

3 No. _____

IN THE
SUPREME COURT OF THE UNITED STATES
(ORIGINAL JURISDICTION)

In re: Joe Cervantes — PETITIONER
(Your Name)

ON PETITION FOR A WRIT OF HABEAS CORPUS TO THE
YAVAPAI COUNTY SUPERIOR COURT OF ARIZONA
(LACK OF SUBJECT-MATTER JURISDICTION)

PETITION FOR WRIT OF HABEAS CORPUS

Joe Cervantes Jr
(Your Name)

ASPC-EYMAN-MEADOWS UNIT
(Address)

P. O. BOX 3300

FLORENCE, ARIZONA 85132

QUESTION(S) PRESENTED

In this Case, in which the State was Party to, there was a lack of subject-matter jurisdiction of the superior court of Arizona who usurped the power of the Supreme Court of the United States in violation of the Constitution of the United States, Article 3, Section 2, that reads in part: "In all Cases ... in which the State shall be Party, the supreme Court shall have original Jurisdiction."

Therefore, the Supreme Court of the United States may issue the writ of habeas corpus in the exercise of original jurisdiction in this Case where it has original jurisdiction. The convictions and sentences of imprisonment of the Petitioner are unlawful and void.

Whether the superior court of Arizona had NO jurisdiction to render the judgment which it gave in this Case in which the State was a Party?

LIST OF PARTIES

NOTICE TO AGENT IS NOTICE TO PRINCIPLE. NOTICE TO PRINCIPLE IS NOTICE TO AGENT.

[] All parties appear in the caption of the case on 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:

Petitioner is Joe Gervantes, a natural person, in propria persona.

Respondent Charles L. Ryan is the Director of Arizona Department of Corrections.

Respondent Mark Brnovich is the Arizona Attorney General.

Respondent Sheila Sullivan Polk was the Yavapai County Attorney involved.

Respondent Jeff Paupore was the Assistant County Attorney involved.

Respondent Dana Owens was the Assistant County Attorney involved.

Respondent William T. Kiger was the superior court Judge involved.

Respondent David Shapiro was the officer of the court assigned to the defendant.

Respondent David Goldberg was the officer of the court assigned to the Defendant on direct appeal.

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	2
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	5
CONCLUSION.....	6

INDEX TO APPENDICES

APPENDIX A	INDICTMENT (6 Pages)
APPENDIX B	JUDGMENT OF GUILT AND SENTENCE (9 Pages)
APPENDIX C	
APPENDIX D	
APPENDIX E	
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Ex parte Bain, 121 U.S. 1 (1887) _____	5
Ex parte Burford, 7 U.S. 448 (1806) _____	5
U.S. v. Cotton, 535 U.S. 625 (2002) _____	5

STATUTES AND RULES

U.S. CONST., ART. 1, SEC. 9 _____	1, 2, 5
U.S. CONST., ART. 3, SEC. 2 _____	1, 2, 5
U.S. CONST., ART. 6 _____	1, 2, 5
U.S. CONST., AMEND. 1 _____	1, 2, 5
U.S. CONST., AMEND. 4 _____	1, 2, 5
U.S. CONST., AMEND. 5 _____	1, 2, 5
U.S. CONST., AMEND. 6 _____	1, 3, 5
U.S. CONST., AMEND. 8 _____	1, 3, 5
U.S. CONST., AMEND. 9 _____	1, 3, 5
U.S. CONST., AMEND. 10 _____	1, 3, 5
U.S. CONST., AMEND. 13, SEC. 1 _____	1, 3, 5
U.S. CONST., AMEND. 14 _____	1, 3, 5

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner hereby claims sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not delegated to the federal government by the Constitution, nor prohibited by it; and over all powers not otherwise enumerated and granted to the state government by the Arizona Constitution; and for the necessity of an Article 1 redress of grievance under the Ninth Amendment to the Constitution of the United States reservation for the resolution, because the original Jurisdiction of the Supreme Court of the United States has been usurped by the superior court of Arizona which has unlawfully deprived the Petitioner of life, liberty, and property, the Petitioner hereby demands, as state and federal government are his agent, that a writ of habeas corpus issue without delay.

JURISDICTION

This same application for a writ of habeas corpus addressed to the Yavapai County Superior Court of Arizona, and a copy thereof addressed to the Arizona Attorney General, with first-class postage prepaid was deposited in the prison mail system on 12-18-2017

This same application for a writ of habeas corpus addressed to the Arizona Supreme Court, and a copy thereof addressed to the Arizona Attorney General, with first-class postage prepaid was deposited in the prison mail system on 12-21-2017

This same application for a writ of habeas corpus was electronically mailed to the U.S. District Court of the District of Arizona on 12-26-2017

The Courts enumerated above have failed to forthwith award the writ and have thereby effectively suspended the writ of habeas corpus in violation of the Constitution and laws of the United States.

The jurisdiction of this Court is invoked under the Constitution of the United States and the First, 4th, 5th, 6th, 8th, 9th, 10th, 13th, and 14th Amendments thereto.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. CONST., ART. 1, SEC. 9,

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

U.S. CONST., ART. 3, SEC. 2,

In all Cases ... in which a State shall be Party, the supreme Court shall have original Jurisdiction.

U.S. CONST., ART. 6,

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; ... shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution.

U.S. CONST., AMEND. 1,

Congress shall make no law ... abridging ... the right of the people ... to petition the Government for a redress of grievances.

U.S. CONST., AMEND. 4,

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. CONST., AMEND. 5,

No person shall ... be deprived of life, liberty, or property, without due process of law.

U.S. CONST., AMEND. 6,

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed;... and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

U.S. CONST., AMEND. 8,

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

U.S. CONST., AMEND. 9,

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

U.S. CONST., AMEND. 10,

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.

U.S. CONST., AMEND. 13, SEC. 1,

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

U.S. CONST., AMEND. 14, SEC. 1,

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

There was a lack of subject-matter jurisdiction of the Yavapai County Superior Court of Arizona in this Case in which the State was Party to, STATE OF ARIZONA v. JOE CERVANTES, No. CR2008-1426.

Petitioner, Joe Cervantes, who is a natural person, was arrested on NO probable cause, and NO affidavit, that another person suffered actual loss or injury. Petitioner was held in custody with NO bail and NO charges.

On July 10, 2009, in a corporate capacity in behalf of the State, "STATE OF ARIZONA", by indictment the Yavapai County Attorney filed false, fictitious, and fraudulent charges against a corporate entity, "JOE CERVANTES", the Defendant, in No. CR2008-1426, for 27 charges of dangerous crimes against children involving sexual conduct with a minor (counts 1-5, and 8-23), sexual exploitation of a minor (counts 6, 24, and 27), and sexual assault (counts 7, 25, and 26).

Petitioner was NOT informed of the nature and cause of the accusation; was NOT provided the Assistance of Counsel; and was NOT provided a speedy and public trial, by an impartial jury.

Following a sham trial with NO notice, NO proof, NO admission, NO jury instructions, and NO determination of a dangerous offense, the corporate entity, "JOE CERVANTES", was convicted of 25 counts for dangerous crimes against children involving sexual conduct with a minor (21 counts), sexual exploitation of a minor (2 counts), and sexual assault (2 counts); and, on September 20, 2010, was sentenced to 234 years, and 13 consecutive terms of life, imprisonment.

Petitioner has NOT been duly convicted and has been forced into involuntary servitude.

In November 2017, after consulting fellow prisoners after the trial, the Petitioner newly discovered the material facts, not previously known by him, contained in this petition.

This Court's failure to consider the claims will result in a fundamental miscarriage of justice. The convictions and sentences of imprisonment of the Petitioner are unlawful and void.

GROUND ONE:

GROUND ONE: The superior court of Arizona had NO jurisdiction to render the judgment which it gave in this case in which the State was a Party.

SUPPORTING FACTS: Petitioner is a natural person who was arrested on NO probable cause that another person suffered actual injury or loss. There was NO criminal case at law amounting to felony. There was NO prosecution conducted in the name of the people and by their authority. The State was Party to this Case in the superior court of Arizona in violation of the Constitution of the United States, Article 3, Section 2, that states in part: "In all Cases... in which a State shall be Party, the supreme Court shall have original Jurisdiction." Therefore, in this Case in which the State was Party to, would have been within the exclusive jurisdiction of the Supreme Court of the United States, the Arizona "court" had no jurisdiction to render the judgment which it gave." Ex parte Bain, 121 U.S. 1, 3 (1887).

[S]ubject-matter jurisdiction, because it involves a court's power to hear a case, can never be forfeited or waived. Consequently, defects in subject-matter jurisdiction require correction regardless of whether the error was raised in... Court." U.S.v. Cotton, 535 U.S. 625, 630 (2002). There was NO notice, NO proof, NO admission, and NO determination of any offense involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury that was focused on, directed against, aimed at, or targeted a person under the age of fifteen to support a conviction for a dangerous crime against children; nor that the Petitioner caused another person to suffer actual injury or loss. There is NO interest of the people served by incarceration. Petitioner is in custody in violation of the Constitution and laws of the United States. Petitioner has been denied the protections secured under the Constitution of the United States and the First, 4th, 5th, 6th, 8th, 9th, 10th, 13th, and 14th Amendments thereto. Petitioner has been deprived of his rights to life, liberty, and property, without due process of law. The civil courts are NOT disturbed, there is NO rebellion or insurrection and there are NO troops in the streets. There is NO other plain, speedy, or adequate remedy at law. This Court must forthwith award the writ of habeas corpus. This "is a writ of right and cannot be refused." Ex parte Burford, 7 U.S. 448 (1806).

The convictions and sentences of imprisonment of the Petitioner are unlawful and void.

CONCLUSION

The petition for a writ of habeas corpus should be granted forthwith and award the writ to immediately effect: 1) the discharge of Petitioner from all custody and restraint; 2) the restoration of all rights of Petitioner; 3) the transportation for Petitioner to return home; 4) the government to return all property seized from Petitioner; 5) the delivery to Petitioner of all money, obtained by private corporations and state and federal government and corporations, in connection to all of Petitioner's incarceration and convictions from the time of arrest; and 6) any other relief to which Petitioner may be entitled.

I declare under penalty of perjury that the foregoing is true and correct.

12-29-2017

Date

Joe Cuartero Jr.

Signature of Petitioner
All Rights Reserved.

Counsel for Respondents served is as follows:

ARIZONA ATTORNEY GENERAL

Mark Brnovich

1275 West Washington Street

Phoenix, Arizona 85007-2926