

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Jon Anthony Schweder — PETITIONER
(Your Name)

vs.
The State of Arizona, Governor Douglas Ducey, and Charles L. Ryan, and
Attorney General Mark Brnovich — RESPONDENT(S)

PETITION FOR A WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS

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QUESTIONS PRESENTED

- (1) Whether the State of Arizona denied Petitioner the right to not be deprived of life, liberty, or property, without due process of law, as guaranteed by Amendments 5, 6, and 14 to the U.S. Constitution, and Section 4 of Article 2 of the Arizona Constitution, when the State imprisoned Petitioner, without due process of law, and the State has brought NO criminal case "at Law" against Petitioner under the provisions of the Arizona Constitution.
- (2) Whether the State of Arizona denied Petitioner the right to be informed of the nature and cause of the accusation, as guaranteed by Amendments 6 and 14 to the U.S. Constitution, and Section 24 of Article 2 of the Arizona Constitution, when the State provided Petitioner NO constitutional notice of the nature and cause of any charge.
- (3) Whether the State of Arizona denied Petitioner the right to counsel, as guaranteed by Amendments 6 and 14 to the U.S. Constitution, and Section 24 of Article 2 of the Arizona Constitution, when the State provided Petitioner NO constitutional counsel.
- (4) Whether the State of Arizona denied Petitioner the right to trial by jury, as guaranteed by Amendments 6 and 14 to the U.S. Constitution, and Section 24 of Article 2 of the Arizona Constitution, because the State has provided Petitioner NO constitutional speedy and public trial, by an impartial jury.
- (5) Whether the Petitioner is entitled to discharge from custody, under the due process clause of the State and Federal Constitutions, because there is NO lawful cause of imprisonment, and he was denied his Rights to due process of law and the equal protection of the laws.

LIST OF PARTIES

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

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PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, standing "in Law" in his natural capacity, hereby calls upon this Court and Respondents, to exercise All the powers it has for the protection of the Rights of the Petitioner, to discharge Petitioner from custody without delay and to restore All Petitioner's Rights.

JURISDICTION

This same application for a writ of habeas corpus addressed to the Pinal County Superior Court, and a copy thereof addressed to the Arizona Attorney General, with first-class postage prepaid, was deposited in the prison mail system on 4-19-2018.

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 5-1-2018.

This same application for a writ of habeas corpus addressed to the Supreme Court of the United States, and copies thereof addressed to the Arizona Governor and Arizona Attorney General, with first-class postage prepaid, was deposited in the prison mail system on 5-4-2018.

The writ of habeas corpus has failed to issue and has been suspended in violation of Section 14 of Article 2 of the Arizona Constitution, and in violation of Section 9 of Article 1 of the United States Constitution.

The jurisdiction of this Court "in Law" is invoked under the United States Constitution and the First, 6th, and 14th Amendments thereto, and under Sections 4, 5, 14, 23, and 24 of Article 2 of the Arizona Constitution.

NOTICE IS GIVEN that Petitioner gives NO consent to Equity, Admiralty, or Maritime jurisdiction of the Courts and forever refuses to acquiesce to any such jurisdictions.

CONSTITUTIONAL 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. 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. 14,

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.

ARIZ. CONST., ART. 2, SEC. 4,

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

ARIZ. CONST., ART. 2, SEC. 5,

The right of petition ... shall never be abridged.

ARIZ. CONST., ART. 2, SEC. 14,

The privilege of the writ of habeas corpus shall not be suspended by the authorities of the state.

ARIZ. CONST., ART. 2, SEC. 24,

In criminal prosecutions, the accused shall have the right to appear and defend in person, and by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to meet the witnesses against him face to face, to have compulsory process to compel the attendance of witnesses in his own behalf, to have a speedy public trial by an impartial jury of the county in which the offense is alleged to have been committed, and the right to appeal in all cases; and in no instance shall any accused person before final judgment be compelled to advance money or fees to secure the rights herein guaranteed.

ARIZ. CONST., ART. 2, SEC. 32,

The provisions of this Constitution are mandatory, unless by express words they are declared to be otherwise.

ARIZ. CONST., ART. 6, SEC. 25,

The style of process shall be "The State of Arizona", and prosecutions shall be conducted in the name of the state and by its authority.

STATEMENT OF THE CASE

- (1) Petitioner is currently imprisoned in the Arizona Department of Corrections Eyman Complex, in Florence, Arizona. Petitioner was arrested on July 29, 2009.
 - (2) Florence, Arizona is within Pinal County.
 - (3) Petitioner has committed NO crime and there is NO lawful cause of imprisonment.
 - (4) "The State of Arizona", in its governmental capacity, has filed NO indictment or information to bring a criminal case against Petitioner under the provisions of the Arizona Constitution.
 - (5) The State provided Petitioner NO notice of the nature and cause of any charge as guaranteed by the State and Federal Constitutions.
 - (6) Petitioner has NOT waived his Right to be informed of the nature and cause of the accusation.
 - (7) The State provided Petitioner NO counsel as guaranteed by the State and Federal Constitutions.
 - (8) Petitioner has NOT waived his Right to counsel.
 - (9) The State provided Petitioner NO speedy and public trial by an impartial jury as guaranteed by the State and Federal Constitutions.
 - (10) Petitioner has NOT waived his Right to trial by jury.
 - (11) The State has deprived Petitioner of his liberty without due process of law.
 - (12) Petitioner has NOT knowingly, voluntarily, or intentionally entered into any contract or agreement either expressed or implied.
 - (13) Petitioner has NOT given informed consent or acquiesced to any Equity, Admiralty, or Maritime jurisdictions of the Courts, and he rejects and disavows all such jurisdictions and forever refuses to acquiesce to any such jurisdictions.
 - (14) Petitioner, in his natural capacity, filed a Petition for Writ of Habeas Corpus, under the State and Federal Constitutions, good and sufficient "in Law" that entitles Petitioner to discharge from custody.
 - (15) This Court is duty bound, under the Due Process Clause, to issue the writ without delay.
- NOTICE IS GIVEN that Petitioner globally rescinds for cause of failure to disclose risks, perils, and responsibilities, All contracts and agreements executed in his natural and representative capacities without exception whether expressed or implied.

GROUNDS (REASONS) FOR GRANTING THE PETITION

GROUND ONE: The State of Arizona imprisoned Petitioner, without due process of law, and the State has brought NO criminal case "at Law" against Petitioner under the provisions of the Arizona Constitution. This denied Petitioner the right to not be deprived of life, liberty, or property without due process of law, and violated Section 4 of Article 2 of the Arizona Constitution, and Amendments 6 and 14 to the U.S. Constitution.

The U.S. Supreme Court explained that "The rights of life and personal liberty are natural rights of man. [...] The very highest duty of the States, when they entered into the Union under the Constitution, was to protect all persons within their boundaries in the enjoyment of these unalienable rights with which they were endowed by their Creator. Sovereignty, for this purpose, rests alone with the States." U.S. v. Cruikshank, 92 U.S. 542, 553 (1875).

That "the fourteenth amendment prohibits a State from depriving any person of life, liberty, or property, without due process of law; but this adds nothing to the rights of one citizen as against another. It simply furnishes an additional guaranty against any encroachment by the States upon the fundamental rights which belong to every citizen as a member of society. [That] it secures the individual from the arbitrary exercise of the powers of government, unrestrained by the established principles of private rights and distributive justice." Cruikshank, at 554.

That "The fourteenth amendment prohibits a State from denying to any person within its jurisdiction the equal protection of the law; but this provision does not... add any thing to the rights which one citizen has under the Constitution against another. The equality of the rights of citizens is a principle of republicanism. Every republican government is in duty bound to protect all its citizens in the enjoyment of this principle, if within its power. That duty was originally assumed by the States; and it still remains there. The only obligation resting upon the United States is to see that the States do not deny the right." Cruikshank, at 554-55.

That when "Governments descend to the level of a mere corporation and take on the character of a private citizen...for purposes of suit, such corporations and entities are regarded as an entity entirely separate from government." Clearfield Trust Co. v. U.S., 318 U.S. 363 (1943).

Accordingly, by imprisoning Petitioner and failing to bring a criminal case at Law against him under the provisions of the Arizona Constitution, the State of Arizona has deprived Petitioner of his liberty without due process of law and denied him the equal protection of the law. Petitioner is entitled to discharge from custody under the Due Process Clause of the State and Federal Constitutions, and thereby this Court is duty bound to discharge Petitioner from custody without delay and to restore all Petitioner's Rights.

GROUND TWO: The State of Arizona provided Petitioner NO constitutional notice of the nature and cause of any charge. This denied Petitioner the right to be informed of the nature and cause of the accusation, and violated Section 24 of Article 2 of the Arizona Constitution, and Amendments 6 and 14 to the U.S. Constitution.

The U.S. Supreme Court explained that "No principle of procedural due process is more clearly established than that notice of the specific charge, and a chance to be heard in a trial of the issues raised by the charge, if desired, are among the constitutional rights of every accused in a criminal proceeding in all courts, state or federal." Cole v. Arkansas, 333 U.S. 196, 201 (1948).

Accordingly, in failing to provide Petitioner constitutionally effective notice of the nature and cause of the accusation pursuant to the Arizona Constitution, the State of Arizona denied Petitioner the due process right to notice of the charge.

GROUND THREE: The State of Arizona provided Petitioner NO constitutional counsel. This denied Petitioner the right to counsel, and violated Section 24 of Article 2 of the Arizona Constitution, and Amendments 6 and 14 to the U.S. Constitution.

The U.S. Supreme Court explained that "Since the Sixth Amendment constitutionally entitles one charged with crime to the assistance of counsel, compliance with this

constitutional mandate is an essential jurisdictional prerequisite to a[] court's authority to deprive an accused of his life or liberty." Johnson v. Zerbst, 304 U.S. 458, 467 (1938). Gideon v. Wainwright, 372 U.S. 335, 342 (1963) (6th Amendment right to counsel in criminal proceedings applies to states through 14th Amendment).

Accordingly, in failing to bring a criminal case at Law against Petitioner, and failing to provide him constitutional counsel under the provisions of the Arizona Constitution, the State of Arizona denied Petitioner the due process right to counsel as guaranteed by the State and Federal Constitutions.

GROUND FOUR: The State of Arizona has provided Petitioner NO constitutional speedy and public trial, by an impartial jury. This denied Petitioner the right to trial by jury, and violated Section 24 of Article 2 of the Arizona Constitution, and Amendments 6 and 14 to the U.S. Constitution.

The Sixth Amendment provides that "in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury...." U.S. Const., Amend. 6.

The U.S. Supreme Court explained that the right to trial by jury is a fundamental reservation of power meant to ensure that the people have ultimate control of the judiciary. Blakely v. Wash., 542 U.S. 296, 306 (2004). That the Sixth Amendment right to trial by jury applies to state criminal proceedings. Duncan v. La., 391 U.S. 145, 149 (1968).

Accordingly, in failing to bring a criminal case at Law against Petitioner, and failing to provide him a speedy and public trial by jury under the provisions of the Arizona Constitution, the State of Arizona denied Petitioner the due process right to trial by jury as guaranteed by the State and Federal Constitutions.

GROUND FIVE: Petitioner is entitled to discharge from custody, under the Due Process Clause of the State and Federal Constitutions, because there is NO lawful cause of imprisonment. Petitioner is in custody in violation of the Constitution and laws of the United States, and in violation of the Constitution and laws of the State of Arizona, as set forth in this pleading.

MEMORANDUM OF POINTS AND AUTHORITIES

I. COMMON LAW

The U.S. Supreme Court explained that "We have in our political system a government of the United States and a government of each of the several States. Each one of these governments is distinct from the others, and each has citizens of its own who owe it allegiance, and whose rights, within its jurisdiction, it must protect. The same person may be at the same time a citizen of the United States and a citizen of a State, but his rights of citizenship under one of these governments will be different from those he has under the other. Citizens are the members of the political community to which they belong. They are the people who compose the community, and who, in their associated capacity, have established or submitted themselves to the dominion of a government for the promotion of their general welfare and the protection of their individual as well as their collective rights. In the formation of a government, the people may confer upon it such powers as they choose. The government, when so formed, may, and when called upon should, exercise all the powers it has for the protection of the rights of its citizens and the people within its jurisdiction; but it can exercise no other. The duty of a government to afford protection is limited always by the power it possesses for that purpose." U.S. v. Cruikshank, 92 U.S. 542, 549 (1875).

"The citizen ... submitted himself to such a form of government. He owes allegiance to [two sovereignties] and within their respective spheres must pay the penalties which each exacts for disobedience to its laws. In return, he can demand protection from each within its own jurisdiction." Cruikshank, at 551.

"The laws of the several States, except where the Constitution, treaties, or statutes of the United States otherwise require or provide, shall be regarded as rules of decision in trials at common law, in the courts of the United States, in cases where they apply." Erie Railroad Co. v. Tompkins, 304 U.S. 64, 71 (1938). "There is no federal general common law." Tompkins, at 78. "The common law so far as it is enforced in a State, whether called common law or not, is not the common law generally but the law of that State existing by the authority of that State[.]" Tompkins, at 79.

Accordingly, Arizona's Constitution, as drafted in conformance to the U.S. Constitution, is the common law.

II. UNCONSTITUTIONAL ARIZONA REVISED STATUTES

Arizona's Constitution, and the Laws which shall be made in Pursuance thereof, provides the foundation for the obligations that individuals and state have toward each other. Arizona's Constitution provides that the enacting clause of every bill enacted by the legislature shall be as follows: "Be it enacted by the Legislature of the State of Arizona," or when the initiative is used: "Be it enacted by the People of the State of Arizona." Ariz. Const., Art. 4, § 24. That "No Act or section thereof shall be revised or amended by mere reference to the title of such act, but the act or section as amended shall be set forth and published at full length." Ariz. Const., Art. 4, § 14. "The provisions of [Arizona's] Constitution are mandatory," Ariz. Const., Art. 2, § 32, and thereby jurisdictional.

Arizona Revised Statutes are set forth and published with NO enacting clause as prescribed by Arizona's Constitution, fail to show by what authority it was made law, and are thereby void on their face. The constitutionally invalid Arizona Revised Statutes confer NO jurisdiction on the court. The issue is not whether the statutes were passed by Legislature, but rather that Arizona Revised Statutes in their current state don't exist as valid Arizona law, because they fail to follow the form and style prescribed by Arizona's Constitution, due to the manner in which they are published and promulgated.

The U.S. Supreme Court explained that "[a]n unconstitutional law is void, and is as no law. An offence created by it is not a crime. A conviction under it is not merely erroneous, but is illegal and void, and cannot be a legal cause of imprisonment." Ex parte Siebold, 100 U.S. 371, 376-77 (1880). That "want of criminality... render the proceedings void." Siebold, at 376.

That "Due process... is a guarantee that a man should be tried and convicted only in accordance with valid laws of the land. If a conviction is not valid under these laws, statutory and constitutional, a man has been denied due process and has a constitutional right to have the conviction set aside, without being deprived of life, liberty, or property [.] " N.C. v. Pearce, 395 U.S. 711, 739 (1969).

Accordingly, as a matter of State and Federal law, any conviction under Arizona Revised Statutes would be illegal and void, and cannot be a legal cause of imprisonment.

III. REPUBLICAN FORM OF GOVERNMENT

Arizona's Constitution provides that "The powers of the government of the state of Arizona shall be divided into three separate departments, the legislative, the executive, and the judicial; and, except as provided in this constitution, such departments shall be separate and distinct, and no one of such departments shall exercise the powers properly belonging to either of the others." Ariz. Const., Art. 3. That "The executive department shall consist of the governor, secretary of state, state treasurer, attorney general, and superintendent of public instruction." Ariz. Const., Art. 5, § 1. That the Governor "shall take care that the laws be faithfully executed." Ariz. Const., Art. 5, § 4. That "The legislative authority of the state shall be vested in a legislature, consisting of a senate and a house of representatives." Ariz. Const., Art. 4, § 1. That "The judicial power shall be vested in an integrated judicial department consisting of a supreme court, such intermediate appellate courts as may be provided by law, a superior court, such courts inferior to the superior court as may be provided by law, and justice courts." Ariz. Const., Art. 6, § 1. That "All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights." Ariz. Const., Art. 2, § 2. Thus it can be seen that the manner in which our government is intended to operate is for the Legislature to make the laws, the Executive Department, under the supervision of the Governor, to execute the laws, and the Judicial Department to apply the law to particular cases and act as referee and Judge between contending parties.

IV. PUBLIC PROSECUTORS

The execution of the laws include not only the administration of the laws, but also enforcing them by prosecuting those who do not comply with them. In order for the Governor to have the power to prosecute those who fail to comply with the state's laws, the prosecutors must be under his supervision and therefore, prosecutors must be appointed by him. He must have the power to remove them from office if they fail to do his bidding and he cannot do so unless they fill an appointed office. In order for there to be a proper prosecution, At Law, the Governor must appoint public prosecutors who are under his supervision.

V. COUNTY OFFICERS

Arizona's Constitution provides that "Each county of the state... shall be a body politic and corporate." Ariz. Const., Art. 12, § 1. That "There are hereby created in and for each organized county of the state the following officers who shall be elected by the qualified electors thereof: a sheriff, a county attorney, a recorder, a treasurer, an assessor, a superintendent of schools and at least three supervisors." Ariz. Const., Art. 12, § 3. They are, in fact, simply officers of a municipal corporation acting in behalf of that corporation. Since a county attorney is also an officer of the court/Judicial Department, and NOT a member of the Executive Department of state government, they can have NO standing in the courts in criminal cases against Natural Persons. Criminal prosecutions must be in behalf of the "People of the State". Since a county is merely a municipal corporation within Arizona it cannot possess Executive Powers of the state. Therefore, a county cannot represent the "People of the State" in court, and thereby deny a Defendant due process in criminal cases.

If a Defendant in a criminal case was to be prosecuted by a member of the Judicial Department as well as be judged and sentenced by a member of that same Judicial Department, they not only violate the Arizona Constitution by usurping duties properly belonging to the Executive Department, but also violate the Doctrine of the Separation of Powers and in effect render the proceedings void.

VI. CRIMINAL CASES

The powers of state government is restrained by a bill of rights under Arizona's Constitution, as drafted in conformance to the U.S. Constitution, and being second thereto, for the protection of its citizens from oppression. Arizona's Constitution provides that "No person shall be deprived of life, liberty, or property without due process of law." Ariz. Const., Art. 2, § 4. A principle of the Common Law is that the People are the party of the action in a felonious, or public offense. In order for the Court to be properly set in a common law criminal case, there must be a member of: (1) The Judicial Department (the judge); (2) The Executive Department (the public prosecutor); and (3) The Accused (a Natural Person).

The U.S. Supreme Court explained that "No change in ancient procedure can be made which disrupts those fundamental principles... which... protect the citizen in his private right and

guard him against the arbitrary action of the government." Ex parte Young, 209 U.S. 123 (1908).

Arizona's Constitution vests original jurisdiction in the superior court in "Criminal cases amounting to felony." Ariz. Const., Art. 6, § 14 (4). That "the style of process shall be 'The State of Arizona', and prosecutions shall be conducted in the name of the state and by its authority." Ariz. Const., Art. 6, § 25. That, moreover, "The provisions of [Arizona's] Constitution are mandatory," Ariz. Const., Art. 2, § 32, and are, therefore, jurisdictional. In other words, in order to confer jurisdiction on the superior court to hear a criminal case and to afford an accused his rights secured under Arizona's Constitution, the style of process must be made to appear, that is to say, appear from the indictment or information, without going further, that "The State of Arizona" is party plaintiff as prescribed by Arizona's Constitution. Ariz. Const., Art. 6, § 25.

The U.S. Supreme Court explained that lack of jurisdiction cannot be waived nor can jurisdiction be conferred on the court by the consent or stipulation of the parties.

American Fire and Casualty Co. v. Finn, 341 U.S. 6 (1951).

Accordingly, as a matter of State and Federal law, there is NO criminal case as defined by Arizona's Constitution, and the superior court has NO jurisdiction of the cause, if "The State of Arizona" style of process prescribed by Arizona's Constitution fails to appear on the indictment or information as party plaintiff, and the State is NOT acting in its governmental capacity.

VII. ARTICLE III, SECTION 2, U.S. CONSTITUTION

The U.S. Constitution provides that "In all Cases... in which a State shall be Party, the supreme Court shall have original jurisdiction." U.S. Const., Art. 3, § 2. However, the U.S. Supreme Court explained that "words... conferring original jurisdiction on [supreme] court... are not to be interpreted as conferring such jurisdiction in every cause in which the State elects to make itself strictly a party plaintiff of record and seeks not to protect its own property, but only... to enforce its own laws." Oklahoma v. Atchison, T. & S.F.R. Co., 220 U.S. 277, 289 (1911).

The state functions in two capacities: (1) In behalf of the People of "The State of Arizona," Ariz. Const., Art. 6, § 25, "in its governmental capacity" in common law actions, Atchison, at 287; and (2) STATE OF ARIZONA as a person "in its corporate capacity," Atchison, at 286, to protect and

enforce its interests through summary proceedings. But the state in either capacity is still bound by the U.S. Constitution.

The U.S. Supreme Court explained that "Generally, the powers given by the Constitution to the government of the United States are given over distinct branches of sovereignty from which the State governments, either expressly or by necessary implication, are excluded." Siebold, at 392.

"Its powers are limited in number, and clearly defined; and its action within the scope of those powers is restrained by a sufficiently rigid bill of rights for the protection of its citizens from oppression. The true interest of the people of this country requires that both the national and the State governments should be allowed, without jealous interference on either side, to exercise all the powers which respectively belong to them according to a fair and practical construction of the Constitution." Siebold, at 394.

"That [the U.S. Supreme 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, with such exceptions and under such regulations as Congress shall make. 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 except those which it has original jurisdiction only." Siebold, 374-75.

"But the general rule is, that a conviction and sentence by a court of competent jurisdiction is lawful cause of imprisonment, and no relief can be given by habeas corpus. The only ground on which this court, or any court, without some special statute authorizing it, will give relief on habeas corpus to a prisoner under conviction and sentence of another court is the want of jurisdiction in such court over the person or the cause, or some other matter rendering its proceedings void." Siebold, at 375.

That "if 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. The latter part of this rule, when applied to imprisonment under conviction and sentence, is confined to cases of clear and manifest want of criminality in the matter charged, such as in effect to render the proceedings void? Siebold, at 376.

Accordingly, as a matter of State and Federal law, all Cases in which STATE OF ARIZONA is a Party acting in its corporate capacity would be within the original Jurisdiction of the U.S. Supreme Court, the superior courts lack jurisdiction over STATE OF ARIZONA not acting in its governmental capacity in Cases NOT brought under the provisions of Arizona's Constitution, and in such Cases brought in the superior courts in effect render the proceedings void.

VIII. LACK OF JURISDICTION MAY BE RAISED AT ANY TIME

Under Arizona law, "Lack of jurisdiction may be raised at any time." Arizona Rules of Criminal Procedure 16.1(b). See also Fed. R. Crim. P. 12(b)(3)(B).

The U.S. Supreme Court explained that "subject-matter jurisdiction, because it involves a court's power to hear a case, can never be forfeited or waived." U.S. v. Cotton, 535 U.S. 625, 630 (2002). A prisoner in custody after pleading guilty, no less than one tried and convicted by a jury, is entitled to avail himself of the writ in challenging the constitutionality of his custody. Blackledge v. Allison, 431 U.S. 63 (1977). "Where the State is precluded from haling a defendant into court on a charge, federal law requires the conviction on that charge to be set aside even if the conviction was entered pursuant to a counseled plea of guilty." Menna v. N.Y., 423 U.S. 61, 62 (1975).

IX. PETITIONER REJECTS AND DISAVOWS ALL EQUITY JURISDICTION

The U.S. Constitution authorizes Courts of "Law" and Courts of "Equity," U.S. Const., Art. 3, § 2; Judicial Equity is authorized; but nowhere does the U.S. Constitution authorize a single bit of either Federal Executive branch of government Equity jurisdiction, or Federal Legislative branch of government Equity jurisdiction.

Arizona's Constitution, as drafted in conformance to the U.S. Constitution, and being second thereto, authorizes Courts of "Law" and Courts of "Equity," Ariz. Const., Art. 6, § 14(2); Judicial Equity is authorized; but nowhere does Arizona's Constitution/Common Law authorize a single bit

of either State Executive branch of government Equity jurisdiction or State Legislative branch of government Equity jurisdiction.

In Cases of Equity there are NO trials by jury. The powers of the Common Law jury to hear and decide questions of both "Law" and "Fact" are exercised by the Judge. However, there may be "advisory juries" to advise the Judge of certain facts, but they are not permitted to hear any arguments regarding the "Law". The controversies are decided by the Judge, who, besides being the Chief Prosecutor, can go to any source he chooses, even to his own conscience, to prove or justify his decision. In "Equity", the parties have NO Rights and are thereby denied due process of law as guaranteed by the State and Federal Constitutions.

The Federal Bill of Rights was drawn and adopted to guarantee an estoppel (or bar) to the abhorrent Federal Executive and Legislative Equity jurisdiction, and therefore, the State Bill of Rights is also a guaranteed estoppel against any actual or de facto abhorrent State Executive and Legislative Equity jurisdiction; this is an abhorrent and oppressive Equity, because it purports to be able to administer, adjust and deny said Common Law Rights without first pursuing the appropriate remedy at Common Law and thus denying due process of law.

In other words, State government, both Executive branch and Legislative branch, must be "at Law", and may not impose any form of Equity jurisdiction upon the People, by compulsion or otherwise, without their knowledge and informed consent; that such enactments are nullities and do not exist at Law, because the Rights of individuals would be violated if they were to be forced to obey such judgments.

If an agency of the government, including the court, would act as if it were Principal, an individual, as against its true Principal, the People, this would be an inversion of the legal principal of the Sovereignty of the People, and by so acting, this agency of the government, including the court, would be a pretender to the power, and as a pretender, its acts would be a nullity and would not exist, at Law; that is to say, that it would be null and void, and of no force and effect, at Law; that, in fact, it would not be government at all, but would be a private, criminal operation, imposing a rule of force, fraudulently pretending to be government, since,

in this country, the only legitimate function of government is to protect the Rights and freedoms of the People.

The U.S. Constitution, Article 4, Section 4, guarantees a Republican Form of government to every State.

NOTICE IS HEREBY GIVEN that Petitioner rejects and disavows all Equity jurisdiction, and refuses to acquiesce to the jurisdiction of Courts of Equity, or to Equity jurisdiction of any Executive or Legislative branch of government agency or agent, State or Federal.

X. CONSTITUTIONAL DUTY TO DISCHARGE

Arizona's Constitution provides that "The superior court or any judge thereof may issue... writs of habeas corpus on petition by or on behalf of a person held in actual custody within the county."

Ariz. Const., Art. 6, §18. That "The supreme court shall have Original jurisdiction of habeas corpus, and... Each justice of the supreme court may issue writs of habeas corpus." Ariz. Const., Art. 6,

§5. That "Each justice, judge and justice of the peace shall, before entering upon the duties of his office, take and subscribe an oath that he will support the Constitution of the United States and the Constitution of the State of Arizona, and that he will faithfully and impartially discharge the duties of his office to the best of his ability." Ariz. Const., Art. 6, §26.

The U.S. Constitution provides that "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..., 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., Art. 6.

The U.S. Supreme Court explained that "It is true, if no writ of error lies, the judgment may be final, in the sense that there may be no means of reversing it. But personal liberty is of so great moment in the eye of the law that the judgment of an inferior court affecting it is not deemed so conclusive but that, as we have seen, the question of the court's authority to try and imprison the party may be reviewed on habeas corpus by a superior court or judge having authority to award the writ." Siebold, at 376-77. That it "is a writ of right,

and cannot be refused. The constitution of the United States, Art. 1, § 9, declares, "that it shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require it." Ex parte Burford, 7 U.S. 448 (1806).

That "The Constitution and laws of the United States are the supreme law of the land, and to these every citizen of every State owes obedience, whether in his individual or official capacity." Siebold, at 392. "A violation of duty is an offence against the United States, for which the offender is justly amenable to that government. No official position can shelter him from this responsibility." Siebold, at 388.

Accordingly, Petitioner is entitled to discharge and there is a constitutional duty that, because Petitioner has been denied his Rights to due process of law and he is in custody in violation of the Constitution and laws of the United States, "the court are to discharge" Petitioner without delay. Siebold, at 376.

XI. RES JUDICATA

Res judicata does not attach to a court's denial of habeas relief, and each court or judge is bound to consider the question of the prisoner's right to a discharge independently, and not be influenced by the previous decisions refusing discharge. McCleskey v. Zant, 499 U.S. 467 (1991).

EACH PUBLIC OFFICIAL will need to decide whether to be on the side of the Constitution, as required by his Oath of Office, to protect the Rights and freedoms of the Petitioner; or to be Party in wilfully and wantonly injuring the Petitioner and levying war against the state and the United States.

CONCLUSION

The writ of habeas corpus must be issued without delay to discharge Petitioner from All custody and restraint, and to restore All Petitioner's Rights.

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

Executed on 5-4-2018.

Jon A. Schwedes
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