

25-5248  
IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

In Re Quay Phipps - PETITIONER PRO SE  
United States of America - RESPONDENT

ON PETITION FOR A WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS

FILED

APR 29 2025

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

Quay Phipps  
#48706-112  
FCI Texarkana  
PO Box 7000  
Texarkana, TX 75505

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QUESTIONS PRESENTED FOR REVIEW

1. Is petitioner entitled to immediate relief, including habeas corpus, due to the government's lack of subject matter jurisdiction under Article I, Section 8, Clause 17 of the United States Constitution?
2. Does Congress have the power to regulate people and/or artificial persons not enumerated under Article I, Section 8, Clause 3 of the United States Constitution in violation of the Tenth Amendment?
3. Does the Tenth Amendment's enumeration requirement prohibit Congress from punishing people through the power of Article I, Section 8, Clause 3? As the power to punish is enumerated under Clauses 6 and 10.
4. Are the Courts and Department of Justice committing fraud by and upon the Courts (respectfully) by exercising a power not enumerated to Congress, therefore not delegatable?
5. Are the Courts and Department of Justice committing fraud by and upon the Courts by exercising jurisdiction outside of Article I, Section 8, Clause 17?
6. Are motions to the Court held to a "first in, first ruled upon" standard?
7. Does the First Amendment invalidate the Anti-Terrorism Effective Death Penalty Act (AEDPA) by stating, "Congress shall make no law . . . and to petition the Government for a redress of grievances"?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

RELATED CASES

United States District Court for the Central District of California  
Case No. 8:10-CR-00072-JVS - UNITED STATES v. QUAY PHIPPS  
February 12, 2024

United States Court of Appeals for the Ninth Circuit  
Case No. 24-2196 - UNITED STATES OF AMERICA v. PHIPPS  
March 7, 2025

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## OPINIONS BELOW

1. On February 12, 2024, the United States District Court for the Central District of California denied the petitioner's MOTION TO DISMISS DUE TO LACK OF SUBJECT MATTER JURISDICTION (which the District Court subsequently converted to a §2255 motion). A copy of this motion, supporting documents, and final order is attached in the Appendix, p. A-1.
2. On March 7, 2025, the Ninth Circuit Court of Appeals denied the petitioner's MOTION FOR CERTIFICATE OF APPEALABILITY. A copy of this motion and final order is attached in the Appendix, p. A-55.

## TABLE OF AUTHORITIES CITED

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## JURISDICTION

The date on which the United States Court of Appeals decided my case was MARCH 7, 2025.

No petition for rehearing was filed in my case.

The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Article I, Section 8, Clause 17 of the United States Constitution provides:

"To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;"

Article I, Section 8, Clause 3 of the United States Constitution provides:

"To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;"

The Tenth Amendment to the United States Constitution provides:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Article I, Section 8, Clause 6 of the United States Constitution provides:

"To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;"

Article I, Section 8, Clause 10 of the United States Constitution provides:

"To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;"

The First Amendment to the United States Constitution provides:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Section 2255 of Title 28 of the United States Code provides:

" (f) A 1 year period of limitation shall apply to a motion under this section." (otherwise referred to as the Anti-Terrorism Effective Death Penalty Act (AEDPA))

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## STATEMENT OF THE CASE AND GOVERNING FACTS

1. Congress has overreached their Article I, Section 8, Clause 3 power by subjecting real people and artificial persons not covered by said clause. The Tenth Amendment clearly limits Congressional power(s) to those enumerated.

(App. p. A-2 )

2. An issue of subject matter jurisdiction can be raised at any time and thus not subject to the Antiterrorism and Effective Death Penalty Act. Even if it were, the AEDPA is on its face and its execution unconstitutional.

(App. p. A-4 )

3. On an order dated June 26, 2023, District Judge James V. Selna ordered the government to file its response to defendant's petition for dismissal on or before July 12, 2023. Within the same order, Judge Selna ordered the defendant to file any reply to the government's response on or before August 2, 2023. Defendant Phipps met every deadline assigned to him, despite the government's failure to comply with the July 12, 2023 deadline. Only after Phipps filed a Pro Se Motion for Summary Judgment on August 3, 2023, did the government respond to the original order on August 16, 2023, thirty-five (35) days after the deadline to file it's response, citing that the Assistant United States Attorney neglected to "calendar" the deadline and "confused" the defendant's case with an entirely unrelated case. Rather than granting Phipps's Pro Se Motion for Summary Judgment, on August 16, 2023, without giving Phipps any opportunity to object, Judge Selna granted the Government's ex parte motion, extending their deadline to August 21, 2023. (App. p. A7 - A54)

4. Article I, Section 8, Clause 3 has no power to punish.

(App. p. A - 10)

5. Without the defendant's consent, District Judge James V. Selna erroneously reclassified Phipps's PETITION FOR DISMISSAL OF ALL CHARGES DUE TO LACK OF SUBJECT MATTER JURISDICTION as a §2255 motion, saying the defendant is testing the legality of his detention, which is not the case. The defendant is contesting the government's constitutional authority to pass

and enforce laws that punish and regulate real people via Article I, Section 8, Clause 3.

(App. p. A-49 )

6. The question of subject matter jurisdiction is of such importance that both the United States Attorney and the courts are required to show that they have subject matter jurisdiction before any other action can be taken against a real person.

(App. p. A-41 )

7. 18-USC-§2252A exceeds Congress's enumerated powers and violates the Tenth Amendment.

(App. p. A-45 )

8. On February 12, 2024, the District Court dismissed Phipps's petition.

(App. p. A-49 )

9. On February 28, 2024, Phipps filed a NOTICE OF APPEAL AND REQUEST FOR CERTIFICATE OF APPEALABILITY to the Ninth Circuit Court of Appeals.

(App. p. A-55 )

10. March 7, 2025, the United States Court of Appeals for the Ninth Circuit denied Phipps's request for a certificate of appealability.

(App. p. A-61 )

## REASONS FOR GRANTING THE WRIT

As each of the following arguments are detailed within the attached Appendix, Petitioner Phipps opts to summarize the key points of his arguments, followed by a citation to the detailed arguments in the Appendix. All arguments are constitutional in origin.

- I. The Constitution is clear and precise on where, what, and how Congress (delegated to the judicial and executive arms of the government) requiring an absolute *de minimus* interpretation of Article I, Section 8, Clause 17 by this or any court or body, keeping in line with MARBURY. (App. p. A11 - A40)
- II. A MARBURY reading of Article I, Section 8, Clause 3 unequivocally allows only the regulation of Foreign Nations, the States (50), and Indian tribes. (App. p. A-2 )
- III. As punishment is a power preserved by and allotted to Congress narrowly and by individual clauses, where it is absent or unenumerated is denied to Congress. (App. p. A-10 )
- IV. As Congress uses Article I, Section 8, Clause 3 to enact 18-U.S.C.-§2252 and nearly all other federal crimes without the power to punish nor to regulate non-artificial persons, the actions of the entire United States Government is fraudulent. A person or body (such as Congress) exercising a power that is not legally theirs, even if they believe they are authorized, are deceiving those they interact with and the public. Any law enacted without the proper power is no law at all. (App. p. A-45 )
- V. A person or body (such as Congress) excercising a jurisdiction that is not authorized to them, even if they believe they are authorized, are deceiving those they interact with and the public. Without jurisdiction, no act is enforceable. (App. p. A-41 )

VI. Pursuit of justice requires that procedures be adhered to so that the court neither favors one side nor the other, but simply seeks justice. As such, courts grant pro se individuals a degree of leniency as pro se individuals neither have the cumulative knowledge nor professional experience as their professional counterparts. This leniency ensures that a pro se individual is heard on the merits of the argument rather than professional judicial procedure. Nonetheless, the same leniency is not to be granted to the government as government officials are expected to be held to the highest standards. Therefore, when a district court judge allows a professional United States Attorney to ignore a pending motion for excuses such as failing to calendar the motion or confusing the case with an entirely different, unrelated case, the judge can no longer be seen as impartial. The law exists only as a tool; the ideal goal must always be to provide justice. The docketing system implies that documents are adjudicated in the order in which they are filed, critically stressing deadlines set by the court. (App. p. A-24 )

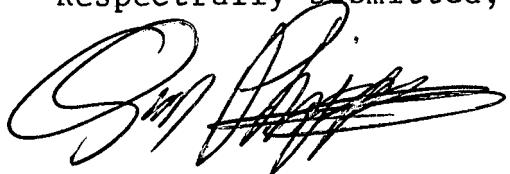
VII. "Congress shall make no law" is such a clear, concise, precise statement that even a child could understand it. When one branch of our federal government flaunts our Supreme Law, the other branches are required to check that action. Congress, by enacting a law in which they are specifically prohibited, suggests that the Constitution is no longer in effect. Without the Constitution, "We the People," with whom all power originates, have no government representative or otherwise. LEX MALLA, LEX NULLA. (App. p. A-5 )

## CONCLUSION

For the reasons stated, Petitioner prays that this Court grant the requested WRIT OF HABEAS CORPUS and direct the United States District Court for the Central District of California to dismiss the action filed in that court against petitioner, with prejudice, immediately and without condition.

Dated: 16 April 2025

Respectfully submitted,



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