not discretionary, yet instead is mandatory. With the failure of the sentencing court judge to respond to any and ALL motions presented to her court, my only relief can be determined by this court.

Petitioner has further attempted to gain release under FRAP Rule 9 – thru his Court of Appeals Case, yet this too, sits unresolved by the 5th Circuit Court of Appeals.

NOTICE: Lower court failed to provide a “Final Decision” in the pending Habeas Case, thus effectively barring access to the Privilege of Habeas Corpus. This has been raised to the 5th Circuits attention. Now it is raised to this court as well.

GROUND FOR GRANTING THE PETITION

GROUND ONE: Petitioner is being detained and imprisoned in violation of the 18 USC Section 4001 which states: "(a) No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress." The following Grounds outline the 'Acts of Congress' (statutes, Procedures, Rules of Criminal Procedure) which were violated by the Government to trespass over Petitioner's Constitutional Rights, resulted in a Void Judgment, and the wrongful imprisonment of Petitioner.

The U.S. Government Prosecution lacked any recognizable basis ("Standing") to bring a 'Case' or to seek out a 'Controversy' in the Legal Affairs of a Private Corporation. Pursuant to F.R.Crim.P Rule 6(a)(1) "When the Public interest so requires, the Court must order that one or more Grand Juries be summoned." Clearly, there was no Public interest in the Legal Affairs of a Private State Licensed Corporation nor its President's management over it. The Government's Theory of Prosecution targeted Petitioner's 'Right to Control' his businesses marketing. Recent Supreme Court and Circuit Court Rulings establish that Petitioner was convicted of non-existent offenses because the 'Right to Control' Theory of Mail Fraud is an invalid Legal Theory. (See: Percoco, Ciminelli, Kelly, Yates, and Takhalov, et al.). In these Cases at Law, the Government was found to lack a valid Legal theory for prosecution. In Petitioner's Case, the Government lacked a Legal, Regulatory interest in the affairs of Petitioner's Businesses or in Petitioner's marketing. The Government lacked Standing because, as the Information reveals, Petitioner committed no "Offense against the United States," the threshold the Government must overcome to obtain statutory authorization, pursuant to an 'Act of Congress,' and pursuant to Article III, Section II, Cl.1. In Petitioner's 'Case' the Government lacked in both Congressional and Constitutional authority to either investigate, prosecute or Convict the Petitioner.

GROUND TWO: Petitioner is being detained and imprisoned in violation of the Executive's failure to yield Statutory Limitations to investigate and prosecute ONLY for "Offenses against the United States." Accordingly, the Attorney General's investigative and prosecutorial authorities are identified in 28 USC Sections 519, 528, 530(B), 530(C)(b)(4), 533(1), and 547(1).

The Government's over reach and failures in 'Supervisory Authority,' oversight and management, as Statutorily mandated in accordance with 'Acts of Congress,' permitted unauthorized intrusions into the Private (sans Public) Affairs of private Business.

GROUND THREE: Petitioner is being detained and imprisoned for alleged conduct that is not an "Offense against the United States." It's not an offense against anyone, as the reader will see.

Accordingly, the Government possessed NO Constitutional or Statutory authority to abrogate the Tenth (10th) Amendment and Fourteenth 14th Amendment Protected Rights of Petitioner and his Business relationships. Nor did the Government possess the authority to 'Pierce the Corporate Veil' of Petitioner's Businesses and tortiously interfere.

The Government possessed NO right nor authority to criminalize an innocent man. Instead, the Government is evidenced to have interfered with Interstate and Foreign Commerce Rights belonging to Petitioner and his Businesses, thru effectively shutting down his business, without any evidence of probable cause. This for over 4 years, without an arrest or indictment.

GROUND FOUR: Petitioner is being detained and imprisoned in violation of 18 USC Section 3001 – 'Procedure governed by the Rules.' The criterion for commencing a Criminal Process begins with F.R.Crim.P Rule 3, which accesses judicial power, by 18 USC Section 3041 – for an "Offense against the United States." BUT FOR, the Government's refusals to apply such Rule of Law, Petitioner was taken through illegal investigations and unlawful Proceedings by a tribunal in violation of 18 USC Section 3044, which governs F.R.Crim.P Rule 3 - 'The Complaint Rule.' The prosecution failed to

File any Affidavit Supported Complaint outlining 'Probable Cause' pursuant to, and in accordance with the Fourth Amendment. Records reveal that there is NO Rule 3 Complaint nor Rule 4 Arrest Warrant Issuance or Return. (Please see the Docket for Case No. 20-CR-5780-JWA, in U.S. District Court, E. D. of New York)

The PACER Cover page, (Ex A) prior to Docket entry #1 (which is the Information) expressly documents the fact that there is no Rule 3 Complaint. See "Complaint – None." Clearly, without a Rule 3 Complaint the suit never officially, Legally commenced and all that followed thus was without competent authority.

GROUND FIVE: Petitioner is detained and imprisoned in violation of the Fourth (4th) Amendment and 18 USC Sections 3046 and 3047, which require a Warrant for Arresting purposes – pursuant to F.R.Crim.P Rules 3, 4, and 9. Petitioner has never been lawfully arrested, yet the Prosecution's compliance with each of these Rules is mandated. Pursuant to Rule 9, a Rule 6 "Indictment" SHALL be supported by a Rule 3 Complaint and Rule 4 Warrant. As stated, no such requirements were satisfied.

18 USC Section 3047 expressly instructs the prosecution that "A Warrant SHALL be necessary to commit [Defendant] for Trial." None of the Rules of Criminal Procedure, which are established by 'Acts of Congress' (for the protection of the citizens liberty rights) were ever complied with. Here, the prosecution is shown to have failed to comply with the Federal Rules of Criminal Procedure and the Statutory Law's enforcing them. Worse, the prosecution trespassed upon Petitioner's Fourth Amendment Rights and Protections that these Statutory Laws and Federal Rules of Criminal Procedure stand upon.

Without adherence to the Rules of Law and Petitioner's Constitutional Rights and Protections under the Fourth Amendment, the Prosecution and Article III Court officers violated 18 USC Section

3041 and incarcerated Petitioner without Authority and Jurisdiction to do so. As a result, Petitioner remains incarcerated in violation of the Constitution and Laws of the United States.

GROUND SIX: Petitioner was sanctioned for \$360,000. This was not authorized, and in violation of 18 USCS 3554 3555, and 3556. Petitioner was never charged with RICO or any other qualifying offense. Any judgment included for monetary sanctions, was therefor illegally procured.

Further the evidence points to the Executive concerns over Petitioner's ability to later unravel this case, is manifested by the "willing and voluntary" plea agreement statement (Ex B). No waiver could ever import jurisdiction, according to this Court. Any court lacking in judicial authority, cannot ratify any plea agreement, no matter the contents or terms of such agreement. Had the Executive procedurally followed the law in fact, no such waiver would be necessary. For the firm rule of law, would have dissuaded the lower court from ever allowing any process. In other words, no error(s) would lie.

GROUND SEVEN: 18 USC 1349 is not a predicate offense. It fails to provide the elements testing necessary to establish first: conspiracy and second: mail fraud.

Such reliance failed to reach subject-matter jurisdiction as required under 18 USC 3231.

GROUND EIGHT: Petitioner is being detained and imprisoned in violation of the Fifth and Sixth Amendment protections of the United States Constitution. All aforementioned Grounds prove that Petitioner is and has been, deprived of his Liberty and property, without Procedural Due Process of Law. Without arrest, indictment, grand jury and proper notice, All process was illegal.

GROUND NINE: Petitioner was prosecuted by an Attorney, who is NOT the United States Attorney, for the District, appointed by Congress and Presidential decree. This violates Article II, sec.

2 cl. 2 of the U.S. Constitution. This was just ruled illegal, providing grounds for dismissing an Indictment. (United States v Donald J. Trump, 24-CR-80101, DE 672, page 2, opening statement by Judge Aileen Cannon for the United States District Court for the Southern District of Florida). Prosecution taken by such attorney as in this case, (just like Donald J. Trump) lacks in the Constitutional assurance that a prosecution is authorized by the Constitutions 'Appointment Clause' protections. Procedural Due process applies. Without prosecution, arrest, indictment, grand jury and proper notice, by a Lawful United States Attorney appointed per the Constitution, then all processes were illegal.

The petition for a writ of habeas corpus should be granted.

Respectfully submitted,

Two handwritten signatures in black ink, one on the left and one on the right, both appearing to be stylized and possibly representing the same person.

Date: 8/13/24 9/18/24

**Additional material
from this filing is
available in the
Clerk's Office.**