

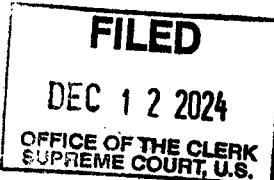
NO.

24-6307

IN THE
SUPREME COURT OF THE UNITED STATES

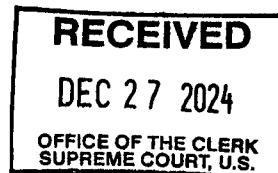
ORIGINAL

IN THE MATTER OF BRYAN LEE GREGORY



PETITION FOR WRIT OF MANDAMUS

PETITIONER
BRYAN LEE GREGORY
32331045
FEDERAL CORRECTIONAL INSTITUTION
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QUESTIONS PRESENTED

QUESTION -ONE

DOES THE UNITED STATES FEDERAL COURT SYSTEM OWE MR.GREGORY
AND THE UNITED STATES CONST A DUTY UNDER ARTICLE 1 SECTION III
TOO HAD REVIEW AND REACH THE MERITS OF HIS HIS ISSUE HE RAISED
IN HIS 28 USC 2255 PETITION IN ISSUE [26] THAT THE UNITE STATES
LACKED SUBJECT MATTER JURISDICTION TO PROSECUTE HIM

"THE ANWSER IS YES !!!"

QUESTION -TWO

DOES THE UNITED STATES HAVE SURJECT MATTER JURISDICTION
TO PROSECUTE HIM

"THE ANWSER IS NO!!!!"

PARTIES ENVOLVED

- (1). The United States Supreme Court,
- (2). The 8th Circuit court of Appeals,
- (3). Judge Steven Bough : Distrct judge of the Western Distrct ,
Southern Divison of Missouri.

	CONTENTS	Page
(1). Parties envolved		1
(2). Questions presented		2
(3) Jurisdictional statement.		3-4
(4). Reasons for granting writ of mandamus		5-7
(5). Question -one		9-10
(6). Question -two		11-25
(7). Relif sought		25-26

JURISDICTION STATEMENT

The United States Supreme Court has jurisdiction over this matter pursuant to 28 USC 1651 (A). The petitioner has no other legal remedy and the law and facts are in his favor. The United States Supreme Court held in CHENEY VS US DIST COURT 524 US 376 (2007). Under 28 USC 1651 (a) The law does not put litigants in impossible positions of (1) Having to exhaust alterante remedies before petition at the earliest possibility to avoid laches. The United States Supreme Court held in IN RE CHICAGO, ROCK ISLAND & P.R.CO. 255 US 273 (1921). A writ of prohibition to prevent lower court from wrongfully assuming jurisdiction of party of a cause of the same collective matter arrising petition well ordinary granted to one who at the outset objected objected to the jurisdiction has preserved his right by appropriate procedure and has no other remedy.

Mr. Gregory raised this subject jurisdiction matter issue in his 28 USC 2255 petition in issue [25], Judge Steven Bough ruled that that Mr. Gregory waived his right to challenge this issue , Note: 'the government did not raise this defense and as a matter of law. This issue can not be waived and a court must consider it's own jurisdiction. The 8th Circuit Court of Appeals refuse to address this issue . Mr. Gregory raised this subject matter in Writ of Certiorari 23-7031 of the denial of his 28 USC 2255, and the denial of his rule 60-R petition.-23-7032

Mr. Gregory preserved this subject matter jurisdiction issue in his 28 USC 2255, and judge Steven Bough unlawfully ruled that Mr. Gregory waived his right to raised this claim even though jurisdiction of the court can not be waived and the 8th Circuit Appellant Court and the United States Supreme Court has neglected it's own duty by

reaching the merits of this subject matter jurisdiction issue and failed to address even though Judge Steven unlawfully ruled that Mr.Gregory waived his right to challenge this issue. This clear error on Judge Steven Rough , the 8th Circuit Court of Appeals and the United States Supreme Court is supportive evidence of the bias and corruption in the United States federal Court System.

Mr.Gregory has never been provided his one fair unpartial review of this issue.

The facts can not be disputed and the law is in his favor and he is entitle for this court to issue a writ of mandamus to vacate and dismiss the indictment under 6:17-cr-3044

Mr.Gregory raised this issue as mandated by 28 USC 2255, Judge Steven Rough ruled that Mr.Gregory waived his right to challenge this Subject Matter Jurisdiction Defect in issue-[28], then the 8th Circuit Court of Appeals refused to address it, then the United States States refused to address it in the 2255 case in 32-7031 And the rule 60-b petition under case no 23-7032.

Mr.Gregory has no other legal remedy or access to court, as Judge Steven Rough refuses to address this issue and reach the merits of this arguement and the 8th Circuit Court refuses to follow the law and the United States has refused to follow the law itself and has completly failed its duty to uphold the Constitution of the United States of America and the United States Supreme Court has a Const duty to address this issue Sua Sponti and this Honorable Court has jurisdiction under 28 USC §1651 to reach the merits of this issue.

REASONS GRANTING WRIT OF MANDAMUS

There is extradoranry exceptional Circumstances for this Honorable Court granting a writ of mandamus against the 8th Circuit Court of Appeals and against Judge Steven Bough , District Judge of the Western District , Southern Division of Missouri.

As [all] Courts including this one has denied Mr.Gregory his Due Process rights to a fair & impartial trial under the 6th and 14th Amendments to Equal Protection and Due Process Clauses as this Honorable Court, the 8th Circuit and Judge Steven Bough has enter'd a decesions that is clearly is derect conflict with all other cases handed down by this Horable Court [all] Circuit Courts and District Courts and conflicts all rulings on this issue that each Judge in everyone one of these court's have handed down.

Mr.Gregory raised in issue -[26] that the United States DID NOT have suject matter jursdiction to prosecute him.in his 28 USCS 2255. Judge Bough ruled that Mr.Gregory [waived]his right] to challenge this issue. The 8th Circuit substain this ruling in the appeal and this Hornable Court denied review in 23-7031 and 23-7032 unlawfully.

This Honorable Court has held over and over that a Subject matter jurisdiction issue can not be forfeited or waived. This very Court held ARBAUSH VS H. CORP 540 US 500 (2006). That a objection to the federal courts lack subject matter jurisdiction may be raised at any stage. because it envolves a courts power to hear a case [can (never) be "forfeited or waived", UNITED SATES VS COTTON 535 US 625 , 630 (2002),
MOREOVER: COURTS [INCLUDING THIS ONE] HAVE A [INDEPENDANT DUTY] TO DETERMINE WHETHER SUBJECT MATTER JURISDICTION EXCIST [EVEN] [I]F THE ABSENCE OF THE CHALLENGE FROM ANY PARTY, RUCHRGUS AG VS MARATHON OIL Co. 526 US 574-583 (1999). [A]ll Courts even including "this one"

has failed this duty to reach the merits of Mr.Gregory's arguement that the federal court lack subject jurisdiction.

Judge Steven Bough being bias and corrupted that is evident that this [bias and corruption] is alive and well all the way to the United States Supreme Court.

How is it that Mr.Gregory in the hole United States of America is the only person [t]hat can waived or forfeit jursidiction of the court.

Judge Steven Bough being bias and corrupted in favor of the United States of America ruled that Mr.Gregory waived his right to challenge this courts subject matter jurisdiction, and the 8th Circuit affirm this ruling [a]nd this court denied Mr.Gregory review twice. This is something sersiously wrong for this to happen. What happen in Mr. Gregory's case is beyond a misscarriage of justice , it's criminal as alot of judges and court legal clerks conspired to deny Mr.Gregory his due process protected rights to equal protection under the color of law.

Nobody can tell Mr.Gregory that all 9-Supreme Court Judges review his petition in 23-7031 and 23-7032. As judge Steven Bough should never seat on the 2255 petition, Mr.Gregory had a conflict of enterst with hiss attorney on the record even, His attorney abandone him at critcal stage of his case his hearing to withdraw his guilty plead. His attorney hide brady evidence from him, he hide the sentencing memeorandums from him. [e]ven told him face to face at the County Jail the last time he saw him [that he deserved 10-years]. No court has never inquired into this conflict of enterst, [a]nd his attorney did file a affidavit in the 2255 proceedings disputing these facts. His attorney even told the court on record that he had no ententions of getting behind his prose motions to withdraw his guilty plead. In these pro se motions

Mr. Gregory had argued that his attorney had hide Brady evidence ,
photos and a vedio from him prior to him entring a guilty plea and
he did not deny this fact in the 2255 proceedings. There is very
something wrong about Mr.Gregory's criminal appealant process.
Mr .Gregory has nother legal remedies as Mr.Gregory has tried to
raise this issue in his rule-60 petition and once againt Judge
Steven Bough ruled that this petition was a successfull 2255 petition
and the 8th Circuit affirm that ruling and this Hornorable Court
denied review under 23-7032. So its evident Mr.Gregory is being denied
access to the courts and the courts unlawfully refuses to reach the
merits of Mr.Gregory's subject matter jurisdiction issue even though
under Article 3 , 1 mandates [all] courts including this one to
address this issue, [e]ven sue sponti.

The facts in this issue can not be challenge and the law is in his
favor that the United States of America did not have subject matter
jurisdiction to prosecute and send Mr.Gregory to prison and Mr.Gregory
has been unlawfuuly detain , imprisoned since 2017 and [a]ll courts
including this one has continue to allow the United States to enforce
a very unlawfully bias corrupted judgement and sentence to protect
the federal government and local and state of Missouri governmet
employees in Mr.Gregory's case.

There is exstreamly extradorniary exceptional circumstances that
mandates review and granting of writ of mandamus mandating Judge
Steven Bough to dismiss Mr.Gregorys criminal case.

Mr.Gregory's case is a poster child picture of how really corrupted
and bias our American Federal Judicial Court System really is!

QUESTION -1

DOES THE UNITED STATES FEDERAL COURT SYSTEM OWE MR.GREGORY AND THE UNITED STATES OF AMERICA CONSTITUTION A DUTY UNDER ARTICLE 1, SECTION III TOO HAD REVIEW AND REACH THE MERITS OF HIS ISSUE HE RAISED IN HIS 28 USCS 2255 PETITION THAT THE UNITED STATES LACK SUBJECT MATTER JURISDICTION TO PROSECUTE HIM

THE ANWSER IS YES!!!!

ARGUMENT

Mr.Gregory raised in his 2255 that the United States of America did not have proper and legal subject matter jurisdiction in issue [26] of his 2255 petition in case no: 6:20-cv-03294-SRB. Judge Steven Bough ruled that Mr.Gregory had waived his rights to challenge this issue see Civ Doc-55, pgs 2-3, Mr.Gregory then appeal this ruling but the 8th Circuit Court affirm this unconstitutional ruling and Mr. Gregory then filed for review to this court under 23-7031 and this court denied Mr.Gregory review, Mr.Gregory then filed a Rule-60 B appeal it and then seek a review by this court under case no 23-7032 challenging the courts jurisdiction and Judge Bough ruled that his rule-60 b was a successive 2255 petition and the 8th Circuit affirm this judgement and this court once again denied review.unlawfully. The [hole] federal judicial court system from the District Court, to the 8th Circuit up to the United States Supreme Court failed it's constitutional duty to the United States Constitution of Article 1- Section III to determine it's own jurisdiction and it's duty to Mr. Gregory to enforce the laws and Const by ruling that Mr.Gregory had waived his rights to challenge the jurisdiction of the court. This very Court held in ARBAUSH VS, H.CORP 540 US 500 (2006) That a subject matter jurisdiction issue can not be waived or forfeited.

That a objection to the federal courts lacks subject matter jurisdiction may be raised any stage because it involves the court's power to hear a case, UNITED STATES VS COTTON 535 US 625, 630 (2002)). (Moreover courts [including this one] have a independent duty to determine whether subject matter jurisdiction exists [e]ven if in the absence of the challenge of either party RUCHRGUS VS MARATHON OIL CO. 526 US 574-583 (1999)).

The federal district court, the 8th Circuit Court of Appeals and the United States Supreme Court all had a independent duty to had reach the merits of Mr. Gregory's issue in issue [26] and determine rather or not the federal courts had subject matter jurisdiction over Mr. Gregory's criminal case.

Even now this court along with the 8th Circuit Court of Appeals and the federal District court of Western Missouri Southern Division has a indendant duty based on the United States Constitution to sue sponti it's own jurisdiction.

Mr. Gregory has no other legal remedy to challenge this issue as Mr. Gregory raised this issue again in a rule 60-b and Judge Steve Bough once again refused to address this issue , and ruled it was a successive 2255 petition , and the 8th circuit affirm this unlawfull ruling and once again the United States Supreme Court denied Mr. Gregory review under case 23-7032.

Two differn times Mr. Gregory has rasied this issue and litigated it all the way to the United States Supreme so it's clear and evident refuses to address this issue , reach the merits of Mr. Gregory's Subject matter jurisdictional issue [a]nd has no other legal remedy to address this isue to get relief.

[A]ll courts including this one has a independant duty to determin

it's own jurisdiction and has failed it's duty under the laws of the United States and Constitution. This duty is mandated !

Futhermore Mr.Gregory was denied his one full fair 2255 proceeding and appeallant review by The 8th Circuit and United States Supreme Court as Judge Bough denied Mr.Gregory his due process of law and equal protections of law by ruling that Mr.Gregory had waived his rights to raise this claim , when this claim can not be waived.

The United States Supreme Court held in ANDERSON VS LIBERTY LOBBY INC, 477 US 242 () When a federal Court of Appeals does not apply the current standard of review in a federal Dist Court's summary judgement the US Supreme Court well overturn it.

Not only did the appeallant court did not apply the right standard of review but it allow a very miscarriage of justice go uncorrected, [r]ight along with this very court itself.

The 8th Circuit Has held that an arbitary disregard of a defendant's right to liberty is a denial of due process TONEY VS. GAMMON 79 F3d 693 (8th Cir.1996).

The record of the federal dist court, 8th circuit, and US Supreme Court is material evidence of the bias and corrupted arbitary disregard to Mr.Gregorys constitutional rights, the constitutional itself along with the oath that each judge has taken to uphold the laws and constitution of the United States.

Mr.Gregory or anybody else can not waived jurisdiction of the court and this Court all the way back down to the District Court had a indendant duty to dertermin it's own Jurisdiction.

QUESTION TWO

DOES THE UNITED STATES HAVE SUBJECTMATTER JURISDICTION TO PROSECUTE
MR.GREGORY.

ARGUEMENT

Mr.Gregory's due process rights under the 1st, 4th, 8th, and 14th amendments is being violated as Mr.Gregory's sentence and conviction is void for the lack therof subject matter jurisdiction . When Mr. Gregory raised this issue in his 2255 , issue [26] , Judge Bough being bias and corrupted had ruled that Mr.Gregory had waived his right to challenge the jurisdiction of the court [even though] this issue can never be waived or forfeited! The 8th Circuit unlawfully and unconstitutionaly affirm this holding and this Honorable Court unconstitutionaly denied Mr.Gregory review over this issue even when they have ruled that court is constitutionaly bonded to determin it's own jurisdiction sue sponti even when the parties does to raise this issue itself.

The hole federal judicial system and all judges who has review Mr. Case has clearly failed to uphold its duty to protect the United States Constitution and Mr.Gregorys US Const rights , courts rather allow to let a man spend years in prison unlawfully rather than to address this issue to protect corrupted state and federal employees. Mr.Gregory case is a disgrace to judicial courts and a spit on the American Bill of rights. This the two tair level of courts that my leader and ~~future~~ prisdent talk about DonaldJ^r Trump spoke about.

The united States District Court did not have proper and legal jurisdiction to prosecute and send Mr.Gregory to prison as the ~~United States of America, Eastern District Southern Div of Missouri~~ United States of America, Eastern District Southern Div of Missouri

never obtain proper and legal jurisdiction and His 922 G conviction must be dismissed and Mr.Gregory release from his unlawfully confinement. In support there of will state the following.

This argument is based on the 10th amendment pursuant to Missouri State law 513.647 Rsmo 1995.

Note: Mr.Gregory raised this very same issue in his 2255 in claim (26) Civ doc-pg-6 But Bias Judge Steven Bough had ruled that Mr.Gregory had waived this rightand refuse to address it or rule on it. But this claim can not be waived or forfeiture see WRIGHT TRANS VS POILOT CORP 841 F3d 1266 (11th Cir.2016) , see Appex-[A]

Even on top of this issue can never be waived or forfeited the federal prosecutor never raised this defense in his response in the 2255; and Bias Judge Steven Bough become a advocate for the federal, and raised a non defense sue sponte in the government's favor that was (NOT)available to the government to raised or use!

The United States Supreme Court has held a federal district court is obligated to carefully examine it's jurisdiction in a case where proper dis miss the case sue sponte for lack of subject matter jurisdiction ADVVIA BANK, NA SCHMIDT 464 US 303 206) Subject jurisdiction matter must be consider by the court on it's own motion even if no party raise an objection , see MANSFIELD, C.D.&LM.RY VS.SWAN 111 US 379 (1984) . The Judicial power of the United States must not be extended in a case to which it does not extend , even if both parties desire to have exerted.

This Honorable Court has mandatory duty under the supremacy clause to review this issue as it goes to the heart of this Court's power to review these issue under the 28 USC 2255 for the rule 60-b - writ of Cert. In order for this Honorable Court to have subject matter

over the issues presented in this 2255 Mr. Gregory's sentence and conviction must be oringaly pursuant to a proper and legal jurisdiction. The United States never obtain or had legal jurisdiction over Mr. Gregory or the firearm he was unlawfully convicted of under 922 G.

STATEMENT OF ARUGUEMENT

- (1). Mr. Gregory was oringal arrested by the West Plains Missouri Police Depärtrment on 10-29-2016 for being Felony in possession of a firearm - a 30/30 lever action modle 336 deer rifle . After this rifle was seized unlawfully fro his truck by Lt Fireman Chris Norris Bell. It was seized as evidence against him for the Howell County Circuit Prosecutor in cases 16AL-CR01525 & 16AL-CR01526, Missouri.
- (2). On about 12/13/2016 the West Plains Police Dpt unlawfully pursuant to Mo Rev Stat §513.647 unlawfully release custody and jurisdiction this rifle to a ATF Agent for envestigation purposes for prosecution under 922 G.
- (3) On about April 17, 2017 a federal Grand Jury was held and Mr. Gregory was indicted for 922 G
- (4). After the United States obtain it's indictemnet the Howell County Missouri Prosecutor Mike Hutchings release custody of Mr. Gregory to the United States to face a unlawfull charge that it did not have jurisdiction to prosecute.
- (5). Even though the Howell County Prosecutor Missouri Prosecutor Mike Hutchings release custody of Mr. Gregory to the United States Mr. Gregory charges of felony in possession of a firearm was still pending and still active along with all other related charges.
- (6). Even after Mr. Gregory had been transferred to the custody of the United States , Howell County Missouri try to regain Custody and jurisdiction back over Mr. Gregory for trial over his charges

but the United States denied it.

(7). Mr. Gregory's Howell County Missouri Charges for felony in possession of a firearm was still pending when he pleaded guilty to his federal charge of 922 G for possession the same firearm (a)nd it was not dismissed until after Mr. Gregory had enter into a plead of guilty to 922 G [A]nd the dismissal of said state charges was not because of plead deals made with the federal government prosecutor or with the state of Missouri as the state of Missouri did not want to be envolved or part of the fderal government plea bargin it made with Mr. Gregory.

(8). The State of Missouri had excussive and orningal jurisdiction over the res the 30/30 deer rifle as it was evidence of a pending charge of felony in possession of firearm and his charge of being felony in possession of a firearm was a defacto forfeiture proceeding and the United States violated the Missouri State Soverignty under the 10th Amendment pursuant to §513.647 Rsmo 1995 as the state of Missouri did not waive or surrender its jurisdiction over the res the 30/30 deer rifle and the United States violated Missouri State law 513.647 as the state of Missouri did not authorize the West Plains City Police Department to transfere custody and jurisdiction over to the ATF Agency of the United States of America .

ARGUMENT IN SUPPORT

The 8th Circuit has held : The 1st sovereignty to take physical custody of the defendant retains primary cutody owner until releasing that jurisdiction as between the state and federal sovereignty primary jurisdiction over a person is generally detremine by which one who obtains custody of , or arrest the person . Generaly a sovereign can only relinglish primary jurisdiction in or 4/ways:

(1). release on bail, (2) Dismiss the charges (3) Parole or expiation of sentence . None of these 3-apply to Mr.Gregory. This Court futher held thatoA state court generally is not empower to release a states primary jurisdiction., ELWELL VS FISHER 716 F3d 477 (8Th Cir. 2013).

So its [n]o defense for the united states to raise the issue that the Howell County Prosecutor release tempory custody of Mr.Gregory to face a unlawfully charge as the Howell County prosecutor did not have the power to waive primary custody over Mr.Gregory for the state of Missouri and due to the fact that they actual try to retain custody of Mr.Gregory for trial is evidence the state Missouri did surrender or waive jurisdiction over him.

The 8th Cir has held in MADWELL VS DOWNS 68 F3d 1030 (8th Cir. 1995) citing IVESTER VS LEE 991 FSupp 1113 (8th Cir.1998), that cited STATE OF MISSOURI VS SLEDD 949 Sw2d 643 (Mo.App 1997} , THE CONTROLLING CASE ON §513.647 Rsmo 1995, HELD UNDER §13.647 , that no state or local law enforcement agency may transfere any property seized by the state or local agency for forfeiture under federal law until the the prosecutor/attorney in the circuit court Judge of the county in which the property was seized ~~first~~ review the seizure (unless it reasonable appears the actively giving raise frist to "envestigate" or would be better presuied under fderal forfeiture statue, "No transfer" shall be made to the fderal agency unless the violation be a felony under Missouri and federal law. Prior to transfere the state prosecutor shall have a separate hearing with the court and shall file a motion on occurence which lead to the seizure of the property and parties envolved : Note under this law the federal prosecutor is required to file a letter with this court with ententions of prosecuting

over the this res/property.

This Missouri state law is based on the criminal forfeitures and not civil forfeiture proceedings as the state of Missouri mandates in order for this property/res be turnover to any federal agency. the united states must prosecute for offense over this res/property for a felony that is also a felony in the state court also.

So its evident that this missouri state law is over property seized to criminal forfeiture proceedings , also see 513.607 Rsmo , is a provision of the Missouri Criminal Activety forfeiture Act and no provides in perminate part as following (1). ALL PROPERTY OF EVERY KIND USED OR INTENDED FOR USE IN CASAUE DEPRIVE FROM , OR RELEAIZED THROUGH CRIMINAL ACTIVETY IS SUBJECT TO CIVIL FORFEITURE , see IN 12.390; 1956 F2d 801 at 805).

It is well establish law that only one court may have jurisdiction in an in rem proceedings and therfore the one who obtains it frist obtains it excussive over all others; PENN GEM CASULTY VS PENN, 294 US 169 (1935), The Supreme Court futher held on ONE PLYMONT SEDAN VS PENN 350 US 696, 700 (1965), That because forfeited proceedings are quasi-criminal in charter and meant to penaize the comission of a offense against the law the exclusionary rule applies to such proceedings baring evidence obtain in violation of the 4th amendment. The 8th Circuit has held a criminal forfeiture is a (in personam judgement) against a person of the crime , while a civil forfeiture is an in rem proceeding in which realiblity addresses to particlar instutition or individuals , thus the defendant in a criminal forfeiture proceeding is the person is in person and the defendant in a civi proceeding is the property, see LEE VS LESTER 85 F3d 1409 (8th Cir.1996). The fderal and state of Missouri did not need to file any civil

or criminal forfeiture proceeding as the criminal charge itself acted as a defacto forfeiture proceeding, see MISSOURI VS GEIST, CASE #35198 (Mo.App.S.D. 2018). This Missouri appellate court held that Geist knowly possession of a firearm as a convicted felony supported a CFFA forfeiture because (1). The gun was the means to which Geist committed the offense of unlawfull possession , also see CHANDLER VS HERNEZE 49 SW2d 789 (Mo.App),§195.140 Rsmo, proper as as the possession itself is elegal in itself is always (subject to forfeiture), The 8th Circuit has futher held that undser federal law the same , see.., US VS 627 FIREARMS 589 F.Supp 2d 1129 (8th Cir.2008). The government argue in this case that even if the court that any or all 627 guns are [not] sujект to forfeiture proceedings they can not be return to Hummel due to his status as being a convicted felony, also see US VS FELICE 208 F3d 667 (8th Cir.2000), In affirming the Dist Court deniel of claimant's motion for return of the seized firearm pursuant to 41 G this court held Federal law prohibits convicted felony from posseesioning guns, based on FELCIE status as a convicted felony the district properly concluded without recieving evidence is not entitle to have the firearms held in his trcut for him by a 3rd party.Such request is constructed posseesion and any firearm posseesion actual or constructive by convicted felony is prohibited by law, id. 670.

Even under Missouri law the state of Missouri could forfeited Rhonda Fay Bakers rights also over this gun if they knowly allow a convited felony to possess it.

The 8th Circuit has held in US CURRENCY \$8114.520 IN RE 136 F3d 851 (8th Cir 1999), "Its beyond D.E.A., jurisdiction to adminstatatively forfeiture property by reason of Mo Rev §513.647, " [I]ts within the

the jurisdiction of Missouri state court [UNLESS] ~~teh~~ state court has yeilded it's jurisdiction)) (PEOPLE VS 2500 US CURRENCY 31 Cal Rpt 3ce 637, ¶31 Cal App 4th 127 (Cal App 2005). When fderal authorties seek to gain control over a Res all ready in the control of a state court [the proper proceedings is to seek a turnover order from that court], (Cited by Supra MADWELL , UNITED STATES VS ONE 1979 CHEVEROLET C-20 VAN 924 F2d 120(7th Cir. 1991) the 7th Cir held possession obtain through a invalide seizure nether strips the 1st court of jursidiction nor vest jurisdiction in the 2nd. It futher held It trouble us deeply that a local police department can egnore statutory directives as routine and adminstrative matter, arguments to the contary , the Due process claus of the 5th amendment still is alive and well in Batonic Ill, at the time complaint was was filed in the Dist Court, the state forfeiture action was pending and the state court had jurisdiction over the van to the exclusion of the federal court. The fact that the fderal autorities muscled in on the van and begun adminstrative forfeiture proceedings before the state action was filed did not conferer jurisdiction in the federal Dist Court. We stated in §79.123.49 and maintain here as well, that the jurisdiction jurisdiction obtain by mere possession goes to far 830 F2d at 98, also US VS ONE 1985 CADLILLIC SEVILLE 866 F2d 1142, 1146 (9th Cir 1989) although possession is 9/10 of the law we prefere to apply the remaining 1/10 and decline to substute a rule of force for the principle of mutial respect embodie in the prior exclusive jurisdiction doctrine , quoting §79.123.49 830 F2d at 98, because possession obtain through an invadlid seizure nether strips the 1st Court of jurisdiction , nor vest jurisdiction in the 2nd court, §79.123.49, 830 F2d at 98. ["THE STATE COURT WAS THE FRIST AND ONLY COURT TO

ACQUIRE JURISDICTION OVER THE PROPERTY AT ISSUS]" If the federal authorities wanted the van , "they were bond to seek a turnover order fro trhe state circuit court of the county in which the van was seized . The fact the state court had voluntary had dismissed the state forfeiture action, a fact the government uses in it's attempt to prove that the state failed to excersise jurisdiction over the van does not mean the state did lose jurisdiction . In ONE 1985 CADILLIAC SEVILLE, a court became inactive because California did seek the Res , the 9th Cir stated that we could not find no authority and neither can we we indictate that the a failure in past court to prosecute allows the Dist Court to accure jursidiction, 866 F2d 1145, Elizabeth Andsersons 1978 Chevy C-20 Van was before the Dist Court unproperly and thus the federal Dist Court had no jurisdiction to order the vehicle forfeited.

The United States of America futher violated the State of Missouri Sovereignty under the 10th amendment under §513.647 as it had a pending prosecution against Mr.Gregory for felony in possession of a firearm the 30/30 Marylein modle 336 deer rifle.

Mr.Gregory has a clear and protected Due process rights to challenge the unlawfully seizer of this deer rifle in violation in §513.647 through the state const of Artile 1 sections 8, 10 and 2, and of the United States Constution of the 1st,4th,5th, 6th, 8th 10th, 14th and Article III of the United States Constitution.

The United States Supreme Court held: An indiviuial in proper case can assert assert upon injury from government action in action excess of authority that federalism defines, Her rights dont belong to the state, see BOND VS UNITED STATES, 572 US 884 (2014) ,

The United States Supreme Court in WELLNESS INT'L NETWORK, LTD

VS. SHARIF , 575 US 666 (2015), Citing BONDS VS UNITED STATES: Held

If a branch{2015 U.S. LEXIS 51} of the Federal Government may not consent to a violation of the separation of powers, surely a private litigant may not do so. Just as a branch of Government may not consent away the individual liberty interest protected by the separation of powers, so too an individual may not consent away the institutional interest protected by the separation of powers. To be sure, a private litigant may consensually relinquish *individual* constitutional rights. A federal criminal defendant, for example, may knowingly and voluntarily waive his Sixth Amendment right to a jury trial by pleading guilty to a charged offense. See *Brady v. United States*, 397 U.S. 742, 748, 90 S. Ct. 1463, 25 L. Ed. 2d 747 (1970). But that same defendant may {135 S. Ct. 1956} not agree to stand trial on federal charges before a state court, a foreign court, or a moot court, because those courts have no constitutional authority to exercise judicial power over his case, and he has no power to confer it. A "lack of federal jurisdiction cannot be waived or be overcome by an agreement of the parties." *Mitchell v. Maurer*, 293 U.S. 237, 244, 55 S. Ct. 162, 79 L. Ed. 338 (1934).

As the majority recognizes, the Court's most extensive discussion of litigant consent in a separation of powers case occurred in *Commodity Futures Trading Comm'n v. Schor*, {575 U.S. 698} 478 U.S. 833, 106 S. Ct. 3245, 92 L. Ed. 2d 675 (1986). There the Court held that Article III confers both a "personal right" that{2015 U.S. LEXIS 52} can be waived through consent and a structural component that "safeguards the role of the Judicial Branch in our tripartite system." *Id.*, at 848, 850, 106 S. Ct. 3245, 92 L. Ed. 2d 675. "To the extent that this structural principle is implicated in a given case, the parties cannot by consent cure the constitutional difficulty for the same reason that the parties by consent cannot confer on federal courts subject-matter jurisdiction beyond the limitations imposed by Article III." *Id.*, at 850-851, 106 S. Ct. 3245, 92 L. Ed. 2d 675. Thus, when "Article III limitations are at issue, notions of consent and waiver cannot be dispositive because the limitations serve institutional interests that the parties cannot be expected to protect." *Id.*, at 851, 106 S. Ct. 3245, 92 L. Ed. 2d 675.

Schor's holding that a private litigant can consent to an Article III violation that affects only his "personal right" has been vigorously contested. See *id.*, at 867, 106 S. Ct. 3245, 92 L. Ed. 2d 675 (Brennan, J., dissenting) ("Because the individual and structural interests served by Article III are coextensive, I do not believe that a litigant may ever waive his right to an Article III tribunal where one is constitutionally required"); *Granfinanciera*, 492 U.S., at 70, 109 S. Ct. 2782, 106 L. Ed. 2d 26 (Scalia, J., concurring in part and concurring in judgment). But whatever the merits of that position, nobody disputes that *Schor* forbids a litigant from{2015 U.S. LEXIS 53} consenting to a constitutional violation when the structural component of Article III "is implicated." 478 U.S., at 850-851, 106 S. Ct. 3245, 92 L. Ed. 2d 675. Thus, the key inquiry in this case-as the majority puts it-is "whether allowing bankruptcy courts {191 L. Ed. 2d 937} to decide *Stern* claims by consent would 'impermissibly threaten the institutional integrity of the Judicial Branch.'" *Ante*, at 678, 191 L. Ed. 2d, at 923 (quoting *Schor*, 478 U.S., at 851, 106 S. Ct. 3245, 92 L. Ed. 2d 675; alteration omitted). One need not search far to find the answer. In *Stern*, this Court applied the analysis from *Schor* to bankruptcy courts and concluded that they lack Article III authority to enter final judgments on matters now known as *Stern* claims. The Court noted that bankruptcy courts, unlike the administrative agency in *Schor*, were endowed by Congress with {575 U.S. 699} "substantive jurisdiction reaching any area of the *corpus juris*," power to render final judgments enforceable without any action by Article III courts, and authority to adjudicate counterclaims entirely independent of the bankruptcy itself. 564 U.S., at 491-495, 131 S. Ct. 2594, 2615, 180 L. Ed. 2d 475, 501. The Court concluded that allowing Congress to bestow such authority on non-Article III courts would "compromise the integrity of the system of separated powers and the role of the Judiciary in that system." *Id.*, at 503, 131 S. Ct. 2594, 2620, 180 L. Ed. 2d 475, 507. If there was any room for doubt about{2015 U.S. LEXIS 54} the basis for its holding, the Court dispelled it by asking a question: "Is there really a threat to the separation of powers where Congress has conferred the judicial power

outside Article III only over certain counterclaims in bankruptcy?" *Id.*, at 502, 131 S. Ct. 2594, 2620, 180 L. Ed. 2d 475, 506. "The short but emphatic answer is yes." *Ibid.*

As the the United States violated Missouri State law §513.6471 Rsmo 1995, as ~~the~~ State of Missouri did not approve the United States of America permission to take custody and jurisdiction over that 30/30 deer rifle . The United States violated Missouri State then after obtaining jurisdiction over the 30/30 Marylin deer rife unlawfully use its unlawfull possession to gain unlawfull jurisdiction over Mr.Gregory to prosecute him Mr.Gregory has been unlawfully detain with (NO)! jurisdiction by the United States of America since April 2017. The conspired with federal judges all the way to the United States Supreme Court to keep this unlawfully conviction active as the West plains police officers , fireman Lt Chris Norris Bell , the City of West Plains police chief, the Mayor, the fire Dpt, The city prosecutor, Howell County prosecuter Mike Hutchings , Judge Steven Bough, Dist Court chief Judge Ms Beth Phillips and Chief Judge of the 8th Circuit Court; Micheal Gans : Court Clerk 8th Circuit and his attorney all conspired to violate Mr.Gregorys civil rights to deny his his fundamental Constitutional rights to access to the courts and his right to a fair and unpartial hearing. What the did was criminal all in theire efforts to protect the government and it's witnesses from being charge with fderal crimes.

Cited by Id MADWELL, US VS ONE 1977 MERCEDES BENZ 708 F2d 444 (9th Cir 1983). Webb argues the seizure of the Mercedes by the federal officers infringed on the sovereignty of the state of California , SHe argues that the California were in legal custody of the Mercedies and that such custody precludes federal custody of the automblie, [however] Webb ugnores the fact the legal custody

of state of California was dissolved an order the California court , [f]urther the Mercedes was seized by the state officers as evidence in the the state court criminal prosecution of Reese , [w]hen the action was dismissed the The California State Court had "no further practical reason for retaining jurisdiction over the Mercedes, any federal seizer therefore doe not impose upon a practical enterst the state of California could have in Webb's automobile ., see BONDS VS UNITED STATES, 572 US 884 (2014). Unlike in this case Mr.Gregory criminal charge for felony in possession of the 30/30 Marýlin Lever Action Rifle was still pending in the Howell County Circuit Court when The ATF took unlawfull possession of it in Décemeber 2016, Mr.Gregory charge was still pending when Mr.Gregory enter his unlawfully plead in the fderal court. Not only did the federal government violated Missouri state law §513.647 , but the United States violated the States sovereignty under 10th Amendment , protected under the 1st, 4th, 5th, 6th, and 14th amendment of the United States Constitution.

Even in US VS TOOMBS Case No. 10-20009 JAR , (US DIST OF KANSAS- 10th Cir. 2022), this court stated in ft note 25- As to date of the government's response, KCMO Police Department had not provided information regarding if any Missouri Statues caused the currency to [escheat] to the state , "AS NOTED BY THE GOVERNEMNT", [HOWEVER] Missouri law prohibits state or local enforcement agency from transfereing any property for forfeiture under federal law until the state prosecuting attorney & Circuit court judge of the county in which property was seized frist reveiw the seizure and approve the transfere to a federal agency, regardless the indenty of the federal agaency, see Mo Ann Stat §513.547, ["WITHOUT THIS TURN OVER

THE KC MO PD COULD NOT HAVE TRANSFERE THE CURRENCY TO THE ATF"]

Even the United States of America has clearly conceded to Mr. Gregory's arguement in this case, Mr. Gregory wants to futher to point out that this court also citing ARBAUGH VS Y&H CORP 546 US 500, 414 (US 2006) The Us Supreme Court held that fderal dist courts have a independant obligation to detremine whether subject matter exist). (A person's liberty is protected by the DuProcess Clause even when the liberty itself is statutory created by state law, WOLFF VS MC DONNELL 418 US 531 (1974), this court futher held the touchstone of the due process protection of the individual against arbitrary acition of the government, Id. WOLFF.

Mr. Gregory is clearly entitle to a judgement pursuant to this defense and argument under fderal court rule 56 as the facts can not be argue and state and federal law is in his favor even the 8th Circuit, the United States has even conceded to this arguement in Id , TOOMBS.

THE FACTS

(1). Mr.Gregory was charged in the Howell County Circuit Court for being in posseion of that 30/30 Marylin lever action deer rifle from his arrest 10-29-2016, that rifle was seied as evidence by the West Plains City Police Department as evidence against him.

(2). The West Plains City police Dpt clearly violated state law §513. 647 as it did not have permisssion or authority to transfere the the jurisdiction and custody over to the ATF

(3). Mr.Gregory felony charge of felony in possession was still pending even when Mr.Gregory enter to a plea of guilty to teh unlawfull charge of 922 G

(4). The Howell County Circuit Court had exclussive Jurisdiction over the res of that gun and the United States of America violated the

State of Missouri's sovereignty under the 10th Amendment as it did not waive it's jurisdiction over that gun and the United States seized it unlawfully pursuant to state law §513.647, nor did the federal government try to obtain a seizure warrant to seize the deer rifle from the jurisdiction of State of Missouri.

The United States Never obtain legal jurisdiction over Mr.Gregory as it did not have jurisdiction over the gun as the State of Missouri had exclusive jurisdiction over that deer rifle as Mr.Gregory felony charge of felony in possession was still pending in the Howell County State of Missouri , and Mr.Gregory can clearly bring a 10th amendment arguement as he suffer harm by the federal government, Id ~~Bonds~~.

Due to the fact the United States never obtain legal jurisdiction over the 30/30 Marylin Deer rifle it did not have jurisdiction to indict or convict Mr.Gregory and Mr.Gregory is current serving a sentence clearly unlawfull as the United States never had legal jurisdiction over Mr.Gregory and His sentence is a violation of the 1st 5th, 6th, 8th, 10th, and 14th amendment.

Mr.Gregory has been kidnapp by the fderal government and prosecuted unlawfull and justice demands a emrgcy release now., as he is suffer prejudice every second longer he is lock up on this very corrupted and unlawfull conviction.

[F]uthermore Mr.Gregory charge and conviction is the poster child of how crooked and corrupted the 8th Circuit Circuit is from Judge Steven Bough to the chief Judge Smith , the appellant Judges, Dist court chief judge Beth Phillips .

When Mr.Gregory raised this claim in his 2255 bias Judge Steven Bough had ruled that Mr.Gregory waived his right to challenge a subject matter jurisdiction when the United States Supreme Court has ruled

could not be waived. OR EV

CONCLUSSION

Wherefore the reasons presented this court , to the appellant court and the federal district court had a indendant duty to determin it's on jurisdiction, Mr.Gregory clearly raised this issue in his 2255 petition and raised it it in his writ of Cert to this very court not once but [t]wice in case no. 23-7031 and 23-7032. Judge Steven Bough unlawfully and unconstitutionaly ruled that Mr.Gregory had waived his right to challenge this subject matter jurisdictional issue and the 8th Circuit unlawfully affirm this unlawfull ruling and the United States Supreme Court denied review not once but twice over this issue. Mr.Gregory can not get it wrap his head that all 9-Supreme Court actually reviewed this petitions for certs. As it would take all 9-Supreme Court Judges be bias and crooked and conspired with Judge Bough and the 8th Circuit Court of Appeals to deny Mr.Gregory a fair and unpartial fact finder.

Thye hole federal judical system has failed to protect Mr.Gregorys const rights and to uphold the constitution period.

How ever the United States decides to issue this writ against itself or the Fderal District Court of Western District of Missouri Mr.Gregory is clearly entitle to a ruling in his favor as the facts can not be argue and the law is in his favor to mandate itself or the Distrcit Court to reach the merits of issue -[26]- Subject matter jurisdiction defect.

RELIEF SOUGHT

Wherefore reasons stated the petitioner Bryan Lee Gregory moves this Honorable to isue the follwing relief and any other relief it deems fair and just.

- (1). Issue a writ of Mandamus against itself or the District Court of Western District of Missouri-Southern Division
- (2). Issue a writ of Habeas Corpus releasing Mr. Gregory from his unlawfull confinement.

RESPECTFULLY SUBMITTED


BRYAN LEE GREGORY

I hereby declare that all facts are true and correct under the laws of prejury under the United States Of America.

Nov. 27, 2024
DATE